START

TITLE: FEDERAL REGISTER.

VOLUME: 58 ISSUES: 244 - 249
PAGES: 67625 - 69684
DATE: DECEMBER 22 - DECEMBER 30, 1993

PUBLICATION NO: 2575.00 REEL No: 10 of 10

NOTES: Includes:
SEPTEMBER LSA
OCTOBER LSA
NOVEMBER LSA
DECEMBER LSA

THIS PERIODICAL MIGHT BE COPYRIGHTED. IN WHICH CASE THE CONTENTS REMAIN THE PROPERTY OF THE COPYRIGHT OWNER. THE MICROFORM EDITION IS REPRODUCED BY AGREEMENT WITH THE PUBLISHER. DUPLICATION OR RESALE WITHOUT PERMISSION IS PROHIBITED.

UNIVERSITY MICROFILMS INTERNATIONAL, ANN ARBOR, MICHIGAN

THIS PERIODICAL MIGHT BE COPYRIGHTED, IN
WHICH CASE THE CONTENTS REMAIN THE PROPERTY
OF THE COPYRIGHT OWNER. THE MICROFORM
EDITION IS REPRODUCED BY AGREEMENT WITH
THE PUBLISHER. DUPLICATION OR RESALE WITHOUT
PERMISSION IS PROHIBITED.

UNIVERSITY MICROFILMS INTERNATIONAL
ANN ARBOR, MICHIGAN

VOL
58

ISS
2
4
4

DE
22

1993

UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

12-22-93
Vol. 58 No. 244

federal register

Wednesday
December 22, 1993

RECEIVED
JAN 05 1994
Brigham Young University
J. Reuben Clark Law School

DEPOSITED BY
U.S. GOVERNMENT
JAN 05 1994
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 846
A FR BRIGH3588 DS 621AF
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY - DOCS
358 JRCB
PROVO UT 84602

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

VOL
58
ISS
244
DE
22
1993
UMI

12-22-93
Vol. 58 No. 244
Pages 67625-68014

federal register

Wednesday
December 22, 1993

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

VOL
58
ISS
2
44
DE
22
1993
UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202-783-3238
Magnetic tapes	512-1530
Problems with public subscriptions	512-2303
Single copies/back copies:	
Paper or fiche	783-3238
Magnetic tapes	512-1530
Problems with public single copies	512-2457
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523-5243
Magnetic tapes	512-1530
Problems with Federal agency subscriptions	523-5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: January 13 at 9:00 am and 1:30 pm
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202-523-4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 58, No. 244
Wednesday, December 22, 1993

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
Central Arizona, 67703

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Federal Crop Insurance Corporation
See Rural Electrification Administration
See Soil Conservation Service

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Fire ant, imported, 67627
Mediterranean fruit fly, 67627
Veterinary services, import- and export-related; user fees, 67647
PROPOSED RULES
Exportation and importation of animals and animal products:
Cattle from Mexico, 67709
Interstate transportation of animals and animal products (quarantine):
Cattle from Mexico; certification requirements, 67708

Army Department
See Engineers Corps
NOTICES
Military traffic management:
Total quality assurance program, 67780

Centers for Disease Control and Prevention
NOTICES
Meetings:
Injury Research Grant Review Committee, 67794
Savannah River site environmental dose reconstruction project, 67794
Vital and Health Statistics National Committee, 67795

Children and Families Administration
RULES
Adoption and foster care data collection under Titles IV-B and IV-E of Social Security Act, 67912
State plan requirements:
Automated child welfare information systems, 67939

Coast Guard
RULES
Organization, functions, and authority delegations:
Captain of the Port zone boundaries
Correction, 67909
Pollution:
Vessels carrying oil; discharge removal equipment, 67988
PROPOSED RULES
Drawbridge operations:
Illinois, 67745

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Exchange-traded futures and options contracts; exemptions, 67777, 67778

Consumer Product Safety Commission
RULES
Consumer Product Safety Act:
Cigarette lighter safety standard
Correction, 67671

Copyright Office, Library of Congress
RULES
Organization, functions, and authority delegations:
Copyright Royalty Tribunal; transfer and adoption of regulations, 67690

Defense Department
See Army Department
See Engineers Corps

Education Department
NOTICES
Agency information collection activities under OMB review, 67781
Meetings:
Time and Learning National Education Commission, 67782

Employment and Training Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Job Training Partnership Act—
Youth fair chance demonstration projects, 67814

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Meetings:
Inertial Confinement Fusion Advisory Committee/Defense Programs, 67782
Natural gas exportation and importation:
Consumers' Gas Co. Ltd., 67784
Northridge Gas Marketing Inc., 67785
Ocean State Power, 67785
SaskEnergy Inc., 67785

Energy Efficiency and Renewable Energy Office
PROPOSED RULES
Consumer products; energy conservation program:
Clothes washers; test procedure, 67710

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Auburn, WA; thoroughbred horse racing facility, 67779

VOL 58 ISS 244 DEC 22 1993 UMI

Environmental Protection Agency
RULES
Air programs:
Acid rain program—
Quarterly electronic and magnetic data reporting for continuous emissions monitoring (CEM) rule; meeting, 67692
Water pollution control:
Clean Water Act—
Treatment of Indian tribes as States, 67966
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Alaska, 67754
Clean Air Act:
Lead nonattainment areas; State implementation plans, 67748
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Chlorpyrifos, 67759
NOTICES
Municipal solid waste landfill permit programs; adequacy determinations:
Michigan, 67786
Pesticide programs:
Crisis exemptions; annual report, 67788
Pesticide registration, cancellation, etc.:
J.J. Mauget Co., 67790
Mauri Laboratories et al., 67791
Superfund; response and remedial actions, proposed settlements, etc.:
Commercial Oil Services Site, OH, 67791

Executive Office of the President
See Presidential Documents

Farm Credit Administration
RULES
Farm credit system:
Accounting and reporting requirements, problem loan accounting, etc., 67664
Loan policies and operations—
Lending authorities, etc.; appraisal standards, participations, and lending limits, 67665

Federal Aviation Administration
RULES
Airworthiness directives:
British Aerospace, 67665
Pratt & Whitney, 67666
Class D airspace, 67669
Class D airspace; correction, 67669
Class D and Class E airspace, 67670
Class E airspace; correction, 67668
PROPOSED RULES
Airworthiness directives:
McDonnell Douglas, 67723
Airworthiness standards:
Special conditions—
Learjet, Inc. model 45 airplane, 67716
Class E airspace, 67725, 67726, 67727
Jet routes, 67728
Jet routes; correction, 67909
NOTICES
Advisory circulars; availability, etc.:
Aircraft—
Normal and transport category rotorcraft; certification, 67893
Part 21 gliders (sailplanes) and Part 23 airplanes, 67893
Exemption petitions; summary and disposition, 67894
Passenger facility charges; applications, etc.:
Bradley International Airport, CT, 67895
Cleveland Hopkins International Airport, OH, 67894
Gulfport-Biloxi Regional Airport Authority, MS, et al., 67896

Federal Communications Commission
RULES
Radio services, special:
Aviation services—
Remote communications outlets and radionavigation land test stations; requirements, 67695
Television broadcasting:
Cable television systems—
Major television markets; list, 67694
NOTICES
Agency information collection activities under OMB review, 67793

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
Hybrid seed, 67644
Crop insurance endorsements, etc.:
Corn, grain sorghum, soybeans, etc.; late and prevented planting provisions; 1994 and succeeding crop years, 67630

Federal Deposit Insurance Corporation
RULES
Receivership rules:
Least-cost resolution of failed and failing depository institutions, 67662

Federal Emergency Management Agency
RULES
Flood insurance program:
Communities eligible for sale of flood insurance; list, 67692

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Appalachian Power Co., 67783
Applications, hearings, determinations, etc.:
Genesee Power Station Limited Partnership, 67783
Granite State Gas Transmission, Inc., 67783
Transcontinental Gas Pipe Line Corp., 67784
Transok, Inc., 67784
Western Gas Resources Storage, Inc., 67784

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Somerset County, PA, 67902

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 67908

Fish and Wildlife Service
PROPOSED RULES
Alaskan National Wildlife Refuges; free ranging wolf and wolverine hunting; airborne trapper or hunter prohibition, 68012

NOTICES
Endangered and threatened species:
Recovery plans—
Little Aguja pondweed, 67808

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Nebraska—
Kawasaki Motors Manufacturing Corp., U.S.A.; motorcycles, jetskis, and all terrain vehicles manufacturing plant; correction, 67909

General Services Administration
RULES
Federal travel:
Per diem localities; maximum lodging and meal allowances, 67950
NOTICES
Environmental statements; availability, etc.:
Boulder, CO; National Institute of Standards and Technology Advanced Technology Laboratory, 67794

Geological Survey
NOTICES
Agency information collection activities under OMB review, 67805

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Health Care Financing Administration
See National Institutes of Health
See Social Security Administration

Health Care Financing Administration
NOTICES
Agency information collection activities under OMB review, 67795
Medicaid and medicare:
Program issuances and coverage decisions; quarterly listing, 67796

Hearings and Appeals Office, Energy Department
NOTICES
Cases filed, 67785

Housing and Urban Development Department
RULES
Building product standards and certification program; use of materials bulletins, 67671
NOTICES
Agency information collection activities under OMB review, 68008
Grants and cooperative agreements; availability, etc.:
Fair housing initiatives program, 68000

Indian Affairs Bureau
NOTICES
Agency information collection activities under OMB review, 67805

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service

Internal Revenue Service
RULES
Income taxes:
Mortgage credit certificate reissuance, 67689
Property contributed to partnership; allocations reflecting built-in gain or loss, 67676, 67684
PROPOSED RULES
Income taxes:
Mortgage credit certificate reissuance; cross-reference, 67744
Property contributed to partnership; allocations reflecting built-in gain or loss; cross-reference, 67744

International Trade Administration
NOTICES
Antidumping:
Stainless steel wire rods from—
India; correction, 67909

International Trade Commission
NOTICES
Import investigations:
Calcium aluminate cement and cement clinker from—
France, 67809
Ethyl alcohol for fuel use, 67810
Integrated circuit devices, processes for making same, components, and products containing same, 67810
Sports sandals and components, 67811
Sputtered carbon coated computer disks and products containing same, including disk drives, 67811

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Chicago Central & Pacific Railroad Co., 67811

Justice Department
NOTICES
Pollution control; consent judgments:
D'Imperio et al., 67812
Evcon Industries, Inc., et al., 67812
Giles Armature & Electric Works, Inc., et al., 67813
New York City, NY, et al., 67813
Rubicon Vista Associates, L.P., et al., 67813

Labor Department
See Employment and Training Administration

Land Management Bureau
NOTICES
Agency information collection activities under OMB review, 67805
Management framework plans, etc.:
Oregon, 67806
Realty actions; sales, leases, etc.:
Arizona; correction, 67909
Survey plat filings:
California, 67806
Utah Land Management Bureau; boundary maps availability, 67807
Withdrawal and reservation of lands:
Colorado, 67807
Colorado; correction, 67807

Library of Congress
See Copyright Office, Library of Congress

VOL 58 ISS 244 DEC 22 1993 UMI

Minerals Management Service
NOTICES
Agency information collection activities under OMB review, 67808

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
School bus emergency exits and window retention and release
Correction, 67909
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 67903, 67905
Importation eligibility; determinations; correction, 67904

National Institutes of Health
NOTICES
Meetings:
Research Grants Behavioral and Neurosciences Special Emphasis Panel, 67803

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Western Pacific Region pelagic, 67699
PROPOSED RULES
Fishery conservation and management:
Pacific halibut, 67762
Rulemaking petitions:
National Fishing Association; Atlantic highly migratory species, 67761
NOTICES
Grants and cooperative agreements; availability, etc.:
Fishing industry research and development projects—
Gulf of Mexico and South Atlantic (North Carolina to Florida); fishery resources use, 67768
Meetings:
Gulf of Mexico Fishery Management Council, 67776
Permits:
Marine mammals, 67776

Nuclear Regulatory Commission
RULES
Radiation protection standards:
Removal of expired material, 67657
NOTICES
Environmental statements; availability, etc.:
Consolidated Edison Co. of New York, Inc., 67871
Meetings:
Nuclear Safety Research Review Committee, 67872
Nuclear power plant operating licenses renewal requirements; workshop results and staff proposals; paper availability, 67873
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 67840
Petitions; Director's decisions:
Carolina Power & Light Co., 67873
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 67873

Postal Service
PROPOSED RULES
Domestic Mail Manual:
Prescription medicines containing narcotic drugs and other controlled substances, 67747

Presidential Documents
PROCLAMATIONS
Special observances:
Fifth Anniversary Day of Remembrance for the Victims of the Bombing of Pan Am Flight 103 (Proc. 6642), 67625

Public Health Service
See Centers for Disease Control and Prevention
See National Institutes of Health

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
Cape Hatteras Electric Membership Corp., 67768

Securities and Exchange Commission
PROPOSED RULES
Investment companies:
Investment company proxy statements; information requirements, 67729
NOTICES
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 67875
Depository Trust Co., 67878
Municipal Securities Rulemaking Board, 67882
National Association of Securities Dealers, Inc., 67884
Options Clearing Corp. et al., 67885
Pacific Stock Exchange, Inc., 67887, 67888
Self-regulatory organizations; unlisted trading privileges:
Chicago Stock Exchange, Inc., 67878
Cincinnati Stock Exchange, Inc., 67878
Philadelphia Stock Exchange, Inc., 67890
Applications, hearings, determinations, etc.:
Niagara Share Corp., 67891
Olympus Investment Trust, 67892

Social Security Administration
NOTICES
Social security acquiescence rulings; list, 67803

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Belfield Watershed, ND, 67768

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
RULES
Privacy Act; implementation, 67696

Treasury Department
See Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 67905, 67906

Veterans Affairs Department
RULES
Vocational rehabilitation and education:
Veterans education—
Veterans Job Training Act; regulations removed, 67691
NOTICES
Agency information collection activities under OMB review
Loan analysis, 67906

Meetings:
Cooperative Studies, Health Services, and Rehabilitative Research and Development Advisory Committee, 67906
Rehabilitation Research and Development Scientific Review and Evaluation Board, 67907

Separate Parts In This Issue

Part II
Department of Health and Human Services, Administration for Children and Families, 67912

Part III
General Services Administration, 67950

Part IV
Environmental Protection Agency, 67966

Part V
Department of Transportation, United States Coast Guard, 67988

Part VI
Department of Housing and Urban Development, 68000

Part VII
Department of Interior, United States Fish and Wildlife Service, 68012

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

VOL 58 ISS 244 DE 22 1993 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6642 67625
7 CFR
301 (2 documents) 67627
401 67630
443 67644
Proposed Rules:
1131 67703
9 CFR
130 67647
156 67647
Proposed Rules:
71 67708
92 67709
10 CFR
2 67657
19 67657
20 67657
30 67657
31 67657
32 67657
34 67657
35 67657
36 67657
39 67657
40 67657
50 67657
61 67657
70 67657
72 67657
Proposed Rules:
430 67710
12 CFR
360 67662
611 67664
613 67664
614 (2 documents) 67664, 67665
620 67664
621 67664
627 67664
14 CFR
39 (2 documents) 67665, 67667
71 (4 documents) 67668, 67669, 67670, 67671
Proposed Rules:
25 67716
39 67723
71 (5 documents) 67725, 67726, 67727, 67728, 67909
16 CFR
1210 67671
17 CFR
Proposed Rules:
200 67729
229 67729
239 67729
240 67729
270 67729
274 67729
24 CFR
200 67671
26 CFR
1 (3 documents) 67676, 67684, 67689
Proposed Rules:
1 (2 documents) 67744
33 CFR
3 67909
155 67988
Proposed Rules:
117 67745
37 CFR
Ch. III 67690
38 CFR
2 67691
21 67691
39 CFR
Proposed Rules:
111 67747
40 CFR
75 67692
122 67966
123 67966
124 67966
501 67966
Proposed Rules:
52 (2 documents) 67748, 67754
180 67759
41 CFR
Ch. 301 67950
44 CFR
64 67692
45 CFR
1355 (2 documents) 67912, 67939
1356 (2 documents) 67912, 67939
1357 67912
47 CFR
76 (2 documents) 67694
87 67695
49 CFR
10 67696
Proposed Rules:
571 67909
50 CFR
685 67699
Proposed Rules:
36 68012
285 67761
301 67762
630 67761
678 67761

Federal Register
Vol. 58, No. 244
Wednesday, December 22, 1993

Presidential Documents

Title 3—

The President

Proclamation 6642 of December 17, 1993

Fifth Anniversary Day of Remembrance for the Victims of the Bombing of Pan Am Flight 103

By the President of the United States of America

A Proclamation

This holiday season, while we gather with loved ones, it is important to remember those innocents who can no longer celebrate with their families because of a cruel and senseless act of terrorism. Four days before Christmas in 1988, a bomb exploded aboard Pan American Airways Flight 103, killing its 259 passengers and crew, along with 11 people on the ground in Lockerbie, Scotland. Among the passengers from 21 different nations were 189 Americans who were never to see their families again. Today, those responsible for this heinous act are still at large.

We dare not forget the unsuspecting victims of Flight 103. Their tragedy reminds us that while our world is abounding with opportunities for peace and democracy, it is also filled with danger and uncertainty. The threat of terrorism, both at home and abroad, continues to loom as wars and instances of ethnic and religious turmoil imperil our vision for a safer world.

We must remain ever vigilant if we are to combat merciless brutality and ensure the security of all of our citizens. My Administration is closely monitoring the terrorist threat in order to make the changes needed to create a secure future and to avert the kind of murderous tragedy that occurred in the skies over Scotland. In this holiday season, our hearts go out to all who lost loved ones in the bombing of Flight 103—for them, the loss is incalculable. We pledge to remember the victims of this outrage and to recommit ourselves to bringing the perpetrators to justice, so that we may truly create a safer, more peaceful world.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 21, 1993, as the "Fifth Anniversary Day of Remembrance for the Victims of the Bombing of Pan Am Flight 103." I call upon the people of the United States to observe this day with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of December, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93-31384
Filed 12-20-93; 2:31 pm]
Billing code 3195-01-P

Editorial note: For the President's remarks at Arlington National Cemetery at a groundbreaking ceremony for a memorial to the Pan Am Flight 103 victims, see the *Weekly Compilation of Presidential Documents* (vol. 29, issue 51).

VOL
58
ISS
244
DE
22
1993
UMI

Rules and Regulations

Federal Register
Vol. 58, No. 244
Wednesday, December 22, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 93-082-2]

Imported Fire Ant

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of direct final rule effective date.

SUMMARY: This notice confirms the effective date of the direct final rule allowing reduced dosage rates of granular bifenthrin for the treatment of containerized nursery stock that is to be certified, for limited periods of time, for interstate movement from areas under quarantine because of the imported fire ant.

EFFECTIVE DATE: The direct final rule published on October 28, 1993, beginning on 58 FR 57952 is effective December 27, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Brittingham, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

In a direct final rule published in the **Federal Register** on October 28, 1993 (58 FR 57952-57955, Docket No. 93-082-1), we notified the public of our intention to amend the imported fire ant regulations by allowing reduced dosage rates of granular bifenthrin for the treatment of containerized nursery stock that is to be certified for interstate movement from quarantined areas for limited periods of time.

We solicited comments concerning the direct final rule for a 30-day period ending November 29, 1993. We stated that the effective date of the proposed amendment would be 60 days after publication of the direct final rule in the **Federal Register**, unless we received adverse comments or written notice of intent to submit adverse comments by the close of the comment period.

We received neither adverse comments nor written notice of intent to submit adverse comments. Therefore, the direct final rule will become effective December 27, 1993, as scheduled.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 17th day of December 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-31218 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-34-P

7 CFR Part 301

[Docket 91-155-10]

Mediterranean Fruit Fly; Addition to the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding new portions of Los Angeles and Orange Counties, CA, to the list of quarantined areas. These actions are necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATES: Interim rule effective December 16, 1993. Consideration will be given only to comments received on or before February 22, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91-155-10. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations (7 CFR 301.78 through 301.78-10; referred to below as the regulations), and quarantined the Hancock Park area of Los Angeles County, CA, in an interim rule effective on November 5, 1991, and published in the **Federal Register** on November 13, 1991 (56 FR 57573-57579, Docket No. 91-155). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Medfly to noninfested areas of the United States. We have published a series of interim rules amending these regulations by adding or removing certain portions of Los Angeles, Santa Clara, Orange, San Bernardino, and San Diego Counties, CA, from the list of quarantined areas. Amendments affecting California were made effective on September 10, and November 12, 1992; and on January 19, July 16, August 3, September 22, October 14, and November 23, 1993 (57 FR 42485-42486, Docket No. 91-155-2; 57 FR 54166-54169, Docket No. 91-155-3; 58 FR 6343-6346, Docket No. 91-155-4; 58 FR 39123-39124, Docket No. 91-155-5; 58 FR 42489-42491, Docket No. 91-155-6; 58 FR 49186-49190, Docket No. 91-155-7; and 58 FR 53105-53109, Docket No. 91-155-8; and 58 FR 63027-63031, Docket No. 91-155-9).

VOL 58 ISS 244 DEC 22 1993 UMI

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that additional infestations of Medfly have been discovered in the Pomona area in Los Angeles County, CA, and the Anaheim and Orange areas in Orange County, CA.

The regulations in § 301.78–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Medfly has been found by an inspector, in which the Administrator has reason to believe that the Medfly is present, or that the Administrator considers necessary to regulate because of its inseperability for quarantine enforcement purposes from localities in which the Medfly has been found.

In accordance with these criteria and the recent Medfly findings described above, we are amending § 301.78–3 by expanding the area that extends through Los Angeles and Orange Counties with the addition of an Orange County area of approximately 61 square miles and by expanding the area that extends through Los Angeles and San Bernardino Counties with the addition of a Los Angeles County area of approximately 10 square miles. The new quarantined areas are as follows:

Orange County

That portion of Orange County bounded by a line drawn as follows: Beginning at the intersection of Tustin Ranch Road and Jamboree Road; then north along Jamboree Road to its intersection with Chapman Avenue; then north from this intersection along an imaginary line to the intersection of Serrano Avenue and Nohl Ranch Road; then northwest along Nohl Ranch Road to its intersection with the Imperial Highway; then north along the Imperial Highway to its intersection with State Highway 91; then west along State Highway 91 to its intersection with Western Avenue; then south along Western Avenue to its intersection with Katella Avenue; then east along Katella Avenue to its intersection with West Street; then south along West Street to its intersection with Chapman Avenue; then east along Chapman Avenue to its intersection with Hewes Street; then south along Hewes Street to its intersection with Old Foothill Boulevard; then southeast along Old Foothill Boulevard to its intersection with Foothill Boulevard; then southeast along Foothill Boulevard to its intersection with Pioneer Road; then Southeast along Pioneer Road to its intersection with Pioneer Way; then south along Pioneer Way to its intersection with Tustin Ranch Road; then east along Tustin Ranch Road to the point of beginning.

Los Angeles County

That portion of Los Angeles County bounded by a line drawn as follows: Beginning at the intersection of the San Bernardino County Line and State Highway 60; then west along State Highway 60 to its intersection with State Highway 57; then north along State Highway 57 to its intersection with Interstate 10; then east along Interstate 10 to its intersection with Garey Avenue; then south along Garey Avenue to State Highway 60; then west along State Highway 60 to the point of beginning.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mediterranean fruit fly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

This interim rule affects the interstate movement of regulated articles from the Orange and Anaheim areas of Orange County, CA, and the Pomona area of Los Angeles County, CA. There are approximately 221 small entities that could be affected, including 156 fruit sellers, 37 nurseries, 3 distributors, 12 growers, 2 packers, 7 vendors, and 4 swapmeets.

These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, most of these small entities sell regulated articles primarily for local intrastate, not interstate, movement and the sale of these articles would not be affected by this interim regulation.

In the new quarantined areas in Orange and Los Angeles Counties, the effect on those few small entities that do move regulated articles interstate from parts of the quarantined areas will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost. Also, many of these entities sell other items in addition to the regulated articles so that the effect, if any, of this regulation on these entities should be minimal. Further, the number of affected entities is small compared with the thousands of small entities that move these articles interstate from nonquarantined areas in California and other States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for our conclusion that implementation of integrated pest management to achieve eradication of the Medfly would not have a significant impact on human health and the natural environment.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individual listed under "FOR FURTHER INFORMATION CONTACT."

Paperwork Reduction Act

The information collection and recordkeeping requirements contained in subpart 301.78 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) under OMB control number 0579–0088.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.78–3, paragraph (c), the designation of the quarantined areas are amended by revising the entry for Los Angeles and Orange Counties, and the entry for Los Angeles and San Bernardino Counties, as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

California

* * * * *

Los Angeles and Orange Counties. That portion of the counties beginning at the intersection of the Angeles National Forest boundary and Sage Hill Road; then north from the intersection along an imaginary line to its intersection with Brown Mountain Road at Millard Campground; then west along Brown Mountain Road to its intersection with El Prieto Road; then southwest along El Prieto Road to its intersection with the Pasadena City Limits; then north and west along the Pasadena City limits to its intersection with the La Canada Flintridge City Limits; then west and south along the La Canada Flintridge City Limits to its intersection with Foothill Boulevard; then northwest along Foothill Boulevard to its intersection with La Crescenta Avenue; then south along La Crescenta Avenue to its intersection with Shirley Jean Street; then southwest from this intersection along an imaginary line to the end of Allen Avenue; then southwest along Allen Avenue to its intersection with Mountain Street; then northwest along Mountain Street to its intersection with Sunset Canyon Drive; then northwest along Sunset Canyon Drive to its intersection with Olive Avenue; then southwest along Olive Avenue to its intersection with Barham Boulevard; then south along Barham Boulevard to its intersection with State Highway 101; then southeast along State Highway 101 to its intersection with Highland Avenue; then south along Highland Avenue to its intersection with Sunset Boulevard; then west along Sunset Boulevard to its intersection with La Cienega Boulevard; then south along La Cienega Boulevard to its intersection with Washington Boulevard; then southwest along Washington Boulevard to its intersection with Culver Boulevard; then southwest along Culver Boulevard to its intersection with Vista Del Mar; then southeast along Vista Del Mar to its intersection with Rosecrans Avenue; then east along Rosecrans Avenue to its intersection with Prairie Avenue; then south along Prairie Avenue to its intersection with State Highway 91; then east along State Highway 91 to its intersection with Paramount Boulevard; then south on Paramount Boulevard to its intersection with Carson Street; then east on Carson Street to its intersection with Lakewood Boulevard; then south on Lakewood Boulevard to its intersection with Willow Street; then east on Willow Street to its intersection with Katella Avenue; then east along Katella Avenue to its intersection with Valley View Street; then, south along Valley View Street to its intersection with Bolsa Chica Road; then, south along Bolsa Chica Road to its intersection with Bolsa Chica Street; then, south along Bolsa Chica Street to its intersection with Los Patos Avenue; then, southeast from this intersection along an imaginary line to the intersection of East Garden Grove Wintersburg Channel and the Bolsa Chica Ecological Reserve boundary; then, southeast along the Bolsa Chica Ecological Reserve boundary to its intersection with Ellis Avenue; then, east along Ellis Avenue to its intersection with Edwards Street; then, south along Edwards Street to its intersection with Garfield Avenue; then, east along Garfield Avenue to its intersection with North Golden West Street; then, south along North Golden West Street to its intersection with Yorktown Avenue; then, east along Yorktown Avenue to its intersection with Main Street; then, south along Main Street to its intersection with Adams Avenue; then, east along Adams Avenue to its intersection with Fairview Road; then, north along Fairview Road to its intersection with Interstate Highway 405; then, east and south along Interstate Highway 405 to its intersection with Culver Drive; then, northeast along Culver Drive to its intersection with Walnut Avenue; then, northwest along Walnut Avenue to its intersection with Jamboree Road to its intersection with Chapman Avenue; then north from this intersection along an imaginary line to the intersection of Serrano Avenue and Nohl Ranch Road; then northwest along Nohl Ranch Road to its intersection with the Imperial Highway; then north on the Imperial Highway to its intersection with State Highway 91; then west along State Highway 91 to its intersection with Western Avenue; then north on Western Avenue to its intersection with Commonwealth Avenue; then east on Commonwealth Avenue to its intersection with Beach Boulevard; then north on Beach Boulevard to its intersection with La Mirada Boulevard; then northwest and north on La Mirada Boulevard to its intersection with Colima Road; then northeast on Colima Road to its intersection with Azusa Avenue; then north along Azusa Avenue to its intersection with Amar Road; then east along Amar Road to its intersection with Temple Avenue; then northeast along Temple Avenue to its intersection with the Walnut City Limits; then north and northeast along the Walnut City Limits to the Forest Lawn Memorial Park, Covina Hills, boundary; then northeast along that boundary to Interstate Highway 10; then east along Interstate Highway 10 to its intersection with Interstate Highway 210; then northwest along Interstate Highway 210 to its intersection with San Dimas Avenue; then east and north along San Dimas Avenue to its intersection with Foothill Boulevard; then west along Foothill Boulevard to its intersection with Alosta Avenue; then west along Alosta Avenue to its intersection with Foothill Boulevard; then west along Foothill Boulevard to its intersection with Azusa Avenue; then north along Azusa Avenue to its intersection with San Gabriel Canyon Road; then due north from the intersection along an imaginary line to its intersection with the Angeles National Forest boundary; then west along the boundary to the point of beginning.

Los Angeles and San Bernardino Counties. That portion of the counties beginning at the intersection of College Way and State Highway 30 (Base Line Road); then east along State Highway 30 to its intersection with Carnelian Street; then south along Carnelian street to its intersection with Vineyard Avenue; then south along Vineyard Avenue to its intersection with Holt Boulevard; then west along Holt Boulevard to its intersection with Grove Avenue; then south along Grove Avenue to its intersection with Mission Boulevard; then southeast along Mission Boulevard to its intersection with Vineyard Avenue; then south along Vineyard Avenue to its intersection with Riverside Drive; then west along Riverside Drive to its intersection with Walker Avenue; then south along Walker Avenue to its intersection with Eucalyptus Avenue; then west along Eucalyptus Avenue to its intersection with State Highway 83 (Euclid Avenue); then south along State Highway 83 to its intersection with State Highway 71; then southwest from this intersection along an imaginary line to the northern intersection of

VOL
58
ISS
244
DE
22
1993
UMI

the Yorba Linda City Limits and the San Bernardino County line; then northwest and north along the San Bernardino County line to its intersection with State Highway 60; then west along State Highway 60 to its intersection with State Highway 57; then north along State Highway 57 to its intersection with Interstate 10; then east on Interstate 10 to its intersection with Garey Avenue; then north along Garey Avenue to its intersection with College Way; then northeast along College Way to the point of beginning.

Done in Washington, DC, this 16th day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93-31162 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-02-P

Federal Crop Insurance Corporation

7 CFR Part 401

General Crop Insurance Regulations; Late and Prevented Planting for Various Crop Endorsements

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations, effective for the 1994 and succeeding crop years, by revising the late planting and prevented planting provisions of the Corn, Grain Sorghum, and Soybean Endorsements. Additionally, this rule serves to incorporate the late and prevented planting coverage into the Hybrid Sorghum Seed, Rice, Cotton, Barley, Oats, and Wheat Crop Endorsements and to incorporate the prevented planting coverage into the ELS Cotton Endorsement.

DATES: Effective Date: This rule is effective on November 30, 1993.

Comments: Written comments pursuant to this rule must be received by February 22, 1994.

ADDRESSES: Written comments should be sent to Mari Dunleavy, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. Comments received may be viewed and copied at 2101 L Street, NW., suite 502, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mari Dunleavy, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 254-8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of the Corn, Grain Sorghum, Hybrid Sorghum Seed, Rice, Cotton, ELS Cotton, Barley, Oats, Wheat, and Soybean Endorsement regulations affected by this rule under those procedures. The sunset review dates established for these regulations are as follows: Corn, April 1, 1996; Grain Sorghum, July 1, 1996; Hybrid Sorghum Seed, April 1, 1992; Rice, August 29, 1996; Cotton, May 1, 1994; ELS Cotton, June 1, 1994; Barley, October 1, 1997; Oats, October 1, 1997; Wheat, October 1, 1997; and Soybean, October 1, 1996.

Kenneth D. Ackerman, Manager, FCIC, has determined that this action is in conformance with Executive Order 12866 and is not a "significant regulatory action." Based on information compiled by the Department, it has been determined that this final rule: (1) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) would not alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (4) would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

The Manager certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons, nor will it have a significant economic effect on a substantial number of small entities. This action reduces the paperwork burden on the insured farmer, and on the reinsured company and sales and service contractor. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Manager has also certified to the Office of Management and Budget (OMB) that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778.

This rule has been reviewed in accordance with Executive Order 12778. The provisions of this interim rule are retroactive to November 30, 1993, and will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J must be exhausted before judicial action may be brought.

This amendment does not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35, the Paperwork Reduction Act.

The Office of General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this rule will not have substantial direct effects on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

FCIC amends the General Crop Insurance Regulations (7 CFR Part 401) by revising the late and prevented planting provisions of the Corn Endorsement (§ 401.111), Grain Sorghum Endorsement (§ 401.113), and the Soybean Endorsement (§ 401.117), effective for the 1994 and succeeding crop years. The Hybrid Sorghum Seed (§ 401.109), Rice (§ 401.120), Cotton (§ 401.119), Barley (§ 401.103), Oats (§ 401.105), and Wheat (§ 401.101), Endorsements are revised by incorporating the late and prevented planting provisions, and the ELS Cotton (§ 401.121) Endorsement is revised by incorporating prevented planting provisions. The insured will be covered for loss if prevented from planting the insured crop due to an insurable cause of loss which is general in the area without having to purchase a separate option for this coverage.

The changes will be effective for the 1994 and succeeding crop years in all counties for corn, cotton, ELS cotton, grain sorghum, hybrid sorghum seed, rice, and soybeans; and only in counties with a December 31 contract change date for barley, oats, and wheat. The changes will be effective for all barley, oat, and wheat counties for the 1995 and succeeding crop years.

FCIC previously revised the Corn, Grain Sorghum, and Soybean Endorsements for the 1994 and subsequent crop years. Further review of these new provisions found the salvage crop and loss provision to be excessively complicated and burdensome on the insureds and the companies delivering the policies. The 1993 floods and drought revealed deficiencies in the present method of making separate coverages available to address these problems.

The current optional coverage for late and prevented planting lacks the desired degree of effectiveness due to both coverage deficiencies and the volume of paperwork required. The paperwork required includes the prevented planting application and acreage report, and an option form for late planting coverage. Adding to the administrative burden is the tracking of dates for submission of these forms. By incorporating the late and prevented planting into the standard crop insurance policy, the additional paperwork will become unnecessary and obsolete. Coverage for late planting, and prevented planting due to an insurable cause of loss will now be automatically extended to the insured.

Late and prevented planting provisions for corn, grain sorghum, and soybeans were published as a final rule in the **Federal Register** at 58 FR 3202 on January 8, 1993. These provisions were offered to policyholders for the 1994 crop year. FCIC hereby revises those provisions as follows:

1. The perils insured against have been expanded to include all perils covered under the basic policies for the insured crops. Provisions published January 8, 1993, provided coverage only against excess moisture conditions, and drought if approved in writing.

2. Salvage crop provisions will apply only when the insured crop is planted after the late planting period. If any other crop intended for harvest in the same crop year as the insured crop is planted, prevented planting coverage will not be provided for the affected acreage. Previous provisions provided that the salvage value of any alternative crop planted after the late planting period would be counted against the production guarantee of the insured crop. These provisions were overly complex, and would have been difficult to administer.

3. Provisions have been added which will allow additional acreage to qualify for prevented planting coverage if such acreage does not exceed one hundred percent (100%) of the simple average of the number of acres planted to the insured crop for previous years for which the insured has continuous records of planted acreage or for the crop years that were used to determine the insured's yield. Provisions also allow the insurer to accept acreage in excess of the stated limitations if agreed to in writing prior to the sales closing date. Previously published provisions limited the acreage covered to the greater of the number of acres planted to the insured crop the previous year or the ASCS base acreage.

4. Provisions have been added to allow prevented planting coverage during the late planting period. Previously published provisions limited prevented planting coverage to acreage which was prevented from planting by the final planting date.

In addition to corn, grain sorghum, and soybeans, late and prevented planting coverage will be provided for barley, cotton, hybrid sorghum seed, oats, rice, and wheat. Prevented planting coverage will be provided for ELS cotton; however, late planting coverage will not be available for ELS cotton because planting during the late planting period generally does not allow enough time for the crop to reach maturity.

FCIC is soliciting comments for sixty days after the publication of this rule. Written comments should be sent to the name and address listed in the "Addresses" heading of this rule. All submitted comments will be considered and any amendment made necessary by these comments will be promulgated as soon as practicable. This rule relieves a restriction, is being promulgated for the benefit of the insured, and improves coverage for all policyholders good cause is found to make the rule retroeffective to November 30, 1993. Failure to make the rule final by November 30, 1993 will delay implementation until 1995 year for some crops.

List of Subjects in 7 CFR Part 401

Crop insurance; Corn, Grain sorghum, Soybeans, cotton, ELS cotton, Barley, Oats, Wheat, Hybrid sorghum seed, and Rice.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and for the reasons set forth in the preamble the Federal Crop Insurance Corporation hereby amends the crop insurance regulations (7 CFR Part 401) effective for the 1994 and subsequent crop years as follows:

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. Subparagraph 1:c. of § 401.101 (Wheat Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.101 Wheat endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to wheat during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(i)). This notice must be given not later than three (3) days after:

(1) The latest wheat final planting date in the county if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For all spring-planted wheat acreage (and fall-planted wheat acreage only where insurance is not offered for spring-planted wheat) which is planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

VOL
58
ISS
244
DE
22
1993
UMI

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the wheat continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If your were prevented from planting wheat (see subparagraph 11.(i), you may elect:

(i) To plant wheat during the late planting period. The production guarantee for such acreage will be determined in accordance subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. In counties for which the Actuarial Table designates a spring final planting date, the prevented planting guarantee will be based on your approved yield for spring-planted wheat. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant wheat after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 4 (Insurance Period) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for wheat in the county.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to wheat on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for wheat reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to wheat during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under any irrigated practice will be limited to the number of wheat acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for wheat in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than wheat, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of wheat acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of wheat on one optional unit and 40 acres of wheat on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more wheat acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to wheat in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted wheat in counties for which the Actuarial Table designates a spring final planting date, or the acreage reporting date for fall-planted wheat in counties for which the Actuarial Table designates a fall final planting date only, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Adequate stand*—a sufficient population of plants to produce at least the yield used to determine the guarantee.

(b) *Days*—calendar days.

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured wheat must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining, threshing, or cutting for hay or silage on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated wheat acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Late planting period*—(applicable only to spring-planted wheat acreage and fall-planted wheat acreage only where insurance is not offered for spring-planted wheat)-the period which begins the day after the final planting date for wheat and ends twenty-five (25) days after the wheat final planting date.

(h) *Latest wheat final planting date*—

(1) The final planting date for spring-planted wheat in all counties for which the Actuarial Table designates a final planting date for spring-planted wheat only;

(2) The final planting date for fall-planted wheat in all counties for which the Actuarial Table designates a final planting date for fall-planted wheat only; or

(3) The final planting date for spring-planted wheat in all counties for which the Actuarial Table designates final planting dates for both spring-planted and fall-planted wheat.

(i) *Prevented planting*—inability to plant wheat with proper equipment by:

(1) The latest wheat final planting date in the county; or

(2) The end of the late planting period.

You must have been unable to plant wheat due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the latest wheat final planting date in the county or within the late planting period.

(j) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(k) *Timely planted*—wheat planted by the final planting date, as established by the Actuarial Table, for wheat in the county to oe planted for harvest in the crop year.

3. Subparagraph 1.c of § 401.103 (Barley Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.103 Barley endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.3.(4) and 21.o of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to barley during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(i)). This notice must be given not later than three (3) days after:

(1) The latest barley final planting date in the county if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For all spring-planted barley acreage (and fall-planted barley acreage only where insurance is not offered for spring-planted barley) which is planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the barley continues after the final planting date, or you are prevented from planting barley during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting barley (see subparagraph 11.(i)), you may elect:

(i) To plant barley during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. In counties for which the Actuarial Table designates a spring final planting date, the prevented planting guarantee will be based on your approved yield for spring-planted barley. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant barley after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant barley after the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 4 (Insurance Period) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for barley in the county.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to barley on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for barley reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to barley during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice is limited to the number of barley acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for barley in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than barley, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purposes of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of barley acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of barley on one optional unit and 40 acres of barley on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more barley acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number,

the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to barley in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted barley in counties for which the Actuarial Table designates a spring final planting date, or the acreage reporting date for fall-planted barley in counties for which the Actuarial Table designates a fall final planting date only, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Adequate stand*—a sufficient population of plants to produce at least the yield used to determine the guarantee.

(b) *Days*—calendar days.

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured barley must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining, threshing, or cutting for hay or silage on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated barley acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Late planting period*—(applicable only to spring-planted barley acreage and fall-planted barley acreage only where insurance is not offered for spring-planted barley)—the period which begins the day after the final planting date for barley and ends twenty-five (25) days after the final planting date.

(h) *Latest barley final planting date*—

(1) The final planting date for spring-planted barley in all counties for which the Actuarial Table designates a final planting date for spring-planted barley only;

(2) The final planting date for fall-planted barley in all counties for which the Actuarial Table designates a final planting date for fall-planted barley only; or

(3) The final planting date for spring-planted barley in all counties for which the Actuarial Table designates final planting dates for both spring-planted and fall-planted barley.

(i) *Prevented planting*—inability to plant barley with proper equipment by:

(1) The latest barley final planting date in the county; or

(2) The end of the late planting period.

You must have been unable to plant barley due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the latest barley final planting date in the county or within the late planting period.

(j) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(k) *Timely planted*—barley planted by the final planting date, as established by the Actuarial Table, for barley in the county to be planted for harvest in the crop year.

4. Subparagraph 1.c. of § 401.105 (Oat Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.105 Oat endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to oats during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(i)). This notice must be given not later than three (3) days after:

(1) The latest oat final planting date in the county if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For all spring-planted oat acreage (and fall-planted oat acreage only where insurance is not offered for spring-planted oats) planted after the final planting date, but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the oats continues after the final planting date, or you are prevented from planting oats during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevent Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting oats (see subparagraph 11(i)), you may elect:

(i) To plant oats during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. In counties for which the Actuarial Table designates a spring final planting date, the prevented planting guarantee will be based on your approved yield for spring-planted oats. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant oats after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 4 (Insurance Period) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for oats in the county.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to oats on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS based acreage for oats reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to oats during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of oats acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for oats in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than oats, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of oat acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of oats on one optional unit and 40 acres of oats on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more oat acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to oats in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted oats in counties for which the Actuarial Table designates a spring final planting date, or the acreage reporting date for fall-planted oats in counties for which the Actuarial Table designates a fall final planting date only, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Adequate stand*—a sufficient population of plants to produce at least the yield used to determine the guarantee.

(b) *Days*—calendar days.

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured oats must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining, threshing, or cutting for hay or silage on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated oat acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Late planting period*—(applicable only to spring-planted oat acreage and fall-planted oat acreage only where insurance is not offered for spring-planted oats)—the period which begins the day after the final planting date for oats and ends twenty-five (25) days after the oat final planting date.

(h) *Latest oat final planting date*—

(1) The final planting date for spring-planted oats in all counties for which the Actuarial Table designates a final planting date for spring-planted oats only;

(2) The final planting date for fall-planted oats in all counties for which the Actuarial Table designates a final planting date for fall-planted oats only; or

(3) The final planting date for spring-planted oats in all counties for which the Actuarial Table designates final planting dates for both spring-planted and fall-planted oats.

(i) *Prevented planting*—inability to plant oats with proper equipment by:

(1) The latest oat final planting date in the county; or

(2) The end of the late planting period.

You must have been unable to plant oats due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the latest oat final planting date in the county or within the late planting period.

(j) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(k) *Timely planted*—oats planted by the final planting date as established by the Actuarial Table, for oats in the county to be planted for harvest in the crop year.

5. In § 401.109 (Hybrid Sorghum Seed Endorsement), section 12 is redesignated as a revised section 13 and a new section 12 is added to read as follows:

§ 401.109 Hybrid sorghum seed endorsement.

* * * * *

12. Late Planting and Prevented Planting

(a) In lieu of subparagraphs (2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to the insured crop during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced amounts of insurance for such acreage. The reduced amounts of insurance will be combined with the amount of insurance for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 200 acres of the same type and variety of which 150 acres are occupied by the female plant. Fifty acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the amount of insurance for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre amount of insurance for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre amount of insurance for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre amount of insurance for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the amount of insurance for the unit. Your premium will be based on the result of multiplying the per acre amount of insurance for timely planted acreage by the 150 insured crop acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 13.(o)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date the amount of insurance for such acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the insured crop continues after the final planting date, or you are prevented from planting the insured crop during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting the insured crop (see subparagraph 13.(o)), you may elect:

(i) To plant the insured crop during the late planting period. The amount of insurance for such acreage will be determined in accordance with subparagraph 12.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The amount of insurance for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the amount of insurance for timely planted acres. For example, if your amount of insurance for timely planted acreage is 200 dollars per acre, your prevented planting amount of insurance would be equivalent to 100 dollars per acre (200 dollars per acre multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant the insured crop after the late planting period. The amount of insurance for such acreage will be fifty percent (50%) of the amount of insurance for timely planted acres. For example, if your amount of insurance for timely planted acreage is 200 dollars per acre, your prevented planting amount of insurance would be equivalent to 100 dollars per acre (200 dollars per acre multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraphs 8.b. through e.

(2) In addition to the provisions of section 7 of the General Crop Insurance Policy (§ 401.8) and section 5 of this endorsement (Insurance Period), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for the insured crop.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to the insured crop on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date); or

(B) One hundred percent (100%) of the simple average of the number of acres planted to the insured crop for previous years for which you have continuous records of planted acreage,

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of the insured crop acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting amount of insurance will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for the insured crop in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than the insured crop, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number acres of the insured crop timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of the insured crop on one optional unit and 40 acres of the insured crop on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more insured crop acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, one unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to the insured crop in the crop year.

(5) In accordance with the provisions of section 3. (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8) and of this endorsement, you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

13. Meaning of Terms

(a) *Adjusted average yield*—an expected yield level for a specific variety, in bushels per acre, determined by us and used to establish the value of seed production for the purpose of determining the amount of indemnity.

(b) *Amount of insurance*—the number of dollars per acre that results from subtracting the minimum payment (in bushels) provided by the seed company from the county yield contained in the Actuarial Table for the selected coverage level and multiplying the result by the selected price election. If the minimum payment provided by the seed company is stated as a dollar amount, it will be converted to a bushel equivalent by dividing the dollar amount by the selected price election.

(c) *Commercial seed*—the offspring produced by crossing two individual seeds of different genetic character. The resultant offspring is the product intended for use on a commercial basis by an agricultural producer to produce a field crop type for grain sorghum, forage sorghum, or sorghum sudan.

(d) *Days*—calendar days.

(e) *Dollar value per bushel*—the value determined by dividing the amount of insurance per acre for timely planted acreage by the result of multiplying the adjusted average yield by the coverage level percentage you elect.

(f) *Female plants*—the plants grown for the purpose of producing commercial seed and from which the commercial seed is harvested.

(g) *Final planting date*—the date contained in the Actuarial Table by which the insured crop must initially be planted in order to be insured for the full amount of insurance.

(h) *Grow-out*—the growing of a sample of the insured crop to determine progeny characteristics.

(i) *Harvest*—combining, threshing, or picking of the seed and non-seed production on any acreage.

(j) *Inadequate germination*—less than 80 percent of the seed produced from female plants germinated as determined by a warm test using clean seed.

(k) *Irrigated practice*—a method of producing a crop by which water artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated amount of insurance on the irrigated insured crop acreage.

(l) *Late planted*—acreage planted during the late planting period.

(m) *Late planting period*—the period which begins the day after the final planting date for the insured crop and ends twenty-five (25) days after the final planting date.

(n) *Male plants*—the plants grown for the purpose of pollinating female plants.

(o) *Prevented planting*—inability to plant the insured crop with proper equipment by:

(1) The final planting date in the county for the insured crop; or

(2) The end of the late planting period.

You must have been unable to plant the insured crop due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(p) *Seed company*—a company which contracts with a grower to produce or grow plants for the production of hybrid seed.

(q) *Timely planted*—the insured crop planted by the final planting date, as established by the Acturial Table, for the insured crop in the county to be planted for harvest in the crop year.

(r) *Type*—grain sorghum, forage sorghum, or sorghum sudan.

(s) *Variety*—the seed produced from a pair of genetically identifiable parents.

6. Subparagraph 1.d. of § 401.111 (Corn Endorsement) is removed and section 10 and section 11 are revised to read as follows:

§ 401.11 Corn endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to corn during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph (11.(g)). This notice must be given no later then three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the corn continues after the final planting date, or you are prevented from planting corn during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting corn (see subparagraph 11.(g)), you may elect:

(i) To plant corn during the late planting period. The production guarantee for such acreage will be determined in accordance with section 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 70 bushels per acre, your prevented planting production guarantee would be equivalent to 35 bushels per acre (70 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant corn after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 70 bushels per acre, your prevented planting production guarantee would be equivalent to 35 bushels per acre (70 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.d.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for corn.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to corn on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for corn reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to corn during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of corn acres properly prepared to carry out an irrigation practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for corn in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than corn, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and will be reduced by the number of corn acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of corn on one optional unit and 40 acres of corn on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more corn acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(v) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to corn in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Days*—calendar days.

(b) *Final planting date*—the date contained in the Actuarial Table by which the insured corn must initially be planted in order to be insured for the full production guarantee.

(c) *Harvest*—completion of combining or picking corn for grain on any acreage.

(d) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated corn acreage.

(e) *Late planted*—acreage planted during the late planting period.

(f) *Late planting period*—the period which begins the day after the final planting date for corn and ends twenty-five (25) days after the final planting date.

(g) *Prevented planting*—inability to plant corn with proper equipment by:

(1) The final planting date for corn in the county; or

(2) The end of the late planting period.

You must have been unable to plant corn due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(h) *Production guarantee*—the number of bushels (tons if the Corn Silage Option is in effect) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(i) *Replanting*—performing the cultural practices necessary to replace the corn seed, and replacing the seed in the insured acreage with the expectation of growing a successful crop.

(j) *Silage*—corn harvested by severing the stalk from the land and chopping the stalk and the ear for the purpose of livestock feed.

(k) *Timely planted*—corn planted by the final planting date, as established by the Actuarial Table, for corn in the county to be planted for harvest in the crop year.

7. Subparagraph 1.c. of § 401.113 (Grain Sorghum Endorsement) is removed and section 10 and section 11 are revised to read as follows:

§ 401.113 Grain sorghum endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to grain sorghum during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(g)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the grain sorghum continues after the final planting date, or you are prevented from planting grain sorghum during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting grain sorghum (see subparagraph 11.(g)), you may elect:

(i) To plant grain sorghum during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant grain sorghum after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for grain sorghum.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to grain sorghum on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for grain sorghum reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to grain sorghum during the crop years that were used to determine your yield; unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of grain sorghum acres properly prepared to carry out an irrigation practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit, whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for grain sorghum in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than grain sorghum, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of grain sorghum acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of grain sorghum on one optional unit and 40 acres of grain sorghum on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more grain sorghum acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to grain sorghum in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Days*—calendar days.

(b) *Final planting date*—the date contained in the Actuarial Table by which the insured grain sorghum must initially be planted in order to be insured for the full production guarantee.

(c) *Harvest*—completion of combining or threshing grain sorghum for grain on any acreage.

(d) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated grain sorghum acreage.

(e) *Late planted*—acreage planted during the late planting period.

(f) *Late planting period*—the period which begins the day after the final planting date for grain sorghum and ends twenty-five (25) days after the final planting date.

(g) *Prevented planting*—inability to plant grain sorghum with proper equipment by:

(1) The final planting date for grain sorghum in the county; or

(2) The end of the late planting period.

You must have been unable to plant grain sorghum due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(h) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(i) *Replanting*—performing the cultural practices necessary to replace the grain sorghum seed, and replacing the seed in the insured acreage with the expectation of growing a successful crop.

(j) *Timely planted*—grain sorghum planted by the final planting date, as established by the Actuarial Table, for grain sorghum in the county to be planted for harvest in the crop year.

8. Subparagraph 1.c. of § 401.117 (Soybean Endorsement) is removed and sections 10 and 11 are revised to read as follows:

§ 401.117 Soybean endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to soybeans during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(h)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the soybeans continues after the final planting date, or you are prevented from planting soybeans during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting soybeans (see subparagraph 11.(h)), you may elect:

(i) To plant soybeans during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant soybeans after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for soybeans.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to soybeans on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date); or

(B) One hundred percent (100%) of the simple average of the number of acres planted to soybeans during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of soybean acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for soybeans in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than soybeans, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of soybean acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of soybeans on one optional unit and 40 acres of soybeans on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more soybean acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to soybeans in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Days*—calendar days.

(b) *Distinctly low quality*—(1) Exceeding 8.0 percent kernel damage (excluding heat damage); (2) Having a musty, sour, or commercially objectionable foreign odor which causes the beans to grade U.S. Sample grade; or (3) Graded as "Garlicky."

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured soybeans must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining or threshing of soybeans on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated soybean acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Late planting period*—the period which begins the day after the final planting date for soybeans and ends twenty-five (25) days after the final planting date.

(h) *Prevented planting*—inability to plant soybeans with proper equipment by:

(1) The final planting date for soybeans in the county; or

(2) The end of the late planting period.

You must have been unable to plant soybeans due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(i) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(j) *Replanting*—performing the cultural practices necessary to replace the soybean seed, and replacing the seed in the insured acreage with the expectation of growing a successful crop.

(k) *Timely planted*—soybeans planted by the final planting date, as established by the Actuarial Table, for soybeans in the county to be planted for harvest in the crop year.

9. Subparagraph 1.e. of § 401.119 (Cotton Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.119 Cotton endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to cotton during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consist of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by thirty-five percent (0.35) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(k)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the cotton continues after the final planting date, or you are prevented from planting cotton during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (including Planting After the Late Planting Period).

(1) If you were prevented from planting cotton (see subparagraph 11.(k)), you may elect:

(i) To plant cotton during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 700 pounds per acre, your prevented planting production guarantee would be equivalent to 245 pounds per acre (700 pounds multiplied by 0.35). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant cotton after the late planting period. The production guarantee for such acreage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 700 pounds per acre, your prevented planting production guarantee would be equivalent to 245 pounds per acre (700 pounds multiplied by 0.35). Production to count for such acreage will be determined in accordance with subparagraphs 7.b. and c.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8) and subparagraph 11.(b) (Meaning of Terms) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for cotton.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to cotton on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for cotton reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to cotton during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for cotton in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than cotton, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of cotton acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of cotton on one optional unit and 40 acres of cotton on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more cotton acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to cotton in the crop year.

VOL 58 ISS 244 DEC 22 1993 UMI

(3) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(4) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be providing for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Cotton*—only American Upland Cotton.

(b) *Crop year*—the period beginning at planting and extending through the end of the insurance period shown in section 4 and is designated by the calendar year in which the crop is normally planted.

(c) *Days*—calendar days.

(d) *Final planting date*—the date contained in the Actuarial Table by which the insured cotton must initially be planted in order to be insured for the full production guarantee.

(e) *Growth area*—a geographic area designated by the Secretary of Agriculture for the purpose of reporting cotton prices.

(f) *Harvest*—the removal of the seed cotton on each acre from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

(g) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated cotton acreage.

(h) *Late planted*—acreage during the late planting period.

(i) *Late planting period*—the period which begins the day after the final planting date for cotton and ends twenty-five (25) days after the final planting date.

(j) *Mature cotton*—cotton which can be harvested either manually or mechanically and will include both unharvested and harvested cotton.

(k) *Prevented planting*—inability to plant cotton with proper equipment by:

(1) The final planting date for cotton in the county; or

(2) The end of the late planting period.

You must have been unable to plant cotton due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(l) *Production guarantee*—the number of pounds determined by multiplying the approved yield per acre by any applicable yield conversion factor for the row pattern planted, multiplied by the coverage level percentage you elect.

(m) *Skip-row*—planting patterns consisting of alternating rows of cotton and fallow rows or rows of another crop (not spring-planted) as defined by ASCS (if non-cotton rows are occupied by another crop any yield factor normally applied for skip-row cotton will not be applicable).

(n) *Timely planted*—cotton planted by the planting date, as established by the Actuarial Table, for cotton in the county to be planted for harvest in the crop year.

10. Subparagraph 1.c. of § 401.120 (Rice Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.120 Rice endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.c. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to rice during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for the late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by thirty-five percent (0.35) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(h)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (0.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the rice continues after the final planting date, or you are prevented from planting rice during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting rice (see subparagraph 11.(h)), you may elect:

(i) To plant rice during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production for such acreage which is eligible for prevented planting coverage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 2000 pounds per acre, your prevented planting production guarantee would be equivalent to 700 pounds per acre (2000 pounds multiplied by 0.35). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant rice after the late planting period. The production guarantee for such acreage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 2000 pounds per acre, your prevented planting production guarantee would be equivalent to 700 pounds per acre (2000 pounds multiplied by 0.35). Production to count for such acreage will be determined in accordance with subparagraphs 7.b. and c.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for rice.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to rice on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for rice reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to rice during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit, whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for rice in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than rice, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iii) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of rice acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of rice on one optional unit and 40 acres of rice on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more rice acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to rice in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Days*—calendar days.

(b) *Final planting date*—the date contained in the Actuarial Table by which the insured rice must initially be planted in order to be insured for the full production guarantee.

(c) *Harvest*—the completion of combining or threshing rice for grain on any acreage.

(d) *Late planted*—acreage planted during the late planting period.

(e) *Late planting period*—the period which begins the day after the final planting date for rice and ends twenty-five (25) days after the final planting date.

(f) *Mill center*—any location in which two or more mills are engaged in milling rough rice.

(g) *Planted*—uniform placement of an adequate amount of rice seed into a prepared seedbed by one of the following methods. Any acreage into which seed is placed in any other manner will not be considered as planted under the terms of this policy:

(1) Drill seeding—uniform placement of the rice seed into the prepared seedbed by use of a grain drill that incorporates the seed to a proper soil depth.

(2) Broadcast seeding—uniform distribution of the rice seed onto the surface of a prepared seedbed, followed by either mechanical incorporation of the seed to a proper soil depth in the seedbed or flushing the seedbed with water.

(3) Broadcast seeding into a controlled flood—uniform distribution of the rice seed onto a prepared seedbed that has been intentionally covered by water. The water must be free of movement and be completely contained on the acreage by properly constructed levees and gates.

(h) *Prevented planting*—inability to plant rice with proper equipment by:

(1) The final planting date for rice in the county; or

(2) The end of the late planting period.

You must have been unable to plant rice due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(i) *Production guarantee*—the number of pounds determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(j) *Replanting*—performing the cultural practices necessary to replace the rice seed and replacing the rice seed in the insured acreage with the expectation of growing a successful crop.

(k) *Second crop rice*—regrowth of a stand of rice originating from the initially insured rice crop following harvest and which can be harvested in the same crop year.

(l) *Timely planted*—rice planted by the final planting date, as established by the Actuarial Table, for rice in the county to be planted for harvest in the crop year.

11. In § 401.121 (ELS Cotton Endorsement), section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.121 ELS cotton endorsement.

* * * * *

10. *Prevented Planting (Including Planting after the Final Planting Date)*

(a) In lieu of subparagraph 2.e.(4) of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage you were prevented from planting (see subparagraph 11.(h)). This coverage provides a reduced production guarantee for such acreage. The reduced guarantee will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 100 acres, of which 50 acres were planted by the final planting date and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely; and

(2) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by thirty-five percent (0.35) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the two calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 100 acres in the unit.

(b) If you were prevented from planting ELS cotton (see subparagraph 11.(h)), you may elect:

(1) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 600 pounds per acre, your prevented planting production guarantee would be equivalent to 210 pounds per acre (600 pounds multiplied by 0.35). This section does not prohibit the preparation and care of

VOL 58 ISS 244 DEC 22 1993 UMI

the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(2) To plant ELS cotton after the final planting date. The production guarantee for such acreage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 600 pounds per acre, you prevented planting production guarantee would be equivalent to 210 pounds per acre (600 pounds multiplied by 0.35). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(c) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for ELS cotton.

(d) You must provide written notice to us if you were prevented from planting. This notice must be given not later than three (3) days after the final planting date if you have unplanted acreage that may be eligible for prevented planting coverage.

(e) The acreage to which prevented planting coverage applies will be limited as follows:

(1) Eligible acreage will not exceed the greater of:

(i) The number of acres planted to ELS cotton on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(ii) The ASCS base acreage for ELS cotton reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(iii) One hundred percent (100%) of the simple average of the number of acres planted to ELS cotton during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(2) Acreage intended to be planted under an irrigated practice will be limited to the number of ELS cotton acres properly prepared to carry out an irrigation practice.

(3) A prevented planting production guarantee will not be provided for:

(i) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(ii) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for ELS cotton in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(iii) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(iv) Land on which any crop, other than ELS cotton, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(v) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(4) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of ELS cotton acres timely planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of ELS cotton on one optional unit and 40 acres of ELS cotton on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more ELS cotton acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(f) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to ELS cotton in the crop year.

(g) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(h) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Cotton*—Extra Long Staple cotton and acreage replanted to American Upland Cotton after ELS was destroyed by an insured cause.

(b) *Days*—calendar days.

(c) *ELS Cotton*—Extra Long Staple cotton (also called Pima Cotton and American-Egyptian Cotton).

(d) *Final planting date*—the date contained in the Actuarial Table by which the insured ELS cotton must initially be planted in order to be insured for the full production guarantee.

(e) *Harvest*—the removal of the seed cotton on each acre from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

(f) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated ELS cotton acreage.

(g) *Mature cotton*—ELS cotton which can be harvested either manually of mechanically and will include both unharvested and harvested cotton.

(h) *Prevented planting*—inability to plant ELS cotton with proper equipment by the final planting date due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date.

(i) *Production guarantee*—the number of pounds determined by multiplying the approved yield per acre by any applicable yield conversion factor for the row pattern planted, multiplied by the coverage level percentage you elect.

(j) *Replanted*—performing the cultural practices necessary to replant acreage to AUP cotton and replacing the AUP cotton seed after ELS cotton was destroyed by an insured cause in the same growing season.

(k) *Skip-row*—planting patterns consisting of alternating rows of cotton and fallow rows as defined by ASCS (if non-cotton rows are occupied by another crop any yield factor normally applied for skip-row cotton will not be applicable).

(l) *Timely planted*—ELS cotton planted by the final planting date, as established by the Actuarial Table, for ELS cotton in the county to be planted for harvest in the crop year.

Done in Washington, D.C. on December 13, 1993.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 93-31171 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 443

Hybrid Seed Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Hybrid Seed Crop Insurance Regulations by revising coverage terms to cover loss due to late and prevented planting. The intended effect of this regulation is to incorporate insurance provisions for coverage of late or prevented planting.

EFFECTIVE DATE: November 30, 1993.

ADDRESSES: Written comments on this rule must be received by February 22, 1994, to be sure of consideration. Comments should be addressed to Mari L. Dunleavy, Federal Crop Insurance Corporation, US Department of Agriculture, Washington, DC 20250. Comments received may be viewed and copied Monday through Friday, during normal business hours, at 2101 L Street NW., suite 500 Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Mari L. Dunleavy, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 254-8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1997.

Kathleen Connelly, Acting Manager, FCIC, has determined that this action is in conformance with Executive Order 12866 and is not a "significant regulatory action." Based on information compiled by the Department, it has been determined that this final rule:

(1) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Would not alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(4) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

The Acting Manager certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons, nor will it have a significant economic effect on a substantial number of small entities. This action reduces the paperwork burden on the insured farmer, and on the reinsured company and sales and service contractor. This action is therefore, determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Acting Manager, FCIC, has certified to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778.

This rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule are retroactive to November 30, 1993 and will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J must be exhausted before judicial action may be brought.

This amendment does not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35, the Paperwork Reduction Act.

The Office of General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this proposed rule will not have substantial direct effects on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Background

Optional insurance coverage for late planting is currently offered for hybrid seed. However, due to the method by which the amount of insurance is reduced after the final planting date, and the excessive volume of paperwork required to administer the option, the current option lacks the desired degree of effectiveness. Coverage for prevented planting is not currently extended to hybrid seed policyholders.

By this rule, FCIC will now incorporate both, prevented planting and late planting coverage into the hybrid seed policy. The coverages will automatically be extended to all hybrid seed policyholders, without the added burden of option forms.

As this rule liberalizes the policy, and is being promulgated for the benefit of the farmer, good cause is found to make this rule final upon publication. Comments will, however, be accepted for sixty days after the publication of this rule and any amendment made necessary through those comments will be promulgated as soon as practicable.

List of Subjects in 7 CFR Part 443

Crop Insurance, Hybrid Seed.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and for the reasons set forth in the preamble, the Federal Crop Insurance Corporation amends the Hybrid Seed Crop Insurance Regulations (7 CFR part 443), effective for the 1994 and succeeding crop years, as follows:

PART 443—HYBRID SEED CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 443 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. Section 443.7 is amended in the insurance policy by removing paragraph 2.e.(4) and redesignating paragraphs 2.e(5) through 2.e.(12) as 2.e.(4) through 2.e.(11), revising paragraph 7 introductory text, redesignating paragraphs 17, 18, 19, 20, and 21 as 18, 19, 20, 21, and 22 respectively, adding new paragraph 17, and revising the newly designated paragraph 18 to read as follows:

§ 443.7 The application and policy.

* * * * *

7. Insurance Period

Insurance attaches for each type and variety when both the male plant seed and the female plant seed of that type and variety are planted in accordance with the production management practices of the seed company. Insurance terminates at the earliest of:

* * * * *

17. Late Planting and Prevented Planting

(a) Insurance will be provided for acreage planted to the insured crop during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced amounts of insurance for such acreage. The reduced amounts of insurance will be combined with the amount of insurance for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example assume you insure one unit in which you have a 100 percent share. The unit consists of 200 acres of the same type and variety, of which 150 acres are occupied by the female plant. Fifty acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the amount of insurance will be computed as follows:

(1) For timely planted acreage, multiply the per acre amount of insurance for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre amount of insurance for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre amount of insurance for timely planted acreage by forty percent (0.40) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the amount of insurance for the unit. Your premium will be based on the result of multiplying the per acre amount of insurance for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 18.(w)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting

(1) For acreage planted after the final planting date, but on or before 25 days after the final planting date, the amount of insurance for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, Type and Practice), you must report the dates on which the acreage is planted within the late planting period.

(3) If planting of the insured crop continues after the final planting date, or you are prevented from planting the insured crop during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period)

(1) If you were prevented from planting the insured crop (see subparagraph 18.(w)), you may elect:

(i) To plant the insured crop during the late planting period. The amount of insurance for such acreage will be determined in accordance with subparagraph 17.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The amount of insurance for such acreage eligible for prevented planting coverage will be forty percent (0.40) of the amount of insurance for timely planted acres. For example, if your amount of insurance is 200 dollars per acre, your prevented planting amount of insurance would be 80 dollars per acre (200 dollars per acre multiplied by 0.40). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant the insured crop after the late planting period. The amount of insurance for such acreage will be forty percent (0.40) of the amount of insurance for timely planted acres. For example, if your amount of insurance for timely planted acreage is 200 dollars per acre, your prevented planting amount of insurance would be to 80 dollars per acre (200 dollars per acre multiplied by 0.40). Production to count for such acreage will be determined in accordance with subparagraph 9.e.

(2) In addition to the provisions of section 7 (Insurance Period), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for the insured crop.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to the insured crop on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date); or

(B) One hundred percent (100%) of the simple average of the number of acres planted to the insured crop for previous years for which you have continuous records of planted acreage;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of the insured crop acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting amount of insurance will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate, unless you submit a written request for coverage for such acreage prior to the sales closing date for the insured crop in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than the insured crop, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of acres of the insured crop timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of the insured crop on one optional unit and 40 acres of the insured crop on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more insured crop acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to the insured crop in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, Type and Practice), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

18. Meaning of Terms

(a) *Actuarial table*—the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the coverage levels, premium rates, amounts of insurance, practices, insurable and uninsurable acreage, and related information regarding insurance for the crop in the county.

(b) *Amount of insurance*—the number of dollars per acre that results from subtracting the minimum payment (in bushels) provided by the seed company from the selected coverage level's county yield contained in the Actuarial Table and multiplying the result by the selected price election. If the minimum payment provided by the seed company is stated as a dollar amount, it will be converted to a bushel equivalent by dividing the dollar amount by the selected price election.

(c) *Approved yield*—an expected yield level for a specific variety, in bushels per acre, determined by us and used to establish the value of seed production for the purpose of determining the amount of indemnity.

(d) *ASCS*—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(e) *Commercial seed*—the offspring of two individual seeds of different genetic character which is produced as a result of crossing. A portion of this resultant offspring is the product intended for the purpose or use on a commercial basis by an agricultural producer to produce a field crop type for grain or silage.

(f) *County*—(1) The County shown on the application; and

(2) Any additional land located in a local producing area bordering on the county, as shown by the Actuarial Table.

(g) *Crop year*—the period within which the crop is normally grown and is designated by the calendar year in which the crop is normally harvested.

(h) *Days*—calendar days.

(i) *Dollar value per bushel*—the value determined by dividing the amount of insurance per acre for timely planted acreage by the result of multiplying the approved yield by the coverage level percentage you elect.

(j) *Female plant*—the plants grown for the purpose of producing commercial seed.

(k) *Final planting date*—the date contained in the Actuarial Table by which the insured crop must initially be planted in order to be insured for the full amount of insurance.

(l) *Harvest*—the completion of combining, threshing, or picking of the crop on any acreage.

(m) *Inadequate germination*—less than 80 percent (80%) of the seed produced from female plants germinated as determined by a warm test using clean seed.

(n) *Insurable acreage*—the land classified as insurable by us and shown as such by the Actuarial Table.

(o) *Insured*—the person who submitted the application accepted by us.

(p) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated amount of insurance on the irrigated crop acreage.

(q) *Late planted*—acreage planted during the late planting period.

(r) *Late planting period*—the period which begins the day after the final planting date for the insured crop and ends twenty-five (25) days after the final planting date.

(s) *Loss ratio*—the ratio of indemnity to premium.

(t) *Male plant*—the plants grown for the purpose of pollinating female plants.

(u) *Non-seed production*—all seed with inadequate germination. (Designation as non-seed production under this definition may be production to count under section 9 through appraisal if the inadequate germination was due to an uninsurable cause. (See subparagraph 9.e.(2)(a)).

(v) *Person*—an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

(w) *Prevented planting*—inability to plant the insured crop with proper equipment by:

(1) the final planting date for the insured crop in the county; or

(2) the end of the late planting period.

You must have been unable to plant the insured crop due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(x) *Sample*—at least 3 pounds of shelled corn representative (field run) for each variety of seed corn grown on the unit.

(y) *Seed company*—a company which contracts with a grower to produce or grow for the production of hybrid corn seed.

(z) *Seed production*—all seed with a germination rate of at least 80 percent (80%) on a warm test using clean seed.

(aa) *Service office*—the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

(bb) *Shelled-corn*—the grain (corn) after its removal from the cob.

(cc) *Tenant*—a person who rents land from another person for a share of the crop or a share of the proceeds therefrom.

(dd) *Timely planted*—the insured crop planted by the final planting date, as established by the Actuarial Table, for the insured crop in the county to be planted for harvest in the crop year.

(ee) *Type*—the crop grown: i.e., corn.

(ff) *Unit*—all insurable acreage of the insured crop in the county on the date of planting for the crop year:

(1) In which you have a 100 percent (100%) share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported.

Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

(gg) *Variety*—the seed produced from a pair of genetically identifiable parents.

* * * * * * *

Done in Washington, DC on November 30, 1993.

Kathleen Connelly,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 93-30728 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-08-M

Animal and Plant Health Inspection Service

9 CFR Parts 130 and 156

[Docket No. 92-042-2]

RIN 0579-AA43

User Fees—Import- and Export-Related Veterinary Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are establishing user fees for certain import-related services we provide for live animals, animal products, organisms and vectors, and germplasm. We are also amending existing hourly user fees for certain export services provided for live animals and establishing user fees for endorsing export certificates for germplasm. These user fees are authorized by section 2509(c) of the Food, Agriculture, Conservation and Trade Act of 1990, as amended. The effect of these regulations is to require certain persons to pay fees for services they receive.

EFFECTIVE DATE: January 21, 1994.

FOR FURTHER INFORMATION CONTACT: For information concerning services provided for live animals and germplasm, contact Dr. David Vogt, Senior Staff Veterinarian, National Center for Import-Export, VS, APHIS, USDA, room 767, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8172.

For information concerning services provided for animal products and byproducts, contact Dr. Kathleen Akin, Senior Staff Veterinarian, National Center for Import-Export, VS, APHIS, USDA, room 755, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7830.

For information concerning fees, contact Ms. Barbara Thompson, Chief, User Fee Branch, Budget and Accounting Division, M&B, APHIS, USDA, room 263, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–5901.

SUPPLEMENTARY INFORMATION:

Background

User Fees Authorized Under the Farm Bill

The Food, Agriculture, Conservation and Trade Act of 1990, as amended (referred to below as the Farm Bill), authorizes the Secretary of Agriculture, among other things, to prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Federal Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance. (Section 2509(c)(1) of the Farm Bill.)

Section 2509(c) also provides procedures for the Secretary to follow in the case of nonpayment of assessed fees, late payment penalties, or accrued interest. The section states that the Secretary shall suspend performance of services to persons who have failed to pay fees, late payment penalty, or accrued interest.

VOL
58
ISS
2
4
4
DE
22
1993
UMI

Section 2509(d) of the Farm Bill provides, in addition, that the Secretary may prescribe such regulations as the Secretary determines necessary to carry out the provisions of section 2509.

Previously Published Regulations

We have previously published documents in the **Federal Register** establishing, or proposing to establish, user fees for various services provided by the Animal and Plant Health Inspection Service (APHIS). APHIS user fees currently in effect are published in 7 CFR 354.3 and 354.4, and 9 CFR part 130. Currently effective user fees include fees for:

(1) Inspecting various passengers and commercial aircraft, vessels, trucks and railroad cars arriving within the customs territory of the United States;

(2) Issuing certain certificates, such as phytosanitary certificates for plants and plant products, and endorsing export certificates for animals;

(3) Providing quarantine services within the United States for imported animals;

(4) Providing certain inspection and supervision services within the United States for animals intended for export;

(5) Conducting certain veterinary inspections outside the United States; and

(6) Veterinary diagnostic services.

Proposed Rule

On July 22, 1993, we published a document in the **Federal Register** (58 FR 39163–39173, Docket No. 92–042–1) in which we proposed to amend 9 CFR Chapter I to establish user fees for certain import-related services we provide for live animals, animal products, organisms and vectors, and germplasm. In our document of July 22, 1993, we also proposed to amend existing hourly user fees for certain export services provided for live animals. In the same document we also proposed to amend 9 CFR Chapter I to establish user fees for endorsing export certificates for germplasm.

We solicited comments concerning our proposal for a 30-day comment period ending August 23, 1993. We received 26 comments by that date. They were from importers, exporters, universities, Federal Government agencies, and research facilities.

We have carefully considered all of the comments we received. They are discussed below by topic.

General Comments

Increased Costs to APHIS

With regard to savings realized by charging user fees, the intent of the Farm Bill was not to save money, but to shift the burden of paying for services from the general public to the recipient of the services. We believe our APHIS user fees accomplish this goal.

Public Versus Private Benefit

Numerous comments stated that our services are already paid for by taxes, and therefore we should not charge user fees for them. Other comments stated that we should not charge a user fee for any service that benefits the public. Some comments also implied that institutions that provide services to APHIS should not have to pay user fees for services they receive from APHIS.

Some of these comments were apparently referring to the User Fee Statute (31 U.S.C. 9701), which provides, in part, that:

> [by it or the heads of] the agency may [provide] service or thing of value provided by an agency * * * to a person (except a person on official business of the United States government) is to be self-sustaining to the extent possible.
>
> (b) The head of each agency * * * may prescribe regulations establishing the charge for a service or thing of value provided by the agency."

However, the user fees we proposed are authorized by the Farm Bill, not by the User Fee Statute. Our authority under the Farm Bill, which is explained more extensively above, does not require us to consider the issue of private versus public benefits at all. The Farm Bill states simply that we may charge a user fee for certain listed services. Whether these services provide public or private benefits, or a combination of the two, is irrelevant under the Farm Bill. Therefore, we are making no changes in the proposed regulations based on these comments.

Length of Comment Period

One commenter requested that we extend the 30-day comment period. The Animal and Plant Health Inspection Service (APHIS) must institute user fees as soon as possible. Appropriated funds for APHIS are not sufficient to cover the costs of providing the services covered by our proposed user fees. It is therefore, necessary for us to collect user fees, starting as soon as possible, to ensure that these services continue to be available to the public. For this reason, a longer comment period is not feasible. We believe the comment period provided was reasonable under the circumstances. Moreover, the fact that we received 26 comments on the proposal leads us to believe that the comment period was adequate.

Use of Fees—Deficit Reduction Versus Improved APHIS Service

Many comments stated that APHIS user fees should be used to augment the APHIS budget and improve services. Some comments also stated that APHIS user fees should not be used for general Federal budget deficit reduction. Other comments demanded better and more efficient service from APHIS in return for user fees.

All user fees collected under the regulations adopted in this final rule will be collected under authority of the Farm Bill. This money will be available to APHIS to apply directly to APHIS programs, as explained above. The Farm Bill does not require Congress to reduce our appropriation. Whether to increase or decrease our funding is a decision made by Congress as part of the budget process. For fiscal year 1993, the APHIS appropriation has been reduced. We anticipate that the loss of direct funding will be made up to some extent by APHIS user fees we collect.

Many comments made suggestions as to how APHIS can improve its services. Several comments suggested fees that could be eliminated by eliminating certain inspections or permit requirements or by replacing them. Commenters stated that certain requirements are redundant or unnecessary.

We are not making any changes based on these comments. Our proposal concerned only charging user fees for services APHIS provides. Whether a particular service should be provided is therefore outside the purview of our proposal. However, we are considering all of the commenters' suggestions. APHIS services are continually adjusted to meet changing needs. We are constantly trying to improve our services and reduce costs. If we determine that a change would be beneficial, we will publish a proposed rule for public comment in the **Federal Register**. In addition, if in the future we propose to eliminate a service for which we have a user fee, we will also propose to eliminate the user fee. Likewise, if in the future we propose to add a service, we may also propose to add a user fee for the service. If we propose in the future to substantially change a service for which we charge a user fee, we will recalculate the user fee for the service to reflect those changes.

Detrimental Effects of User Fees

One commenter expressed the belief that charging user fees will slow down APHIS services. For the most part, we do not anticipate that this will happen. The billing and collection system for user fees is generally separate from providing the actual service. Therefore, in most cases, charging user fees should not effect the speed at which APHIS provides any given service.

Future Review and Revision of User Fees

One commenter expressed concern that our user fees will increase over time. We are making no changes based on this comment. We have determined, using the best data available, the current cost of each of the services for which we will charge an APHIS user fee. We realize that our cost to provide each service will probably change over time. Salaries, supplies, overhead, and all the other elements of our fees change over time. However, our costs will not necessarily increase. As explained in our proposal, the Farm Bill authorizes us to collect the full costs of the services we provide. Therefore, as stated in our proposal, we intend to monitor our fees throughout the year and review them at least annually. We will propose to adjust the fees up or down as the review warrants, and we will publish, for public comment, any proposed fee changes in the **Federal Register**.

One commenter suggested that we establish user fees for 5 years, so there would be no "dramatic" price increases. We have considered this idea. However, we do not consider it to be practical. If we continue to provide various services, we must collect enough in user fees to cover our costs. If costs rise, we must collect more money by raising our user fees. In addition, the services and programs we offer are constantly adjusted to changing circumstances, such as disease outbreaks. If we lock in our user fees for 5 years, we cannot adjust them, whether up or down, to reflect service changes.

General Hardship; Exemptions From Fees

Many comments objected in general terms to the proposed APHIS user fees. Many maintained the proposed APHIS user fees would be detrimental to small businesses, or to specific industries such as embryo transfer companies and semen exporters. Others stated that paying the fees would be a hardship, would increase their cost of doing business, would inhibit international cooperation, would hurt United States exports, or would have other detrimental effects.

Some comments proposed that we either exempt certain industries or classes of users from the proposed user fees or charge them reduced fees. Among those mentioned were nonprofit institutions such as zoos and museums, research institutions, tax-exempt organizations, and Federal and State institutions and facilities supported by tax revenues or grants from tax-exempt organizations or government agencies.

We are not making any changes in the regulations based on these comments. Because of budget constraints, we do not have the option to charge user fees that recover less than the full cost of providing a service. If we did so, we would not collect enough money to support the service. However, we have attempted to minimize the cost of our services, thereby keeping APHIS user fees at the lowest possible level. In addition, generally speaking, the costs to APHIS are the same to provide a specific service, regardless of the recipient of the service. The size or funding source of the entity receiving the service is unrelated to the cost of providing the services. Therefore, we cannot justify a discount based on the size of the business or other factors.

We realize that payment of the proposed user fees will increase the up-front cost of doing business. Various persons are currently subsidized by the taxpayers in general, in that those who benefit from APHIS services do not directly pay for the services. Requiring persons to pay a fee for the services they receive would eliminate the subsidy, general appropriations from taxes would no longer be needed, and costs to taxpayers in general would be reduced.

Rounding of Fees

One commenter objected to our proposal to round up our fees. In addition, the commenter states that it is unfair for those who do pay their user fees, to have to pay, through higher fees, for the unpaid fees of others.

We are not making any changes in the regulations based on this comment. As explained in our proposal (see 58 FR 39169), we proposed to round our user fees up to the nearest quarter as this is consistent with the methodology we used to determine other APHIS user fees. We also explained that, based on our experience with billings and collections, we believe rounding up our fees is most practical as it makes calculations easier, reduces billing and collection errors, compensates for the impossibility of calculating the exact cost of any service, and compensates APHIS for the portion of user fees that will never be paid and that we cannot collect.

APHIS will make every attempt to collect user fees due the agency. To encourage payment, the regulations provide that users who do not pay will not be able to get future services from APHIS.

However, APHIS does not receive any funds to cover user fees that remain unpaid. Unpaid user fees therefore become a cost of providing services. As a cost, they must be factored into our user fees. In this way they are unavoidably passed on to users who do pay. However, based on our experience charging APHIS user fees for other services, we anticipate that unpaid user fees will be minimal.

Relationship of User Fee to Either Time Spent Providing Service or Value of Product

We received one comment suggesting that user fees be tied to the duration of the service provided.

As explained in our proposed rule, the time spent by APHIS employees is only part of the cost that we must recover through user fees. Supplies, overhead, equipment, telephone, and numerous support costs must be included. A service may be provided faster in one instance than another. However, our proposed user fees reflect the average cost of providing particular services on a nationwide basis.

We did include hourly fees in our proposed rule for certain services. However, we proposed hourly fees only for services that vary greatly in the amount of time needed to complete them and for which we could not accurately calculate a flat fee. We set the hourly fee at a level that is sufficient to recover all possible costs for a variety of veterinary services. If we applied hourly fees to all services, some users would save money, but many would pay more, in some cases more than the cost to provide the services they received. We do not believe this would be fair. We have therefore calculated flat fees whenever possible.

It would not be practical, from the point of view of collecting fees, to customize the fee for a service each time it was rendered. Such a system would be unwieldy and expensive to administer. The additional expenses of such a system would, in turn, have to be included in the fee, raising it further. For these reasons, we are making no changes based on this comment.

Another comment suggested that user fees should be tied to the value of the product. We are not making any changes based on this comment. What service or type of service we provide is not related to the value of the items involved. Nor is the value of the items related to the time or effort required of APHIS personnel to provide the service.

User Fees Less Than Processing Costs

One comment stated that our proposed user fees are less than

VOL 58 ISS 244 DEC 22 1993 UMI

processing costs, when both APHIS's costs and the payor's costs are considered. This commenter may be correct in the case of certain proposed user fees. However, the Farm Bill only authorizes APHIS to recover its own costs. The Farm Bill does not authorize APHIS to consider the payor's costs when calculating fees. However, we are constantly trying to reduce costs and minimize any necessary cost increases, thus keeping our user fees as low as possible.

Paperwork Reduction Act

One comment complained that our proposed user fees violate the Paperwork Reduction Act. We are not making any changes based on this comment.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) was designed, among other things, to:

(1) Minimize the Federal paperwork burden;

(2) Minimize the cost to the Federal Government of collecting, maintaining, using, and disseminating information;

(3) Maximize the use of information collected by the Federal Government;

(4) Coordinate, integrate, and, as much as possible, make Federal information policies and practices uniform; and

(5) Ensure that the Federal Government collects, maintains, uses and disseminates information in accordance with the Privacy Act (5 U.S.C. 552a).

The Paperwork Reduction Act does not prohibit agencies of the Federal Government from imposing information and paperwork requirements. In order to ensure that agencies do not make excessive demands on the public, all information and paperwork requirements are reviewed, and must be approved, by the Office of Management and Budget. All the information and paperwork requirements contained in our proposed rule have been submitted to OMB for review. We have been very careful to ask only for the information and paperwork we believe is absolutely necessary to ensure that user fees are correctly assessed and collected.

Mandatory Versus Voluntary Use of APHIS Services

One commenter suggested that he should not have to pay a user fee for service he received because he had not asked for the service, but instead was required to obtain it. Another commenter was generally negative on the idea of user fees, suggesting that he was required to use our services. A third commenter stated that there should be no fee for any service that the government requires.

We are not making any changes in the proposal based on these comments. Our authority to collect user fees does not distinguish between mandatory and voluntary services. Further, we do not agree with the commenters' basic proposition that users do not ask for APHIS services if they are complying with a regulatory requirement.

APHIS services are provided to enhance U.S. agriculture. Some requirements concerning importation of animals and animal products are designed to help ensure that animal diseases and pests are not introduced into the United States. APHIS services concerning exportation of animals and animal products are designed either to provide services to exporters that they need in order to meet requirements of the importing country, or to help ensure that no infected animals or animal products are exported from the United States, thereby harming markets for U.S. exports.

No one is required to conduct any business or endeavor that is regulated by APHIS. However, anyone who does so must comply with APHIS requirements. In this manner, all users ask for service from APHIS.

User Fees for Courtesy Permits

One commenter stated that we should not charge user fees for "courtesy permits." These are permits we issue, at the request of importers, for importations that do not require permits. Importers usually request courtesy permits if they believe having a permit will minimize delays getting their importation into the country. We are not making any changes based on this comment. These permits are issued solely for the convenience of importers. However, it takes the same time and effort for APHIS personnel to issue a courtesy permit as to issue any other permit. We believe it would be unfair not to charge for courtesy permits, which no importer is required to obtain, when we have proposed to charge for permits that are required.

User Fees for VS Form 16

One commenter asked if user fees are payable for all VS Form 16 documents.[1] Our answer is no. User fees are only payable for documents or services listed in the regulations. If a form number is included in the regulations, it is to clarify what service is subject to a user fee. Generally, we have not listed particular form numbers because there are many different forms and because form numbers change. We have instead indicated only the type of document or service for which we would charge a user fee. However, if the user fee applies to only a particular form, we have listed that form number.

User Fees for APHIS Errors

One commenter objected to paying a user fee for APHIS inspections that are conducted in error, for example, when no inspection is required or requested, but an APHIS inspector conducts an inspection nonetheless. We agree with the commenter that it would be unfair under such circumstances, and we do not intend to charge such user fees.

Hourly User Fees

One commenter asked us to explain what the hourly veterinary fee includes. In our proposal we listed the various types of services covered by the hourly fee. They were:

(1) Conducting inspections, including laboratory and facility inspections, required to obtain permits either to import animal products, organisms and vectors, or to maintain compliance with import permits;

(2) Obtaining samples required to be tested either to obtain import permits or to ensure compliance with import permits;

(3) Supervising the opening of in-bond shipments; and

(4) Other import or entry services not specified elsewhere in our user fee regulations.

These are tasks that vary widely in duration from one instance to another. The main cost of providing these services is the cost of employee time—direct labor time spent by the individual doing the work. Salary and benefits are included, but there are minimal support or other costs. Therefore a general hourly charge is suitable. We prefer to charge an exact fee for specific services, and we proposed exact fees for all services for which we have sufficient data to calculate what the appropriate user fee rate should be.

Reimbursable Overtime

One commenter observed that, as we explained in our proposal, under certain circumstances users would have to pay reimbursable overtime in addition to user fees. One of the conditions for reimbursable overtime is that work must be performed "outside of the normal tour of duty of the employee." The commenter asked us to explain this.

To clarify, most APHIS employees have a set tour of duty, that is, their work day starts at a certain time and ends at a certain time each day. For most APHIS employees, the work day is from 8:30 a.m. to 5 p.m., Monday through Friday, except holidays. Certain APHIS facilities, such as quarantine facilities, laboratories, and inspection stations, are open at different hours, and the employees at those facilities may have different tours of duty. The normal hours of business are usually posted at these offices. Reimbursable overtime is only payable, assuming all other requirements are met, if the employee who performs the service must do so outside of their normal tour of duty. Under the regulations that govern reimbursable overtime (see 9 CFR part 97), we do charge for the time spent traveling from the employee's duty station to the location where the service must be performed. However, we do not charge, contrary to the commenter's suggestion, for employees' "leisure time."

Missing Fees

One commenter alerted us that we did not include a user fee for endorsing VS 16–4, Export Certificate for Animal Products.

We are aware that no user fee was included in our proposal for this service. Our proposal of July 22, 1993, was not intended to be an exhaustive list of services we provide. For various reasons, we did not propose user fees in that document for every service we currently provide. If we determine in the future that a user fee is appropriate for this or any other services, we will publish a proposed fee, for public comment, in the **Federal Register**.

Specific User Fees That Need To Be Adjusted

User Fee for Endorsing Export Health Certificates

One comment stated that the proposed fee of $54.75 per certificate for endorsing export embryo certificates is too high and should be "consistent" with the user fee for endorsing export semen certificates.

We are not making any changes based on this comment. We have carefully calculated our fee, and determined that it costs APHIS more to endorse an export certificate for embryos than to endorse an export certificate for semen.

This commenter also suggested that for "up to [5] donor pairs, the fee [be the same] regardless of the number of certificates, and for each additional group of donor pairs, up to [5] pairs per group, that the charge be [a lower fee] per group of donor pairs." Other commenters questioned our proposed user fee for endorsing export certificates for semen, stating that it is too high. These commenters also questioned imposing the user fee on each certificate, when some countries require that no more than one animal be listed on a certificate. The commenters had several suggestions: Apply the user fee "per shipment" rather than per certificate; charge one fee for the first certificate for a shipment and a lower fee for other certificates for the same shipment; and establish a flat fee for each artificial insemination center, based on the volume of certificates required each year.

We are making no changes based on these comments as we have determined that the suggested changes would be impractical and difficult to implement and administer. However, we realize from the comments that changes in the fee structure for these services may be desirable. We intend to investigate other approaches, and will publish any proposed amendments for public comment in the **Federal Register**.

User Fee for Amending Import Permits

One commenter objected to the proposed fee for amending import permits, stating that there should be different fees depending on the "degrees of change required." We agree that not all amended permits require the same number of changes. However, our proposed user fee for amended permits were calculated to reflect the cost of making the average number of changes. In addition, no matter how many or how few changes are actually required, each amended permit requires the same basic processing time and effort. Therefore, regardless of the actual number of actual changes, there is no significant difference in our costs. For this reason we are making no changes based on this comment.

User Fee for Import Compliance Assistance

We received several comments concerning import compliance assistance.

One commenter objected to paying a user fee for "import compliance assistance" to release a shipment that is being held pending confirmation of stated facts regarding it (such as, that it is free of antigens and antisera).

This commenter apparently misinterpreted our proposed regulations. There would be no user fee for releasing such a shipment. The "import compliance assistance" user fee cited by the commenter would apply only when an importer, whose shipment did not meet all import requirements, required extra assistance from APHIS personnel to bring the shipment into compliance. Common situations of this type are shipments that arrive without required permits or other documentation, and shipments that arrive without proper identification.

This commenter also objected to the proposed import compliance assistance fee as "exorbitant" for a single importation or single product. We are not making any changes based on this comment. The proposed user fee is not related to the value or size of the shipment. The amount of work APHIS employees must perform to bring an importation into compliance with import requirements is not dependent on the value or size of the shipment. Our proposed user fee reflects our costs to provide this service.

Another commenter objected to paying a user fee for import compliance assistance when something was wrong with a shipment, but it was not the importer's direct fault.

Under our regulations, importers are responsible for ensuring that their importations comply with all applicable regulations. In addition, if APHIS personnel must provide extra service to make sure an importation meets all requirements, it is irrelevant who is at fault. For these reasons we are not making any changes based on this comment.

Consolidated Shipments of Germplasm

One commenter observed that our proposed rule did not address the "unique situation * * * where an export marketing organization consolidates a number of [export health] certificates from individual [artificial insemination] centers into one order for actual shipment. Since the health certificates will have already been endorsed for the originating [artificial insemination] center," the commenter recommends that no user fee be charged for consolidating the shipments for actual movement overseas.

We are not making any changes based on this comment. Any consolidated export health certificates are issued at the exporter's request and for the exporter's convenience. These certificates require the same time and effort from APHIS employees as other export health certificates. Therefore we charge the same user fee for them as for other export health certificates.

Unfair Fees

One commenter stated that if a user obtains a validated permit, is unable to use it, and therefore obtains a second validated permit for the same shipment, that it is unfair to charge a user fee for the second permit. Another commenter objected to paying a user fee for us to

[1] VS Form 16 documents are all used in connection with the import or export of animal products, byproducts, organisms, and vectors.

VOL
58
ISS
244
DE
22
1993
UMI

process permit applications for permits they do not use, stating that it would not be fair.

We are not making any changes based on these comments. We realize not all the documents we issue are used by the permittees. This is beyond our control and responsibility. However, it costs us the same to process the paperwork and issue a document that is used, as it does to process the paperwork and issue a document that is not used. If we were to charge a user fee only for documents that are used, the user fees would have to be much higher, to cover the cost of paperwork for documents that are not used. We believe this would not be fair. In addition, it would be impractical to collect the user fee at the time a document was used, as opposed to the time it was applied for or issued.

One commenter objected to a flat fee for approving establishments to receive or treat various animal products and byproducts. According to the commenter, a flat fee is unfair because it fails to take into account differences in the work required.

While developing our proposed rule, we considered other types of user fees for approving establishments. However, we decided on a flat fee as being the best approach. A flat fee allowed establishment operators to determine, in advance, their user fee costs. A flat fee does not need to be calculated for each establishment. It is therefore easier to collect, ensuring lower billing, collection, and recordkeeping costs for APHIS. We can pass these lower costs on to users through lower user fees.

Other Regulatory Changes Suggested by Commenters

Eliminate "Unapproved" Establishments

One comment suggested we change our regulations concerning importation of restricted animal products (such as certain trophies) to require that all such products, not just restricted ones, be imported only to approved establishments. According to the commenter, this would eliminate an unfair advantage, and lower expenses, enjoyed by unapproved establishments.

We are not making any changes in the proposed regulations based on this comment. Our regulations currently distinguish between approved establishments and others. Whether APHIS should make this distinction is not an issue we can address in this document, as it was not raised by our proposed rule. However, the user fees we proposed are designed to recover the costs of providing various APHIS services. APHIS currently conducts inspections of approved establishments. As long as these inspections are required, we must charge a user fee for them.

Eliminate Inspection of Feeder Lambs Entering the United States From Canada

One comment objected to a user fee for feeder lambs entering the United States from Canada. According to the commenter, inspecting these lambs is unnecessary and we should discontinue it.

We are not making any changes based on this comment. Whether APHIS should or should not inspect feeder lambs at the Canadian border is not an issue we can address in this document, as it was not raised by our proposed rule. However, the user fees we proposed are designed to recover the costs of providing various APHIS services. APHIS currently inspects feeder lambs crossing into the United States from Canada. As long as these inspections are required, we must charge a user fee for them.

Miscellaneous Comments

Venezuelan Equine Encephalitis Outbreak

One commenter called our attention to the fact that, since our proposed rule was published in July 1993, there has been an outbreak of Venezuelan equine encephalitis (VEE) in Mexico. The commenter stated that our proposed regulations do not include any user fee to cover veterinary inspections APHIS conducts in connection with the outbreak. The commenter suggested that the cost of APHIS services could be recovered under the terms of cooperative agreements signed with prospective importers.

We agree with the commenter in all respects. Because of the VEE outbreak, at the time this document is being written, horses from Mexico must be quarantined in Mexico and inspected by APHIS personnel prior to shipment to the United States. None of the user fees proposed by us on July 22, 1993, would fully recover APHIS costs in this situation. However, current § 130.8 of the regulations states that cooperative agreements, covering veterinary services we provide outside the United States, may include a provision that the importer must reimburse us for our costs. In fact, we are currently collecting user fees under this provision of the regulations with regard to horses from Mexico.

User Fees for Diagnostic Tests

One commenter wrote that they wanted to comment on the cost of diagnostic tests necessary for exporting animal germplasm. We published a proposed rule governing user fees for diagnostic tests on March 22, 1993 (Docket No. 91–021–4, 58 FR 15292–15301). We accepted comments on our proposal through April 21, 1993, and published a final rule implementing the fees on July 21, 1993 (Docket 91–021–5, 58 FR 38954–38961). User fees for diagnostic tests were effective September 1, 1993. As with all of our user fees, we intend to monitor our fees throughout the year and review them at least annually. We will propose to adjust the fees up or down as the review warrants, and we will publish, for public comment, any proposed fee changes in the **Federal Register**.

Amendments We Are Making to the Proposed Regulations

We are making several amendments to the proposed regulations. They are discussed individually below.

Pre-entry Equine Piroplasmosis Screening Fee

Our proposed rule included a specific user fee for issuance of permits to import serum samples for piroplasmosis screening. As a courtesy, we offer to screen samples of serum taken from horses intended for importation into the United States. Equines that are infected with this insect-borne equine disease are ineligible for importation. To use the service, importers send to the United States a serum sample from the equine they wish to import, and our laboratory tests the sample for equine piroplasmosis. If the sample is determined to be positive for the disease, the importer is saved the expense of shipping the animal to the United States, paying for quarantine and testing in this country, and then shipping the animal back or otherwise disposing of it. Prospective importers must obtain an import permit for the serum sample. Prior to the time we published our proposed rule, the procedures we utilized to issue import permits for these serum samples were different than the procedures we used to issue import permits for other serum imports. However, since we published our proposed rule, we have altered our procedures. As a result, the user fee we proposed for this specific service no longer accurately reflects the costs of providing the service. We are therefore withdrawing the proposed user fee (see proposed § 130.8). We intend to propose a recalculated fee for this specific service as soon as feasible.

Please note that we still offer pre-entry equine piroplasmosis screening. As in the past, prospective importers must obtain an import permit for their serum samples. Under the regulations covered by this document, the same user fee will apply to these import permits as applies to other import permits for serum. In addition, there is a user fee for laboratory testing of the samples. A user fee for testing was adopted July 21, 1993 (Docket No. 91–021–5, 58 FR 38954–38961), and became effective September 1, 1993.

Definition of "Feeder Animal"

In our proposed regulations we defined "feeder animal" as "[a]ny animal imported into the United States under 9 CFR part 92, for feeding at a quarantined feedlot." However, we made an error, in that feeder animals do not necessarily have to be fed at quarantined feedlots. They may be imported for feeding at a quarantined feedlot, but they may also be imported for feeding at other locations. Therefore, we are amending this definition to read: "Any animal imported into the United States under 9 CFR part 92 for feeding." (See § 130.1.)

User Fee for Pet Birds

In our proposed regulations we included user fees for pet birds entering the United States (see proposed § 130.8(a)). However, we failed to account for the fact that pet birds entering the United States from Canada are not subject to quarantine. Our proposed user fees assumed that all pet birds entering the United States require quarantine and multiple veterinary inspections. As this is not true with respect to pet birds entering the United States from Canada, we are changing § 130.8(a) in this final rule to clarify that these pet birds are not subject to the pet bird user fees. However, these pet birds are subject to veterinary inspection at the border. Therefore, the hourly user fee will apply to that service.

Intervening Amendments

Our proposed rule was published on July 22, 1993. At that time, the document accurately reflected the authority citation and regulations in 9 CFR part 130. However, on September 1, 1993, a final rule amending part 130 became effective (Docket No. 91–021–5, published July 21, 1993, at 58 FR 38954–38961). That final rule changed the authority citation, redesignated some of the sections, and added new sections. Our final rule reflects these changes.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12866. It has been determined that this rule is part of a series of documents that are being considered as a "significant regulatory action." This final rule is one of several rules that require certain persons to pay user fees for APHIS services they receive. We have already published final rules adopting user fees for various services we provide.

Rules covering user fees for commercial vessels, commercial trucks, commercial railroad cars, and passengers on commercial aircraft arriving in the United States from outside the country were published April 12, 1991, and effective May 13, 1991 (Docket No. 91–028, 56 FR 14837–14846). Rules covering user fees for export certification and animal quarantine services were published January 9, 1992, and effective February 9, 1992 (Docket No. 91–135, 57 FR 755–773). Rules covering user fees for veterinary diagnostics (tests and reagents) were published July 21, 1993, and effective September 1, 1993 (Docket No. 91–021–5, 58 FR 38954–38961).

It is estimated that the final user fees included in this document will save taxpayers annually between $3.4 and $4.5 million. The discounted value of taxpayer savings is estimated to total between $14.3 and $18.6 million over 5 years. Fees for processing live animal imports account for about 65 percent of the total savings. APHIS estimates that this rule will increase administrative costs by about $41,979 each year. The discounted value of additional administrative costs is expected to total about $172,000 over 5 years.

These amendments will lower the user fees for imported ratite chicks and miniature horses, and will raise the user fees for imported ratite juveniles and adults. APHIS estimates that these amended fees will reduce total charges to importers by about $53,385 annually.

The Regulatory Flexibility Act requires that APHIS specifically consider the economic impact of imposing user fees on "small" domestic entities. The number of impacted domestic firms that qualify as "small" cannot be determined from available data. However, APHIS believes that a large percentage of domestic importers of live animals, birds, poultry, and animal products can be categorized as "small" domestic importers. We anticipate that the final regulatory revisions will not have a severe economic impact on "small" domestic importers, especially since the final user fees represent only a small fraction of total operating costs faced by each "small" entity.

Our final Regulatory Impact Analysis is available for inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect the document are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

Executive Order 12372

This program activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12606

We have analyzed this final rule in accordance with Executive Order 12606, and have determined that it has no potential impact on family well-being. We have determined that this rule: Will not affect the stability of the family, and particularly, the marital commitment; will not affect the authority and rights of parents in the education, nurture, and supervision of their children; will not help or hinder the family to perform its functions; would not substitute governmental activity for family functions; and will not have any significant effect on family earnings. We have also determined that the benefits of this action justify any impact it may have on the family budget, and that this activity cannot be carried out by a lower level of government or by the family itself. This rule sends no message, intended or otherwise, to the public concerning the status of the family or to young people concerning the relationship between their behavior, their personal responsibility, and the norms of our society.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501

et seq.), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB) under OMB control numbers 0579–0015, 0579–0055, and 0579–0094.

Lists of Subjects

9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry, Quarantine, Reporting and recordkeeping requirements, Tests.

9 CFR Part 156

Exports, Livestock, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR parts 130 and 156 are amended as follows:

PART 130—USER FEES

1. The authority citation for part 130 is revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 130.1, the definition of "Animal Import Center" is revised, and the following definitions are added, in alphabetical order, to read as follows:

§ 130.1 Definitions.

* * * * *

Animal Import Center. Quarantine facilities operated by APHIS in Newburgh, New York; Miami, Florida; and Honolulu, Hawaii.[1] The Harry S Truman Animal Import Center (HSTAIC) on Fleming Key, Florida, is not an "animal import center" within this definition.

* * * * *

Approved establishment. An establishment approved by the Animal and Plant Health Inspection Service for the receipt and handling of restricted import animal products or byproducts under 9 CFR chapter I, subchapter D.

* * * * *

Breeding animal. Any animal imported into the United States for breeding purposes.

* * * * *

Feeder animal. Any animal imported into the United States under 9 CFR part 92 for feeding.

* * * * *

Germplasm. Semen, embryos, or ova.

Grade animal. Any unregistered animal.

In-bond animal. Any animal imported into the United States under a United States Customs Service bond, as described in 19 CFR part 113.

Load. All the animals or birds carried on one vehicle.

Miniature horse. Any horse which at maturity measures 34 inches high or less from the ground to the base of the last hair of the mane at the withers.

* * * * *

Pet bird. Birds which are imported for the personal pleasure of their individual owners and are not intended for resale.

* * * * *

Registered animal. Any animal recorded in the book of record of an animal registry association which issues certificates concerning the pedigree of animals.

Slaughter animal. Any animal moving directly to slaughter.

* * * * *

3. In § 130.2, the table in paragraph (a) is amended by revising the category headings for "Birds" and "Equines"; by adding a category for "Ratites" before the category for "Poultry"; and by adding a category for "Miniature horses" before the category for "Zoo animals" to read as follows:

§ 130.2 User fees for individual animals and birds quarantined in APHIS Animal Import Centers.

(a) * * *

Animal or bird	Daily fee
Birds (including zoo birds, but excluding ratites):	
* * * * *	
Ratites:	
Chicks (less than 3 months of age)	5.50
Juveniles (3 months through 10 months of age)	7.75
Adults (11 months of age and older)	15.50
* * * * *	
Equines (including zoo equines, but excluding miniature horses):	
* * * * *	
Miniature horses	39.00
* * * * *	

4. Section 130.3 is amended as follows:

a. The section heading and paragraph (a) is revised to read as set forth below.

b. Paragraph (c) is redesignated as paragraph (c)(1) and new paragraphs (c)(2) and (c)(3) are added to read as set forth below.

c. At the end of the section, a statement containing the OMB control number is added to read as set forth below.

§ 130.3 User fees for exclusive use of space at APHIS Animal Import Centers.

(a)(1) An importer may, at his or her option, exclusively occupy space at APHIS Animal Import Centers as specified below. The person for whom the service is provided and the person requesting the service are jointly and severally liable for the user fee which will be charged for the space as follows:

Animal import center	Space available	Monthly fee
Miami, FL: South Wing.	6,952 sq. ft. (645.9 sq. m.)	$25,233
North Wing.	6,545 sq. ft. (608.1 sq. m.)	24,476
Newburgh, NY.	5,904 sq. ft. (548.5 sq. m.)	39,453

(2) Any importer who occupies space for more than 30 days must pay 1/30th of the 30-day fee for each additional day or part of a day. The person for whom the service is provided and the person requesting the service are jointly and severally liable for any additional charges.

(3) Unless the importer cancels the reservation for exclusive use of space in time to receive a refund of the reservation fee in accordance with 9 CFR 92.103, 92.204, 92.304, 92.404, or 92.504, as appropriate, the 30-day user fee will be effective as of the first day for which the importer has reserved the space, regardless of whether the user occupies the space on that date or not.

* * * * *

(c)(1) * * *

(2) If the number of animals and birds requested by the importer can be housed in the space requested, as determined by APHIS personnel at the Animal Import Center, but two animal health technicians cannot fulfill the routine husbandry needs of the number of animals or birds proposed by the importer, then the importer must pay for additional services on an hourly basis, or reduce the number of animals or birds to be quarantined to a number which APHIS personnel at the Animal Import Center determine can be handled by two animal health technicians.

(3) If the importer chooses to pay for additional services on an hourly basis, the user fees are:

(i) $50.00 per hour; and

(ii) $12.50 per quarter-hour.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0094)

5. In § 130.5, paragraph (b) is revised to read as follows:

[1] The addresses of Animal Import Centers may be obtained from the Deputy Administrator, Veterinary Services, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

§ 130.5 User fees for services at privately operated temporary import-quarantine facilities.

* * * * *

(b) The user fees are:

(1) $50.00 per hour; and

(2) $12.50 per quarter-hour;

(3) with a minimum user fee of $16.00 for any service provided on an hourly basis.

§§ 130.20–130.23 [Redesignated from §§ 130.6–130.9]

6. Sections 130.6 through 130.9 are redesignated as §§ 130.20 through 130.23, and new §§ 130.6 through 130.9 are added to read as follows:

§ 130.6 User fees for import or entry services for live animals at land border ports along the United States-Mexico border.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of the following user fees, with a minimum fee of $16.00, for live animals imported into or entering the United States through a land border port along the United States-Mexico border:

Type of live animal	User fee (per head)
Feeder animals	$1.50
Slaughter animals	2.50
Horses, other than slaughter	26.25
In-bond or in transit animals	2.25
Any ruminants not covered above	5.75

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in 9 CFR part 97, must be paid for each service, in addition to the user fee listed in this section. (Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094)

§ 130.7 User fees for import or entry services for live animals at all other ports of entry.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of the following user fees, with a minimum fee of $16.00, for live animals imported into or entering the United States through any port of entry other than a land border port along the border between the United States and Mexico:

Type of live animal	User fee
Animals being imported into the United States:	
Horses, other than slaughter and in transit horses.	$18.25 per head.
Breeding animals, except horses:	
Grade animals:	
Swine	0.50 per head.
Sheep and goats	0.50 per head.
All others	2.25 per head.
Registered animals, all types.	3.75 per head.
Feeder animals:	
Cattle (not including calves)	1.00 per head.
Swine	0.25 per head.
Sheep and goats	0.25 per head.
Horses and all other animals.	3.00 per head.
Animals transiting[1] the United States:	
Cattle	0.75 per head.
Swine	0.25 per head.
Sheep and goats	0.25 per head.
Horses and all other animals.	3.00 per head.

[1] The user fee in this section will be charged for services provided to animals transiting the United States at the port of entry. The hourly user fee will be charged for services provided at the port where animals leave the United States.

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for 9 CFR part 97, must be paid for each service, in addition to the user fee listed in this section. (Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094)

§ 130.8 User fees for other services.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for the following services:

Service	User fee
Inspection for approval of slaughter establishment:	
Initial approval	$236.75 for all inspections required during year.
Renewal	205.00 for all inspections required during year.
Pet birds, except pet birds entering the United States from Canada:	
Which have been out of United States more than 60 days	163.25 per lot.
Which have been out of United States 60 days or less	68.50 per lot.
Germplasm:	
Being imported:	
Semen	38.00 per permit.
Embryo	38.00 per permit.
Being exported:	
Semen	33.50 per certificate.
Embryo (up to 5 donor pairs)	54.75 per certificate.
Embryo (each additional group of donor pairs, up to 5 pairs per group)	24.75 per group of donor pairs.
Processing VS form 16–3, "Application for Permit to Import Controlled Material/Import or Transport Organisms or Vectors" and any applicable VS form 16–7, "Additional Information for Cell Cultures and Their Products":	
Original application:	
For permit to import fetal bovine serum when facility inspection is required	207.25 per application.
For all other permits	26.50 per application.
Amended application	11.00 per amended application.
Application renewal	14.50 per application.
Fetal Bovine Serum sample verification	660.75 per verification.
Import compliance assistance	22.75 per release.

Service	User fee
Release from export agricultural hold	22.75 per release.
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:	
Approval (Compliance Agreement)	252.50 for first year of 3-year approval.
Renewed approval	146.00 per year for second and third years of 3-year approval.

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each service, in addition to the user fee listed in this section. (Approved by the Office of Management and Budget under control numbers 0579–0015, 0579–0055, and 0579–0094)

§ 130.9 User fees for miscellaneous import or entry services.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for any import or entry services listed below, of $50.00 per hour, or $12.50 per quarter hour, with a minimum fee of $16.00:

(1) Conducting inspections, including laboratory and facility inspections, required to obtain permits either to import animal products, organisms and vectors, or to maintain compliance with import permits;

(2) Obtaining samples required to be tested either to obtain import permits or to ensure compliance with import permits;

(3) Supervising the opening of in-bond shipments; and

(4) Other import or entry services not specified elsewhere in this part.

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each service, in addition to the user fee listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094)

7. In redesignated § 130.20, a new paragraph (d) is added to read as follows:

§ 130.20 User fees for endorsing export health certificates.

* * * * *

(d) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each service, in addition to the user fee listed in this section.

(Approved by the Office of Management and Budget under control number 0579–0055)

8. Redesignated § 130.21 is amended as follows:

a. The section heading is revised to read as set forth below.

b. In paragraph (a)(1), the words "and the animals in it" are added after the words "isolation facility".

c. At the end of paragraph (a)(2), the word "and" is removed.

d. At the end of paragraph (a)(3), the period is removed and a semicolon is added in its place.

e. New paragraphs (a)(4) and (a)(5) are added to read as set forth below.

f. Paragraph (b) is revised to read as set forth below.

g. A new paragraph (c) is added to read as set forth below.

§ 130.21 User fees for inspection and supervision services provided within the United States for export animals, birds, and animal products and byproducts.

(a) * * *

(4) Inspect means of conveyance used to export animals or birds; and

(5) Conduct inspections under authority of 9 CFR part 156.

(b) The user fees are:

(1) $50.00 per hour; and

(2) $12.50 per quarter-hour;

(3) with a minimum user fee of $16.00 for any service provided on an hourly basis.

(c) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each service, in addition to the user fee listed in this section.

(Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094)

9. Section 130.50 is amended as follows:

a. Paragraph (a)(3) is revised to read as set forth below.

b. Paragraph (a)(5) is amended by removing "and" at the end of the paragraph;

c. Paragraph (a)(6) is amended by removing the period at the end of the paragraph and adding a semicolon in its place.

d. New paragraphs (a)(7) through (a)(9) are added to read as set forth below.

§ 130.50 Payment of user fees.

(a) * * *

(3) User fees for supervision and inspection services specified in § 130.21 must be paid when billed, or, if covered by a compliance agreement signed in accordance with 9 CFR part 156, must be paid when specified in the agreement;

* * * * *

(7) User fees for live animals presented for importation at a port of entry must be paid either when presented or when billed;

(8) User fees for inspection and permit services listed in § 130.8 must accompany the request for service;

(9) User fees assessed at an hourly rate under § 130.9 must be paid when the service is provided or within the time specified in the bill.

* * * * *

PART 156—INSPECTION AND CERTIFICATION OF ANIMAL BYPRODUCTS

10. The authority citation for part 156 is revised to read as follows:

Authority: 7 U.S.C. 1622 and 1624; 21 U.S.C. 136a; 7 CFR 2.17, 2.51, and 371.2(d).

11. Section 156.7 is amended as follows:

a. The heading is revised to read:

§ 156.7 Fees and charges, including user fees under 9 CFR part 130.

b. Once in the first sentence, once in the second sentence, and twice in the third sentence, the phrase ", and user fees under 9 CFR part 130," is added after "fees and charges".

Done in Washington, DC, this 16th day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–31184 Filed 12–21–93; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 19, 20, 30, 31, 32, 34, 35, 36, 39, 40, 50, 61, 70, and 72

RIN 3150–AA39

Standards for Protection Against Radiation; Removal of Expired Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; removal of expired material.

SUMMARY: This final rule makes a number of minor conforming amendments to the NRC's standards for protection against radiation. The final rule is necessary to remove the text of the superseded standards and to conform references in the text of the NRC's regulations to the Commission's decision to require mandatory implementation of the revised standards on January 1, 1994.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Donald A. Cool, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3785.

SUPPLEMENTARY INFORMATION: On May 21, 1991 (56 FR 23360), the Nuclear Regulatory Commission (NRC) published its revised standards for protection against radiation (10 CFR 20.1001–20.2401 and the associated appendices). The revised standards for protection against radiation incorporated scientific information and reflected changes in the basic philosophy of radiation protection that had occurred since the promulgation of the original regulations. The revisions conformed the Commission's regulations to the Presidential Radiation Protection Guidance to Federal Agencies for Occupational Exposure and to recommendations of national and international radiation protection organizations. The revised standards for protection against radiation became effective on June 20, 1991. However, NRC licensees were permitted to defer the mandatory implementation of these regulations until January 1, 1993.

On August 26, 1992 (57 FR 38588), the NRC published a final rule that extended the date by which NRC licensees are required to implement the revised standards for protection against radiation from January 1, 1993, until January 1, 1994. That document also made several conforming amendments to the text of the revised standards for protection against radiation that were necessary to reflect the new mandatory implementation date.

This document is necessary to remove the provisions of the standards for protection against radiation that are no longer in effect. This document also eliminates the cross-references to these provisions that appear throughout 10 CFR Chapter I.

Because these amendments implement changes which were the subject of earlier rulemaking actions for which public comment was solicited (May 21, 1991; 56 FR 23360 and August 26, 1992; 57 FR 38588) and make minor conforming changes to existing regulations to reflect revised citations, the NRC has determined that good cause exists to dispense with the notice and comment provisions of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(b)(B). For the same reasons, the NRC has determined that good cause exists to waive the 30-day deferred effective date provisions of the APA (5 U.S.C. 553(d)).

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0136, –0044, –0014, –0017, –0016, –0001, –0007, –0010, –0158, –0130, –0020, –0011, –0135, –0009, and –0132.

Regulatory Analysis

This final rule is administrative in that it removes superseded provisions from the text of an existing regulation. These amendments will not have a significant impact. Therefore, the NRC has not prepared a separate regulatory analysis for this final rule. The final regulatory analysis for the May 21, 1991, final rule examined the costs and benefits of the alternatives considered by the Commission in developing the revised standards for protection against radiation and is available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level),, Washington DC.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provision that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 2

Administrative practice and procedures, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 31

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 34

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety

and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 36

Byproduct material, Criminal penalties, Nuclear materials, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 39

Byproduct material, Criminal penalties, Nuclear material, Oil and gas exploration—well logging, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation, protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear material, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 2, 19, 20, 30, 31, 32, 34, 35, 36, 39, 40, 50, 61, 70, and 72.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Supplement IV of Appendix C to part 2 is amended by removing the center heading "Section 20.1–20.601", removing and reserving paragraphs A through E and Footnote 18, and revising the introductory paragraph to read as follows:

Appendix C to Part 2—General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

SUPPLEMENT IV—HEALTH PHYSICS (10 CFR PART 20)

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations in the area of health physics, 10 CFR part 20.[17]

* * * * *

PART 19—NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

3. The authority citation for part 19 continues to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

4. In § 19.13, paragraphs (b), (c), (d), and (e) are revised to read as follows:

§ 19.13 Notifications and reports to individuals.

* * * * *

(b) Each licensee shall advise each worker annually of the worker's dose as shown in records maintained by the licensee pursuant to the provisions of § 20.2106 of 10 CFR part 20.

(c) At the request of a worker formerly engaged in licensed activities controlled by the licensee, each licensee shall furnish to the worker a report of the worker's exposure to radiation or radioactive material for each year the worker was required to be monitored under the provisions of § 20.1502. This report must be furnished within 30 days from the time the request is made or within 30 days after the exposure of the individual has been determined by the licensee, whichever is later. This report must cover the period of time that the worker's activities involved exposure to radiation from radioactive material licensed by the Commission and must include the dates and locations of licensed activities in which the worker participated during this period.

(d) When a licensee is required pursuant to §§ 20.2202, 20.2203, 20.2204, or 20.2206 of this chapter to report to the Commission any exposure of an individual to radiation or radioactive material the licensee shall also provide the individual a report on his or her exposure data included therein. This report must be transmitted at a time not later than the transmittal to the Commission.

(e) At the request of a worker who is terminating employment with the licensee that involved exposure to radiation or radioactive materials, during the current calendar quarter or the current year, each licensee shall provide at termination to each worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose must be provided together with a clear indication that this is an estimate.

[17] Personnel overexposures and associated violations incurred during a life-saving or other emergency response effort will be treated on a case-by-case basis.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

5. The authority citation for part 20 is revised to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (2 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

§§ 20.1–20.601 [Removed]

6. Sections 20.1 through 20.601 are removed.

Appendix A to §§ 20.1–20.601 [Removed]

7. Appendix A to §§ 20.1–20.601 is removed.

Appendix B to 20.1–20.601 [Removed]

8. Appendix B to §§ 20.1–20.601 is removed.

Appendix C to §§ 20.1–20.601 [Redesignated as Appendix B to 10 CFR part 30]

9. Appendix C to §§ 20.1–20.601 is redesignated as Appendix B to 10 CFR Part 30.

Appendix D to §§ 20.1–20.601 [Removed]

10. Appendix D to §§ 20.1–20.601 is removed.

Undesignated Center Heading [Removed]

11. The center heading that appears prior to subpart A is removed.

§ 20.1008 [Removed]

12. Section 20.1008 is removed.

Appendix A to §§ 20.1001–20.2401 [Redesignated as Appendix A to part 20]

13. Appendix A to §§ 20.1001–20.2401 is redesignated as Appendix A to part 20.

Appendix B to §§ 20.1001–20.2401 [Redesignated as Appendix B to part 20]

14. Appendix B to §§ 20.1001–20.2401 is redesignated as Appendix B to part 20.

Appendix C to §§ 20.1001–20.2401 [Redesignated Appendix C to part 20 and Amended]

15. Appendix C to §§ 20.1001–20.2401 is redesignated as Appendix C to part 20

16. In Appendix C to part 20, the Quantity for Neptunium-237 that reads "1.001" is revised to read "0.001."

Appendix D to §§ 20.1001–20.2401 [Redesignated as Appendix D to part 20]

17. Appendix D to §§ 20.1001–20.2401 is redesignated as Appendix D to part 20.

Appendix E to §§ 20.1001–20.2401 [Redesignated as Appendix E to part 20]

18. Appendix E to §§ 20.1001–20.2401 is redesignated as Appendix E to part 20.

Appendix F to §§ 20.1001–20.2401 [Redesignated as Appendix F to part 20]

19. Appendix F to §§ 20.1001–20.2401 is redesignated as Appendix F to part 20.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

20. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

21. In § 30.35, paragraph (a) is amended by revising the two references to "appendix C to §§ 20.1–20.601 of 10 CFR part 20" to read as "appendix B to part 30"; paragraph (d) is amended by revising the three references to "appendix C to §§ 20.1–20.601 of 10 CFR part 20" to read "appendix B to part 30"; the note at the end of the section is removed; and paragraphs (g)(3) (i) and (iv) are revised to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

* * * * *

(g) * * *

(3) * * *

(i) All areas designated and formerly designated restricted areas as defined in 10 CFR 20.1003 (For requirements prior to January 1, 1994, see 10 CFR 20.3 as contained in the CFR edition revised as of January 1, 1993.);

* * * * *

(iv) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR 20.2002.

* * * * *

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

22. The authority citation for part 31 continues to read as follows:

Authority: Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 31.6 also issued under sec. 274, 73 Stat. 688 (42 U.S.C. 2021).

§ 31.5 [Amended]

23. In § 31.5(c)(10), remove the phrase "§§ 20.402 and 20.403 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 31.7 [Amended]

24. In § 31.7(b), remove the phrase "§§ 20.402 and 20.403 or, for licensees implementing the provisions of §§ 20.1001–20–2401,".

§ 31.10 [Amended]

25. In § 31.10(b)(1), remove the phrase "§ 20.301 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

26. In § 31.10(b)(3), remove the phrase "§§ 20.301, 20.402, and 20.403 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 31.11 [Amended]

27. In § 31.11(c)(5), remove the phrase "§ 20.301 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

28. In § 31.11(f), remove the phrase "§§ 20.301, 20.402, and 20.403 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

29. The authority citation for part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

30. In § 32.51, paragraphs (a)(2)(ii) and (c) are revised to read as follows:

§ 32.51 Byproduct material contained in devices for use under § 31.5; requirements for license to manufacture, or initially transfer.

(a) * * *

(2) * * *

(ii) Under ordinary conditions of handling, storage, and use of the device, the byproduct material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in 1 year a dose in excess of 10 percent of the annual limits specified in § 20.1201(a) of this chapter; and

* * * * *

(c) In the event the applicant desires that the general licensee under § 31.5 of this chapter, or under equivalent regulations of an Agreement State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and the bases for these estimates. The submitted information must demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the annual limits specified in § 20.1201(a) of this chapter.

§ 32.61 [Amended]

31. In § 32.61(d), remove the phrase "§ 20.203(a) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 32.71 [Amended]

32. In § 32.71(c)(2), remove the phrase "§ 20.203(a)(1) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

33. In § 32.71(e), remove the phrase "§ 20.301 or for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

34. The authority citation for part 34 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

§ 34.29 [Amended]

35. In § 34.29(a), remove the phrase "§ 20.203(c) (2)(ii), (2)(iii), or (4) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 34.41 [Amended]

36. In § 34.41, remove the phrase "§ 20.203(c)(2) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 34.42 [Amended]

37. In § 34.42, remove the phrases "§ 20.204(c) or, for licensees implementing the provision of" and "§ 20.203 (b) and (c)(1) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

38. The authority citation for part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 35.92 [Amended]

39. In § 35.92(a), remove the phrase "§ 20.301 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 35.205 [Amended]

40. In § 35.205, paragraph (a) is amended by revising the reference to "§§ 20.103 and 20.106" to read "§ 20.1301" and paragraph (c) is amended by revising the reference to "appendix B to Part 20" to read "§ 20.1301."

§ 35.315 [Amended]

41. In § 35.315(a)(8), remove the phrase "§ 20.401(c)(1) of this chapter or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 35.415 [Amended]

42. In § 35.415(a)(1), remove the phrase "§ 20.105(b) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 35.641 [Amended]

43. In § 35.641(a)(2)(i), remove the phrase "§ 20.101 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

44. In § 35.641(a)(2)(ii), remove the phrase "§ 20.105(b) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

45. In § 35.641(b)(2), remove the phrase "§ 20.501 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 35.643 [Amended]

46. In the introductory text of § 35.643(a), remove the phrase "§ 20.105(b) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

47. In § 35.643, paragraphs (a) (1) and (b) remove the phrases "§ 20.105(a) or, for licensees implementing the provisions of §§ 20.1001–20.2401," and "§ 20.105(b) of this chapter or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 36—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

48. The authority for part 36 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

§ 36.59 [Amended]

49. In § 36.59(c), remove the phrase "§§ 20.1001 to 20.2401 of."

PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

50. The authority citation for part 39 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 69, 81, 82, 161, 182, 183, 186, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

§ 39.15 [Amended]

51. In § 39.15(a)(5)(iii)(B), remove the phrase "§ 20.203 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 39.31 [Amended]

52. In § 39.31(a)(1), remove the phrase "§ 20.203 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

53. In § 39.31(a)(2), remove the phrase "§ 20.203 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 39.77 [Amended]

54. In § 39.77(b), remove the phrase "§§ 20.402, 20.403, 20.405 and 30.50 or, for licensees implementing the provisions of §§ 20.1001–20.2201,".

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

55. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022). Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

56. In § 40.34, paragraph (a)(2) is revised to read as follows:

§ 40.34 Special requirements for issuance of specific licenses.

(a) * * *

(2) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in 1 year a radiation dose in excess of 10 percent of the annual limits specified in § 20.2101(a) of this chapter; and

* * * * *

§ 40.36 [Amended]

57. In § 40.36(f)(3)(i), remove the reference "20.3(a)(14) or," and in § 40.36(f)(3)(iv), remove the reference "Part 20.302 or."

Appendix A to Part 40 [Amended]

58. In the first paragraph of the introduction to Appendix A, remove the phrase "§ 20.1(c), or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

59. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.120 is also issued under section 306 of the NWPA of 1982, 42 U.S.C. 1C226. Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

§ 50.34 [Amended]

60. In § 50.34(f)(2)(viii), remove the words "5 rems to the whole body or 75 rems to the extremities or, for licensees implementing the provisions of §§ 20.1001–20.2401 of this chapter,".

61. In § 50.36a, in the introductory text of paragraph (a), remove the phrase "§ 20.106 or, for licensees implementing the provisions of §§ 20.1001–20.2401," and revise paragraph (b) to read as follows:

§ 50.36a Technical specifications on effluents from nuclear power reactors.

* * * * *

(b) In establishing and implementing the operating procedures described in paragraph (a) of this section, the licensee shall be guided by the following considerations: Experience with the design, construction, and operation of nuclear power reactors indicates that compliance with the technical specifications described in this section will keep average annual releases of radioactive material in effluents and their resultant committed effective dose equivalents at small percentages of the dose limits specified in § 20.1301 and in the operating license. At the same time, the licensee is permitted the flexibility of operation, compatible with considerations of health and safety, to assure that the public is provided a dependable source of power even under unusual operating conditions which may temporarily result in releases higher than such small percentages, but still within the dose values specified in § 20.1301 of this chapter and in the operating license. It is expected that in using this operational flexibility under unusual operating conditions, the licensee will exert its best efforts to keep levels of radioactive material in effluents as low as is reasonably achievable. The guides set out in appendix I provide numerical guidance on limiting conditions for operation for light-water cooled nuclear power reactors to meet the requirement that radioactive materials in effluents released to unrestricted areas be kept as low as is reasonably achievable.

62. In § 50.72 in paragraph (a), Footnote 1 is amended by removing the phrase "§§ 20.205, 20.403 or, for licensees implementing the provisions of §§ 20.1001–20.2401," and paragraphs (b)(2)(iv) (A) and (B) are revised to read as follows:

§ 50.72 Immediate notification requirements for operating nuclear power reactors.

* * * * *

(b) * * *

(2) * * *

(iv)(A) Any airborne radioactive release that, when averaged over a time period of 1 hour, results in concentrations in an unrestricted area that exceed 20 times the applicable concentration specified in appendix B to part 20, table 2, column 1.

(B) Any liquid effluent release that, when averaged over a time of 1 hour, exceeds 20 times the applicable concentration specified in appendix B to part 20, table 2, column 2, at the point of entry into the receiving waters (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases. (Immediate notifications made under this paragraph also satisfy the requirements of § 20.2202 of this chapter.)

* * * * *

63. In § 50.73, paragraphs (a)(2)(viii) and (a)(2)(ix) are revised to read as follows:

§ 50.73 Licensees event report system.

(a) * * *

(2) * * *

(viii)(A) Any airborne radioactive release that, when averaged over a time period of 1 hour, resulted in airborne radionuclide concentrations in an unrestricted area that exceeded 20 times the applicable concentration limits specified in appendix B to part 20, table 2, column 1.

(B) Any liquid effluent release that, when averaged over a time period of 1 hour, exceeds 20 times the applicable concentrations specified in appendix B to part 20, table 2, column 2, at the point of entry into the receiving waters (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases.

(ix) Reports submitted to the Commission in accordance with paragraph (a)(2)(viii) of this section also

meet the effluent release reporting requirements of § 20.2203(a)(3) of this chapter.

* * * * *

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

64. The authority citation for part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851).

§ 61.52 [Amended]

65. In § 61.52(a)(6), remove the phrase "§ 20.105, or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

66. The authority citation for part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

§ 70.25 [Amended]

67. In § 70.25, paragraph (a) is amended by revising the two references to "appendix C to §§ 20.1–601 of 10 CFR Part 20" to read as "appendix B to Part 30"; paragraph (d) is amended by revising the two references to "appendix C to §§ 20.1–20.601 of 10 CFR Part 20" to read "appendix B to Part 30"; the note at the end of the section is removed; and paragraphs (g)(3)(i) and (iv) are revised to read as follows:

* * * * *

(g) * * *

(3) * * *

(i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.1003 (For requirements prior to January 1, 1994, see 10 CFR 20.3 as contained in the CFR edition revised as of January 1, 1993.);

* * * * *

(iv) All areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR 20.2002.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

68. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 96 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

69. In § 72.30, paragraph (d)(3)(i) is revised to read as follows:

§ 72.30 Financial assurance and recordkeeping for decommissioning.

* * * * *

(d) * * *

(3) * * *

(i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.1003; and

* * * * *

Dated at Rockville, Maryland, this 10th day of December 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–31189 Filed 12–21–93; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AB24

Receivership Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors (Board) of the Federal Deposit Insurance Corporation (FDIC) is issuing a regulation required by section 141 of the FDIC Improvement Act of 1991 (FDICIA) on the least-cost resolution of failed and failing depository institutions insured by the FDIC. The intended effect of this rule is to comply with the statutory requirement of prescribing regulations on the prohibition against increasing losses to the insurance funds by protecting uninsured depositors and non-depositor creditors of insured depository institutions.

EFFECTIVE DATE: January 21, 1994.

FOR FURTHER INFORMATION CONTACT: Gail Patelunas, Assistant Director, Division of Resolutions (202/898–6779), Sean Forbush, Resolution Specialist, Division of Resolutions (202/898–8506), David Gearin, Senior Counsel, Legal Division (202/898–3621), Ruth R. Amberg, Senior Counsel, Legal Division (202/898–3736) or Joseph A. DiNuzzo, Counsel, Legal Division (202/898–7349), Federal Deposit Insurance Corporation, Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Board hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It will not impose burdens on depository institutions of any size and will not have the type of economic impact addressed by the Act. Accordingly, the Act's requirements regarding an initial and final regulatory flexibility analysis (*Id.* at 603 & 604) are not applicable here.

Background

Section 141 of FDICIA (Pub. L. 102–242, 105 Stat. 2236 (1991)) amended section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) to, among other things, require that the assistance provided by the FDIC under section 13(c) of the FDI Act be "necessary" to meet the FDIC's obligation to provide insurance coverage for insured deposits in a failed or failing institution and that the resolution be the "least costly" to the deposit insurance fund of "all possible methods" of meeting that obligation. This least-cost resolution requirement, set forth in section 13(c)(4)(A) of the FDI Act, became effective immediately upon the enactment of FDICIA on December 19, 1991.[1]

Section 141 also amended section 13(c) of the FDI Act to prohibit the FDIC from taking any direct or indirect action after December 31, 1994 (or such earlier time as the FDIC determines to be appropriate), with regard to any insured depository institution, that would have the effect of increasing losses to either the Bank Insurance Fund or the Savings Association Insurance Fund by protecting depositors for more than the insured portion of their deposits or creditors other than depositors. 12 U.S.C. 1823(c)(4)(E) (section 13(c)(4)(E)).[2]

Section 13(c)(4)(E) requires that the FDIC prescribe regulations to implement the requirement no later than January 1, 1994, and that the regulations become effective no later than January 1, 1995. A proposed rule to comply with the regulation-issuance requirement of section 13(c)(4)(E) was published in the **Federal Register** on October 25, 1993 (58 FR 55027). A discussion of the comments received on the proposed rule is provided below.

FDICIA's least-cost resolution requirements arose from a congressional effort to stem insurance fund losses and to instill depositor discipline in the banking industry. Prior to the passage of FDICIA, the FDIC could pursue any resolution alternative as long as it was less costly than liquidating the institution. Thus, when faced with several proposals that satisfied the cost test, the FDIC could have selected, for policy reasons (such as minimizing community disruption), a more expensive proposal than the least cost resolution. In many cases effected prior to the enactment of FDICIA, the resolutions involved an acquiring institution's assumption of both insured and uninsured deposits and resulted in no losses for uninsured depositors. Of the 124 banks closed in 1991, approximately 16 percent of the failures involved a loss for uninsured depositors.

Since the enactment of FDICIA, the FDIC has adhered to the least-cost requirements of FDICIA. In resolving institutions, the FDIC typically solicits bids for both total deposits and insured deposits only, evaluating all bids received and selecting the least costly. Therefore, in cases where the uninsured deposits are passed to the assuming institution, it is because that particular resolution represented the least costly of all possible resolution alternatives.

During 1992, the FDIC resolved 120 bank failures and provided open bank assistance to two institutions in danger of failing. Uninsured depositors were made whole in 50 percent of the 1992 failures. For the first eight months of 1993, only 4 of the 34 bank failures have resulted in uninsured depositors being made whole.

The Final Rule

The final rule adds a new section to Part 360 of the FDIC's regulations stating the prohibition in section 13(c)(4)(E) of the FDI Act on taking any action under section 13(c) of the FDI Act that would have the effect of increasing losses to any insurance fund by protecting uninsured depositors or non-depositor creditors of a failed or failing depository institution. In addition, the final rule references the systemic risk exception to the prohibition.

The final rule also includes the provision of section 13(c)(4)(E) of the FDI Act which makes clear that the prohibition shall not be construed as prohibiting the FDIC from engaging in purchase and assumption transactions under which uninsured deposits may be acquired so long as the loss to the insurance fund on those uninsured deposits is less than if the institution had been liquidated and the insured deposits were paid. Since section 13(c)(4)(A) and its least-cost rule of comparison will continue in effect after the implementation of section 13(c)(4)(E), the question may arise how these two provisions interrelate.

The FDIC believes that by complying with the more general least-cost requirements of section 13(c)(4)(A) of the FDI Act, it also has complied fully with the prohibition of section 13(c)(4)(E). Under the latter provision, the FDIC is prohibited from protecting uninsured deposits and creditors other than depositors only if doing so "would have the effect of increasing losses to any insurance fund". In the FDIC's view, the more general least cost requirements of section 13(c)(4)(A) already prohibit the FDIC from protecting creditors other than insured depositors if it would have the effect of increasing, rather than decreasing, losses to the applicable deposit insurance fund. Consequently, it is the FDIC's view that section 13(c)(4)(E) is subsumed in the more general least cost provisions of section 13(c)(4)(A) and has no independent operative effect.

Because the FDIC currently complies with the least cost requirements of section 13(c) (as imposed by section 141 of FDICIA), the Board is making the final rule effective thirty days after its publication in the **Federal Register**.[3] As noted above, section 13(c)(4)(E) requires that the final rule be prescribed no later than January 1, 1994. The effective date satisfies the requirement in section 13(c)(4)(E) that the FDIC regulations on that provision take effect no later than January 1, 1995.

Comments on the Proposed Rule

As noted above, the proposed rule was published in the **Federal Register** on October 25, 1993. The FDIC received five comments on the proposal. Two of the comments (one from a bank and one from an industry trade group) expressed full support for the proposed rule, one noting that "losses to the insurance funds should not be increased by protecting uninsured depositors and non-depositor creditors of insured depository institutions".

A comment from a savings association questioned whether the implementation of section 141 of FDICIA will "save taxpayers' money". The comment noted that the "lack of confidence created by the law will cause additional losses to

---

[1] The FDICIA amendments to the FDI Act created a "systemic risk" exception to the cost-test requirements of sections 13(c)(4) (A) and (E) of the FDI Act which may be invoked only if the Secretary of the Treasury, acting in consultation with the President and on the recommendation of two-thirds of the members of the Board and the Board of Governors of the Federal Reserve System, determines that the transaction is necessary to avoid "serious adverse effects on economic conditions or financial stability". Costs of such a transaction are to be recovered through special assessments on insured institutions on a broad deposit base which includes foreign deposits. 12 U.S.C. 1823(c)(4)(G). This provision has not been invoked to date.

[2] See also section 11 of the recently enacted Resolution Trust Corporation Completion Act which makes clear that the deposit insurance funds may not be used to benefit shareholders of failing insured depository institutions.

[3] A thirty-day delayed effective date complies with the general rulemaking requirements of the Administrative Procedure Act. 5 U.S.C. 553(d).

the insurance funds from the failure of more insured institutions" and suggested that the FDIC consider the macroeconomic effect of the proposed rule as well as the root causes of insurance fund losses. The Board notes that experience to date does not suggest that additional failures have been caused by implementing the least-cost requirements. Moreover, as noted above, the FDIC is required by statute to issue the final rule to implement the least-cost resolution requirements of section 141.

Another commenter, which is in the business of providing services to insured depository institutions, expressed concern that the final rule could be construed to supersede the recently enacted national depositor preference statute (Pub. L. 103–66, 107 Stat. 312 (August 10, 1993)) or other related law. As noted in the preamble to the proposed rule, the national depositor preference statute does not affect the operation of the final rule. The depositor preference statute and implementing regulations (58 FR 43069, August 13, 1993) establish certain priorities for distributing amounts realized from the liquidation or other resolution of FDIC-insured institutions. The final rule does not apply to the administration and distribution of receivership assets, which are governed by the depositor preference statute and regulations and other applicable law. As the commenter suggested, the final rule has been modified to indicate more explicitly that it relates to corporate actions affecting only the deposit insurance funds, and does not apply to receivership actions.

A comment from an industry trade group urged that the FDIC develop a standardized process for resolving failing banks that does not cover losses uninsured depositors would otherwise absorb in a bank or thrift failure. It suggested that, in the bidding process, the FDIC require bidders to explicitly price their offers to assume the uninsured deposits. As noted above, since the enactment of FDICIA, the FDIC routinely offers bidders the option of assuming all deposits or only the insured deposits, but does not require a bidder to bid both ways.[4] Whether a bidder is interested in bidding on both insured deposits and all deposits largely depends on the attractiveness of the deposit structure at each failing bank. Thus, a bidder may not want to bid both ways because it may not be interested in both options. Requiring that bids be submitted on each basis, therefore, may discourage otherwise interested bidders.

The comment suggested, as an alternative approach, that the FDIC only accept bids for insured deposits and, if the acquirer wanted the uninsured portion, the acquirer would agree to reimburse the FDIC fully for the losses that this portion of deposits would otherwise absorb. The Board believes that such an approach would not be cost-effective. The amount of work involved for this process would be substantial because a full claim process would be necessary in each failure and the amount to be recouped would not be determined for some years.

Finally, this commenter also recommended that the FDIC adopt a mechanism such as the final settlement payment which Congress authorized in FDICIA, or other procedure, to ensure consistent treatment of uninsured depositors in resolutions. The FDICIA final settlement payment mechanism entails the application of a formula reflecting an average of the FDIC's receivership recovery experience. The Board notes that such an approach raises complex issues because other provisions of the FDI Act appear to contemplate distributions being made from the assets of a particular receivership estate.

The final rule incorporates no substantive changes to the proposed rule.

List of Subjects in 12 CFR Part 360

Savings and loan associations.

The Board of Directors of the Federal Deposit Insurance Corporation hereby amends part 360 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

1. The heading of Part 360 is revised to read as set forth above.

2. The authority citation for Part 360 is revised to read as follows:

Authority: Sec. 401(h), Pub. L. 101–73, 103 Stat. 357; 12 U.S.C. 1821(d)(11), 1823(c)(4).

§§ 360.1 through 360.3 [Redesignated as §§ 360.2 through 360.4]

3. Sections 360.1, 360.2 and 360.3 are redesignated as §§ 360.2, 360.3 and 360.4, respectively, and a new § 360.1 is added to read as follows:

§ 360.1 Least-cost resolution.

(a) *General rule.* Except as provided in section 13(c)(4)(G) of the FDI Act (12 U.S.C. 1823 (c)(4)(G)), the FDIC shall not take any action, directly or indirectly, under sections 13(c), 13(d), 13(f), 13(h) or 13(k) of the FDI Act (12 U.S.C. 1823 (c), (d), (f), (h) or (k)) with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting:

(1) Depositors for more than the insured portion of their deposits (determined without regard to whether such institution is liquidated); or

(2) Creditors other than depositors.

(b) *Purchase and assumption transactions.* Subject to the requirement of section 13(c)(4)(A) of the FDI Act (12 U.S.C. 13(c)(4)(A)), paragraph (a) of this section shall not be construed as prohibiting the FDIC from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution, for which the FDIC has been appointed conservator or receiver, to acquire uninsured deposit liabilities of such institution as long as the applicable insurance fund does not incur any loss with respect to such uninsured deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

By order of the Board of Directors.

Dated at Washington, DC, this 14th day of December, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–31197 Filed 12–21–93; 8:45 am]

BILLING CODE 6714–01–P

[4] Certain circumstances preclude the ability to provide options for assuming the uninsured portion of deposits, such as time constraints that do not permit an estimation of the losses imbedded in the failing bank's asset base.

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 613, 614, 620, 621, and 627

RIN 3052–AB32

Organization; Eligibility and Scope of Financing; Loan Policies and Operations; Disclosure to Shareholders; Accounting and Reporting Requirements; Title V Conservators and Receivers; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under parts 611, 613, 614, 620, 621, and 627 on September 20, 1993 (58 FR 48780). The final regulation amends 12 CFR parts 611, 613, 614, 620, 621, and 627 to update existing accounting and reporting requirements, promote consistency with industry practices pertaining to problem loan accounting and reporting issues, and to ensure that the regulatory requirements and standards of 12 CFR part 621 are consistent with those of generally accepted accounting practices. Technical and conforming changes are made at 12 CFR parts 611, 613, 614, 620, and 627. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is December 31, 1993.

EFFECTIVE DATE: The regulation amending 12 CFR parts 611, 613, 614, 620, 621, and 627, published on September 20, 1993 (58 FR 48780) is effective December 31, 1993.

FOR FURTHER INFORMATION CONTACT:
Linda C. Sherman, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444,
or
William L. Larsen, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

Authority: 12 U.S.C. 2252(a) (9) and (10).

Dated: December 16, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–31280 Filed 12–21–93; 8:45 am]

BILLING CODE 6705–01–P

12 CFR Part 614

RIN 3052–AB35

Loan Policies and Operations; Lending Limits; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under part 614 on July 28, 1993 (58 FR 40311). The final regulation amends 12 CFR part 614 to prescribe a limit on extensions of credit to a single borrower of 25 percent of capital for all Farm Credit System direct lender institutions, except banks for cooperatives. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is January 1, 1994.

EFFECTIVE DATE: The regulation amending 12 CFR part 614, published on July 28, 1993 (58 FR 40311) is effective January 1, 1994.

FOR FURTHER INFORMATION CONTACT:
Dennis K. Carpenter, Senior Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444.

Authority: 12 U.S.C. 2252(a) (9) and (10).

Dated: December 16, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–31281 Filed 12–21–93; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–65–AD; Amendment 39–8758; AD 93–24–09]

Airworthiness Directives; British Aerospace (Commercial Aircraft) Limited Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain British Aerospace Model ATP airplanes, that currently requires deactivation of the automatic alternative three-phase power supply to each transformer rectifier unit (TRU), an operational test to ensure that the auto-changeover system is inoperative, and inclusion of an associated temporary revision in the Airplane Flight Manual (AFM). This amendment requires installation of a terminating modification and revision of the AFM to include an associated temporary revision. This amendment is prompted by the availability of an improved contactor assembly for the TRU power supply changeover system. The actions specified by this AD are intended to prevent the loss of all primary electric power sources during automatic switching to alternative three-phase power for the TRU's.

DATES: Effective January 21, 1994.

The incorporation by reference of British Aerospace Service Bulletin ATP–24–49–10247A, Revision 1, dated October 23, 1992, and Temporary Revision No. T/26, Issue 1, dated May 22, 1992, as listed in the regulations, is approved by the Director of the Federal Register as January 21, 1994.

The incorporation by reference of certain other publications listed in the regulations was approved previously by the Director of the Federal Register as of January 24, 1992 (57 FR 784, January 9, 1992).

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., Librarian for Service Bulletins, P.O. Box 16029, Dulles International Airport, Washington, DC. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:
William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 92–01–01, Amendment 39–8124 (57 FR 784, January 9, 1992), which is applicable to certain British Aerospace Model ATP airplanes, was published in the **Federal Register** on August 11, 1993 (58 FR 42699). The action proposed to supersede AD 92–01–01 to require replacing the currently installed contactor in the transformer rectifier unit (TRU) power supply changeover system with an improved contactor. The action also proposed to require revising the Airplane Flight Manual (AFM) to include an associated temporary revision. Once the improved contactor assembly has been installed and the AFM has been revised to include the associated temporary revision, the automatic alternative three-phase power supply system for each TRU is re-activated.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 9 airplanes of U.S. registry will be affected by this AD, that it will take approximately 67 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour.

Required parts will cost approximately $3,030 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $60,435, or $6,715 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8124 (57 FR 784, January 9, 1992), and by adding a new airworthiness directive (AD), amendment 39–8758, to read as follows:

93–24–09 British Aerospace: Amendment 39–8758. Docket 93–NM–65–AD. Supersedes AD 92–01–01, Amendment 39–8124.

Applicability: Model ATP airplanes; serial numbers 2001 through 2053 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of all primary electric power sources, accomplish the following:

(a) Within 30 hours time-in-service after January 24, 1992 (the effective date of AD 92–01–01, Amendment 39–8124), accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD:

(1) Trip and lock out the alternative three-phase circuit breaker to each transformer rectifier unit (TRU), and perform an operational test to ensure that the auto-changeover system is inoperative, in accordance with British Aerospace Service Bulletin ATP–24–42–10244A, Revision 1, dated November 7, 1991.

(2) Revise the Emergency Procedures and Abnormal Procedures Sections of the FAA-approved Airplane Flight Manual (AFM) to include AFM (Document No. ATP 004) Temporary Revision No. 22 (T/22), Issue 1, dated November 1, 1991.

(3) Amend the AFM, Section 0.25.0, in accordance with paragraph 2.(6) of British Aerospace Service Bulletin ATP–24–42–10244A, Revision 1, dated November 7, 1991.

(b) Within 6 months after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD.

(1) Replace the currently-installed Cutler Hammer contactor type SM15–CK–A6 or SM15–CK–A8 with Leach contactor type HA1F, in accordance with British Aerospace Service Bulletin ATP–24–49–10247A, Revision 1, dated October 23, 1992.

(2) Revise the Emergency Procedures and Abnormal Procedures Sections of the AFM (Document No. ATP–004) to include Temporary Revision No. T/26, Issue 1, dated May 22, 1992.

(c) Accomplishment of the contactor replacement and the AFM revision required by paragraph (b) of this AD constitutes terminating action for the requirements of paragraph (a) of this AD. The AFM revisions required by paragraphs (a)(2) and (a)(3) of this AD are revised as necessary by incorporation of AFM Temporary Revision No. T/26, Issue 1, dated May 22, 1992, and the automatic alternative three-phase power supply to each TRU is re-activated.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with British Aerospace Service Bulletin ATP–24–42–10244A, Revision 1, dated November 7, 1991; British Aerospace Service Bulletin ATP–24–49–10247A, Revision 1, dated October 23, 1992; Temporary Revision No. 22 (T/22), Issue 1, dated November 1, 1991; and Temporary Revision No. T/26, Issue 1, dated May 22, 1992. Revision 1 of British Aerospace Service Bulletin ATP–24–49–10247A contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 3–34, 39, 81–84	1	October 23, 1992
2, 35–37, 41, 43, 45, 47, 49, 51, 53, 55, 57, 59, 61, 63, 65, 67, 69, 71, 73, 75, 77, 79	Original	July 15, 1992
38, 40, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80	(These pages are not used).	

The incorporation by reference of British Aerospace Service Bulletin ATP–24–42–10244A, Revision 1, dated November 7, 1991, and Temporary Revision No. 22 (T/22), Issue 1, dated November 1, 1991, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 as of January 24, 1992 (57 FR 784, January 9, 1992). The incorporation by reference of the remainder of the service documents listed above is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Jetstream Aircraft, Inc., Librarian for Service Bulletins, P.O. Box 16029, Dulles International Airport, Washington, DC. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 600 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 21, 1994.

Issued in Renton, Washington, on December 2, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–30096 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 91–ANE–49; Amendment 39–8740; AD 93–23–08]

Airworthiness Directives; Pratt & Whitney Canada PT6A Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing priority letter airworthiness directive (AD), AD 88–24–02, applicable to Pratt & Whitney Canada (PWC) PT6A series turboprop engines, that currently requires daily inspections of the airframe chip detector flag system, repetitive inspections of the main oil filter, and replacement of the engine chip detector with a modified engine chip detector. This amendment requires the installation of a new, strengthened power turbine (PT) shroud as a terminating action to the repetitive inspections. This amendment is prompted by the availability of the new, strengthened PT shroud. The actions specified by this AD are intended to prevent aircraft damage from engine failure debris.

DATES: Effective January 26, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 26, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney Canada, Technical Publications Department, 1000 Marie Victorin, Longueuil, Quebec J4G 1A1. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington DC.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7137, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (FAR) by superseding priority letter AD 88–24–02 was published in the Federal Register on June 2, 1993 (58 FR 31347). That action proposed to continue the inspection requirements of the priority letter AD, and to require installation of the strengthened PT shroud by December 31, 1994. The FAA has determined, based on the availability of parts, that by that date affected engines would have at least one scheduled maintenance opportunity for installation of the strengthened PT shroud. Installation of this PT shroud in accordance with PWC Service Bulletin No. 4143R2, Revision 2, dated December 6, 1991, would constitute a terminating action to all the inspection requirements retained from the priority letter AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the rule as proposed.

One commenter suggests that Revision 3, as well as earlier revisions, of Pratt & Whitney Canada Service Bulletin 4143 be referenced in the final rule as acceptable means of compliance because the revisions were only for administrative reasons and did not change the actions necessary. The FAA concurs that the accomplishment instructions of previous SB revisions are identical and paragraph (e) of the compliance section of this AD has been revised to incorporate these revisions as acceptable means of compliance. However, the FAA cannot reference Revision 3 of PWC SB 4143 as it has not yet been issued.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously.

There are approximately 300 PWC PT6A–50 series turboprop engines of the affected design that are installed on aircraft of U.S registry. The FAA has determined that it will take approximately 0.5 work hours per engine to install the strengthened PT shroud, and that the average labor rate is $55 per work hour. Required parts will cost approximately $6,000 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,808,250.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive, Amendment 39–8740, to read as follows:

93–23–08. Pratt & Whitney Canada: Amendment 39–8740. Docket No. 91–ANE–49, supersedes priority letter AD 88–24–02.

Applicability: Pratt & Whitney Canada (PWC) PT6A–50 series turboprop engines installed on but not limited to DeHavilland DHC–7 turboprop aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent aircraft damage from engine failure debris, accomplish the following:

(a) Within one calendar day after the effective date of this AD, inspect the airframe chip detector flag system, and thereafter reinspect each day of operation, in accordance with DeHavilland Canada (DHC) Dash 7 Maintenance Manual, Section 71–05–00, dated July 15, 1977. If the chip detector flag is actuated, accomplish paragraphs

VOL 58 ISS 244 DE 22 1993 UMI

(b)(1), (b)(2), and (b)(4) of this AD, prior to further flight.

(b) Within the next 50 hours time in service (TIS) after the effective date of this AD, accomplish the following:

(1) Remove and visually inspect the engine chip detector for metal debris, in accordance with PWC PT6A–50 Maintenance Manual, Section 79–35–02, dated January 15, 1991, and based on the inspection results, accomplish the applicable procedures specified in Section 79–35–02, dated January 15, 1991.

(2) Remove from service engine chip detector Part Number (P/N) 3040019, if installed, and replace with engine chip detector P/N 3026609.

(3) Inspect the circuit wiring of the installed or replacement engine chip detector, P/N 3026609, in accordance with PWC PT6A–50 Maintenance Manual, Section 79–35–02, dated January 15, 1991. Remove from service, prior to further flight, engine chip detectors found with an open circuit and replace with serviceable engine chip detectors.

(4) Perform a one-time inspection check of the airframe chip detector flag system by grounding the wiring pins in the connector to the chip detector, in accordance with PWC Alert Service Information Letter (SIL) No. 4019, dated October 20, 1988. If the chip detector flag is not actuated in the nacelle, correct defects and repeat this inspection check until the chip detector flag actuation is confirmed (reference DeHavilland Canada Dash 7 Maintenance Manual, Section 71–05–00, dated July 15, 1977).

(5) Inspect the main oil filter for contamination, and based on the inspection results, accomplish the applicable procedures specified in PWC PT6A–50 Maintenance Manual, Section 79–25–04, dated January 15, 1991.

(c) Thereafter, inspect the main oil filter at intervals not to exceed 100 hours TIS since the last inspection in accordance with the requirements of paragraph (b)(5) of this AD. If visible metallic debris is evident, accomplish paragraph (b)(1) of this AD prior to further flight.

(d) Remove, inspect, and reinstall the engine chip detector of non-installed engines, in accordance with paragraphs (b)(1), (b)(2), and (b)(3) above, prior to entering service.

Note: Paragraphs (a) through (d) of this AD repeat the compliance requirements of paragraphs (a) through (d) of priority letter AD 88–24–02.

(e) Remove from service power turbine (PT) shroud, Part Number (P/N) 3023797, and replace with PT shroud, P/N 3112919–01, in accordance with PWC Service Bulletin (SB) No. 4143R2, dated December 6, 1991, on or before December 31, 1994. PWC SB 4143, dated May 31, 1989, and PWC SB 4143, Revision 1, dated February 12, 1990, are acceptable alternate means of compliance to this AD. Installation of PT shroud, P/N 3112919–01, constitutes terminating action to the inspection requirements of this AD.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the aircraft to a location where the requirements of this AD can be accomplished.

(h) The modification shall be done in accordance with the following documents:

Document No.	Page No.	Issue	Date
DHC–7 Maintenance Manual, Section 71–05–00	1–3	Original	Jul 15, 1977.
Total pages: 3.			
PWC PT6A–50 Maintenance Manual, Section 79–35–02	1	Original	Apr 5, 1976.
	2	Original	Mar 1, 1977.
	201	Original	Jan 26, 1963.
	202	Original	Apr 5, 1976.
	203	Original	Jan 15, 1991.
	204	Original	Jan 26, 1963.
Total pages: 6.			
PWC Alert SIL No. 4019	1–2	Original	Oct 20, 1988.
Total pages: 2.			
PWC PT6A–50 Maintenance Manual, Section 79–25–04	202A&B, 204, & 209	Original	Jan 26, 1963.
	203	Original	Apr 5, 1976.
	205–6	Original	Jan 15, 1991.
	207–8, & 210	Original	Apr 2, 1987.
Total pages: 10.			
PWC (SB) No. 4143R2	1–2	Revision 2	Dec 6, 1991.
Total pages: 2.			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney Canada, Technical Publications Department, 1000 Marie Victorin, Longueuil, Quebec J4G 1A1. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on January 26, 1994.

Issued in Burlington, Massachusetts, on December 1, 1993.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–30100 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 93–AGL–12]

Amended Class E5 Airspace Area; Manitowish Waters, WI; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the legal description of the Manitowish Waters, WI, Class E5 airspace area published in a final rule on October 28, 1993 (58 FR 57964), Airspace Docket Number 93–AGL–12.

EFFECTIVE DATE: 0901 UTC, January 6, 1994.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 93–26468, Airspace Docket 93–AGL–12, published on October 28, 1993 (58 FR 57964), modified the description of the Manitowish Waters, Wisconsin Class E5 airspace area. An exclusion sentence was left out of the legal description but included in the summary and history. This action corrects that error by correcting the legal description to include the exclusion sentence. This change does not effect the size of the Class E5 airspace area.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace designation for the Manitowish Waters, Wisconsin, Class E5 airspace, as published in the **Federal Register** on October 28, 1993 (58 FR 57964), (**Federal Register** Document 93–26468; page 57964, column 3), is corrected in the amendment to the incorporation by reference 14 CFR 71.1 as follows:

§ 71.1 [Corrected]

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Manitowish Waters, WI [Corrected]

Manitowish Waters Airport, WI (lat. 46°07'18" N, long. 89°53'03" W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Manitowish Waters, WI, Airport, excluding that airspace within the Minocqua-Woodruff Class E airspace.

* * * * *

Issued in Des Plaines, Illinois on December 2, 1993.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 93–31249 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Docket No. 26852; Amendment No. 71–16]

Class D Airspace Area; Glenview, IL; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace designation of the Glenview, IL, Class D airspace area legal description published in a final rule, on March 19, 1993, (58 FR 15252) Docket Number 26852.

EFFECTIVE DATE: September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Robert Frink, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 93–6246, published on March 19, 1993 (58 FR 15252), revised the Class D airspace description for Glenview Naval Air Station, IL, by adding the arrival extensions for runway 17, which were inadvertently deleted. The airspace is correctly depicted on aeronautical charts; however, the legal description published in Order 7400.9A, Airspace Designations and Reporting Points, inadvertently does not include the arrival extensions for runway 17.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace designation for Glenview, Illinois, Class D, airspace, as published in the Federal Register on Friday, March 19, 1993, (58 FR 15252), (Federal Register Document 93–25634, page 15255, column 3), is corrected in the amendment to the incorporation by reference 14 CFR 71.1 as follows:

§ 71.1 [Corrected]

Paragraph 5000 General

* * * * *

AGL IL D Glenview, IL

NAS Glenview, IL

(lat. 42°05'00" N., long. 87°49'08" W.)

Northbrook VORTAC (lat. 42°13'26" N., long. 87°57'06" W.) Chicago-O'Hare International Airport, IL

(lat. 41°58'46" N., long. 87°54'16" W.)

Glenview TACAN (lat. 42°05'08" N., long. 87°49'21" W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.1-nautical mile radius of NAS Glenview and within 1.8 nautical miles each side of the Northbrook VORTAC 162° and 145° radials extending from the Chicago-O'Hare International Airport and the NAS Glenview 4.1-nautical mile radius to 1.8 nautical miles south along the 162° radial of the Northbrook VORTAC and 3.8 nautical miles southeast along the 145 radial of the Northbrook VORTAC, and within 1.7 nautical miles each side of the NAS Glenview TACAN 100° radial, extending from the 4.1-mile radius to 5.7 nautical miles east of the TACAN, and within 1.3 nautical miles each side of the NAS Glenview TACAN 002° radial at 4.1 nautical miles and within 2.0 nautical miles west and 1.4 nautical miles east of the NAS Glenview TACAN 002° radial extending from the 4.1-nautical mile radius to 6.1 nautical miles north of the TACAN, excluding the area that overlies the Chicago, IL Terminal Control Area.

* * * * *

Issued in Des Plaines, Illinois on December 2, 1993.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 93–31250 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ANM–13]

Modification of Class D Airspace; Tacoma, McChord AFB, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class D airspace for McChord AFB airport by excluding the airspace overlying the Spanaway Airport, Washington. This action will allow operations to and from the Spanaway Airport without radio communication with McChord AFB control tower.

EFFECTIVE DATE: 0901 UTC, March 3, 1994.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM–535, Federal Aviation Administration, Docket No. 93–ANM–13, 1601 Lind Avenue SW, Renton, Washington 98055–4056, Telephone: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

History

On August 17, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class D airspace for McChord AFB by excluding the airspace overlying the Spanaway Airport, Washington, (58 FR 43575). The reclassification of airspace which was effective September 16, 1993, necessitated enlarging the Class D airspace for McChord AFB and consequently this expansion encompassed the Spanaway Airport. The FAA endeavors to exclude satellite airports located within surface areas where safety would not be substantially compromised. This action will avoid any adverse impact on the Spanaway Airport and simplify ATC coordination responsibilities between the primary and the satellite airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in notice except the vertical limit of the airspace exclusion is 1000 MSL to provide additional airspace over the Spanaway Airport for the McChord

AFB traffic pattern and the name of the airport excluded is Spanaway Airport, Washington, not Spanaway, Shady Acres Airport, Washington. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D airspace listed in this document will be published subsequential in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies the Class D airspace for McChord AFB Airport by excluding the airspace overlying the Spanaway Airport, Washington. This action will allow operations to and from the Spanaway Airport without radio communication with the McChord AFB control tower. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant Regulatory Action" under Executive Order 12866; (2) is not a "Significant Rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 General

* * * * *

ANM WA D Tacoma McChord AFB, WA [Revised]

Tacoma McChord AFB, WA, (lat. 47°08'17" N, long. 122°28'34" W)
McChord VORTAC (lat. 47°08'52" N, long. 122°28'30" W)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 5.4 mile radius of the McChord AFB, and within 1.8 miles each side of the McChord VORTAC 182° radial extending from the 5.4 miles radius to 6.8 miles south of the VORTAC; excluding that airspace southwest of a line extending from lat. 47°09'56" N, long. 122°36'07" W; to lat. 47°04'18" N, long. 122°31'28" W; and excluding that airspace at and below 1000 feet MSL within an area bounded by a line beginning at lat. 47°03'08" N, long. 122°26'10" W, thence to lat. 47°05'00" N, long. 122°26'38" W, thence to lat. 47°08'17" N, long. 122°28'34" W, thence to lat. 47°07'19" N, long. 122°30'47" W, thence clockwise via a 5.4 mile radius arc of McChord AFB Airport to point of beginning.

* * * * *

Issued in Seattle, Washington, on December 6, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 93–31256 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–AAL–8]

Revocation of Class D Airspace and Establishment of Class E Airspace; Galena, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class D airspace and establishes the Class E airspace surface area at Galena, Alaska. The Galena air traffic control tower (ATCT), operated by the United States Air Force (USAF), was permanently closed the last week of September 1993. The standard instrument approach procedures (SIAPs) based on the Very High Frequency Omnidirectional Range/Tactical Air Navigational Aid (VORTAC), Non-directional Radio Beacon (NDB) and Instrument Landing System (ILS) will remain. Controlled airspace to the surface is needed for Instrument Flight Rules (IFR) operations at Galena.

EFFECTIVE DATE: 0901 UTC, January 6, 1994.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, System Management Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue #14, Anchorage, AK 99513–7587, telephone number: (907) 271–5898.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the Class D airspace and establishes Class E airspace at Galena, AK, to provide adequate controlled airspace to the surface for operators executing the established SIAP's.

The United States Air Force advised the Federal Aviation Administration of their decision to close the Galena ATCT in July 1993. The U.S. Air Force no longer required the tower after September 30, 1993. The VORTAC, NDB, and ILS remain, providing instrument flight rules (IFR) approach and departure procedures to the Galena Airport. The U.S. Air Force has installed an Automated Weather Observing System (AWOS–3) to provide altimeter setting, wind data, temperature, dew point, density altitude, visibility and cloud/ceiling data. This real-time weather data is transmitted directly to the pilot or obtainable via telephone for use to support the IFR approaches and the special visual flight rules (SVFR) at the Galena Airport. This action is a minor technical amendment. Since there is no longer a Galena ATCT, the Class D airspace to the surface at Galena in which all aircraft operators are subject to operating rules and equipment requirements of Part 91 of the Federal Aviation Regulations (§ 91.129) must be removed. Class E surface area airspace must be established to provide airspace for IFR operators executing established SIAP, to avoid confusion on the part of the pilots flying in the vicinity of the Galena Airport, and to promote safe and efficient handling of air traffic in the area. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b), are unnecessary, and good cause, pursuant to 5 U.S.C. 553(d), exists for making this amendment effective in less than thirty days.

Class D airspace areas are published in paragraph 5000 and Class E surface areas are published in paragraph 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D area listed in this document will be removed subsequently from the Order and the Class E area listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a significant regulatory action under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348 (a), 1354 (a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Regulations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 General

* * * * *

AAL AK D Galena, AK [Removed]

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area for an Airport

* * * * *

AAL AK E2 Galena, AK [New]

Galena Airport, AK
(lat. 64°44'10" N, Long. 156°56'15" W)
Within a 5.1-mile radius of the Galena Airport.

* * * * *

Issued in Anchorage, AK, on December 10, 1993.

Henry A. Elias,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 93–31257 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1210

Safety Standard for Cigarette Lighters; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; Correction.

SUMMARY: On July 12, 1993, the Commission published a rule document in the **Federal Register** that issued the Safety Standard for Cigarette Lighters, 16 CFR part 1210, 58 FR 37557. Under the "**DATES**" heading on page 37557, the document stated "The standard applies to all disposable and novelty lighters manufactured in the United States or imported on or after July 12, 1994." This document corrects that statement by adding the following sentence to precede the one quoted above: "The standard is effective July 12, 1994."

EFFECTIVE DATE: Effective December 22, 1993, the effective date of the standard published at 58 FR 37557 is corrected to be July 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Harleigh Ewell at 301–504–0980, ext. 2217.

Dated: December 16, 1993.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93–31275 Filed 12–21–93; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–93–1630; FR–3210–F–03]

RIN 2502–AF62

Use of Materials Bulletins Used in the HUD Building Product Standards and Certification Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: The Department, under its Building Products Standards and Certification Program, issues Use of Materials Bulletins to provide standards that establish minimum acceptable qualities for certain materials and products to be used in properties subject to mortgages insured by the Department. This final rule adopts the following Use of Materials Bulletins: UMB 39b, Aluminum Fenestration Products; UMB 44d, Carpet; UMB 59b, Wood Fenestration Products; UMB 71a, Polystyrene Foam Insulation Board; UMB 72a, Carpet Cushion; UMB 82a, Sealed Insulating Glass Units; UMB 85a, Poly (vinyl chloride) (PVC) Fenestration Products; UMB 89, Steel Insulated Door Systems; and UMB 100, Solar Water Heating Systems. It also references related national voluntary consensus standards, provides a labeling and third party certification procedure to assure that the building products used in HUD programs meet the appropriate national voluntary consensus standards, supplements the HUD Building Product Standards and Certification Program by requiring that additional information be included on the label, tag, or mark that each manufacturer would affix to a certified product, and specifies the frequency with which products must be tested in order to be acceptable to HUD.

EFFECTIVE DATE: This final rule is effective February 1, 1994. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 1, 1994.

FOR FURTHER INFORMATION CONTACT: Donald Fairman, Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214, L'Enfant Plaza, 490 E, 451 Seventh Street, SW., Mail Room B–133, Washington, DC 20410–8000, telephone voice: (202) 755–7440; (TDD) (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On April 30, 1993 the Department published in the **Federal Register** (58 FR 26212) a proposed rule which would (1) Adopt the Use of Materials Bulletins (UMs) for 39b-Aluminum Fenestration Products, 44d-Carpet, 59b-Wood Fenestration Products, 71a-Polystyrene Foam Insulation Board, 72a-Carpet Cushion, 82a-Sealed Insulating Glass Units, 85a-Poly (vinyl chloride) (PVC) Fenestration Products, 89–Steel Insulated Door Systems, and 100–Solar Water Heating Systems; (2) reference related national voluntary consensus standards; (3) provide a labeling and third party

certification procedure to assure that the building products used in HUD programs meet the appropriate national voluntary consensus standards; (4) supplement the HUD Building Product Standards and Certification Program by requiring that additional information be included on the label, tag, or mark that each manufacturer would affix to a certified product; and (5) specify the frequency with which products must be tested in order to be acceptable to HUD.

Discussion of Public Comments

Only five comments were received regarding the following UMs: 39b, 59b, 44d, 71a, 72a, 85a and 100. No comments were received regarding UMs 82a & 89.

UM 39b, 59b & 85a

A window manufacturer requested that the procedures of the National Fenestration Rating Council (NFRC) be used in UM 39b, 59b and 85a to include thermal values. The Department has determined that the NFRC procedures are being changed but that the NFRC procedures would be considered at the time of the next revision of the UMs. In addition, the Department of Energy (DOE) will shortly provide guidance to HUD regarding the labeling of windows under a Congressional mandate and therefore, HUD will not reference the NFRC program until such time as a DOE policy for the labeling of windows has been established. Therefore, no changes have been made to UM 39b, 59b, and 85a.

UM 44d

A major fiber producer objected to the carpet pile density values for continuous and stable nylon being the same. Based on international tests and other data which were not submitted, the fiber producer desired to lower the amount of fiber content for carpet made from filament nylon. Since the commenter stated they are not ready to recommend a performance evaluation scheme and they recommend that the Carpet and Rug Institute review this matter, the Department has decided to consider this issue at the time of the next revision when international and national organizations will have had time to review the test data. No significant changes have been made to UM 44d except for editorial and spelling changes.

UM 71a

One response was received from a trade association that stated that the proposed revision of 71a would result in higher costs to the industry, consumers, and government agencies and have a negative impact on foreign and domestic competition. No estimate of this impact or any other quantifiable data was submitted. Presently, this same trade association sponsors a certification program for polystyrene foam used with roofing products that is more intense than the program described in UM 71a and this trade organization has indicated that there have been no objections to the cost of their sponsored certification program. In addition, the Department is working with this same organization, at its request, on a similar third party certification for polyurethane foam insulation. Based on an estimate from the third party validation agency operating the trade association's certification program, the increased cost per board foot of polystyrene foam due to the HUD certification program would be less than one cent. In addition, there is no evidence that significant amounts of polystyrene foam board, for construction purposes, is being shipped into or out of the United States. All imported polystyrene foam, if used in the construction of houses insured by HUD, would also have to comply to UM 71a. Exported polystyrene foam would not have to comply to UM 71a. Finally, since this rule only applies to products used in houses insured under the HUD mortgage program, which is less than 15% of the total housing market, it is voluntary for the manufacturers to participate. The Department does not consider the cost significant to insure that the products getting to the job site comply with the referenced standard. No change to the proposed rule has been made.

UM 72a

A testing laboratory and a trade association objected to the flammability requirements and test methods referenced. Since the model and local building codes set standards for the flooring system, which is composed of the carpet and the carpet cushion, we have withdrawn the flammability reference for carpet cushion specifically because it duplicates what is already in the building codes. In addition, both commenters discussed the inappropriateness of the pill and the ASTM E–84 Tunnel test for carpet cushion; we find their comments persuasive. Finally, as a result of another comment by the same trade association, we have clarified the description of the test sample by requiring the maximum thickness of each class of cushion be tested. Thus, UM 72a has been changed to eliminate the flammability references and to insert a clarifying statement that "the maximum thickness of each class, commercially available," shall be tested.

UM 100

Only one objection was received from a trade association which cited a new 1993 update to the existing reference standard. This update was reviewed and found to be acceptable and the 1993 date has been added to the reference standard.

The text of the UMs is not being produced in the final rule, because the substance is embodied in new sections of 24 CFR part 200 set forth below. However, copies of the UMs are available for public inspection during regular business hours in the Standards and Products Branch, 490 East L'Enfant Plaza, suite 3214, Washington, DC 20410, and in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary, in approving this rule for publication, certifies in accordance with 5 U.S.C. 605(b), the Regulatory Flexibility Act, that this rule would not have a significant economic impact on a substantial number of small entities. These UMs would adopt standards that are nationally recognized throughout the affected industry, and their adoption will not create a burden on manufacturers, which are currently meeting the standards.

Executive Order 12866

This final rule was reviewed and approved by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review, which was signed by the President on September 30, 1993. Any changes made to the rule as a result of that review are a part of the public docket file in the office of the Rules Docket Clerk listed at the beginning of this preamble.

Semiannual Agenda

This rule was listed as item 1524 in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56405, 56427) under Executive Order 12866 and the Regulatory Flexibility Act.

Family Impact

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being; therefore, it is not subject to review under this order.

Federalism

The General Counsel, as the Designated Official under section 6 (a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule would not have federalism implications and thus are not subject to review under the order. The standards incorporated in this rule were developed in the private sector and are expected to be used generally by the industry nationwide. This rule will not interfere with or preempt State or local government functions.

Incorporation by Reference

These national consensus standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the standards are available for inspection at the HUD Program Information Center, room 1104, 451 Seventh Street, SW., Washington, DC, the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

List of Subjects in 24 CFR Part 200

Administrative practice and procedures, Claims, Equal employment opportunity, Fair housing, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, 24 CFR part 200 is amended to read as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

2. Section 200.938 is revised to read as follows:

§ 200.938 Supplementary specific requirements under the HUD Building Product Standards and Certification Program for Aluminum Fenestration Products.

(a) *Applicable Standards.* (1) All aluminum fenestration products shall be designed, manufactured, and tested in compliance with the following American National Standards Institute and American Architectural Manufacturers Association standards:

(i) ANSI/AAMA 101–93—Voluntary Specifications for Aluminum and Poly (vinyl/ chloride) (PVC) Prime Windows and Glass Doors;

(ii) ANSI/AAMA 1102.7–89—Voluntary Specifications for Aluminum Storm Doors;

(iii) ANSI/AAMA 1002.10–93—Voluntary Specifications for Insulating Storm Products for Windows and Sliding Glass Doors;

(iv) AAMA 1600–90—Voluntary Specification for Skylights.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. The standards are available from the American Architectural Manufacturers Association, 35 East Wacker Drive, Chicago, IL 60601 or the American Material Standards Institute, Inc., 11 West 42nd Street, New York, NY 10036. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the Administrator to the manufacturer. Each aluminum fenestration product shall be marked as conforming to UM 39b. The label shall be located on each aluminum fenestration product so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedure set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of aluminum fenestration products, testing and inspection shall be conducted as follows:

(1) At least once every four years, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

3. Section 200.939 is revised to read as follows:

§ 200.939 Supplementary specific requirements under the HUD Building Product Standards and Certification Program for Wood Fenestration Products.

(a) *Applicable standards.* (1) All wood fenestration products shall be designed, manufactured, and tested in compliance with the following National Wood Window and Door Association standards:

(i) NWWDA Industry Standard I.S. 2–93—Wood Windows;

(ii) NWWDA Industry Standard I.S. 3–88—Wood Sliding Patio Doors.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. The standards are available from the National Woodwork Manufacturers Association, 400 West Madison Street, Chicago, IL 60606. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the Administrator's validation mark and the manufacturer's certification of compliance with the applicable standards is required to be on the certification label issued by the Administrator to the manufacturer. Each wood fenestration product shall be marked as conforming to UM 59b. The label shall be located on each wood fenestration product so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of wood fenestration products, testing and inspection shall be conducted as follows:

(1) At least once every four years, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

4. Section 200.940 is revised to read as follows:

§ 200.940 Supplementary specific requirements under the HUD Building Product Standards and Certification Program for Sealed Insulating Glass Units.

(a) *Applicable standards.* (1) All sealed insulating glass units shall be designed, manufactured, and tested in compliance with the American Society for Testing and Materials standard: ASTM E–774–92 Standard Specification for Sealed Insulating Glass Units.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference. The standard is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. This standard is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are issued by the administrator to the manufacturer. Each sealed insulating glass unit shall be marked as conforming to UM 82a. The label shall be located on each sealed insulating unit so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of sealed insulating glass units, testing and inspection shall be conducted as follows:

(1) At least once a year, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

5. Section 200.941 is revised to read as follows:

§ 200.941 Supplementary specific requirements Under the HUD Building Products Standards and Certification Program for Poly (vinyl chloride) PVC Fenestration Products.

(a) *Applicable standards.* (1) All PVC plastic fenestration products shall be designed, manufactured, and tested in compliance with the following American National Standards Institute standard or American Society for Testing and Materials standard:

(i) ANSI/AAMA 101–93—Voluntary Specifications for Aluminum and Poly (vinyl chloride) (PVC) Prime Windows and Glass Doors; or

(ii) ASTM D 4099–89—Standard Specification for Poly (vinyl chloride) (PVC) Prime Windows/Sliding Glass Doors.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. These standards are available from the American National Standards Institute, 1430 Broadway, New York, NY 10018 or the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. Each PVC fenestration product shall be marked as conforming to UM 85a. The label shall be located on each PVC fenestration product so that it is available for inspection. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in § 200.935(d)(8), concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of PVC fenestration products, testing and inspection shall be conducted as follows:

(1) At least once every four years, the administrator shall visit the manufacturer's facility to select a sample, of the maximum size commercially available, for testing in a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

4. Section 200.945 is added to subpart S to read as follows:

§ 200.945 Supplementary specific requirements under the HUD Building Product Standards and Certification Program for Carpet.

(a) *Applicable standards.* (1) All carpet shall be designed, manufactured, and tested in compliance with the following standards from the American Society for Testing and Materials and the American Association of Textile Chemists and Colorists:

(i) ASTM D418–92—Standard Test Methods for Tuft and Yarn Length of Uncoated Floor Coverings;

(ii) ASTM D1335–67—(Reapproved 1972) Standard Test Method for Tuft Bind of Pile Floor Coverings;

(iii) ASTM D 2646–87—Standard Test Methods for Backing Fabrics;

(iv) ASTM D 3936–80—Standard Test Method for Delamination Strength of Secondary Backing of Pile Floor Coverings;

(v) AATCC Test Method 16e–82—Colorfastness to Light: Water-Cooled Xenon-Arc Lamp, Continuous Light;

(vi) AATCC Test Method 165–86—Colorfastness to Crocking: Carpets—AATCC Crock Meter Method;

(vii) ASTM D 3676–78—(Reapproved 1989) Standard Specification for Rubber Cellular Cushion Used for Carpet or Rug Underlay;

(viii) ASTM D 3574–91—Standard Test Methods for Flexible Cellular Materials—Slab, Bonded and Molded Urethane Foams.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. The standards are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103 and the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, NC 27709. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with UM 44d are required to be on the certification label issued by the Administrator to the manufacturer. The label shall be placed on each carpet every six feet not less than one foot from the edge.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) Every six months, three samples and one annual field sample of carpet shall be submitted to the Administrator for testing in a laboratory accredited by the National Voluntary Laboratory Accreditation Program of the U.S. Department of Commerce.

(2) The administrator also shall review the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

5. Section 200.947 is added to subpart S to read as follows:

§ 200.947 Building Product Standards and Certification Program for Polystyrene Foam Insulation Board.

(a) *Applicable standards.* (1) All polystyrene foam insulation board shall be designed, manufactured, and tested in compliance with the American Society for Testing and Materials (ASTM) standard C–578–92, Standard Specification for Rigid, Cellular Polystyrene Thermal Insulation.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference. The standard is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. This standard is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's certification of compliance with the applicable standards and the type of board are required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample of each certified polystyrene foam insulation board for testing by a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

6. Section 200.948 is added to subpart S to read as follows:

§ 200.948 Building Product Standards and Certification Program for Carpet Cushion.

(a) *Applicable standards.* (1) All carpet cushion shall be designed, manufactured, and tested in compliance with the following standards from the American Society for Testing and Materials:

(i) ASTM D 1667–76—(Reapproved 1990) Standard Specification for Flexible Cellular Materials—Vinyl Chloride Polymers and Copolymers [Closed-Cell Foam];

(ii) ASTM D2646–87—Standard Test Methods for Backing Fabrics;

(iii) ASTM D629–88—Standard Test Methods for Quantitative Analysis of Textiles;

(iv) ASTM D3574–91—Standard Test Methods for Flexible Cellular Materials—Slab, Bonded, and Molded Urethane Foams;

(v) ASTM D3676–78—Standard Specification for Rubber Cellular Cushion Used for Carpet or Rug Underlay.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. The standards are available from the American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark, the manufacturer's certification of compliance with the applicable standards, and the type and class all are required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

At least every six months, the administrator shall visit the manufacturer's facility to select a sample of each certified carpet cushion for testing by a laboratory approved by the administrator.

(2) The administrator also shall review the quality assurance procedures every six months to assure that they are being followed by the manufacturer.

9. Section 200.949 is added to subpart S to read as follows:

§ 200.949 Building Product Standards and Certification Program for Exterior Insulated Steel Door Systems.

(a) *Applicable standards.* (1) All Exterior Insulated Steel Door Systems shall be designed, manufactured, and tested in compliance with the following standards from the American Society for Testing and Materials and Insulated Steel Door Systems Institute:

(i) ASTM A591/A591M–89—Standard Specification for Steel Sheet, Electrolytic-Zinc Coated, for Light Coating Mass Applications;

(ii) ISDSI–100–90—Door Size Dimensional Standard and Assembly Tolerances for Insulated Steel Door Systems;

(iii) ISDSI–101–83—(Reapproved 1989) Air Infiltration Performance Standard for Insulated Steel Door Systems;

(iv) ISDSI–102–84—Installation Standard for Insulated Steel Door Systems;

(v) ISDSI–104–86—Water Penetration Performance Standard for Insulated Steel Door Systems;

(vi) ISDSI–105–80—Test Procedure and Acceptance Criteria for Physical Endurance for Steel Doors and Hardware Reinforcings;

(vii) ISDSI–106–80—Test Procedure and Acceptance Criteria for Prime Painted Steel Surfaces for Steel Doors and Frames;

(viii) ISDSI–107–80—Thermal Performance Standard for Insulated Steel Door Systems;

(ix) ASTM F476–84—(Reapproved 1991) Standard Test Methods for Security of Swinging Door Assemblies.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. These standards are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103 or the Insulated Steel Door Institute, 712 Lakewood Center North, 14600 Detroit Avenue, Cleveland, OH 44107. These standards are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's certification of compliance with the applicable standards is required to be on the certification label issued by the administrator to the manufacturer.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) At least every four years, the administrator shall visit the manufacturer's facility to select a sample of each certified exterior insulated steel door system for testing by an approved laboratory in accordance with the applicable standard.

(2) The administrator also shall review the quality assurance procedures every year to assure that they are being followed by the manufacturer.

VOL 58 ISS 244 DEC 22 1993 UMI

10. Section 200.950 is added to subpart S to read as follows:

§ 200.950 Building Product Standards and Certification Program for Solar Water Heating System.

(a) *Applicable standards.* (1) All solar water heating systems shall be designed, manufactured, and tested in compliance with Solar Rating and Certification Corporation (SRCC) Document OG–300–93, Operating Guidelines and Minimum Standards for Certifying Solar Water Heating Systems: An Optional SWH System Certification and Rating Program. Section 10 of the SRCC standard has been omitted because it was considered proprietary, since it describes an administrative program specifically carried out by SRCC.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference. The standard is available from the Solar Rating and Certification Corporation, 777 North Capitol Street, NE., suite 805, Washington, DC 20002. This standard is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. Each solar water heating system shall be marked as conforming to UM 100. The label shall include the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance inspection.* Under the procedure set forth in § 200.935(d)(8), testing and inspection shall be conducted as follows:

(1) The Administrator shall visit the manufacturer's factory every two years to assure that the initially accepted quality assurance procedures are being followed.

(2) At least every four years, the administrator shall visit the manufacturer's facility to select a sample of each certified solar water heating system for testing by a laboratory approved by the administrator.

(d) *Warranty.* The manufacturer shall provide, at no cost, a full five-year warranty against defects in material or workmanship, on the absorber plate, cooling passages, and the collector (excluding any glass), running from the date of installation of the solar water heating system. The warranty also shall include the full costs of field inspection, parts, and labor required to remedy the defects, and will include the cost of replacement at the site if required. This warranty is not required to cover defects resulting from exposure to harmful materials, fire, flood, lightning, hurricane, tornado, hailstorms, earthquakes, or other acts of God, vandalism, explosions, harmful chemicals or other fluids, fumes or vapors. This exclusion will apply to the operation of the collector under excessive pressures or excessive flow rates, misuse, abuse, negligence, accidents, alterations, falling objects or other causes beyond the control of the manufacturer. Following the initial five years, the manufacturer shall provide a limited no-cost five-year warranty for collector parts on a prorata allowance basis.

Dated: December 10, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 93-30600 Filed 12-21-93; 8:45 am]

BILLING CODE 4210-27-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8500]

RIN 1545-AG98

Allocations Reflecting Built-in Gain or Loss on Property Contributed to a Partnership

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations under section 704 of the Internal Revenue Code relating to allocations with respect to property contributed by a partner to a partnership. Changes to the applicable law were made by the Tax Reform Act of 1984 (the 1984 Act) and the Revenue Reconciliation Act of 1989 (the 1989 Act). The final regulations affect partnerships and their partners and are necessary to provide guidance needed to comply with the applicable tax law.

EFFECTIVE DATE: These regulations are effective December 21, 1993.

FOR FURTHER INFORMATION CONTACT: David Edquist at (202) 622–3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

This document adds § 1.704–3 to the Income Tax Regulations (26 CFR part 1) under sections 704(c)(1)(A) and 704(c)(3), and revises existing §§ 1.704–1(b)(1)(vi), 1.704–1(b)(2)(iv), and 1.704–1(c). The IRS and Treasury are also contemporaneously issuing temporary regulations that address issues reserved in the final regulations.

Background

On December 24, 1992, the IRS published in the **Federal Register** a notice of proposed rulemaking (57 FR 61353) amending the Income Tax Regulations (26 CFR part 1) under section 704. These amendments were proposed to implement section 704(c) as amended by the 1984 Act and the 1989 Act. The notice provided rules relating to allocations reflecting built-in gain or loss on property contributed to a partnership. Comments responding to the notice were received, and a public hearing was held on April 16, 1993. After considering the comments and the statements made at the hearing, the IRS and Treasury adopt the proposed regulations as revised by this Treasury decision.

Explanation of Provisions

General Principles and Approach

The final regulations generally adopt the provisions of the proposed regulations with respect to property contributed with built-in gain or loss. Accordingly, under the final regulations, if a partner contributes property to a partnership, the partnership can use any reasonable method of making allocations so that the contributing partner receives the tax burdens and benefits of any built-in gain or loss.

The final regulations specifically describe two reasonable methods of making allocations under section 704(c). These are the traditional method and the traditional method with curative allocations. The remedial allocation method is a third reasonable method that is permissible under the temporary regulations that are being issued in conjunction with these final regulations. In addition to these described methods, other reasonable allocation methods meeting the requirements of section 704(c) are also acceptable. Section 1.704–3(e) contains special rules and exceptions.

The final regulations allow a partnership to use different reasonable allocation methods with respect to different items of section 704(c) property. However, the allocation method used for an item of section 704(c) property must be consistently applied to that item of property by both the partnership and the partners from year to year. In addition, the overall method or combination of methods used by the partnership must be reasonable under the facts and circumstances. In exercising its authority under § 1.704–3 to make adjustments if a partnership's allocation method is not reasonable, the IRS can make adjustments regardless of the provisions contained in the partnership agreement.

The final regulations also provide special rules and exceptions that have been revised from those contained in the proposed regulations. These rules and exceptions apply regardless of the allocation method chosen by the partnership and include a *de minimis* rule for small disparities and an aggregation rule for certain property.

Additional Reasonable Methods

Comments were received requesting additional reasonable methods. Several comments requested that the "undivided interests method" contained in section 704(c)(3) prior to amendment by the 1984 Act be included specifically as a reasonable method. Under the undivided interests method, allocations of depreciation, depletion, or gain or loss with respect to undivided interests in property contributed to a partnership were determined as though the undivided interests had not been contributed to the partnership. After consideration, the IRS and Treasury have decided not to add the undivided interests method as a specific reasonable method described in the final regulations because it appears to be of very limited application. However, the use of this method in appropriate situations may be reasonable.

The comments also suggested including as a specifically described reasonable method an allocation method used in the oil and gas industry. Under this method, each partner is, in essence, allocated all of the depreciation or depletion from each item of property the partner contributes to the partnership (or from property purchased with cash contributed by that partner). Upon disposition of the contributed property, remaining built-in gain or loss is allocated to the contributing partner, and any additional gain or loss is allocated according to the partnership agreement. The IRS and Treasury have also decided not to add this method as a specific reasonable method described in the final regulations because, although it may be common in the oil and gas industry, it does not appear to be a generally applicable method. However, the use of this method in appropriate situations may be reasonable. The IRS is considering issuing further guidance on this method.

One comment suggested that the final regulations adopt as a safe harbor the use of the traditional method with a curative allocation of gain upon sale of the property. Under this approach, the anti-abuse rule would not apply to allocations following the safe harbor. Another comment suggested that the anti-abuse rule be deleted and that a curative allocation upon sale of the property be mandatory. Both of these suggestions would have required exceptions to the anti-abuse rule. The IRS and Treasury believe it is appropriate to require that all allocation methods satisfy the anti-abuse rule. Otherwise, the regulations might be interpreted as sanctioning allocation methods undertaken with a view to reducing substantially the present value of the partners' aggregate tax liability. Section 1.704–3(b)(2) *Example 2* describes the use of the traditional method with a curative allocation of gain upon sale that is reasonable under the facts of that example.

Sections 743 and 751

The final regulations provide that a partnership making adjustments under § 1.743–1(b) or 1.751–1(a)(2) must account for section 704(c) property in accordance with the principles of these regulations. The IRS will conform §§ 1.743–1(b) and 1.751–1(a)(2) to incorporate the changes to section 704(c) made in the 1984 Act and the 1989 Act as well as these regulations.

Transfers of Partnership Interests

The final regulations make explicit, in response to a comment, that if a contributing partner transfers the partnership interest, the remaining built-in gain or loss is allocated to the transferee partner.

Transfer of Property Under Section 351

If a partnership transfers an item of section 704(c) property together with other property to a corporation under section 351, in order to preserve that item's built-in gain or loss, the basis in the stock received in exchange for the section 704(c) property is determined as if each item of section 704(c) property had been the only property transferred to the corporation by the partnership.

The Anti-Abuse Rule

Comments requested clarification on the standard the IRS will apply in administering the anti-abuse rule. The final regulations provide an anti-abuse rule that has been revised to respond to concerns raised in comments and to target more specifically abusive transactions. The rule applies to all methods of making section 704(c) allocations, including the methods described in the final and temporary regulations. Under the rule, an allocation method (or combination of methods) is not reasonable if the contribution (or other relevant event) and the allocations with respect to the property are made with a view to shifting the tax consequences of built-in gain or loss among the partners in a manner that substantially reduces the present value of the partners' aggregate tax liability. Thus, the final regulations make clear that time-value-of-money concepts are relevant. In addition, the example of abusive curative allocations in the proposed regulations (proposed § 1.704–3(c)(4) *Example 2*, which is *Example 3* in the final regulations) has been clarified to illustrate these governing principles.

Some comments raised the concern that the IRS would use the anti-abuse rule to place taxpayers on the deferred sale method. To address this concern, the temporary regulations that describe the remedial allocation method (the revised deferred sale method) provide that in exercising its authority to make adjustments if a partnership's allocation method is not reasonable, the IRS will not require a partnership to use the remedial allocation method.

Curative Allocations

The final regulations provide that curative allocations are reasonable only if they conform to certain limitations. For example, they may not exceed the amount necessary to offset the effect of the ceiling rule. In addition, the period over which the allocations are made is a factor in determining whether the allocations are reasonable.

Under the proposed regulations, curative allocations could only be made using a tax item that would have the same effect on the partners as the tax item affected by the ceiling rule. Some comments requested clarification of this limitation. Accordingly, the final regulations provide that an allocation of a type that is not expected, at the time the allocation becomes part of the partnership agreement (or at the time the allocation is actually made if the partnership agreement is not sufficiently specific) to have substantially the same effect on each partner's tax liability as the tax item limited by the ceiling rule is generally not reasonable. However, when cost recovery is limited by the ceiling rule, gain from the sale of the contributed property may be used to make a curative allocation if provided in

VOL 58 ISS 244 DEC 22 1993 UMI

the partnership agreement in effect for the year of the contribution. The final regulations also provide additional examples of types of permissible and impermissible curative allocations.

The proposed regulations provided that if a partnership did not have tax items sufficient in the amount and of the correct type to offset fully the effect of the ceiling rule, the partnership could choose to make the curative allocation in the next succeeding taxable year in which it had sufficient items. The final regulations generally do not permit these make-up curative allocations. The IRS and Treasury believe that those taxpayers that are concerned about this restriction can choose to use the remedial allocation method described in the temporary regulations. The final regulations provide that a curative allocation is not reasonable to the extent it exceeds the amount necessary to offset the effect of the ceiling rule either for the current taxable year or, in the case of a curative allocation upon disposition of the property, for a prior taxable year. However, a partnership may make curative allocations in a taxable year to offset the effect of the ceiling rule for a prior taxable year if they are made over a reasonable period of time, such as over the property's economic life, and are provided for under the partnership agreement in effect for the year of contribution.

The Remedial Allocation Method

After consideration of the comments received on the deferred sale method contained in the original proposed regulations, the IRS and Treasury have decided to repropose a revised deferred sale method, referred to as the remedial allocation method, and, during the comment period, have issued temporary regulations for current use by taxpayers. In the absence of specific published guidance, it is not reasonable to use a section 704(c) method in which the basis of property contributed to the partnership is increased (or decreased) to reflect built-in gain (or loss) and, except as provided in the temporary remedial allocation method regulations, it is also not reasonable for a partnership to create tax allocations of income, gain, loss, or deduction independent of allocations affecting the partnership book capital accounts.

Small Disparities

The proposed regulations provided that a partnership may disregard the application of section 704(c) to a partner's contributions of property in a single year if (1) for each item of contributed property, the fair market value does not differ from the adjusted tax basis by more than 15 percent of the adjusted tax basis, and (2) the total disparity for all properties contributed by that partner in that year does not exceed $10,000. One comment stated that the 15 percent test should be applied in the aggregate, rather than on each item of property. The final regulations adopt this comment. In addition, comments were received stating that the $10,000 limit was too small. Accordingly, the final regulations raise this limit to $20,000.

Aggregation Rules

In general, the final regulations follow the proposed regulations and provide that, with certain exceptions, property generally may not be aggregated for purposes of making allocations under section 704(c). In response to comments, additional exceptions have been added so that certain other types of properties may be aggregated, such as all property (other than real property) that is included in the same general asset account, and all property with a basis of zero, other than real property. Each type of property must be separately aggregated. Under the final regulations, the IRS may issue additional guidance setting forth other assets for which aggregation is permissible. However, the final regulations clarify that any aggregation of property must also be reasonable under the anti-abuse rule.

The IRS requested and received comments on whether securities partnerships should be able to aggregate built-in gains and losses upon restating their capital accounts. After consideration of the comments received, the IRS and Treasury have determined that further consideration is necessary in order to define securities partnerships broadly enough to offer useful guidance and narrowly enough to prevent abusive allocations. Accordingly, this portion of the final regulations has been reserved and a special rule is being separately proposed that permits aggregation of certain types of property for securities partnerships. However, in recognition of the fact that taxpayers need immediate effective guidance on aggregation by securities partnerships, the IRS and Treasury are contemporaneously issuing temporary regulations allowing aggregation under certain circumstances during the comment period.

Certain Transactions Involving Foreign Persons

The rules of the final regulations relating to dispositions of partnership interests and dispositions by partnerships apply to dispositions by both domestic and foreign persons. To the extent dispositions of property are also described in sections 367(a), 367(d), 897, 1248, or 1491, those sections also apply. Consistent with preserving U.S. taxing jurisdiction, additional requirements applicable to contributions of section 704(c) property and subsequent dispositions involving foreign persons may be issued in the future. Those requirements may include appropriate reporting and recordkeeping requirements. The IRS and Treasury welcome comments regarding the scope of any additional requirements, including whether those requirements should be applied retroactively.

Effective Date

These regulations apply to property contributed to a partnership and to restatements pursuant to § 1.704–1(b)(2)(iv)(*f*) on or after December 21, 1993.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is David Edquist of the Office of the Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding a citation in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.704–3 also issued under 26 U.S.C. 704(c). * * *

Par. 2. Section 1.704–1 is amended by revising paragraphs (b)(1)(vi), (b)(2)(iv)(*d*)(*3*), and (c) to read as follows:

§ 1.704–1 Partner's distributive share.

* * * * *

(b) * * *

(1) * * *

(vi) *Section 704(c) determinations.* Section 704(c) and § 1.704–3 generally require that if property is contributed by a partner to a partnership, the partners' distributive shares of income, gain, loss, and deduction, as computed for tax purposes, with respect to the property are determined so as to take account of the variation between the adjusted tax basis and fair market value of the property. Although section 704(b) does not directly determine the partners' distributive shares of tax items governed by section 704(c), the partners' distributive shares of tax items may be determined under section 704(c) and § 1.704–3 (depending on the allocation method chosen by the partnership under § 1.704–3) with reference to the partners' distributive shares of the corresponding book items, as determined under section 704(b) and this paragraph. (See paragraphs (b)(2)(iv)(*d*) and (b)(4)(i) of this section.) See § 1.704–3 for methods of making allocations under section 704(c), and § 1.704–3T(d)(2) for a special rule in determining the amount of book items if the remedial allocation method is chosen by the partnership. See also paragraph (b)(5) *Example (13)* (i) of this section.

* * * * *

(2) * * *

(iv) * * *

(*d*) * * *

(*3*) *Section 704(c) considerations.* Section 704(c) and § 1.704–3 govern the determination of the partners' distributive shares of income, gain, loss, and deduction, as computed for tax purposes, with respect to property contributed to a partnership (see paragraph (b)(1)(vi) of this section). In cases where section 704(c) and § 1.704–3 apply to partnership property, the capital accounts of the partners will not be considered to be determined and maintained in accordance with the rules of this paragraph (b)(2)(iv) unless the partnership agreement requires that the partners' capital accounts be adjusted in accordance with paragraph (b)(2)(iv)(g) of this section for allocations to them of income, gain, loss, and deduction (including depreciation, depletion, amortization, or other cost recovery) as computed for book purposes, with respect to the property. See, however, § 1.704–3T(d)(2) for a special rule in determining the amount of book items if the partnership chooses the remedial allocation method. See also *Example (13)* (i) of paragraph (b)(5) of this section. Capital accounts are not adjusted to reflect allocations under section 704(c) and § 1.704–3 (e.g., tax allocations of precontribution gain or loss).

* * * * * *

(c) *Contributed property; cross-reference.* See §§ 1.704–3 and 1.704–3T for methods of making allocations that take into account precontribution appreciation or diminution in value of property contributed by a partner to a partnership.

* * * * *

Section 1.704–1T [Removed]

Par. 3. Section 1.704–1T is removed.

Par. 4. Section 1.704–3 is added to read as follows:

§ 1.704–3 Contributed property.

(a) *In general*—(1) *General principles.* The purpose of section 704(c) is to prevent the shifting of tax consequences among partners with respect to precontribution gain or loss. Under section 704(c), a partnership must allocate income, gain, loss, and deduction with respect to property contributed by a partner to the partnership so as to take into account any variation between the adjusted tax basis of the property and its fair market value at the time of contribution. Notwithstanding any other provision of this section, the allocations must be made using a reasonable method that is consistent with the purpose of section 704(c). For this purpose, an allocation method includes the application of all of the rules of this section (e.g., aggregation rules). An allocation method is not necessarily unreasonable merely because another allocation method would result in a higher aggregate tax liability. Paragraphs (b), (c), and (d) of this section describe allocation methods that are generally reasonable. Other methods may be reasonable in appropriate circumstances. Nevertheless, in the absence of specific published guidance, it is not reasonable to use an allocation method in which the basis of property contributed to the partnership is increased (or decreased) to reflect built-in gain (or loss), or a method under which the partnership creates tax allocations of income, gain, loss, or deduction independent of allocations affecting book capital accounts. See § 1.704–3T(d). Paragraph (e) of this section contains special rules and exceptions.

(2) *Operating rules.* Except as provided in paragraphs (e)(2) and (e)(3) of this section, section 704(c) and this section apply on a property-by-property basis. Therefore, in determining whether there is a disparity between adjusted tax basis and fair market value, the built-in gains and built-in losses on items of contributed property cannot be aggregated. A partnership may use different methods with respect to different items of contributed property, provided that the partnership and the partners consistently apply a single reasonable method for each item of contributed property and that the overall method or combination of methods are reasonable based on the facts and circumstances and consistent with the purpose of section 704(c). It may be unreasonable to use one method for appreciated property and another method for depreciated property. Similarly, it may be unreasonable to use the traditional method for built-in gain property contributed by a partner with a high marginal tax rate while using curative allocations for built-in gain property contributed by a partner with a low marginal tax rate.

(3) *Definitions*—(i) *Section 704(c) property.* Property contributed to a partnership is section 704(c) property if at the time of contribution its book value differs from the contributing partner's adjusted tax basis. For purposes of this section, book value is determined as contemplated by § 1.704–1(b). Therefore, book value is equal to fair market value at the time of contribution and is subsequently adjusted for cost recovery and other events that affect the basis of the property. For a partnership that maintains capital accounts in accordance with § 1.704–1(b)(2)(iv), the book value of property is initially the value used in determining the contributing partner's capital account under § 1.704–1(b)(2)(iv)(*d*), and is appropriately adjusted thereafter (e.g., for book cost recovery under §§ 1.704–1(b)(2)(iv)(*g*)(*3*) and 1.704–3T(d)(2) and other events that affect the basis of the property). A partnership that does not maintain capital accounts under § 1.704–1(b)(2)(iv) must comply with this section using a book capital account based on the same principles (i.e., a book capital account that reflects the fair market value of property at the time of contribution and that is subsequently adjusted for cost recovery and other events that affect the basis of the property).

(ii) *Built-in gain and built-in loss.* The built-in gain on section 704(c) property is the excess of the property's book value over the contributing partner's adjusted tax basis upon contribution. The built-in gain is thereafter reduced

by decreases in the difference between the property's book value and adjusted tax basis. The built-in loss on section 704(c) property is the excess of the contributing partner's adjusted tax basis over the property's book value upon contribution. The built-in loss is thereafter reduced by decreases in the difference between the property's adjusted tax basis and book value.

(4) *Accounts payable and other accrued but unpaid items.* Accounts payable and other accrued but unpaid items contributed by a partner using the cash receipts and disbursements method of accounting are treated as section 704(c) property for purposes of applying the rules of this section.

(5) *Other provisions of the Internal Revenue Code.* Section 704(c) and this section apply to a contribution of property to the partnership only if the contribution is governed by section 721, taking into account other provisions of the Internal Revenue Code. For example, to the extent that a transfer of property to a partnership is a sale under section 707, the transfer is not a contribution of property to which section 704(c) applies.

(6) *Other applications of section 704(c) principles—(i) Revaluations under section 704(b).* The principles of this section apply to allocations with respect to property for which differences between book value and adjusted tax basis are created when a partnership revalues partnership property pursuant to § 1.704–1(b)(2)(iv)(*f*) (reverse section 704(c) allocations). Partnerships are not required to use the same allocation method for reverse section 704(c) allocations as for contributed property, even if at the time of revaluation the property is already subject to section 704(c) and paragraph (a) of this section. In addition, partnerships are not required to use the same allocation method for reverse section 704(c) allocations each time the partnership revalues its property. A partnership that makes allocations with respect to revalued property must use a reasonable method that is consistent with the purposes of section 704(b) and (c).

(ii) *Basis adjustments.* A partnership making adjustments under § 1.743–1(b) or 1.751–1(a)(2) must account for built-in gain or loss under section 704(c) in accordance with the principles of this section.

(7) *Transfers of a partnership interest.* If a contributing partner transfers a partnership interest, built-in gain or loss must be allocated to the transferee partner as it would have been allocated to the transferor partner. If the contributing partner transfers a portion of the partnership interest, the share of built-in gain or loss proportionate to the interest transferred must be allocated to the transferee partner.

(8) *Disposition of property in nonrecognition transaction.* If a partnership disposes of section 704(c) property in a nonrecognition transaction in which no gain or loss is recognized, the substituted basis property (within the meaning of section 7701(a)(42)) is treated as section 704(c) property with the same amount of built-in gain or loss as the section 704(c) property disposed of by the partnership. If gain or loss is recognized in such a transaction, appropriate adjustments must be made. The allocation method for the substituted basis property must be consistent with the allocation method chosen for the original property. If a partnership transfers an item of section 704(c) property together with other property to a corporation under section 351, in order to preserve that item's built-in gain or loss, the basis in the stock received in exchange for the section 704(c) property is determined as if each item of section 704(c) property had been the only property transferred to the corporation by the partnership.

(9) *Tiered partnerships.* If a partnership contributes section 704(c) property to a second partnership (the lower-tier partnership), or if a partner that has contributed section 704(c) property to a partnership contributes that partnership interest to a second partnership (the upper-tier partnership), the upper-tier partnership must allocate its distributive share of lower-tier partnership items with respect to that section 704(c) property in a manner that takes into account the contributing partner's remaining built-in gain or loss. Allocations made under this paragraph will be considered to be made in a manner that meets the requirements of § 1.704–1(b)(2)(iv)(*g*) (relating to capital account adjustments where guidance is lacking).

(10) *Anti-abuse rule.* An allocation method (or combination of methods) is not reasonable if the contribution of property (or event that results in reverse section 704(c) allocations) and the corresponding allocation of tax items with respect to the property are made with a view to shifting the tax consequences of built-in gain or loss among the partners in a manner that substantially reduces the present value of the partners' aggregate tax liability.

(b) *Traditional method—(1) In general.* This paragraph (b) describes the traditional method of making section 704(c) allocations. In general, the traditional method requires that when the partnership has income, gain, loss, or deduction attributable to section 704(c) property, it must make appropriate allocations to the partners to avoid shifting the tax consequences of the built-in gain or loss. Under this rule, if the partnership sells section 704(c) property and recognizes gain or loss, built-in gain or loss on the property is allocated to the contributing partner. If the partnership sells a portion of, or an interest in, section 704(c) property, a proportionate part of the built-in gain or loss is allocated to the contributing partner. For section 704(c) property subject to amortization, depletion, depreciation, or other cost recovery, the allocation of deductions attributable to these items takes into account built-in gain or loss on the property. For example, tax allocations to the noncontributing partners of cost recovery deductions with respect to section 704(c) property generally must, to the extent possible, equal book allocations to those partners. However, the total income, gain, loss, or deduction allocated to the partners for a taxable year with respect to a property cannot exceed the total partnership income, gain, loss, or deduction with respect to that property for the taxable year (the ceiling rule). If a partnership has no property the allocations from which are limited by the ceiling rule, the traditional method is reasonable when used for all contributed property.

(2) *Examples.* The following examples illustrate the principles of the traditional method.

Example 1. Operation of the traditional method—(i) Calculation of built-in gain on contribution. A and B form partnership AB and agree that each will be allocated a 50 percent share of all partnership items and that AB will make allocations under section 704(c) using the traditional method under paragraph (b) of this section. A contributes depreciable property with an adjusted tax basis of $4,000 and a book value of $10,000, and B contributes $10,000 cash. Under paragraph (a)(3) of this section, A has built-in gain of $6,000, the excess of the partnership's book value for the property ($10,000) over A's adjusted tax basis in the property at the time of contribution ($4,000).

(ii) *Allocation of tax depreciation.* The property is depreciated using the straight-line method over a 10-year recovery period. Because the property depreciates at an annual rate of 10 percent, B would have been entitled to a depreciation deduction of $500 per year for both book and tax purposes if the adjusted tax basis of the property equalled its fair market value at the time of contribution. Although each partner is allocated $500 of book depreciation per year, the partnership is allowed a tax depreciation deduction of only $400 per year (10 percent of $4,000). The partnership can allocate only $400 of tax depreciation under the ceiling rule of paragraph (b)(1) of this section, and it must

be allocated entirely to B. In AB's first year, the proceeds generated by the equipment exactly equal AB's operating expenses. At the end of that year, the book value of the property is $9,000 ($10,000 less the $1,000 book depreciation deduction), and the adjusted tax basis is $3,600 ($4,000 less the $400 tax depreciation deduction). A's built-in gain with respect to the property decreases to $5,400 ($9,000 book value less $3,600 adjusted tax basis). Also, at the end of AB's first year, A has a $9,500 book capital account and a $4,000 tax basis in A's partnership interest. B has a $9,500 book capital account and a $9,600 adjusted tax basis in B's partnership interest.

(iii) *Sale of the property.* If AB sells the property at the beginning of AB's second year for $9,000, AB realizes tax gain of $5,400 ($9,000, the amount realized, less the adjusted tax basis of $3,600). Under paragraph (b)(1) of this section, the entire $5,400 gain must be allocated to A because the property A contributed has that much built-in gain remaining. If AB sells the property at the beginning of AB's second year for $10,000, AB realizes tax gain of $6,400 ($10,000, the amount realized, less the adjusted tax basis of $3,600). Under paragraph (b)(1) of this section, only $5,400 of gain must be allocated to A to account for A's built-in gain. The remaining $1,000 of gain is allocated equally between A and B in accordance with the partnership agreement. If AB sells the property for less than the $9,000 book value, AB realizes tax gain of less than $5,400, and the entire gain must be allocated to A.

(iv) *Termination and liquidation of partnership.* If AB sells the property at the beginning of AB's second year for $9,000, and AB engages in no other transactions that year, A will recognize a gain of $5,400, and B will recognize no income or loss. A's adjusted tax basis for A's interest in AB will then be $9,400 ($4,000, A's original tax basis, increased by the gain of $5,400). B's adjusted tax basis for B's interest in AB will be $9,600 ($10,000, B's original tax basis, less the $400 depreciation deduction in the first partnership year). If the partnership then terminates and distributes its assets ($10,000 in cash) to A and B in proportion to their capital account balances, A will recognize a capital gain of $100 ($9,500, the amount distributed to A, less $9,400, the adjusted tax basis of A's interest). B will recognize a capital loss of $100 (the excess of B's adjusted tax basis, $9,600, over the amount received, $9,500).

Example 2. Unreasonable use of the traditional method—(i) Facts. C and D form partnership CD and agree that each will be allocated a 50 percent share of all partnership items and that CD will make allocations under section 704(c) using the traditional method under paragraph (b) of this section. C contributes equipment with an adjusted tax basis of $1,000 and a book value of $10,000, with a view to taking advantage of the fact that the equipment has only one year remaining on its cost recovery schedule although its remaining economic life is significantly longer. At the time of contribution, C has a built-in gain of $9,000 and the equipment is section 704(c) property. D contributes $10,000 of cash, which CD uses to buy securities. D has substantial net operating loss carryforwards that D anticipates will otherwise expire unused. Under § 1.704–1(b)(2)(iv)(*g*)(3), the partnership must allocate the $10,000 of book depreciation to the partners in the first year of the partnership. Thus, there is $10,000 of book depreciation and $1,000 of tax depreciation in the partnership's first year. CD sells the equipment during the second year for $10,000 and recognizes a $10,000 gain ($10,000, the amount realized, less the adjusted tax basis of $0).

(ii) *Unreasonable use of method—(A)* At the beginning of the second year, both the book value and adjusted tax basis of the equipment are $0. Therefore, there is no remaining built-in gain. The $10,000 gain on the sale of the equipment in the second year is allocated $5,000 each to C and D. The interaction of the partnership's one-year write-off of the entire book value of the equipment and the use of the traditional method results in a shift of $4,000 of the precontribution gain in the equipment from C to D (D's $5,000 share of CD's $10,000 gain, less the $1,000 tax depreciation deduction previously allocated to D).

(B) The traditional method is not reasonable under paragraph (a)(10) of this section because the contribution of property is made, and the traditional method is used, with a view to shifting a significant amount of taxable income to a partner with a low marginal tax rate and away from a partner with a high marginal tax rate.

(C) Under these facts, if the partnership agreement in effect for the year of contribution had provided that tax gain from the sale of the property (if any) would always be allocated first to C to offset the effect of the ceiling rule limitation, the allocation method would not violate the anti-abuse rule of paragraph (a)(10) of this section. See paragraph (c)(3) of this section. Under other facts, (for example, if the partnership holds multiple section 704(c) properties and either uses multiple allocation methods or uses a single allocation method where one or more of the properties are subject to the ceiling rule) the allocation to C may not be reasonable.

(c) *Traditional method with curative allocations—(1) In general.* To correct distortions created by the ceiling rule, a partnership using the traditional method under paragraph (b) of this section may make reasonable curative allocations to reduce or eliminate disparities between book and tax items of noncontributing partners. A curative allocation is an allocation of income, gain, loss, or deduction for tax purposes that differs from the partnership's allocation of the corresponding book item. For example, if a noncontributing partner is allocated less tax depreciation than book depreciation with respect to an item of section 704(c) property, the partnership may make a curative allocation to that partner of tax depreciation from another item of partnership property to make up the difference, notwithstanding that the corresponding book depreciation is allocated to the contributing partner. A partnership may limit its curative allocations to allocations of one or more particular tax items (e.g., only depreciation from a specific property or properties) even if the allocation of those available items does not offset fully the effect of the ceiling rule.

(2) *Consistency.* A partnership must be consistent in its application of curative allocations with respect to each item of section 704(c) property from year to year.

(3) *Reasonable curative allocations—(i) Amount.* A curative allocation is not reasonable to the extent it exceeds the amount necessary to offset the effect of the ceiling rule for the current taxable year or, in the case of a curative allocation upon disposition of the property, for prior taxable years.

(ii) *Timing.* The period of time over which the curative allocations are made is a factor in determining whether the allocations are reasonable. Notwithstanding paragraph (c)(3)(i) of this section, a partnership may make curative allocations in a taxable year to offset the effect of the ceiling rule for a prior taxable year if those allocations are made over a reasonable period of time, such as over the property's economic life, and are provided for under the partnership agreement in effect for the year of contribution. See paragraph (c)(4) *Example 3* (ii)(C) of this section.

(iii) *Type—(A) In general.* To be reasonable, a curative allocation of income, gain, loss, or deduction must be expected to have substantially the same effect on each partner's tax liability as the tax item limited by the ceiling rule. The expectation must exist at the time the section 704(c) property is obligated to be (or is) contributed to the partnership and the allocation with respect to that property becomes part of the partnership agreement. However, the expectation is tested at the time the allocation with respect to that property is actually made if the partnership agreement is not sufficiently specific as to the precise manner in which allocations are to be made with respect to that property. Under this paragraph (c), if the item limited by the ceiling rule is loss from the sale of property, a curative allocation of gain must be expected to have substantially the same effect as would an allocation to that partner of gain with respect to the sale of the property. If the item limited by the ceiling rule is depreciation or other cost recovery, a curative allocation of income to the contributing partner must be expected to have substantially the same effect as would an allocation to

VOL 58 ISS 244 DEC 22 1993 UMI

that partner of partnership income with respect to the contributed property. For example, if depreciation deductions with respect to leased equipment contributed by a tax-exempt partner are limited by the ceiling rule, a curative allocation of dividend or interest income to that partner generally is not reasonable, although a curative allocation of depreciation deductions from other leased equipment to the noncontributing partner is reasonable. Similarly, under this rule, if depreciation deductions apportioned to foreign source income in a particular statutory grouping under section 904(d) are limited by the ceiling rule, a curative allocation of income from another statutory grouping to the contributing partner generally is not reasonable, although a curative allocation of income from the same statutory grouping and of the same character is reasonable.

(B) *Exception for allocation from disposition of contributed property.* If cost recovery has been limited by the ceiling rule, the general limitation on character does not apply to income from the disposition of contributed property subject to the ceiling rule, but only if properly provided for in the partnership agreement in effect for the year of contribution or revaluation. For example, if allocations of depreciation deductions to a noncontributing partner have been limited by the ceiling rule, a curative allocation to the contributing partner of gain from the sale of that property, if properly provided for in the partnership agreement, is reasonable for purposes of paragraph (c)(3)(iii)(A) of this section even if not of the same character.

(4) *Examples.* The following examples illustrate the principles of this paragraph (c).

Example 1. Reasonable and unreasonable curative allocations—(i) *Facts.* E and F form partnership EF and agree that each will be allocated a 50 percent share of all partnership items and that EF will make allocations under section 704(c) using the traditional method with curative allocations under paragraph (c) of this section. E contributes equipment with an adjusted tax basis of $4,000 and a book value of $10,000. The equipment has 10 years remaining on its cost recovery schedule and is depreciable using the straight-line method. At the time of contribution, E has a built-in gain of $6,000, and therefore, the equipment is section 704(c) property. F contributes $10,000 of cash, which EF uses to buy inventory for resale. In EF's first year, the revenue generated by the equipment equals EF's operating expenses. The equipment generates $1,000 of book depreciation and $400 of tax depreciation for each of 10 years. At the end of the first year EF sells all the inventory for $10,700, recognizing $700 of income. The partners anticipate that the inventory income will have substantially the same effect on their tax liabilities as income from E's contributed equipment. Under the traditional method of paragraph (b) of this section, E and F would each be allocated $350 of income from the sale of inventory for book and tax purposes and $500 of depreciation for book purposes. The $400 of tax depreciation would all be allocated to F. Thus, at the end of the first year, E and F's book and tax capital accounts would be as follows:

E		F		
Book	Tax	Book	Tax	
$10,000	$4,000	$10,000	$10,000	Initial contribution.
<500>	<0>	<500>	<400>	Depreciation.
350	350	350	350	Sales income.
9,850	$4,350	9,850	9,950	

(ii) *Reasonable curative allocation.* Because the ceiling rule would cause a disparity of $100 between F's book and tax capital accounts, EF may properly allocate to E under paragraph (c) of this section an additional $100 of income from the sale of inventory for tax purposes. This allocation results in capital accounts at the end of EF's first year as follows:

E		F		
Book	Tax	Book	Tax	
$10,000	$4,000	$10,000	$10,000	Initial contribution.
<500>	<0>	<500>	<400>	Depreciation.
350	450	350	250	Sales income.
9,850	4,450	9,850	9,850	

(iii) *Unreasonable curative allocation.* (A) The facts are the same as in paragraphs (i) and (ii) of this *Example 1*, except that E and F choose to allocate all the income from the sale of the inventory to E for tax purposes, although they share it equally for book purposes. This allocation results in capital accounts at the end of EF's first year as follows:

E		F		
Book	Tax	Book	Tax	
$10,000	$4,000	$10,000	$10,000	Initial contribution.
<500>	<0>	<500>	<400>	Depreciation.
350	700	350	0	Sales income.
9,850	4,700	9,850	9,600	

(B) This curative allocation is not reasonable under paragraph (c)(3)(i) of this section because the allocation exceeds the amount necessary to offset the disparity caused by the ceiling rule.

Example 2 Curative allocations limited to depreciation—(i) *Facts.* G and H form partnership GH and agree that each will be allocated a 50 percent share of all partnership items and that GH will make allocations under section 704(c) using the traditional method with curative allocations under paragraph (c) of this section, but only to the extent that the partnership has sufficient tax depreciation deductions. G contributes property G1, with an adjusted tax basis of $3,000 and a fair market value of $10,000, and H contributes property H1, with an adjusted tax basis of $6,000 and a fair market value of $10,000. Both properties have 5 years remaining on their cost recovery schedules and are depreciable using the straight-line method. At the time of contribution, G1 has a built-in gain of $7,000 and H1 has a built-in gain of $4,000, and therefore, both properties are section 704(c) property. G1 generates $600 of tax depreciation and $2,000 of book depreciation for each of five years. H1 generates $1,200 of tax depreciation and $2,000 of book depreciation for each of 5 years. In addition, the properties each generate $500 of operating income annually. G and H are each allocated $1,000 of book depreciation for each property. Under the traditional method of paragraph (b) of this section, G would be allocated $0 of tax depreciation for G1 and $1,000 for H1, and H would be allocated $600 of tax depreciation for G1 and $200 for H1. Thus, at the end of the first year, G and H's book and tax capital accounts would be as follows:

G		H		
Book	Tax	Book	Tax	
$10,000	$3,000	$10,000	$6,000	Initial contribution.
<1,000>	<0>	<1,000>	<600>	G1 depreciation.
<1,000>	<1,000>	<1,000>	<200>	H1 depreciation.
500	500	500	500	Operating income.
8,500	2,500	8,500	5,700	

(ii) *Curative allocations.* Under the traditional method, G is allocated more depreciation deductions than H, even though H contributed property with a smaller disparity reflected on GH's book and tax capital accounts. GH makes curative allocations to H of an additional $400 of tax depreciation each year, which reduces the disparities between G and H's book and tax capital accounts ratably each year. These allocations are reasonable provided the allocations meet the other requirements of this section. As a result of their agreement, at the end of the first year, G and H's capital accounts are as follows:

G		H		
Book	Tax	Book	Tax	
$10,000	$3,000	$10,000	$6,000	Initial contribution.
<1,000>	<0>	<1,000>	<600>	G1 depreciation.
<1,000>	<600>	<1,000>	<800>	H1 depreciation.
500	500	500	500	Operating income.
8,500	2,900	8,500	5,300	

Example 3. Unreasonable use of curative allocations—(i) *Facts.* J and K form partnership JK and agree that each will receive a 50 percent share of all partnership items and that JK will make allocations under section 704(c) using the traditional method with curative allocations under paragraph (c) of this section. J contributes equipment with an adjusted tax basis of $1,000 and a book value of $10,000, with a view to taking advantage of the fact that the equipment has only one year remaining on its cost recovery schedule although it has an estimated remaining economic life of 10 years. J has substantial net operating loss carryforwards that J anticipates will otherwise expire unused. At the time of contribution, J has a built-in gain of $9,000, and therefore, the equipment is section 704(c) property. K contributes $10,000 of cash, which JK uses to buy inventory for resale. In JK's first year, the revenues generated by the equipment exactly equal JK's operating expenses. Under § 1.704–1(b)(2)(iv)(g)(3), the partnership must allocate the $10,000 of book depreciation to the partners in the first year of the partnership. Thus, there is $10,000 of book depreciation and $1,000 of tax depreciation in the partnership's first year. In addition, at the end of the first year JK sells all of the inventory for $18,000, recognizing $8,000 of income. The partners anticipate that the inventory income will have substantially the same effect on their tax liabilities as income from J's contributed equipment. Under the traditional method of paragraph (b) of this section, J and K's book and tax capital accounts at the end of the first year would be as follows:

J		K		
Book	Tax	Book	Tax	
$10,000	$1,000	$10,000	$10,000	Initial contribution.
<5,000>	<0>	<5,000>	<1,000>	Depreciation.
4,000	4,000	4,000	4,000	Sales income.
9,000	5,000	9,000	13,000	

(ii) *Unreasonable use of method.* (A) The use of curative allocations under these facts to offset immediately the full effect of the ceiling rule would result in the following book and tax capital accounts at the end of JK's first year:

J		K		
Book	Tax	Book	Tax	
$10,000	$1,000	$10,000	$10,000	Initial contribution.
<5,000>	<0>	<5,000>	<1,000>	Depreciation.
4,000	8,000	4,000	0	Sales income.
9,000	9,000	9,000	9,000	

(B) This curative allocation is not reasonable under paragraph (a)(10) of this section because the contribution of property is made and the curative allocation method is used with a view to shifting a significant amount of partnership taxable income to a partner with a low marginal tax rate and away from a partner with a high marginal tax rate, within a period of time significantly shorter than the economic life of the property.

(C) The property has only one year remaining on its cost recovery schedule even though its economic life is considerably longer. Under these facts, if the partnership agreement had provided for curative allocations over a reasonable period of time, such as over the property's economic life, rather than over its remaining cost recovery period, the allocations would have been reasonable. See paragraph (c)(3)(ii) of this section. Thus, in this example, JK would make a curative allocation of $400 of sales income to J in the partnership's first year (10 percent of $4,000). J and K's book and tax capital accounts at the end of the first year would be as follows:

J		K		
Book	Tax	Book	Tax	
$10,000	$1,000	$10,000	$10,000	Initial contribution.
<5,000>	<0>	<5,000>	<1,000>	Depreciation.
4,000	4,400	4,000	3,600	Sales income.
9,000	5,400	9,000	12,600	

(d) *Remedial allocation method.* [Reserved]

(e) *Exceptions and special rules*—(1) *Small disparities*—(i) *General rule.* If a partner contributes one or more items of property to a partnership within a single taxable year of the partnership, and the disparity between the book value of the property and the contributing partner's adjusted tax basis in the property is a small disparity, the partnership may—

(A) Use a reasonable section 704(c) method;

(B) Disregard the application of section 704(c) to the property; or

(C) Defer the application of section 704(c) to the property until the disposition of the property.

(ii) *Definition of small disparity.* A disparity between book value and adjusted tax basis is a small disparity if the book value of all properties contributed by one partner during the partnership taxable year does not differ from the adjusted tax basis by more than 15 percent of the adjusted tax basis, and the total gross disparity does not exceed $20,000.

(2) *Aggregation.* Each of the following types of property may be aggregated for purposes of making allocations under section 704(c) and this section if contributed by one partner during the partnership taxable year.

(i) *Depreciable property.* All property, other than real property, that is included in the same general asset account of the contributing partner and the partnership under section 168.

(ii) *Zero-basis property.* All property with a basis equal to zero, other than real property.

(iii) *Inventory.* For partnerships that do not use a specific identification method of accounting, each item of inventory, other than securities or similar investment interests (as defined in § 1.704–3T(e)(3)).

(iv) *Other aggregated property.* Types of property designated in guidance published in the Internal Revenue Bulletin.

(v) *Letter rulings.* Other property as permitted by the Commissioner in a letter ruling.

(3) *Securities partnerships.* [Reserved]

(f) *Effective date.* This section applies to property contributed to a partnership and to restatements pursuant to § 1.704–1(b)(2)(iv)(*f*) on or after December 21, 1993.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 1, 1993.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 93–31004 Filed 12–21–93; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[TD 8501]

RIN 1545–AR74

Allocations Reflecting Built-in Gain or Loss on Property Contributed to a Partnership

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under section 704 of the Internal Revenue Code relating to the remedial allocation method with respect to property contributed by a partner to a partnership, and allocations with respect to securities and similar investments owned by a partnership. Changes to the applicable law were made by the Tax Reform Act of 1984 and the Revenue Reconciliation Act of 1989. The temporary regulations affect partnerships and their partners and are necessary to provide guidance needed to comply with the applicable tax law.

EFFECTIVE DATE: These regulations are effective December 21, 1993.

FOR FURTHER INFORMATION CONTACT: David Edquist at (202) 622–3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 704(c)(1)(A) and 704(c)(3) of the Internal Revenue Code (Code).

Background

Contributions to and distributions from partnerships are generally tax free under sections 721 and 731, respectively. Section 704(c) requires that income, gain, loss, and deduction with respect to property contributed to a partnership by a partner be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution. Similar principles apply to partnerships restating their capital accounts under § 1.704–1(b)(4)(i).

Final regulations under section 704(c)(1)(A) and 704(c)(3) were filed with the **Federal Register** on December 21, 1993. The final regulations reserve two sections: (1) The remedial allocation method, and (2) aggregation of securities and similar investments by securities partnerships for purposes of section 704 (b) and (c). These temporary regulations address those issues.

Explanation of Provisions

Remedial Allocation Method

The proposed regulations published by the IRS in the **Federal Register** on December 24, 1992 (FR 61345) (the original proposed regulations) included the deferred sale method as a reasonable allocation method. The IRS and Treasury included the deferred sale method in the original proposed regulations because it provided a method to eliminate the distortions created by the ceiling rule. In essence, the deferred sale method provided additional cost recovery deductions for the noncontributing partners, which were offset by deferred gain to the contributing partner. In addition, the method prevented the ceiling rule from creating distortions upon the sale of the contributed property due to post-contribution changes in value.

After considering the many comments received concerning the deferred sale method and upon further review by the IRS and Treasury, it was determined that the results of the deferred sale method in the original proposed regulations could be achieved using a less complex method. Therefore, the IRS and Treasury have included a revised deferred sale method referred to as the remedial allocation method in these temporary regulations. The remedial allocation method is being issued by temporary regulation because the IRS and Treasury believe that taxpayers should be permitted to use the remedial allocation method during the comment period. Use of the remedial allocation method is subject to the anti-abuse rule contained in the final regulations.

The remedial allocation method contained in these temporary regulations permits the use of remedial allocations to achieve results substantially similar to the results under the deferred sale method contained in the original proposed regulations without the complexity of that method. Remedial allocations are tax allocations of income or gain created by the partnership that are offset by tax allocations of loss or deduction created by the partnership. Remedial allocations are in addition to other allocations made by a partnership and have no effect on the partnership book capital accounts. Under the remedial allocation method of these temporary regulations, if the ceiling rule results in a book allocation to a noncontributing partner different from the corresponding tax allocation, the partnership makes a remedial allocation of income, gain, loss, or deduction to the noncontributing partner equal to the full amount of the limitation caused by the ceiling rule, and a simultaneous, offsetting remedial allocation of deduction, loss, gain, or income to the contributing partner.

The amount of book items allocated to each partner is determined in the same manner as under the deferred sale method of the original proposed regulations. Therefore, the ceiling rule amount is determined differently under the remedial allocation method of these temporary regulations than under the other allocation methods contained in the final regulations (which must use the rules of § 1.704–1(b)(2)(iv)(g)(*3*) to determine book cost recovery). Under the remedial allocation method, the portion of book basis in the property equal to the tax basis in the property at the time of contribution is recovered in the same manner as the tax basis (generally over the property's remaining recovery period under section 168(i)(7) or other applicable section of the Code). The remainder of the partnership's book basis in the property (the amount by which book basis exceeds adjusted tax basis) is recovered using any applicable recovery period and depreciation (or other cost recovery) method available to the partnership for newly-purchased property placed in service at the time of contribution.

A remedial allocation is reasonable only to the extent it equals the amount necessary to offset the effect of the ceiling rule for that taxable year and only if it has the same effect on each partner's tax liability as the item limited by the ceiling rule. Thus, if the item limited by the ceiling rule is depreciation or other cost recovery, the offsetting remedial allocation of income to the contributing partner must consist of the same type of income that the contributed property produces. Similarly, if the item limited by the ceiling rule is capital loss from the sale of contributed property, the offsetting remedial allocation to the contributing partner must be capital gain from the sale of that property.

In determining whether a remedial allocation of income has the same effect on each partner's tax liability as the item limited by the ceiling rule, all of the provisions of the Code apply as if the remedial allocation had actually been realized by the partnership. For example, assume a partner contributes to a partnership appreciated nondepreciable property that, if sold, would generate capital gain. The property thereafter declines in value so that the ceiling rule limits the amount of capital gain allocable to the contributing partner on a subsequent sale. The partnership must make a remedial allocation of capital gain to the contributing partner, and an equal offsetting remedial allocation of capital loss to the noncontributing partner. These allocations would be subject to all the rules normally applicable to capital gains and capital losses, as if the amounts had actually been realized by the partnership. As a further illustration of this principle, if the item limited by the ceiling rule is loss from the sale of stock of a controlled foreign corporation (CFC), section 1248 applies to the remedial allocation of income to the contributing partner as if it were gain from the sale of that property (provided that the requirements of section 1248 are otherwise satisfied). If a remedial allocation of gain to the contributing partner is characterized as dividend income pursuant to section 1248, other provisions of the Code apply. Further guidance may be published detailing the application of these rules to such transactions.

As noted above, remedial allocations are subject to the general anti-abuse rule of § 1.704–3(a)(10). For example, assume that a partnership holding contributed stock of a CFC causes the CFC to distribute dividends prior to the disposition of the CFC stock by the partnership, and the dividend income is properly allocated among the partners under section 704(b). If the contributing partner would have received a section 704(c) allocation of dividend income pursuant to section 1248 absent the dividend distribution but, as a result of the distribution, the contributing partner would receive a remedial allocation of capital gain, the anti-abuse

VOL 58 ISS 244 DE 22 1993 UMI

rule will apply if the contribution of CFC stock, the dividend distribution, and the remedial allocation are made with a view to reducing substantially the present value of the partners' aggregate tax liability.

In response to comments received on the original proposed regulations, the IRS will not require a partnership to use the remedial allocation method described in these temporary regulations if a partnership's allocation method is not reasonable. In the absence of specific published guidance, the method described in these temporary regulations is the only reasonable section 704(c) method using remedial allocations.

Securities Aggregation

In general, the final regulations under § 1.704–3(e)(2) provide that property may not be aggregated for purposes of making allocations under section 704(c). However, aggregation is permitted for certain specifically defined types of property. In addition, the final regulations state that the IRS and Treasury may provide in guidance published in the Internal Revenue Bulletin that other classes of items may be aggregated for purposes of section 704(c). Aggregation may also be permitted by letter ruling.

Reverse section 704(c) allocations are required with respect to property for which differences between book value and adjusted tax basis are created when a partnership revalues property pursuant to § 1.704–1(b)(2)(iv)(*f*). The IRS has received comments that the frequency of capital account restatements under § 1.704–1(b)(4)(i) and the number of partnership assets may make it impractical for securities partnerships to make reverse section 704(c) allocations on an asset-by-asset basis. The comments also maintain that permitting aggregation of securities when making reverse section 704(c) allocations does not significantly increase the potential of abusive allocations. After studying the issue, the IRS and Treasury agree that aggregation of securities should be permitted for certain securities partnerships when making reverse section 704(c) allocations. The temporary regulations provide only for aggregation of securities and similar investments for certain specifically defined partnerships. The IRS and Treasury will consider expanding the types of partnerships that are permitted to aggregate securities and similar investments after receiving comments from taxpayers, and will also consider expanding the type of property interests eligible for aggregation by those partnerships.

The temporary regulations provide that when making reverse section 704(c) allocations, it is generally reasonable for a securities partnership consistently to aggregate all gains and all losses from securities and similar investments. Gains must be aggregated separately from losses.

Securities Partnerships

The temporary regulations provide that for purposes of securities aggregation, a securities partnership is one that: (1) Is diversified as defined by section 851(b)(4), (2) has at least 90 percent of its non-cash assets in securities or similar investment interests described in § 1.704–1(b)(2)(iv)(*f*)(5)(*iii*) (consisting of stock, securities, commodities, options, warrants, futures, or similar investments that are readily tradable on an established securities market), (3) either is registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), as a Management Company, or does not have 50 percent or more of its capital interests held at any time during the current partnership year by five or fewer persons, determined in accordance with section 707(b)(3), and (4) makes all of its allocations in proportion to the partners' relative book capital accounts (except for reasonable special allocations to a partner that provides management services to the partnership).

The IRS and Treasury recognize that there are other ways to define a securities partnership. For example, it is possible to define these partnerships in terms of the number of accounting entries that would be needed on an asset-by-asset method. The IRS and Treasury welcome comments on how to define a securities partnership.

Effective Date

These temporary regulations apply to contributions of property to a partnership and revaluations of securities and similar investments made on or after December 21, 1993.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these temporary regulations is David Edquist of the Office of the Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, the amendments to 26 CFR part 1 are as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.704–3T also issued under 26 U.S.C. 704(c). * * *

Par. 2. Section 1.704–3T is added to read as follows:

§ 1.704–3T Contributed property (temporary).

(a) through (c) [Reserved]

(d) *Remedial allocation method*—(1) *In general.* For contributions of property to a partnership and restatements pursuant to § 1.704–1(b)(2)(iv)(*f*) on or after December 21, 1993, a partnership may adopt the remedial allocation method described in this paragraph by making reasonable remedial allocations to eliminate ceiling rule disparities between tax items of noncontributing partners and corresponding book items (as computed under paragraph (d)(2) of this section). Remedial allocations are tax allocations of income or gain that are offset by tax allocations of loss or deduction. These tax allocations are created by the partnership and have no effect on the partnership's book capital accounts. Under this method the partnership determines the amount of book items under paragraph (d)(2) of this section and determines the distributive share of these items under section 704(b). The partnership then makes tax allocations using the methodology set forth in § 1.704–3(b)(1) to avoid shifting the tax consequences of built-in gain or loss. If the ceiling rule (as defined in § 1.704–3(b)(1)) results in a book allocation to a noncontributing partner different from the corresponding tax allocation, the partnership makes a remedial allocation of income, gain, loss, or deduction to the noncontributing partner equal to the full amount of the limitation caused by the ceiling rule, and a simultaneous, offsetting remedial allocation of deduction, loss, gain, or income to the contributing partner. In the absence of specific published guidance, the method described in this paragraph is the only reasonable section 704(c) method using remedial allocations.

(2) *Determining the amount of book items.* Under the remedial allocation method, for purposes of subchapter K the partnership determines the amount of book items in the following manner rather than under the rules of § 1.704–1(b)(2)(iv)(*g*)(*3*). The portion of the partnership's book basis in the property equal to the adjusted tax basis in the property at the time of contribution is recovered in the same manner as the adjusted tax basis in the property is recovered (generally, over the property's remaining recovery period under section 168(i)(7) or other applicable Internal Revenue Code section). The remainder of the partnership's book basis in the property (the amount by which book basis exceeds adjusted tax basis) is recovered using any applicable recovery period and depreciation (or other cost recovery) method available to the partnership for newly-purchased property placed in service at the time of contribution.

(3) *Type.* Remedial allocations of income, gain, loss, or deduction must have the same effect on each partner's tax liability as the tax item limited by the ceiling rule. This means that, when relevant, such attributes as the source, character, or (e.g., under section 469) nature of the item limited by the ceiling rule must be taken into account. Thus, if the item limited by the ceiling rule is loss from the sale of contributed property, the offsetting remedial allocation to the contributing partner must be gain from the sale of the property. If the item limited by the ceiling rule is depreciation or other cost recovery, the offsetting remedial allocation of income to the contributing partner must be of the same type of income that the contributed property produces.

(4) *Limitation on adjustments by the Internal Revenue Service.* In exercising its authority under § 1.704–3 to make adjustments if a partnership's allocation method is not reasonable, the Internal Revenue Service will not require a partnership to use the remedial allocation method described in this paragraph (d).

(5) *Examples.* The following examples illustrate the principles of this paragraph (d).

Example 1. Remedial allocation method—(i) *Facts.* L and M form partnership LM and agree that each will be allocated a 50 percent share of all partnership items. The partnership agreement provides that LM will make allocations under section 704(c) using the remedial allocation method under paragraph (d) of this section and that the straight-line method will be used to recover excess book basis. L contributes depreciable property with an adjusted tax basis of $4,000 and a fair market value of $10,000. The property is depreciable using the straight-line method with a 10-year recovery period and has 4 years remaining on its recovery period. M contributes $10,000, which the partnership uses to purchase land. Except for the depreciation deductions, LM's expenses equal its income in each year of the 10 years commencing with the year the partnership is formed.

(ii) *Years 1 through 4.* Under the remedial allocation method of paragraph (d) of this section, LM has book depreciation for each of its first 4 years of $1,600 ($1,000 ($4,000 tax basis divided by the 4-year remaining recovery period) plus $600 ($6,000 excess of book value over tax basis, divided by the *new* ten-year recovery period)). Under the partnership agreement, L and M are each allocated 50 percent ($800) of the book depreciation. M is allocated $800 of tax depreciation and L is allocated the remaining $200 of tax depreciation ($1,000 − $800). See paragraph (d)(1) of this section. No remedial allocations are made because the ceiling rule does not result in a book allocation of depreciation to M different from the tax allocation. The allocations result in capital accounts at the end of LM's first 4 years as follows:

L		M		
Book	Tax	Book	Tax	
$10,000	$4,000	$10,000	$10,000	Initial contribution.
<3,200>	<800>	<3,200>	<3,200>	Depreciation.
6,800	3,200	6,800	6,800	

(iii) *Subsequent Years.* (A) For each of years 5 through 10, LM has $600 of book depreciation ($6,000 excess of initial book value over adjusted tax basis divided by the 10-year recovery period that commenced in year 1), but no tax depreciation. Under the partnership agreement, the $600 of book depreciation is allocated equally to L and M. Because of the application of the ceiling rule in year 5, M would be allocated $300 of book depreciation, but no tax depreciation. Thus, at the end of LM's fifth year L and M's book and tax capital accounts would be as follows:

L		M		
Book	Tax	Book	Tax	
$6,800	$3,200	$6,800	$6,800	End of year 4.
<300>	.....	<300>	.....	Depreciation.
6,500	3,200	6,500	6,800	

(B) Because the ceiling rule would cause an annual disparity of $300 between M's book and tax capital accounts, LM must make remedial allocations of $300 of tax depreciation deductions to M under the remedial allocation method, for each of years 5 through 10. LM must also make offsetting remedial tax allocations to L of $300 of income, which must be of the same type as income from the property. At the end of year 5, LM's capital accounts are as follows:

L		M		
Book	Tax	Book	Tax	
$6,800	$3,200	$6,800	$6,800	End of year 4.
<300>	.....	<300>	.....	Depreciation.

L		M		
Book	Tax	Book	Tax	
	300	.....	<300>	Remedial allocations.
6,500	3,500	6,500	6,500	

(C) At the end of year 10, LM's capital accounts are as follows:

L		M		
Book	Tax	Book	Tax	
$6,500 <1,500>	$3,500	$6,500 <1,500>	$8,500	End of year 5. Depreciation.
	1,500	.....	<1,500>	Remedial allocations.
5,000	5,000	5,000	5,000	

Example 2. Remedial allocations on sale—(i) *Facts.* N and P form partnership NP and agree that each will be allocated a 50 percent share of all partnership items and that NP will make allocations under section 704(c) using the remedial allocation method under paragraph (d) of this section. N contributes Blackacre (land) with an adjusted tax basis of $4,000 and a book value of $10,000. Because N has a built-in gain of $6,000, Blackacre is section 704(c) property. P contributes Whiteacre (land) with an adjusted tax basis and book value of $10,000. At the end of NP's first year, NP sells Blackacre to Q for $9,000 and recognizes a capital gain of $5,000 ($9,000 amount realized, less $4,000 tax basis) and a book loss of $1,000 ($9,000 amount realized less $10,000 book basis). NP has no other items of income, gain, loss, or deduction. If the ceiling rule were applied, N would be allocated the entire $5,000 of tax gain and N and P would each be allocated $500 of book loss. Thus, at the end of NP's first year N and P's book and tax capital accounts would be as follows:

N		P		
Book	Tax	Book	Tax	
$10,000 <500>	$4,000 5,000	$10,000 <500>	$10,000	Initial contribution. Sale of Blackacre.
9,500	9,000	9,500	10,000	

(ii) *Remedial allocation.* Because the ceiling rule would cause a disparity of $500 between P's book and tax capital accounts, NP must make a remedial allocation of $500 of capital loss to P under the remedial allocation method, and an offsetting remedial allocation to N of an additional $500 of capital gain. These allocations result in capital accounts at the beginning of NP's second year as follows:

N		P		
Book	Tax	Book	Tax	
$10,000 <500>	$4,000 5,000 500	$10,000 <500>	$10,000 ..... <500>	Initial contribution. Sale of Blackacre. Remedial allocations.
9,500	9,500	9,500	9,500	

(e) (1) and (2) [Reserved]

(3) *Special aggregation rule for securities partnerships*—(i) *General rule.* The frequency of capital account restatements under § 1.704–1(b)(4)(i) and the number of partnership assets may make it impractical for securities partnerships to make reverse section 704(c) allocations on an asset-by-asset basis. Therefore, when making reverse section 704(c) allocations with respect to restatements made on or after December 21, 1993, it is generally reasonable for a securities partnership consistently to aggregate all gains and all losses from securities and similar investments (as defined in § 1.704–1(b)(2)(iv)(*f*)(5)(*iii*)). Gains must be aggregated separately from losses.

(ii) *Securities partnership.* For purposes of paragraph (e)(3)(i) of this section, a securities partnership is one that—

(A) If it were a domestic corporation would satisfy the requirements of section 851(b)(4);

(B) On each revaluation date, holds assets described in § 1.704–1(b)(2)(iv)(*f*)(5)(*iii*) that constitute at least 90 percent of the fair market value of its non-cash assets;

(C) Either is registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended (15 U.S.C. 80a–1 to 80b–2), as a Management Company, or does not have 50 percent or more of its capital interests held at any time during the current partnership taxable year by five or fewer persons, determined in accordance with section 707(b)(3); and

(D) Makes all of its book allocations in proportion to the partners' relative book capital accounts (except that the partnership may make reasonable special allocations to a partner that provides management services to the partnership).

(iii) *Letter rulings.* The Commissioner may, by letter ruling, permit partnerships not meeting the requirements of this paragraph (e)(3) to

aggregate assets when making reverse section 704(c) allocations.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 1, 1993.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 93–31005 Filed 12–21–93; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[TD 8502]

RIN 1545–AR57

Reissuance of Mortgage Credit Certificates

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the reissuance of mortgage credit certificates. Changes to the applicable law were made by the Tax Reform Act of 1984. The regulations provide guidance to issuers and holders of mortgage credit certificates. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These temporary regulations are effective December 22, 1993.

For dates of applicability of the temporary regulations, see the Explanation of Provisions in the **SUPPLEMENTARY INFORMATION** portion of this document.

FOR FURTHER INFORMATION CONTACT: L. Michael Wachtel, (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document adds temporary regulations to the Income Tax Regulations (26 CFR part 1) to provide guidance under section 25(e)(4) of the Internal Revenue Code (Code) with respect to the reissuance of mortgage credit certificates. Section 25(e)(4) was added to the Code by section 612 of the Tax Reform Act of 1984, 98 Stat. 494, 905.

Explanation of Provisions

Mortgage credit certificates are an alternative to qualified mortgage bonds. Section 143 of the Code permits the issuance of qualified mortgage bonds to provide assistance in financing the purchase of owner-occupied residences when certain income, purchase price, and other requirements are met. An issuer authorized to issue qualified mortgage bonds under section 143 may, instead, elect under section 25 to issue mortgage credit certificates. Under a qualified mortgage credit certificate program, the purchaser of a residence obtains conventional mortgage financing and is permitted a tax credit based on the interest paid on that mortgage.

Section 25 incorporates by reference certain requirements set out for qualified mortgage bonds in section 143. One of those is the requirement in section 143(i)(1) that no part of the proceeds of such an issue is to be used to acquire or replace existing mortgages; thus, proceeds from qualified mortgage bonds cannot be used to refinance home mortgages.

Section 25(e)(4), however, authorizes regulations to permit the reissuance of mortgage credit certificates under conditions designed to prevent any increase in the credit allowable to the certificate holder. Under the authority of section 25(e)(4), these temporary regulations allow the reissuance of mortgage credit certificates in connection with the refinancing of indebtedness to which an existing certificate applies. The regulations require that the reissued certificate be, in effect, a continuation of the existing certificate (with new financing) and that there be no increase in the amount of the tax credit.

These regulations apply to reissuances of certificates with respect to certain past refinancings as well as current or future refinancings of home mortgages. A certificate must be reissued on or after December 22, 1993, and within 1 year after the refinancing. A reissued certificate is effective as of the date of the mortgage refinancing. To the extent otherwise permitted, the holder of a reissued certificate may file an amended federal income tax return to claim credits for the period from the date of refinancing.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is L. Michael Wachtel, Office of the Assistant Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *.

Sections 1.25–1T—1.25–8T also issued under 26 U.S.C. 25. * * *

Par. 2. Section 1.25–3T is amended as follows:

1. Paragraph (g)(1)(iii) is added.
2. Paragraph (p) is added.
3. These added provisions read as follows:

§ 1.25–3T Qualified mortgage credit certificate (Temporary).

* * * * *

(g) * * * (1) * * *

(iii) *Reissued certificate exception.* See paragraph (p) of this section for rules regarding the exception in the case of refinancing existing mortgages.

* * * * *

(p) *Reissued certificates for certain refinancings*—(1) *In general.* If the issuer of a qualified mortgage credit certificate reissues a certificate in place of an existing mortgage credit certificate to the holder of that existing certificate, the reissued certificate is treated as satisfying the requirements of this section. The period for which the reissued certificate is in effect begins with the date of the refinancing (that is, the date on which the closing agreement is signed).

(2) *Meaning of existing certificate.* For purposes of this paragraph (p), a certificate is an existing certificate only if it satisfies the requirements of this section. An existing certificate may be the original certificate, a certificate issued to a transferee under paragraph (h)(2)(ii) of this section, or a certificate previously reissued under this paragraph (p).

(3) *Limitations on reissued certificate.* An issuer may reissue a mortgage credit certificate only if all of the following requirements are satisfied:

(i) The certificate is reissued to the holder of an existing certificate with respect to the same property to which the existing certificate relates.

(ii) The reissued certificate entirely replaces the existing certificate (that is, the holder cannot retain the existing certificate with respect to any portion of the outstanding balance of the certified mortgage indebtedness specified on the existing certificate).

(iii) The certified mortgage indebtedness specified on the reissued certificate does not exceed the outstanding balance of the certified mortgage indebtedness specified on the existing certificate.

(iv) The reissued certificate does not increase the certificate credit rate specified in the existing certificate.

(v) The reissued certificate does not result in an increase in the credit that would otherwise have been allowable to the holder under the existing certificate for any taxable year.

(vi) The issuer reissues the certificate on or after December 22, 1993, but not later than the date that is 1 year after the date of the refinancing.

(4) *Example.* The following example illustrates the application of paragraph (p)(3)(v) of this section.

Example. A holder of an existing certificate that meets the requirements of this section seeks to refinance the property to which the certificate relates. The final payment on the holder's existing mortgage is due on December 31, 2000; the final payment on the new mortgage would not be due until January 31, 2004. The holder requests that the issuer provide to the holder a reissued mortgage credit certificate in place of the existing certificate. The requested certificate would have the same certificate credit rate as the existing certificate. For each calendar year through the year 2000, the credit that would be allowable to the holder with respect to the new mortgage under the requested certificate would not exceed the credit allowable for that year under the existing certificate. The requested certificate, however, would allow the holder credits for the years 2001 through 2004, years for which, due to the earlier scheduled retirement of the existing mortgage, no credit would be allowable under the existing certificate. Under paragraph (p)(3)(v) of this section, the issuer may not reissue the certificate as requested because, under the existing certificate, no credit would be allowable for the years 2001 through 2004. The issuer may, however, provide a reissued certificate that limits the amount of the credit allowable in each year to the amount allowable under the existing certificate; for example, the reissued certificate could expire on December 31, 2000.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 1, 1993.

Samuel Y. Sessions,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 93-31009 Filed 12-21-93; 8:45 am]
BILLING CODE 4830-01-U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Chapter III

[Docket No. RM 93-12]

Copyright Royalty Tribunal; Transfer and Adoption of Regulations

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim regulations.

SUMMARY: The Copyright Office of the Library of Congress, pursuant to the Copyright Royalty Tribunal Reform Act of 1993, is adopting on an interim basis the rules and regulations of the now defunct Tribunal found in 37 CFR chapter III. The Office is making only technical changes to those rules and regulations and will conduct a thorough review and revision as part of a future rulemaking.

EFFECTIVE DATE: December 17, 1993.

FOR FURTHER INFORMATION: William Roberts, Senior Attorney, U.S. Copyright Office, Library of Congress, Washington, DC 20559, (202) 707-8380.

SUPPLEMENTARY INFORMATION:

On December 17, 1993, the President signed into law the Copyright Royalty Tribunal Reform Act of 1993 ("Reform Act"). Pub. L. No. 103-198. Effective immediately upon enactment, the Reform Act amends the Copyright Act, 17 U.S.C., by eliminating the Copyright Royalty Tribunal and transferring its responsibilities and duties to ad hoc copyright arbitration royalty panels, to be administered by the Library of Congress and the Copyright Office. The copyright arbitration royalty panels will be convened by the Librarian of Congress for limited times for the purpose of adjusting rates and distributing royalties collected pursuant to the compulsory licenses of the Copyright Act. *See* 17 U.S.C. 111, 115, 116, 118, 119 and chapter 10.

Although the Reform Act eliminates the Copyright Royalty Tribunal, the Librarian of Congress is expressly directed to adopt immediately the rules and regulations of the Tribunal in their entirety. Those regulations are to remain in effect unless and until the Librarian adopts supplemental or superseding regulations in accordance with the provisions of the Administrative Procedure Act (APA). The Reform Act thereby preserves the Tribunal's rules and regulations from extinction, while granting the Librarian express authority to make future changes.

Complete and immediate adoption of chapter III of title 37 of the Code of Federal Regulations presents certain problems. The change from a single autonomous Tribunal to a system of ad hoc copyright arbitration royalty panels administered by the Library of Congress and the Copyright Office antiquates and eliminates the need for many of the Tribunal's regulations, while at the same time requiring the adoption of various new rules tailored to the new system. It is plainly obvious that a thorough examination and revision of the Tribunal's former rules must be undertaken, as permitted by the Reform Act, in accordance with the rulemaking procedures of the APA. The time required to complete such a rulemaking, however, precludes the possibility of adopting a revision concurrent with the enactment of the Reform Act. Nevertheless, the Reform Act requires the Librarian to adopt the rules and regulations of the Tribunal on the date of enactment "unless and until" they are revised or supplanted by a future rulemaking.

Therefore, under the general rulemaking authority of the Copyright Act, 17 U.S.C. 702, and the specific authority of 17 U.S.C. 802(d), the Copyright Office of the Library of Congress formally adopts the rules and regulations of chapter III of title 37 of the Code of Federal Regulations on an interim basis. It is the intention of the Copyright Office to initiate as soon as possible a rulemaking proceeding to revise these rules and regulations to fully satisfy the requirements of the Reform Act. Until such time, however, the Copyright Office is today making only nonsubstantive technical amendments to the rules and regulations of chapter III of title 37 of the Code of Federal Regulations to conform with procedural requirements.

First, the Copyright Office is renaming the title of chapter III by deleting "Copyright Royalty Tribunal" and inserting "Copyright Office, Library of Congress", as well as changing the authority citation for each part of chapter III. Second, the Office is deleting the reference to the "Copyright Royalty Tribunal" or "Tribunal", including possessives, and replacing it with "copyright arbitration royalty panel and/or Librarian of Congress".

The use of the broad phrase "copyright arbitration royalty panel and/or Librarian of Congress" is necessary at this time since the Tribunal's former duties are split between the panels and the Librarian. Identification of the specific authority in each instance would require a substantial revision of the Tribunal's former regulations, which is outside the scope of today's proceeding. The Copyright Office will address the division of authority in its future rulemaking; today's action is required to eliminate reference to the now defunct Tribunal. Third, the Office is deleting the reference to "Chairman" each place it appears in chapter III, and replacing it with "chairperson" to denote the chairperson of a copyright arbitration royalty panel. Finally, the Office is amending §301.2 to delete the Tribunal's address and inserting the appropriate mailing address at the Copyright Office.

Interim Regulations

In consideration of the foregoing, the Copyright Office of the Library of Congress, under its authority in 17 U.S.C. 802(d), adopts the rules and regulations set forth in chapter III of title 37 of the Code of Federal regulations with the following amendments:

1. The heading for chapter III is revised to read as follows:

Chapter III—Copyright Office, Library of Congress

2. The heading for part 301 is revised to read as follows:

Part 301—Copyright Arbitration Royalty Panel Rules of Procedure

Parts 301 through 311 [Amended]

3. The authority citation for parts 301 through 311 is revised to read as follows:

Authority: 17 U.S.C. 702, 802.

4. The term "Copyright Royalty Tribunal" is revised each place it appears in chapter III to read "copyright arbitration royalty panel and/or Librarian of Congress". "Copyright" is capitalized when the term appears at the beginning of a sentence.

5. The term "Tribunal" is revised each place it appears in chapter III to read "copyright arbitration royalty panel and/or Librarian of Congress". "Copyright" is capitalized when the term appears at the beginning of a sentence.

6. The term "Tribunal's" is revised each place it appears in chapter III to read "copyright arbitration royalty panel's and/or Librarian of Congress's". "Copyright" is capitalized when the term appears at the beginning of a sentence.

7. The term "Chairman" is revised each place it appears in chapter III to read "chairperson". "Chairperson" is capitalized when the term appears at the beginning of a sentence.

8. The term "Chairman's" is revised each place it appears in chapter III to read "chairperson's". "Chairperson's" is capitalized when the term appears at the beginning of a sentence.

9. Section 301.2 of chapter III is revised to read as follows:

§301.2 Official address and information.

The official address for all information, matters and proceedings under this chapter is Copyright Office, Copyright Arbitration Royalty Panels, Library of Congress, Washington DC 20557. Telephone (202) 707-8150.

Barbara Ringer,
Acting Register of Copyrights.

Approved by:

James H. Billington,
The Librarian of Congress.

[FR Doc. 93-31324 Filed 12-20-93; 10:16 am]
BILLING CODE 1410-08-F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 2 and 21

RIN 2900-AG77

Veterans Education; Veterans Job Training Act

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: VA (Department of Veterans Affairs) is removing all regulations which govern payments under VJTA (Veterans Job Training Act). VJTA contains a "sunset" provision which has passed. There no longer is anyone training under the Act nor are any payments being made under the Act. This will serve to remove unnecessary regulations from the Code of Federal Regulations.

EFFECTIVE DATE: January 21, 1994.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202-233-2092.

SUPPLEMENTARY INFORMATION: VJTA was a program of job training designed to assist veterans of the Korean Conflict and the Vietnam Era in obtaining employment through training for employment in stable and permanent positions that involve significant training. VA made payments to employers who employed and trained eligible veterans in these jobs. The payments assisted employers in defraying the costs of necessary training.

As amended, VJTA provided that no payments could be made for a job training program which began after March 31, 1990. Since the longest training program for which benefits were payable under VJTA was 15 months long, this meant that the last training for which payments could be made under VJTA took place on June 30, 1991. Furthermore, VA provided by regulation that payments would not be made for any claim submitted by an employer which VA received after September 30, 1993. Since no one is training under VJTA, and no employer is receiving payments under VJTA, there is no longer any need for regulations governing that program. Consequently, VA is removing them.

Normally, VA publishes for notice and comment any amendments to the Code of Federal Regulations. However, the removal of these regulations are technical in nature. As is explained above, no one is receiving payments for training conducted under this program. Hence, VA is removing them without providing for comment period.

The Secretary of Veterans Affairs has certified that removal of these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the removal of these regulations, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Under VJTA payments were made to some small entities. Nevertheless, this certification can be made because VJTA itself provides that veterans may no longer train under this program. Even if these regulations were left in place no payments could be made. Hence, removal of these regulations will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

There is no Catalog of Federal Domestic Assistance number for the program affected by this removal.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping

requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 22, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 2; part 21, subparts D and F–1 are amended as set forth below.

PART 2—DELEGATIONS OF AUTHORITY

1. The authority citation for part 2 continues to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 501, unless otherwise noted.

§ 2.66a [Removed and Reserved]

2. Section 2.66a is removed and reserved.

§ 2.99 [Removed and Reserved]

3. Section 2.99 is removed and reserved.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

4. The authority citation for part 21, subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a).

§ 21.4135 [Amended]

5. In § 21.4135 paragraph (y) is removed and reserved.

Subpart F–1—Veterans' Job Training [Removed and Reserved]

6. Subpart F–1 is removed and reserved.

[FR Doc. 93–31201 Filed 12–21–93; 8:45 am]

BILLING CODE 8320–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 75

[FRL–4816–9]

Acid Rain Program: Announcement of Open Meeting on Quarterly Electronic and Magnetic Data Reporting for the CEM Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Title IV of the Clean Air Act (the Act) as amended November 15, 1990, requires the Environmental Protection Agency to establish an Acid Rain Program to reduce the adverse effects of acidic deposition. To implement this statutory mandate, the Acid Rain Program relies on three basic components: the acid rain permit, the market-based allowance system, and continuous emissions monitoring (CEM). The CEM component is critical to provide accurate emissions measurements that ensure source compliance with the reductions mandated under the Act. The CEM regulations, promulgated in the **Federal Register** on January 11, 1993, require electric utilities to submit regular quarterly emissions reports from their certified monitoring systems. The Environmental Protection Agency will hold a meeting to discuss the procedures for electronic data reporting and data processing procedures being developed to implement the reporting provisions contained in the CEM Rule (40 CFR part 75). Data acquisition and handling system vendors, representatives from affected utilities, CEM manufacturers, and other interested parties are encouraged to attend. Utility information system and data processing staff may particularly benefit from this discussion. There is no fee for attendance, however, pre-registration by telephone facsimile is required.

DATES: Two meeting sessions will be held, the first on Tuesday, January 11, 1994, from 1 pm until 5 pm, and the second on Wednesday, January 12, 1994 from 1 pm until 5 pm.

A letter stating the attenders' names, addresses, telephone numbers, meeting session desired and affiliation should be sent by telephone facsimile by Friday, January 7, 1994 to Doris Price, Chief of Technology and Information Systems Section, USEPA/OAR/ARD/SAB at 202–233–9595.

ADDRESSES: Both meeting sessions will be held in the auditorium located at the Environmental Protection Agency, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Doris Price, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202)–233–9180.

SUPPLEMENTARY INFORMATION: Attendees must pre-register by telephone facsimile by Friday, January 7, 1993, for one of the two meeting sessions (identical material will be presented in each session). Due to space limitations, no more than 110 pre-registrants will be accepted for each session, and no more than two persons from each organization should pre-register. Seats will be provided for repeat participants (or for those who have not pre-registered) on a first-come, first-served basis.

Dated: December 9, 1993.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 93–31096 Filed 12–21–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. 7591]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Division Director, Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by

publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/Location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program:			
Iowa: Dickinson County, unincorporated areas	190864	November 1, 1993	May 10, 1977.
Kansas: Finney County, unincorporated areas	200099	November 12, 1993	February 28, 1978.
Iowa:			
Boone County, unincorporated areas	190846	November 9, 1993	May 9, 1978.
Fenton, city of, Kossuth County	190437	do	November 19, 1975.
Guthrie County, unincorporated areas	190871	do	August 23, 1977.
Harpers Ferry, city of, Allamakee County	190316	November 19, 1993	October 29, 1976.
New Eligibles—Regular Program:			
California:			
Loyalton, city of, Sierra County	060361	November 10, 1993	September 1, 1988.
Sierra County, unincorporated areas	060630	November 12, 1993	September 1, 1988.
Reinstatements—Regular Program:			
Pennsylvania: Buckingham, township of, Wayne County	422159	May 12, 1975; Emerg August 19, 1985; Reg August 16, 1993; Susp November 1, 1993; Rein	August 16, 1993.
Reinstatements—Regular Program:			
Maine: Manchester, town of, Kennebec County	230239	May 30, 1975; Emerg October 15, 1980; October 15, 1980; November 22, 1993;	October 15, 1980.
Pennsylvania: Hector, township of, Potter County	421880	June 9, 1975; Emerg December 1, 1986; Reg November 17, 1993; Susp November 22, 1993; Rein	December 1, 1986.
Regular Program Conversions:			
Region III:			
West Virginia: Pocahontas County, unincorporated areas	540283	November 3, 1993; Suspension Withdrawn	October 17, 1989.
Region V:			
Wisconsin: Pierce County, unincorporated area	555571	do	November 3, 1993.
Region VI:			
Arkansas: Little Rock, city of, Pulaski County	050181	do	November 3, 1993.
Region IX:			
California:			
Mission Viejo, city of, Orange County	060735	do	November 3, 1993.
Orange, city of, Orange County	060228	do	November 3, 1993.
Orange County, unincorporated areas	060212	do	November 3, 1993.
San Juan Capistrano, city of, Orange County	060231	do	November 3, 1993.
Region I:			
Connecticut: Stamford, city of, Fairfield County	090015	November 17, 1993; Suspension Withdrawn	November 17, 1993.

State/Location	Commu-nity No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
Rhode Island: Johnston, town of, Providence County	440018	....do	November 17, 1993.
Region III:			
Pennsylvania:			
Birdsboro, borough of, Berks County	420127	....do	December 18, 1979.
Hector, township of, Potter County	421980	....do	December 1, 1986.
Menno, township of, Mifflin County	421881	....do	June 1, 1987.
Warwick, township of, Chester County	421494	....do	March 1, 1984.
Region VIII:			
Colorado: Larimer County, unincorporated areas	080101	....do	November 17, 1993.

Code for reading third column:
Emerg.—Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: December 13, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93-31237 Filed 12-21-93; 8:45 am]

BILLING CODE 6718-21-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 93-218; DA 93-1477]

Cable Television Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this action, amends its rules regarding listing of major television markets, to change the designation of the Little Rock, Arkansas television market to include the community of Clearwater Florida. This action, taken at the request of Christian Television Corporation, Inc., licensee of television station WCLF(TV), Channel 22 (Independent), Clearwater, Florida, amends the rules to designate the subject market as the Tampa-St. Petersburg-Clearwater, Florida, television market. With this action, the proceeding is terminated.

EFFECTIVE DATE: January 21, 1994.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket 93-218, adopted December 6, 1993, and released December 15, 1993. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M Street, NW., Washington, DC 20554.

List of Subjects in 47 CFR Part 76

Cable television.

Part 76 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

2. Section 76.51 is amended by revising paragraph (a)(28) to read as follows:

§ 76.51 Major television markets.

* * * * *

(a) * * *

(28) Tampa-St. Petersburg-Clearwater, Florida.

* * * * *

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93-31194 Filed 12-21-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 76

[MM Docket No. 93-207; DA 93-1444]

Cable Television Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this action, amends the listing of major television markets, to change the designation of the Los Angeles-San Bernardino-Corona-Fontana, California, television market to include the community of Riverside, California. This action, taken at the request of Fouce Amusement Enterprises, Inc., licensee of television station KRCA, Channel 62 (Independent), Riverside, California, and after evaluation of the comments filed in this proceeding, amends the rules to designate the subject market as the Los Angeles-San Bernardino-Corona-Fontana-Riverside, California, television market. With this action, the proceeding is terminated.

EFFECTIVE DATE: January 21, 1994.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93-207, adopted November 29, 1993, and released December 7, 1993. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M Street, NW., Washington, DC 20554.

List of Subjects in 47 CFR Part 76

Cable television.

Part 76 of chapter 1 of title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

2. Section 76.51 is amended by revising paragraph (a)(2) to read as follows:

§ 76.51 Major television markets.

* * * * *

(a) * * *

(2) Los Angeles-San Bernardino-Corona-Fontana-Riverside, Calif.

* * * * *

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93-31132 Filed 12-21-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 87

[FCC 93-505]

Requirements for Remote Communications Outlets and Radionavigation Land Test Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted an Order to make additional unicom frequencies available for unicom stations at airports with remote communications outlets (RCOs) and to clarify the type acceptance requirements for radionavigation land test stations. This action is in response to a request from the Federal Aviation Administration and inquiries that the Commission has received regarding type acceptance requirements. The use of additional unicom frequencies will improve efficiency of airport operations.

EFFECTIVE DATE: December 22, 1993.

FOR FURTHER INFORMATION CONTACT: George Dillon, (202) 632-7175, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 93-505, adopted November 19, 1993, and released December 10, 1993. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, suite 140, Washington, DC 20037, telephone (202) 857-3800.

Summary of Order

1. This Order adopts changes to part 87 of the Commission's Rules, 47 CFR part 87, concerning the requirements for aeronautical advisory stations (unicoms) located at airports with control tower Remote Communications Outlets (RCOs) and the type acceptance requirements for radionavigation land test stations. This action is a result of a request by the Federal Aviation Administration (FAA) regarding RCOs and inquiries that the Commission has received regarding the type acceptance requirements for radionavigation land test stations. Additionally, this Order makes several minor, editorial amendments to part 87.

2. Section 1.412(c) of the Commission's Rules, 47 CFR 1.412(c), provides that rule changes may be adopted without prior notice where the Commission for good cause finds that notice and comment procedures are unnecessary, so long as the basis for the good cause finding is published with the rule changes. Section 1.412(c) of the Rules reflects the requirements contained in the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B).

3. We find that a notice and comment rule making proceeding in this matter is unnecessary. The rule changes are minor and non-controversial and the public is not likely to be interested in them. Therefore we find for good cause that compliance with the notice and comment procedure of the APA is unnecessary. See 5 U.S.C. 553(b)(B). In addition because the amendments will promote increased safety and efficiency in the aviation service, we find good cause to make them effective immediately upon publication in the **Federal Register**. See 5 U.S.C. 553(d).

4. The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and the Regulatory Flexibility Act and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements and will not increase burden hours imposed on the public; nor will they have a significant impact on a substantial number of small entities.

5. Accordingly, it is ordered that, pursuant to the authority of Sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 332(a), part 87 of the Commission's Rules, 47 CFR part 87 is amended as set forth below, effective upon publication in the **Federal Register**.

List of Subjects in 47 CFR Part 87

Aviation, Communications equipment.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rule

Title 47 of the Code of Federal Regulations, part 87, is amended as follows:

PART 87—AVIATION SERVICES

1. The authority citation for part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 87.139 is amended by revising paragraph (d) and the table in paragraph (i)(1); and by adding a new sentence at the beginning of paragraph (i) introductory text and a new sentence at the end of paragraph (i)(4) to read as follows:

§ 87.139 Emission limitations.

* * * * *

(d) Except for telemetry in the 1435-1535 MHz band, when the frequency is bandwidth for aircraft stations above 30 MHz and all ground stations the attenuation must be at least 43+10 $\log_{10}$ pY dB.

* * * * *

(i) In case of conflict with other provisions of § 87.139, the provisions of this paragraph shall govern for aircraft earth stations. * * *

(i)(1) * * *

Frequency (MHz)	Attenuation (dB) *
.005-1559	83 or (65+10 $\log_{10}$ pY), whichever is greater.
1559-18000 ..	55 or (37+10 $\log_{10}$ pY)**, whichever is greater * * *

* * * * *

(4) * * * The mask shall be defined by drawing straight lines through the above points.

3. Section 87.145 is amended by revising paragraphs (b) and (c) and adding a new paragraph (d)(5) to read as follows:

§ 87.145 Acceptability of transmitters for licensing.

* * * * *

(b) Each transmitter must be type accepted for use in these services, except as listed in paragraph (d) of this section. However, aircraft stations which transmit on maritime mobile frequencies must use transmitters type accepted for use in ship stations in accordance with part 80 of this chapter. Type acceptance under part 80 is not required for aircraft earth stations transmitting on maritime mobile-satellite frequencies. Such stations must be type accepted under part 87.

(c) Some radio equipment installed on air carrier aircraft must meet the requirements of the Commission and the requirements of the FAA. The FAA requirements may be obtained from the FAA, Aircraft Maintenance Division, 800 Independence Ave., SW., Washington, DC 20591.

(d) * * *

(5) Signal generators when used as radionavigation land test stations (MTF).

* * * * *

4. Section 87.147 is amended by revising the first sentence of paragraph (b), paragraph (d) introductory text, and the third sentence of paragraph (d)(2) to read as follows:

§ 87.147 Authorization of equipment.

* * * * *

(b) ELTs manufactured after October 1, 1988, must meet the output power characteristics contained in § 87.141(i) when tested in accordance with the Signal Enhancement Test contained in subpart N, part 2 of this chapter. * * *

* * * * *

(d) An applicant for type acceptance of equipment intended for transmission in any of the frequency bands listed in paragraph (d)(3) of this section must notify the FAA of the filing of a type acceptance application. The letter of notification must be mailed to: FAA, Spectrum Engineering Division, 800 Independence Ave. SW., Washington, DC 20591 no later than the date of filing of the application with the Commission.

* * * * *

(2) * * * If the FAA objects to the application for equipment authorization, it should mail its objection with a showing that the equipment is incompatible with the National Airspace System to: Office of Engineering and Technology—Laurel Laboratory, Authorization and Evaluation Division, 7435 Oakland Mills Rd., Columbia, MD 21046. * * *

* * * * *

5. Section 87.217 is amended by revising paragraph (a)(1) to read as follows:

§ 87.217 Frequencies.

(a) * * *

(1) 122.950 MHz at airports which have a full-time control tower or full-time FAA flight service station.

* * * * *

6. Section 87.303 is amended by revising the fourth sentence of paragraph (d)(1) to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) * * * In the 2310–2390 MHz band, the following frequencies may be assigned on a coequal basis for telemetering and associated telecommand operations in fully operational or expendable and re-usable launch vehicles whether or not such operations involve flight testing: 2312.5, 2332.5, 2352.5, 2364.5, 2370.5 and 2382.5 MHz. * * *

* * * * *

7. Section 87.471 is amended by revising paragraph (b) to read as follows:

§ 87.471 Scope of service.

* * * * *

(b) Radionavigation land test stations are used for the testing and calibration of aircraft navigational aids and associated equipment. When used as radionavigation land test stations (MTF) signal generators must be licensed as radionavigation land test stations (MTF). Transmission must be limited to cases when radiation is necessary and there is no alternative.

* * * * *

[FR Doc. 93-31195 Filed 12-21-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 10

[Docket No. 48438; Amdt. 10-1]

Privacy Act; Implementation

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: DOT amends its rules implementing the Privacy Act of 1974 to: Add to the list of systems of records exempt from certain provisions of the Act the Coast Guard's Law Enforcement Information System and the Federal Aviation Administration's General Air Transportation Records on Individuals; remove all references to the Alaska Railroad, which is no longer part of DOT; remove all references to system DOT/FAA 805, which was subsumed into another system; revise the authority citation for these rules; provide more detailed explanations for implementing exemptions; and update office names and addresses, and systems of records, that have changed since part 10 was last published.

DATES: This amendment takes effect January 21, 1994.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C-10, Department of Transportation, Washington, DC 20590, telephone (202) 366-9154, FAX (202) 366-7153.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 2, 1992 (57 FR 49446), DOT proposed a number of amendments to its Privacy Act regulations (49 CFR part 10); public comment was invited and none was received. The amendments, as proposed and adopted, are as follows:

1. *General exemption.* Under subsection (j)(2) of the Privacy Act (5 U.S.C. 552a(j)(2)), a system of records may be exempted from almost all provisions of the Act, so long as the system: (1) Is maintained by an agency, or a component of an agency, that performs as its principal function any activity pertaining to the enforcement of criminal laws; and (2) contains: (A) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. Those provisions of the Act from which such a system may not be exempted are subsections (b) (Conditions of Disclosure); (c) (1) and (2) (Accounting of Certain Disclosures); (e)(4) (A) through (F) (Publication of Existence and Character of System); (e)(6) (Ensure Records are Accurate, Relevant, Timely, and Complete), (7) (Restrict Recordkeeping on First Amendment Rights), (9) (Rules of Conduct), (10) (Safeguards), and (11) (Routine Use Publication); and (i) (Criminal Penalties).

DOT is exempting under subsection (j)(2) a new system of records maintained by the Coast Guard, the Law Enforcement Information System (LEIS). Under 14 U.S.C. 89 and other statutes, the Coast Guard enforces United States criminal laws on the high seas and navigable waters of the United States. This is accomplished by approximately 2,000–4,000 vessel boardings each month during which Coast Guard searches for drugs, weapons, and other contraband, and enforces Federal law regarding fishing, immigration, and other matters. LEIS will gather into one automated system all relevant information from these boardings and other activities.

2. *Specific exemptions.* Under subsection (k)(2) of the Privacy Act (5 U.S.C. 552a(k)(2)), investigatory material compiled for law enforcement purposes, other than material encompassed within subsection (j)(2), may be exempted from various provisions of the Act. Among these provisions are the requirement in subsection (c)(3) to maintain an accounting of disclosures of information from a system of records and make that accounting available on request to the record subject, and subsection (d) to grant to a record subject access to information maintained on him/her under the Act. The purpose for doing so is to prevent the compromise or impairment of law enforcement investigations by alerting individuals that they are the subject of investigations, and to prevent the disclosure of the identity of sources of information promised confidentiality, in accordance with subsection (k)(2).

DOT is exempting Coast Guard's LEIS and the Federal Aviation Administration (FAA) General Air Transportation Records on Individuals (DOT/FAA 847). Another DOT system of records has already been exempted in this same manner: The Office of Inspector General's Investigative Records System (DOT/OST 100). These additional systems require similar treatment. The amendment also removes any reference to the Administrative Action and Legal Enforcement System maintained by FAA's Office of the Chief Counsel (DOT/FAA 805), which has been subsumed within DOT/FAA 847.

The General Air Transportation Records system is the official repository of records, documents, and papers required in connection with the issuance of airman certificates by FAA. This includes the type of certificate and ratings held, the date and class of latest medical certificate, and the pilot's certificate number and status (*i.e.*, current, suspended, revoked). The system also serves as the repository for legal documents that relate to accident investigations; preliminary notices of accident injury reports; engineering analyses; witness statements; investigators' analyses; pictures of accident scenes; safety compliance notices; letters of warning, correction, investigation, and proposed and final legal enforcement action; and correspondence of the Offices of the Chief Counsel and of Assistant Chief Counsels for Regions and Centers, and others involved in enforcement cases.

3. *Alaska Railroad.* The Alaska Railroad previously was operated by DOT's Federal Railroad Administration. It was transferred to the State of Alaska in 1985 (Pub. L. 97-468, title VI, January 14, 1983; 96 Stat. 2556). Any references in our Privacy Act regulations to the Railroad, therefore, are obsolete and being deleted.

4. *Authority citation.* The DOT Act was codified in 1983 (Pub. L. 97-449, January 12, 1983; 96 Stat. 2413); the proper citation to the provision authorizing the Secretary to establish rules for the conduct of DOT's business is 49 U.S.C. 322. That change is made herein.

5. In addition, a more detailed explanation is given of the reasons for and impacts of each of the exemptions.

6. Finally, certain FAA offices have been renamed and certain field offices have moved; DOT is taking the opportunity to reflect these changes here. Specifically:

(a) The Civil Aviation Security Service is now known as the Office of Civil Aviation Security;

(b) The National Aviation Facilities Experimental Center is now known as the Technical Center;

(c) The following FAA field office addresses have changed: Alaskan, Central, Southern, and Southwest Regions, and the Western and Pacific Regions have been combined, as have the Rocky Mountain and Northwest Regions; and

(d) The names of offices maintaining records in the Investigative Record System, DOT/FAA 815, and the Civil Aviation Security System, DOT/FAA 813, have changed.

Analysis of regulatory impacts. This amendment is not a "significant regulatory action" within the meaning of Executive Order 12866. It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this amendment will not have a significant economic impact on a substantial number of small entities.

This amendment does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the amendment does not contain any collection of information requirements, requiring review under the Paperwork Reduction Act of 1980.

List of Subjects in 49 CFR Part 10

Penalties, Privacy.

In accordance with the above, DOT amends 49 CFR part 10 as follows:

PART 10—[AMENDED]

1. The authority citation to part 10 is revised to read as follows:

Authority: 5 U.S.C. 552a; 49 U.S.C. 322.

§ 10.5 [Amended]

2. Section 10.61(a) is amended by removing therefrom "; and the Federal Railroad Administration, with regard to the Alaska Railroad Special Agents", and by adding "and the" before "Commandant of U.S. Coast Guard".

3. Part I of Appendix A is revised, and part II.A. is amended by revising introductory text, paragraph 12, and concluding text, and adding a new paragraph 13; part II.B is amended by revising paragraphs B., F.3., and G.1.; and part 3(b) to Appendix D is revised, all to read as follows:

* * * * *

Appendix A to Part 10—Exemptions

Part I. General Exemptions

Those portions of the following systems of records that consist of (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, are exempt from all parts of 5 U.S.C. 552a except subsections (b) (Conditions of disclosure); (c) (1) and (2) (Accounting of certain disclosures); (e)(4) (A) through (F) (Publication of existence and character of system); (e)(6) (Ensure records are accurate, relevant, timely, and complete before disclosure to person other than an agency and other than pursuant to a Freedom of Information Act request), (7) (Restrict recordkeeping on First Amendment rights), (9) (Rules of conduct), (10) (Safeguards), and (11) (Routine use publication); and (i) (Criminal penalties):

A. The Investigative Records System maintained by the Assistant Inspector General for Investigations, Office of the Inspector General, Office of the Secretary (DOT/OST 100).

B. Police Warrant Files and Central Files maintained by the Federal Aviation Administration (DOT/FAA 807).

C. Law Enforcement Information System, maintained by the Office of Law Enforcement and Defense Operations, U.S. Coast Guard (DOT/CG 613).

D. Investigations and Security Investigative Case Systems, maintained by the Investigations and Security Division, U.S. Coast Guard (DOT/CG 611).

E. The Investigative Records System maintained by the Federal Aviation Administration regarding criminal investigations conducted by offices of Investigations and Security at headquarters and FAA Regional and Center Security Divisions (DOT/FAA 815).

These exemptions are justified for the following reasons:

1. From subsection (c)(3), because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest by not only DOT but also the recipient agency, thereby permitting the record subject to take appropriate measures to impede the

investigation, as by destroying evidence, intimidating potential witnesses, fleeing the area to avoid the thrust of the investigation, etc.

2. From subsections (d), (e)(4) (G) and (H), (f), and (g), because granting an individual access to investigative records, and granting him/her rights to amend/contest that information, interfere with the overall law enforcement process by revealing a pending sensitive investigation, possibly identify a confidential source, disclose information that would constitute an unwarranted invasion of another individual's personal privacy, reveal a sensitive investigative technique, or constitute a potential danger to the health or safety of law enforcement personnel.

3. From subsection (e)(1), because it is often impossible to determine relevancy or necessity of information in the early stages of an investigation. The value of such information is a question of judgement and timing: what appears relevant and necessary when collected may ultimately be evaluated and viewed as irrelevant and unnecessary to an investigation. In addition, DOT may obtain information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, DOT should retain this information because it may aid in establishing patterns of unlawful activity and provide leads for other law enforcement agencies. Further, in obtaining evidence during an investigation, information may be provided to DOT that relates to matters incidental to the main purpose of the investigation but that may be pertinent to the investigative jurisdiction of another agency. Such information cannot readily be identified.

4. From subsection (e)(2), because in a law enforcement investigation it is usually counterproductive to collect information to the greatest extent practicable directly from the subject of the information. It is not always feasible to rely upon the subject of an investigation as a source for information that may implicate him/her in illegal activities. In addition, collecting information directly from the subject could seriously compromise an investigation by prematurely revealing its nature and scope, or could provide the subject with an opportunity to conceal criminal activities, or intimidate potential sources, in order to avoid apprehension.

5. From subsection (e)(3), because providing such notice to the subject of an investigation, or to other individual sources, could seriously compromise the investigation by prematurely revealing its nature and scope, or could inhibit cooperation, permit the subject to evade apprehension, or cause interference with undercover activities.

Part II. Specific Exemptions

A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a, to the extent that they contain investigatory material compiled for law enforcement purposes in accordance with 5 U.S.C. 552a(k)(2):

1. Investigative Record System (DOT/FAA 815) maintained by the Federal Aviation Administration at the Office of Civil Aviation Security in Washington, DC; the FAA regional Civil Aviation Security Divisions; the Civil Aviation Security Division at the Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma; the FAA Civil Aviation Security Staff at the FAA Technical Center in Atlantic City, New Jersey; and the various Federal Records Centers located throughout the country.

* * * * *

12. Civil Aviation Security System (DOT/FAA 813), maintained by the Office of Civil Aviation Security Policy and Planning, Federal Aviation Administration.

13. Law Enforcement Information System, maintained by the Office of Law Enforcement and Defense Operations, U.S. Coast Guard (DOT/CG 613).

* * * * *

These exemptions are justified for the following reasons:

1. From subsection (c)(3), because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest by not only DOT but also the recipient agency, thereby permitting the record subject to take appropriate measures to impede the investigation, as by destroying evidence, intimidating potential witnesses, fleeing the area to avoid the thrust of the investigation, etc.

2. From subsections (d), (e)(4) (G) and (H), (f), and (g), because granting an individual access to investigative records, and granting him/her rights to amend/disagree with that information, interfere with the overall law enforcement process by revealing a pending sensitive investigation, possibly identify a confidential source, disclose information that would constitute an unwarranted invasion of another individual's personal privacy, reveal a sensitive investigative technique, or constitute a potential danger to the health or safety of law enforcement personnel.

* * * * *

F. * * *

* * * * *

3. Civil Aviation Security System (DOT/FAA 813), maintained by the Office of Civil Aviation Security, Federal Aviation Administration.

* * * * *

G. * * *

* * * * *

1. Investigative Record System (DOT/FAA 815) maintained by the Federal Aviation Administration at the Office of Civil Aviation Security in Washington, DC; the FAA regional Civil Aviation Security Divisions; the Civil Aviation Security Division at the Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma; the FAA Civil Aviation Security Staff at the FAA Technical Center in Atlantic City, New Jersey; and the various Federal Records Centers located throughout the country.

* * * * *

Appendix D to Part 10—Federal Aviation Administration

* * * * *

3. *Systems of Records.* * * *

* * * * *

b. * * *

(1) FAA Headquarters, 800 Independence Avenue SW., Washington, DC 20591;

(2) Alaskan Region, 632 Sixth Avenue, Anchorage, Alaska 99501;

(3) Central Region, 601 East 12th Street, Kansas City, MO 64106;

(4) Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344 (Mail Address: P.O. Box 20636, Atlanta, Georgia 30320);

(5) Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76193–0000;

(6) Western-Pacific Region, 15000 Aviation Boulevard, Hawthorne, California (Mail Address: P.O. Box 92007, World Postal Center, Los Angeles, California 90009);

(7) Eastern Region, JFK International Airport, Fitzgerald Federal Building, Jamaica, New York 11430;

(8) Mike Monroney Aeronautical Center, 6500 South MacArthur (Mail Address: P.O. Box 25082), Oklahoma City, Oklahoma 73125;

(9) Technical Center, Atlantic City International Airport, New Jersey 08405;

(10) New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803;

(11) Great Lakes Region, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and

(12) Northwest Mountain Region, 1601 Lind Avenue, SW, Renton, Washington 98055–4056.

* * * * *

Issued in Washington, DC, on December 14, 1993.

Federico Peña,

Secretary of Transportation.

[FR Doc. 93–31112 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No. 931198–3298; I.D. 101593C]

RIN 0648–AF97

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) issues an interim final rule authorizing the Southwest Regional Director (RD), National Marine Fisheries Service (NMFS), to require the permit holder of a vessel operating in the limited entry longline fishery based in Hawaii to make accommodations for a NMFS observer. The rule requires permit holders or their designated agents (which may include the vessel operator) to provide NMFS with at least 72 hours notice (not including weekends and Federal holidays) prior to each departure from port so the RD can determine if an observer placement will be made. This action is necessary to ensure adequate collection of data on the frequency and nature of interactions between longline fishing gear and sea turtles around Hawaii to ensure the fishery operates in compliance with the Endangered Species Act (ESA).

DATES: Effective January 6, 1994. Comments will be accepted January 21, 1994.

ADDRESSES: Comments on the interim final rule may be sent to Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Svein Fougner at 310–980–4034 or Alvin Katekaru or Gene Nitta at 808–955–8831.

SUPPLEMENTARY INFORMATION: The pelagic fisheries of the western Pacific region, including the longline fishery based in Hawaii, are managed under a fishery management plan (FMP) that was approved in 1987 and subsequently was amended six times. Rules implementing the FMP are found at 50 CFR part 685.

Management measures for the Hawaii longline fishery include a limited entry permit program, logbook reporting requirements, and area closures to prevent conflicts among fishery sectors and to prevent harm to Hawaiian monk seals, listed under the ESA as an endangered species. The closures to protect monk seals were imposed pursuant to a Biological Opinion and Incidental Take Statement issued by NMFS under section 7 of the ESA on May 15, 1991. While takings of Hawaiian monk seals were prohibited, an allowable incidental take of 25 sea turtles was specified in the Incidental Take Statement. Vessel operators are required to report incidental takes of sea turtles as well as interactions with other protected resources.

A review of logbook data for the 1991 fishing year indicated that reported incidental takes of sea turtles exceeded the limit in the Incidental Take Statement. NMFS therefore reinitiated consultations to address this concern. A new Biological Opinion and a new Incidental Take Statement were issued June 10, 1993. While setting a new and higher limit on the incidental take of sea turtles, the Incidental Take Statement also requires NMFS to establish an observer program (initially through voluntary placements and subsequently through a mandatory program) to ensure collection of sufficient data to produce statistically significant results and to evaluate the accuracy of logbooks submitted for the fishery.

NMFS has attempted to place observers on a voluntary program since the opinion was issued, but with little success. Observers had been placed on only two trips by October 15, 1993. At this rate, the level of coverage would not be adequate to provide statistically significant results. If this were to continue, there would be a substantial risk that the incidental take of turtles could erroneously be estimated.

This problem was brought to the attention of the Western Pacific Fishery Management Council (Council) at its meeting September 15–16, 1993. The Council already had indicated its preference to include in Amendment 7 to the FMP a provision under which the RD could require a vessel operator to make accommodations available for a NMFS observer. However, if approved, Amendment 7 would probably not be implemented until April 1994. Regulations to implement the mandatory observer provisions that otherwise would have been contained in Amendment 7 are needed now because the current Biological Opinion and Incidental Take Statement cover only a one-year period (June 10, 1993–June 10, 1994) and data collected will need to be evaluated next summer.

It also was noted that Amendment 3 to the FMP and § 685.11 of the implementing regulations provide a framework for establishing regulations to prevent harm to protected resources. Under this framework, regulations may be promulgated with the concurrence of the Council if the RD determines that additional measures are needed to prevent adverse effects of longline fishing on protected species. The Council concluded at its meeting September 15–16, 1993, that regulations should be promulgated under this procedure immediately to implement the mandatory observer program. Expedited implementation would be consistent with the Incidental Take Statement, which requires a mandatory observer program "as soon as practicable." The public already has had three opportunities to comment on the need for a mandatory observer program: First, when Amendment 3 was proposed with the framework process for implementing an observer program if warranted; second, in the public review of proposed regulations to implement Amendment 3; and third, in the public review period for draft Amendment 7 to the FMP and at Council discussions dealing with Amendment 7.

This rule requires that a permit holder under § 685.15, or a designated agent of the permit holder (the vessel operator is presumed to be a designated agent unless the RD is otherwise advised), provide at least 72 hours advance notice to NMFS of the departure of a longline vessel on a fishing trip around Hawaii (not including weekends and Federal holidays). NMFS will determine whether the permit holder will be required to take an observer on that trip and will advise the owner or designated agent accordingly at least 24 hours (not including weekends and Federal holidays) before the intended departure time. If the RD fails to notify the vessel owner or agent at least 24 hours before intended departure, then the vessel operator may conduct the fishing trip without an observer.

Placements of observers will be in accordance with an Observer Plan developed by NMFS pursuant to the Biological Opinion and Incidental Take Statement. The Observer Plan is a stratified sampling design plan intended to ensure adequate coverage of different segments of the longline fleet so that the total take of turtles can be extrapolated

with known confidence limits. A copy of the Observer Plan may be obtained from the RD (see ADDRESSES). The target level of coverage is 10 percent of all trips or between 100 and 125 trips per year at a cost to NMFS of approximately $1 million and with minimal costs to industry. NMFS will reimburse permit holders for reasonable subsistence costs for the observers at a rate to be determined by the RD. For 1993–94, this will be $20 per day. The rule provides the operational procedures and conditions for permit holders, vessel operators, crew and for observers to carry out this program. Provisions regarding observing accommodations have been changed to provide more flexibility to reflect the range of vessel accommodations in this fishery.

Classification

The Assistant Administrator for Fisheries (AA), NOAA, has determined that the measures in this rule are consistent with the Magnuson Act and other applicable law.

The AA finds that there is good cause to implement this requirement through an interim final rule rather than proceeding with advance notice and comment rulemaking procedures. Expeditious implementation of this rule is deemed most consistent with the reasonable and prudent measures of the Biological Opinion and Incidental Take Statement issued after a consultation under section 7 of the Endangered Species Act. A delay in implementing a mandatory observer program increases the risk that sea turtle incidental takes will be erroneously estimated. If the error is an overestimate of incidental take, there could be serious, adverse impacts on individual fishermen (from prosecution for illegal incidental takes when actual turtle incidental take had been below the allowable level) and on the fleet (from subsequent fishery controls reducing catch and income). If the error is an underestimate of incidental take, the need for corrective action to further protect sea turtles would not be detected on a timely basis, and there could be serious adverse impacts on sea turtle populations. The reasons justifying the promulgation of this rule as an interim final rule make it impractical and contrary to the public interest to provide notice and opportunity for prior comment upon, or to delay for more than 15 days the effective date of these regulations, under the provisions of Section 553 (b) and (d) of the Administrative Procedure Act. The public has had several opportunities to comment on the possibility of implementing an observer program, including during review of Amendment 3 and review of draft Amendment 7 to the FMP. Several persons who commented indicated the importance of a mandatory program to obtain reliable data on the take of sea turtles and other protected resources. Finally, interested persons also had opportunity to comment on the mandatory observer program at the Council meeting in September 1993 when the Council concurred that the framework process of Amendment 3 should be used to implement this requirement immediately. No objections were made, and the Council approved the proposal unanimously. Therefore, there already has been substantial public comment. The AA has concluded that these opportunities satisfy the public review requirements of the Magnuson Act and other applicable law, and that the mandate of the Endangered Species Act to use all authorities available to the Agency to further the purposes of that Act warrant implementation of this rule without further opportunity for prior public comment. NMFS is delaying implementation of these regulations for 15 days to provide adequate notice to vessel owners.

The AA has determined that this rule will not affect the coastal zone of Hawaii. The action will not result in a change in fishery patterns; therefore, landings and related economic activity will not change. This determination has been provided to the responsible State agency.

NMFS prepared an environmental assessment for this action, and the AA has concluded that there will be no significant impact on the human environment. Copies of the environmental assessment are available from the RD (see ADDRESSES).

This interim final rule contains a collection-of-information subject to the Paperwork Reduction Act. Permit holders or their designated agents will have to notify NMFS at least 72 hours prior to departure on a fishing trip so the Regional Director can determine whether an observer must be taken. If the Regional Director concludes an observer must be taken, the permit holder or designated agent will be so advised and further arrangements will be made as necessary concerning details of time and place of embarkation, observer duties, permit holder, vessel operator and crew responsibilities, and related matters. Vessel owners may submit reimbursed claims for certain observer-related costs. The public reporting burden for this collection is estimated to average 2 minutes per call, plus 1 hour if necessary to meet with NMFS officials and make observer placement arrangements, plus 8 hours for reimbursed claims. This proposed change in allocation has been submitted to the Office of Management and Budget for approval. Send comments regarding this burden estimate or on any other aspect of this collection-of-information to the RD (see ADDRESSES) and to the Office of Management and Budget, Paperwork Reduction Project (0648–0214), Washington, DC 20503. The underlying collection-of-information that this action modifies has been approved by the Office of Management and Budget (OMB No. 0648–0214).

The Regulatory Flexibility Act does not apply to this rule because, as an interim final rule, the rule is issued without opportunity for prior public comment. Since good cause existed to waive notice and opportunity for comment under section 553 of the Administrative Procedure Act, and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act, no initial or final regulatory flexibility analysis needs to be prepared.

This interim final rule does not contain policies with known federalism implications sufficient to warrant preparation of the federalism assessment under Executive Order 12612.

This action is intended to carry out the requirements of the Biological Opinion and Incidental Take Statement issued by NMFS under section 7 of the Endangered Species Act on June 10, 1993. This action will ensure that adequate data will be collected on the amount and nature of incidental takes of turtles in the longline fishery in the western Pacific region. These data are necessary to determine the impacts of take on the species and possible measures to reduce or prevent the take in the future. Therefore, this rule is consistent with the Endangered Species Act.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 685

American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Northern Mariana Islands.

Dated: December 15, 1993.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 685 is amended as follows:

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

1. The authority citation for part 685 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 685.5, paragraph (l) is revised and new paragraphs (u), (v), (w), and (x) are added to read as follows:

§ 685.5 Prohibitions.

* * * * *

(l) Fish without an observer on board the vessel after the owner or agent of the owner has been directed by NMFS to make accommodations available for an observer under § 685.11 or § 685.18;

* * * * *

(u) Fail to comply with notification requirements set forth in § 685.11;

(v) Fail to comply with the terms and conditions governing the observer program established in § 685.11;

(w) Fail to comply with other terms and conditions that the Regional Director imposes by written notice to either the permit holder or the designated agent of the permit holder to facilitate the details of observer placement; or

(x) Fish in the fishery after failing to comply with the notification requirements in § 685.11.

3. Section 685.11 is revised to read as follows:

§ 685.11 Protected species conservation.

(a) *Notice prior to fishing trip.* The permit holder for a fishing vessel subject to the permit requirements of § 685.15, or an agent designated by the permit holder, shall provide a notice to the Regional Director at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip under its permit. Under these regulations for the observer program the vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Director is otherwise notified by the permit holder. The notice must be provided to the office or telephone number designated by the Regional Director. The Notice must provide the official number of the vessel, the name of the vessel, the intended departure date, time, and location, the name of the operator of the vessel, and the name and telephone number of the agent designated by the permit holder to be available between 8:00 a.m. to 5 p.m. (Hawaii time) on weekdays for NMFS to contact to arrange observer placement.

(b) *Observer placement determination.* NMFS shall advise the permit holder or the designated agent of any observer requirement at least 24 hours (not including weekends and Federal holidays) before any trip for which NMFS received timely notice in compliance with these regulations.

(c) *Conditions of placement.*

(1) The "Notice Prior to Fishing Trip" commits the permit holder to the representations in the Notice. The Notice can be modified by the permit holder or designated agent because of changed circumstance if the Regional Director is promptly provided a modification to the Notice which complies with the notice requirements. The Notice will also be considered modified if the Regional Director and the permit holder or designated agent agree to placement changes.

(2) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer, the vessel must not engage in this fishery without taking the observer.

(3) An NMFS observer shall arrive at the observer's assigned vessel 30 minutes before the time designated for departure in the Notice or the Notice as modified, and will wait 1 hour for departure.

(4) A permit holder must accommodate an NMFS observer assigned under these regulations. The Regional Director's office and not the observer will address any concerns raised over accommodations.

(5) The permit holder, vessel operator and crew must cooperate with the observer in the performance of the observer's duties, including:

(i) Allowing for the embarking and debarking of the observer;

(ii) Allowing the observer access to all areas of the vessel necessary to conduct observer duties;

(iii) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties;

(iv) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer;

(v) Providing sea turtle, marine mammal, or sea bird specimens as requested; and

(iv) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

(6) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Director imposes by written notice.

(d) *Living quarters, meals, amenities.* The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel. A mattress or futon on the floor or a cot is not acceptable if a regular bunk is provided to any crew members, unless other arrangements are approved in advance by the Regional Director.

(e) *Reimbursement requirements.* Reimbursement requirements are as follows:

(1) Upon observer verification of vessel accommodations and the number of assigned days on board, NMFS will reimburse vessel owners a reasonable amount for observer subsistence as determined by the Regional Director.

(2) If requested and properly documented, NMFS will reimburse the vessel owner for the following:

(i) Communications charges incurred by the observer;

(ii) Lost fishing time arising from a seriously injured or seriously ill observer, provided that notification of the nature of the emergency is transmitted to the Fisheries Observer Branch, Southwest Region, in Long Beach, California, at the earliest practical time at (800) 445–0826 or via fax at (310) 980–4027. NMFS will reimburse the owner only for those days during which the vessel is unable to fish as a direct result of helping the NMFS employee who is seriously injured or seriously ill. Lost fishing time is based on time travelling to and from the fishing grounds and any documented out-of-pocket expenses for medical services. Payment will be based on the current target fish market prices and that vessel's average target fish catch retained per day at sea for the previous 2 years, but shall not exceed $5,000 per day or $20,000 per claim. Detailed billing with receipts and supporting records are required for allowable communication and lost fishing time claims. The claim must be completed in ink, showing the claimant's printed name, address, vessel name, observer name, trip dates, days observer on board, an explanation of the charges, and claimant's dated signature with a statement verifying the claim to be true and correct. Requested reimbursement claims must be submitted to the Fisheries Observer Branch, Southwest Region, NMFS, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213. NMFS must receive reimbursement invoices and documentation within 120 days of the occurrence.

(f) *Female observer accommodations.* If a vessel normally has cabins for crew members, female observers on a vessel with an all-male crew must be accommodated either in a single person cabin or, if NMFS concludes that

VOL 58 ISS 244 DEC 22 1993 UMI

adequate privacy can be ensured by installing a curtain or other temporary divider, in a two-person shared cabin. If the vessel normally does not have cabins for crew members, alternative accommodations must be approved by NMFS. If a cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, or if no cabin is assigned, then arrangements for sharing common facilities must be established and approved in advance by NMFS.

(g) *Additional measures for protected species.* If the Regional Director determines that additional measures are needed in a particular area to prevent adverse effects of longline fishing on protected species, the Regional Director will, with the Council's concurrence, initiate rulemaking, which could include:

(1) Requiring additional reporting from vessels fishing;

(2) Enlarging the protected species zone;

(3) Restricting the type of gear used;

(4) Adopting any other management measures necessary to protect endangered or threatened species;

(5) Requiring observers to be taken in other sectors of the fishery.

(h) *Protected species zone.* The initial size of the protected species zone is 50 nm from the center geographical positions of Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands, and Kure Island, as defined in § 685.2.

[FR Doc. 93–31115 Filed 12–21–93; 8:45 am]

BILLING CODE 3510-23-M

Proposed Rules

Federal Register

Vol. 58, No. 244

Wednesday, December 22, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1131

[Docket No. AO–271–A32; DA–92–24]

Milk in the Central Arizona Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the Central Arizona Federal milk order by revising the definition of producer-handler to require, in certain cases, a pool payment on seasonal reserve milk supplies disposed of for fluid use. It also recommends removal of the "associated producer" and "associated producer milk" provisions. The decision is based on proposals presented at a public hearing held in Phoenix, Arizona, on February 2–3, 1993.

DATES: Comments are due on or before January 21, 1994.

ADDRESSES: Comments (four copies) should be filed with the Hearing Clerk, room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

This action has been reviewed under Executive Order 12278, Civil Justice Reform. It is not intended to have retroactive effect, and it will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (the Act), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the entry of the ruling.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior document in this proceeding:

Notice of Hearing: Issued December 21, 1992; published December 30, 1992 (57 FR 62241).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and the order regulating the handling of milk in the Central Arizona marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC 20250, by the 30th day after publication of this decision in the **Federal Register**. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Phoenix, Arizona on February 2–3, 1993, pursuant to a notice of hearing issued December 21, 1992 (57 FR 62241).

The material issues on the record of hearing relate to:

1. The definition and treatment of *producer-handlers*;

2. The definition and treatment of *associated producers*; and

3. Conforming changes and non-substantive changes.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *The definition and treatment of producer-handlers.* The order should be amended to require producer-handlers (P–H) who distribute packaged fluid milk products other than to retail customers, or who buy more than minimal supplemental milk supplies, to pay into the pool each month a sum that reflects the amount by which (a) the volume of own-farm production marketed as Class I milk in the current month exceeds (b) the volume of own-farm production during the lowest production month during the immediately preceding 12 months. The rate of payment should be based on the difference between the Class I and Class III prices for the current month. At the same time, the P–H definition should be modified to permit a P–H to purchase an unlimited amount of supplemental Class I milk from regulated sources to balance its seasonal variation in production.

A P–H whose sole distribution of packaged fluid milk products was to retail customers (i.e., through the P–H's own retail facility or home delivery route) would be exempt from the pool payment if, during the month, it did not obtain by transfer or acquire for route

VOL 58 ISS 244 DE 22 1993 UMI

disposition more than 5,000 pounds of milk or 5 percent of its fluid milk product disposition for the month, whichever is less, from regulated sources.

At present, there is no type of pool obligation imposed on P–Hs. However, the order limits receipts of supplemental supplies of milk at a P–H's plant to the lesser of 5,000 pounds or 5 percent of its total fluid milk product disposition for the month. These receipts must be obtained by transfer from a pool plant or another order plant.

At the time of the hearing, Heartland Dairy was the largest P–H in the Central Arizona market. Since then, it voluntarily has become a fully regulated handler under the order. Testimony at the hearing indicated that Heartland had been sharing a joint account with a fully regulated handler, Jackson Foremost Foods, to supply Fry's Food Stores, the dominant supermarket chain in the Phoenix area.

The Executive Director of The United Dairymen of Arizona (UDA), a cooperative association in the market, testified that Fry's Food Stores is the principal outlet for Heartland Dairy's fluid milk product distribution in the Central Arizona marketing area. The witness stated that Heartland shares the Fry's account with Jackson Foremost Foods, a fully regulated handler supplied by UDA. He said that when Heartland's deliveries to Fry's are insufficient to cover its commitment, Fry's calls on Jackson to make up the deficit. Jackson, in turn, calls on UDA to supply it with more milk. The witness indicated that this scenario has occurred repeatedly in the last three years, particularly during the low production months of July, August, September, and October, and throughout the year on Fridays and Saturdays.

The UDA spokesman testified that this pattern of operation by Heartland Dairy violates the spirit of the P–H provision. He referenced the Secretary of Agriculture's 1962 decision (27 FR 3923) which states that:

"A producer-handler should be required to maintain his own reserve supply since he is exempted from pooling his Class I sales with other producers. The limitation on the amount of milk which an exempt producer-handler may purchase from pool plants will make it necessary for him to maintain herd production equal to his Class I sales plus a reserve to cover variations in production and sales.

"* * * (P)roducer-handlers' milk sales represent a potential threat to orderly marketing if producer-handlers are permitted to shift their excess burden to other producers. The Central Arizona market is composed of large producers delivering nearly one million pounds a month. If such large volume producers could market their own production entirely as Class I and buy reserve milk to balance daily fluctuations in their production and sales, they would be a disturbing element in the market."

The Vice President of Sales for Shamrock Foods, one of the largest handlers in the Central Arizona market, testified that Heartland Dairy supplied private label milk to the Southwest Supermarket chain in December of 1992, when Shamrock was also supplying milk to Southwest stores. In addition, he said that from time to time Shamrock would get calls from Southwest asking for additional milk when Southwest was not getting its orders filled by Heartland Dairy. It was his understanding, he testified, that when Southwest was required to buy this extra milk from Shamrock, Heartland Dairy would pay the difference in price between what it would have charged Southwest and what Shamrock charged Southwest for this milk.

In this market, the annual variation in producer milk from the lowest production month to the highest production month has averaged 28 percent during the past five years. Given this seasonality in production, and in order to operate with a constant level of Class I sales, a P–H can (1) maintain a fluid milk product distribution level equal to its lowest month's production (typically, August) and send the additional production during the other 11 months to a manufacturing plant, (2) make a commitment to sell fluid milk products equal to its highest month's production (typically, March) and purchase enough supplemental milk during the other 11 months of the year to compensate for the seasonal drop therefrom, or (3) use some combination of (1) and (2) at different levels of Class I sales.

At the present time, these alternatives are not always practicable. The only manufacturing plant within reasonable distance of Heartland Dairy is UDA's butter-powder plant at Tempe, Arizona. There are no other manufacturing plants in the Central Arizona marketing area, except for a cheese plant which is under the same roof as UDA's butter-powder plant and which is fully supplied by UDA, and a yogurt processing plant, LaCorona Yogurt, which, according to the manager of Heartland Dairy, was under contract to buy its milk from Shamrock. Consequently, the only surplus outlet available to Heartland Dairy in this area is UDA's butter-powder plant.

The Heartland Dairy manager testified that when Heartland Dairy sent surplus milk to the UDA butter-powder plant for manufacturing use, it was in the position of having to accept whatever the cooperative was willing to pay for the milk. For example, he said that in December 1992 Heartland sold 427,210 pounds of surplus milk to UDA and was paid $10.25 per hundredweight for it, which was $1.09 less than the order's Class III price.

Buying supplemental milk to even out the P–H's production is essentially not possible under the order's current 5,000-pound or 5-percent limitation.

The evidence in the record indicates that Heartland has been using other ways to handle its seasonal production problem. This has been by sharing joint Class I sales accounts with fully regulated handlers and disposing of fluid milk products outside of the marketing area when extra milk is available.

UDA's proposed solution to address these practices is to ask the market administrator to more closely monitor the P–H's operations and make several subjective judgments regarding whether the P–H is maintaining its own reserve supply. Specifically, the market administrator would be asked to: (1) compare weekly volumes sold to accounts serviced by the P–H and by other handlers under this or any other Federal milk order; (2) determine whether the P–H packages milk in the same label as another handler under this or any other Federal milk order; (3) determine that the P–H's pro rata share of Class I route dispositions in the marketing area during the flush milk production months (March, April, May) are substantially the same as during the short milk production months (July, August, September); and (4) use any other method that will indicate when the P–H is not maintaining the burden of its own reserve supply. Under the proposal, the P–H would be fully regulated for the next 12 months if the market administrator finds that the P–H is not maintaining its own reserve supply.

Another part of the UDA proposal was designed to preclude P–Hs from sharing Class I accounts with fully regulated handlers. In this case, the order would treat packaged fluid milk that is delivered by a P–H to a market outlet which is also serviced by a pool plant (using the same label as the P–H) as having been "acquired for distribution" by the pool plant. In such circumstances, the P–H's milk would be assigned a Class III classification at the pool plant. This procedure would force an equal amount of "producer milk"

into Class I and thereby increase the pool plant's obligation to the pool.

In its brief, UDA stated that, based on the evidence in the record, a producer-handler should be required to carry 135 percent of its monthly Class I sales in its own herd production. To implement this requirement, the cooperative suggested that its proposal be amended by inserting a new paragraph in § 1131.10(d), which would read as follows:

(2) Produces in his own herd a rolling average during the preceding three months of 135 percent of Class I route disposition. If such person's milk production from his own herd falls below 135 percent of Class I route disposition in any such period, such person shall be pooled in the next succeeding month and continue to be pooled until production from his own herd equals or exceeds 135 percent of Class I route disposition for a three month period.

The UDA proposal should not be adopted. It is aimed at the symptoms of the problem, rather than the problem itself. Moreover, it lacks objective standards and instead relies on many subjective judgments, which would make it very difficult to administer and enforce. Finally, it would penalize P-Hs and fully regulated handlers even when a P-H was operating in a totally unobjectionable manner. For example, if a P-H serviced an account with a fully regulated handler and each party contributed a fixed amount of fluid milk products each month to the account, the order, as modified by UDA's proposal, would nonetheless treat the P-H's deliveries as receipts of the pool plant and penalize the pool plant as described above.

A representative of the National Milk Producers Federation (NMPF) appeared at the hearing to present a proposal that was ruled by the Administrative Law Judge to be outside the scope of the hearing. The NMPF proposal would have limited the size of a P-H. The witness stated that the NMPF was offering the proposal as an alternative to the UDA proposal because, in his opinion, the UDA proposal would be impossible to administer or enforce.

A consultant for Heartland Dairy testified in support of a modified Heartland Dairy proposal that would enable a P-H to purchase unlimited supplies of supplemental milk from any source, but which also would require the P-H to make a payment into the order's marketwide pool each month to compensate the market's producers for carrying Heartland's reserve supply of milk. The consultant stated that the goal of the Federal order program is to insure minimum prices to dairy farmers. This goal, he said, can be accomplished without fully regulating producer-handlers.

The modified proposal of Heartland Dairy calls for the P-H to make a payment into the pool each month based on the difference between the P-H's production in the current month and its lowest month's production during the immediately preceding 12 months. The difference in production between the current month and the lowest month would be prorated to the P-H's utilization of milk in each class in the current month. The payment would then be computed by: (1) multiplying the pounds assigned to Class I by the difference between the Class I price and the blend price; (2) multiplying the pounds assigned to Class II by the difference between the Class II price and the blend price; (3) multiplying the pounds assigned to Class III by the difference between the Class III price and the blend price (a negative value); and (4) adding these products together. If the current month's production were less than the lowest month's production during the preceding 12 months, no payment would be required.

There can be no argument with certain basic facts that must be taken into consideration in resolving the problems described in the hearing record. First, the seasonal variation in production in this market is significant, and this variation in production adversely affects the cost of handling and manufacturing the market's reserve supply of milk. From the evidence in the record, it would appear that this burden falls largely on UDA.

Second, there is really only one place to economically dispose of surplus milk for manufacturing use: UDA's butter-powder plant at Tempe. This lack of viable economic alternatives leads to marketing practices which some parties in the market deem to be "disruptive" and which nearly all parties in the market concede result in an unequal sharing of the cost of maintaining the market's reserve supply of milk.

Third, there is really only one place to obtain supplemental supplies of milk in this market. UDA accounts for 88 percent of the producer milk in the market, and Shamrock Foods accounts for the remaining 12 percent, which is largely used for its own use, except for the amount which it supplies to LaCorona Yogurt.

These facts lead to the conclusion that additional flexibility is needed in the order to permit a P–H to bear its pro rata share of the cost of maintaining the market's reserve supply while, at the same time, operating in a reasonably efficient manner.

Given the limited manufacturing outlets available in the Central Arizona market, the solution to the problems described in the hearing record must be corrected through providing an alternative means for a P–H to bear its share for maintaining its reserve supply of milk. Specifically, we certify that the Administrative Law Judge made the correct decision at the hearing to permit testimony on the modified Heartland Dairy proposal, and we believe this proposal should be adopted, but further modified in several respects.

First, the P–H's payment into the pool should be based on the difference between the Class I price and the Class III price, instead of the blend price. If a P–H were really bearing the burden of its own reserve supply, that reserve supply, by definition, must be used in the utilization of last resort: i.e., Class III. Therefore, it should be recognized that the P–H would only be getting the Class III price or less for its seasonal excess production. Consequently, the payment to the pool should be based on the difference between the Class I price and the Class III price. This is the same treatment that applies to milk that is transferred from a P–H to a pool distributing plant and used in Class I.

If a P–H geared its Class I disposition to its low production month (e.g., August) and disposed of its seasonal excess as Class III utilization, there clearly would be no grounds for alleging that the P–H was not bearing the burden of its own reserve supply. Accordingly, under such circumstances, a payment into the pool, such as proposed by the Heartland Dairy consultant, would be neither necessary nor appropriate.

Therefore, the second modification concerns the computation to determine the amount of milk on which the payment should be based. Since, for the reason described above, there may be circumstances in which no payment would be appropriate, it would be incorrect to use the current month's production in determining the reserve supply upon which to base the payment. Instead, one should subtract the P–H's lowest month's production (within the immediately preceding 12 months) from the current month's Class I sales of own-farm milk in determining the reserve supply on which to compute the payment. Using this computation will avoid penalizing the P–H who has not utilized all of its current month's production in Class I, but who, instead, has utilized some of the seasonal production increase for Class II or III use. The second reason for using Class I sales from own-farm production—as opposed to just Class I sales—is to avoid double-charging the P–H for

VOL 58 ISS 244 DEC 22 1993 UMI

supplemental purchases of Class I milk which have already been priced at the Class I price.

The third change which should be made to the Heartland Dairy proposal concerns the source of supplemental milk purchases. As proposed, a P–H would be allowed to purchase milk from any source. This should be changed to restrict such purchases to fluid milk products obtained by transfer from pool plants, other order plants, and cooperative bulk tank handlers. No other sources of supply would be allowed regardless of whether such purchases entered the P–H's plant or were acquired elsewhere.

As noted previously, UDA accounts for 88 percent of the producer milk in the Central Arizona market. Accordingly, the cooperative is the likely source for supplemental milk supplies. Even if the P–H were to obtain transfers from a pool plant operated by another handler, it will, in all likelihood, be UDA milk since the cooperative association supplies all of the pool plants in this market. In view of this, it would be much more efficient to allow the P–H to obtain the milk from UDA in its capacity as a bulk tank handler on milk delivered directly from producers' farms. This milk would be treated as if transferred from a pool plant. It would be classified as Class I milk, and the transferor handler—in this example, the cooperative association bulk tank handler—would account to the pool for it.

In verifying the computation of the P–H's pool payment, the market administrator will require full access to all of the producer-handler's records, including all of the milk production and farm pickup records pertaining to the dairy operations of each of the P–H's farms.

With the provisions adopted here, no restriction is necessary on the amount of supplemental milk which may be purchased by a P–H. It would be expected that a P–H would seek to keep such purchases to a minimum in order to maintain the advantage of its higher-than-market-average utilization. Nevertheless, should a P–H wish to purchase supplemental milk, the pool would receive the Class I price for these purchases, and would also receive the P–H's pool payment to offset the cost for seasonal variation in the P–H's own-farm production used in Class I.

The changes adopted above are designed to apply to P–Hs that supply milk to wholesale outlets. With respect to P–Hs that distribute all of their milk to retail outlets, the order should continue to provide a complete exemption from any pool payment provided that the P–H stays within a 5,000 pound-per-month (or 5 percent of its fluid milk product disposition during the month) limit on supplemental purchases of fluid milk products from regulated sources. As used herein, retail outlets would include only consumers who purchase milk at the P–H's dock, at the P–H's own retail store (wherever located), or who receive the P–H's milk on the P–H's home delivery route. Thus, P–Hs operating under the this total exemption would not be permitted to make any sales to stores that are owned or leased by others, to distributors or jobbers, or to institutions such as schools, hospitals, prisons, nursing homes, etc. Also, the limit on supplemental purchases specifically applies to bulk or packaged fluid milk products that are received by transfer at the P–H's plant, and it applies equally to packaged fluid milk products that are acquired for route disposition to any of the P–H's retail outlets. This means that any acquisition of a fluid milk product, whether delivered to the P–H's plant or retail facility, picked up by the P–H's truck, or acquired in some other way would still count against the 5,000 pound (or 5 percent) limit.

Although UDA did not include any specific order language to address the appropriate size of a P–H, the cooperative attempted to modify the language of its proposal to restrict the P–H exemption to a "family-type farm operation." The Aministrative Law Judge presiding at the hearing disallowed the modification, but permitted the testimony as an "offer of proof." We concur with the Judge that this modification is beyond the scope of the hearing.

2. *The definition and treatment of associated producers.* A proposal by The United Dairymen of Arizona to remove all language from the order relating to "associated producer" should be adopted. UDA's general manager testified that UDA had proposed the associated producer provisions at a hearing held on November 9–10, 1982. The purpose of these provisions, he explained, was to enable a dairy farmer in the Phoenix area to retain "producer" status on a portion of his milk which he was unable to market to an Order 131 handler.

The UDA witness stated that the Phoenix producer never availed himself of these provisions, but that a dairy farmer from California had "exploited" the provision during a 21-month period from June 1987 through February 1989. He said that this dairy farmer had drawn $192,340 out of the pool in the form of "phantom freight" on more than 8 million pounds of milk diverted to a nonpool plant in California.

The "associated producer" provision now in the order is not a provision that is commonly found in Federal orders. Normally, a pool plant operator who regularly receives a dairy farmer's milk will willingly serve as the handler for the milk when it is not needed at the pool plant and must be diverted to a nonpool plant for manufacturing use. In the Central Arizona market, however, a pool plant operator who had received a dairy farmer's milk was not willing to bear responsibility for the milk when it was diverted to a nonpool plant. Accordingly, UDA proposed, and the Secretary adopted—with some modifications, the "associated producer" provisions.

The producer for whom the "associated producer" provision was intended did not appear at the hearing to present any opposition testimony, but did submit a brief in which he explained that he was unable to attend the hearing because of a flooding problem. In his brief, he stated that the associated producer provision is needed because "the pool should service all producers in it, not just a select few." He suggested, however, that it be modified to restrict it to "producer milk originating in the geographical boundaries of Order 131." He did not indicate that he has used the provision or plans to use it in the future, but implied that it should be kept as a safeguard.

Under the associated producer provisions, a producer is permitted to divert a certain portion of his/her milk to a nonpool plant for Class III use if 50 percent of that person's milk is "producer milk" in the current month and in each of the immediately preceding two months. On the milk diverted to the nonpool plant, the producer draws a payment from the pool based on the difference between the order uniform price and the Class III price for the month.

The non-member dairy farmer who inspired the cooperative's 1982 proposal has never used the associated producer provision and now markets his milk through UDA. According to the UDA general manager, the California producer who had used the provision for a 21-month period joined UDA in the fall of 1989 and stopped using the provision in February 1989.

The associated producer provisions, when used, have been difficult to administer. In a letter referenced by the UDA witness at the hearing, the Order 131 market administrator is quoted as stating that he had "no handle under the order for determining the volume of milk shipped from a producer's farm to a nonpool plant because there were no reporting requirements" with which to verify the information supplied by the producer. In view of the difficulty of administering the associated producer provision, its lack of use during the past three years, the potential for its abuse, and the limited opposition to its removal, there is no valid reason to keep it in the order. Under these circumstances, it no longer effectuates the declared policy of the Act and should be removed.

3. *Conforming and non-substantive changes.* Certain conforming changes are needed to implement the proposed changes adopted above. In particular, § 1131.9 (Handler) will have to be changed to allow a cooperative bulk tank handler to deliver milk for its account to a producer-handler; § 1131.30 (Reports of receipts and utilization) will have to be modified to report the P–H's own-farm production and supplemental milk purchases each month; § 1131.42 (Classification of transfers and diversions) will have to be modified to provide for the classification of milk transferred to a P–H from a cooperative bulk tank handler; § 1131.60 (i.e., Handler's value of milk for computing uniform price) will have to be amended to include the value of the pooled milk of P–Hs; and § 1131.61 (Computation of uniform price) will have to be changed to accommodate the pooling of a portion of each P–H's milk. In addition, § 1131.71 (Payments to the producer-settlement fund) will have to be amended to provide for the P–H's payment into the pool.

Other changes of a minor and non-substantive nature should also be made to the order at this time to remove obsolete language from the Class I price provision and to correct errors in § 1131.44 (i.e., change "ilk" to "milk") and § 1131.72 (i.e., change "for" to "from").

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Central Arizona order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Central Arizona marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Part 1131

Milk marketing orders.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1131 be amended as follows:

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. The authority citation for 7 CFR part 1131 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. In § 1131.9, paragraph (c) is revised to read as follows:

§ 1131.9 Handler.

* * * * *

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to the pool plant of another handler or to the plant of a producer-handler defined in § 1131.10 in a tank truck owned and operated by, or under contract to, such cooperative association. In the case of milk delivered to the pool plant of another handler, the pool plant operator will be the handler for such milk if both the cooperative association and the operator of the pool plant notify the market administrator in writing prior to the first day of the month in which such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples;

* * * * *

3. Paragraph (a)(1)(ii) of § 1131.10 is revised to read as follows:

§ 1131.10 Producer-handler.

* * * * *

(a) * * *

(1) * * *

(ii) Fluid milk products obtained by transfer from pool plants or other order plants, or from handlers described in § 1131.9(c);

* * * * * *

4. In § 1131.12, paragraph (b)(4) is revised to read as follows:

§ 1131.12 Producer.

* * * * *

(b) * * *

(4) Any person whose milk is received at a nonpool plant (except an other order plant) other than as a diversion by a handler from a pool plant.

§§ 1131.21 and 1131.22 [Removed]

5. Sections 1131.21 and 1131.22 are removed.

6. In § 1131.30, paragraph (d) is redesignated as paragraph (e), the words "(a) through (c)" in that redesignated paragraph are changed to read "(a) through (d)", and a new paragraph (d) is added to read as follows:

§ 1131.30 Reports of receipts and utilization.

* * * * *

(d) Each handler described in § 1131.10 shall report:

(1) The pounds of milk produced from the handler's own-farm production for the month, showing separately the production of each farm unit from which milk is received at the handler's plant;

(2) Receipts of milk from handlers described in § 1131.9(c);

(3) Fluid milk products and bulk fluid cream products received by transfer, or acquired for route disposition, from pool plants and other order plants;

(4) Receipts of other source milk not reported pursuant to paragraph (d)(3) of this section;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1131.40(b)(1); and

(6) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

* * * * *

§ 1131.32 [Amended]

7. In § 1131.32, the words "a producer-handler or" are removed from the introductory text of paragraph (a).

§ 1131.33 [Removed]

8. Section 1131.33 is removed.

9. In § 1131.42, the words "pursuant to § 1131.22 or" are removed from paragraph (d)(2)(vi), and the introductory text of paragraph (c) is revised to read as follows:

§ 1131.42 Classification of transfers and diversions.

* * * * *

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred from a pool plant or a handler described in § 1131.9(c) to a producer-handler under this or any other order shall be classified:

* * * * *

§ 1131.44 [Amended]

10. In § 1131.44, the word ".ilk" is changed to "milk" in paragraph (a)(4).

11. In § 1131.50, paragraph (a) is revised to read as follows:

§ 1131.50 Class prices

* * * * *

(a) The Class I price shall be the basic formula price for the second preceding month plus $2.52.

* * * * *

12. In § 1131.60, the introductory text is revised, the word "and" is removed at the end of paragraph (h), the period at the end of paragraph (i) is changed to a semicolon followed by the word "and", and a new paragraph (j) is added to read as follows:

§ 1131.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1131.9(b) and (c) and § 1131.10 as follows:

* * * * *

(j) Add, for each producer-handler described in § 1131.10, except a producer-handler whose receipts and acquisitions pursuant to § 1131.10(a)(1)(ii) do not exceed the lesser of 5,000 pounds of fluid milk products or 5 percent of its fluid milk products disposition during the month and whose total distribution of packaged fluid milk products is solely to retail consumers, an amount resulting from the following computations:

(1) Determine the producer-handler's Class I sales from own-farm production for the current month and its lowest monthly own-farm production in the immediately preceding 12 months;

(2) Subtract the producer-handler's lowest month's production from its Class I sales from own-farm production in the current month. Any resulting number less than zero shall be deemed to be zero; and

(3) Multiply the pounds of milk calculated in paragraph (j)(2) by the difference between the Class I price and the Class III price for the current month.

13. In § 1131.61, paragraph (b) is removed, paragraphs (c) through (f) are redesignated as paragraphs (b) through (e), and newly redesignated paragraph (d) is revised to read as follows:

§ 1131.61 Computation of uniform price.

* * * * *

(d) * * *

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1131.60(f).

* * * * *

14. In § 1131.71, the introductory text of paragraph (a) is revised, paragraph (b) is redesignated as paragraph (c), and a new paragraph (b) is added as follows:

§ 1131.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler, except a handler described in § 1131.10, shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

* * * * *

(b) On or before the 13th day after the end of the month, each handler described in § 1131.10, except those which are exempt from such payment pursuant to § 1131.60(j), shall pay to the market administrator the amount computed pursuant to § 1131.60(i).

* * * * *

§ 1131.72 [Amended]

15. In the section heading for § 1131.72, the word "for" is changed to "from".

16. In § 1131.72, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

17. In § 1131.73, paragraph (d)(2) is revised to read as follows:

§ 1131.73 Payments to producers and to cooperative associations.

* * * * *

(d) * * *

(2) In final settlement, the value of such milk as classified pursuant to § 1131.44 at the class prices, as adjusted by the butterfat differential specified in § 1131.74 and, in the case of pool plants, the location adjustment applicable pursuant to § 1131.52, less payment made pursuant to paragraph (d)(1) of this section.

§ 1131.77 [Amended]

18. In § 1131.77, the last sentence is removed.

§ 1131.85 [Amended]

19. In § 1131.85, paragraph (b) is removed.

Dated: December 15, 1993.

Lon Hatamiya,

Administrator.

[FR Doc. 93-31258 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-02-P

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. 93-084-2]

Interstate Movement of Mexican-Origin Cattle; Certification Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: We are reopening and extending the period for the public to comment on a proposed rule to add certain certification requirements for Mexican-origin cattle moved in interstate commerce. Extending the comment period will give interested persons additional time to prepare and submit comments.

DATES: Consideration will be given only to comments received on or before February 14, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93-084-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. James P. Davis, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, Veterinary Services, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-4923.

SUPPLEMENTARY INFORMATION:

Background

On November 12, 1993, we published in the **Federal Register** (58 FR 59959-59962, Docket No. 93-084-1) a proposed rule to amend the interstate movement regulations, contained in 9 CFR part 71, to require all Mexican-origin cattle moved in interstate commerce to be accompanied by a certificate issued by a representative of the Animal and Plant Health Inspection Service, a State representative, or an accredited veterinarian in the State from which the cattle are to be moved. Comments on the proposed rule were required to be received on or before December 13, 1993.

We received several requests for an extension of the comment period to allow interested parties additional time to prepare comments on the proposal. In response to these requests, we are reopening and extending the comment period for the proposed rule for an additional 60 days. We will consider all comments that are received on or before February 14, 1994.

Done in Washington, DC, this 17th day of December 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-31219 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-34-P

9 CFR Part 92

[Docket No. 93-086-1]

Cattle From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to prohibit the importation of Holstein and Holstein cross-bred steers and Holstein and Holstein cross-bred spayed heifers from Mexico into the United States. The incidence of tuberculosis in these cattle is significantly higher than in other breeds. Since 1991, Holstein and Holstein cross-bred steers and Holstein and Holstein cross-bred spayed heifers traced back to Mexico have accounted for more than half of the tuberculosis-infected cattle identified at slaughter in the United States. This action appears necessary to prevent tuberculosis-exposed Holstein and Holstein cross-bred steers and Holstein and Holstein cross-bred spayed heifers from Mexico from spreading the disease to U.S. cattle.

DATES: Consideration will be given only to comments received on or before February 22, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93-086-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Stenseng, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8715.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as the regulations) prohibit or restrict the importation of certain animals, including cattle from Mexico, to prevent the introduction into the United States of communicable diseases of livestock.

Bovine tuberculosis (referred to below as tuberculosis) is a serious communicable disease of cattle, bison, and other species, including humans, caused by *Mycobacterium bovis*. Tuberculosis (TB) causes weight loss, general debilitation, and sometimes death. Section 92.427(c) of the regulations requires, among other things, the following: That cattle imported into the United States from Mexico come from a herd that has been tuberculin-tested, with negative results, between 3 and 12 months before the date the cattle are offered for entry into the United States or, if steers, that each steer has been tuberculin-tested, with negative results, either within 60 days before the date the steers are offered for entry into the United States or at the port of entry; or have originated in a herd declared tuberculosis-accredited by the Government of Mexico, provided that they have moved directly to the U.S. port of entry from their herd of origin and have not commingled with cattle from any herd of unlike status. In addition, § 92.427(c) requires that breeding cattle be detained at the port of entry until tested for tuberculosis with negative results.

The regulations are intended to prevent the importation of TB-infected cattle into the United States. Despite the regulations, however, more than half of all cattle with tuberculous lesions detected at slaughter in the United States during the past decade have been traced back to Mexico.

During the 18 months ending March 31, 1993, 1,090 TB-infected cattle were detected at slaughter in the United States. Of the 713 TB-infected cattle that were identified as being of Mexican origin, 478 (67 percent) were identified as Holstein or Holstein cross-bred steers and Holstein or Holstein cross-bred spayed heifers. Holsteins are a dairy breed.

Based on reports from Mexican cattlemen's associations, we conservatively estimate the incidence of tuberculosis in dairies in Mexico to be higher than 20 percent. This contrasts with the incidence of tuberculosis in U.S. dairies which, at less than 0.01 percent, is statistically insignificant.

Holstein and Holstein cross-bred steers and Holstein and Holstein cross-bred spayed heifers comprise approximately 12.5 percent of the cattle imported from Mexico into the United States. Few non-Holstein dairy cattle are currently imported from Mexico into the United States. Compared with TB infection in beef cattle, the level of TB infection in dairy cattle imported from Mexico is disproportionately high. We project that we could drastically reduce the number of TB-lesioned cattle found at slaughter in the United States by prohibiting the importation from Mexico of Holstein and Holstein cross-bred steers and Holstein and Holstein cross-bred spayed heifers. Extrapolating from this figure, we would expect this action to reduce the risk of exposing U.S. cattle to tuberculosis.

We would continue to permit importation of Holstein and Holstein cross-bred breeding cattle because few such cattle are imported, and the TB-testing required of breeding cattle in § 92.427(c)(4) appears adequate to detect infection in breeding cattle.

Executive Order 12866 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12866. Based on information compiled by the Department, we have determined that this proposed rule: (1) Would have an effect on the economy of less than $100 million; (2) would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (3) would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (5) would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Of the approximately 1 million Mexican cattle imported from Mexico into the United States during 1991, the most recent year for which complete data are available, we estimate that 12 percent were Holstein and Holstein cross-bred steers (in the 1991 data, spayed heifers were counted as steers). During the same year, the U.S. cattle population totaled 99.4 million head. Thus, imported Mexican Holstein and Holstein cross-bred steers accounted for less than one percent of the total U.S. bovine population.

The total value of imported Mexican Holstein and Holstein cross-bred steers was close to $45 million in 1991, less than one-tenth of one percent of the 1991 value of the U.S. live cattle inventory, which was estimated at more than $64 billion.

Approximately 46,000 cattle feedlots were operating in the United States during 1991. Of those, 620 feedlots concentrated in western States regularly handle Mexican cattle. Approximately 67 of the feedlots handling Mexican cattle can be considered small entities, which is considered as having less than a 1,000 head capacity. They account for less than one percent of all domestic feedlots. We do not expect this action to significantly affect U.S. importers because they can replace the Holstein and Holstein cross-bred steers and Holstein and Holstein cross-bred spayed heifers currently imported from Mexico with other breeds of feeder cattle.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities. Executive Order 12778.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 92 would be amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 92.427, a new paragraph (c)(5) would be added to read as follows:

§ 92.427 Cattle from Mexico.

* * * * *

(c) * * *

(5) The importation of Holstein and Holstein cross-bred steers and Holstein and Holstein cross-bred spayed heifers from Mexico is prohibited.

* * * * *

Done in Washington, DC, this 16th day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–31183 Filed 12–21–93; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No: EE–RM–93–701]

Energy Conservation Program for Consumer Products

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed rule and public hearing.

SUMMARY: The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, the National Appliance Energy Conservation Act of 1987, the National Appliance Energy Conservation Amendments of 1988, and the Energy Policy Act of 1992, requires the Department of Energy (DOE or the Department) to administer an energy conservation program for certain major household appliances and commercial equipment. Among other program elements, the Act requires that standard methods of testing be prescribed for each covered product. The purpose of today's document is to propose an amendment to the existing Department of Energy (DOE or the Department) clothes washer test procedure to clarify an ambiguity in the testing procedures. The proposed testing procedures will be required for clothes washers that are designed to lock out the warm water rinse from the normal cycle, so that only the cold water rinse is available.

DATES: The Department will accept comments, data, and information regarding this notice not later than Thursday, March 24, 1994.

Oral views, data, and arguments may be presented at a public hearing to be held in Washington, DC, beginning at 9:30 a.m. on Thursday, February 24, 1994. Requests to speak at the hearing must be received by the Department no later than 4 p.m., Monday, February 14, 1994. Ten (10) copies of statements to be given at the public hearing must be received by the Department no later than 4 p.m., Friday, February 18, 1994.

ADDRESSES: Written comments and requests to speak at the public hearing are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Hearings and Dockets, Amendment of the Test Procedure for Clothes Washers, Docket No. EE–RM–93–701, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0561.

The hearing will be held at the U.S. Department of Energy, Forrestal Building, room 1E–245, 1000 Independence Avenue, SW., Washington, DC.

Requests may be hand delivered between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Requests should be labeled, "Amendment of the Test Procedure for Clothes Washers," (Docket No. EE–RM–93–701), both on the document and on the envelope.

Copies of the transcript of the public hearing and public comments received may be read at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

For more information concerning public participation in this rulemaking proceeding, see section VII of this notice.

FOR FURTHER INFORMATION CONTACT:

William W. Hui, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586–7140.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Authority

Part B of Title III of the Energy Policy and Conservation Act, Public Law 94–163, as amended by the National Energy Conservation Policy Act, Public Law 95–619, the National Appliance Energy Conservation Act of 1987, Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988, Public Law 100–357, and the Energy Policy Act of 1992, Public Law 102–486, created the Energy Conservation Program for Consumer Products other than Automobiles (Program).[1] The products currently subject to this Program (often referred to as "covered products") include clothes washers, the subject of today's notice.

Under the Act, the Program consists essentially of three parts: testing, labeling, and the Federal energy conservation standards. Violations of the standard, as determined under the test procedure, are subject to civil penalties. The Department, in consultation with the National Institute of Standards and Technology (formerly the National Bureau of Standards), is required to amend or establish new test procedures as appropriate for each of the covered products. Section 323. The purpose of the test procedures is to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use and must not be unduly burdensome to conduct. Section 323(b)(3). A test procedure is not required if DOE determines by rule that one cannot be developed. Section 323(d)(1). One hundred and eighty days after a test procedure for a product is adopted, no manufacturer may represent the energy consumption of, or the cost of energy consumed by, the product except as reflected in tests conducted according to the DOE procedure. Section 323(c)(2). However, the 180-day period referred to in section 323(c)(2) may be extended for a period of up to an additional 180 days if the Secretary determines that the requirements of section 323(c)(2) would impose undue burden. Section 323(c)(3). Test procedures appear at 10 CFR part 430, subpart B.

Section 323(e) of the Act requires DOE to determine to what extent, if any, a proposed test procedure would alter the measured energy efficiency or measured energy use of any covered product as determined under the existing test procedure. If DOE determines that an amended test procedure would alter the measured efficiency or measured energy use of a covered product, the DOE is required to amend the related energy conservation standard accordingly. In determining the amended standard, the DOE is required to measure the energy efficiency or energy use of representative samples of covered products which minimally comply with the existing standard. The average efficiency of these representative samples, tested using the amended test procedure, constitutes the amended standard. Section 323(e)(2).

B. Background

The clothes washer test procedure was originally proposed by notice issued May 11, 1977 (42 FR 25329, May 17, 1977). Subsequently, the Department published the original clothes washer test procedure on September 28, 1977 (42 FR 49802) with the only amendment being an editorial change in the title of Appendix J on June 29, 1979 (44 FR 37938).

Whirlpool Corporation (Whirlpool) has designed a new line of clothes washers to meet the appliance energy conservation standard established by DOE that becomes effective May 14, 1994. Whirlpool is obligated to test these clothes washers for compliance with the new standard using the test procedure regulations set forth in 10 CFR part 430, subpart B, appendix J. The new clothes washers have been designed to lock out the warm rinse setting in the cycle Whirlpool has designated as the "normal cycle" under the regulations and thus only a cold water rinse is available on that cycle. Warm water rinses are available on all other cycles.

Whirlpool interprets the test procedure to require that all testing be conducted in the "normal cycle" as defined in § 1.10, 10 CFR part 430, subpart B, appendix J, and to require that the temperature selector be set to the hottest setting that is available in the normal cycle. Representatives of Whirlpool met with DOE officials to discuss the company's interpretation. The DOE concluded that Whirlpool's interpretation, while inconsistent with the underlying purpose of the test procedure, has sufficient legal basis to necessitate an amendment of the test procedure in order to avoid material understatements of actual energy consumption.

II. Discussion

Paragraph 3.2 of 10 CFR, part 430, subpart B, appendix J, sets forth a sequence of steps that a manufacturer is required to follow in order to establish testing conditions. Relevant provisions, with emphasis added on the term "normal cycle," provide as follows:

3.2 *Test cycle.* Establish the testing conditions set forth in 2 of this Appendix.

3.2.1 *Per-cycle electrical energy consumption.* Set the water level selector at a maximum fill and insert the appropriate test load, if applicable. Activate the *normal cycle* of the clothes washer and also any suds-saver switch.

3.2.1.1 Measure the electrical energy consumption of the clothes washer for a complete *normal cycle.*

3.2.2 *Hot water consumption for a normal cycle with the water level selector at maximum fill.*

3.2.2.1 Set the water level selector at maximum fill and insert the appropriate test load, if applicable. Activate the *normal cycle* of the clothes washer and also any suds-saver switch.

[1] Part B of Title III of EPCA, as amended, is referred to in this proposed rule as the "Act." Part B of Title III is codified at 42 U.S.C. 6291–6309.

VOL 58 ISS 244 DEC 22 1993 UMI

3.2.2.2 For automatic clothes washers set the wash/rinse temperature selector to the hottest setting available (hot/warm) * * *

3.2.2.3 Measure the number of gallons of hot water used to fill the tub for the wash cycle.

3.2.2.4 Measure the total number of gallons of hot water used for all deep rinse cycles.

3.2.2.5 Measure the total gallons of hot water used for all spray rinse cycles.

3.2.2.6 For automatic clothes washer repeat 3.2.2.3, 3.2.2.4, and 3.2.2.5 for each of the other wash/rinse temperature selections available that use hot water * * *

The term "normal cycle" is defined in the test procedure as follows: " 'Normal cycle' means the cycle recommended by the manufacturer for washing cotton and/or linen clothes." Paragraph 1.10 (emphasis added). The text of the definition neither specifically requires an independent temperature selector nor specifically provides for an alternative cycle to be used for testing purposes if the cycle "recommended" for washing cotton and/or linen clothes only uses a cold water rinse.

The DOE proposes to amend the clothes washer test procedure in today's notice to establish and clarify the testing procedure that will be required when the warm water rinse is locked out in the normal cycle so that only the cold water rinse is available.

The Department, following consultation with the National Institute of Standards and Technology, proposes to prorate the hot water consumption between the temperature combination settings in the normal cycle and the cycle with the greatest hot water consumption for each temperature combination setting that has a warm rinse locked out of the normal cycle. In addition, the Department also proposes the following definitions in today's notice: most energy intensive cycle, defined as the non-normal cycle which uses the most hot water energy when tested for a given wash/rinse temperature combination setting, and non-normal cycle, defined as a cycle other than the normal cycle, exclusive of any manually selected pre-washes or rinses. The proposed amendments to the test procedure require that all temperature combination settings in the normal cycle be tested. Next, each temperature combination setting which uses a warm rinse and is locked out in the normal cycle is to be tested in its most energy intensive cycle. The total hot water energy consumed for a washing cycle is then calculated following the amended equation of Section 4.1 by summing the hot water consumption of the temperature combination settings available in the normal cycle and the highest hot water consumption of each locked-out temperature combination setting tested on its respective most energy intensive cycle. The Department believes that the proposed amendments to the clothes washer test procedure will capture the actual energy consumption of the machine and thereby provide reliable data to assist consumers in making informed purchasing decisions.

Since those machines which offer the warm rinse lock-out design feature have not been distributed in commerce, data regarding the effect of this feature on consumer selection of the normal cycle are unavailable. Whirlpool alleges that the normal cycle is the cycle used most often and that this will continue despite the warm rinse lock-out control. Whirlpool proposes that DOE use industry data regarding consumer selection of the normal and other cycles, based on consumer choices among currently available cycles. Preliminary data, supplied by Whirlpool, indicate consumers select the normal cycle approximately 75 percent of the time; another cycle 25 percent of the time.

Therefore, the Department today proposes to amend the clothes washer test procedure by adopting 75 percent as the prorating factor for the temperature combination settings in the normal cycle that locks out the warm rinse and 25 percent for the locked out wash/rinse temperature combination settings tested in their respective most energy intensive cycle(s). The Department will revise today's proposal in order to reflect actual consumer usage of machines that offer the warm rinse lock-out design feature as these data become available.

The above modifications are not expected to change the related existing energy efficiency standard for this appliance. The Department believes that the proposed amendments in today's notice will have a minimal impact on the clothes washer industry because of the limited availability of machines which have this unique feature. To the Department's knowledge, until Whirlpool's planned lock-out design, clothes washers have offered all available wash/rinse temperature combinations in their normal cycles. Typically, 97 percent of the energy used by the clothes washer is for heating water, which is currently captured by the test procedure. Because of this, retesting with today's proposed amendments to the test procedure would be unnecessary. Therefore, the Department has determined that no change in the energy efficiency standard would be required under 42 U.S.C. 6293(e)(2) by this proposed clarification of the test procedure.

The Department will ensure that manufacturers have adequate lead time (specifically, one year following promulgation of the final rule) to implement any changes necessary to make their clothes washers comply with the 10 CFR. 430.32(g) energy efficiency standard, measuring compliance using the new test procedure.

III. Environmental Review

Pursuant to section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for her comments concerning the impact of this proposal on the quality of the environment.

Since test procedures under the Program will be used only to standardize the measurement of energy usage and will not affect the quality or distribution of energy usage, prescribing test procedures will not result in any environmental impacts. The Department, therefore, has determined that prescribing test procedures under the Program is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. This rulemaking, which amends existing part 430 of title 10 and will not change the environmental effect of such regulation, is an item which is "categorically excluded (A5)" by the Department of Energy's regulations on National Environmental Policy Act Implementing Procedures. (10 Code of Federal Regulations, part 1021) (57 FR 15122, April 24, 1992) (Appendix A to subpart D, Categorical Exclusion A5.). Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required for the proposed rule.

IV. Regulatory Planning and Review

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–345) (5 U.S.C. 601–612) requires that an agency prepare an initial regulatory flexibility analysis and that it be published at the time the proposed rule is published. This requirement

(which appears in section 603) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The proposed rule will marginally affect the clothes washer manufacturers. As previously discussed, the test procedure would not have significant economic impact, but rather, it would simply provide common testing methods. Therefore, DOE certifies that the proposed rule, if promulgated, would not have a "significant economic impact on a substantial number of small entities."

VI. Federalism Review

Executive Order 12612 (52 FR 41685, October 30, 1987) requires that regulations or rules be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then Executive Order 12612 requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a regulation or a rule.

The Department has identified a substantial direct effect that today's proposed rule might have on State governments. It would preempt inconsistent State regulations. However, DOE has concluded that such effect is not sufficient to warrant preparation of a federalism assessment. The Department knows of no such inconsistent state regulations. Moreover, if there are any such state regulations, the Act provides for subsequent State petitions for exemption. Thus, a determination as to whether a State law prevails must be made on a case-by-case basis using criteria set forth in the Act. If DOE receives such a petition, it will then be appropriate to consider preparing a federalism assessment consistent with the criteria in the Act.

VII. Public Comment

A. Written Comment Procedures

Interested persons are invited to participate in the rulemaking by submitting data, comments, or information with respect to the proposed test procedures set forth in this notice to the address indicated at the beginning of the notice.

Comments should be identified both on the envelope and on the documents as "Amendment of the Test Procedure for Clothes Washers, Docket No. EE–RM–93–701". Ten (10) copies are requested to be submitted. In addition, the Department requests that an electronic copy (3½" diskette) of the comments on WordPerfect ™ 5.1 be provided. All submittals received by the date specified at the beginning of this notice will be considered by DOE before final action is taken on the proposed amendments.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and ten (10) copies, if possible, from which the information believed to be confidential has been deleted. The Department will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat as confidential information that has been submitted include:

(1) A description of the items;

(2) An indication as to whether and why such items are customarily treated as confidential within the industry;

(3) Whether the information is generally known by or available from other sources;

(4) Whether the information has previously been made available to others without obligation concerning its confidentiality;

(5) An explanation of the competitive injury to the submitting person which would result from public disclosure;

(6) An indication as to when such information might lose its confidential character due to the passage of time; and

(7) Why disclosure of the information would be contrary to the public interest.

B. Public Hearing

1. Procedures for Submitting Requests to Speak

The time and place of the public hearing are indicated at the beginning of this notice. The Department invites any person who has an interest in today's proposed rule, or who is a representative of a group or class of persons that has an interest in the proposed test procedures, to make a written request for an opportunity to make an oral presentation. Such requests should be directed to the address indicated at the beginning of this notice. Requests may be hand delivered to such address between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Requests should be labeled "Amendment of the Test Procedure for Clothes Washers, Docket No. EE-RM–93–701," both on the document and on the envelope.

The person making the request should briefly describe the interest concerned and state why he or she, either individually or as a representative of group or class of persons that have such an interest, is an appropriate spokesperson, and give a telephone number where he or she may be contacted.

Each person selected to be heard is requested to submit an advance copy of his or her statement prior to the hearing as indicated at the beginning of this notice. In the event any persons wishing to testify cannot meet this requirement, that person may make alternative arrangements with the Office of Hearings and Dockets in advance by so indicating in the letter requesting to make an oral presentation.

2. Conduct of Hearing

The Department reserves the right to select the persons to be heard at the hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation is limited to twenty (20) minutes.

A DOE official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and section 336 of the Act. At the conclusion of all initial oral statements at each day of the hearing, each person who has made an oral statement will be given the opportunity to make a rebuttal statement, subject to time limitations. The rebuttal statement will be given in the order in which the initial statements were made. The official conducting the hearing will accept additional comments or questions from those attending, as time permits. Any interested person may submit, to the presiding official, written questions to be asked of any person making a statement at the hearing. The presiding official will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Further questioning of speakers will be permitted by DOE. The presiding official will afford any interested person an opportunity to question other interested persons who made oral presentations, and employees of the United States who have made written or oral presentations with respect to disputed issues of material fact relating to the proposed rule. This opportunity will be afforded after any rebuttal statements, to the extent that the presiding official determines that such questioning is likely to result in a more timely and effective resolution of such

issues. If the time provided is insufficient or inconvenient, the Department will consider affording an additional opportunity for questioning at a mutually convenient time. Persons interested in making use of this opportunity must submit their request to the presiding official no later than shortly after the completion of any rebuttal statements and be prepared to state specific justification, including why the issue is one of disputed fact and how the proposed questions would expedite their resolution.

Any further procedural rules regarding proper conduct of the hearing will be announced by the presiding official.

A transcript of the hearing will be made, and the entire record of this rulemaking, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the transcribing reporter.

C. Issues for Public Comments

The Department is interested in receiving comments and data concerning the accuracy and workability of the proposed amendments to the clothes washer test procedure. Also, the Department welcomes discussion on improvements or alternatives to these approaches. In particular, DOE is interested in gathering comments on the following:

- The appropriateness of using 75 percent to prorate temperature combination settings in the normal cycle for clothes washers which lock out the warm rinse.
- The appropriateness of the proposed definitions—most energy intensive cycle and non-normal cycle.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, DC, December 10, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, part 430 of chapter II of title 10, of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 430–ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309

2. In Appendix J to Subpart B of part 430, paragraphs 1.10 through 1.18 are redesignated as paragraphs 1.12 through 1.20, respectively, and new paragraphs 1.10 and 1.11 are added to read as follows:

Appendix J to Subpart B of Part 430–Uniform Test Method for Measuring the Energy Consumption of Automatic and Semi-Automatic Clothes Washers

* * * * *

1.10 *Most energy intensive cycle* means the non-normal cycle which uses the most hot water energy when tested for a given wash/rinse temperature combination setting.

1.11 *Non-normal cycle* means a cycle other than the normal cycle, exclusive of any manually selected pre-washes or rinses.

* * * * *

3. Paragraphs 3.2, 3.2.2, 3.2.2.2, 3.2.3, 3.2.4, 3.3.2 and 3.3.3 of appendix J to subpart B of part 430 are revised to read as follows:

* * * * *

3.2 *Test cycle.* Establish the testing conditions set forth in section 2 of this Appendix and test all hot water consuming wash/rinse temperature combination settings. All wash/rinse temperature combination settings available on the machine are to be tested in the normal cycle. If the warm rinse is locked out in the normal cycle such that only the cold rinse is available, test all temperature combination settings available in the normal cycle followed by testing of each locked out temperature combination settings in its most energy intensive cycle.

* * * * *

3.2.2 *Hot water consumption with the water level selector at maximum fill.*

* * * * *

3.2.2.2 For automatic clothes washers, set the wash/rinse temperature combination selector to the hottest setting available. For semiautomatic clothes washers, open the hot water faucet valve completely and close the cold water faucet valve completely to achieve the hottest wash/rinse temperature setting (hot/hot).

* * * * *

3.2.3 *Hot water consumption with the water level selector at minimum fill.* Set the water level at minimum fill and insert the appropriate test load, if applicable. Activate the normal cycle of the clothes washer and also any suds-saver switch. Repeat sections 3.2.2.2 through 3.2.2.7.

3.2.4 *Hot water consumption for clothes washers that incorporate a partial fill during the rinse cycle.* Where the procedures in sections 3.2.2 and 3.2.3 cannot be used for clothes washers that incorporate a partial fill during the rinse cycle, activate any suds-saver switch and operate the clothes washer for the complete normal cycle, and the most energy intensive cycle(s), if applicable, at both the maximum and the minimum water fill level for each of the wash/rinse temperature combination setting that use hot water. Measure the total hot water consumed during each test.

* * * * *

3.3.2 Total the hot water measured at maximum fill level for each wash/rinse temperature combination setting in the normal cycle and each required wash/rinse temperature combination setting on its most energy intensive cycle, V_i, excluding any fresh make-up water required to complete the fill during a suds-return cycle.

3.3.3 Total the hot water measured at minimum fill level for each wash/rinse temperature combination setting in the normal cycle and each required wash/rinse temperature combination setting on its most energy intensive cycle, V_j, excluding any fresh make-up water required to complete the fill during a suds-return cycle.

* * * * *

4. Paragraphs 3.2.2.8 through 3.2.2.8.4 and paragraphs 3.2.3.1 and 3.2.3.1.1 of Appendix J to Subpart B of Part 430 are added to read as follows:

* * * * *

3.2.2.8 Perform additional tests for automatic clothes washers that lock out the warm water rinse in the normal cycle so that only the cold rinse is available.

3.2.2.8.1 Set the cycle selector to a non-normal cycle. Set the wash/rinse temperature selector to the hottest untested temperature combination setting that uses a warm rinse locked out in the normal cycle and repeat sections 3.2.2.3, 3.2.2.4 and 3.2.2.5.

3.2.2.8.2 Repeat section 3.2.2.8.1 under the same non-normal cycle for the remaining untested wash/rinse temperature combination settings that use a warm rinse locked out in the normal cycle.

3.2.2.8.3 Repeat sections 3.2.2.8.1 and 3.2.2.8.2 on all remaining non-normal cycles.

3.2.2.8.4 The cycle having the highest measured total gallons of hot water consumption among the non-normal cycles tested in sections 3.2.2.8.1 through 3.2.2.8.3 shall be the most energy intensive cycle for that particular wash/rinse temperature combination setting.

* * * * *

3.2.3.1 Perform additional tests for automatic clothes washers that lock out the warm water rinse in the normal cycle such that only the cold rinse is available.

3.2.3.1.1 Repeat tests as required in sections 3.2.2.8.1, 3.2.2.8.2, 3.2.2.8.3, and 3.2.2.8.4.

* * * * *

5. Paragraph 4.1 of appendix J to subpart B of part 430 is revised to read as follows:

* * * * *

4.1 *Per-cycle temperature-weighted hot water consumption for maximum and minimum water fill levels.* Calculate for the cycle under test the per-cycle temperature weighted hot water consumption for the maximum water fill level, V_{max}, and for the minimum water fill level, V_{min}, expressed in gallons per cycle and defined as:

$$V_{max} = X_1 \sum_{i=1}^{n} [V_i \times TUF_i \times L_i] + X_2 [TUF_W \times S_H]$$

where:

V_i = Reported hot water consumption in gallons per cycle at maximum fill for each wash/rinse temperature combination setting offered on the clothes washer, as provided in section 3.3.2.

TUF_i = Applicable temperature use factor corresponding to wash/rinse temperature combination setting as shown in section 5 or 6. Each TUF number in section 5 is used once for temperature combination setting(s) not locked out in the normal cycle. Each TUF number is used twice for temperature combination setting(s) locked out in the normal cycle.

L_i = Factor to account for locking out the warm rinse in the normal cycle.
1 for clothes washers that do not lock out the warm rinse in the normal cycle.
0.75 for temperature combination setting(s) that locks out the warm rinse in the normal cycle.
0.25 for temperature combination setting(s) in the most energy intensive cycle(s).

n = Number of wash/rinse temperature combination settings under test, as recorded in section 3.3.2. (n is equal to the number of TUFs corresponding to the temperature combination settings in section 5 or 6 for clothes washer that do not lock out the warm rinse. n is equal to the number of TUFs of the available temperature combination settings in the normal cycle plus twice the number of locked out temperature combination settings for clothes washers that lock out the warm rinse.)

TUF_W = Temperature use factor for warm wash setting.

For clothes washers equipped with the suds-saver feature:

X_1 = Frequency of use without the suds-saver feature = 0.86.

X_2 = Frequency of use with the suds-saver feature = 0.14.

For clothes washers not equipped with the suds-saver feature:

X_1 = 1.0

X_2 = 0.0

S_H = Fresh make-up water measured during suds-return cycle at maximum water fill level.

and

$$V_{min} = X_1 \sum_{j=1}^{n} [V_j \times TUF_j \times L_j] + X_2 [TUF_W \times S_L]$$

where:

V_j = Reported hot water consumption in gallons per cycle at minimum fill for each wash/rinse temperature combination setting offered on the clothes washer, as provided in section 3.3.3.

TUF_j = As defined above.

L_j = As defined above.

n = As defined above.

TUF_W = As defined above.

S_L = Fresh make-up water measured during suds-return cycle at minimum water fill level.

X_1 = As defined above.

X_2 = As defined above.

* * * * *

6. Paragraphs 5.1 through 5.3 of appendix J to subpart B of part 430 are revised to read as follows:

5.1 *Five temperature selection.*

Wash/rinse temperature setting	Temperature use factor (TUF)
Hot/Warm	0.18
Hot/Cold	0.12
Warm/Warm	0.30
Warm/Cold	0.25
Cold/Cold	0.15

5.2 *Four temperature selection.*

Wash/rinse temperature setting	Temperature use factor (TUF)
Alternate I:	
Hot/Warm	0.18
Hot/Cold	0.12
Warm/Cold	0.55
Cold/Cold	0.15
Alternate II:	
Hot/Warm	0.18
Hot/Cold	0.12
Warm/Warm	0.30
Warm/Cold	0.40
Alternate III:	
Hot/Cold	0.12
Warm/Warm	0.18
Warm/Cold	0.55
Cold/Cold	0.15

5.3 *Three temperature selection.*

Wash/rinse temperature setting	Temperature use factor (TUF)
Alternate I:	
Hot/Warm	0.30
Warm/Cold	0.55
Cold/Cold	0.15
Alternate II:	
Hot/Cold	0.30
Warm/Cold	0.55
Cold/Cold	0.15
Alternate III:	
Hot/Cold	0.30
Warm/Warm	0.55
Cold/Cold	0.15

[FR Doc. 93-31105 Filed 12-21-93; 8:45 am]
BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM-92; Notice No. SC-93-8-NM]

Special Conditions: Learjet, Inc., Model 45 Airplane, High Altitude Operation

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Learjet Inc., Model 45 airplane. This new airplane will have a novel and unusual design feature associated with an unusually high operating altitude (51,000 feet), for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received by February 7, 1994.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-92, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked "Docket No. NM-92." Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone (206) 227-2145.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-92." The postcard will be date stamped and returned to the commenter.

Background

On January 27, 1992, Learjet Inc., (Learjet), 8220 West Harry Street, Wichita, KS 67209-2942, or P.O. Box 7707, Wichita, KS 67277-7707, applied for a new type certificate in the transport airplane category for the Model 45 airplane. The Learjet Model 45 is a T-tail, low wing, medium sized business jet powered by two Garrett TFE 731-20-lb. turbofan engines mounted on pylons extending from the aft fuselage. Each engine will be capable of delivering 3,500 pounds thrust, with auto performance. The airplane will be capable of operating with two flight crewmembers and a maximum of ten passengers (standard is eight passengers). The type design of the Learjet Model 45 series airplane contains a number of novel and unusual design features for an airplane type certificated under the applicable provisions of part 25 of the Federal Aviation Regulations (FAR). Those features include the relatively small passenger cabin volume and a high operating altitude. The applicable airworthiness requirements do not contain adequate or appropriate safety standards for the Learjet 45 series airplanes; therefore, special conditions are necessary to establish a level of safety equivalent to that established in the regulations.

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Learjet must show, except as provided in § 25.2, that the Model 45 meets the applicable provisions of part 25, effective February 1, 1965, as amended by Amendments 25-1 through 25-75. In addition, the proposed certification basis for the Model 45 includes part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, as amended by Amendments 36-1 through the amendment in effect at the time of certification. The special conditions that may be developed as a result of this notice will form an additional part of the type certification basis. In addition, the certification basis may include other special conditions that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Learjet Model 45 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Novel or Unusual Design Feature

The Learjet Model 45 will incorporate an unusual design feature in that it will be certified to operate up to an altitude of 51,000 feet.

The FAA considers certification of transport category airplanes for operation at altitudes greater than 41,000 feet to be a novel or unusual feature because current part 25 does not contain standards to ensure the same level of safety as that provided during operation at lower altitudes. Special conditions have therefore been adopted to provide adequate standards for transport category airplanes previously approved for operation at these high altitudes, including certain Learjet models, the Boeing Model 747,

Dassault-Breguet Falcon 900, Canadair Model 600, Cessna Model 650, Israel Aircraft Industries Model 1125, and Cessna Model 560. The special conditions for the Cessna Model 650 or previously certified Learjet models are considered the most applicable to the Model 45 and its proposed operation and are therefore used as the basis for the special conditions described below.

Damage tolerance methods are proposed to be used to assure pressure vessel integrity while operating at the higher altitudes, in lieu of the ½-bay crack criterion used in some previous special conditions. Crack growth data are used to prescribe an inspection program that should detect cracks before an opening in the pressure vessel would allow rapid depressurization. Initial crack sizes for detection are determined under § 25.571, as amended by Amendment 25-72. The maximum extent of failure and pressure vessel opening determined from the above analysis must be demonstrated to comply with the pressurization section of the proposed special conditions, which state that the cabin altitude after failure must not exceed the cabin altitude/time curve limits shown in Figures 3 and 4.

In order to ensure that there is adequate fresh air for crewmembers to perform their duties, to provide reasonable passenger comfort, and to enable occupants to better withstand the effects of decompression at high altitudes, the ventilation system must be designed to provide 10 cubic feet of fresh air per minute per person during normal operations. Therefore, the proposed special conditions would require that crewmembers and passengers be provided with 10 cubic feet of fresh air per minute per person. In addition, during the development of the supersonic transport special conditions, it was noted that certain pressurization failures resulted in hot ram or bleed air being used to maintain pressurization. Such a measure can lead to cabin temperatures that exceed human tolerance. Therefore, the proposed special conditions would require airplane interior temperature limits following probable and improbable failures.

Continuous flow passenger oxygen equipment is certificated for use up to 40,000 feet; however, for rapid decompressions above 34,000 feet, reverse diffusion leads to low oxygen partial pressures in the lungs, to the extent that a small percentage of passengers may lose useful consciousness at 35,000 feet. The percentage increases to an estimated 60 percent at 40,000 feet, even with the use of the continuous flow system. Therefore, to prevent permanent physiological damage, the cabin altitude must not exceed 25,000 feet for more than 2 minutes, or 40,000 feet for any time period. The maximum peak cabin altitude of 40,000 feet is consistent with the standards established for previous certification programs. In addition, at high altitudes the other aspects of decompression sickness have a significant, detrimental effect on pilot performance (for example, a pilot can be incapacitated by internal expanding gases).

Decompression resulting in cabin altitudes above the 37,000-foot limit depicted in Figure 4 approaches the physiological limits of the average person; therefore, every effort must be made to provide the pilots with adequate oxygen equipment to withstand these severe decompressions. Reducing the time interval between pressurization failure and the time the pilots receive oxygen will provide a safety margin against being incapacitated and can be accomplished by the use of mask-mounted regulators. The proposed special condition, therefore, would require pressure demand masks with mask-mounted regulators for the flightcrew. This combination of equipment will provide the best practical protection for the failures covered by the special conditions and for improbable failures not covered by the special conditions, provided the cabin altitude is limited.

Conclusion

This action affects only certain unusual or novel design features on one model of airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Learjet Model 45 series airplanes:

Operation to 51,000 Feet

1. *Pressure Vessel Integrity.*

(a) The maximum extent of failure and pressure vessel opening that can be demonstrated to comply with paragraph 4 (Pressurization) of this special condition must be determined. It must be demonstrated by crack propagation and damage tolerance analysis supported by testing that a larger opening or a more severe failure than demonstrated will not occur in normal operations.

(b) Inspection schedules and procedures must be established to assure that cracks and normal fuselage leak rates will not deteriorate to the extent that an unsafe condition could exist during normal operation.

(c) With regard to the fuselage structural design for cabin pressure capability above 45,000 feet altitude, the pressure vessel structure, including doors and windows, must comply with § 25.365(d), using a factor of 1.67 instead of the 1.33 factor prescribed.

2. *Ventilation.* In lieu of the requirements of § 25.831(a), the ventilation system must be designed to provide a sufficient amount of uncontaminated air to enable the crewmembers to perform their duties without undue discomfort or fatigue, and to provide reasonable passenger comfort during normal operating conditions and also in the event of any probable failure of any system that could adversely affect the cabin ventilating air. For normal operations, crewmembers and passengers must be provided with at least 10 cubic feet of fresh air per minute per person, or the equivalent in filtered, recirculated air based on the volume and composition at the corresponding cabin pressure altitude of not more than 8,000 feet.

3. *Air Conditioning.* In addition to the requirements of § 25.831, paragraphs (b) through (e), the cabin cooling system must be designed to meet the following conditions during flight above 15,000 feet mean sea level (MSL):

(a) After any probable failure, the cabin temperature-time history may not exceed the values shown in Figure 1.

(b) After any improbable failure, the cabin temperature-time history may not exceed the values shown in Figure 2.

4. *Pressurization.* In addition to the requirements of § 25.841, the following apply:

(a) The pressurization system, which includes for this propose bleed air, air conditioning, and pressure control systems, must prevent the cabin altitude from exceeding the cabin altitude-time history shown in Figure 3 after each of the following:

(1) Any probable malfunction or failure of the pressurization system. The existence of undetected, latent

VOL 58 ISS 244 DE 22 1993 UMI

malfunctions or failures in conjunction with probable failures must be considered.

(2) Any single failure in the pressurization system, combined with the occurrence of a leak produced by a complete loss of a door seal element, or a fuselage leak through an opening having an effective area 2.0 times the effective area that produces the maximum permissible fuselage leak rate approved for normal operation, whichever produces a more severe leak.

(b) The cabin altitude-time history may not exceed that shown in Figure 4 after each of the following:

(1) The maximum pressure vessel opening resulting from an initially detectable crack propagating for a period encompassing four normal inspection intervals. Mid-panel cracks and cracks through skin-stringer and skin-frame combinations must be considered.

(2) The pressure vessel opening or duct failure resulting from probable damage (failure effect) while under maximum operating cabin pressure differential due to a tire burst, engine rotor burst, loss of antennas or stall warning vanes, or any probable equipment failure (bleed air, pressure control, air conditioning, electrical source(s), etc.) that affects pressurization.

(3) Complete loss of thrust from all engines.

(c) In showing compliance with paragraphs 4(a) and 4(b) of these special conditions (Pressurization), it may be assumed that an emergency descent is made by approved emergency procedure. A 17-second crew recognition and reaction time must be applied between cabin altitude warning and the initiation of an emergency descent.

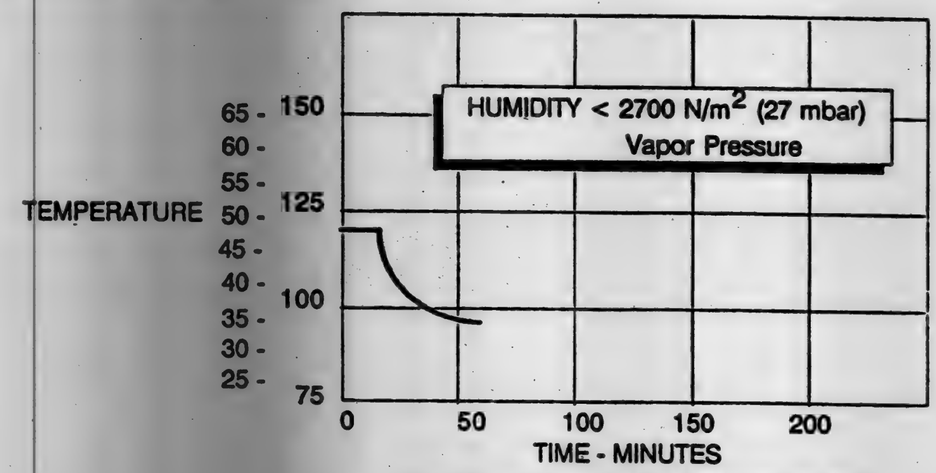
Note: For the flight evaluation of the rapid descent, the test article must have the cabin volume representative of what is expected to be normal, such that Cessna must reduce the total cabin volume by that which would be occupied by the furnishings and total number of people.

5. *Oxygen Equipment and Supply.*

(a) A continuous flow oxygen system must be provided for passengers.

(b) A quick-donning pressure demand mask with mask-mounted regulator must be provided for each pilot. Quick-donning from the stowed position must be demonstrated to show that the mask can be withdrawn from stowage and donned within 5 seconds.

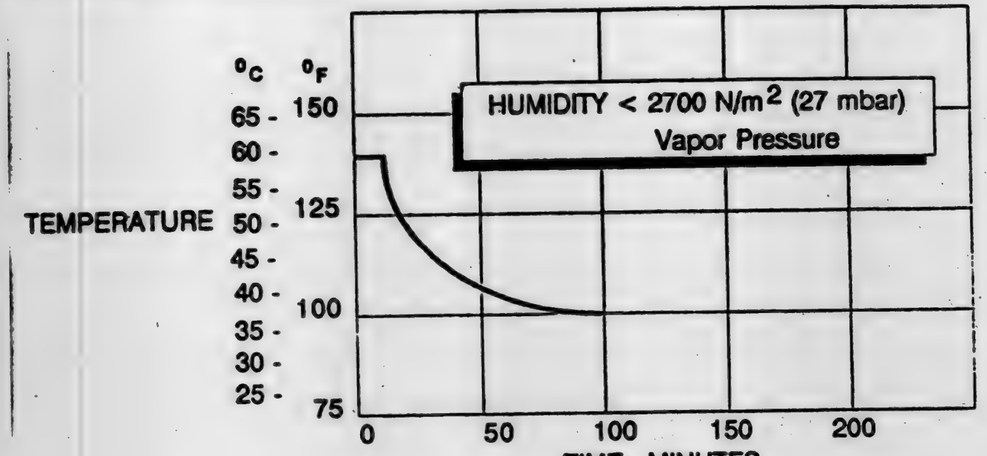
BILLING CODE 4910-13-M



TIME - TEMPERATURE RELATIONSHIP

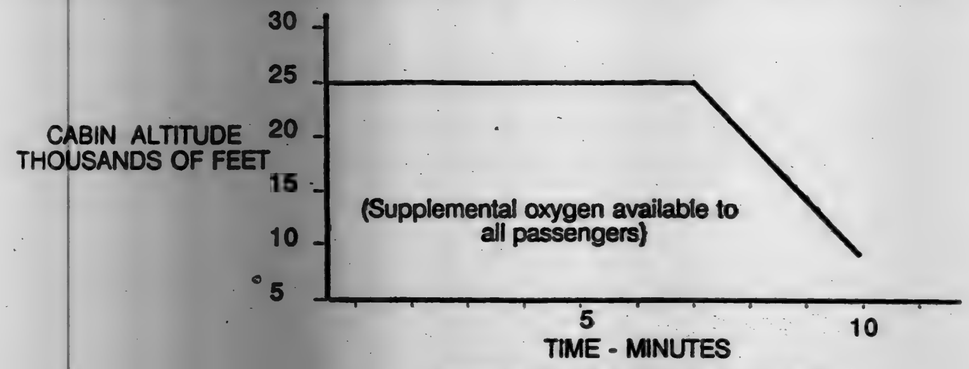
FIGURE 1

VOL 58 ISS 244 DE 22 1993 UMI



TIME - TEMPERATURE RELATIONSHIP

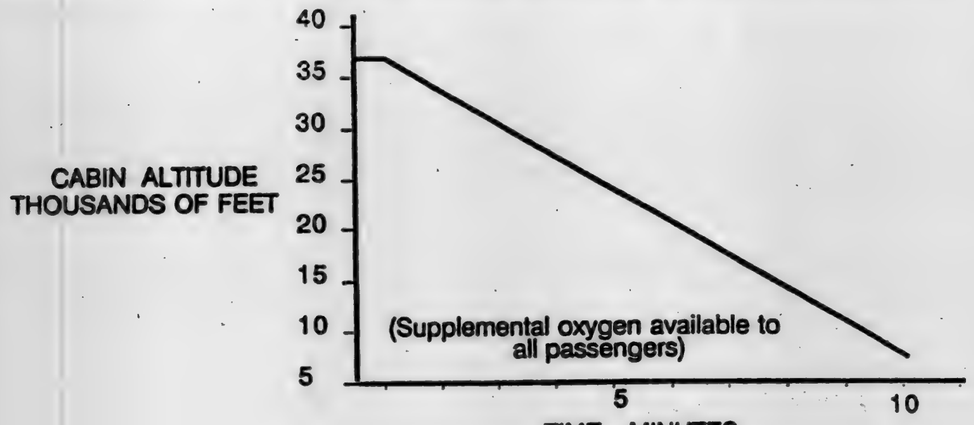
FIGURE 2



CABIN ALTITUDE - TIME HISTORY

FIGURE 3

NOTE: For figure 3, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization. If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following alternate limitations apply: After depressurization, the maximum cabin altitude exceedence is limited to 30,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is 2 minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.



CABIN ALTITUDE - TIME HISTORY

FIGURE 4

NOTE: For figure 4, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization. If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following alternate limitations apply: After depressurization, the maximum cabin altitude exceedence is limited to 40,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is 2 minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

BILLING CODE 4910-13-C

Issue in Renton, Washington, on December 14, 1993.

N.B. Martenson,
Acting Manager, Transport Airplane Directorate, ANM-100.

[FR Doc. 93-31243 Filed 12-21-93; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 93-NM-163-AD]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model DC-8 series airplanes, that currently requires the incorporation of specific maximum brake wear limits into the maintenance inspection program. That action was prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway due to worn brakes. The actions specified by that AD are intended to prevent loss of braking effectiveness during a high energy RTO. This action would require that a new part number be permanently marked on certain brakes when modified to meet the new brake wear limits.

DATES: Comments must be received by February 2, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-163-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-1771, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1-L5B. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM-131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5336; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-163-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-163-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On May 11, 1993, the FAA issued AD 93-09-10, Amendment 39-8576 (58 FR 29347, May 20, 1993), applicable to all McDonnell Douglas Model DC-8 airplanes, to require that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in that AD are not met. The AD also requires that new maximum brake wear limits be incorporated into the FAA-approved maintenance inspection program. That action was prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway due to worn brakes. The requirements of that AD are intended to prevent loss of braking effectiveness during a high energy RTO.

AD 93-09-10 contains a table which indicates that a maximum brake wear limit of 0.5 inch is to be applied to Bendix brakes having part number 2601412-1. However, if these same brakes are modified in accordance with McDonnell Douglas Service Bulletin 32-181, dated October 29, 1982, they then will be identified as part number 2601412-2 brakes, and may comply with an increased maximum wear limit of 0.75 inch. That particular McDonnell Douglas service bulletin referred to Allied-Signal Aerospace Company (Bendix Wheels and Brakes Division) Service Bulletin 2601412-32-001, Revision 1, dated August 28, 1982, for specific procedures for modifying the brakes and changing the part number. The procedures in the Allied-Signal service bulletin do not instruct operators to actually change the part number of the modified brakes, but instead recommend that operators conspicuously identify the brake assembly, such as with a color code marking, to indicate that it has been modified.

Upon further review, the FAA finds that this procedure for identifying the modified brake (color code marking) is unacceptable and may contribute to a potentially unsafe condition under certain circumstances. Because of the location of the color code marking on the modified brake assembly, and because the color code marking is not of a permanent quality, it has the tendency to wear off over time and with continued use of the brakes. This poses several problems:

1. If a future change is necessary to the modified brakes, it may not be possible to identify modified brakes accurately if the color code marking has worn off.

2. There is a possibility that modified brakes whose color code marking has worn off could be commingled with unmodified brakes.

3. Brakes that have not been modified may incorrectly be assumed to be modified brakes whose color code marking has worn off.

In the case of item 3, a potential unsafe condition could arise if the operator were to apply the incorrect increased brake wear limit of 0.75 inch to an unmodified brake, rather than the correct limit of 0.5 inch. This situation could adversely affect braking effectiveness during a high energy rejected takeoff.

VOL
58
ISS
2
44
DE
22
1993
UMI

The FAA has reviewed and approved McDonnell Douglas Service Bulletin 32–181, Revision 2, dated August 25, 1993, that describes a means to modify part number 2601412–1 brakes to part number 2601412–2 brakes, so that an increased maximum brake wear limit of 0.75 inch may be applied to the modified brake. This service bulletin references Allied-Signal Aerospace Company (Bendix Wheels and Brakes Division) Service Bulletin 2601412–32–001, Revision 3, dated July 14, 1993, for specific modification instructions. The Allied-Signal service bulletin contains instructions for permanently marking (re-identifying) the modified brake with the new part number ("2601412–2").

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 93–09–10. It would continue to require that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in the AD are not met, and that specific wear limits be incorporated into the FAA-approved maintenance inspection program. This proposal also would specify that brakes originally having part number 2601412–1 may be reidentified as part number 2601412–2 brakes (and thereby comply with an increased brake wear limit) if they are modified and permanently marked in accordance with the revised McDonnell Douglas service bulletin described previously. The only change to the existing AD would be a revision of the information that appears under the table of wear limits in paragraph (a); that information would now refer to the revised McDonnell Douglas service bulletin as the appropriate service document for modification procedures relevant to part number 2601412–1 brakes.

There are approximately 337 McDonnell Douglas Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 222 airplanes of U.S. registry were affected by AD 93–09–10, and would continue to be affected by this proposed supersedure of that AD. It takes approximately 80 work hours per airplane to accomplish the actions currently required by AD 93–09–10, and the average labor rate is $55 per work hour. (There are 8 brakes per airplane.) The cost of required parts to accomplish the change in wear limits for these airplanes (that is, the cost resulting from the requirement to change the brakes before they are worn to their previously approved limits for a one-time change) is approximately $5,600 per airplane. Based on these figures, the current cost impact of AD 93–09–10 on U.S. operators is estimated to be $2,220,000, or $10,000 per airplane.

The total cost figure indicated above is presented as if no operator has yet accomplished the requirements of AD 93–09–10 (or this proposed supersedure of that AD). However, because AD 93–09–10 was effective on June 21, 1993, and operators were given 180 days to comply with it, the FAA assumes that the majority of affected operators have already accomplished the requirements of that AD.

The only foreseeable additional costs that may be imposed by this proposed supersedure of AD 93–09–10 would be the cost of reidentifying (permanently marking) any modified brakes that were previously marked by a color code marking. The costs associated with that procedure are expected to be minimal.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8576 (58 FR 29347, May 20, 1993), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 93–NM–163–AD. Supersedes AD 93–09–10, Amendment 39–8576.

Applicability: All Model DC–8 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after June 21, 1993 (the effective date of AD 93–09–10, Amendment 39–8576), inspect the main landing gear brakes having the part numbers indicated below to determine wear. Any brake worn more than the maximum wear limit specified below must be replaced, prior to further flight, with a brake that is within this limit.

Douglas brake part No.	Bendix part No.	Maximum wear limit (inches)
5610206–5001	150787–1	0.7
	150787–2	0.7
5713612–5001	154882–1	0.7
	151882–2	0.7
5773335–5001	154252–1	0.5
5773335–5501	154252–2	0.5
5759262–5001	2601412–1	0.5
	*2601412–2	0.75

*Brakes having this part number include part number 2601412–1 brakes that have been modified and permanently marked in accordance with McDonnell Douglas Service Bulletin 32–181, Revision 2, dated August 25, 1993.

(b) Within 180 days after June 21, 1993, incorporate the maximum brake wear limits specified in paragraph (a) of this AD into the FAA-approved maintenance inspection program.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 16, 1993.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–31180 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 93–ANM–30]

Proposed Establishment of Class E Airspace; John Day, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at John Day, Oregon. This action is necessary to accommodate a new instrument approach procedure at John Day State Airport, John Day, Oregon. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," replacing it with the designation "Class E airspace." The area would be depicted on aeronautical charts to provide reference for pilots.

DATES: Comments must be received on or before January 29, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–30, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert Brown, ANM–535, Federal Aviation Administration, Docket No. 93–ANM–30, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–30." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at John Day, Oregon, to accommodate a new instrument approach procedure at John Day State Airport. The area would be depicted on aeronautical charts for pilot reference. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," and the airspace extending upward from 700 feet or more above the surface of the earth is now Class E airspace. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for the airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "Significant Regulatory Action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM OR E5 John Day, Oregon [New]

John Day State Airport
(Lat. 44°24'14" N, long. 118°57'49" W)

That airspace extending from 700 feet above the surface within a 4-mile radius of the John Day State Airport and within 2 miles either side of the 094° LORAN/RNAV initial approach course extending from the 4-mile radius to 14.5 miles west of the airport.

* * * * *

Issued in Seattle, Washington, on December 6, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 93–31246 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ANM–19]

Proposed Amendment to Class E Airspace; La Grande, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the La Grande, Oregon, Class E airspace. This action is necessary to accommodate a new instrument approach procedure at La Grande/Union County Airport, La Grande, Oregon. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," replacing it with the designation "Class E airspace." The area would be depicted on aeronautical charts to provide reference for pilots.

DATES: Comments must be received on or before January 29, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–19, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert Brown, ANM–535, Federal Aviation Administration, Docket No. 93–ANM–19, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Telephone (206) 227–2536.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–19." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at La Grande, Oregon, to accommodate a new instrument approach procedure at La Grande/Union County Airport. The area would be depicted on aeronautical charts for pilot reference. Airspace reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," and airspace extending upward from 700 feet or more above the surface of the earth is now Class E airspace. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "Significant Regulatory Action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM OR E5 La Grande, OR [Revised]

La Grande/Union County Airport, OR
(Lat. 45°17'21" N, long. 118°00'22" W)

That airspace extending upward from 700 feet above the surface bounded on the north by a line beginning at lat. 45°38'59" N, long. 118°02'04" W, extending eastwardly to lat. 45°37'00" N, long. 117°44'34" W, on the east by a line extending to lat. 45°15'29" N, long. 117°48'04" W, on the south by a line extending to lat. 45°17'29" N, long. 118°07'04" W, on the west by a line extending to the point of beginning and within a 4.3-mile radius of the La Grande/Union County Airport; and within 2 miles each side of the extended centerline of runway 16 at the La Grande/Union County Airport extending from the 4.3-mile radius to 13 miles north of the airport.

* * * * *

Issued in Seattle, Washington, on December 6, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 93–31244 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ASO–7]

Proposed Establishment of Class E Airspace; Louisburg, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Louisburg, North Carolina. A Standard Instrument Approach Procedure (SIAP) to the Franklin County Airport has been developed and controlled airspace from 700 feet to 1200 feet AGL is needed to contain IFR operations at the airport. The intended effect of this proposal is to provide adequate Class E airspace to contain IFR operations within controlled airspace. If approved, the operating status of the airport would change from VFR to include IFR operations concurrent with publication of the SIAP.

DATES: Comments must be received on or before: January 25, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 93–ASO–7, Manager, System Management Branch, ASO–530, P. O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 530, 1701 Columbia Avenue, College Park, Georgia 30337; telephone (404) 305–5200.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Patterson, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5590.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ASO–7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 530, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Louisburg, North Carolina. A SIAP based on the Raleigh-Durham Very High Frequency Omnidirectional Range (VOR) has been established to serve the Franklin County Airport. Controlled airspace extending from 700 feet to 1200 feet AGL is needed to contain IFR operations at the airport. The intended effect of this proposal is to provide adequate Class E airspace for IFR operators executing the VOR/DME–A SIAP at the Franklin County Airport. The coordinates for this airspace docket are based on North American Datum 83. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 effective September 16, 1993. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, in effect as of September 16, 1993, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

VOL
58
ISS
244
DE
22
1993
UMI

ASO NC E5 Louisburg, NC [New]

Franklin County Airport, NC
(Lat. 36°01'26" N, Long. 78°18'47" W)

That airspace extending upward from 700 feet above the surface within 6.5-mile radius of the Franklin County Airport.

* * * * *

Issued in College Park, Georgia, on December 3, 1993.

Walter E. Denley,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 93-31254 Filed 12-21-93; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 93-ASW-6]

Proposed Alteration of Jet Route J-50

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would alter the description of Jet Route J-50 between Lufkin, TX, and Alexandria, LA. There is a small bend between these two points and this action would realign that segment as a direct route. This action would save fuel.

DATES: Comments must be received on or before February 9, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW-500, Docket No. 93-ASW-6, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX 76193-0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93-ASW-6." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the description of Jet Route J-50 located in the vicinity of Lufkin, TX. Currently, there is a small bend in the route between Lufkin, TX, and Alexandria, LA, and this action would realign Jet Route J-50 as a direct route between these two points. This action would save fuel. Jet routes are published in paragraph 2004 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The jet route listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J-50 [Revised]

From Shafter, CA, via Paradise, CA; INT Paradise 093° and Blythe, CA, 262° radials; Blythe; INT Blythe 096° and Gila Bend, AZ, 312° radials; Gila Bend; Stanfield, AZ; San Simon, AZ; INT San Simon 105° and El Paso, TX, 275° radials; El Paso; INT El Paso 093° and Wink, TX, 266° radials; Wink; Abilene, TX; Waco, TX; Lufkin, TX; Alexandria, LA; McComb, MS, to Crestview, FL.

* * * * *

Issued in Washington, DC, on December 14, 1993.

Willis C. Nelson,

Acting-Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93-31255 Filed 12-21-93; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 229, 230, 240, 270, and 274

[Release Nos. 33-7037; 34-33356; IC-19957; S7-33-93]

RIN 3235-AA69

Amendments to Proxy Rules for Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rules and forms.

SUMMARY: The Securities and Exchange Commission (the "Commission") is proposing for public comment amendments to the proxy rules applicable to registered investment companies under the Investment Company Act of 1940 and the Securities Exchange Act of 1934 to revise the information required in investment company proxy statements. The proposed amendments are intended to improve the disclosure provided to investment company shareholders in proxy statements.

DATES: Comments must be received on or before March 18, 1994.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. All comment letters should refer to File No. S7-33-93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Kathleen K. Clarke, Special Counsel, or Kenneth J. Berman, Deputy Chief, Office of Disclosure and Adviser Regulation, Division of Investment Management, (202) 272-2107, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 10-6, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the "Commission") today is proposing for comment:

(1) An amendment to Schedule 14A (17 CFR 240.14a-101) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the "1934 Act") to add a new item 22 that would include the specific requirements applicable to the proxy statements of management investment companies ("funds") registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) (the "1940 Act"). Item 22 would replace rules 20a-2 (17 CFR 270.20a-2) and 20a-3 (17 CFR 270.20a-3) under the 1940 Act, which would be rescinded;

(2) Corresponding amendments to the general requirements for proxies in Regulation 14A (17 CFR 240.14a-1) under section 14(a) of the 1934 Act (15 U.S.C. 78n(a)), including, among other things, items 7, 8, and 10 of Schedule 14A and related requirements of Regulation S-K (17 CFR 229 *et seq.*), to clarify the requirements applicable to funds and to exempt funds from certain proxy disclosure requirements that are not relevant to funds;

(3) Amendments to Forms N-1A (17 CFR 274.11A), N-2 (17 CFR 274.11a-1), and N-3 (17 CFR 274.11b) to conform the compensation disclosure requirements of those forms to the proposed proxy statement requirements; and

(4) An amendment to Form N-14 (17 CFR 239.23), the registration statement form for the registration of securities issued by investment companies in business combination transactions, to require a comparative fee table in the disclosure documents delivered in connection with such transactions.

The proposed amendments would update the fund proxy rules to reflect current matters on which fund shareholders are commonly asked to vote, improve the disclosure provided to shareholders, and simplify the preparation of fund proxy statements.

Table of Contents

Executive Summary
I. Background
II. Discussion
  A. Item 22 of Schedule 14A: Reorganization of Disclosure Rules
  B. General Provisions: Item 22(a)
  C. Election of Directors
  D. Management Compensation
  E. Approval of Investment Advisory Contract
  F. Approval of Distribution Plan
  G. Additional Fund Disclosure Requirements
  H. Other Matters
  I. Form N-14
III. General Request for Comments
IV. Cost/Benefit of the Proposals
V. Summary of Initial Regulatory Flexibility Analysis
VI. Statutory Authority
VII. Text of Proposed Rule Amendments

Executive Summary

The Commission is proposing to revise the disclosure requirements for fund proxy statements to update the proxy disclosure requirements for funds and to simplify the preparation of fund proxies. The proposed amendments would consolidate into a new item 22 in Schedule 14A disclosure requirements previously set forth in rules 20a-2 and 20a-3. The provisions of rules 20a-2(a) and 20a-2(b), as proposed to be modified, would be incorporated in proposed item 22. Proposed item 22 would include:

(i) In paragraph (a), definitions applicable to item 22 and certain general requirements;

(ii) In paragraph (b), disclosure requirements applicable to solicitations in connection with the election of directors;

(iii) In paragraph (c), disclosure requirements applicable to solicitations in connection with approval of an investment advisory contract or an amendment thereto; and

(iv) In paragraph (d), disclosure requirements applicable to solicitations in connection with a distribution plan pursuant to rule 12b-1 under the 1940 Act (17 CFR 270.12b-1).

Item 22 would eliminate certain of the current disclosure requirements concerning matters that are not directly relevant to solicitations to elect directors or to approve an investment advisory contract. New provisions would be added to improve the disclosure provided to shareholders, including, among other things, a table showing compensation paid to all directors. Item 22 also would specify information required in fund proxy statements when a fund seeks approval of a distribution plan under rule 12b-1. Rule 20a-1 would be retained, with minor technical and conforming changes, to implement the Commission's authority with respect to proxies under section 20(a) of the 1940 Act; rules 20a-2 and 20a-3 would be rescinded.

The Commission also is proposing other amendments to the general proxy requirements in Regulation 14A and Schedule 14A, and related requirements in Regulation S-K to accommodate proposed item 22 and to make certain requirements more appropriate to disclosure for funds.

I. Background

The 1940 Act proxy rules, adopted in 1960 under section 20(a) of the 1940 Act

VOL 58 ISS 244 DEC 22 1993 UMI

[15 U.S.C. 80a–20(a)],[1] supplement the general proxy disclosure requirements in Regulation 14A under section 14(a) of the 1934 Act.[2] The fund-specific proxy disclosure rules address certain matters expressly required by the 1940 Act to be submitted for shareholder approval, including the approval of an investment advisory contract and the election of members of the board of directors.[3]

In the recent study of investment company regulation, Protecting Investors: A Half Century of Investment Company Regulation ("Protecting Investors Report"),[4] the Division of Investment Management recognized the continuing importance of board of director oversight of investment company affairs, especially the "watchdog" function performed by independent directors.[5] The Division also emphasized that shareholder voting continues to play a valuable role in fund regulation.[6] The information that must be sent to shareholders in connection with a vote serves to keep shareholders informed. In addition, the knowledge that shareholders must vote on matters, such as an increase in the investment adviser fee, operates as a deterrent to self-dealing. The proxy rules are designed to elicit disclosure that achieves these goals.

Consistent with the conclusions in the Protecting Investors Report, the Commission is proposing to update the proxy rules to reflect current matters on which fund shareholders are typically asked to vote and changes in the fund industry since the proxy rules were adopted in 1960.[7] The amendments are designed to improve the disclosure provided to shareholders in fund proxy statements by placing greater emphasis on information that is directly relevant to specific matters submitted to a shareholder vote and by eliminating disclosure that may not be pertinent to the matters being voted upon and which is, in most cases, available in other disclosure documents. The proposed amendments are part of the Commission's continuing efforts to assure that material information is provided to fund investors in a concise, comprehensible format that facilitates investor decision-making.[8]

II. Discussion

A. Item 22 of Schedule 14A: Reorganization of Disclosure Rules

Currently, funds preparing proxy statements must refer to several sets of rules relating to proxy statement disclosure, including Regulation 14A and Schedule 14A under the 1934 Act, Regulation S–K,[9] and rules 20a–2 and 20a–3 under the 1940 Act.[10] The proposed amendments would simplify the preparation of proxies by consolidating into a new item 22 to Schedule 14A disclosure requirements previously set forth in rules 20a–2 and 20a–3. In addition, the proposed new item would be applicable to information statements required to be distributed by funds pursuant to recently adopted amendments to the 1934 Act.[11]

The provisions of rules 20a–2(a) (17 CFR 270.20a–2(a)) and 20a–2(b) (17 CFR 270.20a–2(b)), as proposed to be modified, would be incorporated in proposed item 22. As discussed in more detail below, certain of these provisions would be deleted and new provisions would be added, including, among other things, a table showing compensation paid to all directors. In addition, item 22 would specify information required in fund proxy statements when a fund seeks approval of a distribution plan under rule 12b–1. Rule 20a–1 would be retained, with minor technical and conforming changes, to implement the Commission's authority with respect to proxies under section 20(a) of the 1940

[1] Investment Company Act Rel. No. 2978 (Feb. 26, 1960) (25 FR 1885 (Mar. 3, 1960)).

[2] Section 20(a) provides the Commission with the authority to adopt rules regulating the solicitation of proxies by funds. On the effective date of the 1940 Act, the Commission adopted rule 20a–1 (17 CFR 240.20a–1) (originally rule N–30A–1) which, among other things, required fund proxy statements to include, as appropriate, the information required to be disclosed in non-investment company proxy statements by the rules adopted under section 14(a) of the 1934 Act. Investment Company Act Rel. No. 9 (Nov. 1, 1940) (5 FR 4386 (Nov. 5, 1940)).

[3] Section 15(a) (15 U.S.C. 80a–15(a)) requires shareholder approval of the investment advisory contract, and section 16(a) (15 U.S.C. 80a–16(a)) sets forth the requirements for the election of directors. Shareholder approval also is required under section 13 of the 1940 Act (15 U.S.C. 80a–13) when a fund: (i) changes its classification as an open-end or closed-end company or changes from a diversified to a non-diversified company; (ii) borrows money, issues senior securities, underwrites securities issued by others, purchases or sells real estate or commodities, or makes loans to other persons, except as stated in the recital of policy set forth in the fund's registration statement; (iii) deviates from the concentration policy set forth in its registration statement; (iv) deviates from any investment policy that is changeable only by a shareholder vote or that is a fundamental policy under section 8(b)(3) (15 U.S.C. 80a–8(b)(3)); or (v) changes the nature of its business so as to cease being an investment company. Shareholders also are required to ratify the selection of public accountants if an annual meeting is held. Section 32(a)(2) (15 U.S.C. 80a–31(a)(2)). Matters for which shareholder approval is required under section 13 or section 32(a)(2) (other than the selection of accountants which is addressed by item 9 of Schedule 14A) are not subject to special proxy rules under the 1940 Act; rather, they are required to be described in substantially the same detail as those matters specifically referred to in Schedule 14A. Item 20 of Schedule 14A.

[4] Sec. Division of Investment Management, Protecting Investors: A Half Century of Investment Company Regulation, Corporate Governance 251–289 (May 1992).

[5] Protecting Investors Report at 253–254.

[6] *Id.*

[7] The Commission has, since 1960, adopted only one amendment to the 1940 Act proxy rules, amending rule 20a–2(a)(7) (17 CFR 270.20a–2(a)(7)) to require fund proxy statements to include specified information regarding the brokerage placement practices of investment advisers. Investment Company Act Rel. No. 10569 (Jan. 30, 1979) (44 FR 7899 (Feb. 7, 1979)). Other amendments have been proposed but not adopted. *See* Investment Company Act Rel. No. 3931 (Mar. 18, 1964) (29 FR 3777 (Mar. 26, 1964)) (proposed disclosure of certain adviser financial information and other information relating to underwriters and the principal underwriting contract); Investment Company Act Rel. No. 7087 (Mar. 31, 1972) (37 FR 6738 (Apr. 4, 1972)) (proposal to prohibit a fund from adjourning a shareholders' meeting if a properly constituted quorum was present). In a letter to the Director of the Division of Investment Management, dated July 1, 1988, the Investment Company Institute suggested revisions to the proxy rules applicable to funds to reflect the growth of, and changes in, the fund industry.

[8] See, e.g., Investment Company Act Rel. No. 19382 (Apr. 6, 1993) (58 FR 19050 (Apr. 12, 1993)) (adopting simplified financial highlights table and management's discussion of fund performance requirement for open-end funds); Investment Company Act Rel. No. 19342 (Mar. 5, 1993) (58 FR 1614 (Mar. 25, 1993)) (proposing to permit sales of mutual fund shares marketed directly to the public to proceed directly from off-the-page prospectuses); Investment Company Act Rel. No. 19115 (Nov. 20, 1992) (57 FR 56826 (Dec. 1, 1992)) (adopting fee table and simplified financial highlights table for closed-end fund prospectuses); Investment Company Act Rel. No. 16245 (Feb. 2, 1988) (53 FR 3868 (Feb. 10, 1988)) (adopting uniform formula for calculation of fund performance claims); Investment Company Act Rel. No. 16244 (Feb. 1, 1988) (53 FR 3192 (Feb. 4, 1988)) (adopting fee table for open-end fund prospectuses).

[9] Regulation S–K includes the generally applicable disclosure items for filings under, among other things, the 1934 Act.

[10] The other items in Schedule 14A would continue to be applicable, as appropriate, to fund proxy statements. Schedule 14A includes provisions governing the form and content of all proxy statements such as, among other things, information concerning the date, time, and place of the meeting of shareholders (item 1), amendments of the charter, by-laws or other corporate documents (item 19), and voting procedures (item 21).

[11] Amendments to section 14(c) of the 1934 Act (15 U.S.C. 78n(c)) were enacted in the Shareholder Communications Improvement Act of 1990 ("SCIA"). Pub. L. 101–550, 104 Stat. 2713. When proxies are not solicited in connection with a shareholder meeting, issuers of securities registered under section 12 of the 1934 Act (15 U.S.C. 781) are required by section 14(c) to transmit to shareholders information substantially similar to that contained in the proxy statement. These requirements are set forth in Regulation 14C (17 CFR 240.14c–1) and Schedule 14C thereto (17 CFR 240.14c–101). Schedule 14C refers to Schedule 14A for most of the requirements for information statements. Under the SCIA amendments, funds are now subject to the information statement requirement. Rules implementing the change were adopted by the Commission on January 3, 1992. Investment Company Act Rel. No. 18467 (Jan. 6, 1992) (57 FR 1098 (Jan. 10, 1992)).

Act;[12] rules 20a–2 and 20a–3 would be rescinded.

The proposed amendments would not modify the basic format of fund proxy statements. Item 22 would include a new requirement concerning the format for disclosure, however, when one proxy statement solicits shareholder votes for more than one fund or for multiple portfolios of series investment companies ("series funds").[13] While this manner of solicitation is more efficient and less costly, it may be confusing to shareholders. Therefore, the Commission is proposing that, when a fund proxy statement includes multiple proposals requiring the separate vote of shareholders of more than one fund or portfolio of a series fund, the fund includes a table at the beginning of the proxy statement summarizing each proposal and indicating which fund or series shareholders are being requested to approve each proposal.[14] This proposal would improve the proxy disclosure by allowing shareholders to direct their attention to proposals that are applicable to the fund or portfolio in which they invest. Comment is requested on other methods of clarifying the presentation of multiple proposals in fund proxy statements, such as requiring separate proxy statement "supplements" for each fund or portfolio describing the matters applicable to that fund or portfolio.[15]

B. General Provisions: Item 22(a)

As proposed, paragraph (a) of item 22 would provide the definition of terms used in item 22.[16] Item 22(a) also would include general proxy disclosure requirements, such as the name and address of the fund's investment adviser, principal underwriter, and administrator,[17] and would contain the filing fee requirements.[18] In addition, item 22(a) would require, as is currently required by rule 20a–2, disclosure of transactions by directors in the securities of the investment adviser or its parent(s) or subsidiaries in proxy solicitations involving the election of directors or approval of an investment advisory contract.[19] This disclosure provides information about potential conflicts of interests of directors.[20]

Item 22(a) would require fund proxy statements seeking approval of proposals that would increase fees or expenses to include a comparative fee table showing the amount of fees and expenses currently paid by fund shareholders and the amount of fees and expenses shareholders would have paid if the matter being voted on had been in effect.[21] The fee table is intended to assist shareholders in assessing the full effect of a proposed fee increase.[22]

The Commission is proposing to include in item 22(a) a requirement that a fund state in the proxy statement whether it intends to inform shareholders of the voting results in a periodic report or other document transmitted to shareholders.[23] Funds currently report voting results in Form N–SAR [17 CFR 274.101], the fund semi-annual report filed with the Commission; however, filings on Form N–SAR are not disseminated to shareholders.

C. Election of Directors

The 1940 Act and the Commission's rules assign important responsibilities to fund directors,[24] who are required to be elected by shareholders.[25] The

[12] The Commission is proposing minor technical amendments to rule 20a–1 to delete references to rules 20b–1 and 20a–3 and to add references to, among other things, Regulation 14A and Schedule 14A. In addition, the filing fee requirement in rule 20a–1(c) (17 CFR 270.20a–1(c)) would be moved to subparagraph (a)(2) of proposed item 22.

[13] A series fund is a fund comprised of two or more portfolios, each of which has a distinct investment objective with assets specifically allocated to that portfolio; investors' interests in such a fund are limited to those portfolios in which they invest. Each portfolio operates for many purposes like a separate fund although the portfolios are all part of the same business entity with one board of directors. Series funds are specifically permitted under section 18(f)(2) of the 1940 Act [15 U.S.C. 80a–18(f)(2)].

[14] Subparagraph (a)(3)(ii) of proposed item 22. To assure that shareholders are not confused in casting their vote, a separate proxy card is required for each fund or portfolio.

[15] See, e.g., Item 90S of Regulation S–K (17 CFR 229.902) (requiring separate disclosure supplements for each entity proposed to be included in certain "roll-up" transactions).

[16] The proposed definitions in subparagraph (a)(1) would include, among other things, certain definitions that currently appear in rule 6b–2 under the 1940 Act (17 CFR 270.6b–2) that were previously referred to in rule 20a–3(c) [17 CFR 270.20a–2(c)].

[17] Subparagraph (a)(3)(i) of proposed item 22. "Administrator" would be defined, as it is in Item 5(c) of Form N–1A, as any person or persons who provide significant administrative or business management services to the fund. Subparagraph (a)(1)(i) of proposed item 22.

[18] Subparagraph (a)(2) of proposed item 22. The filing fee would continue to be $125.

[19] Rule 20a–2(a)(6) [17 CFR 270.20a–2(a)(6)]. Subparagraph (a)(4) of proposed item 22.

[20] The proposed item would not require disclosure of information, as is currently required by rule 20a–2(a)(6), about securities transactions by officers of the fund (who generally are employees of the investment adviser) or officers, general partners, or parents of the investment adviser in the securities of the investment adviser. These transactions may not be relevant to proxy statements related to the election of directors or the approval of an investment advisory contract.

[21] Subparagraph (a)(3)(iii) of proposed item 22. This requirement would apply to proposals that would cause an increase in fees directly, such as a proposal to increase the investment advisory fee, or indirectly, such as a change of investment adviser that would result in an increase in other expenses. These fees could include administrative, custodial, or transfer agent fees. The proposed fee table would be required to be prepared in accordance with the applicable items of Form N–1A, in the case of a open-end fund, Form N–2, in the case of a closed-end fund, or Form N–3, in the case of investment companies that are separate accounts offering variable annuity contracts.

[22] A narrative description of the effect of the proposed fee, in lieu of the fee table, would be required where approval is sought only for a change in asset breakpoints that would not have increased the fee for previous years because the assets of the fund have not reached the breakpoint. Instruction 1 to subparagraph (a)(2)(iii) of proposed item 22.

[23] Subparagraph (a)(3)(iv) of proposed item 22.

[24] These responsibilities include, among other things: (i) evaluation and approval of the investment advisory contract (sections 15(a) and 15(c) [15 U.S.C. 80a–15(c)]), the principal underwriting contract (section 15(c)), and use of fund assets for the distribution of shares (rule 12b–1); (ii) selection of independent public accountants (section 32(a)(1) [15 U.S.C. 80a–31(a)(1)]); (iii) oversight of securities transactions with affiliates to the extent such transactions are permitted under various rules (section 10(f) [15 U.S.C. 80a–10(f)] and rule 10f–3 (17 CFR 270.10f–3), section 17(a) [15 U.S.C. 80a–17(a)] and rule 17a–7 (17 CFR 270.17a–7), and section 17(e) [15 U.S.C. 80a–17(e)] and rule 17e–1 (17 CFR 270.17e–1)); (iv) approval and oversight of certain portfolio security depositary arrangements (section 17(f) [15 U.S.C. 80a–17(f)] and rule 17f–4 (17 CFR 270.17f–4)); (v) approval of certain procedures relating to the calculation of the fund's net asset value (section 2(a)(41) [15 U.S.C. 80a–2(a)(41)], section 22(c) [15 U.S.C. 80a–22(c)] and rule 22c–1 (17 CFR 270.22c–1)); (vi) approval of size of repurchase offer and adoption of procedures regarding portfolio liquidity for repurchase offers by closed-end management investment companies (rule 23c–3 (17 CFR 270.23c–3)); and (vii) various determinations in connection with the establishment of a stable per share price and the portfolio management of a "money market" fund (rule 2a–7 (17 CFR 270.2a–7)). In addition, directors are subject to general standards of fiduciary duty to the fund and its shareholders under the 1940 Act (section 36(a) of the 1940 Act (15 U.S.C. 80a–35(a))) and under state law, see 3 Fletcher CYC Corp. § 838; Hanson Trust plc v. ML SCM Acquisition, Inc., 781 F.2d 264, 273 (2d Cir. 1986); Smith v. Van Gorkom, 488 A.2d 858, 872–73 (Del. 1985); see also Burks v. Lasker, 441 U.S. 471 (1979).

[25] Section 16(a). The 1940 Act does not require that shareholders annually elect directors. Section 16(a) generally provides that no person shall serve as a director of a fund unless elected by shareholders; however, it also provides that vacancies occurring between shareholder meetings may be filled in any otherwise legal manner, if, immediately after filling the vacancy, at least two-thirds of the directors have been elected by shareholders. If, at any time, less than a majority of a fund's directors have been elected by shareholders, section 16(a) requires the fund to convene promptly a shareholder meeting to fill any existing vacancies. Unless these provisions of the 1940 Act are applicable, the frequency of election of directors is governed by state law. John Nuveen & Co. Inc. (pub. avail. Nov. 18, 1986); Lutheran Brotherhood Money Market Fund, Inc. (pub. avail. Mar. 10, 1983).

For historical and other reasons, most funds are organized under the laws of Massachusetts or Maryland. The organizational and operational requirements of Massachusetts business trusts are not specified by statute, and a fund's essential structure is contained in the trust agreement, which generally includes a provision eliminating the need for annual shareholder meetings to elect directors. See generally Jones, Morse and Storey, The Massachusetts Business Trust and Registered

Continued

VOL 58 ISS 244 DEC 22 1993 UMI

Division of Investment Management examined the role of directors in the Protecting Investors Report and concluded that the oversight function performed by the board of directors, particularly independent directors, benefits investors.[26] In particular, the Protecting Investors Report emphasized the central role of directors under the 1940 Act in policing potential conflicts of interest between a fund and its investment adviser.[27]

The disclosure requirements for directors are designed to inform shareholders about a director's background, as well as associations that could affect the independence of directors. Thus, when funds solicit votes for the election of directors, the proxy statement must include disclosure under the 1940 Act proxy rules about the relationships and transactions between a director[28] and the fund's investment advisers,[29] in addition to the more general disclosure concerning directors called for by items 7 and 8 of Schedule 14A.[30] Item 22 would continue to include these requirements,[31] with proposed modifications as described below.

(1) Item 22(b) would require information concerning the director's relationships or transactions with fund administrators as well as investment advisers and underwriters. Such relationships may pose potential conflicts of interest of which fund shareholders should be aware.[32]

(2) Item 22(b) would require expanded disclosure of whether the director previously had a material interest in, or relationship with, the investment adviser, principal underwriter, administrator, or any of their respective affiliates.[33] Even if the director is no longer an "interested person,"[34] his or her prior relationships with fund affiliates may be material to a shareholder's assessment of the nominee's independence. The Commission requests comment on whether disclosure of past relationships should be limited to a specified period, *e.g.*, five or ten years, or a longer or shorter period.

(3) Item 22(b) would require a description of any non-routine litigation in which a director or an affiliated person is a party adverse to the fund or any of its affiliated persons.[35] This new item would replace item 7(a) of Schedule 14A with a requirement more specifically tailored to funds.

(4) The proposed amendments would not include detailed disclosure currently required regarding the investment adviser (for example, a certified balance sheet of the adviser),[36] the investment advisory contract,[37] and brokerage commission practices.[38] This information may not be directly relevant to the election of directors. Moreover, most of this information is available to shareholders in other fund disclosure documents.[39]

To simplify the preparation of fund proxies, the Commission is proposing to incorporate the director-specific information required by paragraphs (b) and (d) of item 7 of Schedule 14A into item 22.[40] Directors who are "interested persons" of the fund would continue to be identified with an asterisk and a description of the relationships, events or transactions that cause such persons to be "interested."[41]

Another proposed amendment would modify the requirement for a listing of all the other directorships of a director.[42] Directors frequently serve on many boards of funds in the same fund complex.[43] Under such circumstances, disclosure of this information results in long lists of directorships for related funds that may not provide shareholders with information about the qualifications and other competing responsibilities of a director. Funds would be required to state, if applicable, that a director serves on the board of other funds in the identified fund complex and to specify the number of the boards on which the director

Investment Companies, 13 Del. J. of Corp. L. 421 (1988). Maryland amended its corporate code in 1989 to permit fund charters or by-laws to provide that annual meetings are not required to be held in any year in which the election of directors is not required by the 1940 Act. Maryland Corporations Code § 2–501(b).

[26] Protecting Investors Report at 253. The Division recommended, however, some changes to improve the structure and responsibilities of fund boards of directors. To enhance board independence, the Division recommended amending section 10(a) of the 1940 Act (15 U.S.C. 80a–10) to require a majority of the directors be independent instead of, as is now required, at least 40%. Id. at 266. The Division also recommended eliminating requirements in 1940 Act rules that unnecessarily burden directors with consideration of operational matters in order to allow directors to devote their attention to important conflict of interest issues. *Id.* In accordance with this recommendation, the Commission recently adopted amendments that eliminate annual review requirements in rules 10f–3, 17a–7, 17e–1, 17f–4, and 22c–1 and require instead that directors make and approve changes only when necessary. Investment Company Act Rel. No. 19719 (Sept. 17, 1993) (58 FR 49919 (Sept. 24, 1993)).

[27] Protecting Investors Report at 255.

[28] The term director as used hereinafter includes nominees for director, or in the case of a Massachusetts business trust, trustees or nominees for trustee, unless the context otherwise requires.

[29] Rule 20a–2(a).

[30] Item 7 (by reference to Regulation S–K) requires information on, among other things, certain material legal proceedings adverse to the fund involving directors (instruction 4, item 103 of Regulation S–K (17 CFR 229.103)), the identity of directors and their business experience (item 401 of Regulation S–K), and certain relationships and related transactions (item 404 of Regulation S–K (17 CFR 229.404)). Under item 7(e), disclosure also is required concerning audit, nominating, and compensation committees of the board of directors. Item 8 requires information on director compensation (by reference to item 402 of Regulation S–K (17 CFR 229.402)).

[31] As under current rules, proposed item 22(b) would, among other things, require (i) disclosure of whether a director is an officer, employee, director, partner, or shareholder of the investment adviser (subparagraph (b)(1)); (ii) information concerning any material interest that the director has in the fund's principal underwriter or administrator (subparagraph (b)(2)); and (iii) information concerning material transactions between the director and the fund's investment adviser, administrator or distributor or any of their respective parents and subsidiaries (subparagraph (b)(3)).

[32] Subparagraph (b)(2) of proposed item 22.

[33] Subparagraphs (b)(1) and (2) of proposed item 22.

[34] Section 10 of the 1940 Act generally requires that at least 40% of a fund's board of directors consist of persons who are not "interested persons" (as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a–2(a)(19))) of the fund. Congress intended that the independent directors "supply an independent check on management and provide a means for the representation of shareholder interests in investment company affairs." S. Rep. No. 91–184, 91st Cong., 1st Sess. 32 (1969).

[35] Subparagraph (b)(5) of proposed item 22.

[36] Rules 20a–2(a) (1)–(4) and 20a–2(a)(9) (17 CFR 270.20a–2(a) (1)–(4) and (9)).

[37] Rule 20a–2(a)(6) (17 CFR 270.20a–2(a)(6)).

[38] Rule 20a–2(a)(7).

[39] Information concerning the investment advisory contract is set forth in a fund's prospectus. Forms N–1A (items 2 and 5), N–2 (items 3 and 9), and N–3 (items 3 and 6). Brokerage information is required in the fund's Statement of Additional Information ("SAI"), which is part of the two-part disclosure documents required to be furnished or made available to investors. Forms N–1A (item 17), N–2 (item 21), and N–3 (item 22).

[40] Subparagraph (b)(4) of proposed item 22. By its terms, the provisions of paragraph (c) of item 7 are not applicable to funds. Investment companies would continue to be subject to the general corporate governance disclosure requirements in paragraphs (e)–(g) of item 7. These requirements include the identification and composition of committees of the board (paragraph (e)), the number of meetings of the board (paragraph (f)), and disclosure of disagreements associated with the resignation of a director (paragraph (g)).

The disclosure required by proposed subparagraph (b)(4) also applies to officers of the fund as is currently required by paragraph (b) of item 7. Subparagraph (b)(4) would, however, limit the information required for separate accounts sponsored by insurance companies to that relating to executive officers of the sponsoring insurance company who are directly or indirectly engaged in activities relating to the separate accounts. Instruction 2 to subparagraph (b)(4) of proposed Item 22. This amendment would eliminate extended disclosure concerning officers of the sponsoring insurance company who are not involved in the administration of the separate account.

[41] Instruction 1 to paragraph (4) of proposed item 22(b).

[42] Item 7(b) requires this information by reference to Item 401(e) of Regulation S–K.

[43] Item 22 would include a definition of fund complex. See infra note 49 and accompanying text.

serves.[44] The Commission requests comment on whether other director disclosure requirements may be appropriate to assure that proxy statements provide useful information about directors to shareholders.

D. Management Compensation

Fund proxy statements are required to include information in proxy statements about the compensation of fund directors and officers in connection with the election of directors or proposals seeking shareholder approval of benefit plans in which directors or officers will participate. These requirements are now included in item 8 of Schedule 14A, which references Regulation S–K and fund registration statement forms.[45] The Commission is proposing amendments that would consolidate the disclosure requirements for management compensation paid by funds to directors and officers in paragraph (b) of item 22.[46] The proposed disclosure would reformat existing requirements and expand the information provided for directors, particularly in the case of directors who serve as such for more than one fund in a fund complex, as defined in item 22. These directors often receive substantial annual fees for their activities on a number of boards of funds sponsored by a single investment adviser or underwriter, although the amount paid by a single fund (and disclosed to shareholders) may not be particularly significant. In addition, many fund complexes have established retirement plans for their independent directors. The aggregate benefit package that a director receives as a result of his or her relationship to a fund complex could be material to a shareholder's assessment of the director's independence.

Currently, funds must disclose in proxy statements related to the election of directors or approval of benefit plans for directors compensation paid to directors under any standard arrangements. This disclosure also must include any other arrangements that will result in compensation to a director (such as consulting agreements). The required information about compensation is limited to compensation paid to the director by the fund soliciting the proxy statement. The Commission is proposing to revise this disclosure to require a compensation table setting forth for each director: (i) Aggregate compensation paid by the fund; (ii) the total compensation received from all funds in a fund complex on the boards of which the director serves; (iii) pension or retirement benefits accrued during the year; and (iv) estimated annual benefits upon retirement. In addition, item 22(b) would require a description of the material provisions of any pension or other benefit plan applicable to directors and other arrangements under which a director may be compensated.[47] The proposed format is intended to set forth director compensation more clearly, to provide better disclosure of benefits other than compensation received by a director, and, for directors who serve on the boards of more than one fund in a fund complex, to furnish more comprehensive information about the director's total compensation.[48]

Proposed item 22 would define fund complex as two or more funds that have a common investment adviser (or which have advisers that are affiliates) or, with respect to open-end funds, a common principal underwriter.[49] The Commission requests comment on whether this definition will serve to elicit relevant information about compensation paid to directors by related entities. For example, should the definition also include funds with common administrators?

The compensation disclosure required for fund officers would remain the same under the proposed amendments except for minor revisions. Because most funds are externally managed, fund executive officers generally do not have formal management roles and receive no compensation from the fund. As currently required, however, compensation received by the three highest paid executive officers having aggregate compensation from a fund exceeding $60,000 would have to be disclosed in the compensation table. To make the disclosure of management compensation uniform, the compensation disclosure required to appear in the SAI portion of a fund's registration statements would be amended to be consistent with item 22.[50] In addition, to alert prospective investors that this information, as well as information concerning the background of fund management, is available in the SAI, the Commission is proposing to amend fund registration statement forms to require that a statement to this effect appear in the prospectus.[51]

E. Approval of Investment Advisory Contract

Approval of the investment advisory contract is one of the express shareholder voting requirements in the 1940 Act.[52] Specific disclosure requirements for proxies solicited in connection with the approval of an investment advisory contract are currently included in rule 20a–2(b), and these requirements, as proposed to be modified, would be set forth in paragraph (c) of item 22. Proxy statements must include, among other things, information concerning the investment adviser,[53] the existing investment advisory contract, if any,[54] the circumstances, if applicable, of any action or termination or proposed termination of the existing investment

[44] Proposed instruction to item 401(e) of Regulation S–K. The modification would apply to documents and reports by all issuers (not only funds) that are required to provide the information about fund directorships called for by item 401(e). Information concerning service as a director of other companies, including companies registered under section 12 of the 1934 Act, would continue to be required.

[45] Item 8 of Schedule 14A (by reference to item 402(g) of Regulation S–K). Item 8 also incorporates for funds the management compensation disclosure requirements in fund registration statements forms. Forms N–1A (item 14), N–2 (item 18), and N–3 (item 20). Prior to recent revisions to the management compensation disclosure for operating companies, funds had been subject to the general compensation disclosure requirements of item 402. In the recent revisions, funds were excluded from amended item 402 and instead made subject to the registration statement form requirements. Securities Act Rel. No. 6962 (Oct. 16, 1992) (57 FR 48125 (Oct. 21, 1992)).

[46] Subparagraph (b)(6) of proposed item 22.

[47] Similar disclosure would be required with respect to plans affecting officer compensation. In addition, business development companies would disclose in proxies information concerning options granted to officers or directors that is currently required by item 402 of Regulation S–K.

[48] When a fund seeks shareholder approval of a benefit plan, funds also will be required to include the information required by item 10 of Schedule 14A as proposed to be modified to address specific fund issues.

[49] Subparagraph (a)(1)(vi) of proposed item 22.

[50] Forms N–1A (item 14), N–2 (item 18), and N–3 (item 20).

[51] Proposed amendments to Forms N–1A (item 5(a)), N–2 (item 9.1.d), and N–3 (item 6(a)). As is currently the case, however, fund registration statements also would require disclosure of the compensation received by certain affiliated persons and members of the fund's advisory board.

[52] Section 15(a).

[53] These requirements include: the name, address and principal occupation of the principal executive officer and each director or general partner of the adviser (rule 20a–2(b)(1) (17 CFR 270.20a–2(b)(1)) incorporating rule 20a–2(a)(2); proposed subparagraph (c)(2) of item 22); the names and addresses of all parents of the adviser and the basis for control (rule 20a–2(b)(1) incorporating rule 20a–2(a)(3); proposed subparagraph (c)(3) of item 22); the beneficial owners of 10% or more of the securities of the adviser (rule 20a–2(b)(1) incorporating rule 20a–2(a)(4); proposed subparagraph (c)(4) of item 22); and the identification of any director of the fund that is an officer, director, or has a material interest in the investment adviser (rule 20a–2(b)(1) incorporating rule 20a–2(a)(5) (17 CFR 270.20a–2(a)(5)); proposed subparagraph (c)(5) of item 22).

[54] Current rule 20a–2(b)(1) incorporating rule 20a–2(a)(1); proposed subparagraph (c)(1) of item 22.

VOL 58 ISS 244 DEC 22 1993 UMI

advisory contract,[55] and the nature of action to be taken on the advisory contract.[56] The Commission is proposing to modify certain of the disclosure requirements as described below.

(1) The requirement that, among other things, all general partners of the investment adviser be identified [57] would be limited to those general partners of the investment adviser receiving the five largest economic interests in the partnership or having significant management responsibilities.[58] Comment is requested on whether general partners that have significant management responsibilities relating to the fund also should be identified.

(2) A new item would be added to require a discussion of the material factors considered by the board in recommending that fund shareholders approve an investment advisory contract.[59] This disclosure would include a general discussion of the type of information considered by directors in fulfilling their responsibilities under section 15(c) of the 1940 Act to evaluate the terms of an investment advisory contract.[60] These factors may include, among other things, the qualifications of the investment adviser, the range of services provided by the investment adviser, and the financial condition of the adviser. Comment is requested on whether these or any other factors should be specifically required to be discussed.

(3) Under the current rules, funds must disclose the rate and amount of the advisory fee charged to each of any other funds advised by the investment adviser.[61] This requirement may result in a long list of funds and fees and may convey minimal useful information because different fees may reflect differences in fund size, investment policies, and other factors that are not disclosed in the proxy statement. Therefore, the Commission is proposing to require the disclosure of fees paid to the investment adviser by other funds, if any, with substantially similar investment objectives.[62] For example, the adviser of a fund that primarily invests in domestic equity securities would disclose the rate and amount of advisory fees for other funds it advises that primarily invest in domestic equity securities.

(4) Currently, funds must disclose extensive information concerning brokerage allocation and commissions.[63] This information is duplicative of disclosure required in other documents [64] and may not be directly relevant to evaluation of an investment advisory contract proposal. Therefore, the Commission is proposing amendments to require disclosure of only the amount and percentage of brokerage commissions paid to affiliates of the investment adviser.[65] Item 22 also would require similar compensation information for other entities affiliated with the investment adviser that provide services to the fund, such as transfer agents or custodians.[66]

(5) The Commission also is proposing to eliminate the requirement that a proxy statement seeking a shareholder vote on the advisory contract contain a certified balance sheet of the adviser.[67] This requirement is intended to permit shareholders to evaluate the financial capabilities of the investment adviser. The Commission believes that the evaluation of the financial condition of the adviser may be more appropriately the responsibility of the Board of Directors in formulating a recommendation to approve the advisory contract.[68] In lieu of the balance sheet, item 22 would require that funds disclose in their proxy statements any financial condition of the adviser that is reasonably likely to impair the financial ability of the adviser to fulfill its commitment to the fund under the proposed advisory contract.[69] This requirement is consistent with the existing requirement that an adviser to a fund must disclose to the fund any financial condition that is reasonably likely to impair its ability to fulfill its contractual commitments.[70]

Approval of Distribution Plan

Rule 12b–1 under the 1940 Act permits the use of fund assets to finance the distribution of shares under certain conditions, one of which is shareholder approval of a distribution plan ("Rule 12b–1 Plan") and amendments to a Rule 12b–1 Plan that would materially increase the amount spent for distribution.[71] There are currently no express proxy statement disclosure requirements regarding the submission of a Rule 12b–1 Plan for shareholder approval. Because of the importance of such a shareholder vote, the Commission is proposing to amend the proxy rules to address consideration of a Rule 12b–1 Plan and plan amendments. These proposed requirements reflect, in many respects, disclosure currently made in proxy statements.

Paragraph (d) of proposed item 22 would set forth the disclosure requirements for fund proxy statements that solicit shareholder approval of Rule 12b–1 Plans (or amendments).[72] Item 22(d) would require a description of the proposed action and the reasons shareholders are being requested to vote on adoption (or amendment) of a Rule 12b–1 Plan.[73] In addition, when the

[55] These requirements are included in rules 20a–2(a)(6) and (10) (17 CFR 270.20a–2(a)(10)) (incorporated by 20a–2(b)(1)) and would be included in subparagraph (c)(1) of proposed item 22.

[56] Current rule 20a–2(b)(2) (17 CFR 270.20a–2(b)(2)); proposed subparagraph (c)(9) of item 22. If a change in the investment advisory fee is sought, additional disclosure concerning the current and proposed fee is proposed. Subparagraph (c)(9) of proposed item 22 would require disclosure of the aggregate amount of the investment adviser's fee for the last year, the amount the adviser would have received had the proposed fee been in effect, and the percentage amount of the proposed increase.

[57] Rule 20a–2(b)(2) incorporating rule 20a–2(a)(2).

[58] Subparagraph (c)(2) of proposed item 22.

[59] Subparagraph (c)(11) of proposed item 22.

[60] Section 15(c) requires fund directors to request and to assess such information as may be necessary to evaluate the terms of an investment advisory contract.

[61] Rule 20a–2(b)(4) (17 CFR 270.20a–2(b)(4)).

[62] Subparagraph (c)(10) of proposed item 22.

[63] Rule 20a–2(a)(7).

[64] See supra note 30 and accompanying text.

[65] Subparagraph (c)(13) of proposed item 22. A discussion of soft dollar arrangements benefitting the investment adviser would be required in the proposed discussion of material factors considered by the board of directors in approving the investment advisory contract in item 22(c)(11).

[66] Subparagraph (c)(14) of proposed item 22.

[67] Rule 20a–2(b)(1) incorporating rule 20a–2(a)(9). As discussed in section II.C., supra, the balance sheet also would not be required in connection with the election of directors because it is not directly relevant to a shareholder vote on directors.

[68] Moreover, funds have encountered difficulties in coordinating the preparation of the adviser's certified balance sheet with the printing of the proxy statements. See Dreyfus Connecticut Municipal Money Market Fund (pub. avail. Dec. 5, 1990).

[69] Subparagraph (c)(7) of proposed item 22.

[70] Rule 206(4)–4(a)(1) [17 CFR 275.206(4)–4(a)(1)] under the Investment Advisers Act of 1940 [15 U.S.C. 80b–1 *et seq.*].

[71] The Commission adopted rule 12b–1 in 1980. Investment Company Act Rel. No. 11414 (Oct. 28, 1980) (45 FR 73898 (Nov. 7, 1980)).

[72] A number of funds have obtained exemptive orders permitting the issuance of more than one class of securities, with each class subject to a different distribution arrangement, but representing interests in the same portfolio of investments. The Commission recently issued a release proposing rule and form amendments that would permit funds to issue multiple classes of securities, which would obviate the need for funds to apply for exemptions. Investment Company Act Rel. No. 19058 (Dec. 16, 1993). Proposed amendments to rule 12b–1 would, consistent with the exemptive orders for multiple class funds, require Rule 12b–1 Plans to have severable provisions for each class, and for any action on a Rule 12b–1 Plan to be taken separately for each class. An instruction to item 22(d) would require a multiple class fund to furnish information (including the comparative fee table) in proxy statements on a class rather than fund basis in order to provide class shareholders with material information concerning the distribution arrangements applicable to them. The proposed instruction also would require a discussion of the differences among classes and the distribution fee, if any, paid by each class.

[73] Subparagraph (d)(1) of proposed item 22.

effect of the action would be to increase fund expenses, item 22(a) would require inclusion of a comparative fee table showing the level of fees before and after adoption of the recommended Rule 12b–1 Plan.[74]

If the fund has been operating under a Rule 12b–1 Plan, proposed item 22(d) would require disclosure of material differences between the proposed and current Rule 12b–1 Plan. In addition, item 22(d) would require disclosure about distribution expenses under the plan paid by the fund during the last fiscal year to the fund's investment adviser, principal underwriter, administrator, or any of their affiliated persons, and to persons receiving 10% or more of the fund's aggregate distribution fees.[75] Finally, item 22(d) would require disclosure about the factors the board of directors considered in recommending adoption of (or amendment to) the Rule 12b–1 Plan.[76]

G. Additional Fund Disclosure Requirements

The Commission requests comment on whether the proxy rules should contain other specific fund-related disclosure requirements. For example, funds must seek shareholder approval of a new investment advisory contract in the event of a change of control of the investment adviser.[77] The proxy statement seeking approval of the new investment advisory contract must describe material aspects of the transaction and its effect on fund shareholders. The Commission requests comment on whether specific proxy disclosure requirements may be needed for proxy statements relating to change-in-control transactions.

The Commission also requests comment on whether special disclosure requirements should be required for other types of corporate reorganizations, such as fund mergers. For example, should there be greater disclosure concerning the bases on which the merging funds' boards of directors determined that the transaction is in the best interests of the funds? Should there be more specific disclosure on how the expenses of the transaction are allocated among the funds and the investment adviser, particularly where the fund merger follows or relates to the merger of two investment advisers.[78]

H. Other Matters

Rule 14a–3(b) (17 CFR 240.14a–3(b)) under the 1934 Act requires that, when directors are to be elected at an annual or special meeting, funds furnish each person solicited with a proxy statement that is accompanied or preceded by an annual report to shareholders. Rule 30d–1 (17 CFR 270.30d–1) requires an annual report to be transmitted to shareholders 60 days after the end of a fund's fiscal year. For various reasons, fund shareholder meetings may not coincide with the mailing of the annual shareholder report. Where the annual report has been previously transmitted, questions arise concerning whether rule 14a–3(b) requires funds to remail the annual report to shareholders entitled to vote at the meeting or to mail the annual report to new shareholders who may not have received an annual report mailed earlier in the year.[79] A second mailing of the annual report, whether to new shareholders or all shareholders, may result in considerable expense for the fund. In addition, issues may arise concerning whether the annual report is current when several months have passed since transmittal of the annual report or the fund has issued a semi-annual report in the interim between the transmittal of the annual report and the shareholder meeting.

To clarify the annual report delivery requirements for funds, the Commission is proposing to set forth the conditions under which a fund's annual report previously transmitted to shareholders would satisfy the requirements of rule 14a–3. As proposed, any annual report delivered to shareholders two months before the date of the proxy statement would satisfy the delivery requirements of rule 14a–3(b). In the case of an annual report delivered more than two months before the date of a proxy statement, a proposed note to rule 14a–3(b) would state that an annual report previously transmitted to shareholders would satisfy the annual report delivery requirement under certain conditions. The proposed conditions include: (i) The fund mails the proxy statement at least 30 days prior to the meeting; (ii) the proxy statement includes a prominent statement that the most recent annual report and any subsequent semi-annual report will be delivered to shareholders, upon written or oral request, without charge; and (iii) if requested by a shareholder, the annual report and, if available, the semi-annual report is transmitted within two business days of the request.[80] The Commission requests comment on whether the two-month period for the previous delivery of an annual report without a legend is sufficient or should be shorter or longer. In addition, the Commission requests comment on other methods of satisfying the rule 14a–3(b) annual report requirement that could ensure appropriate disclosure to shareholders while avoiding unnecessary expense. Commenters are specifically requested to address whether, and under what conditions, it may be appropriate to eliminate the proxy annual report requirement for funds in light of the reports required to be transmitted to shareholders semi-annually under rule 30d–1.

The Commission also proposes to amend Rule 14a–3(e)(2) (17 CFR 240.14a–3(e)(2)), which relieves registrants of the obligation to deliver proxy and other soliciting materials to shareholders whose dividend payments are returned as undeliverable. Because many fund shareholders choose to have their dividends reinvested in additional

[74] Subparagraph (a)(3)(iii) of proposed item 22.

[75] Subparagraph (d)(2)(iv) of proposed item 22.

[76] Subparagraph (d)(4) of proposed item 22.

[77] A change of control causes an assignment of the investment advisory contract, which results, under section 15(a)(4) of the 1940 Act (15 U.S.C. 80a–15(a)(4)), in an automatic termination of the contract. In such event, the fund will be required to seek shareholder approval of a new investment advisory contract. Rule 15a–4 (17 CFR 270.15a–4) provides a temporary exception from the shareholder approval requirement, but it is only available for unforeseeable assignments of an investment advisory contract. Rule 15a–4 specifically does not apply to an assignment when the investment adviser receives money or other benefit. Section 15(f) of the 1940 Act (15 U.S.C. 80a–15(f)) provides protection against the occurrence of fiduciary liability for the sale of an investment adviser if certain conditions to safeguard fund shareholders are met. Specifically, section 15(f) requires that (i) for at least three years after the acquisition, at least 75% of the board of directors of the acquired fund must consist of persons who are not "interested persons" of the investment adviser, and (ii) no unfair burden is imposed on the fund as a result of the acquisition.

[78] The surviving investment adviser will often combine funds that have similar investment objectives to achieve greater economies of scale or to avoid offering competing funds.

[79] The Division has granted no-action relief concerning the rule 14a–3 annual report requirement under certain "compelling circumstances" when a shareholder meeting is held after the end of a fund's latest fiscal year but before the annual report is available. Dean Witter American Value Fund (pub. avail. Nov. 16, 1992). The no-action relief required compliance with certain conditions to assure adequate disclosure to shareholders including that: (i) the fund's latest annual and semi-annual report accompany or precede the proxy statement; (ii) the fund's proxy statement include a statement from the board of directors that no material adverse change in the financial operations of the fund have occurred since the date of the fund's most recent semi-annual report; and (iii) the fund's proxy statement states that proxies will not be voted for the election of directors unless the fund receives a certificate that there has been no material adverse change in the financial conditions of the fund on the date of the vote or the fund mails an annual report to shareholders and gives them an opportunity to revoke their proxies. See also Dreyfus Connecticut Municipal Money Market Fund and Dreyfus Michigan Municipal Money Market Fund (pub. avail. Dec. 5, 1990).

[80] The same amendments are proposed for rule 14c–3 (17 CFR 240.14c–3), which requires an annual report to accompany an information statement concerning the election of directors.

VOL 58 ISS 244 DEC 22 1993 UMI

shares and, thus, receive only dividend reinvestment confirmations, the Commission is proposing to amend this provision to refer also to undeliverable dividend reinvestment confirmations.[51]

Item 3 of Schedule 14A requires a description of appraisal or similar rights under state law applicable to any matter being acted upon (i.e., mergers and other fundamental corporate transactions).[52] These state laws are superseded by the 1940 Act,[53] which requires open-end funds to redeem their securities at net asset value.[54] Therefore, the Commission proposes to amend Item 3 to make it expressly inapplicable to open-end funds.[55] Closed-end funds (including closed-end funds that make periodic repurchases of their shares under rule 23c-3 of the 1940 Act (17 CFR 270.23c-3), which do not issue redeemable securities, would continue to be subject to Item 3.

I. Form N-14

Form N-14 is used by funds to register securities issued in connection with investment company merger transactions.[56] In addition, Form N-14 may serve as the proxy or information statement for such transactions. The Commission is proposing to amend Form N-14 to require disclosure in a table of the fees of the acquiring and acquired fund and pro forma fees for the combined entity.[57] This information will enable shareholders to assess how the proposed transaction would affect fees. The proposed amendment to Form N-14 is comparable to the fee table proposed to be included in proxy statements when a matter submitted to a shareholder vote would result in an increase in fees.[58]

[51] The Commission also is proposing amendments to clarify these provisions of rule 14a-3 that are applicable to funds. Currently, subparagraph (12) of rule 14a-3(b) relieves investment companies from the obligations of certain of the other provisions that appear earlier in the rule. The amendments would clarify the provisions applicable to funds by providing for the exceptions in the introductory language of paragraph (b).

[52] Most state laws allow minority shareholders that vote against such transactions to demand a judicial appraisal of the fair value of their shares. E.g., 8 Del. Code § 262; N.Y. Bus. Corp. Law § 623.

[53] Investment Company Act Rel. No. 8732 (Apr. 10, 1975) [40 FR 17986 (Apr. 24, 1975)].

[54] Mutual funds issue redeemable securities. Under the provisions of the 1940 Act, shareholders of mutual funds are entitled to receive the net asset value of their securities within seven days of demand. See section 5(a)(1) (15 U.S.C. 80a-5(a)(1) (defining mutual funds as those funds that issue redeemable securities), section 2(a)(32) (15 U.S.C. 80a-2(a)(32)) (defining redeemable securities as securities entitling the holder to receive, upon demand, approximately the proportionate value of the issuer's current net assets or the cash equivalent thereof), section 22(e) (15 U.S.C. 80a-22(e)) (providing that, with certain limited exceptions, no fund shall suspend the right of redemption for more than seven days after the tender of securities for redemption), and rule 22c-1 (17 CFR 270.22c-1) (providing that redeemable securities must be redeemed at a price based on the current net asset value computed immediately after tender of the security for redemption).

[55] Proposed instruction 2 to item 3 of Schedule 14A.

[56] See Investment Company Act Rel. No. 14795 (Nov. 14, 1985) [50 FR 46379 (Nov. 25, 1985)].

[57] Proposed paragraph (e) of item 3 of Form N-14.

[58] See section II.B, supra.

II. Investment Company Act Rel. No. 8732 (Apr. 10, 1975) [40 FR 17986 (Apr. 24, 1975)].

Most state laws allow minority shareholders that vote against such transactions to demand a judicial appraisal of the fair value of their shares. E.g., 8 Del. Code § 262; N.Y. Bus. Corp. Law § 623.

Investment Company Act Rel. No. 8732 (Apr. 10, 1975) [40 FR 17986 (Apr. 24, 1975)].

Mutual funds issue redeemable securities. Under the provisions of the 1940 Act, shareholders of mutual funds are entitled to receive the net asset value of their securities within seven days of demand. See section 5(a)(1) (15 U.S.C. 80a-5(a)(1) (defining mutual funds as those funds that issue redeemable securities), section 2(a)(32) (15 U.S.C. 80a-2(a)(32)) (defining redeemable securities as securities entitling the holder to receive, upon demand, approximately the proportionate value of the issuer's current net assets or the cash equivalent thereof), section 22(e) (15 U.S.C. 80a-22(e)) (providing that, with certain limited exceptions, no fund shall suspend the right of redemption for more than seven days after the tender of securities for redemption), and rule 22c-1 (17 CFR 270.22c-1) (providing that redeemable securities must be redeemed at a price based on the current net asset value computed immediately after tender of the security for redemption).

Proposed instruction 2 to item 3 of Schedule 14A.

See Investment Company Act Rel. No. 14795 (Nov. 14, 1985) [50 FR 46379 (Nov. 25, 1985)].

Proposed paragraph (e) of item 3 of Form N-14.

See section II.B, supra.

III. General Request for Comments

Any interested persons wishing to submit written comments on the proposed rule changes that are the subject of this Release, to suggest additional changes (including changes to provisions of the rules that the Commission is not proposing to amend), or to submit comments on other matters that might affect the proposed rules and amendments, are requested to do so. Commenters suggesting alternative approaches are encouraged to submit proposed rule text.

IV. Cost/Benefit of the Proposals

To assist in the evaluation of the costs and benefits that may result from the proposed amendments to the financial statement requirements for funds, the Commission requests that commenters provide views and data relating to any costs and benefits associated with these proposals. The proposed amendments to the proxy rules applicable to funds are not expected to impose additional burdens on funds because the amendments eliminate disclosure that may not be relevant to shareholders, while adding other requirements that enhance the information provided to shareholders. In addition, the proposed amendments would provide more useful and comprehensive information to fund shareholders.

V. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an initial regulatory flexibility analysis in accordance with 5 U.S.C. 603 regarding the proposed amendments. The analysis notes that the rule proposals contained in this release are intended to provide more current, concise, and comprehensible information in fund proxy statements while simplifying the preparation of proxy statements. Other aggregate cost-benefit information reflected in the "Cost/Benefit Analysis" section of this release also is reflected in this analysis. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Kathleen K. Clarke, Office of Disclosure and Adviser Regulation, 450 5th Street NW., Washington, DC 20549.

VI. Statutory Authority

The Commission is proposing to amend the proxy rules under 1934 Act sections 14 (15 U.S.C. 78n) and 23(a) (15 U.S.C. 78(w)) and 1940 Act sections 20(a) and 38(a) (15 U.S.C. 30(a)). The authority citations for the amendments to the rules precede the text of the amendments.

VII. Text of Proposed Rule Amendments

List of Subjects in 17 CFR Parts 200, 229, 239, 240, 270 and 274

Authority Delegation (Government agencies), Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Commission is proposing to amend title 17, chapter II of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for part 200 is amended by adding the following citation:

Authority: 15 U.S.C. 77s, 78d-1, 78d-2, 78w, 78*ll*(d), 79t, 77sss, 80b-37, 80b-11, unless otherwise noted.

* * * * *

Section 200.30-5 also is issued under 15 U.S.C. 77f, 77g, 77h, 77j, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a-8, 80a-20, 80a-24, 80a-29, 80b-3, 80b-4.

§ 200.30-5 [Amended]

2. The authority citation following § 200.30-5 is removed.

3. By amending § 200.30-5 to remove and to reserve paragraph (a)(5).

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S-K

4. The authority citation for part 229 continues to read, in part, as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79e, 79n, 79t, 80a-8, 80a-29, 80a-30, 80a-37, 80b-11, unless otherwise noted.

* * * * *

§ 229.401 [Amended]

5. The authority citation following § 229.401 is removed.

6. By amending § 229.401 to add an instruction following paragraph (e) to read as follows:

§ 229.401 (Item 401) Directors, executive officers, promoters and control persons.

* * * * *

(e) * * *

Instruction to Paragraph (e) of Item 401

For the purposes of paragraph (e)(2), where the other directorships of each director or person nominated or chosen to become a director include directorships of two or more registered investment companies that are part of a "fund complex" as that term is defined in Item 22(a)(1)(v) of Schedule 14A under the Exchange Act (§ 240.14a-101 of this chapter), the registrant may, rather than listing each such investment company, identify the fund complex and provide the number of investment company directorships held by the director or nominee in such fund complex.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

7. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a-8, 80a-29, 80a-30 and 80a-37, unless otherwise noted.

* * * * *

8. By amending Item 3 of Form N-14 (§ 239.23) to revise the title, to redesignate paragraphs (a) and (b) as paragraphs (b) and (c), to add paragraph (a), and to revise the third sentence of newly redesignated paragraph (b) to read as follows:

Note: The text of Form N-14 does not and the amendments will not appear in the Code of Federal Regulations.

Form N-14

Item 3. Fee Table, Synopsis Information, and Risk Factors

(a) Include a table showing the current fees for the registrant and the company being acquired and pro forma fees, if different, for the registrant after giving effect to the transaction using the format prescribed in the appropriate registration statement form under the 1940 Act (for open-end management investment companies, Item 2(a)(i) of Form N-1A; for closed-end management investment companies, Item 3.1 of Form N-2; and for separate accounts that offer variable annuity contracts, Item 3(a) of Form N-3).

(b) * * * As to the registrant and company being acquired, compare: (1) investment objectives and policies; (2) distribution and purchase procedures and exchange rights; (3) redemption procedures; and (4) any other significant considerations.* * *

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

9. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

10. By amending § 240.14a-3 to revise the introductory text of paragraph (b), to designate the note after the introductory text of paragraph (b) as Note 2: and revise the title, to add Note 1: after the introductory text of paragraph (b), to remove and reserve paragraph (b)(12), and to revise paragraph (e)(2) to read as follows:

§ 240.14a-3 Information to be furnished to security holders.

* * * * *

(b) If the solicitation is made on behalf of the registrant and relates to an annual (or special meeting in lieu of annual) meeting of security holders, or written consent in lieu of such meeting, at which directors are to be elected, each proxy statement furnished pursuant to paragraph (a) of this section shall be accompanied or preceded by an annual report to security holders as follows (except that paragraphs (b)(5) through (b)(11) of this section shall not apply to investment companies registered under the Investment Company Act of 1940):

Note 1: *Registered Investment Companies.* An annual report transmitted to shareholders by a registered investment company pursuant to Rule 30d-1 of the Investment Company Act of 1940 (§ 270.30d-1 of this chapter) no more than 60 days before the date of the proxy statement will satisfy the requirement that an annual report accompany or precede the proxy statement. Where a proxy statement is transmitted more than 60 days after transmission of the annual report, the annual report delivery requirement of paragraph (b) will be satisfied if the investment company: (1) Mails the proxy statement to shareholders no later than 30 days prior to the shareholder vote; (2) states prominently in the proxy statement that it will furnish, without charge, a copy of the annual report and the most recent semi-annual report succeeding the annual report, if any, upon request, providing the name, address, and toll-free telephone number of the person to whom such request shall be directed (or, if no toll-free telephone number is provided, a self-addressed postage paid card for requesting the annual report); and (3) provides a copy of the annual report and the most recent semi-annual report succeeding the annual report, if any, to the requesting shareholder by first class mail, or other means designed to assure prompt delivery, within two business days of the request.

Note 2: *Small Business Issuers.* * * *

* * * * *

(12) [Reserved]

* * * * *

(e) * * *

(1) * * *

(2) Unless state law requires otherwise, a registrant is not required to send an annual report or proxy statement to a security holder if:

(i) an annual report and a proxy statement for two consecutive annual meetings; or

(ii) all, and at least two, payments (if sent by first class mail) of dividends or interest on securities, or dividend reinvestment confirmations, during a twelve month period,

have been mailed to such security holder's address and have been returned as undeliverable. If any such security holder delivers or causes to be delivered to the registrant written notice setting forth his then current address for security holder communications purposes, the registrant's obligation to deliver an annual report or a proxy statement under this section is reinstated.

11. By amending § 240.14a-6 to revise the introductory text of paragraph (i) to read as follows:

§ 240.14a-6 Filing requirements.

* * * * *

(i) *Fees.* At the time of filing the proxy solicitation material, the persons upon whose behalf the solicitation is made, other than companies registered under the Investment Company Act of 1940, which shall refer to Item 22(a)(2) of Schedule 14A, shall pay to the Commission the following applicable fee:

* * * * *

12. By amending § 240.14a-101 to add an "s" at the end of the word "Instruction" in Item 3, to designate the instruction to Item 3 as 1. and to add an instruction 2., to revise paragraphs (c) and (d) of Item 7, to revise the last sentence of Item 8 prior to the instruction, to add an instruction after the introductory text of paragraph (b)(1)(ii) and at the end of item 10, and to revise Item 20 to read as follows:

§ 240.14a-101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 3. Dissenters' right of appraisal.

* * * * *

Instructions. 1. * * *

2. Open-end investment companies registered under the Investment Company

Act of 1940 are not required to respond to this item.

* * * * *

Item 7. Directors and executive officers.

* * * * *

(c) Furnish the information required by Item 404(b) of Regulation S–K (§ 229.404 of this chapter).

(d) In lieu of paragraphs (a) through (c) of this Item, investment companies registered under the Investment Company Act of 1940 shall furnish the information required by Item 22(b) of this Schedule 14A.

* * * * *

Item 8. Compensation of directors and executive officers.

* * * In the case of investment companies registered under the Investment Company Act of 1940 and registrants that have elected to be regulated as business development companies, furnish the information required by Item 22(b)(6) of this Schedule.

* * * * *

Item 10. Compensation Plans. * * *

Instruction: In the case of investment companies registered under the Investment Company Act of 1940, furnish the information for Compensated Persons as defined in Item 22(b)(6) of the schedule in lieu of the persons specified in paragraph (a)(3) of Item 402 of Regulation S–K (§ 229.402(a)(3 of this chapter).

* * * * *

(b) * * *

Instruction. In the case of investment companies registered under the Investment Company Act of 1940, refer to instruction 4 in Item 22(b)(6)(ii) of this schedule in lieu of paragraph (f)(1) of Item 402 of Regulation S–K.

* * * * *

Item 20. Other Proposed Action. If action is to be taken on any matter not specifically referred to in this Schedule 14A, describe briefly the substance of each such matter in substantially the same degree of detail as is required by Items 5 to 19, inclusive, above, and, with respect to investment companies registered under the Investment Company Act of 1940, Item 22, below.

* * * * *

13. By amending § 240.14a–101 to add Item 22 to read as follows:

§ 240.14A–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 22. Information required in investment company proxy statement. (a) *General.*

(1) *Definitions.* Unless the context otherwise requires, terms used in this Item that are defined in § 240.14a–1 (with respect to proxy soliciting material), in § 240.14c–1 (with respect to information statements), and in the Investment Company Act of 1940 shall have the same meanings provided therein and the following terms shall also apply:

(i) *Administrator.* The term "Administrator" shall mean any person or persons who provide significant administrative or business management services to the Fund and shall include any person that has been or would be identified in response to Item 5(c) of Form N–1A (§ 274.11A of this chapter), Item 9.1.d. of Form N–2 (§ 274.11a–1 of this chapter), or Item 6(c) of Form N–3 (§ 274.11b of this chapter).

(ii) *Affiliated Broker.* The term "Affiliated Broker" shall mean any broker:

(A) that is an affiliated person of the Fund;

(B) that is an affiliated person of such person; or

(C) an affiliated person of which is an affiliated person of the Fund, its investment adviser, principal underwriter, or Administrator.

(iii) *Distribution Plan.* The term "Distribution Plan" shall mean a plan adopted pursuant to Rule 12b–1 under the Investment Company Act of 1940 (§ 270.12b–1 of this chapter).

(iv) *Distributor.* The term "Distributor" shall mean any person or persons who either wholly or in part assist in the distribution of the Fund's shares, including, without limitation, a Fund's principal underwriter, Distributor, investment adviser, manager, sponsor, Administrator, and other entities performing similar functions.

(v) *Fund.* The term "Fund" shall mean a Registrant or, where the Registrant is a series company, a separate portfolio of the Registrant.

(vi) *Fund Complex.* The term "Fund Complex" shall mean two or more Funds provided that:

(A) Such funds have a common investment adviser or, with respect to an open-end management investment company, principal underwriter; or

(B) The investment adviser or, with respect to an open-end management investment company, principal underwriter of one of the Funds is an affiliated person as defined in section 2(a)(3) of the Investment Company Act of 1940 of the investment adviser or principal underwriter of each of the other Funds.

(vii) *Parent.* The term "Parent" shall mean the affiliated person of a specified person who controls the specified person directly or indirectly through one or more intermediaries.

(viii) *Registrant.* The term "Registrant" shall mean an investment company registered under the Investment Company Act of 1940.

(ix) *Subsidiary.* The term "Subsidiary" shall mean an affiliated person of a specified person who is controlled by the specified person, directly or indirectly, through one or more intermediaries.

(2) *Filing Fees.* In lieu of the fees specified in § 240.14a–6, at the time of filing the preliminary proxy solicitation material, or, if no preliminary solicitation material is filed, at the time of filing the definitive proxy solicitation material, the person upon whose behalf the solicitation is made shall pay to the Commission a fee of $125, no part of which shall be refunded.

(3) *General Disclosure.* Furnish the following information in the proxy statement of a Fund or Funds:

(i) State the name and address of the Fund's investment adviser, principal underwriter, and Administrator.

(ii) When a Fund proxy statement solicits a vote on proposals affecting more than one Fund, present a summary of the proposals in tabular form on one of the first three pages of the proxy statement and indicate which Fund shareholders are solicited with respect to each proposal.

(iii) If the action to be taken would establish a new fee or expense or increase any existing fee or expense to be paid by the Fund or its shareholders, provide a table showing the current and pro forma fees (with the required examples) using the format prescribed in the appropriate registration statement form under the Investment Company Act of 1940 (for open-end management investment companies, Item 2(a)(i) of Form N–1A (§ 239.15A); for closed-end management investment companies, Item 3.1 of Form N–2 (§ 239.14); and for separate accounts that offer variable annuity contracts, Item 3(a) of Form N–3 (§ 239.17a)).

Instructions. 1. Where approval is sought only for a change in asset breakpoints for a pre-existing fee that would not have increased the fee for the previous year (or have the effect of increasing fees or expenses, but for any other reason would not be reflected in a pro forma fee table), describe the likely effect of the change in lieu of providing pro forma fee information.

2. An action would indirectly establish or increase a fee or expense where, for example, the approval of a new investment advisory contract would result in higher custodial or transfer agency fees.

3. The tables should be prepared in a manner designed to facilitate understanding of the impact of any change in fees or expenses.

4. A Fund that offers its shares exclusively to one or more separate accounts and thus is not required to include a fee table in its prospectus (see Item 2(a)(ii) of Form N–1A (§ 239.15A)) should nonetheless prepare a table showing current and pro forma expenses and disclose that the table does not reflect separate account expenses, including sales load.

(iv) State whether shareholders will be informed of the voting results for matters submitted to a vote in the proxy statements, and, if so, by what means (e.g., monthly or quarterly report, semi-annual report to shareholders pursuant to Rule 30d-1 (§ 270.30d-1 of this chapter)).

(4) If action is to be taken with respect to the election of directors or the approval of an advisory contract, describe any purchases or sales of securities of the investment adviser or its Parents, or Subsidiaries of either, since the beginning of the most recently completed fiscal year by any director or any nominee for election as a director of the Fund.

Instructions. 1. Identify the parties, state the consideration, the terms of payment and describe any arrangement or understanding with respect to the composition of the board of directors of the Fund or of the investment adviser, or with respect to the selection of appointment of any person to any office with either such company.

2. Transactions involving securities in an amount not exceeding one percent of the outstanding securities of any class of the investment adviser or any of its Parents may be omitted.

(b) *Election of Directors.* If action is to be taken with respect to the election of directors of the Fund and the solicitation is made by or on behalf of the Fund or by or on behalf of an investment adviser, furnish the following information in the proxy statement in addition to the information (and in the format) required by paragraphs (e) through (g) of Item 7 of Schedule 14A.

Instructions. 1. Furnish information with respect to a prospective investment adviser to the extent applicable.

2. If the solicitation is made other than by or on behalf of the Fund or by or on behalf of an investment adviser, provide only information as to nominees of the person making the solicitation.

(1) Identify each director or nominee for election as director who is, or was, an officer, employee, director, general partner, or shareholder of the investment adviser. As to any director or nominee who is not a director or general partner of the investment adviser and owns any securities or has, or had, any other material direct or indirect interest in the investment adviser or any person controlling, controlled by, or under common control with the investment adviser, describe the nature of such interest.

(2) Identify each director or nominee who has or had any material direct or indirect interest in the Fund's principal underwriter or Administrator and describe the nature of such interest.

(3) Describe briefly, and where practicable, state the approximate amount of any material interest, direct or indirect, of any director or nominee for election as a director of the Fund in any material transactions since the beginning of the most recently completed fiscal year, or in any proposed material transactions, to which the investment adviser, the principal underwriter, the Administrator, or the Distributor, any Parent or Subsidiary of such entities (other than another Fund), or any Subsidiary of the Parent of such entities was or is to be a party.

Instructions. 1. Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, indicate the approximate amount involved in the transaction.

2. As to any transaction involving the purchase or sale of assets by or to the investment adviser, the Administrator or the Distributor, state the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within two years prior to the transaction.

3. If the interest of any person arises from the position of the person as a partner in a partnership, the proportionate interest of such person in transactions to which the partnership is a party need not be set forth but state the amount involved in the transaction with the partnership.

4. No information need be given in response to this paragraph with respect to any transaction that is not related to the business or operations of the Fund and to which neither the Fund nor any of its Parents or Subsidiaries is a party.

(4) Provide in tabular form to the extent practicable the information required by Items 401, 404(a) and (c), and 405 of Regulation S–K (§§ 229.401, 229.404, and 229.405 of this chapter).

Instructions. 1. Indicate by an asterisk any nominee or director who is or would be an "interested person" within the meaning of section 2(a)(19) of the Investment Company Act of 1940 and describe the relationships, events, or transactions by reason of which such person is deemed an "interested person."

2. Separate accounts registered as management investment companies need not provide any information concerning the officers of the sponsoring insurance company who are not directly or indirectly engaged in activities related to the separate account in response to Item 401(b) (§ 229.401(b)) or, with regard to executive officers or persons nominated or chosen to become an executive officer, Item 401(e) (§ 229.401(e)) of Regulation S–K.

(5) Describe briefly any material pending legal proceedings, other than ordinary routine litigation incidental to the Fund's business, to which any director or nominee for director or affiliated person of such director or nominee is a party adverse to the Fund or any of its affiliated persons or has a material interest adverse to the Fund or any of its affiliated persons. Include the name of the court where the case is pending, the date instituted, the principal parties, a description of the factual basis alleged to underlie the proceeding, and the relief sought.

(6) For all directors, and for the three highest-paid executive officers that have aggregate compensation from the Fund in the last fiscal year in excess of $60,000 ("Compensated Persons"):

(i) Furnish the information required by the following table for the last fiscal year:

COMPENSATION TABLE

(1) Name of person, position	(2) Aggregate compensation from fund	(3) Pension or retirement benefits accrued as part of fund expenses	(4) Estimated annual benefits upon retirement	(5) Total compensation from fund and fund complex

Instructions. 1. For column (1), indicate, if necessary, the capacity in which the remuneration is received.

2. If the Fund has not completed its first full year since its organization, furnish the information for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding.

3. Include in columns (3) and (4) all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Fund or any of its Subsidiaries, or by other companies in the Fund Complex. Omit column (4) where retirement benefits are not determinable.

4. For any defined benefit or actuarial plan under which benefits are determined primarily by final compensation (or average final compensation) and years of service, provide the information required in column (4) in a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) in specified compensation and years of service classifications. Also provide the estimated credited years of service for each Compensated Person.

5. Aggregate in column (5) all compensation paid to a director for service on the board and other boards of investment companies in a Fund Complex specifying the number of such other investment companies.

(ii) Describe briefly the material provisions of any pension, retirement, or other plan or arrangement pursuant to which Compensated Persons are or may be compensated for any services provided. Specifically include the criteria used to determine amounts payable under the plan, the length of service or vesting period required by the plan, the retirement age or other event which give rise to payments under the plan, and whether the payment of benefits is secured or funded by the Fund.

(iii) With respect to each Compensated Person, business development companies shall include the information required by Items 402(b)(2)(iv) and 402(c) of Regulation S–K (§§ 229.402(b)(2)(iv) and 229.402(c) of this chapter).

(c) *Approval of Investment Advisory Contract.* If action is to be taken with respect to an investment advisory contract, include the following information in the proxy statement.

Instruction. Furnish information with respect to a prospective investment adviser to the extent applicable (including the name

VOL 58 ISS 244 DE 22 1993 UMI

and address of the prospective investment adviser).

(1) With respect to the existing investment advisory contract:

(i) state the date of the contract and the date on which it was last submitted to a vote of security holders of the Fund, including the purpose of such submission;

(ii) briefly describe the terms of the contract, including the rate of compensation of the investment adviser;

(iii) state the aggregate amount of the investment adviser's fee and the amount and purpose of any other material payments by the Fund to the investment adviser, or any affiliated person of the investment adviser, during the last fiscal year of the Fund;

(iv) if any person is acting as an investment adviser of the Fund other than pursuant to a written contract that has been approved by the security holders of the company, identify the person and describe the nature of the services and arrangements;

(v) describe any action taken with respect to the investment advisory contract since the beginning of the Fund's last fiscal year by the board of directors of the Fund (unless described in response to paragraph (c)(1)(vi) of this Item 22); and

(vi) if an investment advisory contract was terminated or not renewed for any reason, state the date of such termination or non-renewal, identify the parties involved, and describe the circumstances of such termination or non-renewal.

(2) State the name, address and principal occupation of the principal executive officer and each director or general partner of the investment adviser.

Instruction. If the investment adviser is a partnership with more than ten general partners, name the general partners with the five largest economic interests in the partnership, and, if different, those general partners comprising the management or executive committee of the partnership or exercising similar authority.

(3) State the names and addresses of all Parents of the investment adviser and show the basis of control of the investment adviser and each Parent by its immediate Parent.

Instructions. 1. If any person named is a corporation, include the percentage of its voting securities owned by its immediate Parent.

2. If any person named is a partnership, name the general partners having the three largest partnership interests (computed by whatever method is appropriate in the particular case).

(4) If the investment adviser is a corporation and if, to the knowledge of the persons making the solicitation or the persons on whose behalf the solicitation is made, any person not named in answer to paragraph (c)(3) of this Item 22 owns, of record or beneficially, ten percent or more of the outstanding voting securities of the investment adviser, indicate that fact and state the name and address of each such person.

(5) Name each officer or director of the Fund who is an officer, employee, director, general partner or shareholder of the investment adviser. As to any officer or director who is not a director or general partner of the investment adviser and who owns securities or has any other material direct or indirect interest in the investment adviser or any other person controlling, controlled by or under common control with the investment adviser, describe the nature of such interest.

(6) Describe briefly, and where practicable, state the approximate amount of any material interest, direct or indirect, of any director of the Fund in any material transactions since the beginning of the most recently completed fiscal year, or in any material proposed transactions, to which the investment adviser of the Fund, any Parent or Subsidiary of the investment adviser (other than another Fund), or any Subsidiary of the Parent of such entities was or is to be a party.

Instructions. 1. Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, indicate the approximate amount involved in the transaction.

2. As to any transaction involving the purchase or sale of assets by or to the investment adviser, state the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within two years prior to the transaction.

3. If the interest of any person arises from the position of the person as a partner in a partnership, the proportionate interest of such person in transactions to which the partnership is a party need not be set forth but state the amount involved in the transaction with the partnership.

4. No information need be given in response to this paragraph (c)(6) of Item 22 with respect to any transaction that is not related to the business or operations of the Fund and to which neither the Fund nor any of its Parents or Subsidiaries is a party.

(7) Disclose any financial condition of the investment adviser that is reasonably likely to impair the financial ability of the adviser to fulfil its commitment to the fund under the proposed investment advisory contract.

(8) Describe the nature of the action to be taken on the investment advisory contract and the reasons therefor, the terms of the contract to be acted upon, and, if the action is an amendment to, or a replacement of, an investment advisory contract, the material differences between the current and proposed contract.

(9) If a change in the investment advisory fee is sought, state:

(i) The aggregate amount of the investment adviser's fee during the last year;

(ii) The amount that the adviser would have received had the proposed fee been in effect; and

(iii) The percentage amount of the change in the proposed fee.

(10) If the investment adviser acts as such with respect to any other Fund having a similar investment objective, identify and state the size of such other Fund and the rate of the investment adviser's compensation. Also indicate for any Fund identified whether the investment adviser has waived, reduced, or otherwise agreed to reduce its compensation under any applicable contract.

Instruction. Furnish the information in response to this paragraph (c)(10) of Item 22 in tabular form.

(11) Discuss in reasonable detail the material factors and the conclusions with respect thereto which form the basis for the recommendation of the board of directors that the shareholders approve an investment advisory contract. Such factors may include, but are not limited to:

(i) the qualifications of the investment adviser to provide investment advisory services, including the credentials and investment experience of its officers and employees;

(ii) the range of services provided by the investment adviser;

(iii) the qualifications of the investment adviser to provide an appropriate range of management and administrative services;

(iv) the performance record of the investment adviser;

(v) the financial condition of the investment adviser;

(vi) the terms of the agreement; and

(vii) the appropriateness of the advisory fee, which may include, among other things, the benefits derived by the investment adviser from the relationship with the Fund such as soft dollar arrangements by which brokers provide services to the Fund or its investment adviser that the investment adviser would otherwise have to pay for.

Instruction. Conclusory statements or a list of factors will not be considered sufficient disclosure. The discussion should relate the factors to the specific circumstances of the fund and the investment advisory contract for which approval is sought.

(12) Describe any arrangement or understanding made in connection with the proposed investment advisory contract with respect to the composition of the board of directors of the Fund or the investment adviser or with respect to the selection or appointment of any person to any office with either such company.

(13) For the most recently completed fiscal year, state:

(i) the aggregate amount of commissions paid to any Affiliated Broker; and

(ii) the percentage of the Fund's aggregate brokerage commissions paid to any such Affiliated Broker.

Instruction. Identify each Affiliated Broker and the relationships that cause the broker to be an Affiliated Broker.

(14) Disclose the amount of any fees received by the investment adviser, its affiliated persons or any affiliated person of such person during the most recent fiscal year for services provided to the Fund (other than under the investment advisory contract or for brokerage commissions). State whether these services will continue to be provided after the investment advisory contract is approved.

(d) *Approval of Distribution Plan.* If action is to be taken with respect to a Distribution Plan, include the following information in the proxy statement.

Instructions. 1. Furnish information with respect to a prospective Distributor to the extent applicable (including the name and address of the prospective Distributor).

2. Where the Fund has multiple classes of securities with different distribution arrangements, furnish information on a class basis. Discuss differences among classes including the distribution fee paid by each class.

(1) Describe the nature of the action to be taken on the Distribution Plan and the reason therefor, the terms of the Distribution Plan to be acted upon, and, if the action is an amendment to, or a replacement of, a Distribution Plan, the material differences between the current and proposed Distribution Plan.

(2) If the Fund has a Distribution Plan in effect:

(i) provide the date that the Distribution Plan was adopted and the date of the last amendment, if any;

(ii) Disclose the persons to whom payments may be made under the Distribution Plan, the rate of the distribution fee and the purposes for which such fee may be used; (iii) Disclose the amount of distribution fees paid by the Fund pursuant to the plan during its most recent fiscal year, both in the aggregate and as a percentage of the Fund's average net assets during the period;

(iv) Disclose the name of, and the amount of any payments made by the Fund during its most recent fiscal year to, any person who is an affiliated person of the Fund, its investment adviser, principal underwriter, or Administrator, an affiliated person of such person, or a person that during the most recent fiscal year received 10% or more of the aggregate amount paid under the Distribution Plan by the Fund;

(v) describe any action taken with respect to the Distribution Plan since the beginning of the Fund's most recent fiscal year by the board of directors of the Fund; and

(vi) if a Distribution Plan was or is to be terminated or not renewed for any reason, state the date or prospective date of such termination or non-renewal, identify the parties involved, describe the circumstances of such termination or non-renewal, and identify any director of the Fund who, at the time of the action described, owned any securities of, or had any other material, direct or indirect, interest in the Distributor, or any affiliated person of the Distributor (other than another Fund), and state the nature of such interest.

(3) Describe briefly, and where practicable, state the approximate amount of any material interest, direct or indirect, of any director or nominee for election as a director of the Fund in any material transactions since the beginning of the most recently completed fiscal year, or in any material proposed transactions, to which the Distributor of the Fund, any Parent or Subsidiary of the Distributor (other than another Fund), or any Subsidiary of the Parent of the Distributor was or is to be a party.

Instructions. 1. Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, indicate the approximate amount involved in the transaction.

2. As to any transaction involving the purchase or sale of assets by or to the Distributor, state the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within two years prior to the transaction.

3. If the interest of any person arises from the position of the person as a partner in a partnership, the proportionate interest of such person in transactions to which the partnership is a party need not be set forth but state the amount involved in the transaction with the partnership.

4. No information need be given in response to this paragraph (d)(3) of Item 22 with respect to any transaction that is not related to the business or operations of the Fund and to which neither the Fund nor any of its Parents or Subsidiaries is a party.

(4) Discuss in reasonable detail the material factors and the conclusions with respect thereto which form the basis for the conclusion of the board of directors that there is a reasonable likelihood that the proposed Distribution Plan (or amendment thereto) will benefit the Fund and its shareholders.

Instruction. Conclusory statements or a list of factors will not be considered sufficient disclosure.

14. By amending § 240.14c–3 to add a note after paragraph (a) to read as follows:

§ 240.14c–3 Annual report to be furnished security holders.

(a) * * *

Note: Registered Investment Companies. An annual report transmitted to shareholders by a registered investment company pursuant to Rule 30d–1 of the Investment Company Act of 1940 (§ 270.30d–1 of this chapter) no more than 60 days before the date of the information statement will satisfy the requirement that an annual report accompany or precede the information statement. Where an information statement is transmitted more than 60 days after transmission of the annual report, the annual report delivery requirement of paragraph (b) will be satisfied if the investment company: (1) Mails the information statement to shareholders no later than 30 days prior to the record date of the meeting of security holders or the record date of written consents in lieu of a meeting; (2) states prominently in the information statement that it will furnish, without charge, a copy of the annual report and the most recent semi-annual report succeeding the annual report, if any, upon request, providing the name, address, and toll-free telephone number of the person to whom such request shall be directed (or, if no toll-free telephone number is provided, a self-addressed postage paid card for requesting the annual report); and (3) provides a copy of the annual report and the most recent semi-annual report succeeding the annual report, if any, to the requesting shareholder by first class mail, or other means designed to assure prompt delivery, within two business days of the request.

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

15. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * * *

16. By amending § 270.20a–1 to revise the first sentence of paragraph (a) and to remove paragraph (c) to read as follows:

§ 270.20a–1 Solicitation of proxies, consents and authorizations.

(a) No person shall solicit or permit the use of his or her name to solicit any proxy, consent, or authorization with respect to any security issued by a registered Fund, except upon compliance with Regulation 14A (§ 240.14a–1 of this chapter), Schedule 14A (§ 240.14a–101 of this chapter), and all other rules and regulations adopted pursuant to Section 14(a) of the Securities Exchange Act of 1934 that would be applicable to such solicitation if it were made in respect of a security registered pursuant to Section 12 of the Securities Exchange Act of 1934. * * *

* * * * * *

17. By removing and reserving § 270.20a–2 and § 270.20a–3.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

18. The authority citations following §§ 239.14 and 239.15A are removed.

19. The authority citation for part 274 is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, and 80a–29, unless otherwise noted.

20. The authority citations following §§ 274.11, 274.11A, 274.11a–1, 274.51, and 274.101 are removed.

21. By amending Form N–1A (§§ 239.15A and 274.11A) to revise Item 5(a) to read as follows:

Note: The text of Form N–1A does not appear in the Code of Federal Regulations.

Form N–1A

Item 5. Management of the Fund

* * * * * *

(a) a brief description of the responsibilities of the board of directors with respect to the management of the Registrant, and a statement that additional information about the compensation paid by the Registrant to directors and officers and the background of directors and officers of the Registrant is included in the Statement of Additional Information and is available upon written or oral request without charge. (In responding to this item, it is sufficient to include a general statement as to the responsibilities of the board of directors under the applicable laws of the Registrant's

jurisdiction of organization with respect to management of the Fund.);

* * * * *

22. By amending Item 14 of Form N–1A to revise the caption for Column (1) in the table in paragraph (a) to read "Name, Address, and Age", to add an instruction following paragraph (b), and to revise paragraph (c) to read as follows:

Note: The text of Form N–1A does not appear in the Code of Federal Regulations.

Item 14. Management of the Fund

* * * * *

(b) * * *

Instruction: Where the position held is the same positions with two or more registered investment companies that are part of a "Fund Complex" as that term is defined in Item 22(a)(1)(v) of Schedule 14A under the Exchange Act, the Registrant may, rather than listing each Registrant, identify the Fund Complex and provide the number of such positions held by the identified persons.

(c) Provide the following information for all directors of the Registrant, all members of the advisory board of the Registrant, and for three highest paid executive officers or any affiliated person of the Registrant with aggregate compensation from the Registrant for the most recently completed fiscal year in excess of $60,000 ("Compensated Persons").

(1) Furnish the information required by the following table:

COMPENSATION TABLE

(1) Name of person, position	(2) Aggregate compensation from registrant	(3) Pension or retirement benefits accrued as part of fund expenses	(4) Estimated annual benefits upon retirement	(5) Total compensation from registrant and fund complex

Instructions. 1. For column (1), indicate, if necessary, the capacity in which the remuneration is received.

2. If the Registrant has not completed its first full year since its organization, furnish the information for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding.

3. Include in columns (3) and (4) all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Registrant, any of its subsidiaries, or other investment companies in the Fund Complex. Omit column (4) where retirement benefits are not determinable.

4. For any defined benefit or actuarial plan under which benefits are determined primarily by final compensation (or average final compensation) and years of service, provide the information required in column (4) in a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) in specified compensation and years of service classifications. Also provide the estimated credited years of service for each Compensated Person.

5. Aggregate in Column (5) all compensation paid to a director for service on the board and all other boards of investment companies in a Fund Complex specifying the number of such other investment companies.

(2) Describe briefly the material provisions of any pension, retirement, or other plan or arrangement pursuant to which the Compensated Persons are or may be compensated for any services provided. Specifically include the criteria used to determine amounts payable under the plan, the length of service or vesting period required by the plan, the retirement age or other event which give rise to payments under the plan, and whether the payment of benefits is secured or funded by the Registrant.

* * * * *

24. By amending Form N–2 (§§ 239.14 and 274.11a–1) to revise Item 9.1.a. to read as follows:

Note: The text of Form N–2 does not appear in the Code of Federal Regulations.

Form N–2

Item 9. Management

* * * * *

1. * * *

a. Board of Directors: a description of the responsibilities of the board of directors with respect to the management of the Registrant and a statement that additional information about compensation paid by the Registrant to directors and officers and the background of directors and officers of the Registrant is included in the Statement of Additional Information and is available upon written or oral request without charge;

* * * * *

24. By amending Item 18 of Form N–2 (§§ 239.14 and 274.11a–1) to revise the caption for Column (1) in the table in paragraph 1 to read "Name, Address, and Age", to add an instruction following paragraph 2, and to revise paragraph 4 to read as follows:

Note: The text of Form N–2 does not appear in the Code of Federal Regulations.

Item 18. Management

* * * * *

2. * * *

Instruction: Where the positions held are the same positions with two or more registered investment companies that are part of a "Fund Complex" as that term is defined in Item 22(a)(1)(v) of Schedule 14A under the Exchange Act, the Registrant may, rather than listing each fund, identify the Fund Complex and provide the number of positions held by the identified persons.

3. * * *

4. Provide the following for all directors of the Registrant, all members of the advisory board of the Registrant, and for the three highest paid executive officers or any affiliated person of the Registrant with aggregate compensation from the Registrant for the most recently completed fiscal year in excess of $60,000 ("Compensated persons").

(a) Furnish the information required by the following table:

COMPENSATION TABLE

(1) Name of person, position	(2) Aggregate compensation from fund	(3) Pension or retirement benefits accrued as part of fund expenses	(4) Estimated annual benefits upon retirement	(5) Total compensation from fund and fund complex

Instructions. 1. For column (1), indicate, if necessary, the capacity in which the remuneration is received.

2. If the Registrant has not completed its first full year since its organization, furnish the information for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding.

3. Include in columns (3) and (4) all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Registrant, any of its subsidiaries, or other companies in the Fund Complex. Omit column (4) where retirement benefits are not determinable.

4. For any defined benefit or actuarial plan under which benefits are determined primarily by final compensation (or average final compensation) and years of service, provide the information required in column (4) in a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) in specified compensation and years of service classifications. Also provide the estimated credited years of service for each Compensated Person.

5. Aggregate in Column (5) all compensation paid to a director for service on the board and all other boards of related companies in a Fund Complex specifying the number of such other investment companies.

(b) Describe briefly the material provisions of any pension, retirement, or other plan or arrangement pursuant to which Compensated Persons are or may be compensated for any services provided. Specifically include the criteria used to determine amounts payable under the plan, the length of service or vesting period required by the plan, the retirement age or other event which give rise to payments under the plan, and whether the payment of benefits is secured or funded by the Registrant.

(c) With respect to each Compensated Person, business development companies shall include the information required by Items 402(b)(2)(iv) and 402(c) of Regulation S–K (§§ 229.402(b)(2)(iv) and 229.402(c)).

* * * * *

26. By amending Form N–3 (§§ 239.17a and 274.11b) to revise Item 6.(a) to read as follows:

Note: The text of Form N–3 does not appear in the Code of Federal Regulations.

Form N–3

Item 6. Management

* * * * *

(a) the responsibilities of the board of managers with a statement that additional information about the compensation paid by the Registrant to directors and officers and the background of directors and officers of the Registrant is included in the Statement of Additional Information and is available upon written or oral request without charge;

* * * * *

27. By amending Item 20 of Form N–3 (§§ 239.17a and 274.11b) to revise the caption for Column (1) in the table in paragraph (a) to read "Name, Address, and Age", to add an instruction following paragraph (b), and to revise paragraph (c) to read as follows:

Note: The text of Form N–3 does not appear in the Code of Federal Regulations.

Item 20. Management

* * * * *

(b) * * *

Instruction: Where the positions held are the same positions with two or more registered investment companies that are part of a "Fund Complex" as that term is defined in Item 22(a)(1)(v) of Schedule 14A under the Exchange Act, the Registrant may, rather than listing each investment company, identify the Fund Complex and provide the number of positions held by the identified persons.

(c) Provide the following information for all directors of the Registrant, all members of the advisory board of the Registrant, and for the three highest paid executive officers or any affiliated person of the Registrant with aggregate compensation from the Registrant for the most recently completed fiscal year in excess of $60,000 ("Compensated Persons").

(1) Furnish the information required by the following table:

COMPENSATION TABLE

(1) Name of person, position	(2) Aggregate compensation from registrant	(3) Pension or retirement benefits accrued as part of fund expenses	(4) Estimated annual benefits upon retirement	(5) Total compensation from registrant and fund complex

Instructions. 1. For column (1), indicate, if necessary, the capacity in which the remuneration is received.

2. If the Registrant has not completed its first full year since its organization, furnish the information for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding.

3. Include in columns (3) and (4) all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Registrant, any of its subsidiaries, or any other companies in the Fund Complex. Omit column (4) where retirement benefits are not determinable.

4. For any defined benefit or actuarial plan under which benefits are determined primarily by final compensation (or average final compensation) and years of service, provide the information required in column (4) in a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) in specified compensation and years of service classifications. Also provide the estimated credited years of service for each Compensated Person.

5. Aggregate in column (5) all compensation paid to a director for service on the board and all other boards of related companies in a Fund Complex specifying the number of such other investment companies.

6. No information is required to be provided concerning the officers of the sponsoring insurance company who are not directly or indirectly engaged in activities related to the separate account.

(2) Describe briefly the material provisions of any pension, retirement, or other plan or arrangement pursuant to which Compensated Persons are or may be compensated for any services provided. Specifically include the criteria used to determine amounts payable under the plan, the length of service or vesting period required by the plan, the retirement age or other event which give rise to payments under the plan, and whether the payment of benefits is secured or funded by the Registrant.

* * * * *

By the Commission.

December 16, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31160 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–P

VOL 58 ISS 244 DEC 22 1993 UMI

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-56-93]

RIN 1545-AS66

Allocations Reflecting Built-in Gain or Loss on Property Contributed to a Partnership

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations portion of this issue of the Federal Register, the IRS is issuing temporary regulations relating to (1) the remedial allocation method with respect to property contributed by a partner to a partnership and (2) allocations with respect to securities and similar investments owned by a partnership under section 704 of the Internal Revenue Code. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by March 14, 1994. In addition, requests to appear and outlines to be presented at the public hearing scheduled for April 4, 1994, at 10 a.m. must be received by March 14, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (PS-56-93), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered to: CC:DOM:CORP:T:R (PS-56-93), Internal Revenue Service, room 5228, 1111 Constitution Avenue, NW., Washington, DC 20224.

The public hearing will be held in the Internal Revenue Auditorium, Seventh Floor, 7400 corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the hearing, Carol Savage, Regulations Unit at (202) 622-8452 (not a toll-free number); concerning the regulations, David Edquist at (202) 622-3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations portion of this issue of the Federal Register add § 1.704-3T (d) and (e)(3) to 26 CFR part 1 under section 704 of the Internal Revenue Code.

The temporary regulations contain rules relating to (1) the remedial allocation method with respect to property contributed by a partner to a partnership and (2) allocations with respect to securities and similar investments owned by a partnership under section 704. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably an original and eight copies) to the IRS. All comments will be available to public inspection and copying.

A public hearing has been scheduled for April 4, 1994, at 10 a.m. in the Internal Revenue Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of § 601.601(a)(3) apply to the hearing.

Persons that have submitted written comments by March 14, 1994, and want to present oral comments at the hearing must submit by March 14, 1994, an outline of the topics to be discussed and the time to be devoted to each topic. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is David Edquist of the Office of the Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR part 1 are as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.704-3 also issued under 26 U.S.C. 704(c). * * *

Par. 2. In § 1.704-3, paragraphs (d) and (e)(3) are added to read as follows:

§ 1.704-3 Contributed property.

(The text of proposed paragraphs (d) and (e)(3) is the same as the text in § 1.704-3T published elsewhere in this issue of the Federal Register)

Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 93-31006 Filed 12-21-93; 8:45 am]

BILLING CODE 4830-01-U

---

26 CFR Part 1

[FI-47-92]

RIN 1545-AR76

Reissuance of Mortgage Credit Certificates

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is issuing temporary regulations that implement a provision of the Tax Reform Act of 1984 permitting the reissuance of mortgage credit certificates. It will affect current and future holders of mortgage credit certificates. The text of those temporary regulations set forth in that document also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by January 22, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (FI-47-92), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be delivered to CC:DOM:CORP:T:R (FI-47-92), Internal Revenue Service, room 5228, 1111 Constitution Avenue NW., Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: L. Michael Wachtel, (202) 622-3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations section of this issue of the Federal Register add new temporary regulations §§ 1.25-3T (g)(1)(iii) and (p) to the Income Tax Regulations (26 CFR part 1) under section 25(e)(4) of the Internal Revenue Code (Code). Section 25(e)(4) was added to the Code by section 812 of the Tax Reform Act of 1984, 98 Stat. 494, 905. The text of the temporary regulations published in the Rules and Regulations section of this issue of the Federal Register also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing may be scheduled and held upon written request to the Commissioner of Internal Revenue by any person who also submits timely written comments. If a public hearing is held, notice of the date, time and place will be published in the Federal Register.

Drafting Information

The principal author of these regulations is L. Michael Wachtel, Office of the Assistant Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the Service and Treasury Department participated in their development.

List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 1.25-3 is added as follows:

§ 1.25-3 Qualified mortgage credit certificate.

(The text of this proposed section is the same as the text of § 1.25-3T as amended by the temporary rule published elsewhere in this issue of the Federal Register.)

Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 93-31010 Filed 12-21-93; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09-93-036]

Drawbridge Operation Regulations; Chicago River, IL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: At the request of the City of Chicago, Illinois, the Coast Guard is considering a change to the operating regulations governing bridges over the Chicago River System which are owned and operated by the City of Chicago. This proposal expands the periods of time when Chicago's highway bridges need not open for the passage of recreational vessels, establishes a specific number of recreational vessels that will be required to gather in order for the bridges to open, and requires recreational vessel owner/operators or their representatives to give 24 hours notice in advance of a vessel's time of intended passage through the draws. Additionally, the period of time during the winter months when the bridges need open only after receiving an advance notice will be expanded. This action should accommodate the needs of vehicle traffic and still provide for the reasonable needs of navigation.

DATES: (1) Comments must be received on or before February 7, 1994.

(2) The public hearing will be held on Thursday, January 20, 1994, at 7 p.m. CST.

ADDRESSES: (1) Comments may be mailed to Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199-2060, or may be delivered to room 2083D at the same address between the hours of 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 522-3993. The Commander, Ninth Coast Guard District, maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

(2) The public hearing will be held at the Ralph H. Metcalfe Federal Building, room 311, 77 West Jackson Boulevard, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Bloom, Jr., Chief, Bridge Branch, telephone (216) 522-3993.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD09-93-036) and specific section of this proposal to which each comment applies, and give reason for each comment. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will hold a public hearing.

Public Hearing

The Commander, Ninth Coast Guard District, has authorized a public hearing to be held to receive additional comments on the proposed regulations governing the operation of bridges owned by the City of Chicago, over the Chicago River System in Chicago, Illinois.

VOL 58 ISS 244 DEC 22 1993 UMI

The hearing is being held to gather information and data necessary to formulate a final regulations change that will accommodate the reasonable needs of vessels that transit the Chicago River System and the needs of the City of Chicago.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed regulation, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the person listed in the section "FOR FURTHER INFORMATION CONTACT" in this notice. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed regulations change by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the regulations, and include the name and address of the person or organization submitting the comment. Comments should be sent to the address under "ADDRESSES".

Drafting Information

The principal person involved in drafting this document is Mr. Robert W. Bloom, Jr., Project Manager, Ninth Coast Guard District.

Background and Purpose

Presently, the bridges owned and operated by the City of Chicago are governed in accordance with 33 CFR 117.391 which allows the City to not open the draws during peak vehicle traffic periods during the morning and afternoon rush hours. In addition, certain bridges need not open for the passage of vessels unless notice is given in advance of a vessel's intended time of passage through draws.

The City of Chicago has requested that, from April 1 through November 30, the bridges which cross the Chicago River and the Chicago River Branches be limited to openings for the passage of recreational vessels only between the hours of 6:30 p.m. and 12 midnight on Tuesdays and Thursdays, and between the hours of 7 a.m. and 7 p.m. on Saturdays and Sundays. During these periods of times, the bridges would not be required to open unless there are no less than five recreational vessels and not more than twenty-five vessels available to transmit during the scheduled open periods, and need not open for vessels unless arrangements are made at least twenty-four hours in advance of their requested time of passage through the draws. In addition, for all vessels, from December 1 through March 31, the draws of the highway bridges across the Chicago River, the North Branch of the Chicago River, North Branch Canal, and the South Branch of the Chicago River shall open on signal if notice if given at least 12 hours in advance of a vessel's time of intended passage through the draws.

Discussion of Proposed Amendment

During the past nine months, the Coast Guard granted the City of Chicago four different temporary deviations to the regulations governing the operation of the City's highway bridges. Each deviation was adjusted to test various days and times when the bridges would open for the passage of recreational vessels and when the bridges would be permitted to remain closed.

The proposed change to the operating regulations for bridges owned and operated by the City of Chicago, as specified in this "Notice of proposed rulemaking", is a result of those days and times that the Coast Guard has preliminarily determined to be in the best interest of waterway users and provide for the transportation and safety needs of the City of Chicago. In addition to information received from the temporary deviations, and information which will be received as a result of this public notice, the Coast Guard will hold a public hearing to gather additional information to assist the Commander, Ninth Coast Guard District in determining a course of final action on this proposal.

Regulatory Assessment

This proposal is not considered a significant regulatory action under Executive Order 12866 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. This change to the operating regulations for bridges over the Chicago River System allows recreational vessels to navigate the Chicago River System during the times specified by these regulations, after having given an advance notice to the City of Chicago.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since recreational vessels could navigate the Chicago River System and the impact is expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2.g.5 of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.391 is revised to read as follows:

§ 117.391 Chicago River.

The draws of bridges operated by the City of Chicago shall operate as follows:

(a) For commercial vessels:

(1) From April 1 through November 30–

(i) The draws of the bridges across the Chicago River from its mouth to the junction of the North and South Branches, across the South Branch from the junction to and including the West Roosevelt Road, and across the North Branch to and including North Kinzie Street and the Ohio Street bridge shall open on signal; except that, from Monday through Friday from 7:30 a.m. to 10 a.m., and 4 p.m. to 6:30 p.m., the draws need not be opened for the passage of vessels.

(ii) The draws of the bridges across the North Branch of the Chicago River at Grand Avenue, the bridges across the North Branch of the Chicago River north of the Ohio Street bridge to and including North Halsted Street, and bridges across the South Branch of the Chicago River above South Halsted Street to and including West Roosevelt Road, shall open on signal; except that, from Monday through Friday from 7 a.m. to 8 a.m. and 5:30 p.m. to 6:30 p.m., the draws need not open for the passage of vessels.

(iii) The draws of the bridges across the North Branch of the Chicago River north of North Halsted Street and the South Branch of the Chicago River south of South Halsted Street shall open on signal; except that, from 7 a.m. to 8 a.m. and 5:30 p.m. to 6:30 p.m. the draws need not be opened for the passage of vessels.

(iv) The draws of the Randolph Street, Cermak road, Throop Street, and Loomis Street bridges across the South Branch of the Chicago River, the North Halsted Street bridge across the North Branch Canal, and the West Kinzie Street bridge across the North Branch of the Chicago River shall open on signal.

(v) The draws of the following bridges in Chicago shall open on signal if tended or within 30 minutes after notice is given to the City of Chicago Bridge Desk:

South Branch

Washington Street
Madison Street
Monroe Street
Adams Street
Jackson Boulevard
Van Buren Street
Congress Street (Eisenhower Expressway)
Harrison Street
Roosevelt Road
Eighteenth Street
Canal Street
South Halsted Street

West Fork of the South Branch

South Ashland Avenue
South Damen Avenue

Chicago River, North Branch

Grand Avenue
Chicago Avenue
North Halsted Street
Ogden Avenue
Division Street

North Branch Canal

Ogden Avenue
Division Street

(vi) The draws of bridges across the North Branch Canal that have a vertical Clearance of less than 17 feet above Low Water Datum for Lake Michigan shall open at any time to permit the passage of tugs and tugboats.

(2) From December 1 through March 31, the draws of the highway bridges across the Chicago River, the North Branch of the Chicago River, North Branch Canal, and the South Branch of the Chicago River shall open on signal if at least 12 hours notice is given. However, the bridges need not open during those periods of time specified in paragraphs (a)(1)(i), (ii) and (iii) of this section.

(b) For recreational vessels, the draws of the City of Chicago owned bridges shall operate as follows:

Main Branch

Lake Shore Drive
Columbus Drive
Michigan Avenue
Wabash Avenue
State Street
Dearborn Street
Clark Street
LaSalle Street
Wells Street
Franklin-Orleans Street

South Branch

Lake Street
Randolph Street
Washington Street
Monroe Street
Adams Street
Jackson Boulevard
Van Buren Street
Eisenhower Expressway
Harrison Street
Roosevelt Road
18th Street
Canal Street
South Halsted Street
South Loomis Street
South Asland Avenue

North Branch

Grand Avenue
Ohio Street
Chicago Avenue
North Halsted Street

(1) From April 1 through November 30–

(i) The draws need to open only between the hours of 6:30 p.m. and 12 midnight on Tuesdays and Thursdays.

(ii) The draws need to open only between the hours of 7 a.m. and 7 p.m. on Saturdays and Sundays.

(iii) The draws need to open for the passage of recreational vessels only after notice has been given at least 24 hours in advance of their requested time of passage and only during the periods of times specified in paragraph (b)(1)(i) and (ii) of this section when no less than five vessels and not more than 25 vessels are available to transit through the draws during one scheduled opening. However, when circumstances preclude being able to assemble the minimum number of vessels, requests shall be made to the Chicago Bridge Desk to establish a scheduled time for bridge openings.

(iv) From December 1 through March 31, the draws of the highway bridges across the Chicago River, the North Branch of the Chicago River, North Branch Canal, and the South Branch of the Chicago River shall open on signal if at least 12 hours notice is given.

(c) The draws of the Lake Shore Drive bridge across Ogden Slip need not be opened for the passage of vessels.

(d) The draws of the North Avenue, Cortland Street, Webster Avenue, North Ashland Avenue, Chicago and Northwestern railroad, North Damen Avenue, and Belmont Avenue bridges across the North Branch of the Chicago River need not open for the passage of vessels.

(e) The draw of the Chicago, Milwaukee, St. Paul and Pacific railroad bridge across the North Branch Canal need not open for the passage of vessels.

(f) The opening signal for all Chicago River bridges is three short blasts or by shouting; except that, four short blasts is the opening signal for the Chicago and Northwestern railroad bridge near West Kinzie Street and the Milwaukee Road bridge near West North Avenue and five short blasts is the opening signal for the Lake Shore Bridge when approaching from the north.

Dated: December 8, 1993.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 93–31214 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Mailing Prescription Medicines Containing Narcotic Drugs And Other Controlled Substances

AGENCY: Postal Service

ACTION: Proposed rule.

SUMMARY: The proposed rule would remove a provision in the current postal regulations which restrict use of the mail to carry prescription medicine containing narcotic drugs. It also would fully harmonize those regulations—viz., Domestic Mail Manual CO42.6.8 and CO42.6.9—with the Controlled

VOL 58 ISS 244 DE 22 1993 UMI

Substances Act and its implementing regulations. As a consequence, such use of the mail by dispensers of such medicine would be allowed to the same extent that distribution via any carrier is permitted under the Controlled Substances Act and implementing regulations.

DATES: Comments must be received by January 21, 1994.

ADDRESSES: Address all comments to Anita Bizzotto, Manager, Business Mail Acceptance, U.S. Postal Service, 475 L'Enfant Plaza, SW., room 8430, Washington, DC 20260–6808. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8430 at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Adams (202) 268–5168.

SUPPLEMENTARY INFORMATION: Domestic Mail Manual (DMM) CO42.6.9 currently states that "[p]rescription medicines containing narcotic drugs may be mailed only by Veterans Administration medical facilities to certain veterans." Some commercial suppliers have reported that they routinely ship such medicines via carriers which compete with the Postal Service, the shipments not being prohibited by the Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and its implementing regulations, 21 CFR Parts 1300–1316. These suppliers claim that they would prefer to make these shipments via the Postal Service, and would do so, but for the foregoing restriction in our regulations.

Upon review, the Postal Service has found no need for provisions in its regulations on mailing controlled substances which would be stricter than those applicable to shipments via competing carriers. Whatever the means of carriage, such shipments must comply with the Controlled Substances Act and the regulations implementing it which provide a comprehensive system for protecting the public. Our proposed revisions will make postal regulations fully consistent with that protective system. While adopting this proposal may lead to substantial increases in the amount of mailed medicines containing narcotics, compliance with our regulations' preparation and packaging prerequisites should yield secure transit for those shipments.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c) regarding proposed rulemaking by 39 U.S.C. 410 (a), the Postal Service invites comment on the following proposed revision of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552 (a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3405, 3621, 5001.

2. Domestic Mail Manual CO42.6.8 is hereby revised to read as follows:

Controlled Substances 6.8

A "controlled substance" is any anabolic steroid, narcotic, hallucinogenic, stimulant, or depressant drug in Schedules I through V of the Controlled Substances Act (Pub. L. 91–513), 21 U.S.C. 801 *et seq.*, and 21 CFR Parts 1300–1316. Because controlled substances are potentially addictive and abusable, if distribution of a controlled substance is unlawful under 21 U.S.C. 801 *et seq.*, and any relevant implementing regulations in 21 CFR Parts 1300–1316, such distribution by mail is also unlawful under 18 U.S.C. 1716. Section 1716(a) prohibits matter capable of killing or injuring a person from being conveyed in the mail.

3. Domestic Mail Manual CO42.6.9 is hereby revised to read as follows:

Mailing Requirements 6.9

Under 18, U.S.C. 1716(b), the Postal Service may permit the mailing of matter not outwardly or of its own force dangerous or injurious to a person's life or health. Such mailability is conditioned upon compliance with any preparation and packaging requirements imposed by the Postal Service. Accordingly, if distribution of a controlled substance is lawful under 21 U.S.C. 801 *et seq.*, and any relevant implementing regulations in 21 CFR Parts 1300–1316, the Postal Service considers such distribution by mail to constitute the mailing of matter not outwardly or of its own force dangerous or injurious to a person's life or health, provided that it satisfies the following preparation and packaging requirements.

a. The inner container of any parcel containing controlled substances must be marked and sealed under the applicable provisions of the Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and the regulations implementing it, 21 CFR Parts 1300–1316.

b. If the controlled substances consist of prescription medicines, the inner container must also be labeled to show the prescription number and the name and address of the pharmacy, practitioner, or other person dispensing for prescription.

c. The inner container of every parcel containing controlled substances must be placed in a plain outer container or securely overwrapped in plain paper.

d. The outside wrapper or container must be free of markings that would indicate the nature of the contents.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative Division.

[FR Doc. 93–30955 Filed 12–21–93; 8:45 am]

BILLING CODE 7710–22–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–4816–5]

State Implementation Plans for Lead Nonattainment Areas; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990

AGENCY: Environmental Protection Agency (EPA).

ACTION: Addendum to General Preamble for future proposed rulemakings.

SUMMARY: Areas of the country which violate national ambient air quality standards for any of the six criteria pollutants (lead, sulfur dioxide (SO_2), particulate matter, ozone, carbon monoxide, and nitrogen dioxide) may be designated nonattainment as provided by the Clean Air Act (Act), as modified by the 1990 Amendments. States containing these areas are required by title I of the statute to develop plans to timely attain the standards.

The General Preamble for the Implementation of title I of the 1990 Amendments was published on April 16, 1992. It provides preliminary guidance to the States and other interested parties regarding what EPA generally considers acceptable plan submittals for implementing certain requirements of title I of the Act.

This document adds the lead addendum to the General Preamble which provides more detailed guidance on meeting the statutory requirements for reasonably available control measures (RACM) (including reasonably available control technology (RACT)), reasonable further progress (RFP) for lead, and contingency measures. In general, the guidance contained in the addendum parallels existing guidance previously provided for other pollutants, such as PM–10 (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) and SO_2.

ADDRESSES: References cited herein are available from the Public Docket No. A–92–25. The docket is located at the U.S. EPA Air Docket, room M–1500, Waterside Mall, LE–131, 401 M Street SW., Washington, DC 20460. The docket may be inspected from 8:30 a.m. to 12 noon and from 1:30 p.m. to 3:30 p.m. on weekdays, except for legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Laura D. McKelvey, Air Quality Management Division, Mail Drop 15, Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5497.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
  A. Statutory Background
  B. Guidance Development
  C. Guidance Legal Effect
II. Reasonably Available Control Measures (Including Reasonably Available Control Technology)
  A. Introduction
  B. Reasonably Available Control Measures
  C. Reasonably Available Control Technology
  D. Previously Approved Lead SIP's
  E. SIP's That Demonstrate Attainment
III. Reasonable Further Progress
IV. Contingency Measures
V. Other Requirements
  A. Executive Order 12291
  B. Regulatory Flexibility Act
Appendix 1—Available Fugitive Lead-Bearing Dust Control Measures
  A. Background
  B. List of Available Control Measures
Appendix 2—RACT Determinations for Stationary Sources
  A. Background
  B. Technological Feasibility
  C. Economic Feasibility

In accordance with 1 CFR 5.9(c), this document is published in the proposed rules category.

I. Background

The draft addendum was made available to the public on July 16, 1992 with a 6-week public comment period. The EPA also held a public meeting on July 30, 1992. No comments were received from industry or the general public on the addendum. Copies of the draft addendum were also provided to the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (STAPPA/ALAPCO); the Lead Issue Group endorsed the draft guidance and provided a few comments. Responses to those comments have been placed in the docket.

A. Statutory Background

Any State containing an area designated as nonattainment with respect to the lead national ambient air quality standards (NAAQS) must develop and submit a State implementation plan (SIP) meeting the requirements of part D, title I, of the Act providing for attainment (see sections 191(a) and 192(a) of the Act). As indicated in the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (see 57 FR 13498, 13550; April 16, 1992), all components of the lead part D SIP must be submitted within 18 months of an area's nonattainment designation. The general part D nonattainment plan provisions are set forth in section 172 of the Act. Section 172(c) specifies that SIP's submitted to meet the part D requirements must, among other things, include RACM (which includes RACT), provide for RFP, include an emissions inventory, require permits for the construction and operation of major new and modified stationary sources (see also section 173), contain contingency measures, and meet the applicable provisions of section 110(a)(2). The EPA has provided guidance for implementing some of the above provisions in the April 16, 1992 "General Preamble." It is important to note that nonattainment lead SIP's must meet all of the part D requirements including those specified in section 172(c) even if EPA does not issue guidance for each and every provision, e.g., applicable provisions of section 110(a)(2).

B. Guidance Development

On May 31, 1991 EPA issued preliminary SIP development guidance for lead nonattainment areas, "Lead Nonattainment Area State Implementation Plan (SIP) Guidance: Final Staff Work Product." This guidance was largely incorporated into the General Preamble referenced above (57 FR 13549–13551). The EPA indicated that in developing RACM for lead nonattainment areas, States should rely on the RACM guidance issued for particulate matter that was set out in detail in the General Preamble (57 FR 13550). In fact, the portion of this guidance addressing RACM for lead nonattainment areas parallels EPA's interpretation of RACM for particulate matter.

A notice announcing this addendum to the General Preamble, available in draft form, was published on July 16, 1992 (see 57 FR 31477). The EPA entertained written and oral comments on the draft. The EPA received no public or industry comments, and only limited comments from STAPPA/ALAPCO. Therefore, EPA is issuing this guidance in final form largely unchanged. Responses to comments can be found in the docket referenced above.

C. Guidance Legal Effect

This document describes EPA's nonbinding views on how EPA should interpret certain lead nonattainment area SIP requirements. These interpretations will be given binding effect only after final rulemaking action on a specific SIP submittal for a particular area. During the course of such rulemaking action, the public will be afforded an opportunity to comment on the application of any interpretations advanced in this guidance to the particular area in question. Thus, EPA will consider the factual circumstances associated with a particular lead nonattainment area and the submissions made by any persons before giving the preliminary interpretations set out in this guidance binding legal effect.

II. Reasonably Available Control Measures (Including Reasonably Available Control Technology)

A. Introduction

As a general rule, most, if not all, of the lead nonattainment areas are attributed to specific stationary sources. That is, violations of the lead NAAQS are caused by current and in some cases historical emissions (see discussion below) from specific stationary sources. Therefore, to meet the part D requirements, lead SIP's must contain RACM (including RACT) which addresses both historical emissions as well as current direct emissions.

As a general rule, the stationary sources in these lead nonattainment areas tend to emit a relatively large amount of particulate matter containing lead. At primary lead smelters, for example, the process of reducing concentrate ore to lead involves a series of steps, some of which are completed outside buildings or inside buildings which are not totally enclosed. Over a period of time, emissions from these sources have been deposited in the neighboring community (e.g., on roadways, parking lots, yards, and off-plant property). This historically-deposited lead, when disturbed, is reentrained in the ambient air. When reentrained, the fugitive lead-bearing dust may contribute to violations of the lead NAAQS.

VOL 58 ISS 244 DEC 22 1993 UMI

B. Reasonably Available Control Measures

The suggested starting point for specifying RACM in each SIP is shown in the listing of available control measures for fugitive lead-bearing dust contained in appendix 1. If a State receives substantive public comment demonstrating through appropriate documentation that additional control measures may well be reasonably available in a particular circumstance, those measures should be added to the list of available measures for consideration for that area. The RACM is then determined for the affected area's SIP. While EPA does not presume that these control measures are reasonably available in all areas, a reasoned justification for rejection of any available control measure should be prepared. If it can be shown that one or more measures are unreasonable because emissions from the sources affected are insignificant, those measures may be excluded from further consideration as they would not represent RACM for the area.[1] The resulting available control measures should then be evaluated for reasonableness, considering their technological feasibility and the cost of control in the area to which the SIP applies. In the case of public sector sources and control measures, this evaluation should consider the impact of the reasonableness of the measures on the municipal or other governmental entity that must bear the responsibility for their implementation (e.g., paving of unpaved public roads). The EPA anticipates that in some cases, States will consider whether the sources responsible for depositing lead emissions in the affected community should bear some of the responsibility for implementation of what are generally viewed as public sector control measures. It is important to note that a State should consider the feasibility of implementing measures in part when full implementation would be infeasible. A reasoned justification for partial or full rejection of any available control measures, including those considered or presented during the State's public hearing process should be prepared. The justification should contain an explanation, with appropriate documentation, why each rejected control measure is infeasible or otherwise unreasonable.

When the process of determining RACM for an area is completed, the individual measures should then be converted into a legally-enforceable vehicle (e.g., a regulation or permit program) (see sections 172(c)(6) and 110(a)(2)(A) of the Act). The regulations or other measures submitted should meet EPA's criteria regarding the enforceability of SIP's and SIP revisions. These criteria were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation; Thomas L. Adams, Jr., Assistant Administrator for Enforcement and Compliance Monitoring; and Francis S. Blake, General Counsel, Office of the General Counsel; entitled "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency." As stated in this memorandum, SIP's and SIP revisions which fail to satisfy the enforceability criteria should not be forwarded for approval. If they are submitted, they will be disapproved if, in EPA's judgment, they fail to satisfy applicable statutory and regulatory requirements.

The technical guidance that discusses in detail the suggested initial measures identified in appendix 1 and that a State should consider in determining which of the measures in appendix 1 are reasonable, considering technical feasibility and the cost of control in a particular area, is contained in "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures"[2] (EPA–450/2–92–004), September 1992. This document reflects EPA's most recent assessment of available control measures for sources of fugitive dust and may serve as an example in analyzing control costs for a given area. Copies of this document may be obtained by contacting the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

C. Reasonably Available Control Technology

This guidance follows EPA's historic definition of RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.[3] The RACT applies to the "existing sources" of lead stack, process fugitive, and fugitive dust emissions (e.g., haul roads, unpaved staging areas) (see section 172(c)(1)). The EPA recommends that stationary sources which actually emit a total of 5 tons per year of lead or lead compounds measured as elemental lead be the minimum starting point for RACT analysis.[4] Generally, EPA recommends that available control technology be applied to those existing sources in the nonattainment area that are reasonable to control in light of the attainment needs of the area and the feasibility of such controls. Thus, a State's control technology analyses may need to include sources which actually emit less than 5 tons per year of lead or lead compounds in the area, or other sources in the area that are reasonable to control, in light of the area's attainment needs and the feasibility of control.[5]

[1] Where the sources affected by potentially available control measures contribute only negligibly to ambient concentrations that exceed the NAAQS, EPA's policy is that it would be unreasonable and therefore would not constitute RACM to require controls on the sources. Not only would RACM not require the imposition of controls in such a circumstance but the inherent authority of administrative agencies to exclude de minimis situations from regulation has been recognized in contexts such as this where an agency is invoking a de minimis exclusion as "a tool to be used in implementing the legislative design" (see *Alabama Power Co. v. Costle*, 636 F.2d 323, 360 (D.C. Cir. 1979)).

[2] Much of the guidance in this document was previously found in the "Control of Open Fugitive Dust Sources" document (EPA–450/3–88–008). This latter document was developed with substantial input from State and local agencies, trade groups and associations, and control experts.

This information has been updated and replaced in the "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures." Further, the more recent document is designed to be updated as new information becomes available. Therefore, the latter should be referred to as the starting point for identifying available control measures for lead-bearing fugitive dust.

[3] See, for example, 44 FR 53762 (September 17, 1979) and footnote 3 of that notice. Note that EPA's emissions trading policy statement has clarified that the RACT requirement may be satisfied by achieving "RACT equivalent" emission reductions in the aggregate from the full set of existing stationary sources. See also EPA's economic incentives proposal which reflects the Agency's more recent policy guidance with respect to emissions trading, 58 FR 11110, February 23, 1993.

[4] The EPA's regulations adopted prior to the 1990 Amendments define a point source for lead or lead compounds measured as elemental lead, as any stationary source that actually emits a total of 5 tons per year or more (see 40 CFR 51.100(k)).

The EPA simply notes that past usage in 40 CFR 51.100(k) as evidence that the 5 tons per year has been a historically important threshold level for lead and, as such, has been selected here to be the minimum starting point for RACT analysis. The Act Amendments of 1990 included a general savings clause which provides that regulations (or guidance, etc.) in effect before enactment of the Amendments shall remain in effect after enactment (see section 193 of the amended Act). However, the savings clause also provides that such regulations (or guidance, etc.) shall remain in effect "except to the extent otherwise provided under this Act, inconsistent with the provision of this Act, or revised by the Administrator." Id.

[5] Note that Congress has not used the word "all" in conjunction with RACT in either the earlier law or as now amended. Thus, it is possible that a State could demonstrate that an existing source in an area should not be subject to a control technology, especially where such control is unreasonable in light of the area's attainment needs or infeasible. Even if EPA was required to impose control technology on every existing stationary source, where a State demonstrates that available control technology for a source is infeasible or otherwise unreasonable, EPA would conclude that "reasonably" available control technology for that source constitutes no control or, stated differently, that no control technology for the source is "reasonably" available.

As referenced above, section 172(c) of the amended Act provides that RACT should apply to "existing sources in the area." This is the same language that appeared in the RACT requirements under the Act prior to the 1990 Amendments (see section 172(b)(3) of the pre-amended law). Under the pre-amended law, EPA, in effect, interpreted the phrase "existing sources in the area" as it is interpreted here. The EPA believes that Congress has placed its imprimatur on, if not adopted, EPA's prior interpretation of RACT (see, e.g., section 182(a)(2)(A) of the amended Act, see also section 193 of the amended Act (savings clause preserving prior EPA guidance except where inconsistent with the amended Act)).

Specific guidance on the evaluation of the technological and economic feasibility of control technology for existing stationary sources is contained in appendix 2.

D. Previously Approved Lead SIP's

Prior to the 1990 Amendments, EPA believed that the implementation and maintenance of the lead NAAQS should be in accordance with the SIP requirements set forth in section 110 and not part D (see 57 FR 13549). Since 1979, EPA has taken action to approve a number of lead area SIP's. These SIP's were required to demonstrate attainment. Although there is no statutory requirement for RACT in section 110, generally the available technology-based measures for controlling lead emissions have not changed substantially. Therefore, it is possible that some previously-approved lead SIP's require RACT equivalent technology. For example, for areas that requested attainment date extensions, EPA may have approved SIP's that required controls that would now be considered RACT for existing stationary sources of lead. However, because prior approval of any such control technology did not involve a RACT determination under part D, because there may have been new developments in available control technology, and because the area is not in attainment with the lead NAAQS (and therefore the previous plan did not in fact provide for attainment), it is not appropriate to presume that existing control technology satisfies the RACT requirement now applicable to lead nonattainment areas under part D (see section 172(c)(1)). Therefore, with respect to controls on stack and process fugitive emission points in previously-approved lead SIP's, EPA specifically recommends that the emission limits be reviewed under the guidance for nonattainment area RACT provided in this notice in light of any newly identified attainment needs of the area and improvements in control technology and reductions in control costs that may now make lower emission limits reasonable (see appendix 2). Thus, in those lead nonattainment areas that have previously-approved lead SIP's, the lead regulations for existing sources should be reviewed to determine whether additional controls are necessary to meet part D RACT requirements, and whether the regulations meet EPA's enforceability criteria.

Section 110(n)(1) of the amended Act specifies that any provision of any lead SIP, including any revisions, approved or promulgated by EPA before enactment of the 1990 Amendments, shall remain in effect until EPA approves or promulgates a revision to the SIP under the new law. Section 110(l) of the Act prohibits EPA from approving any SIP revision that interferes with any applicable requirement of the Act including, for example, reasonable further progress and attainment. Further, the General Savings Clause, section 193 of the Act, states that any control requirement in effect or required to be adopted by a SIP in effect before enactment of the 1990 Amendments for any area which is a nonattainment area for any air pollutant may not be modified unless the modification ensures equivalent or greater emission reductions of such air pollutant. Thus, under section 110(n)(1), existing provisions of lead SIP's remain in effect in areas designated nonattainment for lead until such provisions are revised under the new law. Further, under section 110(l) EPA is barred from approving a SIP revision which interferes with any applicable Act requirement. Finally, under section 193, no revision of a control requirement can occur unless it ensures at least equivalent emission reductions.

E. SIP's That Demonstrate Attainment

The SIP's for lead nonattainment areas should provide for the implementation of control measures for area sources and control technology for stationary sources of lead emissions which demonstrate attainment of the lead NAAQS as expeditiously as practicable but no later than the applicable statutory attainment dates. Therefore, if a State adopts less than all available measures but demonstrates, adequately and appropriately, that reasonable further progress (discussed later) and attainment of the lead NAAQS are assured, and application of all such available measures would not result in attainment any faster, then a plan which requires implementation of less than all technologically and economically available measures may be approved (see 44 FR 20375 (April 4, 1979) and 56 FR 5460 (February 11, 1991)). The EPA believes it would be unreasonable to require that a plan which demonstrates attainment include all technologically and economically available control measures even though such measures would not expedite attainment. Thus, for some sources in areas which demonstrate attainment, it is possible that some available control measures may not be "reasonably" available because their implementation would not expedite attainment.

III. Reasonable Further Progress

Part D SIP's must provide for RFP (see section 172(c)(2) of the Act). Section 171(1) of the Act defines RFP as "such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." Historically, for some pollutants, RFP has been met by showing annual incremental emission reductions sufficient generally to maintain linear progress toward attainment by the specified deadline. Requiring linear emission reduction progress to maintain RFP may be appropriate where:

1. Pollutants are emitted by numerous and diverse sources.
2. The relationship between any individual source and the overall air quality is not explicitly quantified.
3. There is a chemical transformation involved.
4. The emission reductions necessary to attain the standard are inventory wide.

Requiring linear progress to maintain RFP is less appropriate where:

1. There are a limited number of sources.
2. The relationships between individual sources and air quality are relatively well defined.
3. There is not a chemical transformation.
4. Emission controls system utilized (e.g., at major point sources) will result in swift and dramatic emission reductions.

The EPA believes it may not be reasonable to require linear reductions in emissions in SIP's for lead nonattainment areas because the air quality problem is not usually due to a vast inventory of sources. However, this is not to suggest that generally it would

VOL
58
ISS
2
44
DE
22
1993
UMI

be unreasonable for EPA to require annual incremental reductions in emissions in lead nonattainment areas. The RFP for lead nonattainment areas should be met, at least in part, by "adherence to an ambitious compliance schedule"[6] which is expected to periodically yield significant emission reductions, and as necessary, linear progress. The EPA recommends that SIP's for lead nonattainment areas provide a detailed schedule for compliance with RACM (including RACT) in the areas and accurately indicate the corresponding annual emissions reductions to be achieved. In reviewing the SIP, EPA will determine whether, in light of the statutory objective to ensure timely attainment of the lead NAAQS, the annual incremental emission reductions to be achieved are reasonable. Additionally, EPA believes that it is appropriate to expect early implementation of less technology-intensive control measures (e.g., controlling fugitive dust emissions at the stationary source) while phasing in the more technology-intensive control measures, such as those involving the installation of new hardware. Finally, note that failure to implement the SIP provisions required to meet annual incremental reductions in emissions (i.e., RFP) in a particular area could result in the application of sanctions as described in sections 110(m) and 179(b) of the Act (pursuant to a finding under section 179(a)(4)), and the implementation of contingency measures required by section 172(c)(9) of the Act.

IV. Contingency Measures

Section 172(c)(9) of the Act defines contingency measures as measures in a SIP which are to be implemented if an area fails to maintain RFP or fails to attain the NAAQS by the applicable attainment date. Contingency measures become effective without further action by the State or the Administrator, upon determination by the Administrator that the area has failed to maintain reasonable further progress or attain the lead NAAQS by the applicable statutory deadline. Contingency measures should consist of available control measures that are not included in the primary control strategy.

Contingency measures are important for lead, which is generally a stationary source problem (as discussed earlier), for several reasons. First, the current process and area fugitive emissions from these stationary sources and the reentrainment of historically-deposited emissions are difficult to quantify. Therefore, the analytical tools for determining the relationship between reductions in emissions and resulting air quality improvements can be subject to uncertainties. Second, emission estimates and attainment analyses can be influenced by overly-optimistic assumptions about control efficiency with respect to fugitive emissions.

Examples of contingency measures for controlling area fugitives include paving more roads, stabilizing more storage piles, increasing the frequency of street cleaning, etc. Examples of contingency measures for process fugitive emissions include increasing enclosure of buildings, increasing air flow in hoods, increasing operation and maintenance procedures, etc. Examples of contingency measures for stack sources include reducing hours of operations, changing the feed material to lower lead content, and reducing the occurrence of malfunctions by increasing operation and maintenance procedures, etc.

Section 172(c)(9) provides that contingency measures should be included in the SIP for a lead nonattainment area and shall "take effect * * * without further action by the State or the Administrator." The EPA interprets this requirement to be that no further rulemaking actions by the State or EPA would be needed to implement the contingency measures (see generally 57 FR 13512 and 13543–13544). The EPA recognizes that certain actions, such as the notification of sources, modification of permits, etc., would probably be needed before a measure could be implemented. However, States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review. After EPA determines that a lead nonattainment area has failed to maintain RFP or to timely attain the lead NAAQS, EPA generally expects all actions needed to affect full implementation of the measures to occur within 60 days after EPA notifies the State of such failure. The State should ensure that the measures are fully implemented as expeditiously as practicable after they take effect.

V. Other Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether an action is "major" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this action is exempt from classification as "major" because it is a compilation of interpretive rule and general statements of policy as defined in the Administrative Procedure Act (APA). Nevertheless, this notice was submitted to the Office of Management and Budget (OMB) for review.

A copy of the draft notice as submitted to OMB, any documents accompanying the draft, any written comments received from other agencies (including OMB), and any written responses to these comments have been included in the docket.

B. Regulatory Flexibility Act

Whenever the Agency is required by section 553 of the APA or any other law to publish general notice and proposed rulemaking for any proposed rule, the Agency shall propose and make available for public comment an initial regulatory flexibility analysis. The regulatory flexibility requirements do not apply for the lead addendum to the General Preamble because it is not a regulatory action in the context of the APA or the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Reasonably available control measures, Reasonably available control technology, Contingency measures, Reasonable further progress.

Dated: December 13, 1993.

Carol M. Browner,

Administrator.

Appendix 1—Available Fugitive Lead-Bearing Dust Control

A. Background

The available control measures listed below apply to all fugitive lead-bearing dust sources except those to which RACT is applicable (i.e., fugitive lead-bearing dust associated with traditional stationary sources). Fugitive lead-bearing dust is particulate matter suspended in the air either by mechanical disturbance of the surface material or by wind action blowing across the surface. Mechanical disturbance includes resuspension of particles from vehicles traveling over roadways, parking lots, and other open areas. Wind action includes dust blown off inadequately stabilized open areas. The quantity of fugitive lead-bearing dust emissions is dependent upon several factors such as the size of the source, emission rate, and control efficiency. The EPA's policy is to reduce fugitive lead-bearing dust emissions, with an emphasis on preventing, rather than mitigating, them. For example, past efforts to control emissions from paved roads have usually relied on street cleaning to reduce silt loading. The new approach would put a higher priority on measures to prevent silt from getting on the road surface. Mitigative measures should be reserved for those areas/situations where prevention is not feasible or the only way to reduce the impact is to remove historically-deposited emissions. Technical guidance on fugitive dust control measures is found in "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures" (EPA–450/2–92–004, September, 1992).

B. List of Available Control Measures

1. Pave, vegetate, or chemically stabilize access points where unpaved traffic surfaces adjoin paved roads.
2. Require dust control plans for construction or land-clearing projects.
3. Require haul trucks to be covered.
4. Provide for traffic rerouting or rapid clean up of temporary (and not readily preventable) sources of dust on paved roads (water erosion runoff, mud/dirt carryout areas, material spills, skid control sand). Delineate who is responsible for cleanup.
5. Require paving, chemically stabilizing, or otherwise stabilizing permanent unpaved haul roads, and parking or staging areas at commercial, municipal, or industrial facilities.
6. Develop traffic reduction plans for unpaved roads. Use of speed bumps, low speed limits, etc., to encourage use of other (paved) roads.
7. Limit use of recreational vehicles on open land (e.g., confine operations to specific areas, require use permits, outright ban).
8. Require curbing and pave or stabilize (chemically or with vegetation) shoulders of paved roads.
9. Pave or chemically stabilize unpaved roads.
10. Pave, vegetate, or chemically stabilize unpaved parking areas.
11. Require dust control measures for material storage piles.
12. Provide for storm water drainage to prevent water erosion onto paved roads.
13. Require revegetation, chemical stabilization, or other abatement of wind erodible soil, including lands subjected to water mining, abandoned farms, and abandoned construction sites.
14. Rely upon the soil conservation requirements (e.g., conservation plans, conservation reserve) of the Food Security Act to reduce emissions from agricultural operations.
15. Require washing of undercarriages and wheels of vehicles immediately prior to leaving the plant area.
16. Require that water used for dust suppression and vehicle washing contain a limited amount of lead (e.g., less than or equal to 0.1 ppm).

Appendix 2—RACT Determinations for Stationary Sources

A. Background

Congress has for the second time in amending the Act specifically required that RACT be applied to existing stationary sources in areas designated nonattainment. In section 172(b)(3) of the Act, as amended in 1977, Congress specified that nonattainment area plans were to "require * * * reasonable further progress * * * including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology." Thus, RACT was required in SIP's developed for areas that were designated nonattainment. Although, under the 1977 Amendments, the lead NAAQS were not implemented through the nonattainment area planning provisions; in the 1990 Amendments, Congress reaffirmed the application of the RACT requirement in any area designated nonattainment by largely incorporating the 1977 section 172(b)(3) RACT requirement into section 172(c)(1) which is applicable to lead nonattainment areas. Specifically, section 172(c)(1) of the Act, as amended in 1990 (Nonattainment Plan Provisions—In General), requires that nonattainment area plans provide for "* * * such reductions in emissions from existing sources in the (nonattainment) area as may be obtained through the adoption, at a minimum, of reasonably available control technology." Thus, RACT is now required for lead nonattainment area SIP's.

The EPA recommends that the nonattainment area RACT for a particular source continues to be determined on a case-by-case basis considering the technological and economic feasibility of reducing emissions from that source (through process changes or add-on control technology). The following technological and economic parameters should be considered in determining part D RACT for a particular source.

B. Technological Feasibility

The technological feasibility of applying an emission reduction method to a particular source should consider the sources process and operating procedures, raw materials, physical plant layout, and any other environmental impacts such as water pollution, waste disposal, and energy requirements. The process, operating procedures, and raw materials used by a source can affect the feasibility of implementing process changes that reduce emissions and the selection of add-on emission control equipment. The operation and longevity of control equipment can be significantly influenced by the raw materials used and the process to which it is applied. The feasibility of modifying processes or applying control equipment is also influenced by the physical layout of the particular plant. The space available in which to implement such changes may limit the choices and will also affect the costs of control.

Reducing air emissions may not justify adversely affecting other resources by increasing pollution of bodies of water, creating additional solid waste disposal problems, or creating excessive energy demands. In other words, an otherwise available lead control technology may not be reasonable if these other environmental impacts cannot reasonably be mitigated. For analytic purposes, a State may consider a lead control measure technologically infeasible if, considering the availability (and cost) of mitigative adverse impacts of that control on other pollution media, the control would not, in the State's reasoned judgment, provide a net environmental benefit. In many instances, however, lead control technologies have known energy penalties and adverse effects on other media, but such effects and the cost of their mitigation are also known and have been borne by owners of existing sources in numerous cases. Such well-established adverse effects and their costs are normal and assumed to be reasonable and should not, in most cases, justify nonuse of the lead control technology. The costs of preventing adverse water, solid waste, and energy impacts will also influence the economic feasibility of the lead control technology.

Approaches to reducing emissions of lead are discussed in "Control Techniques for Lead Air Emissions,"[7] Volume I—Chapters 1–3, and Volume II—Chapter 4—Appendix B, (EPA–450/2–77–012), December 1977. The many processes that generate lead air pollutants are described individually in this report. Information on the selection and performance of alternative control techniques applicable to lead emitting facilities within specific source categories is presented. Information on capital and annualized costs of

[6] As previously stated most of the lead nonattainment problems are caused by point sources. For this reason EPA believes that the RFP for lead should parallel the RFP policy for SO_2 (see the General Preamble, 57 FR 13545, April 16, 1992).

[7] Note that this document is currently being revised by EPA.

VOL 58 ISS 244 DEC 22 1993 UMI

installing lead emission controls is also presented. Since it is not possible, in most cases, to distinguish between costs of particulate control and costs of lead control, control costs are presented for particulate control equipment which coincidentally reduce potential lead emissions. Also presented, for most source categories, are estimates of the environmental and energy impacts associated with the control of lead emissions.

Alternative approaches to reducing emissions of particulate matter (which would include lead) are discussed in "Control Techniques for Particulate Emissions from Stationary Sources"—Volume I (EPA–450/3–81–005a) and Volume II (EPA–450/3–81–005b), September 1982. The design, operation and maintenance of general particulate matter control systems such as mechanical collectors, electrostatic precipitators, fabric filters, and wet scrubbers are discussed in Volume I. The collection efficiency of each system is discussed as a function of particle size. Information is also presented regarding energy and environmental considerations and procedures for estimating costs of particulate matter control equipment. The emission characteristics and control technologies applicable to specific source categories are discussed in Volume II. Secondary environmental impacts are also discussed.

Additional sources of information on control technology are background information documents for new source performance standards and "Identification, Assessment, and Control of Fugitive Particulate Emissions," EPA–600/8–86–023, August 1986.

In some instances, control technologies more modern or more advanced than those described in the documents referenced may exist. In such cases, the State's nonattainment RACT analysis for a source should consider such available technology.

C. Economic Feasibility

Economic feasibility considers the cost of reducing emissions and the difference in costs between the particular source and other similar sources that have implemented emission reductions. As discussed above, EPA presumes that it is reasonable for similar sources to bear similar costs of emission reductions. Economic feasibility rests very little on the ability of a particular source to "afford" to reduce emissions to the level of similar sources. Less efficient sources would be rewarded by having to bear lower emission reduction costs if affordability were given high consideration. Rather, economic feasibility for RACT purposes is largely determined by evidence that other sources in a source category have in fact applied the control technology in question.

The capital costs, annualized costs, and cost effectiveness of an emission reduction technology should be considered in determining its economic feasibility. The "OAQPS Control Cost Manual, Fourth Edition," EPA–450/3–90–006, January 1990, describes procedures for determining these costs. The above costs should be determined for all technologically-feasible emission reduction options.

States may give substantial weight to cost effectiveness in evaluating the economic feasibility of an emission reduction technology. The cost effectiveness of a technology is its annualized cost ($/year) divided by the amount of lead emission reductions (i.e., tons/year) which yields a cost per amount of emission reductions ($/ton). Cost effectiveness provides a value for each emission reduction option that is comparable with other options and other facilities.

If a company contends that it cannot afford the technology that appears to be nonattainment area RACT for that source or group of sources, the claim should be supported with such information as the impact on:

1. Fixed and variable production costs ($/unit).
2. Product supply and demand elasticity.
3. Product prices (cost absorption versus cost pass-through).
4. Expected costs incurred by competitors.
5. Company profits.
6. Employment.

If a company contends that available control technology is not affordable and would lead to closing the facility, the costs of closure should be considered. Closure may incur costs for demolition, relocation, severance pay, etc.

[FR Doc. 93–31099 Filed 12–21–93; 8:45 am]
BILLING CODE 6560–50–P

---

40 CFR Part 52

[AK–4–1–6027; FRL–4817–6]

Approval and Promulgation of Implementation Plan; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA proposes approval of the State Implementation Plan (SIP) revision submitted by the state of Alaska for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the state to satisfy certain federal Clean Air Act (CAA) requirements for an approvable moderate nonattainment area PM–10 SIP for Mendenhall Valley, Alaska due on November 15, 1991. EPA is also proposing approval of the contingency measures submitted by the state of Alaska for the Mendenhall Valley and Eagle River moderate PM–10 nonattainment areas.

DATES: Comments on this proposed action must be postmarked by January 21, 1994.

ADDRESSES: Written comments should be addressed to: Christi Lee, United States Environmental Protection Agency, Air and Radiation Branch (AT–082), 1200 6th Avenue, Seattle, Washington 98101.

Copies of the documents relevant to this action are available for public inspection during normal business hours at: Air and Radiation Branch (AK–4–1–6027), United States Environmental Protection Agency, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and the Department of Environmental Conservation, 410 Willoughby, Suite 105, Juneau, Alaska 99801.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Air and Radiation Branch (AT–082), United States Environmental Agency, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1814.

SUPPLEMENTAL INFORMATION:

I. Background

The Mendenhall Valley, Alaska, area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990. See 56 FR 56694 (Nov. 6, 1991) (40 CFR 81.302 specifying PM–10 air quality designation for the Mendenhall Valley area). The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the Act.[1] The EPA has issued a "General Preamble," describing EPA's preliminary views on how EPA intends

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. *See* Pub. L. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

to review SIP's and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in the proposal and the supporting rationale. EPA is proposing to apply its interpretations to Alaska's moderate PM–10 SIP submittal for Mendenhall Valley taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the addresses indicated above. EPA will consider any timely submitted comments before taking final action on today's proposal.

Those states containing initial moderate PM–10 nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area.See sections 172(c), 188, and 189 of the Act.

Some provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such states also must submit contingency measures by November 15, 1993 which become effective without further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–44).

II. Analysis of State Submission

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–66). In this action, EPA is proposing to approve the Mendenhall Valley plan revision which was signed by the Lieutenant Governor on June 8, 1993 and received by EPA on June 22, 1993 because it meets all of the applicable requirements of the Act.

1. Procedural Background

The Act requires states to observe certain procedural requirements in developing the implementation plans and plan revisions for submission to EPA. Section 110(a)(2) and 110(l) of the Act provides that each implementation plan and plan revision submitted by a state must be adopted after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

After providing adequate public notice and holding a public hearing, the Alaska Department of Environmental Conservation (ADEC) submitted a SIP revision which was developed under the CAA prior to the amendments of 1990 and certified by the Lieutenant Governor on June 21, 1991. A revised submittal addressing additional 1990 CAAA requirements was signed by the Lieutenant Governor on June 8, 1993 and became effective on July 8, 1993. Prior to the Lieutenant Governor's signature, the state provided adequate public notice and a public hearing (May 12, 1993) on the Mendenhall Valley SIP revision. EPA received an official SIP submitted by the Governor on June 22, 1993. The June 22, 1993 submittal wholly superseded the June 21, 1991 SIP revision and therefore is the subject of this proposal.

The June 22, 1993, SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, Appendix V. The submittal was found to be complete and a letter dated July 15, 1993 was forwarded to the Commissioner of ADEC indicating the completeness of the submittal and the next steps to be taken in the review process.

2. PM–10 Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the submission of the emissions inventory (EI) is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the EI must be received with the demonstration (see 57 FR 13539).

A comprehensive EI (base year 1987) was developed for Mendenhall Valley by Engineering Science, Inc. in 1988. There have been no major industrial developments nor major increases in residential development in the Valley since the inventory was developed.

The principal focus of the study was to adequately quantify spring and fall emissions. The contractor developed an annual inventory of emissions and an inventory of maximum seasonal 24-hour emissions. The EI showed the largest contributor of spring and fall seasonal PM–10 emissions to be from vehicular traffic along paved and unpaved roads in the Mendenhall Valley. On an annual basis 46 percent of the PM–10 is attributed to paved streets, 40 percent is attributed to unpaved streets, 9 percent attributed to residential wood combustion (RWC), 1 percent attributed to point sources and 4 percent other.

EPA is proposing to approve the EI because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the CAA.

3. Control Strategy—RACM

As noted, the initial moderate PM–10 nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–45 and 13560–61).

VOL
58
ISS
244
DE
22
1993
UMI

The Mendenhall Valley attainment plan targets fugitive dust from unpaved streets for PM–10 emission reductions. Emission reduction credits are not being claimed for the residential wood combustion control measures currently implemented. However, recently, the City and Borough of Juneau (CBJ) Ordinance No. 91–52 changed the air quality alert level to 75 μg/m³ and several of the fines were increased for offenses of the woodsmoke code through the CBJ Ordinance No. 91–53. In addition the CBJ Building Code has now been amended to require minimum insulation standards of R–30 ceilings and R–19 walls and floors. Formulas were also adopted for the percentage of window coverage allowed. Regulations were adopted which disallow wood stoves as a sole source of heat and require a backup system capable of heating the living areas of a house to 70 degrees Fahrenheit. Even though emission reduction credits are not being claimed for the residential wood combustion control measures all program components, including the ordinances referred to above, will improve air quality in both the short and long term and therefore, are part of the federally enforceable Alaska SIP.

ADEC's attainment strategy is proposing to build on the current PM–10 control strategy, by developing a comprehensive and reasonable program to control soil dust entrainment from unpaved roads, commonly referred to as "fugitive dust." Fugitive dust impacts have historically been a component of the Juneau particulate matter problem from both a TSP and PM–10 perspective. But, on the basis of 24-hour exposures as well as chemical apportionment, the PM–10M control program has, in the past, focused upon wood smoke sources. However, as indicated in part II.2 above, the EI and recent assessments of microscale PM–10 filters indicates a significant portion of the particulate emissions is a result of fugitive dust.

Fugitive dust impacts can be significant during the late fall and early spring at the two ends of the heating season, when the ground is not snow covered and wintertime high pressure systems exist limiting precipitation. Fugitive dust impacts can also occur during the summer under extended periods of dry weather.

The Mendenhall Valley's attainment strategy to control fugitive dust emissions from unpaved roads is based on a Valley-wide street paving project. The success of this strategy is based on two funding sources: (1) The Federal Department of Transportation's Congestion Mitigation and Air Quality (CMAQ) funding and (2) the City and Borough of Juneau's ordinances (Serial No. 93–01, 93–06 and 93–39) which created Local Improvement Districts 75, 76 and 77.

As of 1992, approximately 15 miles in the Mendenhall Valley nonattainment area were unpaved. The proposed schedule for the 1993 construction year calls for roughly 13,000 feet (2.5 miles) of "Local Improvement District" (LID) funded paving in the Valley. (The extreme weather conditions in Alaska determine the length of the construction season which dictates how much of the paving program is completed in one season.) The LID paving is accomplished through a joint funding arrangement between adjacent property owners and the city government. Completion of the 1993 construction projects will meet the requirement for RACM by providing for the implementation of control measures that are economically and technologically feasible. However, it will not reduce the unpaved portion of Valley roadways to a level that will allow for compliance with the PM–10 standard. The SIP provides for additional paving initiatives that are feasible for the state to implement after 1993. The remaining paving activity is scheduled for the 1994 construction year.

LID funding and a portion of the $2 million in CMAQ funds is expected to enable the paving of approximately 43,000 feet (7.6 miles) of unpaved roads in the Mendenhall Valley in 1994. Portions of these unimproved roads will need significant "road-base" improvements as well as major drainage or road utility easement work. Juneau's limited construction season of about 40 to 80 workdays per year, depending on the weather, will be the major factor in this work schedule. Based on the state program and in light of the potential extreme weather conditions, EPA views this control measure as adequately implemented.

Once the control strategy has been implemented, approximately 5 miles of roadway will be left unpaved. Of that 5 miles, ADEC is proposing as a contingency measure to pave approximately 1.5 miles if the Valley does not reach attainment of the NAAQS by December 1994.

4. Demonstration Of Attainment

Initial moderate PM–10 nonattainment areas are required to submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by such date is impractical (see sections 188(c)(1) and 189(a)(1)(B) of the Act). Generally, attainment is to be demonstrated, "by means of a proportional model or dispersion model or other procedure which is shown to be adequate and appropriate for such purposes" (40 CFR 51.112).The preferred method, according to the PM_{10} SIP Development Guideline (June 1987), is the use of dispersion and receptor modeling in combination. The guideline also identifies other acceptable techniques. EPA has developed a supplemental attainment demonstration policy, memo issued by John Calcagni, Director, Air Quality Management Division, dated March 4, 1991, that provides additional flexibility in meeting the PM–10 attainment demonstration requirements. This memo is "Attachment 5" to the April 2, 1991 "PM–10 Moderate Area SIP Guidance: Final Staff Work Product." Attachment 5 provides that in certain circumstances "modified demonstrations" may be accepted on a case-by-case basis.

Where Attachment 5 is applied, the "modified demonstration" should:

- Explain why the alternative modeling techniques set forth in the Guideline were not used;
- Document the procedures or analyses used;
- Show that the modified procedure demonstrates, adequately and appropriately, area-wide attainment; and
- When the design value is based on monitoring data, show that the SIP is based on adequate data from an approved network, and review the monitoring network and data. If the analysis reveals a need for additional monitoring, the demonstration must provide for conducting the appropriate follow-up monitoring to ensure that the monitoring network in place as of January 1, 1994 will be adequate to evaluate attainment. The Mendenhall Valley Plan demonstrated area-wide attainment using the most recent (1988) receptor modeling study (EPA Version 6.0 CMB and QSAS III CMB programs, EPA guidance, May 1987) and rollback. Dispersion modeling was not performed for the Mendenhall Valley SIP because of uncertainties associated with source emission rates and a lack of representative meteorological data. Given the foregoing limitations and the limitations and the character of the monitoring network, receptor modeling offered an adequate level of confidence with which to evaluate the relative contribution of the various sources.

The results of the 1988 receptor modeling study determined the largest source impact in Juneau was crustal dust which accounted for 69.6% (102.2 μg/m³) of the mass. Wood smoke was the second largest source of PM–10 in Juneau accounting for 13.8% (20.3 μg/m³) of the PM–10.

To achieve the ambient PM–10 24-hour standard attainment goal of 150 μg/m³ or less by December 1994, ADEC in concert with ADOT and the CBJ are implementing emission reduction strategies as discussed in the previous section (Control Strategy—RACM). Two simple rollback approaches were undertaken by ADEC and a proportional rollback based on the 1988 receptor modeling study was conducted by EPA Region 10 all of which demonstrated attainment of the PM–10 air quality standard by December 1994. Thus, three different modeling methods were employed in assessing whether the control strategy is adequate to demonstrate timely attainment.

The two simple rollback approaches used a background of 35μg/m³, a design concentration of 277μg/m³, a control efficiency of 90 percent for the paving of unpaved roads, and an emissions inventory prepared by Engineering Science (1988). EPA has estimated the background concentration to be 25 μg/m³ when exceptional events data are not reflected in the calculation. This change in background concentration does not change the overall conclusions derived from the attainment demonstration calculations. An overall emission reduction of 64 percent (52 percent calculated by EPA) is necessary to demonstrate attainment for Mendenhall Valley.

ADEC's first approach at simple rollback relied on best professional judgement to proportion the percent emissions resulting from three main sources: Paved roads, RWC and cleared areas. After implementation of the control strategies, this approach yielded an ambient emission level of about 77μg/m³ which is significantly below the PM–10 standard.

A second approach was included in the SIP to assess the ADEC attainment strategy. This method proportions the percent emissions of unpaved road sources, wood burning, windblown dust and residential fuel, based on annual emissions levels (see SIP table III.D.3–7). ADEC did not take into consideration additional emissions in the nonattainment area which were reflected in the 1988 EI. ADEC believed these emission sources (e.g. airport-jet exhaust, airport sanding, power plants, commercial gravel operations and mobile sources) which total 3 percent of the EI were insignificant contributors to the current PM–10 problem in the Mendenhall Valley. This approach yielded an ambient value of about 101 μg/m³. This is about 24 percent greater than ADEC's initial analysis, not 12 percent as claimed in the SIP.

A proportional rollback using the 1988 receptor modeling study, which takes into account all the emission sources in the nonattainment area, was conducted by EPA to further evaluate the adequacy of the control strategy. EPA used a design value of 277 μg/m³, a road dust emission percentage of 69.6, a residential wood combustion component of 13.7 percent and 16.7 percent was attributed to other sources. This approach yielded an ambient concentration of 103 μg/m³ after the control measures are in place.

The PM–10 EI and receptor modeling both conclude that fugitive dust constitutes a majority of PM–10 in Mendenhall Valley. The rollback analysis predicts annual emissions to be below the attainment threshold by 1994. EPA considers receptor modeling in conjunction with rollback analysis to be adequate for assessing whether the control strategy will provide for area-wide, timely attainment in Mendenhall Valley.

EPA has reviewed the Mendenhall Valley PM–10 ambient air monitoring network and has found that it meets the requirements for sampling frequency, precision and accuracy. Mendenhall Valley also has at least one full year of monitoring data which meets the requirement of 75 percent data capture for each quarter. *See, e.g.* section 2.3, 40 CFR part 50, app. K.

Saturation sampling or expansion of the existing monitoring network might provide additional data for assessing the current plan's adequacy. However, based on EPA's assessment of the network and data, these analyses do not appear to be necessary to adequately predict attainment by 1994 in the Mendenhall Valley. The increment of information to be gained from such analyses does not justify either their expense or the delay in taking action on the Mendenhall Valley submittal. However, a saturation study is recommended to assess whether, in fact, the Mendenhall Valley has achieved timely PM–10 NAAQS attainment.

Finally, ambient data shows that the area has never approached an exceedance of the annual PM–10 standard. Since no violations of the annual NAAQS have been monitored with the current EI and since the inventory was "rolled back" to show attainment of the 24-hour NAAQS, no violations of the annual NAAQS are likely. Therefore, EPA believes it is reasonable that the attainment demonstration for the area was based on the 24- hour NAAQS.

5. PM–10 Precursors

The control requirements which are applicable to major stationary sources of PM–10, also apply to major stationary sources of PM–10 precursors unless EPA determines such sources do not contribute significantly to PM–10 levels in excess of the NAAQS in that area (see section 189(e) of the Act).

The EI for the Mendenhall Valley nonattainment area did not reveal any significant stationary sources of PM–10 precursors, and stationary sources as a whole provide an insignificant contribution (1 percent based on the 1988 emission inventory) to Mendenhall Valley's ambient PM–10 concentrations. Thus, ambient PM–10 precursor concentrations in the Mendenhall Valley nonattainment area are considered to be de minimis and EPA is proposing to grant the area the exclusion from PM–10 precursor control requirements authorized under section 189(e) of the Act.

6. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM–10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three years until the area is redesignated to attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). RFP is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

For initial moderate PM–10 nonattainment areas (i.e. those designated nonattainment under section 107(d)(4)(B) of the Act) that demonstrate timely attainment, the emissions reduction progress made between the SIP submittal date of November 15, 1991 and the attainment date of December 31, 1994 (only 46 days beyond and the attainment date of December 31, 1994 (only 46 days beyond the November 15, 1994 milestone date) will satisfy the first milestone requirement (57 FR 13539). The de minimis timing differential makes it administratively impracticable to require separate milestone and attainment demonstrations.

The SIP submittal for Mendenhall Valley demonstrates attainment by 1994 and continued maintenance. The emission reduction progress to be

provided by the road paving initiative adequately satisfies RFP for the area. Therefore, EPA proposes to find that the SIP satisfies the initial quantitative milestone requirement (see 57 FR 13539) and RFP for the area.

7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the state and EPA (see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The CBJ, State Department of Transportation and ADEC are solving the resuspended road dust problem through road paving. To achieve the emission reduction goals, the CBJ has developed ordinances (Serial No. 93–01, 93–06 and 93–39) which authorize funding for the paving or bituminous surface treatment of unpaved roadways within the Mendenhall Valley nonattainment area through 1994. In addition, federal Congestion Mitigation and Air Quality funding, allocated to the Alaska Department of Transportation, has been authorized to help enable paving of roads in the Valley. The state has authority to enforce CBJs ordinance under AS 46.03.220. EPA proposes to determine that the SIP measures to address PM–10 emissions are enforceable.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543–44). These measures must be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the state or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline.

Mendenhall Valley:

The contingency measures for the Mendenhall Valley nonattainment area consist of additional road paving. The control strategy to reach attainment by 1994, consisting of paving roads to decrease fugitive dust emissions, is anticipated to provide adequate reductions in emissions to bring the Valley into compliance with the PM–10 standard by December 31, 1994. However, if the paving initiatives described in Part II.3 do not, in fact, provide for timely attainment of the PM–10 NAAQS, the state will surface approximately 7,250 feet of additional roads during the 1994/95 construction season. Implementation of this measure would result in a net reduction of 12.1 tons/yr, as calculated by EPA. This measure would be implemented upon a determination by EPA that the area has failed to attain the standard.

Eagle River:

EPA has previously announced its approval of Alaska's October 15, 1991 SIP submittal for Eagle River as meeting those moderate PM–10 plan requirements due on November 15, 1991. See 58 FR 43084 (August 13, 1993). In that notice EPA also indicated that additional provisions such as contingency measures were due at a later date. EPA is now announcing its proposed approval of the moderate area PM–10 contingency measures submitted by Alaska for Eagle River.

The contingency measures for the Eagle River nonattainment area consist of additional road surfacing. The principle control strategy to reach attainment by 1994, (see EPA's March 12, 1993 proposal for a discussion of the Eagle River control strategy, 58 FR 13572) consisting of paving roads to decrease fugitive dust emissions, is anticipated to provide adequate reductions in emissions to bring the area into compliance with the PM–10 standard by December 31, 1994. However, if the surfacing does not, in fact, provide for timely attainment of the PM–10 NAAQS, the Municipality will employ two contingency measures. Public works agrees to implement these measures in the event EPA determines that Eagle River has failed to timely achieve the PM–10 air quality standards. The Eagle River Rural Road Service Area, through a grant of 1.5 million dollars which was appropriated in HB 13, has allocated funds as a contingency reserve for the following projects.

The first measure entails surfacing two additional miles of roadway within the nonattainment area with recycled asphalt (RAP). The second contingency measure involves applying an asphalt emulsion to two miles of existing RAP surfaced roads to seal the wearing surface, thus providing a greater degree of dust control. The selected roads would be the most heavily traveled roads in the problem zone. The asphalt emulsion would be reapplied on an as-needed basis. The implementation of these contingency measures, in combination with the primary measures already employed, will provide an estimated total Fall season PM–10 emission reduction of over 60 percent. A reduction of only 40 percent is projected to be necessary to achieve attainment.

III. Implications of This Action

EPA is proposing to approve the plan revision submitted to EPA on June 24, 1993, for the Mendenhall Valley nonattainment area as meeting those moderate PM–10 SIP requirements due on November 15, 1991. Among other things, ADEC has demonstrated that the Mendenhall Valley Moderate PM–10 nonattainment area will attain the PM–10 NAAQS by December 31, 1994. EPA is also proposing to approve the moderate area PM–10 contingency measures Alaska has submitted for Mendenhall Valley as well as those submitted for Eagle River.

As noted, additional submittals for the initial moderate PM–10 nonattainment areas are due at later dates (e.g., permit programs for the construction and operation of new and modified stationary sources of PM–10). EPA will determine the adequacy of any such submittal as appropriate.

IV. Request for Public Comments

EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments postmarked by January 20, 1994.

V. Administrative Review

This action has been classified as a Table 2 action by the Acting Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12991 for a period of two years. The U.S. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Ozone, and Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 13, 1993.

Gerald A. Emison,

Acting Regional Administrator.

[FR Doc. 93–31270 Filed 12–21–93; 8:45 am]

BILLING CODE 6560–60–P

40 CFR Part 180

[PP 3E4192/P571; FRL–4743–6]

RIN No. 2070–AC18

Pesticide Tolerance for Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] in or on the raw agricultural commodity sugarcane. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 3E4192/P571], must be received on or before January 21, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (7505W), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 3E4192 to EPA on behalf of the Agricultural Experiment Stations of Florida and Hawaii. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of a tolerance for residues of chlorpyrifos in or on the raw agricultural commodity sugarcane at 0.01 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

1. A voluntary human study with a no-observed-effect level (NOEL) for cholinesterase (ChE) inhibition of 0.03 milligram (mg)/kilogram (kg)/day (based on 20 days of exposure at this level).

2. A 2-year feeding study in dogs fed diets containing 0, 0.01, 0.03, 0.1, 1.0, or 3 mg/kg/day with a NOEL for systemic effects of 1.0 mg/kg/day based on increased liver weight at the 3.0 mg/kg/day dose level. The NOEL's for ChE inhibition were as follows: 0.01 mg/kg/day for plasma, 0.1 mg/kg/day for red blood cells, and 1.0 mg/kg/day brain cells.

3. A 2-year carcinogenicity study in mice fed diets containing 0, 5, 50, or 250 ppm (equivalent to 0, 0.89, 8.84, or 45.2 mg/kg/day for males and 0, 0.938, 9.79, or 48.1 mg/kg/day for females) with a systemic NOEL of 50 ppm based on decreased body weight and feed consumption in males, increased mean water consumption in females, and increased incidence of gross clinical findings (ocular opacity and hair loss) and nonneoplastic lesions (keratitis and hepatocytic fatty vacuolation) in high-dose males and females. Plasma ChE activity was significantly reduced at all treatment levels; brain ChE activity was significantly decreased in mice in the high-dose group. No carcinogenic effects were observed under the conditions of the study.

4. A 2-year carcinogenicity study in rats fed diets containing 0, 0.2, 5, or 100 ppm (equivalent to 0, 0.0132, 0.33, or 6.99 mg/kg/day for males, and 0, 0.146, 0.365, or 7.78 for females). The systemic NOEL for this study was established at 5 ppm based on decreased body weight in males and females, and increased incidence of nonneoplastic lesions (cataracts and diffuse retinal atrophy) in females at the 100-ppm dose level. No carcinogenic effects were observed under the conditions of the study.

5. A second 2-year chronic toxicity/carcinogenicity study in rats fed diets containing 0, 0.05, 0.1, 1, or 10 mg/kg/day with a systemic NOEL of 1 mg/kg/day based on decreased erythrocyte and hemoglobin levels, and increased platelet count during the first year. The ChE NOEL for this study was established at 0.1 mg/kg/day based on decreased plasma and brain ChE activity. No carcinogenic effects were observed under the conditions of the study.

6. A three-generation reproduction study in rats with no reproductive effects observed at the dietary levels tested (0, 0.1, 0.3, and 1.0 mg/kg/day).

7. A developmental toxicity study in rats given gavage doses of 0.1, 3.0, and

VOL 58 ISS 244 DEC 22 1993 UMI

15 mg/kg/day with no developmental toxicity observed under the conditions of the study. A maternal NOEL was established at 0.1 mg/kg/day based on cholinesterase inhibition at the 3.0 mg/kg/day dose level.

8. A second developmental toxicity study in rats given gavage doses of 0.5, 2.5, and 15 mg/kg/day with NOEL's for developmental and maternal effects of 2.5 mg/kg/day. Maternal systemic toxicity consisted of decreases in food consumption and body weight gain. Developmental toxicity consisted of post implantation embryo loss at the 15 mg/kg/day dose level.

9. A developmental toxicity study in mice given gavage doses of 0, 1, 10, or 25 mg/kg/day with a NOEL for fetotoxicity of 10 mg/kg/day based on decreased fetal length and increased skeletal variants. No developmental toxicity was observed under the conditions of the study.

10. An acute delayed neurotoxicity study in hens that was negative at 50 and 100 mg/kg/day.

11. Chlorpyrifos did not induce gene mutation in bacteria or mammalian cells with or without metabolic activation. The insecticide tested negative for chromosomal aberrations using in vivo and in vitro assays. Chlorpyrifos tested positive for genotoxic effects in a DNA repair test and a gene conversion/mitotic recombination assay using bacterial cells, but was negative for unscheduled DNA synthesis.

12. A metabolism study in rats demonstrates that chlorpyrifos is primarily excreted in urine (84 percent recovered within 72 hours) and that the major animal metabolite is 3,5,6-trichloro-2-pyridinol (a metabolite that is not considered to be of toxicological concern).

A reference dose (RfD) of 0.003 mg/kg/day is established for chlorpyrifos based on the NOEL of 0.03 mg/kg/day from the human voluntary ChE study and a 10-fold uncertainty factor. The anticipated residue contribution (ARC) from published uses of chlorpyrifos utilizes 27 percent of the RfD for the general U.S. population. The theoretical maximum residue contribution (TMRC) from the proposed tolerance for sugarcane would utilize an additional 0.3 percent of the RfD. Dietary exposure from existing uses and the proposed use on sugarcane will not exceed the reference dose for any subpopulation (including infants and children), based on the information available from EPA's Dietary Risk Evaluation System.

The nature of the residue is adequately understood, and an adequate analytical method, gas chromatography, is available for enforcement purposes. An analytical method for enforcing this tolerance has been published in the Pesticide Analytical Manual (PAM), Vol. II. Established tolerances are adequate to cover secondary residues resulting from the use of sugarcane and sugarcane byproducts as livestock feed commodities. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency the tolerance established by amending 40 CFR 180.342 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E4192/P571]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 1, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By amending § 180.342(c) by adding and alphabetically inserting the raw agricultural commodity sugarcane and by revising paragraph (d) introductory text to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

(c) * * *

Commodity	Parts per million
* * * * *	
Sugarcane	0.01
* * * * *	

(d) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the pesticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) in or on the following commodities:

* * * * *

[FR Doc. 93-30864 Filed 12-21-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 285, 630, and 678

[I.D. 121693A]

Atlantic Highly Migratory Species; Receipt of Petition for Rulemaking

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of petition for rulemaking and request for comments.

SUMMARY: NMFS announces receipt of, and requests public comment on, a petition for rulemaking on issues relating to Atlantic highly migratory species. The National Fishing Association (NFA) has petitioned NMFS to restrict commercial net fishing in certain months in five special management zones defined in the petition for the offshore waters of the northwest Atlantic Ocean. The petition also requests mandatory logbooks for recreational vessels fishing for certain highly migratory species and a revised definition of a commercial fishing vessel. The purpose of this notice is to solicit public input on the petition.

DATES: Comments on the petition are requested through February 22, 1994.

ADDRESSES: Comments on the petition should be directed to: Richard Stone, Chief, Highly Migratory Species Management Division, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Please indicate in the letter that your comment is in response to the "NFA Petition for Rulemaking."

FOR FURTHER INFORMATION CONTACT: Rebecca Lent, 301-713-2347. Copies of the NFA petition for rulemaking are available upon request.

SUPPLEMENTARY INFORMATION: The three major commercial species groups affected by this petition for rulemaking would be Atlantic tunas, sharks and swordfish. The Secretary of Commerce has management authority for these species groups under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and the Atlantic Tunas Convention Act (ATCA). Regulations promulgated under the authority of the ATCA (16 U.S.C. 971 *et seq.*) regulating the harvest of Atlantic tunas by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. The Atlantic, Caribbean and Gulf of Mexico shark fisheries are managed according to the Fishery Management Plan for Atlantic Sharks under authority of the Magnuson Act (16 U.S.C. 1801 *et seq.*). Fishing by U.S. vessels is governed by regulations implementing the Shark Fishery Management Plan at 50 CFR part 678. The Atlantic swordfish fishery is managed under the Fishery Management Plan for Atlantic Swordfish and its implementing regulations at 50 CFR part 630 under the authority of the Magnuson Act and the ATCA.

The petition proposes to provide five Special Management Zones for the offshore waters from Cape Hatteras along the continental shelf to the West Atlantis Canyon (see summary table below). Fishing in these zones for yellowfin, bigeye, and skipjack tuna, as well as longfin albacore, by pair trawlers, trawlers and purse seine vessels, would be subject to seasonal restrictions. In addition, swordfish fishing by pair trawler, trawler and driftnet vessels would also be restricted in these zones during the recreational fishing season. The rationale provided for this petition is that the recreational fishery is hampered by the presence of commercial netters. The petition argues that restricting commercial net fishing in the Special Management Zones during the recreational fishing period will lead to a greater economic benefit from the resource. The five zones and the months in which commercial net fisheries would be prohibited are summarized in the table below.

The petition also proposes mandatory logbooks for recreational fishermen, and that certain conditions be met before a vessel is considered commercial; namely, that vessels not be considered commercial operations unless the income (from fishing) exceeds 50 percent of their total income. NMFS policy (established through consultation and recommendation of the Marine Fisheries Advisory Committee [MAFAC]) is that any fishing vessel that sells any of its catch is "commercial." This NMFS policy on the definition of a commercial vessel is used by the Coast Guard to enforce safety regulations, which are required by law to set different safety standards for commercial and recreational vessels.

Therefore, NMFS seeks public comment on the petition for rulemaking submitted by NFA.

Zone	Area	Restricted period	Coordinates
1	W. Atlantis to Block Canyon.	7/1 to 10/15	40.00 degrees N. by 70.30 degrees W. to 41.00 degrees N. by 70.30 degrees W. to 41.00 degrees N. by 71.50 degrees W. to 40.30 degrees N. by 72.30 degrees W. to 40.00 degrees N. by 72.30 degrees W.
2	Hudson to Toms Canyon.	7/1 to 10/15	39.00 degrees N. by 72.00 degrees W. to 40.00 degrees N. by 72.00 degrees W. to 40.10 degrees N. by 73.40 degrees W. to 39.00 degrees N. by 73.40 degrees W.
3	Carteret to Baltimore Canyon.	7/1 to 10/15	38.00 degrees N. by 72.00 degrees W. to 39.00 N. by 72.00 degrees W. to 39.00 degrees N. by 73.40 degrees W. to 38.00 degrees N. by 73.40 degrees W.
4	Poormans to Norfolk Canyon.	5/1 to 10/15	37.00 degrees N. by 74.00 degrees W. to 38.00 degrees N. by 75.00 degrees W. to 38.00 degrees N. by 75.00 degrees W. to 37.00 degrees N. by 75.00 degrees W.
5	Norfolk to the Point	5/1 to 10/15	35.00 degrees N. by 74.00 degrees W. to 37.00 degrees N. by 74.00 degrees W. to 37.00 degrees N. by 75.30 degrees W. to 35.00 degrees N. by 75.30 degrees W.

List of Subjects

50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 17, 1993.

Richard H. Schaefer,

Director, Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-31277 Filed 12-21-93; 8:45 am]

BILLING CODE 3510-22-P

VOL
58
ISS
244
DE
22
1993
UMI

50 CFR Part 301

[Docket No. 931235-3335; I.D. 120993A]

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule and notice of proposed catch sharing plan.

SUMMARY: NOAA proposed to approve and implement a 1994 Catch Sharing Plan (Plan) in accordance with the Northern Pacific Halibut Act of 1982 to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian, non-Indian commercial, and non-Indian sport fisheries off the coasts of Washington, Oregon, and California (International Pacific Halibut Commission (IPHC) statistical Area 2A). The proposed Plan is a revision of the Pacific Fishery Management Council's (Council's) recommendation insofar as it allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A–1 rather than 25 percent as recommended by the Council. The Council's recommended Plan was partially disapproved by the Secretary of Commerce (Secretary) because a 25 percent allocation to treaty Indian tribes is not consistent with a recent U.S. Magistrate Judge's Report and Recommendation, and proposed Order. The remainder of the Council's recommended 1994 Plan, adjusted proportionately as necessary to accommodate the increased tribal share, is proposed for approval and implementation by the Secretary. The proposed rule specifies the seasons, quotas, and bag limits in each of the sport fishery areas necessary to achieve the allocations in the Plan.

DATES: Comments on the catch sharing plan must be received on or before January 20, 1994; comments on the proposed rule must be received on or before February 20, 1994.

ADDRESSES: Send comments to J. Gary Smith, Acting Director, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206–526–6140.

SUPPLEMENTARY INFORMATION: The Northern Pacific Halibut Act of 1982. (Halibut Act) at 16 U.S.C. 773c provides that the Secretary shall have general responsibility to carry out the Halibut Convention between the United States and Canada, and that the Secretary shall adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Halibut Act at 16 U.S.C. 773c(c) also authorizes the regional fishery management council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters which are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, the Under Secretary for Oceans and Atmosphere, NOAA, directed the Pacific and North Pacific Fishery Management Councils to allocate halibut catches should such allocation be necessary. In compliance with this directive, the Pacific Council has developed Catch Sharing Plans since 1988 to allocate the TAC of Pacific halibut between treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A off Washington, Oregon, and California. Since 1990, these Catch Sharing Plans have allocated 25 percent of the Area 2A TAC to treaty Indian tribes. The Federal government has been in litigation with the Makah Indian tribe with respect to its treaty Indian fishing rights to Pacific halibut since 1985. During the course of the litigation, the Secretary has recognized that 12 treaty Indian tribes located in the State of Washington have halibut rights, and has acknowledged that they are entitled to 50 percent of the harvestable surplus within Subarea 2A–1. Subarea 2A–1 is defined as the portion of Area 2A that encompasses the usual and accustomed fishing areas of the 12 tribes. Subarea 2A–1 is all U.S. waters east of 125°44'00" W. longitude (about 40 miles offshore) from Point Chehalis, Washington, north to the U.S.-Canada border, including inside marine waters in Washington (northern Puget Sound and the Strait of Juan de Fuca). The tribes and the Secretary have disagreed as to how the 50 percent should be calculated. The tribes want 35 percent of the Area 2A TAC. Their rationale is that, historically, 70 percent of the Area 2A TAC has been taken in Subarea 2A–1. The Secretary has argued to the court that the tribes are entitled to half of the harvestable surplus from the halibut biomass in Subarea 2A–1, a figure estimated at 20 percent of the Area 2A TAC based on the best available information currently available (IPHC Scientific Report Number 74 published in 1991).

On September 30, 1993, U.S. Magistrate Judge Weinberg issued a Report and Recommendation, and a proposed Order. This is the first ruling on the allocation issue since the litigation began, and all parties have filed comments and/or exceptions. A final ruling will be made by Chief District Court Judge Barbara Rothstein after she considers Magistrate Weinberg's findings and recommendations, and the various filings by the parties. There is no indication when Judge Rothstein will rule. In summary, Magistrate Weinberg's proposed Order provides the following with respect to allocation:

1. The Secretary's regulation of the halibut fishery must provide for equal treaty Indian and non-Indian harvests in the tribes' usual and accustomed fishing grounds.

2. Past allocations by the Secretary have violated the tribes' treaty rights by allowing non-Indian fishermen to take more halibut than treaty Indians in the tribes' usual and accustomed fishing grounds.

3. The court declined to prescribe what percentage of halibut in Area 2A should be allocated to treaty Indians. Instead, the Secretary is directed to revise the regulatory scheme to protect treaty Indian fishing rights in Area 2A such that treaty Indian and non-Indian fishermen are afforded the opportunity to take equal quantities of halibut within the usual and accustomed halibut fishing grounds of these tribes.

Based on Magistrate Weinberg's finding that past allocations have violated treaty Indian fishing rights, the Council and its advisory bodies have been advised that a continuation of the 1993 Plan into 1994 is unacceptable. Before the ruling, the Council, at its September 1993 public meeting, had adopted proposed halibut allocations for 1994 that distributed for public comment with final action in November. The Council's proposed 1994 Plan maintained the allocations in the 1993 Plan except that the allocation to the treaty Indian tribes was set at a range between 25 to 35 percent of the Area 2A TAC as a contingency should a court decision be issued. Prior to the Council's November meeting, the States and the tribes met to discuss development of a consensus position on treaty Indian/non-Indian allocations to be presented to the Council in light of Magistrate Weinberg's ruling. However, because of the uncertainties engendered by the ruling, the allocation process for 1994 did not achieve consensus. At its public meeting on November 15–19, 1993, the Council was presented with two competing proposals.

One proposal considered by the Council would allocate 35 percent of the TAC in Area 2A to Washington treaty Indian tribes and 65 percent to non-Indian fisheries. The non-Indian fisheries would share the 65 percent of the TAC in the same proportion as in the 1993 Plan. It was acknowledged by the tribes that this proposal may not result in an equal sharing of harvest in Subarea 2A–1 because the non-Indian commercial fishery, which is not geographically restricted to any area within Area 2A, could harvest a disproportionate amount of its allocation in Subarea 2A–1, thereby resulting in an unequal sharing between treaty Indian and non-Indian fishermen, even if the treaty share were increased to 35 percent. However, the tribes indicated that they would not object to a resulting unequal sharing if this proposal was adopted by the Council.

The other proposal would maintain the status quo 1993 allocation of 25 percent to the treaty Indian tribes and 75 percent to non-Indian fisheries. This proposal retained all of the allocations in the 1993 Plan, except that the non-Indian commercial fishery would be shifted south of Subarea 2A–1. The intent was to shift the non-Indian commercial fishery south of Subarea 2A–1 (the tribes usual and accustomed fishing area) so that a roughly equal sharing of harvests would occur in Subarea 2A–1 between the treaty Indian fishery and non-Indian sport fishery.

The Council also heard a presentation by the IPHC staff at the November 1993 meeting. IPHC staff advised that they intended to propose that the IPHC, at its annual meeting in January 1994, act to divide Area 2A into two management areas with sub-quotas based on the estimated proportion of halibut biomass in each area.

The only consensus presented to the Council was that 1994 should be treated as a transition year, with a 1-year only allocation, while the parties await the final District Court decision and attempt to reach agreement on a long-term solution. Toward this end, the Halibut Managers' Group and Halibut Advisory Subpanel developed a comprehensive list of issues to be addressed by the Council for 1995 and beyond, including acknowledgement that any allocation plan must meet treaty Indian allocation requirements as prescribed by law.

At its November 1993 meeting, the Council finally adopted a two-pronged, contingent recommendation which incorporates elements of the IPHC staff's presentation (to divide Area 2A) and the original Oregon proposal. As described in the Council's November newsletter:

> The IPHC would calculate 50 percent of the harvestable surplus in Subarea 2A–1 and manipulate the non-Indian commercial fishery so that the non-Indian share does not exceed 50 percent in Subarea 2A–1. The non-Indian allocation should be divided among sport and commercial fisheries in the same proportion as the 1993 catch shares.
>
> If IPHC is unable to determine the harvestable surplus in Subarea 2A–1, then the Council recommends that the non-Indian commercial fishery be moved south of Subarea 2A–1. The allocations among treaty Indian and non-Indian sport and commercial fisheries would be the same as in 1993 (i.e., treaty Indian (25 percent), non-Indian commercial (37.5 percent), Washington sport (22.9 percent), and Oregon/California sport (14.6 percent)).

The Council's rationale was that its recommendation is defensible based on the portions of the Report and Recommendation and proposed Order which state that the Secretary must afford treaty Indian and non-Indian fishermen the opportunity to take equal quantities of halibut within the usual and accustomed fishing grounds of the tribes (Subarea 2A–1). It reasoned that if the non-Indian commercial fishery was moved out of Subarea 2A–1, this would comply with the proposed Order by equalizing harvest in the area.

The Secretary has found, after reviewing the record and the proposed court order, that the Council's recommendation for the treaty Indian allocation is not consistent with Magistrate Weinberg's findings and recommendations. The Secretary finds that the council's recommendation—status quo treaty Indian allocation, or a treaty Indian allocation based on the IPHC's calculation of half of the harvestable surplus in Subarea 2A–1—will either have the tribal share at its present 25 percent of the Area 2A TAC, or reduce it to 20 percent if the IPHC uses its past report (IPHC Scientific Report Number 74) to estimate the distribution of halibut biomass to derive "harvestable surplus" in Subarea 2A–1. However, the Secretary finds there is currently no biological basis for reducing the "traditional" removals from Subarea 2A–1, which have amounted to 70 percent of the TAC over the past 20 years. Although the IPHC has indicated that there may be conservation reasons for limiting the harvests in Subarea 2A–1, it has not presented any new biological information that would indicate that the past disproportionate removals from Subarea 2A–1 are now a conservation concern (whereas past disproportionate harvests were not viewed as a conservation or management problem by the IPHC in 1990 when the IPHC review the issue of splitting Area 2A and reviewed the possibility of local depletion in Subarea 2A–1). Given that there is currently no clearly demonstrated basis in the record for reducing the removals (70 percent of TAC) from this area at this time; and, given a treaty right to 50 percent, the Secretary has determined that the treaty Indian allocation should be 35 percent of the Area 2A TAC for 1994. This view is supported in Magistrate Weinberg's Report and Recommendation where he stated:

> Nor can the Secretary rely upon conservation of the halibut resource as a basis for the limit he has placed upon the allocation to treaty fishers. The evidence affirmatively shows that there has been no adverse effect on the resource, despite the fact that approximately 70 percent of the Area 2A harvest has been taken in [Sub]area 2A–1 each year for several years.

Therefore, the Secretary has partially disapproved the Council's recommendation insofar as it pertains to the treaty Indian allocation. However, the Secretary is proposing approval of the Council's recommendations for the allocations between non-Indian fisheries (adjusted proportionately as necessary to accommodate the increased tribal share) and the Council's recommended fishery structuring measures for 1994.

The Council adopted revised objectives for the Washington sport fishery portion of the 1993 Plan and recommended four additional changes to the Washington sport fisheries structuring, described below, which have been incorporated into the proposed 1994 Plan.

First, the Council recommends changing the coordinates of the Bonilla-Tatoosh line that separates inside and ocean sport fishing areas to make it more easily detected by sport fishermen. The Council recommends that the Bonilla-Tatoosh line in the halibut sport regulations be modified to intersect the buoy off Duntze Rock and then proceed to Tatoosh Island. Sport fishermen have complained that they cannot see the landmarks identifying the line when fishing and have requested that the line be better defined. The State of Washington is planning to change the Bonilla-Tatoosh line for all of its other fisheries, and the Council agreed to also recommend changing it for halibut fishing so that the line would be more easily detected and consistent with State managed sport fisheries to eliminate enforcement complications. The revised line would be from Bonilla Point (latitude 48°34'44" N., longitude 124°43'00" W.) to the buoy adjacent to Duntze Rock (latitude 48°24'55" N., longitude 124°44'50" W.) to Tatoosh Island lighthouse (latitude 48°23'30" N., longitude 124°44'00" W.) to Cape Flattery (latitude 48°22'55" N., longitude 124°43'42" W.).

Second, the Council recommends that the sub-quota for the Washington north coast sport fishery be allocated to one season rather than two (as in 1993).

VOL
58
ISS
244
DE
22
1993
UMI

With reduced quotas and high catches in the first season, the Council determined that there were not sufficient fish to justify two seasons. Therefore, the Council recommends that the north coast season open in early May and continue until the sub-quota is attained.

Third, the Council was advised that sport fishermen in the north coast fishery had found a fishing area occupied primarily by larger than normal halibut. Because the allocations and sub-quotas are based on pounds caught, rather than numbers of halibut, a number of the sport users expressed concern that fishing in this area of large halibut in 1994 would result in achievement of the sub-quota early in the season thereby limiting fishing opportunity in the overall area. The State of Washington agreed with the concerns of these sport users and requested that the Council close this area (of larger halibut) to sport fishing for halibut to maximize fishing opportunity in this area consistent with the sport fishery structuring objectives in the Plan. The Council agreed with the need to maximize fishing opportunity and recommends that this area, which is about 19.5 miles southwest of Cape Flattery, be closed to sport fishing for halibut. Closure of this area would not restrict overall fishing opportunity since approximately 95 percent of the north coast area would remain open. The closed area is defined as the area within a rectangle defined by these four corners: 48°17'00" N. latitude and 125°10'00" W. longitude; 48°17'00" N. latitude and 125°00'00" W. longitude; 48°05'00" N. latitude and 125°10'00" W. longitude; and 48°05'00" N. latitude and 125°00'00" W. longitude.

Fourth, in the Puget Sound sport fisheries, the Council recommended that the daily bag limit be one fish per person per day. This will provide for consistency in bag limits between areas and extend the season providing more fishing opportunity consistent with the Council's objectives for structuring the sport fisheries in this area.

The Council also adopted revised objectives for the Oregon sport fishery portion of the 1993 Plan and recommended one additional change to the Oregon sport fisheries structuring, described below, which has been incorporated into the proposed 1994 Plan. In the 1993 Plan, the early May season was split into two areas with a dividing line at the Nestucca River. The purpose of the line was to allow the developing sport fisheries in the north the opportunity to fish without being closed due to quota achievement in fishing areas to the south. However, the sport fishery north of the Nestucca River has now developed to where it can utilize its quota quickly. The State of Oregon recommended to the Council that the Nestucca River line be deleted in the early season as it is no longer necessary. The Council agreed with this and recommends that the 1994 Plan have only one sport fishing area from Cape Falcon, Oregon, to the California border.

Lastly, the Council recommended opening dates, days open per week, and season lengths for each sport fishing area in 1994. These sport fishery measures are necessary to achieve the allocations in the Plan. The proposed rule is based on the assumption that the Pacific halibut TAC for Area 2A in 1994 will be 600,000 pounds (272.2 mt), the same as it was in 1993. If the IPHC approves a 1994 TAC for Area 2A that is different than 600,000 pounds, the final rule with reflect the modified measures needed to implement the new TAC, as described in the Plan.

The Secretary requests public comments on the proposed 1994 Plan which includes the revised 35 percent to the Area 2A TAC to treaty Indian tribes, the resulting adjusted allocations to non-Indian fisheries, and the fishery structuring necessary to achieve the allocations as described below.

Proposed 1994 Catch Sharing Plan

The proposed 1994 Catch Sharing Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A–1, and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries would be divided 50 percent to commercial users and 50 percent to sport users. The sport allocation would be further divided 61 percent to areas off Washington and 39 percent to areas off Oregon and California. The sport fisheries are divided into geographic areas, each having separate seasons, quotas, bag limits, and other restrictions. The Washington sport allocation applies to the coastal and inland waters off Washington, as well as waters off the coast of Oregon north of Cape Falcon. The Oregon sport allocation applies to waters off Oregon south of Cape Falcon and includes the California coast. The allocations are distributed as sub-quotas to ensure that any overage or underage by any one user group would not affect achievement of the allocation of TAC for other user groups. The final TAC will be determined by the IPHC at its January 1994; for planning purposes, this proposed Plan assumes the TAC will be 600,000 pounds (272.2 mt) (the same as 1993). The proposed Plan distributes the assumed TAC in Area 2A as sub-quotas between users as follows:

Treaty Indian sub-quota	210,000 pounds	(95.3 mt)
Non-Indian Commercial sub-quota	195,000 pounds	(88.5 mt)
Washington Sport sub-quota	118,950 pounds	(53.9 mt)
Oregon Sport sub-quota	76,050 pounds	(34.5 mt)
Total	600,000 pounds	(272.2 mt)

The specific allocative measures in the treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A are described below.

Treaty Indian Fisheries

Thirty-five percent of the Area 2A TAC would be allocated to 12 treaty Indian tribes in Subarea 2A–1, which includes that portion of Area 2A north of Point Chehalis, Washington, and east of 125°44' W. longitude (defined in 50 CFR 301.20(c)). The treaty Indian allocation is to provide for a tribal commercial fishery and a ceremonial and subsistence fishery. These two fisheries are to be managed separately; any overages in the commercial fishery would not affect the ceremonial and subsistence fishery. The commercial fishery would be managed to achieve an established sub-quota, while the ceremonial and subsistence fishery would be managed for a year-round season. The tribal ceremonial and subsistence fishery will commence on January 1 and continue year-round through December 31. No size or bag limits would apply to the ceremonial and subsistence fishery, except that when the tribal commercial fishery is closed, treaty Indians may take and retain not more than two halibut per day per person. The tribal estimate of ceremonial and subsistence catch for the year-round fishery in 1993 was 14,000 pounds (6.4 mt), and it is expected that 1994 would be the same. Based on this expectation, the tribal commercial fishery would have a sub-quota of 196,000 pounds (88.9 mt), which is equal to the tribal allocation of 210,000 pounds (95.3 mt) (based on the 1993 TAC level of 600,000 pounds) less the tribal estimate of ceremonial and subsistence catch for a year-round season. The tribal commercial fishery would commence on March 1 and continue through October 31 or until the tribal commercial sub-quota is taken, whichever occurs first. Any halibut sold by treaty Indians during the commercial fishing season must comply with the IPHC regulations on size limits for the non-Indian fishery. Halibut taken for ceremonial and subsistence purposes may not be offered for sale or sold. Regulations necessary for the treaty Indian allocative measures will be implemented in the 1994 IPHC regulations.

Commercial Fisheries (Non-Indian)

The non-Indian commercial fishery would be allocated 32.5 percent of the Area 2A TAC. This proposed Plan does not address the structuring of the commercial season(s). The 1994 commercial fishery opening date(s), duration, and vessel trip limits for Area 2A, as necessary to ensure that the sub-quota for this fishery is not exceeded, will be determined by the IPHC at its annual meeting in January 1994.

Sport Fisheries (Non-Indian)

The non-Indian sport fisheries would be allocated 32.5 percent of the Area 2A TAC. The sport fishery allocation would be further divided, with 19.8 percent of the Area 2A TAC to areas off Washington/northern Oregon and 12.7 percent to areas off Oregon/California. The sport fisheries are divided into five geographic areas, each having separate seasons, sub-quotas, bag limits, and other restrictions as necessary to achieve allocation objectives. The Washington sport allocation applies to the coastal and inland waters off Washington and includes the north coast of Oregon, north of Cape Falcon. The Oregon sport allocation applies to waters off Oregon south of Cape Falcon and includes the California coast.

The Washington sport fisheries structuring is based on the following allocation objectives adopted by the Council:

1. In Puget Sound, provide a stable recreational opportunity for anglers and maximize the season length.
2. On the north coast, maximize the season length.
3. On the south coast, maximize the season length while providing for a limited halibut fishery.

The Oregon sport fisheries structuring is based on the following allocation objectives adopted by the Council:

1. Provide early season fishing opportunity to anglers from Cape Falcon to the California border.
2. Provide sport fishing opportunity for all Oregon ports south of Cape Falcon, especially small boat anglers.
3. Provide a short period of opportunity for all ports south of Cape Falcon that allows both charter boats and larger private boats to fish productive areas in deeper water.
4. Provide anglers in California the opportunity to fish in a fixed season.

The details of the sport fisheries structuring for the five sport fishery areas are as follows:

1. *Washington inside waters (Puget Sound and Straits).*

This area would be allocated 32.4 percent of the Washington sport sub-quota, which would be 38,540 pounds (17.5 mt) at the 1993 TAC level of 600,000 pounds (272.2 mt). The season would be open 6 days per week (closed Wednesdays) from May 1 until a closing date based on when the sub-quota is projected preseason to be achieved. Due to inability to monitor the catch in this area inseason, a fixed season would be established preseason based on projected catch per day and number of days to achievement of the sub-quota; no inseason adjustments would be made, and estimates of actual catch would be made post-season. The daily bag limit would be one halibut per person per day with no size limit.

A closure to sport fishing for halibut would be established in an area that is 19.5 miles southwest of Cape Flattery. The closed area would be defined as the area within a rectangle defined by these four corners: 48°17'00" N. latitude and 125°10'00" W. longitude; 48°17'00" N. latitude and 125°00'00" W. longitude; 48°05'00" N. latitude and 125°10'00" W. longitude; and, 48°05'00" N. latitude and 125°00'00" W. longitude.

3. *Southern Washington/northern Oregon (between Queets River and Cape Falcon, OR).*

This area would be allocated 5.2 percent of the Washington sport sub-quota, which would be 6,185 pounds (2.8 mt) at the 1993 Area 2A TAC of 600,000 pounds (272.2 mt). The season would open one day per week (Thursday only) from June 2 until when the sub-quota is projected to be harvested. Due to inability to monitor the catch in this area inseason, a fixed season would be established preseason based on projected catch per day and number of days to achievement of the sub-quota; no inseason adjustments would be made, and estimates of actual catch would be made post-season. The daily bag limit would be one halibut per person per day with no size limit.

4. *South of Cape Falcon to the California border.*

This area would be allocated 97.4 percent of the Oregon sport sub-quota, which would be 74,073 pounds (33.6 mt) at the 1993 Area 2A TAC of 600,000 pounds (272.2 mt). The daily bag limit for all seasons in this area would be two halibut per person per day, one with a minimum 32-inch size limit and the second with a minimum 50-inch size limit.

This area would have three seasons: The first season would be allocated 79 percent of this area sub-quota; the second season would be allocated 4 percent; and the third season would be allocated 17 percent. The structuring of the three seasons would be as follows:

1. The first season would open on May 4 and continue 5 days per week (Wednesday through Sunday) until 79 percent of the area sub-quota is taken (which would be 58,517 pounds (26.5 mt) at the 1993 Area 2A TAC of 600,000 pounds (272.2 mt)). If the 1994 TAC is more than 15 percent less than the 1993 TAC, the season opening date would be delayed to May 18.
2. The second season would open the day following the closure of the first season, but only in waters inside the 30-fathom curve and continue every day until August 5 or until 4 percent of the sub-quota is estimated to have been taken, whichever occurs first. At the 1993 Area 2A TAC of 600,000 pounds (272.2 mt), the sub-quota for this season would be 2,963 pounds (1.3 mt).

2. *Washington north coast between the Straits and Queets River.*

This area would be allocated 62.4 percent of the Washington sport sub-quota, which would be 74,225 pounds (33.7 mt) at the 1993 TAC level of 600,000 pounds (272.2 mt). The fishery would open on May 3 and continue 5 days per week (Tuesday through Saturday) until the sub-quota is taken or until September 30, whichever occurs first. The daily bag limit would be one halibut per person per day with no size limit.

VOL 58 ISS 244 DEC 22 1993 UMI

3. The third and last season would open on August 5, with no depth restrictions. The fishery would be open 5 days per week (Wednesday through Sunday) until September 30 or until the area sub-quota is estimated to have been taken, whichever occurs first.

Any poundage remaining after the earlier seasons would be added to the next season. If poundage added to the last season is sufficient to allow for additional fishing opportunity, an inseason action should be taken to add additional open days to each week.

5. *California—South of the California border.*

This area would be allocated 2.6 percent of the Oregon sport sub-quota. The season would commence on May 1 and continue every day until September 30. The daily bag limit would be one halibut per person per day with a minimum 32-inch size limit. At the 1993 Area 2A TAC of 600,000 pounds (272.2 mt), the sub-quota for this area would be 1,977 pounds (0.9 mt). Due to inability to monitor the catch in this area inseason, a fixed season would be established preseason based on projected catch per day and number of days to achievement of the sub-quota; no inseason adjustments would be made, and estimates of actual catch would be made post-season. If the 1994 TAC is more than 15 percent less than the 1993 TAC, the season opening date would be delayed to May 14.

Specific regulations to implement the proposed 1994 Plan will be promulgated by NMFS and IPHC and published in the **Federal Register**. The IPHC, consistent with its responsibilities under the international convention, will implement the sub-quotas based on their final determination of the Area 2A TAC to be made at their annual meeting on January 24–27, 1994 in Bellevue, Washington. The actual amounts of halibut allocated to each group in 1994 may change if the IPHC establishes a TAC that is different than the 1993 TAC of 600,000 pounds (272.2 mt); however, the percentages specified in the Plan will not change. The proposed sport regulations also are based on the 1993 TAC of 600,000 pounds (272.2 mt) and will be modified dependent on the final TAC in accordance with the Plan.

Classification

The proposed 1994 Plan is consistent with the Catch Sharing Plans which have been in place since 1990. A regulatory impact review prepared by the Council for the 1992 Plan indicating that actions taken under the plan will not have a significant economic impact on a substantial number of small entities. The allocation proposed within this Plan is within the scope of the 1992 Plan and thereby does not require a regulatory flexibility analysis under the Regulatory Flexibility Act. An Environmental Assessment (EA) was prepared for the 1990 IPHC regulations incorporating the 1990 Plan in accordance with the National Environmental Policy Act (NEPA), and the Assistant Administrator for Fisheries, NOAA, determined that there would be no significant adverse environmental impact resulting from the regulations and that preparation of an environmental impact statement was not required by Section 102(2)(C) of NEPA or its implementing regulations. The environmental impacts of the proposed 1994 Plan are no different from those evaluated in the 1990 EA and, therefore, this action is categorically excluded from the NEPA requirements to prepare another EA in accordance with NOAA Administrative Order 216–6, Section 6.02a.3. This proposed Plan does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. Copies of the 1990 EA and the 1992 regulatory impact review are available (see **ADDRESSES**). This action has been determined to be consistent to the maximum extent practicable with applicable state coastal zone management programs and has been submitted for review by the responsible state agencies under Section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 301

Fisheries, Treaties.

Dated: December 17, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 301 is proposed to be amended as follows:

PART 301—PACIFIC HALIBUT FISHERIES

1. The authority citation for part 301 continues to read as follows:

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

2. In § 301.21, paragraph (d)(2) is revised to read as follows:

§ 301.21 Sport fishing for halibut.

* * * * *

(d) * * *

(2) The sport fishing areas, area sub-quotas, fishing dates, and daily bag limits promulgated by NMFS are as follows except as modified under the inseason actions in paragraph (d)(3) of this section.

(i) In Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line from the lighthouse on Bonilla Point on Vancouver Island, British Columbia (latitude 48°35'44" N., longitude 124°43'00" W.) to the buoy adjacent to Duntze Rock (latitude 48°24'55" N., longitude 124°44'30" W.) to Tatoosh Island lighthouse (latitude 48°23'30" N., longitude 124°44'00" W.) to Cape Flattery (latitude 48°22'55" N., longitude 124°43'42" W.), there is no sub-quota. This area is managed on a season that is projected to take 38,540 pounds (17.5 mt).

(A) The fishing season is May 1 through July 19, 6 days a week (closed Wednesdays).

(B) The daily bag limit is one halibut of any size per day per person.

(ii) In the area off the north Washington coast, west of the line described in paragraph (d)(2)(i) of this section and north of the Queets River (latitude 47°31'42" N.), the sub-quota is 74,225 pounds (33.7 mt).

(A) The fishing season commences on May 3 and continues 5 days a week (Tuesday through Saturday) through September 30 or until the 74,225 pound (33.7 mt) sub-quota is estimated to have been taken and the season is closed by the Commission, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A closure to sport fishing for halibut is established in a portion of this area southwest of Cape Flattery (about 19.5 miles southwest). The closed area is defined as the area within a rectangle defined by these four corners: 48°17'00" N. latitude and 125°10'00" W. longitude; 48°17'00" N. latitude and 125°00'00" W. longitude; 48°05'00" N. latitude and 125°10'00" W. longitude; and, 48°05'00" N. latitude and 125°00'00" W. longitude.

(iii) In the area between the Queets River, Washington, and Cape Falcon, Oregon (latitude 45°46'00" N.), there is no sub-quota. This area is managed on a season that is projected to take 6,185 pounds (2.8 mt).

(A) The fishing season is open 1 day per week, on Thursday, on June 2, June 9, and June 16.

(B) The daily bag limit is one halibut of any size per day per person.

(iv) In the area off Oregon between Cape Falcon and the California border (latitude 42°00'00" N.), the sub-quota is 74,073 pounds (33.6 mt).

(A) The fishing seasons are:

(*1*) Commencing May 4 and continuing 5 days a week (Wednesday through Sunday) until 58,517 pounds (26.5 mt) are estimated to have been taken and the season is closed by the Commission;

(*2*) Commencing the day following the closure of the season in paragraph (d)(iv)(A)(*1*) of this section, and continuing 7 days a week until August 5, in the area inside the 30-fathom curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600 from Cape Falcon to the California border, or until 2,963 pounds (1.3 mt) are estimated to have been taken (except that any poundage remaining unharvested after the earlier seasons will be added to this season) and the season is closed by the Commission, whichever is earlier; and

(*3*) August 6 through September 30, 5 days a week (Wednesday through Sunday), or until a total of 74,073 pounds (33.6 mt) for this area are estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(B) The daily bag limit is two halibut, one with a minimum overall size limit of 32 inches (81.3 centimeters) and the second with a minimum overall size limit of 50 inches (127.0 centimeters).

(v) In the area off the California coast, there is no sub-quota. This area is managed on a season that is projected to take 1,977 pounds (0.9 mt).

(A) The fishing season in this area is May 1 through September 30, 7 days a week.

(B) The daily bag limit is one halibut with minimum overall size limit of 32 inches (81.3 centimeters).

* * * * *

[FR Doc. 93–31273 Filed 12–17–93; 2:52 pm]

BILLING CODE 3510–22–M

VOL 58 ISS 244 DE 22 1993 UMI

Notices

Federal Register
Vol. 58, No. 244
Wednesday, December 22, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Cape Hatteras Electric Membership Corporation; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) has made a finding of no significant impact (FONSI) with respect to the potential environmental impacts resulting from a proposal by Cape Hatteras Electric Membership Corporation to upgrade an existing 34.5 kV transmission line and related facilities along Bodie, Pea and Hatteras Islands in eastern Dare County, North Carolina. The FONSI is based on a borrower's environmental report submitted to REA by Cape Hatteras Electric Membership Corporation. REA conducted an independent evaluation of the report and concurs with its scope and content. In accordance with REA Environmental Policies and Procedures, 7 CFR 1794.61, REA has adopted the borrower's environmental report as its environmental assessment for the transmission line upgrade and related facilities.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, REA, South Agriculture Building, Washington, DC 20250, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: The proposed project involves upgrading 46 miles of 34.5 kV transmission line to 115 kV from the existing Nags Head Substation to a proposed 115/34.5 kV substation to be constructed in Buxton. The project includes a new 115/12 kV substation to be located in Waves, a 115/12 kV substation to be located in Avon and possibly the construction of a temporary 115/34.5 kV substation to be located on the northern end of Pea Island.

Alternatives considered to the project as proposed were no action, conservation, lower voltage facilities, alternative transmission source, additional 34.5 kV facilities, underground transmission lines, above ground distribution lines, utilization of existing electric generators, alternate substation sites and transmission line adjustments.

Copies of the environmental assessment and FONSI are available for review at, or can be obtained from, REA at the address provided herein or Mr. Myron D. Rummel, General Manager, Cape Hatteras Electric Membership Corporation, P.O. Box 9, Light Plant Road, Buxton, North Carolina 27920–0009, telephone (919) 995–5616.

Dated: December 16, 1993.

Wally Beyer,
Administrator.

[FR Doc. 93–31155 Filed 12–21–93; 8:45 am]
BILLING CODE 3410–15–M

Soil Conservation Service

Belfield Watershed, Billings and Stark Counties, ND

AGENCY: Department of Agriculture, Soil Conservation Service.

ACTION: Notice of Availability of Record of Decision.

SUMMARY: Ronnie L. Clark, State Conservationist, responsible federal official for projects administered under the provisions of Public Law 83–566, 16 U.S.C. 1001–1008, in the State of North Dakota, is hereby providing notification that a record of decision to proceed with the installation of the Belfield Watershed project is available. Single copies of this record of decision may be obtained from the address shown below.

DATES: December 17, 1993.

ADDRESSES: Ronnie L. Clark, State Conservationist, Soil Conservation Service, 220 East Rosser Avenue, Bismarck, North Dakota 58501.

FOR FURTHER INFORMATION CONTACT: Ronnie L. Clark, State Conservationist, at (701) 250–4421.

Dated: December 16, 1993.

Ronnie L. Clark,
State Conservationist.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials)

[FR Doc. 93–31175 Filed 12–21–93; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 930943–3243; I.D. 081893B]

Financial Assistance for Research and Development Projects To Provide Information for the Full and Wise Use and Enhancement of Fishery Resources in the Gulf of Mexico and Off the U.S. South Atlantic Coastal States (MARFIN)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of financial assistance.

SUMMARY: Funding of $1.25 million is available in fiscal year (FY) 1994 to assist persons in carrying out research and development projects that optimize the use of U.S. Gulf of Mexico and South Atlantic (North Carolina to Florida) fisheries involving the U.S. fishing industry (recreational and commercial), including fishery biology, resource assessment, socio-economic assessment, management and conservation, selected harvesting methods, and fish handling and processing. NMFS issues this notice describing the conditions under which applications will be accepted and how NMFS will determine which applications will be selected for funding. Areas of this Marine Fisheries Initiative (MARFIN) emphasis for FY 1994 were formulated from recommendations received from scientific and technical experts, NMFS research and operations officials, and from input received in response to a **Federal Register** notice (June 15, 1993, 58 FR 33082) that solicited public comments and recommendations on proposed FY 1994 MARFIN Areas of Emphasis.

DATES: Applications for funding under this program will be accepted between December 22, 1993 and 5 p.m. Eastern Standard Time on February 22, 1994. Applications received after that time will not be considered for funding.

Applications may be inspected at the NMFS Southeast Regional Office (see **ADDRESSES**) from February 25, 1994 through February 28, 1994.

Successful applicants generally will be selected within 180 days from the date of publication of this notice, and awards made no later than 90 days after selection is determined and negotiations are completed. The earliest start dates of successful applicant project awards will normally be about 240 days after the date of publication of this notice. Applicants should consider this processing time in developing requested start dates for their applications.

ADDRESSES: Send applications to: David Pritchard, Assistant Regional Director, Cooperative Programs Division, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Send comments on the collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David L. Pritchard, 813–893–3720.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Secretary of Commerce (Secretary) is authorized under 15 U.S.C. 713c–3(d) to enter into cooperative agreements for the research and development addressed to all aspects of U.S. fisheries. The Departments of Justice, State, the Judiciary, and Related Agencies Appropriation Act of 1994 makes funds available to the Secretary for FY 1994. This solicitation announces that funding of approximately $1.25 million (including approximately $0.5 million for continuing projects) is available in FY 1994. MARFIN financial assistance started in FY 1986, and for FY 1986 through FY 1993, awards totaled about $14.3 million for financial assistance to conduct research for fishery resources in the Gulf of Mexico and off the South Atlantic states of North Carolina, South Carolina, Georgia, and Florida. There is no guarantee that sufficient funds will be available to make awards for all approved projects. This program is described in the Catalog of Federal Domestic Assistance under program unnumbered 11.433 Marine Fisheries Initiative.

II. Areas of Special Emphasis

A. Proposals for FY 1994 should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multidisciplinary. Coordinated efforts involving multiple institutions or persons are encouraged. The areas of special emphasis are listed below, but proposals in other areas will be considered on a funds-available basis.

In addition to reference to the areas of special interest listed below, proposals should state whether the research will apply to the Gulf of Mexico only, the South Atlantic only, or a combination of both areas. Successful applicants may be required to collect and manage data in accordance with standardized procedures and formats approved by NMFS, and to participate with NMFS in various cooperative activities and protocols that will be determined by consultations between NMFS and successful applicants before project grants are awarded. Recipients of financial assistance for multiple budget periods under this program shall include funding in their applications for travel expenses for the principal investigator to participate in one annual project review and evaluation meeting in St. Petersburg, Florida. All recipients of financial assistance under this program shall include funding in their applications for the principal investigator to participate in an annual MARFIN Conference at the end of the project.

Research needs identified in fishery management plans (FMPs) and amendments prepared by the Gulf and South Atlantic Fishery Management Councils (Councils) and the Gulf and Atlantic States Marine Fisheries Commissions (Commissions) are included by reference. Areas of special emphasis for FY 1994 include:

1. *Shrimp Trawler Bycatch.* Studies are needed to contribute to the regional shrimp trawler bycatch program being conducted by NMFS in cooperation with state fishery management agencies, commercial and recreational fishing organizations and interests, environmental organizations, universities, the Councils, and the Commissions. Specific guidance and research requirements are contained in the Regional Bycatch Plan prepared by the Gulf and South Atlantic Fisheries Development Foundation. In particular, the studies should address:

a. Data collections and analyses to expand and update current bycatch estimates temporally and spatially, including offshore, nearshore, and inshore waters. Emphasis should be on offshore and nearshore waters. Estimated numbers and weights should be included, plus samples of hard parts to allow analysis of year-class impact.

b. Assessments of the status and condition of fish stocks significantly impacted by shrimp trawler bycatch, with emphasis given to overfished species under the jurisdiction of the Councils.

c. Identification, development, and evaluation of gear, non-gear and tactical fishing options to reduce bycatch.

d. Economic studies of the dynamic effects of bycatch on the bycatch fisheries; e.g., mackerel, reef fish, demersal species, and estuarine species.

e. Improved methods for communicating with and improving technology and information transfer to the shrimp industry.

f. Measure the biological impacts of various management options to reduce shrimp fishery bycatch. Information is needed on trophic level interactions of changes due to bycatch reduction.

2. *Highly Migratory Pelagic Fisheries—a. Longline Fishery, Including Bycatch.* A number of pelagic longline fisheries exist in the Gulf and South Atlantic. Most target highly migratory species such as tunas, billfish, some sharks, and swordfish. These fisheries have evolved rapidly over the last decade, with increases in fishing effort and changes in fishing gear and tactics. These changes need to be characterized and their effects quantified. High-priority areas include:

(1) Characterization of specific longline fisheries, including targeted species, stock identification, catch per unit effort of bycatch, and biological parameters (e.g., sex and reproductive state) by gear type, area, and season.

(2) Evaluation of vessel log data for monitoring the fisheries.

(3) Development and evaluation of gear and fishing tactics to minimize the bycatch of undersized and unwanted species, including sea turtles and marine mammals.

(4) Assessment of the impact of longline bycatch on related fisheries, including biological, social, and economic factors and effects.

b. *Sharks.* Little is known about shark resources in the Gulf and South Atlantic. A Secretarial Fishery Management Plan (FMP) for sharks has been developed that identifies a number of research needs. In general, these needs can be grouped as:

(1) Characterization of the directed and bycatch commercial and recreational fisheries from existing and new data. Emphasis should be on

VOL
58
ISS
244
DE
22
1993
UMI

species, stock identification, size, and sex composition and catch per unit effort by season, area, and gear type.

(2) Collection and analysis of basic biological data on movements, habitats, growth rates, mortality rates, age composition, and reproduction. Especially needed are collection and analysis of data on the extent of geographic range, migration characteristics, and other movements of blacktip and sandbar sharks. Of particular interest for the sandbar shark are determination of its relationship to water depth and determination of the southern boundary of its range.

(3) Determination of baseline cost and returns for commercial fisheries that take and retain sharks, and estimations of demand curves for shark products and recreational shark fisheries.

(4) Development of species profiles and stock assessments for sharks taken in significant quantities by commercial and recreational directed and bycatch fisheries. Assessments can be species-specific or for species groups, so long as the latter does not differ substantially from the groups identified in the Atlantic Sharks FMP.

(5) Identification of coastal sharks using laboratory (tissue analysis) methods.

(6) Characterization of the recreational shark fishery; research to improve the precision and accuracy of recreational catch estimates; increase the size and species sampling of the recreational catch.

(7) Development of fishery-independent abundance indices.

3. *Reef Fish.* Many species within the reef fish complex are showing signs of being overfished, either by directed or bycatch fisheries. The ecology of reef fish makes them especially vulnerable to overfishing because they tend to concentrate over specific types of habitats that are patchily distributed. The patchy distribution of the resource can make traditional fishery statistics misleading, because catch per unit effort can remain relatively high as fishermen move from one area to another, yet overall abundance of the resource can be declining sharply. Priority research areas include:

a. Collection of basic biological data for species in commercially and recreationally important fisheries, with emphasis on stock and species identification, age and growth, early life history, the source of recruits (especially amberjack and vermilion snapper in the Gulf of Mexico, and the possible Caribbean source for Florida Keys snapper and grouper), reproductive biology, and movement and migration patterns. The behavior of age-0 and age-1 red snapper is another important research need. Also important is the effect of reproductive mode and sex change (protogynous hermaphroditism) on population size and characteristics, with reference to sizes of fish exploited in the fisheries and the significance to proper management.

b. Identification and quantification of natural and human-induced mortality.

c. Determination of the habitat and limiting factors for important reef fish resources (such as snappers in the Gulf of Mexico).

d. Identification and characterization of spawning aggregations by species, areas, and seasons.

e. Assessment of tag performance on primary reef fish species (snappers and groupers). Characteristics examined should include shedding rate, holding power, effects on growth and survival, and ultimately the effects of these characteristics on estimation of vital population parameters.

f. Stock assessments to establish the status of major recreational and commercial species. Especially needed are innovative methods of stock assessments of aggregate species, including the impact of fishing on genetic structure.

g. Research in direct support of management techniques, including catch-and-release mortality, gear and fishing tactic modifications to minimize bycatch, balancing traditional fisheries use with alternate uses (e.g., ecotourism and sport diving), and economic and social profiles and studies to evaluate impacts of management options. Also needed are studies to determine effects of fishing closures and quotas on alternative commercial and recreational fisheries.

h. Research to evaluate the use of reef fish marine reserves (sanctuaries) as an alternative or supplement to current fishery management measures and practices, especially in the South Atlantic. Also needed is an examination of the effects of these sanctuaries on nontarget species.

i. Use of available data to describe the social and economic behavior of recreational fishermen (e.g., effects of bag limits and switching species on recreational trips).

j. Characterization and quantification of the biological, economic, and social impacts of the 1994 experimental longline fishery for reef fish in the 15–20 fathoms (27–37 meters) zone along Florida's west coast. This should include the following features:

(1) Characterization of the longline fishery, including the target species, catch per unit effort of bycatch, and biological parameters (including size, sex, and reproductive state) by gear type, area, and season.

(2) Evaluation of vessel log data for monitoring the fishery.

(3) Development and evaluation of gear and fishing tactics to minimize the bycatch of undersized and unwanted species, including sea turtles and marine mammals.

(4) Assessment of the impact of longline bycatch on related fisheries, including biological, social and economic factors and effects.

k. A study designed to outline approaches to the development of multispecies individual transferable quotas (ITQs) and the economic performance resulting from ITQ management. The study should address the unique problems associated with the catch of multiple species with given units of effort. The implications for the costs of development and monitoring such ITQs should be included in the analysis. A suggested example species complex is Gulf of Mexico reef fish (snappers and groupers). Additional explanation of research needs for Gulf reef fish is available from a MARFIN-supported plan for cooperative reef fish research in the Gulf of Mexico.

l. Characterization of the Gulf of Mexico fish trap fishery with emphasis given to onboard observer data, including information on bycatch and undersized target species, condition of the catch, catch handling techniques, fishing techniques, area and seasonal fishing practices, and fate of released fish.

4. *Coastal Herrings.* Preliminary studies indicate that substantial stocks of coastal herrings occur in the Gulf and South Atlantic. Most of the available data come from fishery-independent surveys conducted by NMFS and state fishery management agencies. Because of the size of these stocks, their importance as prey, and in some instances as predator species, their potential for development as commercial and recreational fisheries needs to be understood. General research needs include:

a. Collection, collation, and analysis of available fishery-independent and fishery-dependent data from state and Federal surveys, with emphasis on species and size composition, seasonal distribution patterns, biomass, and environmental relationships. Emphasis should be given to controversial species, such as Spanish sardines.

b. Description and quantification of predator-prey relationships between coastal herring species and those such as the mackerels, tunas, swordfish, billfish, sharks, bluefish, and others in high demand by commercial and recreational fisheries.

5. *Coastal Migratory Pelagic Fisheries.* The demand for many of the species in this complex by commercial and recreational fisheries has led to overfishing for some, such as Gulf king and Spanish mackerel, and Atlantic Spanish mackerel. Additionally, some are transboundary with Mexico and other countries and ultimately will demand international management attention. Current high priorities include:

a. Development of recruitment indices for king and Spanish mackerel, cobia, dolphin, bluefish, primarily from fishery-independent data sources, though indices of year-class success using occurrence in bycatch are also important.

b. Development of assessment and management models for coastal pelagic resources for which dynamics are dominated by single year classes (such as Spanish mackerel, dolphin, and bluefish).

c. Improved catch statistics for all species in Mexican waters, with special emphasis on king mackerel. This includes length-frequency and life history information.

d. Information on populations of coastal pelagics overwintering off North Carolina, South Carolina, and Georgia, especially population size, age, food, and movements.

e. Collection of basic biostatistics for coastal pelagic species (e.g., cobia and dolphin) to develop age-length keys and maturation schedules for stock assessments, where significant gaps in the database exist.

f. Demand and supply functions for recreational and commercial fisheries for king mackerel in the South Atlantic and Gulf of Mexico. Emphasis can be on changes in marginal values of producer and consumer surplus, since the studies would be used in allocation frameworks where total values are not necessarily required. Potential applicants must ensure that they are familiar with the status of research in this area.

6. *Groundfish and Estuarine Fishes (Weakfish, Menhaden, Spot, Croaker, and Red Drum).* Substantial stocks of groundfish and estuarine species occur in the Gulf and South Atlantic. Most of the database comes from studies conducted by NMFS and state fishery management agencies. Because of the historic and current size of these fish stocks, their importance as predator and prey species, and their current or potential use as commercial and recreational fisheries, more information on their biology and conservation is needed. General research needs are:

a. Measurements of the effects of sport fishing on red drum populations in the Gulf of Mexico and the South Atlantic. Specific needs in the South Atlantic area are increased sampling of nighttime fishing for red drum on the Outer Banks of North Carolina.

b. Definitions of the stocks of groundfish and estuarine fishes in the South Atlantic.

c. Information on the immigration and escapement of red drum from state waters into the Exclusive Economic Zone (EEZ) in the Gulf of Mexico.

d. Determination of life history and stock identification parameters for weakfish, menhaden, spot, croaker, and red drum in the Gulf of Mexico and the South Atlantic area. Research should include determination of migratory patters through tagging, monitoring long-term changes in abundance, measurement of growth rates and age structure, and comparisons of the inshore and offshore components of the recreational and/or commercial fisheries.

e. Monitoring of juvenile populations and population indices to determine year-class strength, including recruitment indices and fishery-independent indices of spawning stock.

f. Catch and effort statistics from recreational and commercial fisheries, including size and age structure of the catch, to develop production models.

g. Biological and economic analyses of the optimum utilization of long-term fluctuating populations.

h. Quantification of the bycatch in the commercial menhaden purse seine fishery, and the coastal herring purse seine and beach seine fisheries. (Note: Preliminary coastwide studies on menhaden have been conducted.)

i. Quantification of the bycatch in finfish trawl fisheries (such as the flounder fishery and the fly-net fishery for sciaenids in the South Atlantic area).

j. Turtle excluder device (TED) development and testing for finfish trawl fisheries.

k. Determination of catch-and-release mortality rates for spotted seatrout and red drum in inshore and nearshore waters.

l. Cooperative red drum tag-recapture studies to estimate the standing stock biomass in the EEZ and to determine red drum escapement rates from state waters.

7. *Crabs and Lobsters.* a. Monitoring of fecundity and sex/size frequency for examination of spawning potential in relation to overfishing criteria for stone crabs and spiny lobster.

b. Development of indices of recruitment and/or migration rates for stone crabs and spiny lobster.

c. Development of assessment and management models for single year-class fisheries for stone crabs and spiny lobsters.

8. *Sea Turtle Conservation.* The conservation of endangered and threatened sea turtles in the Southeast Region continues to be of relatively high priority. Specific needs include:

a. Information on the distribution, abundance, species, and size composition of sea turtles in inshore waters, especially where these turtles may be affected by inshore fisheries (e.g., shrimp trawls and gill nets).

b. TED modifications or designs to exclude adult leatherback sea turtles effectively. The area of special concern is off South Carolina, Georgia, and Florida.

c. TED designs and modifications of existing designs for use in small inshore shrimp trawls. Research on shrimp retention and on the effectiveness of the TEDs to operate in areas with debris is especially needed.

d. Sea turtle incidental catch in fisheries other than the shrimp fishery.

e. Definition, spatially and seasonally, of critical habitat areas for Kemp's ridley sea turtles in coastal and inshore areas.

9. *General.* There are many areas of research that need to be addressed for improved understanding and management of fishery resources. These include methods for data collection, management, analysis, and for better conservation. Examples of high priority research topics include:

a. Basic design and critical analysis of a data collection system that may involve permits, logbooks, trip interviews, dealer reporting, or other innovative methods. The system design should be applicable across the entire range of species that may be pursued throughout the Gulf and South Atlantic region and should address established economic and biological data needs.

b. Assessment of the changes in recreational and commercial values that have resulted from past management actions for red drum, shrimp, mackerels, and reef fish.

c. Development of improved methods and procedures for technology transfer and education of constituency groups concerning fishery management and conservation programs. Of special importance are programs concerned with controlled access and introductions of conservation gear and fishing practice modifications.

d. Development of new modeling and analytical approaches to understanding basic processes in fishery productivity and energy transfer that can be applied to specific fishery resources problems.

VOL 58 ISS 244 DE 22 1993 UMI

e. Development of baseline socio-demographic information on Federally managed South Atlantic and Gulf of Mexico fisheries.

B. Priority in program emphasis will be placed upon funding projects that have the greatest probability of recovering, maintaining, improving, or developing fisheries; improving understanding of factors affecting recruitment success; and/or generating increased values and recreational opportunities from fisheries. Projects will be evaluated as to the likelihood of achieving these benefits through both short-term and long-term research efforts, with consideration of the magnitude of the eventual economic benefit that may be realized. Both short-term projects that may yield more immediate benefits and projects yielding longer term benefits will receive equal consideration.

c. Further information on current Federal programs that address the above-listed priorities may be obtained from the NMFS Southeast Regional Office (see **ADDRESSES**).

III. How to Apply

A. Application Package: Applicants should request an Application Package from the NMFS Southeast Regional Office (see **ADDRESSES**).

B. Eligible Applicants. 1. The cooperative agreement has been determined as the appropriate funding instrument because of the substantial involvement of NMFS in developing program research priorities and evaluating the performance of recipients for effectiveness in meeting National and regional goals for fishery research in the Southeast United States. Applications for cooperative agreements for MARFIN projects may be made, in accordance with the procedures set forth in this notice, by:

a. Any individual who is a citizen or national of the United States;

b. Any corporation, partnership, or other entity, non-profit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 app. U.S.C. 802).[2]

c. Colleges and universities, with game and fish departments of the several States, and with nonprofit organizations relating to cooperative research units.

2. NOAA reserves the right to withhold the awarding of a cooperative agreement to any individual or organization delinquent on a debt to the Federal Government. No award of Federal funds shall be made to an applicant who has any outstanding delinquent Federal debt until either: (1) The delinquent account is paid in full; (2) a negotiated repayment schedule is established and at least one payment is received; or (3) other arrangements satisfactory to the Department of Commerce (DOC) are made. Any first-time applicant for Federal grant funds is subject to a preaward accounting survey prior to execution of the award. Women and minority individuals and groups are encouraged to submit applications. NOAA employees, including full-time, part-time, and intermittent personnel (or their immediate families), and NOAA offices or centers are not eligible to submit an application under this solicitation, or aid in the preparation of an application, except to provide information about the MARFIN program and the priorities and procedures included in this solicitation. However, NOAA employees are permitted to provide information about ongoing and planned NOAA programs and activities that may have implication for an application. Potential applicants are encouraged to contact NOAA organizations engaged in fisheries research in the Gulf of Mexico and off the U.S. South Atlantic, or David Pritchard at the NMFS Southeast Regional Office (see **ADDRESSES**) for information on NOAA programs. Documents available from that office that may be useful to the applicant include:

a. A Cooperative Reef Fish Research Program for the Gulf of Mexico.

b. A Cooperative Bycatch Research Plan for the Southeast Region.

c. Strategic Plan of the National Marine Fisheries Service.

d. National Status of Stocks Report.

e. Various fishery management plans and plan amendments produced by the Councils and the Commissions.

C. Amount and Duration of Funds. Project proposals submitted and selected for funding for project periods of more than 1 year will not compete for funding in subsequent budget periods within the approved project period. However, funding for subsequent budget periods of the project period is continent on the availability of funds from Congress and satisfactory performance, and will be at the sole discretion of the agency. Publication of this notice does not obligate NMFS to award any specific cooperative agreement or to obligate all or any parts of the available funds.

D. Cost-Sharing Requirements. Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. Cost-sharing is not required for the MARFIN program. However, cost-sharing is encouraged, and in case of a tie in considering proposals for funding, cost-sharing may affect the final decision. The appropriateness of all cost-sharing will be determined on the basis of guidance provided in applicable Federal cost principles issued by OMB. Appropriate documentation must exist to support in-kind services or property used to fulfill cost-sharing requirements.

E. Format. Before submitting an application under this program, applicants should contact the NMFS Southeast Regional Office for an application package (see **ADDRESSES**).

1. Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements describing the specific tasks to be performed by participants. Project applications should give a clear presentation of the proposed work, the methods for carrying out the project, its relevance to managing and enhancing the use of Gulf of Mexico and/or South Atlantic fishery resources, and cost estimates as they relate to specific aspects of the project. Budgets must include a detailed breakdown by category of expenditures with appropriate justification for both the Federal and non-Federal shares. Applicants should not assume prior knowledge on the part of NMFS as to the relative merits of the project described in the application. Applications are not to be bound in any manner and should be one-sided. All incomplete applications will be returned to the applicant.

2. Applications must be submitted in the following format:

a. *Cover Sheet:* An applicant must use OMB Standard Form 424 (revised 4/88) as the cover sheet for each project. Copies of the forms are included in the application package that is available from the NMFS Southeast Regional Office (see **ADDRESSES**).

b. *Project Summary:* Each project must contain a summary of about one page that provides the following information:

(1) Project title.

(2) Project status (new or continuing). If continuing, show previous financial assistance award number and beginning and ending dates.

(3) Project duration (beginning and ending dates).

(4) Name, address, and telephone number of applicant.

(5) Principal Investigator(s).

(6) Project objectives.

(7) Summary of work to be performed. For continuing projects, the applicant must briefly describe progress to date, in addition to any changes to the statement of work previously submitted.

(8) Total Federal funds requested.

(9) Cost-sharing to be provided from non-Federal sources. Specify whether contributions are project-related cash or in-kind.

(10) Total project cost.

(11) Specific priority(ies) in the solicitation to which the project responds.

c. *Project Description:* Each project must be completely and accurately described. The major sections of each project description are a Project Statement, and a Project Statement of Work for each proposed budget period. NMFS will make all portions of the project description available to the public and members of the fishing industry for review and comment; therefore, NMFS cannot guarantee the confidentiality of any information submitted as part of any project, nor will NMFS accept for consideration any project requesting confidentiality of any part of the project.

(1) *The Project Statement:* The MARFIN Project Statement is an overview of the major scientific and technical features of a project proposal. Each project proposal must be described as follows:

(a) *Project Goals and Objectives:* This is one of the most important parts of the proposal. Use the following guidelines for stating the goal or objective.

(i) Keep it simple and easily understandable.

(ii) Be as specific and quantitative as possible.

(iii) Specify the "what and when"; avoid the "how and why."

(iv) Keep the project goals and objectives attainable within the time, money and manpower available.

(v) Use action verbs that are accomplishment-oriented.

(b) *Identification of Problem(s) and Need For Government Assistance:* Describe how existing conditions prevent the full use of Gulf of Mexico and/or South Atlantic fishery resources. Demonstrate the need for assistance. Any appropriate database to substantiate or reinforce the need for the Project Proposal should be included. Explain why other funding sources cannot fund all of the proposed work. List all other sources of funding that are or have been sought for the project. In this description, identify:

(i) The fisheries involved;

(ii) The specific problem(s) that the fishing industry, management agencies or environmental organizations have encountered;

(iii) The sectors of the fisheries that are affected; and

(iv) How the problem(s) prevent the fishing industry or management agencies from using or managing the fishery resources.

(c) *Project Impacts/Results and Benefits Expected:* Identify and document the results and benefits to be derived from the proposed activities. Describe the impact of the project in terms of anticipated increased production, sales, exports, product quality and safety, improved management, social values or any other value that will be produced by this project. Describe how these products or services will be made available to the fishery and management communities.

(d) *Participation by Persons or Groups Other Than the Applicant, Including Federal, State, and Local Government Activities and Related Federal Assistance:* Describe the level of participation required in the project(s) by NOAA or other government and non-government entities (Specific NOAA employees should not be named in the initial application). List any programs (Federal, state, or local government activities, including state Coastal Zone Management Programs, Sea Grant, Southeast Area Monitoring and Assessment, Interjurisdictional Fisheries Act, and Cooperative Fishery Statistics) this project proposal would affect and describe the relationship between the project and those plans or activities. Identify and describe any related Federally sponsored projects and activities that are affiliated with the proposal, and discuss the impacts of the loss of such funding on attaining the goals and objectives of this project proposal.

(e) *Project Management:* Describe how the performance of the project will be organized and managed. Include resumes of Principal Investigators. List all persons directly employed by the applicant who will be involved in the project, their qualifications, and their level of involvement in the project.

(f) *Monitoring of Project Performance:* Identify applicant and other officials who will participate in supervising and monitoring the project.

(2) *Project Statement of Work:* The Statement of Work is a scientific or technical action plan of activities that are to be accomplished during each budget period of the project. A separate Statement of Work is to be submitted for each budget period of the project proposal. Each Statement of Work must include the following information:

(a) The applicant's name.

(b) The inclusive dates of the budget period covered under the Statement of Work.

(c) The title of the proposal.

(d) The scientific or technical objectives and procedures that are to be accomplished during the budget period. Devise a detailed set of objectives and procedures to answer who, what, how, when, and where. The procedures must be of sufficient detail to enable competent workers to be able to follow them and to complete scheduled activities. Cooperative agreement procedures should identify applicant activities and deliverables, NMFS activities and deliverables, and applicant/NMFS joint activities and deliverables.

(e) Location of the work.

(f) A list of all project personnel and their responsibilities.

(g) A milestone table that summarizes the procedures (from item (d)) that are to be attained in each month covered by the statement of work.

d. *Project Budget and Budget Justification:* Project costs are the amount of funds required to accomplish the activities in each proposed Statement of Work performance period, and include contributions and donations. All costs must be shown in a detailed budget. Cost-sharing must not come from another Federal source. Costs must be allocated to the Federal share and non-Federal share provided by the applicant or other sources. Non-Federal costs are to be divided into cash and in-kind contributions. A separate budget must be submitted for each project. An

[2] To qualify as a citizen of the United States within the meaning of this statute, citizens or nationals of the United States or citizens of the Northern Mariana Islands (NMI) must own not less than 75 percent of the interest in the entity or, in the case of a non-profit entity, exercise control of the entity that is determined by the Secretary to be equivalent to such ownership; and in the case of a corporation, the president or other chief executive officer and the chairman of the board of directors must be citizens of the United States. No more of its board of directors than a minority of the number necessary to constitute a quorum may be non-citizens; and the corporation itself must be organized under the laws of the United States, or of a State, including the District of Columbia, Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the NMI or any other Commonwealth, territory, or possession of the United States. Seventy-five percent of the interest in a corporation shall not be deemed to be owned by citizens of the NMI, if: (1) The title to 75 percent of its stock is not vested in such citizens or nationals of the United States or citizens of the NMI free from any trust or fiduciary obligation in favor of any person not a citizen or national of the United States or citizens of the NMI; (2) 75 percent of the voting power in such corporation is not vested in citizens or nationals of the United States or citizens of the NMI; (3) through any contract or understanding it is arranged that more than 25 percent of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen or national of the United States or a citizen of the NMI; or (4) by any means whatsoever, control of any interest in the corporation is conferred upon or permitted to be exercised by any person who is not a citizen or national of the United States.

VOL 58 ISS 244 DEC 22 1993 UMI

applicant submitting a proposal for a project period of more than one year must submit a budget covering total project costs and budgets covering each budget period. NMFS will not consider fees or profits as allowable costs for grantees.

e. *Budget Explanation and Justification:* To support each budget, the applicant must describe and justify each cost element. This justification and explanation should include the basis for estimating the value of the non-Federal funds derived from in-kind contributions. Applicant and Federal costs for the following categories must be detailed in the budget as follows:

(i) *Personnel*—(a) *Salaries:* Identify salaries by position and percentage of time and annual/hourly salary of each individual dedicated to the project.

(b) *Fringe Benefits:* Indicate benefits associated with personnel working on the project. This entry should be the proportionate cost of fringe benefits paid for the amount of time spent in the project. For example, if an employee spends 20 percent of his or her time on the project, 20 percent of his or her fringe benefits should be charged to the project.

(ii) *Consultants and Contract Services:* Identify all consultant and/or contractual service costs by specific task in relation to the project. If a commitment has been made prior to application to contract with a particular organization, explain how the organization was selected. Describe the type of contract, budget, deliverables expected, and time frame. A detailed budget must be submitted (with supporting documentation) for the total amount of funding requested for a subcontractor/consultant. All contracts must meet the standards established in OMB Circular A–110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" or 15 CFR part 24, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as applicable.

(iii) *Travel and Transportation:* Identify number of trips to be taken, purpose, and number of people to travel. Itemize estimated costs to include approximate cost of transportation, per diem, and miscellaneous expenses. All applicants submitting proposals for a project period of more than 1 year must include an estimated budget for the principal investigator to attend an annual meeting in the NMFS Southeast Region to review the progress being made on attaining the objectives of each budget period. A budget estimate must be included by all applicants for the principal investigator to participate in a MARFIN conference at the end of the project. Normally, travel to attend scientific conferences to present the results of MARFIN-funded projects will not be approved. Foreign travel is not allowable unless it has been previously approved by the NOAA/NMFS grants and program offices and unless it is necessary to attain the goals and objectives of the MARFIN award.

(iv) *Equipment, Space or Rental Costs:* Identify equipment purchases or rental costs with the intended use. Equipment purchases greater than $500 are discouraged, since experienced investigators are expected to have sufficient capital equipment on hand. Use of lease to purchase (LTOP) or similar leases are prohibited. Identify space or rental costs with specific uses.

(v) *Other Costs*—(a) *Supplies:* Identify specific supplies necessary for the accomplishment of the project.

(b) *Postage and Shipping:* Include postage for correspondence and other project related material, as well as air freight, truck or rail shipping of bulk materials.

(c) *Printing Costs:* Include costs associated with producing materials in connection with the project.

(d) *Long Distance Telephone and Telegraph:* Identify estimated monthly bills.

(e) *Utilities:* These costs are usually included under Indirect Costs. If they are included as a direct cost item, utility costs should be separately identified and budgeted.

(f) *Indirect Costs:* All applicants should realize that this program limits the indirect cost rate that may be charged to grants to 25 percent of the Federal share of total direct costs or the institution's negotiated indirect cost rate, whichever is less. Institutions with indirect cost rates above 25 percent may use the amount above the 25-percent level as part of the non-Federal share. A copy of the current, approved, negotiated Indirect Cost Agreement with the Federal Government must be included.

(g) *Additional Costs:* Indicate any additional costs associated with the project that are allowable under OMB Circulars A–21, A–87, A–122 or 48 CFR part 31, as applicable.

f. *Supporting Documentation:* This section should include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed, but should be no more than 20 pages. The applicant should present any information that would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in a lower ranking of the project. Information presented in this section should be clearly referenced in the project description.

IV. Review Process and Criteria

A. Evaluation and Ranking of Proposed Projects.

1. Unless otherwise specified by statute, in reviewing applications for cooperative agreements that include consultants and contracts, NOAA will make a determination regarding the following:

a. Is the involvement of the applicant necessary to the conduct of the project and the accomplishment of its goals and objectives?

b. Is the proposed allocation of the applicant's time reasonable and commensurate with the applicant's involvement in the project?

c. Are the proposed costs for the applicant's involvement in the project reasonable and commensurate with the benefits to be derived from applicant's participation?

d. Is the project proposal substantial in character and design?

2. For applications meeting the requirements of this solicitation, NMFS will conduct a technical evaluation of each project. These reviews normally will involve experts from non-NOAA as well as NOAA organizations. All comments submitted to NMFS will be taken into consideration in the technical evaluation of projects. NMFS will provide point scores on proposals based on the following evaluation criteria:

a. Adequacy of research/development/demonstration for managing or enhancing Southeast marine fishery resources, addressing especially the possibilities of securing productive results (30 points).

b. Soundness of design/technical approach for enhancing or managing the use of Southeast marine fishery resources (25 points).

c. Organization and management of the project, including qualifications and previous related experience of the applicant's management team and other project personnel involved (20 points).

d. Effectiveness of proposed methods for monitoring and evaluating the project (15 points).

e. Justification and allocation of the budget in terms of the work to be performed (10 points).

3. Applications will be ranked by NMFS into three groups: (a) Highly recommended, (b) recommended, and (c) not recommended. These rankings will be presented to a panel of fishery experts. The panel members will individually consider the significance of the problem addressed in the project proposal, along with the technical evaluation and the need for funding, and provide individual recommendations to NMFS on proposals. The panel members' individual recommendations will be considered by NMFS in selecting projects for funding.

B. Consultation With Others. NMFS will make project descriptions available for review as follows:

1. *Public Review and Comment:* Applications may be inspected at the NMFS Southeast Regional Office (see ADDRESSES and DATES).

2. *Consultation With Members of the Fishing Industry, Management Agencies, Environmental Organizations, and Academic Institutions:* NMshall, at its discretion, request comments from members of the fishing and associated industries, groups, organizations and institutions who have knowledge in the subject matter of a project or who would be affected by a project.

3. *Consultation with Government Agencies:* Applications will be reviewed by the NMFS Southeast Region Program Office in consultation with the NMFS Southeast Science and Research Director and appropriate laboratory personnel, the NOAA Grants Officer and, as appropriate, DOC bureaus and other Federal agencies.

C. Funding Decision. After projects have been evaluated, the Southeast Regional Director, in consultation with the NOAA Assistant Administrator for Fisheries, will ascertain which projects do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other Federal offices, determine the projects to be funded, and determine the amount of funds available for the program. The exact amount of funds awarded and specific NMFS cooperative involvement with the activities of each project will be determined in preaward negotiations between the applicant, and NMFS program staff. The NOAA Grants Officer and other officials of DOC will review all projects recommended for funding before a signed award is received from the Grants Officer. Projects must not be initiated by a recipient until a signed award is received from the Grants Officer. For project periods of more than 1 year, funds for subsequent budget periods may be provided if project tasks are satisfactorily completed and after NMFS has received MARFIN funds for subsequent budget periods.

VI. Other Requirements

Recipients and subrecipients are subject to all applicable Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards, and to the provisions of E.O. 12372, "Intergovernmental Review of Federal Programs." All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." Applicants are also hereby notified of the following:

1. Nonprocurement Debarment and Suspension: Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

2. Drug-Free Workplace: Grantees (as defined at 15 CFR part 26, subpart F) are subject to 15 CFR part 26, Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

3. Anti-Lobbying: Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. Anti-Lobbying Disclosure: Any applicant that has paid or will pay for lobbying using any funds must submit a Form SF–LLL, "Disclosure of Lobbying Activities form," as required under 15 CFR part 28, appendix B.

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier-covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal whether any key individuals associated with the applicant have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management honesty or financial integrity. Potential recipients may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If an application for an award is selected for funding, the DOC has no obligation to provide any additional prospective funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the DOC. If an applicant incurs any costs prior to an award being made, he or she does so solely at his or her own risk of not being reimbursed by the Government. Applicants are also hereby notified that, notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover preaward costs.

Cooperative agreements awarded pursuant to pertinent statutes shall be in accordance with the Fisheries Research Plan (comprehensive program of fisheries research) in effect on the date of the award.

Federal participation under the MARFIN Program may include the assignment of Department of Commerce scientific personnel and equipment, and reasonable financial compensation for the work of researchers on fish and wildlife ecology and resource management projects.

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

Information-collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB Clearance No. 0648–0175) under the provisions of the Paperwork Reduction Act. Public reporting burden for agency-specific collection-of-information elements, exclusive of requirements specified under applicable OMB circulars, is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Regional Director and to OMB (see ADDRESSES).

(Authority: 15 U.S.C. 713c–3(d))

Dated: December 16, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 93–31172 Filed 12–21–93; 8:45 am]

BILLING CODE 3510–22–W

[I.D. 121693A]

Gulf of Mexico Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) and its Committees will meet on January 17–20, 1994. The meetings will be held at the Clearwater Beach Hilton Resort, 715 South Gulfview Boulevard, Clearwater Beach, FL; telephone: (813) 447–9566. The agenda is as follows:

Council

The Council will convene on January 19 at 8:30 a.m. and recess at 5 p.m. Council agenda items and the times allocated for discussion are as follows:

From 8:45 a.m. to 12 noon: Receive public testimony on the 1994 Texas Shrimp Closure, on Draft Amendment #7 to the Coastal Migratory Pelagics (Mackerel) Fishery Management Plan, and on Draft Amendment #2 to the Coral Fishery Management Plan;

(Note: Testimony cards must be turned in to staff before the start of public testimony).

From 1:30 p.m. to 3:30 p.m.: Take final action on Draft Coral Amendment #2; and

From 3:30 p.m. to 5 p.m.: Take final action on Draft Mackerel Amendment #7.

The Council will reconvene at 8:30 a.m. on January 20 and adjourn at 12:00 noon after receiving reports from the following Committees:

(1) 8:30 a.m. to 9 a.m.—The Shrimp Management Committee;

(2) 9 a.m. to 11 a.m.—The Reef Fish Management Committee;

(3) 11 a.m. to 11:15 a.m.—The Scientific and Statistical (SSC) Selection Committee, followed by Enforcement reports and the Director's reports.

Committees

On January 17 at 1 p.m., the SSC Selection Committee and the Coral Management Committee will meet. Adjournment is scheduled at 5 p.m.

On January 18 at 8:30 p.m. the Mackerel Management Committee, the Shrimp Management Committee, and the Fish Management Committee will meet. Adjournment is scheduled at 5:30 p.m.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Laura Mataluni at the address below by January 10, 1994.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL; telephone: (813) 228–2815.

Dated: December 16, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31173 Filed 12–21–93; 8:45 am]

BILLING CODE 3510–22–F

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Receipt of application for a permit to enhance the survival of a species (P772#64).

SUMMARY: Notice is hereby given that the Southwest Fisheries Science Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038–0271, has applied in due form for a permit to take Hawaiian monk seals (*Monachus schauinslandi*) for purposes of enhancing the survival of the species.

DATES: Written comments must be received on or before January 21, 1993.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, (310/980–4016); and

Marine Mammal Coordinator, Pacific Area Office, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822 (808/955–8831).

Written data or views, or requests for a public hearing on this request should be submitted to the Assistant Administrator for Fisheries, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

The applicant proposes to capture up to 50 adult male Hawaiian monk seals *(Monachus schauinslandi)* on Laysan Island. These animals may be restrained, marked, blood-sampled, injected with a gonadoptrophin-releasing-hormone agonist and released, up to 2 times annually over a 3-year period. Of these 50 animals, up to 30 may be permanently removed from Laysan Island and either relocated to sites distant from the Northwest Hawaiian Islands, but within the Hawaiian Island chain (e.g., Johnston Atoll), or permanently held in captive facilities. These facilities will be only those which have NMFS permits to hold marine mammals in captivity, and may be located both in the U.S. and abroad. The objectives of the proposed activities are to return the Laysan Island Hawaiian monk seal population to a normal 1:1 sex ratio, and to prevent death and injury to female and juvenile Hawaiian monk seals due to male mobbing behavior.

Dated: December 14, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–31170 Filed 12–21–93; 8:45 am]

BILLING CODE 3510–22–W

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange, Inc. Petition for Exemption From the Dual Trading Prohibition in Affected Cocontract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petition for exemption from the prohibition on dual trading in affected contract markets.

SUMMARY: Commodity Exchange, Inc. ("Comex" or "Exchange") has submitted a petition for exemption from the prohibition against dual trading in four contract markets. Copies of the petition are available to the public upon request, except to the extent that the Exchange has requested confidential treatment.

ADDRESSES: Copies of the petition are available from the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the Comex dual trading exemption petition.

FOR FURTHER INFORMATION CONTACT: Shauna Turnbull, Special Counsel, or Carol Bates, Futures Trading Specialist, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581; telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: Pursuant to Section 4j(a)(3) of the Commodity Exchange Act and Regulation 155.5 thereunder,[1] a board of trade may submit a petition to the Commodity Futures Trading Commission ("Commission") to exempt any of its affected contract markets from the prohibition against dual trading. Regulation 155.5(d)(6) authorizes the Director of the Division of Trading and Markets to publish notice of each exemption petition deemed complete under Regulation 155.5(d) and to make the petition available to the public as required by Section 4j(a)(5) of the Act.

Comex has submitted a dual trading exemption petition for its contracts markets in gold, silver, and copper futures contract and options on gold futures contracts. Copies of the Comex's exemption petition, except to the extent the Exchange has requested confidential treatment in accordance with 17 CFR 145.9, are available for inspection at the Commission's Office of the Secretariat, 2033 K Street, NW., Washington, DC 20581, and may be obtained by mail at that address or by telephone at (202) 254–6314.

Petition materials subject to the Comex's request for confidential treatment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

Because Comex submitted the petition before October 26, 1993, the effective date of the dual trading prohibition, application of the prohibition against the contract markets covered by the petition is suspended in accordance with Commission Regulation 155.5(d)(5) unless and until the petition is denied.

Issued in Washington, DC, on December 17, 1993.

Andrea M. Corcoran,

Director.

[FR Doc. 93–31285 Filed 12–21–93; 8:45 am]

BILLING CODE 6351–01–P

New York Mercantile Exchange Petition for Exemption From the Dual Trading Prohibition in Affected Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petition for exemption from the prohibition on dual trading in affected contract markets.

SUMMARY: New York Mercantile Exchange ("NYMEX" or "Exchange") has submitted a petition for exemption from the prohibition against dual trading in five contract markets. Copies of the petition are available to the public upon request, except to the extent that the Exchange has requested confidential treatment.

ADDRESSES: Copies of the petition are available from the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the NYMEX dual trading exemption petition.

FOR FURTHER INFORMATION CONTACT: Linda Kurjan, Special Counsel, or Duane Andresen, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581; telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: Pursuant to Section 4j(a)(3) of the Commodity Exchange Act and Regulation 155.5 thereunder,[1] a board of trade may submit a petition to the Commodity Futures Trading Commission ("Commission") to exempt any of its affected contract markets from the prohibition against dual trading. Regulation 155.5(d)(6) authorizes the Director of the Division of Trading and Markets to publish notice of each exemption petition deemed complete under Regulation 155.5(d) and to make the petition available to the public as required by Section 4j(a)(5) of the Act.

NYMEX has submitted a dual trading exemption petition for its contract markets in light, sweet crude oil, natural gas, New York Harbor No. 2 heating oil, and New York Harbor unleaded gasoline futures contracts and its options on light, sweet crude oil futures contracts. Copies of the NYMEX's exemption petition, except to the extent the Exchange has requested confidential treatment in accordance with 17 CFR 145.9, are available for inspection at the Commission's Office of the Secretariat, 2033 K Street, NW., Washington, DC 20581, and may be obtained by mail at that address or by telephone at (202) 254–6314.

Petition materials subject to the NYMEX's request for confidential treatment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

Because NYMEX submitted the petition before October 26, 1993, the effective date of the dual trading prohibition, application of the prohibition against the contract markets covered by the petition is suspended in accordance with Commission Regulation 155.5(d)(5) unless and until the petition is denied.

Issued in Washington, DC, on December 17, 1993.

Andrea M. Corcoran,

Director.

[FR Doc. 93–31284 Filed 12–21–93; 8:45 am]

BILLING CODE 6351–01–P

[1] 58 FR 48335 (July 26, 1993) (to be codified at 17 CFR 155.5).

[1] 58 FR 48335 (July 26, 1993) (to be codified at 17 CFR 155.5).

VOL 58 ISS 244 DEC 22 1993 UMI

Coffee, Sugar & Cocoa Exchange, Inc.; Petition for Exemption From the Dual Trading Prohibition in Affected Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petition for exemption from the prohibition on dual trading in affected contract markets.

SUMMARY: Coffee, Sugar & Cocoa Exchange, Inc. ("CSC" or "Exchange") has submitted a petition for exemption from the prohibition against dual trading in two contract markets. Copies of the petition are available to the public upon request, except to the extent that the Exchange has requested confidential treatment.

ADDRESSES: Copies of the petition are available from the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CSC dual trading exemption petition.

FOR FURTHER INFORMATION CONTACT: De'Ana Dow, Special Counsel, or Kimberly Browning, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581; telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: Pursuant to Section 4j(a)(3) of the Commodity Exchange Act and Regulation 155.5 thereunder,[1] a board of trade may submit a petition to the Commodity Futures Trading Commission ("Commission") to exempt any of its affected contract markets from the prohibition against dual trading. Regulation 155.5(d)(6) authorizes the Director of the Division of Trading and Markets to publish notice of each exemption petition deemed complete under Regulation 155.5(d) and to make the petition available to the public as required by Section 4j(a)(5) of the Act.

CSC has submitted a dual trading exemption petition for its contract markets in Sugar No. 11 and Coffee "C" futures contracts. Copies of the CSC's exemption petition, except to the extent the Exchange has requested confidential treatment in accordance with 17 CFR 145.9, are available for inspection at the Commission's Office of the Secretariat, 2033 K Street, NW., Washington, DC 20581, and may be obtained by mail at that address or by telephone at (202) 254–6314.

Petition materials subject to the CSC's request for confidential treatment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

Because CSC submitted the petition before October 26, 1993, the effective date of the dual trading prohibition, application of the prohibition against the contract markets covered by the petition is suspended in accordance with Commission Regulation 155.5(d)(5) unless and until the petition is denied.

Issued in Washington, DC, on December 17, 1993.

Andrea M. Corcoran,

Director.

[FR Doc. 93–31286 Filed 12–21–93; 8:45 am]

BILLING CODE 6351–01–P

[1] 58 FR 40335 (July 28, 1993) (to be codified at 17 CFR 155.5).

Chicago Mercantile Exchange Petition for Exemption From the Dual Trading Prohibition in Affected Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petition for exemption from the prohibition on dual trading in affected contract markets.

SUMMARY: Chicago Mercantile Exchange ("CME" or "Exchange") has submitted a petition for exemption from the prohibition against dual trading in 10 contract markets. Copies of the petition are available to the public upon request, except to the extent that the Exchange has requested confidential treatment.

ADDRESSES: Copies of the petition are available from the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CME dual trading exemption petition.

FOR FURTHER INFORMATION CONTACT: Shauna Turnbull, Special Counsel, or Lloyd Bernard, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581; telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: Pursuant to Section 4j(a)(3) of the Commodity Exchange Act and Regulation 155.5 thereunder,[1] a board of trade may submit a petition to the Commodity Futures Trading Commission ("Commission") to exempt any of its affected contract markets from the prohibition against dual trading. Regulation 155.5(d)(6) authorizes the Director of the Division of Trading and Markets to publish notice of each exemption petition deemed complete under Regulation 155.5(d) and to make the petition available to the public as required by Section 4j(a)(5) of the Act.

CME has submitted a dual trading exemption petition for its contract markets in British Pound, Deutsche Mark, Eurodollar, Japanese Yen, Live Cattle, Standard & Poor's 500, and Swiss Franc futures contracts, and options on Deutsche Mark, Eurodollar and Standard & Poor's 500 futures contracts. Copies of the CME's exemption petition, except to the extent the Exchange has requested confidential treatment in accordance with 17 CFR 145.9, are available for inspection at the Commission's Office of the Secretariat, 2033 K Street, NW., Washington, DC 20581, and may be obtained by mail at that address or by telephone at (202) 254–6314.

Petition materials subject to the CME's request for confidential treatment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

Because CME submitted the petition before October 26, 1993, the effective date of the dual trading prohibition, application of the prohibition against the contract markets covered by the petition is suspended in accordance with Commission Regulation 155.5(d)(5) unless and until the petition is denied.

Issued in Washington, DC, on December 17, 1993.

Andrea M. Corcoran,

Director.

[FR Doc. 93–31287 Filed 12–21–93; 8:45 am]

BILLING CODE 6351–01–P

[1] 58 FR 40335 (July 28, 1993) (to be codified at 17 CFR 155.5).

Chicago Board of Trade Petition for Exemption From the Dual Trading Prohibition in Affected Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petition for exemption from the prohibition on dual trading in affected contract markets.

SUMMARY: Chicago Board of Trade ("CBT" or "Exchange") has submitted a petition for exemption from the prohibition against dual trading in 10 contract markets. Copies of the petition are available to the public upon request, except to the extent that the Exchange has requested confidential treatment.

ADDRESSES: Copies of the petition are available from the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CBT dual trading exemption petition.

FOR FURTHER INFORMATION CONTACT: De'Ana Dow, Special Counsel, or Brian Regan, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581; telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: Pursuant to Section 4j(a)(3) of the Commodity Exchange Act and Regulation 155.5 thereunder,[1] a board of trade may submit a petition to the Commodity Futures Trading Commission ("Commission") to exempt any of its affected contract markets from the prohibition against dual trading. Regulation 155.5(d)(6) authorizes the Director of the Division of Trading and Markets to publish notice of each exemption petition deemed complete under Regulation 155.5(d) and to make the petition available to the public as required by Section 4j(a)(5) of the Act.

CBT has submitted a dual trading exemption petition for its contract markets in wheat, corn, soybeans, soybean meal, soybean oil, U.S. Treasury Bonds, 10-Year Treasury Notes, and 5-Year Treasury Notes futures contracts and its options on U.S. Treasury Bond futures and 10-Year Treasury Note futures contracts. Copies of the CBT's exemption petition, except to the extent the Exchange has requested confidential treatment in accordance with 17 CFR 145.9, are available for inspection at the Commission's Office of the Secretariat, 2033 K Street, NW., Washington, DC 20581, and may be obtained by mail at that address or by telephone at (202) 254–6314.

Petition materials subject to the CBT's request for confidential treatment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

Because CBT submitted the petition before October 26, 1993, the effective date of the dual trading prohibition, application of the prohibition against the contract markets covered by the petition is suspended in accordance with Commission Regulation 155.5(d)(5) unless and until the petition is denied.

Issued in Washington, DC, on December 17, 1993.

Andrea M. Corcoran,

Director.

[FR Doc. 93–31288 Filed 12–21–93; 8:45 am]

BILLING CODE 6351–01–P

[1] 58 FR 40335 (July 28, 1993) (to be codified at 17 CFR 155.5).

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Northwest Racing Associates Thoroughbred Horse Racing Facility at Auburn, WA

AGENCY: Seattle District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: Northwest Racing Associates of Auburn, Washington is proposing construction and operation of a thoroughbred horse racing facility in wetlands adjacent to Mill Creek at Auburn, Washington, about one-fourth of a mile east of State route 167. Work in wetlands will include deposition of 80,000 cubic yards of fill material in 17.4 acres of palustrine emergent and scrub-scrub wetlands to construct a thoroughbred racetrack, grandstand, parking lots, barns, and related facilities. Work in wetlands will require a Department of the Army permit under section 404 of the Clean Water Act.

ADDRESSES: Environmental Resources Section, Seattle District, U.S. Army Corps of Engineers, P.O. Box C–3755, Seattle, Washington 98124–2255.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen Martin, (206) 764–3625.

SUPPLEMENTARY INFORMATION: Proposed Action: The applicant has proposed the facility because of the sale and closure of Longacres Horse Racing Park in Renton, Washington. The site of the proposed new facility is in Auburn, Washington, about eight miles south of the former Longacres Park. Fill in wetlands is necessary to construct a thoroughbred racetrack, grandstand, parking lots, barns, and related facilities. The site is bounded on the north by 37th Avenue Northwest, and on the south by a sewer line paralleling 15th Avenue Northwest, about one-fourth mile east of State route (SR) 167.

The horse racing park would be constructed on approximately 166 acres and would include a six-level, partially enclosed grandstand designed to seat approximately 6,500 people. The facility would accommodate an average daily attendance of 7,500, with a peak capacity of over 17,000. The grandstand would include restaurants, bars, pari-mutuel betting windows, food concession booths, and administrative space. Parking for approximately 5,100 vehicles would be available. The project would include a 1-mile oval dirt racetrack with provision for a future seven-eighths mile training course inside the main oval. Also included would be barns with 1,400 horse stalls, about 150 seasonal dormitory rooms for 300 g rooms and backstretch personnel, laundry facilities, tack rooms, and administrative offices

The applicant's project purpose is to construct and operate a thoroughbred racetrack in western Washington to meet the long term needs of Washington's thoroughbred horse racing industry.

Alternatives

a. *The Corps of Engineers has three alternative courses of action available:*

(1) The section 404 permit could be issued for the proposed action as described above.

(2) The permit could be issued with special conditions that would mitigate impacts resulting from the proposed action.

(3) The section 404 permit could be denied. This option would prohibit all proposed work on the project site as well as prevent environmental impacts associated with the proposed action. The economic and social benefits of the project to the statewide horse racing industry would also be foregone.

b. *Alternatives to be examined in the EIS include:*

(1) No action.

(2) Off-site alternatives.

(3) On-site alternatives.

Regarding the need for off-site alternatives, the Corps directed the applicant to provide information on alternative sites. The applicant identified and analyzed a total of 14 off-site locations, and looked at several on-site configurations what would reduce the amount of fill material proposed for

VOL 58 ISS 244 DEC 22 1993 UMI

discharge in wetlands. The applicant's alternative analysis documents concluded that none of the off-site alternatives were found to be practicable. According to the applicant, many alternative sites were not suitable because they were too far removed from an existing fan base around the former Longacres Park thoroughbred horse racing track in Renton to generate enough revenue to achieve the project purpose. The Corps will perform an independent analysis of alternative sites which will include a study of the applicant's basis for eliminating off-site alternatives.

Relative to on-site alternatives, alternative layouts of proposed facilities at the project location will be evaluated. In this regard, the applicant has proposed reducing fill in wetlands from the original 53 acres to 17.4 acres by eliminating the training track, a proposed recreational vehicle park for track workers, by moving parking spaces off-site and reducing on-site parking approximately 1,000 spaces. The revised proposal now avoids most of the relatively higher value wetlands that are located just to the south of the present racetrack site.

Scoping and Public Involvement

Public involvement will be sought during scooping and conduct of the study in accordance with NEPA procedures. A public scoping process has been ongoing to clarify issues of major concern, identify any additional studies that might be needed in order to analyze and evaluate impacts, and obtain public input on the range and acceptability of alternatives. Following Washington State Environmental Policy Act (SEPA) procedures, a final SEPA EIS regarding this proposal was published in September 1993. This Notice of Intent formally commences the scoping process under NEPA. As part of the scoping process, all affected Federal, State and local agencies, Indian Tribes, and other interested private organizations, including environmental groups, are invited to comment on the scope of the EIS. Comments are requested concerning project alternatives, mitigation measures, probable significant environmental impacts, and permits or other approvals that may be required.

The following key areas have been identified to be analyzed in depth in the draft EIS:

1. Surface Water Drainage and Flood Storage.
2. Water Quality.
3. Wetlands.
4. Waterfowl and Fisheries.
5. Threatened and Endangered Species.
6. Transportation/Traffic.
7. Economics.
8. Cumulative Impacts.
9. Alternatives Sites.

Other Environmental Review and Coordination Requirements

Other environmental review and consultation requirements include preparation of section 404(b)(1) report by the Corps of Engineers; consultation among the Corps, the U.S. Fish and Wildlife Service, and the State of Washington on threatened and endangered species per section 7 of the Endangered Species Act; acquisition by the applicant of a Washington State Water Quality Certification, state concurrence with consistency pursuant to the Washington State Coastal Zone Management Program, National Pollution Discharge Elimination System (NPDES) permit, air quality approvals from the Environmental Protection Agency and the State of Washington, Department of Ecology.

Scoping Meeting

On September 21, 1993, the Corps held a public hearing to receive comments on the present proposal.

In addition, public scoping meetings and a public hearing have been held during development of the SEPA EIS. Consequently, a formal scoping meeting pursuant to NEPA is not planned at this time. To assist the Corps in developing the scope of the EIS and in identifying important issues, comments are invited to be submitted in writing and should be forwarded to Seattle District, Corps of Engineers, before January 7, 1994.

Availability of Draft EIS

The draft EIS is scheduled for release on April 1, 1994.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93-31149 Filed 12-21-93; 8:45 am]

BILLING CODE 3710-ER-M

Military Traffic Management Command; Revision to the Total Quality Assurance Program (TQAP)

AGENCY: Military Traffic Management Command, DoD.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command has made a final revision to the Total Quality Assurance Program (TQAP) provision. This notice of policy applies to moving the cut-off date for scoring personnel property shipments in the TQAP back 30 days. This item was published for comment in the **Federal Register**, 58 FR 52951, October 13, 1993, paragraph k. No negative comments were received on this item. MTMC's analysis to comments on other items is ongoing.

ADDRESSES: Copies of the revision to the TQAP pamphlet are available from the Commander, Military Traffic Management Command, ATTN: ADCOPS-QEC/Ms. Betty Wells, 5611 Columbia Pike, Falls Church, VA 22041-5050.

EFFECTIVE DATE: Effective January 1994 for the International Program, and February 1994 for the Domestic Program.

FOR FURTHER INFORMATION CONTACT: Ms. Betty Wells at (703) 756-1585 or Headquarters, Military Traffic Management Command, ATTN: ADCOPS-QEC, 5611 Columbia Pike, Falls Church, VA 22041-5050.

SUPPLEMENTARY INFORMATION: The revision will supersede procedures published in DOD 4500.34R, Personal Property Traffic Management Regulation, and the Total Quality Assurance Program pamphlet dated Feb. 1992. This will allow more time, if necessary, to coordinate appeal actions between PPSOs and industry before the new rate cycle begins.

This is not a major rule for the purpose of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

A summary of the revision follows:

Evaluation and Traffic Denial.

(1) A carrier's score is calculated semiannually based on DD Forms 1780 mailed to the carrier during the evaluation period. The evaluation periods and effective date for the award of traffic are:

Evaluation period	Effective date	Rate/performance cycle
ITGBL:		
16 Jan.-15 Jul.	1 Oct ...	1 Oct.-31 Mar.
16 Jul.-15 Jan.	1 Apr ...	1 Apr.-30 Sep.
TGBL:		
16 Feb.-15 Aug.	1 Nov ..	1 Nov.-30 Apr.
16 Aug.-15 Feb.	1 May ..	1 May-31 Oct.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93-31150 Filed 12-21-93; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before January 21, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 4682, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401-3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: December 16, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Vocational and Adult Education

Type of Review: NEW
Title: Applications for Cooperative Demonstration School-To-Work Opportunities State Implementation Grants
Frequency: Every five years
Affected Public: State or local governments; Non-profit institutions
Reporting Burden: Responses: 50
Burden Hours: 4,500
Recordkeeping Burden: Recordkeepers: 0
Burden Hours: 0
Abstract: This application form will be used for a single direct grant competition to implement an absolute priority on School-to-Work Opportunities State Implementation Grants under the Cooperative Demonstration Program authorized under Title IV, Part 420A of the Carl D. Perkins Vocational and Applied Technology Education Act (Pub. L. 101-392). The data will be collected from non-profit institutions and used by ED to evaluate the eligibility of the applicant.

Office of Postsecondary Education

Type of Review: NEW
Title: Application for Institute for International Public Policy Program
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden: Responses: 20
Burden Hours: 1,000
Recordkeeping Burden: Recordkeepers: 1
Burden Hours: 0
Abstract: Collection of information is necessary in order for the Secretary of Education to make a grant to a consortium of higher education institutions to establish an Institute for International Public Policy. This will significantly increase the number of African Americans and other under represented minorities in the international service in both governmental and the private sectors. The form requests programmatic and budgetary information needed to evaluate applications and make funding decisions based on the authorizing statute and the published funding criteria in EDGAR. The form will also be used to collect the information necessary to determine if it is in the best interest of the government to continue the project through the second, third, fourth, and fifth years of the project.

[FR Doc. 93-31170 Filed 12-21-93; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by December 31, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 4682, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 401-3200.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title ; (3)

Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden.

Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: December 17, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedite

Title: Schools and Staffing Survey, 1993–1994

Abstract: The Schools and Staffing Survey is an integrated set of surveys consisting of the Teacher Demand and Shortage Survey, the School Survey, the School Administration Survey, and the Teacher Survey. The purpose of these surveys is to measure critical aspects of teacher supply and demand, the composition of the administrator and teacher work force, and the general status of teaching and schooling.

Additional Information: An expedited review is requested in order to have sufficient time to prepare the survey for mailout in January. This collection contains three new questions:

63a. Have you received any training for teaching limited English proficient (LEP) students?

Limited English proficient students are those whose native or dominant language is other than English and who have sufficient difficulty speaking, reading, writing, or understanding the English language as to deny them the opportunity to learn successfully in an English-speaking-only classroom.

b. Are there currently any students in your class(es) who are limited English proficient?

c. What percentage of the students you currently teach are limited English proficient?

We are requesting OMB clearance by December 31, 1993.

Frequency: One time

Affected Public: Individuals or households

Reporting Burden:

Responses: 92,175

Burden Hours: 112,571

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

[FR Doc. 93–31199 Filed 12–21–93; 8:45 am]

BILLING CODE 4000–01–M

National Education Commission on Time and Learning; Hearing

AGENCY: National Education Commission on Time and Learning, Education.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming public Hearing of the National Education Commission on Time and Learning. This notice also describes the functions of the Commission. Notice of this Hearing is required under Section 10 (a) (2) of the Federal Advisory Committee Act.

DATE, TIME AND LOCATION: January 7, 1994 from 1 pm to 4:30 pm, Sheraton Inn Hagerstown, The Board Room—1910 Dual Highway, U.S. 40 at I–70, Hagerstown, MD 21740, Hotel Telephone: (301) 790–3010.

FOR FURTHER INFORMATION CONTACT: Julia Anna Andersen, Deputy Executive Director, 1255 22nd Street, NW, Suite 502, Washington, DC 20202–7591.

SUPPLEMENTARY INFORMATION: The National Education Commission on Time and Learning is established under section 102 of the Education Council Act of 1991 (20 U.S.C. 1221–1). The Commission is established to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, how time is being used for academic subjects, the use of incentives, how time is used outside of school, the extent and role of homework, year-round professional opportunities for teachers, the use of school facilities for extended learning programs, if appropriate a model for adopting a longer day or year, suggested changes for state laws and regulations, and an analysis and estimate of the additional costs.

The Hearing of the Commission is open to the public. The proposed agenda for January 7 includes: Testimony from invited participants on "Quality Instructional Time Within the School Day" and reports from the Commissioners on their foreign trips to Japan and Germany. Records are kept of all Commission proceedings, and are available for public inspection at the Office of the Commission at 1255 22nd Street, NW, Suite 502, Washington, DC 20202–7591 from the hours of 9:00 am to 5:30 pm.

Dated: December 17, 1993.

John Hodge Jones,

Chairman, National Education Commission on Time and Learning.

[FR Doc. 93–31240 Filed 12–21–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Inertial Confinement Fusion Advisory Committee/Defense Programs; Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following meeting:

Name: Inertial Confinement Fusion Advisory Committee/Defense Programs.

Date and Time: Agenda is subject to revision.

Thursday, January 6, 1994, 9 a.m.–11:45 a.m.—Open

Thursday, January 6, 1994, 11:45 a.m.–6 p.m.—Closed

Friday, January 7, 1994, 8:30 a.m.–11 a.m.—Closed

Friday, January 7, 1994, 11 a.m.–11:30 Noon—Open

Place: Lawrence Livermore National Laboratory, Livermore, CA. Building 235, Gold Room (room 1090) (See below for restricted access procedures).

Contact: Marshall M. Sluyter, Designated Federal Officer, Office of Inertial Confinement Fusion (DP–26), Office of Defense Programs, Washington, DC 20585, Telephone: (301) 903–3345.

Persons wishing to attend the meeting must contact Robert Robenseifner at (301) 903–8635, to arrange for visitor passes to the meeting room at the Lawrence Livermore National Laboratory.

Purpose of the Committee: To provide advice and guidance to the Assistant Secretary for Defense Programs on both technical and management aspects of the Inertial Confinement Fusion program.

Purpose of the meeting: To evaluate and comment on the progress in inertial confinement fusion toward achieving the technical objectives of the target physics program, and to evaluate the appropriateness of proposed objectives and priorities for determining technical readiness to proceed to preliminary engineering design of the National Ignition Facility.

Tentative agenda: Subject to Revision.

January 6, 1994

9 a.m. Introductory Remarks and Summary of Events Since Previous Advisory Committee Meeting

11:15 a.m. Opportunity for Public Comment (oral presentations limited to 10 minutes)

11:45 a.m. Closed Meeting

January 7, 1994

8:30 a.m. Closed Meeting

11 a.m. Committee Discussion and Wrap-Up

Open to the Public: On January 6, 1994, from 9 a.m. to 11:45 a.m., and on January 7, 1994, from 11 a.m. until adjournment the meeting is open to the public. The Chairman of the Committee is empowered to guide the meeting in a manner that will, in the Chairman's judgment, facilitate the orderly conduct of business.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact Robert Robenseifner at the phone number given above. Requests must be received before 3 p.m. (eastern standard time) Thursday, December 30, 1993. Reasonable provisions will be made to include the presentation during the public comment period. Oral presenters are asked to provide 25 copies of their statements at the time of their presentations.

Written statements pertaining to agenda items may also be submitted prior to the meeting. Written statements must be received by the Designated Federal Officer at the address shown above before 3 p.m. (eastern standard time) Thursday, December 30, 1993, to assure they are considered by the committee during the meeting.

Closed Meeting: Pursuant to section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (title 5, United States Code, app. 2), section 7234(b), title 42, United States Code, and section 552b(c)(1), title 5, United States Code, the portions of the meeting from 11:45 a.m. on January 6, 1994, to 11 a.m. on January 7, 1994, will be closed to the public in the interest of national security.

Minutes: Minutes of the open portions of the meeting will be available for public view and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, room 1E–190, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on December 17, 1993.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 93–31225 Filed 12–21–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2466–002 Virginia]

Appalachian Power Co.; Availability of Draft Environmental Assessment

December 16, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the existing Niagara Hydroelectric Project, located on the Roanoke River in Roanoke County, Virginia, near the city of Roanoke, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the existing and potential future environmental impacts of the project and has concluded that approval of the project, with appropriate environmental protective or enhancement measures, would not constitute a major federal action that would significantly affect quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. For further information, contact Charles R. Hall, Environmental Coordinator, at (202) 219–2853.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31221 Filed 12–21–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ES94–7–004]

Genesee Power Station Limited Partnership; Amended Application

December 16, 1993.

Take notice that by letter order dated December 13, 1993, the Chief Accountant, under delegated authority, authorized Genesee Power Station Limited Partnership (Genesee): (1) To enter into a long-term loan agreement with the Michigan Strategic Fund (MSF) by December 31, 1993, whereby MSF will issue up to $65 million of tax-exempt bonds and will loan the proceeds to Genesee; (2) to issue up to $26 million of promissory notes no later than December 31, 1995, under a two-year bank loan agreement; and (3) blanket approval for all future issuances of securities and assumptions of liabilities.

On December 14, 1993, Genesee amended its application and requested authority to enter into a long-term loan agreement for up to $75 million of tax-exempt bonds instead of the $65 million originally authorized. No other changes in the authorization are being requested.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31220 Filed 12–21–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. TM94–3–4–000]

Granite State Gas Transmission Inc.; Proposed Changes in FERC Gas Tariff

December 16, 1993.

Take notice that on December 10, 1993, Granite State Gas Transmission, Inc. (Granite State), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 25, with a proposed effective date of January 1, 1994.

According to Granite State, its filing is submitted to passthrough to its customers the take-or-pay buydown and buyout costs directly billed to Granite State by Tennessee Gas Pipeline Company (Tennessee).

Granite State states that on December 1, 1993, Tennessee filed revised tariff sheets to adjust its recovery for the buydown and buyout of purchase gas contract obligations consistent with the Stipulation and Agreement (the Cosmic settlement) approved by the Commission in Docket Nos. RP83–119, et al. According to Granite State, its tariff sheet reflects the changes in Tennessee's allocation of take-or-pay costs to Granite State and also complies with the requirements of the reallocation of costs to small customers pursuant to Order No. 528–A.

According to Granite State the proposed rate changes are applicable to its jurisdictional services rendered to Bay State Gas Company and Northern Utilities, Inc. and to a sale to a direct customer, Pease Air Force Base.

Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, New Hampshire and Massachusetts.

Any person desiring to be heard or to make any protest with reference to said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC

VOL 58 ISS 244 DEC 22 1993 UMI

20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 23, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31224 Filed 12-21-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR93-4-000]

Transok, Inc.; Informal Settlement Conference

December 16, 1993.

Take notice that an informal settlement conference in the above-captioned proceeding will be held on Wednesday, January 19, 1994, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

Attendance will be limited to the parties and staff. For additional information, please contact Mark Hegarle at (202) 208-0927.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31222 Filed 12-21-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA94-1-000]

Western Gas Resources Storage, Inc.; Petition for Adjustment

December 16, 1993.

Take notice that on December 14, 1993, Western Gas Resources Storage, Inc. (WGRS) filed pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition for adjustment from § 284.123(b)(1)(ii) of the Commission's regulations to permit WGRS to use its tariff on file with the Railroad Commission of Texas (TRC) for services performed pursuant to NGPA section 311.

In support of its petition, WGRS states that it is an intrastate pipeline operating in the State of Texas, and is a gas utility subject to the jurisdiction of the TRC. WGRS owns and operates the Katy Gas Storage Facility, which consists of a storage cavern and associated pipeline facilities as well as a header system. WGRS's transportation and storage rates are subject to regulation by the TRC. WGRS anticipates providing Section 311 transportation and storage service on behalf of interstate pipeline companies or local distribution companies served by interstate pipeline companies for a charge not to exceed the rates on file with the TRC, as follows:

Interruptible Transportation: $0.13 per MMBtu

Interruptible Storage (including related transportation):

Injection—$0.10 per MMBtu

Withdrawal—$0.10 per MMBtu

Capacity—$0.15 per MMBtu per month

The regulations applicable to this proceeding are found in subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission within 15 days after publication of this notice in the Federal Register. The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31223 Filed 12-21-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket Nos. CP88-760-017]

Transcontinental Gas Pipe Line Corp.; Report of Refunds

December 15, 1993.

Take notice that on August 26, 1993, Transcontinental Gas Pipe Line Corporation (Transcontinental) tendered for filing with the Federal Energy Regulatory Commission (Commission) a report detailing refunds totaling $1,935,308.14, including interest, paid to its Southern Expension Project transportation shippers on August 23, 1993, for the period July 5, 1991 through October 31, 1991.

Transcontinental states that the refunds were made to comply with Commission's orders issued March 4, 1993, in Docket No. CP88-760-012 and July 21, 1993 in Docket No. CP88-760-016 which changed the effective date of implementing a switch from modified fixed variable to straight fixed variable rate design from July 5, 1991 to November 1, 1991.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 5, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31169 Filed 12-21-93; 8:45 am]

BILLING CODE 6717-01-P

Office of Fossil Energy

[FE Docket No. 93-88-NG]

The Consumers' Gas Co. Ltd.; Order Granting Long-Term Authorization To Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting The Consumers' Gas Company Ltd., authorization to export up to 66,000 Mcf per day of natural gas to Canada over a period of 15 years beginning November 1, 1994, or as soon as the necessary pipeline facilities are available for service. The gas would be transported into Canada through the pipeline facilities proposed by InterCoastal Pipe Line Inc. (InterCoastal). The InterCoastal pipeline will be a 157-mile, 24- and 20-inch diameter converted crude oil pipeline extending from Toronto, Ontario, to a new interconnection with ANR Pipeline Company system at the international border near St. Clair, Michigan and Corruna, Ontario. InterCoastal is expected to begin transportation service November 1, 1994.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 9, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31228 Filed 12-21-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-126-NG]

Northridge Gas Marketing Inc.; Order Granting Blanket Authorization To Import Natural Gas From and Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Northridge Gas Marketing Inc. authorization to import up to 200 Bcf of natural gas from Canada and to export up to 300 Bcf of natural gas to Canada over a two-year term beginning on the date of first import or export after December 4, 1993.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 6, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31229 Filed 12-21-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-127-NG]

Ocean State Power; Order Granting Blanket Authorization To Import and Export Natural Gas From and To Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Ocean State Power authorization to import and export up to a combined total of 36.5 Bcf of natural gas from and to Canada over a two-year term beginning on the date of first import or export after December 17, 1993.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 9, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31226 Filed 12-21-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-138-NG]

SaskEnergy Inc.; Order Granting Blanket Authorization to Import Natural Gas From and Export Natural Gas To Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting SaskEnergy Incorporated authorization to import up to 7.4 Bcf of natural gas from Canada and to export up to 7.4 Bcf of natural gas to Canada over a two-year term beginning on the date of first import or export.

This order is available for inspection and copying in the Office of Fuels Programs docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 8, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31227 Filed 12-21-93; 8:45 am]

BILLING CODE 6450-01-P

Office of Hearings and Appeals

Cases Filed During the Week of November 19 Through November 26, 1993

During the week of November 19 through November 26, 1993, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: December 15, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Date	Name and location of applicant	Case No.	Type of Submission
11/22/93	David DeKok, Harrisburg, Pennsylvania	LFA-0339	Appeal of an Information Request Denial. If Granted: David DeKok would receive access to hard copy versions of 802 microfilmed documents pertaining to the clean-up of the Three Mile Island nuclear accident of 1979.
11/24/93	Paulson Oil Company, Chesterton, Indiana	LEE-0060	Exception to the Reporting Requirements. If Granted: Paulson Oil Company would not be required to file Form EIA-782B "Resellers'/Retailers' Monthly Produce Sales Report."

Date received	Name of refund proceeding/name of refund application	Case No.
11/22/93	Arkansas Electric Cooperative	RF321-19971
11/22/93	Herbert Corporation	RF321-19972
11/22/93	Bill Bewick's Texaco	RF321-19973
11/22/93	Novak Enterprises, Inc	RF340-192
11/22/93	Freeway Texaco	RF321-19974
11/22/93	Lee's Texaco	RF321-19975
11/24/93	Whatley Texaco	RF321-19976

VOL
58
ISS
244
DE
22
1993
UMI

Date received	Name of refund proceeding/name of refund application	Case No.
11/26/93	Wood Automatic Gas Company	RF304–14996
11/19/93 thru 11/26/93	Crude Oil Refund Applications Received	RF272–95033 thru RF272–95046
11/19/93 thru 11/26/93	Atlantic Richfield Applications Received	RF304–14811 thru RF304–14998

[FR Doc. 93–31231 Filed 12–21–93; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4617–3]

Michigan: Partial Program Adequacy Determination of State Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency (Region 5).

ACTION: Notice of tentative determination on partial program application of Michigan for partial program adequacy determination, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (USEPA) to determine whether States have adequate permit programs for MSWLFs, but does not mandate issuance of a rule for such determinations. The USEPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will provide procedures by which USEPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as final applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the State/Tribal permit program allows such flexibility. The USEPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the revised Federal MSWLF Criteria will apply to all permitted and unpermitted MSWLF facilities.

Michigan applied for a partial determination of adequacy under section 4005 of RCRA. The USEPA reviewed Michigan's application and made a tentative determination of adequacy for those portions of the State's MSWLF permit program that are adequate to assure compliance with the revised Federal MSWLF Criteria. These portions are described later in this notice. The State plans to revise the remainder of its permit program to assure complete compliance with the revised Federal MSWLF Criteria, and gain full program approval. Michigan's application for partial program adequacy determination is available for public review and comment.

Although RCRA does not require USEPA to hold a hearing on any determination to approve a State/Tribal MSWLF permit program, the USEPA Region 5 may schedule an opportunity for a public hearing on this tentative determination. Details appear below in the "**DATES**" section.

DATES: All comments on Michigan's application for a partial determination of adequacy must be received by USEPA Region 5 by the close of business on February 4, 1994. If there is sufficient public interest, USEPA Region 5 will hold a public hearing on February 4, 1994, starting at 1 p.m., at the offices of the Michigan Department of Public Health, Conference Room 1-C, located at 3423 North Logan Street in Lansing, Michigan. Michigan will participate in the public hearing, if held, by USEPA Region 5 on this subject. Written comments on Michigan's application should be submitted to USEPA Region 5 at the address specified below during the public comment period. In addition, oral and/or written comments can be submitted during the public hearing, if held.

Persons requesting that USEPA Region 5 hold a public hearing and/or wishing to be notified of the public hearing, if held, should contact the USEPA Region 5 contact given below in the "**FOR FURTHER INFORMATION CONTACT**" section, within thirty (30) days of the date of the publication of this notice. Such persons contacting the USEPA will be notified directly if the public hearing will be held or not held, at least 2 weeks prior to February 4, 1994.

ADDRESSES: Copies of Michigan's application for partial adequacy determination are available from 9 am to 4 pm during normal working days at the following addresses for inspection and copying: Michigan Department of Natural Resources, John Hannah Building, 1st floor, Lansing, Michigan 48909, Attn: Mr. Jim Sygo; and USEPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Attn: Mr. Andrew Tschampa, mailcode HRP–8J. All written comments should be sent to the USEPA Region 5 Office.

FOR FURTHER INFORMATION CONTACT: USEPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Attn: Mr. Andrew Tschampa, mailcode HRP–8J, telephone (312) 886–0976.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, the USEPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the revised Federal Criteria under part 258. Subtitle D also requires in section 4005 that USEPA determine the adequacy of State municipal solid waste landfill permit programs to ensure compliance with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The Rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

USEPA intends to propose in STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with 40 CFR part 258; (2) changes to a limited, narrow part(s) of the State/Tribal program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of 40 CFR part 258.

The requirements of the STIR, if promulgated, will address the potential problems posed by the dual State/Tribe and Federal programs that came into effect in October 1993 in those States/Tribes that still have only partial approvals of their MSWLF programs. Federal rules covering any portion of a State/Tribe's program that have not received USEPA approval apply directly to owners and operators as of October 9, 1993. Owners and operators of MSWLFs subject to such dual programs must be able to understand which requirements apply and comply with them. In addition, the pieces of the Federal program that are in effect must mesh well enough with the approved portions of the State/Tribal program to leave no significant gaps in regulatory control of MSWLFs. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the Criteria's flexibility for those portions of the program that have been approved.

As provided in the revised Federal Criteria, USEPA's national subtitle D standards took effect on October 9, 1993. On October 1, 1993, the USEPA published a final ruling which modified the effective date of the landfill criteria for certain classifications of landfills (58 FR 51536). Thus, for certain small landfills that accept less than 100 tons of waste per day, the Federal landfill criteria will not be effective until April 9, 1994, instead of October 9, 1993. Consequently, any portions of the revised Federal MSWLF Criteria which are not included in a State/Tribal MSWLF program by October 9, 1993, would apply directly to owners and operators of large MSWLFs, and portions not included by April 9, 1994, would apply directly to owners and operators of certain small MSWLFs. The exact classifications of landfills and details on the effective date extensions are contained in the final rule. See 58 FR 51536 (October 1, 1993).

USEPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of STIR. USEPA interprets the requirements for States or Tribes to develop adequate programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to USEPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement, as required in section 7004(b) of RCRA. Finally, the USEPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

USEPA Regions will determine whether a State/Tribe has submitted an adequate program, based on the interpretation outlined above. USEPA plans to provide more specific criteria for this evaluation when it proposes the STIR. USEPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

USEPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. USEPA notes that it intends to propose to make submission of a schedule mandatory in the STIR.

B. State of Michigan

On October 6, 1993, Michigan submitted an application for partial program adequacy determination. USEPA has reviewed Michigan's application and has tentatively determined that the State's Subtitle D program will ensure compliance with the following portions of the revised Federal Criteria.

1. General requirements, definitions, and consideration of other Federal laws (USEPA approval is for Michigan requirements that are comparable to 40 CFR 258.1, 258.2, and 258.3);

2. Location restrictions for airport safety, floodplains, wetlands, fault areas, seismic impact zones, unstable areas, and closure of existing units (USEPA approval is for Michigan requirements that are comparable to 40 CFR 258.10, 258.11, 258.12, 258.13, 258.14, 258.15, and 258.16);

3. Operating criteria for excluding hazardous waste, daily cover material, disease vector control, explosive gases control, air criteria, access restrictions, run-on/run-off control systems, surface water requirements, liquids restrictions, and recordkeeping requirements (USEPA approval is for Michigan requirements that are comparable to 40 CFR 258.20, 258.21, 258.22, 258.23, 258.24, 258.25, 258.26, 258.27, 258.28, and 258.29);

4. Groundwater monitoring applicability, systems, sampling and analysis, detection monitoring, assessment monitoring program, assessment of corrective measures, selection of remedy, and implementation requirements (USEPA approval is for Michigan requirements that are comparable to 40 CFR 258.50, 258.51, 258.52, 258.53, 258.54, 258.55, 258.56, 258.57, and 258.58);

5. Closure and post closure care requirements (USEPA approval is for Michigan requirements that are comparable 40 CFR 258.60 and 258.61).

In addition, USEPA Region 5 is approving Michigan requirements for MSWLF design that are comparable to 40 CFR 258.40. Michigan rules require all new MSWLFs to be designed and constructed utilizing a composite liner system with leachate collection. The primary component of the system is a composite liner comprised of a flexible membrane liner underlain by low permeability recompacted clay soils or naturally occurring clay soils. In areas where such clay soils are naturally occurring or are reasonably available for placement and recompaction, the Michigan requirements for the clay component of the primary liner meet or substantially exceed the thickness and permeability of the clay component of the Subtitle D composite liner.

In areas where clay soils are not naturally occurring or are not reasonably available for placement and recompaction, Michigan rules allow for the use of engineered bentonite geocomposite liners. Designs utilizing bentonite geocomposite liners must consist of a double liner system with a leak detection system in between a primary composite liner and a secondary liner component. The purpose of the leak detection system is to detect and collect any potential leakage of liquids through the primary liner. If contaminants or excessive amounts of liquids are discovered in the leak detection system during the active life or post closure care period of the MSWLF unit, assessment monitoring or a corrective action procedure is

VOL 58 ISS 244 DEC 22 1993 UMI

required. USEPA Region 5 feels that this design exceeds the Federal design standards by requiring the point of compliance for maximum contaminant levels allowable in groundwater to be directly underneath the primary composite liner of the MSWLF unit.

Not all States/Tribes will have existing permit programs through which they can ensure compliance with all provisions of the revised Federal Criteria. Were USEPA to restrict a State/Tribe from submitting its application until it could ensure compliance with the entirety of 40 CFR part 258, many States/Tribes would need to postpone obtaining approval of their permit programs for a significant amount of time. This delay in determining the adequacy of the State/Tribal permit program while the State/Tribe revises its statutes or regulations could impose a substantial burden on owners and operators of landfills because the State/Tribe would be unable to exercise the flexibility available to States/Tribes with permit programs which have been approved.

To ensure compliance with all of the revised Federal Criteria, Michigan needs to adopt into regulation the financial assurance requirements of 40 CFR 258.70(a). In addition, the Federal Criteria require unfiltered groundwater samples to be used in laboratory analysis. Currently, Michigan requires samples to be filtered and preserved in the field in accordance with standard published procedures. The Agency intends to revisit this issue during a proposed rulemaking. If the proposed rulemaking upholds the ban on field filtering, the State will be required to come into compliance with the provisions of 40 CFR 258.53(b). In the meantime, the State will not be given approval for this requirement.

Michigan plans to complete any revisions and amendments by October 1995. Michigan began the process of revising financial assurance requirements by issuing draft revisions for comment on August 11, 1993. To allow the State to begin exercising some of the flexibility allowed in States/Tribes with adequate permit programs, USEPA is proposing to approve those portions of the State's program that are ready for action today.

USEPA cautions Michigan that it currently plans to propose in the STIR that all partial approvals will expire in October 1995 for States/Tribes that have not received final approval for all provisions of 40 CFR part 258 unless the State/Tribe can demonstrate to the Regional Administrator that it has sufficient cause for not meeting the deadline. If the Regional Administrator believes sufficient cause exists, the expiration date may be extended. The extension and new expiration date would be published in the **Federal Register**. Expiration of a partial approval would mean that the Federal Criteria would apply, and the flexibility provided for approved States/Tribes by the Federal Criteria would no longer be available in the State/Tribe. USEPA urges Michigan to work diligently to make the necessary revisions to those portions of its permit program that are not being proposed for approval today.

The public may submit written comments on USEPA's tentative determination until February 4, 1994. USEPA will consider all public comments on its tentative determination that are received during the public comment period and during any public hearing, if held. Issues raised by those comments will be the basis for a final determination of adequacy for Michigan's program. USEPA will make a final decision on whether or not to partially approve Michigan's program by March 11, 1994, and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the revised Federal MSWLF Criteria independent of any State/Tribe enforcement program. As USEPA explained in the preamble to the final MSWLF Criteria, USEPA expects that any owner or operator complying with provisions in an approved State program should be considered to be in compliance with the revised Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: December 14, 1993.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 93-31271 Filed 12-21-93; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180808; FRL 4745-4]

Pesticide Programs Annual Report on Crisis Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice summarizes the number of crisis exemptions declared and the number of crisis exemptions revoked during fiscal year 1993. During 1993, State agencies issued 52 crisis exemptions authorizing unregistered pesticide uses in accordance with the regulations in 40 CFR 166.40 pursuant to section 18 of the FIFRA. During this time period, EPA revoked two crisis exemptions.

FOR FURTHER INFORMATION CONTACT: By mail: Rebecca S. Cool, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Crystal Station I, 2800 Jefferson Davis Highway, Arlington, VA 22202 (703-308-8417).

SUPPLEMENTARY INFORMATION: The regulations pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act require EPA to issue annually a notice for publication in the **Federal Register** which summarizes the number of crisis exemptions declared and the number of crisis exemptions revoked.

Subpart C of 40 CFR part 166 sets forth the regulations pertaining to crisis exemptions. This subpart allows the head of a Federal or State agency to issue a crisis exemption in a situation involving an unpredictable emergency situation when: (1) An emergency condition exists; and (2) the time element with respect to the application of the pesticide is critical and there is not sufficient time either to request a specific, quarantine, or public health exemption or, if such a request has been submitted, for EPA to complete review of the request. This subpart also provides for EPA review of crisis exemptions and revocation of individual crisis exemptions or the authority of a State or Federal agency to utilize the crisis provisions.

During the fiscal year 1993 (October 1, 1992 through September 30, 1993), 52 crisis exemptions were declared by State agencies. A breakdown of the FY'

93 crisis declarations by State agency follows:

State Agency	No. of crisis exemptions	Pesticide	Site
Arkansas	3	Esfenvalerate	Wheat
		Paraquat	Rice
		Sodium chlorate	Wheat
California	5	Avermectin	Melons
		Avermectin	Pears
		Cypermethrin	Sugar beets
		Fenpropathrin	Tomatoes
		Myclobutanil	Tomatoes
Colorado	3	Bifenthrin	Corn
		Cyhalothrin	Onions
		Permethrin	Small grains
Florida	2	Imazethapyr	Lettuce & Escarole
		Propiconazole	Celery
Georgia	2	Avermectin	Tomatoes
		Chlorothalonil	Leafy greens
Iowa	1	Propiconazole	Seed corn
Idaho	2	Chlorpyrifos	Hops
		Paraquat	Dry peas, Lentils
Louisiana	2	Cyhalothrin	Sorghum
		Paraquat	Rice
Michigan	1	Iprodione	Seed Canola
Minnesota	2	Metalaxyl	Potatoes
		Propiconazole	Corn
Mississippi	1	Paraquat	Rice
Montana	2	Carbaryl	Canola
		Permethrin	Small grains
Nebraska	1	Propiconazole	Corn
Nevada	1	Cyhalothrin	Onions
New Mexico	3	Chlorpyrifos	Wheat
		Cyfluthrin	Chili peppers
		Cypermethrin	Onions
New York	1	Fomesafen	Snap & dry beans
North Dakota	2	Metalaxyl	Potatoes
		Sethoxydim	Crambe
Ohio	2	Cypermethrin	Onions
		Dimethoate	Radishes
Oregon	2	Chlorpyrifos	Hops
		Oxyfluorfen	Raspberries
Puerto Rico	1	Avermectin	Tomatoes
Texas	7	Avermectin	Melons
		Avermectin	Peppers
		Chlorpyrifos	Wheat
		Cyhalothrin	Rice
		Metolachlor	Leucaena [1]
		Norflurazon	Bermudagrass
		Oxyfluorfen	Leucaena [1]
Virginia	1	Bifenthrin	Peanuts
Washington	5	Avermectin	Pears
		Chlorothalonil	Rhubarb
		Chlorpyrifos	Hops
		Oxyfluorfen	Raspberries
		Paraquat	Dry peas, Lentils

[1] Crisis revoked

During the 1993 fiscal year, EPA revoked Texas's crisis exemptions for the use of metolachlor and oxyfluorfen on leucaena to control weeds, based on the determination that an emergency

VOL 58 ISS 244 DE 22 1993 UMI

condition did not exist, since the pest problem was routine.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticide and pests, Crisis exemptions.

Dated: December 6, 1993.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 93-30974 Filed 12-21-93; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30106D]; FRL-4746-6]

J. J. Mauget Co.; Approval of a Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by J. J. Mauget Co., to conditionally register the fungicide product Fungisol, containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Sidney Jackson, Acting Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-305-6900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 27, 1976 (41 FR 8532), which announced that J. J. Mauget Co., PO Box 3422, Burbank, CA 91504, had submitted an application to register the fungicide product Fungisol, (EPA File Symbol 7946-A), containing the active ingredients [2-(2-ethoxyethoxy) ethyl-2-benzimidazole carbamate at 1.0 percent, active ingredients not included in any previously registered product.

EPA approved the application for general use for Fungisol on July 26, 1982, in which a notice published in the **Federal Register** of September 15, 1982 (47 FR 40707), and contains the active ingredients which were amended to read "[2-(2-ethoxyethoxy) ethyl-2-benzimidazole carbamate at 1.7 percent and methyl 2-benzimidazolecarbamate at 0.3 percent," EPA Registration Number 7946-6. The product was marketed until October 10, 1989, when it was canceled because of non-payment of the maintenance fees. However, since the non-payment was inadvertent, the company has been trying to get the product registration re-instated.

The application was approved again on September 8, 1993, and classified for general use as Fungisol for internal treatment by micro-injection as a systemic aid in the suppression of certain fungal diseases on ornamental trees. The product was assigned EPA Registration Number 7946-14.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects on the environment; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of [2-(2-ethoxyethoxy] ethyl-2-benzimidazole carbamate and methyl 2-benzimidazolecarbamate, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of [2-(2-ethoxyethoxy) ethyl-2-benzimidazole carbamate and methyl 2-benzimidazolecarbamate, during the period of conditional registration is not expected to cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

This product is conditionally registered in accordance with FIFRA section 3(c)(7)(A), provided that you submit an acceptable dermal sensitization study, Guideline Reference Number 81-6, within 12 months of the date of this registration notice. At this time, the Agency is not requiring additional toxicological data. In the event the manufacturing process and/or the method of application of the product change, additional data may be required.

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on [2-(2-ethoxyethoxy) ethyl-2-benzimidazole carbamate and methyl 2-benzimidazolecarbamate.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703-305-5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: December 3, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93-30866 Filed 12-21-93; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30356; FRL-4743-1]

Certain Companies; Applications to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products, containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by January 21, 1994.

ADDRESSES: By mail submit comments identified by the document control number [OPP-30356] and the registration/file symbol to: Public Response and Program Resources Branch, Field Operations Division (7506C), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product Manager	Office location/ telephone number	Address
PM18 Phil Hutton	Rm. 213, CM #2 (703-305-7690).	Environmental Protection Agency 1921 Jefferson Davis Hwy Arlington, VA 22202
PM 21 Sidney C. Jackson (Acting)	Rm. 227, CM #2 (703-305-6900).	-Do-
PM 23 Joanne I. Miller	Rm. 237, CM #2 (703-305-7830).	-Do-

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 67186-R. Applicant: Mauri Laboratories, 9 Moorebank Ave., Moorebank, NSW 2170 Australia. Product name: Victus. Biological Control Agent. Active ingredient: *Pseudomonas fluorescens* strain NCIB 12089 at 1.0 percent. Proposed classification/Use: None. Controls bacterial blotch of cultivated mushrooms. (PM 21)

2. File Symbol: 27586-L. Applicant: USDA Forest Service, Forest Pest Management, P.O. Box 96090, Washington, DC 20090-6090. Product name: Technical MCH. Insecticide. Active ingredient: 3-Methyl-2-cyclohexene-1-one at 2.1 percent. Proposed classification/Use: General. A controlled release formulation to prevent infestation of Douglas fir, True fir, and Spruce by the Douglas beetle and Spruce beetle. (PM 18)

3. File Symbol: 59639-IR. Applicant: Valent U.S.A. Corporation, 1333 North California Blvd., Walnut Creek, CA 94596-8025. Product name: Flumiclorac Pentyl Technical. Herbicide. Active ingredient: Flumiclorac pentyl at 95.3 percent. Proposed classification/Use: None. For formulation use only. (PM 23)

4. File Symbol: 59639-IE. Applicant: Valent Corporation. Product name: Resource Herbicide. Herbicide. Active ingredient: Flumiclorac pentyl at 10.6 percent. Proposed classification/Use: None. For control of broadleaf weeds in soybeans and field corn. (PM 23)

5. File Symbol: 7501-RUT. Applicant: Gustafson, Inc., P.O. Box 660065, Dallas, TX 75266-0065. Product name: Gus 376 Concentrate Biological Fungicide. Fungicide. Active ingredient: *Bacillus subtilis* MBI 600, ATCC-SD 1414 (not more than $5.5X10^{10}$ viable spores per gram) at 2.75 percent. Proposed classification/Use: None. For formulation into registered end-use products and for use as a seed treatment. (PM 21)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division (FOD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703-305-5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: December 2, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93-30867 Filed 12-21-93; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4817-5]

Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act; In re Commercial Oil Services Superfund Site, Oregon, OH

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

VOL 58 ISS 244 DE 22 1993 UMI

SUMMARY: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended, notice is hereby given that a proposed administrative settlement concerning the Commercial Oil Services Superfund Site ("the Site") was issued by the Agency on September 28, 1993. Subject to review by the public pursuant to this Notice, the settlement was approved by the United States Department of Justice on November 22, 1993. The settlement agreement, issued pursuant to sections 106(a), 122(g)(4) and 122(h) of CERCLA, requires the Respondents to undertake and complete removal activities at the Site and to reimburse the Agency's past response costs and future oversight response costs incurred at the Site. The settlement agreement also requires the *de minimis* respondents to pay specified amounts of money, which shall be used to pay for performance and completion of work specified in the proposed settlement and to reimburse the Agency's past response costs and oversight response costs incurred at the Site.

DATES: Comments must be submitted on or before January 21, 1994.

ADDRESSES: Comments should be addressed to the Docket Clerk, Mail Code MFA–10J, U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, and should refer to: In Re Commercial Oil Services Superfund Site, Oregon, Ohio, U.S. EPA Docket No. V–W–94–C–213.

FOR FURTHER INFORMATION CONTACT: Richard M. Murawski, U.S. Environmental Protection Agency, Assistant Regional Counsel (CM–3T), 77 W. Jackson Blvd., Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: The parties listed below have executed binding certifications of their consent to participate in the settlement.

Respondents: Allied Signal, Inc.; American Metal Cleaning, Inc.; American Shipbuilding Company; FKI Industries, Inc.; Beazer East, Inc.; Black Equipment, Inc.; Brondes Motor Sales, Inc.; Brown Motor Sales Co.; Brush Wellman, Inc.; Chemcentral Corporation Chrysler Corporation; Crown Cork and Seal Company, Inc.; Cooper Industries; Dana Corporation; Doehler-Jarvis Castings; Epic Metals Corporation; Ferry Cap and Set Screw Co.; Fiske Brothers Refining Company; Ford Motor Company; General Motors Corporation; Tri Level, Inc.; Chevron U.S.A., Inc.; Hydro Aluminum Bohn; Hunt-Wesson, Inc.; Safety-Kleen Envirosystems Company; Interlake Corporation; Kelsey-Hayes Company; Latrobe Steel Company; Libbey-Owens-Ford Co.; Lubrizol Corporation; Martin Marietta Corporation; Borg Warner Corporation; Matlack, Inc.; Merce Industries Incorporated; Metal Forge Company; Michigan Ohio-Pipeline; Nabisco Biscuit Co.; National Electrical Carbon Corporation; Ohio Edison Company; Owens-Illinois, Inc.; Peterson American Corporation; Roadway Express, Inc.; Safety-Kleen Corporation; Bob Schmidt Chevrolet, Inc.; Seneca Wire and Manufacturing Company; Shell Oil Company; BP America Inc.; Sun Company, Inc.; Sundstrand Corporation; Superior Overall Laundry Co.; Tecumseh Products Company; Teledyne CAE; Centerior Energy Corporation; Toledo Generator Service; Union Oil Company of California; U.S. Reduction Co.; Westgate Auto Service, Inc.; Total Petroleum, Inc.; Ryder System, Inc.; Whirlpool Corporation; Willson Builders, Inc.

DE MINIMIS Respondents: Abbey Etna Machine Company; George F. Ackerman Co.; Airco Gases Division of the Boc Group, Inc.; Air Products and Chemicals, Inc.; Alpha Tube Corporation; American Koyo Corporation; American Tool & Die, Inc.; Ametek Inc.; Amos Motor & RV; Anthony Wayne Local Schools; Arbor Division of Automotive Industries, Inc.; Arco Pipe Line Company; Atsch Chemical Coatings; Auburndale Truck Company, Inc.; Autometric of Royal Oak; Avery Dennison Corporation; B & L Auto Service; The Babcock & Wilcox Company; Bailey Implement Co.; Be-Kan, Inc.; Bernard Plastic Products; Bi-State Ford Truck Sales, Inc.; Blissfield Manufacturing Company; Bohl Equipment Co.; Boilers, Controls & Equipment, Inc.; Bolley Motor Sales, Inc.; A.A. Boos & Sons, Inc.; Bowling Green Jaycees Inc./Recycling Inc.; Bowling Green Lincoln Mercury; Bowling Green State University; Bridgestone/Firestone, Inc.; Browning-Ferris Industries of Michigan, Inc.; Buckeye Aluminum Extrusion; Bud Industries, Inc.; The Budd Company; Buhrow's, Inc.; Burndy Corporation; The Uniroyal Goodrich Tire Company; Campbell Soup Company; Cardox Division Liquid Air Corporation; Toledo Molding & Die, Inc.; Cargill Incorporated; Cascade Chrysler Dodge, Inc.; Cedar Fair, L.P.; Centrex Corporation; Certain-Teed Corporation; Champion International Corporation; Chandler Products; Chapin & Chapin, Inc.; Chemtron Corporation; Ecolab Inc.; Oxy Oil and Gas USA, Inc.; Charlie's Dodge, Inc.; The City of Oregon, Ohio; Clearr Industries, Inc.; Cleveland-Cliffs, Inc.; The Cleveland Twist Drill Company; Coca-Cola Bottling Company of Northern Ohio; Columbia Gas of Ohio, Inc.; Columbia LNG Corporation; Columbia Transportation Div. Oglebay Norton Company; Commercial Aluminum Cookware Company; Consolidated Freightways; Continental Baking Company; Continental Coffee Products Company; Cook's Sohio; Cooper Tire & Rubber Company; Coulton Chemical Corp.; S.E. Johnson Companies, Inc.; CSX Transportation, Inc.; H.L. Crouse Construction Company, Inc.; Cummins Diesel of Northern Ohio; Dale's/Old's Sohio; Dan's Truck Refrigeration, Inc.; Department of the Navy; Detroit and Toledo Shoreline Railroad; Dick's Sohio; Dishop, Richard; Donnelly Corporation; H.H. Donnelly and Associates, Inc.; Pat Doyle Motor Sales, Inc.; Driggs Dairy Farms, Inc.; Dunn Chevrolet Oldsmobile, Inc.; Durr Industries, Inc.; E & L Transport Company; Eaton Corporation; Eisenhour Motor Sales, Inc.; Elton's Union 76; Environmental Management Control, Inc.; Erie Molding; Ervin Amasteel; Exothermics-Eclipse, Inc.; Purolator Products Company; Falcon Aeronautical, Inc.; Falvey Motors of Troy, Inc.; Faunce and Faunce, Inc.; Federal Mogul Corporation; Fields Sunoco; Fondessy Enterprises; The France Stone Company; Les's Sunoco; Franklin Park Lincoln-Mercury, Inc.; Foster Chevrolet, Inc.; Gage Oldsmobile, Inc.; Emro Marketing Company; General Electric Company; General Tire Service; Genoa Motors, Inc.; Girkins Electric Company; Gitgood Trucking Company; Gladieux Food Corporation; Good Displays, Inc.; Goodyear Tire and Rubber Company; Goody's Truck Parts and Equipment; Gould, Inc.; W.W. Williams Company; Great Lakes Towing Company; Greenwood Chevrolet, Inc.; Gross Electric, Inc.; Gulf States Paper Corporation; Gene Hamilton Chevrolet, Inc.; Hancock Landmark, Inc.; Hannah Inland Waterways; Harrington Chevrolet-Cadillac Company; Harrison Ford, Inc.; Hatfield Oldsmobile, Inc.; Heidelberg College; Hertz Corporation; Hill Ford Sales, Inc.; Heatherdowns Auto Service Company, Inc.; H.J. Heinz Company; C.H. Heist Corporation; High Voltage Systems, Inc.; Hoechst Celanese Corporation; U.S. Transportation Systems, Inc.; Huss Equipment Corporation; Industrial Equipment of Northern Ohio, Inc.; BASF Corporation; Inverness Club; Tool & Equipment Sales and Service, Inc.; Janson Tool and Die Company; Johnson BP; Johnson Excavating; Kaiser Aluminum & Chemical Corporation; Kasle Iron and Metals; Keller Chevrolet, Inc.; Kelly, Edward and Sons, Inc.; Kel-Mar, Inc.; Kiemle-Hankins Company; Kistler Ford, Inc.; K-Mart Corporation; Knapp Motors, Inc.; Kripke-Tuschman Ind., Inc.; Landmark, Inc.; Larry's Gulf Service; Lee's Sales and Service; Lenawee Farm Bureau Oil Co-op, Inc.; LBA Custom Printing Company, Inc.; Norman Levy Associates, Inc.; Leigh Products; Libra Industries, Inc.; Lily-Tulip, Inc.; Linderme Tube Company; Linver-Kripke; Liquid Air Corporation; Lo-Temp Brazing Company, Inc.; Lucas Aerospace Power Equipment Corporation; Lucas County Commissioners; Luedtke Engineering Company; Luttrell Auto Supply Company; Manufacturers Enameling Corporation; Massey Ferguson, Inc.; Maumee Lincoln-Mercury, Inc.; Mayberry's Truck and Auto Service, Inc.; McCoy's Service; McCoy's Sales and Service, Inc.; McLaughlin Car Care; McNeill Chevrolet, Inc.; McNerney and Son, Inc./Wallace Trucking; Medical College of Ohio; Mellocraft Company; Mercy Hospital of Toledo, Ohio; Michael Realty Services; Mid-America Realty Corporation; Midas Muffler Service Stations; Mid-States Terminals, Inc.; Midwest Mica and Insulation Company; Mid-Valley Pipeline Company; Miller's Arco Station; Milt Wagner Chevrolet; Mobil Oil Corporation; Modine Manufacturing Company; Morgan Services, Inc.; Howard T. Moriarity Company, Inc.; Motor Rebuilders and Parts, Inc.; MRMC, Inc.; Municipal Utilities; City of Bowling Green; Napco Plastics Incorporated; NASA-Lewis Research Center; National Laboratories; Nationwide Belting Mfg. Co.; Norfolk and Western Railway Company; North American Car Corporation; Northland Chrysler-Plymouth, Inc.; Northwestern Dodge, Inc.; Ohio Bell Telephone Company; Ohio Diesel Technical Institute; Ohio Department of Transportation; A.J. Boellner; Ottawa River Yacht Club, Inc.; Overnite Transportation Company; OHM Remediation Services Corporation; Packaging Corporation of America; Patton Pontiac Buick Cadillac and GMC, Inc.; Peerless Molded Plastics, Inc.; Penn Aluminum International, Inc.; J.C. Penney Company, Inc.; Pepsi-Cola General Bottlers of Ohio, Inc.; Perrysburg Collision Services, Inc.; Perrysburg Board of Education; Perstorp Polyols, Inc.; Pfizer, Inc.; PMC Industries, Inc.; Placid Refining Company; Point Place Amoco; Polar, Inc.; Professional Automotive Service, Inc.; Dial/Purex; Martin Machine and Tool, Inc.; BTL Specialty Resins Corporation; Reitz Tool and Die Company, Inc.; Robinair Division; Roesch, William R.; Rogar Int.; Roth Motor Sales Company; Ruan Leasing Company; Rubini Motors, Inc.; Ruch Construction Company; Rudolph/Libbe, Inc.; Ruth Corporation; RB&W Corporation; Ryder Truck Rental, Inc.; Sand Creek Community Schools; Sandusky Plastics, Inc.; Schindler Elevator Corporation; Schlageter/Hallet and Associates, Inc.; Schmidt, Ed Pontiac-GMC Truck, Inc.; Schmidt Lease, Inc.; Don Scott Chevrolet-Pontiac, Inc.; Seaway Food Town, Inc.; SEOVAC; Service Garage, Inc.; Service-Maintenance-Sales Company, Inc.; Service Products Buildings, Inc.; Sheller-Globe Corporation; Sherwin Metal Reclaiming Company; Smith, Al Chrysler-Plymouth-Dodge, Inc.; W.E. Smith and Sons, Inc.; Furniture Smith, Inc.; Wayne Smith Sunoco; Southland Corporation; Spartan Chemical Company, Inc.; Spurgeon Motor Sales; Sterling Abrasive Products Company; St. Catherine Parish; St. Vincant Medical Center; Standard Products Company; State Line Auto Parts; Steelcase, Inc.; Gene Stevens Olds, Inc.; Stewart Gibson Company; Stowe Woodward; Straka Service; H.P. Streicher, Inc.; Staub, Tim P.; Suburban Motors Company, Inc.; Swanton Local Schools; Tag Chemicals, Inc.; Tank Motor Sales Company; Taylor Buick, Inc.; Thermal Engineering Company; Throne Auto Service, Inc.; R.W. Tinney, Inc.; Toledo Automobile Dealers Association; Toledo Automatic Screw Company; Toledo Blade Company; City of Toledo; Toledo Heaters Company; Toledo Molding and Die, Inc.; Toledo Pickling and Steel Sales, Inc.; Toledo Public Schools; Toledo Sign Company; Toledo Testing Laboratory, Inc.; Toledo Towel Supply Company; Tony's Gulf; Triangle Garage; Trilby Automotive; Tronair, Inc.; Troy Collision, Inc.; Tuffy Associates Corporation; Tuff-Kote Dinol, Inc.; Union Carbide Corporation; United Parcel Service, Inc.; United States Coast Guard; United States Postal Service; University of Toledo; Valiton Chrysler Plymouth Imports; Village Farm Dairy; Volkswagen of America, Inc.; Vroman Foods; Waco Gas Station; Wacker Silicones Corporation; Wagner Sunoco; E.S. Wagner Company; Walt's Auto World; Webster Manufacturing Company; Weinrich Sohio; Weldon F. Stump and Co., Inc.; Wheaton Cartage Company; White Chevrolet; White Company; Whitman Ford; Washington Local Schools; Wills Trucking; Wolverine Pipeline Company; Wood County Garage; Woodville Quickstop; Wright, James; Young Equipment Company, Inc.; Yaw's Sunoco Service.

The Environmental Protection Agency will receive written comments relating to this settlement for thirty days from the date of publication of this Notice.

A copy of the settlement agreement and additional background information relating to the settlement are available for review and may be obtained in person or by mail from Richard M. Murawski, Assistant Regional Counsel (CM–3T), 77 W. Jackson Blvd., Chicago, Illinois 60604.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601–9675.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 93–31272 Filed 12–21–93; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

December 15, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 360–0506.

Title: Application for FM Broadcast Station License.

Form Number: FCC Form 302–FM.

Action: Extension of a currently approved collection.

Respondents: Non-profit institutions and businesses or other for-profit (including small businesses.)

Frequency of Response: On occasion reporting requirement.

Estimated Annual Burden: 670 responses; 4 hours average burden per response; 2,680 hours of total annual burden.

Needs and Uses: Licensees and permittees of FM broadcast stations are

VOL
58
ISS
244
DEC
22
1993
UMI

required to file FCC Form 302–FM to obtain a new or modified station license, and/or to notify the Commission of certain changes in the licensed facilities of these stations. In our continuing Total Quality Management (TQM) efforts, questions were identified that need clarification. These clarifications have been incorporated into the form. The data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit, and to update FCC station files. Data is then extracted from FCC Form 302–FM for inclusion in the subsequent license to operate the station.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–31196 Filed 12–21–93; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

Supplemental Notice of Intent To Prepare an Environmental Impact Statement

To All Interested Agencies, Groups, and Persons: The General Services Administration (GSA) published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) in the **Federal Register** on 25 March 1993. The project described in the NOI was the proposed construction of a new Federal Building to house the National Oceanic and Atmospheric Administration (NOAA) in Boulder, Colorado. The proposed new building is to consist of approximately 236,000 occupiable square feet of laboratory and related space and will be constructed on property owned by the Federal Government at 325 Broadway, Boulder, Colorado. The new building is proposed to house approximately 1,015 personnel, and provide 600 outside surface parking spaces. The proposed project is being undertaken to consolidate existing NOAA offices and laboratories, now located in leased space and on the NIST campus, and to provide for expansion space for NOAA.

On or about 1 June 1993, GSA and the National Institute of Standards and Technology (NIST) agreed in principle to expand the EIS already underway for GSA activities to encompass NIST's proposed activities at 325 Broadway, as well. Under a formal agreement between NIST and GSA, signed 8 September 1993, NIST agrees to be a cooperating agency while GSA will continue as the lead agency for this joint EIS.

NIST's reasonably foreseeable activities include construction of a new Advanced Technology Laboratory (ATL), a central plant and phased renovation of existing buildings at the 325 Broadway campus. The proposed ATL would be an approximately 64,500 net usable square foot facility to meet the requirements of current and emerging state-of-the-art research and metrology. The proposed Central Plant would supply central site cooling and heating for NIST facilities and replace individual heating and cooling systems in existing buildings. The proposed phased renovations are planned primarily for Building 1, and may also include Buildings 2, 3 and 24.

The joint EIS will evaluate a range of reasonable alternatives to these proposed actions which may include but is not limited to the general areas of: leasing, constructing at an alternate site(s), and no action.

To further identify and clarify the scope of issues that will be addressed in this joint EIS, a scoping summary document will be circulated for public comment. This document is being developed from comments and issues raised by the public and received by GSA as a result of the 21 October 1992 public meeting and comment period, the 25 March 1993 NOI which appeared in the **Federal Register**, a 25 March 1993 scoping letter sent out by GSA, as well as comments and issues raised by the public and received by GSA and NIST regarding the proposed development of the site at 325 Broadway and any potential impacts to the quality of the human environment.

Further public participation is invited by providing written comments to GSA. Comments and any questions regarding the EIS or the scoping process should be directed to: General Services Administration, Public Buildings Service, Planning Staff (8PL), Denver Federal Center/P.O. Box 25546, Denver, Colorado 80225–0546, Attn: Sharon Malloy, Phone: (303) 236–7244.

Comments should be directed to GSA within 30 days of the publishing of this supplemental Notice of Intent.

Dated: December 9, 1993.

John M. Hewins,

Acting Regional Administrator, General Services Administration, Region 8.

[FR Doc. 93–31153 Filed 12–21–93; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Injury Research Grant Review Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Injury Research Grant Review Committee (IRGRC).

Times and Dates: 6 p.m.–9 p.m., January 9, 1994. 8 a.m.–5 p.m., January 10, 1994.

Place: Sheraton Colony Square Hotel, 188 14th Street, N.E., Atlanta, Georgia 30361.

Status: Open 6 p.m.–7:30 p.m., January 9, 1994. Closed 7:30 p.m., January 9, 1994, through 5 p.m., January 10, 1994.

Purpose: This committee is charged with advising the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the scientific merit and technical feasibility of grant applications relating to the support of injury control research and demonstration projects and injury prevention research centers.

Matters to be Discussed: Agenda items for the meeting will include announcements, discussion of review procedures, future meeting dates, and review of grant applications. Beginning at 7:30 p.m., January 9, through 5 p.m., January 10, the committee will conduct its review of grant applications. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), title 5 U.S.C., and the Determination of the Associate Director for Policy Coordination, CDC, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Richard W. Sattin, M.D., Executive Secretary, IRGRC, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE, Mailstop K58, Atlanta, Georgia 30341–3724, telephone 404/488–4580.

Dated: December 15, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–31176 Filed 12–21–93; 8:45 am]

BILLING CODE 4160–18–M

Savannah River Site Environmental Dose Reconstruction Project: Public Meeting

The National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: Savannah River Site Environmental Dose Reconstruction Project.

Time and Date: 7 p.m.–9 p.m., January 5, 1994.

Place: Ramada Town House Hotel, Salon A, 1615 Gervais Street, Columbia, South Carolina 29201.

Status: Open to the public for observation and comment, limited only by space available.

Purpose: Under a Memorandum of Understanding with the Department of Energy (DOE), the Department of Health and Human Services has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and uses.

The Radiological Assessments Corporation (RAC) is currently performing Phase I of a radiation dose reconstruction study at the Savannah River Site (SRS) in South Carolina. The study identifies records of potential value for reconstructing past SRS radiation doses to the public. The information will be used during the study's Phase II to calculate dose and risk to the public from SRS operations.

RAC is evaluating records found during onsite and offsite searches, and is summarizing all important documents in a specially developed computer database. All potentially useful records discovered by RAC during the study will be made available to the public and are being placed in the library reading room at the University of South Carolina. RAC will demonstrate the records database and will discuss information discovered to date in over 30,000 boxes of records under review. Agenda items will include the document review process and findings to date and public comments and suggestions.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paul Renard, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 404/488–7040.

Dated: December 15, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–31178 Filed 12–21–93; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Mental Health Statistics; Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: NCVHS Subcommittee on Mental Health Statistics.

Time and Date: 9:30 a.m.–4 p.m., January 18, 1994.

Place: Room 337A–339A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: The subcommittee will examine the need to advance interagency collaboration and explore health care reform implications for mental health data.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number 301/436–7050.

Dated: December 15, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–31177 Filed 12–21–93; 8:45 am]

BILLING CODE 4160–18–M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

1. *Type of Request:* Revision; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) Application Forms; *Form Nos.:* HCFA–114, –116; *Use:* These forms must be completed by entities performing laboratory testing on human specimens for health purposes. The information on these forms is vital to the certification process; *Frequency:* Biennially; *Respondents:* Small businesses or organizations, State or local governments, businesses or other for profit, Federal agencies or employees, nonprofit institutions; *Estimated Number of Responses:* 80,000; *Average Hours Per Response:* 5.5; *Total Estimated Burden Hours:* 440,000.

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Third Party Premium Billing Request; *Form No.:* HCFA–2384; *Use:* This form is used as an authorization to designate that a family member or other interested party receive the Medicare premium bill and pay it on behalf of a Medicare beneficiary; *Frequency:* On occasion; *Respondents:* Individuals or households, nonprofit institutions; *Estimated Number of Responses:* 15,000; *Average Hours Per Response:* .4166 (25 minutes); *Total Estimated Burden Hours:* 6,250.

3. *Type of Request:* Revision; *Title of Information Collection:* Ambulatory Surgical Center Payment Rate Survey; *Form No.:* HCFA–452; *Use:* This is a request for reapproval of answer sheets A and B only to collect new data for rate updating after 1994. The forms were used in 1992 to collect procedure charge and utilization data from Medicare participating ambulatory surgical centers for facility payment updating; *Frequency:* Periodically; *Respondents:* Small businesses or organizations; *Estimated Number of Responses:* 250; *Average Hours Per Response:* 10; *Total Estimated Burden Hours:* 2,500.

4. *Type of Request:* New; *Title of Information Collection:* Online Survey Certification and Reporting System (OSCAR); *Form No.:* HCFA–R–159; *Use:* This questionnaire will allow HCFA to ascertain the level of usefulness of the OSCAR system; *Frequency:* One time; *Respondents:* State or local governments, Federal agencies or employees; *Estimated Number of Responses:* 1,400; *Average Hours Per Response:* .25; *Total Estimated Burden Hours:* 350.

5. *Type of Request:* Reinstatement; *Title of Information Collection:* Conditions of Participation for Rehabilitation Agencies and Conditions for Coverage for Physical Therapists in Independent Practice; *Form No.:* HCFA–R–44; *Use:* This information is needed to determine if an agency or therapist is in compliance with published health and safety requirements; *Frequency:* On occasion; *Respondents:* Businesses or other for profit, small businesses or organizations; *Estimated Number of Responses:* Not applicable; *Average Hours Per Response:* Not applicable; *Total Estimated Burden Hours:* 21,190.5 (recordkeeping).

Additional Information or Comments: Call the Reports Clearance Office on (410) 966–5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 3001, Washington, DC 20503.

VOL 58 ISS 244 DEC 22 1993 UMI

Dated: December 10, 1993.

John A. Strah,

Director, Management Planning and Analysis Staff, Office of Budget and Administration, Health Care Financing Administration.

[FR Doc. 93-31134 Filed 12-21-93; 8:45 am]

BILLING CODE 4120-03-P

[OIS-023-N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decisions—Third Quarter 1993

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretive regulations and other Federal Register notices, and statements of policy that were published during July, August, and September of 1993 that relate to the Medicare and Medicaid programs. Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the Federal Register at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this timeframe.

No revisions to the Medicare Coverage Issues Manual were published during the third quarter of 1993.

FOR FURTHER INFORMATION CONTACT: Margaret Cotton, (410) 966-5260 (For Medicare instruction information); Walter Rutemueller, (410) 966-5395 (For Medicare coverage information); Pat Prete, (410) 965-3246 (For Medicaid instruction information); Jacqueline Kidd, (410) 966-4682 (For all other information).

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare and Medicaid programs, which pay for health care and related services for 35 million Medicare beneficiaries and 31 million Medicaid recipients. Administration of these programs involves (1) providing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public; and (2) effective communications with regional offices, State governments, State Medicaid Agencies, State Survey Agencies, various providers of health care, fiscal intermediaries and carriers who process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under authority granted the Secretary under sections 1102, 1871, and 1902 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish in the Federal Register at least every 3 months a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the 3-month timeframe. Since the publication of our quarterly listing on June 12, 1992 (57 FR 24797), we decided to add Medicaid issuances to our quarterly listings. Accordingly, we are listing in this notice Medicaid issuances and Medicaid substantive and interpretive regulations published from July 1 through September 30, 1993.

II. Medicare Coverage Issues

We receive numerous inquiries from the general public about whether specific items or services are covered under Medicare. Providers, carriers, and intermediaries have copies of the Medicare Coverage Issues Manual, which identifies those medical items, services, technologies, or treatment procedures that can be paid for under Medicare. On August 21, 1989, we published a notice in the Federal Register (54 FR 34555) that contained all the Medicare coverage decisions issued in that manual.

In that notice, we indicated that revisions to the Coverage Issues Manual will be published at least quarterly in the Federal Register. We also sometimes issue proposed or final national coverage decision changes in separate Federal Register notices. Readers should find this an easy way to identify both issuance changes to all our manuals and the text of changes to the Coverage Issues Manual.

Revisions to the Coverage Issues Manual are not published on a regular basis but on an as-needed basis. We publish revisions as a result of technological changes, medical practice changes, responses to inquiries we receive seeking clarifications, or the resolution of coverage issues under Medicare.

III. How to Use the Addenda

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretive regulations, or coverage decisions published during the timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Most notably, those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) and the notice published March 31, 1993 (58 FR 16837), and those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989, publication.

To aid the reader, we have organized and divided this current listing into four addenda. Addendum I identifies updates that changed the Coverage Issues Manual. We published notices in the Federal Register that included the text of changes to the Coverage Issues Manual. These updates, when added to material from the manual published on August 21, 1989, constitute a complete manual as of March 31, 1993. Parties interested in obtaining a copy of the manual and revisions should follow the instructions in section IV of this notice.

Addendum II identifies previous Federal Register documents that contain a description of all previously published HCFA Medicare and Medicaid manuals and memoranda.

Addendum III of this notice lists, for each of our manuals or Program Memoranda, a HCFA transmittal number unique to that instruction and its subject matter. A transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the Federal Register during the quarter covered by this notice. For each item, we list the date published, the Federal Register citation, the title of the regulation, and the Parts of the Code of Federal Regulations (CFR) which have changed.

IV. How to Obtain Listed Material

A. Manuals

An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, ATTN: New Order, P.O. Box 371954, Pittsburgh, PA 15250-7954, Telephone (202) 783-3238, Fax number (202) 512-2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487-4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell.

B. Regulations and Notices

Regulations and notices are published in the daily Federal Register. Interested individuals may purchase individual copies or subscribe to the Federal Register by contacting the GPO at the address indicated above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

C. Rulings

Rulings are published on an infrequent basis by HCFA. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We also sometimes publish Rulings in the Federal Register.

D. HCFA's Compact Disk-Read Only Memory (CD-ROM)

HCFA's laws, regulations, and manuals are now available on CD-ROM, which may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717-139-00000-3. The following material is contained on the CD-ROM disk:

- Titles XI, XVIII, and XIX of the Act.
- HCFA-related regulations.
- HCFA manuals and monthly revisions.
- HCFA program memoranda.

The titles are current as of the September 1, 1992 update of the Compilation of the Social Security Laws and the regulations are those in effect as of October 1, 1993.

The CD-ROM disk does not contain Appendices M (Interpretative Guidelines for Hospices) and R (Resident Assessment for Long Term Care Facilities) of the State Operations Manual. Copies of these appendices may be reviewed at a Federal Depository Library (FDL).

Any cost report forms incorporated in the manuals are included on the CD-ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

V. How to Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local FDL. Under the FDL program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, individuals should contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of most Federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Addendum III, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Carriers Manual, Part 3—Claims Process (HCFA-Pub. 14-3) transmittal entitled "Completion of the Monthly Statistical State Report for Regional Carriers for Durable Medical Equipment Prosthesis, Orthotics and Supplies," use the Superintendent of Documents No. HE 22.8/7-4, and the HCFA transmittal number 1462.

VI. General Information

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. Copies can be purchased or reviewed as noted above.

Questions concerning Medicare items in Addenda III may be addressed to Margaret Cotton, Office of Issuances, Health Care Financing Administration, Room 688 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 966-5260.

Questions concerning Medicaid items in Addenda III may be addressed to Pat Prete, Medicaid Bureau, Office of Medicaid Policy, Health Care Financing Administration, Room 233 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 965-3246.

Questions concerning all other information may be addressed to Jacqueline Kidd, Regulations Staff, Health Care Financing Administration, Room 132 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (410) 966-4682.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: December 13, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Addendum I

This addendum lists the publication dates of the quarterly listing of program issuances and coverage decision updates to the Coverage Issues Manual.

March 20, 1990 (55 FR 10290)
February 6, 1991 (56 FR 4830)
July 5, 1991 (56 FR 30752)
November 22, 1991 (56 FR 58913)
January 22, 1992 (57 FR 2558)
March 16, 1992 (57 FR 9127)
June 11, 1992 (57 FR 24797)
October 16, 1992 (57 FR 47468)
January 7, 1993 (58 FR 3028)
March 31, 1993 (58 FR 16837)
July 9, 1993 (58 FR 36967)
September 1, 1993 (58 FR 46200)

Addendum II—Description of Manuals, Memoranda, and HCFA Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the Medicare Coverage Issues Manual was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

Addendum III—Medicare and Medicaid Manual Instructions, July Through September 1993

Trans. No.		Manual/subject/publication number
		Intermediary Manual **Part 3—Claims Process (HCFA–Pub. 13–3)** **(Superintendent of Documents No. HE 22.8/6)**
IM–93–2	•	Adjustment Bills. Procedures for Submitting Adjustment Bills to CWF. Tolerance Guides for Submitting Adjustment Bills. Automation of Adjustment Processing.
1602	•	Home Dialysis Equipment Provided to Home Hemodialysis and Peritoneal Dialysis Patients. Coverage of Home Dialysis Supplies. Coverage of Home Dialysis Support Services.
1603	•	Provider Electronic Billing File and Record Formats. Alphabetic Listing of Data Elements.
1604	•	Review of Form HCFA–1450 for Inpatient and Outpatient Bills.
1605	•	Outpatient Mental Health Treatment Limitation. Application of Limitation.
		Carriers Manual **Part 3—Claims Process (HCFA–Pub. 14–3)** **(Superintendent of Documents No. HE 22.8/7–4)**
1462	•	Completion of the Monthly Statistical State Report for Regional Carriers for Durable Medical Equipment, Prosthesis, Orthotics and Supplies.
1463	•	Nurse Practitioner Services. Clinical Nurse Specialist Services. Services of Nonphysician Personnel Furnished Incident to Physicians' Services. Nurse-Midwife Services. Physician Assistant Services. Determining Reasonable Charges for Services of Physician Assistant. Nurse Practitioner Services.
1464	•	Use of Summary Voucher for Notice of Payment to Physician or Supplier.
		Carriers Manual **Part 4—Professional Relations (HCFA–Pub. 14–4)** **(Superintendent of Documents No. HE 22.8/7–4)**
8	•	Purpose of Health Insurance Claim Form—HCFA–1500. Items 1–13—Patient and Insured Information. Items 14–33—Physicians or Supplier Information. Place of Service Codes and Definitions.
		Program Memorandum **Intermediaries (HCFA–Pub. 60A)** **(Superintendent of Documents No. HE 22.8/6–5)**
A–93–2	•	Need to Improve Submission of Hospital and Independent Renal Cost Report Data Through the Hospital Cost Report Information System and the Independent Renal Dialysis Information System.
		Program Memorandum **Carriers (HCFA–Pub. 60B)** **(Superintendent of Documents No. HE 22.8/6–5)**
B–93–1	•	Therapeutic Shoes for Individuals With Severe Diabetic Foot Disease.
B–93–2	•	Carrier Coordination of Benefits Interim Flat File Formats.
B–93–3	•	Physician Services to Nursing Facility Residents.
B–93–4	•	Allograft Heart Valves.
AB–93–3	•	Medicare Part B Coverage of Influenza Virus Vaccines.
AB–93–4	•	Medicare Coordinated Care Plans Directory.
		Program Memorandum **Medicaid State Agencies (HCFA–Pub. 17)** **(Superintendent of Documents No. HE 22.8/6–5)**
93–5	•	Title XIX, Social Security Act, Medicaid Eligibility.
		Peer Review Organization Manual **(HCFA–Pub. 19)** **(Superintendent of Documents No. HE 22.8/6–15)**
29	•	Transmittal Notice—Hearing Case. Electronic Media Formatting.

Trans. No.		Manual/subject/publication number
		Output Procedures. Background. Beneficiary Hotline. PRO Information Brochure. Meetings with Beneficiary Groups. Beneficiary Liaison Committee. Other Activities. Physician/Provider Meeting Activities Required by Statute. Physician/Provider Meeting Activities Required by PRO Contract.
21	•	Background. Eligibility. Competing for a PRO Contract. Additional Requirements for a Physician-Access or Physician Sponsored Organization.
22	•	Background. Duties. Rendering Initial Review Determinations. Rendering Reconsideration and Re-review Determinations. Purpose. Scope. Instructions and Definitions for Completing Business Proposal Forms.
23	•	PRO Reporting on Medical Review (Receipt and Use of PROBILL Data). Changes Not Reported with the Adjustment Record. Changes in DRGs. Tracking Adjustments. Tape Specifications. Prepayment Review System Overview. PRS Implementation Exceptions. PRO Responsibilities for PRS Implementation. Authorization of Urgent/Emergent Cases. Validation Process. Intermediary Responsibilities for PRS Implementation. PRO and Intermediary Coordinated Responsibilities for PRS Implementation. Carrier Responsibilities for PRS Implementation. PRO and Carrier Coordinated Responsibilities for PRS Implementation. Statutory and Regulatory Requirements. General Requirements. Nonconfidential Information. Confidential Information. Disclosure of PRO Deliberations. Disclosure of Confidential PRO Information to Officials and Agencies. Disclosure of PRO Information Involving Beneficiary Complaints. Disclosure of PRO Information for Research Purposes. Redisclosure of PRO Information. Disclosure of PRO Sanction Information.
24	•	Introduction. Record Descriptions. Minimum Reporting Requirements. Quarterly Files. Monthly Files. Sampling Instructions. Enrollee Sample Sizes. Required Sample Sizes. HMOs/CMPs With 1,000 or Fewer Enrollees. HMOs/CMPs With Over 1,000 Enrollees.
		Hospital Manual **(HCFA–Pub. 10)** **(Superintendent of Documents No. HE 22.8/2)**
IM–93–1	•	Adjustment Bills. Claim Change Reasons. Late Charges.
653	•	Completion of Form HCFA–1450 For Inpatient and/or Outpatient Billing.
654	•	Completion of Form HCFA–1450 For Inpatient and/or Outpatient Billing.
		Home Health Agency Manual **(HCFA–Pub. 11)** **(Superintendent of Documents No. HE 22.8/5)**
262	•	Completion of Form HCFA–1450 For Home Health Agency Billing.

Trans. No.		Manual/subject/publication number
		Skilled Nursing Facility Manual (HCFA-Pub. 12) (Superintendent of Documents No. HE 22.8/3
322	•	Completion of Form HCFA–1450 For Inpatient and/or Outpatient Billing.
		Rural Health Clinic and Federally Qualified Health Centers Manual (HCFA–Pub. 27) (Superintendent of Documents No. HE 22.8/21:985)
7	•	Completion of Form HCFA–1450 By Rural Health Clinics and Federally Qualified Health Centers.
		Renal Dialysis Facility Manual (Non-Hospital Operated) (HCFA–Pub. 29) (Superintendent of Documents No. HE 22.8/13)
62	•	Completion of Form HCFA–1450 By Independent Facilities For Home Dialysis Items and Services Billed Under The Composite Rate (Method I).
		Hospice Manual HCFA–Pub. 21) (Superintendent of Documents No. HE 22.8/18)
37	•	Completion of The Uniform (Institutional Provider) Bill (Form–HCFA–1450) For Hospice Bills.
		Outpatient Physical Therapy and Comprehensive Outpatient Rehabilitation Facility Manual (HCFA–Pub. 9) (Superintendent of Documents No. HE 22.8/9)
111	•	Completion of Form HCFA–1450 For Billing CORF, Outpatient Physical Therapy, Occupational Therapy or Speech Pathology Services.
		Provider Reimbursement Manual Part 1 (HCFA–Pub. 15–1) (Superintendent of Documents No. HE 22.8/4)
371	•	Prospective Payment System for Inpatient Hospital Capital-Related Costs.
372	•	Right to Board Hearing. Request for Board Hearing. Late Filing of Request For Hearing. Board Action On Request For Hearing. List of Issues. Position Papers. Interested Persons. Appointment and Authority of Party's Representative. Ex Parte Communication Prohibited. Composition of Board. Disqualification of Board Member. Responsibility of Board. Prehearing Conference. Prehearing Discovery. Notice of Dismissal of Board Hearing. Scope of Board's Authority. Negotiations. Conduct of Board Hearing. Witnesses. New Evidence. Board Hearing Decision. Hearing on the Record. Expedited Judicial Review Process. Limitation on Expedited Proceedings. Provider Request and Accompanying Documents. Board Action. Effect of Board Determination.

Trans. No.		Manual/subject/publication number
		Provider Reimbursement Manual Part 1—Chapter 27 Reimbursement for ESRD and Transplant Services (HCFA-Pub. 15–1–27) (Superintendent of Documents No. HE 22.8/4)
23	•	Base Composite Rates. General Instructions for Processing Exceptions Under Composite Rate Reimbursement System. Time Period for Requesting Exception. Termination Date. Documentation for Specific Cost Categories. Personnel. Supplies. Inpatient/Outpatient Costs (Hospital-Based Facilities). Home Program. Amount Requested. Reporting Actual Cost. Provider-Based Facilities. Reasonableness of Cost and Comparison to Peer Group. Cost Report Review. Patient Data Summary. Costs That Do Not Meet Criteria. General. Criteria. Documentation. Intermediary Documentation. Application for Exception. Allowable Cost Elements for Granting Exception. Length of Training Period. Payment for Intradialytic Parenteral/Enteral Nutrition. Beneficiary Selection Form.
		Provider Reimbursement Manual Part II—Provider Cost Reporting Forms and Instructions (HCFA-Pub. 15–II–P) (Superintendent of Documents No. 22.8/4)
2	•	Skilled Nursing Facility and Skilled Nursing Complex Cost Report, Form HCFA–2540–92.
		Carrier Quality Assurance Handbook (HCFA-Pub. 25) (Superintendent of Documents No. HE 22.8:C 23/982)
48	•	Foreword. Carrier Quality Assurance System. Carrier Responsibilities. Regional Office Responsibilities. Penalty for Nonreviewed Claims. Sample Review Results. Change from a PC System to a Centralized Mainframe System. Claims Review Procedure. Changes in Workload Report Form, Supplier Registration and QA Review Requirements. Error Subcategory Classifications and Revised Category Definitions. Revised Sampling Procedures. Development for Missing Documentation.
		State Medicaid Manual Part 2—State Organization and General Administration (HCFA-Pub. 45–2) (Superintendent of Documents No. HE 22.8/10)
83	•	State Contracts With Outside Parties to Verify for Providers a Medicaid Recipient's Eligibility. Guidelines for State Contracts With Outside Parties to Verify Medicaid Recipient's Eligibility. Data the State May Release to Its Agents or Providers. Accessing the Data. Confidentiality of Data. Definitions.

VOL 58 ISS 244 DEC 22 1993 UMI

Trans. No.		Manual/subject/publication number
		State Medicaid Manual **Part 3—Eligibility** **(HCFA-Pub. 45–3)** **(Superintendent of Documents No. HE 22.8/10)**
61	•	Index.
		State Medicaid Manual **Part 6—Payment for Services** **(HCFA-Pub. 45–6)** **(Superintendent of Documents No. HE 22.8/10)**
23	•	Physician Services to Children Under 21. Physician Services to Pregnant Women.
		State Medicaid Manual **Part 11—Medicaid Management Information System (HCFA-Pub. 45–11)** **(Superintendent of Documents No. HE 22.8/10)**
17	•	Eligibility Verification Systems, Switching Companies, Electronic Claims Capture, and Electronic Claims Management Systems—Overview. Transmitting Operational Requirements Using Switching Companies. Safeguards.
		Medicare/Medicaid Sanction—Reinstatement Report
93–7	•	Cumulative Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Sanctioned/Reinstated.
93–8	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated.
93–9	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated.

Addendum IV—Regulations and Notices Published July Through September 1993

Publication date/citation	42 CFR part	Title
		Final Rules
07/15/93 (58 FR 38062)	417	Medicare Program; Health Maintenance Organizations: Technical Amendments (Final with Comments).
07/21/93 (58 FR 39092)	435, 436	Medicaid Program; Eligibility and Coverage Requirements.
08/13/93 (58 FR 43156)	433, 437	Medicaid Program; Limitations on Provider-Related Donations and Health Care-Related Taxes; Limitations on Payments to Disproportionate Share Hospitals.
08/23/93 (58 FR 44536)	433	Medicaid Program; Limitations on Provider-Related Donations and Health Care-Related Taxes; Limitations on Payments to Disproportionate Share Hospitals (Correction).
09/01/93 (58 FR 46270)	412, 413	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1994 Rates (Final with Comments).
09/17/93 (58 FR 48611)	435, 436	Medicaid Program; Qualified Family Members.
09/28/93 (58 FR 50634)	435, 436, 440	Medicaid Program; Eligibility and Coverage Requirements (Correction).
09/30/93 (58 FR 51130)	433	Medicaid Program; Limitations on Provider-Related Donations and Health Care-Related Taxes; Limitations on Payments to Disproportionate Share Hospitals (Correction).
		Proposed Rules
07/14/93 (58 FR 37994)	405, 414	Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule.
07/15/93 (58 FR 38170)	417	Health Maintenance Organizations: Organizational Structure and Services.
08/06/93 (58 FR 42041)	435, 436, 441	Medicaid Program: Minimum Physician Qualifications for Certain Services.
08/18/93 (58 FR 43832)	405, 413, 414, 424, 431, 447.	Medicare and Medicaid Programs; Payment for Clinical Diagnostic Laboratory Tests.
09/22/93 (58 FR 49272)	433	Medicaid Program; Referrals to Child Support Enforcement Agencies of Medicaid Families.

Publication date/citation	Title
	Notices
07/08/93 (58 FR 36748)	Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After July 1, 1993.
07/09/93 (58 FR 36967)	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decisions—First Quarter 1993.

Publication date/citation	Title
07/22/93 (58 FR 39154)	Medicare, Medicaid and CLIA Programs; Regulations Implementing the Clinical Laboratory Improvement Amendments of 1988.
07/26/93 (58 FR 39820)	Health Maintenance Organizations: Qualification Determinations and Compliance Actions During the Period January 1, 1993 through March 31, 1993.
08/13/93 (58 FR 43184)	Medicaid Program; Limitations on Aggregate Payments to Disproportionate Share Hospitals; Federal Fiscal Year 1993.
08/23/93 (58 FR 44457)	Medicaid Program; Eligibility and Coverage Requirements (Notice of delay of effective dates and compliance dates.)
08/27/93 (58 FR 45343)	Medicare Program; Meeting of the Practicing Physicians Advisory Council.
09/01/93 (58 FR 46200)	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decisions—Second Quarter 1993
09/03/93 (58 FR 46925)	Health Maintenance Organizations, Organizational Structure and Services (Correction).
09/15/93 (58 FR 48323)	Medicare, Medicaid and CLIA Programs; Regulations Implementing the CLIA of 1988 (Correction).
09/24/93 (58 FR 49934)	Medicare Program; Essential Access Community Hospitals (EACHs) and Rural Primary Care Hospitals (RPCHs) (Correction).
09/30/93 (58 FR 51085)	Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance During FY 1994.

[FR Doc. 93–31217 Filed 12–21–93; 8:45 am]
BILLING CODE 4120–01–P

National Institutes of Health Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–594–7265, will furnish summaries of the meeting and roster of panel members.

Meeting To Review Individual Grant Applications

Scientific Review Administrator: Dr. Herman Taitelbaum (301) 594–7269
Date of Meeting: January 10, 1994
Place of Meeting: Westwood Bldg., rm. 7A12, NIH, Bethesda, MD
Time of Meeting: 10 a.m.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 17, 1993.
Susan K. Feldman,
Committee Management Officer, NIH.
[FR Doc. 93–31213 Filed 12–21–93; 8:45 am]
BILLING CODE 4140–01–M

Social Security Administration

Published Social Security Acquiescence Rulings

AGENCY: Social Security Administration, HHS.

ACTION: Notice of published Social Security Acquiescence Rulings.

SUMMARY: Social Security Acquiescence Rulings (ARs) explain the manner in which the Social Security Administration (SSA) applies holdings of the United States Courts of Appeals that conflict with SSA's interpretation of a provision of the Social Security Act (the Act) or regulations when adjudicating claims under title II and title XVI of the Act and part B of the Black Lung Benefits Act. This notice lists ARs and rescissions of ARs that were published in the **Federal Register** from April 1990 through April 1, 1993. In addition, we have included **Federal Register** references for three prior notices of cumulative listings of ARs. The purpose of this notice is to assist individuals in finding ARs.

FOR FURTHER INFORMATION CONTACT: Irving Darrow, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (410) 965–1755.

SUPPLEMENTARY INFORMATION: Even though we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), SSA's regulations were amended on January 11, 1990, to provide that ARs are to be published in their entirety in the **Federal Register** under authority of the Commissioner of Social Security (20 CFR 422.406(b)(2)). An AR explains how SSA will apply a holding of a United States Court of Appeals that is at variance with SSA's interpretation of the Act or regulations in adjudicating claims under title II and title XVI of the Act and part B of the Black Lung Benefits Act.

Although regulations and ARs are published in the **Federal Register**, only the regulations are subsequently published in the Code of Federal Regulations (CFR). The CFR is a codification of the general and permanent rules published in the **Federal Register** by the Executive departments and agencies of the Federal Government. Consequently, the CFR may not state the circuitwide standard in effect when we have determined that the holding in a decision of a United States Court of Appeals is at variance with our national interpretation. Therefore, we are publishing this listing to assist individuals who need to reference ARs in effect as a result of holdings of the United States Court of Appeals. If an AR is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect, as provided for in 20 CFR 404.985(e), 410.670c(e), or 416.1485(e). If we decide to relitigate an issue covered by an AR, as provided for by 20 CFR 404.985(c), 410.670c(c), or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation and not the standard expressed in the AR, and explain why we have decided to relitigate the issue. In either of these situations, we will include the information in notices of published ARs such as this one.

This notice contains a listing of all ARs published under the requirements of 20 CFR 422.406(b)(2) during the period from April 1990 through April 1, 1993. (This latter date is the cutoff date

VOL 58 ISS 244 DE 22 1993 UMI

for inclusion of material in the annual edition of title 20 of the CFR.) The listing includes the AR number, title, publication date and the **Federal Register** reference number. This notice also lists ARs which were rescinded during this period. In addition, we have included **Federal Register** references for three prior cumulative AR listing notices. We anticipate publishing a notice each year that will list similar information.

We believe this publication will assist individuals in findings ARs.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security-Disability Insurance; 93.803 Social Security-Retirement Insurance; 93.805 Social Security-Survivors Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income.)

Dated: November 18, 1993.

Shirley S. Chater,

Commissioner of Social Security.

Published Social Security Acquiescence Rulings

Published cumulative lists of Acquiescence Rulings (ARs) issued prior to April 1990, relating to claims under title II and title XVI of the Social Security Act and part B of the Black Lung Benefits Act.

1. The first notice announcing 14 ARs, issued during the period from January 23, 1986, through April 30, 1986, was published in the **Federal Register** on June 4, 1986 (51 FR 20354).

2. A second notice announcing 12 additional ARs, issued during the period from May 20, 1986, through March 31, 1987, was published in the **Federal Register** on August 7, 1987 (52 FR 29441).

3. A third notice announcing 11 more ARs, issued during the period from May 1, 1987, through November 14, 1988, the withdrawal of one AR which was issued earlier, and the withdrawal of one of the ARs issued during this period was published in the **Federal Register** on July 10, 1990 (55 FR 28302).

This notice lists ARs published in the **Federal Register** during the period from April 1990 through April 1, 1993. It includes three ARs which were issued earlier, rescinded and replaced by revised ARs under their original AR number. It also includes the outright rescission of three ARs issued during this period, and the outright rescission of two ARs issued earlier. Two ARs published during this period required correction. The correction notices are also discussed in this notice. (The parenthetical number that follows each AR number refers to the United States judicial circuit involved.)

Acquiescence Rulings

AR 86–2R(2) *Rosenberg* v. *Richardson*, 538 F.2d 487 (2d Cir. 1976); *Capitano* v. *Secretary of HHS*, 732 F.2d 1066 (2d Cir. 1984)—Entitlement of a Deemed Widow When a Legal Widow is Entitled on the Same Earnings Record—Title II of the Social Security Act.

Published: June 25, 1992, at 57 FR 28527 as AR 86092(2).

Note: The original AR for the Second Circuit Court of Appeals' holding in *Rosenberg* and *Capitano* (AR 86–2(2)), issued January 23, 1986, was rescinded and replaced by this revised AR.

AR 86–18R(5) *Woodson* v. *Schweiker*, 656 F.2d 1169 (5th Cir. 1981)—Interpretation of the Deemed Marriage Provision—Title II of the Social Security Act.

Published: June 25, 1992, at 57 FR 28529 as AR 860918(5).

Note: The original AR for the Fifth Circuit Court of Appeals' holding in *Woodson* (AR 86–18(5)), issued May 22, 1986, was rescinded and replaced by this revised AR.

AR 86–19R(11) *Woodson* v. *Schweiker*, 656 F.2d 1169 (5th Cir. 1981)—Interpretation of the Deemed Marriage Provision—Title II of the Social Security Act.

Published: June 25, 1992, at 57 FR 28524.

Note: The original AR applicable in the Eleventh Circuit for the Fifth Circuit Court of Appeals' holding in *Woodson* (AR 86–19(11)), issued May 22, 1986, was rescinded and replaced by this revised AR.

AR 90–1(9) *Paxton* v. *Secretary of Health and Human Services*, 856 F.2d 1352 (9th Cir. 1988)—Treatment of a Dependent's Portion of an Augmented Veterans Benefit Paid Directly To a Veteran—Title XVI of the Social Security Act.

Published: July 16, 1990, at 55 FR 28946.

AR 90–2(2) *Ruppert* v. *Bowen*, 871 F.2d 1172 (2d Cir. 1989)—Evaluation of a Rental Subsidy as In-Kind Income for Supplemental Security Income (SSI) Benefit Calculation Purposes—Title XVI of the Social Security Act.

Published: July 16, 1990, at 55 FR 28947.

AR 90–3(4) *Smith* v. *Bowen*, 837 F.2d 635 (4th Cir. 1987)—Use of Vocational Expert or Other Vocational Specialist in Determining Whether a Claimant Can Perform Past Relevant Work—Titles II and XVI of the Social Security Act.

Published: July 16, 1990, at 55 FR 28949.

AR 90–4(4) *Culbertson* v. *Secretary of Health and Human Services*, 859 F.2d 319 (4th Cir. 1988); *Young* v. *Bowen*, 858 F.2d 951 (4th Cir. 1988)—Waiver of Administrative Finality in Proceedings Involving Unrepresented Claimants Who Lack the Mental Competence to Request Administrative Review—Titles II and XVI of the Social Security Act.

Published: July 16, 1990, at 55 FR 28943.

AR 90–5(2) *Kier* v. *Sullivan*, 888 F.2d 244 (2d Cir. 1989), *reh'g denied*, January 22, 1990—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Published: September 18, 1990, at 55 FR 38400.

Rescinded—See section on Rescissions in this notice.

AR 90–6(1) *Cassas* v. *Secretary of Health and Human Services*, 893 F.2d 454 (1st Cir. 1990), *reh'g denied*, April 9, 1990—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Published: September 18, 1990, at 55 FR 38398.

Rescinded—See section on Rescissions in this notice.

AR 90–7(9) *Ruff* v. *Sullivan*, 907 F.2d 915 (9th Cir. 1990)—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Published: September 18, 1990, at 55 FR 38402.

Rescinded—See section on Rescissions in this notice.

AR 91–1(5) *Lidy* v. *Sullivan*, 911 F.2d 1075 (5th Cir. 1990)—Right to Subpoena an Examining Physician for Cross-examination Purposes—Titles II and XVI of the Social Security Act.

Published: December 31, 1991, at 56 FR 67625 as AR 91–X(5).

Correction Notice Published: May 1, 1992, at 57 FR 18899—AR number changed to 91–1(5).

AR 92–1(3) *Mazza* v. *Secretary of Health and Human Services*, 903 F.2d 953 (3d Cir. 1990)—Order of Effectuation in Concurrent Application Cases (Title II/Title XVI).

Published: January 10, 1992, at 57 FR 1190 as AR 91–X(3).

Correction Notice Published: May 1, 1992, at 57 FR 18899—AR number changed to 92–1(3).

AR 92–2(6) *Difford* v. *Secretary of Health and Human Services*, 910 F.2d 1316 (6th Cir. 1990), *reh'g denied*, February 7, 1991—Scope of Review on Appeal in a Medical Cessation of Disability Case—Title II of the Social Security Act.

Published: March 17, 1992, at 57 FR 9262.

AR 92–3(4) *Branham* v. *Heckler*, 775 F.2d 1271 (4th Cir. 1985); *Flowers* v. *U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990)—What Constitutes a Significant Work-Related Limitation of Function.

Published: March 10, 1992, at 57 FR 8463.

AR 92–4(11) *Bloodsworth* v. *Heckler*, 703 F.2d 1233 (11th Cir. 1983)—Judical Review of an Appeals Council Dismissal of a Request for Review of an Administrative Law Judge (ALJ) Decision.

Published: April 8, 1992, at 57 FR 11961.

AR 92–5(9) *Quinlivan* v. *Sullivan*, 916 F.2d 524 (9th Cir. 1990)—Meaning of the Term "Against Equity and Good Conscience" in the Rules for Waiver of Recovery of an Overpayment—Titles II and XVI of the Social Security Act; Title IV of the Federal Mine Safety and Health Act of 1977.

Published: June 22, 1992, at 57 FR 27783.

AR 92–6(10) *Walker* v. *Secretary of Health and Human Services*, 943 F.2d 1257 (10th Cir. 1991)—Entitlement to Trial Work Period Before Approval of an Award for Benefits and Before 12 Months Have Elapsed Since Onset of Disability—Titles II and XVI of the Social Security Act.

Published: September 17, 1992, at 57 FR 43007.

AR 92–7(9) *Gonzalez* v. *Sullivan*, 914 F.2d 1197 (9th Cir. 1990)—Effect of Initial Determination Notice Language on the Application of Administrative Finality—Titles II and XVI of the Social Security Act.

Published: September 30, 1992, at 57 FR 45061.

Rescissions Without Replacement ARs

AR 87–5(3) *Velazquez* v. *Heckler*, 802 F.2d 680 (3d Cir. 1986)—Consideration of Vocational Factors in Past Work Determinations.

Notice of Rescission Published: July 16, 1990, at 55 FR 28943.

AR 88–7(5) *Hickman* v. *Bowen*, 803 F.2d 1377 (5th Cir. 1986)—Evaluation of Loans of In-Kind Support and Maintenance for Supplemental Security Income Benefit Calculation Purposes.

Notice of Rescission Published: September 8, 1992, at 57 FR 40918.

AR 90–5(2) *Kier* v. *Sullivan*, 888 F.2d 244 (2d Cir. 1989), *reh'g denied*, January 22, 1990—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Notice of Rescission Published: May 22, 1991, at 56 FR 23592.

AR 90–6(1) *Cassas* v. *Secretary of Health and Human Services*, 893 F.2d 454 (1st Cir. 1990), *reh'g denied*, April 9, 1990—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Notice of Rescission Published: May 22, 1991, at 56 FR 23591.

AR 90–7(9) *Ruff* v. *Sullivan*, 907 F.2d 915 (9th Cir. 1990)—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Notice of Rescission Published: May 22, 1991, at 56 FR 23592.

[FR Doc. 93–31230 Filed 12–21–93; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the collection of information and related explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, telephone (202) 395–7340.

Title: National Mapping Division Data Grant Program for Land Processes Research.

Abstract: Respondents supply application information and awardees supply a final report. Application information identifies the land processes research project and remotely sensed data requirements. Final report identifies utility of Data Grant Program in the completion of the nonprofit institution's research project.

Bureau Form Number: None.

Frequency: Annually.

Description of Respondents: Nonprofit institutions.

Estimated Completion Time: 25 hours.

Annual Responses: 520.

Annual Burden Hours: 13,000.

Bureau Clearance Officer: Geraldine A. Wilson (703) 648–7309.

Dated: November 8, 1993.

Allen H. Watkins,

Chief, National Mapping Division.

[FR Doc. 93–31142 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[AA–260–4210–01]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0153), Washington, DC 20503, telephone 202–395–7340.

Title: Conveyance of Federally Owned Manual Interests, 43 CFR 2720.

OMB approval number: 1004–0153.

Abstract: Respondents supply identifying information to be used by the agency to process applications to determine an applicant's eligibility for benefits and whether all statutory requirements have been met.

Bureau form number: None.

Frequency: Once.

Description of respondents: Individuals whose land surface ownership overlie federally owned mineral interests.

Estimated completion time: 8 hours.

Annual responses: 29.

Annual burden hours: 232.

Bureau clearance officer (Alternate): Marsha Harley 202–452–5001.

Michael J. Penfold,

Assistant Director for Lands and Renewable Resources.

[FR Doc. 93–31139 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement, related forms and explanatory material may be obtained by contacting the Bureau's Clearance

VOL 58 ISS 244 DEC 22 1993 UMI

Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Paperwork Reduction Project (1076–0111), Washington, DC 20503 (202) 395–7340.

Title: 25 CFR 23.13—Payment for appointed counsel in involuntary Indian child custody proceedings in state courts.

OMB Approval number: 1076–0111.

Abstract: A state court that appoints counsel for an indigent Indian parent or Indian custodian in an involuntary Indian child custody proceeding in a state court for which appointment of counsel is not authorized by state law shall send written notice to the Bureau. The Area Director, using this information, can certify if the client in the notice is eligible to have his counsel compensated by the Bureau in accordance with the Indian Child Welfare Act.

Bureau Form Number: None.

Frequency: Upon request for assistance.

Description of Respondents: State courts.

Annual Response: 4.

Annual Burden Hours: 60.

Bureau Clearance Officer: Gail Sheridan (202) 208–2685.

Betty B. Tippiconnic,

Acting Chief, Division of Social Services.

December 8, 1993.

[FR Doc. 93–31141 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[OR–015–94–4410–02; G4–047]

Management Framework Plans; Etc. Oregon

AGENCY: Bureau of Land Management (BLM), DOI.

ACTION: Notice of Intent, Plan Amendment to the High Desert Management Framework Plan, Lake Abert Area of Critical Environmental Concern (ACEC).

SUMMARY: The Lakeview District is initiating the planning process for a proposed plan amendment to the High Desert Management Framework Plan (MFP) which will evaluate the potential designation of the Lake Abert area as an ACEC. Lake Abert is located north of Valley Falls in central Lake County in southeastern Oregon. This area was nominated as a potential ACEC by the Oregon Waterfowl and Wetlands Association and the Oregon Department of Fish and Wildlife in August 1992. The Lakeview District evaluated the area in accordance with 43 CFR 1610.7–2 and found it met the relevance and importance criteria for four resource values: prehistoric cultural values, scenic values, wildlife values, and natural processes. This evaluation was documented in a report that is available for public review at the Lakeview District Office address listed below.

Currently, three preliminary issues have been proposed: (1) How large an area should be considered for ACEC designation, (2) how should the area be managed and which resource values should be emphasized, and (3) what type of restrictions should be placed on conflicting resource uses? One preliminary management goal has been identified: to protect relevant and important values while allowing compatible resource uses.

Three preliminary alternatives have also been identified: (1) No action, (2) designate the area as an ACEC with a management emphasis on relevant and important resource values while reducing or eliminating future conflicting resource uses, and (3) designate the area as an ACEC, but manage for a balance between resource protection and other uses.

DATES: This notice constitutes the beginning of the public scoping process for the proposed plan amendment. Interested individuals, organizations, and other agencies are encouraged to review the proposed plan amendment and provide written comments on the preliminary issues, goals, and alternatives by February 23, 1994, to the point of contact identified below. In addition, two public scoping meetings are planned in February 1994 at the locations specified below.

ADDRESSES: Meeting location (1) is BLM—Lakeview District Office, 1000 S. 9th St., Lakeview, Oregon, on Wednesday evening (7–9:00 p.m.) February 2, 1993. Meeting location (2) is Deschutes National Forest Headquarters, 1645 Highway 20, Bend, Oregon, on Wednesday evening (7–9:00 p.m.) February 9, 1994.

FOR FURTHER INFORMATION CONTACT: Paul Whitman, BLM—Lakeview District Office, P.O. Box 151, Lakeview, Oregon 97630, (Telephone: 503–947–6110).

SUPPLEMENTARY INFORMATION: Those individuals, organizations, and agencies with a known interest in the proposed plan amendment have been sent a copy of a scoping document. Persons wishing to be added to the mailing list for this proposed plan amendment may do so by contacting the point of contact listed above. Additional copies of this document may also be obtained at the above address. In order to get the public and other agencies more involved in the planning process, the Lakeview District is interested in forming a working group composed of representatives of a wide variety of public and agency interests to aid in the formulation of formal management goals, objectives, and alternatives. Those interested in serving on such a working group should notify the point of contact.

Terry H. Sederoff,

Acting District Manager.

[FR Doc. 93–31138 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–40–M

[CA–942–5700–10]

Filing of Plats of Survey; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATES: Filing was effective at 10 a.m. on the date of submission to the Bureau of Land Management (BLM), California State Office, Public Room.

FOR FURTHER INFORMATION CONTACT: Clifford A. Robinson, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room E–2845, Sacramento, CA 95825, 916–978–4775.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office, Sacramento, CA.

Mount Diablo Meridian, California

T. 8 S., R. 21 E.,
Supplemental plat of the E½ of section 32 and the W½ of section 33, accepted August 13, 1993, to meet certain administrative needs of the BLM, Bakersfield District, Hollister Resource Area.

T. 10 N., R. 9 W.,
Corrective dependent resurvey, (Group 743) accepted September 1, 1993, to meet certain administrative needs of the BLM, Ukiah District, Clear Lake Resource Area.

T. 21 N. R. 5 E.,
Dependent resurvey and subdivision of sections 13 and 14, (Group 1128) accepted September 13, 1993, to meet certain administrative needs of the U.S. Forest Service, Lassen National Forest.

T. 45 N., R. 8 W.,
Supplemental plat of E½ of section 24, accepted September 27, 1993, to meet certain administrative needs of the U.S. Forest Service, Klamath National Forest.

T. 16 N., R. 9 W.,

Dependent resurvey, (Group 935) accepted September 30, 1993, to meet certain administrative needs of the U.S. Forest Service, Mendocino National Forest.

T. 2 N., R. 15 E.,
Supplemental plat of the SW¼ section 30, accepted October 6, 1993, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 17, S. R. 29 E.,
Supplemental plat of the NW¼ of the NE¼ of section 9, accepted October 6, 1993, to meet certain administrative needs of the BLM, Bakersfield District, Caliente Resource Area.

T. 2 S., R. 26 E.,
Amended plat of Tract 42, accepted October 6, 1993, to meet certain administrative needs of the U.S. Forest Service, Inyo National Forest.

T. 29 N., R. 10 E.,
Dependent resurvey and subdivision of section 30, (Group 1143) accepted October 15, 1993, to meet certain administrative needs of the U.S. Forest Service, Lassen National Forest.

San Bernardino Meridian, California

T. 17 S., R. 13 E.,
Dependent resurvey and subdivision of section 18, (Group 1082) accepted September 1, 1993, to meet certain administrative needs of the BLM, California Desert District, El Centro Resource Area.

T. 6 N., R. 3 W.,
Supplemental plat of W½ section 6, and NW¼ section 7, accepted September 14, 1993, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

T. 7 N., R. 3 W.,
Supplemental plat of sections 3 and 4, accepted September 14, 1993, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

T. 7 N., R. 3 W.,
Supplemental plat of section 20, accepted September 14, 1993, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

T. 1 S., R. 19 W.,
Dependent resurvey and survey, (Group 1040) accepted September 27, 1993, to meet certain administrative needs of the National Park Service, Santa Monica Mountains Recreation Area.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: December 10, 1993.

Clifford A. Robinson,

Chief, Branch of Cadastral Survey.

[FR Doc. 93–31136 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–40–M

[UT–933–04–4332–01]

Utah Bureau of Land Management: Maps for Identification of Boundaries for Implementation of the BLM's Interim Management Policy and Guidelines for Lands Under Wilderness Review: Cancellation

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation.

SUMMARY: This notice cancels the subject notice on page 64334 of the Federal Register of December 6, 1993. Subsequent to that notice, it was determined that the maps need additional refinement.

DATES: This cancellation is effective immediately.

ADDRESSES: State Director (UT–933), Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

FOR FURTHER INFORMATION CONTACT: Margaret Kelsey, Wilderness Program Leader, Utah State Office, (801) 539–4068.

James M. Parker,

State Director.

[FR Doc. 93–31137 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–DQ–M

[CO–930–4920–10–4329; COC–55373]

Proposed Withdrawal; Opportunity for Public Meeting; Colorado; Correction

December 13, 1993.

In 58 FR 41289 dated August 3, 1993, second column, make the following correction under Site B:

New Mexico Principal Meridian: Site B, T. 46 N., R 18 W., should read T. 44 N., R. 18 W.

Robert S. Schmidt,

Chief, Branch of Realty Programs.

[FR Doc. 93–31154 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–JB–M

[CO–930–4214–10; COC–55991]

Proposed Withdrawal; Opportunity for Public Meeting; Colorado

December 13, 1993.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to withdraw approximately 4,725 acres of National Forest System land for 50 years to protect recreational resources and existing and planned facilities of the Telluride Ski Area. This notice closes this land to location and entry under the mining laws for up to two years. The land remains open to mineral leasing.

DATES: Comments on this proposed withdrawal or requests for public meeting must be received on or before March 22, 1994.

ADDRESSES: Comments and requests for a meeting should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215–7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303–239–3706.

SUPPLEMENTARY INFORMATION: On December 3, 1993, the Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws (30 U.S.C. ch. 2): Uncompahgre National Forest.

New Mexico Principal Meridian

T. 42 N., R. 9 W.
Sec. 1, lots 2, 3, 4, 6, 7, and 8, S½NW¼, and SW¼;
Sec. 2, lots 1, 2, 3, and 4, S½NE¼, S½SW¼, and SE¼;
Sec. 4, lot 2;
Sec. 9, S½S½NE¼, S½NW¼, and S½;
Sec. 10, W½NE¼SE¼NE¼, S½SW¼NW¼, W½SW¼, and E½SE¼;
Sec. 11;
Sec. 12, W½;
Sec. 13, W½;
Sec. 14;
Sec. 15, E½, and NW¼;
Sec. 22, NE¼NE¼;
Sec. 23, N½;
Sec. 24, NW¼.
T. 43 N., R. 9 W.,
Sec. 33, lots 18, 19, and 20;
Sec. 34, lots 17, 18, 22, 23, and 24;
Sec. 35, lots 28, 29, 30, 31, and 32.

The areas described aggregate approximately 4,725 acres of National Forest System lands in San Miguel County. (This description excludes any non-Federal lands lying within the above-described areas.)

The purpose of this withdrawal is to protect the high recreational resource values and existing and planned recreational development and use associated with the Telluride Ski Area.

For a period of 90 days from the date of publication of this notice, all parties who wish to submit comments, suggestions, or objections in connection with this proposed withdrawal, or to request a public meeting, may present

VOL 58, ISS 244 DEC 22 1993 UMI

their views in writing to the Colorado State Director. If the authorized officer determines that a meeting should be held, the meeting will be scheduled and conducted in accordance with 43 CFR 2310.3–1(c)(2).

This application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

For a period of two years from the date of publication in the Federal Register, this land will be segregated from the mining laws as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. During this period the Forest Service will continue to manage these lands.

Robert S. Schmidt,

Chief, Branch of Realty Programs.

[FR Doc. 93–31135 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–JB–M

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the Little Aguja Pondweed for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Little Aguja pondweed (*Potamogeton clystocarpus*). Little Aguja pondweed is an aquatic plant species in the family Potamogetonaceae. This endangered species has a very limited distribution and is currently known from only a few miles of a single stream on private land in Jeff Davis County, Texas. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before February 11, 1994 to assure consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, Ecological Services, Austin Field Office, 611 E. Sixth Street, room 407, Austin, Texas 78701; (512) 482–5436. Written comments and materials regarding the plan should be addressed to the State Administrator at the above address. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kathryn Kennedy, Botanist (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe site specific management actions considered necessary for conservation and survival of the species, establish objective, measurable criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The Little Aguja pondweed (*Potamogeton clystocarpus*) was listed as endangered on November 14, 1991 (56 FR 57844). This species has never been reported to grow anywhere except in the drainage of Little Aguja Canyon, in quite pools within the streambed of Little Aguja Creek. Only one population has been documented, and it has not been observed since severe flooding occurred in the canyon in 1990 and 1991. The species is probably adapted to the periodic floods and droughts typical of the area but is vulnerable to extinction from catastrophic events; it is possible that it could have succumbed to the severe floods of 1990 and 1991. The reason for the apparent decline and presence of low plant numbers and extremely limited distribution is unclear, but may be related to changes in water quality, quantity or seasonal flow regime in the watershed. If so, these changes may have been human-related, natural, or a combination of the two factors. Little Aguja pondweed occurs on private property, and present activities on the property appear to be compatible with the requirements of the species. It must be noted however, that periodic droughts, scouring floods, consumption by animals such as fish and invertebrates, changes in water quality, reduced flows, or significant changes in stream configuration could harm the pondweed by destroying both plants and habitat.

The objectives of the Draft Little Aguja pondweed Recovery Plan are to prevent extinction of the species, to determine if full recovery of the species is feasible, and to develop recovery criteria as appropriate. Recommendations outlined in the draft recovery plan include an extensive search for the Little Aguja pondweed. If the species is relocated, additional efforts; site protection, habitat management, propagation, and research will be among the recovery actions pursued.

Public Comments Solicited

The Service solicits written comments on the draft recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: December 16, 1993.

John G. Rogers,

Regional Director.

[FR Doc. 93–31263 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting Jeane Kelso at (303) 231–3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below, and to the OMB Paperwork Reduction Project, Washington, DC 20503, telephone (202) 395–7340.

Title: Collection of Information on Requests for Royalty Refunds and Credits.

Abstract: The Minerals Management Service is amending 30 CFR adding new regulations codifying procedures for obtaining refunds and credits of excess royalty payments made under Outer Continental Shelf (OCS) leases subject to Section 10 of the Outer Continental Shelf Lands Act. Many lease holders have in the past requested refunds or credits, but the information required in the request has never before been codified. This new regulation will make clear the information required from leaseholders requesting royalty refunds or credits from Section 10 OCS leases.

Bureau Form Number: None

Frequency: Whenever a refund is requested

Description of Respondents: Oil and gas companies

Estimated Completion Time: 1 hour

Annual Responses: 3,000

Annual Burden Hours: 3,000

Bureau Clearance Officer: Arthur Quintana (703) 787–1101.

Dated: November 10, 1993.

Donald T. Sant,

Acting Associate Director for Royalty Management.

[FR Doc. 93–31143 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–645 (Final)]

Certain Calcium Aluminate Cement and Cement Clinker From France

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–645 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France of certain calcium aluminate cement and cement clinker, provided for in subheadings 2523.39.00 and 2523.10.00, respectively, of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: November 1, 1993.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain calcium aluminate cement and cement clinker from France are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The Department of Commerce also made a negative preliminary determination regarding imports of calcium aluminate flux from France. The Commission, therefore, is not instituting a final investigation regarding calcium aluminate flux. Pursuant to 19 U.S.C. 1673b(3), if the Department of Commerce's final determination regarding imports of calcium aluminate flux is affirmative, the Commission will institute a final investigation at that time. The investigation was requested in a petition filed on March 31, 1993, by Lehigh Portland Cement Company, Allentown, PA.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on March 11, 1994, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on March 24, 1994, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 21, 1994. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 22, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is March 18, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for

VOL 58 ISS 244 DEC 22 1993 UMI

filing posthearing briefs is April 1, 1994; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 1, 1994. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: December 17, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-31232 Filed 12-21-93; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 332-288]

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports

AGENCY: United States International Trade Commission.

ACTION: Notice of determination.

SUMMARY: Section 7 of the Steel Trade Liberalization Program Implementation Act, as amended (19 U.S.C. 2703 note), which concerns local feedstock requirements for fuel ethyl alcohol imported by the United States from CBI-beneficiary countries, requires the Commission to determine annually the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. The domestic market estimate made by the Commission is to be used to establish the "base quantity" of imports that can be imported with a zero percent local feedstock requirement. The base quantity to be used by the U.S. Customs Service in the administration of the law is the greater of 60 million gallons or 7 percent of U.S. consumption as determined by the Commission. Beyond the base quantity of imports, progressively higher local feedstock requirements are placed on imports of fuel ethyl alcohol and mixtures from the CBI-beneficiary countries.

For the 12-month period ending September 30, 1993, the Commission has determined the level of U.S. consumption of fuel ethyl alcohol to be 1.15 billion gallons. Seven percent of this amount is 80.5 million gallons (these figures have been rounded). Therefore, the base quantity for 1994 should be 80.5 million gallons.

EFFECTIVE DATE: December 14, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Williams (202-205-3313) in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at 202-205-3091.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205-1810.

BACKGROUND: For purposes of making determinations of the U.S. market for fuel ethyl alcohol as required by section 7 of the Act, the Commission instituted Investigation No. 332-288, Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports, in March 1990. The Commission uses official statistics of the U.S. Department of Energy to make these determinations. Section 225 of the Customs and Trade Act of 1990 (Public Law 101-382, August 20, 1990) amended the original language set forth in the Steel Trade Liberalization Program Implementation Act of 1989. The amendment requires the Commission to make a determination of the U.S. domestic market for fuel ethyl alcohol for each year after 1989.

By order of the Commission.

Issued: December 15, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-31234 Filed 12-21-93; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-356]

Certain Integrated Circuit Devices, Processes for Making Same, Components Thereof, and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting Complainants' Motion To Amend the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) granting complainants' motion to amend the complaint.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3108.

SUPPLEMENTARY INFORMATION: On November 17, 1993, complainants National Semiconductor Corp. (National) and Fairchild Semiconductor Corp. (Fairchild) moved to supplement the complaint. In section IX of the complaint, complainants inadvertently omitted a counterclaim which they filed on May 7, 1993, in a parallel district court case, *Hughes Aircraft Co.* v. *National Semiconductor Corp.*, Civ. Action No. C-93-1022 (N.D. Cal.). National and Fairchild represented that they had met and conferred with the other parties and those parties do not oppose the motion. Complainants also stated that the proposed supplement would not prejudice any of the parties as it is neither material nor affects the scope of the investigation.

On November 23, 1993, the ALJ granted the motion in view of the nature of the supplement and the lack of opposition to it.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-2648.

By order of the Commission.

Issued: December 15, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-31233 Filed 12-21-93; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-357]

Certain Sports Sandals and Components Thereof; Notice of Decision Not To Review Initial Determination Granting Joint Motion To Terminate the Investigation With Respect to Respondent Fang Chun Ind. Ltd. on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 2) issued on November 19, 1993, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the joint motion of complainant Deckers Corporation and respondent Fang Chun Ind. Ltd. to terminate the investigation as to Fang Chun on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Rhonda M. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3083.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of section 337 violations in the importation, the sale for importation, and the sale within the United States after importation of sports sandals that infringe three claims of U.S. Letters Patent 4,782,975, on September 8, 1993.

On October 7, 1993, Deckers and Fang Chun filed a joint motion to terminate the investigation on the basis of a settlement agreement. The ALJ issued an ID granting the joint motion and terminating the investigation as to Fang Chun. No petitions for review or agency comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

By order of the Commission.

Issued: December 14, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-31235 Filed 12-21-93; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-360]

Certain Sputtered Carbon Coated Computer Disks and Products Containing Same, Including Disk Drives; Notice of Decision To Review and Modify Initial Determination Designating the Investigation As "More Complicated"

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review and modify an initial determination (ID) (Order No. 73) issued on November 22, 1993, by the presiding administrative law judge (ALJ) in the above-captioned investigation designating the investigation as "more complicated."

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3087.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of section 337 violations in the importation, sale for importation, and sale after importation of sputtered carbon coated computer disks and products containing such disks, including disk drives, on May 5, 1993. Complainant Harry E. Aine ("Aine") alleges infringement of claims 23, 24, 25, 26, and 29 of U.S. Letters Patent Re 32,464 ("the '464 patent").

On November 4, 1993, Aine and all respondents filed separate motions to declare the investigation "more complicated." In his ID, the ALJ granted the motions and indicated that the investigation should be designated to be "more complicated" because discovery in the investigation had been stayed for approximately three months pending a ruling by the Commission on the jurisdictional issues in the investigation and because the case involved many factually and legally complex issues concerning the validity and enforceability of the '464 patent. The ID extended the issuance of the final ID by five months, or until July 6, 1994, and stated that "the statutory time period for Commission action is extended from May 5, 19[9]4 to October 5, 1994." No petitions for review of the ID were filed. No agency comments were received.

After consideration of the record, including the ID, the Commission has determined on its motion to review the ID and to modify it by striking its statement concerning the statutory deadline for Commission action. In all other respects, the Commission adopts the ID as the determination of the Commission.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.55 and 210.56(a) of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.55, 210.56(a)). Copies of the ID, the Commission order modifying the ID, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

By order of the Commission.

Dated: December 13, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-31236 Filed 12-21-93; 8:45 am]

BILLING CODE 7020-02-P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-314 (Sub-No. 1X)]

Chicago Central & Pacific Railroad Company—Discontinuance of Trackage Rights Exemption—in Chicago, Cook County, IL

Chicago Central & Pacific Railroad Company (CCP) has filed a notice of exemption under 49 CFR Part 1152, Subpart F—Exempt Abandonments and Discontinuances of Trackage Rights to discontinue trackage rights (and interchange rights) over and upon the tracks, yard tracks and facilities of Illinois Central's (IC) IMX yard [1] adjacent to IC's main line between milepost 4.50 and milepost 5.46 in

[1] The IMX yard is owned by IC, and trackage rights operations were granted to CCP by IC pursuant to an order served by the Commission on December 24, 1985, in Finance Docket No. 30863.

VOL 58 ISS 244 DEC 22 1993 UMI

Chicago, Cook County, IL.[2] Operations on the subject line will continue by other carriers.

CCP has certified that: (1) No local traffic has moved pursuant to the trackage rights operation over the line for at least 2 years; (2) any overhead traffic on the line has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1152.50(d)(1) (notice to governmental agencies) has been met.[3]

As a condition to use of this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective on January 21, 1994, unless stayed pending reconsideration. Petitions to stay must be filed by January 3, 1994. Petitions to reopen must be filed by January 11, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.[4]

A copy of any petition filed with the Commission should be sent to applicant's representatives: Edward J. Krug, 526 Second Avenue SE, P. O. Box 2457, Cedar Rapids, IA 52406. If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Decided: December 14, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–31276 Filed 12–21–93; 8:45 am]

BILLING CODE 7035–01–P

[2] Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Commission at least 50 days before the abandonment or discontinuance is to be consummated. The applicant, in its verified notice, indicated a proposed consummation date of January 20, 1994. Because the verified notice was not filed until December 2, 1993, consummation should not have been proposed to take place prior to January 21, 1994. Applicant's representative has confirmed that the correct consummation date is on or after January 21, 1994.

[3] No environmental or historical documentation is required here pursuant to 49 CFR 1105.6(b)(3).

[4] Because IC will continue to provide service over the line, there is no need to provide for trail use/rail banking or public use conditions, or to include offer of financial assistance language, routinely provided for in abandonment proceedings.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *D'Imperio, et al.*, Civil Action No. 93–5321(JEI) was lodged on December 8, 1993 with the United States District Court for the District of New Jersey. The complaint in this action, filed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, seeks to recover costs incurred by EPA at the D'Imperio Property Superfund Site located in Hamilton Township, Atlantic County, New Jersey.

The proposed Consent Decree embodies an agreement by Dr. Francesco D'Imperio and Quinton D'Imperio (1) to provide EPA with access to the property for purposes of performing all response actions; (2) to sell the uncontaminated portion of their property and pay a portion of the proceeds from such sale to EPA; and (3) upon the completion of the remedy, to sell the presently contaminated portion of their property and pay the proceeds to EPA. The Consent Decree also provides the D'Imperios with a complete release for liability for both past and future CERCLA response costs and natural resource damages at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *D'Imperio, et al.*, DOJ Ref. No. 90–11–2–295.

The proposed consent decree may be examined at the Office of the United States Attorney, Post Office Building, 401 Market Street, 5th Floor, Camden, New Jersey 08101; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, room 309, New York, New York 10278, and at the Consent Decree Library, 1120 G Street, NW., Fourth Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., Fourth Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $44.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31146 Filed 12–21–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, As Amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA")

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Evcon Industries, Inc., New Coleman Holdings, Inc., and Recreational Vehicle Products, Inc.*, Civil Action No. *93–1491–MLB*, was lodged on *December 10, 1993* with the United States District Court for the District of Kansas. Contemporaneously with the lodging of the consent decree, the United States filed a civil action under sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9606 and 9607, for injunctive relief to abate an imminent and substantial endangerment to the public health or welfare or the environment due to the release or threatened release of hazardous substances from a facility, and for recovery of response costs that have been and will be incurred by the United States in response to releases and threatened releases of hazardous substances from the same facility, known as the Coleman Operable Unit of the 29th and Mead Superfund site, located in Sedgwick County, Kansas.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Evcon Industries, Inc., New Coleman Holdings, Inc., and Recreational Vehicle Products, Inc*, DOJ Ref. # 90–11–2–879.

The proposed consent decree may be examined at the office of the United States Attorney, 1200 Epic Centre, 301 N. Main Street, Wichita, Kansas; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $42.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31147 Filed 12–21–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and Section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed consent decree in *United States* v. *Giles Armature & Electric Works, Inc., et al.*, Civil Action No. S91–0042–C, was lodged on December 6, 1993 with the United States District Court for the Eastern District of Missouri, Southeastern Division. Pursuant to the Consent Decree, Defendants Giles Armature & Electric Works, Inc., a dissolved Illinois corporation, Harold L. Chase, Betty Lea Grassinger, Gardner J. Grassinger, Martha Gene Lundemo, Grace N. Giles, and Jenna V. Vickery, will pay to the United States $370,000 to be used by the United States for unreimbursed response costs relating to the Missouri Electric Works, Inc. Superfund Site in Cape Girardeau, Missouri.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Giles Armature & Electric Works, Inc., et al.*, DOJ Ref. #90–11–2–614.

The proposed consent decree may be examined at the Office of the United States Attorney, Eastern District of Missouri, Southeastern Division, 325 Broadway, Second Floor Cape Girardeau, Missouri; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $8.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31144 Filed 12–21–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Consent Judgment Pursuant to the Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *City of New York and Dino Oil Company, Inc.*, (S.D.N.Y.), Civil Action No. 93CIV8442(MBM), was lodged with the United States District Court for the Southern District of New York on December 8, 1993. The proposed consent decree requires the Defendants to pay a civil penalty of $8,250 each for their violations of the Clean Air Act, 42 U.S.C. 7601 et seq., and title 6 NYCRR Part 230, of the New York State Implementation Plan, which requires that gasoline transport vehicles and gasoline dispensing sites use Stage 1 vapor control equipment when loading gasoline storage tanks. The proposed Consent Decree also requires that Dino Oil Company, Inc. train employees of gasoline transport vehicles on the operation and use of Stage I vapor control equipment, and that the City of New York post a notice on the requirement for use of the Stage 1 vapor control device at its gasoline dispensing sites.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of New York and Dino Oil Company, Inc.*, D.O.J. Ref. No. 90–5–2–1–1638.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of New York, 100 Church Street, New York, New York 10007 (c/o Allan Taffet); at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, room no. 437, New York, New York 10278; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $10.50 (25 cents per page reproduction costs) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31148 Filed 12–21–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Rubicon Vista Associates, L.P., et al*, Civil Action No. CIV–S–92–680 WBS JFM (E.D. Calif.), was lodged on December 2, 1993 with the United States District Court for the Eastern District of California. This is a civil action against Rubicon Vista Associates, L.P., Robert L. Brandon, the D. Benvenuti Company, Inc., and Sacramento Valley Environmental Waste Company under section 113(b) of the Clean Air Act ("Act"), 42 U.S.C. 7413, for violation of the Asbestos National Emission Standard for Hazardous Air Pollutants ("NESHAP"). The Complaint sought civil penalties and injunctive relief to ensure future compliance with the NESHAP regulations. The alleged violations involved failure to notify EPA prior to commencement of a demotion; failure to follow proper procedures for handling the asbestos material during and following the demolition; failure to properly dispose of the asbestos material following demolition; allowing visible emissions; failing to mark with visible signs the vehicles in which asbestos waste was transported; and failure to dispose of the asbestos waste in a proper disposal site, in violation of

VOL 58 ISS 244 DEC 22 1993 UMI

the asbestos NESHAP. Rubicon Vista Associates, L.P., of which Robert L. Brandon is the general partner, was the owner of the building where the alleged violations occurred and the D. Benvenuti Company, Inc., was the contractor in charge of the demolition that resulted in the alleged violations. The Sacramento Valley Environmental Waste Company transported the asbestos waste that was removed from the site.

Under the Consent Decree, Rubicon Vista Associates, Robert L. Brandon and the D. Benvenuti Company, Inc. will jointly pay a civil penalty of $250,000. Each of those three defendants is required by the Consent Decree to perform diligent inspection prior to any future demolition or renovation activity, to immediately stop all work at any site where suspect regulated asbestos containing material ("RACM") is discovered during a demolition or renovation until the materials has been sampled, analyzed, and if found to be RACM, removed by trained asbestos abatement workers. The Sacramento Valley Environmental Waste Company will pay a civil penalty of $25,000 and is not subject to the injunctions provided by the consent decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Rubicon Vista Associates, L.P. et al.*, DOJ Ref. #90-5-2-1-1846.

The proposed consent decree may be examined at the office of the United States Attorney, 555 Capitol Mall, Suite 1550, Sacramento, California 95814; at the Region IX office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $9.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93-31145 Filed 12-21-93; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Youth Fair Chance Demonstration Projects

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and Solicitation for Grant Applications (SGA).

SUMMARY: The U.S. Department of Labor, Employment and Training Administration (DOL/ETA), under Title IV of the Job Training Partnership Act (JTPA) as amended in 1992, is announcing Youth Fair Chance (YFC) demonstration projects that will provide comprehensive employment and training services to youth (14–21 years) and young adults (22–30 years) in high poverty areas of urban and rural communities. The YFC program concentrates resources in small geographic areas to provide an integrated array of services and thereby increases the chances that high-risk youth will find jobs, develop careers, and lead productive lives.

Up to twenty-five (25) YFC grants will be awarded this year and will operate for 18 months. The grants will be awarded on a competitive basis. Each YFC program grantee will initially receive an average of $3 million for 18 months. Based on the availability of funds, effective program operation and the needs of the Department, up to 3½ additional years of support will be provided to each site.

This notice describes the process that eligible entities must use to apply for demonstration funds, the subject areas for which applications shall be accepted for funding, how grantees are to be selected, and the responsibilities of grantees.

DATES: Applications for grant awards will be accepted commencing December 22, 1993. The closing date for receipt of applications shall be March 22, 1993, at 2 p.m. (Eastern Time) at the address below.

ADDRESSES: Applications shall be mailed to: U.S. Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, Attention: Ms. Brenda M. Banks, Reference: SGA/DAA 94-003, 200 Constitution Avenue NW., room S-4203, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda M. Banks, Division of Acquisition and Assistance, telephone: (202) 219-7984 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. Part I provides the background and purpose of the demonstration projects. Part II provides (1) the application process, (2) detailed guidelines for use in applying for the demonstration grants (3) the government's requirements for the demonstration projects, and (4) the selection criteria used by the Department in reviewing applications. Part III describes the reporting requirements.

Table of Contents

Part I—Background
A. Authorization
B. Purpose
Part II—Application Process
A. Eligible Applicants
B. Funding
C. Applications Procedures
1. Submission of Proposals
2. Hand Delivered Proposals
3. Late Proposals
4. Period of the Performance
5. Option to Extend
D. Matching Requirements
E. Government's Requirements/Statement of Work Solicitation Specifications
F. Rating Criteria for Award
Part III—Reporting Requirements
A. Quarterly Financial Reports
B. Quarterly Progress Reports
C. Special Reports
Appendices
No. 1—Application for Federal Assistance (Standard Form 424)
No. 2—Non-Construction Budget Form (Standard Form 424A)
No. 3—A Listing of U.S. Cities (Ranked by # Below Poverty)
No. 4—Memorandum of Commitment
No. 5—1990 Census Data (Listing of Counties)

Part I—Background

A. Authorization

Youth who live in impoverished rural and urban communities around the country face great challenges because of the limited economic, fiscal and social capital available to them. Existing family and community resources are often severely strained. Complicating this are the high rates of joblessness and dependency among adults which in turn limit the number of positive role models for youth and reduce their access to jobs obtained by more middle class youth through informal brokering networks. Families and other community residents often lack effective strategies on how to support youth and encourage positive behavior to enhance rather than restrict their futures.

To address these concerns, in August 1992, Congress passed legislation authorizing the Secretary of Labor to establish a national program of Youth Fair Chance grants aimed at providing comprehensive services to youth living in high poverty areas in urban and rural communities.

In stating the purposes of the program, the Congress pointed to the conditions of poverty and need that put the targeted group of youth at risk of dropping out of school, becoming teenage parents, and unemployed.

B. Purpose

The purpose of the YFC program is to provide all youth living in designated target areas with improved access to the types of services and support necessary to help them acquire the skills and knowledge they need to succeed in the world of work and to participate fully in society. Such services include employment, training, education, child care, transportation, and assistance in resolving personal or family crises. To achieve its objectives, YFC encourages the active involvement in the effort of local employers, labor unions, junior and senior high schools, two-and four-year post secondary institutions, and community agencies. The YFC legislation specifies six broad objectives:

- To saturate small neighborhoods or communities (YFC target areas) of not more than 25,000 residents, or in appropriate cases not more than 50,000 except that in the event that the population of an area from which a high school draws a substantial portion of its enrollment exceeds either limit, the target area may encompass such boundary.
- To guarantee access to appropriate education, training, and supportive services for all youth residing in the target community;
- To guarantee access to comprehensive services combined with outreach and recruitment efforts to increase participation of previously unserved or underserved youth residing in the target community;
- To integrate service delivery in the target community, including systems of common intake, assessment, and case management;
- To increase the rates of school completion, enrollment in advanced education or training, and employment; and
- To determine the feasibility of offering these services nationwide.

The purpose of this solicitation is to award grants that will work toward achieving these objectives in the targeted areas. While there are specific core components comprising the YFC model, local decision-making plays an integral role. The planning, design, and implementation of a YFC project should involve those who are closest to the target community, including local residents. To the extent feasible, the local target community should be empowered to decide which services are needed and who can best provide them. Planning and implementation of a YFC project should take place "from the ground up" with the active involvement and participation of local entities.

Part II—Application Process

A. Eligible Applicants

The competition for these awards is limited to cities and counties with the highest concentrations of poverty. The definitions being used to identify the cities and counties with the highest concentration of poverty are: (a) Those cities with at least 25,000 residents living below the poverty level or a poverty rate of 30 percent or greater, as determined by the 1990 U.S. Bureau of Census, (See Appendix No. 5) and (b) those counties with at least 10,000 residents living below the poverty levels as determined by the U.S. Bureau of Census; or (c) those consortia of counties with at least 25,000 residents living below the poverty level and an overall poverty rate of at least 40 percent. (See Appendix No. 3.) Eligible SDAs with Youth Opportunity Unlimited (YOU) projects may apply; however, such SDAs may not apply to operate YFC projects in the YOU target area.

Additionally, Indian Reservations or Alaskan Native villages designated under subsections (c) and (d) of section 401, Title IV of the Job Training and Partnership Act (JTPA) or a consortium of such grantees and the State, and migrant or seasonal farmworker grantees designated under subsection 402(c) of Title IV of JTPA or a consortium of such grantees and the State, are eligible to apply for YFC grants.

B. Funding

Initial funding for this solicitation will come from the Youth Fair Chance program authorized as part of the Job Training Partnership Act (JTPA) 1992 Amendments. Funds for the YFC program may also be provided from other sources, pending availability. Each YFC program grantee will initially receive an average of $3 million for 18 months. Funds per site, thereafter, will be between $1–$2 million per year, if all grant conditions are met and based on the available funds and the needs of the Department. Grant award amounts will depend on the size of the community, numbers of youth living in the target community, and the comprehensives of services proposed.

C. Application Procedures

1. Submission of Proposals

An original and three (3) copies of the proposal shall be submitted. The proposal shall consist of two (2) separate and distinct parts: Part I shall contain the Standard Form (SF) 424, "Application for Federal Assistance:" (See Appendix No. 1) and SF 424A, "Budget" (See Appendix No. 2). Also, the budget shall include on a separate page(s) a detailed cost analysis of each line item in the budget, as well as an allocation of costs for school-to-work and other activities.

Part II shall contain a technical proposal that demonstrates the offeror's capabilities in accordance with the Statement of Work in part II. E of this solicitation. No cost data or reference to price shall be included in the technical proposal. In order to assist offerors in the preparation of their proposals and to facilitate the expeditious evaluation by the panel, proposals should be organized and presented in the same sequential order as the Rating Criteria in part II. F. of this solicitation. Applications shall be limited to 250 single side pages, doubled-spaced.

The proposal should be submitted on behalf of the community by (1) the mayor of a city or the chief elected official in a metropolitan statistical area, after the Governor of the State has had an opportunity to comment on the application; (2) the chief elected official of a nonmetropolitan county or the designated chief elected official of contiguous nonmetropolitan counties, after the Governor of the State has had an opportunity to comment on the application (Evidence that the Governor has commented on the application shall be submitted in a form of a letter signed by the Governor or his Designee; (3) Indian Reservations or Alaskan Native villages designated under subsection (c) and (d) of section 401 or consortium of such grantees and the State; and (4) migrant or seasonal farmworkers communities designated under subsection 402(c) or a consortium of such grantees and the State, are eligible for grants.

While a proposal will be submitted by the SDA to the Mayor or Chief Elected Official, the prospective project operator should be closely identified with the

VOL 58 ISS 244 DEC 22 1993 UMI

target community and able to reach and serve its residents. This can include community based organizations that have experience working in the local community with youth, employers, social service providers and local school systems. The organization should have demonstrated ability to operate a comprehensive and extremely complex program. A Memorandum of Commitment (See Appendix No. 4) should be signed by local officials who have jurisdiction over resources to be contributed or programs to be offered.

Any agreements signed by the appropriate officials and representatives of participating service provider agencies shall be included as part of the technical proposal. The proposal should cover items discussed in part II. E. Offerors should make sure that their proposal reflect the intent of the legislation as described in part I. B.

2. Hand Delivered Proposals

Proposals must be mailed at least five days prior to the closing date. However, if proposals are hand delivered, they must be received at the designated place by 2 p.m., Eastern time by March 22, 1994. All overnight mail will be considered to be hand delivered and must be received at the designated place by the specified closing date. Telegraphed and/or faxed proposals will not be honored. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

3. Late Proposals

Proposals received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it—

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g. an offer submitted in response to a solicitation requiring receipt of applications by the 20th of the month must have been mailed/post marked by the 15th);

(2) Was sent by U.S. Postal Service Express Mail Next Day Service—Postal Office to addressee not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays.

The term "post marked" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

4. Period of Performance

The period of performance under this grant will be 18 months from the date of grant execution.

5. Option to Extend

Based on the availability of funds, effective program operation and the needs of the Department, options for annual funding of up to 3½ additional years support may be provided to each site.

D. Matching Requirements

DOL Funding under these awards shall equal 70 percent of the total grant cost. The awardee shall provide 20 percent from other federal sources and 10 percent from non-federal sources.

E. Government's Requirements/ Statement of Work Solicitation Specifications

While establishing core components for in-school and out-of-school youth is essential, local target area needs will determine the extent to which other options for serving youth are incorporated into a YFC project. Offerors are not limited to the information requested and can add any information in which they feel provides a more complete picture of the proposed YFC project in their target area.

To enable offerors to benefit from some of the experiences of the Youth Opportunities Unlimited demonstration (which is a prototype of the YFC program) a handbook on useful lessons learned is available upon request by calling the contact person identified in the solicitation. The following specifications cover target area selection, YFC project design and linkages.

1. Target Area Selection

Offerors should select a geographic target area within the city/county characterized by high rates of poverty, school dropout, teen pregnancy, and crime. Offerors are requested to:

- Provide a description of the target area. The proposal may include a brief history; the schools, community development corporations, and social service agencies that serve the area; relevant locally based public or private non-profit agencies; educational, sports, employment, and cultural opportunities available to youth in the target area.
- Describe youth unemployment, crime, school dropout and teen pregnancy rates in the target area from data available. For purposes of this procurement, the youth age range is 14 to 30 years old. Available local data which may encompass slightly different age ranges for youth are acceptable.
- Provide a rationale for why the particular target area was selected over other poverty areas in the city or counties. Offerors that wish to have a target area of more than 25,000 should submit a justification in their proposals. With approval of the Secretary, the maximum size of a target area is 50,000. However, the offeror should not assume that the larger target area will be approved.

2. YFC Project Design

Based on the experience of the Youth Opportunities Unlimited program and latitude permitted the DOL under the YFC legislation, the Department recommends that the YFC project design (model) include in-school youth and out-of-school youth core components. The recommended core component for in-school youth is a school-to-work (STW) transition program.

A. In-school youth: School-to-work core component. Offerors can propose a variety of in-school youth programs as part of the YFC project. However, the school-to-work transition program should be the central or core component of YFC in-school youth initiatives.

School-to-work programs enable localities to transform high schools and improve the education, training and employment opportunities of youth in targeted areas. It is important that the YFC school-to-work programs be consistent and in accord with any local and State plans developed under the proposed School-to-Work Opportunities Act of 1993 and the proposed Goals 2000: Educate America Act. The STW requirements under YFC are modeled to a great extent upon the proposed School-to-Work Opportunities Act of 1993. Under this pending legislation, the STW concept integrates academic and vocational technical learning, to prepare youth for high-wage, high-skill employment.

Programs are to contain three main components: (1) Work-based learning, (2) school-based learning, and (3) connecting activities such as: (a) matching students with employers' work-based learning opportunities; (b) serving as a liaison among the employer school, teacher, parent, and student; (c) providing technical assistance and services to employers and others in designing work-based learning components and counseling and case management services, and in training teachers, workplace mentors and counselors; (d) providing assistance to students who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; (e) collecting and analyzing information regarding post-program outcomes of students who participate in the School-to-Work Opportunities program component; and (f) linking youth development activities under this program with employers' strategies for upgrading the skills of their workers.

Successful school-to-work programs require the active involvement of business, community and labor leaders, and educators. Employers, in partnership with labor, define the skill requirements for jobs, participate jointly in the governance of the program, offer quality learning experiences for the students at the worksite, and provide jobs for students and graduates.

Businesses share information with schools on the technologies, management processes, business practices, and structure of work in today's organization. STW programs require agreement from partners to work together to develop curricula that will prepare students to enter and succeed in the workplace of tomorrow. STW programs are more likely to work if there is ongoing community ownership of the program and if the system is flexible enough to fit local circumstances and needs. As part of this procurement, offerors are expected where feasible to implement STW programs in two (2) secondary schools in which residents of the community are enrolled, with at least one school physically located in the target community. Exceptions to this apply to rural and Indian Reservation areas where there may be only one secondary school serving the target area. To the extent feasible, the STW program design should correspond to that contained in the brief description of examples of complementary national programs (See below).

In discussing the STW program, offerors are requested to:

- Provide a description of the local program envisioned and how locally elected officials, employers, secondary and post secondary institutions, organized labor, teachers, students, parents, community-based organizations and others will be involved in the planning, development and implementation.
- Describe how the proposed STW program complements existing STW programs available to students.
- Identify the schools to be targeted by the STW program and who will be responsible for the program design and administration, enrollment procedures, numbers of youth to be served, and achievement of STW goals and objectives.
- Provide a description of the steps to be taken to determine customer need and customer satisfaction.
- Establish and formalize a STW "partnership" among those who will be primarily responsible for the school-to-work program in the public and private sectors.
- Provide evidence of agreement by local schools to participate in the STW demonstration and their willingness to make the changes needed to enhance the learning experiences for youth, engage the employer community in the training process, and achieve the goals of the STW program. This is important because of the critical role of the school system in STW.
- Provide the estimated annual cost and a time-phased work plan/work schedule covering the planning, development, and implementation of a STW program for the first three years.
- Describe how the STW proposal relates to other education reform being undertaken in the community.

In discussing other in-school programs, besides school-to-work, offerors are requested to describe the programs, how they are to be implemented, by whom and the measurable goals and objectives.

B. Out-of-school youth: Center for continuing education and training core component. Offerors are encouraged to establish a center for continuing education and occupational training for out-of-school youth and young adults, or a similar type of facility. The center should be identifiable and may be collocated with or separate from other programs. The center does not have to be a newly built facility but may be housed within an existing facility by modifying, improving, and expanding existing property.

To help youth acquire the knowledge and skills necessary to get and hold jobs, the center should be in a position to offer youth information and intelligence on the local labor market, occupational skills and other requirements needed for employment, and local educational and training resources. It should enable out-of-school youth to pursue a high school degree and/or post-secondary education by offering youth a coordinated and comprehensive range of education and training opportunities.

The center should also offer youth a variety of services such as GED instruction, basic skills instruction, English as a Second Language (ESL) classes, life management skills, vocational education or training, and job search assistance. Referral to supportive services should be available at the centers. Various social service agencies can be collocated at such centers.

Offerors should be able to attract out-of-school youth and young adults to the case program through outreach and recruitment activities. Students between the ages of 17 and 30 enrolled full-time in a training and education program at these centers may receive stipends of up to $1200 a week for up to one year or until they become employed, whichever occurs first. If a youth is employed but does not earn $100 per week, the difference can be paid through stipends.

Offerors are asked to:

- Describe such a center and its measurable goals/outcomes and strategy, including services, to accomplish the goals.
- Identify where the center will be located, how it will be staffed, and who will be responsible for it.
- Provide a description of the steps to be taken to recruit out-of-school participants and to determine customer need and customer satisfaction.

C. YFC Project Design and Implementation. Offerors are encouraged to develop a YFC project which meets the requirements of the governing legislation and best serves the interests and needs of the target community.

YFC Center. In considering the design and implementation of the project, offerors should give special attention to the feasibility of operating the YFC program (except school-to-work) out of a single building.

A central YFC facility should help to ensure that grant funds are used to start new programs, rather than simply displace existing local projects. It should also make it easier to track the progress of participants. An identifiable physical site strengthens community perceptions of the program, gives YFC an identity within the community, and because of its visibility may help attract more resources within the community and increase chances that the program will continue beyond the Federal grant period.

If renovations are needed to establish such a physical site, the use of Community Block Development Grants (CBDG) or other funds should be explored. Funds provided under the YFC grant cannot be used for constructing facilities. However, a limited amount of funds may be used for alternations for educational purposes, such as preparations for installation of computers, etc. In some cases, sites may choose to use the center for a dual purpose by serving in-school as well as out-of-school youth.

Community Advisory/Resource Board: Offerors should establish a Community

VOL 58 ISS 244 DEC 22 1993 UMI

Advisory/Resource Board, or similar organization, consisting of government and private sector leaders, as well as representatives (e.g., residents, parents, business, community leaders, ministers, educators) of the target community to further the goals and objectives of the YFC program.

Sports and Recreation Initiatives: Offerors should establish a comprehensive sports and recreation program for children and youth in the target area and describe how such activities might complement YFC program objectives.

Permanent YFC Program: Offerors should ensure that the community is committed to building support and leveraging State, local, and private resources to continue the comprehensive program services beyond the duration of the Federal grant.

Recruitment, Common Intake Procedure and Case Management: Offerors should have a viable plan for recruitment and establish a common intake procedure which utilizes a case management approach and individualized assessment. Such an approach is intended to enhance the likelihood that all participating youth and young adults will receive basic services meant for everyone and customized services tailored to individual needs.

Performance Measures: Offerors shall have performance measures as a part of the YFC program as required by YFC legislation.

Ability to Get the Job Done: Offerors should be able to demonstrate on the basis of past or current experience that they have the capability to implement a YFC project and achieve the goals and objectives of the program on schedule.

College Bound Initiative: Offerors should be able to establish a public/private program to assist youth from target areas learn about and attend college, including providing "last dollar" financial aid.

Middle School Initiative: Local school districts should be able to establish initiatives to improve middle school in target area, based on the Carnegie Council on Adolescent Development's Turning Points recommendations. This includes breaking up large middle schools by using either "houses" or block rostering.

Offerors are asked to:

- Provide a description of the YFC center, its goals, the services it will provide, its location, staffing, and programs. The Centers can include training in cultural activities such as: art, music, creative writing, etc.
- Describe plans that specifically focus on outreach and recruitment efforts in the target area to encourage and promote maximum participation by at-risk youth and young adults who are currently underserved by education and training programs in the target community. YFC legislation cities the importance of steps designed specifically to enlist the participation of youth, particularly males, under the jurisdiction of the child welfare, juvenile justice, and criminal justice systems.
- Provide a description of the common intake procedures, individualized assessment, and case management approach to be used by the program.
- Discuss the performance measures to be used. Identify YFC measurable goals and outcomes for target area youth which may include: high school completion or equivalency; youth entering postsecondary institutions, apprenticeships, or other advanced training programs; youth placed in jobs; or youth participating in education, training and employment services. They also may include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests or teenage pregnancies.
- Provide a description of how customer need and customer satisfaction can be ascertained and measured.
- Provide written assurances that all youth in the target area will have access to: (1) a coordinated and comprehensive range of education and training opportunities from a diverse range of education and training providers in the participating community; and (2) supportive services necessary for successful participation in society. Supportive services may include: child care, transportation, and assistance in resolving personal or family crisis, such as crises related to substance abuse, homelessness, migration, or family violence.
- Provide evidence from past or recent experiences which demonstrate that the offeror will be able to implement a successful YFC project.

3. Linkages to Complementary Programs

Offerors are encouraged to explore the feasibility of linking YFC initiatives with other ongoing local community programs. They should attempt to create and maintain broad-based partnerships to address the needs of urban and rural youths through a system of structured, comprehensive services. Complementary programs are intended to strengthen the overall service delivery system available to youth in the target area and are an integral part of the YFC program. There are a wide range of possibilities. Examples of complementary programs include such as: the Youth Construction Corps, Youth Apprenticeship Programs, Teen Parent Programs, Summer Education and Training Programs (STEP), Middle College Special Programs for Dropouts, Community Service Programs for Youth, Community Youth Centers, Alternative Schools as well as linkages with other programs funded under JTPA including Job Corps and the Job Guarantee Program. The Job Guarantee Program is authorized in YFC legislation as an option which some offerors may want to explore. Complementary programs also include national initiatives, such as Healthy Start operated by the U.S. Department of health and Human Services (HHS), Empowerment Zones or Enterprise Communities under the U.S. Department of Housing and Urban Development (HUD) and U.S. Department of Agriculture, and youth programs supported by the U.S. Departments of Education, Justice, Transportation, and Defense.

The following is a description of examples of complementary program:

1. *Youth Build.* Program provides assistance for a wide range of multi-disciplinary activities and services to assist economically disadvantaged youth. The opportunities are designed to help disadvantaged young adults who have dropped out of school to obtain the education and employment skills necessary to achieve economic self-sufficiency and develop leadership skills and a commitment to community development in low-income communities.

2. *Initiatives aimed at increasing rural student enrollment in postsecondary education.* Initiatives could include establishing community college satellites, or small, two year, work-study colleges, and last dollar opportunities for tuition.'

3. *Youth Apprenticeship Programs.* Programs for out-of-school youth developed in conjunction with local trade unions to train youth in construction and other skilled trades.

4. *Teen Parent Programs.* Programs that included an employability development program for teen parents operated in conjunction with a health center that serves teen parents. The emphasis is on returning teenagers to school and on long-term career development. A case management approach is used with the aim of ensuring that the teen parent receives a sequence of services including counseling, basic education, mentoring, vocational training, and job search assistance. Programs for both teen mothers and teen fathers can be developed.

5. *Summer Training and Education Programs (STEP).* Programs that add a remedial education component to traditional summer youth jobs programs and enroll students during the school year to ensure academic success. Such programs can be operated on college campuses during the Summer to provide a residential experience for enrollees.

6. *Middle Colleges.* Alternative schools for dropouts and potential dropouts run by community colleges on the college campus.

7. *Community Service Programs for Youth.* Programs that allow youth to participate in community service. Such programs can be aimed at both in-school and out-of-school youth. Service corps programs enrolling out-of-school youth should include education and training components. These programs could also be aimed at youth offenders, with community service offered as an alternative form of sentencing.

8. *Community Youth Centers.* Community centers in which youth can gather and receive counseling, recreation and cultural opportunities, and educational and job market information.

9. *Public-Private Collaborations to Assure School Graduates Either Enter College or Obtain Career-Track Jobs.* Program such as the Boston Compact or College Bound in Baltimore in which the private sector offers both "Last Dollar" college financial aids and career-track jobs to graduating seniors.

10. *Alternative Schools.* Schools operated by the local school system aimed specifically at high school dropouts or potential dropouts.

11. *Job Guarantee.* Effort under which a target community with a population of 20,000 or less reserves up to $1 million of its YFC grant budget to provide a job guarantee to youth ages 16–19 who either agree to stay in school or to return to school. (Target communities with a larger population should not plan to offer such a guarantee because it will be too expensive given the number of youth in the area.) The job guarantee should be limited to an eight-hour Saturday job during the 30 weeks of the school year, and a summer job funded under Title II–B of JTPA. The guarantee of a summer job should continue through the Summer following high school graduation, or until the youth reaches age 19 whichever is later.

The wage paid for the part-time job during the school year should be the minimum wage. To maintain eligibility for the guaranteed job, youth must maintain a C average and a school attendance rate of 90 percent (except for doctor's excused absences).

Grantees offering this component must provide participating youth with additional services to assist them in remaining in school and subsequently entering college or a career-track job. Such services can include counseling, job development and placement, and supportive services while attending school or working (including child care and transportation).

The job guarantee program can also include a 50 percent wage subsidy to encourage private employers to hire youth for the Saturday job. The duration of these subsidies should be not more than a year. Priority in these subsidies should be given to employers who provide advanced or specialized training, or who provide a structured and integrated learning experience involving the school and employer.

12. *Youth Construction Corps.* Programs in which youth are trained in construction trades while rehabilitating houses. Such programs make use of union craftsmen as instructors and foremen. Models for such programs include Ventures in Community Improvement (VICI) and Youthbuild. Before implementing this program an analysis of the construction market in local labor market should be completed to determine the probability of employment once the program is successfully completed.

The following is a brief description of examples of complementary national programs:

U.S. Department of Agriculture

(a) Extension Service (State 4–H Program)—Coordinates and provides administrative, technical, and other services to a nationwide Cooperative Extension System, in partnership with State and local governments and the private sector. The primary function of this system is to take the research findings of the Department of Agriculture, the State Land-Grant Colleges and programs administered by the Department of Agriculture, and to develop and deliver informal, out-of-school educational programs.

(b) Food and Nutrition Service—Administers programs to make food assistance available to people who need it. These programs are operated in cooperation with State and local government.

U.S. Department of Commerce

(a) Economic Development Administration (EDA)—Operates a long-range economic development program in areas with severe unemployment and low family income problems; aids in the development of public facilities and private enterprise to help create new, permanent jobs.

U.S. Department of Health and Human Services

(a) Public Health Service—Stimulates and assists States and communities with the development of local health resources and further the development of education for the health professions; assist in the delivery of health services to all Americans with reinforced emphasis upon assisting the health care needs of the nation's needy populations.

Such programs include:

(1) Healthy Start—This program maximizes the positive development of young children.

(2) Runaway and Homeless Youth Basic Centers—This program addresses the spiraling trend toward drug experimentation and abuse by children and youth, especially those who are runaways and homeless, and those who become entrapped in youth gang activities.

(3) Drug Education and Prevention—This program focuses upon the specific needs of youth involved with drugs that communities across the nation are combating.

U.S. Department of Housing and Urban Development

(a) Community Planning and Development—This program builds communities by providing decent housing and a suitable living environment and expanding economic opportunities principally for persons of low and moderate income.

(b) Empowerment Zones and Enterprise Communities—This program offers local communities the incentives, targeted investments, deregulation and flexibility they need to work with the private sector to develop comprehensive economic strategies to generate business, create jobs, make their streets safe, build community, and empower people to get ahead.

(c) Youthbuild Program—This program offers a wide range of multi-disciplinary activities and services to assist economically disadvantaged youth. The opportunities are designed to help disadvantaged young adults who have dropped out of high school to obtain the education and employment skills necessary to achieve economic self-sufficiency and develop leadership skills and a commitment to community development in low-income communities.

U.S. Department of Justice

(a) National Performance Review Laboratory Related to Comprehensive Anti-Crime and Social Delivery Systems—This is a comprehensive "Weed and Seed" program designed to bring into communities of high crime services and programs that offer positive alternatives to youths who reside in these areas.

(b) Community Partnerships with Local Police—This program involves the community residents in patrolling, neighborhood watch and the actual selection of local police who will work in the community.

U.S. Department of Transportation

(a) Urban and Rural Mass Transportation—Programs are designed to assist in the development of improved mass transportation facilities, equipment, techniques, and methods, with the cooperation of mass transportation companies both public and private. Demonstration projects are underway in several urban and rural areas to enhance the local services to individuals residing in communities that have inadequate transportation services.

State and Local Programs

(a) Local programs that encourages participation by community residents to be involved in programs design to serve youth and build a safe, clean and supportive community.

As part of this section, offers are requested to:

- *Discuss how the YFC program will make use of the resources, expertise, and commitment of programs and services from organizations* such as: (1) the school system; (2) community-based and related organizations serving youth; (3) youth corps programs; (4) Job Corps centers; (5) apprenticeship programs; (6) other projects and programs funded under the JTPA and other Federal legislation.
- *Include a description of the resources available in the participating community* from private, local, State, and Federal sources that will be used to achieve the goals of the program.
- *Estimate the funds required to ensure access to appropriate education, training, and support services* for all youth and young adults in the target area to achieve YFC goals.

4. Additional Considerations

Offerors should identify a time-phased work schedule covering the planning, development, and implementation of the YFC program's first 18 months.

Evaluation is an integral and necessary part of the YFC program. Offerors will be expected to cooperate with and participate in a national evaluation of all YFC sites. A contractor will be selected to conduct the evaluation.

To aid in YFC program implementation, a national technical assistance contractor will be available to sites awarded grantees.

F. Rating Criteria for Award

Prospective offerors are advised that the selection of grantees for awards is to be made after careful evaluation of proposals by a panel of specialists. Panelists will evaluate the proposals on the basis of five (5) factors enumerated below:

The factors are:

1. Need in the Designated Target Area as evidenced by description of the target community, poverty population in the community, poverty rate, school dropout rate, teen pregnancy rate, and other such data. (5 points).

2. Quality of the School-to-Work YFC Initiative as indicated by the offerors in-school youth projects; understanding of the STW core component as reflected in the planning, development and implementation of a STW program; the soundness of the plan to accomplish the goals and objectives of the STW program; the extent of coordination and involvement with key partners such as the State education system, local schools, employers, labor unions, apprenticeship programs, community-based organizations, business and trade organizations, parents, and youth. (25 points).

3. Quality of Out-of-School YFC Initiative as indicated by the offerors plan to establish a permanent center; proposed employment, education and training programs; support services to be provided to meet the needs of a diverse target population, including young adults 22 to 30 years of age; outreach and recruitment initiatives; extent of coordination and involvement with key employment, education, and training partners; and the soundness of the plan to accomplish the goals and objectives of the YFC program. (25 points).

4. Quality of Overall YFC Project Design and Implementation Plan as reflected in the plan for incorporating into a YFC project the necessary elements to provide needed services to the target population and to achieve YFC program goals and objectives. Consideration will be given to factors such as: organizational structure, program components and activities, staffing and resources; establishment of a central YFC facility; recruitment, common intake and case management; plans for an advisory/resource board; ability of offeror to accomplish the goals and objective of the YFC program. (25 points).

5. Linkages to complementary programs and commitment of State and local resources to the project. Extent of linkages with complementary programs and the ability of the offeror to garner support for YFC initiatives from public and private sectors, including Federal, State, and local agencies; soundness of plans for linking community resources; and plans for continuing the program on a permanent basis. Programs that establish linkages with the U.S. Department of Justice's local Weed and Seed program and/or that apply to be designated an Empowerment Zone or Enterprise Community with the U.S. Department of Housing and Urban Development will receive special emphasis under this criterion. (20 points)

Cost shall be rated separately. Cost will be analyzed to determine reasonableness. Available resources should be adequate to the services proposed in the application. The total cost of the project, however, must be reasonable in view of anticipated results. Applicants should document their expected costs and justify why they consider these costs to be reasonable.

Offerors are advised that discussions may be necessary in order to clarify any inconsistencies in their application. The panel results are advisory in nature and not binding on the Grant Officer. The scores based on rating of proposals will be used to establish a competitive range as determined by the Department of Labor. Therefore, the final awards and selection of grantees will be based on such factors as the overall technical quality of the proposal, population served, and what's in the best interests of the government.

Part III—Reporting Requirements

A. Quarterly Reports on the Youth Fair Chance program are required.

B. Quarterly Progress Reports on the Youth Fair Chance program are required.

C. Special reports, including a final, on the progress of the implementation of the Youth Fair Chance model may be required.

Signed at Washington, DC, this 15th day of December 1993.

Janice E. Perry,

Grant Officer, Division of Acquisition and Assistance.

BILLING CODE 4510-30-M

APPENDIX No. 1

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: | Organizational Unit:

Address (give city, county, state, and zip code): | Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): –

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist.; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Other (Specify): _____

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award; B. Decrease Award; C. Increase Duration; D. Decrease Duration; Other (specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ • ☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):

13. PROPOSED PROJECT: Start Date; Ending Date

14. CONGRESSIONAL DISTRICTS OF: a. Applicant; b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION – Non Construction Programs APPENDIX No. 2

Catalog of Federal Domestic Assistance	Estimated Unobligated Funds		New or Revised Budget										
CFDA NUMBER	FEDERAL	NON-FEDERAL	FEDERAL	NON-FEDERAL	TOTAL								
1. ____	$	$	$	$	$								
2. ____	$	$	$	$	$								

COST CATEGORY	FEDERAL FUNDING		NON-FEDERAL CONTRIBUTION			
DIRECT COST	CURRENT FEDERAL BUDGET	REVISIONS AND/OR EXTENSIONS	CURRENT AWARDEE BUDGET	REVISIONS AND/OR EXTENSIONS	REVISED AWARDEE BUDGET	
(A) PERSONNEL						
(B) FRINGE BENEFITS						
(C) TRAVEL & PER DIEM						
(D) EQUIPMENT **						
(E) SUPPLIES						
(F) CONTRACTUAL (Consultants)						
(G) OTHER Staff/Product Devel. Eval/Dissemination						
TOTAL DIRECT COST						
INDIRECT COST						
TOTAL ESTIMATED COST						

** SEE PART IV - SPECIAL CONDITION #9

AUTHORISED FOR LOCAL REPRODUCTION

VOL 58 ISS 244 DEC 22 1993 UMI

APPENDIX No. 3

U.S. Cities
Ranked By # Below Poverty

	CITY	STATE	BELOW POVERTY LEVEL	POPULATION	POVERTY RATE	PERCENT OF U.S. POVERTY
1	New York city	New York	1,384,994	7,322,564	18.9%	4.098%
2	Los Angeles city	California	643,809	3,485,398	18.5%	1.905%
3	Chicago city	Illinois	592,298	2,783,726	21.3%	1.752%
4	Houston city	Texas	332,974	1,630,672	20.4%	0.985%
5	Detroit city	Michigan	328,467	1,027,974	32.0%	0.972%
6	Philadelphia city	Pennsylvania	313,374	1,585,577	19.8%	0.927%
7	San Jian Municipio	Puerto Rico	208,319	437,745	47.6%	0.616%
8	San Antonio city	Texas	207,161	935,927	22.1%	0.613%
9	Dallas city	Texas	177,790	1,006,831	17.7%	0.526%
10	Baltimore city	Maryland	156,284	736,014	21.2%	0.462%
11	New Orleans city	Louisiana	152,042	496,938	30.6%	0.450%
12	San Diego city	California	142,382	1,110,549	12.8%	0.421%
13	Cleveland city	Ohio	142,217	505,616	28.1%	0.421%
14	Phoenix city	Arizona	137,406	983,403	14.0%	0.407%
15	Memphis city	Tennessee	136,123	610,337	22.3%	0.403%
16	Milwaukee city	Wisconsin	135,583	628,088	21.6%	0.401%
17	El Paso city	Texas	128,886	515,342	25.0%	0.381%
18	Ponce Municipio	Puerto Rico	115,720	187,749	61.6%	0.342%
19	Miami city	Florida	109,594	358,548	30.6%	0.324%
20	Columbus city	Ohio	105,494	632,958	16.7%	0.312%
21	Atlanta city	Georgia	102,364	394,017	26.0%	0.303%
22	Boston city	Massachusetts	102,092	574,283	17.8%	0.302%
23	Washington city	Dist. of Col.	96,278	606,900	15.9%	0.285%
24	St. Louis city	Missouri	95,271	396,685	24.0%	0.282%
25	Bayamon Municipio	Puerto Rico	94,381	220,262	42.8%	0.279%
26	San Francisco city	California	90,019	723,959	12.4%	0.266%
27	Indianapolis city	Indiana	89,831	731,321	12.3%	0.266%
28	Cincinnati city	Ohio	85,319	364,040	23.4%	0.252%
29	Fresno city	California	83,108	354,202	23.5%	0.246%
30	Buffalo city	New York	81,601	328,123	24.9%	0.241%
31	Austin city	Texas	80,369	465,577	17.3%	0.238%
32	Jacksonville city	Florida	80,016	635,230	12.6%	0.237%
33	Tucson city	Arizona	79,287	405,390	19.6%	0.235%
34	Denver city	Colorado	78,515	467,610	16.8%	0.232%
35	Fort Worth city	Texas	75,597	447,619	16.9%	0.224%
36	Pittsburgh city	Pennsylvania	75,172	369,879	20.3%	0.222%
37	San Jose city	California	71,676	782,225	9.2%	0.212%
38	Newark city	New Jersey	70,702	275,221	25.7%	0.209%
39	Long Beach city	California	69,694	429,433	16.2%	0.206%
40	Oklahoma City city	Oklahoma	69,096	444,730	15.5%	0.204%
41	Oakland city	California	68,781	372,242	18.5%	0.203%
42	Minneapolis city	Minnesota	65,556	368,383	17.8%	0.194%
43	Kansas City city	Missouri	65,381	435,141	15.0%	0.193%
44	Birmingham city	Alabama	64,572	265,852	24.3%	0.191%
45	Nashville–Davidson	Tennessee	62,497	488,518	12.8%	0.185%
46	Toledo city	Ohio	62,426	332,943	18.7%	0.185%
47	Sacramento city	California	62,232	369,365	16.8%	0.184%
48	Portland city	Oregon	62,058	437,398	14.2%	0.184%
49	Seattle city	Washington	61,681	516,259	11.9%	0.182%
50	Louisville city	Kentucky	59,144	269,157	22.0%	0.175%
51	Baton Rouge city	Louisiana	54,669	219,531	24.9%	0.162%
52	Tulsa city	Oklahoma	53,768	367,193	14.6%	0.159%
53	Albuquerque city	New Mexico	52,903	384,736	13.8%	0.157%
54	Tampa city	Florida	52,557	280,015	18.8%	0.155%
55	Rochester city	New York	52,237	231,636	22.6%	0.155%
56	Santa Ana city	California	51,835	293,742	17.6%	0.153%
57	Corpus Christi city	Texas	50,525	257,453	19.6%	0.149%
58	Shreveport city	Louisiana	49,215	198,528	24.8%	0.146%
59	Dayton city	Ohio	46,480	182,044	25.5%	0.138%
60	Laredo city	Texas	45,126	122,899	36.7%	0.134%
61	Akron city	Ohio	44,544	223,019	20.0%	0.132%
62	St. Paul city	Minnesota	44,115	272,235	16.2%	0.131%
63	Stockton city	California	43,990	210,943	20.9%	0.130%
64	Norfolk city	Virginia	43,944	261,229	16.8%	0.130%
65	Jackson city	Mississippi	43,216	196,594	22.0%	0.128%
66	Mobile city	Alabama	42,838	196,278	21.8%	0.127%
67	Brownsville city	Texas	42,594	98,962	43.0%	0.126%
68	Jersey City city	New Jersey	42,539	228,537	18.6%	0.126%
69	Charlotte city	North Carolina	42,312	396,003	10.7%	0.125%
70	Flint city	Michigan	42,218	140,761	30.0%	0.125%
71	Omaha city	Nebraska	41,357	335,795	12.3%	0.122%
72	Richmond city	Virginia	40,103	203,056	19.7%	0.119%
73	Wichita city	Kansas	37,321	304,011	12.3%	0.110%
74	Hartford city	Connecticut	36,397	139,739	26.0%	0.108%
75	San Bernardino city	California	36,174	164,164	22.0%	0.107%
76	Lubbock city	Texas	34,593	186,281	18.6%	0.102%
77	Syracuse city	New York	34,402	163,860	21.0%	0.102%
78	Providence city	Rhode Island	34,120	160,728	21.2%	0.101%
79	Gary city	Indiana	33,964	116,646	29.1%	0.100%
80	Hialeah city	Florida	33,830	188,004	18.0%	0.100%
81	Montgomery city	Alabama	32,778	187,106	17.5%	0.097%
82	Knoxville city	Tennessee	32,189	165,121	19.5%	0.095%
83	Columbus city	Georgia	31,811	178,701	17.8%	0.094%
84	St. Petersburg city	Florida	31,475	238,629	13.2%	0.093%
85	Camden city	New Jersey	30,588	87,492	35.0%	0.090%
86	Springfield city	Massachusetts	30,241	156,983	19.3%	0.089%
87	Lexington–Fayette	Kentucky	30,108	225,366	13.4%	0.089%
88	Colorado Springs city	Colorado	29,973	281,140	10.7%	0.089%
89	Honolulu	Hawaii	29,873	365,272	8.2%	0.088%
90	Spokane city	Washington	29,863	177,196	16.9%	0.088%
91	Savannah city	Georgia	29,854	137,557	21.7%	0.088%
92	Grand Rapids city	Michigan	29,103	189,126	15.4%	0.086%
93	Las Vegas city	Nevada	29,084	258,295	11.3%	0.086%
94	Madison city	Wisconsin	28,640	191,262	15.0%	0.085%
95	Tacoma city	Washington	28,632	176,664	16.2%	0.085%
96	Anaheim city	California	27,933	266,406	10.5%	0.083%

VOL 58 ISS 244 DE 22 1993 UMI

97 Waco city	Texas	27,767	103,590	26.8%	0.082%
98 McAllen city	Texas	27,236	84,021	32.4%	0.081%
99 Youngstown city	Ohio	27,109	95,732	28.3%	0.080%
100 Mesa city	Arizona	27,087	288,091	9.4%	0.080%
101 Chattanooga city	Tennessee	26,803	152,488	17.6%	0.079%
102 Kansas City city	Kansas	26,433	149,768	17.6%	0.078%
103 Riverside city	California	26,280	226,505	11.6%	0.078%
104 Amarillo city	Texas	26,058	157,615	16.5%	0.077%
105 Bakersfield city	California	25,782	174,820	14.7%	0.076%
106 Paterson city	New Jersey	25,677	140,891	18.2%	0.076%
107 Salt Lake City city	Utah	25,651	159,936	16.0%	0.076%
108 Tallahassee city	Florida	25,518	124,773	20.5%	0.075%
109 Glendale city	California	25,484	180,038	14.2%	0.075%
110 New Haven city	Connecticut	25,481	130,474	19.5%	0.075%
111 Little Rock city	Arkansas	25,193	175,781	14.3%	0.075%
112 Macon city	Georgia	25,178	106,640	23.6%	0.074%
113 Fort Lauderdale city	Florida	24,793	149,377	16.6%	0.073%
114 Lansing city	Michigan	24,513	127,321	19.3%	0.073%
115 Compton city	California	24,460	90,454	27.0%	0.072%
116 Worcester city	Massachusetts	24,228	169,759	14.3%	0.072%
117 Des Moines city	Iowa	24,137	193,187	12.5%	0.071%
118 Orlando city	Florida	23,797	164,693	14.4%	0.070%
119 Pomona city	California	23,648	131,723	18.0%	0.070%
120 Beaumont city	Texas	23,494	114,323	20.6%	0.070%
121 Bridgeport city	Connecticut	23,463	141,686	16.6%	0.069%
122 El Monte city	California	23,446	106,209	22.1%	0.069%
123 Provo city	Utah	23,434	86,848	27.0%	0.069%
124 Springfield city	Missouri	23,223	140,494	16.5%	0.069%
125 Newport News city	Virginia	23,169	170,045	13.6%	0.069%
126 Miami Beach city	Florida	22,993	92,639	24.8%	0.068%
127 Raleigh city	North Carolina	22,942	207,951	11.0%	0.068%
128 Virginia Beach city	Virginia	22,307	393,069	5.7%	0.066%
129 Saginaw city	Michigan	21,647	69,512	31.1%	0.064%
130 Arlington city	Texas	21,272	261,763	8.1%	0.063%
131 Albany city	Georgia	21,011	78,122	26.9%	0.062%
132 Modesto city	California	20,930	164,730	12.7%	0.062%
133 Pueblo city	Colorado	20,778	98,640	21.1%	0.061%
134 Winston–Salem city	North Carolina	20,713	143,485	14.4%	0.061%
135 Lincoln city	Nebraska	20,521	191,972	10.7%	0.061%
136 Peoria city	Illinois	20,516	113,504	18.1%	0.061%
137 Yonkers city	New York	20,436	188,082	10.9%	0.060%
138 Greensboro city	North Carolina	20,214	183,521	11.0%	0.060%
139 Erie city	Pennsylvania	20,192	108,718	18.6%	0.060%
140 Lafayette city	Louisiana	19,898	94,460	21.1%	0.059%
141 Gainesville city	Florida	19,860	84,770	23.4%	0.059%
142 Fort Wayne city	Indiana	19,531	173,072	11.3%	0.058%
143 Monroe city	Louisiana	19,241	54,909	35.0%	0.057%
144 Durham city	North Carolina	19,163	136,594	14.0%	0.057%
145 Pasadena city	California	19,043	131,591	14.5%	0.056%
146 Lawrence city	Massachusetts	18,946	70,207	27.0%	0.056%
147 Kalamazoo city	Michigan	18,621	80,277	23.2%	0.055%

148 Tempe city	Arizona	18,603	141,865	13.1%	0.055%
149 Tuscaloosa city	Alabama	18,455	77,759	23.7%	0.055%
150 Pontiac city	Michigan	18,222	71,166	25.6%	0.054%
151 Eugene city	Oregon	18,176	112,669	16.1%	0.054%
152 Rockford city	Illinois	18,127	139,426	13.0%	0.054%
153 Huntsville city	Alabama	18,093	159,866	11.3%	0.054%
154 Portsmouth city	Virginia	17,820	103,907	17.2%	0.053%
155 Lowell city	Massachusetts	17,900	103,439	17.3%	0.053%
156 Canton city	Ohio	17,864	84,161	21.2%	0.053%
157 Ontario city	California	17,853	133,179	13.4%	0.053%
158 Evansville city	Indiana	17,812	126,272	14.1%	0.053%
159 Inglewood city	California	17,806	109,602	16.2%	0.053%
160 Oxnard city	California	17,608	142,192	12.4%	0.052%
161 Elizabeth city	New Jersey	17,451	110,002	15.9%	0.052%
162 Odessa city	Texas	17,205	89,783	19.2%	0.051%
163 Albany city	New York	16,903	101,082	16.7%	0.050%
164 Glendale city	Arizona	16,756	148,134	11.3%	0.050%
165 Pasadena city	Texas	16,724	119,363	14.0%	0.049%
166 Columbia city	South Carolina	16,652	98,052	17.0%	0.049%
167 Salinas city	California	16,652	108,777	15.3%	0.049%
168 New Bedford city	Massachusetts	16,430	99,922	16.4%	0.049%
169 Berkeley city	California	16,370	102,724	15.9%	0.048%
170 Port Arthur city	Texas	16,344	58,724	27.8%	0.048%
171 Aurora city	Colorado	16,288	222,110	7.3%	0.048%
172 Charleston city	South Carolina	16,227	80,414	20.2%	0.048%
173 Irving city	Texas	16,209	155,037	10.5%	0.048%
174 Lake Charles city	Louisiana	16,172	70,580	22.9%	0.048%
175 College Station city	Texas	15,648	52,456	29.8%	0.046%
176 Ann Arbor city	Michigan	15,624	109,592	14.3%	0.046%
177 Anchorage city	Alaska	15,614	226,338	6.9%	0.046%
178 Trenton city	New Jersey	15,348	88,675	17.3%	0.045%
179 Pine Bluff city	Arkansas	15,263	57,140	26.7%	0.045%
180 Abilene city	Texas	15,244	106,665	14.3%	0.045%
181 Roanoke city	Virginia	15,238	96,397	15.8%	0.045%
182 Muncie city	Indiana	15,173	71,035	21.4%	0.045%
183 Reno city	Nevada	15,085	133,850	11.3%	0.045%
184 South Gate city	California	14,956	86,284	17.3%	0.044%
185 Wichita Falls city	Texas	14,896	96,259	15.5%	0.044%
186 Reading city	Pennsylvania	14,857	78,380	19.0%	0.044%
187 South Bend city	Indiana	14,854	105,536	14.1%	0.044%
188 San Angelo city	Texas	14,737	84,474	17.4%	0.044%
189 Garden Grove city	California	14,652	143,050	10.2%	0.043%
190 Bloomington city	Indiana	14,462	60,633	23.9%	0.043%
191 Davenport city	Iowa	14,452	95,333	15.2%	0.043%
192 Boulder city	Colorado	14,393	83,312	17.3%	0.043%
193 Utica city	New York	14,308	68,637	20.8%	0.042%
194 Salem city	Oregon	14,300	107,786	13.3%	0.042%
195 Topeka city	Kansas	14,292	119,883	11.9%	0.042%
196 Tyler city	Texas	14,251	75,450	18.9%	0.042%
197 Garland city	Texas	14,062	180,635	7.8%	0.042%
198 Harrisburg city	Pennsylvania	14,002	52,376	26.7%	0.041%

VOL 58 ISS 244 DEC 22 1993 UMI

199 Springfield city	Ohio	13,999	70,487	19.9%	0.041%
200 Lorain city	Ohio	13,980	71,245	19.6%	0.041%
201 Lawrence city	Kansas	13,928	65,657	21.2%	0.041%
202 Fort Collins city	Colorado	13,910	87,758	15.9%	0.041%
203 Richmond city	California	13,909	87,425	15.9%	0.041%
204 Galveston city	Texas	13,891	59,072	23.5%	0.041%
205 Las Cruces city	New Mexico	13,872	62,126	22.3%	0.041%
206 Hampton city	Virginia	13,831	133,793	10.3%	0.041%
207 Merced city	California	13,804	56,216	24.6%	0.041%
208 Fayetteville city	North Carolina	13,764	75,695	18.2%	0.041%
209 Duluth city	Minnesota	13,578	85,493	15.9%	0.040%
210 Huntington Park city	California	13,508	56,065	24.1%	0.040%
211 Chesapeake city	Virginia	13,329	151,976	8.8%	0.039%
212 Lynwood city	California	13,291	61,945	21.5%	0.039%
213 Hollywood city	Florida	13,264	121,697	10.9%	0.039%
214 North Charleston city	South Carolina	13,248	70,161	18.9%	0.039%
215 Columbia city	Missouri	13,195	69,101	19.1%	0.039%
216 Racine city	Wisconsin	13,136	84,298	15.6%	0.039%
217 Visalia city	California	13,075	75,636	17.3%	0.039%
218 Springfield city	Illinois	13,065	105,227	12.4%	0.039%
219 Chula Vista city	California	13,036	135,163	9.6%	0.039%
220 Daytona Beach city	Florida	13,026	61,921	21.0%	0.039%
221 Fall River city	Massachusetts	13,017	92,703	14.0%	0.039%
222 Allentown city	Pennsylvania	12,999	105,090	12.4%	0.038%
223 Waterbury city	Connecticut	12,922	108,961	11.9%	0.038%
224 Decatur city	Illinois	12,855	83,885	15.3%	0.038%
225 Oceanside city	California	12,823	128,398	10.0%	0.038%
226 Midland city	Texas	12,774	89,443	14.3%	0.038%
227 Lynn city	Massachusetts	12,756	81,245	15.7%	0.038%
228 East Orange city	New Jersey	12,699	73,552	17.3%	0.038%
229 Champaign city	Illinois	12,625	63,502	19.9%	0.037%
230 Green Bay city	Wisconsin	12,607	96,466	13.1%	0.037%
231 Wilmington city	Delaware	12,598	71,529	17.6%	0.037%
232 Lawton city	Oklahoma	12,522	80,561	15.5%	0.037%
233 Brockton city	Massachusetts	12,396	92,788	13.4%	0.037%
234 Denton city	Texas	12,273	66,270	18.5%	0.036%
235 Iowa City city	Iowa	12,074	59,738	20.2%	0.036%
236 Huntington city	West Virginia	12,021	54,844	21.9%	0.036%
237 Escondido city	California	12,016	108,635	11.1%	0.036%
238 Scranton city	Pennsylvania	11,907	81,805	14.6%	0.035%
239 Bryan city	Texas	11,887	55,002	21.6%	0.035%
240 Alhambra city	California	11,819	82,106	14.4%	0.035%
241 Wilmington city	North Carolina	11,780	55,530	21.2%	0.035%
242 Longview city	Texas	11,637	70,316	16.5%	0.034%
243 Boise City city	Idaho	11,598	125,738	9.2%	0.034%
244 St. Joseph city	Missouri	11,596	71,852	16.1%	0.034%
245 Niagara Falls city	New York	11,387	61,840	18.4%	0.034%
246 Pompano Beach city	Florida	11,295	72,411	15.6%	0.033%
247 Hammond city	Indiana	11,284	84,236	13.4%	0.033%
248 Norman city	Oklahoma	11,221	80,071	14.0%	0.033%
249 East Lansing city	Michigan	11,211	50,677	22.1%	0.033%

250 El Cajon city	California	11,184	88,693	12.6%	0.033%
251 Waterloo city	Iowa	11,067	66,467	16.7%	0.033%
252 Lancaster city	Pennsylvania	11,059	55,551	19.9%	0.033%
253 Greeley city	Colorado	11,044	60,536	18.2%	0.033%
254 Fullerton city	California	10,985	114,144	9.6%	0.032%
255 Pensacola city	Florida	10,832	58,165	18.6%	0.032%
256 Sioux City city	Iowa	10,801	80,505	13.4%	0.032%
257 Yakima city	Washington	10,742	54,831	19.6%	0.032%
258 Baldwin Park city	California	10,727	69,330	15.5%	0.032%
259 Hayward city	California	10,640	111,498	9.5%	0.031%
260 Santa Barbara city	California	10,588	85,571	12.4%	0.031%
261 West Palm Beach city	Florida	10,578	67,643	15.6%	0.031%
262 Cedar Rapids city	Iowa	10,567	108,751	9.7%	0.031%
263 Charleston city	West Virginia	10,560	57,287	18.4%	0.031%
264 Independence city	Missouri	10,557	112,301	9.4%	0.031%
265 Union City city	New Jersey	10,513	58,012	18.1%	0.031%
266 Ogden city	Utah	10,482	63,909	16.4%	0.031%
267 North Little Rock city	Arkansas	10,386	61,741	16.8%	0.031%
268 Anderson city	Indiana	10,320	59,449	17.4%	0.031%
269 Binghamton city	New York	10,291	53,008	19.4%	0.030%
270 Aurora city	Illinois	10,285	99,581	10.3%	0.030%
271 Victoria city	Texas	10,227	55,000	18.6%	0.030%
272 Clearwater city	Florida	10,203	98,773	10.3%	0.030%
273 Hamilton city	Ohio	10,179	61,368	16.6%	0.030%
274 Santa Maria city	California	10,172	61,284	16.6%	0.030%
275 Rosemead city	California	10,149	51,638	19.7%	0.030%
276 Baytown city	Texas	10,148	63,838	15.9%	0.030%
277 Kenner city	Louisiana	10,146	72,033	14.1%	0.030%
278 Terre Haute city	Indiana	10,140	57,483	17.6%	0.030%
279 National City city	California	10,092	54,249	18.6%	0.030%
280 Warren city	Ohio	9,949	50,793	19.6%	0.029%
281 Kenosha city	Wisconsin	9,923	80,375	12.3%	0.029%
282 West Valley City city	Utah	9,913	86,976	11.4%	0.029%
283 Monterey Park city	California	9,900	60,738	16.3%	0.029%
284 Lynchburg city	Virginia	9,889	66,049	15.0%	0.029%
285 Billings city	Montana	9,887	81,151	12.2%	0.029%
286 Grand Prairie city	Texas	9,883	99,613	9.9%	0.029%
287 La Crosse city	Wisconsin	9,881	51,003	19.4%	0.029%
288 Moreno Valley city	California	9,870	118,779	8.3%	0.029%
289 Fort Smith city	Arkansas	9,869	72,798	13.6%	0.029%
290 Fontana city	California	9,867	87,535	11.3%	0.029%
291 Hawthorne city	California	9,833	71,349	13.8%	0.029%
292 Eau Claire city	Wisconsin	9,818	56,930	17.2%	0.029%
293 Owensboro city	Kentucky	9,804	53,549	18.3%	0.029%
294 Danville city	Virginia	9,795	53,056	18.5%	0.029%
295 Passaic city	New Jersey	9,794	58,041	16.9%	0.029%
296 Battle Creek city	Michigan	9,643	53,540	18.0%	0.029%
297 Greenville city	South Carolina	9,605	58,282	16.5%	0.028%
298 Dearborn city	Michigan	9,604	89,286	10.8%	0.028%
299 Fargo city	North Dakota	9,603	74,115	13.0%	0.028%
300 Lakeland city	Florida	9,483	70,576	13.4%	0.028%

VOL 58 ISS 244 DEC 22 1993 UMI

301 Asheville city	North Carolina	9,442	61,654	15.3%	0.028%
302 Joliet city	Illinois	9,419	76,836	12.3%	0.028%
303 Schenectady city	New York	9,399	65,566	14.3%	0.028%
304 Huntington Beach city	California	9,367	181,519	5.2%	0.028%
305 Lakewood city	Colorado	9,346	126,481	7.4%	0.028%
306 Redding city	California	9,343	66,462	14.1%	0.028%
307 Warren city	Michigan	9,303	144,864	6.4%	0.028%
308 New Britain city	Connecticut	9,289	75,491	12.3%	0.027%
309 Santa Rosa city	California	9,269	113,313	8.2%	0.027%
310 Cicero town	Illinois	9,259	67,436	13.7%	0.027%
311 Altoona city	Pennsylvania	9,218	51,881	17.8%	0.027%
312 Killeen city	Texas	9,146	63,606	14.4%	0.027%
313 Lancaster city	California	9,128	97,291	9.4%	0.027%
314 Clarksville city	Tennessee	9,093	75,494	12.0%	0.027%
315 Arden–Arcade CDP	California	9,063	92,040	9.8%	0.027%
316 Vallejo city	California	9,007	109,199	8.2%	0.027%
317 Dothan city	Alabama	8,980	53,583	16.8%	0.027%
318 Suffolk city	Virginia	8,864	52,141	17.0%	0.026%
319 Westminster city	California	8,859	78,118	11.3%	0.026%
320 Cambridge city	Massachusetts	8,794	95,802	9.2%	0.026%
321 Portland city	Oregon	8,783	64,358	13.6%	0.026%
322 Rialto city	California	8,720	72,388	12.0%	0.026%
323 Chandler city	Arizona	8,701	90,524	9.6%	0.026%
324 Manchester city	New Hampshire	8,694	99,567	8.7%	0.026%
325 Bethlehem city	Pennsylvania	8,626	71,428	12.1%	0.026%
326 Yuma city	Arizona	8,621	54,923	15.7%	0.026%
327 Costa Mesa city	California	8,614	96,357	8.9%	0.025%
328 High Point city	North Carolina	8,600	69,394	12.4%	0.025%
329 Orange city	California	8,559	110,658	7.7%	0.025%
330 Norwalk city	California	8,504	94,279	9.0%	0.025%
331 Somerville city	Massachusetts	8,492	76,210	11.1%	0.025%
332 Mansfield city	Ohio	8,474	50,627	16.7%	0.025%
333 Troy city	New York	8,440	54,269	15.6%	0.025%
334 Taylor city	Michigan	8,325	70,811	11.8%	0.025%
335 Montebello city	California	8,246	59,564	13.8%	0.024%
336 Vista city	California	8,230	71,872	11.5%	0.024%
337 Sioux Falls city	South Dakota	8,227	100,814	8.2%	0.024%
338 Everett city	Washington	8,217	69,961	11.7%	0.024%
339 Bossier City city	Louisiana	8,110	52,718	15.4%	0.024%
340 Bellingham city	Washington	8,033	52,278	15.4%	0.024%
341 Santa Monica city	California	7,979	86,905	9.2%	0.024%
342 Great Falls city	Montana	7,952	55,097	14.4%	0.024%
343 Mount Vernon city	New York	7,823	67,153	11.6%	0.023%
344 Mesquite city	Texas	7,771	101,484	7.7%	0.023%
345 Alexandria city	Virginia	7,732	111,183	7.0%	0.023%
346 Burbank city	California	7,723	93,643	8.2%	0.023%
347 Elyria city	Ohio	7,661	56,746	13.5%	0.023%
348 Pawtucket city	Rhode Island	7,632	72,644	10.5%	0.023%
349 Gastonia city	North Carolina	7,622	54,732	13.9%	0.023%
350 Scottsdale city	Arizona	7,583	130,069	5.8%	0.022%
351 Melbourne city	Florida	7,475	59,646	12.5%	0.022%

352 Concord city	California	7,349	111,348	6.6%	0.022%
353 West Covina city	California	7,347	96,086	7.6%	0.022%
354 Fremont city	California	7,316	173,339	4.2%	0.022%
355 Rapid City city	South Dakota	7,257	54,523	13.3%	0.021%
356 Downey city	California	7,189	91,444	7.9%	0.021%
357 Irvine city	California	6,948	110,330	6.3%	0.021%
358 Torrance city	California	6,791	133,107	5.1%	0.020%
359 Pico Rivera city	California	6,785	59,177	11.5%	0.020%
360 Stamford city	Connecticut	6,728	108,056	6.2%	0.020%
361 Santa Fe city	New Mexico	6,707	55,993	12.0%	0.020%
362 Daly City city	California	6,560	92,315	7.1%	0.019%
363 Sarasota city	Florida	6,500	50,978	12.8%	0.019%
364 Council Bluffs city	Iowa	6,485	54,315	11.9%	0.019%
365 Evanston city	Illinois	6,409	73,233	8.8%	0.019%
366 Waukegan city	Illinois	6,404	69,392	9.2%	0.019%
367 Oshkosh city	Wisconsin	6,325	55,006	11.5%	0.019%
368 Lodi city	California	6,284	51,874	12.1%	0.019%
369 Corona city	California	6,278	76,095	8.3%	0.019%
370 Hesperia city	California	6,246	50,418	12.4%	0.018%
371 Kendall CDP	Florida	6,094	87,271	7.0%	0.018%
372 Palmdale city	California	6,077	68,917	8.8%	0.018%
373 San Buenaventura (Ventur	California	6,017	92,575	6.5%	0.018%
374 Orem city	Utah	6,012	67,561	8.9%	0.018%
375 Dubuque city	Iowa	5,958	57,546	10.4%	0.018%
376 Westland city	Michigan	5,928	84,724	7.0%	0.018%
377 Bellflower city	California	5,862	61,815	9.5%	0.017%
378 Elgin city	Illinois	5,841	77,010	7.6%	0.017%
379 Whittier city	California	5,811	77,671	7.5%	0.017%
380 Midwest City city	Oklahoma	5,807	52,267	11.1%	0.017%
381 Carson city	California	5,790	83,995	6.9%	0.017%
382 Vineland city	New Jersey	5,739	54,780	10.5%	0.017%
383 Quincy city	Massachusetts	5,707	84,985	6.7%	0.017%
384 Santa Clara city	California	5,657	93,613	6.0%	0.017%
385 Antioch city	California	5,612	62,195	9.0%	0.017%
386 Gresham city	Oregon	5,550	68,235	8.1%	0.016%
387 Arvada city	Colorado	5,543	89,090	6.2%	0.016%
388 Rancho Cucamonga city	California	5,516	101,409	5.4%	0.016%
389 Fairfield city	California	5,492	77,211	7.1%	0.016%
390 Buena Park city	California	5,468	68,784	7.9%	0.016%
391 Sunnyvale city	California	5,461	117,229	4.7%	0.016%
392 Chicopee city	Massachusetts	5,455	56,632	9.6%	0.016%
393 Palm Bay city	Florida	5,428	62,632	8.7%	0.016%
394 Bayonne city	New Jersey	5,391	61,444	8.8%	0.016%
395 Rochester city	Minnesota	5,380	70,745	7.6%	0.016%
396 Redwood City city	California	5,328	66,072	8.1%	0.016%
397 Redlands city	California	5,232	60,394	8.7%	0.015%
398 San Mateo city	California	5,186	85,486	6.1%	0.015%
399 Clovis city	California	5,173	50,323	10.3%	0.015%
400 Nashua city	New Hampshire	5,135	79,662	6.4%	0.015%
401 Cheyenne city	Wyoming	5,105	50,008	10.2%	0.015%
402 Lakewood city	Ohio	5,043	59,718	8.4%	0.015%

VOL 58 ISS 244 DE 22 1993 UMI

403 Bloomington city	Illinois	4,969	51,972	9.6%	0.015%
404 New Rochelle city	New York	4,967	67,265	7.3%	0.015%
405 Westminster city	Colorado	4,897	74,623	6.6%	0.014%
406 Upland city	California	4,876	63,374	7.7%	0.014%
407 Bellevue city	Washington	4,807	86,878	5.5%	0.014%
408 Largo city	Florida	4,788	65,690	7.3%	0.014%
409 La Mesa city	California	4,765	52,931	9.0%	0.014%
410 Cranston city	Rhode Island	4,715	76,060	6.2%	0.014%
411 Napa city	California	4,693	61,842	7.6%	0.014%
412 Alameda city	California	4,662	76,459	6.1%	0.014%
413 Henderson city	Nevada	4,555	64,942	7.0%	0.013%
414 Encinitas city	California	4,519	55,386	8.2%	0.013%
415 Wyoming city	Michigan	4,498	63,891	7.0%	0.013%
416 Thornton city	Colorado	4,492	55,031	8.2%	0.013%
417 Cleveland Heights city	Ohio	4,482	54,052	8.3%	0.013%
418 Haverhill city	Massachusetts	4,418	51,418	8.6%	0.013%
419 Cape Coral city	Florida	4,391	74,991	5.9%	0.013%
420 Southfield city	Michigan	4,371	75,728	5.8%	0.013%
421 Thousand Oaks city	California	4,340	104,352	4.2%	0.013%
422 Appleton city	Wisconsin	4,333	65,651	6.6%	0.013%
423 Carlsbad city	California	4,284	63,126	6.8%	0.013%
424 Plano city	Texas	4,279	128,679	3.3%	0.013%
425 Meriden city	Connecticut	4,266	59,479	7.2%	0.013%
426 Janesville city	Wisconsin	4,262	52,133	8.2%	0.013%
427 Brooklyn Park city	Minnesota	4,221	56,381	7.5%	0.012%
428 Euclid city	Ohio	4,201	54,875	7.7%	0.012%
429 Mountain View city	California	4,157	67,460	6.2%	0.012%
430 Sunrise city	Florida	4,156	64,407	6.5%	0.012%
431 Sterling Heights city	Michigan	4,153	117,810	3.5%	0.012%
432 Coral Springs city	Florida	4,087	79,443	5.1%	0.012%
433 La Habra city	California	4,082	51,266	8.0%	0.012%
434 Warwick city	Rhode Island	4,078	85,427	4.8%	0.012%
435 Santa Clarita city	California	4,045	110,642	3.7%	0.012%
436 Norwalk city	Connecticut	4,034	78,331	5.1%	0.012%
437 Malden city	Massachusetts	4,029	53,884	7.5%	0.012%
438 Longmont city	Colorado	3,984	51,524	7.7%	0.012%
439 Peoria city	Arizona	3,914	50,618	7.7%	0.012%
440 Vacaville city	California	3,872	71,479	5.4%	0.011%
441 Medford city	Massachusetts	3,834	57,407	6.7%	0.011%
442 Sparks city	Nevada	3,797	53,367	7.1%	0.011%
443 Chino city	California	3,772	59,682	6.3%	0.011%
444 Broken Arrow city	Oklahoma	3,761	58,043	6.5%	0.011%
445 Newport Beach city	California	3,731	66,643	5.6%	0.011%
446 Edmond city	Oklahoma	3,730	52,315	7.1%	0.011%
447 Carrollton city	Texas	3,695	82,169	4.5%	0.011%
448 Danbury city	Connecticut	3,599	65,585	5.5%	0.011%
449 Lakewood city	California	3,559	73,557	4.8%	0.011%
450 Parma city	Ohio	3,541	87,876	4.0%	0.010%
451 Simi Valley city	California	3,536	100,217	3.5%	0.010%
452 Union City city	California	3,461	53,762	6.4%	0.010%
453 St. Charles city	Missouri	3,454	54,555	6.3%	0.010%

454 Beaverton city	Oregon	3,402	53,310	6.4%	0.010%
455 San Leandro city	California	3,375	68,223	4.9%	0.010%
456 Waukesha city	Wisconsin	3,359	56,958	5.9%	0.010%
457 East Providence city	Rhode Island	3,356	50,380	6.7%	0.010%
458 Redondo Beach city	California	3,355	60,167	5.6%	0.010%
459 Tustin city	California	3,339	50,689	6.6%	0.010%
460 Newton city	Massachusetts	3,335	82,585	4.0%	0.010%
461 Clifton city	New Jersey	3,327	71,742	4.6%	0.010%
462 Dearborn Heights city	Michigan	3,313	60,838	5.4%	0.010%
463 Waltham city	Massachusetts	3,288	57,878	5.7%	0.010%
464 Boca Raton city	Florida	3,282	61,491	5.3%	0.010%
465 Richardson city	Texas	3,279	74,842	4.4%	0.010%
466 West Allis city	Wisconsin	3,258	63,221	5.2%	0.010%
467 Pembroke Pines city	Florida	3,252	65,452	5.0%	0.010%
468 West Haven city	Connecticut	3,190	54,021	5.9%	0.009%
469 Roseville city	Michigan	3,163	51,412	6.2%	0.009%
470 South San Francisco city	California	3,161	54,312	5.8%	0.009%
471 Bloomington city	Minnesota	3,154	86,335	3.7%	0.009%
472 Overland Park city	Kansas	3,142	111,790	2.8%	0.009%
473 Sandy city	Utah	3,141	75,058	4.2%	0.009%
474 Port St. Lucie city	Florida	2,995	55,866	5.4%	0.009%
475 Royal Oak city	Michigan	2,963	65,410	4.5%	0.009%
476 Livermore city	California	2,915	56,741	5.1%	0.009%
477 Santee city	California	2,745	52,902	5.2%	0.008%
478 Bristol city	Connecticut	2,610	60,640	4.3%	0.008%
479 Livonia city	Michigan	2,578	100,850	2.6%	0.008%
480 Olathe city	Kansas	2,569	63,440	4.0%	0.008%
481 Palo Alto city	California	2,561	55,900	4.6%	0.008%
482 Kettering city	Ohio	2,502	60,569	4.1%	0.007%
483 Coon Rapids city	Minnesota	2,499	52,978	4.7%	0.007%
484 Wheaton city	Illinois	2,494	51,464	4.8%	0.007%
485 St. Clair Shores city	Michigan	2,462	68,107	3.6%	0.007%
486 Oak Park village	Illinois	2,425	53,648	4.5%	0.007%
487 Plantation city	Florida	2,339	66,692	3.5%	0.007%
488 Milpitas city	California	2,317	50,686	4.6%	0.007%
489 Walnut Creek city	California	2,276	60,569	3.8%	0.007%
490 Skokie village	Illinois	2,274	59,432	3.8%	0.007%
491 Camarillo city	California	2,236	52,303	4.3%	0.007%
492 Farmington Hills city	Michigan	2,202	74,652	2.9%	0.007%
493 Burnsville city	Minnesota	2,142	51,288	4.2%	0.006%
494 Cerritos city	California	2,096	53,240	3.9%	0.006%
495 Troy city	Michigan	2,061	72,884	2.8%	0.006%
496 Oak Lawn village	Illinois	1,902	56,182	3.4%	0.006%
497 Fountain Valley city	California	1,883	53,691	3.5%	0.006%
498 Diamond Bar city	California	1,860	53,672	3.5%	0.006%
499 Schaumburg village	Illinois	1,826	68,586	2.7%	0.005%
500 Arlington Heights villag	Illinois	1,788	75,460	2.4%	0.005%
501 Mount Prospect village	Illinois	1,732	53,170	3.3%	0.005%
502 Plymouth city	Minnesota	1,681	50,889	3.3%	0.005%
503 Florissant city	Missouri	1,657	51,206	3.2%	0.005%
504 Rochester Hills city	Michigan	1,580	61,766	2.6%	0.005%

VOL 58 ISS 244 DE 22 1993 UMI

VOL 58 ISS 244 DE 22 1993 UMI

505 Mission Viejo city	California	1,420	72,820	2.0%	0.004%
506 Naperville city	Illinois	1,278	85,351	1.5%	0.004%
507 Pleasanton city	California	1,212	50,553	2.4%	0.004%
508 Des Plaines city	Illinois	1,145	53,223	2.2%	0.003%
509 Yorba Linda city	California	993	52,422	1.9%	0.003%
510 West Bloomfield Township	Michigan	974	54,843	1.8%	0.003%
TOTAL		14,016,471	85,994,221	16.3%	41.469%

APPENDIX No. 4

MEMORANDUM OF COMMITMENT

Through this memorandum of commitment, a Youth Fair Chance program will be established in the community of _____.
(Name Target Community)

The State, local and community officials commit to provide links with the following programs (signatures of program heads below) _____
_____
_____
_____
(Name the Programs that Linkages will be established)

State, local and community officials also commit to making a good faith effort to continue on a permanent basis programs started under this initiative.

Additionally, the City/County of _____ commits to increasing _____ in the target area and to make the area as near as is possible a _____.
(Identify other initiatives)

The City/County of _____ agrees to work collaboratively with other State, local and Federal programs and to bring other resources into the community which will support and enhance the services offered through the Youth Fair Chance program.

(SIGNATURES AND TITLES)

_____	_____
_____	_____
_____	_____
_____	_____

APPENDIX No. 5

1990 CENSUS DATA

COUNTY	STATE	BELOW POVERTY	POPULATION	POVERTY RATE	PERCENT OF TOTAL US POVERTY
Puerto Rico	Puerto Rico	2,057,377	3,522,037	58.4%	6.087%
Hidalgo County	Texas	159,216	383,545	41.5%	0.471%
Orleans Parish	Louisiana	152,042	496,938	30.6%	0.450%
Cameron County	Texas	101,362	260,120	39.0%	0.300%
Webb County	Texas	50,116	133,239	37.6%	0.148%
St. Landry Parish	Louisiana	28,665	80,331	35.7%	0.085%
Apache County	Arizona	28,640	61,591	46.5%	0.085%
Navajo County	Arizona	26,458	77,658	34.1%	0.078%
McKinley County	New Mexico	26,118	60,686	43.0%	0.077%
Tangipahoa Parish	Louisiana	25,950	85,709	30.3%	0.077%
Starr County	Texas	24,150	40,518	59.6%	0.071%
Washington County	Mississippi	22,671	67,935	33.4%	0.067%
Maverick County	Texas	18,217	36,378	50.1%	0.054%
Bolivar County	Mississippi	17,158	41,875	41.0%	0.051%
Dallas County	Alabama	17,099	48,130	35.5%	0.051%
Acadia Parish	Louisiana	16,832	55,882	30.1%	0.050%
Coahoma County	Mississippi	13,997	31,665	44.2%	0.041%
Leflore County	Mississippi	13,987	37,341	37.5%	0.041%
Avoyelles Parish	Louisiana	13,817	39,159	35.3%	0.041%
Val Verde County	Texas	13,790	38,721	35.6%	0.041%
Floyd County	Kentucky	13,521	43,586	31.0%	0.040%
McDowell County	West Virginia	13,195	35,233	37.5%	0.039%
Washington Parish	Louisiana	13,117	43,185	30.4%	0.039%
Sunflower County	Mississippi	12,302	32,867	37.4%	0.036%
Phillips County	Arkansas	12,229	28,838	42.4%	0.036%
Harlan County	Kentucky	11,995	36,574	32.8%	0.035%
Pike County	Mississippi	11,904	36,882	32.3%	0.035%
Natchitoches Parish	Louisiana	11,594	36,689	31.6%	0.034%
Evangeline Parish	Louisiana	11,471	33,274	34.5%	0.034%
Knox County	Kentucky	11,289	29,676	38.0%	0.033%
Holmes County	Mississippi	11,266	21,604	52.1%	0.033%
Bell County	Kentucky	11,209	31,506	35.6%	0.033%
Adams County	Mississippi	10,634	35,356	30.1%	0.031%
Whitley County	Kentucky	10,622	33,326	31.9%	0.031%
Mingo County	West Virginia	10,370	33,739	30.7%	0.031%
St. Francis County	Arkansas	10,302	28,497	36.2%	0.030%
Panola County	Mississippi	10,031	29,996	33.4%	0.030%
Yazoo County	Mississippi	9,861	25,506	38.7%	0.029%
Morehouse Parish	Louisiana	9,645	31,938	30.2%	0.029%
Perry County	Kentucky	9,636	30,283	31.8%	0.029%
Clay County	Kentucky	8,656	21,746	39.8%	0.026%
Copiah County	Mississippi	8,528	27,592	30.9%	0.025%
Letcher County	Kentucky	8,524	27,000	31.6%	0.025%
Caldwell County	Texas	8,010	26,392	30.4%	0.024%
Willacy County	Texas	7,848	17,705	44.3%	0.023%
Macon County	Alabama	7,812	24,928	31.3%	0.023%

Cibola County	New Mexico	7,753	23,794	32.6%	0.023%
Pemiscot County	Missouri	7,728	21,921	35.3%	0.023%
Franklin Parish	Louisiana	7,500	22,387	33.5%	0.022%
Lincoln County	West Virginia	7,197	21,382	33.7%	0.021%
Uvalde County	Texas	7,102	23,340	30.4%	0.021%
McCreary County	Kentucky	7,062	15,603	45.3%	0.021%
Knott County	Kentucky	7,035	17,906	39.3%	0.021%
Butler County	Alabama	6,815	21,892	31.1%	0.020%
Richland Parish	Louisiana	6,638	20,629	32.2%	0.020%
Wayne County	Kentucky	6,446	17,468	36.9%	0.019%
Tallahatchie County	Mississippi	6,328	15,210	41.6%	0.019%
Chicot County	Arkansas	6,299	15,713	40.1%	0.019%
Concordia Parish	Louisiana	6,268	20,828	30.1%	0.019%
Sumter County	Alabama	6,131	16,174	37.9%	0.018%
Lee County	Arkansas	6,119	13,053	46.9%	0.018%
Shannon County	South Dakota	6,118	9,902	61.8%	0.018%
Breathitt County	Kentucky	6,072	15,703	38.7%	0.018%
Wilcox County	Alabama	6,034	13,568	44.5%	0.018%
Zavala County	Texas	6,004	12,162	49.4%	0.018%
Luna County	New Mexico	5,645	18,110	31.2%	0.017%
Desha County	Arkansas	5,621	16,798	33.5%	0.017%
Magoffin County	Kentucky	5,479	13,077	41.9%	0.016%
Humphreys County	Mississippi	5,479	12,134	45.2%	0.016%
Hale County	Alabama	5,420	15,498	35.0%	0.016%
Madison Parish	Louisiana	5,416	12,463	43.5%	0.016%
Jefferson County	Georgia	5,312	17,408	30.5%	0.016%
East Carroll Parish	Louisiana	5,293	9,709	54.5%	0.016%
Jasper County	Mississippi	5,204	17,114	30.4%	0.015%
Noxubee County	Mississippi	5,193	12,604	41.2%	0.015%
Frio County	Texas	5,158	13,472	38.3%	0.015%
Perry County	Alabama	5,154	12,759	40.4%	0.015%
Covington County	Mississippi	5,137	16,527	31.1%	0.015%
Rolette County	North Dakota	5,103	12,772	40.0%	0.015%
Walthall County	Mississippi	5,101	14,352	35.5%	0.015%
Dimmit County	Texas	5,062	10,433	48.5%	0.015%
Duval County	Texas	5,021	12,918	38.9%	0.015%
Lawrence County	Kentucky	4,980	13,998	35.6%	0.015%
Choctaw County	Oklahoma	4,919	15,302	32.1%	0.015%
Lowndes County	Alabama	4,858	12,658	38.4%	0.014%
Bienville Parish	Louisiana	4,824	15,979	30.2%	0.014%
Choctaw County	Alabama	4,809	16,018	30.0%	0.014%
Leslie County	Kentucky	4,808	13,642	35.2%	0.014%
Fentress County	Tennessee	4,695	14,669	32.0%	0.014%
Jefferson Davis County	Mississippi	4,633	14,051	33.0%	0.014%
Tunica County	Mississippi	4,597	8,164	56.3%	0.014%
Greene County	Alabama	4,575	10,153	45.1%	0.014%
Jackson County	Kentucky	4,544	11,955	38.0%	0.013%
San Juan County	Utah	4,523	12,621	35.8%	0.013%
Rockcastle County	Kentucky	4,498	14,803	30.4%	0.013%
Karnes County	Texas	4,450	12,455	35.7%	0.013%
Martin County	Kentucky	4,422	12,526	35.3%	0.013%

VOL 58 ISS 244 DEC 22 1993 UMI

Dawson County	Texas	4,343	14,349	30.3%	0.013%
Morgan County	Kentucky	4,328	11,648	37.2%	0.013%
Quitman County	Mississippi	4,315	10,490	41.1%	0.013%
Glacier County	Montana	4,224	12,121	34.8%	0.012%
Montgomery County	Mississippi	4,153	12,388	33.5%	0.012%
Todd County	South Dakota	4,143	8,352	49.6%	0.012%
Amite County	Mississippi	4,100	13,328	30.8%	0.012%
Claiborne County	Mississippi	4,087	11,370	35.9%	0.012%
Jefferson County	Mississippi	4,048	8,653	46.8%	0.012%
Wilkinson County	Mississippi	4,033	9,678	41.7%	0.012%
Monroe County	Arkansas	4,022	11,333	35.5%	0.012%
Catahoula Parish	Louisiana	3,989	11,065	36.1%	0.012%
Big Horn County	Montana	3,949	11,337	34.8%	0.012%
Lewis County	Kentucky	3,946	13,029	30.3%	0.012%
Clay County	West Virginia	3,901	9,983	39.1%	0.012%
Allendale County	South Carolina	3,837	11,722	32.7%	0.011%
Ripley County	Missouri	3,814	12,303	31.0%	0.011%
Zapata County	Texas	3,790	9,279	40.8%	0.011%
Bullock County	Alabama	3,776	11,042	34.2%	0.011%
Webster County	West Virginia	3,700	10,729	34.5%	0.011%
Early County	Georgia	3,635	11,854	30.7%	0.011%
Kemper County	Mississippi	3,522	10,356	34.0%	0.010%
Clinton County	Kentucky	3,447	9,135	37.7%	0.010%
Alexander County	Illinois	3,395	10,626	31.9%	0.010%
St. Helena Parish	Louisiana	3,358	9,874	34.0%	0.010%
Lafayette County	Arkansas	3,305	9,643	34.3%	0.010%
Sharkey County	Mississippi	3,305	7,066	46.8%	0.010%
Woodruff County	Arkansas	3,239	9,520	34.0%	0.010%
Tensas Parish	Louisiana	3,235	7,103	45.5%	0.010%
Red River Parish	Louisiana	3,216	9,387	34.3%	0.010%
Dooly County	Georgia	3,191	9,901	32.2%	0.009%
Presidio County	Texas	3,172	6,637	47.8%	0.009%
Marion County	Texas	3,024	9,984	30.3%	0.009%
Brooks County	Texas	2,989	8,204	36.4%	0.009%
Wolfe County	Kentucky	2,835	6,503	43.6%	0.008%
Charles Mix County	South Dakota	2,785	9,131	30.5%	0.008%
Franklin County	Mississippi	2,760	8,377	32.9%	0.008%
Randolph County	Georgia	2,740	8,023	34.2%	0.008%
Lee County	Kentucky	2,704	7,422	36.4%	0.008%
Turner County	Georgia	2,694	8,703	31.0%	0.008%
Hancock County	Tennessee	2,627	6,739	39.0%	0.008%
Owsley County	Kentucky	2,570	5,036	51.0%	0.008%
Calhoun County	West Virginia	2,514	7,885	31.9%	0.007%
Conejos County	Colorado	2,510	7,453	33.7%	0.007%
Elliott County	Kentucky	2,456	6,455	38.0%	0.007%
Dewey County	South Dakota	2,438	5,523	44.1%	0.007%
Gilmer County	West Virginia	2,378	7,669	31.0%	0.007%
Benson County	North Dakota	2,251	7,198	31.3%	0.007%
Lynn County	Texas	2,179	6,758	32.2%	0.006%
Cumberland County	Kentucky	2,112	6,784	31.1%	0.006%
Thurston County	Nebraska	2,107	6,936	30.4%	0.006%

Warren County	Georgia	1,943	6,078	32.0%	0.006%
La Salle County	Texas	1,918	5,254	36.5%	0.006%
Menominee County	Wisconsin	1,860	3,890	47.8%	0.006%
Jim Hogg County	Texas	1,798	5,109	35.2%	0.005%
Childress County	Texas	1,798	5,953	30.2%	0.005%
Wade Hampton Census	Alaska	1,794	5,791	31.0%	0.005%
Corson County	South Dakota	1,779	4,195	42.4%	0.005%
Menifee County	Kentucky	1,776	5,092	34.9%	0.005%
Sioux County	North Dakota	1,769	3,761	47.0%	0.005%
San Saba County	Texas	1,762	5,401	32.6%	0.005%
Stewart County	Georgia	1,741	5,654	30.8%	0.005%
Guadalupe County	New Mexico	1,589	4,156	38.2%	0.005%
Calhoun County	Georgia	1,558	5,013	31.1%	0.005%
Mora County	New Mexico	1,540	4,264	36.1%	0.005%
Saguache County	Colorado	1,399	4,619	30.3%	0.004%
Harmon County	Oklahoma	1,236	3,793	32.6%	0.004%
Bennett County	South Dakota	1,179	3,206	36.8%	0.003%
Clay County	Georgia	1,170	3,364	34.8%	0.003%
Ziebach County	South Dakota	1,131	2,220	50.9%	0.003%
Costilla County	Colorado	1,101	3,190	34.5%	0.003%
Hudspeth County	Texas	1,089	2,915	37.4%	0.003%
Jackson County	South Dakota	1,077	2,811	38.3%	0.003%
Issaquena County	Mississippi	939	1,909	49.2%	0.003%
Edwards County	Texas	939	2,266	41.4%	0.003%
Mellette County	South Dakota	864	2,137	40.4%	0.003%
Dickens County	Texas	791	2,571	30.8%	0.002%
Buffalo County	South Dakota	785	1,759	44.6%	0.002%
Quitman County	Georgia	727	2,209	32.9%	0.002%
Real County	Texas	724	2,412	30.0%	0.002%
Menard County	Texas	690	2,252	30.6%	0.002%
Taliaferro County	Georgia	606	1,915	31.6%	0.002%
McPherson County	Nebraska	181	546	33.2%	0.001%
Kalawao County	Hawaii	48	130	36.9%	0.000%
TOTAL FROM ABOVE		3,600,307	7,771,072	46.3%	10.652%
ALL OTHER COUNTIES		30,199,934	244,460,838	12.4%	89.348%
U.S. TOTAL (including Puerto Rico)		33,800,241	252,231,910	13.4%	100.000%

[FR Doc. 93-31200 Filed 12-21-93; 8:45 am]
BILLING CODE 4810-30-C

VOL 58 ISS 244 DEC 22 1993 UMI

VOL 58 ISS 244 DEC 22 1993 UMI

NUCLEAR REGULATORY COMMISSION

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 29, 1993, through December 10, 1993. The last biweekly notice was published on December 8, 1993 (58 FR 64598).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By January 21, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's 'Rules of Practice for Domestic Licensing Proceedings' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: November 11, 1993

Description of amendments request: The proposed amendments would revise the Technical Specifications (TSs) for both Units 1 and 2 by relocating the tables of response time limits for the Reactor Protection System and the Engineered Safety Features Actuation System (ESFAS) instruments from the TSs to the Updated Final Safety Analysis Report (UFSAR). This proposed amendment is a 'line-item' TS improvement and follows the guidance of the proposed generic communication that was published in the Federal Register on April 7, 1993 (58 FR 18118). The amendments are being requested at this time to support modifications that are scheduled for the spring 1994 refueling outage for Unit 1.

The relocation of the response time tables from the TSs to the UFSAR will not affect the safety function in that the operability and surveillance requirements for these instruments specified in the TSs are not changed. Any changes in instrument response times that result in safety system response less than those assumed in the current accident analysis would require prior review and approval by the NRC.

Specifically the requested changes are:

Delete TS Tables 3.3-2, 'Reactor Protective Instrumentation Response Times.'

Delete TS Tables 3.3-5, 'Engineered Safety Features Response Times.'

Modify TSs 3/4.3.1 and 3/4.3.2 by deleting references to TS Tables 3.3-2 and 3.3-5. A footnote is added to TS 3/4.3.1 indicating that the neutron detectors are exempt from response time testing.

The TSs Bases 3/4.3.1 and 3/4.3.2, "Protective and Engineered Safety Features (ESF) Instrumentation," are revised to reflect the above changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Reactor Protective System (RPS) and the Engineered Safety Features Actuation System (ESFAS) provide the signals needed to actuate the safety equipment necessary to mitigate accidents and transients. The proposed change relocates the RPS and the ESFAS instrument response times from the Technical Specifications to the Updated Final Safety Analysis Report (UFSAR) but will not change the operability or surveillance requirements for these instruments. With this proposed change, revisions to the response times for these instruments can be made pursuant to 10 CFR 50.59 without Nuclear Regulatory Commission (NRC) approval unless the revision involves an unreviewed safety question. The proposed change will not change any accident initiators or the consequences of any analyzed accident. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed change relocates the RPS and the ESFAS response time limits from the Technical Specifications to the UFSAR but does not change the function of these instruments. The proposed change does not represent a change in the configuration or operation of the plant. No new hardware is being added to the plant as part of the proposed change. The Technical Specifications will continue to require the same operability and surveillance requirements to be met for these instruments. Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The proposed change will not affect the functions of the RPS or the ESFAS instruments. Relocating the response time limits will not alter the operability or the surveillance requirements on these instruments. The administrative change control provisions for the UFSAR and the plant procedures written pursuant to 10 CFR 50.59 are adequate to control revisions to the response time limits. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of amendment request: November 19, 1993

Description of amendment request: The proposed amendment would revise the Technical Specifications by changing the low temperature overpressure protection setpoint.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specification change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The LTOP PORV actuation setpoint is not assumed to be an initiator of any analyzed event. However, pressure and temperature limits do preclude operation in an unanalyzed condition. The revised limitations provide an increase level of protection to the previous limitations. Revising the LTOP setpoint specification from 435 psig to less than or equal to 414 psig will allow the incorporation of correction factors into the PORV actuation setpoint and will result in LTOP System actuation at a pressure below that assumed in the LTOP transient analyses. A lower setpoint which includes correction factors associated with the RCS pressure transmitter locations and Reactor Coolant Pump (RCP) and Residual Heat Removal (RHR) pump operation is more conservative. The incorporation of correction factors into the setpoint calculations has no impact on any event precursor. Therefore, the proposed amendment will not significantly increase the probability of any accident previously evaluated.

Reactor vessel integrity is assumed in mitigating the consequences of design basis accidents. The revised limitations will not affect the performance of any safety systems or structures beyond ensuring the continued integrity of the reactor vessel. The amendment will allow the setpoints to be conservatively reduced based on engineering calculations which incorporate the correction factors associated with the RCS pressure transmitter locations and RCP and RHR pump operation and will continue to ensure that the pressure-temperature limits of 10 CFR 50, Appendix G, are met. Therefore, the change to the LTOP PORV actuation setpoint does not result in a significant increase in the consequences of any accident previously evaluated.

The proposed amendment does not change the actions required in the event of an LTOP system actuation or if the LTOP Specification requirements can not be met. Any changes to the PORV actuation setpoint will be in accordance with the "LTOP PORV Actuation Setpoint Methodology" and will be implemented per the requirements of 10 CFR 50.59. This will ensure that future changes to the LTOP PORV actuation setpoint will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change does not involve the addition of any new or different type of equipment, nor does it involve the operation of equipment required for safe operation of the facility in a manner different from those addressed in the Final Safety Analysis Report. No safety-related equipment or safety function will be altered as a result of this proposed change. The amendment will allow the LTOP setpoints to be conservatively reduced based on engineering calculations which incorporate the correction factors associated with RCS pressure transmitter locations and RCP and RHR pump operation and will continue to ensure that the pressure-temperature limits of 10 CFR 50, Appendix G, are met. The change will result in more conservative protective actions in the event of an overpressure transient at low temperature. The proposed change does not affect the actions required in the event of an LTOP system actuation, nor does it affect the required actions in the event that the LTOP Specification can not be met.

LTOP setpoint calculations will be performed using established engineering practices consistent with the LTOP PORV actuation setpoint methodology. Changes to the LTOP setpoints will be evaluated in accordance with 10 CFR 50.59 to assure that operation of the facility in accordance with the new setpoints will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The amendment will allow the LTOP setpoints to be conservatively reduced based on engineering calculations which incorporate the correction factors associated with the RCS pressure transmitter locations and RCP and RHR pump operation and will continue to ensure that the pressure-temperature limits of 10 CFR 50, Appendix G, are met in the event of a low temperature overpressure transient. Reducing the setpoints to incorporate the correction factors will provide an increase level of protection to that which currently exists and will not adversely affect the margin of safety.

LTOP setpoint calculations will be performed using established engineering practices and consistent with the LTOP PORV actuation setpoint methodology. Changes to the LTOP setpoints will be evaluated in accordance with 10 CFR 50.59 to assure that operation of the facility in accordance with the new setpoints will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: October 25, 1993

Description of amendment request: The amendments would reduce the required minimum measured reactor coolant system flow from 385,000 gallons per minute (gpm) to 382,000 gpm.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. This amendment will not significantly increase the probability or consequence of any accident previously evaluated.

No component modification, system realignment, or change in operating procedure will occur which could affect the probability of any accident or transient. The reduction in flow will not change the probability of actuation of any Engineered Safeguard Feature or other device. The consequences of previously-analyzed accidents have been found to be insignificantly different when the reduced flow rate is assumed. The system transient response is not affected by the initial RCS [reactor coolant system] flow assumption, unless the initial assumption is so low as to impair the steady-state core cooling capability or the steam generator heat transfer capability. This is clearly not the case with a <1% reduction in RCS flow.

The change to Technical Specification 2.1.1 to refer to DNB and CFT limits rather than Figure 2.1-1 will not cause the consequences of a previously analyzed accident to increase. No new mechanisms are introduced which could exacerbate a previously analyzed accident.

2. This amendment will not create the possibility of any new or different accidents not previously evaluated.

No component modification, system realignment, or change in operating procedure will occur which could create the possibility or a new event not previously considered. The reduction in flow will not initiate any new events.

The change to Specification 2.1.1 will not initiate any new events. The introduced T_{avg} and thermal power limits define a more restrictive operating range than could be inferred from the existing figure. There are no new mechanisms introduced which could create the possibility of a different accident not previously analyzed.

3. This amendment will not involve a significant reduction in a margin of safety.

As described in Attachment II [refer to the licensee's October 25, 1993, application], the decrease in RCS flow has been analyzed and found to have an insignificant effect on the applicable transient analyses found in the FSAR [Final Safety Analysis Report]. In order to support the reduced flow rate, the OT[delta]T and OP[delta]T setpoint equation constants have been revised. There is no significant reduction in a margin of safety.

The change to Technical Specification 2.1.1 will not reduce a margin of safety. The limits on T_{avg} and thermal power will provide the reactor operator with meaningful and identifiable indications in the event that normal operating conditions are exceeded.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: Loren R. Plisco, Acting

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: February 24, 1993

Description of amendment request: The amendment corrects typographical errors in the Arkansas Nuclear One, Unit 1 (ANO-1) Technical Specifications (TSs). The errors were introduced in the original ANO-1 TSs and in subsequent amendments. These changes are administrative in nature and are intended to improve the readability of the ANO-1 TSs without changing the meaning or intent of any specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does not involve a significant increase in the probability or consequence(s) of any] accident previously evaluated.

These changes do not affect the intent of any specification. Also, the proposed changes do not provide any relief from the requirements of the TS[s], or change the intended operation or administrative requirements of the plant or its design basis.

The proposed changes clarify the existing specification requirements and are administrative in nature.

Since they are administrative in nature, these changes do not significantly increase the probability or consequences of any previously analyzed accident occurring.

Criterion 2 - Does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not involve any design changes, plant modifications or changes in plant operation; rather, they only reflect a more accurate description of the specification requirements.

The proposed changes clarify the existing specification requirements and are administrative in nature.

Since they are administrative in nature, these changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does not involve a significant reduction in a margin of safety.

The proposed changes only clarify the existing requirements. They do not relax any specification requirements.

The proposed changes are administrative in nature and do not affect any plant safety parameters, accident mitigation capabilities, or margin of safety.

Since these changes are administrative in nature, they do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: July 22, 1993

Description of amendment request: The proposed amendment would revise the value for the internal volume of the Arkansas Nuclear One, Unit No. 1 (ANO-1) reactor building as specified in Technical Specification (TS) 5.2.1 and change the wording of the specification to clarify that the volume specified is the net free volume of the reactor building. The change of the specified volume is the result of a more accurate calculation of the reactor building net free volume.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

Reactor Building [RB] internal volume is not an event initiator of any accident analyzed in the ANO-1 SAR [safety analysis report]. The proposed changes do not provide any relief from the requirements of the TS, or change the intended operation or administrative requirements of the plant or its design basis.

The reduction in the calculated value for the RB net free volume has been reevaluated for its impact on the consequences of the RB DBA [design-basis accident] analysis. Only a 0.9 psig increase from the original SAR analysis peak RB pressure results from this smaller calculated RB volume. This new peak RB pressure is still less than the RB design pressure of 59 psig. The peak RB temperature increase results in a value that is still below the RB design temperature of 286°F. The new temperature profile was verified not to impact the Environmental Qualification Program.

The reduction in the calculated value for the RB net free volume has been verified to have a slight impact on the post-LOCA [loss-of-coolant accident] hydrogen generation calculation and negligible impact on the MHA [maximum hypothetical accident] dose calculation. The reduction in the calculated value is in the conservative direction with respect to the LOCA analysis.

For 10CFR50 Appendix J Type A ILRT [integrated leak rate test] calculations, the leak rate is calculated based upon percentage mass ratio. This eliminates the RB net free volume from the calculations. Therefore, the calculated value for RB net free volume has essentially no impact on the final results of Appendix J Type A ILRTs. For Appendix J Type B and C leak rate tests, the proposed reduction in the calculated value for RB net free volume results in the calculation of more restrictive leak rate test criteria to which the test results are compared.

The wording change clarifies that the internal volume specified for the RB is the internal net free volume and is considered to be a purely administrative change.

Therefore, this change does *not* involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes do not involve any design changes, plant modifications, or changes in plant operation; rather they reflect a more accurate description of the design features of the ANO-1 reactor building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.

The increased RB DBA peak pressure and temperature values do not exceed the RB design pressure and temperature values of 59 psig and 286°F, respectively. The slight decrease in margin is not considered significant given that recent studies have shown that large dry prestressed concrete containments with steel liners do not leak until greater than twice the design pressure is reached, and that higher pressures are required for rupture to occur. The new temperature profile was verified not to impact the Environmental Qualification Program.

The reduction in the calculated value for the RB net free volume has been verified to have a slight impact on the post-LOCA hydrogen generation calculation which is not considered significant, and negligible impact on the MHA dose calculation. The reduction in the calculated value is in the conservative direction with respect to the LOCA analysis.

The calculated value for RB net free volume has essentially no impact on the final results of Appendix J Type A ILRTs. For Appendix J Type B and C leak rate tests, the proposed reduction in the calculated value for RB net free volume results in the calculation of more restrictive leak rate test criteria to which the test results are compared.

The wording change clarifies that the internal volume specified for the RB is the internal net free volume and is considered to be a purely administrative change.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 15, 1993

Description of amendment request: The proposed amendment would revise the Technical Specifications by removing the requirement to maintain operational and test the containment hydrogen recombiners. This action is proposed in conjunction with a request for exemption to 10 CFR 50.44 'Standards for Combustion Gas Control System in Light Water-Cooled Power Reactor'.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Short term post LOCA [loss of coolant accident] hydrogen generation is less than 1%, well below the 4% hydrogen flammability limit. Long term post LOCA hydrogen generation at 30 days is about 5.7% which is less than the flame propagation limit of 6% which according to Regulatory Guide 1.7 would not result in effects adverse to containment systems. A time period of 30 days would provide ample time within which to mobilize resources and to implement long term recovery actions, such as containment venting, for example, by using the Containment Atmosphere Release System, (CARS). Waterford 3 analyses establish that a hydrogen burn at 8.1% hydrogen concentration, following a design basis LOCA without long term hydrogen control would produce a peak pressure of 31.0 psig which is below the containment design pressure of 44 psig. A hydrogen concentration of 8.1% envelops the TMI [Three Mile Island] burn which occurred at about 7 to 8% hydrogen concentration..., and produced a peak pressure of 28 psig. The pressure resulting from the hydrogen burn, 31.0 psig, is also below the Waterford 3 limiting design basis accident (MSLB) [Main Steam Line Break] peak pressure of 43.6 psig. The actual containment failure pressure for Waterford 3 is expected to be in the range of 2.5 to 3.0 times the containment design pressure based on containment failure pressures for containment designs similar to Waterford 3. Recombiners have a negligible impact on reducing hydrogen generation from severe accidents. Accordingly, removing the hydrogen recombiners has a negligible impact on severe accident risks. Thus, there is significant assurance the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change will not alter the configuration or operation of any other plant system or component. The change does not involve any change to the operational or design limits of any other plant systems or components. Thus, no new failure modes are introduced or associated with the proposed change. Therefore, the proposed change will not create the possibility of a new or different kind of accident previously evaluated.

The proposed change will have no adverse impact on the protective boundaries, safety limits, or margin or safety. There are no limits or margins of safety being revised for any systems, components, or protective boundaries. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: William D. Beckner

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: October 25, 1993

Description of amendment request: These amendments remove surveillance requirements related to dune and mangrove surveys from the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Title 10 of the Code of Federal Regulations, Part 50.92, states that a proposed amendment to an operating license involves a no significant hazards consideration, if operation of the facility in accordance with the proposed amendment would not; (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The changes proposed are a no significant hazards consideration and will be discussed as follows:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Deletion of the flood protection surveillance (beach dune and mangrove survey) requirements would not involve a significant increase in the probability or consequences of the design basis events for flooding (the PMH [probable maximum hurricane] or the stalled PMH). The lack of these surveillances does not increase the frequency of occurrence of such a storm. The beach dune and mangroves are not relied upon to provide mitigating protection from hurricanes. Rather, the dune is assumed to be eroded and no reduction of wave height or energy by the mangroves is assumed. The probable maximum surge flooding analysis for the St. Lucie site is based on a comparison of the storm strength versus the plant layout, the plant grade elevation and existing structures/ barriers. Flood protection for seismic Category I structures and safety-related systems and components at the St. Lucie site is based on positioning components and structures at sufficient grade to preclude inoperability due to external flooding, designing them to withstand such effects, or housing them within waterproof structures.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Deletion of the flood protection surveillance requirements does not create a new or different kind of accident since the beach dune and mangroves are passive elements which do not provide new failure types. The dune and mangroves, although considered, are not relied upon for safety in the present St. Lucie site's PMH analysis. Natural ground elevations (which are not dependent on the existence of the mangroves) are used in determining breaking wave heights. No reduction of wave height or energy by the mangroves is assumed. The beach dune and the mangroves are not credited in the analysis but only add conservatism into the erosion estimates.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Deletion of the flood protection surveillance requirements would not involve a significant reduction in a margin of safety since the dune and mangroves are not relied upon to provide protection from hurricanes. The dune and mangroves do not perform a safety function. The dune is conservatively assumed to be eroded with no credit taken for the energy dissipated or the time consumed in erosion of the dune. Similarly, wave height and energy is assumed to be unaffected by the mangroves.

Based on the above, the proposed amendment does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety, and therefore does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: October 26, 1993

Description of amendment request: The proposed amendments will make changes to Technical Specification (TS) 4.6.1.2.a, Containment Leakage Surveillance Requirements, consistent with the guidance of NUREG-1432, 'Standard Technical Specifications for Combustion Engineering Plants.' FPL considers these proposed amendments to be administrative changes to the manner in which the retest schedule for Type A Tests, which determine the Overall Integrated Containment Leakage Rate, is stated.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.92, a determination may be made that a proposed license amendment involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Each standard is discussed as follows:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed license change is administrative in nature in that the proposed change will adopt the guidance and wording provided in NUREG 1432, "Standard Technical Specifications for Combustion Engineering Plants" for the performance of Type A tests in accordance with 10 CFR 50 Appendix J. This guidance was approved and issued by the NRC Office of Nuclear Reactor Regulation. NUREG 1432 was developed based on the criteria in the interim Commission Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors, dated February 6, 1987. Specifically, the proposed change removes the schedular requirements of 40 [plus or minus] 10 months for the performance interval for Type A test from the surveillance requirement and would require the test interval to be in accordance with 10 CFR 50 Appendix J and any approved exemptions. The proposed Technical Specification change does not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor does it affect any assumptions or conditions in any of the accident analysis. Therefore, a significant reduction in a margin of safety would not be involved.

Based on the discussion presented above and on the supporting Evaluation of Proposed TS Changes, FPL has concluded that this proposed license amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three kind of accident from any accident previously evaluated.

The proposed license change is administrative in nature in that the proposed change will adopt the guidance and wording provided in NUREG 1432, "Standard Technical Specifications for Combustion Engineering Plants" for the performance of Type A tests in accordance with 10 CFR 50 Appendix J. This guidance and wording was approved and issued by the NRC Office of Nuclear Reactor Regulation. NUREG 1432 was developed based on the criteria in the interim Commission Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors, dated February 6, 1987.

Specifically, the proposed change removes the schedular requirements of 40 [plus or minus] 10 months for the performance interval for Type A test from the surveillance requirement and would require the test interval to be in accordance with 10 CFR 50 Appendix J and any approved exemptions. The proposed Technical Specification change does not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident. Therefore, the possibility of a new or different kind of an accident previously evaluated would not be created.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed license change is administrative in nature in that the proposed change will adopt the guidance and wording provided in NUREG 1432, "Standard Technical Specifications for Combustion Engineering Plants" for the performance of Type A tests in accordance with 10 CFR 50 Appendix J. This guidance and wording was approved and issued by the NRC Office of Nuclear Reactor Regulation. NUREG 1432 was developed based on the criteria in the interim Commission Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors, dated February 6, 1987.

Specifically, the proposed change removes the schedular requirements of 40 [plus or minus] 10 months for the performance interval for Type A test from the surveillance requirement and would require the test interval to be in accordance with 10 CFR 50 Appendix J and any approved exemptions. The proposed Technical Specification change does not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor does it affect any assumptions or conditions in any of the accident analysis. Therefore, a significant reduction in a margin of safety would not be involved.

Based on the discussion presented above and on the supporting Evaluation of Proposed TS Changes, FPL has concluded that this proposed license amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: October 19, 1993

Description of amendment request: The proposed change would revise both the surveillance requirements of Unit 1 Technical Specification (TS) 3.9.D and Unit 2 TS 3/4.8.2, 'Electrical Power Monitoring for Reactor Protection System,' to add time delays to the reactor protection system electrical power monitoring trips.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The purpose of the RPS [Reactor Protection System] electric power monitoring system is to isolate the RPS buses from their power supplies in the event of an over-voltage, under-voltage, or under-frequency condition. This isolation protects safety-related equipment powered by the RPS buses from damage due to unacceptable voltage or frequency conditions. Adding a 4-second time delay to the monitoring instrumentation will not prevent the system from performing its intended function. Any credible events which could affect the voltage or frequency of the RPS buses would not be of sufficient magnitude to cause damage to equipment powered by the RPS buses within the 4-second time period. The system will continue to ensure the safety-related components powered by the RPS buses will remain operable and fully capable of performing their intended mitigation functions. Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The RPS electric power monitoring system is designed to protect the safety-related equipment powered by the RPS buses from damage due to an unacceptable voltage or frequency condition. This equipment is designed to mitigate the consequences of analyzed transients and accidents. Adding a 4-second time delay to the monitoring instrumentation will not change the mode of operation of the system or prevent the system from performing its intended function. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The RPS electric power monitoring system is designed to protect the safety-related equipment powered by the RPS buses from damage due to an unacceptable voltage or frequency condition. This equipment is designed to mitigate the consequences of analyzed transients and accidents. As long as the safety-related equipment continues to perform its intended function, the margin of safety associated with the various analyzed events will be maintained. Since adding a 4-second time delay to the monitoring instrumentation will not prevent the system from performing its intended function, no safety margins will be affected. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Loren R. Plisco, Acting

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: November 9, 1993

Description of amendment request: The proposed change would revise both the surveillance requirements of Unit 1 Technical Specification (TS) Section 4.9, 'Auxiliary Electrical Systems," and Unit 2 TS 4.6, "AC Sources - Operating,' to change the requirements for diesel generator testing under hot initial conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The intended safety function of the diesel generators (DGs) is to provide AC power to emergency equipment during events involving a loss of offsite power (LOSP). The purpose of the hot start test is to demonstrate that the DG can restart from a hot condition, such as subsequent to shutdown from normal surveillances, in case an LOSP occurs under these conditions. Since a 2-hour warm-up run will adequately heat up the DG, separating the hot start test from the 24-hour load test has no impact on the validity of the hot start test. Since the LOSP logic will not be affected by heating up the DG, deleting the requirement for the hot start test to be an LOSP functional test has no impact on the validity of the hot start test. Therefore, the hot start test will still fulfill its function of demonstrating a specific aspect of DG operability. Therefore, the ability of the DGs to perform their intended safety function will not be affected by this proposed change. The discussion of the new surveillance requirement which is being added to the bases of both units' Technical Specifications will only provide the user with information concerning the purpose of the revised tests, and has no impact on DG operation or testing requirements. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident than any previously evaluated.

The proposed change only affects surveillance requirements and has no impact on the operation of the plant or any safety related equipment. The DGs are designed to mitigate the consequences of accidents involving an LOSP. Therefore, they have no effect on the probability of occurrence of any type of accident. The discussion of the new surveillance requirement which is being added to the bases of both units' Technical Specifications will only provide the user with information concerning the purpose of the revised tests, and has no impact on DG operation or testing requirements. For these reasons, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

In the event of a design basis large break loss of coolant accident coupled with an LOSP, the DGs are required to start and achieve rated voltage and frequency within 12 seconds. This requirement ensures that power is provided for the low pressure emergency core cooling pumps such that they can start and inject quickly enough to assure adequate core cooling. As long as the DGs perform this function, the analyzed peak clad temperature margin will be maintained. The proposed hot start testing requirements still ensure the DGs are capable of performing this function when starting from a hot condition. The discussion of the new surveillance requirement which is being added to the bases of both units' Technical Specifications will only provide the user with information concerning the purpose of the revised tests, and has no impact on DG operation or testing requirements. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Loren R. Plisco, Acting

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 19, 1993

Description of amendment request: The proposed change would add a footnote to Technical Specification (TS) Table 3.3-2, Engineered Safety Features Actuation System Instrumentation, modifying the mode for which Item 6.e, "Trip of All Main Feedwater Pumps, Start Motor-Driven Pumps," is required to be operable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change to the Technical Specifications does not involve a significant increase in the probability or consequences of an accident previously evaluated because it only affects the AFW [auxiliary feedwater] start signal during the time when the AFW system is already operating.

2. The proposed change to the Technical Specifications does not create the possibility of a new or different kind of accident from any accident previously evaluated because it only affects the AFW start signal during the time when the AFW is already performing the function that the start signal is intended to initiate.

3. The proposed change to the Technical Specifications does not involve a significant reduction in a margin of safety because it will not change the requirement for operable AFW initiation instrumentation when the AFW is required to be operable but not operating. The change does not affect any accident or transient analysis assumptions; therefore, the margin of safety provided by operation according to the proposed change does not affect the safety limits or analyses used to demonstrate operation within safety limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, Nations Bank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308

NRC Project Director: Loren R. Plisco, Acting

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 19, 1993

Description of amendment request: The first proposed change would revise the surveillance requirements of Technical Specifications (TS) 4.8.2.1.e and 4.8.2.1.f, "DC Sources," to reflect recommended maintenance and testing practices in draft IEEE Standard 450-1992, "Recommended Practice for Maintenance, Testing, and Replacement of Large Lead Storage Batteries for Generating Stations and Substations," incorporating maintenance and testing practices contained in the draft standard. The second proposed change would revise TS Table 4.8-2, "Battery Surveillance Requirements," changing the value of float voltage allowed for each connected cell from ">2.10 volts" to ">2.07 volts," in accordance with IEEE Standard 450-1980, 1987, the draft IEEE Standard 450-1992, and the new Standard Technical Specifications (NUREG-1431).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.]

The revision to the battery surveillance requirements does not involve a significant increase in the probability or consequence of an accident previously evaluated. The proposed revision to the surveillance requirements ensures the batteries are properly tested and can perform their safety function. The proposed change will have no effect on any initiating event assumed in the safety analysis since it relates only to the frequency of performance testing. Since the batteries will continue to be properly tested and therefore capable of performing their safety function, the consequences of any accident previously evaluated will not be affected.

The proposed change to the value of float voltage does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed value of float voltage provides assurance that sufficient capacity exists to perform the intended function and maintain a margin of safety for the station batteries. As such, the proposed change would have no effect on the probability of any initiating event assumed in the safety analysis. Furthermore, since the batteries will remain capable of performing their safety function, the proposed change would have no effect on the consequences of any accident previously evaluated.

[2. The proposed change will not create the possibility of a new or different kind of accident than any previously evaluated.]

The revision to the battery surveillance requirements does not create the possibility of a new or different kind of accident from any accident previously evaluated. The existing surveillance of the batteries provides an indication of degraded performance, which indicates the battery cells may need to be replaced. The proposed revision will provide the same indication of degraded performance. No new equipment is being introduced to the plant as a result of the proposed change, and no new modes of operation are contemplated. Furthermore, no new limiting single failure would be created by the proposed change.

The change to the float voltage does not create the possibility of a new or different kind of accident from any accident previously evaluated. The change in float voltage does not affect any transient or accident sequence requiring the station batteries. No new operating configuration or failure modes are introduced by the change in float voltage.

[3. The proposed change does not involve a significant reduction in a margin of safety.]

The revision to the battery surveillance requirements does not involve a significant reduction in the margin of safety. The revision ensures the batteries maintain sufficient margin to perform their intended safety function. This margin is demonstrated by the various tests performed on the batteries. Therefore, this proposed change does not involve a significant reduction in the margin of safety.

The margin of safety associated with the change in float voltage is maintained since the batteries will continue to have sufficient capacity to perform their intended function. Analysis confirms that the batteries can

VOL 58 ISS 244 DEC 22 1993 UMI

function for all accidents and design transients, including a loss of offsite power. Since the batteries can function for all designed transient and accident conditions, the change of float voltage does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308

NRC Project Director: Loren R. Plisco, Acting

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: December 6, 1993

Description of amendment request: Houston Lighting & Power Company (HL&P) has requested a one-time-only modification to the South Texas Project, Unit 1 Technical Specification 3.7.1.2, auxiliary feedwater system. The purpose of the change is to extend the allowed outage time for the turbine driven auxiliary feedwater pump from 72 hours to 168 hours, an increase of 96 hours, to facilitate an augmented test program. This change will allow adequate time to complete testing and evaluation of the turbine driven auxiliary feedwater pump and will allow testing, evaluation, and corrective maintenance, if required, of the pump at a secondary steam supply pressure greater than 1000 psig in Mode 3, as specified by Surveillance Requirement 4.7.1.2.1.a.2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Based on the change in core damage frequency, both with and without the proposed Technical Specifications currently being evaluated by the NRC, the change to a 7 day Allowed Outage Time for train D of the Auxiliary Feedwater System has an insignificant effect on core damage frequency.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not create the possibility of a new or different accident from any previously evaluated since there is no new design or operation of the Auxiliary Feedwater system and consequently there are no new accident initiators.

3. The proposed change does not involve a significant reduction in the margin of safety.

The margin of safety does not significantly change since the change in core damage frequency due to extending the Turbine Driven Auxiliary Feedwater pump Allowed Outage Time is negligible.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendment involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: Suzanne C. Black

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: November 12, 1993

Description of amendment requests: The proposed amendments would modify the Technical Specification Action Statements and Surveillance Requirements for the Accumulators to make them more consistent with those contained in the new Standard Technical Specifications for Westinghouse plants. Changes to the Bases are also proposed to reflect the proposed revisions to the action statements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, a proposed change does not involve a significant hazards consideration if the change does not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated,

2. create the possibility of a new or different kind of accident from any accident previously evaluated,

3. involve a significant reduction in a margin of safety.

Criterion 1

The limiting conditions for operation involving the accumulator are not altered by this proposed change. The surveillance requirements are lessened somewhat by the proposed changes. The requirement to test the automatic actuation of the accumulator isolation valves was redundant to existing surveillance requirements that required the valves to be verified open and with power removed. The requirement to test the accumulator boron concentration following a 1% or greater solution volume increase was modified to exclude volume additions from the RWST, since, per T/Se, the RWST boron concentration requirements during operation are identical to those for the accumulator. The proposed changes are consistent with NUREG 1431, and, as such, have already been found acceptable by the NRC. Therefore, it is concluded that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

No changes to the limiting conditions for operation of the accumulators are proposed as part of this amendment request. The proposed changes do not involve any physical changes to the plant or changes to plant operations. Thus, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

The limiting conditions for operation involving the accumulator are not altered by this proposed change. The surveillance requirements are lessened somewhat by the proposed changes. The requirement to test the automatic actuation of the accumulator isolation valves was redundant to existing surveillance requirements that required the valves to be verified open and with power removed. The requirement to test the accumulator boron concentration following a 1% or greater solution volume increase was modified to exclude volume additions from the RWST, since, per T/Se, the RWST boron concentration requirements during operation are identical to those for the accumulator. All the proposed changes are consistent with NUREG 1431, and, as such, have already been found acceptable by the NRC. Therefore, it is concluded that the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: A. Randolph Blough, Acting

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: November 12, 1993

Description of amendment requests: The proposed amendments would delete the "Component Cyclic or Transient Limits" in the Technical Specifications consistent with NUREG-1431, "Standard Technical Specifications for Westinghouse Plants."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, a proposed amendment does not involve a significant hazards consideration if the change does not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated,

2. create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. involve a significant reduction a margin of safety.

Criterion 1

The proposed change is administrative in nature in that it simply relocates a table containing component cyclic and transient limits from the T/S to the UFSAR. Any change to the requirements of the table would have to be reviewed against the criteria of 10 CFR 50.59 to ensure the change does not create an unreviewed safety question. Additionally, it is noted that the change is consistent with the new Standard T/S, recently issued by the NRC as NUREG 1431. Based on these considerations, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The change only involves relocation of a table containing component cyclic and transient limits from the T/S to the UFSAR. No specific physical changes to the plant or changes in plant operation will result directly from this change. Any change in the limits contained in the current table will undergo a review against the requirements of 10 CFR 50.59 to ensure that the change does not create an unreviewed safety question. Thus, the change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

The proposed change is administrative in nature in that it simply relocates a table containing component cyclic and transient limits from the T/S to the UFSAR. Any change to the requirements of the table would have to be reviewed against the criteria of 10 CFR 50.59 to ensure the change does not create an unreviewed safety question. Additionally, it is noted that the change is consistent with the new Standard T/S, recently issued by the NRC as NUREG 1431. Based on these considerations, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: A. Randolph Blough, Acting

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: November 15, 1993

Description of amendment requests: The proposed amendments would make various administrative and/or editorial changes to the Technical Specifications and associated Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, a proposed amendment does not involve a significant hazards consideration if the change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated,

2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. Involve a significant reduction a margin of safety.

Criterion 1

The proposed changes are administrative in nature. The purpose is to correct errors in the TS, or to make the TS more consistent with plant design or operation. No changes in physical design of the plant or changes in the manner in which the plant is operated will result from these changes. Therefore, the changes do not create the possibility of a new or different kind of accident from any previously analyzed.

Criterion 2

The proposed changes are administrative or editorial in nature. The purpose is to correct errors in the TS, or to make the TS more consistent with plant design or operation. No changes in physical design of the plant or changes in the manner in which the plant is operated will result from these changes. Therefore, the changes do not involve a significant reduction in a margin of safety.

Criterion 3

The proposed changes are administrative or editorial in nature. The purpose is to correct errors in the TS, or to make the TS more consistent with plant design or operation. No changes in physical design of the plant or changes in the manner in which the plant is operated will result from these changes. Therefore, the changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: A. Randolph Blough, Acting

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: November 15, 1993

Description of amendment requests: The proposed amendments would revise certain Ice Condenser ice bed Surveillance Requirements in the Technical Specifications extending the interval from 9 months to 18 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

We have evaluated the proposed T/Ss exemption and have determined that it should not require a significant hazards consideration based on the criteria established in 10CFR50.92(c). Operation of the Cook Nuclear Plant in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The increase in the surveillance interval does not create a significant increase in the

probability or consequences of an accident previously evaluated. Recent operation experience with the ice condenser indicates that all required boron concentrations, pH levels, ice weights, and frost or ice accumulation criteria established in the T/Ss have been met without any corrective or preventive action being taken during the mid-cycle inspections. This provides confidence that the ice condenser will continue to be able to perform as assumed in the safety analysis. Therefore, we conclude that the proposed T/Ss changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The increase in the surveillance interval for the ice condenser from 9 to 18 months will not affect the functionality or required performance capability of the ice condenser. The above review found no possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in a margin of safety

The proposed T/Ss changes only change the surveillance frequency requirements which we believe will not challenge the ability of the ice condenser to perform its function as defined in the safety analysis. Other T/Ss and plant indications are in place to warn the operator of refrigeration system problems prior to possible ice bed degradation. Therefore, we conclude that the T/S change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: A. Randolph Blough, Acting

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of amendment request: December 3, 1993

Description of amendment request: The proposed amendment would grant extensions for certain 18-month technical specification (TS) surveillances which are required to be performed beginning February 5, 1994. The licensee is requesting relief from these surveillances in order to extend the current cycle for Unit 2 and separate the refueling outages for Units 1 and 2 by approximately 6 months. The December 3, 1993, submittal provides supplemental information on instrument drift and also updates the original submittal dated April 16, 1993 (noticed August 4, 1993; 58 FR 41505). The December 3, 1993, letter revises the list of TS that require an extension by withdrawing the request for three extensions because the surveillances have been performed and adding a request for extension of an additional three surveillances. This notice pertains to the additional three surveillances for which the licensee has requested extensions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

Per 10 CFR 50.92, a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(1) involve a significant increase in the probability or consequences of an accident previously analyzed,

(2) create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated, or

(3) involve a significant reduction in a margin of safety.

Our evaluation of the proposed change with respect to these criteria is provided below:

Criterion (1)

The first of the three TS surveillance extensions being requested is for TS 4.3.2.1.1, Table 4.3-2, Items 8.a and 8.b, 4Kv bus loss of voltage and degraded voltage time delay relays. The relays are electronic, which are highly reliable and accurate and should not drift outside of their acceptable setpoints. This was demonstrated during the previous three channel calibration surveillances where no adjustments were required on the as-found conditions. Thus, there is no reason to believe that the relays would not perform their intended functions during the extension period. For these reasons, the extension the licensee is requesting should not result in a significant increase in the probability or consequences of a previously evaluated accident, nor should it result in a significant reduction in a margin of safety.

The second surveillance extension is for TS 4.3.3.6, Table 4.3-10, Item 15, calibrations of incore thermocouples. Review of the surveillance data for the last three cycles indicated that drift of the thermocouples is not expected. Also, channel checks are performed on a weekly basis which would provide indication of inoperable thermocouples. Therefore, the licensee believes that the incore thermocouples will be capable of performing their intended function during the extension period. For these reasons, the extension the licensee is requesting should not result in a significant increase in the probability or consequences of a previously evaluated accident, nor should it result in a significant reduction in a margin of safety.

The third surveillance extension is for TS 4.4.6.1.b, calibration of the containment flow monitoring system. Past surveillance history has shown that the pumps have capacities well above the acceptance criteria. During the current cycle, the reactor cavity, lower containment, and pipe tunnel sump pumps have run for a minimal amount of time. Thus, the potential for pump degradation is small. Therefore, there is no reason to believe that the containment flow monitoring system would not perform its intended function during the extension period. For these reasons, the extension the licensee is requesting should not result in a significant increase in the probability or consequences of a previously evaluated accident, nor should it result in a significant reduction in a margin of safety.

Criterion (2)

This extension will not result in a change in plant configuration or operation. Therefore, the extension should not create the possibility of a new or different kind of accident from any previously evaluated or analyzed.

Criterion (3)

For the reasons cited for Criterion (1) above, the proposed changes will not result in a significant reduction in the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: A. Randolph Blough, Acting

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: November 18, 1993

Description of amendment request: The proposed amendment would revise the setpoints for degraded voltage relays for the 4.16kV Power Boards 102 and 103 as specified in Technical Specification Table 3.6.2i. The setpoints would be revised from their present values of 3580 volts 18.5 plus/minus 3 seconds to a proposed value of greater than or equal to 3705 volts >3.4 seconds and <60 seconds. The licensee has submitted this proposed change in response to findings of the NRC's Electrical Distribution System Functional Inspection conducted at Nine Mile Point Nuclear Station Unit No. 1 from September 23, 1991, to October 25, 1991.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

With a degraded voltage relay dropout setpoint of 3600V (and a corresponding operating time setpoint of "3580V 18.5 +/-3 seconds"), the voltage available at Power Boards 102 and 103 could reach a level that is not able to support acceptable operation of connected loads. Therefore, Niagara Mohawk proposes to revise the degraded voltage relay dropout setpoint to 3705V and the operating time setpoint to >3.4 seconds and <60 seconds to assure adequate voltage is available to the critical loads connected to Power Boards 102 and 103, except the six (6) contactors. Niagara Mohawk will maintain the administrative controls in place to ensure adequate voltage is available to the six (6) contactors and to preclude inadvertent separation from offsite power. Because of the above changes, Note(a) to Table 3.6.2i no longer accurately applies to subpart b of Table 3.6.2i. Note(b) and Note(c) will be added to discuss the operating time for subpart b, degraded voltage. Changes have been made to Table 3.6.2i to indicate that Note(a) and Notes(b) and (c) apply to subpart a and b of Table 3.6.2i, respectively.

Niagara Mohawk also proposes to change Table 3.6.2i subpart a, Loss of Voltage. Specifically, the word "undervolt" will be changed to undervoltage. This change is strictly editorial.

The proposed changes to these settings do not alter any accident initiators or precursors and therefore do not affect the probability of any accident. The changes to the degraded voltage setpoint will assure adequate voltage is available at the motor terminals of the connected loads and therefore, not increase the consequences of any accident. The restrictions to the operating time setpoint are of long enough duration to preclude spurious separation from offsite power during load sequencing, but short enough to preclude load damage or trip device actuation. Therefore, the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes involve no changes to the manner in which plant systems are operated and do not introduce new accident precursors. The performance of the Emergency Power Distribution system, the Diesel Generator initiation system, and connected loads is not adversely affected by these changes. The change will simply assure sufficient voltage is provided to connected loads except for the six(6) contactors. Accordingly, the design capabilities of these systems are not challenged in a manner not previously assessed so as to create the possibility of a new or different kind of accident. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed amendment would revise the degraded voltage relay setpoints as provided in Technical Specification Table 3.6.2i, Diesel Generator Initiation. The setpoint for the 4.16kV Power Boards 102 and 103 degraded voltage relay dropout would be changed from 3600V to 3705V. This is a conservative change in that higher voltages will be normally maintained on Power Boards 102 and 103 to assure acceptable operation of connected loads. The corresponding operating time set point will be changed from '3580V 18.5 +/-3 seconds' to >3.4 seconds and <60 seconds. The 3.4 second time delay is of a long enough duration to preclude spurious separation from offsite power during load sequencing. The 60 second time delay is short enough to preclude load damage or trip device actuation at voltages between the degraded voltage and loss of voltage setpoints. The performance of the Emergency Distribution system, the Diesel Generator initiation system, and connected loads is not adversely affected by this change. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Northeast Nuclear Energy Company (NNECO), Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: November 22, 1993

Description of amendment request: The proposed changes revise Technical Specifications by clarifying the operability requirements relative to the design function of the scram discharge volume (SDV) - water level high rod block. In addition, NNECO is adding a statement which defines operability and surveillance requirements for the rod block functions while the reactor mode selector switch is in the REFUEL or SHUTDOWN positions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed changes in accordance with 10CFR50.92 and concluded that the changes do not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed changes revise the wording of Technical Specification Table 3.2.3 to more clearly describe the operability requirements of the SDV - water level high rod block instruments. One instrument per instrument volume tank continues to be required to be operable. A rod block is initiated within one hour when either of the instruments is tripped or inoperable. A failure of either level switch or any failure in the circuitry would generate the RB [rod block], which is a conservative condition. There is no change to the function of the equipment, and no new equipment or interlocks are being installed. The SDV - water level high rod block will continue to function and be used as originally designed and installed.

The addition of the surveillance requirement for rod block while the reactor is shutdown or is being refueled ensures that the technical specifications contain the necessary controls to ensure that rod block is operable when the ability to move control rods exists. The rod block would not be required when the plant is in the SHUTDOWN or REFUEL condition and the

control rods are fully inserted and disarmed. Therefore, this proposed technical specification cannot increase the probability or consequence of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes do not affect the setpoint or operability of the equipment. Moreover, no new equipment is being added, nor is the function of the SDV water level high rod block being changed. The change to the notes of Table 3.2.3 revises the wording to more clearly describe the operability requirements of the SDV - water level high rod block instruments in relation to the existing plant design.

Defining the control rod block surveillance requirements while in SHUTDOWN or REFUEL conditions does not change any setpoint or affect the operability of the rod block circuitry. The rod block would be maintained operable except in the situation when the control rods cannot be moved. Since no new or different equipment or function is being introduced, there is no possibility of creating a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The margin of safety assumed in the design basis is provided by the water level switches which input into the reactor protection system. These switches initiate a scram while the SDV has sufficient capacity to accept the water from the hydraulic control units during a scram. Further margin is provided by the SDV - water level high switches which initiate a rod block if the water level in either tank reaches the high setpoint. In addition to these automatic features, the operator receives an alarm before either the rod block or the trip level is reached. The proposed change only revises the wording to more clearly describe the operability requirements of the SDV rod block instruments in relation to the existing plant design. This proposed change does not significantly impact the margin of safety.

During SHUTDOWN or REFUEL conditions, maximum negative core reactivity would be assured by having all control rods fully inserted and either electrically or hydraulically disarmed. Under these conditions, the rod block function would not provide any safety benefit since the control rods cannot be moved. The additional surveillance requirement assures that these conditions are maintained. Therefore, the proposed change is conservative in relation to the current technical specification requirements, and as such does not significantly reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: August 4, 1993

Description of amendment request: The proposed amendment incorporates an additional Emergency Diesel Generator (EDG) Surveillance Requirement (SR), 4.8.1.1.2.C.8, Items a, b, and c, to the Technical Specification Section 3/4.8, "Electrical Power Systems." The proposed change requires starting the EDG, with offsite power available, as a result of a Safety Injection Actuation Signal.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, NNECO has reviewed the proposed change and concluded that it does not involve a significant hazards consideration [SHC]. The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

During the conduct of the proposed surveillance, the diesel will run on standby for at least five minutes. The determination from the diesel manufacturer is that fuel oil fouling of the exhaust would not occur under these conditions. This change is simply an additional surveillance to demonstrate operability (starting) of the EDG, with offsite power available, as a result of an SIAS [safety injection actuation signal] signal, therefore it does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident than any previously evaluated.

Testing of the EDG is normally performed in the same manner as is being proposed in this license amendment; the only difference is the source of the start signal. This additional surveillance requirement is a routine requirement for some other plants and is included as part of STS [Standard Technical Specifications). Accordingly, the change does not create the possibility of a new or different kind of accident than any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed testing of the EDG will provide additional assurance of reliability to maintain the present margin of safety. Since this proposed license amendment will add a surveillance beyond that currently existing, it would likely add to the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Pennsylvania Power and Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: November 24, 1993

Description of amendment request: The amendment would revise *Facility Operating License No.* NPF-22 for Susquehanna Steam Electric Station (SES), Unit 2, to uprate the current licensed power level from 3293 MWt to a new limit of 3441 MWt, which represents an approximate increase of 4.5% over the present licensed power level. As discussed subsequently, the proposed amendment also consists of many changes to the Technical Specifications (TSs) to implement uprated power operation.

By letter dated June 15, 1992, Pennsylvania Power and Light Company (PP&L) submitted "Licensing Topical Report NE-092-001, Revision 0, Power Uprate With Increased Core Flow," for Susquehanna Steam Electric Station, Units 1 and 2. The report was submitted to support future amendments to the Units 1 and 2 licenses to permit a 4.5-percent increase in reactor thermal power and an 8-percent increase in core flow for each unit. The initial submittal was revised and supplemented by letters of July 24, September 17, and December 18, 1992, and January 8, January 25, April 2, August 5, August 12, and September 29, 1993. The Commission's safety evaluation on these submittals was issued November 30, 1993 (Letter, Thomas E. Murley, NRC, to Robert G. Byram, PP&L). The Commission concluded that the revised (Revision 2) licensing topical report

adequately supports PP&L's proposed power uprate. The Commission also concluded that SES, Units 1 and 2, can operate safely with the proposed 8-percent increase in core flow, the proposed 4.5-percent increase in reactor thermal power, the corresponding 5-percent increase in main turbine inlet steam flow, and the corresponding increases in flows, temperatures, pressures, and capacities required in supporting systems and components at these uprated conditions.

The subject application submitted the proposed license amendment and changes to the TSs to implement the power uprate for Unit 2. Unit 2 is scheduled to shut down for the sixth refueling outage on March 12, 1994. During the outage, the many changes to instrumentation, controls, equipment, procedures, setpoints, systems, computers, etc., will be made to accommodate power uprate with increased core flow in Cycle 7. Unit 1 is not scheduled for the next refueling outage until 1995. An amendment application supporting power uprate for Unit 1 will be submitted in the future.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

The following three questions are addressed for each of the proposed Technical Specification Changes:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

3. Does the proposed change involve a significant reduction in a margin of safety?

Section 1.0 Definitions, Definition 1.33, Rated Thermal Power

This change redefines Rated Thermal Powr as 3441 megawatts thermal.

1. No. Neither the probability (frequency of occurrence) nor consequences of any accident previously evaluated is significantly affected by the increased power level because the design and regulatory criteria established for plant equipment remain imposed for the uprated power level. The PP&L assessment to increase the rated thermal power level at Susquehanna SES Unit 2, followed the guidelines of NEDC-31879P (≥Generic Guidelines for General Electric Boiling Water Reactor Power Uprate," G.E. Nuclear Energy, June 1991). NEDC-31879P provides generic licensing criteria, methodology, and a defined scope of analytical and equipment review to be performed to demonstrate the ability to operate safely at the uprated power level which have been approved by the NRC. NE-092-001 (≥Licensing Topical Report for Power Uprate With Increased Core Flow," Pennsylvania Power & Light Company, December 1992) provides the description of the power uprate licensing analysis methodology and the results of the evaluations performed to support the proposed uprated power operation consistent with the methodology presented in NEDC-31879P. NE-092-001 provides a description of the power uprate licensing analysis methodology which will be used to determine cycle specific thermal limits for Unit 2, Cycle 7 and future cycles and concludes that an uprated power level of 3441 megawatts thermal can be achieved without significant effect on equipment or safety analyses.

2. No. The methodology and results described above do not indicate that a possibility for a new or different kind of accident from any previously evaluated has been created by uprated operation.

3. No. Based on the response to Question 1 above, the methodology and results do not indicate a significant reduction in a margin of safety.

Section 2.1, Safety Limits

The reference to "rated core flow" in Technical Specification 2.1.1 and 2.1.2 has been replaced with a reference to actual core flow. The references to "rated core flow" have been deleted to avoid confusion since allowable core flow is being increased by 8%. 10 Mlbm/hr is being used in these specifications to be consistent with other similar Technical Specification changes (Technical Specifications 3.2.2, 4.4.1.1.1.2, 4.4.1.1.2.5, 3.4.1.3 and Figure 3.4.1.1.1-1).

1. No. The probability and consequences of accidents previously evaluated are not affected by this change. The basis for Technical Specification 2.1.1 is that boiling transition will not occur in bundles if core power is less than 25% of rated thermal power, regardless of pressure or core flow. Consequently, the specification of less than 10% rated core flow is not crucial to the basis and, thus, the use of 10 Mlbm/hr. is acceptable and has no effect on the probability or consequences of a previously evaluated accident.

For Technical Specification 2.1.2, the XN-3 critical power correlation is valid for pressure greater than or equal to 580 psig and bundle flow greater than or equal to 0.25 Mlbm/hr-ft². As stated in the basis for Technical Specification 2.1.1, if vessel downcomer water level is above TAF [top of active fuel], and core power > 25%, bundle flows for potentially limiting bundles will be > 0.25 Mlbm/hr-ft² due to natural circulation. In addition, Technical Specification 3.4.1.1.1 requires at least one (1) recirculation loop in operation to run in Condition 2, which would produce a core flow in excess of 30 Mlbm/hr. Therefore, core flows below about 30 Mlbm/hr-ft² are prohibited when the reactor is at power. Thus, the change from "10%" to "10 million lbm/hr" is acceptable and has no effect on the probability or consequences of a previously evaluated accident.

2. No. The basis for Technical Specification 2.1.1 is that boiling transition will not occur in bundles if core power is less than 25% of rated thermal power, regardless of pressure or core flow. The proposed change is not crucial to this basis. The XN-3 critical power correlation is valid for pressures greater than or equal to 580 psig and bundle flow greater than or equal to 0.25 Mlbm/hr-ft². The specification is based upon vessel downcomer water level being above TAF and core power > 25% which yields a bundle flow for potentially limiting bundles > 0.25 Mlbm/hr-ft² due to natural circulation. Based on Technical Specification 3.4.1.1.1, core flows below about 30 Mlbm/hr ft² are prohibited when the reactor is at power. Therefore, the change to a limit of 10 Mlbm/hr is acceptable and does not create the possibility for a new or different kind of accident from any accident previously evaluated.

3. No. As explained above, the margin of safety has not been reduced.

Table 2.2.1-1 (Items 2.a, 2.b, and 2.c) and Specifications 3.2.2, 3.4.1.1.2.a.2, 3.4.1.1.2.a.3, 3.4.1.1.2.a.5.b and 3.3.6-2 (Item 2.a.1, 2.c, and 2.d), APRM Flow Biased Setpoints and Allowable Values

Although the equation for determining these setpoints does not change as a result of the power uprate, because the setpoints in these technical specifications are referenced to rated thermal power, the current limits do change in that the top portion of the operating map (power vs. reactor flow) is raised by 4.5%.

1. No. The safety analyses contained in NE-092-001 evaluated operation at both uprated power with 4.5% higher rod lines and increased core flow. In addition, General Electric Co. has analyzed and received generic approval for their BWR/4 product line operation in the Maximum Extended Operating Domain (MEOD). Operation at the 4.5% higher rod lines is bounded by the MEOD analysis. Additional justification for this small increase in the power flow operating range is contained in Section C.2.3 of NEDC-31984P.

Cycle specific reload analyses will evaluate operation at the increased power vs. flow conditions (100% uprated power vs. 87% core flow to 100% uprate power vs. 108% core flow). These analyses will ensure that the limits established in the Core Operating Limits Report are applicable to rated power operation from 87% to 108% core flow.

Based on the above analyses, increasing the current limits do not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The analyses described above in response to Question 1 do not indicate that a possibility for a new or different kind of accident from any previously evaluated has been created by the proposed change.

3. No. Based on the response to Question 1 above, the proposed change does not result in a reduction in the margin of safety.

Table 2.2.1-1, Item 3. Reactor Steam Dome Pressure - High Scram

The reactor steam dome pressure-high scram trip setpoint and allowable values are being changed to less than or equal to 1087 psig and < 1093 psig respectively.

1. No. This scram function is designed to terminate a pressure increase transient not terminated by direct scram or high flux scram. The nominal trip setpoint is maintained above the reactor vessel

maximum operating pressure and the specified analytical limit is used in the transient analyses. The analytical limit of 1105 psig is used in the uprated transient analyses. The results of the overpressure protection analysis indicate that the peak pressure will remain below the 1375 psig ASME [American Society of Mechanical Engineers] limit which meets plant licensing requirements. In accordance with the methodology described in NE-092-001, transient analyses will be performed using the analytic limit and the results will be incorporated into the Core Operating Limits Report. Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The purpose of this scram function is to terminate a pressure increase transient not terminated by direct scram or high flux scram. The nominal trip setpoint is maintained above the reactor vessel maximum operating pressure and the specified analytical limit is used in the transient analysis. 1105 psig is being used as the analytical limit in the uprated transient analysis. The results of the overpressure protection analysis indicate peak pressure will remain below the ASME limit of 1375 psig which satisfies plant licensing requirements. Based upon that result, it is concluded that the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. The results of the overpressure protection analysis indicate peak pressure will remain below the 1375 psig licensing limit, therefore, it is concluded that the proposed change does not result in a significant reduction in a margin of safety.

Specification 4.1.5.c. Standby Liquid Control System

This specification has been revised to require SLC [Standby Liquid Control] pumps to develop a discharge pressure of greater than or equal to 1224 psig.

1. No. The ability of the SLC system to achieve and maintain safe shutdown is a function of the amount of fuel in the core and is not directly affected by core thermal power. The SLC pump test discharge pressure acceptance criteria are based on the lowest relief valve setpoint. The lowest setpoint is being increased by 30 psi (to 1106) due to power uprate. Operating with increased core flow will result in additional friction losses through the core and a slightly larger core differential pressure (approximately 4 psi). Therefore, increasing the SLC pump test discharge pressure acceptance criteria ensures the capability of SLC injection. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The ability of the SLC system to achieve and maintain safe shutdown is a function of the amount of fuel in the core and is not directly affected by core thermal power. Therefore, the proposed change does not result in a new or different kind of accident from any previously evaluated.

3. No. The ability of the SLC system to achieve and maintain safe shutdown is a function of the amount of fuel in the core and is not directly affected by core thermal power. As stated in the response to question 1 above, the SLC pump discharge pressure acceptance criteria are based upon the lowest relief valve setpoint. The lowest setpoint is being increased by 30 psi. As the SLC pumps are positive displacement pumps, the uprate will not adversely affect the performance of the pumps to achieve proper injection. Based on above, the proposed change does not result in a significant reduction in a margin of safety.

Specifications 3.2.2, 4.4.1.1.1.2, 4.4.1.1.2.5, 3.4.1.3 and Figure 3.4.1.1.1-1, Rated Core Flow References

Technical Specification 3.2.2 contains the definition of "W" for the flow biased APRM scram equation. The word "rated" is being deleted from the definition of "W" since rated core flow is being increased. The definition of "W" is not altered. The change is being made for editorial purposes.

Technical Specifications 4.4.1.1.1.1.2, 4.1.1.1.2.5, 3.4.1.3, and Figure 3.4.1.1.1-1 specify performance requirements and limits for the Reactor Recirculation System. These specifications are referenced to the current rated core flow. The references to "rated core flow" are being replaced with actual equivalent core flows. The specifications are equivalent and unchanged. This change is being made for editorial purposes to avoid confusion since rated core flow is being increased. These changes are also consistent with the changes made in Section 2.1.

1. No. The proposed changes are editorial and do not effect the probability or consequences of an accident previously evaluated.

2. No. The proposed changes are editorial and do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. The proposed changes are editorial and do not involve a significant reduction in a margin of safety.

Specification Table 3.3.1-1, Note (j) and Action 6, Reactor Protection System Instrumentation, and Table 3.3.4.2-1. Note b, End-of-Cycle Recirculation Pump Trip System Instrumentation

The turbine first stage pressure scram bypass at 30% power in Technical Specification Table 3.3.1-1, Note (j) and Table 3.3.4.2-1, Note (b) is revised to indicate that the uprated equivalent allowable value of first stage turbine pressure is 136 psig. This value ensures that the analytical limit of 147.7 psig, which represented 30% rated thermal power, is not exceeded.

As currently written Note (j), Note (b) and Table 3.3.1-1, ACTION 6 are unclear and could be misinterpreted. They apply only when RPS scram functions and End-of-Cycle Recirculation Pump Trip [EOC-RFT] on turbine main stop valves closure or control valve fast closure are not automatically bypassed. ACTION 6 provides no guidance in the event the bypass fails to lift when thermal power is above 30%. In the worst case, the action statement could be interpreted literally to allow full power operation with the RPS function still bypassed. Such operation would violate the licensing basis analysis for the MCPR operating limit (for the Generator Load Rejection Without Bypass transient), which takes credit for operation of the anticipatory scram on control valve fast closure at greater than 30% of rated thermal power.

1. No. The revisions to Table 3.3.1-1, ACTION 6, Table 3.3.1-1, Note (j), and Table 3.3.4-1 Note (b) clarify the current requirements; they do not change their intent.

FSAR Chapter 15 transient analyses and reload licensing analyses take credit for operation of the anticipatory scram function on turbine stop valve closure and control valve fast closure for power levels greater than 30% of rated thermal power. The proposed revision to Table 3.3.1-1, ACTION 6 provides better assurance of the availability of the anticipatory scram function, since the current specifications could be interpreted literally to allow full power operation with the RPS function bypassed.

The proposed revision to Table 3.3.1-1, Note (j) and Table 3.3.4.2-1, Note (b) does not change the operation of the RPS and EOC-RPT bypasses on turbine stop valve closure and control valve fast closure below 30% power. The turbine first stage pressure switches will still be calibrated in the same manner, and, by procedure, the reactor operator will not exceed 30% power if the trip bypass annunciator does not clear.

The setpoints for the RPS and EOC-RPT bypass functions were selected to allow sufficient operating margin to avoid scrams during low power turbine generator trips. As discussed in NEDC-31894P, Section F4.2(c) and in Section 5.1.2.8 of NEDC 31948P, this small absolute setpoint increase maintains the safety basis for the setpoint.

Based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The changes proposed are clarifications and do not change specification intent. The proposed change to Table 3.3.1-1, Action 6 provides better assurance of the availability of the anticipatory scram function as the specification could currently be interpreted to allow full power operation with the RPS function bypassed. The proposed changes to Table 3.3.1-1, Note (j) and Table 3.3.4-1, Note (b) do not change the operation of the RPS and EOC-RPT bypasses on turbine stop valve closure and control valve fast closure below 30% power. Therefore, the possibility for a new or different kind of accident is not created.

3. No. The proposed changes are clarification and do not change intent. Operation of the RPS and EOC-RPT bypasses on turbine stop valve closure and control valve fast closure below 30% power is not changed. Therefore, there is no reduction in the margin of safety.

Specification Table 3.3.2-2, Item 3.d, Main Steam Line Flow Differential Pressure Setpoint

The main steam line flow high differential pressure setpoint and allowable value are revised to read trip setpoint and allowable values of 113 psid and 121 psid respectively. Footnote ** was added to Table 3.3.2-2 to indicate that these values will be confirmed during the power uprate start-up testing. If

revisions to the setpoint and allowable value are required, they will be forwarded to the Commission for approval within 90 days of completion of the test program.

1. No. The main steam line flow high differential pressure setpoint changes reflect the redefinition of rated main steam line flow that occurs with power uprate. The allowable value is maintained at the same percentage of rated steam flow as the differential pressure changes due to the increased uprate steam flow. The analytical limit of 140% of uprated steam flow is maintained for the uprated analyses. The relationship between the allowable value and the analytical limit was retained to ensure that a trip avoidance margin is maintained for the normal plant testing of MSIV's and turbine stop valves. The increase in the absolute value of the trip setpoint still provides a high assurance of isolation protection for a main steam line break accident which satisfies the original intent of the design. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The increase in the absolute value of the trip setpoint still provides a high assurance of isolation protection for the main steam line break accident which satisfies the original intent of the design and, therefore does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. The increase in the absolute value of the trip setpoint still provides a high assurance of isolation protection for a main steam line break accident which satisfies the original intent of the design and, therefore, does not involve a significant reduction in a margin of safety.

Specification Table 3.3.2-2. Item 4.fl, Isolation Actuation Instrumentation Setpoints

The RWCU [Reactor Water Cleanup] system flow-high isolation trip setpoint and allowable value are being changed. System flow is being increased by 10% to maintain reactor coolant water chemistry at a level equal to pre[-]uprate levels. The isolation setpoint change is being made to adequately maintain operating margin between normal process values and the isolation setpoints.

1. No. The basis for the RWCU flow-high isolation is to ensure a RWCU System isolation in case of a pipe break. The high flow setpoint is set high enough to avoid spurious trips from normal operating transients but low enough to ensure an isolation during a pipe break. The proposed Technical Specification limits will result in a negligible reduction in the margin between the RWCU isolation setpoint and the 4350 gpm flow postulated during a RWCU line break and will avoid spurious isolations. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. As stated above, the proposed change will result in only a negligible reduction in the margin between the RWCU isolation setpoint while avoiding spurious isolation. Therefore, this change maintains the original design intent and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. See 1. above.

Specification Table 3.3.2-2, Items 5.a and 6.1, Isolation Actuation Instrumentation Setpoints

The HPCI and RCIC Steam Line Flow-High Technical Specifications are being changed to account for changes in steam conditions and flows that result from operation at the uprated conditions. The setpoint and allowable value for HPCI Steam Line Flow-High isolation are less than or equal to 387 inches H_2O and less than or equal to 399 inches H_2O respectively. The setpoint and allowable value for the RCIC Steam Line delta Pressure-High isolation are less than or equal to 138 inches H_2O and less than or equal to 143 inches H_2O respectively.

1. No. The bases for these setpoints are contained in the General Electric Design Specification Data Sheets for the HPCI and RCIC systems. The Design Specification Data Sheets specify that the setpoint and allowable value be set so that the isolation occurs at greater than 272% normal steam flow and less than 300% steam flow. General Electric has historically seen start-up transients as high as 272% of normal steam flow. Setting the isolation above this value prevents spurious isolations and ensures availability of the system and its safety function. Setting the isolation at less than or equal to 300% of normal flow insures that the isolation will occur if a steam line should rupture.

The original setpoints were calculated using information obtained during the Susquehanna start-up program. The revised setpoints and allowable values were calculated using the same start-up data and adjusted for uprate conditions in accordance with additional guidance provided in General Electric Information Letter (SIL) No. 475, Revision 2, NEDC-31336, "General Electric Setpoint Methodology," and GE Letter SPU-9378, "HPCI and RCIC Steam Line Break Detection Setpoints".

Based on the above approach, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The setpoint and allowable value are set so that isolation occurs at greater than 272% normal steam flow and less than 300% steam flow. Setting the isolation at less than or equal to 300% of normal flow ensures that the isolation will occur if a steam line rupture should occur. Therefore, no new events are postulated as a result of this change.

3. No. The proposed change does not involve a significant reduction in a margin of safety as the setpoint and allowable value are set to isolate at greater than 272% normal steam flow and less than 300% steam flow which are the setpoints contained in the General Electric Design Specification Data Sheets for the HPCI and RCIC systems.

*Specification Table 4.3.2.1-1, footnote "**"*

The footnote is being changed to delete reference to reactor pressure.

1. No. The original purpose of Footnote "**" to Technical Specification Table 4.3.2.1-1 was to describe the functioning of the permissive circuitry that allowed the MSIV low condenser pressure isolation to be bypassed. The original circuitry required the Mode Switch not be in Run, the Turbine Stop Valves closed, and reactor pressure to be above setpoint. In the start-up phase of the Susquehanna Units, General Electric deleted the reactor pressure setpoint input to the bypass circuitry. Therefore, this change is being made to make the footnote conform to the installed configuration. The revised footnote is the same as found in the BWR/4 Standard Technical Specifications (NUREG 1433). This change is editorial in nature and, therefore, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. Based on the response to Question 1 above, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. Based on the response to Question 1 above, the proposed change does not involve a significant reduction in a margin of safety.

Specification Table 3.3.6-2, Item 1.a and Specification 3.4.1.1.2.a.5.a, Rod Block Monitor Flow Biased Rod Blocks

The Rod Block Monitor (RBM) flow biased rod blocks are being changed as follows:

a. Technical Specification Table 3.3.6-2, Item 1.a is revised to read trip setpoint and allowable values of less than or equal to 0.63 W + 41% and less than or equal to 0.63 W + 43% respectively.

b. Technical Specification 3.4.1.1.2.a.5.a is being revised to read trip setpoint and allowable values of less than or equal to 0.63 W + 35% and less than or equal to 0.63 W + 37% respectively.

1. No. These Technical Specification changes do not represent a change from current limits. The change reflects the rescaling made necessary by the re-definition of rated thermal power.

The RBM flow biased rod blocks are used in the Rod Withdrawal Error (RWE) analysis. In order to maintain Critical Power Ratio (CPR) margins similar to previous Susquehanna cycles, the flow biased rod blocks were changed in terms of megawatts thermal but the change was not appreciable. The rescaling of the RBM flow biased rod block to reflect the re-definition of Rated Thermal Power maintains the same level of protection as previously provided. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. These changes do not represent a change from current limits but are rather a rescaling made necessary by the re-definition of rated thermal power.

3. No. These changes do not represent a change from current limits but are rather a rescaling made necessary by the redefinition of rated thermal power. The rescaling of the RBM flow biased rod block maintains the same level of protection as previously provided.

Specification Table 3.3.6-2, Item 2.a, Control Rod Block Instrumentation Setpoints

The APRM rod block upscale value has been changed to add a high flow clamp setpoint at 108% with a high flow clamped allowable value at 111%.

VOL 58 ISS 244 DEC 22 1993 UMI

1. No. The addition of the high flow clamp to the flow biased APRM rod block function maintains the normal margins between the rod block and the scram power levels in the increased core flow [ICF] regions. When the reactor core flow is greater than 100 million lbm/hr, the APRM clamp provides an alarm to help the operator avoid scrams while operating in the ICF region. This action does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. The changes maintain the normal margins between the rod block and the scram power levels in ICF regions. The clamp provides an alarm to avoid scrams in the ICF region.

3. No. The changes maintain the normal margins between the rod block and the scram power levels.

Specification Table 3.3.6-2, Item 6.a, Reactor Coolant System Recirculation Flow Upscale Rod Block Setpoint and Allowable Value Change

The reactor coolant system recirculation flow upscale rod block setpoint and allowable value are being increased to 114/125 divisions of full scale and 117/125 divisions of full scale respectively.

1. No. The Reactor Coolant System recirculation flow upscale rod block setpoint and allowable value are being increased to allow operation in the ICF region. The 114/125 divisions setpoint and 117/125 divisions allowable value, specified by General Electric, are based on BWR operating history.

The purpose of the Reactor Coolant System recirculation flow upscale rod block is to prevent rod movement when an abnormally high increase in reactor recirculation flow exists. An increase in reactor recirculation flow causes an increase in neutron flux that results in an increase in reactor power. However, this increase in neutron flux is monitored by the Neutron Monitoring System that can provide a rod block. No design basis accident or transient analysis takes credit for rod block signals initiated by the Reactor Coolant Recirculation System. Therefore, this change does not increase the probability or consequences of an accident previously evaluated.

2. No. Rod block signal initiation by the Reactor Coolant Recirculation System is not taken credit for in the mitigation of a design basis accident or in any transient analysis.

3. No. Rod block signal initiation by the Reactor Coolant Recirculation System is not taken credit for in any transient analysis or in the mitigation of a design basis accident.

Specification 4.4.1.1.1.2 and 4.4.1.1.2.5 Reactor Coolant System

The reactor recirculation pump motor generator set scoop tube electrical and mechanical overspeed stop setpoints are being increased to a core flow of 109.5 million lbm/hr. and 110.5 million lbm/hr., respectively.

1. No. The reactor recirculation pump motor generator set scoop tube stops are being increased to allow operation at core flows in the ICF region of up to 106 million lbm/hr.

The electrical stop is maintained above the maximum operating core flow and below the mechanical stop. The 109.5 million lbm/hr. electrical stop setpoint, specified by General Electric, is based on BWR operating history. The electrical stop is a system design feature and is not used in any safety analyses.

The 110.5 million lbm/hr. mechanical stop setpoint is used in transient analysis to limit core flow during a recirculation pump controller failure. The 110.5 million lbm/hr. mechanical stop setpoint, specified by General Electric, is also based on BWR operating history. The cycle specific analyses, performed for power uprate, used the 110.5 million lbm/hr. mechanical stop setpoint.

Based on the above, this change does not involve a significant increase of the probability or consequences of an accident previously evaluated.

2. No. Increasing the reactor recirculation motor generator set scoop tube electrical and mechanical overspeed stop setpoints is being done to allow operation at core flows in the ICF region up to 106 Mlbm/hr. The electrical stop setpoint is a design feature and is not used in any safety analysis. The mechanical stop setpoint is used in transient analysis to limit core flow during a recirculation pump controller failure. Changing of this setpoint was considered in appropriate transient analyses, and will not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. See 1. above. This change does not significantly reduce the margin of safety.

Specification Figure 3.4.1.1.1-1, Thermal Power Restrictions

This figure has been redrawn to reflect the new definition of Rated Thermal Power to retain the same stability operating restrictions in terms of megawatts thermal as were previously described by this graph.

1. No. The core thermal hydraulic stability curve and associated bases are maintained at the current rod lines and power levels. Those values are redefined to reflect the redefinition of rated thermal power. Since the current operating restrictions are maintained, power uprate has no detrimental effect on the level of protection provided by these Technical Specifications. This position is consistent with NEDC-31894P, Section 5.3.3 and with NEDC-31984P, Section 3.2.

2. No. The core thermal hydraulic stability curve and associated bases are maintained at the current rod lines and power levels. Those values are changed to reflect the redefinition of rated thermal power. Since the current operating restrictions are maintained, power uprate has no detrimental effect on the level of protection provided and does not create the possibility for a new or different kind of accident.

3. No. The core thermal hydraulic stability curve and associated bases are maintained at the current rod lines and power levels. Those values are redefined to reflect the redefinition of rated thermal power. Since the current operating restrictions are maintained, there is no detrimental effect on the level of protection provided, and therefore no significant decrease in any margin of safety.

Specifications 3.4.1.1.2.5, 3.4.1.1.2.6, Reactor Coolant System, Recirculation Loops -Single Loop Operation

Specification 3.4.1.1.2.5 is being renumbered to 3.4.1.1.2.6. A new specification 3.4.1.1.2.5 is being added to specify that a 0.70 LHGR [Linear Heat Generation Rate] multiplier has been added to Specification 3.2.4 when in single recirculation loop operation.

1. No. Operation with one recirculation loop out of service is allowed, but it is not considered a normal mode of operation. Single loop operation (SLO) is a special operational condition when only one of the two recirculation loops is operable. In this operating condition, the reactor power will be limited to less than 80% of rated by the maximum achievable core flow, which is typically less than 60% of rated core flow. A postulated LOCA [Loss of Coolant Accident] occurring in the active recirculation loop during SLO would cause a more rapid coastdown of the recirculation flow than would occur in two loop operation, where one active loop would remain intact. This rapid coastdown causes an earlier boiling transition and deeper penetration of boiling transition into the bundle, which tends to increase the calculated PCT [Peak Clad Temperature]. However, the PCT effects of early boiling transition are substantially offset by the mitigating effect of the lower power level achievable at the start of such an event. The SAFER/GESTR-LOCA analysis results for Susquehanna for SLO and two loop operation are well below 2200°F and are documented in NEDC-32064P-1, Revision 1, "Power Uprate with Increased Core Flow Safety Analysis for Susquehanna 1 and 2", GE Nuclear Energy, July 1993.

The ECCS [Emergency Core Cooling System] performance for Susquehanna under SLO was evaluated using SAFER/GESTR LOCA. Calculations for the DBA [Design Basis Accident] were performed using both nominal and Appendix K inputs. The SLO SAFER/GESTR-LOCA analysis for the DBA assumes that there is essentially no period of recirculation pump coastdown. Thus, dryout is assumed to occur simultaneously at all axial locations of the hot bundle shortly after initiation of the event. Dryout is assumed to occur in one second for the nominal case and 0.1 second for the Appendix K case. These assumptions are very conservative and provide bounding results for the DBA under SLO.

The two-loop Appendix K break spectrum documented in NEDC-32064P-1 is representative of SLO because the two-loop spectrum was analyzed assuming a one second dryout time for all axial locations of the hot bundle. As shown by the two-loop break spectrum, the DBA is the limiting case for SLO. With breaks smaller than the DBA, there is a longer period of nucleate and/or film boiling prior to fuel uncovery to remove the fuel stored energy.

An LHGR reduction (multiplier) of 0.70 will be imposed when the plant is in SLO. As shown in Table 5-6 of NEDC-32064P-1, the SLO results are less limiting (i.e., lower PCT's) than the results for the two loop DBA LOCA.

Thus, the licensing PCT is based appropriately on two loop operation rather than SLO.

2. No. The licensing PCT is based upon two loop operation rather than SLO, thus the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. Based on the response to Question 1 above, the proposed change does not involve a significant reduction in a margin of safety.

Specification 4.4.1.1.2.3 Reactor Coolant System

Footnote **** to this Specification is being changed to reference the power uprate startup test program.

1. No. This footnote provided a mechanism for changing the power limits specified if the results of the initial startup test program determined that it was necessary. The footnote is being modified to allow operation at uprated power with the present power limits. Should the power uprate startup test program determine a need to change the power limits they will be submitted to the Commission within 90 days as required by the revised footnote. This is consistent with the original BWR startup test program philosophy and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. See 1. above; this change is administrative in nature and does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. See 1. above; this change is administrative in nature and does not involve a significant reduction in a margin of safety.

Specification 3.4.2, Reactor Coolant System, Safety Relief Valves [SRV]

The safety relief valve specification is being changed to reduce the number of setpoint groups from 5 to 3. Two valves will be set at 1175 psig plus or minus 1%, 6 will be set at 1195 psig plus or minus 1%. Also, the number of Operable safety valves is being increased from 10 to 12.

1. No. This change does not increase the probability of occurrence of an accident previously evaluated as, with one exception, the accidents described in FSAR Sections 5.2.2, 7.2.3, 15.1, 15.2 and 15.3 do not document any cases where the SRV's are designated as the cause or initiator of an accident. The exception is inadvertent safety relief valve opening which results in a decrease in reactor coolant inventory and/or reactor coolant temperature. The revised setpoints and proposed groupings will not increase the probability of occurrence of this type of accident.

The change does not increase the probability of occurrence of a malfunction of equipment important to safety as previously evaluated in the FSAR. The margin between peak allowable pressure and the maximum safety setpoint is unchanged. The reactor vessel and components were evaluated for the setpoint change to assure continued compliance with the structural requirements of the ASME Code. Analysis was performed on the effects of the setpoint change for the design conditions, the normal and upset conditions and the emergency and faulted conditions. The increasing RPV dome pressure does not affect the design condition and, therefore, stresses remain unchanged.

The proposed change will also not adversely affect HPCI [High Pressure Coolant Injection] and RCIC [Reactor Core Isolation Cooling] system performance.

There is no indication that changed setpoints contribute to an increase in probability of SRV malfunction. Reduction in the simmer margin will be compensated for by more stringent leak test requirements during valve refurbishment.

2. No. This change does not involve any hardware changes or changes in system function. Relief and safety setpoints are only slightly increased and the maximum safety setpoint remains unchanged, thus the margin between peak allowable pressure and the setpoint remains unchanged.

3. No. The technical specifications were reviewed for margins of safety applicable to the components and systems affected by the change. Analysis has been performed that demonstrates that reactor pressure will be limited to within ASME Section III allowable values for the worst case upset transient. The margin of safety is inherent in the ASME Section III allowable pressure values.

Specification 3.4.3.2.d, Reactor Coolant System, Operational Leakage

This specification is being revised to indicate that the 1 gpm leakage rate limit currently applicable applies at the uprated maximum allowable pressure of 1035 psig.

1. No. The steam dome pressure for leakage is being increased by 35 psig to 1035 psig (reactor design pressure). This pressure is chosen on the basis of steam line pressure drop characteristics and excess steam flow capability of the turbine observed during plant operation up to the current rated power level. Increasing the leakage rate pressure to 1035 psig is consistent with the expected uprated operating pressure. Increasing the reactor steam dome pressure has been analyzed and found to be within allowable limits. Maintaining the leakage rate limit at 1 gpm does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. This change does not involve any hardware changes or change in safety function. The reactor steam dome pressure has been analyzed and found to be within allowable limits.

3. No. Maintaining [the] leakage the rate limit at 1 gpm is conservative and does not involve a reduction in the margin of safety.

Specifications 3.4.6.2 and 4.4.6.2 Reactor Coolant System, Reactor Steam Dome

The reactor steam dome pressure limits have been changed to 1050 psig.

1. No. Operating pressure for uprated power is increased by a minimum amount necessary to assure that satisfactory reactor pressure control is maintained. The operating pressure was chosen on the basis of steam line pressure drop characteristics and excess steam flow capability of the turbine observed during plant operation up to the current rated power level. Satisfactory reactor pressure control requires an adequate flow margin between the uprated operating condition and the steam flow capability of the turbine control valves at their maximum stroke. An operating dome pressure of 1032 psig is expected and is being assumed in the transient analyses. The 1050 psig limit was chosen to maintain an adequate level of operating flexibility while maintaining an adequate distance from the high pressure scram for trip avoidance. This limit is the initial pressure value used in the overpressure protection safety analysis for power uprate, for which all licensing criteria have been met. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. Based on the response to Question 1. above, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. As described in [Question] 1. above, the 1050 psig limit was chosen to maintain an adequate level of operating flexibility while maintaining an adequate distance from the high pressure scram. This limit is the initial pressure value used in the over pressure protection safety analysis for power uprate, for which all licensing criteria have been met. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Specification 4.5.1.b.3, Emergency Core Cooling Systems

This specification has been revised to permit a test line pressure for the flow surveillance of greater than or equal to 1140 psig at nominal reactor operating conditions.

1. No. Currently, the HPCI pump test acceptance criteria discharge pressure is greater than or equal to 1266 psig. This is based, in part, on the lowest SRV setpoint of 1146 psig plus a 1% tolerance and line flow losses. For this test, the HPCI turbine is supplied with steam at the nominal operating reactor pressure of 920 +140/-20 psig. Therefore, the test requires the HPCI pump/turbine to produce an output that exceeds that which would be commensurate with the input conditions. Stated differently, HPCI would be required to develop a pump discharge pressure associated with a steam dome pressure of 1187 psig (1175 plus or minus 1% psig), while being supplied with a steam dome pressure as low as 900 psig.

The purpose of this specification is to demonstrate that the system is capable of producing the required flow at the required pressure. The concern with this approach is that while it demonstrates the required capability by achieving the actual Technical Specification value, it requires the pump turbine to "over perform". It also reduces the margin available to compensate for normal wear and tear [that] occurs and is monitored under the ASME Section XI Pump and Valve Test Program. Power uprate will be further increasing the demand because of the increase in reactor steam dome pressure.

The intent of Surveillance 4.5.1[.]b.3 is to demonstrate that the HPCI System will produce its design flow rate at an expected reactor pressure during a LOCA. Confirmation of the capability to achieve the required flow and pressure can be satisfactorily demonstrated without requiring the pump/turbine to "over perform". This can be done by producing the nominal operating design pressure from the pump with steam supplied to the turbine at nominal reactor operating pressure. From these conditions extrapolation via pump affinity laws will show the pump discharge pressure that would be developed at emergency reactor operation conditions (i.e. lowest SRV setpoint). This value could then

VOL 58 ISS 244 DE 22 1993 UMI

be compared to the calculated value required for assuring adequate core cooling in both SSES [Susquehanna Steam Electric Station] specific and generic evaluations. The HPCI System has been evaluated and shown to be capable of achieving the required pressure and flow conditions for power uprate.

Applying the method of pump affinity laws, the new Technical Specification pump discharge pressure would become greater than or equal to 1140 psig. This value is determined based on the maximum allowable test steam dome pressure of 920 + 140 = 1060 psig, plus head losses. Through the use of pump affinity laws it has been shown by calculation that achieving a value of 1140 psig at nominal reactor operating conditions will produce the required flow and pressure during emergency conditions.

Therefore, the Technical Specification HPCI pump discharge pressure at power uprate conditions is changed to greater than or equal to 1140 psig.

2. No. The methodology and the supporting change described above in the response to Question 1 above do not alter the function nor the operation of the HPCI system. Therefore, they do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. No. The methodology and the supporting change described above in response to Question 1 do not involve a significant reduction in a margin of safety.

Specification 5.4.2, Design Features, Reactor Coolant System, Volume

This specification is being changed to show that the nominal T_{ave} is being changed from 528°F to 532°F. This change is being made to reflect the higher average saturation temperature that results from a 30 psi increase in reactor design pressure.

1. No. The effects of power uprate have been evaluated to ensure that the increase in system temperatures causes minor increases in thermal loadings on pipe supports, equipment nozzles, and in-line components. The results of analyses show that at uprated conditions all ASME components will satisfy design specification requirements and code limits when evaluated to the rules of Subsection NB-3600 of the ASME Boiler and Pressure Vessel Code Section III. The effects of thermal expansion as a result of power uprate were found to be insignificant. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. No. Increases in system temperatures as a result of power uprate have been evaluated to show that increase in thermal loadings on pipe supports, equipment nozzles and in-line components are minor. Analysis shows that at all uprated conditions all ASME components will satisfy design specification requirements and code limits when evaluated to the rules of subsection NB-3600 of Section IV to the Boiler and Pressure Vessel Code. The effects of power uprate with respect to thermal expansion were found to be insignificant and, therefore, not found to create the possibility of a new or different kind of accident.

3. No. As stated above, the effects of thermal expansion as a result of power uprate were found to be insignificant. Consequently, the nominal increase in T_{ave} does not involve a significant reduction in a margin of safety.

Specification Table 5.7.1-1, Component Cyclic or Transient Limits

This specification is being changed to raise the upper limit for a heat cycle from 546°F to 551°F. This change is being made to reflect the higher average saturation temperature that results from a 30 psi increase in reactor design pressure.

1. No. The purpose of this specification is to limit the number of heatup and cooldown cycles. The effects of power uprate have been evaluated to ensure that the reactor vessel components continue to comply with the existing structural requirements of the ASME Boiler and Pressure Vessel Code. The analyses were performed for the design, normal, upset, emergency and faulted conditions. The increase in the temperature limitation is not significant with respect to the affect it has upon the RPV and associated components.

2. No. The effects of uprating power have been evaluated for the design, normal, upset, emergency and faulted conditions to ensure that the reactor vessel components continue to comply with the existing structural requirements of the ASME Boiler and Pressure Vessel Code. The increase in the temperature limitation has been found not to be significant and, therefore, does not create the possibility of a new or different kind of accident from any previously evaluated.

3. No. This specification is intended to limit the number of heatup/cooldown cycles. The increase in the temperature limitation has not been found to be significant with respect to its effects upon the RPV and its associated components and, therefore, does not significantly reduce the margin of safety.

Specification 6.9.3.2, Core Operating Limits Report

Administrative Control Section 6.9.3.2 describes and lists topical reports that are used to determine core operating limits. Topical reports 15 through 19 are LOCA methodology reports and are being deleted. These reports describe Siemens LOCA methodology. As stated in Reference 1 [See application reference list], the GE SAFER/GESTR LOCA methodology is being used for this uprated cycle. In addition, other minor methodology changes were made for power uprate transient analysis. GE topical report NEDC-32071P, PP&L topical report NE-092-001 (when approved), and the NRC Safety Evaluation Report on the PP&L power uprate licensing topical (when issued) are proposed to be added as Topical Reports No. 15, 16, and 17, respectively.

1. No. These changes are editorial in nature in that only the references to documents are being changed. The methodology used to determine core limits have been previously reviewed and approved by the NRC.

2. No. See the response to Question 1 above.

3. No. See the response to Question 1 above.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Larry E. Nicholson, Acting

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: November 30, 1993

Description of amendment request: The amendment would allow a one-time 15-month extension of the 40 +/- 10-month interval between the Unit 1 second and third Type A test (i.e., Containment Integrated Leakage Rate Test (CILRT)) required by TS Surveillance Requirement 4.6.1.2.a (i.e., the proposed total interval would be 65 months). This proposed TS change and exemption would allow the third Type A test to be performed during the sixth Unit 1 refueling outage scheduled to begin in January 1996, thereby coinciding with the 10 year plant inservice inspection (ISI) refueling outage, instead of requiring the performance of a Type A test during both the fifth and sixth Unit 1 refueling outages. This one-time extension of the Type A test interval would also result in the third Type A test being performed 20 months after the end of the Unit 1 first 10-year service period specified in 10 CFR Part 50, Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Reactors" (i.e., August, 1994). In this way the third Type A test would be performed during the sixth Unit 1 refueling outage which would align the start of the second 10 CFR Part 50, Appendix J, 10-year service period with the start of the second 10-year ISI period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications (TS) change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The accidents which are potentially negatively impacted by the proposed change are any Loss of Coolant Accident (LOCA) inside primary containment as described in the Limerick Generating Station (LGS) Updated Final Safety Analysis Report (UFSAR), section 15.6.5, with or without offsite power available.

The proposed change increases the surveillance interval of the 10 CFR 50, Appendix J Type A test (i.e., Containment Integrated Leakage Rate Test (CILRT)) from a maximum of 50 months currently allowed by TS Surveillance Requirement 4.6.1.2.a to 65 months. This test is performed to determine that the total leakage from containment does not exceed the maximum allowable primary containment leakage rate (i.e., designated La) at a calculated peak containment internal pressure (Pa), as defined in 10CFR50, Appendix J. The primary containment limits the leakage of radioactive material during and following design bases accidents in order to comply with the offsite dose limits specified in 10CFR100. Accordingly, the primary containment is not an accident initiator, it is an accident mitigator. No physical or operational changes to the containment structure, plant systems, or components would be made as a result of the proposed change. Therefore, the probability of occurrence of an accident previously evaluated is not increased.

The failure effects that are potentially created by the proposed ont-time TS change have been considered. The relevant components important to safety which are potentially affected are the containment structure, plant systems, and containment penetrations. There are no physical or operational changes to any plant equipment associated with the proposed TS change. Therefore, the probability or consequences of a malfunction of equipment important to safety is not increased.

The proposed change introduces the possibility that primary containment leakage in excess of the allowable value (i.e., La) would remain undetected during the proposed 15 month extension of the interval between the second and third Type A test. The types of mechanisms which could cause degradation of the primary containment can be categorized into two types. These are degradation due to work which is performed as part of a modification or maintenance activity (i.e., activity-based), or degradation resulting form a time-based failure mechanism.

To address the potential for degradation due to an activity-based mechanism, we have performed a review of all Unit 1 modifications since the last time the Unit 1 CILRT was performed (i.e., during the third Unit 1 refueling outage) and determined that no modifications were performed which could adversely impact the CILRT boundary. Furthermore, strict administrative controls on maintenance activities are in place at LGS, such as the controls on post maintenance testing (PMT) that ensures that nay maintenance activity which affects a primary containment penetration is local leak rate tested after the activity. Finally, we have performed a review of all modifications that are scheduled to be performed during the upcoming fifth Unit 1 refueling outage, and determined that either these modifications will either not impact the boundaries which would be tested during a CILRT, or the as-modified configuration will be adequately tested to ensure there is no degradation of the primary containment. Based on a review of the plant modifications performed and the administrative controls at LGS, we have concluded that there has not been and will be no work performed on the primary containment that would potentially result in the degradation of the primary containment.

To address the potential for primary containment degradation due to a time-based mechanism, the information obtained from additional testing programs was considered. We have concluded that the LGS Local Leak Rate Test (LLRT) program would identify most types of penetration leakage. The LLRT program involves measurement of leakage from Type B and Type C primary containment penetrations as defined in 10CFR50, Appendix J.

The 10CFR50, Appendix J, Type B tests are intended to detect local leaks and to measure leakage across pressure containing or leakage-limiting boundaries other than valves, such as containment penetrations incorporating resilient seals, gaskets, expansion bellows, flexible seal assemblies, door operating mechanism penetrations that are part of the containment system, doors, and hatches. 10CFR50, Appendix J; Type C testing is intended to measure reactor system primary containment isolation valve leakage rates. The frequency of the Type B and Type C testing is not being altered by the proposed TS change. The acceptance criterion for Type B and Type C leakage is 0.6 La (i.e., 0.3%wt/day) which, when compared to the Type A test acceptance criterion of 0.75 La (i.e., 0.375% wt/day), is a significant portion of the Type A test allowable leakage.

The proposed TS change only extends the interval between two consecutive Type A tests. The Type B and Type C tests will be performed as required. The Type B and Type C tests will continue to be used to confirm that the containment isolation valves and penetrations have not degraded. The CILRT boundary includes the containment structure and the piping from the containment penetration to the first isolation valve. This piping includes some flanged connections which are not tested as part of the LLRT program. The piping system with flanged connections is part of the Containment Atmosphere Control (CAC) system and is not included in the LLRT program. The risk of gasket degradation in these flanged connections is judged to be negligible based on the fact that they are mechanical joints which are seismically supported and operate at low pressure and temperature conditions. Under these service conditions, gaskets are not found to degrade, and are considered to last the life of the plant unless the joint is subjected to maintenance activities. The other containment system components that would not be tested are the containment structure itself and small diameter instrumentation lines. Time-based degradation of any of the instrumentation lines would most likely be identified by faulty instrument indication or during instrument calibrations that will be performed during the fifth Unit 1 refueling outage. In examining the potential for a time-based failure mechanism that could cause significant degradation of the containment structure, we concluded that the risk, if any, of such a mechanism is small since the design requirements and fabrication specifications established for the containment structure are in themselves adequate to ensure containment leak tight integrity.

Based on the above evaluation, we have concluded that the proposed TS change will have a negligible impact on the consequences of any accident previously evaluated. To support this conclusion, a review of the Unit 1 CILRT history was performed. As summarized below, this review identified that the only failure mechanisms that have been detected during the past CILRTs are activity-based, and that there is no indication of any time-based degradation that would not be identified during performance of Type B and Type C tests.

The Unit 1 pre-operational CILRT performed in August 1984 resulted in a total time leakage rate of 0.255% wt/day compared to an acceptance criterion of 0.375% wt/day. The first post-operational Unit 1 CILRT was performed in August 1987. During this CILRT, the leakage rate stabilized at approximately 1.0% wt/day which failed to meet the TS acceptance criterion of 0.375% wt/day. Investigation revealed packing gland leaks on nine CAC system valves and that this CILRT failure was attributed to these packing gland leaks. The leaks were found to be the result of a modification that replaced bearings on containment purge and vent valves. Local leak rate testing did not reveal these leaks since the packing glands were not included in the test boundary. The CAC valves were repaired and the CILRT was performed again and successfully passed with a measured leakage rate of 0.178% wt/day compared to the TS acceptance criterion of 0.375% wt/day. Accordingly, the failure of the initial CILRT was an activity-based failure and not a time-based failure. The configuration of the CAC valves was subsequently modified so that the LLRT would identify any packing leaks in the future. In addition, all containment inboard isolation valves that are located outside containment (i.e., the same configuration as the CAC valves) were reviewed and modified as necessary to ensure that the packing would be subject to LLRT pressure.

The results of the second CILRT performed in November 1990 was 0.334% wt/day compared to the acceptance criterion of 0.375% wt/day. We attribute the majority of the measured leakage to Type B and Type C containment boundaries since the containment structure was not altered in any fashion. This conclusion is consistent with the industry data presented by the Nuclear Management and Resources Council (NUMARC) at the NRC Workshop Session on Appendix J Containment Integrated Testing held April 27, 1993.

Although this review concluded that the risk of undetected primary containment degradation is not increased, the Individual Plant Examination (IPE) for LGS, Units 1 and 2, was also reviewed in order to assess the impact of exceeding the primary containment allowable leakage rate, if a non-mechanistic

VOL 58 ISS 244 DEC 22 1993 UMI

activity type (i.e., time-based) failure were to occur. The IPE included an evaluation of the effect of various containment leakage sizes under different scenarios. The IPE results showed that a containment leakage rate of 35% wt/day would represent less than a 5% increase in risk to the public of being exposed to radiation. This evaluation was based on a study performed by Oak Ridge National Laboratory that evaluated the impact of leakage rates on public risk. As stated earlier, the current value of La for LGS, Unit 1, is 0.5% wt/day, which is significantly less than the 35% wt/day used in the IPE evaluation.

Therefore, the proposed TS change involving a one-time extension of the Type A test interval and performing the third Type A test after the first 10 year service period will not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change is an increase of a surveillance test interval and does not make any physical or operational changes to existing plant systems or components. Primary containment acts as an accident mitigator not initiator. Therefore, the possibility of a different type of accident than any previously evaluated or the possibility of a different type of equipment malfunction is not introduced.

Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS change does not involve a significant reduction in a margin of safety.

The total primary containment leakage rate ensures that the total containment leakage volume will not exceed the value assumed in the safety analyses at the peak accident pressure. As an added conservatism, the measured overall leakage rate is further limited to less than or equal to 0.75 La during performance of periodic tests to account for possible degradation of the containment leakage barriers between leakage tests. There is the potential that containment degradation could remain undetected during the proposed 15 month surveillance interval extension and result in the containment leakage exceeding the allowable value assumed in safety analysis. However, the potential primary containment degradation mechanisms due to activity-based and time-based causes has been reviewed as described above. This review concluded that there has not been any alterations or challenges to primary containment since the last Type A test, nor will there be any future maintenance activities during the proposed extended test interval which will adversely affect primary containment leakage rates without implementation of strict administrative controls that require the performance of individual local leak rate testing. Also, scheduled modifications during the proposed extended test interval were reviewed and we have concluded that these modifications do not have the potential to adversely affect the primary containment boundary. This review found that the risk of a non-detectable increase of primary containment leakage is considered to be negligible due to the conclusion that 10CFR50, Appendix J, Type B and Type C testing will identify most of the containment leakage and the LGS Type B and Type C testing program will continue to be conducted through-out the proposed extended test interval. Finally, this review assessed the results of previous Unit 1 CILRT results and concluded that the only failure mechanisms which have been detected during the past CILRTs are activity-based and that there is no indication of time-based failures that would not be identified during the performance of Type B and Type C tests. Therefore, we have concluded that the proposed extended test interval would not result in a non-detectable Unit 1 primary containment leakage rate in excess of the allowable value (i.e., 0.5% wt/day) established by the TS and 10CFR50, Appendix J.

Therefore, the proposed TS change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Larry E. Nicholson, Acting

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: November 17, 1993

Description of amendment request: The licensee requested an amendment to the Technical Specifications (TSs) to revise the instrument settings and associated requirements listed below:

(1) The licensee proposed changing the overpressure protection system (OPS) actuation curve (TS Figure 3.1.A-3) to make the curve based on instrument calibration "allowable values" instead of the current "setting limits."

(2) The licensee proposed changing the minimum refueling water storage tank (RWST) water volume and low level alarm settings (specified in TS Section 3.3.A) to make the indicated volume and alarm settings based on instrument calibration "allowable values" instead of the current "setting limits."

(3) The licensee proposed increasing the RWST level indicating switch calibration frequency (specified in TS Table 4.1-1) from once every 18 months to once every 6 months.

(4) The licensee proposed changing the control room ammonia and chlorine toxic gas instrument settings (specified in TS Section 3.3.H) to make the instrument settings based on instrument calibration "allowable values" instead of the current "setting limits."

(5) The licensee proposed changing the containment pressure high and high-high engineered safety features instrument settings (specified in TS Table 3.5.1) to make the instrument settings based on instrument calibration "allowable values" instead of the current "setting limits."

(6) The licensee proposed changing the main steam flow engineered safety features instrument settings (specified in TS Table 3.5.1) to make the instrument settings based on instrument calibration "allowable values" instead of the current "setting limits."

In addition, the licensee is revising the Bases for protective instrumentation limiting safety system settings (specified in TS Section 2.3) to clarify the description on constants K_1 through K_6 which are used in the overtemperature delta-temperature and overpower delta-temperature settings.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the criteria of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response:

The proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

The changes proposed include altering the minimum required volume and low level alarm "allowable values" for the RWST (and associated basis), and the calibration requirements for the low level alarms. The RWST changes do not involve any hardware changes to the plant (although the field settings of the low level alarms will be changed), nor do they alter the way the emergency core cooling system (ECCS) equipment functions; therefore, these changes will not increase the possibility of an accident. The injection of borated refueling water into the reactor coolant system and

containment post-accident is a safety-related function designed to mitigate the consequences of an accident. Analyses have shown that all necessary RWST volume requirements continue to be met, so the consequences of a postulated LOCA [loss-of-coolant accident] are not affected. The decrease in the alarm calibration frequency for the indicating switch is intended to ensure that the switch can maintain the required alarm setpoint range.

The new "allowable values" for high and high-high containment pressure, high steam flow, and the OPS [overpressure protection system] actuation curve do not necessitate any physical changes to the plant. The system functions are not being altered. The proposed Tech. Specs. are "allowable values," based on loop accuracy calculations. The "allowable values" meet the assumptions made in the safety analysis.

Consistent with the other changes, the Tech. Spec. values for the ammonia and chlorine toxic gas monitors are being made the limiting "as-found" conditions ("allowable values"), to allow the field settings to be lower than the Tech. Spec. values. The system functions are not being altered.

The title changes for [TS] Table 3.5-1, and [TS] section 3.5 basis changes, are consistent with the Tech. Spec. changes, clarifying that the numbers in the table are "allowable values." The change to the basis of [TS] section 2.3 is an administrative change only. The basis is being changed to clarify that some of the constants used to determine overtemperature delta-temperature and overpower delta-temperature are trip setpoints, some are analytical limits, and historical statements are being deleted.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response:

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated. The changes propose to alter the RWST minimum required volume and low level alarm "allowable values" (and basis), the calibration requirements for the low level alarm, and the Tech. Spec. "allowable values" for containment pressure (high and high-high), high steam flow, and the OPS actuation curve. The changes do not necessitate any hardware changes to the plant (although the field settings of the RWST low level alarms will be changed), nor do they alter the way the ECCS functions. The RWST will continue to serve its safety-related purposes. All RWST volume requirements will continue to be met, so the changes will not cause the initiation of any new accident nor create any new credible limiting single failure. For containment pressure, steam flow, and the OPS curve, the proposed settings are "allowable values," based on loop accuracy calculations. The proposed "allowable values" meet the assumptions made in the safety analysis. Specifying "allowable values" for the ammonia and chlorine toxic gas monitors is consistent with the other changes, and will allow the field settings to be lower than the Tech. Spec. values; the system function is not being altered. The title changes for [TS] Table 3.5-1, and the [TS] section 3.5 basis changes, are consistent with the Tech. Spec. changes, clarifying that the numbers in the table are "allowable values." The change to the basis of [TS] section 2.3 is an administrative change only. The basis is being changed to clarify that some of the constants used to determine overtemperature delta-temperature and overpower delta-temperature are trip setpoints, some are analytical limits, and historical statements are being deleted.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed changes do not involve a significant reduction in a margin of safety. The changes for the RWST level and low level alarm "allowable values" will ensure that the alarm settings can be maintained by the currently installed instruments. (The alarm associated with the indicating switch will be required to be calibrated every 6 months.) Analyses have show that all applicable RWST volume requirements (for CS [containment spray] pump protection, and the injection and recirculation phases of a LOCA, including the largest channel uncertainties) will continue to be met. The apparent reduction in the margin cited in the current Tech. Spec. basis (13,370 gals.) reflects the change in methodology used to calculate the required volumes and account for instrument uncertainties. Using current setpoint calculation methods, the new calculations are more conservative than the original calculations because the largest total channel uncertainty (26,000 gals.) is included twice (once in conjunction with the CS pump cavitation prevention volume and once in conjunction with the minimum volume for recirculation), and uncertainty is also added in determining the Tech. Spec. minimum required RWST volume of 342,200. In total, the current calculation includes approximately 55,700 gals. of instrument uncertainty. The current calculation includes a margin of about 1,129 gallons.

The changes to the "allowable values" for high and high-high containment pressure, high steam flow, and the OPS actuation curve will ensure that adequate operational margin is maintained between the field trip setting and the Tech. Spec. "allowable value," while also ensuring adequate margin between the "allowable value" and the assumptions made in the safety analysis. The change for the toxic gas monitors will allow adequate margin between the Tech. Spec. "allowable values" and the field settings.

The title changes for [TS] Table 3.5-1, and the [TS] section 3.5 basis changes, are consistent with the Tech. Spec. changes, clarifying that the numbers in the table are "allowable values." The change to the basis of [TS] section 2.3 is an administrative change only. The basis is being changed to clarify that some of the constants used to determine overtemperature delta-temperature and overpower delta-temperature are trip setpoints, some are analytical limits, and historical statements are being deleted.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: October 26, 1993

Description of amendment request: The amendment request would revise Hope Creek Generating Station Technical Specifications Table 3.3.7.5-1, Accident Monitoring Instrumentation, and Section 3/4.6.2.1, Suppression Chamber.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of the Hope Creek Generating Station (HCGS) in accordance with the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve a physical or procedural change for any structure, component, or system that affects the probability or consequences of any accident or malfunction of equipment important to safety previously evaluated in the Updated Final Safety Analysis Report (UFSAR). The proposed change will, in agreement with the Improved GE BWR/4 Standard TS, require a minimum of one (1) channel operable for the suppression pool water temperature instrumentation in TS Table 3.3.7.5-1 and remove duplicative and unnecessary ACTIONs and Surveillances from TS 3.6.2.1. Additionally, in the event that the minimum channel requirement is not met (for accident monitoring instruments which correspond to accident monitoring instruments in the GE BWR/4 STS) the changes would require that at least the minimum number of required channels be restored to OPERABLE conditions in a reasonable time, as defined by the improved STS. These changes would eliminate the present disparity between the subject TS sections and make the ACTIONs for other accident monitoring instruments agree with the Improved BWR/4 STS - thereby ensuring clarity and consistency between the specifications. Since these proposed revisions will neither significantly modify, nor degrade, accident monitoring capabilities, they will not affect the

VOL
58
ISS
244
DE
22
1993
UMI

consequences or probability of occurence of any accident or malfunction of equipment important to safety.

2. The operation of the Hope Creek Generating Station (HCGS) in accordance with the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

There are no physical changes to the plant or to the manner in which the plant is operated involved in the proposed revision. Therefore, no new or different kind of accident is created by the proposed change.

3. The operation of the Hope Creek Generating Station (HCGS) in accordance with the proposed change does not involve a significant reduction in a margin of safety.

The proposed revision will, by making the affected TS agree with the Improved BWR/4 STS, add clarity and consistency to the specifications and will have no significant impact upon margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Larry E. Nicholson, Acting

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: September 29, 1993 (TS 341)

Description of amendment request: The proposed amendment would apply the latest ASTM standards to requirements for laboratory analysis of charcoal adsorbers used to remove radioactive iodine from the Standby Gas Treatment, Control Room Emergency Ventilation, and Primary Containment Purge systems air streams.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed deletion of the test conditions for carbon sample analysis does not reflect any significant change to any precursor for the design basis events or operational transients that are analyzed in the Browns Ferry Final Safety Analysis Report. Therefore, the probability of an accident previously evaluated is not significantly increased.

The proposed removal of the test conditions for carbon sample analysis will allow a more realistic test to be performed on the adsorber trays. This will result in a more realistic estimate of the charcoal removal efficiency. [The licensee claims that the current prescribed conditions can yield erroneously high removal efficiency measurements.] Therefore, the proposed changes will not significantly increase the consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The purpose of the adsorber trays is to remove radioactive iodine from the air streams. The adsorber trays are used to mitigate the consequences of an accident or to reduce the quantity of process effluents being released to the environment. The proposed removal of the test conditions for carbon sample analysis of the charcoal in the adsorber trays does not require new system alignment, modification, or changes in operating procedures. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed removal of the test conditions for carbon sample analysis of the charcoal in the adsorber trays does not represent a change in the licensing or design basis removal efficiency for the trays. The proposed removal of the test conditions for carbon sample analysis will allow a more realistic test to be performed on the adsorber trays. This will result in a more realistic estimate of the charcoal removal efficiency. [As noted above, the licensee claims the current prescribed method can yield erroneously high removal efficiency measurements.] Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Mr. Frederick J. Hebdon

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: September 30, 1993 (TS 336)

Description of amendment request: The proposed amendment would revise and clarify the spent fuel pool water level, temperature, sampling, and analysis surveillance requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed revisions to the spent fuel pool water level, temperature, and sampling and analysis Surveillance Requirements do not change operations over the spent fuel pool or any other precursor to fuel damage in the spent fuel pool. The proposed amendment does not reflect any significant change to any precursor for any other design basis events or operational transients that are analyzed in the Browns Ferry Final Safety Analysis Report. Therefore, the probability of an accident previously evaluated is not significantly increased.

The proposed revisions to the spent fuel pool water level, temperature, and sampling and analysis Surveillance Requirements do not reflect the modification of equipment or change the operation of equipment used to mitigate the consequences of design basis events or operational transients analyzed in the Browns Ferry Final Safety Analysis Report. Therefore, the proposed changes will not significantly increase the consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revisions to the spent fuel pool water level, temperature, and sampling and analysis Surveillance Requirements do not require new system alignments, modifications, or changes in operating procedures. Therefore, no new external threats, system interactions, release pathways, equipment failure modes, or types of operator errors are created. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed revisions to the spent fuel pool water level, temperature, and sampling and analysis Surveillance Requirements do not change the licensing or design basis limits for the spent fuel pool water level, temperature, or chemical composition. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Mr. Frederick J. Hebdon

Tennessee Valley Authority (TVA), Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant (BFN), Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: October 7, 1993 (TS 313)

Description of amendment request: The proposed amendments would incorporate the high range primary containment radiation monitors and recorders and the wide range gaseous effluent radiation monitor and recorder, which were installed at the Browns Ferry facility in response to requirements specified in NUREG 0737, "Clarification of TMI Action Plan Requirements," into the Technical Specifications (TS) for Units 1 and 3. Similar changes to the Unit 2 TS were issued previously (Amendment Nos. 125 and 171). Additionally, the proposed amendments clarify the Unit 2 TS to show that the high range primary containment radiation monitoring instrument loops contain both monitors and recorders. Currently, only the recorders in these instrument loops are listed in the Unit 2 TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed addition of the high range primary containment radiation monitors and recorders represents an additional control not presently included in the BFN Units 1 and 3 TSs. The proposed change [sic] are made in order to meet a TVA commitment to install this instrumentation prior to restart of each BFN unit. This new instrumentation will help to monitor post-accident conditions and will not result in any new modes of plant operation. The addition of this instrumentation for BFN Units 1 and 3 does not affect the probability of occurrence of any accident previously evaluated. In addition, Unit 3 specific calculations support the high range primary containment radiation monitors [sic] calibration frequency of once [per] 18 months. Unit 1 calculations will be performed prior to its restart to confirm its calibration frequency.

The proposed addition of the wide range gaseous effluent radiation monitor and recorder to the TS does not involve any physical plant modifications, since it only adds appropriate operability, surveillance and reporting requirements for the existing instrumentation. The proposed technical specifications meet the intent of recommendations in Generic Letter 83-36, "NUREG-0737 Technical Specifications." The proposed change for Unit 2 is an administrative change which adds/corrects instrument type and instrument numbers. Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed addition to the plant of the high range primary containment radiation monitors and recorders will enhance the post-accident monitoring capability in the primary containment. This new instrumentation does not initiate trips of safety systems or equipment. There are no new modes of plant operation added as a result of this change. In addition, Unit 3 specific calculations support the high range primary containment radiation monitors [sic] calibration frequency of once [per] 18 months. The proposed addition of the wide range gaseous effluent radiation monitor and recorder to the TS does not involve any physical plant modification since it only adds appropriate operability, surveillance and reporting requirements for the existing instrumentation. The proposed change for Unit 2 is an administrative change which adds/corrects instrument type and instrument numbers. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change adds controls that are not presently in the technical specifications for BFN Units 1 and 3. These same controls were implemented in the Unit 2 TS prior to restart of that unit. The changes enhance the capability for monitoring and recording post-accident radiation levels in the primary containment and noble gas effluent releases. In addition, Unit 3 specific calculations support the high range primary containment radiation monitors [sic] calibration frequency of once [per] 18 months. Unit 1 calculations will be performed prior to its restart to confirm its calibration frequency. The proposed change for Unit 2 is an administrative change which adds/corrects instrument type and instrument numbers. Therefore, the proposed changes do not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Mr. Frederick J. Hebdon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: November 19, 1993

Description of amendment request: The proposed changes would revise the Technical Specifications (TS) for the North Anna Power Station, Units No. 1 and No. 2 (NA-1&2). Specifically, the changes would allow the use of solid rods of zirconium alloy or stainless steel filler rods to replace fuel rods which have been identified as failed. Also, the changes would delete the individual fuel rod uranium weight limit.

On occasion, failure of individual fuel rods within the assemblies of the core may occur. These fuel rod failures may occur during routine operation of the plant or during movement of fuel assemblies. The current practice at NA-1&2 is to not reload fuel assemblies which are known to contain failed fuel rods, as the cladding defects of such rods allow fission products to be released to the primary coolant. However, by replacing failed fuel rods with solid filler rods made from stainless steel or zirconium alloy, fuel assemblies which have been prematurely discharged because of the presence of the failed rods can safely be reused.

Because the Design Features section of the TS currently precludes the use of fuel assemblies containing solid filler rods, changes to the Design -Features section of the TS are being requested. The changes would allow the use of solid stainless steel or zirconium alloy filler rods in place of fuel rods which are known to be failed, and also remove the current fuel rod uranium weight limit of 1780 grams.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

VOL 58 ISS 244 DE 22 1993 UMI

Specifically, the operation of North Anna Power Station in accordance with the Technical Specifications changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. All North Anna fuel assemblies will continue to meet the same fuel assembly and fuel rod design bases as the current fuel assemblies. In addition, the 10 CFR 50.46 criteria (acceptance criteria for emergency core cooling systems) will continue to be satisfied for all fuel assemblies. Neither the use of reconstituted fuel assemblies nor the removal of the fuel rod uranium weight limit will result in a change to the North Anna Units 1 and 2 reload design and safety analysis limits. Since the dose predictions in the safety analyses are not sensitive to the presence of solid stainless steel or zirconium alloy filler rods in the fuel assemblies, or to variations in individual fuel rod uranium weights, the radiological consequences of accidents previously evaluated in the safety analyses remain valid. Therefore, neither the probability of occurrence nor the consequences of any accident previously evaluated is significantly increased.

2. Create the possibility of a new or different kind of accident from any previously identified, since all North Anna Units 1 and 2 fuel assemblies will continue to satisfy the same design bases used for previous fuel regions. Since the original design criteria are being met, initiators for any new accident have not been introduced. All design and performance criteria will continue to be met for both the use of reconstituted assemblies containing solid stainless steel or zirconium alloy filler rods, and for removal of the individual rod uranium weight limit. No new single failure mechanisms have been created, and the use of this fuel does not involve any alteration to plant equipment or procedures which would introduce any new or unique operational modes or accident precursors. Therefore, the possibility for a new or different kind of accident from any accident previously evaluated is not created.

3. Involve a significant reduction in a margin of safety. The North Anna Units 1 and 2 reload design and safety analysis limits are unchanged either by the removal of the individual fuel rod uranium weight limit, or by the use of fuel assemblies containing solid stainless steel or zirconium alloy filler rods. The use of all fuel assemblies will continue to be limited by the normal core operating conditions defined in the Technical Specifications. Reconstituted fuel assemblies will be specifically evaluated for each cycle reload core in which they are inserted using approved reload design methods and approved fuel rod design models and methods. This will include consideration of the core physics analysis peaking factors and core average linear heat rate effects, as well as evaluation of the impact on safety and LOCA (loss-of-coolant accident) analyses, and on core thermal hydraulics (DNB). The 10 CFR 50.46 criteria will continue to be applied each cycle and analyses or evaluations will be performed each cycle to confirm that 10 CFR 50.46 will be met. Therefore, the margin of safety as defined in the Bases to the Technical Specifications is not significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: October 19, 1993

Description of amendment request: The proposed changes will add operability requirements, action statements, and surveillance requirements for the recirculation spray heat exchangers service water outlet radiation monitors. Also, surveillance requirements for several post accident instruments are being reinstated.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Specifically, operation of Surry Power Station in accordance with the proposed Technical Specification changes will not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

The RSHX[s] [recirculation spray heat exchangers] service water outlet radiation monitors and the post-accident radiation monitors are not involved in the initiation of any previously evaluated accidents. The probability of occurrence of such accidents is, therefore, not increased. The RSHX[s] service water outlet radiation monitors will be required to be operable as accident monitoring instruments and will be available following a LOCA [loss-of-coolant accident] to detect radioactive leakage into the Service Water System. During a design basis event, heat is removed from the containment by the recirculation spray heat exchangers (RSHXs). The RSHXs are cooled by the Service Water System. The service water outlet of each RSHX is provided with a radiation monitor to detect leakage of radioactive containment sump fluid into the Service Water System if there is a breach in RSHX integrity. Operation of these monitors is not required for the Recirculation Spray System or the Service Water System to accomplish their safety-related functional requirements. The RSHXs will mitigate the consequences of a LOCA in the same manner as before the change. Post-accident radiation monitors will be operated in the same manner as before the change and will be available for monitoring and assessment purposes. The consequences of previously evaluated accidents are, therefore, not increased by the proposed changes.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any physical modifications to the plant. The RSHX service water outlet radiation monitors provide indication only. This output is displayed on the individual ratemeters and recorded on the radiation monitoring panel recorders in the Main Control Room. The ratemeter output is also provided to the Emergency Response Facility computer. These radiation monitors do not provide a protection or control function. Reinstating the surveillance requirements for the accident monitoring instruments is administrative in nature. New failure modes or accident precursors are not introduced by the changes. Therefore, a new or different type of accident is not made possible.

3. Involve a significant reduction in a margin of safety.

The proposed changes do not affect any safety limits or limiting safety system settings. System operating parameters are unaffected. Operation of the RSHX service water outlet radiation monitors is not required to directly support the safety-related functional requirements of the Recirculation Spray System or the Service Water System. Since the function of the RSHX service water outlet radiation monitors is not required to satisfy the safety function of the Recirculation Spray System or the Service Water System, the operability of these monitors is not required for recirculation spray heat exchanger operability. The RSHX service water outlet radiation monitors and the post-accident radiation monitors will be available for their monitoring functions in the same manner as before this change. Since the availability of equipment required to mitigate or assess the consequences of an accident is not reduced, safety margins are not decreased.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza East Tower, 451 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Herbert N. Berkow

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: November 16, 1993

Description of amendment request: The proposed amendment would revise Kewaunee Nuclear Power Plant (KNPP) Technical Specification (TS) 4.4.a.7 to delete the requirement that couples the performance of the Type A leakage tests to the 10-year inservice inspection program requirements. This requirement is contained in Section III.D.a.(a) of Appendix J to 10 CFR Part 50. A request for exemption from this requirement was submitted in conjunction with the subject amendment request and is being reviewed separately. In addition, administrative changes to KNPP TS Section 4.4 and its associated bases have been proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

In accordance with 10 CFR 50.92, a proposed change to the Operating License (Technical Specifications) involves no significant hazards considerations if operation of the facility in accordance with the proposed change would not: (1) involve a significant increase in the probability or consequences of any accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The proposed change is evaluated against each of these criteria below.

(1) The proposed TS change involves a deletion of the requirement to perform the third Type A test for each 10-year service period during the shutdown for the 10-year plant inservice inspections. The change only involves containment leak rate testing requirements and is based on a partial exemption from Appendix J to 10 CFR 50. There is no significant benefit in coupling these two surveillances (i.e., the Type A test and the 10-year ISI program). Each of the two surveillances is independent of the other and provides assurance of different plant characteristics. The Type A test assures the required leak-tightness for the reactor containment building be less than Appendix J acceptance criteria. This demonstrates compliance with the guidelines of 10 CFR Part 100 based on the assumptions used in the USAR which conform to NRC Safety Guide 4. The 10-year ISI program provides assurance of the integrity of the plant structures, systems, and components in compliance with 10 CFR 50.55(a). There is no safety-related concern necessitating their coupling to the same refueling outage. As a result, this change cannot increase the consequences (i.e., offsite dose) of any accident previously evaluated. Furthermore, since the decoupling of the test schedules has no affect on the test's effectiveness, decoupling their schedules will not increase the probability of an accident.

(2) The proposed change does not involve any change to the plant design or operation. As discussed above, this change cannot increase the consequences of any accident previously evaluated. As a result, no new failure modes are created. Therefore, this proposed change cannot create the possibility of any new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not change the acceptance criteria that must be met for inservice inspections, does not relax the condition of containment that must be met prior to plant restart, and does not change the requirements that must be met between plant refueling outages. Therefore, the proposed change does not result in a significant reduction in the margin of safety.

Based on the foregoing, Kewaunee has concluded that the proposed change does not involve a significant hazards consideration.

The proposed administrative changes have been reviewed in accordance with the provisions of 10 CFR 50.92 to show that no significant hazards exist. The proposed change will not:

(1) involve a significant increase in the probability or consequence of an accident previously evaluated, or

(2) create the possibility of a new or different kind of accident from any accident previously evaluated, or

(3) involve a significant reduction in the margin of safety.

The proposed changes are administrative in nature and do not alter the intent or interpretation of the TS. Therefore, no significant hazards exist.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P. O. Box 1497, Madison, Wisconsin 53701-1497.

NRC Project Director: John N. Hannon

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendments request: September 10, 1993, as supplemented on November 17, 1993

Description of amendments request: The proposed amendments would approve a revision to the LaSalle County Station, Units 1 and 2, Updated Final Safety Analysis Report (UFSAR), Section 11.5.2.1.4, which specifies that currently, operator action is required to trip the mechanical vacuum pump upon receipt of a main steam line high radiation alarm rather than the automatic trip currently described in the UFSAR. NRC approval is required because this existing condition, contrary to that described in the UFSAR and the NRC's Safety Evaluation Report (SER) related to the operation of LaSalle County Station (NUREG-0519), involves an unreviewed safety question.

Date of publication of individual notice in **Federal Register:** December 1, 1993 (58 FR 63403)

Expiration date of individual notice: January 3, 1994

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was

VOL 58 ISS 244 DEC 22 1993 UMI

published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket No. 50-529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

Date of application for amendment: November 5, 1993; as supplemented by letter dated November 24, 1993.

Brief description of amendment: The amendment provides for a one-time extension of up to 72 hours to be applied to the existing Technical Specification (TS) Limiting Conditions for Operation for a single train inoperability for the following systems: Emergency Core Cooling System, TS 3.5.2; Containment Spray System, TS 3.6.2.1; Auxiliary Feedwater System, TS 3.7.1.2; Essential Cooling Water System, TS 3.7.3; Essential Chilled Water System, TS 3.7.6; and Shutdown Cooling System, TS 3.7.11.

Date of issuance: December 3, 1993
Effective date: December 3, 1993
Amendment No.: 58
Facility Operating License No. NPF-51: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (58 FR 60223 dated November 15, 1993 as corrected November 24, 1993, 58 FR 62166)

The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination within 15 days. No comments have been received. The notice also provided an opportunity to request a hearing by November 30, 1993, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final no significant hazards consideration determination are contained in a Safety Evaluation dated December 3, 1993.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: July 8, 1992

Brief description of amendments: The amendments revise the Technical Specifications to address the concerns of Generic Letter (GL) 90-06 relative to power operated relief valves and low temperature overpressure protection. Editorial changes were also made.

Date of issuance: November 29, 1993
Effective date: Immediately, to be implemented within 30 days.
Amendment Nos.: 151 and 139
Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 2, 1992 (57 FR 40209)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 29, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: July 28, 1993

Brief description of amendments: The amendments revised the Arkansas Nuclear One, Units No. 1 and 2 (ANO-1&2), Technical Specifications (TSs) for the Emergency Cooling Pond (ECP) to achieve consistency between the ANO-1 and ANO-2 TSs and clarify the point at which the water temperature is verified for the ECP. The applicable Bases are also revised to reflect the changes and clarify the TSs.

Date of issuance: November 24, 1993
Effective date: November 24, 1993
Amendment Nos.: 170 and 153
Facility Operating License Nos. DPR-51 and NPF-6. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 1, 1993 (58 FR 46228)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 24, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: October 7, 1993

Brief description of amendment: The amendment modifies Operating License Condition 2.C(3), "Fire Protection," by deleting the existing wording of the license condition and replacing it with the standard wording provided in Generic Letter (GL) 86-10, "Implementation of Fire Protection Requirements."

Date of issuance: December 1, 1993
Effective date: As of the date of issuance to be implemented within 30 days.
Amendment No.: 70
Facility Operating License No. DPR-21: Amendment revised the license.
Date of initial notice in **Federal Register:** October 27, 1993 (58 FR 57854)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 1, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: November 4, 1993, as supplemented November 4, 1993.

Brief description of amendment: The proposed amendment increases the required supplementary leak collection and release system (SLCRS) drawdown time from 60 seconds to 120 seconds and increases the required vacuum to 0.4 inches, based on compensating reductions in containment leak rate. A requested revision to replace requirements for use of "a halogenated hydrocarbon test gas" with "an acceptable test gas" is not acted upon at this time pending the licensee's submittal of an acceptable justification.

Date of issuance: December 8, 1993
Effective date: As of the date of issuance to be implemented within 30 days.
Amendment No.: 87
Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Public comment requested as to proposed no significant hazards consideration: Yes. (58 FR 60072, November 12, 1993). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by December 13, 1993, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated December 8, 1993.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: July 29, 1993

Brief description of amendments: The amendments incorporate a reference to the revised methodologies described in WCAP-13677-A, "10 CFR 50.46 Evaluation Model Report: WCOBRA/TRAC 2-Loop Upper Plenum Injection Model Updates to Support Zirlo™ Cladding Option (April 1993)," and NSPNAD-93003-A, "Prairie Island Units 1 and 2, Transient Power Distribution Methodology," into section 6.7.A.6.b of the Prairie Island TS.

Date of issuance: December 3, 1993
Effective date: December 3, 1993
Amendment Nos.: 109 and 102
Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 18, 1993 (58 FR 43929).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 3, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: July 17, 1986, as supplemented by letters dated April 30, May 15, and December 21, 1987, May 18, 1989, December 16, 1991, March 17, May 15, July 6, 1992, and June 23, August 12, September 17, October 15, and October 27, 1993.

Brief description of amendment: The amendment changed the expiration date for the Fort Calhoun Station, Unit No. 1 Operating License DPR-40 from June 7, 2008 to August 9, 2013.

Date of issuance: December 3, 1993
Effective date: December 3, 1993
Amendment No.: 158
Facility Operating License No. DPR-40. Amendment revised the license.
Date of initial notice in **Federal Register:** August 13, 1986 (51 FR 29007) The additional information contained in the supplemental letters dated April 30, May 15, and December 21, 1987, May 18, 1989, December 16, 1991, March 17, May 15, July 6, 1992, and June 23, August 12, September 17, October 15, and October 27, 1993, was clarifying in nature and, thus within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 3, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: September 15, 1993

Brief description of amendment: This amendment revised the safety limit minimum critical power ratio for two-recirculation loop and single-recirculation loop operation to 1.07 and 1.08, respectively. The change was requested to accommodate use of a new fuel type, GE-11 fuel, during Unit 2, Cycle 10 operation.

Date of issuance: November 30, 1993
Effective date: November 30, 1993
Amendment No.: 182
Facility Operating License No. DPR-44: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 27, 1993 (58 FR 57856)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 30, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: February 18, 1993

Brief description of amendment: The amendment revised the Technical Specifications (TS) to incorporate the following changes:

(1) The reactor coolant loop temperature channel calibration frequency (specified in TS Table 4.1-1) was changed to accommodate operation on a 24-month cycle.

(2) The reactor coolant loop flow instrumentation calibration frequency (specified in TS Table 4.1-1) was changed to accommodate operation on a 24-month cycle.

(3) The 6.9 kV underfrequency relay calibration frequency (specified in TS Table 4.1-1) was changed to accommodate operation on a 24-month cycle. In addition, the minimum reactor coolant pump low frequency trip setting (specified in TS Section 2.3.1.B(6)(b)) was increased from 55 Hz to 57.2 Hz.

(4) The steam generator level instrumentation calibration frequency (specified in TS Table 4.1-1) was changed to accommodate operation on a 24-month cycle.

(5) The reactor trip and bypass breaker testing frequency (specified in TS Table 4.1-1) was changed to accommodate operation on a 24-month cycle.

These changes followed the guidance provided in Generic Letter 91-04,

"Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle."

Date of issuance: December 1, 1993

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 140

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1993 (58 FR 16230)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 1, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station (FSV), Unit No. 1, Platteville, Colorado

Date of amendment request: May 7, 1993

Brief description of amendment: The amendment revised the FSV Decommissioning Technical Specifications to facilitate removal of core outlet coolant thermocouple assemblies.

Date of issuance: November 29, 1993

Effective date: November 29, 1993

Amendment No.: 87

Possession-Only License No. DPR-34: Amendment revised the Decommissioning Technical Specifications.

Date of initial notice in **Federal Register:** October 27, 1993 (58 FR 57856)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 29, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Weld Library District - Downtown Branch, 919 7th Street, Greeley, CO 80631.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station (FSV), Unit No. 1, Platteville, Colorado

Date of amendment request: May 18, 1993

Brief description of amendment: The amendment revised the FSV Decommissioning Technical Specifications by imposing more stringent High-Efficiency Particulate Air (HEPA) filter requirements; requiring more stringent leak test acceptance criteria to demonstrate the efficiency of the Reactor Building ventilation system HEPA filters; and extending the applicability of the requirements for the Reactor Building confinement integrity and ventilation system operability by expanding the definition of activated graphite blocks.

Date of issuance: November 29, 1993

Effective date: November 29, 1993

Amendment No.: 86

Possession-Only License No. DPR-34: Amendment revised the Decommissioning Technical Specifications.

Date of initial notice in **Federal Register:** October 27, 1993 (58 FR 57857)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 29, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Weld Library District - Downtown Branch, 919 7th Street, Greeley, CO 80631.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: May 18, 1993, and supplemented on October 6, 1993

Brief description of amendment: The amendment revises TS 4.4.1.2 surveillance requirements for the reactor coolant system jet pumps.

Date of issuance: December 9, 1993

Effective date: As of its date of issuance and shall be implemented within 60 days of the date of issuance

Amendment No.: 61

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 23, 1993 (58 FR 34090)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 9, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: July 7, 1993

Brief description of amendment: The amendment changes Appendix B of the Facility Operating License for the Hope Creek Generating Station. The requested change would remove pages from Section 4.2.1, "Aquatic Monitoring," in the Environmental Protection Plan.

Date of issuance: November 29, 1993

Effective date: November 29, 1993

Amendment No.: 60

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 1, 1993 (58 FR 46239)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 29, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: March 6, 1991, and supplemented by letters dated September 20, 1991, December 19, 1991, January 31, 1992, August 19, 1992, April 28, 1993, and September 30, 1993

Brief description of amendments: These amendments modify the action statements and surveillance requirements associated with the emergency diesel generators and AC power sources.

Date of issuance: November 30, 1993

Effective date: November 30, 1993Amendment Nos. 148 and 126

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 27, 1993 (58 FR 57858)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 30, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: December 17, 1992, as supplemented April 8, 1993.

Brief description of amendment: The amendment requests a revision to the

Technical Specification (TS) Sections 1.21, 3.2, 3.3, 3.2 Bases, 3.3 Bases, Table 3.2-1 (added), Table 4.1-1, and Table 4.1-2 to eliminate the provision of high concentration basic acid (20,000 ppm) to the safety injection system. Currently, this high concentration is maintained in the boric acid storage tanks (BASTs) requiring heat tracing to prevent boron precipitation. The proposed change would eliminate the need for heat tracing and the associated maintenance activities if the boric acid concentration in the BASTs could be reduced from 20,000 ppm to 2000 ppm. The proposed change includes a requirement to allow borating the reactor to a shutdown margin equivalent of at least 2.45% delta k/k at cold shutdown conditions with no xenon.

Date of issuance: December 7, 1993

Effective date: December 7, 1993

Amendment No.: 57

Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 13, 1993 (58 FR 52994)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 7, 1993.

No significant hazards consideration comments received: No

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendments: August 27, 1993 (TS 335)

Brief description of amendments: The amendments revise the Technical Specifications to include wording which is consistent with the revised 10 CFR 20, "Standards for Protection Against Radiation". Additionally the amendments incorporate guidance contained in Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants" and include minor editorial changes.

Date of issuance: December 2, 1993

Effective date: January 1, 1994

Amendment Nos.: Unit 1 - 201, Unit 2 - 220, Unit 3 - 174

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68:

Date of initial notice in **Federal Register:** October 29, 1993 (58 FR 58203)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 2, 1993.

No significant hazards consideration comments received: None

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 16, 1993 (TS 93-06)

Brief description of amendments: The amendments implement the new requirements of 10 CFR Part 20.

Date of issuance: December 9, 1993

Effective date: December 9, 1993

Amendment Nos.: Unit 1 - No. 174; Unit 2 - No. 165

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** August 4, 1993 (58 FR 41514)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 9, 1993.

No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Tennessee Valley Authority, Docket Nos. 50-327 and 328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 27, 1993 (TS 93-13)

Brief description of amendments: The amendments revise the technical specification loading requirements specified for the emergency diesel generator surveillance tests.

Date of issuance: November 29, 1993

Effective date: November 29, 1993

Amendment Nos.: 173 - Unit 1 and 164 - Unit 2

Facility Operating License Nos. DPR-77 and 79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** October 27, 1993 (57 FR 57858)

The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated November 29, 1993.

No significant hazards consideration comments received: None

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: November 3, 1992, as clarified on December 1, 1992

Brief description of amendment: The amendment revises the Technical Specification 3.3.2 and 3/4.8.1 to add Mode 5 and 6 applicability for the load shedder emergency load sequencer and its supplying 4 KV Bus undervoltage circuit.

Date of issuance: December 9, 1993

Effective date: December 9, 1993

Amendment No.: 85

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 6, 1993 (58 FR 600)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 9, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: May 4, 1993

Brief description of amendment: The amendment removes the Radiological Effluent Technical Specifications (RETS) from the KNPP Technical Specifications in accordance with Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program," dated January 31, 1989.

Date of issuance: December 9, 1993

Effective date: December 9, 1993

Amendment No.: 104

Facility Operating License No. DPR-43. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 21, 1993 (58 FR 39062)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 9, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin

VOL 58 ISS 244 DEC 22 1993 UMI

Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301 Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks Manitowoc County, Wisconsin

Date of application for amendments: February 21, 1992, as supplemented on April 16, 1992 and March 4, 1993

Brief description of amendments: The amendments revised Technical Specification 15.3.4, "Steam and Power Conversion System," to include limiting conditions for operation (LCOs) for the main steam stop valves (MSSVs) and the main steam non-return check valves (NRCVs). They also revise Technical Specification 15.4.7, "Main Steem Stop Valves," which specifies how the main steam stop valve tests are performed. This section is retitled, "Main Steam System Valves."

Date of issuance: December 6, 1993

Effective date: December 6, 1993

Amendment Nos.: 143 and 147

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 29, 1992 (57 FR 18181) The April 16, 1992 and March 4, 1993, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 6, 1993.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By January 21, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of application for amendment: November 22, 1993

Brief description of amendment: The amendment changed the Technical Specifications to revise TS 3.3.B.1.a to refer to control rod 54-35, for the remainder of the cycle 10 (to be completed before 10/30/95). The amendment permits operation of the facility with the control rod uncoupled for the remainder of the operating cycle. Neutron monitoring by means of either the Local Power Range Monitor or Transversing Incore Probe Systems will be used to verify the control rod movement. This amendment request is similar to the licensee's June 14, 1991 request for control rod 38-23. The staff granted that request by Amendment No. 166, dated July 10, 1991.

Date of issuance: November 29, 1993

Effective date: November 29, 1993

Amendment No: 187

Facility Operating License No. DPR-56: This amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No

The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Pennsylvania and final no significant hazards considerations determination are contained in a Safety Evaluation dated November 29, 1993.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

NRC Project Director: Larry E. Nicholson, Acting

Dated at Rockville, Maryland, this 15th day of December 1993.

For the Nuclear Regulatory Commission

Walter R. Butler,

Acting Division Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 93-31056 Filed 12-21-93; 8:45 am]

BILLING CODE 7590-01-F

[Docket No. 50-003]

Consolidated Edison Co. of New York, Inc., Indian Point Station Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR 50.120. This exemption would be granted to the Consolidated Edison Company of New York, Inc., the licensee for Indian Point Station, Unit 1 (IP–1) located in Westchester County, New York.

Environmental Assessment

Identification of Proposed Action

The NRC, on its own motion, is considering granting an exemption from the training program establishment, implementation, and maintenance

VOL 58 ISS 244 DEC 22 1993 UMI

requirements of 10 CFR 50.120. The licensee in its letter dated July 31, 1993, provided supplemental information supporting this action.

The Need for the Proposed Action

IP–1 permanently ceased operation on October 31, 1978, all fuel has been moved from the reactor to the spent fuel pool, and the licensee has developed detailed plans to decommission the facility. The proposed exemption would relieve the licensee from the requirements of 10 CFR 50.120. However, it would not relieve the licensee from previous requirements or commitments to train and qualify facility personnel.

Environmental Impacts of the Proposed Action

The proposed action does not have any effect on accident risk and the possibility of environmental impact is extremely remote.

The licensee stated in their submittal of July 31, 1993, that the level of personnel activity at IP–1 is low compared to an operating reactor facility and the existing training programs are deemed acceptable, given the low level of activity at the site and the shutdown and defueled status of the plant.

Based on our review of the July 31, 1993 submittal, and on a 1980 NRC staff and licensee analyses of a spent fuel pool loss of water which determined that the spent fuel would cool in air, the staff concludes that potential accidents would not result in radiological releases that would require offsite protective actions.

Therefore, the proposed action does not increase the probability or consequences of any accidents, no changes are being made in the types of any effluent that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure onsite.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact. With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluent and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the action. This would not reduce environmental impacts of plant activities and would not enhance the protection of the environment nor public health and safety.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in previous reviews for IP–1.

Agencies and Persons Consulted

The NRC staff consulted with a representative of the State of New York regarding the environmental impact of the proposed action. The State representative had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee letter dated July 31, 1993, which is available for public inspection at the Commission Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, Municipal Reference Library, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Dated at Rockville, Maryland this 15th day of December 1993.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31186 Filed 12–21–93; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Safety Research Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

The Nuclear Safety Research Review Committee (NSRRC) will hold its next meeting on January 13–14, 1994. The location of the meeting will be the Versailles 4 Room at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD. The meeting will be held in accordance with the requirements of the Federal Advisory Committee Act (FACA) and will be open to public attendance. The NSRRC provides advice to the Director of the Office of Nuclear Regulatory Research (RES) on matters of overall management importance in the direction of the NRC's program of nuclear safety research. The main purposes of this meeting are to deliberate on the reports of the three NSRRC subcommittees and to consider the Committee's response to questions concerning which the Commission requested NSRRC advice, documented in a Staff Requirements Memorandum (SRM) from the Secretary of the Commission to the Executive Director of Operations, dated July 21, 1993, resulting from the Committee's July 8, 1993 meeting with the Commission.

The three subcommittee reports to be considered are those of the Advanced Reactor Subcommittee, the Advanced Instrumentation and Control and Human Factors Subcommittee, and the Waste Subcommittee.

The questions in the SRM relate to broad issues of management of the Nuclear Regulatory Commission's research function. They address research program issues and Committee skill needs (SRM Item 1), code maintenance (Item 2), whether there are any continuing programs that lack significant usefulness ("sacred cows") (Item 3), and retention of skills in technical disciplines (Item 4).

The planned schedule is as follows:

Thursday, January 13

8:30–9:00 Introductory remarks; Committee operations
9:00–11:00 Advanced Reactor Subcommittee report
11:00–2:00 Advanced I&C and Humen Factors Subcommittee report (Lunch break 12:00–1:15)
2:00–4:00 Waste Subcommittee report
4:00–6:00 Committee discussion of approach to responding to July 21, 1993 Staff Requirements Memorandum (SRM) resulting from the Committee's July 8, 1993 meeting with the Commission.

Friday, January 14

7:45–9:15 SRM Item 2: Code maintenance: including thermal-hydraulic codes, severe accident codes, structural codes.
9:15–12:00 SRM Item 1, first 4 questions: Research program issues
1:15–2:45 SRM Item 4: Retention of skills in technical disciplines
2:45–3:15 SRM Item 3: "Sacred cows"
3:15–3:45 SRM Item 1, last question: Committee skill needs
3:45–4:15 Recapitulation; follow-up plans

Participants in the presentation to and discussions with the Committee will include representatives of the NRC staff, and may include other invited participants from research organizations.

Members of the public may file written statements regarding any matter to be discussed at the meeting. Members of the public may also make requests to speak at the meeting, but permission to speak will be determined by the Committee chairperson in accordance with procedures established by the Committee. A verbatim transcription will be made of the NSRRC meeting and a copy of the transcript will be placed in the NRC's Public Document Room in Washington, DC.

Any inquiries regarding this notice, any subsequent changes in the status and schedule of the meeting, the filing of written statements, requests to speak at the meeting, or for the transcript, may be made to the Designated Federal Officer, Mr. George Sege (telephone: 301/492–3904), between 8:15 a.m. and 5 p.m.

Dated at Rockville, Maryland, this 16th day of December 1993.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–31190 Filed 12–21–93; 8:45 am]

BILLING CODE 7590–01–M

Office of Nuclear Reactor Regulation

[SECY–93–331]

Availability of Commission Paper Forwarding License Renewal Workshop Results and Staff Proposals for Revision to 10 CFR Part 54 "Requirements for Renewal of Operating Licenses for Nuclear Power Plants"

The U.S. Nuclear Regulatory Commission has released to the public SECY–93–331, "License Renewal Workshop Results and Staff Proposals for Revision to 10 CFR part 54, 'Requirements For Renewal of Operating Licenses For Nuclear Power Plants.'" This paper is in response to a staff requirements memorandum (SRM) dated June 28, 1993. In this SRM, the Commission directed the staff to convene a public workshop to evaluate alternative approaches to how best to take advantage of existing licensee programs in the license renewal process. Additionally, the SRM directed the staff to provide a summary of the workshop results and draft proposed rulemaking no later than 60 days from the conclusion of the workshop. The workshop was held on September 30, 1993. SECY–93–331 contains a summary of the workshop, a discussion of the areas of the current rule that could be revised to take better advantage of existing licensee programs, and preliminary revisions of the current rule.

Copies of SECY–93–331 and the June 28, 1993, SRM have been placed in the NRC's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, for review by interested persons.

Dated at Rockville, Maryland, this 15th day of December 1993.

For the Nuclear Regulatory Commission.

Scott F. Newberry,

Director, License Renewal and Environmental Review Project Directorate, Associate Directorate for Advanced Reactors and License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31185 Filed 12–21–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–324 and 50–325]

Carolina Power & Light Co., Brunswick Steam Electric Plant, Units 1 and 2, Operating License Nos. DPR–71 and DPR–62; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision concerning a request (Petition), dated April 28, 1993, filed pursuant to 10 CFR 2.206 by Stephen M. Kohn on behalf of the National Whistleblower Center (Petitioner). The Petitioner requested the U.S. Nuclear Regulatory Commission (NRC) to immediately shut down the Brunswick Steam Electric Plant, Units 1 and 2 (Brunswick). As basis for this request, the Petitioner asserted receipt of allegations from a Brunswick employee that (1) There has been a complete breakdown in the quality assurance (QA) program overseeing the integrity of the plant's vendor manuals; (2) there has been a breakdown in the plant's security system, which may leave the facility open to a terrorist attack; (3) there has been harassment and intimidation of employees who raise safety concerns to their management; (4) there has been a failure of Carolina Power & Light Company to train the contractors it has employed in the proper QA procedures and to implement a QA program in the work assignments of the contractors; and (5) there has been a breakdown in the Brunswick preventive maintenance program.

The Director of the Office of Nuclear Reactor Regulation (NRR) has determined that the concerns raised in the Petition are sufficiently well understood by the NRC as a result of NRC inspections and other reviews and are capable of resolution. Therefore, the Director of NRR has determined that issuance of a Director's Decision, with regard to this matter, is appropriate.

On the basis of review of the issues in the allegations, the Director of NRR has determined that certain of the concerns raised by the Petitioner are partially substantiated in that the conditions addressed had existed. However, the licensee and NRC knew about these conditions previously, and the licensee had taken appropriate corrective actions before the receipt of the Petition. The remaining concerns raised by the Petitioner are not substantiated by this Director's Decision.

As a result of the NRC review, the Director of NRR denied the Petitioner's request. The reasons for this denial are explained in the "Director's Decision Under 10 CFR 2.206," (DD–93–21), which is available for public inspection and copying in the Commission's Public Document Room at 2120 L Street NW., Washington, DC 20555–0001, and at the local public document room at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, NC 28403–3297.

A copy of the Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the Decision will become the final action of the Commission 25 days after the date of issuance unless the Commission on its own motion institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 14th day of December 1993.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31187 Filed 12–21–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–373]

Commonwealth Edison Co.; Consideration of Issuance of an Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment

VOL
58
ISS
244
DE
22
1993
UMI

to Facility Operating License No. NPF–11, issued to the Commonwealth Edison Company (the licensee), for operation of the LaSalle County Station, Unit 1, located in LaSalle County, Illinois.

The licensee submitted in a letter dated December 10, 1993, a request for an exigent license amendment which would revise Technical Specification (TS) 3.4.2 on a one-time only basis and which would be in effect for a limited time period until Unit 1 enters cold shutdown at the end of the present fuel cycle (scheduled for March 1994) or the next cold shutdown, whichever comes first. The proposed revision consists of adding a two-part footnote to TS 3.4.2. The first part would require that for the Limiting Condition for Operation (LCO) of TS 3.4.2, 18 of the LaSalle, Unit 1, SRVs must be operable for the time frame cited above except as modified by the second part of the footnote. The present LCO requires that 17 of the 18 SRVs be operational; the interim, more restrictive LCO is proposed as a compensatory measure. The second part of the footnote would exempt two of the 18 SRVs (i.e., 1B21–F013B and 1B21–F013J) from the provisions of TS 4.0.3 with respect to the reactor pressure lift setpoint test frequency as specified in Section XI of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code).

Technical Specification 4.0.5 specifies that the surveillance test intervals for inservice inspection and testing of ASME Code Class 1, 2, and 3 components such as SRVs shall be those contained in Table IWV–3510–1, Section XI of the ASME Code and applicable Addenda as required by 10 CFR 50.55a(g). TS 4.0.3 states, in part, that failure to perform a surveillance test within the specified time interval shall constitute a failure to meet the operability requirements for an LCO.

This exigent license amendment was submitted to fulfill a prior commitment made by the licensee when it was granted a Notice of Enforcement Discretion (NOED) on December 4, 1993. The NOED was issued to permit continued operation of Unit 1 at power after the licensee discovered on December 4, 1993, that it had not setpoint tested the two subject SRVs within the time frame required by the ASME Code and was thereby required by TS 4.0.3 and TS 4.0.5 to declare the subject SRVs inoperable. Had the NOED not been issued, Action a of TS 3.4.2 would have required Unit 1 to be in hot shutdown within 12 hours and to be in cold shutdown within the next 24 hours following the initial determination of inoperability.

LaSalle, Unit 2, is presently shut down for refueling and is scheduled to restart about mid-December 1993. All eighteen SRVs in LaSalle, Unit 2, have been setpoint tested in compliance with the surveillance test interval required by Section XI of the ASME Code.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a. There is no affect on accident initiators so there is no change in probability of an accident. The probability of a failed open Safety/Relief Valve (SRV) is not affected based on observed performance of setpoint drift.

b. There is no effect or minimal affect on the consequences of analyzed accidents based on an evaluation that the highest reactor vessel pressure that will occur is still less than the Safety Limit of 1325 psig steam dome pressure, for the bounding vessel pressurization event. This evaluation assumed that both SRVs 1B21–F013B and 1B21–F013J fail to open.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because: The SRVs are not being used in any other mode than original design. The only affect is from the safety mode setpoint drift. This issue does not involve any plant modifications or changes to operating procedures. Therefore, this issue does not create the possibility of a new or different kind of accident from any previously evaluated accident.

(3) Involve a significant reduction in the margin of safety because: The review of previous sensitivity analyses for peak accident pressure indicates that in the worst case postulated (both SRVs fail to open), the peak vessel pressure will not exceed approximately 1276 psig in the reactor bottom head, (1226 psig in the RPV steam dome). The 1276 psig value retains a margin of greater than 50 psig to the ASME limit of 1375 psig for Upset conditions, and will not result in exceeding the Safety Limit reactor pressure of 1325 psig steam dome pressure. Therefore, this issue does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 6, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who

wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to J. Dyer: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 10, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Rockville, Maryland, this 16th day of December 1993.

For the Nuclear Regulatory Commission.

Anthony T. Gody, Jr.,

Project Manager, Project Directorate III–2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31188 Filed 12–21–93; 8:45 am,

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33341; File No. SR–BSE–93–16]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 to Proposed Rule Change Relating to its Specialist Performance Evaluation Program

December 15, 1993.

I. Introduction

On August 30, 1993, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") submitted to the Securities and

VOL 58 ISS 244 DE 22 1993 UMI

Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to extend its Specialist Performance Evaluation Program ("SPEP" or "Evaluation Program"), as amended to incorporate objective measures of specialist performance, for an additional twelve-month period.[3] On September 13, the BSE submitted Amendment No. 1 to the proposed rule change in order to correct certain typographical errors.[4]

The proposed rule change, together with Amendment No. 1, was published for comment in Securities Exchange Act Release No. 33027 (October 6, 1993), 58 FR 53595 (October 15, 1993). No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to extend its Specialist Performance Evaluation Program for an additional twelve-month period, expiring on December 31, 1994. By way of background, the BSE recently amended its Evaluation Program to incorporate objective measures of specialist performance.[5] The current pilot program uses the BEACON system[6] to assess how well a specialist handles market and marketable limit orders routed to him for execution. For each specialist, a record of all action taken on relevant BEACON orders is accumulated in a special file, from which the four calculations described below are run.

First, Turnaround Time measures the average number of seconds from the receipt of a guaranteed market or marketable limit order (i.e., for 1299 shares or less) in BEACON until it is executed (in whole or in part), stopped or cancelled.[7] Time continues to accumulate if the specialist just moves an order from the auto-ex screen to the manual one, until that order is executed (in whole or in part), stopped or cancelled.

Second, Holding Orders Without Action measures the number of market and marketable limit orders which are neither executed, stopped nor cancelled within twenty-five seconds. This measure differs from Turnaround Time in that orders of all sizes (including those already counted towards Turnaround Time) are analyzed.[8]

Third, Trading Between the Quote measures the number of market and marketable limit orders that are executed between the best consolidated bid and offer where the spread is greater than 1/8th.

Fourth, Executions in Size Greater than Best Bid and Offer ("BBO") measures the number of market and marketable limit orders which exceed, and are executed in a size larger than, BBO size.

For each of the above measures, including the revised questionnaire, the specialist receives a raw score. A ten point grading scale is then applied to ranges of raw scores. In computing the overall program score, the measures are assigned the following weights: Turnaround Time, 15%; Holding Orders Without Action, 15%; Trading Between the Quote, 25%; Executions in Size Greater than BBO, 25%; Questionnaire, 20%.

At the same time as it incorporated the objective measures described above, the Exchange also revised the conditions for performance review. For each measure, the Evaluation Program states at what score specialist performance is deemed to be adequate.[9] A specialist who is deficient in the same one objective measure, for two out of three consecutive review periods, is required to appear before the Performance Improvement Action Committee.[10] The purpose of this meeting is to discuss, informally, possible methods of improving the specialist's performance.

If the specialist does not improve in the next review period, he is referred to the Market Performance Committee. The Market Performance Committee is directed to take such actions as it deems necessary and appropriate to address the deficient score. These actions include suspending a specialist's trading account, suspending his alternate specialist account privilege,[11] or reallocating his specialty stocks.[12]

Finally, the BSE also incorporated modified relative rankings into its Evaluation Program. A specialist who is deficient on the overall program score, for two out of the three consecutive review periods, is required to appear before the Market Performance Committee, with the same possible consequences as above.[13] In addition, the Exchange staff reviews the performance of any other specialists whose scores place them in the bottom ten percent of all BSE units.[14]

The BSE has requested a twelve-month extension of the current pilot program to enable the Exchange to evaluate further the appropriateness of the measures and their respective weights, as well as the effectiveness of the overall evaluation program. The BSE believes that the proposed rule change will promote just and equitable principles of trade and aid in the perfection of a free and open market and a national market system. The Exchange states that the SPEP results weigh heavily in stock allocation decisions and, as a result, specialists are encouraged to improve their market quality and administrative duties.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] The Commission initially approved the BSE's SPEP pilot program in Securities Exchange Act Release No. 22993 (March 10, 1986), 51 FR 8298 (March 14, 1986) (File No. SR–BSE–84–04). The Commission subsequently extended the pilot program in Securities Exchange Act Release Nos. 26162 (October 6, 1988), 53 FR 40301 (October 14, 1988) (File No. SR–BSE–87–06); 27656 (January 30, 1990), 55 FR 4296 (February 7, 1990) (File No. SR–BSE–90–01); 28919 (February 26, 1991), 56 FR 9990 (March 8, 1991) (File No. SR–BSE–91–01); and 30401 (February 24, 1992), 57 FR 7413 (March 2, 1992) (File No. SR–BSE–92–01). The BSE was permitted to incorporate objective measures of specialist performance into its pilot program in Securities Exchange Act Release No. 31890 (February 19, 1993), 58 FR 11647 (February 26, 1993) (File No. SR–BSE–92–04) ("February 1993 Approval Order"), at which point the initial pilot program ceased to exist as a separate program. Commission approval of the BSE's current SPEP pilot program expires on December 31, 1993.

[4] See letter from Karen A. Aluise, Assistant Vice President, BSE, to Diana Luka-Hopson, Branch Chief, Division of Market Regulation, SEC, dated September 8, 1993 ("Amendment No. 1").

[5] See February 1993 Approval Order, *supra*, note 3. In addition to the substantive changes discussed below, SPEP was moved to Ch. XV, ¶2156 of the BSE Rules.

[6] BEACON is the BSE's automated order-routing and execution system. Of all incoming BEACON orders, SPEP collects data for regular buy and sell market and marketable limit orders only. Thus BEACON orders with qualifiers (e.g., buy minus or sell plus, market-on-close, stop, stop limit, all or none, etc.) and crosses are excluded from analysis.

[7] Data collection starts when the stock opens on the primary market. Blocks of time are excluded in the event of trading halts, BEACON system failure, etc.

[8] The same exclusions apply for Holding Orders Without Action as for Turnaround Time. See supra, note 7.

[9] A specialist is deficient in any individual objective measure or the overall program if he scores below certain minimum performance levels, as set forth below. Thus for his performance to be deemed adequate, a specialist must receive the following scores: Overall Evaluation Score—at or above weighted score of 5.80 Turnaround Time—below 21.0 seconds (8 points) Holding Orders Without Action—below 21% (7 points) Trading Between the Quote-at or above 26% (5 points) Executions Greater than BBO—at or above 75% (6 points) Questionnaire—at or above weighted score of 50 (4 points)

[10] In the event a specialist receives a deficient score on the questionnaire alone, the Exchange staff reviews the deficient questionnaire to determine if there is sufficient reason to warrant informing the Performance Improvement Action Committee of potential performance problems.

[11] Alternate specialists provide added liquidity to the market, by promising to trade up to a certain amount of shares, on the request of the primary specialist. A specialist must apply for the privilege of being an alternate.

[12] The possible performance improvement actions are described in the BSE Rules under SPEP's Supplemental Material. This Supplemental Material is intended to provide specialists with adequate notice of the consequences of poor performance. It does not articulate any new substantive standards.

[13] See *supra*, text accompanying notes 11–12.

[14] In the event a specialist ranked in the bottom ten percent does not fall below the threshold for the overall program score, the Exchange staff reviews the performance of the specialist to determine if there is sufficient reason to warrant informing the Performance Improvement Action Committee of potential performance problems.

III. Discussion

The Commission believes that specialists play a crucial role in providing stability, liquidity and continuity to the trading of stocks. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities.[15] To ensure that specialists fulfill these obligations, it is important that the Exchange conduct effective oversight of their performance. The BSE's Specialist Performance Evaluation Program is critical to this oversight.

In its order approving the incorporation of objective measures of performance,[16] the Commission asked the Exchange to monitor the effectiveness of the amended Evaluation Program. Specifically, the Commission requested information about the number of specialists who fell below acceptable levels of performance for each objective measure, the questionnaire and the overall program; and about the specific measures in which each such specialist was deficient. The Commission also requested information about the number of specialists who, as a result of each condition for review,[17] were referred to the Performance Improvement Action Committee and/or the Market Performance Committee; and about the type of action taken against each such deficient specialist.

On September 27, 1993,[18] the BSE submitted to the Commission a monitoring report regarding its amended Evaluation Program. The report describes the BSE's experience with the pilot program during the first two review periods of 1993 only. The Commission notes that, although the monitoring report provides certain useful information, neither the Exchange nor the Commission, has to date, had the opportunity to study the entire performance evaluation process.[19] To allow such information to be gathered and reviewed, without compromising the benefits the Evaluation Program may provide to investors, the Commission believes that it is reasonable to extend the pilot program until December 31, 1994.

With that qualification in mind, the Commission has analyzed the BSE's monitoring report.[20] In terms of the overall scope of the evaluation Program, the Commission continues to believe that the objective measures, together with the floor broker questionnaire, should generate sufficiently detailed information to enable the Exchange to make accurate assessments of specialist performance. Based on the results from the first two review periods, the BSE appears to have implemented its BEACON criteria successfully, and to have generated the data necessary to assess, in a quantitative way, how well specialists are carrying out their job responsibilities. However, as specialists and Exchange staff become more comfortable with the pilot program, the Commission expects the BSE to consider incorporating additional objective criteria, so that the Exchange could conduct an even more thorough analysis of specialist performance. At the same time, the BSE should ensure that each measure is assigned an appropriate weight.

The Commission also has reviewed the BSE's experience with its minimum adequate performance thresholds. Based on the number of specialists who surpassed acceptable levels of performance for each measure (and on an informal comparison of the floor-wide average to the minimum threshold), for the moment, it appears that these standards are sufficiently rigorous to identify specialists with potential performance problems, as well as to provide an incentive for superior market making performance. Depending on the results from the third review period, the Exchange has represented to the Commission that it intends to reexamine its minimum adequate performance thresholds, in order to ensure that they are set at appropriate levels.[21]

Finally, based on the information provided in the BSE's monitoring report, the Commission finds that the Exchange applied its conditions for review fairly and consistently. Specifically, it does not appear that any specialist whose performance may have warranted an improvement action escaped review entirely. Thus the Commission continues to believe that, taking the Evaluation Program as a whole, all potential performance problems should be brought to the attention of the appropriate committee. In terms of the BSE's response to the deficiencies it identified, the Commission notes that this monitoring report only covers two review periods.[22] While the Commission agrees that the initial results are encouraging, it is too soon for the Commission to reach any definitive conclusions about the effectiveness of the performance improvement actions themselves. The Commission expects the BSE to address this issue more fully in its next monitoring report.

In conclusion, the Commission believes that the recent amendments represent a good first step for the BSE in developing a more effective Specialist Performance Evaluation Program. Accordingly, the Commission believes that it is appropriate to extend the current pilot program for an additional twelve-month period, expiring December 31, 1994. This twelve-month period will enable the Exchange to determine the appropriateness of the objective measures, their respective weights and the acceptable levels of performance; as well as to review the effectiveness of the overall Evaluation Program.

The Commission therefore requests that the BSE submit a report to the Commission, by October 1, 1994, describing its experience with the pilot. At a minimum, this report should contain data, for the last review period of 1993 and the first two review periods of 1994, on (1) The number of specialists who fell below acceptable levels of performance for each objective

[15] Rule 11b–1, 17 CFR 240.11b–1 (1991); Ch. XV, ¶2155.01 of the BSE Rules.

[16] For a description of the Commission's rationale for approving the incorporation of objective measures of performance into the BSE's SPEP on a pilot basis, see February 1993 Approval Order, *supra*, note 3. The discussion in the aforementioned order is incorporated by reference into this order.

[17] See *supra*, notes 9–14 and accompanying text.

[18] See letter from Karen A. Aluise, Assistant Vice President, BSE, to Diana Luka-Hopson, Branch Chief, Division of Market Regulation, SEC, dated September 22, 1993. On November 29, 1993, the BSE submitted a supplement to its monitoring report describing the outcome of each deficient specialist's meeting with the appropriate committee. See letter from Karen A. Aluise, Assistant Vice President, BSE, to Beth Stekler, Attorney, Division of Market Regulation, SEC, dated November 19, 1993.

[19] For instance, there have not been a sufficient number of review periods to study how the informal discussions with the Performance Improvement Action Committee affect specialist performance, or to analyze under what circumstances the Market Performance Committee takes formal action, and what type of action it takes, against a specialist whose performance does not improve in the subsequent review period.

[20] See *supra*, note 18.

[21] Telephone conversation between Karen A. Aluise, Assistant Vice President, BSE, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on November 29, 1993. Any request to modify the minimum adequate performance thresholds should be submitted to the Commission as a proposed rule change pursuant to section 19(b) of the Act.

[22] See *supra*, note 19 and accompanying text.

VOL 58 ISS 244 DEC 22 1993 UMI

measure, the questionnaire and the overall program, and the specific measures in which each such specialist was deficient; (2) the number of specialists who, as a result of the objective measures, appeared before the Performance Improvement Action Committee for informal counseling; (3) the number of such specialists then referred to the Market Performance Committee and the type of action taken against them; (4) the number of specialists who, as a result of the overall program, appeared before the Market Performance Committee and the type of action taken against them; (5) the number of specialists who, as a result of the questionnaire or falling in the bottom ten percent, were referred by the Exchange staff to the Performance Improvement Action Committee and the type of action taken against them (this should include the number of specialists then referred to the Market Performance Committee and the type of action taken by that Committee); and (6) a list of stocks reallocated due to substandard performance and the particular unit involved. Any requests to modify this pilot, to extend its effectiveness or to seek permanent approval for the Evaluation Program also should be submitted to the Commission by October 1, 1994, as a proposed rule change pursuant to section 19(b) of the Act.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the requirements of sections 6 and 11 of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal is consistent with the section 6(b)(5)[23] requirement that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Further, the Commission finds that the proposal is consistent with section 11(b) of the Act,[24] and Rule 11b–1 thereunder,[25] which allow securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets and to remove impediments to and perfect the mechanism of a national market system.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[26] that the proposed rule change (SR–BSE–93–16) is approved on a pilot basis until December 31, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31162 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Chicago Stock Exchange, Inc.

December 16, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Smith Barney High Income Opportunity Fund, Inc.
Common Stock, $.001 Par Value (File No. 7–11742)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 10, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–31209 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

December 16, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

PacTel Corp.
Common Stock, $.01 Par Value (File No. 7–11718)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 10, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–31207 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33327; File No. SR–DTC–90–06]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by The Depository Trust Co. Relating to the Eligibility of Rule 144A Securities at the Depository Trust Co.

December 13, 1993.

On May 9, 1990, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–90–06) under section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Exchange Act").[1]

[23] 15 U.S.C. 78f(b)(5) (1988).
[24] 15 U.S.C. 78k(b) (1988).
[25] 17 CFR 240.11b–1 (1991).
[26] 15 U.S.C. 78s(b)(2) (1988).
[27] 17 CFR 200.30–3(a)(12) (1991).
[1] 15 U.S.C. 78s(b)(1).

The proposal would authorize DTC to establish a policy under which it could make eligible for its book-entry delivery and other depository services securities that are eligible for transfer pursuant to Rule 144A[2] under the Securities Act of 1933 ("Securities Act"),[3] including under this classification, legally or contractually restricted securities ("Rule 144A Securities").[4] On May 25, 1990, the Commission published notice of the proposal in the **Federal Register**.[5] The Commission received ten comment letters from eight commentators ("May 1990 Comments").[6] DTC amended the proposal on June 14, 1990,[7] and April 8, 1992,[8] to provide additional representations to be required of issuers and transfer agents; notice appeared in the **Federal Register** on April 16, 1992.[9] The Commission received three comment letters ("April 1992 Comments") in response to this notice.[10] On March 31, 1993, DTC filed an additional amendment expanding the definition of Rule 144A Securities to include contractually restricted securities,[11] notice of which appeared in the **Federal Register** on April 13, 1993.[12] The Commission received fifteen comment letters ("April 1993 Comments") in response to this notice.[13] On July 1, 1993, DTC revised its last amendment, removing one of the required representations.[14] The original proposal and the amendments are discussed in detail below. For the reasons discussed below, the Commission is approving the proposed rule change as amended.

I. Description

A. Background

On April 23, 1990, the Commission adopted Rule 144A[15] under the Securities Act. This Rule provides a safe-harbor from the registration requirements of the Securities Act for resales to qualified institutional buyers ("QIB")[16] of certain restricted securities[17] that, when issued, were not of the same class as securities[18] listed on a national securities exchange, registered under the Exchange Act or quoted in an automated inter-dealer quotation system (e.g., the National Association of Securities Dealers

[2] 17 CFR 230.144A (1992).
[3] 15 U.S.C. 77a.
[4] A legally restricted security is a security that is a restricted security as defined in Rule 144(a)(3) under the Securities Act. 17 CFR 230.144(a)(3). A contractually restricted security is a security that upon issuance and continually thereafter can only be sold pursuant to Regulation S (17 CFR 230.901), Rule 144 (17 CFR 230.144), Rule 144A (17 CFR 230.144A), or in a transaction exempt from the registration requirements of the Securities Act pursuant to Section 4 of the Securities Act (15 U.S.C. 77d), and not involving any public offering; provided, however, that once the security is sold pursuant to the provisions of Rule 144, including Rule 144(k) (17 CFR 230.144(k)), it will thereafter cease to be a contractually restricted security. For purposes of this definition, in order for a depositary receipt to be considered a legally or contractually restricted security, the underlying security also must be a legally or contractually restricted security.
[5] Securities Exchange Act Release No. 28028 (May 18, 1990), 55 FR 21666.
[6] Letter from Lynn Nellius, Secretary, National Association of Securities Dealers, Inc. ("NASD"), to Jonathan G. Katz, Secretary, Commission, dated June 18, 1990; letter from Curtis R. Welling, Managing Director, The First Boston Corporation, to Jonathan G. Katz, Secretary, Commission, dated July 12, 1990; letter from Pamela P. Root, Vice President-Associate General Counsel, Goldman, Sachs & Co., to Brandon Becker, Associate Director, Division of Market Regulation ("Division"), Commission, dated July 13, 1990; letter from John T. Shinkle, Chairman, Federal Regulation Committee, Securities Industry Association, to Jonathan G. Katz, Secretary, Commission, dated July 23, 1990; letter from Rachel F. Robbins, Managing Director and General Counsel, J.P. Morgan Securities Inc., to Jonathan G. Katz, Secretary, Commission, dated July 23, 1990; letter from Mark A. Bach, Vice President, ADR Department, Citibank, N.A., to Jonathan G. Katz, Secretary, Commission, dated July 31, 1990; letter from James F. Duffy, Senior Vice President and General Counsel, Legal & Regulatory Policy Division, American Stock Exchange ("AMEX"), to Jonathan G. Katz, Secretary, Commission, dated August 24, 1990; letters from Francis R. Driscoll, Vice President, The Northern Trust Company, to Jonathan G. Katz, Secretary, Commission, dated August 31, 1990 and September 6, 1990; letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to Jonathan G. Katz, Secretary, Commission, dated September 13, 1990.
[7] Letter from Richard B. Nesson, General Counsel and Senior Vice President, DTC, to Jonathan Kallman, Assistant Director, Division, Commission, dated June 14, 1990.
[8] Letter from Jack R. Wiener, Associate Counsel, DTC, to Ester Saverson, Jr., Branch Chief, Division, Commission, dated April 8, 1992.
[9] Securities Exchange Act Release No. 30568 (April 10, 1992), 57 FR 13395.
[10] Letter from Sullivan & Cromwell, to Margaret H. McFarland, Deputy Secretary, Commission, dated May 18, 1992; letter from Pamela P. Root, Goldman, Sachs & Co., to Jonathan G. Katz, Secretary, Commission, dated May 18, 1992; letter from Robin Shelby, Director-Legal Affairs and Assistant General Counsel, The First Boston Corporation, to Margaret H. McFarland, Deputy Secretary, Commission, dated May 19, 1992.
[11] Letter from Jack R. Wiener, Associate Counsel, DTC, to Ester Saverson, Jr., Branch Chief, Division, Commission, dated March 31, 1993. This amendment also provided an additional representation that was the subject of all comment letters received in response to the amendment.
[12] Securities Exchange Act Release No. 32114 (April 7, 1993), 58 FR 19283.
[13] Letter from James F. Conlan, Vice President, Bankers Trust Company, to Ester Saverson, Jr., Division, Commission, dated May 3, 1993; letter from Michele D. Ross, Kramer, Levin, Naftalis, Nessen, Kamin & Frankel, to Ester Saverson, Jr., Division, Commission, dated May 3, 1993; letter from Laura L. Inman, Vice President and Senior Counsel, Debt Markets Group, Office of General Counsel, Merrill Lynch, to Ester Saverson, Jr., Division, Commission, dated May 3, 1993; letter from Sullivan & Cromwell, to Margaret H. McFarland, Deputy Secretary, Commission, dated May 3, 1993; letter from Terence J. Hassett, Senior Manager, Corporate Trust Division, Bank of Boston, to Margaret H. McFarland, Deputy Secretary, dated May 4, 1993; letter from Rogers & Wells, to The Secretary, Commission, dated May 4, 1993; letter from Robert S. Appel, Christy & Viener, to Secretary, Commission, dated May 4, 1993; letter from G.K. Burke, Vice President, Corporate Trust Group, Chemical Bank, to Ester Saverson, Jr., Division, Commission, dated May 6, 1993; letter from Kevin W. Kelley, Clifford Chance, to Margaret H. McFarland, Deputy Secretary, dated May 7, 1993; letter from Caroline F. Marks, Vice President & Senior Securities Counsel, Citibank, N.A., to Jonathan G. Katz, Secretary, Commission, dated May 10, 1993; letter from Simpson Thatcher & Bartlett, to Margaret H. McFarland, Deputy Secretary, Commission, dated May 10, 1993; letter from Joseph M. Velli, Executive Vice President, Corporate Trust and Agency Services, The Bank of New York, to Margaret H. McFarland, Deputy Secretary, Commission, dated May 13, 1993; letter from Robert O. McCabe, Vice President and Assistant General Counsel, J.P. Morgan & Co., Inc., to Margaret H. McFarland, Deputy Secretary, Commission, dated May 13, 1993; letter from Maureen Scannell Bateman, Senior Vice President and General Counsel, United States Trust Company of New York, to Ester Saverson, Jr., Division, Commission, dated May 21, 1993; Letter from Warren L. Tischler, Administrative Vice President, and Carmela Ehret, Vice President, Marine Midland Bank, N.A., to Margaret H. McFarland, Deputy Secretary, Commission, dated June 7, 1993.
[14] Letter from Jack R. Wiener, Associate Counsel, DTC, to Ester Saverson, Jr., Division, Commission, dated July 1, 1993.
[15] Securities Act Release No. 6862 (April 30, 1990), 55 FR 17933.
[16] *See* Rule 144A(a)(1) (defining the term QIB).
[17] As defined in Rule 144 under the Securities Act, "restricted securities" are:

(i) Securities that are acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering; or

(ii) Securities acquired from the issuer that are subject to the resale limitations of Regulation D (§ 230.501 through § 230.506 of this chapter [17 CFR 230.501–230.506]) or Rule 701(c) (§ 230.701(c) of this chapter [17 CFR 230.701]) under the Act; or

(iii) Securities that are subject to the resale limitations of Regulation D and are acquired in a transaction or chain of transactions not involving any public offering; or

(iv) Securities that are acquired in a transaction or chain of transactions meeting the requirements of Rule 144A.

Rule 144(a)(3).

[18] In order to determine whether common equity securities are of the same class, the Commission will apply a definition of "class" that is the same as that set forth in section 12(g)(5) of the Exchange Act, 15 U.S.C. 781(g)(5). Securities Act Release No. 6862, *supra* note 15, at 17935 n. 23. Common equity securities of the same class include securities of substantially similar character the holders thereof enjoy substantially similar rights and privileges. *Id* at 17935 text accompanying n. 23. In addition:

Preferred equity securities will be deemed to be of the same class if their terms relating to dividend rate, cumulation, participation, liquidation preference, voting rights, convertibility, call, redemption and other similar material matters are substantially identical. Debt securities will be deemed to be of the same class if their terms relating to interest rate, maturity, subordination, security, convertibility, call, redemption and similar material matters are substantially identical *Id.* at 17935.

The Director of the Commission's Division of Corporation Finance may designate, by delegated authority, additional securities and classes of securities that will not be deemed of the same class as an underlying security. 17b CFR 200.30–1. Securities Act Release No. 6862, *supra* note 15, at 17935 n. 27

VOL 58 ISS 244 DEC 22 1993 UMI

Automated Quotation ("Nasdaq") system). Rule 144A(d)(2) requires that the seller or any person acting on its behalf take reasonable steps to ensure that the purchaser is aware that the seller may rely on the safe-harbor provided by Rule 144A.[19]

On April 27, 1990, the Commission approved a rule proposal authorizing the NASD to establish a system for primary placement and secondary trading of Rule 144A Securities ("PORTAL Market System").[20] Since then, the NASD has proposed several amendments to the rules governing the operation of the PORTAL Market System. Concurrent with this approval order, today, the Commission is approving the NASD's proposals.[21]

B. Description

DTC's proposal would authorize DTC to make 144A Securities eligible for deposit, book-entry delivery, and other depository services, provided that any such Rule 144A Securities are designated for inclusion in a system of a Self-Regulatory Organization ("SRO") approved by the Commission for the reporting of quotation and trade information of Rule 144A transactions ("SRO Rule 144A System"). Pursuant to DTC's proposal, however, nonconvertible debt securities and nonconvertible preferred stock which are rated in one of the top four categories by a nationally recognized statistical rating organization ("Investment Grade Securities") need not be designated for inclusion in an SRO Rule 144A System in order to be eligible for deposit, book-entry delivery, and other depository services at DTC.

Current depository rules require that prior to making 144A securities eligible for deposit, DTC must determine whether, in light of the Federal securities laws, particularly the provisions of Rules 144, 144A, and 145, the securities, when deposited with DTC, may be lawfully transferred by book-entry.[22] In addition, pursuant to DTC's Rules, in order to make an issue of securities eligible for deposit, DTC must determine that it has the operational capability and can obtain information regarding the securities necessary to permit it to provide its services to participants and pledgees.[23] The proposed rule change does not affect these initial steps taken by DTC prior to making securities eligible for deposit.

Under the proposal, DTC will require issuers and transfer agents to make certain representations before DTC will make specific issues eligible for deposit and book-entry transfers.[24] First, the issuer must represent that at the time of initial registration with DTC's nominee, the securities were legally or contractually restricted securities eligible for transfer pursuant to Rule 144A, and identified by a CUSIP [25] (or a CUSIP International Numbering System ("CINS") number different from that assigned to any securities of the same class that were not legally or contractually restricted securities.[26] Second, the issuer must represent that the securities are either Investment Grade Securities, or are included within an SRO Rule 144A System. Third, the issuer and agent must represent that if non-Investment Grade Securities cease to be included in an SRO Rule 144A System during any period in which such securities are legally or contractually restricted securities, such securities shall no longer be eligible for DTC's services.

C. Comments

(i) May 1990 Comments

As noted above, in response to the initial release, six commentators supported and two opposed the proposal. The NASD and Amex urged that DTC should not be permitted to make Rule 144A Securities eligible for book-entry transfer outside of supervised trading systems, such as the PORTAL Market System, without the type of monitoring and control restrictions associated with such systems. Both commentators argued that without such controls the potential for leakage into the public market would increase.

The six commentators supporting the proposed rule change noted that DTC's proposal would streamline clearance and settlement of transactions that traditionally have cleared and settled physically. They asserted that DTC's proposal to immobilize 144A securities would attract a larger universe of buyers to the private placement market thereby enhancing secondary market liquidity for these securities. With regard to the concerns about private placement control procedures, these commentators emphasized that nothing in Rule 144A requires clearing organizations to assume the primary responsibility for monitoring compliance with either Rule 144A or any exemption from registration under the Securities Act.[27]

(ii) April 1992 Comments

As noted above, amendments to DTC's proposal were published on April 16, 1992.[28] The amendments proposed to require that at the time of initial deposit, non-Investment Grade Securities must be included in an SRO Rule 144A System approved by the Commission, and continue to be included in such a system in order to remain DTC eligible. The amendments also proposed to require that Rule 144A Securities deposited at DTC be assigned a CUSIP or CINS number that is different from any CUSIP or CINS number assigned to any unrestricted securities of the same class.[29]

Commentators addressing these amendments endorsed the use of different CUSIP and CINS numbers to distinguish unrestricted securities from

[19] Rule 144A(d)(2). See Rule 144A(d)(4)(i).

[20] Securities Exchange Act Release No. 27956 (April 27, 1990), 55 FR 18781. On the date of approval of the PORTAL Market System, the Commission approved a proposed rule filing by DTC enabling it to establish procedures to settle PORTAL Market System's transactions. Securities Exchange Act Release No. 27958 (April 27, 1990), 55 FR 18777. Pursuant to the order, DTC participants desiring to settle transactions effected in the PORTAL Market System could use DTC services to settle such transactions in compliance with certain rules of the PORTAL Market System.

[21] Securities Exchange Act Release No. 33326 (December 13, 1993).

[22] See DTC Rules, R. 5 § 1 (1990). This Rule requires that DTC determine whether the securities may be legally transferred by book-entry based on "advice of legal counsel satisfactory to * * * [DTC] * * *." *Id.*

This Order does not extend DTC's authority to make eligible for deposit at DTC additional securities and classes of securities designated by the Director of the Commission's Division of Corporation Finance pursuant to the grant of delegated authority contained in 17 CFR 200.30–1. Under section 19(b)(1) of the Exchange Act, 15 U.S.C. 78s(b)(1), DTC must file with the Commission pursuant to Exchange Act Rule 19b–4, 17 CFR 240.19b–4, in order to make such additional securities and classes of securities eligible for deposit at DTC.

[23] DTC Rules, R. 5 § 1. DTC Rules also require that "[t]he timing of additions of such issues shall be on a nondiscriminatory basis consistent with * * * [DTC's] objective to provide the maximum practical degree of service in facilitating the prompt and orderly settlement of securities transactions." *Id.*

[24] See *Supra* notes 9, 12 & 14.

[25] "CUSIP" is an acronym for the Committee on Uniform Securities Identification Procedures. The CUSIP numbering system was developed by a committee of the American Bankers Association to identify specific securities issues.

[26] In this regard, each issuer also must represent that it will ensure that a CUSIP or CINS identification number is obtained for all unrestricted securities of the same class that is different from any CUSIP or CINS identification number assigned to Rule 144A Securities of the same class, and shall notify DTC promptly in the event that it is unable to do so.

[27] The commentators also noted that the rules of the PORTAL Market System impose restrictions more stringent than those imposed by Rule 144A. As a result of these additional restrictions, some commentators noted that many market participants may not favor the PORTAL Market System as a means of executing transactions, especially for 144A debt securities.

[28] Securities Exchange Act Release No. 30568. *supra* note 9.

[29] *Id.*

other securities. Two commentators, however, challenged the decision to make DTC eligibility for securities other than Investment Grade Securities contingent upon inclusion in an SRO Rule 144A System. Instead, these two commentators thought that DTC's proposal should be modified to permit book-entry clearance and settlement for all Rule 144a Securities.[30]

(iii) April 1993 Comments

As noted above, fifteen commentators addressed the amendment published in April 1993.[31] The amendment proposed to expand eligible Rule 144A Securities to include contractually restricted securities, and to require additional representations from issuers.[32]

All of these commentators objected to that aspect of the amendment which would have required issuers and transfer agents to represent that the issuer had instructed the agent, and that the agent had agreed, to effect all transfers of securities in compliance with the Federal securities laws. The commentators asserted that determining whether each transfer has been effected in accordance with the Federal securities laws has never been within the scope of a transfer agent's duties. Instead, they noted that accepted practice is for transfer agents to refer transfers involving restricted securities to the issuer (or issuer's counsel) for further instructions. DTC has since withdrawn the requirement that issuers and transfer agents make this representation.[33]

II. Discussion

The Commission must examine DTC's proposal in light of section 17A of the Exchange Act [34] and Rule 144A's objective of "achieving a more liquid and efficient institutional resale market for unregistered securities." [35] This balancing approach should enable the Commission to ensure that the procedures designed for the clearance and settlement of Rule 144A Securities will protect investors while not imposing unnecessary burdens that could undermine the liquidity and efficiency of a secondary market for Rule 144A Securities.

The Commission has examined DTC's proposal in light of these considerations and believers that the proposal is consistent with the public interest and provides for the protection of investors. DTC's proposed rule filing contains safeguards designed to detect and deter the sale of securities in contravention of the Securities Act, the provisions of Rule 144A and the contractual restrictions imposed by issuers to prevent the public offering of their privately placed securities. The Commission believes, moreover, that DTC's proposal to make Rule 144A Securities eligible for deposit will bolster investor confidence in the Rule 144A Securities market and will promote the prompt and accurate clearance and settlement of Rule 144A Securities, consistent with sections 17A(b)(3)(A) and (F) of the Exchange Act.[36]

Section 17A(b) (3)(F) of the Exchange Act requires that the rules of a clearing agency be designed to protect investors and the public interest. DTC is a clearing agency whose participants include both QIBs and non-QIBs (DTC's participants, in turn, act for millions of individual and institutional investors). Because under the proposal DTC's facilities would allow for the transfer of restricted securities among any participants (subject only to operational and credit limitations), DTC has the obligation to ensure that its facilities are not used systematically to violate the Federal securities laws.[37]

The Commission is satisfied that the proposal incorporates adequate safeguards to reduce the potential for transfers in violation of the Federal securities laws, even though Rule 144A Securities will not be segregated and DTC will not monitor individual movements among participants' accounts. Among other safeguards, DTC already has established eligibility requirements to reduce the potential for the unlawful transfer of restricted securities that, as a result of the proposal, will now be DTC eligible.

Pursuant to the proposed rule change, DTC will require issuers to represent that at the time Rule 144A Securities are initially registered in DTC's nominee name, they are identified by a CUSIP or CINS number different from that assigned to unrestricted securities of the same class.[38] In addition, with regard to future transactions, issuers will be required to represent to DTC that they will ensure that a CUSIP or CINS identification number is obtained for all unrestricted securities of the same class that is different from any CUSIP or CINS identification number assigned to Rule 144A Securities of the same class, and will notify DTC promptly in the event they are unable to do so.[39] These measures will enable DTC and its participants to distinguish between restricted and unrestricted securities of the same issuer and to prevent the commingling of otherwise identical securities.[40]

Moreover, DTC will condition the eligibility of Rule 144A Securities (other than Investment Grade Securities) on initial and continued inclusion of those securities in an SRO Rule 144A System, such as the NASD's PORTAL Market System. A crucial feature of such a system is that the SRO's members must report trades involving system-designated securities on a routine basis to the SRO (whether or not those trades were executed in the system, based on system price, or outside the system entirely), together with information that will facilitate detection of securities law violations. DTC will request SROs operating SRO Rule 144A Systems to notify DTC promptly if any DTC-eligible Rule 144A Security is exited from such a system, so that DTC can instruct DTC participants to remove their positions in that security from DTC.[41]

The Commission believes that the implementation of these safeguards coupled with periodic reviews to monitor their effectiveness should be sufficient to satisfy DTC's obligations. Accordingly, the Commission believes that this aspect of the proposed rule filing is consistent with the

[30] Two commentators also questioned whether the proposed amendments would prevent DTC eligibility for an unrestricted security or a security that subsequently becomes unrestricted which is of the same class as a security in a 144A reporting system. According to the commentators, this is of particular relevance in the context of global depositary receipts ("GRD") and one commentator sought clarification that Rule 144A GDRs need not be restricted securities under Rule 144 (a)(3), provided that, during any period when they are owned by a beneficial owner located in the U.S., they are, by their terms, subject to appropriate restrictions on transfer and, at all times, bear a CUSIP number that is different from the CUSIP number assigned to any unrestricted GDRs representing underlying securities of the same class and underlying securities that are unrestricted. DTC addressed this concern in the March 1993 amendment.

[31] See *supra* note 13.

[32] Securities Exchange Act Release No. 32114, *supra* note 12.

[33] Letter from Jack R. Wiener, dated July 1, 1993, *supra* note 14.

[34] 15 U.S.C. 78q–1.

[35] Securities Exchange Act Release No. 6862, *supra* note 15, at 17934.

[36] 15 U.S.C. 78q–1(b)(3)(A) & (F).

[37] This requirement is consistent with DTC's obligation to comply with the Federal securities laws. As an organization subject to Federal securities laws, as well as an SRO charged with acting in a manner consistent with the public interest and investor protection, DTC must not facilitate violations of the Federal securities laws.

[38] Securities Exchange Act Release No. 32114. *supra* note 12.

[39] *Id.*

[40] The requirement to have different CUSIP or CINS numbers for restricted and unrestricted securities will assist market participants in their efforts to comply with the requirements of the Securities Act and avoid the danger of leakage of restricted securities into the retail market.

[41] Securities Exchange Act Release No. 32114. *supra* note 12.

VOL 58 ISS 244 DEC 22 1993 UMI

requirements of section 17A(b)(3)(F) of the Exchange Act as it is designed to protect investors and the public interest.

Commentors expressed concern about the representation which required that all transfers of securities be effected in accordance with Federal securities laws,[42] and DTC subsequently withdrew this representation.[43] The Commission understands that generally accepted practice is for transfer agents to refer transfers involving restricted securities to the issuer (or issuer's counsel) for further instructions. This does not absolve transfer agents from compliance with the Federal securities laws, who, like DTC, have independent obligations to comply with those laws.

III. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and in particular with the requirements of section 17A of the Exchange Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Exchange Act,[44] that the proposed rule change, SR–DTC–90–06, be and hereby is, approved.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–30909 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

[42] As described above, the commentators believe that determining whether each transfer has been effected in accordance with Federal securities laws, has never been within the scope of a transfer agent's duties. See *supra* text accompanying note 33.

[43] See letter from Jack Wiener, dated July 1, 1993, *supra* note 14.

[44] 15 U.S.C. 78s(b)(2).

[1] 15 U.S.C. 78s(b)(1) (1988).

[Release No. 34–33323; File No. SR–MSRB–93–11]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Filing of Proposed Rule Change Relating to Automated Confirmation/Acknowledgement of Delivery vs. Payment and Receipt vs. Payment Customer Transactions

December 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 2, 1993, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–MSRB–93–11) as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends MSRB Rule G–15(d)(ii), relating to automated confirmation/acknowledgement of customer transactions.[2] The proposed rule change would eliminate the exemption in Rule G–15(d)(ii) which currently does not require use of the automated confirmation/acknowledgement system if one or both of the parties to the transaction are not members of a registered clearing agency performing automated confirmation/acknowledgement services. The MSRB requests that the Commission delay the effectiveness of the proposed rule change until July 1, 1994, to allow dealers sufficient time to make any changes that may be necessary in their clearance practices.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to require the use of an automated confirmation/acknowledgment system for all delivery vs. payment and receipt vs. payment ("DVP/RVP") customer transactions that are eligible for processing in such systems. The proposed rule change is the third and final phase of the MSRB's overall plan to complete the transition of the municipal securities market to automated techniques of clearance and settlement.[3] Due to various difficulties that have been reported by dealers in using automated confirmation/acknowledgement systems and in obtaining the full co-operation from institutional customers and their clearing agents in acknowledging transactions, the proposed rule change was selected by the MSRB to be the final phase of the implementation plan.

(1) Background

The clearance of institutional customer transactions in municipal securities is accomplished in large part through the use of automated confirmation/acknowledgement systems operated by clearing corporations registered with the Commission. The automated confirmation/acknowledgement process allows a dealer to send a confirmation to an institutional customer electronically. The customer (or the customer's clearing agent) then can electronically acknowledge the transaction after it receives the confirmation. This process provides substantial efficiencies and cost savings to the municipal securities market by ensuring timely settlement of the transaction, and eliminates much of the time consuming and expensive manual processing associated with paper confirmations by providing an electronic record of the transaction.

Currently, MSRB Rule G–15(d)(ii) requires that DVP/RVP customer transactions eligible for automated confirmation/acknowledgement systems be confirmed/acknowledged through such a system if each party to the transaction is a member of a registered clearing agency offering confirmation/acknowledgement services or uses a clearing agent for the transaction that is a member of such a clearing agency. The current rule does not require use of the automated confirmation/acknowledgement system if one or both of the parties are not members of the registered clearing agency performing automated confirmation/acknowledgement services. The current exemption in the rule was provided to allow dealers to make DVP/RVP settlements with customers that have not made arrangements to use the automated confirmation/acknowledgement systems. The exemption was intended to exist only during the transition period to full use of automated clearance and settlement systems in the municipal securities market.

(2) Terms of the Proposed Rule Change

The proposed rule change would require that all DVP/RVP customer transactions that are eligible for confirmation/acknowledgement in a system operated by a registered clearing agency be processed in such a system. As a practical matter, therefore, all dealers with institutional customers would have to have access to a confirmation/acknowledgement system and would have to ensure that all of their customers receiving DVP/RVP privileges have access to an automated confirmation/acknowledgement system operated by a registered clearing agency. This would eliminate the time consuming and expensive exception processing which is sometimes now required for DVP/RVP customer transactions that fall within the current exemption in MSRB Rule G–15(d)(ii).

As set forth in section 15B of the Act, the MSRB's rules should be designed to foster cooperation and coordination with persons engaged in clearing, settling, and processing information with respect to, and facilitating transactions in, municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.[4] The MSRB's role in this area is given additional direction by section 17A of the Act, which mandates the creation of a national system of automated clearance and settlement of securities transactions.[5] Section 17A expressly includes municipal securities within its stated objectives.

The MSRB believes that the proposed rule change will facilitate clearance and settlement of municipal securities as required by section 15B of the Act and also serves one of the explicit purposes of section 17A of the Act, to implement new data processing and communications techniques to create the opportunity for more efficient, effective, and safe procedures for clearance and settlement. In addition, in October 1993, Commission Chairman Levitt requested that the MSRB develop a plan to compress the current fifth day after trade date ("T+5") regular-way settlement cycle in the municipal securities market to a third day after trade date ("T+3") settlement by June 1, 1995.[6] The MSRB believes that the proposed rule change will facilitate T+3 settlement by increasing the efficiency of the clearance process through the use of automated confirmation/acknowledgement systems which are capable of providing transaction and settlement information much faster than mailed confirmations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(c) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

(1) Comments on Proposed Draft Amendments

In August 1991, the MSRB published for comment the proposed rule change as well as other draft amendments to MSRB Rules G–12(f) and G–15(d). Sixteen comment letters were received.[7] Twelve commenters generally supported the August 1991 draft amendments,[8] two were opposed,[9] and two commenters addressed a possible modification without specifically supporting or opposing the draft amendments.[10] The commenters who supported the draft amendments, including the proposed rule change, stated that they generally believed that the amendments would increase the efficiency of transaction settlement through the more universal use of automated confirmation/acknowledgement systems and book-entry deliveries. The primary reason cited for this increased efficiency was the elimination of exemptions which allow for the clearance and settlement process to occur outside of automated systems. These commenters indicated that a primary benefit of the draft amendments would be the elimination of the time consuming exception processing necessary when a transaction is confirmed, cleared, and settled outside of the automated systems.

One commenter stated that there are a substantial number of institutional customer transactions that currently are settled by book-entry, but which are not confirmed/acknowledged in an automated system.[11] Some institutional customers do not participate in an automated confirmation/acknowledgement system and have little incentive to use such a system since their transactions normally settle on time. Of the several amendments which were part of the August 1991 draft amendments, the MSRB made the proposed ruled change the last for implementation so that dealers would have time to make DVP/RVP settlement arrangements with customers that have not previously made arrangements to use automated confirmation/acknowledgement systems. There were

---

[2] The term "confirmation/affirmation" has been used in lieu of "confirmation/acknowledgement" in previous MSRB documents and rules. The word affirmation is being changed to "acknowledgement" in the proposed rule change at the request of The Depository Trust Company ("DTC"). DTC's planned changes to its Institutional Delivery system incorporate the term "matching" along with "affirming" to achieve "acknowledgement" of a transaction.

[3] For further details concerning the MSRB's overall plan, see Securities Exchange Act Release Nos. 32840 (July 22, 1993), 58 FR 39280 and 33275 (December 2, 1993), 58 FR 64992.

[4] 15 U.S.C. 78o–4 (1988).

[5] 15 U.S.C. 78q–1 (1988).

[6] See letter from Arthur Levitt, Chairman, Commission, to David Clapp, Chairman, MSRB (October 7, 1993).

[7] See letter from Philip Lanz, Managing Director, Bear, Stearns Securities Corp., to Harold L. Johnson, Deputy General Counsel, MSRB (December 16, 1991); letter from Jan Fanty, President, The Cashiers' Association of Wall Street, Inc., to Harold L. Johnson, Deputy General Counsel, MSRB (December 3, 1991); letter from William J. Winter, Vice President, Cashiers' Department, A.G. Edwards and Sons, Inc., to Harold L. Johnson, Deputy General Counsel, MSRB (December 13, 1991); letter from Kathleen Graffam, First Chicago Capital Markets, Inc., to Harold L. Johnson, Deputy General Counsel, MSRB (December 13, 1991); letter from Steve Harris, Executive Vice President, Golden Harris Capital Group, Inc., to Harold L. Johnson, Deputy General Counsel, MSRB (October 7, 1991); letter from John J. Lynch, Jr., Executive Vice President, J.F. Hartfield and Co., Inc., to Harold L. Johnson, Deputy General Counsel, MSRB (December 3, 1991); letter from John F. Lee, President, New York Clearing House Association, to Harold L. Johnson, Deputy General Counsel, MSRB (December 18, 1991); letter from Harold Durk, Duke McElroy & Company, to Harold L. Johnson, Deputy General Counsel, MSRB (December 3, 1991); letter from Lawrence Morillo, Senior Vice President, Pershing Division of Donaldson, Lufkin & Jenrette Securities Corporation ("Pershing"), to Harold L. Johnson, Deputy General Counsel, MSRB (December 6, 1991); letter from James H. Pyle, Managing Partner, Terry L. McCullough, Partner, Richard E. Whalen, Partner, and Benita I. Simon, Partner, Elmer E. Powell and Company, to Harold L. Johnson, Deputy General Counsel, MSRB (November 27, 1991); letter from George Brakatselos, Vice President, Public Securities Association, to Harold L. Johnson, Deputy General Counsel, MSRB (November 19, 1991); letter from Bruce L. Vernon, President and Thomas Sargant, Vice President, The Regional Municipal Operations Association, to Harold L. Johnson, Deputy General Counsel, MSRB (December 12, 1991); letter from George J. Mitsig, Chairman, Regulatory and Clearance Committee, Securities Operation Division, Securities Industry Association, to Harold L. Johnson, Deputy General Counsel, MSRB (December 6, 1991); letter from Jerome Clair, Managing Director, and Robert Mattei, Assistant Manager, Smith Barney, Harris Upham & Co., Inc. ("Smith Barney"), to Harold L. Johnson, Deputy General Counsel, MSRB (December 9, 1991); letter from Roger Springate, Jr., Springate and Company, to Harold L. Johnson, Deputy General Counsel, MSRB (December 13, 1991); and letter from Rick Farrell, Assistant Vice President, United Missouri Bank, N.A., to Harold L. Johnson, Deputy General Counsel, MSRB (November 5, 1991).

[8] See *supra*, note 7, letters from Bear, Stearns Securities Corp.; The Cashiers' Association of Wall Street, Inc.; A.G. Edwards and Sons, Inc.; First Chicago Capital Markets, Inc.; J.F. Hartfield and Co., Inc.; New York Clearing House Association; Pershing; Public Securities Association; The Regional Municipal Operations Association; Securities Industry Association; Smith Barney; and United Missouri Bank, N.A.

[9] See *supra*, note 7, letters from Elmer E. Powell and Company and Springate and Company.

[10] See *supra*, note 7, letters from Golden Harris Capital Group, Inc. and Duke McElroy & Company.

[11] See *supra*, note 7, letters from First Chicago Capital Markets, Inc.

VOL 58 ISS 244 DE 22 1993 UMI

no opposing comments relating specifically to the proposed rule change.

(2) Comments on Proposed Implementation Timetable

The MSRB's proposed implementation timetable for the August 1991 draft amendment was published for comment in April 1992. Two comment letters were received.[12] The commenters generally supported the implementation plan as it related to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSRB. All submissions should refer to the File No. SR–MSRB–93–11 and should be submitted by January 12, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31163 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

[12] See letter from Margaret Sullivan, Assistant Vice President, The First National Bank of Chicago, to Harold L. Johnson, Deputy General Counsel, MSRB (May 28, 1992) and letter from Mario P. DeAngelo, Vice President, Alex. Brown & Sons, Inc., to Harold L. Johnson, Deputy General Counsel, MSRB (April 29, 1992).

[13] 17 CFR 200.30–3(a)(12).

[Release No. 34–33352; File No. SR–NASD–93–42]

Self-Regulatory Organizations; Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Asset Based Sales Charge Disclosures by Money Market Mutual Funds

December 16, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 8, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change[2] as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend Article III, Section 26 of the Rules of Fair Practice to exempt money market funds from the requirement to make the prospectus disclosure in Subsection 26(d)(4) that long-term shareholders may pay more than the economic equivalent of the permitted maximum front-end sales charges. The proposed rule was approved by the NASD membership.[3] Below is the text of the proposed rule change. Proposed new language is italicized.

Text of Proposed Amendments to Article III, Section 26 of the Rules of Fair Practice

Investment Companies

Sec. 26

* * *

(d)

(4) No member or person associated with a member shall offer or sell the securities of an investment company with an asset-based sales charge unless its prospectus discloses that long-term shareholders may pay more than the economic equivalent of the maximum front-end sales charges permitted by this section. Such disclosure shall be adjacent to the fee table in the front section of a prospectus. *This subsection shall not apply to money market mutual funds which have asset-based sales charges equal to or less than .25 of 1% of average net assets per annum.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On July 7, 1993, new rules governing investment company sales charges became effective.[4] On or near the effective date of the new rules the NASD received several applications for exemption from Section 26(d)(4), which requires that the prospectus for an investment company with an asset based sales charge disclose that "long-term shareholders may pay more than the economic equivalent of the maximum front-end sales charges permitted by this section." The applications noted that the rule is specific in its language and requires the disclosure, even if the statement may not be true for a particular mutual fund.

The applicants pointed out that in the case of a money market mutual fund, there is a high probability that the statement will be inaccurate because such funds generally have very low asset based sales charges, and an investor would have to be a shareholder for an extremely long time before the disclosure would be true. According to one applicant, a shareholder of its fund, which has an asset based charge of 15 basis points, would have to remain in the fund for over 55 years before he would pay more than the maximum front-end charge. The applicants suggest that, since money market mutual funds are traditionally short-term investments or cash management vehicles, it is unlikely that investors will stay in such funds for lengthy periods. As a result, they believe that the disclosure may be misleading, or at least confusing, to investors in money market mutual funds.

The NASD agrees with the arguments of the applicants and, accordingly, has determined to amend Subsection 26(d)(4) to exempt money market mutual funds from the disclosure requirement. Requiring funds to include disclosure statements in such situations serves no identifiable purpose and does not advance any recognizable regulatory interest.

The NASD is also proposing, however, to limit the availability of the proposed rule change to money market mutual funds with asset-based sales charges equal to or less than .25 of 1% (25 basis points) of average net assets per annum. After publishing the proposed rule change for member vote in Notice to Members 93–52 (September 1993) without the limitation, members of the Commission staff notified the NASD that for certain money market funds with high asset-based sales charges (50 basis points or more), the disclosure statement would be accurate. For example, a fund with an asset-based sales charge of 50 basis points and a 3 percent return on investment would reach the economic equivalent of the maximum front-end sales charge permitted by Subsection 26(d) in approximately 14 years. The NASD agreed with the SEC's comments and, accordingly, has agreed to limit the proposed rule change in response to the SEC's comments.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act in that it advances the protection of investors and the public interest by eliminating an unnecessary and potentially misleading disclosure requirement that serves no regulatory or investor protection interest in the context of money market mutual funds. The NASD's intent in adopting Subsection 26(d)(4) was to alert purchasers of the effect of asset based sales charges in the event they held their shares for a long period; however, because of the unique characteristics of money market mutual funds (i.e., low asset-based sales charges and low asset growth) such disclosure in the context of money market funds is potentially misleading and contrary to the regulatory purpose of the rule.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–93–42 and should be submitted by January 12, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31206 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The NASD amended the proposed rule change once subsequent to its original filing on August 3, 1993; this amendment was substantive and limited the scope of the proposed exemption in this filing.

[3] Out of 2045 ballots received, 1645 were in favor, 250 opposed, 10 did not vote and 140 ballots were unsigned.

[4] See Securities Exchange Act Release No. 30897 (July 7, 1992), 57 FR 30985 (July 13, 1992); NASD Manual, Rules of Fair Practice, Art. III, Sec. 26(d), (CCH) ¶ 2176.

[5] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–33342; File Nos. SR–OCC–93–07 and SR–ICC–93–04]

Self-Regulatory Organizations; The Options Clearing Corporation and The Intermarket Clearing Corporation; Order Approving Proposed Rule Changes To Restructure the Cross-Margining Program Between The Options Clearing Corporation and The Intermarket Clearing Corporation

December 15, 1993.

On May 24, 1993, The Options Clearing Corporation ("OCC") and The Intermarket Clearing Corporation ("ICC") filed proposed rule changes (File Nos. SR–OCC–93–07 and SR–ICC–93–04) with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposals were published in the **Federal Register** on July 16, 1993, to solicit comments from interested persons.[2] On July 26, 1993, OCC and ICC filed amendments to the proposals.[3] No comments were received. As discussed below, this order approves the proposals.

I. Description

The OCC and ICC proposals restructure the current OCC/ICC cross-margining program[4] so that it parallels the cross-margining programs between OCC and other commodity clearing organizations. Specifically, the restructured OCC/ICC program is modeled on and operates in basically the same way as the existing cross-margining program between OCC and

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 32646 (July 23, 1993), 58 FR 39587 [File Nos. SR–OCC–93–04 and SR–ICC–93–04].

[3] The amendments made technical changes to the proposals. Letter from Jean M. Cawley, Special Counsel, OCC, to Jerry W. Carpenter, Chief, Branch of Clearing Agency Regulation, Division of Market Regulation ("Division"), Commission (July 16, 1993) and letter from Jean M. Cawley, Special Counsel, ICC, to Jerry W. Carpenter, Branch Chief, Division, Commission (July 19, 1993).

[4] Securities Exchange Act Release Nos. 28153 (October 3, 1988), 53 FR 39567 [File Nos. SR–OCC–86–17] (order approving OCC/ICC proprietary cross-margining program) and 30041 (December 5, 1991), 56 FR 64824 [File Nos. SR–OCC–90–04 and SR–ICC–90–03] (order approving OCC/ICC non-proprietary, market profession cross-margining program).

the Chicago Mercantile Exchange ("CME").[3] OCC and ICC have entered into a new cross-margining agreement ("OCC/ICC Agreement") with respect to the restructured program which is based on the cross-margining agreement among OCC, ICC, and CME ("OCC/ICC/CME Agreement")[4] The OCC/ICC Agreement is substantially similar to the OCC/ICC/CME Agreement except for the following differences.

Because neither OCC nor ICC conduct settlements on Good Friday, that day is not to be included in the definition of the term "business day."[7] The term "carrying clearing organization" is not included in the OCC/ICC Agreement because the OCC/ICC Agreement establishes a bilateral cross-margining program between OCC and ICC and not a trilateral cross-margining program such as the OCC/ICC/CME program. Conforming changes are made to other terms defined in the OCC/ICC Agreement.

OCC and ICC have determined that it is unnecessary to provide that certain oral agreements must have been made over a recorded telephone line and later confirmed in writing.[8] Accordingly, references to using recorded telephone lines to make oral agreements and to confirming such agreements in writing, as most notably found in Sections 5, 6, 7, and 14 of the OCC/ICC/CME Agreement, are not included in the OCC/ICC Agreement.

As is the case in their current program, OCC and ICC do not impose super margins with respect to cross-margin accounts in the restructured program. As the clearing organizations have stated in the past, neither believes that super margins are essential to a cross-margining program. Therefore, references to super margins, as found in Section 5 of the OCC/ICC/CME Agreement, are not included in the OCC/ICC Agreement.[9]

In the OCC/ICC Agreement, unlike in the OCC/ICC/CME Agreement, ICC does not appoint OCC as its agent for receiving and for approving or disapproving settlement instructions issued pursuant to Section 7, "Daily Settlement Procedures."[10] Settlement times and procedures in Section 7 are those of OCC and ICC. Because the OCC/ICC cross-margin program is a bilateral program, OCC and ICC are always carrying clearing organizations. Therefore, there are no provisions in the OCC/ICC Agreement relating to the effects of actions taken by a clearing organization that is not a carrying clearing organization. In order to conform the terms of Section 7 to the practice in the OCC/CME program, paragraph (i) provides that settlements with respect to proprietary and non-proprietary cross-margin accounts are paid once a clearing member has completed its settlement obligations with respect to all other accounts with the clearing organizations.

Pursuant to Section 8 of the OCC/ICC Agreement, which describes the liquidation procedures for the OCC/ICC cross-margining program, OCC and ICC are each entitled to retain (bear) 50% of any surplus (shortfall) resulting from the liquidation of the cross-margin accounts of a defaulting clearing member. OCC and ICC have determined that it is unnecessary to provide in the OCC/ICC Agreement that each is required to adhere to its respective rules governing assessments against the clearing fund deposits of other clearing members in the event of a default of a cross-margining clearing member or its affiliated clearing member. OCC and ICC also have determined that it is unnecessary to require an annual evaluation of the above-described surplus/loss sharing formulas. Accordingly, the provisions for sharing any surplus (shortfall) parallel those that are in effect in the existing OCC/CME cross-margining program.

The indemnification provisions, which are set forth in Section 10 of the OCC/ICC Agreement, and the termination provisions, which are set forth in Section 12, were drafted to accommodate the bilateral OCC/ICC cross-margining program. Section 12 does not contain a provision prohibiting the termination without cause of the cross-margining program until one year after the effective date because OCC and ICC do not believe that such a provision is necessary.

OCC and ICC have determined that it is unnecessary to advise one another of the total size of and aggregate contributions to their respective clearing funds and that it is unnecessary to advise one another if a cross-margin clearing bank is experiencing operational difficulties.[11] Accordingly, Section 14 of the OCC/ICC Agreement, "Information Sharing," does not contain provisions requiring the exchange of such information.[12]

Pursuant to Section 16 of the OCC/ICC Agreement, which sets forth the arbitration procedures, controversies and claims arising out of the OCC/ICC Agreement will be settled by arbitration before a three member panel of the American Arbitration Association. OCC and ICC no longer appoint arbitrators.

The list of contracts eligible for inclusion in the OCC/ICC cross-margining program is set forth as Exhibit A to the OCC/ICC Agreement. Eligible OCC-cleared contracts include put and call options on (1) S&P 100 Index, (2) S&P 500 Index, (3) Major Market Index, (4) New York Stock Exchange Composite Index, (5) Financial News Composite Index, (6) Institutional Index, and (7) foreign currencies. Eligible ICC-cleared contracts include (1) New York Stock Exchange Composite Index futures, (2) put and call options on the New York Stock Exchange Composite Index futures, and (3) foreign currency futures.

The various forms of agreements used in connection with the OCC/ICC cross-margining program are substantially identical to those used in the OCC/ICC/CME cross-margining program except that the agreements for the OCC/ICC cross-margining program accommodate only a bilateral cross-margining program.

Because the rule changes restructure the OCC/ICC cross-margining program so that it parallels the cross-margining programs in which OCC and ICC participate, specific references to the OCC/ICC cross-margining program are no longer required to be included in the OCC's and ICC's rules. Accordingly, the provisions of OCC's By-Laws, Article VI, Section 23, "Cross-Margining with ICC," and the provisions of ICC Rule 513, "Bilateral Cross-Margining with OCC," both of which describes the current structure, are deleted. OCC's By-Laws, Article VI, Section number 23 and ICC Rule number 513 are reserved for future use. Conforming amendments also are made to other OCC By-Laws and Rules and to other ICC Rules and to the ICC Margin Resolution.

Thus, under OCC's By-Laws and Rules, ICC is considered a carrying commodity clearing organization, and the OCC/ICC cross-margining program is governed by the terms of OCC's By-Laws, Article VI, Section 24, "Cross-Margining with Participating CCOs" and the appropriate provisions of OCC's Rules. Under ICC's Rules, OCC is considered a carrying clearing organization, and the OCC/ICC cross-margining program is governed by ICC's Rules 514 through 520.

II. Discussion

The Commission believes that the proposals are consistent with the purposes and requirements of Section 17A of the Act.[13] Sections 17A(b)(3) (A) and (F) require that a clearing agency be structured and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of funds and securities in its custody and control of for which it is responsible.[14] Furthermore, in Section 17A(a)(2)(A)(ii) Congress called for the establishment of linked or coordinated facilities for the clearance and settlement of transactions in securities, securities options, futures contracts, and options on futures and commodities.[15] For the reasons set forth below, the Commission finds that the OCC/ICC proposal is consistent with these statutory directives.[16]

Since it granted approval of the first cross-margining program in 1988,[17] the Commission repeatedly has found that cross-margining programs are consistent with clearing agency responsibilities under Section 17A of the Act. As the Commission has previously noted, cross-margining programs, among other things, tend to enhance clearing member and systemic liquidity both in times of normal trading and in times of stress.[18] Under routine trading, clearing members who participate in a cross-margining program have lower initial margin requirements, and reduced margin requirements help clearing member manage their cash flow by increasing cash to be used for other purposes. In times of market stress and high volatility, lower initial margin requirements could prove crucial in maintaining the liquidity of clearing members and thus would enhance liquidity in the market as a whole.

In addition, the Commission consistently has indicated that by more accurately reflecting a clearing member's portfolio risk, cross-margining arrangements enhance clearing member liquidity and thereby reduce the risk that clearing members will become insolvent in times of extreme market stress.[19] Enhancing clearing member liquidity thus promotes the safety of the entire clearance and settlement system by increasing the liquidity of individual participants and thereby decreasing the threat of a ripple effect of insolvencies caused by the demise of a major market participant.

The Commission believes that the interrelationships between the financial markets and the need for a system of margining which reflects the true risk of combined portfolios justifies cross-margining of futures and options positions. OCC and ICC have restructured their cross-margining program in order to make the OCC/ICC cross-margining program substantially similar to other cross-margining programs previously approved by the Commission.[20] In conjunction with OCC's usual safeguards which are employed to protect against the risks of clearing member insolvency,[21] the Commission believes that the restructured OCC/ICC cross-margining program is fully consistent with the statutory requirements of Section 17A of the Act. Therefore, the Commission is approving OCC's and ICC's proposed rule change.

III. Conclusion

For the reasons stated above, the Commission finds that OCC's and ICC's proposals are consistent with Section 17A of the Act.[22]

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[23] that the proposed rule changes (File Nos. SR–OCC–93–07 and SR–ICC–93–04) be, and hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31164 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

---

[3] For a description of the OCC/CME cross-margining program, refer to Securities Exchange Act Release Nos. 27296 (September 28, 1989), 54 FR 41195 [File No. SR–OCC–89–01] (order approving the OCC/CME proprietary cross-margining program) and 29991 (November 26, 1991), 56 FR 61456 [File No. SR–OCC–90–1] (order approving the OCC/CME non-proprietary, market professional cross-margining program).

[4] Securities Exchange Act Release No. 32534 (June 28, 1993), 58 FR 36234 [File Nos. SR–OCC–92–28 and SR–ICC–93–06] (order approving the OCC/ICC/CME cross-margining program). The OCC/ICC/CME Agreement provides for the establishment of a trilateral and two bilateral cross-margining programs.

[7] No settlements are conducted on Good Friday in the current OCC/ICC cross-margining program. Therefore, it is not a business day for purposes of the current OCC/ICC cross-margining program.

[8] Such a requirement is not a part of the current OCC/ICC cross-margining program.

[9] Previously, the Commission approved the proprietary cross-margining program between OCC and the Comex Clearing Association, Inc. which did not impose super margins. Securities Exchange Act Release No. 31414 (November 6, 1992), 57 FR 53943 (File No. SR–OCC–92–22).

[10] ICC, however, will appoint OCC as its agent for such purposes in a letter agreement between the parties.

[11] In other cross-margining programs, the Commission has emphasized the importance of information sharing between the participant clearing corporations, but because ICC is a wholly-owned subsidiary of OCC, the Commission believes there is no need for specific information sharing procedures between the parties. Should the relationship between ICC and OCC change, the Commission may wish to revisit the issue of information sharing between the ICC and OCC.

[12] OCC and ICC do not exchange such information in the current OCC/ICC cross-margining program.

[13] 15 U.S.C. 78q–1 (1988).

[14] 15 U.S.C. 78q–1(b)(3)(A) and (F) (1988).

[15] 15 U.S.C. 78q–1(a)(2)(A)(ii) (1990). Congress added this section to Section 17A of the Act when it enacted the Market Reform Act of 1990. Pub. L. No. 101–432, 104 Stat. 963 (1990). For a detailed discussion of the progress toward coordination or linkage in the national clearance and settlement system, refer to Commission, *Report on Progress Toward Establishing Linked or Coordinated Facilities for Clearance and Settlement of Transactions in Securities, Options, and Futures* (March 5, 1993).

[16] For a general discussion of the benefits of cross-margining refer to Securities Exchange Act Release Nos. 27296 and 29991, *supra* note 3.

[17] Securities Exchange Act Release No. 26153, *supra* note 4.

[18] *E.g.*, Securities Exchange Act Release Nos. 30413 (February 26, 1992), 57 FR 7830 (order approving OCC/Kansas City Board of Trade Clearing Corporation proprietary cross-margining program); 29991 (November 26, 1991), 56 FR 61456 (order approving OCC/CME non-proprietary, market professional cross-margining program); 29888 (October 31, 1991), 56 FR 56680 (order approving OCC//Board of Trade Clearing Corporation proprietary cross-margining program) 27296 (September 28, 1989), 54 FR 41195 (order approving OCC/CME proprietary cross-margining).

[19] Shortly after the 1987 market break, then Treasury Secretary Nicholas F. Brady referred to the clearance and settlement system as the weakest link in the nation's financial system and noted that improvements to the clearance and settlement system, such as those provided by cross-margining arrangements, would "help ensure that a securities market failure does not become a credit market failure." *The Market Reform Act of 1989: Joint Hearings on S. 648 before the Subcomm. on Securities and the Senate Comm. on Banking, Housing and Urban Affairs*, 101st Cong., 1st Sess. 225 (Oct. 26, 1989) (statement of Nicholas F. Brady, Secretary of the Treasury).

[20] *Supra* notes 5, 6, 9, and 17.

[21] Among other things, these safeguards include required clearing fund contributions, the Theoretical Intermarket Margining System, the Concentration Monitoring System, and the Risk Management System.

[22] 15 U.S.C. 78q–1 (1988).

[23] 15 U.S.C. 78s(b)(2) (1988).

[24] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–33340; File No. SR–PSE–93–26]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Size of Orders Eligible for Entry in Auto-Ex System

December 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 15, 1993, the Pacific Stock Exchange ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

VOL 58 ISS 244 DE 22 1993 UMI

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend its rules relating to the operation of its Automatic Execution System ("Auto-Ex") in equity options. Specifically, proposed Commentary .01 to Exchange Rule 6.87 will permit the PSE to increase, in one or more classes of multiply-traded equity options, the size of orders eligible for entry into Auto-Ex to the extent necessary to match the size of orders eligible for entry into any other exchanges' automated execution system.

The text of the proposed rule change is available at the Office of the Secretary, PSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange states that the purpose of the proposed rule change is to make the Exchange's Auto-Ex system more competitive in its application to multiply-traded equity options in anticipation of the expansion of multiple trading. To accomplish this, the proposed rule change would modify Exchange rules governing the operation of Auto-Ex with respect to multiply-traded equity options. Proposed Commentary .01 to Rule 6.87 would permit the Exchange's Options Floor Trading Committee ("OFTC") to expand the size eligibility for Auto-Ex orders in multiply-traded equity options to the extent necessary to match other options markets.

Specifically, the proposed commentary would authorize the OFTC to increase the size of Auto-Ex eligible orders in one or more classes of multiply-traded equity options to the extent that other options exchanges permit such larger-size orders in multiply-traded equity options of the same class or classes to be entered into their own automated execution systems. The proposed rule change is intended to permit the Exchange to compete for order flow in multiply-traded equity options on an equal basis with other exchanges.

If the Exchange intends to increase the Auto-Ex order size eligibility pursuant to the proposed rule, the Exchange will notify the Commission pursuant to section 19(b)(3)(A) of the Act. Such notification will include representations that the Auto-Ex system has the capacity to accommodate such an increase and will also include representations regarding the market-making capacity of market makers participating in Auto-Ex. However, if the Exchange intends to increase the Auto-Ex order size eligibility and such increase is initiated by the Exchange and not initiated in response to matching an increase effectuated by another market, the Exchange will seek authorization for such an increase pursuant to section 19(b)(1) of the Act.

The Exchange believes that the proposed rule change is consistent with section 6 of the Act, in general, and furthers the objectives of section 6(b)(5) of the Act, in particular, in that it facilitates transactions in securities, removes impediments to and perfects the mechanism of a free and open market and a national market system, and promotes just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 12, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31165 Filed 12-21-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-33347; File No. SR-PSE-93-21]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change Relating to the Adoption of Charges for the Late Filing of SIPC Reports

December 15, 1993.

I. Introduction

On August 16, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to adopt charges for the late filing of SIPC reports. On December 1, 1993, the PSE submitted to the Commission Amendment No. 1 to the proposed rule change.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 32889 (September 14, 1993), 58 FR 48920 (September 20, 1993). No comments were received on the proposal. This order approves the proposed rule change, including Amendment No. 1 on an accelerated basis.

II. Description of the Proposal

The PSE is amending PSE Rule 2.12(b) to establish a graduated charge schedule for the late filing with the Exchange of SIPC-6 and SIPC-7 reports by member organizations for which the Exchange is the Designated Examining Authority ("DEA").[4] Currently, PSE Rule 2.12(a) requires every member organization which is not a member of another exchange or registered national securities association which is the DEA for that member organization to file with the Exchange answers to Financial Questionnaires, Reports of Income and Expenses and additional financial information in the type, form, manner and time prescribed by the Exchange. Currently, PSE Rule 2.12(b) imposes charges on member organizations for the late filing of Reports of Financial Condition (X-17A-5) with the Exchange.

The PSE is amending Rule 2.12(b) to require each member organization to file SIPC-6 and SIPC-7 forms with the Exchange, and is adopting the following schedule of charges for the late filing of such SIPC forms: $200 if the report is filed 1-30 calendar days after SIPC's prescribed deadline; $400 if 31-60 calendar days; and $800 if 61-90 calendar days. In addition, the PSE is amending Rule 2.12(b) to adopt the following four qualifications: First, a member organization that files its Form SIPC-6 and SIPC-7 more than 90 days late, but before its receipt of SIPC's final late notice, would be subject to a late charge of $800.[5] Second, if a member organization files its SIPC-6 and SIPC-7 after its receipt of SIPC's final late notice, but within five business days after its receipt of SIPC's final late notice, such member organization would be subject to a fine pursuant to PSE Rule 10.13.[6] Third, if a member organization fails to file the SIPC Forms within five business days after its receipt of SIPC's final late notice, such member organization would be subject to the full panoply of formal disciplinary actions pursuant to PSE Rule 10.3 and 10.4.[7] Finally, a member organization's repeated or aggravated failure to file a Form SIPC-6 and/or SIPC-7 will be referred to the Ethics and Business Conduct Committee[8] for appropriate disciplinary action.[9]

The Exchange states that the ability to charge member organizations for the late filing of SIPC forms is necessary to defray the administrative costs relating to late SPIC reporting and to encourage applicable member organizations to comply with the requirements of the Securities Investor Protection Act of 1970[10] in a timely manner.

The Exchange believes that the proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable charges among its members.

III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of sections 6(b) (1), (4), (5) and (6) of the Act.[11]

The Commission believes that the new charges are consistent with section 6(b)(4) of the Act, which requires, among other things, that the rules of an exchange provide for the equitable allocation of reasonable charges among its members. The Commission believes that the new charges are reasonable in relation to the late filing of SIPC forms because of the Exchange's interest in receiving SIPC forms in a timely manner.

The Commission believes that the Exchange's ability to impose charges and disciplinary action for the late filing of SIPC forms is consistent with section 6(b)(1) of the Act, which requires, in part, that the Exchange have the capacity to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and the rules of the Exchange. Specifically, the ability to impose charges and disciplinary action on member organizations for the late filing of SIPC forms is consistent with section 6(b)(1) in that it provides an appropriate deterrent and sanction for the late filing of SIPC-6 and SIPC-7 forms. In addition, new Rule 2.12(b)(2) provides fair and reasonable procedures for discouraging the late filing of SIPC forms in that it defines the scope of the charges, provides notice to members,[12]

---

[1] 17 CFR 200.30-3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] See letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Louis A. Randazzo, Attorney, Commission, dated November 23, 1993. Amendment No. 1 clarified certain language in Rule 2.12(b)(2).

[4] The Exchange stated that "filing," for the purpose of this Rule, is considered satisfied when the member organization submits to the Exchange both the SIPC forms and the appropriate amount of assessment that is due to the Securities Investor Protection Corporation ("SIPC"). The Exchange, in turn, remits the assessment and forms to the SIPC. See 15 U.S.C. 78hhh (Examining Authority Functions); see also 15 U.S.C. 78lll(a) (Functions of Self-Regulatory Organizations—Collection Agent).

[5] This qualification is codified in Commentary .01 to Rule 2.12(b)(2).

[6] On June 24, 1993, the Commission approved a proposed rule change by the PSE that included the late filing of SIPC reports filed no later than five business days after the receipt of SIPC's final late notice in the Exchange's Minor Rule Plan. See Securities Exchange Act Release No. 32510 (June 24, 1993), 58 FR 35491 (July 1, 1993) (order approving File No. SR-PSE-92-15). PSE Rule 10.13 contains the Exchange's Minor Rule Plan. Rule 10.13 states, in part, that in lieu of initiating a formal disciplinary action or proceeding, the Exchange may impose a fine not to exceed $5,000 on any member, member organization or person associated with a member or member organization, for any violation of an Exchange Rule that has been determined to be minor in nature.

[7] Pursuant to PSE Rule 10.9(a), disciplinary action includes expulsion, suspension, limitation of activities, functions and operations, suspension or bar from association with a member, or member organization, fine, censure, or any other fitting sanction.

PSE Rule 10.3 and 10.4 contain the Exchange's formal disciplinary procedures. Rule 10.3 provides, in part, that whenever it appears to the Board of Governors ("Board"), the Executive Committee or any standing committee designated by the Board to review disciplinary proceedings, that there is probable cause for finding a violation within the disciplinary jurisdiction of the Exchange, and that further proceedings are warranted, the Exchange shall initiate a disciplinary action by preparing a statement of charges against the person or organization alleged to have committed a violation, specifying the acts in which the person or organization is charged to have engaged in or omitted. In addition, Rule 10.3 states that the person or organization shall have 15 business days after service of the charges to file a written answer thereto. Rule 10.4 provides, in part, that upon filing an answer pursuant to Rule 10.3, a person or organization may request a hearing before an Exchange Hearing Panel appointed by the Exchange Hearing Committee. In addition, Rule 10.4 provides that parties will be given at least 15 calendar days notice of the time and place of the hearing and a statement of the matters to be considered therein.

[8] The members of the Ethics and Business Conduct Committee are appointed by the Chief Executive Officer and Vice chairman of the Board, subject to approval of the Board of Governors. The members of the Board of Governors shall be ex *officio* members of the Committee. See Article IV, Section 4, Constitution of the PSE.

[9] This qualification is codified in Commentary .02 to Rule 2.12(b)(2).

[10] 15 U.S.C. §§ 78aaa-78lll (1988).

[11] 15 U.S.C. 78f(b) (1), (4), (5) and (6) (1988).

[12] The Exchange stated that following Commission approval of the proposal, it would publish a Rule Adoption Notice advising all member organizations that they are subject to charges for the late filing of SIPC forms. In addition, the Exchange intends to remit a yearly notice to member organizations that provides notice that the

Continued

provides member organizations with the ability to contest any charges,[13] and is tailored to serve a legitimate Exchange regulatory interest.

The Commission believes that the Exchange's ability to bring disciplinary action pursuant to Rules 10.3, 10.4 and 10.13 is consistent with section 6(b)(6) of the Act, which requires that the rules of an exchange ensure that its members will be appropriately disciplined for violations of the Act, the rules or regulations thereunder, or the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. The Exchange's ability to bring disciplinary action pursuant to Rules 10.3 and 10.4 for failure to file within five business days after the member organization receives SIPC's final late notice, and Rule 10.13 if the member organization files after its receipt of SIPC's final late notice (but within five business days after its receipt of SIPC's late notice), should serve to assist the Exchange in fulfilling its obligations under the Securities Investor Protection Act of 1970 ("SIPA"),[14] which among other things, requires the Exchange to act as collection agent for SIPC and collect and remit the assessments payable by all members of SIPC for whom the Exchange is the DEA.[15] Additionally, the Commission believes that the Exchange's ability to refer repeated or aggravated failures to file to the Ethics and Business Conduct Committee is consistent with the section 6(b)(6) requirements in that it would enable the Exchange to seek stiffer sanctions where warranted by the scope and nature of the failure to file.

The Commission also believes that the adoption of Rule 2.12(b)(2) and Commentaries .01 and .02 is consistent with the requirements of section 6(b)(5) of the Act, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and protect investors and the public interest. The Commission believes that the Exchange's ability to impose charges and disciplinary action for the late filing of SIPC forms should help ensure that the SIPC receives all member assessments payable to the SIPC in an expedient fashion.

The Commission finds good cause for accelerated approval of Amendment No. 1 to the proposed rule change prior to the thirtieth day after publication of notice of filing thereof. The PSE's original proposal was published in the **Federal Register** for the full statutory period and no comments were received.[16] Amendment No. 1 modifies the proposal to make certain technical and clarifying adjustments to the proposed rule change but leaves its overall structure unchanged.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–93–21 and should be submitted by January 12, 1994.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[17] that the proposed rule change, including Amendment No. 1 on an accelerated basis, (SR–PSE–03–21) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31166 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

---

failure to file their SIPC forms within a specified time period will subject them to late charges. Telephone conversation between Michael D. Pierson, Senior Attorney, Market Regulation, PSE, and Louis A. Randazzo, Attorney, Commission, on November 15, 1993.

[13] The Exchange stated that any disagreement regarding the SIPC late charges would be brought to PSE staff. Specifically, the matter would be raised initially with the Financial Compliance Department, and if the matter is not resolved at that level, further appeals could be made to increasingly senior staff levels until the matter reached the Chairman of the Exchange. The Chairman, in his or her discretion, may request either the Executive Committee or the Ethics and Business Conduct Committee to conduct an independent review of the claim. The Exchange also stated that as a matter of Exchange policy, the PSE generally defers the collection of charges until a dispute has been resolved. In addition, according to the Exchange, the above mentioned procedure assumes that the member submits or resubmits a copy of a SIPC report while the dispute is pending. However, pursuant to the new Rule, if the Exchange has no record of receiving a member's SIPC report, and the member does not furnish a new SIPC report (or a copy of a report that the member alleges was already submitted in a timely manner) before the member receives SIPC's final late notice, the matter will become subject to committee review and appeal as provided in PSE Rule 10. See letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Louis A. Randazzo, Attorney, Commission, dated November 22, 1993.

[14] See *supra* note 10.

[15] See Securities Investor Protection Act of 1970, 15 U.S.C. 78iii(a) (1988).

[16] See Securities Exchange Act Release No. 32880 (September 14, 1993), 58 FR 48620 (September 20, 1993) (notice of filing of File No. SR–PSE–03–21).

[17] 15 U.S.C. 78s(b)(2) (1988).

[18] 17 CFR 200.30–3(a)(12) (1991).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

December 16, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Center Point Properties Corporation
Common Stock, $.001 Par Value (File No. 7–11727)
AM International, Inc.
Common Stock, $.01 Par Value (File No. 7–11728)
PacTel Corporation
Common Stock, $.01 Par Value (File No. 7–11729)
Maxus Energy Corp.
$2.50 Cum. Pfd. Stock (File No. 7–11730)
Camco International, Inc.
Common Stock, $.01 Par Value (File No. 7–11731)
UTI Energy Corporation
Common Stock, $.01 Par Value (File No. 7–11732)
Trans World Airlines, Inc.
When Issued, Common Stock, $.01 Par Value (File No. 7–11733)
Continental Homes Holding Corp.
Common Stock, $.01 Par Value (File No. 7–11734)
G&L Realty Corporation
Common Stock, $.01 Par Value (File No. 7–11735)
Grupo Financiero Serfin S.A. de C.V.
American Depositary Shares, Each representing 4 Series L Shares, No Par Value (File No. 7–11736)
Irvine Apartment Communities, Inc.
Common Stock, $.001 Par Value (File No. 7–11737)
Banco Frances del Rio de la Plata S.A.
American Depositary Shares, each representing three Ordinary Shares, $1.00 Par Value (File No. 7–11738)
Marcus Corporation
Common Stock, $.01 Par Value (File No. 7–11739)
Tanger Factory Outlet Centers, Inc.
Depositary Shares (File No. 7–11740)
Eastman Chemical Company
When Issued, Common Stock, $.01 Par Value (File No. 7–11741)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 10, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–31208 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19636; 811–148]

Niagara Share Corp.; Application for Deregistration

December 15, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Niagara Share Corporation.

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application on Form N–8F was filed on May 20, 1993, and amended on August 20, 1993 and December 1, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 10, 1994, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 817 Washington Street, Buffalo, New York 14203.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Staff Attorney, at (202) 272–7648, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is a diversified closed-end management investment company. On or about August 15, 1941, applicant registered under the Act. Because applicant's outstanding securities predate application of the Securities Act of 1933, such securities are not registered under that Act.

2. On May 11, 1992, applicant's board of directors (the "Directors"), adopted an Agreement and Plan of Reorganization and Liquidation (the "Plan") between applicant and Scudder Investment Trust (File No. 811–43), a Massachusetts business trust, on behalf of its Growth and Income Fund ("G&I"). The Plan provides for the acquisition by G&I of substantially all the assets of applicant in exchange for shares of G&I and the assumption by G&I of $1.3 million of applicant's liabilities.

3. In approving the Plan, the Directors considered various factors, including (a) the relative investment performance and past growth in assets of applicant and G&I and other investment companies and advisers that had submitted proposals to applicant ("Bidders"); (b) the compatibility of the objectives and investment policies of applicant and G&I and other Bidders; (c) the depth and quality of management of G&I's investment adviser and of the other Bidders; (d) whether any savings in liquidation expenses could be achieved by combining applicant and G&I; (e) the tax-free nature of the reorganization; and (f) other alternatives to the reorganization. In the Directors' view, the reorganization would benefit applicant's shareholders because they would have a continual participation in the equity markets through investment in G&I, and the expense ratio of G&I after reorganization would be lower than the expense ratio of applicant alone.

4. On or about June 18, 1992, a prospectus and proxy materials were mailed to applicant's shareholders. Applicant's shareholders approved the Plan at a special meeting held on July 23, 1992.

5. As of July 27, 1992 (the "Closing Date"), applicant had 14,100,897 shares of common stock outstanding with an aggregate net asset value of $209,460,485, and per share net asset value of $14.85. On the Closing Date, applicant liquidated and distributed G&I shares to its shareholders in exchange for their shares of applicant on the basis of net asset value.

6. In accordance with the Plan, applicant retained cash and cash equivalents (the "Expense Reserve") in an amount estimated to be sufficient to discharge in full all of its liabilities not assumed by G&I and the expense of its liquidation, dissolution, and deregistration.

7. Applicant also is a party to a lease agreement for office space previously used by applicant in the conduct of its business as an investment company. In addition, applicant has retained tangible assets consisting of furniture, equipment, and leasehold improvements. Subsequent to the Closing Date, applicant entered into a sub-lease agreement with an unaffiliated third party for the office space and applicant's remaining furniture and equipment. All amounts received by applicant, such as rental income or proceeds from equipment sales, if any, will be added to the Expense Reserve.

8. Applicant's officers are authorized to withdraw and disburse funds from the Expense Reserve in connection with the discharge of applicant's liabilities and its remaining expenses. As of October 31, 1993, the value of the assets comprising the Expense Reserve was approximately $255,000. Any amounts in the Expense Reserve remaining unexpended after all liabilities and expenses have been paid will be liquidated and distributed *pro rata* to shareholders of record on the Closing Date, unless the Directors determine that the amount remaining is too small to warrant the expense of distribution. In the latter case, the amount remaining shall be distributed as the Directors determine in accordance with the relevant provisions of Maryland law.

9. As of the date of the application, applicant had incurred approximately $2,560,000 in expenses in connection with the transaction, consisting primarily of pension, medical, and other employee benefit expenses; legal and accounting fees; and expenses relating to the proxy solicitation. Each of applicant and G&I was responsible for its own expenses incurred in connection with the Plan.

10. As of October 31, 1993, applicant had outstanding and anticipated liabilities of approximately $130,000, consisting of taxes, legal, accounting, administrative, and other costs in connection with its liquidation, dissolution, and deregistration, including the termination of its tax-qualified retirement plans.

11. As of the date of the application, applicant had no shareholders. Applicant is not a party to any litigation or administrative proceedings. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

12. On January 22, 1993, applicant filed Articles of Dissolution with the Maryland State Department of Assessments and Taxation. Pursuant to section 3–408 of the Maryland General Corporation Law, applicant continues to exist after dissolution for the purpose of enabling applicant gradually to settle and close its business, to dispose of and convey its property, to discharge its liabilities, and to distribute to its shareholders any remaining assets, but not for the purpose of continuing the business for which applicant was organized.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31211 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act, Rel. No. 19958; 811–4759]

Olympus Investment Trust; Application for Deregistration

December 16, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Olympus Investment Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 30, 1993 and amended on December 16, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 10, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 1925 Century Park East, #1900, Los Angeles, CA 90067.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company organized as a Massachusetts business trust. On July 21, 1986, applicant filed a notification of registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933. The registration statement became effective on October 31, 1986, and applicant commenced its initial public offering immediately thereafter.

2. Applicant issued shares in six series: Olympus Growth Fund; Olympus National Tax-Free Fund; Olympus Equity Income Fund; Olympus Stock Fund; Olympus Investment Quality Bond Fund; and Olympus California Intermediate Tax-Free Fund.

3. On April 2, 1993, applicant entered into an asset purchase agreement (the "Agreement") with Mutual Fund Group for the purchase of applicant's assets. The Agreement provided that: (a) The assets of Olympus Growth Fund would be exchanged for shares of the Vista Capital Growth Fund series of Mutual Fund Group; (b) the assets of Olympus National Tax-Free Fund would be exchanged for shares of the Vista Tax-Free Income Fund series of Mutual Fund Group; (c) the assets of Olympus Equity Income Fund would be exchanged for shares of the Vista Equity Income Fund series of Mutual Fund Group; (d) the assets of Olympus Stock Fund would be exchanged for shares of the Vista Growth and Income Fund series of Mutual Fund Group; (e) the assets of Olympus Investment Quality Bond Fund would be exchanged for shares of the Vista U.S. Government Bond Fund series of Mutual Fund Group; and (f) the assets of Olympus California Intermediate Tax-Free Fund would be exchanged for shares of the Vista California Intermediate Tax-Free Fund series of Mutual Fund Group.

4. On April 2, 1993, applicant's board of trustees approved the reorganization. Definitive proxy materials soliciting shareholder approval of the reorganization were filed with the SEC on May 4, 1993, and were mailed to shareholders on June 8, 1993. The reorganization was approved, in accordance with Massachusetts law, by applicant's shareholders at meetings held on July 1, 1993 for the Olympus National Tax-Free Fund, July 8, 1993 for the Olympus California Intermediate Tax-Free Fund, and July 15, 1993 for the other four series of applicant.

5. On July 16, 1993, the reorganization was consummated. Applicant transferred all assets and liabilities of its series to the corresponding Mutual Fund Group series. The exchanges were made at net asset value. The shares received in exchange for applicant's assets were distributed to applicant's shareholders *pro rata* in accordance with their respective interests in applicant.

6. All expenses incurred in connection with applicant's liquidation and reorganization were borne by Olympus Asset Management, applicant's investment adviser, or The Chase Manhattan Bank, Mutual Fund Group's investment adviser. Such expenses, totalling $183,729, included preparation of proxy materials, printing expenses, legal, consulting, accounting, and other fees.

7. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant it not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31210 Filed 12–21–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular: Small Airplane Airworthiness Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of Advisory Circulars; Part 21 Gliders (Sailplanes) and Part 23 Airplanes.

SUMMARY: The purpose of this notice is to advise the public of advisory circulars (AC's) issued by the Small Airplane Directorate since January 1993. The AC's listed below relate to part 21 of the Federal Aviation Regulations (FAR) regarding Gliders (Sailplanes), part 23 of the FAR, and/or part 3 of the Civil Air Regulations (CAR). We issued these AC's to inform the aviation public of acceptable means of showing compliance with the Airworthiness Standards in the FAR and/or CAR, but the material is neither mandatory nor regulatory in nature.

FOR FURTHER INFORMATION CONTACT: Julea Bell, Standards Staff (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number (816) 426–6941.

SUPPLEMENTARY INFORMATION:

Background

We developed these AC's to update existing policy information for gliders (sailplanes) and small airplane certification programs.

Comments

We gave interested parties the opportunity to review and comment on each AC during the development phase. At that time, notices were published in the **Federal Register** to announce the availability of, and request written comments, to each proposed AC. Each comment was reviewed and resolved. Appropriate comments were incorporated in the AC.

Distribution

The published AC's are available upon request through the U.S. Department of Transportation, General Services Section, M–443.2, Washington, DC 20590.

ADVISORY CIRCULAR'S PUBLISHED

AC number	Date	Title
23.1521–2.	1/21/93	Type Certification of Oxygenates and Oxygenated Gasoline Fuels in Part 23 Airplanes with Reciprocating Engines.
23–12	1/27/93	Structural Substantiation of Part 23 Airplane Modifications Involving Increased Engine Power.
21.17–2A	2/10/93	Type Certification—Fixed-Wing Gliders (Sailplanes).
23–13	4/15/93	Fatigue and Fail-Safe Evaluation of Flight Structure and Pressurized Cabin for Part 23 Airplanes.
23.1311–1.	6/11/93	Installation of Electronic Display Instrument Systems in Part 23 Airplanes.
23–8A, Change 1.	8/30/93	Flight Test Guide for Certification of Part 23 Airplanes.
23–14	9/30/93	Type Certification Basis for Conversion from Reciprocating Engine to Turbine Engine-Powered Part 23 Airplanes.
TP101–41.	(Notice of Availability Published in FEDERAL REGISTER on 5/18/93.	Sportplane Design Standards for Acceptance Under Primary Category Rule.

Issued in Kansas City, Missouri, December 7, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–31248 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

Draft Revisions to Advisory Circular 27–1, Certification of Normal Category Rotorcraft, and Draft Revisions to Advisory Circular 29–2A, Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration, (DOT).

ACTION: Notice of availability of draft advisory circular (AC) revisions; request for comments.

SUMMARY: This notice announces the availability of and request for comments on draft revisions to AC 27–1, Change 3, Certification of Normal Category Rotorcraft, and draft revisions to AC 29–2A, Change 2, Certification of Transport Category Rotorcraft. The revisions contain guidance material to bring the AC's up to date with the most recent amendments to 14 CFR parts 27 and 29.

DATES: Comments must identify draft revisions to AC 27–1, Change 3, or draft revisions to AC 29–2A, Change 2, and must be received by January 9, 1994.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), Attention: Ms. Kim Smith, Rotorcraft Standards Staff, ASW–410, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0110.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Jones, Rotorcraft Standards Staff, AWS–110, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0112; telephone (817) 624–5112, facsimile (817) 740–3376. It is anticipated that this office will be relocating during December 1993. After the relocation, Ms. Jones can be contacted at (817) 222–5112.

SUPPLEMENTARY INFORMATION: Copies of the draft revisions have been mailed to all known affected industry and government entities, both foreign and domestic. Any interested person not receiving these draft revisions may obtain a copy by contacting the person named under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Interested persons are invited to submit comments on these draft revisions. Currently, comments received may be inspected at the office of the Rotorcraft Standards Staff, FAA, building 3B, room 143N, 4400 Blue Mound Road, Fort Worth, Texas. It is

anticipated that this office will be relocating to the new DOT/FAA Southwest Regional Headquarters Building during December 1993. After the relocation, the comments may be inspected at the office of the Rotorcraft Standards Staff, FAA, 4th floor, 2601 Meacham Boulevard, Forth Worth, Texas.

All comments received will be considered, them discussed, as needed, during a public meeting in Anaheim, California, on February 2, 1994. Although the public meeting is primarily scheduled for other rotorcraft topics, time will be set aside to discuss any appropriate issues relating to the draft AC revisions.

Issued in Fort Worth, Texas, on November 18, 1993.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93–31251 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–53]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 6, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3939.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on December 14, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 27410.
Petitioner: Mr. Norberto Alfredo Sotelo Ossa.
Sections of the FAR Affected: 14 CFR 129.14.
Description of Relief Sought:
Disposition: To permit Argentinean air taxi operators who operate N registered aircraft to continue to operate until they can obtain a maintenance program approved by the Federal Aviation Administration.

Docket No.: 27448.
Petitioner: TurboCombuster Technology.
Sections of the FAR Affected: 14 CFR 145.45(f).
Description of Relief Sought:
Disposition: To permit the petitioner to place controlled copies of its inspection procedures manual in designated work stations, rather than providing the manual to supervisory and inspection personnel.

Docket No.: 27513.
Petitioner: Mr. Patrick J. Healy.
Sections of the FAR Affected: 14 CFR 91.805.
Description of Relief Sought: To allow Project Orbis to conduct specific DC–8 flight operations in the United States in support of humanitarian programs of eye surgery skills exchange on board the aircraft and the transit of the aircraft to its requirement location.

Docket No.: 27525.
Petitioner: Mr. William D. Kiper.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought:
Disposition: To permit the petitioner to serve as a pilot in part 121 air carrier operations after his 60th birthday.

Docket No.: 27533.
Petitioner: Ms. Louise B. Cobbs.
Sections of the FAR Affected: 14 CFR 129.18(a), 129.14, and 91.203.
Description of Relief Sought: To allow Lineas Aereas Costariquenses, S.A. (Lacsa) to operate its A320 aircraft, serial number 420, in the U.S. without the Traffic Alert and Collision Avoidance System (TCAS) installed until January 31, 1994.

Docket No.: 27535.
Petitioner: Mr. Stanley J. Green.
Sections of the FAR Affected: 14 CFR 129.18.
Description of Relief Sought: To allow Aeroflot Russian International Airlines to operate its aircraft in the U.S. without the Traffic Alert and Collision Avoidance System (TCAS) installed until June 30, 1994.

Dispositions of Petitions

Docket No.: 27469.
Petitioner: L.A.B. Flying Service.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To permit properly trained pilots employed by the petitioner to convert the cabins of its aircraft operated under FAR part 135 from passenger to cargo configurations, and the reverse, by removing and replacing passenger seats when such aircraft are specifically designed for that purpose. *Grant, December 6, 1993, Exemption No. 5804.*

Docket No.: 27508.
Petitioner: Trans World Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.358.
Description of Relief Sought/ Disposition: To extend the compliance date requiring installation of airborne windshear detection systems for seven of the petitioner's McDonnell Douglas DC–9–10 aircraft through January 31, 1994. *Denial, September 30, 1993, Exemption No. 5803.*

[FR Doc. 93–31253 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Cleveland Hopkins International Airport, Cleveland, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Cleveland Hopkins International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 21, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East 8820 Beck Road, Belleville, Michigan, 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Cynthia D. Rich, Director of the Department of Port Control at the following address: Cleveland Hopkins International Airport, 5300 Riverside Drive, Cleveland, Ohio 44135.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Department of Port Control under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Dean C. Nitz, Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7300. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Cleveland Hopkins International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 2, 1993 the FAA determined that the application to use the revenue from a PFC submitted by Department of Port Control was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 2, 1994.

The following is a brief overview of the application.

Level of the PFC: $3.00.

Actual charge effective date: November 1, 1992.

Estimated charge expiration date: November 1, 1995.

Total approved net PFC revenue: $34,000,000.

Brief description of proposed project: Land Acquisition/Resident Relocation.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/ Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT.**"

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Department of Port Control, Cleveland Hopkins International Airport.

Issued in Des Plaines, Illinois, on December 15, 1993.

Larry H. Ladendorf,

Acting Manager, Airports Division, Great Lakes Region.

[FR Doc. 93–31252 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Bradley International Airport, Windsor Locks, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a passenger facility charge at Bradley International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 21, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airport Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Richard Strauss, Deputy Transportation Commissioner at the following address: State of Connecticut Department of Transportation, Bureau of Aviation and Ports, Brainard Airport, 251 Maxim Road, Hartford, Connecticut 06114.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Rhode Island Airport Corporation under § 158.23 of part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Soldan, Airports Program Specialist, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 238–7614. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a passenger facility charge at Bradley International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 25, 1993, the FAA determined that the application to use the revenue from a passenger facility charge submitted by the State of Connecticut Department of Transportation was substantially complete within the requirements of § 158.25 of part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than February 22, 1994.

The following is a brief overview of the application.

Level of PFC: $3.00.

Charge effective date: October 1, 1993.

Estimated charge expiration date: September 1, 1995.

Total net PFC revenue: $12,030,000.

Brief description of proposed project: New Aircraft Ramp, Terminal B Roadway System, Peak Mountain Lights, Design of Glycol Collection System.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On-demand air commercial taxi operators.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**".

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application, in person, at the State of Connecticut Department of Transportation, Bureau of Aviation and Ports, Brainard Airport, 251 Maxim Road, Hartford, Connecticut 06114.

Issued in Burlington, Massachusetts on December 10, 1993.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 93–31247 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In November 1993, there were nine applications approved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IV of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of section 158.29.

PFC Applications Approved

Public Agency: Gulfport-Biloxi Regional Airport Authority, Gulfport, Mississippi.
Application Number: 93–02–C–00–GPT.
Application Type: Impose and use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $607,817.
Earliest Permissible Charge Effective Date: January 1, 1994.
Estimated Charge Expiration Date: January 1, 1996.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved to Use PFC Revenue:
Airfield guidance and signage.
Americans with Disabilities Act terminal improvements.
Elevator terminal airside.
West general aviation access road, fencing, and taxiway "F" rehabilitation.
Acquire land and easements to control obstructions.
Update terminal area study.
Overlay, light, and mark west taxiway "F".
West ramp repair joints, slabs, and install lighting.
Acquire land and easements to control obstructions.
Decision Date: November 2, 1993.
FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Jackson Airports District Office, (601) 965–4628.

Public Agency: New Hanover County Airport Authority, Wilmington, North Carolina.
Application Number: 93–01–C–00–ILM.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $1,505,000.
Earliest Permissible Charge Effective Date: February 1, 1994.
Estimated Charge Expiration Date: August 1, 1997.

Class of Air Carriers not Required to Collect PFC's

On-demand air taxi/commercial operators filing FAA Form 1800–31 enplaning less than 150 passengers per year at New Hanover International Airport (ILM).
Determination: Approved. Based on information submitted by the public agency, the FAA has determined that the proposed class accounts for less than 1 percent of the total enplanements at ILM.

Brief Description of Projects Approved for Collection and Use

Local share of Airport Improvement Program (AIP) projects 3–37–0084–11, –12, –13, and –14:
—Reconstruct runway 17/35, phase I,
—Reconstruct runway 17/35, phase II,
—Construct aircraft rescue and firefighting facility (ARFF), phase I,
—Construct ARFF facility, phase II, including Federal inspection services facility relocation, high intensity runway lights on runway 6/24, and apron joint sealing,
Study to define land/easement acquisition needs,
Land acquisition—phase I,
Taxiway B extension/widening.

Brief Description of Projects Approved to Impose Only

Medium intensity taxiway lighting rehabilitation,
Ramp sweeper,
Visual glide slope indicator—runway 35,
Reconstruct/widen taxiways A and H, construct taxiway connectors for runway 17/35,
Construct taxiway connectors to runway 6/24,
Install fencing and security road.
Decision Date: November 2, 1993.
FOR FURTHER INFORMATION CONTACT: Walter Bauer, Atlanta Airports District Office, (404) 994–5306.

Public Agency: New Orleans Airport Board (NOAB), New Orleans, Louisiana.
Application Number: 93–02–U–00–MSY.
Application Type: Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $77,800,372.
Earliest Permissible Charge Effective Date: June 1, 1993.
Estimated Charge Expiration Date: April 1, 2000.

Class of Air Carriers Not Required to Collect PFC's

Previously approved in the March 19, 1993, decision.

Brief Description of Projects Approved for Use:

East/west taxiway visual flight rules runway,
North general aviation access road,
East air cargo access roads.

Brief Description of Project Withdrawn:

East/west taxiway land acquisition.
Determination: This project was withdrawn from consideration under this application at the request of the NOAB, by letter dated November 1, 1993.
Decision Date: November 16, 1993.
FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Shreveport Airport Authority, Shreveport, Louisiana.
Application Number: 93–01–I–00–SHV.
Application Type: Impose PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $33,050,278.
Earliest Estimated Charge Effective Date: February 1, 1994.
Estimated Charge Expiration Date: February 1, 2019.
Class of Air Carriers Not Required to Collect PFC's:
Nonscheduled Part 135 air taxi operators.
Determination: Approved. Based on information submitted by the public agency, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Shreveport Regional Airport.

Brief Description of Project Approved For Collection and Use

Terminal reconstruction.
Decision Date: November 19, 1993.
FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Beaufort County Council, Hilton Head, South Carolina.
Application Number: 93–01–C–00–49J.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $1,542,300.
Earliest Permissible Charge Effective Date: February 1, 1994.
Estimated Charge Expiration Date: March 1, 1999.

Class of Air Carriers Not Required to Collect PFC's:
Part 135 air taxi/commercial operators.
Determination: Approved. Based on information submitted by the public agency, the FAA has determined that the proposed class accounts for less than 1 percent of Hilton Head Island Airport's total annual enplanements.

Brief Description of Projects Approved For Collection and Use

Terminal reconstruction,
Apron/stub taxiway,
Access road,
Parallel taxiway.
Decision Date: November 19, 1993.
FOR FURTHER INFORMATION CONTACT: James Castleberry, Atlanta Airports District Office, (404) 994–5306.

Public Agency: City of North Bend, North Bend, Oregon.
Application Number: 93–01–C–00–OTH.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $182,044.
Earliest Permissible Charge Effective Date: February 1, 1994.
Estimated Charge Expiration Date: January 1, 1998.
Class of Air Carriers Not Required to Collect PFC's:
Nonscheduled air taxi/commercial operators.
Determination: Approved. Based on information submitted by the public agency, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at North Bend Municipal Airport.

Brief Description of Project Approved For Collection and Use

South apron, taxiway lighting, guidance signs, and precision approach path indicator construction.
Master plan update.
Taxiway directional signs.
Obstruction removal.

Brief Description of Project Approved For Impose Only

Airport rescue and firefighting truck.
Decision Date: November 24, 1993.
FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (206) 227–2654.

Public Agency: Springfield Airport Authority, Springfield, Illinois.
Application Number: 93–03–I–00–SPI.
Application Type: Impose PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $1,542,300.
Earliest Permissible Charge Effective Date: February 1, 1994.
Estimated Charge Expiration Date: March 1, 1999.
Class of Air Carriers Not Required to Collect PFC'S:
On-demand air taxi operators.
Determination: Approved. Based on information submitted by the public agency, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Capital Airport.

Brief Description of Projects Approved for Use

Land acquisition-noise, parcels 9–4–EE, 9–4–FF, 9–4–HH, 9–4–II, 9–4JJ, and 17–3–A,
Land acquisition—parcels 7–1–B and 8–4–A,
Land acquisition—parcels 4–2–A, 4–3–A, 9–1–MM, 9–2–B, 9–4–I, 9–4–J, 9–4–P, 9–4–O, 9–4–MM, and 9–4–PP,
Land acquisition—parcels 16–4–A, 16–4–B1, 16–4–B2, 16–C, and 16–4–D,
Land acquisition—parcels 16–2–B, 16–4–E, 16–4–F, 16–4–G, 16–4–H, 16–4–I, and 16–4–J,
Rehabilitate runway 4 overrun,
Rehabilitate entrance road,
Rehabilitate runways 4/22 and 18/36,
Rehabilitate runway 13/31,
Taxiway from runway 18 to runway 13,
Stabilize shoulders on runway 4/22,
Widen taxiway A,
Parallel taxiway for runway 22,
Parallel taxiway for runway 31,
Exhibit A,
Hush house and sitework,
Update master plan,
Install Instrument Landing System on runway 31,
Snow removal equipment (plow),
Snow equipment (blower and snowplow),
Proximity suits,
Front-end loader,
Terminal building expansion,
Disabled passenger lift.

Brief Description of Projects Withdrawn

Land acquisition—parcels 7–1–E, 7–2–G, and 8–4–B,
Land acquisition—parcel 18–2–K.
Determination: The Springfield Airport Authority requested that these projects be withdrawn from the PFC application by letter dated November 18, 1993.
Decision Date: November 24, 1993.
FOR FURTHER INFORMATION CONTACT: Louis H. Yates, Chicago Airports District Office, (708) 294–7335.

Public Agency: City of Des Moines (City), Des Moines, Iowa.
Application Number: 93–01–C–00–DSM.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved PFC Revenue: $6,446,507.
Estimated Charge Effective Date: March 1, 1994.
Estimated Charge Expiration Date: April 1, 1997.
Class of Air Carriers Not Required to Collect PFC's:
Part 135 air taxi/commercial operators.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of Des Moines International Airport's total annual enplanements.

Brief Description of Projects Approved for Collection and Use

Baggage claim expansion,
Restroom expansion on concourses A and C,
Curbside and roadway island canopy construction.

Brief Description of Project Disapproved:
Service dock and roadway modifications.
Determination: Disapproved. The project was determined to not be AIP eligible in accordance with paragraph 551(d)(1) of FAA Order 5100.38A. This paragraph addresses the eligibility of nonrevenue producing, public-use areas in terminal buildings. While the City cited eligibility criteria pertaining to access roads, the FAA has determined that the project must be evaluated in accordance with terminal building criteria, since the service dock is an intregal component of the terminal. In addition, the City was unable to verify that the relocation of the loading dock was necessary to accomplish the baggage expansion project or any other project which would establish the incidental eligibility of this element. Accordingly, this project is disapproved for the imposition and use of PFC revenue.
Decision date: November 29, 1993.
FOR FURTHER INFORMATION CONTACT: Ellie Anderson, FAA Central Region Airports Division, (816) 426–7425.

Public Agency: Rhode Island Airport Corporation, Warwick, Rhode Island.
Application Number: 93–01–C–00–PVD.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue $103,885,286.

Earliest Permissible Charge Effective Date: February 1, 1994.

Estimated Charge Expiration Date: August 1, 2013.

Class of Air Carriers Not Required to Collect PFC's:

Part 135 air taxis.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class-accounts for less than 1 percent of T. F. Green State Airport's total annual enplanements.

Brief Description of Projects Approved for Collection and Use

Terminal building demolition,
Construct terminal access road,
Construct interim terminal facility,
Construct terminal building,
Construct apron, taxiways, drainage, and utilities,
Construct walkways and drainage,
Landscaping,
Install guidance signs,
Very high frequency omni directional radio range modifications,
Construct storm water retention system,
Construct deicing and glycol retention system,
Construct perimeter service road.

Brief Description of Project Disapproved

Terminal leasehold acquisition.

Determination: Disapproved. The FAA has determined that the payments made to the airlines for lease termination at the current terminal were intended as an incentive only. In order for these payments to be AIP, and therefore PFC, eligible, a buyout provision would need to be in the leases, each leasehold interest would need to be independently appraised, and equal or better facilities could not be made available to the displaced carriers in the new terminal building. In this instance, the FAA has found that none of these conditions are applicable. Therefore, this project does not meet the requirements of section 158.115(b) and so, is not PFC eligible.

Decision Date: November 30, 1993.

FOR FURTHER INFORMATION CONTACT: Priscilla Soldan, New England.

Region Airports Division, (617) 238–7614.

Issued in Washington, DC on December 13, 1993.

Donna Taylor,

Acting Manager, Airports Financial Assistance Division.

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED

State/application No./airport/city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date [1]
Alabama.					
92–01–I–00–HSV, Huntsville Intl-Carl T Jones Field, Huntsville	3/6/1992	$3	$19,002,366	6/1/1992	11/1/2008
93–02–U–00–HSV, Huntsville Intl-Carl T Jones Field, Huntsville	6/3/1993	3	19,002,366	9/1/1993	11/1/2008
92–01–C–00–MSL, Muscle Shoals Regional, Muscle Shoals	2/18/1992	3	104,100	6/1/1992	2/1/1995
Arizona:					
92–01–C–00–FLG, Flagstaff Pulliam, Flagstaff	9/29/1992	3	2,463,581	12/1/1992	1/1/2015
93–01–C–00–YUM, Yuma MCAS/Yuma International, Yuma	9/9/1993	3	1,678,064	12/1/1993	6/1/2003
California:					
92–01–C–00–ACV, Arcata, Arcata	11/24/1992	3	188,500	2/1/1993	5/1/1994
93–01–C–00–CIC, Chico Municipal, Chico	9/29/1993	3	137,043	1/1/1994	6/1/1997
92–01–C–00–IYK, Inyokern, Inyokern	12/10/1992	3	127,500	3/1/1993	9/1/1995
93–01–C–00–LAX, Los Angeles International, Los Angeles	3/26/1993	3	360,000,000	7/1/1993	7/1/1998
93–01–C–00–MRY, Monterey Peninsula, Monterey	10/8/1993	3	3,960,855	1/1/1994	6/1/2000
92–01–C–00–OAK, Metropolitan Oakland International, Oakland	6/26/1992	3	12,343,000	9/1/1992	5/1/1994
93–01–I–00–ONT, Ontario International, Ontario	3/26/1993	3	49,000,000	7/1/1993	7/1/1998
92–01–C–00–PSP, Palm Springs Regional, Palm Springs	6/25/1992	3	81,888,919	10/1/1992	11/1/2032
92–01–C–00–SMF, Sacramento Metropolitan, Sacramento	1/26/1993	3	24,045,000	4/1/1993	3/1/1996
92–01–C–00–SJC, San Jose International, San Jose	6/11/1992	3	29,228,826	9/1/1992	8/1/1995
93–02–U–00–SJC, San Jose International, San Jose	2/22/1993	3	29,228,826	5/1/1993	8/1/1995
93–03–C–00–SJC, San Jose International, San Jose	6/16/1993	3	16,245,000	8/1/1995	5/1/1997
92–01–C–00–SBP, San Luis Obispo County-McChesney Fie, San Luis Obispo	11/24/1992	3	502,437	2/1/1993	2/1/1995
93–01–C–00–STS, Sonoma County, Santa Rosa	2/19/1993	3	110,500	5/1/1993	4/1/1995
92–01–I–00–TVL, Lake Tahoe, South Lake Tahoe	5/1/1992	3	928,747	8/1/1992	3/1/1997
Colorado:					
92–01–C–00–COS, Colorado Springs Municipal, Colorado Springs	12/22/1992	3	5,622,000	3/1/1993	2/1/1996
92–01–C–00–DVX, Denver International (NW), Denver	4/28/1992	3	2,330,734,321	7/1/1992	1/1/2026
93–01–C–00–EGE, Eagle County Regional, Eagle	6/15/1993	3	572,609	9/1/1993	4/1/1998
93–01–C–00–FNL, Fort Collins-Loveland, Fort Collins	7/14/1993	3	207,857	10/1/1993	6/1/1995
92–01–C–00–GJT, Walker Field, Grand Junction	1/15/1993	3	1,812,000	4/1/1993	3/1/1998
93–01–C–00–GUC, Gunnison County, Gunnison	8/27/1993	3	702,133	11/1/1993	3/1/1998

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State/application No./airport/city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date [1]
93–01–C–00–HDN, Yampa Valley, Hayden	8/23/1993	3	532,881	11/1/1993	4/1/1997
93–01–C–00–MTJ, Montrose County, Montrose	7/29/1993	3	1,461,745	11/1/1993	2/1/2009
93–01–C–00–PUB, Pueblo Memorial, Pueblo	8/16/1993	3	1,200,745	11/1/1993	8/1/2010
92–01–C–00–SBS, Steamboat Springs/Bob Adams Field, Steamboat Springs	1/15/1993	3	1,887,337	4/1/1993	4/1/2012
92–01–C–00–TEX, Telluride Regional, Telluride	11/23/1992	3	200,000	3/1/1993	11/1/1997
Connecticut:					
93–01–C–00–HVN, Tweed-New Haven, New Haven	9/10/1993	3	2,490,450	12/1/1993	6/1/1999
93–02–I–00–BDL, Bradley International, Windsor Locks	7/9/1993	3	12,030,000	10/1/1993	9/1/1995
Florida:					
93–01–C–00–DAB, Daytona Beach Regional, Daytona Beach	4/20/1993	3	7,967,835	7/1/1993	11/1/1999
92–01–C–00–RSW, Southwest Florida International, Fort Myers	8/31/1992	3	252,548,262	11/1/1992	6/1/2014
93–02–U–00–RSW, Southwest Florida International, Fort Myers	5/10/1993	3	252,548,262	11/1/1992	6/1/2014
92–01–C–00–EYW, Key West International, Key West	12/17/1992	3	945,937	3/1/1993	12/1/1995
92–01–C–00–MTH, Marathon, Marathon	12/17/1992	3	153,556	3/1/1993	6/1/1995
92–01–C–00–MCO, Orlando International, Orlando	11/27/1992	3	167,574,527	2/1/1993	2/1/1998
93–02–C–00–MCO, Orlando International, Orlando	9/24/1993	3	12,957,000	12/1/1993	2/1/1998
92–01–C–00–PNS, Pensacola Regional, Pensacola	11/23/1992	3	4,715,000	2/1/1993	4/1/1996
92–01–I–00–SRQ, Sarasota-Bradenton International, Sarasota	6/29/1992	3	36,715,000	9/1/1992	9/1/2005
92–01–I–00–TLH, Tallahassee Regional, Tallahassee	11/13/1992	3	8,617,154	2/1/1993	12/1/1998
93–01–C–00–TPA, Tampa International, Tampa	7/15/1993	3	87,102,000	10/1/1993	9/1/1999
Georgia:					
93–01–C–00–CSG, Columbus Metropolitan, Columbus	10/1/1993	3	534,633	1/1/1994	5/1/1995
91–01–C–00–SAV, Savannah International, Savannah	1/23/1992	3	39,501,502	7/1/1992	3/1/2004
92–01–I–00–VLD, Valdosta Regional, Valdosta	12/23/1992	3	260,526	3/1/1993	10/1/1997
Idaho:					
93–01–C–00–SUN, Friedman Memorial, Hailey	6/29/1993	3	188,000	9/1/1993	9/1/1997
92–01–C–00–IDA, Idaho Falls Municipal, Idaho Falls	10/30/1992	3	1,500,000	1/1/1993	1/1/1998
92–01–C–00–TWF, Twin Falls-Sun Valley Regional, Twin Falls	8/12/1992	3	270,000	11/1/1992	5/1/1998
Illinois:					
93–01–C–00–MDW, Chicago Midway, Chicago	6/28/1993	3	79,920,958	9/1/1993	8/1/2001
93–01–C–00–ORD, Chicago O'Hare International, Chicago	6/28/1993	3	500,418,285	9/1/1993	10/1/1999
92–01–I–00–RFD, Greater Rockford, Rockford	7/24/1992	3	1,177,348	10/1/1992	10/1/1996
93–02–U–00–RFD, Greater Rockford, Rockford	9/2/1993	3	1,168,937	12/1/1993	10/1/1996
92–01–I–00–SPI, Capital, Springfield	3/27/1992	3	562,104	6/1/1992	2/1/1994
93–02–U–00–SPI, Capital, Springfield	4/28/1993	3	562,104	6/1/1992	2/1/1994
Indiana:					
92–01–C–00–FWA, Fort Wayne International, Fort Wayne	4/5/1993	3	26,563,457	7/1/1993	3/1/2015
93–01–C–00–IND, Indianapolis International, Indianapolis	6/28/1993	3	177,344,750	9/1/1993	7/1/2005
Iowa:					
92–01–I–00–DBQ, Dubuque Regional, Dubuque	10/6/1992	3	108,500	1/1/1993	5/1/1994
93–01–C–00–SUX, Sioux Gateway, Sioux City	3/12/1993	3	204,465	6/1/1993	5/1/1994
Kentucky: 93–01–C–00–LEX, Blue Grass, Lexington	8/31/1993	3	12,378,791	11/1/1993	5/1/2003
Louisiana:					
92–01–I–00–BTR, Baton Rouge Metropolitan, Ryan Field, Baton Rouge	9/26/1992	3	9,823,159	12/1/1992	12/1/1998
93–02–U–00–BTR, Baton Rouge Metropolitan, Ryan Field, Baton Rouge	4/23/1993	3	9,823,159	12/1/1992	12/1/1998
93–01–C–00–MSY, New Orleans International/ Moisant Pt, New Orleans	3/19/1993	3	77,800,372	6/1/1993	4/1/2000
Maine:					
93–01–C–00–PWM, Portland International Jetport, Portland	10/29/1993	3	12,233,751	2/1/1994	5/1/2001
Maryland:					
92–01–I–00–BWI, Baltimore-Washington International, Baltimore	7/27/1992	3	141,866,000	10/1/1992	9/1/2002

VOL 58 ISS 244 DEC 22 1993 UMI

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State/application No./airport/city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date [1]
Massachusetts:					
93-01-C-00-BOS, General Edward L Logan International, Boston	8/24/1993	3	598,800,000	11/1/1993	10/1/2011
92-01-C-00-ORH, Worcester Municipal, Worcester	7/28/1992	3	2,301,382	10/1/1992	10/1/1997
Michigan:					
92-01-C-00-DTW, Detroit Metropolitan-Wayne County, Detroit	9/21/1992	3	640,707,000	12/1/1992	5/1/2009
92-01-I-00-ESC, Delta County, Escanaba	11/17/1992	3	158,325	2/1/1993	8/1/1996
93-01-C-00-FNT, Bishop International, Flint	6/11/1993	3	32,296,450	9/1/1993	9/1/2030
92-01-I-00-GRR, Kent County International, Grand Rapids	9/9/1992	3	12,450,000	12/1/1992	5/1/1998
92-01-C-00-CMX, Houghton County Memorial, Hancock	4/29/1993	3	162,986	7/1/1993	1/1/1996
93-01-C-00-IWD, Gogebic County, Ironwood	5/11/1993	3	74,690	8/1/1993	10/1/1998
93-01-C-00-LAN, Capital City, Lansing	7/23/1993	3	7,355,483	10/1/1993	3/1/2002
92-01-I-00-MQT, Marquette County, Marquette	10/1/1992	3	459,700	12/1/1992	4/1/1996
92-01-C-00-PLN, Pellston Regional—Emmet County, Pellston	12/22/1992	3	440,875	3/1/1993	6/1/1995
Minnesota:					
93-01-C-00-BRD, Brainerd-Crow Wing County Regional, Brainerd	5/25/1993	3	43,000	8/1/1993	12/31/1995
92-01-C-00-MSP, Minneapolis-St Paul International, Minneapolis	3/31/1992	3	66,355,682	6/1/1992	8/1/1994
Mississippi:					
91-01-C-00-GTR, Golden Triangle Regional, Columbus	5/8/1992	3	1,693,211	8/1/1992	9/1/2006
92-01-C-00-GPT, Gulfport-Biloxi Regional, Gulfport-Biloxi	4/3/1992	3	384,028	7/1/1992	12/1/1993
92-01-C-00-PIB, Hattiesburg-Laurel Regional, Hattiesburg-Laurel	4/15/1992	3	119,153	7/1/1992	1/1/1998
93-01-C-00-JAN, Jackson International, Jackson	2/10/1993	3	1,918,855	5/1/1993	4/1/1995
92-01-C-00-MEI, Key Field, Meridian	8/21/1992	3	122,500	11/1/1992	6/1/1994
93-02-C-00-MEI, Key Field, Meridian	10/19/1993	3	155,223	1/1/1994	8/1/1996
Missouri:					
93-01-C-00-SGF, Springfield Regional, Springfield	8/30/1993	3	1,937,090	11/1/1993	10/1/1996
92-01-C-00-STL, Lambert-St. Louis International, St. Louis	9/30/1992	3	84,607,850	12/1/1992	3/1/1996
Montana:					
93-01-C-00-BZN, Gallatin Field, Bozeman	5/17/1993	3	4,198,000	8/1/1993	6/1/2005
92-01-C-00-GTF, Great Falls International, Great Falls	8/28/1992	3	3,010,900	11/1/1992	7/1/2002
93-02-U-00-GTF, Great Falls International, Great Falls	5/25/1993	3	3,010,900	11/1/1992	7/1/2002
92-01-C-00-HLN, Helena Regional, Helena	1/15/1993	3	1,056,190	4/1/1993	12/1/1999
93-01-C-00-FCA, Glacier Park International, Kalispell	9/29/1993	3	1,211,000	12/1/1993	11/1/1999
92-01-C-00-MSO, Missoula International, Missoula	6/12/1992	3	1,900,000	9/1/1992	8/1/1997
Nevada:					
91-01-C-00-LAS, McCarran International, Las Vegas	2/24/1992	3	944,028,500	6/1/1992	2/1/2014
93-02-C-00-LAS, McCarran International, Las Vegas	6/7/1993	3	36,500,000	6/1/1992	9/1/2014
93-01-C-00-RNO, Reno Cannon International, Reno	10/29/1993	3	34,263,607	1/1/1994	5/1/1999
New Hampshire:					
92-01-C-00-MHT, Manchester, Manchester	10/13/1992	3	5,461,000	1/1/1993	3/1/1997
New Jersey:					
92-01-C-00-EWR, Newark International, Newark	7/23/1992	3	84,600,000	10/1/1992	8/1/1995
New York:					
93-01-C-00-BGM, Binghamton Regional/Edwin A Link FIE, Binghamton	8/16/1993	3	1,872,264	11/1/1993	11/1/1997
92-01-I-00-BUF, Greater Buffalo International, Buffalo	5/29/1992	3	189,873,000	8/1/1992	3/1/2026
92-01-I-00-ITH, Tompkins County, Ithaca	9/28/1992	3	1,900,000	1/1/1993	1/1/1999
92-91-C-00-JHW, Chautauqua County/Jamestown, Jamestown	3/19/1993	3	434,822	6/1/1993	6/1/1996
92-01-C-00-JFK, John F. Kennedy International, New York	7/23/1992	3	109,980,000	10/1/1992	8/1/1995
92-01-C-00-LGA, Laguardia, New York	7/23/1992	3	87,420,000	10/1/1992	8/1/1995

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State/application No./airport/city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date [1]
93-01-C-00-PLB, Clinton County, Plattsburgh	4/30/1993	3	227,830	7/1/1993	1/1/1998
92-01-C-00-HPN, Westchester County, White Plains	11/9/1992	3	27,883,000	2/1/1993	6/1/2022
North Dakota:					
92-01-C-00-GFK, Grand Forks International, Grand Forks	11/16/1992	3	1,016,509	2/1/1993	2/1/1997
Ohio:					
92-01-C-00-CAK, Akron-Canton Regional, Akron	6/30/1992	3	3,594,000	9/1/1992	8/1/1996
92-01-C-00-CLE, Cleveland-Hopkins International, Cleveland	9/1/1992	3	34,000,000	11/1/1992	11/1/1995
92-01-I-00-CMH, Port Columbus International, Columbus	7/14/1992	3	7,341,707	10/1/1992	3/1/1994
93-02-I-00-CMH, Port Columbus International, Columbus	7/19/1993	3	16,270,258	2/1/1994	9/1/1996
93-03-U-00-CMH, Port Columbus International, Columbus	10/27/1993	3	16,270,256	1/1/1994	9/1/1996
93-01-C-00-TOL, Toledo Express, Toledo	6/29/1993	3	2,750,896	9/1/1993	9/1/1996
Oklahoma:					
92-01-C-00-LAW, Lawton Municipal, Lawton	5/8/1992	2	334,078	8/1/1992	1/1/1996
92-01-1-00-TUL, Tulsa International, Tulsa	5/11/1992	3	9,717,000	8/1/1992	8/1/1995
93-02-U-00-TUL, Tulsa International, Tulsa	10/18/1993	3	9,717,000	2/1/1994	8/1/1995
Oregon:					
93-01-C-00-EUG, Mahlon Sweet Field, Eugene	8/31/1993	3	3,729,699	11/1/1993	11/1/1998
93-01-C-00-MFR, Medford-Jackson County, Medford	4/21/1993	3	1,066,142	7/1/1993	11/1/1995
92-01-C-00-PDX, Portland International, Portland	4/8/1992	3	17,961,850	7/1/1992	7/1/1994
93-01-C-00-RDM, Roberts Field, Redmond	7/2/1993	3	1,191,552	10/1/1993	3/1/2000
Pennsylvania:					
92-01-I-00-ABE, Allentown-Bethlehem-Easton, Allentown	8/28/1992	3	3,778,111	11/1/1992	4/1/1995
92-01-C-00-AOO, Altoona-Blair County, Altoona	2/3/1993	3	3,778,111	5/1/1993	2/1/1996
92-01-C-00-ERI, Erie International, Erie	7/21/1992	3	198,000	10/1/1992	6/1/1997
93-01-C-00-JST, Johnstown-Cambria County, Johnstown	8/31/1993	3	307,500	11/1/1993	2/1/1998
92-01-I-00-PHL, Philadelphia International, Philadelphia	5/29/1992	3	76,169,000	9/1/1992	7/1/1995
92-02-U-00-PHL, Philadelphia International, Philadelphia	5/14/1993	3	76,169,000	8/1/1993	7/1/1995
92-01-C-00-UNV, University Park, State College	8/28/1992	3	1,495,974	11/1/1992	7/1/1997
93-01-C-00-AVP, Wilkes-Barre/Scranton International, Wilkes-Barre/Scranton	9/24/1993	3	2,369,566	12/1/1993	6/1/1997
South Carolina:					
93-01-C-00-CAE, Columbia Metropolitan, Columbia	8/23/1993	3	32,969,942	11/1/1993	9/1/2008
Tennessee:					
93-01-C-00-TYS, McGhee Tyson, Knoxville	10/6/1993	3	5,681,615	1/1/1994	1/1/1997
92-01-I-00-MEM, Memphis International, Memphis	5/28/1992	3	26,000,000	8/1/1992	12/1/1994
92-01-C-00-BNA, Nashville International, Nashville	10/9/1992	3	143,358,000	1/1/1993	2/1/2004
Texas:					
93-02-C-00-AUS, Robert Mueller Municipal, Austin	6/4/1993	2	6,189,300	11/1/1993	6/1/1995
92-01-C-00-ILE, Killeen Municipal, Killeen	10/20/1992	3	243,339	1/1/1993	11/1/1994
93-01-I-00-LRD, Laredo International, Laredo	7/23/1993	3	11,983,000	10/1/1993	9/1/2013
93-01-C-00-LBB, Lubbock International, Lubbock	7/9/1993	3	10,699,749	10/1/1993	2/1/2000
92-01-I-00-MAF, Midland International, Midland	10/16/1992	3	35,529,521	1/1/1993	1/1/2013
93-01-C-00-SJT, Mathis Field, San Angelo	2/24/1993	3	873,716	5/1/1993	11/1/1998
Virginia:					
92-01-I-00-CHO, Charlottesville-Albemarle, Charlottesville	6/11/1992	2	255,559	9/1/1992	11/1/1993
92-02-U-00-CHO, Charlottesville-Albemarle, Charlottesville	12/21/1992	2	255,559	9/1/1992	11/1/1993
93-03-U-00-CHO, Charlottesville-Albemarle, Charlottesville	10/20/1993	0	0	1/1/1994	
93-01-C-00-IAD, Washington Dulles International, Washington, DC	10/18/1993	3	199,752,390	1/1/1994	11/1/2003
93-01-C-00-DCA, Washington National, Washington, DC	8/16/1993	3	166,739,071	11/1/1993	11/1/2000

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State/application No./airport/city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date [1]
Washington:					
93-01-C-00-BLI, Bellingham International, Bellingham	4/29/1993	3	366,000	7/1/1993	7/1/1994
93-01-C-00-PSC, Tri-Cities, Pasco	8/3/1993	3	1,230,731	11/1/1993	11/1/1996
93-01-C-00-CLM, William R Fairchild International, Port Angeles	5/24/1993	3	52,000	9/1/1993	8/1/1994
92-01-C-00-SEA, Seattle-Tacoma International, Seattle	8/13/1992	3	28,847,486	11/1/1992	1/1/1994
93-02-C-00-SEA, Seattle-Tacoma International, Seattle	10/25/1993	3	47,500,500	1/1/1994	1/1/1996
93-01-C-00-GEG, Spokane International, Spokane	3/23/1993	3	15,272,000	6/1/1993	12/1/1999
93-01-I-00-ALW, Walla Walla Regional, Walla Walla	8/3/1993	3	1,187,280	11/1/1993	11/1/2014
93-01-C-00-EAT, Pangborn Field, Wenatchee	5/26/1993	3	280,500	8/1/1993	10/1/1995
92-01-C-00-YKM, Yakima Air Terminal, Yakima	11/10/1992	3	416,256	2/1/1993	4/1/1995
West Virginia:					
93-01-C-00-CRW, Yeager, Charleston	5/28/1993	3	3,256,126	8/1/1993	4/1/1998
92-01-C-00-MGW, Morgantown Muni-Walter L Bill Hart, Morgantown	9/3/1992	3	55,500	12/1/1992	1/1/1994
Wisconsin:					
92-01-C-00-GRB, Austin Straubel International, Green Bay	12/28/1992	3	8,140,000	3/1/1993	3/1/2003
93-01-C-00-MSN, Dane County Regional-Truax Field, Madison	6/22/1993	3	6,746,000	9/1/1993	3/1/1998
93-01-I-00-CWA, Central Wisconsin, Mosinee	8/10/1993	3	7,725,600	11/1/1993	11/1/2012
93-01-C-00-RHI, Rhinelander-Oneida County, Rhinelander	8/4/1993	3	167,201	11/1/1993	4/1/1996
Wyoming:					
93-01-C-00-CPR, Natrona County International, Casper	6/14/1993	3	506,144	9/1/1993	10/1/1996
93-01-C-00-CYS, Cheyenne, Cheyenne	7/30/1993	3	742,251	11/1/1993	8/1/2000
93-01-I-00-GCC, Gillette-Campbell County, Gillette	8/26/1993	3	331,540	9/1/1993	9/1/1999
93-01-C-00-JAC, Jackson Hole, Jackson	5/25/1993	3	1,091,183	8/1/1993	2/1/1996
Guam:					
92-01-C-00-NGM, Agana Nas, Agana	11/10/1992	3	5,632,000	2/1/1993	5/1/1994
Puerto Rico:					
92-01-C-00-BQN, Rafael Hernandez, Aguadilla	12/29/1992	3	1,053,000	3/1/1993	1/1/1999
92-01-C-00-PSE, Mercedita, Ponce	12/29/1992	3	868,000	3/1/1993	1/1/1999
92-01-C-00-SJU, Luis Munoz Marin International, San Juan	12/29/1992	3	49,768,000	3/1/1993	2/1/1997
Virgin Islands:					
92-01-I-00-STT, Cyril E King, Charlotte Amalie	12/8/1992	3	3,871,005	3/1/1993	2/1/1995
92-01-I-00-STX, Alexander Hamilton, Christiansted St Croix	12/8/1992	3	2,280,465	3/1/1993	5/1/1995

[1] The estimated charge expiration date is subject to change due to the rate of collection and actual allowable project costs.

[FR Doc. 93-31245 Filed 12-21-93; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement(s): Somerset County, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), Pennsylvania Department of Transportation (PennDOT).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project located in Somerset County, Pennsylvania. It is noted that the U.S. Army Corps of Engineers, Pittsburgh District and the U.S. Environmental Protection Agency are cooperating agencies.

FOR FURTHER INFORMATION CONTACT:

Daniel W. Johnson, Environmental Program Manager, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, PA 17108-1086. Telephone: (717) 782-2276.

G. Edward Stoltz, District Liaison Engineer, Pennsylvania Department of Transportation, 1620 North Juniata Street, Hollidaysburg, PA 16648. Telephone: (814) 696-7170.

SUPPLEMENTARY INFORMATION: The FHWa and PennDOT will prepare an Environmental Impact Statement (EIS) for proposed improvements to a portion of U.S. 219 in Somerset County.

Transportation improvements for a broad study area from Somerset, Pennsylvania to I-68 in Garrett County, Maryland had been considered in the past. An EIS was approved on June 28, 1976 for a four lane limited access highway extending from the existing Route 219 interchange southeast of Somerset Borough to the community of Beechdale, a distance of approximately eight (8) miles. In addition, an EIS was approved on May 26, 1982 for a four lane limited access highway extending from the community of Beechdale to a point one mile south of Meyersdale Borough, a distance of approximately eight (8) miles. No environmental document was prepared for the remaining portion extending from the point one mile south of Meyersdale to I-68 in Garrett County, Maryland, a distance of approximately seven (7) miles. These proposed highway facilities were not built at the time because funding was not available.

In 1990 a project was initiated to re-examine the transportation needs in the general study area from Somerset to I-68. The environmental documents previously completed and approved were reviewed and a needs analysis was completed for the general study area from Somerset to I-68.

The results of the needs analysis identified a five mile portion of U.S. 219 which experiences severe problems including: traffic congestion, undesirable mix of types of vehicles, local access, safety of motorists and pedestrians, and limitations in roadway geometry. This portion of U.S. 219 is located within, and immediately north and south of Meyersdale Borough.

Problems identified in the general study corridor from Somerset to I-68 include roadway geometry and capacity however these problems do not now, nor is it likely that they will in the foreseeable future (10-15 years) significantly impair the safety of the motorists or traffic flow. Therefore, a detailed study area for the EIS has been defined within the general study corridor. This area consists of U.S. 219 through Meyersdale Borough and includes the northern and southern approaches to the Borough.

Improvements in the detailed study area are now considered necessary to adequately provide for a safe and efficient transportation system because of the current and projected traffic volumes in the Meyersdale area and the inability of the existing street system to handle the current and projected traffic volumes.

A phased approach has been initiated for the preliminary design studies for the proposed highway improvement project in the Meyersdale area.

Included in the first phase of the preliminary engineering and environmental studies is the environmental overview and a preliminary alternatives analysis. The second phase will include a detailed alternatives analysis, technical studies and the preparation of an EIS.

Alternatives under consideration include, but are not limited to: (1) Taking no action; (2) upgrading existing U.S. 219 to current design criteria; and (3) constructing a four lane limited access highway on a new location either east or west of Meyersdale Borough. Additional alternatives may be evaluated based on the public and agency involvement process. Design variations of grade and alignment will be studied and incorporated into the various build alternatives as necessary.

The EIS will include a summary of the needs analysis of the study corridor from Somerset to I-68 and how the focus on Meyersdale developed. The following subject areas will be evaluated in the EIS for the Meyersdale improvements: traffic; air quality; noise; vibration; surface and groundwater resources; floodplains; soils and geology; surface and groundwater quality; wetlands, vegetation and wildlife; threatened and endangered species; farmlands; visual; socioeconomics and land use; energy; hazardous and residual waste sites; section 4(f) properties; historic structures and archaeological sites; wild and scenic Rivers; natural and wild areas; national natural landmarks; and construction impacts. Information describing the proposed action and study process will be provided to appropriate Federal, State, and local agencies and to private organizations and citizens who have an interest in this project to solicit their comments. A series of public and agency meetings will be held in the study area during the winter of 1993; summer of 1994; and the spring of 1995. Public notices of the times and places of these meetings and any required public hearings will be given in a timely fashion. The draft EIS will be available for public and agency review and comment prior to the public hearing. Public involvement and interagency coordination will be maintained throughout the study process.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: December 10, 1993.

George L. Hannon,

Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 93-31151 Filed 12-21-93; 8:45 am]
BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 93-68; Notice 1]

Receipt of Petition for Determination that Nonconforming 1991 Mercedes-Benz 500E Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1991 Mercedes-Benz 500E passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1991 Mercedes-Benz 500E that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is on January 21, 1994.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. [Docket hours from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C § 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation

into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notices in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer No. R–90–007) has petitioned NHTSA to determine whether 1991 Mercedes-Benz 500E (Model ID 124.036) passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1991 Mercedes-Benz 300E. G&K has submitted information indicating that Daimler Benz A.G., the company that manufactured the 1991 Mercedes-Benz 300E, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

G&K states that is has carefully compared the 1991 model 500E to the 1991 model 300E, and found the two vehicles to be substantially similar with respect to most applicable Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the 1991 model 500E, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1991 model 300E that was offered for sale in the United States, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the 1991 model 500E is identical to the certified 1991 model 300E with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the 1991 model 500E is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the seat belt symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger's outside rearview mirror, which is convex but does not bear the required warning statement.

Standard No. 114 *Theft Protection:* installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is turned off.

Standard No. 206 *Door Locks and Door Retention Components:* replacement of the rear door lock assembly with U.S.-model parts.

Standard No. 208 *Occupant Crash Protection:* (a) installation of an ignition switch-actuated seat belt warning buzzer; (b) replacement of the existing Type 1 rear seat belts with U.S.-model belts equipped with retractors; (c) installation of knee bolsters to augment the vehicle's automatic restraint system. The petitioner claims that the 1991 model 500E is equipped with an airbag that meets the standard's passive restraint requirements.

Standard No. 214 *Side Door Strength:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the 1991 model 500E must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: January 21, 1993.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 14, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–31156 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–61; Notice 3]

Determination that Nonconforming 1991 Mercedes-Benz 190E Passenger Cars Are Eligible for Importation; Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Correction to notice of determination that nonconforming 1991 Mercedes-Benz 190E passenger cars are eligible for importation.

SUMMARY: This document corrects a notice published Tuesday, November 16, 1993 (58 FR 60488) announcing that the National Highway Traffic Safety Administration (NHTSA) had determined that a 1991 Mercedes-Benz 190E that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States. The model identification number that the notice provided for this vehicle was "Model ID 201.124." That number was in error, and should properly have read "Model ID 201.024."

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and C(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 15, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–31157 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–73; Notice 2]

Determination That Nonconforming 1992 Mercedes-Benz 500SE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1992 Mercedes-Benz 500SE passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1992 Mercedes-Benz 500SE passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1992 Mercedes-Benz 400SE), and they are capable of being readily modified to conform to the standards.

DATE: The determination is effective as of December 22, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. § 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

G&K Automotive Conversion, Inc. of Santa Ana, California (Registered Importer R–90–007) petitioned NHTSA to determine whether 1992 Mercedes-Benz 500SE passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on October 13, 1993 (58 FR 53017) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 50 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1992 Mercedes-Benz 500SE (Model ID 140.050) is substantially similar to a 1992 Mercedes-Benz 400SE originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 9, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–31158 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 14, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–1290
Regulation ID Number: FI–61–86 Final
Type of Review: Extension
Title: Bad Debt Reserves of Banks
Description: Section 585(c) of the Internal Revenue Code requires large banks to change from the reserve method of accounting to the specific charge off method of accounting for bad debts. The information required by section 1.585–8 of the regulations identifies any election made or revoked by the taxpayer in accordance with section 585(c).
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 2,500
Estimated Burden Hours Per Respondent: 15 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 625 hours

OMB Number: 1545–1353
Regulation ID Number: FI–189–84 Final
Type of Review: Extension
Title: Debt Instruments with Original Issue Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property
Description: These regulations provide definitions, reporting requirements, elections, and general rules relating to the tax treatment of debt instruments

with original issue discount and the imputation of, and accounting for, interest on certain sales or exchanges of property.
Respondents: Individual or households, State or local governments, Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 750,000
Estimated Burden Hours Per Respondent: 24 minutes
Frequency of Response: Other (per issuance of debt instrument with original issue discount)
Estimated Total Reporting Burden: 289,500 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–31167 Filed 12–21–93; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

December 15, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0168
Form Number: IRS Form 4361
Type of Review: Extension
Title: Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners
Description: Form 4361 is used by ministers, members of religious orders, or Christian Science Practitioners to file for an exemption from self-employment on certain earnings and to certify that they have informed the church or order that they are opposed to the acceptance of certain public insurance benefits.
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 10,270
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 minutes
Learning about the law or the form—19 minutes
Preparing the form—16 minutes
Copying, assembling, and sending the form to the IRS—17 minutes
Frequency of Response: Other (one time)
Estimated Total Reporting Burden: 10,065 hours
OMB Number: 1545–0553
Form Number: RCMW 1–727A
Type of Review: Extension
Title: Geographic Availability Statement
Description: When IRS recruits applicants to fill positions, this form is used to ascertain the applicant's geographic preference for appointment location. The form facilitates the referral of applicants for positions in geographic areas of their interest. It is used by an individual (government and nongovernment) interested in advertised positions.
Respondents: Individual or households
Estimated Number of Respondents: 1,800
Estimated Burden Hours Per Respondent: 6 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 180 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–31168 Filed 12–21–93; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review: Loan Analysis, VA Form 26–6393

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information:

(1) The title of the information collection, and the Department form number(s), if applicable;

(2) A description of the need and its use;

(3) Who will be required or asked to respond;

(4) An estimate of the total annual reporting hours, and recordkeeping burden, if applicable;

(5) The estimated average burden hours per respondent;

(6) The frequency of response; and

(7) An estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: December 9, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Loan Analysis, VA Form 26–6393.
2. The form is completed by representatives of the lending institution to determine the veteran-borrower's ability to qualify for a VA guaranteed loan. The information is used by VA as evidence of the lender's adherence to VA credit standards.
3. Businesses or other for-profit.
4. 120,000 hours.
5. 30 minutes.
6. On occasion.
7. 240,000 respondents.

[FR Doc. 93–31205 Filed 12–21–93; 8:45 am]

BILLING CODE 8320–01–M

Veterans Health Administration Advisory Committee for Cooperative Studies, Health Services, and Rehabilitation Research and Development Subcommittee on Scientific Review and Evaluation for Health Services Research and Development Service; Meeting

The Department of Veterans Affairs, Veterans Health Administration, gives notice under Public Law 92–463, that a meeting of the Advisory Committee for Cooperative Studies, Health Services, and Rehabilitation Research and Development Subcommittee on Scientific Review and Evaluation for Health Services Research and Development will be held at the Downtown Marriott Hotel, 701 A Street, San Diego, California, January 18 through January 20, 1994. The session on January 18, 1994, is scheduled to begin at 3 p.m. and end at 6:30 p.m. The session on January 19 is scheduled to begin at 8 a.m. and end at 5:30 p.m. The session on January 20 is scheduled to begin at 8 a.m. and end at 12 noon. The purpose of the meeting is to review research and development applications concerned with the measurement and evaluation of health care systems and with testing new methods of health care delivery and management. Applications are reviewed for scientific and technical merit and recommendations regarding their funding are prepared for the Associate Chief Medical Director for Research and Development.

The meeting will be open to the public (to the seating capacity of the room) at the start of the January 18 session for approximately one hour to cover administrative matters and to discuss the general status of the program. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b (c)(6) and (9)(B).

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Mr. Bill Judy, Review Program Manager (12B3), Health Services Research and Development Service, Department of Veterans Affairs, 810 Vermont Ave., Washington, DC 20420 (phone: 202–523–7425) at least five days before the meeting.

Dated: December 10, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–31203 Filed 12–21–93; 8:45 am]

BILLING CODE 8320–01–M

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Meeting

In accordance with Public Law 92–463, the Department of Veterans Affairs gives notice of a meeting of the Rehabilitation Research and Development Scientific Review and Evaluation Board Sub-Committee of the Advisory Committee for Cooperative Studies, Health Services, and Rehabilitation Research and Development. This meeting will convene at the Vista International Hotel, 1400 M Street NW., Washington, DC January 11 through January 14, 1994. The session on January 11, 1994, is scheduled to begin at 6:30 p.m. and end at 9:30 p.m. The sessions on January 12, 13, 14, 1994, are scheduled to begin at 8 a.m. and end at 5 p.m. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) for the January 11 session for the discussion of administrative matters, the general status of the program, and the administrative details of the review process. On January 12–14, 1994 the meeting is closed during which the Board will be reviewing research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research under way which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 522b (c)(6) and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under sections 10(d) of Public Law 92–463 as amended by section 5(c) of Public Law 94–409.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Ms. Victoria Mongiardo, Program Analyst, Rehabilitation Research and Development Service, Department of Veterans Affairs, 103 South Gay Street, Baltimore, Maryland 21202 (Phone: 410–962–2563) at least five days before the meeting.

Dated: December 10, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–31204 Filed 12–21–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 244
Wednesday, December 22, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 66073, December 17, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, December 22, 1993.

CHANGES IN THE MEETING: Change in the time of the closed meeting to *approximately 11:00 a.m., Wednesday, December 22, 1993*, following a recess at the conclusion of the open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 20, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-31401 Filed 12-20-93; 3:26 pm]

BILLING CODE 6210-01-P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, December 22, 1993.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of revision of Regulation E (Electronic Fund Transfers).

Discussion agenda:

2. Proposed amendments to Regulation E (Electronic Fund Transfers) to cover Electronic Benefit Transfer (EBT) programs established by federal, state, or local agencies. (Proposed earlier for public comment; Docket No. R-796).

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-31400 Filed 12-20-93; 3:26 pm]

BILLING CODE 6210-01-P

Corrections

Federal Register
Vol. 58, No. 244
Wednesday, December 22, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 56-93]

Foreign-Trade Zone 59—Lincoln, Nebraska Proposed Expansion of Subzone 59A, Kawasaki Motors Manufacturing Corporation, U.S.A. Plant (Motorcycles, Jetskis, All Terrain Vehicles) Lincoln, NE

Correction

In notice document 93-29327 appearing on page 63335 in the issue of Wednesday, December 1, 1993, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-808]

Antidumping Duty Order: Certain Stainless Steel Wire Rods from India

Correction

In notice document 93-29451 beginning on page 63335 in the issue of Wednesday, December 1, 1993, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-920-04-4210-04; AZA 20349A and AZA 23217A]

Arizona: Reconveyed Mineral Estate Opened to Entry in Mohave County, AZ

Correction

In notice document 93-28987 appearing on page 62368 in the issue of Friday, November 26, 1993, in the second column, in the first full paragraph, in the fourth line from the end, after "lot 2" insert a comma, and in the last paragraph, in the last line, "86440" should read "86403".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 93-020]

Captain of the Port Zone Boundaries

Correction

In rule document 93-24206 beginning on page 51726 in the issue of Monday, October 4, 1993, make the following correction:

§ 3.25-10 [Corrected]

1. On page 51728, in the second column, in § 3.25-10(b), in the seventh line from the end, "and proceeds" should read "at proceeds".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93-AWP-4]

Proposed Alteration of Jet Routes J-86 and J-92

Correction

In proposed rule document 93-29588 beginning on page 63906 in the issue of Friday, December 3, 1993, make the following correction:

§ 71.1 [Corrected]

1. On page 63907, in the third column, in § 71.1, "J-85 [Revised]" should read "J-86 [Revised]".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88-21; Notice 07]

RIN 2127-AE62

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

Correction

In proposed rule document 93-29226 beginning on page 63321 in the issue of Wednesday, December 1, 1993, in **DATES**, in the second line, "January 31, 1993." should read "January 31, 1994."

BILLING CODE 1505-01-D

VOL
58

ISS
244

DE
22

1993

UMI

federal register

Wednesday
December 22, 1993

Part II

Department of Health and Human Services

Administration for Children and Families

45 CFR Parts 1355, et al.
Data Collection for Foster Care and Adoption; Statewide Automated Child Welfare Information Systems; Final Rule and Interim Final Rule

VOL
58
ISS
244
DE
22
1993
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1355, 1356 and 1357

RIN 0970-AB&05

Title IV–B and Title IV–E of the Social Security Act: Data Collection for Foster Care and Adoption

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department is issuing this final rule to implement the requirements of section 479 of the Social Security Act. This section requires the Secretary to publish regulations that implement a system for the collection of adoption and foster care data in the United States. All States that administer State plans under title IV–B and title IV–E of the Social Security Act are subject to this final rule.

EFFECTIVE DATE: This rule is effective January 21, 1994.

FOR FURTHER INFORMATION CONTACT:

By Mail: Children's Bureau, Administration on Children, Youth and Families, PO Box 1182, Washington, DC 20013, Attention: Daniel H. Lewis.

By Telephone: Daniel H. Lewis, (202) 205–8618, or Michael Ambrose, (202) 205–8740.

SUPPLEMENTARY INFORMATION:

I. General

This rule, generally known as the Adoption and Foster Care Analysis and Reporting System (AFCARS) is designed to collect uniform, reliable information on children who are under the responsibility of the State title IV–B/IV–E agency for placement and care. The collection of adoption and foster care data is mandated by section 479 of the Social Security Act. In order to adequately meet the intent of the law and the requirements of this regulation, the States' data collection systems for AFCARS must be computerized.

The Department of Health and Human Services (DHHS) will use this information to respond to Congressional requests for current data on children in foster care or who have been adopted, and to respond to questions and requests from other Departments and agencies, including the General Accounting Office, the Office of Management and Budget (OMB), the DHHS Office of Inspector General, national advocacy organizations, States and other interested organizations. The Department will aggregate the data both by State and nationally and will issue summaries twice a year to each of the States and to any other group or organization on request.

The purpose for the establishment of the AFCARS is twofold: To address policy development and program management issues at both the State and Federal levels. The data will enable the Federal Government to more effectively direct and manage the national foster care and adoption assistance programs. The data will respond to the needs of the Congress, the Department and OMB for national data and information upon which to propose, develop, change and implement policy. Specifically, the Department will use these data for:

- Short and long-term budget projections;
- Trend analyses and short and long-term planning;
- Targeting areas for greater or potential technical assistance efforts, for discretionary service grants, for research and evaluation, and for regulatory change; and
- Background and justification for policy changes and legislative proposals.

The data will enable policymakers to assess the reasons why children are in foster care and develop remedies to prevent it. The data will provide information about foster care placements, adoptive parents, length of time in care, delays in termination of parental rights and placement for adoption, and identify geographic areas with special problems.

The data will also be useful for research, the ultimate purpose of which is to gain a better understanding of the foster care program and the causes and other factors contributing to its expansion and other changes; and, eventually, to make suggestions and proposals for change to improve the child welfare system.

II. Program Description

Title IV–B of the Social Security Act (the Act), Child Welfare Services, is a formula grant program. Each State receives a basic grant representing its share of $141 million and is eligible for a share of incentive funds beyond the basic grant if it provides certain protection, as required by section 427 of the Act, for children in foster care. The basic grant and the incentive funds provide States with Federal support for a wide variety of State child welfare services including preplacement preventive services to strengthen families and avoid placement of children, services to prevent abuse and neglect, and to provide foster care and adoption services. The basic grant and inventive funds can be used to provide services regardless of the income of the families and children who are in need of such services.

Title IV–E of the Act is an entitlement program which authorizes Federal financial participation (FFP) in the costs of State foster care maintenance and adoption assistance payments. Federal matching of State foster care maintenance payments is available for children in foster care who meet certain eligibility criteria that are based, in part, on the child's eligibility under the Aid to Families With Dependent Children (AFDC) program. The adoption assistance program under title IV–E is designed to assist States is placing "special needs" children with adoptive families through the provision of an adoption assistance payment. In order to be eligible for this program, a child must be eligible for AFDC, title IV–E foster care or Supplemental Security Income for the Blind and Disabled (SSI) and must meet the statutory definition of "a child with special needs" according to section 473(c) of the Act.

Under section 473(c), the State title IV–E agency makes a determination as to whether or not a child has special needs, according to the following factors: (1) The child cannot or should not be returned to the home of the parents; (2) there exists a specific factor or condition (such as the child's age, ethnic background, emotional, physical or mental disability, or membership in a minority or sibling group) because of which it is reasonable to conclude that the child cannot be placed for adoption without providing adoption assistance; and, (3) except where it would be against the best interests of the child, a reasonable, but unsuccessful, effort has been made to place the child without adoption assistance.

There are several Federal programs which fund foster care and adoption assistance payments and services. For FY 1993, $2.574 billion has been appropriated for title IV–E foster care and $279.8 million for title IV–E adoption assistance. Federal funds appropriated for child welfare services under title IV–B for the basic grant and incentive awards amount to $294.624 million in FY 1993. Another major funding source to States for social services is the Social Services Block Grant (title XX of the Act), totaling $2.8 billion in FY 1993. While no specific figures are available on the amounts allocated by the States to adoption and foster care services under title XX, in FY 1991, 34 States used some of these funds for adoption services and 39 States provided foster care services with these funds.

Although title IV–E of the Act is the major single source of Federal support for foster care and adoption assistance payments, over half the funds for adoption and foster care services come from State and local governments and the private sector.

According to State agency information gathered by the American Public Welfare Association (APWA) under the Voluntary Cooperative Information System (VCIS), there were approximately 442,000 children in foster care on the last day of 1992.

In 1989, the most recent year for which complete data have been analyzed, approximately 382,600 children were in foster care. Of these children, approximately 54,700 had plan for adoption and approximately 30,500 had parental rights terminated or relinquished and were waiting for adoptive homes.

III. Past and Current Data Collection Efforts

From the late 1940's through the early 1970's the Children's Bureau (and later, the former Social and Rehabilitation Services) collected data on foster care and adoption from the States on an annual and voluntary basis. When those voluntary efforts were terminated, national data on foster care and adoption were not available. However, the need for reliable and consistent data has always been a critical concern, especially for planning services and developing policy.

In 1978, the Child Abuse Prevention and Treatment and Adoption Reform Act (Pub. L. 95–266) was enacted. It required the Secretary to provide (either directly or by grant or contract) for the establishment and operation of a national adoption and foster care data gathering and analysis system (42 U.S.C. 5113). Before 1978, there had never been a legislatively mandated national data collection system for foster care and adoption with standards and methodology set by Federal law and regulation.

In 1980, landmark legislation reforming the foster care system and initiating Federal financial participation in adoption assistance payments was passed. This Act is known as the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272), 42 U.S.C. 670. It contains two sections which address the subject of data collection. Section 476 of title IV–E of the Act states that, "Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care." In addition, States which apply for additional incentive funds under section 427 of title IV–B must have implemented and be operating a statewide information system that can readily identify the status, demographic characteristics, location and goals for placement of every child in foster care within the preceding 12 months. This requirement applies to all children in foster care under the responsibility of the State title IV–B/IV–E agency, not just those children eligible for title IV–E payments.

As indicated in the hearings prior to the passage of Pub. L. 96–272 (see Congressional Record for July 26, 1977, and October 25 and 29, 1979), the impetus behind the passage of the Adoption Assistance and Child Welfare Act was the belief that the public child welfare system had become a receiving and holding system for children in foster care. The National Study of Social Services to Children and Their Families, conducted in 1977, documented that thousands of children remained in foster care with little hope of being reunited with their parents or placed with adoptive families. The prospect of adoption was particularly bleak if the child was a member of an ethnic or racial minority group, an older child, a member of a sibling group, or mentally or physically disabled.

Repeatedly in hearings and in testimony before the Congress, child advocates and practitioners expressed concern that the public child welfare systems in many of the States did not know how many children were actually in foster care; how long they had been in care; where they resided; their race, age, sex and special needs; or the plan for each child. They indicated that, although this was a problem at the State and local levels, national attention and incentives were needed to focus attention on this lack of information and provided ways to encourage States and localities to develop this information. If the goal of permanency for each child was to be encouraged and achieved, national attention needed to be called to the importance of knowing the locations and characteristics of children in foster care so that those who could not return home might find families through adoption.

In 1982, in response to the legislative requirements in Public Law 95–266 and Public Law 96–272, the Department, through a grant to the American Public Welfare Association (APWA), implemented the Voluntary Cooperative Information System (VCIS) which collects aggregate information annually about children in foster care and special needs adoption from State child welfare agencies.

This voluntary system has been characterized by variation from State to State in reporting periods, the lack of common definitions for data elements and services, and inconsistent methodologies in reporting. In addition, the aggregate nature of the data limits the analyses that can be performed and limits its usefulness for purposes of planning or policy development at either the Federal or State levels.

IV. Legislation Establishing New Data Collection Requirements

Section 9943 of the Omnibus Budget Reconciliation Act (OBRA) of 1986 (Pub. L. 99–509) amended title IV–E of the Social Security Act by adding section 479. This section sets forth directives for establishing and implementing an adoption and foster care data collection system. The law requires:

(1) The establishment of an Advisory Committee to the Secretary, the composition and tasks of which are mandated by the Act. The tasks include a Report to the Secretary and to the Congress on the results of a study on the development of a data collection system;

(2) The submission to the Congress, by the Secretary, of a subsequent report that, based on the Advisory Committee's Report, recommends a method of establishing, administering and financing a system for data collection on foster care and adoption in the United States; and

(3) The promulgation of regulations that set forth the requirements governing this data collection system.

Although prior legislation authorized data collection efforts, the 1986 OBRA amendments clearly reflected Congressional interest in establishing, administering and financing a system for the collection of data with respect to adoption and foster care.

The Advisory Committee on Adoption and Foster Care Information was established by the Secretary and included representation from private, nonprofit organizations, organizations representing State and local governmental agencies, Federal agencies and other major groups interested in adoption and foster care, as required by the statute. The Advisory Committee was to:

- Identify the types of data necessary to assess on a continuing basis the

VOL 58 ISS 244 DEC 22 1993 UMI

incidence, characteristics, and status of adoption and foster care in the United States;

- Develop appropriate national policies with respect to adoption and foster care data collection;
- Evaluate the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies;
- Assess the validity of various methods of collecting data with respect to adoption and foster care; and
- Evaluate the financial and administrative impact of implementing each method.

The Advisory Committee concluded its work and submitted its study findings and recommendations to the Secretary by the legislative deadline of October 1, 1987. Highlights of the report are summarized below:

- Despite some progress over the past decade, there remains a serious shortfall in the availability of adoption and foster care information, particularly for policy purposes.
- The VCIS, initiated by the Federal government in 1982 in concert with the APWA, is the major vehicle for collecting child welfare and adoption data through the voluntary participation of the States. However, not all States have provided reports over the years, reporting periods differ, common definitions and methodologies are lacking, and the nature of aggregate data limits the analyses that can be carried out.
- The VCIS should be phased out gradually so as to avoid a gap in the availability of data, and a mandatory data collection system should be created with separate components for adoption and foster care.
- Adoption data should be collected on all legalized adoptions, including relative and non-relative adoptions and adoptions under both public and private auspices, as well as privately arranged adoptions.
- Foster care data should be collected on all children under the care and responsibility of the State child welfare agency. The foster care data system should also include children placed privately in licensed private agencies.
- Foster care information should include demographic information on the child (sex, birth data, race, ethnicity, previous stays in foster care, service goals, availability for adoption, duration of care, funding sources, and what happens to the child after the period of foster care is concluded). Data on each child should also include relevant demographic information about that child's biological and foster parents.
- Similar information should be collected for all adoptions at the time the adoption is legalized.
- Special provision needs to be made for Indian children who are affected by requirements in the Indian Child Welfare Act of 1978, 25 U.S.C. 1901, especially section 1951 mandating submission of adoption data to the Bureau of Indian Affairs (BIA) of the Department of the Interior. Indian children served by a Tribe would be reported to the BIA which would, in turn, report to ACYF.
- Individual child case data should be the basis of the data collection. The data must be kept confidential as the purpose of the data collection system is the conduct of program and policy analyses and not the tracking of individual children at the national level.
- Individual child and family identifiers should be eliminated in the data provided for Federal reporting purposes to preserve confidentiality.
- Nationwide data should be a subset of the same data used by State and local agencies in managing adoption and foster care programs on a day-to-day basis.
- Legislation should be enacted to require the Governor of each State to designate a lead institution to compile and transmit to ACYF statewide data on adoptions.
- Foster care and adoption data should be maintained in computer files at the State level and the data transmitted electronically to ACYF on a quarterly basis.
- The ACYF should generate reports on an annual basis to coincide with the Federal fiscal year. Summary reports should also be produced each quarter so data would be available for use by all States that would coincide with each State's annual fiscal period.
- There should be appropriate penalties for noncompliance and incentives to encourage timely compliance.
- Incentives should include, at a minimum, new Federal funding for 100 percent of add-on developmental expenses incurred by States in the transition to the new data collection system, plus Federal participation at 50 percent for ongoing operational costs.
- The ACYF should also provide training and technical assistance support to the States in establishing the data collection system, commencing in FY 1989. An ongoing work group should be established by ACYF so that there is consultation with appropriate State officials as well as representatives from appropriate groups on the planning and design of the new data collection system.
- The ACYF should be encouraged to conduct a variety of special studies to complement the information compiled under the data collection system. Data from the system would contribute to the conduct of many of those studies.

The Secretary, as required by section 479(b)(1) of the Act, reviewed the Advisory Committee's report and submitted to the Congress a report with recommendations for a new system. The Secretary's report proposed a method of establishing, administering, and financing a system for the collection of data relating to adoption and foster care in the United States; evaluated the feasibility and appropriateness of collecting data with respect to privately arranged foster care placements and adoptions arranged through private agencies without assistance from public child welfare agencies; and evaluated the impact of the system on the agencies with responsibility for implementing it.

Section 479 directs the Secretary to promulgate regulations that provide for full implementation of a data collection system for adoption and foster care no later than October 1, 1991.

According to section 479, this data collection system shall:

(1) Avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

(2) Assure that any data that are collected are reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

(3) Provide comprehensive national information with respect to—

- Demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents;
- The status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care);
- The number and characteristics of children placed in or removed from foster care, and children adopted or with respect to whom adoptions have been dissolved; and
- The extent and nature of assistance provided by Federal, State and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and

(4) Utilize appropriate requirements and incentives to insure that the system functions reliably throughout the United States.

V. Alternative Methodologies Considered

In deciding how to best implement the requirements of the legislation, the Department did a cost benefit analysis in which five alternatives were considered relative to AFCARS data collection. The Department's assessment of data collection alternatives was guided by the following principles with regard to data utility. It must:

- Produce national information on adoption and foster care.
- Permit meaningful State-specific analyses.
- Permit meaningful comparisons among States.
- Allow for detailed analyses which address critical child welfare policy issues.
- Not unduly burden the Federal government or the States.

The five alternatives considered were:

1. A continuation of the Voluntary Cooperative Information System Survey (VCIS) in its present form.
2. A quality control methodology which would require each State to submit monthly samples of AFCARS data.
3. A semi-annual census of AFCARS data as specified in this final rule.
4. A quarterly census of AFCARS data as originally set forth in the NPRM dated September 27, 1990.
5. A semi-annual sample of AFCARS data.

Each of these alternatives, where applicable, was evaluated on the basis of burden, timeliness, completeness, longitudinal analysis and complexity. Burden deals with the amount of resources expended by the States to satisfy the AFCARS data requirements. Timeliness pertains to the timely receipt of clean data and the timeframe for publication. Completeness addresses the total number of States participating and the number of data elements completed. Longitudinal analysis recognizes whether or not the data is collected on a case by case basis which allows for tracking of case changes over time. Complexity of the data addresses whether or not national data analysis requires a weighting methodology with its attendant limitations. These factors were applied to each alternative and scored according to a set formula.

The result of this analysis indicated that at this time, given Congress' intention with respect to AFCARS, and the noted problems with VCIS and sampling, the semi-annual census appears to be the most viable and, in the long run, the most cost effective alternative. Many States have, to some degree, existing information systems and AFCARS will serve as a catalyst for States to develop a more complete information system or to improve an existing one. Although the semi-annual census for AFCARS data is more costly than that of VCIS or any sampling methodology, the resultant information systems and broader base of data it provides, would allow and encourage States to manage programs more effectively due to more efficient retrieval of available information within the agency. In addition, improved information flow and availability will allow for more informed policy development and, in the long run, more efficiently run programs resulting in cost savings to the States and Federal government.

VI. Summary of Major Changes in the Final Rule

Section 479 of the Social Security Act (the Act), 42 U.S.C. 679, directs the Secretary to promulgate regulations for the implementation of a system to collect data relating to adoption and foster care in the United States.

On September 27, 1990, the Department published a Notice of Proposed Rulemaking (NPRM) (55 FR 39540) that proposed that State agencies administering or supervising the administration of titles IV–B and IV–E of the Act implement data collection systems and report quarterly on data elements set forth in the proposed rule. The NPRM proposed that States report data on all children for whom the State agency was responsible who were in foster care or had been adopted.

The proposed rule was based principally on the Secretary's report and his recommendations to the Congress. The Secretary's report indicated that reporting frequency would be at least annually, and no more frequently than each quarter. The NPRM proposed quarterly reporting. All other aspects of the Secretary's proposed system were included in the NPRM.

The proposed data elements and methodology for data collection were described in Appendices to the proposed rule. Those Appendices defined the data elements and proposed the specifications for submission format, record layouts and quality standards for data, including logic edits to assess the internal consistency of the data.

The NPRM included provisions pertaining to State compliance and penalties for noncompliance. Finally, the NPRM addressed costs for the establishment and maintenance of the data collection systems and rules governing State claims for partial reimbursement through administrative cost matching under title IV–E.

Ninety-eight letters were received in response to the NPRM, including 1600 specific comments. These included comments from agencies in 49 States and the District of Columbia, as well as comments from national associations and individuals. All comments were reviewed and analyzed and form the basis of the changes in this final rule.

Eighty-one commenters expressed general agreement with the need for an adoption and foster care data reporting system. Disagreements tended to focus on particular requirements set forth in the NPRM. The issues that elicited the most frequent expressions of concern were the potential time and cost burdens on the States resulting from the time required to collect and process the data and the possible diversion of resources from services to children; the need for greater Federal support in the costs of the information system; objections to definitions of particular data elements and the overall scope of the data requested; and disagreement with the penalty structure. Many States argued that the implementation deadline was unrealistic. Several commenters questioned the need for quarterly reporting. Other concerns included:

(1) The need for technical assistance support;

(2) Questions about data analysis;

(3) The need to clarify the missing data criteria; and

(4) Questions about who reports on Indian children.

These comments have been carefully considered by the Department in reaching the decisions reflected in this final rule. The following is a discussion of the changes made in the final rule as a result of these comments.

Several major changes have been incorporated in the final rule. First, the NPRM reflected the legal mandate to begin full implementation as of October 1, 1991. However, the Department sent an Information Memorandum to the States indicating that the final rule would specify the date of actual implementation. These rules specify that the first reporting period will begin October 1, 1994 and end March 31, 1995. The first transmission must be received in the Administration for Children and Families (ACF) no later than May 15, 1995. The six reporting periods beginning October 1, 1994 and ending September 30, 1997 will be penalty-free. The next year (covering the reporting periods October 1, 1997–March 31, 1998 and April 1, 1998–September 30, 1998) will be at half penalty and the following year, beginning with the transmission filed for the period beginning October 1,

VOL 58 ISS 244 DEC 22 1993 UMI

1998, will be at full penalty. Second, the NPRM would have required quarterly reporting. Based upon comments from the States, these rules specify that the reporting frequency will be semi-annual. The semi-annual reporting periods will be as of the end of March and September for each year. The States will be required to submit reports within 45 calendar days after the end of the semi-annual periods. The data must be extracted from the State system as of the last day of each reporting period.

Third, the NPRM's proposed approach to dealing with missing data, and the relationship between missing data and penalties, has been significantly changed. The allowable amount of missing data for any data element prior to the imposition of penalties has been raised from five percent, as proposed in the NPRM, to ten percent. Certain other modifications have been made in response to the comments. These include adding "not yet determined" and "cannot be determined" to several data categories. Only a limited set of core data elements will be required for children who have been in foster care less than 30 days. Core data elements include general information about the jurisdiction, the child's demographic information (date of birth, sex and race/ethnicity), the date of latest removal from the home, the current placement setting, and the date of discharge from substitute care. For children who enter foster care prior to October 1, 1995 and who are still in the system, only core data elements will be required; however, States will also be required to report on the most recent case plan goals affecting those children. Complete adoption data must be reported only for children adopted after the implementation date of October 1, 1994. In accordance with instructions to be issued at a later date, we will require the submission of aggregate information, broken out by age of child, on children adopted prior to October 1, 1994, who are continuing to receive title IV–E subsidies.

Fourth, in order to insure timeliness of the data, the Department will require that data be entered into the State's data system within 60 days of any placement or exit event affecting a child subject to the AFCARS reporting. For each child, we will require a computer generated transaction date to accompany the date of latest removal from the home and the date of discharge from foster care. The transaction date will indicate the actual calendar date when the date of removal and the discharge date are recorded in the State's system. Ninety percent of the subject transactions must have been entered into the data system within 60 days of the event (removal from home or discharge from foster care).

Fifth, for any child in the foster care system more than seven months, the State must indicate the date of the last periodic review. When this is done, it also means that the computer record has been checked and that the data on the child have been reviewed and are current, at least as of that date.

Sixth, modifications were made in the penalty provisions in response to objections from a majority of those commenting. No penalty will be assessed on a State until the State has had an opportunity for a hearing in accordance with the requirements at 45 CFR 201.6. When such a penalty has been assessed in accordance with § 1355.40, one regularly scheduled acceptable data transmission will be considered sufficient to assure the Secretary that there will no longer be any such failure to comply. The Department believes that the penalty provisions are the only ones available under current legislation. The net effect of several of the provisions will be to ease the burden of the penalties upon the States.

Seventh, administrative funding under either title IV–B, or title IV–E for systems design, development and implementation must comply with the requirements of 45 CFR part 95, subpart F, "Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation (FFP)". Specifically, 45 CFR 95.601 identifies the conditions under which the Department will approve Federal financial participation (FFP). Cost allocation may be required under some circumstances. Cost allocation under subpart F is addressed in 45 CFR 95.631, which requires the identification of costs associated with the development and operation of ADP acquisitions.

As requested by the commenters, the Department will provide technical assistance to those States desiring it on the planning, development and implementation of the required system. The intent is to provide technical assistance through a technical assistance contract and by working with the States to define how the foster care and adoption reporting system fits into the broader framework of support service automation. In order to provide services to children, many States are now in the process of planning for, or developing a comprehensive automated support services system which focuses on case management. Other States plan to enhance an existing management information system to meet the reporting requirements of this rule. Further, to effectively meet the statewide information system requirements of section 427 of title IV–B, States need better automation for monitoring and tracking. As States automate to meet the data reporting requirements of this rule, the Department encourages comprehensive service delivery and case management automation, rather than a simplistic data collection and reporting system which serves only to meet Federal reporting requirements. A state-of-the-art system would go beyond the delivery of management reports by providing the States with a vehicle to increase their efficiency and productivity.

The Department further encourages the States to focus on the level of automation required as an opportunity to develop automated capability which provides for consolidation and integration of children's services. For example, a State should automate every step of the process including referral, eligibility determination, assessment and analysis, placement and reporting. Proper application of automated technology can provide the State, regardless of organizational structure or funding program, with a system which provides for a single point of entry to determine eligibility regardless of whether the child is in title IV–E care or under protective services. The Department will provide guidance in the development of these comprehensive systems.

The designation and contents of the appendices included in the NPRM have been changed in this final rule. Appendix A describes and defines the Foster Care Data Elements and appendix B describes and defines the Adoption Data Elements. Appendices C and D of the NPRM have been dropped for reasons which are explained below and appendices E, F and G of the NPRM have been amended and redesignated C, D and E in this final rule. A new appendix F has been added (see § 1355.40(e) discussion below).

Certain changes have been made in the data elements in appendices A and B. For example, the following foster care data items have been dropped: Race/ethnicity of parents and school status. Categories related to the circumstances of removal from the home have been revised. Revisions were made regarding the categorization of types of disabilities. A data element on out of state placements has been added. For adoption, the child's day of birth has been dropped but the month and year will be reported; for foster care, the full date of birth will be reported.

Indian children covered under section 427 protections must be reported by the State on the same basis as any other children.

We also are planning to add a financial data element to the appendices which would indicate the monthly amount of State and Federal foster care benefit.

We anticipate that many States will be in a position to include such data in their semiannual reporting if they decide to apply for enhanced funding which is now available for automated data systems. Further in this preamble, the discussion of § 1356.60 will provide more information on the enhanced funding statute and regulation.

We welcome and urge you to provide comments on this matter so we can take your concerns into consideration prior to making such a change.

In the interest of giving States flexibility in implementing AFCARS, we are allowing States the option of submitting data based on sampling for the first and second years. This is discussed later in this preamble.

Finally, in October 1996, the Secretary will review these regulations and the States' implementation of them to determine whether any changes are necessary.

VII. Section by Section Discussion of Comments and the Department's Response

Part 1355—General

Section 1355.20. Definitions

Comment: One commenter requested clarification of "provision of services" under the definition of adoption.

Response: The Department made no changes in the definitions. The definition of "adoption" in § 1355.20 does not mention provision of services.

Section 1355.30. Other applicable regulations

This section addresses the withholding/reduction of FFP, the evidence relevant at hearings under 45 CFR 201.6 related to the standards set forth in § 1355.40 and whether there were circumstances beyond the control of the State or political subdivisions that should be considered by the Secretary.

Comment: Two comments were received from State agencies disagreeing with the evidentiary restrictions in § 1355.30(e) because they either appeared to preclude raising other important issues or were unclear as to whether the adequacy of data submitted could also be discussed.

Response: The rule does preclude factors other than those specified from being raised in the hearing. The intent of this section is to limit the hearing to items immediately relevant to the items set forth in § 1355.40 and to determine whether circumstances beyond the control of the State impeded the accurate or timely submission of the required data. Therefore, no changes were made.

1355.40. Foster care and adoption data collection

Paragraph (a)(1). Implementation of the adoption and foster care data collection system by October 1, 1991.

Comment: A total of 58 comments were received, including responses from 47 State agencies and four national organizations. Forty-nine commenters disagreed with the October 1, 1991 deadline. States pointed out that they must redesign their data systems, and could not complete such systems development by the deadline. Suggested start-up dates ranged from 1992 to 1995 depending on funding, technical assistance, and the availability of staff. Other suggestions addressed the provisions for mandatory adoption reporting; suggested a period of pilot testing; recommended delaying the imposition of penalties until three years after the regulations were issued; and proposed lengthening the schedule for submitting and analyzing data.

Response: The Department concurs with the arguments advanced by the States that they could not meet the schedule originally proposed for full implementation. We believe these same considerations call for a phased imposition of penalties. The final rule reflects these conclusions. The Department has determined that the first reporting period will begin October 1, 1994 and will end March 31, 1995. The first transmission must be received in ACF no later than May 15, 1995. Reports covering the period October 1, 1994 through September 30, 1997 will be penalty-free. Reports for the next year will be subject to half penalty and those for the following year, beginning with the transmission filed for the period beginning October 1, 1998, will be subject to full penalty.

Paragraph (a)(2)–(4). AFCARS includes all children under the authority of the IV–B/IV–E agency.

Comment: Two comments were received disagreeing with the proposed regulation. One commenter suggested including all foster care, adoption, abused, and neglected children in the same data collection requirement since they are essentially one population. The other commenter suggested including all private and independent adoption totals to give a true picture of adoption activity in the United States.

One commenter expressed concern about how to gather information on ongoing cases, some of which may have sealed adoption files. It was suggested that current cases should be "grandfathered" to facilitate conversion to the system.

Response: These paragraphs have been edited for clarification and paragraph (4) of the NPRM has been incorporated into paragraph (3) of the final rule. The Department believes that the inclusion of all children in foster care in the reporting system is responsive to the legislative intent. Children who enter foster care prior to October 1, 1995 and children who are in care less than 30 days will require only a limited core set of data elements to be transmitted. For children who enter foster care prior to October 1, 1995, States will be required to report on the most recent case plan goal affecting those children. For children adopted prior to the implementation date of October 1, 1994, who are continuing to receive Federal title IV–E subsidies, only aggregate data will be required, broken out by the age of the child. The adoption provisions are as inclusive as possible under current law. There is no authority which supports the collection of information on children placed for adoption through private facilities.

Although there is no requirement in this final rule for States to include private adoptions in their AFCARS data transmissions, States are encouraged to report such data on an optional and voluntary basis. Such voluntary reports of private adoptions will use appendix B. Appendix B includes the data element set for all adoptions, not just those with which the title IV–B/IV–E agency is associated. We strongly encourage States that have the authority to collect data from courts, bureaus of vital statistics and other agencies that maintain records of adoptions to use appendix B and take advantage of the opportunity the Department is offering to process and analyze these data in the context of data for all adoptions.

We are aware of the interest of the States in maximizing the coordination of the Adoption and Foster Care Data Collection System (AFCARS) with the voluntary National Child Abuse and Neglect Data System (NCANDS). We are making every effort to insure that the data elements are consistent across AFCARS and NCANDS, although the two systems serve different purposes. Guidance will be provided to assist the States in their reporting efforts. The NCANDS is designed primarily to respond to a legislative requirement in the Child Abuse Prevention, Adoption and Family Services Act of 1988 (Pub. L. 100–294) that the Secretary establish a national data collection program

VOL 58 ISS 244 DEC 22 1993 UMI

which coordinates State child abuse and neglect data and includes standardized data on false, unfounded, or unsubstantiated reports, as well as information on the number of deaths due to child abuse and neglect.

Paragraph (b)(i). Semi-annual submittals within 45 days.

Comment: There were 40 comments received, including comments from 27 State agencies and seven national organizations, concerning the appropriate reporting period. There was a wide range of disagreement. Nine State agencies recommended extending the transmission time to 60 or 90 days beyond the end of the quarter. Those agencies cited insufficient time to gather, verify and submit the data as their primary reasons for disagreement. Nine agencies disagreed entirely with quarterly reporting, and recommended semi-annual or annual reporting instead. Reasons given were the scale of the proposed data reporting system, possible fiscal penalties, and the fact that more effort would be devoted to reporting data than providing services. Those in agreement with the requirements as specified in the NPRM said that quarterly reporting makes it easier to analyze trends over time, makes the data available in a more timely fashion, and permits accounting for clients, without system modifications, for children who enter and exit the system in the same reporting period. A significant number of commenters expressed concern as to how confidentiality of the data will be maintained by the Department. A few States advocated a sampling of cases.

Response: This paragraph has been changed in accordance with comments received. The Department has carefully weighed the tradeoffs in quarterly versus semi-annual reporting (annual reporting would not be consistent with the goals set forth in the Act). On balance, the extra administrative burden on the States that would be involved in quarterly reporting outweighs the potential benefits. We believe that obtaining the data twice a year will be sufficiently timely and is more likely to optimize the goals of insuring that the data are reliable and consistent over time while avoiding the unnecessary diversion of resources for agencies responsible for adoption and foster care. The semi-annual reporting periods will close as of the end of March and September for each year. The States will be required to submit reports within 45 days after the end of each semi-annual period. The data transmitted by the State must be extracted from the State information system as of the last day of each reporting period. The first transmission will be due by May 15, 1995 and the second by November 14, 1995.

Appendices C and D in the NPRM, "Adoption Data Elements Subsidy Cessation" and "Adoption Data Elements General Adoption," have been dropped from this final rule. "Subsidy Cessation" was dropped because it added only one additional piece of information to what we would already have, and the additional information could not justify the added effort involved in maintaining, transmitting and processing an additional report. "General Adoption" was dropped because it was decided that the same form (appendix B, section I) could be used for both the mandatory and the voluntary reporting.

The Department has decided to pursue the collection of data on all children in foster care as it is more economical for reporting and processing than reporting data on a sample of cases. The national foster care and adoption data set will accordingly be composed of data extracted from the State systems and represents a subset of data maintained in the State's data system. In reporting data and in the development of public use data files, the Department will follow the policies and procedures, relating to these activities, of the National Center for Health Statistics of the Public Health Service. In addition, in public use data files, counties or equivalent jurisdictions with small populations will be combined into one coding category.

Additional safeguards regarding confidentiality have been introduced in the final rule. The reporting number that would follow the child through every report has been dropped. Instead there will be a sequential number for each record in the transmission. The day of birth and the local agency have been deleted from the adoption data. All of these procedures will insure confidentiality in any data released for research or analysis.

Paragraphs (b)(2)–(3). Timeliness of data entry and reporting.

Comment: Forty-two comments were received, including 30 from State agencies and seven from national organizations. The majority of those disagreeing with the requirement were State agencies concerned that having to take a "snap shot" of data during a specific five day period would not permit enough time to update the data to reflect the status of the children in foster care on the day the data were extracted.

Response: This provision resulted in confusion and misunderstanding among the States. Many erroneously believed that the intent of AFCARS was to reflect the status of the children in foster care rather than the information on the children contained in the State data system on the day the data are extracted. The requirement is to obtain a profile from the State data system. The timeliness and missing data standards reflect the Department's acknowledgment that some information on some children may not be known or current in the State's information system on the date of extraction.

As proposed in the NPRM, compliance in AFCARS will be based on timeliness of submission, consistency of information and timeliness of data entry. The Department is requiring in paragraphs (b)(2) and (d)(1) of this section, therefore, that data on removals and discharges be entered into the State's data system within 60 days of any removal or discharge event affecting a child subject to the AFCARS reporting. The Department has decided to drop the requirement pertaining to the "first five calendar days" after the end of the reporting period (which will now be semi-annual rather than quarterly). However, the requirement that the data submitted must be extracted from the State system as of the last day of each reporting period is now in paragraph (b)(1).

Paragraph (b)(4) of this final rule was a part of (b)(2) in the NPRM. It has been edited and made a separate subparagraph for clarity and greater visibility.

Paragraph (b)(5). Checks used to judge data consistency.

Comment: Four comments were received, three from State agencies. One commenter proposed that if a State transmitting the data cannot get access to the edit checks by which the data will be evaluated, that State should not be penalized for errors or missing data. Another recommended that the Department review the data and report any inconsistencies back to the State within 60 days following the end of the quarter. One commenter questioned how the accuracy of the system will be tested, as opposed to consistency. Another suggested that States run their own consistency checks prior to transmission of the data.

Response: With the exception of technical edits and renumbering as paragraph (b)(5), there is no change in the provision as set forth in paragraph (b)(3) of the NPRM. The internal data verification checks are specified in appendix E of this final rule. The computer program rules for consistency checks will be shared with the States. There are no current proposals for

accuracy checks other than those currently available to the Department through the section 427 and title IV–E reviews or Office of Inspector General audits. However, for children in care more than seven months, the entry of the date of the child's most recent administrative or court review constitutes the State's certification that the information on that child is current as of that date. We would not, however, rule out establishing further accuracy checks in the future.

Paragraph (c). Missing data standards.

Comment: Several comments were received on this provision, all from States. One commenter argued that missing data are valid entries, particularly in the case of abandoned children, and that these entries should not count against the proposed 95 percent accuracy rate. A suggestion was made that the Department allow a "grandfather" period on selected data elements for current cases, rather than require States retrospectively to complete data that may not have been part of automated or manual data systems, such as some of the data required for adoption cases. Some States suggested that the acceptable error rate for missing data be changed from five percent to 10 percent.

Response: The Department concurs with the need to address the missing data issue in a different manner. In appendices A and B, we have changed some of the data element options to "cannot be determined" or "not yet determined." "Grandfathering" of adoption and foster care data is being allowed as summarized above in the Department's response to § 1355.40(a)(2)–(4). As suggested by the States, a new subparagraph (2) has been added to clarify that a penalty will be invoked when the missing data exceed 10 percent for any one element. Subparagraph (2) of the NPRM is now designated subparagraph (3).

Paragraph (d) (1) and (2). Timeliness of foster care data reports.

Comment: Eleven comments were received, eight from State agencies. Four of the disagreeing State agencies recommended that the timeliness standard be lowered to 40 or 50 percent. Others suggested that the rate be raised to reflect a more realistic status of foster care children in each reporting period.

Response: In response to the concerns over the timeliness issue, the Department in subparagraph (d)(1) has revised its approach. For each child, we will require that a computer generated transaction date accompany the date of the latest removal from the home and the date of discharge from foster care. Ninety percent of the subject transactions must have been entered into the system within 60 days of the actual event, i.e., removal from home or discharge from foster care.

Paragraphs (e) (1) through (7). Penalties.

This section specifies that failure by a State to meet the AFCARS requirements is considered a substantial failure to meet the requirements of the title IV–E State plan; and spells out penalties for substantial noncompliance, how penalties will be assessed and the circumstances that will lead to specified penalties.

Comment: Many comments were received on the specific provisions of § 1355.40(e) pertaining to penalties. The largest number of comments focused on the details of the penalty provision in § 1355.40(e)(1). Forty-five comments were received on that provision, including 40 from State agencies and three from national organizations.

One national organization agreed that a penalty system holds States accountable and would thus correct and prevent deficiencies. The majority of commenters disagreed. Their disagreement was based on the rationale that the rules would penalize an area where funds are most needed and that sanctions are the least effective form of shaping behavior. Many commenters noted that the rules fail to offer incentives despite the Advisory Committee's recommendation for incentives.

A variety of other objections concerned costs, fairness, accuracy rate, and practical concerns such as whether States would comply unless the size of the penalty exceeded the costs of capturing the data at the local level. Commenters expressed disagreement on the timeframe for State implementation given the delay in promulgating standards for the system.

Many of the commenters made suggestions, such as that the Department reward "good faith efforts," with graduated penalties to reflect compliance efforts; establish strict guidelines regarding the application and degree of penalties; and outline steps to "satisfy the Secretary."

Some States sought assurances that substantial non-compliance would not jeopardize the entire IV–B/IV–E State plan for compliance. Some commenters disagreed with the interpretation that non-compliance with the proposed rules would constitute non-compliance with the IV–E and IV–B plans, including all IV–E and IV–B dollars. Moreover, it was felt that tying the penalties to the State plan may in the future jeopardize funding for major programs such as AFDC. The commenters suggested that the requirements should clearly explain the financial upper limits of the penalty.

Questions raised included the following: When missing data are provided, will the penalty/sanction be reversed? How will the State handle the penalty if it is linked to a specific county? Will the penalty be applied against the administrative costs claimed by the State or the amount of FFP returned?

Smaller numbers of comments were received on the other provisions related to penalties. Comments on § 1355.40(e)(2) to (7) ranged from a high of 34 comments on the provision dealing with the "satisfaction of the Secretary" to none on subparagraph (e)(5) and three on subparagraph (e)(6); most comments were from State agencies.

The overwhelming majority of the objections were related to the two following issues: The imposition of penalties in subsequent quarters following non-compliance and the lack of quantitative standards necessary to satisfy the Secretary. Suggestions made included: (1) Providing more time for States to implement the system prior to imposing sanctions; (2) recommending that the State's submission of a satisfactory report be considered as "evidence that non-compliance will not recur"; (3) assessing penalties in the quarter after the quarter in which non-compliance occurred to prevent the retroactive recovery of funds; (4) developing specific standards against which to assess penalties if subsequent quarters will be affected; (5) pro-rating penalties to a percentage of missing data; and (6) establishing empirical criteria which would be used to satisfy the Secretary and against which to measure compliance. Several States proposed that all costs associated with the system be allowable administrative costs of IV–E.

Several comments were made on the provisions affecting penalties in Years 3 and 4. While some noted that the proposed penalty would be too low to be effective, others favored reducing the maximum penalty.

One commenter expressed agreement with the proposed rule in support of penalties and sanctions and recommended that a corrective action procedure be implemented. Objections were raised against penalties imposed for missing data and technical errors. The argument was made that the accuracy standard was unrealistic. The lack of an appeals process was criticized. In general there were objections to the criteria for imposing the maximum penalty on a State, and suggestions were made for softening the penalty provisions.

VOL 58 ISS 244 DEC 22 1993 UMI

Several of the commenters disagreed with a penalty being imposed in Year 3 as they felt that time was needed to implement and test a new system. Another objection was to the fixed penalties in Years 3 and 4 which fail to differentiate between States according to the accuracy rate of the data.

Four States commented on the penalty provisions for the failure to submit adoption data. The majority of commenters expressed concern regarding the collection of historical data on children receiving subsidies.

Response: The basic concepts in the penalty section will remain the same. However, technical changes including renumbering were made in this paragraph. The Department shares the position of the Advisory Committee that an ultimate resort to penalties is necessary in order to achieve the goals Congress mandated for adoption and foster care data collection in the event of any State not responding in a timely manner. We believe that when States are faced with the possibility of a finding of substantial noncompliance with the title IV–E State plan, and the consequent imposition of penalties, they will be strongly motivated to insure that correct data are submitted within the specified timeframes.

However, the Department believes that most, if not all, of the States will strive to cooperate in implementing AFCARS and submitting the required reports. Consequently, a number of changes have been made which will moderate the impact of the imposition of penalties upon the States. The method of penalties proposed in the NPRM and being modified in this final rule is used because it is the only one allowable under current law. While the Department acknowledges that there is strong support for a system of incentives and that positive reinforcement can be more effective than a system of penalties, there is nothing in the Act which provides a basis for incentive funding.

With respect to § 1355.40(e), the reference date of July 30, 1993, has been added in order to clarify that State 427 incentive funds calculated as of that date shall form the basis for penalty calculations. Another clarification has been added to paragraph (e) in order to provide that the formula for calculation of penalties is not affected by any determinations of compliance with the requirements of section 427 or withdrawal of certifications with respect to section 427. Appendix F reflects the amount of incentive funds available for fiscal year 1993, for each State.

The following changes in the final rule will have the net effect of making the reporting and penalties less burdensome:

(1) The first reporting period will begin October 1, 1994 and end March 31, 1995. The first transmission of data must be received in ACF no later than May 15, 1995. The six reporting periods beginning October 1, 1994 and ending September 30, 1997 will be penalty-free. The next year's reports will be subject to half penalty and, thereafter, beginning with the transmission filed for the period beginning October 1, 1998, the States will be subject to full penalty.

(2) The reporting period will be semi-annual rather than quarterly.

(3) The "satisfaction of the Secretary" requirement will be met by submission of one acceptable regularly scheduled semi-annual data transmission of the type which was the cause of the penalty.

(4) The maximum percentage of missing data for any data element before the imposition of penalties will be raised to ten percent instead of five percent as originally proposed.

(5) During the four reporting periods beginning October 1, 1994 and ending September 30, 1996, States will have the option to comply with the AFCARS regulations by selecting a sample of foster care cases that are under the jurisdiction of the State child welfare agency rather than reporting on the entire population of foster care cases that are under the jurisdiction of the State child welfare agency. (After this optional sampling period, States will be expected to address the entire population of foster care cases as required by this final rule.)

An acceptable formula for determining the sample size is as follows:

$$n = \frac{(N_1 + N_2) \times 1.96^2 \times .5 \times .5}{.03^2 \times (N_1 + N_2 - 1) + 1.96^2 \times .5 \times .5}$$

N_1 represents the total number of foster care cases that are under the jurisdiction of the State child welfare agency and are active on the last day of the reporting period.

N_2 represents the total number of foster care cases that are under the jurisdiction of the State child welfare agency and left care during the six-month reporting period.

The sample size n meets the criteria for a 95% confidence interval estimate for the population proportion of any attribute specified in AFCARS with a tolerable sampling error of 0.03 and an estimated proportion of 0.5 which maximizes the sample size, n. Thus, there is a 95% chance that the sample size, n, will yield an interval estimate for any attribute specified in AFCARS that will be within three percentage points of the true population proportion. States may use other sample size formulas that meet the criteria specified above.

If States decide to utilize the sample size formula specified above then they need to determine the appropriate values for N_1 and N_2 and substitute them into the above equation to solve for the sample size, n. To assure a self-weighting sample the sample size, n, needs to be apportioned between N_1 and N_2 by multiplying n first by N_1 divided by N and then by N_2 divided by N (where $N=N_1+N_2$). The first calculation yields a sample size called n_1; the second yields a sample size called n_2. States will select a simple random sample of size n_1 from the population of foster care cases that are under the jurisdiction of the State child welfare agency and are active on the last day of the reporting period and a sample of size n_2 from the population of foster care cases that are under the jurisdiction of the State child welfare agency and left care during the reporting period. States may use any recognized random number generators to select the two simple random samples.

States may also use systematic samples to satisfy the sampling option.

(6) Other changes made in the system that will moderate the impact of the penalties include: only a limited number of data elements will be required for foster children who enter care prior to October 1, 1995 and for children in care less than 30 days; for children adopted prior to October 1, 1994, who are continuing to receive Federal subsidies, only aggregate data will be required; and acceptable responses such as "not yet determined" and "cannot be determined" have been added.

Part 1356—Requirements Applicable To Title IV–E

Section 1356.20(b). State plan document and submission requirement

1356.60(c)(2) and (d)(1) through (d)(5) Fiscal requirements (title IV–E)

This section specifies allowable administrative costs necessary for the administration of the adoption and foster care data collection system and spells out procedures for allocation of administrative costs.

Comment: Over 40 comments were received on these provisions, mostly from State agencies and several national organizations. A majority of commenters said it was not equitable to require States to collect and maintain information on all children in foster care, but to reimburse them only on the percentage of children eligible for IV–E funds. They believe that funding for AFCARS should be based on all children who are in placement with the State agency. Approximately half the commenters disagreed with tying the penalties and costs of data collection to IV–E funds. Some States suggested that there should be a dedicated funding pool specifically for data collection, stating that they should not have to allocate IV–E dollars to other programs. Two States suggested that the Department fund from 90 to 100 percent of the data reporting system.

Two States commented on the provision that the costs of data reporting for children not eligible for title IV–E foster care and adoption assistance payments must be borne by the State and may be paid from title IV–B or other funds. The reasons cited for disagreement were: (1) Demands for IV–B funds already exceed resources; and (2) the Department should utilize the existing authority to provide greater Federal reimbursement for implementation. The case was made that the Department should at least provide incentives for States participating in VCIS to modify their systems to comply with AFCARS.

One commenter suggested that, since the regulation would make adherence to the requirements of section 479 a State plan compliance issue under the title IV–E, it follows that all of the costs associated with implementing that section should be chargeable to title IV–E.

Response: The Department concurs with the interpretation that there is no need for allocating costs because of the State plan requirement. Because this final rule is making the requirement to implement AFCARS as a title IV–E State plan requirement, and because the costs for development and implementation of information systems is an allowable cost under title IV–E, the costs of AFCARS can be directly charged to title IV–E administrative costs at the 50 percent matching rate.

However, section 13713 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), signed by the President on August 10, 1993, amends section 473(a)(3) of the Social Security Act to allow 75 percent match for the planning, design, development or installation of a Statewide mechanized data collection and information retrieval system (including 75 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such system meets certain requirements. The higher matching rate is available for three fiscal years, beginning with fiscal year 1994.

In addition, section 13713 of OBRA '93 adds a new paragraph (e) to section 474 of the Social Security Act. This new paragraph provides that the Secretary shall treat as necessary for the proper and efficient administration of the State plan, all automated data collection expenditures carried out in accordance with the requirements for the 75 percent match, without regard to whether the children in the mechanized data collection and information retrieval system are eligible for payment under title IV–E. The regulation implementing the legislation for enhanced match for automated data systems is published simultaneously elsewhere in this Federal Register issue.

If the system developed to meet the requirements of this regulation is also used to collect data for programs other than foster care and adoption (e.g., for food stamps, AFDC or Medicaid), then such costs much be fairly allocated to those other programs. To encourage States to develop a comprehensive automated system to improve service delivery, and in turn the quality and timeliness of the data requirements in this rule, technical assistance will be forthcoming. Because of these changes, paragraphs (d)(1) through (4) in the NPRM have been replaced by paragraph (d)(1) in the final rule. Paragraph (d)(5) of the NPRM has been edited and renumbered as (d)(2) in the final rule.

Part 1357—Requirements Applicable to Title IV–B

Section 1357.15(h). Child welfare services State plan requirements and submittal

This section requires each State to provide assurances that it will meet the requirements for data collection for foster care and adoption.

Comment: One comment was received from a State agency objecting to the lack of clarity regarding the potential impact on all IV–E and IV–B funds. In addition, it was suggested that the penalties be limited to the 20 percent maximum of IV–B incentive funds.

Response: The Department's intent in the NPRM was that penalties be limited to a 20 percent maximum of title IV–B incentive funds. This is more clearly stated in the final rule.

VIII. Penalties

In the development of the final rule, the Department carefully considered the best way to encourage the accurate and timely submittal of information. Inasmuch as there is no legal authority to provide financial incentives, the one alternative available is to impose financial assessments for failure to comply with the State plan provision on data reporting. Once a State substantially fails to comply with the requirements for data reporting, the penalties imposed could affect a portion of title IV–E administrative expenditures. Once it is determined that a State is substantially failing to comply with the State title IV–E plan requirements, the funds at risk are those for the semi-annual period(s) for which the State substantially failed to comply.

The proposed penalties are fixed and are set at amounts we believe are large enough to encourage a State to provide the data fully and in a timely way in order to avoid a finding of substantial noncompliance and the ensuing penalties. It is not our intention to make the penalties so great as to significantly interfere with State efforts to provide services to families and children; however, we do want to encourage full reporting. The method for calculating the penalties is based on the standards for completeness and timeliness of a State's data reports.

In the matter of assessing penalties, we concluded that claims for title IV–E administrative expenditures would be the most appropriate focus for penalties. By amending § 1356.20, we propose to treat a failure by a State to comply with the requirements for the data system set forth in the proposed § 1355.40 as a substantial failure in complying with the title IV–E State plan.

We have determined in § 1355.40 that only a portion of a State's title IV–E administrative cost reimbursement will be in jeopardy. The penalties for noncompliance are fixed and are assessed against part of the State's title IV–E administrative cost reimbursement for the period(s) in which the defects occurred. The amount of the title IV–E administrative cost reimbursement against which the fixed penalties are assessed in any semi-annual period of the fiscal year is equal to no more than one-tenth (10 percent) of the amount of the title IV–B incentive funds (under section 427) available to the State for fiscal year 1993. The actual amount to be deducted as a penalty in any one year is cumulative up to a maximum of 10 percent in Year Four (at half penalty) and 20 percent in Year Five (at full penalty).

To calculate the amount of title IV–E administrative costs funds at risk, the following formulas will be used:

T=amount of penalty when a data transmission does not meet the established criteria.

G=State's allotment of section 427 incentive funds for the fiscal year 1993.

Federal Fiscal Year 1998:

T_1=(2.5×G)/100 If either the foster care or adoption data transmission fails to meet the criteria.

T_2=2(2.5×G)/100 If both the foster care and adoption data transmission fail to meet the criteria.

Federal Fiscal Year 1999 and beyond:

T_1=(5×G)/100 If either the foster care or adoption data transmission fails to meet the criteria.

T_2=2(5×G)/100 If both the foster care and adoption data transmission fail to meet the criteria.

The incentive funds used in the calculations do not include reimbursement for voluntary placements to which a State may be entitled. The dollar amounts available under the basic grant and the incentive funding beyond the basic grant are issued each year by the Commissioner, ACYF, in the table of allotments under title IV–B.

The following chart provides a summary overview of the adoption and foster care analysis and reporting system's (AFCARS) reporting requirements and assessment of penalties.

SUMMARY OVERVIEW OF ADOPTION AND FOSTER CARE ANALYSIS AND REPORTING SYSTEM (AFCARS) REPORTING REQUIREMENTS AND ASSESSMENT OF PENALTIES

Reporting periods	Report due	Penalty
Year 1:		
October 1, 1994–March 31, 1995	May 15, 1995	No Penalty.
April 1, 1995–September 30, 1995	November 14, 1995	No Penalty.
Year 2:		
October 1, 1995–March 31, 1996	May 15, 1996	No Penalty.
April 1, 1996–September 30, 1996	November 14, 1996	No Penalty.
Year 3:		
October 1, 1996–March 31, 1997	May 15, 1997	No Penalty.
April 1, 1997–September 30, 1997	November 14, 1997	No Penalty.
Year 4:		
October 1, 1997–March 31, 1998	May 15, 1998	Half Penalty (2.5% foster care; 2.5% adoption assistance).
April 1, 1998–September 30, 1998	November 16, 1998	Half Penalty (2.5% foster care; 2.5% adoption assistance).
Year 5:		
October 1, 1998–March 31, 1999	May 17, 1999	Full Penalty (5% foster care; 5% adoption assistance).
April 1, 1999–September 30, 1999 and semi-annually thereafter.	November 15, 1999	Full Penalty (5% foster care; 5% adoption assistance).

Penalties will be assessed semi-annually against a State's title IV–E administrative cost reimbursement in an amount that is equal to no more than 10 percent of the State's annual share of title IV–B funds above the base appropriation of $141 million for fiscal year 1993 (incentive funds available under section 427 of the Act). In the case of States ineligible to receive title IV–B incentive funds, the penalty shall be equal to no more than 10 percent of the amount of title IV–B incentive funds that a State had received or was eligible to receive.

Half of the assessed penalty is applicable to foster care reporting and half to adoption reporting.

In order to comply with AFCARS requirements for foster care reporting and to avoid penalties:

- States must submit foster care reports semi-annually within 45 days of the end of the reporting period.
- Child-specific data must be entered into the information system within 60 days of any removal from the home or discharge from foster care. Ninety percent of such transactions must be entered in the information system within 60 days of the event.
- For any child in care more than seven months, the State must certify that the periodic review requirements have been met in at least 90 percent of the records.
- Data contained in Appendix A must be reported with no more than 10 percent missing data for any one data element.
- For children in care less than 30 days and for children who entered prior to October 1, 1995, only a core set of information will be required as identified in Appendix A.

In order to comply with AFCARS requirements for adoption reporting and to avoid penalties:

- States must submit adoption reports semi-annually within 45 days of the end of the reporting period.
- Adoption data are to be reported during the reporting period in which the adoption is legalized (or, optionally, in the following reporting period if the adoption is legalized within the last 60 days of the reporting period).
- Data contained in Appendix B must be reported with no more than 10 percent missing data for any one data element.
- Full adoption data are required only for children adopted after the AFCARS implementation date of October 1, 1994. Aggregate data, by age of child, are to be reported for children adopted before that date with Federal subsidy.

For both foster care and adoption reporting, States must comply with the procedures for record layout, data consistency checks and electronic data transmission protocols as specified in this final rule in Appendices C, D and E.

The following example is provided to help clarify the proposed penalties: State Q was eligible to receive title IV–B incentive funds (over its share of the base amount of $141,000,000) in fiscal year 1993 of $4,000,000. The potentially applicable penalty against the State's share for either semi-annual period in fiscal year 1998 is 5 percent × $4,000,000 or $200,000. Therefore, the penalty that could be imposed in any reporting period on State Q in 1998 (Year Four) is $200,000, which would be deducted from the FFP for its title IV–E administrative cost reimbursement for that semi-annual period. If State Q were to be subject to the full penalty in both semi-annual reporting periods in Year Five, the total amount of the penalty would be 20 percent of the $4,000,000 or $800,000, which is the maximum amount the State could be penalized in any year.

In reaching the decision to use the section 427 incentive funds available under title IV–B as the basis for calculating the amount of the penalty to be assessed against a State's administrative cost reimbursement under title IV–E, consideration was given to several factors. We sought a method for calculating penalties that: (1) Permitted the dollar amount of the maximum penalty for substantial noncompliance to be known to the States prior to the time the data are submitted; (2) provided an upper limit on the amounts of money that could be in jeopardy; and (3) could be consistently applied to all States. We concluded that, by utilizing the amount of section 427 incentive funds available

to the State agency (which, by statute, must administer both title IV–B and title IV–E) as a basis, all three of our objectives were met. The title IV–B incentive funds represent a fixed number of dollars allocated to the States on a formula basis prior to each fiscal year. Because a State penalty will be calculated using 427 incentive funds, a State will know the maximum amount of dollars at risk.

In § 1355.40, we have provided that the penalties will be deducted semi-annually against a State's title IV–E administrative cost reimbursement for the period in which the noncompliance occurred. Following a final decision of noncompliance, funds will be recovered for all reporting periods until the State demonstrates, by submitting an acceptable report, that it will no longer fail to comply.

The reporting of complete and accurate data is the goal of the information system for adoption and foster care. The level of missing, inconsistent and untimely data should not be so great as to raise concerns about the quality of the State's data submission. However, we recognize that there will be some errors in the data. As long as each element has no more than 10 percent missing data, including data initially missing and data converted to missing because they failed internal consistency tests, and the data report meets the standard for timeliness, no compliance action will be taken.

The final rule outlines the circumstances under which a State will incur the maximum penalty. We will apply the maximum penalty when a State fails to submit both the foster care part and the adoption part of the data report within 45 days; or submits each part within the timeframe, but in each part there is one or more element(s) which exceeds the level of tolerance for missing data as described in appendix E (or, in the case of foster care, the 90 percent standard for timeliness is not met).

In § 1355.40, this rule refers to § 201.6(e) regarding the withholding of funds up to such time as the Secretary is satisfied that there will no longer be any failure to comply. We have identified the criteria for meeting the "satisfaction of the Secretary" requirement as submission of "* * * one acceptable regularly scheduled semi-annual data transmission of the type which was the cause of the penalty."

Each part of the completed report (i.e., the foster care and adoption parts) will be treated separately for purposes of applying the penalties.

The following chart illustrates how penalties are assessed in Years 4 and 5.

ASSESSMENT OF PENALTIES IN THE ADOPTION AND FOSTER CARE ANALYSIS AND REPORTING SYSTEM

[In Percentages of Incentive Amounts Available Under Section 427 of Title IV–B, Assessed Semi-Annually Against Title IV–E Administrative Cost Reimbursement]

	No submittal	Over 45 days	Missing data	90% standard*
Year 4 (10/1/97–9/30/98):				
Foster Care	5	5	5	5
Adoption	5	5	5	NA
Maximum Penalty = 10%				
Year 5 (10/1/98–9/30/99) and beyond:				
Foster Care	10	10	10	10
Adoption	10	10	10	NA
Maximum Penalty = 20%				

* Ninety percent of the transactions must be entered into the system within 60 days of the event.

As the above chart indicates, there are only two levels at which the penalty can be assessed: First, at the maximum because of deficiencies in both the adoption and foster care reports; or second, at half penalty because of one or more deficiencies in either the adoption or foster care report. The State will incur a penalty for the foster care report if any combination of the four conditions apply, namely: No submittal or Over 45 Days or Missing Data or 90 percent Timeliness Standard. Similarly, the State will incur a penalty for the adoption report if any combination of the three conditions apply, namely: No submittal or Over 45 Days or Missing Data. The penalties reflected in the above chart are maximum penalties for Years 4 and 5. For any given semi-annual reporting period, the penalty assessed would be half the percentages indicated.

IX. Impact Analysis

Executive Order 12606: The Family

Executive Order 12606 requires Federal agencies, in formulating and implementing policies and regulations, to assess the impact on family formation, maintenance and general well being. We believe these proposed regulations will serve to strengthen and preserve family life insofar as the demographic information provided on children in foster care will aid in permanency planning for these children and their families. And in the case of adoption, information on children will assist in the placement of children as well as aid in the development of policies and practices that will encourage and support families who care for children in foster care and those who adopt children.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. An assessment of the costs and benefits of available regulatory alternatives (including not regulating) demonstrated that the approach taken in the regulation is the most cost-effective and least burdensome while still achieving the regulatory objectives.

This rule implements section 479 of the Social Security Act which requires the Secretary to promulgate regulations providing for the implementation of a data collection system relating to adoption and foster care in the United States. This rule sets forth the requirements for such a system. Specifically, the rule, among other things, requires States to submit semi-annually to the Department, in electronic form, certain foster care and adoption data. It allows for the submission of only a core set of data

VOL 58 ISS 244 DEC 22 1993 UMI

elements for children in foster care less than 30 days and for children entering foster care prior to and within the year after the implementation date; and, it requires complete adoption data only for children adopted after the rule's implementation date. In addition, the rule provides for the phase-in of penalties, with the first two years penalty free.

Funding for systems design, development and implementation must comply with the requirements of 45 CFR part 95, subpart F. The costs of implementing this rule will vary among States, depending on the extent of a State's own data collection activities/systems with regard to foster care and adoption. In this regard, the Department will offer technical assistance to any State for planning, developing and implementing the required data collection and transmission system. A State may directly charge the cost of the operation of the data collection system to title IV–E at the 50 percent matching rate. We estimate that the Federal costs associated with implementing and maintaining a data collection system will be $9 million the first year, $54 million the third year, $38 million the fourth year and $20 million the fifth year.

Regulatory Flexibility Act

Consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. ch 6), the Department tries to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule, with a "significant economic impact on a substantial number of small entities" an analysis is prepared describing the rule's impact on small entities. Small entities are defined in the Regulatory Flexibility Act to include small businesses, small non-profit organizations, and small governmental entities.

The primary impact of this rule is on the States which are not "small entities" within the meaning of the Act. For this reason, the Secretary certifies that this rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under section 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96–511, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements in a proposed or final rule. This final rule contains information collection requirements in § 1355.40, paragraphs (a) and (b), foster care and adoption data collection, which will be submitted to OMB and will not become effective until they are approved. A notice will be published in the **Federal Register** when OMB approves these information collection requirements.

In the NPRM, a chart was provided showing the estimated annual burden hours to the States. The public was asked to comment on the estimated hours as well as any other aspect of the information collection, including suggestions for reducing this burden. In response to comments received, the reporting burden for the collection of information requirements in this final regulation has been reduced to approximately one-half of the initial estimated hours in the NPRM, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and submitting the data in the required format. The final rule now requires submittal of information semi-annually rather than quarterly and reduces the overall number of items to be reported. The revised total annual burden is 413,942 hours.

List of Subjects

45 CFR Part 1355

Adoption and foster care, Child welfare, Data collection, Definitions, Grant programs—social programs.

45 CFR Part 1356

Adoption and foster care, Administrative costs, Child welfare, Fiscal requirements (title IV–E), Grant programs—social programs, Statewide information system.

45 CFR Part 1357

Adoption and foster care, Child welfare, Child welfare services state plan, Indians, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Nos. 93.658, Foster Care Maintenance, 93.659, Adoption Assistance and 93.645, Child Welfare Services—State Grants)

Dated: October 13, 1993.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Approved: November 19, 1993.

Donna E. Shalala,

Secretary.

For the reasons set forth in the preamble, 45 CFR parts 1355, 1356 and 1357 are amended as follows:

PART 1355—GENERAL

1. The authority citation for part 1355 is revised to read as follows:

Authority: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq.; 42 U.S.C. 1302.

2. Section 1355.20 is amended by adding definitions for the terms "adoption" and "foster care" as follows:

§ 1355.20 Definitions.

* * * * *

Adoption means the method provided by State law which establishes the legal relationship of parent and child between persons who are not so related by birth, with the same mutual rights and obligations that exist between children and their birth parents. This relationship can only be termed "adoption" after the legal process is complete.

* * * * *

Foster care means 24 hour substitute care for all children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, family foster homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes regardless of whether the foster care facility is licensed and whether payments are made by the State or local agency for the care of the child or whether there is Federal matching of any payments that are made.

* * * * *

3. Section 1355.30 is amended by revising paragraph (e) as follows:

§ 1355.30 Other applicable regulations.

* * * * *

(e) Section 201.6, Withholding/Reduction of FFP. Pursuant to the requirements under § 1355.40 of this part for data collection, the only evidence relevant at hearings under § 201.6 are those matters related to the standards set forth in § 1355.40 and whether there were circumstances beyond the control of the State or its political subdivisions that should be considered by the Secretary.

* * * * *

4. A new § 1355.40 is added to read as follows:

§ 1355.40 Foster care and adoption data collection.

(a) *Scope of the data collection system.* (1) Each State which administers or supervises the administration of titles IV–B and IV–E must implement a system that begins to collect data on October 1, 1994. The first transmission must be received in ACF no later than May 15, 1995. The data reporting system must meet the requirements of § 1355.40(b) and electronically report certain data

regarding children in foster care and adoption. The foster care data elements are listed and defined in Appendix A to this part and the adoption data elements are listed and defined in Appendix B to this part.

(2) For the purposes of foster care reporting, each State's data transmission must include all children in foster care for whom the State title IV–B/IV–E agency has responsibility for placement, care, or supervision. This includes Native American children covered under section 427 protection on the same basis as any other children. For children in care less than 30 days, only a core set of information will be required, as noted in appendix A to this part. For children who enter foster care prior to October 1, 1995 and who are still in the system, core data elements will be required; in addition, States will also be required to report on the most recent case plan goal affecting those children. For children in out-of-State placement, the State placing the child and making the foster care payment submits and continually updates the data.

(3) For the purposes of adoption reporting, data are required to be transmitted by the State on all adopted children who were placed by the State title IV–B/IV–E agency, and on all adopted children for whom the State agency is providing adoption assistance (either ongoing or for nonrecurring expenses), care or services directly or by contract or agreement with other private or public agencies. Full adoption data as specified in appendix B to this part are required only for children adopted after the implementation date of October 1, 1994. For children adopted prior to October 1, 1994, who are continuing to receive title IV–E subsidies, aggregate data are to be reported. For a child adopted out-of-State, the State which placed the child submits the data.

(b) *Foster care and adoption reporting requirements.* (1) The State agency shall transmit semi-annually, within 45 days of the end of the reporting period (i.e., by May 15 and November 14), information on each child in foster care and each child adopted during the reporting period. The information to be reported consists of the data elements found in appendices A and B to this part. The data must be extracted from the data system as of the last day of the reporting period and must be submitted in electronic form as described in appendix C to this part and in record layouts as delineated in appendix D to this part.

(2) For foster care information, the child-specific data to be transmitted must reflect the data in the information system when the data are extracted. Dates of removal from the home and discharge from foster care must be entered in accordance with paragraph (d)(1) of this section. The date of the most recent periodic review (either administrative or court) must be entered for children who have been in foster care for more than nine months. Entry of this date constitutes State certification that the data on the child have been reviewed and are current.

(3) Adoption data are to be reported during the reporting period in which the adoption is legalized or, at the State's option, in the following reporting period if the adoption is legalized within the last 60 days of the reporting period. For a semi-annual period in which no adoptions have been legalized, States must report such an occurrence.

(4) A summary file of the semi-annual data transmission must be submitted and will be used to verify the completeness of the State's detailed submission for the reporting period.

(5) A variety of internal data consistency checks will be used to judge the internal consistency of the semi-annual detailed data submission. These are specified in Appendix E to this part.

(c) *Missing data standards.* (1) The term "missing data" refers to instances where no data have been entered, if applicable, for a particular data element. In addition, all data elements which fail a consistency check for a particular case will be converted to missing data. All data which are "out of range" (i.e., the response is beyond the parameters allowed for that particular data element) will also be converted to missing data. Details of the circumstances under which data will be converted to missing data are specified in appendix E to this part. Data elements with responses of "cannot be determined" or "not yet determined" are not considered as having missing data.

(2) For missing data in excess of 10 percent for any one data element, the penalty will be applied.

(3) The penalties for missing data are specified in paragraph (e) of this section.

(d) *Timeliness of foster care data reports.* (1) For each child, a computer generated transaction date must reflect the actual date of data entry and must accompany the date of latest removal from the home and the date of exit from foster care. Ninety percent of the subject transactions must have been entered into the system within 60 days of the event (removal from home or discharge from foster care).

(2) Penalties shall be invoked as provided in paragraph (e) of this section.

(e) *Penalties.* (1) Failure by a State to meet any of the standards described in paragraphs (a) through (d) of this section is considered a substantial failure to meet the requirements of the title IV–E State plan. Penalties for substantial noncompliance will be assessed semi-annually against a State's title IV–E administrative cost reimbursement in an amount that is equal to no more than 10 percent of the State's annual share of title IV–B funds above the base appropriation of $141 million. The amount of incentive funds, section 427 of the Act, against which a penalty can be assessed will remain the same as the amount promulgated as being available to the States as of June 30, 1993, the date of issuance of the amount of section 427 funds for fiscal year 1993 (see Appendix F to this part). The penalties will be calculated and applied regardless of any determination of compliance with the requirements of section 427, and regardless of whether any State has withdrawn its certification with respect to section 427. Years One through three (October 1, 1994 through September 30, 1997) will be three penalty-free years of operation. Year Four (October 1, 1997 through September 30, 1998) will be at half penalty and Year Five (October 1, 1998 through September 30, 1999) and thereafter will be at full penalty. The maximum annual penalty is 20 percent.

(2) Penalties will be assessed semi-annually against a State's title IV–E administrative cost reimbursement for the period in which the noncompliance occurred and any subsequent period of noncompliance. Following a decision sustaining ACYF's proposed action, funds will be recovered until the State demonstrates, by submitting an acceptable report, that it will no longer fail to comply.

(3) Half of the maximum allowable assessed penalty for a given reporting period is applicable to foster care reporting and half to adoption reporting.

(4) The penalty for foster care reporting will be applied for any semi-annual period when a State fails to meet one or more of the following criteria:

(i) Fails to submit the report within 45 days of the end of the reporting period as specified in paragraphs (b)(1) and (b)(2) of this section; or

(ii) There is one or more element which exceeds the level of tolerance for missing data as specified in paragraphs (c)(1) and (c)(2) of this section; or

(iii) Fails to meet the timeliness standards as specified in paragraph (d)(1) of this section.

(5) The penalty for adoption reporting will be applied for any semi-annual

period when a State fails to meet one or more of the following criteria:

(i) Fails to submit the report within 45 days of the end of the reporting period as specified in paragraphs (b)(1) and (b)(3) of this section; or

(ii) There is one or more element which exceeds the level of tolerance for missing data as specified in paragraphs (c)(1) and (c)(2) of this section.

5. Appendices A through F are added to part 1355 as follows:

Appendix A to Part 1355—Foster Care Data Elements

Section I—Foster Care Data Elements

Data elements preceded by "**" are the only data elements required for children who have been in care less than 30 days. For children who entered care prior to October 1, 1985, data elements preceded by either "**" and "***" are the only data elements required. This means that, for these two categories of children, these are the only data elements to which the missing data standard will be applied.

I. General Information
- **A. State _____
- **B. Report date ____ (mo.) ____ (yr.)
- **C. Local Agency (County or Equivalent Jurisdiction) _____
- **D. Record Number _____
- E. Date of Most Recent Periodic Review (If Applicable) ____ (mo.) ____ (day) ____ (yr.)

II. Child's Demographic Information
- **A. Date of Birth ____ (mo.) ____ (day) ____ (yr.)
- **B. Sex _____
  - Male: 1
  - Female: 2
- **C. Race/Origin
- 1. Race _____
  - White: 1
  - Black: 2
  - American Indian/Alaskan Native: 3
  - Asian/Pacific Islander: 4
  - Unable to Determine: 5
- 2. Hispanic Origin _____
  - Yes: 1
  - No: 2
  - Unable to Determine: 3
- D. Has this child been clinically diagnosed as having a disability(ies)? _____
  - Yes: 1
  - No: 2
  - Not Yet Determined: 3
- 1. If yes, indicate each type of disability found with a "1"
  - Mental Retardation _____
  - Visually or Hearing Impaired _____
  - Physically Disturbed (DSM III) _____
  - Other Medically Diagnosed Condition Requiring Special Care _____
- E. 1. Has this child ever been adopted? _____
  - Yes: 1
  - No: 2
  - Unable to Determine: 3
- 2. If yes, how old was the child when the adoption was legalized? _____
  - Less than 2 years old: 1
  - 2 to 5 years old: 2
  - 6 to 12 years old: 3
  - 13 years old or older: 4
  - Unable to Determine: 5

III. Removal/Placement Setting Indicators
- A. Removal Episodes
- Date of First Removal From Home ____ (mo.) ____ (day) ____ (yr.)
- Total Number of Removals From Home to Date _____
- Date Child was Discharged From Last Foster Care Episode (If Applicable) ____ (mo.) ____ (day) ____ (yr.)
- **Date of Latest Removal From Home ____ (mo.) ____ (day) ____ (yr.)
- ** Transaction Date ____ (mo.) ____ (day) ____ (yr.)
- B. Placement Settings
- Date of Placement in Current Foster Care Setting ____ (mo.) ____ (day) ____ (yr.)
- Number of Previous Placement Settings During This Removal Episode _____

IV. Circumstances of Removal
- A. Manner of Removal From Home for Current Placement Episode _____
  - Voluntary: 1
  - Court Ordered: 2
  - Not Yet Determined: 3
- B. Actions or Conditions Associated With Child's Removal: (Indicate all that apply with a "1")
  - Physical Abuse (Alleged/Reported) _____
  - Sexual Abuse (Alleged/Reported) _____
  - Neglect (Alleged/Reported) _____
  - Alcohol Abuse (Parent) _____
  - Drug Abuse (Parent) _____
  - Alcohol Abuse (Child) _____
  - Child's Disability _____
  - Child's Behavior Problem _____
  - Death of Parent(s) _____
  - Incarceration of Parent(s) _____
  - Caretaker's Inability to Cope Due to Illness or Other Reasons _____
  - Abandonment _____
  - Relinquishment _____
  - Inadequate Housing _____

**V. Current Placement Setting _____
- **A. Pre-Adoptive Home: 1
- Foster Family Home (Relative): 2
- Foster Family Home (Non-Relative): 3
- Group Home: 4
- Institution: 5
- Supervised Independent Living: 6
- Runaway: 7
- Trial Home Visit: 8
- **B. Is Current Placement Out-of-State? —
  - Yes (Out-of-State Placement): 1
  - No (In State Placement): 2

***VI. Most Recent Case Plan Goal _____
- Reunify With Parent(s) or Principal Caretaker(s): 1
- Live With Other Relative(s): 2
- Adoption: 3
- Long Term Foster Care: 4
- Emancipation: 5
- Guardianship: 6
- Case Plan Goal Not Yet Established: 7

VII. Principal Caretaker(s) Information
- A. Caretaker Family Structure _____
  - Married Couple: 1
  - Unmarried Couple: 2
  - Single Female: 3
  - Single Male: 4
  - Unable to Determine: 5
- B. Year of Birth
- 1st Principal Caretaker _____
- 2nd Principal Caretaker (If Applicable) —

VIII. Parental Rights Termination (If Applicable)
- A. Mother ____ (mo.) ____ (day) ____ (yr.)
- B. Legal or Putative Father ____ (mo.) ____ (day) ____ (yr.)

IX. Foster Family Home—Parent(s) Data (To be answered only if Section V., Part A. CURRENT PLACEMENT SETTING is 1, 2 or 3)
- A. Foster Family Structure _____
  - Married Couple: 1
  - Unmarried Couple: 2
  - Single Female: 3
  - Single Male: 4
- B. Year of Birth
- 1st Foster Caretaker _____
- 2nd Foster Caretaker (If Applicable) _____
- C. Race/Origin
- 1. Race of 1st Foster Caretaker _____
  - White: 1
  - Black: 2
  - American Indian/Alaskan Native: 3
  - Asian/Pacific Islander: 4
  - Unable to Determine: 5
- 2. Hispanic Origin of 1st Foster Caretaker
  - Yes: 1
  - No: 2
  - Unable to Determine: 3
- 3. Race of 2nd Foster Caretaker (If Applicable) _____
  - White: 1
  - Black: 2
  - American Indian/Alaskan Native: 3
  - Asian/Pacific Islander: 4
  - Unable to Determine: 5
- 4. Hispanic Origin of 2nd Foster Caretaker (If applicable) _____
  - Yes: 1
  - No: 2
  - Unable to Determine: 3

X. Outcome Information
- **A. Date of Discharge From Foster Care ____ (mo.) ____ (day) ____ (yr.)
- **Transaction Date ____ (mo.) ____ (day) ____ (yr.)
- **B. Reason for Discharge _____
  - Reunification With Parents or Primary Caretakers: 1
  - Living With Other Relative(s): 2
  - Adoption: 3
  - Emancipation: 4
  - Guardianship: 5
  - Transfer to Another Agency: 6
  - Runaway: 7
  - Death of Child: 8

XI. Source(s) of Federal Financial Support/Assistance for Child (Indicate all that apply with a "1")
- Title IV–E (Foster Care) _____
- Title IV–E (Adoption Assistance) _____
- Title IV–A (Aid to Families with Dependent Children) _____
- Title IV–D (Child Support) _____
- Title XIX (Medicaid) _____
- SSI or Other Social Security Act Benefits _____
- None of the Above _____

Section II—Definitions of and Instructions for Foster Care Data Elements

Reporting population. The population to be included in this reporting system includes all children in foster care under the responsibility of the State agency administering or supervising the administration of the title IV–B child welfare services State plan and the title IV–E State plan; that is, all children who are required to be provided the protections of section 427 of the Social Security Act (SSA).

This population includes all children supervised by or under the responsibility of another public agency with which the title IV–B/IV–E State agency has an agreement under title IV–E and on whose behalf the State makes title IV–E foster care maintenance payments.

Foster care is defined as 24 hour substitute care for children outside their own homes. The reporting system includes all children who have or had been in foster care at least 24 hours. The foster care settings include, but are not limited to:

—Family foster homes
—Relative foster homes (whether payments are being made or not)
—Group homes
—Emergency shelters
—Residential facilities
—Child care institutions
—Pre-adoptive homes

Foster care does not include children who are in their own homes under the responsibility of the State agency. However, children who are at home on a trial basis may be included even though they are not considered to be in foster care. If they are included, element number V. CURRENT PLACEMENT SETTING must be given the value of "8".

I. General Information

A. State**—U.S. Postal Service two letter abbreviation for the State submitting the report.

B. Report Date**—The last month and the year for the reporting period.

C. Local Agency**—Identity of the county or equivalent unit which has responsibility for the case. The 5 digit Federal Information Processing Standard (FIPS) must be used.

D. Record Number**—The sequential number which the State uses to transmit data to the Department of Health and Human Services (DHHS). The record number cannot be linked to the child's case I.D. number except at the State or local level.

E. Date of Most Recent Periodic Review (If applicable)—For children who have been in care seven months or longer, enter the month, day and year of the most recent administrative or court review, including dispositional hearing. For children who have been in care less than seven months, leave the field blank. An entry in this field certifies that the child's computer record is current up to this date.

II. Child's Demographic Information

A. Date of Birth**—Month, day and year of the child's birth. If the child is abandoned or the date of birth is otherwise unknown, enter an approximate date of birth. Use the 15th as the day of birth.

B. Sex**—Indicate as appropriate.

C. Race/Origin**

1. Race—In general, a person's race is determined by how others define them or by how they define themselves. In the case of young children, parents determine the race of the child.

White—A person of European, North African, or Middle Eastern origin.

Black—A person whose ancestry is any of the black racial groups of Africa.

American Indian/Alaskan Native—A person whose ancestry is North American, and who maintains tribal affiliation or is so recognized in the community.

Asian/Pacific Islander—A person whose origin is the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands. This includes, for example, China, India, Japan, Korea, the Philippine Islands, Samoa and Vietnam.

Unable to Determine—The specific race category is "unable to determine" because the child is very young or is severely disabled and no person is available to identify the child's race.

2. Hispanic Origin—Answer "yes" if the child is a Mexican, Puerto Rican, Cuban, Central or South American person, or person of other Spanish cultural origin regardless of race. Whether or not a person is Hispanic is determined by how others define them or by how they define themselves. In the case of young children, parents determine the race of the child. "Unable to Determine" is used because the child is very young or is severely disabled and no person is available to determine whether or not the child is Hispanic. "No" is used when it is clear that the child is not Hispanic.

D. Has the child been clinically diagnosed as having a disability(ies)? "Yes" indicates that a qualified professional has clinically diagnosed the child as having at least one of the disabilities listed below. "No" indicates that a qualified professional has conducted a clinical assessment of the child and has determined that the child has no disabilities. "Not Yet Determined" indicates that a clinical assessment of the child by a qualified professional has not been conducted.

1. Indicate Each Type of Disability With a "1"

Mental Retardation—Significantly subaverage general cognitive and motor functioning existing concurrently with deficits in adaptive behavior manifested during the developmental period that adversely affect a child's/youth's socialization and learning.

Visually or Hearing Impaired—Having a visual impairment that may significantly affect educational performance or development; or a hearing impairment, whether permanent or fluctuating, that adversely affects educational performance.

Physically Disabled—A physical condition that adversely affects the child's day-to-day motor functioning, such as cerebral palsy, spina bifida, multiple sclerosis, orthopedic impairments, and other physical disabilities.

Emotionally Disturbed (DSM III)—A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree: An inability to build or maintain satisfactory interpersonal relationships; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal problems. The term includes persons who are schizophrenic or autistic. The term does not include persons who are socially maladjusted, unless it is determined that they are also seriously emotionally disturbed. The diagnosis is based on the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) (DSM III) or the most recent edition.

Other Medically Diagnosed Conditions Requiring Special Care—Conditions other than those noted above which require special medical care such as chronic illnesses. Included are children diagnosed as HIV positive or with AIDS.

E. 1. Has this child ever been adopted? If this child has ever been legally adopted, enter "yes." If the child has never been legally adopted, enter "no". Enter "Unable to Determine" if the child has been abandoned or the child's parent(s) are otherwise not available to provide the information.

2. If yes, how old was the child when the adoption was legalized? Enter the number which represents the appropriate age range. If uncertain, use an estimate. If no one is available to provide the information, enter "Unable to Determine."

III. Removal/Placement Setting Indicators

A. Removal Episodes—The removal of the child from his/her normal place of residence resulting in his/her placement in a foster care setting.

Date of First Removal From Home—Month, day and year the child was removed from home for the first time for purpose of placement in a foster care setting. If the current[1] removal is the first removal, enter the date of the current removal.

Total Number of Removals from Home to Date—The number of times the child was removed from home, including the current removal.

Date Child was Discharged From Last Foster Care Episode (If Applicable)—For children with prior removals, enter the month, day and year they were discharged from care for the episode immediately prior to the current episode. For children with no prior removals, leave blank.

Date of Latest Removal From Home**—Month, day and year the child was last removed from his/her home for the purpose of being placed in foster care. This would be the date for the current episode or, if the child has exited foster care, the date of removal for the most recent removal.

Transaction Date**—A computer generated date which accurately indicates the month, day and year the response to "Date of Latest Removal From Home" was entered into the information system.

B. Placement Settings.

Date of Placement in Current Foster Care Setting—Month, day and year the child moved into the current foster home, facility, residence, shelter, institution, etc. for purposes of continued foster care.

Number of Previous Placement Settings During This Removal Episode—Enter the number of places the child has lived, including the current setting, during the current removal episode. Do not include trial home visits as a placement setting.

IV. Circumstances of Removal

A. Manner of Removal From Home for Current Placement Episode.

Voluntary Placement Agreement—An official voluntary placement agreement has been executed between the caretaker and the agency. The placement remains voluntary even if a subsequent court order is issued to continue the child in foster care.

[1] For children who have exited foster care, "current" refers to the most recent removal episode and the most recent placement setting.

VOL 58 ISS 244 DE 22 1993 UMI

Court Ordered—The court has issued an order which is the basis of the child's removal.

Not Yet Determined—A voluntary placement agreement has not been signed or a court order has not been issued. This will mostly occur in very short-term cases. When either a voluntary placement agreement is signed or a court order issued, the record should be updated to reflect the manner of removal at that time.

B. Actions or Conditions Associated With Child's Removal (Indicate all that apply with a "1".)

Physical Abuse—Alleged or substantiated physical abuse, injury or maltreatment of the child by a person responsible for the child's welfare.

Sexual Abuse—Alleged or substantiated sexual abuse or exploitation of a child by a person who is responsible for the child's welfare.

Neglect—Alleged or substantiated negligent treatment or maltreatment, including failure to provide adequate food, clothing, shelter or care.

Alcohol Abuse (Parent)—Principal caretaker's compulsive use of alcohol that is not of a temporary nature.

Drug Abuse (Parent)—Principal caretaker's compulsive use of drugs that is not of a temporary nature.

Alcohol Abuse (Child)—Child's compulsive use of or need for alcohol. This element should include infants addicted at birth.

Drug Abuse (Child)—Child's compulsive use of or need for narcotics. This element should include infants addicted at birth.

Child's Disability—Clinical diagnosis by a qualified professional of one or more of the following: Mental retardation; emotional disturbance; specific learning disability; hearing, speech or sight impairment; physical disability; or other clinically diagnosed handicap. Include only if the disability(ies) was at least one of the factors which led to the child's removal.

Child's Behavior Problem—Behavior in the school and/or community that adversely affects socialization, learning, growth, and moral development. These may include adjudicated or nonadjudicated child behavior problems. This would include the child's running away from home or other placement.

Death of Parent(s)—Family stress or inability to care for child due to death of a parent or caretaker.

Incarceration of Parent(s)—Temporary or permanent placement of a parent or caretaker in jail that adversely affects care for the child.

Caretaker's Inability to Cope Due to Illness or Other Reasons—Physical or emotional illness or disabling condition adversely affecting the caretaker's ability to care for the child.

Abandonment—Child left alone or with others; caretaker did not return or make whereabouts known.

Relinquishment—Parent(s), in writing, assigned the physical and legal custody of the child to the agency for the purpose of having the child adopted.

Inadequate Housing—Housing facilities were substandard, overcrowded, unsafe or otherwise inadequate resulting in their not being appropriate for the parents and child to reside together. Also includes homelessness.

V. Current Placement Setting**

A. Identify the type of setting in which the child currently lives.

Pre-Adoptive Home—A home in which the family intends to adopt the child. The family may or may not be receiving a foster care payment or an adoption subsidy on behalf of the child.

Foster Family Home (Relative)—A licensed or unlicensed home of the child's relatives regarded by the State as a foster care living arrangement for the child.

Foster Family Home (Non-Relative)—A licensed foster family home regarded by the State as a foster care living arrangement.

Group Home—A licensed or approved home providing 24-hour care for children in a small group setting that generally has from seven to twelve children.

Institution—A child care facility operated by a public or private agency and providing 24-hour care and/or treatment for children who require separation from their own homes and group living experience. These facilities may include: Child care institutions; residential treatment facilities; maternity homes; etc.

Supervised Independent Living—An alternative transitional living arrangement where the child is under the supervision of the agency but without 24 hour adult supervision, is receiving financial support from the child welfare agency, and is in a setting which provides the opportunity for increased responsibility for self care.

Runaway—The child has run away from the foster care setting.

Trial Home Visit—The child has been in a foster care placement, but, under State agency supervision, has been returned to the principal caretaker for a limited and specified period of time.

B. Is current placement setting out of State? "Yes" indicates that the current placement setting is located outside of the state making the report.

"No" indicates that the child continues to reside within the state making the report.

Note: Only the state with placement and care responsibility for the child should include the child in this reporting system.

VI. Most Recent Case Plan Goal***

Indicate the most recent case plan goal for the child based on the latest review of the child's case plan—whether a court review or an administrative review. If the child has been in care less than six months, enter the goal in the case record as determined by the caseworker.

Reunify With Parents or Principal Caretaker(s)—The goal is to keep the child in foster care for a limited time to enable the agency to work with the family with whom the child had been living prior to entering foster care in order to reestablish a stable family environment.

Live With Other Relatives—The goal is to have the child live permanently with a relative or relatives other than the ones from whom the child was removed. This could include guardianship by a relative(s).

Adoption—The goal is to facilitate the child's adoption by relatives, foster parents or other unrelated individuals.

Long Term Foster Care—Because of specific factors or conditions, it is not appropriate or possible to return the child home or place her or him for adoption, and the goal is to maintain the child in a long term foster care placement.

Emancipation—Because of specific factors or conditions, it is not appropriate or possible to return the child home, have a child live permanently with a relative or have the child be adopted; therefore, the goal is to maintain the child in a foster care setting until the child reaches the age of majority.

Guardianship—The goal is to facilitate the child's placement with an agency or unrelated caretaker, with whom he or she was not living prior to entering foster care, and whom a court of competent jurisdiction has designated as legal guardian.

Case Plan Goal Not Yet Established—No case plan goal has yet been established other than the care and protection of the child.

VII. Principal Caretaker(s) Information

A. Caretaker Family Structure—Select from the four alternatives—married couple, unmarried couple, single female, single male—the category which best describes the type of adult caretaker(s) from whom the child was removed for the current foster care episode. Enter "Unable to Determine" if the child has been abandoned or the child's caretakers are otherwise unknown.

B. Year of Birth—Enter the year of birth for up to two caretakers. If the response to data element VII. A—Caretaker Family Structure, was 1 or 2, enter data for two caretakers. If the response was 3 or 4, enter data only for the first caretaker. If the exact year of birth is unknown, enter an estimated year of birth.

VIII. Parental Rights Termination

Enter the month, day and year that the court terminated the parental rights. If the parents are known to be deceased, enter the date of death.

IX. Family Foster Home—Parent(s) Data

Provide information only if data element in Section V., Part A. CURRENT PLACEMENT SETTING is 1, 2, or 3.

A. Foster Family Structure—Select from the four alternatives—married couple, unmarried couple, single female, single male—the category which best describes the nature of the foster parents with whom the child is living in the current foster care episode.

B. Year of Birth—Enter the year of birth for up to two foster parents. If the response to data element IX. A.—Foster Family Structure, was 1 or 2, enter data for two caretakers. If the response was 3 or 4, enter data only for the first caretaker. If the exact year of birth is unknown, enter an estimated year of birth.

C. Race—See instructions and definitions under data element II.C. Indicate the race/origin for each of the foster parent(s).

D. Hispanic Origin—See instructions and definitions under data element II.D. Indicate the race/origin for each of the foster parent(s).

X. Outcome Information

Enter data only for children who have exited foster care during the reporting period.

A. Date of Discharge From Foster Care**—Enter the month, day and year the child was discharged from foster care. If the child has not been discharged from care, leave blank.

Transaction Date**—A computer generated date which accurately indicates the month, day and year the response to "Date of Discharge from Foster Care" was entered into the information system.

B. Reason for Discharge**.

Reunification With Parents or Primary Caretakers—The child was returned to his or her principal caretaker(s)' home.

Living With Other Relatives—The child went to live with a relative other than the one from whose home he or she was removed.

Adoption—The child was legally adopted.

Emancipation—The child reached majority according to State law by virtue of age, marriage, etc.

Guardianship—Permanent custody of the child was awarded to an individual.

Transfer to Another Agency—Responsibility for the care of the child was awarded to another agency—either in or outside of the State.

Runaway—The child ran away from the foster care placement.

Death of Child—The child died while in foster care.

XI. Source(s) of Federal Support/Assistance for Child (Indicate all That Apply With a "1".)

Title IV–E (Foster Care)—Title IV–E foster care maintenance payments are being paid on behalf of the child.

Title IV–E (Adoption Subsidy)—Title IV–E adoption subsidy is being paid on behalf of the child who is in an adoptive home, but the adoption has not been legalized.

Title IV–A (Aid to Families With Dependent Children)—Child is living with relative(s) whose source of support is an AFDC payment for the child.

Title IV–D (Child Support)—Child support funds are being paid to the State agency on behalf of the child by assignment from the receiving parent.

Title XIX (Medicaid)—Child is eligible for and may be receiving assistance under title XIX.

SSI or Other Social Security Act Benefits—Child is receiving support under title XVI or other Social Security Act titles not included in this section.

None of the Above—Child is receiving support only from the State or from some other source (Federal or non-Federal) which is not indicated above.

Appendix B to Part 1355—Adoption Data Elements

Section I—Adoption Data Elements

I. General Information
- A. State _____
- B. Report Date ____(mo.) ____(day) ____(yr.)
- C. Record Number _____
- D Did the State Agency Have any Involvement in This Adoption? _____
  - Yes: 1
  - No: 2

II. Child's Demographic Information
- A. Date of Birth ____(mo) ____(day) ____(yr.)
- B. Sex ____
  - Male: 1
  - Female: 2
- C. Race/Origin
- 1. Race _____
  - White: 1
  - Black: 2
  - American Indian/Alaskan Native: 3
  - Asian/Pacific Islander: 4
  - Unable to Determine: 5
- 2. Hispanic Origin _____
  - Yes: 1
  - No: 2
  - Unable to determine: 3

III. Special Needs Status
- A. Has the State child welfare agency determined that this child has special needs? _____
  - Yes: 1
  - No: 2
- B. If yes, indicate the primary basis for determining that this child has special needs _____
  - Racial/Original Background: 1
  - Age: 2
  - Membership in a Sibling Group to be Placed for Adoption Together: 3
  - Medical Conditions or Mental, Physical or Emotional Disabilities: 4
  - Other: 5
- 1. If III. B was "4," indicate with a "1" the type(s) of disability(ies)
  - Mental Retardation _____
  - Visually or Hearing Impaired _____
  - Physically Disabled _____
  - Emotionally Disturbed (DSM III) _____
  - Other Medically Diagnosed Condition Requiring Special Care _____

IV. Birth Parents
- A. Year of Birth _____
  - Mother, if known _____
  - Father (Putative or Legal), if known _____
- B. Was the mother married at the time of the child's birth? _____
  - Yes: 1
  - No: 2
  - Unable to Determine: 3

V. Court Actions
- A. Dates of Termination of Parental Rights
  - Mother ____(mo.) ____(day) ____(yr.)
  - Father ____(mo.) ____(day) ____(yr.)
- B. Date Adoption Legalized ____(mo.) ____(day) ____(yr.)

VI. Adoptive Parents
- A. Family Structure _____
  - Married Couple: 1
  - Unmarried Couple: 2
  - Single Female: 3
  - Single Male: 4
- B. Year of Birth
  - Mother (if Applicable) _____
  - Father (if Applicable) _____
- C. Race/Origin
- 1. Adoptive Mother's Race (If Applicable)
  - White: 1
  - Black: 2
  - American Indian/Alaskan Native: 3
  - Asian/Pacific Islander: 4
  - Unable to Determine: 5
- 2. Hispanic Origin of Mother (If Applicable) _____
  - Yes: 1
  - No: 2
  - Unable to Determine: 3
- 3. Adoptive Father's Race (If Applicable)
  - White: 1
  - Black: 2
  - American Indian/Alaskan Native: 3
  - Asian/Pacific Islander: 4
  - Unable to Determine: 5
- 4. Hispanic Origin of Father (If Applicable) _____
  - Yes: 1
  - No: 2
  - Unable to Determine: 3
- D. Relationship of Adoptive Parent(s) to the Child (Indicate with a "1" all that apply)
  - Stepparent
  - Other Relative of Child by Birth or Marriage _____
  - Foster Parent of Child _____
  - Non-Relative _____

VII. Placement Information
- A. Child Was Placed From _____
  - Within State: 1
  - Another State: 2
  - Another Country: 3
- B. Child Was Placed by _____
  - Public Agency: 1
  - Private Agency: 2
  - Tribal Agency: 3
  - Independent Person: 4
  - Birth Parent: 5

VIII. Federal/State Financial Adoption Support
- A. Is a monthly financial subsidy being paid for this child? _____
  - Yes: 1
  - No: 2
- B. If yes, the monthly amount _____
- C. If VIII. A is yes, is the subsidy paid under Title IV–E adoption assistance? _____
  - Yes: 1
  - No: 2

Section II—Definitions of Instructions for Adoption Data Elements

Reporting population

The State must report on all children who are adopted in the State during the reporting period and in whose adoption the State title IV–B/IV–E agency has had any involvement. All adoptions which occurred on or after October 1, 1994 and which meet the criteria set forth in this regulation must be reported. Failure to report on these adoptions will result in penalties being assessed. Reports on all other adoptions are encouraged but are voluntary. Therefore, reports on the following are mandated:

(a) All children adopted who had been in foster care under the responsibility and care of the State child welfare agency and who were subsequently adopted whether special needs or not and whether subsidies are provided or not;

(b) All special needs children who were adopted in the State, whether or not they were in the public foster care system prior to their adoption and for whom non-recurring expenses were reimbursed; and

(c) All children adopted for whom an adoption assistance payment or service is being provided based on arrangements made by or through the State agency.

These children must be identified by answering "yes" to data element I.D.

Children who are reported by the State, but for whom there has not been any State involvement, and whose reporting, therefore, has not been mandated, are identified by answering "no" to element I.D.

I. General Information

A. State—U.S. Postal Service two letter abbreviation for the State submitting the report.

B. Report Date—The last month and the year for the reporting period.

C. Record Number—The sequential number which the State uses to transmit data to the Department of Health and Human Services (DHHS). The record number cannot be linked to the child except at the State or local level.

D. Did the State Agency Have Any Involvement in This Adoption?

Indicate whether the State Title IV–B/IV–E agency had any involvement in this adoption, that is, whether the adopted child belongs to one of the following categories:

- A child who had been in foster care under the responsibility and care of the State child welfare agency and who was subsequently adopted whether special needs or not and whether a subsidy was provided or not;
- A special needs child who was adopted in the State, whether or not he/she was in the public foster care system prior to his/her adoption and for whom non-recurring expenses were reimbursed; or
- A child for whom an adoption assistance payment or service is being provided based on arrangements made by or through the State agency.

II. Child's Demographic Information

A. Date of Birth—Month and year of the child's birth. If the child was abandoned or the date of birth is otherwise unknown, enter an approximate date of birth.

B. Sex—Indicate as appropriate.

C. Race/Origin.

1. Race—In general, a person's race is determined by how others define them or by how they define themselves. In the case of young children, parents determine the race of the child.

White—A person of European, North African, or Middle Eastern origin.

Black—A person whose ancestry is any of the black racial groups of Africa.

American Indian/Alaskan Native—A person whose ancestry is North American, and who maintains tribal affiliation or is so recognized in the community.

Asian/Pacific Islander—A person whose origin is the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands. This includes for example, China, India, Japan, Korea, the Philippine Islands, Samoa and Vietnam.

Unable to Determine—The specific race category is "Unable to Determine" because the child is very young or is severely disabled and no other person is available to identify the child's race.

2. Hispanic Origin—Answer "yes" if the child is a Mexican, Puerto Rican, Cuban, Central or South American person, or person of other Spanish cultural origin regardless of race. Whether or not a person is Hispanic is determined by how others define them or by how they define themselves. In the case of young children, parents determine the race of the child. "Unable to Determine" is used because the child is very young or is severely disabled and no other person is available to determine whether or not the child is Hispanic.

III. Special Needs Status

A. Has the State Agency Determined That the Child has Special Needs?

Use the State definition of special needs as it pertains to a child eligible for an adoption subsidy under title IV–E.

B. Primary Factor or Condition for Special Needs—Indicate only the primary factor or condition for categorization as special needs and only as it is defined by the State.

Racial/Original Background—Primary condition or factor for special needs is racial/original background as defined by the State.

Age—Primary factor or condition for special needs is age of the child as defined by the State.

Membership in a Sibling Group to be Placed for Adoption Together—Primary factor or condition for special needs is membership in a sibling group as defined by the State.

Medical Conditions of Mental, Physical, or Emotional Disabilities—Primary factor or condition for special needs is the child's medical condition as defined by the State, but clinically diagnosed by a qualified professional.

When this is the response to question B, then item 1 below must be answered.

1. Types of Disabilities—Data are only to be entered if response to III.B was "4." Indicate with a "1" the types of disabilities.

Mental Retardation—Significantly subaverage general cognitive and motor functioning existing concurrently with deficits in adaptive behavior manifested during the developmental period that adversely affect a child's/youth's socialization and learning.

Visually or Hearing Impaired—Having a visual impairment that may significantly affect educational performance or development; or a hearing impairment, whether permanent or fluctuating, that adversely affects educational performance.

Physically Disabled—A physical condition that adversely affects the child's day-to-day motor functioning, such as cerebral palsy, spina bifida, multiple sclerosis, orthopedic impairments, and other physical disabilities.

Emotionally Disturbed (DSM III)—A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree: An inability to build or maintain satisfactory interpersonal relationships; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal problems. The term includes persons who are schizophrenic or autistic. The term does not include persons who are socially maladjusted, unless it is determined that they are also seriously emotionally disturbed. Diagnosis is based on the *Diagnostic and Statistical Manual of Mental Disorders (Third Edition)* (DSM III) or the most recent edition.

Other Medically Diagnosed Conditions Requiring Special Care—Conditions other than those noted above which require special medical care such as chronic illnesses. Included are children diagnosed as HIV positive or with AIDS.

IV. Birth Parents

A. Year of Birth—Enter the year of birth for both parents, if known. If the child was abandoned and no information was available on either one or both parents, leave blank for the parent(s) for which no information was available.

B. Was the Mother Married at the Time of the Child's Birth?

Indicate whether the mother was married at time of the child's birth; include common law marriage if legal in the State. If the child was abandoned and no information was available on the mother, enter "Unable to Determine."

V. Court Actions

A. Dates of Termination of Parental Rights—Enter the month, day and year that the court terminated parental rights. If the parents are known to be deceased, enter the date of death.

B. Date Adoption Legalized—Enter the date the court issued the final adoption decree.

VI. Adoptive Parents

A. Family Structure—Select from the four alternatives—married couple, unmarried couple, single female, single male—the category which best describes the nature of the adoptive parent(s) family structure.

B. Year of Birth—Enter the year of birth for up to two adoptive parents. If the response to data element IV.A—Family Structure, was 1 or 2, enter data for two parents. If the response was 3 or 4, enter data only for the appropriate parent. If the exact year of birth is unknown, enter an estimated year of birth.

C. Race/Origin—See instructions and definitions under data element II.C. Indicate the race/origin for each of the adoptive parent(s).

D. Relationship to Adoptive Parent(s)—Indicate the prior relationship(s) the child had with the adoptive parent(s).

Stepparent—Spouse of the child's birth mother or birth father.

Other Relative of Child by Birth or Marriage—A relative through the birth parents by blood or marriage.

Foster Parent of Child—Child was placed in a non-relative foster family home with a family which later adopted him or her. The initial placement could have been for the purpose of adoption or for the purpose of foster care.

Non-Relative—Adoptive parent fits into none of the categories above.

VII. Placement Information

A. Child Was Placed From: Indicate the location of the individual or agency that had custody or responsibility for the child at the time of initiation of adoption proceedings.

Within State—Responsibility for the child resided with an individual or agency within the State filing the report.

Another State—Responsibility for the child resided with an individual or agency in another State or territory of the United States.

Another Country—Immediately prior to the adoptive placement, the child was residing in another country and was not a citizen of the United States.

B. Child Was Placed By: Indicate the individual or agency which placed the child for adoption.

Public Agency—A unit of State or local government.

Private Agency—A for-profit or non-profit agency or institution.

Tribal Agency—A unit within one of the Federally recognized Indian Tribes or Indian Tribal Organizations.

Independent Person—A doctor, a lawyer or some other individual.

Birth Parent—The parent(s) placed the child directly with the Adoptive parent(s).

VIII. State/Federal Adoption Support

A. Is The Child Receiving a Monthly Subsidy?

Enter "yes" if this child was adopted with an adoption assistance agreement under which: (1) regular subsidies (Federal or State) are paid; (2) the child is eligible for services under titles XIX or XX; or (3) Federal or State funds are made available for other types of assistance or services (including the non-recurring costs *of* adoption).

B. Monthly Amount—Indicate the monthly amount of the subsidy. The amount of the subsidy should be rounded to the nearest dollar. Indicate "0" if the subsidy includes only benefits under titles XIX or XX of the Social Security Act.

C. If VIII.A is "Yes," is Child Receiving Title IV–E Adoption Subsidy?

If VIII.A is "yes," indicate whether the subsidy is claimed by the State for reimbursement under title IV–E. Do not include title IV–E non-recurring costs in this item.

Appendix C to Part 1355—Electronic Data Transmission Format

All AFCARS data to be sent from State agencies/Indian Tribes to the Department are to be in electronic form. In order to meet this general specification, the Department will offer as much flexibility as possible. Technical assistance will be provided to negotiate a method of transmission best suited to the States' environment.

There will be four semi-annual electronic data transmissions from the States to the Administration for Children and Families (ACF). The Summary Submission File, one each for Foster Care and Adoption, and the Detail Submission File, one each for Foster Care and Adoption. The Summary File must be transmitted first, followed immediately by the Detail File. See appendix D for Foster Care and Adoption Detail and Summary record layout formats.

There are four methods for electronic data exchange currently operating for other Departmental programs of a similar nature. These methods are: (1) MITRON tape-to-tape transfer, (2) mainframe-to-mainframe data transfer, (3) personal computer (PC) to mainframe data transmission using a data transfer protocol, and (4) a personal computer to personal computer protocol. A general description of these methods is provided below:

1. MITRON, Tape-to-Tape Data Transmission

In order to use the MITRON system, both the sender and receiver must have MITRON equipment (tape drive and main unit) and software. The MITRON system is capable of handling a large volume of data but is limited to one reel of tape per transmission session. (If the data quantity exceeds one tape, a header/trailer record must be placed on each physical tape reel.) These are standard 2400 foot tapes, using standard labels. The tape density is limited to the 1600 bits per inch (bpi) specification.

2. Mainframe-to-Mainframe

The ACF has installed a mainframe-to-mainframe data exchange system using the Sterling Software data transfer package called "SUPERTRACS." This package will allow data exchange between most computer platforms (both mini and mainframe) and the Department's mainframe in a dial-up mode. No additional software is needed by the remote computer site beyond what the Department will supply. This method has proven effective for small to moderate amounts (100 to 5,000 records) of data.

3. Electronic File Transfer Between PC and Mainframe

This method uses the SIMPC software package on the personal computer and the host mainframe. The software will be provided by the Department. This method is best suited for small to moderate (100 to 5,000) records transmissions. The advantages of Electronic File Transfer are the elimination of tapes and associated problems and the advantage of automatic record checking during the transmission session. If a State is currently maintaining the AFCARS data on a personal computer and is unable to download and upload to its mainframe, Electronic File Transfer is an appropriate transmission mechanism.

4. Personal Computer to Personal Computer

This method uses the SIMPC software package on the sending personal computer and the receiving personal computer. The software will be provided by the Department. This method is best suited for small to moderate (100 to 5,000) records transmissions. The advantages of Electronic File Transfer are the elimination of tapes and associated problems and the advantage of automatic record checking during the transmission session. If a State is currently maintaining the AFCARS data on a personal computer, the personal computer to personal computer transfer is an appropriate transmission mechanism.

In conjunction with Departmental staff, State agencies and Indian Tribes should review their resources and select the system that will best suit their data transmission needs. Over time, State agencies and Indian Tribes can change their transmission methods, provided that proper notification is provided.

Regardless of the electronic data transmission methodology selected, certain criteria must be met by the State agencies and Indian Tribes:

(1) Records must be written using ASCII standard character format.

(2) All elements must be comprised of integer (numeric) value(s). Element character length specifications refer to the maximum number of numeric values permitted for that element. See appendix D.

(3) All records must be a fixed length. The Foster Care Detailed Data Elements Record is 139 characters long and the Adoption Detailed Data Elements Record is 71 characters long. The Foster Care Summary Data Elements Record and the Adoption Summary Data Elements Record are each 172 characters long.

(4) All States and Indian Tribes must inform the Department, in writing, of the method of transfer they intend to use.

Appendix D to Part 1355—Foster Care and Adoption Record Layouts

A. Foster Care

1. Foster Care Semi-Annual Detailed Data Elements Record

a. The record will consist of 65 data elements.

b. Data must be supplied for each of the elements in accordance with these instructions:

(1) All data must be numeric. Enter the appropriate value for each element.

(2) Enter date values in year, month and day order (YYMMDD), e.g., 890122 for January 22, 1989 or year and month (YYMM) order, e.g., 8901 for January 1989. If dates are not applicable, leave the element value blank.

(3) For elements 11–15, 26–40, and 59–65, which are "select all that apply" elements, enter a "1" for each element that applies, enter a zero for non-applicable elements.

(4) Transaction Date—is a computer generated date indicating when the datum (Elements 21 or 55) is entered into the State's automated information system.

(5) Report the status of all children in foster care as of the last day of the reporting period. Also, provide data for all children who were discharged from foster care at any time during the reporting period, or in the previous reporting period, if not previously reported.

c. Foster Care Semi-Annual Detailed Data Elements Record Layout follows:

Element No.	Appendix A data element	Data element description	No. of numeric characters
01	1.A.	State	2
02	I.B.	Report period ending date	4

Element No.	Appendix A data element	Data element description	No. of numeric characters
03	I.C.	Local Agency FIPS code (county or equivalent jurisdiction)	5
04	I.D.	Record number	6
05	I.E.	Date of most recent periodic review (if applicable)	6
06	II.A.	Date of birth	6
07	II.B.	Sex	1
08	II.C.1.	Race	1
09	II.C.2.	Hispanic origin	1
10	II.D.	Has this child been clinically diagnosed as having a disability(ies)	1
		Indicate each type of disability of the child with a "1" for elements 11–15 and a zero for disabilities that do not apply.	
11	II.D.1.a.	Mental retardation	1
12	II.D.1.b.	Visually or hearing impaired	1
13	II.D.1.c.	Physically disabled	1
14	II.D.1.d.	Emotionally disturbed (DSM III)	1
15	II.D.1.e	Other medically diagnosed condition requiring special care	1
16	II.E.1.	Has this child ever been adopted	1
17	II.E.2.	If yes, how old was the child when the adoption was legalized?	1
18	III.A.1.	Date of first removal from home	6
19	III.A.2.	Total number of removals from home to date	2
20	III.A.3.	Date child was discharged from last foster care episode (if applicable)	6
21	III.A.4.	Date of latest removal from home	6
22	III.A.5.	Removal transaction date	6
23	III.B.1.	Date of placement in current foster care setting	6
24	III.B.2.	Number of previous placement settings during this removal episode	2
25	IV.A.	Manner of removal from home for current placement episode	1
		Actions or conditions associated with child's removal: Indicate with a "1" for elements 26–40 and a zero for conditions that do not apply.	
26	IV.B.1.	Physical abuse (alleged/reported)	1
27	IV.B.2.	Sexual abuse (alleged/reported)	1
28	IV.B.3.	Neglect (alleged/reported)	1
29	IV.B.4.	Alcohol abuse (parent)	1
30	IV.B.5.	Drug abuse (parent)	1
31	IV.B.6.	Alcohol abuse (child)	1
32	IV.B.7.	Drug abuse (child)	1
33	IV.B.8.	Child's disability	1
34	IV.B.9.	Child's behavior problem	1
35	IV.B.10.	Death of parent(s)	1
36	IV.B.11.	Incarceration of parent(s)	1
37	IV.B.12.	Caretaker's inability to cope due to illness or other reasons	1
38	IV.B.13.	Abandonment	1
39	IV.B.14.	Relinquishment	1
40	IV.B.15.	Inadequate housing	1
41	V.A.	Current placement setting	1
42	V.B.	Out of State placement	1
43	VI.	Most recent case plan goal	1
44	VII.A.	Caretaker family structure	1
45	VII.B.1.	Year of birth (1st principal caretaker)	2
46	VII.B.2.	Year of birth (2nd principal caretaker—if applicable)	2
47	VIII.A.	Date of mother's parental rights termination (if applicable)	6
48	VIII.B.	Date of legal or putative father's parental rights termination (if applicable)	6
49	IX.A.	Foster family structure	1
50	IX.B.1.	Year of birth (1st foster caretaker)	2
51	IX.B.2.	Year of birth (2nd foster caretaker—if applicable)	2
52	IX.C.1.	Race of 1st foster caretaker	1
53	IX.C.2.	Hispanic origin of 1st foster caretaker	1
54	IX.C.3.	Race of 2nd foster caretaker (if applicable)	1
55	IX.C.4.	Hispanic origin of 2nd foster caretaker (if applicable)	1
56	X.A.1.	Date of discharge from foster care	6
57	X.A.2.	Foster care discharge transaction date	6
58	X.B.	Reason for discharge	1
		Sources of Federal support/assistance for child; Indicate with a "1" for elements 58–64 and a zero for sources that do not apply.	
59	XI.A.	Title IV–N (Foster Care)	1
60	XI.B.	Title IV–E (Adoption Assistance)	1
61	XI.C.	Title IV–A (Aid to Families With Dependent Children)	1
62	XI.D.	Title IV–D (Child Support)	1
63	XI.E.	Title XIX (Medicaid)	1
64	XI.F.	SSI or other Social Security Act benefits	1
65	XI.G.	None of the above	1
		Total characters	139

2. Foster Care Semi-Annual Summary Data Elements Record

a. The record will consist of 22 data elements.

The values for these data elements are generated by processing all records in the semi-annual detailed data transmission and computing the summary values for Elements 1 and 3–22. Element 2 is the semi-annual report period ending date. In calculating the age range for the child, the last day of the reporting period is to be used.

b. Data must be supplied for each of the elements in accordance with these instructions:

(1) Enter the appropriate value for each element.

(2) For all elements where the total is zero, enter a numeric zero.

(3) Enter date values in year, month order (YYMM), e.g., 9112 for December 1991.

c. Foster Care Semi-Annual Summary Data Elements Record Layout follows:

Element No.	Summary data file	No. of characters
01	Number of records	8
02	Report period ending date (YYMM)	4
03	Children in care under 1 year	8
04	Children in care 1 year old	8
05	Children in care 2 years old	8
06	Children in care 3 years old	8
07	Children in care 4 years old	8
08	Children in care 5 years old	8
09	Children in care 6 years old	8
10	Children in care 7 years old	8
11	Children in care 8 years old	8
12	Children in care 9 years old	8
13	Children in care 10 years old	8
14	Children in care 11 years old	8
15	Children in care 12 years old	8
16	Children in care 13 years old	8
17	Children in care 14 years old	8
18	Children in care 15 years old	8
19	Children in care 16 years old	8
20	Children in care 17 years old	8
21	Children in care 18 years old	8
22	Children in care over 18 years old	8
	Record Length	172

B. Adoption

1. Adoption Semi-Annual Detailed Data Elements Record

a. The record will consist of 37 data elements.

b. Data must be supplied for each of the elements in accordance with these instructions:

(1) Enter the appropriate value for each element.

(2) Enter date values in year, month and day order (YYMMDD), e.g., 890122 for January 22, 1989 or year and month (YYMM) order, e.g., 8901 for January 1989. If dates are not applicable, leave the element value blank.

(3) For elements 11–15 and 29–32 which are "select all that apply" elements, enter a "1" for each element that applies; enter a zero for non-applicable elements.

c. Adoption Semi-Annual Detailed Data Elements Record Layout follows:

Element No.	Appendix B data element	Data element description	No. of numeric characters
01	I.A.	State	2
02	I.B.	Report period ending date	4
03	I.C.	Record number	6
04	I.D.	State Agency involvement	1
05	II.A.	Date of birth	4
06	II.B.	Sex	1
07	II.C.1.	Race	1
08	II.C.2.	Hispanic orgin	1
09	III.A	Has the State Agency determined that this child has special needs	1
10	III.B	Primary basis for special needs	1
		Indicate a primary basis of special needs with a "1" for elements 11–15. Enter a zero for special needs that do not apply.	
11	III.B.1.a	Mental retardation	1
12	III.B.1.b.	Visually or hearing impaired	1
13	III.B.1.c	Physically disabled	1
14	III.B.1.d	Emotionally disturbed (DSM III)	1
15	III.B.1.e.	Other medically diagnosed condition requiring special care	1
16	IV.A.1.	Mother's year of birth	2
17	IV.A.2.	Father's (Putative or legal) year of birth	2
18	IV.B.	Was the mother married at time of child's birth	1
19	V.A.1.	Date of mother's termination of parental rights	6
20	V.A.2.	Date of father's termination of parental rights	6
21	V.B.	Date adoption legalized	6
22	VI.A.	Adoptive parents family structure	1

VOL 58 ISS 244 DEC 22 1993 UMI

Element No.	Appendix B data element	Data element description	No. of numeric characters
23	VI.B.1	Mother's year of birth (if applicable)	2
24	VI.B.2	Father's year of birth (if applicable)	2
25	VI.C.1.	Adoptive mother's race (if applicable)	1
26	VI.C.2	Hispanic origin mother (if applicable)	1
27	VI.C.3	Adoptive father's race (if applicable)	1
28	VI.C.4	Hispanic origin father (if applicable)	1
		Indicate each type of relationship of adoptive parent(s) to the child with a "1" for elements 29–32. Enter a zero for relationships that do not apply below.	
29	VI.D.1	Stepparent	1
30	VI.D.2.	Other relative of child by birth or marriage	1
31	VI.D.3	Foster parent of child	1
32	VI.D.4	Other non-relative	1
33	VII.A.	Child was placed from	1
34	VII.B.	Child was placed by	1
35	VIII.A.	Is this child receiving a monthly subsidy	1
36	VIII.B.	If VIII.B is "yes," What is the monthly amount	5
37	VIII.C	If VIII.B is "yes," is the child receiving title IV–E adoption assistance?	1
		Total Characters	72

2. Adoption Semi-Annual Summary Data Elements Record

a. The record will consist of 22 data elements.

The values for these data elements are generated by processing all records in the semi-annual detailed data transmission and computing the summary values for Elements 1 and 3–22. Element 2 is the semi-annual report period ending date. In calculating the age range for the child, the last day of the reporting period is to be used.

b. Data must be supplied for each of the elements in accordance with these instructions:

(1) Enter the appropriate value for each element.

(2) For all elements where the total is zero, enter a numeric zero.

(3) Enter data values in year, month order (YYMM), e.g., 9112 for December 1991.

c. Adoption Semi-Annual Summary Data Elements Record Layout follows:

Element No.	Summary data file	No. of characters
01	Number of records	8
02	Report period ending date (YYMM)	4
03	Children adopted Under 1 year old	8
04	Children adopted 1 year old	8
05	Children adopted 2 years old	8
06	Children adopted 3 years old	8
07	Children adopted 4 years old	8
08	Children adopted 5 years old	8
09	Children adopted 6 years old	8
10	Children adopted 7 years old	8
11	Children adopted 8 years old	8
12	Children adopted 9 years old	8
13	Children adopted 10 years old	8
14	Children adopted 11 years old	8
15	Children adopted 12 years old	8
16	Children adopted 13 years old	8
17	Children adopted 14 years old	8
18	Children adopted 15 years old	8
19	Children adopted 16 years old	8
20	Children adopted 17 years old	8
21	Children adopted 18 years old	8
22	Children adopted over 18 years old	8
	Record Length	172

Appendix E to Part 1355—Data Standards

All data submissions will be evaluated to determine the completeness and internal consistency of the data. Four types of assessments will be conducted on both the foster care and adoption data submissions. The results of these assessments will determine the applicability of the penalty provisions. (See § 1355.40(e) for penalty provision description.) The four types of assessments are:

- Comparisons of the detailed data to summary data;
- Internal consistency checks of the detailed data;
- An assessment of the status of missing data; and
- Timeliness, an assessment of how current the submitted data are.

A. Foster Care

1. Summary Data Elements Submission Standards

A summary file must accompany the Detailed Data Elements submission. Both transmissions must be sent through electronic means (see appendix C for details). This summary will be used to verify basic counts of records on the detailed data received.

a. The summary file must be a discrete file separate from the semi-annual reporting period detailed data file. The record layout for the summary file is included in appendix D. section A.2.c. All data must be included. If the value for a numeric field is zero, zero must be entered.

b. The Department will develop a second summary file by computing the values from the detailed data file received from the State. The two summary files (the one submitted by the State and the one created during Federal processing) will be compared, field by field. If the two files match, further validation of the detailed data elements will commence. (See Section A.2 below.) If the two summary files do not match, we will assume that there has been an error in transmission and will request a retransmission from the State within 24 hours of the time the State has been notified. In addition, a log of these occurrences will be kept as a means of cataloging problems and offering suggestions on improved procedures.

2. Detailed Data File Submission Standards

a. Internal Consistency Validations.

Internal consistency validations involve evaluating the logical relationships between data elements in a detailed record. For example, a child cannot be discharged from foster care before he or she has been removed from his or her home. Thus, the Date of Latest Removal From Home data element must be a date prior to the Date of Discharge. If this is not case, an internal inconsistency will be detected and an "error" indicated in the detailed data file.

A number of data elements have "if applicable" contingency relationships with other data elements in the detailed record. For example, if the Foster Family Structure has only a single parent, then the appropriate sex of the Single Female/Male element in the "Year of Birth" and "Race/Origin" elements must be completed and the "non-applicable" fields for these elements are to be filled with zero's or, for dates, left blank.

The internal consistency validations that will be performed on the foster care detailed data are as follows:

(1) The Local Agency must be the county or a county equivalent unit which has respensibility for the case. The 5 digit Federal Information Processing Standard (FIPS) code must be used.

(2) If Date of Latest Removal From Home (Element 21) is less than nine months prior to the Report Period Ending Date (Element 2) then the Date of Most Recent Periodic Review (Element 5) may be left blank.

(3) If Date of Latest Removal From Home (Element 21) is greater than nine months from Report Date (Element 2) then the Date of Most Recent Periodic Review (Element 5) must not be more than nine months prior to the Report Date (Element 2).

(4) If a child is identified as having a disability(ies) (Element 10), at least one Type of Disability Condition (Elements 11–15) must be indicated. Enter a zero (0) for disabilities that do not apply.

(5) If the Total Number of Removals From Home to Date (Element 19) is one (1), the Date Child was Discharged From Last Foster Care Episode (Element 20) must be blank.

(6) If the Total Number of Removals From Home to Date (Element 19) is two or more, then the Date Child was Discharged From Last Foster Care Episode (Element 20) must *not* be blank.

(7) If Data Child was Discharged From Last Foster Care Episode (Element 20) exists, then this date must be a date prior to the Date of Latest Removal From Home (Element 21).

(8) The Date of Latest Removal From Home (Element 21) must be prior to the Date of Placement in Current Foster Care Setting (Element 23).

(9) At least one element between elements 26 and 40 must be answered by selecting a "1". Enter a zero (0) for conditions that do not apply.

(10) If Current Placement Setting (Element 41) is a value that indicates that the child is not in a foster family or a pre-adoptive home, then elements 49–55 must be zero (0).

(11) At least one element between elements 59 and 65 must be answered by selecting a "1". Enter a zero for sources that do not apply.

(12) If the answer to the question, "Has this child ever been adopted?" (Element 16) is "1" (Yes), then the question, "How old was the child when the adoption was legalized?" (Element 17) must have an answer from "1" to "5."

(13) If the Date of Most Recent Periodic Review (Element 5) is not blank, then Manner of Removal From Home for Current Placement Episode (Element 25) cannot be option 3, "Not Yet Determined."

(14) If Reason for Discharge (Element 58) is option 3, "Adoption," then Parental Rights Termination dates (Elements 46 and 47) must not be blank.

(15) If the Date of Latest Removal From Home (Element 21) is present, the Date of Latest Removal From Home Transaction Date (Element 22) must be present and must be later than or equal to the Date of Latest Removal From Home (Element 21).

(16) If the Date of Discharge From Foster Care (Element 56) is present, the Date of Discharge From Foster Care Transaction Date (Element 57) must be present and must be later than or equal to the Date of Discharge From Foster Care (Element 56).

(17) If the Date of Discharge From Foster Care (Element 56) is present, it must be after the Date of Latest Removal From Home (Element 21).

b. Out-of-Range Standards.

Out-of-range standards relate to the occurrence of values in response to data elements that exceed, either positively or negatively, the acceptable range of responses to the question. For example, if the acceptable responses to the element, Sex of the Adoptive Child, is "1" for a make and "2" for a female, but the datum provided in the element is "3," this represents an out-of-range response situation.

Out-of-range comparisons will be made for all elements. The acceptable values are described in Appendix A, Section I.

3. Missing Data Standards

The term "missing data" refers to instances where data for an element are required but are not present in the submission. Data elements with values of "Unable to Determine," "Not Yet Determined" or which are not applicable, are not considered missing.

a. In addition, the following situations will result in converting data values to a missing data status:

(1) Data elements whose values fail internal consistency validations as outlined in A.2.a.(1)–(17) above, and

(2) Data elements whose values are out-of-range.

b. The maximum amount of allowable missing data is dependent on the data elements as described below:

(1) No Missing Data.

The data for the elements listed below must be present in all records in the submission. If any record contains missing data for any of these elements, the entire submission will be considered missing and processing will not proceed.

Element No.	Element name
01	State.
02	Report date.
03	Local agency FIPS code.
04	Record number.

(2) Less Than Ten Percent Missing Data.

The data for the elements listed below cannot have ten percent or more missing data without incurring a penalty.

Element No.	Element description
05	Date of most recent periodic, review.
06	Child's date of birth.
07	Child's sex.
08	Child's race.
09	Hispanic origin.
10	Does child have a disability(ies)?
11–15	Type of disability (at least one must be selected).
16	Has child been adopted?
17	How old was child when adoption was legalized?
18	Date of first removal from home.
19	Total number of removals from home to date.
20	Date child was discharged from last foster care.
21	Date of latest removal from home.
22	Removal transaction date.
23	Date of placement in current foster care setting.
24	Number of previous placement settings during this removal episode.
25	Manner of removal from home for current placement episode.
26–40	Actions or conditions associated with child's removal (at least one must be selected).
41	Current placement setting.
42	Out of State placement.
43	Most recent case plan goal.
44	Caretaker family structure.
45	Year of birth of 1st principal caretaker.
46	Year of birth of 2nd principal caretaker.

VOL 58 ISS 244 DE 22 1993 UMI

VOL 58 ISS 244 DEC 22 1993 UMI

Element No.	Element description
47	Date of mother's parental rights termination.
48	Legal of putative father parental rights termination date.
49	Foster family structure.
50	Year of birth of 1st foster caretaker.
51	Year of birth of 2nd foster caretaker.
52	Race of 1st foster caretaker.
53	Hispanic 1st foster caretaker.
54	Race of 2nd foster caretaker.
55	Hispanic 2nd foster caretaker.
56	Date of discharge from foster care.
57	Foster care discharge transaction date.
58	Reason for discharge.
59–65	Sources of Federal support/assistance for child (at least one must be selected).

c. Penalty Processing.

Missing data are a major factor in determining the application of the penalty provisions of this regulation.

(1) Selection Rules.

All data elements will be used in calculating the missing data provision of the penalty unless one of the following limiting rules applies to the detailed case record.

(a) If Date of Latest Removal From Home (Element 21) and the Date of Discharge From Foster Care (Element 56) is less than 30 days, then the following date elements are the only ones to be used in evaluating the missing data provisions for purposes of penalty calculation:

Elements
1 to 4
6 to 9
21 and 22
41 and 42
56 to 58

(b) If Date of Latest Removal From Home (Element 18) is prior to October 1, 1995, then the following data elements are the only ones to be used in evaluating the missing data provisions for purposes of penalty calculation:

Elements
1 to 4
6 to 9
21 and 22
41 and 43
56 to 58

(2) Penalty Calculations.

The percentage calculation will be performed for each data element. The total number of detailed records that are included by the selection rules in 3.c.(1), will serve as the denominator. The number of missing data occurrences for each element will serve as the numerator. The result will be multiplied by one hundred. The penalty is invoked when any one element's missing data percentage is ten percent or greater.

4. Timeliness of Foster Care Data Reports

The semi-annual reporting periods will be as of the end of March and September for each year. The States are required to submit reports within 45 calendar days after the end of the semi-annual reporting period.

Computer generated transaction dates indicate the date when key foster care events are entered into the State's computer system. The intent of these transaction dates is to ensure that information about the status of children in foster care is recorded and, thus, reported in a timely manner.

a. Date of Latest Removal From Home

The Date of Latest Removal From Home Transaction Date (Element 22) must not be more than 60 days after the Date of Latest Removal From Home (Element 21) event.

b. Date of Discharge From Foster Care

The Date of Discharge From Foster Care Transaction Date (Element 57) must not be more than 60 days after the Date of Discharge From Foster Care (Element 56) event.

For purposes of penalty processing, ninety percent of the records in a detailed data submission, must indicate that:

(1) The difference between the Date of Latest Removal From Home Transaction Date (Element 22) and the Date of Latest Removal From Home (Element 21) event is 60 days or less;

and, where applicable,

(2) The difference between the Date of Discharge From Foster Care Transaction Date (Element 57), and the Date of Discharge From Foster Care (Element 56) event is 60 days or less.

B. Adoption

1. Summary Data Elements File Submission Standards

A summary file must accompany the detailed Data Elements File submission. Both files must be sent through electronic means (see appendix C for details). This summary will be used to verify the completeness of the Detailed Data File submission received.

a. The summary file should be a discrete file separate from the semi-annual reporting period detailed data file. The record layout for the summary file is included in appendix D, section B.2.c. All data must be included. If the value for a numeric field is zero, zero must be entered.

b. The Department will develop a second summary file by computing the values from the detailed data file received from the State. The two summary files (the one submitted by the State and the one created during Federal processing) will be compared, field by field. If the two files match, further validation of the detailed data elements will commence. (See section B.2 below.) If the two summary files do not match, we will assume that there has been an error in transmission and will request a retransmission from the State within 24 hours of the time the State has been notified. In addition, a log of these occurrences will be kept as a means of cataloging problems and offering suggestions on improved procedures.

2. Detailed Data Elements File Submission Standards

a. Internal Consistency Validations

Internal consistency validations involve evaluating the logical relationships between data elements in a detailed record. For example, an adoption cannot be finalized until parental rights have been terminated. Thus, the dates of Mother/Father Termination of Parental Rights, elements must be present and the dates must be prior to the "Date Adoption Legalized." If this is not the case, an internal inconsistency will be detected and an "error" indicated in the detailed data file.

A number of data elements have "if applicable" contingency relationships with other data elements in the detailed record. For example, if the Adoptive Parent is single, then the appropriate sex of the single female/male element in the "Family Structure," "Year of Birth" and "Race/Origin" elements must be completed and the "non-applicable" fields for these elements are to be filled with zeros or left blank.

The internal consistency validations that will be performed on the adoption detailed data are as follows:

(1) The Child's Date of Birth (Element 5) must be later than both the Mother's and Father's Year of Birth (Elements 16 and 17) unless either of these is unknown.)

(2) If the State child welfare agency has determined that the child is a special needs child (Element 9), then "the primary basis for determining that this child has special needs" (Element 10) must be completed. If "the primary basis for determining that this child has special needs" (Element 10) is answered by option "4," then at least one element between Elements 11–15, "Type of Disability," must be selected. Enter a zero (0) for disabilities that do not apply.

(3) Dates of Parental Rights Termination (Elements 19 and 20) must be completed and must be prior to the Date Adoption Legalized (Element 21).

(4) If "Is a monthly financial subsidy being paid for this child" (Element 35) is answered negatively, "2", then Element 36 must be zero (0) and "Is the subsidy paid under Title IV–E adoption assistance" (Element 37) must be a "2".

(5) If the "Child Was Placed By" (Element 34) is answered with option 1, "Public Agency," then the question, "Did the State Agency Have any Involvement in This Adoption" (Element 4) must be "1".

(6) If the "Relationship of Adoptive Parent(s) to the Child," "Foster Parent of Child" (Element 31) is selected, then the question, "Did the State Agency Have any Involvement in This Adoption" (Element 4) must be "1".

(7) If "Is a monthly financial subsidy being paid for this child?" (Element 35) answered "1," then the question, "Did the State Agency Have any Involvement in This Adoption" (Element 4) must be "1."

(8) If the "Family Structure" (Element 22) is option 3, Single Female, then the Mother's Year of Birth (Element 23), the "Adoptive Mothers's Race" (Element 25) and "Hispanic Origin" (Element 26) must be completed. Similarly, if the "Family Structure" (Element 22) is option 4, Single Male, then the Father's Year of Birth (Element 24), the "Adoptive Fathers's Race" (Element 27) and "Hispanic Origin" (Element 28) must be completed. If the "Family Structure" (Element 22) is option 1 or 2, then both Mother's and Father's "Year of Birth," "Race" and "Hispanic Origin" must be completed.

b. Out-of-Range Standards.

Out-of-range standards relate to the occurrence of values in response to data elements that exceed, either positively or negatively, the acceptable range of responses to the question. For example, if the acceptable response to the element, Sex of the Adoptive Child, is "1" for a male and "2" for a female, but the datum provided in the element is "3," this represents an out-of-range response situation.

Out-of-range comparisons will be made for all elements. The acceptable values are described in appendix B, section I.

3. Missing Data Standards

The term "missing data" refers to instances where data for an element are required but are not present in the submission. Data elements with values of "Unable to Determine," "Other" or which are not applicable, are *not* considered missing.

a. In addition, the following situations will result in converting data values to a missing data status:

(1) Data elements whose values fail internal consistency validations as outlined in 2.a.(1)–(8) above, and

(2) Data elements whose values are out-of-range.

b. The maximum amount of allowable missing data is dependent on the data elements as described below.

(1) No Missing Data

The data for the elements listed below must be present in all records in the submission. If any record contains missing data for any of these elements, the entire submission will be considered missing and processing will not proceed.

Element No.	Element name
01	State.
02	Report date.
03	Record number.
04	Did the State agency have any involvement in this adoption?

(2) Less Than Ten Percent Missing Data

The data for the elements listed below cannot have ten percent or more missing data without incurring a penalty.

Element No.	Element name
05	Child's date of birth.
06	Child's sex.
07	Child's race.
08	Is child hispanic?
09	Does child have special needs?
10	Indicate the primary basis for determining that the child has special needs. (If Element 09 is yes, you must answer this question.)
11–15	Type of special need (at least one must be selected.)
16	Mother's year of birth.
17	Father's year of birth.
18	Was mother married at time of child's birth?
19	Date of mother's termination of parental rights.
20	Date of father's termination of parental rights.
21	Date adoption legalized.
22	Adoptive parent(s)' family structure.
23	Mother's year of birth.
24	Father's year of birth.
25	Adoptive mother's race.
26	Hispanic mother.
27	Adoptive father's race.
28	Hispanic father.
29–32	Relationship of adoptive parent(s) to child (at least one must be selected.)
33	Child placed from.
34	Child placed by.
35	Is a monthly financial subsidy paid for this child?
36	If yes, the monthly amount is?
37	Is the child receiving Title IV–E adoption assistance? (If Element 35 is a "1" (Yes) an answer to this question is required.)

c. Penalty Processing.

Missing data are a major factor in determining the application of the penalty provisions of this regulation.

(1) Selection Rules.

Only the adoption records with a "1" (Yes) answer in Element 4, "Did the State Agency have any Involvement in this adoption" will be subject to the penalty assessment process.

(2) Penalty Calculations.

The percentage calculation will be performed for each data element. The total number of detailed records will serve as the denominator and the number of missing data occurrences for each element will serve as the numerator. The result will be multiplied by one hundred. The penalty is invoked when any one element's missing data percentage is ten percent or greater.

4. Timeliness of Adoption Data Reports

The semi-annual reporting periods will be as of the end of March and September for each year. The States are required to submit reports within 45 calendar days after the end of the semi-annual reporting period.

For penalty assessment purposes, however, no specific timeliness of data standards apply. Data on adoptions should be submitted as promptly after finalization as possible.

The desired approach to reporting adoption data is that adoptions should be reported during the reporting period in which the adoption is legalized. Or, at the State's option, they can be reported in the following reporting period if the adoption is legalized within the last 60 days of the reporting period.

Negative reports must be submitted for any semi-annual period in which no adoptions have been legalized.

Appendix F to Part 1355

ALLOTMENT OF FUNDS WITH 427 INCENTIVE FUNDS TITLE IV–B CHILD WELFARE SERVICES FISCAL YEAR 1993

Name of State	Allotment at $294,824,000 [1]	Allotment at $141,000,000 [1]	427 incentive funds
Alabama	5,798,251	2,771,128	3,027,123
Alaska	674,777	355,179	319,598
Arizona	4,781,390	2,291,632	2,489,758
Arkansas	3,495,975	1,685,501	1,810,474
California	30,048,818	14,206,363	15,842,455
Colorado	3,844,876	1,850,024	1,994,852
Connecticut	2,065,826	1,011,122	1,054,704
Delaware	763,822	397,168	366,654
Dist of Col	448,212	248,344	199,868
Florida	12,946,006	6,141,615	6,804,391
Georgia	8,386,050	3,991,391	4,394,659
Hawaii	1,281,048	641,063	639,985
Idaho	1,734,494	854,884	879,610
Illinois	12,157,021	5,769,574	6,387,447
Indiana	7,115,189	3,392,123	3,723,066
Iowa	3,565,712	1,718,385	1,847,327
Kansas	3,083,341	1,490,926	1,592,415
Kentucky	5,192,133	2,485,316	2,706,817
Louisiana	6,750,330	3,220,076	3,530,254
Maine	1,533,067	759,902	773,165
Maryland	4,256,288	2,044,023	2,212,265
Massachusetts	4,566,755	2,190,422	2,376,333
Michigan	10,860,253	5,158,089	5,702,164

VOL 58 ISS 244 DEC 22 1993 UMI

ALLOTMENT OF FUNDS WITH 427 INCENTIVE FUNDS TITLE IV–B CHILD WELFARE SERVICES FISCAL YEAR 1993—Continued

Name of State	Allotment at $294,624,000 [1]	Allotment at $141,000,000 [1]	427 incentive funds
Minnesota	5,092,532	2,438,349	2,654,183
Mississippi	4,437,556	2,129,499	2,308,057
Missouri	6,217,709	2,968,921	3,248,788
Montana	1,211,809	608,414	603,395
Nebraska	2,136,670	1,044,528	1,092,142
Nevada	1,326,362	662,431	663,931
New Hampshire	1,078,123	545,375	532,748
New Jersey	5,307,662	2,539,793	2,767,869
New Mexico	2,493,475	1,212,778	1,280,697
New York	15,530,358	7,360,253	8,170,105
North Carolina	8,326,069	3,963,107	4,362,962
North Dakota	982,955	500,499	482,456
Ohio	13,052,582	6,191,871	6,860,711
Oklahoma	4,428,365	2,125,165	2,303,200
Oregon	3,576,418	1,723,434	1,852,984
Pennsylvania	12,649,960	6,002,017	6,647,943
Rhode Island	1,070,439	541,752	528,687
South Carolina	5,101,221	2,442,447	2,658,774
South Dakota	1,107,009	558,996	548,013
Tennessee	6,328,617	3,021,219	3,307,398
Texas	23,687,998	11,206,947	12,481,051
Utah	3,478,384	1,667,206	1,801,178
Vermont	749,584	390,454	359,130
Virginia	6,321,841	3,018,024	3,303,817
Washington	5,667,518	2,709,481	2,958,037
West Virginia	2,564,554	1,246,294	1,318,260
Wisconsin	6,033,052	2,881,847	3,151,205
Wyoming	751,264	391,247	360,017

[1] These totals include allotments to the United States Territories. Therefore, the summation of the States' allotments will not be equivalent.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

6. The authority citation for part 1356 is revised to read as follows:

Authority: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq.; 42 U.S.C. 1302.

7. Section 1356.20 is amended by redesignating existing paragraphs (b) through (d) as (d) through (f) and adding new paragraphs (b) and (c) as follows:

§ 1356.20 State plan document and submission requirements.

* * * * *

(b) Failure by a State to comply with the requirements and standards for the data reporting system for foster care and adoption (§ 1355.40 of this chapter) shall be considered a substantial failure by the State in complying with the State plan for title IV–E. Penalties as described in § 1355.40(e) of this chapter shall apply.

(c) For purposes of the application of penalties described in § 1355.40 of this chapter, the requirement at § 201.6(e) regarding the withholding of funds until the Secretary "* * * is satisfied that there will no longer be any such failure to comply * * *" will be met by submission of one acceptable regularly scheduled semi-annual data transmission of the type which was the cause of the penalty.

* * * * *

8. Section 1356.60 is amended by adding a new paragraph (c) (2)(x), and new paragraph (d), and republishing the introductory text in paragraph (c)(2) to read as follows:

§ 1356.60 Fiscal requirements (title IV–E).

* * * * *

(c) * * *

(2) The following are examples of allowable administrative costs necessary for the administration of the foster care program:

* * * * *

(x) Costs related to data collection and reporting.

* * * * *

(d) *Cost of the data collection system.* (1) Costs related to data collection system initiation, implementation and operation may be charged as an administrative cost of title IV–E at the 50 percent matching rate subject to the restrictions in paragraph (d) (2) of this section

(2) For information systems used for purposes other than those specified by section 479 of the Act, costs must be allocated and must bear the same ratio as the foster care and adoption population bears to the total population contained in the information system as verified by reports from all other programs included in the system.

PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV–B

9. The authority citation for part 1357 is revised to read as follows:

Authority: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq.; 42 U.S.C. 1302.

10. Section 1357.15 is amended by adding a new paragraph (h) as follows:

§ 1357.15 Child welfare services State plan requirements and submittal.

* * * * *

(h) In meeting the requirements of section 442(b)(8), each State must provide assurances that it will meet the requirements for data reporting for foster care and adoption as described in 45 CFR 1355.40 and transmit the required data in the form and manner prescribed by that section.

[FR Doc. 93–30999 Filed 12–21–93; 8:45 am]

BILLING CODE 4130–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1355 and 1356

RIN 0970–AB

Statewide Automated Child Welfare Information Systems

AGENCY: Office of Information Systems Management (OISM), ACF, HHS.

ACTION: Interim final rule.

SUMMARY: These interim final rules implement section 13713 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66), signed by the President on August 10, 1993. Under section 13713, funding is made available for the planning, design, development and installation of statewide automated child welfare information systems. Such systems must be comprehensive in that they must meet the requirements for an Adoption and Foster Care Analysis and Reporting System (AFCARS) required by section 479(b)(2) of the Social Security Act (the Act) and implementing regulations; to the extent practicable, be capable of interfacing with State child abuse and neglect automated systems; to the extent practicable, be capable of interfacing with, and retrieving information from the State automated system for determining eligibility for title IV–A assistance; and, be determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under State plans approved under title IV–B or IV–E of the Act.

Enhanced Federal funding at the 75 percent matching rate is provided for such activities as well as for the cost of hardware components effective October 1, 1993. This funding rate is eliminated under the statute after September 30, 1996, at which time a Federal matching rate of 50 percent is available. Also effective October 1, 1993, Federal financial participation at the 50 percent matching rate is available for the operation of such systems.

DATES: Effective December 22, 1993. *Comments:* Comments must be received on or before January 21, 1994.

ADDRESSES: Comments should be submitted in writing to the Assistant Secretary for Children and Families, Attention: Ms. Naomi Marr, Office of Information Systems Management, room 300E, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201. Comments may be inspected between 8 a.m. and 4:30 p.m. during regular business days by making arrangements with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Naomi Marr, (202) 401–6960.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This rule contains information collection activities which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

In accordance with the Paperwork Reduction Act of 1980, the department is resubmitting for OMB clearance the APD process, described in this document, under which States may apply for and obtain Federal financial participation in their APD acquisitions. This reporting requirement was previously approved under OMB control number 0990–0174.

The reporting burden over and above what the States already do for the current APD approval process is estimated to average 10 hours for the initial submission of an APD. This includes time for reviewing instructions, and collecting and reporting the needed information in the APD. The Department will submit a new request for OMB clearance of the additional requirements imposed by the APD process for statewide automated child welfare information systems. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to the Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447 and the Office of Information and Regulatory Affairs, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503, Attn: Laura Oliven, Desk Officer for ACF.

Statutory Authority

These regulations are published under the authority of several provisions of the Social Security Act (the Act), as amended by Public Law 103–66. Section 474(a)(3) of the Act contains new requirements providing funding for statewide automated child welfare information systems to carry out the State's programs under parts IV–B and IV–E of the Act. Under section 474(a)(3)(c), Federal financial participation at the 75 percent matching rate is available from October 1, 1993 through September 30, 1996 (after which time the rate is reduced to 50 percent), for the planning, design, development and installation of statewide automated child welfare information systems (including the full amount of expenditures for hardware components for such systems) to the extent that such systems—

(i) Meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

(ii) To the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

(iii) To the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part IV–A (for the purposes of facilitating verification of eligibility of foster children); and

(iv) Are determined by the Secretary to be likely to provide more efficient, economical and effective administration of the programs carried out under a State's plans approved under part IV–B or IV–E of the Act.

Under section 474(a)(3)(D), Federal financial participation at the 50 percent matching rate is available for the operation of the systems described above.

Section 474(e) provides that the Secretary treat as necessary for the proper and efficient administration of the State plan, all expenditures of a State necessary to plan, design, develop, install, and operate the information retrieval system under section 474(a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under part IV–E of the Act.

These regulations are also published under the general authority of section 1102 of the Act which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act.

Justification for Dispensing With Notice of Proposed Rulemaking

The amendments to these regulations are being published in interim final form. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that if the Department has good cause for finding that a Notice of Proposed Rulemaking is unnecessary, impracticable or contrary to the public interest, it may dispense with such notice if it incorporates a brief statement in the final regulation of the reasons for doing so.

VOL 58 ISS 244 DEC 22 1993 UMI

The Department finds that there is good cause to dispense with Notice of Proposed Rulemaking with respect to these changes. We find that publication of these proposed rules would be impracticable, and not in the public interest. The statutory provision being implemented under these rules is effective October 1, 1993, and with respect to the availability of enhanced funding expires September 30, 1996. Publication of a proposed rule could impinge on a State's ability to take advantage of the availability of enhanced funding to improve its ability to serve at risk children, as well as the Secretary's ability to ensure that such expenditures are limited to the planning and development of efficient, economical and effective statewide automated child welfare information systems.

However, we are interested in comments on these interim final rules. We will consider any comments that are received within 30 days of the date of publication of this interim final rule and, if appropriate, we will publish final rules with any necessary changes.

Background

The title IV–E program, Foster Care and Adoption Assistance, provides Federal funds to States for the care of eligible dependent, abused or neglected children who must be placed in foster care, and for adoption assistance payments for certain children with special needs. The title IV–B, subpart 1, program provides Federal funds for service programs for children and their families aimed at strengthening families and preventing the unnecessary separation of children from their families; assuring adequate care by the State of children who are away from their homes; providing services to return children when separation occurs; and placing children for adoption or another permanent placement when restoration to the family is not possible or appropriate.

In addition, Public Law 103–66 added a new capped entitlement program under title IV–B, subpart 2, for family preservation and family support services. Family preservation services are targeted to families that are already in crisis and children who are at risk of being placed in foster care and include intensive interventions to help families weather crises, reunifications of families by returning home foster care children whenever possible, and arranging adoptions or permanent and appropriate living arrangements for those children who cannot return home. Family support services are designed to help increase the strength and stability of families and include programs to improve and reinforce parenting skills, to provide respite care for care providers and drop-in centers for families with information and referrals to access other services.

Effective statewide automated capability to support the administration of services offered under these programs in a comprehensive fashion is essential to enable long over-due improvements to program administration and service delivery. With these varied programs, States have an opportunity to operate a continuum of services to support abused, neglected and special needs children, as well as to ensure that families are helped to stay together where possible. By including these programs in a single automated information system, a State will eliminate redundant data collection and file maintenance in determining eligibility, providing services, and tracking program operations and costs. With a single Statewide automated information system, States will realize more efficient and effective processes and procedures and as a result improved service delivery. Readily available information and automated procedures to assist in case assessments and plans will allow States to be more proactive in program administration and to focus efforts on preventive services and measures rather than constantly reacting to crisis.

Families today are under tremendous stress from causes ranging from a weak job market and health care crisis to teen pregnancy, AIDS, substance abuse epidemics, and violence in our streets. These stresses on families have resulted in steadily rising caseloads (and numbers of complex cases) which are threatening to overwhelm the network of public and private service programs for children and families. Child welfare systems are now overburdened, understaffed and at a crisis point. Lawsuits are more prevalent, staff turnover continues to be a problem and administrators are forced to respond to crises without adequate resources.

To address the clear need for systemic reform, section 13713 of Public Law 103–66 amends the funding provisions under section 474 of the Act to provide funding for the development and operation of comprehensive information systems to assist in the administration of title IV–B and IV–E programs. While the statutory language does not detail the nature of such systems, we believe it was clearly Congressional intent to limit enhanced funding to systems which would facilitate a comprehensive approach to strengthen families in which children are at risk and improve child welfare service administration through the use of better business practices.

To encourage States to act quickly to develop efficient comprehensive statewide automated information systems, Congress limited the availability of Federal funding at the 75 percent matching rate for Statewide Automated Child Welfare Information Systems (SACWIS) to Fiscal Years 1994, 1995 and 1996.

For many years, concerns have been raised about the lack of information available on children in foster care and their families. To address some of these concerns, in 1986 Congress amended title IV–E of the Social Security Act by adding section 479 which required the Federal government to institute a foster care and adoption data collection system. In response, requirements for an Adoption and Foster Care Analysis and Reporting System (AFCARS) were implemented under regulations at 45 CFR 1355.40 published elsewhere in this Federal Register. AFCAR systems collect information on children in foster care and children adopted through the public child welfare system. Although AFCARS will substantially improve information available on children in foster care and children being adopted and provide information essential for informed policy making and planning, its primary emphasis is on data analysis and reporting.

However, comprehensive child welfare information systems which incorporate the entire spectrum of child welfare and family support services, as well as the AFCARS requirements, will play a more pivotal role by enhancing the collection of data needed by policy makers and, more importantly, by providing the tools to assist caseworkers and managers in making decisions and providing comprehensive support to families in need. By applying appropriate technology to the management of child welfare programs, administrative and system barriers that inhibit the provision of effective services to children can be largely eliminated.

Information systems technology can facilitate caseworker decisions by providing caseworkers with immediate access to case file information and reducing the time spent by workers searching for case information. These systems can also provide managers and supervisors with quick access to information to monitor and evaluate caseworker tasks and goals. In addition, reporting requirements can be met with minimal duplication of effort with properly designed information system data bases. In summary, these

information systems will result in more efficient and effective practices in administering child welfare programs which in turn will ultimately result in improved service delivery.

In developing these regulations we considered all information available on the need for comprehensive child welfare services, including existing State efforts to establish such systems and the efforts of a State and Federal child welfare systems workgroup which convened prior to the enactment of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). While we believe these rules address the basic needs of such systems yet provide maximum State flexibility, we have included a comment period with this rule and invite suggestions and comments for improvement. Final rules will be issued to the extent necessary to reflect comments received.

Regulatory Provisions

We have included the requirements for the automation of comprehensive child welfare services under 45 CFR part 1355, which provides the general requirements for Foster Care Maintenance Payments, Adoption Assistance and Child Welfare Services. A new § 1355.50 has been added to provide that the purpose of these regulations is to set forth the requirements and procedures States must meet in order to receive Federal financial participation authorized under the Budget Reconciliation Act of 1993 for the planning, design, development, installation and operation of statewide automated child welfare information systems.

A new § 1355.52, Funding authority for statewide automated child welfare information systems (SACWIS), has been added to effect the statutory provisions under section 474(a)(3)(C) of the Social Security Act authorizing funding for comprehensive child welfare systems.

Paragraph (a) provides the basic requirements a State must meet in order to be eligible for Federal financial participation at a 75 percent matching rate for fiscal years 1994, 1995 and 1996 and at a 50 percent matching rate thereafter for expenditures related to the planning, design, development and installation of a statewide automated child welfare information system.

First, under § 1355.52(a)(1), the SACWIS must provide for the collection and electronic reporting of data required under section 479(b) of the Act and the implementing regulations under § 1355.40. Under section 479(b) of the Act, States must establish and implement adoption and foster care reporting systems designed to collect uniform, reliable information on children who are under the responsibility of the State title IV–B/IV–E agency for placement and care. Those requirements, Adoption and Foster Care Analysis and Reporting Systems (AFCARS), were recently implemented under § 1355.40 published elsewhere in this Federal Register.

Under paragraph (a)(2), the SACWIS must, to the extent practicable, provide for an interface with the State's data collection system for child abuse and neglect. The phrase "to the extent practicable" as used in this paragraph is statutory and reflects in part the voluntary nature of the National Child Abuse and Neglect Data Systems (NCANDS) established under Pub. L. 100–294, the Child Abuse Prevention, Adoption and Family Services Act of 1988, as well as the inherent requirement that such interface be cost beneficial to the title IV–B/IV–E programs.

However, we would expect that most States would integrate the automation of child abuse and neglect activities as part of their SACWIS, because of the direct association between child protection and child welfare services. The child protection system is actually the front end (the first point of contact) of child welfare services. In most cases, the child welfare system first learns of a new child or a new family through that child's or family's contact with child protection services. At the time of the initial contact, child protection services collects much of the information that is needed later in the foster care and adoption process and for use in any newly established family preservation and family support service activities.

While the language of the statute speaks of interfacing with child abuse and neglect data systems, we understand that in many States these data are already a part of a larger child welfare system and/or States will be considering the integration of such data as part of an overall comprehensive information/client system. Accordingly, the Statewide Automated Child Welfare Information Systems development effort may include automated procedures which will provide the State with the capability to meet the National Child Abuse and Neglect Data System. The information gathered in the NCANDS effort is critical information for making informed decisions about services and service needs at the point of deciding to maintain the child at home, or in placement, and adoption. In addition, basic demographic child and family data are the same as that required by AFCARS so that duplicate data gathering and input can be avoided. We have determined that such efforts would meet the efficient, economical and effective administration factors mentioned above.

While we believe that such interface/integration is vital, in accordance with the statute any State which can clearly demonstrate through the submission of documentation with the advanced planning document (APD) that such integration or interface is not practicable because no automated Statewide database exists to complete the interface or because of cost constraints would not be required to include this provision in the SACWIS as a condition of approval. In the latter case, the documentation should establish that the costs to develop and operate an automated interface with the existing system will exceed the combined costs of manual inquiry, verification and information exchange with the existing system, and duplicate data entry and maintenance in the SACWIS.

Similarly, paragraph (a)(3) requires that the SACWIS, to the extent practicable, provide for interface with and retrieval of information from the State automated information system that collects information relating to eligibility of individuals under title IV–A of the Act. Interface with, and access to, the data maintained by State IV–A systems is of vital importance for gathering information about clients or other relevant persons and because eligibility for foster care maintenance payments as well as adoption assistance are based in part, on a child's eligibility under the AFDC program. However, as provided in greater detail under the discussion of § 1355.53 below, this requirement need not be met if a State clearly demonstrates through the submission of documentation with the APD, as indicated under § 1355.52(a)(2), that electronic interface and data retrieval is not practicable because of limitations in the design of the IV–A system or because of cost constraints.

Finally, paragraph (a)(4) requires that the SACWIS provide for more efficient, economical and effective administration of the programs carried out under State plans approved under title IV–B and title IV–E.

As used here, efficient, economical and effective means that: The system must improve program management and administration by addressing all program services and case processing requirements by meeting the requirements of § 1355.53; the design must appropriately apply computer technology; the project must not require duplicative application system development or software maintenance;

VOL 58 ISS 244 DE 22 1993 UMI

the procurement must provide for maximum free and open competition; and the costs must be reasonable, appropriate and beneficial. These are basic standards which should be inherent in any automated systems effort. The Administration for Children and Families has used them consistently in considering State plans to automate.

The statute, in authorizing for the first time automated information systems for family and children's programs, specifically requires the Secretary to include economic considerations, along with the traditional statutory provisions for systems implementation of "efficient and effective" in determining whether a system should be funded. We believe that this clearly signals Congressional concern over the enormous costs which have occurred with respect to other public assistance systems and the expectation that the Secretary will take some measures to contain costs. In accordance with existing requirements at 45 CFR part 95, we will scrutinize the APD and the accompanying cost benefit analysis before approval as well as monitor adherence to the approved APD.

Paragraph (b) provides that Federal financial participation provided under paragraph (a) is also available for the full amount of expenditures for hardware components. The matching rate provided is 75 percent with respect to Fiscal Years 1994, 1995 and 1996, and 50 percent thereafter. The general requirements applicable to the treatment of hardware expenditures under part 95 apply to all such expenditures.

Paragraph (c) provides that Federal financial participation at the 50 percent matching rate is available for the operating costs of Statewide Automated Child Welfare Information Systems described under paragraph (a).

We have added a new paragraph § 1355.53 to specify the conditions for funding systems under § 1355.52. Functional guidelines providing details of these requirements will be issued shortly in the form of a program instruction.

Under paragraph (a), as a condition of funding, the SACWIS must be designed, developed (or an existing enhanced State system), and installed in accordance with an approved advance planning document (APD). The APD must provide for an efficient and effective design which, when implemented, will produce a comprehensive system which will improve the program management and administration of the State plans for titles IV–B and IV–E. Comprehensive means that the SACWIS must, to the extent feasible and appropriate, introduce, monitor and account for all the factors of child welfare services, foster care and adoption assistance, family preservation and support services, and independent living services, as provided under paragraph (b).

Paragraphs (b)(1) through (b)(6), provide the functional capabilities required of the SACWIS for effective management, tracking and reporting. First, under paragraph (b)(1) the system must provide the State automated support to meet the Adoption and Foster Care reporting requirements through the collection, maintenance, integrity checking and electronic transmission of the data elements specified by the Adoption and Foster Care Analysis and Reporting System (AFCARS) requirements mandated under section 479(b) of the Act and § 1355.40 of this chapter. This follows the statutory requirement that comprehensive child welfare systems development, under the new funding mechanism, support the AFCARS requirements vital to informed policy making and planning of child welfare programs.

Paragraph (b)(2) includes the requirements for system interface or integration necessary for the coordination of services with other Federally assisted programs and for the elimination of paperwork and duplication of data collection and data entry. Under this paragraph the SACWIS must provide for electronic data exchange with State systems for: (A) Title IV–A, (B) National Child Abuse and Neglect Data Systems (NCANDS), (C) title XIX, and (D) title IV–D, unless the State demonstrates that such interface or integration would not be practicable because of systems limitations or cost constraints.

Electronic exchange of case file information will assist in service planning, allowing multiple aspects of a client's needs to be addressed, and appropriate services to be initiated in a prompt and coordinated way and will insure that the system operates more efficiently by eliminating redundant data and paper exchanges and the delays resulting from separate processes.

With respect to the electronic exchange with the NCANDS and IV–A systems, these are statutory conditions of funding which must be met to the extent practicable. As indicated previously, we have defined "practicable" to mean that the interface requirement need not be met if the responding program system is not capable of an exchange (and the State does not wish to pursue such capability) or where cost constraints under such an interface infeasible as demonstrated by the State through the submission of documentation, in the APD, that the development and operation of such an exchange would exceed the costs of manual inquiry, verification and information exchange as well as the cost of duplicate data entry and maintenance.

Similarly, the electronic data exchange with the title XIX system is required unless the State Medicaid system does not have the capacity for such an interface or the State clearly demonstrates through the submittal of documentation that such an exchange would not otherwise be practicable because of cost constraints. While this requirement was not expressly provided in statute, because the vast majority of clients under State title IV–E plans are also Medicaid eligible, an interface between the agencies is critical to efficient and effective operation of State plans for child welfare.

The requirement for an interface with the State's child support enforcement system, unless demonstrated to be impracticable, duplicates the systems requirements under the title IV–D program, requiring statewide child support enforcement systems to provide electronic data exchange with the title IV–E program, to assure that benefits and services are provided in an integrated manner and that the State is able to collect support from the responsible parent. Thus, we do not anticipate that any State will be unable to meet this requirement.

Paragraphs (b)(3) through (b)(8) provide, in accordance with section 474(a)(3)(C)(iv) of the Act, the functional requirements determined by the Secretary to be likely to provide more efficient, economical and effective administration of the programs carried out under State plans approved under parts IV–B and IV–E of the Act. We have determined, based on field experience, contact with the General Accounting Office, input from State and private sector child welfare representatives and experts and through the review of existing State and local efforts to automate child welfare information systems that the level of system functionality required by these paragraphs represents the minimum but most desirable and cost-effective requirements of a statewide automated child welfare information system.

Paragraph (b)(3) requires that the SACWIS enable the State to meet the provisions of section 427(a) of the Act by providing for the automated collection, maintenance, management and reporting of necessary information.

Section 427(a) of the Act requires that each child in foster care under the responsibility of the State agency be afforded specific protections related to case planning, case reviews and dispositional hearings. To address these protections, the State must provide for an inventory of all children in foster care; a statewide information system to describe and track children in foster care; a case review system which provides for a case plan, periodic reviews and procedural safeguards; and, a program for reunification services.

Accordingly, we are requiring under paragraph (b)(3) that the SACWIS must have automated procedures and processes to assist the State in meeting the 427(a) requirements. At a minimum, these automated procedures would include collection, maintenance, management and reporting of information on all children in foster care under the responsibility of the State, including statewide data from which the demographic characteristics, location and goals for foster children can be determined.

Under paragraph (b)(4), the SACWIS must provide for the collection and management of information necessary to facilitate the delivery of client services, the acceptance and referral of clients, client registration, and the evaluation of the need for services, including child welfare services under title IV–B subparts 1 and 2, family preservation and family support services, family reunification and permanent placement. This provision speaks to intake and assessment activities which include processing referrals for services, conducting investigations and determining the need for services.

Under paragraph (b)(5), which is self-explanatory, the SACWIS must collect and manage information necessary to determine eligibility for the foster care program, the adoption assistance program, and the independent living program.

Paragraph (b)(6) requires that the SACWIS support necessary case assessment activities. Under this requirement, the system must have automated procedures to assist in evaluating the client's needs.

Under paragraph (b)(7), the SACWIS must assist the State in monitoring case plan development, review and management, including eligibility determinations and redeterminations. Under this requirement the system must provide for service provision and case management which entails determining eligibility and supporting the caseworker's determination of whether continued service is warranted, the authorization and issuance of appropriate payments, the preparation of service plans, determining whether the agency can provide services, authorizing services and managing the delivery of services. To assist in case management, the system should provide for case status and work flow aids to determine progress toward the case plan goal and service monitoring, which could include time or event-driven caseworker ticklers.

Finally, under paragraph (b)(8), the confidentiality and security of the information and the system must be ensured. Under this paragraph, the system should provide for: the basic physical safety of the data and its security including appropriate safeguards from inappropriate disclosure, data back-up and recovery, disaster recovery and contingency planning.

Paragraph (c) provides other program functions which may be included in the SACWIS design under paragraph (a) of this section. We believe that the vast majority of States would want to incorporate these functions in their SACWIS development or enhancement activities but we are sensitive to the need for State flexibility. The discretion provided under paragraph (c) will allow States to determine their own optimal level of automation and to provide guidance to prevent inefficient or ineffective use of automation which may add significant cost and complexity to program administration but do very little to improve services provided.

Under paragraph (c)(1), the SACWIS may provide management and tracking capability to assist the State in resource management, including automated procedures to assist in managing service providers, facilities, contracts and recruitment activities associated with foster care and adoptive families. This establishes relationships with and maintains information on an array of service providers, including prevention programs, placement services and foster care providers and includes activities such as recruitment of foster/adoptive families, performance of home studies, training families and monitoring standards and violations.

Under paragraph (c)(2) the SACWIS may provide for tracking and maintenance of legal and court information, and preparation of appropriate notifications to relevant parties. This function encompasses legal activities and documentation procedures involving judicial events and might include activities such as the preparation and recording of petitions, informing parties of impending actions and tracking events and recording outcomes of petitions, hearings and proceedings.

Under paragraph (c)(3) the SACWIS may provide automated capability to assist in the administration and management of staff and workloads. This functionality would provide for a sensible and practical balance between the workload and workforce and provide a methodology for management to prioritize resource allocation and workload decisions.

Under paragraph (c)(4) of this section, the SACWIS may assist the State in tracking and management of licensing verification activities. This would provide automated capability to track and manage compliance with regulatory standards for licensing of facilities and homes and certification status as well as tracking facility capacity, limitations, level of care and utilization and could include licensing renewal and issuance if the responsibility resides with the child welfare agency.

Paragraph (c)(5) provides that the SACWIS may support the State in priority setting and risk assessment activities necessary to determine the client's level of risk. Such automated support could include an expert systems module, or rule-based automation to assist in consistent caseworker analysis and to aid in decision-making to the extent the APD justifies that such automation is both technologically and programmatically feasible as well as cost effective. Such programs use knowledge and inference procedures to assist in determining a course of action based on the level of risk, possible solutions, and prioritizing resources to reduce the risk. While expert systems cannot substitute for case workers making decisions in the field after on-site investigation, they can assist in more efficient use of case worker time and resources by sharing how other experts would proceed in a given situation.

Paragraph (d) provides that the SACWIS design may also provide for interface with other automated information systems, including, but not limited to: Accounting and licensing systems, court and juvenile justice systems, vital statistics and education, as appropriate. Such interface or integration would create a link to obtain and verify client information that is maintained in other systems to ensure appropriate delivery of services such as information on school attendance and performance. Other linkages could include resource directories and license payment systems.

Under paragraph (e), if the cost benefit analysis submitted as part of the APD indicates that full adherence to

VOL
58
ISS
244
DE
22
1993
UMI

paragraph (c) and (d), would not be cost beneficial (e.g., relative to the State caseload or level of automation), final approval of the APD may be withheld pending reassessment of the State's specific automation needs and, as necessary, adjustment of the APD to reflect a level of automation which is cost beneficial. We believe this is in keeping with the intent of the statute that such systems provide more economical administration of services provided under titles IV–B and IV–E.

Paragraph (f) provides that a Statewide automated child welfare information system may be designed, developed and installed on a phased basis, in order to allow States to implement AFCARS requirements expeditiously, in accordance with section 479(b) of the Act, as long as the approved APD includes the State's plan for full implementation of a comprehensive system which meets all functional and data requirements as specified in paragraphs (a) and (b) of this section, and a system design which provides for a comprehensive system and which will support these enhancements on a phased basis. We recognize that States may need to take this approach which is designed to allow AFCARS requirements to be met expeditiously, while providing for the development a more comprehensive case management system at a slower pace.

The Administration for Children and Families will provide technical assistance to assist States in the planning, design, development and installation of a SACWIS, upon request. Such assistance includes aid in defining a case management system and in preparing a phased approach to development, as provided above, so that AFCARS requirements can be addressed expeditiously.

We will also be available to provide technical assistance to States wishing to pursue multi-State projects. Several States have indicated interest in this approach and we would certainly encourage the development of such projects to maximize the benefits of application software development and acquisition.

Finally, paragraph (f) requires that the system perform Quality Assurance functions to provide for the review of case files for accuracy, completeness and compliance with Federal requirements and State standards.

A new § 1355.54 has been added to address requirements for submittal of advance planning documents. Under § 1355.54, Submittal of advance planning documents, the State title IV–E agency must submit an APD for a statewide automated child welfare information system, signed by the appropriate State official, in accordance with procedures specified by 45 CFR part 95, subpart F.

We would note that while the requirements under part 95 related to system transfer continue to apply (States must consider system transfer as one option and provide a justification if it is not the option selected), because of the limited scope of current comprehensive child welfare systems, a flexible approach in considering justifications for not transferring an existing system will be adopted. While we encourage information sharing and will aid in this effort, we recognize that the vast majority of child welfare systems, where they exist, are under-developed unlike other public assistance information systems where an array of models are available for transfer.

The conditions for FFP at the applicable rates for the costs of automatic data processing incurred under an approved State plan for titles IV–A, IV–B and IV–E of the Act (among others) are contained in 45 CFR part 95, subpart F. At 45 CFR 95.611 we explicitly note that the State agency shall obtain prior written approval before beginning a project where enhanced FFP will be requested.

If a State is proceeding with the planning, design, development, or installation of a child welfare information system under an APD which was approved prior to October 1, 1993, an As Needed APD Update (or Annual APD Update, as appropriate) must be submitted to the Department for review and approval. The regulations related to an As Needed APD Update, which are defined at 45 CFR 95.605(3)(b), indicate that this document must be submitted when significant changes are expected to the project (e.g., changes in scope of the project, overall increase in Federal funding, or changes in the distribution of project costs). Furthermore, the regulations at 45 CFR 95.611(c)(2) indicate that the State must submit the As Needed APD Update to the Department, no later than sixty days after the occurrence of the project changes which are being reported. This regulation requires that an As Needed APD Update be submitted sixty days from the date of this Interim Final Rule. To receive enhanced funds, in this instance, the As Needed APD Update must identify the changes from the originally approved APD and address how the system will satisfy the minimum system requirements in § 1355.53.

A new § 1355.55 has been added to provide for ACF review and assessment of Statewide automated child welfare information systems. To ensure that funding is being used appropriately, it is necessary to conduct periodic reviews. Access to all aspects of the SACWIS, including design, development and operation, work performance and cost records must be made available to the Federal government by the State at intervals deemed necessary by ACF to monitor the project and to have an end of project closeout to ensure that all aspects of the project have been adequately completed.

Under paragraph (a), ACF will, on a continuing basis, review, assess and inspect the planning, design, development, installation and operation of the SACWIS to determine the extent to which such systems: (1) Meet § 1355.53 of this chapter, (2) meet the goals and objectives stated in the approved APD, (3) meet the schedule, budget, and other conditions of the approved APD, and (4) comply with the automated data processing services and acquisitions procedures and requirements of 45 CFR part 95, subpart F.

A new § 1355.56, Failure to meet the conditions of the approved APD, has been added to provide information on the consequences and actions resulting from a State's failure to meet the conditions of the approved APD. Under paragraph (a) of § 1355.56 if ACF finds that the State fails to meet any of the conditions cited in § 1355.53, or to substantially comply with the criteria, requirements and other undertakings prescribed by the approved APD, approval of the APD may be suspended. Further, paragraph (b) provides events which shall take place should suspension of the APD occur. Under paragraph (b)(1), if the approval of an APD is suspended during the planning, design, development, installation, or operation of the SACWIS the State will be given written notice of the suspension stating: (A) The reason for the suspension, (B) the date of the suspension, (C) whether the suspended system complies with part 95 criteria for 50 percent FFP, and (D) the actions required by the State for future enhanced funding. Under paragraph (b)(2), the suspension will be effective as of the date the State failed to comply with the approved APD. Paragraph (b)(3) further provides that the suspension shall remain in effect until ACF determines that such system complies with prescribed criteria, requirements, and other undertakings for future Federal funding. Should a State cease development of an approved system, either by voluntary withdrawal or as a result of Federal suspension, paragraph (b)(4) provides that all Federal incentive funds invested to date that exceed the normal administrative FFP rate (50 percent) will be subject to recoupment.

A new § 1355.57 has been added to address the issue of cost allocation. Under paragraph (a), all expenditures of a State to plan, design, develop, install, and operate the data collection and information retrieval system described in § 1355.53 of this chapter shall be treated as necessary for the proper and efficient administration of the State plan under title IV–E, without regard to whether the system may be used with respect to children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under the State plan. This provision reiterates the statutory intent that the system may apply to all children under the responsibility of the State title IV–B/IV–E agency not just those eligible for title IV–E payments. However, to the extent that the system includes functionality not directly related to the purposes of title IV–B and title IV–E (e.g., adult support services), the cost to design, develop and implement such functions must be charged to the appropriate funding source they support and associated operating costs allocated as required under part 95, as provided below.

Paragraph (b) provides that cost allocation and distribution for the planning, design, development, installation and operation must be in accordance with § 95.631 and section 479(e) of the Act, if the SACWIS includes functions, processing, information collection and management, equipment or services that are not directly related to the administration of the programs carried out under the State plans approved under titles IV–B or IV–E.

We have also made a conforming change to § 1356.60, Fiscal requirements (title IV–E), by adding a new paragraph (e), Federal matching funds for SACWIS. This paragraph merely reiterates the statutory provision that all expenditures related to an approved APD under § 1355.52, will be treated as necessary for the proper and efficient administration of the State plan, without regard to whether the system is used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance or adoption assistance payments are made under title IV–E.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. An assessment of the costs and benefits of available regulatory alternatives (including not regulating) demonstrated that the approach taken in the regulation is the most cost-effective and least burdensome while still achieving the regulatory objectives.

Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act (Pub. L. 96–354) which requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities, the Secretary certifies that this rule has no significant effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Part 1355

Adoption and foster care, Child welfare, Data collection, Definitions grant programs—social programs

45 CFR Part 1356

Adoption and foster care, Administrative costs, Child welfare, Fiscal requirements (title IV–E), Grant programs—Social programs, Statewide information systems.

(Catalog of Federal Domestic Assistance Program No. 13.658, Foster Care Maintenance, 13.659, Adoption Assistance and 13.645, Child Welfare Services–State Grants)

Dated: October 13, 1993.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Approved: November 19, 1993.

Donna E. Shalala,

Secretary.

For the reasons set forth in the preamble, 45 CFR parts 1355 and 1356 are amended as set forth below.

PART 1355—GENERAL

1. The authority citation for part 1355 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.*, 42 U.S.C. 670 *et seq.*; 42 U.S.C. 1301 and 1302.

2. A new § 1355.50 is added to read as follows:

§ 1355.50 Purpose of this part.

This part sets forth the requirements and procedures States must meet in order to receive Federal financial participation for the planning, design, development, installation and operation of statewide automated child welfare information systems authorized under section 474(a)(3)(c) of the Act.

3. A new § 1355.52 is added to read as follows:

§ 1355.52 Funding authority for statewide automated child welfare information systems (SACWIS).

(a) States may receive Federal reimbursement at the 75 percent match rate for FY 1994, FY 1995 and FY 1996, and at the 50 percent level thereafter for expenditures related to the planning, design, development and installation of a statewide automated child welfare information system, to the extent such system:

(1) Provides for the State to collect and electronically report certain data required by section 479(b) of the Act and § 1355.40 of this part;

(2) To the extent practicable, provides for an interface with the State data collection system for child abuse and neglect;

(3) To the extent practicable, provides for an interface with and retrieval of information from the State automated information system that collects information relating to the eligibility of individuals under title IV–A of the Act; and

(4) Provides for more efficient, economical and effective administration of the programs carried out under a State plan approved under title IV–B and title IV–E.

(b) States may also be reimbursed for the full amount of expenditures for the hardware components for such systems at the rates provided under paragraph (a) of this section.

(c) Expenditures for the operation of the automated information system described in paragraph (a) of this section are eligible for FFP at the 50 percent matching rate.

3. Section 1355.53 is added to read as follows:

§ 1355.53 Conditions for approval of funding.

(a) As a condition of funding, the SACWIS must be designed, developed (or an existing system enhanced), and installed in accordance with an approved advance planning document (APD). The APD must provide for a design which, when implemented, will produce a comprehensive system, which is effective and efficient, to improve the program management and administration of the State plans for titles IV–B and IV–E as provided under this section.

VOL 58 ISS 244 DEC 22 1993 UMI

(b) At a minimum, the system must provide for effective management, tracking and reporting by providing automated procedures and processes to:

(1) Meet the Adoption and Foster Care reporting requirements through the collection, maintenance, integrity checking and electronic transmission of the data elements specified by the Adoption and Foster Care Analysis and Reporting System (AFCARS) requirements mandated under section 479(b) of the Act and § 1355.40 of this part;

(2) Provide, for electronic exchanges and referrals, as appropriate, with the following systems within the State, unless the State demonstrates that such interface or integration would not be practicable because of systems limitations or cost constraints:

(i) Systems operated under title IV–A,

(ii) National Child Abuse and Neglect Data Systems (NCANDS),

(iii) Systems operated under title XIX, and

(iv) Systems operated under title IV–D;

(3) Support the provisions of section 427(a) by providing for the automated collection, maintenance, management and reporting of information on all children in foster care under the responsibility of the State, including statewide data from which the demographic characteristics, location, and goals for foster care children can be determined;

(4) Collect and manage information necessary to facilitate the delivery of client services, the acceptance and referral of clients, client registration, and the evaluation of the need for services, including child welfare services under title IV–B Subparts 1 and 2, family preservation and family support services, family reunificication and permanent placement;

(5) Collect and manage information necessary to determine eligibility for:

(i) The foster care program,

(ii) The adoption assistance program, and

(iii) The independent living program;

(6) Support necessary case assessment activities;

(7) Monitor case plan development, payment authorization and issuance, review and management, including eligibility determinations and redeterminations; and

(8) Ensure the confidentiality and security of the information and the system.

(c) A system established under paragraph (a) of this section may also provide support in meeting the following program functions:

(1) Resource management, including automated procedures to assist in managing service providers, facilities, contracts and recruitment activities associated with foster care and adoptive families;

(2) Tracking and maintenance of legal and court information, and preparation of appropriate notifications to relevant parties;

(3) Administration and management of staff and workloads;

(4) Licensing verification; and

(5) Risk analysis.

(d) The system may also provide for interface with other automated information systems, including, but not limited to, accounting and licensing systems, court and juvenile justice systems, vital statistics and education, as appropriate.

(e) If the cost benefit analysis submitted as part of the APD indicates that adherence to paragraphs (c) and (d) of this section would not be cost beneficial, final approval of the APD may be withheld until resolution is reached on the level of automation appropriate to meet the State's needs.

(f) A Statewide automated child welfare information system may be designed, developed and installed on a phased basis, in order to allow States to implement AFCARS requirements expeditiously, in accordance with section 479(b) of the Act, as long as the approved APD includes the State's plan for full implementation of a comprehensive system which meets all functional and data requirements as specified in paragraphs (a) and (b) of this section, and a system design which will support these enhancements on a phased basis.

(g) The system must perform Quality Assurance functions to provide for the review of case files for accuracy, completeness and compliance with Federal requirements and State standards.

4. A new § 1355.54 is added to read as follows:

§ 1355.54 Submittal of advance planning documents.

The State title IV–E agency must submit an APD for a statewide automated child welfare information system, signed by the appropriate State official, in accordance with procedures specified by 45 CFR part 95, subpart F.

5. A new § 1355.55 is added to read as follows:

§ 1355.55 Review and assessment of the system developed with enhanced funds.

(a) ACF will, on a continuing basis, review, assess and inspect the planning, design, development, installation and operation of the SACWIS to determine the extent to which such systems:

(1) Meet § 1355.53 of this chapter,

(2) Meet the goals and objectives stated in the approved APD,

(3) Meet the schedule, budget, and other conditions of the approved APD, and

(4) Comply with the automated data processing services and acquisitions procedures and requirements of 45 CFR part 95, subpart F.

(b) [Reserved]

6. A new § 1355.56 is added to read as follows:

§ 1355.56 Failure to meet the conditions of the approved APD.

(a) If ACF finds that the State fails to meet any of the conditions cited in § 1355.53, or to substantially comply with the criteria, requirements and other undertakings prescribed by the approved APD, approval of the APD may be suspended.

(b) If the approval of an APD is suspended during the planning, design, development, installation, or operation of the system:

(1) The State will be given written notice of the suspension. This notice shall state:

(i) The reason for the suspension,

(ii) The date of the suspension,

(iii) Whether the suspended system complies with criteria for 50 percent FFP, and

(iv) The actions required by the State for future enhanced funding.

(2) The suspension will be effective as of the date the State failed to comply with the approved APD;

(3) The suspension shall remain in effect until ACF determines that such system complies with prescribed criteria, requirements, and other undertakings for future Federal funding.

(4) Should a State cease development of an approved system, either by voluntary withdrawal or as a result of Federal suspension, all Federal incentive funds invested to date that exceed the normal administrative FFP rate (50 percent) will be subject to recoupment.

7. A new § 1355.57 is added to read as follows:

§ 1355.57 Cost allocation.

(a) All expenditures of a State to plan, design, develop, install, and operate the data collection and information retrieval system described in § 1355.53 of this part shall be treated as necessary for the proper and efficient administration of the State plan under title IV–E, without regard to whether the system may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under the State plan.

(b) Cost allocation and distribution for the planning, design, development, installation and operation must be in accordance with § 95.631 of this title and section 474(e) of the Act, if the SACWIS includes functions, processing, information collection and management, equipment or services that are not directly related to the administration of the programs carried out under the State plan approved under title IV–B or IV–E.

payments may be made under the State plan.

(b) Cost allocation and distribution for the planning, design, development, installation and operation must be in accordance with § 95.631 of this title and section 474(e) of the Act, if the SACWIS includes functions, processing, information collection and management, equipment or services that are not directly related to the administration of the programs carried out under the State plan approved under title IV–B or IV–E.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

1. The authority citation for part 1356 continues to read as follows:

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 *et seq.*; 42 U.S.C. 620 *et seq.*; 42 U.S.C. 1302.

2. Section 1356.60 is amended by adding a new paragraph (e) to read as follows:

§ 1356.60 Fiscal requirements (title IV–E).

* * * * *

(e) *Federal matching funds for SACWIS.* All expenditures of a State to plan, design, develop, install and operate the Statewide automated child welfare information system approved under § 1355.52 of this chapter, shall be treated as necessary for the proper and efficient administration of the State plan without regard to whether the system may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance or adoption assistance payments may be made under this part.

[FR Doc. 93–31000 Filed 12–21–93; 8:45 am]

BILLING CODE 4150–04–M

Wednesday
December 22, 1993

federal register

Part III

General Services Administration

41 CFR Ch. 301
Federal Travel Regulation; Maximum Per Diem Rates; Final Rule

VOL 58
NO 244
DECEMBER 22 1993
UMI

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amendment 34]

RIN 3090–AE97

Federal Travel Regulation; Maximum Per Diem Rates

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: An analysis of lodging and meal cost survey data reveals that the listing of maximum per diem rates for locations within the continental United States (CONUS) should be updated to provide for the reimbursement of Federal employees' expenses covered by per diem. This final rule increases/decreases the maximum lodging and meals and incidental expenses amounts in certain existing per diem localities, designates in-season and off-season maximum lodging amounts for use in listed seasonal localities during the designated time periods, and adds new per diem localities.

DATES: This final rule is effective on January 1, 1994, and applies for travel (including travel incident to a change of official station) performed on or after January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Donna Cooke or Karen Kinsella, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

For the reasons set out in the preamble, under 5 U.S.C. 5701–5709 and E.O. 11609, July 22, 1971 (36 FR 13747), title 41, chapter 301 of the Code of Federal Regulations is amended by revising Appendix A to chapter 301 to read as follows:

CHAPTER 301—TRAVEL ALLOWANCES

APPENDIX A TO CHAPTER 301—PRESCRIBED MAXIMUM PER DIEM RATES FOR CONUS

The maximum rates listed below are prescribed under § 301–7.3(a) of this chapter for reimbursement of per diem expenses incurred during official travel within CONUS (the continental United States). The amount shown in column (a) is the maximum that will be reimbursed for lodging expenses including applicable taxes. The M&IE rate shown in column (b) is a fixed amount allowed for meals and incidental expenses covered by per diem. The per diem payment calculated in accordance with part 301–7 of this chapter for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c). Seasonal rates apply during the periods indicated.

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate [4] (c)
Key city [1]	County and/or other defined location [2 3]			
CONUS, Standard rate		$40	$26	$66
(Applies to all locations within CONUS not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation subsistence allowances. See parts 302–2, 302–4, and 302–5 of this subtitle.)				
ALABAMA				
Anniston	Calhoun	41	26	67
Birmingham	Jefferson	52	30	82
Dothan	Houston	43	26	69
Gulf Shores	Baldwin.			
(April 1–September 30)		91	26	117
(October 1–March 31)		48	26	74
Huntsville	Madison	55	34	89
Mobile	Mobile	55	30	85
Montgomery	Montgomery	51	26	77
Sheffield	Colbert	56	26	82
ARIZONA				
Casa Grande	Pinal	50	26	76
Chinle	Apache.			
(April 1–October 31)		83	26	109
(November 1–March 31)		51	26	77
Grand Canyon Nat'l Park/Flagstaff	Coconino	89	30	119
Kayenta	Navajo.			
(May 1–October 14)		77	26	103
(October 15–April 30)		48	26	74
Phoenix/Scottsdale	Maricopa.			
(December 1–April 30)		87	34	121
(May 1–November 30)		61	34	95
Prescott	Yavapai.			
(April 1–October 14)		48	30	78
(October 15–March 31)		42	30	72
Sierra Vista	Cochise	46	26	72
Tucson	Pima County; Davis–Monthan AFB.			
(November 1–April 30)		62	30	92
(May 1–October 31)		50	30	80
Yuma	Yuma	58	26	84
ARKANSAS				
Fayetteville	Washington	45	26	71
Fort Smith	Sebastian	42	26	68

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate [4] (c)
Key city [1]	County and/or other defined location [2 3]			
Helena	Phillips	44	26	70
Hot Springs	Garland	52	30	82
Little Rock	Pulaski	52	30	82
CALIFORNIA				
Bridgeport	Mono	61	34	95
Chico	Butte	58	34	92
Clearlake	Lake	55	26	81
Death Valley	Inyo	97	38	135
El Centro	Imperial	49	30	79
Eureka	Humboldt	65	30	95
Fresno	Fresno	62	34	96
Gualala/Point Arena	Mendocino	100	34	134
Herlong	Lassen	42	26	68
Los Angeles	Los Angeles, Kern, Orange and Ventura Counties; Edwards AFB; Naval Weapons Center and Ordinance Test Station, China Lake.	102	38	140
Merced	Merced	46	34	80
Modesto	Stanislaus	54	34	88
Monterey	Monterey.			
(June 1–October 14)		82	34	116
(October 15–May 31)		74	34	108
Napa	Napa.			
(April 1–October 31)		73	34	107
(November 1–March 31)		65	34	99
Oakland	Alameda, Contra Costa and Marin	71	38	109
Ontario/Victorville/Barstow	San Bernardino	60	34	94
Palm Springs	Riverside.			
(December 1–May 14)		73	38	111
(May 15–November 30)		53	38	91
Palo Alto/San Jose	Santa Clara	70	38	108
Redding	Shasta	60	34	94
Redwood City/San Mateo	San Mateo	71	34	105
Sacramento	Sacramento	67	34	101
San Diego	San Diego	78	38	116
San Francisco	San Francisco	96	38	134
San Luis Obispo	San Luis Obispo.			
(May 1–September 30)		55	38	93
(October 1–April 30)		49	38	87
Santa Barbara	Santa Barbara	79	34	113
Santa Cruz	Santa Cruz.			
(June 1–September 30)		80	34	114
(October 1–May 31)		64	34	98
Santa Rosa	Sonoma	61	34	95
South Lake Tahoe	El Dorado (See also Stateline, NV).			
(June 1–September 30)		91	38	129
(October 1–May 31)		68	38	106
Stockton	San Joaquin	56	30	86
Tahoe City	Placer.			
(June 1–September 14)		67	38	105
(September 15–May 31)		55	38	93
Vallejo	Solano	44	30	74
Visalia	Tulare	61	30	91
West Sacramento	Yolo	48	26	74
Yosemite Nat'l Park	Mariposa	83	38	121
Yuba City	Sutter	46	30	76
COLORADO				
Aspen	Pitkin.			
(January 15–March 31)		130	38	168
(April 1–January 14)		74	38	112
Boulder	Boulder.			
(May 1–December 31)		71	34	105
(January 1–April 30)		64	34	98
Colorado Springs	El Paso.			
(May 1–August 31)		51	26	77
(September 1–April 30)		43	26	69
Denver	Denver, Adams, Arapahoe and Jefferson	77	38	115
Durango	La Plata.			
(June 1–September 30)		80	34	114
(October 1–May 31)		50	34	84
Glenwood Springs	Garfield	53	30	83

VOL 58 ISS 244 DE 22 1993 UMI

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]					
Grand Junction	Mesa	44		30		74
Gunnison	Gunnison.					
(May 1–October 14)		51		26		77
(October 15–April 30)		40		26		66
Keystone/Silverthorne	Summit	122		38		160
Loveland	Larimer	42		26		68
Montrose	Montrose	41		26		67
Pagosa Springs	Archuleta.					
(June 1–September 30)		47		26		73
(October 1–May 31)		40		26		66
Pueblo	Pueblo	44		26		70
Steamboat Springs	Routt.					
(February 1–March 31)		90		30		120
(April 1–January 31)		57		30		87
Trinidad	Las Animas.					
(June 1–September 14)		45		26		71
(September 15–May 31)		40		26		66
Vail	Eagle.					
(January 1–March 31)		151		38		189
(April 1–December 31)		74		38		112
CONNECTICUT						
Bridgeport/Danbury	Fairfield	77		34		111
Hartford	Hartford and Middlesex	69		38		107
New Haven	New Haven	67		34		101
New London/Groton	New London.					
(June 1–October 31)		63		30		93
(November 1–May 31)		56		30		86
Putnam/Danielson	Windham	60		26		86
Salisbury	Litchfield	78		38		116
DELAWARE						
Dover	Kent	50		26		76
Lewes	Sussex.					
(June 1–September 14)		62		30		92
(September 15–May 31)		40		30		70
Wilmington	New Castle	78		34		112
DISTRICT OF COLUMBIA						
Washington, DC (also the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland) (See also Maryland and Virginia.)		113		38		151
FLORIDA						
Altamonte Springs	Seminole	62		26		88
Bradenton	Manatee.					
(January 1–May 14)		60		26		86
(May 15–December 31)		42		26		68
Clewiston	Hendry	53		26		79
Cocoa Beach	Brevard.					
(May 1–December 31)		73		30		103
(January 1–April 30)		65		30		95
Daytona Beach	Volusia.					
(February 1–April 14)		65		26		91
(April 15–January 31)		49		26		75
Fort Lauderdale	Broward.					
(December 15–April 30)		79		30		109
(May 1–December 14)		61		30		91
Fort Myers	Lee.					
(January 1–April 30)		90		34		124
(May 1–December 31)		67		34		101
Fort Pierce	Saint Lucie.					
(January 1–April 30)		57		30		87
(May 1–December 31)		45		30		75
Fort Walton Beach	Okaloosa.					
(April 1–September 14)		66		30		96
(September 15–March 31)		56		30		86
Gainesville	Alachua	52		30		82
Jacksonville	Duval County; Naval Station Mayport	50		30		80
Key West	Monroe.					
(December 15–April 30)		148		38		186
(May 1–December 14)		102		38		140
Kissimmee	Osceola.					
(January 1–September 14)		68		30		98

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]					
(September 15–December 31)		61		30		91
Lakeland	Polk.					
(January 1–April 14)		56		26		82
(April 15–December 31)		49		26		75
Miami	Dade	73		34		107
Naples	Collier.					
(December 15–April 14)		91		34		125
(April 15–December 14)		54		34		88
Orlando	Orange	66		30		96
Panama City	Bay.					
(March 1–September 14)		49		30		79
(September 15–February 28)		40		30		70
Pensacola	Escambia	57		30		87
Punta Gorda	Charlotte.					
(January 1–April 14)		71		30		101
(April 15–December 31)		47		30		77
Saint Augustine	Saint Johns.					
(February 1–September 14)		60		30		90
(September 15–January 31)		44		30		74
Sarasota	Sarasota.					
(December 15–April 14)		68		30		98
(April 15–December 14)		46		30		76
Stuart	Martin.					
(January 1–April 30)		63		30		93
(May 1–December 31)		51		30		81
Tallahassee	Leon	53		26		79
Tampa/St. Petersburg	Hillsborough and Pinellas	57		26		83
Vero Beach	Indian River.					
(February 1–April 30)		71		26		97
(May 1–January 31)		54		26		80
West Palm Beach	Palm Beach.					
(December 15–April 30)		69		34		103
(May 1–December 14)		55		34		89
GEORGIA						
Albany	Dougherty	51		26		77
Athens	Clarke	44		26		70
Atlanta	Clayton, De Kalb, Fulton and Cobb	81		38		119
Augusta	Richmond; Savannah River Plant	44		26		70
Brunswick	Glynn	41		26		67
Columbus	Muscogee	48		26		74
Macon	Bibb	44		26		70
Norcross/Lawrenceville	Gwinnett	56		30		86
Savannah	Chatham	49		30		79
Warner Robins	Houston	43		26		69
IDAHO						
Boise	Ada	49		30		79
Coeur d'Alene	Kootenai.					
(April 1–October 31)		65		26		91
(November 1–March 31)		51		26		77
Idaho Falls	Bonneville	43		30		73
Ketchum/Sun Valley	Blaine.					
(November 15–March 31)		77		38		115
(April 1–November 14)		58		38		96
Lewiston	Nez Perce	44		26		70
McCall	Valley	50		30		80
Pocatello	Bannock	47		26		73
Stanley	Custer.					
(June 1–September 30)		51		30		81
(October 1–May 31)		41		30		71
ILLINOIS						
Alton	Madison	48		26		74
Bloomington	McLean	42		30		72
Champaign/Urbana	Champaign	48		30		78
Chicago	Du Page, Cook and Lake	104		38		142
Danville	Vermilion	43		26		69
Decatur	Macon	45		26		71
Dixon	Lee	45		26		71
East St. Louis	St. Clair	46		26		72
Joliet	Will	51		26		77
Kankakee	Kankakee	50		26		76

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]			
Peoria	Peoria	62	30	92
Rock Island/Moline	Rock Island	64	26	90
Rockford	Winnebago	56	30	86
Springfield	Sangamon	51	30	81
INDIANA				
Anderson	Madison	54	26	80
Bloomington/Crane	Monroe and Martin	52	30	82
Burlington Beach/Valparaiso	Porter	55	26	81
Columbus	Bartholomew	45	30	75
Dale	Spencer	45	26	71
Elkhart	Elkhart	50	26	76
Evansville	Vanderburgh	52	30	82
Fort Wayne	Allen	57	26	83
Gary	Lake	52	30	82
Indianapolis	Marion County; Fort Benjamin Harrison	71	34	105
Jasper	Dubois	45	26	71
Jeffersonville/Charlestown	Clark County; Indiana Army Ammunition Plant	45	26	71
Lafayette	Tippecanoe	52	30	82
Logansport	Cass	47	26	73
Madison	Jefferson	50	26	76
Marion	Grant	44	26	70
Michigan City	La Porte	44	26	70
Muncie	Delaware	55	26	81
Nashville	Brown.			
(June 1–September 30)		72	26	98
(October 1–May 31)		60	26	86
New Albany	Floyd	45	26	71
Richmond	Wayne	43	26	69
South Bend	St. Joseph	61	30	91
Terre Haute	Vigo	51	26	77
IOWA				
Bettendorf/Davenport	Scott	56	26	82
Cedar Rapids	Linn	48	26	74
Des Moines	Polk	55	30	85
Dubuque	Dubuque	43	30	73
Iowa City	Johnson	48	30	78
Sioux City	Woodbury	47	26	73
Waterloo	Black Hawk	47	26	73
KANSAS				
Hays	Ellis	42	26	68
Kansas City	Johnson and Wyandotte (See also Kansas City, MO)	67	34	101
Manhattan	Riley	53	26	79
Topeka	Shawnee	47	26	73
Wichita	Sedgwick	62	30	92
KENTUCKY				
Ashland	Boyd	41	26	67
Bowling Green	Warren	44	30	74
Covington	Kenton	48	34	82
Florence	Boone	49	30	79
Frankfort	Franklin	42	26	68
Lexington	Fayette	51	30	81
Louisville	Jefferson	60	34	94
Owensboro	Daviess	47	26	73
Pikeville	Pike	42	26	68
Prestonsburg	Floyd	44	26	70
LOUISIANA				
Alexandria	Rapides Parish	44	30	74
Baton Rouge	East Baton Rouge Parish	53	30	83
Bossier City	Bossier Parish	53	30	83
Lafayette	Lafayette Parish	52	30	82
Lake Charles	Calcasieu Parish	43	30	73
Monroe	Ouachita Parish	47	26	73
New Orleans	Parishes of Jefferson, Orleans, Plaquemines and St. Bernard.	66	34	100
Shreveport	Caddo Parish	53	30	83
Slidell	St. Tammany Parish	43	30	73
MAINE				
Auburn	Androscoggin.			
(July 1–October 14)		52	30	82

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]			
(October 15–June 30)		41	30	71
Augusta	Kennebec	53	26	79
Bangor	Penobscot.			
(July 1–October 31)		60	30	90
(November 1–June 30)		47	30	77
Bar Harbor	Hancock.			
(June 1–September 30)		76	34	110
(October 1–May 31)		66	34	100
Bath	Sagadahoc.			
(June 1–October 14)		64	26	90
(October 15–May 31)		53	26	79
Calais	Washington.			
(June 1–October 14)		64	26	90
(October 15–May 31)		48	26	74
Kennebunk/Sanford	York.			
(May 1–September 30)		69	30	99
(October 1–April 30)		44	30	74
Kittery	Portsmouth Naval Shipyard (See also Portsmouth, NH).			
(June 1–September 30)		66	30	96
(October 1–May 31)		53	30	83
Portland	Cumberland.			
(July 1–October 31)		67	30	97
(November 1–June 30)		54	30	84
Presque Isle	Aroostook	41	26	67
Rockport	Knox.			
(June 1–September 30)		83	30	113
(October 1–May 31)		63	30	93
Wiscasset	Lincoln.			
(June 1–September 30)		66	30	96
(October 1–May 31)		43	30	73
MARYLAND				
(For the counties of Montgomery and Prince Georges, see District of Columbia.)				
Annapolis	Anne Arundel	76	34	110
Baltimore	Baltimore and Harford	78	38	116
Columbia	Howard	87	34	121
Cumberland	Allegany	49	26	75
Easton	Talbot	59	30	89
Frederick	Frederick	55	34	89
Hagerstown	Washington	55	30	85
Lexington Park/St. Inigoes/ Leonardtown.	St. Marys	54	26	80
Lusby	Calvert	58	34	92
Ocean City	Worcester.			
(May 1–September 30)		107	34	141
(October 1–April 30)		46	34	80
Salisbury	Wicomico	52	30	82
Tower Garden on Bay	Queen Anne's	44	30	74
Waldorf	Charles	44	30	74
MASSACHUSETTS				
Andover	Essex	80	34	114
Boston	Suffolk	101	38	139
Cambridge/Lowell	Middlesex	95	38	133
Hyannis	Barnstable.			
(June 1–September 30)		95	30	125
(October 1–May 31)		71	30	101
Martha's Vineyard/Nantucket	Dukes and Nantucket.			
(June 1–October 31)		134	38	172
(November 1–May 31)		106	38	144
Northampton	Hampshire	59	26	85
Pittsfield	Berkshire	52	34	86
Plymouth	Plymouth.			
(June 15–October 31)		92	26	118
(November 1–June 14)		74	26	100
Quincy	Norfolk	79	34	113
South Deerfield/Greenfield	Franklin	64	26	90
Springfield	Hampden	61	30	91
Taunton/New Bedford	Bristol	58	26	84
Worcester	Worcester	61	26	87
MICHIGAN				
Adrian	Lenawee	46	26	72

VOL 58 ISS 244 DEC 22 1993 UMI

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]			
Ann Arbor	Washtenaw	65	30	95
Battle Creek	Calhoun	44	26	70
Bay City	Bay	50	26	76
Bellaire	Antrim	51	26	77
Cadillac	Wexford	49	26	75
Charlevoix	Charlevoix	88	30	118
Detroit	Wayne	80	38	118
Drummond Island	Chippewa	67	26	93
Escanaba	Delta.			
(June 1–September 30)		49	26	75
(October 1–May 31)		40	26	66
Flint	Genesee	45	30	75
Gaylord	Otsego.			
(June 1–September 30)		57	26	83
(October 1–May 31)		51	26	77
Grand Rapids	Kent	60	30	90
Grayling	Crawford	50	26	76
Hancock	Houghton	49	26	75
Holland	Ottawa.			
(May 1–September 30)		54	26	80
(October 1–April 30)		44	26	70
Houghton Lake	Roscommon	49	26	75
Jackson	Jackson	48	26	74
Kalamazoo	Kalamazoo	59	30	89
Lansing/East Lansing	Ingham	54	26	80
Leland	Leelanau.			
(May 1–September 30)		72	26	98
(October 1–April 30)		64	26	90
Ludington	Mason.			
(June 1–September 14)		72	26	98
(September 15–May 31)		41	26	67
Mackinac Island	Mackinac.			
(June 1–September 30)		91	34	125
(October 1–May 31)		80	34	114
Manistee	Manistee.			
(May 15–October 31)		51	26	77
(November 1–May 14)		40	26	66
Marquette	Marquette.			
(June 1–September 30)		47	26	73
(October 1–May 31)		42	26	68
Midland	Midland	54	26	80
Muskegon	Muskegon	45	26	71
Ontonagon	Ontonagon	49	26	75
Port Huron	St. Clair	50	34	84
Saginaw	Saginaw	51	30	81
South Haven	Van Buren.			
(May 1–September 30)		65	26	91
(October 1–April 30)		47	26	73
St. Joseph/Benton Harbor/Niles	Berrien	49	30	79
Traverse City	Grand Traverse.			
(May 1–September 30)		85	30	115
(October 1–April 30)		51	30	81
Troy/Pontiac	Oakland	59	34	93
Warren	Macomb	46	26	72
MINNESOTA				
Albert Lea	Freeborn	42	26	68
Austin	Mower	42	26	68
Bemidji	Beltrami	42	30	72
Brainerd	Crow Wing.			
(May 1–September 14)		46	30	76
(September 15–April 30)		40	30	70
Duluth	St. Louis.			
(June 1–September 30)		54	34	88
(October 1–May 31)		46	34	80
Fergus Falls	Otter Tail	57	26	83
Grand Rapids	Itasca	47	30	77
Hinckley	Pine	43	26	69
Mendota Heights	Dakota	58	30	88
Minneapolis/St. Paul	Anoka, Hennepin, and Ramsey Counties; Fort Snelling Military Reservation and Navy Astronautics Group (Detachment BRAVO), Rosemount.	64	34	98

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]			
Rochester	Olmsted	56	30	86
St. Cloud	Stearns	41	30	71
MISSISSIPPI				
Biloxi/Gulfport/Pascagoula/Bay St. Louis.	Harrison, Jackson, and Hancock.			
(May 1–September 14)		73	30	103
(September 15–April 30)		59	30	89
Jackson	Hinds	52	30	82
Natchez	Adams	47	30	77
Oxford	Lafayette	44	26	70
Ridgeland	Madison	46	38	84
Vicksburg	Warren	45	30	75
MISSOURI				
Branson	Taney.			
(May 1–October 31)		71	30	101
(November 1–April 30)		47	30	77
Cape Girardeau	Cape Girardeau	45	26	71
Columbia	Boone	50	26	76
Hannibal	Marion.			
(June 1–September 14)		49	26	75
(September 15–May 31)		40	26	66
Jefferson City	Cole	49	26	75
Kansas City	Clay, Jackson and Platte (See also Kansas City, KS)	67	34	101
Lake Ozark	Miller	48	34	82
Osage Beach	Camden.			
(May 15–October 14)		67	30	97
(October 15–May 14)		40	30	70
Springfield	Greene	56	30	86
St. Louis	St. Charles and St. Louis	74	38	112
MONTANA				
Billings	Yellowstone	48	26	74
Great Falls	Cascade	51	26	77
Helena	Lewis and Clark	44	26	70
Kalispell/Polson	Flathead and Lake.			
(April 15–September 30)		48	26	74
(October 1–April 14)		40	26	66
NEBRASKA				
Kearney	Buffalo	42	26	68
Lincoln	Lancaster	47	26	73
North Platte	Lincoln	42	26	68
Omaha	Douglas	57	30	87
NEVADA				
Elko	Elko	51	26	77
Las Vegas	Clark County; Nellis AFB	69	38	107
Lovelock	Pershing.			
(May 1–September 30)		48	26	74
(October 1–April 30)		40	26	66
Reno	Washoe	53	30	83
Stateline	Douglas (See also South Lake Tahoe, CA).			
(June 1–September 30)		91	38	129
(October 1–May 31)		68	38	106
Winnemucca	Humboldt	42	26	68
NEW HAMPSHIRE				
Concord	Merrimack	56	26	82
Conway	Carroll.			
(June 15–October 14)		73	30	103
(October 15–June 14)		50	30	80
Cornish	Sullivan	41	26	67
Durham	Strafford.			
(June 1–October 31)		52	26	78
(November 1–May 31)		42	26	68
Laconia	Belknap.			
(June 15–October 14)		66	30	96
(October 15–June 14)		50	30	80
Lebanon/Hanover	Grafton	86	34	120
Manchester	Hillsborough	68	30	98
Portsmouth/Newington	Rockingham County; Pease AFB (See also Kittery, ME).			
(June 1–September 30)		66	30	96

VOL 58 ISS 244 DE 22 1993 UMI

VOL 58 ISS 244 DEC 22 1993 UMI

Per diem locality: Key city[1]	Per diem locality: County and/or other defined location[2 3]	Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
(October 1–May 31)		53		30		83
NEW JERSEY						
Atlantic City	Atlantic.					
(June 1–October 14)		109		38		147
(October 15–May 31)		82		38		120
Belle Mead	Somerset	58		30		88
Camden	Camden	63		34		97
Dover	Morris County; Picatinny Arsenal	58		26		84
Edison	Middlesex	65		38		103
Freehold/Eatontown	Monmouth County; Fort Monmouth	69		34		103
Millville	Cumberland	48		30		78
Moorestown	Burlington	71		34		105
Newark	Bergen, Essex, Hudson, Passaic and Union	87		38		125
Ocean City/Cape May	Cape May.					
(May 15–September 30)		111		34		145
(October 1–May 14)		70		34		104
Princeton/Trenton	Mercer	74		34		108
Salem	Salem	50		26		76
Tom's River	Ocean	78		30		108
NEW MEXICO						
Albuquerque	Bernalillo	60		34		94
Artesia	Eddy	42		26		68
Cloudcroft	Otero	74		26		100
Farmington	San Juan	54		30		84
Gallup	McKinley	50		26		76
Las Cruces/White Sands	Dona Ana	44		30		74
Los Alamos	Los Alamos	59		30		89
Raton	Colfax	47		26		73
Roswell	Chaves	41		26		67
Santa Fe	Santa Fe.					
(May 1–October 31)		95		34		129
(November 1–April 30)		80		34		114
Silver City	Grant	41		26		67
Taos	Taos	65		30		95
NEW YORK						
Albany	Albany	68		30		98
Auburn	Cayuga	50		26		76
Batavia	Genesee.					
(May 1–September 30)		60		26		86
(October 1–April 30)		49		26		75
Binghamton	Broome	58		30		88
Buffalo	Erie	72		34		106
Canton	St Lawrence	55		26		81
Catskill	Greene.					
(July 1–September 14)		63		26		89
(September 15–June 30)		49		26		75
Corning	Steuben	62		30		92
Elmira	Chemung	57		30		87
Glens Falls	Warren.					
(June 1–October 31)		71		34		105
(November 1–May 31)		50		34		84
Ithaca	Tompkins	61		30		91
Jamestown	Chautauqua	43		30		73
Kingston	Ulster	53		30		83
Lake Placid	Essex.					
(June 1–November 14)		93		30		123
(November 15–May 31)		66		30		96
Monticello	Sullivan.					
(June 1–September 14)		55		30		85
(September 15–May 31)		47		30		77
New York City	The boroughs of the Bronx, Brooklyn, Manhattan, Queens and Staten Island; Nassau and Suffolk Counties.	142		38		180
Niagara Falls	Niagara.					
(May 15–September 30)		86		34		120
(October 1–May 14)		55		34		89
Owego	Tioga	41		26		67
Palisades/Nyack	Rockland	58		34		92
Plattsburgh	Clinton.					
(June 1–September 30)		47		30		77

Per diem locality: Key city[1]	Per diem locality: County and/or other defined location[2 3]	Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
(October 1–May 31)		42		30		72
Poughkeepsie	Dutchess	63		26		89
Rochester	Monroe	67		34		101
Romulus	Seneca	67		26		93
Saratoga Springs	Saratoga.					
(June 1–September 30)		69		38		107
(October 1–May 31)		51		38		89
Schenectady	Schenectady	59		34		93
Syracuse	Onondaga	64		30		94
Troy	Rensselaer	47		30		77
Utica	Oneida	60		30		90
Watertown	Jefferson	54		30		84
Watkins Glen	Schuyler.					
(May 1–October 31)		71		26		97
(November 1–April 30)		47		26		73
West Point	Orange	50		34		84
White Plains	Westchester	104		38		142
NORTH CAROLINA						
Asheville	Buncombe.					
(May 1–October 31)		53		30		83
(November 1–April 30)		45		30		75
Boone	Watauga	44		26		70
Charlotte	Mecklenburg	63		34		97
Duck	Dare.					
(May 1–September 30)		93		30		123
(October 1–April 30)		49		30		79
Elizabeth City	Pasquotank	47		26		73
Fayetteville	Cumberland	43		26		69
Greensboro/High Point	Guilford	54		30		84
Kinston	Lenoir	48		26		74
Morehead City	Carteret.					
(May 1–September 30)		59		26		85
(October 1–April 30)		40		26		66
Raleigh/Durham/Chapel Hill	Wake, Durham and Orange	70		34		104
Wilmington	New Hanover.					
(May 1–September 14)		49		26		75
(September 15–April 30)		44		26		70
Winston–Salem	Forsyth	55		30		85
NORTH DAKOTA						
Bismarck/Mandan	Burleigh and Morton	45		30		75
Fargo	Cass	48		30		78
Grand Forks	Grand Forks	46		26		72
Minot	Ward	45		26		71
OHIO						
Akron	Summit	62		34		96
Bellevue/Norwalk	Huron.					
(May 15–September 14)		70		26		96
(September 15–May 14)		40		26		66
Chillicothe	Ross	45		26		71
Cincinnati/Evendale	Hamilton and Warren	62		30		92
Cleveland	Cuyahoga	78		38		116
Columbus	Franklin	69		34		103
Dayton/Fairborn	Montgomery and Greene; Wright–Patterson AFB	63		30		93
Defiance	Defiance	51		26		77
East Liverpool	Columbiana	48		26		74
Elyria	Lorain.					
(June 1–September 30)		51		26		77
(October 1–May 31)		40		26		66
Fairfield/Hamilton	Butler	59		26		85
Findlay	Hancock	45		26		71
Geneva	Ashtabula	57		26		83
Jackson	Jackson and Pike	46		26		72
Lancaster	Fairfield	47		26		73
Martin's Ferry/Bellaire	Belmont	41		26		67
Port Clinton/Oakharbor	Ottawa.					
(May 1–September 30)		79		30		109
(October 1–April 30)		40		30		70
Portsmouth	Scioto	48		26		74
Sandusky	Erie.					
(May 15–September 14)		91		30		121

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]					
(September 15–May 14)		44		30		74
Springfield	Clark	48		30		78
Tinney/Fremont	Sandusky.					
(June 1–September 14)		54		26		80
(September 15–May 31)		40		26		66
Toledo	Lucas	56		30		86
Wapakoneta	Auglaize	42		26		68
Warren	Trumbull	45		30		75
OKLAHOMA						
Ada	Pontotoc	46		26		72
Lawton	Comanche	45		26		71
Muskogee	Muskogee	41		26		67
Norman	Cleveland	47		30		77
Oklahoma City	Oklahoma	51		26		77
Stillwater	Payne	44		26		70
Tulsa/Bartlesville	Osage, Tulsa and Washington	53		30		83
OREGON						
Ashland/Medford	Jackson.					
(June 1–September 30)		63		30		93
(October 1–May 31)		44		30		74
Beaverton	Washington	61		26		87
Bend	Deschutes	53		30		83
Clackamas	Clackamas	55		26		81
Coos Bay	Coos.					
(May 1–September 30)		56		26		82
(October 1–April 30)		43		26		69
Eugene	Lane	51		30		81
Gold Beach	Curry.					
(May 15–October 14)		67		26		93
(October 15–May 14)		44		26		70
Lincoln City/Newport	Lincoln.					
(June 1–September 14)		69		30		99
(September 15–May 31)		54		30		84
Portland	Multnomah	67		30		97
Salem	Marion	49		26		75
Seaside	Clatsop.					
(May 1–September 30)		89		26		115
(October 1–April 30)		71		26		97
PENNSYLVANIA						
Allentown	Lehigh	59		34		93
Altoona	Blair	46		26		72
Bloomsburg	Columbia	48		30		78
Chester/Radnor	Delaware	88		38		126
Du Bois	Clearfield	48		26		74
Easton	Northampton	42		26		68
Erie	Erie.					
(June 1–August 31)		56		26		82
(September 1–May 31)		44		26		70
Gettysburg	Adams.					
(May 1–September 14)		63		30		93
(September 15–April 30)		42		30		72
Harrisburg	Dauphin	75		34		109
Johnstown	Cambria	48		26		74
King of Prussia/Ft. Washington	Montgomery County, except Bala Cynwyd (See also Philadelphia, PA).	83		34		117
Lancaster	Lancaster	64		30		94
Lebanon	Lebanon County; Indian Town Gap Military Reservation.	49		26		75
Mechanicsburg	Cumberland	53		30		83
Mercer	Mercer	47		26		73
Philadelphia	Philadelphia County; city of Bala Cynwyd in Montgomery County.	89		34		123
Pittsburgh	Allegheny	75		34		109
Reading	Berks	52		26		78
Scranton	Lackawanna	58		30		88
Shippingport	Beaver	47		30		77
Somerset	Somerset	56		30		86
State College	Centre	53		30		83
Stroudsburg	Monroe	43		30		73
Uniontown	Fayette	67		26		93

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]					
Valley Forge	Chester	82		36		120
Warminster	Bucks County; Naval Air Development Center	63		30		93
Wilkes–Barre	Luzerne	52		30		82
Williamsport	Lycoming	47		26		73
York	York	59		30		89
RHODE ISLAND.						
East Greenwich	Kent County; Naval Construction Battalion Center, Davisville.	80		34		114
Newport	Newport.					
(May 1–October 14)		102		38		140
(October 15–April 30)		62		38		100
Providence	Providence	78		34		112
Quonset Point	Washington.					
(May 15–September 30)		53		26		79
(October 1–May 14)		40		26		66
SOUTH CAROLINA						
Charleston	Charleston and Berkeley	59		30		89
Columbia	Richland	53		30		83
Greenville	Greenville	49		26		75
Hilton Head	Beaufort.					
(May 1–September 30)		73		34		107
(October 1–April 30)		42		34		76
Myrtle Beach	Horry County; Myrtle Beach AFB.					
(May 1–September 30)		89		30		119
(October 1–April 30)		40		30		70
Spartanburg	Spartanburg	49		26		75
SOUTH DAKOTA						
Custer	Custer.					
(June 1–September 30)		64		26		90
(October 1–May 31)		40		26		66
Hot Springs	Fall River.					
(May 1–September 30)		64		26		90
(October 1–April 30)		40		26		66
Rapid City	Pennington.					
(June 1–August 31)		67		26		93
(September 1–May 31)		41		26		67
Sioux Falls	Minnehaha	54		26		80
Spearfish	Lawrence.					
(June 1–September 14)		65		26		91
(September 15–May 31)		40		26		66
TENNESSEE						
Chattanooga	Hamilton	43		26		69
Clarksville	Montgomery	41		26		67
Columbia	Maury	53		26		79
Gatlinburg	Sevier.					
(May 15–October 31)		72		30		102
(November 1–May 14)		55		30		85
Johnson City	Washington	53		30		83
Kingsport/Bristol	Sullivan	43		30		73
Knoxville	Knox County; city of Oak Ridge	54		30		84
Memphis	Shelby	57		30		87
Murfreesboro	Rutherford	42		26		68
Nashville	Davidson	56		30		86
Shelbyville	Bedford	47		26		73
TEXAS						
Abilene	Taylor	44		26		70
Amarillo	Potter	51		30		81
Austin	Travis	65		34		99
Beaumont	Jefferson	44		26		70
Brownsville	Cameron	55		30		85
Brownwood	Brown	42		26		68
College Station/Bryan	Brazos	48		26		74
Corpus Christi/Ingelside	Nueces and San Patricio	64		30		94
Dallas/Fort Worth	Dallas and Tarrant	71		34		105
Denton	Denton	47		26		73
El Paso	El Paso	58		30		88
Fort Davis	Jeff Davis	59		26		85
Galveston	Galveston.					
(May 15–September 14)		74		30		104

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]			
(September 15–May 14)		64	30	94
Granbury	Hood	52	26	78
Houston	Harris County; L. B. Johnson Space Center and Ellington AFB.	78	38	116
Kingsville	Kleberg	41	26	67
Lajitas	Brewster	59	26	85
Laredo	Webb	55	30	85
Longview	Gregg	47	26	73
Lubbock	Lubbock	60	26	86
Lufkin	Angelina	43	26	69
McAllen	Hidalgo	59	26	85
Midland/Odessa	Ector and Midland	55	26	81
Nacogdoches	Nacogdoches	49	26	75
Plainview	Hale	42	26	68
Plano	Collin	71	26	97
San Angelo	Tom Green	45	30	75
San Antonio	Bexar	67	30	97
Temple	Bell	48	26	74
Tyler	Smith	48	26	74
Victoria	Victoria	44	26	70
Waco	McLennan	52	26	78
Wichita Falls	Wichita	46	26	72
UTAH				
Bullfrog	Garfield.			
(May 15–September 30)		90	26	116
(October 1–May 14)		54	26	80
Cedar City	Iron.			
(June 1–September 30)		56	30	86
(October 1–May 31)		41	30	71
Moab	Grand.			
(April 1–November 30)		77	26	103
(December 1–March 31)		40	26	66
Provo	Utah	48	30	78
Salt Lake City/Ogden	Salt Lake, Weber, and Davis Counties; Dugway Proving Ground and Tooele Army Depot.	68	30	98
St. George	Washington	46	30	76
Vernal	Uintah	43	26	69
VERMONT				
Burlington	Chittenden	63	30	93
Middlebury	Addison	72	30	102
Montpelier	Washington	51	26	77
Rutland	Rutland.			
(December 15–March 31)		64	30	94
(April 1–December 14)		53	30	83
White River Junction	Windsor.			
(September 15–October 14)		67	30	97
(October 15–September 14)		45	30	75
VIRGINIA				
(For the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, see District of Columbia)				
Blacksburg	Montgomery	55	26	81
Bristol*		43	26	69
Charlottesville*		53	34	87
Covington*		41	26	67
Fredericksburg*		43	26	69
Lexington*		43	26	69
Lynchburg*		52	30	82
Manassas/Manassas Park*	Prince William	50	26	76
Norfolk* (also Virginia Beach, Portsmouth, Hampton, Newport News, and Chesapeake)*.	York County; Naval Weapons Station, Yorktown.			
(May 1–September 30)		83	34	117
(October 1–April 30)		61	34	95
Petersburg*	Fort Lee	44	26	70
Richmond*	Chesterfield and Henrico Counties; also Defense Supply Center.	59	34	93
Roanoke*	Roanoke	55	30	85
Staunton*		43	26	69
Wallops Island	Accomack.			
(May 15–September 30)		66	26	92

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]			
(October 1–May 14)		46	26	72
Warrenton/Amissville	Fauquier and Rappahannock	51	30	81
Waynesboro*.				
(May 1–October 31)		51	26	77
(November 1–April 30)		40	26	66
Williamsburg*.				
(June 1–September 30)		70	34	104
(October 1–May 31)		49	34	83
Wintergreen	Nelson	83	38	121
*Denotes independent cities.				
WASHINGTON				
Anacortes/Mt. Vernon	Skagit.			
(May 1–August 31)		58	30	88
(September 1–April 30)		43	30	73
Bellingham	Whatcom	54	30	84
Bremerton	Kitsap	43	30	73
Kelso/Longview	Cowlitz	46	30	76
Lynnwood/Everett	Snohomish	57	30	87
Ocean Shores	Grays Harbor.			
(April 1–September 30)		60	26	86
(October 1–March 31)		47	26	73
Port Angeles	Clallam.			
(May 15–September 30)		60	30	90
(October 1–May 14)		41	30	71
Port Townsend	Jefferson.			
(April 15–October 14)		66	26	92
(October 15–April 14)		45	26	71
Richland	Benton	46	34	80
Seattle	King	79	34	113
Spokane	Spokane	55	30	85
Tacoma	Pierce	55	30	85
Tumwater/Olympia	Thurston	61	34	95
Vancouver	Clark	56	34	90
Whidbey Island	Island	45	30	75
Yakima	Yakima	44	30	74
WEST VIRGINIA				
Beckley	Raleigh	47	26	73
Berkeley Springs	Morgan	64	26	90
Charleston	Kanawha	55	30	85
Harpers Ferry	Jefferson	57	26	83
Huntington	Cabell	53	26	79
Martinsburg	Berkeley	49	30	79
Morgantown	Monongalia	49	30	79
Parkersburg	Wood	45	30	75
Wheeling	Ohio	44	26	70
WISCONSIN				
Brookfield	Waukesha	64	34	98
Cable	Bayfield	41	26	67
Eau Claire	Eau Claire	48	30	78
Green Bay	Brown	54	26	80
Kewaunee	Kewaunee.			
(June 1–September 14)		51	26	77
(September 15–May 31)		40	26	66
La Crosse	La Crosse	55	30	85
Lake Geneva	Walworth.			
(May 1–October 14)		71	34	105
(October 15–April 30)		52	34	86
Madison	Dane	59	30	89
Marinette	Marinette	46	26	72
Milwaukee	Milwaukee	67	30	97
Mishicot	Manitowoc	52	26	78
Oshkosh	Winnebago	53	30	83
Rhinelander/Minocqua	Oneida	54	26	80
Sturgeon Bay	Door.			
(June 1–September 14)		63	26	89
(September 15–May 31)		40	26	66
Wausau	Marathon	49	26	75
Waukoma	Waushara	43	26	69
Wisconsin Delts	Columbia.			
(June 1–September 14)		82	30	112

VOL 58 ISS 244 DE 22 1993 UMI

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]					
(September 15–May 31)		42		30		72
WYOMING						
Casper	Natrona	41		30		71
Cheyenne	Laramie	48		30		78
Cody	Park.					
(May 1–September 30)		53		26		79
(October 1–April 30)		40		28		68
Gillette	Campbell	42		26		68
Jackson	Teton.					
(June 1–October 14)		75		34		109
(October 15–May 31)		57		34		91
Rock Springs	Sweetwater	41		26		67
Thermopolis	Hot Springs.					
(June 1–September 14)		47		26		73
(September 15–May 31)		40		26		66

[1] Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."

[2] Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties."

[3] Military installations or Government-related facilities (whether or not specifically named) that are located partially within the city or county boundary shall include "all locations that are geographically part of the military installation or Government-related facility, even though part(s) of such activities may be located outside the defined per diem locality."

[4] Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be surveyed on an annual basis by GSA to determine whether rates are adequate. Requests for per diem rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Federal Supply Service, Attn: Transportation Management Division (FBX), Washington, DC 20406. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area), and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the locations. Agencies should submit their requests to GSA no later than May 1 in order for a city to be included in the annual survey.

Dated: December 3, 1993.

Roger W. Johnson,

Administrator of General Services.

[FR Doc. 93–31174 Filed 12-21-93; 8:45 am]

BILLING CODE 6820-34-F

VOL 58 ISS 244 DEC 22 1993 UMI

federal register

Wednesday
December 22, 1993

Part IV

Environmental Protection Agency

40 CFR Part 122 et al.

Treatment of Indian Tribes as States for Purposes of Sections 308, 309, 401, 402, and 405 of the Clean Water Act (CWA); Rule

VOL 58 ISS 244 DEC 22 1993 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123, 124 and 501

[FRL–4667–6]

RIN 2040–AB70

Treatment of Indian Tribes as States for Purposes of Sections 308, 309, 401, 402, and 405 of the Clean Water Act (CWA).

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Water Quality Act of 1987 amends the CWA by adding section 518, which requires EPA to promulgate regulations specifying how Tribes will be treated in the same manner as States for various provisions of the CWA.

This final rule establishes requirements for determining eligibility of Indian Tribes to be treated in the same manner as States for several sections of the CWA. The rule establishes eligibility requirements for monitoring, inspections and entry under section 308 (in part) as well as Federal enforcement under section 309 (in part). The rule also sets requirements for certification of water quality standards for some types of NPDES permits under section 401 (in part) for the National Pollutant Discharge Elimination System (NPDES) under section 402. The rule also establishes the eligibility requirements for the pretreatment program under section 402 and the sewage sludge management program under section 405. If an Indian Tribe is found so eligible, the Tribe may apply to EPA to assume the NPDES permit program (including pretreatment) and State sludge management program. This regulation satisfies the statutory provisions in section 518 of the CWA with respect to the 402 program, and is consistent with previous Agency rulemaking addressing the eligibility of Indian Tribes to assume CWA section 405 State sludge management programs.

EFFECTIVE DATE: The rule shall be effective January 21, 1994.

ADDRESSES: The public may inspect the record for this rulemaking and all comments received on the proposed regulation, "Treatment of Indian Tribes as State (Final Rule)," at the Environmental Protection Agency, Water Docket, 401 M Street, SW., Washington, DC 20460, Room L102 between the hours of 9 a.m. and 3:30 p.m. on business days. For access to docket materials, please call (202) 260–3027 for an appointment during the aforementioned hours. A reasonable fee will be charged for copying.

FOR FURTHER INFORMATION CONTACT: Laura J. Phillips, OWEC, Permits Division (4203), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260- 9522.

SUPPLEMENTARY INFORMATION:

Information in this preamble is organized as follows:

I. Background
A. Statutory Authority
B. Supplemental Statutory Background
C. Changes to the Proposed Rule
D. NPDES Application Process Simplified for Indian Tribes
II. Summary and Explanation of Today's Action
A. Treatment of Indian Tribes in the Same Manner as States
1. Federal Recognition
2. "Substantial Governmental Duties and Powers"
3. Jurisdiction
4. Tribal Capability
5. Process for Evaluating Applications
B. Transition in Permitting Authority
C. Additional Amendments
III. Response to Comments
A. Response to Comments on Proposed Rule (3/10/92)
1. Tribal Regulation of Fee Lands of Nonmembers
2. Tribal Jurisdiction Under CWA Section 518(e)(2)
3. Transition Issues
4. Criminal Enforcement Authority
5. Other Comments
a. Simplification of Tribal Application for Treatment in the Same Manner as a State
b. Tribal Funding
c. Tribal Standards Under the CWA
d. EPA's "Regulatory Flexibility Act" Analysis
B. Supporting Comments
IV. Other Regulatory Requirements
A. Compliance with Executive Order 12991 (Regulatory Impact Analysis)
B. Paperwork Reduction Act
C. Regulatory Flexibility Act

I. Background

A. Statutory Authority

The over-all objective of the CWA as amended is to restore and maintain the chemical, physical, and biological integrity of the Nation's water. The two national goals the Act established in 1972 include: (1) Eliminating the discharge of pollutants into navigable waters; and (2) achieving an interim water quality level that would protect fish, shellfish, and wildlife while providing for recreation in and on the water wherever attainable.

Since 1972, section 101(b) of the CWA makes it national policy to recognize and preserve the States' primary responsibility to meet these goals. Over the past 20 years, the Agency has focused on developing standard operating relationships with the States and localities. These relationships have generally led to the successful operation of EPA and State Programs on most lands in the United States.

Congress, through amendments to both the CWA in 1987 and the Safe Drinking Water Act (SDWA) in 1986 (as well as amendments to the Clean Air Act (CAA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)), has authorized EPA to treat Indian Tribes in the same manner as States under various provisions of these Acts. Amendments to both statutes required the Agency to promulgate regulations that would establish exactly how Tribes would be treated in the same manner as States.

The February 4, 1987, amendments to the CWA (33 U.S.C. 1251 *et seq.*) added a new section 518 entitled "Indian Tribes." These amendments authorize EPA to treat Indian Tribes as States for the purposes of certain provisions of the Act, and provide grant and contract assistance (for certain of these programs) to Indian Tribes where appropriate. The amendments require EPA to promulgate regulations specifying how the Agency will treat an Indian Tribe in the Same Manner as a State under the following provisions: Title II (Construction Grants), section 104 (Research, Investigation, and Training), section 106 (Grants for Pollution Control), section 303 (Water Quality Standards and Implementation Plans), section 305 (Water Quality Inventory), section 308 (Inspections, Monitoring, and Entry), section 309 (Federal Enforcement), section 314 (Clean Lakes), section 319 (Nonpoint Source), section 401 (Certification), section 402 (National Pollutant Discharge Elimination System), and section 404 (Dredge and Fill Permit Program). In addition, as will be discussed further below, today's rule also addresses Tribal assumption of CWA section 405 State sludge management programs.

Section 518(e) of the CWA establishes certain criteria an Indian Tribe must meet before Treatment in the Same Manner as a State is authorized:

(1) "The Indian Tribe has a governing body carrying out substantial governmental duties and powers";

(2) "the functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation", and

(3) "the Indian Tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the Act and of all applicable regulations."

In addition to the eligibility requirements specified in section 518(e), section 518(h)(2) defines Indian Tribes as follows: "'Indian Tribe' means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation." Consequently, existing Federal recognition and governmental authority over reservation lands must also be demonstrated by an Indian Tribe seeking authorization to administer the NPDES or State sludge management programs.

B. Supplemental Statutory Background

In 1972, Congress established the NPDES permit program to regulate the discharge of pollutants into "waters of the United States." The CWA prohibits the discharge of pollutants without an NPDES permit (section 301). Congress gave States the option of assuming NPDES permit program authority, subject to EPA approval (section 402). A new State assuming this responsibility may operate a partial or phased in program in accordance with section 402(n) of the CWA.

The Act prescribes minimum requirements which States must meet before exercising their option to assume the NPDES program, and assigns program approval and oversight responsibility to EPA. EPA regulations applicable to the NPDES program appear at 40 CFR parts 122 through 125, with the procedures and criteria for State assumption of the NPDES permit program being set forth in part 123. Once a Tribe is determined to be eligible for Treatment in the Same Manner as a State, the Tribe must meet the requirements for an approvable NPDES program specified in 40 CFR part 123 in order to assume the authority to issue CWA section 402 permits, except in the area of criminal enforcement responsibility, in which case EPA has established an alternative procedure as discussed below.

Section 405 of the CWA addresses requirements regarding the utilization or disposal of sewage sludge, and directs EPA to issue regulations providing guidelines for the disposal and utilization of sewage sludge. The CWA was amended in 1987 to add a new section 405(f) establishing a permitting program to implement sewage sludge management requirements. The Agency has promulgated regulations codified at 40 CFR parts 123 and 501 which address State sludge management programs under CWA section 405 (54 FR 18716, May 2, 1989) as revised (58 FR 9404, February 19, 1993). Section 405(f) provides for incorporation of sewage sludge use or disposal requirements into either CWA section 402 NPDES permits (or other permits issued under certain other Federal environmental laws) or into State sludge management permits issued under State sludge management programs approved by EPA. The regulations applicable to State sludge management programs (including State sludge management permits) appear at 40 CFR part 501 for non-NPDES programs, and parts 122 and 123 for NPDES programs.

Section 518(e) expressly addresses assumption of section 402 NPDES permitting authority by eligible Indian Tribes, and this basis for sewage sludge permitting is addressed by today's amendments with regard to the NPDES program. While section 518(e) of the CWA does not expressly address Tribal assumption of non-NPDES State sludge management program permits under section 405, the final State sludge management program regulations addressed this issue in the preamble (54 FR 18751, May 2, 1989), and the definition of "State" set forth at 40 CFR 501.2 recognizes that Indian Tribes may assume such programs if they meet the eligibility requirements of CWA section 518(e). The preamble to the final State sludge management program regulations noted that regulations governing procedures and criteria for Tribal assumption of CWA programs were forthcoming, and today's final rule, in addition to establishing criteria for Tribal assumption of the NPDES program, would establish similar criteria for Tribal assumption of CWA section 405 State sludge management programs.

As the preamble to the final sewage sludge program regulations provided, there are several important reasons why Indian Tribes may apply for assumption of non-NPDES State sludge management programs.

In the 1988 proposal of part 501, EPA proposed treating Indian Tribes as States for purposes of non-NPDES section 405(f) sludge management programs even though section 518(e), which addresses the status of Indian Tribes under the CWA, does not specifically list section 405 as a program for which EPA may treat an Indian Tribe as a State. EPA reasoned that omission of section 405 from section 518 was the result of oversight, not of deliberation. EPA advanced two basic reasons in support of this position. First, section 518 authorized treating Indian Tribes as States for purposes of other sludge management activities, e.g., Title II (construction grants) and section 303 (water quality standards and implementation plans). Second, section 518 would clearly allow Indian Tribes to be treated as States for purposes of administering an approved NPDES program (including sludge management) and there is no reason why Indian Tribes should not be similarly treated for purposes of administering a non-NPDES program that regulated the same activities. (54 FR 18751, May 2, 1989.)

States are also empowered by section 401 of the CWA to certify that Federal permits or licenses issued by Federal agencies, will be in compliance with, among others, the State's water quality standards. Under section 518(e) of the CWA, Indian Tribes are eligible for Treatment in the Same Manner as States for section 401 certification purposes. The assumption of 401 certification authority by Indian Tribes as States was addressed in a separate final rulemaking package (56 FR 64876, December 12, 1991) by amendment of 40 CFR part 131, governing water quality standards. 40 CFR 131.4(c) provides that "[w]here EPA determines that a Tribe qualifies for treatment as a State for purposes of water quality standards, the Tribe likewise qualifies for treatment as a State for purposes of certifications conducted under Clean Water Act section 401." 56 FR 64894.

Today's final rule also makes a corresponding change to the State certification provisions of subpart D of 40 CFR part 124. Part 124 states the procedures for issuing permits for several EPA programs. Subpart D describes various procedures applicable only to the NPDES program and specifically provides for State certification of NPDES permits pursuant to CWA section 401(a)(1). As added by this final rule, new § 124.51(c) follows § 131.4(c) in stating that an Indian Tribe qualified for Treatment in the Same Manner as a State for purposes of the Water Quality Standards Program is likewise qualified for Treatment in the Same Manner as a State for purposes of State certification pursuant to CWA section 401(a)(1).

Section 518 of the CWA also provides for Treatment of Indian Tribes in the Same Manner as States for purposes of sections 308 and 309 of the CWA (in part). Under today's final rule, any Tribe which is approved to be treated in the same manner as a State for purposes of sections 402 and/or 405 of the CWA is automatically eligible to be treated in the same manner as a State for purposes of sections 308 and 309. In addition, the Agency promulgated amendments to the regulations (58 FR 8172, February 11, 1993) codified at 40 CFR parts 232 and 233 which address the dredge and fill

VOL 58 ISS 244 DEC 22 1993 UMI

permit program under section 404 of the CWA and which also provide that any Tribe which is approved to be treated in the same manner as a State for purposes of section 404 is automatically eligible to be treated in the same manner as a State for purposes of sections 308 and 309. Under section 309, EPA may take specified enforcement actions whenever the Administrator finds that a person is in violation of various provisions of the Act (including section 405), of any permit condition or limitation in an NPDES permit implementing various provisions of the CWA, or of specified pretreatment program requirements. Section 309 also establishes penalties for violations of specific provisions of the Act (including section 405), of any permit condition or limitation in an NPDES permit implementing various provisions of the CWA, or of specified pretreatment program requirements. As discussed above, a Tribe treated in the same manner as a State for purposes of sections 402 and/or 405 would be eligible to apply to administer the NPDES (including the pretreatment and NPDES sludge components) or State sludge management permit programs under 40 CFR parts 123 or 501. Those State program regulations require States to have specified enforcement powers, including the power to assess stated penalties. See 40 CFR 123.27, 403.10, and 501.17. As with any authorized State, EPA has the authority to enforce any NPDES or State sludge management permit issued by an Indian Tribe which had obtained authorization under 40 CFR part 123 or 501.

In addition, any Tribe treated in the same manner as a State for purposes of the NPDES or State sludge management programs is also automatically eligible to be treated in the same manner as a State for purposes of section 308(c) (State inspection authority for point sources) for similar reasons as section 309. Recognition of State inspection authority is part of the NPDES or State sludge management permit program authorization requirements for which a State must apply under sections 402 and/or 405. See 40 CFR 123.26, 403.10, and 501.16.

Today's final rule is the last that EPA plans to issue implementing section 518 of the CWA. EPA has already issued regulations implementing section 518 under sections 106, 303, 314, 319, 401 (in part) and Title II, and sections 404, 308 (in part) and 309 (in part). Today's final rule covers sections 308 (in part), 309 (in part), 401 (in part), 402, and 405 (although not explicitly mentioned in section 518).

The only sections of the CWA explicitly identified in section 518 for which EPA has not yet specified Treatment in the Same Manner as a State procedures are sections 104 and 305. EPA does not believe, however, that additional regulations are necessary. Section 104 authorizes a variety of grants and funding to organizations for research, investigations, training, etc. Tribes currently are eligible under the major funding provisions of section 104 regardless of whether they are treated in the same manner as States for purposes of the Act. Thus, EPA has determined that specific regulations are not needed to effectuate the purposes of section 518. With respect to section 305, EPA has already waived the requirement to submit a biennial report for Indian Tribes under section 305(b). See 40 CFR 130.4; 54 FR 14354, 14357 (April 11, 1989). Thus, regulations treating Tribes in the same manner as States for section 305 would be superfluous.

C. Changes to the Proposed Rule

EPA has reviewed all comments submitted on the proposed rule, and responds to the comments in this preamble and in the "Response to Comments" document available in the docket for today's rule. EPA has determined that no changes to the actual rule (or amendments to 40 CFR to incorporate the necessary language for Treatment in the Same Manner as a State for federally recognized Indian Tribes) are currently necessary from the language proposed on March 10, 1992.

D. NPDES Application Process Simplified for Indian Tribes

This rule was originally proposed on March 10, 1992 and the comment period closed on May 11, 1992. On November 10, 1992, EPA's Deputy Administrator signed a memorandum entitled "Simplification of EPA's Process for Treating Tribes as States." By that memorandum, the Agency formally adopted a new policy for simplifying the process for treating Indian Tribes in the same manner in which it treats States under several statutes, including the Clean Water Act. A copy is available in the docket for today's rule.

EPA has decided to proceed with the issuance of this rule so that there will be no further delays in allowing interested Tribes to seek authorization for the 402 or 405 permit programs. EPA recognizes, however, that some changes to today's rule may later be necessary to implement fully its new policy on treatment as State simplification. EPA plans to make necessary changes, as appropriate, to its Treatment in the Same Manner as a State regulations across all of its programs in the near future; it will make any necessary changes to this regulation at that time. In the interim, EPA will continue to work with Tribes to ensure that the existing regulations do not pose an unreasonable burden on Tribes wishing to assume authority for the 402 or 405 permit program(s) and will implement EPA's simplification process on an ad hoc basis, as appropriate, in implementing today's rule.

II. Summary and Explanation of Today's Action

Today's final rule would implement section 518 of the CWA, which authorizes EPA to treat an Indian Tribe in the same manner as a State for assumption of the NPDES permit program if the Indian Tribe meets the eligibility criteria and would also allow Tribal assumption of CWA section 405 State sludge management programs.

The criteria for treating Indian Tribes in the same manner as States under the CWA and the SDWA are very similar. The Agency believes that it has established a reasonable process for Tribes to demonstrate State eligibility, but is reassessing this process to simplify it even further.

Most qualification criteria are of a general nature and need only be provided when a Tribe first applies for "Treatment in the Same Manner as a State" under the SDWA, CWA, or CAA. For example, the "Federal recognition" and "governmental duties and powers" criteria will almost always require the same showing for a Tribe and would ordinarily need to be demonstrated only during the first application a Tribe submitted under any of the Acts.

However, the Agency believes that even with a streamlined application procedure, some qualifications will still need to be demonstrated separately for each program, particularly regarding capability. For example, a Tribe may possess the requisite capability to establish water quality standards but not to assume the NPDES permit program. Yet the Agency does not wish to put Tribes through the burden of filing complete applications for Treatment in the Same Manner as a State for each separate program. Consequently, the Agency will allow Indian Tribes which have previously been designated as a State under the SDWA, CWA, or CAA (once regulations are promulgated) to provide only that information which is unique to the specific additional program(s) (which may include demonstrating adequate regulatory authority to administer the specific program) the Tribe is applying for.

As is the case for States, an Indian Tribe must have its own legal

authorities to administer a program under the CWA; EPA cannot delegate its own authority. However, the Agency considered whether the lack of comprehensive criminal enforcement authority would preclude Tribes from applying for the NPDES (section 402) or CWA section 405 State sludge management programs, and the dredge and fill permit program (section 404) that currently require such authority for an approvable State program.

Section 1451 of SDWA specifically states that Indian Tribes are not required to exercise criminal enforcement jurisdiction for primary enforcement responsibility. The CWA amendments, however, do not include similar language indicating whether it would be appropriate to treat a Tribe not having criminal enforcement authority over all individuals on the reservation in the same manner as a State where such authority is currently required for State program assumption.

The Agency realizes that a comprehensive criminal enforcement requirement could raise substantial impediments to Tribal assumption of those CWA programs that require such authorities of States. Federal law bars Indian Tribes from trying criminally or punishing non-Indians in the absence of a treaty or other agreement to the contrary. *Oliphant* v. *Suquamish Indian Tribe*, 435 U.S. 191 (1978). In addition, the Federal Indian Civil Rights Act prohibits any Indian court or tribunal from imposing any criminal fine greater than $5,000 upon Indians within its jurisdiction (25 U.S.C. 1302(7)).

The Agency believes that even though Congress did not explicitly waive the requirement under CWA, as under SDWA, that Congress nonetheless intended Tribes to be able to obtain primacy without demonstrating comprehensive criminal enforcement authority. If EPA were to infer that Congress, by failing to insert language similar to that contained in section 1451 of SDWA, intended not to waive the criminal enforcement requirement, EPA's reading would make part of section 518 of CWA a nullity, since absent further legislative action, no Tribe would be able to assume a program under section 402 or 404 of CWA. This reading would contradict the clear intent of section 518 to allow Tribes to assume all specified CWA programs where they meet the 518(e) criteria and further would violate two traditional rules of statutory construction: (1) Legislation should not be interpreted as being meaningless, if at all possible; and (2) ambiguous Federal statutes addressing Indian affairs should be interpreted to the benefit of the Tribes.

Sections 123.27 of the NPDES regulations and 501.17 of the State sludge management program regulations require that a State have criminal enforcement authority to be approved. This rule amends the existing regulations by adding §§ 123.34 and 501.25 so that Tribes are not required to exercise comprehensive criminal enforcement jurisdiction as a condition to assuming the 402 or State sludge management programs. Under this rule, Tribes are, instead, required to provide for the timely and appropriate referral of criminal enforcement matters to the Regional Administrator when Tribal enforcement authority does not exist (i.e., for non-Indians or fines over $5,000). Such procedures must be established in a formal Memorandum of Agreement (MOA) with the Regional Administrator. Related changes to cross-reference to the enforcement authority provisions of §§ 123.34 and 501.25 would also be made in §§ 123.25, 501.1(c)(5), and 501.15(b). The Tribe is, of course, still required to carry out its monitoring and compliance responsibilities and assist in the identification of potential criminal violators. Thus, the lack of comprehensive Tribal criminal enforcement authority will not prevent a Tribe from having an approvable 402 or 405 State program. In promulgating the amendments to the regulations (58 FR 8172, February 11, 1993) codified at 40 CFR parts 232 and 233 which address the dredge and fill permit program under section 404 of the CWA, the Agency took the same position.

Because CWA program funds are limited, many Indian Tribes may decide it is not cost-effective or otherwise beneficial to apply for various CWA program authorities. The Agency encourages Tribes to carefully consider which of the available programs would be beneficial to assume and to target the Tribal efforts and resources towards those specific programs. The Agency notes that Tribal assumption of the CWA programs discussed in today's rule is voluntary on the part of the Tribes.

In order to facilitate consistent implementation of the requirements of the CWA, an Indian Tribe and the State or States adjacent to the lands where such Tribe is located may enter into a cooperative agreement, subject to the review and approval of the Administrator or his or her delegatee, to jointly plan and administer the requirements of this Act (see section 518(d) of the CWA).

The Agency strongly encourages such cooperative agreements because of the relative benefits such as information and resource sharing. The Agency does not have any specific criteria that a cooperative agreement must meet, so long as all parties involved approve it and it complies with the intent and administrative requirements of the CWA. In situations where EPA is a signatory to a cooperative agreement, all Federal requirements that govern such agreements must also be met.

Draft cooperative agreements should be submitted to the Regional Administrator for review and approval. If necessary, the Agency will develop guidance to assist the Tribes and States in developing cooperative agreements.

A. Treatment of Indian Tribes in the Same Manner as States

With the exception of criminal enforcement requirements, eligible Tribes seeking approval of the NPDES or State sludge management programs are required to comply with all existing requirements for those programs. For the NPDES program (including NPDES sludge management programs), these requirements are contained in the regulations at part 123; for the CWA section 405 State sludge management program, the applicable requirements are found at part 501. Those parts set out specific requirements for State program submissions, approval procedures, and programmatic and enforcement authorities. Today's final rule makes several revisions to 40 CFR parts 122 through 124 and 501 in order to set out and clarify NPDES and State sludge management program requirements for Indian Tribes.

No amendments have been made to 40 CFR part 403 governing the pretreatment program because no changes to part 403 are necessary to allow a Tribe to apply for pretreatment authority, once changes are made to parts 122 and 123. See 40 CFR 403.1(b)(3) and 403.10. Part 403 incorporates the definition of "State" in 40 CFR 122.2 (which is revised by this rule) in its definitional section. See 40 CFR 403.3(m).

This final rule would amend 40 CFR parts 122 through 124 and 501 to implement CWA section 518 and create procedures for Indian Tribes to apply to EPA for Treatment in the Same Manner as a State in order to be eligible to apply concurrently or sequentially for assumption of the NPDES and State sludge management programs. As will be discussed further below, the final rule adds §§ 123.31 through 123.34 and §§ 501.22 through 501.25 to the regulations to establish criteria Indian Tribes must meet for Treatment in the Same Manner as a State, lists the

information the Tribe must provide in its application to EPA, and provides a procedure for EPA to formally review the application. The Administrator has delegated the authority to determine whether a Tribe meets the criteria for Treatment in the Same Manner as a State to the Regional Administrators. The requirements a Tribe must meet under all the CWA Indian regulations are as identical as possible leaving room for program specific requirements which are explained further in the capability requirements section of this notice.

As mentioned previously, section 518 of the CWA stipulates that a Tribe is eligible for Treatment in the Same Manner as a State if it meets the following criteria:

(1) The Tribe is federally recognized;

(2) The Tribe carries out substantial governmental duties and powers over a Federal Indian reservation;

(3) The Tribe has appropriate regulatory authority over surface waters of the reservation; and

(4) The Tribe is reasonably expected to be capable of administering the relevant CWA program.

The Agency believes the language in section 518 requires that each of these eligibility criteria be satisfied through a separate demonstration by a Tribe following the procedures of the regulations set forth in §§ 123.31 through 123.33 for the NPDES program and §§ 501.22 through 501.24 for the State sludge management program. These procedures are intended to ensure that Tribes who are treated in the same manner as States meet the requirements in the CWA, not to act as a barrier to program assumption. The Agency hopes that as many Tribes as possible will assume responsibility for the CWA programs where the Tribe and the Agency deem it appropriate.

1. Federal Recognition

With respect to Foderal recognition as an Indian Tribe, the Secretary of the Interior periodically publishes a list of federally recognized Tribes. If the applicant appears on this list it need only state that this is so. If the Tribal name does not appear on this list because the list has not been updated, the Tribe can still provide appropriate documentation to EPA verifying that it is federally recognized by the Secretary of Interior. The regulations applicable to this requirement appear in §§ 123.31(a)(1), 123.32(a), 501.22(a)(1), and 501.23(a)

2. "Substantial Governmental Duties and Powers"

In addition, a Tribe must satisfy the second criterion that the Tribe is "carrying out substantial governmental duties and powers." The Agency defines "substantial governmental duties and powers" to mean that the Tribe is currently performing governmental functions to promote the public health, safety, and welfare (of the affected population) within a defined geographical area. The regulations applicable to this requirement appear in §§ 123.31(a)(2), 123.32(b), 501.22(a)(2), and 501.23(b). Many Indian Tribal governments perform functions traditionally performed by sovereign governments. Examples of such functions include, but are not limited to, levying taxes, acquiring land by exercising the power of eminent domain, and exercising police power (i.e., providing for the public health, safety, and general welfare of the affected population). Based on comments on the SDWA Indian Primacy Rule, the Agency believes that most Tribes will be able to meet these criteria without much difficulty. (See 53 FR 37399.)

The Agency intends to minimize the burdens to a Tribe to demonstrate that it is carrying out substantial governmental duties and powers. The Agency will require a narrative statement:

(1) Describing the form of Tribal government;

(2) describing the types of essential governmental functions currently performed such as those listed above; and

(3) identifying the legal authorities for performing these functions (e.g., Tribal constitutions, codes, etc.).

The Agency merely intends the functions listed above (e.g., police powers affecting the health, safety and welfare, taxation, and power of eminent domain) as examples. It is not necessary that an applicant be currently performing each such function to qualify for Treatment in the Same Manner as a State. The Agency intends only to require sufficient documentation to determine whether a Tribe satisfies the statutory requirement of "carrying out substantial governmental duties and powers."

3. Jurisdiction

The third requirement a Tribe must meet for Treatment in the Same Manner as a State is that "the functions to be exercised by the Tribe must pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the boundaries of a reservation * * *" The regulations applicable to this requirement appear in §§ 123.31(a)(3), 123.32(c), 501.22(a)(3), and 501.23(c).

The question of where a Tribe may exercise CWA authority has been a subject of significant comment in this and other CWA rulemakings. EPA has taken a consistent approach on this matter. EPA is responding to the various comments on this matter in this preamble and in the "Response to Comments" document.

Under today's final rule, Tribes are limited to obtaining Treatment in the Same Manner as a State status for only water resources within the borders of the reservation over which they possess authority to issue NPDES or sludge permits. EPA believes that it was the intent of Congress to limit Tribes to obtaining the status of Treatment in the Same Manner as a State for lands within the reservation. EPA bases this conclusion, in part, on the definition of "Indian Tribe" found in CWA section 518(h)(2). Nonetheless, the meaning of the term "reservation" must be determined in light of statutory law and with reference to relevant case law. EPA considers trust lands formally set apart for the use of Indians to be "within a reservation" for purposes of section 518(e)(2), even if they have not been formally designated as "reservations." *Oklahoma Tax Comm'n v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, 111 S. Ct. 905, 910 (1991). This means it is the status and use of the land that determines if it is to be considered "within a reservation" rather than the label attached to it. EPA does not believe that section 518(e)(2) prevents EPA from recognizing Tribal authority over non-Indian water resources located within the reservation if the Tribe can demonstrate the requisite authority over such water resources. EPA does not read the holding in *Brendale v. Confederated Tribes and Bands of the Yakima Nation*, 492 U.S. 408 (1989), as preventing EPA from recognizing Tribes as States for purposes of administering the NPDES and/or State sludge management programs on fee lands within the reservation, even if section 518 is not an express delegation of authority to Indian Tribes to regulate the activities of non-members on Indian lands (an issue discussed in detail below). In *Brendale*, both the State of Washington and the Yakima Nation asserted authority to zone non-Indian real estate developments on two parcels within the Yakima reservation, one in an area that was primarily Tribal, the other in an area where much of the land was owned in fee by nonmembers. Although the Court analyzed the issues and the appropriate interpretation of *Montana v. United States*, 450 U.S. 544, 565–66 (1981) at considerable length, the nine members split 4:2:3 in reaching the decision that the Tribe should have exclusive zoning authority over property in the Tribal area and the State should have exclusive zoning authority over non-Indian owned property in the fee area.

The process the Agency will establish for Tribes to demonstrate their authority includes the submission of a statement signed by the Tribal Attorney General or an equivalent official explaining the legal basis for the Tribe's regulatory authority to administer the desired program(s). The statement is similar to the statement currently required of States applying for 402 permit or State sludge management program assumption (40 CFR 123.23; 501.13). The Attorney General's Statement will supplement the other documentation mentioned in §§ 123.32 and 501.23 of this final rule (e.g., a map, copies of tribal codes and ordinances, etc.). The Attorney General's Statement with the supporting documentation will assist EPA in verifying that the Tribe has the necessary authority to administer the appropriate CWA program.

The Agency presumes that, in general, Tribes are likely to possess the authority to regulate activities affecting water resources on the reservation for purposes of administering the NPDES and/or State sludge management programs. However, the Agency does not believe that it would be appropriate to recognize Tribal authority and approve Tribal NPDES and sludge management program authorization applications in the absence of verifying documentation. Just as when EPA considers a State application to assume the NPDES or State sludge management program, EPA must not authorize program responsibility to a Tribe unless the Tribe can adequately show it possesses the requisite authority. The Agency recognizes that there may be some disputes regarding the extent of Tribal authority to administer CWA programs and therefore believes it necessary to require documentation to demonstrate adequate authority by Tribes applying for CWA programs. The request that a given Tribe establish its authority to administer CWA programs is not meant to be a barrier or a deterrent to that Tribe's assumption of these programs. Rather the intent of these requirements is to raise at an early date the presence or absence of a key element to effective administration of CWA programs.

In addition, in light of the legislative history of section 518, the question of whether section 518(e) is an explicit delegation of authority over non-Indians is not resolved. Therefore, EPA does not believe it is currently appropriate to eliminate the requirement that Tribes make an affirmative demonstration of their regulatory authority. EPA will authorize Tribes to exercise responsibility for the NPDES and/or State sludge management programs once the Tribe shows that, in light of the factual circumstances and the generalized findings EPA has made regarding reservation water resources, it possesses the requisite authority.

EPA would advise Tribes, in their Attorney Generals' Statements, to outline *all* bases for concluding that the Tribe has adequate authority. This can only help EPA to make a proper determination to treat the Tribe in the Same Manner as a State.

Where the Regional Administrator concludes that a Tribe has not adequately demonstrated its authority with respect to an area in dispute, then Tribal assumption of the NPDES and/or State sludge management program would be restricted accordingly. If the authority in dispute were focused on a limited area, this would not necessarily delay the Agency's decision to treat the Tribe as a State for the non-disputed areas.

4. Tribal Capability

The fourth criterion that a Tribe must meet is that, in the Regional Administrator's judgment, the Tribe must be "reasonably expected to be capable" of administering an effective program. The regulations applicable to this criterion appear in §§ 123.31(a)(4), 123.32(d), 501.22(a)(4), and 501.23(d).

In evaluating a Tribe's demonstration that it is "reasonably expected to be capable" of administering an effective program, the Regional Administrator will consider the following five factors:

(1) The Tribe's previous management experience;

(2) Existing environmental or public health programs administered by the Tribe;

(3) The mechanism(s) in place for carrying out the executive, legislative, and judicial functions of the Tribal government;

(4) The relationship between regulated entities and the administrative agency of the Tribal government which is, or will be, designated as the primacy agent; and

(5) The technical and administrative capabilities of the staff to administer and manage the program.

The Agency recognizes that certain Tribes may not have substantial experience in administering environmental programs. For this reason the Agency would require Tribes in §§ 123.32(d)(5) and 501.23(d)(5) either: (1) To show that they have the necessary management and technical skills, or (2) to submit a plan detailing steps for acquiring the necessary management and technical skills. Although lack of this experience will not preclude a Tribe from demonstrating the required capability, the presence of such experience will be of significant importance to the Agency.

This demonstration, however, does not change the requisite showing which an Indian Tribe must make for assumption of the NPDES or State sludge management programs. Except in the area of criminal enforcement authority as discussed above, an Indian Tribe must fully satisfy the traditional State program requirements of 40 CFR parts 123 or 501 before NPDES or State sludge management authorization is allowed, as stated in §§ 123.31(b) and 501.22(b). In evaluating a Tribal application for Treatment in the Same Manner as a State, the Regional Administrator must determine whether the Tribe is "reasonably expected to be capable" of carrying out the functions of an effective NPDES or State sludge management program. See, for example, 40 CFR 123.23(a) and 501.22. In other words, where an Indian Tribe prepares one simultaneous application for Treatment in the Same Manner as a State and to operate the NPDES or State sludge management programs, the Tribe must have an effective program in place for EPA to approve the Tribe under § 123.1 or § 501.1. Nothing would preclude EPA, however, from approving the Tribe's "Treatment in the Same Manner as a State" application while the Tribe's NPDES and/or State sludge management program was still under development.

EPA will request information on the Tribe's executive, legislative, and judicial functions to assure that the Tribe has the capability to effectively administer an approved NPDES permit program.

EPA's evaluation of the Tribe's capability will also consider the relationship between the existing or proposed Tribal agency which will assume the NPDES permit program and any potential regulated Tribal entities. A common situation among Indian Tribes is that the Tribe is both the regulator and regulatee. Such a situation could

VOL 58 ISS 244 DEC 22 1993 UMI

result in a conflict of interest if EPA authorized the Tribal program because the Tribe would be regulating itself. The Agency believes that independence of the regulator and regulatee is necessary to best assure effective and fair administration of these programs.

This approach is not meant to require the Tribes to divest themselves of ownership of any regulated entities it owns or operates. One possible solution to the problem could be the creation of an independent organization to regulate Tribal entities subject to CWA regulatory requirements. Similar arrangements could be established utilizing existing Tribal organizations.

Failure to resolve the regulator/regulatee conflict will not automatically preclude a Tribe from being eligible for Treatment in the Same Manner as a State but is intended to alert Tribes at an early date about a potential bar to regulatory program assumption that must be resolved. Resolution of the regulator/regulatee issue relative to the NPDES and State sludge management programs will be evaluated on a case-by-case basis and will be governed by the existing conflict-of-interest regulations applicable to those programs (40 CFR 123.25(c); 501.15(f)). EPA does not intend to limit Tribal flexibility in creating structures which will ensure adequate separation of the regulator and the regulated entity.

The Agency is aware that, in limited cases, States also are in a similar situation of being both regulator and regulatee. However, State infrastructures are typically such that the State agency operating the regulated entity is not the same State agency that has primary enforcement authority. This is in contrast to the typical situation exhibited by Indian Tribes which may own and operate most or all regulated entities.

The Agency encourages smaller Tribes to consider consortiums or inter-Tribal agencies as ways to obtain the necessary expertise to administer these programs and to make the attainment of authorization cost-effective and beneficial to the Tribe. The Agency will consider and evaluate all applications it receives, regardless of the applicant's size, on a case-by-case basis.

Although EPA will consider applications by a group or consortium of Tribes within the same geographical area, each applicant must still meet all the eligibility requirements to be treated in the same manner as a State, particularly the jurisdictional requirement.

5. Process for Evaluating Applications

Under §§ 123.33(b) and 501.24(b), within thirty days after receipt of a Tribe's complete application for Treatment in the Same Manner as a State (which has all the information required in § 123.32 or § 501.23), the Regional Administrator will notify appropriate governmental entities of the receipt of the application and the substance of and basis for the Tribe's assertion of authority over reservation waters. EPA defines the phrase "governmental entities" as States, Tribes, and other Federal entities located contiguous to the reservation of the Tribe which is applying for Treatment in the Same Manner as a State. Neighboring Tribes will be treated as "governmental entities" regardless of whether the neighboring Tribe is treated in the same manner as a State for purposes of sections 402 or 405 of the CWA. Where such governmental entities are States, EPA intends to provide notice and an opportunity to comment to the most appropriate State contacts, which may include, for example, the Governor, Attorney General, or the appropriate environmental agency head. The rule requires only that the Agency solicit and consider comments from such "governmental entities." Local governments such as cities and counties or other local governments are not included in the definition of "governmental entities."

EPA recognizes that city and county governments which may be subject to or affected by Tribal standards may also want to comment on the Tribe's assertion of authority. Although EPA believes that the responsibility to coordinate with local governments falls primarily upon the State, the Agency will make an effort to provide notice to local governments by placing an announcement in appropriate newspapers. Since the rule requires only that EPA consider comments from governmental entities, such newspaper announcements will advise interested parties to direct comments on Tribal authority to appropriate State governments.

The process of notifying States and Tribes and consulting with the Department of the Interior, as delineated in this and other EPA regulations implementing the CWA and the SDWA, was and is intended merely to assist the Agency in making its determination whether a Tribe has adequate authority to justify Treatment in the Same Manner as a State by EPA. Such notification and consultation procedures were not and are not intended to establish any form of adjudication or arbitration process to resolve differences between State and Tribal governments. Rather, EPA has a duty to determine whether a Tribe has adequate authority, as defined by Federal law and EPA policy, to carry out the grant or program under consideration. The notification and consultation procedures assist EPA in making this determination by providing information and perspectives from the points of view of neighboring Tribal and State governments and the Federal agency having extensive experience in Federal Indian law.

Under §§ 123.33(c) and 501.24(c), each of the governmental entities will have thirty days after receipt of the notice to submit comments to the Regional Administrator. Comments will be limited solely to the issue of the Tribe's showing under section 518(e)(2). EPA will not consider comments directed to whether the Tribe meets EPA's other requirements for Treatment in the Same Manner as a State.

If an Indian Tribe's assertion under section 518(e)(2) is subjected to a competing claim, §§ 123.33(d) and 501.24(d) provide that the Regional Administrator will consult with the Tribe, the governmental entity submitting comments, and the Secretary of the Department of the Interior, or designee. Currently, the Associate Solicitor, Division of Indian Affairs and the Deputy to the Assistant Secretary–Indian Affairs (Trust and Economic Development) are the designees of the Secretary of the Interior. Upon receipt of a Tribal application, EPA will forward a copy of the application and any documents asserting a competing or conflicting claim of authority to such designees as soon as possible. Comments from the Interior Department will be primarily a discussion of the law applicable to the issue to assist EPA in its own deliberations. No EPA decision will be attributed to, or determined by, the legal analysis offered by Interior employees.

After consultation, and in consideration of comments received, the Regional Administrator will determine whether the Tribe has adequately demonstrated that it meets the requirements of CWA section 518(e)(2). If the Regional Administrator concludes that a Tribe has not adequately demonstrated its authority with respect to certain reservation waters, then Tribal assumption of the program will be restricted accordingly. Any such determination by the Regional Administrator is not a determination of the Tribe's general regulatory authority but only with respect to administration of the NPDES and State sludge management programs. A dispute over a

certain area over which a Tribe is asserting authority will not necessarily delay the Agency's decision to treat a Tribe as a State for the non-disputed areas.

This procedure does not imply that States or Federal agencies have veto power over Tribal applications for Treatment in the Same Manner as a State. Rather, the procedure is simply intended to ensure that the Tribe has the necessary authority to administer the program it seeks to assume. The Agency will not rely solely on the assertions of a competing regulatory authority; it will make an independent evaluation of the Tribal showing.

The Agency does not believe it will be possible to approve or disapprove all applications for "Treatment in the Same Manner as a State" within a designated time frame. The Agency fully anticipates that there will be instances where the determinations under section 518(e)(2) and (e)(3) will require the Agency to go back to a Tribe for clarification or additional information. The Agency's experience with States applying for various EPA programs indicates that at times meetings and discussions between EPA and the State are necessary before all requirements are met. The Agency believes that the same process of communication with Tribes will be beneficial in ensuring that Tribes meet the criteria under section 518(e) in an expeditious manner.

If the Regional Administrator determines that a Tribe meets the requirements for Treatment in the Same Manner as a State, § § 123.33(e) and 501.24(e) provide that the Indian Tribe is eligible to apply for assumption of the NPDES or State sludge management program. It should be noted that a determination that a Tribe does not meet the requirements does not preclude the Tribe from resubmitting the application at a future date. If the Agency determines that a Tribal application is deficient or incomplete, the Tribe should consult with EPA on what changes are necessary.

Under § § 123.33(f) and 501.24(f), Indian Tribes which are found to be eligible for Treatment in the Same Manner as a State are eligible to request assumption of the NPDES or State sludge management program in accordance with the procedures and criteria applicable to State program submissions (40 CFR part 123 for NPDES (including NPDES sludge management programs); 40 CFR part 501 for non-NPDES State sludge management program). While not required by the regulations, as a practical matter EPA expects that the Indian Tribe's request for Treatment in the Same Manner as a State for NPDES or State sludge management program purposes and the Tribe's submission to actually assume these programs may occur simultaneously. The Agency encourages use of a single submission containing the necessary information in order to minimize paperwork burdens. In addition, EPA recognizes that information required for State program submissions may duplicate or overlap with information required for Treatment of an Indian Tribe in the Same Manner as a State. For example, § § 123.32(c) and 501.23(c) provide that requests for Treatment in the Same Manner as a State are to include a Tribal Attorney General's Statement and copies of relevant Tribal law, information which is similar to required elements of State program submissions under existing § § 123.21(a)(3) and (5) and § § 501.11(a)(3) and (5). The Agency wishes to emphasize that it does not seek duplicative information, and the final rule amends existing § § 123.21(b) and 501.11(b) to make clear that when considering the completeness of an Indian Tribe's request to assume the NPDES or State sludge management program, EPA will take into account any information already submitted as a part of the Tribe's request to be treated in the same manner as a State.

B. Transition in Permitting Authority

In order to avoid disruptions to the permitting process and competing assertions of authority, it is necessary to provide procedural arrangements to allow for the smooth transition from one permitting authority to another. In the case where the existing permitting authority is EPA, the existing regulations already contain provisions addressing transition from EPA-issued permits to State-issued permits. 40 CFR 123.1(d); 123.24(b); 501.1(f) and 501.14(b)(1). Since the final rule defines approved Indian Tribes as "States" for purposes of the regulations, these existing regulations would enable an efficient change from EPA's permitting authority to the Indian Tribe's permitting authority.

However, it is possible that a State, and not EPA, is the existing authorized permitting authority for activities on the reservation. Under 40 CFR 123.23(b) and 501.13, a State seeking to carry out either the NPDES or State sludge management programs on Indian lands must provide a specific analysis of its authority to do so in the Attorney General's Statement supporting its program submission, and can be authorized by EPA to issue permits on Indian lands as part of a State NPDES or State sludge management program. EPA is unaware of any State for which it made such an explicit authorization.

The existing regulations do not contain provisions addressing the procedures for arranging the transition from such State-issued permits (which are issued by a State which has made the requisite demonstration discussed in the previous paragraph and has been authorized to issue permits consistent with this demonstration) to Indian Tribe-issued permits. Today's final rule amends the regulations in various ways to provide for such an orderly transfer once an Indian Tribe is approved for program assumption. First, existing § § 123.22 and 501.12, which address State program submissions, are amended to provide that if a State has been authorized by EPA to issue NPDES permits in accordance with § 123.23(b) or § 501.13 and an Indian Tribe subsequently seeks program assumption, the Indian Tribe's program submission is to include a description of how the Indian Tribe and the State intend to accomplish the transition in permitting authority. To the maximum extent practicable, the amendments call for (but do not require) this submission to include a MOA between the Indian Tribe and the previously authorized State describing how the transition will be accomplished. These provisions are set forth in § § 123.22(g) and 501.12(g).

Second, the final rule makes conforming changes to the existing regulations governing the contents of the MOA between EPA and the Indian Tribe seeking program approval (§ § 123.24(b)(1) and 501.14(b)). The MOA between EPA and the Indian Tribe now must specify how the Tribe and previously authorized State will accomplish the transition of permitting authority when a State (rather than EPA) is the existing authorized permitting authority for reservation lands. See § § 123.24(b)(1)(ii) and 501.14(b)(1)(ii).

Third, today's final rule revises existing regulations governing the transfer of EPA's permitting authority upon a State's obtaining program approval (§ § 123.1(d) and 501.1(f)). Those regulations currently provide that upon a State's obtaining program approval, EPA will suspend issuing permits, and, absent agreement to the contrary stated in the MOA between EPA and the State, EPA will retain jurisdiction over its existing permits as specified there. The language of § § 123.1(d)(2) and 501.1(f)(2) extends the current procedures to cover the circumstance in which a State (rather than EPA) is the existing authorized permitting authority for the reservation lands. That is, a previously authorized State will retain jurisdiction over its

existing permits as described in §§ 123.1(d)(1) and 501.1(f)(1) absent a different arrangement provided in the MOA between EPA and the Tribe, as long as the authorized State agrees to the provisions relevant to permitting by the authorized State, in the Tribe's MOA with EPA (a State cannot be obligated by a Tribe's MOA agreements with EPA automatically).

The last mechanism for obtaining a smooth transfer to Tribal permitting authority would involve amending § 123.62(a), which addresses revisions to State programs. The final rule adds language to existing § 123.62(a) to make clear that if the State's approved program extends to a Federal Indian reservation and an Indian Tribe subsequently is approved for program assumption, this situation provides grounds for revision to the State program. The existing regulations governing revisions to State sludge management programs (40 CFR 501.32(b)) incorporate the revision procedures of § 123.62 by reference. Thus, the final rule's amendment to § 123.62(a) is also applicable to State sludge management programs.

In keeping with section 518(d) of the CWA, EPA strongly encourages Indian Tribes and States which have permitting authority on reservation lands to negotiate cooperative agreements to provide for a smooth and orderly transfer of permitting responsibility. Upon approval of the Indian Tribe's program assumption, EPA will promptly process any necessary revisions to the State's program or MOA with EPA to reflect the assumption of the program by the Indian Tribe.

Until Tribes qualify for the NPDES or State sludge management programs, however, EPA or an authorized State will administer those programs on Federal Indian reservations. EPA will, whenever possible, assume, without deciding, that existing permits on Federal Indian reservations issued by States without specific authorization under § 123.23(b) or § 501.13 contain enforceable limits. EPA's preliminary position on this issue was expressed in a September 9, 1988 letter from EPA's then General Counsel, Lawrence Jensen, to Dave Frohnmayer, Attorney General for the State of Oregon, a copy of which is available in the docket for today's rule. That letter provides:

> EPA is aware that some states have issued NPDES permits to certain dischargers on reservation lands. Until the NPDES program is delegated to a tribe, or until EPA otherwise determines in consultation with a state and tribe that a state lacks jurisdiction to issue NPDES permits on Indian lands, we will assume without deciding that those permits contain applicable effluent limits, in order to ensure that controls on discharges to reservation waters remain in place.

In other CWA rulemakings and for today's rule, EPA received comments on the interim statements made in Mr. Jensen's letter, and wishes to clarify that this policy is not an assertion that all State permits for reservations are necessarily valid as a matter of law. Rather, it is a mere recognition that fully implementing a role for Tribes under the CWA will require a period of transition. Were EPA simply to ignore all previously issued State permits in the interim period before the Tribes develop NPDES or State sludge management programs (or EPA issues a Federal permit), there would be a regulatory void which EPA believes would not be beneficial to preservation of water quality. EPA Regions will ensure in the future that NPDES States not authorized by EPA are not acting as the NPDES permit authority on reservations for any discharges. Prior to Tribal assumption of the NPDES or State sludge management programs previously administered by a State, EPA should issue or reissue permits on Federal Indian reservations, giving priority to Federal issuance of permits to reservation dischargers where it finds a particular need. Thus, EPA believes that the Agency's policy is the best approach to this issue, and one that best protects reservation environments in the interim period. To the extent that the interim guidance given in the Jensen letter implies a different intent in EPA's policy, today's statement supersedes it.

C. Additional Amendments

The final rule makes a number of other changes to the regulations to reflect definitions contained in CWA section 518 and make editorial and conforming changes as necessary to adjust the regulatory language to reflect that Indian Tribes would now be included in the definition of "State." A summary of these amendments is set forth below and all changes are as proposed on March 10, 1992 in the Federal Register (57 FR 8522).

With regard to definitions used in the regulations, the final rule revises §§ 122.2 and 501.2 of the regulations to incorporate the CWA section 518 definitions of "Indian Tribe" and "Federal Indian reservation," and also amends the existing definition of "State" to make clear that Indian Tribes may qualify for Treatment in the Same Manner as a State for purposes of assuming the NPDES and State sludge management programs.

The final rule also makes changes to the definitions set forth in § 124.2 as necessary to incorporate the CWA section 518(e) definitions into part 124, which establishes procedures for decision making in several Federal environmental programs. In this regard, the SDWA Primacy Rule amended § 124.2 to incorporate the definition of "Indian Tribe" used in that Act (53 FR 37410, September 26, 1988). The definition of Indian Tribe used in CWA section 518, however, differs from that used in the SDWA. The final rule leaves intact the SDWA definition, but adds separate definitions, for NPDES purposes, to incorporate the CWA's definitions of "Indian Tribe" and "Federal Indian reservation."

The SDWA Primacy Rule also amended the definition of "State" in § 124.2 to include "an Indian Tribe treated as a State * * *" See 53 FR 37410. This definition is also adequate for the CWA because the terms "Indian Tribe" and "Federal Indian reservation" added in today's rule reflect the different requirements of CWA section 518(e). In addition, new § 124.51(c) of this rule provides that an Indian Tribe qualified for Treatment in the Same Manner as a State for purposes of the Water Quality Standards program under 40 CFR 131.4 is qualified for Treatment in the Same Manner as a State for purposes of State certification of water quality standards pursuant to CWA section 401(a)(1).

Because the final rule adds Indian Tribes to the definition of "State," the final rule makes the necessary clarifying changes to §§ 123.1(h), 123.21(a)(1), 123.23(b), 501.11(a)(1), and 501.13 to clarify how their provisions apply in cases where the "State" is an approved Indian Tribe. For example, § 123.1(h) refers to the fact that a State's lack of authority over Indian lands does not impede assumption of the NPDES program; the final rule rewords that provision to make clear that the section's reference to a State means a State other than an approved Indian Tribe. Similarly, § 123.21 provides that requests for NPDES program assumption are to be submitted by the State Governor, and the final rule adds clarifying language to provide that in cases where the State seeking the program is an approved Indian Tribe, the submittal is to come from the Tribal authority equivalent to the Governor.

Finally, § 123.1(b), which sets forth the list of authorities under which part 123 is issued, adds to the list specific reference to CWA section 518(e).

III. Response to Comments

A. Response to Comments on Proposed Rule (3/10/92)

Section 518(e) of the CWA requires consultation with Indian Tribes during regulation development. In keeping with this requirement, the Agency decided a multi-faceted consultation approach would be most appropriate. Tribal and State representatives were appointed to serve on various CWA Indian workgroups. In some cases, workgroup meetings were noticed in the Federal Register inviting the public to observe and offer comment. Other efforts to consult with Tribes and States included national meetings across the country to discuss the regulatory approaches proposed in the various CWA regulations with attendance by EPA officials at both Tribal and State meetings. Regulatory approaches being considered were presented and draft proposed rule language was distributed.

On April 12, 1989, a draft of this final rule was circulated for preliminary comment to various persons, including States, Indian Tribes, and EPA personnel (following a mailing list of federally recognized Tribes obtained by the Office of Water) for review and comment prior to issuing the proposed rule.

EPA believes that many difficult issues were resolved during the consultation period prior to proposal, and that this explains why relatively few comments were received on the proposal and why no changes to the final regulations are being made.

EPA received ten comments upon the proposed regulation published on March 10, 1992. The ten commenters included: Chickasaw Nation (OK), Idaho Department of Health and Welfare, Pueblo of Isleta (NM), Conoco, Inc. (TX), Muscogee (Creek) Nation (OK), Cherokee Nation (OK), Navajo Nation (AZ), Attorney General's Office (MT), Flathead Joint Board of Control for Flathead Indian Reservation (MT), and Confederated Tribes/Bands of the Yakima Indian Nation (WA).

Part A is organized by topic, for the more significant comments, into five sections: (1) Tribal regulation of fee lands of nonmembers; (2) Tribal jurisdiction under CWA section 518(e)(2); (3) transition issues; (4) criminal enforcement authority issues; and (5) other comments. Part B summarizes the comments received which support the rule and its provisions. Some sections within Part A and B, as necessary, have been further categorized by subtopic(s). Also a separate "Response to Comments" document has been prepared and is part of the docket for this rule.

1. Tribal Regulation of Fee Lands of Nonmembers

These issues concern EPA's interpretation and application of the law concerning the scope of inherent Tribal civil regulatory authority over nonmember activity(s) on fee lands within reservations.

Comment: One commenter expressed concern regarding EPA's understanding and application of the law concerning the scope of inherent Tribal civil regulatory authority over nonmember activity on fee lands within reservations. The commenter suggested that EPA's continued reference to the second *Montana* exception, (see *Montana* v. *United States*, 450 U.S. 544, 565–66 (1981)), as the basis for Tribal regulatory authority over nonmembers is at odds with the case of *Brendale* v. *Confederated Tribes and Bands of the Yakima Nation*, 492 U.S. 408 (1989) and *Duro* v. *Reina*, 110 S. Ct. 2053 (1990). The commenter believes EPA's conclusion regarding the above mentioned *Montana* exception was applied overbroadly in determining the extent of Tribal regulatory authority. The commenter adds that EPA's "interim operating rule," at 57 FR 8528, coupled with its "generalized findings," *id.* at 57 FR 8529, creates a *de facto* presumption of Tribal authority. The commenter suggests that while EPA's *de facto* presumption may be preferable from an administrative standpoint, a careful analysis is required to determine whether, in a specific instance, Tribal authority over nonmember lands is essential to protect vital Tribal interests.

A related comment was also received which seriously questioned whether Congress intended in enacting section 518 to abolish nonmembers' Fifth Amendment (U.S. Constitution) property and due process rights by subjecting them to Tribal regulatory authority.

Similar comments and recommendations were submitted by others concerning EPA's interpretation of *Brendale* and Tribal regulatory authority over nonmembers and their fee lands.

Response: With regard to the first comment, EPA does not read the holding in *Brendale* as preventing EPA from recognizing Tribes as States for purposes of administering the NPDES and/or State sludge management program on fee land within the reservation (since section 518 is not an express delegation of authority). In *Brendale*, both the State of Washington and the Yakima Nation asserted authority to zone non-Indian real estate developments on two parcels within the Yakima reservation, one in an area that was primarily Tribal, the other in an area where much of the land was owned in fee by nonmembers. Although the Court analyzed the issues and the appropriate interpretation of *Montana* at considerable length, the nine members split 4:2:3 in reaching the decision with regard to zoning authority over the two separate types of land. The decision reflects some difficult issues in this area of the law and has generated considerable controversy over the extent of Tribal authority. Given the lack of a majority rationale, EPA believes the primary significance of *Brendale* is in its result, which was fully consistent with *Montana* v. *United States*, which previously held that:

> To be sure, Indian Tribes retain inherent sovereign power to exercise some forms of civil jurisdiction over non-Indians on their reservations, even on non-Indian fee lands. A tribe may regulate * * * the activities of nonmembers who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements * * * A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the Tribe.

Montana, 450 U.S. at 565–66 (citations omitted).

In *Brendale*, the Court applied this test, finding Tribal authority over activities that would threaten the health and welfare of the Tribe, 492 U.S. at 443–444 (Stevens, J., writing for the Court); *id.* at 449–450 (Blackmun, J., concurring). Conversely, the Court found no Tribal jurisdiction where the proposed activities "would not threaten the Tribe's * * health and welfare." *Id.* at 432 (White, J., writing for the Court). The Agency therefore disagrees with commenters who argue that *Brendale* somehow overrules *Montana*.

Pending further judicial or Congressional guidance on the extent to which section 518 delegates additional authority to Tribes, it is EPA's opinion that the ultimate decision regarding Tribal authority must be made on a Tribe-by-Tribe basis and has finalized the proposed process for making these determinations. Therefore, EPA will not make a conclusive statement regarding the extent of Tribal jurisdiction over fee lands for all Tribes and all waters or even a statement regarding any particular reservation, except in the context of an actual Tribal application. This is consistent with the approach the Agency adopted under the SDWA, when

VOL 58 ISS 244 DE 22 1993 UMI

it determined that it would not "automatically assume," or adopt, in the first instance, a rebuttable presumption of Tribal authority over all water within a reservation that would operate even in absence of any factual evidence. See 53 FR 37396, 37399 (September 26, 1988). Nonetheless, EPA sees no reason in light of *Brendale* to assume that Tribes would be *per se* unable to demonstrate authority over water resource management on fee land within reservation borders for purposes of administering the NPDES and/or State sludge management programs. Rather, EPA believes that as a general matter there are substantial legal and factual reasons to assume that Tribes ordinarily have the legal authority to regulate water resources within a reservation for purposes of administering the NPDES and/or State sludge management program, as long as the Tribes make the requisite demonstration linking this authority to regulate as protecting the public health, safety and welfare of Tribal members.

In response to the second comment, EPA for the reasons discussed earlier in this section, does not read the holding in *Brendale* as preventing EPA from recognizing Tribes in the same manner as States for purposes of administering the NPDES and/or State sludge management programs on fee lands within the reservation, even if section 518 is not an express delegation of authority. EPA agrees that Congress, by allowing Tribes to administer environmental programs for areas on which they have civil regulatory authority, did not intend to waive any due process rights of nonmembers on Indian lands. EPA does not believe, however, that recognition of a Tribe's authority over its waters would waive any such rights.

Comment: Another commenter suggested that the Agency adopt regulations which consider factors related to the size, proximity, use, character, and historical legal status of nonmember lands on reservations in deciding whether the Tribe has civil authority over those lands.

Response: EPA does not believe that such further regulations are necessary or appropriate. The Agency believes that factual determinations of Tribal jurisdiction must be made on a case-by-case basis and therefore a strict regulatory approach, as suggested by the commenter, would not be practical. Each reservation is unique and the factors considered in each determination will be different.

Comment: One commenter expressed concern regarding the intrusion of State jurisdiction on Indian reservations which would result from the proposed rule. The commenter felt that putting fee lands under the jurisdiction of the State would be detrimental to the non-Indian and Indian residents, and people who are located below the reservation.

Response: EPA agrees with the commenter that Tribal jurisdiction over land owned in fee by nonmembers should be determined on a case-by-case basis. In evaluating whether a Tribe has authority to regulate a particular activity on land owned in fee by nonmembers but located within a reservation, EPA will examine the Tribe's authority in light of the evolving case law as reflected in *Montana* and *Brendale*. EPA does not believe that this rule will cause any intrusion on Tribal jurisdiction over Indian lands.

2. Tribal Jurisdiction under CWA Section 518(e)(2)

Comment: One commenter strongly disagreed with EPA's interpretation of section 518(e) of the CWA, which sets out certain criteria for Indian Tribes to meet in order to be eligible for Treatment in the Same Manner as a State. Section 518(e)(2) lists as a requirement that:

> The functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation * * *

The commenter argues that EPA's interpretation of this language to allow a Tribe to seek CWA authorization only over surface waters within reservation boundaries, even if the Tribe owns water outside the reservation, is legally incorrect. The commenter suggests that EPA's interpretation of section 518 would mean that Tribes would not be able to obtain CWA program authorization over waters associated with land located outside the reservation boundaries, even if the land is held in trust. The commenter contends that if EPA's interpretation were correct, there would be no need to list the three areas covered by the statute; it would be sufficient to state simply that the Act applies to lands within the borders of the reservation. The commenter concluded with the recommendation that the listing of the three different types of land indicated Congressional intent to apply the statute to all of those lands, and not just those lands located within the reservation.

Response: For the reasons discussed above, EPA has consistently read the language of section 518(e)(2) as limiting the Tribe to acquiring Treatment in the Same Manner as a State status for the four specified categories of water resources within the borders of the reservation.

EPA believes that it was the intent of Congress to provide Tribes the opportunity to obtain Treatment in the Same Manner as a State status for land within a federally recognized Indian reservation as defined in CWA section 518(h)(1). However, EPA does not believe that section 518(e)(2) prevents EPA from recognizing Tribal authority over non-Indian water resources located within the reservation if the Tribe can demonstrate the requisite authority over such water resources. In addition, the meaning of the term "reservation" must be determined in light of statutory law and with reference to relevant case law. EPA considers trust land formally set apart for the use of Indians to be "within a reservation" for the purposes of section 518(e)(2), even if they have not been formally designated as "reservations." *Oklahoma Tax Comm'n* v. *Citizen Band Potawatomi Indian Tribe of Oklahoma*, 111 S. Ct. 905, 910 (1991). This means it is the status and use of the land that determines if it is to be considered "within a reservation" rather than the label attached to it. EPA will take the status of the land into consideration on a case-by-case basis when evaluating a Tribe's application for Treatment in the Same Manner as a State.

Comment: One commenter also disagreed with EPA's statement that adopting a narrow interpretation of the language in section 518(e) "may reduce the potential for disputes since Tribal authority to regulate within the reservation's borders may be more readily determined." The commenter suggested that EPA may be arbitrarily limiting a Tribe's area of legal jurisdiction in the interest of minimizing potential disputes between Tribes and States. The commenter further added that if this were EPA's intent, then the Agency would clearly be stepping outside the bounds of its administrative authority.

Response: EPA recognizes the issue of Tribal jurisdiction outside the exterior boundaries of a reservation is potentially a very real problem. The Agency recognizes that jurisdictional disputes between Tribes and States could be complex and difficult and that the Agency will, in some circumstances, be forced to address such disputes. However, EPA's ultimate responsibility is protection of the environment. In view of the mobility of environmental problems and the interdependence of various jurisdictions, EPA believes that it is imperative that all sovereign affected parties work cooperatively for environmental protection, rather than engage in confrontations over jurisdiction. EPA's statement was not intended to be an administrative limitation on Tribal authority, but merely an acknowledgement of the language in section 518(e).

Comment: Another issue raised concerned the status and use of the land in defining what constitutes a "Federal Indian reservation." The comment questioned EPA's definition of "Federal Indian reservation" as contained in proposed §§ 122.2, 124.2, and 501.2. The comment requested that an additional definition be added which reflects Tribal jurisdiction over water on lands not within the reservation boundaries, or that clarified *Potawatomi's* effect on the definition of "reservation."

Response: As discussed previously, the status and use of the land are intimately tied to the specific land being evaluated. EPA, therefore, does not believe that it would be practical to attempt to define the term "Federal Indian reservation" further within the scope of this rule. Whether specific land is considered within the boundaries of a reservation must be a factual determination made on a case-by-case basis at the time of application under section 518 based on applicable law at the time. EPA believes it is appropriate for the regulatory language to reflect the statutory definition, but will interpret that language in light of all appropriate case law.

3. Transition Issues

Comment: One commenter expressed several concerns about the transfer of an NPDES program(s) from an authorized State to an authorized Indian Tribe(s). The commenter indicated that this rule "will result in long delays, bordering upon complete shutdown, unless EPA maintains close oversight, particularly during the early stages of the transition from EPA to the Indian Tribe or State to the Indian Tribe." The commenter added that there must be "a very clear showing of immediate capability" of an Indian Tribe to assume NPDES and/or State sludge management program authority before an application is approved by EPA. "Otherwise serious delays would be inevitable."

The commenter further contended that detailed procedures for the transition from an authorized State to an authorized Indian Tribe must be developed and published for public scrutiny and comment before the proposed rule was finalized.

Response: EPA does not believe that "long delays, bordering upon complete shutdown" will occur during the transition from EPA or States to Tribal authority. EPA presumes an efficient transition will occur for three reasons: (1) Only those Tribes which have demonstrated capability to implement and manage the program in question will receive program authority; (2) the demonstration of capability does not release the Tribe from the traditional requirement imposed upon all States (except for criminal enforcement, for which the responsibility remains with EPA) for assumption of an NPDES or sludge program that the State program must be fully effective at the time of program approval; and (3) EPA is responsible for oversight of the NPDES programs it authorizes through its Regional offices. See, for example, 40 CFR 123.23(a) and 501.14. Therefore, EPA does not anticipate the serious delays envisioned by the commenter.

In response to the second concern, the transition will proceed according to the same regulatory procedures outlined for State program assumption as amended by this rule for Indian Tribes (see existing and revised 40 CFR 123.22 and 501.12). Since the number of cases of transfer of authority from an authorized State (with approved authorization to regulate on Federal Indian reservations) to an Indian tribe may be relatively few, particularly since EPA has not explicitly authorized States to issue permits on Indian lands, EPA will need to retain programmatic flexibility in order to deal with transitions on a case-by-case basis. In addition, EPA will be available for requested guidance and direction during the transition, especially at the time of program submission by the Indian Tribe. Also, NPDES/Sludge management applications by Tribe(s) will be public noticed and subject to comment upon receipt. It may be appropriate at that phase of the program authorization process to raise any specific case-by-case issue(s) (see existing 40 CFR 123.22 and 501.12).

Comment: One commenter suggested that EPA should never "assume" that a State permit for discharges on reservation lands contains applicable effluent limits. The commenter also disagreed with EPA's proposal that an authorized State retain jurisdiction over its existing permits absent a different arrangement stated in the MOA executed between EPA and the Tribe. The commenter asserted that this "can only result in a bifurcated program for Tribal lands that will exacerbate the problems already inherent with the NPDES program."

Response: In other CWA rulemakings, EPA has received comments on its assumption that existing permits on Federal Indian reservations issued by States without specific authorization for issuing permits on Federally recognized Indian reservations under § 123.23(b) or § 501.13 contain enforceable limits. As noted above, this policy is not an assertion that all State permits for discharging on reservations are necessarily valid as a matter of law. Rather, it is a mere recognition that fully implementing a role for Tribes under the CWA will require a period of transition. Were EPA to simply ignore all previously issued State permits in the interim period before Tribes develop NPDES or State sludge management programs (or EPA issues a Federal permit), there would be a regulatory void which EPA believes would not be beneficial to preservation of water quality. EPA intends to reissue and exercise Federal jurisdiction when previous State permits expire (if the State does not have the requisite jurisdiction and authorization on Federal Indian reservations).

The procedures outlined for State retention of jurisdiction over its existing permits parallel those currently in place for transition from EPA to State authority. In general, these procedures have proved very workable and EPA has no reason to believe that they will not work as well for transition from State to Tribal authority. Such a transition period will also allow the new Tribal program an opportunity to implement the program in stages and will promote cooperation and contacts between the Tribal and State authorities. For this reason, EPA does not believe that the above referenced statement will result in a "bifurcated program." In addition, as a practical matter, EPA has not expressly authorized States to operate an NPDES or sludge program on Indian lands.

Comment: Another commenter expressed concern over the proposed procedures in § 123.1 for transfer of existing permits between a State and a Tribe treated in the same manner as a State. The commenter expressed concern that EPA has allowed States to assume certain permitting responsibilities on Indian lands in the absence of Tribal permitting programs. The commenter believes that any necessary NPDES permits on Indian lands should have been issued by EPA and not by any State. The commenter asserted that any State-issued permit on an Indian reservation is null and void, and therefore EPA should immediately transfer any State-issued permits into

VOL 58 ISS 244 DEC 22 1993 UMI

Federal permits until such time that Tribal permitting programs are in effect.

A second issue raised by the commenter concerns § 123.22(g), which provides that an authorized Indian Tribe and State should enter into a MOA to transfer the necessary files, applications, and other information, without any mention of the role of EPA. The commenter believes that EPA has a responsibility to administer all environmental regulatory programs in the absence of Tribal environmental programs, and, as such, should have a strong role in fulfilling this responsibility instead of leaving it to the Tribe and State to work out such an arrangement.

Response: EPA regulations allow for the possibility that a State may be authorized to issue NPDES permits on a Federal Indian reservation after adequate demonstration by the State of regulatory capability, although EPA recognizes that the threshold demonstration is high and that EPA has not expressly authorized a State to do so. Nonetheless, if such a situation were to occur and, if an Indian Tribe were subsequently to obtain approval for Treatment in the Same Manner as a State and NPDES program authorization, the regulatory authority would be transferred from the authorized State to the now authorized Tribe. As discussed above, EPA recognizes that certain States which have not been specifically authorized for issuing State permits on Federally recognized Indian reservations under § 123.23(b) or § 501.13 have nonetheless issued permits on Federal Indian reservations. As discussed in Section II.B, EPA will presume the State permits to be valid and contain enforceable limits. When the State-issued permit expires, EPA will reissue the permit on the Federal Indian reservation unless the Indian Tribe has been authorized to operate the NPDES program.

Any official transfer of authority will be from EPA to the authorized Indian Tribe(s). However, in instances where a State has been the *de facto* permitting authority on Federal Indian reservations there may be the potential for some transfer of NPDES State files to the authorized Tribe(s). A more effective administrative transfer of information may be to transmit the files directly from the NPDES State to the Tribe seeking program approval, rather than through EPA to the authorized Tribe. For this reason, EPA believes that the NPDES State and Tribe should consider entering into an MOA specifying how the Tribe and the previously authorized State will accomplish the transition of information and files relevant to permitting authority. This is not to say that EPA will have no role in this transition since EPA has ultimate oversight authority. EPA will be available for assistance to the Tribe or State as well as closely monitor the transition process. In addition, EPA will have the final review of the transition process between the Tribe and the State since it will be described in the Tribe's application for NPDES or sludge program authorization.

4. Criminal Enforcement Authority

Comment: A commenter expressed concern about the proposed amendment of § § 123.34 and 501.25 to allow Federal criminal prosecutions where the Tribe lacks jurisdiction. The commenter suggested that what may be legal under Federal or State regulation may be made criminal under Tribal regulation. Thus, it may not be an adequate substitute to have the Federal Government exercise criminal enforcement power.

Response: Section 518 of the CWA provides the opportunity for Tribes to apply for NPDES and sludge program management authorization(s). EPA may in some cases have to exercise criminal enforcement to the extent permitted under section 309 of the CWA. EPA also has oversight enforcement authority for both civil and criminal cases.

The commenter raises a valid point regarding the potential for criminal provisions in Indian programs. It is possible that a Tribe would wish to enact criminal provisions due to Tribal regulatory standards which may be different from previously established standards. The Agency is bound by its criminal enforcement authority under section 309 of the CWA. Therefore, the Agency likely would lack the authority to take a criminal enforcement action against a nonmember on a reservation subject to an authorized Indian Tribe's NPDES program in a situation where the Agency would not itself initiate action under section 309. In order to alleviate such potential conflicts, EPA will endeavor to make clear to Tribes drafting such programs this potential enforcement limitation.

Comment: One commenter disagreed with EPA's conclusion that Congressional failure to waive the criminal enforcement requirement was unintentional. The commenter noted that section 518 was enacted almost ten years after the Supreme Court decision in *Oliphant* and argued that Congress would be well aware of the relevant jurisdictional decisions of the Supreme Court. The commenter further suggested that examining the scope of a Tribe's criminal jurisdiction would not, as EPA had also concluded, prevent Tribes from implementing any program. Rather, the commenter asserted that on some reservations it would have no effect, while on others it would merely limit Tribal authority to activities by persons over which it possesses criminal jurisdiction. Therefore, in no way would the examination of the scope of Tribal authority completely eliminate the opportunity for a Tribe to implement any CWA program.

Response: EPA disagrees with the commenter's arguments. The existing NPDES regulations require States to have certain minimum criminal enforcement powers, however, this is not possible for Tribes for all possible classes of discharges on Federal Indian reservations. EPA disagrees that the proper solution is to limit the Tribal authorized program to persons over which the Tribe has criminal authority. This would mean that permits for some sources on reservations would be issued by the Tribe and others by EPA. EPA believes that this system would be less efficient than having the Tribe refer some criminal cases to EPA, but issue all permits on the reservation.

5. Other Comments

a. Simplification of Tribal Application for Treatment in the Same Manner as a State.

Comment: A commenter noted that, in the preamble to the proposed rule, EPA indicated that in most instances a Tribe need only qualify once for Treatment in the Same Manner as a State under either the SDWA or the CWA. The commenter suggested that this statement appears to be contrary to representations by EPA, in the context of section 106 grants under the CWA, that granting Treatment in the Same Manner as a State for one program did not equate to a finding that Treatment in the Same Manner as a State is appropriate for all programs designated in section 518. The commenter noted that since Tribes undoubtedly possess requisite authority to receive Federal grants, EPA's narrow explanation of the scope of Treatment in the Same Manner as a State determinations under section 106 made some sense. If in fact EPA is now deviating from its prior representations that the Agency would examine Tribal authorities when reviewing applications for Treatment in the Same Manner as a State for each distinct program, the statement in the proposed rule preamble should be revised.

Response: EPA has interpreted the required qualification criteria for Treatment in the Same Manner as a State as being basic requirements and, therefore, determined that an Indian Tribe need only demonstrate once that it meets all of the criteria, at the time of initial application under the CWA, SDWA, or other EPA program. Since no statute compels the use of a formal Treatment in the Same Manner as a State or other prequalification process, the Agency also plans in the future to modify those portions of its existing and any later regulations that effectively treat Treatment in the Same Manner as a State approval as a discrete process. After a Tribe has been approved for Treatment in the Same Manner as a State under any statute, it will subsequently need to demonstrate only that it satisfies the "capability" criterion for the individual CWA program and may possibly need to show specific jurisdiction to administer a particular CWA or other program. For example, a Tribe applying for an NPDES or sludge program authorization will need only to provide the new or uniquely different program specific demonstration criteria required of all applicants for the respective program authorization being sought. To facilitate this process, EPA is in the process of establishing identical Agency requirements based on section 518 of the CWA for making the recognition and government demonstrations under each statute as directed by a November 10, 1992 memorandum from EPA's Deputy Administrator, a copy of which is in the docket for today's rule.

b. Tribal Funding.

Comment: Several comments were received from Tribal and other commenters regarding funding for Tribes and particularly how available funding or lack thereof could affect a Tribe's regulatory program implementation and administrative success.

One Tribe commented that establishing rules and procedures when "funds are limited," without adequate funding for implementation has minimal impact on Tribes.

Another commenter felt that it was incumbent upon EPA to fund the Tribe for the protection of member resources at the same level as the States are funded. The commenter suggested that the right to Treatment of the Tribe in the Same Manner as a State is virtually meaningless without the proper funds to carry out the provisions of the CWA. The commenter further asserted that any type of reduction or cap on the funds for Tribal enforcement would be unacceptable.

Response: EPA provides available funding to authorized permitting authorities such as States or Indian Tribes through a variety of programs such as grants under sections 106 and 104(b)(3) of the CWA depending on the available funding each fiscal year.

EPA agrees with the commenter that adequate funding is essential for program development and implementation, however, Federal budget constraints may limit funding. Some Indian Tribes may decide that it is not cost-effective to apply for various CWA program authorities, however, EPA encourages Tribes to consider submitting applications for program authorizations which may result in the greatest environmental benefits to the Tribe.

c. Tribal Standards Under the CWA.

Comment: One comment agreed that the CWA clearly allows certain Tribal organizations to be treated in the same manner as States, but questioned whether Indian Tribes can impose requirements which are more stringent than Federal requirements.

Response: According to CWA section 510, States have the authority to adopt or enforce any requirements for the control of water pollution which are no less stringent than those adopted by EPA.

Once an Indian Tribe qualifies for Treatment in the Same Manner as a State and is authorized to operate the NPDES or Sludge Management Program as outlined in this rule, the Tribe is treated as any other NPDES authorized State. Therefore, such Tribes may impose any standards that are not less stringent than Federal requirements under 40 CFR 122.44 and 501.15(b)(2).

d. EPA's "Regulatory Flexibility Act" Analysis.

Comment: One commenter disagreed with EPA's conclusion that only a small fraction of Tribes who apply would be significantly impacted.

Response: In evaluating the rule under the Regulatory Flexibility Act, EPA believes that the impact of the rule will not be significant for three reasons. First, Tribal assumption of these programs is entirely voluntary and EPA anticipates that relatively few Indian Tribes will decide that it would be beneficial to apply for these CWA program authorities. Therefore, the number of impacted small governmental entities (Tribes) will be smaller than the total number of Indian Tribes. Second, the information required by this rule is considered to be the minimum necessary to effectively evaluate applications to treat Indian Tribes in the same manner as States for the purposes of the NPDES and State sludge management programs.

Third, EPA intends to establish the least burdensome process possible for Tribes to demonstrate State eligibility under both the Clean Water Act and the Safe Drinking Water Act. The Agency is developing procedures to implement a single application procedure for the SDWA and CWA programs for those aspects of Treatment in the Same Manner as a State which are similar under both statutes. For example, the "Federal recognition" and "governmental duties and powers" criteria will almost always require the same demonstration, and under most circumstances need only be demonstrated once at the time of initial application for programs under either of the Acts. In addition, if a Tribe is authorized to operate another CWA program, the Tribe will likely already have the required infrastructure and capability when applying for additional CWA programs.

B. Supporting Comments

Several comments were received expressing support for the rule's Treatment in the Same Manner as States provisions. Other comments supported some of EPA's determinations regarding authorization flexibility and other related issues. Detailed responses to each of the supporting comments can be found in the "Response to Comments" document which is contained in the docket for today's rule.

IV. Other Regulatory Requirements

A. Compliance with Executive Order 12291 (Regulatory Impact Analysis)

Executive Order 12291 (46 FR 13193, February 19, 1981) requires that a regulatory agency determine whether a new regulation will be "major" and, if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as a regulation which is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers; individual industries; Federal, State and local government agencies; or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because the final rule does not meet the definition of a major regulation, the Agency is not conducting a Regulatory Impact Analysis.

EPA believes the effect on the regulated community of promulgation of this final rule will be a substitution of one permitting authority (either EPA or an authorized NPDES State) for another (the newly authorized Indian Tribe).

VOL 58 ISS 244 DEC 22 1993 UMI

Indian Tribe(s) who do apply will incur costs to complete the regulatory process for obtaining State NPDES and sludge program authorization. EPA considers the information required by this rule to be the minimum necessary to demonstrate the requirements of CWA section 518(e) in order to effectively evaluate applications to treat Indian Tribes in the same manner as States for the purposes of the NPDES and State sludge management programs.

The proposed rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. The final rule was submitted to OMB and was approved on September 24, 1993.

B. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0057.

This collection of information is estimated to have a public reporting burden averaging 155 hours per response, and to require 50 hours per recordkeeper annually. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Please send any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M Street, SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Copies of the ICR may be obtained by writing to the same EPA address listed above, to the attention of Sandy Farmer, Information Policy Branch (2136); or by calling (202) 260–2740.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, EPA generally must prepare a Regulatory Flexibility Analysis for all regulations that have a significant impact on a substantial number of small entities. The RFA recognizes three kinds of small entities and defines them as follows:

-Small governmental jurisdictions—any government of a district with a population of less than 50,000.

-Small business—any business which is independently owned and operated and not dominant in its field as defined by Small Business Administration regulations under section 3 of the Small Business Act.

-Small organization—any not-for-profit enterprise that is independently owned and operated and not dominant in its field (e.g., private hospitals and educational institutions).

Using the above definition of small entity, EPA has concluded that the final regulation will not have a significant impact on a substantial number of small entities, and that a Regulatory Flexibility Analysis is unnecessary. EPA has reached this conclusion based on the following considerations.

The final rule will not have a significant impact on a substantial number of small governmental organizations. There are currently 542 Federally recognized Indian Tribes. EPA anticipates that 281 reservation governments may potentially apply for the NPDES or State sludge management programs. EPA believes that the number of Tribes subject to significant impacts as a result of this regulation will be a small fraction of the total that may apply. This determination is based on the best available information EPA currently has concerning the present status of Tribal resources and existing Tribal government infrastructures as a whole. EPA believes that NPDES program authorizations for Tribes will be an evolving process and that until the applications are actually submitted to the Agency for approval and evaluated on a case-by-case basis (thus possibly yielding new information), the best facts available support a conclusion that no significant impacts will result from promulgation of this final rule. EPA considers the information required by this rule to be the minimum necessary to effectively evaluate applications to treat Indian Tribes as States for the purpose of the NPDES and State sludge management programs.

The final rule will not have a significant impact on a substantial number of small businesses. Although it is conceivable that an Indian Tribe could impose greater requirements upon a permit applicant than the existing permitting authority, such situations will be rare.

The final rule will not have a significant impact on a substantial number of small organizations for the same reasons that the final rule will not have a significant impact on a substantial number of small businesses.

Accordingly, EPA certifies that this final rule will not have a significant economic impact on a number of small entities.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Hazardous substances, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

40 CFR Part 123

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous substances, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Environmental protection, Hazardous substances, Indian lands, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal, Water pollution control, Water supply.

40 CFR Part 501

Administrative practice and procedure, Confidential business information, Environmental protection, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal.

Dated: December 10, 1993.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.2 of subpart A is amended by adding in alphabetical order, new definitions for "Federal Indian reservation" and "Indian Tribe"; and by revising the definition, "State" to read as follows:

§ 122.2 Definitions.

* * * * *

Federal Indian reservation means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

* * * * *

Indian Tribe means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

* * * * *

State means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or an Indian Tribe as defined in these regulations which meets the requirements of § 123.31 of this chapter.

* * * * *

PART 123—STATE PROGRAM REQUIREMENTS

3. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

4. Section 123.1 of subpart A is amended by revising paragraphs (b) and (h), by redesignating (d) as (d)(1), and by adding a new paragraph (d)(2) to read as follows:

§ 123.1 Purpose and scope.

* * * * *

(b) These regulations are promulgated under the authority of sections 304(i), 101(e), 405, and 518(e) of the CWA, and implement the requirements of those sections.

* * * * *

(d)(1) * * *

(2) The procedures outlined in the preceding paragraph (d)(1) of this section for suspension of permitting authority and transfer of existing permits will also apply when EPA approves an Indian Tribe's application to operate a State program and a State was the authorized permitting authority under § 123.23(b) for activities within the scope of the newly approved program. The authorized State will retain jurisdiction over its existing permits as described in paragraph (d)(1) of this section absent a different arrangement stated in the Memorandum of Agreement executed between EPA and the Tribe.

* * * * *

(h) In many cases, States (other than Indian Tribes) will lack authority to regulate activities on Indian lands. This lack of authority does not impair that State's ability to obtain full program approval in accordance with this part, i.e., inability of a State to regulate activities on Indian lands does not constitute a partial program. EPA will administer the program on Indian lands if a State (or Indian Tribe treated as a State) does not seek or have authority to regulate activities on Indian lands.

* * * * *

5. Section 123.21 of subpart B is amended by revising paragraph (a)(1), by redesignating paragraph (b) as (b)(1), and by adding a new paragraph (b)(2) to read as follows:

§ 123.21 Elements of a program submission.

(a) * * *

(1) A letter from the Governor of the State (or in the case of an Indian Tribe eligible for treatment as a State in accordance with § 123.33(e), the Tribal authority exercising powers substantially similar to those of a State Governor) requesting program approval;

* * * * *

(b)(1) * * *

(2) In the case of an Indian Tribe eligible for treatment as a State under § 123.33(e), EPA shall take into consideration the contents of the Tribe's request for treatment as a State submitted under § 123.32, in determining if the program submission required by § 123.21(a) is complete.

* * * * *

6. Section 123.22 of subpart B is amended by adding a new paragraph (g) to read as follows:

§ 123.22 Program description.

* * * * *

(g) In the case of Indian Tribes eligible for treatment as a State under § 123.33(e), if a State has been authorized by EPA to issue permits on the Federal Indian reservation in accordance with § 123.23(b), a description of how responsibility for pending permit applications, existing permits, and supporting files will be transferred from the State to the eligible Indian Tribe. To the maximum extent practicable, this should include a Memorandum of Agreement negotiated between the State and the Indian Tribe addressing the arrangements for such transfer.

7. Section 123.23 of subpart B is amended by revising paragraph (b) to read as follows:

§ 123.23 Attorney General's statement.

* * * * *

(b) If a State (which is not an Indian Tribe) seeks authority over activities on Indian lands, the statement shall contain an appropriate analysis of the State's authority.

* * * * *

8. Section 123.24 of subpart B is amended by redesignating paragraph (b)(1) as (b)(1)(i) and by adding a new paragraph (b)(1)(ii) to read as follows:

§ 123.24 Memorandum of Agreement with the Regional Administrator.

* * * * *

(b) * * *

(1)(i) * * *

(ii) Where a State has been authorized by EPA to issue permits in accordance with § 123.23(b) on the Federal Indian reservation of the Indian Tribe seeking program approval, provisions describing how the transfer of pending permit applications, permits, and any other information relevant to the program operation not already in the possession of the Indian Tribe (support files for permit issuance, compliance reports, etc.) will be accomplished.

* * * * *

9. Section 123.25 of subpart B is amended by revising paragraph (a)(12) to read as follows:

§ 123.25 Requirements for permitting.

(a) * * *

(12) Section 122.41—(Applicable permit conditions)(Indian Tribes can satisfy enforcement authority requirements under § 123.34).

* * * * *

10. Section 123.27 of subpart A is amended by adding a new paragraph (e) to read as follows:

§ 123.27 Requirements for enforcement authority.

* * * * *

(e) Indian Tribes that cannot satisfy the criminal enforcement authority requirements of this section may still receive program approval if they meet the requirement for enforcement authority established under § 123.34.

11. Section 123.31 is added to subpart B to read as follows:

§ 123.31 Requirements for treatment of Indian Tribes as States.

(a) Consistent with section 518(e) of the CWA, 33 U.S.C. 1377(e), the Regional Administrator will treat an Indian Tribe as a State for purposes of making the Tribe eligible to apply for NPDES program authority if it meets the following criteria:

(1) The Indian Tribe is recognized by the Secretary of the Interior.

(2) The Indian Tribe has a governing body carrying out substantial governmental duties and powers.

(3) The functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust

for the Indians, held by a member of an Indian Tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation.

(4) The Indian Tribe is reasonably expected to be capable, in the Regional Administrator's judgment, of carrying out the functions to be exercised, in a manner consistent with the terms and purposes of the Act and applicable regulations, of an effective NPDES permit program. This capability may be demonstrated by the existence of management and technical skills necessary to administer an effective NPDES permit program; by the existence of institutions to exercise executive, legislative, and judicial functions; and by a history of successful managerial performance of public health or environmental programs. There must be sufficient independence of regulated entities and the agency of the Indian Tribe which assumes primary responsibility for establishing and administering an NPDES program necessary to assure effective and fair administration of the program.

(b) An Indian Tribe which the Regional Administrator determines meets the criteria described in paragraph (a) of this section must also satisfy the State program requirements described in this part for assumption of the State program.

12. Section 123.32 is added to subpart B to read as follows:

§ 123.32 Request by an Indian Tribe for a determination of eligibility for treatment as a State.

An Indian Tribe may apply to the Regional Administrator for a determination that it qualifies for treatment as a State pursuant to section 518 of the Act for purposes of seeking NPDES permit program approval. The application shall be concise and describe how the Indian Tribe will meet each of the requirements of § 123.31. The application shall include the following information:

(a) A statement that the Tribe is recognized by the Secretary of the Interior;

(b) A descriptive statement demonstrating that the Tribal governing body is currently carrying out substantial governmental duties and powers over a defined area. This statement shall:

(1) Describe the form of the Tribal government;

(2) Describe the types of governmental functions currently performed by the Tribal governing body, such as, but not limited to, the exercise of police powers affecting (or relating to) the health, safety, and welfare of the affected population; taxation; and the exercise of the power of eminent domain; and

(3) Identify the source of the Tribal government's authority to carry out the governmental functions currently being performed.

(c) A map or legal description of the area over which the Indian Tribe asserts authority under section 518(e)(2) of the Act; a statement by the Tribal Attorney General (or equivalent official authorized to represent the Tribe in all legal matters in court pertaining to the program for which it seeks approval) which describes the basis for the Tribe's assertion (including the nature or subject matter of the asserted regulatory authority); a copy of all documents such as Tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions which support the Tribe's assertion under section 518(e)(2) of the Act; and a description of the location of the surface waters for which the Tribe proposes to establish an NPDES permit program.

(d) A narrative statement describing the capability of the Indian Tribe to administer an effective, environmentally sound NPDES permit program. The statement shall include:

(1) A description of the Indian Tribe's previous management experience including, but not limited to, the administration of programs and service authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), the Indian Mineral Development Act (25 U.S.C. 2101 *et seq.*), or the Indian Sanitation Facility Construction Activity Act (42 U.S.C. 2004a);

(2) A list of existing environmental or public health programs administered by the Tribal governing body, and a copy of related Tribal laws, regulations, and policies;

(3) A description of the entity (or entities) which exercise the executive, legislative, and judicial functions of the Tribal government;

(4) A description of the existing, or proposed, agency of the Indian Tribe which will assume primary responsibility for establishing and administering an NPDES permit program (including a description of the relationship between the existing or proposed agency and its regulated entities);

(5) A description of the technical and administrative abilities of the staff to administer and manage an effective, environmentally sound NPDES permit program or a plan which proposes how the Tribe will acquire additional administrative and technical expertise. The plan must address how the Tribe will obtain the funds to acquire the administrative and technical expertise.

(e) The Regional Administrator may, at his or her discretion, request further documentation necessary to support a Tribal request for treatment as a State.

(f) If the Administrator or his or her delegatee has previously determined that a Tribe has met the requirements for "treatment as a State" for other programs authorized under the Safe Drinking Water Act or the Clean Water Act, then the Tribe need only provide that additional information unique to the NPDES program which is requested by the Regional Administrator.

13. Section 123.33 is added to subpart B to read as follows:

§ 123.33 Procedures for processing an Indian Tribe's application for treatment as a State.

(a) The Regional Administrator shall process an application of an Indian Tribe for treatment as a State submitted pursuant to § 123.32 in a timely manner. He shall promptly notify the Indian Tribe of receipt of the application.

(b) Within 30 days after receipt of the Indian Tribe's complete application for treatment as a State, the Regional Administrator shall notify all appropriate governmental entities. Notice shall include information on the substance of and bases for the Tribe's assertions that it meets the requirements of § 123.31(a)(3).

(c) Each governmental entity so notified by the Regional Administrator shall have 30 days to comment upon the Tribe's assertion of jurisdiction. Comments by governmental entities shall be limited to the Tribe's assertion under § 123.31(a)(3).

(d) If a Tribe's assertion under § 123.31(a)(3) is subject to a competing or conflicting claim, the Regional Administrator, after consultation with the Secretary of the Interior, or his designee, and in consideration of other comments received, shall determine whether the Tribe has adequately demonstrated that it meets the requirements of § 123.31(a)(3).

(e) If the Regional Administrator determines that a Tribe meets the requirements of § 123.31, the Indian Tribe is then eligible to be treated as a State for purposes of applying for assumption of the NPDES permit program.

(f) The Regional Administrator shall follow the procedures described in 40 CFR part 123, subpart D in processing a Tribe's request to assume the NPDES program.

14. Section 123.34 is added to subpart B to read as follows:

§ 123.34 Provisions for Tribal criminal enforcement authority.

To the extent that an Indian Tribe is precluded from asserting criminal enforcement authority as required under § 123.27, the Federal Government will exercise primary criminal enforcement responsibility. The Tribe, with the EPA Region, shall develop a procedure by which the Tribal agency will refer potential criminal violations to the Regional Administrator, as agreed to by the parties, in an appropriate and timely manner. This procedure shall encompass all circumstances in which the Tribe is incapable of exercising the enforcement requirements of § 123.27. This agreement shall be incorporated into a joint or separate Memorandum of Agreement with the EPA Region, as appropriate.

15. Section 123.62 of subpart D is amended by adding a sentence to the end of paragraph (a) to read as follows:

§ 123.62 Procedures for revision of State programs.

* * * * *

(a) * * * Grounds for program revision include cases where a State's existing approved program includes authority to issue NPDES permits for activities on a Federal Indian reservation and an Indian Tribe has subsequently been approved for assumption of the NPDES program under 40 CFR part 123 extending to those lands.

* * * * *

PART 124—PROCEDURES FOR DECISIONMAKING

16. The authority citation for part 124 is revised to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; Clean Air Act, 42 U.S.C. 7401 *et seq.*

17. Section 124.2 of subpart A is amended by adding in alphabetical order a definition for "Federal Indian reservation" and by revising the definition for "Indian Tribe" to read as follows:

§ 124.2 Definitions.

* * * * *

Federal Indian reservation (in the case of NPDES) means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

* * * * *

Indian Tribe means (in the case of UIC) any Indian Tribe having a federally recognized governing body carrying out substantial governmental duties and powers over a defined area. For the NPDES program, the term "Indian Tribe" means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

* * * * *

18. Section 124.51 of subpart D is amended by adding a new paragraph (c) to read as follows:

§ 124.51 Purpose and scope.

* * * * *

(c) As stated in 40 CFR 131.4, an Indian Tribe that is qualified for treatment as a State for purposes of the Water Quality Standards program is likewise qualified for treatment as a State for purposes of State certification of water quality standards pursuant to section 401(a)(1) of the Act and subpart D of this part.

* * * * *

PART 501—STATE SLUDGE MANAGEMENT PROGRAM REGULATIONS

19. The authority citation for part 501 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

20. Section 501.1 of subpart A is amended by revising paragraph (c)(5), by redesignating paragraph (f) as (f)(1), and by adding paragraph (f)(2) to read as follows:

§ 501.1 Purpose and scope.

* * * * *

(c) * * *

(5) The authority to abate violations of the State sludge program, including civil and criminal penalties and other ways and means of enforcement. Indian Tribes can satisfy criminal enforcement authority requirements under § 501.25.

* * * * *

(f)(1) * * *

(2) The procedures outlined in the preceding paragraph (f)(1) of this section for the suspension of permitting authority and transfer of existing permits will also apply when EPA approves an Indian Tribe's application to operate a State sludge management program and a State was the authorized permitting authority under § 501.13 for sludge management activities within the scope of the newly approved program. The authorized State will retain jurisdiction over its existing permits as described in paragraph (f)(1) of this section absent a different arrangement stated in the Memorandum of Agreement executed between EPA and the Tribe.

* * * * *

21. Section 501.2 of subpart A is amended by adding in alphabetical order definitions for "Federal Indian reservation" and "Indian Tribe", and by revising the definition for "State" to read as follows:

§ 501.2 Definitions.

* * * * *

Federal Indian reservation means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

* * * * *

Indian Tribe means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

* * * * *

State means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, and an Indian Tribe as defined in these regulations which meets the requirements of § 501.22.

* * * * *

22. Section 501.11 of subpart B is amended by revising paragraph (a)(1), by redesignating paragraph (b) as (b)(1), and by adding a new paragraph (b)(2) to read as follows:

§ 501.11 Elements of a sludge management program submission.

(a) * * *

(1) A letter from the Governor of the State (or in the case of an Indian Tribe eligible for treatment as a State in accordance with § 501.24(e), the Tribal authority exercising powers substantially similar to those of a State Governor) requesting program approval;

* * * * *

(b)(1) * * *

(2) In the case of an Indian Tribe eligible for treatment as a State under § 501.24(e), EPA shall take into consideration the contents of the Tribe's request for treatment as a State submitted under § 501.22, in determining if the program submission required by § 501.11(a) is complete.

* * * * *

23. Section 501.12 of subpart B is amended by adding a new paragraph (g) to read as follows:

§ 501.12 Program description.

* * * * *

(g) In the case of Indian Tribes eligible for treatment as a State under § 501.24(e), if a State has been authorized by EPA to issue permits on the Federal Indian reservation in accordance with § 501.13, a description of how responsibility for pending permit applications, existing permits, and supporting files will be transferred from the State to the eligible Indian Tribe. To the maximum extent practicable, this should include a Memorandum of Agreement negotiated between the State and the Indian Tribe addressing the arrangements for such transfer.

24. Section 501.13 of subpart B is amended by revising the last sentence of the paragraph to read as follows:

§ 501.13 Attorney General's statement.

* * * If a State (which is not an Indian Tribe) seeks to carry out the program on Indian lands, the statement shall include an appropriate opinion and analysis of the State's legal authority.

25. Section 501.14 of subpart B is amended by redesignating paragraph (b)(1) as (b)(1)(i) and by adding paragraph (b)(1)(ii) to read as follows:

§ 501.14 Memorandum of Agreement with the Regional Administrator.

* * * * *

(b) * * *

(1)(i) * * *

(ii) Where a State has been authorized by EPA to issue permits in accordance with § 501.13 on the Federal Indian reservation of the Indian Tribe seeking program approval, provisions describing how the transfer of pending permit applications, permits, and any other information relevant to the program operation not already in the possession of the Indian Tribe (support files for permit issuance, compliance reports, etc.) will be accomplished.

* * * * *

26. Section 501.15 of subpart B is amended by adding new paragraph (b)(15) to read as follows:

§ 501.15 Requirements for permitting.

* * * * *

(b) * * *

(15) Indian Tribes can satisfy the criminal enforcement authority requirements of this section under § 501.25.

* * * * *

27. Section 501.17 of subpart B is amended by adding a new paragraph (e) to read as follows:

§ 501.17 Requirements for enforcement authority.

* * * * *

(e) Indian Tribes that cannot satisfy the criminal enforcement authority requirements of this section may still be approved under this part if they meet the requirements established in § 501.25.

28. Section 501.22 is added to subpart B to read as follows:

§ 501.22 Requirements for treatment of Indian Tribes as States.

(a) Consistent with section 518(e) of the CWA, 33 U.S.C. 1377(e), the Regional Administrator will treat an Indian Tribe as a State for purposes of making the Tribe eligible to apply for sludge management program authority if it meets the following criteria:

(1) The Indian Tribe is recognized by the Secretary of the Interior.

(2) The Indian Tribe has a governing body carrying out substantial governmental duties and powers.

(3) The functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust for the Indians, held by a member of an Indian Tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation.

(4) The Indian Tribe is reasonably expected to be capable, in the Regional Administrator's judgment, of carrying out the functions to be exercised, in a manner consistent with the terms and purposes of the Act and applicable regulations, of an effective sludge management program. This capability may be demonstrated by the existence of management and technical skills necessary to administer an effective sludge management program; by the existence of institutions to exercise executive, legislative, and judicial functions; and by a history of successful managerial performance of public health or environmental programs. There must be sufficient independence of the regulated entities and the agency of the Indian Tribe which will assume primary responsibility for establishing and administering a sludge management program necessary to assure effective and fair administration of the program.

(b) An Indian Tribe which the Regional Administrator determines meets the criteria described in paragraph (a) of this section must also satisfy the State program requirements described in this part for assumption of the State program.

29. Section 501.23 is added to subpart B to read as follows:

§ 501.23 Request by an Indian Tribe for a determination of eligibility for treatment as a State.

An Indian Tribe may apply to the Regional Administrator for a determination that it qualifies for treatment as a State pursuant to section 518 of the Act for purposes of seeking sludge management program approval. The application shall be concise and describe how the Indian Tribe will meet each of the requirements of § 501.22. The application shall include the following information:

(a) A statement that the Tribe is recognized by the Secretary of the Interior;

(b) A descriptive statement demonstrating that the Tribal governing body is currently carrying out substantial governmental duties and powers over a defined area. This statement shall:

(1) Describe the form of the Tribal government;

(2) Describe the types of governmental functions currently performed by the Tribal governing body, such as, but not limited to, the exercise of police powers affecting (or relating to) the health, safety, and welfare of the affected population; taxation; and the exercise of the power of eminent domain; and

(3) Identify the source of the Tribal government's authority to carry out the governmental functions currently being performed.

(c) A map or legal description of the area over which the Indian Tribe asserts authority under section 518(e)(2) of the Act; a statement by the Tribal Attorney General (or equivalent official authorized to represent the Tribe in all legal matters in court pertaining to the program for which it seeks approval) which describes the basis for the Tribe's assertion (including the nature or subject matter of the asserted regulatory authority); a copy of all documents such as Tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions which support the Tribe's assertion under section 518(e)(2) of the Act.

(d) A narrative statement describing the capability of the Indian Tribe to administer an effective, environmentally sound sludge management program. The statement shall include:

(1) A description of the Indian Tribe's previous management experience including, but not limited to, the administration of programs and service authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), the Indian Mineral Development Act (25 U.S.C. 2101 *et seq.*), or the Indian Sanitation Facility Construction Activity Act (42 U.S.C. 2004a);

(2) A list of existing environmental or public health programs administered by the Tribal governing body, and a copy of related Tribal laws, regulations, and policies;

(3) A description of the entity (or entities) which exercise the executive, legislative, and judicial functions of the Tribal government;

(4) A description of the existing, or proposed, agency of the Indian Tribe which will assume primary responsibility for establishing and administering a sludge management program (including a description of the relationship between the existing or proposed agency and its regulated entities);

(5) A description of the technical and administrative abilities of the staff to administer and manage an effective, environmentally sound sludge management program or a plan which proposes how the Tribe will acquire additional administrative and technical expertise. The plan must address how the Tribe will obtain the funds to acquire the administrative and technical expertise.

(e) The Regional Administrator may, at his discretion, request further documentation necessary to support a Tribal request for treatment as a State.

(f) If the Administrator or his delegatee has previously determined that a Tribe has met the requirements for "treatment as a State" for other programs authorized under the Safe Drinking Water Act or the Clean Water Act, then the Tribe need only provide that additional information unique to the sludge management program which is requested by the Regional Administrator.

30. Section 501.24 is added to subpart B to read as follows:

§ 501.24 Procedures for processing an Indian Tribe's application for treatment as a State.

(a) The Regional Administrator shall process an application of an Indian Tribe for treatment as a State submitted pursuant to § 501.23 in a timely manner. He shall promptly notify the Indian Tribe of receipt of the application.

(b) Within 30 days after receipt of the Indian Tribe's complete application for treatment as a State, the Regional Administrator shall notify all appropriate governmental entities. Notice shall include information on the substance and bases of the Tribe's assertions that it meets the requirements of § 501.22(a)(3).

(c) Each governmental entity so notified by the Regional Administrator shall have 30 days to comment upon the Tribe's assertion of jurisdiction. Comments by governmental entities shall be limited to the Tribe's assertion under § 501.22(a)(3).

(d) If a Tribe's assertion under § 501.22(a)(3) is subject to a competing or conflicting claim, the Regional Administrator, after consultation with the Secretary of the Interior, or his designee, and in consideration of other comments received, shall determine whether the Tribe has adequately demonstrated that it meets the requirements of § 501.22(a)(3).

(e) If the Regional Administrator determines that a Tribe meets the requirements of § 501.22, the Indian Tribe is then eligible to be treated as a State for purposes of applying for assumption of the sludge management program.

(f) The Regional Administrator shall follow the procedures described in subpart C of this part in processing a Tribe's request to assume the sludge management program.

31. Section 501.25 is added to subpart B to read as follows:

§ 501.25 Provisions for Tribal criminal enforcement authority.

To the extent that an Indian Tribe is precluded from asserting criminal enforcement authority as required under § § 501.1(c)(5) and 501.17, the Federal Government will exercise primary criminal enforcement responsibility. The Tribe, with the EPA Region, shall develop a procedure by which the Tribal agency will refer potential criminal violations to the Regional Administrator, as agreed to by the parties, in an appropriate and timely manner. This procedure shall encompass all circumstances in which the Tribe is incapable of exercising the enforcement requirements of § § 501.1(c)(5) and 501.17. This agreement shall be incorporated into a joint or separate Memorandum of Agreement with the EPA Region, as appropriate.

[FR Doc. 93-30967 Filed 12-21-93; 8:45 am]

BILLING CODE 6560-50-F

VOL 58 ISS 244 DEC 22 1993 UMI

VOL
58

ISS
244

DE
22

1993

UMI

federal register

Wednesday
December 22, 1993

Part V

Department of Transportation

Coast Guard

33 CFR Part 155
Discharge Removal Equipment for Vessels Carrying Oil; Interim Final Rule

VOL
58
ISS
2
4
4
DE
22
1993
UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[CGD 90-068]

RIN 2115-AD66

Discharge Removal Equipment for Vessels Carrying Oil

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: The Coast Guard is issuing regulations that require vessels carrying oil in bulk as cargo to carry discharge removal equipment, install spill prevention coamings, and install emergency towing arrangements. The Coast Guard also is requiring vessels to have a prearranged capability to calculate damage stability in the event of a casualty. Regulations requiring removal equipment are mandated by the Oil Pollution Act of 1990 (OPA 90). The purpose of the regulations is to reduce the risk of oil spills, improve vessel oil spill response capabilities, and minimize the impact of oil spills on the environment. The Coast Guard is issuing an interim final rule in order to solicit further public comment and information on emerging technologies that prevent, contain, or remove discharges of oil from vessels into the marine environment.

DATES: This rule is effective on January 21, 1994. The Director of the Federal Register approves as of January 21, 1994 publication the incorporation by reference of certain publications listed in the regulations. Comments on the interim final rule must be received on or before February 22, 1994.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 90-068), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of the docket and will be available for inspection and copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Frank Wood, Project Manager, Office of Marine Environmental Protection (G-MEP), (202) 267-6414.

SUPPLEMENTARY INFORMATION:

Request for Comments

Because considerable interest has been expressed in emerging technologies for preventing and removing discharges of oil into the environment, the Coast Guard is soliciting further comment and information from the public on booms, skimmers, temporary storage devices, or other major oil spill prevention and response equipment designed to be carried on board. Comments should address the appropriateness of the equipment, the technological and economic feasibility of requiring the equipment, and the compatibility of the equipment with safe vessel operation. Some comments on the notice of proposed rulemaking (NPRM) stated that recent technological developments have made the carriage of booms and skimmers more feasible than when the rulemaking process began. The comments noted that an intent of OPA 90 was to encourage the development of new response technologies and that final regulations should be issued without further consideration of this new technology. To this end, persons interested in demonstrating such equipment and technologies for preventing or removing oil spills should contact the project manager for this rulemaking.

Persons submitting comments should include their names and addresses, identify this rulemaking (90-068) and the specific section of the rulemaking to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons waiting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

Drafting Information

The principal persons involved in drafting this document are Frank Wood, Project Manager, G-MEP, and Joan Tilghman, Project Counsel, OPA 90 Staff.

Background and Purpose

Section 4202(a)(6) of OPA 90 (P.L. 101-380, August 18, 1990) amended section 311(j) of the Federal Water Pollution Act (FWPCA) (33 U.S.C. 1321(j)) by, among other things, adding a new paragraph (6) to require vessels that are operating on the navigable waters of the U.S. and that are carrying oil or a hazardous substance in bulk as cargo to carry appropriate discharge removal equipment on board. OPA 90 explicitly states that this equipment must employ the best technology economically feasible and be compatible with the safe operation of the vessel.

Section 311(a)(8) of the FWPCA defines the term "remove or removal" as the containment and removal of oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare. For purposes of the regulations, removal equipment includes salvage equipment, lightering equipment, towing arrangements, sorbents, and other equipment, such as booms and skimmers, that may be used to minimize or mitigate environmental damage from oil spills.

The regulations issued under section 311(j)(6) for equipment carriage apply to all vessels carrying oil in bulk as cargo or cargo residue that are certificated as tank vessels under 46 CFR chapter I, subchapter D; all other certificated vessels that are permitted to carry limited quantities of oil, as defined in section 311(a)(1) of the FWPCA; and uninspected vessels, including foreign flag vessels, that carry oil in bulk as cargo or cargo residue. "Oil" includes, but is not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredge spoils.

On November 4, 1992, Congress passed the Coast Guard Authorization Act of 1992 (the Act) (Pub. L. 102-587). Section 5209(b) of the Act states that the following vessels are not tank vessels for the purposes of any law:

(1) An offshore supply vessel.

(2) A fishing or fish tender vessel of not more than 750 gross tons that transfers oil, without charge, to a fishing vessel owned by the same person.

The result of the Act is that the covered vessels are not subject to the discharge removal requirements applicable to tank vessels. However, the vessels covered by the Act are still subject to the requirements in § 155.220, "Discharge removal equipment for vessels carrying oil as secondary cargo."

Regulatory History

The Coast Guard published an advance notice of proposed rulemaking (ANPRM) on August 30, 1991, and held a public workshop on November 14, 1991, to address issues related to vessel response plans and on-board carriage of discharge removal equipment. Because the OPA 90 requirements for vessels to carry discharge removal equipment for oil spills are related to the requirements for vessels to have response plans (58 FR 7376, February 5, 1993), the Coast Guard considered both statutory provisions concurrently. In January 1992, the Coast Guard convened the Oil Spill Response Plan Negotiated Rulemaking Committee (the Committee), comprised of 26 members from the marine, oil, and transportation industries; State and Federal governments; environmental organizations; and other public associations. The Committee discussed issues concerning both vessel response plans and the carriage of discharge removal equipment.

The Coast Guard considered all comments to the ANPRM and included the Committee recommendations in developing the NPRM on Discharge Removal Equipment for Vessels Carrying Oil (57 FR 44912, September 29, 1992). The Coast Guard is limiting this rulemaking to requirements for vessels carrying oil in bulk as cargo. Regulations requiring carriage of discharge removal equipment for vessels that carry hazardous substances in bulk as cargo will be developed in a separate rulemaking.

Discussion of Comments and Changes

The Coast Guard received 107 comments on the NPRM. Seven additional letters arrived after the close of the comment period and were considered in drafting the interim final rule.

Twenty-five comments requested a public hearing on the subject of requiring tank vessels to warehouse booms and skimmers on board. The Coast Guard has determined that delaying publication of the interim final rule to hold further public hearings is not in the public's interest. The Coast Guard is soliciting further comment on the rule. If it appears that a public hearing will help the Coast Guard reach a decision on the final rule, a public hearing will be held.

One letter discussed the designation or certification of dedicated and dual-purpose oil spill response vessels and their inclusion in response plans. The comment relates to a separate rulemaking and has been forwarded for inclusion in the appropriate docket.

Definitions

In the NPRM, the Coast Guard separated vessels that carry oil as primary cargo into four categories: tankers, offshore tank barges, coastal tank barges, and inland tank barges. One comment indicated that the requirements for coastal and offshore tank barges are duplicative. The Coast Guard agrees and is combining coastal tank barges and offshore tank barges into one category, "offshore oil barge," to simplify the regulations and eliminate confusion on this issue.

The regulations define an offshore oil barge as any tank barge, carrying oil in bulk as cargo, that is certificated by the Coast Guard under 46 CFR chapter I, subchapter D, for navigation in waters outside the "Boundary Lines," as defined in 46 CFR part 7, in any ocean or the Gulf of Mexico; any tank barge in Great Lakes service; or any foreign flag tank barge. This definition includes integrated tug-barges (ITBs) that are designed for dual-mode navigation.

The Coast Guard has revised the definition of an inland tank barge in § 155.200. The term "inland tank barge" has been changed to "inland oil barge" and now includes any tank barge certificated under 46 CFR chapter I, subchapter D, for river or canal service. The Coast Guard has also changed the term "tanker" to "oil tanker," and the definition now includes self-propelled vessels carrying oil in bulk as cargo, including ITBs designed for push-mode operation. The following preamble discussion refers to the new terms.

Discharge Removal Equipment for On-Deck Spills

In the NPRM, §§ 155.205, 155.210, 155.215, and 155.220 require oil tankers, oil barges, and vessels carrying oil as a secondary cargo to carry appropriate equipment and supplies for the containment and removal of on-deck oil cargo spills. To provide the regulated community with adequate time to prepare for compliance, under the IFR, these sections will become effective 180 days after the date of publication of the IFR in the Federal Register.

Several comments requested a definition of the phrase "on-deck spill." An on-deck spill is a discharge of oil on the deck of a vessel during loading, unloading, transfer, or other shipboard operation. An on-deck spill could result from a leaking fitting, an overfill, a bad connection, or similar operational mishap. This phrase is used to differentiate operational discharges from discharges caused by collision or grounding in which the hull is punctured and a tank ruptures, resulting in an uncontrolled discharge of oil into the marine environment.

The Coast Guard received 53 comments on the proposed requirements for vessels to carry sufficient discharge removal equipment to remove on-deck spills and prevent a discharge of oil into the water. Thirty-five of these comments stated that the proposed requirements were redundant because the tanker industry is already substantially in compliance with the requirements. The Coast Guard recognizes that the majority of reported tank vessel spills are relatively small and occur mostly during routine operations. However, the purpose of the rule is to ensure that oil tankers and offshore oil barges carry a sufficient amount of equipment to contain and remove an appropriate volume of oil. The fact that many oil tankers already may be in compliance indicates that the requirements are appropriate, that all tank vessels should comply with the rule, and that the cost to comply should be minimal. The Coast Guard has retained the requirements for vessels to carry the levels of discharge removal equipment as proposed.

The Coast Guard proposed in §§ 155.205, 155.210, 155.215, and 155.220 that equipment required for on-board carriage by oil tankers and offshore oil barges must be non-sparking to be safe for use in a volatile atmosphere. One comment suggested that the term "non-sparking" is overused and meaningless and suggested a definition of non-sparking to specify that hand tools and other equipment must not be a source of ignition in a volatile atmosphere. The comment suggested that the Coast Guard should require that hand tools, such as shovels and scoops, be manufactured of resin or other non-ferrous, composite material.

The Coast Guard has determined not to add a regulatory definition of non-sparking because the term reflects common maritime practice. For the purposes of this rulemaking, the Coast Guard considers non-sparking material to mean non-ferrous metals (such as brass or aluminum), plastics, resins, or other composite materials. Portable pumps that are non-sparking could be hydraulically or pneumatically powered, or otherwise made intrinsically safe, to prevent an ignition hazard.

The Coast Guard proposed in §§ 155.205 and 155.210 that pumping equipment for removing on-deck spills be on deck, rigged, and ready for immediate use on the vessel during transfer operations. Several comments suggested that the Coast Guard reconsider the proposed requirement that portable pumps be rigged. One comment stated that coamings are the first line of defense in the event of an on-deck spill and explained that before the pump can be used, oil must first be collected in a sufficient quantity. The comment also stated that stanching the discharge is the first priority and that there is adequate time to rig a pump, without risking loss of oil over the side, when the discharge is stanched.

Several other comments stated that transporting and maneuvering a pump already rigged with hoses is awkward and potentially unsafe. One comment also noted that a rigged pump may be less useful or accessible than an unrigged pump that is readily available. Other comments noted that the rigged pump would have to be repositioned frequently because of changes in vessel heel and trim that occur during normal loading and unloading operations. The Coast Guard agrees with these comments and has changed the rule to require only that portable pumps be readily available for use.

The rule requires in §§ 155.205, 155.210, 155.215, and 155.220 that containers, scoops, buckets, and shovels be readily available to aid the crew in removing and containing the waste from an on-deck spill. In §§ 155.205 and 155.210, oil tankers and offshore oil barges also are required to carry a minimum of one non-sparking portable pump with hoses. Three comments asked that the Coast Guard require specific, standard quantities of sorbents and hand tools and specific sizes and capacities of portable pumps to ensure that all vessels meet the same standards and that the rules are clear and consistently applied. In response to these comments, the Coast Guard has revised the rule to require vessel owners or operators to have at least one non-sparking, portable pump, with hoses, capable of transferring, within one-half hour, the number of barrels of oil specified for each vessel type.

The Coast Guard has determined not to require carriage of specified quantities of sorbents and hand tools because vessel owners or operators are best able to determine the quantity and location of necessary removal equipment. The interim final rule continues to require vessel owners or operators to have sufficient quantities of hand tools, sorbents, and other items to contain and remove the specified amount of oil and residue. Owners or operators also must be able to demonstrate compliance with the requirements upon random inspection by the Coast Guard.

One comment stated that the rule should apply equally to offshore oil barges and inland oil barges. The proposed requirements for inland oil barges differed from those for oil tankers and oil barges that navigate in coastwise and ocean service because inland oil barges are constructed differently. Inland oil barges have little or no secure stowage capacity for carried equipment and are typically unmanned. Therefore, for inland oil barges, the interim final rule continues to provide that the equipment for containing and removing on-deck spills must be immediately available during cargo transfer operations, but does not require the equipment to be carried on board at other times. The regulations also permit the owner or operator of inland oil barges to rely on equipment available at the transfer facility receiving from or discharging to the barge, provided the barge owner or operator has prearranged the use of equipment for vessel spills by contract or other means approved by the Coast Guard.

Deck Edge Coamings for On-Deck Spills

Nine comments addressed the proposed requirements for coamings in § 155.310. Most of the comments supported the proposed requirements. One comment expressed serious concerns about safety, stating that the coamings would collect water in rough seas or heavy rains and diminish the vessel's stability by adding topside weight, with a free surface, above the vessel's center of gravity. The Coast Guard does not believe that the requirements to install peripheral coamings endanger ocean and coastwise vessels from topside weight. Drainage through drains and scuppers can be provided; however, there must be a mechanical means of closing each scupper and drain.

Another comment suggested that the rule allow peripheral coamings to be installed within two to three feet of the deck-edge, as is common practice, and not require installation exactly at the deck edge. The Coast Guard concurs and has eliminated the term "deck edge" from paragraph (c) of § 155.310.

One comment raised specific concerns about the difficulties and hazards of having a coaming on deck when operating for prolonged periods in freezing weather. The Coast Guard recognizes the special difficulties and hazards posed by the buildup of ice through prolonged periods of operation in freezing weather and will consider requests for exemption from these requirements in accordance with the provisions of 33 CFR 155.130. Section 33 CFR 155.130 sets out the authority and process for exempting tank vessels from any of the requirements under part 155 of title 33 of the Code of Federal Regulations. With the exceptions noted, the Coast Guard has retained the requirements for peripheral coamings as proposed.

One comment stated that the proposed rule amends an existing rule that applies to vessels carrying hazardous materials as well as oil. The comment stated that the Coast Guard inadvertently proposed to require peripheral coamings on the main deck of a liquefied natural gas (LNG) carrier. LNG is not defined as oil or a hazardous material. Nothing in this rulemaking applies to or affects the regulatory status of vessels that carry LNG cargoes.

On-Water Containment and Removal Equipment

The Coast Guard received 72 comments on the issue of requiring the carriage of booms and skimmers on board tank vessels to facilitate the containment and removal of oil from the water and shorelines. The majority of the comments received on this issue were in favor of carrying this equipment aboard tank vessels. Almost two-thirds of these comments favoring equipment carriage were copies of one of three separate form letters. The letters were signed by different individuals, many of whom were small manufacturers or distributors of pollution response equipment. The majority of the comments stated that they believe Congress intended OPA 90 to require booms and skimmers aboard these vessels, and argued that they are economically feasible because the apparent cost to benefit ratio justifies carrying booms and skimmers. However, none of these comments supplied data to calculate costs and benefits or identified citations in the Conference Report for OPA 90 supporting their conclusions on Congressional intent.

Most of the comments that opposed requirements to carry equipment on board tank vessels strongly supported the conclusions reached by the Committee and adopted by the Coast Guard in the NPRM.

In OPA 90, Congress directed the Coast Guard to require the carriage of (1) appropriate removal equipment that, (2) employs the best technology economically feasible, and (3) that is compatible with the safe operation of the vessel. The Coast Guard has interpreted this requirement to be conditional and conjunctive in that any required equipment must meet all three tests.

The majority of the participants in both the public workshop and the negotiated rulemaking process, and the majority of comments on the ANPRM and NPRM, stated that the Coast Guard should not compromise safety by requiring crew deployment from the vessel to operate booms and skimmers for recovery of oil discharged into the marine environment. This is also the Coast Guard's conclusion.

Many comments argued that in any major discharge caused by fire, explosion, collision, or grounding, the crew's primary responsibility is the safety of the vessel and crew and containment of the cargo. These comments stated that requiring crew members to deploy from the vessel with equipment suitable for carriage aboard ship in anything but a benign environment would jeopardize the safety of the crew and the vessel.

Many of the comments supporting the warehousing of booms and skimmers on board tank vessels indicated that an advantage of carrying response equipment on board the vessel for deployment and use by others is that the equipment would be readily available in the event of a discharge, without transportation delays and without compromising the safety of vessel crew members.

Seventeen of the comments that advocated warehousing specifically recommended that the Coast Guard require remote control technology to facilitate deploying the equipment with minimal involvement by the crew. At least one manufacturer has developed a system which includes self-inflating boom, a remotely controlled vessel to tow the boom into place, and an anchoring system which can be remotely activated. Other manufacturers have developed or adapted technology to contain and remove oil from the water without deploying crew members from the vessel.

OPA 90 requires the carriage of discharge removal equipment that is appropriate, represents the best technology economically feasible, and is compatible with the safe operation of the vessel. The Coast Guard has considered the comments and finds that information available to date does not support a regulatory requirement for vessels to carry booms, skimmers, vessels, temporary storage devices, and other oil spill response equipment.

Given the development of emerging technology that has occurred since the regulatory process began and the controversial nature of the issues related to the carriage of booms and skimmers on board tank vessels, the Coast Guard is soliciting further public comment on these issues. The Coast Guard will consider this information in deciding whether to promulgate a final rule requiring vessels to carry booms and skimmers.

Persons who have developed oil spill prevention or response equipment or technology for carriage aboard tank vessels are invited to prepare and submit a proposal and a draft protocol for a test or demonstration of the equipment or technology for evaluation by the Coast Guard. The test or demonstration proposal should address the following: the appropriateness of the equipment for its intended use, the technological feasibility of the equipment and any advantages or disadvantages that could affect its deployment and operation from a tank vessel, and the equipment's compatibility with the safety of the crew and the safe operation of any vessel that carries it on board. The proposal also should address how the equipment or technology will be used to prevent spills or remove the various grades of oil cargo identified in 33 CFR 155.1050, within the range of environmental conditions for which the equipment or technology is designed to operate. The proposal should address the application and use of the equipment in the event of a vessel casualty.

The Coast Guard will evaluate each proposal against test standards developed by consensus organizations, such as the American Society for Testing and Materials (ASTM), and against the requirements of OPA 90. The Coast Guard may suggest amendments to each test proposal in order to evaluate more fairly the equipment or technology in accordance with established consensus standards or statutory or regulatory requirements. Persons submitting proposals for tests or demonstrations should understand that the primary measure of the technological and economic feasibility of any equipment or technology designed for oil spill response, whether carried aboard ship or prepositioned ashore, is whether it will effectively contain or recover oil or otherwise minimize or mitigate the impact of an oil spill on the environment.

If persons submitting a proposal are intending the Coast Guard to require the carriage of this equipment on board or to give credit for the equipment against some other requirement based on satisfactory performance, they also must show that the equipment performs as designed and that it is superior to equipment that is already available and required in these regulations. Economic cost and benefit data, as well as environmental impact information, also must be provided to the Coast Guard. The Coast Guard reserves the right to witness tests and demonstrations proposed to it and will consider all equipment and technologies in developing the final rule.

The interim final rule does not require the carriage of booms and skimmers or other prevention or response equipment not expressly provided for in the regulations. Nothing in the regulations precludes an owner or operator from choosing to carry the equipment, if the owner or operator determines that the equipment is compatible with the safe operation of the vessel. Booms, skimmers, temporary storage devices, or other major equipment carried on board a tank vessel may be counted toward the vessel owner's or operator's planning responsibilities, in accordance with the vessel response plan regulations at 33 CFR 155.1050.

Internal Cargo Transfer Capability and Lightering

In the NPRM, the Coast Guard proposed in § 155.225 that oil tankers and offshore oil barges carry hoses and reducers to facilitate internal transfer of cargo unless the vessel's existing cargo piping system is designed to facilitate cargo transfer in the event of damage to the vessel or the piping system. Inland oil barges are not required to carry additional hoses and reducers. The IFR maintains the provisions of § 155.220 as proposed in the NPRM, but provides that its requirements do not become effective until 180 days after the date of publication of the IFR in the **Federal Register**. This will provide the regulated community adequate time to prepare for compliance.

The Coast Guard received six comments relating to internal cargo transfer. Four comments agreed with the requirements as proposed. One comment questioned why inland oil barges are not required to have additional hoses and reducers. Another comment stated that all vessels should be required to carry emergency pumps because existing pumps could be easily disabled, preventing internal transfer.

The Coast Guard has decided to continue to exclude inland oil barges from the requirement to carry hoses and reducers because the Coast Guard finds that the environment in which these oil barges operate, and the limited capacity of these vessels to store equipment, make carriage inappropriate.

The Coast Guard recognizes the value of high-capacity, portable, submersible pumps in lightering and salvage operations and in the intraship transfer of cargo, but also recognizes that pumping equipment is often available from shore-based locations. The Coast Guard has determined that requiring a vessel to carry these pumps on board is not economically feasible. Further, the pumps may be incompatible with the safe operation of the vessel, if the pumps are employed before adequate stability information is available. Considering the time required to assess damage adequately and perform the necessary stability calculations, the difference in availability of pumps carried on board and those brought from shore may not be significant.

VOL 58 ISS 244 DEC 22 1993 UMI

VOL 58 ISS 244 DEC 22 1993 UMI

One comment suggested that the Coast Guard refer to the vessel response plan (VRP) requirements for owners or operators to identify and plan for lightering capability. The Coast Guard has addressed the requirements for lightering equipment and the requirements for lightering plans in the interim final rule on VRPs (58 FR 7376, February 5, 1993).

Spill Tracking Devices

The Coast Guard received five comments on spill tracking devices. Two comments supported the Committee recommendation to use OPA 90 funds for researching the feasibility of such a device. Four comments supported requiring a spill tracking device and made suggestions on the type of device that should be required. One comment stated that the device should have sufficient power to last several days, and another suggested requiring the drifting and positioning equipment that many vessels already carry on board. One comment indicated that to be effective, a tracking device must not be bulky because the device must move with the spill. This comment also stated that the Coast Guard must thoroughly test a device before requiring it to be carried. Another comment submitted detailed information on a particular device. The interim final rule does not require the carriage of a spill tracking device. If the Coast Guard decides to evaluate a design for a spill tracking device, it will consider all reasonable suggestions.

Damage Stability Information

In § 155.240, the Coast Guard proposed that an owner or operator of an oil tanker or offshore oil barge have prearranged, prompt access to computerized on-board or shore-based damage stability and residual structural strength calculation programs. The intent of the requirement was to require an owner or operator to maintain vessel strength and stability characteristics on file in the program. The Coast Guard proposed that the means of access to this program be identified in the VRP required under §§ 155.1035 or 155.1040 of title 33 of the Code of Federal Regulations.

The Coast Guard received nine comments on this proposed requirement. Four comments supported the proposed requirements and suggested that there be a one-year implementation period. The Coast Guard agrees and has changed § 155.240 accordingly.

Two writers commented that the proposed rules were in conflict with existing regulations in 46 CFR 170.001 that set out applicability requirements for part 170, "Stability Requirements For All Inspected Vessels." The Coast Guard disagrees. One comment stated that the requirements should not apply to double-hull vessels because these vessels pose less risk to the environment than other vessels. The Coast Guard is requiring owners and operators of oil tankers and offshore oil barges to prearrange access to a computerized system for calculating damage stability, because this information will facilitate salvage in the event of a casualty. In a damaged and weakened condition, single-hulled and double-hulled vessels may each pose difficult problems to a salvor who must know the vessel's stability and remaining hull girder strength. Vessel characteristics and stability data that are pre-entered into a computerized calculation program will help owners, operators, and salvors to quickly calculate damage stability and residual structural strength.

The Coast Guard intends the requirements to provide a system for producing information that will assist salvors in solving at least the following salvage problems:

a. Calculating residual hull girder strength based on the reported extent of damage.

b. Calculating residual stability when the vessel's compartments are breached.

c. Calculating the most favorable off-loading, ballasting, or cargo transfer sequences to improve residual stability, reduce hull girder stresses, and reduce ground-force reaction.

d. Calculating bending and shear stresses due to pinnacle loads from grounding or stranding.

The owner or operator of an oil tanker or offshore oil barge will have to provide a minimum amount of information for pre-entry into the computerized program to ensure the program will provide useful information to the owner, operator, salvor, and Coast Guard and to enable salvors to make the calculations rapidly in the event of a casualty. The Coast Guard is requiring that owners or operators provide sufficient information to the computer program manager to enable these calculations to be made. The program manager may be a classification society, a part of the vessel owner's or operator's organization, or another organization which, along with the means of access, is identified in the VRP in accordance with the provisions of §§ 155.1035 or 155.1040 of title 33 of the Code of Federal Regulations.

One writer commented that there should be a size limit on vessels that must meet the requirements of this section. The Coast Guard believes that any tank vessel certificated for ocean or coastwise-service under 46 CFR chapter I, subchapter D should meet these requirements.

One comment strongly suggested that the Coast Guard be more definitive in the minimum requirements necessary for the damage stability and residual structural strength programs. The Coast Guard has decided not to require specific information for damage-stability calculations because the process of calculating damage stability and residual structural strength requires the following information: The specific nature of which varies from ship to ship: The general arrangement plan; a midships section plan; the location of the draft marks; the lines plan or table of offsets; the tank or ullage tables; and the light ship characteristics. Other information that may be helpful includes the trim and stability book, the loading manual, and the load line assignment.

One comment stated that there was no need for a computerized program because damage stability and residual structural strength calculations can be made without using a computerized system. The Coast Guard believes that the value of the computerized system is its speed and accuracy. A preloaded, computerized system will facilitate the rapid development of complex stability and residual hull strength calculations that are necessary to provide decision makers with a complete range of alternatives in a short time.

Existing §§ 155.1035 and 155.1040 of title 33 of the Code of Federal Regulations require owners or operators to maintain a copy of the vessel plans necessary to perform salvage, stability, and hull stress assessments, unless the vessel has prearranged for computerized, shore-based damage stability and residual hull strength calculation capability. The Coast Guard is amending the provisions of 33 CFR 155.1035 and 155.1040 to require all oil tankers and offshore oil barges to have prearranged access to a computerized capability to compute damage stability and residual hull strength.

The Coast Guard believes that emergency actions to salvage an ocean-going oil tanker or oil barge and its cargo and to prevent injury, loss of life, and damage to the environment must be taken promptly and without the delay required to manually calculate damage stability characteristics and residual hull strength. The Coast Guard also believes that this capability must be maintained ashore, even if the owner or operator also chooses to maintain the capability on board the vessel.

Inland oil barges must maintain, at a shore-based location, a copy of the vessel plans necessary to perform salvage, stability, and hull stress assessments.

Emergency Towing Capability for Certain Oil Barges

The Coast Guard proposed that offshore oil barges carry an emergency tow wire rigged and ready for use. Two writers commented that oil barges already carried an emergency towing pendant as an industry practice. They asked whether the Coast Guard intended to require a backup tow wire which duplicates the primary wire or to simply require that a pendant, which is capable of serving as the towing pendant in an emergency, be maintained on board the barge.

Section 155.230 requires barges to carry an emergency towing pendant for use in the event that the primary pendant fails. The Coast Guard is requiring the emergency pendant to have the same towing characteristics, but not necessarily the same physical characteristics, as the primary pendant. The requirement is intended to ensure that all oil barges, whether manned or unmanned, have a suitable pendant for use in an emergency so that the towing vessel can maintain or regain control of the barge. Under the IFR, the requirements of § 155.230 do not become effective until 180 days after the date of publication of the IFR in the **Federal Register**. This will provide the regulated community with adequate time to prepare for compliance.

The Coast Guard requested comments from the public on proposed requirements for ITBs to have emergency towing arrangements. The Coast Guard received no comments on this issue. The regulations continue to require dual mode ITBs to install an emergency towing pendant. ITBs designed for push-mode only must install the same towing arrangements required for tankers in § 155.235.

Emergency Towing Capability for Oil Tankers

The Coast Guard proposed two options in the NPRM for emergency towing arrangements for oil tankers and asked for public comment on which option is best. The Coast Guard received 36 comments on these options; 25 of the comments supported Option 1 and 11 comments supported Option 2.

Option 1 proposed requiring oil tankers to meet major provisions of Navigation and Inspection Circular (NVIC) No. 8–89, which endorses International Maritime Organization (IMO) Resolution A.535(13), *Recommendations on Emergency Towing Requirements for Tankers*. Resolution A.535(13) recommends strong points, chafing chains, and fairleads at the bow and stern of a tanker. Second, it requires fittings to facilitate passing the towing pendant from the rescue vessel using the rescue vessel's power. The Resolution recommends installation of these components on all tankers greater than 50,000 deadweight tons (dwt) built after adoption of the Resolution, and on tankers greater than 100,000 dwt built before adoption of the Resolution. Option 1, as proposed, extends the applicability of these requirements to oil tankers of 20,000 dwt or greater but less than 50,000 dwt, irrespective of when the oil tankers were built.

Option 2 combine features of IMO Resolution A.535(13) and the towing arrangements described in the Prince William Sound Tanker Spill Prevention and Response Plan, Volume 2. Option 2 also includes unique features that were installed by certain vessel owners. Under Option 2, oil tankers of 20,000 dwt and above would be required to comply with the recommendations of IMO Resolution A.535(13) regarding the provisions for strong points, fairleads, and chafing chains. In addition, oil tankers must have a 400 foot long towing wire pendant on one end; a 600 foot long floating, polypropylene pickup line; and a floating pickup buoy.

Option 2, as proposed, would require the towing pendant to be constructed of 2½ to 3 inch diameter, 6x37 to 6x41, extra-improved plow steel, IWRC (independent wire rope core), galvanized wire. This option also would require vessels to preconnect and store the chafing chain, pendant wire, and polypropylene line to facilitate the deployment of the pendant by no more than three crew members on a vessel with no power (deadship).

The Coast Guard recognizes the relative merits of each option. A disabled oil tanker that is adrift and uncontrolled poses an environmental hazard and endangers the lives and safety of the crew. Both options recognize that an emergency towing bridle is a preventive measure that may not only minimize or mitigate damage from oil pollution but may also save human life.

After considering all of the comments, the Coast Guard has decided to require oil tanker owners or operators to install an emergency towing bridle as identified in IMO Resolution A.535(13) (Option 1). The IMO is a specialized agency of the United Nations with a charter to focus international attention on common issues of marine safety and environmental protection, achieve international consensus on these issues, and develop international regulations. The United States participated in the development and adoption of Resolution A.535(13). The Resolution represents the best, most recent international consensus on emergency towing packages. Further, the IMO package was subject to international technological scrutiny. The Coast Guard also believes that owners or operators have had sufficient notice of the IMO provisions and, therefore, should be familiar with most of the requirements contained in Option 1. Some vessels already have installed this emergency towing package, and others are in the process of doing so.

The Coast Guard believes that a general requirement to implement the provisions of Option 2 is premature. Option 1 is an international standard while Option 2, as specifically proposed, reflects a proprietary system that has not been universally tested or accepted. Both options were proposed by the Committee for consideration by the public in the NPRM. The Coast Guard will not preclude oil tankers from installing the additional pendant, messenger, or marker buoy recommended in Option 2, as long as the oil tanker also complies with the requirements of IMO Resolution A.535(13). Under the regulations, a strong point, fairlead, and chafing chain, as a minimum, must be installed on each end of the vessel.

The Coast Guard believes that the issues raised by the comments supporting Option 2 are valid and merit international consideration and a consensus recommendation. The Coast Guard will propose that the international shipping and salvage communities, through the Marine Safety Committee of the IMO, evaluate alternative designs for an emergency towing assembly. The evaluation should consider costs, maintenance, stowage, and retrofitting requirements. Alternative designs should facilitate a rescue vessel taking a disabled, unpowered tanker under tow, in less than one hour, in adverse weather conditions, with minimum involvement by the tanker crew.

The Coast Guard proposed in § 155.235 that the applicability of IMO Resolution A.535(13) be extended to include vessels between 20,000 and 50,000 dwt. A number of comments disagreed with this proposal because the design approved by IMO includes somewhat larger components than those used by smaller vessels, and because extending the applicability is a

VOL
58
ISS
244
DE
22
1993
UMI

unilateral action not recommended by international consensus.

The Coast Guard does recognize a difference in the relative environmental risks posed by vessels of 20,000 to 50,000 dwt and vessels of 50,000 dwt and greater. Therefore, vessels of 20,000 dwt to 50,000 dwt are required under the regulations to have a towing pendant on at least one end. The Coast Guard will consider a scaled-down version of the structural dimensions for application to smaller vessels, so long as the strong point, fairlead, and chafing chain are sufficient for their intended use.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 155.140 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. The material is available as indicated in that section.

Regulatory Assessment

This rule has been reviewed under Executive Order 12866 "Regulatory Planning and Review" and is significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). An interim Regulatory Assessment is available in the docket for inspection or copying where indicated under **ADDRESSES**. Present value costs and barrels of oil are discounted at a rate of seven percent for the period from 1993 to 2015. The following table summarizes the present value of the costs and the benefits in terms of discounted barrels of oil of this interim final rule. The table is grouped by those measures which mitigate spills and those which potentially prevent spills.

PRESENT VALUE COMPLIANCE COSTS AND BENEFITS OF DISCHARGE REMOVAL EQUIPMENT

Equipment	Cost ($M)	Benefit (bbls)
Prevention:		
On Deck Spill (includes coamings, sorbents, etc.).	11.00	397
Towing Package.	92.07	Not quantifiable.
Mitigation:		
Source Control	100.25	7,544
Damage Stability Program.	7.68	Not quantifiable.
Total	211.00	7,941

The Coast Guard does not expect this rule to impose substantial new costs on oil tanker owners or operators for acquiring discharge removal equipment to carry on board. Equipment to contain and remove on-deck spills includes peripheral coamings, sorbents, hand scoops, mops, buckets, and small portable pumps. Oil tankers already are in substantial compliance with the requirements for on-board equipment. For owners or operators of offshore oil barges, the annualized costs of on-board spill response equipment is approximately $0.11 million. Initial outfitting costs for inland oil barges is $4.51 million and $4.84 million for vessels carrying oil in bulk as secondary cargo. The present value of the costs of this discharge-removal equipment is $1.65 million for offshore oil barges, $4.51 million for inland oil barges, and $4.84 million for secondary cargo carriers. This requirement is estimated to prevent spillage of 397 discounted barrels of oil. The present value of the cost per barrel of oil not spilled is estimated to be $27,708.

The Coast Guard projects that the annualized cost of equipping oil tankers with an emergency towing package will be about $6.66 million. The annualized cost of equipping offshore oil barges will be about $.029 million. The present value of the cost of the towing equipment requirement is $89.48 million for oil tankers and $2.59 million for offshore oil barges. The proposed emergency towing package requirements will minimize the risk of a spill from a disabled or drifting vessel. Monetary benefits cannot be directly calculated for an emergency towing package. Historically, the ability to quickly and safely rig a tow for a stricken or disabled vessel has served to reestablish control; prevent grounding, collision, or foundering; save human life; and prevent or minimize damage to the environment that could arise from the breakup of the vessel. The development of IMO Resolution A.535(13) was a result of a corrective recommendation in response to lessons learned from the AMOCO CADIZ Incident in 1978.

The Coast Guard intends that the required towing assemblies will help to prevent vessel disasters resulting in the total loss of cargo, as in the AMOCO CADIZ and BRAER incidents. In drafting this interim final rule, the Coast Guard examined data on 46 major spills occurring between 1980–1990. The size of the spillage ranged from just under 2,400 barrels to nearly 250,000 barrels.

Pre-unit clean-up costs of these 46 spills averaged significantly lower than the clean-up costs of smaller spills. While the clean-up costs per barrel of oil spilled for the 46-spill group averaged $777 per barrel, the most costly cleanup from among the data was $12,012 per barrel. These marked contrasts arose because a few very costly cleanups skewed the distribution sharply to the right. Standard deviation statistics cannot reliably measure the probable spill incidence because the analysis included a few very costly clean-ups.

When the 46-spill group was stratified into sub-groups based on the size of the spillage (2,380 barrels to 11,904 barrels; 11,905 barrels to 23,809 barrels; and 23,810 barrels to 250,000 barrels), the average clean-up costs per strata ranged from $135 per barrel to $1,555 per barrel.

The Coast Guard recognizes that a wide range of factors, such as vessel design, spill cause, and spill location directly affect clean-up costs. However, at the reported aggregate sample mean cost, if only one major spill in excess of 118,000 barrels from an oil tanker the size of the OCEAN EAGLE, ARGO MERCHANT, EXXON VALDEZ, MEGA BORG, or the BRAER can be averted by using a towing bridle, the benefits accrued in avoiding clean-up expenses would exceed the costs of compliance with this provision.

Requirements for source control equipment (hoses) will impose an annualized cost of $7.37 million on the owners of oil tankers and $0.72 million on the owners of offshore oil barges. The present value of the costs for source control equipment is $91.33 million for oil tankers and $8.92 million for offshore oil barges. But this requirement is estimated to result in 7,544 discounted barrels of oil not spilled, at a present value of $13,289 for each of those barrels.

Annual costs of the damage stability and structural strength calculation programs will be approximately $0.56 million for oil tankers and $0.07 million for offshore oil barges. The present value of the costs of those programs is $6.89 million for the owners of oil tankers and $0.79 million for the owners of offshore oil barges. While the direct benefits of this requirement cannot be quantified, fast and accurate salvage analysis will facilitate a critical decision-making process and reduce vessel and cargo loss. The result will be to minimize environmental damage and the loss of real and financial assets.

The Coast Guard analyzed alternative measures, including the requirement to warehouse fixed-flotation booms and remotely-deployed and operated workboats on board tank vessels. The present value of the cost of warehousing fixed-flotation booms is $825.8 million, while these booms could prevent 2,232 discounted barrels of oil spillage. The present value of the cost to carry warehoused booms is $369,982 per barrel of oil not lost to the environment.

Requiring operators to carry reel-mounted inflatable boom could be even more costly. Remotely-controlled boom deployment capability would cost the owners of tank vessels, in present value, an additional $170.9 million. But requiring oil tankers to carry remotely-controlled workboats to deploy boom could improve the effectiveness of "warehoused" boom by 25% and, therefore, could result in an additional 558 discounted barrels of oil not lost to the environment. The requirement to carry remotely-controlled workboats to deploy boom from tank vessels would result in an additional present value of the cost of $308,272 per barrel of oil not spilled.

Although some vessel operators do carry equipment on board for on-water response to oil spills, the Coast Guard has determined that current information does not support a broad requirement for all tank vessels to warehouse oil spill response equipment, such as booms and skimmers, for use off of the tank vessel. This equipment does not appear to be economically feasible at present because the identifiable costs significantly outweigh the estimated benefits.

In the case of remotely-controlled workboats to deploy boom, the system appears to give the vessel the capability to deploy and set boom more rapidly without jeopardizing crew safety; however, the technology has not been accepted in the marketplace and has not been tested or demonstrated sufficiently to determine accurately its effectiveness or warrant its cost. At the recommendation of the Committee, the Coast Guard has decided to set strict response requirements, but will allow the vessel owner or operator to select a method of compliance, either warehoused or shore-based oil spill response equipment. The owner or operator is not precluded from carrying spill response equipment for on-water containment and removal operations, as long as the equipment is compatible with the safe operation of the vessel.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small business that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Most of the small businesses affected by this rule operate inland oil barges and vessels which carry oil in bulk as secondary cargo. This interim final rule imposes total annual costs of less than $1.2 million for offshore oil barges and initial outfitting costs of $4.51 million for inland oil barges and $4.84 million for secondary vessel industries. After initial outlays, ninety-one percent or $14.7 million of the total annual costs will be paid by the oil tanker industry, which does not have a substantial number of small entities. Because it expects the impact of this rule on small entities to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no new collection of information requirements. Damage stability information required in § 155.240 is already required under 46 CFR chapter I, subchapter S, which has an approved collection of information (OMB control number 2115–0559) that expires October 31, 1995.

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule establishes regulations requiring certain vessels to carry discharge removal equipment. In *Ray* v. *Atlantic Richfield*, (435 U.S. 51, 98 S. Ct. 988, [1978]), the Supreme Court found that vessel design and equipment standards fall within the exclusive province of the Federal Government. The OPA 90 Conference Report explicitly says that provisions in section 1018 of OPA 90 preserving certain State authority are not meant to disturb this Supreme Court decision (House Conf. Rep., p. 122). Therefore, the Coast Guard intends this rule to preempt State action addressing the same subject matter.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that preparation of an Environmental Impact Statement is not necessary. The Coast Guard has concluded that these regulations, when considered independently, are not expected to result in a significant impact on the quality of the human environment, as defined by the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). Requiring vessels to carry adequate on-deck spill containment and removal equipment and cargo transfer and emergency towing capability would provide enhanced protection to the environment. An Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) are available in the docket for this rulemaking. No comments were received on the EA or the FONSI.

List of Subjects in 33 CFR Part 155

Hazardous substances, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 155 as follows:

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

1. The authority citation for part 155 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3715; sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Sections 155.100 through 155.130, 155.350 through 155.400, 155.430, 155.440, 155.470, and 155.1010 through 155.1070 also issued under 33 U.S.C. 1903(b); and §§ 155.1110 and 155.1150 also issued under 33 U.S.C. 2735.

2. In § 155.140, revise paragraph (a), and in paragraph (b), add, in alphabetical order, a new entry to read as follows:

§ 155.140 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the Federal Register and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard Marine Environmental Protection Division (G–MEP), room 2100, 2100 Second Street SW., Washington, 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) * * *

* * * * * *

International Maritime Organization (IMO)

Publications Section, 4 Albert Embankment, London SE1 75R, United Kingdom, Telex 23598.

Resolution A.535(13), Recommendations on Emergency Towing Requirements for Tankers, November 17, 1983 ..... 155.235

* * * * *

3. Sections 155.200, 155.205, 155.215, 155.220, 155.225, 155.230, 155.235, 155.240, and 155.245 are added to subpart B to read as follows:

§ 155.200 Definitions.

As used in this subpart:

Inland oil barge means a tank barge carrying oil in bulk as cargo certificated by the Coast Guard under 46 CFR chapter I, subchapter D for river or canal service or lakes, bays, and sounds service.

On-deck spill means a discharge of oil on the deck of a vessel during loading, unloading, transfer, or other shipboard operations. An on-deck spill could result from a leaking fitting, an overfill, a bad connection, or similar operational mishap. The term *on-deck spill* is used to differentiate these operational discharges from those caused by collision or grounding where the hull is punctured and a tank is ruptured, resulting in an uncontrolled discharge of oil into the marine environment.

Offshore oil barge means a tank barge carrying oil in bulk as cargo, including dual-mode integrated tug-barges, certificated by the Coast Guard under 46 CFR chapter I, subchapter D, for navigation in waters outside the Boundary Lines, as defined in 46 CFR part 7, in any ocean or the Gulf of Mexico; any tank barge in Great Lakes service; or any foreign flag tank barge.

Oil tanker means a self-propelled vessel carrying oil in bulk as cargo, including integrated tug-barges designed for push-mode operation.

Vessel carrying oil as secondary cargo means a vessel carrying oil pursuant to a permit issued under 46 CFR 30.01–5, 46 CFR 70.05–30, or 46 CFR 90.05–35 or pursuant to an international Oil Pollution Prevention (IOPP) or Noxious Liquid Substance (NLS) certificate required by §§ 151.33 or 151.35 of this chapter; or any uninspected vessel that carries oil in bulk as cargo.

§ 155.205 Discharge removal equipment for vessels 400 feet or greater in length.

(a) By June 20, 1994, oil tankers and offshore oil barges with an overall length of 400 feet or more must carry appropriate equipment and supplies for the containment and removal of on-deck oil cargo spills of at least 12 barrels.

(b) The equipment and supplies must include—

(1) Sorbents;

(2) Non-sparking hand scoops, shovels, and buckets;

(3) Containers suitable for holding recovered waste;

(4) Emulsifiers for deck cleaning;

(5) Protective clothing;

(6) A minimum of one non-sparking portable pump with hoses; and

(7) Scupper plugs.

(c) During cargo transfer operations, the equipment and supplies must remain ready for immediate use.

§ 155.210 Discharge removal equipment for vessels less than 400 feet in length.

(a) By June 20, 1994, oil tankers and offshore oil barges with an overall length of less than 400 feet must carry appropriate equipment and supplies for the containment and removal of on-deck oil spills of at least 7 barrels.

(b) The equipment and supplies must include—

(1) Sorbents;

(2) Non-sparking hand scoops, shovels, and buckets;

(3) Containers suitable for holding recovered waste;

(4) Emulsifiers for deck cleaning;

(5) Protective clothing;

(6) A minimum of one non-sparking portable pump with hoses; and

(7) Scupper plugs.

(c) During cargo transfer operations, the equipment and supplies must remain ready for immediate use.

§ 155.215 Discharge removal equipment for inland oil barges.

(a) By June 20, 1994, during cargo transfer operations, inland oil barges must have appropriate equipment and supplies ready for immediate use to control and remove on-deck oil cargo spills of at least one barrel.

(b) The equipment and supplies must include—

(1) Sorbents;

(2) Non-sparking hand scoops, shovels, and buckets;

(3) Containers suitable for holding recovered waste;

(4) Emulsifiers for deck cleaning; and

(5) Protective clothing.

(c) The oil barge owner or operator may rely on equipment available at the transfer facility receiving from or discharging to the barge, provided the barge owner or operator has prearranged for the use of the equipment by contract or other means approved by the Coast Guard.

§ 155.220 Discharge removal equipment for vessels carrying oil as secondary cargo.

(a) By June 20, 1994, vessels carrying oil as secondary cargo must carry appropriate equipment and supplies for the containment and removal of on-deck oil cargo spills of at least one-half barrel.

(b) The equipment and supplies must include—

(1) Sorbents;

(2) Non-sparking hand scoops, shovels, and buckets;

(3) Containers suitable for holding recovered waste;

(4) Emulsifiers for deck cleaning; and

(5) Protective clothing

(c) The equipment and supplies must be ready for immediate use during cargo transfer operations.

§ 155.225 Internal cargo transfer capability.

By June 20, 1994, oil tankers and offshore oil barges must carry suitable hoses and reducers for internal transfer of cargo to tanks or other spaces within the cargo block, unless the vessel's installed cargo piping system is capable of performing this function.

§ 155.230 Emergency towing capability for oil barges.

(a) By June 20, 1994, offshore oil barges must carry an emergency tow wire or tow line rigged and ready for use.

(b) The emergency tow wire or tow line must have the same towing characteristics as the primary tow wire or tow line.

§ 155.235 Emergency towing capability for oil tankers.

(a) Except as provided in paragraph (c) of this section, by January 21, 1997, oil tankers of 20,000 deadweight tons (dwt) or more but less than 50,000 dwt must comply with the emergency towing provisions of sections 2.2 through 2.7 of IMO Resolution A.535(13) on at least one end of the vessel.

(b) Except as provided in paragraph (c) of this section, by January 21, 1997, oil tankers of 50,000 dwt or more must comply with the emergency towing provisions of sections 2.2 through 2.7 of IMO Resolution A.535(13) on both ends of the vessel.

(c) Oil tankers that are at least 20 years old (calculated from the keel laying date, as defined in 46 CFR 30.10–37) as of January 21, 1994, must comply with the requirements of paragraphs (a) and (b) of this section by January 21, 1999.

§ 155.240 Damage stability information for oil tankers and offshore oil barges.

(a) Owners or operators of oil tankers and offshore oil barges shall ensure by no later than January 21, 1995, that their vessels have prearranged, prompt access to computerized, shore-based damage stability and residual structural strength calculation programs.

(b) Vessel baseline strength and stability characteristics must be pre-

entered into such programs and be consistent with the vessel's existing configuration.

(c) Access to the shore-based calculation program must be available 24 hours a day.

(d) At a minimum, the program must facilitate calculation of the following:

(i) Residual hull girder strength based on the reported extent of damage.

(ii) Residual stability when the vessel's compartments are breached.

(iii) The most favorable off-loading, ballasting, or cargo transfer sequences to improve residual stability, reduce hull girder stresses, and reduce ground-force reaction.

(iv) The bending and shear stresses caused by pinnacle loads from grounding or stranding.

§ 155.245 Damage stability information for inland oil barges.

(a) Owners or operators of inland oil barges shall ensure by no later than January 21, 1995, that the vessel plans necessary to perform salvage, stability, and residual hull strength assessments are maintained at a shore-based location.

(b) Access to the plans must be available 24 hours a day.

4. In § 155.310, the section heading and the introductory text to paragraph (b) are revised and paragraphs (c) and (d) are added to read as follows:

§ 155.310 Containment of oil and hazardous material cargo discharges.

* * * * *

(b) An offshore tank barge with a cargo capacity of 250 or more barrels that is carrying hazardous material as cargo and an inland tank barge with the capacity of 250 or more barrels that is carrying oil or a hazardous material as cargo must meet paragraph (a) of this section or be equipped with—

* * * * *

(c) By January 21, 1997, all oil tankers and offshore oil barges with a cargo capacity of 250 or more barrels must have peripheral coamings, including port and starboard coamings and forward and aft athwartships coamings, completely enclosing the cargo deck area, cargo hatches, manifolds, transfer connections, and any other openings where cargo may overflow or leak.

(1) Coamings must be at least 4 inches high except in the aft corners.

(2) In the aft corners (port and starboard) of a vessel, the coamings must be at least 8 inches high and extend—

(i) Forward at least 14 feet from each corner; and

(ii) Inboard at least 8 feet from each corner.

(3) Each area enclosed by the coaming required under this paragraph must have—

(i) A means of draining or removing oil from the enclosed deck area without discharging oil into the water; and

(ii) A mechanical means of closing each drain and scupper in the enclosed deck-area.

(4) For a tankship, as defined in 46 CFR 30.10–67, the coaming or other barrier required in 46 CFR 32.56–15 may serve as the aft athwartships coaming if the tankship is otherwise in compliance with the requirements of this section.

(d) In addition to the requirements of paragraphs (a) and (b) of this section, an offshore oil barge with a cargo capacity of 250 or more barrels must have—

(1) A fixed or portable container that holds at least one-half barrel under each oil loading manifold and each oil transfer connection within the coaming;

(2) A mechanical means of closing each drain and scupper within the coaming; and

(3) A means of draining or removing discharged oil from the fixed or portable container and from within the coaming without discharging the oil into the water.

Dated: December 10, 1993.

J.W. Kime,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 93–30701 Filed 12–21–93; 8:45 am]

BILLING CODE 4910–14–M

VOL 58
ISS 244
DE 22
1993
UMI

Wednesday
December 22, 1993

federal register

Part VI

Department of Housing and Urban Development

Submission of Proposed Information Collection to OMB for NOFA for Fair Housing Initiatives Program; Competitive Solicitation; Notices

VOL 58 ISS 244 DEC 22 1993 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-93-3883; FR-3560-N-01]

NOFA for Fair Housing Initiatives Program; Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This NOFA announces HUD's 1993 Fiscal Year (FY) funding of $8.8 million for the Fair Housing Initiatives Program (FHIP). This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. In the body of this document is information concerning the purpose of the NOFA, eligibility, available amounts, selection criteria, how to apply for funding, and how selections will be made.

DATES: An application kit for funding under this Notice will be available following publication of the Notice. Applications may be submitted until the application due date at any time after the publication of this Notice. The actual application due date and time will be specified in the application kit. However, applicants will be given at least 60 days from today's date, until February 22, 1994, to submit their applications.

ADDRESSES: To obtain a copy of the application kit, please write the Fair Housing Information Clearinghouse, Post Office Box 6091, Rockville, MD 20850 or call the toll free number 1-800-343-3442.

FOR FURTHER INFORMATION CONTACT: Jacquelyn J. Shelton, Director, Office of Fair Housing Assistance and Voluntary Programs, Room 5234, 451 Seventh Street, SW., Washington, DC 20410-2000. Telephone number (202) 708-0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708-0455. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

Application requirements associated with this program have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3054(h)), and assigned OMB control number 2529-0033. This NOFA adds new collection of information requirements at section I.(c)(4), related to the new Fair Housing Organization Initiative, which was added by section 905 of the Housing and Community Development Act of 1992. In addition to other information collections previously authorized, to avoid an appearance of a conflict of interest in the implementation of projects and activities funded under FHIP, section III.(a)(9) of this NOFA requires all applicants to list any current or pending grants or contracts, or other business or financial relationships or agreements, to provide training, education, and/or self-testing services between the applicant and any entity or organization of entities involved in the sale, rental, advertising or provision of brokerage or real estate-related transactions. This listing must include the name of the entity or organization, a brief description of the services being performed for which negotiations are pending, and the dates of performance of the services. This listing must be updated during the grant negotiation period, at the end of the grant term, and for grants that will run for more than twelve months, at the end of the twelfth month.

Expedited review has been requested with a twenty day public comment period, so that the application process described in this notice may be carried out after approval of the described collections of information.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

The public reporting burden for this collection of information is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Information on the estimated public reporting burden is provided below:

Section of NOFA affected	Number of respondents	Hours per response	Total hours
I.(c)(4)	300	18	5400
III.(a)(9)	300	1	300
Total Annual Reporting Burden			5,700

I. Purpose and Substantive Description:

(a) Authority

Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601-19 (Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate action with State and local agencies administering fair housing laws and to cooperate with, and render technical assistance to, public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the Fair Housing Initiatives Program (FHIP) to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

Three general categories of activities were established at 24 CFR part 125 for FHIP funding under section 561 of the Housing and Community Development Act of 1987: the Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative. Section 905 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102-550, approved October 28, 1992), amended section 561 by adding specific eligible applicants and activities to the Education and Outreach and Private Enforcement Initiatives, as well as an entirely new Fair Housing Organization Initiative.

More significantly, section 905 has established FHIP as a permanent program. As originally promulgated by section 561, FHIP was a demonstration program authorized to expire on September 30, 1992. Since this demonstration period has passed, and FHIP is now a permanent program, the Department has determined that the requirements specifically tied to the demonstration period, namely, the testing guidelines at § 125.405, are no longer applicable to FHIP. Accordingly, the use of these testing guidelines is not required under this NOFA. The Department has executed a waiver of § 125.405 for the purposes of this NOFA, pending the elimination of this provision in the revision of 24 CFR part 125. Because section 905 does not eliminate any FHIP provisions other than those related to its status as a demonstration program, the Initiatives, activities, and applicants currently eligible under 24 CFR part 125 remain eligible under this NOFA.

This NOFA further incorporates the HCDA 1992 section 905 FHIP additions to the extent of listing the new eligible applicants and activities. The new Fair Housing Organization Initiative is also funded. For the purpose of future funding rounds, the Department is soliciting in a separate proposed rule comments on the amendment of 24 CFR part 125 by section 905. The proposed rule will be published shortly in the **Federal Register**. However, applications for FY 1993 funds will be subject to the requirements and deadlines in this NOFA. Eligible applicants should not wait for the rule's publication to prepare and submit their FY 1993 applications in response to this NOFA.

Two of the new eligible applicants, fair housing enforcement organizations and qualified fair housing enforcement organizations, are given specific definitions, which apply to this NOFA, in section 905:

Fair housing enforcement organization (FHO-E) means any organization that—

(1) Is organized as a private, tax-exempt, nonprofit, charitable organization;

(2) Is currently engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(3) Upon the receipt of FHIP funds will continue to be engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.

Qualified fair housing enforcement organization means any organization, whether or not it is solely engaged in fair housing enforcement activities, that—

(1) Is organized as a private, tax-exempt, nonprofit, charitable organization;

(2) Has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(3) Is engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims at the time of application for FHIP assistance.

The program components of FHIP are described in the Catalog of Federal Domestic Assistance at 14.408, Administrative Enforcement Initiative; 14.409, Education and Outreach Initiative; 14.410, Private Enforcement Initiative.

(b) Allocation Amounts

For FY 1993, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (approved October 6, 1992, Pub. L. 102-389), (93 App. Act) appropriated $10.6 million for the FHIP program. Of this amount, $1.8 of Education and Outreach Initiative funds will be made available in a NOFA to be published separately for an affirmative fair housing marketing project. The remaining $8.8 million is being made available on a competitive basis to eligible organizations that submit timely applications and are selected in response to this NOFA. The funding selections will be made on the basis of criteria for eligibility, factors for award, and completeness of budget information. The Department retains the right to shift funds between FHIP Initiatives, listed below, within statutorily prescribed limitations. The amounts included in this NOFA are subject to change based on fund availability. The total amount available under this NOFA will be divided among the four FHIP Initiatives as follows:

(1) *Administrative Enforcement Initiative.* The amount of $1 million in FY 1993 funds is available under this NOFA for the Administrative Enforcement Initiative. The minimum amount of funding applied for under the Administrative Enforcement Initiative must be at least $75,000.

(2) *Education and Outreach Initiative.* The amount of $1.2 million in FY 1993 funds is available under this NOFA for the Education and Outreach Initiative. Half of this amount, $600,000, is available for national programs, of which $200,000 is designated for Fair Housing Month activities. National program applications under the Education and Outreach Initiative must be for not more than $200,000 and not less than $100,000 of FHIP funding or they will not be considered. The remaining $0.6 million is available for regional, local, and community-based programs. The minimum amount of funding applied for under the Education and Outreach Initiative for regional/local/community-based program activities must be at least $50,000.

(3) *Private Enforcement Initiative.* The amount of $4 million in FY 1993 funds is available under this NOFA for the Private Enforcement Initiative. Half of this amount, $2 million, will be available for two-year projects, with the commitment of second year funding, in an amount not to exceed the first year's funding, subject to annual appropriations and annual performance reviews. The remaining $2 million is for single year projects. The minimum amount of funding applied for under the Private Enforcement Initiative must be at least $75,000. For two-year projects, the minimum amount of funding must be at least $75,000 for the first year of the project.

(4) *Fair Housing Organization Initiative.* This NOFA makes $2.6 million in FY 1993 funds available for activities under the Fair Housing Organization Initiative. Of this amount, $1 million is available for the purpose of the continued development of existing organizations, and applications under this purpose are not subject to any minimum or maximum funding limitations within the total amount available. The remaining $1.6 million will be available for two-year projects for the purpose of establishing new organizations, with the commitment of second year funding subject to annual appropriations and annual performance reviews. The minimum funding amount for two-year projects for the purpose of establishing new organizations must be at least $200,000 for the first year of the project.

(c) Eligibility

(1) *Administrative Enforcement Initiative.*

(i) *Eligible applicants.* The Administrative Enforcement Initiative provides funding to State and local fair housing agencies administering fair housing laws certified by the Secretary as providing rights and remedies that are substantially equivalent to those provided in the Fair Housing Act. A State or local fair housing agency, to be eligible to participate in the Administrative Enforcement Initiative, must be certified by the Assistant Secretary as substantially equivalent under 24 CFR part 115, or have entered into an agreement with the Department for interim referrals, as provided in 24 CFR 115.11.

(ii) *Eligible activities.* Funding will be available to support enforcement and compliance activities conducted by eligible State and local agencies. Eligible activities may include (but are not limited to) the following:

(A) The Department is particularly interested in projects that focus on the areas of mortgage lending, insurance redlining, and appraisal practices;

(B) Discovering and providing remedies for discrimination in the public and private real estate markets and real estate-related transactions,

VOL 58 ISS 244 DE 22 1993 UMI

including, but not limited to, the making or purchasing of loans, the provision of other financial assistance for sales and rentals of housing, including insurance redlining and appraisal practices, and housing advertising;

(C) Implementing fair housing testing and other related enforcement activity programs;

(D) Conducting investigations of systemic discrimination for further enforcement processing by State or local agencies, or for referral to HUD and the Department of Justice; and

(E) Developing new procedures to increase the efficiency of operations, such as the use of computers for case processing, tracking, and Home Mortgage Disclosure Act (HMDA) analysis.

(iii) *Term of contract.* Administrative Enforcement Initiative funding is only available for single year projects, which may be for up to eighteen months in duration.

(iv) *Case tracking log requirement.* Recipients of funds under the Administrative Enforcement Initiative shall be required to record, in a case tracking log (or Fair Housing Enforcement Log) to be supplied by HUD, information appropriate to the funded project relating to the number of complaints of discrimination received; the basis of these complaints; the type and number of tests utilized in the investigation of each allegation; the time for case processing, including administrative or judicial proceedings; the cost of testing activities and case processing; and case outcome or relief provided. The recipient must agree to make this log available to HUD.

(2) *Education and Outreach Initiative.*

(i) *Eligible applicants.* The following types of organizations are eligible to receive funding under the Education and Outreach Initiative:

(A) State or local governments;

(B) Qualified fair housing enforcement organizations (QFHO–Es);

(C) Fair housing enforcement organizations (FHO–Es);

(D) Public or private non-profit organizations or institutions and other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(E) Fair Housing Assistance Program (FHAP) Agencies—State and local agencies funded by the Fair Housing Assistance Program (FHAP); and

(F) Community Housing Resource Boards (CHRBs).

(ii) *Eligible activities.* (A) *In general.* Each application for Education and Outreach Initiative funding must identify if it proposes a national, Fair Housing Month, or regional/local/community-based program. The kinds of activities that may be funded through this Initiative may include (but are not limited to) the following:

(*1*) The Department particularly wishes to encourage, for this round of FHIP funding, applications for projects that will provide housing, mortgage lending, appraisal, and insurance counseling services;

(*2*) Developing informative material on fair housing rights and responsibilities;

(*3*) Developing fair housing and affirmative marketing instructional material for educational programs for national, regional and local housing industry groups;

(*4*) Providing educational seminars and working sessions for civic associations, community-based organizations, and other groups;

(*5*) Developing educational material targeted at persons in need of specific or additional information on their fair housing rights;

(*6*) Developing national, regional or local media campaigns regarding fair housing;

(*7*) Bringing housing industry and civic or fair housing groups together to identify illegal real estate practices and to determine how to correct them;

(*8*) Designing specialized outreach projects to inform all persons of the availability of housing opportunities;

(*9*) Developing and implementing a response to new or more sophisticated practices that result in discriminatory housing practices; and

(*10*) Developing mechanisms for the identification of, and quick response to, housing discrimination cases involving the threat of physical harm.

(B) *National programs.* (*1*) Activities eligible to be funded as national programs shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products that may appropriately be used on a nationwide basis, including:

(*i*) Public service announcements, both audio and video;

(*ii*) Television, radio and print advertisements;

(*iii*) Posters; and

(*iv*) Pamphlets and brochures.

(*2*) Applicants must separately indicate if they are applying for funding of activities related to the annual National Fair Housing Month. Fair Housing Month activities must be directed toward all protected class members.

(*3*) National program applications, including those for Fair Housing Month funding, will receive a preference of up to ten additional points if they:

(*i*) Demonstrate cooperation with real estate industry organizations (five points); and/or

(*ii*) Provide for the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Amendments Act of 1988 (five points).

(C) *Regional/local/community-based programs.*

(*1*) Activities eligible to be funded as regional/local/community-based programs include any of the activities, to be implemented on a regional/local/community-based level, listed in paragraphs I.(c)(2)(ii)(A) and I.(c)(2)(ii)(B)(*1*), above, of this NOFA. Community-based programs include school, church and community presentations, conferences or other educational activities.

(*2*) For the purposes of this NOFA, activities that are "local" in scope are activities that are limited to a single unit of general local government, meaning a city, town, township, county, parish, village, or other general purpose political subdivision of a State. Activities that are "regional" in scope are activities that cover adjoining States or two or more units of general local government within a state. Activities that are "community-based" in scope are those which are primarily focused on a particular area or population within a unit of general local government.

(*3*) Every regional/local/community-based program application must include as one of its activities a procedure for referring persons with Fair Housing complaints to State or local agencies, private attorneys, or HUD and the Department of Justice for further enforcement processing.

(*4*) Community-based program applications from eligible applicants that are also community-based organizations will receive a preference of ten additional points. For the purposes of this NOFA, a community-based organization is an organization whose members come primarily from a particular area or population within a unit of general local government.

(iii) *Additional requirements.* The following requirements are applicable to all applications under the Education and Outreach Initiative:

(A) All projects must address or have relevance to housing discrimination based on race, color, religion, sex, handicap, familial status or national origin.

(B) Projects may range in length from six to eighteen months in duration.

(C) A data gathering activity will require OMB approval under the Paperwork Reduction Act before commencement of the activity.

(3) *Private Enforcement Initiative.*

(i) *Eligible applicants.* Organizations that are eligible to receive assistance under the Private Enforcement Initiative are:

(A) Qualified fair housing enforcement organizations.

(B) Fair housing enforcement organizations with at least 1 year of experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.

(C) Private non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. Organizations which can be eligible include, for example, private nonprofit fair housing, disability and civil rights groups. To be eligible for funding of testing activities, these organizations must have at least one year of experience in carrying out a program to prevent or eliminate housing discrimination practices and sufficient knowledge of fair housing testing to enable the applicant to implement a testing program successfully.

(ii) *Eligible activities.* Applications are solicited for one- and two-year project proposals as described in 24 CFR 125.403 and in this NOFA. The Department is particularly interested in projects that focus on the areas of mortgage lending, insurance redlining, and appraisal practices. Applications may designate up to 10% of requested funds to promote awareness of the services provided by the project, but such promotion must be necessary for the successful implementation of the project. Project applications may involve:

(A) Discovering and providing remedies for discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans, the provision of other financial assistance for sales and rentals of housing, including insurance redlining and appraisal practices, and housing advertising;

(B) Conducting investigations of systemic housing discrimination for further enforcement processing by State or local agencies, or for referral to private attorneys or to HUD and the Department of Justice;

(C) Professionally conducting testing or other investigative support for administrative and judicial enforcement;

(D) Linking fair housing organizations regionally in enforcement activities designed to combat broader housing market discriminatory practices;

(E) Establishing effective means of meeting legal expenses in support of litigation of fair housing cases;

(F) Testing and other investigative activities, including building the capacity for housing investigative activities in unserved or underserved areas;

(G) Carrying out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII, such as in the areas of independent living and architectural barriers;

(H) Providing funds for the costs and expenses of litigation, including expert witness fees.

(iii) *Additional requirements.*

(A) Testers in testing activities funded with Private Enforcement Initiative funds must not have prior felony convictions or convictions of crimes involving fraud or perjury, and they must receive training or be experienced in testing procedures and techniques.

(B) Single year projects may be for up to eighteen months in duration. Two-year projects may not exceed twenty-four months in duration, and funding for the second year of a project is subject to a performance review of the first year's activities and available annual appropriations.

(C) Projects that appear to be aimed solely or primarily at research or data-gathering unrelated to existing or planned fair housing enforcement programs will not be approved. Data-gathering activities will require OMB approval under the Paperwork Reduction Act before commencement of the activity.

(D) In accordance with 24 CFR 125.404, no recipient of assistance under the Private Enforcement Initiative may use any funds provided by the Department for the payment of expenses in connection with litigation against the United States.

(E) Recipients of funds under the Private Enforcement Initiative shall be required to record, in a case tracking log (or Fair Housing Act Enforcement Log) to be supplied by HUD, information appropriate to the funded project relating to the number of complaints of discrimination received; the basis of these complaints; the type and number of tests utilized in the investigation of each allegation; the time for case processing, including administrative or judicial proceedings; the cost of testing activities and case processing; and case outcome or relief provided. The recipient must agree to make this log available to HUD.

(4) *Fair Housing Organization (FHO) Initiative.*

(i) *Purpose: Continued Development of Existing Organizations.*

(A) *Eligible applicants.* Eligible applicants for funding under this purpose of the FHO Initiative are:

(*1*) Qualified fair housing enforcement organizations;

(*2*) Other private nonprofit fair housing enforcement organizations; and

(*3*) Nonprofit groups organizing to build their capacity to provide fair housing enforcement.

(B) *Eligible activities.* Eligible activities for funding under this purpose of the FHO Initiative are any activities listed as eligible under the Private Enforcement Initiative in section I.(c)(3)(ii) of this NOFA.

(C) *Operating budget limitation.* (*1*) Funding under this purpose of the FHO Initiative may not be used to provide more than 50 percent of the operating budget of a recipient organization for any one year.

(*2*) For purposes of the limitation in this paragraph, *operating budget* means the applicant's total planned budget expenditures from all sources, including the value of in-kind and monetary contributions, in the year for which funding is sought.

(D) *Term of contract.* Single year projects may be for up to eighteen months in duration.

(ii) *Purpose: Establishing New Organizations.*

(A) *Eligible applicants.* Any applicants eligible under any of the other FHIP Initiatives in this NOFA are eligible applicants for funding under this purpose of the FHO Initiative.

(B) *Eligible activities.* Eligible for funding under this purpose of the FHO Initiative are two-year projects that help establish, organize, and build the capacity of fair housing enforcement organizations in the targeted unserved and underserved areas identified in section I.(c)(4)(ii)(C), below, of this NOFA. The Department has considered a number a factors to identify the targeted areas eligible for this purpose of the FHO Initiative under this NOFA, including, for example, the amount of funds available; the lack of substantially equivalent state or local agencies, or private enforcement groups; and the presence of large concentrations of protected classes. In future NOFAs, the Department will consider additional targeted areas for funding.

(C) *Targeted areas.* (*1*) A preference of ten additional points will be given for

VOL 58 ISS 244 DEC 22 1993 UMI

applications that propose to establish new fair housing enforcement organizations in any of the following unserved areas:

(i) Arkansas;
(ii) Idaho;
(iii) Mississippi;
(iv) New Mexico;
(v) North Dakota; and
(vi) Wyoming.

(2) Applications that propose to establish new fair housing enforcement organizations in any of the following underserved areas will also be considered for funding:

(i) Georgia;
(ii) Iowa;
(iii) Kansas;
(iv) Louisiana;
(v) Missouri;
(vi) Nebraska;
(vii) Oklahoma;
(viii) South Carolina;
(ix) Texas;
(x) Utah; and
(xi) Washington.

(D) *Term of contract.* Two-year projects may not exceed twenty-four months in duration, and funding for the second year of a project is subject to a performance review of the first year's activities and available annual appropriations.

(d) Selection Criteria/Ranking Factors

(1) Selection Criteria for Ranking Applications for Assistance. In addition to the preference points indicated in section I.(c) for particular activities, all projects proposed in applications will be ranked on the basis of the following criteria for selection:

(i) *The anticipated impact of the project proposed on the concerns identified in the application.* (25 points) In determining the anticipated impact of the proposed project, HUD will consider the degree to which a proposed project addresses problems and issues that are significant fair housing problems and issues, as explained in the application, or based upon other information available to HUD. (The clarity and thoroughness of the project description can be considered in this determination.) This criterion will be judged on the basis of the applicant's submissions in response to paragraphs III.(a)(1), III.(a)(2) and III.(a)(6) of this NOFA under the heading "Checklist of Application Submission Requirements."

(ii) *The extent to which the project will provide benefits in support of fair housing after funded activities have been completed.* (25 points) In determining the extent to which the project will provide benefits after funded activities have been completed, HUD will consider the degree to which the project will be of continuing use in dealing with housing discrimination after funded activities have been completed. This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(7) of this NOFA under the heading "Checklist of Application Submission Requirements."

(iii) *The extent to which the project will provide the maximum impact on the concerns identified in a cost-effective manner.* (20 points) In determining the extent to which the project will provide the maximum impact on the concerns identified in a cost effective manner, HUD will consider the quality and reasonableness of the proposed activities, timeline and budget for implementation and completion of the project. HUD will consider as well the adequacy and clarity of proposed procedures to be used by the agency for monitoring the progress of the project and ensuring its timely completion. These procedures may consist of a system for checking whether or not the milestones established by the project's timeline are being met. The applicant's capability in handling financial resources (e.g., adequate financial control procedures, accounting procedures) demonstrated through previous FHIP or other civil rights project management will be taken into account as part of the assessment. HUD also will consider the degree to which the applicant proposes to use funds for program costs, as opposed to administrative costs. This criterion will be judged on the basis of the applicant's submissions in response to paragraphs III.(a)(2), III.(a)(5) and, in part, III.(a)(3) and III.(a)(4) of this NOFA under the heading "Checklist of Application Submission Requirements."

(iv) *The extent to which the applicant's professional and organizational experience will further the achievement of project goals.* (20 points) In determining the extent to which the applicant's professional and organizational experience will further the achievement of the project's goals, HUD will consider the applicant's experience in formulating and carrying out programs to prevent or eliminate discriminatory practices, including the applicant's management of past and current FHIP or other civil rights projects, the experience and qualifications of existing personnel identified for key positions, or a description of the qualifications of new staff that will be hired, including subcontractors/consultants. For organizations submitting an application under the Education and Outreach Initiative, HUD will consider both fair housing experience and experience in implementing education, outreach or public information programs. This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(3) of this NOFA under the heading "Checklist of Application Submission Requirements."

(v) *The extent to which the project utilizes other public or private resources that may be available.* (10 points). Both monetary and in-kind resources identified in the application are eligible for determining the extent to which other public or private resources are available. The resources that will be considered must be targeted specifically for the proposed project, and must be over and above the resources available to the applicant as a part of its usual, non-project operations for such expenses as salaries, equipment, supplies, and rent. This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(a)(4) of this NOFA under the heading "Checklist of Application Submission Requirements."

(2) Selection Process

Each application for funding will be evaluated competitively, and awarded points based on the General Selection Criteria identified in section I.(d)(1) of this NOFA. The final decision rests with the Assistant Secretary or designee. After eligible applications are evaluated against the factors for award and assigned a score, they will be organized by rank order. The rank ordering will be done separately for each Initiative. In addition, the rank ordering will be done separately for each type of program (national, regional/local/community-based, and national fair housing month) of the Education and Outreach Initiative, and each purpose (continued development of existing organizations, or establishing new organizations) under the Fair Housing Organization Initiative. Awards for each Initiative will be made as follows:

(i) *Administrative Enforcement Initiative.* Acceptable applications will be funded in rank order until all available funds have been obligated, or until there are no acceptable applications.

(ii) *Education and Outreach Initiative.*

(A) National programs. Acceptable applications will be funded in rank order until all available funds have been obligated, or until there are no acceptable applications.

(B) National Fair Housing Month. Acceptable applications will be funded in rank order until all available funds have been obligated, or until there are no acceptable applications.

(C) Regional/local/community-based programs. Acceptable applications will be funded in rank order, by HUD Region, for the top application in each such Region. This selection will be based on the location of the proposed activity, not the location of the applicant. Where activities are proposed for sites in two or more HUD Regions, the site with the greatest amount of activity will be the location for the Regional selection purposes. If any funds remain after funding the top applications on a Regional basis, they will be awarded in rank order on a nation-wide basis.

(iii) *Private Enforcement Initiative.* Acceptable applications will be funded in rank order, by HUD Region, for the top application recommended for funding in each such Region. If any funds remain after funding the top application on a Regional basis, they will be awarded in rank order on a nation-wide basis.

(iv) *Fair Housing Organization Initiative.* (A) Continued Development of Existing Organizations. Acceptable applications will be funded in rank order, by HUD Region, for the top application in each Region. If any funds remain after funding the top application on a Regional basis, they will be awarded in rank order on a nation-wide basis.

(B) Establishing New Organizations. Acceptable applications will be funded in national rank order until all available funds have been obligated, or until there are no acceptable applications. The only exception to national rank order funding will be if more than one high ranking application proposes activities for the same location, then only the highest ranked application for that location will be funded.

(3) Cost Factors

The Department expects to fund multiple applications as a result of this NOFA. At some point, however, two or more complete and eligible applications, after evaluation against the Selection Criteria, may be considered equal in technical merit. At that point, the project's cost will become the deciding factor. Furthermore, an applicant's proposal will not be funded when costs are determined to be unrealistically low or unreasonably high.

(e) Applicant Notification and Award Procedures

(1) Notification

No information will be available to applicants during the period of HUD evaluation, except for notification in writing to those applicants that are determined to be ineligible or that have technical deficiencies in their applications that may be corrected. Selectees will be announced by HUD upon completion of the evaluation process, subject to final negotiations and award.

(2) Negotiations

After HUD has ranked the applications and made an initial determination of applicants whose scores are within the funding range (but before the actual award), HUD may require that applicants in this group participate in negotiations to determine the specific terms of the cooperative or grant agreement. In cases where it is not possible to conclude the necessary negotiations successfully, awards will not be made.

If an award is not made to an applicant whose application is in the initial funding threshold because of an inability to complete successful negotiations, and if funds are available to fund any applications that may have fallen outside the initial funding threshold, HUD will select the next highest ranking applicant and proceed as described in the preceding paragraph.

(3) Funding Instrument

HUD expects to award a cost reimbursable or fixed-price cooperative or grant agreement to each successful applicant. HUD reserves the right, however, to use the form of assistance agreement determined to be most appropriate after negotiation with the applicant.

(4) Reduction of Requested Grant Amounts and Special Conditions

HUD may approve an application for an amount lower than the amount requested, fund only portions of an application, withhold funds after approval, and/or require the grantee to comply with special conditions added to the grant agreement, in accordance with 24 CFR part 85.12, the requirements of this NOFA, or where:

(i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;

(ii) The application does not otherwise meet applicable cost limitations established for the program;

(iii) The applicant has requested an ineligible activity;

(iv) Insufficient amounts remain in that funding round to fund the full amount requested in the application and HUD determines that partial funding is a viable option;

(v) The applicant has demonstrated an inability to manage HUD grants, particularly Fair Housing Initiatives Program grants; or

(vi) For any other reason where good cause exists.

(5) Performance Sanctions

A recipient failing to comply with the procedures set forth in its grant agreement will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the FHIP, reduction or limitation of further funding for administrative enforcement activities, and denial of further participation in programs of the Department or of any Federal agency.

II. Application Process

An application kit is required as the formal submission to apply for funding. The kit includes information on the Management Work Plan and Budget for activities proposed by the applicant. An application may be obtained by writing the Fair Housing Information Clearinghouse, Post Office Box 6091, Rockville, MD 20850, or by calling the toll free number 1–800–343–3442. To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

Completed applications are to be submitted to Aztec Jacobs, Funded Programs Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Room 5234, 451 Seventh Street, S.W., Washington, DC 20410.

The application due date and time will be specified in the application kit. Applications may be submitted until the application due date at any time after the publication of this NOFA. However, applicants will be given at least 60 days from today's date, until [insert date 60 days from **Federal Register** publication], to submit their applications.

The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A transmission by facsimile machine ("FAX") will not constitute delivery.

An applicant may apply for funding for more than one project or activity, but a separate application must be

VOL 58 ISS 244 DEC 22 1993 UMI

submitted for each of the following categories of funding:

(1) Administrative Enforcement Initiative activities;

(2) National programs under the Education and Outreach Initiative;

(3) National Fair Housing Month activities under the Education and Outreach Initiative;

(4) Regional/local/community-based activities under the Education and Outreach Initiative;

(5) Private Enforcement Initiative activities;

(6) Continued development of existing organizations under the Fair Housing Organization Initiative; and

(7) Establishing new organizations under the Fair Housing Organization Initiative.

Although a separate application is required for each funding category, an application may propose more than one type of eligible activity under each category. For example, both production and distribution of a public service message may be proposed in a single application for a national program under the Education and Outreach Initiative.

Applicants must submit all information required in the application kit and must include sufficient information to establish that the application meets the selection criteria set forth in section I.(d), above, of this NOFA.

III. Checklist of Application Submission Requirements

(a) General requirements. The application kit will contain a checklist of application submission requirements to complete the application process. Each application for FHIP funding must contain the following items:

(1) A description of the activities proposed for funding, and the practice or practices at the community, local, regional or national level that have adversely affected the achievement of the goal of fair housing, and that will be addressed by the proposed activities. This description must include a discussion and analysis of the housing practices identified, including available information and studies relating to discriminatory housing practices and their historical background, and relevant demographic data indicating the nature and extent of the impact of the described practices on persons seeking dwellings or services related to the sale, rental or financing of dwellings, in the general location where the applicant proposes to undertake activities;

(2) A budget—which must include a realistic amount, not to exceed $2,000, in travel costs for training sponsored by the Department—and a timeline for the implementation of the proposed activities, consisting of a description of the specific activities to be conducted with FHIP funds, the geographic areas to be served by the activities, any reports to be produced in connection with the activities, the cost of each proposed activity and a schedule for the implementation and completion of the activities;

(3) A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practices or in implementing other civil rights programs, the experience and qualifications of existing personnel identified for key positions, or a description of the qualifications of new staff to be hired, including subcontractors/consultants;

(4) A statement indicating the need for Federal funding in support of the proposed project and an estimate of other public or private resources that may be available to assist the proposed activities;

(5) A description of the procedures to be used by the applicant for monitoring the progress of the proposed activities;

(6) A description of the fair housing benefits that successful completion of the project will produce, and the indicators by which these benefits are to be measured, and;

(7) A description of the degree to which the project will be of continuing use in dealing with housing discrimination after funded activities have been completed;

(8) HUD Form 2880, Applicant Disclosures;

(9) A listing of any current or pending grants or contracts, or other business or financial relationships or agreements, to provide training, education, and/or self-testing services between the applicant and any entity or organization of entities involved in the sale, rental, advertising or provision of brokerage or lending services for housing. The listing must include the name and address of the entity or organization; a brief description of the services being performed or for which negotiations are pending; the dates for performance of the services; and the amount of the contract or grant. This listing must be updated during the grant negotiation period, at the end of the grant term, and for grants that will run for more than twelve months, at the end of the twelfth month.

(10) The applicant must submit a certification and disclosure in accordance with the requirements of section 319 of the Department of the Interior Appropriations Act (Pub. L. 101–121, approved October 23, 1989), as implemented in HUD's interim final rule at 24 CFR part 87, published in the Federal Register on February 26, 1990 (55 FR 6736). This statute generally prohibits recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. If warranted, the applicant should include the Disclosure of Lobbying Activities form (SF-LLL).

(11) The applicant must submit a certification that it will comply with:

(i) The work to be performed under this award is on a project which provides direct Federal financial assistance from the Department of Housing and Urban Development. As such, it is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968, Employment Opportunities for Lower Income Persons in Connection with Assisted Projects (12 U.S.C. 1701a), and with implementing regulations at 24 CFR part 135. Section 3 requires, that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area within the unit of local government or metropolitan area (or nonmetropolitan county) and for work in connection with the project to be awarded to eligible businesses located in or owned in substantial part by persons residing in the area.

(ii) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1; and

(iii) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.

(b) Additional Education and Outreach Initiative requirements.

(1) In addition to meeting the application requirements contained in section III.(a) of this NOFA, all applications for Education and Outreach Initiative funding must describe how the activities or the final products of the projects can be used by other agencies and organizations and what modifications, if any, would be necessary for that purpose.

(2) Coordination of activities. Each non-governmental applicant for funding under the Education and Outreach Initiative that is located within the jurisdiction of a State or local enforcement agency or agencies administering a fair housing law that has been certified by the Department under 24 CFR part 115 as being a substantially equivalent fair housing law must provide, with its application, documentation that it has consulted with the agency or agencies to coordinate activities to be funded under the Education and Outreach Initiative. This coordination will ensure that the activities of one group will minimize duplication and fragmentation of activities of the other. Failure to submit the documentation required by this section will be treated as a technical deficiency in accordance with section IV., below, of this NOFA.

(3) Every regional/local/community-based program application must include as one of its activities a procedure for referring persons with Fair Housing complaints to State or local agencies, private attorneys, or HUD and the Department of Justice for further enforcement processing.

(c) Additional Private Enforcement Initiative requirements. In addition to meeting the application requirements contained in section III.(a), above, all proposals for testing under the Private Enforcement Initiative must include:

(1) Documentation that the applicant has at least one year of experience in carrying out a program to prevent or eliminate discriminatory housing practices, and has sufficient knowledge of fair housing testing to enable the applicant to implement a testing program successfully;

(2) A certification providing that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant during a 12 month period following the test.

(d) Additional Fair Housing Organization Initiative requirements. Each applicant under the continued development of existing organizations purpose of the Fair Housing Organization Initiative must submit an operating budget that describes the applicant's total planned expenditures from all sources, including the value of in-kind and monetary contributions, in the year for which funding is sought. This operating budget will be used for the purposes of determining the extent of the 50% funding limitation on operating expenses.

IV. Corrections to Deficient Applications

Applicants will not be disqualified from being considered for funding because of technical deficiencies in their application submission, e.g., an omission of information such as regulatory/program certifications, or incomplete signatory requirements for application submission.

HUD will notify an applicant in writing of any technical deficiencies in the application. The applicant must submit corrections within 14 calendar days from the date of HUD's letter notifying the applicant of any technical deficiency.

The 14-day correction period pertains only to non-substantive, technical deficiencies or errors. Technical deficiencies relate to items that:

1. Are not necessary for HUD review under selection criteria/ranking factors; and

2. Would not improve the substantive quality of the proposal.

V. Other Matters

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and sub-recipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR Part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that the policies announced in this Notice would not have a significant impact on the formation, maintenance, and general well-being of families except indirectly to the extent of the social and other benefits expected from this program of assistance.

Executive Order 12612, Federalism

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that the policies contained in this Notice will not have federalism implications and, thus, are not subject to review under the Order. The promotion of fair housing policies is a recognized goal of general benefit without direct implications on the relationship between the national government and the states or on the distribution of power and responsibilities among various levels of government.

Drug-Free Workplace Certification

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Thus, each applicant must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 24, subpart F.

Accountability in the Provision of HUD Assistance

HUD has promulgated a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published at 57 FR 1942 additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to

indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Section 103 HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR Part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by Part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR Part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (TDD/Voice). (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Section 112 HUD Reform Act

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the Federal Register on May 17, 1991 (56 FR 22912) as 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Authority: Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note); Title VIII, Civil Rights Act of 1968, as amended (42 U.S.C. 3601–3619); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: December 14, 1993.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 93–31239 Filed 12–21–93; 8:45 am]

BILLING CODE 4210–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–93–3683; FR–3580–N–02]

Submission of Proposed Information Collection to OMB for NOFA for Fair Housing Initiatives Program

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposal.

DATES: Comment due date is January 11, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by title and docket number and should be sent to both of the following:

Joseph Lackey, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503,

Joan Campion, Rules Docket Clerk, Department of HUD, 451 Seventh Street, room 10276, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4178, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for expedited processing, an information collection package with respect to a Notice of Funding Availability (NOFA) for the Fair Housing Initiatives Program.

The NOFA announces HUD's 1993 Fiscal Year (FY) funding of $8.8 million for the Fair Housing Initiatives Program (FHIP). This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws.

In addition to giving the amounts available for funding the Fair Housing Initiatives Program for FY 1993, the NOFA describes: (1) The nature and scope of eligible program activities; (2) the requirements and procedures for applicants to follow; (3) the selection criteria for applications.

Application requirements associated with this program have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3054(h)), and assigned OMB control number 2529–0033. The NOFA adds new collection of information requirements at section I.(c)(4), related to the new Fair Housing Organization Initiative, which was added by section 905 of the Housing and Community Development Act of 1992. In addition to other information collections previously authorized, to avoid an appearance of a conflict of interest in the implementation of projects and activities funded under FHIP, section III.(a)(9) of this NOFA requires all applicants to list any current or pending grants or contracts, or other business or financial relationships or agreements, to provide training, education, and/or self-testing services between the applicant and any entity or organization of entities involved in the sale, rental, advertising or provision of brokerage or real estate-related transactions. This listing must include the name of the entity or organization, a brief description of the services being performed for which negotiations are pending, and the dates of performance of the services. This listing must be updated during the grant negotiation period, at the end of the grant term, and for grants that will run for more than twelve months, at the end of the twelfth month.

Expedited review has been requested with a twenty day public comment period, so that the application process described in this NOFA may be carried out after approval of the described collections of information.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

The public reporting burden for this collection of information is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Information on the estimated public reporting burden is provided below:

Section of NOFA affected	Number of respondents	Hours per response	Total hours
I.(c)(4)	300	18	5,400
III.(a)(9)	300	1	300
Total annual reporting burden			5,700

The Department has submitted the proposal for the collection of information, as described below, to OMB for review as required by the Paperwork Reduction Act (44 U.S.C. chapter 35):

(1) Title of the information collection proposal: Fair Housing Initiatives Program Notice of Funding Availability.

(2) Office of the Agency to collect the information: Office of the Assistant Secretary for Fair Housing and Equal Opportunity.

(3) Description of the need for the information and its proposed use: The information is needed for the purpose of evaluating activities proposed for funding by applicants. The information comprises the application by eligible applicants who compete for funding under this program.

(4) Agency form number: Not applicable at this time.

(5) Members of the public who will be affected by the proposal (eligible applicants, depending upon the activity for which funding is sought): State and local fair housing agencies; State or local governments; qualified fair housing enforcement organizations; fair housing enforcement organizations; public or private non-profit organizations or institutions and other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices; Fair Housing Assistance Program (FHAP) Agencies—State and local agencies funded by the Fair Housing Assistance Program (FHAP); Community Housing Resource Boards (CHRBs); Nonprofit groups organizing to build their capacity to provide fair housing enforcement.

(6) How frequently information submissions will be required: One time.

(7) An estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response: See the Chart under the heading "Reporting Burden" below.

(8) Type of request: Additional requirements request.

(9) The name and telephone number of an agency official familiar with the proposal: Jacquelyn J. Shelton, Director, Office of Fair Housing Assistance and Voluntary Programs, room 5234, 451 Seventh Street, SW., Washington, DC 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–0455. (These are not toll-free numbers.)

A summary of the information collection requirements for which approval has been requested is set forth following the signature in this notice as an exhibit only. The paperwork burden is stated on a chart under the heading "Reporting Burden".

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 14, 1993.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

Proposal: Notice of Funding Availability for 1993—Fair Housing Initiatives Program.

Office: Office of the Assistant Secretary for Fair Housing and Equal Opportunity.

Description of the Need for the Information and Its Proposed Use: This information collection is required in connection with the issuance of a Notice of Funding Availability (NOFA) that announces the availability of $8.8 million for the Fair Housing Initiatives Program. The information is needed for the purpose of evaluating activities proposed for funding by applicants. The information comprises the application by eligible applicants who compete for funding under this program.

Form Number: None.

Respondents: State and local fair housing agencies; State or local governments; qualified fair housing enforcement organizations; fair housing enforcement organizations; public or private non-profit organizations or institutions and other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices; Fair Housing Assistance Program (FHAP) Agencies—State and local agencies funded by the Fair Housing Assistance Program (FHAP); Community Housing Resource Boards (CHRBs); Nonprofit

VOL 58 ISS 244 DEC 22 1993 UMI

groups organizing to build their capacity to provide fair housing enforcement.

Frequency of Submission: One time.

REPORTING BURDEN

Section of NOFA affected	Number of respondents	Hours per response	Total hours
I.(c)(4)	300	18	5,400
III.(a)(9)	300	1	300
Total annual reporting burden			5,700

Status: Additional requirements request.

Contact: Jacquelyn J. Shelton, HUD, (202) 708–0800; Joseph Lackey, OMB, (202) 395–7316.

The following is an excerpt from an as-yet unpublished Notice of Funding Availability (NOFA) for the FY 1993 Fair Housing Initiatives Program. The NOFA announces HUD's FY 1993 funding of $8,800,000 for the Fair Housing Initiatives Program (FHIP) to be used for projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. The NOFA will contain information concerning the purpose of the program, applicant eligibility, available amounts, selection criteria, and application processing, including how to apply and how selections will be made. The purpose of publishing the following excerpt from the NOFA is to inform the public of the information collection requirements that will be contained in the NOFA.

Section I.(c)(4)

Excerpts From the Fair Housing Initiatives Program Notice of Funding Availability—FY 1993:

(4) *Fair Housing Organization (FHO) Initiative.*

(i) *Purpose: Continued Development of Existing Organizations.*

(A) *Eligible applicants.* Eligible applicants for funding under this purpose of the FHO Initiative are:

(*1*) Qualified fair housing enforcement organizations;

(*2*) Other private nonprofit fair housing enforcement organizations; and

(*3*) Nonprofit groups organizing to build their capacity to provide fair housing enforcement.

(B) *Eligible activities.* Eligible activities for funding under this purpose of the FHO Initiative are any activities listed as eligible under the Private Enforcement Initiative in section I.(c)(3)(ii) of this NOFA.

(C) *Operating budget limitation.* (*1*) Funding under this purpose of the FHO Initiative may not be used to provide more than 50 percent of the operating budget of a recipient organization for any one year.

(*2*) For purposes of the limitation in this paragraph, *operating budget* means the applicant's total planned budget expenditures from all sources, including the value of in-kind and monetary contributions, in the year for which funding is sought.

(D) *Term of contract.* Single year projects may be for up to eighteen months in duration.

(ii) *Purpose: Establishing New Organizations.*

(A) *Eligible applicants.* Any applicants eligible under any of the other FHIP Initiatives in this NOFA are eligible applicants for funding under this purpose of the FHO Initiative.

(B) *Eligible activities.* Eligible for funding under this purpose of the FHO Initiative are two-year projects that help establish, organize, and build the capacity of fair housing enforcement organizations in the targeted unserved and underserved areas identified in section I.(c)(4)(ii)(C), below, of this NOFA. The Department has considered a number of factors to identify the targeted areas eligible for this purpose of the FHO Initiative under this NOFA, including, for example, the amount of funds available; the lack of substantially equivalent state or local agencies, or private enforcement groups; and the presence of large concentrations of protected classes. In future NOFAs, the Department will consider additional targeted areas for funding.

(C) *Targeted areas.* (*1*) A preference of ten additional points will be given for applications that propose to establish new fair housing enforcement organizations in any of the following unserved areas:

(*i*) Arkansas;
(*ii*) Idaho;
(*iii*) Mississippi;
(*iv*) New Mexico;
(*v*) North Dakota; and
(*vi*) Wyoming.

(*2*) Applications that propose to establish new fair housing enforcement organizations in any of the following underserved areas will also be considered for funding:

(*i*) Georgia;
(*ii*) Iowa;
(*iii*) Kansas;
(*iv*) Louisiana;
(*v*) Missouri;
(*vi*) Nebraska;
(*vii*) Oklahoma;
(*viii*) South Carolina;
(*ix*) Texas;
(*x*) Utah; and
(*xi*) Washington.

(D) *Term of contract.* Two-year projects may not exceed twenty-four months in duration, and funding for the second year of a project is subject to a performance review of the first year's activities and available annual appropriations.

Section III.(a)(9)

(9) A listing of any current or pending grants or contracts, or other business or financial relationships or agreements, to provide training, education, and/or self-testing services between the applicant and any entity or organization of entities involved in the sale, rental, advertising or provision of brokerage or lending services for housing. The listing must include the name and address of the entity or organization; a brief description of the services being performed or for which negotiations are pending; the dates for performance of the services; and the amount of the contract or grant. This listing must be updated during the grant negotiation period, at the end of the grant term, and for grants that will run for more than twelve months, at the end of the twelfth month.

[FR Doc. 93–31238 Filed 12–21–93; 8:45 am]

BILLING CODE 4210–28–M

federal register

Wednesday
December 22, 1993

Part VII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 36

Regulations Prohibiting Taking of Free Ranging Wolves and Wolverines on Alaska National Wildlife Refuges; Proposed Rule

VOL 58 ISS 244 DEC 22 1993 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

RIN 1018–AC16

Regulations Prohibiting Taking of Free Ranging Wolves and Wolverines on Alaska National Wildlife Refuges on the Same Day the Trapper or Hunter is Airborne

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes a rulemaking to prohibit trappers and hunters from shooting free ranging wolves and wolverines in national wildlife refuges (refuges) in Alaska on the same day in which the person is airborne. Trapping and hunting will continue to be allowed on Alaska refuges pursuant to applicable, non-conflicting State of Alaska (State) and Federal laws and regulations, as specifically authorized by the Alaska National Interest Lands Conservation Act (ANILCA) of 1980. Aircraft access to and within Alaska refuges for sport or subsistence hunting, trapping, fishing and other traditional activities, and for travel to and from villages and homesites will continue to be allowed subject to reasonable regulations to protect refuge resources and ensure that uses are compatible with refuge purposes.

DATES: Written comments will be accepted on or before February 22, 1994.

ADDRESSES: Comments should be addressed to: George Constantino, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503–6199.

FOR FURTHER INFORMATION CONTACT: George Constantino, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503–6199, Telephone: (907) 786–3357.

SUPPLEMENTARY INFORMATION: The State has recently promulgated a regulation that would allow trappers to take wolves with firearms the same-day-airborne as long as the trapper is 300 feet from the aircraft.

This proposed rule would—

1. prohibit the same-day-airborne taking of wolves and wolverines except that trappers could use firearms to dispatch legally caught wolves or wolverines in a trap or snare on the same-day-airborne and this prohibition would not apply to people transported on regularly scheduled commercial airlines between public airports;

2. satisfy the legal mandates to provide for subsistence and sport hunting and trapping on Alaska refuges;

3. maintain compatibility between hunting and trapping and legislative purposes, the mission of the National Wildlife Refuge System, and established refuge policies; and

4. provide more effective enforcement of hunting and trapping laws and regulations.

Regulatory Background

The National Wildlife Refuge Administration Act of 1966 (Pub. L. 89–669; 16 U.S.C. 668dd–668ee) provides guidelines and directives for the use of the National Wildlife Refuge System and authorizes the Secretary of the Interior to regulate uses within any area of the refuge system provided "such uses are compatible with the major purposes for which such areas were established."

In 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA; Pub. L. 96–487) which established new, and added to existing, national wildlife refuges in Alaska. Section 302 of ANILCA established purposes for which each refuge shall be managed. Section 304 of ANILCA prohibits the Secretary, subject to valid existing rights, from permitting any use for any purpose unless such use or purpose is compatible with the purposes of the refuge. That section also requires the Secretary to prescribe such regulations and impose such terms and conditions as may be necessary and appropriate to ensure that activities carried out under any use granted under any authority are so compatible. Section 1110 of ANILCA directs the Secretary to permit the use of airplanes on Alaska refuges for traditional activities and that such access shall be subject to reasonable regulation to protect the natural and other values of the refuge. The intent of Congress to allow subsistence and sport trapping and hunting on Alaska refuges is reflected in the special regulations for Alaska National Wildlife Refuges contained in title 50, part 36 of the Code of Federal Regulations (CFR).

In 1992, after many years of controversy, the State prohibited the land and shoot method of taking wolves by making it illegal to shoot a wolf until 3 a.m. on the day following the day the hunter or trapper was airborne. The State's decision to prohibit same-day-airborne wolf taking has been accepted by most hunters. It allows adequate access to wildlife resources while at the same time prevents abuses that could result from hunters being able to spot and drive or track wolves from the air and then land and immediately shoot the animal. However, some Alaska trappers and hunters have pressed the Alaska Board of Game (Board) to reconsider the same-day-airborne prohibition.

In July 1993, the Board adopted a regulation that allows trappers to shoot wolves the same-day airborne, provided the person is at least 300 feet from the airplane. Under State law, any resident over age 16 who pays a $15 fee qualifies as a trapper and can engage in the land and shoot method, whether the wolf is free ranging or trapped. State hunting regulations continue to prohibit hunters from shooting wolves and wolverines until 3 a.m. on the day after the hunter flew. The new State trapping regulations became effective October 1, 1993.

The Service has long maintained a policy that hunting and trapping on national wildlife refuges should incorporate elements of fair chase and ethical conduct. The Service Refuge Manual (8 RM 5.5) states that refuge hunting programs should be administered to "promote positive hunting values and hunter ethics such as fair chase and sportsmanship. In general, hunting on refuges should be superior to that available on other public or private lands and should provide participants with * * * relatively undisturbed wildlife, and limited interference from or dependence on mechanized aspects of the sport." The Service Refuge Manual also states that "land vehicles should only be used to provide access to the hunting area and not as a technique to make hunting easier, put wildlife at a disadvantage, or increase hunter success." Because aircraft are commonly used by hunters and trappers as a vehicle of access to Alaska refuges, the Service feels the standards that limit use of land vehicles for hunting on refuges should be applicable to use of aircraft for taking wildlife on Alaska refuges.

Aircraft provide a means by which animals can be efficiently detected and quickly killed in relatively large numbers, if not adequately regulated. Consequently, the Service has recommended that the State not allow land-and-shoot or same-day-airborne shooting of free-ranging wolves (i.e., animals that have not been caught in a trap or snare). In addition, the Service supports the existing protections found in the Federal Airborne Hunting Act (16 U.S.C. 742j–1) and its associated regulations that generally prohibit harassment as well as hunting of wildlife with aircraft.

This proposed rule would prohibit hunters and trappers from shooting wolves and wolverines the same-day-airborne on all Alaska refuges, regardless of how State regulations may change in the future. However, this proposed rule would not prohibit a trapper from humanely dispatching an animal which has already been legally caught in a trap or snare on the same day the trapper flew. This proposed rule also would not apply to hunters or trappers who have flown on regularly scheduled commercial airlines between regularly maintained public airports.

This proposed rule is consistent with the 1993–1994 Subsistence Management Regulations for Federal Public Lands in Alaska (50 CFR part 100), published on June 1, 1993, (59 FR 31244) which prohibit subsistence trappers and hunters from using firearms to take wolves and wolverines the same-day-airborne. This proposed rule would not affect the adoption of non-conflicting State laws and regulations and in fact would be consistent with existing State hunting regulations.

The Problem of Enforcement

Past law enforcement experience indicates a correlation between legalization of same-day-airborne taking and abuse by associated unethical and illegal actions. In March 1989, the Service investigated a case on the Kanuti National Wildlife Refuge where wolves had been chased by several aircraft operating under State land and shoot regulations. Further investigation established that aircraft radios were used along with aircraft harassment to manipulate and drive wolves to a location where the aircraft could land and hunters could shoot the wolves. Three persons were convicted of illegal use of aircraft to take and harass wildlife.

In a similar case in March 1990, one person was convicted for violation of the Federal laws prohibiting use of aircraft to harass wildlife on the Koyukuk National Wildlife Refuge. Eye witnesses observed hunters in two airplanes drive a wolf to a suitable area, land, and kill the wolf. In another large scale investigation that ended in 1990, Service special agents found numerous wolves reported as legal kills by one pilot and ten of his partners, in fact, were actually killed in violation of the Airborne Hunting Act. Further evidence of harassing of wolves with aircraft has been illustrated in a variety of scientific and conservation journals.

Unless observed directly, it is difficult to determine whether a trapper or hunter has harassed an animal before landing and shooting. Also, as a practical matter, it is nearly impossible to enforce Federal subsistence regulations prohibiting same-day-airborne shooting of wolves and wolverines if State regulations allow such a practice.

The Service included wolverines in this proposed rule because they are similarly classified under State regulations as both a furbearer and a big game species and, until recently, were subject to the same airborne hunting restrictions. Also, Federal subsistence regulations provide the same airborne hunting and trapping restrictions to wolves and wolverines. The problems with using aircraft to hunt and trap wolves same-day-airborne also apply to wolverines. Wolverines are highly vulnerable to over-exploitation if subjected to same-day-airborne shooting because of naturally low population densities, low reproductive capabilities and their habitat preferences for open country. While not currently authorized under State regulations, a Federal rule on same-day-airborne take of wolverines will reaffirm this prohibition.

The Service is committed to administering hunting and trapping on Alaska refuges in a way that does not unnecessarily interfere with the State of Alaska's ability to manage resident wildlife. However, the Service proposes this rulemaking because it takes the position that same-day airborne taking of wolves and wolverines (1) Invites abuse and violations of the Federal Airborne Hunting Act; (2) contravenes the Refuge Recreation Act (Pub. L. 87–714, as amended, 16 U.S.C. 460k *et seq.*) as it would require a significant diversion of resource management funds to ensure compliance with State and Federal laws and regulations and is incompatible with refuge purposes; (3) violates accepted standards and Service policy for ethical hunting and trapping on refuges; and (4) creates inconsistency with existing Federal subsistence regulations that prohibit shooting wolves and wolverines the same-day airborne.

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. A 60 day comment period is specified in order to both facilitate public input and move forward to protect resources on Alaska refuges. Accordingly, interested persons may submit written comments concerning this proposed rule to George Constantino, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503–6199. All substantive comments will be reviewed and considered before a final rule is published.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Environmental Considerations

This rulemaking is categorically excluded under 40 Code of Federal Regulations 1508.4 from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) as an activity directly related to the enforcement of fish and wildlife laws and as an administrative action that will have no potential for causing substantial environmental impact.

Economic Effect

This rulemaking has been reviewed under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has been done to determine whether the rulemaking would have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. This rulemaking would have no significant effect on such entities as it maintains the status quo prior to the change in Alaska state law.

List of Subjects in 50 CFR Part 36

Aircraft, Alaska, Alaska National Wildlife Refuge System, Hunting, Trapping, Wildlife, Wildlife Refuges.

Accordingly, part 36 of Chapter I of title 50 of the Code of Federal Regulations is proposed to be amended as follows:

PART 36—[AMENDED]

1. The authority citation for part 36 continues to read as follows:

Authority: 16 U.S.C. 460(k) et seq., 668dd et seq., 742(a) et seq., 3101 et seq., and 44 U.S.C. 3501 et seq.

2. § 36.32 is amended by removing the period at the end of paragraph (c)(1)(iii) and adding a semicolon in its place and by adding subparagraph (c)(1)(iv) to read as follows:

§ 36.32 Taking of fish and wildlife.

* * * * *

(c) * * *

(1) * * *

(iv) It shall be unlawful for a person having been airborne to use a firearm or any other weapon to take or assist in taking a wolf or wolverine until after 3 a.m. on the day following the day in which the flying occurred, except that a trapper may use a firearm or any other

VOL 58 ISS 244 DEC 22 1993 UMI

weapon to dispatch a legally caught wolf or wolverine in a trap or snare on the same day in which the flying occurred. This prohibition does not apply to flights on regularly scheduled commercial airlines between regularly maintained public airports.

* * * * *

Dated: November 26, 1993.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 93-31083 Filed 12-21-93; 8:45 am]

BILLING CODE 4310-55-P

Reader Aids

Federal Register

Vol. 58, No. 244

Wednesday, December 22, 1993

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-3447
Code of Federal Regulations	
Index, finding aids & general information	523-5227
Printing schedules	523-3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230
The United States Government Manual	
General information	523-5230
Other Services	
Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, and Federal Register finding aids. 202-275-1538, or 275-0920

FEDERAL REGISTER PAGES AND DATES, DECEMBER

63277-63518.....1
63519-63884.....2
63885-64100.....3
64101-64364.....6
64365-64454.....7
64455-64668.....8
64869-64870.....9
64871-65098.....10
65099-65276.....13
65277-65526.....14
65527-65656.....15
65657-65864.....16
65865-66246.....17
66247-67302.....20
66303-67624.....21
67625-68014.....22

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

11.....64871

3 CFR

Proclamations:
6320 (See USTR notice of Dec. 14).....65424
6352 (See USTR notice of Dec. 14).....65424
5365 (See Proc. 6641).....66867
6515 (See Proc. 6641).....66867
6030 (See Proc. 6641).....66867
5923 (Superseded in part by Proc. 6641).....66867
6630.....63277
6631.....63279
6632.....63883
6633.....64363
6634.....64667
6635.....65279
6636.....65525
6637.....65527
6638.....65529
6639.....65865
6640.....65867
6641.....66867
6642.....67625

Executive Orders:
3406 (Revoked in part by PLO 7020).....64166
12163 (See EO 12884).....64099
12543 (See notice of December 2).....64361
12544 (See notice of December 2).....64361
12748 (Amended by 12883).....63281
12829 (Amended by EO 12885).....65863
12865 (See DOT final rule of Dec. 10).....64904
12883.....63281
12884.....64099
12885.....65863

Administrative Orders:

Memorandums:
December 1, 1993.....64097
December 15, 1993.....67263

Presidential Determinations:
No. 94-4 of November 19, 1993.....63519
No. 94-5 of December 3, 1993.....65277
No. 94-6 of December 6, 1993.....65099

Notices:
December 2, 1993.....64361

5 CFR

52.....64365
293.....65531
351.....65531
430.....65531
432.....65531
451.....65531
511.....65531
530.....65531
531.....65531
536.....65531
540.....65531
575.....65531
591.....65531
595.....65531
771.....65531
831.....64366, 65243

7 CFR

1.....64353
54.....64669
75.....64101
301.....64102, 67627
330.....66247
400.....64872, 67303
401.....64873, 67730
430.....66249
443.....67744
905.....65538
920.....65101
955.....64103
981.....64105
987.....64103
989.....64106, 64107
997.....64109
998.....67304
1001.....63283
1002.....63283
1004.....63283
1005.....63283
1007.....63283
1011.....63283
1030.....63283
1033.....63283
1036.....63283
1040.....63283
1044.....63283
1046.....63283
1049.....63283
1065.....63283
1068.....63283
1075.....64110
1079.....63283
1093.....63283
1094.....63283
1096.....63283
1097.....63283
1098.....63283
1099.....63283
1106.....63283
1108.....63283
1124.....63283

VOL 58 ISS 244 DEC 22 1993 UMI

1126 63283
1131 63283
1135 63283
1138 63283
1220 64670
1427 65102
1610 66250
1703 67306
1710 66250
1714 66250
1735 66250
1737 66250
1744 66250
1751 66250
1753 66250
1946 65871
1951 64455
1980 65871
3418 65646

Proposed Rules:
271 64172
301 66304
319 ..... 66304, 66305
321 66305
704 66308
723 67376
810 65839
981 64175
985 67376
1001 67380
1002 67380
1004 67380
1005 67380
1006 67380
1007 ..... 65135, 67380
1011 67380
1012 67380
1013 67380
1030 67380
1032 67380
1033 67380
1036 67380
1040 ..... 64176, 67380
1044 67380
1046 67380
1049 67380
1050 67380
1064 67380
1065 67380
1068 67380
1075 67380
1076 67380
1079 67380
1093 67380
1094 67380
1096 67380
1098 67380
1106 67380
1108 67380
1124 67380
1126 67380
1131 ..... 67380, 67703
1134 67380
1135 67380
1137 67380
1139 67380
1139 67380
1250 65939
1410 66308
1525 65841

8 CFR
Proposed Rules:
210a 64695

9 CFR
94 ..... 65103, 66247
130 67647
156 67647
317 66075
318 ..... 63521, 65254
381 65254
401 65254

Proposed Rules:
71 67708
92 67709

10 CFR
1 64110
2 67657
19 67657
20 ..... 64110, 67657
30 ..... 64110, 67657
31 67657
32 67657
34 67657
35 67657
36 67657
39 67657
40 ..... 64110, 67657
50 67657
61 67657
70 ..... 64110, 67657
72 67657
73 64110
835 ..... 65458, 67441

Proposed Rules:
430 67710
710 64509

11 CFR
Proposed Rules:
100 64190
102 65558
113 64190

12 CFR
202 65657
204 64112
265 65539
303 64455
332 64458
333 64460
360 67662
362 64462
611 67644
613 67644
614 ..... 67644, 67665
620 67664
621 67664
627 67644

Proposed Rules:
25 67466
211 65560
228 67466
230 ..... 64190, 65293
330 64521
345 67466
510 64695
563e 67466
611 64442

13 CFR
121 65261
123 64672

14 CFR
39 ..... 63523, 63524, 64112, 64114, 64487, 64874, 64875, 64877, 65104, 65115, 65262, 65263, 65662, 65888, 65890, 65984, 65895, 66268, 66270, 66271, 66273, 66274, 66276, 67306, 67307, 67310, 67311, 67665, 67667
71 ..... 63283, 63665, 63666, 64116, 64117, 64444, 64488, 64879, 64880, 64880, 65897, 65900, 67668, 67669, 67770, 67771
95 65901
97 ..... 65904, 65905
158 64118

Proposed Rules:
25 ..... 64700, 67716
31 64450
33 63902
39 ..... 63305, 63307, 64198, 64199, 64200, 64386, 64705, 64707, 64708, 65567, 65569, 65943, 67381, 67723
71 ..... 63308, 63309, 63903, 63904, 63905, 63906, 64387, 64525, 64710, 65945, 65946, 65947, 65948, 65949, 65950, 67725, 67726, 67727, 67728, 67909
73 63906
91 65950

15 CFR
770 65540
771 64674
772 65540
799 65540
799 64674
943 65664
946 64088

Proposed Rules:
303 65294
935 65686
936 65686
942 65686
944 65686
946 64202

16 CFR
228 64881
1000 64119
1210 67671

Proposed Rules:
307 63488
309 64914
1303 63311

17 CFR
200 64120
204 64369
230 ..... 65541, 67312
239 65541
240 67729
270 ..... 64353, 67729
274 67729

Proposed Rules:
200 67729
229 67729
239 67729
240 67729
270 67729
274 67729

18 CFR
141 65542

Proposed Rules:
Ch. 1 66309
141 63312
341 66310
352 66310
388 63312

19 CFR
4 67312
123 67312
201 64120

Proposed Rules:
151 65135
142 65135
210 64711

20 CFR
404 ..... 64121, 64882, 64883, 64886, 64890, 65243
416 ..... 63887, 63888, 64883, 64892, 64893

Proposed Rules:
404 ..... 64207, 67574
416 64207

21 CFR
5 64489
16 65514
100 64123
178 65264
177 65548
178 ..... 64894, 67318
310 65452
358 65452
510 63890
520 65664
522 65295
558 63890
900 ..... 67558, 67565
1220 64137
1270 65514

Proposed Rules:
1 67444
5 65139
25 65139
100 64208
170 65139
171 65139
174 65139
178 64528
201 67444
501 67444
701 67444
801 67444
812 64209
813 64209
820 64353

22 CFR
89 65118

23 CFR
500 ..... 63442, 64374
625 64895
626 ..... 63422, 64374
655 65094

Proposed Rules:
420 67510
511 67510
657 65630
658 65677

24 CFR
200 67671
219 64138
246 64032
266 64032

905 64141
970 64141

Proposed Rules:
300 64713
310 64713
390 64713
3500 64056

25 CFR
262 65246

26 CFR
1 ..... 64897, 67676, 67684, 67689

Proposed Rules:
1 ..... 66310, 67744
301 63541

27 CFR
9 65123

Proposed Rules:
4 65295

28 CFR
2 65547
544 ..... 65850, 65851

Proposed Rules:
2 ..... 65571, 65572

29 CFR
402 67594
2619 ..... 65548, 66277
2621 65551
2676 65548

30 CFR
50 63528
70 63528
71 63528
90 63528
207 64899
208 64899
210 64899
216 64899
218 64899
219 64899
220 64899
228 64899
229 64899
243 64899
925 64142
931 65907
936 64374
938 64151

Proposed Rules:
253 66320
700 63316
701 63316
705 63316
706 63316
715 63316
716 63316
785 63316
825 63316
870 63316
906 64210
914 ..... 64212, 65679
934 64526
944 64529
950 65681

31 CFR
317 63529
590 64904

32 CFR
95 63293
706 64678

Proposed Rules:
2 63542
118 65956

33 CFR
1 65665
3 67909
66 64153
80 65667
100 66279
110 ..... 65140, 65285
117 65668
155 67988
165 ..... 65669, 66279
334 64383

Proposed Rules:
117 ..... 66321, 66322, 66323, 67745
156 ..... 63544, 65683
157 ..... 65298, 65683
165 65684
166 65686
167 65686

34 CFR
648 65838

Proposed Rules:
76 65856
99 65298
298 65856
366 67383
647 63870

36 CFR
Proposed Rules:
6 65141
292 65300
1220 64915

37 CFR
Ch. III 67690
1 ..... 64154, 64155
2 64154
5 64155
10 ..... 64154, 64155
304 63294

38 CFR
2 67691
21 ..... 63529, 67691

Proposed Rules:
3 65958

39 CFR
Proposed Rules:
111 ..... 64918, 65959, 67747

40 CFR
35 63876
52 ..... 64155, 64157, 64158, 64161, 64678, 65286, 65930, 65933, 65934, 66280, 66282, 66283, 66285, 66286, 67324, 67326, 67330
60 64158
63 66287
75 67692
79 65552
80 65552
81 ..... 64161, 64490, 67334
82 65018
85 65552
86 66289
88 64679
93 67441
122 67966
123 67966
124 67966
144 63890
146 63890
180 ..... 63294, 64492, 64493, 64495, 64496, 65554
191 66398
228 64497
300 63531
372 ..... 63496, 63500
501 67966
721 63500

Proposed Rules:
51 65573
52 ..... 63316, 63545, 63547, 63549, 64530, 65307, 65309, 65573, 65686, 65688, 65691, 65959, 65324, 65326, 66334, 67383, 67748, 67754
60 65573
61 65573
63 ..... 65768, 66078, 66336
64 65573
68 65311
80 64213
81 66334
141 65622
143 65622
180 ..... 64536, 64538, 67759
261 67389
300 ..... 63551, 64539
430 66078

41 CFR
Ch. 301 67950
101–38 65288
101–39 ..... 63631, 65288

Proposed Rules:
201–3 64389
201–4 64389
201–9 64389
201–11 64389
201–18 64389
201–20 64389
201–21 64389
201–22 64389
201–23 64389
201–24 64389
201–39 64389

42 CFR
57 66297
60 67346
405 63626
412 67350
413 67350
414 63626
434 65126
491 63533

Proposed Rules:
67 63909
413 65130
435 65312
436 65312
440 65312
447 65312

43 CFR
Public Land Orders:
7012 64498
7013 64165
7014 64498
7015 64499
7016 64499
7017 64682
7018 64682
7019 64693
7020 64166
7021 65130
7022 65936
7023 66299

Proposed Rules:
230 65692
406 65683
419 65693
423 65684
426 64277
Group 3400 64919

44 CFR
64 ..... 63899, 67692

45 CFR
400 64499
1355 ..... 67912, 67939
1356 ..... 67912, 67939
1357 67912
1602 65291

Proposed Rules:
1370 64920

46 CFR
1 65130
67 ..... 65130, 65243
232 64798
585 64909

Proposed Rules:
12 64278
16 64278

47 CFR
1 66299
63 64167
64 65669
69 65669
73 ..... 63295, 63296, 63536, 65132, 65133, 65671, 65672, 65673, 66300
76 ..... 64168, 67694
87 67695
97 64384

Proposed Rules:
15 64541
63 64280
68 65153
73 ..... 63318, 63319, 63320, 63321, 63553, 65155
76 64541

48 CFR
232 64353
501 64693
509 64693
552 64693
9903 65556

Proposed Rules:
9 63494
15 64824
52 ..... 63492, 63494, 64826
904 63553
917 63553
936 63553
939 63556
943 63553
952 63553
970 63553

49 CFR
7 65824

VOL
58
ISS
2
4
4
DE
22
1993
UMI

10	67686	1185	65695
171	66302	1188	65695
390	67370	1312	64717
392	67370		
541	63296	**50 CFR**	
544	63299	17	65088
571	63302, 64168, 65673	20	65656
614	63442, 64374	216	63536, 65133
Proposed Rules:		625	65134, 65936
391	65634	663	64169
396	64923	672	65556
571	63321, 65156, 67909	675	65292, 65556
583	63327	685	67699
659	64856	**Proposed Rules:**	
1181	65695	17	63320, 63560, 64281,
1182	65695		64828, 64927, 65097, 65325,
			65696
		20	63488
		36	68012
		21	63488
		215	64285
		216	64285
		222	64285
		227	65961
		285	67761
		301	67762
		611	64798
		625	64393
		630	67761
		638	65327
		650	63329
		672	64798
		675	65574
		678	67761

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List December 21, 1993

Order Now!

The United States Government Manual 1993/94

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$30.00 per copy



Superintendent of Documents **Publications** Order Form

Order Processing Code:
* 6395

Charge your order. it's easy!

To fax your orders (202) 512–2250

☐ **YES,** please send me _____copies of the **The United States Government Manual, 1993/94** S/N 069–000–00053–3 at $30.00 ($37.50 foreign) each.

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to change.

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, Zip code)

(Daytime phone including area code)

(Purchase order no.)

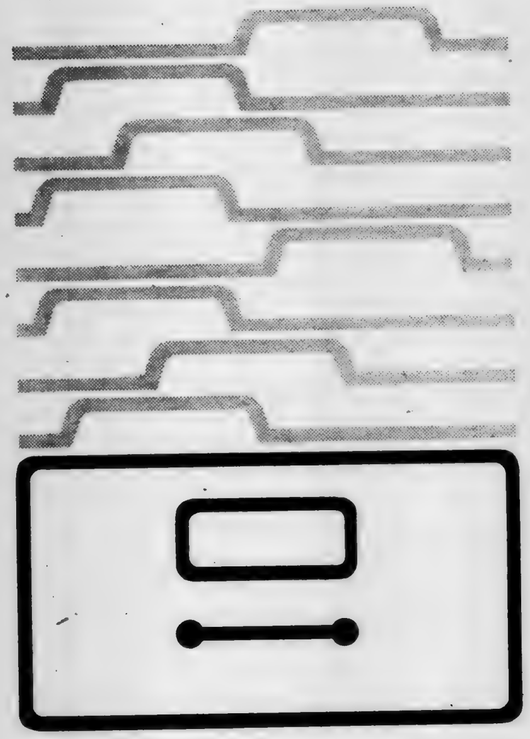
Please choose method of payment:
❑ Check payable to the Superintendent of Documents
❑ GPO Deposit Account ☐☐☐☐☐☐–☐
❑ VISA ❑ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing signature) (Rev 9/93)

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
58
ISS
2
4
4
DE
22
1993
UMI



Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

SUPPLEMENT: Revised January 1, 1993

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

Compiled by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Publications** Order Form

Order Processing Code:
*

Charge your order. It's Easy! VISA

To fax your orders (202) 512-2250

☐ **YES**, please send me the following:

_____copies of the 1992 GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR S/N 069-000-00046-1 at $15.00 each.

_____copies of the 1993 SUPPLEMENT TO THE GUIDE, S/N 069-001-00052-1 at $4.50 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

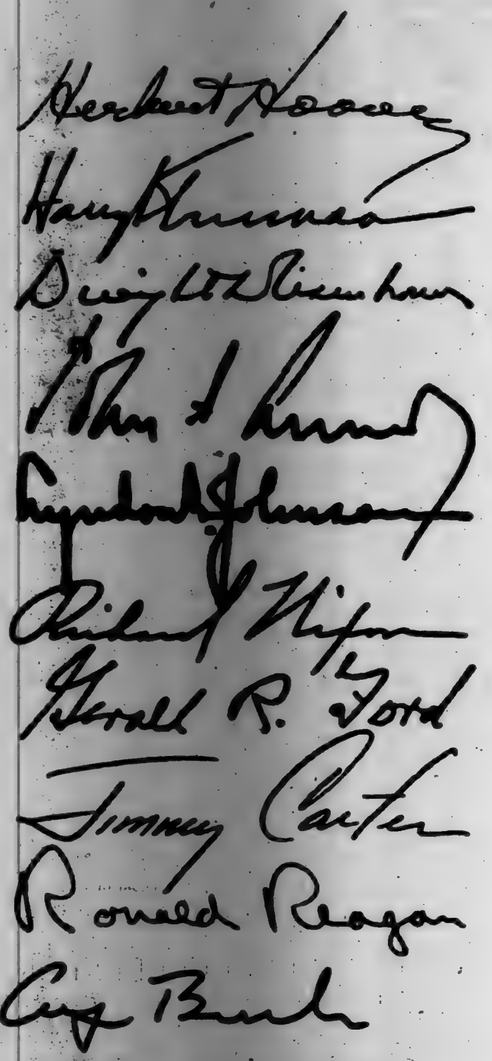
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date) *Thank you for your order!*

(Authorizing Signature) (5/93)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954





(Rev 7/93)

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Ronald Reagan

1983 (Book I) $31.00
1983 (Book II) $32.00
1984 (Book I) $36.00
1984 (Book II) $36.00
1985 (Book I) $34.00
1985 (Book II) $36.00
1986 (Book I) $37.00
1986 (Book II) $35.00
1987 (Book I) $33.00
1987 (Book II) $35.00
1988 (Book I) $39.00
1988-89 (Book II) $38.00

George Bush

1989 (Book I) $38.00
1989 (Book II) $40.00
1990 (Book I) $41.00
1990 (Book II) $41.00
1991 (Book I) $41.00
1991 (Book II) $44.00
1992 (Book I) $47.00

Published by the Office of the Federal Register, National Archives and Records Administration

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954



New Publication

VOL
58
ISS
2
4
4
DE
22
1993
UMI



New Publication

List of CFR Sections Affected

1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16).....$27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27).....$25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41).....$28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50).....$25.00
Stock Number 069-000-00032-1

Superintendent of Documents Publications Order Form

Order Processing Code: *6962

Charge your order. It's easy!

To fax your orders and inquiries–(202) 512-2250

Please Type or Print (Form is aligned for typewriter use.)

Prices include regular domestic postage and handling and are good through 12/92. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog–Bestselling Government Books	FREE	FREE
			Total for Publications	

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( ) (Daytime phone including area code)

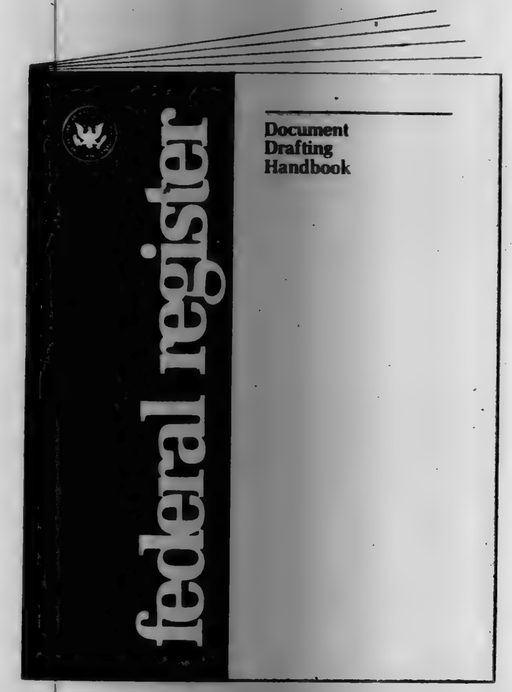
Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date) *Thank you for your order!*

(Signature) Rev 6-92



Federal Register Document Drafting Handbook

A Handbook for Regulation Drafters

This handbook is designed to help Federal agencies prepare documents for publication in the Federal Register. The updated requirements in the handbook reflect recent changes in regulatory development procedures, document format, and printing technology.

Price $5.50

Superintendent of Documents Publication Order Form

Order processing code: *6133

Charge your order. It's easy!

To fax your orders and inquiries–(202) 512-2250

☐ **YES,** please send me the following indicated publications:

_____ copies of **DOCUMENT DRAFTING HANDBOOK at $5.50 each.** S/N 069-000-00037-1

1. The total cost of my order is $_____ Foreign orders please add an additional 25%. All prices include regular domestic postage and handling and are subject to change.

Please Type or Print

2. _____ (Company or personal name)

_____ (Additional address/attention line)

_____ (Street address)

_____ (City, State, ZIP Code)

( ) _____ (Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____ (Credit card expiration date) *Thank you for your order!*

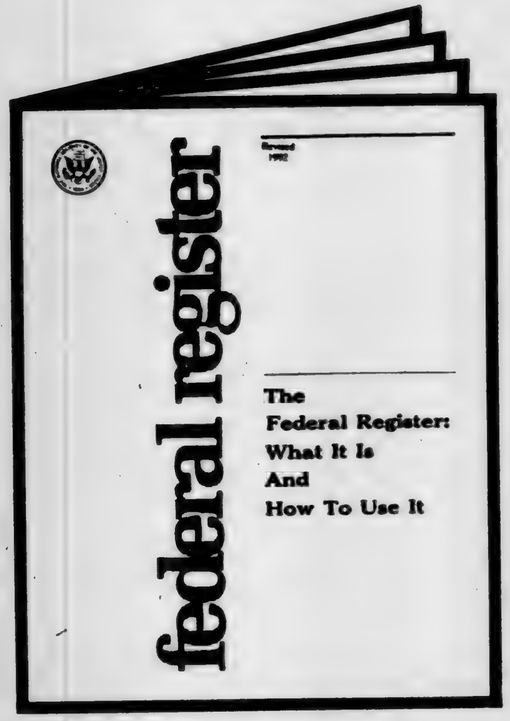
_____ (Signature) (Rev 12/91)

4. Mail To: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954

Announcing the Latest Edition

VOL
58
ISS
2
44
DE
22
1993
UMI

P.O. Box 371954, Pittsburgh, PA 15250-7954



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a sample research problem.

Price $7.00

Superintendent of Documents **Publications** Order Form

F3

Order processing code:
*6173

Charge your order.
It's Easy!
To fax your orders (202)–512–2250

☐ **YES**, please send me the following:

_____ copies of The Federal Register - What it is and How To Use It, at $7.00 per copy. Stock No. 069-000-00044-4

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing Signature) (Rev. 1-93)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
58

ISS
2
4
4

DE
22

1993

UMI



Printed on recycled paper

VOL
58

ISS
245

DE
23

1993

UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

12-23-93
Vol. 58 No. 245

federal register

Thursday
December 23, 1993

RECEIVED
JAN 05 1994
Brigham Young University
J. Reuben Clark Law School

DEPOSITED BY
U.S. GOVERNMENT
JAN 05 1994
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 846
A FR BRIGH358B DS 621AF
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY - DOCS
358 JRCB
PROVO UT 84602

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

VOL
58
ISS
2
4
5
DE
23
1993
UMI

12-23-93
Vol. 58 No. 245
Pages 68015–68290

federal register

Thursday
December 23, 1993

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

VOL
58
ISS
245
DE
23
1993
UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–783–3238
Magnetic tapes	512–1530
Problems with public subscriptions	512–2303
Single copies/back copies:	
Paper or fiche	783–3238
Magnetic tapes	512–1530
Problems with public single copies	512–2457
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Magnetic tapes	512–1530
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: January 13 at 9:00 am and 1:30 pm
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 58, No. 245
Thursday, December 23, 1993

Agency for Toxic Substances and Disease Registry
NOTICES
Hazardous substances releases and facilities; public health assessments and effects:
Quarterly listing, 68146

Agricultural Marketing Service
PROPOSED RULES
Cherries, tart, grown in—
Michigan et al., 68065

Agriculture Department
See Agricultural Marketing Service
See Commodity Credit Corporation
See Federal Grain Inspection Service
See Forest Service
NOTICES
Agency information collection activities under OMB review, 68114

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Hawaii, 68115
Oklahoma, 68115

Coast Guard
RULES
Chemical drug and alcohol testing of commercial vessel personnel; information collection and reporting, 68274
Omnibus Transportation Employee Testing Act of 1991:
Workplace drug testing programs; management information system, 68194
PROPOSED RULES
Drawbridge operations:
Florida, 68093
NOTICES
Meetings:
New York Harbor Traffic Management Advisory Committee, 68189

Commerce Department
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Textile and apparel categories:
Export visa and quota requirements for certain textile products re-imported from various countries following repairs and alterations, 68122

Commodity Credit Corporation
RULES
Loan and purchase programs:
Grains and similarly handled commodities
Farmer-Owned Reserve Program eligibility requirements; correction, 68016
Tobacco; importer assessments, 68017

Comptroller of the Currency
PROPOSED RULES
Capital adequacy; national banks, deferred tax assets, 68065

Defense Department
NOTICES
Meetings:
Defense Intelligence College Board of Visitors, 68122
Electron Devices Advisory Group, 68122, 68123

Defense Nuclear Facilities Safety Board
NOTICES
Recommendations:
Defense nuclear facilities complex; maintaining access to nuclear weapons expertise, 68123

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
Schedules I and II—
1993 aggregate, 68157

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
State vocational rehabilitation services program, etc.; reporting requirements, 68125

Employment and Training Administration
NOTICES
Federal-State unemployment compensation program:
State employment services program; acquisition, use, and disposition of real property by States, 68158

Employment Standards Administration
RULES
Federal Employees' Compensation Act and Longshore and Harbor Workers' Compensation Act:
Claims; social security numbers disclosure, 68031

Energy Department
See Energy Efficiency and Renewable Energy Office
See Energy Information Administration
See Federal Energy Regulatory Commission
NOTICES
Grant and cooperative agreement awards:
Oregon Energy Department, 68128

Energy Efficiency and Renewable Energy Office
NOTICES
Consumer product test procedures; waiver petitions:
Amana Refrigeration, Inc., 68130
Carrier Corp., 68131, 68133
Ducane Co. Inc., 68134
Lennox Industries Inc., 68136, 68137
Trane Co., 68138

Energy Information Administration
NOTICES
Agency information collection activities under OMB review, 68128

VOL 58 ISS 245 DEC 23 1993 UMI

Crude oil and refined petroleum product information; revision and comment solicitation, 68129

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States; and air quality planning purposes; designation of areas:
Colorado, 68036
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States; and air quality planning purposes; designation of areas:
Colorado, 68094
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 68142
Weekly receipts, 68143
Meetings:
Biotechnology Science Advisory Committee et al., 68144
Pesticide programs:
State pesticide residue removal compliance programs, 68145
Pesticides; emergency exemptions, etc.:
Benomyl, 68144

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

Export Administration Bureau
RULES
Export licensing:
Validated license requirements based on missile or chemical and biological weapons end-uses; U.S. persons activities; guidance availability, 68029

Farm Credit Administration
PROPOSED RULES
Farm credit system:
Organization, general provisions, and disclosure to shareholders; miscellaneous amendments, 68069

Federal Aviation Administration
RULES
Airworthiness directives:
Allison, 68025
McDonnell Douglas, 68026
Piper, 68028
Omnibus Transportation Employee Testing Act of 1991:
Anti-drug program for personnel engaged in specified aviation activities, 68198
Workplace drug testing programs; management information system, 68194

Federal Communications Commission
RULES
Common carrier services:
Domestic satellite service; licensing policies and procedures, 68053
Organization, functions, and authority delegations:
Chief, Field Operations Bureau, 68053
Radio services, special:
Private radio services; burdensome regulations reexamination, 68061

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Arizona et al., 68047
Arkansas et al., 68040
Connecticut et al., 68050
Florida et al., 68042, 68044
Kansas et al., 68045
PROPOSED RULES
Flood elevation determinations:
Florida et al., 68101
Texas, 68105

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Arkla Energy Resources Co., 68140
CNG Transmission Corp., 68140
Florida Gas Transmission Co., 68140
Granite State Gas Transmission, Inc., 68141
Iowa Southern Utilities Co., 68141
Northern Border Pipeline Co., 68141
Tennessee Gas Pipeline Co., 68142
Wyoming Interstate Co., Ltd., 68142

Federal Grain Inspection Service
RULES
Grain standards:
Rice, 68015

Federal Highway Administration
RULES
Omnibus Transportation Employee Testing Act of 1991:
Qualifications of drivers; recordkeeping and reporting requirements for controlled substances testing data, 68220
Omnibus Transportation Employee Testing Act of 1991:
Workplace drug testing programs; management information system, 68194

Federal Maritime Commission
NOTICES
Agreements filed, etc., 68145

Federal Railroad Administration
RULES
Omnibus Transportation Employees Testing Act of 1991:
Control of alcohol and drug misuse in railroad operations; reporting requirements, 68232
Omnibus Transportation Employee Testing Act of 1991:
Workplace drug testing programs; management information system, 68194

Food and Drug Administration
NOTICES
Debarment orders:
Long, Susan M., 68147

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Florida, 68115
Tennessee et al., 68115
Texas
Shell Oil Co.; crude oil refinery and petrochemical complex, 68116
Virginia
Merck & Co.; pharmaceutical plant, 68116

Forest Service
NOTICES
Appealable decisions; legal notice:
Northern region, 68114

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration
See Health Care Financing Administration
See Public Health Service

Health Care Financing Administration
NOTICES
Commission on Office Laboratory Accreditation; approval, 68148

Health Resources and Services Administration
See Public Health Service

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 68152
Meetings:
Occupancy Standards in Public and Assisted Housing Task Force, 68153

Immigration and Naturalization Service
RULES
Immigration:
Nonimmigrants bearing Iraqi and Kuwaiti travel documents; registration and fingerprinting requirements removal, 68024
NOTICES
Immigration:
Nonimmigrants bearing Iraqi and Sudanese travel documents; registration and fingerprinting requirements, 68157

Interior Department
See Land Management Bureau

Internal Revenue Service
RULES
Employment taxes and collection of income taxes at sources:
Tax liabilities; reporting and deposit, 68033
Income taxes:
Employer social security taxes paid on employee tips; credit, 68033
PROPOSED RULES
Income taxes:
Employer social security taxes paid on employee tips; credit; cross-reference, 68091
Procedure and administration:
Civil actions by persons other than taxpayers, 68092

International Trade Administration
NOTICES
Antidumping:
Mechanical transfer presses from—
Japan, 68117
Silicon metal from—
China, 68119
Applications, hearings, determinations, etc.:
Energy Department et al., 68120
Rutgers University, 68120
University of—
Minnesota et al., 68120
Washington University, 68121

Interstate Commerce Commission
PROPOSED RULES
Tariffs and schedules:
Special tariff authorities authorizing customer account codes publication in tariffs; reconsideration Withdrawn, 68108

Justice Department
See Drug Enforcement Administration
See Immigration and Naturalization Service

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Workers' Compensation Programs Office

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Fort Cady Minerals Corp. borate solution mining project, CA, 68154
Realty actions; sales, leases, etc.:
Montana, 68154
Utah, 68155
Survey plat filings:
New Mexico, 68155
Wyoming, 68156
Withdrawal and reservation of lands:
Arizona, 68156

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Challenge and Advancement Advisory Panel, 68169

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Solectria Corp., 68189

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 68063
PROPOSED RULES
Endangered and threatened species:
Deer Creek summer steelhead—
Critical habitat designation, 68108
Fishery conservation and management:
Atlantic swordfish, 68109

National Science Foundation
NOTICES
Grants and cooperative agreements; availability, etc.:
Undergraduate education and human resources directorate, 68169
Meetings:
Geosciences Special Emphasis Panel, 68170
International Programs Special Emphasis Panel, 68170
Mechanical and Structural Systems Special Emphasis Panel, 68170

VOL 58 ISS 245 DEC 23 1993 UMI

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Iowa Electric Light & Power Co., 68179
Generic letters:
Standards for protection against radiation, 68179
Meetings:
Reactor Safeguards Advisory Committee
Proposed schedule, 68180
Applications, hearings, determinations, etc.:
Gulf States Utilities Entergy Corp. et al., 68182
Tennessee Valley Authority, 68182

Office of United States Trade Representative
See Trade Representative, Office of United States

Presidential Documents
PROCLAMATIONS
Imports and exports:
NAFTA; tariff schedule implementation (Proc. 6641)
Correction, 68191
Special observances:
National Law Enforcement Training Week (Proc. 6643), 68287
ADMINISTRATIVE ORDERS
Uruguay Round of Multilateral Trade Negotiations; Executive summary of benefits to U.S. (Memorandum of December 15, 1993)
Correction, 68191

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration
NOTICES
Agency information collection activities under OMB review, 68151

Research and Special Programs Administration
RULES
Omnibus Transportation Employee Testing Act of 1991:
Workplace drug testing programs; management information system, 68194
Pipeline safety:
Omnibus Transportation Employee Testing Act of 1991—Drug and alcohol testing data, information collection and reporting, 68258

Securities and Exchange Commission
PROPOSED RULES
Investment companies:
Open-end management companies issuing multiple classes of shares, exemption; multiple class and master-feeder funds disclosure, 68074
NOTICES
Self regulatory organizations:
Clearing agency registration applications—MBS Clearing Corp., 68183
Self-regulatory organizations; proposed rule changes:
Pacific Stock Exchange, Inc., 68184, 68185

Small Business Administration
NOTICES
Disaster loan areas:
Illinois et al., 68186

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Trade Representative, Office of United States
NOTICES
North American Free Trade Agreement (NAFTA):
Accelerated tariff elimination provision implementation, 68186

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
RULES
Omnibus Transportation Employee Testing Act of 1991:
Workplace drug testing programs; management information system, 68194

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service

Workers' Compensation Programs Office
RULES
Federal Employees' Compensation Act and Longshore and Harbor Workers' Compensation Act:
Claims; social security numbers disclosure, 68031

Separate Parts In This Issue

Part II
Department of Transportation, Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Research and Special Programs Administration, and United States Coast Guard, 68194

Part III
Department of Transportation, Federal Aviation Administration, 68198

Part IV
Department of Transportation, Federal Highway Administration, 68220

Part V
Department of Transportation, Federal Railroad Administration, 68232

Part VI
Department of Transportation, Research and Special Programs Administration, 68256

Part VII
Department of Transportation, United States Coast Guard, 68274

Part VIII
The President, 68287

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

VOL 58 ISS 245 DEC 23 1993 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrations Orders
Memorandums:
December 15, 1993.....68191
Proclamations:
5365 (See Proc. 6641).....68191
6643.....68299
7 CFR
68.....68015
1421.....68016
1464.....68017
Proposed Rules:
930.....68065
8 CFR
264.....68024
12 CFR
Proposed Rules:
3.....68065
611.....68069
618.....68069
620.....68069
14 CFR
39 (3 documents).....68025, 68026, 68028
121 (2 documents).....68194, 68196
15 CFR
778.....68029
17 CFR
Proposed Rules:
230.....68074
239.....68074
270.....68074
274.....68074
20 CFR
10.....68031
702.....68031
26 CFR
1.....68033
31.....68033
602.....68033
Proposed Rules:
1.....68091
301.....68092
33 CFR
Proposed Rules:
117.....68093
40 CFR
52.....68036
81.....68036
Proposed Rules:
52.....68094
81.....68094
44 CFR
65 (4 documents).....68039, 68041, 68043, 68044
67 (2 documents).....68046, 68049
Proposed Rules:
67 (2 documents).....68101, 68105
48 CFR
16 (2 documents).....68194, 68274
47 CFR
0.....68053
2.....68053
25.....68053
80.....68061
87.....68061
94.....68061
49 CFR
199 (2 documents).....68194, 68258
217 (2 documents).....68194, 68232
219 (2 documents).....68194, 68232
391 (2 documents).....68194, 68220
Proposed Rules:
1312.....68108
50 CFR
661.....68063
Proposed Rules:
227.....68108
530.....68109

Rules and Regulations

Federal Register
Vol. 58, No. 245
Thursday, December 23, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

United States Standards for Rice

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is revising the United States Standards for Rough Rice, Brown Rice for Processing, and Milled Rice by establishing a special grade for aromatic (scented) rice.

EFFECTIVE DATE: December 23, 1993.

FOR FURTHER INFORMATION CONTACT: George Wollam, FGIS, USDA, room 0624 South Building, P.O. Box 96454, Washington, DC, 20090–6454, telephone (202) 720–0292.

SUPPLEMENTARY INFORMATION: The authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.5).

Executive Order 12291

We are issuing this rule in conformance with Executive Order 12866.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

David R. Galliart, Acting Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Further, the standards are applied equally to all entities.

Background

On January 11, 1993, FGIS proposed in the **Federal Register** (58 FR 3511) to revise the United States Standards for Rice. Specifically, FGIS proposed to revise the United States Standards for Rough Rice, Brown Rice for Processing, and Milled Rice by establishing a special grade for aromatic (scented) rice and eliminating the requirement that rough rice and brown rice for processing must contain more than 25 percent of whole kernels in order to be classed as long grain, medium grain, short grain, or mixed rough rice or brown rice for processing.

Comment Review

During the 90-day comment period ending April 12, 1993, FGIS received a total of 14 comments from various segments of the rice industry, including producers, researchers, inspectors, millers, and foreign buyers. The following paragraphs address comments received regarding the proposed changes.

Special Grade for Aromatic Rice

Twelve individuals or groups commented on the proposal to establish a special grade for aromatic rice. Most of the commenters expressed concern about the effect that establishing a special grade for aromatic rice would have on the eligibility of aromatic rice for price support loans. In the March 18, 1993, **Federal Register** (58 FR 14495), the Agricultural Stabilization and Conservation Service (ASCS) published an interim rule that made a number of regulatory changes with respect to price support loans. One change provided that rice assigned a special grade would no longer be eligible for warehouse support loans. As a result of ASCS' interim rule, commenters urged FGIS to postpone establishing a special grade for aromatic rice until it becomes clear that aromatic rice producers would not be denied price support loans.

On November 4, 1993, ASCS published a final rule in the **Federal Register** (58 FR 58739) that exempted aromatic rice from the price support loan restrictions for rice with a special grade designation. This action effectively resolves the outstanding questions regarding aromatic rice. Accordingly, the proposed special grade for aromatic rice is adopted as a final rule without change.

Revising the Class Definitions for Rough Rice and Brown Rice for Processing

FGIS received three comments regarding the proposal to eliminate the requirement that rough rice and brown rice for processing must contain more than 25 percent of whole kernels in order to be classed as long grain, medium grain, short grain, or mixed rough rice or brown rice for processing. Only one commenter supported the proposal. The other two commenters were strongly opposed to the proposed action. They felt that eliminating the requirement may "worsen the quality" of U.S. rice. FGIS believes that the proposed action would not have a noticeable effect on rice quality or marketability. But, FGIS is concerned that the action may inadvertently harm the reputation of the U.S. rice. To avoid any such negative consequences, FGIS has determined that this proposal should not be adopted at this time.

Final Action

Based on current market needs, FGIS is revising:

1. Section 68.212 by adding a new paragraph (e) that defines aromatic rough rice.
2. Section 68.213 by adding a new paragraph (f) that defines aromatic rough rice.
3. Section 68.263 by adding a new paragraph (d) that defines aromatic brown rice for processing.
4. Section 68.264 by adding a special grade designation for aromatic brown rice for processing rice.
5. Section 68.315 by adding a new paragraph (f) that defines aromatic milled rice.

VOL 58 ISS 245 DEC 23 1993 UMI

6. Section 68.316 by adding a special grade designation for aromatic milled rice.

List of Subjects in 7 CFR Part 68

Administration practice and procedures, Agricultural commodities, Rice.

For reasons set forth in the preamble, 7 CFR part 68 is amended as follows:

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND THEIR PRODUCTS

1. The authority citation for part 68 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

Subpart C—United States Standards for Rough Rice

Subpart D—United States Standards for Brown Rice for Processing

Subpart E—United States Standards for Milled Rice

2. Section 68.212(e) is added to read as follows:

§ 68.212 Special grades and requirements.

* * * * *

(e) *Aromatic rough rice.* Aromatic rough rice shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and characteristic aroma; e.g., basmati and jasmine rice.

3. Section 68.213 is revised to read as follows:

§ 68.213 Special grade designation.

The grade designation for infested, parboiled, smutty, glutinous, or aromatic rough rice shall include, following the class, the word(s) "Infested," "Parboiled Light," "Parboiled," "Parboiled Dark," "Smutty," "Glutinous," or "Aromatic," as warranted, and all other information prescribed in § 68.211.

4. Section 68.263(d) is added to read as follows:

§ 68.263 Special grades and special grade requirements.

* * * * *

(d) *Aromatic brown rice for processing.* Aromatic brown rice for processing shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and charecteristic aroma; e.g., basmati and jasmine rice.

5. Section 68.264 is revised to read as follows:

§ 68.264 Special grade designation.

The grade designation for parboiled, smutty, glutinous, or aromatic brown rice for processing shall include, following the class, the word(s) "Parboiled," "Smutty," "Glutinous," or "Aromatic," as warranted, and all other information prescribed in § 68.262.

6. Section 68.315(f) is added to read as follows:

§ 68.315 Special grades and special grade requirements.

* * * * *

(f) *Aromatic milled rice.* Aromatic milled rice shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and characteristic aroma; e.g., basmati and jasmine rice.

7. Section 68.316 is revised to read as follows:

§ 68.316 Special grade designation.

The grade designation for coated, granulated brewers, parboiled, undermilled, glutinous, or aromatic milled rice shall include, following the class, the word(s) "Coated," "Granulated," "Parboiled Light," "Parboiled," "Parboiled Dark," "Undermilled," "Glutinous," or "Aromatic," as warranted, and all other information prescribed in § 68.314.

Dated: December 16, 1993.

David E. Galliart,

Acting Administrator.

[FR Doc. 93–31296 Filed 12–22–93; 8:45 am]

BILLING CODE 3410–EN–M

Commodity Credit Corporation

7 CFR Part 1421

RIN 0560–AD31

Price Support Loan Requirements; Farmer Owned Reserve Program Eligibility Requirements; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to the final regulations concerning the Farmer Owned Reserve (FOR) program. Two final rules were published for Commodity Credit Corporation (CCC) which affected the time period for producers to declare their intentions for the 1992 feed grains FOR Program. Through an administrative error the text was not published as intended; therefore, a correction is necessary to revise the text in 7 CFR 1421.203.

EFFECTIVE DATE: November 29, 1993.

FOR FURTHER INFORMATION CONTACT: Mark Overbo, Program Specialist, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–8223.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction in 7 CFR 1421.203 intended to provide greater flexibility for the FOR intention sign-up period by providing a date determined and announced by CCC rather than specific dates as stated in the text of another final regulation published on Thursday, November 4, 1993, (58 FR 58747). Because two final regulations were in clearance at the same time and contained changes to the text in § 1421.203, an administrative error occurred when the two regulations were published in final.

Need for Correction

As published, the final regulations do not provide the program flexibility as intended when the interim of this regulation was published on Thursday, August 26, 1993, (58 FR 45039).

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses.

Accordingly, 7 CFR part 1421 is amended as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f–1, 1445b–3a, 1445c–3, 1445e, and 1446f; 15 U.S.C. 714b and 714c.

2. Section 1421.203 is revised to read as follows:

§ 1421.203 Reserve Quantity.

The maximum quantity of wheat and feed grains stored under the FOR program shall be determined and announced annually by CCC by the date specified in § 1421.201(b). In order to assure that such quantities are not exceeded and to ensure regional equity, CCC may require producers to file with CCC, on a form prescribed by CCC, an offer which includes a statement of the quantity of grain which is pledged as collateral for a regular price support loan which such producers intend to place in the FOR program. If the quantities on such forms show that the quantity intended to be entered into the FOR program by producers will likely exceed the maximum quantity allowed, CCC may apply a uniform factor to the offered quantity. If such a form is required, failure to file such form with respect to a commodity that would otherwise be eligible for entry into the FOR program, will result in ineligibility of the commodity for FOR entry. All such forms, if required by CCC, must be filed by a producer with the ASCS county office that disbursed the qualifying regular price support loan by the date determined and announced by CCC for the applicable commodity.

Signed in Washington, DC, on December 17, 1993.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–31366 Filed 12–22–93; 8:45 am]

BILLING CODE 3410–05–P

---

7 CFR Part 1464

RIN 0560–AD53

Tobacco; Importer Assessments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Omnibus Budget Reconciliation Act of 1993 (the 1993 Act) was enacted on August 10, 1993. Section 1106 of the 1993 Act amended sections 106, 106A, and 106B of the Agricultural Act of 1949 (the 1949 Act) to require, with respect to any unmanufactured burley or flue-cured tobacco imported in 1994 and subsequent years, that the importer pay a "no net cost assessment" (which defrays the cost of the federal tobacco price support program) and to require, with respect to the 1994 through 1998 crops of any tobacco, that an importer of any tobacco shall remit a nonrefundable marketing assessment to the Commodity Credit Corporation (CCC) on each pound of unmanufactured tobacco that is imported by the importer. This interim rule amends the regulations to address the amount of the assessments, the remittance of assessments, penalties for failure to remit or timely remit assessments, importer reporting requirements, the retention of records by importers of tobacco, the examination of records and reports pertinent to importers, and the penalty for failure to keep records and make reports.

DATES: Comments must be received on or before January 24, 1994 in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013–2415. All written submissions made pursuant to this notice will be made available for public inspection in room 5750, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary W. Wheeler, Tobacco Marketing Specialist, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013–2415, telephone 202–720–7562.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule is issued in conformance with Executive Order 12866. Based on information compiled by the USDA, it has been determined that this interim rule:

(1) Would have an annual effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; or

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of interim rulemaking with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This program/activity is not subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this interim rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this interim rule. Before any legal action is brought regarding determinations made under the provisions of 7 CFR part 1464, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

The information collection requirements contained in these regulations (7 CFR part 1464) will be submitted to the Office of Management and Budget (OMB) for expedited approval. ASCS is requesting OMB to review the information collection requirements by December 31, 1993 (see appendix A).

1. Marketing Assessments on Imported Tobacco

A. Statutory Provisions

Section 1106(b)(1) of the 1993 Act amended section 106 of the 1949 Act by adding a new paragraph (h) to require, effective for each of the 1994 through 1998 crops of tobacco, that importers of tobacco that is produced outside the United States shall remit to CCC a nonrefundable marketing assessment in an amount equal to the product determined by multiplying the number of pounds of tobacco imported by the importer, by the sum of the respective per pound marketing assessments imposed on purchasers of domestic burley tobacco and domestic flue-cured tobacco pursuant to section 106(g) of the 1949 Act. Currently, section 106(g) of the 1949 Act imposes a marketing assessment of one-half of one percent of the respective national price support levels for burley and flue-cured tobacco

on any purchaser who purchases the respective kind of such tobacco from any of the 1991 through 1995 crops. The amended section 106 provides that the importer of tobacco shall remit the marketing assessment at such time and in such manner as prescribed by the Secretary. Further, the amended section 106 imposes a marketing penalty against such importer who fails to remit, or timely remit, the marketing assessments as prescribed by the Secretary.

B. Interim Regulations

For subpart B of part 1464 as it would be added in the interim regulations, "imported tobacco" is defined as "Any unmanufactured tobacco, including Oriental and Turkish tobacco, that was not produced in the United States if such tobacco is considered in accordance with rules of the United States Customs Service to have entered into the commerce of the United States or is otherwise determined to have entered the United States." "Importer" for all purposes under the interim rule is defined to be any person who is an owner of the tobacco or is otherwise responsible for the importation of the tobacco.

Section 408 of the 1949 Act (7 U.S.C. 1428) adopts, for the 1949 Act, definitions which are contained in the Agricultural Adjustment Act of 1938 (the 1938 Act), 7 U.S.C. 1281 *et seq.* Section 301 of the 1938 Act defines "tobacco" by reference to Service and Regulatory Announcement 188 of the U.S. Department of Agriculture (USDA) Bureau of Agricultural Economics. Section 301 defines "tobacco" to mean certain specified types of tobacco by type number. The specified types are identified in Announcement 188 as domestic tobacco. Foreign tobaccos are assigned other numbers. However, the amendments to the 1949 Act implemented in this interim rule are clearly designed to cover imported tobacco and the rule had been drafted accordingly by using a broader definition of "tobacco".

As provided for in the statute, the interim regulations would impose a marketing assessment on each pound of imported tobacco if such tobacco is imported during the 1994 through 1998 calendar years. The amount of the marketing assessment per pound of imported tobacco would be, as provided in the statute, an amount equal to the sum of the marketing assessments that are imposed on purchasers of burley tobacco and flue-cured tobacco, respectively, and, under the rule, that calculation would be made on the basis of the assessments for the current marketing year for those tobaccos. The marketing year for domestic flue-cured tobacco starts on July 1 of the year in which the crop is produced and ends on June 30 of the next year. The marketing year for domestic burley tobacco starts on October 1 of the year in which the crop is produced and ends on September 30 of the next year. Accordingly, since the assessment levels are, by statute, a set percentage of price support levels that can change by marketing year, the marketing assessment rate per pound for imported tobacco under the interim rule would change, in all likelihood, on July 1 and October 1 of each year. That is, it is likely one rate would be applicable for importers for the period July 1 through September 30 and a different rate for the period October 1 through June 30. The national price support level for burley tobacco for the 1993–1994 marketing year is $1.683 per pound and the national price support level for flue-cured tobacco for the 1993–1994 marketing year is $1.577 per pound. As indicated, the existing purchaser marketing assessment on purchases of domestic burley and flue-cured tobacco during the 1993–94 marketing year is one-half of one percent of the respective national price support levels for those tobaccos. One-half of one percent of the applicable national price support level is .8415 cent for burley tobacco and .7885 cent for flue-cured tobacco. Accordingly, under the terms of the interim rule, 1.63 cents (the sum of .8415 and .7885) would be the per pound assessment rate for tobacco that is imported during the period January 1 through June 30, 1994. This assessment applies to all tobacco that is imported, and is uniform; this assessment is not limited to imported burley or imported flue-cured tobacco alone. The national levels of price support for burley or flue-cured tobacco are announced annually and, generally, well in advance of the beginning of the applicable marketing year. For this assessment and the limited no net cost assessment, the rule prescribes that the coverage of the assessment will extend to any tobacco which is imported as unmanufactured tobacco, that is, as defined in the rule, tobacco which has not been converted into a product ready for use by consumers.

The interim regulations provide that each importer of tobacco must remit the marketing assessments to Commodity Credit Corporation in care of Director, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013–2415 by the tenth calendar day following the date for which such imported tobacco was entered into the United States. However, in order to allow for the transition to these new assessments, the remittance of fees for entries during the period January 1 through February 28, 1994, will not be due until March 10, 1994. Each importer who fails to timely remit a marketing assessment shall be subject to a late payment charge as well as liable for the penalty provided for in section 1106 of the 1993 Act. Such late payment shall be calculated and assessed in accordance with 7 CFR part 1403. In order to show proof that a marketing assessment has been timely and accurately remitted, the importer shall submit a copy of the Customs Form 7501 (entry summary) or Customs Form 7505 (warehouse withdrawal for consumption-duty paid), with Form CCC–100, Importer Entry and Assessment Worksheet, in order to establish the date of entry into the commerce of the United States of such tobacco. Such documentation must accompany the remittance of the marketing assessment. Additional information may also be requested by the Director, Tobacco and Peanuts Division, ASCS, who shall be principally responsible for the administration of these regulations.

With respect to penalties, as regards to the marketing assessment, section 1106 of the 1993 Act provides that any importer who fails to remit the marketing assessment on imported tobacco shall be liable, in addition to any assessment or late payment charge due, for a marketing penalty on the quantity of tobacco as to which such failure occurs, at a rate per pound equal to 37.5 percent of the sum of the average market prices for flue-cured and burley tobacco for the year immediately preceding the year in which such tobacco was imported. Under the interim rule, the penalty could be applied to any failure to pay the assessment in a timely manner and the necessary market price determinations would be made on the basis of prices for the domestic marketing years ending in the calendar year preceding the year of the importation. For example, the average market prices per pound for burley and flue-cured tobacco for the 1992–1993 marketing year were $1.815 and $1.726, respectively. Accordingly, the penalty that would be applicable with respect to the failure of an importer to remit any marketing assessment on imported tobacco entered into the commerce of the United States during 1994, would be $1.328 per pound ($1.815 + $1.726 = $3.541 × .375 = $1.328). Such penalty shall be assessed after the importer has been notified of the pending assessment of the penalty and has been afforded an opportunity for a hearing with the Director, Tobacco and Peanuts Division, ASCS, with respect to such assessment.

2. No Net Cost Assessments on Imported Burley or Flue-Cured Tobacco

A. Statutory Provisions

Pre-existing provisions of sections 106A and 106B of the 1949 Act impose on domestic producers of any kind of tobacco for which domestic quotas are in place (as established under the 1938 Act), as well as on purchasers of domestic burley and domestic flue-cured tobacco, "no-net-cost" assessments to defray the cost of the federal price support program for tobacco. The amounts of these assessments are based on the amount of expected losses that might otherwise occur with respect to price-supported tobacco.

Section 1106 (b)(2) and (3) of the 1993 Act amended sections 106A and 106B of the 1949 Act to require that each importer of burley or flue-cured tobacco shall also pay a no-net-cost assessment on each pound of burley or flue-cured tobacco that is imported by such importer. The pre-existing provisions of section 106A of the 1949 Act allow, for covered tobaccos, for the establishment of no net cost Funds whereas section 106B provided, alternatively, for no net cost Accounts. These Funds or Accounts are operated in cooperation with special producer marketing associations which perform various functions in connection with the price support program. Sections 106A and 106B alternatively refer to producer inputs into the Fund or Account as "contributions" or "assessments." Under the 1993 Act amendments, the importer of burley or flue-cured tobacco is required to pay into the respective Account or Fund for the applicable producer association an amount equal to the sum of the current producer and purchaser no net cost assessments or contributions. That is, for imported flue-cured tobacco, for example, the importer is required by the 1993 amendments to pay a no net cost assessment equal to the amount of the combined current no net cost assessments paid by purchasers of domestic flue-cured tobacco and by domestic producers of flue-cured tobacco. While the amendments to section 106B, unlike those for section 106A, do not as such limit the importer assessments to the combination of the producer and purchaser payments for the "respective" kind of domestic tobacco (burley or flue-cured tobacco), it nonetheless appears clear, even if section 106A applies, that the assessment should not be the sum of the producer and purchaser current assessments for both domestic burley and flue-cured tobacco together. It must be presumed that Congress did not intend the amount of the assessment to depend on the fortuity of whether section 106A or section 106B applied. Further the section 106A formulation calls for the funds to go to the "applicable" association, indicating that the amount of the importer assessment was to match the total no net cost assessment normally collected by that association and not that also normally collected by an association for a different kind of tobacco. One additional difficulty is that there are two producer associations for domestic burley tobacco but there is just one domestic producer association with price support functions for flue-cured tobacco. This problem is resolved, however, by requiring, under the interim rule, that all of the no net cost assessments on imported tobacco must be paid, for burley and flue-cured tobacco, to the Director, Tobacco and Peanuts Division, ASCS. In turn, the Director will distribute the funds to the appropriate association and will decide, for burley tobacco, how the funds should be reasonably apportioned between the two special producer associations. In short, for purposes of this interim rule, the statutory provisions have been construed to provide that in all cases the amount of the assessment for the subject tobacco (imported burley tobacco or imported flue-cured tobacco) will be the amount which is equal for the current marketing year to the addition of: (1) The current producer no net cost contribution or no net cost assessment for the respective tobacco and (2) the current purchaser no net cost assessment for the respective tobacco.

The 1993 Act also provides that the importer of burley or flue-cured tobacco shall pay the importer no net cost assessments (INNCA) at such time and in such manner as may be prescribed by the Secretary and provides for a marketing penalty against such importer who fails to timely remit the INNCA as prescribed by the Secretary. The penalty rate set by the statute is 75 percent of the average market price for the respective tobacco for the preceding year.

B. Interim Regulations

The interim regulations would impose an INNCA on each pound of burley or flue-cured tobacco that was not produced in the United States if such tobacco is entered into the commerce of the United States, on or after January 1, 1994. As indicated above, the interim rule provides that the importer no net cost assessment, which is in addition to the marketing assessment but which (unlike the marketing assessment) applies only to imported burley and flue-cured tobacco, will be the amount which is equal to the sum of the producer and purchaser assessments or contributions for the current marketing year for the respective domestic tobacco and shall be required to be paid by the importer to the Director, Tobacco and Peanuts Division, ASCS. As with the marketing assessment, this assessment will apply to unmanufactured tobacco which is entered into the commerce of the United States and, as with the marketing assessment, unmanufactured tobacco will be considered to be tobacco which is not packaged, at the time of entry, for sale to the ultimate consumers. With respect to the coverage of this assessment, the same definitional problem exists with respect to the normal meaning assigned to the term "tobacco" in the 1938 Act and incorporated for use in the 1949 Act. In fact, section 106B contains its own definition of "tobacco" which refers to the definition of "tobacco" as contained in section 301 of the 1938 Act. For the same reasons as apply to the marketing assessment, the interim rule, for the no net cost assessment, treats "tobacco" as used alone and in "imported tobacco" to include all that which is normally considered in the trade to be tobacco. With respect to determining the actual amount of the assessment due for the no net cost assessment from the importer, the rule provides that the domestic assessments which will be used to determine the level of payment will be those of the respective domestic tobacco for the same marketing year in which the importation occurs. That is, for example, if flue-cured tobacco is imported during the 1993–1994 domestic marketing year, then the importer assessment will be the sum of the producer and purchaser no net cost assessment or contribution levels for domestic flue-cured tobacco for such domestic marketing year.

For the 1993–94 domestic burley marketing year the producer assessment is .1585 cent per pound and the purchaser assessment is 2.6585 cents per pound, and with respect to domestic flue-cured tobacco marketed during the 1993–94 marketing year, the producer assessment is .2115 cent per pound and the purchaser assessment is 2.2115 cents per pound. Therefore, the INNCA on burley tobacco imported during the 1993–94 marketing year after December

VOL 58 ISS 245 DEC 23 1993 UMI

VOL 58 ISS 245 DEC 23 1993 UMI

31, 1993, would be 2.817 cents per pound (the sum of .1585 and 2.6585) and the INNCA on flue-cured tobacco imported during the 1993–94 marketing year after December 31, 1993, would be 2.423 cents per pound (the sum of .2115 and 2.2115). Corresponding to the beginning of new marketing years for domestic burley and flue-cured tobacco, the INNCA will likely change on July 1 of each year for imported flue-cured tobacco and on October 1 of each year for imported burley tobacco. The domestic burley and flue-cured assessments are announced annually before the beginning of the applicable marketing year.

The interim regulations provide that each importer of burley or flue-cured tobacco must remit the INNCA to: Director, Tobacco and Peanuts Division, ASCS, USDA, PO Box 2415, Washington, DC 20013–2415 by the tenth calendar day following the date for which such imported tobacco was entered into the commerce of the United States. However, in order to allow for the transition to these new assessments, the remittance of fees for entries during the period January 1 through February 28, 1994, will not be due until March 10, 1994. Each importer who fails to timely remit an INNCA will be subject to a late payment charge and a penalty, in addition to the INNCA. Such late payment shall be calculated and assessed in accordance with 7 CFR part 1403. In order to show proof that an INNCA has been timely and accurately remitted, the importer shall submit a copy of Customs Form 7501 or 7505, or other document that conclusively shows the date of entry of the tobacco into the commerce of the United States. Such documentation, under the interim rule, would be required to accompany Form CCC–100, Importer Entry and Assessment Worksheet, with the remittance of the INNCA.

As indicated, the 1993 Act amendments provide that any importer who fails to remit an INNCA on imported burley or flue-cured tobacco shall be liable, in addition to any late payment or assessment due, for a marketing penalty at a rate equal to 75 percent of the average market price for the respective kind of tobacco as to which such failure occurs for the year preceding the year in which such tobacco was imported. Under the interim rule, such determinations would be made using market prices from the preceding marketing year. The average market prices for the 1992–93 marketing year were $1.815 per pound for burley tobacco and $1.728 per pound for flue-cured tobacco. Accordingly, the per pound penalty rate that would be applicable with respect to the failure of an importer to remit in a timely manner any applicable INNCA on imported burley or flue-cured tobacco that is imported after December 31 of the 1993–94 marketing years for those tobaccos would be $1.361 ($1.815 × .75) for burley tobacco and $1.295 ($1.726 × .75) for flue-cured tobacco. The penalty rates are identical to the marketing quota penalty rates that apply against domestic producers of burley and flue-cured tobacco for marketing excess tobacco (tobacco that exceeds the amount of the producer's quota). The producer penalty rates are published annually by notice in the Federal Register.

3. Importer Records

The interim regulations provide that each importer of tobacco shall maintain records relevant to all unmanufactured tobacco entered into the commerce of the United States. For each entry of such tobacco, the importer shall, consistent with the meanings assigned by Customs to these terms, maintain entry summary data that identifies the Entry Filer Code/Entry Number, Importer of Record Number, Importer of Record Name and Address, Ultimate Consignee Number, Entry Date, District/Port of Entry, Harmonized Tariff Schedule (HTS) Numbers, Quantity (Net Weight in kilograms). The importer shall also maintain data for each such entry of the owner of the tobacco, if different from the Importer of Record, and the amount of the marketing assessment and INNCA remitted. The interim regulations provide that each importer of tobacco shall maintain such records for a period of three years following the date of entry of such tobacco into the commerce of the United States. However, any destruction of records at any time will be at the party's own risk.

4. Refund of Assessments

As a means of monitoring compliance with the importer assessments, the Tobacco and Peanuts Division plans to obtain relevant data from Customs with respect to imported tobacco. The quantities of tobacco identified under Chapter 2401 of the HTS will be compared with the quantity of tobacco on which assessments are paid by the importer. It is not the intent of the CCC that the importer pay assessments on tobacco that is brought into the United States solely for the purpose of processing and subsequent delivery as unmanufactured tobacco to a customer outside the United States. The interim regulations would not exempt such tobacco from the payment of marketing assessments and INNCA, but would allow a refund if the Director determines, upon proof supplied by the importer, that such tobacco has been subsequently processed and re-exported as unmanufactured tobacco by the importer.

5. Miscellaneous

The interim regulations provide, with respect to imported burley and flue-cured tobacco, that separate remittances shall be made for the marketing assessment and the INNCA.

USDA plans to enter into an agreement with Customs for Customs to provide the information applicable for USDA to verify the amount of marketing assessments on any imported tobacco and the INNCA on imported burley and flue-cured tobacco. Further, the interim rule prohibits the marketing, processing or use of tobacco that has entered into the commerce of the United States for which assessment(s) were not remitted by the importer and for which the assessments are required by the statute and interim rule. The rule would allow, if appropriate arrangements could be made, to have the procedure for the collection of assessments changed so as to be made upon entry of the tobacco into the United States. Any such change would be preceded by notice to importers.

List of Subjects in 7 CFR Part 1464

Assessments, Loan programs/agriculture, Price support program, Tobacco, Warehouses.

For the reasons set out in the preamble, 7 CFR part 1464 is amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1 and 1445–2; 15 U.S.C 714b, 714c.

2. Part 1464 is amended by adding subpart B to read as follows:

Subpart B—Importer Assessments

Sec.

1464.101 Definitions.
1464.102 Importer marketing assessments.
1464.103 Importer no net cost assessments.
1464.104 Remittance of importer assessments.
1464.105 Refund of assessments.
1464.106 Marketing penalties.
1464.107 Recordkeeping.
1464.108 Reconsideration and appeal.
Appendix A to part 1464—Importer Entry and Assessment Worksheet.

Subpart B—Importer Assessments

§ 1464.101 Definitions.

(a) *Applicability.* The definitions set forth in this section shall be applicable for purposes of administering the provisions of this subpart.

(b) *Terms.* The following terms shall be defined as set forth in this paragraph.

Customs. The United States Customs Service of the United States Department of the Treasury.

Director. The Director, or Acting Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

Entered. The term used to identify tobacco that has been released by Customs for entry into the commerce of the United States.

Entry date. The date in which the tobacco was released by Customs into the commerce of the United States unless the tobacco entered the United States without such a release.

Imported tobacco. Any unmanufactured tobacco, including Oriental and Turkish tobacco, that was not produced in the United States if such tobacco is considered in accordance with rules of the United States Customs Service to have entered into the commerce of the United States or is otherwise determined to have entered the United States.

Importer. A person who at the time of the entry of imported tobacco into the United States, owns or controls the tobacco.

Person. An individual, partnership, association, corporation, cooperative, estate, trust, joint venture, joint operation, or other business enterprise or other legal entity, and, when applicable, a State, a political subdivision of a State, or any agency thereof.

United States. The 50 States of the United States, the District of Columbia, Puerto Rico, or any Territory or Possession of the United States.

Unmanufactured tobacco. Any tobacco that is not processed and packaged as a consumer tobacco product.

§ 1464.102 Importer marketing assessments.

(a) *General.* The importer of any unmanufactured imported tobacco shall pay a marketing assessment on each pound of such imported tobacco if such tobacco is imported during any of the 1994 through 1998 calendar years.

(b) *Amount of assessment.* The marketing assessment is the amount determined by multiplying the number of pounds of imported tobacco by the sum of the per pound marketing assessments imposed in accordance with § 1464.11 on purchasers of domestically produced burley tobacco and flue-cured tobacco, respectively, for the marketing year for those domestic tobaccos during which such tobacco was imported.

§ 1464.103 Importer no net cost assessments.

(a) *General.* The importer of any unmanufactured imported burley or flue-cured tobacco shall pay a no net cost assessment on each pound of such tobacco that is imported after December 31, 1993.

(b) *Amount of assessment.* The amount of the no net cost assessment which shall apply under this section shall be the amount determined by multiplying:

(1) For imported burley tobacco, the number of pounds of unmanufactured imported burley tobacco by the sum of the per pound no net cost producer contribution or assessment, as applicable, and the per pound purchaser assessment that apply, as determined in accordance with subpart A, for domestic burley tobacco that is marketed during the domestic marketing year during which the imported tobacco was imported.

(2) For imported flue-cured tobacco, the number of pounds of unmanufactured imported flue-cured tobacco by the sum of the per pound no net cost producer contribution or assessment, as applicable, and the per pound purchaser assessment, as determined in accordance with subpart A, for domestic flue-cured tobacco that is marketed during the domestic marketing year during which the imported tobacco was imported.

§ 1464.104 Remittance of importer assessments.

(a) *Where to remit.* Importer assessments shall be remitted to Commodity Credit Corporation, in care of Director, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013–2415.

(b) *When to remit.* (1) Unless the Director, in consultation with other agencies, shall require that the assessments be paid and collected by the United States prior to entry of the tobacco into the commerce of the United States, importer assessments shall be remitted within 10 calendar days after the date on which the imported tobacco is entered.

(2) Notwithstanding the requirement in paragraph (b)(1) of this section, importer assessments shall be remitted not later than March 10, 1994, for tobacco that is entered during the period January 1, 1994, through February 28, 1994.

(c) *Separate remittances.* When burley or flue-cured tobacco have been imported, the applicable importer marketing assessments and importer no net cost assessments shall be remitted by separate remittances.

(d) *Documentation.* Each remittance of an importer assessment shall be accompanied by Form CCC–100, Importer Entry and Assessment Worksheet, and a Customs Form 7501 or Customs Form 7505, or any other documentation that, based on the documentation and codes normally required or used by the United States Customs Service, includes the following with respect to each entry of imported tobacco:

(1) Entry filer code/entry number,
(2) Importer of record number,
(3) Importer of record name and address,
(4) Ultimate consignee number,
(5) Entry date,
(6) District/port of entry,
(7) Harmonized Tariff Schedule Number,
(8) Quantity Entered (net weight in kilograms), and
(9) Amount remitted.

(e) *Late payment charge.* Any importer who fails to timely remit any assessment required by this subpart shall be subject to a late payment charge. Such late payment charge shall be calculated and assessed in accordance with part 1403 of this chapter and shall be in addition to any penalty due or other charge.

§ 1464.105 Refund of assessments.

Assessments that were paid on imported tobacco may be refunded to the importer if the importer establishes to the satisfaction of the Director that the tobacco on which the assessment was made has been re-exported as unmanufactured tobacco.

§ 1464.106 Marketing penalties.

(a) *Failure to remit assessments.* An importer who fails to remit an assessment shall be subject to a marketing penalty.

(1) *Marketing assessments.* If an importer fails to remit a marketing assessment according to the provisions of this subpart, such importer shall be subject to a marketing penalty, in addition to any marketing assessment due and any late payment charges, at a rate equal to 37.5 percent of the sum of the per pound average market prices (calculated to the nearest whole cent) of domestic flue-cured and domestic burley tobacco for the respective domestic marketing year that ends during the calendar year immediately preceding the calendar year during which such tobacco was imported, on the quantity of tobacco as to which the failure occurs.

VOL 58 ISS 245 DE 23 1993 UMI

(2) *Importer no net cost assessment.* If an importer of burley or flue-cured tobacco fails to remit a no net cost assessment in accordance with the provisions in this subpart, such importer shall be liable, in addition to any no net cost assessment due and any late payment charges, to a marketing penalty at a per pound rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of domestic tobacco (burley or flue-cured) for the respective domestic marketing year, in which such imported tobacco was imported, on the quantity of tobacco as to which the failure occurs.

(b) *Exception to marketing penalty.* A marketing penalty otherwise required by this paragraph may be forgiven if the assessment for which nonpayment of the penalty could be assessed is remitted not later than 15 days after the date otherwise required for the remittance by this subpart.

(c) *Notification of marketing penalty.* Before a marketing penalty is assessed, the importer shall be notified of the pending assessment of the penalty and shall be afforded an opportunity for a hearing with respect to the assessment of the penalty. Such notification will be by, and such hearing will be with, the Director.

(d) *Marketing penalty reduction.* The Executive Vice President, CCC, or designee, may reduce the amount of any marketing penalty for which a person otherwise would be liable in accordance with the provisions of this section upon finding that failure to comply was unintentional or without knowledge on the part of such person and such reduction would not damage the tobacco program.

(e) *Prohibition of use, processing or marketing of tobacco for which the assessments have not been paid; Other remedies.* The use, processing, or marketing of tobacco in the commerce of the United States of any tobacco for which an assessment required by this subpart is due, is prohibited. The penalties and other remedies provided in the section shall be in addition to, and not exclusive of, other remedies that may be available.

§ 1464.107 Recordkeeping.

(a) *Retention of records.* Each importer of tobacco shall maintain all records that are relevant to any imported tobacco that is subject to an assessment in accordance with this subpart. Such records shall be retained for a period of three years following the date of entry of such tobacco; however, the destruction of such records shall be at the party's own risk.

(b) *Examination of records and reports.* The Executive Vice President, CCC, the Deputy Vice President, CCC, the Director, or any person authorized by one of such persons, or any auditor or agent of the Office of the Inspector General, is authorized to examine any records that such person has reason to believe are relevant to any matter pertinent to the payment of importer assessments under this subpart. Upon request of an authorized person, each importer shall make available for examination such records as are under such importer's control and that may be relevant to imported tobacco that is subject to an assessment in accordance with this subpart. Upon a failure to provide access or records, the Director shall presume that such an inquiry would have produced information unfavorable to the party to the inquiry and shall make further determinations in the matter accordingly.

§ 1464.108 Reconsideration and appeal.

An importer may request that the Director reconsider any determination of the amount of any assessment due or any marketing penalty assessed in accordance with this subpart. Any request for reconsideration shall be made within 15 calendar days after the date of the notification of such assessment or marketing penalty. If the importer is dissatisfied with a determination rendered by the Director with respect to a request for reconsideration, such importer may appeal the determination to the Director, National Appeals Division. Any appeal shall be handled in accordance with the provisions of 7 CFR part 780.

Appendix A to Part 1464—Importer Entry and Assessment Worksheet

BILLING CODE 3410-05-P

Form Approved - OMB No. 0560-XXXX

PERSONS LEGALLY ... [illegible] ... (See reverse for Privacy Act and Public Burden statements.)

CCC-100 (Prepaid 2)

IMPORTER ENTRY AND ASSESSMENT WORKSHEET
(Unmanufactured Tobacco Entered for Consumption)

1. IMPORTER OF RECORD NAME AND ADDRESS	2. ASSESSMENT RATES (per kg)
1A. CONSIGNEE OF ASSIGNEE (Country Code Required)	Marketing _____
	MING (Flue-Cured) _____
	MING (Burley) _____

3. ENTRY FILER CODE/ ENTRY NO.	4. ENTRY DATE	5. IMPORTER OF RECORD NO.	6. ULTIMATE CONSIGNEE NO.	7. DISTRICT/PORT CODE

8. TYPE(s) OF TOBACCO	9. HTS NUMBER(s)	10. DESCRIPTION OF MERCHANDISE	11. NET QUANTITY (per kg)	12. MARKETING ASSESSMENT AMOUNT	13. MING ASSESSMENT AMOUNT
FLUE-CURED		DRAFT		0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
14. TOTAL NET QUANTITY AND TOTAL ASSESSMENT AMOUNTS REMITTED				0	0
BURLEY		DRAFT		0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
15. TOTAL NET QUANTITY AND TOTAL ASSESSMENT AMOUNTS REMITTED				0	0
OTHER		DRAFT		0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
				0	0
16. TOTAL NET QUANTITY AND TOTAL ASSESSMENT AMOUNT REMITTED				0	0

16. RETURN TO:
United States Department of Agriculture
Agricultural Stabilization and Conservation Service
KCMO/ADD/CMB
P.O. Box 419205
Kansas City, MO 64141-0205

I certify, under penalty of law, that the information in this document is true, correct and complete to the best of my knowledge. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.

17A. SIGNATURE | 17B. TITLE | 17C. DATE

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, sex, marital status, or disability.

VOL 58 ISS 245 DEC 23 1993 UMI

Signed at Washington, DC, on December 16, 1993.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93-31367 Filed 12-22-93; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 264

[INS No. 1606-93; AG Order No. 1815-93]

RIN 1115-AC83

Addition of Provision for the Registration and Fingerprinting of Nonimmigrants Designated by the Attorney General; Removal of the Requirement for the Registration and Fingerprinting of Certain Nonimmigrants Bearing Iraqi and Kuwaiti Travel Documents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule adds the provision for the registration and fingerprinting of certain nonimmigrants of specific countries designated by the Attorney General. It also removes the requirement for the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents who apply for admission to the United States, which was promulgated in response to a specific political situation and is no longer necessary due to changes in the political environment and the decrease in the need to collect this information. This rule is necessary to remove restrictive procedures.

DATES: This interim rule is effective December 23, 1993. Written comments must be submitted on or before January 24, 1994.

ADDRESSES: Please submit written comments in triplicate to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1606-93 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Andrea P. Sickler, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., room 7228, Washington, DC 20536, telephone (202) 514-3275.

SUPPLEMENTARY INFORMATION: On January 16, 1991, a final regulation was published in the **Federal Register** at 56 FR 1566, codified at 8 CFR 264.3, requiring the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents. The requirement was promulgated in response to the United States condemnation of Iraq's invasion of Kuwait, United States sanctions against Iraq, and the theft of thousands of Kuwaiti passports during Iraq's occupation of Kuwait, all of which heightened the potential for domestic anti-United States terrorist activities. Due to the withdrawal of Iraqi forces from Kuwait, and the Government of Kuwait's requirement that all old Kuwaiti passports be replaced with a new version, this requirement is no longer necessary.

However, future political situations which elevate concern for United States's security may again necessitate the registration and fingerprinting of certain nonimmigrants. In order to facilitate the implementation of this procedure, this rule adds the provision that the Attorney General may require, by public notice in the **Federal Register**, certain nonimmigrants of specific countries to be registered and fingerprinted upon arrival in the United States, pursuant to section 263(a)(5) of the Immigration and Nationality Act, 8 U.S.C. 1303(a)(5).

This additional provision is a procedural change which affords the Attorney General more flexibility in responding to specific political situations than was formerly available only through time-consuming changes in the regulation. Elsewhere in this issue of the **Federal Register**, a notice is published requiring certain nonimmigrants from Iraq and the Sudan to be registered and fingerprinted upon arrival in the United States.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based on the foreign affairs exception found at 5 U.S.C. 553(a) and the "good cause" exception found at 5 U.S.C. 553(b)(B) and (d)(3). The reasons and necessity for immediate implementation of this interim rule without prior notice and comment are based on recent terrorist activities perpetrated on United States soil. In response to similar security-related emergencies, it is imperative that the Attorney General have the immediate ability to designate certain nonimmigrants from specific countries as being required to be registered and fingerprinted upon arrival in the United States.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. Insofar as this rule merely effects a limited number of individuals, it will have, at most, a nominal impact on small entities. This rule does not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612 and was reviewed by the Office of Management and Budget pursuant to Executive Order No. 12866.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects in 8 CFR Part 264

Aliens, Reporting and recordkeeping requirements.

Accordingly, part 264 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

1. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301–1305.

2. In § 264.1, paragraphs (f) through (h) are redesignated as paragraphs (g) through (i), and a new paragraph (f) is added to read as follows:

§ 264.1 Registration and fingerprinting.

* * * * *

(f) *Registration and fingerprinting of certain nonimmigrants.* Notwithstanding the provisions included in paragraphs (e)(1) and (e)(2) of this section, the Attorney General may designate, by a comprehensive public notice in the **Federal Register**, that certain nonimmigrants of specific countries are required to be registered and fingerprinted upon arrival in the United States. This requirement shall not apply to those nonimmigrants applying for admission to the United States under section 101(a)(15)(A) or 101(a)(15)(G) of the Immigration and Nationality Act. Those aliens so designated by the Attorney General who apply for admission to the United States shall be registered on Form I-94 (Arrival/Departure Record), and may be fingerprinted on Form FD-258 (Fingerprint Chart), and photographed by the Service at the Port-of-Entry where the aliens apply for admission to the United States.

* * * * *

§ 264.3 [Removed]

3. Section 264.3 is removed.

Dated: December 9, 1993.

Janet Reno,

Attorney General.

[FR Doc. 93-30578 Filed 12-22-93; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-ANE-50; Amendment 39-8771; AD 93-25-05]

Airworthiness Directives; Allison Model 250-C20S Turbine Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Allison Model 250-C20S turbine engines which have been modified per Soloy Conversions, Ltd., Supplemental Type Certificate (STC) SE2352NM, that requires a one-time inspection of the main engine driveshaft and replacement of main driveshaft flex coupling bolts, bushings, and nuts. This amendment is prompted by reports of difficulty in adequately torquing these bolts. The actions specified by this AD are intended to prevent bolt fretting and fatigue failure, main engine driveshaft detachment, and engine failure.

DATES: Effective February 22, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 22, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Soloy Corporation, 450 Pat Kennedy Way, SW., Olympia, WA 98501-7296; telephone (206) 754-7000. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Hania Younis, Aerospace Engineer, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, WA 98055-4056; telephone (206) 227-2764, fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Allison Model 250-C20S turbine engines which have been modified per Soloy Conversions, Ltd., Supplemental Type Certificate (STC) SE2352NM, was published in the **Federal Register** on May 15, 1992 (57 FR 20800). That action proposed to require a one-time inspection of the main engine driveshaft and replacement of the main driveshaft flex coupling bolts, bushings, and nuts in accordance with Soloy Corporation Service Bulletin (SB) 04-780, dated December 11, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

One comment concurs with the rule as proposed.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 65 modified engines of the affected design in the worldwide fleet. The FAA estimates that 24 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per engine to accomplish the required actions, and that the average labor rate is $55 per work hour. The manufacturer has advised the FAA that it will provide all needed replacement parts at no charge. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,960.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-25-05 Allison: Amendment 39-8771. Docket 91-ANE-50.

Applicability: Allison Model 250-C20S turbine engines, as modified by Soloy Conversion, Ltd., Supplemental Type Certificate (STC) SE2352NM, installed on but not limited to Cessna 206 and 207 airplanes.

Compliance: Required as indicated, unless accomplished previously.

To prevent bolt fretting and fatigue failure, main engine driveshaft detachment, and engine failure, accomplish the following:

(a) Within 90 days after the effective date of this AD, inspect the main engine driveshaft and replace the driveshaft flex coupling bolts, bushings, and nuts in accordance with Soloy Corporation Service Bulletin No. 04-780, dated December 11, 1991. Replace with a serviceable part those main engine driveshafts with elongated bolt holes.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Seattle Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

VOL 58 ISS 245 DEC 23 1993 UMI

(d) The inspection, and replacement, if necessary, shall be done in accordance with the following service bulletin:

Document No.	Pages	Revision	Date
Soloy Corp. Service Bulletin No. 04–780.	1–3	Orig.	Dec. 11, 1991

Total Pages: 3.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Soloy Corporation, 450 Pat Kennedy Way, SW., Olympia, WA 98501–7298; telephone (206) 754–7000. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on February 22, 1994.

Issued in Burlington, Massachusetts, on December 8, 1993.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–31117 Filed 12–22–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–NM–214–AD; Amendment 39–8775; AD 93–25–09]

Airworthiness Directives; McDonnell Douglas Model MD–11 and DC–10 Series Airplanes, and Model KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and DC–10 series airplanes, and Model KC–10A (military) airplanes. This action requires functional testing to verify proper installation of the electrical connectors to the engine generator and fire bell shutoff switches, and correction of the installation, if necessary. This amendment is prompted by a report that during pre-delivery testing of a Model MD–11 series airplane, the electrical connectors to the fire extinguishing handles were found to be connected incorrectly (crossed). The actions specified in this AD are intended to prevent the wrong engine-driven generator from being shut down unnecessarily in the event of an engine fire or severe damage to the engine.

DATES: Effective January 7, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 7, 1994. Comments for inclusion in the Rules Docket must be received on or before February 22, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–214–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Raymond Vakili, Aerospace Engineer, Propulsion Branch, ANM–141L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5262; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: Recently, during pre-delivery testing of a McDonnell Douglas Model MD–11 series airplane, the electrical connectors to the engine generator and fire bell shutoff switches were found to be connected incorrectly (crossed). When the fire extinguishing handle on the number 1 engine was pulled, the number 2 engine fuel switch and the "GENERATOR OFF" lights were illuminated on the electrical system control panel, and the "GEN 2 OFF" indicator was displayed on the engine alert display (EAD).

Further investigation revealed that engine and fire bell system wiring was incorrectly installed (crossed). The number 1 connector was on the number 2 switch, the number 2 connector was on the number 3 switch, and the number 3 connector was on the number 1 switch.

This anomaly may render the other two generators inoperable if the airplane were operated with one generator inoperable (as permitted by the Master Minimum Equipment List). Moreover, when the three-step procedure, specified in the FAA-approved airplane flight manual, is executed to shut the engine down, the unaffected engine fuel shutoff switch light will illuminate.

The FAA finds that the likelihood of incorrect (crossed) wiring connections may also exist on Model DC–10 series airplanes and Model KC–10A (military) airplanes due to the similarity in design of the fire extinguishing systems on these airplanes.

This condition, if not corrected, could result in the wrong engine-driven generator from being shut down unnecessarily in the event of an engine fire or severe damage to the engine.

The FAA has reviewed and approved McDonnell Douglas MD–11 Alert Service Bulletin A26–16, dated November 22, 1993, and DC–10/KC–10A Alert Service Bulletin A26–46, dated December 6, 1993, that describe procedures for functional testing to verify proper installation of the electrical connectors to the engine generator and fire bell shutoff switches, and correction of the installation, if necessary.

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 and DC–10 series airplanes, and Model KC–10A (military) airplanes of the same type design, this AD is being issued to prevent the wrong engine-driven generator from being shut down unnecessarily in the event of an engine fire or severe damage to the engine. This AD requires functional testing to verify proper installation of the electrical connectors to the engine generator and fire bell shutoff switches, and correction of the installation, if necessary. The actions are required to be accomplished in accordance with the service bulletins described previously.

This AD also requires that operators submit, to the FAA, a report of their findings of discrepancies as a result of the functional testing.

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–214–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–25–09 McDonnell Douglas: Amendment 39–8775. Docket 93–NM–214–AD.

Applicability: Model MD–11 series airplanes as listed in McDonnell Douglas MD–11 Alert Service Bulletin A26–16, dated November 22, 1993; and Model DC–10 series airplanes and Model KC–10A (military) airplanes as listed in McDonnell Douglas DC–10/KC–10A Alert Service Bulletin A26–46, dated December 6, 1993; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the wrong engine-driven generator from being shut down unnecessarily in the event of an engine fire or severe damage to the engine, accomplish the following:

(a) Perform a functional test to verify proper installation of the electrical connectors to the engine generator and fire bell shutoff switches at the time specified in either paragraph (a)(1) or (a)(2) of this AD, as applicable:

(1) For Model MD–11 series airplanes: Within 30 days after the effective date of this AD, in accordance with the Accomplishment Instructions of McDonnell Douglas MD–11 Alert Service Bulletin A26–16, dated November 22, 1993. Or

(2) For Model DC–10 series airplanes and KC–10A (military) airplanes: Within 60 days after the effective date of this AD, in accordance with the Accomplishment Instructions of McDonnell Douglas DC–10/KC–10A Alert Service Bulletin A26–46, dated December 6, 1993.

(b) If the electrical connectors are found to be properly installed, no further action is required by paragraph (a) of this AD.

(c) If the electrical connectors are found to be improperly installed, prior to further flight, correct the wiring installation and repeat the functional test, in accordance with the Accomplishment Instructions of McDonnell Douglas MD–11 Alert Service Bulletin A26–16, dated November 22, 1993 (for Model MD–11 series airplanes); or McDonnell Douglas DC–10/KC–10A Alert Service Bulletin A26–46, dated December 6, 1993 (for Model DC–10 series airplanes and Model KC–10A (military) airplanes); as applicable.

(d) Prior to further flight following any maintenance performed on the fire extinguishing handle system, repeat the functional test in accordance with the Accomplishment Instructions of McDonnell Douglas MD–11 Alert Service Bulletin A26–16, dated November 22, 1993 (for Model MD–11 series airplanes); or McDonnell Douglas DC–10/KC–10A Alert Service Bulletin A26–46, dated December 6, 1993 (for Model DC–10 series airplanes and Model KC–10A (military) airplanes); as applicable.

(e) Within 10 days after completing the functional tests required by paragraphs (a) and (d) of this AD, submit a report of the findings of discrepancies to the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California 90806–2425; fax (310) 988–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and have been assigned OMB Control Number 2120–0056.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) The functional test shall be done in accordance with McDonnell Douglas MD–11 Alert Service Bulletin A26–16, dated November 22, 1993 (for Model MD–11 series airplanes); or McDonnell Douglas DC–10/KC–10A Alert Service Bulletin A26–46, dated December 6, 1993 (for Model DC–10 series airplanes or KC–10A (military) airplanes); as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Technical Publications—

VOL 58 ISS 245 DEC 23 1993 UMI

Technical Administrative Support, C1–LSB. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on January 7, 1994.

Issued in Renton, Washington, on December 16, 1993.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–31181 Filed 12–22–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–CE–32–AD; Amendment 39–8749; AD 93–23–13]

Airworthiness Directives: Piper Aircraft Corporation PA31 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 93–02–13, which currently requires repetitively inspecting the engine baffle seals on Piper Aircraft Corporation (Piper) PA31 series airplanes, and, if found improperly positioned, either reinforcing these seals or installing thicker material. That AD also allows for the termination of the repetitive inspections if the thicker baffle seal material is installed. Reports show reinforced baffle seals are also becoming improperly positioned. This action retains the baffle seal repetitive inspection requirement, eliminates the reinforcement option, and incorporates other baffle seal installations found to provide an equivalent level of safety. The actions specified by this AD are intended to prevent the high engine operating temperatures associated with improper sealing of these seals to the engine cowling.

DATES: Effective January 21, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 21, 1994.

ADDRESSES: Service information that applies to this AD may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567–4361; or Brown Aircraft Supply, Inc, 4123 Muncy Road, Jacksonville, Florida 32207; Telephone (904) 398–8655, as applicable. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Craft-Lloyd, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3810; Facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Piper PA31 series airplanes was published in the Federal Register on July 28, 1993 (58 FR 40391). The action proposed to supersede AD 93–02–13 with a new AD that would (1) retain the inspection and installation requirements of AD 93–02–13; (2) eliminate the reinforcement option; and (3) incorporate three different Brown Aircraft Supply baffle seal installations into the current AD. The Piper baffle seal installation would continue to be accomplished in accordance with Piper Kit 764 093, dated November 10, 1980. Either of the Brown Aircraft Supply baffle seal installations would be accomplished in accordance with procedures included in Figure 1 of the proposed AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 2,448 airplanes in the U.S. registry will be affected by the required AD, that it will take approximately 1 workhour per airplane to accomplish the inspection, and that the average labor rate is approximately $55 an hour. Since an owner/operator who holds a private pilot certificate as authorized by FAR 43.7 is allowed to accomplish the inspection, the only cost impact upon the public would be the time it takes to accomplish this inspection.

The airplane operator has the option of installing thicker baffle seals and then eliminating the repetitive inspections. The required installation will take approximately 8 workhours to accomplish at an average labor rate of $55 an hour. Piper parts cost approximately $1,568, and Brown Aircraft Supply parts cost approximately $65. The cost difference is due to the Piper parts consisting of a kit that not only includes the baffle seals, but also new baffles. Based on these figures, the cost impact upon any U.S. operator who wishes to accomplish this baffle seal installation will be $2,008 (with Piper parts) per airplane, or $505 (with Brown Aircraft Supply parts) per airplane. The only difference between this AD and AD 93–02–13, which would be superseded by the required action, is the addition of the Brown Aircraft Supply installations. These installations cost less than the other additions, so, if this option is accomplished, this AD will actually cost less than the current inspection-terminating modification specified in AD 93–02–13.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 93–02–13, Amendment 39–8496 (58 FR 7737, February 9, 1993), and by adding the following new airworthiness directive:

93–23–13 Piper Aircraft Corporation: Amendment 39–8749 ; Docket No. 93–CE–32–AD. Supersedes AD 93–02–13, Amendment 39–8496.

Applicability: Model PA31, PA31–300, and PA31–325 airplanes (serial numbers 31–2 through 31–8012089), and Model PA31–350 airplanes (serial numbers 31–5001 through 31–8052199), certificated in any category.

Compliance: Required initially within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 80–20–04, Amendment 39–3925, AD 92–26–02, Amendment 39–8429, or AD 93–02–13, Amendment 39–8496), and thereafter as indicated.

To prevent improper sealing of the baffle seals to the engine cowling, which could result in high engine operating temperatures, accomplish the following:

(a) Visually inspect the engine baffle seals for proper positioning by using a light and looking in air inlets and access doors to ensure that forward seals and lower aft seals are all facing forward and not blown back.

(b) If baffle seals are improperly positioned (blown back), prior to further flight, accomplish one of the following:

(1) Install thicker baffle seals in accordance with the instructions to Piper Kit 764 093, dated November 10, 1980; or

Note 1: Piper Kit 764 093 includes the entire baffle assembly consisting of both baffles and baffle seals. Replacing the baffle seals included in this kit is the only requirement of paragraph (b)(1) or (c)(2) of this AD.

(2) Install baffles of one of the following materials in accordance with Figure 1 of this AD:

(i) Brown Aircraft Supply Engine Baffle Material, part number (P/N) BA71646–1 and BA71646–2, temperature range −40 to 300 degrees Fahrenheit.

(ii) Brown Aircraft Supply, Fiber Reinforced High Temperature Silicone Engine Baffle Material (red), P/N T–95182, temperature range −65 to 550 degrees Fahrenheit; and

(iii) Brown Aircraft Supply, Engine Baffle Material, P/N T–8071, temperature range −40 to 300 degrees Fahrenheit.

Figure 1—Brown Aircraft Supply Baffle Seal Installation Procedures

1. Inspect the existing baffle seals through the front of the cowl to ensure existing seals are of sufficient length to provide at least 1-inch of contact with upper and lower cowls when properly positioned. Mark areas that need lengthening, and note the minimum length needed to meet requirements.

2. Remove the cowls in accordance with the applicable maintenance manual. Remove rivets, wire, and screws, as applicable, that secure baffle seals (fabric) to the engine baffles (metal). Retain any metal strips that are used to secure seals to the engine baffles.

3. Remove existing baffle seals and lay against Brown Aircraft Supply baffle seal material.

4. Cut new seals around the layout, ensuring that seals are lengthened as noted in procedure 1.

5. Reattach new seals to the engine baffles with the original screws, rivets, and wires, as applicable, or new hardware of the same part number.

Note: The front upper cowl baffle seal is most critical, especially at the inboard and outboard corners. If the old material can be removed intact, and the curve can be transferred to the new flat material, then it may not be necessary to slit the material where it curves from vertical to horizontal contact with the cowl. If the curve requires a slit in the material at the corner, then it is recommended that the slit be tied with ty-raps or safety wire to ensure contact with the cowl around the radius.

(c) If baffle seals are properly positioned (not blown back), within the next 50 hours TIS, accomplish one of the following:

(1) Reinspect the engine baffle seals as specified in paragraph (a) of this AD, and continue to reinspect thereafter at intervals not to exceed 50 hours TIS; or

(2) Install thicker baffle seals as specified in either paragraph (b)(1) or (b)(2) of this AD. This installation terminates the inspection requirements of this AD.

(d) The inspections required by this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by FAR 43.7, and must be entered into the aircraft records showing compliance with this AD in accordance with FAR 43.11.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta Aircraft Certification Office.

(g) The installation (using Piper Aircraft Corporation parts) required by this AD shall be done in accordance with Piper Kit 764 093, dated November 10, 1980. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(h) This amendment (39–8749) supersedes AD 93–02–13, Amendment 39–8496.

(i) This amendment (39–8749) becomes effective on Issued in Kansas City, Missouri, on November 22, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–29240 Filed 12–22–93; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 778

[Docket No. 931225–3325]

Guidance; Validated License Requirements Based on Missile or Chemical and Biological Weapons End-Uses; Activities of U.S. Persons

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notification of guidance.

SUMMARY: Certain provisions of the Export Administration Regulations (EAR) require an exporter or U.S. person to submit an individual validated license (IVL) application if the exporter or U.S. person "knows" or is "informed" of certain missile or chemical and biological weapons (CBW) activities. Numerous firms and individuals have asked the Bureau of Export Administration (BXA) for guidance about the scope of these provisions. In response to these inquiries, BXA is issuing the following guidance.

This is an advisory notice only, not a rulemaking action. As such, this notice does not impose new or additional requirements under the EAR.

DATE: This guidance is issued as of December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Marynell DeVaughn, Office of Chief Counsel for Export Administration, Bureau of Export Administration, U.S. Department of Commerce, Telephone: (202) 482–5305.

VOL 58 ISS 245 DEC 23 1993 UMI

SUPPLEMENTARY INFORMATION:

Guidance for Validated License Requirements in Part 778

I. Validated License Requirements in Part 778 of the EAR Based on Missile or Chemical and Biological Weapons End-Uses; Activities of U.S. Persons

A. Sections 778.7(c) and 778.8(c) of the EAR require an exporter to submit an IVL application for an export otherwise eligible for general license treatment when that exporter—

(1) "Knows" that such export "will be used" in the design, development, production, stockpiling, or use of missiles or CBW "in or by a country" listed in Supplements No. 5 or 6 to EAR part 778; or

(2) Is "informed" by BXA that there is "an unacceptable risk of use in or diversion to" the design, development, production, stockpiling, or use of missiles or CBW "anywhere in the world."

B. Under § 778.9 of the EAR, a number of licensing restrictions apply to activities of U.S. persons.

(1) Section 778.9(a) requires a U.S. person to submit an individual validated license application if the U.S. person "knows" that any type of export, reexport, or transfer, irrespective of the origin of the items, "will be used" in the design, development, production, stockpiling, or use of missile or CBW "in or by a country" listed in Supplement Nos. 5 or 6 to part 778. Moreover, no U.S. person may knowingly support any export, reexport, or transfer that does not have a validated license as required by § 778.9(a). Section 778.9(d) defines support to include "any action, including financing, transportation, and freight forwarding, by which a person facilitates an export, reexport, or transfer without being the actual exporter or reexporter."

(2) Section 778.9(b) prohibits a U.S. person from knowingly performing "any contract, service, or employment" that "will assist" in the design, development, production, stockpiling, or use of missiles or CBW in a Supplement 5 or 6 country.

(3) Under § 778.9(e), BXA can "inform" a U.S. person that an individual validated license is required because "an activity could involve the types of participation or support" that are covered by § 778.9.

II. Guidance on the Validated License Requirements Based on Missile or Chemical and Biological End-Uses

(A) Numerous firms and individuals have asked BXA for guidance about the scope of these provisions. In response to these inquiries, BXA is issuing the following guidance:[1]

(1) BXA considers §§ 778.7(c)(1)(ii), 778.8(c)(1), and 778.9(a) as requiring an individual validated license—

- If the exporter or U.S. person knows that a specific export will be directly employed in the design, development, production, stockpiling, or use of missiles or CBW in a country listed in Supplement No. 5 or 6 to part 778.

(2) BXA considers § 778.9(b) as requiring an individual validated license—

- If the U.S. person knows that a specific contract, service, or employment will directly assist in the design, development, production, stockpiling, or use of missiles or CBW in a country listed in Supplement No. 5 or 6 to part 778.

(3) BXA considers §§ 778.7(c)(2) and 778.8(c)(2) as requiring an individual validated license—

- If the exporter is informed by BXA that there is an unacceptable risk that a specific export will be directly employed in the design, development, production, stockpiling or use of missiles or CBW.

(4) BXA considers § 778.9(e) as requiring an individual validated license—

- If the U.S. person is informed by BXA that the specific activities of that person could directly involve the design, development, production, stockpiling, or use of missiles or CBW.

(B) *Status of "is informed" notifications previously issued by BXA.* Exporters and U.S. persons are advised that all "is informed" notifications previously issued by BXA meet the standards described above and remain in full force and effect unless the exporter or U.S. person is specifically notified otherwise.

(C) *Consistency of this guidance with EPCI.* The guidance set forth above is consistent with the objectives of the Enhanced Proliferation Control Initiative (EPCI). The purpose of the EPCI controls is to stem the proliferation of missile and CBW technologies, not to embargo or interfere with legitimate commerce. The items covered by the "know or is informed" licensing requirements are general purpose items that have many benign civil uses. The equipment and technology that is specially designed or modified for missile or CBW applications is already described on the CCL as requiring a validated license, irrespective of end-use. The EPCI "catch-all" control under the "know or is informed" licensing requirements supplement the CCL entries based on the end-use of the export. Similarly, the U.S. person provisions also supplement the existing CCL-based controls. The U.S. person provisions restrict assistance that provides direct missile or CBW expertise through the performance of a contract, service, or employment.

(D) *Consistency of this guidance with terms defined in the EAR.* This guidance is consistent with the use in the regulatory language of specifically defined terms that relate to direct application in missile and CBW activities. Key terms used in the regulations, "missiles" and "design, development, production, or use," have specifically defined meanings.

(1) *Missiles.* The term *missiles* is defined in EAR § 778.7(a)(2) as "rocket systems * * * and unmanned air vehicle systems * * * capable of delivering at least 500 kilograms (kg) payload to a range of at least 300 kilometers (km)." Moreover, the terms "development," "production," and "use" are defined in Supplement No. 3 to part 799 of the EAR, as set forth below. These terms are also utilized in the context of the Missile Technology Control Regime and Australia Group control lists.

(2) *Development.* "Development" is related to all stages prior to "production," such as:

- Design.
- Design research.
- Design analysis.
- Design concepts.
- Assembly and testing of prototypes.
- Pilot production schemes.
- Design data.
- Process of transforming design data into a product.
- Configuration design.
- Integration design.
- Layouts.

(3) *Production.* "Production" means all production stages such as:

- Production engineering.
- Manufacture.
- Integration.
- Assembly (mounting).
- Inspection.
- Testing.
- Quality assurance.

(4) *Use.* "Use" means:

- Operation.
- Installation (including on-site installation).
- Maintenance (checking).
- Repair.
- Overhaul.
- Refurbishing.

(5) *Stockpiling.* "Stockpiling" means:

- A supply of material stored for future use, usually carefully accrued and maintained, i.e., to accumulate a stockpile of a given material.

III. "Know Your Customer" Guidance

Certain provisions in EAR part 778 require an exporter to submit an individual validated license application if the exporter "knows" that an export otherwise eligible for General License is for end-uses involving nuclear, chemical and biological weapons (CBW), or related missile delivery systems, in named destinations listed in the regulations. BXA has issued the following guidance on how individuals and firms should act under this knowledge standard. This guidance does not change or revise the EAR.

(A) *Decide whether there are "red flags."* Take into account any abnormal circumstances in a transaction that, indicate that the export may be destined for an inappropriate end-use, end-user, or destination. Such circumstances are referred to as "red flags." Included among examples of red flags are orders for items that are inconsistent with the needs of the purchaser, a customer declining installation and testing when included in the sales price or when normally requested, or requests for equipment configurations which are incompatible with the stated destination (e.g., 120 volts in a country with 220 volts). Commerce has developed lists of such red flags that are not all-inclusive but are intended to illustrate the types of circumstances that should cause reasonable suspicion that a transaction will violate the EAR.

(B) *If there are "red flags," inquire.* If there are no "red flags" in the information that comes to your firm, you should be able to proceed with a transaction in reliance on information you have received. That is, absent "red flags" (or an express requirement in the EAR), there is no affirmative duty upon exporters to inquire, verify, or otherwise "go behind" the customer's representations. However, when "red flags" are raised in information that comes to your firm, you have a duty to check out the suspicious circumstances and inquire about the end-use, end-user, or ultimate country of destination.

The duty to check out "red flags" is not confined to the use of general licenses affected by the "know" or "reason to know" language in the EAR. Applicants for validated licenses are required by EAR 772.6 to obtain documentary evidence concerning the transaction, and misrepresentation or concealment of material facts is prohibited, both in the licensing process and in all export control documents. You can rely upon representations from your customer and repeat them in the documents you file unless "red flags" oblige you to take verification steps.

(C) *Do not self-blind.* Do not cut off the flow of information that comes to your firm in the normal course of business. For example, do not instruct the sales force to tell potential customers to refrain from discussing the actual end-use, end-user, and ultimate country of destination for the product your firm is seeking to sell. Do not put on blinders that prevent the learning of relevant information. An affirmative policy of steps to avoid "bad" information would not insulate a company from liability, and it would usually be considered an aggravating factor in an enforcement proceeding.

Employees need to know how to handle "red flags." Knowledge possessed by an employee of a company can be imputed to a firm so as to make it liable for a violation. This makes it important for firms to establish clear policies and effective compliance procedures to ensure that such knowledge about transactions can be evaluated by responsible senior officials. Failure to do so could be regarded as a form of self-blinding.

(D) *Reevaluate all the information after the inquiry.* The purpose of this inquiry and reevaluation is to determine whether the "red flags" can be explained or justified. If they can, you may proceed with the transaction. If the "red flags" cannot be explained or justified and you proceed, you run the risk of having had "knowledge" that would make your action a violation of the EAR.

(E) *Refrain from the transaction or disclose the information to BXA and wait.* If you continue to have reasons for concern after your inquiry, then you should either refrain from the transaction or submit all the relevant information to BXA in the form of an application for a validated license, or in such other form as BXA may specify.

Industry has an important role to play in preventing exports and reexports contrary to the national security and foreign policy interests of the United States. BXA will continue to work in partnership with industry to make this front line of defense effective, while minimizing the regulatory burden on exporters. If you have any question about whether you have encountered a "red flag", you may contact the Office of Export Enforcement at 1–800–424–2980 or the Office of Export Licensing at (202) 482–2740.

[1] BXA has previously issued guidance on exporter responsibilities under the "know" standard, including "red flag" indicators illustrating the types of circumstances that should cause reasonable suspicion that a transaction will violate the EAR. This material is set forth in section III to this guidance.

Dated: December 20, 1993.

Sue E. Eckart,

Assistant Secretary for Export Administration.

[FR Doc. 93–31362 Filed 12–22–93; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Employment Standards Administration

20 CFR Parts 10 and 702

Claims; Disclosure of Social Security Numbers Under the Federal Employees' Compensation Act and the Longshore and Harbor Workers' Compensation Act and Related Statutes

AGENCIES: Office of Workers' Compensation Programs, and Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing the Federal Employees' Compensation Act (FECA) and the Longshore and Harbor Workers' Compensation Act (LHWCA) to state that persons must disclose their Social Security Numbers (SSN) whenever they file notices of injury and/or claims for compensation under either the FECA or LHWCA program. This action is taken pursuant to the authority set forth in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994.

EFFECTIVE DATE: January 24, 1994.

FOR FURTHER INFORMATION CONTACT: Shelby Hallmark, Deputy Director, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, room S–3524 Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210; Telephone (202) 219–7503. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Office of Workers' Compensation Programs (OWCP) has been authorized by Congress to require persons who file notices of injury and/or claims for compensation, under either the Federal Employees' Compensation Act (FECA) or the Longshore and Harbor Workers' Compensation Act (LHWCA), to disclose such identifying information, including Social Security account numbers, as may be prescribed. The various kinds of identifying information required, i.e., name, address, place of

VOL 58 ISS 245 DEC 23 1993 UMI

employment, etc., are set forth on the applicable claim forms and are described generally in the implementing regulations. Although the forms had a place for reporting the claimant's SSN, the forms indicated that disclosure was purely voluntary. The enactment of Public Law 103–112 now requires that the SSN be disclosed on the form.

The Department, therefore, is amending the applicable regulations to expressly state that disclosure of the SSN is mandatory. Such disclosure will not adversely affect the claimant in any manner since the information set forth on the forms will be released only in strict compliance with the Privacy Act of 1974. Use of the SSN should, however, be beneficial to the claimant since it will be used to request information for employers and others who have relevant information. The SSN may also be used by the OWCP in conducting computer matches with other benefits and/or payment programs/files. Finally, the OWCP intends to use the claimant's (or survivor's) SSN as a claim file identifier. These procedures should assist the OWCP and its district office personnel in locating files and ensuring that incoming mail (including medical reports) is attached to the correct file without unnecessary delay.

Publication in Final

The Department of Labor has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for waiving public comment on these amendments to the regulations. Such comment is unnecessary because the provisions of Public Law 103–112 makes comment unnecessary since the claimant is required to disclose the SSN.

Classification

The Department has concluded that this rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866.

Paperwork Reduction Act

The information collection requirements of this rule have previously been approved by OMB.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Public Law 96–354, 91 Stat. 1164 (5 U.S.C. 601) do not apply to this rule. In any event, this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

20 CFR Part 10

Claims, Government employees, Workers Compensation.

20 CFR Part 702

Administrative practice and procedure, Claims, Insurance, Longshoremen, and Workers' Compensation.

For the reasons set out in the preamble, part 10 and part 702 of title 20 of the Code of Federal Regulations are amended as set forth below:

PART 10—CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED

1. The authority citation for part 10 is revised to read as follows:

Authority: 5 U.S.C. 301, 8149; Reorganization Plan No. 6 of 1950, 15 FR 3174, 3 CFR, 1949–1953 Comp., p. 1004, 64 Stat. 1263; Secretary's Order 1–93, 58 FR 21190.

2. Section 10.100 is amended by adding a new paragraph (d) as follows:

§ 10.100 How to file a notice of injury or death.

* * * * *

(d) The person submitting a notice under paragraph (a) or (b) of this section shall include the Social Security Number (SSN) of the injured worker. In cases where the worker dies as a result of an on-the-job injury and the notice is submitted under paragraph (c) of this section, the SSN of the person seeking benefits shall be disclosed in addition to the SSN of the deceased worker.

PART 702—ADMINISTRATION AND PROCEDURE

3. The citation of authorities for part 702 is revised to read as follows:

Authority: 5 U.S.C. 301, 8171 *et seq.*; Reorganization Plan No. 6 of 1950, 15 FR 3174, 3 CFR, 1949–1953, Comp. p. 1004, 64 Stat. 1263; 33 U.S.C. 939; 36 D.C. Code 501 *et seq.*; 42 U.S.C. 1651 *et seq.*, 43 U.S.C. 1331; Secretary's Order 1–93, 58 FR 21190.

4. Section 702.202 is revised to read as follows:

§ 702.202 Employer's report; form and contents.

The employer's report of an employee's injury or death shall be in writing and on a form prescribed by the Director for this purpose, and shall contain:

(a) The name, address and business of the employer;

(b) The name, address, occupation and Social Security Number (SSN) of the employee;

(c) The cause, nature, and other relevant circumstances of the injury or death;

(d) The year, month, day, and hour when, and the particular locality where, the injury or death occurred;

(e) Such other information as the Director may require.

(Approved by the Office of Management and Budget under control numbers 1215–0031 and 1215–0063)

5. Section 702.214 is revised to read as follows:

§ 702.214 Notice; form and content.

Notice shall be in writing on a form prescribed by the Director for this purpose; such form shall be made available to the employee or beneficiary by the employer. The notice shall be signed by the person authorized to give notice, and shall contain the name, address and Social Security Number (SSN) of the employee and, in death cases, also the SSN of the person seeking survivor benefits, and a statement of the time, place, nature and cause of the injury or death.

6. Section 702.221 is amended by revising paragraph (a) to read as follows:

§ 702.221 Claims for compensation; time limitations.

(a) Claims for compensation for disability or death shall be in writing and filed with the district director for the compensation district in which the injury or death occurred. The Social Security Number (SSN) of the injured employee and, in cases of death, the SSN of the person seeking survivor benefits shall also be set forth on each claim. Claims may be filed anytime after the seventh day of disability or anytime following the death of the employee. Except as provided below, the right to compensation is barred unless a claim is filed within one year of the injury or death, or (where payment is made without an award) within one year of the date on which the last compensation payment was made.

* * * * *

Signed in Washington, DC, this 17th day of December, 1993.

John R. Fraser,

Acting Assistant Secretary for Employment Standards.

Lawrence W. Rogers,

Director, Office of Workers' Compsenation Programs.

[FR Doc. 93–31369 Filed 12–22–93; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8502]

RIN 1545–AS10

Credit for Employer Social Security Taxes Paid on Employee Tips

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide guidance to employers in determining the credit for employer FICA taxes paid with respect to certain tips received by employees of food and beverage establishments. The temporary regulations clarify that the credit is effective for employer FICA taxes paid after December 31, 1993, with respect to tips received for services performed after December 31, 1993. The temporary regulations also clarify that the credit applies only to taxes paid on tips reported to the employer by its employees.

The text of these temporary regulations also serves as the text of proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Karin Loverud at 202–622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) that provide guidance relating to the credit for employer taxes paid pursuant to the Federal Insurance Contributions Act (FICA) with respect to certain tips received by employees of food and beverage establishments. The credit is described in section 45B of the Internal Revenue Code (Code), which was added by section 13443 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, 107 Stat. 312).

Explanation of Provisions

Section 45B of the Code describes a business tax credit allowable under section 38 for employer FICA taxes paid by food and beverage establishments on tips received by their employees. The credit is equal to the employer's FICA tax obligation attributable to the employee tips. However, the credit is reduced if the nontip wages paid to an employee during a month are less than the amount that would have been payable to the employee at the federal minimum wage rate.

The temporary regulations clarify that the credit is available only for employer FICA taxes paid after December 31, 1993, with respect to tips received for services performed after December 31, 1993.

The temporary regulations also clarify that the credit applies only to taxes paid on tips reported to the employer by its employees. In general, under section 6053(a) and § 31.6053–1, employees who receive tips in any calendar month must report all those tips in a written statement or statements furnished to the employer by the 10th day of the following month. Under section 3121(q), for employment tax purposes, these reported tips are treated as remuneration for employment and are deemed to have been paid by the employer in the same manner as regular wages when the tips are reported. At that point, they are subject to income tax and employee FICA tax withholding, and the employer must make tax deposits, report the tips on the employer's quarterly employment tax return (Form 941), and show the tips in Box 1 (wages) of the employees' Forms W–2.

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Karin Loverud of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.45B–1T is added to read as follows:

§ 1.45B–1T Credit for certain employer social security taxes paid with respect to employee tips (temporary).

(a) *Scope of credit.* Section 45B describes a business tax credit allowable under section 38 for the excess employer social security tax. That term is defined in section 45B(b) and depends in part on the tips received by employees. In determining the excess employer social security tax, only tips received by an employee and reported by the employee to the employee's employer pursuant to section 6053(a) and § 31.6053–1 of this chapter are taken into account.

(b) *Effective date.* Section 45B and this section are effective for taxes paid by an employer under section 3111 after December 31, 1993, with respect to tips received for services performed after December 31, 1993.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 13, 1993.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 93–31011 Filed 12–22–93; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Parts 31 and 602

[TD 8504]

RIN 1545–AS08

Reporting and Deposit of Employment Tax Liabilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to both the reporting and depositing of Federal employment taxes. The final regulations are intended to simplify the current reporting system by removing all "nonpayroll" withheld taxes from reporting on Form 941, Employer's Quarterly Federal Tax Return (or Form 941E, Quarterly Return of Withheld Federal Income Tax and Medicare Tax). The final regulations affect all taxpayers that have "nonpayroll" withheld tax liabilities currently reported quarterly on Form 941 (or 941E).

DATES: These regulations are effective on December 23, 1993.

VOL 58 ISS 245 DEC 23 1993 UMI

These regulations apply to payments made after December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian, telephone (202) 622–6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1413.

The burden for the reporting requirement contained in § 31.6011(a)–4 is reflected in the burden of Form 945.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC. 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On November 4, 1993, the IRS published a notice of proposed rulemaking in the **Federal Register** (58 FR 58820) proposing amendments to the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31) under sections 6011 and 6302 of the Internal Revenue Code.

Written comments responding to the notice were received and a public hearing was held on December 2, 1993. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Explanation of Provisions

Under existing rules, taxpayers use the same form—Form 941 (or Form 941E)—to report both nonpayroll taxes (such as amounts withheld on annuities) and payroll taxes. Reporting both types of taxes on the same form makes it difficult for taxpayers with separate departments for payroll disbursements and for other disbursements to reconcile amounts to be deposited. To eliminate this problem, the final regulations require both the separate reporting and depositing of the two types of taxes.

Under the final regulations, taxes currently reported quarterly on Form 941 will continue to be reported on that form unless they are nonpayroll withheld taxes. Nonpayroll withheld taxes, however, will be reported annually on new Form 945, Annual Return of Withheld Federal Income Tax. The final regulations define nonpayroll withheld taxes as amounts withheld under: (1) Section 3402(q), relating to withholding on certain gambling winnings, (2) section 3402 with respect to amounts paid as retirement pay for service in the Armed Forces of the United States, (3) section 3402(o)(1)(B), relating to withholding on certain annuities, (4) section 3405, relating to withholding on pensions, annuities, IRAs, and certain other deferred income, and (5) section 3406, relating to backup withholding with respect to reportable payments.

A taxpayer will not be required to file its first Form 945 until the first calendar year the taxpayer incurs a nonpayroll tax liability. One commentator suggested that no annual Form 945 be required for any year during which no withholding of nonpayroll taxes occurs. This suggestion is not being adopted at this time because the IRS cannot assume that no tax is due simply because no return has been filed. However, the IRS welcomes and will consider any further comments regarding this suggestion. Accordingly, the final regulations require any taxpayer required to file a Form 945 for one calendar year, to continue filing a Form 945 for each subsequent year, whether or not there is a liability for the subsequent year, until the taxpayer files a final return in accordance with the regulations. Thus, a taxpayer should continue to file the Form 945 and should not file a final return if it is reasonably foreseeable that the taxpayer will have a nonpayroll tax liability in any subsequent calendar year. This annual filing requirement helps preserve the integrity of the tax system for nonpayroll withheld taxes. This is consistent with the requirement that a Form 941 be filed for each quarter, whether or not there is a liability for that quarter.

The final regulations also amend the Federal employment tax deposit rules to reflect the change in reporting. Under the final regulations, taxes reported on Form 945 are deposited separately from taxes reported on Form 941. Form 8109, Federal Tax Deposit Coupon, has been revised to reflect these changes.

Deposits of taxes reported on Form 945 will be made in accordance with rules that generally parallel the existing employment tax deposit regulations. Under the final regulations, deposits of taxes reported on Form 945 are made under either a monthly or a semi-weekly rule. For calendar years 1994 and 1995, a taxpayer's status as a monthly or semi-weekly depositor for taxes reported on Form 945 will generally be the same as the taxpayer's depositor status on January 1, 1994, for taxes reported on Form 941. One commentator suggested that all deposits of nonpayroll withheld taxes be made on a monthly basis. This suggestion was not adopted in order to retain as much consistency as possible in the deposit rules for taxes reported on Form 941 and on Form 945.

Beginning with calendar year 1996, however, a taxpayer's depositor status for taxes reported on Form 945 will be determined annually based on a lookback to the amount of taxes reported on Form 945 for the second preceding calendar year (the lookback period). For example, for calendar year 1996 a taxpayer's depositor status will depend on the amount of taxes reported on Form 945 for calendar year 1994. If the taxpayer reported nonpayroll withheld tax liabilities of $50,000 or less on the Form 945 for the lookback period, the taxpayer is a monthly depositor for the calendar year. If the taxpayer reported nonpayroll withheld tax liabilities in excess of $50,000 on Form 945 for the lookback period, the taxpayer is a semi-weekly depositor for the calendar year. New taxpayers are considered to have a nonpayroll withheld tax liability of zero for any calendar year in which the taxpayer did not exist.

For calendar year 1994 and all subsequent years, if the amount of accumulated nonpayroll withheld taxes equals or exceeds $100,000 for any day within a deposit period (monthly or semi-weekly), the taxpayer is subject to the One-Day rule of § 31.6302–1(c)(3) of the regulations for such amount. A taxpayer that is a monthly depositor when the taxpayer becomes subject to the One-Day rule immediately becomes a semi-weekly depositor for the remainder of that calendar year and for the succeeding calendar year.

Effective Date

The final regulations are effective with respect to payments made after December 31, 1993.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service. However, other personnel from the IRS and Treasury Department have participated in their development.

List of Subjects

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 602 are amended as follows:

Paragraph 1. The authority citation for part 31 is amended by adding entries to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 31.6011(a)–4 also issued under 26 U.S.C. 6011. * * *
Section 31.6302–4 also issued under 26 U.S.C. 6302 (a) and (c). * * *

Par. 2. Section 31.6011(a)–4 is amended as follows:

1. The heading for § 31.6011(a)–4 is revised.
2. The heading for paragraph (a) is revised.
3. Headings are added for paragraphs (a) (1) through (3).
4. The text of paragraph (a)(1) is revised.
5. Paragraph (b) is redesignated as paragraph (c).
6. New paragraph (b) is added.
7. The revised and added provisions read as follows:

§ 31.6011(a)–4 Returns of income tax withheld.

(a) *Withheld from wages*—(1) *In general.* Except as otherwise provided in paragraphs (a)(3) and (b) of this section, and in § 31.6011(a)–5, every person required to make a return of income tax withheld from wages pursuant to section 3402 shall make a return for the first calendar quarter in which the person is required to deduct and withhold such tax and for each subsequent calendar quarter, whether or not wages are paid therein, until the person has filed a final return in accordance with § 31.6011(a)–6. Except as otherwise provided in paragraphs (a)(2) and (3) and (b) of this section, and in § 31.6011(a)–8, Form 941 is the form prescribed for making the return required under this paragraph.

(2) *Wages paid for domestic service.* * * *

(3) *Wages paid for agricultural labor.* * * *

(b) *Withheld from nonpayroll payments.* Every person required to make a return of income tax withheld from nonpayroll payments for calendar year 1994 shall make a return for calendar year 1994 and for each subsequent calendar year (whether or not any such tax is required to be withheld therein) until a final return is made in accordance with § 31.6011(a)–6. Every person not required to make a return of income tax withheld from nonpayroll payments for calendar year 1994 shall make a return for the first calendar year thereafter in which the person is required to withhold such tax and for each subsequent calendar year until a final return is made in accordance with § 31.6011(a)–6. Form 945, Annual Return of Withheld Federal Income Tax, is the form prescribed for making the return required under this paragraph (b). Nonpayroll payments are—

(1) Certain gambling winnings subject to withholding under section 3402(q);

(2) Retirement pay for service in the Armed Forces of the United States subject to withholding under section 3402;

(3) Certain annuities as described in section 3402(o)(1)(B);

(4) Pensions, annuities, IRAs, and certain other deferred income subject to withholding under section 3405; and

(5) Reportable payments subject to backup withholding under section 3406.

* * * * *

Par. 3. The heading for paragraph (a) of § 31.6071(a)–1 is revised to read as set forth below.

§ 31.6071(a)–1 Time for filing returns and other documents.

(a) *Federal Insurance Contributions Act and income tax withheld from wages and from nonpayroll payments*— * * *

* * * * *

Par. 4. Section 31.6302–1 is amended as follows:

1. Paragraphs (e)(1) (iii) and (iv) are revised.
2. The last sentence of paragraph (e)(2) is revised.
3. The revisions read as follows:

§ 31.6302–1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

* * * * *

(e) * * *

(1) * * *

(iii) The income tax withheld under sections 3402 and 3405, except income tax withheld with respect to payments made after December 31, 1993, on the following—

(A) Certain gambling winnings under section 3402(q);

(B) Retirement pay for service in the Armed Forces of the United States under section 3402;

(C) Certain annuities described in section 3402(o)(1)(B); and

(D) Pensions, annuities, IRAs, and certain other deferred income under section 3405; and

(iv) The income tax withheld under section 3406, relating to backup withholding with respect to reportable payments made before January 1, 1994.

(2) * * * Also, see § 31.6302–3 concerning a taxpayer's option with respect to payments made before January 1, 1994, to treat backup withholding amounts under section 3406 separately.

* * * * *

Par. 5. In § 31.6302–3, paragraph (b) is revised to read as follows:

§ 31.6302–3 Federal tax deposit rules for amounts withheld under the backup withholding requirements of section 3406 for payments made after December 31, 1992, and before January 1, 1994.

* * * * *

(b) *Treatment of backup withholding amounts separately.* A taxpayer that withholds income tax under section 3406 with respect to reportable payments made after December 31, 1992, and before January 1, 1994, may, in accordance with the instructions provided with Form 941, deposit such tax under the rules of § 31.6302–1 without taking into account the other taxes described in paragraph (e) of § 31.6302–1 for purposes of determining when tax withheld under section 3406 must be deposited. A taxpayer that treats backup withholding amounts separately with respect to reportable payments made after December 31, 1992, and before January 1, 1994, shall not take tax withheld under section 3406 into account for purposes of determining when the other taxes described in paragraph (e) of § 31.6302–1 must otherwise be deposited under that section. See § 31.6302–4 for rules regarding the deposit of income tax withheld under section 3406 with

VOL 58 ISS 245 DEC 23 1993 UMI

respect to reportable payments made after December 31, 1993.

* * * * *

Par. 6. Section 31.6302–4 is added to read as follows:

§ 31.6302–4 Federal tax deposit rules for withheld income taxes attributable to nonpayroll payments made after December 31, 1993.

(a) *General rule.* With respect to nonpayroll withheld taxes attributable to nonpayroll payments made after December 31, 1993, a taxpayer is either a monthly or a semi-weekly depositor based on an annual determination. Except as provided in this section, the rules of § 31.6302–1 shall apply to determine the time and manner of making deposits of nonpayroll withheld taxes as though they were employment taxes. Paragraph (b) of this section defines nonpayroll withheld taxes. Paragraph (c) of this section provides rules for determining whether a taxpayer is a monthly or a semi-weekly depositor.

(b) *Nonpayroll withheld taxes defined.* For purposes of this section, effective with respect to payments made after December 31, 1993, *nonpayroll withheld taxes* means—

(1) Amounts withheld under section 3402(q), relating to withholding on certain gambling winnings;

(2) Amounts withheld under section 3402 with respect to amounts paid as retirement pay for service in the Armed Forces of the United States;

(3) Amounts withheld under section 3402(o)(1)(B), relating to certain annuities;

(4) Amounts withheld under section 3405, relating to withholding on pensions, annuities, IRAs, and certain other deferred income; and

(5) Amounts withheld under section 3406, relating to backup withholding with respect to reportable payments.

(c) *Determination of deposit status—*(1) *Rules for calendar years 1994 and 1995.* On January 1, 1994, a taxpayer's depositor status for nonpayroll withheld taxes is the same as the taxpayer's status on January 1, 1994, for taxes reported on Form 941 under § 31.6302–1. A taxpayer generally retains that depositor status for nonpayroll withheld taxes for all of calendar years 1994 and 1995. However, a taxpayer that under this paragraph (c) is a monthly depositor for 1994 and 1995 will immediately lose that status and become a semi-weekly depositor of nonpayroll withheld taxes if the One-Day rule of § 31.6302–1(c)(3) is triggered with respect to nonpayroll withheld taxes. See paragraph (d) of this section for a special rule regarding the application of the One-Day rule of § 31.6302–1(c)(3) to nonpayroll withheld taxes.

(2) *Rules for calendar years after 1995.*—(i) *In general.* For calendar years after 1995, the determination of whether a taxpayer is a monthly or a semi-weekly depositor for a calendar year is based on an annual determination and generally depends on the aggregate amount of nonpayroll withheld taxes reported by the taxpayer for the lookback period as defined in paragraph (c)(2)(iv) of this section.

(ii) *Monthly depositor.* A taxpayer is a monthly depositor of nonpayroll withheld taxes for a calendar year if the amount of nonpayroll withheld taxes accumulated in the lookback period (as defined in paragraph (c)(2)(iv) of this section) is $50,000 or less. A taxpayer ceases to be a monthly depositor of nonpayroll withheld taxes on the first day after the taxpayer is subject to the One-Day rule in § 31.6302–1(c)(3) with respect to nonpayroll withheld taxes. At that time, the taxpayer immediately becomes a semi-weekly depositor of nonpayroll withheld taxes for the remainder of the calendar year and the succeeding calendar year. See paragraph (d) of this section for a special rule regarding the application of the One-Day rule of § 31.6302–1(c)(3) to nonpayroll withheld taxes.

(iii) *Semi-weekly depositor.* A taxpayer is a semi-weekly depositor of nonpayroll withheld taxes for a calendar year if the amount of nonpayroll withheld taxes accumulated in the lookback period (as defined in paragraph (c)(2)(iv) of this section) exceeds $50,000.

(iv) *Lookback period.* For purposes of this section, the lookback period for nonpayroll withheld taxes is the second calendar year preceding the current calendar year. For example, the lookback period for calendar year 1996 is calendar year 1994. A new taxpayer is treated as having nonpayroll withheld taxes of zero for any calendar year in which the taxpayer did not exist.

(d) *Special rules.* A taxpayer must treat nonpayroll withheld taxes, which are reported on Form 945, Annual Return of Withheld Federal Income Tax, separately from taxes reportable on Form 941, Employer's Quarterly Federal Tax Return. Taxes reported on Form 945 and taxes reported on Form 941 are not combined for purposes of determining whether a deposit of either is due, whether the One-Day rule of § 31.6302–1(c)(3) applies, or whether any safe harbor is applicable. In addition, separate Federal tax deposit coupons must be used to deposit taxes reported on Form 945 and taxes reported on Form 941. (See paragraph (b) of § 31.6302–1 for rules for determining an employer's deposit status for taxes reported on Form 941.) A deposit of taxes reported on Form 945 for one calendar year must be made separately from a deposit of taxes reported on Form 945 for another calendar year.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 7. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 8. Section 602.101(c) is amended by revising the entry for § 31.6011(a)–4 and adding entries in numerical order in the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	*
31.6011(a)–4	1545–0034 1545–0035 1545–0718 1545–1413
* * * * *	*
31.6302–1	1545–1413
31.6302–2	1545–1413
31.6302–3	1545–1413
31.6302–4	1545–1413
* * * * *	*

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 13, 1993.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 93–31159 Filed 12–22–93; 8:45 am]
BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO18–1–6177; FRL–4815–3]

Clean Air Act Approval and Promulgation of PM–10 Implementation Plan for Colorado; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, the EPA is approving the State implementation plan (SIP) submitted by the State of Colorado for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The SIP was submitted by the State on April 9, 1992 to satisfy certain federal requirements for an approvable nonattainment area PM–10 SIP for Canon City, Colorado.

In addition, EPA is amending the nonattainment area boundary for the Canon City nonattainment area to include some of the suburbs of Canon City. The revised boundary is based on information submitted with the SIP which provided a SIP equivalent demonstration showing that the revised boundary more accurately represents the Canon City airshed.

EFFECTIVE DATE: This rule will become effective on January 24, 1994.

ADDRESSES: Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2405;

Air Pollution Control Division, Colorado Department of Health, 4300 Cherry Creek Drive South, Denver, Colorado 80222–1530.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART–AP, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466, (303) 293–1765.

SUPPLEMENTARY INFORMATION:

Background

Canon City, Colorado was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (Act) upon enactment of the Clean Air Act Amendments of 1990.[1] (See 56 FR 56694, November 6, 1991; 40 CFR 81.306 (specifying nonattainment designation for Canon City).) The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of title I of the Act. The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in this final action and the supporting rationale.

Those States containing initial moderate PM–10 nonattainment areas (i.e., those areas designated nonattainment for PM–10 under section 107(d)(4)(B) of the Act) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions were due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Revisions to satisfy these requirements were submitted by the State on January 14, 1993, and EPA will be taking action on these requirements in a separate **Federal Register** notice. Such States also were required to submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline. (See section 172(c)(9) of the Act and 57 FR 13543–13544.) On November 12, 1993, the State adopted PM–10 contingency measures for Canon City. EPA will also be taking action on these measures in a separate **Federal Register** notice.

On September 21, 1993, EPA announced its proposed approval of the Canon City, Colorado moderate PM–10 nonattainment area SIP as meeting those moderate PM–10 nonattainment area SIP requirements due on November 15, 1991 (see 58 FR 49001–49005). In that proposed rulemaking action and related Technical Support Document (TSD), EPA described in detail its interpretations of title I and its rationale for proposing to approve the Canon City moderate nonattainment area PM–10 SIP, taking into consideration the specific factual issues presented. Also in that action, EPA proposed to amend the boundary of the Canon City PM–10 nonattainment area to include some of the suburban area of Canon City, based on information submitted by the State that provided a demonstration that the revised boundary more accurately represented the Canon City airshed. EPA requested public comments on all aspects of the proposed rulemaking pertaining to Canon City (see 58 FR 49005). No comments were received on the proposed rulemaking.

Final Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). On April 9, 1992, the Governor of Colorado submitted a revision to the SIP which was intended to satisfy those moderate PM–10 nonattainment area SIP requirements due for Canon City on November 15, 1991. As described in EPA's proposed approval of this SIP submittal, the Canon City moderate PM–10 nonattainment area plan includes (among other things): (1) A comprehensive and accurate emissions inventory; (2) an explanation that the implementation of potentially available control measures are not reasonably required for attainment and maintenance of the PM–10 NAAQS in Canon City, thus satisfying the RACM (including RACT) and quantitative milestone/RFP requirements; (3) a demonstration (including air quality modeling) that attainment of the PM–10 NAAQS will continue to be achieved in Canon City by December 31, 1994; and (4) enforceability documentation (see 58 FR 49001–49005, September 21, 1993). Further, EPA proposed to determine that major stationary sources of precursors of PM–10 do not contribute

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, et seq.

VOL 58 ISS 245 DEC 23 1993 UMI

significantly to PM–10 levels in excess of the NAAQS in Canon City.[2] Lastly, EPA proposed to amend the Canon City moderate PM–10 nonattainment area boundary to include some of the additional suburban area of Canon City based on a SIP equivalent demonstration submitted by the State which showed that the revised boundary more accurately represents the Canon City airshed. Please refer to EPA's notice of proposed rulemaking (58 FR 49001) and the TSD for a more detailed discussion of these elements of the Canon City plan.

In this final rulemaking, EPA announces its approval of those elements of the Canon City, Colorado moderate PM–10 nonattainment area SIP submittal that were due on November 15, 1991 and submitted on April 9, 1992. EPA believes the State has adequately met all of the moderate PM–10 nonattainment area requirements for the Canon City PM–10 nonattainment area which were due November 15, 1991 and submitted by the State on April 9, 1992.

EPA is also announcing its determination that major stationary sources of precursors of PM–10 do not contribute significantly to PM–10 levels in excess of the NAAQS in Canon City.

Lastly, EPA announces that the Canon City moderate PM–10 nonattainment area description specified in 40 CFR 81.306 is replaced with the following boundary description:

Township 18S—Range 70W

All of sections 21, 22, 27, 28, 33, and 34; the E½, NENW, NESW, SENW, SESW quarters of sections 20, 29, 32; and the W½ of sections 23, 26, and 35;

Township 19S—Range 70W

All of sections 3, 4, 9, 10; E½, NENW, NESW, SENW, SESW quarters of sections 5 and 8; W½ of sections 2 and 11.

[2] The consequences of this finding are to exclude these sources from the applicability of PM–10 nonattainment area control requirements. Note that EPA's finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of PM–10 precursors in the area.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for a revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action makes final the action proposed on September 21, 1993 (58 FR 49001). As noted elsewhere in this notice, EPA received no public comments on the proposed action. As a direct result, the Regional Administrator has reclassified this action from Table 1 to Table 3 under the processing procedures established at 54 FR 2214, January 19, 1989.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. The U.S. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on U.S. EPA's request. This request continues in effect under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 22, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: December 10, 1993.

Jack W. McGraw,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart G—Colorado

2. Section 52.332 is added to read as follows:

§ 52.332 Moderate PM–10 nonattainment area plans.

On April 9, 1992, the Governor of Colorado submitted the moderate PM–10 nonattainment area plan for the Canon City area. The submittal was made to satisfy those moderate PM–10 nonattainment area SIP requirements which were due for Canon City on November 15, 1991.

PART 81—[AMENDED]

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7410–7671q.

4. In § 81.306, the PM–10 Nonattainment Areas table is amended by revising the entry for "Canon City" to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—PM–10 NONATTAINMENT AREAS

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * * *	*		*	*
Fremont County				
Canon City Area	11/15/90	Nonattainment.	11/15/90	Moderate.
Township 18S—Range 70W: All of sections 21, 22, 27, 28, 33, and 34; the E½, NENW, NESW, SENW, SESW quarters of sections 20, 29, 32; and the W½ of sections 23, 26, and 35; Township 19S—Range 70W: All of sections 3, 4, 9, 10; E½, NENW, NESW, SENW, SESW quarters of sections 5 and 8; W½ of sections 2 and 11.				
* * * *	*		*	*

* * * * * *

[FR Doc. 93–31293 Filed 12–22–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Mitigation Directorate, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

The modified base (100-year) flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Directorate has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR,

VOL 58 ISS 245 DEC 23 1993 UMI

1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Benton (FEMA Docket No. 7072).	City of Rogers	June 3, 1993, June 10, 1993, Northwest Arkansas Morning News.	The Honorable John W. Sampier, Jr., Mayor, City of Rogers, 300 West Poplar, Rogers, Arkansas 72255.	May 19, 1993	050013
Arkansas: White (FEMA Docket No. 7067).	City of Searcy	Apr. 21, 1993, Apr. 28, 1993, The Daily Citizen.	The Honorable David Evans, Mayor, City of Searcy, 300 West Arch Avenue, Searcy, Arkansas 72143.	Apr. 7, 1993	050229
California: Sacramento (FEMA Docket No. 7072).	Unincorporated areas	June 23, 1993, June 30, 1993, Sacramento Bee.	Mr. Douglas M. Fraleigh, Director, Sacramento County Department of Public Works, 827 Seventh Street, room 301, Sacramento, California 95814.	June 8, 1993	060262
California: Tulare (FEMA Docket No. 7069).	Unincorporated areas	June 11, 1993, June 18, 1993, Visalia Times Delta.	Mr. Charles Harness, Chairman, Tulare County Board of Supervisors, Administration Building, Visalia, California 93291.	May 19, 1993	065066
Kansas: Sedgwick (FEMA Docket No. 7069).	Unincorporated areas	May 27, 1993, June 3, 1993, Wichita Eagle.	The Honorable Mark F. Schroeder, Chairman, County Commissioners, Sedgwick County, 1250 South Seneca, Wichita, Kansas 67213–4498.	May 5, 1993	200321
Kansas: Sedgwick (FEMA Docket No. 7069).	City of Wichita	May 7, 1993, May 14, 1993, The Daily Reporter.	The Honorable Elma Broadfoot, Mayor, City of Wichita, City Hall, 1st Floor, 455 North Main Street, Wichita, Kansas 67202.	Apr. 22, 1993	200328
Oklahoma: Cleveland (FEMA Docket No. 7072).	City of Norman	June 29, 1993, July 6, 1993, The Norman Transcript.	The Honorable Bill Nations, Mayor, City of Norman, P.O. Box 370, Norman, Oklahoma 73070.	June 8, 1993	400046
Oregon: Douglas (FEMA Docket No. 7072).	City of Roseburg	June 23, 1993, June 30, 1993, The News-Review.	The Honorable Jeri Kimmel, Mayor, City of Roseburg, 900 SE. Douglas Avenue, Roseburg, Oregon 97470.	June 8, 1993	410067
Texas: Collin (FEMA Docket No. 7067).	City of Plano	Apr. 21, 1993, Apr. 28, 1993, Dallas Morning News.	The Honorable James Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086.	Apr. 2, 1993	480140
Texas: Collin (FEMA Docket No. 7067).	City of Plano	Apr. 23, 1993, Apr. 30, 1993, Dallas Morning News.	The Honorable James Muns Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086.	Mar. 22, 1993	480140

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Denton (FEMA Docket No. 7074).	City of Denton	July 22, 1993, July 29, 1993, Denton Record Chronicle.	The Honorable Bob Castleberry, Mayor, City of Denton, 215 East McKinney Street, Denton, Texas 76201.	July 8, 1993	480194
Texas: El Paso (FEMA Docket No. 7069).	City of El Paso	May 27, 1993, June 3, 1993, El Paso Times.	The Honorable William S. Tilney, Mayor, City of El Paso, No. 2 Civic Center Plaza, El Paso, Texas 79901.	Apr. 28, 1993	480214
Texas: El Paso (FEMA Docket No. 7072).	City of El Paso	June 16, 1993, June 23, 1993, El Paso Sun Times.	The Honorable William S. Tilney, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901.	May 12, 1993	480214
Texas: Harris (FEMA Docket No. 7076).	City of Houston	July 22, 1993, July 29, 1993, The Houston Post.	The Honorable Bob Lanier, Mayor, City of Houston, P.O. Box 1562, Houston, Texas 77251.	June 28, 1993	480296
Texas: Tarrant (FEMA Docket No. 7072).	City of Arlington	June 3, 1993, June 10, 1993, Fort Worth Star Telegram.	The Honorable Richard Greene, Mayor, City of Arlington, 101 West Abram Street, P.O. Box 231, Arlington, Texas 76004–0231.	May 20, 1993	485454
Texas: Tarrant (FEMA Docket No. 7074).	City of Colleyville	July 22, 1993, July 29, 1993, Colleyville News and Times.	The Honorable Richard Newton, Mayor, City of Colleyville, P.O. Box 185, Colleyville, Texas 76034.	June 23, 1993	480590
Texas: Tarrant (FEMA Docket No. 7067).	City of Fort Worth	Apr. 2, 1993, Apr. 8, 1993, Fort Worth Star Telegram.	The Honorable Kay Granger, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102.	Mar. 24, 1993	480596
Texas: Tarrant (FEMA Docket No. 7074).	City of Fort Worth	July 23, 1993, July 29, 1993, Fort Worth Star Telegram.	The Honorable Kay Granger, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102.	July 16, 1993	480596
Texas: Tarrant (FEMA Docket No. 7072).	City of North Richland Hills.	June 10, 1993, June 17, 1993, Mid-Cities News.	The Honorable Tommy Brown, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	May 18, 1993	480607

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93–31263 Filed 12–22–93; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 65

[Docket No. FEMA–7079]

Changes in Flood Elevation Determinations

AGENCY: Mitigation Directorate, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a

VOL 58 ISS 245 DEC 23 1993 UMI

newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Administrator reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Directorate has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Pinellas	City of St. Petersburg	Sept. 28, 1993, Oct. 5, 1993, St. Petersburg Times.	The Honorable David J. Fischer, Mayor of the City of St. Petersburg, P.O. Box 2842, St. Petersburg, Florida 33731.	Sept. 14, 1993	125148 C
Georgia: Richmond	City of Augusta	Oct. 8, 1993, Oct. 15, 1993, The Augusta Chronicle.	The Honorable Charles A. DeVaney, Mayor of the City of Augusta, City-County Municipal Building, 530 Greene Street, Augusta, Georgia 30911.	Oct. 1, 1993	130159 C
Georgia: Richmond	Unincorporated areas	Oct. 8, 1993, Oct. 15, 1993, The Augusta Chronicle.	Mr. Hobson Chavous, Chairman of the Richmond County Board of Commissioners, City-County Municipal Building, 530 Greene Street, room 605, Augusta, Georgia 30911.	Oct. 1, 1993	130158 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Illinois: DuPage	Village of Carol Stream	Sept. 30, 1993, Oct. 7, 1993, Carol Stream Press.	Mr. Ross Ferraro, President of the Village of Carol Stream, 500 N. Gary Avenue, Carol Stream, Illinois 60188–1899.	Sept. 17, 1993	170202 C
Illinois: DuPage and Will.	City of Naperville	Oct. 27, 1993, Nov. 3, 1993, The Naperville Sun.	The Honorable Samuel T. Macrane, Mayor of the City of Naperville, 400 South Eagle Street, Naperville, Illinois 60566–7020.	Oct. 20, 1993	170213 C
Illinois: DuPage	Village of Woodridge	Oct. 14, 1993, Oct. 21, 1993, The Woodridge Progress.	The Honorable William Murphy, Mayor of the Village of Woodridge, 1900 West 75th Street, Woodridge, Illinois 60517.	Sept. 30, 1993	170137 B
New York: Onondaga	Town of Cicero	Sept. 17, 1993, Sept. 24, 1993, The Post-Standard.	Mr. Leonard L. Brown, Supervisor for the Town of Cicero, Town Hall, 8236 South Main Street, Cicero, New York 13039.	Sept. 9, 1993	360572 C
Ohio: Cuyahoga	Village of Mayfield	Sept. 27, 1993, Oct. 4, 1993, The News-Herald.	The Honorable Bruce Rinker, Mayor of the Village of Mayfield, 6621 Wilson Mills Road, Mayfield, Ohio 44143.	Sept. 14, 1993	390116 D
Ohio: Franklin	City of Hilliard	Oct. 20, 1993, Oct. 27, 1993, Hilliard Northwest News.	The Honorable Roger A. Reynolds, Mayor of the City of Hilliard, 3800 Municipal Square, Hilliard, Ohio 43026.	Oct. 12, 1993	390175 C
South Carolina: Aiken	Unincorporated areas	Oct. 8, 1993, Oct. 15, 1993, The Aiken Standard.	Mr. William Shepherd, Aiken County Administrator, 828 Richland Avenue, Aiken, South Carolina 29801.	Oct. 1, 1993	450002 B
Wisconsin: Washington County.	Unincorporated areas	Sept. 13, 1993, Sept. 20, 1993, West Bend Daily News.	Mr. Ruben J. Schmahl, Chairman of the Washington County Board of Supervisors, 432 East Washington Street, West Bend, Wisconsin 53095.	Sept. 7, 1993	550471 B

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93–31281 Filed 12–22–93; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Mitigation Directorate, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazards Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

The modified base (100-year) flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Directorate has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Seminole (FEMA Docket No. 7067).	Unincorporated areas ..	Apr. 28, 1993, May 5, 1993, Sanford Herald.	Mr. Ron H. Rabun, Seminole County Manager, 274 Bush Boulevard, Sanford, Florida 32773.	Apr. 15, 1993	120289 B
Pennsylvania: Franklin (FEMA Docket No. 7069).	Township of Greene	May 21, 1993, May 28, 1993, Public Opinion.	Mr. Richard P. Kramer, Chairman of the Township of Greene Board of Supervisors, P.O. Box 215, Scotland, Pennsylvania 17254.	May 10, 1993	421649 B

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93–31260 Filed 12–22–93; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 65

[Docket No. FEMA–7080]

Changes in Flood Elevation Determinations

AGENCY: Mitigation Directorate, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Administrator reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the chief executive officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Directorate has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Kansas: Sedgwick	Unincorporated areas ..	Oct. 22, 1993, Oct. 29, 1993, The Wichita Eagle.	The Honorable Mark F. Schroeder, Chairperson, County Commissioners, Sedgwick County, 1250 South Seneca Street, Wichita, Kansas 67213.	Oct. 8, 1993	200321
Kansas: Sedgwick	City of Wichita	Oct. 22, 1993, Oct. 29, 1993, The Wichita Eagle.	The Honorable Frank Ojile, Mayor, City of Wichita, City Hall, First Floor, 455 North Main Street, Wichita, Kansas 67202.	Oct. 8, 1993	200328
Louisiana: East Baton Rouge Parish.	East Baton Rouge Parish.	Oct. 8, 1993, Oct. 14, 1993, The Advocate.	The Honorable Tom Ed McHugh, Mayor, City of Baton Rouge, East Baton Rouge, Parish, P.O. Box 1471, Baton Rouge, Louisiana 70821.	Sept. 16, 1993	220058

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Collin	City of Plano	Oct. 22, 1993, Oct. 29, 1993, The Dallas Morning News.	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086.	Oct. 1, 1993	480140
Texas: Denton	City of Denton	Sept. 9, 1993, Sept. 16, 1993, Denton Record Chronicle.	The Honorable Bob Castleberry, Mayor, City of Denton, 215 East McKinney, Denton, Texas 76201.	Sept. 2, 1993	480194
Texas: Tarrant	City of Arlington	Sept. 10, 1993, Sept. 16, 1993, Fort Worth Star Telegram.	The Honorable Richard Greene, Mayor, City of Arlington, 101 West Abram Street, Box 231, Arlington, Texas 76004.	Aug. 27, 1993	485454
Texas: Tarrant	City of Bedford	Sept. 2, 1993, Sept. 9, 1993, Mid-Cities News.	The Honorable Rick Barton, Mayor, City of Bedford, P.O. Box 157, Bedford, Texas 76095–0157.	Aug. 11, 1993	480585
Texas: Tarrant	City of Fort Worth	Oct. 1, 1993, Oct. 7, 1993, Fort Worth Star Telegram.	The Honorable Kay Granger, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102.	Sept. 16, 1993	480596
Texas: Tarrant	City of Grapevine	Sept. 24, 1993, Sept. 30, 1993, Fort Worth Star Telegram.	The Honorable William D. Tate, Mayor, City of Grapevine, P.O. Box 95104, Grapevine, Texas 76051.	Aug. 20, 1993	480598

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93–31265 Filed 12–22–93; 8:45 am]

BILLING CODE 6718–05–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Mitigation Directorate, FEMA.

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations and modified base (100-year) flood elevations are made final for the communities listed below.

The base (100-year) flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the final determinations of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Directorate has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARIZONA	
Navajo County (unincorporated areas) (FEMA Docket No. 7070)	
Silver Creek:	
Approximately 180 feet downstream of the northern corporate limits of the Town of Snowflake	*5,582
At the northern corporate limits of the Town of Snowflake	*5,593
Approximately 1,000 feet downstream of Hoyt Road	*5,599
At the southern corporate limits of the Town of Taylor	*5,646
Maps are available for review at the Engineering Department, 100 East Carter Drive, Holbrook, Arizona.	
Snowflake (town), Navajo County (FEMA Docket No. 7084)	
Silver Creek:	
Approximately 600 feet downstream of the confluence with Cottonwood Wash (at the corporate limits of the Town of Snowflake)	*5,562
Just upstream of Ramsey Avenue	*5,575
At Hoyt Road	*5,589
Approximately 950 feet upstream of Savage Avenue (at the southern corporate limits of the Town of Snowflake)	*5,607
Cottonwood Wash:	
At the confluence with Silver Creek	*5,566
Just upstream of Ramsey Avenue	*5,571
Approximately 500 feet downstream of Apache Railroad	*5,582
Approximately 500 feet upstream of Apache Railroad	*5,590
Approximately 700 feet upstream of Apache Railroad	*5,598
Maps are available for review at 81 West, First South Street, Snowflake, Arizona.	
Taylor (town), Navajo County (FEMA Docket No. 7070)	
Silver Creek:	
Approximately 4,700 feet downstream of the confluence with Railroad Grade Wash (at the northern corporate limit of the Town of Taylor)	*5,607
Just upstream of Silver Creek Lane	*5,617
Approximately 500 feet upstream of Willow Lane	*5,620
Approximately 3,800 feet upstream of Willow Lane	*5,625
Maps are available for review at Town Hall, 425 West Papermill Road, Taylor, Arizona.	
CALIFORNIA	
Kern County (unincorporated areas) (FEMA Docket No. 7070)	
Sand Canyon:	
Approximately 5,500 feet northeast of the intersection of Three Flags Highway and Onyx Peak Avenue	#2
Approximately 2,800 feet west of the intersection of Three Flags Highway and Onyx Peak Avenue	#2
Approximately 4,000 feet west of the intersection of Three Flags Highway and Onyx Peak Avenue	#3
Grapevine Canyon:	
Along Three Flags Highway between 14,500 and 5,000 feet north of the intersection of Leiter Road	#1
Approximately 3,000 feet downstream of the second Los Angeles Aqueduct	#1
Approximately 1,500 feet downstream of the second Los Angeles Aqueduct	#2
Approximately 700 feet downstream of the second Los Angeles Aqueduct	#2
At the second Los Angeles Aqueduct	#3
Short Canyon:	
At the intersection of Brown-Inyokern Road and Willcox Avenue	#4
Approximately 2,500 feet north of the intersection of Three Flags Highway and Leiter Road	#1
Approximately 4,000 feet south of the intersection of Three Flags Highway and Leiter Road	#1
Approximately 4,000 feet west of the intersection of Three Flags Highway and Leiter Road	#2
Indian Wells Canyon:	
At the intersection of Athel Street and Quail Street	#1
Approximately 7,500 feet south of the intersection of Three Pines Canyon Avenue and Hawk Street	#1
At the intersection of Three Pines Canyon Avenue and Sierra Vista Street	#1
Approximately 7,000 feet south of the intersection of Placer Street and Three Pines Canyon Avenue	#1
Approximately 5,000 feet south of the intersection of Bull Run Street and Three Pines Canyon Avenue	#2
Approximately 2,000 feet west of the intersection of Three Pines Canyon Avenue and Sierra Vista Street	#2
Approximately 1,500 feet southwest of Indian Wells Canyon Road measured along Highway 14	#2
Approximately 300 feet north of the intersection of Indian Wells Canyon Road and Highway 14	#3
Maps are available for review at the Kern County Engineering and Survey Services Department, 2700 "M" Street, Suite 570, Bakersfield, California.	
San Bernardino (city), San Bernardino County (FEMA Docket No. 7084)	
Del Rosa Channel:	
At the confluence with Warm Creek	*1,072
Approximately 130 feet downstream of Baseline Road	*1,083
Warm Creek:	
At the confluence with East Twin Creek	*1,057
At Tippecanoe Street	*1,069
At the confluence with Del Rosa Channel	*1,072
Little Sand Creek:	
At Foothill Boulevard	*1,443
Approximately 1,500 feet upstream of Foothill Boulevard	*1,452
Sand Creek:	
At Highland Avenue	*1,267
At Date Street	*1,340
Approximately 400 feet upstream of the Highland Canal Aqueduct	*1,462
Lower Warm Creek:	
At the confluence with Santa Ana River	*990
Just downstream of Central Avenue	*993
At the Atchison, Topeka and Santa Fe Railway	*997
Maps are available for review at City Hall, 300 North D Street, San Bernardino, California.	
San Bernardino County (unincorporated areas) (FEMA Docket No. 7084)	
City Creek:	
At the confluence of Twin Creek and City Creek	*1,029
Just upstream of Pedley Road	*1,050
Just upstream of Tippecanoe Avenue	*1,069
Little Sand Creek:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just upstream of Marshall Boulevard	*1,340
Approximately 800 feet upstream of Marshall Boulevard	*1,350
Approximately 2,000 feet upstream of Marshall Boulevard	*1,443
West Fontana Channel:	
At the intersection of Beech Avenue and Merrill Avenue	#1
Approximately 400 feet south of the intersection of Whitrem Avenue and Beech Avenue	*1,205
Maps are available for review at the Department of Public Works, 385 North Arrowhead Avenue, San Bernardino, California.	
COLORADO	
Central City (city), Gilpin County (FEMA Docket No. 7064)	
Gregory Gulch:	
Just upstream of Lawrence Street (at the eastern corporate limits of the city)	*8,147
At Leavitt Street	*8,270
Approximately 55 feet upstream of D Street	*8,349
At the confluence with Eureka Gulch	*8,406
Eureka Gulch:	
Approximately 250 feet upstream of Spruce Street	*8,488
At Prosser Street	*8,572
At H Street	*8,671
Approximately 1,270 feet upstream of H Street (at the western corporate limits of the city)	*8,747
Maps are available for review at City of Central City Community Development, 390 Eureka Street, Central City, Colorado.	
IDAHO	
Elmore County (unincorporated areas) (FEMA Docket No. 7070)	
Rattlesnake Creek:	
Approximately 440 feet downstream of 18th South Street	*3,114
Just downstream of Sixth South Street	*3,132
Approximately 450 feet downstream of Eighth North Street	*3,143
Just upstream of Interstate Route 84	*3,204
Just downstream of Mountain Home Reservoir Spillway	*3,285
Rattlesnake Creek Diversion:	
At the confluence with Rattlesnake Creek	*3,122
Approximately 350 feet downstream of Ninth South Street	*3,125
Approximately 1,000 feet upstream of Ninth South Street	*3,129
Rattlesnake Creek Gated Outlet:	
At the confluence with Rattlesnake Creek	*3,218
Just downstream of the Mountain Home Reservoir Gated Outlet	*3,240
Maps are available for review at the Elmore County Courthouse, Planning and Zoning Department, 150 South Fourth East Street, Mountain Home, Idaho.	
Mountain Home (city), Elmore County (FEMA Docket No. 7070)	
Rattlesnake Creek:	
Approximately 400 feet downstream of American Legion Boulevard	*3,126
Just upstream of Eighth North Street	*3,148
Approximately 2,900 feet upstream of Eighth North Street	*3,165
Rattlesnake Creek Diversion:	
At 12th South Street	*3,122
Just upstream of Sixth South Street	*3,130
Just downstream of American Legion Boulevard	*3,139
Maps are available for review at City Hall, 160 South Third East Street, Mountain Home, Idaho.	
NEW MEXICO	
Ruidoso (village), Lincoln County (FEMA Docket No. 7071)	
Turkey Spring Canyon:	
Corporate limit	*6,534
Approximately 1,300 feet upstream of corporate limit	*6,573
Mushroball Creek:	
At the confluence with Cedar Creek	*7,146
Approximately 1,400 feet upstream of the confluence with Cedar Creek	*7,214
Rio Ruidoso:	
Approximately 3,250 feet upstream of Cherokee Bill Canyon	*6,471
Approximately 3,400 feet upstream of Cherokee Bill Canyon	*6,477
Approximately 3,650 feet upstream of Cherokee Bill Canyon	*6,480
Approximately 350 feet downstream of the confluence of Cherokee Bill Canyon	*6,432
At the confluence of Cherokee Bill Canyon	*6,436
Just upstream of unnamed road (approximately 500 feet upstream of Cherokee Bill Canyon)	*6,448
Approximately 1,500 feet upstream of Cherokee Bill Canyon	*6,452
Approximately 2,500 feet upstream of Cherokee Bill Canyon	*6,467
South Fork Cedar Creek:	
460 feet downstream of the confluence with Mushroball Creek	*7,129
At the confluence with Mushroball Creek	*7,146
At the confluence with North Fork Cedar Creek	*7,157
Just upstream of unnamed road (approximately 450 feet upstream of the confluence with North Fork Cedar Creek)	*7,170
Just upstream of unnamed road (approximately 1,500 feet upstream of the confluence with North Fork Cedar Creek)	*7,216
Cedar Creek:	
Approximately 4,850 feet upstream of Inns Brook Road	*6,948
Just upstream of unnamed road (approximately 6,550 feet upstream of Inns Brook Road)	*6,986
340 feet upstream of unnamed road	*6,995
3,500 feet upstream of unnamed road	*7,085
3,660 feet upstream of unnamed road	*7,091
4,360 feet upstream of unnamed road	*7,118
4,860 feet upstream of unnamed road	*7,128
North Fork Cedar Creek:	
At the confluence with South Fork Cedar Creek	*7,157
390 feet upstream of the confluence with South Fork Cedar Creek	*7,176
760 feet upstream of the confluence with South Fork Cedar Creek	*7,178
2,325 feet upstream of the confluence with South Fork Cedar Creek	*7,236
Approximately 3,800 feet upstream of the confluence with South Fork Cedar Creek	*7,298
Carrizo Creek:	
510 feet upstream of Lower Tomahawk Trail	*6,602
770 feet upstream of Lower Tomahawk Trail	*6,606
Just upstream of Upper Tomahawk Trail	*6,627
At the confluence with Grindstone Canyon	*6,633
700 feet upstream of the confluence with Grindstone Canyon	*6,646
Just upstream of Carrizo Creek Road	*6,699
Just upstream of the footbridge	*6,706
Maps are available for review at Village Hill, 313 Creekmeadows Drive, Ruidoso, New Mexico.	
NORTH DAKOTA	
Grafton (city), Walsh County (FEMA Docket No. 7063)	
Park River:	
At Field Road extended, approximately 6,660 feet downstream of Burgamott Avenue	*824
At Burgamott Avenue	*824
Just downstream of Hill Avenue extended	*830
Approximately 8,020 feet upstream of Kittson Avenue	*831
Maps are available for review at the Department of Public Works, City of Grafton, 5 East Fourth Street, Rolla, North Dakota.	
WASHINGTON	
Bothell (city), King and Snohomish Counties (FEMA Docket No. 7070)	
North Creek:	
Just upstream of State Route 522	*23
Approximately 700 feet downstream of Interstate 405 South (Landward of West Levee/Riverward of Levee/Landward of East Levee)	*27/27/24
At the intersection of 195th Street Northeast and the North Creek Parkway	*31
At the upstream crossing of North Creek Parkway (Landward of West Levee/Riverward of Levee/Landward of East Levee)	*36/37/34
Just downstream of Northeast 205th Street	*40
Maps are available for review at the City Hall, 18305 101st Avenue Northeast, Bothell, Washington.	
Okanogan County (unincorporated areas) (FEMA Docket No. 7073)	
Methow River:	
At Mazama Creek Road	*2,102
Approximately 630 feet downstream of the confluence with Early Winters Creek	*2,151
Approximately 7,500 feet upstream of the confluence with Early Winters Creek	*2,200
Approximately 690 feet upstream of the confluence with Gate Creek	*2,250
Approximately 2,360 feet upstream of the confluence with McGee Creek	*2,300
At the confluence with Lost River	*2,358
Maps are available for review at Okanogan County Office of Planning and Development, Administration Building, 237 Fourth North, 2nd Floor, Okanogan, Washington.	
WYOMING	
Cheyenne (city), Laramie County (FEMA Docket No. 7070)	
Crow Creek:	
700 feet above confluence with Dry Creek	*5,885
1,440 feet above confluence with Dry Creek	*5,887
38,325 feet above confluence with Dry Creek	*6,009
Dry Creek:	
At the confluence with Crow Creek	*5,885
3,240 feet above confluence with Crow Creek	*5,904
5,480 feet above confluence with Crow Creek	*5,916
9,100 feet above confluence with Crow Creek	*5,921
18,900 feet above confluence with Crow Creek	*5,971
Maps are available for review at the City Engineer's Office, 2101 O'Neil Avenue, Cheyenne, Wyoming.	
Laramie County (unincorporated areas) (FEMA Docket No. 7070)	
Crow Creek:	
1,000 feet below confluence with Dry Creek	*5,862
1,440 feet above confluence with Dry Creek	*5,887
14,175 feet above confluence with Dry Creek	*5,919
28,097 feet above confluence with Dry Creek	*5,977
37,750 feet above confluence with Dry Creek	*6,000
Dry Creek:	
At the confluence with Crow Creek	*5,885
2,850 feet above confluence with Crow Creek	*5,895
9,400 feet above confluence with Crow Creek	*5,936
16,300 feet above confluence with Crow Creek	*5,953
18,120 feet above confluence with Crow Creek	*5,962
Maps are available for review at Laramie County Engineering Office, 2503 East Fox Farm Road, Cheyenne, Wyoming.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93-31259 Filed 12-22-93; 8:45 am]

BILLING CODE 6718-03-P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Mitigation Directorate, FEMA.

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations and modified base (100-year) flood elevations are made final for the communities listed below.

The base (100-year) flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazards Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646-2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the final determinations of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register.**

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Directorate has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows.

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
CONNECTICUT	
Norwich (city), New London County (FEMA Docket No. 7066)	
Trading Cove Brook:	
Approximately 0.4 mile downstream of the Connecticut Turnpike	*31
Approximately 0.3 mile downstream of confluence of Goldmine Brook	*56
Hunter Brook:	
Approximately 1,090 feet upstream of Hunter Road upstream crossing	*72
At confluence with Shetucket River	*36
Yantic River:	
Approximately 50 feet upstream of Yantic Mill Dam No. 2	*77
Approximately 550 feet upstream of Conrail Railroad Bridge No. 4	*120
Tributary B:	
At confluence with Yantic River	*86
Approximately 780 feet upstream of confluence with Yantic River	*87
Bobbin Mill Brook:	
At confluence with Yantic River	*86
Approximately 63 feet upstream of confluence with Yantic River	*87
Norwichtown Brook:	
At Sturtevant Street	*91
At downstream side of Sholes Avenue	*91
Maps available for inspection at the City Clerk's Office, City Hall, 100 Broadway, Norwich, Connecticut.	
FLORIDA	
Unincorporated Areas, Dade County (FEMA Docket No. 7066)	
Canal C-100A:	
Approximately 100 feet east of intersection of S.W. 77th Court and S.W. 156th Street	*10
At intersection of S.W. 78th Court and S.W. 155th Street	*10
Canal C-100C:	
Approximately 100 feet south of Killian Drive	*9
Canal 100A:	
At intersection of S.W. 92nd Avenue and S.W. 102nd Street	*9
Spur Canal No. 1:	
Approximately 700 feet north of the intersection of N.W. 157th Street and N.W. 17th Place	*6
Maps available for inspection at the Dade County Department of Water Control, 111 N.W. First Street, 13th Floor, Miami, Florida.	
Lee County (unincorporated areas) (FEMA Docket No. 7060)	
Popash Creek:	
At mouth	*5
At county boundary	*27
Stroud Creek:	
At mouth	*6
Just upstream of St. Paul Road	*24
Daughtrey Creek:	
At mouth	*8
Just upstream of Nalle Grade Road	*26
Daughtrey East:	
At mouth	*8
Just upstream of Rich Road	*22
Tributary L-2:	
At U.S. Route 41	*8
Just downstream of Bayshore Road	*13
Tributary L-1:	
At U.S. Route 41	*8
Just downstream of Bayshore Road	*15
Powell Creek:	
At Brooks Road	*8
Just downstream of Tucker Lane NE	*17
Powell Creek Tributary No. 1:	
At mouth	*12
About 4.47 miles upstream of mouth	*20
Powell Creek Tributary No. 2:	
At mouth	*15
About 3.16 miles upstream of mouth	*20
Marsh Point Creek:	
Just downstream of Bayshore Road	*8
Just upstream of Tucker Lane NE	*17
Chapel Branch Creek:	
At mouth	*6
Just upstream of Rich Road	*21
Bayshore Creek:	
At mouth	*6
About 500 feet upstream of Diconia Lane	*23
Bayshore Tributary:	
At mouth	*14
Just downstream of Lantana Drive	*18
Thompson Cutoff:	
At mouth	*8
Just downstream of Ruben Road	*22
Thompson Cutoff Tributary:	
At mouth	*13
About 1.24 miles upstream of mouth	*21
Maps available for inspection at the Lee County Building Department, 1735 Hendry Street, Ft. Myers, Florida.	
KENTUCKY	
Jefferson County (unincorporated areas) (FEMA Docket No. 7048)	
Ohio River:	
Just upstream of confluence of Salt River	*443
Approximately 3.3 miles upstream of Harrods Creek	*453
Upper Mill Creek:	
Approximately 400 feet downstream of Willide Road	*437
Just downstream of Rockford Lane	*443
Big Run Diversion:	
At mouth	*437
Just upstream of St. Andrews Church Road	*487
Slate Run:	
At confluence with Pond Creek	*454
Just downstream of St. Anthonys Church Road	*469
Pond Creek:	
Approximately one mile upstream of Gene Snyder Freeway	*441
Approximately 1,700 feet upstream of New Cut Road	*457
Ponder Creek:	
At mouth	*442
Just downstream of Stonestreet Road	*469
Just upstream of Stonestreet Road	*475
Just downstream of Paralee Lane	*487
Stephan Ditch:	
At mouth	*443
Approximately 400 feet upstream of Maryman Road	*449
Valley Creek:	
At mouth	*433
Just downstream of Greenwood Road	*448
Lower Mill Creek:	
Approximately 1,500 feet upstream of confluence with Ohio River	*430
Just downstream of Terry Road	*437
Upper Garrison Ditch:	
At mouth	*437
Approximately 200 feet upstream of Cane Run Road	*442
Lower Garrison Ditch:	
At mouth	*436
Approximately 200 feet upstream of Illinois Central Railroad	*442
Big Run Creek:	
At mouth	*443
Approximately 1,150 feet upstream of Lower Hunters Trace	*450
Bee Lick:	
At mouth	*456
Just downstream of Mitchell Hill Road	*479
Little Bee Lick Creek:	
At mouth	*464
Approximately 350 feet upstream of Charlene Drive	*490
Wilson Creek:	
At mouth	*458
Approximately 3,500 feet upstream of Farmers Lane	*479
Northern Ditch:	
At mouth	*457
Just downstream of Old Shepherdsville Road	*478
Southern Ditch:	
At mouth	*457
Just downstream of Michael Ray Drive	*562
Just upstream of Michael Ray Drive	*570
Approximately 1,200 feet upstream of Michael Ray Drive	*584
Roberson Run:	
At mouth	*474
Approximately 1,300 feet upstream of Judge Boulevard	*520
Fern Creek:	
At mouth	*478
Just downstream of Fegenbush Lane	*497
Filson Fork:	
At mouth	*471
Approximately 200 feet downstream of Preston Highway	*486
Just upstream of Preston Highway	*496
Just downstream of Shepherdsville Road	*546
Fishpool Creek:	
At mouth	*464
Just downstream of Charlesewood Road	*557
Just upstream of Charlesewood Road	*582
Just downstream of Cooper Chapel Road	*579
Cooper Chapel Brook:	
At mouth	*490
Just downstream of Chapel Hill Road	*525
Just upstream of Chapel Hill Road	*535
Approximately 4,000 feet upstream of Chapel Hill Road	*570
Manslick Branch:	
At mouth	*482
Approximately 1,400 feet upstream of Glen Rose Road	*538
Mud Creek:	
At mouth	*461
Approximately 1,400 feet upstream of Blue Lick Road	*492
Grassy Ditch:	
At mouth	*460
Just upstream of Poplar Level Road	*468
South Fork Beargrass Creek:	
Just upstream of Bashford Manor Lane	*474
Approximately 3,200 feet upstream of Huneinger Lane	*534
Buechel Branch:	
At mouth	*475
Approximately 1,500 feet upstream of Buechel Bank Road	*498
Approximately 200 feet upstream of Cane Run Road	*442
Lower Garrison Ditch:	
At mouth	*436
Approximately 200 feet upstream of Illinois Central Railroad	*442
Big Run Creek:	
At mouth	*443
Approximately 1,150 feet upstream of Lower Hunters Trace	*450
Bee Lick:	
At mouth	*456
Just downstream of Mitchell Hill Road	*479
Little Bee Lick Creek:	
At mouth	*464
Approximately 350 feet upstream of Charlene Drive	*490
Wilson Creek:	
At mouth	*458
Approximately 3,500 feet upstream of Farmers Lane	*479
Northern Ditch:	
At mouth	*457
Just downstream of Old Shepherdsville Road	*478
Southern Ditch:	
At mouth	*457
Just downstream of Michael Ray Drive	*562
Just upstream of Michael Ray Drive	*570
Approximately 1,200 feet upstream of Michael Ray Drive	*584
Roberson Run:	
At mouth	*474
Approximately 1,300 feet upstream of Judge Boulevard	*520
Fern Creek:	
At mouth	*478
Just downstream of Fegenbush Lane	*497
Filson Fork:	
At mouth	*471
Approximately 200 feet downstream of Preston Highway	*486
Just upstream of Preston Highway	*496
Just downstream of Shepherdsville Road	*546
Fishpool Creek:	
At mouth	*464
Just downstream of Charlesewood Road	*557
Just upstream of Charlesewood Road	*582
Just downstream of Cooper Chapel Road	*579
Cooper Chapel Brook:	
At mouth	*490
Just downstream of Chapel Hill Road	*525
Just upstream of Chapel Hill Road	*535
Approximately 4,000 feet upstream of Chapel Hill Road	*570
Manslick Branch:	
At mouth	*482
Approximately 1,400 feet upstream of Glen Rose Road	*538
Mud Creek:	
At mouth	*461
Approximately 1,400 feet upstream of Blue Lick Road	*492
Grassy Ditch:	
At mouth	*460
Just upstream of Poplar Level Road	*468
South Fork Beargrass Creek:	
Just upstream of Bashford Manor Lane	*474
Approximately 3,200 feet upstream of Huneinger Lane	*534
Buechel Branch:	
At mouth	*475
Approximately 1,500 feet upstream of Buechel Bank Road	*498

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
East Branch Boxwood Ditch:	
At mouth	*440
Just downstream of Cane Run Road	*443
Cane Run Ditch:	
Approximately 1,000 feet downstream of Teaneck Lane	*439
Just downstream of Camp Ground Road	*440
Lynnview Ditch:	
Just upstream of Martin Avenue	*440
Approximately 2,000 feet upstream of Heritage Road	*449
Black Pond Creek:	
At mouth	*433
Just upstream of Lower Hunters Trace	*447
Maps available for inspection at the Metropolitan Sewer District Office, 400 South 6th Street, Louisville, Kentucky.	
Louisville (city), Jefferson County (FEMA Docket No. 7048)	
Grassy Ditch:	
Approximately 275 feet downstream of Fern Valley Road	*450
Approximately 1,000 feet upstream of Fern Valley Road	*461
South Fork Beargrass Creek:	
At mouth	*448
Approximately 1,375 feet upstream of Breckenridge Lane	*513
Maps available for inspection at the Metropolitan Sewer District Office, 400 South 6th Street, Louisville, Kentucky.	
Shively (city), Jefferson County (FEMA Docket No. 7048)	
Upper Mill Creek:	
Approximately 640 feet upstream of Willide Road	*439
Approximately 1,300 feet upstream of Memorial Gardens Road	*453
Lynnview Ditch:	
At mouth	*440
Just upstream of Farnsley Road	*449
Boxwood Ditch:	
At mouth	*439
Just downstream of Rockford Lane	*440
City Park Ditch:	
At mouth	*452
Approximately 800 feet upstream of Hardesty Avenue	*452
Heatherfield Ditch:	
Just downstream of Interstate 264	*448
Approximately 1,000 feet upstream of Crums Lane	*448
Maps available for inspection at the Metropolitan Sewer District Office, 400 South 6th Street, Louisville, Kentucky.	
MAINE	
Clifton (town), Penobscot County (FEMA Docket No. 7068)	
Chemo Pond:	
Entire shoreline within community	*129
Maps available for inspection at 24 Airline Road, Clifton, Maine.	
MISSISSIPPI	
City of Richland, Rankin County (FEMA Docket No. 7066)	
Richland Creek:	
Just upstream of Illinois Central Railroad	*272
Just upstream of U.S. Highway 49	*272
Pearl River:	
About 9.1 miles downstream of Illinois Central Railroad	*267
Just upstream of Interstate 20 East Bound	*274
Pearl River Tributary 1:	
About 0.9 mile downstream of Old U.S. Highway 49	*268
About 1,900 feet downstream of Old U.S. Highway 49	*268
Pearl River Tributary 2:	
About 2,000 feet downstream of Nealy Road	*270
Just upstream of Old U.S. Highway 49	*271
Squirrel Branch:	
About 900 feet downstream of Illinois Central Railroad	*271
About 400 feet downstream of U.S. Highway 49	*271
Conway Slough:	
About 1,600 feet downstream of Illinois Central Railroad	*273
Just landward of East Jackson Levee	*263
Maps available for inspection at Richland City Hall, 371 Scarborough Street, Richland, Mississippi.	
NEW YORK	
Canton (Village), (FEMA Docket No. 7070)	
Grass River:	
Approximately 1.02 miles downstream of Main Street	*323
Approximately 0.6 mile upstream of Conrail	*352
Maps available for inspection at the Canton Municipal Building, 60 Main Street, Canton, New York.	
Ellicottville (village), Cattaraugus County (FEMA Docket No. 7057)	
Great Valley Creek:	
Approximately 670 feet downstream of confluence of Holiday Valley Creek	*1,519
Approximately 0.2 mile upstream of Mill Street	*1,542
Elk Creek:	
At confluence with Great Valley Creek	*1,536
Approximately 400 feet upstream of Parkside Drive	*1,548
Plum Creek:	
At confluence with Great Valley Creek	*1,532
Approximately 0.8 mile upstream of confluence with Great Valley Creek	*1,596
Holiday Valley Creek:	
Approximately 160 feet upstream of corporate limits	*1,521
Approximately 140 feet upstream of upstream corporate limits	*1,525
Maps available for inspection at the Ellicottville Village Hall, 1 W. Washington, Ellicottville, New York.	
NORTH CAROLINA	
Charlotte (city), Mecklenburg County (FEMA Docket No. 7063)	
Taggart Creek:	
Approximately 1,100 feet upstream of the confluence with Sugar Irwin Creek	*604
Approximately 300 feet downstream of Mulberry Church Road	*687
Maps available at Charlotte City Hall, 600 East 4th Street, Charlotte, North Carolina 28202.	
Gastonia (city), Gaston County (FEMA Docket No. 7066)	
Duharts Creek:	
Downstream side of Beaty Road	*649
Approximately 500 feet upstream of Oakdale Street	*745
Duharts Creek Tributaries:	
Tributary D-1:	
At the confluence with Duharts Creek	*655
Approximately 950 feet upstream of confluence with Duharts Creek	*656
Tributary D-2:	
At the confluence with Duharts Creek	*666
Approximately 510 feet upstream of confluence with Duharts Creek	*666
Tributary D-3:	
At the confluence with Duharts Creek	*673
Approximately 65 feet downstream of upstream Extraterritorial Limits	*707
Tributary D-4:	
At the confluence with Duharts Creek	*673
Approximately 100 feet upstream of confluence with Duharts Creek	*673
Tributary D-5:	
Approximately 625 feet upstream of confluence with Duharts Creek	*689
At Aberdeen Road	*708
Tributary D-6:	
At the confluence with Duharts Creek	*711
Approximately 625 feet upstream of Aberdeen Boulevard	*734
Tributary D-9:	
At the confluence with Duharts Creek	*717
Approximately 0.5 mile upstream of Remount Road	*747
Maps available at the City Engineer's Office, 181 S. South Street, Gastonia, North Carolina.	
PENNSYLVANIA	
Hawley (borough), Wayne County (FEMA Docket No. 7068)	
Lackawaxen River:	
Approximately 1,200 feet downstream of Church Street Bridge	*883
Approximately 1,830 feet upstream of U.S. Route 6 and State Route 590 Bridge	*995
Maps available for inspection at the Borough Office, Main Avenue, Hawley, Pennsylvania.	
Palmyra (township), Wayne County (FEMA Docket No. 7070)	
Lackawaxen River:	
Approximately 100 feet upstream of U.S. Route 6 and State Route 590 Bridge	*891
Approximately 990 feet downstream of Park Street Bridge	*925

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Township Office, Oak Street, Hawley, Pennsylvania.	
Valley (township), Montour County (FEMA Docket No. 7071)	
Mahoning Creek:	
At downstream corporate limits	*478
Approximately 300 feet upstream of the most upstream crossing of State Route 642	
Mauses Creek:	
At confluence with Mahoning Creek. Downstream of State Routes 45 and 642	*480 *488
Maps available for inspection at the Township Building, 1305 Continental Boulevard, Valley, Pennsylvania.	
SOUTH CAROLINA	
Columbia, City (Richland County) (FEMA Docket No. 7043)	
Smith Branch:	
Approximately 175 feet downstream of downstream corporate limits	*178
Approximately 0.2 mile upstream of Preston Drive	*239
Bay Branch:	
At the confluence with Smith Branch	*220
Approximately 0.4 mile upstream of Northeastern Expressway	*263
Reader Point:	
At Richard Street	*169
At the Greenlawn Drive	*219
Pen Branch:	
At the confluence with Gills Creek	*159
Approximately 250 feet upstream of Budon Court	*218
Gills Creek:	
Approximately 1 mile upstream of CSX Transportation	*145
Approximately 700 feet upstream of Quail Lane	*162
Tributary RP–1:	
Approximately 200 feet downstream of Southern Railway	*202
Approximately 600 feet downstream of Planters Lane	
Maps available for inspection at the City Zoning Department, 1212 Laurel, Columbia, South Carolina.	
Richland County (unincorporated areas) (FEMA Docket No. 7042)	
Griffins Creek:	
Approximately 0.6 mile downstream of CSX Transportation	*185
Approximately 0.8 mile upstream of CSX Transportation	*179
Nicholas Creek:	
Approximately 0.5 mile upstream of confluence with Broad River	*193
Approximately 0.4 mile upstream of confluence of Moccasin Branch	*237
Swygert Branch:	
At the confluence with Nicholas Creek	*193
Approximately 0.8 mile upstream of Bob Dorn Road (Abandoned)	*236
Moccasin Branch:	
At the confluence with Nicholas Creek	*220
At the western lane	*301
Stoop Creek:	
Approximately 75 feet upstream of Interstate Route 26 and U.S. Route 76	*214
Approximately 600 feet upstream of Piney Woods Road	*315
Smith Branch:	
Approximately 50 feet downstream of Clement Road	*176
Approximately 325 feet upstream of Clement Road	*178
Bay Branch:	
Approximately 75 feet downstream of Shaw Street	*245
Approximately 0.4 mile upstream of Northeastern Expressway	*283
Tributary C–5:	
At the confluence with Crane Creek	*202
Approximately 900 feet upstream of the confluence with Crane Creek	*203
Crane Creek:	
Upstream side of U.S. Route 321	*202
Approximately 0.9 mile upstream of confluence of Sorghum Branch	*322
Cambese Creek:	
At the confluence with Crane Creek	*243
Approximately 80 feet upstream of Southern Railway	*324
Roberts Branch:	
At the confluence with Crane Creek	*253
Approximately 200 feet upstream of Long Town Road	*378
Sorghum Branch:	
At the confluence with Crane Creek	*312
Approximately 400 feet upstream of Green Spring Drive	*363
Tributary RB–1:	
At the confluence with Roberts Branch	*267
Approximately 0.4 mile upstream of Sunny Acres Pond Dam	*333
North Branch Crane Creek:	
At the confluence with Crane Creek	*221
At the confluence of Beasley Creek and Swygert Creek	*270
Beasley Creek:	
At the confluence with North Branch Crane Creek	*270
Approximately 2.9 miles upstream of Turkey Farm Road	*430
Rice Creek:	
Approximately 150 feet downstream of downstream County boundary	*256
Approximately 1.2 miles upstream of Rimer Road	*429
Bridge Creek:	
Approximately 500 feet downstream of downstream County boundary	*259
Approximately 50 feet upstream of most upstream Legion Lake dam	*328
Sandy Branch:	
At the downstream County boundary	*281
Approximately 0.4 mile upstream of Briarcliff East	*321
Spears Creek:	
At downstream County boundary	*209
Approximately 0.8 mile upstream of Spears Creek Church Road	*344
Tributary SP–1:	
At the confluence with Spears Creek	*210
Approximately 1.8 miles upstream of confluence with Spears Creek	*246
Reader Point Branch:	
At the confluence with Black Lake	*129
Approximately 1,900 feet upstream of Burnsides Pond Dam	*178
Tributary RP–1:	
At the confluence with Reader Point Branch	*143
Approximately 800 feet upstream of Planters Lane	*209
Gills Creek:	
At upstream side of Southern Railway	*142
Approximately 800 feet downstream of State Route 12	*162
Maps available for inspection at the Planning and Zoning Department, County Administration Building, 220 Hampden, Columbia, South Carolina.	
TENNESSEE	
Anderson County, Unincorporated Areas (FEMA Docket No. 7063)	
Hinds Creek:	
Approximately 0.83 mile downstream of confluence of Buffalo Creek	*836
At downstream side of Mountain Road	*848
Buffalo Creek:	
At confluence with Hinds Creek	*840
Approximately 0.48 mile upstream of Park Road	*971
Maps available for inspection at the Planning and Zoning Office, Anderson County Courthouse, 100 North Main Street, Clinton, Tennessee.	
Norris (city), Anderson County (FEMA Docket No. 7063)	
Buffalo Creek:	
At a point approximately 0.4 mile downstream of U.S. Route 441	*905
Approximately 225 feet upstream of State Route 61	*930
Maps available for inspection at the Norris Community Building, 20 Chestnut Drive, Norris, Tennessee.	
VIRGINIA	
Chesterfield County (Unincorporated Areas) (FEMA Docket No. 7071)	
Proctors Creek:	
Approximately 600 feet downstream of confluence of Great Branch	*92
Approximately 0.31 mile upstream of State Route 145	*106
Great Branch:	
At confluence with Proctors Creek	*94
At downstream side of State Secondary Route 717	*105
Maps available for inspection at the Environmental Engineering Office, 9701 Lucy Corr Drive, Chesterfield, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93–31264 Filed 12–22–93; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 93–501]

Commission Organization

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Order amends the Commission's Rules regarding the authority of the Chief, Field Operations Bureau to issue administrative subpoenas in the investigations of cases involving a violation of section 301, which prohibits the transmission of radio energy without an authorization, and section 302a which prohibits the marketing of unauthorized radiofrequency devices. This delegation of the authority will enable the Chief, Field Operations Bureau to subpoena the production of books, records, correspondence, memoranda and other records deemed relevant to the investigation of alleged violations.

EFFECTIVE DATE: December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Pamera D. Hairston, Esq. at (202) 632–7059 or Mary Beth Richards, Esq. at (202) 632–7090.

Order

Adopted: November 19, 1993; *Released:* December 17, 1993.

By the Commission:

1. Section 409(e) of the Communications Act of 1934, as amended (Act), 47 U.S.C. 409(e), grants the Commission express authority to require by subpoena information relating to any matter under investigation. This authority may be delegated in accordance with section 5(c)(1) of the Act, 47 U.S.C. 155(c)(1). Subpoenas may be issued to, among others, private entities not subject to an administrative agency's jurisdiction.[1]

2. We find that the delegation of authority to the Chief, Field Operations Bureau, to issue administrative subpoenas in the investigations of cases involving a violation or violations of sections 301 (unlicensed operation) or 302a (illegal marketing of radiofrequency devices capable of causing interference) of the Act, 47 U.S.C. 301 and 302a, will facilitate investigations of illegal activity and, therefore, is in the public interest.

3. *Accordingly, it is ordered,* That, pursuant to section 5(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c)(1), authority is delegated to the Chief, Field Operations Bureau to require by administrative subpoena the production of books, papers, correspondence, memoranda, and other records deemed relevant to the investigation of an alleged violation or violations of section 301 or 302a of the Act, 47 U.S.C. 301 and 302a.

4. *It is further ordered* That § 0.311 of the Commission's rules, 47 CFR 0.311, be amended to add a paragraph (f) to reflect this delegation of authority. This amendment of the Commission's rules is set forth below. The requirement for notice and comment rule making contained in 5 U.S.C. 553(b) and the effective date provisions of 5 U.S.C. 553(d) do not apply since this amendment concerns matters of agency organization, procedure, or practice. See 5 U.S.C. 553(b)(A), 553(d).

5. *It is further ordered* That this amendment of § 0.311 as set forth below is effective upon the date of publication in the **Federal Register.**

List of Subjects in 47 CFR Part 0

Organization and functions.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Change

Title 47 of the Code of Federal Regulations, Part 0, is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat 1066, as amended; 47 U.S.C. 155.

2. Section 0.311 is amended by adding paragraph (f) to read as follows:

§ 0.311 Authority delegated.

* * * * * *

(f) The Chief of the Field Operations Bureau is authorized to issue subpoenas for the production of books, papers, correspondence, memoranda, and other records deemed relevant in the investigation of an alleged violation or violations of section 301 (unlicensed operation) or 302a (illegal marketing of radiofrequency devices) of the Communications Act of 1934, as amended.

[FR Doc. 93–31351 Filed 12–22–93; 8:45 am]

BILLING CODE 6712–01–M

[1] See *FCC* v. *Cohn,* 154 F. Supp 899 (S.D.N.Y. 1957).

47 CFR Parts 2 and 25

[CC Docket No. 92–76; FCC 93–478]

Licensing Policies and Procedures, Domestic Common Carrier Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On October 21, 1993, the Commission adopted a Report and Order establishing rules to govern the licensing and regulation of "non-voice non-geostationary mobile-satellite service" (NVNG MSS) systems. These technical and service rules are intended to facilitate the implementation and regulation of new domestic satellite services.

EFFECTIVE DATE: January 24, 1994.

FOR FURTHER INFORMATION CONTACT: Kristi L. Kendall, Common Carrier Bureau, (202) 634–7058.

SUPPLEMENTARY INFORMATION: Public reporting burden for the collections of information are estimated as follows: Annual reporting requirement: 4 responses; 8 hours per response; 32 hours total. Application filing requirements: 4 applications; 1000 hours per application; 4000 hours total. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Paperwork Reduction Project (3060–0539), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0539), Washington, DC 20503.

As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared a Final Regulatory Flexibility Analysis of the expected impact on small entities of the proposals suggested in this document.

Summary of Report and Order

The Commission has allocated certain electromagnetic frequencies below 1 GHz to use by a new "non-voice, non-geostationary mobile-satellite service" (NVNG MSS), and has proposed rules and policies to govern this service. This Report and Order establishes final rules that will allow the licensing and operation of competitive NVNG MSS systems.

VOL
58
ISS
245
DE
23
1993
UMI

A. Applications for Space Station Authority

System Size

NVNG applicants will be required, as discussed in the Notice of Proposed Rulemaking (Notice), 58 FR 14532 (March 18, 1993), to specify precisely the number of space stations that will be included in their proposed constellations. One party suggested that applicants be granted authority to launch and operate a requested range of satellites, with a minimum of two, alleging that this flexibility in system design will allow a licensee to choose, as its service develops, the number of satellites that most effectively and efficiently reaches its intended customer base. In essence, their proposal would give licensees a predetermined "set aside" for future expansion. While this flexibility could enhance the commercial viability of an NVNG system, it could also hinder the plans of future NVNG MSS providers. System size, particularly when a system has a small number of satellites, will have a decided impact on future entry. For example, the Negotiated Rulemaking Committee noted in its Report that additional NVNG systems could likely be able to share the same orbit(s) with a two satellite system if station keeping and other sharing methods are employed. Such an accommodation would be difficult, if not impossible, if licensees are given carte blanche unilaterally to increase system size, even within preordained parameters. Conversely, if a system operator decides that its customers will be best served by the minimum number of satellites specified in its license, any potential for additional service will lie fallow for the remainder of the license term. We therefore continue to believe that it is prudent to require applicants to specify precisely the number of satellites reasonably anticipated to meet their needs.

Emissions Limitations

At the request of an applicant, we have clarified, and amended the text of, § 25.142(a)(3). As discussed in the Notice, our primary concern in the development and inclusion of this rule has been the control of in-band emission levels. An NVNG satellite, which is designed to receive signals from small, omnidirectional antennae, will receive not only those signals intended for retransmission by the system, but any signals within its broad operating footprint that are transmitted on the same frequencies. In the Case of NVNG systems, it is likely, for example, that transmissions from Canadian terrestrial paging systems operating in the 148–149.9 MHz band will be received by U.S. license NVNG systems, which are authorized to operate in those same frequencies. Retransmission of these "out-of-system" signals by the NVNG satellite at 137–138 MHz could ultimately increase the system's power flux density levels at the earth's surface. This could in turn result in harmful interference to other authorized users of the affected frequency bands. We have therefore amended § 25.142(a)(3) to conform to our expressed intent of protecting in-band services from harmful interference due to unacceptable power flux density levels. Although we originally noted our intent to prohibit entirely the retransmission of any out-of-system signals by an NVNG satellite, we have modified this position and have adopted a method that will allow applicants greater flexibility in the implementation of their systems. Specifically, new § 25.142(a)(3) prohibits the retransmission of signals received by an NVNG satellite from a source outside of the system at power flux density levels exceeding those described by the applicant in response to the preceding § 25.142(a)(2). We thereby will limit the harmful effect of unintended signal retransmission, but will permit the licensee to determine its preferred method of meeting those limits. We believe that this rule is necessary to protect other authorized users in the 137–138 MHz and 400 MHZ bands from excessive interference resulting from undesired emission, yet will not reasonable opportunity for system operators to develop various transmission schemes.

Financial Qualification

Section 25.142(a)(4) establishes the financial qualification requirements for applicants in the NVNG mobile satellite service. Specifically, an applicant must demonstrate the current financial ability to construct, launch and operate for one year the first two satellites in its system. An applicant suggested that the Commission adopt a separate financial showing for smaller applicants, noting that it is unfair to require applicants with modest system plans to demonstrate the same financial wherewithal of applicants with larger, more expensive proposals. It was therefore suggested that we require an applicant proposing to launch five or fewer satellites to demonstrate the financial ability to construct, launch and operate for one year only the first satellite in its system. While this rule will require a smaller system applicant to demonstrate a proportionately high percentage of its necessary capital, we do not believe that it is unfair or unduly harsh. The financial requirements that we are adopting are not as rigorous, for example, as those in the fixed satellite services. Further, there is little reason to distinguish among large and small system proposals, as a small NVNG system may utilize as much of this very limited spectrum resource as a larger system. Accordingly, we believe that adoption of this modification may unduly complicate the rules, and could jeopardize the public interest in the availability of NVNG services and the efficient use of the spectrum allocated to this service.

It has further been suggested that we accept, as meeting the financial qualification requirements of § 25.142(a)(4), copies of grant commitment letters or other evidence of external funding commitments. It is apparent that a binding grant commitment letter would fall well within the intent, albeit not the precise wording, of the existing regulation. We believe that grant commitments in general may provide the same level of financial certainty as those other submissions currently accepted as demonstrating an applicant's financial qualification. As in the case of other acceptable debt or equity financial showings, the grant commitment must be specifically described, and must not rest upon contingencies that require further action by the parties. We therefore amend § 25.140 of our rules to add a new paragraph which specifically permits an applicant to submit evidence of grants, or other external funding commitments, in support of its application,

Replacement Space Stations

Section 25.142(a)(5) will allow operators at their discretion to replace failed or expired space stations with technically identical counterparts at any time during the license term. The commenters urge that, instead of requiring space stations to be technically identical to those replaced, a replacement space station be only "operationally equivalent" to its predecessor in terms of its interference potential. In support of this concept, it has been noted that evolving manufacturing efficiencies and technical advancements are inevitable, and will facilitate greater system utility and efficiency. Thus, state-of-the art replacement satellites may have different, albeit equivalent, technical parameters. Adoption of this "operationally equivalent" standard, they argue, will promote the continual upgrade of space station systems, to the benefit of the operators and their customers. While we believe that both technical innovation and operator flexibility serve the public interest, we must, consistent with our statutory obligation, assure the continued compatibility of NVNG systems with those of other licensed spectrum users. If a space station design differs from that initially examined and approved, we are not only obligated, but are also in the best position, to determine neutrally whether the existing and replacement space stations are indeed operationally equivalent. We do not believe, on balance, that it will be unduly burdensome for operators to request license modification if they desire to upgrade or in any other way change their licensed satellite design. This requirement will not impede technical innovation in satellite design, but is necessary to ensure the fulfillment of our statutory mandate. Therefore, absent an accompanying request for license modification, we will require replacement space stations launched during the license term to be technically identical to those replaced.

Intersystem Coordination

The commenters did not object to, or request modification of, our proposed rules §§ 25.142(b) (1) and (2). These subsections require applicants to coordinate their systems with Federal government users prior to authorization. Nor was there any objection to the reminder, expressed in § 25.142(b)(4), that NVNG services may be subject to certain provisions of the Communications Act relating to safety and distress communications. We continue to believe that these portions of § 25.142 are in the public interest, and have adopted them with minor modification. Several commenters have alleged, however, that proposed § 25.142(b)(3) does not place the NVNG licensees under a sufficiently strict obligation to coordinate their systems with those of future licensees. They thus request that (1) each NVNG license bear a condition requiring the licensee to negotiate coordination agreements in good faith with subsequent licensee, (2) the coordinating parties file written progress reports with the Commission every three months detailing their efforts, and (3) these final coordination agreements be publicly available for use by future licensees.

At the outset, we reiterate our firm belief that the good faith coordination efforts of all spectrum users are essential to the development and efficient use of the electromagnetic spectrum. We believe, however, that our intersystem coordination rule, in conjunction with existing policy, will provide the relief requested. New § 25.142(b)(3) requires licensees and permittees, at the Commission's request, to cooperate fully in the coordination and accommodation of future systems. By this rule, we may require licensees to coordinate not only with future licensees, but with future applicants as well. While we will continue initially to rely on the good faith efforts of existing spectrum users to cooperate with new licensees, we have stated our intent to intervene at an early stage if such cooperation is not forthcoming, or if earlier coordination would be particularly helpful. Accordingly, we believe that this proposal will enable us to assure good faith cooperation on the part of all parties providing, or seeking to provide, NVNG MSS.

With regard to the request to file periodic written reports on the status of coordination negotiations, we do not believe that such reports will create greater incentives for licensees to coordinate with each other, and may simply complicate the process with an inconclusive paper trail. If a licensee is not cooperative, we expect to be so informed by the aggrieved party. At that point, we will, as we have stated in the past, assist in the coordination process, or grant such other relief as seems appropriate. Finally, we believe that the relative benefits of making coordination agreements publicly available are unlikely to outweigh the potential damage to licensees through the release of confidential and proprietary data. Data made publicly available by the Commission would unavoidably become accessible to the world at large. This could prejudice the negotiating posture of the licensees in their domestic, and perhaps myriad international, coordination efforts. The existing applicants were able to coordinate their systems without benefit of exact data regarding existing systems. We believe that, in light of our ability to require pre- and post-licensing coordination efforts, and our willingness to provide informal assistance if necessary, future applicants will have ample access to the data necessary to design and implement their systems. Accordingly, we have adopted § 25.142(b)(3) as proposed.

Reporting Requirements

Finally, objection was raised to the reporting requirement set forth in proposed § 25.142(c). One commenter believes that this requirement is unnecessarily burdensome, and unlikely to generate useable information that cannot readily be obtained by the Commission should the need arise. It argues that the potential damage from disclosure of commercially sensitive information far outweighs any potential benefit to be gained therefrom. We believe that this argument underestimates the value to the Commission of the data submitted by licensees in similar semi-annual reports. For example, review of this information is the primary manner by which we assess the commercial and technical development of a particular satellite service. This assists us in analyzing spectrum utilization matters, such as the availability of service on a common carriage basis and consumer demand for particular service options. Further, we are required by law annually to report on competitive market conditions in the mobile communications marketplace. We thus conclude that the solicitation and review of this type of information is important to fulfilling our responsibilities under the Communications Act. While we understand a licensee's reluctance to file commercially sensitive data, system usage information is intended for use by the Commission and can reasonably be shielded from public dissemination by requests for confidential treatment. To lessen the burden on licensees, we have modified the proposed rule, and now request only the annual submission of that information we believe necessary to enable us to meet our public interest responsibilities and legislative directives.

B. Applications for Transmitting Earth Station Authority

Specific earth station, or transceiver, licensing requirements are set forth in § 25.135. The commenters universally support the concept of the issuance of a blanket license for NVNG user transceivers. Prior to issuance of this blanket transceiver license, an applicant must demonstrate that transceiver operations will not interfere with existing and authorized uses of the affected or adjacent frequencies. Further, as proposed in the Notice, certain transceivers will be required to bear a label prohibiting their use aboard commercial aircraft. This prohibition has been included to preclude potential interference of NVNG transceivers with navigation and other aircraft functions. There was no opposition to these provisions, and we continue to believe that they are appropriate for the protection of existing frequency users. We therefore have adopted § 25.135 (a) and (b) essentially as proposed.

Sections 25.135 (c) and (d) clarify the basic tenets that NVNG transceivers operating in the United States must communicate with or through U.S. authorized space stations only, and that

such communications must be authorized as well by the space station licensee or an authorized vendor. One commenter asked that we devise a rule that will allow domestically authorized user transceivers to access foreign-licensed NVNG space station systems. We do not believe that this type of arrangement should be dealt with by regulation. In the past, arrangements for U.S. licensees to access foreign space stations for either domestic or international use have been made on a bilateral, government-to-government basis. We believe that we will best be able to determine the extent to which such access should be permitted by continuing this approach. The rules that we have adopted will not preclude entering into arrangements for such access with countries that license non-geostationary satellite systems and permit roaming by areas have technically compatible transceivers designed to operate with systems licensed in the United States.

Once authorized to access a U.S.-licensed space station system, a roaming user's transceiver operations will be deemed to fall within the umbrella of the blanket earth station license held by the system operator or service vendor authorized by the system licensee. Because of the large number of technically identical terminals, and the likely short-term use of a roaming unit within the United States, it would be an unnecessarily onerous burden to require issuance of a separate license to each individual transceiver user. By placing the ultimate responsibility for transceiver operations upon the system operator or service vendor as earth station licensee, we believe that the public interest can be well protected without inhibiting the use of these units by unnecessary licensing burdens. Thus, we have adopted § 25.135 (c) and (d) as proposed.

C. License Terms and Renewals

Earth Stations

NVNG subscriber user transceivers will be authorized pursuant to "blanket" earth station licenses, whereby a single licensee will be responsible for the operations of a specific number of technically identical units. As proposed in the Notice, the ten-year license term will commence on the date that the earth station license is granted.

Space Stations

As in the case of NVNG earth stations, we have proposed a blanket licensing approach to the authorization of NVNG space stations. Entire satellite systems in this service will be licensed to operate for periods of ten years, commencing upon the date that the licensee certifies that its first satellite is successfully placed into orbit and operational. The operating license of all other system satellites launched within the ten year period will expire on that same date. Applications to renew a space station system license must be filed by the end of the seventh year of the existing system license. This period of time will allow the Commission sufficient time to act on replacement applications, will give interested parties adequate notice of an operator's intent, and will not unduly force existing licensees into premature decisions.

In the Notice, we stated that NVNG licensees, like licensees in other satellite services, will generally be given replacement system authority if the frequencies remain available for use by comparable types of systems. Two of the applicants request that we codify this system replacement expectancy, noting that not only are NVNG systems expensive to construct and operate, but that NVNG customers deserve the assurance of continued service availability. Accordingly, they suggest adoption of a rule that will assure system operators of reauthorization so long as they have a record of consistent regulatory compliance. At a minimum, they allege, we should incorporate a rule that embodies our policy generally to authorize replacement systems if the frequencies remain available. As we stated in the Notice, any number of intervening circumstances may inhibit our grant of replacement authority. We are therefore reluctant to attempt to define the exact terms under which we will grant replacement system authority ten years hence. For example, at that time, we may have devised efficiency standards, which could interfere with our ability to reauthorize an existing type or size of system. Rather than attempt to create at this time an exhaustive list of conditions precedent to the grant of replacement authority, which list may alternatively prove to be either too inclusive or too exclusive, we continue to believe that our general policy will most accurately meet the public interest. This policy will provide NVNG operators with assurance that we generally intend to grant replacement system authority, but will not hobble our ability to examine all factors that may ultimately prove relevant to such a grant.

D. System Construction, Milestones

Space station system licensees will be required to notify us when their first system satellite is launched and operational. Milestone deadlines, which are the dates by which construction of a system must be commenced and completed and satellites launched, will not be codified but will be established in each individual license. This will allow us to consider an individual applicant's circumstances when developing these guidelines. As a general matter, a permittee must commence construction of the first two satellites of its system within one year of grant of the construction permit, and begin construction of all remaining satellites within three years of grant. Construction of the first two satellites must be completed within four years of grant and the entire system must be launched and operational within six years. One commenter has urged the Commission to modify its milestone proposal to reflect the realities of smaller systems, suggesting that it is unduly burdensome to insist that a permittee of a small system be compelled to commence construction of such a proportionately high number of satellites within the first year. Instead, it has been suggested that a system permittee proposing to operate five satellites or fewer be required to commence construction of only a single satellite within the first year. While we decline to create a specific policy/regarding system milestones for permittees proposing to operate fewer than six satellites, we agree with this general assessment. It is this type of situation that underlies our determination not to codify absolute milestone limits, but to retain the flexibility to consider all factors involved in their imposition. In light of the expressed concern over the adequacy of the allocated spectrum and the possibility of warehousing this scarce resource, we intend to continue our longstanding policy of equitably imposing, and enforcing, milestone commitments.

E. Frequency Assignments

We have proposed that each applicant specify precisely the frequencies that it intends to use for its service and feeder links. If the proposed operations appear compatible with other authorized uses, we will license the applicant to use the requested frequencies on a non-exclusive basis. This section raised considerable controversy. Arguing that the spectrum sharing scheme proposed by the applicants in the negotiated rulemaking will result in both an undesirable duopoly and spectrum warehousing, one commenter proposed that we instead (1) make frequency assignments based on our assessment of an applicant's "real near term

requirements," and (2) allow system expansion only after a licensee is able to demonstrate a specific level of system usage. However, this is a first generation service. We do not know how quickly, or in what manner, the service will grow. The applicants have presented us with their own best estimates regarding their actual spectrum usage requirements. Different, arbitrarily imposed limits on system size could force a licensee into what may very well be an artificially, and unsupportably, low system capacity.

If inadequate capacity is licensed initially, the problem is not easily resolved. Once LEO satellite systems are placed in orbit, they cannot be expanded to meet demand until the next generation is launched. By that time, expansion may be hindered by other factors. Licensee will have six years to commence operation of their systems. By the time they are launched and filled to the preordained capacity, there may be no room for these first generation systems to expand. Indeed, system capacity may have to be decreased over time as U.S.-authorized NVNG systems coordinate their operations with those of neighboring jurisdictions. If we grant licensees access to only a bare minimum amount of spectrum, it is thus conceivable that their systems will prove too limited to serve customer needs or achieve commercial viability. While maximum entry has always been a major concern in the evolution of this service, it must not take precedence over our ability to license viable systems.

We would be more likely to entertain the notion of imposing our own limits on a licensee's spectrum usage and power levels if we had sufficient information regarding the ultimate commercial and technical development of the NVNG MSS, or if the first round applicants proposed to use all of the available spectrum. However, we are not prescient, and the applicants do not propose to occupy the entire NVNG spectrum resource. Some unassigned NVNG spectrum remains available under the applicants' sharing proposal, additional allocated spectrum should become available for use in 1997 and beyond, and the majority of the spectrum that will be non-exclusively assigned to licensees can be used by future licensees as well. Accordingly, we will continue to leave decisions regarding appropriate system size and configuration to the applicants themselves.

F. Spectrum Efficiency

We have undertaken from the beginning of this rulemaking the development of rules that will further the efficient use of the NVNG MSS spectrum. During the course of the negotiated rulemaking, the Committee debated at great length the possibility of imposing concise spectrum efficiency requirements upon NVNG space station operators. These discussions failed to elicit a sound, mutually agreeable solution. Accordingly, we proposed in our *Notice* to defer the imposition of efficiency standards until we can examine the technical and commercial development of the service.

As an initial matter, the commenters unanimously agree that it is inadvisable at this time to mandate a single modulation and accessing technique for this service. There is no current need, and indeed no factual basis upon which, to do so. One applicant continues to urge our reconsideration of an efficiency standard that the company has advanced throughout the course of this rulemaking. Generally, that standard would require system operators to make service available in the United States at least 75% of the time. This proposal as well as others, was discussed at length in the negotiated rulemaking. During those meetings, the Committee was unable even to define the concept of efficiency as it relates to this service. The problems that plagued the Committee during its deliberation of this subject remain. We have no experience with commercial NVNG MSS systems operating in these frequency bands. Without experience, we do not know which technologies will even prove workable, much less preferable, as different services attempt to coexist within this particular spectrum. Further, we do not know how consumer demand for services will evolve in the NVNG MSS. In any event, it is not "efficient" to mandate at this time either use of a technology that may not work, or a level of available service that may not be supported by the market. We do expect to address the issue of efficiency standards in future proceedings.

G. Regulatory Treatment

In the Notice, we proposed that applicants be allowed to request classification as either common or private carriers. In accordance with existing policy, the Commission would then determine whether such classification would be in the public interest. The comments universally supported this proposal. Since adoption of the Notice, section 332 of the Communications Act, 47 U.S.C. 332, has been amended to establish a new category of mobile services called "commercial mobile services" (CMS). Section 332 now requires that CMS providers be treated as common carriers, but the Commission has authority to forebear from most Title II regulation for CMS providers. Subsection 332(c)(5), however, states that the Commission may continue to determine whether the provision of space segment capacity by satellite systems to CMS providers should be treated as common carriage. Accordingly, we believe that we continue to have the discretion to make determinations regarding the regulatory classification of NVNG space station licensees. As we stated in the Notice, NVNG services are not inherently common carrier in nature under the guidelines of the *NARUC I* decision. Accordingly, we will not require NVNG space station licensees to provide system access to CMS providers on a common carriage basis. However, earth station licensees will be treated as common carriers if their service offerings fall within the new definition of CMS. We also proposed that NVNG licensees operating as common carriers should be subject to streamlined regulation. We have adopted that proposal, as we believe that it will ease the regulatory burden on NVNG licensees, without harm to the public interest. Thus, all NVNG common carrier space and earth station licensees will be subject to streamlined regulation. In addition, we note that the issue of forbearance from tariff regulation of domestic CMS providers is now under consideration in a separate CMS Rulemaking.

H. Application Amendments

In the *Notice*, we suggested that applicants be given 90 days in which to amend their applications to conform to the new regulations. One applicant argues that it is unrealistic to expect applicants to make all necessary changes in system design and business plans and to secure reasonable financial commitments within ninety days of adoption of final rules. It therefore proposes that applicants be given nine months in which to meet the newly-imposed financial showing. We believe, however, that an applicant's financial arrangements could well have commenced prior to the completion of this rulemaking. While the final rules have only been established herein, their probable substance has been largely apparent for some time. In light of the fact that the financial qualification standard adopted today is not onerous, we do not feel that it will be in the public interest to bifurcate and extend the amendment period, and thus further to delay licensing of these systems. We therefore will allow applicants in this

processing round 90 days from the effective date of these regulations in which to file all conforming amendments and fees for system construction, launch and operation.

An applicant has also requested clarification that all system amendments necessary to bring applications into conformance with these newly-imposed rules will be accepted without procedural disadvantage to the applicants. For example, if certain of these amendments were deemed, under ordinary circumstances, to be "major" amendments, the entire application would be considered newly-filed as of the date of the amendment. The application would then no longer be eligible for consideration in this processing round, because of its failure to be properly on file as of the original application cut-off date. Therefore, we clarify that to the extent that amendments are necessary because of obligations that we have imposed upon applicants after the cut-off date, the amendments will be accepted without adverse consequence. We emphasize, however, that only necessary amendments will be accepted unconditionally. All others will be treated under the existing procedural regulations.

I. International Obligations

It was suggested that we impose license conditions on NVNG MSS service providers, requiring the successful completion of both domestic and international coordination of their systems prior to grant. The International Telecommunication Union (ITU) has established a procedure governing the coordination of mobile satellite systems. That procedure assures that worldwide coordination is accomplished in a manner that places the burden on both the affected administration and the administration seeking coordination to cooperate in the resolution of conflicts. ITU regulations do not, however, require successful coordination of a system prior to licensing by an individual administration. Such a requirement could empower another administration to employ dilatory tactics merely to impede implementation of U.S. systems.

In a similar vein, a second commenter urges the Commission to consult with "appropriate ITU organizations" before the promulgation of final rules that, it alleges, may foreclose competition and promote spectrum inefficiency. While the United States is an active participant in a number of global fora, including the ITU and its Radiocommunications Sector, we believe that it is unnecessary and imprudent to await further global action on LEO MSS issues prior to the promulgation of wholly domestic regulations. Such a delay would needlessly hamper the efforts of domestic licensees to make available to the U.S. public these innovative services. As we stated in the Notice, we will follow the coordination procedures prescribed for non-geostationary satellite systems; will work with the global community to promote LEO services through discussion of sharing techniques and other technical issues; and will continue to require our licensees to meet both their international obligations and any national requirements imposed by other licensing administrations. Because we will require our licensees to comply with international procedures, including the national requirements of any other licensing administrations, the efforts of these other jurisdictions to implement NVNG service within their own territories will remain within their control.

J. Distress and Safety Communications

The Interagency Committee on Search and Rescue (ICSAR) noted that NVNG offers the potential to greatly improve emergency communications to benefit search and rescue (SAR) and disaster response operations, and recommends that NVNG applications address certain SAR concerns. Specifically, ICSAR suggests that applicants in the NVNG MSS disclose how their systems will: (1) Determine the grid coordinates of any distress signal received; (2) determine and direct messages to the appropriate search and rescue organization for assistance; and (3) design the communications interface with search and rescue organizations to utilize the public switched data network. While we agree with ICSAR that NVNG services have the potential to complement existing safety services, we note that the NVNG services are not intended to replace existing international safety services and cannot be used in lieu of distress beacons, such as emergency locator transmitters or emergency position indicating radio beacons, that are required to be carried by international agreement or statute. We thus believe that ICSAR's proposal to require NVNG applicants to show specific methods of interconnection to route distress communications to SAR organizations is not necessary. System operators have adequate incentives to work to meet demands identified by ICSAR in a timely and cost-effective manner. We therefore do not feel that it is necessary to impose upon NVNG applicants the requirements suggested by ICSAR. We expect, however, that NVNG system operators who choose to offer distress communications capability will coordinate their efforts with ICSAR and SAR organizations.

K. Public Notice Requirement

The Commission has also proposed to modify its rules to specify that its public notice requirements do not apply to assignments or transfers of space station authorization that do not involve a substantial change of control. Because this amendment merely codifies our existing practice, and will in no way adversely impact the public interest, we have adopted § 25.151(c)(5) as proposed.

List of Subjects

47 CFR Part 2

Communications common carriers.

47 CFR Part 25

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Title 47 of the Code of Federal Regulations, parts 2 and 25, are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 4, 302, 303 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 154(i), 302, 303, 303(r), and 307, unless otherwise noted.

2. Section 2.1 is amended by adding the following definition, in alphabetical order, to read as follows:

§ 2.1 Terms and definitions.

* * * * *

Non-Voice, Non-Geostationary Mobile-Satellite Service. A mobile-satellite service reserved for use by non-geostationary satellites in the provision of non-voice communications which may include satellite links between land earth stations at fixed locations.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

3. The authority citation for part 25 continues to read as follows:

Authority: Sections 101–404, 76 Stat. 419–427; 47 U.S.C. 701–744, sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303.

4. Section 25.201 is amended by adding the following definition, in alphabetical order, to read as follows:

§ 25.201 Definitions.

* * * * *

Non-Voice, Non-Geostationary Mobile-Satellite Service. A mobile-satellite service reserved for use by non-geostationary satellites in the provision of non-voice communications which may include satellite links between land earth stations at fixed locations.

* * * * *

5. Section 25.114 is amended by revising paragraph (c)(18), and adding a new paragraph (c)(27), to read as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(c) * * *

(18) Detailed information demonstrating the financial qualifications of the applicant to construct and launch the proposed satellites. Applications for domestic, and NVNG MSS, satellite systems shall provide the financial information required by § 25.140(b)–(e) or § 25.142(a)(4). Applications for international satellite systems authorized pursuant to Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1046 (1985), *recon.* 61 RR2d 649 (1986), *further recon.* 1 FCC Rcd 439 (1986), shall provide the information required by that decision.

* * * * *

(27) Applications to license multiple space station systems in the non-voice, non-geostationary mobile-satellite service under blanket operating authority shall also provide all information specified in § 25.142.

6. Section 25.115 is amended by adding a new paragraph (d) to read as follows:

§ 25.115 Applications for earth station authorizations.

* * * * *

(d) User transceivers in the non-voice, non-geostationary mobile-satellite service need not be individually licensed. Service vendors may file blanket applications for transceiver units using FCC Form 493 and specifying the number of units to be covered by the blanket license. FCC Form 430 should be submitted if not already on file in conjunction with other facilities licensed under this subpart. Each application for a blanket license under this section shall include the information described in § 25.135.

7. Section 25.120 is amended by revising paragraphs (d) and (e) to read as follows:

§ 25.120 License term and renewals.

* * * * *

(d) Space stations.

(1) For space stations in the fixed-satellite services, the license term will begin at 3 a.m. EST on the date the licensee certifies to the Commission that the satellite has been successfully placed into orbit and that the operations of the satellite fully conform to the terms and conditions of the space station radio authorization.

(2) For space station systems in the non-voice, non-geostationary mobile-satellite service, the license term will begin at 3 a.m. EST on the date that the licensee certifies to the Commission that its initial space station has been successfully placed into orbit and that the operations of that satellite fully conform to the terms and conditions of the space station system authorization. All space stations launched and brought into service during the ten-year license term shall operate pursuant to the system authorization, and the operating authority for all space stations will terminate upon the expiration of the system license.

(e) Renewal of licenses. Applications for renewals of earth station license must be submitted on FCC Form 405 (Application for Renewal of Radio Station License in Specified Services) no earlier than 90 days and no later than 30 days, before the expiration date of the license. Applications for space station system replacement authorization in the non-voice, non-geostationary mobile-satellite service shall be filed no earlier than 90 days and no later than 30 days, prior to the end of the seventh year of the existing system license.

8. Section 25.130 is amended by revising paragraph (b) to read as follows:

§ 25.130 Filing requirements for transmitting earth stations.

* * * * *

(b) A frequency coordination analysis in accordance with § 25.203 shall be provided for earth stations transmitting in the frequency bands shared with equal rights between terrestrial and space services, except that transceiver units associated with the non-voice, non-geostationary mobile-satellite service shall instead provide the information required by § 25.135.

* * * * *

9. Section 25.133 is amended by revising paragraph (b) to read as follows:

§ 25.133 Period of construction; certification of commencement of operation.

* * * * *

(b) Each license for a transmitting earth station included in this part shall also specify as a condition therein that upon the completion of construction, each licensee must file with the Commission a certification containing the following information: The name of the licensee, file number of the application, call sign of the antenna, date of the license, a certification that the facility as authorized has been completed, that each antenna facility has been tested and is within 2 dB of the pattern specified in § 25.209, and that the station is operational including the date of commencement of service, and will remain operational during the license period unless the license is submitted for cancellation. For stations authorized under § 25.115 (c) and (d) (Large Networks of Small Antennas operating in the 12/14 GHz bands; User transceivers in the non-voice, non-geostationary mobile-satellite service), a certificate must be filed when the network is put into operation.

* * * * *

10. A new § 25.135 is added to read as follows:

§ 25.135 Licensing provisions for earth station networks in the non-voice, non-geostationary mobile-satellite service.

(a) Each applicant for a blanket earth station license in the non-voice, non-geostationary mobile-satellite service shall demonstrate that transceiver operations will not cause unacceptable interference to other authorized users of the spectrum, based on existing system information publicly available at the Commission at the time of filing, and will comply with operational conditions placed upon the systems with which they are to operate in accordance with § 25.142(b). This demonstration shall include a showing as to all the technical parameters, including duty cycle and power limits, under which the individual user transceivers will operate.

(b) Transceiver units associated with the non-voice, non-geostationary mobile-satellite service may not be operated on civil aircraft. All portable or hand-held transceiver units (including transceiver units installed in other devices that are themselves portable or hand-held) having a receiver operating in the 137–138 MHz band shall bear the following statement in a conspicuous location on the device: "This device may not be operated while on board a civil aircraft. It must be turned off at all times while on board such an aircraft."

This subsection shall not apply to transceiver units whose receivers are incapable of radiating in the 108–137 MHz frequency bands.

(c) Transceiver units in this service are authorized to communicate with and through U.S. authorized space stations only. No person shall transmit to a space station unless the specific transmission is first authorized by the space station licensee or by a service vendor authorized by that licensee.

(d) Any transceiver unit associated with this service will be deemed, when communicating with a particular non-voice, non-geostationary mobile-satellite service system pursuant to paragraph (c) of this section, to be temporarily associated with and licensed to the system operator or service vendor holding the blanket earth station license awarded pursuant to § 25.115(d). The domestic earth station licensee shall, for such temporary period, assume the same licensee responsibility for such transceiver as if such transceiver were regularly licensed to it.

11. Section 25.140 is amended by redesignating paragraph (d)(2)(iii) as paragraph (d)(2)(iv), and by adding a new paragraph (d)(2)(iii) to read as follows:

§ 25.140 Qualifications of domestic fixed-satellite space station licensees.

* * * * *

(d) * * *

(2) * * *

(iii) The terms of any grant, or other external funding commitment intended to be used to finance the proposed construction, acquisition or operation of the requested facilities including such information as the identity of the grantor(s), the amount committed, letters of commitment, and detailed terms of the transaction, including the details of any contingencies;

* * * * *

12. A new § 25.142 is added to read as follows:

§ 25.142 Licensing provisions for the non-voice, non-geostationary mobile-satellite service.

(a) *Space station application requirements.* (1) Each application for a space station system authorization in the non-voice, non-geostationary mobile-satellite service shall describe in detail the proposed non-voice, non-geostationary mobile-satellite system, setting forth all pertinent technical and operational aspects of the system, and the technical, legal, and financial qualifications of the applicant. In particular, each application shall include the information specified in § 25.114, except that in lieu of the information concerning orbital locations requested in § 25.114(c)(6), the applicant shall specify the number of space stations and applicable information relating to the altitude(s), argument(s) of perigee, service arc(s), right ascension of ascending node(s), eccentricity, and inclination of the space stations (all referenced to the same time) that will comprise its system. Applicants must also file information demonstrating compliance with all requirements of this section, and showing, based on existing system information publicly available at the Commission at the time of filing, that they will not cause unacceptable interference to any non-voice, non-geostationary mobile-satellite service system authorized to construct or operate.

(2) Applicants for a non-voice, non-geostationary mobile-satellite must identify the power flux density produced at the Earth's surface by each space station of their system in the frequency bands 137–138 MHz and 400.15–401 MHz, to allow determination of whether coordination with terrestrial services is required under international footnotes 599A and 647B of § 2.106 of the Commission's Rules. In addition, applicants must identify the measures they would employ to protect the radio astronomy service in the 150.05–153 MHz and 406.1–410 MHz bands from harmful interference from unwanted emissions.

(3) Emission limitations. (i) Applicants in the non-voice, non-geostationary mobile-satellite service shall show that their space stations will not exceed the emission limitations of § 25.202(f) (1), (2) and (3), as calculated for a fixed point on the Earth's surface in the plane of the space station's orbit, considering the worst-case frequency tolerance of all frequency determining components, and maximum positive and negative Doppler shift of both the uplink and downlink signals, taking into account the system design.

(ii) Applicants in the non-voice, non-geostationary mobile-satellite service shall show that no signal received by their satellites from sources outside of their system shall be retransmitted with a power flux density level, in the worst 4 kHz, higher than the level described by the applicants in paragraph (a)(2) of this section.

(4) Financial qualifications. Each applicant for space station system authorization in the non-voice, non-geostationary mobile-satellite service must demonstrate, on the basis of the documentation contained in its application, that it is financially qualified to proceed expeditiously with the construction, launch and operation for one year of the first two space stations of its proposed system immediately upon grant of the requested authorization. Failure to make such a showing will result in the dismissal of the application. This showing shall include all information described in § 25.140 (c), (d) and (e).

(5) Replacement of space stations within the system license term. The licensee need not file separate applications to construct, launch and operate technically identical replacement satellites within the term of the system authorization. However, the licensee shall certify to the Commission, at least thirty days prior to launch of such replacement(s) that:

(i) The licensee intends to launch a space station that is technically identical to those authorized in its system license, and

(ii) Launch of this space station will not cause the licensee to exceed the total number of operating space stations authorized by the Commission.

(b) *Operating conditions.* In order to ensure compatible operations with authorized users in the frequency bands to be utilized for operations in the non-voice, non-geostationary mobile-satellite service, non-voice, non-geostationary mobile-satellite service systems must operate in accordance with the conditions specified in this section.

(1) Service limitation. Voice services may not be provided.

(2) Coordination requirements with Federal government users.

(i) The frequency bands allocated for use by the non-voice, non-geostationary mobile-satellite service are also authorized for use by agencies of the Federal government. The Federal use of frequencies in the non-voice, non-geostationary mobile-satellite service frequency bands is under the regulatory jurisdiction of the National Telecommunications and Information Administration (NTIA).

(ii) The Commission will use its existing procedures for liaison with NTIA to reach agreement with respect to achieving compatible operations between Federal government users under the jurisdiction of NTIA and non-voice, non-geostationary mobile-satellite service systems (including user transceivers subject to blanket licensing under § 25.115(d)) through the frequency assignment and coordination practices established by NTIA and the Interdepartment Radio Advisory Committee (IRAC). In order to facilitate such frequency assignment and coordination, applicants shall provide the Commission with sufficient information to evaluate electromagnetic compatibility with the Federal government use of the spectrum, and any additional information requested by the Commission. As part of the coordination process, applicants shall show that they will not cause unacceptable interference to authorized Federal government users, based upon existing system information provided by the Government. The frequency assignment and coordination of the satellite system with Federal government users shall be completed prior to grant of construction authorization.

(iii) The Commission shall also coordinate with NTIA/IRAC with regard to the frequencies to be shared by those earth stations of non-voice, non-geostationary mobile-satellite service systems that are not subject to blanket licensing under § 25.115(d), and authorized Federal government stations in the fixed and mobile services, through the exchange of appropriate systems information.

(3) Coordination among non-voice, non-geostationary mobile-satellite service systems. Applicants for authority to establish non-voice, non-geostationary mobile-satellite service systems are encouraged to coordinate their proposed frequency usage with existing permittees and licensees in the non-voice, non-geostationary mobile-satellite service whose facilities could be affected by the new proposal in terms of frequency interference or restricted system capacity. All affected applicants, permittees, and licensees shall, at the direction of the Commission, cooperate fully and make every reasonable effort to resolve technical problems and conflicts that may inhibit effective and efficient use of the radio spectrum; however, the permittee or licensee being coordinated with is not obligated to suggest changes or re-engineer an applicant's proposal in cases involving conflicts.

(4) Safety and distress communications. Stations operating in the non-voice, non-geostationary mobile-satellite service that are used to comply with any statutory or regulatory equipment carriage requirements may also be subject to the provisions of sections 321(b) and 359 of the Communications Act of 1934, as amended. Licensees are advised that these provisions give priority to radio communications or signals relating to ships in distress and prohibit a charge for the transmission of maritime distress calls and related traffic.

(c) *Reporting requirements.* All operators of non-voice, non-geostationary mobile-satellite service systems shall, on June 30 of each year, file a report with the Common Carrier Bureau and the Commission's Laurel, Maryland field office containing the following information:

(1) A listing of any non-scheduled space station outages for more than thirty minutes and the cause(s) of such outages;

(2) A detailed description of the utilization made of the in-orbit satellite system. That description should identify the percentage of time that the system is actually used for domestic transmission, the amount of capacity (if any) sold but not in service, and the amount of unused system capacity; and

(3) Identification of any space stations not available for service or otherwise not performing to specifications, the cause(s) of these difficulties, and the date any space station was taken out of service or the malfunction identified.

13. Section 25.151 is amended by revising paragraph (c)(5) to read as follows:

§ 25.151 Public notice period.

* * * * *

(c) * * *

(5) For consent to an assignment or transfer of control of a space station authorization or a transmitting earth station authorization, where the assignment or transfer does not involve a substantial change in ownership or control; or

* * * * *

14. Section 25.202 is amended by adding a new paragraph (a)(3), and by revising paragraph (f)(4), to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

* * * * *

(a) * * *

(3) The following frequencies are available for use by the non-voice, non-geostationary mobile-satellite service:

137–138 MHz: space-to-Earth
148–149.9 MHz: Earth-to-space
149.9–150.05 MHz: Earth-to-space
399.9–400.05 MHz: Earth-to-space
400.15–401 MHz: space-to-Earth

Until January 1, 1997, the allocations in the 149.9–150.05 MHz and 399.9–400.05 MHz bands may be used on a secondary basis only. Since the 399.9–400.05 MHz band is not allocated internationally to the mobile-satellite service, all operations outside the United States will be on a non-interference basis only.

* * * * *

(f) * * *

(4) In any event, when an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in paragraphs (f) (1), (2) and (3) of this section.

* * * * *

[FR Doc. 93–31192 Filed 12–22–93; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Parts 80, 87 and 94

[PR Docket 93–39; FCC 93–506]

Private Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission has adopted a Report and Order. The Report and Order is part of a Commission-wide initiation to reexamine burdensome regulations. Accordingly, the Report and Order relaxes or eliminates certain rules that impose unnecessary regulatory burdens in certain private radio services.

EFFECTIVE DATE: December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Sean White, (202) 632–7175, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 93–506, Adopted November 19, 1993; and released December 14, 1993. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, 1919 M Street, room 246, Washington, DC 20554, telephone (202) 337–1433.

Summary of Notice

1. First, the Report and Order amends §§ 80.25(a) and 87.27 of the Commission's Rules, 47 CFR 80.25(a) and 87.27, to extend the current license term for aircraft and ship station licenses from five years to ten years. Section 307(c) of the Communications Act of 1934 (Communications Act), 47 U.S.C. 307(c) authorizes a ten-year term for such licenses. The current five year term requirement imposes an unnecessary burden both on the licensees, who must prepare and file the application form (there is a $35 application fee), and on the Commission, which must process the approximately 125,000 ship station and 40,000 aircraft station license applications it receives each year. Accordingly, the Commission modifies Sections 80.25 and 87.27 to provide a

VOL 58 ISS 245 DEC 23 1993 UMI

ten-year license term for ship and aircraft station licensees.

2. Second, the Report and Order eliminates the requirement contained in § 94.85 of the Commission's Rules, 47 CFR 94.85, that licensees in the Private Operational Fixed Microwave Service perform specified measurements to ensure that their transmitters are maintained within the frequency tolerances required by § 94.67, 47 CFR 94.67. The records specified in § 94.85, however, are not currently used by the Commission. Licensees must comply with our frequency tolerance rules at all times, so a one-time measurement serves little purpose. There does not appear to be a need, therefore, for a rule that requires licensees to follow a predesignated set of steps to prove compliance.

3. Finally, the Report and Order eliminates the requirement contained in §§ 94.113(a), (b), (d), (e) (f), and (g) of the Commission's Rules, 47 CFR 94.113(a), (b), (d), (e), (f), and (g), that licensees in the Private Operational Fixed Microwave Service maintain numerous records on station maintenance, including transmitter measurements and antenna inspections. Because licensees are required to maintain their systems in conformance with our rules, it is unnecessary to require specifically that they retain maintenance records. The purpose of retaining such records is to provide evidence of conformance with equipment specifications. If a station fails Commission inspection, or causes interference due to technical deficiencies, however, past compliance does not rectify current violation of the Commission's Rules. Failure to meet the Commission's technical standards, whether efforts have been made to do so or not, subjects a licensee to consequences such as the imposition of a monetary forfeiture. Therefore, the Commission eliminates the unnecessary and burdensome obligations imposed by §§ 94.113(a), (b), (d), (e), (f), and (g).

4. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, and found to contain no new or modified form, information collection and/or record retention requirements, and will decrease burden hours imposed on the public.

List of Subjects

47 CFR Part 80

Radio.

47 CFR Part 87

Radio.

47 CFR Part 94

Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rule

Part 80 of title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat.1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.25 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively, by adding new paragraph (a), and revising newly redesignated paragraph (b) to read as follows:

§ 80.25 License term.

(a) Licenses for ship stations in the maritime services will normally be issued for a term of ten years from the date of original issuance, major modification, or renewal.

(b) Licenses other than ship stations in the maritime services will normally be issued for a term of five years from the date of original issuance, major modification, or renewal.

* * * * *

Part 87 of title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. The authority citation for part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. Section 87.27 is amended by redesignating existing paragraphs (a) and (b) as paragraphs (b) and (c), respectively, adding a new paragraph (a), and revising newly designated paragraph (b) to read as follows:

§ 87.27 License term.

(a) Licenses for aircraft stations will normally be issued for a term of ten years from the date of original issuance, major modification or renewal.

(b) Licenses other than aircraft stations in the aviation services will normally be issued for a term of five years from the date of original issuance, major modification, or renewal.

* * * * *

Part 94 of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 94 is revised to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

§ 94.85 [Removed]

2. Section 94.85 is removed in its entirety.

3. Section 94.113 is revised to read as follows:

§ 94.113 Station records.

When a station in this service has an antenna structure which is required to be illuminated, appropriate entries in its station records (logs) shall be made as follows:

(a) The time the tower lights are turned on and off each day, if manually controlled.

(b) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not employed.

(c) In the event of any observed or otherwise known failure of a tower light:

(1) Nature of such failure.

(2) Date and time the failure was observed or otherwise noted.

(3) Date, time, and nature of the adjustments, repairs, or replacements made.

(4) Identification of Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(5) Date and time notice was given to the Flight Service Station (Federal Aviation Administration) that the required illumination was resumed.

(d) Upon completion of the 3-month periodic inspection required by § 94.111(c):

(1) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(2) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

[FR Doc. 93–31353 Filed 12–22–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 931223–3323; I.D. #111693C]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Office of the Solicitor, Department of the Interior, issued a legal opinion on October 4, 1993, which construed the scope of the fishing rights of the Yurok and Hoopa Valley Indian Tribes of the Klamath River Basin, California (Solicitor's Opinion). In that opinion, the Solicitor concluded that the Indian Tribes of the reservations have a Federally protected right to the fishery resource sufficient to support a moderate standard of living or 50 percent of the total available harvest of Klamath-Trinity basin salmon, whichever is less. The Solicitor further concluded that given the current depressed condition of Klamath River basin salmon stocks, and absent any agreement among the parties to the contrary, the Tribes are entitled to 50 percent of the harvest.

The Secretary of Commerce (Secretary) issues this final rule to recognize that the Federally reserved fishing rights of the Yurok and Hoopa Valley Tribes, as acknowledged and quantified in the Solicitor's Opinion, are applicable law for the purposes of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Accordingly, all future fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California approved by the Secretary must provide for harvest allocations to the Yurok and Hoopa Valley Tribes as set out in the Solicitor's Opinion and referenced in the Appendix to the regulations governing the Pacific salmon fishery.

EFFECTIVE DATE: This action becomes effective January 24, 1994.

ADDRESSES: Requests for copies of the Solicitor's Opinion and further information should be addressed to Dr. Gary Matlock, Acting Regional Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney R. McInnis at (310) 980–4030, or Mr. William L. Robinson at (206) 526–6140.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries off Washington, Oregon, and California are managed under a framework fishery management plan (FMP) that was approved in 1984. It has been amended four times (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; and 56 FR 26774, June 11, 1991). Management measures recommended by the Pacific Fishery Management Council (Council) under the FMP must be approved by the Secretary before they become effective. Indian fishing on the Hoopa Valley and the Yurok Reservations is regulated by the Department of the Interior under regulations published at 25 CFR part 250.

Although numerous court decisions have confirmed that the Yurok and Hoopa Valley Indians have Federally protected fishing rights to the fishery resource in the rivers running through their reservations, none of the decisions decided whether the Tribes' fishing rights entitle them to a specific allocation or quantified share of the resource. The FMP specifies that, to the maximum extent possible, optimum yield will be set at a level that fulfills the requirements of the Indian fishery for salmon on the Klamath River and that the Council must take the effects of in-river harvest on spawner escapement into account while setting ocean harvest levels. The Klamath Fishery Management Council (KFMC), established by Public Law 99–552, October 27, 1986, produced a Long-term Plan for Management of Harvest of Anadromous Fish Populations of the Klamath River Basin which states that an allocation system will be consistent with the legally defined harvest share allocable to tribal reserved fishing rights, and will allocate the remaining share among ocean and in-river harvesters.

Prior to the Solicitor's Opinion, the Tribes' reserved fishing rights had not been quantified. As a result, the KFM has not been able to reach the required consensus for making recommendations to the Council regarding ocean harvest levels of Klamath Basin salmon stocks.

The Solicitor's Opinion now provides a clear legal framework for allocating the salmon harvest between the Tribes and various other in-river and ocean commercial and recreational fishermen. Both the Department of Justice and the Department of Commerce reviewed the Solicitor's Opinion. Under section 303 of the Magnuson Act, ocean fishery management measures must comport with all other applicable laws. By this notice, the Department of Commerce acknowledges that the Federally reserved fishing rights of the Yurok and Hoopa Valley Tribes, as described and quantified in the Solicitor's Opinion, are applicable law for purposes of the Magnuson Act. Subsequently, this action amends 50 CFR part 661 which governs the Pacific salmon fisheries, by referencing the Solicitor's Opinion in the Appendix of the Pacific salmon regulations. The Secretary will only approve ocean salmon management measures recommended by the Council that provide for tribal harvest opportunity consistent with the rights recognized in the Solicitor's Opinion and meet the spawning escapement goal for Klamath River fall chinook salmon. If the Council does not recommend management measures consistent with the Solicitor's Opinion, the Secretary may issue emergency regulations to ensure tribal harvest opportunity consistent with the Solicitor's Opinion.

Classification

This rule does not impose any new requirements on the Government or the public, but merely articulates NMFS' interpretation of what is applicable law for purposes of section 303 of the Magnuson Act.

The Assistant Administrator for Fisheries, NOAA, has determined that this interpretative rule is consistent to the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California, and the San Francisco Bay Conservation and Development Commission. This determination is being submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

Because notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act for interpretative rules, and because no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act, no initial or final regulatory flexibility analysis is required and none has been prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act.

This rule does not contain policies with known federalism implications sufficient to warrant preparation of the federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: December 20, 1993.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 661 is amended as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

1. The authority citation for part 661 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. The appendix to part 661 is amended by renumbering paragraphs II.B.11. and II.B.12. as paragraphs II.B.12. and II.B.13, respectively, and by adding a new paragraph II.B.11. as follows:

Appendix

* * * * *

II * * *

B * * *

11. Yurok and Hoopa Valley Tribal fishing rights. For purposes of section 303 of the Magnuson Act, the Federally reserved fishing rights of the Yurok and Hoopa Valley Indian Tribes as set out in a legal opinion [1] dated October 4, 1993, by the Office of the Solicitor, Department of the Interior, are applicable law. Under section 303, allowable ocean harvest must be consistent with all applicable laws.

* * * * *

[FR Doc. 93–31355 Filed 12–22–93; 8:45 am]

BILLING CODE 3510–22–M

[1] Copies of the Solicitor's Opinion are available from the Office of the Regional Director, Southwest Region, NMFS, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90802–4213.

Proposed Rules

Federal Register
Vol. 58, No. 245
Thursday, December 23, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. AO–370–A5; FV93–930–1]

Proposed Tart Cherry Marketing Agreement and Order; Promulgation Hearing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearings on proposed marketing agreement and order.

SUMMARY: This notice announces additional times and locations of public hearings to be held to consider a proposed marketing agreement and order to cover tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin.

DATES: The additional hearings will be held on:

1. January 10 and 11, 1994, in Rochester, NY;
2. January 13 and 14, 1994, in Provo, UT;
3. February 14 through 16, 1994, in Portland, OR.

All sessions will begin at 9 a.m.

ADDRESSES: The hearings will be held at the following locations:

1. Rochester—Radisson Hotel, Rochester Plaza, 70 State Street;
2. Provo—Provo Holiday Inn, 1460 South University Avenue;
3. Portland—Holiday Inn Airport, 8439 Northeast Columbia Boulevard.

FOR FURTHER INFORMATION CONTACT: (1) R. Charles Martin or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, room 2523–S, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456; telephone number (202) 720–5053.

(2) Robert Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W Third Avenue, room 369, Portland, Oregon, 97204; telephone: (503) 326–2725.

SUPPLEMENTARY INFORMATION: This notice is an addendum to a notice of hearing which appeared in the **Federal Register** (58 FR 63108, November 30, 1993). A public hearing was held December 15–17, 1993, in Grand Rapids, Michigan, to receive evidence on the marketing order proposal. These additional hearings allow receipt of further evidence on the marketing order proposal from growers, handlers, processors, or other interested parties who were not able to attend the Grand Rapids, Michigan, hearing.

The proposed agreement and order would authorize volume regulation, grade, size, maturity, pack and container regulations including mandatory inspection. The proposed order would also authorize production, processing and marketing research and promotion projects. The proposal was submitted by the Cherry Marketing Institute, a major industry organization, on behalf of interested cherry growers and processors (handlers). The program would be financed by assessments levied on handlers. The assessment rate would be established by the Secretary of Agriculture, based on the recommendation of a committee that would administer the program. The committee, appointed by the Secretary, would be composed of 18 members (17 growers and handlers and a public member).

The additional hearings will be held January 10–11, 1994, in Rochester, New York, at the Radisson Hotel, Rochester Plaza, 70 State Street; January 13–14, in Provo, Utah, at the Provo Holiday Inn, 1460 South University Avenue; and February 14–16, in Portland, Oregon, at the Holiday Inn Airport, 8439 Northeast Columbia Boulevard. All sessions will begin at 9 a.m. except the Portland, Oregon session will begin at 1 p.m.

Testimony is invited at the hearings on the proposed order and on all the recommendations and proppsals contained in the notice published in the **Federal Register** on November 30, 1993 (58 FR 63108), as well as any appropriate modifications or alternatives.

Authority: 7 U.S.C. 601–674.

Dated: December 20, 1993.

Lon Hatamiya,

Administrator.

[FR Doc. 93–31438 Filed 12–22–93; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 93–20]

Capital Adequacy: Deferred Tax Assets

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend its capital adequacy rules with respect to deferred tax assets of national banks. The proposed amendment would limit the amount of certain deferred tax assets that may be included in a national bank's Tier 1 capital for risk-based and leverage capital purposes.

The proposal was developed jointly by the OCC, the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (hereafter, the "agencies") to respond to the Financial Accounting Standards Board's (FASB) issuance of Statement of Financial Accounting Standards No. 109, "Accounting for Income Taxes" (FAS 109) in February 1992. The agencies have adopted the provisions of FAS 109 for reporting in quarterly Consolidated Reports of Condition and Income and Thrift Financial Reports beginning January 1, 1993.

In conjunction with this reporting change, the proposed amendment is expected to increase the amount of net deferred tax assets that a national bank may include when computing its regulatory capital. The OCC invites comments on all aspects of the proposed amendment.

DATES: Comments should be submitted on or before January 24, 1994.

ADDRESSES: Comments on the OCC's proposal may be submitted to Docket No. 93–20, Communications Division, Ninth floor, Office of the Comptroller of the Currency, 250 E Street, SW.,

Washington, DC 20219. Comments will be available for inspection and photocopying at that address.

FOR FURTHER INFORMATION CONTACT: Eugene W. Green, Deputy Chief Accountant, Office of the Chief National Bank Examiner, (202) 874–5180; Elizabeth B. Salomon, Professional Accounting Fellow, Office of the Chief National Bank Examiner, (202) 874–5180; Roger Tufts, Senior Economic Advisor, Office of the Chief National Bank Examiner, (202) 874–5070; Ronald Shimabukuro, Senior Attorney, Bank Operations and Assets Division, (202) 874–4460, Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

Origins of This Rule

In February 1992, the Financial Accounting Standards Board (FASB) issued Statement No. 109, "Accounting for Income Taxes" (FAS 109). The new statement provides guidance on how to account for income taxes, including deferred tax assets. It supersoded Accounting Principles Board (APB) Opinion No. 11 (APB 11) and FASB Statement No. 96 (FAS 96), and was effective for fiscal years beginning on or after December 15, 1992. The FASB encouraged companies to adopt the statement even before the required date.

FAS 109 generally allows banks to report certain deferred tax assets they could not previously recognize. The OCC and the other federal banking and thrift agencies had certain supervisory concerns about the effect of the change on the institutions they regulate, especially with regard to their reported capital levels.

FAS 109

Under FAS 109, banks can report deferred tax assets that arise from: (1) tax carryforwards and (2) deductible temporary differences.

Tax carryforwards are deductions or credits that banks cannot use for current tax purposes, but which banks can carry forward to reduce taxable income or income taxes payable in a future period or periods. For example, when a bank's tax deductions exceed its tax revenues, the result is a net operating loss. Such losses may be used to recover taxes paid in prior years (the carryback period) or may be carried forward to reduce a bank's taxable income in a future period. The situation is similar for certain tax credits that cannot be used in the current tax period. The bank will realize the benefit of deferred tax assets arising from tax carryforwards if it generates sufficient taxable income in the permissible carryforward period.

Temporary differences arise when a bank records financial events or transactions in one period on the bank's books and recognizes them in another period, or periods, on its tax return. There are two types of temporary differences—deductible and taxable.

Deductible temporary differences reduce a bank's future taxable income. When a bank records an addition to its allowance for possible loan losses, the amount is recorded as an expense on the bank's books during the period the allowance is established or increased. The tax deductions for such losses, however, may not be taken until the losses are actually realized when the loan is charged off. The charge-off typically occurs in a subsequent period. A deferred tax asset is created for many banks when an amount has been added to the bank's allowance on the books but has not yet been charged off.

Taxable temporary differences produce additional taxable income in future periods. For example, a bank may depreciate its bank building using an accelerated depreciation method on its tax return but may use a straight-line method when recording depreciation on its books. As a result, the bank's tax depreciation will be less than its book depreciation in certain future periods. This taxable temporary difference will cause the bank to have higher taxable income in those future periods.

Deferred tax assets arising from deductible temporary differences can be realized only by: (1) Recovering taxes paid in prior years, (2) offsetting taxable temporary differences, or (3) reducing future taxable income. Deferred tax assets arising from deductible temporary differences that exceed the sum of taxable temporary differences and the amount the bank could recover from taxes paid in the permissible carryback period will be realized only if the bank generates sufficient taxable income in the permissible carryforward period. Hereafter, these deferred tax assets, as well as deferred tax assets arising from tax carryforwards, will be referred to as "deferred tax assets that are dependent upon future taxable income."

FAS 109 permits banks to record deferred tax assets that are dependent upon future taxable income. However, banks must establish a valuation allowance to adjust the recorded deferred tax asset to an amount that is more likely than not (i.e., likelihood of more than 50 percent) to be realized.

Previous GAAP and Regulatory Policy

Until FAS 109 was issued, generally accepted accounting principles (GAAP) generally did not permit banks to recognize deferred tax assets that are dependent upon future taxable income. APB 11 allowed banks to report deferred tax assets arising from tax carryforwards only if their realization was "assured beyond any reasonable doubt."

OCC supervisory policy, outlined in Banking Circular 202 (BC 202), limited the net deferred tax assets national banks may report in their quarterly Consolidated Reports of Condition and Income (Call Reports) to the amount of taxes previously paid that the bank could recover through carryback of net operating losses or unrealized tax credits. This "carryback approach" also did not permit the reporting of deferred tax assets that are dependent upon future taxable income.

Supervisory Concerns Regarding Deferred Tax Assets

The OCC is concerned about including deferred tax assets that are dependent upon future taxable income as part of regulatory capital. Whether or not the bank can realize such assets depends on whether it generates enough taxable income during the carryforward period.

As new products evolve and market conditions change, a bank's current financial condition and outlook for future income can change rapidly. Such changes make predicting future taxable income more difficult. Therefore, for many banks, including sound and well-managed banks, the judgment about the likelihood that the bank will be able to realize deferred tax assets that are dependent upon future taxable income will be highly subjective.

The OCC has additional concerns about the effect of these changes on banks that are experiencing financial difficulty. Such banks often have net operating loss carryforwards. As a result, these troubled institutions could potentially record deferred tax assets under FAS 109, even though their realistic prospects for generating sufficient future taxable income are uncertain.

As a troubled bank's condition deteriorates, it is less likely to be able to realize deferred tax assets that are dependent upon future taxable income. In such instances, FAS 109 generally requires the bank to reduce its recorded net deferred tax asset by increasing the asset's valuation allowance. The result is a charge to earnings that will reduce the bank's regulatory capital at precisely the time it needs capital the most.

The OCC also has concerns about deferred tax assets of consolidating institutions. When one bank merges with another, its ability to realize deferred tax assets that are dependent upon future taxable income becomes more uncertain. In acquisitions structured as taxable asset purchases under the federal tax code, any net operating loss carryforwards available to the acquired bank before the purchase are generally extinguished. In an acquisition or change in control that qualifies as a tax-free reorganization, the tax code generally limits the net operating loss carryforwards of the acquired bank that can be used by the acquiring bank. These tax rules may make the ultimate realization of deferred tax assets more uncertain.

These concerns led the OCC and the other agencies to direct the institutions they supervise to delay adopting FAS 109 for regulatory reporting purposes until the agencies had determined the appropriate regulatory reporting and capital treatment.

FFIEC Request for Comment

On August 3, 1992, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment (57 FR 34135) on four alternative approaches for the regulatory reporting and the regulatory capital treatments of deferred tax assets of depository institutions. The four alternatives were (1) to adopt FAS 109 for regulatory reporting and capital calculations, (2) to adopt most provisions of FAS 109, but limit the amount of reported deferred tax assets for regulatory reporting and capital calculations to the amount allowed under the carryback approach, (3) to adopt FAS 109, but limit banks' ability to recognize deferred tax assets for regulatory reporting and capital calculations, and (4) to adopt FAS 109 for regulatory reporting and adopt one of the limits for regulatory capital calculations.

In the request for comment, the FFIEC indicated that, while no final decision would be made until all comments were received, they would prefer the second alternative. The FFIEC indicated they would prefer to adopt most provisions of FAS 109, but limit the recognition of deferred tax assets for regulatory reporting and capital calculations to the amount allowed under the carryback approach, which would be consistent with FDIC and OCC policy at that time. This approach would not allow depository institutions to report deferred tax assets that are dependent upon future taxable income as assets in the Call Report. These assets, therefore, would be excluded from calculations of regulatory capital.

The FFIEC requested comment on which of the four alternative approaches, or any other approach, would be appropriate. They also requested comment on whether some deferred tax assets possess characteristics that could alleviate their concerns, and what criteria could distinguish institutions that are likely to be able to realize net deferred tax assets that are dependent upon future taxable income. The request included a third question about whether it would be appropriate to grandfather certain deferred tax assets for state member banks and savings associations if the approach adopted was more conservative than existing GAAP.

The FFIEC received 198 comments in response to its request. The comments were primarily from banks, thrifts and holding companies. The FFIEC carefully reviewed these comments. Many commenters did not explicitly address the specific questions in the request for comment, but did so indirectly.

The vast majority of the commenters indicated that they believe there are strong reasons to adopt FAS 109 for regulatory reporting and for calculating regulatory capital. Many commenters asserted that deferred tax assets that are dependent upon future taxable income are valuable assets, particularly for healthy institutions that are likely to realize these assets. The commenters stated that FAS 109 provides criteria to measure deferred tax assets, and thereby distinguish institutions that will be able to realize such assets. Further, the commenters asserted that, in recommending the carryback approach, the agencies effectively were proposing a liquidation value approach to deferred tax assets. The commenters found this approach inconsistent with the going concern concept used in measuring other assets and liabilities.

Commenters noted that tax laws have changed significantly since the OCC and FDIC policies were developed. Beginning in 1994, losses attributable to bad debts will be able to be carried forward 15, rather than 5 years, for federal income tax purposes. Extending the carryforward period increases the likelihood that carryforwards will be realized. Commenters also pointed out that changes in tax laws that require some banking organizations to deduct charge-offs (rather than their provisions for loan losses) mean that even strong banking organizations may have large amounts of deferred tax assets that are dependent upon future taxable income. The carryback approach would not allow these institutions to recognize those assets.

Commenters expressed concern that adopting the carryback approach would create a difference between GAAP and regulatory reporting. Such a difference, they said, would create an additional reporting burden for institutions. Commenters questioned whether banking organizations would be able to compete equally with finance companies and other organizations if the carryback approach were adopted.

Some commenters indicated that they preferred the fourth alternative of allowing net deferred tax assets that are dependent upon future taxable income to be reported in the Call Report, but limiting the amount of such assets that could be included in regulatory capital. This approach, they said, would be consistent with GAAP, and would address the supervisory concerns relating to regulatory capital.

II. Proposal

The OCC and the other agencies believe that many of the comments received have merit. Many financially sound banks will have net deferred tax assets arising from deductible temporary differences that exceed their taxable temporary differences and the bank's carryback potential. Under the carryback approach, the banks could not record those assets. Yet, it is highly likely that many banks will actually realize these assets. Therefore, the agencies believe that banks should be able to recognize some amount of net deferred tax assets that are dependent upon future taxable income.

The OCC and the other agencies, however, continue to be concerned about the realizability of certain deferred tax assets. The agencies are concerned because estimating future taxable income, particularly beyond the near term, is very subjective. Inaccurate estimates could cause a bank to overstate its deferred tax assets and its capital position. Allowing banks to recognize significant amounts of assets that are based on subjective estimates could pose a risk to the deposit insurance funds. As a result, the agencies propose to retain some limit on deferred tax assets that are dependent upon future taxable income.

The OCC and the other agencies are primarily concerned with the impact that deferred tax assets that are dependent upon future taxable income have on regulatory capital. Therefore, the agencies believe their supervisory concerns can be adequately addressed by limiting the amount of such assets that may be included in regulatory capital. This approach maintains consistency between GAAP and regulatory reporting. The agencies also

believe this approach minimizes additional reporting burden on depository institutions.

Accordingly, after careful consideration of the comments received, the FFIEC instructed banks and savings associations to adopt FAS 109 for reporting in bank Call Reports and Thrift Financial Reports beginning in the first quarter of 1993 (or the beginning of their first fiscal year thereafter, if later). The FFIEC also recommended that the agencies amend their capital adequacy rules to limit the amount of deferred tax assets that may be used to meet regulatory capital requirements.

Based on the FFIEC's recommendations, the OCC is proposing to limit the amount of deferred tax assets that are dependent upon future taxable income which may be included in a national bank's Tier 1 capital to the lesser of:

(1) the amount of deferred tax assets that is expected to be realized within one year of the quarter-end report date, based on a national bank's estimate of future taxable income for that year (not including tax carryforwards expected to be used and existing temporary differences expected to reverse), or

(2) 10 percent of Tier 1 capital before the deduction of any disallowed purchased mortgage servicing rights, purchased credit card relationships, and deferred tax assets.

To determine the limit, the OCC proposes that national banks should assume that all temporary differences fully reverse. Also, estimates of future taxable income should include the effect of tax planning strategies the bank is planning to implement within one year of the quarter-end report date. Except for these provisions and the one-year limit for projecting future taxable income, national banks should follow FAS 109 in determining capital adequacy.

The OCC does not propose to limit deferred tax assets that can be realized from taxes paid in prior carryback years and from future reversals of existing taxable temporary differences. Any net deferred tax assets, included in bank Call Reports in accordance with FAS 109, over the proposed limitation should be deducted from Tier 1 capital, from total assets, and from risk-weighted assets in calculating regulatory capital. Deferred tax assets that are included in regulatory capital continue to be assigned a risk weight of 100 percent.

Consistent with the recommendations of the FFIEC, FAS 109 and longstanding policy of the OCC and the other agencies, the OCC proposes that the capital limit be determined separately for each national bank. Under this "separate entity" method, a national bank subsidiary of a holding company (together with its consolidated subsidiaries) is treated as a separate taxpayer, rather than as part of the holding company group. The bank's income taxes, therefore, are calculated as if it were a separate taxpayer.

In some cases, a national bank's holding company may not be able to ensure that the bank will be reimbursed for tax benefits from its potential carryback of net operating losses or tax credits. In these cases, the bank should limit the carryback potential it considers when calculating the capital limit on deferred tax assets to the amount it could reasonably expect to have refunded by its parent.

The OCC proposes that the capital limit should be determined on a tax jurisdiction-by-tax jurisdiction basis. That is to say, any excess over the limit that applies in one jurisdiction (e.g., federal) may not be used to increase the amount of the limit for other jurisdictions (e.g., state). This position is the same as the FAS 109 requirement that deferred tax assets and related amounts be determined separately for each tax jurisdiction.

The proposed approach allows banks to include in regulatory capital deferred tax assets that are realizable based on the their estimate of taxable income during the next year. The OCC is proposing this one-year limit because, in general, national banks' projections up to 12 months into the future are generally reliable. However, the OCC believes the reliability of such projections decreases significantly for periods farther in the future.

The proposal further limits deferred tax assets that are dependent upon future taxable income to 10 percent of Tier 1 capital. This proposal reflects the OCC's belief that such assets should not make up a large portion of a national bank's capital base because they are less than certain to be realized and typically cannot be sold apart from the bank.

Questions for Comment

While the OCC is seeking public comment on all aspects of its proposal for the regulatory reporting and regulatory capital treatment of deferred tax assets, it is seeking specific comment on the following questions.

(1) Previous GAAP, as set forth in APB Opinion No. 16, "Business Combinations" (APB 16), adjusts the reported value of an asset (other than goodwill) acquired in a purchase business combination to reflect the tax effect of the difference between the asset's market or appraised value and its tax basis. FAS 109 changes this treatment by requiring assets acquired in a purchase business combination to be recorded at their fair value and the related tax effect of the difference between the book and tax basis to be recorded separately in a deferred tax account.

Under FAS 109, assets acquired in nontaxable purchase business combinations, including identifiable intangible assets (e.g., core deposit intangibles), will be recorded at higher amounts than previous accounting standards would require for the same transaction. This increase in intangible assets is offset by an equal increase in deferred tax liabilities (or decrease in deferred tax assets). Some of these additional intangible assets may not qualify for inclusion in regulatory capital. Because such nonqualifying intangible assets must be deducted from regulatory capital, institutions acquiring such assets may have to reflect a lower amount of regulatory capital after deducting these intangibles than they would have under previous accounting standards for the same transaction, even though there is no additional risk to capital.

The OCC is considering allowing banks to not deduct the additional amounts of identifiable intangible assets that have been acquired in nontaxable purchase business combinations and that must be recorded under FAS 109 when computing regulatory capital. The OCC seeks comment on this approach and whether any other provisions of FAS 109 suggest any different regulatory capital treatment.

(2) Is the 10 percent of Tier 1 capital limit an appropriate limit? Is this secondary limit necessary?

(3) Are there other ways to reduce the potential burden associated with implementing this proposal? Will the limitation, as proposed, be difficult to implement? If so, please describe implementation concerns and ways to remedy them without jeopardizing a bank's safety and soundness.

III. Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

When considered with the recent change in the reporting of deferred tax assets in the Call Report, this proposed rule is likely to permit a somewhat greater amount of such assets to be included in the calculation of regulatory capital. However, this change would not have a significant impact on banks of any size.

IV. Executive Order 12866

It has been determined that this document is not a significant regulatory action. In conjunction with the recent change in the reporting of deferred tax assets in the Call Report, the proposed rule could permit more deferred tax assets to be included in regulatory capital. As a result, this proposed rule should generally have a positive effect on national banks. However, the proposed changes should not result in a significant increase in the aggregate Tier 1 capital of national banks.

Authority and Issuance

For the reasons set out in the preamble, appendix A of title 12, chapter I, part 3 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 3907 and 3909.

2. In appendix A, section 1, paragraphs (c)(9) through (c)(28) are redesignated as paragraphs (c)(10) through (c)(29) and a new paragraph (c)(9) is added to read as follows:

Appendix A—Risk-Based Capital Guidelines

* * * * *

Section 1. Purpose, Applicability of Guidelines, and Definitions.

* * * * *

(c) * * *

(9) *Deferred tax assets* mean the tax consequences attributable to tax carryforwards and deductible temporary differences. Tax carryforwards are deductions or credits that cannot be used for tax purposes during the current period, but which can be carried forward to reduce taxable income or taxes payable in a future period, or periods. Temporary differences are financial events or transactions that are recognized in one period for financial statement purposes, but are recognized in another period, or periods, for income tax purposes. Deductible temporary differences are temporary differences that result in a reduction of taxable income in a future period, or periods.

* * * * *

3. In appendix A, section 2, paragraph (c)(1) is revised, new paragraph headings are added to paragraphs (c)(2) and (c)(3), and the introductory text of paragraph (c)(3) is revised to read as follows:

Appendix A—Risk-Based Capital Guidelines

* * * * *

Section 2. Components of Capital.

* * * * *

(c) * * *

(1) *Deductions From Tier 1 Capital.* The following items are deducted from Tier 1 capital before the Tier 2 portion of the calculation is made:

(i) All goodwill subject to the transition rules contained in section 4(a)(1)(ii) of this appendix A;

(ii) Other intangible assets, except as provided in section 2(c)(2) of this appendix A; and

(iii) Deferred tax assets that are dependent upon future taxable income, which exceed the lesser of either:[*]

(A) The amount of deferred tax assets that the bank expects to realize within one year of the quarter-end report date, based on its estimate of future taxable income for that year;[**] or

(B) 10% of Tier 1 capital net of goodwill and other disallowed intangible assets.

(2) *Qualifying Intangible Assets.* * * *

* * * * *

(3) *Deductions From Total Capital.* The following terms are deducted from total capital:

* * * * *

Dated: November 2, 1993.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 93-31131 Filed 12-22-93; 8:45 am]

BILLING CODE 4810-33-P

[*] The amount of deferred tax assets that can be realized from taxes paid in prior carryback years and from future reversals of existing taxable temporary differences generally would not be deducted from capital. However, the amount of carryback potential a bank may consider in calculating the capital limit on deferred tax assets may not exceed the amount that the bank could reasonably expect to have refunded by its parent holding company.

[**] Estimated future taxable income should not include net operating loss carryforwards to be used during that year or the amount of existing temporary differences expected to reverse within the year. Such projections should include the estimated effect of tax planning strategies that the bank expects to implement during the year.

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 618, and 620

RIN 3052-AB42

Organization; General Provisions; Disclosure to Shareholders

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), issues a proposed rule that would amend the director compensation regulations to reflect changes to the Farm Credit Act of 1971 (Act) made by the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Amendments) and to address concerns raised by Farm Credit Banks and FCA regarding the current annual report disclosure rules for director and senior officer compensation and reimbursable expenses. The proposed rule would include an annual adjustment procedure for the bank director compensation ceiling and would also establish an approval process for exceeding the statutory limitation. These changes are being proposed in order to comply with the requirements of the 1992 Amendments.

Also, the proposed rule would require written policies on reimbursement of travel, subsistence, and other related expenses for directors, officers, and employees of all Farm Credit institutions. In connection with this action, the proposed rule would eliminate the requirement for individual disclosure of reimbursable expenses paid to bank directors and require that the aggregate of expenses reimbursed to the boards of directors of each Farm Credit institution be disclosed. By proposing these changes, the FCA Board desires to reduce the burden that may inadvertently be imposed on some banks that would have to provide extensive additional disclosures to fully explain necessary and reasonable expenses reimbursed to individual directors.

Finally, the proposed rule would amend the requirements for disclosure of senior officer compensation in accordance with section 514 of the 1992 Amendments. The FCA Board believes that adopting more detailed disclosure requirements, such as those imposed on commercial banks, for senior officers of Farm Credit institutions, would accomplish the objectives set forth in section 514.

DATES: Written comments must be received on or before January 24, 1994.

VOL 58 ISS 245 DEC 23 1993 UMI

ADDRESSES: Comments may be mailed or delivered (in triplicate) to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, 1501 Farm Credit Drive, McLean, VA 22102–5090. Copies of all communications received will be available for examination by interested parties in the Regulation Development Division, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Laurie A. Rea, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Joy E. Strickland, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Overview

The Farm Credit Administration's (FCA) need to comply with the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Amendments) and other issues raised by Farm Credit Banks and identified by FCA concerning existing director and senior officer compensation and disclosure regulations prompted the FCA to initiate a project to amend its regulatory guidance in this area. The 1992 Amendments raised the maximum limit on compensation for bank directors to $20,000 per year, adjusted annually to reflect changes in the Consumer Price Index (CPI) for all urban consumers published by the Bureau of Labor Statistics. The 1992 Amendments also provided FCA with the authority to waive the limitation under exceptional circumstances, as determined in accordance with regulations promulgated by the FCA.

When § 611.400 was previously amended (57 FR 43393, September 21, 1992), The Farm Credit Council (FCC) commented on behalf of its membership and objected to disclosure of reimbursable expenses. The FCC commented that no other Federal bank regulatory agency currently requires public disclosure of the amount of expense reimbursements received by directors. Two banks endorsed the FCC's comments but did not provide any additional suggestions. These were the only comments received on the amendments during the public comment period. The FCA Board determined that disclosure of reimbursable expenses was important because these expenses are often a significant component of overall director costs and can, in some cases, exceed compensation. Further, the FCA Board determined that stockholders of banks should be afforded the opportunity to review reimbursable expenses in order to guard against excessive expenditures by directors. The disclosure requirement is consistent with the stockholders' common-law right to inspect the corporation's books and with congressional concern over the impact of director costs on the borrower.

Subsequent to the publication of the final amendment to § 611.400, two banks requested that FCA rescind the requirement to disclose the reimbursable expenses paid to each bank director. One bank stated that the disclosure requirement results in an inequitable treatment due to the widespread geographic locations of its directors relative to the bank's headquarters location. The bank explained that it may be necessary for directors who live greater distances from the bank headquarters or directors who serve on national committees to incur greater travel expenses. Thus, an inequitable implication may result from the individual disclosure because stockholders would not have a full understanding of the reasons why some directors have legitimately higher reimbursable expenses. The bank suggested in its letter that FCA amend the regulation to require disclosure of the aggregate reimbursable expenses paid to the directors as a group, rather than individually. Another bank requested that FCA reconsider the requirements of § 611.400 because of the variation in expenses due to the geographic location of directors, committee assignments, and other circumstances. The bank also reiterated comments made on the proposed amendments to § 611.400 and stated that the requirements for disclosure of expenses exceed the disclosure requirements placed on other financial institutions. Thus, the bank requested that FCA eliminate the expense disclosure requirement entirely. As a result of the changes made by the 1992 Amendments and the concerns raised after publication of the final amendments, the FCA Board has reevaluated the issue of disclosure of reimbursable expenses.

In addition, the FCA Board has reconsidered the issue of senior officer compensation. In section 514 of the 1992 Amendments, Congress determined that disclosure of compensation paid to directors and senior officers of Farm Credit institutions provides stockholders with information necessary to better manage their institutions. Congress directed the FCA to ensure that the information reported by Farm Credit institutions provides stockholders with sufficient information to assist them in making informed decisions regarding the operation of their institutions. The FCA Board believes that adopting more detailed disclosure requirements, such as those imposed on commercial banks, for senior officers of Farm Credit institutions would accomplish Congress' objectives. The proposed regulation would require institutions to disclose the individual compensation of the five highest paid senior officers, the total compensation paid to all officers as a group, and a description of the compensation plans of the aforementioned individuals. These disclosures would provide shareholders, investors, Congress, and the public with the necessary information to assist them in evaluating whether senior officer compensation plans approved by the Farm Credit institution boards are reasonable and appropriate in view of the financial condition and performance of the institution. Additionally, the FCA Board believes that disclosure of individual senior officer compensation, along with an explanation of the compensation program, would aid readers of the annual report in understanding the impact of individual senior officer compensation on operating expenses as well as any significant compensation fluctuations. Further, the proposed regulation would provide shareholders, investors, Congress, and the public with uniform information concerning the compensation of Farm Credit institution senior officers similar to that published by other Government-sponsored enterprises.

II. Section-by-Section Analysis

A. Section 611.400—Compensation of Bank Board Members

The bank director compensation regulation that became effective on January 29, 1993, addressed the maximum level of compensation that can be paid to bank directors and modified the disclosure requirements. Existing § 611.400 eliminated the $200 per day maximum that existed in the previous regulation and raised the director compensation ceiling to "limits established by the Farm Credit Act of 1971, as amended." The 1992 Amendments replaced the $15,000 per year cap with a new limitation of $20,000 per year, annually adjusted to reflect changes in the Consumer Price Index (CPI) for all urban consumers published by the Bureau of Labor Statistics.

In response to the 1992 Amendments, the FCA Board issued a bookletter entitled "Annual Adjustment Procedure for the Maximum Amount of Director Compensation" (August 11, 1993), which discusses the methodology for adjusting the $20,000 per year limitation on director compensation to reflect changes in the CPI. Proposed § 611.400 would incorporate this methodology. FCA studied several approaches for determining an annual adjustment procedure and sought a method that would be a fair representation of the actual change in the cost of living over an entire year and that would be easily understood and applied. Proposed § 611.400(b) would require that the current year's maximum bank director compensation be determined by adjusting the prior year's maximum compensation level by the prior year's annual average percentage change in the CPI for all urban consumers. For example, the 1994 statutory maximum bank director compensation can be determined as follows: 1994 Maximum Compensation=1993 Maximum Compensation multiplied by (the Annual Average 1993 CPI divided by the Annual Average 1992 CPI). For more information, the annual average CPIs for all urban consumers can be found in publications by the United States Department of Labor, Bureau of Labor Statistics, Division of Consumer Prices and Price Indexes, and in the Economic Indicators, published by the United States Government Printing Office, as well as in several other publications.

Proposed § 611.400(c) would address FCA's statutory authority to establish regulations to waive the limitation on bank director compensation set by section 4.21 of the Act. Prior to developing the proposed rule, FCA identified certain exceptional circumstances in which it might be appropriate to consider granting a waiver of the statutory limitation, such as merger or significant special assignments to an individual or board committee. FCA also considered whether the statutory limit would need to be frequently waived due to the changing structure of the System. The FCA Board believes that circumstances may arise when a waiver of the statutory limitation, within reason, is justified. Nevertheless, the FCA Board believes that the need to waive the statutory limitation on bank director compensation should be rare, as the periodic adjustment procedure was instituted to ensure that the limitation on bank director compensation remains fair and reasonable. The FCA Board also believes that the responsibility to justify the need to exceed the ceiling should be left with the bank.

The FCA Board believes that the decision as to whether a waiver of the statutory bank director compensation limitation is warranted should be made on a case-by-case basis. The circumstances that may necessitate a waiver of the ceiling are intended by statute to be "exceptional." Developing a regulation that captures all exceptional instances that may truly warrant a waiver of the statutory maximum is not practicable. There may be circumstances in which it would be appropriate to exceed the compensation ceiling that may be overlooked in such a regulation. Furthermore, circumstances identified in the regulation that would ordinarily warrant the ceiling to be exceeded may not always, due to the particular circumstances, justify an exception to the ceiling.

The proposed regulation would require a bank to provide the FCA Chairman with a written request for approval to exceed the statutory limitation before disbursing any funds. The request must include an explanation of the exceptional circumstance(s) that the bank believes necessitates a waiver, and justification of the amount each bank director would receive based on the extraordinary amount of time and service devoted to the bank's business. Further, under the proposed regulation, the FCA would not grant a waiver that allows a bank to pay any director in excess of 25 percent more than the statutory maximum compensation as adjusted by the CPI. Congress set a maximum limit on bank director compensation to ensure that borrowers/stockholders are not burdened with excessive director costs. The FCA believes that the authority to waive the compensation ceiling in exceptional circumstances was not intended by Congress to be a means to grant unlimited director compensation. Nevertheless, the FCA believes that a reasonable level of additional compensation beyond the statutory limitation should be provided in recognition of the heavy burdens placed on directors as a result of exceptional circumstances. The FCA would respond to any such request within 30 days of receipt of all the information required by the regulation and any additional information that may be requested by the FCA.

Finally, the proposed regulation would remove the provisions for payment of reimbursable expenses from § 611.400 and place those requirements in the proposed amendment to § 618.8270, Travel, subsistence, and other related expenses, which are covered under part 618—General Provisions, and are applicable to all Farm Credit institutions.

B. Section 618.8270—Travel, Subsistence, and Other Related Expenses

Existing § 611.400 requires that the amount of reimbursement to each director for travel, subsistence, and other related expenses must be disclosed separately from the amount of compensation received. The objective of the rule was to ensure full disclosure of director compensation and expenses and promote director accountability to shareholders. The regulation was not intended to be burdensome or prejudicial against directors who travel greater distances to board meetings; rather, the intent was to capture reimbursable expenses that represent a significant portion of overall director costs. Therefore, in order to reduce the perceived inequities and maintain an effective oversight mechanism for monitoring variations in director expenses, the proposed regulation would strengthen the regulatory framework regarding policy formulation and remove the requirement for individual disclosure of bank director reimbursable expenses.

Existing § 618.8270 requires institutions to establish a travel policy, but does not contain detailed guidance as to what those policies must cover. Therefore, proposed § 618.8270 would combine and strengthen the requirements of the existing §§ 611.400 and 618.8270, and provide one regulation that governs the travel and other reimbursable expenses for directors, officers, and employees of all institutions. Proposed § 618.8270 would require each Farm Credit institution to establish written policies regarding travel, subsistence, and other related expenses. Additionally, the proposed rule would require all Farm Credit institutions to develop guidelines and set specific limitations that ensure expenses being reimbursed to directors, officers, and employees are necessary and appropriate for conducting official duties.

The proposed rule would require the institution's policies to address the following areas: (1) Authorized purposes for which reimbursement of travel, subsistence, and other related expenses may be made; (2) guidelines and limitations on reimbursement for such items as modes of transportation, mileage rates for use of personal vehicles, per diem allowances, including maximums or limitations on lodging, meals, and incidental expenses,

VOL 58 ISS 245 DEC 23 1993 UMI

and telephone calls, and any other miscellaneous expenses; (3) circumstances, if any, under which reimbursement of expenses of spouses or others may be made in connection with institution activities or functions; and (4) reimbursement procedures, including required documentation for reimbursement and the timing and frequency for adjusting any rates or limitations set on the reimbursement of expenses.

Additionally, the regulatory requirements would be strengthened by requiring institutions to have their internal auditors review the records maintained in accordance with § 618.8270 to determine if the policies are being consistently followed by all individuals. The proposed rule would require the compliance review to be conducted at least annually, with the results reported to the institution's board audit committee or full board, if the board does not have an audit committee.

C. Section 620.5(i)—Compensation of Directors and Senior Officers

1. Director Compensation

The disclosure requirements in the proposed regulation remain largely unchanged from the existing regulation. The proposed regulation would add a requirement that if any of the bank's directors are granted a waiver of the maximum bank director compensation level set by section 4.21 of the Act, the exceptional circumstances allowing the waiver must be disclosed.

2. Senior Officer Compensation

Existing § 620.5(i)(2) requires an institution to disclose the aggregate amount of compensation paid during the last fiscal year to all senior officers as a group, stating the number of persons in the group without naming them. At a minimum, the aggregate amount must include the five highest paid officers, whether or not designated as a senior officer by the institution's board. In addition, a statement is required that the total compensation during the last fiscal year paid to any officer included in the aggregate amount that exceeds $50,000 is available to shareholders upon request. The FCA Board continues to believe that this type of information is necessary to make informed decisions regarding an institution and that it should be disclosed and made available to shareholders. However, for the reasons previously stated, the FCA Board believes that disclosure of senior officer compensation in the aggregate does not provide shareholders with sufficient information to determine whether compensation is reasonable.

Therefore, the proposed regulation would require institutions to disclose the individual compensation of the five highest paid senior officers, the total compensation paid to all officers as a group, and a description of the compensation plans of the aforementioned individuals. While the differences in the number of senior and other officers between small and large institutions varies, the FCA Board believes that uniform disclosures between institutions, regardless of size, are important for comparison purposes. Disclosing the individual compensation of the five highest paid senior officers, as well as all officers as a group, would provide stockholders with a more complete portrayal of the costs of the institution's management. These disclosures would be comparable to the disclosure requirements placed on senior officers of commercial banks. For example, the Federal Deposit Insurance Corporation requires compensation disclosures on an individual and a group basis (12 CFR 335.212), as well as a discussion of any compensation program and compensation plans.

Specifically, the proposed regulation would require Farm Credit institutions to disclose the total amount of compensation paid and the amount of each component of compensation paid to each of the five highest compensated senior officers, naming each individual and his/her position or title. At a minimum, disclosure is required for the five highest compensated officers, whether or not designated as a senior officer by the board. Each Farm Credit institution would also be required to disclose the aggregate amount of compensation paid and the components of compensation paid to all officers as a group, stating the number of officers in the group without naming them. Finally, the disclosure would include a description of all plans pursuant to which cash or noncash compensation was paid or distributed during the last fiscal year, or is proposed to be paid or distributed in the future for performance during the last fiscal year to the aforementioned individuals. The proposed regulation would define compensation as annual salary, cash bonuses, deferred compensation, vested pension benefits (unless the plan is made available to all employees on the same basis), and any other noncash compensation.

The current disclosure of aggregate compensation, by itself, does not fully explain the reason for individual senior officer compensation levels and large fluctuations in total compensation. Large fluctuations can result, in part, from incentive payments made to senior officers based on the institution's performance, and these incentive programs are not fully explained through the existing disclosure requirements. The more descriptive disclosures in the proposed rule are intended to provide stockholders with adequate information to hold the institution's board of directors accountable for justifying the reasonableness of compensation levels paid to its senior officers. Additionally, these proposed disclosure requirements are intended to achieve Congress' objective of providing Farm Credit institution stockholders with sufficient meaningful information to make informed decisions regarding their institutions.

3. Travel, Subsistence, and Other Related Expenses

The FCA Board has reconsidered the disclosure requirements regarding reimbursable expenses for the reasons previously explained. The FCA Board, however, maintains its original intention of providing shareholders with a mechanism to identify and respond to unreasonable expenses and variances in expenses reimbursed to directors. The current requirement for individual bank director disclosure of reimbursable expenses may be unduly burdensome for some banks in light of the additional disclosures that may be needed to provide a meaningful and accurate portrayal of expenses being reimbursed to each individual bank director. Because reimbursable expenses continue to be a significant portion of director costs and, in some cases, can exceed compensation, some type of disclosure of expenses is still warranted. The FCA Board continues to believe that disclosure provides shareholders with information to make informed decisions about the directors they elect and about the institution's operations. In addition, the existing disclosure regulation for reimbursable expenses only applies to bank directors. The FCA Board believes that all Farm Credit institution directors and senior officers are an integral part of the System's management and should, in most instances, be placed under the same scrutiny.

Proposed § 618.8270 would require that the policy adopted by each Farm Credit institution, as it applies to directors and senior officers, be discussed in the annual report. The FCA Board is proposing this requirement in order to provide shareholders with information that would assist them in determining whether the expenses being reimbursed to the management of their institution are reasonable. The proposed regulation would also require Farm Credit institutions to provide shareholders with information as to where they could receive a copy of the policy. Although shareholders/borrowers may be hesitant to request information about a particular director or senior officer, they may be less hesitant to request a general policy.

Proposed § 620.5(i)(3) would require disclosure of the aggregate amount reimbursed to each Farm Credit institution board of directors, rather than individual bank directors, for travel, subsistence, and other related expenses. Additionally, the proposed regulation would provide shareholders information on developing trends by requiring a 3-year history of aggregate expenses reimbursed to the board of directors.

The FCA Board believes that disclosure of the 3-year trend of the aggregate expenses reimbursed to boards of directors and a discussion of the institution's travel policy should provide shareholders with information to assist them in evaluating the reasonableness of management expenses. These disclosures are intended, in part, to provide shareholders with additional insight into the efficiency of the institution's operations. Further, because directors are accountable to the shareholders as their representatives in a Farm Credit institution, the shareholders are in the best position to assess and govern the use of the institution's funds.

Proposed § 618.8270 would require Farm Credit institution boards to adopt policies governing travel, subsistence, and other related expenses for all employees as well as directors and senior officers. However, it should be noted that the disclosure requirements would only relate to the directors and senior officers of the institutions. The FCA Board believes that monitoring the expenses reimbursed to employees is the responsibility of management.

List of Subjects

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 611, 618, and 620 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003 and 1004.

Subpart D—Rules for Compensation of Board Members

2. Section 611.400 is revised to read as follows:

§ 611.400 Compensation of bank board members.

(a) Farm Credit System banks are authorized to pay fair and reasonable compensation to directors for services performed in an official capacity at a rate not to exceed the level established in section 4.21 of the Farm Credit Act of 1971, as amended, unless the FCA determines that such level adversely affects the safety and soundness of the institution.

(b) The bank director compensation level established in section 4.21 of the Act shall be adjusted to reflect changes in the Consumer Price Index (CPI) for all urban consumers, as published by the Bureau of Labor Statistics, in the following manner: Current year's maximum compensation=Prior year's maximum compensation adjusted by the prior year's annual average percent change in the CPI for all urban consumers.

(c) A waiver of the compensation limitation prescribed by section 4.21 of the Act may be granted under exceptional circumstances as approved on a case-by-case basis by the FCA. The request for a waiver approval shall precede any payments by the bank to its director(s) that exceed the maximum limitation determined in paragraph (b) of this section. A bank seeking a waiver shall provide the FCA Chairman with a written request that:

(1) Describes and explains the exceptional circumstance(s) that the bank believes necessitates a waiver of section 4.21 of the Act;

(2) States the amount and the terms and conditions (if any) of the proposed compensation level for each director that would exceed the statutory maximum determined in paragraph (b) of this section; and

(3) Justifies the compensation level of each director that would exceed the statutory limitation based on the extraordinary time and service they devoted to bank business. The FCA shall not grant a waiver that allows a bank to pay any director in excess of 25 percent more than the statutory maximum compensation as determined in paragraph (b) of this section. The FCA shall respond to written requests within 30 days of receipt of the preceding information and any other information requested by the FCA.

(d) Each bank board shall adopt a written policy regarding compensation of bank directors. The policy shall address, at a minimum, the following areas:

(1) The activities or functions for which attendance is necessary and appropriate and may be compensated, except that a Farm Credit System bank shall not compensate any director for rendering services on behalf of any other Farm Credit System institution or a cooperative of which the director is a member, or for performing other assignments of a nonofficial nature;

(2) The methodology for determining each director's rate of compensation; and

(3) The exceptional circumstances under which the board would seek a waiver of the statutory limitation on bank director compensation for any of its directors and any limitations or conditions the board wishes to place on the availability of such waivers.

(e) Directors may also be reimbursed for reasonable travel, subsistence, and other related expenses in accordance with the requirements of § 618.8270 of this chapter.

PART 618—GENERAL PROVISIONS

3. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act; 12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252.

Subpart F—Miscellaneous Provisions

4. Section 618.8270 is revised to read as follows:

§ 618.8270 Travel, subsistence, and other related expenses.

(a) Each Farm Credit institution board shall develop written policies regarding the reimbursement of travel, subsistence, and other related expenses to its directors, officers, and employees.

The policies shall address the following areas:

(1) Authorized purposes for which reimbursement of travel, subsistence, and other related expenses may be made;

(2) Guidelines and limitations on reimbursement for such items as:

(i) Modes of transportation;

(ii) Mileage rates for use of personal vehicles;

(iii) Per diem allowances, including maximums or limitations on lodging, meals, and incidental expenses; and

(iv) Telephone calls and any other miscellaneous expenses.

(3) Circumstances, if any, under which reimbursement of expenses of spouses or others may be made in connection with institution activities or functions; and

(4) Reimbursement procedures, including required documentation for reimbursement and the timing and frequency for adjusting any rates or limitations set on the reimbursement of expenses. Required documentation shall include:

(i) The activity or function for which the director, officer, or employee is being compensated;

(ii) The reason the attendance of the director, officer, or employee (or other individual) is necessary and appropriate;

(iii) The duration of the stay and the location of such activity or function; and

(iv) An itemized explanation of the expenses claimed.

(b) Each board shall ensure that the written records that are maintained to document the expenses paid to directors, officers, and employees by the institution are in accordance with the policies adopted by the board as required in paragraph (a) of this section. The records shall be in such detail to enable the personnel authorized to process reimbursements to verify that the amounts being reimbursed are within the policy guidelines set by the board.

(c) Each board shall require a review by the institution's internal auditors of the records maintained pursuant to paragraph (b) of this section to determine if the policies are being consistently followed. This review shall be conducted at least annually, with the results reported to the board audit committee or full board, if the board does not have an audit committee.

PART 620—DISCLOSURE TO SHAREHOLDERS

5. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act; 12 U.S.C. 2252, 2254, 2279aa–11; sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

6. Section 620.5 is amended by revising paragraph (i) to read as follows:

§ 620.5 Contents of the annual report to shareholders.

* * * * *

(i) *Compensation of directors and senior officers.* (1) *Director compensation.* Describe the arrangements under which directors of the institution are compensated for all services as a director (including total cash compensation and any noncash compensation that exceeds 10 percent of total compensation) and state the total cash compensation paid to all directors as a group during the last fiscal year. If applicable, describe any exceptional circumstances under which a waiver of section 4.21 of the Act was granted by the FCA. For each director, state:

(i) The number of days served at board meetings;

(ii) The total number of days served in other official activities;

(iii) The total compensation paid to each director during the last fiscal year.

(2) *Senior officer compensation.* For the purposes of this paragraph, compensation shall include annual salary, cash bonuses, deferred compensation, vested pension benefits (unless the plan is made available to all employees on the same basis), and any other noncash compensation that exceeds 10 percent of total compensation or $25,000, whichever is less. The report shall disclose:

(i) The total amount of compensation paid and the amount of each component of compensation paid to the five highest compensated senior officers or the five highest compensated officers, whether or not designated as a senior officer by the board, naming each individual and his/her position or title.

(ii) The aggregate amount of compensation paid and the components of compensation paid to all officers as a group, stating the number of officers in the group without naming them; and

(iii) A description of all plans pursuant to which cash or noncash compensation was paid or distributed during the last fiscal year, or is proposed to be paid or distributed in the future for performance during the last fiscal year, to those individuals described in paragraphs (i)(2)(i) and (i)(2)(ii) of this section. The description of each plan must include, but not be limited to:

(A) A summary of how the plan operates and who is covered by the plan;

(B) The criteria used to determine amounts payable, including any performance formula or measure;

(C) The time periods over which the measurement of compensation will be determined;

(D) Payment schedules;

(E) Any material amendments to the plan during the last fiscal year;

(F) Amounts paid or distributed pursuant to the plan to the named individuals and the group during the last fiscal year, less any amount relating to the same plan that previously has been disclosed as accrued; and

(G) Amounts accrued pursuant to the plan for the accounts of the named individuals and the group during the last fiscal year, the distribution or unconditional vesting of which is not subject to future events.

(iv) The annual report shall include a statement that disclosure of the total compensation paid during the last fiscal year to any senior officer or to any other officer included in the aggregate whose compensation exceeds $50,000 is available to shareholders upon request.

(3) *Travel, subsistence, and other related expenses.*

(i) Briefly describe the policy adopted pursuant to § 618.8270 of this chapter addressing reimbursements for travel, subsistence, and other related expenses as it applies to directors and senior officers. The report shall include a statement that the policy is available to shareholders upon request.

(ii) For each of the last 3 fiscal years, state the aggregate amount of reimbursement for travel, subsistence, and other related expenses for all directors as a group.

* * * * *

Dated: December 16, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–31282 Filed 12–22–93; 8:45 am]

BILLING CODE 6705–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release Nos. 33–7036, IC–19955, File No. S7–32–93]

RIN 3235–AF00

Exemption for Open-End Management Investment Companies Issuing Multiple Classes of Shares; Disclosure by Multiple Class and Master-Feeder Funds

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule, proposed amendments to rules and forms, and request for comment.

SUMMARY: The Commission is proposing for public comment a new rule and an amendment to a rule under the Investment Company Act of 1940. The new rule would allow open-end management investment companies ("mutual funds") to issue multiple classes of voting stock representing interests in the same portfolio, subject to conditions intended to prevent investor confusion, assure fair expense allocation and voting rights, and prevent conflicts of interest among classes. The proposed rule would eliminate the need for funds issuing multiple classes to apply for exemptions. The proposed rule amendment would clarify how the requirements for approval of certain distribution arrangements would apply to funds with multiple classes of shares. Finally, the Commission is proposing for public comment amendments to rules under the Investment Company Act and the Securities Act of 1933, amendments to the form for registration statements of open-end investment companies, and amendments to related forms. These amendments would establish disclosure requirements for prospectuses, advertisements, and sales literature of multiple class funds, as well as of "master-feeder" funds, which present many of the same disclosure issues as multiple class funds. These disclosure amendments are intended to address concerns about the complexity of sales and service charges of these funds.

DATES: Comments must be received on or before February 22, 1994.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 6–9, Washington, DC 20549. All comment letters should refer to File No. S7–32–93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Regarding rule 18f–3 and amendments to rule 12b–1, Roseanne Harford, Senior Counsel, or Diane C. Blizzard, Assistant Director, Office of Regulatory Policy, (202) 272–2048, regarding proposed disclosure and reporting requirements, James M. Curtis, Senior Counsel, Office of Investment Company Regulation, (202) 504–2406, or Robert G. Bagnall, Assistant Chief, Office of Regulatory Policy, (202) 272–3042, and regarding changes to Form N–SAR, Lawrence A. Friend, Chief Accountant, Office of Disclosure and Review, (202) 272–2106, all at the Division of Investment Management, Securities and Exchange Commission, Mail Stop 10–6, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission today is requesting public comment on proposed rule 18f–3 [17 CFR 270.18f–3], and related amendments to rule 12b–1 [17 CFR 270.12b–1], both under the Investment Company Act of 1940 [15 U.S.C. 80a] ("Investment Company Act" or "Act"). The Commission is requesting public comment on proposed amendments to rule 34b–1 under the Investment Company Act [17 CFR 270.34b–1], rules 134, and 482 [17 CFR 230.134, and 482] under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a–77aa], and Forms N–1A [17 CFR 239.15A, 274.11A], N–14 [17 CFR 239.23], and N–SAR [17 CFR 274.101]. The Commission also is requesting public comment on a revision to amendments to rule 482 that were proposed for public comment earlier this year relating to "off-the-page" prospectuses.[1] These proposals would implement a recommendation made in the report issued last year by the Division of Investment Management ("Division"), Protecting Investors: A Half Century of Investment Company Regulation ("Protecting Investors Report"), Chapter 8, The Sale of Open-End Investment Company Shares.[2]

It is likely that further multiple class exemptive applications will be received and reviewed pending further action on these proposals. These applications will continue to be reviewed on the same basis as previous multiple class applications and should not request relief based on these proposals.

Table of Contents

Executive Summary
I. Background
II. Discussion
A. Rule 18f–3
1. Limits on Class Differences
a. Differences in Shareholder Service or Distribution Arrangements and Other Expenses
b. Class Voting
c. Fund-Wide Rights and Obligations
2. Allocation of Fund-Wide Expenses
3. Board Review
4. Exchange Privileges and Conversions
B. Rule 12b–1
C. Disclosure
1. Prospectus Disclosure
a. Legend Concerning Classes or Feeder Funds Not Offered Through a Prospectus
b. Cross-Disclosure about Certain Other Classes or Feeder Funds
c. Comparison of Classes or Feeder Funds
d. Alternative Regulatory Approaches
2. Advertising and Sales Literature
a. Legends Concerning Other Classes or Feeder Funds
b. Performance Information
3. Off-the-Page Prospectuses
III. Cost/Benefit of Proposed Action
IV. Summary of Initial Regulatory Flexibility Analysis
V. Statutory Authority
VI. Text of Proposed Rule and Rule and Form Amendments

EXECUTIVE SUMMARY

Since 1985, the Commission has issued over 90 orders allowing funds to issue multiple classes. The orders impose as many as 20 conditions intended to ensure that multiple class funds do not present the investor protection concerns that section 18 of the Investment Company Act was designed to address. Among other things, the conditions limit class differences, subject to oversight by a fund's board of directors.

The Commission is proposing rule 18f–3 under the Investment Company Act, which would permit funds to issue multiple classes of shares without the need to seek exemptive orders from the Commission. The rule would require certain differences in the rights and obligations of different classes, permit certain other differences among classes, specify the matters on which class voting is required, and prescribe how income and expenses must be allocated. The rule also would delineate the responsibilities of the board of directors. Finally, the rule would permit, but not require, different classes to have different exchange privileges and conversion rights. A related amendment to rule 12b–1 would clarify that a rule 12b–1 plan must treat each class separately and require separate director and shareholder approval. Rule 18f–3 would simplify the process for issuing multiple classes and, by eliminating the need for funds to apply for exemptive orders, save time and reduce expenses. It also would reduce the Commission's burden of reviewing the applications.

Over the past few years, a number of fund sponsors have adopted a distribution arrangement designed to achieve the business goals of multiple class funds without the need to obtain Commission relief under section 18. This "master-feeder" arrangement contemplates the use of a two-tier structure in which one fund invests in

[1] *See* Off-the-Page Prospectuses for Open-End Management Investment Companies, Securities Act Release No. 6982 (Mar. 5, 1993), 58 FR 16141.

[2] SEC Division of Investment Management, Protecting Investors: A Half Century of Investment Company Regulation, 330–332 (1992).

another fund.[3] Although master-feeder structures are functionally similar to multiple class funds, they do not need exemptive relief and are currently subject to different disclosure requirements.

Proposed disclosure amendments would apply to both multiple class and feeder funds. Prospectuses would be required to include a prominent legend following the fee table providing information regarding the availability of any other classes or feeder funds not offered in that prospectus. If any classes or feeder funds are offered or made available through the same broker, dealer, bank, or other financial intermediary and permit investors to choose among alternative arrangements for sales and related charges (for example "dual distribution" classes), a prospectus for any of those classes or feeder funds would be required to provide full cross-disclosure about the others in response to Items 2 through 9 of Form N–1A. If more than one class or feeder fund is offered in a prospectus, or if there is cross-disclosure about another class or feeder fund, the prospectus would be required to discuss the differences among those classes or feeder funds and include a line graph comparing the hypothetical value of holdings of those classes or feeder funds upon redemption at the end of each year during a ten year period. These requirements should help investors determine and compare the expenses they may pay and the return they may receive under various circumstances.

Proposed amendments to advertising and sales literature disclosure requirements are similar to the prospectus proposals. Multiple class and master-feeder funds would be required to include a legend in advertising and sales literature similar to the proposed legend following the fee table in the prospectus. An amendment to rule 482 would require multiple class and master-feeder fund advertising that contains performance figures to include, with equal prominence, the performance of all classes and feeder funds that are subject to the cross-disclosure requirement. Another amendment to rule 482 would require advertisements to provide long-term return information for a fund's portfolio even if that information does not exist for the class or feeder fund that is the subject of the advertisement.

The proposal would revise the recently proposed amendments to rule 482 to delete those amendments' prohibition on the use of off-the-page prospectuses (advertisements containing an order form) by multiple class and master-feeder funds. As re-proposed, those amendments to rule 482 would permit multiple class funds and feeder funds to use off-the-page prospectuses.

I. Background

Many mutual funds issue more than one class of shares representing interests in the same portfolio of securities. Some of these funds use different classes to offer investors a choice of methods for paying for the costs of selling fund shares. These funds typically offer a class with a front-end sales load[4] and a low distribution fee[5] (or no such fee) and a class with a higher distribution fee and a contingent deferred sales load ("CDSL").[6] The latter arrangement is commonly called a "spread load." A spread load class also may feature an automatic conversion of its shares for shares in a class with a lower distribution fee after a specified period.[7] More recently, some funds have been offering a third class with a so-called "level load," which class bears a relatively high distribution fee but no front-end load or CDSL.[8]

Many funds issue different classes in order to use different channels of distribution and to reach different investor markets. These funds typically target different investor markets, offering each a separate class with an arrangement for shareholder services or a distribution plan that is tailored to that market.[9] For example, these funds may create a separate class or classes for financial institutions that invest on behalf of their customers, such as banks, pension plans, and insurance companies. The institutions already may provide certain services to their customers (*e.g.*, maintaining client records, processing purchase orders, and responding to customer inquiries).[10] Multiple classes allow funds to design classes with fees and services that complement those of the institutions. In some cases, the same fund may offer both classes designed for different distribution channels and classes providing a choice of methods for paying distribution costs.[11]

Because institutions investing for their own account may need less service than retail investors participating directly or through intermediaries, funds may offer them a separate class with reduced fees and sales loads.[12] On the other hand, individual investors using retail brokers may have greater service needs that funds may meet by offering a different class with relatively higher fees and loads.

Investment company sponsors seeking to implement multiple class arrangements have asserted that the arrangements offer a number of benefits. Multiple classes avoid the duplicative portfolio and fund management costs that are required by "clone funds"[13] and thus may be a less expensive alternative to the creation of these funds. Moreover, multiple classes may enable funds to attract larger asset bases, which, in turn, may permit them to spread fixed costs over more shares, qualify for discounts in advisory fees known as "breakpoints," and otherwise experience economies of scale, all of which may lower per share fees and expenses.[14] Funds also have maintained that a larger asset base permits greater portfolio liquidity and diversification.[15]

The issuance of multiple classes implicates sections 18(f)(1), 18(g), and 18(i) of the Investment Company Act.[16] Section 18(f)(1) generally makes it unlawful for a registered open-end management investment company to issue any class of "senior security." Section 18(g) defines senior security to include any stock of a class having a priority over any other class as to distribution of assets or payment of dividends. Section 18(i) requires that every share of stock issued by a registered management investment company be voting stock, with the same voting rights as every other outstanding voting stock.

The issuance of multiple classes may conflict with section 18(f)(1) because a class with lower expenses will have a greater net asset value or higher dividend per share than other classes.[17] A class with a higher net asset value may be considered to have a priority as to the distribution of assets; similarly, a class receiving a higher dividend may be considered to have a priority over classes with lower dividends. The issuance of multiple classes also may conflict with section 18(i) unless each class has the same voting rights.[18] Section 18 is, to a large extent, designed to prohibit material differences among the rights of shareholders in a fund. This section implements the policy expressed in section 1(b)(3) of the Investment Company Act[19] of preventing funds from "issu[ing] securities containing inequitable or discriminatory provisions." Thus, funds have applied for exemptions from these sections to issue multiple classes.

Section 18(f)(1) was intended to protect investors from certain abuses associated with complex investment company capital structures, including excessive leverage, conflicts of interest among classes, and investor confusion.[20] Section 18(i) addresses certain inequitable and discriminatory shareholder voting provisions that were associated with many investment company securities before the enactment of the Investment Company Act.[21] Multiple class funds do not involve leverage because each class represents interests in the same portfolio of investments and participates in all the portfolio's gains and losses. Multiple class funds, however, arguably could implicate the other concerns underlying these sections.

The issuance of classes of shares with different rights and obligations may create conflicts among those classes. For example, it may not be clear whether certain expenses appropriately represent expenses of the fund or expenses of a particular class. Voting rights may be of concern in multiple class funds because each class pays for its own service or distribution arrangements and might approve different expenses and terms than would be approved by shareholders who do not pay for those arrangements. In such a case, equal shareholder voting could be inappropriate.[22] Fee and load variations among classes, if not adequately disclosed, also may confuse investors and make comparisons with other funds more difficult.

Since 1985, the Commission has issued over 90 exemptive orders allowing funds to issue multiple classes.[23] The orders impose as many as 20 conditions intended to ensure that multiple class funds do not present the investor protection concerns that section 18 was designed to address.[24] Among other things, the conditions limit class differences and subject them to oversight by the fund's board of directors.

An exemptive rule would simplify the process for issuing classes and, by eliminating the need for funds to apply for orders, save time and reduce expenses. It also would reduce the Commission's burden of reviewing the applications. Therefore, the Commission is proposing such a rule, which is designed to streamline the conditions imposed on multiple class funds while preserving investor protection. The Commission also is proposing amendments to rule 12b–1 to clarify its applications to multiple class funds. Finally, the Commission is proposing certain related disclosure and reporting requirements that would apply both to multiple class funds and to master-feeder funds.

Consistent regulatory treatment of multiple class and master-feeder funds is appropriate because of certain similarities between them. In master-feeder structures, one or more open-end management investment companies with their own service or distribution arrangements (the "feeder funds") hold as their only investment securities shares of a single open-end management investment company (the "master fund") that has the same investment objective as the feeder funds. This fund structure generally relies on a statutory

---

[3] Master-feeder funds are often referred to as "core and feeder" or "hub and spoke" funds; "Hub & Spoke" is a registered service mark of Signature Financial Group, Inc.

[4] A front-end sales load is a charge paid by the investor at the time of purchase.

[5] A distribution fee is a charge to fund assets that may be used to pay certain distribution expenses in accordance with rule 12b–1. 17 CFR 270.12b–1. Such fees often are referred to as "rule 12b–1 fees."

[6] *See, e.g.*, Putnam Adjustable Rate U.S. Government Fund, Investment Company Act Release Nos. 18637 (Mar. 30, 1992), 57 FR 11639 (Notice of Application) and 18676 (Apr. 24, 1992), 51 SEC Docket 799 (Order). A CDSL is a sales charge that is assessed when shares are redeemed. It generally declines over time and is designed to recover any distribution costs that have not yet been recovered from the distribution fees. To impose a CDSL, funds request exemptions from sections 2(a)(32), 2(a)(35), and 22(d) of the Act [15 U.S.C. 80a–2(a)(32), –2(a)(35), and –22(d)] and rule 22c–1[17 CFR 270.22c–1]. *See e.g.*, Smith Barney Equity Funds, Investment Company Act Release Nos. 19005 (Oct. 7, 1992), 57 FR 47156, 47158 (Notice of Application) and 19079 (Nov. 3, 1992), 52 SEC Docket 3040 (Order).

[7] The Commission's orders require that such conversions occur on the basis of the relative net asset values of the classes and not involve any load or other fee. *See, e.g.*, Colonial Advanced Strategies Gold Trust, Investment Company Act Release Nos. 18650 (Apr. 10, 1992), 57 FR 13780, 13785 (Notice of Application) and 18692 (May 6, 1991), 51 SEC Docket 898 (Order).

[8] *See, e.g.*, PaineWebber America Fund, Investment Company Act Release Nos. 18756 (June 4, 1992), 57 FR 25083, 25084 (Notice of Application) and 18820 (June 30, 1992), 51 SEC Docket 1844 (Order).

[9] *See, e.g.*, SEI Liquid Asset Trust, Investment Company Act Release Nos. 17878 (Nov. 27, 1990), 55 FR 49967, 49968 (Notice of Application) and 17915 (Dec. 24, 1990), 47 SEC Docket 2014 (Order); Centerland Fund, Investment Company Act Release Nos. 18508 (Jan. 30, 1992), 57 FR 4662, 4663 (Notice of Application) and 18566 (Feb. 25, 1992), 50 SEC Docket 1909 (Order). Shareholder services may include establishing and maintaining customer accounts and records, providing periodic account statements, arranging for bank wires, processing dividend payments, forwarding fund communications (such as proxies, shareholder reports and dividend, distribution, and tax notices), answering routine customer inquiries, and assisting with changes in dividend options. Distribution services may include advertising and marketing, sales support services, and preparing, printing, and mailing sales literature, prospectuses, and other reports to prospective investors. The scope of "shareholder services" in this context may differ from that of the term "service fee" in the rule on maximum mutual funds sales charges of the National Association of Securities Dealers, Inc. ("NASD"). NASD, Rules of Fair Practice, Art. III, section 26(b)(9). That term "is not intended to include transfer agent, custodian, or similar fees" or "charges for the maintenance of records, recordkeeping and related costs." NASD Notice to Members No. 93–12 (Feb. 1993).

[10] Fiduciary obligations under federal banking or pension laws may restrict an institution's ability to invest customer accounts in shares of funds that impose fees for services the institution already provides. *See* 12 CFR 9.12(a) (restricting bank fiduciaries from accepting shareholder servicing fees). *See also* Employee Retirement Income Security Act section 406(a)(i), 29 U.S.C. 1106(a)(1). Several funds have created separate classes for institutions depending on whether they have agency or custodial relationships, as opposed to fiduciary relationships, with their customers. *See, e.g.*, The Kent Funds, Investment Company Act Release Nos. 19033 (Oct. 15, 1992), 57 FR 48415 (Notice of Application) and 19084 (Nov. 12, 1992), 52 SEC Docket 3743 (Order).

[11] *See, e.g.*, The New England Funds, Investment Company Act Release Nos. 19067 (Oct. 28, 1992), 57 FR 52663 (Notice of Application) and 19118 (Nov. 24, 1992), 52 SEC Docket 4281 (Order).

[12] *See, e.g.*, PaineWebber, *supra* note 8, 57 FR at 25004.

[13] Clone funds are separate funds with similar portfolios but different distribution or service arrangements. For small investor markets, clone funds may not be viable. *See, e.g.*, Arch Fund, Inc., Investment Company Act Release Nos. 15489 (Dec. 22, 1986), 51 FR 51250, 51251 (Notice of Application) and 15532 (Jan. 13, 1987), 37 SEC Docket 568 (Order) ("Applicants believe that it would be inefficient, and in some instances economically or operationally infeasible, to organize a separate investment Portfolio for each class of New Shares created").

[14] *See, e.g.*, G.T. Global Growth Series, Investment Company Act Release Nos. 18961 (Sept. 17, 1992), 57 FR 43992 (Notice of Application) and 19022 (Oct. 14, 1992), 52 SEC Docket 2887 (Order).

[15] *See, e.g.*, MarketMaster Trust, Investment Company Act Release Nos. 17785 (Oct. 9, 1990), 55 FR 42136 (Notice of Application) and 17838 (Nov. 5, 1990), 47 SEC Docket 1324 (Order).

[16] 15 U.S.C. 80a–18(f)(1), (g), (i).

[17] Because each class has different asset-based service or distribution fees, the classes have different total expenses and, thus, different net incomes. Differences in net income may be reflected in different net asset values, different dividends, or both.

[18] *Cf.* Comm. on Interstate and Foreign Commerce, Investment Company Act Amendments of 1970, H.R. Rep. No. 1382, 91st Cong., 2d Sess. 28 (1970) and Comm. on Banking and Currency, Investment Company Amendments Act of 1969, S. Rep. No. 184, 91st Cong., 1st Sess. 38 (1969) (both discussing the need to clarify section 18(i) to permit separate voting rights for classes of shareholders in series funds when their interests may be distinct).

[19] 15 U.S.C. 80a–1(b)(3).

[20] *See Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Senate Comm. on Banking and Currency*, 76th Cong., 3d Sess. 272–74, 1044 (1940).

[21] *Id.* at 265–75, 1025–37.

[22] For example, when each class pays all the expenses of its shareholder services or distribution plan, one class has no interest in whether the other classes' services are being provided on a cost-effective basis. It does, however, have an interest in whether the services attract new investors to the fund, if fund-wide economies of scale are realized as a result. If shareholders who do not bear the expenses of an arrangement are permitted to vote on it, they could approve higher fees and expenses than the class itself would choose.

[23] *See, e.g.*, orders cited *supra* notes 4–13. Multiple class funds have become a particularly significant phenomenon in the last three years: since January 1, 1990, the Commission has issued more than 70 multiple class orders.

[24] The conditions vary somewhat depending on the particular features of the structure (e.g., whether the fund intends to offer conversion rights or to allocate expenses other than service and distribution fees).

exemption,[25] in contrast to the multiple class arrangement, which necessitates exemptive relief from certain provisions of section 18.[26] Like multiple class funds, feeder funds may be sold to customers of different institutions (such as brokers, banks, and insurance companies) and may target different markets (such as retail investors, institutional investors, and bank trust customers, as well as off-shore investors). Like the multiple class structure, the master-feeder structure also may be used to offer investors a choice of methods for paying distribution costs: *e.g.*, a choice between a feeder fund with a front-end sales charge and a low asset-based distribution fee and a feeder fund with a higher asset-based distribution fee and a CDSL but no front-end sales charge. Thus far, however, this use is infrequent.[27]

II. Discussion

A. Rule 18f–3

Proposed rule 18f–3 would create a limited exemption from sections 18(f)(1) and 18(i) for funds that issue multiple classes of shares with varying arrangements for shareholder services and distribution. Multiple class funds with existing exemptive orders would be allowed to use the rule but would not be required to do so.[28]

Proposed rule 18f–3 includes a number of conditions that would require certain differences in the rights and obligations of different classes, permit certain other differences among classes, and specify the matters on which class voting is required. The rule also would prescribe how income and expenses must be allocated and delineate the responsibilities of the board of directors, including the directors who are not "interested persons."[29] Finally, the rule would permit, but not require, different classes to have different exchange privileges and conversion rights.

1. Limits on Class Differences

The exemptive orders issued to date by the Commission for multiple class funds have addressed the potential for conflicts among classes by limiting the permissible differences in shareholder or distribution services and payments applicable to each class; certain other expenses borne by the classes; and the voting rights applicable to the classes.[30] The orders require that all classes represent interests in the same portfolio of investments and be identical in all respects except for differences in fees and expenses related to their different arrangements, separate voting on their different arrangements and other matters for which separate class voting is appropriate, and any differences in exchange privileges, conversion, features, and class designations.[31]

Proposed paragraph (a) essentially would codify this approach.[32] Paragraph (a)(1) would require that each class have a different arrangement for distribution or shareholder services, paragraph (a)(2) would require that each class bear all of the expenses of its arrangement, paragraph (a)(3) would require that each class have the exclusive right to vote on matters relating solely to its arrangement, and paragraph (a)(4) would require that each class vote separately on matters in which the interest of that class are different from the interests of any other class. Paragraph (a)(5) would require that fund shareholders have, in all other respects, the same rights and obligations, regardless of class.

a. Differences in shareholder service or distribution arrangements and other expenses. Proposed paragraph (a)(1)(i) would require that each class have a different arrangement for shareholder services, the distribution of securities, or both. Paragraph (a)(1)(i) is intended to encompass all of the class arrangements that the Commission has exempted by order. Thus, an arrangement for shareholder services could include any services provided to shareholders of one class, including transfer agency services and services related to shareholder relationships and account administration. An arrangement for the distribution of securities could include various distribution activities on behalf of the fund and the terms of payment for those activities.[33]

An arrangement would be considered a different arrangement if it involved differences in the amount or form of payment, the nature and extent of services provided, or both. For example, a class that pays a front-end load and a class with a rule 12b–1 fee would be considered to have different distribution arrangements because they differ in the amount, the form (by shareholders individually versus by the class as a whole), and timing (at purchase versus over time) of distribution charges.

Paragraph (a)(1)(ii) also provides that certain other expenses may be allocated to an individual class. Thus, under paragraph (a)(1), funds would have to determine whether each expense should be allocated to the fund as a whole (a fund expense) or to each class individually (a class expense).[34] Expenses may be treated as expenses of a class if they are directly related to the arrangement of that class for shareholder services or distribution, or if they are actually incurred in a different amount *pro rata*. Paragraph (a)(1)(ii) expressly provides that a fund may not allocate advisory or custodial fees or other expenses related to management of the fund's assets. Class allocations would have to be approved by the board of directors following the procedures specified in paragraph (c).

Some expenses may not always be classified automatically as fund expenses or class expenses. In their applications, funds have treated in varied fashion expenses for services that are available to all classes but are used more by one class than another. For example transfer agency services are available to all shareholders but arguably may be used more by some classes than others. Some funds have requested exemptions to allocate transfer agency fees on a class basis, while others have allocated them to all shareholders *pro rata*.[35] Funds also have sought to allocate on a class basis expenses such as printing and postage related to preparing and distributing shareholder reports, prospectuses, and proxies of a specific class, administrative expenses and services required to support the shareholders of a class, and directors' fees incurred as a result of issues relating to one class of shares.[36] Other funds, however, have not requested that they be able to allocate these expenses on a class basis.[37] This variation may relate, in part, to tax considerations.[38]

Paragraph (a)(1) would not create a bright-line test to classify expenses or provide a list of permissible and impermissible class expenses. Instead, under that provision, it would be appropriate to treat some expenses as class expenses or not depending on the relation to the arrangement of a class or the actual extent to which expenses are incurred in different amounts. The existence of any actual difference would depend on whether, for example, certain services are provided to one class to a different degree than to other classes. These determinations would be left to the board of directors making the findings required under paragraph (c).

The Commission requests comment on whether rule 18f–3 should provide more specific limits on differential allocation of expenses. One alternative would be to limit such allocation to rule 12b–1 fees, shareholder servicing fees, and transfer agency expenses. Commenters are asked to address whether establishing a brighter line between class expenses and general fund expenses would be desirable, or whether it would, instead, interfere with fair allocation of expenses among classes. Commenters are encouraged to supply examples of expenses that properly should be classified as class expenses.

Proposed paragraph (a)(2) would require that each class bear all expenses of its arrangement except to the extent of any waiver or reimbursement. Paragraph (a)(2) addresses only expenses that are charged as the costs of those arrangements; it would not prohibit the other party to a contract or other arrangement from providing its goods or services at a reduced rate or free of charge. Moreover, paragraph (a)(2) expressly provides for waiver or reimbursement of class expenses by the fund's adviser or underwriter.[39] Because paragraph (a)(2) only provides for waiver of the class expenses of an individual class, the amount of any such waiver or reimbursement may not exceed the amount of those expenses.[40] Any waiver or reimbursement beyond those expenses must be allocated *pro rata* among the classes based on their relative net asset values.

The rule does not provide an exemption from section 18 for different waivers or reimbursements of fund expenses, such as investment advisory fees. The Commission believes that it would not be appropriate for an adviser to waiver its advisory fees for one class and not for other classes.

b. Class voting. So that voting in multiple class funds is consistent with the purposes of section 18(i), proposed paragraph (a)(3) would require that each class have the exclusive right to approve matters submitted to shareholders that relate solely to its different arrangement. Paragraph (a)(3) would govern which class of shareholders would vote on a matter, but would not affect whether the matter is one required to be submitted to shareholders. For example, if the board of directors decided to adopt a shareholder services plan for one class of shareholders that was not subject to rule 12b–1, a shareholder vote to approve that plan would not be required.[41] If, however, the board of directors decided that the fund should submit the matter for shareholder approval, paragraph (a)(3) would require that the matter be submitted only to the class of shareholders subject to the plan.

Proposed paragraph (a)(4) would require that each class have the right to vote separately on matters in which its interests are different from those of other classes. For the most part, classes are likely to have different interests only in matters that involve the arrangements of the classes under paragraph (a)(1) and hence fall within paragraph (a)(3). However, should a matter arise that does not involve those arrangements, paragraph (a)(4) would ensure that each class has a separate vote. Like paragraph (a)(3), paragraph (a)(4) would govern all shareholder votes that are subject to it, but would not affect whether or not a shareholder vote is required.

c. Fund-wide rights and obligations. The multiple class exemptive orders require that all classes in a multiple class fund be identical except for differences expressly permitted by order. Similarly, proposed paragraph (a)(5) would require that a fund relying on the rule establish the same rights and obligations for all shareholders regardless of class, except as provided by paragraphs (a)(1), (2), (3), and (4). Thus, paragraph (a)(5) effectively would require multiple class funds to allocate all expenses of the fund that are not class expenses, and voting rights on matters that affect all shareholders equally, to all fund shareholders *pro rata*.[42]

---

[25] Section 12(d)(1)(E) of the Investment Company Act has been interpreted to except the master-feeder structure from the general prohibition against fund holding companies or "funds of funds." 15 U.S.C. 80a–12(d)(1)(E) (the exception applies if the only investment security held by a registered investment company is the security of another investment company).

[26] Unlike the classes of multiple class funds, the feeder funds of master-feeder funds are considered separate issuers, whose securities are not senior securities subject to the limitations of section 18. *See supra* notes 16 to 22 and accompanying text. Consequently, feeder funds do not require exemptive relief from section 18 to offer their shares.

[27] *But see, e.g.*, Hyperion Short Duration U.S. Government Fund, Prospectus, File Nos. 33–36378 and 811–5262 (Feb. 26, 1993) (front-end load) and Hyperion Short Duration U.S. Government Fund II, Prospectus, File Nos. 33–38380 and 811–6210 (Feb. 26, 1993) (spread load); Eaton Vance Municipals Trust II, Registration Statement, File Nos. 33–71320 and 811–8134 (Nov. 8, 1993) (different feeder funds are different series of same trust and offer choice of level load, spread load, and front-end load).

[28] In either case, funds would be required to comply with the proposed disclosure requirements discussed below.

[29] *See* section 2(a)(19) of the Investment Company Act, 15 U.S.C. 80a–2(a)(19). This release refers to such directors as "independent directors."

[30] To a large degree, similar conflicts may arise today with separate funds in the same investment company complex, when different funds share the administrators and providers of services. For example, funds and fund complexes allocate the shared cost of responding to shareholder inquiries.

[31] *See, e.g.*, Smith Barney, *supra* note 6, 57 FR at 47159.

[32] Exchange privileges and conversion features are discussed below in connection with proposed paragraph (d). *See infra* section II.A.4.

[33] *See supra* note 9 for more detailed examples of shareholder and distribution services.

[34] The orders do this through two conditions. First, each class bears a separate fee for its separate distribution or service arrangement. Second, the orders permit certain specified fund expenses to be allocated at different rates for each class. *See, e.g.*, Goldman Sachs Equity Portfolios, Inc., Investment Company Act Release Nos. 19241 (Jan. 26, 1993), 58 FR 6830, 6834 (Notice of Application) and 19309 (Mar. 3, 1993), 53 SEC Docket 2308 (Order) (conditions 1 and 7).

[35] *Compare* Kidder Peabody California Tax Exempt Money Fund, Investment Company Act Release Nos. 19226 (Jan. 22, 1993), 58 FR 6545 (Notice of Application) and 19289 (Feb. 17, 1993) 53 SEC Docket 1559 (Order) (class expenses include transfer agency fees), *with* Goldman Sachs, *supra* note 34, 58 FR at 6834 (class expenses do not include transfer agency fees).

[36] Other expenses that sometimes are treated as class expenses include blue sky registration fees incurred by a class, Securities Act registration fees incurred by a class, and litigation or other legal expenses relating solely to a class. *See, e.g.*, Dreyfus A Bonds Plus, Inc., Investment Company Act Release Nos. 19105 (Dec. 18, 1992), 57 FR 61944 (Notice of Application) and 19214 (Jan. 14, 1993), 53 SEC Docket 516 (Order).

[37] *See, e.g.*, Declaration Funds, Investment Company Act Release Nos. 19172 (Dec. 21, 1993), 57 FR 61942 (Notice of Application), 19218 (Jan. 19, 1993), 53 SEC Docket 554 (Order), and 19218A (Feb. 22, 1993), 53 SEC Docket 1527 (Amended Order) (requesting exemption to allocate only plan fees).

[38] Funds are required to allocate most of their expenses other than rule 12b–1 fees and transfer agency fees on a *pro rata* basis without regard to class in order to avoid the issuance of a "preferential dividend" and the consequent loss of pass-through tax treatment under Subchapter M of the Internal Revenue Code. The Internal Revenue Service has allowed funds to allocate varying *de minimis* class expenses. *See, e.g.*, IRS Private Letter Rulings No. 9234005 (May 11, 1992) (expenses for class shareholder meeting expenses and printing and postage costs for distributing prospectuses, shareholder reports, and proxies to current class shareholders), and No. 9336009 (June 4, 1993) (permitting differences in transfer agency fees, printing and postage expenses, SEC and state registration fees, litigation and other legal expenses related solely to one class, and certain fees and expenses of directors).

[39] *Cf.* Bearing of Distribution Expenses by Mutual Funds, Investment Company Act Release No. 11414 (Oct. 28, 1980), 45 FR 73898 (adoption of rule 12b–1) (to the extent that an adviser's profits are "legitimate" and "not excessive," the adviser's payments for distribution expenses are not an indirect use of fund assets).

[40] This provision addresses only a waiver or reimbursement for a specific class. It does not address waivers or reimbursements that apply to all classes in the same proportion as the relative net asset value of each class or that cap the expenses of each class at the same percentage of net assets.

[41] The Commission has stated that "[w]hether particular shareholder or other services are 'primarily intended to result in the sale of fund shares' and therefore, must be paid under a 12b–1 plan, will depend on the surrounding circumstances." Payment Asset-Based Sales Loads by Registered Open-End Management Investment Companies, Investment Company Act Release No. 16431 at n. 126 (June 13, 1988), 53 FR 23258, 23271 (proposing amendments to rule 12b–1).

[42] Allocation of expenses to all shareholders *pro rata* generally means allocation on the basis of relative net asset value. *See infra* section II.A.2. *Pro rata* allocation of voting rights generally means allocation on a per share basis but can also mean allocation on the basis of relative net asset value. *See* Sentinel Group Funds, Inc. (pub. avail. Oct. 27, 1992) (voting rights of different series in a fund may be tied to relative net asset values of each class to

Continued

VOL 58 ISS 245 DEC 23 1993 UMI

2. Allocation of Fund-Wide Expenses

Proposed paragraph (b) would apply the general principle of paragraph (a)(5) specifically to the allocation of fund expenses. Paragraph (b) would provide that all income, gains and losses, and expenses of the fund[43] other than class expenses, must be allocated to each class on the basis of relative net asset value. This provision is intended to clarify an issue that has arisen under some exemptive applications. The exemptive orders have required the filing of a separate report from an expert in response to sub-item 77P of Form N–SAR.[44] In these reports, an expert has reported on the adequacy of accounting procedures unique to multiple class funds. The reports have stated whether the methodology and procedures for calculating net asset value of each class, including allocation of income, expenses, dividends, and distributions, are appropriate. In these reports, some applicants have proposed to allocate fund expenses and income on a per share basis, regardless of class, but this treatment has not been permitted. Such an approach is not appropriate and would not be permitted under paragraph (b).

Under these proposals a separate report from an expert would no longer be necessary. Instead, to assure that the registrant's internal control structure is adequate to perform the accounting procedures unique to multiple class funds, the Commission is proposing to amend sub-item 77B of Form N–SAR to state a requirement that accountants preparing the report on internal control refer expressly to the procedures for calculating the classes' net asset values. Sub-item 77B requires independent accountants to report on the company's system of internal accounting control (internal control structure). The report is to be based on the review, study and evaluation of the accounting system, internal accounting controls, and procedures for safeguarding securities made during the audit of the financial statements. The proposed amendment would add a specific reference in the accountant's report on internal control (structure) directed to the procedures for calculating multiple equity class net assets. While an audit of the financial statements would include a review of the accounting system, which would likely include an evaluation of such procedure, specifying that the independent accountant's report must include a reference should ensure a uniform level of responses.

3. Board Review

The multiple class exemptive orders[45] address potential conflicts of interest among classes by looking to fund boards of directors.[46] The Commission's orders include conditions requiring the boards to approve the issuance of multiple classes and to include in the minutes of their meetings a detailed discussion of the reasons for approval; to review and approve the specific allocations of class expenses; and to monitor for any conflicts of interest among classes and take any actions reasonably necessary to eliminate them.[47]

Like the exemptive orders, proposed rule 18f–3 would give boards of directors, particularly the independent directors, significant responsibility. Proposed paragraph (c) would require that the fund adopt a written plan specifying all of the differences among classes. The plan would have to set forth the different shareholder service and distribution arrangements for each class, any allocation of other expenses, and any conversion features or exchange privileges. Thus, the plan would provide the board of directors with a clear statement of the differences among the classes.

Paragraph (c) also would require that the board, including a majority of the independent directors, approve the plan before the issuance of multiple classes and annually thereafter.[48] In doing so, it would have to find that the plan is fair to, and in the best interests of, each class and the company as a whole.[49] Thus, the rule would replace several board reviews required by the orders with one finding that the written plan be fair to, and in the best interests of, each class individually and the fund. In making this finding, the board should focus on the relationship among the classes and examine potential conflicts of interest among classes regarding allocation of fees, services, and voting rights. Most significantly, the board should evaluate the level of services provided to each class and the cost of those services to ensure that the services are appropriate and that the allocation of expenses is reasonable.[50]

Proposed amendments to Forms N–1A and N–14 would require a copy of the rule 18f–3 plan to be filed as an exhibit.[51]

4. Exchange Privileges and Conversions

In addition to the differences among classes provided under paragraph (a), the exemptive orders have allowed classes to differ in exchange privileges and conversion features. Proposed paragraph (d) would codify these provisions of the orders. Paragraph (d)(1) would let multiple class funds offer different exchange privileges to different classes. Proposed paragraph (d)(2) would allow funds to offer one or more classes with conversion features. This provision would specify that conversions must be made at net asset value and prescribe that a conversion feature must limit the total rule 12b–1 fees paid by shareholders with a conversion feature. Differences in exchange privileges and conversion features would be subject to board review and approval under paragraph (c) to determine that they are fair to each class individually and to the fund as a whole. In addition, the exchange privileges continue to be subject to section 11 of the Investment Company Act and the rules thereunder.[52]

If a fund has a class with a conversion feature ("purchase class"), proposed paragraph (a)(4) would require that any material increase in the rule 12b–1 fee charged to the class into which the purchase class converts (the "target class") also be approved by a separate vote of the purchase class. If the target class approves the increase but the purchase class does not, paragraph (d)(2) would provide that the fund could not increase the rule 12b–1 fee of the target class unless it established a separate target class for shareholders in the purchase class. That separate class would have to have the same fees and terms as the target class did before the increase.

B. Rule 12b–1

Rule 12b–1 was adopted in 1980 before the issuance of any orders permitting multiple class funds. The wording of the rule implicitly assumes that a fund has a single class of securities and does not specify how its procedures apply when the fund includes separate classes.

The Commission is proposing to amend rule 12b–1 by adding new paragraph (g), which would provide that if a plan covers more than one class of shares, the provisions of the plan must be severable for each class, and any action that is taken on the plan must be taken separately for each class.[53] Thus, a plan would be subject to separate requirements of director and shareholder approval for each class. Thus, in determining under paragraph (e) that a distribution plan presents a "reasonable likelihood of benefit" to the company and its shareholders, the board would be required to make that finding separately for each class. Similarly, where rule 12b–1 requires that a plan for the distribution of securities be approved by a majority of the fund's outstanding voting securities, the proposed amendment would require shareholder approval by the outstanding voting securities of each separate class only.[54] The amendment is consistent with the orders, which have not allowed shareholders not subject to a plan to vote on it.

The amendment also would be consistent with paragraph (a)(3) of proposed rule 18f–3. That provision requires that each class have exclusive voting rights on any matter submitted to shareholders that relates solely to the shareholder servicing or distribution arrangement of that class.[55]

C. Disclosure

1. Prospectus Disclosure

Current exemptive orders generally require *every* prospectus of a multiple class fund to disclose the respective expenses, performance, distribution arrangements, services, fees, sales charges, and exchange privileges of *all* classes, regardless of whether each class is offered through that prospectus.[56] This cross-disclosure requirement is intended to highlight the existence of the different classes and provide information about investors' choices among those classes. The orders, however, do not expressly require information to be disclosed with equal prominence for all classes. Therefore, practice varies. Some prospectuses provide expenses for one class in the fee table and for other classes in notes following the fee table, and other prospectuses put disclosure about other classes in the text further back in the prospectus.

Some orders have included an exception from the cross-disclosure requirement for classes of shares that are available solely to institutional investors investing for their own account, institutional intermediaries that have investment discretion over each underlying account, and certain persons related to the fund, its adviser, or principal underwriter ("institutional or inside investors").[57] Under these orders, prospectuses for classes available to the general public must disclose only the identity of the class not available for purchase and identify those persons eligible to participate in them. This approach recognizes that certain classes are not available to the general public, either through direct investment or by exercising investment discretion through an intermediary such as a bank or an employee benefit plan. Detailed information concerning these classes may have little relevance to an individual investor's evaluation of the class best suited to his or her investment needs, and may confuse rather than inform investors.

As noted above, funds may use the master-feeder structure to achieve many of the same marketing objectives as the multiple class structure. Unlike multiple class funds, however, which generally must disclose the material features of each class regardless of how that class is marketed, feeder funds currently are not required to provide detailed prospectus disclosure concerning other feeder funds investing in the same master fund. Each feeder fund prospectus must contain only a statement that other feeder funds invest in the master fund and that their expenses and consequently their performance may differ, and a toll-free

---

avoid vesting unfair voting power in classes with per share net asset values that are significantly lower than those of other classes). The Commission requests comment whether rule 18f–3 should *require* voting to be allocated on the basis of relative net asset value.

[43] As is clear from the definition of "company" in the introductory paragraph of the rule, in the case of a fund with more than one series of securities, the "income, realized and unrealized capital gains and losses, and expenses of the company" and the "net asset value of the company" in paragraph (a)(5) refer to the specific series in question.

[44] 17 CFR 274.101.

[45] *E.g.*, Smith Barney, *supra* note 8, 57 FR at 47159.

[46] The definition of "director" in section 2(a)(12) of the Investment Company Act also includes any persons performing similar functions for any organization, whether incorporated or unincorporated, including any natural person serving as trustee of a management investment company created as a common-law trust. 15 U.S.C. 80a–2(a)(12).

[47] *E.g.*, Dreyfus, *supra* note 38, 57 FR at 61948. In addition, the orders typically have required the independent directors to approve quarterly and annual expense reports presented to the board under rule 12b–1(b)(3)(ii), have referenced the board's fiduciary responsibilities under the Investment Company Act and, when bank intermediaries are involved, under federal banking laws have required funds to develop written guidelines for the directors setting forth the conditions of the orders and the duties and responsibilities of the boards for the use of multiple classes. *E.g.*, *id.* (conditions 4, 6, 7, 9, and 14).

[48] The Commission has taken a number of steps recently to reduce burdens on fund boards of directors. *E.g.*, Exemption of Acquisition of Securities Issued by Persons Engaged in Securities-Related Businesses, Investment Company Act Release No. 19716 (Sept. 16, 1993), 58 FR 49425 (amending rule 12d3–1 [17 CFR 270.12d3–1]); and Revision of Certain Annual Review Requirements of Investment Company Boards of Directors, Investment Company Act Release No. 19719 (Sept. 17, 1993), 58 FR 49019 (amending rules 10f–3, 17a–7, 17e–1, 17f–4, and 22c–1 [17 CFR 270.10f–3, .17a–7, .17e–1, .17f–4, and .22c–1]). The Commission believes that boards are most effective when they are evaluating potential conflicts between funds and their advisers, not when they are involved with day-to-day activities of funds or are making findings that involve more ritual than substance. Because of the conflict between funds and their advisers over advisory and other fees, the Investment Company Act places a great deal of responsibility on boards to evaluate fees paid to advisers and their affiliated persons. *See, e.g.*, Investment Company Act section 15(a),(c), 15 U.S.C. 80a–15 (a), (c). Multiple class arrangements involve potential conflicts over fees. Therefore, the Commission believes that board review of multiple class arrangements is appropriate.

[49] Section 38(b) of the Act, 15 U.S.C. 80a–38(b), imposes a fiduciary duty on fund investment advisers and their affiliated persons as to their receipt of compensation from the fund. That section does not contemplate multiple class funds. The Commission believes, however, that a determination of whether class-specific compensation (such as a rule 12b–1 fee) paid to a fund's investment adviser or an affiliated person of the adviser meets the standards of that section should be made on a class-by-class basis, and would depend on all the facts and circumstances, including the fees paid by other classes of the fund, and the effect of any waiver or reimbursement.

[50] In this regard, rule 12b–1 requires board review of expenditures under plans of distribution. Such review could be performed concurrently with the review of the multiple class plan.

[51] New Item 24(b)(18) of form N–1A, and new Item 16, Exhibit (17) of Form N–14.

[52] 15 U.S.C. 80a–11(a); 17 CFR 270.11a–1, –2, and –3 (requiring offers of exchange to be made on the basis of net asset value, with exceptions).

[53] In the case of funds issuing more than one series of shares, rule 12b–1 has been interpreted to treat each series as a separate fund. *See* Inv. Co. Act Rel. 16431, *supra* note 41, at n.202 and accompanying text.

[54] As noted in the text above, under paragraph (d)(2) of proposed rule 18f–3, however, any shareholder vote on the rule 12b–1 plan of a target class also would require a separate vote of any purchase class. Proposed new paragraph (g) of rule 12b–1 would contain an express cross-reference to rule 18f–3 to address this limited exception expressly.

[55] The orders also have required that multiple class funds adopt and operate their shareholder service plans in accordance with the procedures set forth in rule 12b–1 (b) through (f), other than the rule's requirements for shareholder approval. Rule 18f–3 would not retain this requirement, in light of the requirement under paragraph (c) that a multiple class fund's board review the fairness of the fund's plan.

[56] *E.g.*, Merrill Lynch California Municipal Series Trust, et al., Investment Company Act Release Nos. 16503 (July 28, 1988), 53 FR 29294 (Notice of Application) and 16535 (Aug. 23, 1988), 41 SEC Docket 955 (Order).

[57] *E.g.*, John Hancock Asset Allocation Fund, Investment Company Act Release Nos. 18921 (Sept. 1, 1992), 57 FR 40934 (Notice of Application) and 18984 (Sept. 29, 1992), 52 SEC Docket 2575 (Order) (disclosure not required about class offered solely to certain unaffiliated benefit plans in which investment discretion is vested with a separate trustee (excluding self-directed plans), tax-exempt retirement plans for employees of the fund's adviser and its affiliates, certain unit investment trusts, banks and insurance companies purchasing for their own account, investment companies not affiliated with the adviser, and endowment funds of non-profit organizations); Shearson Lehman Appreciation Fund Inc., Investment Company Act Release Nos. 18770 (June 11, 1992), 57 FR 27830 (Notice of Application) and 18832 (July 7, 1992), 51 SEC Docket 2021 (Order) (disclosure not required about class offered solely to, among others, employees of the fund's principal underwriter and its affiliates, directors, general partners, or trustees of any investment company for which the principal underwriter serves as distributor, and the spouses and minor children of the foregoing).

VOL 58 ISS 245 DEC 23 1993 UMI

telephone number for information about the availability of other feeder funds.[58]

The Commission is proposing to modify the prospectus disclosure requirements for multiple class funds and master-feeder funds to make them generally consistent and to promote understanding of investors' options among these funds' sales and service arrangements. The proposal seeks to respond to concerns that the complexity of sales and service charges may confuse many investors; some reports indicate that many investors may not understand that they are paying sales or related charges or the effect different sales and related charges will have on performance.[59] These concerns are greatest with rule 12b–1 fees and contingent deferred sales charges, whose significance may not be fully appreciated by investors because they are not paid at the time of purchase and because the amounts that investors ultimately will pay cannot be determined precisely at that time.

Thus, the proposed amendments would require the prospectuses of both multiple class and feeder funds to include a prominent legend following the fee table providing information about the availability of other classes or feeder funds, unless all classes or feeder funds are offered through the same prospectus. A prospectus for a multiple class or feeder fund would be required to include full cross-disclosure about all classes or feeder funds investing in the same master fund that are offered or made available through the same broker, dealer, bank, or other financial intermediary and that permit investors to choose among alternative arrangements for sales and related charges. For example, classes with a "dual distribution" arrangement (a choice between a class with a front-end load and a class with a spread load) would be subject to this requirement. If a prospectus offers more than one class or feeder fund, or contains cross-disclosure about other classes or feeder funds, the prospectus would be required to discuss the differences among the classes or feeder funds that are offered in the prospectus or subject to the cross-disclosure requirement; that discussion would be required to include a line graph comparing the hypothetical performance of those classes or feeder funds over a ten year period, assuming a $10,000 initial investment and a 5% annual return for all classes or feeder funds before expenses; this graph would show the circumstances in which each would produce the highest total return upon redemption. Thus, when investors are offered alternative sales and related charges, the proposed prospectus requirements should focus investor attention on a comparison of sales and service charge options and make it easier to understand when a given option is likely to produce the lowest costs and hence the highest return. These amendments would apply to all multiple class funds, no matter whether they rely on rule 18f–3 or continue to rely on exemptive orders for their exemption from section 18.[60]

The proposed amendments would not provide the only prospectus disclosure requirements for these funds. Certain other disclosure requirements applicable to master-feeder funds would remain in effect notwithstanding the proposal or adoption of these amendments.[61] The proposed amendments, however, would not include certain other disclosure currently required for multiple class funds under the exemptions.[62] The Commission requests comment on whether other amendments are necessary to address differences among multiple class, master-feeder, and single class funds. For example, should the Commission impose standardized class designations (*e.g.*, Class A for front-end sales charges, Class B for spread loads, etc.) upon all multiple class funds, or would variations in class structures make such a requirement unworkable?

a. Legend concerning classes or feeder funds not offered through a prospectus. The Commission is proposing to revise Instruction 1 to Item 2(a) of Form N–1A[63] to require every prospectus of a multiple class or feeder fund to include a prominent legend in the narrative following the fee table unless all classes or all feeder funds are offered through the same prospectus.[64] The legend would state that a multiple class fund issues other classes or that other feeder funds invest in the master fund, and that because sales charges and expenses vary among classes and feeder funds, performance also varies. The legend would be required to identify those other classes[65] or feeder funds, and to include a toll-free telephone number that investors could use to obtain further information about other classes or feeder funds not offered through the prospectus. As under the exemptive orders, in multiple class fund prospectuses, the legend also would be required to state that a sales representative may receive different compensation for selling one class than for another class.

Proposed new Item 32(d) of Form N–1A would require an undertaking to provide investors calling the toll-free telephone number with information about purchasing procedures and eligibility requirements for each class or feeder fund, and comparable information to be provided about any investment vehicle other than a mutual fund that invests only in the same master fund.[66] The undertaking would also require funds to provide prospectuses for other classes or feeder funds upon request.

The proposed legend requirement is intended to alert investors to the existence of other classes and feeder funds and how to obtain information about them. Thus, it would substitute for the more extensive information about other classes that now is required under the exemptive orders to appear in the prospectus.[67] Current disclosure requirements for most feeder funds would be unchanged under the proposal, except that the proposal would require specifically that some of the disclosure now required for feeder fund prospectuses be presented in the legend following the fee table.[68]

The Commission requests comment on whether, instead of requiring that the legend identify all other classes or feeder funds, the Commission should amend Item 6(d) (which already requires identification of all classes) to require identification also of all feeder funds, and require the legend to include a cross-reference to the Item 6(d) disclosure.

b. Cross-disclosure about certain other classes or feeder funds. Proposed new General Instruction I to Form N–1A would require a prospectus offering any class or feeder fund to provide disclosure responding to Items 2 through 9 of Form N–1A for all other classes or feeder funds investing in the same master fund that are offered or made available through the same broker, dealer, bank, or other financial intermediary[69] and have alternative arrangements for sales and related charges, whether or not those classes or feeder funds are offered in the same prospectus. This requirement would ensure that investors have available the information necessary for choosing among different sales charges and related expenses while investing in the same underlying portfolio. The principal purpose of the proposed cross-disclosure requirement, coupled with proposed new Item 6(h) discussed below, is to focus the attention of investors on a comparison among different forms and/or amounts of sales charges and related expenses. This arrangement would facilitate comparisons among classes or feeder funds that have alternative arrangements for sales and related charges by providing information in a readily accessible format. When, as under Items 2 and 3 of Form N–1A, information is required to be presented in tabular form, those tables must list separately in parallel and adjacent columns data for each class or feeder fund that is offered in the prospectus or about which cross-disclosure is required.

The determination of whether classes or feeder funds have alternative arrangements for sales and related charges and therefore require cross-disclosure would depend on the facts and circumstances of each situation. Generally, classes or feeder funds would be considered to have alternative sales and related charges if they differ primarily in offering investors different methods for paying distribution costs (*e.g.*, a choice among a front-end load, a spread load, and a level load).[70] By contrast, a class or feeder fund offered exclusively to institutional or inside investors[71] would not be considered to have an alternative arrangement to a class or feeder fund offered to the general public. The typical case to which this requirement would apply is a dual distribution arrangement.[72]

Under proposed new General Instruction I and the proposed legend requirement, an investor's existing or potential relationship to a broker, dealer, bank, or other financial intermediary would determine whether the investor would find information about various classes or feeder funds in the same prospectus or would be referred to a toll-free telephone number for that information. If classes or feeder funds are sold to customers of the same financial intermediary and differ primarily in the sales charge arrangements, cross-disclosure would be required; the cross-disclosure requirement, together with the requirement of a discussion of differences among classes or feeder funds, would focus investor attention on the differences among sales charges and related expenses.

If classes or feeder funds are sold to customers of different financial intermediaries, or if they are sold to customers of the same intermediary but differ primarily in the services provided, the proposal assumes that they are being offered to investors with different existing or potential customer relationships. Those different relationships would involve different conditions and charges that generally would not be required to be disclosed in the prospectus in any event.[73] Thus, an

---

[58] Letter from Carolyn B. Lewis, Assistant Director, Division of Investment Management, SEC, to Registrants (Feb. 22, 1993) (hereinafter "1993 Generic Comment Letter"), Comment II.H: feeder fund prospectuses also must contain: (i) Certain information regarding the master fund (*e.g.*, its investment objectives and policies), (ii) a unified fee table summarizing the fees of both the master fund and the feeder fund, (iii) a discussion of certain factors, including whether the aggregate fees assessed at the master fund and feeder fund levels would be more or less than if the feeder fund invested directly in the securities held by the master fund, that the feeder fund's directors considered when adopting the master-feeder structure, (iv) a discussion of the pass-through voting procedures followed by the feeder fund when the master fund requests a vote of its security holders, and (v) a discussion of the consequences of a feeder fund's being required to redeem its shares in the master fund in the event that the feeder fund's shareholders fail to approve a change in the feeder fund's investment objectives that conforms with changes in the master fund's investment objectives. These prospectus disclosure requirements closely resemble the standards recently adopted by the North American Securities Administrators Association for registration of master-feeder funds at the state level. *See* "Guidelines for the Registration of Master Fund/Feeder Funds," NASAA Reports (CCH) ¶ 2252.

[59] Several news reports have indicated that the complexity of distribution charge options can be confusing to investors. *See, e.g.*, Carole Gould, *Clearing Up Confusion Over Class*, N.Y. Times, Nov. 14, 1993, at F14; Gene Colter, *In ABCs of Shares, "B" is for Beware*, Wall St. J., Oct. 5, 1993, at R22 (spread loads in particular may confuse investors, who may believe that they are holding no-load funds); Robert N. Veres, *Alphabet Soup*, Worth, July/August 1993, at 86 (the array of classes and distribution charges "can bewilder even brokers and financial advisors"); Carole Gould, *Looking Ahead, Long and Hard*, N.Y. Times, June 6, 1993, at F16 (the multiple class fund can create a "byzantine pricing structure" that confuses investors); Allen Myerson, *No Front or Back Fees But Watch That Middle*, N.Y. Times, May 29, 1993, at D31 (investors baffled by the level load); Amey Stone, *Will Supermarket-Style Pricing Work With Mutual Funds*, Financial Planning, Feb. 1993, at 37 (president of complex describes level load as designed to look or feel nothing like a load); Amy Dunkin, *Mastering the Maze of Fund Loads and Fees*, Bus. Wk., Aug. 24, 1992, at 78 ("Figuring out what impact the sales charges and expenses have on your return is getting more difficult").

[60] For example, an Investment Company Institute committee has been considering proposed standard nomenclature for multiple class funds. *See* 1993 ICI Securities Law Procedures Conference at V–5.

[61] Thus, the Division's guidelines in the 1993 Generic Comment Letter for feeder fund prospectus disclosure would continue to apply with one exception: following the adoption of these amendments, the Division would no longer require a general description of the master-feeder structure on the cover page. *See* 1993 Generic Comment Letter, *supra* note 58 (Comment II.H.(a)).

[62] For example, when multiple class funds provide the net asset value or public offering price of any class for publication in a newspaper or similar listing, the exemptions have required the funds to provide this information for all classes. The Commission is not proposing such a requirement here.

[63] 17 CFR 239.15A, 274.11A.

[64] Rule 8b–12(d) under the Act requires the body of all printed registration statements to be in roman type at least as large as 10 point modern type. 17 CFR 270.8b–12(d). The legend would be required to appear in the text and therefore must be printed in at least 10 point modern type. Disclosure is "prominent" if it appears in a typographically distinctive manner (e.g., boldface, italics, red letters, etc.). *See* 1993 Generic Comment Letter, *supra* note 58 (Comment II.J.).

[65] Thus, the legend would provide for multiple class funds some of the disclosure required by Item 6(d) of Form N–1A, which requires identification of other classes in the prospectus and a statement whether those classes have any preference over the security being offered.

[66] A pension fund, bank collective trust fund or other commingled fund, as well as another public or private investment vehicle also could invest in a master fund.

[67] See *supra* note 58 and accompanying text: prospectuses generally are required to provide cross-disclosure about expenses, performance, distribution arrangements, services, fees, sales charges, and exchange privileges of classes other than institutional or inside investor classes. Prospectuses for classes offered to the general public are not required, however, to provide that cross-disclosure about institutional or inside investor classes; instead, they are required only to identify the institutional or inside investor class and the category of investors eligible to purchase that class. See *supra* note 57 and accompanying text (defining institutional and inside investors). Because, however, the proposed legend would be more conspicuous than the disclosure of the existence of this institutional or inside investor class provided by many multiple class funds under the exemptive orders, investors should be more likely to notice it. Currently, many multiple class funds place this disclosure at the end of the prospectus.

[68] In general, the substance of the legend, including the inclusion of a telephone number that investors may use to obtain further information, closely resembles a current feeder fund prospectus disclosure requirement. See 1993 Generic Comment Letter, *supra* note 58 (Comment II.H.(c)).

[69] Other financial intermediaries would be any other entities that, like brokers or dealers, act as agents or principals in the sale of a fund's shares, or that, like certain banks, provide shareholder services under an agreement with a fund.

[70] As an illustration of the proposed requirement, assume a fund offers four classes, with Class A and Class B sold to retail investors through brokers, Class C available only to institutions investing for their own account, and Class D available through banks to retail investors. Class A has a 5.0% front-end sales load and a .25% asset-based service fee, Class B has a .75% asset-based distribution fee and a 5.0% CDSL that declines 1.0% per year, Class C has no sales charges or asset-based distribution fees, and Class D has no sales charge but a .75% asset-based distribution fee and a .25% asset-based service fee. A prospectus for Class A must contain full cross-disclosure about Class B, and vice versa. Prospectuses for Classes A and B would not be required to include cross-disclosure about Classes C and D. Although Class D shares also are offered to retail investors, Class D is available only to customers of a financial intermediary that does not offer Classes A and B to its customers; therefore, cross-disclosure about Class D would not be required. Furthermore, if Classes A and B were each available only through a separate bank, the prospectus for each class would not be required to provide cross-disclosure about the other.

[71] See *supra* note 57 and accompanying text.

[72] See, e.g., Merrill Lynch California Municipal Bond Trust, *supra* note 56.

[73] For example, the prospectus would not be required to disclose all the terms and costs of specific customer relationships or transactions with particular financial intermediaries such as brokers or banks. Disclosure is not always required about the amount of transaction fees or ongoing fees, such as account fees, that are charged by financial intermediaries. See, *e.g.*, Form N–1A, Items 7(b)(v) and 8(b). Item 7(b)(v) requires disclosure whether

Continued

investor would need to look outside the prospectus to learn about other customer relationships and to establish such a relationship in order to purchase certain classes or feeder funds. Because prospectuses currently are not required to disclose all of the costs and terms of establishing and maintaining these relationships and investing in these classes or feeder funds (and such disclosure, if required, would be lengthy, complex and constantly changing), the Commission is proposing to provide for investors to obtain those classes or feeder funds by calling the toll-free number listed in the legend following the fee table.

The cross-disclosure requirement should result in minimal change for current multiple class and master-feeder funds. The multiple class exemptive orders already require cross-disclosure of virtually all the features that are likely to differ among classes; current disclosure, however, may not be as extensive or in the same format as what would be required under the proposal. For example, in prospectuses of funds operating under current exemptive orders, sales charge and expense disclosure may be found in footnotes or the text and not in parallel columns in the fee table; under the proposed new Instruction, such disclosure would be required to appear in the same form and extent as if the class or feeder were being offered in the same prospectus. In any event, virtually all funds with classes that would be subject to the cross-disclosure requirement already offer those classes in the same prospectus. Although feeder fund prospectuses have been required only to provide disclosure about both the feeder funds and the master fund,[74] few feeder funds currently have alternative arrangements for sales charges that would bring them within the proposed cross-disclosure requirement.[75]

The Commission requests comment on whether it is appropriate to limit the proposed cross-disclosure requirement to classes or feeder funds with alternative sales charge arrangements. Should prospectuses be required instead to provide cross-disclosure about all classes or feeder funds investing in the same portfolio, or all such classes or feeder funds other than those offered to institutional or inside investors,[76] or all classes or feeder funds offered or made available through the same financial intermediary? Such a requirement arguably might help investors understand all their possible options for investing in a portfolio, and might promote greater competition among different financial intermediaries. Would, however, such a requirement result in mandatory prospectus disclosure so complex that it would defeat the Commission's goal of promoting investor understanding?

c. Comparison of classes or feeder funds. If a prospectus offers two or more classes or feeder funds, or provides cross-disclosure about one or more classes or feeder funds, proposed new Item 6(h) would require the prospectus to discuss the differences among the classes or feeder funds that are offered in the prospectus or about which the prospectus provides cross-disclosure under General Instruction I. It also would require the prospectus to provide a line graph comparing the performance of those classes or feeder funds over a hypothetical ten-year period. Like the line graph required under Item 5A, the graph would compare the net asset value on the first day of the first year to the subsequent net asset values at redemption on the last day of each year starting with a $10,000 initial investment; unlike the graph under Item 5A, this graph would be hypothetical and not based on historical performance.[77] The graph would show, for example, the circumstances under which holding shares of a class or feeder fund for a given length of time would produce the highest return; with this comparison, investors could consider how long they are likely to hold their shares in determining which class or feeder fund to purchase.[78]

The computation of those net asset value figures would use a five percent annual return before expenses for all classes or feeder funds. This five percent rate like that under the example in Item 2, is used to ensure comparability and illustrate the hypothetical nature of the line graph. The Commission requests comment on whether Item 6(h) would require more than one rate of return in order to illustrate differences among different market conditions,[79] or should permit the use of a rate other than five percent selected by the issuer so long as the rate is reasonable in comparison to the historical performance of the fund or other funds with comparable investment objectives. The Commission also requests comment on whether Item 6(h) should require textual discussion instead of the proposed line graph.

The graph would be required to be accompanied by a brief statement explaining that the graph is a hypothetical illustration of the effect on performance of the expenses of the different classes or feeder funds. The statement also must explain the graph's assumptions and state that the assumed five percent return should not serve as a basis for predicting future returns.

The line graph would complement the example in the fee table required by Item 2: The example requires disclosure of total expenses over periods of one, three, five, and ten years; thus it may not identify the point at which one class or feeder fund would come to have a higher value on redemption than another class or feeder fund. When a prospectus includes the disclosure required by proposed Item 6(h), the legend following the fee table also would be required to include a cross-reference to the location of the Item 6(h) disclosure in the prospectus. The Commission requests comment on whether this disclosure should be required to follow the fee table.

d. Alternative regulatory approaches. The Commission requests comment on whether prospectus disclosure requirements alone are effective to ensure that investors understand their options among these funds' sales and related charges before making an investment decision. Various reports suggest that many investors find these funds complicated, and do not understand what sales charges they will be paying;[80] these reports raise questions whether adequate information about sales charges is communicated to investors today.

The Commission requests comment on whether these reports of investor confusion are accurate. If so, is it likely that the recently effective amendments to the National Association of Securities Dealers, Inc. ("NASD") Rules of Fair Practice regarding asset-based sales charges will lessen investor confusion?[81]

The Commission also requests comment on whether some other regulatory approach is necessary to address these concerns. Should the Commission require multiple class and master-feeder funds to deliver a prospectus or some shorter document before sale?[82] For example, representatives might provide an off-the-page prospectus (if available) or some other document containing information about sales charges and a comparison such as that required by proposed Item 6(h)[83]. Or should the Commission work with the NASD to set standards for basic information that representatives must communicate to customers, whether orally or in writing, before investment in multiple class and master-feeder funds?

2. Advertising and Sales Literature

Multiple class orders generally require advertising and sales literature to include expense and performance data for all classes of shares whenever they provide this information for any one class.[84] This requirement addresses concerns that advertising and sales literature featuring the performance of only one class might be misleading. Investors, for example, could be misled if the performance of a class available only to institutions were advertised without disclosure that classes available to the general public would have higher sales charges and expenses and, consequently, poorer performance.

The same orders that do not require prospectus disclosure about institutional or inside classes also permit a comparable exception in advertising and sales literature disclosure. Under this exception, advertising or sales literature need not include performance or expense data for classes that are available solely to institutional or inside investors.[85] Moreover, the orders do not explicitly require any information regarding the multiple class structure to be included in advertisements or sales literature that do not contain performance or expense data. For master-feeder funds, there are currently no Commission guidelines or requirements regarding advertising and sales literature.

a. Legends concerning other classes or feeder funds. The Commission proposes to amend rule 134 under the Securities Act by adding new paragraph (a)(3)(iv) to specifically address multiple class and master-feeder fund advertising and sales literature.[86] Because master-feeder arrangements serve many of the same functions as multiple class funds and raise many of the same concerns, the Commission believes that, as with prospectus disclosure, advertising for both types of funds should be subject to similar requirements.[87] Proposed new paragraph (a)(3)(iv) would require multiple class and master-feeder funds to include a legend in advertising and sales literature similar to the proposed legend following the fee table in the prospectus. The legend would disclose that a multiple class fund issues other classes or that other feeder funds invest in the master fund, and that because sales charges and expenses vary among classes and feeder funds, performance also varies.[88] Unlike the prospectus legend, the advertising legend would not be required to list the names of other classes or feeder funds. In addition, the legend would include a toll-free telephone number that investors may use to obtain further information concerning other classes or feeder funds not featured in the advertising or sales literature. The proposal would require that the legend by in a type at least as large as, and of a style different from, but at least as prominent as, that used in the major portion of the advertisement.[89] These format requirements are intended to prevent the legend from being placed in a footnote or in any other inconspicuous location that might not draw investor attention. The legend would not be required that advertising or sales literature includes all classes of a fund or all feeder funds that invest in a master fund.

Proposed new paragraph (a)(6) of rule 482 would require a legend similar to the legend proposed for rule 134.[90] The Commission also is proposing to add a legend requirement for sales literature subject to rule 34b–1 under the Investment Company Act.[91] Proposed new paragraph (b)(1)(iii) of rule 34b–1 would require sales literature used by multiple class or feeder funds that contains performance figures for fewer than all classes of a fund or all feeder funds that invest in the same master fund to include the legend required by proposed new paragraph (a)(8) of rule 482.

---

any person such as a broker-dealer or bank may impose any charges in connection with purchases, unless a registrant believes those charges are disclosed in a wrapper. Item 8(b) requires disclosure whether a broker-dealer may impose charges for selling shares to a registrant through the broker-dealer. In either case, the amount of such fees need not be disclosed. When banks or other financial institutions impose service fees, a footnote should be added to the fee table to inform investors that such fees exist; and when there is only one institution levying an additional fee, that fee may have to be included as an item in the fee table. Letter from Carolyn B. Lewis, Assistant Director, Division of Investment Management, SEC, to Registrants at 4 (Jan. 17, 1992) (Comment II.C).

[74] See "Hub-And-Spoke" Funds: A Report Prepared By the Division of Investment Management at n. 22 (report delivered to The Honorable John D. Dingell on April 15, 1992). The master fund is a co-issuer with each feeder fund under Securities Act rule 140. The master fund and its officers and directors sign each feeder fund's registration statement. 17 CFR 230.140.

[75] See *supra* note 27 and accompanying text for examples of feeder funds investing in the same master fund that are offered or made available through the same intermediaries and have alternative sales charge arrangements; such funds would appear to be subject to the proposed cross-disclosure requirement.

[76] See *supra* note 57 and accompanying text (defining institutional and inside investors). The rationale for this alternative would be that when one class or feeder fund is offered through a broker, and another class or feeder fund is made available through a bank, investors would be eligible in theory to purchase each class or feeder fund, either through the broker or by opening an account with the bank, and hence should receive information in the prospectus about those other choices.

[77] The proposed instructions to new Item 6(h) also are based on the instructions to Item 5A; they have been modified to reflect the differences between historical and hypothetical performance, and between a comparison to an index and a comparison among different classes or feeder funds. Unlike Item 5A disclosure, Item 6(h) disclosure would be required to appear in the prospectus; it would not be sufficient to include this disclosure in a fund's annual report.

[78] Cf. Vanessa O'Connell, Mastering the ABCs of Fund Shares, Money, Sept. 1993, at 44 (providing hypothetical example in which level-load class would have the highest value if an investor stays in the fund for five or fewer years, spread load would have the highest value for an investor redeeming in year six, and front-end shares for an investor holding for seven years or longer).

[79] For example, prospectuses for variable life insurance contracts include tables showing how contract values can change over time at hypothetical gross investment rates of zero, four, and eight percent, or zero, six, and twelve percent. Cf. also Regulation S–K, Item 402(c), 17 CFR 229.402(c) (executive compensation disclosure instructions regarding stock options require valuation of options assuming five or ten percent annual rate of stock price appreciation).

[80] See *supra* note 59 (for references to press reports).

[81] NASD Rules of Fair Practice, Article III, Section 26, NASD Manual (CCH) ¶ 2176. Among other changes, these amendments preclude the use of the term no-load and similar terms for funds with rule 12b–1 or service fees exceeding 0.25%.

[82] But see Protecting Investors, *supra* note 2, at 351 (recommending that delivery of the section 10(a) prospectus should not be required before all mutual fund sales in the absence of evidence that investors are dissatisfied with, or being harmed by, the current practice of requiring the delivery of the statutory prospectus at the earlier of the confirmation of the sale or the delivery of the security in the case of mutual fund shares sold through brokers).

[83] For example, such a document might consist of photocopies of pertinent pages of the section 10(a) prospectus. As with rule 15c2–8 [17 CFR 240.15c2–8], the Commission could adopt such a rule under the authority in section 15(c)(2) of the Securities Exchange Act [15 U.S.C. 78o(c)(2)], which provides the Commission with rulemaking authority over fraudulent, deceptive, and manipulative acts and practices.

[84] E.g., Merrill Lynch California Municipal Bond Trust, *supra* note 56, 53 FR 29294.

[85] See *supra* note 57 and accompanying text. In contrast to their requirements for prospectus disclosure, however, the exemptions do not require any disclosure in advertising or sales literature regarding the excepted classes.

[86] 17 CFR 230.134. Existing paragraph (a)(3)(iv) would be renumbered as paragraph (a)(3)(v). Rule 134 permits advertising and sales literature with content strictly limited to certain items set forth in paragraph (a)(3)(ii) of the rule. Rule 134 does not provide for the use of performance figures.

[87] See *supra* section II.C.1.

[88] The Commission is proposing to require that the legend discuss expenses and performance even though rule 134 does not provide for the use of performance data such as yield and total return figures; rule 134 advertisements, however, may include rankings based on performance data.

[89] This standard is the same as that required by paragraph (a)(3)(iii) for legends in mutual fund print advertisements and sales literature. 17 CFR 230.134(a)(3)(iii).

[90] 17 CFR 230.482.

[91] 17 CFR 270.34b–1. Rule 34b–1 generally requires any pamphlet, circular, or other sales literature that contains investment company performance data to comply with certain of the disclosure requirements of rule 482.

VOL 58 ISS 245 DEC 23 1993 UMI

b. Performance information. Proposed new paragraph (a)(9) of rule 482 would require multiple class and masterfeeder fund advertising that contains performance figures to include, with equal prominence, the performance of all classes and feeder funds that are subject to the prospectus cross-disclosure requirement.[92] Thus, for multiple class funds, the proposal would require generally less extensive expense and performance information than the exemptions do at present. The equal prominence requirement is intended to address the concern that advertisements or sales literature might disclose the performance of some classes inconspicuously, e.g., in a footnote or in print much smaller than that used for the performance figures of another class. The Commission requests comment, however, on whether the requirement of equal prominence may result in unduly bulky performance disclosure that might emphasize performance data at the expense of other disclosure or might inhibit the disclosure of performance data. Should the Commission instead require performance information to be presented in a table? Would the proposed legend (discussed above) be sufficient to inform investors of the fund's capital structure, the possible availability of classes or feeder funds not otherwise mentioned in the advertising or sales literature and a means of obtaining further information? The Commission also requests comment on whether rules 134, 482, and 34b–1 should require funds to disclose with equal prominence performance or expense data for *all* classes or feeder funds except classes or feeder funds offered exclusively to institutional or inside investors[93] to the extent that performance or expense data for any class or feeder fund are included in that advertising or sales literature.

Under Securities Act rule 482 and Investment Company Act rule 34b–1, advertisements or sales literature containing performance data for open-end investment companies other than money market funds must include one, five, and ten year average annual total return.[94] When an advertisement or sales literature contains performance data for a class or feeder fund with a shorter performance history than other classes or feeder funds, the advertisement or sales literature might be misleading if it did not include long-term performance data; for example, short-term disclosure alone might be misleading if the performance were excellent in the short-term, but poor over the longer term. The exemptive orders generally require disclosure of the performance of all classes.[95]

The proposed additional proviso for paragraph (e)(3) of rule 482 would require long-term total return information to be provided for another class or another feeder fund or the master fund when that information is not available for the class or feeder fund advertised. The proviso would require that when an advertisement contains performance figures for a class or feeder fund for which average annual total return information is available for less than the one, five, and ten year periods required by paragraph (e)(3), and this information is available for a longer period for another class, feeder fund, or master fund, then the advertisement must include quotations of average annual total return for the securities of the other class or feeder fund or master fund together with any necessary explanation.[96] This requirement is intended to ensure that funds do not attempt to hide poor past performance by creating a new class. Funds must select the class or feeder fund or master fund with performance figures for the longest period if none has been offered for ten years or more. If more than one class or feeder fund or master fund has been offered for ten years or more, then the fund may select a class or feeder fund or master fund from this group.[97] When presenting performance figures for a class or feeder fund or master fund, funds must be careful to include any additional information necessary to ensure that such performance data are not misleading;[98] For example, they should disclose the effect of differences in sales charges or other expenses. The Commission requests comment on whether rule 482 instead should be amended to provide that, when complete long-term total return information is not available for a class or feeder fund, the advertisement must include long-term total return figures that incorporate the performance of another class or the master fund, adjusted to reflect applicable sales loads and account fees.[99] The Commission also requests comment on whether issues of long-term performance data for multiple class and master-feeder funds should continue to be treated interpretively under the general requirements of rule 482, instead of under the specific amendment proposed here.

3. Off-the-Page Prospectuses

The Commission recently proposed amendments to rule 482 to permit open-end management investment companies to use advertisements containing applications to purchase their securities ("off-the-page prospectuses").[100] Proposed paragraph (g)(1)(v), however, would prohibit the use of off-the-page prospectuses by multiple class and master-feeder funds. The proposing release stated that these types of funds would not be eligible to use off-the-page prospectuses because of the complexity of the disclosure that would be necessary to comply with the proposed amendments. The proposing release also stated that the Commission would later consider whether multiple class and master-feeder funds should be able to use off-the-page prospectuses.[101] Although a few commenters agreed that multiple class and master-feeder funds

[92] Proposed new paragraph (b)(1)(iii) of rule 34b–1 would extend this requirement to sales literature.

[93] See *supra* note 57 and accompanying text (defining institutional and inside investors).

[94] 17 CFR 230.482(e)(3), 270.34b–1. An important purpose for requiring the presentation of long-term average annual return quotations in advertising or sales literature that contains performance figures is to provide investors with information on the fund's performance over the business cycle. *See, e.g.*, Advertising By Investment Companies; Proposed Rules and Amendments to Rules, Forms, and Guidelines, Securities Act Release No. 6660 (Sept. 7, 1986), 51 FR 34384, 34386.

[95] *Supra* note 56 and accompanying text. *Cf.* Merrill Lynch Asset Management, Inc. (pub. avail. Mar. 9, 1990) (fund permitted to advertise performance for a new class since sales of the new class commenced, rather than restating the fund's historical performance data for that class; because investors would have available the performance of the older class, they "in no way would be denied information about the long-term performance of the Fund").

[96] Proposed new paragraph (b)(1)(iii) of rule 34b–1 would extend this requirement to sales literature.

[97] In the case of classes or feeder funds with alternative sales charge arrangements, this provision may not have much effect, because the performance of all such classes would be required to appear in the same advertisement.

[98] *See, e.g.*, Sec. Act Rel. 6890, *supra* note 94, 51 FR 34384, 34391 (whoever sponsors an advertisement or sales literature, whether the fund, the underwriter, or the dealer, bears the primary responsibility for assuring that the advertisement or sales literature is not false or misleading). *Cf.* Kidder Peabody Equity Income Fund, Inc. (pub. avail. Nov. 1, 1991) (when a fund changed from a CDSL with a 1.0% 12b–1 fee to a front-end load with a 0.5% 12b–1 fee, historical performance data must be based on rule 12b–1 fees actually charged and may not be recalculated to reflect the changed 12b–1 fee); Investment Company Institute (pub. avail. May 13, 1988) (a fund must adjust performance data to reflect its *current* sales load for each of the one, five, and ten year periods under rule 482).

[99] *See* The Managers Core Trust (pub. avail. Jan. 28, 1993) (when an existing fund becomes a master fund, the new feeder fund may restate the historical performance data of the master fund to reflect any applicable sales loads and account fees at the feeder fund).

[100] *See* Off-the-Page Prospectuses for Open-End Management Investment Companies, Securities Act Release No. 6982 (Mar. 5, 1993), 58 FR 16141.

[101] *Id.*, 58 FR at 16144.

should not be eligible to use off-the-page prospectuses,[102] most commenters argued that these types of funds would not require extraordinary disclosure [103] and that the disclosure required under the exemptions could fit in an off-the-page prospectus without confusion.[104]

In light of these comments and the other changes to rule 482 proposed in this release, the Commission is proposing to revise proposed rule 482(g) to delete the provision excluding multiple class funds and feeder funds from eligibility to use off-the-page prospectuses. A new General Instruction to paragraph (g)(2) would require cross-disclosure for all classes or feeder funds that are subject to the prospectus cross-disclosure requirement. Like other advertisements under rule 482, off-the-page prospectuses also would be subject to the legend requirement of proposed paragraph (a)(8). In addition, off-the-page prospectuses would be required to include the discussion and line graph required under proposed new Item 6(h) of Form N–1A concerning differences among classes or feeder funds. The Commission requests comment on whether any other disclosure requirements are necessary to address the specific features of these types of funds.

III. Cost/Benefit of Proposed Action

Taken as a whole, proposed rule 18f–3 and the proposed rule and form amendments should not impose greater burdens of reporting or recordkeeping or greater regulatory compliance costs than those imposed by the multiple class exemptive orders; and the proposed disclosure requirements also should impose little burden on feeder funds. Under proposed rule 18f–3, multiple class funds would be subject to fewer requirements and lower costs than under the exemptive orders. Any additional time required to comply with proposed rule 18f–3's written plan requirement should be minimal because multiple class funds already would have to commit any material class differences to writing in order to enter into distribution or service agreements, or to disclose their terms. The proposed amendment to rule 12b–1 should not impose any additional costs because it essentially would incorporate in the rule existing requirements in the exemptive orders for multiple class funds.

The proposed amendment to Form N–SAR would merely articulate what good accounting practice should already dictate and would be less burdensome than the condition in the multiple class exemptive orders requiring that multiple class funds file a separate expert's report on internal control relating to fund procedures for calculating each class's net assets. The proposed legend and cross-disclosure requirements should impose little burden, because they essentially would involve only disclosure that already exists in other disclosure documents. Any burden of this disclosure would be outweighed by the benefits of more informed investment decisions.

IV. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding proposed rule 18f–3 and the proposed amendments to rules 12b–1 and 34b–1 under the Investment Company Act, to rules 134 and 482 under the Securities Act, and to Forms N–1A, N–14, and N–SAR. The analysis explains that the proposals are intended to allow mutual funds to issue multiple classes of shares without the burden of obtaining individual exemptive orders. The disclosure proposals are intended to minimize investor confusion and focus investor attention on differences in sales charges and related expenses; the disclosure proposals also are intended to clarify and consolidate disclosure and reporting requirements for multiple class and master-feeder funds, including small entities. The Analysis states that the Commission considered significant alternatives to the proposal, including establishing different compliance or reporting requirements, and exempting small entities from the rule 18f–3 plan and the disclosure requirements. The Commission concluded that the alternatives would remove little, if any, burden, while removing significant investor protections. To obtain a copy of the Initial Regulatory Flexibility Analysis, write to Roseanne Harford, Division of Investment Management, Mail Stop 10–6, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

[102] See Letter from North American Securities Administrators Association to Jonathan G. Katz, Secretary, SEC (June 23, 1993), File No. S7–11–93; Letter from Savings & Community Bankers of America to Jonathan G. Katz, Secretary, SEC (July 21, 1993), File No. S7–11–93.

[103] *See, e.g.*, Letter from American Bar Association to Jonathan G. Katz, Secretary, SEC (June 23, 1993), File No. S7–11–93.

[104] *See, e.g.*, Letter from the Investment Company Institute to Jonathan G. Katz, Secretary, SEC (June 23, 1993), File No. S7–11–93; Letter from the Vanguard Group of Investment Companies to Jonathan G. Katz, Secretary, SEC (June 23, 1993), File No. S7–11–93.

V. Statutory Authority

The Commission is proposing rule 18f–3 under the authority granted to the Commission in section 6(c), 18(i), and 38(a) of the Investment Company Act [15 U.S.C. 6(c), 18(i), and 37(a)], and the amendment to rule 12b–1 under section 12(b) of the Investment Company Act [15 U.S.C. § 12(b)]. The Commission is proposing the amendment to Form N–SAR under sections 30 and 38(b) of the Investment Company Act [15 U.S.C. 80a–29, and 37(b)], the amendments to Form N–1A under sections 6, 7(a), 10, and 19(a) of the Securities Act [15 U.S.C. 77g(a), 77j, and 77s(a)], and sections 8(b), 24(a), and 38(a) of the Investment Company Act [15 U.S.C. 80a–8(b), 24(a), and 37(a)]. The amendments to rule 482 are proposed under sections 10(b) and 19(a) of the Securities Act [15 U.S.C. 77j(b) and 77s(a)]. The amendment to rule 34b–1 is proposed under section 38(a) of the Investment Company Act [15 U.S.C. 37(a)].

VI. Text of Proposed Rule and Rule and Form Amendments

List of Subjects in 17 CFR Parts 230, 239, 270, and 274

Investment companies, Reporting and record keeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for part 230 continues to read, in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o, 78w, 79*ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.134 is amended by redesignating paragraph (a)(3)(iv) as paragraph (a)(3)(v) and adding paragraph (a)(3)(iv) to read as follows:

§ 230.134 Communications not deemed a prospectus.

(a) * * *

(3) * * *

(iv) in the case of a multiple class fund or a feeder fund (as defined in § 230.482(a)(8)), if a communication contains information regarding fewer than all classes of shares of the same series or fewer than all feeder funds that invest in the same master fund, and uses either legend required by paragraph (a)(3)(iii) of this section, a legend disclosing: that the fund issues other

VOL 58 ISS 245 DEC 23 1993 UMI

classes or that other feeder funds invest in the master fund, that because sales charges and expenses vary among classes or feeder funds, performance also varies, and a toll-free telephone number investors may use to obtain information concerning other classes or feeder funds; *provided* that, if such communication is printed, the legend shall be in a size type at least as large as and of a style different from, but at least as prominent as, that used in the major portion of the advertisement, and that if such communication is used in a radio or television advertisement, the legend shall be given emphasis equal to that used in the major portion of the advertisement.

* * * * *

3. Section 230.482 is amended by adding paragraphs (a)(8) and (a)(9) preceding the Note to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) * * *

(8) In the case of a multiple class fund or a feeder fund, unless it contains performance data for all classes offered by a multiple class fund or all feeder funds that invest in the same master fund, it includes a legend set in a size type at least as large as and of a style different from, but at least as prominent as, that used in the major portion of the advertisement that discloses that the fund issues other classes or that other feeder funds may invest in the master fund, that because sales charges and expenses vary among classes or feeder funds, performance also varies, and a toll-free telephone number investors may use to obtain information concerning other classes or feeder funds. A "multiple class fund" is an open-end management investment company that issues more than one class of shares, each of which represents interests in the same portfolio of securities, and either meets the requirements of § 270.18f–3 of this chapter or operates pursuant to an exemptive order. A "feeder fund" is an open-end management investment company, other than a periodic payment plan, that holds shares of a single open-end management investment company (the "master fund") as its only investment securities.

(9) In the case of an advertisement containing performance data for any of two or more classes of a multiple class fund or two or more feeder funds that invest in the same master fund that are offered or made available through the same broker, dealer, bank, or other financial intermediary and that have alternative arrangements for sales and related charges, it includes performance data for all such classes or feeder funds set forth with equal prominence.

* * * * *

4. Section 230.482 is amended by removing the word "and" at the end of paragraph (e)(3)(iv) and adding concluding text to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

* * * * *

(e) * * *

(3) * * *

(iv) * * *

and *provided further*, that if an advertisement is for securities of a class or feeder fund for which average annual total return information is available for less than the one, five, and ten year periods required by this paragraph, and information for such longer period is available for another class or for the master fund or another feeder fund that holds shares of the same master fund as its only investment securities, any quotations of average annual total return for the securities offered in the advertisement shall be accompanied by quotations of average annual total return for a class or feeder fund or master fund (which other average annual total return information need not be set out with equal prominence) that has been offered for the longest time or for at least ten years, together with any necessary explanation; and

* * * * *

5. Section 230.482 is amended by amending paragraph (g), as proposed on March 19, 1993, in 58 FR 16149 (March 25, 1993), by adding the word "and" following the semicolon at the end of paragraph (g)(1)(iii), removing the semicolon and the word "and" at the end of paragraph (g)(1)(iv) and adding in its place a period, removing paragraph (g)(1)(v), removing the word "and" following the semicolon at the end of paragraph (g)(2)(vi)(A), adding the word "and" following the semicolon at the end of paragraph (g)(2)(vi)(B), adding paragraph (g)(2)(vi)(C), removing the words "General Instruction" following paragraph (g)(2)(ix), adding in their place the words "General Instructions", redesignating the existing text in the General Instruction as General Instruction 1, and adding General Instruction 2, to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

* * * * *

(g) * * *

(2) * * *

(vi) * * *

(C) In the case of a multiple class or feeder fund, a discussion of the differences among all classes or all feeder funds holding shares of the same master fund as their only investment securities that are offered through the same section 10(a) prospectus or that are offered or made available through the same broker, dealer, bank, or other financial intermediary and that have alternative arrangements for sales and related charges; and a line graph comparing the initial account value at the beginning of a hypothetical ten-year period with the subsequent account values at the end of each of the years (assuming a $10,000 investment in each class or feeder fund at the beginning of the first year, redemption on the last day of each year, and a 5% annual return before operating expenses for all such classes or feeder funds), accompanied by a brief statement explaining that the graph is a hypothetical illustration of the effect on performance, over a ten-year period, of the expenses of the different classes or feeder funds, assuming a $10,000 initial investment and a 5% return before expenses, and that the assumed 5% return should not serve as a basis for predicting future returns.

* * * * *

General Instructions

* * * * *

2. In any advertisement for one or more classes of a multiple class fund or one or more feeder funds investing in a master fund, provide information in response to paragraphs (g)(2) (ii) through (ix) of this section for all classes or all feeder funds investing in the same master fund that are offered or made available through the same broker, dealer, bank, or other financial intermediary and that have alternative arrangements for sales and related charges.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

6. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1, *et seq.*, 80a–37, 80a–39 unless otherwise noted.

* * * * *

7. Section 270.12b–1 is amended by adding paragraph (g) to read as follows:

§ 270.12b–1 Distribution of shares by registered open-end management investment company.

* * * * *

(g) If a plan covers more than one class of shares, the provisions of the plan must be severable for each class, and whenever this section provides for any action to be taken with respect to a plan, that action must be taken separately for each class, *provided, however*, that under § 270.18f–3 any shareholder vote on a plan of a target class must also require a vote of any purchase class.

8. By adding § 270.18f–3 to read as follows:

§ 270.18f–3 Multiple class companies.

Notwithstanding Sections 18(f)(1) and 18(i) of the Act, a registered open-end management investment company or series or class thereof established in accordance with Section 18(f)(2) of the Act whose shares are registered on Form N–1A [§§ 239.15A and 274.11A of this chapter] ("company") may issue more than one class of voting stock, *provided that:*

(a) Each class:

(1)(i) Must have a different arrangement for shareholder services or the distribution of securities or both, and

(ii) May have a different allocation of other expenses, not including advisory or custodial fees or other expenses related to the management of the company's assets, that are:

(A) Directly related to that arrangement, or

(B) Actually incurred in a materially different amount for that class than for other classes on the basis of the net asset value of that class in relation to the net asset value of the company;

(2) Must bear all of its expenses under paragraph (a)(1) of this section, except to the extent that the company's investment adviser or principal underwriter may waive or reimburse those expenses;

(3) Must have exclusive voting rights on any matter submitted to shareholders that relates solely to its arrangement;

(4) Must have separate voting rights on any matter submitted to shareholders in which the interests of one class are different from the interests of any other class; and

(5) Must have in all other respects the same rights and obligations as each other class.

(b) Income, realized and unrealized capital gains and losses, and expenses of the company not allocated to a particular class pursuant to paragraph (a) of this section must be allocated to each class on the basis of the net asset value of that class in relation to the net asset value of the company.

(c) Any payments made under paragraph (a) of this section must be made pursuant to a written plan setting forth the separate arrangement and allocation of each class, and any related conversion features or exchange privileges. Before the issuance of any share of each class, at least annually thereafter, and before any material amendment of a plan, the directors of the company, and the directors who are not interested persons of the company, must find that the plan, including the allocation of expenses, is fair to, and in the best interests of, each class individually and the company as a whole. The directors must request and evaluate, and any agreement relating to a class arrangement must require the parties thereto to furnish, such information as may be reasonably necessary to evaluate the plan.

(d) Nothing in this section prohibits a company from offering any class with:

(1) An exchange privilege whereby securities of the class may be exchanged for securities of another company; or

(2) A conversion feature whereby shares of one class of the company (the "purchase class") will be exchanged automatically for shares of another class of the company (the "target class") after a specified period of time, *provided that:*

(i) The conversion is effected on the basis of the relative net asset values of the two classes without the imposition of any sales load, fee, or other charge;

(ii) The payments authorized under a plan adopted pursuant to § 270.12b–1 ("rule 12b–1 plan") for the target class are lower than the payments authorized under a rule 12b–1 plan for the purchase class; and

(iii) If the amount of payments authorized under a rule 12b–1 plan for the target class is increased materially without approval of the shareholders of the purchase class, the fund will establish a new target class for the purchase class on the same terms as applied to the target class before that increase.

9. Section 270.34b–1 is amended by removing the word "and" at the end of paragraph (b)(1)(i), removing the period and adding a semicolon in its place at the end of paragraph (b)(1)(ii), and adding paragraph (b)(1)(iii) to read as follows:

§ 270.34b–1 Sales literature deemed to be misleading.

* * * * *

(b)(1) * * *

(iii) In the case of a multiple class fund or a feeder fund (as defined in paragraph (a)(8) of § 230.482 of this chapter) the disclosure required by paragraphs (a)(8) and (a)(9) of § 230.482 of this chapter, unless such performance data are included for all classes of a multiple class fund or all feeder funds investing in the same master fund.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

10. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

11. The authority citation for part 274 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1, *et seq.*, unless otherwise noted.

* * * * *

Note: The following forms do not, and the amendments will not, appear in the Code of Federal Regulations.

12. By adding General Instruction I to Form N–1A [§§ 239.15A and 274.11A] to read as follows:

Form N–1A

* * * * *

General Instructions

* * * * *

I. Multiple Class and Master-Feeder Funds

In any registration statement on this Form for one or more classes of a multiple class fund or one or more feeder funds investing in a master fund (as defined in Securities Act rule 482(a)(8) [17 CFR 230.482(a)(8)], provide information in response to Items 2 through 9 for all classes or all feeder funds investing in the same master fund that are offered or made available through the same broker, dealer, bank, or other financial intermediary and that have alternative arrangements for sales and related charges.

13. By amending Form N–1A [§§ 239.15A and 274.11A] by adding the following sentence to the end of Instruction 1 to Item 2(a):

Form N–1A

* * * * *

Item 2. Synopsis

(a) * * *

General Instructions

(1) * * * If the Registrant has issued any class of shares of the same series not offered through the prospectus, or if any

feeder funds not offered through the prospectus invest in the same master fund as the Registrant, include a prominent statement in the narrative disclosing, as applicable (i) that the fund issues other classes or that other feeder funds invest in the master fund, (ii) the names or designations of those other classes or feeder funds, (iii) that, because sales charges and expenses vary among classes and feeder funds, performance also varies, and (iv) a toll-free telephone number investors may use to obtain information concerning other classes or feeder funds. If the prospectus includes the disclosure required by Item 6(h), state the location in the prospectus of that disclosure. If the Registrant has issued more than one class of shares, state that sales representatives may receive different compensation for one class than for another class.

* * * * *

14. By adding Item 6(h) to Form N–1A (§§ 239.15A and 274.11A) to read as follows:

Form N–1A

* * * * *

Item 6. Capital Stock and Other Securities

* * * * *

(h) Discuss the differences among all classes or among all feeder funds investing in the same master fund that are offered in the same prospectus or about which the prospectus contains disclosure pursuant to General Instruction I; and provide a line graph comparing the initial account value at the beginning of a hypothetical ten-year period with the subsequent account values at the end of each of the years, assuming a $10,000 investment in each class or feeder fund at the beginning of the first year, redemption on the last day of each year, and a 5% annual return before operating expenses for all such classes or feeder funds. Immediately next to the graph, provide a brief statement explaining that the graph is a hypothetical illustration of the effect on performance, over a ten-year period, of the expenses of the different classes or feeder funds, assuming a $10,000 initial investment and a 5% return before expenses, and that the assumed 5% return should not serve as a basis for predicting future returns.

Instructions

In preparing the line graph comparison:

1. *Computation:*

a. Assume that the initial investment is made on the first day of the first year at the public offering price stated in the prospectus.

b. Base subsequent account values on a 5% annual return for each class or feeder fund before subtraction of operating expenses, assuming the operating expenses stated in the fee table, adjusted to their actual level absent any reimbursement or waiver.

c. If any class or feeder fund requires a minimum initial investment of more than $10,000, base the line graph on initial investment of the highest minimum amount.

d. If any class has a conversion feature, assume that shares are converted at the time and on the terms disclosed in the prospectus.

2. *Sales Load.* Reflect any front-end sales load (or any other fee charged at the time of purchasing shares) by beginning the line graph at the amount that actually would be invested, *i.e.*, a dollar amount below $10,000. Assume that the maximum sales load (and other charges deducted from payments) is deducted from the initial $10,000 investment. In the case of a class or feeder fund that charges a deferred sales load (or other amounts at redemption or upon closing of an account), assume the deduction of the maximum deferred sales load (or other charges) that would be applicable for a complete redemption on the last day of each year (*i.e.*, assume redemption before any reduction in the amount of any deferred sales load or other charges).

3. *Dividends and Distributions.* Assume all dividends and distributions by each class or feeder fund are reinvested. If any sales load is charged upon reinvestment of dividends and distributions, the brief statement next to the graph must state that the graph does not include the effect of that sales load on reinvestment.

4. *Account Fees.* Reflect all recurring fees that are charges to all accounts.

a. For any account fees that vary with the size of the account, assume a $10,000 account size (unless using a higher initial investment according to Instruction 1.c.).

b. If recurring fees charged to shareholder accounts are paid other than by redemption of fund shares, they should be appropriately reflected.

5. *Scale.* Construct the axis of the graph measuring dollar amounts using a linear scale.

* * * * *

15. By amending Form N–1A (§§ 239.15A and 274.11A) by adding paragraph (b)(18) to Item 24 before the Instructions to read as follows:

Form N–1A

* * * * *

Item 24. Financial Statements and Exhibits

* * * * *

(b) * * *

(18) copies of any plan entered into by Registrant pursuant to Rule 18f–3 under the 1940 Act, and any agreement with any person relating to implementation of such plan.

* * * * *

16. By amending Form N–1A (§§ 239.15A and 274.11A) by adding paragraph (d) to Item 32 to read as follows:

Form N–1A

* * * * *

Item 32. Undertakings

* * * * *

(d) If the legend described in instruction 1 to Item 2(a) requires the inclusion in the prospectus of a legend containing a toll-free telephone number, an undertaking to provide to persons calling that number information about: any eligibility requirements for purchasing shares of each other class or other feeder fund investing in the same master fund; the procedures for investing in each such class or feeder fund; and in the case of a master-feeder fund, comparable information for any other publicly offered investment vehicle whose only investment securities are securities of the same master fund; and an undertaking to send by first class mail or other means designed to ensure equally prompt delivery, within two business days of receipt of a written or oral request, any Prospectus or Statement of Additional Information for those other classes, feeder funds, or other investment vehicles.

* * * * *

17. By amending Form N–14 (17 CFR 239.23) by revising Items 5(a) and 16(10) to read as follows:

Form N–14

* * * * *

Item 5. Information About the Registrant

* * * * *

(a) if the registrant is an open-end management investment company, furnish the information required by Items 3, 4(a) and (b), 5, 5A, 6(a), (c), (d), (e), (f), (g), and (h), and 7 through 9 of Form N–1A under the 1940 Act; *provided, however,* that the information required by Item 5A may be omitted if the prospectus is accompanied by an annual report to shareholders containing the information otherwise required by Item 5A;

* * * * *

Item 16. Exhibits

* * * * *

(10) copies of any plan entered into by registrant pursuant to Rule 12b–1 under the 1940 Act (17 CFR 270.12b–1) and any agreements with any person relating to implementation of the plan, and copies of any plan entered into by Registrant pursuant to Rule 18f–3 under the 1940 Act, and any agreement with any person relating to implementation of the plan;

* * * * *

18. By amending Form N–SAR (§ 274.101) by revising the first paragraph of Sub-item 77B to read as follows:

Form N–SAR

* * * * *

General Instructions

* * * * *

Instructions to Specific Items

Item 77: Attachments

* * * * *

Sub-Item 77B: Accountant's report on internal control structure.

Except as provided below, a management investment company shall furnish a report of its independent accountant on the company's system of accounting controls. The accountant's report shall be based on the review, study, and evaluation of the accounting system (including procedures for calculating multiple equity class net assets), internal accounting controls and procedures for safeguarding securities made during the audit of the financial statements. The report should disclose material weaknesses in the accounting system (including procedures for calculating multiple equity class net assets), system of internal accounting control and procedures for safeguarding securities, which exist as of the end of the registrant's fiscal year. Disclosure of a material weakness should include an indication of any corrective action taken or proposed.

* * * * *

Dated: December 15, 1993.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31181 Filed 12–22–93; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–71–93]

RIN 1545–AS16

Credit for Employer Social Security Taxes Paid on Employee Tips

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the Federal Register, the IRS is issuing temporary regulations pertaining to the credit for employer FICA taxes paid with respect to certain tips received by employees of food or beverage establishments. The temporary regulations clarify that the credit is effective for employer FICA taxes paid after December 31, 1993, with respect to tips received for services performed after December 31, 1993. The temporary regulations also clarify that the credit applies only to taxes paid on tips reported to the employer by its employees. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by February 22, 1994. Requests to speak (with outlines of oral comments) at a public hearing scheduled for March 29, 1994, at 10 a.m., must be received by March 8, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (EE–71–93) room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered to: CC:DOM:CORP:T:R (EE–71–93), Internal Revenue Service, room 5228, 1111 Constitution Avenue, NW., Washington, DC 20224. The public hearing will be held in the IRS Auditorium, seventh floor, 7400 corridor, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the hearing, Michael Slaughter, 202–622–7190; concerning the regulations, Karin Loverud, 202–622–6060. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations section of this issue of the Federal Register add § 1.45B–1T to the Income Tax Regulations.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are timely submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, March 29, 1994, at 10 a.m., in the IRS Auditorium, 7400 corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of § 601.601(a)(3) apply to the hearing.

Persons that have submitted written comments by February 22, 1994, and want to present oral comments at the hearing must submit, not later than March 8, 1994, an outline of the topics to be discussed and the time to be devoted to each topic. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

VOL 58 ISS 245 DEC 23 1993 UMI

Drafting Information

The principal author of these proposed regulations is Karin Loverud of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.45B–1 is added to read as follows:

§ 1.45B–1 Credit for certain employer social security taxes paid with respect to employee tips.

(The text of this proposed section is the same as the text of § 1.45B–1T published elsewhere in this issue of the Federal Register.)

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 93–31012 Filed 12–22–93; 8:45 am]

BILLING CODE 4830–01–U

---

26 CFR Part 301

[GL–361–90]

RIN 1545–AO69

Civil Actions by Persons Other Than Taxpayers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed regulations add language to the existing regulations regarding civil actions by persons other than taxpayers, to clarify language that is ambiguous or confusing. The proposed regulations are intended to provide that when the IRS levies on property that is in the custody of an agency of the Federal Government, a third party (i.e., someone other than the taxpayer) who is injured by such levy may have a cause of action against the Government for wrongful levy.

DATES: Written comments and requests for a public hearing must be received by February 22, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (GL–0351–90), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be delivered to: CC:DOM:CORP:T:R (GL–0351–90), Internal Revenue Service, room 5228, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Jerome D. Sekula, (202) 622–3640 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 7426 of the Internal Revenue Code (Code).

Explanation of Provisions

The existing regulations under section 7426 of the Code (§ 301.7426–1(a)(1)) provide that if property has been levied upon or sold pursuant to a levy, a third party (i.e., a person other than the taxpayer who was assessed the tax out of which the levy arose) may bring a civil action against the United States based upon the claim that the third party has an interest in or lien on the property that is senior to that of the United States and that such property was wrongfully levied upon. The regulations specify that no action is permitted under section 7426 "unless there has been a levy upon the property claimed" and provide, as an example, that "no cause of action arises under this section where the United States sets-off an amount due to the taxpayer against taxes owed by him since no levy has been made."

The above-quoted regulation has created confusion as to whether a third party has a cause of action under section 7426 where the IRS levies on an amount owed the taxpayer by another agency of the Federal Government rather than requesting a setoff of that amount against taxes owed by the taxpayer. See, for example, *United States* v. *Warren Corporation*, 805 F.2d 449 (1st Cir. 1986); and *Arford* v. *United States*, 934 F.2d 229 (9th Cir. 1991).

Under current law the IRS has the option to levy or to request a setoff, but more often than not the IRS levies rather than requests a setoff. Where a levy is made, both the IRS and the other Federal agency are subject to the provisions of the Code relating to levies, including section 7426. The IRS may, alternatively, seek to collect taxes by making requests for setoff to Federal agencies that hold amounts owed to taxpayers. In such cases, the IRS is not subject to the provisions of the Code relating to levies, but, rather, is subject to the standards and implementing regulations of the agency from which it seeks the setoff.

Because the existing regulations do not specifically acknowledge the right of the IRS to proceed by either levy or setoff against property or rights to property in the custody of Federal agencies, the proposed regulations would add language acknowledging the existence and differing treatment of these separate mechanisms. Specifically, the proposed amendment provides that if a levy is made by the IRS on a debt owed to the taxpayer by another Federal agency, a person other than the taxpayer against whom the tax is assessed may have a cause of action under section 7426. In addition, the proposed regulations provide that if the IRS receives payment from another Federal agency pursuant to a request for setoff, no cause of action arises under section 7426 because no levy has been made.

Proposed Effective Date

The amendment is proposed to be effective as of December 23, 1993.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled and held upon written request by any person who submits timely written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Jerome D. Sekula, Office of the Assistant Chief Counsel (General Litigation), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendment to the Regulations

Accordingly, 26 CFR is amended as follows:

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.7426–1 is amended as follows:

1. Paragraph (a)(1) is revised to read as set forth below.

2. Paragraph (c) is added to read as set forth below.

§ 301.7426–1 Civil actions by persons other than taxpayers.

(a) *Actions permitted*—(1) *Wrongful levy*—(i) *In general.*

If a levy has been made on property or property has been sold pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose) may bring a civil action against the United States in a district court of the United States based upon such person's claim—

(A) That such person has an interest in, or lien on, such property which is senior to the interest of the United States; and

(B) That such property was wrongfully levied upon.

(ii) *Debt owed by another Federal agency.* Section 7426 and this paragraph (a) apply when a levy is made by the Internal Revenue Service on a debt owed to a taxpayer by another Federal agency. By contrast, section 7426 and this paragraph (a) do not apply if the Internal Revenue Service requests payment from another Federal agency pursuant to a request for setoff.

* * * * *

(c) *Effective date.* Paragraph (a)(1) of this section is effective as of December 23, 1993.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 93–31014 Filed 12–22–93; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–93–114]

Drawbridge Operation Regulations; Treasure Island Causeway, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the City of Treasure Island (the bridge owner), the Coast Guard proposed to modify the regulations governing the Treasure Island drawbridge over the Gulf Intracoastal Waterway, mile 119.0, Treasure Island, Pinellas County, Florida. This proposal is being made to relieve highway congestion, while still meeting the reasonable needs of navigation.

DATES: Comments must be received on or before February 7, 1994.

ADDRESSES: Comments may be mailed to Commander (oan), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, FL 33131–3050, or may be delivered to room 406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information concerning comments the telephone number is 305–350–4103.

The Commander, Seventh Coast Guard District maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney at (305) 536–4103.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD07–93–114] and the specific section of this proposal to which each comment applies and give the reason for each comment. Each person wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Mr. Ian MacCartney at the above address. A public hearing may be held if written requests for a hearing are received and it is determined that the opportunity for oral presentations will aid this rulemaking. The Coast Guard may hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The principal persons involved in drafting this document are Ian MacCartney, Project Manager, and Lt. J. M. Losego, Project Counsel.

Background and Purpose

This drawbridge presently opens on signal except that from 3 p.m to 6 p.m. Monday through Friday, and from 11 a.m. to 6 p.m. Saturdays, Sundays and Federal holidays, the draw need be opened only on the hour, quarter hour, half hour and three quarter hour. From 11 p.m. to 7 a.m. the draw shall open on signal if at least 10 minutes advance notice is given. The City of Treasure Island requested that the bridge open only on the hour and half hour during certain periods of each day to help reduce traffic delays particularly during morning and afternoon commuter hours and on weekends. Although highway traffic use of this bridge does not justify the change requested by the City, this change is being proposed to relieve highway congestion, while still meeting the reasonable needs of navigation.

Discussion of Proposed Rule

The Coast Guard evaluation of traffic and bridge opening data indicates that while vehicular traffic volumes remain low even during morning and afternoon commuter periods. However, periodic back-to-back bridge openings do not allow accumulated traffic to always clear after each opening. The Coast Guard proposes to expand the existing 15 minute opening schedule to include weekdays and weekends from 7 a.m. to 7 p.m. This will eliminate back-to-back openings and help to reduce traffic delays without unreasonably impacting navigation.

Regulatory Assessment

This proposal is not considered a significant regulatory action under Executive Order 12866 and is not significant under the Department of Transportation regulatory policies and procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows.

VOL 58 ISS 245 DEC 23 1993 UMI

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since tugs with tows are exempt from this proposal, the economic impact is expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.b.2.g(5) of Commandant Instruction M16475.1B, promulgation of operating instructions or procedures for drawbridges is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In § 117.287, paragraph (g) is revised to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(g) The draw of the Treasure Island Causeway bridge, mile 118.0, shall open on signal, except that from 7 a.m. to 7 p.m. the draw need open only on the hour, quarter hour, half hour and three quarter hour. From 11 p.m. to 7 a.m. the draw shall open on signal if at least 10 minutes advance notice is given.

* * * * *

Dated: December 2, 1993.

W.P. Leahy,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 93–31394 Filed 12–22–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO11–1–6486 and CO30–1–6843; FRL–4817–7]

Clean Air Act Approval and Promulgation of PM–10 Implementation Plan for Colorado; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the EPA is proposing limited approval of the State implementation plan (SIP) submitted by the State of Colorado for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The SIP was submitted by the State on January 15, 1992, and a subsequent revision was submitted on March 17, 1993 to satisfy certain federal requirements for an approvable moderate area nonattainment area PM–10 SIP for Aspen, Colorado. EPA is proposing this limited approval under sections 110(k)(3) and 301(a) of the amended Clean Air Act (Act) for the purpose of strengthening the SIP. EPA is proposing to fully approve the few elements of the State's submittal which are separable and independent of the provisions that the State has not adequately addressed. In the case that the State submits provisions which adequately address the outstanding deficiencies, EPA will withdraw this limited approval and will instead propose full approval of the PM–10 SIP for Aspen.

In addition, EPA is proposing to amend the nonattainment area boundary for the Aspen nonattainment area to include some of the surrounding area around Aspen.

DATES: Comments on this proposed action must be received in writing by January 24, 1994.

ADDRESSES: Written comments should be addressed to:

Vicki Stamper, 8ART–AP, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466

Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405

Air Pollution Control Division, Colorado Department of Health, 4300 Cherry Creek Drive South, Denver, Colorado 80222–1530

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART–AP, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 293–1765.

SUPPLEMENTARY INFORMATION:

I. Background

Aspen, Colorado was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Act upon enactment of the Clean Air Act Amendments of 1990.[1] (See 56 FR 56694, November 6, 1991; 40 CFR 81.306 (specifying nonattainment designation for Aspen.)) The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of part D of title I of the Act. The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in this proposal and the supporting rationale. In this notice on the Colorado moderate PM–10 SIP for the Aspen nonattainment area, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Thus, EPA will consider any timely submitted comments before taking final action on this proposal.

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401 *et seq.*

Those states containing initial moderate PM–10 nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992. See section 189(a) of the Act. Such States also must submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline. See section 172(c)(9) of the Act and 57 FR 13543–44. EPA will address these requirements, as appropriate, in future actions.

II. Proposed Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–66). In this action, EPA is proposing a limited approval of the Aspen plan revision which was due to EPA on November 15, 1991 and submitted by the State on January 15, 1992 and on March 17, 1993, with the exception of the voluntary no-drive day provision in Section III.C.6 of the State regulation for Aspen. (EPA will take action on the no-drive provision in a separate notice.) The State's submittals did not adequately meet the requirements of sections 110(a)(2)(K), 189(a)(1)(B), 172(c)(1), 189(a)(1)(C), 172(c)(2), and 189(c) of the Act. Specifically, the State's submittals did not (1) follow EPA modeling guidance in demonstrating that the plan will provide for expeditious attainment, (2) provide for the implementation of all available control measures necessary to assure timely attainment (or show that the adoption of such measures would be economically or technologically infeasible), or (3) adequately demonstrate that quantitative milestones and RFP would be satisfied. To address these shortcomings, the State included a commitment to submit a revised attainment demonstration consistent with EPA guidance (based on a revised emissions inventory and chemical mass balance (CMB) analysis) by May 31, 1993. If the revised demonstration showed that additional controls were needed to satisfy RACM and demonstrate attainment, the State committed to propose such additional control measures needed to the Colorado Air Quality Control Commission (AQCC) for adoption by July 31, 1993.

On July 26, 1993, the State submitted its preliminary analysis of the revised attainment demonstration (based on the revised CMB data and emissions inventory) to EPA. The results indicated that the area could not demonstrate timely attainment of the PM–10 NAAQS without the adoption of additional control measures. Subsequently, the State proposed additional PM–10 control measures for the Aspen area to the AQCC on August 16, 1993. In its July 26, 1993 letter, the State indicated that these measures would be adopted at a November 12, 1993 AQCC meeting. These control measures and a revised attainment demonstration which shows that the controls will provide for expeditious attainment of the PM–10 NAAQS have not yet been formally submitted to EPA for approval in the SIP.

In light of the information showing that the control measures submitted in the State's March 17, 1993 SIP submittal will not provide for timely attainment of the PM–10 NAAQS, EPA believes it cannot proceed with full approval at this time. Nevertheless, there are a few elements of the SIP submittal which are separable and independent of the results of the revised attainment demonstration. EPA is proposing to approve those elements as noted in this notice and in the Technical Support Document (TSD) accompanying this notice. The remaining elements of the SIP submittal are impacted by the revised attainment demonstration. Consequently, EPA is proposing to grant "limited" approval of these elements.

EPA may grant a limited approval of these control measures under section 110(k)(3) of the Act, in light of EPA's authority under section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the provisions are not being fully approved under section 110(k)(3) and part D, title I of the Act because they do not meet the specific Clean Air Act requirements identified above and reiterated elsewhere in this document and supporting information. However, EPA believes the control measures already adopted and submitted will achieve PM–10 emissions reductions in the Aspen area. Thus, EPA is proposing to approve those elements for the limited purpose of strengthening the SIP and, most importantly, making the measures adopted and submitted by the State federally enforceable. (See, e.g., sections 113 and 302(q) of the Act.) EPA's proposed limited approval does not pertain to the State's voluntary no-drive day provision in section III.C.6. of the State regulation for Aspen; EPA will take action on that provision in a separate notice.

EPA is also providing notice that if the State does not adopt and submit the additional control measures necessary to demonstrate attainment of the PM–10 NAAQS consistent with its remaining commitments, EPA will take the disapproval action that is the companion of this proposed limited approval. EPA will consider the applicable Clean Air Act deadlines in proceeding with this disapproval.

In the alternative, if the State submits adequate controls necessary to demonstrate expeditious attainment of the PM–10 NAAQS as called for by its commitments and if the State's submittal meets the other relevant requirements of the Act, then EPA will review the additional control measures and, if appropriate, will withdraw this limited approval and instead propose full approval of the PM–10 plan for Aspen relative to those moderate area PM–10 SIP requirements which were due November 15, 1991.

Lastly, EPA is proposing to amend the nonattainment area boundary for the Aspen nonattainment area to include

some of the surrounding area around Aspen. The revised boundary is based on information submitted with the SIP which provided a SIP equivalent demonstration persuasively showing that the revised boundary more accurately represents the Aspen airshed. (See section 110(k)(6) of the Act.)

Since the Aspen PM–10 SIP was not submitted by November 15, 1991 as required, EPA made a finding, pursuant to section 179 of the Act, that the State failed to submit the SIP and notified the Governor in a letter dated December 16, 1991. See 57 FR 19906 (May 8, 1992). After the Aspen PM–10 SIP was submitted on January 15, 1992, EPA found the submittal to be complete pursuant to section 110(k)(1) of the Act and notified the Governor accordingly in a letter dated March 16, 1992. This completeness determination corrected the State's deficiency and, therefore, terminated the 18-month sanctions clock under section 179 of the Act.

A. Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[2] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) of the Act and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, Appendix V (1992). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA 6 months after receipt of the submission.

After providing more than 30 days of prior public notice, the State of Colorado held a public hearing on November 21, 1991 to entertain public comment on the implementation plan for Aspen. The plan for Aspen was subsequently adopted by the State and submitted by the Governor to EPA on January 15, 1992 as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1992). The submittal was found to be complete, and a letter dated March 16, 1992 was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process.

On March 17, 1993, the State submitted a revision to the Aspen SIP, which contained commitments and revised control measures for the Aspen nonattainment area. This revision was submitted pursuant to a January 21, 1993 public hearing, for which the State again provided more than 30 days of prior public notice. EPA found the March 1993 submittal to be administratively and technically complete on May 18, 1993. In this action, EPA proposes limited approval of these PM–10 SIP submittals for Aspen, except for the few separable elements of the submittals which EPA is proposing to fully approve, and invites public comment on the action.

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the submission of this inventory is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventory must be received prior to or with the submission (see 57 FR 13539).

The State of Colorado originally submitted a winter season emissions inventory in the January 15, 1992 submittal for the base year of 1988. A winter season emissions inventory was calculated because the highest PM–10 concentrations generally occur in the winter season in Aspen. EPA, however, did not agree with the use of a base year of 1988 because the design value reflects monitoring data through 1990 and thus could be influenced by the changes in emissions occurring through 1990. EPA also had concerns that the AP–42 default factors used by the State for re-entrained road dust likely underestimated emissions from these sources in high elevation mountain towns, such as Aspen. Lastly, EPA commented to the State that the emission factors used for wood burning, which were based on pounds of PM–10 per hour of operation (rather than pounds of PM–10 per ton of wood burned as is used in AP–42), could lead to an unreliable estimation of emissions from residential wood combustion. Therefore, the State provided commitments in its March 17, 1993 SIP revision to conduct silt loading studies and wood burning surveys during the winter of 1992–93 and to utilize the data to revise the emissions inventory to reflect a base year of 1990. The revised emissions inventory would then be used with a revised CMB analysis to assess the adequacy of the existing control measures in demonstrating expeditious attainment of the PM–10 NAAQS.

The State fulfilled its commitment by submitting a revised emissions inventory on September 20, 1993. The results of the silt loading study showed that emissions from re-entrained road dust in Aspen were much higher than the AP–42 default emission factors, as was suspected by EPA. The State also revised the wood burning emissions inventory to be consistent with the units of measurement used in the AP–42 default emission factors for wood burning. The resulting emissions inventory identified area sources as the primary cause of high PM–10 concentrations, with re-entrained road dust contributing 97.6 percent, residential wood combustion contributing 2 percent, restaurant charbroiler grills contributing 0.2 percent, and tailpipe emissions contributing 0.2 percent. No stationary sources were identified in the Aspen area. EPA has reviewed the revised emissions inventory and believes it is accurate and comprehensive. For further information on the emissions inventory, refer to the TSD accompanying this notice.

As stated previously, on July 26, 1993, the State submitted its preliminary analysis of the impact that the CMB data and revised emissions inventory had on the attainment and maintenance demonstrations in Aspen. The revised analysis indicated that the area could not demonstrate timely attainment or maintenance of the PM–10 NAAQS without the adoption of additional control measures. Consequently, as more fully discussed in Section II. under "Proposed Action," EPA is proposing limited approval of the Aspen control measures and related requirements already adopted because they strengthen the SIP. However, for those elements which are separable and independent from the results of the revised demonstration (including, for example, the emissions inventory), EPA is proposing to fully approve those elements, if adequate.

[2] Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

EPA believes the emissions inventory is a separable component of the moderate area PM–10 SIP for Aspen because it represents an assessment of the PM–10 emissions in the area prior to the adoption of control measures, and it will not change as a result of any additional control measures adopted. Thus, EPA is proposing to fully approve the emissions inventory because it generally appears to be accurate and comprehensive and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of section 172(c)(3) of the Act.[3] For further details, see the TSD.

3. Existing Control Measures

In the March 17, 1993 SIP submittal, the State targeted three source categories for emissions reductions: re-entrained road dust, residential wood combustion, and charbroiler grill emissions. Specifically, the State adopted transportation control measures, street sweeping and sanding provisions, a voluntary wood burning curtailment program, limits on installation of new wood stoves and fireplaces, and requirements for new restaurant charbroiler grills to control PM–10 emissions.

The following table represents the benefits that these control measures are projected to result in towards attaining the PM–10 NAAQS in Aspen:

Source	Control	Benefit towards reducing PM–10 emissions
Re-entrained road dust	Mass transit service expansion	No credit taken for this strategy.
	Crosstown shuttle service	Reduction of 400 VMT/day.[1]
	Commercial core paid parking	Reduction of 12,100 VMT/day.[1]
	Specs for street sanding materials	No credit taken at this time.
	Street sweeping	4.85% reduction in re-entrained road dust emissions from applicable roadways.
Residential wood combustion	Voluntary wood burning curtailment	10% reduction in residential wood combustion emissions.
	Limitations on installation of new wood stoves and fireplaces.	Effectiveness incorporated into future year emissions inventories.
Charbroiler grills	Requires PM–10 controls on new charbroiler grills.	Effectiveness incorporated into future year emissions inventories.

[1] The reductions in vehicle-miles-travelled (i.e., VMT) will ultimately result in an emissions decrease from re-entrained road dust emissions.

The State's submittal also consisted of a voluntary no-drive day provision. EPA will take action on that provision in a separate notice.

The State did not take credit for the mass transit service expansion because the additional buses are needed to meet the increased demand in ridership expected due to the parking fee strategy in downtown Aspen. Also, the State did not request credit for the clean sand strategy because the State had not yet determined baseline silt content values of the sand which was previously applied (i.e., prior to this control) to the roads in the Aspen area. EPA understands that the State is currently undertaking an analysis to demonstrate the benefits from the clean sand program, and the State may request credit for this program in the future.

The requirements described in the table will be implemented through Section III. of the Colorado regulation entitled "Nonattainment Areas—State Implementation Plan Specific Regulations for Local Elements" (effective 3/2/93). This State regulation requires implementation of these control measures by December 10, 1993. These control measures are expected to result in a significant reduction of PM–10 emissions in the Aspen area by the end of 1994.

As noted, States are required to submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 for initial moderate PM–10 nonattainment areas (see sections 172(c)(1) and 189(a)(1)(C) of the Act). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–13545 and 13560–13561). However, as further discussed below, the State did not provide for the implementation of control measures which assure timely attainment, nor did the State show that the adoption of available control measures would be economically or technologically infeasible.

While the State's March 17, 1993 SIP submittal indicated that the controls discussed above were adequate to demonstrate attainment of the PM–10 NAAQS, the demonstration of attainment included in the submittal did not follow EPA guidance. To address this shortcoming, the State included a commitment in the SIP to revise the attainment demonstration (based on a revised CMB analyses and emissions inventory) consistent with EPA guidance and to submit any additional control measures, if necessary, to the AQCC for adoption by July 31, 1993. On July 26, 1993, the State submitted the preliminary results of the revised demonstration which indicated that additional control measures would be necessary to adequately demonstrate timely attainment and maintenance of the PM–10 NAAQS. Subsequently, the State proposed additional control measures to the AQCC for adoption on August 19, 1993.

Because this new information indicates that the State has not adopted those available control measures necessary for expeditious attainment of the PM–10 NAAQS (or shown that all economically and technologically feasible control measures have been implemented and timely attainment is impracticable), the SIP submittal for Aspen cannot be considered to satisfy the RACM requirement at this time. Consequently, EPA is proposing limited approval of the PM–10 control measures submitted for Aspen in Section III. of the Colorado regulation entitled "Nonattainment Areas—State Implementation Plan Specific Regulations for Local Elements" (effective 3/2/93), with the exception of the voluntary no-drive day provision in Section III.C.6. Pursuant to sections 110(k)(3) and 301(a) of the Act, EPA is proposing limited approval of these measures to strengthen the SIP and, most importantly, to make the measures adopted and submitted by the State federally enforceable. EPA believes the control measures already adopted will result in reductions in PM–10 emissions in the Aspen area and, thus, advance the Act's PM–10 air quality-related protection goals in Aspen. See "Proposed Action" in Section II. of this

[3] The EPA issued guidance on PM–10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 PM–10 SIP Development Guideline. The guidance provided in this document appears to be consistent with the Act.

VOL 58 ISS 245 DEC 23 1993 UMI

notice and the TSD for further information.

4. Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act; see also section 110(a)(2)(k) of the Act). Alternatively, the State must show that attainment by December 31, 1994 is impracticable.

EPA policy specifies that the preferred approach for estimating the air quality impacts of emissions of PM–10 is to use receptor modeling in combination with dispersion modeling. However, on July 5, 1990, EPA issued guidance providing that, in certain situations, it may be more appropriate to rely on a receptor model demonstration alone as the basis for the attainment demonstration (see July 5, 1990 memo to Regional Air Branch Chiefs from Robert D. Bauman, Chief of SO_2/Particulate Matter Programs Branch and Joseph Tikvart, Chief of Source Receptor Analysis Branch). Aspen met the criteria discussed in the July 5, 1990 memo to justify using receptor modeling alone and had originally planned to use this approach in its attainment demonstration. However, after further review, the State determined that the CMB data which would be used in the receptor modeling was inadequate and decided to base the attainment and maintenance demonstration on simple emissions rollback modeling. Emissions rollback modeling involves using the ratio of the design day ambient concentration to the design day emissions and projecting future concentrations. EPA believes this is an inadequate and inappropriate modeling methodology for demonstrating attainment in this area, as explained to the State in a letter dated June 10, 1993 and in the TSD.

Accordingly, the State included a commitment in its March 17, 1993 SIP submittal to conduct CMB analyses on all filters greater than 100 $\mu g/m^3$ and to use this information (combined with a revised emissions inventory) to assess the adequacy of the control measures in demonstrating attainment of the PM–10 NAAQS. If the revised demonstration showed that additional controls were needed, the State committed to propose such additional control measures to the Colorado AQCC for adoption by July 31, 1993.

The attainment and maintenance demonstrations presented in the March 17, 1993 submittal indicated that the NAAQS for PM–10 would be attained in the Aspen area by 1994 and maintained through December 31, 1997. The 24-hour PM–10 NAAQS is 150 $\mu g/m^3$, and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR 50.6). The annual PM–10 NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$ (id.). The demonstration provided in the March 1993 SIP submittal predicted a 24-hour design concentration in the attainment year of 1994 of 148 $\mu g/m^3$. The demonstration also predicted a 24-hour design concentration in 1997 of 149 $\mu g/m^3$. Thus, the State's initial demonstrations based on the inadequate modeling method showed that the control measures adopted for the Aspen area would result in attainment and maintenance of the PM–10 NAAQS.

However, on July 26, 1993, the State submitted its preliminary analysis of the revised attainment and maintenance demonstrations (based on the revised CMB data and emissions inventory), which indicated that the area could not demonstrate timely attainment of the PM–10 NAAQS without the adoption of additional control measures. Subsequently, the State proposed additional PM–10 control measures for the Aspen area to the AQCC on August 16, 1993.

In light of this new information, the SIP submittal for Aspen cannot be considered to adequately demonstrate attainment of the PM–10 NAAQS. However, EPA believes the control measures already adopted and submitted will achieve PM–10 emissions reductions in the Aspen area. Therefore, as discussed, EPA is proposing limited approval of the control measures to strengthen the SIP and, most importantly, to make the measures already adopted and submitted by the State federally enforceable. (See discussion under Section II., "Proposed Action," and the TSD for further information.)

5. PM–10 Precursors

The control requirements which are applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors, unless EPA determines such sources do not contribute significantly to PM–10 levels in excess of the NAAQS in that area (see section 189(e) of the Act).

An analysis of the State's submittal of air quality and emissions data, as revised on September 20, 1993, for the Aspen nonattainment area indicates that exceedances of the NAAQS are attributable chiefly to particulate matter emissions from area sources, mainly re-entrained road dust from paved and unpaved roads and residential wood combustion. In addition, the emissions inventory for this area did not reveal any major stationary sources of PM–10 precursors. Consequently, EPA is proposing to find that major stationary sources of precursors of PM–10 do not contribute significantly to PM–10 levels in excess of the NAAQS in Aspen. The consequence of this finding is to exclude these major stationary sources from the applicability of PM–10 nonattainment area control requirements. Further discussion of the analyses and supporting rationale for EPA's finding are contained in the TSD accompanying this notice. Note that while EPA is making a general finding for this area, this finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. The EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

6. Quantitative Milestones and Reasonable Further Progress

The PM–10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). RFP is defined in section 171(1) of the Act as such annual incremental reductions in emissions of the relevant air pollutant as are required by part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

The State's March 17, 1993 submittal initially demonstrated that the control measures adopted would provide adequate annual incremental reductions to demonstrate attainment of the PM–10 NAAQS by December 31, 1994. However, as discussed in Section II.A.4. above, the State did not follow EPA's modeling guidance in calculating its attainment demonstration, and the State included commitments in the Aspen PM–10 SIP to revise its attainment demonstration (based on a revised CMB analyses and emissions inventory) consistent with EPA guidance. The State submitted the preliminary results of this analyses on July 26, 1993, which indicated that the area could not demonstrate timely attainment of the PM–10 NAAQS without the adoption of additional control measures. Subsequently, the State proposed additional PM–10 control measures for the Aspen area to the AQCC on August 16, 1993.

In light of this new information showing that the SIP submittals will not provide for timely attainment and because the submittals do not alternatively contain provisions designed to address the quantitative milestone and RFP requirements, the SIP submittals for Aspen cannot be considered to adequately satisfy these requirements. However, EPA does believe that the control measures already adopted and submitted will achieve PM–10 emissions reductions in the Aspen area. Therefore, as discussed, EPA is proposing limited approval of the Aspen control measures to strengthen the SIP and, most importantly, to make the measures already adopted and submitted by the State federally enforceable. (See discussion under Section II., "Proposed Action," and the TSD for further information.)

7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6), 110(a)(2)(A) of the Act and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act).

The specific control measures currently contained in the SIP are addressed above under section II.A.3. entitled "Existing Control Measures." These control measures, which are included in Section III. of the State Regulation entitled "Nonattainment Areas—State Implementation Plan Specific Regulations for Local Elements" (effective 3/2/93), apply to the types of activities identified in that discussion, including emissions from re-entrained road dust and residential wood combustion. The State regulation provides that these control measures apply throughout the Aspen PM–10 nonattainment area and requires implementation of the control measures by December 10, 1993. The only exemptions provided in the regulation are from the wood burning curtailment: EPA Phase II wood burning devices are exempt from the wood burning curtailment program in order to encourage conversions to cleaner wood burning devices. This is consistent with the recommendations for voluntary wood burning curtailment programs provided in EPA's Guidance Document for Residential Wood Combustion Emission Control Measures.

The State regulation for the Aspen nonattainment area also requires recordkeeping and reporting for each of the control measures. Specifically, users of street sanding materials and operators of street sweepers are required to submit monthly reports during the sanding/sweeping season detailing their compliance with the street sand and street sweeping requirements. The State regulation also requires the City of Aspen, Pitkin County, and other appropriate agencies to report to the State biannually on the effectiveness of the transportation control measures, the voluntary wood burning program, and the local ordinances concerning new wood stoves and restaurant charbroiler grills. The TSD contains further information on the enforceability requirements, including a description of the rules contained in the SIP, the sources subject to the State regulation, and the reporting/recordkeeping requirements.

EPA has reviewed this regulation for enforceability and has determined that it meets all of the criteria included in the September 23, 1987 Potter Memorandum.

The State of Colorado has a program that will ensure that the measures contained in the SIP submittals for Aspen are adequately enforced. The Colorado Air Pollution Control Division (APCD) has the authority to implement and enforce all emission limitations and control measures adopted by the AQCC. In addition, Colorado statute provides that the APCD shall enforce against any "person" who violates the emission control regulations of the AQCC, the requirements of the SIP, or the requirements of any permit. The definition of "person" includes, among other things, any "municipal corporation, county, city and county or other political subdivision of the State," such as the City of Aspen. Many of the control measures adopted by the AQCC in the State nonattainment regulation require the City of Aspen and Pitkin County to implement the measures. This is allowed under section 110(a)(2)(E) of the Act, as long as the State provides the necessary assurances that the State can ensure adequate implementation of the plan provisions. Since State statute allows for the enforcement against any county or city and since the State regulation containing the control measures was adopted by the AQCC, the APCD has adequate authority to ensure implementation of the control measures at the local level. State statute provides for civil penalties of up to $15,000 per day per violation for any person in violation of these requirements, and criminal penalties are also provided for in the State statute. Thus, the APCD has adequate enforcement capabilities to ensure compliance with the Aspen PM–10 regulations. The TSD contains further information on the State-wide regulations, enforceability requirements, and a discussion of the personnel and funding intended to support effective implementation of the control measures.

The control measures contained in the SIP submittals for Aspen appear to be enforceable, and the State's enforcement program for the control measures appears to be adequate. Accordingly, as discussed, EPA is proposing to grant limited approval of these measures to strengthen the SIP. However, EPA is reserving judgment on the enforceability of the outstanding control measures to be submitted and the ultimate adequacy of the enforcement program until EPA receives and reviews those measures necessary to remedy the State's PM–10 SIP deficiencies for Aspen.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIPs must include contingency measures. See generally 57 FR 13510–12 and 13543–44. These measures must be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline. The Aspen SIP revisions addressed in this notice did not include any contingency measures. However, as noted, the States are not required to submit the contingency measures required in section 172(c)(9) of the Act, until November 15, 1993 (see 57 FR 13543 (April 16, 1992)). The State is currently in the process of adopting contingency measures for Aspen. EPA will determine the adequacy of these measures and take action regarding this requirement, as appropriate.

B. Revisions to the Nonattainment Area Boundary

The *Aspen* nonattainment area boundary as announced on November 6, 1991 (see 56 FR 56738) is currently defined as the city limits of *Aspen* in 40 CFR 81.306. However, on June 20, 1991, the State adopted a more inclusive boundary for the Aspen PM–10 nonattainment area, which included some of the area surrounding the City of Aspen. This revised boundary was submitted with the Aspen PM–10 SIP in January of 1992. The SIP provided a demonstration showing that the revised boundary represented the reasonable Aspen airshed by considering the local topography, meteorology, and land use practices.

The information available at the time that the Aspen PM–10 nonattainment area designation was announced did not indicate that the boundary should include any of the surrounding area. However, the subsequent information presented in the SIP persuasively demonstrated that the revised nonattainment area boundary submitted with the SIP more accurately represents the Aspen airshed. See, e.g., 57 FR 56762, 56763 (November 30, 1992). Therefore, pursuant to section 110(k)(6) of the Act, EPA is proposing to correct the Aspen PM–10 nonattainment area boundary in 40 CFR 81.306 to include some of the additional area surrounding the city of Aspen. The legal definition of the revised Aspen nonattainment area submitted by the State is as follows:

The area encompassed by the following Parcel ID numbers, as defined by the Pitkin County Planning Department: 2737–29, 2737–28, 2737–21, 2737–20, 2737–19, 2737–18, 2737–17, 2737–08, 2737–07, 2737–06, 2735–22, 2735–15, 2735–14, 2735–13, 2735–12, 2735–11, 2735–10, 2735–03, 2735–02, 2735–01, 2641–31, 2643–36, 2643–35, 2643–34, 2643–27, 2643–26.

A map displaying these Parcel ID numbers can be obtained by calling or writing the Pitkin County Planning Department at 130 South Galena Road, Aspen, Colorado 81611; (303) 920–5080. EPA is proposing to replace the boundary description currently in 40 CFR 81.306 with this revised boundary.

III. Implications of This Action

As discussed in Section II. above, EPA is proposing to grant a limited approval of certain significant aspects of the Aspen plan revisions, which were submitted by the State on January 15, 1992 and March 17, 1993 to satisfy those moderate area PM–10 SIP requirements due November 15, 1991. EPA is not proposing full approval of the control measures as meeting the RACM (including RACT) requirement because the submittals neither provided for the implementation of those control measures necessary to assure timely attainment of the PM–10 NAAQS in Aspen, nor showed that the adoption of available control measures would be economically or technologically infeasible. However, as discussed, EPA does believe the control measures submitted with the SIP will result in PM–10 emissions reductions in Aspen. Thus, EPA believes the control measures submitted warrant a limited approval for their strengthening effect on the SIP. Note that EPA's proposal does not include the voluntary no-drive day provision in Section III.C.6. of the State regulation for Aspen; EPA will act on that provision in a separate notice. EPA is also proposing to fully approve the few elements of the State's submittal which are separable and independent of the provisions that the State has not adequately addressed.

Pursuant to sections 110(k)(3) and 301(a) of the Act, EPA is proposing the limited approval for the purpose of making the PM–10 control measures already adopted federally enforceable and to advance the Act's PM–10 air quality-related protection goals in the Aspen area. This approval is limited in the sense that the provisions are not being fully approved under section 110(k)(3) and part D, title I of the Act because they do not meet the specific Clean Air Act requirements identified in this document and supporting information. Thus, the State is still required to correct the deficiencies which are preventing EPA from proposing a full approval of the Aspen PM–10 plan relative to the SIP requirements due on November 15, 1991.

In addition, EPA is providing notice that if the State does not adopt and submit the additional control measures necessary to demonstrate attainment of the PM–10 NAAQS consistent with its remaining commitments, EPA will take the disapproval action that is the companion of this proposed limited approval. EPA will consider the applicable Clean Air Act deadlines in proceeding with this disapproval.

In the alternative, if the State submits adequate controls necessary to demonstrate expeditious attainment of the PM–10 NAAQS as called for by its commitments, then EPA will review the additional control measures and, if appropriate, will withdraw this limited approval and instead propose full approval of the PM–10 plan for Aspen relative to these moderate area PM–10 SIP requirements which were due November 15, 1991.

As noted, additional submittals for the initial moderate PM–10 nonattainment areas are due at later dates. The EPA will determine the adequacy of any such submittal as appropriate.

EPA is also proposing to amend the nonattainment area to include additional area surrounding Aspen.

IV. Request for Public Comments

The EPA is requesting comments on all aspects of this proposal. As indicated at the outset of this notice, EPA will consider any comments received by January 24, 1994.

V. Executive Order (EO) 12866

The OMB has exempted this rule from the requirements of section 6 of Executive Order 12866.

VI. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. sections 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals and limited approvals of SIP submittals under sections 110 and 301, and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

List of Subjects

40 CFR Part 52

Air pollution control, Hydrocarbons, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. sections 7401–7671q.

Dated: December 6, 1993.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 93–31360 Filed 12–22–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7078]

Proposed Flood Elevation Determinations

AGENCY: Mitigation Directorate, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for each community listed, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Directorate has determined that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Impact Analysis

This proposed rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/Town/County	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Florida	Putnam County (Unincorporated Areas).	Castle Lake	Entire shoreline	None	*71
		Clearwater Lake	Entire shoreline	None	*84
		Clubhouse Lake	Entire shoreline	None	*69
		Crane Ponds	Entire shoreline	None	*40
		Cue Lake	Entire shoreline	None	*93
		Georges Lake	Entire shoreline	None	*101
		Halfmoon Lake	Entire shoreline	None	*99
		Lake Grandin	Entire shoreline	None	*84
		Long Lake	Entire shoreline	None	*93
		Putnam Prairie/Wall Lake	Entire shoreline	None	*97
		Redwater Lake	Entire shoreline	None	*82
		Saratoga Lake	Entire shoreline	None	*67

State	City/Town/County	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
		Star Lake	Entire shoreline	None	*78
		Sugarbowl Lake	Entire shoreline	None	*40
		Alcosta Creek	Approximately 250 feet upstream of confluence with St. Johns River.	*6	*7
			Approximately 3.15 miles upstream of confluence with St. Johns River.	None	*80
		Dunns Creek	At U.S. Highway No. 17	*7	*6
			Approximately 1.6 miles downstream of Crescent Lake	*7	*6
		Etonia Creek	Approximately 1,500 feet downstream of Bardin Road.	None	*78
			At Holloway Road	None	*84
		Falling Branch	At confluence with Etonia Creek	None	*86
			Approximately 400 feet above Philchard Road.	None	*101
		Simms Creek	Approximately 1,000 feet downstream of USGS gage station.	None	*79
			At Putnam-Clay County line	None	*89
		Tributary 1 to Simms Creek.	At confluence with Simms Creek	None	*32
			Approximately 2.0 miles upstream of confluence of Tributary 1-A to Simms Creek.	None	*105
		Tributary 1-A to Simms Creek.	At confluence with Tributary 1 to Simms Creek.	None	*75
			Approximately 1.62 miles upstream of confluence with Tributary 1 of Simms Creek.	None	*101
		Tributary 2 to Simms Creek.	At confluence with Simms Creek	None	*36
			At Putnam-Clay County line	None	*105

Maps available for inspection at the Putnam County Building and Zoning Department, Putnam County Courthouse, Palatka, Florida.

Send comments to Mr. Gary Adams, Putnam County Administrator, P.O. Box 758, Palatka, Florida 32178.

Florida	St. Petersburg (City) Pinellas County.	Boca Ciega Bay	At intersection of Villagrande Avenue and Grevillia Avenue.	*11	*12
			Approximately 58 feet southwest of the intersection of Hibiscus Avenue South and Villagrande Avenue.	*12	*13

Maps available for inspection at the Municipal Services Building, 475 Central Avenue, St. Petersburg, Florida.

Send comments to the Honorable David J. Fischer, Mayor of the City of St. Petersburg, Pinellas County, P.O. Box 2842, St. Petersburg, Florida 33731.

Kentucky	Hyden, City (Leslie County).	Middle Fork Kentucky River.	At downstream corporate limits	None	*854
			Approximately 200 feet upstream of State Route 80.	None	*859

Maps available for inspection at the City Hall, Dryhill Road, Hyden, Kentucky.

Send comments to The Honorable Marvin Branon, Mayor of the City of Hyden, Leslie County, P.O. Box 972, Hyden, Kentucky 41749.

Kentucky	Leslie County (Unincorporated Areas).	Middle Fork Kentucky River.	Approximately 1.0 mile downstream of City of Hyden corporate limits.	None	*850
			Approximately 1.1 miles upstream of Leslie County High School bridge.	None	*869

Maps available for inspection at the County Emergency Operations Center, Wendover Road, Hyden, Kentucky.

Send comments to The Honorable C. Allen Muncy, Leslie County Judge Executive, County Courthouse, Main Street, P.O. Box 619, Hyden, Kentucky 41748.

Michigan	Marquette (City) Marquette County.	Carp River	At the Lake Superior and Ishpeming Railroad.	None	*607
			Approximately 620 feet upstream of U.S. Route 41.	None	*611

State	City/Town/County	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified

Maps available for inspection at the Municipal Services Center, Public Works Department, 850 West Baraga Avenue, Marquette, Michigan.

Send comments to Mr. Dale Imam, Manager of the City of Marquette, 300 West Baraga Avenue, Marquette, Michigan 49855.

Minnesota	Paynesville (City) Stearns County.	North Fork Crow River	Approximately 250 feet upstream of County Route 123 Bridge.		*1,150
			Approximately 2,700 feet upstream of Routes 4 and 55.		*1,160

Maps available for inspection at the Paynesville City Hall, 221 Washburne Avenue, Paynesville, Minnesota.

Send comments to The Honorable Joseph H. Voss, Mayor of the City of Paynesville, Stearns County, 221 Washburne Avenue, Paynesville, Minnesota 56362.

Minnesota	St. Cloud (City) Stearns, Benton, and Sherburne Counties.	Sauk River	Approximately 1.0 mile upstream of confluence with Mississippi River.	*1,010	*1,011
			At abandoned County Highway 134 bridge.	*1,049	*1,048
		Mississippi River	Approximately 0.82 mile downstream of St. Cloud Dam.	*970	*971
			Approximately 3 miles upstream of St. Cloud Dam.	*993	*992

Maps available for inspection at the City Hall, 400 Second Street South, St. Cloud, Minnesota.

Send comments to the Honorable Chuck Winkelman, Mayor of the City of St. Cloud, Stearns, Benton, and Sherburne Counties, 400 Second Street South, St. Cloud, Minnesota 56301.

Minnesota	Stearns County, Unincorporated Areas.	Sauk River	Approximately 200 feet upstream of confluence with Mississippi River.	*997	*998
			Approximately 1 mile downstream of County Highway 121 Bridge.	*1,055	*1,056
		Mississippi River	Approximately 0.3 mile downstream of City of St. Cloud downstream corporate limits.	*970	*971
			At downstream side of Minnesota Highway 152 Bridge.	*993	*992

Maps available for inspection at the Stearns County Administration Building, Planning Department, Room 343, 705 Courthouse Square, St. Cloud, Minnesota.

Send comments to Mr. George Rindelaub, Stearns County Administrator, Stearns County Administration Center, 705 Courthouse Square, St. Cloud, Minnesota 56303.

Minnesota	Waite Park (City) Stearns County.	Sauk River	At Burlington Northern Railroad Bridge	None	*1,044
			Approximately 1.2 miles upstream of Burlington Northern Railroad Bridge.	None	*1,047

Maps available for inspection at the City Hall, 253 Fifth Avenue North, Waite Park, Minnesota.

Send comments to the Honorable Al Ringsmuth, Mayor of the City of Waite Park, Stearns County, P.O. Box 339, Waite Park, Minnesota 56387.

Ohio	Hamilton County Unincorporated Areas.	West Fork Mill Creek	Approximately 300 feet downstream of Pippin Road.	*774	*773
			At Blue Rock Road	None	*825

Maps available for inspection at the Hamilton County Department of Public Works, Hamilton County Administration Building, room 800, 138 East Court Street, Cincinnati, Ohio.

Send comments to Mr. David J. Krings, Hamilton County Administrator, Hamilton County Administration Building, room 603, 138 East Court Street, Cincinnati, Ohio 45202.

South Carolina	Cayce, City (Lexington County).	Tributary SM-2	At North Edisto Drive	None	*159
			Approximately 125 feet upstream of Old Frink Street	None	*170

State	City/Town/County	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Cayce City Hall, Community Development Office, 1800 12th Street, Cayce, South Carolina.					
Send comments to The Honorable Avery B. Wilkerson, Jr., Mayor of the City of Cayce, Lexington County, P.O. Box 2004, Cayce, South Carolina 29171.					
South Carolina	City of Columbia Richland County.	Pen Branch	At upstream side of Woodlake Drive	*159	*160
			Approximately 800 feet upstream of Trenholm Road.	*173	*174
Maps available for inspection at the City of Columbia Office of Utilities and Engineering, 1225 Laurel Street, Columbia, South Carolina.					
Send comments to The Honorable Robert Coble, Mayor of the City of Columbia, City Hall, 1737 Main Street, Columbia, South Carolina 29217.					
South Carolina	Irmo, Town (Lexington County).	Moccasin Branch	Interstate Route 26 (northbound) western lane.	None	*313
			Approximately 550 feet upstream of U.S. Routes 76 and 176 (Broad River Road).	None	*323
Maps available for inspection at the Irmo Town Hall, 7300 Woodrow Street, Irmo, South Carolina.					
Send comments to The Honorable John Gibbons, Mayor of the Town of Irmo, 7300 Woodrow Street, P.O. Box 406, Irmo, South Carolina 29063.					
South Carolina	Lexington County (Unincorporated Areas).	Yost Creek	Approximately 500 feet upstream of confluence with Rawls Creek.	*204	*205
			Approximately 60 feet upstream of Lincreek Road.	None	*308
		Tributary SM–2	Approximately 70 feet upstream of confluence with Six Mile Creek.	*143	*144
			Approximately 130 feet upstream of Old Frink Street.	None	*170
		Savana Branch	Approximately 1,850 feet upstream of confluence with Congaree Creek.	*144	*145
			At downstream side of Edmund Highway	None	*160
		Tributary K–2	Just upstream of Piney Grove Road	None	*222
			Approximately 285 feet upstream of the unnamed road.	None	*243
		Twelve Mile Creek	At Corley Mill Road	None	*192
			Approximately 1.4 miles upstream of Mineral Springs Road.	None	*243
		Fourteen Mile Creek	At confluence with Twelve Mile Creek	None	*192
			Approximately 0.6 mile upstream of Old Chapin Road.	None	*359
		Tributary SM–5	Approximately 75 feet upstream of Rainbow Drive.	None	*224
			Approximately 825 feet upstream of Rainbow Drive.	None	*226
		Stoop Creek	Approximately 60 feet downstream of CSX Transportation.	*184	*183
			Approximately 0.5 mile upstream of Interstate 26.	None	*223
		Shallow Flooding	Area between Savana Branch and Congaree Creek south of Old Dunbar Road.	None	#2
Maps available for inspection at the Lexington County Administrator, Lexington County Administration Building, Planning and Development Office, 212 South Lake Drive, Lexington, South Carolina.					
Send comments to Mr. Edward M. Parler, Lexington County Administrator, Lexington County, Administration Building, 212 South Lake Drive, Lexington, South Carolina 29072.					
South Carolina	Lexington, Town (Lexington County).	Fourteen Mile Creek	Approximately 2,275 feet upstream of Whiteford Way.	None	*282
		Twelve Mile Creek	Approximately 0.6 mile upstream of Old Chapin Road.	None	*359
			Approximately 1.0 mile upstream of Mineral Springs Road.	None	*239
			Approximately 900 feet downstream of confluence of Tributary TM–1.	*255	*252

State	City/Town/County	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Lexington Town Hall, Building Department, 111 Maiden Lane, Lexington, South Carolina.					
Send comments to The Honorable Ellie Black, Mayor of the Town of Lexington, P.O. Box 397, Lexington, South Carolina 29071.					
South Carolina	Pine Ridge, (Lexington County).	Shallow Flooding	Area between Savana Branch and Congaree Creek south of Old Dunbar Road.	None	#2
Maps available for inspection at the Pine Ridge Town Hall, 1015 Fish Hatchery Road, West Columbia, South Carolina.					
Send comments to The Honorable Ben Campbell, Mayor of Pine Ridge, Lexington County, 1015 Fish Hatchery Road, West Columbia, South Carolina 29172.					
South Carolina	Richland County, Unincorporated Areas.	Little Jackson Creek	Approximately 432 feet downstream of O'Neil Court.	*212	*213
			Approximately 100 feet upstream of the confluence of Lightwood Knot Branch.	*214	*215
Maps available for inspection at the Planning and Zoning Department, County Administration Building, 220 Hampton, Columbia, South Carolina.					
Send comments to Mr. W. Anthony McDonald, Richland County Administrator, P.O. Box 192, Columbia, South Carolina 29202.					
South Carolina	Springdale, Town (Lexington County).	Tributary SM–5	At Rainbow Drive	None	*229
			Approximately 75 feet upstream of Rainbow Drive.	None	*234
Maps available for inspection at the Springdale Town Hall, 2915 Platt Spring Road, Springdale, South Carolina.					
Send comments to The Honorable Pat G. Smith, Mayor of the Town of Springdale, 2915 Platt Spring Road, Springdale, South Carolina 29170.					
Virginia	Bluefield (Twn) Tazewell County.	Pond Creek	At confluence with Bluestone River	*2,369	*2,368
			Approximately 0.4 mile upstream of upstream crossing of State Route 102.	None	*2,430
Maps available for inspection at the Municipal Building, 600 Virginia Avenue, Bluefield, Virginia.					
Send comments to Mr. Art Mead, Bluefield Town Manager, P.O. Box 1026, Bluefield, Virginia 24605.					
Virginia	Wise County (Unincorporated Areas).	Powell River	At the upstream side of State Route 790	None	*1,997
			Approximately 790 feet upstream of State Highway 610.	None	*2,012
Maps available for inspection at the Wise County Courthouse, Building Official's Office, 206 East Main Street, Wise, Virginia.					
Send comments to Mr. Scott H. Davis, Wise County Administrator, P.O. Box 570, Wise, Virginia 24293.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93–31267 Filed 12–22–93; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 67

[Docket No. FEMA–7077]

Proposed Flood Elevation Determinations

AGENCY: Mitigation Directorate, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for each community listed, in accordance with section 110 of the Flood Disaster Protection Act of

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Texas	Hardin County (Unincorporated Areas)	Gustan Street Ditch	Approximately 1,000 feet upstream of South Fannin Street.	None	*43
			Immediately upstream of South Ann Street.	None	*44

Maps are available for review at Hardin County Floodplain, 300 Monroe Street, Kountze, Texas.
Send comments to The Honorable Tom Mayfield, Hardin County Judge, P.O. Box 760, Kountze, Texas 77625.

Texas	City of Sourlake Hardin County	Gustan Street Ditch	Approximately 1,000 feet upstream of South Fannin Street.	None	*43
			At Elm Street	None	*44
			Approximately 200 feet upstream of Hartel Street.	None	*47

Maps are available for review at 121 West Barkley Street, Sourlake, Texas.
Send comments to The Honorable Jack Bennett, Mayor, City of Sourlake, P.O. Box 2009, Sourlake, Texas 77659.

1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Directorate has determined that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Impact Analysis

This proposed rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

VOL 58 ISS 245 DE 23 1993 UMI

VOL 58 ISS 245 DEC 23 1993 UMI

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 7, 1993.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 93-31266 Filed 12-22-93; 8:45 am]

BILLING CODE 6718-03-P

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[No. 40686]

Reconsideration of Special Tariff Authorities Authorizing the Publication of Customer Account Codes in Tariffs

AGENCY: Interstate Commerce Commission (ICC).

ACTION: Proposed rule; withdrawal.

SUMMARY: In a decision served September 1, 1993 and published at 58 FR 47104 (Sept. 7, 1993), the Commission proposed a regulation which would permit tariffs to continue to identify traffic to which rates apply by undisclosed customer account (or shipper) codes provided such tariffs include appropriately specific commodity and origin/destination information. Since then, however, the Negotiated Rates Act of 1993, enacted on December 3, 1993, has amended 49 U.S.C. 10762 by adding subsection (h), which requires carriers using customer account code tariffs to set forth in the tariff the name of the customer for each account code. Carriers are required by the statute to comply with its requirements by June 1, 1994. Because section 10762(h) supersedes the proposed rule, the ICC is withdrawing the proposal and discontinuing this proceeding.

FOR FURTHER INFORMATION CONTACT: James W. Greene (202) 927-5597 or Ronald A. Hall (202) 927-5595; TDD for hearing impaired: (202) 927-5721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the ICC's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD service (202) 927-5721.)

Decided: December 14, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips and Philbin.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-31399 Filed 12-22-93; 8:45 am]

BILLING CODE 7035-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List Deer Creek Summer Steelhead

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of finding; initiation of status review and request for information.

SUMMARY: NMFS has received a petition to list indigenous, naturally spawning Deer Creek summer steelhead (*Oncorhynchus mykiss*) and to designate critical habitat under the Endangered Species Act of 1973 (ESA). The petition presents substantial scientific information indicating that the action may be warranted. Therefore, NMFS is initiating a status review to determine if the petitioned action is warranted. To ensure that the review is comprehensive, NMFS is soliciting information and data regarding this action. Information received during this status review will be used also in NMFS' ongoing review of all coastal steelhead populations in California, Oregon, and Washington.

DATES: Comments and information must be received by February 22, 1994.

ADDRESSES: Copies of the petition are available from, and comments should be submitted to Merritt Tuttle, Chief, Environmental and Technical Services Division, NMFS, 911 NE. 11th Avenue, room 620, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 230-5430 or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-2322.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the ESA contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a species to or remove a species from the List of Endangered and Threatened Wildlife and to designate critical habitat. Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary make a finding whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted.

Petition Received

On September 21, 1993, the Secretary of Commerce received a petition from Washington Trout to list indigenous, naturally spawning Deer Creek summer steelhead, and to designate critical habitat under the ESA. The Assistant Administrator for Fisheries, NOAA (AA), makes a finding that the petition presents substantial scientific information indicating that the petitioned action may be warranted based on the criteria specified in 50 CFR 424.14(b)(2), and based on evidence presented in the petition that the petitioned population may qualify as a "species" under the ESA in accordance with NMFS' "Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon" (56 FR 58612, November 20, 1991). Under section 4(b)(3)(A) of the ESA, this finding requires that a review of the status of Deer Creek summer steelhead be conducted to determine if the petitioned action is warranted. Information received during this status review will be used in NMFS' ongoing review of all coastal steelhead populations in California, Oregon, and Washington (58 FR 29390, May 20, 1993).

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA, a species can be determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are made solely on the best scientific and commercial data available.

Biological Information Solicited

The Deer Creek basin is situated north and northeast of Oso, Washington, where Deer Creek enters the North Fork of the Stillaguamish River. To ensure that the Deer Creek status review is complete and is based on the best available scientific and commercial data, NMFS is soliciting information and comments concerning: (1) Whether or not the stock qualifies as a "species" under the ESA in accordance with NMFS' "Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon" (56 FR 58612, November 20, 1991) and (2) whether or not the stock is endangered or threatened based on the above listing criteria. Specifically, NMFS is soliciting information in the following areas: Influence of historical and present hatchery fish releases on naturally spawning stocks of steelhead; separation of hatchery and natural steelhead escapement; alteration of steelhead freshwater and marine habitats; age structure and life history of steelhead; migration timing and behavior of juvenile and adult steelhead; relationship between summer and winter steelhead; relationship between steelhead and resident rainbow trout; and interactions of steelhead with other salmonids. This information should address all steelhead populations in the Deer Creek basin, as well as steelhead populations along the Washington coast, Puget Sound, Strait of Juan De Fuca, and Strait of Georgia. Copies of the petition are available (see **ADDRESSES**).

Critical Habitat

NMFS is also requesting information on areas that may qualify as critical habitat for Deer Creek summer steelhead. Areas that include the physical and biological features essential to the recovery of the species should be identified. Areas outside the present range should also be identified if such areas are essential to the recovery of the species. Essential features should include, but are not limited to:

(1) Space for individual and population growth, and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring; and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species.

For areas potentially qualifying as critical habitat, NMFS is requesting information describing: (1) The activities that affect the area or could be affected by the designation, and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation.

The economic cost to be considered in the critical habitat designation under the ESA is the probable economic impact "of the (critical habitat) designation upon proposed or ongoing activities" (50 CFR 424.19). NMFS must consider the incremental costs specifically resulting from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the ESA to avoid jeopardy to the species and from the taking prohibitions under section 9 of the ESA. Comments concerning economic impacts should distinguish the costs of listing from the incremental costs that can be directly attributed to the designation of specific areas as critical habitat.

Date, information, and comments should include: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications, and (2) the commenter's name, address, and association, institution, or business.

Nancy Foster,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 93-31330 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 630

[Docket No. 931078-3278; I.D. 100593C]

RIN 0648-AF42

Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement, on an experimental basis, a voluntary, pilot program that would allow retention of undersized swordfish in excess of the trip allowance for donation, through charitable organizations, to needy individuals. The intended effect is to investigate the potential for avoiding waste of swordfish that would otherwise be brought aboard already dead and subsequently would be discarded to obtain additional information regarding the harvest, mortality, and biological characteristics of swordfish less than the minimum size limit.

DATES: Written comments must be received on or before January 24, 1994.

ADDRESSES: Copies of documents supporting this action may be obtained from, and comments on the proposed rule should be sent to, Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, 1335 East-West Highway, Silver Spring, MD 20910. Comments on the information collection requirements should be sent to Richard H. Schaefer and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for NOAA).

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish fishery is managed under the Fishery Management Plan (FMP) for Atlantic Swordfish (FMP) and its implementing regulations at 50 CFR part 630 under the authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) and the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). Regulations issued under the authority of the ATCA carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Background

At the 1990 meeting of ICCAT, member nations recommended international measures to reduce fishing mortality of swordfish. In June 1991, NMFS implemented regulations, consistent with the ICCAT recommendations, which included a minimum size limit of 41 pounds (18.6 kg) dressed weight or 31 inches (78.7 cm) carcass length, with a trip allowance for undersized swordfish in an amount not exceeding 15 percent of the total number of swordfish landed.

Although large swordfish are the preferred target of U.S. swordfish vessels, harvest of some undersized swordfish is unavoidable in most cases. Under current regulations, undersized swordfish in excess of the trip allowance must be discarded, despite the fact that many of these fish are dead prior to being brought aboard the vessel. This results in waste of the resource. If discards are not accurately reported, loss of information critical to proper stock assessment, in general, and to evaluation of the minimum size limit, in particular, also occurs.

NMFS, in cooperation with Blue Water Fishermen's Association, other members of the swordfish industry, National Fisheries Institute, and Second Harvest National Food Bank Network (Second Harvest), proposes a pilot program that would provide information regarding the harvest, discard, mortality,

VOL
58
ISS
245
DE
23
1993
UMI

catch per unit of effort, and biological characteristics of undersized swordfish and would allow donation of undersized swordfish in excess of the trip allowance through Second Harvest to needy individuals. Under the pilot program, voluntary participants selected by NMFS would be allowed to land undersized swordfish that were dead prior to being brought aboard the vessel in excess of the trip allowance for undersized swordfish. These swordfish could be received only by specified dealers; could not be purchased, sold, bartered, or traded; and would be distributed by Second Harvest food banks, through charitable organizations, to needy individuals. Reporting and marking requirements would ensure integrity of the program and would obtain additional scientific information regarding catch and mortality of swordfish less than the minimum size limit.

Second Harvest is an organization, exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code, that solicits surplus products and distributes such products to organizations engaged in feeding the needy, the ill, or infants. Through a network of 185 food banks, more than 45,000 qualified recipient organizations that are exempt from Federal income tax under section 501(c)(3) serve food and meals to millions of needy Americans. Last year, the Second Harvest network distributed more than 500 million pounds of food. Donated products are transferred only to organizations that have exemption letters issued by the Internal Revenue Service that verify their tax exempt status.

NMFS and the majority of the swordfish industry recognize the importance of minimizing the catch and mortality of undersized swordfish and remain committed to that objective. However, under current conditions, some unavoidable harvest of undersized swordfish occurs. NMFS is interested in pursuing this pilot program in order to maximize the scientific and charitable benefits resulting from the unavoidable harvest of undersized swordfish, without undermining the objective of minimizing the mortality of undersized swordfish.

At the November 1992 ICCAT meeting, the U.S. delegation discussed the proposed pilot program. It was agreed that the program was consistent with current ICCAT recommendations for swordfish and that it would be useful for evaluating effectiveness of the minimum-size regulation. The United States will provide ICCAT with all data collected from the program.

Program Objectives

1. Improve scientific information regarding catch, mortality, discard rate, and biological characteristics of undersized swordfish. The program would provide an alternative source of data for estimating discards in excess of the trip allowance for undersized swordfish; discourage unreported discarding of dead undersized swordfish; and provide an opportunity to obtain additional information (e.g., age, size, sex) about undersized swordfish. This would be important in maintaining catch per unit of effort indices for small swordfish, which are critical to ICCAT stock assessments.

2. Avoid waste of a valuable resource. Dead fish that would have been discarded would be donated, through an organized, controlled program, to needy individuals.

3. Encourage the continued tagging and release of all live undersized swordfish, as well as small bluefin tuna, bigeye tuna, yellowfin tuna, and sharks.

4. Implement the program in a manner that will not jeopardize or undermine the broader management objective of minimizing the mortality of undersized swordfish.

Description of the Program

Non-profit

Although participants would incur costs associated with donated fish (harvesters—handling and processing; dealers—storage; Second Harvest—distribution), they would receive no direct economic benefit from landing and donating the undersized swordfish. Any purchase, sale, trade, or barter of fish landed under the donation program would be prohibited.

Selection Process

NMFS would select participants (dealers and vessels) from among volunteers. Factors that would be considered in the selection process include:

(1) History of voluntary participation in NOAA/NMFS cooperative scientific programs, e.g., tag and release, sea sampling, collection of biological samples;

(2) Whether both vessel and dealer volunteers can be matched in an area throughout the year (including truck routes) to ensure distribution of donated fish;

(3) Representative coverage of the fishery, to the extent possible; and

(4) Compliance record of volunteers.

Scope of the Program

The pilot program would be divided into seven geographical regions: Gulf of Mexico, Florida east coast, South Atlantic Bight, Mid-Atlantic Bight, northeast coastal, northeast distant waters, and Caribbean. Three to four vessels and cooperating dealers would be selected to participate in each region. Assuming the program is implemented early in 1994, initial efforts would be directed at establishing the program in the Gulf of Mexico region, because of seasonality of the fishery. After the logistics and any unforeseen problems were resolved, additional regions would be added at the rate of one every 2 to 3 months until the program is established in all seven regions.

Responsibilities of Participating Fishermen

A selection letter from NMFS, identifying the vessel as a participant in the program, would be required to be maintained aboard the vessel and made available for inspection.

Undersized swordfish that are dead when brought on board the vessel and are to be donated would be required to be properly prepared and stored. Live undersized swordfish would be required to be tagged, released, and reported to NMFS on logbook and tagging records.

Participants would be required to properly handle, record, and transfer to selected dealers all swordfish in excess of the trip allowance for undersized swordfish, i.e., such swordfish could not be retained for the crew, purchased, sold, bartered, traded, or given to anyone other than a selected dealer for transfer to an authorized recipient (Second Harvest).

Donated swordfish would be required to be landed and tagged for the donation program, using donation tags provided by NMFS, by fishermen at the facilities of dealers selected by NMFS to participate in the donation program. Existing regulations require that fish remain in whole or dressed form through off-loading. A list of selected dealers would be provided by NMFS.

The vessel owner or operator would be required to notify NMFS and the dealer 24 hours in advance, or as otherwise specified by NMFS, of landing information, including date, approximate time, location, and estimated number of fish to be donated. Specific instructions would be provided by NMFS to address logistics and to facilitate shorter notification in areas where the fishing grounds, such as the Florida Straits, are close to the landing locations.

The individual carcass weights of all donated fish would be required to be clearly indicated, using a NMFS-specified code, on the tally (weigh-out) sheets that must be submitted to NMFS, as specified in the current regulations.

As is currently specified in the regulations, transfer of swordfish between vessels is prohibited.

Responsibilities of Participating Dealers

A selection letter from NMFS, identifying the dealer as a participant in the program, would be required to be maintained at the dealer's place of business and be made available for inspection.

Donated swordfish could be received only from vessels selected by NMFS. A list of selected vessels would be provided by NMFS to participating dealers.

Dealers would be responsible for weighing all undersized swordfish to be donated and recording the individual carcass weights, using a NMFS-specified code, on the dealer reports currently required. (Information regarding vessel and dealer identification, and date fish were received would be included on those reports.) Reports would be submitted to NMFS twice monthly, as currently required by the regulations.

Swordfish for donation would be required to be separated from swordfish eligible for sale, to the extent practicable, and maintained with the donation tag installed.

The dealer would be required to obtain a receipt from Second Harvest for all swordfish donated. A copy of the receipt would be required to be submitted to the vessel that landed the swordfish (along with normal dealer weigh-out/trip settlement sheets).

Responsibilities of Second Harvest

Donated swordfish would be precluded from purchase, sale, barter, or trade.

Donated swordfish would be required to be made available for use as soon as possible to ensure the greatest freshness and palatability.

Second Harvest food banks would assume responsibility for donated swordfish upon receipt from the dealer, including transportation, quality control of product, processing, and distribution to the needy.

Transportation would be provided by Second Harvest food banks to ensure timely collection and distribution of donated swordfish.

Upon pickup of swordfish, Second Harvest food banks would provide dealers with receipts that include the permit numbers of fishing vessels and dealers involved in donating the swordfish, date of pickup, and number and individual carcass weights of all swordfish received. Second Harvest food banks would provide copies of receipts to Second Harvest headquarters, which will provide duplicate copies to NMFS.

Second Harvest's individual food banks would be responsible for distributing to local charities, which will process and prepare the swordfish for consumption by needy individuals.

Implementation

The pilot program would continue for 2 years, subject to review and evaluation. NMFS would monitor the program and prepare an annual report evaluating the results. Results from this study will be presented to ICCAT. If the program is achieving its purposes and there is concurrence from ICCAT, the program could be continued beyond 2 years; conversely, the program could be terminated earlier if the program is not achieving its purposes. In addition, the donation program would be terminated upon a finding that it is no longer in conformance with the recommendations of ICCAT.

Classification

This proposed rule is published under the authority of the ATCA. The Assistant Administrator for Fisheries, NOAA (AA), has preliminarily determined that this proposed rule is consistent with the recommendations of ICCAT and is necessary for management of the Atlantic swordfish fishery.

The economic effects of this action, as contained in the Regulatory Impact Review (RIR), are summarized as follows: Participating swordfish vessel owners (approximately 25) and swordfish dealers (approximately 10) would voluntarily incur moderate costs to participate in the donation program; unquantifiable benefits would accrue as a result of increased scientific information regarding the harvest, mortality, and biological characteristics of swordfish less than the minimum size limit; unquantifiable but significant social benefits would accrue as a result of providing food to the needy; and benefits in terms of personal satisfaction would accrue from participating in the donation program.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because few of the vessels and dealers in the swordfish fishery will be affected. Accordingly, a regulatory flexibility analysis was not prepared.

This proposed rule contains four new collection-of-information requirements subject to the Paperwork Reduction Act, specifically, application to participate in the donation program, 24-hour notice of landing donated swordfish, making tagging of undersized fish mandatory for voluntary participants, and submission of receipts by Second Harvest headquarters to NMFS. The public reporting burdens for these collections of information are estimated to average 10, 3, 2 and 15 minutes, respectively, per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Requests to collect this information have been submitted to the Office of Management and Budget (OMB) for approval. This proposed rule also involves two collections of information subject to the Paperwork Reduction Act that have previously been approved by OMB, specifically, fishing vessel reports (OMB Control Number 0648–0016) and dealer reports (OMB Control Number 0648–0013). The public reporting burdens for these collections of information are estimated to average 6 and 30 minutes, respectively, per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to NMFS and to OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: December 16, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 630 is proposed to be amended as follows:

PART 630—ATLANTIC SWORDFISH FISHERY

1. The authority citation for part 630 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 971 *et seq.*

2. In § 630.7, paragraph (q) is revised to read as follows:

§ 630.7 Prohibitions.

* * * * *

(q) Land a swordfish that is smaller than the minimum size specified in § 630.23(a), except for the trip allowance for undersized swordfish, as specified in

VOL 58 ISS 245 DE 23 1993 UMI

§ 630.23(b), and except as authorized in § 630.51.

* * * * *

3. A new subpart D is added to read as follows:

Subpart D—Donation Program

630.50 Purpose.
630.51 Participation.
630.52 Termination.

Subpart D—Donation Program

§ 630.50 Purpose.

This subpart implements a program under which swordfish from the North Atlantic swordfish stock that are in excess of the trip allowance for undersized swordfish specified in § 630.23(b) may be retained for donation through a charitable organization to the needy. This program is intended to avoid waste of swordfish that would otherwise be discarded dead and to obtain additional information regarding the harvest, mortality, and biological characteristics of swordfish less than the minimum size limit.

§ 630.51 Participation.

(a) *General.* Owners of vessels and dealers permitted under § 630.4 may volunteer to participate in the swordfish donation program by contacting the Chief, Highly Migratory Species Division, Office of Fisheries Conservation and Management, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, phone (301) 713–2347, Fax (301) 588–4967. The Chief, Highly Migratory Species Division, will select owners of vessels and dealers who may participate in the donation program and will keep selected vessel owners advised of the selected dealers.

(1) Factors that will be considered in the selection process include:

(i) History of voluntary participation in NOAA/NMFS cooperative scientific programs;

(ii) Whether both vessel and dealer volunteers can be matched in an area throughout the year (including truck routes) to ensure distribution of donated fish;

(iii) Representative coverage of the fishery, to the extent possible; and

(iv) Compliance record of volunteers.

(2) Selected dealers will also be kept advised of the selected vessel owners and of authorized recipients of donated swordfish.

(b) *Vessels.* The owner of a vessel that has been selected and so notified in writing by the Chief, Highly Migratory Species Division, to participate in the donation program may retain swordfish from the North Atlantic swordfish stock that are in excess of the trip allowance for undersized swordfish specified in § 630.23(b) under the following terms and conditions. Landing a swordfish in excess of the trip allowance for undersized swordfish other than in accordance with these terms and conditions constitutes a violation of the prohibition specified in § 630.7(q).

(1) The selection letter from the Chief, Highly Migratory Species Division, must be carried on board the fishing vessel and the operator must present it for inspection upon the request of an authorized officer.

(2) A swordfish that is less than the minimum allowable size specified in § 630.23(a) and that is alive when brought aboard the vessel must be released in a manner that will ensure maximum probability of survival. If caught by hook, it must be released by cutting the line near the hook without removing the swordfish from the water. A reasonable effort must be made to tag each swordfish released under this paragraph (b)(2). Tags for released swordfish will be provided by the Science and Research Director. A record of each tag and release must be maintained and submitted to the Science and Research Director on forms provided with the tags.

(3) A swordfish that is dead when brought aboard the vessel must be retained.

(4) A swordfish that is retained under the donation program of this subpart must be tagged upon landing at the facility of a selected dealer using a donation tag provided by the Chief, Highly Migratory Species Division.

(5) A swordfish that is retained under the donation program of this subpart may be off-loaded only to a dealer who has been selected by the Chief, Highly Migratory Species Division, to participate in the donation program. An owner or operator must notify the Chief, Highly Migratory Species Division, by phone at 301–713–2347 or Fax at 301–713–1035 and a selected dealer at least 24 hours prior to off-loading swordfish under the donation program, unless stated otherwise in the vessel owner's selection letter.

(6) A swordfish that is retained under the donation program of this subpart may not be sold, traded, or bartered or attempted to be sold, traded, or bartered.

(c) *Dealers.* A dealer who has been selected and so notified in writing by the Chief, Highly Migratory Species Division, to participate in the donation program may receive and retain swordfish from the North Atlantic swordfish stock that are in excess of a vessel's trip allowance for undersized swordfish specified in § 630.23(b) under the following terms and conditions. Possession of a swordfish other than in accordance with these terms and conditions constitutes a violation of the prohibition specified in 50 CFR 620.7(a).

(1) The selection letter from the Chief, Highly Migratory Species Division, must be available on the dealer's premises and the dealer must present it for inspection upon the request of an authorized officer.

(2) Such swordfish may be received only from a vessel that has been selected by the Chief, Highly Migratory Species Division, to participate in the donation program.

(3) To the extent practicable, a swordfish that is received under the donation program must be kept separate from other swordfish possessed by the dealer. The donation tag on such swordfish may not be removed.

(4) A swordfish that is subject to the donation program of this subpart may not be purchased, sold, traded, or bartered or attempted to be purchased, sold, traded, or bartered.

(5) A swordfish that is received under the donation program may be transferred only to Second Harvest. The receipt specified in paragraph (d)(3) of this section must be obtained from Second Harvest. A copy of the receipt must be furnished by the dealer to the harvesting vessel.

(6) Individual carcass weights of swordfish received under the donation program must be included in the twice monthly reports required by § 630.5(b).

(d) *Second Harvest.* Second Harvest may receive and distribute swordfish from the North Atlantic swordfish stock that are in excess of the trip allowance for undersized swordfish specified in § 630.23(b) under the following terms and conditions. Possession of a swordfish other than in accordance with these terms and conditions constitutes a violation of the prohibition specified in 50 CFR 620.7(a).

(1) Such swordfish may be received only from a dealer who has been selected by the Chief, Highly Migratory Species Division, to participate in the donation program.

(2) Only swordfish with donation tags attached may be received.

(3) Upon receiving swordfish under the donation program, Second Harvest must provide a receipt that shows individual carcass weights of swordfish received, the permit number(s) of the vessel(s) that harvested the swordfish, the permit number of the dealer, and the date of receipt. Such receipt must be distributed as follows: Original and one copy to the dealer, and one copy to the Chief, Highly Migratory Species Division.

(4) A swordfish that is subject to the donation program of this subpart may not be purchased, sold, traded, or bartered or attempted to be purchased, sold, traded, or bartered.

(e) *Duration of selection.* A selection letter remains valid for the period specified therein, provided the permit issued under § 630.4 to the participating vessel or dealer remains valid, except that it will be revoked by the Chief, Highly Migratory Species Division—

(1) Upon the request of the participating vessel owner or dealer; or

(2) Upon final assessment of a penalty against the participating vessel owner or dealer for a violation of this part.

(f) *Transfer.* A selection letter issued under this subpart is not transferable or assignable. Such letter is valid only for the vessel or dealer for which it was issued.

§ 630.52 Termination.

Upon a finding by the Assistant Administrator that the intended purposes of the program are not being achieved, or that the program is no longer in conformance with the recommendations of the International Commission for the Conservation of Atlantic Tunas, the Assistant Administrator may terminate the program by publication of a final rule in the Federal Register.

[FR Doc. 93–31278 Filed 12–22–93; 8:45 am]
BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 58, No. 245
Thursday, December 23, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 17, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact persons.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- Agricultural Stabilization and Conservation Service,

7 CFR 701—Conservation and Environmental Programs,
FIP–11, FIP–12, ASCS–18, ACP–153, 153–A, 310, 311, and 245
On occasion
Farms; 2,918,650 responses; 726,130 hours,
Priscilla L. Wright (202) 720–5783

Extension

- Food Safety and Inspection Service

Voluntary Reimbursable Inspection Services
MP Form 225, FSIS Form 9060–13, FSIS Form 9060–8, MP Form 85
On occasion; Recordkeeping
Businesses or other for-profit; 802 responses; 78 hours
Lee Puricelli (202) 720–7163

- Agricultural Marketing Service

Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Recordkeeping
Recordkeeping
Businesses or other for-profit; 550 recordkeepers; 1,174 hours
F. Tracy Schonrock (202) 720–3171

Reinstatement

- Agricultural Stabilization and Conservation Service

7 CFR, Part 703, Wetlands Reserve Program
Recordkeeping; on occasion
Individuals or households; Farms; 37,000 responses; 28,483 hours
Lois Hubbard (202) 720–9563

- Agricultural Stabilization and Conservation Service

7 CFR 1427.1081 through 1088—Standards for Approval of Warehouses for Cotton and Cotton Linters
CCC–823, CCC–823–1A, and CCC–20, CCC–49
On occasion
Businesses or other for-profit; Small businesses or organizations; 1,305 responses; 42,995 hours
Howard Froehlich (202) 720–7398

New Collection—(Emergency Clearance Requested)

- National Agricultural Statistics Service

Native American Farmer Information Survey
One-time survey
Farms; 880 responses; 147 hours
Larry Gambrell (202) 720–5778

- Agricultural Marketing Service

Specified Commodities Imported Into the United States Exempt from Import Requirements, 7 CFR Parts 944, 980, and 999
FV–6
On occasion
Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 2,000 responses; 340 hours
Mark Hessel (202) 720–3923

- Food Safety and Inspection Service

Nutrition Labeling of Meat and Poultry Products, Recordkeeping
Businesses or other for-profit; 0 responses, 20,083 hours, Lee Puricelli (202) 720–7163

Larry K. Roberson,
Deputy Department Clearance Officer.
[FR Doc. 93–31356 Filed 12–22–93; 8:45 am]
BILLING CODE 3410–01–M

FOREST SERVICE

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Idaho, Montana, North Dakota, and Portions of South Dakota and Eastern Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Northern Region to publish legal notice of all decisions subject to appeal under 36 CFR 215 and 217 and to publish notices for public comment and notice of decision subject to the provisions of 36 CFR 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after January 1, 1994. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Stephen Solem; Regional Appeals Coordinator; Northern Region; P.O. Box 7669; Missoula, Montana 59807. Phone: (406) 329–3647.

The newspapers to be used are as follows:

Northern Regional Office

Regional Forester decisions in Montana:
The Missoulian, Great Falls Tribune, and The Billings Gazette Regional Forester decisions in Northern Idaho and Eastern Washington
The Spokesman Review
Regional Forester decisions in North Dakota—Bismarck Tribune
Beaverhead—Montana Standard
Bitterroot—Ravalli Republic
Clearwater—Lewiston Morning Tribune
Custer—
Billings Gazette (Montana)
Bismarck Tribune (North Dakota)
Rapid City Journal (South Dakota)
Deerlodge—Montana Standard
Flathead—Daily Interlake
Gallatin—Bozeman Chronicle
Helena—Independent Record
Idaho Panhandle—Spokesman Review
Kootenai—Daily Interlake
Lewis & Clark—Great Falls Tribune
Lolo—Missoulian
Nez Perce—Lewiston Morning Tribune

Supplemental notices may be placed in any newspaper, but time frames/deadlines will be calculated based upon notices in newspapers of record listed above.

Dated: December 16, 1993.
Christopher D. Risbrudt,
Deputy Regional Forester.
[FR Doc. 93–31340 Filed 12–22–93; 8:45 am]
BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Hawaii Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 9 a.m. and adjourn at 12 noon, on Wednesday, February 2, 1994, at the Waikiki Trade Center, 2255 Kuhio Avenue, 11th Floor Conference Room, Honolulu, Hawaii 96815. The purpose of the meeting is to plan followup activities to the Advisory Committee's report, *A Broken Trust.*

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Andre S. Tatibouet or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 15, 1993.
Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 93–31305 Filed 12–22–93; 8:45 am]
BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Oklahoma Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Oklahoma Advisory Committee to the Commission will meet on Thursday, January 27, 1994, from 6 p.m. until 8 p.m. at the Oklahoma State University, Building Services, 242 Student Union, Stillwater, Oklahoma 74078. The purpose of the meeting is to plan for an upcoming factfinding meeting and future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 816–426–5253 (TTY 816–426–5009). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 16, 1993.
Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 93–31306 Filed 12–22–93; 8:45 am]
BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 671]

Volusia and Flagler Counties, FL; Establishment of a Foreign-Trade Zone

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Grant of authority: Establishment of a foreign-trade zone Volusia and Flagler Counties, Florida.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the County of Volusia, Florida (the Grantee), has made application (FTZ Docket 4–3, 58 FR 8930, 2/18/93) to the Board, requesting the establishment of a foreign-trade zone at sites in Volusia and Flagler Counties, Florida, at and adjacent to the Daytona Beach International Airport, a Customs user fee port facility; and,

Whereas, notice inviting public comment has been given in the **Federal Register** and the Board has found that the requirements of the Act and Board's regulations are satisfied, and that approval subject to an activation limit is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as ForeignTrade Zone No. 198, at the sites described in the application, subject to the Act and the Board's regulations, including § 400.28, and subject to a 2,000-acre activation limit.

Signed at Washington, DC, this 17th day of December 1993. Foreign-Trade Zones Board.
Ronald H. Brown,
Secretary of Commerce, Chairman and Executive Officer.
Attest:
John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 93–31397 Filed 12–22–93; 8:45 am]
BILLING CODE 3510–DS–P

[Docket 62–93]

Proposed Foreign-Trade Zone—Tri-City Area TN/VA; Johnson City, Kingsport, Bristol, Sullivan County and Washington County, TN, and Bristol, VA; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Tri-City Airport Commission (an interstate public entity involving 6 Tri-City area municipalities), requesting authority to establish a general-purpose foreign-trade zone at sites in Johnson City, Kingsport, Bristol, Sullivan County and Washington County, Tennessee, and Bristol, Virginia (the Tri-City area). A request is pending with the U.S. Customs Service for designation of the Tri-City Regional Airport as a Customs user fee facility. The FTZ application was submitted pursuant to the provisions of the Foreign-Trade Zones

VOL 58 ISS 245 DEC 23 1993 UMI

Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on December 13, 1993. The applicant is authorized to make the proposal under Chapter 65 of the Tennessee Code Annotated, and Chapter 14 of the Code of Virginia.

The proposed foreign-trade zone would consist of 7 sites (2,998 acres) in the Tri-City area. Site 1 (1,040 acres)—Tri-City Regional Airport complex, Blountville, Sullivan County, TN, located 15 miles from the Cities of Bristol, TN/VA, Kingsport, and Johnson City, TN—owned and operated by the applicant; Site 2 (440 acres)—St. John/Eldred Business Park, City of Johnson City, Washington County, TN—and has two private owners; Site 3 (330 acres)—Northeast Tennessee Business Park, adjacent to the Tri-City Regional Airport at the intersection of TN 357 and Hwy 75, City of Kingsport, Sullivan County, TN—owned by the City; Site 4 (129 acres)—Bristol Tennessee Industrial Park, Bristol, Sullivan County, TN—owned by the Bristol Tennessee Electric System; Site 5 (750 acres)—Tri-County Industrial Park, Piney Flats, Sullivan County, TN—owned by Sullivan County, the Cities of Johnson City, Bristol and Elizabethton, TN—operated by Sullivan County Industrial Commission; Site 6 (206 acres)—Regional Med-Tech Center, Johnson City, Washington County, TN—owned by 4 private owners; and, Site 7 (103 acres)—Linden/Hairston Industrial Park, Linden Drive at Bonham Road, Bristol, VA.—owned by the City of Bristol. The zone project will be operated by the Greater Tri-City Foreign-Trade Zone, Inc.

The application contains evidence of the need for zone services in the Tri-City area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as pharmaceuticals, electronics, automotive and aerospace products. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 56 FR 50790–50806, 10–8–91), an examiner has been designated to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on February 25, 1994, at 10 a.m., in the Auditorium of the Northeast State Technical Community College, State Highway 75, Blountville, Tennessee.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 17, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 1, 1994).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Tri-City Regional Airport, Office of the Deputy Director, State Highway 75, Blountville, TN 37617.

Office of the Executive Secretary, Foreign-Trade Zones Board, room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: December 16, 1993.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93-31386 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 660]

Shell Oil Co.; Grant of Authority for Subzone Status

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Grant of authority for subzone status: Shell Oil Company, (Oil Refinery/ Petrochemical Complex), Harris County, Texas.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Port of Houston Authority, grantee of Foreign-Trade Zone 84, for authority to establish a special-purpose subzone for the crude oil refinery and petrochemical complex of Shell Oil Company, in Harris County (Houston area), Texas, was filed by the Board on August 14, 1992, and notice inviting public comment was given in the Federal Register (FTZ Docket 28–92, 57 FR 38667, 8/26/92); and,

Whereas, the Board has found that the requirements of the Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 84J) at the Shell Oil Company refinery and petrochemical complex in Harris County (Houston area), Texas, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign crude oil or products used as fuel for the refinery shall be dutiable.

2. Shell shall elect privileged foreign status on foreign crude oil and other foreign products admitted to the subzone, except as indicated below.

3. Shell may elect nonprivileged foreign status with respect to foreign crude oil that is associated with sulfur by-product that results from the refining process, based on an appropriate allocation method to be determined by Customs. This initial approval is limited to a period of three years beginning from the date of activation, subject to extension.

Signed at Washington, DC, this 15th day of December 1993.

Barbara R. Stafford,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 93-31398 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-DS-P

[Docket 63-93]

Foreign-Trade Zone 185—Culpeper, Virginia; Application for Subzone; Merck & Co. Pharmaceutical Plant, Elkton, Virginia

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Culpeper County Chamber of Commerce, grantee of FTZ 185, requesting special-purpose subzone status for the pharmaceutical manufacturing facility of Merck & Co., Inc., (Merck) in Elkton, Virginia, adjacent to the Front Royal Customs port of entry area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on December 14, 1993.

Merck is one of the world's largest pharmaceutical manufacturers with nearly $9 billion in total sales in 1991. Its primary product lines include: patented prescription and over-the-counter pharmaceutical products, veterinary pharmaceuticals and agricultural and specialty chemicals. This proposal is part of an overall company cost reduction effort (Subzone status is being requested for seven other Merck facilities).

Merck's Elkton plant (1,330 acres, 624,221 sq. ft., 82 bldgs.) is located on Route 340S, in Elkton (Rockingham County), Virginia, some 20 miles east of Harrisonburg. The facility (780 employees) is used to produce a range of patented prescription products, including "Primaxin", a broad spectrum antibiotic, "Mefoxin", an antibiotic for lower abdominal pain, and "Pepcid" ulcer treatment. The plant also produces certain veterinary products sold by the company's AgVet Division. The company may produce pharmaceutical intermediates and/or raw materials at the plant in the future. Finished products are shipped to Merck's West Point, Pennsylvania, facility (FTZ application pending, FTZ Doc. 29–93, 58 FR 38749, 7/20/93) for U.S. distribution or export. Some 50 percent of production is exported.

Currently, foreign-sourced materials account for 2 to 12 percent of the finished product value and include the following specific ingredients: Acetoxy azetidinone, HP–20 resin dianon, SP–07 (brominated polysytrine resin), D-carboxamide, TAC (thienylacetyl chloride), P–TSC (Paratoluene-sulfonchloride), and famotidine. The company also may purchase from abroad items in the following general product categories: gums, starches, waxes, vegetable extracts, mineral oils, phosphoric acid, hydroxides, hydrazine and hydroxylamine, chlorides, phosphates, carbonates, hydrocarbons, alcohols, phenols, ethers, epoxides, acetals, aldehydes, ketone function compounds, mono- and polycarboxylic acids, phosphoric esters, amine-, carboxymide, nitrile- and oxygen-function compounds, heterocyclic compounds, sulfonamides, vitamins, hormones, sugars, antibiotics, gelatins, enzymes, color lakes, soaps and detergents, medicaments, and pharmaceutical products. The company may also source from abroad insecticides, rodenticides, fungicides and herbicides for the production of agricultural/veterinary products.

Zone procedures would exempt Merck from Customs duty payments on foreign materials used in production for export. On domestic sales, the company would be able to choose the duty rates that apply to the finished products (duty-free to 23.5%, most falling in the 3.0%–6.3% range). The duty rates on foreign-sourced items range from duty-free to 23.5 percent, with most falling in the 3.9%–7.9% range. The application indicates that the savings from zone procedures will help improve the firm's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is February 22, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to March 8, 1994).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Culpeper County Chamber of Commerce, 133 West Davis Drive, Culpeper, Virginia 22701.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: December 17, 1993.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 93-31385 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

[A-588-810]

Mechanical Transfer Presses From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 13, 1993, the Department of Commerce published the preliminary results and termination in part of the administrative review of the antidumping duty order on mechanical transfer presses from Japan. The review covers three manufacturers/exporters of subject merchandise to the United States and the period February 1, 1991, through January 31, 1992. We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner and two respondents. Based on our analysis, we have changed the final results from those presented in the preliminary results of review.

EFFECTIVE DATE: December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 47860) the preliminary results and termination in part of the second administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan (55 FR 5642, February 16, 1990). The Department has now completed the review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review include MTPs currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8462.99.0035 and 8466.94.5040. The HTS numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive.

For purposes of this review, the term "mechanical transfer presses" refers to automatic metal-forming machine tools with multiple die stations in which the workpiece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled.

The review covers three manufacturers/exporters of MTPs from Japan entered into the United States during the period February 1, 1991, through January 31, 1992. This review does not cover spare and replacement parts and accessories, which were determined to be outside the scope of the order. See "Final Scope Ruling on Spare and Replacement Parts," U.S. Department of Commerce, March 20, 1992. On November 23, 1993, the

Department determined that Aida's FMX series cold forging press is within the scope of the order. See "Final Scope Ruling—Antidumping Duty Order on Mechanical Transfer Presses from Japan: Aida Engineering, Ltd." We have included the FMX press in our analysis for these final results.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review, as provided by 19 CFR 353.38. We received comments from the petitioner, Verson Division of Allied Products Corp., and two respondents, Hitachi Zosen Corp. (Hitachi Zosen) and Aida Engineering, Ltd. (Aida).

Comment 1: The petitioner and Aida maintain that the Department should treat U.S. installation and installation supervision expenses as U.S. movement charges, rather than as an element of constructed value (CV) and a circumstance-of-sale adjustment to foreign market value (FMV). Aida states that the Department's treatment of installation supervision costs is inconsistent with the Department's own treatment of such costs in the investigation of sales at less than fair value (LTFV), in which the Department determined that installation supervision expenses were movement charges (55 FR 335, January 4, 1990).

The petitioner also reiterates the Department's position in the LTFV investigation, emphasizing that it is necessary to disassemble the MTPs for shipment and delivery and then to reassemble them at the customer's location, and that this procedure is a condition of shipment. The petitioner also argues that these expenses should be excluded from the calculation of CV because they occur after the MTP has been shipped to the United States and are not incurred to manufacture the MTP.

Department's Position: We agree with the petitioner and Aida that because disassembly and reassembly are necessary to deliver the merchandise, installation and related supervision expenses are movement charges. Therefore, we have deducted installation and installation supervision costs from Aida's U.S. price and excluded them from the calculation of CV.

Comment 2: Aida states that the Department should not have added interest expense to the CV calculation because Aida's short-term interest income exceeded Aida's interest expense. Although Aida did not provide separate listings of short-term and long-term interest income, it did identify short-term interest income by providing the terms of deposit for each item of interest income.

Department's Position: The company identified short-term interest income in its supplemental questionnaire response by indicating the terms of deposit using the Japanese calendar instead of the Gregorian calendar, used in the United States. Upon review of Aida's comments, we agree that Aida did identify interest that is short term in nature. This income exceeds the interest expense, and therefore we have excluded interest expense from the calculation of CV.

Comment 3: Aida argues that the Department should not have included certain non-operating expenses in CV. It claims its prior year consumption tax is a pass-through to the Japanese government and therefore not an expense. Aida maintains that the record does not identify any of the non-operating expenses to the production of MTPs. Finally, Aida contends that the Department should apply non-operating income to offset any non-operating expenses that it includes in general expenses; for example, leased asset expenses should be offset by rental revenue on properties.

Department's Position: We disagree with Aida in part. Although Aida claims that the consumption tax is a pass-through item, we note that Aida's income statement includes a small amount of consumption tax as a "special loss." Ordinarily, if such a tax is a pass-through item, it would not appear on the income statement. Therefore, we have included the amount found on the income statement as a special loss in computing CV. Regarding the non-operating expenses, there is nothing on the record to indicate they are unrelated to the subject merchandise. However, we do agree with respondent with respect to rental revenue, and have consequently offset lease expenses with this revenue.

Comment 4: Hitachi Zosen claims that the Department's recalculation of corporate general and administrative expenses (G&A) is erroneous because it included G&A that does not relate to the machinery division. The company maintains that the Department's allocation methodology deviates from Hitachi Zosen's normal accounting system, which does not allocate G&A expenses of all its divisions to the machinery division. Second, the company states that machinery headquarters' G&A and sales offices' selling expenses were separately calculated and are already included in CV; hence, the Department has double-counted these expenses.

Hitachi Zosen also claims that the Department's recalculation of corporate research and development (R&D) expenses is in error because it has included product-line R&D that has already been included in the cost of manufacturing (COM).

Department's Position: G&A expenses are general in nature and not specifically identified with particular administrative units. The CV should reflect the fully absorbed costs of the subject merchandise and thus include the general expenses of the company, not just those of certain divisions. Therefore, it is the Department's practice to allocate G&A across the entire company, even if the Department's methodology does not conform to the company's normal accounting system. See Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from Korea (54 FR 53141, December 27, 1989).

We agree that the machinery headquarters' G&A expense is part of the company's total G&A and, for these final results, have not separately added the machinery headquarters' G&A expenses to CV.

We do not agree with Hitachi Zosen's claim with respect to sales offices' selling expenses. Hitachi Zosen separately identified selling expenses on its income statement. Because there is no evidence that the sales offices' selling expenses were included in G&A, we decline to make this revision.

We also agree that our calculation of corporate R&D expenses should be revised to avoid double-counting product-line R&D that was already included in COM.

Comment 5: Hitachi Zosen submits that the Department erred in deducting export insurance expenses as a U.S. movement expense from U.S. price, and claims that the Department should add the amount of export insurance expenses to CV as a circumstance-of-sale adjustment. Hitachi Zosen states that the insurance in question insures exporters against the buyer's default in payment, not against loss or damage to the merchandise in transit, and therefore is a direct selling expense rather than a movement expense.

Department's Position: We agree in principle with Hitachi Zosen that this expense, as explained in Hitachi Zosen's comment, should be a direct selling expense; however, Hitachi Zosen has submitted no information for the record to substantiate this claim. Hitachi Zosen's questionnaire response states only that, "Hitachi Zosen considers this expense as a direct selling expense

• • •," but the response offers no explanation of the nature of the expense. See Hitachi Zosen's questionnaire response (section C), at page 17. Therefore, we have treated export insurance as we usually treat this expense, as a movement expense, and deducted it from U.S. price.

Comment 6: Hitachi Zosen has requested that the Department explicitly identify Fukui Machinery Co., Ltd., as covered by Hitachi Zosen's margin, if any, in these final results and in E-mail instructions to the Customs Service, because the Department collapsed these two related producers for sales reporting purposes.

Department's Position: We agree to state that both producers are covered by Hitachi Zosen's margin in these final results and in our instructions to the Customs Service.

In addition to the above changes resulting from our analysis of the comments received, we have adjusted the U.S. price for one sale by Aida to correct a clerical input error with respect to the supervision of installation charge.

Final Results of Review

As a result of our review, the Department has determined that the following margins exist for the period February 1, 1991, through January 31, 1992:

Manufacturer/exporter	Margin (percent)
Aida Engineering, Ltd.	0.87
Hitachi Zosen Corp.	[1] 0.00
Ishikawajima-Harima Heavy Industries	[2] 0.00

[1] Rate also applies to Fukui Machinery Co., Ltd.

[2] No shipments during the period. Rate is from the last final results of review for this company.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of MTPs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all others" rate established in the final notice of the LTFV investigation of this case, in accordance with the Court of International Trade's decisions in *Floral Trade Council* v. *United States*, Slip Op. 93–79, and *Federal Mogul Corporation and the Torrington Company* v. *United States*, Slip Op. 93–83. The all others rate is 14.51 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 16, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–31295 Filed 12–22–93; 8:45 am]

BILLING CODE 3510-DS-P

[A–570–806]

Silicon Metal From the People's Republic of China; Termination of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: In response to a request from Midland Export Ltd. (Midland), the Department of Commerce (the Department) initiated an administrative review of all exporters of this merchandise on September 30, 1993 for the period June 1, 1992 through May 31, 1993. We are now terminating this review.

EFFECTIVE DATE: December 23, 1993.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1993, the Department published in the Federal Register (58 FR 51053) a notice of initiation of administrative review of the antidumping duty order on silicon metal from the People's Republic of China at the request of an interested party, Midland. This notice stated that we would review all exports of this merchandise to the United States for the period June 1, 1992 through May 31, 1993.

On November 2, 1993, we requested additional information from Midland to bring its request into conformance with our regulations. Specifically, we requested that it clarify whether it was requesting the review under paragraphs (a)(1), (a)(2) or (a)(3) of 19 CFR 353.22. However, Midland failed to respond to our request.

Because of Midland's failure to respond to our request for additional information and the fact that no interested party other than Midland has requested an administrative review, a valid request for an administrative review of the antidumping duty order on silicon metal from the People's Republic of China has not been made, and we are terminating this review.

This termination is in accordance with 19 CFR 353.22(a).

Dated: December 15, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93-31398 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-DS-M

Department of Energy, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 93-076. *Applicant:* United States Department of Energy, Washington, DC 20585. *Instrument:* Fuel Cell Subsystem. *Manufacturer:* Fuji Electric Company, Japan. *Intended Use:* See notice at 58 FR 42940, August 12, 1993. *Reasons:* The foreign instrument provides a liquid-cooled phosphoric acid fuel cell with a net power output of 47.5 kW that is suitable for propulsion of a passenger bus prototype. *Advice Received From:* Jet Propulsion Laboratory, November 10, 1993.

Docket Number: 93-102. *Applicant:* University of Arizona, Tucson, AZ 85721. *Instrument:* Langmuir Blodgett Dipping Trough. *Manufacturer:* Riegler and Kirstein GmbH, Germany. *Intended Use:* See notice at 58 FR 49023, September 21, 1993. *Reasons:* The foreign instrument provides: (1) a trough area of 1200 cm^2, (2) a dipper with a 100 mm stroke and (3) a pressure measuring device. *Advice Received From:* National Institute of Standards and Technology, November 5, 1993.

Docket Number: 93-108. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Top-Loading Compact Dilution Refrigerator System, Model Kelvinox TLM. *Manufacturer:* Oxford Instruments, Inc., United Kingdom. *Intended Use:* See notice at 58 FR 49024, September 21, 1993. *Reasons:* The foreign instrument provides very rapid cooling of samples (from room temperature to 20 mK in three hours) and top-loading operation to maximize sample throughput. *Advice Received From:* National Institute of Standards and Technology, October 29, 1993.

Docket Number: 93-114. *Applicant:* National Renewable Energy Laboratory, Golden, CO 80401. *Instrument:* Automated Electron Microprobe, Model JXA-8900L/3CH/FCS. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 58 FR 51618, October 4, 1993. *Reasons:* The foreign instrument provides an intense electron beam to permit microvolume element analysis with large probe currents (10^{-12} to 10^{-5}A). Secondary image resolution of 6 nm at 35 kV. *Advice Received From:* National Institute of Standards and Technology, November 10, 1993.

The National Institute of Standards and Technology and Jet Propulsion Laboratory advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-31388 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-DS-F

Rutgers University; Decision on Application for Duty-free Entry of Scientific Instrument

This is a decision pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following docket.

Docket Number: 93-073. *Applicant:* Rutgers University, Fiber Optic Material Research Program, Brett & Bowser Road, Piscataway, NJ 08854. *Instrument:* Excimer Laser System, Model AQX-150. *Manufacturer:* MPB Technologies, Canada. *Date of Denial without Prejudice to Resubmission:* September 16, 1993.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-31390 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-DS-F

University of Minnesota, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 93-026R. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* (2) Microelectrode Pullers, Models PN-3 and PP-83 and (3) 3-D Micromanipulators, Model M-2. *Manufacturer:* Narishige Scientific Instrument Co., Japan. *Intended Use:* See notice at 58 FR 21973, April 26, 1993. *Reasons:* The foreign instrument provides micropipetts with 0.1 µm tips and patch-clamp microelectrodes with consistent reproducibility and a separate dedicated puller. *Advice Received From:* National Institutes of Health, October 21, 1993.

Docket Number: 93-113. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* Ultrafine Differential Mobility Analyzer. *Manufacturer:* Norlin & Persson AB, Sweden. *Intended Use:* See notice at 58 FR 51618, October 4, 1993. *Reasons:* The foreign instrument provides monodisperse ultrafine aerosols with particle diameters in the 3.0 to 20 nm range with large dimensions and flow rate to minimize diffusional broadening. *Advice Received From:* Department of Energy, November 16, 1993.

Docket Number: 93-118. *Applicant:* Lehigh University, Bethlehem, PA 18015-3188. *Instrument:* Multi-Sensor Core Logger. *Manufacturer:* GeoTek, Inc., United Kingdom. *Intended Use:* See notice at 58 FR 51618, October 4, 1993. *Reasons:* The foreign instrument provides high precision measurements of: (1) compressional (p-wave) velocities, (2) gamma ray attenuation and (3) magnetic susceptibility. *Advice Received From:* A private research organization, July 26, 1993 (comparable case).

Docket Number: 93-128. *Applicant:* University of Wisconsin-Madison, Madison, WI 53706. *Instrument:* Electron Microprobe, Model SX 50. *Manufacturer:* Cameca, France. *Intended Use:* See notice at 58 FR 55043, October 25, 1993. *Reasons:* The foreign instrument provides an intense electron beam to excite characteristic x-rays of a sample phase down to 1.6 µm area. *Advice Received From:* National Institute of Standards and Technology, November 10, 1993 (comparable case).

The National Institutes of Health, Department of Energy, a private research organization and National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-31389 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-DS-F

Washington University; Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following docket.

Docket Number: 93-031. *Applicant:* Washington University, St. Louis, MO 63130. *Instrument:* Flanged Tip Handling System with Additional Sensor System. *Manufacturer:* SIG Packaging Technologies, Ltd., United Kingdom.

Comments: None received. *Decision:* Denied. *Reasons:* To justify eligibility for duty exemption, the applicant states that:

> ... we are currently building robotic systems designed to automate several of the tasks involved in the analysis of DNA. The flanged tip handling system will be used to automatically supply labware to these robotic systems. Currently, the appropriate labware must be manually loaded into racks, at a significant labor cost. Pre-racked labware may be purchased, but at a substantial increase in cost. Therefore, automation of the labware presentation using the flanged tip handling system will allow the purchase of labware in bulk. The result is a reduction in costs as well as an increase in laboratory throughput.

Upon reviewing the application, the National Institutes of Health, in a memorandum submitted September 17, 1993, stated that:

> The article is an accessory to a "robotic system" for automating a laboratory procedure. Specifically, in orienting and feeding bulk plastic pipet tips. The article would appear to lack the properties of a scientific instrument as it produces no scientific data or information and would seem a convenience in laboratory mechanics, cost related.

The applicant's justification for duty waiver is deficient for the following reasons:

1. The foreign article is by its nature excluded from consideration as a scientific instrument. Pursuant to 15 CFR 301.2(f):

> The term "instruments" shall not include: (1) Materials or supplies used in the operation of instruments such as paper, cards, tapes, inks, recording materials, expendable laboratory materials, apparatus that loses identity or is consumed by usage or other material or supplies. (2) Ordinary equipment for use in building construction or maintenance; or * * * support equipment such as copying machines, glass working apparatus and film processors.

In describing the foreign apparatus, the applicant states that "The transportation vessels are plastic transparent *disposable* pipet tips" (response to Item 7.a(5), emphasis added). The foreign article thus serves no specific, direct scientific function; it serves only to deliver and resupply expendable laboratory materials that would be, if not cleaned and recycled in some manner, consumed by usage. Its role is analogous to that of glass working apparatus which is support equipment that furnishes laboratory glassware, such as flasks, tubes, and pipe on an as-needed basis.

Pursuant to 15 CFR 301.5(d)(1)(iii) duty-free entry is predicated upon a finding by the Director with respect to "* * * whether an instrument or apparatus of equivalent scientific value to such article, for the purposes for which the article is intended to be used, is being manufactured in the United States." Furthermore, 15 CFR 301.5(d)(1)(i) stipulates that "The determination of scientific equivalency shall be based on a comparison of the pertinent specifications of the foreign instrument with similar pertinent specifications of comparable domestic instruments." As defined by 15 CFR Part 301.2(s):

> "Pertinent" specifications are those specifications necessary for the accomplishment of the specific scientific research and/or science-related educational purposes described by the applicant. Specifications or features (even if guaranteed) which afford greater convenience, satisfy personal preferences, accommodate institutional commitments or limitations, or assure lower costs of acquisition, installation, operation, servicing or maintenance are not pertinent.

Because the applicant's justification is based solely on disallowed considerations such as lower costs and greater convenience in laboratory operations, and since no pertinent, scientifically relevant specifications or features are cited by the applicant, the Director is thereby precluded from making the requisite determination with respect to the "scientific equivalency" of the foreign article.

As provided, in part, by 15 CFR 301.5(e)(7):

> Information provided in a resubmission that * * * contradicts or conflicts with information provided in a prior submission, shall not be considered in making the decision on an application that has been resubmitted. Accordingly, an applicant may elect to reinforce an original submission by elaborating in the resubmission on the description of the purposes contained in a prior submission and may supply additional examples, documentation and/or other clarifying detail, *but the applicant shall not introduce new purposes or other material changes in the nature of the original application.* (Emphasis supplied.)

Because of the descriptions and explanations contained in the applicant's application, we conclude that a resubmission cannot establish, without introducing impermissible new purposes, that a scientifically equivalent domestic instrument is not available. We therefore deny the application.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-31391 Filed 12-22-93; 8:45 am]

BILLING CODE 3510-DS-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa and Quota Requirements for Certain Textile Products Produced or Manufactured in Various Countries and Re-Imported Following Repairs and Alterations

December 20, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa and quota requirements for goods re-imported after repairs or alterations.

EFFECTIVE DATE: December 20, 1993.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Effective on December 20, 1993 textile and apparel products which are produced or manufactured in various countries and entered into the United States for consumption and withdrawal from warehouse for consumption under existing visa and quota requirements are no longer subject to visa or quota requirements upon re-entry into the United States under Harmonized Tariff Schedule (HTS) numbers 9802.00.40 or 9802.00.50 after repairs or alterations.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements. This directive also amends, but does not cancel, all visa requirements for all countries for which visa arrangements are in place with the United States.

Effective on December 20, 1993 textile and apparel products which are produced or manufactured in various countries and entered into the United States for consumption and withdrawal from warehouse for consumption upon re-entry into the United States under Harmonized Tariff Schedule (HTS) numbers 9802.00.40 or 9802.00.50 are no longer subject to visa or quota requirements.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–31392 Filed 12–22–93; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DOD Advisory Group on Electron Devices

ACTION: Notice.

SUMMARY: Working Group C (Mainly Opto-Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday and Thursday, January 12–13, 1994.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED, Secretariat, 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: December 20, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–31346 Filed 12–22–93; 8:45 am]

BILLING CODE 3810-04-M

Defense Intelligence College Board of Visitors

AGENCY: Defense Intelligence Agency, Defense Intelligence College.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provision of Subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Defense Intelligence College Board of Visitors has been scheduled as follows:

DATES: Wednesday, 12 January 1994, 0900 to 1700; and Thursday, 13 January 1994, 0800 to 1300.

ADDRESSES: The DIAC, Washington, DC.

FOR FURTHER INFORMATION CONTACT: General Charles J. Cunningham, Jr., Lieutenant General, USAF (Ret.), Commandant, DIA Defense Intelligence College, Washington, DC 20340–5485 (202/373–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Defense Intelligence College.

Dated: December 20, 1993.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 93–31347 Filed 12–22–93; 8:45 am]

BILLING CODE 3810-04-M

DOD Advisory Group on Election Devices

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Election Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, 19 January 1994.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc. 2011 Crystal Drive, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Walter Gelnovatch, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: December 20, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–31344 Filed 12–22–93; 8:45 am]

BILLING CODE 3810-04-M

Office of the Secretary

DOD Advisory Group on Electron Devices

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, January 18, 1994.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 2011 Crystal Drive, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: December 20, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–31345 Filed 12–22–93; 8:45 am]

BILLING CODE 3810-04-M

Office of the Secretary of Defense

DOD Advisory Group on Electron Devices

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, January 20, 1994.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. app. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: December 20, 1993.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–31348 Filed 12–22–93; 8:45 am]

BILLING CODE 3810-04-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 93–5]

Maintaining Access to Nuclear Weapons Expertise in the Defense Nuclear Facilities Complex

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice; recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board (Board) has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 2286a dealing with maintaining access to nuclear weapons expertise in the defense nuclear facilities complex. The Board requests public comments on this recommendation.

DATES: Comments, data, views, or arguments concerning this recommendation are due on or before January 24, 1994.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri or Carole J. Morgan, at the address above or telephone (202) 208–6400.

Dated: December 20, 1993.

John T. Conway,

Chairman.

Dated: December 10, 1993.

The ongoing reduction in size of the stockpile of nuclear weapons and the related changes in the defense nuclear complex have a number of safety-related consequences. The Board has addressed several of its sets of recommendations to such problem areas, including 92–5, which concerned discipline of operations in a changing defense nuclear facilities complex, and 93–2, which stated a continued need for

VOL
58
ISS
245
DE
23
1993
UMI

capability to conduct critical experiments. We wish now to draw attention to the need to retain access to capability and capture the unique knowledge of individuals who have been engaged for many years in certain critical defense nuclear activities, in order to avoid future safety problems in these and related activities.

The first critical area requiring continued access to departing personnel is the disassembly of nuclear weapons at the Pantex site, an activity that will continue for a number of years. The second is the testing of nuclear explosives at the Nevada Test Site, an activity presently subject to a moratorium. However, the President, in establishing that moratorium, said that he has retained the possibility of later resumption of tests if that is needed, and that he expects the Department of Energy to maintain a capability to resume testing. In reaction to the recent Chinese underground test he has instructed the Department of Energy to take steps necessary to prepare for resumption, pending a decision as to whether further tests at the Nevada Test Site should be conducted.

A substantial amount of documentation exists on the design and safety aspects of nuclear weapons that will have to be dismantled at Pantex. This information is essential for the dismantlement program and is used in that program. Even so, the Board has pointed out that it is also important, for safety reasons, to involve individuals from the design laboratories of Los Alamos, Livermore, and Sandia in review of detailed dismantlement procedures and specialized procedures responding to problems encountered in the course of dismantlement. This practice has been initiated, and it has already been seen to be vital to safety assurance in the dismantlement program.

The design individuals from the laboratories most needed in connection with dismantlement of a specific weapon are those who had been active in the original design of that weapon. They are believed to possess information not recorded in documentation, such as reasons for specific design features, and personal knowledge of any problems that have arisen during design, fabrication, and stockpile life. Many of the remaining individuals with this background are being lost from the system, because of the University of California's recent retirement incentive, planned layoffs by contractors, and DOE downsizing and retirements. Some recent moves to prevent or discourage use of retired individuals as consultants compound the problem; they erect barriers that could prevent access to the needed expertise.

Similar problems also arise in connection with maintaining capability for testing of nuclear explosives at the Nevada Test Site. On the assumption that the testing moratorium will continue, we foresee an impairment of capability to ensure the safety of tests if national priorities call for resumption of testing at some future time. This impairment will occur both through reduction in competence that naturally follows when a highly skilled operation is not conducted over a long period of time, and through loss of skilled and experienced personnel. The loss of skilled personnel will be especially troubling because there has traditionally been a high degree of dependence on administrative controls for safety in testing of nuclear explosive devices at the Nevada Test Site. Proper exercise of these administrative controls requires considerable background in past methods of test emplacement and test conduct, and extensive institutional memory.

The Board recognizes the Department's efforts to develop a "stockpile stewardship" program focused to ensure the continued safety and reliability of fielded weapons, to ensure maintenance of laboratory development capability, and to ensure a limited production capability. Our areas of concern complement these necessary activities, but are focused instead on ensuring that capability is maintained to conduct testing operations safely if they must be done, and that all future dismantlement activities can be completed safely. Although it may be relatively straightforward to maintain these capabilities in the near term, ensuring their availability 5 to 20 years in the future may be very difficult.

In accordance with the above concerns, the Board makes the following recommendations:

(1) That a formal process be started to identify the skills and knowledge needed to develop or verify safe dismantlement or modification procedures specific to all remaining types of U.S. nuclear weapons (retired, inactive, reserve, and enduring stockpile systems). Included among the skills and knowledge should be the ability to conduct relevant safety analyses.

(2) That a similar formal process be started to identify the skills and knowledge needed to safely conduct nuclear testing operations at the Nevada Test Site, including the processes of assembly/disassembly, on-site transportation, insertion/emplacement, arming and firing, timing and control, and post-shot operations. Included among the skills and knowledge should be the ability to conduct relevant safety analyses.

(3) That a practice be instituted of reviewing the personnel losses at the nuclear weapons laboratories and the Nevada Test Site, as well as the losses of key personnel from DOE's own staff engaged in nuclear defense activities, to ascertain which of the skills and knowledge are projected to be lost through departure of personnel.

(4) That DOE and its defense nuclear contractors negotiate the continued availability (through retention, hiring, consulting, etc.) of those personnel scheduled to depart whose skills and knowledge have been determined to be important in accordance with the above.

(5) That programs be initiated to obtain from these expert personnel (and to record) the as yet undocumented anecdotal technical information that would be of value in augmenting the technical knowledge and expertise of successor personnel. This should be done either prior to departure of the retiring personnel or shortly thereafter.

(6) That procedures for safe disassembly of weapons systems be developed while the personnel with system-specific expertise on the original development of the weapons are still available. Likewise, analyses of the possibility of hazard from degradation of remaining nuclear weapons with time should be expedited, while these individuals are available. In addition, the current participation of design laboratory experts in the safety aspects of disassembly of weapons at the Pantex Site should be strengthened.

(7) That a program be developed and instituted for maintaining expertise in operations key to safety of nuclear testing at the Nevada Test Site, to ensure that if testing is resumed at any future time, it can be performed with requisite safety. Possible components are those activities and experiments that would be permitted within limitations of treaties being discussed, for example: Hydronuclear tests, backdrilling for isotopic analysis of residues from old shots, and exercises including steps in preparation for tests, up to actual emplacement.

(8) Given the loss of experienced personnel, that a determination be made as to whether traditional dependence on administrative controls to ensure nuclear explosive safety at the Nevada Test Site would be adequate and appropriate if nuclear testing should be resumed at a later time. It may be found necessary to develop an approach for ensuring nuclear explosive safety in the testing program that is less dependent on the performance of highly experienced personnel, such as through the use of engineered safeguards similar to those used in fielded weapons as part of the arming and firing, and timing and control systems.

John T. Conway,
Chairman.

December 10, 1993.

The Honorable Hazel R. O'Leary, Secretary of Energy, Washington, DC 20585

Dear Secretary O'Leary: On December 10, 1993, the Defense Nuclear Facilities Safety Board, in accordance with 42 U.S.C. 2286a(5), unanimously approved Recommendation 93–6 which is enclosed for your consideration. Recommendation 93–6 deals with Maintaining Access to Nuclear Weapons Expertise in the Defense Nuclear Facilities Complex.

42 U.S.C. 2286d(a) requires the Board, after receipt by you, to promptly make this recommendation available to the public in the Department of Energy's regional public reading rooms. The Board believes the recommendation contains no information which is classified or otherwise restricted. To the extent this recommendation does not include information restricted by DOE under the Atomic Energy Act of 1954, 42 U.S.C. 2161–68, as amended, please arrange to have this recommendation promptly placed on file in your regional public reading rooms.

The Board will publish this recommendation in the Federal Register.

Sincerely,

John T. Conway,
Chairman.

[FR Doc. 93–31351 Filed 12–22–93; 8:45 am]

BILLING CODE 6820–KD–M

DEPARTMENT OF EDUCATION

The State Vocational Rehabilitation Services Program, Supported Employment Programs, Independent Living Programs, and Other Programs Administered by the Rehabilitation Services Administration

AGENCY: Education.

ACTION: Notice of request for public comment.

SUMMARY: The Secretary provides notice that the Department intends to undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973, as amended (the Act), 29 U.S.C. 701 *et seq.*, particularly data on clients of The State Vocational Rehabilitation Services Program under Title I–B and The State Supported Employment Services Program under Title VI–C of the Act. This review is undertaken to comply with a requirement in section 140 of the Act.

The Secretary is publishing this notice to solicit public comment, particularly comment from State vocational rehabilitation agencies, State rehabilitation advisory councils, State independent living advisory councils, providers of vocational rehabilitation, supported employment, and independent living services, professionals in the field of vocational rehabilitation, individuals receiving services under the Act and organizations representing these individuals, the National Council on Disability, other Federal agencies, non-Federal researchers, and other analysts using the data, regarding the range of purposes that the data serve at the Federal, State, and local levels and the kind, quantity, and quality of data that are currently collected.

DATES: Comments must be received on or before February 22, 1994.

ADDRESSES: All comments concerning this notice should be addressed to William L. Smith, U.S. Department of Education, 400 Maryland Avenue, SW., room 3028, Switzer Building, Washington, DC. 20202–2899.

FOR FURTHER INFORMATION CONTACT: Hubert Davis, U.S. Department of Education, 400 Maryland Avenue, SW., room 3018, Switzer Building, Washington, DC. 20202–2899. Telephone: (202) 205–8299. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5896.

SUPPLEMENTARY INFORMATION:

Statutory Provisions and Legislative History

The Act contains eight titles authorizing a number of programs to provide services to individuals with disabilities, especially individuals with severe disabilities, so they may maximize their employment, economic self-sufficiency, independence, and inclusion and integration into society. The Rehabilitation Services Administration (RSA) administers programs authorized by Titles I, III, V, VI, VII, and VIII of the Act.

Numerous provisions in the Act and the Education Department General Administrative Regulations (EDGAR) require State vocational rehabilitation (VR) agencies and other grantees to report on activities conducted and services provided under the programs authorized and funded under the Act. Section 13 of the Act, in particular, requires the collection of detailed information on each vocational rehabilitation client.

Section 136 of the Rehabilitation Act Amendments of 1992 (the 1992 Amendments), Public Law 102–569, enacted October 29, 1992, requires the Commissioner of RSA to undertake a comprehensive review of the current system for collecting and reporting client data under the Act, particularly data on clients of the programs under Title I of the Act. The Rehabilitation Act Amendments of 1993, enacted August 11, 1993, codified section 136 of the 1992 Amendments as section 140 of the Act. Approximately 90 percent of the client data collected under the Act are collected under the VR services program under Title I of the Act. This is by far the largest program under the Act, and it also has the largest number of mandatory reporting requirements. The Secretary, therefore, is particularly interested in receiving comments about client data collection for the VR services program. These data have the greatest potential for use in planning, program management, and assessing program results, because the relative richness of the data makes extensive comparison and analysis possible. The Secretary is interested in receiving comments about the extent to which users of these data consider them appropriate and useful in the overall administration of the program and in supporting judgments about the costs, benefits, and accountability of the program at the Federal, State, and local levels. The Secretary is interested in receiving comments describing the extent to which these data, when collected, are analyzed and used as a basis for decisionmaking by the interested parties described previously. The Secretary also is particularly interested in receiving similar comments on the closely related supported employment formula grant program under Title VI of the Act. This program has been growing rapidly, but client data collection and analysis are in the early stages of development, and there is not yet a clear understanding of the data elements that may be associated with the best measures of program performance. The Secretary, however, will consider comments about data collection, data analysis, and the use of the client data for any program under the Act administered by RSA, including discretionary grant programs reporting data under the requirements of EDGAR.

In conducting the review, the Commissioner is required to examine the kind, quantity, and quality of the client data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

Section 140 of the Act also requires that, if the information can be obtained, the Commissioner examine the feasibility of collecting and reporting the following:

VOL 58 ISS 245 DEC 23 1993 UMI

(a) Other program participation by clients during the three years prior to application for VR services;
(b) The number of jobs held, hours worked, and earnings received in the three years prior to application to a program under the Act;
(c) The types of major and secondary disabilities of clients;
(d) The dates of the onset of disabilities of clients;
(e) The severity of the disabilities of clients;
(f) The sources of referral of clients to programs under the Act;
(g) The hours worked by clients;
(h) The size and industry code of the place of employment of clients at the time of entry into such a program and at the termination of services under the program;
(i) The number of services provided under the programs and the cost of each service;
(j) The types of public support received by the clients;
(k) The primary sources of economic support and amounts of public assistance received by the clients before and after receiving VR services;
(l) Whether the clients are covered by health insurance from any source and whether health insurance is available through the employment of the client;
(m) The supported employment status of the client; and
(n) The reasons for terminating the VR services.

The Secretary notes that some of these data elements are currently required to be collected under the Act; others, such as prior work history under item (b) in the previous listing, are not.

The Secretary is interested in determining whether and how the information obtained through these data elements may be used to improve the efficiency, effectiveness, and accountability of the programs, taking into consideration the burden of collecting and reporting the client data. The Secretary is particularly interested in receiving comments about the desirability of establishing, through rulemaking, definitions of data elements considered for reporting that might improve data reliability and validity. The Secretary also is interested in receiving comments about the potential value of the data elements for measuring the quality of rehabilitation outcomes. The Secretary is interested in comments about collecting data on the severity of disability. (Although the term "severe" or a form of that term (e.g., severity) is used throughout this notice, the Department published a notice of proposed rulemaking in the Federal Register on October 27, 1993 (58 FR 57938), proposing to change the term "severe" in all its forms to "significant" in referring to an individual's disability if this change would not alter the meaning of the reference.) Under section 101(a)(5)(A) the Act, those individuals with the most severe disabilities must be identified if an order of selection for services is in use, because the order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe disabilities in accordance with criteria established by the State. Also, under section 101(a)(35) of the Act, States must describe in the State plan for vocational rehabilitation services how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used by the State facilitates serving individuals with the most severe disabilities, among others. The Secretary is interested in comments concerning the identification and collection of data needed to support the administration and monitoring of these provisions of the Act.

Based on the review, the Commissioner will recommend improvements in the data collection and reporting system not later than 18 months after the date of enactment of the 1992 Amendments, publish the recommendations in the Federal Register, and prepare and submit a report containing the recommendations to the appropriate committees of Congress, as required by section 140 of the Act.

SUMMARY OF CURRENT REPORTING OF CLIENT DATA

Program	Database	Report title
Vocational Rehabilitation Services	• RSA-911	Case Service Report.
	• RSA-113	Quarterly Cumulative Caseload Summary.
	• RSA-62	Annual Report on State VR Agency Post-Employment Services and Annual Reviews.
	• RSA-722	Resolution of Applicant/Client Appeals.
	• RSA-2	Annual Vocational Rehabilitation Program/Cost Report.
Client Assistance	• RSA-227	Annual Client Assistance Program Report.
Supported Employment (Formula)	• RSA-636	Annual Supported Employment Caseload Report.
Independent Living—Part B	• RSA-7A	Annual Report on State Agency Services for Independent Living, title VII Part B Services.
Projects With Industry	• RSA-PWI Indicators	Reporting form for Projects With Industry (PWI) Indicators.
Independent Living-C, Independent Living-D	None	Reporting as required for RSA grantee continuations under EDGAR.
Supported Employment (Discretionary)	None	Reporting as required for RSA grantee continuations under EDGAR.
Training	None	Do.
Special Demonstrations	None	Do.
Recreation	None	Do.
Migrants	None	Do.
Grants to Indian Tribes	None	Do.
Special projects for Persons with Severe Disabilities	None	Do.

All presently approved RSA data collections are based on Rehabilitation Act provisions prior to the 1992 Amendments. New data collection packages will be developed concurrently with the development of new program regulations, as needed. For purposes of background, this notice provides the following summary information on the content of some of the larger client data collections:

(a) RSA–911 *Case Service Report.* This system of data includes information about the personal and program-related characteristics of individuals with disabilities whose cases are closed out each year by State VR agencies as being rehabilitated, not rehabilitated, or not accepted for services. The RSA–911 is based on section 13 of the Act.

The report contains data elements grouped in six general categories of information. The data elements, including derivable information, are as follows, by category:

(1) Client Demographics

- Date of Birth.
- Age at Application (App.).
- Age at Closure.
- Sex.
- Race.
- Hispanic Origin.
- Highest Grade Completed.
- Marital Status.
- Veterans Status.

(2) Types of Disabilities

- Major Disabling Condition.
- Secondary Disabling Condition.
- Severity of Disability.
- Causes of Disabilities.

(3) Economic Status at Application

- Work Status at Application.
- Earnings at Application.
- Hours Worked at Application.
- Hourly Wage Rate at App.
- Attainment of Federal Minimum Wage at Application.
- Medical Insurance at Application.
- Migratory Agricultural Worker.
- Working Full or Part-time at Application.
- Type of Public Support.
- Monthly Public Assistance ($) at App.
- Type of Institution (if applicable).
- Medical Insurance on Job at Application.
- Primary Source of Support at Application.

(4) Interaction with the Rehabilitation Process

- Type of Facility or Agency Furnishing Services.
- Previous Closure Status.
- Projects With Industry.
- Supported Employment Status.
- Date of Closure.
- Services Provided.
- Cost of Purchased Services.
- Source of Referral.
- Months Spent in VR Process.

(5) Rehabilitation Outcomes

- Type of Closure.
- Occupation at Closure.
- Weekly Earnings at Closure.
- Hourly Wage Rate at Closure.
- Monthly Public Assistance ($) at Closure Outcome.
- Medical Insurance Available on Job at Closure.
- Work Status at Closure.
- Attainment of Federal Minimum Wage Rate at Closure.
- Hours Worked at Closure.
- Primary Source of Support at Closure.
- Working Full or Part-Time.
- Supported Employment.
- Medical Insurance Coverage at Closure.
- Reason for Closure.

(6) Identifying Information

- Agency Code.
- Multiple Closure Code.
- Social Security Number.

(b) RSA–113 *Quarterly Cumulative Caseload Summary.* This report contains quarterly reports from State VR agencies containing aggregate data on the number of applicants for the VR services program, the number accepted and not accepted for VR services, the number of persons in extended evaluation (as provided for in section 102(a)(4)(B) of the Act), the number of persons in the active client caseload (those "served"), the number successfully rehabilitated, and those whose cases were closed as not rehabilitated.

(c) RSA–62 *Annual Report on State VR Agency Post-Employment Services and Annual Reviews.* This report contains aggregate annual data on the number of rehabilitated persons receiving post-employment services (services provided to persons with disabilities after they have been employed 60 days and their cases have been closed as rehabilitated), by severity of disability; the number of ineligibility determination reviews conducted by State VR agencies and the number resulting in acceptance for services; and the number of reviews of individuals originally placed into sheltered workshops and the number who could later be placed into competitive and self-employment.

(d) RSA–722 *Resolution of Applicant Client Appeals.* This report contains aggregate data on the number of appeals to the impartial hearing officer and to the State Director; the types of complaints and the issues involved; the number of decisions by the State Director reversing in whole or in part the decision of the impartial hearing officer; and the number of decisions affirming the position of the individual with a disability assisted through the client assistance program.

(e) RSA–2 *Annual Vocational Rehabilitation Program/Cost Report.* This report contains aggregate cost data on the distribution of total vocational rehabilitation expenditures; expenditures by category (administration, counseling and guidance, services purchased for individuals, community rehabilitation program establishment, construction, other); amounts spent on purchasing services for individuals, by type of vender; amounts spent on purchasing services for individuals, by type of service; amounts spent on purchasing training services for individuals, by type of training; distribution of State VR agency staff, by type of agency; number of clients receiving services paid for by State VR agencies by type of service; and clients receiving training services paid for by State VR agencies, by type of training.

(f) RSA–636 *Annual Supported Employment Caseload Report.* This report provides annual aggregate data on the number of persons in supported employment (as defined in section 7(18) of the Act) served under Title VI-C, the number rehabilitated that are employed in competitive employment, the number rehabilitated and employed although not in competitive employment, and the number not rehabilitated.

Invitation to Comment

The Secretary is interested in receiving public comment on the current system for collecting and reporting client data under the Rehabilitation Act, including the purposes for which the data are used; the methods of reporting, by aggregate or by individual client; the burden attached to various methods of reporting; the kind, quantity, and quality of data in current reports and ways in which the quality of data can be improved; and ways in which the form of the current reports can be improved. The Secretary is particularly interested in receiving comment describing how client data are being used or could be used in conjunction with other data sets, such as State and Federal financial data, data from statewide studies, program evaluations, and needs assessments, and data from other government agencies and private nonprofit organizations to improve the planning and administration of the public rehabilitation program. The Secretary is interested in receiving comments concerning collecting data on the severity of disability, as described in the SUPPLEMENTARY INFORMATION section of this notice.

Comments are also requested on the data elements identified in section 140 of the Act, which are required to be examined for feasibility of collecting and reporting. The data elements in paragraphs (c), (e), (f), (g), (j), (k)-(l), (m), and (n) of section 136 are presently collected in current reports. Comments

VOL 58 ISS 245 DE 23 1993 UMI

are requested on the feasibility of collecting the remaining data elements that are not in current reports, how they would best be reported, the purposes for which the data are or would be used, and the burden that would be imposed by collecting and reporting the data.

Copies of the RSA client data collection packages currently approved by the Office of Management and Budget and all comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3018, 330 C Street SW., Washington DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays. Copies of the RSA data collection packages and comments will be sent to persons outside the Washington, DC area upon request by calling (202) 205–9361 or by writing to the address listed previously in this section.

(Authority: 29 U.S.C. 726)

Dated: December 17, 1993.

Richard W. Riley,

Secretary of Education.

[FR Doc. 93–31297 Filed 12–22–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Richland Operations Office; Issuance of Grant to State of Oregon Department of Energy

AGENCY: Richland Operations Office, Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy, Richland Operations Office, announces that pursuant to paragraph A of 10 CFR 600.7(b)(2)(i), it intends to issue a noncompetitive grant award to the State of Oregon Department of Energy. The award is planned for a five (5) year project cycle, consisting of five (5) separately funded one (1) year budget periods. The initial budget is estimated at $400,000.

FOR FURTHER INFORMATION CONTACT: Melanie P. Fletcher, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, Washington 99352, Telephone: (509) 376–4828.

SUPPLEMENTARY INFORMATION:

Grant Award Number: DE–FG06–94RL12603.

Scope of Project: The proposed financial assistance award is a grant to the State of Oregon Department of Energy to fund Hanford Technical Review and Public Information activities related to the Five Year Plan. These activities will include technical peer review, review of transport plans and procedures, review of federal public information plans, execution of an Oregon public involvement plan, and Oregon emergency preparedness for potential incidents at Hanford.

The State of Oregon is currently under a contractual arrangement with the Department of Energy Richland Operations Office for review activities related to the Hanford Site. It has been determined that a financial assistance instrument is a more appropriate mechanism for funding these types of activities. As the State of Oregon Department of Energy is already performing review activities related to the Hanford Site, competition is not appropriate and would have an adverse effect on the continuity of this activity.

Dated: December 3, 1993.

Robert D. Larson,

Director, Procurement Division, Richland Operations Office.

[FR Doc. 93–31363 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Energy.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed by January 24, 1994. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFORMATION: The first energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–423
3. 1902–0024
4. Cost and Quality of Fuels for Electric Plants
5. Extension
6. Monthly
7. Mandatory
8. State or local governments, Businesses or other for-profit, Federal agencies or employees, and Non-profit institutions
9. 750 respondents
10. 12 responses
11. 2 hours per response
12. 18,000 hours
13. This form is used to gather information on the cost and quality of fuels delivered to electric power plants. The responses are used to evaluate individual utility costs and fuel buying practices in rate cases, and in the required public reviews to insure efficient use of resources. The data are also used to certify small power production facilities and cogeneration plants under the Commission's QF program.

The second energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–585
3. 1902–0138
4. Reporting of Electric Energy Shortages and Contingency Plans
5. Extension
6. On occasion (when shortage is anticipated)
7. Mandatory
8. Businesses or other for-profit
9. 6 respondents
10. 1 response per respondent
11. 76 hours per response
12. 456 hours
13. FERC–585 will be used to formulate options and recommendations for Commission consideration and action should shortages affecting reporting public utilities occur, and to determine if statute provisions for equitable customer treatment are satisfied.

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. 96–511), which amended chapter 35 of title 44 United States Code (See 44 U.S.C. 3506 (a) and (c)(1)).

Issued in Washington, DC, December 15, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93–31374 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–P

Crude Oil and Refined Petroleum Product; Proposed Revision to Information

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of proposed revision to the crude oil and refined petroleum product information currently published in the Petroleum Marketing Monthly, DOE/EIA–0380, and Petroleum Marketing Annual, DOE/EIA–0487, by the Energy Information Administration and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) is conducting a consultation to provide the public, industry, State agencies, and other Federal agencies with an opportunity to comment on proposed revisions to the crude oil and refined petroleum product information published by the EIA. This consultation will help to ensure that the public and interested organizations are aware of proposed changes in the information published and have an opportunity to comment. The EIA is proposing to modify the publications Petroleum Marketing Monthly, DOE/EIA–0380, and Petroleum Marketing Annual, DOE/EIA–0487 by adding new product categories, expanding sales categories, and eliminating the publication of leaded gasoline and some seller type categories beginning with the January 1994 issue of the Petroleum Marketing Monthly.

DATES: Written comments should be submitted within 30 days of the publication of this notice. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible. Persons interested in reviewing the new table designs for the January 1994 issue of the Petroleum Marketing Monthly should contact Ms. Claudia Hernandez at (202) 586–6559 for copies.

ADDRESSES: Send comments to Dr. John S. Cook, Director, Petroleum Marketing Division, Mail Stop 2H–058 EI–43, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. (202) 586–5214, fax (202) 586–4913.

FOR FURTHER INFORMATION: Requests for additional information should be directed to Dr. John S. Cook at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the Energy Information Administration is obliged to carry out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The Petroleum Marketing Program Surveys collect information on costs, sales, prices, and distribution of crude oil and petroleum products. The data are published in the Petroleum Marketing Monthly, DOE/EIA–0380, and Petroleum Marketing Annual, DOE/EIA–0487, as well as in other EIA reports and publications.

II. Current Actions

EIA modified the petroleum marketing data collection forms to measure changes in petroleum markets due to the Clean Air Act Amendments of 1990, to provide more relevant crude oil and propane price data, to increase reporting accuracy, and to reduce ambiguity in the instructions. The changes are summarized below:

1. Form EIA–782A, "Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report" and Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."

- Oxygenated and reformulated gasoline were added to the product slate.
- The wholesale gasoline sales column was expanded to include "Dealer Tank Wagon," "Rack," and "Bulk" sales.
- The No. 2 diesel category was split into "No. 2 diesel less than or equal to .05 percent sulfur" and "No. 2 diesel greater than .05 percent sulfur."
- Propane sales type categories were added to include residential, commercial/institutional, industrial, company-operated outlets, petrochemical, other retail, and wholesale sales.
- The sales category "leaded regular motor gasoline" was discontinued.

2. Form EIA–782C, "Monthly Report of Petroleum Products Sold into States for Consumption."

- Oxygenated and reformulated gasoline were added to the product slate.
- No. 2 diesel category was split into "No. 2 diesel less than or equal to .05 percent sulfur" and "No. 2 diesel greater than .05 percent sulfur."
- The sales category "leaded regular motor gasoline" was discontinued.

3. Form EIA–182, "Domestic Crude Oil First Purchase Report"

- First purchases of domestic crude oil by crude stream was added.

As a result of these changes to the survey forms, the EIA is proposing changes to the Petroleum Marketing Monthly, DOE/EIA–0380, and Petroleum Marketing Annual, DOE/EIA–0487, publications. The EIA is also taking this opportunity to re-examine the uses of these petroleum marketing data.

Comments are requested on the following proposed changes to the monthly publication Petroleum Marketing Monthly, DOE/EIA–0380, and annual publication Petroleum Marketing Annual, DOE/EIA–0487:

A. Elimination of leaded gasoline information.

B. Elimination of tables and data series which show sales by seller type,

i.e., major refiners, other refiners, and resellers.

C. The following new data series will be added to the publication tables:

1. Prices of domestic purchases of crude oil by selected crude streams within State.

2. Gasoline price and refiner volume data for conventional, oxygenated, and reformulated gasoline.

3. Wholesale prices and volumes of gasoline separated by dealer tank wagon, rack, and bulk sales.

4. Diesel fuel sales separated into low and high sulfur categories.

5. Expanded propane sales categories to include residential, commercial/institutional, industrial, company-operated outlets, petrochemical, other retail, and wholesale sales.

A data continuity analysis will be conducted that will consider the deletion of leaded gasoline, the addition of a supplemental propane sample to the EIA–782B survey, and the breakout by types of gasoline and detailed wholesale categories. The analysis will include backcasting to account for changes in the data series.

III. Request for Comments

Users of EIA's petroleum marketing information and other interested parties should comment on the proposals outlined above. The following general guidelines are provided to assist in the preparation of responses. Please be specific in your comments with regard to the proposed modifications.

A. Do you use the data proposed for elimination from the publications? (Be specific as to which data you use.)

B. For what purpose(s) do you use the data? Be specific.

C. What effect would there be on you if the data were no longer published?

D. Are there alternate sources of data? If so: (1) How do you use them; (2) what are their deficiencies; (3) what are their strengths; and (4) what effect, if any, will the use of the alternative data have on you?

E. Will the data in the proposed new tables meet your uses for petroleum marketing information?

F. Do you have alternative proposals for collecting or for publishing information to aid in the analysis of petroleum marketing issues other than the information proposed in the new tables?

Comments submitted in response to this notice will be considered a matter of public record and will be used by EIA to determine whether to continue publishing the data indicated for deletion.

Statutory Authorities: Section 2(a) of the Paperwork Reduction Act of 1980, as amended, Public Law 96–511, which amended Chapter 35 of title 44 United States Code (See 44 U. S. C. 3506(a) and (c)(1).

Issued in Washington, DC, December 16, 1993.

Jay E. Hakes,

Administrator, Energy Information Administration.

[FR Doc. 93–31375 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

[Case No. F–060]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver from the Furnace Test Procedure to Amana Refrigeration, Inc.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–060) granting a Waiver to Amana Refrigeration, Inc. (Amana) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Amana its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its GBI line of induced draft furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Amana has been granted a Waiver for its GBI line of induced draft furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Amana filed a "Petition for Waiver," dated July 9, 1993, in accordance with § 430.27 of 10 CFR part 430. The Department published in the Federal Register on September 29, 1993, Amana's petition and solicited comments, data and information respecting the petition. 58 FR 50906. Amana also filed an "Application for Interim Waiver" under § 430.27(g) which DOE granted on September 17, 1993. 58 FR 50908, September 29, 1993.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with the Federal Trade Commission (FTC) concerning the Amana Petition. The FTC did not have any objections to the issuance of the waiver to Amana.

Assertions and Determinations

Amana's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Amana requests the allowance to test using a 30-second blower time delay when testing its GBI line of induced draft furnaces. Amana states that since the 30-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 0.8 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Amana indicates that it is unable to take advantage of any of these exceptions for its GBI line of induced draft furnaces.

Since the blower controls incorporated on the Amana furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Amana GBI line of induced draft furnaces. Accordingly, with regard to testing the GBI line of induced draft furnaces, today's Decision and Order exempts Amana from the existing provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by Amana Refrigeration, Inc. (Case No. F–060) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR part 430, subpart B, Amana Refrigeration, Inc., shall be permitted to test its GBI line of induced draft furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−), unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t−), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Amana Refrigeration, Inc. shall comply in all respects with the test procedures specified in Appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the GBI line of induced draft furnaces manufactured by Amana Refrigeration, Inc.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective December 17, 1993, this Waiver supersedes the Interim Waiver granted the Amana Refrigeration, Inc. on September 17, 1993. 58 FR 50906, September 29, 1993 (Case No. F–060).

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 93–31376 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–P

[Case No. F–061]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Carrier Corp.

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–061) granting a Waiver to Carrier Corporation (Carrier) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Carrier its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its 58TUA/330AAV and 58TMA/331AAV lines of induced draft furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel,

VOL
58
ISS
245
DE
23
1993
UMI

Mail Station GC-41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Carrier has been granted a Waiver for its 58TUA/330AAV and 58TMA/331AAV lines of induced draft furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, December 15, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, and the Energy Policy Act of 1992 (EPAct), Public Law 102-486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Carrier filed a "Petition for Waiver," dated August 3, 1993, in accordance with section 430.27 of 10 CFR part 430. The Department published in the **Federal Register** on September 29, 1993, Carrier's petition and solicited comments, data and information respecting the petition. 58 FR 50910. Carrier also filed an "Application for Interim Waiver" under section 430.27(g) which DOE granted on September 17, 1993. 58 FR 50910, September 29, 1993.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Carrier Petition. The FTC did not have any objections to the issuance of the waiver to Carrier.

Assertions and Determinations

Carrier's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Carrier requests the allowance to test using a 45-second blower time delay when testing its 58TUA/330AAV and 58TMA/331AAV lines of induced draft furnaces. Carrier states that since the 45-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 6.0 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Carrier indicates that it is unable to take advantage of any of these exceptions for its 58TUA/330AAV and 58TMA/331AAV lines of induced draft furnaces.

Since the blower controls incorporated on the Carrier furnaces are designed to impose a 45-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 45-second blower time delay when testing the Carrier 58TUA/330AAV and 58TMA/331AAV lines of induced draft furnaces. Accordingly, with regard to testing the 58TUA/330AAV and 58TMA/331AAV lines of induced draft furnaces, today's Decision and Order exempts Carrier from the existing provisions regarding blower controls and allows testing with the 45-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by Carrier Corporation (Case No. F-061) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR part 430, subpart B, Carrier Corporation, shall be permitted to test its 58TUA/330AAV and 58TMA/330AAV lines of induced draft furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in *ANSI/ASHRAE* Standard 103-82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of *ANSI/ASHRAE* Standard 103-82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Carrier Corporation shall comply in all respects with the test procedures specified in Appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the 58TUA/330AAV and 58TMA/AAV lines of induced draft furnaces manufactured by Carrier Corporation.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective December 15, 1993, this Waiver supersedes the Interim Waiver granted the Carrier Corporation on September 17, 1993. 58 FR 50908, September 29, 1993 (Case No. F-061).

Issued in Washington, DC, December 15, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 93-31373 Filed 12-22-93; 8:45 am]

BILLING CODE 6450-01-P

[Case No. F-062]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Carrier Corporation

AGENCY: Office of Energy Efficiency and Renewable Energy, Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F-061) granting a Waiver to Carrier Corporation (Carrier) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Carrier its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its 58MXA/350MAV, 58MCA/MAV, and 490AAV lines of induced draft furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE-431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-7140.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586-9507.

Carrier Petition. The FTC did not have any objections to the issuance of the waiver to Carrier.

Assertions and Determinations

Carrier's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Carrier requests the allowance to test using a 60-second blower time delay when testing its 58MXA/350MAV, 58MCA/340MAV, and 490AAV lines of induced draft furnaces. Carrier states that since the 60-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 1.0 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Carrier indicates that it is unable to take advantage of any of these exceptions for its 58MXA/350MAV, 58MCA/340MAV, and 490AAV lines of induced draft furnaces.

Since the blower controls incorporated on the Carrier furnaces are designed to impose a 60-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 60-second blower time delay when testing the Carrier 58MXA/350MAV, 58MCA/340MAV, and 490AAV lines of induced draft furnaces. Accordingly, with regard to testing the 58MXA/350MAV, 58MCA/340MAV, and 490AAV lines of induced draft furnaces, today's Decision and Order exempts Carrier from the existing provisions regarding blower controls and allows testing with the 60-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by Carrier Corporation (Case No. F–062) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, Carrier Corporation, shall be permitted to test its 58MXA/350MAV, 58MCA/340MAV, and 490AAV lines of induced draft furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−), unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t−), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ± 0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Carrier Corporation shall comply in all respects with the test procedures specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the 58MXA/350MAV, 58MCA/340MAV, and 490AAV lines of induced draft furnaces manufactured by Carrier Corporation.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective December 23, 1993, this Waiver supersedes the Interim Waiver granted the Carrier Corporation on September 17, 1993. 58 FR 50910, September 29, 1993 (Case No. F–062).

Issued in Washington, DC, December 15, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 93–31372 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–P

[Case No. F–050]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to The Ducane Co. Inc.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–050) granting a Waiver to The Ducane Company Inc. (Ducane) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Ducane Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its UHC, ULB, and UH series of oil furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Ducane has been granted a Waiver for its UHC, ULB, and UH series of oil furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

DECISION AND ORDER

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department of Energy amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Ducane filed a "Petition for Waiver," dated July 8, 1993, in accordance with § 430.27 of 10 CFR part 430. The Department of Energy published in the Federal Register on September 1, 1993, Ducane's petition and solicited comments, data and information respecting the petition. 58 FR 46170. Ducane also filed an "Application for Interim Waiver" under section 430.27(g) which DOE granted on August 25, 1993. 58 FR 46170, September 1, 1993.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Ducane Petition. The FTC did not have any objections to the issuance of the waiver to Ducane.

Assertions and Determinations

Ducane's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Ducane requests the allowance to test using a 30-second blower time delay when testing its UHC, ULB, and UH series of oil furnaces. Ducane states that since the 30-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 0.7 to 0.9 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5 minute delay. Ducane indicates that it is unable to take advantage of any of these exceptions for its UHC, ULB, and UH series of oil furnaces.

Since the blower controls incorporated on the Ducane furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Ducane UHC, ULB, and UH series of oil furnaces. Accordingly, with regard to testing the UHC, ULB, and UH series of oil furnaces, today's Decision and Order exempts Ducane from the existing provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, *ordered that:* (1) The "Petition for Waiver" filed by The Ducane Company Inc. (Case No. F–050) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, The Ducane Company Inc., shall be permitted to test its UHC, ULB, and UH series of oil furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnaces and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t−), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, The Ducane Company Inc. shall comply in all respects with the test procedures

specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the UHC, ULB, and UH series of oil furnaces manufactured by The Ducane Company Inc.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective December 17, 1993, this Waiver supersedes the Interim Waiver granted the The Ducane Company Inc. on August 25, 1993. 58 FR 46170, September 1, 1993 (Case No. F–059).

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 93–31379 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–P

[Case No. F–058]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Lennox Industries Inc.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–058) granting a Waiver to Lennox Industries Inc. (Lennox) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Lennox its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its G23 and G26 series of furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Lennox has been granted a Waiver for its G23 and G26 series of furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

DECISION AND ORDER

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department of Energy amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Lennox filed a "Petition for Waiver," dated June 16, 1993, in accordance with § 430.27 of 10 CFR part 430. The Department of Energy published in the **Federal Register** on September 1, 1993, Lennox's petition and solicited comments, data and information respecting the petition. 58 FR 46172. Lennox also filed an "Application for Interim Waiver" under § 430.27(g) which DOE granted on August 25, 1993. 58 FR 46172, September 1, 1993.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department of Energy consulted with The Federal Trade Commission (FTC) concerning the Lennox Petition. The FTC did not have any objections to the issuance of the waiver to Lennox.

Assertions and Determinations

Lennox's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Lennox requests the allowance to test using a 45-second blower time delay when testing its G23 and G26 series of furnaces. Lennox states that since the 45-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 0.7 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Lennox indicates that it is unable to take advantage of any of these exceptions for its G23 and G26 series of furnaces.

Since the blower controls incorporated on the Lennox furnaces are designed to impose a 45-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 45-second blower time delay when testing the Lennox G23 and G26 series furnaces. Accordingly, with regard to testing the G23 and G26 series furnaces, today's Decision and Order exempts Lennox from the existing provisions regarding blower controls and allows testing with the 45-second delay.

It is, therefore, *ordered that:*

(1) The "Petition for Waiver" filed by Lennox Industries Inc. (Case No. F–058) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, Lennox Industries Inc., shall be permitted to test its G23 and G26 series of furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t–), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t–), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Lennox Industries Inc. shall comply in all respects with the test procedures specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the G23 and G26 series of furnaces manufactured by Lennox Industries Inc.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective December 17, 1993, this Waiver supersedes the Interim Waiver granted the Lennox Industries Inc. on August 25, 1993. 58 FR 46172, September 1, 1993 (Case No. F–058).

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 93–31378 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–P

[Case No. F–064]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Lennox Industries Inc.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–064) granting a Waiver to Lennox Industries Inc. (Lennox) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Lennox Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its GCS24–650/813 combination gas-electric equipment.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Lennox has been granted a Waiver for its GCS24–650/813 combination gas-electric equipment, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, December 15, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

DECISION AND ORDER

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the

VOL 58 ISS 245 DEC 23 1993 UMI

basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Lennox filed a "Petition for Waiver," dated August 23, 1993, in accordance with § 430.27 of 10 CFR part 430. The Department published in the **Federal Register** on November 24, 1993, Lennox's petition and solicited comments, data and information respecting the petition. 58 FR 62107. Lennox also filed an "Application for Interim Waiver" under section 430.27(g) which DOE granted on November 17, 1993. 58 FR 62107, November 24, 1993.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Lennox Petition. The FTC did not have any objections to the issuance of the waiver to Lennox.

Assertions and Determinations

Lennox's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Lennox requests the allowance to test using a 40-second blower time delay when testing its GCS24–650/813 combination gas-electric equipment. Lennox states that since the 40-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 0.7 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Lennox indicates that it is unable to take advantage of any of these exceptions for its GCS24–650/813 combination gas-electric equipment.

Since the blower controls incorporated on the Lennox combination gas-electric equipment are designed to impose a 40-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 40-second blower time delay when testing the Lennox GCS24–650/813 combination gas-electric equipment. Accordingly, with regard to testing the GCS24–650/813 combination gas-electric equipment, today's Decision and Order exempts Lennox from the existing provisions regarding blower controls and allows testing with the 40-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by Lennox Industries Inc. (Case No. F–064) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, Lennox Industries Inc., shall be permitted to test its GCS24–650/813 combination gas-electric equipment on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t–), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t–), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Lennox Industries Inc. shall comply in all respects with the test procedures specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the GCS24–650/813 combination gas-electric equipment manufactured by Lennox Industries Inc.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective December 15, 1993, this Waiver supersedes the Interim Waiver granted the Lennox Industries Inc. on November 17, 1993. 58 FR 62107, November 24, 1993 (Case No. F–064).

Issued in Washington, DC, December 15, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 93–31377 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–P

[Case No. F–063]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Trane Co.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–063) granting a Waiver to Trane Company (Trane) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Trane its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its TUC–C/AUC–A, TDC–C/ADC–C, TUX–C/AUX–C, TDX–C/ADX–C, TUE–A, FUA–A, and FCA–A central furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Trane has been granted a Waiver for its TUC–C/AUC–A, TDC–C/ADC–C, TUX–C/AUX–C, TDX–C/ADX–C, TUE–A, FUA–A, and FCA–A central furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

DECISION AND ORDER

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process.

45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Trane filed a "Petition for Waiver," dated August 27, 1993, in accordance with § 430.27 of 10 CFR part 430. The Department published in the **Federal Register** on October 29, 1993, Trane's petition and solicited comments, data and information respecting the petition. 58 FR 58163. Trane also filed an "Application for Interim Waiver" under § 430.27(g) which DOE granted on October 1, 1993. 58 FR 58163, October 29, 1993.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Trane Petition. The FTC did not have any objections to the issuance of the waiver to Trane.

Assertions and Determinations

Trane's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Trane requests the allowance to test using a 45-second blower time delay when testing its TUC–C/AUC–A, TDC–C/ADC–C, TUX–C/AUX–C, TDX–C/ADX–C, TUE–A, FUA–A, and FCA–A central furnaces. Trane states that since the 45-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 1.0 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Trane indicates that it is unable to take advantage of any of these exceptions for its TUC–C/AUC–A, TDC–C/ADC–C, TUX–C/AUX–C, TDX–C/ADX–C, TUE–A, FUA–A, and FCA–A central furnaces.

Since the blower controls incorporated on the Trane furnaces are designed to impose a 45-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 45-second blower time delay when testing the Trane TUC–C/AUC–A, TDC–C/ADC–C, TUX–C/AUX–C, TDX–C/ADX–C, TUE–A, FUA–A, and FCA–A central furnaces. Accordingly, with regard to testing the TUC–C/AUC–A, TDC–C/ADC–C, TUX–C/AUX–C, TDX–C/ADX–C, TUE–A, FUA–A, and FCA–A central furnaces, today's Decision and Order exempts Trane from the existing provisions regarding blower controls and allows testing with the 45-second delay.

It is, therefore, *ordered that:*

(1) The "Petition for Waiver" filed by Trane Company (Case No. F–063) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, Trane Company, shall be permitted to test its TUC–C/AUC–A, TDC–C/ADC–C, TUX–C/AUX–C, TDX–C/ADX–C, TUE–A, FUA–A, and FCA–A central furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with

the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t –), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t –), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Trane Company shall comply in all respects with the test procedures specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the TUC–C/AUC–A, TDC–C/ADC–C, TUX–C/AUX–C, TDX–C/ADX–C, TUE–A, FUA–A, and FCA–A central furnaces manufactured by Trane Company.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective December 17, 1993, this Waiver supersedes the Interim Waiver granted the Trane Company on October 1, 1993. 58 FR 58163, October 29, 1993 (Case No. F–063).

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 93–31380 Filed 12–22–93; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

Arkla Energy Resources Co.; Proposed Changes in FERC Gas Tariff

[Docket No. TM94–3–31–000 RP94–63–000]

December 17, 1993.

Take notice that on December 16, 1993, Arkla Energy Resources Company (AER), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to establish GRI surcharge, with a proposed effective date of January 1, 1994:

3rd Sub First Revised Sheet No. 4
3rd Sub First Revised Sheet No. 4.1
Original Sheet No. 4.3
First Revised Sheet No. 55
First Revised Sheet Nos. 229–244.

AER states that copies of this filing were served upon AER's jurisdictional customers and upon all interested state commissions. AER seeks a waiver of the 30 day notice requirements of § 154.22 of the Commission's regulations, 18 CFR 154.22 and of ordering paragraph (c) of Opinion No. 384, issued October 5, 1993 in Docket No. RP93–140–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 28, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–31314 Filed 12–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–31–001]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 17, 1993.

Take notice that on December 14, 1993, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets:

First Revised Sheet No. 358
Original Sheet No. 358A

CNG states that it also includes in its filing the information requested by the Commission in its November 29, 1993, order and Schedule A–1 for the month of September 1993.

CNG states that the purpose of the filing is to comply with the Commission's November 29, 1993, order in this proceeding. CNG states, however, that it proposes compromise tariff language in lieu of including a "perpetual refund obligation" as required by the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before December 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–31318 Filed 12–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–32–000]

Florida Gas Transmission Co. Proposed Changes in FERC Gas Tariff

December 17, 1993.

Take notice that on December 16, 1993, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, the following tariff sheets, with a proposed effective date of February 1, 1994:

First Revised Sheet No. 136
First Revised Sheet No. 137
First Revised Sheet No. 138

FGT states that the proposed changes are necessary to bring FGT's creditworthiness provisions in line with the post-Order No. 636 natural gas capacity market and will provide FGT, its lenders, and its customers greater protection against shipper default. FGT asserts that the proposed changes will not impact the service levels provided to creditworthy shippers, and will also enhance FGT's ability to obtain credit at favorable terms.

FGT states that copies of the filing were mailed to all customers serviced under the Rate Schedules affected by this filing and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or portests should be filed on or before December 28, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–31315 Filed 12–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–4–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

December 17, 1993.

Take notice that on December 14, 1993, Granite State Gas Transmission, Inc. (Granite State), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed below, containing changes in rates for effectiveness of the dates indicated:

Proposed Effective Dates

Substitute 23rd Revised Sheet No. 21: January 1, 1993
Substitute 24th Revised Sheet No. 21: February 1, 1993
Substitute 25th Revised Sheet No. 21: April 1, 1993
Substitute 26th Revised Sheet No. 21: May 1, 1993
Substitute Revised 26th Revised Sheet No. 21: June 10, 1993
Substitute 28th Revised Sheet No. 21: July 1, 1993
Substitute 29th Revised Sheet No. 21: August 3, 1993
Substitute 30th Revised Sheet No. 21: September 10, 1993
Substitute 31st Revised Sheet No. 21: October 1, 1993

According to Granite State, the revised tariff sheets submitted herewith correct a Transportation Cost Adjustment surcharge added to its jurisdictional sales rates for the period January 1, 1993 through October 31, 1993.

Granite State further states that the Transportation Cost Adjustment was a tracking provision in its FERC Gas Tariff, Second Revised Volume No. 2, designed to reimburse Granite State for the transportation costs it incurred on upstream pipelines for the delivery of firm gas supplies to its system. It is further stated that an error has been discovered in the calculation of the surcharge for the period from January 1, 1993 through October 31, 1993, during which Granite State provided bundled sales services to its affiliated distribution company customers, Bay State Gas Company and Northern Utilities, Inc., prior to commencing restructured operations on November 1, 1993.

According to Granite State, the Commodity component in the Transportation Cost Adjustment was understated by $0.0044 per Dth for the entire period, resulting in an undercollection of $187,888 and the Demand component was understated by $3.368 per Dth for the months of September and October, resulting in an undercollection of $687,341. It is further stated that the revised tariff sheets listed above state the corrected Transportation Cost Adjustment and the resulting jurisdictional sales rates for the periods involved.

According to Granite State, copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to make any protest with reference to said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–31313 Filed 12–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–89–000]

Iowa Southern Utilities Co.; Filing

December 16, 1993.

Take notice that Iowa Southern Utilities Company (ISU) on December 6, 1993, tendered for filing Amendments to the Interconnection Contract, dated August 14, 1989, between ISU and the United States Department of Energy, Western Area Power Administration (WAPA). The Amendments impose additional pricing restrictions on ISU in the rates charged for energy services.

A copy of the filing was served upon Iowa State Utilities Board and WAPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before December 30, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31320 Filed 12–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–81–000]

Northern Border Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 17, 1993.

Take notice that on December 13, 1993, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets. Northern Border requests that the tariff sheets be made effective February 1, 1994.

First Revised Sheet Number 108
First Revised Sheet Number 136
First Revised Sheet Number 137
First Revised Sheet Number 205
First Revised Sheet Number 246

VOL 58 ISS 245 DEC 23 1993 UMI

First Revised Sheet Number 247
First Revised Sheet Number 248
First Revised Sheet Number 286
First Revised Sheet Number 287
First Revised Sheet Number 289
First Revised Sheet Number 290
First Revised Sheet Number 291
First Revised Sheet Number 292
First Revised Sheet Number 293
First Revised Sheet Number 296
First Revised Sheet Number 297
First Revised Sheet Number 298
First Revised Sheet Number 402
First Revised Sheet Number 423
First Revised Sheet Number 424
First Revised Sheet Number 425
First Revised Sheet Number 443
First Revised Sheet Number 449
First Revised Sheet Number 450
First Revised Sheet Number 455
First Revised Sheet Number 456
First Revised Sheet Number 457
First Revised Sheet Number 501
Original Sheet Number 502

Northern Border states that the purpose of this filing is (i) to revise Article 7—Term of the U.S. Shippers Service Agreement; and (ii) to reflect housekeeping and other minor changes. Northern Border states that Article 7—Term of the proforma U.S. Shippers Service Agreement (Service Agreement) has been revised to (i) clarify that the Service Agreement provides for "evergreening" and (ii) provides for a notice period, to be negotiated between the parties, that the Shipper must satisfy before the Shipper can terminate its Service Agreement.

Northern Border states none of the herein proposed changes result in a change in Northern Border's total revenue requirement due to its cost of service form of tariff.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 27, 1993. Protests will be considered but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–31316 Filed 12–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–39–001]

Tennessee Gas Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 17, 1993.

Take notice that on December 15, 1993, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets:

First Revised Sheet No. 22
First Revised Sheet No. 24
Substitute Second Revised Sheet No. 30
Substitute Third Revised Sheet No. 30
Substitute First Revised Sheet No. 396
Substitute First Revised Sheet No. 397
Substitute First Revised Sheet No. 398

Tennessee states that the purpose of this filing is to comply with the Commission's November 30, 1993 "Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions" in Docket No. RP94–39–000 and to make conforming changes to its tariff. In this filing, Tennessee has provided additional information regarding settlement and pricing differential costs, has made minor tariff language changes, and has revised its IT rates.

Tennessee states that copies of this filing were served on all parties to this proceeding, customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before December 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–31317 Filed 12–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–39–015]

Wyoming Interstate Co., Ltd.; Compliance Filing

December 17, 1993.

Take notice that on December 8, 1993, Wyoming Interstate Company, Ltd. (WIC) made a filing to comply with the Commission's order in this proceeding issued on November 3, 1993.

WIC states that it proposes to implement the flowback of excess deferred income taxes (DIT) on a customer-by-customer basis using past throughput volumes by crediting each customer's reservation charge the full amount of that customer's DIT contribution.

In the filing WIC sets forth the amount of credit due each customer, and the reservation charge credit that each will receive. WIC states that it does not intend to reflect the credit until the Commission issues its final order in WIC's cost and revenue proceeding in Docket No. RP85–39–009. In the alternative WIC proposes to flowback the DIT beginning January 1994, subject to recalculation when the Commission issues the final order in Docket No. RP85–39–009.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before December 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–31319 Filed 12–22–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4706–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 29, 1993 through December 3, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (58 FR 18392).

Draft EISs

ERP No. D–AFS–K65157–CA Rating EC2, Paper Reforestation and Resource Recovery Project, Implementation, Stanislaus National Forest, Mi-Wok Ranger District, Tuolumne County, CA.

Summary: EPA expressed environmental concerns regarding potential impacts to air quality, water quality and vegetation as well as the need for additional information in the final EIS on other alternatives to the project, cumulative impacts, mitigation for air and water quality impacts, and monitoring plans.

ERP No. D–AFS–L65210–ID Rating EO2, West Fork Papoose Timber Sale, Implementation, Clearwater National Forest, Powell Ranger District, Idaho County, ID.

Summary: EPA expressed environmental objections due to project impacts on air quality water quality and wetland. EPA requested that these issues be addressed in the final EIS.

ERP No. D–FAA–G51026–TX Rating EC, New Austin Airport at Bergstrom Air Force Base (AFB) 1993 Master Plan, Approval, Funding, Property Acquisition and Construction, City of Austin, Travis County, TX.

Summary: EPA expressed environmental concerns on alternative sites, wetland loss, potential degradation of air quality and pollution prevention. EPA requested that the identified additional information on alternatives and mitigation on other concerns be fully incorporated in the final EIS.

ERP No. D–FHW–F40237–WI Rating EC2, US 151/WI 41 Waupun to Fond du Lac Project, Construction, Funding and Possible COE Section 404 Permit, Fond du Lac County, WI.

Summary: EPA requested additional information regarding the wetlands mitigation site be included in the final EIS.

FINAL EISs

ERP No. F–BOP–K80031–HI Honolulu, HI Federal Detention Center (FDC), Construction and Operation, City of Honolulu, Island of Oahu, HI.

Summary: EPA expressed environmental concerns regarding potential site contamination, air impacts due to solid waste incineration and water quality impacts due to storm water result. EPA requested that these concerns be discussed in the Record of Decision.

Dated: December 20, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–31382 Filed 12–22–93; 8:45 am]

BILLING CODE: 6560–50–U

[ER–FRL–4705–7]

Environmental Impact Statements; Availability

Responsible agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075. Weekly receipt of Environmental Impact Statements filed December 13, 1993 through December 17, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930443, Draft EIS, AFS, ID, Hungry-Mill Timber Sales, Harvesting Timber and Road Construction, Nez Perce National Forest, Clearwater Ranger District, Idaho County, ID, Due: February 12, 1994, Contact: Sue Paradiso (208) 983–1963.

EIS No. 930444, Draft EIS, AFS, Red-Cockaded Woodpecker (RCW) (Picoides borealis) Repopulation, Habitat Management Areas, Implementation, National Forests of the Southern Region, Due: March 25, 1994, Contact: Joseph M. Dabney (404) 347–5097.

EIS No. 930445, Draft EIS, AFS, MO, Salem and Potosi Ranger Districts Off-Highway Recreational Vehicle Opportunities, Designation/Nondesignation, Mark Twain National Forest, Implementation, Crawford, Dent, Iron, Reynolds, Shannon and Washington Counties, MO, Due: February 23, 1994, Contact: Darsan Wang (314) 364–4621.

EIS No. 930446, Draft EIS, EPA, TX, LA, Territorial Seas off Texas and Louisiana Oil and Gas Extraction Activities, Outer Continental Shelf (OCS), New Source NPDES Permit, Gulf of Mexico, TX and LA, Due: February 14, 1994, Contact: Norm Thomas (214) 655–2260.

EIS No. 930447, Draft SUPPLEMENT, BLM, CA, Rail-Cycle-Bolo Station Class III Nonhazardous Waste Landfill Project, Construction and Operation, Updated Information, Federal Land Exchange and Right-of-Way Grants, San Bernardino County, CA, Due: February 21, 1994, Contact: Douglas Romoli (909) 697–5237.

EIS No. 930448, Final EIS, AFS, CO, White River National Forest Land and Resources Management Plan, Oil and Gas Leasing Development, Implementation, Several Counties, CO, Due: January 24, 1994, Contact: Mike Spencer (303) 945–2521.

EIS No. 930449, Final EIS, FTA, MA, South Boston Piers/Fort Point Channel Transit Project, Boylston Station to the World Trade Center, Funding, MA, Due: January 24, 1994, Contact: Donald J. Emerson (202) 366–0096.

EIS No. 930450, Draft EIS, FTA, MN, Central Corridor Transportation Improvements, Twin Cities Metropolitan Area, Funding, several Counties, MN, Due: February 18, 1994, Contact: Paul Fish (312) 353–2865.

EIS No. 930451, Final EIS, FRC, LA, MS, LA, MS, West-East Cross Interstate Natural Gas Pipeline Project, Construction and Operation, Section 10 and 404 Permits, NPDES Permit and Right-of-Way Grant, several Parishes, LA and several Counties, MS, Due: February 12, 1994, Contact: Ms. Laura Turner (202) 208–0916.

EIS No. 930452, Final EIS, NOA, WA, Olympic Coast National Marine Sanctuary, Management Plan, Site Designation, NPDES Permit and COE Permit, Olympic Peninsula, WA, Due: January 24, 1994, Contact: Ms. Debra Malek (301) 713–3141.

EIS No. 930453, Draft EIS, DOE, ME, Bangor Hydro-Electric Second 345-kV Transmission Tie Line Interconnection to New Brunswick, Construction and Operation, Presidential Permit, COE Section 10 and 404 Permits, ME, Due: February 7, 1994, Contact: Carol Borgstrom (202) 586–4600.

EIS No. 930454, Final EIS, DOE, AK, Healy 50 Megawatt-Electric Coal Fired Power Plant Construction and Operation, Clean Coal Technologies Demonstration, Funding, NPDES and Section 404 Permits, Borough of Denali, AK, Due: January 24, 1994, Contact: Earl W. Evans (412) 892–5709.

EIS No. 930455, Final EIS, AFS, ID, Mid-Skull/Upper Bear Timber Sales, Timber Harvest, Road Construction and Reconstruction, Clearwater National Forest, North Fork Ranger District, Skull Creek, Clearwater County, ID, Due: January 24, 1994, Contact: Jennefer L. Sundberg (208) 476–3775.

EIS No. 930456, Final EIS, AFS, AZ, Grand Canyon Airport to Maswik Transportation Area, Grand Canyon Village Passenger Rail Service Construction and Operation, Approval and Special Use Permit, Coconino County, AZ , Due: January 24, 1994, Contact: William M. Lannaw (602) 635–2681.

Dated: December 20, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–31383 Filed 12–22–93; 8:45 am]

BILLING CODE 6560–50–U

VOL 58 ISS 245 DEC 23 1993 UMI

[OPPTS-00148; FRL-4761-5]

Biotechnology Science Advisory Committee, FIFRA Scientific Advisory Panel; Subcommittee on Plant Pesticides; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 1–day joint meeting of the Biotechnology Science Advisory Committee (BSAC) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) Subpanel on the proposed rule for plant pesticides to review a set of scientific questions concerning a proposed policy which describes how EPA intends to regulate pesticidal substances produced by plants (plant-pesticides) under FIFRA and the Federal Food, Drug, and Cosmetic Act (FFDCA). The meeting will be open to the public.

DATES: The meeting will be held on Friday, January 21, 1994, starting at 8:30 a.m. and ending at 5 p.m.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Rm. 1123, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Bruce Jaeger, Designated Federal Official for the (FIFRA) Scientific Advisory Panel (7509C), Office of Pesticide Programs, Rm. 819B, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, Telephone: (703) 305–5369.

Copies of documents relating to this review process, may be obtained by contacting by mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5805.

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Federal Advisory Committee Act which requires that timely notice of each meeting of a Federal Advisory Committee be published in the **Federal Register**. This notice announces such a meeting. Attendance by the public will be limited to available space. The Subpanel will consider a set of scientific issues being evaluated by the Agency for: (1) A draft proposed policy statement that generally describes how EPA intends to regulate plant-pesticides under FIFRA and FFDCA; (2) a draft proposal under FIFRA describing the changes in 40 CFR that define the scope of regulation for plant-pesticides under FIFRA; (3) a draft proposed exemption from the requirement of a tolerance for coat proteins from plant viruses when produced in plants; (4) a draft proposed exemption from the requirement of a tolerance for nucleic acids produced in plants as part of a plant-pesticide; and (5) a draft proposed exemption from the requirement of a tolerance for categories of plant-pesticides that will not result in significantly different dietary exposures.

Dated: December 17, 1993.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 93–31467 Filed 12–22–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180911; FRL 4750–2]

Receipt of Application for Emergency Exemption to use Benomyl; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Environmental Protection Agency, Department of Pesticide Regulation (hereafter referred to as the "Applicant") for the use of the pesticide benomyl (CAS 17804–35–2) to control Ramularia leaf spot on up to 700 acres of artichokes in California. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before January 7, 1994.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180911," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Stanton, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: 6th Floor, Crystal Station I, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8327.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of the fungicide, benomyl, available as Benlate Fungicide (EPA Reg. No. 352–354) from E. I. du Pont de Nemours Co., to control Ramularia leaf spot, caused by *Ramularia sp.*, on up to 700 acres of artichokes in California. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, Ramularia leaf spot is a new disease problem of artichokes in California which became a serious pest in 1987 and 1988. Ramularia attacks artichoke leaves, causing scattered necrotic spots to appear. As the disease progresses the leaves and even the entire plant may appear to be "burned". The resulting reduction in the plant's photosynthetic ability causes poor plant growth and bud production. In severely affected fields, yields may be reduced by as much as 50 percent. According to the Applicant, there are no pesticides currently registered for the control of Ramularia leaf spot of artichoke that will adequately control the disease. Without an effective control, the Applicant claims that growers will incur a significant economic loss during the 1994 growing season.

Up to 4 ground or aerial applications of benomyl will be applied at 7 to 14 day intervals at a maximum rate of 0.5 pounds of active ingredient per acre. Ground applications will be made in sufficient water to obtain full coverage of foliage. Aerial applications will be made in a minimum of 20 gallons of water per acre. A maximum of 1,400 pounds of active ingredient may be needed to treat a maximum of 700 acres of artichokes, located in Santa Barbara and Ventura counties. Applications will be made between January 1, 1994 and December 31, 1994.

Benomyl was referred to Special Review in December of 1977 because of its mutagenic, teratogenic, spermatogenic, and acute aquatic effects. The Special Review process was completed on October 20, 1982, and the decision was made to require use of either cloth or commercially available disposable dust masks by mixer/loaders of benomyl intended for aerial application and to require that registrants of benomyl products conduct field monitoring studies to identify residues that may enter aquatic sites after use on rice.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review [40 CFR 166.24 (a)(5)].

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the California Environmental Protection Agency.

List of Subjects

Environmental protection, Pesticide and pests, Crisis exemptions.

Dated: December 14, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–30975 Filed 12–22–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180032A; FRL–4751–6]

State Pesticide Residue Removal Compliance Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Interim Determination of Adequacy of Certain State Programs.

SUMMARY: Section 19(f)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), states that after December 24, 1993, a State may not exercise primary enforcement responsibility under section 26, or certify an applicator under section 11, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with regulations promulgated under the authority of section 19(f)(1). The Agency has not yet promulgated regulations under section 19(f)(1) and will not do so by December 24, 1993. To avoid having the provisions of section 19(f)(2) adversely impact the States and EPA, the Agency published a policy in the **Federal Register** on August 18, 1993, which set forth a process whereby the Agency will make an interim determination of adequacy for those States with primary enforcement responsibility and/or certification programs. This determination is based on an initial commitment by a State to conduct a number of activities which will position the State to have an adequate program in place by the time compliance with the regulations promulgated under section 19(f)(1) is required.

This notice is to announce that the State of New York has met the criteria of the August 18, 1993 policy by submitting a commitment to conduct the activities set forth in the policy and therefore have been determined by EPA to have an adequate State pesticide residue removal compliance program and to be taking the necessary steps to carry out enforcement of the new requirements within 2 years of promulgation of the final rule.

ADDRESSES: Any person wishing to review the State submissions may do so, in person, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, at the following address: Public Docket, Room 1132, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Phyllis Flaherty, Office of Compliance Monitoring (7204W), 401 M St., SW., Washington DC 20460, telephone (703) 308–8383, facsimile (703) 308–8218.

SUPPLEMENTARY INFORMATION: The following State has submitted a commitment to conduct the activities outlined in the August 18, 1993 Policy Statement on Interim Determination of Adequacy of State Pesticide Residue Removal Compliance Programs:

New York

This State has met two criteria: (1) There is a current program for ensuring compliance with existing residue removal requirements, and (2) it has committed to the activities set out in the August 18, 1993 Policy Statement to be in a position to have a compliance program in place to enforce the section 19(f)(1) regulations. Based on the commitment submitted, I have determined that the State will be taking steps necessary to have an adequate program for ensuring compliance with the regulations under section 19(f)(1) upon the compliance date of those regulations. This determination of adequacy is an interim measure to fulfill EPA's responsibility under section 19(f)(2) and to avoid the State losing its primary enforcement and certification authority after December 24, 1993. This determination of adequacy is temporary and will expire 2 years after promulgation of a final rule issued under section 19(f)(1). Thereafter, the State must have a program to ensure compliance with the section 19(f) regulations.

Dated: December 20, 1993.

Carol M. Browner,

Administrator.

[FR Doc. 93–31466 Filed 12–22–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; NOSAC/NYK Joint Service (East/West) Agreement et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 207–011441.

Title: NOSAC/NYK Joint Service (East/West) Agreement.

Parties: NOSAC ANS Nippon Yusen Kabushiki Kaisha.

Synopsis: The proposed Agreement authorizes the parties to establish a joint service in the trade between U.S. ports and points (including Alaska and the Hawaiian Islands) on the one hand, and ports and points on the Mediterranean

VOL 58 ISS 245 DEC 23 1993 UMI

Sea, Black Sea, Gulf of Aden, Arabian Gulf and Gulf of Oman (Aquaba-Karachi range).

Agreement No.: 232–011442.

Title: Space Charter and Cooperative Working Agreement Between NOSAC and the NOSAC/NYK (East/West) Joint Service.

Parties: NOSAC/NYK (East/West) Joint Service NOSAC ANS.

Synopsis: The proposed Agreement authorizes the parties to charter space aboard each other's vessels, discuss, and agree upon vessel capacity, space requirements, equipment interchange, and rationalize sailings in the trade between U.S. ports and points (including Alaska and the Hawaiian Islands) and ports and points on the Mediterranean Sea, Black Sea, Red Sea, Gulf of Aden, Arabian Gulf, and Gulf of Omen (Aquaba-Karachi range).

Agreement No.: 232–011443.

Title: Space Charter and Cooperative Working Agreement Between NYK and the NOSAC/NYK (East/West) Joint Service.

Parties: Nippon Yusen Kabushiki Kaisha NOSAC/NYK (East/West) Joint Service.

Synopsis: The proposed Agreement authorizes the parties to charter space aboard each other's vessels, discuss, and agree upon vessel capacity, space requirements, equipment interchange, and rationalize sailings in the trade between U.S. ports and points (including Alaska and the Hawaiian Islands) and ports and points on the Mediterranean Sea, Black Sea, Red Sea, Gulf of Aden, Arabian Gulf, and Gulf of Omen (Aquaba-Karachi range).

By Order of the Federal Maritime Commission.

Dated: December 20, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–31354 Filed 12–22–93; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–77]

Quarterly Public Health Assessments Completed and Public Health Assessments to be Conducted in Response to Requests From the Public

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice contains the following: 1. A list of sites for which ATSDR has completed a public health assessment, or issued an addendum to a previously completed public health assessment, during the period July-September 1993. This list includes sites that are on, or proposed for inclusion on, the National Priorities List (NPL) and a non-NPL site for which ATSDR has prepared a public health assessment in response to a request from the public (petitioned site). 2. A list of sites for which ATSDR, during the same period, has accepted a request from the public to conduct a public health assessment. Acceptance for a request for the conduct of a public health assessment is based on a determination by the Agency that there is a reasonable basis for conducting a public health assessment at the site.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments, public health assessments with addenda, and petitioned public health assessments which were accepted by ATSDR during April-June 1993, as published in the **Federal Register** on September 24, 1993, (58 FR 50006). The quarterly announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (42 CFR part 90). This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)), and appeared in the **Federal Register** on February 13, 1990, (55 FR 51136).

Availability

The completed public health assessments are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 487–4650. There is a charge determined by NTIS for these public health assessments. The NTIS order numbers are listed in parentheses after the site name.

1. Public Health Assessments or Addenda Completed or Issued

Between July 1, 1993, and September 30, 1993, public health assessments or addenda to public health assessments were issued for the sites listed below:

NPL Sites

California
- Advanced Micro Devices Inc. (Buildings 901 & 902) Sunnyvale—(PB94–103124)

Florida
- Helena Chemical Company—Tampa—(PB94–102340)
- Stauffer Chemical Company/Tarpon Springs—Tarpon Springs (PB93–223097)

Michigan
- Metal Working Shop—Lake Ann—(PB94–103827)

Minnesota
- Agate Lake Scrap Yard—Fairview Township—(PB94–103371)
- Arrowhead Refinery Company—Hermantown—(PB94–103959)
- MacGillis & Gibbs Company/Bell Lumber & Pole Company—New Brighton—(PB93–222412)

New Hampshire
- Tinkham Garage—Londonderry—(PB93–214351)

Nevada
- Carson River Mercury Site—Moundhouse—(PB94–109121)

Ohio
- Skinner Landfill—West Chester—(PB93–227734)
- Zanesville Well Field—Zanesville—(PB93–216240)

Pennsylvania
- Avco Lycoming-Williamsport Division—Williamsport (PB94–103363)
- Bally Groundwater Contamination—Bally—(PB94–104247)
- Cryo-Chem Inc.—Worman Township—Boyertown (PB93–232437)
- McAdoo Associates—McAdoo—(PB94–104254)
- Strasburg Landfill—Newlin Township—(PB94–103157)

Rhode Island
- Newport Naval Education/Training Center—Middletown (PB93–227684)

South Carolina
- Geiger (C & M Oil) Site—Rantowles—(PB93–223113)
- Golden Strip Septic Tank—Simpsonville—(PB94–103520)
- Koppers Company/Charleston—Charleston—(PB93–216828)
- Koppers Company Inc./Florence Plant—Florence (PB93–216810)
- Medley Farms—Gaffney—(PB94–103132)

South Dakota
- Ellsworth Air Force Base—Ellsworth AFB—(PB94–109451)

Tennessee
- Milan Army Ammunition Plant—Milan—(PB94–109065)

Virginia
- C & R Battery Company Inc.—Richmond—(PB94–103181)

Washington
- * Commencement Bay-Nearshore/Tideflats—Tacoma (PB93–223063)
- Fort Lewis Logistics Center—Fort Lewis—(PB93–221562)
- Greenacres Landfill—Spokane—(PB93–223105)
- Hamilton Island Landfill (USACOE)—North Bonneville—(PB93–231453)
- * Naval Air Station Whidbey Island (Ault Field and Seaplane Base)—Oak Harbor—(PB94–103942)

Petitioned Site—(Non NPL)

California
- Space Ordnance Systems Mint Canyon—Canyon Country (PB93–210201)

2. Petitions for Public Health Assessments Accepted:

Between July 1, 1993, and September 30, 1993, ATSDR determined that there was a reasonable basis to conduct public health assessments for the sites listed below in response to requests from the public. As of September 30, 1993, ATSDR initiated public health assessments at these sites.

Arkansas
- Great Lakes Chemical Corporation—El Dorado

Hawaii
- Pearl City Junction—Pearl City

Dated: December 17, 1993.

Walter R. Dowdle,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 93–31331 Filed 12–22–93; 8:45 am]

BILLING CODE 4160–70–P

* NPL sites for which a Petition has been received.

Food and Drug Administration

[Docket No. 92N–0463]

Susan M. Long; Denial of Hearing and Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying a hearing for and is issuing a final order under section 306(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)) permanently debarring Ms. Susan M. Long, #27911–037, FPC Danbury, P.O. Box 1910, Danbury, CT 06813, from providing services in any capacity to a person who has an approved or pending drug product application. FDA bases this order on a finding that Ms. Long was convicted of a felony under Federal law for conduct relating to the development and approval, including the process for development and approval, of a drug product; and relating to the regulation of a drug product under the act.

EFFECTIVE DATE: December 23, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Diane M. Sullivan, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

Ms. Long, a former Director of Regulatory Affairs for Bolar Pharmaceutical Co., Inc. (Bolar), pled guilty and was sentenced on July 15, 1992, for one count of the making of a false statement in a matter within the jurisdiction of a Federal agency, a Federal felony offense under 18 U.S.C. 1001, and for one count of the obstruction of an agency proceeding, a Federal felony offense under 18 U.S.C. 1505. The basis for these convictions was the finding that Ms. Long made or caused to be made fraudulent statements to FDA concerning bioequivalence studies and encapsulation records of some of Bolar's generic drug products.

In a certified letter received by Ms. Long on June 7, 1993, FDA offered Ms. Long an opportunity for a hearing on the agency's proposal to issue an order under section 306(a) of the act debarring her from providing services in any capacity to a person who has an approved or pending drug product application. FDA based the proposal to debar Ms. Long on its finding that she was convicted of a felony under Federal law for conduct relating to the development and approval of Bolar's drug products and relating to the regulation of Bolar's drug products.

The certified letter also informed Ms. Long that her request for a hearing could not rest upon mere allegations or denials but must present specific facts showing that there is a genuine and substantial issue of fact requiring a hearing. The letter also notified Ms. Long that if it conclusively appeared from the face of the information and factual analyses in her request for a hearing that there was no genuine and substantial issue of fact that precluded the order of debarment, FDA would enter summary judgment against her, making findings and conclusions, and denying her request for a hearing.

In a letter dated June 16, 1993, Ms. Long responded to the certified letter by requesting an extension to request a hearing. On June 30, 1993, Ms. Long withdrew that request via telephone conversation. Then, in a letter dated July 1, 1993, Ms. Long requested a hearing.

II. Denial of Hearing

In her request for a hearing, Ms. Long failed to present any arguments or information to show why she should not be debarred. Therefore, FDA finds that Ms. Long has failed to identify any genuine and substantial issue of fact requiring a hearing. Accordingly, pursuant to 21 CFR 12.28, the agency denies Ms. Long's request for a hearing.

III. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.20), finds that Ms. Susan M. Long has been convicted of a felony under Federal law for conduct relating to (1) the development and approval, including the process for development and approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Ms. Susan M. Long is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (*insert date of publication in the* **Federal Register**) (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Ms. Long in any capacity, during her period of debarment, will be subject to civil money penalties. During her period of debarment, if Ms. Long provides services in any capacity to a person with an approved or pending drug product application, she will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application submitted by or with the assistance of Ms. Long during her period of debarment.

Any application by Ms. Long for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 92N–0463 and sent to

VOL 58 ISS 245 DEC 23 1993 UMI

the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 13, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-31337 Filed 12-22-93; 8:45 am]

BILLING CODE 4160-01-P

Health Care Financing Administration

[HSQ-211-N]

Approval of the Commission on Office Laboratory Accreditation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the approval of the Commission on Office Laboratory Accreditation (COLA) as an accrediting organization for clinical laboratories under the CLIA program. We have found that the accreditation process of this organization provides reasonable assurance that the laboratories accredited by it meet the conditions required by Federal law and regulations. Consequently, laboratories that voluntarily become accredited by COLA in lieu of receiving direct Federal oversight and continue to meet COLA requirements would meet the CLIA condition level requirements for laboratories and therefore are not subject to routine inspection by State survey agencies to determine their compliance with Federal requirements. They are, however, subject to validation and complaint investigation surveys.

EFFECTIVE DATE: This notice is effective for the period December 23, 1993 through November 1, 1997.

FOR FURTHER INFORMATION CONTACT: Valerie Coppola, (410) 597-5906.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100-578. CLIA replaced in its entirety section 353 of the Public Health Service Act (PHSA), as enacted by the Clinical Laboratories Improvement Act of 1967, and made every laboratory in the United States and its territories that tests human specimens for health reasons subject to the requirements established by HHS and Federal regulation whether or not it participates in the Medicare or Medicaid program and whether or not it tests specimens in interstate commerce. New section 353 requires HHS to establish certification requirements for any laboratory that performs tests on human specimens and certify through issuance of a certificate that those laboratories meet the certificate requirements established by HHS.

Section 6141 of the Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, amended the Social Security Act (the Act) to require that laboratories participating in the Medicare program meet the certificate requirements of section 353 of the PHSA. Subject to specified exceptions, laboratories must have a current unrevoked and unsuspended certificate to be eligible for reimbursement in the Medicare or Medicaid programs or both. Laboratories that are accredited by an accreditation organization approved under section 353 of the PHSA will automatically be eligible for Medicare and Medicaid participation as long as they meet applicable State licensure requirements.

On February 28, 1992, we published several final rules in the Federal Register (57 FR 7002-7243) that implemented the amendments to section 353 of the PHSA. The technical and scientific portions of these rules were drafted with input from The Centers for Disease Control and Prevention (CDC) of the Public Health Service (PHS). Specifically, we established regulations at 42 CFR part 493 that:

- Require laboratories to pay fees for issuance of registration certificates, certificates of waiver, certificates of accreditation, or other applicable certificates (in a subsequent rule published January 19, 1993, 58 FR 5215, we added "certificate for physician-performed microscopy procedures") and to fund activities to determine compliance with our performance requirements;
- Specify the performance requirements that apply to laboratories subject to CLIA (some of which were amended by the January 19, 1993 rule) and list requirements for laboratories performing certain limited testing to be eligible for a certificate of waiver; and
- Set forth the rules for the enforcement of CLIA requirements on laboratories that are found not to meet Federal requirements.

On July 31, 1992, we issued additional final rules (57 FR 33992), under authority found in section 353(e)(2) of the PHSA, that establish that we may approve a private, nonprofit organization as an accreditation organization for clinical laboratories under the CLIA program if that organization's requirements for its accredited laboratories are equal to or more stringent than the applicable CLIA program requirements of part 493 of our regulations. Therefore, a laboratory accredited by an approved organization that meets and continues to meet all of the accreditation organization's requirements would meet CLIA condition level requirements if it were inspected against CLIA regulations. The regulations listed in subpart E of part 493 specify the requirements an accreditation organization must meet in order to be approved. We may approve an accreditation organization under § 493.501(d) of our regulations for a period not to exceed six years.

In general, the accreditation organization must:

- Use inspectors qualified to evaluate laboratory performance and agree to inspect laboratories with the frequency determined by HHS;
- Apply standards and criteria that are equal to or more stringent than those condition level requirements established by HHS when taken as a whole;
- Provide reasonable assurance that these standards and criteria are continually met by its accredited laboratories;
- Provide HHS, within 30 days, with the name of any laboratory that has had its accreditation denied, suspended, withdrawn, limited, or revoked;
- Notify HHS at least 30 days prior to changing its standards; and
- If HHS withdraws its approval, notify its accredited laboratories of the withdrawal within 10 days of the withdrawal. A laboratory can be accredited if it meets the standards of an approved accreditation body and authorizes the accreditation body to submit to HHS records and other information HHS may require.

Along with requiring the promulgation of criteria for approving an accreditation body and for withdrawing such approval, CLIA requires HHS to perform an annual evaluation by inspecting a sufficient number of laboratories accredited by an approved accreditation organization as well as by any other means that HHS determines appropriate. Under section 353(o) of the PHSA, the Secretary may, by agreement, use the services or facilities of any other Federal, State or local public agency, or any private, nonprofit organization to conduct inspections of laboratories performing clinical testing on human specimens in the United States and its territories for the purpose of determining compliance with CLIA requirements.

II. Notice of Approval of COLA as an Accrediting Organization

In this notice, we approve COLA as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements. HCFA, with the assistance of CDC, has examined the COLA application and all subsequent submissions against the requirements under subpart E of part 493 that an accreditation organization must meet in order to be granted approved status under CLIA. We have determined that COLA has complied with the applicable CLIA requirements as of December 23, 1993, and grant COLA approval as an accreditation organization under this subpart through November 1, 1997 for the following specialty/subspecialty areas:

- ABO Grouping and D(Rho) Typing.
- Bacteriology.
- Endocrinology.
- General Immunology.
- Hematology.
- Mycobacteriology.
- Mycology.
- Parasitology.
- Routine Chemistry.
- Syphilis Serology.
- Toxicology.
- Unexpected Antibody Detection.
- Urinalysis.
- Virology.

As a result of this determination, any laboratory that is accredited by COLA during this time period for an approved specialty/subspecialty meets the CLIA requirements for laboratories found in part 493 of our regulations and, therefore, is not subject to routine inspection by a State survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by HCFA, or by any other Federal or State or local public agency or nonprofit private organization which acts in conformance to an agreement with the Secretary.

III. Evaluation of COLA

The following describes the process we used to find that COLA, as a private, nonprofit organization, provides reasonable assurance that those laboratories it accredits will meet the applicable requirements of the Federal law and regulations.

A. Requirements for Approving an Accreditation Organization Under CLIA

To determine whether we should grant approved status to COLA as a private, nonprofit organization for accrediting laboratories under CLIA for the specific specialty or subspecialty areas of human specimen testing it requested, we conducted a detailed and in-depth comparison of COLA's requirements for its laboratories to those of CLIA and evaluated whether COLA's standards are at least as stringent as the requirements of 42 CFR part 493 when taken as a whole. In summary, we evaluated whether COLA:

- Provides reasonable assurance to us that it requires the laboratories it accredits to meet requirements that are equal to or more stringent than the CLIA condition level requirements (for the requested specialties/subspecialties) and would, therefore, meet the condition level requirements of CLIA if those laboratories had not been granted deemed status and had been inspected against condition level requirements; and
- Meets the requirements of § 493.506, which specifies the Federal review and approval requirements of private, nonprofit accreditation organizations.

As specified in the regulations at § 493.506, our review of a private, nonprofit accreditation organization seeking approved status under CLIA includes, but is not limited to, an evaluation of:

- Whether the organization's requirements for its accredited laboratories are equal to or more stringent than the condition level requirements of the CLIA regulations;
- The organization's inspection process to determine:
  - —The composition of the inspection teams, qualifications of the inspectors, and the ability of the organization to provide continuing education and training to all of its inspectors;
  - —The comparability of the organization's full inspection and complaint inspection requirements to those of HCFA, including but not limited to inspection frequency, and the ability to investigate and respond to complaints against its accredited laboratories;
  - —The organization's procedures for monitoring laboratories that it has found to be out of compliance with its requirements;
  - —The ability of the organization to provide HCFA with electronic data and reports that are necessary for effective validation and assessment of the organization's inspection process;
  - —The ability of the organization to provide HCFA with electronic data, related to the adverse actions resulting from unsuccessful proficiency testing (PT) participation in HHS approved PT programs, as well as data related to the PT failures, within 30 days of the initiation of the action;
  - —The ability of the organization to provide HCFA with electronic data for all its accredited laboratories and the areas of specialty and subspecialty testing;
  - —The adequacy of numbers of staff and other resources; and
  - —The organization's ability to provide adequate funding for performing the required inspections.
- The organization's agreement with HCFA that requires it to:
  - —Notify HCFA of any laboratory that has had its accreditation denied, limited, suspended, withdrawn, or revoked by the accreditation organization, or that has had any other adverse action taken against it by the accreditation organization within 30 days of the action taken;
  - —Notify HCFA within 10 days of a deficiency identified in an accredited laboratory where the deficiency poses an immediate jeopardy to the laboratory's patients or a hazard to the general public;
  - —Notify HCFA of all newly accredited laboratories, or laboratories whose areas of specialty or subspecialty are revised, within 30 days;
  - —Notify each laboratory accredited by the organization within 10 days of HCFA's withdrawal of recognition of the organization's deeming authority;
  - —Provide HCFA with inspection schedules, as requested, for the purpose of conducting onsite validation inspections;
  - —Provide HCFA, the State survey agency or other HCFA agent with any facility-specific data that includes, but is not limited to, PT results that constitute unsuccessful participation in an approved PT program and notification of the adverse actions or corrective actions imposed by the accreditation organization as a result of unsuccessful PT participation;
  - —Provide HCFA with written notification at least 30 days in advance of the effective date of any proposed changes in its requirements; and
  - —Make available, on a reasonable basis, any laboratory's PT results upon the request by any person, with such explanatory information needed to assist in the interpretation of the results.

Laboratories that are accredited by an accreditation organization must:

- Authorize the organization to release to HCFA all records and

VOL 58 ISS 245 DE 23 1993 UMI

information required by HCFA as required at § 493.501:

- Permit inspections as required by the CLIA regulations at 42 CFR Part 493, Subpart Q;
- Obtain a certificate of accreditation as required by § 493.632; and
- Pay the applicable fees as required by §§ 493.638 and 493.645.

B. Evaluation of the COLA Request for Approval as an Accreditation Organization under CLIA

COLA has formally applied to HCFA for approval as an accreditation organization under CLIA. We have evaluated the COLA application to determine equivalency with our implementing and enforcement regulations, and the deeming/exemption requirements of the CLIA rules. We also verified the organization's assurance that it requires the laboratories it accredits to be, and that the organization is, in compliance with the following subparts of 42 CFR part 493 as explained below:

Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

COLA has submitted a list of the specialties and subspecialties that it would accredit, a comparison of individual accreditation and condition level requirements, a description of its inspection process, PT monitoring process, and its data management and analysis system, a listing of the size, composition, education and experience of its inspection teams, its investigative and complaint response procedures, its notification agreements with HCFA, its removal or withdrawal of laboratory accreditation procedures, its current list of accredited laboratories, and its announced or unannounced inspection process. We have determined that COLA has complied with the general requirements under § 493.501, the applicable parts of § 493.506, and the CLIA requirements for approval as an accreditation organization under various subparts of part 493.

Subpart H—Participation in Proficiency Testing for Laboratories Performing Tests of Moderate or High Complexity, or Both

COLA's requirements for PT are more stringent than those of CLIA. All of COLA's accredited laboratories are required to participate in an HHS approved PT program for all tests that are not waived. CLIA, however, requires laboratories that perform any of the tests listed in subpart I to participate in an HHS-approved PT program for those tests only, rather than all of the tests they may perform. COLA also encourages its accredited laboratories to participate in PT for tests that are waived under CLIA. Currently, CLIA allows a phase-in for certain PT requirements under § 493.803 (Condition: Successful Participation), and we will impose no sanctions under this condition for the first year. We have determined that COLA currently imposes, and will continue to impose, action upon its accredited laboratories that are unsuccessful in PT performance.

Subpart J—Patient Test Management for Moderate or High Complexity Testing, or Both

COLA has revised its requirements to equal the CLIA requirements at §§ 493.1101 through 493.1111 on an overall basis. We have determined that COLA's requirements are more stringent in that they require the laboratory to obtain written authorization within 30 days for verbal orders on all referral testing. Also, the test requisition or its equivalent must include the date and time a specimen is collected, and the name of the individual who performed the testing must appear on the test report as well as the testing record.

Subpart K—Quality Control for Tests of Moderate or High Complexity, or Both

The quality control (QC) requirements of COLA have been evaluated against the applicable phased-in requirements of the CLIA regulations. We have determined that COLA's requirements, when taken as a whole, are equal to or more stringent than the CLIA requirements. The specific areas of QC that are more stringent are:

- Safety requirements for moderate and high complexity testing;
- Requirements that laboratories that perform moderate or high complexity testing must meet COLA's QC requirements for all waived testing that they perform;
- Calibration/recalibration requirements for moderate complexity testing;
- A requirement that the laboratory director sign, review, and approve the procedure manual annually; and
- The use of a negative control for ABO antisera is required.

COLA recognizes the categorization of tests for QC purposes.

Subpart M—Personnel for Moderate and High Complexity Testing

COLA states, as general policy under its personnel standards, that the laboratory director and the laboratory personnel must meet all Federal and State educational and experience requirements necessary to perform their assigned tasks. It has adopted the Federal personnel requirements for education, training, and experience, and recognizes the various positions and the responsibilities of each of the positions cited in the CLIA regulations.

All COLA accredited laboratories are currently required to meet these CLIA standards. We have, therefore, found the COLA personnel requirements to be equal to the CLIA personnel requirements.

Subpart P—Quality Assurance for Moderate or High Complexity Testing or Both

We have determined that COLA's requirements are equal to the CLIA requirements of this subpart. COLA has edited, re-written, and amplified its checklist requirements on quality assurance to equate to the CLIA regulation requirements. It also makes educational materials available to its accredited laboratories, which provide further information on quality assurance in the office laboratory.

Subpart Q—Inspections

COLA has made revisions to its inspection process, which is announced and performed on-site on a biennial basis, to equate to the applicable CLIA requirements at §§ 493.1777. Therefore, we have determined that COLA's requirements are equal to the requirements of this subpart.

Subpart R—Enforcement Procedures for Laboratories

COLA meets the requirements of subpart R to the extent it applies to accreditation organizations. COLA policy stipulates the action it takes when laboratories it accredits do not comply with its essential standards. When appropriate, COLA will deny accreditation to a laboratory and report the denial to HCFA within 30 days. COLA also provides an appeals process for laboratories that have had accreditation denied.

Some specific actions COLA takes in response to non-compliance or violation of essential standards include:

- When an accredited laboratory has been identified as having intentionally referred a PT specimen to another laboratory for analysis prior to the PT program end-date for receipt of results, the COLA laboratory will be denied accreditation and be ineligible for COLA accreditation for one year. This action is similar to the HCFA action of denial of certification for one year.
- When a COLA laboratory is unsuccessful in Federally required PT participation for an analyte, subspecialty, and/or specialty, the laboratory must cease testing and initiate corrective actions. It must either successfully participate in two consecutive PT events or provide documentation of corrective actions and evidence of acceptable external testing validation. This action is more stringent than the actions that HCFA may take under this subsection.
- When COLA identifies a laboratory that is utilizing personnel who do not meet COLA's personnel standards, the laboratory must either cease testing the analyte(s) for which the laboratory's personnel are not trained until appropriately trained personnel are hired or the laboratory must cease testing the analyte(s) altogether. Failure to do so will result in a denial of accreditation recommendation to the COLA Accreditation Committee. This action is more stringent than the actions that HCFA may take under this subsection.
- When COLA determines that a serious risk of harm (immediate jeopardy) situation exists in a COLA-accredited laboratory, the laboratory must cease testing and immediately correct the problem that poses the risk. If the problem pervades the entire laboratory testing system, testing must cease altogether until the problem is corrected. Failure to do so will result in a denial of accreditation recommendation to the COLA Accreditation Committee. This action is similar to HCFA action for immediate jeopardy.

We have determined that COLA's laboratory enforcement and appeal policies are essentially equivalent to the requirements of this subpart as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of COLA accredited laboratories, as specified in § 493.507, may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (called complaint inspections). The outcome of these validation inspections, performed by HCFA, the State survey agency, or an HCFA agent, will be HCFA's principal means for verifying that the laboratories accredited by COLA remain in compliance with CLIA requirements. This Federal monitoring is an on-going process.

V. Removal of Approval as an Accrediting Organization

Our regulations at § 493.511 provide that the approval of an accreditation organization, such as that of COLA, may be removed by HCFA for cause, prior to the end of the effective date of approval. If validation inspection outcomes and the comparability or validation review produce findings as described at § 493.509(a), HCFA will conduct a review of an accreditation organization's program. A review is also conducted when the validation review findings, irrespective of the rate of disparity (as defined in § 493.2), indicate systemic problems in the organization's processes that provide evidence that the organization's requirements, taken as a whole, are no longer equivalent to the CLIA requirements, taken as a whole.

If it is determined that COLA has failed to adopt requirements that are equal to or more stringent than the CLIA requirements, or systemic problems exist in its inspection process, a probationary period, not to exceed one year, may be given to allow COLA to adopt comparable requirements. Based on an evaluation of any of the items stipulated at § 493.511(d), a determination will be made as to whether or not COLA retains its approved status as an accreditation organization under CLIA. If approved status is denied, an accreditation organization such as COLA may resubmit its application when it has revised its program to address the rationale for the denial, demonstrated that it can reasonably assure that its accredited laboratories meet CLIA condition level requirements, and resubmits its application for approval as an accreditation organization in its entirety. If, however, an accrediting organization requests reconsideration of an adverse determination in accordance with subpart D of part 488 of our regulations, it may not submit a new application until a final reconsideration determination is issued.

Should circumstances result in COLA having its approval withdrawn, we will publish a notice in the Federal Register explaining the basis for removing its approval.

Authority: Section 353 of the Public Health Service Act (42 U.S.C. 263a).

Dated: November 19, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 93-31349 Filed 12-22-93; 8:45 am]

BILLING CODE 4120-03-P

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on December 17, 1993.

(Call PHS Reports Clearance Officer on (202) 690-7100 for copies of requests).

1. Multi-Center Cohort Study to Assess the Risk and Consequences of Hepatitis C Virus Transmission from Mother to Infant—New—The purpose of the proposed study is to determine the incidence of vertical hepatitis C virus (HCV) transmission, to assess risk factors for vertical HCV transmission, to assess the clinical course of disease among infants with HCV infection, and to assess diagnostic methods for detecting HCV infection in infants. Respondents for the study will be anti-HCV positive mothers. Respondents: Individuals or households; Number of Respondents: 486; Number of Responses Per Respondent: 1; Average Burden Per Response: .57 hour; Estimated Annual Burden: 277 hours.

2. IHS Community Health Representative (CHR) Activity Reporting Sample—0910-0010—(Reinstatement) The Indian Health Service CHR Program obtains data on: service category, health area, setting, patient's age and sex, referral from, referral to, and minutes providing services or in travel. This data is used for program planning, allocation of resources, and evaluation purposes. Respondents: State or local governments; Number of Respondents: 1,550; Number of Responses Per Respondent: 4; Average Burden Per Response: 1.5 hours; Estimated Annual Burden: 9,300 hours.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated below at the following address: Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: December 20, 1993.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 93-31350 Filed 12-22-93; 8:45 am]

BILLING CODE 4160-17-M

VOL 58 ISS 245 DEC 23 1993 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-93-1917; FR-3360-N-63]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact Mark Johnston, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Air Force:* Bob Menke, Air Force Real Estate Agency (Area/MI), Bolling AFB, 172 Luke Avenue, Suite 104, Washington, DC 20332–5113; (202) 767–6235; *GSA:* Leslie Carrington, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 208–0619; *Dept. of Energy:* Tom Knox, Realty Specialist, AD223.1, 1000 Independence Ave. SW, Washington, DC 20585; (202) 586–1191; (These are not toll-free numbers).

Dated: December 17, 1993.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 12/23/93

Suitable/Available Properties

Buildings (by State)

Arizona

Facility 80002
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340052
Status: Unutilized
Comment: 1352 sq. ft., wood frame, most recent use—3 bedroom residence, scheduled to be vacant 12/93

Facility 80003
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340053
Status: Unutilized
Comment: 1352 sq. ft., wood frame, most recent use—3 bedroom residence, scheduled to be vacant 12/93

Facility 80004
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340054
Status: Unutilized
Comment: 1096 sq. ft., wood frame, most recent use—2 bedroom residence, scheduled to be vacant 12/93

Facility 80005
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340055
Status: Unutilized
Comment: 1096 sq. ft., wood frame, most recent use—2 bedroom residence, scheduled to be vacant 12/93

Facility 80006
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340056
Status: Unutilized
Comment: 1352 sq. ft., wood frame, most recent use—3 bedroom residence, scheduled to be vacant 12/93

Facility 80007
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force

Property Number: 189340057
Status: Unutilized
Comment: 1352 sq. ft., wood frame, most recent use—3 bedroom residence, scheduled to be vacant 12/93

Facility 80008
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340058
Status: Unutilized
Comment: 1096 sq. ft., wood frame, most recent use—2 bedroom residence, scheduled to be vacant 12/93

Facility 80009
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340059
Status: Unutilized
Comment: 1096 sq. ft., wood frame, most recent use—2 bedroom residence, scheduled to be vacant 12/93

Facility 80010
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340060
Status: Unutilized
Comment: 1352 sq. ft., wood frame, most recent use—3 bedroom residence, scheduled to be vacant 12/93

Facility 80011
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340061
Status: Unutilized
Comment: 1352 sq. ft., wood frame, most recent use—3 bedroom residence, scheduled to be vacant 12/93

Facility 80012
Holbrook Radar Site
1313 North 8th Avenue
Holbrook Co: Navajo AZ 86025-
Landholding Agency: Air Force
Property Number: 189340062
Status: Unutilized
Comment: 1096 sq. ft., wood frame, most recent use—2 bedroom residence, scheduled to be vacant 12/93

South Dakota

West Communications Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706-
Landholding Agency: Air Force
Property Number: 189340051
Status: Unutilized
Comment: 2 bldgs. on 2.37 acres, remote area, lacks infrastructure, road hazardous during winter storms, most recent use—industrial storage

Land (by State)

Ohio

Portion, Camp Sherman Range
Approximately 1 mile north of Chillicothe
Springfield Co: Ross OH
Landholding Agency: GSA
Property Number: 549310004
Status: Excess
Comment: 4.674 acres, potential utilities, previously leased by non-profit for homeless assistance use
GSA Number: 2-GR-OH-433B

Texas

Part of Tract E-434
FM Hwy 720 (Lewisville Lake)
Little Elm Co: Denton TX 75068-
Landholding Agency: GSA
Property Number: 319310005
Status: Excess
Comment: 0.375 acre, frontage on paved highway
GSA Number: 7-D-TX-510-L

Suitable/Unavailable Properties

Land (by State)

New Mexico

Land, LPN Service Bldg.
1015 Indian School Road
Albuquerque Co: Bernalillo NM 87102-
Landholding Agency: GSA
Property Number: 579220001
Status: Excess
Comment: 0.2732 acres, underground lawn sprinkler, most recent use—maintenance yard, secured w/chain link fence.
GSA Number: 7-F-NM-0509D

Oklahoma

Parcel No. 58/GSA No. 7
Lake Texoma
Section 34 and Section 3 Co: Marshall OK
Location: About 2 miles northeast of Cumberland
Landholding Agency: GSA
Property Number: 319010460
Status: Surplus
Comment: 28.66 acres, most recent use—recreation
GSA Number: 7-D-OK-507-H

Unsuitable Properties

Buildings (by State)

Nevada

Transformer Repair Bldg.
Basic Substation, US93–95
Henderson Co: Clark NV 89015-
Landholding Agency: Energy
Property Number: 419340001
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Basic Sub Oil House
Basic Substation, US93–95
Henderson Co: Clark NV 89015-
Landholding Agency: Energy
Property Number: 419340002
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

[FR Doc. 93–31321 Filed 12–22–93; 8:45 a.m.]

Billing Code 4210–29–F

[Docket No. N-93-3556; FR3426-N-10]

Task Force on Occupancy Standards in Public and Assisted Housing; Meeting

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity.

ACTION: Notice of open meetings.

SUMMARY: The Task Force on Occupancy Standards in Public and Assisted Housing was established on December 31, 1992 in accordance with the provisions of section 643 of the Housing and Community Development Act of 1992 (Public Law 102–550), and the Federal Advisory Committee Act (FACA). The Task Force's charter was published in the **Federal Register** on January 7, 1993 at 58 FR 3039. The Task Force was created to review all rules, policy statements, handbooks, and technical assistance memoranda issued by the Department on the standards and obligations governing residency in public and assisted housing and make recommendations to the Secretary for the establishment of reasonable criteria for occupancy. The Federal Register on August 31, 1993 at 58 FR 45905 announced the publication of the Task Force's preliminary report for public comment. Public comments on the Report were accepted until December 1, 1993. In addition, the Task Force conducted public hearings in Boston, San Antonio and Seattle.

FOR FURTHER INFORMATION CONTACT: Laurence D. Pearl, Office of Fair Housing and Equal Opportunity, room 5226, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–0288, ext. 265. TDD: (202) 708–0113 (These are not toll-free numbers.) If a sign language interpreter is needed for either meeting, please call either telephone number for assistance at least seven days prior to the meeting.

SUPPLEMENTARY INFORMATION: *Time and Place:* The Task Force will meet from Tuesday, January 11 through Friday, January 14 from 9 a.m. to 7 p.m. each day except Friday, January 14 when the meeting will end at 5 p.m. The meeting will take place at the Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, VA. The final meeting of the Task Force is scheduled from Monday, February 14 through Thursday, February 17 from 9 a.m. to 7 p.m. each day except Thursday, February 17 when the meeting will end at 5 p.m. The February meeting will take place at the Capitol Holiday Inn, 550 C Street, SW., Washington, DC. These are open meetings.

VOL 58 ISS 245 DEC 23 1993 UMI

Agenda: At its January meeting the Task Force will discuss the public comments received and decide what changes to make in its preliminary report published on August 27, 1993. The February meeting will involve consideration and approval of the final report to the Congress and the Secretary of Housing and Urban Development.

Public participation: These are open meetings. Although the comment period on the preliminary report has passed, any general comments on the Task Force's mandate or activities may be submitted in writing to Ms. Bonnie Milstein, the Chair of the Task Force, at 1101 Fifteenth Street, NW., suite 1212, Washington, DC 20005–2765.

Dated: December 9, 1993.

Bonnie Milstein,

Chair, Task Force on Occupancy Standards in Public and Assisted Housing.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 93–31381 Filed 12–22–93; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–068–94–5101–10–B038; CAMC 20175]

Availability of Final Environmental Impact Report/Environmental Impact Statement for the Fort Cady Minerals Corporation Borate Solution Mining Project

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and the California Environmental Quality Act, a final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) has been prepared for the proposed Fort Cady borate solution mining project located in the California Desert Conservation Area, San Bernardino County, California. This EIR/EIS has been prepared jointly by the Bureau of Land Management and the County of San Bernardino. The EIR/EIS describes and analyzes the impacts of a proposed boric acid mine and processing facility on approximately 341 acres of public lands located in San Bernardino county in south-central California near Pisgah Crater, approximately 17 miles east of Newberry Springs and 2.5 miles south of I–40.

Decisions generated from this EIR/EIS will be consistent with the California Desert Conservation Plan, as amended.

DATES: Written comments must be submitted on or before January 31, 1994.

ADDRESSES: Written comments should be addressed to Bureau of Land Management, Barstow Resource Area, 150 Coolwater Lane, Barstow, CA 92311, Attn: Edy Seehafer.

Copies will be available at local public libraries located in Victorville and Barstow, and San Bernardino County public libraries in San Bernardino, the Victorville area, the 29 Palms/Yucca Valley Area, and Needles. In addition, copies will be available from the County of San Bernardino, Planning Department, 385 N. Arrowhead Avenue, San Bernardino, CA 92415 or the Bureau of Land Management (BLM), Barstow Resource Area Office at the address above.

Public reading copies will be available for review at the San Bernardino County Government Center at the address above, at 15505 Civic Drive in Victorville, at the Newberry Springs Community Center, 30887 Newberry Road, Newberry Springs, at the Baker Community Services District Office, libraries in Victorville, Barstow, and San Bernardino County, and the following BLM locations:

Barstow Resource Area Office, 150 Coolwater Lane, Barstow, CA 92311–3221.
Office of Public Affairs, Main Interior Building, rm. 5600, 1849 C Street, NW., Washington, DC 20240.
Public Affairs Office, California State Office, rm. E–2857, Federal Office Bldg., 2800 Cottage Way, Sacramento, CA 95825.
California Desert District Office, 6221 Box Springs Blvd., Riverside, CA 92507.

FOR FURTHER INFORMATION CONTACT: Edy Seehafer, Bureau of Land Management, Barstow Resource Area, phone (619) 256–3591 or Ray Johnson, County of San Bernardino Planning Dept., phone (714) 387–4099.

Dated: December 13, 1993.

Karla K.H. Swanson,

Area Manager.

[FR Doc. 93–31290 Filed 12–22–93; 8:45 am]

BILLING CODE 4310–40–M

[MT–060–02–4210–05; MTM–79161]

Realty Action: Plan Amendment and Direct Sale; City of Shelby, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management (BLM) is providing notice of a plan amendment of the West HiLine Resource Management Plan. The purpose of the amendment is to allow the sale of 19.81 acres of public land directly to the City of Shelby, Montana under criteria 2 and 3 of section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1713). The BLM is also providing notice of the proposed sale of the same public land in Toole County involving the surface estate to the City of Shelby.

SUMMARY: The City of Shelby will use the purchased land to expand the city golf course from 9 holes to an 18 hole course. The BLM advised state and local officials about the proposed sale. The estimated fair market value is $990. Sale of the public land will occur in March 1994.

The following described public land is suitable for sale under criteria 2 and 3 of section 203 of FLPMA of 1976 (43 U.S.C. 1713):

Principal Meridian Montana

T. 31 N., R. 2 W.,
Sec. 19, lots 9 and 17.
Containing 19.81 acres.

DATES COMMENTS AND PROTESTS: The effective date of this plan amendment decision and proposed sale notice is the publication date of this notice in the **Federal Register**.

Any person who participated in the West HiLine Resource Management Plan amendment process having an interest or adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment as stated in 43 CFR 1610.5–2. The protest shall be in writing and filed within 30 days of the effective date of this notice. Send protests to the: Director (760), Bureau of Land Management, 1849 "C" Street NW., Washington, DC 20240.

The protest must contain:

1. The name, mailing address, telephone number and interest of the person filing the protest.
2. A statement of the issue or issues being protest.
3. A statement of the part of parts of the plan or amendment being protested.
4. A copy of all documents addressing the issue or issues submitted during the planning process by the protesting party or an indication of the discussion date of the issue(s) for the record.
5. A concise statement explaining why the State Director's decision may be wrong.

Comments on the proposed sale may occur for 45 days from the date of this notice. Send comments to: Bureau of Land Management, Great Falls Resource Area Office, 812 14th Street North, Great Falls, Montana 59401.

The State Director will weigh adverse comments on the proposed sale and may vacate or change this notice concerning the proposed sale. Without any objections this notice will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the plan amendment, proposed sale and environmental assessment are available from Richard L. Hopkins, Area Manager, Great Falls Resource Area, 812 14th St. N., Great Falls, MT 59401, 406–727–0503.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public land described above from appropriation under the public land laws, including the mining laws but not from sale under section 203 of the FLPMA of 1976. The segregation will end upon issuance of the conveyance document or 270 days from the date of publication of this notice, whichever occurs first.

The conveyance of public land is subject to:

1. A reservation of a right-of-way for ditches and canals under 43 U.S.C. 945.
2. A reservation of all federal minerals.

Dated: December 19, 1993.

B. Gene Miller,

Associate District Manager.

[FR Doc. 93–31300 Filed 12–22–93; 8:45 am]

BILLING CODE 4310–DN–M

[UT–050–04–4210–05; U–63656]

Realty Action; Richfield District, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Direct Sale of Public Lands in Juab, County, Utah.

SUMMARY: The following described public lands have been found suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value $2,800. The lands will not be offered for sale for at least 60 days after the date of publication of this notice.

Salt Lake Meridian, Utah

T. 12 S., R. 18 W.,
Sec. 12, E½NW¼SW¼, NE¼SW¼SW¼, NE¼SE¼SW¼SW¼, SW¼SW¼NW¼SE¼.
Contains 35 acres in Juab County.

Publication of this notice segregates the public lands described above from appropriation under the public land laws and the mining laws. The segregation will end upon disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered for direct sale to George A. Douglass of Callao, Utah. It has been determined that the subject parcel is not prospectively valuable for oil and gas; that there are no other known mineral values covered under the mineral leasing laws; that fifteen acres of the land is encumbered by a ten-year oil and gas lease (UTU–68512). All minerals in the lands shall be reserved to the United States, with the right to prospect for, mine and remove the same in accordance with Public Law 94–579, Federal Land Policy and Management Act of 1976 section 208 (43 U.S.C. 1718) and such regulations as the Secretary of the Interior may prescribe.

The patent, when issued, will be subject to the following reservations to the United States and will be subject to any existing right-of-way.

1. A right-of-way reservation to the United States for ditches and canals constructed under the authority of the Act of August 30, 1890 (26 stat. 391; 43 U.S.C. 945 (1970))

2. All minerals will be reserved to the United States, together with the right to prospect for, mine, and remove the same in accordance with Public Law 94–579, Federal Land Policy and Management Act of 1976 section 208 (43 U.S.C. 1718) and such regulations as the Secretary of the Interior may prescribe.

3. The patent will be subject to the following valid existing rights of record: Federal oil and gas lease UTU–68512, issued to Hunt Oil Company of Dallas, Texas, on December 6, 1991.

Detailed information concerning these reservations as well as specific conditions of the sale are available for review at the House Range Resource Area, Bureau of Land Management, 35 East 500 North, Fillmore, Utah 84631.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Area Manager, House Range Resource Area, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: December 14, 1993.

Jerry W. Goodman,

District Manager.

[FR Doc. 93–31301 Filed 12–22–93; 8:45 am]

BILLING CODE 4310–DQ–M

[NM–940–04–4730–12]

Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, on January 18, 1994.

New Mexico Principal Meridian, New Mexico

T. 32 S., R. 21 W., Accepted November 29, 1993, for Group 910 NM.
T. 17 N., R. 9 E., Accepted December 2, 1993, for Group 826 NM.

Indian Meridian, Oklahoma

T. 29 N., R. 24 E., Accepted December 2, 1993, for Group 69 OK.

Supplementals

T. 11 S., R. 9 W., Accepted November 24, 1993.
T. 11 S., R. 8 W., Accepted November 24, 1993.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest.

A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, a notice that they wish to protest prior to the proposed official filing date given above.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–0115. Copies may be obtained from this office upon payment of $2.50 per sheet.

Dated: December 10, 1993.

John P. Bennett,

Chief, Branch of Cadastral Survey/Geo Science.

[FR Doc. 93–31302 Filed 12–22–93; 8:45 am]

BILLING CODE 4310–FB–M

VOL 58 ISS 245 DEC 23 1993 UMI

[WY-960-4340-04]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 54 N., R. 70 W., accepted December 10, 1993.
T. 55 N., R. 70 W., accepted December 10, 1993.

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and/or appeal(s). A plat will not be officially filed until after disposition of protest(s) and/or appeal(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 2515 Warren Ave., Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys.

FOR FURTHER INFORMATION CONTACT:

Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: December 10, 1993.

John P. Lee,

Chief, Branch of Cadastral Survey.

[FR Doc. 93-31303 Filed 12-22-93; 8:45 am]

BILLING CODE 4310-22-M

[AZ-930-4210-06; AR-09391 and AR-09391-C]

Proposed Modification and Continuation of Withdrawals; Opportunity for Public Comment, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to modify and continue for 20 years, Public Land Order 3147 of July 30, 1963, as modified, and Public Land Order 4657 dated May 12, 1969, as modified, which withdrew National Forest System lands in the Kaibab National Forest for use of the Forest Service for roadside zones, recreation areas and a ranger station.

The Forest Service proposes to continue the withdrawals for these purposes for 20 years, and does not anticipate any significant changes in land use. The land will remain closed to operation of the mining laws only.

DATES: Comments on this notice should be received by March 23, 1994.

ADDRESSES: Comments should be addressed to the Arizona State Director, Bureau of Land Management (BLM), P.O. Box 16565, Phoenix, Arizona, 85011.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16565, Phoenix, Arizona 85011, 602-650-0509.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Public Land Order 3147 of July 30, 1963 (AR-09391) and Public Land Order 4657 of May 12, 1969 (AR-09391-C) as modified, withdrawing the lands from the mining laws for an indefinite period of time, be modified and continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described land within the Kaibab National Forest in the State of Arizona. Public Land Order 4427 dated May 29, 1968, revoked a portion of Public Land Order 3147. Public Land Order 4686 of September 15, 1969, made a correction to the acreage of Public Land Order 4657.

Gila and Salt River Meridian

U.S. Highway 66 Roadside Zone (AR-09391)

A strip of land 300 feet on each side of centerline of U.S. Highway 66 (I-40) as it passes through the following legal subdivisions:

T. 21 N., R. 1 E.,
Sec. 1, Lot 1, S½NE¼, SE¼NW¼, NW¼SE¼, NE¼SW¼, and W½SW¼;
Sec. 2, S½S½ and NE¼SE¼;
Sec. 3, S½S½;
Sec. 4, S½SE¼, N½NW¼SE¼SW¼ and E½SE¼SW¼;
Sec. 5, S½S½;
Sec. 6, Lot 7, S½SE¼ and SE¼SW¼;
Sec. 7, Lot 1 and NE¼NW¼;
Sec. 8, N½N½;
Sec. 9, NE¼NW¼ and NW¼NE¼;
Sec. 10, N½N½;
Sec. 11, NW¼NW¼.
T. 21 N., R. 2 E.,
Sec. 6, Lots 8 and 9.
T. 22 N., R. 2 E.,
Sec. 25, S½NW¼ and N½SW¼;
Sec. 26, S½NW¼, N½SE¼ and NW¼SW¼;
Sec. 27, S½NE¼, SE¼SE¼NW¼, NE¼SE¼ and NW¼SW¼;
Sec. 31, SE¼NE¼, NW¼SE¼, S½SE¼SW¼, and SE¼SW¼SW¼;
Sec. 32, E½NW¼.
T. 22 N., R. 3 E.,
Sec. 26, E½NW¼NW¼;
Sec. 27, W½NW¼ and W¼NE¼NW¼;
Sec. 28, S½NE¼ and NE¼NE¼;
Sec. 29, S½NE¼ and N½SE¼;
Sec. 30, Lot 2, SE¼NE¼, E½SW¼NE¼, NE¼SE¼ and E½NW¼SE¼.
T. 22 N., R. 4 E.,
Sec. 25, S½NW¼, N½SW¼, Lots 3, 4, and W½SE¼;
Sec. 26, Lots 7 and 8.
T. 22 N., R. 5 E.,
Sec. 30, Lot 1, SE¼SW¼ and S½SE¼;
Sec. 31, all portions Lot 1, N½NE¼, NE¼NW¼ north of AT&SF Railway;
Sec. 32, SE¼NE¼, and all portions SW¼NE¼ and W½NW¼ north of AT&SF Railway;
Sec. 33, W½SW¼NW¼ and S½NE¼;
Sec. 34, W½W½NW¼SE¼ and that portion of NE¼SW¼ north of AT&SF Railway.
T. 21 N., R. 5 E.,
Sec. 1, Lots 3 and 4, and that portion of S½NW¼, and SE¼, north of AT&SF Railway.
T. 21 N., R. 1 W.,
Sec. 7, Lot 2, SE¼NW¼, SW¼NE¼, NE¼SW¼ and N½SE¼;
Sec. 8, N½S½;
Sec. 9, S½N½ and N½SW¼;
Sec. 10, S½N½;
Sec. 11, S½N½ and N¼SE¼;
Sec. 12, NE¼NE¼, W½NE¼, E½NW¼, SW¼NW¼ and NW¼SW¼.
T. 21 N., R. 2 W.,
Sec. 12, NW¼NE¼ and NW¼.

The area described contains approximately 850 acres.

Bill Williams Mountain Road Roadside Zone (AR-09391)

A strip of land 300 feet on each side of centerline as it passes through the following legal subdivisions:

T. 21 N., R. 2 E.,
Sec. 16, W½SW¼ and SE¼SW¼;
Sec. 17, S½, S½NW¼ and SW¼NE¼;
Sec. 20, E½NE¼;
Sec. 21, N½;
Sec. 22, NW¼.

The areas described contains 404 acres.

Bill Williams Winter Sports and Recreation Area (AR-09391)

T. 21 N., R. 2 E.,
Sec. 3, SE¼SW¼;
Sec. 8, NE¼, N½SE¼;
Sec. 9, N½, N½S½;
Sec. 10, NE¼NW¼.

The areas described contain 800 acres.

Moqui Ranger Station (AR-09391)

T. 30 N., R. 4 E.,
Sec. 13, SE¼SW¼NE¼NE¼, SW¼SE¼NE¼NE¼, NE¼NW¼SE¼NE¼, NW¼NE¼SE¼NE¼.

The areas described contain 10 acres.

White Horse Lake Recreation Area (AR-09391)

T. 20 N., R. 4 E.,
Sec. 17, SW¼NW¼, NW¼SW¼;
Sec. 18, lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼.

The areas described contain 560.23 acres.

U.S. Highway 66 Roadside Zone (AR-09391-C)

A strip of land 300 feet on each side of the centerline of U.S. Highway 66 (I-40) as it passes through the following legal subdivisions:

T. 22 N., R. 2 E.,
Sec. 32 NW¼NW¼ and N½SW¼NW¼.
T. 22 N., R. 3 E.,
Sec. 22, SE¼SE¼SE¼;
Sec. 25, S½SW¼NE¼, N½SE¼NW¼, NE¼NW¼SE¼ and E½NE¼SE¼.
T. 22 N., R. 4 E.,
Sec. 26, Lot 9;
Sec. 29, S½SW¼;
Sec. 30, Lot 3, SE¼SE¼, NE¼SW¼SE¼ and NE¼SE¼;
Sec. 32, N½NE¼ and N¼NE¼NW¼;
Sec. 33, Lots 1 and 2;
Sec. 34, N½NW¼.
T. 2 N., R. 5 E.,
Sec. 33, SE¼NW¼NE¼ and E½SW¼NW¼NE¼.
T. 21 N., R. 1 W.,
Sec. 7, Lot 3;
Sec. 10, N½SW¼.

The area described contains approximately 301.60 acres.

The areas described in this publication aggregate 2,936.03 acres. The purpose of these withdrawals is to protect Forest Service roadside zones, recreation areas and ranger station from prospecting and possible disturbances caused by mining.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with these proposed actions may present their views in writing to this office. The authorized officer of the BLM will undertake such investigation as is necessary to determine the existing and potential demand for the land and its resources.

A report will be prepared for consideration to determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of final determination will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Herman L. Kast,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 93-31299 Filed 12-22-93; 8:45 am]

BILLING CODE 4310-32-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Established 1993 Aggregate Production Quotas for Schedule I Controlled Substances

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of established 1993 aggregate production quotas.

SUMMARY: This notice establishes 1993 aggregate production quotas for three controlled substances in Schedule I of the Controlled Substances Act (CSA).

DATES: This order is effective December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

On September 13, 1993, a notice of the proposed 1993 aggregate production quotas for certain Schedule I controlled substances was published in the **Federal Register** (58 FR 47918). All interested persons were invited to comment on or object to these proposed aggregate production quotas on or before October 13, 1993. No comments or objections were received.

This notice is not a significant regulatory action and therefore has not been reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this matter does not have sufficient federalism implications to warrant the preparations of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning of and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual production quotas for Schedules I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of title 28 of the Code of Federal Regulations, hereby establishes the 1993 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous base, be established as follows:

Basic class	Established 1993 aggregate production quota (grams)
Aminorex	2
4-Methoxyamphetamine	10
3-Methylfentanyl	10

Dated: December 16, 1993.

Stephen H. Greene,

Acting Administrator of Drug Enforcement.

[FR Doc. 93-31325 Filed 12-22-93; 8:45 am]

BILLING CODE 4410-09-M

Immigration and Naturalization Service

[INS No. 1630-93; AG Order No. 1820-93]

RIN 1115-AC83

Requirement for the Registration and Fingerprinting of Certain Nonimmigrants Bearing Iraqi and Sudanese Travel Documents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice provides for the registration and fingerprinting of certain nonimmigrants bearing Irqai or Sudanese travel documents who apply for admission to the United States. This notice is published in response to increased concern for national security resulting from terrorist attacks and uncovered plots directed by nationals of Iraq and Sudan. This procedure is necessary to assist in protecting national security.

EFFECTIVE DATE: December 23, 1993.

VOL 58 ISS 245 DEC 23 1993 UMI

FOR FURTHER INFORMATION CONTACT: Andrea P. Sickler, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., room 7228, Washington, DC 20536, telephone number: (202) 514–3275.

SUPPLEMENTARY INFORMATION: On January 16, 1991, a final regulation was published in the **Federal Register** at 56 FR 1566 requiring the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents. The requirement was promulgated in response to the United States condemnation of Iraq's invasion of Kuwait, United States sanctions against Iraq, and the theft of thousands of Kuwaiti passports during the occupation of Kuwait by Iraq, all of which heightened the potential for domestic anti-United States terrorist activities.

As set forth in the interim rule (INS No. 1606–93) published elsewhere in this issue of the **Federal Register**, the requirement for the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents has been removed and a new paragraph (f) has been added in 8 CFR 264.1 This new paragraph provides that the Attorney General may require, by public notice in the **Federal Register**, certain nonimmigrants of specific countries to be registered and fingerprinted upon arrival in the United States, as pursuant to section 263(a)(5) of the Immigration and Nationality Act.

Notice of Requirement for Registration and Fingerprinting of Certain Iraqi and Sundanese Nonimmigrants

Recent terrorist activities perpetrated on United States soil and the discovery of terrorist plots make it necessary for the United States to register and fingerprint certain nonimmigrants from Iraq and the Sudan upon their application for admission to the United States. Therefore, all nonimmigrants bearing Iraqi or Sudanese travel documents who apply for admission to the United States, except those applying for admission under section 101(a)(15)(A) or 101(a)(15)(G) of the Immigration and Nationality Act, shall be registered on Form I–94 (Arrival/Departure Record), photographed, and fingerprinted on Form FD–258 (Fingerprint Chart) by the Immigration and Naturalization Service at the Port-of-Entry where the aliens apply for admission to the United States.

Dated: December 15, 1993.

Janet Reno,

Attorney General.

[FR Doc. 93–31279 Filed 12–23–93; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal State Unemployment Compensation Program; State Employment Services Program; Acquisition, Use, and Disposition of Real Property by States

AGENCY: Employment and Training Administration, Labor.

ACTION: Final General Administration letter.

SUMMARY: This notice sets forth the final Department of Labor (DOL or the Department) General Administration Letter (GAL) No. 5–94 containing policy guidance and interpretation of its requirements for administering real property acquired by States with Federal grant funds awarded for the administration of State Employment Security Agency (SESA) programs. This GAL is published after a review of comments on a proposed GAL on this subject, published in the **Federal Register** on November 17, 1992.

EFFECTIVE DATE: The General Administration Letter, published below, becomes effective on January 24, 1994.

FOR FURTHER INFORMATION CONTACT:

Erica Cantor, Financial Management Specialist, Division of Fiscal Policy, Office of the Comptroller, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., room C–5317, Washington, DC 20210. Telephone number (202) 219–5762 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Purpose of the General Administration Letter.
II. Background of the General Administration Letter.
III. General Comment Summary.
IV. Analysis of Comments and Resulting Changes to the General Administration Letter.
A. General authority To create Federal equity in real property acquired with UI and ES grant funds.
B. Accrual of Federal Equity When Using Rental Rate or Equivalent Systems.
C. Retroactive Authority.
D. Capital Improvements.
E. Appraisals.
F. Land vs. Improvements/Contributed Land.
G. Unemployment compensation (UI) versus employment security (ES) funding.
H. Reduction in Occupancy.
I. Non-employment Security use.
J. Administrative, Staff & Technical (AS&T) Identity.
K. Use of Proceeds from Disposition of Real Property Attributable to Reed Act.
L. Deposit of Proceeds.
M. Retention of Proceeds.
N. Complexity.
O. Restrictive and Narrow.
P. Wait for Transition of Administration.
V. General Administration Letter.

I. Purpose of the General Administration Letter

The purpose of the following GAL is to provide binding guidance and direction to States on real property acquisition, use, and disposition requirements when using UI and ES granted funds to acquire or improve real property. In the GAL, the Department presents its interpretation of the cost principles in OMB Circular No. A–87 and the Department's adoption of OMB Circular No. A–102 through the codification of those requirements at 29 CFR part 97.

II. Background of the General Administration Letter

On November 17, 1992, the Department of Labor published a proposed GAL (57 FR 54257) for public comments on this topic. The Department received comments from State Employment Security Agencies, DOL Regional Offices, and other offices within DOL.

In its proposed GAL, the Department clarified the Federal requirements to account for and control DOL equity in real property financed or improved with Federal grant funds. Specifically, these are funds provided to States to administer the UI and ES programs, under Title III of the Social Security Act and the Wagner-Peyser Act, respectively. (UI and ES are collectively known as the employment security program.)

Typically, States purchase or construct real property used to administer these programs with funds provided by other than Federal grant sources. The States charge the appropriate UI or ES grant, over a period of time, to amortize or repay the original funding source. The amortization or repayment of the original acquisition costs, in this manner, creates a Federal equity in the properties.

One source of original financing are funds transferred to the States' accounts in the Unemployment Trust Fund pursuant to section 903 of the Social Security Act (Reed Act). Acquisition of real property using these funds must be authorized by a State appropriation that meets specified conditions found at section 903(c)(2) of the Social Security Act.

Using various amortization arrangements, States, as grantees for the UI and ES programs, acquired real property costing hundreds of millions of dollars. There is Federal equity in most of these properties due to the use of Federal grant funds to amortize their acquisition costs. OMB Circular No. A–87 (46 FR 9548–9554, Jan. 28, 1981) and DOL's regulation at 29 CFR 97.31 establish the basis for creating Federal equity and require a grantee to compensate the grantor agency for the agency's equity share when real property is no longer needed for its originally authorized purpose.

A review in 1989, by DOL's Office of Inspector General (OIG), of DOL's equity in SESA real property (Audit Report No. 04–90–002–03–325) revealed weaknesses in several States' real property management and in DOL's oversight of real property with Federal equity. The OIG also found that the guidance and direction furnished SESAs on real property was confusing and at times inconsistent with OMB guidelines. To remedy this, the Employment and Training Administration (ETA) took a number of actions, including issuing the following General Administration Letter (GAL) to provide guidance and direction to SESAs concerning real property acquisition, use, and disposition requirements.

III. General Comment Summary

DOL received 36 comments from 13 respondents clustered around 17 issues. Respondents included State agencies, DOL Regional Offices and DOL's OIG. The Department considered all comments in finalizing this GAL. An analysis, by issue, and a description of changes or language clarification to the GAL follow in the next section.

IV. Analysis of Comments and Resulting Changes to the General Administration Letter

A. General Authority to Create Federal Equity in Real Property Acquired With UI and ES Grant Funds

Federal equity is created to the extent Federal grant funds are used to acquire or improve real property (See Section 6 of the GAL). The requirements for real property acquisition procedures, when using grant funds, are at 29 CFR 97.36(a). Acquisitions are also subject to the allowable costs requirements of OMB Circular No. A–87, Attachment B, Para. C.3. DOL's requirements for the use and disposition of real property acquired, amortized or improved with grant funds are at 29 CFR 97.31.

Comment: One respondent stated that properties acquired under the Employment Security Manual which does not authorize DOL to obtain an equity in real property are not affected by this GAL.

Response: The Employment Security Manual and other DOL instructions that were applicable to the administration of SESA programs prior to 1983 established guidelines on the acquisition and use of real property but did not address disposition. Specific case histories reflected a clear Federal interest in such properties and assurances that once acquired, subsequent charges for space rental costs for program administration were not to occur. It is DOL's position that the Federal equity in such property under OMB Circular A–87 and 29 CFR 97.31 are consistent with past treatment of this subject.

DOL acquires equity when Federal grant funds are used to acquire or improve real property. OMB Circular A–87, Attachment B, Para. C.3 establishes a grantor agency's right to be reimbursed the proportional share of its contribution in the acquisition of real property when it is no longer needed for the originally authorized purpose. DOL regulations at 29 CFR 97.31(c) provide disposition instructions as a mechanism to properly dispose of the property and distribute the equities. The Department receives equity when UI or ES grant funds are used to acquire or improve real property. Accordingly, no change is made in the GAL based upon this comment.

B. Accrual of Federal Equity When Using Rental Rate or Equivalent Systems

There are some conditions under which charging costs related to real property under rental rate or equivalent systems may not create Federal equity (See Section 7.b.(3) of the GAL).

Comment: One respondent stated that Federal equity must be recognized when Federal grant funds are charged for principal and interest costs. The respondent added that the GAL, as drafted, would result in an inability to recognize equity in properties acquired with Federal funds through installment purchases. The respondent also indicated that the GAL, as drafted, will increase the cost of real property and UI and ES office space.

Response: It has been DOL's policy to treat charges under rental rate or equivalent systems, as described in OMB Circular A–87, Attachment B, Para. C.2.a, in the same way it treats rental charges under commercial leases under which no Federal equity accrues. Under Section 7.b.(3) of the GAL, there may be certain conditions under which Federal equity is not created as the grant is charged. Specifically, no equity would accrue when a grant is charged for depreciation/use allowance and not for debt amortization. DOL accrues equity in real property to the extent that amortization of acquisition costs, including principal and interest, are charged as part of a rental rate or equivalent system and agrees with the respondent's comment. DOL must manage Federal grant funds consistent with the cost principles contained in OMB Circular No. A–87 and its own regulations found at 29 CFR part 97. Amortization of acquisition costs, however, accomplished, constitutes acquisition. Thus, Federal equity accrues to the extent that UI and ES grant funds are used for the amortization of acquisition costs through a rental rate or equivalent system. Therefore, Sections 7.b. (3) and (8) of the GAL were modified to more clearly specify when DOL accrues as a result of rental rate or equivalent systems.

C. Retroactive Authority

Real property involving UI or ES granted funds must be treated in accordance with 29 CFR part 97. Grantees should examine their use of such property and ensure that their management is consistent with the requirements at 97.31 (See Section 8.b. of the GAL).

Comments: Four respondents disagreed with the GAL's position on this issue. They stated that this would result in excessive burden and hardship on grantees. One respondent added that it would be infeasible, if not impossible to enforce. Another stated that compliance with 29 CFR part 97 could require movement of staff to bring equity and occupancy into balance.

Response: DOL does not seek to cause excessive burden or hardship on its grantees. However, the only significant difference in the way SESA real property is treated in the regulations at 41 CFR 29–70.215, effective in 1979, and 29 CFR part 97, which was promulgated in 1988, relates to non-employment security use of real property acquired with employment security grant funds. Additionally, prior to 1979, Part 4 of the ES Manual also required treatment for real property involving Federal grant funds similar to the provisions of 41 CFR 29–70.215.

VOL 58 ISS 245 DEC 23 1993 UMI

Provisions making 29 CFR part 97 applicable to real property acquired before October 1, 1988 were inserted in the UI Program and Budget Plans (PBP) for 1990, 1991 and 1992 (ETA Handbook 336, 6th, 7th and 8th editions) and the ES Reimbursable Grant Agreement. Additionally, in 1988, OMB directed Federal agencies to administer its Federal grants according to the 'common rule' codified for the Department of Labor at 29 CFR part 97, including the regulation that provides for the supersession of previous regulations (29 CFR 97.5). Therefore, 29 CFR part 97 is applicable to real property acquired with ES or UI grant funds under the Department's regulations at 41 CFR 29–70.215–2 (b) and (c) (44 FR 42920–42955, July 20, 1979), superseded by 29 CFR part 97 as of October 1, 1988. DOL has been advising grantees for more than two years that real property must be managed according to the regulations at 29 CFR 97.31. There may be instances where individual circumstances will require consideration and determination on a case by case basis. DOL will be as reasonable and as equitable as possible when applying this provision. The OMB Circulars and DOL regulations are not new and should not provide any surprises. The Department does not believe a change to the GAL is appropriate. Accordingly, no change has been made in the GAL as a result of these comments.

D. Capital Improvements

A grantee must request approval from its grantor agency to use UI or ES granted funds for capital improvements to real property (See Section 7.b.(8) of the GAL). Allowable charges to the grant for space costs, including capital improvements, are limited to the total cost of space limitation expressed in OMB Circular No. A–87, Attachment B, Para. C.2.

Comments: Seven respondents submitted comments on this provision. The comments clustered around three issues. The first was a request for uniform guidelines to determine what constitutes a capital improvement. The second was a suggestion by two respondents that renovations relating to health, safety, Americans with Disabilities Act compliance, etc. be excluded from the limitation under OMB Circular No. A–87. The third, also related to the total cost of space limitations, was a request that renovation costs be included in the total cost of space over the life of the improvement rather than in the year expended.

Response: In response to the first issue, the State should use its own definition of capital improvements in treating expenditures and in determining whether prior approval is required providing it is consistent with 29 CFR 97.20. Regarding the second issue, OMB Circular No. A–87 does not make provision for exceptions to the total cost of space limitation and the Department finds no basis for excluding certain expenditures when applying the total cost of space limitation since the purpose of the improvement does not alter the accounting treatment a capital improvement receives. Therefore, the GAL includes all expenditures related to space costs in considering space cost limitations. Regarding the third issue, DOL believes it is appropriate and consistent with appropriation law to match the appropriation year to the expenditure for the same period of time. Therefore, DOL's interpretation of OMB Circular No. A–87 total cost of space limitation provision restricts the total allowable cost of space to comparable space and facilities in a privately-owned building in the same locality on an annual basis. If necessary, the Department will look again at its position and interpretations in response to future revisions to OMB Circulars. For now, DOL requirements remain as presented in the draft GAL. However, language at Section 7.b.(1) in the GAL was clarified to reflect the Department's requirement more clearly.

E. Appraisals

According to Section 9.c.(4) of the GAL, if a method other than sale is to be used to dispose of real property, DOL may require the use of appropriate procedures to establish its current fair market value.

Accordingly, DOL disposition instructions may require that the grantee obtain one or more independent appraisals of the property, regardless of the disposition option requested by the State or chosen by DOL. DOL may also require independent appraisal of the fair market value resulting from a contribution of property and may require that the grantee obtain DOL approval of the appraiser selected and/or the contract for the appraisal. DOL may also obtain its own appraisal of the property at its expense. Appraisal costs incurred by the grantee in connection with a disposition of property under 29 CFR 97.31(c) may be charged to the appropriate UI or ES grant as an allowable cost or may be paid from the proceeds generated by the disposition.

DOL reserves the right to require the grantee to obtain one or more independent appraisals to determine the fair market value at the time of and as a result of any capital improvement that materially increases the value or useful life of the property (whether paid by grant funds or otherwise) and that significantly alters the existing Federal (UI or ES) share. A significant alteration of the Federal share, for purposes of this GAL, is defined as any capital improvement where the cost of the improvement would either reduce the Federal share by at least 10% or estimated to affect the current Federal equity by $100,000 or more (See section 7.b.(8) in the GAL).

Comment: One respondent stated that 29 CFR part 97 requires appraisals only in connection with determining fair market value at the time of disposition or for determining the value of grantee or third party contributions. The respondent added that there is no basis in Federal regulation for requiring appraisals as a result of capital improvements. The respondent also added that the GAL should specifically state under what circumstances appraisals would be used to revise equity shares and that the GAL does not state that the cost of appraisals is chargeable against UI and ES programs.

Response: To use fair market value as the basis for establishing equity share and to adequately protect Federal equity in real property involving Federal grant funds, DOL and the grantee must be able to establish a value for an asset at the time additional capital contribution is made. DOL believes independent appraisals are an appropriate mechanism to establish fair market value at the time of additional financial contribution and in situations where property is being disposed of in a less than arm's length transaction. DOL, therefore, may require that the fair market value of property be determined, by independent appraisal, at the time of and as a result of an improvement or less than arm's length transaction to enable it to apply 29 CFR 97.31 and to recognize resulting changes in its Federal share. DOL establishes thresholds and circumstances in the GAL, at section 7.b.(8), under which it may exercise this right. Primarily, these would be less than arm's length transactions. Independent appraisals are an allowable cost with prior grantor approval under OMB Circular No. A–87, Attachment B, Para. C.7. Language in section 9.c.(4) of the GAL states that the cost of appraisals, with grantor approval, may be deducted from the proceeds of a disposition or charged to the grant as a current expense. No change has been made in the GAL as a result of this comment.

F. Land Versus Improvements/ Contributed Land

DOL applies the definition of real property at 29 CFR 97.3 to the properties discussed in the GAL and treats land and improvements as one asset. If real property includes a building constructed on contributed land, the fair market value of the land at the time of contribution will be considered a contribution toward the total cost of the real property, for purposes of determining the respective shares. This will be the treatment unless there is clear written evidence of agreement between DOL and a grantee that either the land or structure is not intended to be included in any settlement of equities when the property ceases to be used for applicable grant purposes. (See section 9.a. of the GAL.)

Comment: Four respondents commented on these issues. One respondent stated that it is unfair to include land, especially land contributed by States, when the property is disposed and equities are settled. The respondent "fails to see why DOL should benefit from the increased value of the land when DOL did not participate in the contribution." The respondent added that regulations should be changed to allow States the opportunity to appraise contributed land separately prior to disposition. Three respondents were primarily concerned that, in many cases, it would be virtually impossible to determine the fair market value of the land at the time of contribution. Two respondents expressed concern over the ability to sell a building on contributed land that is not for sale. Another respondent agreed with the GAL in valuing land at the time it was contributed but did not believe that it should be included in any settlement of equities.

Response: "Real property" is defined in 29 CFR 97.3 as "land, including land improvements, structures, and appurtenances thereto * * *" In the GAL, DOL applies this definition to SESA real property. The definition treats land and improvements as one asset, so at the time of disposition when determining respective equities, DOL also treats that as one asset. Therefore, unless properties are formally accepted as separate assets at the time of acquisition, through clear written evidence, DOL applies the definition at 29 CFR 97.3. If necessary, a retroactive appraisal may be performed to determine the fair market value of the land at the time of contribution. DOL believes its position, with regard to real property, conforms with the Circulars. If UI and/or ES grant funds are used to amortize the cost of constructing a building on contributed land, the fair market value of the land at the time of contribution will be counted as a contribution toward the property's total cost (land and building) when determining the respective equities in the property. No changes are made in the GAL as a result of these comments.

G. Unemployment Compensation (UI) vs. Employment Security (ES) Funding

The amount of UI and ES grant funds used in any fiscal year for the acquisition or cost amortization of real property shall be proportionate to the use of the property by the UI and ES programs, respectively. (See Sections 7.b.(2) and 8.a. of the GAL.)

Changes in the proportion of UI and/or ES use must be reflected in the allocation of space charges. Where individuals work on more than one program, the related space charges shall be proportionally allocated to the benefitting programs.

Comments: Three respondents noted that both UI and ES programs are employment security programs and funding should not be differentiated. One respondent added that the source of funds under Title III and Wagner-Peyser is common to both UI and ES and should not be differentiated as to use after investment in real property.

Response: UI and ES programs are authorized and funded through different statutes and appropriations. They are separate grant programs and must be accounted for separately. Each program's benefit must be matched to each program's costs. The pro rata contribution to the acquisition cost of the property must be attributed to each grant. In addition, UI funding is based on the amount needed, by each State, for the proper and efficient administration of its UI program. If the State uses some of these UI funds for ES space, then the UI program is being short-changed, i.e. it's not getting enough funds for the proper and efficient administration of the program. Under the old 41 CFR 29–70.215–2(b) and (c), a State could use property paid for under one Federal grant for purposes of another Federal grant, if the property was no longer needed for the first grant. This option is not available under 29 CFR part 97. A grantee must account for each grant's program separately and may not commingle UI and ES grant resources. No change in DOL's position is made in the GAL as a result of these comments. However, a paragraph is added to Section 8.a. to clarify that, at the time of replacement, a State must declare how equity attributable to AS&T funds is to be apportioned between the two programs.

H. Reduction in Occupancy

Reed Act funds and UI and ES granted funds may be used for office space to the extent that the space is used for authorized program purposes (See Section 7.b.(2) of the GAL). Therefore, if a significant and permanent reduction occurs in UI utilization of space acquired with UI funds, the State must dispose of the excess space or replace it with property whose size is appropriate to the program's needs or take other appropriate corrective actions to bring DOL equity, attributable to UI grants, and UI occupancy into balance (See Section 9.c. of the GAL). The same is true for significant and permanent reductions in ES use of space acquired with ES funds.

A SESA must request disposition instructions when the UI funded program's share of the cost of real property significantly and permanently exceeds that program's share of the property's utilization (See Section 8.a of the GAL). Equity shares attributable to Reed Act or AS&T funds may be used for either UI or ES program purposes. Therefore, a State is not required to request disposition instructions if the reduction in UI (or ES) use is offset by a corresponding increase in ES (or UI) use and the shift in use involves space which was either acquired with Reed Act funds that have not been amortized with UI or ES funds or acquired before 1983 with AS&T funds.

Comments: Five respondents submitted comments in connection with this issue. One respondent does not want separate accounting for UI and ES space utilization because it would increase accounting operations. Three respondents stated that "significant and permanent reduction" is a term open to interpretation. There was a general belief, expressed by these respondents, that the ES and UI programs serve the same purpose and are funded by the employer community and therefore should not be considered different programs for the purpose of calculating space utilization. One respondent expressed concern that it would be forced to dispose and add space from year to year. Three respondents specifically stated that shifting ES and UI utilization should be allowed. One respondent requested a rent option be available to the SESA even when it appears that utilization will be significantly and permanently reduced.

Response: Again, DOL does not seek to cause excessive burden or hardship on its grantees. UI and ES programs are authorized and funded through different

statutes and appropriations. A significant and permanent reduction in UI or ES utilization of space constitutes a reduction in the need for the property for the originally authorized purpose and is subject to 29 CFR 97.31(c) disposition requirements to the extent of the reduction. A reduction in any one program's occupancy may constitute a disposition. Therefore, the space may be subject of 29 CFR 97.31(c) disposition instructions. However, DOL looks to long term adjustments or modifications, not stop gap measures and will continue to work with SESAs to develop long terms plans. Accordingly, no change is made in the GAL as a result of these comments.

I. Non-employment Security Use

Under 41 CFR 29–70.215–2(b) and the first paragraph of 41 CFR 29–70.215–2(c), effective in 1979, and superseded by 29 CFR part 97 in 1988, DOL could permit property with ES and/or UI equities to be used for non-employment security purposes without compensation. This option is not available under 29 CFR part 97 and is reflected in the GAL at Section 8.b. Therefore, all real property acquired with UI and/or ES grant funds, including property acquired before the effective date of 29 CFR part 97, must be used and disposed of in accordance with 29 CFR 97.31(b) and (c).

Comments: Five respondents submitted comments on this provision. The overriding concern among them was the effect of this provision on agreements SESAs entered into with other agencies to provide compensation-free space under 41 CFR part 29–70. Respondents recommended that either the SESAs be allowed to continue to provide compensation free space or that rent be charged to those agencies and taken in as program income. One respondent further stated that this ability is consistent with the concept of integrated programs and services.

Response: Real property acquired or amortized with UI or ES grant funds must be managed consistent with 29 CFR part 97 which does not provide for non-program use. Therefore, SESAs may not use real property for any purpose not originally authorized, on a long term basis, without compensation. Federal grants may pay actual costs, such as operation and maintenance costs and repairs, for property already acquired with Federal funds if used for the purpose for which the grant was made. Accordingly, no change is made in the GAL as a result of these comments.

J. Administration, Staff & Technical (AS&T) Identity

The equity attributed to AS&T funds granted prior to 1983 may be used interchangeably as UI and ES utilization changes. However, at the time of replacement, a grantee must identify Federal equity attributed to those combined funds as either UI or ES and thereafter account for it as such. (See sections 8.a and 9.d.(2)(b)).

Comment: One respondent commented on this provision. The respondent stated that since SESA's had bottom line authority prior to 1983, funding was interchanged with the result that it is now virtually impossible to split out funding sources especially in cases where financial records no longer exist. Since the loss of combined grant identity results in more restrictive rules regarding space utilization, both grants should be considered employment security programs and funding for real property use should not be separated.

Response: The GAL, as drafted, agrees with this commentor. Utilization between the UI and ES programs may be freely interchanged to the extent that AS&T funds were used to acquire the property (See sections 8.a and 9.d.(2)(b) in the GAL). If the proceeds from a disposition of such property are used to obtain replacement property, the GAL requires that the State determine how equity resulting from combined AS&T funds should be apportioned between the two programs and then shall, consistent with DOL disposition instructions, transfer the adjusted UI and ES equity shares in the vacated property to the replacement property. Accordingly, no change is made to the GAL.

K. Use of Proceeds From Disposition of Real Property Attributable to Reed Act

There is no DOL equity in real property when States do not use UI or ES grant funds to amortize real property originally acquired with Reed Act or other non-Federal funds. It may be sold or otherwise disposed of without obtaining DOL approval or DOL disposition instructions. SESAs must still meet all Reed Act requirements including the immediate deposit into the State's account in the Unemployment Trust Fund of cash proceeds attributable to Reed Act equity from the sale or disposition of property. Treatment of Reed Act equity is subject to the restrictions discussed in section 9.e.(1) of the GAL.

Comments: Three respondents commented on this provision. Two respondents stated that as long as the replacement property is consistent with the intent of the original purpose, the transfer of all Reed Act equity should be allowed on trade-ins.

Response: DOL agrees with the respondents to the extent that the replacement transaction is consistent with the original appropriation. Section 903(c)(2) of the Social Security Act (Reed Act) permits a State's Reed Act fund to be used for Employment Security administrative expenditures pursuant to a specific appropriation of the State's legislature. States may transfer Reed Act equity from vacated property to replacement property without a new State appropriation if the replacement property conforms in all respects to the original Reed Act appropriation. If there is to be no replacement made, or the replacement is inconsistent with the original appropriation, then all proceeds must be immediately deposited into the UTF. No changes are necessary to the GAL because the GAL, at Section 9.d.(1), states that proceeds from a disposition of Reed Act property may be used towards the purchase of replacement property as long as the replacement conforms, in all respects, to the original authorizing appropriation.

L. Deposit of Proceeds

The total UI and ES shares (DOL equity) of the cash proceeds from the sale or other disposition of real property must be remitted to DOL or used to acquire replacement real property (See 29 CFR 97.31(c)). A check payable to the United States in the amount of the DOL portion of the cash proceeds must be sent to the Regional Office upon disposition. (See section 9.e.(2) of the GAL).

Comments: Two respondents stated that proceeds from the disposition of SESA real property should be deposited into the Employment Security Administration Account for administration of employment security programs.

Response: This issue remains under review. Until it is fully resolved, proceeds will continue to be deposited into the General Treasury as miscellaneous receipts. Accordingly, no change is made in the GAL based upon this comment.

M. Retention of Proceeds

The proceeds from the disposition of real property must be immediately sent to the grantee's Regional Office or used to acquire replacement property. However, DOL permits retention of the proceeds in an interest-bearing escrow or other interest-bearing restricted account until the end of the Federal fiscal year in which disposition of the subject property occurred to allow the State to complete actions necessary to secure replacement property (See sections 9.d.(2)(a) and (e)). Such interest-bearing accounts must yield interest equal to or greater than the rate required by the U.S. Treasury regulations implementing the Cash Management Improvement Act (CMIA). Interest earned on the proceeds must be used in the acquisition of the replacement property and included as DOL equity.

Comment: One respondent commented on this issue. The respondent suggested that it should be routine practice to allow for a disposition-acquisition plan that provides the period of time that will be necessary to retain proceeds. The plan should preclude the necessity to ask for extensions as transactions occur. The respondent proposed that ETA allow reinvestment of proceeds to be deposited in a State building fund.

Response: DOL permits retention of proceeds until the end of the Federal fiscal year in which disposition of the property occurred to allow the State to complete actions necessary to secure replacement property. The GAL, at section 9.d.(2)(a), provides for a disposition-acquisition plan through which a SESA may secure the time necessary to replace its facility. A SESA may not always be able to use these proceeds immediately. However, it may not retain indefinitely proceeds pending their use to replace the disposed property. As a rule, DOL limits the retention period to the Federal fiscal year in which disposition occurs unless its disposition instructions include approval of a grantee-proposed real property replacement plan with a longer retention period. It has been DOL's practice to work with its grantees in developing disposition-acquisition plans. Again, the Department's emphasis is on long term planning, not stop gap measures. Accordingly, no change is made in the GAL as a result of this comment.

N. Complexity

Comment: One respondent stated that the GAL is unnecessarily complex.

Response: DOL does not intend to make administration of SESA real property any more complex than necessary and clarified and simplified the GAL wherever possible to respond to public comments. It is required as part of a corrective action plan to bring under control this complicated area. To do so properly requires specific and sometimes detailed guidance. Changes to the GAL are noted in sections A–M of this preamble.

O. Restrictive and narrow

Comments: Two respondents stated that the GAL, as drafted, is restrictive and narrow and will make it difficult for SESAs to acquire, retain or replace real property. More flexibility is needed to enable SESAs to exercise good business judgment.

Response: The GAL reflects OMB Circular No. A–87 and DOL administrative regulations at 29 CFR part 97 that govern the acquisition, use, and disposition of real property acquired or amortized with SESA grant funds. Most of the requirements in the circulars and regulations have been in effect for many years and present very little that is new. DOL does not believe its position is more restrictive nor is it DOL's intent to interfere with sound business judgment. Rather, the Department is responding to requests to better communicate much needed guidance on this subject.

P. Wait for Transition of Administration

Comment: One respondent requested that ETA not issue the GAL in final until the transfer of administration is complete.

Response: Final guidance has been too long in coming. State grantees and Regional staff are in need of this guidance and the Department is proceeding as planned.

V. General Administration Letter

The final GAL contains other technical corrections to the proposed GAL that do not alter its substance.

The final GAL is printed below.

Signed at Washington, DC, on December 15, 1993.

Doug Ross,

Assistant Secretary of Labor for Employment and Training.

Directive: General Administration Letter No. 5–94

To: All State Employment Security Agencies
From: Barbara Ann Farmer, Administrator for Regional Management
Subject: Acquisition, Use, and Disposition of SESA Real Property

1. *Purpose.* To provide policy guidance, interpretations of existing regulations and other requirements applicable to the acquisition, use, and disposition of real property acquired or amortized with funds provided under section 903 of the Social Security Act (Reed Act), title III of the Social Security Act, or the Wagner-Peyser Act.

2. *Table of Contents.*

1. Purpose.
2. Table of Contents.
3. References.
4. Definitions.
a. UI and ES grant funds.
b. AS&T Funds.
c. Contributions/Participation.
d. Adjusted Contributions.
e. Equity or Share.
f. Proceeds.
5. Background.
6. Applicable Requirements.
7. Acquisition of SESA Real Property.
a. Reed Act Funds.
(1) General.
(2) Appropriation.
b. UI and ES Grant Funds.
(1) Total Spending Limitation.
(a) Maintenance & operation.
(b) Rearrangements & alterations.
(c) Rental rate systems.
(d) Cash purchase.
(e) Reed Act amortization.
(f) Amortization of other funds.
(g) Lease-purchase.
(h) Depreciation or use allowance.
(2) Allocation of Charges Between UI & ES.
(3) Rental Rate or Equivalent Systems.
(4) Acquisitions by Cash Purchase.
(5) Amortization.
(6) Depreciation.
(7) Prior Approval Requirements.
(8) Capital Improvements.
8. Use of SESA Real Property.
a. Reduction in Utilization.
b. Comparison with 41 CFR Part 29–70.
c. Income.
9. Disposition of SESA Real Property.
a. Allocation of Proceeds.
b. Equity.
c. Disposition Instructions.
(1) General.
(2) Options.
(a) Retain title.
(b) Replacement.
(c) Sale.
(d) Transfer title to DOL.
(3) DOL action.
(4) Appraisal and other instructions.
d. Replacement.
(1) Reed Act.
(2) UI and ES Grant Funds.
(a) DOL disposition instructions.
(b) Utilization for UI or ES program use.
(c) Additional UI or ES cost.
(d) Location.
(e) Retention period.
(f) Proceeds; Time of disposition.
(g) Use of proceeds remaining after replacement.
(h) Amortization acceleration.
(i) Capital improvements.
(j) Property records.
e. Deposit and Subsequent Use of Cash Proceeds.
(1) Reed Act Funds.
(2) UI and ES Grant Funds.
f. Disposition of Real Property with Reed Act Equity and No UI and/or ES Grant Funds Equity.
(1) General.
(2) Payment of Equity.
10. Inquiries.
Appendix
Example 1—Allocation of equity in sale proceeds.
Example 2—Replacement involving combined AS&T funds and excess equity from property to be disposed of.

VOL 58 ISS 245 DE 23 1993 UMI

Example 3—Reduced utilization.
Example 4—Calculation of Federal share in the original acquisition cost plus improvements of real property currently in program use.

3. *References.* Sections 302(a) and 903(c)(2) (Reed Act) of the Social Security Act, 42 U.S.C. 502(a) and 1103(c)(2); 29 U.S.C. 49 *et seq;* section 303(a)(4), 42 U.S.C. 503(a)(4); section 3304(a)(3), 26 U.S.C. 3304(a)(3); 20 CFR part 652; 29 CFR part 97; 41 CFR part 29–70; sections 3301–3040, Part IV, ES Manual; OMB Circular No. A–87 (46 FR 9548–9554, Jan. 28, 1981); Unemployment Insurance (UI) Program and Budget Plan (PBP) for FYs 1989, 1990, 1991, and 1992; UIPL 12–91 (56 FR 29719–29723) and FM 108–86.

4. *Definitions.*

a. *UI and ES Grant Funds.* Grant funds provided to States under title III of the Social Security Act for administration of State unemployment insurance (UI) programs and the Wagner-Peyser Act for administration of State employment service (ES) programs.

Note: The ES Manual refers to UI and ES grant funds as granted funds. The UI and ES programs are collectively known as the employment security program.

b. *Administrative, Staff, and Technical (AS&T) funds.* Funds provided in a single award prior to 1983 under the authority of both acts for the use of both the UI and ES programs which cannot be specifically identified with either program, without disproportionate effort, are hereinafter referred to as AS&T funds.

c. *Contributions/Participation.* Contributions to or participation in the acquisition cost of real property by a grant, Reed Act funds, or other source is the amount provided by each source to acquire or make capital improvements to real property. Each such contribution or participation is deemed to be a share (see 29 CFR 97.3 for definition) and is expressed as a percentage of the acquisition cost of the property and its improvements.

d. *Adjusted Contributions.* Contributions as defined in Section 4.c. above plus (or minus) amounts provided by (or paid to) other sources of funds, by amortization or otherwise, to pay off or replace such contributions (see Section 7.b.(5)).

e. *Equity or Share.* The terms equity, DOL equity, Reed Act equity, share, DOL share and Reed Act share are used with the following meanings throughout this General Administration Letter (GAL):

(i) Equity means the net value of an interest in property (value after all obligations are paid off);

(ii) Share means the contribution to the acquisition cost attributed to each source of funds, expressed as a percentage;

(iii) DOL equity means the right of the U.S. Department of Labor (DOL), as the grantor agency, to a share of the fair market value of State-owned real property when it ceases to be used for UI and/or ES purposes. The value of DOL's equity interest is based on the adjusted contributions of UI and ES grant funds, including AS&T funds, to the acquisition cost of the property and any capital improvements that materially increase the value or useful life of real property (see Section 7.b.(5)). This definition is consistent with the meaning of equity in OMB Circular No. A–87 and is the basis for the Federal compensation formula in 29 CFR 97.31(c). In certain situations involving capital improvements, the DOL equity and share may be adjusted based on the fair market value of the property at the time the capital improvement is made (see Section 7.b.(8)); and

(iv) Reed Act equity means the equity attributable to the State's unemployment fund's share of the fair market value of real property when it is no longer to be used for employment security purposes. Such equity is based on the adjusted contributions of Reed Act funds (see Section 7.b.(5)) to the acquisition cost of the property and any capital improvements.

f. *Proceeds.* The net dollar value received or due from the disposition of real property, as provided in 29 CFR 97.3(c) (1) and (2). Since 29 CFR 97.31(c) uses proceeds to refer to both cash and non-cash proceeds, proceeds, for purposes of this GAL, means the net dollar value of all cash and non-cash proceeds. Cash proceeds, for purposes of this GAL, means the net proceeds expressed in dollars, as provided in 29 CFR 97.31(c)(2).

5. *Background.* In 1986, the Employment and Training Administration (ETA) issued FM 108–86 to provide guidance to ETA Regional Offices on the acquisition, use, and disposition of State Employment Security Agency (SESA) real property, with emphasis on the use and amortization of Reed Act funds.[1] The Regional Offices were asked to furnish information copies of the FM to the SESAs. FM 108–86 did not establish new requirements; but rather, restated existing requirements contained in statutes, the ES Manual, 41 CFR part 29–70 and OMB Circular A–87, as well as agency policies that evolved over time.

At the time the FM was issued, ETA prior approval was required for the use of UI grant funds to acquire real property, but not for the use of Wagner-Peyser (ES) funds for this purpose. Prior approval authority with regard to ES funds was delegated to the States in 20 CFR 652.8 (48 FR 50665, Nov. 2, 1983). ETA delegated its prior approval authority for the use of UI grant funds to acquire equipment and other capital expenditures to the State Administrators in the FY 1989 Program and Budget Plan (PBP) (ET Handbook 336, 5th Edition, Par. VI.C.2.d.). The same delegation appeared in the FY 1990 PBP (ET Handbook 336, 6th Edition, Par. VI.C.2.d.). The delegation in the FY 1991 and FY 1992 PBPs (ET Handbook 336, 7th and 8th Editions, Par. VI.C.2.d.) covers only equipment acquisitions.

In 1988, DOL and 23 other Federal agencies adopted the "common rule" (53 FR 8034–8103) containing uniform administrative requirements for State, local, and Indian tribal government grantees. For DOL grant programs, the "common rule" is codified at 29 CFR part 97. These regulations superseded 41 CFR part 29–70. SESAs agreed to apply 29 CFR part 97 to real property acquired prior to the effective date of part 97 through assurances in the FY 1989 ES Reimbursable Grant agreement and the FY 1990 and FY 1991 UI PBPs. The adoption of 29 CFR part 97 and the PBP changes rendered FM 108–86 and previous delegations of prior approval obsolete.

In 1989, DOL's Office of Inspector General (OIG) reviewed DOL equity in SESA real property. OIG found instances of inadequate State property records and instances where States had reduced or terminated employment security use of real property without compensating DOL for its equity where the property had been acquired or amortized with UI and/or ES grant funds, or the State's unemployment fund for the Reed Act equity where the property had an unamortized balance of Reed Act funds.

This GAL updates previous ETA policies and guidance on the subject of real property acquired by States using UI and ES grant funds. Since the use of Reed Act funds to acquire real property is an integral part of the subject, Reed Act requirements are also dealt with at length. An appendix at the end of the GAL provides four illustrations showing how to calculate DOL, Reed Act, and other equity in real property being disposed of or replaced by other property, or where there is a significant reduction in UI (or ES) use.

6. *Applicable Requirements.* The acquisition, use, disposition, and amortization of real property acquired with UI and/or ES grant funds are subject to:

(i) DOL regulations at 29 CFR part 97, which contain administrative requirements applicable to grants to State governments;

(ii) OMB Circular No. A–87, which contains uniform Federal allowable cost standards applicable to grants to State governments; and

(iii) This GAL, which contains interpretations of these requirements.

The preceding requirements provide that if real property is acquired or amortized with UI and/or ES grant funds, the State must comply with the real property and procurement regulations at 29 CFR 97.31 and 97.36, respectively.

The acquisition, use, and amortization of real property acquired with Reed Act funds are subject to section 903(c)(2) of the Social Security Act and sections 3001–3040, Part IV, ES Manual and not subject to 29 CFR part 97. Dispositions of real property acquired with Reed Act funds shall be conducted in accordance with this GAL.

Where both Reed Act funds have been used to acquire real property and UI and/or ES grant funds have been used to acquire or amortize real property, the appropriate set of requirements are applicable to the adjusted contributions of each fund source.

Regardless of the sources of funds used to acquire or improve real property, States are expected to exercise good business judgment in discharging their procurement and property management responsibilities. When real property is no longer suitable for employment security purposes, it should be sold, refurbished or exchanged for space of suitable size and quality.

7. *Acquisition of SESA Real Property.*

a. *Reed Act Funds.*

(1) *General.* Reed Act funds are funds transferred to the accounts of the States in the Unemployment Trust Fund (UTF) pursuant to section 903 of the Social Security Act. Under section 903(c)(2) of the Act, a State legislature may appropriate Reed Act funds for employment security administration expenses including acquiring real property for employment security purposes (See Section 3020, Pt. IV, ES Manual). When used in conjunction with the amortization arrangements described in Section 7.b.(5) below, Reed Act funds act as revolving funds that may be used to acquire SESA real property.

(2) *Appropriation.* Reed Act funds used to acquire real property must be appropriated by the State's legislature. The State appropriation act must satisfy the requirements of section 903(c)(2) of the Social Security Act, Sections 3001–3040, Part IV, ES Manual, and UIPL 12–91, which supersedes parts of the ES Manual and contains current recommended draft language for Reed Act appropriations. The designation "Reed Act funds" refers to funds transferred to the State pursuant to section 903(a) including previously amortized Reed Act funds, and amounts restored to Reed Act status, pursuant to paragraph (c)(3) of section 903. Other funds in a State's UTF account, are not available for appropriation. No DOL approval is needed for the appropriation and use of Reed Act funds. Also see Sections 9.d.(1) (replacement of Reed Act real property) and 9.e.(1).

b. *UI and ES Grant Funds.*

(1) *Total Spending Limitation.* Under the space costs provision of OMB Circular No. A–87 (Attachment B, Para. C.2.), the annual amount that may be charged to UI or ES grant funds for occupying a publicly- or privately-owned building may not exceed the annual rental cost of comparable space and facilities in a privately-owned building in the same locality. This limitation applies to any one or combination of the following:

(a) *Maintenance and operation costs.* Costs of maintenance and operations not otherwise included in rental or other charges for space and allowable under OMB Circular A–87, Attachment B, Para. C.2.b.

(b) *Rearrangements and alterations/Capital improvements.* Costs of rearrangements and alterations required specifically for UI and/or ES purposes or which materially increase the value or useful life of property;

(c) *Rental rate systems.* Costs of space newly occupied in publicly-owned buildings on or after October 1, 1980, under rental rate or equivalent systems (see paragraph (3) below);

(d) *Cash purchase.* Payments for the cash purchase of real property exclusive of interest (capital expenditure provision of OMB Circular No. A–87, Attachment B, Para. C.3.);

(e) *Reed Act amortization.* Repayments (amortization) of Reed Act funds used to acquire real property as authorized under 20 CFR 652.8(d)(7) and the PBP (1992 PBP, Para. VI.C.2.c.) (see paragraph (5) below);

(f) *Amortization of other funds:* Repayment of other non-Federal funds, exclusive of interest, used to acquire real property, such as the amortization of the principal portion of State bonds or of other funds borrowed from public or private sources;[2]

(g) *Lease-purchase.* Allowable costs under lease-purchase, lease with option to purchase, or other commercial capital lease arrangements which create a material equity in real property;[3] and

(h) *Depreciation or use allowance.* Depreciation or use allowance for space occupied in publicly-owned buildings (see paragraph (6) below).[4]

(2) *Allocation of Charges Between UI and ES.* The amount of UI and ES grant funds used in any fiscal year for the acquisition or amortization of a particular unit of real property shall be proportionate to the use of the property by each program.

Changes in the proportion of UI and/or ES use from one period to the next shall be reflected in the allocation of space charges. Where individuals work on more than one program, the related space charges shall be allocated to the benefitting programs in proportion to use. For example, personnel activity distributions, such as those produced by the FARS time distribution subsystem, may be used as the basis for allocation.

(3) *Rental Rate or Equivalent Systems.* Rental rate or equivalent systems referred to in Section C.2.a., Attachment B of OMB Circular No. A–87 are mechanisms for allocating actual, allowable occupancy costs of publicly-owned real property acquired after October 1, 1980 among the occupants. Allowable costs include operation and maintenance costs, interest, and depreciation based on the useful life of the buildings and/or other improvements.

DOL acquires no equity from the use of UI and or ES grant funds for depreciation or use allowance that are charged over the physical life of a property (usually 50 years for new commercial properties). It is DOL's position that a "rental rate or equivalent system" may include amortization of principal and interest associated with an acquisition—provided the total amount charged under the rental rate or equivalent system does not exceed the total spending limitation in OMB Circular, Attachment B, Para. C.2.

However, DOL acquires an equity in property (see Section 7.b.(6) in the GAL) to the extent that amortization of acquisition costs, including principal and interest, are charged as part of a rental rate or equivalent system.

(4) *Acquisitions by Cash Purchase.* Because of the total expenditure limitation in (1), States will normally be unable to use UI and ES grant funds for cash purchases of land and buildings.

(5) *Amortization.* States may acquire real property with Reed Act or other non-Federal funds under arrangements in which the original fund source used to purchase the property is amortized (or repaid) with UI and/or ES grant funds. A Reed Act amortization arrangement is a repayment arrangement in which a SESA, instead of paying bondholders or other creditors, makes periodic payments of UI and/or ES grant funds to the State's account in the Unemployment Trust Fund (UTF). Interest costs incurred under real property amortization arrangements are unallowable except under certain rental rate or equivalent systems (see paragraph (3) above).

UI and ES granted funds may not be used to amortize real property whose costs are charged to grant programs under an OMB Circular No. A–87 rental rate system (see paragraph (3) above).

Amortization payments shall be reflected on the State's books as adjustments to the original contributions to the cost of the property. Each payment reduces the book balance of contributions by Reed Act or other non-Federal funds and correspondingly increases contributions by UI and ES granted funds; thereby creating DOL's share of equity.

Use of UI and/or ES grant fund to amortize Reed Act or other fund sources to acquire the real property creates a Federal share or equity in the property except under certain conditions under rental rate or equivalent systems (see paragraph (3) above). Since the costs charged to each grant program creates a DOL share attributable to that program's funds, the DOL share must be accounted for separately for each program.

In the amortization of Reed Act funds with Federal grant funds, equity in real property shifts from Reed Act to UI and ES grant funds. Once a Reed Act-funded property is completely amortized, Reed Act equity in the property no longer exists; but rather, equity belonging to the Federal grantor agency has been created.

(6) *Depreciation.* Depreciation (and use allowances) should not be confused with amortization. Amortization, for purposes of this GAL, is the scheduled repayment of a debt or original fund source used in the acquisition of real property. Depreciation and use charges represent the consumption of an asset over time. Depreciation or use allowance may not be charged to UI and/or ES grant funds for real property whose cost is being or has been amortized with Federal funds. If depreciation costs of property not acquired with Federally granted funds are to be charged to UI and/or ES grant funds, the computation must reflect the expected useful life of the building(s) and the property's acquisition cost.

Charges to UI or ES grants based on scheduled amortization of debt associated with original property acquisition or subsequent capital improvements is not depreciation. Rather, such charges constitute acquisition cost, no matter how they are identified, and DOL accrues an equity in property proportionate to its share of the principal and interest serviced during the amortization period.

No DOL equity accrues from the use of UI and/or ES grant funds for depreciation costs properly charged to the respective grants.

(7) *Prior Approval Requirements.* DOL's regulation at 20 CFR 652.8(d)(2), issued in 1983, delegated all DOL prior approval authority under OMB Circular No. A–87 and 41 CFR part 29–70 for Wagner-Peyser grants to the States. A similar but narrower delegation of authority, covering equipment

[1] See Section 7.a.(1) for additional information on the use of Reed Act funds.

[2] Except as provided in paragraph (2), interest and other financing costs are unallowable costs (Para. D.7., Attachment B, OMB Circular A–87).

[3] See footnote 2.

[4] Allowable depreciation and use allowance costs are described at length in Para. 11 of OMB Circular A–87, Attachment B.

VOL 58 ISS 245 DEC 23 1993 UMI

and other capital expenditures, was made to the States for UI activities in the FY 1989 and FY 1990 UI Program and Budget Plan (PBP).

Both the 1989 and 1990 UI PBP and Wagner-Peyser regulations authorized the use of UI and ES grant funds for Reed Act amortization but did not require prior DOL approval of such expenditures. These provisions only applied to Federal actions designated as prior approvals and not to Federal actions designated as disposition instructions.

On October 1, 1988, 41 CFR part 29–70 was replaced by the 'common rule' (codified for DOL at 29 CFR part 97) for grants to governmental entities. As specified at 29 CFR 97.5, the 'common rule' superseded existing regulations and other issuances that were inconsistent with its provisions. As a result, the 1983 delegation of prior approval authority for Wagner-Peyser activities was superseded as of October 1, 1988. An acquisition of real property after September 30, 1988, currently being amortized or to be amortized with Federally granted funds which did not receive the prior approval of DOL, should be brought to the attention of the appropriate DOL Regional Office for approval of continued amortization arrangements.

Requests for DOL prior approval for the use of UI and/or ES funds for the acquisition or amortization of real property shall be accompanied by an acknowledgement that there will be DOL equity in the property to the extent that UI and/or ES funds are used for its acquisition or amortization. If the need for the property for UI and/or ES purposes ceases or is significantly and permanently reduced, the State also acknowledges that it will request DOL disposition instructions in accordance with 29 CFR 97.3(c). The acknowledgement shall be signed by a State official(s) with the authority to legally commit the State with regard to the contents of the acknowledgment.

(8) *Capital Improvements.* For any capital improvement that materially increases the value or useful life of real property (whether paid by grant funds or otherwise) and that significantly alters the existing Federal share, DOL reserves the right to require the grantee to obtain one or more independent appraisals to determine the fair market value at the time of and as a result of the capital improvement. The fair market value as determined by such appraisals may be used to establish the revised shares. A significant alteration of the Federal share, for purposes of this GAL, is defined as any capital improvement where the cost of the improvement would either reduce the Federal share by 10% or more or estimated to affect the current Federal equity by $100,000 or more.

9. *Use of SESA Real Property.*

a. *Reduction in Utilization.* Reed Act funds and UI and ES granted funds may be used for office space to the extent that it is used for authorized program purposes (See Section 7.b.(2)). Therefore, if a significant and permanent reduction occurs in UI utilization of space acquired with UI funds, the State must dispose of the excess space or replace it with property whose size is appropriate to the program's needs or take other appropriate corrective actions to bring DOL equity, attributable to UI grants, and UI occupancy into balance (See section 8.c., Disposition Instructions). The same is true for significant and permanent reductions in ES use of space acquired with ES funds.

A SESA must request disposition instructions when the UI-funded share of the cost of real property significantly and permanently exceeds the UI share of the property's utilization, regardless of whether the SESA plans to use the excess space for ES or for non-employment security activities. THe same is true for excess ES-funded space used for UI or for non-employment security purposes. Equity shares attributable to Reed Act or AS&T funds may be used for employment security purposes without regard to UI and ES distinctions. A State is not required to request disposition instructions if the reduction of UI (or ES) use is offset by a corresponding increase in ES (or UI) use and the shift in use involves space which was either acquired with Reed Act funds which have not been amortized with UI or ES funds or acquired before 1983 with AS&T funds.

If, however, the proceeds from the disposition of such property is to be used to obtain replacement property, the State must declare, at the time of replacement, how the equity attributable to AS&T funds is to be apportioned between the two programs.

b. *Comparison with 41 CFR part 29–70.* Under 41 CFR 29–70.215–2(b) and the first paragraph of 41 CFR 29–70.215–2(c), DOL could permit SESA grant-funded real property to be used for non-employment security purposes without compensation. Since this option is not available under 29 CFR part 97, all real property acquired with UI and/or ES funds, including property acquired before the effective date of 29 CFR part 97, should be used and disposed of in accordance with 97.31 (b) and (c). Clauses to this effect were inserted into the UI PBP and the ES Reimbursable Grant Agreements. SESAs should review the use of all grant-funded real property to determine what properties, if any, are not being used in accordance with 29 CFR part 97 and to request disposition instructions where appropriate.

c. *Income.* There are no limitations on the amount of rent that can be charged commercial tenants occupying excess SESA space. The State, however, must exhibit sound judgment in its decisions to rent to the commercial market. If the excess space is used by other Federally-supported programs, the costs the other Federally-supported programs may charge to their grants is limited to those allowed by the applicable cost principles. For example, if the space is used by the State in administering a grant that is subject to OMB Circular No. A–87, then Attachment B. Para. C.2.a. (Rental Cost) of that Circular is applicable. If the space is used for the JTPA program, the JTPA cost principles determined by the Governor pursuant to 20 CFR 627.435 are applicable.

Rental income must be allocated among the fund sources used to acquire the rented property in proportion with the original fund sources' adjusted participation in the property's acquisition cost. Rental income allocable to Reed Act funds must be immediately deposited in the State's UTF account. Rental income allocable to UI and/or ES grant funds shall be used as provided at 29 CFR 97.25(g)(2).

9. *Disposition of SESA Real Property.*

a. *Allocation of Proceeds.* When real property acquired or amortized with UI and/or ES granted funds ceases to be used for its respective program purposes, it must be sold, exchanged for replacement property, or otherwise disposed of as directed by DOL disposition instructions issued in accordance with 29 CFR 97.31(c). Under § 97.31(c), each grant fund source's share of the proceeds from the sale or other disposition of the property is determined on the basis of its proportional participation in the cost of the property. Comparable treatment is accorded the Reed Act share of the proceeds (See section 7.b.(5) on adjusting contributions to cost).

If the real property includes a building that was constructed pursuant to an arrangement under which the land was provided without charge to grant funds, the fair market value of the land at the time of contribution will be considered a contribution toward the total cost of the real property [5] for purposes of determining the respective shares in the property, unless there is clear written evidence of agreement between DOL and the State that the land or structure is not intended to be included in any settlement of equities at such time as the real property ceases to be used for applicable grant purposes.

b. *Equity.* DOL equity in State-owned real property is created through the use of Federal grant funds to acquire real property or under DOL-approved amortization arrangements. OMB Circular No. A–87 requires grantees (States) to reimburse the Federal government for its equity interests when capital assets acquired with Federally granted funds cease to be used for the programs for which they were acquired. In DOL programs, such reimbursement is accomplished with the disposition procedures of 29 CFR 97.31(c).

Prior to the issuance of OMB Circular No. A–87 in 1968, DOL would approve an amortization arrangement only if the State assured that the SESA could occupy that space or space of equivalent quality and quantity "rent free" when amortization was completed, paying only for operation and maintenance costs. Since the Circular did not authorize continued use of the rent-free space requirement, DOL stopped using such an assurance and now relies exclusively on 29 CFR 97.31(c) to protect its equity interests in SESA real property.

c. *Disposition Instructions.*

(1) *General.* When SESA real property is no longer needed for the originally authorized purposes and Federal grant funds have been used toward the acquisition costs of the property, the grantee must request disposition instructions from the DOL Regional Office in accordance with 29 CFR 97.31(c). This requirement includes situations where there is a significant and permanent reduction in UI or ES utilization of the property. The request for disposition instructions should be made as soon as it is determined that a reduction of program use is expected. If a reduction was not anticipated, the request for disposition instructions must be made within a reasonable time after the need for the property ends. The request should include factors and conditions to be reflected in the DOL disposition instructions, such as planned leasing of the property pending its sale by the State. Since the 29 CFR 97.31(c) requirement only applies to property acquired with grant funds, disposition instructions are not required for Reed Act equity in SESA real property.

(2) *Options.* In response to a request for disposition instructions, the DOL Regional Office may direct the State to:

(a) Retain title to the property and compensate DOL for its equity, in accordance with 29 CFR 97.31(c)(1);

(b) Replace the property with other property, using the proceeds from the disposition of the vacated property [6] as an offset to the cost of the replacement property, in accordance with 29 CFR 97.31(c)(1), with respective equities transferred to the replacement property;

(c) Sell the property and compensate DOL for its equity in accordance with 29 CFR 97.31(c)(2); or

(d) Transfer the property to DOL or its designee, in which case the State will be paid by DOL to compensate it for any State equity in the property in accordance with 29 CFR 97.31(c)(3).

(3) *DOL Action.* DOL, generally, will honor a State's request for any of the first three options in the previous section as long as DOL is adequately compensated for its equity. Non-compliance with the requirement to request disposition instructions when SESA real property ceases to be needed for UI or ES purposes will result in a disallowance, as provided in 29 CFR 97.43. DOL may issue a Finding and Determination, establish a debt, and/or pursue other actions as appropriate.

(4) *Appraisal and Other Instructions.* In addition to directing the grantee to use one of the 29 CFR 97.31(c) disposition options, DOL instructions may require certain other actions. As provided in 29 CFR 97.31(c)(2), if the property is to be sold, the State is required to use procedures that provide for competition to the extent practicable and which will result in the highest possible return. DOL will permit actual and reasonable selling and fix-up expenses to be deducted from the proceeds. If a method other than sale is to be used to dispose of the property, DOL will require the use of appropriate procedures to establish its current fair market value.

Accordingly, DOL disposition instructions may require the grantee to obtain one or more independent appraisals of the property, regardless of the disposition option requested by the State or chosen by DOL, and may also require independent appraisal of the fair market value of any contribution to the original acquisition cost of the property. DOL may also require the grantee to obtain DOL approval of the appraiser selected and/or the contract for appraisal. Additionally, DOL may obtain its own appraisal of the property at DOL expense. Appraisal costs incurred by the grantee in connection with a disposition of property under 29 CFR 97.31(c) may be charged to current UI or ES grants as allowable costs or may be paid from the proceeds generated by the DOL approved transaction.

d. *Replacement.*

(1) *Reed Act.* Reed Act share in SESA real property is the ratio of the adjusted contribution of Reed Act funds to the original cost of the property to be disposed. In a replacement transaction, proceeds from the disposed property may be used as an offset to the purchase price of replacement property without another appropriation of Reed Act funds for the replacement property, provided that use of such funds conforms in all respects to the original appropriation of Reed Act funds authorizing the acquisition of the disposed property and is permissible under State law. In the interpretation of State Reed Act appropriations, the State is the final arbiter of its State law. Such transactions may not result in a new obligation of Reed Act funds.

(2) *UI and ES Grant Funds.* A State may use the proceeds from the disposition of SESA real property that was acquired or amortized with UI and/or ES grant funds as an offset to the purchase price of replacement property subject to the following:

(a) *DOL disposition instructions.* The replacement must be in accordance with DOL disposition instructions.[7] The grantee's request to DOL for disposition instructions should be accompanied by a plan for the disposition of the property to be replaced and the acquisition of the replacement property. The disposition-acquisition plan should cover the principal elements of the replacement, including location, projected cost, projected use by program of the replacement property, value of the equity transferred from the disposed property (by program), and a schedule for all significant events in the move to the replacement property. The plan may be amended at the discretion of the Department of Labor.

(b) *Utilization for UI or ES program purposes.* The replacement property must serve the same program(s) as the disposed property. Therefore, only the portion of the proceeds that are attributable to UI funding may be used for UI purposes in the replacement property; the same treatment must be accorded the ES portion of the proceeds. Proceeds attributable to pre-1983 AS&T funds may be used for either UI or ES purposes provided they are identified as either UI or ES equity in the replacement property at the time of replacement and thereafter accounted for as such.

(c) *Additional UI or ES cost.* The amount of current or future UI grant funds that may be used to acquire or amortize replacement real property may not exceed the DOL equity attributable to the UI portion of the cost of the replacement real property (see section 7.b.(2)) less the UI share of the proceeds from the disposed property, subject to the total spending limitation in section 7.b.(1) above. The same treatment must be accorded costs charged to ES grant funds.

(d) *Location.* The replacement property must be in the same State as the property that has been disposed of but does not have to serve or be located in the same geographic locality if there are valid program-related reasons for the replacement action, such as an increased need for service in one area and a decreased need in another, or because the replacement will reduce the grantee's net space costs.

(e) *Retention period.* The proceeds resulting from the disposition of real property should be immediately used in the acquisition of the replacement property. However, DOL will permit retention of the proceeds in an interest-bearing escrow or other interest-bearing restricted account until the end of the Federal fiscal year in which disposition of the subject property occurred in order to allow the State to complete the actions involved in securing replacement property. Such interest-bearing accounts should yield interest equal to or greater than the rate required by 31 CFR part 205, the regulations implementing the Cash Management Improvement Act (CMIA). Interest earned on the proceeds must be used in the acquisition of the replacement property and included as DOL equity. (Note that proceeds of a Reed Act equity may not be handled in the same manner. See section 9.d.(1)).

If more time is necessary, the State should request it in the disposition-acquisition plan accompanying the request for disposition instructions along with the period of time the State expects to retain the proceeds (see section 9.d.(2)(a)). In the event that circumstances prevent the replacement to be made within the approved time frame, the State may request an extension from DOL. If the approved plan is not being implemented, then there is no replacement. (See section 9.d.(2)(a)).

(f) *Proceeds; time of disposition.* Regardless of the type of transaction, DOL's equity in the proceeds is based on the property's fair market value in accordance with 29 CFR 97.31(c). Fair market value is determined by an arm's length sale or by an independent appraisal, at the earlier of the date the property ceases to be used for UI or ES program purposes or the date cash is received for the property.

(g) *Use of proceeds after replacement.* If the property being replaced is worth more than the replacement, the excess cash proceeds received or equivalent cash shall be handled in accordance with section 9.e.(2).

(h) *Amortization acceleration.* Proceeds from the disposition of SESA real property may not be used to accelerate the amortization of Reed Act or other fund source used to acquire other real property.

(i) *Capital improvements.* Proceeds from the disposition of SESA real property must

[5] 29 CFR 97.3 defines real property as "land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment"

[6] Disposition proceeds may include cash received from the sale of property or the market value of property retained by the grantee but no longer used for authorized purposes.

[7] Since the 'common rule' treats the replacement of real property acquired with grant funds as an aspect of disposition (see 29 CFR 97.31(c)(1)), replacements must be authorized by DOL disposition instructions.

be handled according to OMB Circular A–87 and 29 CFR 97.31. They must be returned to the Department of Labor or used to acquire replacement property. Therefore, such proceeds may not be used to make capital improvements to existing properties unless the improvements create additional space to be used for employment security purposes, e.g., additions to buildings.

(j) *Property records.* The State's property records for the replacement property shall reflect any DOL or Reed Act equity transferred from the prior property as contributions to the cost of, and consequently equity in, the replacement property.

e. *Deposit and Subsequent Use of Cash Proceeds.*

(1) *Reed Act Funds.* The Reed Act share of cash proceeds received from the sale or other disposition of real property must immediately be deposited in the State's account in the Unemployment Trust Fund (section 303(a)(4) of the Social Security Act and section 3304(a)(3) of the Internal Revenue Code of 1986). In addition, any portion of the Reed Act share of the proceeds from a disposition action that is not used for replacement property, as provided in section 9.d.(1), must be immediately deposited in the State's account in the Unemployment Trust Fund. As section 7.a.(2) states, however, only the adjusted contribution of Reed Act funds to the cost of the property may be credited as Reed Act funds. The remainder of the Reed Act share of the cash proceeds, if any, may not be credited as Reed Act funds and must be used solely for the payment of unemployment benefits. Failure to immediately deposit the applicable Reed Act proceeds into the Unemployment Trust Fund may be cause for the Secretary of Labor to commence conformity/compliance proceedings and to assess interest on the amount outstanding.

(2) *UI and ES Grant Funds.* The total UI and ES shares (DOL equity) of the cash proceeds from the sale or other disposition of real property must be remitted to DOL or used to acquire replacement real property. A check payable to the United States in the amount of the DOL portion of the cash proceeds should be sent to the Regional office.

f. *Disposition of Real Property With Reed Act Equity and No UI or ES Grant Funds Equity.*

(1) *General.* Some States have chosen not to use UI or ES grant funds to amortize SESA real property acquired with Reed Act or other non-Federal funds and used for UI or ES purposes. There is no DOL equity in this property and it may be sold or otherwise disposed of without obtaining DOL approval or DOL disposition instructions.

(2) *Payment of Equity.* A diversion of real property acquired with Reed Act funds (and not amortized) from employment security purposes due to reductions in UI and/or ES use or for other reasons creates a liability to the State's unemployment compensation fund. The amount of the liability created would be equal to the diverted portion's share of the sale price or fair market value of the property as of the time employment security program use ends.

Cash proceeds from the sale or other disposition of the property must be immediately deposited in the State's account in the Unemployment Trust Fund, subject to the restrictions discussed above in section 9.e.(1).

10. *Inquiries.* Address any questions on this GAL to the Regional Office.

Appendix

Example 1

Thirty years ago, $1 million of Reed Act funds and $1 million of other non-Federal funds were used to acquire real property for employment security activities in real property that cost $2 million. Seventy percent (70%) of the Reed Act funds were amortized with AS&T funds (pre-1983) and the specific program distribution (ES vs. UI) of the amortization payments cannot be identified. The real property is being sold today for $8 million. The distribution of the respective equities would be based on the following calculations:

GAL

Ref.

7.b.(5) *Cost Basis/Share of Each Fund Source in*

4.c. *Vacated Building (Based on Adjusted Contributions to Cost)*

4.d.

DOL Grants (allocable to AS&T Funds—70%×$1,000,000)	$700,000	35.0%
Reed Act ($1,000,000 less $700,000)	$300,000	15.0%
Other Funds ($2,000,000 less $1,000,000)	$1,000,000	50.0%
Total Cost	$2,000,000	100%

Equity in Vacated Building by Fund Source

DOL equity (share allocable to UI and ES Grant Funds—35%×$8,000,000)	$2,100,000
Reed Act equity (share allocable to Reed Act Funds—15%×$8,000,000)	$900,000
Other Funds equity (50%×$8,000,000)	$3,000,000
Total Sale Proceeds	$6,000,000

Ref. Distribution of the Reed Act Share of Sale Proceeds

Reed Act contribution to acquisition cost of building	$1,000,000

7.b.(5)

Less: Adjusted UI and ES Grants contribution to (amortization of) acquisition cost	$700,000
Adjusted Reed Act Contribution	$300,000

9.a.

Reed Act equity in sale proceeds	$900,000
Less: Adjusted Reed Act contribution (credited Reed Act funds)	$300,000

9.3.(1)

Balance of Reed Act Equity (must be used solely for unemployment benefits)	$600,000

9.d.(1) **Note:** In the example above, only the DOL equity ($2,100,000) would be available to finance a replacement building. The $900,000 of Reed Act equity

9.e.(1) must be deposited in the State's UTF account and is subject to the immediate deposit requirement. Of this amount, only the $300,000 of credited Reed Act funds may be used again for employment security administration, including real property, with the proper appropriation. The $600,000 balance produced in the last step may be used only for unemployment benefits.

Example 2

Twenty years ago, $1 million of Reed Act funds were used to acquire real property for employment security activities (100% of total cost of the property). The Reed Act funds were fully amortized with ES and UI grant funds. Fifty-five percent (55%) of the amortization was with AS&T funds (pre-1983) and the specific program distribution (ES vs. UI) of those amortization payments cannot be identified. The remaining 45% was amortized 60% UI and 40% ES. The real property is being sold today for $6 million and the proceeds will be used for replacement property. The replacement property will cost $20 million and the planned occupancy is 30% UI, 20% ES, and 50% other program(s). The distribution of the respective equities would be based on the following calculations:

Ref.

7.b.(5) *Cost Basis of Each Fund Source in*

4.c. *Vacated Property (Based on Adjusted Contributions to Cost)*

AS&T funds	$550,000	55.0%
UI funds (60% of 45%)	$270,000	27.0%
ES funds (40% of 45%)	$180,000	18.0%
Total Cost	$1,000,000	100%

Equity in Vacated Building by Fund Source

DOL equity allocable to AS&T (55%×$6,000,000)	$3,300,000
DOL equity allocable to UI (27%×$6,000,000)	$1,620,000
DOL equity allocable to ES (18%×$6,000,000)	$1,080,000
Total Sale Proceeds	$6,000,000

Ref.

8.a. *Transfer of Proceeds to Replacement Property by Fund Source*

Maximum DOL share/equity allocable to UI (30% of $20,000,000)	$6,000,000	30%
Maximum DOL share/equity allocable to ES (20% of $20,000,000)	$4,000,000	20%

In this example, both the $1,620,000 of DOL equity allocable to UI and the $1,080,000 of DOL equity allocable to ES may be transferred to the replacement property. In addition, the $3,300,000 of DOL equity allocable to AS&T may be transferred:

(1) To UI;

(2) $2,920,000 ($4,000,000 less $1,080,000) to ES and the remaining $380,000 to UI; or

(3) any other combination of UI and ES specified by the State.

After this initial transfer, the DOL equity allocable to AS&T loses its separate identity. The remaining $14 million of acquisition cost must be financed with other funds; however, four million dollars of additional cost of the replacement property may be amortized with a combination of UI and ES funds.

Example 3

Twenty years ago, $1 million of Reed Act funds were used to acquire real property for employment security activities (100% of total cost of the property). The Reed Act funds were fully amortized with ES and UI grant funds. Fifty-five percent (55%) of the amortization was with AS&T funds (pre-1983) and the specific program distribution (ES vs. UI) of those amortization payments cannot be identified. The remaining 45% was amortized 60% UI and 40% ES. A significant reduction in the need for employment security space in this property has occurred and the reduction appears permanent. The current is 30% UI, 20% ES, and 50% other program(s) and the current fair market value is $6 million.

The distribution of the respective equities would be based on the following calculations:

Ref.

7.b.(5) *Cost Basis of Each Fund Source in Property*

4.c. *(Based on Adjusted Contributions to Cost)*

AS&T funds	$550,000	55.0%
UI funds (60% of 45%)	270,000	27.0%
ES funds (40% of 45%)	180,000	18.0%
Total Cost	1,000,000	100%

9.a. *Share/Equity of Each Fund Source in Building Today—Before Utilization Adjustments*

DOL equity—AS&T funds	$3,300,000	55%
DOL equity—UI funds	1,620,000	27%
DOL equity—ES funds	1,080,000	18%
Total	6,000,000	100%

8.a. *Target Distribution of Share/Equity by Fund Source After Utilization Adjustments*

DOL equity—UI funds	$1,800,000	30%
DOL equity—ES funds	1,200,000	20%
Other funds	3,000,000	50%
Total	6,000,000	100%

In this example, the significant and permanent reduction in the need for employment security space requires a long term plan to bring SESA equity and occupancy into balance. Some alternatives include the remission of $3,000,000 to the Department of Labor as a miscellaneous receipt or the acquisition of replacement property.

Example 4

Real property was acquired in 1984 for employment security purposes for $1 million using $400,000 and $600,000 from the proceeds of the sale of real property previously used for employment security purposes. The proceeds are attributable to ES and UI grants, respectively. In 1985, an addition to the property was constructed with $120,000 of Reed Act funds. In 1988, Penalty and Interest money was used to install a $70,000 air conditioning system. Finally, major roof repairs were done in 1990 using $50,000 of Penalty and Interest money. The current distribution of each fund's share would be based on the following calculations:

Ref.

Current Share of Each Fund Source in Property		
9.d.(c) ES (transferred in 1984) ($400,000 of $1,240,000)	$400,000	32.2%
9.d.(c) UI (transferred in 1984) ($600,000 of $1,240,000)	600,000	48.4%
7.a. Reed Act (1985 imp.) ($120,000 of $1,240,000)	120,000	9.7%
Penalty and Interest (($70,000 ('88) + $50,000 ('90)) of $1,240,000)	120,000	9.7%
Total cost	1,240,000	100.0%

7.b.(8) **Note:** DOL reserves the right to have the fair market value of the property established as of the time the capital improvements are made and to establish revised shares based on current fair market value.

[FR Doc. 93–31370 Filed 12–22–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Challenge and Advancement Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Challenge and Advancement Advisory Panel (Challenge Review Committee Section) to the National Council on the Arts will be held on January 6–7, 1994 from 9 a.m. to 5:30 p.m. on January 6, 1994 and from 9 a.m. to 4 p.m. on January 7, 1994. This meeting will be held in room 730, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

A portion of this meeting will be open to the public on January 6, 1994 from 9 a.m. to 10 a.m. for opening remarks and introductions and on January 7, 1994, from 4 p.m. to 5 p.m. for general discussion.

The remaining portions of this meeting from 10 a.m. to 5:30 p.m. on January 6, 1994 and 9 a.m. to 4 p.m. on January 7, 1994, are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5439.

Dated: December 17, 1993.

Yvonne M. Sabine,

Director, Office of Panel Operation, National Endowment for the Arts.

[FR Doc. 93–31298 Filed 12–22–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Directorate for Education and Human Resources; Division of Undergraduate Education

The Division of Undergraduate Education of the National Science Foundation has issued "Undergraduate Education: Science, Mathematics, Engineering, Technology" (NSF 93–164), a combined announcement of its programs for FY–1995. General and detailed descriptions of programs as well as instructions for the preparation and submission of proposals are provided for the following programs: Course and Curriculum Development (CCD), Instrumentation and Laboratory Improvement (ILI), Undergraduate

VOL 58 ISS 245 DE 23 1993 UMI

Faculty Enhancement (UFE), Collaboratives for Excellence in Teacher Preparation (CETP), and Advanced Technological Education (ATE). New features for FY–1995 include initiatives within the CCD program focusing on Systemic Changes in the Chemistry Curriculum and the Mathematical Sciences and their Application throughout the Curriculum. Also new for FY–1995 is the ATE program which serves to promote exemplary improvement at the undergraduate and secondary school levels for technicians being educated for the high performance workplace. This publication replaces NSF 92–135.

Robert F. Watson,

Director, Division of Undergraduate Education.

[FR Doc. 93–31329 Filed 12–22–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–436, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences.

Date and Time: January 25–27, 1994; 8:30 a.m.–5 p.m.

Place: Rooms 330, 340, 365 and 370, Stafford Place, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Ocean Sciences Research Section (OSRS) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 20, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–31326 Filed 12–22–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in International Programs; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings.

Name: Special Emphasis Panel in International Programs.

Date & Time: January 10–11, 1994; 8:30 a.m. to 5 p.m.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Contact Person: Janice Cassidy, Program Manager, Division of International Programs, room 935, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1701.

Agenda: To review and evaluate research proposals submitted to the Division of International Programs for the International Junior Investigator and Postdoctoral Fellowship programs as part of the selection process for awards.

Name: Special Emphasis Panel in International Programs

Date & Time: January 24–26, 1994; 8:30 a.m. to 5 p.m.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Contact Person: Janice Cassidy, Program Manager, Division of International Programs, room 935, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1701.

Agenda: To review and evaluate research proposals submitted to the 1994 Summer Institute in Japan program as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: December 20, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–31328 Filed 12–22–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mechanical and Structural Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following two meetings:

Name: Special Emphasis Panel in Structural Systems and Construction Processes Program (IIA).

Date and Time: January 13 & 14, 1994, 8:30 a.m. to 5 p.m.

Place: NSF, room 330, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact: Dr. Ken P. Chong, Program Director, 703–306–1361.

Name: Special Emphasis Panel in Large Structural and Building Systems Program (IIA).

Date and Time: January 13 & 14, 1994, 8:30 a.m. to 5 p.m.

Place: NSF, room 360, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact: Dr. John B. Scalzi, Program Director, 703–306–1361.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: December 20, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–31327 Filed 12–22–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication

PROPOSED TITLE: Guidance for Modification of Technical Specifications to Reflect (A) Revisions to 10 CFR part 20, "Standards For Protection Against Radiation" and 10 CFR 50.36a, "Technical specifications on effluents from nuclear power reactors", (B) Related Current Industry Initiatives, and (C) Miscellaneous Related Editorial Clarifications.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission is proposing to issue a generic letter. A generic letter is an NRC document that (1) requests licensees to submit analyses or descriptions of proposed corrective actions, or both, regarding matters of safety, safeguards, or environmental significance, or (2) requests licensees to submit information to the NRC on other technical or administrative matters, or (3) transmits information to licensees regarding approved changes to rules or regulation, the issuance of reports or evaluations of interest to the industry, or changes to NRC administrative procedures.

The draft generic letter provides guidance, in the form of model technical specifications (TS), for preparing a license amendment request to modify TS in order to reflect changes to Title 10 of the Code of Federal Regulations (10 CFR) part 20, "Standards for Protection Against Radiation," and 10 CFR 50.36a, "Technical specifications on effluents from nuclear power reactors," that became effective on June 20, 1991 and October 1, 1992, respectively. The staff has taken this opportunity to update and improve the quality of selected TS by making editorial changes for clarification. Additionally, changes were made to the high radiation area TS to reflect current industry technology in controlling access to high radiation areas. Licensees are required to implement the revision to 10 CFR part 20 beginning January 1, 1994, but, in implementing the new 10 CFR part 20, licensees are not required to amend their existing TS. However, to take advantage of the revised reporting requirements of 10 CFR 50.36a, an amendment to the TS will be necessary. The proposed TS changes in this draft generic letter will not be finalized until public comment is received and analyzed; therefore, final model TS will not be available prior to the January 1, 1994, implementation date of the revised 10 CFR part 20. However, because the changes are voluntary, there is no conflict with the January 1, 1994, implementation date for the revised 10 CFR part 20 or for the previously effective change to 10 CFR 50.36a. Licensees may defer modifying their TS until the NRC completes the review of public comments and develops the final model TS or licensees may propose their own TS changes.

Comments relative to implementation of the rule changes and clarifications are requested. Comments are requested on the Commission's policy for continued use of appendix B to 10 CFR 20.1–20.602 as a valid reference for gaseous and liquid effluent TS until licensees elect to implement guidance proposed in this draft generic letter. Specifically, comments are requested on whether there should be a time limit on the use of appendix B to 10 CFR 20.1–20.602 and, if a time limit is set, what is an appropriate time period to allow licensees to switch to appendix B to 10 CFR 20.1001–20.2402.

The proposed generic letter is presented under the **SUPPLEMENTARY INFORMATION** section with the exception of enclosure 4. Enclosure 4 is appendix B to 10 CFR 20.1–20.602 which is available for review in the public document rooms. The proposed generic letter and supporting documentation were discussed in meeting number 249 of the Committee to Review Generic Requirements (CRGR) of September 14, 1993. The relevant information reflecting CRGR review of the proposed generic letter available in the Public Document Room under accession number 9309160194. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, when appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the Public Document Rooms.

DATES: Comment period expires February 7, 1994. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m., Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen P. Klementowicz, (301) 504–1084.

SUPPLEMENTARY INFORMATION: Draft generic letter.

To: All holders of operating licenses for nuclear power reactors

Subject: Guidance for modification of Technical Specifications to reflect (A) revisions to 10 CFR part 20, "Standards for protection against Radiation" and 10 CFR 50.36a, "Technical Specifications on Effluents from Nuclear Power Reactors", (B) related current industry initiatives, and (C) miscellaneous related editorial clarifications (generic letter 93–)

Introduction

Revised Title 10 of the Code of Federal Regulations (10 CFR) part 20, "Standards for Protection Against Radiation," and 10 CFR 50.36a, "Technical specifications on effluents from nuclear power reactors," became effective on June 20, 1991 and October 1, 1992, respectively. Licensees must implement the revised 10 CFR part 20 (by January 1, 1994). In implementing the new part 20, licensees are not required to amend their existing technical specifications (TS); but, for the sake of clarity in correlating specific TS provisions to the new part 20 requirements, the staff encourages licensees to request TS changes as indicated in the enclosed guidance. Licensees need to be aware that, in order to implement the revised reporting requirements in 10 CFR 50.36a, an amendment to the technical specifications will be necessary. This generic letter provides guidance, in the form of model TS, to assist licensees who voluntarily request license amendments for modification of existing TS (or portions of TS) in connection with their implementation of revised part 20 and/or revised 10 CFR 50.36a.

Additionally, this letter also provides guidance (model TS) for voluntary adoption by licensees, that (a) supplements the guidance provided in Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants," issued in June 1993 on acceptable alternate methods for controlling access to high radiation areas, and (b) updates and improves the quality of certain other selected existing TS by making editorial changes for clarification.

Existing TS affected by this generic letter include: definitions, liquid and gaseous effluents, limitations on radioactive material stored in outside storage tanks, site identifications, administrative reporting requirements, high-radiation area requirements, and administrative controls. Appropriate guidance is provided both for licensees who have, and have not chosen to implement Generic Letter (GL) 89–01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program," and for licensees who have adopted the improved standard technical specifications (STS) as well. Although licensees are not required to do so, they are encouraged to revise their TS as presented in this generic letter. The NRC will evaluate TS amendment proposals to implement any or all of the guidance in this generic letter, or alternate TS amendment proposals that include adequate justification.

Discussion

The revision of 10 CFR part 20 and 10 CFR 50.36a has affected related information in TS and other regulations,

VOL 58 ISS 245 DEC 23 1993 UMI

thereby prompting NRC issuance of this guidance for recommended conforming amendments to selected existing TS. The recent changes to 10 CFR part 20 would allow licensees to implement the rule without having to make any changes to their existing TS. However, the NRC crafted the enclosed model TS to provide licensees with acceptable language that correlates with the wording in the revised 10 CFR part 20 and 10 CFR 50.36a, GL 89–01, and the improved STS. In accordance with 10 CFR 20.1601(c), the proposed model TS for high radiation areas contain updated acceptable alternate controls to those given in 10 CFR 20.1601. Licensees may propose other alternate high radiation area controls based on their plant-specific needs.

In the case of gaseous and liquid effluent release rates, the model TS were crafted to allow licensees to maintain their same overall level of effluent control while retaining the operational flexibility that exists with current TS under the previous 10 CFR part 20. The model TS continue to require that radiation doses to members of the public from gaseous and liquid effluent releases from nuclear power plants be within the values given in Appendix I to 10 CFR part 50.

In a letter dated April 28, 1993, NUMARC requested clarification of NRC intent with regard to implementation of Appendix B to 10 CFR part 20. With regard to the basic implementation issue raised by NUMARC, NRC acknowledges in accordance with the provisions of 10 CFR 20.1008(c), that appendix B to 10 CFR 20.1–20.602 (see Enclosure 4) remains a valid reference for gaseous and liquid effluent TS. Therefore, licensees could choose to maintain their existing level of effluent control as adequate implementation of the ALARA requirement, and not submit individual requests for TS amendments to comply with 10 CFR 20.1101(b). Licensees may find this approach useful as a temporary expedient to allow more time and attention to be devoted to ensuring adequate preparations for implementation of the revised 10 CFR part 20 requirements on January 1, 1994. As a practical matter, however, because many sections of the current TS (particularly the Bases sections) contain wording that could cause confusion in relation to the revised 10 CFR part 20, the staff encourages licensees to adopt the model TS provided in this letter for implementation of the revised 10 CFR part 20 in the long term. The model TS provided in this generic letter are specifically intended to eliminate possible confusion or improper implementation of the revised 10 CFR part 20 requirements.

Summary of Recommended TS Changes

1.0 Definitions—Selected 10 CFR part 20 definitions that are contained in the TS are referenced back to 10 CFR part 20. A definition in the TS was revised to incorporate the change to 10 CFR 50.36a.

Table 4.3–8 Radioactive Liquid Effluent Monitoring Instrumentation Surveillance Requirements—Changes were made to update the current name of the referenced organization, and clarify that calibration or reference standards can be used for subsequent channel calibrations after the initial calibration.

3/4.11 Radioactive Effluents—The concentration values for liquid effluents that reference appendix B to 10 CFR part 20 values were increased by a factor of 10 to maintain the level of effluent control and operational flexibility that existed with the current TS under the previous 10 CFR part 20. 10 CFR part 20 section numbers and table number style were updated. The term "MPC" was replaced with "effluent concentration." Editorial changes were made to clarify that the intent of the gaseous dose rate and liquid effluent concentration limits is to maintain radioactive effluent releases as low as is reasonably achievable (ALARA).

5.0 Design Features—Editorial changes were made for clarification and to update 10 CFR part 20 section numbers.

6.0 Administrative Controls—Editorial changes were made for clarification, referenced 10 CFR part 20 section numbers were updated, reporting requirements were changed to an annual basis in accordance with the revised 10 CFR 50.36a, and a reference was added. The time period for submitting the Radioactive Effluent Release Report was increased from 60 days to May 1 (120 days). STS 6.11, which provides high radiation area (HRA) access control alternatives pursuant to 10 CFR part 20.1601(c), has been significantly revised. The changes include a capping dose rate to differentiate a HRA from a very high radiation area, additional requirements for groups entering HRAs, and clarification of the need for communication and control of workers in HRAs.

Generic Letter 89–01 based Administrative Controls TS—The concentration values for liquid effluents that reference Appendix B to 10 CFR part 20 values were increased by a factor of 10 to maintain the level of effluent control and operational flexibility that existed with the current TS under the previous 10 CFR part 20. 10 CFR part 20 section numbers and table number style were updated. The term "MPC" was replaced with "effluent concentration." Reporting requirements for submittal of the Radioactive Effluent Release Report were changed to an annual basis in accordance with the revised 10 CFR 50.36a. The time period for submitting the Radioactive Effluent Release Report was increased from 60 days to May 1 (120 days). The gaseous effluent dose rate TS has been changed to delete the reference to appendix B to 10 CFR part 20 and instead cite the explicit instantaneous dose rate values, as given in STS 3.11.2.1.

Enclosures 1 through 3 are marked copies of STS. Separate enclosures are included for licensees who have and have not implemented GL 89–01, on programmatic controls and relocation of radiological effluent TS (Enclosures 1 and 2), and for licensees who have adopted the improved STS (Enclosure 3).

Licensee action to propose TS changes under the guidance of this generic letter is voluntary. Therefore, such action is not a backfit under the provisions of 10 CFR 50.109. Therefore, the staff did not perform a backfit analysis.

Enclosures:

1. Model Standard Technical Specifications
2. Model Technical Specifications (with GL 89–01 implemented)
3. Model Improved Standard Technical Specifications
4. Appendix B to 10 CFR 20.1–20.602, "Concentrations in Air and Water Above Natural Background," (Not attached)

Enclosure 1.—Model Standard Technical Specifications

1.0 Definitions

Member(s) of the Public

1.16 Member(s) of the Public [See 10 CFR 20.1003 Definitions]

Offsite Dose Calculation Manual

1.17 The Offsite Dose Calculation Manual (ODCM) shall contain the methodology and parameters used in the calculation of offsite doses resulting from radioactive gaseous and liquid effluents, in the calculation of gaseous and liquid effluent monitoring Alarm/Trip Setpoints, and in the conduct of the Radiological Environmental Monitoring Program. The ODCM shall also contain (1) the Radioactive Effluent Controls and Radiological Environmental Monitoring Programs required by

Section 6.8.4 and (2) descriptions of the information that should be included in the Annual Radiological Environmental Operating and Radioactive Effluent Release Reports required by TS 6.9.1.3 and 6.9.1.4.

Site Boundary

1.30 The Site Boundary [See 10 CFR 20.1003 Definitions]

Unrestricted Area

1.38 An Unrestricted Area shall be any area at or beyond the Site Boundary to which access is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials, or any area within the Site Boundary used for residential quarters or for industrial, commercial, institutional, and/or recreational purposes.

Table 4.3–8
Radioactive Liquid Effluent Monitoring Instrumentation Surveillance Requirements
Table Notations

(3) The initial Channel Calibration shall be performed using one or more of the reference standards certified by the National Institute of Standards and Technology (NIST) or using standards that have been obtained from suppliers that participate in measurement assurance activities with NIST. These standards shall permit calibrating the system over its intended energy and measurement range. For subsequent Channel Calibration, sources that have been related to the initial calibration may be used in lieu of the reference standards associated with the initial calibration.

Table 4.3–8
Radioactive Gaseous Effluent Monitoring Instrumentation Surveillance Requirements
Table Notations

(3) The initial Channel Calibration shall be performed using one or more of the reference standards certified by the National Institute of Standards and Technology (NIST) or using standards that have been obtained from suppliers that participate in measurement assurance activities with NIST. These standards shall permit calibrating the system over its intended energy and measurement range. For subsequent Channel Calibration, sources that have been related to the initial calibration may be used in lieu of the reference standards associated with the initial calibration.

3/4.11 Radioactive Effluents
3/4.11.1 Liquid Effluents
Concentration

Limiting Condition for Operation

3.11.1.1 The concentration of radioactive material released in liquid effluents to Unrestricted Areas (see Figure 5.1–3) shall be limited to 10 times the concentration values specified in Appendix B, Table 2, Column 2 to 10 CFR 20.1001–20.2402 for radionuclides other than dissolved or entrained noble gases. For dissolved or entrained noble gases, the concentration shall be limited to 2×10^{-4} microcurie/ml total activity.

Applicability: At all times.

Action: a. With the concentration of radioactive material released in liquid effluents to Unrestricted Areas exceeding the above limits, immediately restore the concentration to within the above limits.

3/4 Radioactive Effluents
Bases
3/4.11.1 Liquid Effluents
3/4.11.1.1 Concentration

This specification is provided to ensure that the concentration of radioactive materials released in liquid waste effluents to Unrestricted Areas will be less than 10 times the concentration values specified in Appendix B, Table 2, Column 2 to 10 CFR 20.1001–20.2402. The specification provides operational flexibility for releasing liquid effluents in concentrations to follow the Section II.A and II.C design objectives of appendix I to 10 CFR part 50. This limitation provides reasonable assurance that the levels of radioactive materials in bodies of water in Unrestricted Areas will result in exposures within (1) the Section II.A design objectives of appendix I, 10 CFR part 50, to a Member of the Public and (2) restrictions authorized by 10 CFR 20.1301(e). The concentration limit for the dissolved or entrained noble gases is based upon the assumption that Xe–135 is the controlling radionuclide and its effluent concentration in air (submersion) was converted to an equivalent concentration in water. This specification does not affect the requirement to comply with the annual limitations of 10 CFR 20.1301(a).

This specification applies to the release of radioactive materials in liquid effluents from all units at the site.

The required detection capabilities for radioactive materials in liquid waste samples are tabulated in terms of the lower limits of detection (LLDs). Detailed discussion of the LLD and other detection limits can be found in Currie, L.A., "Lower Limit of Detection: Definition and Elaboration of a Proposed Position for Radiological Effluent and Environmental Measurements," NUREG/CR–4007 (September 1984), and in the HASL Procedures Manual, *HASL–300*.

3/4.11 Radioactive Effluents
*Liquid Holdup Tanks **
Limiting Condition for Operation

3.11.1.4 The quantity of radioactive material contained in each of the following unprotected outdoor tanks shall be limited to less than or equal to [10] curies, excluding tritium and dissolved or entrained noble gases:

a. _____
b. _____
c. _____
d. Outside temporary tank

Applicability: At all times.

Action: a. With the quantity of radioactive material in any of the above tanks exceeding the above limit, immediately suspend all additions of radioactive material to the tank. Within 48 hours, reduce the tank contents to within the limit, and describe the events leading to this condition in the next Radioactive Effluent Release Report, pursuant to Specification 6.9.1.7.

b. The provisions of Specification 3.0.3 and 3.0.4 are not applicable.

3/4.11 Radioactive Effluents
Bases
3/4.11.1.4 Liquid Holdup Tanks

The tanks listed in this specification include all those outdoor radwaste tanks that are not surrounded by liners, dikes, or walls capable of holding the contents of the tank and that do not have tank overflows and surrounding area drains connected to the Liquid Radwaste Treatment System.

Restricting the quantity of radioactive material contained in the specified tanks provides assurance that in the event of an uncontrolled release of the tank contents, the resulting concentrations would be less than the values given in Appendix B, Table 2, Column 2, to 10 CFR 20.1001–20.2402 at the nearest potable water supply and the nearest surface water supply in an Unrestricted Area.

3/4.11 Radioactive Effluents
3/4.11.2 Gaseous Effluents
Dose Rate
Limiting Condition for Operation

3.11.2.1. The dose rate due to radioactive materials released in gaseous effluents from the site to areas at or beyond the Site Boundary (see Figure 5.1–3) shall be limited to the following:

a. For noble gases: Less than or equal to a dose rate of 500 mrems/yr to the

* Tanks included in this specification are those outdoor tanks that are not surrounded by liners, dikes, or walls capable of holding the contents of the tank and that do not have tank overflows and surrounding area drains connected to the Liquid Radwaste Treatment System.

VOL 58 ISS 245 DE 23 1993 UMI

total body and less than or equal to a dose rate of 3000 mrems/yr to the skin, and

b. For iodine-131, iodine-133, tritium, and for all radionuclides in particulate form with half-lives greater than 8 days: Less than or equal to a dose rate of 1500 mrems/yr to any organ.

Applicability: At all times.

Action: a. With the dose rate(s) exceeding the above limits, immediately restore the release rate to within the above limit(s).

3/4.11 Radioactive Effluents
Bases
3/4.11.2 Gaseous Effluents
3/4.11.2.1 Dose Rate

This specification provides reasonable assurance that radioactive material discharged in gaseous effluents will not result in the exposure of a Member of the Public in an Unrestricted Area, either at or beyond the Site Boundary in excess of the design objectives of appendix I to 10 CFR part 50. This specification is provided to ensure that gaseous effluents from all units on the site will be appropriately controlled. It provides operational flexibility for releasing gaseous effluents to satisfy the Section II.A and II.C design objectives of appendix I to 10 CFR part 50. For Members of the Public who may at times be within the Site Boundary, the occupancy of that Member of the Public will usually be sufficiently low to compensate for the reduced atmospheric dispersion of gaseous effluents relative to that for the Site Boundary. Examples of calculators for such Members of the Public, with the appropriate occupancy factors, shall be given in the ODCM. The specified release rate limits restrict, at all times, the corresponding dose rates above background to a Member of the Public at or beyond the Site Boundary to less than or equal to 500 mrem/year to the total body or to less than or equal to 3000 mrem/year to the skin. These release rate limits also restrict, at all times, the corresponding thyroid dose rate above background to a child via the inhalation pathway to less than or equal to 1500 mrem/year. This specification does not affect the requirement to comply with the annual limitations of 10 CFR 20.1301(a).

This specification applies to the release of radioactive materials in gaseous effluents from all units at the site.

The required detection capabilities for radioactive material in gaseous waste samples are tabulated in terms of the lower limits of detection (LLD). Detailed discussion of the LLD, and other detection limits can be found in Currie, L.A., "Lower Limit of Detection: Definition and Elaboration of a Proposed Position for Radiological Effluent and Environmental Measurements," NUREG/CR-4007 (September 1984), and in the HASL Procedures Manual, *HASL-300* (revised annually).

3/4.11 Radioactive Effluents
*Gas Storage Tanks**
Limiting Condition for Operation

3.11.2.6 The quantity of radioactivity contained in each gas storage tank shall be limited to less than or equal to [2×10 ⁵] Curies of noble gases (considered as Xe–133 equivalent).

Applicability: At all times.

Action: a. With the quantity of radioactive material in any gas decay tank exceeding the above limit, immediately suspend all additions of radioactive material to the tank. Within 48 hours, reduce the contents of the tank to within the above limits, and describe the events leading to this condition in the next Radioactive Effluent Release Report, pursuant to Specification 6.9.1.4.

3/4.11 Radioactive Effluents
Bases
*3/4.11.2.6 Gas Storage Tanks**

The tanks included in this specification are those tanks for which the quantity of radioactivity contained is not limited directly or indirectly by another technical specification. Restricting the quantity of radioactivity contained in each gas storage provides assurance that in the event of an uncontrolled release of the tank contents, the resulting whole body exposure to a Member of the Public at the nearest Site Boundary will not exceed 0.5 rem.

3/4.11 Radioactive Effluents
3/4.11.4 Total Dose
Limiting Condition for Operation

3.11.4 The annual (calendar year) dose or dose commitment to any Member of the Public due to release of radioactivity and to direct radiation from uranium fuel cycle sources shall be limited to less than or equal to 25 mrems to the total body or any organ, except the thyroid, which shall be limited to less than or equal to 75 mrems.

Applicability: At all times.

Action: a. With the calculated doses from the release of radioactive materials in liquid or gaseous effluents exceeding twice the limits of Specification 3.11.1.2a., 3.11.1.2b., 3.11.2.2a., 311.2.2b., 3.11.2.3a., or 3.11.2.3b., calculations shall be made including direct radiation contributions from the units (including outside storage tanks, etc.) to determine whether the above limits of Specification 3.11.4 have been exceeded. If such is the case, prepare and submit to the Commission within 30 days, pursuant to Specification 6.9.2, a Special Report that defines the corrective action to be taken to reduce subsequent releases to prevent recurrence of exceeding the above limits and includes the schedule for achieving conformance with the above limits. This Special Report, as defined in 10 CFR 20.2203(a)(4), shall include an analysis that estimates the radiation exposure (dose) to a Member of the Public from uranium fuel cycle sources, including all effluent pathways and direct radiation, for the calendar year that includes the release(s) covered by this report. It shall also describe levels of radiation and concentrations of radioactive material involved, and the cause of the exposure levels or concentrations. If the estimated dose(s) exceed(s) the above limits, and if the release condition resulting in violation of 40 CFR part 190 has not already been corrected, the Special Report shall include a request for a variance in accordance with the provisions of 40 CFR part 190. Submittal of the report within 30 days is considered a timely request, and a variance is granted until staff action on the request is complete.

b. The provisions of Specifications 3.0.3 and 3.0.4 are not applicable.

3/4.11 Radioactive Effluents
Bases
3/4.11.4 Total Dose

This specification is provided to meet the dose limitations of 40 CFR part 190 that have been incorporated into 10 CFR 20.1301(d). The specification requires the preparation and submittal of a Special Report whenever the calculated doses due to releases of radioactivity and to radiation from uranium fuel cycle sources exceed 25 mrems to the whole body or any organ, except the thyroid, which shall be limited to less than or equal to 75 mrems. Even if a site was to contain up to 4 reactors, it is highly unlikely that the resultant dose to a Member of the Public will exceed the dose limits of 40 CFR part 190 if the individual reactors remain within twice the dose design objectives of Appendix I, and if direct radiation doses from the units (including outside storage tanks, etc.) are kept small. The Special Report will describe a course of action that should result in the limitation of the annual dose to a Member of the Public to within the 40 CFR part 190 limits. For the purposes of the Special Report, it may be assumed that the dose commitment to the Member of the Public from other uranium fuel cycle sources is negligible, with the exception that dose contributions from other nuclear fuel cycle facilities at the same site or within a radius of 8 km must be considered. If the dose to any Member of the Public is estimated to exceed the requirements of 40 CFR part 190, submittal of the Special Report within 30 days with a request for a variance (provided the release conditions resulting in violation of 40 CFR part 190 have not already been corrected), in accordance with the provisions of 40 CFR 190.11 and 10 CFR 20.2203(a)(4), is considered to be a timely request and fulfills the requirements of 40 CFR part 190 until NRC staff action is completed. The variance only relates to the limits of 40 CFR part 190, and does not apply in any way to other requirements for dose limitation of 10 CFR part 20, as addressed in Specifications 3.11.1.1 and 3.11.2.1. An individual is not considered a Member of the Public during any period in which he/she is engaged in carrying out any operation that is part of the nuclear fuel cycle. Demonstration of compliance with the limits of 40 CFR part 190 or with the design objectives of Appendix I to 10 CFR part 50 will be considered to demonstrate compliance with the 0.1 rem limit of 10 CFR 20.1301.

5.0 Design Features
5.1 Site
Map Defining Unrestricted Areas and Site Boundary for Radioactive Gaseous and Liquid Effluents

5.1.3 Information regarding radioactive gaseous and liquid effluents, which will allow identification of structures and release points as well as definition of Unrestricted Areas within the Site Boundary that are accessible to Members of the Public, shall be as shown in Figures [5.1–3 and 5.1–4].

The definition of Unrestricted Area used in implementing these Technical Specifications has been expanded over that in 10 CFR 20.1003. The Unrestricted Area boundary may coincide with the Exclusion (fenced) Area boundary, as defined in 10 CFR 100.3(a), but the Unrestricted Area does not include areas over water bodies. For calculations performed pursuant to 10 CFR 50.36a, the concept of Unrestricted Areas, established at or beyond the Site Boundary, is utilized in the Limiting Conditions for Operation* to keep levels of radioactive materials in liquid and gaseous effluents as low as is reasonably achievable.

6.0 Administrative Controls
6.9 Reporting Requirements
*Annual Reports**

6.9.1.2 Annual Reports covering the activities of the unit as described below for the previous calendar year shall be submitted prior to March 31 of each year. The initial report shall be submitted prior to March 31 of the year following initial criticality.

Reports required on an annual basis shall include:

a. A tabulation on an annual basis of the number of station, utility, and other personnel (including contractors), for whom monitoring was performed, receiving an annual deep dose equivalent greater than 100 mrem and the associated collective deep dose equivalent (reported in person-rem) according to work and job functions ** (e.g., reactor operations and surveillance, inservice inspection, routine maintenance, special maintenance [describe maintenance], waste processing, and refueling). The dose assignments to various duty functions may be estimated based on pocket dosimeter, thermoluminescence dosimeter (TLD), or film badge measurements. Small exposures totalling less than 20% of the individual total dose need not be accounted for. In the aggregate, at least 80% of the total deep dose equivalent received from external sources should be assigned to specific major functions;

6.0 Administrative Controls
6.9 Reporting Requirements
*Annual Radioactive Effluent Release Report**
6.9.1.4 A Radioactive Effluent Release Report covering the operation of the unit during the previous year shall be submitted prior to May 1 of each year. The period of the first report shall begin with the date of initial criticality.

The Radioactive Effluent Release Report shall include a summary of the quantities of radioactive liquid and gaseous effluents and solid waste released from the units as outlined in Regulatory Guide 1.21, "Measuring, Evaluating, and Reporting Radioactivity in Solid Wastes and Releases of Radioactive Materials in Liquid and Gaseous Effluents from Light-Water-Cooled Nuclear Power Plants," Revision 1, June 1974, with data summarized on a quarterly basis following the format of appendix B thereof. For solid wastes, the format for Table 3 and appendix B shall be supplemented with three additional categories: class of solid wastes (as defined by 10 CFR part 61), type of container (e.g., LSA, Type A, Type B, Large Quantity) and Solidification agent or absorbent (e.g., cement, urea formaldehyde).

The Radioactive Effluent Release Report shall include an annual summary of hourly meteorological data collected over the previous year. This annual summary may be either in the form of an hour-by-hour listing on magnetic tape of wind speed, wind direction, atmospheric stability, and precipitation (if measured), or in the form of joint frequency distributions of wind speed, wind direction, and atmospheric stability.** This same report shall include an assessment of the radiation doses due to the radioactive liquid and gaseous effluents released from the unit or station during the previous calendar year. This same report shall also include an assessment of the radiation doses from radioactive liquid and gaseous effluents to Members of the Public due to their activities inside the Site Boundary (Figure (5.1–3)) during the reporting period. All assumptions used in making these assessments, i.e., specific activity, exposure time, and location, shall be included in these reports. The meteorological conditions concurrent with the time of release of radioactive materials in gaseous effluents, as determined by sampling frequency and measurement, shall be used for determining the gaseous pathway doses. The assessment of radiation doses shall be performed in accordance with the methodology and parameters in the Offsite Dose Calculation Manual (ODCM).

The Radioactive Effluent Release Report shall also include an assessment of radiation doses to the likely most exposed Member of the Public from reactor releases and other nearby uranium fuel cycle sources, including doses from primary effluent pathways

---

* Tanks included in this specification are those outdoor tanks that are not surrounded by liners, dikes, or walls capable of holding the contents of the tank and that do not have tank overflows and surrounding area drains connected to the Liquid Radwaste Treatment System.

* For PWRs only.

---

* For licensees who have implemented Generic Letter 88–01, substitute "Controls" for "Limiting Conditions for Operation."

* A single submittal may be made for a multiple unit station. The submittal should combine those sections that are common to all units at the station.

** This tabulation supplements the requirements of 20.2206 of 10 CFR part 20.

* A single submittal may be made for a multiple unit station. The submittal should combine those sections that are common to all units at the station; however, for units with separate radwaste systems, the submittal shall specify the releases of radioactive material from each unit.

** In lieu of submission with the Radioactive Effluent Release Report, the licensee has the option of retaining this summary of required meteorological data on site in a file that shall be provided to the NRC upon request.

and direct radiation, for the previous calendar year to show conformance with 40 CFR part 190, "Environmental Radiation Protection Standards for Nuclear Power Operation." Acceptable methods for calculating the dose contribution from liquid and gaseous effluents are given in Regulatory Guide 1.109, Rev. 1, October 1977 and NUREG–0133.

The Radioactive Effluent Release Report shall include a list and description of unplanned releases from the site to Unrestricted Areas of radioactive materials in gaseous and liquid effluents made during the reporting period.

The Radioactive Effluent Release Report shall include any changes made during the reporting period to the Process Control Program (PCP) and to the Offsite Dose Calculation Manual (ODCM), pursuant to Specifications 6.13 and 6.14, respectively, as well as any major change to Liquid, Gaseous, or Solid Radwaste Treatment Systems pursuant to Specification 6.15. It shall also include a listing of new locations for dose calculations and/or environmental monitoring identified by the Land Use Census pursuant to Specification 3.12.2.

The Radioactive Effluent Release Report shall also include the following: an explanation as to why the inoperability of liquid or gaseous effluent monitoring instrumentation was not corrected within the time specified in Specification 3.3.3.10 or 3.3.3.11, respectively; and description of the events leading to liquid holdup tanks or gas storage tanks exceeding the limits of Specification 3.11.1.4 or 3.11.2.6, respectively.

6.11 High Radiation Areas

As provided in paragraph 20.1601(c) of 10 CFR part 20, the following controls shall be applied to high radiation areas in place of the controls required by paragraph 20.1601 (a) and (b) of 10 CFR part 20:

6.11.1 High Radiation Areas with Dose Rates not Exceeding 1.0 rem/hour*:

A. Each entryway to such an area shall be barricaded and conspicuously posted as a high radiation area. Such barricades may be breached only during periods of personnel entry or exit.

B. Access to, and activities in, each such area shall be controlled by means of a Radiation Work Permit (RWP) or equivalent that includes specification of radiation dose rates in the immediate work area(s) and other appropriate radiation protection equipment and measures.

C. Individuals qualified in radiation protection procedures (e.g., health physics technicians) and personnel continuously escorted by such individuals may be exempted from the requirement for an RWP or equivalent while performing their assigned duties provided that they are following plant radiation protection procedures for entry to, exit from, and work in such areas.

D. Each individual (whether alone or in a group) entering such an area shall possess:

(i) A radiation monitoring device that continuously displays radiation dose rates in the area ("radiation monitoring and indicating device"); or

(ii) A radiation monitoring device that continuously integrates the radiation dose rates in the area and alarms when the device's dose alarm setpoint is reached ("alarming dosimeter"), with an appropriate alarm setpoint, or

(iii) A radiation monitoring device that continuously transmits dose rate and cumulative dose to a remote receiver monitored by radiation protection personnel responsible for controlling personnel radiation exposure within the area, or

(iv) A self-reading dosimeter and,

(a) Be under the surveillance, as specified in the RWP or equivalent, while in the area, of an individual at the work site, qualified in radiation protection procedures, equipped with a radiation monitoring and indicating device who is responsible for controlling personnel radiation exposure within the area, or

(b) Be under the surveillance, as specified in the RWP or equivalent, while in the area, by means of closed circuit television, of personnel qualified in radiation protection procedures, responsible for controlling personnel radiation exposure in the area.

E. Entry into such areas shall be made only after dose rates in the area have been determined and entry personnel are knowledgeable of them.

6.11.2 High Radiation Areas with Dose Rates Greater than 1.0 rem/hour, but less than 500 rads/hour**:*

A. Each entryway to such an area shall be conspicuously posted as a high radiation area and shall be provided with a locked door or gate that prevents unauthorized entry, and in addition:

(i) All such door and gate keys shall be maintained under the administrative control of the shift foreman or the health physics supervisor on duty.

(ii) Doors and gates shall remain locked except during periods of personnel entry or exit.

B. Access to, and activities in, each such area shall be controlled by means of an RWP or equivalent that includes specification of radiation dose rates in the immediate work area(s) and other appropriate radiation protection equipment and measures.

C. Individuals qualified in radiation protection procedures may be exempted from the requirement for an RWP or equivalent while performing radiation surveys in such areas provided that they are following plant radiation protection procedures for entry to, exit from, and work in such areas.

D. Each individual (whether alone or in a group) entering such an area shall possess:

(i) An alarming dosimeter with an appropriate alarm setpoint, or

(ii) A radiation monitoring device that continuously transmits dose rate and cumulative dose information to a remote receiver monitored by radiation protection personnel responsible for controlling personnel radiation exposure within the area with the means to communicate with and control every individual in the area, or

(iii) A self-reading dosimeter and,

(a) Be under the surveillance, as specified in the RWP or equivalent, of an individual qualified in radiation protection procedures, equipped with a radiation monitoring and indicating device who is responsible for controlling personnel exposure within the area, or

(b) Be under the surveillance, as specified in the RWP or equivalent, by means of closed circuit television, of personnel qualified in radiation protection procedures, responsible for controlling personnel radiation exposure in the area, and with the means to communicate with and control every individual in the area.

E. Entry into such areas shall be made only after dose rates in the area have been determined and entry personnel are knowledgeable of them.

F. Such individual areas that are within a larger area that is controlled as a high radiation area, where no enclosure exists for purpose of locking and where no enclosure can reasonably be constructed around the individual are need not be controlled by a locked door or gate, but shall be barricaded and conspicuously posted as a high radiation area, and a conspicuous, clearly visible flashing light shall be activated at the area as a warning device.

*At 30 centimeters from the radiation source or from any surface penetrated by the radiation.

**At 1 meter from the radiation source or from any surface penetrated by the radiation.

Enclosure 2.—Model Technical Specifications (With GL 89–01 implementation)

For those licensees who have implemented Generic Letter 89–01, the following model technical specifications should be used to supplement or replace existing specifications.

Offsite Dose Calculation Manual

1.17 The Offsite Dose Calculation Manual (ODCM) shall contain the methodology and parameters used in the calculation of offsite doses resulting from radioactive gaseous and liquid effluents, in the calculation of gaseous and liquid effluent monitoring Alarm/Trip Setpoints, and in the conduct of the Radiological Environmental Monitoring Program. The ODCM shall also contain (1) the Radioactive Effluent Controls and Radiological Environmental Monitoring Programs required by section 6.8.4, and (2) descriptions of the information that should be included in the Annual Radiological Environmental Operating and Radioactive Effluent Release Reports required by Specifications 6.9.1.3 and 6.9.1.4.

6.0 Administrative Controls

6.8 Procedures and Programs

6.8.4 The following programs shall be established, implemented, and maintained:

g. Radioactive Effluent Controls Program

A program shall be provided conforming with 10 CFR 50.36a for the control of radioactive effluents and for maintaining the doses to Members of the Public from radioactive effluents as low as reasonably achievable. The program (1) shall be contained in the ODCM, (2) shall be implemented by operating procedures, and (3) shall include remedial actions to be taken whenever the program limits are exceeded. The program shall include the following elements:

(1) Limitations on the operability of radioactive liquid and gaseous monitoring instrumentation including surveillance tests and setpoint determination in accordance with the methodology in the ODCM,

(2) Limitations on the concentrations of radioactive material released in liquid effluents to Unrestricted Areas conforming to 10 times the concentration values in Appendix B, Table 2, Column 2 to 10 CFR 20.1001–20.2042,

(3) Monitoring, sampling, and analysis of radioactive liquid and gaseous effluents pursuant to 10 CFR 20.1302 and with the methodology and parameters in the ODCM,

(4) Limitations on the annual and quarterly doses or dose commitment to a Member of the Public from radioactive materials in liquid effluents released from each unit to Unrestricted Areas conforming to appendix I to 10 CFR part 50,

(5) Determination of cumulative and projected dose contributions from radioactive effluents for the current calendar quarter and current calendar year in accordance with the methodology and parameters in the ODCM at least every 31 days,

(6) Limitations on the operability and use of the liquid and gaseous effluent treatment systems to ensure that the appropriate portions of these systems are used to reduce releases of radioactivity when the projected doses in a 31-day period would exceed 2 percent of the guidelines for the annual dose or dose commitment conforming to appendix I to 10 CFR part 50,

(7) Limitations on the dose rate resulting from radioactive material released in gaseous effluents from the site to areas at or beyond the Site Boundary shall be limited to the following:

a. For noble gases: Less than or equal to a dose rate of 500 mrems/yr to the total body and less than or equal to a dose rate of 3000 mrems/yr to the skin, and

b. For iodine-131, iodine-133, tritium, and for all radionuclides in particulate form with half-lives greater than 8 days: Less than or equal to a dose rate of 1500 mrems/yr to any organ.

(8) Limitations on the annual and quarterly air doses resulting from noble gases released in gaseous effluents from each unit to areas beyond the Site Boundary conforming to appendix I to 10 CFR part 50,

(9) Limitations on the annual and quarterly doses to a Member of the Public from Iodine-131, Iodine-133, tritium, and all radionuclides in particulate form with half-lives greater than 8 days in gaseous effluents released from each unit to areas beyond the Site Boundary conforming to Appendix I to 10 CFR part 50,

(10) Limitations on venting and purging of the Mark II containment through the Standby Gas Treatment System to maintain releases as low as reasonably achievable (BWRs with Mark II containments), and

(11) Limitations on the annual dose or dose commitment to any Member of the Public due to releases of radioactivity and to radiation from uranium fuel cycle sources conforming to 40 CFR part 190.

6.9 Reporting Requirements

*Radioactive Effluent Release Report***

6.9.1.4 The Radioactive Effluent Release Report covering the operation of the unit during the previous year shall be submitted prior to May 1 of each year. The report shall include a summary of the quantities of radioactive liquid and gaseous effluents and solid waste released from the unit. The material provided shall be (1) consistent with the objectives outlined in the ODCM and PCP, and (2) in conformance with 10 CFR 50.36a and section IV.B.1 of Appendix I to 10 CFR part 50.

6.14 Offsite Dose Calculation Manual (ODCM)

Changes to the ODCM:

a. Shall be documented and records of reviews performed shall be retained as required by Specification 6.10.3.o. This documentation shall contain:

(1) Sufficient information to support the change together with the appropriate analyses or evaluations justifying the change(s), and

(2) A determination that the change will maintain the level of radioactive effluent control required pursuant to 10 CFR 20.1302, 40 CFR part 190, 10 CFR 50.36a, and appendix I to 10 CFR part 50 and not adversely impact the accuracy or reliability of effluent, dose, or setpoint calculations.

b. Shall become effective after review and acceptance by the [URG] and the approval of the Plant Manger,

c. Shall be submitted to the Commission in the form of a complete, legible copy of the entire ODCM as a part of or concurrent with the Radioactive Effluent Release Report for the period of the report in which any change to the ODCM was made. Each change shall be identified by markings in the margin of the affected pages, clearly indicating the area of the page that was changed, and shall indicate the date (e.g., month/year) the change was implemented.

Enclosure 3.—Model Improved Standard Technical Specifications (affected sections only)

5.7.2 *Programs and Manuals*

5.7.2.3 Offsite Dose Calculation Manual (ODCM)

a. The ODCM shall contain the methodology and parameters used in the calculation of offsite doses resulting

**A single submittal may be made for a multi-unit station. The submittal should combine those sections that are common to all units at the station; however, for units with separate radwaste systems, the submittal shall specify the release of radioactive material from each unit.

VOL 58 ISS 245 DEC 23 1993 UMI

from radioactive gaseous and liquid effluents, in the calculation of gaseous and liquid effluent monitoring alarm and trip setpoints, and in the conduct of the Radiological Environmental Monitoring Program; and

b. The ODCM shall also contain the Radioactive Effluent Controls and Radiological Environmental Monitoring programs required by Specification 5.7.2, and descriptions of the information that should be included in the Annual Radiological Environmental Operating and Radioactive Effluent Release Reports required by Specification (5.9.1.3) and Specification (5.9.1.4).

Licensee-initiated changes to the ODCM:

a. Shall be documented and records of reviews performed shall be retained by Specification 5.10.3(n/o). This documentation shall contain:

1. Sufficient information to support the change(s) together with the appropriate analyses or evaluations justifying the change(s), and

2. A determination that the change(s) maintain the levels of radioactive effluent control required pursuant to 10 CFR 20.1302, 40 CFR part 190, 10 CFR 50.36a, and 10 CFR part 50, Appendix I, and do not adversely impact the accuracy or reliability of effluent, dose, or setpoint calculations;

b. Shall become effective after review and acceptance by the [review method of Specification 5.5.1) and the approval of the (Plant Superintendent); and

c. Shall be submitted to the NRC in the form of a complete, legible copy of the entire ODCM as a part of or concurrent with the Radioactive Effluent Release Report for the period of the report in which any change in the ODCM was made. Each change shall be identified by markings in the margin of the affected pages, clearly indicating the area of the page that was changed, and shall indicate the date (i.e., month and year) the change was implemented.

5.7.2.7 Radioactive Effluent Controls Program

This program conforms to 10 CFR 50.36a for the control of radioactive effluents and for maintaining the doses to members of the public from radioactive effluents as low as reasonably achievable. The program shall be contained in the ODCM, shall be implemented by procedures, and shall include remedial actions to be taken whenever the program limits are exceeded. The program shall include the following elements:

a. Limitations on the functional capability of radioactive liquid and gaseous monitoring instrumentation including surveillance tests and setpoint determination in accordance with the methodology in the ODCM;

b. Limitations on the concentrations of radioactive material released in liquid effluents to Unrestricted Areas, conforming to 10 times the concentration values in Appendix B, Table 2, Column 2 to 10 CFR 20.1001–20.2401;

c. Monitoring, sampling, and analysis of radioactive liquid and gaseous effluents pursuant to 10 CFR 20.1302 and with the methodology and parameters in the ODCM;

d. Limitations on the annual and quarterly doses or dose commitment to a member of the public from radioactive materials in liquid effluents released from each unit to unrestricted areas, conforming to 10 CFR part 50, appendix I;

e. Determination of cumulative and projected dose contributions from radioactive effluents for the current calendar quarter and current calendar year in accordance with the methodology and parameters in the ODCM at least every 31 days;

f. Limitations on the functional capability and use of the liquid and gaseous effluent treatment systems to ensure that appropriate portions of these systems are used to reduce releases of radioactivity when the projected doses in a period of 31 days would exceed 2 percent of the guidelines for the annual dose or dose commitment, conforming to 10 CFR part 50, appendix I;

g. Limitations on the dose rate resulting from radioactive material released in gaseous effluents from the site to areas at or beyond the Site Boundary shall be limited to the following:

1. For noble gases: Less than or equal to a dose rate of 500 mrems/yr to the total body and less than or equal to a dose rate of 3000 mrems/yr to the skin, and

2. For iodine-131, iodine-133, tritium, and for all radionuclides in particulate form with half-lives greater than 8 days: Less than or equal to a dose rate of 1500 mrems/yr to any organ;

h. Limitations on the annual and quarterly air doses resulting from noble gases released in gaseous effluents from each unit to areas beyond the site boundary, conforming to 10 CFR part 50, appendix I;

i. Limitations on the annual and quarterly doses to a member of the public from iodine-131, iodine-133, tritium, and all radionuclides in particulate form with half-lives greater than 8 days in gaseous effluents released from each unit to areas beyond the site boundary, conforming to 10 CFR part 50, appendix I; and

j. Limitations on the annual dose or dose commitment to any member of the public due to releases of radioactivity and to radiation from uranium fuel cycle sources, conforming to 40 CFR part 190.

5.9.1 *Routine Reports*

5.9.1.2 Annual Reports

Note.—A single submittal may be made for a multiple unit station. The submittal should combine sections common to all units at the station.

Annual Reports covering the activities of the unit as described below for the previous calendar year shall be submitted by March 31 of each year. The initial report shall be submitted by March 31 of the year following initial criticality.

Reports required on an annual basis include:

a. Occupational Radiation Exposure Report

A tabulation on an annual basis of the number of station, utility, and other personnel (including contractors), for whom monitoring was required, receiving an annual deep dose equivalent >100 mrem and the associated collective deep dose equivalent (reported in personrem) according to work and job functions (e.g., reactor operations and surveillance, inservice inspection, routine maintenance, special maintenance (describe maintenance), waste processing, and refueling). This tabulation supplements the requirements of 10 CFR 20.2206. The dose assignments to various duty functions may be estimated based on pocket dosimeter, thermoluminescence dosimeter (TLD), or film badge measurements. Small exposures totalling <20% of the individual total dose need not be accounted for. In the aggregate, at least 80% of the total deep dose equivalent received from external sources should be assigned to specific major work functions; and

5.9.1 *Routine Reports*

5.9.1.4 Radioactive Effluent Release Report

Note.—A single submittal may be made for a multiple-unit station. The submittal shall combine sections common to all units at the station; however, for units with separate radwaste systems, the submittal shall specify the releases of radioactive material from each unit.

The Radioactive Effluent Release Report covering the operation of the unit during the previous year shall be submitted prior to May 1 of each year in accordance with 10 CFR 50.36a. The report shall include a summary of the quantities of radioactive liquid and gaseous effluents and solid waste released from the unit. The material provided shall be consistent with the objectives outlined in the ODCM and Process Control Program and in conformance with 10 CFR 50.36a and 10 CFR part 50, Appendix I, Section IV.B.1.

5.11 High Radiation Areas

As provided in paragraph 20.1601(c) of 10 CFR part 20, the following controls shall be applied to high radiation areas in place of the controls required by paragraph 20.1601 (a) and (b) of 10 CFR part 20:

5.11.1 High Radiation Areas with Dose Rates not Exceeding 1.0 rem/hour:*

A. Each entryway to such an area shall be barricaded and conspicuously posted as a high radiation area. Such barricades may be breached only during periods of entry or exit.

B. Access to, and activities in, each such area shall be controlled by means of a Radiation Work Permit (RWP) or equivalent that includes specification of radiation dose rates in the immediate work area(s) and other appropriate radiation protection equipment and measures.

C. Individuals qualified in radiation protection (e.g., health physics technicians) and personnel continuously escorted by such individuals may be exempted from the requirement for an RWP or equivalent while performing their assigned duties provided that they are following plant radiation protection procedures for entry to, exit from, and work in such areas.

D. Each individual (whether alone or in a group) entering such an area shall possess:

(i) A radiation monitoring device that continuously displays radiation dose rates in the area ("radiation monitoring and indicating device"), or

(ii) A radiation monitoring device that continuously integrates the radiation dose rates in the area and alarms when the device's dose alarm setpoint is reached ("alarming dosimeter"), with an appropriate alarm setpoint, or

(iii) A radiation monitoring device that continuously transmits dose rate and cumulative dose information to a remote receiver monitored by radiation protection personnel responsible for controlling personnel radiation exposure within the area, or

(iv) A self-reading dosimeter and,

(a) Be under the surveillance, as specified in the RWP or equivalent, while in the area, of an individual at the work site, qualified in radiation protection procedures, equipped with a radiation monitoring and indicating device who is responsible for controlling personnel radiation exposure within the area, or

(b) Be under the surveillance, as specified in the RWP or equivalent, while in the area, by means of closed circuit television, of personnel qualified in radiation protection procedures, responsible for controlling personnel radiation exposure in the area.

E. Entry into such areas shall be made only after dose rates in the area have been determined and entry personnel are knowledgeable of them.

5.11.2 High Radiation Areas with Dose Rates Greater than 1.0 rem/hour*, but less than 500 rads/hour: **:

A. Each entryway to such an area shall be conspicuously posted as a high radiation area and shall be provided with a locked door or gate that prevents unauthorized entry, and in addition:

(i) All such door and gate keys shall be maintained under the administrative control of the shift foreman or the health physics supervisor on duty.

(ii) Doors and gates shall remain locked except during periods of personnel entry or exit.

B. Access to, and activities in, each such area shall be controlled by means of an RWP or equivalent that includes specification of radiation dose rates in the immediate work area(s) and other appropriate radiation protection equipment and measures.

C. Individuals qualified in radiation protection procedures may be exempted from the requirement for an RWP or equivalent while performing radiation surveys in such areas provided that they are following plant radiation protection procedures for entry to, exit from, and work in such areas.

D. Each individual entering such an area shall possess:

(i) An alarming dosimeter with an appropriate alarm setpoint, or

(ii) A radiation monitoring device that continuously transmits dose rate and cumulative dose information to a remote receiver monitored by radiation protection personnel responsible for controlling personnel radiation exposure within the area with the means to communicate with and control every individual in the area, or

(ii) A self-reading dosimeter and,

(a) Be under the surveillance, as specified in the RWP or equivalent, of an individual qualified in radiation protection procedures, equipped with a radiation monitoring and indicating device who is responsible for controlling personnel radiation exposure within the area, or

(b) Be under the surveillance, as specified in the RWP or equivalent, by means of closed circuit television, of personnel qualified in radiation protection procedures, responsible for controlling personnel radiation exposure in the area, and with the means to communicate with and control every individual in the area.

E. Entry into such areas shall be made only after dose rates in the area have been determined and entry personnel are knowledgeable of them.

F. Such individual areas that are within a larger area that is controlled as a high radiation area, where no enclosure exists for purpose of locking and where no enclosure can reasonably be constructed around the individual area need not be controlled by a locked door or gate, but shall be barricaded and conmspicously posted as a high radiation area, and a conspicuous, clearly visible flashing light shall be activated at the area as a warning device.

Dated at Rockville, Maryland, this 16th day of December 1993.

For the Nuclear Regulatory Commission.

Gail H. Marcus,

Chief, Generic Communications Branch, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 93-31335 Filed 12-22-93; 8:45 am]

BILLING CODE 7590-01-M

*At 30 centimeters (12 inches) from the radiation source or from any surface penetrated by the radiation.

**At 1 meter (from the radiation source or from any surface penetrated by the radiation.

[Docket No. 50-331]

Iowa Electric Light and Power Co., Duane Arnold Energy Center; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NRF-49, issued to the Iowa Electric Light and Power Company (the licensee), for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would consist of revisions to 10 CFR part 20 references to recognize the new section numbers, revise definitions to ensure consistency with 10 CFR part 20, and change administrative controls for reporting and recordkeeping to maintain compliance with the new part 20. The change would revise the limitations on

VOL 58 ISS 245 DE 23 1993 UMI

concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents and reflect the relocation of the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. These changes are in response to the licensee's application for amendment dated July 28, 1993, implementing the new 10 CFR part 20.

The Need for the Proposed Action

The proposed action is needed in order to retain operational flexibility consistent with 10 CFR part 50, Appendix I, concurrent with the implementation of the revised 10 CFR part 20.

Environmental Impacts of the Proposed Action

The proposed revision, in regards to the actual release rates as referenced in the Technical Specifications (TS) as a dose rate to the maximally exposed member of the public, will not increase the types or amounts of effluents that may be released offsite, nor increase individual or cumulative occupational radiation exposures. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendment.

With regard to potential nonradiological impacts, the proposed changes do not affect nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed amendment to the TS, any alternative to the amendment will have either no significantly different environmental impact or will have greater environmental impact. The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts as a result of plant operation.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of the Duane Arnold Energy Center, dated March 1973.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

For further details with respect to this action, see the application for amendment dated July 28, 1993, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Cedar Rapids Public Library, 500 1st Street, SE., Cedar Rapids, Iowa, 52401.

Dated at Rockville, Maryland, this 17th day of December 1993.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Acting Director, Project Directorate III–3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31334 Filed 12–22–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings that have been scheduled and meetings that have been postponed or cancelled since the last list of proposed meetings was published on November 24, 1993 (58 FR 62165). Those meetings that are firmly scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS and ACNW full Committee meetings designated by an asterisk (*) will be closed in whole or in part to the public. The ACRS and ACNW full Committee meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS and ACNW full Committee meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the January 1994 ACRS and ACNW full Committee meetings can be obtained by contacting the Office of the Executive Director of the Committees (telephone: 301/492–4600 (recording) or 301/492–7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., (EST).

ACRS Subcommittee Meetings

Thermal Hydraulic Phenomena, January 4 and 5, 1994, Bethesda, MD. The Subcommittee will continue its review of the NRC RELAP5/MOD 3 code. The focus of the discussion will be on the use of this code in evaluating the design features of the AP600 passive plant.

Planning and Procedures, January 5, 1994, Bethesda, MD (2:00 p.m.–4:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Also, it will discuss qualifications of candidates nominated for appointment to the ACRS. A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

Advanced Boiling Water Reactors, January 25–26, 1994, Bethesda, MD. The Subcommittee will review the remaining NRC staff's final safety evaluation report and any residual issues associated with the ABWR design.

ABB–CE Standard Plant Designs, February 9, 1994, Bethesda, MD. The Subcommittee will continue its review of the NRC staff's Final Safety Evaluation Report (FSER) and the ABB–CE Standard Safety Analysis Report (SSAR) and Design Description/ITAAC for the System 80+ design.

Planning and Procedures, February 9, 1994, Bethesda, MD (2 p.m.–4:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Also, it will discuss qualifications of candidates nominated for appointment to the ACRS. A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

ABB–CE Standard Plant Design, March 8, 1994, Bethesda, MD. The Subcommittee will continue its review of the NRC staff's FSER and the ABB–CE SSAR and Design Description/ITAAC for the System 80+ design.

Advanced Boiling Water Reactors, March 9, 1994, Bethesda, MD. The Subcommittee will review any residual issues associated with the ABWR design and prepare a proposed ACRS report on the Final Design Approval for ABWR for consideration by the full Committee.

Planning and Procedures, March 9, 1994, Bethesda, MD (2 p.m.–4:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Also, it will discuss qualifications of candidates nominated for appointment to the ACRS. A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

Thermal Hydraulic Phenomena, March 16–17, 1994, Pittsburgh, PA. The Subcommittee will continue its review of the test programs being conducted in support of the AP600 passive plant design certification review. The focus of the meeting discussions will be on the CMT and PCCS test programs.

ABB–CE Standard Plant Designs, April 5–6, 1994, Bethesda, MD. The Subcommittee will continue its review of the NRC staff's FSER and the ABB–CE SSAR and Design Description/ITAAC for the System 80+ design.

Planning and Procedures, April 6, 1994, Bethesda, MD (2 p.m.–4:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

ACRS Full Committee Meetings

405th ACRS Meeting, January 6–8, Bethesda, MD. During this meeting, the Committee plans to consider the following:

A. *Proposed Final Rule to Revise Emergency Planning Regulations on Exercise Requirements*—Review and comment on the proposed final rule on emergency planning regulations that is intended to clarify the requirements for the emergency planning exercises. Representatives of the NRC staff will participate.

B. *Proposed Resolution of Generic Issue 67.5.1, "Reassessment of SGTR Radiological Consequences"*—Review and comment on the proposed resolution of Generic Issue 67.5.1 regarding reassessment of the validity of the present techniques used to calculate radiological consequences resulting from a steam generator tube rupture (SGTR) event. Representatives of the NRC staff will participate.

C. *Reassessment of the Fire Protection Program*—Hear a briefing by and hold discussions with representatives of the NRC staff regarding SECY–93–143, "NRC staff Action to Address the Recommendations in the Report on the Reassessment of the NRC Fire Protection Program."

D. *BWR Core Power Stability/ATWS*—Hear a briefing by and hold discussions with representatives of the NRC staff regarding the status of staff efforts in resolving the issue of BWR core power stability combined with an ATWS event, including the related issue of liquid poison remixing phenomena, and the development of emergency procedure guidelines. Representatives of the industry will participate.

E. *Results of the Public Workshop on License Renewal*—Hear a briefing by and hold discussions with representatives of the NRC staff regarding the results of the September 30, 1993 public workshop on license renewal, and a draft commission paper that includes staff recommendations on the future directions of the license renewal. Representatives of the industry will participate, as appropriate.

F. *Rod Control System Failure and Withdrawal of Rod Control Cluster Assemblies*—Hear a briefing by and hold discussions with representatives of the NRC staff regarding: The May 27, 1993 event at Salem Unit 2 during which a single failure in the rod control system resulted in the withdrawal of a single rod from the core while the operator was applying a rod insertion signal; a similar event at the Ginna nuclear power plant; and licensees' responses to Generic Letter 93–04, "Rod Control System Failure and Withdrawal of Rod Control Cluster Assemblies," dated June 21, 1993. Representatives of the industry will participate, as appropriate.

G. *Evaluation of Licensee Feedback on the Impact of NRC Activities on Licensee Operations*—Hear a briefing by and hold discussions with representatives of the NRC staff regarding SECY–93–236, "The Staff's Evaluation of Ongoing Licensee Feedback on the Impact of NRC Activities on Licensee Operations." Representatives of the industry will participate, as appropriate.

H. *Reliability Assurance Program*—Hear a briefing by and hold discussions with representatives of the NRC staff regarding the staff position on the Reliability Assurance Program for the advanced light water reactors.

I. *Certified Design Material for ABWR*—Continue discussion of a proposed ACRS report on Certified Design Material in the areas of Human Factors Engineering, Radiation Protection, Piping Design, and Instrumentation and Control. Representatives of the NRC staff will participate, as appropriate.

J. *Meeting with the Deputy Executive Director for Nuclear Reactor Regulation*—Meet with Mr. Sniezek, Deputy Executive Director for Nuclear Reactor Regulation, and Mr. Milhoan who will succeed Mr. Sniezek in early February 1994, and discuss items of mutual interest.

*K. *Report of the Planning and Procedures Subcommittee*—Hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business. A portion of this session may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss personnel matters that relate solely to internal personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

L. *Future Activities*—Discuss topics proposed for consideration by the full Committee during future meetings.

M. *Miscellaneous*—Discuss miscellaneous matters related to the conduct of Committee activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

406th ACRS Meeting, February 10–11, 1994, Bethesda, MD. Agenda to be announced.

407th ACRS Meeting, March 7–9, 1994, Bethesda, MD. Agenda to be announced.

408th ACRS Meeting, April 10–11, 1994, Bethesda, MD. Agenda to be announced.

ACNW Full Committee Meetings

61st ACNW Meeting, January 19–20, 1994, Bethesda, MD. During this meeting the Committee plans to consider the following:

A. *HLW Topical Report Position Paper*—Hear a briefing by and hold discussions with representatives of the NRC staff on its approach to reviewing the DOE's topical reports on issue

VOL 58 ISS 245 DEC 23 1993 UMI

resolution in high-level waste management, including the staff's protocol and methodology in the Topical Report Position Paper.

B. *ACNW Task Action Plans*—Discuss Task Action Plans to implement the provisions and protocols documented in the recently completed ACNW Program Plan, including feedback and direction from the Commission following the ACNW's briefing on December 21, 1993.

C. *Future Activities*—Discuss topics proposed for consideration by the full Committee during future meetings.

D. *Miscellaneous*—Discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

62nd ACNW Meeting, February 23–24, 1994, Bethesda, MD. Agenda to be announced.

63rd ACNW Meeting, March 23–24, 1994, Bethesda, MD. Agenda to be announced.

Dated: December 17, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–31336 Filed 12–22–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–458; License No. NPF–47]

Gulf States Utilities, Entergy Corp., Entergy Operations, Inc. (River Bend Station, Unit 1); Order Approving Transfers and Notice of Issuance of License Amendments

I

On November 20, 1985, pursuant to 10 CFR part 50, License No. NPF–47 was issued, under which Gulf States Utilities Company (GSU) is authorized to operate and hold a 70 percent ownership share in River Bend Station, Unit 1 (River Bend), which is located in West Feliciana Parish, Louisiana.

II

In June 1992, GSU and Entergy Corporation (Entergy) entered into an agreement providing for the combination of the businesses of their companies. In accordance with the merger plan, GSU, following the merger, will continue to operate as an electric utility, but as a subsidiary of a new holding company to be named Entergy Corporation, with its electric operations fully integrated with those of the Entergy System. Upon consummation of the proposed business combination and subject to the receipt of the necessary approvals, Entergy Operations Inc. (EOI), on behalf of the owners, will assume operations and managerial responsibility for River Bend.

III

To implement the business combination, GSU applied to the U.S. Nuclear Regulatory Commission (NRC) for two license amendments to license NPF–47, by two letters dated January 13, 1993, as supplemented by later filings. Under these requested license amendments, the license would reflect the transfer of ownership of GSU to become a wholly-owned subsidiary of Entergy as a result of a merger between GSU and Entergy, and control over the operation of River Bend would be transferred from GSU to EOI, another wholly-owned subsidiary of Entergy. Notice of these applications for transfer and proposed no significant hazards consideration determinations were published in the **Federal Register** on July 7, 1993 (58 FR 36435 and 58 FR 36436).

IV

The transfer of rights under license NPF–47 is subject to the NRC's approval under 10 CFR 50.80. Based on information provided by GSU and Entergy, and other information before the Commission, it is determined that the proposed transfer of the control of operations of River Bend from GSU to EOI, and the proposed transfer of ownership of GSU to Entergy, subject to the conditions set forth herein, are in the public interest and are consistent with the applicable provisions of law, regulations and orders issued by the Commission. These actions were evaluated by the staff as documented in Safety Evaluations, dated December 16, 1993, which contain final no significant hazards consideration determinations. The conditions of the transfer, to which GSU has not objected, are:

2.C.(3) Antitrust Conditions

a. GSU shall comply with the antitrust license conditions set forth in Appendix C, attached hereto and incorporated in this license.

b. EOI shall not market or broker power or energy from River Bend Station, Unit 1. GSU is responsible and accountable for the actions of its agent, EOI, to the extent said agent's actions affect the marketing or brokering of power or energy from River Bend Station, Unit 1 and, in any way, contravene the antitrust conditions of this paragraph or Appendix C of this license.

2.C.(16) Merger Related Reports

GSU shall inform the Director, NRR:

a. Sixty days prior to a transfer (excluding grants of security interests or liens) from GSU to Entergy or any other entity of facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of GSU's consolidated net utility plant, as recorded on GSU's books of account.

b. Of an award of damages in litigation initiated against GSU by Cajun Electric Power Cooperative regarding River Bend within 30 days of the award.

V

Accordingly, pursuant to sections 103, 105, 161b, 161i, and 187 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201 et seq. and 10 CFR part 50, it is hereby ordered that the transfers to Entergy Corporation and Entergy Operations Inc., discussed above, are approved, and notice is given that license amendments providing for the transfer of control of operation of River Bend to EOI, subject to the license conditions set out and herein, and the transfer of ownership of GSU to Entergy are issued, and both amendments being subject to the further conditions that should both of these transfers not be completed by June 14, 1994 this order will be null and void, except that for good cause shown, the date upon which the transfers are to be completed may be extended for a short period beyond June 14, 1994.

Dated at Rockville, Maryland this 16th day of December 1993.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31332 Filed 12–22–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–328]

Tennessee Valley Authority, Sequoyah Nuclear Plant, Unit 2; Exemption

I

The Tennessee Valley Authority (TVA) is the holder of Facility Operating License No. DPR–79, which authorizes operation of the Sequoyah Nuclear Plant, Unit 2 (the facility, Unit 2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor located on TVA's Sequoyah site in Hamilton County, Tennessee.

II

Sections III.D.2(a) and III.D.3 of Appendix J to 10 CFR part 50 require that Types B and C local leak rate tests be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years.

On March 15, 1992, SQN Unit 2 started the Cycle 5 refueling outage. All Type B and Type C local leak rate tests were performed during the outage and the unit was returned to service on May 17, 1992. Between March 1, 1993, and October 19, 1993, Unit 2 was shut down. Due to the length of the shutdown, TVA has postponed the start of the Unit 2 Cycle 6 refueling outage from September 1993 to April 2, 1994. As a result, the expiration of the 2-year time interval for some Type B and Type C tests occurs before the outage starts. To perform the tests in accordance with the requirement would force the unit to shut down in March 1994. To prevent this, the licensee has requested an exemption that would allow a one-time deferment of the Appendix J interval requirement from March 15, 1994 until the shutdown for the refueling outage starting on April 2, 1994, a total of approximately 18 days.

The extension would affect 20 Electrical Penetrations, 164 Isolation Valves, 2 Flanges, 1 hydrogen analyzer, and 1 containment spray header valve, since they were tested during the Unit 2 Cycle 5 refueling outage before April 2 1992. These valves and components, which represent approximately 53 percent of the leak rate test program, are considered by the licensee to be leak tight and in good condition, which was verified by the leak rate tests performed during the Cycle 5 refueling outage. Based on the present containment leak rate that accounts for less than 60 percent of the applicable limit, the licensee believes that the remaining margin is sufficient to ensure that any incremental increase in leakage because of the extension, will not result in unacceptable as-found test results. Also, based on historical data, the licensee believes that any incremental increase in leakage from these components because of the extension would be small. In addition, many of the components were included in the boundary for the last Type A test that was performed in April 1992, and have been subjected to improved maintenance practices that provides increased assurance that the components will be capable of performing their intended safety function.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *."

The underlying purpose of the requirement to perform Type B and Type C containment leak rate tests at intervals not to exceed 2 years, is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or being unknown, and long enough to allow the tests to be conducted during scheduled refueling outages. This interval was originally published in Appendix J when refueling cycles were conducted at approximately annual intervals and has not been changed to reflect 18-month or 2-year operating cycles. It is not the intent of the regulation to require a plant shutdown solely for the purpose of conducting the periodic leak rate tests. Based on historical data at SQN, any incremental increase in leakage because of the extension would be small. Improved maintenance practices, implemented during the Unit 2 Cycle 5 outage and improved testing techniques of containment isolation valves to detect any degraded performance indications, provide increased assurance that these components will perform their safety function. In addition, on the average, as-left leak rates are less than 25 percent of the established reference leak rates. Therefore, since the maximum extension is relatively short (18 days) compared to the two-year test interval requirement, it is unlikely that substantial degradation of the containment components leading to the failure of the containment to perform its safety function would occur. As a result, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

IV

For the foregoing reasons, the NRC staff has concluded that the licensee's proposed increase of the 2-year time interval for performing Type B and Type C Containment Leak Rate Tests until the Cycle 6 refueling outage will not present an undue risk to public health and safety and is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present, as specified in 10 CFR 50.12(a)(2), such that application of 10 CFR part 50, Appendix J, Sections III.D.2(a) and III.D.3 are not necessary in order to achieve the underlying purpose of this regulation.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants the Tennessee Valley Authority exemption from the requirements of Sections III.D.2(a) and III.D.3 and Appendix J to 10 CFR part 50 as requested in the submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant adverse environmental impact (58 FR 60470).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 16th day of December, 1993.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31333 Filed 12–22–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33348; File Nos. 600–19 and 600–22]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Granting Accelerated Approval of Application for Extension of Temporary Registration as a Clearing Agency

December 15, 1993.

On December 1, 1993, the MBS Clearing Corporation ("MBS") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(a) of the Securities Exchange Act of 1934 ("Act"),[1] an

[1] 15 U.S.C. 78s(a).

VOL 58 ISS 245 DEC 23 1993 UMI

amendment to its Form CA–1 requesting that the Commission extend MBS's registration as a clearing agency under section 17A of the Act for a period of 12 months.[2] Notice of MBS's amended application and request for extension of temporary registration appeared in the **Federal Register** on December 10, 1993.[3] This order approves on an accelerated basis MBS's amended application by extending MBS's temporary registration as a clearing agency until December 31, 1994.

On February 2, 1987, the Commission granted the application of MBS for registration as a clearing agency, pursuant to sections 17A(b) and 19(a)(1) of the Act[4] and Rule 17Ab2–1(c)[5] thereunder, on a temporary basis for a period of 18 months.[6] Subsequently, the Commission issued orders that extended MBS's temporary registration as a clearing agency, the last of which extended MBS's registration through December 31, 1993.[7]

As discussed in detail in the original order granting MBS's registration, one of the primary reasons for MBS's registration was to enable it to provide for the safe and efficient clearance and settlement of transactions in mortgage-backed securities.[8] Since the original temporary registration order, MBS has implemented several improvements to its operating and financial standards and continues to work towards enhancing the safety and efficiency of its operations. In addition, MBS has made significant progress towards implementation of a fully operational off-site backup system which the Commission is currently reviewing.

MBS has functioned effectively as registered clearing agency for over six years. Accordingly, in light of the past performance of MBS and the need for MBS to provide continuity of service to its participants, the Commission believes that, pursuant to section 17A(b)(2) of the Act, it is necessary and appropriate in the public interest and for the prompt and accurate clearance and settlement of securities transactions to approve MBS's request to extend its registration for an additional 12 months. The Commission also finds that "good cause" exists to extend MBS's registration on an accelerated basis, prior to the end of the comment period, to prevent any lapse in that registration to occur. Any comments received concerning MBS's amended application will be considered in conjunction with the Commission's consideration of whether to grant MBS permanent registration as a clearing agency under section 17A(b) of the Act.[9]

It is therefore ordered, that MBS's registration as a clearing agency be, and hereby is, approved on a temporary basis until December 31, 1994.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31341 Filed 12–22–93; 8:45 am]

BILLING CODE 8010–01–M

[2] Letter from J. Craig Long, Secretary, MBS, to Jack Drogin, Branch Chief, Division of Market Regulation, Commission, dated November 30, 1993.

[3] Securities Exchange Act Release No. 33274 (December 2, 1993), 58 FR 64990.

[4] 15 U.S.C. 78q–1(b) and 15 U.S.C. 78s(a)(1).

[5] 17 CFR 240.17Ab2–1(c).

[6] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218 (order granting MBS registration as a clearing agency for a period not to exceed 18 months).

[7] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 32412; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; and 31750 (January 21, 1993), 58 FR 6424.

[8] See, *supra*, note 6.

[9] 15 U.S.C. 78q–1(b).

[10] 17 CFR 200.30–3(a)(50).

[Release No. 34–33349; File No. SR–PSE–93–29]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Time Within Which Members Must Notify the Exchange of Changes of Address

December 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 1, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to amend its Rule 1.13 relating to the time within which members must notify the Exchange of changes to their address where notices may be served. The Exchange is proposing to change the length of such time from sixty (60) calendar days to fifteen (15) business days.

The text of the proposed rule change is available at the Office of the Secretary, PSE, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PSE included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

(1) Purpose

PSE Rule 1.13 currently provides that Exchange members and member firms must submit to the Exchange any changes to their address where notices may be served within sixty (60) calendar days of such change.[1] The Exchange believes that a shorter period of time for notifying the Exchange of such changes of address is appropriate due to the need of Exchange members and member firms to be contacted promptly regarding membership requirements, requests for information in regulatory investigations, the commencement of disciplinary investigations actions, and other such matters. Accordingly, the Exchange is proposing a requirement that members and member firms notify the Exchange within fifteen (15) business days of any change of address where notices may be served. Such rule change will serve to foster more efficient communications between the Exchange and its members and member firms. The Exchange does not believe that the proposed rule change will place an undue burden on its members and member firms.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade.

[1] See also PSE Constitution, Art. VIII, section 1(g), which provides that "[e]very member and member firm shall register with the Exchange addresses and subsequent changes thereof where notice may be served."

B. Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to the file number in the caption above and should be submitted by January 13, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31343 Filed 12–22–93; 8:45 am]

BILLING CODE 8010–01–M

[2] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–33351; File No. SR–PSE–93–03]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Waiver of Maximum Bid/Ask Differentials in Individual Equity Options

December 16, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 9, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to amend its Rule 6.37 to permit two Floor Officials to waive, on a case-by-case basis, the required maximum bid/ask differentials for options when the bid/ask differential in the security underlying an options contract is greater than ½ of a point.

The text of the proposed rule change is available at the Office of the Secretary, PSE, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PSE included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The Exchange is proposing to amend its rule establishing the maximum bid/ask differentials that may be created in making a market in options contracts. Rule 6.37(b)(1) currently provides, for example, that a Market Maker may bid and/or offer to create differences of no more than ¼ of a point between the bid and the offer when the bid is less than $2. Under the proposal, two Floor Officials may waive the requirements of subsection (b)(1) when the bid/ask differential in the underlying security is greater than ½ of a point. However, in such instances, the bid/ask differential for the in-the-money series may be, at most, as wide as the bid/ask differential in the underlying security (in the primary market); and the bid/ask differential for the at-the-money series and the out-of-the-money series may be, at most, half as wide as the bid/ask differential in the underlying security (in the primary market). The proposed rule also provides that such exemptions are subject to Options Floor Trading Committee review. The proposal is intended to address situations where the market in an underlying security (usually an over-the-counter issue) is highly illiquid. Under the current rule, Market Makers in such circumstances may be required to provide narrow markets in options contracts without having a reasonable opportunity to hedge their positions with stock. The Exchange believes that Market Makers in these situations have an undue burden and that an exemption from subsection (b)(1) may be warranted on a case-by-case basis. The PSE also notes that currently, under Rule 6.37, if the bid/ask differential in the market for the underlying security is greater than the differential permitted under subsection (b)(1), the bid/ask differential for any in-the-money option series may be identical with the bid/ask differential in the market for the underlying security.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and promote just and equitable principles of trade.

VOL 58 ISS 245 DEC 23 1993 UMI

B. Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Chance Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to the file number in the caption above and should be submitted by January 13, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

[1] 17 CFR 200.30-3(a)(12) (1992).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31342 Filed 12-22-93; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Notification of Extension of Filing Deadline

This is to give notice that the deadline for filing applications for physical disaster loans as a result of the Midwest floods has been extended to January 15, 1994 for all nine states that had counties Presidentially declared as disaster areas. Those states and their respective declaration numbers are:

Illinois: 2662
Iowa: 2661
Kansas: 2669
Minnesota: 2664
Missouri: 2663
Nebraska: 2667
North Dakota: 2670
South Dakota: 2668
Wisconsin: 2660

All other information remains the same, i.e., the termination date for filing applications for economic injury loans will remain as previously published for each state.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 9, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93-31291 Filed 12-22-93; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of the Accelerated Tariff Elimination Provision of the North American Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notification of an opportunity to file petitions requesting accelerated tariff elimination under the North American Free Trade Agreement.

SUMMARY: Section 201(b) of the North American Free Trade Agreement Implementation Act of 1993 ("the Act") grants the President, subject to the consultation and layover requirements of section 103(a) of the Act, the authority to proclaim any accelerated schedule for duty elimination that may be agreed to by the United States, Mexico and Canada under Article 302(3) of the North American Free Trade Agreement ("the NAFTA"). This notice opens a first round of consideration for accelerated tariff elimination under the NAFTA, and describes the procedures for filing petitions. Certain petitions may be considered on an expedited timetable. The closing date for filing petitions requesting consideration on an expedited basis is January 21, 1994; for all other requests, the petition deadline is February 25, 1994.

FOR FURTHER INFORMATION CONTACT: Office of North American Affairs, Office of the United States Trade Representative, room 501, 600 17th Street NW., Washington, DC 20506, telephone (202) 395-3412.

Background

The NAFTA will enter into force on January 1, 1994. Annex 302.2 establishes the timetable for the staged elimination of tariffs on all dutiable goods traded between Mexico and the United States and most dutiable goods traded between Mexico and Canada. Duties on goods traded between the United States and Canada remain subject to the tariff elimination timetables agreed to under the U.S.-Canada Free Trade Agreement (CFTA), as modified by three rounds of tariff acceleration negotiations conducted between 1989 and 1993.

Article 302(3) of the NAFTA provides that, at the request of any party to the NAFTA, the parties shall consult to consider accelerating the elimination of customs duties set out in the Agreement. Section 201(b) of the NAFTA Implementation Act grants the President, subject to certain consultation and layover requirements, the authority to proclaim any such agreed acceleration of the elimination of a U.S. duty. The Statement of Administrative Action (SAA), which was approved by the Congress along with the NAFTA, states that the Administration will give special priority to negotiating the acceleration of tariff reductions for products where the Mexican or Canadian duty is substantially higher than the U.S. tariff. Several products are specifically cited, including bedding components, flat glass, major household appliances and wine. Both the Statement of Administrative Action and section 201(b)(2) of the Act state that the President may not consider a request to accelerate the staging of duty reductions for an article for which the United States tariff phaseout period is more than 10 years if a request for acceleration with respect to such an article has been considered and denied in the preceding 3 calendar years. (That

is, a request made and denied in 1994 cannot be reconsidered before 1998.)

Based on the above, and on the experience gained in conducting three tariff acceleration rounds under the CFTA, the following procedures will apply, subject to any modifications made in the future.

I. Articles Which May Be Petitioned

Petitions for accelerated tariff elimination may be filed only for articles for which the duty will be eliminated after January 1, 1994, as noted in Annex 302.2 of the NAFTA. Requests may be made with respect to trade in products originating in the United States, Mexico, and Canada.

USTR will generally not act on a petition unless most U.S. producers of that particular product consider the request for acceleration to be non-controversial. Petitions may request acceleration of reductions by one or all of the NAFTA Parties. Normally, the acceleration of the elimination of tariffs will be pursued on a reciprocal basis with Mexico and/or Canada. Since the consultations will be trinational, petitions requesting acceleration by other than all parties must note the reasons for excluding any party. In addition, it is USTR's intention not to consider any petition during this round requesting acceleration between the United States and Canada concerning 8-digit tariff headings that were considered for accelerated duty elimination in the three CFTA rounds. Information on how to obtain a list of such previously considered products is noted below.

II. Timetable

It is the intent of the United States, Mexico and Canada to conduct an initial NAFTA acceleration exercise on an expedited timetable. Petitions requesting consideration on an expedited basis are due at USTR by January 21, 1994. Petitions requesting a non-expedited review are due by February 25, 1994. The Administration intends to consider products cited in the SAA for which petitions are received by January 21, 1994 on an expedited basis, and will include additional petitions received by January 21 to the maximum extent feasible. Under the expedited review schedule, USTR will publish a preliminary list of the products to be presented to Mexico and/or Canada on or about February 7, and request comments on this list, due by February 25. Trinational meetings will begin shortly thereafter, with the intent of reaching agreement on a package for tariff acceleration within 120 days.

USTR will give priority to consideration to products cited in the Statement of Administrative Action with respect to United States-Mexico tariff elimination acceleration. The expedited nature of the timetable for this initial NAFTA acceleration exercise may limit the number of products that can be considered. However, those petitions submitted which cannot be considered on an expedited schedule will be considered under an extended schedule of consultations, as will those petitions received by February 25, 1994, with a further announcement of an agreed acceleration package made at a later date. It is USTR's intent to include as many priority requests as is possible in the expedited round. Advice from the United States International Trade Commission (USITC) and the Trade Advisory Committees will also be requested for all products, including those reviewed on an expedited basis. A future notice will provide information on the timetable for petitions not considered on an expedited basis.

III. Format of Petitions

A model petition format and the information requested is shown in the annex to this notice. In order to be considered, petitions for accelerated tariff reductions must conform to the model format and contain all essential data elements.

Responses to questions 1 through 11 listed in sections A and B of the petition format are essential. Petitioners should also provide as much of the information requested in section C of the format as is available to them.

If a submission contains business confidential material, the specific material must be so identified in order to receive confidential treatment. In such cases, both a non-confidential and a business confidential version of the petition, each clearly marked as to its status, must be submitted. None of the information provided in sections A and B of the petition may be designated business confidential.

A copy of the petition format and this notice can be obtained from the Office of North American Affairs, Office of the United States Trade Representative (USTR), Room 501, 600 17th Street, NW., Washington, DC 20506, telephone (202) 395-3412.

IV. General Instructions

1. One product per petition. Each petition may request accelerated tariff elimination for a single product only. For this purpose, "single product" means an 8-digit tariff subheading or, if the petitioner is not requesting acceleration of an entire 8-digit tariff subheading, a single specified product within an 8-digit tariff subheading. All information contained in a petition must pertain solely to the single product that is the subject of the petition. Petitions requesting acceleration on more than one product cannot be considered.

2. Petitioner/product relationship (number 5). At least one item must be checked. If item "e", "l" or "o" is checked, specify the relationship or interest that the petitioner has in the product.

3. Product description (number 6). Petitions for acceleration of an entire 8-digit tariff subheading must provide at least a general description sufficient to identify the product coverage of the 8-digit subheading.

Petitions for acceleration of a single product within an 8-digit subheading must provide:

a. A full and complete description of the article;

b. The article's principal use in the United States;

c. The article's commercial, common or technical name or designation; and, as appropriate:

—Illustrative literature;
—The relative quantity by weight of each component materials for articles composed of two or more materials;
—Chemical analysis, flow charts, CAS number, etc.;

d. Any other information that may assist in determining the appropriate tariff classification of the article;

e. A statement of the reason(s) the petitioner believes that the article is classified in the 8-digit tariff subheading which the petitioner has entered in number 7 of the petition (e.g., outstanding classification by Customs or a classification by Customs on liquidated entries of the article in question) and;

f. A copy of any rulings issued by the U.S. Customs Service or the appropriate authorities in the Government of Canada or the Government of Mexico specifying the classification of the petitioned product in the Harmonized Tariff Schedule of the United States, the Customs Tariff of Canada, and the Tariff Schedule of Mexico.

Petitions for single products within an 8-digit which do not provide the above information cannot be considered. Brand names or trademarks are not acceptable as product descriptions for this purpose and their use may result in rejection of the petition.

4. 8-digit tariff subheadings (number 7). Petitions for acceleration of tariff elimination under United States, Mexican and Canadian tariff schedules

must provide the correct applicable 8-digit tariff subheading number for each of the three tariff schedules. If acceleration is requested under only one or two of the tariff schedules, the appropriate tariff schedule must be identified at the applicable 8-digit subheading in those schedules. Not more than one 8-digit subheading in each tariff schedule must be listed in a petition. Commodity numbers contained in Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, cannot be substituted for the number of the 8-digit tariff subheading in the United States, Mexican or Canadian tariff schedules. Petitions using Section B commodity numbers for this purpose cannot be considered.

5. Supplemental information (Section D). This section of the petition should be used to provide information supplementing that provided in numbers 1 through 17 (specify the relevant number(s) being supplemented), or any other relevant information that may assist in consideration of the petition.

6. Submission of petitions. Petitions must be type-written and submitted in 10 copies, in English, at the earliest possible date, but not later than January 21, 1994 for expedited requests, and February 25, 1994 for all other requests, to: Office of North American Affairs, Office of the United States Trade Representative, room 501, 600 17th Street, NW., Washington, DC 20506, ATTN: Mr. John Melle.

Petitions received after these deadlines cannot be considered.

V. Consideration of Petitions

All petitions received by January 21, 1994, and containing complete and correct information as required in this notice will be reviewed and a decision made as to which articles will be proposed to the Governments of Mexico and/or Canada for possible expedited accelerated tariff elimination. Petitions received by February 25, 1994, will be considered on a more extended timetable.

Petitions for articles on which the duty is currently scheduled for elimination on January 1, 1994 in Annex 302.2 of the North American Free Trade Agreement, as modified, cannot be considered.

Petitions not containing complete and accurate information required in numbers 1 through 11 of sections A and B cannot be considered.

Petitions for products previously considered for acceleration under the U.S.-Canada Free Trade Agreement (CFTA) will not be considered during this acceleration round for U.S.-Canada acceleration. Products considered in the three CFTA rounds are listed in the Federal Register notices of July 17, 1989, Volume 54, Number 135, at pages 29659 through 29671; October 5, 1990, Volume 55, Number 194, at pages 40964 through 40973; and September 4, 1992, Volume 57, Number 173, at pages 40720 through 40727. Information on whether a product was considered in the CFTA product rounds may also be obtained from:

The Office of the U.S. Trade Representative, (202) 395–3412, or The U.S. Department of Commerce, Office of Canada (202) 482–3103.

Normally, the accelerated elimination of tariffs between the United States, Mexico and/or Canada will be pursued on a reciprocal basis. Petitions containing requests for the accelerated elimination of Mexican or Canadian tariffs will be treated as applying equally to corresponding U.S. tariff treatment, and vice versa. Since the consultations will be trinational, petitions requesting acceleration by other than all NAFTA parties must note the reasons for excluding any party.

Charles E. Roh, Jr.,

Assistant U.S. Trade Representative for North American Affairs.

Annex A—Model Petition To Accelerate the Removal of Tariffs Under the North American Free Trade Agreement

Section A. Petitioner Identification

1. Petitioner: _____
2. Address: _____
3. Contact Person: _____
4. Telephone Number: _____
5. Petitioner/Product Relationship:
   a. _____ Producer in the United States
   b. _____ Importer in the United States
   c. _____ Exporter in the United States
   d. _____ Consumer in the United States
   e. _____ Other, in the United States

   Specify: _____
   f. _____ Producer in Mexico
   g. _____ Importer in Mexico
   h. _____ Exporter in Mexico
   i. _____ Consumer in Mexico
   j. _____ Other, in Mexico

   Specify: _____
   k. _____ Producer in Canada
   l. _____ Importer in Canada
   m. _____ Exporter in Canada
   n. _____ Consumer in Canada
   o. _____ Other, in Canada

   Specify: _____

Section B. Product Identification and Tariff Information

6. Product Description: _____

(Important: See paragraph 3 of General Instruction. Supplement in Section D if necessary.)

7. The product is classified in the following 8-digit tariff subheading:
   a. _____ in the Harmonized Tariff Schedule of the United States
   b. _____ in the Tariff Schedule of Mexico
   c. _____ in the Customs Tariff of Canada
8. This petition:
   a. _____ — covers all products in the U.S. 8-digit tariff subheading
   b. _____ — does not cover all products in the U.S. 8-digit tariff subheading
   c. _____ — covers all products in the Mexican 8-digit tariff subheading
   d. _____ — does not cover all products in the Mexican 8-digit tariff subheading
   e. _____ — covers all products in the Canadian 8-digit tariff subheading
   f. _____ — does not cover all products in the Canadian 8-digit tariff subheading

(Important: If items "b", "d" or "f" are checked, the information required in paragraph 3 of the General Instructions for product descriptions of single products within an 8-digit subheading must be provided with this petition.)

9. Under the North American Free Trade Agreement, the current rate of duty in the tariff schedule of:
   a. The United States is _____
   b. Mexico is _____
   c. Canada is _____
10. Accelerated removal is requested for:
    a. _____ the United States duty
    b. _____ the Mexican duty
    c. _____ the Canadian duty

Note: If the request is not made for all three parties, note reason for exclusion, such as prior CFTA consideration.

11. The petitioner requests elimination of the tariff/s:
    a. _____ immediately without further staging
    b. _____ with accelerated staging

    Specify: _____

Section C. Economic and Statistical Information

12. Provide exports in 1990–1992 by the petitioner, and projected exports by the petitioner for the 12-month period following implementation of the petitioner's request:

Year	Quantity	Value
a. From the United States to Mexico:		
1990		
1991		
1992		
b. From Mexico to the United States:		
1990		
1991		
1992		
c. From the United States to Canada:		
1990		
1991		
1992		
d. From Canada to the United States:		
1990		
1991		
1992		

Projected for the 12-month period following duty removal:

13. Provide imports in 1990–1992 by the petitioner, and projected imports by the petitioner in the 12-month period following implementation of petitioner's request:

Year	Quantity	Value
a. From Mexico to the United States:		
1990		
1991		
1992		
b. From the United States to Mexico:		
1990		
1991		
1992		
c. From Canada to the United States:		
1990		
1991		
1992		
d. From the United States to Canada:		
1990		
1991		
1992		

Projected for the 12-month period following duty removal:

14. Production by the petitioner:

Year	Quantity	Value
a. In the United States		
1990		
1991		
1992		
b. In Mexico:		
1990		
1991		
1992		
c. In Canada:		
1990		
1991		
1992		

15. Names and addresses of known principal producers in the United States:
    a. _____
    b. _____
    c. _____
    etc.
16. Petitioner's 1991 share of the market in:
    a. the United States was _____%.
    b. Mexico _____%.
    c. Canada _____%.

Section D. Supplemental Information

(Use additional pages as necessary.)

Signature of person filing the petition: _____

Title or position: _____

Date: _____

[FR Doc. 93–31289 Filed 12–22–93; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 93–086]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: A meeting of the New York Harbor Traffic Management Advisory Committee will be held on January 19, 1994, in the Conference Room, second floor, U.S. Coast Guard Marine Inspection Office, Battery Park, New York New York, beginning at 10 a.m.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander D. S. Hill, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Vessel Traffic Service, Building 108, Governors Island, New York, NY 10004–5070; or by calling (212) 668–7429.

SUPPLEMENTARY INFORMATION: Authority for conducting NYHTMAC meetings is granted pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 USC App. I). The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Topics for this meeting include a report on upcoming marine events, dredging operations in New York Harbor, update on Vessel Traffic Service and Coast Guard regulatory initiatives, environmental monitoring initiatives, charter renewal update and topics from the floor.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than one day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Dated: December 17, 1993.

L.L. Hereth,

Commander, U.S. Coast Guard, Acting Captain of the Port New York, Acting NYHTMAC Executive Director.

[FR Doc. 93–31393 Filed 12–22–93; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

[Docket No. 93–84; Notice 1]

Solectria Corporation; Petition for Temporary Exemption From Four Federal Motor Vehicle Safety Standards

Solectria Corporation of Arlington, Massachusetts, has petitioned to be exempted from four Federal motor vehicle safety standards for trucks that it converts to electric power. The basis of the petition is that compliance with the standards would cause substantial economic hardship.

Notice of receipt of the petition is published in accordance with agency regulations on the subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Previously, petitioner has received NHTSA Exemption No. 92–2 covering Geo Metro passenger cards that it converts to electric power, and markets under the name "Solectria Force." To date, 45 Solectria Forces have been sold. Petitioner now intends to convert new Chevrolet S–10 pickup trucks to electric power. The vehicles to be converted have been certified by their original manufacturer to conform to all applicable Federal motor vehicle safety standards. However, petitioner determined that the vehicles may not conform with all or part of four Federal motor vehicle safety standards after their modification. The standards for which exemptions were requested are discussed below.

VOL 58 ISS 245 DEC 23 1993 UMI

1. Standard No. 204, Steering Control Rearward Displacement

The conversion affects the ability to meet paragraph S4.2. According to the petitioner, "[b]ecause the weight in the hood is changed, a 30 mile per hour crash test under the conditions of S3 would be needed to determine the steering wheel's rearward displacement."

2. Standard No. 208, Occupant Crash Protection

The conversion affects the ability to meet paragraphs S4.2.2 and S4.6.1. According to the petitioner, "[b]ecause the Solectria pickup has manual Type 2 seat belts, S4.2.2 requires that the pickup meet the requirements of S4.1.2.3. S4.6.1 requires that Solectria's pickup meet the frontal crash protection requirements of S5.1."

3. Standard No. 212, Windshield Mounting

4. Standard No. 219, Windshield Zone Intrusion

According to the petitioner, "[t]he modifications will affect the requirements in S5" of each of these two standards.

Exemption was requested from these four standards for a period of three years. The conversion of the vehicle to electric power results in a net weight increase of 500 pounds which is 17% over the weight at which the vehicle was originally certified. It involves the substitution of electrical propulsion components for the original ones relating to internal combustion propulsion, and modifications to the heating system and drive shaft. Petitioner stated that "thirty-mile per hour barrier crash testing is needed to determine the actual energy absorbing characteristics of the new front compartment components."

Petitioner argued that to require immediate compliance would create substantial economic hardship. As of September 30, 1990, the end of its first fiscal year, the company had a net income of $8,186. However, at the end of its second and third fiscal years, it has net losses, respectively of $87,602 and $106,243. Thus, as of September 30, 1992, it had cumulative net losses of $185,659. It estimates that the total cost of testing for compliance with the four standards would be $155,320. If modifications appear indicated, further testing would be required. An exemption would permit vehicle sales and the generation of cash permitting testing and full certification of compliance while the exemptions are in effect. It anticipates orders for 25 trucks in its first year of production, 50 units in the second year, and 150 vehicles in the third. A denial of the petition would delay Solectria's production "for several years and would likely prevent production altogether."

According to the petitioner, granting the exemption would be in the public interest and consistent with the National Traffic and Motor Vehicle Safety Act because it "will be able to make a substantive contribution to the nation's clean transportation needs."

Interested persons are invited to submit written data, views, and arguments on the petition of Solectria, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The petition and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: January 21, 1994.

(15 U.S.C. 1410; delegation of authority at 49 CFR 1.50)

Issued on December 16, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93-31312 Filed 12-22-93; 8:45 am]

BILLING CODE 4910-59-M

Corrections

Federal Register

Vol. 58, No. 245

Thursday, December 23, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

THE PRESIDENT

3 CFR

Proclamation 6641 of December 15, 1993

To Implement the North American Free Trade Agreement, and for Other Purposes

Correction

In Presidential Proclamation 6641, beginning on page 66867 in the issue of Monday, December 20, 1993, the billing codes and file line were inadventently omitted. On page 66870, the billing code should read, "Billing code 3195-01-P". On page 67259, the file line and billing code should read:

"[FR Doc. 93-31008
Filed 12-15-93; 5:00 pm]
Billing code 3190-01-C"

BILLING CODE 1505-01-D

THE PRESIDENT

3 CFR

Memorandum of December 15, 1993

Trade Agreements Resulting From the Uruguay Round of Multilateral Trade Negotiations

Correction

In the Presidential Memorandum of December 15, 1993, beginning on page 67263 in the issue of Monday, December 20, 1993, the billing codes and file line were inadventently omitted. On page 67263, the billing code should read,"Billing code 3195-01-C". On page 67302, the file line and billing code should read:

"[FR Doc.93-31104
Filed 12-16-93; 1:12 pm]
Billing code 3190-01-C"

BILLING CODE 1505-01-D

VOL
58
ISS
2
4
5
DE
23
1993
UMI

federal register

Thursday
December 23, 1993

Part II

Department of Transportation

Federal Aviation Administration
Federal Highway Administration
Federal Railroad Administration
Research and Special Programs Administration
Coast Guard

14 CFR Part 121
49 CFR Part 391
49 CFR Part 217 et al.
49 CFR Part 199
46 CFR Part 16

Omnibus Transportation Employee Testing Act of 1991; Workplace Drug Testing Programs; Management Information System; Final Rules

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

Federal Highway Administration

49 CFR Part 391

Federal Railroad Administration

49 CFR Parts 217 and 219

Research and Special Programs Administration

49 CFR Part 199

Coast Guard

46 CFR Part 16

RIN 2105–AB81; 2120–AC33; 2125–AC81; 2130–AA64; 2137–AB95; 2115–AD84

Management Information System (MIS) For Workplace Drug Testing Programs

AGENCIES: Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Research and Special Programs Administration (RSPA), and United States Coast Guard (USCG), DOT.

ACTION: Final rules; common preamble.

SUMMARY: This document is a common preamble to five final rules being published by several operating administrations of the Department of Transportation (FAA, FHWA, FRA, RSPA & USCG) elsewhere in today's issue of the **Federal Register**. The Department needs employer drug testing program data in order to address policy and program issues relative to the anti-drug rules' effectiveness. The FAA, FHWA, FRA, RSPA, and USCG final rules are published elsewhere in today's **Federal Register**. These final rules require employers conducting drug testing to maintain and/or submit drug testing program data to the DOT Agency which has regulatory authority over the employer. This data will enhance the Department's ability to assess program effectiveness and compliance.

EFFECTIVE DATE: Effective generally, January 1, 1994. See separate OA's rules for specific date.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Smith, Acting Director, Office of Drug Enforcement And Program Compliance, Department of Transportation, 400 7th St. SW., room 9404, Washington, DC 20540, (202) 366–3784.

SUPPLEMENTARY INFORMATION:

Introduction

On December 15, 1992, the Department published a notice of proposed rulemaking (NPRM) to amend 49 CFR Part 40 to establish alcohol and drug testing procedures for implementing the requirements of the Omnibus Transportation Employee Testing Act of 1991. That NPRM also proposed a Management Information System (MIS) to obtain specific drug and alcohol testing program information from employers. Also on December 15, 1992, the Operating Administrations (OAs)—FAA, FHWA, FRA, RSPA, and USCG—issued NPRMs that proposed to establish the specific MIS drug testing reporting requirements for the employers they regulate. A similar MIS was proposed for transit employers in the Federal Transit Administration (FTA) drug use prevention program NPRM published that same day; that MIS requirement will be included in the FTA final rule when issued at a later date.

The Department is issuing the final rules on the drug testing MIS, with this common preamble, to implement the employer reporting requirements for calendar year 1994. The Department needs employer drug testing program data in order to address policy and program issues relative to the anti-drug rules' effectiveness. The FAA, FHWA, FRA, RSPA, and USCG final rules are published elsewhere in today's **Federal Register**.

Over 40 comments on the proposed MIS were submitted to the 49 CFR part 40 NPRM docket. The OAs received comments on their MIS NPRMs. This common preamble responds to the comments submitted to the 49 CFR part 40 NPRM docket and to several common issues raised by commenters to the OAs' NPRM dockets. In addition, on February 8, 1993, the Department published a notice in the **Federal Register** advising that it was conducting a pilot project to evaluate proposed MIS report forms and submission procedures. Forty employers volunteered to participate in the pilot project. The general findings from the pilot project are summarized in this common preamble.

The Department has decided not to amend 49 CFR part 40 by adding § 40.81, as originally proposed. The Department received some comments that indicated that there appeared to be unnecessary duplication, and, in some cases, employers would be confused about which forms to use and how to report MIS data. Instead, each OA final rule will specify the MIS reporting requirements for employers regulated by the OA. All employer MIS reports will be submitted to each OA using the MIS forms and procedures specified in the OA's rules.

Response to Comments

1. Employer report submission date

The NPRM proposed February 15 of the calendar year following the year to which the data pertain as the date for employer submission of MIS reports to the appropriate OAs.

Numerous commenters stated that due to the need to compile and consolidate data from several locations and/or company divisions during January and February, it would be difficult to meet the February 15 reporting date. They requested a range of later dates (February 28–1 April). The Department needs timely submission of this data, but would not be seriously inconvenienced by waiting another month. The OAs' final rules establish March 15 as the reporting date for employers' MIS data to accommodate employers' legitimate need for additional time.

2. Complexity of MIS

Since the Department is implementing the MIS prior to the issuance of final rules on alcohol prevention programs, alcohol testing program data elements have been removed from the MIS forms, except for the two OAs that currently have alcohol testing requirements (FRA and USCG). The Department is still considering adding alcohol testing data reporting requirements to the final alcohol testing rules required by the Omnibus Transportation Employee Testing Act of 1991. Eventually, the Department hopes to combine both drug and alcohol program data in a single MIS report form for each OA where practical.

The Department has attempted to minimize the MIS reporting burden on employers. In response to the comments and the findings from the pilot project, the Department has identified additional ways to reduce the complexity of the MIS report forms and instructions, and, therefore, the burden on employers. The critical data elements needed by the Department and its OAs have been retained, while the format, organization and some of the proposed data elements have been consolidated and simplified, resulting in shorter forms. To ease the reporting burden on employers that have no positive test results we have developed simplified "E-Z" forms.

In response to the Department's inquiry, a significant number of commenters indicated that they would

prefer (or were interested in) electronically submitting the required data to the OAs. Therefore, the Department is committed to developing and providing a system that will allow employers to submit their reports electronically. The OAs' final rules specify the electronic systems currently available for employers' reporting or plans for development of such. It's the Department's intention that all OAs will eventually provide a system for electronic reporting.

3. Methodology

Commenters generally supported the need for the Department and its OAs to acquire anti-drug program data. Some commenters suggested that there may be other, less burdensome ways to acquire the data, such as obtaining the data from OAs' audits of employers' programs. We considered this method, but the cost, both to the Federal government and the employers, and the reduced utility of such data make this infeasible. Data derived from ongoing inspections and audits would not cover common timeframes (such as a calendar year) unless collection of a previous year's data was used. For example audits conducted in 1995 would collect only 1994 data, leading to considerable time lag in evaluating program data. In addition, audit or inspection data would represent a significantly reduced sample of the industry since the audit force could not annually audit the approximately one million employers that are covered by the rules. Audit samples are often biased, because they focus on employers who have poor safety records or against whom complaints have been lodged.

The Department requested comment on the possibility of using a two-tiered system of reports. Under this methodology, some employers could have been required to report on the complete set of data elements and some on a reduced set. Only two comments specifically addressed this issue and both stated that a two-tier system would be too complex and unworkable. The Department's efforts to develop a workable two-tiered process did lead to development of the "E-Z" form described earlier, for use by employers whose drug testing programs have no positive test results.

Some commenters suggested requiring drug testing laboratories to report drug testing data to DOT and to survey some Medical Review Officers (MROs). The Department and its OAs already have access to aggregated laboratory data but it is not definitive (i.e., specific to each employer or regulated industry), and, therefore, does not meet the Department's oversight needs. Laboratory data would not be useful because it includes quality control specimen data and confirmed positive test results that have been verified negative by the MRO. In addition, the Department does not have the authority to impose or enforce a reporting requirement upon laboratories and/or MROs. Only the employer has access to the data needed to review program implementation, compliance and effectiveness.

Some commenters suggested that the "Government" should conduct the testing and compile the data. The current anti-drug rules impose the recordkeeping responsibility on the employer because the employer is required to conduct or arrange for drug testing. The employer, therefore, is the logical entity to collect and report the data. An employer-based drug testing program, in contrast to a government-operated one, reduces the intrusiveness of the Federal government in the day-to-day activities of transportation employers and employees.

Employer-based programs provide employers with the flexibility to conduct drug testing with minimal disruption to their operations. In response to the Omnibus Transportation Employee Testing Act of 1991, the FHWA is conducting a pilot project in four states in which State safety enforcement personnel conduct roadside random drug and alcohol testing of truck drivers. The testing is conducted as part of State safety inspections of the drivers and their vehicles. The FHWA will issue a report in April 1994 on the feasibility of such government-operated drug testing programs.

Several commenters recommended more frequent reporting and some recommended reporting only every 2 or 3 years. More frequent reporting would be more burdensome to employers and unnecessary for the Department's purposes. Biannual or Triannual reporting would not provide information in a timely manner and doesn't respond quickly to trends. We believe that annual reporting is workable for employers and is sufficient to show trends and program findings for the Department's program evaluation and policy development needs. Therefore, the final rules establish annual MIS reporting requirements.

4. Specific data requested

The MIS consists of a standard set of data elements the Department and its OAs need in order to review implementation, compliance and program results, with some modifications specified in the OAs' final rules to accommodate circumstances peculiar to their industries.

Some commenters recommended deleting periodic testing data since this type of testing is generally not required after the first year of testing program implementation. A large majority of employer reports would contain only zeros for periodic testing. Each OA has its own unique requirements for periodic testing. Therefore, each OA rule will specify periodic testing data requirements where necessary for monitoring compliance and enforcement of its program.

Several commenters stated that there is no need to report "Number of employees covered by more than one DOT OA." Although most employers do not employ employees who are subject to testing under two or more OA rules, many of the operational problems brought to the attention of the DOT concern "dual-covered" employees. Dual or multi-modal operational concerns are important and deserve resolution. To help accomplish this, the Department needs baseline data to identify problem areas and develop appropriate solutions; therefore, we are retaining the requirement. Generally, pre-employment, random and return-to-duty tests should be reported to the OA which regulates that function used as the basis for the safety-sensitive employee category. Post-accident tests should be reported to the OA to whom that accident is reportable. Reasonable suspicion and periodic tests should be reported to the OA based on employee function requiring the test. Most employers will simply report "zero" in items requesting data on dual-covered employees.

5. Data on Cost of the Drug Testing Program

The Department asked for comments on whether the OAs' rules should require data on the cost of implementing anti-drug programs. Most commenters did not address this issue, but of the ones that did, most supported reporting cost data. A few stated that cost data would be useless or inappropriate. Some commenters stated that it would be difficult to compile cost data and to standardize how it would be reported. Others stated that it would have utility, but that it should come from industry, consortia groups or associations, not individual employers.

While the Department believes cost data on the mandated elements of drug testing programs (specimen collection, laboratory testing, employee training, and MRO services) would be useful in assessing program effectiveness and

VOL 58 ISS 245 DEC 23 1993 UMI

cost-efficiency, difficulties in standardizing how such information would be computed and interpreted, reduce its utility and increase the burden for employers. OA rules' preambles further discuss this issue. The final rules do not require cost data reporting.

6. Data on Employee Drug Abuse Prevention Training

Employee training and education are very important in substance abuse prevention programs. The Department has included MIS data elements to report employee training conducted to meet an OA's requirement or to enhance workplace anti-drug programs. Each OA anti-drug rule requires employers to provide drug awareness training or education for covered employees and specific training for supervisors who make reasonable suspicion test determinations. In general, commenters to the NPRM on this issue stated that final rules should require MIS data only for the training mandated in the OAs' rules. Each OA rule addresses the specific training data requirements applicable to its regulated employers.

Some commenters recommended deleting the data element on "actions taken in response to refusal-to-test". The reason given is that the OA rules require employers to remove from safety sensitive duties a person who refuses to take a drug test. Therefore, other employer actions (i.e., termination, suspension, transfer) would be beyond the scope of the rule. Some of the participants in the pilot test of the MIS also supported deleting this data element, citing that information on the number of refusals-to-test was sufficient. Three of the OAs have decided to drop this reporting element and monitor this area through other means. Two of the OAs (RSPA and FAA) have decided to retain the requirement to report personnel actions imposed in verified positive and refusal-to-test circumstances; the preambles to the FAA and RSPA final rules discuss this issue in detail.

7. Analysis Of Changes In The Final Rules

The following general changes from the proposed rules have been made in the OAs' final rules:

(a) In response to concerns raised by commenters, the MIS report submission date is changed from February 15 to March 15;

(b) The requirement for reporting data element (3), which proposed, in part, to require periodic testing data, may be deleted if the particular OA no longer requires periodic testing or does not require reporting of that data element.

(c) In response to comments and findings from the pilot project, the data element on actions taken in response to a refusal to submit to a drug test, has been withdrawn from some OAs' final rules. Where it has been retained, the OA preamble to its final rule discusses the issue, including justification for retaining the requirement.

(d) The OAs' rules contain the MIS forms to be used by employers subject to their rules. The forms include modifications to the instructions and the forms based on the comments and pilot project findings from employers and other respondents. OA rules will discuss requirements for employers to report data on employees that are covered by two or more OA regulations.

(e) Each OA rule except the USCG's provides a standard, simplified "E-Z" MIS report form for use by employers whose drug testing programs have no verified positive tests. The USCG's MIS form has been simplified to the point that they have determined a separate "E-Z" form is not necessary.

Taking into account these changes, as well as changes to current programs contained in the rules as proposed, the DOT operating administrations estimate a net increase of approximately 12,500 burden hours of increased recordkeeping and reporting burden as compared with comparable DOT OA information collection requirements for drug testing programs currently in place. On balance, this represents less than a 1% increase over current levels. While there is a considerable reduction in some individual OAs have made substantial efforts to minimize information collection burdens through the means discussed in this preamble and the preambles to the final rules of the individual OAs.

Regulatory Process Matters

Each of the OA MIS rule preambles separately addresses a number of administrative matters concerning compliance with administrative requirements in statutes, executive orders and Departmental policies and procedures. Readers should refer to the individual OA rules for statements specific to each rule.

Paperwork Reduction Act

The proposed information collection requirements contained in the notices of proposed rulemaking were reviewed by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act (44 U. S. C. 3501 *et. seq.*). Revisions of the information collection requirements contained in the final rules have been submitted to OMB for final approval. A Federal Register notice will be published when that approval has been obtained.

Common Preamble for the Management Information System (MIS) Final Rules.

Issued on December 13, 1993 in Washington, D.C.

Federico Peña,

Secretary of Transportation.

David R. Hinson,

Administrator, Federal Aviation Administration.

Rodney E. Slater,

Administrator, Federal Highway Administration.

S. Mark Lindsey,

Acting Administrator, Federal Railroad Administration.

Rose A. McMurray,

Acting Administrator, Research and Special Programs Administration.

Admiral J. William Kime,

Commandant, United States Coast Guard.

[FR Doc. 93-30929 Filed 12-17-93; 8:45 am]

BILLING CODE 4910-62-C

federal register

Thursday
December 23, 1993

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Omnibus Transportation Employee Testing Act of 1991; Antidrug Program for Personnel Engaged in Specified Aviation Activities; Final Rule

VOL 58 ISS 245 DEC 23 1993 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 25148]

RIN 2120-AC33

Antidrug Program for Personnel Engaged in Specified Aviation Activities

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: On November 21, 1988, the Federal Aviation Administration (FAA) issued a final rule requiring specified aviation employers to implement antidrug programs for personnel performing safety-sensitive functions. This final rule modifies that rule by changing the existing employer reporting requirements to conform to a Department of Transportation (DOT) Management Information System (MIS), to provide the FAA with additional data for use in monitoring the antidrug program, and to minimize the reports that must be submitted by small aviation entities. The DOT has published a common preamble elsewhere in today's Federal Register, which summarizes public comments to the DOT notice of proposed rulemaking (NPRM) which was published on December 15, 1992.

EFFECTIVE DATE: This rule is effective on January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Carol Keenan, Office of Aviation Medicine, Drug Abatement Division (AAM-800), Federal Aviation Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366-6710.

SUPPLEMENTARY INFORMATION:

Background

On November, 14, 1988, the FAA issued a final antidrug rule requiring certain aviation employers and operators to develop and implement an antidrug program for employees performing specified aviation activities (53 FR 47024 November 21, 1988). The FAA has amended the final rule several times to address implementation problems and clarify the requirements of the rule.

Current regulatory provisions require employers to submit summary reports of their drug testing program to the FAA semiannually. Data has been gathered and compiled for over 3 years and, after evaluation of the data, the FAA has determined that to properly monitor the industry and ensure compliance with the final antidrug rule, additional but less frequent reporting of information is needed from fewer employers.

On December 15, 1992, the FAA issued a notice of proposed rulemaking (NPRM) (57 FR 59477) that proposed to amend the antidrug rule's reporting requirements. The NPRM responded to a DOT NPRM, published the same day, which proposed the establishment of a Departmental Management Information System (MIS) that would require employers in all segments of the transportation industry to maintain and submit standardized antidrug program information. The FAA proposed changes to the current reporting requirement to support the DOT's goal of establishing a systematic, standardized program to collect, analyze, and interpret antidrug program information.

The FAA also held a series of public hearings on the NPRM and on a related regulation also proposed on December 15, 1992. These hearings were held on February 26, 1993, in Washington, DC; on March 2, 1993, in Chicago, Illinois; and on March 5, 1993, in San Francisco, California. Each hearing was recorded by a court reporter. The transcript of each hearing and any statements or other material submitted to the hearing panel during the hearings have been placed in the public docket. This material has been reviewed and considered in the development of this final rule.

In the NPRM the FAA was considering requiring all employers to submit annual reports unless expressly authorized by the FAA not to submit a report. The FAA has since gone through two additional reporting cycles and has reconsidered its position regarding the need for all employers to submit reports each year. Rather than excuse employers from submitting reports on a case-by-case basis, the FAA has elected to amend its reporting requirements.

Based on the information provided in antidrug program plans submitted to the FAA for approval, the FAA has determined that over 90 percent of the employees affected by the antidrug rule are covered by approximately 450 companies with 50 or more covered employees. The remaining affected employees are spread among nearly 5,000 employers, with over a third of these employees working for the smallest employers (10 or fewer covered employees).

Further, the FAA has determined that the smallest employers are disproportionately represented among the several hundred companies that initially fail to submit required reports by the deadline in each reporting cycle. The workload and cost associated with preparing letters of investigation for each failure, mailing each letter by certified mail, and ensuring that appropriate action is taken in each case has posed a significant burden on both the affected employers and the FAA. The FAA has determined the majority of the nonreporting occurred due to confusion as to the obligation to report when the employers were members of a consortium or did not have any positive tests during the reporting period. A review of the burden to such small entities to prepare the reports and the relative value of the data obtained has convinced the FAA that the reporting requirement is not necessary. The FAA believes the requirement that employers maintain the testing data, coupled with the inspection of records program, provides reasonable oversight of these small employers.

Reason for Expedited Effective Date

This rule is being made effective in less than the 30 days from publication otherwise required by law. With an effective date of January 1, 1994, the FAA can ensure that information collected under this final rule for calendar year 1994 and, subsequently, that the benefits from this final rule are realized without delay. Because the first report under this rule will not be due until March 15, 1995, and most of the data must be maintained under preexisting regulatory requirements, employers subject to this rule will not be unduly burdened by an effective date of less than 30 days. The FAA has therefore determined that good cause exists under the provisions of 5 U.S.C. 533(d)(3) to warrant an expedited effective date.

Discussion of Comments

General Overview

The comment period for the NPRM closed April 14, 1993. The FAA received eight comments in response to the NPRM, and two individuals addressed the MIS during the public hearings. Four commenters were aviation associations (Air Transport Association (ATA), Allied Pilots Association, British Air Line Pilots Association (BALPA), and Regional Airline Association (RAA)), two were FAA-approved antidrug consortia, and four were small air carriers and repair facilities. The majority of comments were favorable and supported the expanded reporting format. (The BALPA comment addressed testing issues generally and did not include

substantive comments on this rulemaking.)

On February 8, 1993, the DOT, in coordination with the FAA and other operating administrations of the Department, issued a notice of pilot project (58 FR 7508) to evaluate the proposed MIS forms and submission procedures. Five aviation employers volunteered to participate in the pilot project. All five completed and submitted the forms without difficulty or significant costs. The findings from the pilot project have been considered in the development of this final rule, and a copy of the summarized findings has been placed in the docket.

Specific Issues

Reporting Period

Four commenters, including the ATA and RAA, supported the elimination of the semiannual report covering the period January 1 through June 30. No commenter opposed the change to annual reporting.

FAA Response

Less frequent reporting will relieve a significant burden on the aviation industry without reducing the ability to monitor compliance or effectively evaluate data. This final rule changes the reporting requirement to annual report submission only.

Submission Date

Two commenters recommended that the date for submitting the reports be revised. A variety of dates, ranging from January 15 to the end of the first calendar quarter (March 30), was suggested. Commenters supporting an earlier date believed it would be best to provide the FAA with results in a more timely manner. The later date was suggested by some commenters who believed it was necessary to allow sufficient time to compile data.

FAA Response

The timely submission of the data is important, but requiring a January 15 deadline does not allow sufficient time for data compilation and report preparation. Currently, the majority of the reports are received within 45 days after the end of the reporting period (i.e., February 15 or August 15). However, a number of reports are received late, most within 30 days following the due date. This final rule extends the prior due date by one month, to March 15. Extending the due date will not seriously affect the timeliness of the data and will allow employers sufficient time for report preparation and submission.

Report Format

Commenters generally supported the expanded report format, indicating that the collection of additional data would provide a more accurate picture of drug use in the aviation industry. However, some commenters, including the ATA and the RAA, pointed out that the collection of additional data would be more burdensome. Two commenters specifically opposed the proposed reporting format, stating that it was significantly more burdensome and recommended keeping the existing reporting format.

FAA Response

To reduce the reporting burden on employers who have no verified positive test results, the FAA has limited the information to be provided and has developed a simplified "short form." The short form only captures information related to the number of covered employees, number of specimens collected, number of test results reported negative by the medical review officer (MRO), number and disposition of individuals who refused to submit to drug testing, and training of employees.

The FAA has also reduced the MIS reporting burden on aviation employers in the final rule. The findings from the pilot project identified ways to reduce the complexity of the report format and instructions, thereby reducing the burden on employers. The critical data elements have been retained while the format, organization, and some of the data elements have been consolidated and simplified.

Proposed appendix K to 14 CFR part 121, Drug and Alcohol Testing Management Information System Data Collection Form, has been removed from the final rule. Instead of including the reporting form as an appendix, the FAA is requiring data to be submitted to the FAA in the form and manner prescribed by the Administrator. The current reporting formats are published in today's Federal Register as exhibits immediately following this rule. The FAA has determined that while the data elements are properly a matter of regulation, the format in which the data are reported should remain within the discretion of the Administrator. This will enable the FAA to make any revisions to the format that become necessary without requiring a formal rulemaking. The reporting format published with this rule contains data elements that differ slightly from the current FAA antidrug regulation but are in conformance with the nomenclature used in rulemaking initiated as a result of the Omnibus Transportation Employee Testing Act of 1991, e.g., follow-up testing. The FAA rule amendment incorporating the Act's provisions will be forthcoming, and until it is published, aviation employers are to continue to report data elements as specified in the current regulation.

The FAA will continue to require reporting on the disposition of individuals who fail or refuse to submit to a drug test required by the FAA antidrug regulations. Reporting information on the "action taken" is necessary to ensure employers take appropriate action in accordance with the antidrug regulations and their FAA-approved antidrug plans. Further, certificate action may be required to be initiated against individuals who refuse to submit to a drug test.

The FAA is retaining the requirement for employers to report data on periodic drug tests of employees required to hold part 67 medical certificates (pilots, etc.). Employers are required to conduct periodic testing during the first year of implementation of their antidrug programs and may elect to continue or cease periodic testing thereafter. Each year there are an estimated 300 new part 121 and 135 certificate holders initiating antidrug programs and conducting periodic testing. In addition, some employers have elected to continue periodic testing after the first year of antidrug program implementation. The FAA believes that receiving information on the results of such testing is valuable in obtaining a more complete picture of the prevalence of drug usage by employees who are required to hold part 67 medical certificates.

Finally, the FAA has decided to issue separate final rules on the drug and alcohol portions of the MIS. Therefore, the alcohol testing program data elements are not included in this final rule. Alcohol testing reporting requirements will be included in the final rule which will implement alcohol misuse prevention programs. Separation of these data elements should reduce the burden associated with use of a new form.

Training Data

The ATA specifically objected to the data element requiring reporting of the number of supervisors trained to make reasonable cause testing determinations. The ATA stated that this information would be more appropriately obtained during compliance audits since it does not serve a safety or administrative purpose.

VOL 58 ISS 245 DEC 23 1993 UMI

FAA Response

The FAA recognizes the ATA's concern. However, the FAA is retaining the requirement to report the number of supervisors who have received initial training. Training and education are an important part of substance abuse prevention programs, and reporting the number of supervisors trained to make reasonable cause determinations is required for safety and compliance monitoring. Reporting information on initial training of supervisors will provide data on the number of newly-hired supervisors who may make determinations to test an employee based on reasonable cause. Through its compliance inspections, the FAA has determined that, although most employers provide initial training for supervisors, many fail to provide recurrent training, an integral part of an effective supervisory training program. Reporting data on recurrent training of supervisors is needed to assess the level of recurrent training and to ensure that employers continue to provide the required training.

Electronic Submission

In the NPRM, the FAA requested comment on the usefulness of transmitting employer data electronically through the Anti-Drug Information Center (ADIC). Two commenters, an FAA-approved antidrug consortium and a repair facility, recommended that electronic data submission be permitted. The ATA requested assurance that any data submitted by electronic means be securely maintained and not publicly accessible through ADIC.

FAA Response

The ADIC services were canceled effective October 1, 1993. Although the FAA has initiated the technological, legal, and policy development necessary to implement electronic data submission, such a system is currently not on line. However, once on line the system would be available for use at the option of each employer. The FAA will proceed with any rulemaking required to implement this electronic option as soon as possible.

Comments Beyond the Scope of the Rule

The ATA objected to the reporting of costs associated with implementing antidrug programs. The FAA, like the other operating administrations, does not intend at this time to require reporting of costs associated with implementing antidrug programs.

Two commenters addressed issues for amending the record retention requirements, expanding employee categories for testing, and mandatory disciplinary actions for drug abusers, clearly beyond the scope of the NPRM.

Summary of Significant Changes From the Proposed Rule

The FAA amended several elements of the proposed reporting requirements. Any significant changes to a reporting requirement have been discussed previously and are summarized in this section.

- The FAA has changed the report submission date from February 15 to March 15 to allow adequate time for completing and submitting the report.
- The FAA has removed the alcohol misuse data items from the reporting format. The alcohol misuse reporting requirements will be published with the final rule implementing alcohol misuse prevention programs.
- The FAA has developed a short form format to reduce the reporting burden for employers with no verified positive test results.
- The FAA has not included the reporting forms as part of the antidrug rule. Data is required to be submitted to the FAA in the form and manner prescribed by the Administrator, which will allow the FAA flexibility in making any necessary format changes without requiring formal rulemaking. The current format is published as an exhibit after this rule in today's **Federal Register**.

The FAA is amending its reporting requirements to decrease the number of reports required. Only certain aviation employers conducting drug testing under an FAA-approved antidrug program will be required to submit annual reports of program results to the FAA. The FAA will continue to require those air carriers held to the highest standard of safety—carriers certificated under 14 CFR part 121—to submit annual reports regardless of the size of the carrier. Similarly, the FAA will require reports from large entities because they are generally carriers with significant numbers of passengers or companies that provide safety-sensitive services by contract to part 121 air carriers. Additionally, the Administrator could direct the remaining companies performing drug testing under an FAA-approved antidrug program to prepare and submit a report for any given year upon prior written notice from the FAA. Initially, the FAA intends to survey a number of such employers on an annual basis.

Regulatory Evaluation Summary

This rule is part of a package of drug and alcohol testing rules that is a "significant rulemaking action" as defined by Executive Order 12866 (Regulatory Planning and Review). It has been reviewed under this order. The anticipated costs and benefits associated with this final rule are summarized below.

This amendment will conform the FAA's antidrug program reporting requirements to standardized reporting requirements required for each operating administration by the DOT common preamble. The purpose is to provide DOT and the FAA with critical program information in order to make necessary procedure and program evaluations. These evaluations could lead to policy changes to make the rule more effective, which would in turn enhance public safety.

The amendment will have several different effects on cost. There will be a modest increase in the recordkeeping cost for each report because aviation employers will be required to compile and submit information in greater detail than required previously. However, the elimination of a reporting requirement (semiannual report) will result in a decreased cost to the employer. Additionally, the reduction in the number of reports will reduce the costs of compliance with the antidrug rule for those small employers that no longer have to submit annual reports each year. It will also reduce the FAA's cost of administering the antidrug program. The FAA has also developed a specific format, with instructions that can be used to reduce the costs of compliance. The FAA contends that any additional cost will be offset and that overall there will be little or no additional cost as a result of this rule.

Paperwork Reduction Act

The recordkeeping and reporting requirements of the final antidrug rule, issued on November 14, 1988, were previously submitted to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1980, and assigned OMB control number 2120–0535.

Modifications to paperwork package, 2120–0535, amended to reflect the burden associated with this final rule, have been submitted to OMB for approval. The FAA estimates that the change in this amendment will relieve approximately 4,700 employers of 2.5 burden hours annually. See common preamble for status of Paperwork Reduction Act approval.

International Trade Impact Statement

This amendment will have little or no additional cost effect on aviation operations performed under the provisions of the FAA's regulations. It will have little or no impact on trade opportunities for United States firms doing business overseas and no effect on foreign firms doing business in the United States.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small business entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of small entities." This rule will impose little or no additional cost on aviation operators. Therefore, the FAA certifies that this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities.

Federalism Implications

The regulation herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, the FAA has determined that this regulation will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Conclusion

In this action the FAA amends the requirements imposed upon aviation employers for the maintenance and submission of specific antidrug program information. It was undertaken in response to a DOT initiative to establish a standard Management Information System (MIS) for the Department's drug-testing programs. This MIS will be the basis for monitoring antidrug rule implementation and compliance, and for evaluating the effectiveness of the FAA and the DOT antidrug programs. Pursuant to the terms of the Regulatory Flexibility Act of 1980, the FAA certifies that the provisions contained in this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities. In addition, the amendment will not result in an annual effect on the economy of $100 million or more and will not result in a significant increase in consumer prices; thus, the proposal is not significant pursuant to the criteria of Executive Order 12866. However, because the amendment involves issues of substantial interest to the public, the FAA has determined that the amendment is significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 2, 1979).

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Aircraft pilots, Airmen, Airplanes, Air transportation, Aviation safety, Drug abuse, Drugs, Narcotics, Pilots, Safety, Transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends title 14, Code of Federal Regulations, part 121, appendix I, as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g).

2. Section X of appendix I to part 121 is revised to read as follows:

Appendix I to Part 121—Drug Testing Program

* * * * *

X. Reporting of antidrug program results.

A. Annual reports of antidrug program results shall be submitted to the FAA in the form and manner prescribed by the Administrator by March 15 of the succeeding calendar year for the prior calendar year (January 1 through December 31) in accordance with the provisions below.

1. Each part 121 certificate holder shall submit an annual report each year.

2. Each entity conducting an antidrug program under an FAA-approved antidrug plan, other than a part 121 certificate holder, that has 50 or more employees performing a function specified in this appendix on January 1 of any calendar year shall submit an annual report to the FAA for that calendar year.

3. The Administrator reserves the right to require that aviation employers not otherwise required to submit annual reports prepare and submit such reports to the FAA. Employers that will be required to submit annual reports under this provision will be notified in writing by the FAA.

B. Each report shall be submitted in the form and manner prescribed by the Administrator. No other form, including another DOT Operating Administration's form, is acceptable for submission to the FAA.

C. Each report shall be signed by the employer's antidrug program manager or other designated representative.

D. Each report with verified positive test results shall include all of the following informational elements:

1. Number of covered employees by employee category.

2. Number of covered employees affected by the antidrug rule of another operating administration identified and reported by number and employee category.

3. Number of specimens collected by type of test and employee category.

4. Number of positive test results verified by a Medical Review Officer (MRO) by type of test, type of drug, and employee category.

5. Number of negative tests reported by an MRO by type of test and employee category.

6. Number of persons denied a position as a covered employee based on a verified positive preemployment drug test reported by an MRO.

7. Action taken following a verified positive test result(s), by type of action.

8. Number of employees returned to duty during the reporting period after having failed or refused to submit to a drug test required under the FAA rule.

9. Number of employees by employee category with tests verified positive for multiple drugs by an MRO.

10. Number of employees who refused to submit to a drug test and the action taken in response to the refusal(s).

11. Number of covered employees who have received required initial training.

12. Number of supervisory personnel who have received required initial training.

13. Number of supervisors who have received required recurrent training.

E. Each report with only negative test results shall include all of the following informational elements. (This report may only be submitted by employers with no verified positive test results during the reporting year.)

1. Number of covered employees by employee category.

2. Number of covered employees affected by the antidrug rule of another operating administration identified and reported by number and employee category.

3. Number of specimens collected by type of test and employee category.

4. Number of negative tests reported by an MRO by type of test and employee category.

5. Number of employees who refused to submit to a drug test and the action taken in response to the refusal(s).

6. Number of employees returned to duty during the reporting period after having failed or refused to submit to a drug test required under the FAA rule.

7. Number of covered employees who have received required initial training.

8. Number of supervisory personnel who have received required initial training.

9. Number of supervisors who have received required recurrent training.

F. An FAA-approved consortium may prepare reports on behalf of individual aviation employers for purposes of compliance with this reporting requirement. However, the aviation employer shall sign and submit such a report and shall remain responsible for ensuring the accuracy and timeliness of each report prepared on its behalf by a consortium.

Issued on December 13, 1993, in Washington, DC.

David R. Hinson,

Administration.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix—Information Systems Data Collection Forms

BILLING CODE 4910-13-U

DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS) DATA COLLECTION FORM

INSTRUCTIONS

The following instructions are to be used as a guide for completing the Federal Aviation Administration (FAA) and the U.S. Department of Transportation (DOT) Drug Testing MIS Data Collection Form. These instructions outline and explain the information requested and indicate the probable sources for this information. A sample testing results table with a narrative explanation is provided on pages iii-v as an example to facilitate the process of completing the form correctly.

This reporting form includes five sections. These sections address the data elements required in the FAA and the DOT drug testing regulations. The five sections, the page number for the instructions, and the page location on the reporting form are:

Section	Instructions Page	Reporting Form Page
A. AVIATION EMPLOYER INFORMATION	I	1
B. COVERED EMPLOYEES	I-II	1
C. DRUG TESTING INFORMATION	II-v	2-4
D. OTHER DRUG TESTING/PROGRAM INFORMATION	v	5
E. DRUG TRAINING/EDUCATION	vi	5

Page 1 **AVIATION EMPLOYER INFORMATION** (Section A) requires the company name for which the report is done and a current address. Below the company names, list any other names the company uses ("Doing Business As") and the company's FAA Antidrug Plan Identification Number. Provide the FAA Operating Certificate Number(s) held by the company. Below this, a signature and date are required certifying the correctness and completeness of the information provided on the form, and a current telephone number (including the area code). Finally, list the name, address, and telephone number for any other aviation companies covered under the report, attaching additional sheets, if necessary.

Page 1 **COVERED EMPLOYEES** (Section B) requires a count for each employee category that must be tested under the FAA/DOT regulations. For the FAA, the covered employee categories are: "Flight Crewmember" which includes pilots, flight engineers, and navigators; "Flight Attendant"; "Flight/Ground Instructor"; "Aircraft Dispatcher"; "Flight Test"; "Maintenance"; "Security/Screener"; and "Air Traffic Controller." The most likely source for this information is the employer's personnel department. These counts should be based on the company records for the reported year. The TOTAL is a count of all covered employees for all categories combined, i.e., the sum of the columns.

VOL 58 ISS 245 DEC 23 1993 UMI

VOL 58 ISS 245 DEC 23 1993 UMI

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

Section C is used to summarize the drug testing results for applicants and covered employees. There are seven categories of testing to be completed. The first part of the table is where you enter the data on pre-employment testing. The following six parts are for entering drug testing data on periodic, random, post-accident, reasonable suspicion/cause, return to duty and follow-up testing, respectively. Items necessary to complete these tables include:

1) the number of specimens collected in each employee category;
2) the number of specimens tested which were verified negative and verified positive for any drug(s); and
3) individual counts of those specimens which were verified positive for each of the five drugs.

Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the tables.

A sample table with detailed instructions is provided for the first part, PRE-EMPLOYMENT testing information. The format and explanations used for the sample apply to all seven parts of the table in Section C.

Information on actions taken with those persons testing positive is also required. Specific instructions for providing this latter information are given after the instructions for completing the table in Section C.

Page 2

DRUG TESTING INFORMATION (Section C) requires information for drug testing by category of testing. All numbers entered into the pre-employment category section of the table should be separated into the category of employment for which the applicant was applying. The other categories are for employee testing and require information for company employees in covered positions only. Each part of this table must be completed for each category of testing. These categories include: (1) periodic (2) random, (3) post-accident, (4) reasonable suspicion/cause, (5) return to duty, and (6) follow-up testing. These numbers do not include refusals for testing. A sample section of the table with example numbers is presented on page iv.

Three types of information are necessary to complete the left side of this table. The first blank column with the heading "NUMBER OF SPECIMENS COLLECTED," requires a count for all collected specimens by employee category. It should not include refusals to test. The second blank column with the heading "NUMBER OF SPECIMENS VERIFIED NEGATIVE," requires a count for all completed tests by employee category that were verified negative by your Medical Review Officer (MRO).

The third blank column with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS," refers to the number of specimens provided by job applicants or employees that were verified positive. "Verified positive" means the results were verified by your MRO.

The right hand portion of this table, with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG," requires counts of positive tests for each of the five drugs for which tests were done, i.e., marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines. The number of specimens positive for each drug should be entered in the appropriate column for that drug type. Again, "verified positive" refers to test results verified by your MRO.

If an applicant or employee tested positive for more than one drug; for example, both marijuana and cocaine, that person's positive results would be included once in each of the appropriate columns (marijuana and cocaine).

Each column in the table should be added and the answer entered in the row marked "TOTAL".

A sample table is provided on page iv with example numbers.

Page 2

Below the part of the table containing pre-employment testing information is a box with the heading "Number of persons denied a position as a covered employee following a verified positive drug test". This is simply a count of those persons who were not placed in a covered position because they tested positive for one or more drugs.

SAMPLE APPLICANT TEST RESULTS TABLE

The following example is for Section C, DRUG TESTING INFORMATION, which summarizes pre-employment testing results. The procedures detailed here also apply to the other categories of testing in Section C which require you to summarize testing results for employees. This example uses the categories "Flight Crewmember" and "Flight Attendant" to illustrate the procedures for completing the form.

A Urine specimens were collected for 157 job applicants for flight crew positions during the reporting year. This information is entered in the first blank column of the table in the row marked "Flight Crewmember".

B The Medical Review Officer (MRO) for your company reported that 153 of those 157 specimens from applicants for flight crew positions were negative (i.e., no drugs were detected). Enter this information in the second blank column of the table in the row marked "Flight Crewmember".

C The MRO for your company reported that 4 of those 157 specimens from applicants for flight crew positions were positive (i.e., a drug or drugs were

VOL 58 ISS 245 DEC 23 1993 UMI

detected). Enter this information in the third blank column of the table in the row marked "Flight Crewmember".

D With the 4 specimens that tested positive, the following drugs were detected:

Specimen	Drugs
#1	Marijuana
#2	Amphetamines
#3	Marijuana and Cocaine (Multi-drug specimen)
#4	Marijuana

Marijuana was detected in three (3) specimens, cocaine in one (1), and amphetamines in one (1). This information is entered in the columns on the right hand side of the table under each of these drugs. Two different drugs were detected in specimen #3 (multi-drug) so an entry is made in both the marijuana and the cocaine column for this specimen. Information on multi-drug specimens must also be entered in Section D, OTHER DRUG TESTING/PROGRAM INFORMATION, on page 5 of the reporting form.

Please note that the sample data collection form also has information for flight attendants on line two. The same procedures outlined for flight crewmembers should be followed for entering the data on flight attendants. With applicants for flight attendant positions, 107 specimens were collected resulting in 105 verified negatives and 2 verified positives – 1 for marijuana and 1 for opiates. This information is entered in the row marked "Flight Attendant".

E The last row, marked "TOTAL", requires you to add the numbers in each of the columns. With this example, 157 specimens from applicants for flight crew positions were collected and 107 for applicants for flight attendant positions. The total for that column would be 264 (i.e., 157+107). The same procedure should be used for each column, i.e., add all the numbers in that column and place the answer in the last row.

PRE-EMPLOYMENT TESTING

EMPLOYEE CATEGORY	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
Flight Crewmember	157	153	4	3	1	0	0	1
Flight Attendant	107	105	2	1	0	0	1	0
TOTAL	264	258	6	4	1	0	1	1

A B C D E

Note that adding up the numbers for each type of drug in a row ("NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG") will not always match the number entered in the third column, "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS". The total for the numbers on the right hand side of the table may differ from the number of specimens testing positive since some specimens may contain more than one drug.

Remember that the same procedures indicated above are to be used for completing all of the categories for testing in Section C.

Page 4 Following the table that summarizes DRUG TESTING INFORMATION, you must provide a count of the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FAA rule. This information should be available from the personnel office and/or drug program manager.

Page 4 Next you must provide information on ACTIONS TAKEN ON VERIFIED POSITIVE TEST RESULTS. Indicate the number of employees subjected to the following actions:

- No longer employed with company - include covered employees who resigned or were terminated as the result of a positive drug test.
- Reassigned to non-covered functions - include covered employees who were reassigned within the company to a non-covered position as the result of a positive drug test.
- Entered rehabilitation, if applicable, and/or returned to covered functions - include covered employees who are undergoing or have completed a rehabilitation program and/or covered employees who have returned to a covered function.
- Other - include covered employees who did not fall under one of the previous options and specify the action taken.

Indicate the sum of the actions taken on the line marked TOTAL.

Page 5 OTHER DRUG TESTING/PROGRAM INFORMATION (Section D) requires that you complete a table dealing with specimens positive for more than one drug and a table dealing with employees who refused to submit to a drug test.

Page 5 SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG requires information on specimens that contained more than one drug. Indicate the EMPLOYEE CATEGORY and the NUMBER OF VERIFIED POSITIVES. Then specify the combination of drugs reported as positive by placing the number in the appropriate columns. For example, if marijuana and cocaine were detected in 3 flight crewmember specimens, then you would write "Flight Crewmember" as the employee category, "3" as the number of verified positives, and "3" in the columns for "Marijuana" and "Cocaine". If marijuana and opiates were detected

VOL 58 ISS 245 DEC 23 1993 UMI

In 2 flight crewmember specimens, then you would write "Flight Crewmember" as the employee category, "2" as the number of verified positives, and "2" in the columns for "Marijuana" and "Opiates".

Page 5 — **EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST** requires information on the **NUMBER OF COVERED EMPLOYEES** who refused to submit to a random or other (pre-employment, periodic, post-accident, reasonable suspicion/cause, return to duty, or follow-up) drug test required under the FAA regulation and the actions taken following the refusal.

Page 5 — **DRUG TRAINING** (Section E) requires information on the number of covered employees and supervisory personnel who have received the required drug training during the current reporting period.

FAA DRUG TESTING MIS DATA COLLECTION FORM OMB No. 2120-0535

YEAR COVERED BY THIS REPORT: 19__

A. AVIATION EMPLOYER INFORMATION

Company Name	Antidrug Plan No. FAA Certificate No.	
Street Address/P.O. Box		
City	State	Zip Code

Other Part 121 and/or Part 135 certificate holders included in this report. (Attach additional sheets if necessary.)

Company Name	Telephone No. ( )	
Street Address/P.O. Box		
City	State	Zip Code

I, the undersigned, certify that the information provided on this Federal Aviation Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

Signature _____ Date _____

Title _____ ( ) Telephone Number _____

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Federal Aviation Administration estimates that the average burden for this report form is 2.5 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: FAA Drug Abatement Division (AAM-800); U.S. Department of Transportation; 400 7th St., S.W.; Washington, D.C. 20590; OR Office of Management and Budget, Paperwork Reduction Project (2120-0535); Washington, D.C. 20503.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF FAA COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FHWA	FRA	FTA	RSPA	USCG
Flight Crewmember						
Flight Attendant						
Flight/Ground Instructor						
Aircraft Dispatcher						
Flight Test						
Maintenance						
Security/Screener						
Air Traffic Controller						
TOTAL						

VOL 58 ISS 245 DEC 23 1993 UMI

READ BEFORE COMPLETING THE REMAINDER OF THIS FORM:

1. All items refer to the current reporting period only (for example, January 1, 1994 - December 31, 1994).
2. This report is only for testing REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION (FAA) AND THE U.S. DEPARTMENT OF TRANSPORTATION (DOT):
   - Results should be reported only for employees in COVERED POSITIONS as defined by the FAA drug testing regulations.
   - The information requested should only include testing for marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines using the standard procedures required by DOT regulation 49 CFR Part 40.
3. Information on refusals for testing should only be reported in Section D ["OTHER DRUG TESTING/PROGRAM INFORMATION"]. Do not include refusals for testing in other sections of this report.
4. Do not include the results of any quality control (QC) samples submitted to the testing laboratory in any of the tables.
5. Complete all items; DO NOT LEAVE ANY ITEM BLANK. If the value for an item is zero (0), place a zero (0) on the form.

This part of the form requires information on VERIFIED POSITIVE and VERIFIED NEGATIVE drug tests. These are the results that are reported to you by your Medical Review Officer (MRO).

C. DRUG TESTING INFORMATION

EMPLOYEE CATEGORY	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
PRE-EMPLOYMENT								
Flight Crewmember								
Flight Attendant								
Flight/Ground Instructor								
Aircraft Dispatcher								
Flight Test								
Maintenance								
Security/Screener								
Air Traffic Controller								
Total								
PERIODIC								
Flight Crewmember								
Flight/Ground Instructor								
Flight Test								
Air Traffic Controller								

Number of persons denied a position as a covered employee following a verified positive drug test:

C. DRUG TESTING INFORMATION (cont.)

EMPLOYEE CATEGORY	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
RANDOM								
Flight Crewmember								
Flight Attendant								
Flight/Ground Instructor								
Aircraft Dispatcher								
Flight Test								
Maintenance								
Security/Screener								
Air Traffic Controller								
Total								
POST-ACCIDENT								
Flight Crewmember								
Flight Attendant								
Flight/Ground Instructor								
Aircraft Dispatcher								
Flight Test								
Maintenance								
Security/Screener								
Air Traffic Controller								
Total								
REASONABLE SUSPICION/CAUSE								
Flight Crewmember								
Flight Attendant								
Flight/Ground Instructor								
Aircraft Dispatcher								
Flight Test								
Maintenance								
Security/Screener								
Air Traffic Controller								
Total								

C. DRUG TESTING INFORMATION (cont.)

EMPLOYEE CATEGORY	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
RETURN TO DUTY								
Flight Crewmember								
Flight Attendant								
Flight/Ground Instructor								
Aircraft Dispatcher								
Flight Test								
Maintenance								
Security/Screener								
Air Traffic Controller								
Total								
FOLLOW-UP								
Flight Crewmember								
Flight Attendant								
Flight/Ground Instructor								
Aircraft Dispatcher								
Flight Test								
Maintenance								
Security/Screener								
Air Traffic Controller								
Total								

Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FAA rule:	

ACTIONS TAKEN ON VERIFIED POSITIVE DRUG TEST RESULTS	Number
No longer employed with company:	
Reassigned to non-covered functions:	
Entered rehabilitation, if applicable, and/or returned to covered functions:	
Other (specify):	
TOTAL	

D. OTHER DRUG TESTING/PROGRAM INFORMATION

SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG						
EMPLOYEE CATEGORY	NUMBER OF VERIFIED POSITIVES	Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	NUMBER OF REFUSALS	
	RANDOM TESTS	OTHER TESTS
Number of covered employees who refused to submit to a drug test required under the FAA rule:		
ACTION TAKEN	**NUMBER**	
No longer employed with company:		
Reassigned to non-covered functions:		
Entered rehabilitation, if applicable, and/or returned to covered functions:		
Other (specify):		

E. DRUG TRAINING

DRUG TRAINING DURING CURRENT REPORTING PERIOD	Number
Covered employees who have received *initial* training on the consequences, manifestations, and behavioral cues of drug use as required by FAA drug testing regulations:	
Supervisory personnel who have received *initial* training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by FAA drug testing regulations:	
Supervisory personnel who have received *recurrent* training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use:	

VOL 58 ISS 245 DEC 23 1993 UMI

DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS) "EZ" DATA COLLECTION FORM

INSTRUCTIONS

The following instructions are to be used as a guide for completing the Federal Aviation Administration (FAA) and the U.S. Department of Transportation (DOT) Drug Testing MIS "EZ" Data Collection Form. This form should only be used if there are no positive tests to be reported by your company. These instructions outline and explain the information requested and indicate the probable sources for this information. This reporting form includes four sections. These sections address the data elements required in the FAA/DOT drug testing regulations.

SECTION A - AVIATION EMPLOYER INFORMATION requires the company name for which the report is done, a current address, the company's FAA Antidrug Plan Identification Number, and the FAA Operating Certificate Number(s) held by the company. Below the company name, list the name, address, and telephone number for any other aviation companies covered under the report, attaching additional sheets, if necessary. Finally, a signature and date are required certifying the correctness and completeness of the information provided on the form, and a current telephone number (including the area code).

SECTION B - COVERED EMPLOYEES requires a count for each employee category that must be tested under the FAA/DOT regulations. For the FAA, the covered employee categories are: "Flight Crewmember" which includes pilots, flight engineers, and navigators; "Flight Attendant"; "Flight/Ground Instructor"; "Aircraft Dispatcher"; "Flight Test"; "Maintenance"; "Security/Screener"; and "Air Traffic Controller." The most likely source for this information is the employer's personnel department. These counts should be based on the company records for the reported year. The TOTAL is a count of all covered employees for all categories combined, i.e., the sum of the columns.

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

SECTION C - DRUG TESTING INFORMATION requires information on the drug tests conducted by your company. The first table requests information on the NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE in each category for testing. All numbers entered into the pre-employment category section of the table should be separated into the category of employment for which the applicant was applying. The other categories are for employee testing and require information for company employees in covered positions only. Each part of this table must be completed for each category of testing including: (1) periodic, (2) random, (3) post-accident, (4) reasonable suspicion/cause, (5) return to duty, and (6) follow-up testing. These numbers do not include refusals for testing. "COLL" requires the number of specimens collected in each employee category for each category of testing. "NEG" requires a count for all completed tests by employee category that were verified negative by your Medical Review Officer (MRO). Do not include results of quality control (QC) samples submitted to the testing laboratory

in any of the categories. Each column in the table should be added and the answer entered in the row marked "TOTAL".

Following the table that summarizes DRUG TESTING INFORMATION, you must provide a count of the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FAA rule. This information should be available from the personnel office and/or drug program manager.

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST requires information on the NUMBER OF COVERED EMPLOYEES who refused to submit to a random or other (pre-employment, periodic, post-accident, reasonable suspicion/cause, return to duty, or follow-up) drug test required under the FAA regulation and the action taken following the refusal. Indicate the number of employees subjected to the following actions:

- No longer employed with company - include covered employees who resigned or were terminated as the result of a refusal to submit to a drug test.
- Reassigned to non-covered functions - include covered employees who were reassigned within the company to a non-covered position as the result of a refusal to submit to a drug test.
- Entered rehabilitation, if applicable, and/or returned to covered functions -include covered employees who are undergoing or have completed a rehabilitation program and/or covered employees who have returned to a covered function.
- Other - include covered employees who did not fall under one of the previous options and specify the actions takens.

SECTION D - DRUG TRAINING requires information on the number of covered employees and supervisory personnel who have received the required drug training during the current reporting period.

VOL 58 ISS 245 DEC 23 1993 UMI

FAA DRUG TESTING MIS EZ DATA COLLECTION FORM OMB No. 2120-0535

YEAR COVERED BY THIS REPORT: 19__

A. AVIATION EMPLOYER INFORMATION

Company Name	Antidrug Plan No. FAA Certificate No.	
Street Address/P.O. Box		
City	State	Zip Code

Other Part 121 and/or Part 135 certificate holders included in this report. (Attach additional sheets if necessary.)

Company Name	Telephone No. ( )	
Street Address/P.O. Box		
City	State	Zip Code

I, the undersigned, certify that the information provided on this Federal Aviation Administration Drug Testing Management Information System EZ Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

Signature _____ Date _____

Title _____ Telephone Number _____

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Federal Aviation Administration estimates that the average burden for this report form is 1 hour. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: FAA Drug Abatement Division (AAM-800); U.S. Department of Transportation; 400 7th St., S.W.; Washington, D.C. 20590; OR Office of Management and Budget, Paperwork Reduction Project (2120-0535); Washington, D.C. 20503.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF FAA COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FHWA	FRA	FTA	RSPA	USCG
Flight Crewmember						
Flight Attendant						
Flight/Ground Instructor						
Aircraft Dispatcher						
Flight Test						
Maintenance						
Security/Screener						
Air Traffic Controller						
TOTAL						

C. DRUG TESTING INFORMATION

NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE															
EMPLOYEE CATEGORY	PRE-EMPLOYMENT		RANDOM		PERIODIC		POST-ACCIDENT		REASONABLE SUSPICION/ CAUSE		RETURN TO DUTY		FOLLOW-UP	
	COLL.	NEG.	COLL.	NEG.	COLL.	NEG.	COLL.	NEG.	COLL.	NEG.	COLL.	NEG.	COLL.	NEG.
Flight Crewmember														
Flight Attendant														
Flight/Ground Instructor														
Aircraft Dispatcher														
Flight Test														
Maintenance														
Security/Screener														
Air Traffic Controller														
Total														

Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FAA rule:	

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	NUMBER OF REFUSALS	
	RANDOM TESTS	OTHER TESTS
Number of covered employees who refused to submit to a drug test required under the FAA rule:		
ACTION TAKEN	**NUMBER**	
No longer employed with company:		
Reassigned to non-covered functions:		
Entered rehabilitation, if applicable, and/or returned to covered functions:		
Other (specify):		

D. DRUG TRAINING

DRUG TRAINING DURING CURRENT REPORTING PERIOD	Number
Covered employees who have received *initial* training on the consequences, manifestations, and behavioral cues of drug use as required by FAA drug testing regulations:	
Supervisory personnel who have received *initial* training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by FAA drug testing regulations:	
Supervisory personnel who have received *recurrent* training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use:	

[FR Doc. 93–30930 Filed 12–17–93; 8:45 am]
BILLING CODE 4910-13-C

VOL
58

ISS
245

DE
23

1993

UMI

federal register

Thursday
December 23, 1993

Part IV

Department of Transportation

Federal Highway Administration

49 CFR Part 391
Controlled Substances Testing; Recordkeeping and Reporting Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC–93–2]

RIN 2125–AC31

Controlled Substances Testing; Recordkeeping and Reporting Requirements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is modifying the controlled substances testing information required to be maintained by motor carriers in annual summaries. In addition, the FHWA will statistically select and require a sample of motor carriers to report annual summary information. The FHWA will use this and other information to evaluate the controlled substances testing requirements.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Finn or Mr. Peter Chandler, Office of Motor Carrier Standards, (202) 366–2981, or Mr. David Sett, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA published a final rule in the **Federal Register** on November 21, 1988, requiring motor carriers to test commercial motor vehicle drivers for the use of controlled substances. Testing under this rule must be conducted prior to employment or use, upon reasonable cause/suspicion, after certain recordable accidents, biennially, and randomly. The rule did not explicitly require testing prior to returning to duty following a positive test nor follow-up testing as a part of the required after-care monitoring program. However, the rule implied that these types of tests must be conducted (53 FR 47134, FHWA Docket No. MC–116). The FHWA also published in the **Federal Register** a notice of proposed rulemaking (NPRM) on December 15, 1992, to require subject employers to maintain an annual summary containing certain information about their controlled substances testing program and, if requested, to submit annual summary information to the FHWA (57 FR 59539). These data will assist the FHWA with addressing policy and program issues by enhancing the FHWA's ability to assess program effectiveness and compliance.

Analysis of Comments

There were 28 commenters to the NPRM. The concerns of most commenters have been addressed in a department-wide document because the reporting requirements are a multi-modal issue. Please refer to the common preamble of the final rules for Management Information System For Workplace Drug Testing Programs, published elsewhere in today's **Federal Register**, for an analysis of the comments filed with the FHWA, other modal administrations, and the Office of the Secretary. Comments to the FHWA's NPRM that are not addressed in the common preamble of the final rules for Management Information System For Workplace Drug Testing Programs are addressed here.

Information Submitted on the Form

Comment: Two commenters recommended that the number of negative tests not be required to be reported because this number can be computed by subtracting the number of positive tests from the total number of specimens collected.

FHWA Response: The number of negative tests cannot be simply computed by subtracting the number of positive tests from the total number of tests performed because this method fails to account for cancelled tests.

Comment: Pinnacle Transport Services stated that the number of employees verified positive by a medical review officer (MRO) would be the same number as those who were referred to rehabilitation before returning to work. The Baltimore Gas and Electric Co. (BG&E), Pinnacle Transport Services, and the American Trucking Associations, Inc. (ATA) all recommended that information on refresher training not be required to be reported because this training is not required by the FMCSRs. The ATA also recommended that information on initial training not be required to be reported.

FHWA Response: The FHWA has deleted the requirement to report the number of employees who undergo either rehabilitation or refresher training as recommended. However, the FHWA has retained the requirement to report information on the initial training required by 49 CFR 391.119 for supervisors and company officials who make reasonable suspicion determinations. This information is needed to evaluate the effectiveness and accuracy of reasonable suspicion determinations. Such information may reveal violations of the controlled substances testing regulations and, therefore, is needed.

Comment: Although the ATA submitted comments recommending the deletion of certain proposed data elements, the ATA also recommended that additional data on accident severity be collected.

FHWA Response: The FHWA agrees with the ATA that data on accident severity would be helpful in the evaluation of post-accident testing and, therefore, has added an entry for two categories of accidents, fatal and non-fatal.

Comment: Mobile Laboratory Services recommended that blind test results be reported because these results are sent to motor carriers.

FHWA Response: The FHWA is not requiring that blind test results be reported because the FHWA only needs information resulting from MRO verifications for program analysis.

Comment: The BG&E recommended that all motor carriers submit management information system (MIS) data because this would be the only way the FHWA could obtain a true picture of program implementation. The BG&E also recommended that motor carriers who contract with other motor carriers to provide either goods or services should be responsible for the recordkeeping of their own drivers.

FHWA Response: It is not necessary for all employers to submit MIS data for the FHWA to be able to properly evaluate program effectiveness. In addition, the FHWA does not have the resources to collect MIS data from approximately 270,000 motor carriers subject to this final rule. Employers who are required to report MIS data will be randomly selected. These data will be subject to verification by FHWA field staff. However, the FHWA agrees with the BG&E that companies that meet the definition of employer in 49 CFR 390.5 must keep the controlled substances testing results records for their drivers.

Comments Submitted to Related Controlled Substances Rulemaking

Comment: The ATA stated in its comments to FHWA Docket No. MC–116, Controlled Substances Testing, that 49 CFR 391.87(h)(5) should be amended by classifying the disposition of each driver who did not pass a controlled substances test into the following categories: not hired, employment terminated, referred to rehabilitation program, transferred to a non-driving position, and other (specify).

FHWA Response: The FHWA has reevaluated driver disposition information. The FHWA has determined that most of this information is not vital to analyze the program. Therefore, the requirement in 49 CFR 391.87(h)(5) to record driver disposition information is being amended to require motor carriers to maintain the number of drivers not hired following a positive test. The FHWA received other comments to Docket MC–116 which it will address in the alcohol and controlled substances use and testing final rule to be published at a later date.

Analysis of the Final Rule

Though each motor carrier will continue to be required to compile program data in an annual summary, the FHWA will randomly select a sample of motor carriers from the national Motor Carrier Management Information System (MCMIS). The sample of motor carriers will be large enough so that the sample statistics will have a tolerable error of plus or minus one percentage point in a 99 percent confidence interval. For example, this means the FHWA will be 99 percent confident that the actual industry positive rate is within plus or minus one percentage point of the sample statistics.

Employers selected to submit data will be notified by mail on or around January 2 of the year in which the data is due. For example, a motor carrier who is selected and notified in January 1995 must report data for calendar year 1994 by March 15, 1995. The notice to submit data will specify the name and address where the data are to be submitted and enclose copies of both long and short forms. Motor carriers will have the option to submit either form by electronic transmission and will receive information on how to submit the forms electronically.

Previous versions of the forms were included in the NPRM (57 FR 59539) as appendix H to 49 CFR chapter III, subchapter B. The FHWA foresees that the forms may be changed in the future to make them more understandable based on comments received. Therefore, the most current versions of the long and short forms are contained in this document for informational purposes only as Illustrations I and II in the Appendix to this document respectively. The FHWA is not soliciting employers to submit data by including the forms in this document. The FHWA will not enter information into the MIS from unsolicited respondents because the sample is random in nature. The acceptance of unsolicited responses would bias the sample. The aggregation of information collected from solicited reports will be utilized for program analysis and to respond to requests for information from Federal agencies, members of Congress, and the general public.

Motor carriers whose drivers had verified positive test results in the preceding calendar year must utilize the long form. Motor carriers whose drivers had no verified positive test results in the preceding calendar year will be allowed to utilize the short form. Motor carriers whose drivers had refused to test in the preceding calendar year will be allowed to utilize the short form if no drivers had verified positive test results in the preceding year. Test results must be reported for the calendar year in which the MRO made the final determination of the test result regardless of the date the specimen was collected. For example, a final determination of a test result made by a MRO on January 2, 1994, for a specimen collected on December 30, 1993, must be included in the data for calendar year 1994.

Within section B (Covered Employees) of both the long and short forms, motor carriers must submit the number of covered employees in each category subject to testing under the controlled substances testing regulations of more than one DOT operating administration (OA), identified by OA. As formulated by the Department, employers who are subject to the controlled substances testing regulations of two or more OAs must submit data to each regulating OA for those employees covered by that OA's rule. Employees who perform functions covered by more than one OA should be identified by their employer under the covered position that they will be reported. Data on dual covered employees should be reported to the appropriate OA.

Reportability is determined by employee function. Therefore, employees who are subject to the controlled substances testing regulations of more than one OA must be reported as follows:

For pre-employment and random testing, an employee should be reported to whichever OA covers more than 50% of that employee's function. For post-accident and reasonable cause/suspicion testing, however, reportability should be determined by the function the employee was performing at the time of the accident or incident. Finally, for return to duty and follow-up testing, the employee should be reported to the same OA to whom the initial positive was reported.

Although this rule's annual summary, and any reports made to the FHWA because of the rule, do not contain the requirement to summarize educational training of drivers, motor carriers must continue to record and maintain training provided to drivers as required by § 391.121(b)(3). The documentation of the training continues to be required and must be maintained in accordance with § 391.87(d). The FHWA will review driver training documentation during reviews of a motor carrier's compliance with the drug testing regulations.

Rulemaking Analyses and Notices

Regulatory Impact

This rule is being made effective in less than the 30 days from the publication otherwise required by law. With an effective date of January 1, 1994, the FHWA can ensure that information is collected under this final rule for calendar year 1994 and, subsequently, that the benefits from this final rule will not be due until March 15, 1995, and most of the data must be maintained under preexisting regulatory requirements, employers subject to this rule will not be unduly burdened by an effective date of less than 30 days. The FHWA has therefore determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) to warrant an expedited effective date.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is part of a package of alcohol and drug testing rules that is a significant regulatory action under Executive Order 12866. It has been reviewed under this order. It is a significant rule within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency has evaluated the effects of this rulemaking on small entities. Based on the evaluation, the FHWA hereby certifies that the action contained in this document will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that

VOL 58 ISS 245 DE 23 1993 UMI

this rulemaking does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This rule contains collection of information requirements. The FHWA has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq*). See common preamble on the status of the Paperwork Act approval.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulatory Identification Number

A regulatory identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 391

Controlled substances testing, Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

Issued on: December 13, 1993.

Rodney E. Slater,

Federal Highway Administrator.

For the reasons set out in the preamble, 49 CFR part 391 is amended as follows:

PART 391—QUALIFICATION OF DRIVERS

1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

2. In § 391.87, paragraph (h) is revised to read as follows:

§ 391.87 Notification of test results and recordkeeping.

* * * * *

(h) A motor carrier shall maintain all administrative records pertaining to its controlled substances testing program and an annual calendar year summary of the results of its controlled substances testing program performed under this subpart.

(1) The administrative records shall include agreements with collection facilities, laboratories, MROs, consortia, names and positions of company officials and their role in the motor carrier's controlled substances testing program, monthly laboratory summaries, recordkeeping and testing procedures including random testing selection and notification procedures.

(2) The motor carrier's summary shall include the following information:

(i) Number of drivers subject to subpart H;

(ii) Number of drivers subject to testing under the anti-drug rules of more than one DOT agency, identified by each agency;

(iii) Number of specimens collected by type of test (e.g., pre-employment, random, reasonable cause/suspicion, post-accident);

(iv) Number of positives verified by a MRO by type of test, type of controlled substance;

(v) Number of negatives verified by a MRO by type of test;

(vi) Number of persons denied a position as a driver following a verified controlled substances test;

(vii) Number of drivers verified positive by a MRO who were returned to duty as a driver during the reporting period;

(viii) Number of drivers with tests verified positive by a MRO for multiple controlled substances;

(ix) Number of drivers who refused to submit to a controlled substances test required under this subpart; and

(x) Number of supervisors who have received required training during the reporting period.

(3) All motor carriers shall complete the annual summary by March 15 of the following calendar year. If a motor carrier is notified by mail on or around January 2 of the calendar year in which the annual summary is due, the motor carrier shall submit the annual summary report information, in the form and manner prescribed by the FHWA, by March 15 of the same year. When the information is submitted to the FHWA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix—Information Systems Data Collection Forms

BILLING CODE 4910-22-P

ILLUSTRATION I - DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS) DATA COLLECTION FORM

INSTRUCTIONS

The following instructions are to be used as a guide for completing the drug testing information in the Federal Highway Administration (FHWA) and the U.S. Department of Transportation (DOT) Drug Testing MIS Data Collection Form. These instructions outline and explain the information requested and indicate the probable sources for this information. A sample testing results table with a narrative explanation is provided on pages iii-iv as an example to facilitate the process of completing the form correctly.

This reporting form includes three sections. Collectively, these sections address the data elements required in the FHWA and the DOT drug testing regulations. The three sections, the page number for the instructions, and the page location on the reporting form are:

Section	Instructions Page	Reporting Form Page
A. MOTOR CARRIER EMPLOYER INFORMATION	I	1
B. COVERED EMPLOYEES	I	1
C. DRUG TESTING INFORMATION	I-iv	2

Page 1 — **MOTOR CARRIER EMPLOYER INFORMATION** (Section A) requires the company name for which the report is done, a current address, the U.S. DOT number, and the ICC number. Below this, a signature, date, and current telephone (including the area code) are entered by the person certifying the correctness and completeness of the form.

Page 1 — **COVERED EMPLOYEES** (Section B) requires a count for each employee category that must be tested under DOT regulations. There is only one category of covered employees for FHWA, and that is "Drivers" in the tables. The most likely source for this information is the employer's personnel department. These counts should be based on the company records for the reported year. An employee who is hired twice or more in the reported year must be counted as a single employee.

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. **NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION,** requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s). The employees covered by more than one DOT operating administration must be counted under all appropriate operating administrations.

Page 2 — **DRUG TESTING INFORMATION** (Section C) requires information for drug testing by category of testing. These categories include: (1) pre-employment, (2) random, (3) post-accident/non-fatal, (4) post-accident/fatal (5) reasonable suspicion, (6) return to duty, and (7) follow-up testing. All numbers entered into this table

should be for applicants or company employees in a covered position only (i.e. "Drivers"). Each part of this table must be completed for each category of testing. These numbers do not include refusals for testing. A sample section of the table with example numbers is presented on page III.

Section C is used to summarize the drug testing results for applicants and covered employees. There are seven categories of testing to be completed. The first part of the table is where you enter the data on pre-employment testing. The following six parts are for entering drug testing data on random, post-accident/non-fatal, post-accident/fatal, reasonable suspicion, return to duty, and follow-up testing, respectively. Items necessary to complete these tables include:

1) the number of specimens collected in each testing category;
2) the number of specimens tested which were verified negative and verified positive for any drug(s); and
3) individual counts of those specimens which were verified positive for each of the five drugs.

Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the tables.

A sample table with detailed instructions is provided for the first part, PRE-EMPLOYMENT TESTING INFORMATION. The format and explanations used for the sample table apply to all seven parts of the table in Section C.

Three types of information are necessary to complete the left side of this table. The first blank column with the heading "NUMBER OF SPECIMENS COLLECTED," requires a count for all collected specimens. It should not include refusals to test. The second blank column with the heading "NUMBER OF SPECIMENS VERIFIED NEGATIVE," requires a count for all completed tests that were verified negative by your Medical Review Officer (MRO).

The third blank column with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS," refers to the number of specimens provided by job applicants or employees that were verified positive. "Verified positive" means the results were verified by your MRO.

The right hand portion of this table, with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG," requires counts of positive tests for each of the five drugs for which tests were done, i.e., marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines. The number of specimens positive for each drug should be entered in the appropriate column for that drug type. Again, "verified positive" refers to test results verified by your MRO.

If an applicant or employee tested positive for more than one drug; for example, both marijuana and cocaine, that person's positive results would be included once in each of the appropriate columns (marijuana and cocaine).

A sample table is provided on page III with example numbers.

Page 2

Below the table for drug testing information is a box with the heading "Number of persons denied a position as a covered employee following a verified positive drug test". This is simply a count of those persons who were not placed in a covered position because they tested positive for one or more drugs.

Page 2

Also following the table that summarizes DRUG TESTING INFORMATION, you must record the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FHWA rule. This information should be available from the personnel office and/or drug program manager.

SAMPLE APPLICANT TEST RESULTS TABLE

The following example is for Section C, DRUG TESTING INFORMATION, which summarizes pre-employment testing results. The procedures detailed here also apply to the other categories of testing in Section C which require you to summarize testing results for employees. This example will use "Pre-Employment" testing to illustrate the procedures for completing the form.

[A] Urine specimens were collected for 157 job applicants for driver positions during the reporting year. This information is entered in the first blank column of the table in the row marked "PRE-EMPLOYMENT".

[B] The Medical Review Officer (MRO) for your company reported that 153 of those 157 specimens from applicants for driver positions were negative (i.e., no drugs were detected). Enter this information in the second blank column of the table in the row marked "PRE-EMPLOYMENT".

[C] The MRO for your company reported that 4 of those 157 specimens from applicants for driver positions were positive (i.e., a drug or drugs were detected). Enter this information in the third blank column of the table in the row marked "PRE-EMPLOYMENT".

[D] With the 4 specimens that tested positive, the following drugs were detected:

Specimen	Drugs
#1	Marijuana
#2	Amphetamines
#3	Marijuana and Cocaine (Multi-drug specimen)
#4	Marijuana

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
PRE-EMPLOYMENT	157	153	4	3	1	0	0	1

Marijuana was detected in three (3) specimens, cocaine in one (1), and amphetamines in one (1). This information is entered in the columns on the right hand side of the table under each of these drugs. Since two different drugs were detected in specimen #3 (multi-drug), entries are

VOL
58
ISS
2
4
5
DE
23
1993
UMI

made in both the marijuana and the cocaine columns for this specimen. Information on multi-drug specimens must also be entered in the table, SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG.

Note that adding up the numbers for each type of drug in a row ("NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG") will not always match the number entered in the third column, "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS". The total for the numbers on the right hand side of the table may differ from the number of specimens testing positive since some specimens may contain more than one drug.

Remember that the same procedures indicated above are to be used for completing all categories of testing in the table in Section C.

Page 2 — SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG requires information on specimens that contained more than one drug. First, indicate the NUMBER OF VERIFIED POSITIVES. Then specify the combination of drugs reported as positive by placing the number in the appropriate columns. For example, if marijuana and cocaine were detected in 3 specimens, then you would write "3" as the number of verified positives, and "3" in the columns for "Marijuana" and "Cocaine". If marijuana and opiates were detected in 2 specimens, then you would write "2" as the number of verified positives, and "2" in the columns for "Marijuana" and "Opiates".

Page 2 — EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST requires a count of the NUMBER OF COVERED EMPLOYEES who refused to submit to a random or non-random (pre-employment, post-accident, reasonable suspicion, return to duty, or follow-up) drug test required under the FHWA regulation.

Page 2 — DRUG TRAINING/EDUCATION requires information on the number of supervisory personnel who have received the required drug training during the current reporting period.

FHWA DRUG TESTING MIS DATA COLLECTION FORM — OMB No. 2125-0543

A. MOTOR CARRIER EMPLOYER INFORMATION

Company _____ Year Covered by This Report: _____
Principal Place of Business for Safety:

Physical Address _____ Mailing Address _____

_____ _____

U.S. DOT Number _____ ICC Number _____

I, the undersigned, certify that the information provided on this Federal Highway Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

_____ Signature — _____ Date of Signature

_____ Title — _____ Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Federal Highway Administration estimates that the average burden for this report form is 2 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Director, Office of Motor Carrier Standards (HCS-1); Federal Highway Administration; 400 7th St., S.W.; Washington, DC 20590; OR Office of Management and Budget, Paperwork Reduction Project (2125-0543); Washington, DC 20503.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF FHWA COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FAA	FRA	FTA	RSPA	USCG
Drivers						

READ BEFORE COMPLETING THE REMAINDER OF THIS FORM:

1. All items refer to the current reporting period only (for example, January 1, 1994 - December 31, 1994).
2. This report is only for testing REQUIRED BY THE FEDERAL HIGHWAY ADMINISTRATION (FHWA) AND THE U.S. DEPARTMENT OF TRANSPORTATION (DOT):
   - Results should be reported only for employees in COVERED POSITIONS as defined by FHWA/DOT drug testing regulations.
   - The information requested should only include testing for marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines using the standard procedures required by DOT regulation 49 CFR Part 40.
3. Information on refusals for testing should only be reported in the table entitled "EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST". Do not include refusals for testing in other sections of this report.
4. Do not include the results of any quality control (QC) samples submitted to the testing laboratory in any of the tables.
5. Complete all items; DO NOT LEAVE ANY ITEM BLANK. If the value for an item is zero (0), place a zero (0) on the form.

FHWA Form No. MCS-154 (12-93)

VOL 58 ISS 245 DEC 23 1993 UMI

C. DRUG TESTING INFORMATION

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Mari-juana (THC)	Cocaine	Phency-clidine (PCP)	Opiates	Amphet-amines
PRE-EMPLOYMENT								
RANDOM								
POST-ACCIDENT/NON-FATAL								
POST-ACCIDENT/FATAL								
REASONABLE SUSPICION								
RETURN TO DUTY								
FOLLOW-UP								

Number of persons denied a position as a covered employee following a verified positive drug test:	
Number of employees returned to duty during the reporting period after having failed or refused a drug test required under the FHWA rule:	

SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG					
NUMBER OF VERIFIED POSITIVES	Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	Number
Covered employees who refused to submit to a random drug test required under the FHWA regulation:	
Covered employees who refused to submit to a non-random drug test required under the FHWA regulation:	

DRUG TRAINING/EDUCATION	Number
Number of supervisors who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by FHWA drug testing regulations:	

ILLUSTRATION II - DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS)
"EZ" DATA COLLECTION FORM

INSTRUCTIONS

The following instructions are to be used as a guide for completing the Federal Highway Administration (FHWA) and the U.S. Department of Transportation (DOT) Drug Testing MIS "EZ" Data Collection Form. This form should only be used if there are no positive tests to be reported by your company. These instructions outline and explain the information requested and indicate the probable sources for this information. This reporting form includes three sections. These sections address the data elements required in the FHWA and DOT drug testing regulations.

SECTION A - MOTOR CARRIER EMPLOYER INFORMATION requires the company name for which the report is done, a current address, the U.S. DOT number, and the ICC number. Below this, a signature, date, and current telephone (including the area code) are entered by the person certifying the correctness and completeness of the form.

SECTION B - COVERED EMPLOYEES requires a count for each employee category that must be tested under FHWA regulations. There is only one category of covered employees for FHWA, and that is "Drivers" in the tables. The most likely source for this information is the employer's personnel department. These counts should be based on the company records for the reported year. An employee who is hired twice or more in the reported year must be counted as a single employee.

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s). The employees covered by more than one DOT operating administration must be counted under all appropriate operating administrations.

SECTION C - DRUG TESTING INFORMATION requires information for drug testing and training. The first table requests information on the NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE in each category for testing. These categories include: (1) pre-employment, (2) random, (3) post-accident/non-fatal, (4) post-accident/fatal, (5) reasonable suspicion, (6) return to duty, and (7) follow-up testing. All numbers entered into this table should be for applicants or company employees in a covered position only (i.e. "Drivers"). Each part of this table must be completed for each category of testing. These numbers do not include refusals for testing. "COLL" requires the number of specimens collected in each employee category for each category of testing. "NEG" requires a count for all completed tests by employee category that were verified negative by your Medical Review Officer (MRO). Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the categories.

Following the table for drug testing data you must provide counts for employees returned to duty during this reporting period after having failed or refused a drug test required under the FHWA rule.

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST requires a count of the NUMBER OF COVERED EMPLOYEES who refused to submit to a random or non-random (pre-employment, post-accident, reasonable suspicion, return to duty, or follow-up) drug test required under the FHWA regulation.

DRUG TRAINING/EDUCATION requires information on the number of supervisory personnel who have received the required drug training during the current reporting period.

FHWA DRUG TESTING MIS "EZ" DATA COLLECTION FORM — OMB No. 2125-0543

A. MOTOR CARRIER EMPLOYER INFORMATION

Company _____ Year Covered by This Report: _____

Principal Place of Business for Safety:

Physical Address _____ Mailing Address _____

_____ _____

U.S. DOT Number _____ ICC Number _____

I, the undersigned, certify that the information provided on the attached Federal Highway Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

_____ _____
Signature Date of Signature

_____ _____
Title Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Federal Highway Administration estimates that the average burden for this report form is 30 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Director, Office of Motor Carrier Standards (HCS-1); Federal Highway Administration; 400 7th St., S.W.; Washington, D.C. 20590; OR Office of Management and Budget, Paperwork Reduction Project (2125-0543); Washington, D.C. 20503.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF FHWA COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FAA	FRA	FTA	RSPA	USCG
Drivers						

C. DRUG TESTING INFORMATION

NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE														
EMPLOYEE CATEGORY	PRE-EMPLOYMENT		RANDOM		POST-ACCIDENT/ NON-FATAL		POST-ACCIDENT/ FATAL		REASONABLE SUSPICION		RETURN TO DUTY		FOLLOW-UP	
	COLL.	NEG	COLL.	NEG	COLL.	NEG	COLL.	NEG	COLL.	NEG	COLL.	NEG	COLL.	NEG
Drivers														

Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FHWA rule:	
EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	Number
Covered employees who refused to submit to a random drug test required under the FHWA regulation:	
Covered employees who refused to submit to a non-random drug test required under the FHWA regulation:	
DRUG TRAINING/EDUCATION	Number
Supervisors who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by FHWA drug testing regulations:	

FHWA Form No. MCS-155 (12-93)

[FR Doc. 93-30931 Filed 12-17-93; 8:45 am]
BILLING CODE 4910-22-C

federal register

Thursday
December 23, 1993

Part V

Department of Transportation

Federal Railroad Administration

49 CFR Parts 217 and 219
Annual Reporting Requirements; Amendments to Alcohol/Drug Regulations; Final Rule

VOL 58 ISS 245 DE 23 1993 UMI

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 217 and 219

[Docket No. RSOR–6; Notice No. 37]

RIN 2130–AA64

Annual Reporting Requirements; Amendments to Alcohol/Drug Regulations

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: On December 15, 1992, FRA proposed to replace its current annual reporting requirements with a standardized management information system (MIS) to collect alcohol and drug testing information from railroads. FRA will use this data to evaluate the effectiveness of its program to control alcohol and drug misuse in railroad operations. FRA has amended its proposed MIS in response to comments received and in accordance with a common preamble published by the Department of Transportation (DOT) elsewhere in today's Federal Register.

DATES: This final rule is effective on January 1, 1994.

ADDRESSES: Any petition for reconsideration should be submitted in triplicate to the Docket Clerk, Docket No. RSOR–6, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, SW., Room 8201, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Don Shatinsky, Alcohol and Drug Program Manager (RRS–11), Office of Safety, FRA, Washington, DC 20590 (telephone: (202) 366-0127) or Patricia V. Sun, Trial Attorney (RCC–30), Office of Chief Counsel, FRA, Washington, DC 20590 (telephone: (202) 366–4002).

SUPPLEMENTARY INFORMATION:

Background

On December 15, 1992 (57 FR 59608), FRA proposed to repeal its existing reporting requirements (§ 217.13(d)) and substitute a management information system to collect data on the results of railroad drug misuse prevention programs. (FRA intends to publish separately a similar MIS to collect railroad alcohol misuse program data as part of a final rule which will amend its alcohol and drug regulations in response to the Omnibus Transportation Employee Testing Act of 1991 (Act).) FRA will use this information to monitor compliance and enforcement.

The Department of Transportation is considering the use of blood for alcohol testing, and may develop departmental testing procedures. Accordingly, FRA will not collect information on blood alcohol testing conducted under the current FRA procedures in § 219.303(c). The data elements for cause blood alcohol testing have therefore been deleted.

Elsewhere in today's Federal Register is a common preamble published by the Office of the Secretary of Transportation (OST) that discusses amendments common to each of the MIS final rules that the Department is issuing today. This common preamble is incorporated herein by reference and must be considered when reviewing FRA's Final Rule.

Although the rule is being made effective in less than the 30 days from publication otherwise required by law, this will not unduly burden railroads since the first report under this rule will not be due until March 15, 1995, and most of the rule's information collections are already maintained under pre-existing regulatory requirements. With an effective date of January 1, 1994, FRA can ensure that information is collected under this rule for calendar year 1994 so that the benefits from the rule can be realized without delay. FRA has therefore determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) to warrant an expedited effective date.

Response to Comments

In its notice of proposed rulemaking (NPRM), FRA proposed to increase the number of railroads required to report annually by applying the MIS to all railroads not excluded under the small railroad exclusion in § 219.3 (about 175 total). (Currently, FRA requires only those railroads with 400,000 or more total manhours (approximately 60 railroads) to submit annual operating rules and practices reports that include alcohol and drug program data.) FRA also proposed a standardized data collection form, which reporting railroads would have to submit by February 15 of each year.

Several commenters, including the American Short Line Railroad Association (ASLRA), felt that annual reporting would be too burdensome for smaller railroads and urged FRA to include only those railroads already required to report under the current system. Some commenters said that FRA's proposed data collection form was too complex and that collecting data for the MIS could be difficult, since the required information would not be readily available. Two commenters also felt that the proposed deadline of February 15 was unrealistic, particularly since the MIS requires more information than FRA's current system, which has a reporting deadline of March 1.

FRA will not require railroads with fewer than 400,000 total manhours to submit MIS reports, since its analysis of reporting under § 217.13 indicates that over 95 percent of industry testing data is captured at the current 400,000 manhours reporting cutoff. Thus, excluding very small railroads will reduce the overall reporting burden without significant impact on industry test results.

In addition, to minimize the burden on other railroads, FRA, in concert with DOT, will make several other changes. (As mentioned above, these changes are also discussed in the common preamble.)

First, FRA will change the reporting deadline from February 15 to March 15. For example, an employer's first MIS report, containing aggregate data for calendar year 1994, will not be due until March 15, 1995. Larger railroads, which are currently required to report by March 1 each year, will already have reporting systems in place, and smaller railroads will have additional time to phase in implementation.

Second, smaller railroads in particular will often have no positive test results. For these employers, FRA has developed a simplified two page "Drug Testing Management Information System (MIS) Zero Positives Data Collection Form" (an "E–Z form" analogous to the Internal Revenue Service's 1040A form, for example), that allows these employers to report solely on the number of covered employees (including those covered by more than one DOT administration), the number of specimens collected and verified negative, and the number of refusals to test. This form will be published as Appendix D2 to Part 219 and is an exhibit attached to this rule.

Third, FRA will allow electronic reporting, which was supported by the American Public Transit Association, the Brotherhood of Locomotive Engineers and the Brotherhood of Railway Signalmen. To facilitate this, FRA will offer custom computer programs in a "run time" (executable) mode that will allow railroads to submit their annual reports on a computer diskette in lieu of a paper submission. Documentation will be supplied with the software. (FRA will publish additional details and information on how to obtain the software in a separate notice.)

In addition, FRA has deleted the "Additional Testing Data" requirements which asked for information on post-positive disciplinary action, evaluation, treatment and rehabilitation in response to comments from the American Association of Railroads and the ASLRA that it would be difficult for railroads to obtain this information from employee assistance programs.

Finally, to further minimize the burden on employers, FRA will not require cost reporting, which was supported by only one commenter.

Section-By-Section Analysis

As proposed, FRA will add a new subpart I (titled "Annual Reporting Requirements") to part 219 to incorporate the requirements of the MIS. Each report under subpart I will cover a calendar year. The closing date will be December 31 and the report will be due at FRA by March 15 of the following year. Subpart I will not apply to those railroads that have fewer than 400,000 total hours of employment.

FRA has retitled the standard data collection form (standard form) that will be published as appendix D to part 219 (as noted above, the E–Z version of the form will be appendix D2) and is an exhibit attached to this rule. The standard form is now titled "Drug Testing Management Information System (MIS) Data Collection Form" to emphasize that a separate MIS to collect railroad alcohol misuse program data will be published as part of FRA's final rule on prevention of alcohol misuse. In the MIS published today, FRA seeks solely to collect information on for cause breath alcohol and urine alcohol testing. (As discussed above, FRA has deleted the data elements on for cause blood alcohol testing.) Like drug urinalysis, breath alcohol testing currently may be conducted as testing for cause under subpart D of the FRA regulation or otherwise for cause under a railroad's own program. Although urine alcohol testing is not authorized under the FRA regulation (and was not included in FRA's NPRM (57 FR 59588) proposing amendments in response to the Act), properly conducted urine alcohol testing can add further capacity to detect and remedy alcohol safety problems.

Throughout this form, there are minor differences from the data collection form that was published in FRA's NPRM. Although the form has been shortened, it now has five sections instead of three. "Railroad Employer Information" and "Covered Employees," have been broken out into separate sections. The alcohol testing information section has been deleted and the for cause alcohol testing charts are now in the "Drug Testing Information" section. Two new sections, "Other Drug Testing/Program Information" and "Drug Training/Education," have been added. For ease of reference, the form now contains several charts on each page. FRA will publish any future amendments to these forms in the Federal Register.

In the "Covered Employees" section, employers must submit the number of covered employees in each category subject to testing under the anti-drug regulations of more than one DOT agency, identified by agency. Many commenters raised the issue of multimodal coverage. As formulated by the Department, employers who fall under two or more DOT Agency regulations requiring alcohol and drug testing must submit data to each regulating operating administration (OA) for those employees covered by that OA's rule. Employees who perform functions covered by more than one OA should be identified by their employer as to which covered position they will be reported under. Alcohol and drug program data on dual covered employees should be reported to the appropriate OA.

For railroads, the issue of multimodal coverage primarily affects holders of commercial driver's licenses (CDLs). Although many commenters suggested that all railroad CDL holders should report to FRA only, FRA and DOT believe that reportability should be determined by employee function. Therefore, CDL holders who do not perform covered service and are covered solely by Federal Highway Administration (FHWA) regulations will be reported to FHWA only. CDL holders who perform covered service and perform functions subject to both FRA and FHWA coverage (and any other employees subject to dual coverage) should be reported as follows:

For pre-employment and random testing, an employee should be reported to whichever OA covers more than 50% of that employee's function. For post-accident and reasonable suspicion testing, however, reportability should be determined by the function the employee was performing at the time of the accident or incident. Finally, for post-positive return to service and follow-up testing, the employee should be reported to the same OA to whom the initial positive was reported. For example, a signalman who holds a CDL but performs less than 50% of his time driving would be reported to FRA for pre-employment and random testing. If that signalman were to have a reportable accident while driving a commercial motor vehicle, however, that post-accident test result should be reported to FHWA, as should any post-positive return to service and follow-up test results. On the other hand, if a supervisor determined that the same signalman was impaired by a controlled substance while performing covered service under FRA regulations, that reasonable suspicion test result and any post-positive return to service and follow-up test results should be reported to FRA.

As discussed above, The "Drug Testing Information" section now asks for information concerning for cause alcohol testing and places the chart concerning pre-employment and covered service transfer testing on the same page with those concerning random, post-positive return to service and follow-up testing. Although FRA has removed the questions on post-positive discipline, evaluation, treatment, and relapse, FRA retains the authority to inspect employer records upon request.

In the "Other Drug Testing/Program Information" section, FRA seeks information on polydrug abuse among drug abusers. FRA will also collect information on employee refusals to provide breath or body fluid samples for testing, since FRA has proposed that a nine month disqualification from covered service be mandatory for a refusal to submit to reasonable suspicion testing (as it already is for a refusal to submit to post-accident or random testing).

Finally, the "Drug Training/Education" section merely places supervisory training information in a separate section.

The following is a listing of the data elements that must be covered on the standard form:

Covered Employees

1. Number of covered employees by employee category (*i.e.*, train service, engine service, dispatcher/operator, signal service, other).

2. Number of covered employees in each category subject to testing under the anti-drug regulations of more than one DOT agency, identified by each agency. (Elements 1. and 2. have been combined into one chart.)

Drug Testing Information

3. Number of specimens collected by type of test (*i.e.*, pre-employment and covered service transfer, random, post-positive return to service, and follow-up), and employee category.

4. Number of specimens verified negative by a Medical Review Officer (MRO) by type of test, and employee category.

5. Number of specimens verified positive for one or more of the five drugs by a MRO by type of test,

VOL 58 ISS 245 DEC 23 1993 UMI

employee category, and type of drug. If a test has been verified positive by a MRO for multiple drugs, the employer should report the result as a positive for each type of drug.

6. Number of applicants or transfers denied employment or transfer to a covered service position following a verified positive pre-employment drug test.

7. Number of employees, currently in or having completed rehabilitation or otherwise qualified to return to duty, who have returned to work in a covered position during the reporting period.

8. For cause drug testing, the number of specimens collected by reason for test (*i.e.*, accident/injury, rules violation, or reasonable suspicion), type of authority (railroad or FRA), employee category and type of drug, including drugs tested for under railroad authority only.

9. For cause drug testing, the number of specimens verified negative by a MRO by reason for test, type of authority, employee category and type of drug, including drugs tested for under railroad authority only.

10. For cause drug testing, the number of specimens verified positive by a MRO by reason for test, type of authority, employee category and type of drug, including drugs tested for under railroad authority only.

11. For cause breath alcohol testing under railroad authority, by reason for test (*i.e.*, accident/injury, rules violation, or reasonable suspicion), the number of tests conducted, the number of tests with a positive result (*i.e.*, breath alcohol concentration (BAC) = or > .02), and the number of refusals.

12. For cause urine alcohol testing under railroad authority, by reason for test, the number of tests conducted, the number of tests with a positive result and the number of refusals.

13. For cause breath alcohol testing under FRA authority, by reason for test, the number of tests conducted, the number of tests with a positive result, and the number of refusals.

14. Total number of covered employees observed in documented operational tests and inspections related to enforcement of the railroad's rules on alcohol and drug use.

15. Based on the tests and inspections described in element 14, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on drugs.

16. Based on the tests and inspections described in element 14, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on alcohol.

Other Drug Testing/Program Information

17. Number of specimens verified positive for more than one drug, by employee category and type of drug.

18. Number of covered employees who refused to submit to a random drug test required under FRA authority.

19. Number of covered employees who refused to submit to a non-random drug test required under FRA authority.

20. Number of supervisory personnel who have received the required initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use during the reporting period.

Appendix D to part 219, which is attached as an exhibit to this rule, is the standard form to collect the above-listed data as required by this regulation.

The following is a listing of data elements as they appear on the E–Z form:

Covered Employees

1. Number of covered employees by employee category (*i.e.*, train service, engine service, dispatcher/operator, signal service, other).

2. Number of covered employees in each category subject to testing under the anti-drug regulations of more than one DOT agency, identified by each agency. (Elements 1. and 2. have been combined into one chart.)

Drug Testing Information

3. Number of specimens collected and verified negative by type of test (*i.e.*, pre-employment and covered service transfer, random, for cause due to accident/incident, for cause due to rules violation, reasonable suspicion, post-positive return to service, and follow-up), and employee category.

4. For cause breath alcohol testing under railroad authority, the number of tests conducted by reason for test (*i.e.*, accident/injury, rules violation, or reasonable suspicion).

5. For cause urine alcohol testing under railroad authority, the number of tests conducted by reason for test.

6. For cause breath alcohol testing under FRA authority, the number of tests conducted by reason for test.

7. Total number of covered employees observed in documented operational tests and inspections related to enforcement of the railroad's rules on alcohol and drug use.

8. Based on the tests and inspections described in element 7, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on drugs.

9. Based on the tests and inspections described in element 7, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on alcohol.

10. Number of covered employees who refused to submit to a random drug test required under FRA authority.

11. Number of covered employees who refused to submit to a non-random drug test required under FRA authority.

12. Number of supervisory personnel who have received the required initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use during the reporting period.

Appendix D2 to part 219, which is attached as an exhibit to this rule, is the E–Z form to collect the above-listed data as required by this regulation.

Executive Order 12866 and DOT Regulatory Policy and Procedures

This rule is part of an alcohol and drug rulemaking package that is "significant" under Executive Order 12866, and has been reviewed under that Order. It is a significant regulatory action under the Department of Transportation's Regulatory Policy and Procedures.

The rule publishes standard reporting requirements that will provide OST and FRA with critical data necessary for policy and program evaluations. This modification will provide overall benefit to public safety by enhancing FRA's ability to ensure that this critical program is operating effectively. FRA anticipates that this requirement will cause minimal change in compliance burden and cost, since most of the program data requested would have been maintained in the implementation of an effective drug program under the current regulation.

The Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. FRA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Regulatory Impact Analysis

This rule is part of an alcohol and drug rulemaking package that is "significant" under Executive Order 12866, and has been reviewed under that Order.

Federalism Implications

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, FRA has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism assessment.

Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) applies to this rule because it changes several approved collections of information and initiates several new information collection requirements. (See common preamble on status of Paperwork Reduction Act approval.) After publication of the NPRM, an FRA contractor asked four railroads to estimate the number of hours required to complete the proposed form. Estimates ranged from 4 to 60 hours.

The final rule both adds and subtracts information collection requirements to the proposed form. For the standard form, FRA estimates that information gathering, record maintenance and form preparation will approximate 65 hours each year. (This does not include any software modifications for railroads that choose to report electronically.) Approximately 40 railroads are expected to submit the standardized form annually.

In the final rule, FRA adds a short form for railroads that have no positive test results to report. For the simplified form, FRA estimates that information gathering, record maintenance and form preparation will approximate 20 hours each year. Approximately 20 railroads are expected to submit this short form annually.

FRA has requested Office of Management and Budget (OMB) approval of these revised information collection requirements. A Federal Register notice will be published when Paperwork Reduction Act approval is obtained. Current information collection requirements under part 219 were approved under OMB No. 2130–0526.

List of Subjects

49 CFR Part 217

Railroad operating rules, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 219

Control of alcohol and drug use, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, FRA amends parts 217 and 219, title 49, Code of Federal Regulations as follows:

PART 217—[AMENDED]

1. The authority citation for part 217 continues to read as follows:

Authority: 45 U.S.C. 431, 437 and 438, as amended; Pub. L. 100–342; and 49 CFR 1.49(m).

§ 217.13 [Amended]

2. Section 217.13 is amended by removing paragraph (d).

PART 219—[AMENDED]

3. The authority citation for part 219 continues to read as follows:

Authority: 45 U.S.C. 431, 437, and 438, as amended; Pub. L. 100–342; and 49 CFR 1.49(m).

4. Part 219 is amended by adding a new subpart I consisting of § 219.803 to read as follows:

Subpart I—Annual Report

§ 219.803 Reporting drug misuse prevention program results in a management information system.

(a) Each railroad with more than 400,000 total manhours shall submit to FRA an annual report covering the calendar year, summarizing the results of its drug misuse prevention program.

(b) A railroad that is subject to more than one DOT agency drug regulation shall identify each employee covered by the regulations of more than one DOT agency. The identification will be by the total number and category of covered functions. Prior to conducting any drug test on a covered employee subject to the regulations of more than one DOT agency, the railroad shall determine which DOT agency regulation or rules authorizes or requires the test. The test result information shall be directed to the appropriate DOT agency or agencies.

(c) Each railroad shall ensure the accuracy and timeliness of each report submitted by the railroad or a consortium.

(d) Each railroad shall submit the required annual reports no later than March 15 of each year. The report shall be submitted on one of the forms specified by the FRA. A railroad with no positive test results shall submit the "Drug Testing Management Information System Zero Positives Data Collection Form" form attached as Appendix D2 to this part. All other railroads shall submit the "Drug Testing Management Information System Data Collection Form" attached as Appendix D to this part.

(e) A railroad submitting the "Drug Testing Management Information System Data Collection Form" shall address each of the following data elements:

(1) Number of covered employees by employee category (*i.e.*, train service, engine service, dispatcher/operator, signal service, other).

(2) Number of covered employees in each category subject to testing under the anti-drug regulations of more than one DOT agency, identified by each agency.

(3) Number of specimens collected by type of test (ie., pre-employment and covered service transfer, random, post-positive return to service, and follow-up), and employee category.

(4) Number of specimens verified negative by a Medical Review Officer (MRO) by type of test, and employee category.

(5) Number of specimens verified positive for one or more of the five drugs by a MRO by type of test, employee category, and type of drug. If a test has been verified positive by a MRO for multiple drugs, the employer should report the result as a positive for each type of drug.

(6) Number of applicants or transfers denied employment or transfer to a covered service position following a verified positive pre-employment drug test.

(7) Number of employees, currently in or having completed rehabilitation or otherwise qualified to return to duty, who have returned to work in a covered position during the reporting period.

(8) For cause drug testing, the number of specimens collected by reason for test (*i.e.*, accident/injury, rules violation, or reasonable suspicion), type of authority (railroad or FRA), employee category and type of drug, including drugs tested for under railroad authority only.

(9) For cause drug testing, the number of specimens verified negative by a MRO by reason for test, type of authority, employee category and type of drug, including drugs tested for under railroad authority only.

(10) For cause drug testing, the number of specimens verified positive by a MRO by reason for test, type of authority, employee category and type of drug, including drugs tested for under railroad authority only.

(11) For cause breath alcohol testing under railroad authority, by reason for test, the number of tests conducted, the number of tests with a positive result (*i.e.*, breath alcohol concentration (BAC) = or > .02), and the number of refusals.

(12) For cause urine alcohol testing under railroad authority, by reason for test, the number of tests conducted, the number of tests with a positive result, and the number of refusals.

(13) For cause breath alcohol testing under FRA authority, by reason for test, the number of tests conducted, the

VOL 58 ISS 245 DEC 23 1993 UMI

number of tests with a positive result, and the number of refusals.

(14) Total number of covered employees observed in documented operational tests and inspections related to enforcement of the railroad's rules on alcohol and drug use.

(15) Based on the tests and inspections described in element 14, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on drugs.

(16) Based on the tests and inspections described in element 14, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on alcohol.

(17) Number of specimens verified positive for more than one drug, by employee category and type of drug.

(18) Number of covered employees who refused to submit to a random drug test required under FRA authority.

(19) Number of covered employees who refused to submit to a non-random drug test required under FRA authority.

(20) Number of supervisory personnel who have received the required initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use during the reporting period.

(f) A railroad authorized to submit the "Drug Testing Management Information System Zero Positives Data Collection Form" attached as Appendix D2 to this part shall address each of the following data elements:

(1) Number of covered employees by employee category (*i.e.*, train service, engine service, dispatcher/operator, signal service, other).

(2) Number of covered employees in each category subject to testing under the anti-drug regulations of more than one DOT agency, identified by each agency.

(3) Number of specimens collected and verified negative by type of test (*i.e.*, pre-employment and covered service transfer, random, for cause due to accident/incident, for cause due to rules violation, reasonable suspicion, post-positive return to service, and follow-up), and employee category.

(4) For cause breath alcohol testing under railroad authority, the number of tests conducted by reason for test (*i.e.*, accident/injury, rules violation, or reasonable suspicion).

(5) For cause urine alcohol testing under railroad authority, the number of tests conducted by reason for test.

(6) For cause breath alcohol testing under FRA authority, the number of tests conducted by reason for test.

(7) Total number of covered employees observed in documented operational tests and inspections related to enforcement of the railroad's rules on alcohol and drug use.

(8) Based on the tests and inspections described in element 7, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on drugs.

(9) Based on the tests and inspections described in element 7, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on alcohol.

(10) Number of covered employees who refused to submit to a random drug test required under FRA authority.

(11) Number of covered employees who refused to submit to a non-random drug test required under FRA authority.

(12) Number of supervisory personnel who have received the required initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use during the reporting period.

5. Part 219 is amended by adding appendix D to read as follows:

BILLING CODE 4910-60-P

APPENDIX D - DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS) DATA COLLECTION FORM

INSTRUCTIONS

The following instructions are to be used as a guide for completing the Federal Railroad Administration (FRA) Drug Testing MIS Data Collection Form. These instructions outline and explain the information requested and indicate the probable sources for this information. A sample testing results table with a narrative explanation is provided on pages iv-v as an example to facilitate the process of completing the form correctly.

This reporting form includes five sections. Collectively, these sections address the data elements required in the FRA and the U.S. Department of Transportation (DOT) drug testing regulations. The five sections, the page number for the instructions, and the page location on the reporting form are:

Section	Instructions Page	Reporting Form Page
A. RAILROAD EMPLOYER INFORMATION	I	1
B. COVERED EMPLOYEES	I	2
C. DRUG TESTING INFORMATION	II-vi	3-5
D. OTHER DRUG TESTING/PROGRAM INFORMATION	vi	6
E. DRUG TRAINING/EDUCATION	vi	6

Page 1 RAILROAD EMPLOYER INFORMATION (Section A) requires the company name for which the report is done and a current address. Below this, a signature, date, and current telephone (including the area code) are required certifying the correctness and completeness of the form.

Page 2 COVERED EMPLOYEES (Section B) requires a count for each Hours of Service Act employee category that must be tested under FRA regulations. The categories are: "Engine Service", "Train Service", "Dispatcher/Operator", "Signal Service", and "Other." The OTHER category is a count of employees performing covered service that are not included in specific preceding categories. Examples include yardmasters, hostlers (non-engineer craft), bridge tenders, switch tenders, etc. These counts should be based on the company records as of January 1 of the reported year. The TOTAL is a count of all covered employees for all categories combined, i.e., the sum of the column.

Additional information must be completed if your company employs personnel who perform duties covered by the anti-drug rules of more than one DOT operating administration. NUMBER OF EMPLOYEES COVERED BY MORE THAN

VOL 58 ISS 245 DEC 23 1993 UMI

ONE DOT OPERATING ADMINISTRATION, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

Section C is used to summarize drug testing results for applicants and drug and alcohol testing results for covered employees. There are seven categories of testing to be completed. The first part of the table is where you enter the data on pre-employment/covered service transfer testing. The remaining six parts are for entering drug testing data on random testing, post-positive return to service testing, follow-up testing, for cause drug testing (one part each for "for cause testing" due to accidents/injuries, rules violations, and reasonable suspicion), and for cause alcohol testing (one part each for breath tests due to railroad rules, urine tests due to railroad rules, and breath tests mandated by the FRA), respectively. Items necessary to complete the drug testing tables include:

1) the number of specimens collected in each employee category;
2) the number of specimens tested which were verified negative and verified positive for any drug(s); and
3) individual counts of those specimens which were verified positive for each of the five drugs.

Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the tables.

A sample table with detailed instructions is provided for the first part PRE-EMPLOYMENT/COVERED SERVICE TRANSFER TESTING. The format and explanations used for the sample apply to all seven parts of the table in Section C.

Information on actions taken with those persons testing positive is required at the end of page 3. Specific instructions for providing this latter information are given after the instructions for completing the tables in Section C.

Page 3 — **DRUG TESTING INFORMATION** (Section C) requires information for drug testing by category of testing. All numbers entered into the pre-employment/covered service transfer section of the table should be separated into the category of employment for which the person was applying/transferring. The other categories are for employee testing and require information for company employees in covered positions only. Each part of this table must be completed for each category of testing. These categories include: (1) random testing, (2) post-positive return to service testing, (3) follow-up testing, (4) for cause testing due to accidents/injuries, (5) for cause testing due to rule violations, and (6) for cause testing due to reasonable suspicion. These numbers do not include refusals for testing. A sample section of the table with example numbers is presented on page v.

Three types of information are necessary to complete the left side of this table. The first blank column with the heading "NUMBER OF SPECIMENS COLLECTED," requires a count for all collected specimens by employee category. It should not include refusals to test. The second blank column with the heading "NUMBER OF SPECIMENS VERIFIED NEGATIVE," requires a count for all completed tests by employee category that were verified negative by your Medical Review Officer (MRO).

The third blank column with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS," refers to the number of specimens provided by job applicants or employees that were verified positive. "Verified positive" means the results were verified by your MRO.

The right hand portion of this table, with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG," requires counts of positive tests for each of the five drugs for which tests were done, i.e., marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines. The number of specimens positive for each drug should be entered in the appropriate column for that drug type. Again, "verified positive" refers to test results verified by your MRO.

If an applicant or employee tested positive for more than one drug; for example, both marijuana and cocaine, that person's positive results would be included once in each of the appropriate columns (marijuana and cocaine).

Each column in the table should be added and the answer entered in the row marked "TOTAL".

A sample table is provided on page v with example numbers.

Page 3 — Below the part of the table containing pre-employment/covered service transfer testing information is a box with the heading "Number of applicants/transfers denied employment/transfer in a covered position following a verified positive drug test". This is simply a count of those persons who were not hired/transferred into a covered position because they tested positive for one or more drugs.

Page 3 — Below the part of the table containing post-positive return to service testing information, you must record the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FRA rule. This information should be available from the personnel office and/or drug program manager.

Page 4 — **FOR CAUSE TESTING** data are provided in three separate parts of the table – one for accidents/injuries, one for rules violations, and one for reasonable suspicion. In the shaded portion of the parts for accidents/injuries and rules violations you must indicate whether the testing was conducted under FRA authority or under railroad authority.

The sections of the table for accidents/injuries and rules violations contain two additional columns which must be completed for testing done under railroad authority. The first additional column, labeled "Other Prohibited," requires that you list any drugs, other than the five listed, that are tested under railroad rule (e.g., butalbital). The rightmost column, labeled "Combined," requires that you indicate whether any of these positives were in combination with one or more positive findings for the five drugs (same specimen). If yes, you must attach details (e.g., 2 marijuana/butalbital).

SAMPLE APPLICANT TEST RESULTS TABLE

The following example is for Section C, DRUG TESTING INFORMATION, which summarizes pre-employment/covered service transfer testing results. The procedures detailed here also apply to the other categories of testing in Section C which require you to summarize testing results for employees. This example uses the categories "Engine Service" and "Train Service" to illustrate the procedures for completing the form.

A Urine specimens were collected for 157 job applicants for engine service positions during the reporting year. This information is entered in the first blank column of the table in the row marked "Engine Service".

B The Medical Review Officer (MRO) for your company reported that 153 of those 157 specimens from applicants for engine service positions were negative (i.e., no drugs were detected). Enter this information in the second blank column of the table in the row marked "Engine Service".

C The MRO for your company reported that 4 of those 157 specimens from applicants for engine service positions were positive (i.e., a drug or drugs were detected). Enter this information in the third blank column of the table in the row marked "Engine Service".

D With the 4 specimens that tested positive, the following drugs were detected:

Specimen	Drugs
#1	Marijuana
#2	Amphetamines
#3	Marijuana and Cocaine (Multi-drug specimen)
#4	Marijuana

Marijuana was detected in three (3) specimens, cocaine in one (1), and amphetamines in one (1). This information is entered in the columns on the right hand side of the table under each of these drugs. Two different drugs were detected in specimen #3 (multi-drug) so an entry is made in both the marijuana and the cocaine column for this specimen. Information on multi-drug specimens must also be entered in Section D, OTHER DRUG TESTING/PROGRAM INFORMATION, on page 6 of the reporting form.

Please note that the sample data collection form also has information for train service on line two. The same procedures outlined for engine service should be followed for entering the data on train service. With applicants for train service positions, 107 specimens were collected resulting in 105 verified negatives and 2 verified positives – 1 for marijuana and 1 for opiates. This information is entered in the row marked "Train Service".

E The last row, marked "TOTAL", requires you to add the numbers in each of the columns. With this example, 157 specimens from applicants for engine service positions were collected and 107 for applicants for train service positions. The total for that column would be 264 (i.e., 157+107). The same procedure should

be used for each column, i.e., add all the numbers in that column and place the answer in the last row.

- PRE-EMPLOYMENT/"COVERED SERVICE" TRANSFER TESTING

EMPLOYEE CATEGORY	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
Engine Service	157	153	4	3	1	0	0	1
Train Service	107	105	2	1	0	0	1	0
TOTAL	264	258	6	4	1	0	1	1
	A	B	C	D				E

Note that adding up the numbers for each type of drug in a row ("NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG") will not always match the number entered in the third column, "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS". The total for the numbers on the right hand side of the table may differ from the number of specimens testing positive since some specimens may contain more than one drug.

Remember that the same procedures indicated above are to be used for completing all of the categories for testing in Section C.

Page 5 FOR CAUSE BREATH ALCOHOL TESTS DONE UNDER RAILROAD RULE/POLICY requires information concerning breath alcohol tests conducted on covered employees for specific cause under the authority of the railroad's rules or collective bargaining agreements (i.e., NOT in reliance on Subpart D of CFR Part 219).

FOR CAUSE URINE ALCOHOL TESTS UNDER RAILROAD RULE/POLICY requires information concerning urine alcohol tests conducted on covered employees for specific cause under the authority of the railroad's rules or collective bargaining agreements (i.e., NOT in reliance on Subpart D of 49 CFR Part 219).

"FRA" FOR CAUSE BREATH ALCOHOL TESTS requires information concerning breath alcohol tests conducted on covered employees for cause, under Subpart D of 49 CFR Part 219.

Page 6 There are three items required under OPERATIONAL TESTS AND INSPECTIONS concerning the railroad's program for supervising its employees and ensuring they are free from impairments caused by drugs or alcohol.

VOL 58 ISS 245 DEC 23 1993 UMI

Page 6 **OTHER DRUG TESTING/PROGRAM INFORMATION** (Section D) requires that you complete a table dealing with specimens positive for more than one drug and a table dealing with employees who refused to submit to a drug test.

Page 6 **SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG** requires information on specimens that contained more than one drug. Indicate the **EMPLOYEE CATEGORY** and the **NUMBER OF VERIFIED POSITIVES.** Then specify the combination of drugs reported as positive by placing the number in the appropriate columns. For example, if marijuana and cocaine were detected in 3 engine service specimens, then you would write "Engine Service" as the employee category, "3" as the number of verified positives, and "3" in the columns for "Marijuana" and "Cocaine". If marijuana and opiates were detected in 2 engine service specimens, then you would write "Engine Service" as the employee category, "2" as the number of verified positives, and "2" in the columns for "Marijuana" and "Opiates".

Page 6 **EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST** requires a count of the **NUMBER OF COVERED EMPLOYEES** who refused to submit to a random or non-random (pre-employment, for cause, post-positive return to service, or follow-up) drug test required under the FRA regulation.

Page 6 **DRUG TRAINING/EDUCATION** (Section E) requires information on the number of supervisory personnel who have received the required drug training during the current reporting period.

FRA DRUG TESTING MIS DATA COLLECTION FORM **OMB No. 2130-0526**

YEAR COVERED BY THIS REPORT: 19__

A. RAILROAD EMPLOYER INFORMATION

Company _____

Address _____

_____

_____

I, the undersigned, certify the information provided on the attached Federal Railroad Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

_____
Signature

_____
Title

_____
Date of Signature

_____
Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. The willful falsification of any information in this report may also subject the submitter to civil or criminal prosecution under Title 45, U.S.C. Section 438(e).

The Federal Railroad Administration estimates that the average burden for this report form is 65 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Office of Safety; Federal Railroad Administration; 400 7th St., S.W.; Washington, D.C. 20590; OR Office of Management and Budget, Paperwork Reduction Project (2130-0526); Washington, D.C. 20503.

FRA Form No. FRAF6180.94A 1

B. COVERED EMPLOYEES

COVERED EMPLOYEES							
EMPLOYEE CATEGORY	NUMBER OF FRA COVERED EMPLOYEES	"MANDATED" EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FAA	FHWA	FTA	RSPA	USCG
Engine Service						
Train Service						
Dispatcher/Operator						
Signal Service						
Other*						
TOTAL						

* Includes yardmasters, hostlers (non-engineer craft), bridge tenders, switch tenders, and other miscellaneous employees performing covered service as defined in 49 CFR 228.5 (c).

READ BEFORE COMPLETING THE REMAINDER OF THIS FORM:

1. All items refer to the current reporting period only (for example, January 1, 1994 - December 31, 1994).

2. This report is only for testing REQUIRED BY THE FEDERAL RAILROAD ADMINISTRATION (FRA) AND THE U.S. DEPARTMENT OF TRANSPORTATION (DOT):

- Results should be reported only for employees in COVERED POSITIONS as defined by the FRA drug testing regulations.
- The information requested should only include testing for marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines using the standard procedures required by DOT regulation 49 CFR Part 40.

3. Information on refusals for testing should only be reported in Section D ["OTHER DRUG TESTING/PROGRAM INFORMATION"]. Do not include refusals for testing in other sections of this report.

4. Do not include the results of any quality control (QC) samples submitted to the testing laboratory in any of the tables.

5. Complete all items; DO NOT LEAVE ANY ITEM BLANK. If the value for an item is zero (0), place a zero (0) on the form.

This part of the form requires information on VERIFIED POSITIVE and VERIFIED NEGATIVE drug tests. These are the results that are reported to you by your Medical Review Officer (MRO).

C. DRUG TESTING INFORMATION

EMPLOYEE CATEGORY	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
PRE-EMPLOYMENT/COVERED SERVICE TRANSFER								
Engine Service								
Train Service								
Dispatcher/Operator								
Signal Service								
Other								
Total								
RANDOM								
Engine Service								
Train Service								
Dispatcher/Operator								
Signal Service								
Other								
Total								
POST-POSITIVE RETURN TO SERVICE								
Engine Service								
Train Service								
Dispatcher/Operator								
Signal Service								
Other								
Total								
FOLLOW-UP								
Engine Service								
Train Service								
Dispatcher/Operator								
Signal Service								
Other								
Total								

Number of applicants/transfers denied employment/transfer in a covered position following a verified positive drug test:	

Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FRA rule:	

C. DRUG TESTING INFORMATION (continued)

EMPLOYEE CATEGORY	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG						
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines	Other Prohibited [1]	Combined [2]
FOR CAUSE DRUG TESTING DUE TO ACCIDENT/INJURY *(Positive test qualifying under 49 CFR Part 219 Subpart C)* (Testing Conducted Under: FRA Rule ___ Railroad Rule ___)										
Engine Service										
Train Service										
Dispatcher/ Operator										
Signal Service										
Other										
TOTAL										
DUE TO RULES VIOLATION (Testing Conducted Under: FRA Rule ___ Railroad Rule ___)										
Engine Service										
Train Service										
Dispatcher/ Operator										
Signal Service										
Other										
TOTAL										
REASONABLE SUSPICION (Testing Conducted Under: FRA Rule ___ Railroad Rule ___)										
Engine Service										
Train Service										
Dispatcher/ Operator										
Signal Service										
Other										
TOTAL										

[1] Other drugs tested under railroad rule where the use was prohibited by 49 CFR 219.102.

[2] Indicate whether any of these positives were in combination with one or more positive findings for the five drugs (same specimen). If yes, attach details (e.g., 2 marijuana/barbiturate).

C. DRUG TESTING INFORMATION (continued)

FOR CAUSE ALCOHOL TESTING

TYPE OF TEST	NUMBER CONDUCTED	NUMBER POSITIVE (= or > .02%)	NUMBER OF REFUSALS
"FOR CAUSE" BREATH ALCOHOL TESTS UNDER RAILROAD RULE/POLICY The following items request information concerning breath alcohol tests conducted on covered employees for specific cause under the authority of the railroad's rule or collective bargaining agreements (i.e. NOT in reliance on Subpart D or CFR Part 219).			
1. Following ACCIDENTS/INCIDENTS:			
2. Following RULE VIOLATIONS:			
3. REASONABLE SUSPICION of current use or impairment:			
"FOR CAUSE" URINE ALCOHOL TESTS UNDER RAILROAD RULE/POLICY The following items request information concerning urine alcohol tests conducted on covered employees for specific cause under the authority of the railroad's rule or collective bargaining agreements (i.e. NOT in reliance on Subpart D or CFR Part 219).			
1. Following ACCIDENTS/INCIDENTS:			
2. Following RULE VIOLATIONS:			
3. REASONABLE SUSPICION of current use or impairment:			
"FRA" FOR CAUSE BREATH ALCOHOL TESTS The following items request information concerning breath alcohol tests conducted on covered employees for cause, under Subpart D of 49 CFR Part 219			
1. Following ACCIDENTS/INCIDENTS:			
2. Following RULE VIOLATIONS:			
3. REASONABLE SUSPICION of current use or impairment:			

OPERATIONAL TESTS AND INSPECTIONS

The following items request information concerning the railroad's program for supervising its employees and ensuring that they are free from impairments caused by drugs or alcohol:

Total number of covered employees observed in documented tests and inspections related to enforcement of the railroad's rules and policies on drug and alcohol use (including, but not limited to, observations for which urine tests were conducted and observations after accidents/incidents and rule violations):	
Number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on drugs:	
Number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on alcohol:	

VOL 58 ISS 245 DE 23 1993 UMI

D. OTHER DRUG TESTING/PROGRAM INFORMATION

SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG						
EMPLOYEE CATEGORY	NUMBER OF VERIFIED POSITIVES	Marijuana (THC)	Cocaine	Phency-clidine (PCP)	Opiates	Amphet-amines

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	Number
Covered employees who refused to submit to a random drug test required under the FRA regulation:	
Covered employees who refused to submit to a non-random drug test required under the FRA regulation:	

E. DRUG TRAINING/EDUCATION

TRAINING DURING CURRENT REPORTING PERIOD	Number
Supervisory personnel who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by FRA drug testing regulations:	

FRA Form No. FRAF6180.94A

6. Appendix D1 to part 219 is reserved and appendix D2 to part 219 is added to read as follows:

Appendix D1—[Reserved]

VOL 58 ISS 245 DEC 23 1993 UMI

VOL
58
ISS
245
DE
23
1993
UMI

APPENDIX D 2 - DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS) "EZ" DATA COLLECTION FORM

INSTRUCTIONS

The following instructions are to be used as a guide for completing the Federal Railroad Administration (FRA) Drug Testing MIS "EZ" Data Collection Form. This form should only be used if there are no positive tests to be reported by your company. These instructions outline and explain the information requested and indicate the probable sources for this information. This reporting form includes three sections. These sections address the data elements required in the FRA and the U.S. Department of Transportation (DOT) drug testing regulations.

SECTION A - RAILROAD EMPLOYER INFORMATION requires the company name for which the report is done and a current address. Below this, a signature, date, and current telephone (including the area code) are required certifying the correctness and completeness of the form.

SECTION B - COVERED EMPLOYEES requires a count for each Hours of Service Act employee category that must be tested under FRA regulations. The categories are: "Engine Service", "Train Service", "Dispatcher/Operator", "Signal Service", and "Other." The OTHER category is a count of employees performing covered service that are not included in specific preceding categories. Examples include yardmasters, hostlers (non-engineer craft), bridge tenders, switch tenders, etc. These counts should be based on the company records for the reported year. The TOTAL is a count of all covered employees for all categories combined, i.e., the sum of the column.

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. **NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION**, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

SECTION C - DRUG TESTING INFORMATION requires information for drug testing and training. The first table requests information on the **NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE** in each category for testing. All numbers entered into the pre-employment/covered service transfer section of the table should be separated into the category of employment for which the person was applying/transferring. The other categories are for employee testing and require information for company employees in covered positions only. Each part of this table must be completed for each category of testing. These categories include: (1) random testing, (2) for cause testing due to accidents/injuries, (3) for cause testing due to rule violations, (4) for cause testing due to reasonable suspicion, (5) post-positive return to service testing, and (6) follow-up testing. For the three types of for-cause testing, indicate whether testing was conducted under FRA or railroad rule. These numbers do not include refusals for testing. "COLL" requires the number of specimens collected in each employee category for each category of testing. "NEG" requires a count for all completed tests by employee category that were verified negative by your Medical Review Officer (MRO). Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the categories. Each column in the table should be added and the answer entered in the row marked "TOTAL".

Following the table that summarizes **DRUG TESTING INFORMATION**, you must provide a count of the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FRA rule. This information should be available from the personnel office and/or drug program manager.

FOR CAUSE ALCOHOL TESTING requires information concerning breath and urine alcohol tests conducted under railroad rules and FRA rules as specified.

FOR CAUSE BREATH ALCOHOL TESTS DONE UNDER RAILROAD RULE/POLICY requires information concerning breath alcohol tests conducted on covered employees for specific cause under the authority of the railroad's rules or collective bargaining agreements (i.e., NOT in reliance on Subpart D of CFR Part 219).

FOR CAUSE URINE ALCOHOL TESTS UNDER RAILROAD RULE/POLICY requires information concerning urine alcohol tests conducted on covered employees for specific cause under the authority of the railroad's rules or collective bargaining agreements (i.e., NOT in reliance on Subpart D of 49 CFR Part 219).

"FRA" FOR CAUSE BREATH ALCOHOL TESTS requires information concerning breath alcohol tests conducted on covered employees for cause, under Subpart D of 49 CFR Part 219.

There are three items required under **OPERATIONAL TESTS AND INSPECTIONS** concerning the railroad's program for supervising its employees and ensuring they are free from impairments caused by alcohol or drugs.

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST requires a count of the **NUMBER OF COVERED EMPLOYEES** who refused to submit to a random or non-random (pre-employment, for cause, post-positive return to service, or follow-up) drug test required under the FRA regulation.

DRUG TRAINING/EDUCATION DURING CURRENT REPORTING PERIOD requires information on the number of supervisory personnel who have received the required drug training during the current reporting period

FRA DRUG TESTING MIS EZ DATA COLLECTION FORM OMB No. 2130-0526

YEAR COVERED BY THIS REPORT: 19__

A. RAILROAD EMPLOYER INFORMATION

Company _____

Address _____

_____

_____

I, the undersigned, certify that the information provided on the attached Federal Railroad Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

_____
Signature

_____
Title

_____
Date of Signature

_____
Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. The willful falsification of any information in this report may also subject the submitter to civil or criminal prosecution under Title 45, U.S.C. Section 438(e).

The Federal Railroad Administration estimates that the average burden for this report form is 25 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Office of Safety; Federal Railroad Administration; 400 7th St., S.W.; Washington, D.C. 20590; OR Office of Management and Budget, Paperwork Reduction Project (2130-0526); Washington, D.C. 20503.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF FRA COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FAA	FHWA	FTA	RSPA	USCG
Engine Service						
Train Service						
Dispatcher/Operator						
Signal Service						
Other*						
TOTAL						

* Includes yardmasters, hostlers (non-engineer craft), bridge tenders, switch tenders, and other miscellaneous employees performing covered service as defined in 49 CFR 228.5 (c).

C. DRUG TESTING INFORMATION

NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE														
EMPLOYEE CATEGORY	PRE-EMPLOYMENT /COVERED SERVICE TRANSFER		RANDOM		FOR CAUSE Accident/Injury Testing Conducted Under Rule: FRA __ Railroad __		FOR CAUSE Rules Violation Testing Conducted Under Rule: FRA __ Railroad __		REASONABLE SUSPICION Testing Conducted Under Rule: FRA __ Railroad __		POST-POSITIVE RETURN TO SERVICE		FOLLOW-UP	
	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG
Engine Service														
Train Service														
Dispatcher/Operator														1
Signal Service														
Other														
Total														

Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the FRA rule:	

C. DRUG TESTING INFORMATION (continued)

FOR CAUSE ALCOHOL TESTING

TYPE OF TEST	NUMBER CONDUCTED
'FOR CAUSE' BREATH ALCOHOL TESTS UNDER RAILROAD RULE/POLICY The following items request information concerning breath alcohol tests conducted on covered employees for specific cause under the authority of the railroad's rule or collective bargaining agreements (i.e. NOT in reliance on Subpart D or CFR Part 219).	
1. Following ACCIDENTS/INCIDENTS:	
2. Following RULE VIOLATIONS:	
3. REASONABLE SUSPICION of current use or impairment:	
'FOR CAUSE' URINE ALCOHOL TESTS UNDER RAILROAD RULE/POLICY The following items request information concerning urine alcohol tests conducted on covered employees for specific cause under the authority of the railroad's rule or collective bargaining agreements (i.e. NOT in reliance on Subpart D or CFR Part 219).	
1. Following ACCIDENTS/INCIDENTS:	
2. Following RULE VIOLATIONS:	
3. REASONABLE SUSPICION of current use or impairment:	
'FRA' FOR CAUSE BREATH ALCOHOL TESTS The following items request information concerning breath alcohol tests conducted on covered employees for cause, under Subpart D of 49 CFR Part 219	
1. Following ACCIDENTS/INCIDENTS:	
2. Following RULE VIOLATIONS:	
3. REASONABLE SUSPICION of current use or impairment:	

OPERATIONAL TESTS AND INSPECTIONS

The following items request information concerning the railroad's program for supervising its employees and ensuring that they are free from impairments caused by drugs or alcohol:

Total number of covered employees observed in documented tests and inspections related to enforcement of the railroad's rules and policies on drug and alcohol use (including, but not limited to, observations for which urine tests were conducted and observations after accidents/incidents and rule violations):	
Number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on drugs:	
Number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on alcohol:	

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	Number
Covered employees who refused to submit to a random drug test required under the FRA regulation:	
Covered employees who refused to submit to a non-random drug test required under the FRA regulation:	

DRUG TRAINING/EDUCATION DURING CURRENT REPORTING PERIOD	Number
Supervisory personnel who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by FRA drug testing regulations:	

Issued in Washington, DC on December 13, 1993.

S. Mark Lindsey,

Acting Federal Railroad Administrator.

[FR Doc. 93–30932 Filed 12–17–93; 8:45 am]

BILLING CODE 4910-06-P

Thursday
December 23, 1993

federal register

Part VI

Department of Transportation

Research and Special Programs Administration

49 CFR Part 199

Drug Testing: Management Information System (MIS) Standardized Data Collection and Reporting; Final Rule

VOL 58 NO 245 FRIDAY DECEMBER 23 1993 UMI

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket No. PS–129]

RIN 2137–AB95

Drug Testing: Management Information System (MIS) Standardized Data Collection and Reporting

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule sets forth regulations to require operators of gas, hazardous liquid and carbon dioxide pipelines and liquefied natural gas (LNG) facilities who are subject to 49 CFR parts 192, 193, and 195 to implement, maintain, and submit an annual report for their drug testing program data. This final rule is essential for RSPA to collect the drug testing statistical data and use the data to analyze its current approach to deterring and detecting illegal drug abuse in the pipeline industry, and, as appropriate, plan a more efficient and effective approach.

EFFECTIVE DATE: This rule will be effective January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Richard L. Rippert, Office of Pipeline Safety Compliance, RSPA, DOT, 400 7th Street, SW., Washington, DC 20590–0001 (202–366–6223) or the Dockets Unit (202) 366–4453, for copies of this final rule or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

On December 15, 1992, RSPA published a Notice of Proposed Rulemaking (NPRM) (57 FR 59720), to require pipeline operators subject to part 199 to submit specific drug testing data to RSPA annually. The NPRM proposed that operators would maintain all drug testing data on a calendar-year basis with a closing date of December 31 each year. The Office of the Secretary (OST), also issued an NPRM in the **Federal Register** the same day outlining MIS format and requirements for reporting drug program date.

The OST NPRM proposed that MIS reports would require specific drug testing data elements on standardized forms and these items were outlined in 49 CFR part 40, § 40.81. OST has elected not to amend Part 40 by adding the provisions as proposed in § 40.81. The MIS requirements for operator reporting are set forth in this final rule. Elsewhere in today's **Federal Register** is a common preamble to this and other DOT agency MIS final rules which addresses the common issues relevant to the MIS requirements for the transportation industries.

The OST NPRM proposed that operators with employees who fall under two or more DOT agency regulations requiring drug testing shall submit data to each agency for those employees covered by that agency rule. Under this final rule, employees who perform functions covered by more than one DOT agency shall be identified by the operator as to which covered function they will be reported under. Drug testing data on dual covered employees shall be reported to RSPA and/or any other appropriate DOT agency.

Discussion of Comments

The comment period for RSPA's NPRM closed on April 14, 1993, and all comments received were considered, as well as, the testimony of 16 individuals who presented statements at the three public hearings held on February 26, 1993, in Washington, DC; on March 2, 1993, in Chicago, Illinois; and on March 5, 1993, in San Francisco, California, respectively. RSPA received 46 comments in response to the NPRM, including comments from 36 pipeline operators, three industry associations, two consortia, one state agency, and four from individuals. The majority of the commenters had no objection to the basic concept of the MIS drug test reporting requirements as proposed. Several commenters indicated that submission of such drug testing data to RSPA would support their position that substance abuse in the pipeline industry is not widespread and that random test rates should be lowered. A number of the commenters provided detailed comments on proposed changes to the MIS report format which included such items as streamlining the reporting format, limiting the number of data elements, and suggested submission dates for the reports.

Specific Issues

Covered Employees Categories

Several commenters indicated that requiring operators to identify and report separately on employees who perform operation, maintenance, or emergency-response functions would place an undue burden on operators and provide no visible benefit to RSPA. They believe this requirement would increase the recordkeeping requirements for operators and increase associated costs of maintaining records. Many operators, such as the Columbia Gas Distribution companies, indicated that the overlap of job categories make it very difficult for operators to distinguish these job categories.

RSPA Response

RSPA has determined that requiring operators to classify employees by separate covered employee categories, as proposed, is not feasible given the general overlap of employee functions among the numerous operators within the pipeline industry. Therefore, the reporting format has been revised to use one category, "covered employees", representing all individuals who perform operation, maintenance, or emergency-response functions on the pipeline.

Report Format

Many commenters were opposed to one or more of the reporting elements proposed in the NPRM. Comments submitted by Exxon and the Interstate Natural Gas Association of America (INGAA) addressed several areas of the form that they contended would present an undue burden in the collection and reporting of data. These comments included objections to the proposed employee categories outlined; dual coverage/reporting for employees covered by other DOT agencies; and, the requirement to submit annual reports no later than February 15th. Some operators objected to the size and complexity of the report format and the numerous detailed instructions required to complete the form. One consortium indicated that costs of designing software and implementing this type of informational software into the current drug management programs would be immense. Another consortium, which represents numerous small operators and municipalities, suggested that consortia should be allowed to report on behalf of the companies they serve, thus reducing the paperwork required. Many operators provided suggested changes and modifications to reduce the recordkeeping and reporting burden.

RSPA Response

RSPA has incorporated some of these refinements into the final MIS report forms, which appear as exhibits A and B to this final rule. RSPA has eliminated the requirement to report separately the covered employees' functions. To reduce the reporting burden on operators who have no verified positive test results, RSPA has limited the information to be provided and has developed a simplified "E–Z form" for submitting their reports.

RSPA has also reduced some of the MIS reporting burden on operators in this final rule based on information developed from the MIS pilot project. A notice published on February 8, 1993, (58 FR 7506) sought volunteer participation of pipeline operators to evaluate the proposed MIS forms and submission procedures. The MIS pilot project was coordinated with OST and the other DOT operating administrations. Seven operators were selected and received the MIS packages. Of the seven, six operators were interviewed. Three of the operators did not complete the data collection forms, so only four collection forms were available for analysis. The findings and conclusions from the pilot project have been considered in the development of this final rule. A copy of the summarized findings has been placed in the RSPA NPRM docket number PS–129.

The MIS pilot concluded that drug testing data availability is good for operators testing under the RSPA rule; however, there are some data that cannot be provided by the operator. Test results by employee category cannot be provided due to overlap in employee function. Periodic testing is not required by the RSPA rule. Finally, covered employee training and refresher training are not required by the RSPA drug testing rule.

Instead of including the reporting forms as an appendix to Part 199, as proposed in the NPRM, RSPA is requiring data to be submitted to RSPA in the standard form and manner prescribed by the Administrator. The current MIS report forms are published in today's **Federal Register** as exhibits A and B immediately following this rule. RSPA has determined that while the drug testing data elements are properly a matter of regulation, the format in which the data are reported should remain within the discretion of the Administrator. This will enable RSPA to make any revisions to the format that become necessary without undertaking additional rulemaking.

RSPA has also decided to issue separate final rules on the drug and alcohol portions of the MIS. Therefore, alcohol testing program data elements are not included in this final rule or on the reporting forms. Alcohol testing MIS reporting requirements would be included in a final rule to implement alcohol misuse prevention programs. Separation of the drug and alcohol data elements should reduce the burden associated with the use of a new form.

Reporting Burden on Small Operators

Some commenters opposed the extensive reporting requirements being proposed by RSPA. They indicated no justification for an approach that relies heavily on submitting all records to RSPA for review. One operator stated that it does not believe that comprehensive data from all operators is required for RSPA to evaluate the effectiveness of the program. They suggested that RSPA could determine what could comprise a representative sample of the industry and request specific data from particular operators for purposes of making an evaluation.

RSPA Response

RSPA has determined that approximately 2,419 operators would be subject to the reporting provisions of this final rule. RSPA estimates that approximately one-third of these operators have fewer than 50 employees performing covered functions. RSPA believes that excluding these small operators from the reporting requirement would not adversely effect the overall drug testing data that would represent the pipeline industry. From time to time RSPA would survey these small operators and require them to prepare and submit such reports to this agency. This data would be analyzed and compared with data being submitted by the large operators.

Therefore, RSPA is not requiring small operators (50 or fewer covered employees) to submit annual MIS reports, at this time. The final rule includes a provision requiring small operators to submit data to RSPA upon request. If at some future time, RSPA decides that annual data submission from small operators is necessary, RSPA would undertake additional rulemaking.

Submission Date

Numerous commenters, including Southern Natural Gas, Hope Gas Inc. and INGAA, recommended that the date for the submission of the MIS reports be revised. A wide variety of dates and reasons was suggested. Many operators are subject to other reporting requirements by other federal and state regulatory agencies and many of these reports, as well as the year-end financial statements, are due at approximately the same time as the proposed February 15 deadline. The commenters indicated that adding a month to the proposed submission date should alleviate some of the administrative burdens associated with the numerous reporting obligations of the operators.

RSPA Response

RSPA agrees that allowing operators until March 15 to submit their annual MIS drug testing reports will not affect the timeliness of the data and will allow sufficient time for operators to compile and prepare their reports. The final rule establishes a March 15 due date.

Contractor Statistical Data

RSPA's NPRM discussed several issues regarding the inclusion of a contractors' drug testing statistical data in an operator's MIS drug report. RSPA sought comments on whether RSPA should defer for the first year the requirement that pipeline operators report information on contractor employees' drug testing results. RSPA was concerned about any potential difficulties in collecting data from contractors and consortia. RSPA was also concerned about multiple reports with duplicative information from contractors being submitted by the various operators for whom the contractor may perform services.

The majority of the commenters were opposed to requiring operators to collect and submit contractor employee drug testing statistical data. The American Gas Association (AGA) contends that "contractors, not operators, should be responsible for reporting to RSPA on the operation of their testing programs. The current system is susceptible to widespread inaccuracies because many pipeline and transmission companies use some of the same contractors, leading to duplicative reporting." Many commenters suggested that RSPA require contractors to submit their MIS reports directly to RSPA and not include the statistics in the operator's report. Other commenters suggested that operators maintain the contractor drug testing statistical data and have it available for review during audits or inspections by the federal and state agencies.

RSPA Response

RSPA has considered all the factors concerning the requirement to have pipeline operators report contractor employee drug testing statistical data on their annual reports to this agency. RSPA contends that requiring submission of contractor drug testing data, by operators, would result in major problems such as duplicative reporting and inaccurate data which could affect the overall pipeline industry positive rate. RSPA has decided not to require pipeline operators to report drug information, as required in § 199.23, for contractor employees who are subject to the part 199 drug testing regulations.

VOL 58 ISS 245 DE 23 1993 UMI

Operators shall continue to maintain the records required by § 199.23 and shall ensure that all contractors are maintaining the same type of records. This issue will be evaluated during the review of reports in the first year and methods may be developed to collect contractor drug testing data.

Electronic Submission

In the OST NPRM, comments were requested concerning the usefulness of electronically transmitting operator MIS data. Only two comments were received which addressed the issue of electronic submission. One consortium recommended that electronic reporting should be utilized where possible; but that small operators without the capability of electronic reporting should not be penalized either through cost or undue administrative burden. One operator stated that without electronic filing capability, the February 15 deadline is unrealistic.

RSPA Response

Although RSPA is exploring the steps necessary to implement electronic MIS data submission, this option is not yet available because RSPA does not have the capability to receive data electronically. RSPA will pursue this recommendation and, if feasible, issue a document addressing this matter in a future edition of the **Federal Register**.

Cost Data

The OST NPRM discussed whether the Department should obtain from employers the cost of implementing the program as an element of information to evaluate program effectiveness.

RSPA Response

RSPA did not propose and does not intend at this time to require operators to report information regarding costs associated with implementing their anti-drug programs.

Elimination of "age" Data Element

Many operators have questioned RSPA's requirement to maintain the "age" of applicants/employees who test positive or refuse to test under the current regulations. They contend that collection of this data element provides no beneficial data.

RSPA Response

RSPA has revised the recordkeeping requirements in § 199.23(a)(2) to avoid duplicative information collection requirements. Section 199.23(a)(2) requires operators to keep certain records on employees who have a positive drug test result, including the type of test, and records that demonstrate rehabilitation, if any. The required information includes:

(i) The functions performed by the employee;

(ii) The prohibited drug(s) used;

(iii) Disposition of the employee; and

(iv) The age of the employee.

The MIS report will require operators to maintain and report the information currently required in items (i)-(iii), as well as the type of test. RSPA has eliminated from recordkeeping or reporting requirements the fourth item concerning the age of each employee who failed a drug test. RSPA does not believe this is an essential data element.

Reason for Expedited Effective Date

This rule is being made effective in less than the 30 days from publication otherwise required by law. With an effective date of January 1, 1994, RSPA can ensure that information is collected under this final rule for calendar year 1994 and, subsequently, that the benefits from this final rule are realized without delay. Because the first report under this rule will not be due until March 15, 1995, and most of the data must be maintained under pre-existing regulatory requirements, operators subject to this rule will not be unduly burdened by an effective date of less than 30 days. RSPA has therefore determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) to warrant an expedited effective date.

Regulatory Analyses and Notices

E.O. 12866 and DOT Regulatory Policies and Procedures

The final rule is part of a package of alcohol and drug testing regulation that is a significant regulatory action under Executive Order 12866. It has been reviewed under this order. It is significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) because it is of substantial public interest. This final rule would cause minimal changes in the existing compliance burden and cost of the anti-drug programs affected by the amendment. Therefore, we have not further evaluated the costs and benefits of this final rule.

Paperwork Reduction Act

The final rule sets forth new drug program information collection requirements. These requirements have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. Chap. 35) and 5 CFR Part 1320. See common preamble on status of Paperwork Act approval.

Regulatory Flexibility Act

The final rule affects all entities subject to part 192, except operators of master meter systems and liquefied petroleum gas (LPG) operators, 193, or 195, which are exempt. Master meter systems and LPG operators constitute the bulk of small businesses or other small entities that operate gas pipeline systems subject to part 192. There are few, if any, small entities that operate hazardous liquid or carbon dioxide pipelines subject to part 195, or LNG facilities subject to part 193. Therefore, I certify under Section 605 of the Regulatory Flexbility Act (5 U.S.C. 605) that this final rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612

This regulation will not have substantial direct effects on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of Government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), RSPA has determined that this regulation does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 199

Pipeline safety, Drug testing, Recordkeeping and reporting.

In consideration of the foregoing, RSPA is amending 49 CFR part 199 as follows:

PART 199—DRUG TESTING

1. The authority citation for Part 199 is revised to read as follows:

Authority: 49 App. U.S.C. 1672, 1674a, 1681, 1804, 1808, and 2002; 49 CFR 1.53.

2. Section 199.1 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 199.1 Scope and compliance.

(a) * * * However, this subpart does not apply to operators of "master meter systems" as defined in § 191.3 of this chapter or to liquefied petroleum gas (LPG) operators.

* * * * *

3. Section 199.23 is amended by revising paragraph (a)(2) to read as follows:

§ 199.23 Recordkeeping.

(a) * * *

(2) Records of employee drug test results that show employees who had a positive test, and the type of test (e.g., post-accident), and records that demonstrate rehabilitation, if any, must be kept for at least 5 years, and include the following information:

(i) The function performed by each employee who had a positive drug test result.

(ii) The prohibited drug(s) that were used by an employee who had a positive drug test.

(iii) The disposition of each employee who had a positive drug test or refused a drug test (e.g., termination, rehabilitation, removed from covered function, other).

* * * * *

4. Part 199 is amended by adding a new section 199.25 to read as follows:

§ 199.25 Reporting of anti-drug testing results.

(a) Each large operator (having more than 50 covered employees) shall submit an annual MIS report to RSPA of its anti-drug testing results in the form and manner prescribed by the Administrator, not later than March 15 of each year for the prior calendar year (January 1 through December 31). The Administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to RSPA.

(b) Each report, required under this section, shall be submitted to the Office of Pipeline Safety Compliance (OPS), Research and Special Programs Administration, Department of Transportation, room 2335, 400 Seventh Street, SW., Washington, DC 20590.

(c) Each report shall be submitted in the form and manner prescribed by the Administrator. No other form, including another DOT Operating Administration's MIS form, is acceptable for submission to RSPA.

(d) Each report shall be signed by the operator's anti-drug program manager or designated representative.

(e) Each operator's report with verified positive test results or refusals to test shall include all of the following informational elements:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the anti-drug rules of another operating administration.

(3) Number of specimens collected by type of test.

(4) Number of positive test results, verified by a Medical Review Officer (MRO), by type of test and type of drug.

(5) Number of employee action(s) taken following verified positive(s), by type of action(s).

(6) Number of negative tests reported by an MRO by type of test.

(7) Number of persons denied a position as a covered employee following a verified positive drug test.

(8) Number of covered employees, returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule.

(9) Number of covered employees with tests verified positive by an MRO for multiple drugs.

(10) Number of covered employees who refused to submit to a random or non-random (post-accident, reasonable cause, return-to- duty, or follow-up) drug test and the action taken in response to each refusal.

(11) Number of supervisors who have received required initial training during the reporting period.

(f) Each operator's report with only negative test results shall include all of the following informational elements:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the anti-drug rules of another operating administration.

(3) Number of specimens collected by type of test.

(4) Number of negative tests reported by an MRO by type of test.

(5) Number of covered employees who refused to submit to a random or non-random (post-accident, reasonable cause, return-to-duty, or follow-up) drug test and the action taken in response to each refusal.

(6) Number of supervisors who have received required initial training during the reporting period.

Issued in Washington, DC on December 10, 1993.

Rose A. McMurray,

Acting Administrator, Research and Special Programs Administration.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix—Information Systems Data Collection Forms

BILLING CODE 4910-60-P

EXHIBIT A - DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS) DATA COLLECTION FORM

INSTRUCTIONS

The following instructions are to be used as a guide for completing the drug testing information in the Research and Special Programs Administration (RSPA) and the U.S. Department of Transportation (DOT) Drug Testing MIS Data Collection Form. These instructions outline and explain the information requested and indicate the probable sources for this information. A sample testing results table with a narrative explanation is provided on pages ii-iv as an example to facilitate the process of completing the form correctly.

This reporting form includes three sections. Collectively, these sections address the data elements required in the RSPA and the DOT drug testing regulations. The three sections, the page number for the instructions, and the page location on the reporting form are:

Section	Instructions Page	Reporting Form Page
A. PIPELINE EMPLOYER INFORMATION	i	1
B. COVERED EMPLOYEES	i	1
C. DRUG TESTING INFORMATION	i-iv	2

Page 1 — **PIPELINE EMPLOYER INFORMATION** (Section A) requires the company name for which the report is done, a current address, and the name of the person responsible for completing the form. Be sure to check which one of the five categories (gas gathering; gas transmission; gas distribution; transportation of hazardous liquids; and transportation of carbon dioxide) characterizes the primary nature of your operation. Finally, a signature, date, and current telephone number (including the area code) are required certifying the correctness and completeness of the form.

Page 1 — **COVERED EMPLOYEES** (Section B) requires a count for each employee category that must be tested under RSPA regulations. Covered functions for RSPA are: Operation, Maintenance, and Emergency Response. The most likely source for this information is the employer's personnel department. This count should be based on the company records for the reported year.

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. **NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION,** requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

Page 2 — **DRUG TESTING INFORMATION** (Section C) requires information for drug testing by category of testing. These categories include: (1) pre-employment, (2) random, (3) post-accident, (4) reasonable suspicion/cause, (5) return to duty, and (6) follow-up testing. All numbers entered into this table should be for applicants or company employees in a covered position only. Each part of this table must

be completed for each category of testing. These numbers do not include refusals for testing. A sample section of the table with example numbers is presented on page iii.

Section C is used to summarize the drug testing results for applicants and covered employees. There are six categories of testing to be completed. The first part of the table is where you enter the data on pre-employment testing. The following five parts are for entering drug testing data on random, post-accident, reasonable suspicion/cause, return to duty, and follow-up testing, respectively. Items necessary to complete these tables include:

1) the number of specimens collected in each testing category;
2) the number of specimens tested which were verified negative and verified positive for any drug(s); and
3) individual counts of those specimens which were verified positive for each of the five drugs.

Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the tables.

A sample table with detailed instructions is provided for the first part, PRE-EMPLOYMENT TESTING INFORMATION. The format and explanations used for the sample table apply to all six parts of the table in Section C.

Information on actions taken with those persons testing positive is required at the end of Section C. Specific instructions for providing this latter information are given after the instructions for completing the table in Section C.

Three types of information are necessary to complete the left side of this table. The first blank column with the heading "NUMBER OF SPECIMENS COLLECTED," requires a count for all collected specimens. It should not include refusals to test. The second blank column with the heading "NUMBER OF SPECIMENS VERIFIED NEGATIVE," requires a count for all completed tests that were verified negative by your Medical Review Officer (MRO).

The third blank column with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS," refers to the number of specimens provided by job applicants or employees that were verified positive. "Verified positive" means the results were verified by your MRO.

The right hand portion of this table, with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG," requires counts of positive tests for each of the five drugs for which tests were done, i.e., marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines. The number of specimens positive for each drug should be entered in the appropriate column for that drug type. Again, "verified positive" refers to test results verified by your MRO.

If an applicant or employee tested positive for more than one drug; for example, both marijuana and cocaine, that person's positive results would be included once in each of the appropriate columns (marijuana and cocaine).

A sample table is provided on page iii with example numbers.

SAMPLE APPLICANT TEST RESULTS TABLE

The following example is for Section C, DRUG TESTING INFORMATION, which summarizes pre-employment testing results. The procedures detailed here also apply to the other categories of testing in Section C which require you to summarize testing results for employees. This example will use "Pre-Employment" testing to illustrate the procedures for completing the form.

[A] Urine specimens were collected for 157 job applicants for covered positions during the reporting year. This information is entered in the first blank column of the table in the row marked "PRE-EMPLOYMENT".

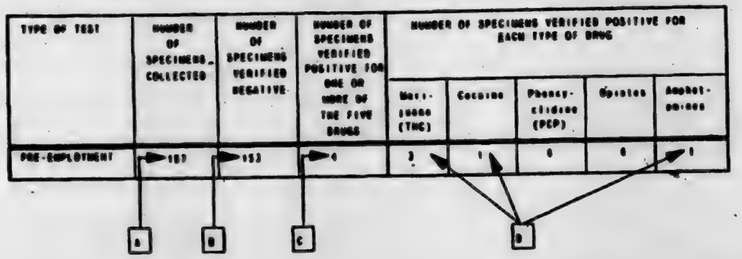
[B] The Medical Review Officer (MRO) for your company reported that 153 of those 157 specimens from applicants for covered positions were negative (i.e., no drugs were detected). Enter this information in the second blank column of the table in the row marked "PRE-EMPLOYMENT".

[C] The MRO for your company reported that 4 of those 157 specimens from applicants for covered positions were positive (i.e., a drug or drugs were detected). Enter this information in the third blank column of the table in the row marked "PRE-EMPLOYMENT".

[D] With the 4 specimens that tested positive, the following drugs were detected:

Specimen	Drugs
#1	Marijuana
#2	Amphetamines
#3	Marijuana and Cocaine (Multi-drug specimen)
#4	Marijuana

Marijuana was detected in three (3) specimens, cocaine in one (1), and amphetamines in one (1). This information is entered in the columns on the right hand side of the table under each of these drugs. Since two different drugs were detected in specimen #3 (multi-drug), entries are made in both the marijuana and the cocaine columns for this specimen. Information on multi-drug specimens must also be entered in the table, SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG.



Note that adding up the numbers for each type of drug in a row ("NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG") will not always match the number entered in the third column, "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE

FIVE DRUGS". The total for the numbers on the right hand side of the table may differ from the number of specimens testing positive since some specimens may contain more than one drug.

Remember that the same procedures indicated above are to be used for completing all categories of testing in the table in Section C.

Page 2 Below the table for DRUG TESTING INFORMATION is a box with the heading "Number of persons denied a position as a covered employee following a verified positive drug test". This is simply a count of those persons who were not placed in a covered position because they tested positive for one or more drugs.

Page 2 Also following the table that summarizes DRUG TESTING INFORMATION, you must provide a count of the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule. This information should be available from the personnel office and/or drug program manager.

Page 2 Next, you must provide information on ACTIONS TAKEN ON VERIFIED POSITIVE TEST RESULTS. Indicate the number of employees subjected to the following actions:

- No longer employed with company - Include covered employees who resigned or were terminated as the result of a positive drug test.
- Reassigned to non-covered functions - Include covered employees who were reassigned within the company to a non-covered position as the result of a positive drug test.
- Entered rehabilitation, if applicable, and/or returned to covered functions - Include covered employees who are undergoing or have completed a rehabilitation program and/or covered employees who have returned to a covered function.
- Other - Include covered employees who did not fall under one of the previous options and specify the action taken.

Enter the sum of the number of actions taken on the line marked TOTAL.

Page 2 SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG requires information on specimens that contained more than one drug. First, indicate the NUMBER OF VERIFIED POSITIVES. Then specify the combination of drugs reported as positive by placing the number in the appropriate columns. For example, if marijuana and cocaine were detected in 3 specimens, then you would write "3" as the number of verified positives and "3" in the columns for "Marijuana" and "Cocaine". If marijuana and opiates were detected in 2 specimens, then you would write "2" as the number of verified positives and "2" in the columns for "Marijuana" and "Opiates".

Page 2 EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST requires information on the NUMBER OF COVERED EMPLOYEES who refused to submit to a random or other (pre-employment, post-accident, reasonable suspicion/cause, return to duty, or follow-up) drug test required under the RSPA regulation and the actions

VOL 58 ISS 245 DEC 23 1993 UMI

taken following the refusal. Indicate the number of actions taken on the appropriate line.

Page 2 **DRUG TRAINING/EDUCATION** requires information on the number of supervisory personnel who have received the required drug training during the current reporting period.

RSPA DRUG TESTING MIS DATA COLLECTION FORM OMB No. 2137-0579

A. PIPELINE EMPLOYER INFORMATION

Company _____ Year Covered by This Report: _____

Address _____ Person responsible for completing the form:

_____ _____

Check the one box that indicates the primary nature of your operation.

☐ Gas gathering
☐ Gas transmission
☐ Gas distribution
☐ Transportation of hazardous liquids
☐ Transportation of carbon dioxide

I, the undersigned certify that the information provided on this Research and Special Programs Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

_____ Signature _____ Date of Signature

_____ Title _____ Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Research and Special Programs Administration estimates that the average burden for this report form is 3.1 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Office of Pipeline Safety, RSPA, DOT; 400 7th St., S.W.; Washington, DC 20590; OR Office of Management and Budget, Paperwork Reduction Project (2137-0579); Washington, DC 20503.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF RSPA COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FAA	FHWA	FRA	FTA	USCG
Operation/Maintenance/Emergency Response						

READ BEFORE COMPLETING THE REMAINDER OF THIS FORM:

1. All items refer to the current reporting period only (for example, January 1, 1994 - December 31, 1994).
2. This report is only for testing REQUIRED BY THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION (RSPA) AND THE U.S. DEPARTMENT OF TRANSPORTATION (DOT):
   - Results should be reported only for employees in COVERED POSITIONS as defined by RSPA/DOT drug testing regulations.
   - The information requested should only include testing for marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines using the standard procedures required by DOT regulation 49 CFR Part 40.
3. Information on refusals for testing should only be reported in the Table: COVERED EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST. Do not include refusals for testing in other sections of this report.
4. Do not include the results of any quality control (QC) samples submitted to the testing laboratory in any of the tables.
5. Complete all items; DO NOT LEAVE ANY ITEM BLANK. If the value for an item is zero (0), place a zero (0) on the form.

VOL 58 ISS 245 DE 23 1993 UMI

C. DRUG TESTING INFORMATION

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS VERIFIED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
PRE-EMPLOYMENT								
RANDOM								
POST-ACCIDENT								
REASONABLE SUSPICION/CAUSE								
RETURN TO DUTY								
FOLLOW-UP								

Number of persons denied a position as a covered employee following a verified positive drug test:	
Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule:	

ACTIONS TAKEN ON VERIFIED POSITIVE DRUG TEST RESULTS	NUMBER
No longer employed with company:	
Reassigned to non-covered functions:	
Entered rehabilitation, if applicable, and/or returned to covered functions:	
Other (specify):	
TOTAL	

SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG

NUMBER OF VERIFIED POSITIVES	Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	NUMBER OF REFUSALS	
	RANDOM TESTS	OTHER TESTS
Number of employees who refused to submit to a drug test required under the RSPA rule:		

ACTION TAKEN	NUMBER
No longer employed with company:	
Reassigned to non-covered functions:	
Entered rehabilitation, if applicable, and/or returned to covered functions:	
Other (specify):	

DRUG TRAINING/EDUCATION	NUMBER
Supervisors who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by RSPA drug testing regulations:	

EXHIBIT B - DRUG TESTING MANAGEMENT INFORMATION SYSTEM (MIS) "EZ" DATA COLLECTION FORM

INSTRUCTIONS

The following instructions are to be used as a guide for completing the Research and Special Programs Administration (RSPA) and the U.S. Department of Transportation (DOT) Drug Testing MIS "EZ" Data Collection Form. This form should only be used if there are no positive tests to be reported by your company. These instructions outline and explain the information requested and indicate the probable sources for this information. This reporting form includes three sections. These sections address the data elements required in the RSPA and DOT drug testing regulations.

SECTION A - PIPELINE EMPLOYER INFORMATION requires the company name for which the report is done, a current address, and the name of the person responsible for completing the form. Be sure to check which one of the five categories (gas gathering; gas transmission; gas distribution; transportation of hazardous liquids; and transportation of carbon dioxide) characterizes the primary nature of your operation. Finally, a signature, date, and current telephone number (including the area code) are required certifying the correctness and completeness of the form.

SECTION B - COVERED EMPLOYEES requires a count for each employee category that must be tested under the RSPA regulation. There is only one category of covered employees for RSPA — Operation/Maintenance/Emergency Response. The most likely source for this information is the employer's personnel department. These counts should be based on the company records for the reported year.

Additional information must be completed if your company employs personnel who perform duties covered by the drug rules of more than one DOT operating administration. NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION, requires that you identify the number of employees in each employee category under the appropriate additional operating administration(s).

SECTION C - DRUG TESTING INFORMATION requires information for drug testing and training. The first table requests information on the NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE in each category for testing. All numbers entered into this table should be for applicants or company employees in covered positions only. Each part of this table must be completed for each category of testing including: (1) pre-employment, (2) random, (3) post-accident, (4) reasonable suspicion/cause, (5) return to duty, and (6) follow-up testing. These numbers do not include refusals for testing. "COLL" requires the number of specimens collected in each employee category for each category of testing. "NEG" requires a count for all completed tests by employee category that were verified negative by your Medical Review Officer (MRO). Do not include results of quality control (QC) samples submitted to the testing laboratory in any of the categories.

VOL 58 ISS 245 DEC 23 1993 UMI

Following the table that summarizes DRUG TESTING INFORMATION, you must provide a count of the number of employees returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule. This information should be available from the personnel office and/or drug program manager.

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST requires information on the NUMBER OF COVERED EMPLOYEES who refused to submit to a random or other (pre-employment, post-accident, reasonable suspicion/cause, return to duty, or follow-up) drug test required under the RSPA regulation and the action taken following the refusal. Indicate the number of employees subjected to the following actions:

- No longer employed with company - Include covered employees who resigned or were terminated as the result of a refusal to submit to a drug test.
- Reassigned to non-covered functions - Include covered employees who were reassigned within the company to a non-covered position as the result of a refusal to submit to a drug test.
- Entered rehabilitation, if applicable, and/or returned to covered functions - Include covered employees who are undergoing or have completed a rehabilitation program and/or covered employees who have returned to a covered function.
- Other - Include covered employees who did not fall under one of the previous options and specify the action taken.

DRUG TRAINING/EDUCATION requires information on the number of supervisory personnel who have received the required drug training during the current reporting period.

RSPA DRUG TESTING MIS "EZ" DATA COLLECTION FORM OMB No. 2137-0579

A. PIPELINE EMPLOYER INFORMATION

Company _____ Year Covered by This Report: _____

Address _____ Person responsible for completing the form:

_____ _____

Check the one box that indicates the primary nature of your operation.

- ☐ Gas gathering
- ☐ Gas transmission
- ☐ Gas distribution
- ☐ Transportation of hazardous liquids
- ☐ Transportation of carbon dioxide

I, the undersigned, certify that the information provided on the attached Research and Special Programs Administration Drug Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

_____ Signature _____ Date of Signature

_____ Title _____ Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

The Research and Special Programs Administration estimates that the average burden for this report form is 3.1 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Office of Pipeline Safety, RSPA, DOT; 400 7th St., S.W.; Washington, DC 20590; OR Office of Management and Budget, Paperwork Reduction Project (2137-0579); Washington, DC 20503.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF RSPA COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FAA	FHWA	FRA	FTA	USCG
Operation/Maintenance/Emergency Response						

C. DRUG TESTING INFORMATION

NUMBER OF SPECIMENS COLLECTED AND VERIFIED NEGATIVE												
EMPLOYEE CATEGORY	PRE-EMPLOYMENT		RANDOM		POST-ACCIDENT		REASONABLE SUSPICION/ CAUSE		RETURN TO DUTY		FOLLOW-UP	
	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG	COLL	NEG
Operation/Maintenance/ Emergency Response												

Number of employees returned to duty during this reporting period after having failed or refused a drug test required under the RSPA rule:	

1

C. DRUG TESTING INFORMATION (cont.)

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	NUMBER OF REFUSALS	
	RANDOM TESTS	OTHER TESTS
Number of employees who refused to submit to a drug test required under the RSPA rule:		
ACTION TAKEN	**NUMBER**	
No longer employed with company:		
Reassigned to non-covered functions:		
Entered rehabilitation, if applicable, and/or returned to covered functions:		
Other (specify):		

DRUG TRAINING/EDUCATION	NUMBER
Supervisory personnel who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use as required by RSPA drug testing regulations:	

[FR Doc. 93-30933 Filed 12-17-93; 8:45 am]
BILLING CODE 4910-60-C

VOL 58 ISS 245 DE 23 1993 UMI

federal register

Thursday
December 23, 1993

Part VII

Department of Transportation

Coast Guard

46 CFR Part 16

Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Collection of Drug and Alcohol Testing Information; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 16

[CGD 91-019]

RIN 2115-AD84

Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Collection of Drug and Alcohol Testing Information

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule revises the Coast Guard's regulations for chemical drug and alcohol testing of commercial vessel personnel to include information collection requirements regarding marine industry drug and alcohol testing programs. The Coast Guard will collect this data in order to assess the effectiveness of the marine industry drug and alcohol testing programs.

EFFECTIVE DATE: This rule is effective on January 1, 1994.

ADDRESSES: Unless otherwise indicated, documents referenced in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street, SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Mark Grossetti, U.S. Coast Guard Headquarters, Office of Marine Safety, Security and Environmental Protection (G-MMI-2), telephone (202) 267-1421.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal document drafters are Lieutenant Commander Mark Grossetti, Project Manager, Office of Marine Safety, Security and Environmental Protection, and Helen G. Boutrous, Project Counsel, Office of Chief Counsel.

Regulatory History

On December 15, 1992, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Collection of Drug and Alcohol Testing Information (57 FR 59752). The Coast Guard received thirty-three letters in response to the proposed rule. A public hearing was not requested and one was not held.

Background and Purpose

On December 14, 1987, the Coast Guard published regulations regarding operating a vessel while intoxicated (52 FR 47526). Those regulations established standards of intoxication and authorized law enforcement officers and marine employers to direct individuals operating a vessel to undergo a chemical test for reasonable cause. On November 21, 1988, the Coast Guard issued a final rule requiring marine employers to establish chemical drug programs for their covered employees and job applicants that included pre-employment, random, post-accident and reasonable cause tests. Periodic testing was also required, but remains the responsibility of individual mariners. Additionally, the rules for post-accident testing require testing for alcohol (53 FR 47063). On the same date, the Department of Transportation (DOT) published an interim final rule establishing drug testing procedures (53 FR 47002). The interim final rule followed closely the Department of Health and Human Services (DHHS) regulation entitled "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11970). On December 1, 1989, DOT published a final rule (54 FR 49854) which responded to all comments to the interim rule and incorporated appropriate changes (49 CFR part 40).

In October 1989, approximately one year after the Coast Guard published its 1988 final rule, the Secretary of Transportation appointed a Special Assistant for Drug Enforcement and Program Compliance. The Special Assistant is responsible for determining the effectiveness of the transportation industry drug and alcohol testing programs. A November 1989 General Accounting Office report entitled, "Drug Testing: Management Problems and Legal Challenges Facing DOT's Industry Programs", provided additional suggestions for monitoring the effectiveness of the drug testing programs.

DOT has determined that the most appropriate method to monitor the effectiveness of the transportation industry drug testing programs is to create a Management Information System (MIS). Representatives from each DOT operating administration participated in a working group to formulate a MIS proposal for the drug and alcohol testing programs. Numerous alternatives and information collection processes were considered. It was noted that whereas DHHS certified laboratories could provide only laboratory analysis data, medical review officers (MROs) could provide only drug test verification information, and collection facilities could provide only specimen collection data, employers receive drug testing information from labs, MROs and collection facilities, and therefore, could provide all the necessary data for an effective MIS. Thus, the regulated employers are the appropriate source of comprehensive drug testing data.

To implement and sustain an effective, multi-modal MIS, the Coast Guard proposed to develop data collection rules appropriate for the maritime industry. The maritime industry data may then be combined with the data from other transportation industries to provide an overall view of the effectiveness of the transportation industry drug testing programs.

DOT has issued a "common preamble" elsewhere in today's edition of the **Federal Register** which addresses comments received by DOT in response to the MIS rulemaking and the MIS pilot project conducted to evaluate the proposed MIS report forms and procedures.

Reason for Expedited Effective Date

This rule is being made effective in less than the 30 days from publication otherwise required by law. With an effective date of January 1, 1994, the Coast Guard can ensure that information is collected under this final rule for calendar year 1994 and, subsequently, that the benefits from this final rule are realized without delay. Because the first report under this rule will not be due until March 15, 1995, and most of the data must be maintained under pre-existing regulatory requirements, employers subject to this rule will not be unduly burdened by an effective date of less than 30 days. The Coast Guard has therefore determined that good cause exists under the provisions of 5 U.S.C 553(d)(3) to warrant an expedited effective date.

Discussion of Comments and Changes

The Coast Guard received thirty-three written comments in response to the December 15, 1992, notice of proposed rulemaking. Five of the letters contained comments pertaining to issues raised in other rulemaking documents issued by DOT in the December 15, 1992 **Federal Register**. These comments have been placed in the appropriate rulemaking dockets. All other comments are addressed below.

Support for Concept of MIS

Many commenters supported the concept of collecting information on the drug and alcohol testing program. These

comments recognized the need to monitor this important program. They also recognized that a system that gauges the program's effectiveness can be used to make appropriate adjustments that could reduce the burden of the entire testing program.

Burden on Marine Industry

Many other commenters expressed concern about the burden that MIS will place upon the marine industry.

Response: The Coast Guard recognizes that the implementation of the entire drug and alcohol program creates additional work for the marine industry, but is necessary in working toward a drug and alcohol-abuse free transportation environment which inherently would enhance safety. The additional burden of MIS, which will allow the Coast Guard to monitor the drug and alcohol program, is relatively small compared to the benefits. Moreover, in response to the comments received, this final rule makes changes to the NPRM, as discussed below, that greatly simplify the MIS form and thereby reduce the burden on marine employers from what was originally proposed. Also, since many marine employers use consortiums to assist with their compliance with the drug testing requirements, the consortiums will have access to the data required by MIS and will submit it on behalf of the employers, greatly reducing the burden of individual employers.

Duplicate Collection of Information

Some commenters indicated that the proposed MIS rule would duplicate the submission of some drug testing information. The Coast Guard already receives all results from serious marine incident testing and receives positive test results on persons holding licenses, certificates of registry (CORs), and merchant mariner's documents (MMDs).

Response: The Coast Guard collects information on chemical testing whenever an individual holding a license, COR, or MMD fails a chemical test and whenever testing is conducted in connection with a serious marine incident as part of a statutorily mandated investigation. MIS cannot substitute for collection of chemical testing information in these matters which must be collected in connection with a particular incident rather than as part of an annual statistical report. Relieving employers from the burden of including this information in MIS would limit the completeness of the data. Excluding such information from MIS would require employers to sort through drug testing records to exclude results from serious marine incident testing and positive results on individuals with licenses, CORs, or MMDs. This would increase the amount of time required to complete the form. Including the information on the MIS form will allow DOT to readily merge and compare the information to other modal data.

Source of Data

One comment recommended that the rule require the submission of the data from the laboratories, rather than the marine employer.

Response: As indicated in the preamble to the MIS NPRM, laboratories could only provide laboratory analysis data. The scope of information needed by MIS originates at several sources. However, it all would be readily available to the employer. Thus, the employers remain the appropriate source for submission of comprehensive drug testing data.

Simplify Form

Several comments indicated that the proposed MIS form appeared unwieldy and ominous.

Response: The form has been amended to reflect the comments received. As a result, the new form is shorter and more simple to complete than the one proposed. It should be noted that the lengthiest part of the form is the instructions. Detailed instructions are necessary to ensure that the form is completed correctly. The first submission will probably require a complete reading of the instructions for familiarity with the form. However, after the first submission, it is anticipated that employers will be acquainted with the form and subsequent submissions should not necessitate a complete review of the instruction pages.

Provide a Short Form

One commenter suggested the use of an alternate, simplified form that could be used when all drug tests for the reported year are negative.

Response: The Coast Guard prepared a separate "short form" in response to this idea. However, when the draft "short form" was compared to the revised regular form, it was only one information block shorter than the revised regular form. That information block was for specimens verified positive for more than one drug. The Coast Guard has determined that with the simplification of the regular form, the "short form" is not necessary.

Type of Drug Irrelevant for Negative Results

One comment pointed out that the proposed 46 CFR 16.500(b)(5) incorrectly required information on the type of drug for negative tests.

Response: The Coast Guard has corrected this error in the final rule.

Category of Crewmembers

Several commenters, including consortiums, indicated that an inordinate amount of time and effort would be required to separate crewmembers into the three proposed categories of crewmembers: licensed, unlicensed, and other.

Response: In consideration of reducing the burden that MIS will impose on the marine industry, the Coast Guard has consolidated the requirement into one category: Crewmembers. This consolidation has greatly reduced the complexity of the form.

Pre-employment Testing by Unions

Some commenters indicated that as marine employers they rely on maritime unions to conduct their pre-employment tests. As a result, they only hire crewmembers with negative tests and have no knowledge of the number of mariners who were pre-employment tested or the number who tested positive.

Response: The Coast Guard is aware of the pre-employment testing methods that many marine employers follow. Marine employers need only submit pre-employment testing data regarding the testing they conduct. The Coast Guard will be careful with conclusions it might draw from pre-employment testing data, knowing the results submitted by marine employers do not reflect pre-employment testing done by unions.

Training

Several comments questioned the need for information on refresher or recurrent training when it is not required by Coast Guard regulations.

Response: The Coast Guard agrees with these commenters and has removed the requirement for reporting refresher training. However, the requirement for reporting initial training is retained.

Combined Report for Consortiums

One comment recommended that consortiums submit information on a combined basis for all of their clients rather than on behalf of each individual marine employer.

Response: The Coast Guard agrees with this recommendation. Rather than receive many reports from each consortium, which will have to be individually entered into the Coast Guard's data base, the receipt of one

VOL 58 ISS 245 DEC 23 1993 UMI

comprehensive report from each consortium will result in a lessened paperwork burden for both the Coast Guard and the industry. However, in order for the Coast Guard to know which marine employers have actually submitted a report, the final rule continues to require that each marine employer notify the Coast Guard of the consortium that will submit the employer's data. Since the consortium will only need to submit one comprehensive report, a requirement has been added for the consortium to also submit a list of marine employers whose data is included in the report.

Survey

Several comments suggested that the Coast Guard should conduct an annual survey of a percentage of marine employers instead of requiring a report from each one.

Response: In order to ensure the most accurate accounting of its drug and alcohol testing program, the Coast Guard is requiring that all employers required to implement a chemical testing program submit an MIS report. Through efforts to impose implementation of the Coast Guard's drug testing program, it has become evident that obtaining information about the testing activities of each individual employer is essential. This information will assist the Coast Guard in monitoring the drug testing program in order to measure its effectiveness. The Coast Guard must obtain a reliable information base of certain vital statistics, such as the size of the regulated population, testing rates, and positive rates, before program adjustments or regulatory changes can be made.

As the MIS data is collected and produces a strong information base, the Coast Guard will consider the possibility of changing these requirements in order to reduce reporting burdens. The Coast Guard anticipates that most small employers will be participating in a consortium, therefore they will not have to submit MIS data. If this is verified, the Coast Guard will consider exempting smaller employers who do not report via consortiums as well as the possibility of surveying smaller employers. The Coast Guard anticipates publishing a Federal Register notice after at least a few years of MIS data has been collected to seek comment on whether modifications concerning who is required to report are appropriate.

Conclusions on Effectiveness

One comment questioned how the Coast Guard will be able to draw statistically valid conclusions on the data received from Coast Guard required drug testing, when the industry actually conducts additional, more strict testing under its own authority.

Response: The Coast Guard will be aware of this fact when analyzing the data received and will draw conclusions accordingly. It should be noted that generally only larger employers have the resources to conduct a separate drug testing program from the federally-required program.

Delay Submission Deadline

One comment recommended that the proposed February 15 submission date would not allow sufficient time to compile and submit the MIS report.

Response: The Coast Guard agrees. The required submission date has been changed to March 15.

Electronic Filing

Some commenters recommended that an electronic filing option be considered by the Coast Guard.

Response: The Coast Guard agrees that electronic filing could reduce the paperwork burden for some marine employers. However, at the present time the Coast Guard is not equipped or prepared to receive the MIS data electronically. The Coast Guard will pursue this recommendation and, if feasible, issue a document addressing this matter in a future edition of the Federal Register.

Foreign Vessels/Waters

One commenter was unclear as to the applicability of the MIS rules to foreign-flag vessels or to U.S.-flag vessels operating in foreign waters.

Response: MIS will be included in 46 CFR part 16. Since that part is not applicable to foreign-flag vessels, those marine employers will not be required to submit MIS reports. Because part 16 is not applicable with respect to any person onboard U.S.-flag vessels operating in waters that are subject to the jurisdiction of a foreign government until January 2, 1995, initially, MIS reports pertaining to persons onboard such vessels will not be required (46 CFR 16.207). The Coast Guard will publish any necessary amendment on or before December 1, 1994, to resolve the applicability of part 16 to such vessels.

Billets

Several commenters questioned the meaning of the term "billet" and further mentioned difficulties determining how many crewmembers would have to be reported since many crewmembers could fill a single "billet".

Response: The Coast Guard has removed the term "billet" from this final rule. Also, as mentioned earlier, there will only be one category of covered employees: crewmembers. Therefore, the term "covered employees" as the term means crewmembers as defined at 46 CFR 16.105. This rule merely requires a count of employees that were tested or were subject to testing under Coast Guard regulations and prospective employees that were pre-employment tested by marine employers.

Multimodal Employees

Some commenters expressed concern over the difficulty, if not impossibility, of reporting the number of crewmembers also subject to the drug testing requirements of another DOT operating administration, citing the possibility of an employee holding a Federal Aviation Administration license to fly an airplane for recreational purposes.

Response: This rule does not require employees to report information on the recreational activities of employees. Neither is its intent to require an extensive search of each employee's background to determine if they work for another employer under another DOT agency's jurisdiction. Employers are required to determine whether any of their employees are covered by the regulations of more than one DOT agency due to activities that employee undertakes in the course of his or her employment duties for that employer. If an employer hires an individual to drive a truck and operate a vessel, that employer would be covered by both Coast Guard and Federal Highway Administration (FHWA) regulations. The employer would include that employee in the FHWA column in the table requesting that information. This information will assist DOT in determining the extent to which employees must comply with regulations issued by multiple DOT agencies, and help DOT design policy accordingly.

Another area of potential confusion regarding multimodal employees involves the submission of MIS data to the appropriate agency. For pre-employment and random testing, MIS data on an employee should be reported to whichever operating administration covers more than 50% of that employee's function. For post-accident and reasonable cause testing, however, the reportability of MIS data should be determined by the function the employee was performing at the time of the accident or incident. The MIS reporting requirements of the Coast

Guard and the other operating administrations within DOT do not alter the existing responsibility of employers or prospective employers of individuals holding licenses, merchant mariner's documents, or certificates of registry, to report that an individual has failed a chemical test for dangerous drugs to the nearest Coast Guard Officer in Charge, Marine Inspection in accordance with 46 CFR 16.201(c). Further, marine employers continue to be responsible for submitting all post-accident chemical testing results in accordance with 46 CFR 16.240.

Refusals

Some commenters recommended that the actions taken as a result of a refusal to test should not be required to be reported.

Response: The Coast Guard agrees with this comment and this requirement has been deleted from the final rule language.

Annual Costs

One comment requested that an additional data item be required to be submitted: the annual cost of drug testing.

Response: The Coast Guard would be interested in receiving this information. However, in order to keep the burden of MIS to a minimum, the Coast Guard is committed to requiring only the basic data elements needed for forwarding to DOT. Marine employers desiring to submit this information to the Coast Guard are certainly free to do so at any time.

Multiple Drugs

One commenter questioned the need to submit data concerning the number of positive test results for more than one drug.

Response: DOT requires this data to obtain information on the prevalence of multi-drug use which can be used to determine if testing methodologies should be altered.

Regulatory Assessment

This final rule is part of a package of alcohol and drug testing rules that is a significant regulatory action under Executive Order 12866. It has been reviewed under the Order. It is considered to be significant under the DOT regulatory policies and procedures (44 FR 11304; February 26, 1979) because of substantial public interest in and importance of the chemical testing program. The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Assessment is unnecessary. This revision to 46 CFR part 16 creates standard reporting requirements for marine employers to submit data on their drug and alcohol testing programs. The Coast Guard will collect this data in order to assess the effectiveness of the maritime industry drug and alcohol testing programs.

This amendment will cause minimal changes in maritime industry compliance burdens and costs. This rule requests data that marine employers already may be collecting or to which they have easy access. Instructional materials and guidance being developed by DOT will also reduce the burden of compliance with the regulations.

Small Entities

This final rule requires submission of data that marine employers already may be collecting. Instructional materials and guidance being developed by DOT also will reduce the burden of compliance with the regulations. The form to be used in submitting the required data has been simplified in response to comments to ensure a minimal impact on small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains collection of information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). See common preamble on status of Paperwork Act approval.

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The authority to require programs for chemical drug and alcohol testing of commercial vessel personnel has been committed to the Coast Guard by Federal statutes. This final rule does, therefore, preempt State and local regulations regarding drug testing programs requiring the testing of employees onboard U.S. vessels.

Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, the rule is categorically excluded from further environmental documentation. This is an administrative regulation which clearly has no environmental impacts.

List of Subjects in 46 CFR Part 16

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation

For the reasons set out in the preamble, the Coast Guard amends 46 CFR part 16 as follows:

PART 16—CHEMICAL TESTING

1. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301 and 7701; 49 CFR 1.46.

2. Subpart E is added to read as follows:

Subpart E—Management Information System

§ 16.500 Management information System requirements.

(a) All marine employers shall collect the drug and alcohol testing program data identified in this section for each calendar year, January 1 to December 31. Marine employers shall submit this data to the Coast Guard by March 15 of the following year. The data shall be submitted to Commandant (G–MMI), 2100 Second Street, SW, Washington, DC, 20593–0001.

(b) All marine employers shall collect the following drug and alcohol testing program data:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the anti-drug rules of more than one DOT agency because of the nature of their assigned duties, identified by each agency.

(3) Number of drug and alcohol tests by test type. The drug test types are pre-employment, random, post-accident and reasonable cause. The alcohol test types are post-accident and reasonable cause.

(4) Number of positive drug test results verified by a Medical Review Officer (MRO) by test type and type of drug(s). Number of alcohol tests resulting in a blood alcohol concentration of .04 percent by weight or more by test type.

(5) Number of negatives reported by a MRO by type of test.

(6) Number of applicants denied employment based on a positive drug test result verified by an MRO.

(7) Number of marine employees with a positive drug test result verified by an MRO, who were returned to duty in a covered position, having met the requirements of § 16.370(d) and part 5 of this chapter.

VOL 58 ISS 245 DEC 23 1993 UMI

(8) Number of marine employee drug test results that MROs verify positive for more than one drug or combination of drugs.

(9) Number of covered employees who refused to submit to a drug test required under this part.

(10) Marine employee training and education information.

(c) The data listed in paragraph (b) of this section must be submitted on Form CG–6573, which is reproduced in appendix B to this part and may be obtained at any Officer in Charge, Marine Inspection. All items on the form must be completed. Data may be submitted by consortia or other employer representatives on behalf of a marine employer. Reports submitted in this manner may be on one form, but must also be accompanied by a list of marine employers for whom the report is submitted. Unless submitting the report on their own behalf, each marine employer must notify the Coast Guard (Commandant (G-MMI)) in writing of the consortium or representative that will submit the employer's data, and remains responsible for ensuring that the data is submitted and is accurate.

(d) Marine employers that conduct operations regulated by another Department of Transportation Operating Administration must submit appropriate data to that Operating Administration for those employees covered by that Operating Administration's regulations.

2. Appendix A is added and reserved and appendix B is added to part 16 read as follows:

Appendix A—[Reserved]

BILLING CODE 4910-14-P

APPENDIX B - DRUG AND ALCOHOL TESTING MANAGEMENT INFORMATION SYSTEM (MIS) DATA COLLECTION FORM

INSTRUCTIONS

This reporting form includes four parts. Collectively, these parts address the data elements required in the United States Coast Guard (USCG) and the U.S. Department of Transportation (DOT) drug and alcohol testing regulations. The form is preceded by instructions which outline and explain the information requested and indicate the probable sources for this information. The four sections, the page number for the instructions, and the page location on the reporting form are:

Section	Instructions Page	Reporting Form Page
A. MARINE EMPLOYER INFORMATION	I	1
B. COVERED EMPLOYEES	I	1
C. MARINE EMPLOYEE DRUG TESTING INFORMATION	II-IV	2
D. MARINE EMPLOYEE ALCOHOL TESTING INFORMATION	IV-V	2

Page 1 — MARINE EMPLOYER INFORMATION (Section A) requires the company name for which the report is done and a current address. Below this, a signature, typed or printed name, title, date, and current telephone number (including the area code) are required from the person certifying the correctness and completeness of the form.

Page 1 — COVERED EMPLOYEES (Section B) requires a count of employees (including prospective employees who were pre-employment tested) who were subject to testing under the USCG/DOT drug testing regulations. The most likely source for this information is the employer's personnel department. The count should include all covered employees working for the company during the reported year.

Additional information must be completed if your company employs personnel who perform duties covered by the drug and alcohol rules of more than one DOT operating administration. NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION, requires that you identify the number of employees under the appropriate additional operating administration(s).

The following instructions are to be used as a guide for completing the drug testing information in the USCG/DOT Drug and Alcohol Testing MIS Data Collection Form. A sample testing results table with a narrative explanation is provided on pages II-III as an example to facilitate the process of completing the form correctly.

VOL 58 ISS 245 DEC 23 1993 UMI

Section C is used to summarize the drug testing results for applicants and covered employees. There are four categories of testing to be completed. Items necessary to complete this table include:

1) the number of specimens collected in each testing category;
2) the number of specimens tested which were reported negative and verified positive for any drug(s); and
3) individual counts of those specimens which were verified positive for each of the five drugs.

Do not include results of quality control samples submitted to the testing laboratory in the table.

A sample table with detailed instructions is provided.

Page 2

MARINE EMPLOYEE DRUG TESTING INFORMATION (Section C) requires information for drug testing by category of testing. Each part of this table must be completed for each category of testing. These numbers do not include refusals for testing. A sample of the table with example numbers is presented on page III.

Three types of information are necessary to complete the left side of this table. The first blank column with the heading "NUMBER OF SPECIMENS COLLECTED," requires a count for all collected specimens by testing category. It should not include refusals to test. The second blank column with the heading "NUMBER OF SPECIMENS REPORTED NEGATIVE," requires a count for all completed tests by testing category that were reported negative by your Medical Review Officer (MRO).

The third blank column with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS," refers to the number of specimens provided by job applicants or employees that were verified positive. "Verified positive" means the results were verified by your MRO.

The right hand portion of this table, with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG," requires counts of positive tests for each of the five drugs for which tests were done, i.e., marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines. The number of specimens verified positive for each drug should be entered in the appropriate column for that drug type. Again, "verified positive" refers to test results verified by your MRO.

If an applicant or employee tested positive for more than one drug; for example, both marijuana and cocaine, that person's positive results would be included once in each of the appropriate columns (marijuana and cocaine).

SAMPLE MARINE EMPLOYEE TEST RESULTS TABLE

The following example is for Section C, MARINE EMPLOYEE DRUG TESTING INFORMATION, and summarizes pre-employment testing results. The procedures detailed here also apply to the

other categories of testing in Section C which require you to summarize testing results for employees.

A Urine specimens were collected for 157 job applicants for covered positions during the reporting year. This information is entered in the first blank column of the table in the row marked "PRE-EMPLOYMENT".

B The MRO for your company reported that 153 of those 157 specimens from applicants were negative (i.e., no drugs were detected). Enter this information in the second blank column of the table in the row marked "PRE-EMPLOYMENT".

C The MRO for your company reported that 4 of those 157 specimens from applicants were positive (i.e., a drug or drugs were detected). Enter this information in the third blank column of the table in the row marked "PRE-EMPLOYMENT".

D With the 4 specimens that tested positive, the following drugs were detected:

Specimen	Drugs
#1	Marijuana
#2	Amphetamines
#3	Marijuana and Cocaine (Multi-drug specimen)
#4	Marijuana

Marijuana was detected in three (3) specimens, cocaine in one (1), and amphetamines in one (1). This information is entered in the columns on the right hand side of the table under each of these drugs. Two different drugs were detected in specimen #3 (multi-drug) so an entry is made in both the marijuana and the cocaine column for this specimen.

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS REPORTED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
PRE-EMPLOYMENT	157	153	4	3	1	0	0	1

A B C D

Note that adding up the numbers for each type of drug in a row ("NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG") will not always match the number entered in the third column, "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS". The total for the numbers on the right hand side of the table may differ from the number of specimens testing positive since some specimens may contain more than one drug.

VOL 58 ISS 245 DEC 23 1993 UMI

Page 2 **Below the table for MARINE EMPLOYEE DRUG TESTING INFORMATION is a box with the heading "Number of persons denied a position as a covered employee following a verified positive drug test". This is simply a count of those persons who were not placed in a covered position because they tested positive for one or more drugs.**

Page 2 **Also following the table for MARINE EMPLOYEE DRUG TESTING INFORMATION, you must provide counts for employees who have tested positive and have returned to work in a covered position during the reported period. This information should be available from the personnel office and/or drug program manager.**

Page 2 **SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG requires information on specimens that contained more than one drug. First, indicate the NUMBER OF VERIFIED POSITIVES. Then specify the combination of drugs reported as positive by placing the same number in the appropriate columns. For example, if marijuana and cocaine were detected in 3 specimens, then you would write "3" as the number of verified positives and "3" in the columns for "Marijuana" and "Cocaine". If marijuana and opiates were detected in 2 specimens, then you would write "2" as the number of verified positives and "2" in the columns for "Marijuana" and "Opiates".**

Page 2 **EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST requires a count of the NUMBER OF COVERED EMPLOYEES who refused to submit to a random or non-random (pre-employment, post-accident, or reasonable cause) drug test required under the USCG regulation.**

Page 2 **DRUG AND ALCOHOL TRAINING requires information on the number of covered employees and supervisory personnel who have received the required drug and alcohol training during the current reporting period.**

The following instructions are to be used as a guide for completing the alcohol testing information for the USCG/DOT Drug and Alcohol Testing MIS Data Collection Form. A sample testing results table with a narrative explanation is provided on page v as an example to facilitate the process of completing the form correctly.

Section D is used to summarize the alcohol testing results for covered employees. There are two categories of testing to be completed in this table. Items necessary to complete this table include:

1) the number of alcohol tests performed for each testing category; and
2) the number of test results which were equal to or greater than 0.04.

A sample table with detailed instructions is provided.

Page 2 **MARINE EMPLOYEE ALCOHOL TESTING INFORMATION (Section D) requires information for post-accident and reasonable cause alcohol testing. These numbers do not include refusals for testing. A sample table with example numbers is presented on page v.**

Two types of information are necessary to complete this table. The first blank column with the heading "NUMBER OF TESTS" requires a count of all alcohol tests performed for each testing category.

The second blank column with the heading "NUMBER OF TEST RESULTS EQUAL TO OR GREATER THAN 0.04" requires a count of positive tests.

SAMPLE MARINE EMPLOYEE TEST RESULTS TABLE

The following example is for Section D, MARINE EMPLOYEE ALCOHOL TESTING INFORMATION, which summarizes post-accident and reasonable cause testing results.

A **Tests were conducted on 6 employees in covered positions during the reporting year. This information is entered in the first blank column of the table in the row marked "POST-ACCIDENT". The test results for these 6 employees were the following:**

Employee	Results
#1	0.06
#2	0.00
#3	0.00
#4	0.04
#5	0.00
#6	0.02

B **The test results for 2 of the employees in covered positions were equal to or greater than 0.04. Enter this information in the second blank column of the table in the row marked "POST-ACCIDENT".**

TYPE OF TEST	NUMBER OF TESTS	NUMBER OF TEST RESULTS EQUAL TO OR GREATER THAN 0.04
POST ACCIDENT	6 → A	2 → B
REASONABLE CAUSE	10	1

Please note that the sample data collection form also has information for REASONABLE CAUSE testing on line two. For REASONABLE CAUSE testing, 10 tests were conducted and 1 was equal to or greater than 0.04.

VOL 58 ISS 245 DEC 23 1993 UMI

USCG DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM OMB No. 2115-0003

YEAR COVERED BY THIS REPORT: 19__

A. MARINE EMPLOYER INFORMATION

Company _____

Address _____

_____

_____

I, the undersigned, certify that the information provided on this United States Coast Guard Drug and Alcohol Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

_____ Signature _____ Printed Name _____ Date

_____ Title _____ Phone Number

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of $10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF USCG COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FAA	FHWA	FRA	FTA	RSPA
Crewmembers						

READ BEFORE COMPLETING THE REMAINDER OF THIS FORM:

1. All items refer to the current reporting period only (for example, January 1, 1994 - December 31, 1994).
2. This report is only for testing REQUIRED BY THE UNITED STATES COAST GUARD (USCG):
   - Results should be reported only for employees in COVERED POSITIONS as defined by the USCG drug and alcohol testing regulations.
   - The information requested should only include testing for: marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines using the standard procedures required by DOT regulation 49 CFR Part 40; and alcohol using the standard procedures required by USCG regulations 33 CFR Part 95 and 46 CFR Parts 4 and 16.
3. Information on refusals for testing should only be reported in the table entitled "EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST". Do not include refusals for testing in other sections of this report.
4. Do not include the results of any quality control samples submitted to the testing laboratory in any of the tables.
5. Complete all items; DO NOT LEAVE ANY ITEM BLANK. If the value for an item is zero (0), place a zero (0) on the form.

The United States Coast Guard estimates that the average burden for this report form is 31 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant, U.S. Coast Guard Headquarters (G-MMI); 2100 2nd St., S.W.; Washington, D.C. 20593-0001; OR Office of Management and Budget, Paperwork Reduction Project (2115-0003); Washington, D.C. 20503.

DEPT. OF TRANSP., USCG, CG-5879 (11-93) 1

REVERSE OF CG-5879 (11-93)

This part of the form requires information on VERIFIED POSITIVE and REPORTED NEGATIVE drug tests. These are the results that are reported to you by your Medical Review Officer (MRO).

C. MARINE EMPLOYEE DRUG TESTING INFORMATION

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS REPORTED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
PRE-EMPLOYMENT								
RANDOM								
POST-ACCIDENT								
REASONABLE CAUSE								

Number of persons denied a position as a covered employee following a verified positive drug test:	
Number of marine employees with a positive drug test result verified by an MRO, who were returned to duty in a covered position, having met the requirements of 46 CFR 16.370 (d) and 46 CFR Part 8:	

SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG					
NUMBER OF VERIFIED POSITIVES	Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines

EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST	Number
Covered employees who refused to submit to a random drug test required under USCG regulations:	
Covered employees who refused to submit to a non-random drug test required under USCG regulations:	

DRUG AND ALCOHOL TRAINING	Number
Covered employees who have received initial training on the consequences, manifestations, and behavioral cues of drug and alcohol use as required by USCG drug and alcohol testing regulations:	
Supervisory personnel who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug and alcohol use as required by USCG drug and alcohol testing regulations:	

D. MARINE EMPLOYEE ALCOHOL TESTING INFORMATION

TYPE OF TEST	NUMBER OF TESTS	NUMBER OF TEST RESULTS EQUAL TO OR GREATER THAN 0.04
POST-ACCIDENT		
REASONABLE CAUSE		

2

Dated: December 14, 1993.

J.W. Kime,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 93-30934 Filed 12-17-93; 8:45 am]

BILLING CODE 4910-14-P

VOL
58

ISS
245

DE
23

1993

UMI

federal register

Thursday
December 23, 1993

Part VIII

The President

Proclamation 6643—National Law Enforcement Training Week, 1994

VOL
58
ISS
2
4
5
DE
23
1993
UMI

Federal Register
Vol. 58, No. 245
Thursday, December 23, 1993

Presidential Documents

Title 3—

The President

Proclamation 6643 of December 21, 1993

National Law Enforcement Training Week, 1994

By the President of the United States of America

A Proclamation

One of the most essential and challenging jobs in America belongs to our law enforcement officers. The men and women who safeguard our lives and property every hour of every day are true heroes. They must be physically fit, well-versed in criminal law and procedure, skilled in the use of weapons and other technologies, adept at communicating, leading, and problem-solving, and able to make split-second decisions in life-or-death situations. There is no time to look up answers in a textbook out on the street; an officer's education and training make all the difference.

High-quality instruction and preparation are the foundations of successful law enforcement. As the problem of crime grows and criminals become more sophisticated, knowledge of law enforcement skills must enable officers to bring every available tool to bear to prevent crime and to apprehend those who, with no regard for the rights of others, defy our laws. It is no longer sufficient for officers to know how to use a car, a gun, and a fingerprint pad; today's professionals must be proficient in disciplines as complicated and diverse as computer technology, chemical analysis, genetic fingerprinting, sociology, and psychology.

On this occasion, we salute the men and women who prepare our law enforcement officers for duty. The expertise and education instilled by those who teach and train law officers make our criminal justice system more efficient and increase public confidence in government's ability to protect its citizens.

Since successful law enforcement depends on community involvement, law enforcement education for the broader public should also be recognized and encouraged. From field trips to town meetings to university courses, teaching aimed at more general audiences can better capture the interest of citizens and motivate young people to consider careers in law enforcement.

We, as a Nation, offer our heartfelt gratitude and support to those who instruct and inspire our officers. We encourage officers and other Americans to avail themselves of the many law enforcement training opportunities available to them.

The Congress, by Senate Joint Resolution 75, has designated January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week," and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim January 2, 1994, through January 8, 1994, as National Law Enforcement Training Week. I urge all Americans to observe this week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens and to stimulate and encourage our Nation's youth to recognize the vital significance of law enforcement in America.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of December, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 93-31536
Filed 12-21-93; 4:48 pm]
Billing code 3195-01-P

Reader Aids

Federal Register
Vol. 58, No. 245
Thursday, December 23, 1993

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-3447
Code of Federal Regulations	
Index, finding aids & general information	523-5227
Printing schedules	523-3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230
The United States Government Manual	
General information	523-5230
Other Services	
Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, and Federal Register finding aids. 202-275-1538, or 275-0920

FEDERAL REGISTER PAGES AND DATES, DECEMBER

63277-63518.....1
63519-63884.....2
63885-64100.....3
64101-64364.....6
64365-64454.....7
64455-64668.....8
64669-64870.....9
64871-65098.....10
65099-65276.....13
65277-65526.....14
65527-65656.....15
65657-65864.....16
65865-66246.....17
66247-67302.....20
66303-67624.....21
67625-68014.....22
68015-68290.....23

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
11.....64871

3 CFR
Proclamations:
6320 (See USTR notice of Dec. 14).....65424
6352 (See USTR notice of Dec. 14).....65424
5365 (See Proc. 6641).....66867
6515 (See Proc. 6641).....66867
6030 (See Proc. 6641).....66867
5923 (Superseded in part by Proc. 6641).....66867
6630.....63277
6631.....63279
6632.....63883
6633.....64363
6634.....64667
6635.....65279
6636.....65525
6637.....65527
6638.....65529
6639.....65865
6640.....65867
6641.....66867, 68191
6642.....67625
6643.....68288
Executive Orders:
3406 (Revoked in part by PLO 7020).....64166
12163 (See EO 12884).....64099
12884).....64099
12543 (See notice of December 2).....64361
12544 (See notice of December 2).....64361
12748 (Amended by 12883).....63281
12829 (Amended by EO 12885).....65863
12865 (See DOT final rule of Dec. 10).....64904
12883.....63281
12884.....64099
12885.....65863
Administrative Orders:
Memorandums:
December 1, 1993.....64097
December 15, 1993.....67263, 68191
Presidential Determinations:
No. 94-4 of November 19, 1993.....63519
No. 94-5 of December 3, 1993.....65277
No. 94-6 of December 6, 1993.....65099
Notices:
December 2, 1993.....64361

5 CFR
52.....64365
293.....65531
351.....65531
430.....65531
432.....65531
451.....65531
511.....65531
530.....65531
531.....65531
536.....65531
540.....65531
575.....65531
591.....65531
595.....65531
771.....65531
831.....64366, 65243

7 CFR
1.....64353
54.....64669
68.....68015
75.....64101
301.....64102, 67627
330.....66247
400.....64872, 67303
401.....64873, 67730
430.....65249
443.....67744
905.....65536
920.....65101
955.....64103
981.....64105
987.....64103
989.....64106, 64107
997.....64109
998.....67304
1001.....63283
1002.....63283
1004.....63283
1005.....63283
1007.....63283
1011.....63283
1030.....63283
1033.....63283
1036.....63283
1040.....63283
1044.....63283
1046.....63283
1049.....63283
1065.....63283
1068.....63283
1075.....64110
1079.....63283
1093.....63283
1094.....63283
1096.....63283
1097.....63283
1098.....63283

1090.....63263
1106.....63263
1109.....63263
1124.....63263
1126.....63263
1131.....63263
1135.....63263
1138.....63263
1220.....64670
1421.....66016
1427.....65102
1464.....66017
1610.....66250
1703.....67306
1716.....66260
1714.....66260
1735.....66250
1737.....66250
1744.....66250
1751.....66250
1753.....66250
1946.....65871
1951.....64455
1980.....65871
3416.....65646

Proposed Rules:
271.....64172
301.....66304
319.....66304, 66305
321.....66305
704.....66306
723.....67376
810.....65939
930.....66085
981.....64175
985.....67378
1001.....67380
1002.....67380
1004.....67380
1005.....67380
1006.....67380
1007.....65135, 67380
1011.....67380
1012.....67380
1013.....67380
1030.....67380
1032.....67380
1033.....67380
1036.....67380
1040.....64176, 67380
1044.....67380
1046.....67380
1049.....67380
1050.....67380
1064.....67380
1065.....67380
1068.....67380
1075.....67380
1076.....67380
1079.....67380
1093.....67380
1094.....67380
1096.....67380
1099.....67380
1106.....67380
1108.....67380
1124.....67380
1126.....67380
1131.....67380, 67703
1134.....67380
1135.....67380
1137.....67380
1138.....67380
1139.....67380
1250.....66839
1410.....66308
1525.....65941

8 CFR
264.....66084

Proposed Rules:
210a.....64695

9 CFR
94.....65103, 66247
130.....67647
156.....67647
317.....66075
318.....63521, 65254
381.....65254
401.....65254

Proposed Rules:
71.....67708
92.....67709

10 CFR
1.....64110
2.....67657
19.....67657
20.....64110, 67657
30.....64110, 67657
31.....67657
32.....67657
34.....67657
35.....67657
36.....67657
39.....67657
40.....64110, 67657
50.....67657
61.....67657
70.....64110, 67657
72.....67657
73.....64110
835.....65458, 67441

Proposed Rules:
430.....67710
710.....64509

11 CFR

Proposed Rules:
100.....64190
102.....65559
113.....64190

12 CFR
202.....65657
204.....64112
265.....65539
303.....64455
332.....64458
333.....64460
360.....67662
362.....64462
611.....67644
613.....67644
614.....67644, 67665
620.....67664
621.....67664
627.....67644

Proposed Rules:
3.....66065
25.....67466
211.....65560
226.....67496
230.....64190, 65293
330.....64521
345.....67466
510.....64695
563e.....67466
611.....64442, 66069
618.....66069
620.....66069

13 CFR
121.....65281
123.....64672

14 CFR
39.....63523, 63524, 64112, 64114, 64487, 64874, 64875, 64877, 65104, 65115, 65282, 65283, 65662, 65886, 65890, 65894, 65895, 66268, 66270, 66271, 66273, 66274, 66276, 67306, 67307, 67310, 67311, 67685, 67667, 68025, 68026, 68028
71.....63293, 63885, 63886, 64116, 64117, 64444, 64488, 64879, 64880, 64880, 65897, 65900, 67668, 67669, 67770, 67771
95.....65901
97.....65904, 65905
121.....68194, 68198
158.....64118

Proposed Rules:
25.....64700, 67716
31.....64450
33.....63902
39.....63305, 63307, 64198, 64199, 64200, 64386, 64705, 64707, 64708, 65567, 65569, 65943, 67381, 67723
71.....63308, 63309, 63903, 63904, 63905, 63906, 64387, 64525, 64710, 65845, 65846, 65947, 65948, 65949, 65950, 67725, 67726, 67727, 67728, 67909
73.....63908
91.....65950

15 CFR
770.....65540
771.....64674
772.....65540
776.....68029
786.....65540
799.....64674
943.....65664
946.....64068

Proposed Rules:
303.....65294
935.....65686
936.....65686
942.....65686
944.....65686
946.....64202

16 CFR
228.....64881
1000.....64119
1210.....67671

Proposed Rules:
307.....63488
309.....64914
1303.....63311

17 CFR
200.....64120
204.....64369
230.....65541, 67312
239.....65541
240.....67729
270.....64353, 67729
274.....67729

Proposed Rules:
200.....67729
229.....67729
230.....68074
239.....67729, 68074
240.....67729
270.....67729, 68074
274.....67729, 68074

18 CFR
141.....65542

Proposed Rules:
Ch. 1.....66309
141.....63312
341.....66310
352.....66310
388.....63312

19 CFR
4.....67312
123.....67312
201.....64120

Proposed Rules:
151.....65135
142.....65135
210.....64711

20 CFR
10.....68031
404.....64121, 64882, 64883, 64886, 64890, 65243
416.....63887, 63888, 64883, 64892, 64893
702.....68031

Proposed Rules:
404.....64207, 67574
416.....64207

21 CFR
5.....64489
16.....66514
100.....64123
176.....65284
177.....66546
178.....64894, 67318
310.....65452
358.....65452
510.....63890
520.....65664
522.....65285
558.....63890
900.....67558, 67565
1220.....64137
1270.....65514

Proposed Rules:
1.....67444
5.....65139
25.....65139
100.....64208
170.....65139
171.....65139
174.....65139
179.....64525
201.....67444
501.....67444
701.....67444
801.....67444
812.....64208
813.....64209
820.....64353

22 CFR
89.....65118

23 CFR
500.....63442, 64374

625.....64895
626.....63422, 64374
655.....65084

Proposed Rules:
420.....67510
511.....67510
657.....65830
658.....65677

24 CFR
200.....67671
219.....64138
246.....64032
266.....64032
905.....64141
970.....64141

Proposed Rules:
300.....64713
310.....64713
390.....64713
3500.....64066

25 CFR
262.....65246

26 CFR
1.....64897, 67675, 67684, 67689, 68033
31.....68033
602.....68033

Proposed Rules:
1.....66310, 67744, 68091
301.....63541, 68092

27 CFR
9.....65123

Proposed Rules:
4.....65295

28 CFR
2.....65547
544.....65850, 65851

Proposed Rules:
2.....65571, 65572

29 CFR
402.....67594
2619.....65548, 66277
2621.....65551
2676.....65548

30 CFR
50.....63528
70.....63528
71.....63528
90.....63528
207.....64899
208.....64899
210.....64899
216.....64899
218.....64899
219.....64899
220.....64899
228.....64899
229.....64899
243.....64899
925.....64142
931.....65907
936.....64374
938.....64151

Proposed Rules:
253.....66320
700.....63316
701.....63316
705.....63316
706.....63316
715.....63316
716.....63316
785.....63316
825.....63316
870.....63316
906.....64210
914.....64212, 65679
934.....64528
944.....64529
950.....65681

31 CFR
317.....63529
590.....64904

33 CFR
95.....63293
706.....64678

Proposed Rules:
2.....63542
118.....65956

33 CFR
1.....65665
3.....67909
66.....64153
80.....65667
100.....66279
110.....65140, 65285
117.....65668
155.....67988
165.....65669, 66279
334.....64383

Proposed Rules:
117.....66321, 66322, 66323, 67745, 68093
156.....63544, 65683
157.....65298, 65683
165.....65684
166.....65686
167.....65686

34 CFR
648.....65838

Proposed Rules:
76.....65856
99.....65298
296.....65856
298.....67383
647.....63870

36 CFR

Proposed Rules:
6.....65141
292.....65300
1220.....64915

37 CFR
Ch. III.....67690
1.....64154, 64155
2.....64154
5.....64155
10.....64154, 64155
304.....63294

38 CFR
2.....67691
21.....63529, 67691

Proposed Rules:
3.....65956

39 CFR

Proposed Rules:
111.....64918, 65959, 67747

40 CFR
35.....63876
52.....64155, 64157, 64158, 64161, 64678, 65288, 65930, 65933, 65934, 66280, 66282, 66283, 66285, 66286, 67324, 67326, 67330, 68036
60.....64158
63.....66287
75.....67692
79.....65552
80.....65552
81.....64161, 64490, 67334, 68031
82.....65018
85.....65552
86.....66289
88.....64679
93.....67441
122.....67966
123.....67966
124.....67966
144.....63890
146.....63890
180.....63294, 64492, 64493, 64495, 64496, 65554
191.....66398
228.....64497
300.....63531
372.....63496, 63500
501.....67966
721.....63500

Proposed Rules:
51.....65573
52.....63316, 63545, 63547, 63549, 64530, 65307, 65309, 65573, 65686, 65888, 65891, 65959, 66324, 66326, 66334, 67383, 67748, 67754, 68094
60.....65573
61.....65573
63.....65768, 66078, 66336
64.....65573
68.....65311
80.....64213
81.....66334, 68094
141.....65622
143.....65622
180.....64536, 64538, 67759
261.....67389
300.....63551, 64539
430.....66078

41 CFR
Ch. 301.....67950
101-38.....65288
101-39.....63631, 65288

Proposed Rules:
201-3.....64389
201-4.....64389
201-9.....64389
201-11.....64389
201-18.....64389
201-20.....64389
201-21.....64389
201-22.....64389
201-23.....64389
201-24.....64389
201-39.....64389

42 CFR
57.....66297
60.....67346
405.....63626
412.....67350
413.....67350
414.....63626
434.....65126
491.....63533

Proposed Rules:
67.....63909
413.....65130
435.....65312
436.....65312
440.....65312
447.....65312

43 CFR

Public Land Orders:
7012.....64496
7013.....64165
7014.....64496
7015.....64499
7016.....64499
7017.....64692
7018.....64692
7019.....64693
7020.....64166
7021.....65130
7022.....65936
7023.....66299

Proposed Rules:
230.....65692
406.....65693
419.....65693
423.....65694
426.....64277
Group 3400.....64919

44 CFR
64.....63899, 67692
65.....68039, 68041, 68043, 68044
67.....68046, 68049

Proposed Rules:
67.....68101, 68105

45 CFR
400.....64499
1355.....67912, 67939
1356.....67912, 67939
1357.....67912
1602.....65291

Proposed Rules:
1370.....64920

46 CFR
1.....65130
16.....68164, 68274
67.....65130, 65243
232.....64798
585.....64909

Proposed Rules:
12.....64278
16.....64278

47 CFR
0.....68053
1.....66299
2.....68053
25.....68053
63.....64167
64.....65669
69.....65669
73.....63295, 63296, 63536, 65132, 65133, 65671, 65672, 65673, 65300
76.....64168, 67694
80.....68061
87.....67695, 68061
94.....68061

97.....64384
Proposed Rules:
15.....64541
63.....64280
69.....65153
73.....63318, 63319, 63320, 63321, 63553, 65155
76.....64541

48 CFR

232.....64353
501.....64693
509.....64693
552.....64693
9903.....65556
Proposed Rules:
9.....63494
15.....64824
52.....63492, 63494, 64826
904.....63553
917.....63553
936.....63553
939.....63556
943.....63553
952.....63553
970.....63553

49 CFR

7.....65824
10.....67696
171.....66302
199.....68194, 68258
217.....68194, 68232
219.....68194, 68232
390.....67370
391.....68194, 68220
392.....67370
541.....63296
544.....63296
571.....63302, 64168, 65673
614.....63442, 64374
Proposed Rules:
391.....65634
396.....64923
571.....63321, 65156, 67909
583.....63327
659.....64856
1181.....65695
1182.....65695
1186.....65695
1188.....65695
1312.....64717, 68108

50 CFR

17.....65088
20.....65856
216.....63536, 65133
625.....65134, 65936
661.....68063
663.....64169
672.....65556
675.....65292, 65556
685.....67699
Proposed Rules:
17.....63328, 63560, 64281, 64828, 64927, 65097, 65325, 65596
20.....63488
36.....66012
21.....63488
215.....64285
216.....64285
222.....64285
227.....65961, 68108
285.....67761
301.....67762
611.....64798
625.....64393
630.....67761, 68109
638.....65327
650.....63329
672.....64798
675.....65574
678.....67761

LIST OF PUBLIC LAWS

This completes the listing of public laws enacted during the first session of the 103d Congress. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The list will resume when bills are enacted into public law during the second session of the 103d Congress, which convenes on January 25, 1994.

H.R. 1944/P.L. 103–197

To provide for additional development at War in the Pacific National Historical Park, and for other purposes. (Dec. 17, 1993; 107 Stat. 2301; 3 pages)

H.R. 2840/P.L. 103–198

Copyright Royalty Tribunal Reform Act of 1993 (Dec. 17, 1993; 107 Stat. 2304; 13 pages)

H.R. 3000/P.L. 103–199

Act For Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States or the FRIENDSHIP Act (Dec. 17, 1993; 107 Stat. 2317; 16 pages)

H.R. 3216/P.L. 103–200

Domestic Chemical Diversion Control Act of 1993 (Dec. 17, 1993; 107 Stat. 2333; 9 pages)

H.R. 3514/P.L. 103–201

To clarify the regulatory oversight exercised by the Rural Electrification Administration with respect to certain electric borrowers. (Dec. 17, 1993; 107 Stat. 2342; 2 pages)

S. 422/P.L. 103–202

Government Securities Act Amendments of 1993 (Dec. 17, 1993; 107 Stat. 2344; 24 pages)

S. 664/P.L. 103–203

Making a technical amendment of the Clayton Act. (Dec. 17, 1993; 107 Stat. 2368; 1 page)

S. 714/P.L. 103–204

Resolution Trust Corporation Completion Act (Dec. 17, 1993; 107 Stat. 2369; 49 pages)

S. 1777/P.L. 103–205

To extend the suspended implementation of certain requirements of the food stamp program on Indian reservations, to suspend certain eligibility requirements for the participation of retail food stores in the food stamp program, and for other purposes. (Dec. 17, 1993; 107 Stat. 2418; 1 page)

H.R. 2150/P.L. 103–206

Coast Guard Authorization Act of 1993 (Dec. 20, 1993; 107 Stat. 2419; 37 pages)

H.J. Res. 300/P.L. 103–207

Providing for the convening of the Second Session of the One Hundred Third Congress. (Dec. 20, 1993; 107 Stat. 2456; 1 page)

S. 1507/P.L. 103–208

Higher Education Technical Amendments of 1993 (Dec. 20, 1993; 107 Stat. 2457; 33 pages)

H.R. 1237/P.L. 103–209

National Child Protection Act of 1993 (Dec. 20, 1993; 107 Stat. 2490; 6 pages)

H.R. 2535/P.L. 103–210

To amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf War. (Dec. 20, 1993; 107 Stat. 2496; 3 pages)

Last List December 20, 1993

VOL 58 ISS 245 DEC 23 1993 UMI

VOL
58

ISS
2
4
5

DE
23

1993

UMI



Printed on recycled paper

VOL
58
ISS
246
DE
27
1993
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

KF3
3.01

12–27–93
Vol. 58 No. 246

federal register

Monday
December 27, 1993

RECEIVED
LAW LIBRARY
JAN 07 1994
Brigham Young University
J. Reuben Clark Law School

DEPOSITED BY
U.S. GOVERNMENT
JAN 03 1994
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 846
A FR BRIGH358B DS 621AF
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY - DOCS
358 JRCB
PROVO UT 84602

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

VOL
58
ISS
246
DE
27
1993
UMI

12-27-93
Vol. 58 No. 246
Pages 68291-68504

federal register

Monday
December 27, 1993

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–783–3238
Magnetic tapes	512–1530
Problems with public subscriptions	512–2303
Single copies/back copies:	
Paper or fiche	783–3238
Magnetic tapes	512–1530
Problems with public single copies	512–2457
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Magnetic tapes	512–1530
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

(TWO BRIEFINGS)

WHEN: January 13 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 58, No. 246
Monday, December 27, 1993

Agency for Health Care Policy and Research
NOTICES
Committees; establishment, renewal, termination, etc.:
Clinical practice guidelines development panel—Chronic pain; headache, 68416
Meetings:
Health Care Policy, Research, and Evaluation National Advisory Council, 68418

Agriculture Department
See Cooperative State Research Service

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Runaway and homeless youth program, 68419

Coast Guard
RULES
Ports and waterways safety:
Kill Van Kull, NJ and NY; safety zone, 68307, 68308
Los Angeles-Long Beach, CA; safety zone, 68305
New Bedford Harbor, MA; safety zone, 68306
NOTICES
Meetings:
Houston/Galveston Navigation Safety Advisory Committee, 68457
Lower Mississippi River Waterway Safety Advisory Committee, 68458

Commerce Department
See Economics and Statistics Administration
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office
See Technology Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 68397, 68398

Committee for the Implementation of Textile Agreements
NOTICES
Export visa requirements; certification, waivers, etc.:
Dominican Republic, 68396

Comptroller of the Currency
RULES
Community development corporation and project investments, 68464.

Cooperative State Research Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Rangeland research program, 68488

Economics and Statistics Administration
NOTICES
Economic aspects of U.S. patent system; hearings and comment request, 68394

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
State student incentive program, 68398

Employment and Training Administration
NOTICES
Adjustment assistance:
Dow Chemical Corp., 68440
Homco International, Inc., et al., 68440
Kaiser Aluminum & Chemical Corp., 68440
Penetrators, Inc., 68440
Grants and cooperative agreements; availability, etc.:
Job Training Partnership Act—Farmworker housing assistance program, 68441

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 68444

Energy Department
See Energy Efficiency and Renewable Energy Office
See Energy Research Office
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Secretary of Energy Advisory Board, 68399

Energy Efficiency and Renewable Energy Office
NOTICES
Consumer product test procedures; waiver petitions:
Carrier Corp., 68400
Renewable energy and energy efficiency technologies program (demonstration and commercial application) management plan; availability; correction, 68462

Energy Research Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Computer hardware advanced mathematics and climate physics program; correction, 68462

Environmental Protection Agency
RULES
Toxic substances:
Preliminary assessment information and health and safety data reporting rules—
List additions, 68311, 68317
Significant new uses—
Halogenated phosphate ester, etc., 68310
PROPOSED RULES
Air programs; fuel and fuel additives:
Reformulated gasoline; renewable oxygenate requirement, 68343

Solid wastes:
Municipal solid waste landfill facilities; local government owners and operators; financial assurance mechanisms, 68353
NOTICES
Pesticides; experimental use permits, etc.:
Ciba-Geigy Corp., 68409
Toxic and hazardous substances control:
Premanufacture notices receipts, 68410, 68415

Federal Aviation Administration
RULES
Airworthiness directives:
Short Brothers, plc, 68291
PROPOSED RULES
Class E airspace, 68328, 68329
NOTICES
Meetings:
Aviation Rulemaking Advisory Committee, 68458
Passenger facility charges; applications, etc.:
Dallas-Fort Worth International Airport, TX, 68458

Federal Communications Commission
RULES
Television broadcasting:
Cable television systems—
Major television markets; list, 68322
PROPOSED RULES
Maritime mobile and maritime mobile-satellite radio services; accounting authorities administration, 68373

Federal Emergency Management Agency
NOTICES
Hotel and Motel Fire Safety Act; national master list, 68500
Meetings:
National Urban Search and Rescue Response System Advisory Committee, 68416

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
New England Power Co. et al., 68402
Natural gas certificate filings:
Florida Gas Transmission Co. et al., 68405
Northern Natural Gas Co. et al., 68407
Applications, hearings, determinations, etc.:
National Fuel Gas Supply Corp., 68408
Texas-New Mexico Power Co., 68408

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
Seiwa America, Inc., et al., 68416

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 68460

Federal Trade Commission
RULES
Fallout shelters and radiation monitoring instruments; advertising guides; CFR Parts removed, 68292

Fish and Wildlife Service
RULES
Endangered and threatened species:
Captive-bred wildlife, 68323
Relict and bluemask (=jewel) darters, 68480
Siler pincushion cactus, 68476
PROPOSED RULES
Endangered and threatened species:
Captive-bred wildlife, 68383

Food and Drug Administration
NOTICES
GRAS or prior-sanctioned ingredients:
Purac America, Inc., 68437

Health and Human Services Department
See Agency for Health Care Policy and Research
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration

Health Care Financing Administration
PROPOSED RULES
Medicare:
Risk health maintenance organizations and competitive medical plans; retroactive enrollment and disenrollment, 68366

Health Resources and Services Administration
NOTICES
Advisory committees; annual reports; availability, 68437
Meetings; advisory committees:
January, 68438

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Northern Cheyenne Tribe, MT, 68492

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Excise taxes:
Fuel floor stocks taxes and diesel fuel excise tax regulations, 68304
Income taxes:
Accounting methods; cash receipts and disbursements accounting method, use limitation, 68297
Indebtedness discharges; information reporting, 68301
Lobbying expense deductions; dues, 68294
Omnibus Budget Reconciliation Act; elections, 68300
Telefile voice signature test, 68295
PROPOSED RULES
Income taxes:
Fuel floor stocks taxes and diesel fuel excise tax regulations; cross reference, 68338
Indebtedness discharges; information reporting; cross-reference, 68337
Lobbying activities; costs allocation, 68330
Lobbying expense deductions; dues; cross reference, 68334
Omnibus Budget Reconciliation Act; elections; cross reference, 68336
Telefile voice signature test; cross reference, 68335

International Trade Administration
NOTICES
Antidumping:
Animal glue from—
Germany, 68390
Butt-weld pipe fittings from—
Brazil, 68391
Large electric motors from—
Japan, 68391
Photo albums from—
Hong Kong, 68391
Staples and staple machines from—
Sweden, 68392
Steel wire strand from—
Japan, 68392
Tuners from—
Japan, 68393

Interstate Commerce Commission
PROPOSED RULES
Rulemaking petitions:
Railroad abandonments; protection of surveying benchmarks, 68383
NOTICES
Environmental statements; availability, etc.:
Missouri Pacific Railroad Co. et al., 68439

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Pension and Welfare Benefits Administration

Land Management Bureau
RULES
Public land orders:
Alaska; correction, 68462
NOTICES
Environmental statements; availability, etc.:
Greater Wamsutter Area, WY, 68438
Withdrawal and reservation of lands:
Wyoming, 68438

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 68460

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Mexico and South Atlantic coastal migratory pelagic resources, 68327
Gulf of Mexico reef fish, 68325
PROPOSED RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 68386
Gulf of Mexico reef fish, 68385
NOTICES
Coastal zone management programs and estuarine sanctuaries:
State programs—
Intent to evaluate performance, 68390
Committees; establishment, renewal, termination, etc.:
White House Science and Technology Policy Office Environmental Technology Working Group, 68393

National Park Service
NOTICES
Meetings:
Mississippi River Coordinating Commission, 68439
Sleeping Bear Dunes National Lakeshore Advisory Commission, 68439

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Houston Lighting & Power Co. et al., 68445
University of—
California, 68445

Patent and Trademark Office
NOTICES
Economic aspects of U.S. patent system; hearings and comment request, 68394

Pension and Welfare Benefits Administration
PROPOSED RULES
Plan information disclosure to participants and beneficiaries; information request, 68339

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
Boone, NE, 68446

Postal Service
NOTICES
Meetings; Sunshine Act, 68460

President's Council on Sustainable Development
NOTICES
Meetings, 68446

Public Health Service
See Agency for Health Care Policy and Research
See Food and Drug Administration
See Health Resources and Services Administration

Research and Special Programs Administration
PROPOSED RULES
Pipeline safety:
Gas pipeline safety standards; NAPSR report on recommendations for revision; regulatory review, 68382

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 68447
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 68448
Self-regulatory organizations; unlisted trading privileges:
Chicago Stock Exchange, Inc., 68447
Applications, hearings, determinations, etc.:
Comerica Bank et al., 68449
First Investors Corp. et al., 68451
Michigan National Bank et al., 68453
NBD Bank, N.A., et al., 68455

State Department
NOTICES
North American Free Trade Agreement (NAFTA); notices and other arbitration documents delivery, 68457

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Abandoned mine land reclamation:
Coal formation fire control, 68494

Technology Administration
NOTICES
Economic aspects of U.S. patent system; hearings and comment request, 68394

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Research and Special Programs Administration

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service

Separate Parts In This Issue

Part II
Department of the Treasury, Office of the Comptroller of the Currency, 68464

Part III
Department of Interior, Fish and Wildlife Service, 68476

Part IV
Department of Agriculture, Cooperative State Research Service, 68488

Part V
Department of Interior, Bureau of Indian Affairs, 68492

Part VI
Department of Interior, Office of Surface Mining Reclamation and Enforcement, 68494

Part VII
Federal Emergency Management Agency, 68500

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

12 CFR
7 68464
24 464

14 CFR
39 68291
Proposed Rules:
71 (2 documents) 68328, 68329

16 CFR
229 68292
232 68292

26 CFR
1 (5 documents) 68294, 68295, 68297, 68300, 68301
47 68304
48 68304
602 (3 documents) 68297, 68300, 68301
Proposed Rules:
1 (5 documents) 68330, 68334, 68335, 68336, 68337
47 68338
48 68338
602 (2 documents) 68336, 68337

29 CFR
Proposed Rules:
2520 68339
2530 68339

30 CFR
Proposed Rules:
880 68494

33 CFR
165 (4 documents) 68305, 68306, 68307, 68308

40 CFR
712 (2 documents) 68310, 68317
716 (2 documents) 68311, 68317
Proposed Rules:
80 68343
258 68353

42 CFR
Proposed Rules:
417 68366

43 CFR
Public Land Orders:
7020 68462

47 CFR
76 68322
Proposed Rules:
3 68373

49 CFR
Proposed Rules:
192 68382
1105 68383
1121 68383
1152 68383

50 CFR
17 (3 documents) 68323, 68476, 68480
641 68325
642 68327
Proposed Rules:
17 68383
641 68385
675 68386

VOL
58
ISS
246
DE
27
1993
UMI

Rules and Regulations

Federal Register
Vol. 58, No. 246
Monday, December 27, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-75-AD; Amendment 39-8776; AD 93-25-11]

Airworthiness Directives; Short Brothers Model SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Short Brothers Model SD3-60 series airplanes, that currently requires repetitive inspections to detect loose, missing, or failed rivets in the fuselage attachment fitting area of the rear spar web of the horizontal stabilizer, and repair, if necessary. This amendment requires revising the inspection procedure required by the existing AD. This amendment is prompted by data indicating that the inspection procedure must be revised to require that the rear spar web is inspected at its aft face. The actions specified by this AD are intended to prevent loss of the structural integrity of the horizontal stabilizer attachment to the fuselage.

DATES: Effective January 26, 1994.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of March 2, 1993 (58 FR 6085).

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202-3719. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2797; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 93-01-06, Amendment 39-8460 (58 FR 6085, January 26, 1993), which is applicable to certain Short Brothers Model SD3-60 series airplanes, was published in the **Federal Register** on August 16, 1993 (58 FR 43306). The action proposed to supersede AD 93-01-06 to require repetitive inspections to detect loose, missing, or failed rivets in the fuselage attachment fitting area of the aft face of the rear spar web of the horizontal stabilizer, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 51 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $22,440, or $440 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-8460 (58 FR 6085, January 26, 1993), and by adding a new airworthiness directive (AD), amendment 39-8776, to read as follows:

93-25-11 Short Brothers, PLC: Amendment 39-8776. Docket 93-NM-75-AD. Supersedes AD 93-01-06, Amendment 39-8460.

Applicability: Model SD3-60 series airplanes; serial numbers SH3601 through SH3691 inclusive, and SH3694; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the structural integrity of the horizontal stabilizer attachment to the fuselage, accomplish the following:

(a) Perform a visual inspection at the aft face of the rear spar web-to-boom riveting, top and bottom, between the fuselage attach fittings at 12.5 inches left and right of the airplane center line to detect loose, missing, or failed rivets in accordance with Shorts Service Bulletin SD360-55-16, dated April

1988, prior to the times specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable. Repeat the inspection thereafter at intervals not to exceed 1,000 landings.

(1) For airplanes on which the inspections (at the forward face of the rear spar web-to-boom riveting) required by AD 93-01-06, amendment 39-8460, have been accomplished previously and on which Modification 7948 has not been accomplished: Within 1,000 landings after the last inspection accomplished in accordance with AD 93-01-06, or within 100 landings after the effective date of this AD, whichever occurs later.

(2) For airplanes on which the inspections required by AD 93-01-06 have not been accomplished previously and on which Modification 7948 has not been accomplished: Inspect prior to the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD, as applicable.

(i) For airplane serial numbers SH3680 through SH3691 inclusive, and SH3694; and for airplanes affected by this AD that have only used a 15-degree takeoff flap setting since before or upon reaching 5,000 landings: Prior to the accumulation of 12,000 total landings, or within 100 landings after the effective date of this AD, whichever occurs later.

(ii) For airplanes other than those affected by paragraph (a)(2)(i) of this AD: Prior to the accumulation of 8,000 total landings, or within 100 landings after the effective date of this AD, whichever occurs later.

(b) If any defective rivet is found as a result of any inspection required by this AD, prior to further flight, repair in accordance with Part II of Shorts Service Bulletin SD360-55-16, dated April 1988. Following that repair, continue to perform the repetitive inspections required by paragraph (a) of this AD.

(c) Modification of the horizontal stabilizer spar webs (Modification 7948) in accordance with Shorts Service Bulletin SD360-55-12, Revision 2, dated November 1986, constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspections, repair, and modification shall be done in accordance with the following Shorts service bulletins, which contain the specified effective pages:

Service bulletin and date	Page No.	Revision level shown on page	Date shown on page
SD360-55-16, April 1988	1-7	Original	April 1988.
SD360-55-12, Revision 2, November 1986	1, 4-5, 7-44	2	November 1986.
	2-3, 6	Original	April 1986.

The incorporation by reference of these documents was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of March 2, 1993 (58 FR 6085). Copies may be obtained from Short Brothers PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202-3719. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 26, 1994.

Issued in Renton, Washington, on December 20, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-31431 Filed 12-23-93; 8:45 am]

BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Parts 229 and 232

Guides for Advertising Fallout Shelters and Radiation Monitoring Instruments

AGENCY: Federal Trade Commission.

ACTION: Elimination of guides.

SUMMARY: Because there is little advertising or consumer demand for home civil defense structures for protection against nuclear fallout or blast from nuclear weapons, or for home civil defense instruments for measuring the accumulation or intensity of gamma radiation from a nuclear attack, the Commission has determined that it is in the public interest to eliminate the Guides for Advertising Fallout Shelters and the Guides for Advertising Radiation Monitoring Instruments.

The Guides were adopted to encourage voluntary compliance with the law by businesses whose practices in the promotion of home civil defense fallout or blast shelters or home civil defense radiation monitoring devices are subject to the jurisdiction of the Commission. Although the Commission is eliminating the Guides, proceedings still may be brought against businesses under section 5(a)(1) of the Federal Trade Commission Act for engaging in unfair or deceptive acts or practices in the advertising or sale of these products.

EFFECTIVE DATE: December 27, 1993.

ADDRESSES: Requests for copies of this document should be sent to the Public Reference Branch, room 130, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Joel N. Brewer, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-2967.

SUPPLEMENTARY INFORMATION:

I. Introduction

As a part of its periodic review of the regulatory and economic impact of the Commission's rules and guides, on September 11, 1992, the Commission invited comment on the Fallout Shelter and the Radiation Monitoring Guides.[1] The notice contained the six standard regulatory review questions the Commission has determined to use during its periodic review program.[2] In response, the Commission received one comment from a manufacturer of radiation detection devices.[3] In order to obtain additional information upon which the Commission could base its actions, staff elicited additional comments from two state public health officials,[4] two manufacturers or sellers of fallout shelters or radiation detection devices,[5] and two experts in radiation detection and radiation safety programs.[6] On the basis of these and other materials in the record, the Commission has determined to eliminate the Guides.

[1] "Request for Comments Concerning Guides for Advertising Fallout Shelters and Guides for Advertising Radiation Monitoring Instruments," 57 FR 41705 (Sept. 11, 1992); P924218, A-1, p. 41705. The record in this proceeding has been designated P924218 in the Commission's Public Reference Branch. A copy of the above referenced request for comments is designated document A-1, and is filed in a single volume labeled P924218. There are three categories, "A," "B," and "G" for the materials in this volume.

[2] The Commission's questions with respect to guides relate to their economic impact and continuing relevance, any burdens of compliance with them, any changes needed to minimize their economic impact, their relation with other federal or state laws or regulations, and any changed conditions since they were issued and the effect of these changes on them.

[3] Robert Gallagher, President, Nuclear Sources & Services, Inc., Houston, Texas, P924218, G-1 (Sept. 22, 1992).

[4] Greta J. Dicus, Director, Arkansas Department of Health, Division of Radiation Control and Emergency Management, P924218, B-5 (Jan. 8, 1993); and Ohio Emergency Management Agency, P924218, B-9 (Jan. 21, 1993).

[5] Susan Skinner, President, S.E. International, Inc., USA, Summertown, Tennessee, P924218, B-7 (Jan. 11, 1993) (seller of hand held radiation detectors); and Dick Mankamyer, President, The Survival Center, McKenna, Washington, P924218, B-8 (Jan. 14, 1993) (manufacturer of fallout shelters and accessories).

[6] Ken L. Swinth, Pacific Northwest Laboratories, Life Sciences/Health Physics Department, Richland, Washington, P924218, B-4 (Jan. 7, 1993); and Carl L. Granlund, Manager, Technical Services, Johns Hopkins Institutions, Occupational Health and Safety Radiation Control Unit, Baltimore, Maryland, P924218, B-6 (Jan. 11, 1993).

II. Background

On December 9, 1961, the Commission adopted the Guides for Advertising Fallout Shelters ("Fallout Shelter Guides").[7] The Fallout Shelter Guides address advertising claims relating to the suitability of the products for their intended purposes or for other product features that are material to consumers. The Fallout Shelter Guides discourage the advertising of any home civil defense structure as a "fallout," "blast-resistant," or "limited blast-resistant" shelter if it fails to meet the minimal standards of identity for such structures established by the Office of Civil Defense ("OCD") of the Department of Defense.[8] The Fallout Shelter Guides also encourage the disclosures of any limits of protection from blast or fallout and that the structure must be properly installed to afford such protection. Finally, the Fallout Shelter Guides address claims relating to (among other things) the occupancy capacity of the shelter, its price or any savings available, the availability of financing, any guarantees, any suggestion that the structure is government approved, the extent of required maintenance, any alternative uses for the structure, and claims using scare tactics.

On May 28, 1963, the Commission adopted the Guides for Advertising Radiation Monitoring Instruments ("Radiation Monitoring Guides").[9] The Radiation Monitoring Guides address advertising claims relating to the suitability of the products for their intended purposes or for other product features that are material to consumers. The Radiation Monitoring Guides discourage the advertising of any home civil defense device for measuring the accumulation or intensity of gamma radiation from a nuclear attack if it fails to meet the minimal standards of identity for the device established by FEMA.[10] The Radiation Monitoring Guides also encourage the seller to disclose when any device fails to meet FEMA standards. Finally, the Guides address claims relating to radiation monitoring devices which would be impractical for home civil defense use, any suggestion (other than that the product meets FEMA standards) that the product is government approved, the product's durability or reliability, and the ease of operating, interpreting, calibration or maintaining the device.

III. Review of the Guides

The nature of the products subject to the Fallout Shelter and Radiation Monitoring Guides and the problems they are meant to solve are such that any deceptive or unfair advertising for these products would be difficult for consumers to evaluate independently. For example, for a structure to qualify as a home civil defense fallout shelter, FEMA and the Fallout Shelter Guides require that it afford at least a protection factor ("PF") from gamma radiation from nuclear fallout of 40, meaning that the occupant would be exposed to a dose 1/40th or less than that of the unprotected person.[11] Among other things, the PF of a fallout shelter is affected by the exterior wall thickness and aperture percentage; the shelter's height above the contaminated plane or the percentage of its wall exposure above the contaminated plane; the percentage of its perimeter shielded by adjacent buildings, walls or earth berms; its interior partitions; and the roof area and the total roof overhead mass thickness. Although FEMA provides a graphical solution for determining the PF of a shelter or shelter plan,[12] individuals who are not architects or engineers would find it difficult to determine the PF themselves or evaluate the accuracy of any representations of their builders that their shelters in fact meet the minimal standards.[13]

Similarly, protection from the effects of blast from a nuclear explosion can be provided only by structures strong enough to resist the pressure of the blast wave and whose entryways and ventilation and exhaust conduits can be sealed to prevent the blast wave from entering the structures that way.[14] The Fallout Shelter Guides provide that a shelter characterized as "blast-resistant" must be capable of withstanding a blast overpressure of at least 25 pounds per square inch ("psi"), and a "limited blast-resistant" shelter must be capable of withstanding a pressure of at least 5 psi.[15] Although FEMA provides model building specifications for fallout shelters with given blast capacities,[16]

[7] 26 FR 11826. The Fallout Shelter Guides took effect immediately upon their publication in the FR. Originally appearing as section 14.5 of the Commission's Administrative Interpretations, the Guides were later recodified as 16 CFR part 229, 32 FR 15529 (Nov. 8, 1967).

[8] Standards of identity for both fallout shelters and radiation monitoring devices were originally set by OCD, whose functions were transferred to the Director of the Federal Emergency Management Agency ("FEMA") in 1979. See, 44 FR 43242 (July 20, 1979). At the request of FEMA, on March 16, 1983, the Commission amended the Radiation Monitoring Guides to refer to FEMA instead of to OCD. 48 FR 11104. Although FEMA also sets the standards of identity for home, commercial and public fallout and blast shelters (see, *e.g.*, "Standards for Fallout Shelters," FEMA doc. TR-87 (Sept. 1979), P924218, B-10; "Protective Construction," FEMA doc. TR-39 (June 1986), P924218, B-12; and "Home Blast Shelter," FEMA doc. H-12-3 (Dec. 1990), P924218, B-13), the Fallout Shelter Guides still refer to OCD rather than to FEMA.

[9] 28 FR 5257. The Radiation Monitoring Guides took effect immediately upon publication in the FR. Originally appearing as section 14.9 of the Commission's Administrative Interpretations, the Guides were later recodified as 16 CFR part 232, 32 FR 15533 (Nov. 8, 1967).

[10] See, *supra*, fn. 8.

[11] P924218, B-12, p. 10; 16 CFR 229.0(a).

[12] P924218, B-12, pp. 6-9.

[13] Although local building licensing agencies will routinely review plans and inspect residential building projects for safety, they do not typically review the plans for assuring that the structure meets other standards. Telephone interview of Dave Ferro, Construction Plans Analyst, Montgomery County (MD) Department of Environmental Protection, Division of Development Services and Regulations (Sept. 22, 1993). Mr. Ferro said that neither the county nor the State require a home civil defense structure to meet standards other than building and utility safety standards. Although this represents only one of thousands of local licensing agencies nationally, the Commission has no basis for believing that this agency is atypical.

[14] P924218, B-13, p. 2.

[15] 16 CFR 229.0(b). The blast capacity of a blast or blast-resistant shelter is determined by determining its ability to withstand the overpressure created by blast, measured in psi above ambient atmospheric pressure. Even small 1-2 psi overpressures exert tremendous forces that exceed the loads most buildings are designed to carry and extend great distances from the point of a nuclear explosion. For example, the 12 psi blast pressure from a one megaton surface detonation will destroy all but specially designed and hardened facilities and 98% of life within 1.7 miles of ground zero; its 5-12 psi blast pressure will cause severe damage to commercial buildings and destroy 50% of life between 1.7 and 3 miles of ground zero; its 2-5 psi blast pressure will cause moderate damage to commercial buildings and severe damage to residences and destroy 5% and injure another 45% of life between 3 and 5 miles of ground zero; and its 1-2 psi blast pressure will cause light damage to commercial buildings and moderate damage to residences and injure 25% of life between 5 and 7 miles of ground zero. P924218, B-12, p. 5.

[16] For example, in document P924218, B-13, FEMA provides plans and specifications for a home

Continued

unskilled individuals would find it difficult to determine the blast capacity or the adequacy of the design of any given blast shelter. Accordingly, most consumers would have little basis for themselves evaluating the accuracy of representations by builders respecting the features of blast shelters.

Finally, because devices to measure the accumulation or intensity of gamma radiation from nuclear fallout serve no purpose except in a nuclear attack, it is to be expected that they will be stored for prolonged periods. Although evidence in electronic the record indicates that advances in technology have made it is less likely than in 1963 that there exist on the market any radiation monitoring devices that would fail to meet the definitional standards in the Radiation Monitoring Guides,[17] these devices require periodic maintenance and recalibration.[18] Given the possible unreliability of these instruments after long periods of storage and the probable inexperience or neglect of the individuals who would have to maintain them over a number of years and ultimately monitor them in a nuclear emergency, consumers would find it difficult to evaluate independently advertising claims relating tc their reliability.

Although the Guides would encourage industry members to refrain from making material product claims that are deceptive or unfair and that are inherently difficult for consumers to evaluate independently, on the basis of the comments and other information in the record the Commission has determined that the market for home civil defense blast or fallout shelters and devices for measuring the accumulation or intensity of gamma radiation from a nuclear attack is small and advertising for these products is rare. For example, Robert D. Gallagher, the president of a company that makes radiation monitoring devices, Nuclear Sources & Services, Houston, TX, stated:

> With Russia no (sic) in disarray you couldn't sell a fallout shelter or radiation instrument to the public even if you promised immortality in your advertising. Thus, the guides will have no economic impact no matter what restrictions are contained.[19]

The market for these products has shrunk as the threat of nuclear attack has diminished. Additionally, the Commission has received no complaints from consumers or industry members regarding the marketing of these products and has never brought an enforcement action against an industry member for making representations discouraged by the Guides or for failing to make disclosures encouraged by them.

Given the lack of a significant market for the products, the only argument for retaining the Guides is that it would be worthwhile to retain them in case the threat of nuclear attack were renewed. Ken Swinth commented, "it is probably not worth the cost to make changes, and if we have a threat of nuclear war it would be beneficial to have these guides 'on the books.'"[20] Susan Skinner made a similar observation.[21] However, the Commission is not persuaded that retaining these guides on the theory that they might someday be useful justifies retaining them. Accordingly, the Commission has determined that it is in the public interest to eliminate the Guides.

List of Subjects in 16 CFR Parts 229 and 232

Advertising; Fallout radiation protection; Home civil defense; Nuclear blast protection; Trade practices.

PARTS 229 and 232—[REMOVED]

The Commission, under authority of sections 5(a)(1) and 6(g) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1) and 46(g), amends chapter I of title 16 of the Code of Federal Regulations by removing Parts 229 and 232.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–31439 Filed 12–23–93; 8:45 am]

BILLING CODE 6750–01–M

civil defense blast shelter capable of resisting a blast pressure of up to 15 psi.

[17] Comment of Carl L. Granlund, Manager of Technical Services, Johns Hopkins Institutions, Baltimore, MD, P924218, B–6, p. 1. The device for measuring the accumulated amount or dose of radiation is referred to by the Radiation Monitoring Guides as a "dosimeter." According to the Radiation Monitoring Guides the dosimeter must be capable of measuring, within an overall accuracy of plus or minus 25%, the accumulated gamma radiation from zero to at least 600 roentgens or from zero to 200 roentgens when the instrument's indicator can be reset to zero for further use. 16 CFR 232.1, examples 2 and 4. The device for measuring the intensity of gamma radiation is referred to by the Radiation Monitoring Guides as a "rate meter." According to the Guides the rate meter must not measure gamma radiation dose rates from 1 to 100 roentgens per hour, but give a positive indication when the dose rate is between 100 and 1000 roentgens per hour, plus or minus 35% of true gamma radiation intensity. 16 CFR 232.1(b), examples 1 and 3.

[18] FEMA requires that the devices be designed to operate accurately after a five year storage period, and be rugged enough to withstand extremes of heat and humidity. P924218, B–11, p. 2.

[19] P924218, C–1.

[20] P924218, B–4, p. 2.

[21] P924218, B–7.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8511]

RIN 1545–AS17

Lobbying Expense Deductions—Dues

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations revising the rules governing the deductibility of dues or other similar amounts paid to certain tax-exempt organizations that participate in political campaigns, or engage in lobbying or similar activities. Changes to the tax law were made by section 13222 of the Omnibus Budget Reconciliation Act of 1993. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These regulations are effective December 27, 1993.

For the date of applicability of these regulations, see § 1.162–20T(d).

FOR FURTHER INFORMATION CONTACT: James M. Guiry, 202–622–1585 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document sets forth temporary amendments to the Income Tax Regulations (26 CFR part 1) under section 162 of the Internal Revenue Code (Code) as amended by section 13222 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) (107 Stat. 477). These rules relate to the deductibility of dues or other similar amounts that are allocable to lobbying and political expenses paid or incurred by certain tax-exempt organizations after December 31, 1993.

Explanation of Provisions

Section 13222 of OBRA 1993 amended section 162(e) of the Code, relating to the denial of deductions for certain lobbying and political expenditures, and section 6033 of the Code, relating to returns by exempt organizations. As amended, section 162(e) denies a deduction for certain lobbying and political expenditures described in section 162(e)(1). Section 162(e)(2) provides, however, that certain lobbying and political expenditures related to local legislation are not subject to section 162(e)(1). Section 162(e)(3) denies a deduction for dues (or other similar amounts) paid to certain tax-exempt organizations to the extent a person paying those dues is notified under section 6033(e)(1)(A)(ii) that the dues are allocable to expenditures to which section 162(e)(1) applies. Section 162(e)(3) does not, however, apply to dues paid to tax-exempt organizations described in section 501(c)(3).

The amendments under section 13222 of OBRA 1993 apply to amounts paid or incurred after December 31, 1993.

The temporary regulations provide that, in accordance with section 162(e)(3), a taxpayer to whom an organization provides a notice described in section 6033(e)(1)(A)(ii) may not deduct that portion of the dues estimated in the notice to be allocable to nondeductible lobbying and political expenditures, whether or not the dues are paid on or before December 31, 1993.

If dues paid before January 1, 1994, are allocable to expenses paid or incurred by an organization before that date and, therefore, the taxpayer does not receive a notice under section 6033(e), the deductibility of such dues will be subject to prior law; that is, those dues will be subject to § 1.162–20(c)(3) of the regulations rather than § 1.162–20T(d).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is James M. Guiry, Office of Assistant Chief Counsel (Income Tax and Accounting), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.162–20T is added to read as follows:

§ 1.162–20T Expenditures attributable to lobbying, political campaigns, attempts to influence legislation, etc. and certain advertising (temporary).

(a) through (c) [Reserved]

(d) *Dues allocable to expenditures after 1993.* No deduction is allowed under section 162(a) for the portion of dues or other similar amounts paid by the taxpayer to an organization exempt from tax (other than an organization described in section 501(c)(3)) which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which section 162(e)(1) applies. The preceding sentence applies to dues or other similar amounts whether or not paid on or before December 31, 1993. Section 1.162–20(c)(3) is superseded to the extent inconsistent with this paragraph (d).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 2, 1993.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 93–31404 Filed 12–23–93; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[TD 8510]

RIN 1545–AR97

TeleFile Voice Signature Test

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains amendments to temporary regulations providing that an individual Federal income tax return completed as part of the TeleFile Voice Signature test will be treated as a return that is signed, authenticated, verified, and filed by the taxpayer as required by the Internal Revenue Code. The temporary regulations, as amended, affect those taxpayers who are eligible to, and elect to, file their individual Federal income tax returns for the 1993 calendar year by telephone under the test. The amendments are needed to implement the test for a second filing season. The text of the temporary regulations, as amended, also serves as the text of the proposed regulations for the notice of proposed rulemaking on this subject published elsewhere in this issue of the **Federal Register**.

EFFECTIVE DATE: The amendments to these regulations are effective January 13, 1994.

FOR FURTHER INFORMATION CONTACT: Celia Gabrysh, (202) 622–4940 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545–1348. The estimated annual burden per respondent varies from 5 minutes to 9 minutes, depending upon individual circumstances, with an average of 7 minutes.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the IRS. Individual respondents may require more or less time, depending on their particular circumstances.

For further information concerning this collection of information and where to submit comments on this collection of information, the accuracy of the estimated burden, and suggestions for reducing the burden, please refer to the preamble to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

Background

The IRS is actively engaged in efforts to broaden the base of the existing Electronic Filing Program and to reduce the filing burden of taxpayers. During the 1993 filing season, the IRS conducted the TeleFile Voice Signature test. The purpose of the test was to explore the technical feasibility, public acceptance, vulnerability, and other benefits and costs of giving certain taxpayers the option of filing their individual Federal income tax returns by telephone. The IRS will conduct this test again during the 1994 filing season.

VOL 58 ISS 246 DEC 27 1993 UMI

The IRS will notify certain individuals who live in the Cincinnati District Office geographic area that they may be eligible to participate in the TeleFile Voice Signature test. Taxpayers eligible to participate in this test (which is again limited to one filing season) are single individuals who (1) are eligible to file Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents, (2) reside within the geographic boundaries of the Cincinnati District Office, and (3) will file their 1993 Federal income tax returns from the same addresses from which they filed their 1992 Federal income tax returns. Under sections 6012, 6061, and 6065 of the Internal Revenue Code, each individual with gross income in excess of a specified amount must file an annual income tax return that (1) is signed in accordance with prescribed forms and instructions, and (2) except as otherwise provided by the IRS, contains (or is verified by) a written declaration that the return is made under penalties of perjury.

This document amends the Income Tax Regulations (26 CFR part 1) by amending temporary regulations §§ 1.6012–7T, 1.6061–2T and 1.6065–2T, which provide rules to facilitate the implementation of the TeleFile Voice Signature test. Generally, the temporary regulations provide that a taxpayer's individual Federal income tax return will be treated as having been properly filed if the taxpayer is eligible to participate in the TeleFile Voice Signature test and, pursuant to the instructions from the TeleFile system interactive voice computer, provides the requested information and the voice signature during the telephonic filing session.

Explanation of Provisions

A participating taxpayer will be treated as having filed an individual Federal income tax return at the time the TeleFile system interactive voice computer states to the taxpayer that the filing is completed. The taxpayer's voice signature will be treated as a signing and verification of the individual Federal income tax return by the taxpayer. By providing a voice signature during the telephonic filing session, the taxpayer will be treated as having made the income tax return under penalties of perjury.

These amendments are effective for returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 12, 1994, and before April 16, 1994. No returns can be filed through the TeleFile Voice Signature test after April 15, 1994.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these temporary regulations is Celia Gabrysh of the Office of Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.6012–7T is revised to read as follows:

§ 1.6012–7T Telephone return filing using voice signature (temporary).

(a) *In general.* For all purposes of the Internal Revenue Code, a return completed by an eligible taxpayer under the TeleFile Voice Signature test in accordance with the instructions provided over the telephone is an individual Federal income tax return filed at the time the TeleFile system interactive voice computer states to the taxpayer that the filing is completed. For provisions relating to the signing and verification of the TeleFile Voice Signature test returns made under this section, see §§ 1.6061–2T and 1.6065–2T, respectively.

(b) *Manner of filing return by telephone.* An eligible taxpayer who chooses to participate in the TeleFile Voice Signature test must dial the telephone number provided by the Internal Revenue Service from a touch-tone telephone. When an eligible taxpayer dials this telephone number, the TeleFile system interactive voice computer will give the taxpayer filing instructions. The taxpayer must provide all the information and a voice signature at the time and in the manner required by those instructions.

(c) *Eligible taxpayer defined.* An eligible taxpayer is a single individual who lives in the Cincinnati District Office geographic area, who is eligible to file Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents, and whose current name and address appear on the mailing label attached to the taxpayer's tax package for the calendar year for which the Form 1040EZ is to be filed.

(d) *Address to which refunds are sent.* If a taxpayer who files a TeleFile Voice Signature test return is entitled to a refund, the taxpayer's refund will be sent to the address on the mailing label attached to the taxpayer's tax package.

(e) *Effective dates.* (1) This section is effective for—

(i) 1992 calendar year returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 13, 1993, and before April 16, 1993; and

(ii) 1993 calendar year returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 12, 1994, and before April 16, 1994.

(2) No returns can be filed under the TeleFile Voice Signature tests between April 16, 1993, and January 12, 1994, or after April 15, 1994.

Par. 3. Section 1.6061–2T is revised to read as follows:

§ 1.6061–2T Signing of returns by voice signature (temporary).

(a) *In general.* An eligible taxpayer who makes an income tax return under § 1.6012–7T in the TeleFile Voice Signature test is treated, for all purposes of the Internal Revenue Code, as having signed that return by providing the voice signature at the time and in the manner required by the instructions that are provided over the telephone by the TeleFile system interactive voice computer. For provisions relating to the verification of the TeleFile returns made under § 1.6012–7T, see § 1.6065–2T.

(b) *Effective dates.* This section is effective for—

(1) 1992 calendar year returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 13, 1993, and before April 16, 1993; and

(2) 1993 calendar year returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 12, 1994, and before April 16, 1994.

Par. 4. Section 1.6065–2T is revised to read as follows:

§ 1.6065–2T Verification of returns by voice signature (temporary).

(a) *In general.* An eligible taxpayer who makes an income tax return under § 1.6012–7T in the TeleFile Voice signature test, by providing the voice signature at the time and in the manner required by the instructions that are provided over the telephone by the TeleFile system interactive voice computer, is treated for all purposes of the Internal Revenue Code as having affirmed that the return is made under penalties of perjury and as having verified the return.

(b) *Effective dates.* This section is effective for—

(1) 1992 calendar year returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 13, 1993, and before April 16, 1993; and

(2) 1993 calendar year returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 12, 1994, and before April 16, 1994.

Dated: December 13, 1993.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 93–31409 Filed 12–23–93; 8:45 am]

BILLING CODE 4830–01–U

---

26 CFR Parts 1 and 602

[T.D. 8514]

RIN 1545–AO65

Methods of Accounting—Limitation on the Use of the Cash Receipts and Disbursements Method of Accounting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations under section 448 of the Internal Revenue Code of 1986 (the Code) relating to the limitation on the use of the cash receipts and disbursements method of accounting (cash method). The final regulations provide procedures for requesting the Commissioner's approval of an accounting method change required by section 448 and provide guidance concerning the adjustment to taxable income under section 481(a) required by the method change. Changes to the applicable law were made by the Tax Reform Act of 1986.

DATES: The regulations are effective December 27, 1993.

For dates of applicability of these regulations, see § 1.448–1(i) of the regulations.

FOR FURTHER INFORMATION CONTACT: Michael L. Gompertz, 202–622–4910, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–0152. This collection of information consists solely of the required filing of Form 3115, Application for Change in Accounting Method. The estimated average annual burden per respondent is 58 hours.

This estimate is an approximation of the average time expected to be necessary for a collection of information. It is based on such information as is available to the Internal Revenue Service. Individual respondents may require more or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On June 16, 1987, the Internal Revenue Service published in the **Federal Register** (52 FR 22764) § 1.448–1T of the temporary Income Tax Regulations as T.D. 8143 in response to the enactment of section 448 of the Code by section 801(a) of the Tax Reform Act of 1986 (Pub. L. No. 99–514, 100 Stat. 2345). A notice of proposed rulemaking by cross-reference to the temporary regulations was published in the **Federal Register** (52 FR 22795) on June 16, 1987 (the 1987 regulations). Several comments on the 1987 regulations were received concerning § 1.448–1T(g), relating to the treatment of an accounting method change required by section 448 and the timing rules for the section 481(a) adjustment, § 1.448–1T(h), relating to the procedures for making a change from the cash method required by section 448, and § 1.448–1T(i), relating to the effective date of section 448. However, a public hearing on § 1.448–1T(g), (h), and (i) was neither requested nor held.

On January 7, 1991, amendments to paragraphs (g) and (h) of § 1.448–1T were published in the **Federal Register** (56 FR 484) as T.D. 8329 (the 1991 regulations). A corresponding notice of proposed rulemaking was also published in the **Federal Register** (56 FR 508) of January 7, 1991. No comments were received on the 1991 regulations, and a public hearing was not requested.

Under section 7805(e), the 1991 regulations expire within three years after their issuance. To provide continuing guidance concerning accounting method changes required by section 448, this document adopts, with modifications, § 1.448–1T(g), (h), and (i) as final regulations.

Explanation of Provisions and Discussion of Public Comments

Section 448 of the Code generally prohibits the use of the cash method by C corporations, partnerships with a C corporation partner, and tax shelters. In general, section 448 is effective for taxable years beginning after December 31, 1986.

Paragraphs (g) and (h) of § 1.448–1 of the regulations provide procedures for making a change from the cash method required by section 448 and provide guidance concerning the adjustment to taxable income required by section 481(a). The procedures a taxpayer must follow differ depending on whether the change from the cash method is timely or untimely and whether the change is to an overall accrual method or to a method other than an overall accrual method (a special or hybrid method).

Timely Change From the Cash Method

A timely change to an overall accrual method is accomplished by attaching a current Form 3115 to a timely filed income tax return (including extensions) for the first taxable year in which the taxpayer is subject to section 448. The taxpayer must type or legibly print at the top of page 1 of Form 3115: "Automatic Change to Accrual Method—Section 448." In addition, the taxpayer must attach a statement to Form 3115 setting forth the period over which the section 481(a) adjustment will be taken into account and the basis for that conclusion. A taxpayer that follows these procedures has the Commissioner's consent to the change in method of accounting.

A timely change to a special or hybrid method is generally accomplished by submitting Form 3115 to the appropriate office of the Internal Revenue Service by the due date prescribed in the applicable administrative procedure. (Under Rev. Proc. 92–20, 1992–1 C.B. 685, which is the current applicable administrative procedure, Form 3115

generally must be filed with the National Office of the Internal Revenue Service within 180 days after the beginning of the year of change.) However, under a special rule, Form 3115 may be submitted to the National Office on or before 30 days after the close of the first taxable year in which the taxpayer is subject to section 448 if the events or circumstances precluding continued use of the cash method occur after the 180th day of the taxable year. See § 1.448–1T(h)(3)(i) and (4)(ii). The taxpayer must type or legibly print at the top of page 1 of Form 3115: "Change to a Special Method of Accounting—Section 448."

A commentator recommended that the deadline for submitting Form 3115 under this special rule be changed from 30 days after year end to 90 days after year end. The Internal Revenue Service and the Treasury Department believe that an extension of the filing deadline is not warranted because § 1.448–1T(h)(4)(ii) already provides a deadline for filing Form 3115 later than the generally applicable deadline established by § 1.446–1(e)(3)(i), under which Form 3115 must be submitted within 180 days after the beginning of the taxable year. Also, a taxpayer that has missed the 30-day deadline is eligible to request relief under § 301.9100–1 of the Regulations on Procedure and Administration. Thus, there is no need to extend the deadline.

In general, a taxpayer that makes a timely change from the cash method generally takes the section 481(a) adjustment into account ratably (beginning with the year of the change) over the shorter of (a) four taxable years or (b) the number of taxable years the taxpayer used the cash method. A hospital that makes a timely change generally takes the section 481(a) adjustment into account ratably (beginning with the year of the change) over 10 years. The final regulations define hospital in a manner essentially identical to the definition in the temporary regulations. However, a slight change in the language of the regulations was required because the name of the organization that accredits hospitals has been changed from the Joint Commission of Accreditation of Hospitals (JCAH) to the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

A commentator suggested that all taxpayers, not only cooperatives described in section 1381(a), should have the option of taking into account a positive section 481(a) adjustment entirely in the year of the change from the cash method. However, this suggestion is not consistent with the legislative history of section 448, which indicates that the rules of Rev. Proc. 84–74, 1984–2 C.B. 736, are generally used to determine the timing of a section 481(a) adjustment. See H.R. Conf. Rep. 841, 99th Cong., 2d Sess. II–288, 289 (1986). Rev. Proc. 84–74 (which was subsequently superseded by Rev. Proc. 92–20) did not generally permit taxpayers to elect to take a positive section 481(a) adjustment into account entirely in the year of change. Accordingly, this comment has not been adopted. However, the final regulations permit taxpayers to elect to use a shorter adjustment period than would otherwise be allowed if the entire net section 481(a) adjustment (whether positive or negative) is a de minimis amount as determined under the applicable administrative procedure issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's consent to a change in accounting method (currently, Rev. Proc. 92–20). See section 8.01(1) of Rev. Proc. 92–20 allowing taxpayers to elect a one-year adjustment period if the adjustment is de minimis (less than $25,000).

The temporary regulations require a taxpayer which ceases to engage in the trade or business to which the section 481(a) adjustment relates before the end of the maximum four-year adjustment period (or, in the case of a hospital, the 10-year adjustment period) to take into account the balance of that section 481(a) adjustment in the year of cessation. However, the acceleration of the section 481(a) adjustment required by the cessation of trade or business rule does not apply if the taxpayer is acquired in a section 381 transaction, and the acquiring corporation continues to engage in the trade or business to which the section 481(a) adjustment relates.

The final regulations clarify that a taxpayer that terminates its existence ceases to engage in the trade or business. The final regulations also replace the rule concerning cessation of trade or business in a section 381 transaction with the rules concerning cessation of the trade or business set forth in the applicable administrative procedure issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's consent to a change in accounting method (currently, Rev. Proc. 92–20). See section 8.03(2) of Rev. Proc. 92–20.

Untimely Change From the Cash Method

The final regulations provide that a taxpayer making an untimely change from the cash method must satisfy the general method change requirements of § 1.446–1(e)(3) (including any applicable administrative procedure that is prescribed under the authority of § 1.446–1(e)(3)(ii) after January 7, 1991, specifically for purposes of complying with section 448). Absent the publication of an administrative procedure that is prescribed under § 1.446–1(e)(3) specifically addressing compliance with section 448, a taxpayer making an untimely change must request a change under § 1.446–1(e)(3) subject to any terms and conditions (including the year of change) as may be imposed by the Commissioner. The final regulations delete the provisions in the 1991 regulations that a taxpayer making an untimely change from the cash method by filing Form 3115 after January 7, 1991, is generally subject to terms and conditions (including the year of change) designed to place the taxpayer in a position no more favorable than a taxpayer that timely complied with section 448. Under the final regulations, unless an administrative procedure is published specifically concerning method changes under section 448, a taxpayer subject to section 448 which makes an untimely method change under section 448 will, in general, be subject to the terms and conditions (including the year of change) applicable to a Category A method of accounting as set forth in Rev. Proc. 92–20 (or any successor revenue procedure).

Effective Date Rules of Section 448

A comment letter on the 1987 regulations suggested that § 1.448–1T(i), relating to the effective date of section 448, be modified to reflect the provisions of section 801(d)(3) of the Tax Reform Act of 1986. This suggestion has been adopted through the addition of paragraph (i)(3) to § 1.448–1 of the regulations.

The final regulations also provide a transitional rule for § 1.448–1(g), relating to the treatment of an accounting method change required by section 448 and the timing rules for the section 481(a) adjustment, and § 1.448–1(h), relating to the procedures for making a change from the cash method required by section 448. Under this transitional rule, § 1.448–1 (g) and (h) will not be adversely applied with respect to transactions entered into by the taxpayer before December 27, 1993, to the extent the provisions of § 1.448–1 (g) and (h) were not reflected in § 1.448–1T (g) and (h).

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking published in the Federal Register on January 7, 1991 (56 FR 508) was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the notice on small business.

Drafting Information

The principal author of these regulations is James A. Orefice, formerly of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.448–1 is added, and paragraphs (a) through (f) thereof are reserved.

Par. 3. Paragraphs (g), (h), and (i) of § 1.448–1T are redesignated as paragraphs (g), (h), and (i) of § 1.448–1 and are amended as follows:

1. Paragraph (g)(2)(ii)(B)(*1*) is amended by removing the language "Joint Commission of Accreditation of Hospitals" and adding in its place the language "Joint Commission on Accreditation of Healthcare Organizations or its predecessor" and by removing the language "JCAH" wherever it appears in that paragraph and adding in its place the language "JCAHO".

2. Paragraph (g)(2)(iii) is amended by removing the language "§ 1.466–1(e)(3)" from the second sentence and adding in its place the language "§ 1.446–1(e)(3)" and by removing the last sentence in that paragraph.

3. Paragraph (g)(3)(i) is amended by removing the language "(g)(3)(ii)" from the last sentence and adding in its place the language "(g)(2)(ii)".

4. Paragraph (g)(3)(iii) is revised.

5. Paragraph (g)(3)(iv) is added.

6. Paragraph (g)(5) is amended by removing the language "488" wherever it appears in the first and second sentences and adding in its place the language "448" and by removing the language "chosing" in the last sentence and adding in its place the language "choosing".

7. Paragraph (h)(4)(ii) is redesignated as paragraph (h)(3)(ii).

8. Paragraph (h)(4) is amended by removing the last sentence.

9. Paragraph (i)(1) and the third sentence of paragraph (i)(2)(i) are revised.

10. Paragraphs (i)(3) and (i)(4) are added.

11. The reserved, revised, and added provisions read as follows:

§ 1.448–1 Limitation on the use of the cash receipts and disbursements method of accounting.

(a) through (f). [Reserved]

(g) * * *

(3) * * *

(iii) *Cessation of trade or business.* If the taxpayer ceases to engage in the trade or business to which the section 481(a) adjustment relates, or if the taxpayer operating the trade or business terminates existence, and such cessation or termination occurs prior to the expiration of the adjustment period described in paragraph (g)(2) (i) or (ii) of this section, the taxpayer must take into account, in the taxable year of such cessation or termination, the balance of the adjustment not previously taken into account in computing taxable income. For purposes of this paragraph (g)(3)(iii), the determination as to whether a taxpayer has ceased to engage in the trade or business to which the section 481(a) adjustment relates, or has terminated its existence, is to be made under the principles of § 1.446–1(e)(3)(ii) and its underlying administrative procedures.

(iv) *De minimis rule for a taxpayer other than a cooperative.* Notwithstanding paragraph (g)(2)(i) and (ii) of this section, a taxpayer other than a cooperative (within the meaning of section 1381(a)) that is required to change from the cash method by this section may elect to use, in lieu of the adjustment period described in paragraph (g)(2)(i) and (ii) of this section, the adjustment period for de minimis section 481(a) adjustments provided in the applicable administrative procedure issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's consent to a change in accounting method. A taxpayer may make an election under this paragraph (g)(3)(iv) only if—

(A) The taxpayer's entire net section 481(a) adjustment (whether positive or negative) is a de minimis amount as determined under the applicable administrative procedure issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's consent to a change in accounting method,

(B) The taxpayer complies with the provisions of paragraph (h)(2) or (3) of this section for its first section 448 year,

(C) The return for such year is due (determined with regard to extensions) after December 27, 1993, and

(D) The taxpayer complies with any applicable instructions to Form 3115 that specify the manner of electing the adjustment period for de minimis section 481(a) adjustments.

* * * * *

(i) *Effective date*—(1) *In general.* Except as provided in paragraph (i)(2), (3), and (4) of this section, this section applies to any taxable year beginning after December 31, 1986.

(2) *Election out of section 448*—(i) *In general.* * * * For rules relating to the making of such election, see § 301.9100–7T (temporary regulations relating to elections under the Tax Reform Act of 1986). * * *

* * * * *

(3) *Certain contracts entered into before September 25, 1985.* This section does not apply to a contract for the acquisition or transfer of real property or a contract for services related to the acquisition or development of real property if—

(i) The contract was entered into before September 25, 1985; and

(ii) The sole element of the contract which was not performed as of September 25, 1985, was payment for such property or services.

(4) *Transitional rule for paragraphs (g) and (h) of this section.* To the extent the provisions of paragraphs (g) and (h) of this section were not reflected in paragraphs (g) and (h) of § 1.448–1T (as set forth in 26 CFR part 1 as revised on April 1, 1993), paragraphs (g) and (h) of this section will not be adversely applied to a taxpayer with respect to transactions entered into before December 27, 1993.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. Section 602.101(c) is amended by adding an entry to the table to read as follows:

§ 602.101 [Amended]	
"§ 1.448–1(g), (h), and (i)	1545–0152."

Par. 6. Section 602.101(c) is further amended by removing all entries in the table for § 1.448–1T.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 14, 1993.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 93–31406 Filed 12–23–93; 8:45 am]
BILLING CODE 4830–01–U

---

26 CFR Parts 1 and 602

[T.D. 8509]

RIN 1545–AS15

Certain Elections Under the Omnibus Budget Reconciliation Act of 1993

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the time and manner of making certain elections under the Omnibus Budget Reconciliation Act of 1993. These regulations provide guidance to persons making the elections. The text also serves as the text of the notice of proposed rulemaking on this subject that is published in the Proposed Rules section of this issue of the **Federal Register**.

EFFECTIVE DATE: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: George Bradley, 202–622–8104 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For that reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545–1421. The estimated annual burden per respondent varies from 15 minutes to 45 minutes, depending on individual circumstances and the particular election involved, with an estimated average of 30 minutes.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

For further information concerning these collections of information, and where to submit comments on these collections of information, the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble of the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Background

This document contains temporary regulations relating to elections under the following sections of the Internal Revenue Code of 1986 and the Omnibus Budget Reconciliation Act of 1993, (Pub. L. 103–66, 107 Stat. 312) (the Act):

Act section	Code section
13114	1044(a)
13150	108(c)(3)(C)
13206(d)	163(d)(4)(B)(iii)
13225	6655(e)(2)(C)

Not all election provisions contained in the Act are addressed by these regulations. Other elections will be the subject of separate guidance published by the Internal Revenue Service.

Special Analyses

It has been determined that these regulations are not significant rules as defined in Executive Order 12866. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these rules, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is George Bradley, Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, parts 1 and 602 of title 26 of the Code of Federal Regulations are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * *
§ 1.108(c)–1T also issued under the authority of 26 U.S.C. 108(d)(9) * * *

Par. 2. Section 1.108(c)–1T is added to read as follows.

§ 1.108(c)–1T Time and manner for making election under the Omnibus Budget Reconciliation Act of 1993 (temporary).

(a) *Description.* Code section 108(c)(3)(C), as added by section 13150 of the Omnibus Budget Reconciliation Act of 1993, allows certain noncorporate taxpayers to elect to treat certain indebtedness described in section 108(c)(3) that is discharged after December 31, 1992, as qualified real property business indebtedness. This discharged indebtedness is excluded from gross income to the extent allowed by Code section 108.

(b) *Time and manner for making the election.* The election described in this section must be made on the taxpayer's income tax return for the taxable year in which the discharge occurs. However, if the taxpayer establishes to the satisfaction of the Commissioner reasonable cause for failure to file the election with the taxpayer's original return, the taxpayer may file the election with an amended return or claim for credit or refund. The election is to be made on a completed Form 982 in accordance with that Form and its instructions.

(c) *Revocability of election.* The election described in this section is revocable with the consent of the Commissioner.

(d) *Transition rule.* If the taxpayer's income tax return has been filed or is due before March 28, 1994, the taxpayer may make the election with an amended return filed before June 27, 1994.

(e) *Effective date.* The rules set forth in this section are effective December 27, 1993.

Par. 3. Section 1.163(d)–1T is added to read as follows.

§ 1.163(d)–1T Time and manner for making election under the Omnibus Budget Reconciliation Act of 1993 (temporary).

(a) *Description.* Code section 163(d)(4)(B)(iii), as added by section 13206(d) of the Omnibus Budget Reconciliation Act of 1993, allows an electing taxpayer to take all or a portion of certain net capital gains, attributable to dispositions of property held for investment, into account as investment income. As a consequence, the capital gains affected by this election are not eligible for the maximum capital gains rate of 28 percent. The election may be made for net capital gains recognized by non-corporate taxpayers during any taxable year beginning after December 31, 1992.

(b) *Time and manner for making the election.* The election under Code section 163(d)(4)(B)(iii) must be made on or before the due date (including extensions) of the income tax return for the taxable year in which the net capital gain is recognized. The election is to be made on Form 4952, Investment Interest Expense Deduction, in accordance with the form and its instructions.

(c) *Revocability of election.* The election described in this section is revocable with the consent of the Commissioner.

(d) *Transition rule.* If the taxpayer's income tax return has been filed or is due before March 28, 1994, the taxpayer may make the election with an amended return filed before June 27, 1994.

(e) *Effective date.* The rules set forth in this section are effective December 27, 1993.

Par. 4. Section 1.1044(a)–1T is added under the heading "Common Nontaxable Exchanges" to read as follows:

§ 1.1044(a)–1T Time and manner for making election under the Omnibus Budget Reconciliation Act of 1993 (temporary).

(a) *Description.* Code section 1044(a), as added by section 13114 of the Omnibus Budget Reconciliation Act of 1993, generally allows individuals and C corporations that sell publicly traded securities after August 9, 1993, to elect not to recognize certain gain from the sale if the taxpayer purchases common stock or a partnership interest in a specialized small business investment company (SSBIC) within the 60-day period beginning on the day the publicly traded securities are sold.

(b) *Time and manner for making the election.* The election under Code section 1044(a) must be made on or before the due date (including extensions) for the income tax return for the year in which the publicly traded securities are sold. The election is to be made by reporting the entire gain from the sale of publicly traded securities on Schedule D of the income tax return in accordance with instructions for Schedule D, and by attaching a statement to Schedule D showing—

(1) How the nonrecognized gain was calculated,

(2) The SSBIC in which common stock or a partnership interest was purchased,

(3) The date the SSBIC stock or partnership interest was purchased, and

(4) The basis of that SSBIC stock or partnership interest.

(c) *Revocability of election.* The election described in this section is revocable with the consent of the Commissioner.

(d) *Transition rule.* If the taxpayer's income tax return has been filed or is due before March 28, 1994, the taxpayer may make the election with an amended return filed before June 27, 1994.

(e) *Effective date.* The rules set forth in this section are effective December 27, 1993.

Par. 5. Section 1.6655(e)–1T is added to read as follows.

§ 1.6655(e)–1T Time and manner for making election under the Omnibus Budget Reconciliation Act of 1993 (temporary).

(a) *Description.* Code section 6655(e)(2)(C), as added by section 13225 of the Omnibus Budget Reconciliation Act of 1993, allows a corporate taxpayer to make an annual election to use a different annualization period to determine annualized income for purposes of paying any required installment of estimated income tax for a taxable year beginning after December 31, 1993.

(b) *Time and manner for making the election.* An election under Code section 6655(e)(2)(C) must be made on or before the date required for the payment of the first required installment for the taxable year. For a calendar or fiscal year corporation, Form 8842, Election to Use Different Annualization Periods for Corporate Estimated Tax, must be filed by the 15th day of the 4th month of the tax year for which the election is to apply. Form 8842 must be filed with the Internal Revenue Service Center where the corporation files its income tax return.

(c) *Revocability of election.* The election described in this section is irrevocable.

(d) *Effective date.* The rules set forth in this section are effective December 27, 1993.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 6. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. Section 602.101(c) is amended by adding the following to the table:

"1.108(c)–1T	1545–1421,
1.163(d)–1T	1545–1421,
1.1044(a)–1T	1545–1421,
1.6655(e)–1T	1545–1421."

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 13, 1993.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 93–31411 Filed 12–23–93; 8:45 am]
BILLING CODE 4830–01–P

---

26 CFR Parts 1 and 602

[TD 8506]

RIN 1545–AS20

Information Reporting for Discharges of Indebtedness

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the information reporting requirements of certain financial entities for discharges of indebtedness. The regulations reflect changes to the Internal Revenue Code made by section 13252 of the Omnibus Budget Reconciliation Act of 1993 (the Act). The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These regulations are effective January 1, 1994, and apply to discharges of indebtedness after December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Johnnel L. St. Germain (timing and amount of discharge) at (202) 622–4930 or Michael F. Schmit at (202) 622–4960, both of the Office of Assistant Chief Counsel (Income Tax and Accounting). Neither telephone number is toll-free.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation is being issued without prior notice and public

procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545–1419. The time estimates for the reporting requirements contained in this regulation are reflected in the burden estimates for Form 1099–C.

For further information concerning this collection of information, and where to submit comments on the collection of information, the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published elsewhere in this issue of the Federal Register.

Background

This document contains amendments to the Income Tax Regulations (26 CFR parts 1 and 602) under section 6050P of the Internal Revenue Code (Code). Section 6050P requires certain financial entities to report discharges of indebtedness of $600 or more during any calendar year, and requires that reporting entities make a return at such time and in such form as the Secretary may by regulations prescribe. Thus, these temporary regulations are necessary to set forth the time, form, and manner of reporting under section 6050P, and to provide guidance relating to the discharge of indebtedness.

Explanation of Provisions

Reporting requirements

The temporary regulations provide that, in general, financial entities described in section 6050P(c)(1) of the Code (applicable financial entities) must report discharges of indebtedness of $600 or more on Form 1099–C. Form 1099–C must be filed with the appropriate Internal Revenue Service office designated in the instructions for that form on or before February 28 of the calendar year following the year in which a reportable discharge occurs. The information return must be filed for each individual or entity whose indebtedness is discharged, and must contain: (a) The name, address, and taxpayer identification number (TIN) of the debtor; (b) the date on which the indebtedness was discharged; (c) the amount of indebtedness discharged, the amount of indebtedness discharged that is interest, and the amount of indebtedness discharged that is penalties, administrative costs, and fines; (d) a description of the origin of the indebtedness; (e) an indication that the indebtedness was discharged in bankruptcy, if known; and (f) such other information as may be required by Form 1099–C or its instructions.

The regulations provide that section 6050P filers must also furnish a written statement to the individual or entity whose indebtedness is discharged. The written statement is to be furnished by January 31 of the year following the calendar year in which the indebtedness was discharged.

The regulations also provide guidance on when an indebtedness is considered discharged and the amount of indebtedness discharged for purposes of the information reporting requirements of section 6050P. The Service believes this guidance will help applicable financial entities comply with the section 6050P requirements to report this information.

When an Indebtedness Is Discharged

The regulations provide that, in general, indebtedness will be considered discharged for purposes of section 6050P(a)(2) upon the occurrence of an identifiable event indicating that the indebtedness will never have to be paid by the debtor, taking into account all the facts and circumstances. This is consistent with the present law determination of when discharge occurs. See, e.g., *Cozzi* v. *Commissioner*, 88 T.C. 435 (1987).

Under the regulations, an identifiable event includes, but is not limited to: (a) A discharge of indebtedness under title 11 of the United States Code; (b) an agreement between the applicable financial entity and the debtor to discharge all or a part of an indebtedness (including an agreement that results in an exchange under section 1001); and (c) a cancellation or extinguishment by operation of law that renders the debt unenforceable (such as the expiration of the statute of limitations for collection of the indebtedness). In contrast, a bookkeeping entry (such as a deduction for book or regulatory reporting purposes or a partial or full bad debt deduction for tax purposes) is not, of itself, an identifiable event. However, a bookkeeping entry is one of the facts and circumstances taken into account in determining whether a discharge has occurred. Similarly, collection activity by the applicable financial entity is one of the facts and circumstances taken into account in determining whether a discharge has occurred.

Amount of Indebtedness Discharged

For purposes of reporting the amount of indebtedness discharged, the regulations provide that indebtedness is any amount owed to an applicable financial entity, including principal, interest, penalties, administrative costs, and fines, to the extent the amount constitutes an indebtedness under section 61(a)(12). The amount of indebtedness discharged may represent all, or only a part, of the total amount owed to the applicable financial entity. The legislative history makes it clear that reporting is required whether or not the amount of debt discharged is includible in the debtor's gross income. H.R. Conf. Rep. No. 213, 103d Cong., 1st Sess. 1, 671 (1993).

The regulations do not address whether the settlement of a disputed debt is a discharge of indebtedness within the meaning of section 61(a)(12) and, thus, is required to be reported under section 6050P. The Service welcomes comments on the treatment of the settlement of disputed debts under section 6050P.

Other Issues

The regulations provide that, if a discharge of indebtedness reportable under section 6050P occurs in a transaction also reportable under section 6050J (relating to foreclosures and abandonments of secured property), both Form 1099–A, Acquisition or Abandonment of Secured Property, and Form 1099–C, Cancellation of Debt, must be filed. The Service welcomes comments on coordinating the information reporting required under section 6050J with that required under section 6050P.

The regulations also provide rules relating to the use of magnetic media, TIN solicitations, recordkeeping requirements, and reporting with respect to multiple debtors.

Effective Date

The temporary regulations are effective for debts discharged after December 31, 1993.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal authors of these regulations are Michael F. Schmit and Johnnel L. St. Germain of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.6050P–1T also issued under 26 U.S.C. 6050P. * * *

Par. 2. Sections 1.6050P–0T and 1.6050P–1T are added to read as follows:

§ 1.6050P–0T Table of contents (temporary).

This section lists the major captions that appear in § 1.6050P–1T.

Section 1.6050P–1T Information reporting for discharges of indebtedness by certain financial entities (temporary).

(a) Reporting requirement.
(1) In general.
(2) No aggregation.
(3) Time and place for reporting.
(b) Date of discharge.
(1) In general.
(2) Identifiable events.
(i) In general.
(ii) Bookkeeping entries.
(3) Collection activity.
(c) Indebtedness.
(1) In general.
(2) Amounts not includible in income.
(d) Additional rules.
(1) Transactions reportable under section 6050J.
(2) Multiple debtors.
(i) In general.
(ii) Joint and several liability.
(3) Use of magnetic media.
(4) TIN solicitation requirement.
(i) In general.
(ii) Manner of requesting TIN.
(5) Recordkeeping requirements.
(e) Requirement to furnish statement.
(1) In general.
(2) Furnishing copy of Form 1099–C.
(3) Time and place for furnishing statement.
(f) Penalties.
(g) Effective date.

§ 1.6050P–1T Information reporting for discharges of indebtedness by certain financial entities (temporary).

(a) *Reporting requirement*—(1) *In general.* Any applicable financial entity (as defined in section 6050P(c)(1)) that discharges an indebtedness of any person (within the meaning of section 7701(a)(1)) of at least $600 during a calendar year must file an information return on Form 1099–C with the Internal Revenue Service. The return must include the following information—

(i) The name, address, and taxpayer identification number (TIN), as defined in section 7701(a), of each person whose indebtedness was discharged during the calendar year;

(ii) The date on which the indebtedness was discharged, as described in paragraph (b) of this section;

(iii) The amount of indebtedness discharged, the amount of indebtedness discharged that is interest, and the amount of indebtedness discharged that is penalties, administrative costs, and fines, as described in paragraph (c) of this section;

(iv) A description of the origin of the indebtedness, such as a student loan, a mortgage, or a credit card expenditure;

(v) An indication that the indebtedness was discharged in bankruptcy, if known; and

(vi) Any other information required by Form 1099–C or its instructions.

(2) *No aggregation.* For purposes of reporting under this section, multiple discharges of indebtedness of less than $600 during a calendar year are not required to be aggregated unless such separate discharges are pursuant to a plan to evade the reporting requirements of this section.

(3) *Time and place for reporting.* Returns required by this section must be filed with the Internal Revenue Service office designated in the instructions for Form 1099–C on or before February 28 of the year following the calendar year in which the indebtedness was discharged.

(b) *Date of discharge*—(1) *In general.* For purposes of this section, indebtedness will be considered discharged upon the occurrence of an identifiable event indicating that the indebtedness will never have to be paid by the debtor, taking into account all the facts and circumstances.

(2) *Identifiable events*—(i) *In general.* An identifiable event includes, but is not limited to—

(A) A discharge of indebtedness under title 11 of the United States Code;

(B) An agreement between the applicable financial entity and the debtor to discharge an indebtedness (including an agreement that results in an exchange under section 1001), provided that the last event necessary to effectuate the discharge has occurred; and

(C) A cancellation or extinguishment by operation of law that renders the debt unenforceable (such as the expiration of the statute of limitations for collection of the indebtedness).

(ii) *Bookkeeping entries.* A bookkeeping entry (such as a deduction for book or regulatory reporting purposes or a partial or full bad debt deduction for tax purposes) is not, of itself, an identifiable event. However, a bookkeeping entry is one of the facts and circumstances that is taken into account in determining whether a discharge has occurred.

(3) *Collection activity.* Collection activity by the applicable financial entity is one of the facts and circumstances that is taken into account in determining whether a discharge has occurred. For purposes of determining whether part of an indebtedness has been discharged, collection activity with respect to the remaining indebtedness is disregarded.

(c) *Indebtedness*—(1) *In general.* For purposes of reporting the amount of indebtedness discharged under paragraph (a)(iii) of this section, an indebtedness is any amount owed to an applicable financial entity including principal, interest, penalties, administrative costs, and fines, to the extent the amount constitutes an indebtedness for purposes of section 61(a)(12). The amount of indebtedness discharged may represent all, or only a part, of the total amount owed to the applicable financial entity.

(2) *Amounts not includible in income.* Discharged indebtedness described in paragraph (c)(1) of this section must be reported regardless of whether the debtor is subject to tax on the discharged debt. Thus, the entire amount of indebtedness discharged must be reported even if, for example, the debt was discharged in bankruptcy, and the reporting entity knows that the debtor qualifies for an exclusion under section 108.

(d) *Additional rules*—(1) *Transactions reportable under section 6050J.* If a discharged indebtedness reportable under this section occurs in a transaction reportable under section 6050J (relating to foreclosures and abandonments of secured property), both Form 1099–A, Acquisition or

Abandonment of Secured Property, and Form 1099–C, Cancellation of Debt, must be filed.

(2) *Multiple debtors*—(i) *In general.* In the case of a discharge of indebtedness involving more than one debtor, a return under this section must be filed for each debtor that had a debt of $600 or more discharged.

(ii) *Joint and several liability.* If multiple debtors are jointly and severally liable on an indebtedness, the return filed under this section for each debtor must reflect the entire amount of indebtedness discharged.

(3) *Use of magnetic media.* Any return required under section 6050P and this section must be filed on magnetic media to the extent required by section 6011(e) and the regulations thereunder. A failure to file on magnetic media when required constitutes a failure to file an information return under section 6721. Any person not required by section 6011(e) to file returns on magnetic media may request permission to do so under applicable regulations and revenue procedures.

(4) *TIN solicitation requirement*—(i) *In general.* All reasonable efforts must be made to obtain the TIN of the person whose indebtedness is discharged. For this purpose, the TIN may be obtained at the time the debtor incurs the debt. If the TIN is not obtained prior to the time the debt is discharged, the TIN must be requested of the debtor for purposes of meeting the requirements of this section.

(ii) *Manner of requesting TIN.* A TIN request made after the debt is discharged must clearly notify the debtor that the Internal Revenue Service requires the debtor to furnish its TIN, and that failure to furnish such TIN subjects the debtor to a $50 penalty imposed by the Internal Revenue Service. No particular form is required to solicit a TIN. A request made on Form W–9 satisfies the reasonable efforts requirement of this section. A TIN provided under this section is not required to be certified under penalties of perjury.

(5) *Recordkeeping requirements.* Any applicable financial entity required to file a return with the Internal Revenue Service under paragraph (a) of this section must also retain a copy of the return, or have the ability to reconstruct the data required to be included on the return under paragraph (a)(1) of this section, for at least four years from the date such return is required to be filed under paragraph (a)(3) of this section.

(e) *Requirement to furnish statement*—(1) *In general.* Any applicable financial entity required to file a return under paragraph (a) of this section must furnish to each person whose name is shown on such return a written statement that includes the following information—

(i) The information required by paragraph (a)(1) of this section;

(ii) The name, address, and TIN of the applicable financial entity required to file a return under paragraph (a) of this section; and

(iii) A legend identifying the statement as important tax information that is being furnished to the Internal Revenue Service, and informing the debtor about a possible negligence penalty or other sanction for failure to report taxable income.

(2) *Furnishing copy of Form 1099–C.* The requirement to provide a statement to the debtor will be satisfied if the applicable financial entity furnishes copy B of the Form 1099–C or a substitute statement that complies with the requirements of the current revenue procedure for substitute Forms 1099.

(3) *Time and place for furnishing statement.* The statement required by this paragraph (e) must be furnished to the debtor on or before January 31 of the year following the calendar year in which the indebtedness was discharged. The statement will be considered furnished to the debtor if it is mailed to the debtor's last known address.

(f) *Penalties.* The penalties for failure to comply with the requirements of this section are provided in sections 6721 through 6724.

(g) *Effective date.* This section applies to discharges of indebtedness after December 31, 1993.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by adding "1.6050P–1T .....1545–1419" in numerical order in the table.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 13, 1993.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 93–31308 Filed 12–23–93; 8:45 am]

BILLING CODE 4830–01–P

26 CFR Parts 47 and 48

[TD 8512]

RIN 1545–AS33

Amendments to the Temporary Fuel Floor Stocks Taxes Regulations and the Temporary Diesel Fuel Excise Tax Regulations Under the Omnibus Budget Reconciliation Act of 1993

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that amend the temporary regulations relating to the fuel floor stocks taxes (TD 8498) published in the **Federal Register** on November 29, 1993 (58 FR 62526) and the diesel fuel excise tax regulations (TD 8496) published in the **Federal Register** on November 30, 1993 (58 FR 63069). The amendments allow diesel fuel dyed past the terminal rack to qualify for exemption from the floor stocks tax and modify the requirements for dyeing of diesel fuel destined for nontaxable uses. They affect producers, marketers, and users of diesel fuel.

EFFECTIVE DATE: These regulations are effective January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Edward Madden (202) 622–4537 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Floor Stocks Tax

The Omnibus Budget Reconciliation Act of 1993 (Act) imposes a floor stocks tax on diesel fuel that is held by any person at the first moment of January 1, 1994, if (A) no tax was imposed on the fuel under section 4041(a) or 4091 of the Internal Revenue Code as in effect on December 31, 1993, and (B) tax would have been imposed by section 4081, as amended by the Act, on any prior removal, entry, or sale of the fuel had section 4081 applied to the fuel for periods before January 1, 1994. The rate of the January 1, 1994, floor stocks tax is 24.4 cents per gallon.

The temporary floor stocks tax regulations provide an exception to the January 1, 1994, floor stocks tax for diesel fuel that satisfied the requirements of section 4082 (relating to exemption from the diesel fuel tax for dyed fuel) at the time the diesel fuel was removed from the terminal.

Diesel Fuel Excise Tax; Exception for Dyed Fuel

The Act also provides, effective January 1, 1994, that diesel fuel that is determined to be destined for a nontaxable use is not subject to tax if it is indelibly dyed in accordance with regulations prescribed by the Secretary. The temporary diesel fuel tax regulations prescribe the type and concentration of dyes that are to be used to dye diesel fuel.

Explanation of Provisions

Floor Stocks Tax

This document removes the requirement that diesel fuel be dyed at the time of its removal from the terminal to be exempt from the floor stocks tax. Thus, diesel fuel that meets the requirements of § 48.4082–1T(b) of the temporary regulations but is dyed past the terminal rack is not subject to the January 1, 1994, floor stocks tax.

Diesel Fuel Excise Tax; Exception for Dyed Fuel

This document modifies the description of the type of the blue dye required to be used for exempt high sulfur diesel fuel and the type of red dye required to be used for exempt low sulfur diesel fuel. It also modifies the concentration of blue dye allowed by the temporary regulations for a transitional period.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these temporary regulations is Edward Madden, Office of the Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Parts 47 and 48

Excise taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 47 and 48 are amended as follows:

PART 47—FLOOR STOCKS TAXES

Paragraph 1. The authority citation for part 47 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 47.3–6T [Amended]

Par. 2. Section 47.3–6T(a) is amended by removing the language "Section" and adding in its place "Except as provided in § 47.3–7T, section".

Par. 3. Section 47.3–7T is amended by revising paragraph (b) to read as follows:

§ 47.3–7T Exception to the January 1, 1994, floor stocks tax (temporary).

* * * * *

(b) *Exception for dyed fuel.* The January 1, 1994, floor stocks tax does not apply to diesel fuel that satisfies the dyeing requirements of § 48.4082–1T(b) of this chapter by March 31, 1994, or by the time the fuel is sold by the person holding the fuel at the first moment of January 1, 1994, whichever is earlier. Thus, for example, diesel fuel held by a heating oil retailer for sale for use as home heating oil is exempt from the January 1, 1994, floor stocks tax if the retailer or another person has dyed the fuel and the fuel satisfies the requirements of § 48.4082–1T(b) of this chapter.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Par. 4. The authority citation for part 48 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 5. Section 48.4082–1T is amended by revising paragraphs (b)(1) and (b)(2)(i) to read as follows:

§ 48.4082–1T Diesel fuel tax; exemption (temporary).

* * * * *

(b) *Dyeing and marking requirements*—(1) *Dyeing; high sulfur fuel.* Diesel fuel that is required to be dyed blue pursuant to the Environmental Protection Agency's high sulfur diesel fuel requirement (40 CFR 80.29) satisfies the dyeing requirement of this paragraph (b) only if it contains—

(i) For periods before April 1, 1994, the blue dye 1,4 dialkylamino-anthraquinone in a concentration of at least 1.2 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel and

(ii) For periods after March 31, 1994, the blue dye 1,4 dialkylamino-anthraquinone (Color Index Solvent Blue 98) in a concentration of at least 10 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel; or

(iii) Any other dye of a type and in a concentration that is approved by the Commissioner.

(2) * * *

(i) The dye red di-azo (Color Index Solvent Red 164) in a concentration of at least 5.6 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel; or

* * * * *

Approved: December 16, 1993.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 93–31405 Filed 12–23–93; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

RIN 2115–AA97

COTP Los Angeles-Long Beach, CA Regulation 93–013

AGENCY: Coast Guard, DOT.

ACTION: Final rule; cancellation.

SUMMARY: The Coast Guard is cancelling the following safety zones: 33 CFR 165.T1103 which was established February 9, 1990 for the cleanup effort in response to the T/V American Trader oil spill; 33 CFR 165.1113 which was established April 19, 1989 for the construction of Pier J in the Port of Long Beach; and 33 CFR 165.T1128 which was established May 11, 1983 around Oil Platform Esther in San Pedro Bay, California to protect vessels from hazards associated with its construction. Each of the above safety zones was meant to be temporary in nature, and are now, no longer necessary.

EFFECTIVE DATES: All three safety zones will terminate January 26, 1994.

FOR FURTHER INFORMATION CONTACT: LTJG K.leigh Johnson, Port Operations Department, Marine Safety Office Los Angeles-Long Beach, at (310) 980–4454.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) was not published for this regulation because the need for these safety zones has long since passed. No adverse comments are expected.

Drafting Information

The drafters of this regulation are LTJG K.leigh Johnson, project officer, Marine Safety Office Los Angeles-Long Beach and LCDR Craig Juckniess, project attorney, Eleventh Coast Guard District Legal Office.

VOL 58 ISS 246 DEC 27 1993 UMI

Discussion of Regulation

The circumstances which necessitated the establishment of these safety zones no longer exist: 33 CFR 165.T1103 (the cleanup operations for the T/V American Trader oil spill in 1990 have been completed; 33 CFR 165.1113 (the Pier J construction project in the Port of Long Beach is finished; 33 CFR 165.T1128 (the construction of Oil Platform Esther is completed).

This regulation is issued pursuant to 33 U.S.C 1231 as set out in the authority citation for all of part 165.

Regulatory Assessment

This regulation is not considered a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

This proposal is not considered a significant regulatory action under Executive Order 12866 and is nonsignficant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.b.2. of Commandant Instruction M16475.1B it will have no significant environmental impact and it is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping requirements, Security measures, Waterways.

Final Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

§§ 165.T1103, 165.1113, and 165.T1128 [Removed]

2. In part 165, sections 165.T1103 Safety Zone: Port of Los Angeles/Long Beach, CA, 165.1113 San Pedro Bay, California—safety zone, and 165.T1128 Safety Zone: San Pedro Bay, California, are removed.

Dated: December 20, 1993.

J.B. Morris,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach, CA.

[FR Doc. 93–31518 Filed 12–23–93; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[CGD01–93–153]

Safety Zone; New Bedford First Night Fireworks Display, New Bedford Harbor, New Bedford, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the New Bedford main ship channel south of the New Bedford/Fairhaven Bridge in the vicinity of New Bedford Channel Lighted Bell Buoy 16 (LLNR 16895), during the New Bedford First Night fireworks display. This safety zone is needed to protect vessels in the vicinity of the display, as well as personnel onboard these vessels, from potential hazards associated with the fireworks display.

EFFECTIVE DATES: This regulation is effective between the hours of 11 p.m. on December 31, 1993, and 1 a.m. on January 1, 1994, unless terminated sooner by the Captain of the Port Providence. There will be no rain date for this event.

FOR FURTHER INFORMATION CONTACT: LT J.C. Wong of Marine Safety Field Office New Bedford at (508) 999–0072.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are Lieutenant J.C. Wong, Project Manager for the Coast Guard Captain of the Port Providence, and Lieutenant Commander Stieb, Project Counsel for the First Coast Guard District Legal Office.

Regulatory History

As authorized by 5 U.S.C. 533, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Due to the date the application was received, there was not sufficient time to publish proposed rules in advance of the event. If the event, which is centered around a national holiday, were required to be postponed by publishing a NPRM, the event would be canceled. Publishing an NPRM and delaying the event would be contrary to the public interest since the fireworks display is to celebrate the New Year's national holiday.

Background and Purpose

On December 31, 1993, the city of New Bedford is sponsoring a fireworks display in celebration of New Year's Eve. The fireworks will be launched from a barge anchored in New Bedford Channel in the vicinity of New Bedford Channel Lighted Bell Buoy 16 (LLNR 16895), beginning at 12 midnight December 31, 1993. This safety zone will be established within a 350 yard radius around the fireworks barge. The fireworks display will last for approximately one half hour.

The purpose of this rulemaking is to establish a safety zone to prohibit vessels from transiting or anchoring in the area of New Bedford Harbor over which the fireworks will be launched, in order to protect these vessels and the persons onboard from potential damage, fire, or personal injury due to sparks and falling debris. The safety zone will be in effect between 11 p.m. on December 31, 1993, and 1 a.m. January 1, 1994, and will effectively close New Bedford Channel in the vicinity of New Bedford Channel Lighted Bell Buoy 16 (LLNR 16895) to all vessel traffic during this period.

Regulatory Assessment

This regulation is not a significant regulatory action under Executive Order 12866 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a

Regulatory Evaluation is unnecessary. The entities most likely to be affected are pleasure craft wishing to view the fireworks from the water as well as fishing vessels and other commercial vessel traffic wishing to transit the area. Spectator vessels will still be able to view the fireworks from the water but will be required to do so at a distance more than 350 yards from the barge, which will not cause them undue hardship. Fishing vessels will be prohibited from transiting through the area while the zone is in effect. This will not have a significant economic impact on them because of the short duration of the zone and extensive advisories which will be made. Most of the fishermen who work out of New Bedford are aware that the fireworks and accompanying safety zone will be in place the evening of December 31, 1993. The commercial terminals in the harbor have been notified and any scheduled traffic will be aware of the safety zone. Thus, this safety zone should not cause undue hardship to any entity.

Small Entities

For the reasons discussed in the Regulatory Evaluation, the Coast Guard expects the economic impact of this rule to be minimal on all entities. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. et seq.) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

Federalism

The Coast Guard has analyzed this final rule in accordance with the principals and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implication to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under section 2.B.2.C of Commandant Instruction M16475.1B, this is an action under Coast Guard statutory authority to protect public safety and is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 USC 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5, 49 CFR 1.46.

2. A temporary § 165.T01–153 is added to read as follows:

§ 165.T01–153 Safety Zone: New Bedford Harbor, New Bedford, MA.

(a) *Location.* The following area is a safety zone: All waters in a 350 yard radius around the fireworks barge anchored in New Bedford Harbor, MA, in the vicinity of New Bedford Channel Lighted Bell Buoy 16 (LLNR 16895).

(b) *Effective date.* This regulation becomes effective between 11 p.m. on December 31, 1993, and 1 a.m. on January 1, 1994, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations governing safety zones contained in 165.23 apply.

Dated: December 14, 1993.

M.D. Robinson,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 93–31520 Filed 12–23–93; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[CGD01–93–151]

RIN 2115–AA97

Safety Zone Regulations; Kill Van Kull, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters near Bergen Point West Reach in the Kill Van Kull of New York and New Jersey. This zone imposes requirements in addition to the Regulated Navigation Area (RNA) already in existence for these waters. This zone is divided into two sections. The first is the southern portion of the channel which contains a work area where concentrated drilling and blasting will be conducted and no vessel is permitted to transit. The second section includes the remainder of the safety zone which surrounds the work area. Vessel passage in this section is permitted under the criteria set forth in these regulations. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the work area of the channel and with the restrictions in channel width.

EFFECTIVE DATES: These regulations become effective at 8 a.m., December 7, 1993 and will terminate at 8 a.m., March 1, 1994, unless terminated sooner by Captain of the Port (COTP) NY.

FOR FURTHER INFORMATION CONTACT: LT R. Trabocchi of Captain of the Port, New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT R. Trabocchi, Project Manager, Captain of the Port, New York, and CDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM would be contrary to the public interest since this regulation is intended to lessen the restrictions imposed on vessels transiting this area while maintaining requirements sufficient to ensure the safety of the port.

On May 28, 1993, the U.S. Coast Guard Captain of the Port, New York published a final rule (58 FR 30987) implementing requirements in addition to the RNA in existence in the Kill Van Kull located at 33 CFR 165.165. Due to comments received from the local industry, the Coast Guard Captain of the Port deems it appropriate to lessen the restrictions imposed by that final rule.

Background and Purpose

The area included within this safety zone is now regulated by regulations (1) through (7) of the RNA and the additional regulations implemented in this rulemaking. These safety zone regulations, in conjunction with the existing RNA regulations, are designed to allow vessels to transit safely and to protect the port and maritime community. Due to the experience gained through the duration of this project, the Coast Guard Captain of the Port, New York considered it

VOL 58 ISS 246 DEC 27 1993 UMI

appropriate to lessen the restrictions previously imposed. The previous requirements for tugs read that all vessels 350 feet to 700 feet require one assist vessel and all vessels greater than 700 feet require two assist vessels when transiting from the Kill Van Kull (or vice versa) or from Newark Bay to the Arthur Kill (or vice versa) by way of the work area. The new requirement eliminates the need for assist vessels if under 700 feet and only requires vessels greater than 700 feet to have two assist vessels when transiting from Kill Van Kull to the Arthur Kill (or vice versa). This rule also removes the restrictions of having an assist vessel accompany all hawser tows. Removing these restrictions will create less of a burden on the vessel traffic needing to transit this area.

Regulatory Assessment

This regulation is not a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). In light of the regulations limited scope, the small size of the affected area, the minimal restrictions that are in place and the advance notice available to the community, the Coast Guard expects the economic impact of this rulemaking to be so minimal that a Regulatory Evaluation is unnecessary. The channel will not be completely closed therefore allowing vessels to still make their destination with minor restrictions. Vessel operators who do not wish to comply with the safety zone restrictions in this area of the KVK have the option of choosing an alternate route by taking the Arthur Kill to or from Newark Bay.

Small Entities

Because it expects the impact of these regulations to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety, and thus is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulations

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T01–151 is added to read as follows:

§ 165.T01–151 Safety Zone: Kill Van Kull, Bergen Point West Reach (Western Portion)—New York and New Jersey.

(a) *Location.* (1) The following area has been declared a Safety Zone: All waters of the Kill Van Kull West of the 074°08'00"W line of longitude, East of the 074°09'36"W line of longitude and South of the 40°39'06"N line of latitude.

(2) Within this safety zone exists a "Work Area" where concentrated drilling and blasting is being conducted. The "Work Area" includes all waters bounded by the following points:

Latitude	*Longitude*
40°38'24" N	074°08'52" W
40°38'24" N	074°09'03" W
40°38'31" N	074°09'15" W
40°38'37" N	075°09'06" W
40°38'31" N	074°08'54" W

thence to the point of the beginning.

The eastern and western edges of this "Work Area" are marked by lighted buoys set by the Coast Guard.

(b) *Effective date.* These regulations become effective at 8 a.m., on December 7, 1993 and will terminate at 8 a.m., March 1, 1994, unless terminated sooner by Captain of the Port, New York.

(c) *Regulations.* (1) *"Work Area":* In accordance with the general regulations in § 165.23 of this part, entry into or movement within the "Work Area" of the safety zone is prohibited unless authorized by the Captain of Port.

(2) For all other waters of the safety zone described in paragraph (a)(1) the COTP has included the following requirement in addition to paragraphs d(1) through (6) of § 165.165:

(i) Prior to entering this safety zone, the master, pilot, or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify Vessel Traffic Center (VTS) New York regarding the employment of assist vessels and intentions while transiting the safety zone.

(ii) Tug requirements: All vessels greater than 700 feet require two assist vessels when transiting from Kill Van Kull to the Arthur Kill (or vice versa).

(iii) Transit between Bergen Point West Reach and South of Shooters Island Reach is prohibited.

(3) *Waiver.* The Captain of the Port New York may, upon request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received at least 4 hours before the intended operation(s) and must state the need and describe the proposal.

Dated: December 7, 1993.

L.L. Hereth,

Acting Commander, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 93–31519 Filed 12–23–93; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[CGD01–93–152]

RIN 2115–AA97

Safety Zone Regulations: Kill Van Kull, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters near Bergen Point West Reach in the Kill Van Kull of New York and New Jersey. This zone imposes requirements in addition to the Regulated Navigation Area (RNA) already in existence for these waters. This zone is divided into two sections. The first is the southern portion of the channel which contains a work area where concentrated drilling and blasting will be conducted and no vessel is permitted to transit. The second section includes the remainder of the safety zone which surrounds the work area. Vessel passage in this section is permitted under the criteria set forth in these regulations. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the work area of the channel and with the restrictions in channel width.

EFFECTIVE DATES: These regulations become effective at 8 a.m., December 7, 1993 and terminate at 8 a.m., March 1, 1994, unless terminated sooner by Captain of the Port (COTP) NY.

FOR FURTHER INFORMATION CONTACT: LT R. Trabocchi of Captain of the Port, New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT R. Trabocchi, Project Manager, Captain of the Port, New York, and CDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM would delay this regulation's effective date and would be contrary to the public interest since immediate action is needed to protect the public from the dangers associated with this channel deepening project.

On April 7, 1992 a final rule was published as Part 165.165 of this title, which imposed a Regulated Navigation Area (RNA) over the entire Kill Van Kull (KVK) for the duration of a three year deepening project. On February 26, 1993, the Coast Guard COTP New York established a safety zone based on daily experiences and studies compiled since the initiation of the KVK dredging operations. This safety zone was needed to safeguard the users of this waterway and the immediate waterfront communities from the hazards associated with this ongoing project. On December 1, 1993 this safety zone inadvertently lapsed prior to publication of an amendment to extend its duration.

An amendment to extend the duration of the safety zone was necessary because on October 7, 1993, the U.S. Army Corps of Engineers advised Vessel Traffic Service New York, that the dredging project in the Kill Van Kull would not be completed as scheduled on December 1, 1993. As a result, Commanding Officer, Vessel Traffic Service New York, requested that a safety zone be in place until March 1, 1994.

This safety zone, effective December 7, 1993, reinstitutes the February 26, 1993 safety zone and imposes the same restrictions. This new safety zone, effective through March 1, 1994, is needed to continue protecting the users of this waterway and the immediate waterfront communities from the hazards associated with this ongoing project.

Background and Purpose

In August 1991, the Army Corps of Engineers (ACOE) and the Port Authority of New York and New Jersey commenced an extensive channel deepening project in the Kill Van Kull and Constable Hook area. The Coast Guard published a Regulated Navigation Area on April 7, 1992, to ensure the safety of vessels in the areas of blasting and dredging. On January 13, 1993, the ACOE notified the Coast Guard that they were prepared to begin operations in the area of Bergen Point West Reach (Phase V of the RNA) on March 8, 1993.

In May 1992, after publication of the RNA, the National Marine Research Center submitted a study to the U.S. Coast Guard COTP, New York. This study used the Marine Safety International's Computer Aided Operations Research Facility (MSI/CAORF) full-mission, real-time ship-handling simulator. During the study, New York Harbor pilots conned simulated vessels of various characteristics around the southern tip of Bergen Point, New Jersey, between Newark Bay and Bergen Point West Reach of the KVK. Currents, wind conditions, bank forces, tug assistance, vessel aerodynamics and hydrodynamics and other variables were represented. Representatives of the Port of New York, the Corps of Engineers and Coast Guard Vessel Traffic System (VTS) New York participated in the design of the tests and in formulating the conclusions and recommendations. The MSI/CAORF study revealed that vessels with a smaller length over all (LOA) could transit this area safely under the maximum credible adverse conditions. The study recommended that any operational restrictions take into account the LOA of vessels and the restrictions be placed on vessels under certain wind conditions. The Port Authority of New York and New Jersey gathered local pilots, vessel operators, and Coast Guard VTS New York to review the results of the MSI/CAORF study. This group reached a consensus that expanded upon the study recommendations, incorporating currents, winds, vessel size and local hands-on experience.

Based on the MSI/CAORF study, lessons learned from vessel groundings and collisions, and experience gained during the previous two years of the project, the Captain of the Port believes it is necessary to impose restrictions in the area of Bergen Point West Reach in addition to the requirements of the existing RNA. The area included within this safety zone is now regulated by regulations (1) through (7) of the RNA and the additional regulations implemented in this rulemaking. These safety zone regulations, in conjunction with the existing RNA regulations, are designed to allow vessels to transit safely and to protect the port and maritime community.

Regulatory Assessment

This regulation is not a significant regulatory action under Executive Order 12866 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). In light of the regulations limited scope, the small size of the affected area, the short duration, and the advance notice available to the community, the Coast Guard expects the economic impact of this rulemaking to be so minimal that a Regulatory Evaluation is unnecessary. The channel will not be completely closed therefor, allowing vessels to still make their destination with minor restrictions. Vessel operators who do not wish to comply with the safety zone restrictions in this area of the KVK have the option of choosing the south route by taking the Arthur Kill to or from Newark Bay.

Small Entities

Because it expects the impact of these regulations to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under

VOL
58
ISS
246
DE
27
1993
UMI

section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety, and thus is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new Section 165.T01–152 is added to read as follows:

§ 165.T01–152 Safety Zone: Kill Van Kull, Bergen Point West Reach—New York and New Jersey.

(a) *Location.* (1) The following area has been declared a Safety Zone: All waters of the Kill Van Kull Channel, bounded by the following points:

Latitude	*Longitude*
40°38'27" N	074°08'32" W
40°38'24" N	074°08'52" W
40°38'25" N	074°09'03" W
40°38'29" N	074°09'14" W
40°38'40" N	074°09'07" W
40°38'40" N	074°08'53" W
40°38'34" N	074°08'44" W
40°38'35" N	074°08'32" W

to buoy "G 13"

thence to the point of the beginning.

(2) Within this safety zone exists a "Work Area" where concentrated drilling and blasting is being conducted. The "Work Area" includes all waters bounded by the following points:

Latitude	*Longitude*
40°38'27" N	074°08'32" W
40°38'24" N	074°08'52" W
40°38'31" N	074°08'55" W
40°38'29" N	074°08'43" W
40°38'31" N	074°08'33" W

thence to the point of the beginning.

The eastern and western edges of the "Work Area" are marked by lighted buoys set by the Coast Guard.

(b) *Effective date.* These regulations become effective at 8 a.m., December 7, 1993, and terminate at 8 a.m., March 1, 1994, unless terminated sooner by Captain of the Port, New York.

(c) *Regulations.* (1) "Work Area": In accordance with the general regulations in § 165.23 of this part, entry into or movement within the "Work Area" of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) For all other waters of the safety zone described in paragraph (a)(1) the COTP has included the following requirements in addition to the RNA regulations in 33 CFR 165.165(d):

(i) Prior to entering this safety zone, the master, pilot, or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify Vessel Traffic Service (VTS) New York regarding the employment of assist vessels and intentions while transiting the safety zone.

(ii) *Tug requirements:* All vessels (including all tow configurations from stem to stern) over 350 feet in length require one assist vessel. All vessels over 700 feet require two assist vessels.

(iii) *Tidal current restrictions:* Vessels over 700 feet in length with a draft greater than 33 feet are restricted to movements within one hour either side of the slack water on ebb and flood tides while outbound.

(iv) *Astern tows:* Hawser tows are not permitted unless the tow is accompanied by an assist vessel.

(v) *Wind conditions:*

(A) In winds from 20 to 34 knots:

(*1*) Cargo ships may not transit through the safety zone.

(*2*) Tankers in ballast may not transit through the safety zone.

(*3*) Tugs with tank barge tows less than 350 feet (stem of tug to stern of barge) loaded or light, require an assist vessel.

(B) In wings greater than 34 knots, no vessels 300 gross tons or greater and all tugs with tows are prohibited from transiting the safety zone.

(3) *Waiver.* The Captain of the Port New York may, upon request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 4 hours before the intended operation(s) and must state the need and describe the proposal.

Dated: December 7, 1993.

L.L. Hereth,

Commander, U.S. Coast Guard, Acting Captain of the Port, New York.

[FR Doc. 93–31513 Filed 12–23–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50613A; FRL–4743–2]

Significant New Use Rule; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA issued a direct final rule published in the **Federal Register** of October 4, 1993. That document inadvertently omitted language for protection in the workplace requirements under 40 CFR 721.63 that would allow manufacturers, importers, and processors to use the new chemical exposure limits requirements as an alternative to specific respirator requirements in the significant new use rules (SNURs) for two chemical substances, and the numerical value of 1 ppm in the hazard communication program requirements under § 721.72 in the SNUR for one of the chemical substances. EPA intended to include these requirements as stated in the preamble of the direct final SNUR for these two substances. This action is necessary so that the SNURs are consistent with their corresponding TSCA section 5(e) consent orders. Because this is a nonsubstantive change, notice and public comment are not required.

DATES: This document is effective on December 27, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404; TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: EPA is including language for protection in the workplace requirements under § 721.63 for 40 CFR 721.4250 and 721.5310, and the numerical value of 1 ppm in the hazard communication program requirements under § 721.72 for 40 CFR 721.5310. The requirements were inadvertently omitted in the direct final rule published in the **Federal Register** of October 4, 1993 (58 FR 51694).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: December 13, 1993.

Joseph A. Carra,

Acting Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625.

2. In § 721.4250(a)(2)(i) by adding a sentence at the end of the paragraph to read as follows:

§ 721.4250 Hexanoic acid, 2-ethyl-, ethenyl ester.

(a) * * *

(2) * * *

(i) * * * As an alternative to the respiratory requirements in this section, manufacturers, importers, and processors may use the New Chemical Exposure Limits provisions, including sampling and analytical methods which have previously been approved by EPA for this substance, found in the 5(e) consent order for this substance.

* * * * *

3. In § 721.5310(a)(2)(i) by adding a sentence at the end of the paragraph and by revising the last sentence in paragraph (a)(2)(ii) to read as follows:

721.5310 Neononanoic acid, ethenyl ester.

(a) * * *

(2) * * *

(i) * * * As an alternative to the respiratory requirements in this section, manufacturers, importers, and processors may use the New Chemical Exposure Limits provisions, including sampling and analytical methods which have previously been approved by EPA for this substance, found in the 5(e) consent order for this substance.

(ii) * * * When using this substance, use respiratory protection, unless workplace airborne concentrations are maintained at or below an 8–h TWA of 1 ppm.)

* * * * *

[FR Doc. 93–31468 Filed 12–23–93; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 712 and 716

[OPPTS–62041; FRL–4644–1]

Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Interagency Testing Committee (ITC) in its 31st Report to EPA revised the Toxic Substances Control Act (TSCA) section 4(e) Priority List by designating for testing 24 chemical substances and recommending two revised chemical categories from the 28th ITC report. There are no recommended with intent-to-designate chemicals. The ITC recommendations must be given priority consideration by EPA in promulgating test rules. EPA is adding the 24 chemical substances and two categories of chemical substances to two model information-gathering rules: The Toxic Substances Control Act (TSCA) Section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA Section 8(d) Health and Safety Data Reporting Rule. These model rules will require manufacturers, importers, and processors of the specific substances and members of the categories to report production, use, exposure-related and unpublished health and safety data to EPA. Also, this rule amends a previous addition to the PAIR and 8(d) rule made in response to the ITC's addition of white phosphorus to the Testing Priority List (TPL) in their 29th Report. For white phosphorus, CAS No. 12185–10–3 will be added to both rules as an identifier.

DATES: This rule will become effective on January 26, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. E–543, Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: This rule adds 24 chemical substances and two categories of substances to both the PAIR and the section 8(d) Health and Safety Data Reporting Rule. Manufacturers, processors, and importers of these chemicals will be required to report unpublished health and safety data and/or end use, exposure, and production volume data to EPA. Because the ITC has expressed no need for ecological effects information for the 24 substances being added to the section 8(d) rule under the category designated "OSHA Chemicals in Need of Dermal Absorption Testing," EPA is exempting from ecological effects data reporting these substances under the section 8(d) rule.

I. Background

Section 4(e) of TSCA established the ITC and authorized it to recommend to EPA chemical substances and mixtures (chemicals) to be given priority consideration in proposing test rules under section 4. For some of these chemicals, the ITC may designate that EPA must respond to its recommendations within 12 months. In this time, EPA must either initiate a rulemaking to test the chemical or publish in the **Federal Register** its reasons for not doing so.

On January 28, 1993, EPA announced the receipt of the 31st Report from the ITC. It was then published by EPA on May 5, 1993 (58 FR 26898). The 31st Report revises the Committee's priority list of chemicals by designating 24 chemical substances and recommending two categories to the section 4(e) priority list (for a total of 37 chemical substances). For the chemicals listed under § 716.120(d) of the section 8(d) rule and falling within the category "OSHA Chemicals in Need of Dermal Absorption Testing" the reporting of ecological effects data will not be required. Because no member of the ITC has expressed a need for this data, the ITC feels there is no need to collect this information at this time. This rule adds 24 chemical substances and two categories of substances to both the PAIR and the section 8(d) Health and Safety Data Reporting Rule. These two rules are model information gathering rules which assist EPA in responding to the ITC recommendations.

EPA issued the PAIR under section 8(a) of TSCA (15 U.S.C. 2607(a)), and it is codified at 40 CFR part 712. This model section 8(a) rule establishes standard reporting requirements for manufacturers and importers of the chemicals listed in the rule at 40 CFR 712.30. These manufacturers and importers are required to submit a one-time report on general volume, end use, and exposure-related information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35). EPA uses this model section 8(a) rule to gather current information on chemicals of concern quickly.

EPA issued the model Health and Safety Data Reporting Rule under section 8(d) of TSCA (15 U.S.C. 2607(d)), and it is codified at 40 CFR part 716. The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemicals to submit to EPA copies and lists of unpublished health and safety studies on the listed chemicals that they manufacture, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decision making under TSCA sections 4, 5, 6, 8, and 9. These model rules provide for the automatic addition of ITC priority list chemicals. Whenever

VOL 58 ISS 246 DEC 27 1993 UMI

EPA announces the receipt of an ITC report, EPA may, at the same time without further notice and comment, amend the two model information-gathering rules by adding the recommended chemicals. The amendment adding these chemicals to the PAIR and the Health and Safety Data Reporting Rule becomes effective 30 days after publication.

II. Chemicals To Be Added

In its 31st Report to EPA, the ITC designated 24 chemical substances and recommended for priority consideration two categories of substances; there are no recommended with intent-to-designate chemicals. The 24 chemical substances are of regulatory interest to the Occupational Safety and Health Administration (OSHA) because of a lack of dermal absorption test data. These chemicals, listed in the category "OSHA Chemicals in Need of Dermal Absorption Testing," will be exempt from reporting ecological effects data under section 8(d). The two categories are propylene glycol ethers and esters and methyl ethylene glycol ethers and esters. These two categories were previously recommended in the 28th ITC Report (56 FR 41212, August 19, 1991) based on concerns raised by the National Institute of Occupational Safety and Health (NIOSH) with glycol ethers and esters that are metabolized in humans to known reproductive toxicants. The two categories were subsequently revised to reflect comments by ITC member agencies that not all of these chemicals are of concern as to their possible metabolism to known reproductive toxicants, and to reflect interest in learning about types and quantities of certain of these chemical substances that are likely to be used in consumer products, and possible exposures that may result from their consumer use. For a complete listing of the substances, see the regulatory text section of this document or the ITC's 31st Report published in the **Federal Register** of May 5, 1993 (58 FR 26898).

Additionally, in the 29th ITC report (56 FR 67424), the chemical substance white phosphorus (CAS No. 7723–14–0) was recommended for priority consideration. The ITC subsequently determined that another CAS number identifier (12185–10–3) also represented white phosphorus. To ensure that the ITC member agencies have adequate information so that reasoned testing decisions may be made, white phosphorus (CAS No. 12185–10–3) will be placed on both the PAIR and the section 8(d) rules.

III. Reporting Requirements

A. Preliminary Assessment Information Rule

All persons who manufactured or imported the chemical substances named in this rule during their latest complete corporate fiscal year must submit a Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710–35) for each manufacturing or importing site at which they manufactured or imported a named substance. A separate form must be completed for each substance and submitted to the Agency no later than March 28, 1994. Persons who have previously and voluntarily submitted a Manufacturer's Report to the ITC or EPA may be able to submit a copy of the original Report to EPA or to notify EPA by letter of their desire to have this voluntary submission accepted in lieu of a current data submission. See § 712.30(a)(3).

Details of the reporting requirements, the basis for exemptions, and a facsimile of the reporting form, are provided in 40 CFR part 712. Copies of the form are available from the TSCA Environmental Assistance Division at the address listed under **FOR FURTHER INFORMATION CONTACT.**

B. Health and Safety Data Reporting Rule

Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either have proposed to manufacture, import, or process, or have manufactured, imported, or processed the listed substance must submit to EPA: A copy of each health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process, or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time the substance is listed.

b. A list of health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the date the substance is listed and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the time they propose to manufacture, import, or process the listed substance, and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of the completion date.

The bulk of reporting is required at the time the substance is listed. Persons described in categories 1 and 2 do all or most of their health and safety data reporting at the start of the reporting period. The remaining reporting requirements, specifically categories 2(d), 2(e), and 3, continue prospectively.

Detailed guidance for reporting unpublished health and safety data is provided in the **Federal Register** of September 15, 1986 (51 FR 32720). Also found there are explanations of the reporting exemptions.

C. Submission of PAIR Reports and Section 8(d) Studies

PAIR reports and section 8(d) health and safety studies must be sent to: TSCA Document Processing Center (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, ATTN: (insert either PAIR or 8(d) Reporting).

D. Removal of Chemical Substances from the Rules

Any person who believes that section 8(a) or 8(d) reporting required by this rule is unwarranted, should promptly submit to EPA in detail the reasons for that belief. EPA, in its discretion, may remove the substance from this rule for good cause (40 CFR 712.30 and 716.105). When withdrawing a substance from the rule, EPA will issue a rule amendment for publication in the **Federal Register.**

IV. Release of Aggregate Data

EPA will follow procedures for the release of aggregate statistics as prescribed in the **Federal Register** notice of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be received by EPA no later than March 28, 1994.

V. Economic Analysis

A. Preliminary Assessment Information Rule

EPA estimates the PAIR reporting cost of this rule is $375,570. To calculate this figure, EPA used information from a variety of published sources as well as information from OPPTS's Risk Management 1 (RM1) reports on similar chemicals to generate a list of 156 firms that manufacture and/or import the 38 chemicals at a total of 234 sites. The published sources used include: SRI International's *Directory of Chemical Producers, Chemical Economics Handbook*, and *Specialty Chemicals*; other multiclient studies; the U.S. International Trade Commission's *Synthetic Organic Chemicals*; and company product literature. An unknown number of the businesses affected by the addition of the chemicals to the Priority List may quality as a small business as defined in 40 CFR 712.25(c). However, for this analysis it is assumed that all firms identified will report. Therefore, EPA expects 156 firms to generate a total of 234 reports (some sites produce more than one of the 38 chemicals).

Reporting costs (dollars)	
(a) 234 reports estimated at $843 per report	$197,262
(b) 234 sites at $762 per site	$178,308
Total cost	$375,570
Mean cost per site: $375,350/234 sites	$1,605
Mean cost per firm: $375,350/156 firms	$2,407
Reporting burden (hours)	
(a) Rule familiarization: 18 h/site X 234 sites	4,212 h
(b) Reporting: 16 h/report X 234 reports	3,744 h
Total burden hours	7,956 h
Average burden per site at 7,956 h/234 sites	34 h
Average burden per firm at 7,956 h/156 firms	51 h
EPA costs (dollars):	
Processing cost = 234 reports at $95/report	$22,230

B. Health and Safety Data Reporting Rule

EPA estimates the total reporting costs for establishing section 8(d) reporting requirements for 38 chemicals will be $163,906. This cost estimate is high because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of the information is based upon the 1986 TSCA Inventory Update and secondary information from industry sources. Therefore, EPA tends to overestimate rather than underestimate reporting burden. The estimated reporting costs are broken down as follows:

Initial corporate review	$ 48,635
Site identification	17,926
File searches at site	36,856
Photocopying existing studies	6,218
Title listing	1,868
Managerial review for CBI	36,216
Reporting on newly-initiated studies	784
Submission of newly-initiated studies	1,400
Submissions after initial reporting period	14,003
Total	$163,906
Reporing burden (hours)	
Initial review: 2 h/firm X 468 firms	936 h
(b) Reporting: 6.2 h/firm X 468 firms	2,902 h
Total reporting burden hours	3,838 h

VOL 58 ISS 246 DEC 27 1993 UMI

VI. Rulemaking Record

The following documents constitute the record for this rule (docket control number OPPTS–82041). A public version of the record, without any CBI, is available in the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office, from 12 noon to 4 p.m., Monday through Friday, except legal holidays. NCIC is located in Rm. E–G102, 401 M St., SW., Washington, DC 20460.

1. This final rule.
2. The economic analysis for this rule.
3. The 31st Report of the ITC.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This amendment was not submitted to the Office of Management and Budget (OMB) for review, because the automatic listing of substances recommended by the ITC is provided for in 40 CFR 712.30(c) and 716.105(b).

B. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control numbers 2070–0054 for PAIR reporting and 2070–0004 for TSCA section 8(d) reporting.

Public reporting burden for this collection of information is estimated to average 34 hours for PAIR per response and 8.2 hours for section 8(d), including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, (2131), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Parts 712 and 716

Environmental protection, Chemicals, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: November 16, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR Chapter I is amended as follows:

PART 712—[AMENDED]

1. In part 712:

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30 is amended by adding in CAS number sequence one substance to the list in paragraph (w) and adding three categories alphabetically in paragraph (x) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(w) * * *

CAS No.	Substance	Effective date	Reporting date
	* * * * * * *		
12185–10–3	White phosphorus	1/26/94	3/28/94
	* * * * * * *		

(x) * * *

CAS No.	Substance	Effective date	Reporting date
	* * * * * * *		
Methyl ethylene glycol ethers and esters:			
3121-61-7	Ethylene glycol monomethyl ether acrylate	1/26/94	3/28/94
23783-42-8	Tetraethylene glycol monomethyl ether	1/26/94	3/28/94
OSHA Chemicals in Need of Dermal Absorption Testing:			
60–29–7	Ethyl ether	1/26/94	3/28/94
75–65–0	*tert*-Butyl alcohol	1/26/94	3/28/94
76–22–2	Camphor	1/26/94	3/28/94
78–92–2	*sec*-Butyl alcohol	1/26/94	3/28/94
79–20–9	Methyl acetate	1/26/94	3/28/94
97–77–8	Disulfiram	1/26/94	3/28/94
100–25–4	*p*-Dinitrobenzene	1/26/94	3/28/94
105–46–4	*sec*-Butyl acetate	1/26/94	3/28/94
106–42–3	*p*-Xylene	1/26/94	3/28/94
107–31–3	Methyl formate	1/26/94	3/28/94

CAS No.	Substance	Effective date	Reporting date
107–66–4	Dibutyl phosphate	1/26/94	3/28/94
108–03–2	1-Nitropropane	1/26/94	3/28/94
108–87–2	Methylcyclohexane	1/26/94	3/28/94
109–66–0	Pentane	1/26/94	3/28/94
110–83–8	Cyclohexene	1/26/94	3/28/94
111–84–2	Nonane	1/26/94	3/28/94
123–92–2	Isoamyl acetate	1/26/94	3/28/94
142–82–5	Heptane (*n*-Heptane)	1/26/94	3/28/94
287–92–3	Cyclopentane	1/26/94	3/28/94
532–27–4	α-Chloroacetophenone	1/26/94	3/28/94
540–88–5	*tert*-Butyl acetate	1/26/94	3/28/94
628–63–7	*n*-Amyl acetate	1/26/94	3/28/94
7631–90–5	Sodium bisulfite	1/26/94	3/28/94
7681–57–4	Sodium metabisulfite	1/26/94	3/28/94
Propylene glycol ethers and esters:			
108–65–6	Propylene glycol monomethyl ether acetate	1/26/94	3/28/94
110–98–5	Dipropylene glycol	1/26/94	3/28/94
770–35–4	1–Phenoxy-2-propanol	1/26/94	3/28/94
20324–32–7	1–(2-Methoxy-1-methylethoxy)-2-propanol	1/26/94	3/28/94
20324–33–8	Tripropylene glycol methyl ether	1/26/94	3/28/94
28677–93–2	Methoxy-1-propanol	1/26/94	3/28/94
29387–86–8	Propylene glycol monobutyl ether	1/26/94	3/28/94
29911–28–2	Dipropylene glycol butyl ether	1/26/94	3/28/94
42978–66–5	Tripropylene glycol diacrylate	1/26/94	3/28/94
57018–52–7	Propylene glycol mono-*tert*-butyl ether	1/26/94	3/28/94
88917–22–0	Dipropylene glycol monomethyl ether acetate	1/26/94	3/28/94
	* * * * * * *		

PART 716–[AMENDED]

2. In part 716:

a. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. Section 716.20 is amended by adding paragraph (b)(3) to read as follows:

§ 716.20 Studies not subject to the reporting requirements.

* * * * *

(b) * * *

(3) For the listed chemicals under § 716.120(d) in the category "OSHA Chemicals in Need of Dermal Absorption Testing," studies on ecological effects.

c. Section 716.120 is amended by adding, in CAS number sequence, one substance to the list in paragraph (a), and adding three categories alphabetically to paragraph (d) to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(a) * * *

CAS No.	Substance	Special exemptions	Effective date	Sunset date
	* * * * * * *			
12185–10–3	White phosphorus		1/26/94	1/26/04
	* * * * * * *			

(d) * * *

Category	CAS No.	Special exemptions	Effective date	Sunset date
* * *	* * *	*		
Methyl ethylene glycol ethers and esters:				
Ethylene glycol monomethyl ether acrylate	3121–61–7		1/26/94	1/26/04
Tetraethylene glycol monomethyl ether	23783–42–8		1/26/94	1/26/04

VOL 58 ISS 246 DE 27 1993 UMI

Category	CAS No.	Special exemptions	Effective date	Sunset date
OSHA Chemicals in Need of Dermal Absorption Testing:				
n-Amyl acetate	628-63-7	§716.20(b)(3) applies.	1/26/94	1/26/04
sec-Butyl acetate	105-46-4	§716.20(b)(3) applies.	1/26/94	1/26/04
tert-Butyl acetate	540-88-5	§716.20(b)(3) applies.	1/26/94	1/26/04
sec-Butyl alcohol	78-92-2	§716.20(b)(3) applies.	1/26/94	1/26/04
tert-Butyl alcohol	75-65-0	§716.20(b)(3) applies.	1/26/94	1/26/04
Camphor	76-22-2	§716.20(b)(3) applies.	1/26/94	1/26/04
α-Chloroacetophenone	532-27-4	§716.20(b)(3) applies.	1/26/94	1/26/04
Cyclohexene	110-83-8	§716.20(b)(3) applies.	1/26/94	1/26/04
Cyclopentane	287-92-3	§716.20(b)(3) applies.	1/26/94	1/26/04
Dibutyl phosphate	107-66-4	§716.20(b)(3) applies.	1/26/94	1/26/04
p-Dinitrobenzene	100-25-4	§716.20(b)(3) applies.	1/26/94	1/26/04
Disulfiram	97-77-8	§716.20(b)(3) applies.	1/26/94	1/26/04
Ethyl ether	60-29-7	§716.20(b)(3) applies.	1/26/94	1/26/04
Heptane (*n*-Heptane)	142-82-5	§716.20(b)(3) applies.	1/26/94	1/26/04
Isoamyl acetate	123-92-2	§716.20(b)(3) applies.	1/26/94	1/26/04
Methyl acetate	79-20-9	§716.20(b)(3) applies.	1/26/94	1/26/04
Methylcyclohexane	108-87-2	§716.20(b)(3) applies.	1/26/94	1/26/04
Methyl formate	107-31-3	§716.20(b)(3) applies.	1/26/94	1/26/04
1-Nitropropane	108-03-2	§716.20(b)(3) applies.	1/26/94	1/26/04
Nonane	111-84-2	§716.20(b)(3) applies.	1/26/94	1/26/04
Pentane	109-66-0	§716.20(b)(3) applies.	1/26/94	1/26/04
Sodium bisulfite	7631-90-5	§716.20(b)(3) applies.	1/26/94	1/26/04
Sodium metabisulfite	7681-57-4	§716.20(b)(3) applies.	1/26/94	1/26/04
p-Xylene	106-42-3	§716.20(b)(3) applies.	1/26/94	1/26/04
Propylene glycol ethers and esters:				
Dipropylene glycol	110-98-5		1/26/94	1/26/04
Dipropylene glycol butyl ether	29911-28-2		1/26/94	1/26/04
Dipropylene glycol monomethyl ether acetate	88917-22-0		1/26/94	1/26/04
1-(2-Methoxy-1-methylethoxy)-2-propanol	20324-32-7		1/26/94	1/26/04
Methoxy-1-propanol	28677-93-2		1/26/94	1/26/04
1-Phenoxy-2-propanol	770-35-4		1/26/94	1/26/04
Propylene glycol monobutyl ether	29387-86-8		1/26/94	1/26/04
Propylene glycol monomethyl ether acetate	108-65-6		1/26/94	1/26/04
Propylene glycol mono-tert-butyl ether	57018-52-7		1/26/94	1/26/04
Tripropylene glycol diacrylate	42978-66-5		1/26/94	1/26/04
Tripropylene glycol methyl ether	20324-33-8		1/26/94	1/26/04
. . .	. . .	. . .	. . .	. . .

[FR Doc. 93-31288 Filed 12-23-93; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Parts 712 and 716

[OPPTS-82037; FRL-4606-4]

Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: The Interagency Testing Committee, in its 28th Report to EPA, revised the Toxic Substances Control Act (TSCA) Section 4(e) Testing Priority List (TPL) by designating for testing 6 substances, and recommending for testing 3 substances and 11 categories of chemical substances. Subsequently, for reasons stated in its 31st and 32nd Reports to EPA (issued in January and April of 1993, respectively), the ITC amended the set of substances and chemical groups added to the TPL via the 28th Report, leaving as 28th List additions two chemical substances (thiophenol and acetone) and one chemical category (cyanoacrylates). In support of ITC activities and/or EPA follow-up in response to the ITC additions, EPA generally collects data on ITC listed substances via two model information gathering rules: The TSCA section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA section 8(d) Health and Safety Data Reporting Rule. Because of commitments by industry to develop certain data on acetone, EPA is at this time adding only thiophenol (CAS No. 108-95-5) and certain members of the chemical category cyanoacrylates to these two model information gathering rules. Additionally, EPA is adding ethylene bis(5,6-dibromonorbornane-2,3-dicarboximide) (CAS No. 52907-07-0) to the PAIR and section 8(d) rule. This chemical substance, added to the TPL via the 25th ITC Report, was previously added to the PAIR and section 8(d) rule under CAS No. 41291-34-5. The CAS number 52907-07-0 has replaced CAS number 41291-34-3 on the TSCA Inventory of Chemical Substances. This action requires manufacturers, importers, and processors of the specific substances and chemical categories members to report unpublished health and safety data, and manufacturers and importers to report production, use and exposure-related data to EPA. Finally, this rule makes certain technical corrections to previous chemical substance listings under the PAIR and section 8(d) rules.

DATES: This rule will become effective on January 26, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (7408), Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. E-543, Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This rule adds two chemical substances and one category of substances to the PAIR and to the section 8(d) Health and Safety Data Reporting Rule. Manufacturers, processors, and importers of these chemicals will be required to report unpublished health and safety data, and manufacturers and importers will be required to report end use, exposure, and production volume data to EPA.

This rule also corrects four typographical errors in final section 8(a) and/or 8(d) rules published in the **Federal Registers** of June 5, 1990 (55 FR 23052), and August 29, 1991 (56 FR 42692). In 55 FR 23052, the CAS number for 2-propenoic acid, (1-methylethylidene)bis(2,6-dibromo-4,1-phenylene) ester was incorrectly listed as 55205-38-7 in §§ 712.30(x) and 716.120(d); it should read 55205-38-4. In 56 FR 42692, the CAS number for benzeneacetaldehyde, 4-methyl- was incorrectly listed as 99-72-9 in §§ 712.30(x) and 716.120(d); it should read 104-09-6; ethanol, 2-(2-ethoxyethoxy)-, acetate (CAS No. 112-15-2) was incorrectly listed as carbinol acetate in §§ 712.30(x) and 716.120(d); and 3-sulfolene (CAS No. 77-79-2) was incorrectly listed as sulfolene in §§ 712.30(x) and 716.120(d).

I. Background

Section 4(e) of TSCA established the ITC and authorized it to recommend to EPA chemical substances and mixtures (chemicals) to be given priority consideration in proposing test rules under section 4. For some of these chemicals, the ITC may designate that EPA must respond to its recommendations within 12 months. In this time, EPA must either initiate a rulemaking to test the chemical or publish in the **Federal Register** its reasons for not doing so.

On June 6, 1991, EPA announced the receipt of the 28th Report from the ITC. It was then published by EPA on August 19, 1991 (56 FR 41212). The 28th ITC Report was later revised by the ITC via their 31st Report (received by EPA January 28, 1993, published in the **Federal Register** May 5, 1993 (58 FR 26898)) and their 32nd Report (received by EPA June 2, 1993, published in the **Federal Register** July 16, 1993 (58 FR 38490)). In their 31st Report, the ITC revised two chemical groups added to the TPL in their 28th Report. These revised chemical groups, propylene glycol ethers and esters and methyl ethylene glycol ethers and esters, are now being considered by the ITC as added to the TPL in their 31st Report. EPA has issued section 8 rules on chemicals included in the 31st ITC Report in a notice published elsewhere in today's issue of the **Federal Register**.

In their 32nd Report, the ITC removed from the TPL four chemicals added in the 28th Report because certain members of the chemical industry have committed to develop dossiers and necessary test data under the Screening Information Data Set (SIDS) program of the Organization for Economic Cooperation and Development (OECD). The SIDS program is a consensus testing regimen developed for screening high production chemicals and is accepted by all OECD member nations. The four chemicals are: *n*-Butanol (CAS No. 71-36-3), isobutanol (CAS No. 78-83-1), dimethyl terephthalate (CAS No. 120-61-6), and di(2-ethylhexyl)adipate (CAS No. 103-23-1). Because of the ITC's removal of these substances from the TPL, and because of commitments by industry to develop data on acetone, EPA is adding only thiophenol to the PAIR and section 8(d) rules from the group of substances originally added to the TPL via the 28th Report of the ITC.

Additionally, the 32nd ITC Report acted to amend the 28th ITC Report by removing two chemicals and eight chemical categories. In summary, these substances and categories were removed because of competing priorities within the ITC; however, the ITC plans to continue evaluating them on a chemical-by-chemical basis to assess possible concerns of ITC-member agencies, and may be included in later reports of the ITC. The two chemicals are allyl alcohol (CAS No. 107-18-6) and 2,4-dichlorophenol (CAS No. 120-83-2); the eight chemical categories are: Alkynes, nitroalcohols, phosphoniums, hydrazines, oxiranes, alkoxysilanes, aldehyde hydrates, and isothiocyanates. As a result of their removal from the TPL, EPA is not at this time collecting section 8 data for these substances.

Finally, this rule adds to the section 8(a) and section 8(d) rules an additional CAS number to a previously listed substance. The 25th ITC Report PAIR and section 8(d) rule published in the **Federal Register** of December 12, 1989 (54 FR 51131), included the chemical substance ethylene bis(5,6-dibromonorbornane-2,3-dicarboximide),

VOL 58 ISS 246 DEC 27 1993 UMI

under CAS No. 41291-34-3. Since that time, the CAS number for that substance has been revised and is now 52907-07-0. Because the ITC requires section 8(a) and section 8(d) information concerning this substance under the revised CAS number, ethylene bis(5,6-dibromonorbornane-2,3-dicarboximide) under CAS No. 52907-07-0 is being added to both the section 8(a) and the section 8(d) rules.

EPA issued the PAIR under section 8(a) of TSCA (15 U.S.C. 2607(a)), and it is codified at 40 CFR part 712. This model section 8(a) rule establishes standard reporting requirements for manufacturers and importers of the chemicals listed in the rule at 40 CFR 712.30. These manufacturers and importers are required to submit a one-time report on general volume, end use, and exposure-related information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710-35). EPA uses this model section 8(a) rule to gather current information on chemicals of concern quickly. This information may be used in chemical risk screening and/or assessment, and to make findings needed to support regulation, if appropriate.

EPA issued the model Health and Safety Data Reporting Rule under section 8(d) of TSCA (15 U.S.C. 2607(d)), and it is codified at 40 CFR part 716. The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemicals to submit to EPA copies and lists of unpublished health and safety studies on the listed chemicals that they manufacture, import, or process. These studies provide information needed to assess chemical risk and have provided significant support for decisionmaking under TSCA sections 4, 5, 6, 8, and 9.

These model rules provide for the automatic addition of ITC priority list chemicals. Whenever EPA announces the receipt of an ITC report, EPA may, without further notice and comment, amend the two model information-gathering rules by adding the recommended chemicals. The amendment adding these chemicals to the PAIR and the Health and Safety Data Reporting Rule becomes effective 30 days after publication in the **Federal Register**.

II. Chemicals To Be Added

This rule adds to the PAIR and the Health and Safety Data Reporting Rule two chemical substances and one category of substances. The two chemical substances are thiophenol (CAS No. 108-98-5) and ethylene bis(5,6-dibromonorbornane-2,3-dicarboximide) (CAS No. 52907-07-0), and the one category is cyanoacrylates. Regarding the cyanoacrylates, reporting will be required only on the following substances:

CAS No.	Chemical Name
137-05-3	2-Propenoic acid, 2-cyano-, methyl ester
1069-55-2.	2-Propenoic acid, 2-cyano-, isobutyl ester
6197-30-4.	2-Propenoic acid, 2-cyano-3,3-diphenyl-, 2-ethylhexyl ester
6606-65-1.	2-Propenoic acid, 2-cyano-, butyl ester
7085-85-0.	2-Propenoic acid, 2-cyano-, ethyl ester
7324-02-9.	2-Propenoic acid, 2-cyano-, 2-propenyl ester
10586-17-1.	2-Propenoic acid, 2-cyano-, 1-methylethyl ester
21982-43-4.	2-Propenoic acid, 2-cyano-, ethoxy ethyl ester
23023-91-8.	2-Propenoic acid, 2-cyano-, 2,2,2-trifluoro-1-methylethyl ester
27816-23-5.	2-Propenoic acid, 2-cyano-, 2-methoxyethyl ester
64992-16-1.	Ethanaminium, 2-[[2-cyano-3-[4-(diethylamino)phenyl]-1-oxo-2-propenyl]oxy]- N,N,N-trimethyl-, chloride

III. Reporting Requirements

A. Preliminary Assessment Information Rule

All persons who manufactured or imported the chemical substances named in this rule during their latest complete corporate fiscal year must submit a Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710-35) for each manufacturing or importing site at which they manufactured or imported a named substance. A separate form must be completed for each substance and submitted to the Agency no later than March 28, 1994. Persons who have previously and voluntarily submitted a Manufacturer's Report to the ITC or EPA may be able to submit a copy of the original report to EPA or to notify EPA by letter of their desire to have this voluntary submission accepted in lieu of a current data submission. See § 712.30(a)(3).

Details of the reporting requirements, the basis for exemptions, and a facsimile of the reporting form, are provided in 40 CFR part 712. Copies of the form are available from the TSCA Environmental Assistance Division at the address listed under **FOR FURTHER INFORMATION CONTACT**.

B. Health and Safety Data Reporting Rule

Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either have proposed to manufacture, import, or process, or have manufactured, imported, or processed, the listed substance must submit to EPA: A copy of each health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process, or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time the substance is listed.

b. A list of health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the date the substance is listed and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the time they propose to manufacture, import, or process the listed substance, and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of the completion date.

The bulk of reporting is required at the time the substance is listed. Persons described in categories 1 and 2 do all or most of their health and safety data reporting at the start of the reporting period. The remaining reporting requirements, specifically categories 2(d), 2(e), and 3, continue prospectively.

Detailed guidance for reporting unpublished health and safety data is provided in the **Federal Register** of September 15, 1986 (51 FR 32720). Also found there are the reporting exemptions.

C. Submission of PAIR Reports and Section 8(d) Studies

PAIR reports and section 8(d) health and safety studies must be sent to: TSCA Document Processing Center (7407), Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, ATTN: (insert either PAIR or 8(d) Reporting).

D. Removal of Chemical Substances from the Rules

Any person who believes that section 8(a) or 8(d) reporting required by this rule is unwarranted, should promptly submit to EPA in detail the reasons for that belief. EPA, in its discretion, may remove the substance from this rule for good cause (§ § 712.30 and 716.105). When withdrawing a substance from the rule, EPA will issue a rule amendment for publication in the **Federal Register**.

IV. Release of Aggregate Data

EPA will follow procedures for the release of aggregate statistics as prescribed in the **Federal Register** notice of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be received by EPA no later than March 28, 1994.

V. Economic Analysis

A. Preliminary Assessment Information Rule

EPA estimates the PAIR reporting cost of this rule is $57,780. To calculate this figure, EPA used information from the 1986 *TSCA Inventory Update* and SRI International's *Directory of Chemical Producers* to generate a list of 24 firms that manufacture and/or import the 13 chemicals at a total of 36 sites. None of the companies identified qualify as a small business as defined in 40 CFR 712.24(c), thus, EPA expects 24 firms to generate a total of 36 reports.

Reporting costs (dollars)	
(a) 36 reports estimated at $843 per report	$30,348
(b) 36 sites at $762 per site	$27,432
Total cost	$57,780
Mean cost per site: $60,990/36 sites	$1,695
Mean cost per firm: $60,990/24 firms	$2,542
Reporting burden (hours)	
(a) Rule familiarization: 18 h/site X 36 sites	648 h
(b) Reporting: 16 h/report X 36 reports	576 h
Total burden hours	1,224 h
Average burden per site at 34 h/36 sites	0.95 h
Average burden per firm at 52 h/24 firms	2.17h
EPA costs (dollars):	
Processing cost = 36 reports at $95/report	$3,420

B. Health and Safety Data Reporting Rule

EPA estimates the total reporting costs for establishing section 8(d) reporting requirements for 13 chemicals will be $46,751. This cost estimate is high because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of the information is based upon the 1986 TSCA Inventory Update and secondary information from industry sources. Therefore, EPA tends to overestimate rather than underestimate reporting burden. The estimated reporting costs are broken down as follows:

Initial corporate review	$ 7,482
Site identification	6,079
File searches at site	12,499
Photocopying existing studies	2,132
Title listing	633
Managerial review for CBI	128
Reporting on newly-initiated studies	273
Submissions after initial reporting period	4,748
Total	$45,264
Reporting burden (hours)	
Initial review: 2 h/firm × 72 firms	144 h

VOL 58 ISS 246 DEC 27 1993 UMI

(b) Reporting: 13.93 h/firm x 72 firms	1,003 h
Total reporting burden hours	1,147 h

VI. Rulemaking Record

The following documents constitute the record for this rule (docket control number OPPTS–82037). A public version of the record, without any CBI, is available in the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office, from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. NCIC is located in Rm. E–G102, 401 M St., SW., Washington, DC 20460.

1. This final rule.
2. The economic analysis for this rule.
3. The 28th Report of the ITC.
4. The 31st Report of the ITC.
5. The 32nd Report of the ITC.

VII. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e. Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health and safety, or State, local or tribal governments or communities (also known as, "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control numbers 2070–0054 for PAIR reporting and 2070–0004 for TSCA section 8(d) reporting.

Public reporting burden for this collection of information is estimated to average 34 hours for PAIR per response and 28 hours for section 8(d), including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, (2131), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Parts 712 and 716

Environmental protection, Chemicals, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: December 10, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics

Therefore, 40 CFR Chapter I is amended as follows:

Part 712—[AMENDED]

1. In Part 712:

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30 is amended by adding two substances in ascending CAS number order in paragraph (w), and in paragraph (x) by revising the entry for CAS No. 99–72–9 to read "104–09–6" under the "Aldehydes" category, revising the entry for CAS No. 55205–38–7 to read "55205–38–4" under the "Brominated flame retardants" category, revising the entry for CAS No. 112–15–2 under the "Substantially produced chemicals in need of subchronic tests" category, revising the entry for CAS No. 77–79–2 under the "Sulphones" category, and alphabetically adding one category to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(w) * * *

CAS No.	Substance	Effective date	Reporting date
108–95–5	Thiophenol	1/26/94	3/28/94
52907–07–0	Ethylene bis(5,6-dibromonorbornane-2,3-dicarboximide)	1/26/94	3/28/94

(x) * * *

CAS No.	Substance	Effective date	Reporting date
	* * * * * * *		
Aldehydes:			
104–09–6	Benzeneacetaldehyde, 4-methyl-	9/30/91	11/27/91
	* * * * * * *		
Brominated flame retardants:			
55205–38–4	2-Propenoic acid, (1-methylethylidene)bis(2,6-dibromo-4,1-phenylene) ester	10/29/90	12/27/90
	* * * * * * *		
Cyanoacrylates:			
137–05–3	2-Propenoic acid, 2-cyano-, methyl ester	1/26/94	3/28/94
1069–65–2	2-Propenoic acid, 2-cyano-, isobutyl ester	1/26/94	3/28/94
6197–30–4	2-Propenoic acid, 2-cyano-3,3-diphenyl-, 2-ethylhexyl ester	1/26/94	3/28/94
6606–65–1	2-Propenoic acid, 2-cyano-, butyl ester	1/26/94	3/28/94
7085–85–0	2-Propenoic acid, 2-cyano-, ethyl ester	1/26/94	3/28/94
7324–02–9	2-Propenoic acid, 2-cyano-, 2-propenyl ester	1/26/94	3/28/94
10586–17–1	2-Propenoic acid, 2-cyano-, 1-methylethyl ester	1/26/94	3/28/94
21982–43–4	2-Propenoic acid, 2-cyano-, ethoxyethyl ester	1/26/94	3/28/94
23023–91–8	2-Propenoic acid, 2-cyano-, 2,2,2-trifluoromethyl ester	1/26/94	3/28/94
27816–23–5	2-Propenoic acid, 2-cyano-, 2-methoxyethyl ester	1/26/94	3/28/94
64992–16–1	Ethanaminium, 2-[[2-cyano-3-[4-(diethylamino)phenyl]-1-oxo-2-propenyl]oxy]-*N,N,N*-trimethyl-, chloride.	1/26/94	3/28/94
	* * * * * * *		
Substantially produced chemicals in need of subchronic tests:			
112–15–2	Ethanol, 2-(2-ethoxyethoxy)-, acetate	9/30/91	11/27/91
Sulphones:			
77–79–2	3-Sulfolene	9/30/91	11/27/91
	* * * * * * *		

PART 716–[AMENDED]

2. In part 716:

a. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. Section 716.120 is amended by adding, in CAS number sequence, two substances in paragraph (a), and in paragraph (d) by revising the entries for benzeneacetaldehyde, 4-methyl- under the "Aldehydes" category, 2-propenoic acid, (1-methylethylidene)bis(2,6-dibromo-4,1-phenylene) ester under the "Brominated flame retardants" category, revising the entry for carbinol acetate to read "ethanol, 2-(2-ethoxyethoxy)-, acetate" under the "Substantially produced chemicals in need of subchronic tests" category, revising the entry for sulfolene to read "3-Sulfolene" under the "Sulphones" category, and alphabetically adding one category to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(a) * * *

CAS No.	Substance	Special exemptions	Effective date	Sunset date
108–95–5	Thiophenol		1/26/94	1/26/04
52907–07–0	Ethylene bis(5,6-dibromonorbornane-2,3-dicarboximide).		1/26/94	1/26/04

(d) * * *

VOL 58 ISS 246 DEC 27 1993 UMI

Category	CAS No.	Special exemptions	Effective date	Sunset date
. . . .	. .	.		
Aldehydes:				
Benzeneacetaldehyde, 4-methyl-	104-09-6		9/30/91	9/30/01
. . . .	. .	.		
Brominated flame retardants:				
2-Propenoic acid, (1-methylethylidene)bis(2,6-dibromo-4,1-phenylene) ester	55205-38-4		10/29/90	10/29/00
. . . .	. .	.		
Cyanoacrylates:				
2-Propenoic acid, 2-cyano-, methyl ester	137-05-3		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-, isobutyl ester	1069-55-2		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-3,3-diphenyl-, 2-ethylhexyl ester	6197-30-4		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-, butyl ester	6606-65-1		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-, ethyl ester	7085-85-0		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-, 2-propenyl ester	7324-02-9		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-, 1-methylethyl ester	10586-17-1		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-, ethoxy ethyl ester	21982-43-4		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-, 2,2,2-trifluoromethyl ester	23023-91-8		1/26/94	1/26/04
2-Propenoic acid, 2-cyano-, 2-methoxyethyl ester	27816-23-5		1/26/94	1/26/04
Ethanaminium, 2-[[2-cyano-3-[4-(diethylamino)phenyl]-1-oxo-2-propenyl]oxy]-*N,N,N*-trimethyl-, chloride	64992-16-1		1/26/94	1/26/04
. . . .	. .	.		
Substantially produced chemicals in need of subchronic tests:				
Ethanol, 2-(2-ethoxyethoxy)-, acetate	112-15-2		9/30/91	9/30/01
Sulphones:				
3-Sulfolene	77-79-2		9/30/91	9/30/01
. . . .	. .	.		

[FR Doc. 93-31269 Filed 12-23-93; 8:45 am]
BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 93-233; DA 93-1518]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Final rule; change of effective date.

SUMMARY: By this Order, the Commission on its own motion changes the effective date established in the Report and Order in MM Docket No. 93-233. In order to be consistent with the Commission's stated desire to expedite proceedings involving amendment of the Commission's Rules regarding major cable television markets and the public interest in synchronizing such amendments with the copyright royalty accounting periods, the rule change adopted in this proceeding will become effective by the end of the year.

EFFECTIVE DATE: December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of Section 76.51 of the Commission's Rules to Include Pine Bluff, Arkansas, in the Little Rock, Arkansas, Television Market.

Order

Adopted: December 14, 1993.
Released: December 16, 1993.

By the Chief, Mass Media Bureau: 1. In a Report and Order in the captioned proceeding (DA 93-1429, released November 30, 1993), § 76.51 of the Commission's rules were amended to include Pine Bluff, Arkansas, as a named community in the Little Rock television market. That change was to become effective thirty days after publication in the **Federal Register**. For the reasons discussed below, pursuant to 47 CFR 1.108, we reopen this proceeding on our own motion to reconsider one aspect of the Report and Order.

2. The process of amending § 76.51 of the Commission's Rules was mandated by section 614(f) of the 1992 Cable Act.[1] In adopting rules to implement the Act, the Commission indicated that proceedings of this type were to be undertaken pursuant to an expedited process[2] and further indicated agreement as to the public interest in synchronizing the Commission's rules with the compulsory license copyright royalty accounting periods (January 1-June 30 and July 1-December 31).[3] In order to achieve that synchronization in the context of this proceeding, consistent with the Commission's stated desire to expedite the resolution of proceedings of this type, and in order to achieve the objectives set forth in section 614 of the Cable Act, we find that good cause exists for making the rule changes adopted in this proceeding effective on less than 30 days notice,[4] so that this becomes effective by the end of the year.

3. Accordingly, *it is ordered*, That the rule change effective date adopted in the Report and Order in MM Docket No. 93-233 (58 FR 64168, December 6, 1993) is reconsidered on our own motion and amended to become effective on December 31, 1993.

4. This action is taken by the Chief, Mass Media Bureau pursuant to authority delegated by § 0.283 of the Commission's Rules.

Federal Communications Commission.
Roy J. Stewart,
Chief, Mass Media Bureau.

[FR Doc. 93-31451 Filed 12-23-93; 8:45 am]
BILLING CODE 6712-01-M

[1] Cable Television Consumer Protection and Competition Act of 1992, Public Law 102-385, 106 Stat. 1460.

[2] *Report and Order* in MM Docket 92-259, 8 FCC Rcd 2965, para. 50 (1993), 58 FR 17350, April 2, 1993.

[3] *Id.* at para. 151.

[4] The Administrative Procedure Act generally requires publication in the **Federal Register** of substantive rules 30 days prior to their effective date but permits substantive rules to become effective with less than 30 days' advance public in the **Federal Register** for good cause. See 5 U.S.C. § 553(d)(1); See also 47 CFR 1.427(b).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB10

Captive-bred Wildlife Regulation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the Endangered Species Act of 1973 (Act), the Fish and Wildlife Service (Service) regulates certain activities involving specimens of non-native endangered or threatened wildlife species that are born in captivity in the United States. This is currently accomplished by requiring persons who wish to conduct otherwise prohibited activities with such wildlife to register with Service, i.e., to obtain a captive-bred wildlife, or CBW, registration. The Service registers persons who meet certain established requirements and specifies the extent of the activities that those persons are authorized to conduct.

The CBW registration system has been reviewed to determine whether changes are necessary. That review was announced in a Notice of Intent to Propose Rule (54 FR 548, January 7, 1992). A public meeting was held in April 1992. After review of information and comments received, a Proposed Rule was published on June 11, 1993 (58 FR 32632). Several changes to the CBW registration system were proposed. Also proposed were two changes to Definitions, that would affect issuance of all endangered and threatened species permits as well as CBW registrations. Those proposed changes included deletion of education from the definition of "enhance the propagation or survival" so that education of the public could no longer be used as the sole justification for issuance of permits and registrations. The Service has decided to limit this final rule to the exclusion of education as the basis for issuance of CBW registrations, because the original and predominant purpose of the registration system was to encourage responsible captive breeding. Other changes to the CBW system, as well as the larger question of public education as it relates to endangered species permits will be the subject of future rulemaking actions.

EFFECTIVE DATE: January 26, 1994.

FOR FURTHER INFORMATION CONTACT: R. K. Robinson, Special Assistant-Ecological Services, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203 (703/358-2093).

SUPPLEMENTARY INFORMATION: The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*) and implementing regulations prohibit any person subject to the jurisdiction of the United States from conducting certain activities with endangered or threatened species of fish or wildlife. These activities include, among others, import, export, take and interstate or foreign commerce. The Secretary of the Interior (or the Secretary of Commerce in the case of certain marine species) may permit such activities, under such terms and conditions as he/she shall prescribe, for scientific purposes or to enhance the propagation or survival of the affected species, provided these activities are consistent with the purposes of the Act. The Secretary of the Interior's authority to administer permit matters relating to endangered and threatened species has been delegated through the Director of the Fish and Wildlife Service (Service) to the Office of Management Authority (OMA).

Since 1976, the Service has been striving to achieve an appropriate degree of control over prohibited activities involving living wildlife of non-native species born in captivity in the United States.

In 1978, the Service announced a review of regulations concerning captive-bred wildlife (43 FR 16144, April 14, 1978). The notice reiterate the Service's philosophy concerning its approach to captive versus wild populations:

> The Service considers the purpose of the Act to be best served by conserving species *in the wild* along with their ecosystems. Populations of species in captivity are, in large degree, remove from their natural ecosystems and have a role in survival of the species only to the extent that they maintain genetic integrity and offer the potential of restocking natural ecosystems where the species has become depleted or no longer occurs * * *.
>
> The Service seeks to improve its regulations in order to protect wild populations of Endangered and Threatened species while interfering as little as possible with their captive propagation.

Following an extensive public review in 1978 and 1979, the Service published a final rule (44 FR 54002, September 17, 1979) that established the Captive-bred Wildlife (CBW) registration system as it currently exists. The final rule amended regulations in 50 CFR 17.21 by adding subsection 17.21(g), which granted general, conditional permission to take; import or export; deliver, receive, carry, transport or ship in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce any non-native endangered or threatened wildlife that is bred in captivity in the United States. In other words, the regulation itself contains the permit. In order for persons or institutions to operate under that permit, certain conditions must be met, including that the person or institution must first register with the Service. Unless an exception is made under § 17.21(g)(5), the CBW system applies only to species that do not include any part of the United States in their natural geographic distribution. The individual specimens must have been born in captivity in the United States. The registration authorizes interstate purchase and sale only between entities that both hold a registration for the taxon concerned.

The 1979 final rule also amended the definition of "enhanced the propagation or survival" of wildlife in captivity to include a wide range of normal animal husbandry practices needed to maintain self-sustaining and genetically viable populations of wildlife in captivity. Other aspects of the definition of "enhance" that were codified in 1979 and are still in use today include accumulation, holding and transfer of animals not immediately needed or suitable for propagative or scientific purposes, and exhibition of living wildlife in a manner designed to educate the public about the ecological role and conservation needs of the affected species (50 CFR 17.3).

VOL 58 ISS 246 DEC 27 1993 UMI

The above definitions are found in Subpart A, the General Provisions of part 17. Therefore, they apply to all endangered and threatened species permits for captive wildlife issued under §§ 17.22 and 17.32 as well as to the CBW registrations under § 17.21(g) that are the subject of this rulemaking.

After twelve years' experience with the system, the Service initiated another review with a Notice of Intent of Propose Rule, published on January 7, 1992 (54 FR 548). The notice discussed problems the Service was experiencing with the system, and offered for discussion three options intended to show the range of possible actions that might be taken. These ranged from no action (no change in the system) to complete elimination of the CBW registration process. The notice also questioned whether the term "harass" as defined in § 17.3 applied to captive-born wildlife, and whether education of the American public through exhibition of living non-native wildlife actually accomplished any measurable enhancement of the survival of the affected species in the wild. Three options for dealing with education were presented, ranging from no change in the existing definition to deleting education as a justification for permits and CBW registrations.

• Public comments and suggestions were solicited. Written responses were received from 942 individuals, institutions and organizations. Of these, 170 mentioned education, mostly in favor of retaining it.

After review of comments received, the Service published a proposed rule on June 11, 1993 (58 FR 32632), that proposed several changes to § 17.21(g): elimination of registration for several species that are present in the United States in large numbers and/or that are genetically unsuitable for scientifically based breeding programs; restriction of eligibility for CBW registrations to those entities that are participants in an approved responsible cooperative breeding program for the taxon concerned; amendment of the definition of "harass" in § 17.3 to exclude normal animal husbandry practices such as humane and healthful care when applied to captive-born wildlife; and, conditionally, deletion of education from the definition of "enhance" in § 17.3.

Information and Comments

In an effort to ensure distribution of the proposal to those most directly affected, over 1,000 copies of the **Federal Register** publication were mailed to current and former CBW registrants. Three letters commented to the effect that they found it surprising that the Service did not notify all registrants. The Service apologizes if any registrants were inadvertently missed, but notes that based on available records, two of the three apparently do not hold registrations.

A total of 658 written comments were received during the comment period. Education was discussed in 544 letters, and was the only issue mentioned in 510 of them. The majority of these objected to the deletion of education from the definition of "enhance" in § 17.3. Issues other than education were addressed in 148 comments.

Several misconceptions were apparent in the responses. A large number of comments expressed concern or at least apparently assumed that deletion of education as the sole basis for obtaining permits and registrations would result in a ban on public display by many zoos, circuses and other entities. A smaller number were concerned that deletion of education might result in confiscation of animals currently used in educational displays.

It is important to note that deletion of education would in no way affect the lawful possession of non-native wildlife that are currently being displayed or held by zoos, circuses, performers and other entities.

Regardless of the change in § 17.21(g) made by this final rule, those persons who lawfully possess listed species may continue to display them for commercial or non-commercial purposes without a permit under the Act as long as prohibited takings (e.g., harassment), transfers of ownership in interstate commerce in the course of a commercial activity, or exports are not involved.

Similarly, several commenters were concerned that collections of non-native animals could no longer be used for purposes of training in veterinary medicine, animal husbandry techniques, genetic research, etc. This is not the case; this final rule will not affect the continuation of such activities with lawfully possessed animals.

The Service does have sincere doubts about the relative conservation benefits that are provided to non-native species in the wild from the public exhibition of living wildlife. As noted by the Service in its proposed rule:

> • • • thus far no one has come forward with examples of how exhibition of living wildlife has any specific affirmative effect on survival of non-native species in the wild. Therefore, the Service proposes to delete education from the definition of "enhancement", but will consider changing its position in the final rule should specific evidence of conservation benefits be forthcoming during the comment period for this proposed rule. The Service recommends that any serious submission in favor of retaining education in this definition should be accompanied by suggested objective standards that the Service could use to assess the conservation benefits of educational displays.

Several commenters on the proposed rule did suggest standards and criteria to enable such assessment, and these are under consideration for possible application to endangered species permits under § 17.22. However, no comments were received that convince the Service that education has any role in the CBW registration system.

Discussion of Final Rule

As stated in the proposed rule (58 FR 32632):

> The Service proposes to amend the regulation regarding CBW registration in a manner that will make the system more closely parallel its original purpose, *i.e.*, to encourage responsible breeding efforts with listed species. The required goals of the program would be to preserve the genetic makeup of the species, to establish a self-sustaining captive population, and to make animals available for any legitimate and appropriate effort to re-establish or augment wild populations of the species.

The CBW system involves a special regulatory exception (a general permit available to all qualified members of the public) adopted by the Service in 1979 to allow entities in the United States to purchase in interstate commerce endangered captive-bred non-native species, to sell or exchange these specimens in interstate commerce with other CBW-registrants, and to take these specimens in accordance with customary animal husbandry practices. The specimens must have been born in captivity in the United States. The CBW registration is not a possession permit because mere possession of an endangered species is not a violation of the Act. The registration allows breeders and exhibitors of wildlife to buy, sell and exchange living specimens of non-native listed species without seeking individual permits for each transaction. The Service granted general permission to those registered under the CBW system in order to encourage and facilitate the captive breeding of non-native listed wildlife by entities in the United States. The Service's intent to enhance beneficial captive breeding activities has been amply documented in seven notices and rulemaking documents published since 1976. However, given the definition of "enhance" in § 17.3, as well as preamble language in the 1979 final rule that established the CBW system, the decision criteria in § 17.21(g) were too broadly crafted to strictly limit issuance of CBW registrations to captive breeding, and in situations where there was no intention to engage in captive breeding of the listed species, the criteria allowed education through public exhibition as the sole activity of the registrant.

The Service has decided to limit this final rule to the narrow issue of education as it relates to the CBW system. The rule eliminates public education through exhibition of living wildlife as the sole justification for issuance of a CBW registration. This should not be interpreted to mean that the Service believes that educational efforts should cease, since in general terms education is a public good. However, the scope of the CBW program must be narrowed so that only those persons who engage in beneficial captive breeding can participate.

A final rule addressing the remaining issues concerning the CBW system will be promulgated in the near future.

In today's **Federal Register** the Service is reopening the comment period on the balance of the proposed rule, and in particular on the larger question of what value education provides to the conservation of non-native species in the wild, as it applies to permits issued under § 17.22. In the meantime, those persons or entities that hold CBW registrations based solely on education that have not reached the expiration date shown thereon as of the effective date of this rule will be allowed to exercise them for a period of two years from the effective date.

Regulatory Analysis

This rule has been reviewed under Executive Order 12866. The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), because no significant burden will be added to the already mandated paperwork requirements, preparation or administration, and similar requirements that have been imposed by the existing rule.

The Service has determined that these regulations are categorically excluded from further National Environmental Policy Act (NEPA) requirements. Part 516 of the Departmental Manual, Chapter 6, Appendix I, section 1.4(A)(1) categorically excludes changes or amendments to an approved action when such changes have no potential for causing substantial environmental impact. Further, Appendix I, section 1.4(C)(1) categorically excludes permitting actions not involving killing, removal from the wild, or permanent impairment of reproductive capability of endangered or threatened species. No increase in the latter activities is expected to result from this revision of the existing rule.

No aggregate increase in the burden on affected individuals would be made in the information collection requirements contained in § 17.21(g), which have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0022.

Finally the Department of the Interior has determined that this action, which amends regulations that implement exceptions to prohibitions of the Act, does not contain significant takings implications as described in Executive Order 12630.

Author

The primary author of this final rule is R.K. Robinson, Special Assistant—Ecological Services, U.S. Fish and Wildlife Service, room 420C, 4401 North Fairfax Drive, Arlington, VA 22203.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

For the reasons set forth in the preamble, title 50, chapter 1, subchapter B, part 17, subpart C is amended as set forth below.

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500.

Subpart C—Endangered Wildlife

2. Section 17.21(g) is amended by revising paragraph (g)(1) introductory text to read as follows:

§ 17.21 Prohibitions.

* * * * *

(g) *Captive-bred wildlife.* (1) Notwithstanding paragraphs (b), (c), (e) and (f) of this section, any person may take; import or export; deliver, receive, carry, transport or ship in interstate or foreign commerce, in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce any endangered wildlife that is bred is captivity in the United States, provided the principal purpose of these activities is to facilitate captive breeding, and provided the following conditions are met:

* * * * *

Dated: December 6, 1993.

George T. Frampton,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 93–31422 Filed 12–21–93; 3:10 pm]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 931088–3333; ID 102193A]

RIN 0648–AF54

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), NMFS issues this final rule to restrict the commercial landings of red snapper to one trip limit per vessel per day; prohibit the sale or purchase of red snapper exceeding one trip limit per vessel per day; and delay the opening of the commercial fishery for red snapper until February 10, 1994. The intended effects of this rule are to lengthen the commercial season for red snapper, to facilitate enforcement of the trip limits, to minimize fishing during hazardous winter weather, and to ensure that the commercial red snapper fishery is open during Lent, when there is increased demand for seafood.

EFFECTIVE DATES: January 1, 1994, through December 31, 1994, except that §§ 641.4(n)(3), 641.7(x), and 641.30 are effective January 1, 1994, through February 9, 1994.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

In accordance with the FMP's framework procedure for adjustment of

management measures, the Council proposed the measures listed above. The backgrounds and rationales for the measures were contained in the proposed rule (58 FR 59230, November 8, 1993) and are not repeated here.

Comments and Responses

Two individuals commented on the proposed rule. One of the individuals expressed his views on the fairness and equity of the red snapper trip limits. Since the comment is outside the scope of the proposed rule, it has been forwarded to the Council for consideration.

Comment: One individual objected to the delayed opening of the red snapper season until February 10, 1994, because he believes that the local weather worsens in February and income from red snapper is important to him at the start of the new year.

Response: The February 10 opening date was requested by fishermen to ensure that the red snapper fishery would be open through the Lenten season. Most fishermen support the delayed opening as a means of satisfying higher demand for fresh fish when exvessel prices are higher. Available information does not indicate that the delayed opening will cause significant adverse impacts on either the fishery or the red snapper resource. Accordingly, NMFS concurs with the delayed opening.

Approval of Framework Adjustments

Having taken into consideration all information received, the Director, Southeast Region, NMFS, concurs that the Council's recommended changes are consistent with the objectives of the FMP, the national standards, and other applicable law, as required by the FMP for implementation of framework measures. Accordingly, the framework measures are approved.

Addendum

A prohibition is added at § 641.7(x) regarding the closure of the commercial fishery for red snapper from January 1, 1994, through February 9, 1994.

Classification

The Council prepared a regulatory impact review (RIR) on this action, the conclusions of which were summarized in the proposed rule and are not repeated here.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this final rule will not have a significant economic impact on a substantial number of small entities for the reasons summarized in the proposed rule. Accordingly, a regulatory flexibility analysis was not prepared.

The intended effects of this final rule include minimizing fishing during hazardous winter weather and ensuring that the commercial red snapper fishery is open during Lent, when there is increased demand for seafood. These intended effects will be seriously degraded if the effective date of this final rule is delayed beyond the currently scheduled opening of the red snapper fishery on January 1, 1994. Accordingly, under the provisions of section 553(d)(3) of the Administrative Procedure Act, the Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impracticable and contrary to the public interest to delay for 30 days the effective date of this rule.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 21, 1993.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 641.4, paragraph (n)(1) is revised, effective from January 1, 1994, through December 31, 1994; and new paragraph (n)(3) is added, effective from January 1, 1994, through February 9, 1994; to read as follows:

§ 641.4 Permits and fees.

* * * * *

(n) * * *

(1) May not exceed the appropriate vessel trip or landing limits for red snapper, as specified in § 641.21(d)(1), (d)(2), and (d)(4).

* * * * *

(3) Must abide by the red snapper closure provisions of § 641.30.

3. In § 641.7, paragraph (u) is revised and new paragraph (w) is added, effective from January 1, 1994, through December 31, 1994; and new paragraph (x) is added, effective from January 1, 1994, through February 9, 1994, to read as follows:

§ 641.7 Prohibitions.

* * * * *

(u) Exceed the vessel trip or landing limits for red snapper, as specified in § 641.21(d)(1), (d)(2), and (d)(4).

* * * * *

(w) Purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a red snapper possessed or landed in excess of a trip limit contained in § 641.21(d)(1) or (d)(2) or the landing limit contained in § 641.21(d)(4), as specified in § 641.21(d)(5).

(x) Exceed the bag and possession limits for red snapper or purchase, barter, trade, or sell red snapper during the closure of the commercial fishery for red snapper, as specified in § 641.30.

4. In § 641.21, the heading of paragraph (d) is revised and new paragraphs (d)(4) and (d)(5) are added, effective from January 1, 1994, through December 31, 1994, to read as follows.

§ 641.21 Harvest limitations.

* * * * *

(d) *Red snapper limitations.*

* * * * *

(4) A vessel for which a reef fish permit has been issued under § 641.4 may not land in any day red snapper in excess of 200 pounds (91 kg) or 2,000 pounds (907 kg), as appropriate under paragraph (d)(1) or (d)(2) of this section.

(5) No person may purchase, barter, trade, or sell; or attempt to purchase, barter, trade, or sell, a red snapper possessed or landed in excess of the trip or landing limits specified in paragraphs (d)(1), (d)(2), and (d)(4) of this section.

5. A new § 641.30 is added, effective from January 1, 1994, through February 9, 1994, to read as follows:

§ 641.30 Closure of the commercial fishery for red snapper.

Other provisions of this part 641 notwithstanding, the commercial fishery for red snapper is closed from January 1, 1994, through February 9, 1994. During this closure of the commercial fishery, the bag and possession limits, as specified in § 641.24(b)(1) and (c), and the prohibition of purchase, barter, trade, or sale of red snapper taken under the bag limit, as specified in § 641.24(g), apply to red snapper harvested from or possessed in the EEZ and to each vessel for which a currently valid reef fish permit has been issued under § 641.4.

[FR Doc. 93–31455 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 642

[Docket No. 930791–3191; I.D. 122093A]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Trip limit reduction.

SUMMARY: NMFS reduces the commercial trip limit in the southern zone to 1000 pounds (454 kg) of Spanish mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the Atlantic Spanish mackerel resource.

EFFECTIVE DATES: The 1000-pound (454-kg) commercial trip limit is effective on December 22, 1993, and remains in effect through March 31, 1994, unless the commercial trip limit for Spanish mackerel from the southern zone is further reduced before March 31 by publication of a notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3161.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 642, under the authority of the Magnuson Fishery Conservation and Management Act.

An adjusted allocation and commercial trip limits were recommended by the Councils and implemented by NMFS for Atlantic migratory group Spanish mackerel for the current fishing year (April 1, 1993, through March 31, 1994, 58 FR 45847, August 31, 1993). As set forth at 50 CFR 642.27(b), the adjusted allocation is 4.25 million pounds (1.93 million kg). In accordance with 50 CFR 642.27(a)(2)(iii), after 75 percent of the adjusted allocation of Atlantic group Spanish mackerel is taken until 100 percent of the adjusted allocation is taken, Spanish mackerel in or from the EEZ in the southern zone may not be possessed aboard or landed from a vessel per day in amounts exceeding 1,000 pounds (454 kg). In accordance with 50 CFR 642.27(a)(2)(iv), after 100 percent of the adjusted allocation of Atlantic group Spanish mackerel is taken, Spanish mackerel in or from the EEZ in the southern zone may not be possessed aboard or landed from a vessel per day in amounts exceeding 500 pounds (227 kg).

NMFS has determined that 75 percent of the adjusted allocation for Atlantic group Spanish mackerel from the southern zone was taken on December 21, 1993. Accordingly, the 1000-pound (454–kg) daily commercial trip limit applies to Spanish mackerel in or from the EEZ in the southern zone effective 12:01 a.m., local time, December 22, 1993.

The southern zone extends from the Georgia/Florida boundary (30°42′45.6″N. latitude) southward to the Dade/Monroe County, Florida, boundary (25°20.4′N. latitude).

Classification

This action is required by 50 CFR 642.27(a)(2)(iii) and (b).

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 21, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31465 Filed 12–21–93; 4:08 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 246
Monday, December 27, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–AGL–25]

Proposed Establishment of Class E Airspace; Oscoda, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Oscoda, MI. A Very High Frequency Omnidirectional Range (VOR) standard instrument approach procedure (SIAP) has been developed at Oscoda-Wurtsmith Airport, and controlled airspace to the surface is needed to contain instrument flight rules (IFR) operations at the airport. The intended effect of this proposal is to provide adequate Class E airspace for IFR operators executing the established SIAP.

DATES: Comments must be received on or before February 7, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AGL–530, Federal Aviation Administration, Docket No. 93–AGL–25, 2300 East Devon Avenue, Des Plaines, Illinois 60018. The official docket may be examined in the office of the Assistant Chief Counsel, AGL–7 at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, System Management Branch, AGL–530, at the address above.

FOR FURTHER INFORMATION CONTACT: Robert Frink, Manager, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7573.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AGL–25." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, AGL–530, Air Traffic Division, at 2300 East Devon Avenue, Des Plains, Illinois, 60018, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, AGL–530, Air Traffic Division, 2300 East Devon Avenue, Des Plaines, Illinois, 60018. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Oscoda, MI. An Automated Weather Observation System (AWOS) has been installed at the Oscoda-Wurtsmith Airport that will continuously provide weather data, and a non-federal VOR SIAP has been established. Controlled airspace to the surface is needed to contain IFR operations at the airport. Airspace Reclassification, in effect as of September 16, 1993, has discontinued the use of the term "control zone," and airspace designated from the surface, including any arrival extensions, for an airport where there is no operating control tower is now Class E airspace. The intended effect of this proposal is to provide adequate Class E airspace for IFR operators executing the VOR SIAP at Oscoda-Wurtsmith Airport. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as surface areas for airports are published in Paragraph 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL MI E2 Oscoda, MI [New]

Oscoda-Wurtsmith Airport, MI
(lat. 44°27'05" N., long. 83°23'39" W.)
AuSable VORTAC
(lat. 44°26'49" N., long. 83°24'05" W.)

Within a 4.5-mile radius of Oscoda-Wurtsmith Airport and within 2.4 miles each side of the AuSable VORTAC 236° radial extending from the 4.5-mile radius to 7 miles southwest of the airport. This Class E airspace area is effective during the specific dates and times established in advanced by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on December 9, 1993.

John F. Cuprisin,
Manager, Air Traffic Division.

[FR Doc. 93–31463 Filed 12–23–93; 8:45 am]
BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 93–AGL–24]

Proposed Establishment of Class E Airspace; St. James, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at St. James, Michigan. A Nondirectional Radio Beacon (NDB) standard instrument approach procedure (SIAP) has been developed at Beaver Island Airport, and controlled airspace is needed to contain instrument flight rules (IFR) operations at the airport. Controlled airspace extending from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The area will be depicted on aeronautical charts to provide a reference for pilots operating in the area.

DATES: Comments must be received on or before February 7, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, AGL–530, Federal Aviation Administration, Docket No. 93–AGL–24, 2300 East Devon Avenue, Des Plaines, Illinois 60018. The official docket may be examined in the Office of the Assistant Chief Counsel, AGL–7 at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Airspace and System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Robert Frink, Manager, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7573.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AGL–24." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, AGL–530, Air Traffic Division, at 2300 East Devon Avenue, Des Plaines, Illinois 60018, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, AGL–530, Air Traffic Division, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at St. James, Michigan, to provide controlled airspace from 700 to 1200 feet AGL for aircraft executing the NDB SIAP into the Beaver Island Airport. Airspace Reclassification, in effect as of September 16, 1993, has discontinued the use of the term "transition area," replacing it with the designation "Class E airspace." The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a significant regulatory action under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by references in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 St. James, MI [New]

Beaver Island Airport, MI
(lat. 45°41'35"N., long. 85°33'50"W.)

That airspace extending upward from 700 feet above the surface within a 6.2-mile radius of the Beaver Island Airport and within 2.475 miles each side of the 090° bearing of the Beaver Island Airport extending from the 6.2-mile radius to 7 miles east of the airport.

* * * * *

Issued in Des Plaines, Illinois on December 9, 1993.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 93–31464 Filed 12–23–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–57–93]

RIN 1545–AS26

Allocation of Costs to Lobbying Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations concerning rules for allocating costs to lobbying activities. These rules will assist businesses and certain tax-exempt organizations in complying with changes to the tax law made by section 13222 of the Omnibus Budget Reconciliation Act of 1993. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by February 25, 1994. A public hearing is scheduled for Wednesday, April 6, 1994. Persons wishing to speak at the hearing must submit outlines of their comments by Wednesday, March 16, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (IA–57–93), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be delivered to: CC:DOM:CORP:T:R (IA–57–93), Internal Revenue Service, room 5228, 1111 Constitution Avenue NW., Washington, DC 20224. The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the hearing, Mike Slaughter, Regulations Unit at 202–622–7190; concerning the regulations, Ellen McElroy, 202–622–4950, and James M. Guiry, 202–622–1585. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed Income Tax Regulations under section 162 of the Internal Revenue Code (Code) as amended by section 13222 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) (107 Stat. 477). These rules relate to allocating costs to lobbying activities.

Explanation of Provisions

In General.

Section 13222 of OBRA 1993 amended section 162(e) of the Code to deny a deduction for amounts paid or incurred in connection with influencing legislation and influencing certain federal executive branch officials (lobbying activities). The IRS is proposing these rules to assist businesses and tax-exempt organizations in determining the nondeductible amount, i.e., the costs allocated to lobbying activities.

Section 6001 and the regulations thereunder require taxpayers to keep records. The proposed regulations do not require taxpayers to maintain any particular records of costs of lobbying activities, such as daily time reports, daily logs, or similar documents, other than those generally required by section 6001 and the regulations thereunder.

The proposed regulations generally describe the costs that are properly allocable to lobbying activities and permit taxpayers to use any reasonable method to allocate those costs between lobbying activities and other activities. A method is not reasonable unless it is applied consistently, allocates a proper amount of costs (including labor costs and general and administrative costs) to lobbying activities, and is consistent with certain special rules of the regulations, discussed below. The regulations provide that a taxpayer may use the following methods of allocating costs to lobbying activities: (1) The ratio method; (2) the gross-up method; and (3) an allocation method that applies the principles of section 263A and the regulations thereunder.

The ratio method operates as follows. A taxpayer multiplies its total costs of operations (excluding third-party costs) by a fraction, the numerator of which is the taxpayer's lobbying labor hours and the denominator of which is the taxpayer's total labor hours. The taxpayer adds the result of this calculation to its third-party costs. Third-party costs are amounts paid or incurred for lobbying activities conducted by third parties (such as amounts paid to taxpayers subject to section 162(e)(5)(A) or dues or other similar amounts that are not deductible under section 162(e)(3)) and amounts paid or incurred for travel (including meals and lodging while away from home) and entertainment relating to lobbying activities. The taxpayer's total costs allocated to lobbying activities is the sum of the amount determined by use of the ratio (as described above) and its third-party costs.

A taxpayer using the ratio method may treat as zero the hours spent by personnel engaged in secretarial, maintenance, and other similar activities. A taxpayer treating these hours as zero must do so for determining both lobbying labor hours and total labor hours. Costs for these personnel must be included, however, in the total costs of operations.

Under the gross-up method, a taxpayer allocates costs to lobbying activities by multiplying the taxpayer's basic labor costs for lobbying labor hours by 175 percent. For this purpose, the taxpayer's basic labor costs are limited to wages or other similar costs of labor, such as guaranteed payments for services. Thus, for example, pension costs and other employee benefits are not included in basic labor costs. As with the ratio method, third party costs are then added to the result of the calculation to arrive at the total costs allocated to lobbying activities.

Taxpayers that do not pay or incur reasonable labor costs for persons engaged in lobbying activities may not use the ratio method or the gross-up method. For example, a partnership or sole proprietorship in which the lobbying activities are performed by the owners who do not receive a salary or guaranteed payment for services does not pay or incur reasonable labor costs for persons engaged in those activities and may not use the ratio method or the gross-up method.

Because many taxpayers engaged in lobbying activities are subject to section 263A of the Code, the regulations permit taxpayers to use the principles of that section and the regulations thereunder to determine costs properly allocable to lobbying activities. Specifically, under section 263A, lobbying is considered a service department or function. Therefore, a taxpayer may use its section 263A methodology to determine the amount of costs allocable to its lobbying department or function for purposes of complying with these regulations. Taxpayers not subject to section 263A may also use the principles of that section and the regulations thereunder to determine the amount of costs allocable to lobbying activities.

Special Rules

The proposed regulations provide a special de minimis rule for labor hours spent by personnel on lobbying activities. Under this de minimis rule, a taxpayer may treat time spent by personnel on lobbying activities as zero if less than five percent of the person's time is spent on lobbying activities.

The de minimis rule for labor hours does not apply to direct contact lobbying with legislators and covered executive branch officials. Thus, all hours spent by a person on direct contact lobbying as well as the hours that person spends in connection with direct contact lobbying (such as background meetings) must be allocated to lobbying activities. For this purpose, an activity is direct contact lobbying if it is a meeting, telephone conversation, letter, or other similar means of communication with a legislator (other than a local legislator), or covered executive branch official (as defined in section 162(e)(6)) and otherwise qualifies as a lobbying activity.

The hours spent in a meeting are not treated as hours spent engaged in a lobbying activity if no substantial purpose of the meeting is a lobbying activity. Unless the facts and circumstances clearly indicate otherwise, it will be presumed that a substantial purpose of a meeting with a federal or state legislator, a member of the staff of a federal or state legislator, a member of the staff of a federal or state legislative joint committee or similar body, or a covered executive branch official (as defined in section 162(e)(6)) is a lobbying activity. Thus, for example, a taxpayer merely attending a widely-attended speech by a legislator would not treat the hours attending the meeting as hours spent engaged in lobbying activities absent unusual facts.

The proposed regulations do not apply to the expenditures of taxpayers subject to section 162(e)(5)(A), which provides special rules for taxpayers who are engaged in the trade or business of conducting lobbying activities on behalf of another person.

Comments Requested

These proposed rules relate only to two types of expenses to which section 162(e)(1) applies (influencing legislation or certain federal executive branch officials). The IRS believes that other activities covered by section 162(e)(1), (i.e., grassroots lobbying and participation in political campaigns), are more capital intensive than influencing legislation. The proposed regulations, which focus primarily on hours, may not allocate an appropriate portion of costs to grassroots lobbying and participation in political campaigns. The IRS invites comments on appropriate modifications to these rules to apply to all costs covered by section 162(e)(1). The IRS also invites comments on reasonable methods of allocating costs to the lobbying activities of taxpayers that do not pay or incur reasonable labor costs for persons engaged in lobbying activities.

Further, the IRS invites comments on whether treating as zero the hours spent by personnel engaged in secretarial, maintenance, and other similar activities will distort the costs allocated to lobbying activities.

Finally, the IRS is considering making the regulations effective on January 1, 1994. The IRS invites comments on an appropriate effective date for the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, April 6, 1994, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of § 601.601(a)(3) apply to the public hearing.

Persons that have submitted written comments by February 25, 1994, and want to present oral comments at the hearing must submit by Wednesday, March 16, 1994, an outline of the topics to be discussed and the time to be devoted to each topic. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Ellen McElroy and James M. Guiry, Office of Assistant Chief Counsel (Income Tax and Accounting), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 continues to read in part as follows:

VOL 58 ISS 246 DEC 27 1993 UMI

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.162–28 is added to read as follows:

§ 1.162–28 Allocation of costs to lobbying activities.

(a) *Introduction*—(1) *In general.* Section 162(e)(1) denies a deduction for certain amounts paid or incurred in connection with activities described in section 162(e)(1)(A) and (D) (*lobbying activities*). To determine the nondeductible amount, a taxpayer must allocate costs to lobbying activities. This section describes costs that must be allocated to lobbying activities and prescribes rules permitting a taxpayer to use a reasonable method to allocate those costs. This section does not apply to taxpayers subject to section 162(e)(5)(A).

(2) *Recordkeeping.* For recordkeeping requirements, see section 6001 and the regulations thereunder.

(b) *Reasonable method of allocating costs*—(1) *In general.* A taxpayer may use any reasonable method to allocate costs described in paragraph (c) of this section to lobbying activities. A method is not reasonable unless it is applied consistently, allocates a proper amount of the costs described in paragraph (c) of this section to lobbying activities, and is consistent with the special rules in paragraph (g) of this section. A taxpayer, other than one described in paragraph (b)(2) of this section, may use any of the following methods of allocating costs—

(i) The ratio method described in paragraph (d) of this section;

(ii) The gross-up method described in paragraph (e) of this section; and

(iii) A method that applies the principles of section 263A and the regulations thereunder (see paragraph (f) of this section).

(2) *Taxpayers not permitted to use certain methods.* A taxpayer that does not pay or incur reasonable labor costs for persons engaged in lobbying activities may not use the ratio method or the gross-up method. For example, a partnership or sole proprietorship in which the lobbying activities are performed by the owners who do not receive a salary or guaranteed payment for services does not pay or incur reasonable labor costs for persons engaged in those activities and may not use the ratio method or the gross-up method.

(c) *Costs allocable to lobbying activities*—(1) *In general.* Costs properly allocable to lobbying activities include labor costs and general and administrative costs.

(2) *Labor costs.* For each taxable year, labor costs allocable to lobbying activities include costs attributable to full-time, part-time, and contract employees. Labor costs include all elements of compensation, such as basic compensation, overtime pay, vacation pay, holiday pay, sick leave pay, payroll taxes, pension costs, employee benefits, and payments to a supplemental unemployment benefit plan.

(3) *General and administrative costs.* For each taxable year, general and administrative costs allocable to lobbying activities include depreciation, rent, utilities, insurance, maintenance costs, security costs, and other administrative department costs (for example, payroll, personnel, and accounting).

(d) *Ratio method*—(1) *In general.* Under the ratio method described in this paragraph (d), a taxpayer determines its costs properly allocable to lobbying activities by adding the taxpayer's third-party costs (as defined in paragraph (d)(5) of this section) to the costs determined by using the following formula:

$$\frac{\text{Lobbying labor hours}}{\text{Total labor hours}} \times \text{Total costs of operations.}$$

(2) *Lobbying labor hours.* Lobbying labor hours are the hours that a taxpayer's personnel spend on lobbying activities during the taxable year. A taxpayer may use any reasonable method to determine the number of labor hours spent on lobbying activities and may use the de minimis rule for labor hours of paragraph (g)(1) of this section. A reasonable method may treat as zero the lobbying labor hours of personnel engaged in secretarial, maintenance, and other similar activities.

(3) *Total labor hours.* Total labor hours means the total number of hours of labor that a taxpayer's personnel spend on a taxpayer's trade or business during the taxable year. A taxpayer may make reasonable assumptions concerning total hours worked by its personnel during the year. For example, it may be reasonable, based on all the facts and circumstances, to assume that all full-time personnel spend 1,800 hours per year on a taxpayer's trade or business. If, under paragraph (d)(2) of this section, a taxpayer treats as zero the lobbying labor hours of personnel engaged in secretarial, maintenance, and other similar activities, the taxpayer must also treat as zero the total labor hours of these personnel.

(4) *Total costs of operations.* A taxpayer's total costs of operations means the total costs of the taxpayer's trade or business for a taxable year, excluding third-party costs (as defined in paragraph (d)(5) of this section).

(5) *Third-party costs.* Third-party costs are amounts paid or incurred for lobbying activities conducted by third parties (such as amounts paid to taxpayers subject to section 162(e)(5)(A) or dues or other similar amounts that are not deductible under section 162(e)(3)) and amounts paid or incurred for travel (including meals and lodging while away from home) and entertainment relating to lobbying activities.

(6) *Example.* The provisions of this paragraph (d) are illustrated by the following example:

Example. Ratio method—(i) In 1994, three full-time employees, A, B, and C, of Taxpayer W engaged in both lobbying activities and non-lobbying activities. A spends 300 hours, B spends 1,700 hours, and C spends 1,000 hours on lobbying activities, for a total of 3,000 hours spent on lobbying activities for W. W reasonably assumes that each of its three employees spends 2,000 hours a year on W's business.

(ii) W's total costs of operations are $300,000. W has no third-party costs.

(iii) Under the ratio method, $150,000 is properly allocable to X's lobbying activities for 1994, as follows:

$$\frac{\text{Lobbying labor hours}}{\text{Total labor hours}} \times \frac{\text{Total costs}}{\text{of operations}} + \frac{\text{Third-party}}{\text{costs}} = \frac{\text{Costs allocable}}{\text{to lobbying activities}}$$

$$\left[\frac{300+1700+1000}{6000} \times \$300,000\right] + [0] = \$150,000.$$

(e) *Gross-up method*—(1) *In general.* Under the gross-up method described in this paragraph (e), the taxpayer's costs for any taxable year properly allocable to lobbying activities are 175 percent of its basic labor costs (as defined in paragraph (e)(2) of this section) plus third-party costs (as defined in paragraph (d)(5) of this section).

(2) *Basic labor costs.* For purposes of this paragraph (e), basic labor costs are the basic costs of lobbying labor hours (as defined in paragraph (d)(2) of this section, except that a taxpayer may not treat as zero the lobbying labor hours of personnel who engage in secretarial, maintenance, and other similar activities if they engage in lobbying activities). For purposes of this paragraph (e), basic costs of lobbying labor hours are wages or other similar costs of labor, including, for example, guaranteed payments for services. Basic costs do not include pension, profit-sharing, employee benefits, and supplemental unemployment benefit plan costs, as well as other similar costs.

(3) *Example.* The provisions of this paragraph (e) are illustrated by the following example:

Example. Gross-up method—(i) In 1994, three employees, A, B, and C, of Taxpayer X engaged in both lobbying activities and non-lobbying activities. A spends 300 hours, B spends 1,700 hours, and C spends 1,000 hours on lobbying activities.

(ii) X has no third-party costs.

(iii) For purposes of the gross-up method, X determines that its basic labor costs are $20 per hour for A, $30 per hour for B, and $25 per hour for C. Thus, its basic labor costs are ($20 x 300) + ($30 x 1,700) + ($25 x 1,000), or ($6000 + $51,000 + $25,000), for total basic labor costs for 1994 of $82,000.

(iv) Under the gross-up method, $143,500 is properly allocable to X's lobbying activities for 1994, as follows:

$$175\% \times \frac{\text{Labor costs allocable to}}{\text{lobbying activities}} + \frac{\text{Third-party}}{\text{costs}} = \frac{\text{Costs allocable}}{\text{to lobbying activities}}$$

$$[175\% \times \$82,000] + [0] = \$143,500.$$

(f) *Section 263A cost allocation methods*—(1) *In general.* A taxpayer may determine the costs properly allocable to lobbying activities under the principles set forth in section 263A and the regulations thereunder. For this purpose, lobbying activities are considered a service department or function. Therefore, a taxpayer may allocate costs to lobbying activities by applying the methods provided in § 1.263A–1 through § 1.263A–3. See § 1.263A–1(e)(4), which describes service costs generally; § 1.263A–1(f), which sets forth cost allocation methods available under section 263A; and § 1.263A–1(g)(4), which provides methods of allocating service costs.

(2) *Example.* The provisions of this paragraph (f) are illustrated by the following example:

Example. Section 263A cost allocation method—(i) Three full-time employees, A, B, and C, work in the Washington office of Taxpayer Y, a manufacturing concern. They each engage in lobbying activities, as defined in sections 162(e)(1)(A) and (D), and non-lobbying activities. In 1994, A spends 75 hours, B spends 1,750 hours, and C spends 2,000 hours on lobbying activities. A's hours are not spent on direct contact lobbying as defined in paragraph (g)(2) of this section. All three work 2,000 hours during 1994. The Washington office also employs one secretary, D, who works exclusively for A, B, and C.

(ii) In addition, three departments in the corporate headquarters in Chicago benefit the Washington office: public affairs, human resources, and insurance.

(iii) Y is subject to section 263A and uses the step-allocation method to allocate its service costs. Prior to the changes under section 162(e), the Washington office was treated as an overall management function for purposes of section 263A. As such, its costs were fully deductible and no further allocations were made under Y's step allocation. Following the changes to section 162(e), Y adopts its 263A step-allocation methodology to allocate costs to lobbying activities. Y adds a lobbying department to its step-allocation program, which results in an allocation of costs to the lobbying department from both the Washington office and the Chicago office.

(iv) Y develops a labor ratio to allocate its Washington office costs between the newly-defined lobbying department and the overall management department. Y's labor ratio is determined as follows—

DEPARTMENTS

Employee	Lobbying hours	Overall management hours	Total hours
A	0	2,000	2,000
B	1,750	250	2,000
C	2,000	0	2,000
Totals	3,750	2,250	6,000

Lobbying Department
Ratio=3,750÷6,000=62.5%

Overall Management Department
Ratio=2,250÷6,000=37.5%

(v) To determine the hours allocable to lobbying activities, Y uses the de minimis rule of paragraph (g)(1) of this section. Under

this rule, A's hours spent engaged in lobbying activities are treated as zero because less than 5 percent of A's time is spent on lobbying (75 / 2,000 = 3.75%). In addition, because D works exclusively for personnel engaged in lobbying activities, D's hours are not used to develop the allocation ratio. Y assumes that D's allocation of time follows the average time of all the personnel engaged in lobbying activities.

(vi) In 1994, the Washington office has the following costs—

Account	Amount
Professional Salaries and Benefits	$660,000
Clerical Salaries and Benefits	50,000
Rent Expense	100,000
Depreciation on Furniture and Equip	40,000
Utilities	15,000
Outside Payroll Service	5,000
Miscellaneous	10,000
Third-Party Lobbying (Law Firm)	90,000
Total Washington Costs	$970,000

(vii) The Washington office costs are allocated to the Lobbying and Overall Management departments as follows—

Total Washington department costs from above	$970,000
Less third-party costs directly allocable to lobbying	(90,000)
Total Washington office costs	$880,000

	Lobbying department	Overall mgmt. department
Department Allocation Ratios	62.5%	37.5%
x Washington Office Costs	$880,000	$880,000
= Costs Allocated To Departments	$550,000	330,000

(viii) In addition, $146,125 of costs from the public affairs department, $18,875 of costs from the insurance department and $3,000 from the human resources department are allocable to the Washington office. Therefore, Y's step-allocation for its Lobbying Department is determined as follows—

Y's step-allocation	Lobbying department
Washington Costs Allocated to Lobbying Department	$550,000
Plus Costs Allocated From Other Departments:	
Public Affairs	146,125
Insurance	18,875
Human Resources	3,000
Total Costs of Lobbying Department	$718,000
Plus Third-Party Costs	90,000
Total Costs of Lobbying Activities	$808,000

(g) *Special rules.* The following rules apply to any reasonable method of allocating costs to lobbying activities.

(1) *De minimis rule for labor hours.* Subject to the exception provided in paragraph (g)(2) of this section, a taxpayer may treat time spent by personnel on lobbying activities as zero if less than five percent of the person's time is spent on lobbying activities. Reasonable methods must be used to determine if less than five percent of a person's time is spent on lobbying activities.

(2) *Direct contact lobbying labor hours*—(i) *In general.* Notwithstanding paragraph (g)(1) of this section, a taxpayer must treat all hours spent by a person on direct contact lobbying (as well as the hours that person spends in connection with direct contact lobbying, including time spent traveling) as labor hours allocable to lobbying activities. An activity is direct contact lobbying if it is a meeting, telephone conversation, letter, or other similar means of communication with a legislator (other than a local legislator), or covered executive branch official (as defined in section 162(e)(6)) and otherwise qualifies as a lobbying activity.

(ii) *Example.* The provisions of this paragraph (g)(2) are illustrated by the following example:

Example. During 1994, 4% of the time of Taxpayer Z's Chief Executive Officer (CEO) is spent in direct contact lobbying involving actual meetings with legislators, preparation for the meetings, and travel. The CEO does not engage in any other lobbying activity. Although the CEO's time allocable to lobbying activities is less than 5%, Z may not use the de minimis rule of paragraph (g)(1) of this section to account for the CEO's lobbying labor hours that involve direct contact lobbying. Therefore, Z must allocate 4% of the CEO's total labor hours to lobbying activities.

(3) *Meetings.* If no substantial purpose of a meeting is a lobbying activity, a taxpayer may treat the meeting as involving no lobbying activity, and, therefore, the hours spent in the meeting are not treated as hours engaged in lobbying activities. It is presumed that a substantial purpose of a meeting with a federal or state legislator, a member of the staff of a federal or state legislator, a member of the staff of a federal or state legislative joint committee or similar body, or a covered executive branch official (as defined in section 162(e)(6)) is a lobbying activity. However, a taxpayer may rebut this presumption by showing that the facts and circumstances clearly indicate that no substantial purpose of such a meeting is a lobbying activity. For example, absent unusual circumstances, a taxpayer who merely attends a widely-attended speech by a legislator would not treat the hours of attending the meeting as hours spent on lobbying activities.

(4) *Taxpayer defined.* For purposes of this section, a taxpayer includes a tax-exempt organization subject to section 6033(e).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 93-31402 Filed 12-23-93; 8:45 am]

BILLING CODE 4830-01-U

26 CFR Part 1

[IA-60-93]

RIN 1545-AS18

Lobbying Expense Deductions—Dues

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; notice of proposed rulemaking by cross-reference to temporary regulations; notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations to revise the rules governing the deductibility, under section 162 of the Internal Revenue Code, of dues or other similar amounts paid to certain tax-exempt organizations that participate in political campaigns, or engage in lobbying or similar activities. Changes to the tax law were made by section 13222 of the Omnibus Budget Reconciliation Act of 1993. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by February 25, 1994. A public hearing is scheduled for Thursday, April 7, 1994, beginning at 10 a.m. Persons wishing to speak at the hearing must submit outlines of their comments by Thursday, March 17, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (IA-60-93), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be delivered to: CC:DOM:CORP:T:R (IA-60-93), Internal Revenue Service, room 5228, 1111 Constitution Avenue NW, Washington DC 20224. The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the hearing, Mike Slaughter, Regulations Unit at 202-622-7190; concerning the regulations, James M. Guiry, 202-622-1585. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** add § 1.162-20T to the Income Tax Regulations. The final regulations that will result from the regulations proposed in this notice will be based on the text of the temporary regulations and will provide rules under section 162 of the Internal Revenue Code (Code) as amended by section 13222 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) (107 Stat. 477). These rules relate to the deductibility of dues or other similar amounts paid by a taxpayer to certain tax-exempt organizations if the taxpayer paying dues receives from the organization a notice described in section 6033(e)(1)(a)(ii). The text of the temporary regulations is published elsewhere in this issue of the **Federal Register**. The preamble to the temporary regulations contains a full explanation of the reasons underlying the issuance of the proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Thursday, April 7, 1994, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restriction, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of § 601.601(a)(3) apply to the public hearing.

Persons that have submitted written comments by February 25, 1994, and want to present oral comments at the hearing must submit by Thursday, March 17, 1994, an outline of the topics to be discussed and the time to be devoted to each topic. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is James M. Guiry, Office of Assistant Chief Counsel (Income Tax and Accounting), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.162-20 is amended by removing and reserving paragraph (b) and adding paragraph (d). The additions read as follows:

§ 1.162-20 Expenditures attributable to lobbying, political campaigns, attempts to influence legislation, etc. and certain advertising.

* * * * *

(b) [Reserved]

* * * * *

(d) [The text of this paragraph, as proposed, is the same as the text of the temporary regulations published elsewhere in this issue of the **Federal Register**].

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 93-31403 Filed 12-23-93; 8:45 am]

BILLING CODE 4830-01-U

26 CFR Part 1

[IA-38-93]

RIN 1545-AR69

TeleFile Voice Signature Test

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the IRS is amending temporary regulations to provide that an individual Federal income tax return completed as part of the TeleFile Voice Signature test after January 12, 1994, and before April 16, 1994, will be treated as a return that is signed, authenticated, verified, and filed by the taxpayer as required by the Internal Revenue Code. The temporary regulations, as amended, affect those taxpayers who are eligible to, and elect to, file their individual Federal income tax returns for the 1993 calendar year by telephone under the test. The amendments are needed to implement the test for the 1994 filing season. The text of the temporary regulations, as amended, also serves as the comment document for this notice of proposed rulemaking.

DATES: Comments and requests for a public hearing must be received by May 15, 1994.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:DOM:CORP:T:R (IA-38-93), room 5228, Washington, DC 20044. In the alternative, comments and requests may be hand delivered to: CC:DOM:CORP:T:R (IA-38-93), room 5228, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Celia Gabrysh (202) 622-4940 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC

20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer PC:FP, Washington, DC 20224.

The collection of information in these regulations is contained in §§ 1.6012–7T and 1.6061–2T. This information is required by the IRS to implement the TeleFile Voice Signature test. The respondents are those eligible individual taxpayers who choose to file their Federal income tax returns under the test.

The following estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the IRS. Individual respondents may require more or less time, depending on their particular circumstances.

Estimated total annual reporting burden: 8,867 hours.

The estimated annual burden per respondent varies from 5 minutes to 9 minutes, depending on individual circumstances, with an estimated average of 7 minutes.

Estimated number of respondents: 76,000.

Estimated annual frequency of responses: Once.

Background

The temporary regulations published elsewhere in this issue of the **Federal Register** amend temporary regulations §§ 1.6012–7T, 1.6061–2T, and 1.6065–2T. The final regulations that will result from the regulations proposed in this notice would be based on the text of the temporary regulations. The final regulations would provide that an individual Federal income tax return completed as part of the TeleFile Voice Signature test will be treated as a return that is signed, authenticated, verified, and filed by the taxpayer as required by the Internal Revenue Code. For the text of the proposed regulations, see the temporary regulations published elsewhere in this issue of the **Federal Register**. The preamble to the temporary regulations contains a full explanation of the reasons underlying the issuance of the proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted timely (preferably an original and eight copies) to the IRS. All comments will be available for public inspection and copying. A public hearing may be held upon written request to the Commissioner of Internal Revenue by any person who also submits timely written comments. If a public hearing is held, notice of the time and place and date will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Celia Gabrysh of the Office of Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Sections 1.6012–7, 1.6061–2 and 1.6065–2 are added to read as follows:

§ 1.6012–7 Telephone return filing using voice signature.

[The text of this proposed section is the same as the text of § 1.6012–7T published elsewhere in this issue of the **Federal Register**].

§ 1.6061–2 Signing of returns by voice signature.

[The text of this proposed section is the same as the text of § 1.6061–2T published elsewhere in this issue of the **Federal Register**].

§ 1.6065–2 Verification of returns by voice signature.

[The text of this proposed section is the same as the text of § 1.6065–2T published elsewhere in this issue of the **Federal Register**].

Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 93–31408 Filed 12–23–93; 8:45 am]
BILLING CODE 4830–01–U

---

26 CFR Parts 1 and 602

[IA–62–93]

RIN 1545–AS14

Certain Elections Under the Omnibus Budget Reconciliation Act of 1993

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the time and manner of making certain elections under the Omnibus Budget Reconciliation Act of 1993. The text of those temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be received by February 25, 1994.

ADDRESSES: Send written comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (IA–62–93), Room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: George Bradley, 202–622–8104 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, ATTN: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer PC:FP, Washington, DC 20224.

The collections of information in this notice of proposed rulemaking are in §§ 1.108(c)–1T, 1.163(d)–1T, 1.1044(a)–1T, and 1.6655(e)–1T. This information is required by the Internal Revenue Service to assist taxpayers who make certain elections that were enacted as part of the Omnibus Budget Reconciliation Act of 1993. This information will be used to process the tax returns of electing taxpayers in accordance with the provisions of the elections. The likely respondents are: individuals or households, farms, business or other for-profit institutions, and small businesses or organizations.

These estimates are approximations of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances. Estimated total annual reporting burden: 202,500 hours. The estimated annual burden per respondent varies from 15 minutes to 45 minutes, depending on individual circumstances and the particular election involved, with an estimated average of 30 minutes. Estimated number of respondents: 410,000. Estimated annual frequency of responses: once.

Background

The temporary regulations, T.D. 8509 in the Rules and Regulations portion of this issue of the **Federal Register** amend part 1 of title 26 of the Code of Federal Regulations. These amendments reflect certain election provisions contained in the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, 107 Stat. 312) and provide necessary guidance to the public on the time and manner for making these elections.

Special Analyses

It has been determined that these proposed regulations are not significant rules as defined in Executive Order 12866. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these proposed rules, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations are being sent to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be scheduled and held upon written request by any person who also submits comments. If a hearing is scheduled, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is George Bradley, Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, other personnel from the Internal Revenue Service and the Treasury Department participated in their development.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 93–31410 Filed 12–23–93; 8:45 am]
BILLING CODE 4830–01–P

---

26 CFR Parts 1 and 602

[IA–63–93]

RIN 1545–AS21

Information Reporting for Discharges of Indebtedness

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the information reporting requirements of certain financial entities for discharges of indebtedness. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by February 25, 1994. Outlines of oral comments to be presented at the public hearing scheduled for March 30, 1994, at 10 a.m. must be received by March 9, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (IA–63–93), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be delivered to: CC:DOM:CORP:T:R (IA–63–93), room 5228, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Johnnel L. St. Germain (timing and amount of discharge) at (202) 622–4930 or Michael F. Schmit at (202) 622–4960, both of the Office of Assistant Chief Counsel (Income Tax and Accounting); concerning submissions and the hearing, Carol Savage of the Regulations Unit, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer PC:FP, Washington, DC 20224.

The collection of information in this regulation is in § 1.6050P–1. This information is required by the Internal Revenue Service to implement section 13252 of the Omnibus Budget Reconciliation Act of 1993. The information will be used to determine whether taxpayers have complied with the tax laws relating to discharges of indebtedness. The likely respondents are governmental and business institutions.

The collection of information in § 1.6050P–1 is satisfied by including the required information on Form 1099–C filed with the Service and on a statement furnished to the person whose indebtedness was discharged. The burden for this requirement is reflected in the burden estimates for Form 1099–C.

Background

Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR parts 1 and 602) relating to section 6050P. The temporary regulations contain rules relating to the reporting requirements of certain financial entities for discharges of indebtedness.

VOL 58 ISS 246 DEC 27 1993 UMI

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these proposed rules, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 30, 1993 at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of § 601.601(a)(3) apply to the hearing.

Persons that have submitted written comments by February 25, 1994, and want to present oral comments at the hearing must submit, by March 9, 1994, an outline of the topics to be discussed and the time to be devoted to each topic. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of the temporary regulations are Michael F. Schmit and Johnnel L. St. Germain of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.6050P–1 also issued under 26 U.S.C. 6050P. * * *

Par. 2. Sections 1.6050P–0 and 1.6050P–1 are added to read as follows:

§ 1.6050P–0 Table of contents.

[The text of this proposed section is the same as the text of § 1.6050P–0T published elsewhere in this issue of the **Federal Register**.]

§ 1.6050P–1 Information reporting for discharges of indebtedness by certain financial entities.

[The text of this proposed section is the same as the text of § 1.6050P–1T published elsewhere in this issue of the **Federal Register**.]

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 93–31309 Filed 12–23–93; 8:45 am]

BILLING CODE 4830–01–U

---

26 CFR Parts 47 and 48

[PS–76–93]

RIN 1545–AS32

Amendments to the Fuel Floor Stocks Taxes Regulations and the Diesel Fuel Excise Tax Regulations Under the Omnibus Budget Reconciliation Act of 1993

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations amending the temporary floor stocks taxes regulations (TD 8498) published in the **Federal Register** on November 29, 1993 (58 FR 62526) and the temporary diesel fuel excise tax regulations (TD 8496) published in the **Federal Register** on November 30, 1993. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by February 25, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (PS–76–93), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be delivered to: CC:DOM:CORP:R (PS–76–93), Internal Revenue Service, room 5228, 1111 Constitution Ave., NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Edward Madden (202) 622–4537 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR parts 47 and 48. This document proposes regulations the text of which is the same as the text of those temporary regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act.(5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing may be scheduled and held upon written request by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the

hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Edward Madden, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Parts 47 and 48

Excise taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 47 and 48 are proposed to be amended as follows:

PART 47—FLOOR STOCKS TAXES

Paragraph 1. The authority citation for part 47 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 47.3–6, paragraph (a) is proposed to be amended by removing the language "Section" and adding in its place "Except as provided in § 47.3–7, section".

Par. 3. Section 47.3–7, paragraph (b) is revised to read as follows:

[The text of this proposed § 47.3–7(b) is the same as the text of the temporary regulations published elsewhere in this issue of the **Federal Register**.]

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Par. 4. The authority citation for part 48 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 5 Section 48.4082–1, paragraphs (b)(1) and (b)(2)(i) are proposed to be revised to read as follows:

[The text of this proposed § 48.4082–1(b)(1) and (b)(2)(i) the same as the text of the temporary regulations published elsewhere in this issue of the **Federal Register**.]

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 93–31407 Filed 12–23–93; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Parts 2520 and 2530

Disclosure of Plan Information to Participants and Beneficiaries

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Request for information.

SUMMARY: This document requests information from the public concerning the summary plan description, summary annual report and individual benefit reporting and recordkeeping requirements of the Employee Retirement Income Security Act of 1974, as amended, (ERISA), and regulations issued thereunder. The information furnished in response to this document is intended to assist the Department of Labor (the Department) in evaluating the extent to which the current disclosure requirements serve to assure that participants and beneficiaries are provided with useful and timely information about their employee benefit plans and the extent to which the requirements should be updated to reflect statutory, technological and other changes affecting the disclosure of information to participants and beneficiaries. The furnished information also will assist the Department in developing regulatory and legislative proposals as may be necessary to address identified deficiencies relating to the various disclosure provisions.

DATES: Written comments should be received by the Department of Labor on or before February 25, 1994.

ADDRESSES: Comments (preferably, at least six copies) should be addressed to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, room N–5669, U.S. Department of Labor, Washington, DC 20210. Attenion: DISCLOSURE RFI. All comments received will be available for public inspection at the Public Disclosure Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Ave., NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210, telephone (202) 219–7901; or Cynthia Weglicki, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210, telephone (202) 219–4592. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

A. General

With the enactment of the Employee Retirement Income Security Act of 1974 (ERISA) came a legislatively ordered array of disclosure requirements under Title I. These disclosures are intended to inform participants and beneficiaries of their rights and obligations under their plan, the financial condition of the plan, and whether the plan is being administered in accordance with the law.

The disclosure requirements under Title I of ERISA, in addition to providing for the availability to participants and beneficiaries of plan documents and other instruments pursuant to which their plan is established or operated,[1] require that specific information relative to an employee benefit plan be furnished to each participant and each beneficiary receiving benefits under the plan. These disclosures include: Summary plan descriptions (SPDs), as well as summaries of material plan changes and periodic updates of the SPD (sections 102(a)(1) and 104(b)(1)); summary annual reports (section 104(b)(3)); and, in the case of pension plans, individual benefit statements describing the participant's accrued and vested benefits (sections 105 and 209).[2]

Since ERISA's enactment and the adoption of many of the Department's regulations governing ERISA's disclosure requirements, there have been a number of changes to the statute (e.g., the addition of provisions governing continuation of health care coverage and qualified domestic relations orders, among others) and changes in the way plan information is prepared, maintained and communicated because of increased reliance on and utilization of computerized information systems. In addition, a number of questions have been raised with respect to whether participants and beneficiaries are being provided useful and timely information

[1] See sections 104(b)(2) and 104(b)(4).

[2] In addition, participants and beneficiaries are required to be furnished noticed of an employer's failure to make a payment required to meet the minimum funding standards under section 302 if the employer fails to make the required payment within 60 days of the due date for such payment (section 101(d)). Participants and beneficiaries also are required to be furnished notices of an employer's filing of an application for a funding waiver (section 303(e)), of a qualified transfer of excess pension assets to a health benefit account (section 101(e)), and of amendments to certain pension plans to significantly reduce the rate of future benefit accrual (section 204(h)).

VOL 58 ISS 246 DEC 27 1993 UMI

concerning the plans in which they participate. For these reasons, the Department believes that it is appropriate to undertake a comprehensive review of the current disclosure framework in an effort to identify areas in which modifications to regulatory or statutory requirements would serve to assure the disclosure of useful and timely information to participants and beneficiaries, as well as to eliminate any unnecessary administrative burdens and costs attendant to the providing of such information.

As an initial step in the review process, the Department is inviting plan sponsors, administrators, fiduciaries, participants, beneficiaries, service providers and other interested persons to submit comments and views concerning the adequacy of the current statutory and regulatory disclosure scheme, recommendations for changes, and information and data relating to compliance costs (or cost savings) applicable to either the current scheme or recommended changes thereto. It is intended that the information provided will assist the Department in identifying areas for change and in developing proposals as may be necessary to address identified deficiencies relating to the various disclosure provisions.

Set forth below is a brief discussion of the summary plan description, summary annual report, and individual benefit reporting requirements of ERISA and related regulations.[3] Following the discussion of each requirement are a number of questions with respect to which the Department would like to receive comments, views, information and data. The questions are provided for guidance purposes only and are not intended to restrict or otherwise limit the scope of public comment on the subject disclosure provisions. To facilitate the processing and review of comments, however, commentators are requested to identify the requirement to which each of their comments relates (e.g., SPD requirements or summary annual report requirements or benefit statement requirements) and, as appropriate, the number of the question being addressed. Commentators also are requested to provide as much quantitative and qualitative information as possible concerning costs, administrative burdens, savings, and benefits attributable to compliance with the current disclosure framework and any recommended changes thereto.

[3] It should be noted that a number of exemptions and alternative methods of compliance relating to the disclosure requirements have been prescribed by regulations issued by the Department (See 29 CFR § 2520.104–20; 2520.104–21; 2520.104–22; 2520.104–23; 2520.104–24; 2520.104–26; 2520.104–27; 2540.104–48; and 2520.104–49). Although specific exemptions and alternative methods of compliance are not discussed herein, public comments on these regulations will be considered by the Department.

B. Summary Plan Descriptions

Background

In general, sections 102(a) and 104(b)(1) of ERISA provide that the administrator of an employee benefit plan shall furnish to each participant, and beneficiary receiving benefits under the plan, a summary plan description (SPD). The SPD is required to be written in a manner calculated to be understood by the average plan participant and is required to be sufficiently accurate and comprehensive to reasonably apprise participants and beneficiaries of their rights and obligations under the plan. (See section 102(a)(1) and 29 CFR 2520.102–2.)

The specific information required to be contained in the SPD is described in section 102(b) and 29 CFR 2520.102–3. Among other things, SPDs are required to contain: The name and type of administration of the plan; the name and address of the person designated as agent for service of legal process; a description of the relevant provisions of any applicable collective bargaining agreement; the plan's requirements respecting eligibility for participation and benefits; a description of the provisions concerning for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility or denial or loss of benefits; the sources of financing for the plan; the procedures to be followed in presenting claims for benefits and the remedies available under the plan for the redress of claims which are denied in whole in part; information concerning whether the plan, if a pension plan, is insured under Title IV and, if so, information concerning coverage provided by the Pension Benefit Guaranty Corporation (See model language at § 2520.102–3(m)(3).); and a statement of ERISA rights, which is intended to provide participants and beneficiaries with a brief description of their rights and remedies under ERISA. (See model statement at § 2520.102–3(t)(2).)

Purusant to section 104(b)(1) and 29 CFR § 2520.104b–2, the SPD is required to be furnished to a participant within 90 days after becoming a participant or, in the case of beneficiaries, within 90 days after first receiving benefits; or, if later, within 120 days after the plan becomes subject to Part I of title I of ERISA. If there is a material modification in the terms of the plan or a change in the information required to be contained in the SPD, administrators are required to furnish participants and beneficiaries with a summary of such modifications or changes (often referred to as a summary of material modifications or "SMM") within 210 days following the end of the plan year in which the modification or change is adopted. (See 29 CFR 2520.104b–3 and 2520.104b–4 relating to the furnishing of SMMs.)

Section 104(b)(1) also requires that participants and beneficiaries be periodically furnished updated SPDs which integrate all plan amendments during the applicable period. Under section 104(b)(1) and § 2520.104B–2(b), participants and beneficiaries are required to be provided updated SPDs every fifth year if there have been changes in the information required to be disclosed in the SPD during the applicable five year period. If there have been no changes during the five year period, a new SPD must be furnished within ten years.

Request for Information

1. What, if any, additional information should be required to be disclosed in the SPD? For example, to what extent should the SPD be required to contain information relating to procedures and notice requirements applicable to domestic relations and child medical support orders? (See section 206(d)(3) and section 609.)

2. Is guidance necessary with respect to the extent to which information relating to the continuation of coverage provisions of Part 6 of Title I should be included in the SPD? The Department notes that section 606(a)(1) requires administrators of group health plans to provide written notice of the rights provided under Part 6 to each covered employee and spouse of the employee, at the time of commencement of coverage under the plan.

3. What currently required information, if any, should be eliminated from the SPD and why?

4. Within what period of time following plan changes should summaries of those changes be required to be furnished to participants and beneficiaries? Should welfare plan changes be required to be furnished within a shorter period of time than pension plan changes? Within what period do plans generally furnish participants and beneficiaries with copies of (a) changes to pension plans, and (b) changes to welfare plans?

5. How frequently should SPDs be required to be updated? Should the frequency with which updated SPDs are furnished be determined by the number of plan changes since the last SPD? (For example, should an updated SPD be required to be furnished after four plan amendments?) Are SPDs currently updated more frequently than every five years? If so, what factors are considered and how frequently are updated SPDs generally provided?

6. What, if any, alternative means for furnishing SPDs, updated SPDS or SPD information to participants and beneficiaries should be considered? Describe the benefits and costs attendant to such alternative(s), as compared with compliance with current requirements. (See also general requirements applicable to the furnishing of documents under Part 1 of Title I set forth in 29 CFR 2520.104b–1.)

C. Summary Annual Reports

Background

Section 104(b)(3) provides that within 210 days following the close of a plan's fiscal year, the administrator shall furnish to each participant and to each beneficiary receiving benefits under the plan, a copy of the statements and schedules concerning plan assets and liabilities and receipts and disbursements (described in sections 103(b)(3)(A) and (B)) for such fiscal year, and such other material (including the percentage determined under section 103(d)(11))[4] as is necessary to fairly summarize the latest annual report. This annual disclosure is commonly referred to as the summary annual report or SAR.[5]

Pursuant to 29 CFR 2520.104b–10, governing the furnishing of the SAR, SARs must be distributed within nine months after the close of a plan year, or within two months after the close of a period for which an extension for filing the plan's annual report has been granted by the Internal Revenue Service, rather than 210 days after the close of a plan year as provided in the statute. The regulation also describes the information required to be contained in the SAR and prescribes formats for the disclosure of that information. The formats prescribed by the regulation are intended to permit the entry of SAR information directly from specific line items of the plan's annual report. The regulation also sets forth special rules for small plans filing the Form 5500–R.

Because the Form 5500–R is essentially a notice-type statement, containing no financial information, the regulations permit small plans, for those years for which a Form 5500–R is filed, to satisfy their SAR obligation either by furnishing participants and beneficiaries with a copy of the Form 5500–R, along with a required notice (See § 2520.104b–10(b)(3).), or by notifying participants and beneficiaries that they will be furnished a copy of the Form 5500–R, free-of-charge, upon request.[6]

All other plans must use the prescribed formats for the furnishing of SAR information. The regulations contain different informational requirements for pension plans and welfare plans. (See § 2520.104b–10(d)(3) and (4), respectively.)

In brief, the SAR for a pension plan is require to contain the following information: the type of funding arrangement (trust, insurance, etc.); the amount of plan expenses; the amount of administrative expenses; the amount of benefits paid; the total number of participants and beneficiaries as of the end of the plan year; the value of plan assets, after subtracting liabilities, at the beginning of the year and at the end of the year; an indication of whether there was an increase or decrease in net assets and the amount of such increase or decrease; the total amount of income, with a showing of the amount of income constituting employer contributions, the amount of participant contributions, the amount of gain or loss from the sale of assets, the amount of earnings from investments; and certain insurance information for plans utilizing allocated insurance contracts. Defined benefit pension plans are also required to include the plan actuary's statement that enough (or not enough) money was contributed to keep the plan funded in accordance with the minimum funding standard, as well as the amount of the deficit, if any. Defined contribution plans are required to include similar information in their SARs.

The information required to disclosed in a welfare plan SAR varies, generally depending on whether the plan pays benefits through a fund or insurance contracts. In the case of a welfare plan which pays benefits through a fund, the SAR is required to contain much of the same financial information required to be included in the SAR of a pension plan. If any benefits are provided on an uninsured basis, the SAR must so indicate. If a welfare plan purchases insurance, the SAR must include: The name of the insurer(s); the types of claims covered by the insurance; the total amount of premiums paid; a statement relating to experience-rated contracts (if applicable), the premiums paid for such contracts and the amount of benefits paid under such contracts during the plan year.

All SARs are required to contain a statement describing the rights of participants and beneficiaries to receive a copy of the full annual report, or any part thereof.

Request for Information

7. What, if any, additional information should be required to be disclosed in the SAR? For example—

a. Should the SAR be required to disclose: whether the plan was audited by an independent qualified public accountant; whether the accountant issued a "qualified" or "adverse" opinion or a disclaimer in connection with the opinion, and, if so, the reason(s) for the qualified or adverse opinion, or disclaimer; any errors and irregularities, illegal acts or material internal control deficiencies identified by the accountant; any events subsequent to year end, identified by the account, which would affect the plan's financial condition?

b. Should the SAR of a defined benefit pension plan be required to disclose: The benefit obligations of the plan; detailed information concerning the funding status of the plan and, if underfunded, by how much (currently, only plans with assets which are less than 70 percent of the plan's liabilities are required to disclose such information); information about PBGC coverage and the maximum benefits payable by the PBGC; whether the sponsor has applied for or been granted a funding waiver during the plan year; whether the employer has failed to make a required installment or other payment required to meet the minimum funding standards during the plan year?

8. Is there any information which should be deleted from the SAR?

9. Within what period following the end of the plan year should SARs be required to be furnished to participants and beneficiaries?

[4] Section 103(d)(11) requires that the actuarial statement, which is required to accompany the annual report of certain pension plans, include the percentage of assets to liabilities if the current value of the assets is less than 70 percent of the current liability under the plan.

[5] Related statutory requirements include section 104(b)(2), which requires that the latest annual report be made available for examination by any participant or beneficiary, and section 104(b)(4), which requires that a copy of the latest annual report be furnished to any participant or beneficiary, upon receipt of a written request. Section 104(b)(4) also permits the administrator to make a reasonable charge to cover the cost of furnishing such complete copies. See also 29 CFR 2520.104b–30 governing charges for documents.

[6] Pursuant to § 2520.104b–10(b)(2), administrators may notify participants of the availability of the Form 5500–R by posting the required notice at worksite locations for a period of not less than 30 days. However, certain participants, such as retirees, beneficiaries, participants who have separated with vested benefits, and others not reasonably expected to visit worksite locations where the notice is posted, are required to be furnished notice on an individual basis.

VOL
58
ISS
246
DE
27
1993
UMI

10. Are there any events affecting the financial condition of a plan which should be communicated to participants and beneficiaries prior to the end of the plan year (e.g., a failure of the sponsor to make required contributions, insufficient assets to make benefit or premium payments)? What events should necessitate disclosure? Within what period should disclosure of such events be required?

11. What, if any, alternatives means for furnishing SARs should be considered? Describe the benefits and costs attendant to such alternative(s), as compared with compliance with the current requirements. (Also see general requirements applicable to furnishing documents under Part 1 of Title I set forth in 29 CFR 2520.104b–1.)

D. Individual Benefit Reporting and Recordkeeping

Background

Section 105(a) of ERISA generally requires each administrator of an employee pension benefit plan to furnish to any participant or beneficiary, who so requests in writing, a statement indicating, on the basis of the latest available information, the total benefits accrued and the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which such benefits will become nonforfeitable. Similarly, section 209(a)(1) of ERISA generally requires the plan administrator of a pension plan subject to Part 2 of title I of the Act to make a report, in accordance with regulations of the Secretary of Labor, to each employee who is a participant under the plan and who requests such report. The report required under section 209(a)(1) must be sufficient to inform the employee of his or her accrued benefits which are nonforfeitable. Under both sections 105(a) and 209(a)(1), no participant is entitled to more than one report on request during any single 12-month period. Section 209(a) also requires similar reports to be provided to a participant who terminates service with the employer or has a one-year break in service. Sections 105(d) and 209(a)(2) authorize the Secretary of Labor to prescribe regulations specifying the extent to which these reporting requirements apply to plans adopted by more than one employer.

In addition, section 105(c) requires plan administrators to provide to participants with respect to whom registration statements are filed with the Internal Revenue Service under section 6057 of the Internal Revenue Code of 1986 (the Code) individual benefit statements setting forth the information contained in the registration statements. This statement also is required to include a notice to participants of any benefits which are forfeitable if the participant dies before a certain date.

Section 209 also establishes certain recordkeeping requirements relating to benefit reporting. In general, section 209(a)(1) requires records to be maintained by employers and authorizes the Secretary of Labor to prescribe regulations governing such records. The information necessary for individual benefit reporting is to be furnished by the employer to the plan administrator. In the case of a plan adopted by more than one employer, however, section 209(a)(2) requires records to be maintained by the plan administrator, based on information to be provided by each such employer.

Section 209(b) provides that if any person required under section 209(a) to furnish information or maintain records for any plan year fails to comply with such requirements, such person shall pay to the Secretary a civil penalty of $10 for each employee with respect to whom such failure occurs, unless it is shown that the failure was due to reasonable cause.

The Department last proposed regulations governing the individual benefit reporting and recordkeeping requirements under sections 105 and 209 in 1980. At that time, separate regulations were proposed for single employer plans and multiple employer plans. (See 45 FR 51231, August 1, 1980, and 45 FR 52824, August 8, 1980, respectively.) The Department anticipates withdrawing the 1980 proposed regulations and publishing revised proposed benefit reporting regulations or developing statutory amendments which take into account the information furnished in response to this document.

Request for Information

Furnishing Benefit Statements

12. Should participants and beneficiaries be limited to one benefit statement request per 12 month period? If not, how frequently should participants and beneficiaries be permitted to request such information?

13. Are there classes of participants or beneficiaries with respect to whom benefit statements should not be required to be furnished every 12 months (e.g., participants and beneficiaries who are currently receiving benefits, participants and beneficiaries to whom annuities have been distributed, non-vested participants who have terminated service with sponsoring employers)?

14. Should plans be permitted to condition the furnishing of benefit statements on a participant's compliance with reasonable plan procedures? If so, what are reasonable procedures?

15. What information, if any, should plans be permitted to require from participants and beneficiaries as a condition to furnishing a benefit statement?

16. Within what period of time following receipt of a benefit statement request should plans be required to furnish the requested statement?

17. Under what circumstances, if any, should plans furnishing annual benefit statements to all participants be relieved from the obligation to respond to individual benefit statement requests?

18. Should there be a requirement that a benefit statement be furnished automatically upon a termination of service or a one-year break in service to all participants, including participants with no vested benefits?

19. Within what period of time following a termination in service or break in service should plans be required to furnish benefit statements?

20. What methods of delivering benefit statements or benefit statement information should be permitted? Possible methods of delivery might include first class mail, personal delivery, interoffice mail, or access to benefit information via computer terminals. What methods are currently being utilized for communicating individual benefit information to participants and beneficiaries?

Content of the Benefit Statement

21. Section 105(a) requires the furnishing of benefit statements based on the "latest available information." How should "latest available information" be defined or determined for purposes of furnishing benefit statements in response to a request, upon termination of service, upon incurring a break in service, and in situations where benefit statements are furnished annually?

22. What information should be required to be contained in an individual benefit statement? For example, should benefit statements be required to set forth: Both the percentage and amount of vested accrued benefits; the earliest date on which benefits will become partially or fully vested; the amount of participant contributions; the portion of the accrued benefit derived from employer contributions and from participant contributions; the amount of any Social Security offset; projected early and normal retirement benefits; projected early and normal retirement benefits stated in the form of a joint and survivor annuity; descriptions of the projections and assumptions on which the benefit statement is based, or the date of the information on which the benefit statement is based.

23. What variations, if any, in the information required to be contained in benefit statements should be considered for insurance contract plans (as described in section 301(b) of ERISA and section 412(i) of the Code); individual account plans; employer stock plans; and class-year plans?

24. What information should be required to be furnished participants with no vested benefits?

25. Should benefit statements for underfunded plans be required to include information concerning the funding status of the plan and the benefit coverage limits of the Pension Benefit Guaranty Corporation?

Recordkeeping

26. What methods of record retention should be permitted for individual benefit information?

27. How long should individual benefit information be required to be retained?

28. In the case of multiple employer plans, what reporting requirements should be imposed on employers with respect to the furnishing of individual benefit information to the plan administrator?

29. Identify and explain any individual benefit recordkeeping problems which are unique to multiple employer plans. How should these problems be addressed?

All submitted comments will be made a part of the record of proceeding referred to herein and will be available for public inspection.

Signed at Washington, DC this 17th day of December, 1993.

Olena Berg,

Assistant Secretary for Pension and Welfare Benefits, U.S. Department of Labor.

[FR Doc. 93–31368 Filed 12–23–93; 8:45 am]

BILLING CODE 4510–29–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–4817–6]

Regulation of Fuels and Fuel Additives: Renewable Oxygenate Requirement for Reformulated Gasoline

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal concerns a program to maximize the energy and other benefits from the reformulated gasoline program, while obtaining significant emission reductions in ozone forming volatile organic compounds and toxic air pollutants. Specifically, the program would require that 30 percent of the oxygen content of reformulated gasoline come from renewable oxygenates. Technical analyses show that the production of such oxygenates is more energy efficient than that of other potential oxygenated additives and the use of such oxygenates would offset the use of imported crude with fuels produced from corn, grain, wood, and even organic waste. As a result, the program would reduce foreign oil imports, create investment and jobs in America, reduce fossil energy use, and lower emissions of harmful greenhouse gases. This proposal also contains a description of the proposed enforcement mechanisms associated with this requirement.

DATES: The comment period will close on February 14, 1994. EPA will hold a public hearing on this proposal on January 14, 1994, in the Washington, DC area beginning at 9 a.m.

ADDRESSES: Send comments to Public Docket A–93–49 at the address below. Materials relevant to this NPRM are contained in Public Dockets A–91–02, A–92–12, and A–93–49 located at room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected from 8 a.m. until 12 noon and from 1:30 p.m. until 3 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials. The public hearing will be held at the Hyatt Regency, Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202. Telephone: 703–418–1234.

FOR FURTHER INFORMATION CONTACT:

Paul Machiele, Regulation Development and Support Division, U.S. EPA (RDSD–12), 2565 Plymouth Road, Ann Arbor, MI 48105. telephone: (313) 668–4264.

Joann Jackson-Stephens, Regulation Development and Support Division, U.S. EPA (RDSD–12), 2565 Plymouth Road, Ann Arbor, MI 48105, telephone: (313) 668–4276.

To request copies of this action contact: Delores Frank, Regulation Development and Support Division, U.S. EPA (RDSD–12), 2565 Plymouth Road, Ann Arbor, MI 48105, telephone: (313) 668–4295.

SUPPLEMENTARY INFORMATION:

Background

The federal reformulated gasoline program is designed to improve air quality by reducing motor vehicle emissions of toxic and tropospheric ozone-forming compounds, as prescribed by section 211(k) of the Clean Air Act as amended (CAA or the Act). The Act mandates certain requirements for the reformulated gasoline program. Section 211(k)(2) requires a minimum content of 2.0 weight percent oxygen and maximum content of 1.0 volume percent benzene and Section 211(k)(3) sets minimum performance standards for emission reductions of ozone forming volatile organic compounds (VOC) and air toxics. In addition, Section 211(k)(1) directs EPA to promulgate regulations establishing requirements for reformulated gasoline, and that such regulations require the greatest reductions in VOC and toxics emissions, taking into consideration the cost of achieving such emission reductions, non-air-quality and other air-quality related health and environmental impacts and energy requirements. To obtain the benefits described below from this proposal, and to make sure these emission standards are met in such a way as to properly reflect these statutory criteria, today's action proposes a year-round requirement that thirty percent of the statutory oxygen compositional specifications for reformulated gasoline be obtained from renewable oxygenates. To ensure that the ozone benefits of the reformulated gasoline program are unaffected by today's proposal, it is EPA's expectation that only renewable oxygenates that do not exhibit volatility related commingling effects when mixed with gasoline (e.g. ETBE) will be acceptable during the VOC control period (summer months) to comply with the requirements being proposed today. Both ETBE and ethanol are expected to be acceptable during the non summer months. Also included in today's proposal are provisions for averaging and credit trading in order to provide maximum flexibility for refiners and fuel importers.

There is considerable history behind EPA's decision to propose a renewable oxygenate requirement. In response to EPA's April 1992 publication of the Supplemental Notice of Proposed Rulemaking (SNPRM) (57 FR 13416, April 16, 1992) for reformulated gasoline, members of the ethanol industry submitted comments to EPA which expressed their concern that the proposed reformulated gasoline

rulemaking, would effectively exclude ethanol from the reformulated gasoline market. In an attempt to address the role of ethanol, the Agency proposed a renewable oxygenate program (ROP) (58 FR 11722, February 26, 1993) at the direction of former President Bush to promote the use of ethanol and other renewable oxygenates in reformulated gasoline. The objective of the ROP was to promote the use of renewable oxygenates in the reformulated gasoline program in the summer while, theoretically, maintaining the overall environmental benefits of the program.

As explained in the preamble and RIA for the reformulated gasoline final rule, EPA had a number of concerns with respect to the ROP proposal, and decided not to promulgate the ROP. The ROP proposal created an increase for the use of renewables but in no way assured their use. Also, EPA's analysis indicated that the proposal would not maintain the environmental benefits instead VOC emissions would increase significantly under such a proposal. The commingling effect of mixing ethanol blends with non-ethanol blends in consumers' fuel tanks, the effect of ethanol on the distillation curve of the blend, and unrestricted early use of the complex model would have sacrificed 40 to 50 percent of the VOC control that is required under section 211(k)(3) for reformulated gasoline during the summer.

The final rulemaking for reformulated gasoline, consistent with the agreement reached through regulatory negotiation, does not include additional provisions to promote the use of renewable oxygenates. Therefore, uncertainty remains regarding the magnitude of the role renewable oxygenates will play in reformulated gasoline.

EPA believes a number of arguments support a program to ensure a minimum level of participation of renewable oxygenates in reformulated gasoline. The U.S. now imports nearly half of the oil we use. Half of our trade deficit is from imported oil, and it is getting worse. Since 1972 we have spent 1.3 trillion dollars on imported oil—money which could have provided investment and jobs in America. Growing oil consumption not only diminishes a limited primary energy source but also increases emissions of greenhouse gases. Expanding the use of renewable fuels, such as ethanol, from resources such as corn, grain, wood, organic waste products, and even garbage can help clean up our air, cut dependence on foreign oil, create investment and jobs in America, reduce primary energy use by 20% or more as compared to nonrenewable oxygenates, and lower emissions of harmful greenhouse gases.

Today's proposal is intended to address the role of renewable oxygenates in reformulated gasoline by introducing a program to increase the use of such oxygenates in a manner that ensures environmental, energy, and economic benefits. As just summarized, EPA believes there are significant benefits for renewable oxygenate use in reformulated gasoline, and today's proposal is based on EPA's general authority in Section 211 (k)(1) to establish requirements for RFG and the directive in section 211(k)(1) to consider such environmental, energy, and economic benefits in structuring the emission reduction requirements for the reformulated gasoline program. Today, the United States imports nearly half of all oil used, with two-thirds of this oil being used for transportation. Dependence on imported oil costs the U.S. $40–80 billion each year, and the cumulative cost over the last 20 years has reached $1.3 trillion (in current dollars). Payments for imported oil are the largest single cause of the U.S. international trade deficit, a deficit which reached $84 billion in 1992 and is expected to exceed $100 billion in 1993. Payments for imported oil represent a transfer of wealth from the United States to oil-exporting countries. Absent policies to reverse current trends, projected U.S. dependence on imported oil will increase to 60–70% by the year 2010.

Money now spent on imported oil or oxygenates could instead be spent for renewable fuels made from feed stocks currently grown or processed in the United States. This would keep capital in the U.S., provide domestic jobs, strengthen our national security, and support a wide variety of American agricultural and fuel industries. Economists have estimated that 25,000 to 30,000 jobs are lost for every billion dollars which is sent abroad to pay for imports. To the extent that the renewable component of the reformulated gasoline program keeps American money in the country, it will keep American jobs here as well. Assuming that the renewable component is met with ETBE in the summer months and ethanol during the rest of the year, and also assuming this 30% renewable component displaces imports for foreign oxygenates, the program will create and sustain in excess of 10,000 new domestic jobs. As discussed below, reformulated gasoline made with renewable oxygenates requires the use of less imported crude oil and less energy.

In addition, EPA believes there is a justification for a renewable oxygenate program based on environmental benefits from renewable fuels. There is growing concern about greenhouse gas emissions, particularly from fossil fuels; in fact, the Climate Change Action Plan identified transportation as the sector with the greatest potential for growth in greenhouse emissions. The number of vehicle miles traveled in the United States has doubled over the last twenty years and is expected to continue to grow at a rapid rate. Expanding the use of renewable fuels from feed stocks such as corn, grain, wood, organic waste products, and even garbage, can potentially yield large reductions in the emissions of greenhouse gases. Today's proposal is consistent with current national efforts to stabilize greenhouse gas emissions by the year 2000. EPA believes that the use of renewable fuels also reduces consumption of primary energy sources such as petroleum and natural gas.

The Agency believes that the 30 percent requirement for renewable oxygenates is an appropriate level. This requirement ensures that renewables will not be excluded from the market, yet it allows the remaining 70 percent of the market to be open to all fuels, regardless of point of origin or renewable content.

As a result of concerns with the February 26, 1993 ROP, other options considered for simplifying that proposal, and other alternatives recommended by commenters, EPA has rejected them and is instead proposing today's renewable oxygenate program. (The reader is referred to Section II of the Preamble and Section I of the RIA for the reformulated gasoline final rulemaking for a description of the options and alternatives to the ROP considered.) Today's proposal is for a program to be applied in conjunction with the reformulated gasoline program and is designed to supplement the agreement for reformulated gasoline reached through regulatory negotiation. It does not alter the performance standards or other provisions for the reformulated gasoline outlined in the final rulemaking for reformulated gasoline. In addition, the program does not mandate the use of any particular oxygenate, but rather ensures some use of a certain subset of oxygenates.

The reader is referred to the technical support document contained in the docket for additional discussion of today's proposal. The reader may also refer to the 1993 NPRM (58 FR 11722, February 26, 1993), the Final Rule, the February 1993 Draft Regulatory Impact Analysis (DRIA), the Final Regulatory Impact Analysis (RIA), and Public Dockets A–91–02 and A–92–12 for a thorough description of the goals and regulatory development of the reformulated program as it relates to today's action.

The remainder of this preamble is organized into the following sections:

II. Renewable Oxygenate Proposal for Reformulated Gasoline
III. Enforcement of the Renewable Oxygenate Requirement
IV. Federal Preemption
V. Environmental, Energy, and Economic Impacts
VI. Public Participation
VII. Compliance with Regulatory Flexibility Act
VIII. Statutory Authority
IX. Administrative Designation and Regulatory Analysis
X. Compliance with the Paperwork Reduction Act

II. Renewable Oxygenate Proposal for Reformulated Gasoline

A. Description of the Proposed Program

Reformulated gasoline is required to contain 2.0 weight percent oxygen (Section 211(k)(2)(B) of the CAA). A number of oxygenates have or are currently being used in gasoline, such as methyl tertiary butyl ether (MTBE), ethanol, ethyl tertiary butyl ether (ETBE), tertiary butyl alcohol and tertiary amyl methyl ether (TAME). All of these oxygenates involve the use of alcohols in their production, and most involve methanol or ethanol. Based on a study conducted by the Department of Energy (DOE) (submitted to EPA as a comment on the ROP proposed on February 26, 1993) and EPA's own analysis, all oxygenates reduce the amount of crude oil needed to produce gasoline on essentially a gallon per gallon basis (i.e., each gallon of oxygenate used saves a gallon of crude oil). The lack of incremental supply of domestic crude means that essentially all of this crude oil savings applies to crude oil imports, with important energy, national security, and balance of trade impacts. Of all the oxygenates evaluated, ETBE shows the greatest crude oil savings at 13 percent per gallon of reformulated gasoline, since it must be used at the greatest volume percentage to meet the minimum oxygen content. However, the DOE study implicitly assumed that all oxygenates would be produced domestically. While the use of imported oxygenates would still reduce crude oil use and oil imports, it would merely substitute importing one form of energy for another. In fact, importing oxygenates worsen the current situation from an economic point of view. The new imports would be high value products involving a significant amount of processing and labor in their production, but which can then be added directly to gasoline. The supplanted imported crude is a more basic energy source and requires processing and labor prior to its use. Therefore, only an increase in the use of domestic oxygenates would reduce both the amount of crude oil and oxygenate imports to the U.S.

This broader evaluation of basic energy requirements is important in interpreting the study's results regarding ethanol. The DOE study shows that crude oil use increases slightly with the use of renewable ethanol blends relative to domestic MTBE blends. However, as mentioned above, this ignores the importation of both methanol and MTBE. It also assumes that all of the butanes required to produce MTBE come from natural gas, while in practice as much as a third of the incremental MTBE is expected to use refinery (i.e., crude oil) based isobutylene. Consideration of this refinery-based isobutylene would eliminate any benefit of MTBE blends over ethanol blends. Also, the use of domestic, renewable ethanol would clearly reduce high value energy imports relative to imported methanol or MTBE.

A second aspect of the energy impact of the reformulated gasoline program is the total amount of fossil energy needed to produce reformulated gasoline with the various oxygenates. Total fossil energy is important because it tends to correlate with total carbon dioxide (CO_2) emissions and global warming impact. The DOE study shows that the ethers made from renewable alcohols (in this case corn based ethanol) can save nearly 15 percent of the total fossil energy per gallon of ether or about 1.6 percent of the total fossil energy needed per gallon of reformulated gasoline containing 2.0 weight percent oxygen, relative to using MTBE made from natural gas-based methanol (See Technical Support Document in the docket for derivation of the above figures).

The DOE study also shows that the blending of renewable ethanol also saves total fossil energy relative to natural gas based MTBE, if the increase in Reid vapor pressure (RVP) associated with ethanol need not be counteracted. However, the summer VOC emission performance standards require ethanol blends to generally have the same RVP as other blends, which requires the base gasoline to have a lower RVP than the base gasoline that can be blended with other oxygenates. The additional energy needed to lower the base gasoline RVP for ethanol blends is greater than the energy saved by producing ethanol instead of MTBE. Thus, while generating energy savings in the non summer months, ethanol used in summer reformulated gasoline would not be expected to produce an energy savings.

Furthermore, the use of ethanol directly in summer reformulated gasoline increases VOC emissions in two ways not reflected in either the simple or complex models. First, the commingling of ethanol and non-ethanol blends in vehicle fuel tanks causes an increase in RVP over and above the simple averaging of the fuels' RVPs, leading to a further increase in evaporative VOC emissions. Second, ethanol increases fuel evaporation at 130°F, a temperature typically reached in the vehicle fuel tank during summer driving, more than other oxygenates. While some of the non-commingling ethers also increase fuel evaporation at 130°F, the increase caused by ethanol is much greater. Based on an analysis contained in the Regulatory Impact Analysis (RIA) for the final rule implementing the reformulated gasoline program, the commingling and distillation effects could increase total VOC emissions by 5 percent (relative to MTBE blends) when ethanol blends comprise 30 percent of the market. Thus, it would not be appropriate to encourage ethanol (or other commingling alcohol) blends through the renewable oxygenate program during the summer high ozone season when the VOC emission performance standards apply. However, outside of the ozone season, when VOC reductions are not required in reformulated gasoline for ozone control, EPA believes domestic ethanol blends would produce both imported and total fossil energy savings and potential CO_2 emission reductions.

Both EPA and DOE analyses also show that methanol produced from biomass, such as wood or organic waste products, would save fossil energy relative to natural gas-based methanol and would require essentially no use of crude oil. (See Technical Support Document). This savings would occur with the direct use of methanol or through the production of methanol-based ethers. Again, if not encouraged for use during the high ozone season, the use of methanol should not raise VOC emission performance concerns (methanol, like ethanol, produces commingling related RVP increases and increases in fuel evaporation at 130°F).

Based on the above analysis, EPA believes that the use of renewable oxygenates would reduce the need for imported crude oil or oxygenates in the

production of reformulated gasoline. It is also clear that the use of renewable oxygenates, or at least the alcohol portion of the oxygenates, would reduce the total fossil energy needed to produce reformulated gasoline, and could provide greenhouse gas emission reductions. EPA therefore proposes to require that 30 percent of the required 2.0 weight percent oxygen content of all reformulated gasoline be produced using renewable oxygenates. This level of renewables should increase the crude oil, greenhouse gas emission, and domestic economic benefits of the program. The majority of the oxygenate projected to be used to produce reformulated gasoline absent this program is expected to be domestic ethers made from domestic methanol. Significant amounts of ethanol are also expected to be used, but primarily in the winter when the VOC emission requirements do not apply. However, significant amounts of ethers are also expected to be imported or domestically produced from imported methanol. The proposed 30 percent renewable requirement should have minimal impact on the domestic methanol-based ethers, since these ethers should have the lowest cost structure of all the oxygenates not qualifying under this requirement. In other words, the domestic methanol based ethers are expected to compose the majority of the 70 percent of reformulated gasoline not affected by the program. The proposed program should have the greatest impact on imported ethers and imported methanol, since their capacity would not likely be needed to fulfill the 70 percent of the reformulated gasoline market not required to be renewable. Supplanting this imported oxygenate supply would be domestic renewable alcohols (in the winter) and ethers produced from these alcohols (year round). The great majority of the renewable alcohol is expected to be domestic ethanol, since it is the only alcohol produced from renewables in any great quantity. However, EPA expects that this program could generate significant interest in domestic renewable methanol processes and over time both alcohols could be produced in significant quantities. Thus, the combination of domestic nonrenewable ethers and domestic renewable ethers and alcohols should provide a combination of reduced high value energy imports (with the attendant improvement in the nation's balance of trade and employment status) and a potential reduction in CO_2 emissions, while maintaining substantial competition between oxygenate sources to ensure competitive market pricing.

EPA is proposing to define renewable oxygenates to include all ethers if these ethers are produced from renewable ethanol or methanol. These ethers can be used anytime during the year. Renewable oxygenates are also proposed to include domestically produced renewable ethanol and methanol, but only if used during the non-high ozone season. Renewable ethanol and methanol are proposed to be methanol and ethanol produced from feed stocks other than petroleum, natural gas, coal, or peat. EPA is considering adopting a performance based requirement to ensure a net reduction in total fossil energy utilization of between 5 and 20% and net greenhouse gas emission reductions up to 20% associated with the production and use of renewable oxygenates. EPA requests comments on the above definitions, as well as on the desirability of a performance based definition and on the possible content of such a performance based definition.

EPA is aware that it is possible that some ethers produced from natural gas-based methanol may utilize less energy than certain other ethers produced from corn-based ethanol. For example, this could be true for TAME produced from refinery isoamylenes versus ETBE produced from field butanes. However, this is due to the difference in the source of the isoolefins used in the ether production process. Use of corn-based ethanol with refinery isoamylenes should save energy relative to TAME using natural gas-based methanol, just as ETBE from field butanes will save energy relative to MTBE. Therefore, EPA is not proposing that ethers such as TAME from natural gas-based methanol with potentially low energy usage be included in the program.

EPA is also aware that the production of higher alcohols, such as propanols and butanols, from renewable feedstock may also produce energy and crude oil savings. However, we are not aware of technical analyses which detail the necessary and likely production processes, nor the resulting energy and crude oil balances. We will consider their inclusion if it can be demonstrated that they also provide similar energy and crude oil benefits.

EPA requests comments on the crude oil and energy savings associated with renewable oxygenates. EPA also requests comment on the adequacy of health effects testing to date for all of the potential renewable oxygenates.

B. Extent and Duration of the Program

EPA proposes that the renewable oxygenates requirement apply to 30 percent of the oxygen content of reformulated gasoline and apply year round. The 30 percent requirement would be measured on an oxygen-equivalent basis and would be applied to the minimum oxygen content of 2.0 weight percent oxygen. This means that on average all reformulated gasoline would be required to have at least a 0.60 weight percent oxygen content (2.0 times 30 percent) provided by renewable oxygenates. This requirement would be applied to all refiners or importers of reformulated gasoline and/or reformulated blend stock for oxygenate blending (RBOB) on average throughout the year, excluding oxygenate blenders. Refiners and importers of reformulated gasoline would also be able to generate and trade any excess use of renewable oxygenates to other producers desiring to use less renewable oxygenates. Therefore, all the current methods that provide flexibility to fuel producers in meeting the oxygen requirement for reformulated gasolines would be extended to meeting the renewable oxygenates requirement. In addition, for purposes of this proposed program averaging and trading would be expanded to allow such activities to occur year round and between various non-attainment areas, since the emissions performance of the various reformulated gasolines would be unaffected. EPA requests comment on the extension and expansion of the oxygen averaging and trading concepts contained in the reformulated gasoline program to this proposed renewable oxygenate program.

EPA considered requiring greater and lesser levels of renewable oxygenates. EPA believes the 30 percent level produces a significant level of the benefits mentioned above while still ensuring feasibility and a diverse supply of oxygenates (i.e., low cost through competition). EPA requests comment, however, on the proposed 30 percent level and on the advantages and disadvantages of different levels.

Given the current absence of bio-methanol capacity, renewable oxygenates would likely be ethanol based. The 30 percent level would require an average production of roughly 630 million gallons of ethanol per year. This is about 60 percent of ethanol's current production capacity of roughly one billion gallons per year. As the vast majority of ethanol is currently sold outside of the reformulated gasoline areas, this would mean a significant near-term geographic shift of ethanol use (in the form of ETBE or ethanol). Additional ethanol capacity on the order of 0.5–1.0 billion gallons per year could likely be added in a couple of years, as many current plans for additional capacity exist, but have been on hold pending resolution of the likely future demand for ethanol.

With respect to ether production, near-term supply problems could also arise from the substitution of corn-based ethanol for natural gas-based methanol. ETBE production utilizes both ethanol production capacity and ether production capacity. This reduces the amount of MTBE and ethanol which can be blended directly into gasoline, while only replacing roughly one-half of this reduction with ETBE. The increased methanol capacity cannot be easily used in gasoline, because of methanol's very high RVP blending value and its water sensitivity. However, the inclusion of ethanol in the program during the winter should eliminate the need for any reduction in total national oxygenate capacity during this time. Summer oxygenate demand is lower than winter demand due to the absence of demand from the oxyfuel program. Projected 1995 MTBE capacity was expected to be sufficient for summer reformulated gasoline. Therefore, ETBE capacity should also be sufficient. EPA requests comments on the technical feasibility of the 30 percent required level for the 1995 program and on whether the requirement should be phased in over time.

Also, EPA considered proposing different renewable oxygenate levels between gasolines meeting the Region 1 and 2 VOC performance standards. (Region 1 refers to those areas of the U.S. where temperatures are relative high during the summer and where 7.8 RVP gasoline is required to be sold (in ozone non-attainment areas) under EPA's Phase II RVP program. Region 2 refers to the rest of the nation, which is relatively cooler and where 9 RVP gasoline is required.) EPA's previous proposed ethanol incentive program encouraged up to 30 percent ethanol blends in Region 2, but only 20 percent in Region 1. EPA rejected such differential levels here, as the cost of producing Region 1 fuel with non-renewable oxygenates could be less than the cost of producing Region 2 fuel with renewable oxygenates, despite the latter's higher RVP. Differential renewable oxygenate levels could therefore encourage the over-production of Region 1 fuel and its sale in Region 2 as a way to reduce the amount of renewable oxygenates required. In Phase II of the reformulated gasoline program, the RVP distinction between Regions 1 and 2 essentially disappears, so the incentive to overproduce Region 1 fuel would be even greater. EPA requests comments on the absence of a distinction in the required levels for Regions 1 and 2.

EPA considered nominal oxygen levels other than 2.0 weight percent oxygen when applying the 30 percent criteria. EPA's previous ethanol incentive proposal used 2.7 weight percent oxygen, based primarily on the fact that most ethanol blends were produced at a higher level of 3.5 weight percent oxygen, but the simple model generally restricted oxygen levels to 2.7 weight percent. Ethers currently may not lawfully be used at 3.5 weight percent oxygen and the average requirement for reformulated gasoline is only 2.0 weight percent oxygen. Therefore, use of the 2.0 weight percent oxygen level would result in the use of renewable oxygenates for not only 30 percent of the oxygen, but also in roughly 30 percent of the volume of reformulated gasoline, at least for summer gasoline when commingling alcohols are not allowed. Comments are requested on this value.

EPA also considered and rejected limiting the renewable oxygenate requirement to the summer, or high ozone season. EPA's previously proposed ethanol incentive program applied only during this time, in part because we projected that a significant fraction of reformulated gasoline would likely contain ethanol in the winter even without an incentive. However, EPA believes that the benefits discussed earlier occur regardless of the time of year the renewable oxygenate is used and assurance of its use, even in the winter, seems warranted. Therefore, the requirement is being proposed as applying year round. EPA requests comment on this aspect of the program.

One consequence of the year round requirement is that renewable oxygenates could be used preferentially during one season or the other. In particular, since ethanol would qualify as a renewable oxygenate during the winter and is generally cheaper than ETBE (particularly without the need to adjust RVP), ethanol could be used in more than 30 percent of winter reformulated gasoline and renewable ethers used in much less than 30 percent of summer gasoline. By allowing such year round averaging the same overall benefits to the nation are provided while at the same time minimizing the cost and maximizing the flexibility for refiners to comply with the requirements. EPA requests comment on the desirability of these outcomes, particularly on how it might affect the workings of the oxygenate markets.

The final feasibility issue relates to the initial implementation of the program. The reformulated gasoline program will be in effect on January 1, 1995. Even with a very aggressive rulemaking schedule, EPA does not foresee being able to promulgate this renewable oxygenates program earlier than June of 1994. Some time is necessary for ethanol producers to adjust their production schedules, for ether suppliers to set up contracts for the purchase of renewable alcohols and for fuel producers to set up supplies of renewable ethers. Reformulated gasoline producers may also have to adjust their gasoline production plans for a different oxygenate, though use of ETBE may simplify those plans due to its low RVP and higher volume per unit oxygen. Regarding ether producers, EPA believes that at least half of current MTBE capacity is capable of producing ETBE with no addition of equipment. If this is true, then conversion of current MTBE capacity to ETBE production should not be a limitation on implementation. Refiners and importers of reformulated gasoline also need to begin distribution of their fuel prior to January 1, 1995 in order to have turned over the distribution system in time to meet the 1995 requirements. EPA requests comment on the amount of time needed for the various preparatory actions described above to occur in order to avoid high transition costs and possible disruption in supply and on the earliest possible date this program could be implemented. EPA also requests comment on the advantages and disadvantages of a staged implementation, where the amount of required renewable oxygenate would be increased in increments over identifiable time periods (i.e., gradually increasing levels for the period prior to the 1995 high ozone season, the 1995 high ozone season, and thereafter).

III. Enforcement of the Renewable Oxygenate Requirement

The proposed enforcement scheme for the renewable oxygenate requirements would be similar to the enforcement scheme used for the reformulated gasoline requirements. The proposed renewable oxygenate average standard, 0.60 wt% oxygen from renewable oxygenate, would apply to importers, and to refiners separately for each refinery,[1] and would have a calendar

[1] The remainder of this preamble section refers to refiners and importers collectively as refiners, but all references to refiners apply equally to importers unless otherwise noted. Note that downstream oxygenate blenders would not be not subject to the renewable oxygenate requirements.

year averaging period.[2] No per-gallon standard would be included, however. Renewable oxygen credits could be created by any refiner who uses more renewable oxygenate than is required, and renewable oxygen credits could be used by any refiner to achieve compliance with this standard. The conditions and requirements for credit creation, transfer and use that would apply to renewable oxygen credits are the same as the conditions and requirements that apply under reformulated gasoline for benzene and oxygen credits.

Under the proposal, the definition for renewable oxygenate is different in the case of oxygenate used with reformulated gasoline and RBOB that is VOC-controlled versus that used with reformulated gasoline and RBOB that is not VOC-controlled. In the case of VOC-controlled gasoline and RBOB, the oxygenate would have to be an ether, while in the case of non-VOC-controlled gasoline and RBOB the oxygenate could be either an ether, or ethanol or methanol. The reasons for these distinctions are discussed in Section II of this preamble. In either case, the proposal would require that the ether or alcohol be derived from a source other than petroleum, coal, natural gas, or peat.

Mechanisms are being proposed for establishing the renewable nature of oxygenate. These proposed mechanisms are that the refiner would have to purchase the methanol or ethanol from its producer, and would have to retain documents obtained from that person that certify the renewable source of the methanol or ethanol feed-stock. In the case of any methanol- or ethanol-based ether claimed to be renewable oxygenate, the refiner would have to obtain documents that state the name and address of the ether production facility, and the specific nature and source of the feedstock used to produce the methanol or ethanol. EPA requests comment on this proposal on the mechanisms required for establishing the renewable source of oxygenate.

EPA is considering a petition process whereby EPA could expand the definition of renewable oxygenate to include alcohols other than ethanol and methanol, and ethers other than those produced using ethanol and methanol. Possible criteria that could be used in such a petition process include factors such as the renewable nature of the alcohol or ether, the amount of energy used in producing the alcohol or ether, and any air quality implications of using the alcohol or ether with gasoline. EPA is requesting comment on such a petition process generally, and in particular on any criteria that would be appropriate for use in guiding EPA's decisions on a petition.

Under the proposal, refiners would be required to include in renewable oxygenate compliance calculations all reformulated gasoline and RBOB produced during the averaging period. RBOB would be included in the compliance calculations even though refiners are not required to account for oxygen in the case of RBOB under the reformulated gasoline program.

EPA is proposing that refiners be the party responsible for meeting the renewable oxygenate standard for RBOB for several reasons. Refiners control the type and amounts of oxygenate that may be added to RBOB. As a result, if oxygenate blenders were required to meet the renewable oxygenate standard they would be required not only to obtain an adequate supply of RBOB suitable for blending with renewable oxygenate, but also must obtain the particular renewable oxygenate included by the refiner in the RBOB product transfer documents. EPA believes that in many situations adequate supplies of these specific forms of RBOB and/or oxygenate would not be available to downstream oxygenate blenders, and that in consequence it often would not be feasible for downstream oxygenate blenders to achieve the renewable oxygenate standard. This availability concern is due in part to the fact that downstream oxygenate blenders in many cases are small entities, who may lack the market force necessary to compel adequate supplies of the appropriate RBOB's and oxygenates at the appropriate time.

Trading in renewable oxygen credits potentially could aid oxygenate blenders in meeting the renewable oxygenate standard. However, this would require a multitude of small entities to trade renewable oxygen credits and with significant transaction costs. EPA does not believe there are any significant benefits that result from applying the renewable oxygenate standard to downstream oxygenate blenders that would justify these additional costs.

EPA's proposal would allow refiners to include in renewable oxygenate compliance calculations the renewable oxygenate that is added by downstream oxygenate blenders, provided the refiner carries out an appropriate quality assurance program over the downstream oxygenate blender. Absent such a program, the refiner would have to assume that a non-renewable oxygenate was blended downstream. Even where a refiner is able to include renewable oxygenate blended downstream, however, the refiner could not use this oxygen to meet the reformulated gasoline oxygen standard applicable to the refinery, under § 80.41, because under the existing reformulated gasoline requirements the reformulated gasoline oxygen standard must be met by the downstream oxygenate blender for RBOB used by the oxygenate blender.

The proposed conditions restricting when refiners could include in compliance calculations the renewable oxygenate added downstream are similar to the restrictions contained in the downstream oxygenate provisions under the reformulated gasoline program. The proposed conditions deal with refiner control and oversight over the downstream blending operation, and are intended to ensure that when refiners claim credit for downstream blending of renewable oxygenate that the oxygenate added is renewable, that the renewable oxygenate is added to the RBOB produced by the refiner, and that the volume of renewable oxygenate claimed is correct.

EPA requests comments on its proposal to apply the renewable oxygenate standard to refiners and importers of RBOB, and to not apply this standard to downstream oxygenate blenders.

The renewable oxygenate requirements would apply to reformulated gasoline sold in the two covered areas in the State of California, Los Angeles and San Diego. This raises enforcement-related complications because in most cases refiners who produce gasoline for use in California, beginning in March, 1996 are exempt from most reformulated gasoline enforcement mechanisms. See § 80.81. The California exemption is based on the fact that beginning in March 1996, all gasoline used in California will be subject to the California Phase II reformulated gasoline State standards ("California gasoline"), which EPA has concluded are at least as stringent as the federal Phase I reformulated gasoline standards. As a result, refiners who produce California gasoline are exempt from most federal reformulated gasoline enforcement requirements, including designating gasoline as either reformulated or conventional gasoline,

[2] Reformulated gasoline produced during 1994 for use in 1995 will be averaged with gasoline produced in 1995 under the reformulated gasoline regulations. This approach to averaging of gasoline produced during 1994 would be followed for renewable oxygenate averaging, creating an averaging period that is longer than one year for 1994–1995 only.

record keeping[3] and reporting. Refiners of California gasoline are not exempt, however, from meeting the federal reformulated gasoline standards. The exemption for California gasoline is described in detail in the reformulated gasoline final rule preamble.

As a result of this exemption in the reformulated gasoline rule, refiners who produce California gasoline will not be required to follow procedures necessary to establish the volume of gasoline that is sold into the two federal reformulated gasoline covered areas located in California. It is the volume of gasoline used in these two covered areas that is subject to the renewable oxygenate requirement.

EPA proposes to resolve this difficulty by requiring refiners of California gasoline to meet the renewable oxygenate standard for a specified percentage of their volume of California gasoline. This specified percentage would be derived from the historic volumes of gasoline used in Los Angeles and San Diego (which EPA believes to be 7 billion gallons per year), as compared to the historic volume of gasoline used in other portions of the State of California (which EPA believes to be 6 billion gallons per year). Using this approach, each refiner who produces California gasoline would be required to meet the renewable oxygenate standard for 54% of their volume of California gasoline.

An additional enforcement complication for California gasoline relates to the different definitions of renewable oxygenate that apply to reformulated gasoline that is VOC-controlled versus the gasoline not designated as VOC-controlled. This complication arises because, under the exemption for California gasoline refiners are exempt from the designation requirements of § 80.65(d). It is this designation of reformulated gasoline that is proposed as the mechanism for distinguishing the gasoline for which renewable ethers only may be used (VOC-controlled gasoline) versus the gasoline for which renewable ethers, plus ethanol and methanol may be used (non-VOC-controlled gasoline). This designation approach is not possible in the case of California gasoline unless the reformulated gasoline designation requirements are imposed on refiners of California gasoline.

EPA request comment on the appropriate approach for resolving this dilemma.

[3] Refiners of California gasoline are required to keep records required by California State law for five years, however.

In addition, refiners who produce California gasoline would be required to keep records and submit reports necessary to establish compliance with the renewable oxygenate standard.

EPA is seeking comment on this proposed approach for applying the renewable oxygenate requirement to California gasoline, including the assumption about the percentage of California gasoline sold in the federal reformulated gasoline covered areas, and the record keeping and reporting that is necessary for refiners of California gasoline to establish compliance with the renewable oxygenate standard.

The renewable oxygenate proposal would require several types of record keeping beyond that otherwise required for reformulated gasoline: Records associated with establishing the source of alcohol or ether claimed to be renewable oxygenate, records associated with California gasoline, and records associated with use of oxygenate blended by downstream oxygenate blenders.

Refiners also would be required to submit reports that are not included in the reformulated gasoline program, dealing with the renewable oxygenate content of reformulated gasoline, the compliance calculations for the renewable oxygenate standard, and the transfer of renewable oxygen credits.

EPA is proposing attest provisions dealing with the renewable oxygenate requirements, that would be carried out in conjunction with the attest requirements for reformulated gasoline. Compliance by refiners with the renewable oxygenate requirements would be verified through these attest requirements.

Provisions contained in the reformulated gasoline regulations not discussed in this preamble would apply to the renewable oxygenate standard in the same manner they apply to other reformulated gasoline standards. These include, *inter alia*, the definitions of parties; the dates the requirements apply; the designation requirements; testing requirements, including independent sampling and testing; and controls, prohibitions, liabilities, and defenses.

There are no gasoline survey requirements proposed for renewable oxygenates, because there is no air quality implication if any covered area receives greater than or less than the average amount of reformulated gasoline produced using renewable oxygenate.

IV. Federal Preemption

This proposal is based on section 211(k) of the CAA. The provisions for the prohibition of state and local controls under section 211(c)(4) therefore do not apply.

V. Environmental, Energy, and Economic Impacts

The environmental impacts of this program are beneficial. Since the proposed renewable oxygenate requirement would not modify any of the emission performance standards applicable to reformulated gasoline, the only environmental impacts would be those not covered by the simple or complex models used to determine compliance. There are three such emission impacts.

The first is the current potential for an increase in the RVP of the gasoline pool due to fuel commingling in vehicle fuel tanks and the second is the effect of mid-range fuel distillation (e.g., the fraction of fuel evaporated at 130°F) on non-exhaust emissions.

Both of these effects which concern the formation of ozone were addressed in the Regulatory Impact Analysis for the Final Rule for the reformulated gasoline program. Regarding the commingling RVP effect, ethanol blends are the only fuels which cause this increase. (Methanol blends would also produce such an RVP increase, but they are not expected to be used in reformulated gasoline during the high ozone season.) Based on the analysis in the RIA, the commingling resulting from a 30% ethanol blend market share would increase the effective average RVP of the gasoline pool and increase total VOC emissions (including both exhaust and non-exhaust VOC emissions) by 5% percent. The use of ethanol blends in the summer is expected to be very small under this proposal, since ethanol would not qualify as a renewable oxygenate, but ethanol use would be strongly encouraged as an ETBE feedstock. However, ethanol use without this proposal was expected to be somewhat less than 30 percent of the reformulated gasoline sold during the high ozone season absent an incentive, the actual reduction in VOC emissions due to this proposal would be somewhat less than 5 percent.

Regarding mid-range distillation, ETBE reduces this effect relative to ethanol blends and even relative to MTBE. For example, ETBE blends qualifying under the Complex Model in the year 2000 are projected to reduce total VOC emissions by 2 percent relative to MTBE blends. As ETBE is expected to be the dominant renewable oxygenate used in the near term during the high ozone season, this reduction

VOL
58
ISS
246
DE
27
1993
UMI

should translate directly into in-use VOC emissions from gasoline fueled vehicles in reformulated gasoline areas. This represents 14,000 annualized tons of VOC control in these areas.

The third emission impact relates to greenhouse gas emissions, and in particular, CO_2 emissions. Because more fossil energy is generally used in the production of methanol from natural gas than is used in producing ethanol from corn, net CO_2 emission reductions are expected under the program proposed here. However, since there are no assurances that the most efficient processes will be used to produce the oxygenates required through this proposal, comments are requested on the desirability of adding CO_2 emission reduction criteria for oxygenates to qualify as "renewable". In particular, comments are requested on the proposed option of requiring that the production of renewable oxygenates demonstrate up to a 20% reduction in CO_2 emissions as compared to reformulated gasoline from crude oil and nonrenewable oxygenates. Since CO_2 emissions are not the only emission from the production of renewable oxygenates (CFCs, NOx, N_2O, Methane, etc.) that may effect global warming, EPA also requests comment specifically on the magnitude of these emissions from the production of current renewable oxygenates, and how best to incorporate other such emissions into such a CO_2 reduction criteria.

The primary economic impacts of this proposal include the crude oil savings, the added cost of producing and using the renewable oxygenate, the reductions in revenues to the U.S. Highway Trust Fund, and the impacts on the various oxygenate and fuel industries affected. It was already mentioned above that the use of ETBE in lieu of MTBE should reduce crude oil consumption by 1.8% per gallon of reformulated gasoline. Assuming half of all crude oil is used to produce gasoline, 32.1 percent of all gasoline will have to be reformulated and that 45.8 percent of this will be sold during the high ozone season, the summer portion of this program would reduce total U.S. consumption of crude oil by 0.13 percent over and above the savings already occurring through the reformulated gasoline program, or roughly 9000 barrels per day. Since the U.S. imports roughly half of its crude oil and all of the savings can be expected to apply to imports, total imports of crude oil should decrease by 0.26 percent. In the winter, ethanol use will likely predominate and produce slightly lower benefits due to its higher oxygen content per volume. Also, its primary benefit is relative to imported methanol and MTBE. While the impact of this program is expected to be positive, EPA lacks sufficient information to project the size of these imports absent this program. Therefore, EPA requests comment on the energy impacts of this proposed program during the winter months.

In the Regulatory Impact Analysis to the final rule for the reformulated gasoline program, EPA estimated that the production and use of ETBE in reformulated gasoline would cost $0.073 per gallon more than that for MTBE. Reformulated gasoline at 2.1 weight percent oxygen must contain 12.8 volume percent ETBE. Therefore, ETBE containing reformulated gasolines are projected to cost $0.0093 per gallon more than those with MTBE. This figure includes the differences in octane, RVP and oxygen content of the two ethers. Extending this cost to 30 percent of all reformulated gasoline used during the high ozone season, the total annual cost to the nation would be $48 million.

During the winter, EPA expects much of the renewable oxygenate will be ethanol. When its octane and diluting properties are taken into account, and its high RVP need not be counteracted, ethanol is much cheaper than MTBE or ETBE. At the same time, there tend to be additional costs to distributing ethanol and its gasoline blendstock due to the water soluble nature of ethanol. While these may balance any savings in production costs, EPA does not project any net additional costs in the winter due to this proposed program.

Regarding lost Highway Trust Fund receipts, EPA projects that 630 million gallons of ethanol would be used per year under this program, if ethanol were the only renewable oxygenate used. At a tax credit of $0.54 per gallon, this amounts to $340 million of lost highway related revenue.

Finally, there could be economic impacts on a number of industries and economic sectors due to this program. The revenues and net incomes of both corn farmers and ethanol producers should rise significantly, due to higher corn and ethanol demand and prices, respectively. Expenditures for government farm price supports could decrease. Revenues and net incomes of domestic methanol producers and overseas producers of both methanol and MTBE would likely decrease due to reduced demand and prices. Oil refiners could experience transitional costs due to an additional requirement and would likely face higher oxygenate costs. However, their crude processing costs would likely decrease due to ETBE's greater volume (and diluting properties) and lower RVP. If the oil industry is able to pass on higher oxygenate costs to the consumer, the net income of the oil industry would not be affected.

VI. Public Participation

EPA invites comment on all aspects of today's action. EPA has specifically requested comments on a number of specific areas throughout the previous discussion. A list of these and other specific areas for comment follows:

—EPA's statutory authority.
—The extent to which renewable oxygenates will be used in reformulated gasoline absent today's proposal.
—The economic, energy, and crude oil import benefits to the nation resulting from today's proposal.
—Any other approaches which could be used to achieve the same objective.
—Likelihood that the renewable oxygenate requirement will be met with domestically produced oxygenates absent a requirement to this effect and whether such a requirement would be desirable and legally permissible and any other suggested approaches to ensure the domestic benefits of this program.
—The climate change aspects of the proposal.
—The definition of renewable oxygenates.
—The need for performance based standards for fossil energy or greenhouse gas emissions.
—Health effects data regarding renewable oxygenates that may potentially be used as a result of the program.
—The appropriate level for the renewable oxygenate requirement, its feasibility, lead-time requirements, the potential need for a phase-in period, and any other supply related issues.
—The need and justification for a year-round program in lieu of a summer only program.
—The allowance for year-round averaging of renewable oxgenate content.
—The applicability of the program only to producers of reformulated gasoline rather than including downstream blenders.
—The enforcement related provisions.
—Its impact on the already promulgated reformulated gasoline program.
—A petition process to include additional renewable oxygenates.

A public hearing regarding today's proposal will be held on January 14, 1994 beginning at 9 a.m. in the Washington DC area. See **ADDRESSES**. The comment period for today's proposal will close on February 14, 1993.

VII. Compliance With Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (Pub.L. 96–354), requires Federal regulatory agencies to consider the impact of rulemaking on "small entities." If a rulemaking will have a significant impact on small entities, agencies must consider regulatory alternatives that minimizes economic impact.

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of the renewable oxygenate regulation and to identify significant adverse impacts of federal regulations on a substantial number of small entities. Because the RFA does not provide concrete definitions of "small entity," "significant impact," or "substantial number," EPA has established guidelines setting the standards to be used in evaluating impacts on small businesses.[4] For purposes of the renewable oxygenate requirement for reformulated gasoline, a small entity is any business which is independently owned and operated and not dominant in its field as defined by SBA regulations under section 3 of the Small Business Act.

The Agency believes that the renewable oxygenate program being proposed today is unlikely to have a significant economic impact on a substantial number of small entities. The renewable oxygenate program will secure a market in the reformulated gasoline program for oxygenate producers while simultaneously allowing refiners flexibility in fulfilling the statutory oxygenate requirement. In addition EPA decided against applying the requirement to downstream oxygenate blenders, many of which are small entities. As discussed above, this would have required each blender to maintain at least two sources of oxygenate, one renewable and one not. Such an approach would prove to be either uneconomical or involve significant transaction costs related to averaging and trading.

Administrator certifies that this proposal will not have a significant impact on small entities.

However, EPA invites comment on the question of significant impacts on small entities. EPA also requests all relevant data which justify any conclusions submitted.

[4] U.S. Environmental Protection Agency, Memorandum to Assistant Administrators, "Compliance with the Regulatory Flexibility Act," EPA Office of Policy, Planning, and Evaluation, 1984. In addition, U.S. Environmental Protection Agency, Memorandum to Assistant Administrators, "Agency's Revised Guidelines for Implementing the Regulatory Flexibility Act," Office of Policy, Planning, and Evaluation, 1992.

VIII. Statutory Authority

Section 211(k)(1) provides that EPA is to promulgate regulations "establishing requirements for reformulated gasoline" in specified ozone nonattainment areas (the first sentence of Section 211(k)(1)), and that such regulations must require the "greatest reductions achievable through the reformulation of gasoline, taking into consideration" various factors such as cost, available technology, health and environmental impacts, and energy requirements (the second sentence of Section 211(k)(1)). EPA interprets the first sentence of Section 211(k)(1) as broadly providing EPA with the authority to establish any and all reasonable requirements that are designed to achieve the results stated in the second sentence. As discussed previously, EPA believes that the reformulated gasoline emission performance standards combined with a requirement that refiners and importers use a specified percentage of renewable oxygenates tends to maximize achievement of the objectives of Section 211(k)(1)—it should result in the greatest reductions achievable while tending to optimize the combination of energy requirements, costs, and health and environmental impacts.

In effect, EPA believes that the second sentence of Section 211(k)(1) does not limit it to promulgation of emission reduction standards. It requires that EPA's regulations ensure a certain result, and provides EPA with the discretion to adopt appropriate requirements designed to achieve that result.

In addition, the first sentence of Section 211(k)(1) would appear to grant EPA broad general authority to promulgate reasonable requirements for reformulated gasoline, independent of and in addition to the obligation to require the greatest achievable VOC and toxics emissions reductions under the second sentence of Section 211(k)(1). For the reasons described earlier, EPA believes it appropriate to exercise this general authority by proposing to require the use of renewable oxygenates.

This interpretation of Section 211(k)(1) is consistent with the oxygen content requirements of Section 211(k)(2). EPA does not believe compliance with the renewable oxygenate provisions will interfere with the ability of refiners to comply with the oxygen content requirements of Section 211(k)(2). While EPA believes that Section 211(k)(2) would not appear to provide independent authority for the renewable oxygenate requirement, EPA is instead relying primarily on the general grant of authority in Section 211(k)(1). While the legislative history of Section 211(k)(2) indicates that in general Congress believed several oxygenates could be used to meet its requirements,[5] this does not indicate an intention to limit EPA's otherwise broad grant of authority under Section 211(k)(1). EPA also invites comment on whether Section 211(k)(2) would provide an independent source of authority for a renewable oxygenate requirement.

Finally, EPA believes that Section 211(k)(4) does not preclude the renewable oxygenate provisions proposed herein. Section 211(k)(4) states that the Administrator "shall certify a fuel formulation or slate of fuel formulations as complying with this subsection if such fuel or fuels—(i) comply with the requirements of paragraph (2), and (ii) achieve * * * equivalent or greater reductions * * * than are achieved by a reformulated gasoline meeting the applicable requirements of paragraph (1)." This could be interpreted as requiring certification of a fuel that met the oxygen and other requirements of paragraph (2) and the emissions requirements of paragraph (2) even if it did not comply with the proposed renewable oxygenate requirement. Section 211(k)(1), however, authorizes EPA to establish requirements above and beyond those required under paragraph (2) and (3), and Section 211(k)(1) and (4) must be read together to provide a meaningful interpretation to both provisions. EPA believes that a reasonable interpretation requires certification of a fuel as reformulated as long as it complies with the requirements of paragraphs (2) and (3), as well as any additional requirements established under paragraph (1). Since the renewable oxygenate provision is an additional requirement established under Section 211(k)(1), certification is not required under Section 211(k)(4)(B) unless a fuel or slate of fuels complies with the requirement.

IX. Administrative Designation and Regulatory Analysis

Pursuant to Executive Order 12866, [58 FR 51735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant

[5] See, e.g., 136 Cong. Rec. S 16937 (October 27, 1990) (Sen Durenberger); 136 Cong. Rec. H 2852 (May 23, 1990) (Rep. Richardson, noting among other things the energy and other benefits expected from the use of domestic renewable oxygenates).

regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the Administrator has determined that this proposed rule is a "significant regulatory action" based on the above criteria. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will appear in the Final Rule and be documented in the public record: EPA Air Docket A–92–12.

X. Compliance with the Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* A separate Federal Register notice will be published requesting comments on the information collection requirements. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: December 15, 1993.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 80—REGULATIONS OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545 and 7601(a).

2. EPA proposes that § 80.83 be added to read as follows:

§ 80.83 Renewable oxygenate requirements.

(a) *Definition of renewable oxygenate.*

(1) For purposes of subparts D and F of this part 80, a renewable oxygenate is defined:

(i) In the case of oxygenate added to reformulated gasoline or RBOB designated as VOC-controlled, as any ether that is produced using produced ethanol or methanol that is derived from a source other than petroleum, coal, natural gas, or peat; and

(ii) In the case of oxygenate added to reformulated gasoline or RBOB not designated as VOC-controlled, as any produced ether, or produced ethanol or methanol, that is derived from a source other than petroleum, coal, natural gas, or peat.

(2) *Reserved.*

(b) *Renewable oxygenate standard.*

(1) During each calendar year the reformulated gasoline and RBOB that is produced by any refiner at each refinery, or is imported by any importer, shall contain a volume of renewable oxygenate such that the reformulated gasoline and RBOB, on average, has an oxygen content from such renewable oxygenate that is equal to or greater than 0.60 wt%.

(2)(i) The oxygenate used to meet the standard under paragraph (b)(1) of this section may also be used to meet any oxygen standard under § 80.41; except that

(ii) The renewable oxygenate added by a downstream oxygenate blender shall not be used by any refiner or importer to meet the oxygen standard under § 80.41, except through the transfer of oxygen credits.

(c) *Downstream oxygenate blending using renewable oxygenate.* In the case of any refiner that produces RBOB, or any importer that imports RBOB, the oxygenate that is blended with the RBOB may not be included with the refiner's or importer's compliance calculations under paragraph (d) of this section unless:

(1) The oxygenate meets the applicable renewable oxygenate definition under paragraph (a) of this section; and

(2) The refiner or importer meets the downstream oxygenate blending oversight requirements specified in §§ 80.69(a) (5) through (7).

(d) *Compliance calculation.*

(1) Any refiner for each of its refineries, and any importer shall, for each calendar year averaging period, determine compliance with the renewable oxygenate standard by calculating:

(i) The renewable oxygen compliance total using the following formula:

$$CT_{ro} = \left(\sum_{i=1}^{n} V_i\right) * 0.60$$

where

CT_{ro}=the compliance total for renewable oxygen

V_i=the volume of gasoline or RBOB batch i

n=the number of batches of gasoline and RBOB produced or imported during the calendar year averaging period

and

(ii) The renewable oxygen actual total using the following formula:

$$AT_{ro} = \sum_{i=1}^{n} (V_i * RO_i)$$

where

AT_{ro}=the actual total for renewable oxygen

V_i=the volume of gasoline or RBOB batch i

RO_i=the oxygen content, in wt%, in the form of renewable oxygenate of gasoline or RBOB batch i

n=the number of batches of gasoline or RBOB produced or imported during the averaging period

(iii) Compare the renewable oxygen actual total with the renewable oxygen compliance total.

(2)(i) The actual total must be equal to or greater than the compliance totals to achieve compliance, subject to the credit transfer provisions of paragraph (e) of this section;

(ii) If the renewable oxygen actual total is less than the renewable oxygen compliance total, renewable oxygen credits must be obtained from another refiner or importer in order to achieve compliance;

(iii) The total number of renewable oxygen credits required to achieve compliance is calculated by subtracting the renewable oxygen actual total from the renewable oxygen compliance total; and

(iv) If the renewable oxygen actual total is greater than the renewable oxygen compliance total, renewable oxygen credits are generated.

(v) The total number of renewable oxygen credits which may be traded to another refiner for a refinery, or to another importer, is calculated by subtracting the renewable oxygen compliance total from the renewable oxygen actual total.

(e) *Credit transfers.* Compliance with the renewable oxygenate standard specified in paragraph (b)(1) of this section may be achieved through the transfer of renewable oxygen credits, provided that the credits meet the criteria specified in § 80.67(h)(1) (i) through (iv) and § 80.67(h) (2) and (3).

(f) *Use of methanol or ethanol as a renewable oxygenate.* Methanol or ethanol, or an ether produced using methanol or ethanol, may be treated as renewable oxygenate only if:

(1) The methanol or ethanol meets the renewable oxygenate definition under paragraph (a) of this section; and

(2) The refiner or importer is able to establish in the form of documentation obtained from the person who produced the methanol or ethanol, that the methanol or ethanol was produced from a source other than petroleum, coal, natural gasoline, or peat.

(g) *Record keeping.* Any refiner or importer shall for a period of five years maintain the record specified in this paragraph (g) in a manner consistent with the requirements under § 80.74, and deliver such records to the Administrator upon request. The records shall contain the following information:

(1) The use of methanol or ethanol as a renewable oxygenate documents required under paragraph (f) of this section; and

(2) The volume, type, purity, and sources of any renewable oxygenate used.

(h) *Reporting requirements.*

(1) Any refiner for each refinery, or any importer, shall for each batch of reformulated gasoline and RBOB include in the quarterly reports for reformulated gasoline required by § 80.75(a) the weight percent oxygen in the form of renewable oxygenate contained in the gasoline, or RBOB subsequent to oxygenate blending (if allowed under paragraph (c) of this section).

(2) Any refiner for each refinery, or any importer, shall submit to the Administrator, with the fourth quarterly report required by § 80.75(a), a report for all reformulated gasoline and RBOB that was produced or imported during the previous calendar year averaging period, that includes the following information:

(i) The total volume of reformulated gasoline and RBOB;

(ii) The compliance total for renewable oxygen;

(iii) The actual total for renewable oxygen;

(iv) The number of renewable oxygen credits generated as a result of actual total renewable oxygen being greater than compliance total renewable oxygen;

(v) The number of renewable oxygen credits required as a result of actual total renewable oxygen being less than compliance total renewable oxygen;

(vi) The number of renewable oxygen credits transferred to another refinery or importer;

(vii) The number of renewable oxygen credits obtained from another refinery or importer; and

(viii) For any renewable oxygen credits that are transferred from or to another refinery or importer, for any such transfer:

(A) The names, EPA-assigned registration numbers and facility identification numbers of the transferor and transferee of the credits;

(B) The number of renewable oxygen credits that were transferred; and

(3) The date of transaction.

(i) *Renewable oxygenate requirements for reformulated gasoline used in the State of California.* Notwithstanding the provisions contained in § 80.81, any refiner or importer of California gasoline, as defined in § 80.81, shall:

(1) Meet the renewable oxygenate standard specified in paragraph (a) of this section, for a portion of the volume of the California gasoline produced by the refiner or imported by the importer, equal to the total volume produced or imported multiplied times 0.54; and

(2) With regard to any renewable oxygenate content of any California gasoline produced or imported, meet:

(i) The determination of properties requirements of § 80.65(e);

(ii) The independent analysis requirement of § 80.65(f);

(iii) The record keeping requirements of § 80.74; and

(iv) The reporting requirements of § 80.75.

[FR Doc. 93–31361 Filed 12–23–93; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 258

[FRL–4524–3]

RIN 2050–AD04

Financial Assurance Mechanisms for Local Government Owners and Operators of Municipal Solid Waste Landfill Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to amend the financial assurance provisions of the Municipal Solid Waste Landfill Criteria, which were promulgated on October 9, 1991, under subtitle D of the Resource Conservation and Recovery Act. Those regulations require owners and operators of municipal solid waste landfills (MSWLFs) to demonstrate financial assurance for the costs of closure, post-closure care, and corrective action for known releases associated with their facilities. The regulations currently specify several mechanisms that owners and operators may use to demonstrate financial assurance for those costs. This proposed rule would increase the flexibility available to owners and operators by adding two mechanisms to those currently available: A financial test for use by local government owners and operators, and a guarantee by local governments that wish to guarantee the costs for an owner or operator. This proposed rule also would increase the flexibility available to owners and operators by allowing them to use certain combinations of allowable mechanisms to demonstrate financial assurance.

Consistent with the other mechanisms allowed under the current landfill criteria, the financial test and guarantee proposed in this rule are designed to be self-implementing, with greater flexibility allowed in States that have received approval for their subtitle D MSWLF programs.

DATES: Comments on this proposed rule must be submitted on or before February 25, 1994.

ADDRESSES: Written comments on this proposal should be addressed to the docket clerk at the following address: Environmental Protection Agency, RCRA Docket (OS–305), 401 M Street SW., Washington, DC 20460. Commenters should send one original and two copies and place the docket number (F–93–LGFP–FFFFF) on the comments. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. Docket materials may be reviewed by appointment by calling (202) 260–9327. Copies of docket materials may be made at no cost, with a maximum of 100 pages of material from any one regulatory docket. Additional copies are $0.15 per page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline at 1–800–424–9346 (in Washington, DC call (703) 920–9810). For other information contact Ed Coe at (703) 308–8624, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority
II. Background
III. Regulatory Approach of Proposed Rule
A. Approach to Development of Today's Local Government Financial Test and Guarantee
B. Implementation of Today's Proposal in Approved and Unapproved States
C. Small Communities
IV. Summary of Proposed Rule
A. Local Government Financial Test (section 258.74(f))
1. Financial Component
a. Bond Rating Requirement
b. Financial Ratio Alternative to the Bond Rating Requirement
c. Compliance with GAAP
d. General Obligation Debt Requirement
e. Operating Deficit Limit
f. Adverse or Qualified Opinion
2. Public Notice Component
3. Recordkeeping and Reporting Component
a. Chief Financial Officer (CFO) Letter
b. Year-End Financial Statements
c. Report From the Independent Certified Public Accountant or State Agency
d. Timeframes for Recordkeeping Events
e. Annual Updates of Financial Test Documentation
4. Calculation of Costs to be Assured
a. The 43 Percent Threshold
b. Accounting for Other Environmental Obligations
B. Local Government Guarantee (section 258.74(h))
C. Combination of Mechanisms (section 258.74(k))
D. Calculation of Obligations
V. Request for Comment on Allowing Owners and Operators to Discount Costs
VI. Relationship of Today's Proposed Financial Test to the Financial Test Proposed for Use by Local Government Owners and Operators of Underground Storage Tanks
VII. State Program Approval
VIII. Implementation
IX. Economic and Regulatory Impacts
A. Executive Order 12291
B. Regulatory Flexibility Act
C. Paperwork Reduction Act

I. Authority

These amendments are proposed under the authority of Sections 1008, 4004, and 4010 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6907, 6944, and 6949a.

II. Background

On October 9, 1991, the Agency promulgated revised criteria for MSWLFs, which established minimum Federal standards to assure that MSWLFs are designed and managed in a manner that is protective of human health and the environment, taking into account the practical capability of the MSWLFs (56 FR 50978). The minimum Federal standards include location restrictions, facility design and operating criteria, and groundwater monitoring, corrective action, financial assurance, closure, and post-closure care requirements.

The Agency proposed the MSWLF criteria, including financial assurance requirements, on August 30, 1988 (53 FR 33314). At that time, the Agency proposed a performance standard that owners and operators would have to meet to demonstrate financial assurance and did not propose specific mechanisms. The Agency solicited public comment on this approach and, at the same time, requested comment on whether the Agency should develop financial test mechanisms for use by local governments and corporations.

Commenters on the proposed rule argued that the proposed performance standard lacked sufficient detail to guide States in the development and implementation of requirements with any consistency among States, and that the Agency should develop specific mechanisms that could be used to demonstrate financial assurance. Commenters also supported the development of a local government financial test and a corporate financial test.

In response to comment, the October 9, 1991, final rule promulgated not only the financial assurance performance standard, but also a number of specific financial mechanisms that owners and operators can use to demonstrate financial assurance. Those mechanisms include trust funds, surety bonds, letters of credit, insurance, and State assumptions of responsibility, all of which are allowable mechanisms under the regulations governing subtitle C waste treatment, storage, and disposal facilities (TSDFs). In addition, to retain States' flexibility in implementing the subtitle D program, the final rule allowed approved States to use any State-approved mechanism that meets the financial assurance performance standard of section 258.74.

The Agency also agreed with commenters on the August 30, 1988, proposal who supported the development of financial tests both for local governments and for corporations. However, at the time the final MSWLF criteria were promulgated, the Agency had not yet completed the analyses necessary to propose financial tests for use under subtitle D. Therefore, the Agency announced in the October 9 preamble that it would develop both a local government and corporate financial test and continued to conduct the necessary analyses. Today's **Federal Register** notice proposes a financial test and guarantee for use by local governments. The Agency is also developing a second **Federal Register** notice, which will propose a financial test and guarantee for use by corporations.

The effective date of the financial assurance provisions promulgated in the original landfill criteria final rule was April 9, 1994. At that time, the Agency believed that it had allowed adequate time to promulgate a financial test for local governments and another for corporations. Neither financial test was promulgated within the timeframe anticipated, yet the Agency continues to believe that these financial tests should be available before the financial responsibility provisions become effective. Therefore, to allow additional time to promulgate financial tests for local governments and corporations, the Agency promulgated a final rule on October 1, 1993, which delayed the effective date of the financial assurance provisions an additional year, that is, until April 9, 1995 (see 58 FR 51536).

III. Regulatory Approach of Proposed Rule

The approach taken in developing today's proposal is consistent with the Agency's goals and objectives introduced in the August 30, 1988, proposed MSWLF criteria and in the October 9, 1991, final criteria. First, the proposed rule is intended to decrease the costs associated with financial assurance requirements while assuring that funds are available to cover the costs of closure, post-closure, and corrective action associated with MSWLFs. In addition, these proposed requirements are designed to be self-implementing and to provide maximum flexibility to States. Each of these topics is discussed below.

A. Approach to Development of Today's Local Government Financial Test and Guarantee

As noted above, the purpose of the financial assurance requirements for MSWLFs is to ensure that adequate funds will be available to cover the associated costs of closure, post-closure care, and corrective action, if necessary. A financial test is one mechanism that owners and operators can use to satisfy those requirements. Financial tests typically consist of a set of financial criteria such as financial ratios and other accounting measures designed to measure the owner or operator's ability to meet its obligations in a timely manner. Thus, through a financial test, MSWLF owners and operators can demonstrate to the Agency that they can satisfy the goals of financial assurance on their own, and do not need to procure a third-party instrument to assure that the obligations associated with their facilities will be met.

Because an owner or operator using a financial test does not have to secure a third-party instrument, availability of a financial test decreases the cost of financial assurance to the regulated community. In order to decrease the financial assurance costs associated with MSWLFs, the Agency wishes to make the local government financial test available to as many owners and operators as possible. At the same time, the Agency recognizes that a financial test is not the most suitable mechanism for all MSWLF owners and operators. If available funds are insufficient or are not readily available for closure, post-closure or corrective action activities, those activities may be delayed, resulting in an increased likelihood of releases to the environment. With the above considerations in mind, today's proposed rule is designed to maximize the availability of a financial test mechanism. To accomplish this goal, the proposal allows owners and operators to combine financial mechanisms and use a financial test or guarantee to cover a portion of the total costs of closure, post-closure care, and corrective action, while the remaining costs are covered by an alternative financial mechanism. The Agency believes that this approach will make the local government financial test as available as possible to small local governments and still provide protection of human health and the environment by assuring that adequate funds will be available for closure, post-closure, and corrective action costs.

B. Implementation of Today's Proposal in Approved and Unapproved States

Today's proposal would amend part 258 by adding additional options for local governments to use when demonstrating financial assurance for the costs of closure, post-closure care and clean-up of known releases. States and Tribes will not be required to include these options in their MSWLF programs, since they may choose to establish programs that are more stringent than the Federal part 258 criteria. EPA will be able to approve the financial assurance portion of a State or Tribe's program so long as it includes at least one of the options promulgated in October 1991 or added by today's proposal (if promulgated).

As a matter of Federal law, these proposed tests (if promulgated) will be available in all States and all Tribal jurisdictions. EPA however, cautions owners and operators that wish to use the options in the federal program that they should also look at the options available under State or Tribal law. If the State or Tribe's rules do not include the option that the owner or operator's wishes to use, the owner or operator would run the risk of being out of compliance with State or Tribal law. State and Tribal laws for MSWLFs are fully effective even when not approved by EPA.

In unapproved States or Tribes, if State or Tribal law did not preclude the use of options proposed today (either because it did not include any financial assurance requirements, included only a general requirement that left the choice of mechanism to the discretion of the owner or operator, or included mechanisms resembling those proposed today) an owner or operator would be able to use the local government test or guarantee described in today's proposal (if promulgated) to satisfy both State or Tribal and Federal law.

In a State or Tribe with approval for the financial assurance portion of its MSWLF program, the owner or operator would be limited to the mechanisms in the approved program as a matter of State or Tribal law. If the State or Tribe did not allow use of the options described in this proposal, the options would not be available under State or Tribal law. EPA reminds owners and operators, however, that the Federal financial assurance rules also allow States and Tribes the option of approving mechanisms that meet the general performance standard in 40 CFR 258.74 on a case-by-case basis (see 40 CFR 258.74(i)). In this situation, the owner or operator would be able to request the State or Tribal agency to approve the use of the options described in this proposal for his or her facility. (For a discussion of the effect of EPA's approval of a State or Tribal program on the Federal regulations, see 56 FR 50995.)

Owners and operators who can use the options in today's proposal under State or Tribal law would be required to maintain appropriate documentation of the mechanism in the facility's operating record. They would not be required to submit that documentation to the State or Tribe, but only to notify the State or Tribal Director that the required items have been placed in the operating record. Owners and operators using the financial test or guarantee would also be required to update all required financial test information on an annual basis, and retain this information in their operating records. In addition, if an owner or operator (or guarantor) were to become unable to meet the financial test criteria, he would be required to notify the State or Tribal Director and establish alternate financial assurance within specified deadlines. Finally, in order to cancel a guarantee, the guarantor would have to notify both the State or Tribal Director and the owner or operator at least 120 days prior to cancellation.

C. Small Communities

The Agency is concerned about the cost of financial assurance, particularly in the case of small communities. In developing today's proposed rule, the Agency has given special consideration to the needs of small communities in meeting their obligations. The Agency believes that a financial test can decrease the cost of financial assurance and has, therefore, designed the financial test proposed today to make it available to small communities to the extent that they can meet their obligations. To do this, the Agency has proposed that where the financial resources of a local government are small relative to the size of its obligations, the local government be able to use the financial test to assure a portion of its obligations. The remaining obligations must then be assured through another mechanism. For example, a small community that owns a large landfill may be able to demonstrate financial responsibility through the local government test for some of the costs of closure and post-closure care. Only the remaining costs would need to be covered by guarantees offered by other local governments that use the small community's landfill.

IV. Summary of Proposed Rule

Today's proposed rule would add two financial assurance mechanisms to those provided in the October 9 rule: (1) A local government financial test, and (2) a local government guarantee. In addition, today's proposed rule would allow owners and operators to use a combination of certain mechanisms to assure the costs associated with their MSWLFs.

A. Local Government Financial Test (Section 258.74(f))

The local government financial test proposed today consists of a financial component, a public notice component, and a recordkeeping and reporting component. A local government must satisfy each of the three components to pass the test. In order to maximize the availability of the test and thus reduce costs to the extent possible, today's proposed rule also would allow a local government to use the test to assure a portion of the costs of closure, post-closure care, and corrective action

associated with a MSWLF, and to obtain an alternative financial mechanism for any remaining costs. Finally, in order to continue to use the test, owners and operators must pass the test on an annual basis.

The remainder of this section summarizes each major component of the local government financial test. More detailed discussion of each component and of the development of this proposed local government financial test can be found in the docket for this rulemaking, both in the Background Document and in a document entitled "Supplementary Information—Development of the Local Government Financial Test."

1. Financial Component (Section 258.74(f)(1))

The financial component of the local government financial test is designed to reflect a local government's financial health and strength, and thus serve as a measure of the local government's financial capability to meet its assured obligations. To satisfy the financial component of the test, a local government owner or operator must meet several criteria. First, local governments that have outstanding general obligation bonds must satisfy a bond rating requirement. Those local governments without outstanding bonds may substitute three financial ratios for the bond rating requirement. The local government must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments (GAAP). Finally, a local government is not eligible to use the financial test if: (1) It is in default on any outstanding general obligation debt; (2) has outstanding general obligation bonds rated less than investment grade; (3) operates at a deficit equal to 5 percent of total annual revenue in the past two fiscal years; or (4) receives an adverse opinion or disclaimer on their financial statement. Each requirement of the financial component is discussed below. A more detailed discussion is available in the docket for this rulemaking, both in the Background Document and in a document entitled "Supplementary Information—Development of the Local Government Financial Test."

a. Bond rating requirement (Section 258.74(f)(1)(i)(A)). In order to satisfy this portion of the financial test, a local government must have a current investment grade bond rating (i.e., Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's) on all outstanding general obligation bonds. Further, as indicated below in the discussion of proposed § 258.74(f)(iii), a local government with outstanding general obligation bonds that do not meet the bond rating requirement in § 258.74(f)(1)(A) would not be eligible to use the financial test.

The Agency is proposing these requirements because it believes that a local government's bond rating incorporates an evaluation of its financial management practices. Bond ratings are widely used as a measure of credit risk associated with a long-term general obligation debt instrument. The Agency has included bond rating measures in financial tests under other RCRA programs, including financial assurance requirements for subtitle C TSDFs and subtitle I underground storage tanks. Further discussion of the bond rating requirement can be found in the docket for this rulemaking, both in the Background Document and in a document entitled "Supplementary Information—Development of the Local Government Financial Test."

b. Financial ratio alternative to the bond rating requirement (section 258.74(f)(1)(i)(B). As an alternative to the bond rating requirement, the Agency is proposing to allow a local government that does not have an outstanding general obligation bond rating to satisfy this portion of the financial test by passing three financial ratios: (1) A liquidity ratio, (2) a debt service ratio, and (3) a use of debt ratio. The Agency is providing this alternative because it recognizes that not all local governments possess bond ratings.

(1) *Development of the financial ratio alternative.* In developing the ratios for this component of the local government financial test, the Agency relied upon literature and studies in the area of local government finance to select measures that would serve as the indicators of a local government's financial health. First, the Agency collected measures from a variety of public finance literature related to local government financial health. Second, the Agency qualitatively analyzed these measures and eliminated those that could not be calculated easily from the financial statements of local governments, analyzed based on available data, or otherwise used because they were clearly less supported than similar measures. Third, the Agency quantitatively analyzed the remaining measures and eliminated them if the relationship between the measure and financial health appeared random, the measures and associated thresholds could not differentiate among local governments, the measures were highly sensitive to small changes in the threshold value, or the measures were highly correlated with other measures that evaluated the same aspect of local government financial health. Finally, from the remaining measures, the Agency selected those ratios and thresholds that were best substantiated in the public finance literature. The Agency selected a liquidity ratio (cash plus securities/total expenditures), debt service ratio (annual debt service/total expenditures), and a use of borrowed funds ratio (long-term debt issued/capital expenditures).

(i) *The liquidity ratio (section 258.74(f)(1)(i)(B)(1).* The liquidity ratio is defined as the sum of cash and securities divided by total expenditures and is designed to measure the degree to which an entity has cash or other assets that can quickly be converted to cash available to meet its current or upcoming expenses. Liquidity is essential to meet current obligations or execute transactions, and can provide an important cushion to protect funds intended for upcoming expenses against unexpected or emergency costs that arise on short notice. The Agency believes that any local government, even a wealthy one, could be forced to delay or even default on its MSWLF obligations if it failed to maintain sufficient liquid assets. In particular, the Agency is concerned that local governments facing a shortage of cash may be forced to delay or cut back services, and could be unable to conduct required closure, post-closure, and corrective action in a timely manner.

The Agency believes it is important for local governments to possess liquidity to meet current and unexpected obligations. Local governments with unusually low liquidity may have difficulty meeting current obligations and be unprepared for unexpected obligations. Under these circumstances, even a local government with low or no debt service might have difficulty obtaining funds quickly. Institutions that lend money are less likely to do so under these circumstances unless the local government can demonstrate that there will be a sufficient change in the management of its funds such that the loan can be paid back. The Agency is concerned that a local government experiencing difficulty meeting its obligations at a particular time may have even more difficulty in the future meeting its environmental obligations as they become current. Based on the analytical approach summarized above and described in more detail in the Background Document and in a document entitled "Supplementary Information—Development of the Local Government Financial Test," the Agency is proposing that local governments must have a liquidity ratio value of at least 0.05 in order to pass this ratio. Both documents can be found in the docket for today's rulemaking. The Agency solicits comments on the appropriateness of this threshold value, together with supporting information.

(ii) *The debt service ratio (section 258.74(f)(1)(i)(B)(2).* The debt service ratio is defined as annual debt service divided by total expenditures and measures local government debt service as a percentage of total expenditures. Debt service is the amount of principal and interest due on a loan in a given time period. Debt service represents a fixed expense that cannot be reduced by government planners except by prepayment or refinancing. High debt service significantly reduces the resources available to fund current operating expenses, the flexibility to fund unexpected needs, and the ability to obtain additional loans or issue additional debt. The Agency believes that local governments that are overly burdened by debt service payments may have greater difficulty paying for assured activities in a timely fashion.

Possessing only low to moderate debt service is important for a local government so that it may retain flexibility in meeting its obligations. Even if a local government currently has high liquidity and can meet its current obligations, it may have difficulty in obtaining funds to meet longer term obligations. Institutions that lend money are less likely to do so under these circumstances unless the local government can demonstrate that there will be management of its funds that will result in a reduction of debt service. Based on the analytical approach summarized above and described in more detail in the Background Document and in a document entitled "Supplementary Information—Development of the Local Government Financial Test," the Agency is proposing that local governments must have a debt service ratio value of no greater than 0.20 in order to pass this ratio. Both documents can be found in the docket for today's rulemaking. The Agency solicits comment on the appropriateness of this threshold value, together with supporting information.

(iii) *The use of borrowed funds ratio (section 258.74(f)(1)(i)(B)(2).* The use of borrowed funds ratio is defined as long-term debt issued outstanding divided by capital expenditures and addresses a government's financial health by examining its use of debt. It is a common principle of public finance to match the "timing" of financing with the nature of expenditures. For example, it is generally considered most appropriate to pay for current operating costs from current revenue. In contrast, long-term debt may be appropriately used to finance projects with long-term benefits, such as construction of infrastructure or other capital stock. The Agency is concerned that if a local government is forced to use debt proceeds for short-term purposes, such as meeting payrolls or other current operating expenses, this could suggest that it is experiencing considerable financial distress and might be unable to fund assured obligations in a timely manner. Based on the analytical approach summarized above and described in more detail in the Background Document and in a document entitled "Supplementary Information—Development of the Local Government Financial Test," the Agency is proposing that local governments must have a use of borrowed funds ratio value of no greater than 2.00 in order to pass this ratio. Both documents can be found in the docket for today's rulemaking. The Agency solicits comment on the appropriateness of this threshold value, together with supporting information.

(iv) *Performance of the financial ratio alternative.* The Agency performed an analysis to determine the number of local governments that would pass this ratio-based alternative of the local government financial test. The Agency found that of all local governments that own or operate MSWLFs, 89.4 percent passed the debt service ratio, 96.5 percent passed the liquidity ratio, and 91.4 percent passed the use of borrowed funds ratio. The Agency estimates that 80 percent of local governments pass all three ratios. Further, the Agency found that the pass rate increases with local government size. The Agency solicits comments on these pass rates and the appropriateness of these values, together with supporting information.

c. Compliance with GAAP (section 258.74(f)(1)(ii). Today's proposed rule would require local governments using the financial test to prepare an annual financial report in compliance with Generally Accepted Accounting Principles (GAAP) for governments. The Agency believes that this requirement is necessary because the analysis of the financial test ratios was based on such ratios being derived from financial statements prepared according to GAAP, and that other forms of accounting would alter the results of the ratios. Under today's proposal, an approved State that wishes to use another form of accounting would have to develop its own financial test.

d. General obligation debt requirement (section 258.74(f)(1)(iii)(1) and (2). The Agency is proposing that local governments must not be either currently in default on any outstanding general obligation debt, nor have a rating on any outstanding general obligation bonds lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's. The Agency believes that local governments failing these conditions may be experiencing some financial hardship that would make them poor candidates for using a financial test. Thus, under today's proposal, a local government that satisfies the financial ratio alternative, but has a bond rating that would not satisfy the bond rating requirement would not pass the test.

e. Operating deficit limit (section 258.74(f)(1)(iii)(3). The Agency is proposing that local governments that have run an operating deficit greater than 5 percent in each of the past two years not be eligible to use the financial test. While the Agency recognizes that local governments may occasionally have small imbalances, it believes that a negative budget imbalance of greater than 5 percent in two or more consecutive years indicates that the local government may be experiencing some financial hardship. The Agency bases this belief on studies that it has examined that have indicated that local governments sustaining operating deficits of greater than 5 percent may be experiencing financial duress.

f. Adverse or qualified opinion (section 258.74(f)(1)(iii)(4). Today's proposal would require a local government that wishes to use the financial test to have its financial statements audited by an independent certified public accountant, or appropriate State agency that conducts equivalent comprehensive audits. The Agency is proposing that in unapproved states, local governments that receive an adverse opinion, disclaimer of opinion, or other qualified opinion not be eligible to use the financial test. However, the Agency is proposing that in approved states, the qualification can be considered on a case-by-case basis by the State Director. If the Director of the approved state, after evaluating the qualified opinion, deems the qualification insufficient to warrant disallowance of the financial test, the Director may allow use of the financial test.

2. Public Notice Component (Section 258.74(f)(2)

The public notice component of the local government financial test is intended to ensure that a local

VOL 58 ISS 246 DEC 27 1993 UMI

government using the test acknowledges the obligations it is seeking to assure and that the community decision makers are aware of and agree to the commitment of future local government funds. To comply with this public notice requirement, a local government must, in each year that the financial test or guarantee is used, identify the assured costs in either its budget or its comprehensive annual financial report. While the Agency is not specifying a particular format for including this information, the specific facility covered, the categories of expenditure (e.g., closure, post-closure care), the corresponding cost estimate, and the anticipated year of the required activity must be recorded.

If the assured obligation is to be included in the budget, it should either be listed as an approved budgeted line item (if the obligation will arise during the budget period) or in an appropriate supplementary data section (if the obligation will not arise during the budget period). If the information is to be included in the comprehensive annual financial report, the Agency anticipates that it would, in most cases, be included in the financial section as a footnote to the annual financial statements.

3. Recordkeeping and Reporting Component (Section 258.74(f)(3)

As discussed above, today's proposed rule would require local governments using the financial test to prepare an annual financial report in compliance with Generally Accepted Accounting Principles (GAAP) for governments. In addition, in order to confirm that the self-implementing requirements of the proposed test have been met, today's rule would require local governments to document their use of the test by placing four items, which are described below, in the facility operating record. In addition, owners and operators would be required to update these items annually, and to notify the State Director and obtain alternative financial assurance if the local government is no longer able to pass the financial test.

It should be noted that these provisions of today's proposal contain timeframes for recordkeeping and reporting events. While owners and operators in unapproved States would have to meet these conditions, States with approved programs would be free to develop their own reasonable timeframes.

a. Chief financial officer (CFO) letter (section 258.74(f)(3)(i)(A). A letter to the facility's operating record must be signed by the local government's chief financial officer (CFO) and placed in the facility's operating record. The letter must demonstrate that the local government has complied with the financial component of the test and is not currently in default or running large operating deficits. The letter must list all cost estimates covered by the test and must provide evidence that the local government satisfies paragraph (f)(1)(i). The Agency expects that this evidence will include evidence of its bond rating or a worksheet or similar demonstration showing that the local government's annual financial data meet the specific measures required by the test. In addition, the CFO letter must certify that the local government has met the other conditions described above: (1) That the local government's financial statements are prepared in conformity with GAAP for governments, (2) that the local government has not operated at a significant operating deficit in each of the past two fiscal years and, (3) that the local government is not in default on any outstanding general obligation bonds, and does not have outstanding general obligation bonds rated less than investment grade. The Agency has not included specific wording for the CFO letter in today's proposed rule. Approved States implementing a Part 258 MSWLF program, however, may wish to consider requiring specific wording to facilitate compliance and review.

b. Year-end financial statements (section 258.74(f)(3)(i)(B). The second item to be placed in the operating record is the local government's independently audited year-end financial statements for the latest fiscal year, including the "unqualified opinion" (auditor's opinion contains no terms that qualify or condition his or her opinion that the statements are fairly stated in accordance with GAAP based on an audit) of the auditor who must be an independent, certified public accountant or an appropriate State agency that conducts equivalent comprehensive audits. The purpose of this opinion is to ensure that the data in the financial statements fairly represent the financial condition of the local government. In unapproved States, the opinion must be a "clean" or unqualified opinion. In approved States, however, State directors may chose to allow "qualified" opinions on a case-by-case basis. The appropriate State agency may substitute for the independent certified public accountant.

c. *Report from the independent certified public accountant or state agency (section 258.74(f)(3)(i)(C).* The third item to be placed in the operating record is the special report of the independent certified public accountant or State Agency upon examination of the chief financial officer's letter. In this special report, the accountant must confirm that the data used in the CFO letter to pass the test were taken directly, or appropriately derived from, the audited year-end financial statements. The special report must state that, in connection with that examination, no matters came to the accountant's attention that caused him to believe that the data in the CFO letter should be adjusted. The appropriate State agency that conducts equivalent audits may substitute for the independent certified public accountant.

d. Timeframes for recordkeeping events (section 258.74(f)(3)(ii) and (iv). Today's proposal would require owners and operators to place the items described above into the facility's operating record within specific timeframes. In the case of closure and post-closure care, these items must be placed in the operating record prior to the initial receipt of waste or the effective date of this rule, whichever is later, or in the case of corrective action, no later than 120 days following selection of a corrective action remedy.

It should be noted that these timeframes would be applicable in unapproved states. States with approved programs would be free to develop their own reasonable timeframes.

Under today's proposed § 258.74(f)(3)(iv), owners and operators would no longer be required to meet the recordkeeping requirements of the financial test when they substitute an alternate financial assurance mechanism or when they are no longer required to obtain financial assurance.

e. Annual updates of financial test documentation (section 258.74(f)(3) (iii) and (v). Because the financial condition of local governments can change over time, the local government financial test proposed today would require a local government to annually update all financial test documentation, including each of the items described above, within 90 days of the close of the local government's fiscal year. Local governments with fiscal cycles that are more than one year must update their estimate at least every 12 months based on an unaudited financial statements reviewed by an independent public accountant or a state agency and must also update the documentation based on audited information at the close of the fiscal cycle.

If the local government can no longer meet the terms of the financial test, the owner or operator must send notice to the State Director of intent to establish alternative financial assurance. This notice must be sent within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide alternative financial assurance within 120 days after the end of such fiscal year.

4. Calculation of Costs to be Assured (section 258.74(f)(4)

a. The 43 percent threshold. Section 258.74(f)(4) of today's proposal would allow local governments to use the financial test to assure costs that equal up to 43 percent of the local government's total annual revenue. This provision is designed to maximize the availability of the local government financial test to financially sound local governments while, at the same time, assure that the costs that a local government seeks to assure are reasonable relative to its size. The Agency is proposing this provision because it believes that even a financially sound local government will not be able to meet environmental obligations that are very large relative to its size.

During the development of this proposal, the Agency considered incorporating a relative financial strength ratio into the financial test. Owners and operators would have been required to meet this financial strength ratio or they would have been ineligible to use the financial test to assure any of the costs associated with their facilities.

The Agency rejected the "pass-fail" approach of the relative financial strength ratio because it recognized that many local governments that were otherwise fiscally sound would be disqualified because they could not assure 100 percent of the costs required. This would, in particular, disqualify smaller local governments. On the other hand, the Agency also believed that the size of the local government relative to its environmental obligations was a fundamental factor that must be considered by the financial test in order for it to effectively ensure the availability of adequate funds to address environmental needs. The Agency believed that where the costs of closure, post-closure, and corrective action associated with a MSWLF are large relative to the financial size of the community, the local government, regardless of its financial condition, may not be able to meet those obligations on its own.

To address these concerns, the Agency developed the approach proposed in this rule. Today's proposed approach considers the same factors as the relative financial strength ratio (assured costs/total annual revenue) but does not eliminate local governments from using the test. Rather, under this proposal, the total annual revenue of a local government determines what portion of its obligations it can assure through the financial test. Based on the analysis it conducted to develop the relative financial strength ratio, the Agency is proposing that those obligations be limited to an amount equal to 43 percent of the local government's total annual revenue.

During the development of this provision, the Agency conducted an analysis, which is summarized below. This analysis supports the Agency's proposal to allow local government's to assure costs that equal up to 43 percent of the local government's total revenue.

In selecting the 43 percent figure, the Agency made assumptions (based on public finance literature) about the percent of total revenues which, without unreasonable stress, a local government could devote annually to meet environmental obligations over a typical bonding period. First, the Agency assumed that the local government would spread the costs over 20 years. Using the same calculations that a bank would use to calculate the monthly payments on a homebuyer's mortgage, the Agency calculated the annual payment a local government would have to make on a 20-year loan at a 10 percent rate of interest to meet its assured costs. The Agency then assumed that those annual payments should be equal to a maximum of 5 percent of total annual revenue. Based on these assumptions, a local government could borrow an amount equal up to 43 percent of its total annual revenue, without unreasonable financial stress.

While the Agency realizes that a 10 percent interest rate does not reflect current interest rates, the Agency chose to use an interest rate that more closely reflects a long term average interest rate, believing that long term averages are likely to fluctuate less than interest rates taken at different points in time.

The Agency solicits comment on the analysis it conducted to determine the 43 percent threshold. Specifically, the Agency requests comment on using: (1) A long term average interest rate, (2) the interest rate in effect at the time of promulgation, (3) a short term average interest rate, or (4) a moving average interest rate. The Agency also solicits comment on periodically revising the threshold value of this ratio (e.g., recalculating on an annual basis, every 5 years, or another timeframe). Finally, the Agency solicits comment on sources for determining the interest rate, including but not limited to the "Daily Municipal Bond Index" as published in the Wall Street Journal.

A full discussion of the development of this provision can be found in the docket for today's rulemaking, both in the Background Document and in a document entitled "Supplementary Information—Development of the Local Government Financial Test" (see discussion of the relative financial strength ratio).

The Agency believes that this approach will allow many local governments to assure all of the closure, post-closure, and corrective action costs associated with their MSWLFs using the financial test. In addition, those local governments whose costs are large relative to their local government size, but who are financially sound and, therefore, would otherwise meet the requirements of the financial test, will be able to assure a portion of their obligations. They will be required to obtain a guarantee or one of the other available financial mechanisms only for the remainder of their obligations. Thus, the approach proposed by the Agency will save many local government owners and operators a significant portion of the costs associated with obtaining an alternate instrument.

For example, assume that a local government meets all of the other requirements of today's proposal and seeks to assure costs of $15 million but 43 percent of its total annual revenue equals only $10 million. Under today's proposal, that local government could use the financial test to assure for $10 million, and would be required to procure an alternate instrument for the remaining $5 million in costs. The amount assured through the financial test combined with the amount assured through the alternative instrument then would total to the required $15 million, and the cost to the owner or operator of procuring the alternative instrument would be lower than the cost of procuring that alternative instrument for the full $15 million amount.

The Agency estimates that 32 percent of all local governments that own or operate MSWLFs can use the financial test for all of their obligations and that of local governments with total annual revenues of over $2 million, 57 percent can pass for all of their Subtitle D obligations. The Agency solicits comments on the appropriateness of these pass rates, together with supporting information.

b. Accounting for other environmental obligations. Under several programs, the Agency currently allows the use of a financial test as a mechanism to demonstrate financial assurance for

environmental obligations. These include obligations for MSWLFs under 40 CFR part 258, hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265, petroleum underground storage tanks under 40 CFR part 280, UIC facilities under 40 CFR part 144, and PCB commercial storage facilities under 40 CFR part 761. Under each of those programs, the Agency requires that the owner or operator include all of the costs it is assuring through a financial test when it calculates its obligations. This policy prevents an owner or operator from using the same assets to assure different obligations under different programs.

The Agency believes that where an owner or operator is using a financial test to assure costs under more than one regulatory program, it is important to assure that all such assured costs are taken into account to determine the owner or operator's ability to meet those costs. Thus, consistent with Agency policy, § 258.74(f)(4)(ii) of today's proposal would require a local government using a financial test for its subtitle D obligations to also include those costs covered under other Agency programs when it calculates assured costs.

However, the Agency recognizes that costs associated with corrective action may be quite high. Under these circumstances, local governments may not be able to demonstrate financial responsibility for the full amount of these obligations. The Agency solicits comment on how to accommodate high corrective action costs.

B. Local Government Guarantee (Section 258.74(h))

Today's proposed rule would allow a local government to guarantee the costs of closure, post-closure and corrective action costs associated with a MSWLF owned by another local government or by a private business. The local government guarantor must promise to take responsibility for the obligations of the owner or operator if the owner or operator fails to do so and provide proof that it passes the financial test requirements.

Local governments may wish to guarantee these obligations for a variety of reasons. For example, in order to preserve its waste disposal options, a county may decide to provide a guarantee on behalf of another local government that owns or operates the MSWLF to which it sends waste. Alternatively, a local government may issue a guarantee to ensure proper closure of a nearby private facility or because of the nature of the relationship between itself and an owner or operator (e.g., the owner or operator may be a special district associated with the guarantor).

Today's rule proposes a mechanism by which local governments can guarantee the costs of a MSWLF owner or operator. The mechanism requires the guarantor to enter a contract promising to fund or fulfill the assured obligations (i.e., closure, post-closure care, or corrective action) if the MSWLF owner or operator fails to do so. In addition, the local government guarantor must provide appropriate documentation of the guarantee contract to the owner or operator, and must meet all requirements of the local government financial test. The terms of the guarantee contract must specify that, if the owner or operator fails to perform closure, post-closure care, or corrective action in accordance with the requirements of Part 258, the guarantor will do so or establish a trust fund as specified in § 258.74(a) in the name of the owner or operator. The required documentation must be placed in the operating record, in the case of closure and post-closure care, prior to the initial receipt of waste or the effective date of this rule, whichever is later, or in the case of corrective action, no later than 120 days following selection of a corrective action remedy. The financial test documentation from the guarantor must be updated annually, in accordance with the requirements of the local government financial test.

Today's proposal requires that guarantors agree to remain bound under this guarantee for so long as the owner or operator must comply with the applicable financial assurance requirements of subpart G of 40 CFR part 258, except that guarantors may cancel this guarantee by sending notice to the State Director and to the owner or operator. Such cancellation cannot become effective earlier than 120 days after receipt of such notice by both the State Director and the owner or operator.

If a guarantee is cancelled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the State Director, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the State Director. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within 120 days following the close of the guarantor's most recent fiscal year, place evidence of the alternate assurance in the facility operating record, and notify the State Director.

If the local government guarantor no longer meets the requirements of the financial test, the owner or operator must, within 90 days following the close of the guarantor's fiscal year, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the State Director. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within 120 days following the close of the guarantor's most recent fiscal year, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the State Director. While the proposed rule does not specify the required wording of the guarantee contract, an approved State implementing a part 258 program may wish to specify wording to ensure that the contract is valid and enforceable in that State and is consistent with the performance criteria for financial assurance mechanisms included in § 258.74(l). Such required wording could specify the guarantee contract terms described above, as well as any additional terms necessary under State law for a valid and enforceable contract.

C. Combination of Mechanisms (section 258.74(k)).

The Agency recognizes that in many cases owners and operators will need to use a combination of mechanisms to assure the costs associated with their MSWLFs. First, many MSWLFs are owned and operated by multiple parties. Second, in many cases, the owner or operator will be able to assure part, but not all, of its costs, and will need to obtain a guarantee for the remainder of the costs. In other cases, the owner or operator will be able to use the financial test for some but not all of its costs, and will need to obtain another instrument for the remainder. Thus, to increase flexibility and enhance the availability of the financial test to owners and operators, particularly small owners and operators, today's proposed rule would allow a combination of mechanisms to assure the costs associated with MSWLFs.

However, the proposed rule would limit the combination of mechanisms to those that require payment, rather than performance. The Agency is proposing this limitation because it believes that, in cases of default, it would be difficult to enforce a combination of a performance guarantee or performance bond with another mechanism due to the potential complexity of dividing the required obligation to perform closure, post-closure care, or corrective action. The Agency believes that there will be difficulties in implementing multiple performance guarantees in that one guarantor may not begin performing his share of the closure, post-closure, or corrective action activities until another guarantor has performed his share of these activities. Another difficulty could be that guarantors may not agree about the amount of their share of the activities that they have agreed to perform. The Agency believes that it is much easier to implement payment guarantees in that each guarantor knows exactly how much it has agreed to place in the standby trust fund in the event that the owner or operator does not perform required activities. However, the Agency is soliciting comment on the combination of performance and/or payment guarantees.

V. Request for Comment on Allowing Owners and Operators to Discount Costs

The financial assurance requirements in many EPA program areas (e.g., RCRA subtitles C and D, TSCA PCBs) require owners and operators to calculate cost estimates in current dollars, and aggregate these estimates (even though these costs may be incurred many years in the future). Owners must obtain a financial responsibility instrument for at least the amount of this aggregated cost estimate. The RCRA regulations currently do not allow owners and operators to adjust this aggregated cost estimate to reflect the fact that these activities are scheduled to occur in future years.

The Agency has received many requests to allow owners and operators to meet the financial assurance requirements based on the present value of these future obligations. In a rulemaking petition submitted on February 16, 1990, the National Solid Wastes Management Association (NSWMA) recommended that the Agency allow firms to use a present value based on a discount rate to estimate their costs for post-closure care and for the extended care portion of corrective action. (The NSWMA petition can be found in the docket of today's rulemaking.) In addition, the Agency has received public comment making similar requests during the development of other financial-responsibility-related rules. The Agency recognizes that this is an issue of interest to many parties, and has reviewed and considered all comments received to date.

In general, the argument presented by commenters is, because these expenditures are scheduled to occur in the future (often many years in the future), a financial instrument for less than the aggregate costs (i.e. the "present value" of the aggregated costs) would pay off these expenditures in the future.[1] This is the case because there is a time dimension to the value of a monetary or financial instrument—$100 in hand today is worth more than a (guaranteed) promise to pay $100 in ten years. One hundred dollars invested today, for example, in a ten-year Treasury bond paying at an interest rate of 7 percent will pay back $197 ten years from now, assuming that interest is compounded continually.

The Agency has not, however, proposed to allow owners and operators to discount costs because the Agency remains unconvinced that by doing so it would assure that adequate funds will be available in a timely manner to perform required activities in the event that the owner or operator is unable or unwilling to perform these activities.

First, the Agency is concerned that for an approach based on discounting to be effective, it is important that the owner or operator be able to predict with certainty when the costs will incur. For example, an owner or operator who estimates that the closure costs of its MSWLF will be $10 million to occur 20 years in the future would only have to demonstrate financial responsibility for $2.6 million today, assuming a 7 percent discount rate. If that MSWLF unexpectedly has to close, it may not have sufficient resources to properly complete all closure activities since the amount of financial responsibility could be substantially less than the actual need.

Despite these concerns, the Agency is interested in allowing owners and operators to discount costs under the subtitle D program wherever it can do so and still assure that sufficient resources will be available to perform required activities. The Agency believes that discounting may be more applicable for some activities than others. For example, where the cost of an activity is known, the timing of the activity can be predicted with a greater degree of certainty, or where the activity takes place over an extended time period, it may be appropriate to discount costs. Although current regulations require owners to have the financial resources to carry out all closure and post-closure activities in one year, some activities, such as post-closure groundwater monitoring, can only be done over several decades. Therefore, even if a landfill must close unexpectedly, certain activities (like post-closure care) and the associated costs will still occur over a number of years in the future. EPA could allow owners to discount these costs in computing their obligations. However, where the timing and costs associated with an activity are not known, discounting may not be appropriate.

Because of its interest in allowing owners and operators to discount costs, and because of its concerns about allowing them to do so, the Agency solicits comment on the practice of discounting, and how it might be applied to the subtitle D program. The Agency specifically requests comment and supporting information on the following and on any other issues that commenters identify regarding discounting for MSWLF financial responsibility requirements:

(1) Selection of a discount rate. Possible options include short- or long-term interest rates, private, municipal or Treasury bonds, or some other measure of interest rate.

(2) Selection of a method that provides adequate assurance that funds will be available in the event of unexpected closure.

(3) Selection of a maximum time period over which costs may be discounted, e.g., 5, 10, 20, or 50 years.

(4) Selection of activities that may be appropriate for employing discounting, e.g., post-closure care when the costs and time period for performing this activity may be estimated with reasonable accuracy.

(5) Selection of a method that minimizes the potential complexities involved in administering and enforcing a program that allows discounting of costs.

Commenters should note that this request for comment is limited to whether discounting should be allowed for MSWLF financial assurance, and is not intended to open for comment other financial assurance regulations.

[1] In order to make comparisons between alternative financial instruments on capital investment decisions involving different streams of payments over time, financial analysts, economists, etc., calculate the "present value" of the alternatives. This method involves calculating in terms of current dollars using the interest rate—or discount rate—present value of a promised future receipt (or expenditure). For example, at a 7 percent interest rate, an investor would be indifferent between receiving $100 five years from now or receiving $71.30 today. The present value, then of the promise to pay $100 in five years (at a discount rate of 7 percent) would be $71.30. In much the same way, if the Agency allowed owners and operators to discount their future costs when they demonstrated financial responsibility, an owner or operator who had a $10 million closure scheduled to occur 20 years in the future could demonstrate financial responsibility for as little as $2.6 million today, assuming they could invest that amount at the same 7% interest (or discount) rate described above. The effect of discounting becomes more pronounced as the time period and discount rate increase.

VI. Relationship of Today's Proposed Financial Test to the Financial Test Proposed for Use by Local Government Owners and Operators of Underground Storage Tanks

On February 18, 1993, the Agency promulgated a financial test for use by local government owners and operators of underground storage tanks (USTs) under subtitle I of RCRA (see 58 FR 9026). The subtitle I criteria provide mechanisms for local governments to demonstrate financial responsibility to assure the costs of corrective action and third-party liability caused by releases from USTs. Local governments can demonstrate financial responsibility through a bond rating test, a worksheet test, or a guarantee from another government entity.

While today's subtitle D proposal includes a bond rating test, a ratio test, and a guarantee provision, the specific requirements differ from those promulgated under subtitle I. For example, under the subtitle I criteria, local governments can satisfy the financial responsibility requirements if they have issued $1 million or more total outstanding investment-grade general obligation bonds. Under today's proposed subtitle D test, local governments with investment-grade bonds can self-assure for up to the amount that equals 43 percent of the local government's total annual revenue. Thus, under today's proposal for subtitle D, local governments with investment-grade bonds will be able to self-assure for at least part, if not the full costs of closure and post-closure care.

In addition, the subtitle I worksheet test and the subtitle D ratio test differ. In both cases, EPA sought to design tests so that local governments without substantial outstanding bond issues can demonstrate sound fiscal health. Under the subtitle I program, the local government computes a weighted sum of six financial ratios and compares the result to a threshold value. Local governments can satisfy the financial responsibility requirements if the weighted sum exceeds the threshold. Local governments with worksheet scores below the threshold must provide an alternative financial guarantee or instrument (e.g., a trust fund) to meet the financial responsibility requirements. In contrast, the proposed subtitle D worksheet test has three financial ratios, each with a threshold value. A local government scores must satisfy each of these three ratios in order to self-assure; if the local government fails one ratio, it is not eligible for to self assure and must provide an alterative financial instrument to meet the financial assurance requirements.

During the development of this proposal, the Agency considered proposing the subtitle I local government financial test for the subtitle D program, rather than the financial test proposed today. The argument for doing so would be that the purpose behind the financial responsibility requirement is the same in both programs, that is, to ensure that adequate funds are available when needed, and that the criteria for measuring a local government's fiscal condition should be the same as well. Further, the Agency should use the same test for the two programs because consistency serves to simplify compliance with the financial responsibility requirements of different programs.

However, while the Agency generally strives to maintain consistency between programs, the Agency believes that there are important policy reasons to use a different test for the two programs, which outweigh the arguments discussed above. Basically, the Agency found that the difference in the size of the obligations under the two programs, and the difference in the certainty of those costs occurring support the use of different tests for the two programs. These differences, and the basis for the agency's decision to propose a different financial test for the subtitle D program, are discussed below. More detailed discussion of this issue can be found in the docket for today's rulemaking (see "Justification for the Development of Different Local Government Financial Tests Under subtitles D and I," July 12, 1990).

The subtitle D and I programs require owners and operators to assure for different kinds of costs. Subtitle D requires owners and operators to demonstrate financial responsibility for the costs of closure, post-closure care, and corrective action for known releases. However, subtitle I requires that demonstration only for damages due to an accidental release.

As a result, the first significant difference between the subtitle D and subtitle I financial responsibility programs is the size and range of the obligations to be assured. The obligations under subtitle I are expected to be small (ranging from $125,000 to $1 million per occurrence) relative to the costs of closure, post-closure care, and corrective action for known releases under subtitle D (ranging from $1 million to over $29 million).

The second notable difference is the certainty of the obligations. Since a release may or may not occur at an underground storage tank, the owner or operator of an underground storage tank may or may not incur the costs associated with a release. In contrast, the obligations under subtitle D are certain to occur, that is, the owner or operator of a MSWLF will incur the costs associated with closure and post-closure care of that landfill.

The Agency believes that the financial tests for the two programs should meet these different programmatic needs. Thus, to take into account the financial size of the local government relative to the obligations it seeks to assure because of the magnitude of the costs associated with MSWLFs, the Agency is proposing that a local government be allowed to assure costs up to an amount equal to 43 percent of its total annual revenue through the financial test. Since, in part, EPA is concerned that private bond rating agencies may also systematically omit future environmental liabilities from their analyses, local governments with investment-grade bonds must also pass this test. To assure that the financial test does not exclude small local governments, the approach proposed today would allow a local government that could not pass the test for all of its obligations to use the test to assure for part of those obligations.

For the reasons discussed above, the Agency is proposing a different approach for the subtitle D program from the approach adopted for the subtitle I program. However, recognizing the value of using one local government financial test across all Agency programs requiring demonstration of financial responsibility, the Agency requests comments on the use of the subtitle I test for the subtitle D program as well as the use of any other local government financial test that is a better predictor of financial strength and will assure that adequate funds are available for required activities. Commenters should submit information that supports their comments. In addition, the Agency also solicits comment on whether local governments (and the public) are more likely to set aside financial resources for a certain event (a MSWLF closure) than an uncertain event (an UST release). Finally, the Agency requests comment on the appropriateness, should the Agency decide to use a subtitle I approach, of modifying that test to allow owners and operators to assure for part of their obligations when they cannot self-assure for the full amount.

VII. State Program Approval

Section 4005(c) of RCRA requires that each State adopt and implement a "permit program or other system of prior approval and conditions"

adequate to assure that each facility that may receive HHW or SQG waste will comply with the revised MSWLF criteria. Each State must adopt and implement a permit program not later than 18 months after October 9, 1991. EPA is required to "determine whether each State has developed an adequate program" pursuant to section 4005(c).

EPA plans to propose a State/Tribal Implementation rule which will establish adequacy determination requirements and procedures for State MSWLF permit programs, including submission of a MSWLF permit program application. EPA also plans to propose to extend eligibility for MSWLF permit program approval to Indian Tribes. The statute, however, does not require these rules to be in place before EPA assesses the adequacy of any State or Tribal program.

As part of these rules, the Agency plans to include procedures for submitting revised applications for State and Tribal program adequacy determinations should a State or Tribe revise its permit program once deemed adequate. Program revision may be necessary when the pertinent Federal statutory or regulatory authority is changed, when State or Tribal statutory or regulatory authority or relevant guidance changes, or when responsibility for the State or Tribal program is shifted within the lead agency or to a new or different State or Tribal agency or agencies. These changes may require revision to a State's or Tribe's permit program application as well.

The statute does not establish any mandatory timeframes for submitting such modifications so the State or Tribal submission should be negotiated by the State or Tribal Director and the Regional Administrator. This arrangement should minimize potential disruption to ongoing program activities.

A State or Tribe that receives permit program approval prior to the final promulgation of today's rule and later elects to adopt the financial test and local government guarantee mechanisms should work with its respective Regional EPA office as it proceeds to revise its permit program. EPA does not interpret the statute to require that each and every program change a State or Tribe makes will require a revised permit program application. Rather, only certain changes that raise issues warranting a detailed review by EPA and an opportunity for public comment will necessitate a revised application. EPA believes that State and Tribal compliance with today's proposal will, in most cases, not require a revised permit program application, since this rule merely provides additional options for demonstrating financial responsibility. Furthermore, States and Tribes that have adopted adequate financial assurance requirements without this local government test and guarantee will not need to take any action since this proposal simply expands the number of options available to owners and operators for demonstrating financial assurance.

VIII. Implementation

Today's proposal follows the self-implementing framework of the revised criteria (see 56 FR 50978). Regardless of whether the program has received a determination of adequacy from EPA, owners and operators must comply with the State or Tribal program requirements. For example, if a State or Tribe does not allow a local government financial test or guarantee under its permit program, an owner or operator would not be able to use these options to comply with State or Tribal law.

It should be noted that the Agency believes that many tribes have an accounting structure similar or identical to those of most local governments. To the extent that tribes meet the requirements of the financial test proposed today, tribes would be able to demonstrate financial responsibility for their subtitle D obligations through the use of this test. However, there may be tribes and local government units that use an accounting system similar or identical to those of most corporations. They would be able to demonstrate financial responsibility for their subtitle D obligations through the use of the subtitle D Corporate Financial Test that the Agency will propose in a later rulemaking.

IX. Economic and Regulatory Impacts

A. Executive Order 12866

Under Executive Order 12866, EPA must determine the economic impact of a rule. The Agency conducted an analysis to estimate the costs that would be avoided if this local government financial test were available to municipalities, and determined that it would save local governments $138 million annually. The following discussion outlines and solicits comment on the Agency's analysis. A complete discussion of the Agency's analysis can be found in the docket for today's proposal.

The Agency selected a representative sample of local government owners and operators of MSWLFs and, using financial data related to those local governments, determined whether they would pass the ratio component of the financial test. Based on this sample, the Agency concluded that 80 percent of all local governments that own or operate a MSWLF would be able to use the ratio component of the financial test for at least some amount of their subtitle D obligations, while 32 percent of all local governments would be able to use the financial test for all their subtitle D obligations. The Agency did not have available the bond rating information related to its sample of owners and operators and, therefore, did not know whether the 80 percent pass rate would be significantly affected by the provision of this proposal that excludes local governments with bond ratings that are lower than investment grade. The Agency looked at information it had available, i.e., the bond ratings associated with a sample of local governments (not necessarily owners and operators of MSWLFs) and found that a very low percentage had lower than investment grade ratings. Based on this information, the Agency concluded that the 80 percent pass rate would not be significantly affected by the bond rating exclusion. The bond rating information is available in the docket for this proposal.

To calculate the cost savings associated with this rule, the Agency made several assumptions. First, the Agency used 1987 data to estimate the number of MSWLFs in the subtitle D universe, the costs of closure and post-closure care for those of MSWLFs, and the number of local governments. The Agency assumed that information has not changed since 1987, and the financial data of the municipalities has held constant as well. The Agency assumed that the costs of closure and post-closure care related to their MSWLFs were the local governments' only environmental obligations. The Agency further assumed that the cost of obtaining a third-party financial instrument, such as a letter of credit or surety bond, would be 1.5 percent of the cost estimate of closure and post-closure care of the MSWLF. Finally, the Agency assumed that all local governments that send their solid waste to a MSWLF would be willing to provide a guarantee to the local government owning or operating the MSWLF to the extent that they are able to provide that guarantee through the financial test. A full discussion of this analysis can be found in the docket for this rulemaking.

The Agency solicits comment on the information that was used to conduct its analysis, and on the assumptions described above. Further, the Agency solicits information that supports or refutes these assumptions.

Finally, when the Agency estimated the cost savings provided by today's rule, it did not have information regarding the number of local governments that have outstanding investment grade bonds. Therefore, the Agency's analysis was based on the ratio alternative and did not consider the savings that would be provided by the bond rating alternative. The Agency solicits information related to bond ratings, such as the number of communities that have bond ratings, the characteristics of those bonds, and the characteristics of those communities (particularly size as measured by total annual revenues) with bond ratings.

Section VI of this preamble discusses the possibility of adopting the subtitle I local government financial test for use in the subtitle D program. The preamble discusses the Agency's reasons for developing a different financial test for subtitle D, and solicits comment on whether the subtitle I test could be used for the subtitle D universe. The Agency will review all public comment it receives on this issue and, if significant public comment indicates that the subtitle I test could be applicable to the subtitle D universe, the Agency will conduct additional analysis to explore that option.

This proposed rule would not result in an adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule has been reviewed by the Office of Management and Budget in accordance with Executive Orders 12291 and 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* at the time an Agency publishes a proposed or final rule, it generally must prepare a Regulatory Flexibility Analysis that describes the impact of the rule on small entities, unless the Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities. Today's rule adds a local government financial test and local government guarantee as two additional mechanisms that can be used to demonstrate financial responsibility for environmental obligations. Entities able to use these mechanisms would be allowed to demonstrate financial responsibility for their environmental obligations without incurring the costs of obtaining a third-party mechanism. Therefore, pursuant to 5 U.S.C. 605b, I certify that this regulation will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

OMB approved the information collection requirements of the MSWLF criteria, including financial assurance criteria, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned OMB control number 2050–0122. The burden estimate for the financial assurance provisions included the burden associated with obtaining and maintaining any one of the allowable financial assurance instruments, including a financial test.

The public may send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch, PM–2136, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 728 Jackson Place NW., Washington, DC 20503 (marked "Attention: Desk Officer for EPA").

List of Subjects in 40 CFR Part 258

Environmental Protection, Financial assurance, Closure, Post-closure, Corrective action.

Dated: December 13, 1993.

Carol M. Browner,

Administrator.

40 CFR part 258 is proposed to be amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

1. The authority citation for part 258 continues to read as follows:

Authority: 42 U.S.C. 6907(a)(3), 6944(a), and 6949(c); 33 U.S.C. 1345(d) and 1345(e).

2. Section 258.74 is amended by removing and reserving paragraphs (e) and (g) and by revising paragraphs (f), (h), and (k) to read as follows:

§ 258.74 Allowable mechanisms.

* * * * *

(e) [reserved]

(f) *Local government financial test.* An owner or operator that satisfies the requirements of paragraphs (f) (1) through (3) of this section may demonstrate financial assurance up to the amount specified in paragraph (f)(4) of this section:

(1) *Financial component.* (i) The owner or operator must satisfy one of the following:

(A) If the owner or operator has outstanding general obligation bonds, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's on all outstanding general obligation bonds; or,

(B) If the owner or operator does not have outstanding general obligation bonds, it must satisfy each of the following financial ratios:

(*1*) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(*2*) A ratio of annual debt service to total expenditures less than or equal to 0.20; and

(*3*) A ratio of long-term debt issued and outstanding to capital expenditures less than or equal to 2.00.

(ii) The owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments.

(iii) An owner or operator is not eligible to assure its obligations under this paragraph (f) if it:

(A) Is currently in default on any outstanding general obligation bonds,

(B) Has an outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's, or

(C) Operated at a deficit equal to five percent or more of total annual revenue in either of the past two fiscal years, or

(D) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate State agency) auditing its financial statement as required under paragraph (f)(1)(ii) of this section. However, the Director of an approved State may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Director deems the qualification insufficient to warrant disallowance of the test.

(2) *Public notice component.* The local government owner or operator must place a reference to the closure, post-closure care, or corrective action costs assured through the financial test into its most recent comprehensive annual financial report or budget. The reference must be included before [the effective date of this section] or prior to the initial receipt of waste at the facility, whichever is later, in the case of closure and post-closure care, and, in the case of corrective action, not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of § 258.58. The reference must include the amount of each cost-estimate and the year(s) in which the local government expects these costs to be incurred. References in the budget must occur as budgeted line items if the activities are to occur in the period covered by the budget, but may appear in a supplemental data section if the activities will not occur until after the period covered by the budget.

(3) *Recordkeeping and reporting requirements.* (i) The local government owner or operator must place the following items in the facility's operating record:

(A) A letter signed by the local government's chief financial officer that:

(*1*) Lists all the current cost estimates covered by a financial test, as described in paragraph (f)(2) of this section;

(*2*) Provides evidence and certifies that the local government meets the conditions of either paragraph (f)(1)(i) or (f)(1)(ii) of this section; and

(*3*) Certifies that the local government meets the conditions of paragraph (f)(4) of this section.

(B) The local government's independently audited year-end financial statements for the latest fiscal year, including the unqualified opinion of the auditor who must be an independent, certified public accountant or an appropriate State agency that conducts equivalent comprehensive audits; and

(C) A report to the local government from the local government's independent certified public accountant or the appropriate State agency stating that:

(*1*) The certified public accountant or State agency has compared the data in the chief financial officer's letter with the owner's or operator's independently audited, year-end financial statements for the latest fiscal year; and

(*2*) In connection with that examination, no matters came to his attention which caused him to believe that the data in the chief financial officer's letter should be adjusted.

(ii) The items required in paragraph (f)(3)(i) of this section must be placed in the facility operating record as follows:

(A) In the case of closure and post-closure care, either before [the effective date of this section], or prior to the initial receipt of waste at the facility, whichever is later, or

(B) In the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of § 258.58.

(iii) After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 90 days following the close of the owner or operator's fiscal year.

(iv) The local government owner or operator is no longer required to meet the requirements of paragraph (f)(3) of this section when:

(A) The owner or operator substitutes alternate financial assurance as specified in paragraph (f)(3)(v) of this section; or

(B) The owner or operator is released from the requirements of this section in accordance with § 258.71(b), § 258.72(b), or § 258.73(b).

(v) A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test it must, within 120 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this section, place the required submissions for that assurance in the operating record, and notify the State Director that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

(vi) The Director of an approved State, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the Director of an approved State finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the local government must provide alternate financial assurance in accordance with paragraph (f)(3)(v) of this section.

(4) *Calculation of costs to be assured.* The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under this paragraph (f)(4) is determined as follows:

(i) If the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

(ii) If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR part 280, PCB storage facilities under 40 CFR part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this paragraph (f)(4). The total must not exceed 43 percent of the local government's total annual revenue.

(iii) The owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in paragraphs (f)(4) (ii) and (iii) of this section.

(g) [reserved].

(h) *Local government guarantee.* An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by §§ 258.71, 258.72, and 258.73, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in paragraph (f) of this section, and must comply with the terms of a written guarantee.

(1) *Terms of the written guarantee.* The guarantee must be effective before the initial receipt of waste or before the effective date of this section, whichever is later, in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of § 258.58. The guarantee must provide that:

(i) If the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

(A) Perform, or pay a third party to perform, closure, post-closure care, and/or corrective action as required; or

(B) Establish a fully funded trust fund as specified in paragraph (a) of this section in the name of the owner or operator.

(ii) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the State Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the State Director, as evidenced by the return receipts.

(iii) If a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the State Director, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the State Director. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within 120 days following the close of the guarantor's fiscal year, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the State Director.

(2) *Recordkeeping and reporting.* (i) The owner or operator must place a certified copy of the guarantee along with the items required under paragraph (f)(3) of this section into the facility's operating record before the initial receipt of waste or before [the effective date of this section], whichever is later, in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of § 258.58.

(ii) The owner or operator is no longer required to maintain the items specified in paragraph (h)(1) of this section when:

(A) The owner or operator substitutes alternate financial assurance as specified in this section; or

(B) The owner or operator is released from the requirements of this section in accordance with § 258.71(b), 258.72(b), or 258.73(b).

(iii) If a local government guarantor no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must, within 90 days following the close of the guarantor's fiscal year, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the State Director. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within 120 days.

* * * * *

(k) *Use of multiple mechanisms.* An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by §§ 258.71, 258.72, and 258.73, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments. The mechanisms must be as specified in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

* * * * *

[FR Doc. 93–31098 Filed 12–23–93; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 417

[OCC–031–P]

RIN 0938–AF98

Medicare Program; Retroactive Enrollment and Disenrollment in Risk Health Maintenance Organizations and Competitive Medical Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would specify additional circumstances under which we would make retroactive adjustments in payment for certain enrollees in health maintenance organizations (HMOs) and competitive medical plans (CMPs) with Medicare risk contracts. The rule would also provide for retroactive disenrollment of Medicare enrollees of risk HMOs and CMPs under certain circumstances. The first change would implement section 4204(e) of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90). The retroactive enrollment provision would ensure that a Medicare risk HMO or CMP is not penalized if there is a delay of up to 90 days between the time that a beneficiary enrolls in the HMO or CMP through an employer group health benefits plan and the time that the HMO or CMP is informed of the enrollment and notifies HCFA. The second change establishes an administrative mechanism to protect certain Medicare enrollees that are enrolled in a Medicare risk HMO or CMP against liability if they obtain out-of-network services without authorization. Payment by either the HMO or CMP or by Medicare would normally be precluded in that situation. However, if we determine that a Medicare enrollee did not make a fully informed decision to enroll, a disenrollment request was not properly processed, or the enrollee has lost the capacity to understand the limitations on services and can be deemed to have requested disenrollment, retroactive disenrollment would be considered.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on February 25, 1994.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: OCC–031–P, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your comments (1 original and 3 copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or
Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OCC–031–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–690–7890).

If you wish to submit comments on the information collection requirements contained in this proposed rule, you may submit comments to: Allison Herron Eydt, HCFA Desk Officer, Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tracy Jensen, (202) 619–2158.

SUPPLEMENTARY INFORMATION:

I. Background

A. Retroactive Enrollment

Section 1876 of the Social Security Act (the Act) provides that enrollees who are entitled to Medicare benefits under both parts A and B or under only part B may elect to receive those benefits through either a health maintenance organization (HMO) or a competitive medical plan (CMP) that has entered into a risk contract with us.

Some Medicare beneficiaries who enroll in HMOs and CMPs are already enrolled in health benefit plans sponsored by their or their spouse's employers, or former employers. Although we process each enrollment in a Medicare risk HMO or CMP on an individual basis, an HMO or CMP may act as an intermediary between us and employer group enrollees. The former employer often pays all or a portion of the monthly premium to the HMO or CMP and is responsible for informing the HMO or CMP that the Medicare enrollee has enrolled in a risk plan. The HMO or CMP then notifies us. For purposes of discussion in this proposed rule, we use the term "Medicare enrollee" to mean a Medicare beneficiary enrolled in a Medicare risk HMO or CMP. However, when it is not clear about the beneficiary's status as an enrollee in an HMO or CMP we use the term "beneficiary".

Most employers report these Medicare enrollments to HMOs or CMPs after the requested effective date, often with delays of as much as 3 months. Despite these delays, employers expect HMOs or CMPs to make Medicare enrollment effective as of the requested date (as the HMO or CMP does for non-Medicare eligible employees). For non-Medicare enrollees, the employer retroactively furnishes the capitation payments that are due to the HMO or CMP for the earlier months, and the HMO or CMP accepts responsibility for providing medical care to the enrollee as of the requested effective date. However, Medicare currently enrolls beneficiaries in HMOs or CMPs only prospectively and could not pay the HMO or CMP retrospective capitation payments. Thus, unless the HMO or CMP bills Medicare on a fee-for-service basis, the plan forgoes Medicare payment until the Medicare enrollment is reflected in our records. While Medicare payment is easily arranged for certain services (such as hospital services), some HMOs or CMPs do not have the administrative systems to bill on a fee-for-service basis for outpatient or ancillary services. Essentially, this forces an HMO or CMP to absorb costs for ambulatory care until the Medicare enrollee is officially enrolled. This risk serves as a disincentive for HMOs or CMPs to enroll Medicare enrollees through employer groups.

Section 4204(e) of Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) amended section 1876(a)(1)(E) of the Act. Section 1876(a)(1)(E)(ii)(I) authorizes the Secretary to make retroactive adjustment of capitation payments to risk HMOs or CMPs to reflect enrollments in the HMO or CMP that occurred up to 90 days earlier through a health benefit plan operated, sponsored, or contributed to, by an enrollee's employer or former employer (or the employer or former employer of the enrollee's spouse). Section 1876(a)(1)(E)(ii)(II) requires, as a condition for retroactive adjustment, that an enrollee certify that he or she was provided with the explanation required by section 1876(c)(3)(E) of the Act at the time of enrollment in the HMO or CMP through the employee group health benefits plan. Section 1876(c)(3)(E) requires that the HMO or CMP furnish each enrollee, at the time of enrollment and not less frequently than annually thereafter, an explanation of the enrollee's rights under section 1876, including an explanation of—

- The enrollee's rights to benefits from the HMO or CMP;
- The restrictions on Medicare payments for services furnished other than by or through the HMO or CMP;
- Out-of-area coverage provided by the HMO or CMP;
- The HMO's or CMP's coverage of emergency services and urgently needed care; and
- Enrollee appeal rights.

For purposes of a retroactive enrollment adjustment under section 1876(a)(1)(E)(ii)(I), a beneficiary is considered to be enrolled in the Medicare risk HMO or CMP at the time that the employer group health benefit plan receives both the enrollment application and the beneficiary's certification, that the explanation required under section 1876(c)(3)(E) was received.

B. Retroactive Disenrollment

Section 1876(c)(3)(B) of the Act establishes procedures for Medicare enrollees to disenroll from HMOs or CMPs that have contracts with us. Regulations at 42 CFR 417.460 provide that a Medicare enrollee may disenroll through a social security office or by giving the HMO or CMP a signed, dated request. The enrollee may request a specific disenrollment date, but it may not be any earlier than the first day of the month following the month the request is received by the HMO or CMP. An HMO or CMP must furnish the beneficiary with a copy of the written disenrollment request, and an HMO or CMP that contracts on a risk basis must also furnish a written statement explaining that benefits must be received through the HMO or CMP until the effective date of the termination. Our responsibility to pay the HMO or CMP ends upon termination of the beneficiary's enrollment in the health plan.

Current regulations provide for disenrollment on a prospective basis only, usually at the request of the beneficiary. The beneficiary may not actually be disenrolled any earlier than the first day of the month following the date on which the disenrollment request was received by the HMO or CMP. Section 417.460(a) generally prohibits an HMO or CMP from encouraging or requesting that an enrollee disenroll. However, regulations at § 417.460 identify a limited number of situations in which an HMO or CMP may initiate disenrollment procedures. These situations include when a beneficiary—

- Fails to pay premiums;
- Moves out of the service area;
- Fails to convert from a cost contract (under section 1876(h) of the Act) to a risk contract;
- Commits fraud or abuse; or
- Loses Part B entitlement.

An HMO or CMP may also initiate disenrollment procedures "for cause" if a beneficiary's behavior is disruptive, unruly, or uncooperative to the extent that continued membership would seriously impair the HMO's or CMP's ability to furnish services to the beneficiary or to other enrollees. If an HMO or CMP initiates the disenrollment, appropriate notification, including an explanation of the enrollee's right to a hearing under the HMO's or CMP's grievance procedures, must be given to the beneficiary.

"For cause" disenrollments must be fully documented by the HMO or CMP, and we must determine whether the disenrollment requirements have been met. If we decide to permit disenrollment by the HMO or CMP, the effective date of disenrollment is the first day of the calendar month following notification to the enrollee.

There are three situations in which we consider retroactive disenrollment from a Medicare risk HMO or CMP to be an appropriate option to protect the Medicare enrollee. In each of these situations, retroactive disenrollment determinations are based on the specific facts of each case. The three situations follow:

- *Processing Errors.* Retroactive adjustments may be made if a Medicare enrollee properly requests a disenrollment, but the request is not processed on a timely basis. The statute gives these enrollees an unqualified right to disenroll, effective the first of the month following the date the request is made. We believe this right should not be affected by administrative errors or negligence on the part of HCFA, SSA, the HMO or CMP, or an employer. A common example is an enrollee who submits a termination request through his or her employer, but whose HMO doesn't receive the request in time to process the disenrollment before the requested termination date. Unlike other Medicare enrollees for whom Medicare is the sole health care insurer, Medicare enrollees who are simultaneously covered under retiree health plans generally make disenrollment elections through the former employer and not directly to the HMOs or CMPs. It is an employer's responsibility to furnish information to an HMO or CMP concerning an enrollee's health plan elections, but this is not always done on a timely basis. In this example, although the enrollee made the election to disenroll and understood that he or she

would not be an enrollee of the HMO or CMP as of a certain date, according to our records the enrollee is still enrolled in the HMO or CMP and subject to the "lock-in" restriction (requiring that most services be obtained through the HMO or CMP). Other examples of processing errors would include the following:

—HCFA's Hospital Insurance records are not current and the enrollee's Medicare eligibility is not on record
—SSA has not accurately entered the disenrollment
—SSA record errors are reflected in HCFA records
—The plan transposes a beneficiary Health Insurance Claim number and transmits the erroneous information to HCFA

• *Invalid enrollment.* If an enrollee never intended to enroll, or did not make a fully informed decision to enroll in an HMO or CMP, this could be grounds for retroactive disenrollment. It is necessary that the enrollee be retroactively disenrolled as of the date of enrollment in order for the proper payment to be made and for our records to be corrected. Indications of an invalid enrollment may include a beneficiary's—

—Inquiry to us questioning enrollment upon receipt of the lock-in notice;
—Failure to pay any premiums to the HMO or CMP;
—Continuing supplemental (Medigap) insurance coverage after the effective date of HMO or CMP enrollment; or
—Enrolling in a supplemental insurance program immediately after enrolling in the HMO or CMP.

Note: Section 1882(d)(3)(A) of the Act prohibits an insurer from knowingly issuing a supplemental health insurance policy to a Medicare beneficiary if the policy duplicates existing coverage. The insurer may rely on information about other sources of coverage provided by the beneficiary as part of the application. Therefore, determination of the validity of a beneficiary's enrollment in an HMO or CMP, for the purpose of retroactive adjustment, may be based in part on the information that the beneficiary includes or omits from the Medicare supplemental insurance application.

Another situation that may constitute an invalid enrollment, depending on the specific circumstances, is illustrated by the following example: A beneficiary enrolls in an HMO or CMP in September 1991 and pays a $50 premium each month, but he or she does not use the HMO's or CMP's providers. In November 1991, the beneficiary enters a hospital not affiliated with the HMO or CMP to have major surgery that has not been authorized by the HMO or CMP. The hospital and physicians submit $25,000 in claims to Medicare, but the claims are denied. Since the enrollee is locked-in to the HMO's or CMP's providers, the claims are sent to the HMO or CMP. When the HMO or CMP notifies the beneficiary that the services were not covered and that he or she is financially responsible for the full cost of the services, the beneficiary expresses surprise and confusion and claims that he or she did not know that there were lock-in and preauthorization requirements. If, based on available evidence, we determine that the enrollee had never understood the requirements and had not made an informed decision to enroll or to abide by the HMO's or CMP's rules, the enrollee may be retroactively disenrolled as of the date of enrollment, and the bills processed through fee-for-service Medicare.

• *Incapacitation.* If beneficiaries properly enroll in an HMO and at some later point become incapable of understanding the lock-in restrictions or other HMO rules. One example of incapacity might be generalized disorientation exhibited by an enrollee who has been using plan providers for 2 or 3 years and then suddenly begins to regularly use non-plan providers. Another instance when an incapacitated beneficiary might be a candidate for retroactive disenrollment would be when he or she demonstrates an inability to understand HMO rules by failing to pay premiums even after explicit notification and collection efforts. (Current regulations permit HMOs and CMPs to initiate disenrollment for non-payment of premiums, but there is no authority to require plans to take action against delinquent beneficiaries.) In these situations, beneficiaries may be financially liable for unauthorized, nonemergency services provided by out-of-plan providers. To prevent such liability in the case of incapacitated beneficiaries, retroactive disenrollment determinations may be made by the Secretary on a case-by-case basis.

Although retroactive disenrollments are not specifically authorized by statute, section 1876(c)(3)(B) of the Act states in part:

> An individual * * * may terminate his enrollment * * * as of the beginning of the first calendar month following the date on which the request is made for such termination (or, in the case of financial insolvency of the organization, as may be prescribed by regulations) or, in the case of such an organization with a reasonable cost reimbursement contract, as may be prescribed by regulations.

The phrase "as may be prescribed in regulations" gives us the authority to prescribe the manner in which an enrollee may disenroll from an HMO or CMP that has a cost contract or has become insolvent. However, with respect to the manner in which an enrollee may disenroll from an HMO or CMP with a risk contract, the statute specifies that an enrollee may terminate enrollment in an HMO or CMP prospectively "as of the beginning of the first calendar month following the date on which the request is made for such termination". Thus, our authority with respect to disenrollment from a risk HMO or CMP is not as flexible.

However, we believe that we may interpret the phrase "the date on which the request is made" (to disenroll) to afford some relief in this situation. For example, if a person went to a nonplan provider, we can make a determination of whether that person should be deemed to have made a request for disenrollment. If, on a case-by-case basis, we determine that there was earlier out-of-plan services or that there was another basis for deeming that the person had previously requested disenrollment, the enrollee can be disenrolled following the date that the request to disenroll is made.

We will review each retroactive disenrollment request to determine whether the evidence supports a retroactive adjustment. Disenrollments are expected to be infrequent and are considered to be exceptions to normal HMO and CMP enrollment and disenrollment practices. If we identify a pattern of cases referred to us for retroactive disenrollments, we may initiate a review of an HMOs or CMPs marketing practices and enrollment policies.

II. Provisions of the Proposed Regulations

In § 417.448 ("Restriction on payments for services received by Medicare enrollees of risk HMOs or CMPs."), we would revise paragraph (c) to provide uniform terminology and, we would revise paragraph (d) to stipulate that, if an enrollee disenrolls or is retroactively disenrolled by us, the effective date for the end of restriction on payments is the first day of the month that the disenrollment is effective, as provided in § 417.461(d) or § 417.462(b), regarding disenrollment by the enrollee or retroactive disenrollment. For enrollees who leave the HMO's or CMP's geographic area, the restriction ends the first day of the first month following the month in which the enrollee notifies the HMO or CMP that he or she has left the area, as required by § 417.436(a)(9).

In § 417.450 ("Effective date of coverage."), we would amend paragraph (b) by adding a new paragraph (3), which would state that, if notice of enrollment through an employer health benefits plan is delayed, and the risk HMO or CMP meets the conditions for payment specified in § 417.584(e), coverage may be effective, on the date requested by the beneficiary or up to 90 days before we receive the notice of enrollment, whichever is later, provided the risk HMO or CMP meets the conditions for payment as specified in § 417.584(e).

In § 417.456, ("Refunds to Medicare enrollees."), we would amend paragraph (f) to include a reference to the proposed new paragraph (g). The new paragraph (g) would state that an HMO or CMP must refund premiums, deductibles, or copayments collected from an enrollee during the period that we grant retroactive disenrollment. If the HMO or CMP is entitled to collect from the enrollee Medicare deductible and coinsurance amounts for services furnished during the period of retroactivity, it may offset the amounts it may collect against the amounts it must refund. The HMO or CMP must make refunds in lump sum payment to the former enrollee or to his or her representative within 1 month of the date of our notice to the plan.

In § 417.460 ("Disenrollment of beneficiaries at termination of payments to an HMO or CMP."), we would revise paragraph (a) and remove paragraphs (b) and (c). We would redesignate paragraph (a)(1) as new paragraph (c). We would add a new paragraph (b) to specify the bases for disenrollment. Generally, an HMO or CMP may disenroll a Medicare enrollee if he or she fails to pay the required premiums or other charges, commits fraud or permits abuse of his or her enrollment card, or behaves in a manner that seriously impairs the ability of the HMO or CMP to furnish services to the particular enrollee or other enrollees. Generally, an HMO or CMP must disenroll a Medicare enrollee if he or she moves out of the service area served by the HMO or CMP, fails to convert to the risk provisions of the HMO's or CMP's Medicare contract, loses entitlement to Medicare Part B benefits, or dies. Specific requirements, limitations, and exceptions applicable to disenrollment are set forth in paragraphs (c) through (i) of § 417.460.

We would revise redesignated paragraph (c)(1)(i) to require that an HMO or CMP make a reasonable effort to collect overdue premiums from the enrollee before taking an involuntary disenrollment action. The reasonable effort must include sending the beneficiary a notice of delinquency within 15 days of the premium due date warning that nonpayment of premiums does not constitute disenrollment and explaining that the enrollee is still locked-in until the enrollment is officially terminated. The HMO or CMP may terminate the beneficiary's enrollment if the beneficiary does not pay the premium within 45 days of the date the delinquency notice is sent by the HMO or CMP.

This provision is intended to minimize the need for retroactive disenrollments and protect beneficiaries from out-of-plan service expenses. In the past, Medicare beneficiaries have stopped paying premiums with the expectation that they would be automatically disenrolled and returned to fee-for-service Medicare. In some cases, the HMO or CMP did not disenroll the beneficiaries, even though the HMO or CMP was permitted under the regulations to begin involuntary disenrollment procedures. These beneficiaries began using non-HMO or non-CMP providers, and the claims were subsequently denied by Medicare. We propose to require HMOs and CMPs to initiate disenrollment procedures to reduce instances when beneficiaries, who believe they are no longer enrollees and use non-plan providers, are liable for cost of those services. Requiring plans to give the beneficiary notice and wait at least 45 days before terminating enrollment, would ensure that the beneficiary has ample opportunity to indicate a desire to remain enrolled in the HMO or CMP.

We would revise redesignated paragraph (c)(2)(ii) to make a conforming change. This paragraph currently states that disenrollment is effective no earlier than the month immediately after, and no later than the third month after, the month that we receive the disenrollment notice in acceptable form. We would add the phrase "except as provided in § 417.462 for retroactive disenrollment".

We would move provisions from § 417.460(b) regarding disenrollment by the enrollee to new § 417.461. Paragraph (a) states that a Medicare enrollee may disenroll at any time by giving the HMO or CMP a signed, dated request in the form and manner prescribed by the HMO or CMP. The enrollee may request a certain disenrollment date, but unless we grant a retroactive disenrollment in accordance with § 417.462, the effective disenrollment date may be no earlier than the first day of the month following the month in which the HMO or CMP receives the request.

New paragraph (d)(2), which would state that, in the case of a retroactive disenrollment under § 417.462, our responsibility for payment to the HMO or CMP is limited to only those months that the enrollee is shown on our corrected records as having been enrolled in the HMO or CMP.

We would add a new § 417.462 ("Retroactive disenrollment."). In paragraph (a), we would set forth the following three conditions for retroactive disenrollment:

• There was a valid request for disenrollment but, negligence or administrative error by HCFA, SSA, the employer who sponsors the employee health benefits plan, or the HMO or CMP, delayed timely processing of the request.

• There was never a valid enrollment. If we determine that a beneficiary had not made a fully informed decision to enroll in an HMO or CMP (for example, had enrolled without understanding the HMO's or CMP's rules and restrictions), he or she may be retroactively disenrolled. Examples of indications of an invalid enrollment are if no premiums were ever paid to the HMO or CMP, if the beneficiary continued to pay for supplemental coverage, or if the beneficiary never used the HMO's or CMP's providers.

• There was a valid enrollment but the beneficiary later became incapable of understanding the lock-in restriction and other rules and could be considered to have requested disenrollment.

In paragraph (b) of the proposed § 417.462, we would set forth rules regarding the effective dates of retroactive disenrollment as follows:

• If an error or negligence delayed processing a valid request, disenrollment is effective as of the first day of the month that it would have been effective if the error or negligence had not occurred.

• For retroactive disenrollments made because there was never a valid enrollment, the effective date of the disenrollment is the initial enrollment date.

• If the beneficiary has become incapable of understanding the rules, disenrollment is effective as of the first day of the month after the month in which we determine that the beneficiary can be considered to have requested disenrollment.

We would redesignate § 417.460(c) concerning the effect of termination or default of the contract between HCFA and an HMO or CMP as new § 417.464.

In § 417.584, ("Payment to risk HMOs and CMPs."), we would revise the section title and add a new paragraph (e) that would state that, if a beneficiary

enrolls in a risk HMO or CMP through an employer health benefits plan we might not be notified of the enrollment until the requested enrollment date has passed. We may make payments retroactive to the requested enrollment date, or 90 days before receipt of the notice, whichever is later, provided the HMO or CMP obtains and keeps on file a statement signed by the enrollee indicating that he or she received the information required under § 417.436 including an explanation of the following:

- All services except emergency and urgently needed out-of-area services must be obtained through the HMO or CMP.
- The cost of services (other than emergency and urgently needed out-of-area services) that are not authorized by the HMO or CMP are not paid by the employer or the HMO or CMP or under the Medicare fee-for-service system and are the responsibility of the enrollee.

We would also specify that the HMO or CMP must reimburse us for Medicare fee-for-service payments it received for furnishing services to the enrollee during the period for which payment is adjusted.

III. Information Collection Requirements

Regulations at § 417.584(e)(1)(ii) contain information collection or recordkeeping requirements or both that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The information collection requirements are imposed on the HMO or CMP. The HMO or CMP is required to obtain and keep on file a statement signed by the enrollee indicating that he or she received the information required under § 417.436 pertaining to membership rules for enrollees. The respondents who will furnish the information would be enrollees of HMOs and CMPs. Public reporting burden for this collection of information is estimated to be negligible. Assuming that the membership rules specified under § 417.436 are currently distributed by HMOs and CMPs to employer group plan clients, the only additional requirement is that the beneficiary's certification of receipt of that information at the time of enrollment is retained by the HMO or CMP. A brief directive from HMOs and CMPs to employer group plans should be adequate to facilitate collection and transmittal of information required under § 486.584. A notice will be published in the **Federal Register** after approval is obtained. HMOs or CMPs and enrollees desiring to submit comments on the information collection and recordkeeping requirements should direct them to the OMB official whose name appears in the "**ADDRESSES**" section of this preamble.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "**DATES**" section of this preamble, and, if we proceed with a final rule, we will respond to the comments in the preamble of that rule.

VI. Regulatory Impact Statement

Executive Order 12866 (E.O. 12866) requires us to prepare an analysis for any document that meets one of the E.O. 12866 criteria for a "significant regulatory action"; that is, that may—

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all risk HMOs and CMPs are considered to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This proposed rule would conform Medicare regulations to section 1876(a)(1)(E) of the Act, which was amended by section 4204(e) of OBRA '90. Section 4204(e) of OBRA '90 permits payments to a risk HMO or CMP to be retroactively adjusted to reflect enrollments in the HMO or CMP through an employer group health benefits plan that occurred up to 90 days earlier. This proposed rule would also set forth certain provisions regarding retroactive disenrollment, allowing us to make administrative adjustments when errors are discovered.

There are currently 1.6 million beneficiaries enrolled in Medicare risk HMOs and CMPs, some of whom could be affected by this proposed rule. Historically, the annual number of retroactive enrollments is very small. During a 3-month period in 1992, there were 1,441 beneficiaries enrolled retroactively, but only 7 percent of those had claims activity prior to being officially enrolled in a Medicare risk plan. Because some managed care HMOs or CMPs are not set up to bill on a fee-for-service basis, this proposed rule could result in retroactive capitation payments to HMOs and CMPs that were forgoing Medicare fee-for-service payments. HMOs or CMPs that were billing and receiving fee-for-service payments would be required to reimburse or offset any fee-for-service payments. This regulation would create additional work and costs for the intermediaries and carriers. Since the number of retroactive enrollments and disenrollments is small, we believe the additional costs to the intermediaries and carriers would be minimal. We estimate the additional total expenditures, including additional costs to Medicare carriers and intermediaries, would be approximately $5 million annually for fiscal years 1994 through 1998.

We believe that the impact of retroactive disenrollment adjustments would be negligible because of the relatively small number of beneficiaries affected and our ability to adjust the capitated payments to HMOs and CMPs retroactively.

This proposed rule would not meet the $100 million criterion nor would it meet the other E.O. 12866 criteria. Therefore, this proposed rule is not a significant regulatory action under E.O. 12866, and a regulatory impact analysis is not required.

This proposed rule would increase payments to those HMOs and CMPs that were not set up to bill on a fee-for-service basis and consequently absorbed the costs for ambulatory services until the Medicare beneficiary was officially enrolled and the HMO started to receive capitation payments. Because the number of retroactive enrollments and disenrollments is low, this proposed rule would have a limited effect on HMOs and CMPs. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act since we have determined, and the Secretary certifies, that this proposed rule would not result in a significant economic impact on a substantial number of small entities and would not have a significant impact on the operations of a substantial number of small rural hospitals.

List of Subjects in 42 CFR Part 417

Administrative practice and procedure, Grant programs-health, Health care, Health facilities, Health insurance, Health maintenance organizations (HMOs), Loan programs-health, Medicare, Reporting and recordkeeping requirements.

We are proposing to amend 42 CFR part 417 as set forth below:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

1. The authority citation for part 417 continues to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1866(a), 1871, 1874, and 1876 of the Social Security Act (42 U.S.C. 1302, 1395l(a)(1)(A), 1395x(s)(2)(H), 1395cc(a), 1395hh, 1395kk, and 1395mm); sec. 114(c) of Pub. L. 97-248 (42 U.S.C. 1395mm note); 31 U.S.C. 9701 and secs. 215 and 1301 through 1318 of the Public Health Service Act (42 U.S.C. 216 and 300e through 300e-17), unless otherwise noted.

Subpart K—Enrollment, Entitlement, and Disenrollment Under Medicare Contract

2. In § 417.448, paragraphs (c) and (d) are revised to read as follows:

§ 417.448 Restriction on payments for services received by Medicare enrollees of risk HMOs or CMPs.

* * * * * *

(c) *End of restriction.* The restriction on payments imposed by paragraph (a) of this section ends if a Medicare enrollee meets one of the following conditions:

(1) Is disenrolled according to § 417.460, § 417.461, or § 417.462.

(2) Leaves the HMO's or CMP's geographic area for an extended period as defined in § 417.460(a)(2) and the HMO, CMP and enrollee make arrangements for membership to continue as provided in § 417.460(a)(2)(iv).

(d) *Timing.* For enrollees that are disenrolled, the effective date for the end of the restriction on payments, as discussed in paragraph (c) of this section, is the first day of the month in which termination of enrollment is effective as provided in § 417.460, § 417.461, or § 417.462. For enrollees who leave the HMO's or CMP's geographic area, the restriction ends the first day of the first month following the month in which the enrollee notifies the HMO or CMP that he or she has left the area, as required by § 417.436(a)(9).

3. Section 417.450 is amended by adding a new paragraph (b)(3) to read as follows:

§ 417.450 Effective date of coverage.

* * * * * *

(b) *Exceptions.* * * *

(3) If an individual enrolls through an employer health benefits plan, but notice to HCFA is delayed, coverage may be effective on the date requested by the beneficiary or up to 90 days before HCFA receives the notice of enrollment, whichever is later, provided the risk HMO or CMP meets the conditions for payment as specified in § 417.584(e).

* * * * * *

4. In § 417.456, paragraph (f) is revised, and a new paragraph (g) is added, to read as follows:

§ 417.456 Refunds to Medicare enrollees.

* * * * *

(f) *Reduction by HCFA.* If the HMO or CMP does not make refund in accordance with paragraphs (b) through (d) and (g) of this section by the end of the contract period following the contract period during which an amount was determined to be due an enrollee, HCFA reduces its payment to the HMO or CMP by the amount incorrectly collected or otherwise due and arranges for the amount to be paid to the Medicare enrollee.

(g) *Refund in the case of retroactive disenrollment.* An HMO or CMP must refund premiums, copayments, and any other cost-sharing amounts collected from the enrollee, in accordance with § 417.454(a)(1), during the period for which HCFA grants retroactive disenrollment. If the HMO or CMP is entitled to collect from the enrollee Medicare deductible and coinsurance amounts for services furnished during the period of retroactivity, it may offset the latter against the amounts it would otherwise be required to refund. The HMO or CMP must make refunds in lump sum payment to the former enrollee or to his or her representative within 1 month of the date of HCFA's notice to the plan.

5. Section 417.460 is revised to read as follows:

§ 417.460 Disenrollment of beneficiaries and termination of payments to an HMO or CMP.

(a) *General rule.* Except as provided in paragraphs (b) through (i) of this section, an HMO or CMP may not—

(1) Disenroll a Medicare beneficiary; or

(2) Orally or in writing, or by any action or inaction, request or encourage a Medicare enrollee to disenroll.

(b) *Bases for disenrollment: Overview.* (1) Generally, an HMO or CMP may disenroll a Medicare enrollee if he or she meets any of the following conditions:

(i) Fails to pay the required premiums or other charges.

(ii) Commits fraud or permits abuse of his or her enrollment card.

(iii) Behaves in a manner that seriously impairs the ability of the HMO or CMP to furnish services to the particular enrollee or other enrollees.

(2) Generally, an HMO or CMP must disenroll a Medicare enrollee if he or she meets any of the following conditions:

(i) Moves out of the area served by the HMO or CMP.

(ii) Fails to convert to the risk provisions of the HMO's or CMP's risk contract.

(iii) Loses entitlement to Medicare Part B benefits.

(iv) Dies.

(3) Specific requirements, limitations, and exceptions applicable to disenrollment are set forth in paragraphs (c) through (i) of this section.

(c) *Failure to pay premiums*—(1) *Basic rules.* (i) An HMO or CMP must make a reasonable effort to collect premiums or other charges imposed for deductible or coinsurance amounts for which the enrollee is responsible.

(ii) A reasonable effort includes a written notice to the enrollee within 15 days of the date that the delinquent charges were due to the HMO or CMP. The written notice must include the following:

(A) Notification that nonpayment of premiums will not automatically result in disenrollment.

(B) Information about how to disenroll from the HMO or CMP, including submitting a written request for disenrollment to the plan or disenrolling in person at a social security office.

(C) Information about the lock-in requirements of the plan, including a warning to the enrollee that he or she may be liable for health care expenses if services are not obtained through the plan service network.

(iii) The HMO or CMP may not involuntarily disenroll a Medicare enrollee if payment for premiums or other charges is received within 45 days of the date that the notice described in paragraph (c)(1)(ii) of this section is sent to the beneficiary.

(2) *When HCFA's liability ends.* Except as provided in § 417.462 for retroactive disenrollment, disenrollment is effective no earlier than the month immediately after, and no later than the third month after, the month in which HCFA receives the disenrollment notice in acceptable form.

6. Section 417.461 is added to read as follows:

§ 417.461 Disenrollment by the enrollee.

(a) *Enrollee's request.* (1) A Medicare enrollee may disenroll at any time by submitting a signed, dated request in the form and manner prescribed by the HMO or CMP.

(2) The enrollee may request a particular disenrollment date but, unless HCFA authorizes retroactive disenrollment in accordance with § 417.462, that date may be no earlier than the first day of the month following the month in which the HMO or CMP receives the request.

(b) *Responsibilities of the HMO or CMP.* The responsibilities of the HMO or CMP include the following:

(1) Submit a disenrollment notice to HCFA promptly.

(2) Provide the enrollee with a copy of his or her request for disenrollment.

(3) In the case of a risk HMO or CMP, provide the enrollee with a statement explaining that—

(i) Enrollment continues until the effective date of disenrollment; and

(ii) The payment restrictions specified in § 417.448(a) continue to apply until that date.

(c) *Effect of failure to submit disenrollment notice promptly.* If the HMO or CMP fails to submit the correct and complete notice required in paragraph (b)(1) of this section on a timely basis, it must reimburse HCFA for any capitation payments received after the month in which payments would have ceased if the requirement had been met timely.

(d) *When HCFA's responsibility for payment ends.* (1) HCFA's responsibility for payments to the HMO or CMP ends no earlier than the month immediately after the month in which HCFA receives the disenrollment notice in acceptable form.

(2) In the case of retroactive disenrollment under § 417.462, HCFA's responsibility for payment to the HMO or CMP is limited to only those months in which the individual is shown on HCFA's corrected records as having been enrolled in the HMO or CMP.

7. A new § 417.462 is added, to read as follows:

§ 417.462 Retroactive disenrollment.

(a) *Bases for retroactive disenrollment.* HCFA may grant retroactive disenrollment if it determines that any of the following situations exist:

(1) There was a valid request for disenrollment but, through error or negligence by HCFA, SSA, the employer who sponsors the employee health benefits plan, or the HMO or CMP, the request was not processed timely.

(2) There was never a valid enrollment, that is, the beneficiary never made a fully informed decision to enroll in the HMO or CMP. (For example, the beneficiary enrolled without understanding the rules and restrictions that apply to enrollees.) Indications of lack of understanding and, therefore, of an invalid enrollment include the following patterns of behavior by the beneficiary:

(i) Failing to pay premiums or other charges imposed by the HMO or CMP.

(ii) Continuing to pay for supplemental coverage insurance.

(iii) Failing to use the providers and suppliers affiliated with the HMO or CMP.

(3) There was a valid enrollment but HCFA determined that the beneficiary later became incapable of understanding the lock-in restriction and other rules.

(b) *Effective date of retroactive disenrollment.* The effective date of retroactive disenrollment is as follows:

(1) If error or negligence delayed processing a valid request, disenrollment is effective as of the first day of the month for which it would have been effective if the error or negligence had not occurred.

(2) If there was never a valid enrollment, disenrollment is effective as of the initial enrollment date.

(3) If the beneficiary has become incapable of understanding the rules, disenrollment is effective as of the first day of the month after the month in which HCFA determines that the beneficiary can be considered to have requested disenrollment.

10. Section § 417.464 is added, to read as follows:

§ 417.464 Effect of termination or default of contract.

(a) *Termination of contract.* If the contract between HCFA and the HMO or CMP is terminated by mutual consent or by unilateral action of either party, HCFA's liability for payments ends as of the first day of the month after the last month for which the contract is in effect.

(b) *Default of contract.* If the HMO or CMP defaults on the contract before the end of the contract year because of bankruptcy or other reasons, HCFA will—

(1) Determine the month in which its liability for payments ends; and

(2) Notify the HMO or CMP and all affected Medicare enrollees as soon as practicable.

Subpart P—Medicare Payment: Risk Basis

11. In § 417.584, the headings of the section and of paragraph (c) are revised, and a new paragraph (e) is added, to read as follows:

§ 417.584 Payment to risk HMOs and CMPs.

* * * * *

(c) *Adjustments to payments: General rule.*

* * * * *

(e) *Adjustments to payments: Special requirements for delayed notice of enrollment.* If a beneficiary enrolls in a risk HMO or CMP through an employer health benefits plan, HCFA might not be notified of the enrollment until the requested enrollment date has passed. HCFA may make payments retroactive to the requested enrollment date or 90 days before receipt of the notice, whichever is later, provided the HMO or CMP meets the following requirements:

(1) Obtains and keeps on file a statement signed by the enrollee indicating that he or she received the information required under § 417.436 concerning membership rules for enrollees, including an explanation of the following:

(i) All services except emergency and urgently needed out-of-area services must be obtained through the HMO or CMP.

(ii) The cost of services, other than emergency and urgently needed out-of-area services, that are not authorized by the HMO or CMP are not paid by the employer or the HMO or CMP or under the Medicare fee-for-service system and are the responsibility of the enrollee.

(2) Reimburses HCFA for Medicare fee-for-service payments it received for services covered by the HMO or CMP and furnished to the enrollee during the period for which HCFA adjusts the payments.

(Catalog of Federal Domestic Assistance Programs No. 93.773, Medicare-Hospital Insurance, and 93.774, Medicare—Supplementary Medical Insurance.)

Dated: June 30, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: August 30, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93–31216 Filed 12–23–93; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 3

[MD Docket No. 93–297; FCC 93–502]

Administration of Accounting Authorities in Maritime Mobile and Maritime Mobile-Satellite Radio Services

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking establishes rules and regulations relating to the administration of accounting authorities in the maritime mobile and maritime mobile-satellite radio services except for distress and safety communications. The rules are required in order to ensure adherence to international settlement procedures.

DATES: Comments must be filed on or before February 3, 1994 and reply comments must be filed on or before February 18, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Shirley F. Wood, Financial Analysis Branch, Telephone: (202) 632–1027.

SUPPLEMENTARY INFORMATION:

The Establishment of Commission Rules concerning the Administration of Accounting Authorities in the Maritime Mobile and the Maritime Mobile-Satellite Radio Services Except for Distress and Safety Communications.

Adopted: November 19, 1993
Released: December 17, 1993
Comment Date: February 3, 1994
Reply Comment Date: February 18, 1994
By the Commission:

TABLE OF CONTENTS

Topic	Paragraph No.
I. Introduction	1
II. Background	2–17
III. General Discussion of the Proposed Rule	
IV. Procedural Matters	
V. Conclusion	56

I. Introduction

1. By this action we propose to establish regulations for the administration of accounting authorities in the maritime mobile and the maritime mobile-satellite radio services except for distress and safety communications. We seek comment on the proposals set forth here as well as alternative proposals that commenters may have.

II. Background

2. International telecommunications settlements involve the collection and payment by various accounting entities of charges due foreign administrations for messages transmitted at sea by or between maritime mobile stations located on board ships subject to U.S. registry and utilizing foreign coast and coast earth station facilities. The United States Government has performed accounting settlements for maritime mobile service message charges since 1913 and, more recently, for maritime mobile-satellite service messages. Under the provisions of Service Regulation XXXVI of the Berlin-Telegraph Convention of 1906 and the London Radiotelegraph Conference of 1912, to which the U.S. is a signatory, each Administration is required to provide for the collection of all tolls for the radiotelegraph traffic exchanged with stations of other Administrations. The proceedings of the London Convention Final Protocol (Part II Treaty Series, No. 58) were ratified by the Senate on July 8, 1913.

3. To comply with its treaty obligation, it became necessary for the U.S. to establish a clearinghouse to maintain accounts with each foreign administration concerned and with U.S. flag vessels operating in international or foreign waters. In accordance with Article XLII of the Service Regulations affixed to the London Conference, the Department of Commerce was authorized by the Senate to enforce all radio laws of the U.S. as well as the provisions of the Conference of 1912. By agreement between the Secretary of War, the Secretary of Commerce and the Secretary of State on March 19, 1913, the Navy Department was authorized to handle the settlement of international radio accounts.

4. On July 1, 1924, by authority of the General Appropriation Act of the Department of Commerce, FY 1925 (43 Stat. 220, Pub. L. 68–153—Title III), the personnel and equipment of the International Radio Accounting Unit, Navy Department, together with all outstanding accounts owed to foreign administrations were transferred to the Bureau of Navigation, Department of Commerce.

5. On February 23, 1927, the Radio Division of the Bureau of Navigation, where the international radio accounts due foreign administrations were being processed, was transferred from the Bureau of Navigation and put directly under the supervision of the Secretary of Commerce by the Radio Act of 1927 (Pub. L. 69–632). The Radio Division was subsequently abolished on July 10, 1932, and its duties, powers, personnel, equipment and records were transferred to the Federal Radio Commission by authority of Public Law 72–212 and by Executive Order 5892. The international radio accounts were, by this authority, put under the jurisdiction of the Federal Radio Commission where they remained until 1934.

6. On June 10, 1934, the Federal Radio Commission was absorbed by the Federal Communications Commission, which had been created by the Communications Act of 1934. Title VI, section 603 and section 604 of the Act provided for the transfer of all employees, records, property, authorities and appropriations from the Federal Radio Commission to the Federal Communications Commission. At that time the international radio accounts were transferred to the jurisdiction of the Commission, where they are now maintained.

7. The subjects of international telecommunications accounting and settlements are addressed in the International Telecommunication Convention (Nairobi, 1982), in the International Telecommunication Regulations (Melbourne, 1988) (ITR), in the ITU Radio Regulations and in the CCITT Recommendations.[1] The CCITT develops technical, operational and service recommendations applicable to essentially all international telecommunications services via wire and radio. Provisions of Conventions and Regulations have treaty status and are therefore binding on the parties thereto. The CCITT Recommendations do not have treaty status and are not legally binding. However, as a practical matter, the CCITT Recommendations are effectively the standards that govern international telecommunications.[2]

[1] "CCITT" is the French acronym for the International Telegraph and Telephone Consultative Committee within the International Telecommunication Union (ITU). "CCITT" is nevertheless the recognized acronym used in most languages—including English.

[2] At the ITU Additional Plenipotentiary Conference (APP) in Geneva (December 1992), the structure, working methods, and construct of the basic ITU treaty instrument were modified. The result from this is that the names of the sub-entities

Continued

VOL
58
ISS
2
4
6
DE
27
1993
UMI

8. Historically, most international settlements were handled solely between individual ship owners and foreign administrations or coast stations. This meant that, in most countries, there were literally thousands of addresses to which administrations would have to forward their invoices. A major exception was within the U.S. where the FCC had acted as a nationwide clearing house for the settlement of accounts since its inception in 1934.

9. The World Administrative Radio Conference (Geneva, 1979) changed the procedures governing accounting practices in the maritime mobile and maritime mobile-satellite services, partly in response to the perceived need to improve the efficiency of the international telecommunication settlements system. The Final Acts of the Conference, ratified by the U.S. Senate on October 27, 1983, revised Chapter IX of the International Radio Regulations by establishing a new Article 66 which set forth the following general principles to govern the international accounting for public correspondence in the maritime mobile and maritime mobile-satellite services:

5086 Section 2. Changes for radio communications from ship to shore shall in principle, and subject to national law and practice, be collected from the maritime mobile station licensee:

5087 (a) by the administration that has issued the license; or

5088 (b) by a recognized private operating agency; or

5089 (c) by any other entity or entities designated for this purpose by the administration referred to in No. 5087.

10. The Mobile World Administrative Radio Conference in 1987 passed a resolution (contained in the Regulations as Resolution No. 334) providing that the provisions of Article 66 should merely refer to the International Telecommunication Regulations (ITR), assuming that the World Administrative Telegraph and Telephone Conference (WATTC–88) placed the substance of the Article 66 provisions into the ITR. The WATTC–88 did incorporate these provisions into the ITR (effective July 1, 1990). We assume a future competent Radiocommunication Conference will eventually implement the provisions of Resolution No. 334. In any event, both the current Radio Regulations and the ITR provide that the CCITT Recommendations are to be taken into account when applying the international regulatory provisions. As it now stands, the implementing recommendations developed by the CCITT include:

(1) Rec. D.90 on charging, accounting and refunds;

(2) Rec. D.195 on settlement of international telecommunication balances of accounts;

(3) Rec. E.200 on operational provisions for maritime mobile services;

(4) Rec. F.100 on mobile operational provisions; and

(5) the newest recommendation adopted, Rec. F.111 on principles of service for mobile systems.

11. The organization within the FCC responsible for the settlement of maritime mobile and maritime mobile-satellite accounts with foreign administrations is the International Telecommunications Settlements (ITS) Section of the Financial Management Division, Office of Managing Director. The settlement operation basically consists of examining and processing invoices received from foreign administrations to ensure the validity of the charges and, in turn, billing U.S. shipowners for the charges due the foreign country. The accounts generally contain the ship call sign and name, the date the message was transmitted, the number of words or minutes, the cost per word or minute in gold francs or Special Drawing Rights (SDRs) and the amount due shown in either gold francs or SDRs. Collections are then processed and appropriate payments made to the foreign countries or their agents through the U.S. Treasury. The Commission, as one of 15 Accounting Authorities currently recognized by the FCC, expects to process 340,000 separate charges from as many as 100 entities during the next twelve months, with estimated collections totaling $12.0 million. The settlement clearinghouse service was performed by the FCC at no cost to licensees until December 19, 1989 when Pub. L. 101–239 established a $2.00 per line item administrative fee applicable to all ITS billings.

12. The FCC, in accordance with international procedures described infra, has also permitted private entities, called "accounting authorities", to settle accounts between U.S. registered ships and foreign administrations just as the Commission does. (See In The Matter of Accounting and Operating Procedures in the Maritime Mobile Service, FCC 80–741, Mimeo No. 28600 (released December 12, 1980).) In addition, the accounting authority may settle accounts of foreign licensed vessels either exclusively or in addition to settling U.S. accounts. Vessel operators/licensees choosing to have these private entities settle their accounts and generally also charged a fee under some sort of contractual arrangement. In certain cases, the vessels are owned and/or operated by the same company that is acting as an accounting authority.

13. Accounting authorities have been established or certified by the Commission in accordance with the procedures delineated in the CCITT Recommendations. Those procedures allow administrations to establish up to 25 accounting authorities per country. Specifically, accounting authorities are designated by the assignment of an Individual Accounting Authority Identification Code (AAIC). This code is used by ships and foreign coast stations to identify where charges for messages transmitted through foreign facilities are to be sent for collection. All accounting authorities approved by the Commission to settle maritime accounts for U.S. licensed vessels are assigned a discrete four-character alpha-numeric code. Accounting authorities operating in the U.S. are assigned codes with a "US" prefix. Currently, only eight codes beginning with the prefix US are authorized, including US01 which is used by the Commission's ITS Section in its settlement activities.[3] Foreign-based accounting authorities may also be certified to settle accounts of U.S. licensed vessels. If approved, they use the AAIC originally assigned to them by their country of origin. The Commission has currently certified seven foreign-based accounting authorities[4] to settle accounts for U.S. flag vessels. Although all certifications have technically been interim certifications, twelve years have elapsed since the original interim assignments.

14. Because the entities authorized AAICs by the Commission have generally been cooperative with the FCC and are familiar with maritime accounting issues, the Commission has had few problems with accounting authorities that have not been resolved satisfactorily. We believe, however, that the responsibilities of accounting authorities should be spelled out and that their settlement activities should be monitored to ensure applicable international procedures are being followed.

15. There are currently no rules, formal guidance or procedures issued by the Commission for determining who should be certified as an accounting authority. There are no FCC standards of conduct for accounting authorities nor any requirement to keep the Commission informed of their activities. There are no rules to ensure that the overall United States settlement activity is pursued in accordance with established procedures. We believe that at least minimal regulations should be in place to assist current and future accounting authorities in adhering to those international procedures as a matter of public interest and in fulfillment of U.S. treaty interests.

16. To that end, this Notice proposes rules that would establish an application and approval process of becoming and accounting authority to ensure that only qualified applicants perform this function. The application process and procedural rules would also apply to entities currently settling accounts under interim Commission certification. The interim certification will be canceled 60 days after the effective date of these rules if these entities do not follow the application process. The Notice also proposes standardized operational procedures and reporting mechanisms that would assist the Commission in monitoring the overall settlement function. The proposed rules declare an FCC rule for using the accounting authority's receipt date of accounts for purposes of determining the appropriate conversion rate for the Special Drawing Rights (SDRs). The proposed rules also establish procedures to govern situations where an accounting authority is not operating in accordance with Commission or established international procedures.

17. The Notice proposes rules to ensure compliance in situations where the licensee fails to remit proper and timely payment for public correspondence communications to the Commission or to another accounting authority. Finally, the proposed rules declare that the ship station licensees are *ultimately liable* for the proper and timely payment of public correspondence communications.

III. General Discussion of the Proposed Rules

18. Eligibility. We propose that U.S. citizenship requirements not be imposed on accounting authorities. We propose, instead, certain restrictions regarding the physical location of accounting authority settlement facilities for those accounting authorities wishing to be assigned an Accounting Authority Identification Code with a "US" prefix. These sections also make it clear that prior experience in accounting or settlement activities will be considered but is not a prerequisite to becoming an accounting authority. Applicants must be willing and able to accept clients at a reasonable charge; must agree to settle accounts in both gold francs and Special Drawing Rights (SDRs) and to use the conversion rate mandated by the International Monetary Fund; and must agree to conduct operations in accordance with applicable FCC policies and rules, the International Telecommunication Regulations and other international rules, regulations, agreements, and, where appropriate, CCITT Recommendations. Finally, these sections require that all entities intending to settle accounts of U.S. licensed vessels obtain prior Commission authorization to do so.

19. Application Procedures. The proposed rules require the filing of an original FCC application form in order to be considered as an accounting authority. We have attempted to keep the application form simple and streamlined, yet comprehensive enough to provide sufficient information on which to base a decision as to whether to certify an applicant as an accounting authority. The proposed rules request only basic information identifying the applicant and describing the applicant's objectives and capabilities with respect to the accounting authority function. To ascertain the latter, we are requesting that any relevant experience of an applicant be detailed and that the applicant's proposed settlement plans be provided. To obtain basic information about the applicant, we are requesting information regarding the proposed structure of the applicant's settlement business and similar background data which, in combination with our request for documents demonstrating financial responsibility, should provide an adequate basis for determining whether to issue a certification.

20. We propose to process applications on a first-come, first-served basis. However, the Commission is proposing to "grandfather" all current accounting authorities as long as they are otherwise qualified and follow the procedures established by the rule to obtain permit accounting authority authorizations. Existing accounting authorities are not exempt from the new application procedures and would be required to apply for permanent accounting authority certifications within 60 days of the affective date of these rules or risk losing their status as accounting authorities.

21. The proposed rules establish an FCC policy that a minimum of 15 of the available 25 Accounting Authority Identification Codes (AAICs) be reserved for use by accounting authorities conducting settlement operations in the United States. Those accounting authorities proposing to conduct settlement operations within the United States will be assigned a "US" AAIC prefix if approved. Certified accounting authorities, who maintain their settlement operations outside the U.S., will retain the AAIC originally assigned by the country of origin. We do not intend to approve as accounting authorities any foreign-based entities who have not already been approved as accounting authorities by other administrations.

22. Because the primary purpose of our proposed rules is to ensure adherence to international settlement procedures, we are including language in the application and rules which would make clear to applicants the requirement to adhere to applicable FCC policies and rules, the International Telecommunication Regulations (ITR), and other international rules, regulations, agreements, and, where appropriate, CCITT Recommendations. The rules also propose that all applicants provide evidence of financial responsibility. To the extent that the applicant is a business with sound account capability, formal financial statements will be required. Individuals may provide other documentation proving all assets, liabilities, income and expenses. We invite comment as to the types of documents acceptable for this purpose as well as the specific criteria for evaluation. Although the United States is not a guarantor of payments by its citizens, our proposed rules seek to minimize potential financial risks that might be present if settlement operations are performed by other accounting authorities and to document FCC policy that the ship station licensee has final responsibility for settlement should their selected accounting authority be unable or unwilling to make valid payments to foreign entities.

---

of the ITU will change (e.g., the CCITT will become the Telecommunication Standardization Sector—TSS and the primary treaty instruments will become the ITU Constitution and the ITU Convention (with consequential renumbering of all provisions. We note that the changes coming from the APP were placed into provisional effect on March 1, 1993; however, since the formal entry into force of these changes is not until July 1, 1994 (as between those ITU Member countries who have ratified or acceded to the new instruments), we will refer to the familiar, existing ITU nomenclatures and documents for convenience and ease of understanding in this instant proceeding.

[3] Besides the FCC, the other Accounting Authorities assigned a "US" code are: Mackay Communications, Inc.; Radio-Holland, USA; SAIT Communications, Inc.; Mobile Marine Radio, Inc.; Exxon Communications Company; Raytheon Service Company and Global Communications, Inc.

[4] The following foreign companies have been approved as Accounting Authorities: Kelvin Hughes Ltd (England); Peninsular Electronics Ltd (England); STC International Marine, Ltd. (England); Marconi International Marine Co., Ltd. (England); E.B. Communications Ltd (England); International Radio Traffic Services (Ireland) and ANDgate Ltd. (Gibraltar).

23. The rules also detail the procedures the Commission will utilize to obtain any public comment on applications received by the Commission as well as to notify applicants as to whether they have been certified as accounting authorities. Comments received during the informal public comment period, to the extent that we receive information that an applicant could not meet the financial or technical responsibilities of an accounting authority, or, otherwise serve the best interests of the U.S. Government, will be taken into consideration in making a determination as to whether to approve the applicant as an accounting authority.

24. The Commission would examine the applicant's basic qualifications and any comments received during the informal public comment period, and, if the applicant is found to be qualified, the Commission would then inform the applicant, in writing, that the application has been approved.

25. Settlement Operations. We set forth in these sections several operational requirements for accounting authorities to follow. Basically, these operational requirements parallel applicable ITR and other international rules, regulations, agreements, and applicable CCITT Recommendations and require adherence to established international procedures.

26. We are proposing to allow accounting authorities a full six months following certification as an accounting authority to commence settlement operations. This appears to us to be a reasonable period of time in which to initiate settlements.

27. The rules also propose a settlement period, or period of time within which individual settlements must be accomplished, consistent with ITU procedures. This provision requires accounting authorities to make timely payment to foreign administrations and to accept accounts both in gold francs and in Special Drawing Rights (SDRs). These requirements are in accord with existing international procedures and FCC policy, as is the requirement to settle accounts taking into consideration CCITT Recommendation D.90.

28. In addition, the proposed rules establish the requirement that accounting authorities cooperate fully with the Commission concerning maritime settlements issues. This requirement is designed to ensure that outstanding accounting settlement issues or financial problems of accounting authorities are resolved effectively, timely and in accordance with established policies and procedures. Since the United States government is required, upon request, to take all possible steps, within the limits of applicable national law, to ensure settlement of the accounts of the licensee, (Radio Regulations, Geneva 1979, Article 66, Section III Accounting, paragraph 10, number 5097) this requirement is intended to ensure that the Commission is kept aware of potential problems or issues which could affect the national interest or which could have a significant impact on overall settlement operations. The proposed rules also make accounting authorities subject to audit by the Commission or its representative.

29. Reporting Requirements. We propose several new reporting requirements that would be required of accounting authorities. These reports should enable the Commission to monitor accounting authority operations to ensure adherence to these rules and to appropriate international settlement procedures. Currently, the Commission submits monthly reports to the ITU in Geneva detailing the inventory of U.S. licensed ship stations operating in international waters. We propose that accounting authorities provide the Commission with a detailed report of additions, deletions, or modifications to their inventory of serviced vessels each month. The Commission would use this information to maintain the ITU database and to assure efficient settlement operations. The rules also require an end of year inventory of vessels for which the accounting authority is the settlement entity and an annual statistical report which would provide information to the Commission regarding settlement operations.

30. Enforcement. These sections of the rules set forth the procedures the Commission will use to investigate and to resolve complaints or infractions of the Commission's rules or established international settlement procedures. The proposed rules specify grounds for enforcement sanctions, including forfeiture, and/or cancellation of an accounting authority's certification. The rules also specify that the Commission will afford an accounting authority notice and an opportunity to present its side of any issue involving cancellation of its accounting authority privilege. The rules also provide that any ship station licensee affected by the cancellation of an accounting authority's privilege must find another accounting authority to settle its accounts. The Commission will notify the ship stations, via a Public Notice, of any cancellations, and, inasmuch as possible, list individual shipowners serviced by the cancelled accounting authority and identified from the required reports of vessel inventories. Finally, the proposed rules provide for forfeiture or other sanction action should a ship operator or licensee not remit full and timely payment to the Commission or to an approved accounting authority when properly billed or in the event that the accounting authority fails in their responsibility to forward payment to the foreign entity. The Commission reserves the right to cooperate with foreign administrations in restricting public correspondence communications to and from vessels for which valid payments have not been received or made as required (Distress and safety communications must be carried without charge.) and to utilize available debt collection procedures to collect amounts owed.

IV. Procedural Matters

31. Ex parte. This is a non-restricted notice and comment rule-making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a).

32. The Regulatory Flexibility Act. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared the following Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rule Making to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

Initial Regulatory Flexibility Analysis

Reason for action: This rulemaking proceeding is initiated to obtain comment regarding the administration of accounting authorities in the maritime mobile and maritime mobile-satellite radio services except for distress and safety communications.

Objectives: The Commission seeks to establish standards for the approval and/or cancellation of accounting authority certification to be administered by the Commission.

Legal basis: The proposed action is authorized under sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended.

Reporting, recordkeeping and other compliance requirements: Entities or individuals who wish to become accounting authorities or who have been issued interim accounting authority certifications would need to file an application with the Commission and present assurance of financial responsibility. Accounting authorities would be required to report to the Commission on the status of their settlement activities.

Federal rules which overlap, duplicate, or conflict with these rules: None.

Description, potential impact, and number of small entities involved: Any rule changes in this proceeding could affect small businesses wishing to become accounting authorities. The number of small entities that will be affected is unknown. The Commission will further examine the impact of any rule changes on small entities after evaluating the comments in this proceeding.

Any significant alternatives minimizing the impact on small entities consistent with the stated objectives: None.

33. Paperwork Reduction Act. The following collection of information requirement contained in this proposed rule has been submitted to the Office of Management and Budget for review under Section 3504(H) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor: International Transcription Service, Inc.; 2100 M Street, NW., suite 140; Washington, DC 20037; Telephone: (202) 857–3800. Persons wishing to comment on this collection of information should direct their comments to Timothy Fain; Office of Management and Budget; NEOB; Room 3235; Washington, DC 20503; Telephone (202) 395–3561. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission; Records Management Division; Paperwork Reduction Project; Washington, DC 20554. For further information, contact Judy Boley; Federal Communications Commission; Telephone (202) 632–7513.

Action: New collections.

OMB number: None.

Title: Respectively, (1) Application for Certification of an Accounting Authority and (2) Annual Statistical Report of Settlement Operations.

Form numbers: (1) FCC Form 44. (2) FCC Form 45.

Frequency of response: (1) One-time only. (2) Yearly and record keeping requirement.

Respondents: (1) Individuals or households and businesses or other, and (2) for profit (including small businesses).

Estimated annual burden: (1) 25 responses, 3 hours average burden per response, 75 hours total annual burden. (2) 25 responses, 1 hour average burden per response, 25 hours annual burden; 25 record keepers, 1 hour average burden per record keeper, 25 hours annual burden per record keeper; 50 hours total annual burden.

Needs and uses: (1) To determine eligibility of applicant. (2) Agency will use statistics for internal studies and will also use information to ensure compliance.

34. Notice and Comment Provision. Authority for the proposed rules is contained in sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(i), 154(j) and 303(r)). Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before February 3, 1994, and reply comments on or before February 18, 1994. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the Commission's reliance on such information is noted in the Report and Order.

35. Participants in this proceeding must file an original and four copies of all comments, reply comments, and supporting documents. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Persons who wish to participate informally may submit two copies of their comments, stating thereon the docket number of this proceeding. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) at that address. For additional information on this proceeding, please contact Shirley Wood at (202) 632–1027.

V. Conclusion

36. The Commission is proposing these rules to establish basic qualifications and requirements for individuals or entities who may wish to serve as accounting authorities for the settlement of international radio maritime accounts involving U.S. registered vessels operating in foreign or international waters. By these rules, the Commission seeks to ensure that accounting authorities operate in accordance with established international procedures. We seek comment on the proposed rules and any alternatives you may have.

List of Subjects in 47 CFR Part 3

Accounting, Maritime Carriers, Radio, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules Changes

Title 47 of the Code of Federal Regulations is amended to add a new Part 3 as follows:

PART 3—AUTHORIZATION AND ADMINISTRATION OF ACCOUNTING AUTHORITIES IN MARITIME AND MARITIME MOBILE—SATELLITE RADIO SERVICES

General

Sec.

3.1 Scope, basis, purpose.
3.2 Terms and definitions.

Eligibility

3.10 Basic qualifications.
3.11 Location of settlement operation.

Application Procedures

3.20 Application form.
3.21 Order of consideration.
3.22 Number of accounting authority identification codes per applicant.
3.23 Legal applicant.
3.24 Evidence of financial responsibility.
3.25 Number of copies.
3.26 Where application is to be mailed.
3.27 Amended application.
3.28 Denial of privilege.
3.29 Notification of authorization.

Settlement Operations

3.40 Operational requirements.
3.41 Amount of time allowed before initial settlements.
3.42 Location of processing facility.
3.43 Application rules and regulations.
3.44 Time to achieve settlements.
3.45 Amount of charges.
3.46 Use of gold francs.
3.47 Use of SDRs.
3.48 Cooperation with the Commission.

VOL 58 ISS 246 DEC 27 1993 UMI

Sec.
3.49 Agreement to be audited.
3.50 Retention of settlement records.
3.51 Cessation of operations.
3.52 Complaint/inquiry resolution procedures.
3.53 FCC notification of refusal to provide telecommunications service to U.S. registered vessel(s).
3.54 Notification of change in address.

Reporting Requirements

3.60 Reports.
3.61 Reporting address.

Enforcement

3.70 Investigations.
3.71 Warnings.
3.72 Grounds for further enforcement action.
3.73 Waiting period after cancellation.
3.74 Ship stations affected by suspension, cancellation or relinquishment.
3.75 Licensee's failure to make timely payment.
3.76 Licensee's liability for payment.

General

§ 3.1 Scope, basis, purpose.

By these rules the Federal Communications Commission is delineating its responsibilities in certifying and monitoring accounting authorities in the maritime mobile and maritime mobile-satellite radio services. These entities settle accounts for public correspondence. These rules are intended to ensure that settlements of accounts for U.S. licensed ship radio stations are conducted in accordance with the International Telecommunication Regulations (ITR), taking into account the applicable CCITT Recommendations.

§ 3.2 Terms and definitions.

(a) Accounting Authority. The administration of the country that has issued the license for a mobile station (or the recognized private operating agency or other entity/entities designated by the administration in accordance with L1 to L6 of CCITT Recommendation D.90) to whom maritime accounts in respect of mobile stations licensed by that country may be sent.

(b) Accounting Authority Certification Officer. The official designated by the Managing Director, Federal Communications Commission, who is responsible, based on the coordination and review of information related to applicants, for granting certification as an accounting authority in the maritime mobile and maritime mobile-satellite radio services. The Accounting Authority Certification Officer may initiate action to suspend or cancel an accounting authority certification if it is determined to be in the public's best interest.

(c) Accounting Authority Identification Codes (AAICs). The discrete identification code of accounting authority responsible for the settlement of maritime accounts (Annex A to CCITT Recommendation D.90).

(d) Administration. Any governmental department or service responsible for discharging the obligations undertaken in the Convention of the International Telecommunication Union and the Radio Regulations. For purposes of these rules, "administration" refers to a foreign government or the U.S. Government, and more specifically, to the Federal Communications Commission.

(e) Authorization. Approval by the Federal Communications Commission (FCC) to operate as an accounting authority. Synonymous with "certification".

(f) CCITT.[1] The internationally recognized French acronym for the International Telegraph and Telephone Consultative Committee, one of the sub-entities of the International Telecommunication Union (ITU). The CCITT is responsible for developing international telecommunications recommendations relating to standardization of international telecommunications services and facilities, including matters related to international charging and accounting principles and the settlement of international telecommunications accounts. Such recommendations are, effectively, the detailed implementation provisions for topics addressed in the International Telecommunication Regulations (ITR).

(g) Certification. Approval by the Federal Communications Commission (FCC) to operate as an accounting authority. Synonymous with "authorization".

(h) Coast earth station. An earth station in the fixed-satellite service or, in some cases, in the maritime mobile-satellite service, located at a specified fixed point on land to provide a feeder link for the maritime mobile-satellite service.

(i) Coast station. A land station in the maritime mobile service.

(j) Commission. The Federal Communications Commission. The FCC.

(k) Gold franc. A monetary unit representing the value of a particular nation's currency to a gold par value. One of the monetary units used to effect accounting settlements in the maritime mobile and the maritime mobile-satellite services.

(l) International Telecommunications Union (ITU). One of the United Nations family organizations headquartered in Geneva, Switzerland along with several other United Nations (UN) family organizations. The ITU is the UN agency responsible for all matters related to international telecommunications. The ITU has over 170 Member Countries, including the United States, and provides an international forum for dealing with all aspects of international telecommunications, including radio, telecom services and telecom facilities.

(m) Linking coefficient. The ITU mandated conversion factor used to convert gold francs to Special Drawing Rights (SDRs). Among other things, it is used to perform account settlements in the maritime mobile and the maritime mobile-satellite services.

(n) Maritime mobile service. A mobile service between coast stations and ship stations, or between ship stations, or between associated on-board communication stations. Survival craft stations and emergency position-indicating radiobeacon stations may also participate in this service.

(o) Maritime mobile-satellite service. A mobile-satellite service in which mobile earth stations are located on board ships. Survival craft stations and emergency position-indicating radiobeacon stations may also participate in this radio service.

(p) Public correspondence. Any telecommunication which the office and stations must, by reason of their being at the disposal of the public, accept for transmission. This usually applies to maritime mobile and maritime mobile-satellite stations.

(q) Recognized Private Operating Agencies (RPOAs).[2] Individuals, companies or corporations, other than governments or agencies, recognized by administrations, which operate telecommunications installations or provide telecommunications services intended for international use or which are capable of causing interference to international telecommunications. RPOAs which settle debtor accounts for public correspondence in the maritime mobile and maritime mobile-satellite radio services must be certified as accounting authorities.

(r) Ship station. A mobile station in the maritime mobile service located on board a vessel which is not permanently moored, other than a survival craft station.

(s) Special Drawing Right (SDR). A monetary unit of the International Monetary Fund (IMF) currently based on a market basket of exchange rates for the United States, West Germany, Great Britain, France and Japan but is subject to IMF's definition. One of the monetary units used to effect accounting settlements in the maritime mobile and maritime mobile-satellite services.

(t) United States. The continental U.S., Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands or any territory or possession of the United States.

[1] At the ITU Additional Plenipotentiary Conference in Geneva (December 1992), the structure, working methods, and construct of the basic ITU treaty instrument were modified. The result of this is that the names of the sub-entities of the ITU will change (e.g., the CCITT will become the Telecommunications Standardization Sector and Recognized Private Operating Agency will become Recognized Operating Agency). The changes were placed into provisional effect on March 1, 1993; however, since the formal entry into force of these changes is not until July 1, 1994, we will refer to the familiar, existing ITU nomenclatures and documents for convenience and ease of understanding in this instant proceeding.

[2] See Footnote 1.

Eligibility

§ 3.10 Basic qualifications.

(a) Applicants must meet the requirements and conditions contained in these rules in order to be certified as an accounting authority. No individual or other entity, including accounting authorities approved by other administrations, may act as a United States accounting authority and settle accounts of U.S. licensed vessels in the maritime mobile or maritime mobile-satellite services without a certification from the Federal Communications Commission.

(b) U.S. citizenship is not required of individuals in order to receive certification from the Commission to be an accounting authority. Likewise, joint ventures need not be organized under the laws of the United States in order to be eligible to perform settlements for U.S. licensed vessels. See, however, Section 3.11.

(c) Prior experience in maritime accounting, general commercial accounting, international shipping or any other related endeavor will be taken into consideration by the Commission in certifying accounting authorities. The lack of such expertise, however, will not automatically disqualify an individual, partnership, corporation or other entity from becoming an accounting authority.

(d) Applicants must provide formal financial statements or documentation proving all assets, liabilities, income and expenses.

§ 3.11 Location of settlement operation.

(a) Within the United States. Certified accounting authorities maintaining all settlement operations, as well as associated documentation, within the United States will be assigned Accounting Authority Identification Codes with a "US" prefix.

(b) Outside the United States. Certified accounting authorities maintaining settlement operations outside the United States will be assigned the same Accounting Authority Identification Codes (AAIC) as those originally assigned to such entities by the administrations of the countries of origin. However, in no case will an entity be certified as an accounting authority for settlement of U.S. licensed vessel accounts unless the entity is requesting to conduct a settlement operation in the United States or has already been issued an AAIC by another administration.

Application Procedures

§ 3.20 Application form.

Written application must be made to the Federal Communications Commission on FCC Form 44, "Application For Certification As An Accounting Authority" in order to be considered for certification as an accounting authority. No other application form may be used. No consideration will be given to applicants not submitting applications in accordance with these rules or in accordance with any other instructions the Commission may issue. FCC Form 44 may be obtained from the Commission by writing to the address shown in Section 3.61.

§ 3.21 Order of consideration.

(a) Accounting authority applications will be processed on a first-come first-served basis. When applications are received on the same day, the application with the earliest mailing date, as evidenced by the postmark will be processed first.

(b) At any given time, there will be no more than 25 certified accounting authorities with a minimum of 15 "US" Accounting Authority Identification Codes (AAICs) reserved for use by accounting authorities conducting settlement operations within the United States. The Commission will retain all valid applications received after the maximum number of accounting authorities have been approved and will inform such applicants that should an Accounting Authority Identification Code become available for reassignment in the future, the Commission will conditionally certify as an accounting authority the oldest of the qualified pending applicants, as determined by the order of receipt. Final certification would be conditional upon filing of an amended application (if necessary). The Commission will inform the applicant of his/her conditional selection in writing to confirm the applicant's continued interest in becoming an accounting authority.

§ 3.22 Number of accounting authority identification codes per applicant.

(a) No entity will be entitled to or assigned more than one Accounting Authority Identification Code.

(b) Accounting Authority Identification Codes may not be reassigned, sold, bartered or transferred and do not convey upon sale or absorption of a company or firm without the express written approval of the Commission. Only the FCC may certify accounting authorities and assign U.S. Accounting Authority Identification Codes for entities settling accounts of U.S. licensed vessels in the maritime mobile and maritime mobile-satellite services.

§ 3.23 Legal applicant.

The application shall be signed by the individual, partner or primary officer of a corporation who is legally able to obligate the entity for which he or she is a representative.

§ 3.24 Evidence of financial responsibility.

All applicants must provide evidence of sound financial status. To the extent that the applicant is a business, formal financial statements will be required. Other applicants may submit documentation proving all assets, liabilities, income and expenses which supports their ability to meet their personal obligations.

§ 3.25 Number of copies

One original and two copies of FCC Form 44, "Application For Certification As An Accounting Authority" will be required. Only application mailed to the Commission on official, Commission approved application forms will be considered. Applications should be mailed at least 90 days prior to planned commencement of settlement activities to allow time for the Commission to review the application and to allow for the informal public comment period.

§ 3.26 Where application is to be mailed.

All applications shall be mailed to the Accounting Authority Certification Officer in Washington, DC. The designated address will be displayed on the FCC Form 44, "Application for Certification As An Accounting Authority".

§ 3.27 Amended application.

Changes in circumstances of a material nature that cause information previously supplied to the FCC to be incorrect or incomplete and that could affect the approval process, require the

VOL 58 ISS 246 DEC 27 1993 UMI

submission of an amended application. The amended application should be mailed to the Commission immediately following such material change. See also Sections 3.24 and 3.51.

§ 3.28 Denial of privilege.

The Commission, in its sole discretion, may refuse to grant an application to become an accounting authority for any of the following reasons:

(a) Failure to provide evidence of acceptable financial responsibility.

(b) If the applicant, in the opinion of the FCC reviewing official, does not possess the qualifications necessary to the proper functioning of an accounting authority.

(c) Application is not personally signed by the proper official(s).

(d) Applicant does not provide evidence that accounting operations will take place in the United States or its territories and the applicant does not already possess an AAIC issued by another administration.

(e) Application is incomplete, the applicant fails to provide additional information requested by the Commission or the applicant indicates that it cannot meet a particular provision.

(f) When the Commission determines that the grant of an authorization is contrary to the public interest.

§ 3.29 Notification of authorization.

(a) The Commission will publish the name of an applicant in a public notice before granting certification and will invite informal public comment on the qualifications of the applicant from any interested parties. Comments received will be taken into consideration by the Commission in making its determination as to whether to approve an applicant as an accounting authority.

(b) The Commission will notify each applicant in writing as to whether the applicant has been approved as an accounting authority. If the application is not approved, the Commission will provide a brief statement of the grounds for denial.

(c) The names and addresses of all newly certified accounting authorities will be published in a public notice issued by the Commission. Additionally, the Commission will notify the ITU within 30 days of any changes to its approved list of accounting authorities.

Settlement Operations

§ 3.40 Operational requirements.

All accounting authorities must conduct their operations in conformance with the provisions contained in this section and with relevant rules and guidance issued from time to time by the Commission.

§ 3.41 Amount of time allowed before initial settlements.

An accounting authority must begin settling accounts no later than six months from the date of certification. Failure to commence settlement operations is cause for suspension or cancellation of an accounting authority certification.

§ 3.42 Location of processing facility.

Settlement of maritime mobile and maritime mobile-satellite service accounts must be performed within the United States by all accounting authorities possessing the "US" prefix. Other accounting authorities approved by the Commission may settle accounting either in the United States or elsewhere. See also sections 3.11 and 3.21(b).

§ 3.43 Applicable rules and regulations.

Accounting authority operations must be conducted in accordance with applicable FCC rules and regulations, the International Telecommunication Regulations (ITR), and other international rules, regulations, agreements, and, where appropriate, CCITT Recommendations. In particular, the following must be adhered to (or taken into account in the case of CCITT Recommendations):

(a) The latest basic treaty instrument(s) of the International Telecommunication Union (ITU) which have been ratified by the United States—currently the ITU Convention (Nairobi, 1982);

(b) Binding agreements contained in the Final Acts of World Administrative Radio Conferences and/or World International Telecommunication Conferences;

(c) ITU Radio Regulations;

(d) ITU International Telecommunication Regulations (ITR);

(e) CCITT Recommendations (particularly D.90 and D.195); and

(f) FCC Rules and Regulations.

§ 3.44 Time to achieve settlements.

All maritime telecommunications accounts should be timely paid in accordance with applicable ITU Regulations, Article 66 and International Telecommunication Regulations (Melbourne, 1988). Accounting authorities are deemed to be responsible for remitting, in a timely manner, all valid amounts due to foreign administrations or their agents.

§ 3.45 Amount of charges.

Accounting Authorities may charge any reasonable fee for their settlement services. Settlements themselves, however, must adhere to the standards set forth in these rules and must be in accordance with the International Telecommunication Regulations (ITR) taking into account the applicable CCITT Recommendations and other guidance issued by the Commission.

§ 3.46 Use of gold francs.

An accounting authority must accept accounts presented to it from foreign administrations in gold francs. These gold francs must be converted on the date of receipt of the bill to the applicable Special Drawing Rights (SDR) rate (as published by the International Monetary Fund) on that date utilizing the linking coefficient of 3.061 gold francs = 1 SDR. An equivalent amount in U.S. dollars must be paid to the foreign administration. Upon written concurrence by the FCC, an accounting authority may make separate agreements, in writing, with foreign administrations or their agents for alternative settlement methods, in accordance with CCITT Recommendation D.195.

§ 3.47 Use of SDRs.

An accounting authority must accept accounts presented to it from foreign administrations in Special Drawing Rights (SDRs). These SDRs must be converted to dollars on the date of receipt by the accounting authority and an equivalent amount in U.S. dollars must be paid to the foreign administration. The conversion rate will be the applicable rate published by the International Monetary Fund (IMF) for the date of receipt of the account from the foreign administration. Upon written concurrence by the FCC, any accounting authority may make separate agreements, in writing, with foreign administrations or their agents for alternative settlement methods, provided account is taken of CCITT Recommendation D.195.

§ 3.48 Cooperation with the Commission.

Accounting authorities must cooperate fully with the FCC in all respects concerning international maritime settlements issues, including the resolution of questions of fact or other issues arising as a result of settlement operations.

§ 3.49 Agreement to be audited.

Accounting authorities accept their certifications on condition that they are subject to audit by the Commission or its representative at any time.

Additionally, the Commission reserves the right to verify any statement(s) made or any materials submitted to the Commission under these rules. Verification may involve discussions with ship owners or others as well as the requirement to submit additional information to the Commission. Failure to respond satisfactorily to any audit findings is grounds for forfeiture or suspension or cancellation of authority to act as an accounting authority for U.S. vessels.

§ 3.50 Retention of settlement records.

Accounting authorities must maintain, for the purpose of compliance with these rules, all settlement records for a period of at least seven years following settlement of an account with a foreign administration or agent.

§ 3.51 Cessation of operations.

The FCC must be notified immediately should an accounting authority plan to relinquish its certification or cease to perform settlements as authorized. Additionally, the Commission must be advised in advance of any proposed transfer of control of an accounting authority's firm or organization, by any means, to another entity. Any transfer of control of an accounting authority firm or organization to another entity cancels the previous accounting authority certification. The new entity must apply for certification in its own right if it is interested in becoming an accounting authority.

§ 3.52 Complaint/inquiry resolution procedures.

(a) Accounting authorities must maintain procedures for resolving complaints and/or inquiries from its contractual customers (vessels for which it performs settlements), the FCC, the ITU, and foreign administrations or their agents.

(b) If a foreign administration requests assistance in collection of accounts from ships licensed by the FCC, the appropriate accounting authority will provide all information requested by the Commission in a timely manner to enable the Commission to determine the cause of the complaint and to resolve the issue. If accounts are in dispute, the Commission will determine the amount due the foreign administration, accounting authority or RPOA, and may direct the accounting authority to pay the accounts to the foreign administration. If the accounting authority does not pay the disputed accounts within a reasonable timeframe, the Commission may take action to levy a forfeiture, cancel the AAIC privilege and/or to revoke any operating authority or licenses held by that accounting authority. See also § 3.72.

§ 3.53 FCC notification of refusal to provide telecommunications service to U.S. registered vessel(s).

An accounting authority must inform the FCC immediately should it receive notice from any source that a foreign administration or facility is refusing or plans to refuse legitimate public correspondence to or from any U.S. registered vessel.

§ 3.54 Notification of change in address.

The Commission must be notified in writing within 15 days of any change in address of an accounting authority. Such written notification should be sent to the address shown in § 3.61.

Reporting Requirements

§ 3.60 Reports.

(a) Inventory of Vessels. Within 60 days after receiving final approval from the FCC to be an accounting authority, each certified accounting authority must provide to the FCC an initial list of vessels for which it is performing settlements. This list should contain only U.S. registered vessels. Such list shall be typewritten or computer generated, be annotated to indicate it is the initial inventory and be in the general format of the following and provide the information shown:

Vessel name	*Call sign*	*Country of registry*

(b) Monthly Report on Additions/Modifications/Deletions to Vessel Inventory. Beginning 30 days after submission of an accounting authority's initial inventory of vessels (See paragraph (a) of this section) and each month thereafter, each accounting authority is required to submit to the FCC a monthly report on additions, modifications or deletions to its list of vessels for which it is performing or intending to perform settlements, whether or not settlements actually have taken place. The list should contain only U.S. registered vessels. The report shall be typewritten or computer generated and be in the following general format:

ADDITIONS TO CURRENT VESSEL INVENTORY

Vessel name	*Call sign*	*Effective date*

MODIFICATIONS TO CURRENT VESSEL INVENTORY

Previous vessel name	*Previous call sign*	*New vessel name*	*New call sign*	*Effective date*

DELETIONS TO CURRENT VESSEL INVENTORY

Vessel name	*Call sign*	*Effective date*

The preceding report must be received by the Commission no later than 15 days following the end of the month for which the report pertains. Modifications refer to changes to call sign or ship name of vessels for which the accounting authority settles accounts and for which basic information has previously been provided to the Commission. Reports are to be submitted even if there have been no additions, modifications or deletions to vessel inventories since the previous report. If there are no changes to an inventory, this should be indicated on the report.

(c) End of Year Inventory. By February 1st of each year, each accounting authority will submit an end-of-year inventory report listing vessels for which the accounting authority performs settlements as of the previous December 31st. The list should contain only U.S. registered vessels. The report must be typewritten or computer generated and prepared in the same general format as that shown in paragraph (a) of this section except it should be annotated to indicate it is the End of Year inventory.

(d) Annual Statistical Report of Settlement Operations. By February 1st of each year, each accounting authority settling accounts for U.S. registered vessels must prepare and submit to the FCC an Annual Statistical Report, FCC Form 45, which details the number and dollar amount of settlements, by foreign administration, during the preceding twelve months. Information contained

in this report provides statistical data for Commission use.

§ 3.61 Reporting address.

All reports must be received at the following address no later than the required reporting date: Accounting Authority Certification Officer, Financial Management Division, Stop 1110A, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

Enforcement

§ 3.70 Investigations.

The Commission may investigate any complaints made against accounting authorities to ensure compliance with the Commission's rules and with applicable ITU Regulations and other international maritime accounting procedures.

§ 3.71 Warnings.

The Commission may issue written warnings or forfeitures to accounting authorities which are found not to be operating in accordance with established rules and regulations. Warnings will generally be issued for violations which do not seriously or immediately affect settlement functions or international relations. Continued or unresolved violations may lead to further enforcement action by the Commission, including any or all legally available sanctions, including but not limited to, forfeitures (Communications Act of 1934, Sec. 503), suspension or cancellation of the accounting authority certification.

§ 3.72 Grounds for further enforcement action.

(a) The Commission may take further enforcement action, including forfeiture, suspension or cancellation of an accounting authority certification, if it is determined that the public interest so requires. Reasons for which such action may be taken include, inter alia:

(1) Failure to initiate settlements within six months of certification or failure to perform settlements during any subsequent six-month period;

(2) Illegal activity or fraud;

(3) Non-payment or late payment to a foreign administration or agent;

(4) Failure to follow ITR requirements and procedures;

(5) Failure to take into account CCITT recommendations;

(6) Failure to follow FCC rules and regulations;

(7) Bankruptcy;

(8) Providing false or incomplete information to the Commission or failure to comply with or respond to requests for information.

(b) Prior to taking any of the enforcement actions in paragraph (a) of this section, the Commission will give notice of its intent to take the specified action and the grounds therefor, and afford an opportunity to respond in writing; provided that, where the public interest so requires, the Commission may temporarily suspend a certification pending completion of these procedures.

§ 3.73 Waiting period after cancellation.

An accounting authority whose certification has been cancelled must wait a minimum of three years before reapplying to be an accounting authority.

§ 3.74 Ship stations affected by suspension, cancellation or relinquishment.

(a) Whenever the accounting authority privilege has been suspended, cancelled or relinquished, the accounting authority is responsible for immediately notifying all U.S. ship station licensees for which it was performing settlements of the circumstances and informing them of the requirement contained in paragraph (b) of this section;

(b) Those ship stations utilizing an accounting authority's AAIC for which the subject accounting authority certification has been suspended, cancelled or relinquished, must make contractual arrangements with another properly authorized accounting authority to settle its accounts;

(c) The Commission will notify the ITU of all accounting authority suspensions, cancellations and relinquishments; and

(d) The Commission will publish a public notice detailing all accounting authority suspensions, cancellations and relinquishments.

§ 3.75 Licensee's failure to make timely payment.

Failure to remit proper and timely payment to the Commission or to an accounting authority may result in one or more of the following actions against the licensee:

(a) Forfeiture or other authorized sanction.

(b) The refusal by foreign countries to accept or refer public correspondence communications to or from the vessel or vessels owned, operated or licensed by the person or entity failing to make payment. This action may be taken at the request of the Commission or independently by the foreign country or coast station involved.

(c) Further action to recover amounts owed utilizing any or all legally available debt collection procedures.

§ 3.76 Licensee's liability for payment.

The U.S. ship station licensee bears ultimate responsibility for final payment of its accounts. This responsibility cannot be superseded by the contractual agreement between the ship station licensee and the accounting authority. In the event that an accounting authority does not remit proper and timely payments on behalf of the ship station licensee:

(a) The ship station licensee will make arrangements for another accounting authority to perform future settlements, and

(b) The ship station licensee will settle any outstanding accounts due to foreign entities.

The Commission will, upon request, take all possible steps, within the limits of applicable national law, to ensure settlement of the accounts of the ship station licensee. As circumstances warrant, this may include issuing warnings to ship station licensees when it becomes apparent that an accounting authority is failing to settle accounts. See also §§ 3.70–3.74.

[FR Doc. 93–31193 Filed 12–23–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS–124; Notice 3]

RIN 2137–AC25

Regulatory Review: Gas Pipeline Safety Standards; NAPSR Report on Recommendations for Revision of Gas Pipeline Safety Standards; Extension of Comment Period

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of request for information; extension of comment period.

SUMMARY: This notice extends the comment period for the rulemaking proposals submitted by the National Association of Pipeline Safety Representatives (NAPSR), published November 9, 1993 (58 FR 59431), from January 10, 1994, to April 11, 1994.

DATES: Interested persons are invited to submit comments by April 11, 1994.

ADDRESSES: Written comments must be submitted in duplicate and mailed or hand-delivered to the Dockets Unit, room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001. Identify the docket and notice number stated in the heading of this notice. Comments will become part of this docket and will be available for inspection or copying in room 8421 between 8:30 a.m. and 4:30 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Christina M. Sames, (202) 366–4561, regarding the content of this document, or the Dockets Unit, (202) 366–5046, regarding copies of this document or other material in the docket.

SUPPLEMENTARY INFORMATION: The American Gas Association (AGA) requested a 90 day extension of time be granted for public comment to the NAPSR rulemaking proposals for the safety of natural gas and other gas pipelines. The request argued an extension of time was necessary to allow AGA members time to review the extensive proposals, to meet and discuss the issues, and to prepare detailed responses to the proposals.

RSPA has decided the 90 day extension to the public comment period is reasonable to allow AGA to meet and respond to the NAPSR recommendations. The comment period will therefore be extended to close on April 11, 1994.

Authority: 49 App. U.S.C. 1671 and 1804; 49 CFR 1.53 and appendix A to part 106.

Issued in Washington, DC on December 21, 1993.

George W. Tenley, Jr.

Associate Administrator for Pipeline Safety.

[FR Doc. 93–31507 Filed 12–23–93; 8:45 am]

BILLING CODE 4910–60–P

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1105, 1121 and 1152

[Ex Parte No. 511]

Petition for Rulemaking; Protection of Surveying Benchmarks in Railroad Abandonments

AGENCY: Interstate Commerce Commission.

ACTION: Petition for rulemaking; extension of comment due date.

SUMMARY: By decision served November 10, 1993 (58 FR 60164, November 15, 1993), the Commission granted American Congress of Surveying and Mapping (ACSM) a 30-day extension of time to file comments. Comments were due December 20, 1993.

By letter filed December 14, 1993, ACSM requests an additional 60-day extension to February 18, 1994, to file comments. ACSM states additional time is needed to develop procedures for preservation of surveying benchmarks that would not be unduly disruptive of the rail abandonment process. ACSM states the Association of American Railroads, the U.S. Dept. of Commerce Coast and Geodetic Survey and the U.S. Dept. of the Interior Geological Survey National Mapping Division do not object to the extension.

The request is reasonable and will be granted.

DATES: Comments must be received by February 18, 1994.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 511 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ronald M. Smullian, (202) 927–5292 or Richard B. Felder (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

Decided: December 23, 1993.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–31458 Filed 12–23–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB10

Captive-bred Wildlife Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of re-opened comment period.

SUMMARY: On June 11, 1993, the Fish and Wildlife Service (Service) published a proposed rule (58 FR 32632) that would revise the captive-bred wildlife (CBW) regulations and the definitions of the term "harass" and "enhance the propagation or survival". The 90-day public comment period closed on September 9, 1993. Extensive comment on the proposal was received. The Service has decided to eliminate education as the sole basis for justifying issuance of a CBW registration, and a final rule to that effect appears in today's **Federal Register**. Because of the complex and controversial nature of the proposed rule, this notice re-opens the comment period on the balance of the issues in the proposal, including the question of the value of education as it relates to endangered species permits.

DATES: The Service will consider all comments received by February 25, 1994.

ADDRESSES: Send comments to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: R.K. Robinson, Special Assistant-Ecological Services, at the above address (703/358–2093).

SUPPLEMENTARY INFORMATION: The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and implementing regulations prohibit any person subject to the jurisdiction of the United States from conducting certain activities with endangered or threatened species of fish or wildlife. These activities include, among others, import, export, take and interstate or foreign commerce. The Secretary of the Interior (or the Secretary of Commerce in the case of certain marine species) may permit such activities, under such terms and conditions as he/she shall prescribe, for scientific purposes or to enhance the propagation or survival of the affected species, provided these activities are consistent with the purposes of the Act. The Secretary of the Interior's authority to administer permit matters relating to endangered and threatened species has been delegated through the Director of the Fish and Wildlife Service (Service) to the Office of Management Authority (OMA).

Since 1976, the Service has been striving to achieve an appropriate degree of control over prohibited activities involving living wildlife of non-native species born in captivity in the United States. The Captive Self-Sustaining Population system, established on June 1, 1977 (42 FR 28052) received an extensive public review in 1978 and 1979. On September 17, 1979, the Service published a final rule (44 FR 54002) that established the Captive-bred Wildlife (CBW) system as it currently exists.

The 1979 rule amended regulations in 50 CFR 17.21 by adding subsection 17.21(g), which granted general, conditional permission to take; import or export; deliver, receive, carry transport or ship in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce any non-native endangered or threatened wildlife that is born in captivity in the United States. In other words, the regulation itself contains the permit. In order for persons or

institutions to operate under the permit, certain conditions must be met, including that the person or institution must first register with the Service. The registration authorizes interstate purchase and sale only between entities that both hold CBW registrations for the taxon concerned.

The 1979 final rule also amended the definition of "enhance the propagation or survival" to include a wide range of customary animal husbandry practices needed to maintain self-sustaining and genetically viable populations of wildlife in captivity. Other aspects of the definition of "enhance" that were codified in 1979 and are still in use today include accumulation, holding and transfer of animals not immediately needed or suitable for propagative or scientific purposes, and exhibition of living wildlife in a manner designed to educate the public about the ecological role and conservation needs of the affected species (50 CFR 17.3).

The above definitions are found in Subpart A, the General Provisions of Part 17. Therefore, they apply to all endangered and threatened species permits for captive wildlife issued under §§ 17.22 and 17.32 as well as to CBW registrations under § 17.21(g).

After twelve years' experience with the system, the Service initiated another review with a Notice of Intent to Propose Rule, published on January 7, 1992 (54 FR 548).

After review of comments received, the Service published a proposed rule on June 11, 1993 (58 FR 32632), that proposed several changes to § 17.21(g): elimination of registration for several species that are present in the United States in large numbers and/or that are genetically unsuitable for scientifically based breeding programs; restriction of eligibility for CBW registrations to those entities that are participants in an approved responsible cooperative breeding program for the taxon concerned; amendment of the definition of "harass" in § 17.3 to exclude normal animal husbandry practices such as humane and healthful care when applied to captive-born wildlife; and, conditionally, deletion of education from the definition of "enhance" in § 17.3.

In today's **Federal Register**, the Service is publishing a final rule that is limited to the narrow issue of education as it relates to the CBW system. That rule eliminates public education through exhibition of living wildlife as the sole justification for issuance of a CBW registration under § 17.21(g). The basis for that decision is the Service's belief that the scope of the CBW system should be revised to more closely relate to its original intent, *i.e.*, the encouragement of responsible breeding programs that are specifically designed to help conserve the species involved.

The purpose of this notice is to re-open the comment period on the balance of the issues set forth in the proposed rule, including the larger question of the value education provides to the conservation of non-native species in the wild as it applies to endangered species permits issued under § 17.22.

For more detailed background on the issues involved, the reader is referred to the final rule in today's **Federal Register**, as well as the prior rulemaking documents cited above.

Information and Comments

A total of 658 written responses were received during the comment period on the proposed rule. This total included 65 signatures on a petition calling for the deregulation of interstate commerce in listed wildlife, and 89 signatures on a statement of opposition to the deletion of education from the definition of "enhance" in § 17.3. Education was a subject in 544 responses, and was the only issue mentioned in 510 of them. Issues other than education were addressed in 148 responses.

The comment/response section below summarizes comments on the role of education only; however, additional comments on any other aspects of the proposed changes to 50 CFR 17.21(g) are also welcome.

Comment: One commenter said the Service did not adequately explain why there must be a direct cause and effect relationship between education through exhibition of living wildlife and enhancement of survival in the wild of the species exhibited.

Response: The Act requires that in order to issue a permit, the Service must make an affirmative finding that the activity proposed will be for scientific purposes, or will enhance the propagation or survival of the species. Since the existing regulation says that public education can constitute enhancement, it follows that the Service must find that the educational effort proposed does in fact enhance the survival of the species.

Comment: Several commenters proposed that a task force or working group of qualified educators and exhibitors be convened by the Service for the purpose of drafting standards and criteria with which to assess educational programs. Another commenter suggested that professional organizations such as the International Association of Avian Trainers and Educators, the Organization of Wildlife Lecturers, or the International Marine Mammal Trainers Association could draw up guidelines that each member must follow in order to do a show. These guidelines would be submitted to the Service for refinement and agreement. Exhibitors wishing to put on a demonstration with animals would be required to join an appropriate organization and comply with the guidelines.

Response: The suggested task force is an interesting idea. The Service is concerned that it would be difficult to convene such a group that would be manageable in size, but still represent all the classes of animal users desiring permits. Submission of guidelines by professional groups for approval is also interesting, but the Service questions the propriety and legality of requiring applicants to join private organizations. However, it may be possible to develop rational and realistic guidelines that satisfy the purposes and policies of the Act.

Comment: The following is a summarization of suggested standards and criteria for educational displays.

Several commenters suggested that exhibitors have college training in education, biology, zoology, ecology, conservation, etc.

One commenter suggested that the presentation should deal with ecological concepts or environmental issues rather than focusing strictly on the species being exhibited. Another said that the exhibitor should provide information at the time the animal is being shown on the natural history of the species and the conservation issues affecting it; should engage in educational outreach beyond the on-site exhibits; should engage in a program of research or captive breeding; and should follow up on presentations and outreach efforts in order to gauge their effectiveness and make improvements.

Another commenter advocated a similar approach and added that the educational programs should encourage the learner to seek out new information and act in an environmentally responsible manner, and should discourage exploitation of wild animals.

One commenter recommended that the educational program must have some element of a conservation project involved either as a direct benefit or as a discussion item in the presentation, and that the animal should be used in a manner to exhibit natural behavior rather than in imitation of human behavior and activities.

Another commenter added that exhibition of wildlife solely for the purpose of entertainment should not be allowed, and that the program should include information describing how the public can help the species in the wild.

Finally, some commenters suggested that commercial permitees make a donation of some of their proceeds to a legitimate wildlife conservation program.

Response: All of these suggested criteria are under consideration by the Service, and comments on the specific ideas shown above as well as new suggestions are solicited.

Public Comment Solicited

The Service intends that any final rule will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of the proposed rule are hereby solicited. Comments previously submitted in response to the proposed rule (58 FR 32632, June 11, 1993) will receive consideration; therefore, it is not necessary to respond again unless the commenter has new views or suggestions he/she wishes to enter into the record.

Author

The primary author of this notice is R. K. Robinson, Special Assistant—Ecological Services, U.S. Fish and Wildlife Service, room 420C, 4401 North Fairfax Drive, Arlington, VA 22203.

Authority

The authority citation for part 17 continues to read as follows: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; U.S.C. 4201–4245; Pub. L. 99–626, 100 Stat. 3500.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: December 10, 1993.

Richard N. Smith,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–31423 Filed 12–21–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[121693A]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will solicit public comments in January and February 1994 on a proposed draft amendment to the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico. Draft Amendment 9 includes management measures to collect historical landings data from fishermen, to extend the reef fish permit moratorium and red snapper endorsement system, and to provide partial red snapper endorsements in 1995 to historical captains. The historical landings data will be used to establish the eligibility of fishermen if a system to limit access to the red snapper fishery is implemented based on individual transferable quotas (ITQs) or license limitations. Individuals would be notified of their potential allocation.

DATES: Written comments on the draft amendment will be accepted until February 28, 1994. See **SUPPLEMENTARY INFORMATION** for dates, time, and location of the public hearings.

ADDRESSES: Send written comments to Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, Florida 33609 (FAX: 813–225–7015).

FOR FURTHER INFORMATION CONTACT: Steven M. Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council, (813) 228–2815.

SUPPLEMENTARY INFORMATION: Draft Amendment 9 does not implement red snapper limited access. Fishermen at public hearings and advisory panel meetings have asked that initial determinations of ITQ or license limitation allocations be made before the Council makes a final decision regarding limited access; this would allow them to know how such a decision will affect them. Alternatives that would extend the vessel permit moratorium and the red snapper endorsement system are being considered because these measures are scheduled to terminate before a long-term, red snapper effort limitation management system can be implemented. Alternatives allowing partial red snapper endorsements for historical captains are being considered because certain long time captains who are not the income qualifier for their vessel permits believed they were unfairly excluded from the original endorsement distribution.

The hearings will be held from 7 p.m. to 10 p.m. as follows:

1. Wednesday, January 26: Auditorium, Gulf Coast Research Laboratory, J.L. Scott Marine Education Center and Aquarium, 115 East Beach Boulevard (U.S. Highway 90), Biloxi, Mississippi (601–374–5550).

2. Wednesday, January 26: Conference Room, Panama City Laboratory, National Marine Fisheries Service, 3500 Delwood Beach Road, Panama City, Florida (904–234–6541).

3. Thursday, January 27: Orange Beach Community Center, 27301 Canal Road, Orange Beach, Alabama (205–981–6141).

4. Thursday, January 27: Old Library, Pinellas County Cooperative Extension Service, 12175 125th Street North, Largo, Florida (813–582–2100).

5. Tuesday, February 1: H.L. Stokely Hall, Ft. Brown Memorial Center Complex, 600 International Boulevard, Brownsville, Texas (210–542–3367).

6. Tuesday, February 1: Policy Jury Annex, Courthouse Square, Cameron, Louisiana (318–775–5718).

7. Wednesday, February 2: Visitor's Center Auditorium, University of Texas, Marine Science Institute, 750 Channel View Drive, Port Aransas, Texas (512–749–6729).

8. Wednesday, February 2: Versailles Room, Larose Regional Park, 307 East 5th Street, Larose, Louisiana (504–693–7355).

9. Thursday, February 3: Ballroom South, Holiday Inn on the Beach, 5002 Seawall Boulevard, Galveston, Texas (409–740–3581).

10. Thursday, February 3: Boothville Community Center, Highway 23, Boothville, Louisiana (504–657–7202).

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Laura Mataluni at the above Council address by January 19, 1994.

Dated: December 21, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31456 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 675

[Docket No. 931068-3268; I.D. 092393E]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to require increased observer coverage and improved equipment for measuring groundfish total catches by vessels and processors participating in the Western Alaska Community Development Quota (CDQ) pollock fisheries. This action is intended to improve estimates of groundfish total catches in the CDQ fisheries.

DATES: Comments must be received at the following address no later than 4:30 p.m., Alaska local time (A.l.t.), January 26, 1994.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Box 21668, Juneau, AK 99802, Attention: Lori Gravel. Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for the proposed action may also be obtained from this address.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, Fisheries Management Division, (907) 586–7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by operators of U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) management area is managed by the Secretary of Commerce (Secretary) according to the Fishery Management Plan for the Groundfish Fishery of the BSAI Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR part 675. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

At times, amendments to regulations are necessary for conservation and management of the groundfish fisheries. This regulatory amendment proposes to require two NMFS-certified observers on processor vessels, one or more observers in shoreside processing operations, and one observer on catcher vessels delivering to processors. In addition, processor vessels would be required to have either measured, marked, and certified fish receiving bins to improve volumetric estimates of total catch, or scales to weigh total catch. A description of, and reasons for, these actions follow.

Under regulations at § 675.27, 7.5 percent of the pollock total allowable catch in the BSAI management area is allocated to the Western Alaska CDQ reserve. The CDQ program is intended to help develop commercial fisheries in western Alaska communities. Organizations representing eligible western Alaska communities submit a Community Development Plan (CDP) for approval by the Governor of Alaska and the Secretary. A portion of the overall pollock CDQ reserve is assigned to each approved CDP. Established fishing companies and their harvesting or processing vessels and plants harvest and process these CDP quota allocations either by purchasing the fish outright or by entering into partnerships with the CDPs. Approximately 97,300 metric tons (mt) of pollock were harvested during the 1992 CDQ fisheries. This harvest had an estimated gross wholesale value of about $44 million. Processors paid about $20 million to the CDPs in compensation.

The CDQ fisheries require more intensive quota monitoring by NMFS than do the open access groundfish fisheries. Operators of vessels participating in the CDQ fisheries are allowed to harvest only a specific proportion of a CDP recipient's allocation, and then their fishing activities must cease. In this case, the fishing activity and the earnings of these vessels or processors are dependent exclusively on their own harvest of pollock rather than on the attainment of an overall quota or prohibited species bycatch limit by a fishing fleet, as is the case in the open access fisheries.

Processor weekly production reports, which are required by 50 CFR 675.5, have been the basis of quota monitoring in many groundfish fisheries. Comparison of observer and processor weekly production estimates of total catch has shown observer estimates to be systematically higher. For this reason, NMFS has adopted the "best blend" system of estimating total groundfish harvests. The "best blend" compares estimates of total catch based on the processor weekly production reports with estimates of total catch made by the observers. The higher of the two estimates is selected unless the observer estimate is within 5 percent of the estimate based on the processor weekly production report, in which case the estimate based on the processor's report is selected. The "best blend" has resulted in NMFS's selecting observer estimates of total catch as the best approximation of total catch in many cases.

While the "best blend" continues to be the preferred method of estimating total catch in the open access fishery, NMFS believes that more accurate estimates of pollock harvests in the CDQ fisheries must be obtained. However, one observer as presently required cannot independently estimate the total weight and composition of all catches by a vessel and, on many processor vessels, observers do not have adequate tools to make consistent independent volumetric estimates of total catch.

Observers aboard catcher/processor trawl vessels and motherships receiving groundfish from trawl vessels make an independent volumetric estimate of as much of the total harvest as possible. The total catch is estimated by either estimating the volume of the codend or the volume of fish placed in receiving bins prior to sorting or discard. The total weight of groundfish is estimated by multiplying the estimated volume by a density factor. Catch composition sampling is used to estimate the weight of each species in the total catch. A single observer is able to estimate independently the total catch for 60 to 70 percent of the individual trawl net recoveries, or hauls, but must rely on processor logbook or production records to estimate the remaining harvest. Two observers, as the proposed rule would require to be aboard a processor vessel in the CDQ fishery, will be able to estimate total catch without having to rely on processor log books or production records.

Using the estimated volume of the codend to estimate total catch has the greatest potential for inaccuracy because of the difficulty in accurately determining the size and shape of the codend. NMFS believes that fish holding bins of known dimensions offer a much better alternative for making volumetric estimates. However, many of the processor vessels in the CDQ fisheries do not have bins that are accessible to the observer, or the observer does not know the capacity of each bin. NMFS is proposing requiring that processor vessels participating in the CDQ fisheries be equipped with receiving bins in which all fish catches are placed prior to sorting operations to allow observers to make more accurate estimates of the volume of fish in a bin. Such bins would have to be accurately measured with reasonably spaced marks to minimize errors when the observer estimates the amount of fish between

marks. The bins must be well lighted so the observer can see the marks from outside the bin to determine the volume of fish. Refrigersted seawater (RSW) tanks could only be used for volumetric estimates of total catch if the estimates are made before water is added to these tanks.

Public comment is sought on the feasibility of using ultrasonic level controls or "bin sensors" to determine the level of fish in a bin for volumetric estimates of total catch weight. This technology has been suggested by industry, and information is requested on its application and use for this purpose.

NMFS believes that scales more accurately measure total catch weight than do volumetric estimates. Therefore, as an alternative to volumetric measurements, NMFS proposes to allow processors to weigh CDQ harvests. To date, only one catcher/processor is equipped with a scale capable of accurately weighing all fish harvested.

NMFS is proposing to require shoreside processors to weigh CDQ harvests. Most shoreside plants are equipped with a scale capable of accurately weighing groundfish delivered by harvesting vessels.

This proposed rule would allow the CDPs and NMFS to monitor pollock CDQs on the basis of observer estimates of total catch and catch composition as reported in the observer's daily catch message rather than on the "best blend" system. It would be the responsibility of the CDP representative to arrange for the processor to transmit the observer's daily catch message to the CDP representative. The CDP representatives would be required to monitor the pollock CDQ harvests and notify processors to cease fishing operations when their allocation of pollock has been harvested. If NMFS determines that the observer, the processor, or the CDQ representative failed to follow the correct procedures to estimate the total harvest of pollock, NMFS could in its discretion estimate the total pollock harvest based on the best available data. Although CDQs would be monitored based on observer daily catch messages, all processors would be required to meet the recordkeeping and reporting requirements at §§ 675.5 and 675.27(g).

The proposed regulations on shoreside processing operations would authorize the Regional Director to require a shoreside processor plant to increase its observer coverage beyond the one already required if one observer cannot adequately monitor all CDQ deliveries.

The proposed regulations for a catcher vessel delivering groundfish harvested under a CDQ would require the catcher vessel regardless of length, other than a catcher vessel delivering unsorted codends to a processor or another vessel, to have a NMFS-certified observer on board at all times. Increased observer coverage on the catcher vessels is required to monitor at-sea discards.

The cost for additional observers required by this rule would fall on processor and catcher vessels. All processor vessel operators who have participated in CDQ fisheries to date have had to carry one observer; in the future, these processors will pay the cost of an additional fulltime observer during the CDQ fisheries. Vessels less than 60 feet that are not required to have observer coverage in the open access fisheries and vessels from 60 to 124 feet that are required to have 30 percent observer coverage will be required to have 100 percent observer coverage in the CDQ fisheries. Observer coverage costs for shoreside processing operations will not change from that of the open access fisheries because observer coverage will continue to be based on the volume of groundfish processed.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has initially determined that this rule is necessary for the conservation and management of the groundfish fisheries off Alaska and that it is consistent with the Magnuson Act and other applicable laws.

NMFS prepared an environmental assessment (EA) for this proposed rule that discusses the impacts on the environment as a result of this rule. The proposed action affects the measurement of total catch in the CDQ fisheries but does not affect the total allowable catch of pollock. It is not likely to result in changes in fishing patterns. To the degree total catch is estimated more accurately for these fisheries, data used for quota monitoring and stock assessments are improved. A copy of the EA is available (see **ADDRESSES**).

NMFS prepared an RIR that analyzes the cost and benefits of the proposed action, the social and economic impacts, and the effect on State and local governments. A copy of the RIR is available (see **ADDRESSES**).

The AA has initially determined that this proposed rule, if adopted, could have a significant economic impact on a substantial number of small entities (i.e., small businesses, small organizations, and small governmental jurisdictions with limited resources).

A summary of the EA/RIR/IRFA is provided as follows. These proposed regulations will affect most processors and harvesting vessels that participate in CDQ fisheries in the future. The primary impact will be on the owners of processor vessels who must increase their observer coverage, modify their vessels, and possibly purchase new equipment. However, processors participating in the pollock CDQ fisheries generally have annual gross receipts over $2 million and are not considered small entities. The IRFA concluded that Western Alaska communities that are apportioned pollock CDQs and catcher vessels participating in the fishery are considered small entities. To the extent that processors can pass on the increase in operating costs from additional observers, certified bins, or scales, returns to the Western Alaska community groups may be significantly reduced. In addition, the requirement of additional observer coverage may significantly increase operating costs for some of the catcher vessels.

The cost of modifying the fish receiving bins on the processor vessels will depend on modification necessary to make the bins visually accessible to the observer, but may range upwards from about $4,000 per vessel.

Scales cost a minimum of $40,000 to purchase. In addition to the purchase price, the factory must be redesigned to accommodate the scale. The cost of factory refitting and installation of the scale would depend on the individual processor vessel configuration but would be a minimum of several thousand dollars.

Twelve catcher/processor vessels were expecting to harvest the 1993 CDQ allocation in about 436 fishing days (an average of 36 days per processor). Additional observer coverage for these processor vessels is estimated to cost about $183 per day, $6,600 ($183 × 36 days), or $79,200 for the 12 vessels.

The cost of observer coverage on catcher vessels in the CDQ fisheries is difficult to predict. It will depend on the number of vessels and the CDQ fishing days. Thirteen catcher vessels participated in the 1992 CDQ fishery for a total of 361 days (from December 4–31, 1992). Observer coverage for these vessels cost about $64,000 ($183 × 351 days). No catcher vessels were expected to participate in the 1993 CDQ fishery; however, one catcher vessel has reported CDQ landings at a shore processing plant. This vessel fished for 5 days and paid about $915 for observer coverage.

Two observers and certified bins would be a minimum of $10,600 per processor vessel or $127,200 for 12 processor vessels. The cost of two

observers and a scale would be a minimum of $46,600 per processor vessel or $559,200 for 12 processor vessels.

A copy of this analysis is available (see ADDRESSES).

This rule contains new collection-of-information requirements subject to the Paperwork Reduction Act that have been approved by the Office of Management and Budget. The public's reporting burden for each requirement is indicated in the following description and includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The new reporting requirements are: (1) CDQ managing organizations must arrange for processors to transmit copies of observer daily catch messages in such a manner that allows the CDQ managing organization to inform processors to cease fishing operations before the CDQ allocations have been exceeded (5 minutes per message); (2) scale printouts of each CDQ delivery must be maintained in the processing operation for the duration of the fishing year or for as long after a fishing year that the fish product produced from fish harvested during that year is retained in the processing operation (8 minutes per delivery day); (3) the volumes of receiving bins aboard processing vessels must be certified in writing by an independent registered engineer (8 hours); and shoreside processors must notify the observers of the offloading schedule of each CDQ groundfish delivery at least 1 hour prior to offloading (2 minutes). Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC, 20503 (Attn: NOAA Desk Officer).

NMFS has determined that this rule does not directly affect the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

A formal section 7 consultation under the Endangered Species Act was not initiated for the proposed rule because none of the alternatives are expected to have any adverse effect on endangered or threatened species or their habitat.

The Regional Director determined that fishing activities conducted under this rule would have no adverse impacts on marine mammals.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: December 20, 1993.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 675 is proposed to be amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for 50 CFR part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 675.27, paragraph (e)(4) is revised and a new paragraph (h) is added to read as follows:

§ 675.27 Western Alaska Community Development Quota Program (applicable through December 31, 1995).

* * * * *

(e) * * * *

(4) It is the responsibility of the CDQ managing organization to cease fishing operations once its respective pollock CDQ allocation has been reached. Total pollock harvests for each CDP will be determined by observer estimates of total catch and catch composition as reported on the daily observer catch message. The CDQ managing organization must arrange for processors to transmit a copy of the observer daily catch message to it in a manner that allows the CDQ managing organization to inform processors to cease fishing operations before the CDQ allocation has been exceeded. CDQ managing organization representatives must also inform NMFS within 24 hours after the CDQ has been reached and fishing has ceased. If NMFS determines that the observer, the processor, or the CDQ managing organization failed to follow the procedures described in paragraph (h) of this section for estimating the total harvest of pollock, or violated any other regulation in part 675, NMFS reserves the right to estimate the total pollock harvest based on the best available data.

* * * * *

(h) *Estimation of total harvest in the CDQ fisheries—*

(1) *Observer coverage.* Vessel operators and processors participating in CDQ fisheries must comply with the following requirements for observer coverage:

(i) Each shoreside processing operation participating in the CDQ fisheries must have one NMFS-certified observer present at all times while groundfish harvested under a CDQ are being received or processed. The Regional Director is authorized to require more than one observer for a shoreside processing operation if:

(A) The CDQ delivery schedule requires an observer to be on duty more than 12 hours in a 24-hour period;

(B) Simultaneous deliveries of CDQ harvests by more than one vessel cannot be monitored by a single observer; or

(C) One observer is not capable of adequately monitoring CDQ deliveries;

(ii) Each processor vessel participating in the CDQ fisheries must have two NMFS-certified observers aboard the vessel at all times while groundfish harvested under a CDQ are being harvested, processed, or received from another vessel;

(iii) Each catcher vessel delivering groundfish harvested under a CDQ, other than a catcher vessel delivering only unsorted codends to a processor or another vessel, must have a NMFS-certified observer on the vessel at all times while the vessel is participating in the CDQ fisheries regardless of the vessel length. Observer coverage requirements for catcher vessels participating in the CDQ fisheries is in addition to any observers required by § 675.25.

(2) *Equipment and operational requirements.* (i) Each shoreside processing operation participating in the CDQ fisheries must comply with the following requirements:

(A) Each shoreside processing operation must weigh and record groundfish harvested in the CDQ fisheries on a scale certified by the State of Alaska. Such scale must measure catch weights at all times to at least 95 percent accuracy as determined by a NMFS-certified observer or authorized NMFS or U.S. Coast Guard enforcement officer. The scale and scale display must be capable of being viewed simultaneously by the observer;

(B) Observers must be provided access to the scale used to weigh groundfish landings;

(C) Printouts of scale measurements of each CDQ delivery must be made available to observers and be maintained in the shoreside processing operation for the duration of the fishing year or for as long after a fishing year that fish product produced from fish harvested during that year are retained in the shoreside processing operation; and

(D) The manager of each shoreside processing operation must notify the observer(s) of the offloading schedule of each CDQ groundfish delivery at least 1 hour prior to offloading to provide the observer an opportunity to monitor the weighing of the entire delivery.

(ii) Each processor vessel participating in the CDQ fisheries must either estimate its total weight by the volumetric procedures specified in paragraph (h)(2)(ii)(A) or must weigh its catch in accordance with the procedures under (h)(2)(ii)(B) of this section.

(A) *Volumetric measurements of total catch.* (1) Each processor vessel estimating its catch by volumetric measurement must have one or more receiving bins in which all fish catches are placed for purposes of determining total catch weight prior to sorting operations.

(2) The volume of each bin must be accurately measured, and the bin must be permanently marked and numbered in 10-centimeter increments on all internal sides of the bin. Marked increments must be readable from the outside of the bin at all times. Bins must be lighted in a manner that allows marked increments on each side of the bin to be read from the outside of the bin by a NMFS-certified observer or authorized officer.

(3) The location of bin markings as certified must be described in writing. Tables certified under paragraph (h)(2)(ii)(A)(2) indicating the volume of each certified bin in cubic meters for each 10-centimeter increment marked on the sides of the bins must be submitted to the NMFS Observer Program prior to harvesting or receiving groundfish and must be maintained aboard the vessel and made available to NMFS-certified observers at all times. All bin certification documents must be dated and signed by the certifier. The bin volume and marked and numbered increments must be certified by a registered engineer with no financial interest in fishing, fish processing, or fish tender vessels, or by a qualified organization that has been designated by the U.S. Coast Guard Commandant, or an authorized representative thereof, for the purpose of classing or examining commercial fishing industry vessels under the provisions of 46 CFR 28.76. Bin volumes and marked and numbered increments must be recertified each time a bin is structurally or physically changed.

(4) Vessel operators must notify observers prior to any removal or addition of fish from each bin used for volumetric measurements of catch in such a manner that allows an observer to take bin volume measurements prior to fish being removed from or added to the bin. Once a volumetric measurement has been taken, additional fish may not be added to the bin until at least half the original volume has been removed. Fish cannot be removed from or added to a bin used for volumetric measurements of catch until an observer indicates that bin volume measurements have been completed and any samples of catch required by the observer have been taken.

(5) Fish from separate hauls or deliveries from separate harvesting vessels must not be mixed in any bin used for volumetric measurements of catch.

(B) *Scale weight measurements of total catch.* (1) Any scale used on each processor vessel to weigh groundfish harvested in the CDQ fisheries must measure catch weights to at least 95 percent accuracy at all times as determined by a NMFS-certified observer or authorized NMFS or U.S. Coast Guard enforcement officer. The scale must be equipped with a functional motion compensation device to account for vessel acceleration, roll, pitch and vibration movement. The scale and scale display must be capable of being viewed simultaneously by the observer.

(2) Printouts of scale measurements of each haul weight must be made available to the observer and be maintained on board the vessel for the duration of the fishing year or for as long after a fishing year that fish product produced from fish harvested during that year are retained aboard a vessel.

(3) The catch from each haul must be kept separate such that the scale weight can be obtained separately for each haul.

[FR Doc. 93-31416 Filed 12-23-93; 8:45 am]
BILLING CODE 3510-22-P

Notices

Federal Register
Vol. 58, No. 246
Monday, December 27, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Evaluation of State Coastal Management Programs

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Alabama and Hawaii Coastal Management Programs.

These evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of coastal states with respect to coastal management. Evaluation of Coastal Management Programs requires findings concerning the extent to which a state has adhered to the CMP approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The Alabama Coastal Management Program evaluation site visit will be from January 31, to February 4, 1994. A Public Meeting will be held Wednesday, February 2, 1994, at 7 p.m., at the Killian Room, in the International Trade Center, 250 Water Street, Mobile, Alabama, 36602.

The Hawaii Coastal Management Program evaluation site visit will be from February 7–11, 1994. A Public Meeting will be held Tuesday, February 8, 1994, at 7 p.m., at Kealakehe Intermediate School, 74–5062 Onipa'a Street, Kailua-Kona, Hawaii 96740.

Each state, or Territory, will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the site visit. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, (301) 713–3090.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration

Dated: December 20, 1993.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 93–31417 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–08–M

International Trade Administration

[A–428–062]

Animal Glue From Germany; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on animal glue from Germany.

Domestic interested parties who object to this revocation must submit their comments in writing no later than thirty days from January 26, 1994.

EFFECTIVE DATE: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: Dennis Askey or Wendy Frankel, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, the Treasury Department published an antidumping finding on animal glue from Germany (42 FR 64115). The Department has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

Opportunity to Object

No later than thirty days from December 27, 1993, domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

No interested parties requested an administrative review in accordance with the Department's notice of opportunity to request administrative review by the end of the anniversary month. If domestic interested parties do not object to the Department's intent to revoke within thirty days from December 27, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: December 20, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31481 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–351–602]

Butt-Weld Pipe Fittings From Brazil; Intent to Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on butt-weld pipe fittings from Brazil.

Domestic interested parties who object to this revocation must submit their comments in writing no later than thirty days from December 27, 1993.

EFFECTIVE DATE: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: Michael Diminich or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1986, the Department of Commerce (the Department) published an antidumping duty order on butt-weld pipe fittings from Brazil (51 FR 45152). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

Opportunity to Object

No later than thirty days from December 27, 1993. Domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

No interested parties requested an administrative review in accordance with the Department's notice of opportunity to request administrative review by the end of the anniversary month. If domestic interested parties do not object to the Department's intent to revoke within thirty days from December 27, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: December 20, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31480 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–091]

Large Electric Motors From Japan; Intent to Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on large electric motors from Japan.

Domestic interested parties who object to this revocation must submit their comments in writing no later than December 27, 1993.

EFFECTIVE DATE: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: Elizabeth Urfer or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1980, the Department of Commerce (the Department) published an antidumping duty order on large electric motors from Japan (45 FR 84994). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

Opportunity to Object

No later than December 23, 1993, domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

No interested parties requested an administrative review in accordance with the Department's notice of opportunity to request administrative review by the end of the anniversary month. If domestic interested parties do not object to the Department's intent to revoke within thirty days from December 27, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: December 20, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31485 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–582–501]

Photo Albums From Hong Kong; Intent To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on photo albums from Hong Kong.

Domestic interested parties who object to this revocation must submit their comments in writing no later than thirty days from December 27, 1993.

EFFECTIVE DATE: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: David Levy or Michael Rill, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1985, the Department of Commerce (the Department) published an antidumping duty order on photo albums from Hong Kong (50 FR 43751). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

Opportunity to Object

No later than thirty days from December 27, 1993, domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

No interested parties requested an administrative review in accordance with the Department's notice of opportunity to request administrative review by the end of the anniversary month. If domestic interested parties do not object to the Department's intent to revoke within thirty days from December 27, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: December 20, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31482 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–401–004]

Staples and Staple Machines From Sweden; Intent to Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on staples and staple machines from Sweden.

Domestic interested parties who object to this revocation must submit their comments in writing no later than December 27, 1993.

EFFECTIVE DATE: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: Kim Moore or Tom Futtner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 1983, the Department of Commerce (the Department) published an antidumping duty order on staples and staple machines from Sweden (48 FR 56250). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

Opportunity to Object

No later than thirty days from December 27, 1993 domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

No interested parties requested an administrative review in accordance with the Department's notice of opportunity to request administrative review by the end of the anniversary month. If domestic interested parties do not object to the Department's intent to revoke within thirty days from December 27, 1993, publication in the Federal Register we shall conclude that the order is no longer of interest to interested parties and shall proceed with revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: December 20, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31486 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–068]

Steel Wire Strand From Japan; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on steel wire strand from Japan.

Domestic interested parties who object to this revocation must submit their comments in writing no later than thirty days from December 27, 1993.

EFFECTIVE DATE: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: Kris Campbell or Michael Rill, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 483–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1978, the Treasury Department published an antidumping finding on steel wire strand from Japan (43 FR 57599). The Department has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

Opportunity To Object

No later than thirty days from December 27, 1993, domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

No interested parties requested an administrative review in accordance with the Department's notice of opportunity to request administrative review by the end of the anniversary month. If domestic interested parties do not object to the Department's intent to revoke within thirty days from December 27, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: December 20, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31484 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–014]

Tuners From Japan; Intent to Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on tuners from Japan.

Domestic interested parties who object to this revocation must submit their comments in writing no later than thirty days from December 27, 1993.

EFFECTIVE DATE: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: Lisa Raisner or Tom Futtner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 1970, the Treasury Department published an antidumping finding on tuners from Japan (35 FR 18914). The Department has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

Opportunity to Object

No later than thirty days from December 27, 1993 domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

No interested parties requested an administrative review in accordance with the Department's notice of opportunity to request administrative review by the end of the anniversary month. If domestic interested parties do not object to the Department's intent to revoke within thirty days from December 27, 1993 we shall conclude that the order is no longer of interest to interested parties and shall proceed with revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: December 20, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31483 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Interagency Environmental Technology Strategy Working Group; Request for Comments

ACTION: Notice.

SUMMARY: The Climate and Global Change Program Office is supporting the establishment of an ad hoc interagency Environmental Technology Strategy Working Group for the White House Office of Science and Technology Policy (OSTP). This group will formulate a comprehensive Administration strategy for encouraging innovation, commercialization and diffusion of environmental technologies. The working group will integrate and build on earlier work by the interagency working group on environmental technology exports and the activities of the Environmental Technology Initiative headed by the Environmental Protection Agency. The working group plans to develop the Administration's Environmental Technology Strategy and is seeking information from private sector organizations, including industry, academia, non-profit and non-government organizations. Written comments are requested.

DATES: Request response no later than Wednesday, January 19, 1994.

ADDRESSES: Technology Strategy, Environment Division, Office of Science and Technology Policy, Executive Office of the President, Old Executive Office Building 494, Washington, DC 20500.

SUPPLEMENTARY INFORMATION: The Working Group has adopted the following definition for environmental technology:

Environmental Technology: Any technology, system or service designed, developed and operated for the primary purpose of addressing an environmental issue so as to reduce residual risk or costs, and/or improve process efficiency. The word "technology" is intended to include hardware, software, systems and services. Four major categories are included within this definition:

Pollution Avoidance: Pollution prevention and waste minimization technologies that avoid production of environmentally hazardous substances. These include equipment, processes, and process sensors and controls designed to prevent or minimize the generation of pollutants and hazardous substances, as well as technologies used in product substitution or recycling and recovery of useful raw materials, products, and energy from waste streams.

Pollution Control: Technologies that render pollutants less harmful before they enter the environment. These include the treatment of pollutants to eliminate or reduce environmental and health hazards, or the reduction of pollutant volume or mobility to make subsequent management more effective.

Remediation and Restoration: Technologies that render hazardous substances less harmful after they enter the environment. Examples include eradication, encapsulation, and other cleanup technologies that either remove the risks associated with hazardous wastes or make them more manageable. Restoration technologies embody methods designed to improve ecosystems that have declined due to natural or anthropogenic effects, restoring and sustaining the natural ecosystems and improving their contributions to other ecosystems, human population and global cycles. Examples include reforestation and the creation of wetlands and artificial reefs.

Monitoring and Assessment: Technologies used to establish, evaluate, and monitor the condition of the environment, including releases of pollutants. These include the design, development and operation of monitoring equipment with associated

quality assurance and risk evaluation aspects.

OSTP is seeking public comment and responses from the private sector to the following items:

1. What are the most significant barriers to innovation, development and diffusion of environmental technology? In what ways can government policies eliminate or minimize these barriers? Where possible, please indicate examples of successful government-industry interaction in this area, including interaction in other countries.

2. What long-term goals or strategies do you think the Federal government and/or the private sector should pursue in the area of environmental technology?

3. In what areas of environmental technology are you involved? Please discuss your major activities.

4. What international activities does your organization have in environmental technologies? (e.g., exports; licensing arrangements, sale or purchase of technology, other forms of technology transfer such as testing or R&D overseas; joint venture or partial ownership stakes). In what ways does overseas presence aid or alter development and commercialization of new products or services?

Dated: December 17, 1993.

J. Michael Hall,

Director, Office of Global Programs, National Oceanic Atmospheric Administration.

[FR Doc. 93-31292 Filed 12-23-93; 8:45 am]

BILLING CODE 4310-12-M

Patent and Trademark Office

Economics and Statistics Administration, Technology Administration; Public Hearings and Request for Comments on Economic Aspects of the U.S. Patent System

AGENCIES: Patent and Trademark Office; Economics and Statistics Administration; Technology Administration; Department of Commerce.

ACTION: Notice of hearings and request for public comments.

SUMMARY: The Patent and Trademark Office (PTO), the Economics and Statistics Administration (ESA), and the Technology Administration (TA) of the Department of Commerce are conducting a review of certain aspects of domestic and foreign intellectual property systems. As part of their review, these agencies are interested in obtaining public input on issues associated with the balance of rights between patent owners and the public with regard to research-oriented use of patented technology. Interested members of the public are invited to testify at public hearings and to present written comments on any of the topics outlined in the supplementary information section of this notice.

DATES: A public hearing will be held on January 25, 1994, at the San Jose Convention Center, 408 Almaden Avenue, San Jose, California. Those wishing to present oral testimony at the hearing must request an opportunity to do so no later than January 20, 1994. Written comments on topics presented in the supplementary information section of this notice should be received by the PTO on or before March 1, 1994.

ADDRESSES: Those interested in presenting written comments on the topics contained in the supplementary information, or any other related topic, should address their comments to the Commissioner of Patents and Trademarks, marked to the attention of Jeff Kushan. Comments submitted by mail should be sent to Commissioner of Patents and Trademarks, Box 4, Patent and Trademark Office, Washington, DC 20231. Comments can be sent by electronic mail to Internet address "comments-exp-use@uspto.gov." Comments may also be submitted by telefax at (703) 305-8885. Written comments should include the following information:

—Name and affiliation of the individual responding;

—An indication of whether comments offered represent views of the individual's organization or are the respondent's personal views; and

—If applicable, the nature of the respondent's organization, including the size, type of organization (e.g., business, trade group, university, non-profit organization) and principal areas of business or research activity

Parties offering testimony or written comments are asked to provide their comments in machine readable format in one of the following file formats: ASCII text, WordPerfect for DOS version 4.2 or 5.x, WordPerfect for Windows version 5.x, Word for Windows version 1.0 or 2.0, Word for DOS version 5.0, Word for Macintosh version 3.0, 4.0 or 5.x, or WordPerfect for Macintosh version 2.x.

Persons wishing to testify must notify Jeff Kushan no later than January 20, 1994. Mr. Kushan can be reached by mail sent to his attention addressed to the Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231; by phone at (703) 305-9300; or by telefax at (703) 305-8885. No requests to testify will be accepted through electronic mail.

Written comments and transcripts of the hearings will be available for public inspection no later than January 30, 1994, in room 902 of Crystal Park Two, 2121 Crystal Drive, Arlington, Virginia. Persons wishing to obtain a machine readable copy of the transcripts and public comments should contact Jeff Kushan at the address listed below.

FOR FURTHER INFORMATION CONTACT: Jeff Kushan by telephone at (703) 305-9300, by fax at (703) 305-8885, by electronic mail at kushan@uspto.gov, or by mail marked to his attention addressed to the Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

I. Background

The intellectual property systems in the United States have been designed to promote innovation, creative expression and fair competition. These systems of protection, including patents, copyrights, trademarks and trade secret protection, have proven flexible enough to handle rapid advances in technology and dramatic changes in business practices. However, periodic adjustments to certain aspects of these intellectual property systems have been necessary to ensure their continued usefulness in promoting the respective fields of activity each type of protection was designed to encourage.

A question that has attracted much recent attention is the balance of rights between holders of patent rights and the general public regarding research-oriented use of patent protected technology. The question has become complicated by the increasingly close relationships that are developing between industry, Government and universities. Adding to this is the increased pace of innovation, which brings with it an increasingly compressed period between groundbreaking or landmark innovations. The question of balance, however, is central to the basic objectives of the patent system.

A primary objective of the patent system is the promotion not only of innovation but also of public disclosure of inventions. The patent system functions by providing a seventeen-year period of exclusive rights authorizing the patent holder to prohibit others from making, using or selling the patented invention, as it is defined in the patent, in exchange for a full public disclosure of the invention. This grant of exclusivity serves as the primary incentive for inventors to publicly disclose their inventions. The public benefits through this arrangement immediately via the publication of information regarding the invention and eventually through dedication to the public of the right to use the invention described in the patent.

Thus, a key aspect of the public value of patent disclosures is the immediate public access to information contained in the patent document for purposes of further research and development in the field of technology of the patented invention. Implicit in the public disclosure role of the patent system is the idea that the public will not only be able to use, in some fashion, the information contained in the patent document, but will also be given some discretion in using the patented invention itself so that it can be fully understood. Yet, other than limited provisions allowing for testing of patented pharmaceutical products for purposes of regulatory approval (e.g., § 271(e)(1) of title 35, United States Code), existing law does not provide a general, statutory defense against a charge of infringement for experimental use of patented technology.

Despite this, the Federal courts have recognized a limited defense to a charge of patent infringement based on use of the patented technology for experimental purposes. This defense, referred to as the experimental use defense, has been raised infrequently, and when considered has been construed very narrowly. There are few cases elaborating the nature of the defense, primarily because patent rights are not frequently enforced against members of the public that use the patented technology for purely experimental purposes. In these cases, the courts have not recognized the defense where the accused infringer has engaged in use of the patented invention for purposes of commercially exploiting the invention, rather than for increasing their understanding of the invention. In cases where the defense has been raised successfully, the experimental use in question was to ascertain how the invention functioned or for purely philosophical or academic reasons.

[Note: A good summary of the experimental use exception can be found in section IV, part chapter 9 of House Report 100-888 (100th Congress, 2d Session).]

The increasingly close relationships between industrial, governmental and university researchers has heightened sensitivity to the commercial implications of basic, as opposed to applied, research. This, in turn, has led to questions regarding the use of patented technology in a research context. This has special implications in research-intensive industries like the pharmaceutical and biotechnological industries, which tend to be high-risk, capital intensive and intensely competitive. Many companies in these industries view clearly defined and understood patent rights as being critical to their commercial success. As a result, such companies aggressively pursue and enforce patent rights to protect their often significant financial investments. However, central to the success of these industries is access to and use of information regarding both significant and incremental advances in science and technology. Experimentation on patented products and processes in these industries often is essential to understanding the nature and significance of these advances. These factors have led to some degree of uncertainty in the research communities regarding use of information and technology disclosed in and protected by patents. This, in turn, has led to calls for a better understanding and possible clarification of the basic balance of rights with respect to research-oriented use of patented technology.

II. Topics for Discussion

The hearing will address the following topics:

—Justifications and rationale for or against an experimental use defense to patent infringement;

—Desirable characteristics of an experimental use defense to patent infringement; and

—Justifications for or against a statutory experimental use defense to patent infringement.

The topics will be explored through a series of questions to which interested members of the public are invited to respond.

[Note: The following questions have been developed with the intent of framing in a neutral fashion a discussion of research-oriented use of patented inventions. The topics have been selected to provide an opportunity for members of academia, industry, Government and the bar to provide their input on the treatment of research activity under current patent law as well as their ideas and suggestions for changes, if viewed as necessary, to the current patent system. Parties responding to these questions are asked to provide the basis for their conclusions offered, and, where possible, to provide their actual experiences in dealing with patent enforcement in the context of research-oriented use of patented technology.]

Topic A. Justifications and Rational for or Against an Experimental Use Defense to Patent Infringement

1. Considering the goals of the patent system of encouraging innovation and public disclosure of inventions, what economic rationale can be cited in support of or against recognizing a defense to a claim of patent infringement based on experimental use of a patented invention?

2. What gains or losses to levels of basic research, inventive activity and investment in research-intensive industries, if any, would you expect to occur if the nature of the present experimental use defense to infringement was modified?

[Note: Parties commenting on this question are invited to comment on the effect of the current patent system on research and development activities, and then to comment on possible effects of a more expansive or restrictive experimental use defense on these activities.]

Topic B. Desirable Characteristics of an Experimental Use Defense to Patent Infringement

1. What activities by an entity conducting research involving a patented invention should not require the authorization of the patent owner?

2. What activities by an entity conducting research involving a patented invention should give rise to liability for infringement?

[Note: for questions B-1 and B-2, please consider:]

The implications of your conclusions for patented products and processes that are to be used primarily as research tools, and

Whether a distinction should be made between commercially-oriented research (e.g., directed at production of a specific commercial product or process) and non-commercially-oriented research (e.g., basic academic research with no specified commercial target) regarding the availability of the defense?]

Topic C. Justifications for or Against a Statutory Experimental Use Defense to Patent Infringement

1. Is there a need for a statutory exception to liability for patent infringement based on experimental use of a patented invention?

2. If your answer to question 1 is "yes", how would you define such an exception?

III. Guidelines for Oral Testimony

Individuals wishing to testify must adhere to the following guidelines:

1. Anyone wishing to testify at the hearings must request an opportunity to do so no later than January 20, 1994. No one will be permitted to testify without prior approval.

2. Requests to testify must include the speaker's name, affiliation (if any), phone number, fax number (if available), mailing address, and the questions in each topic that the speaker intends to address in his or her testimony.

3. Time allocated to each speaker will be determined after the final number of speakers has been determined.

4. Speakers must provide a written copy of their testimony for inclusion in the record of the proceedings no later than January 25, 1994.

5. Speakers must adhere to guidelines established for testimony. These guidelines will be provided to all speakers no later than January 21, 1994.

A schedule providing approximate times for testimony will be provided to all speakers no later than the morning of January 25, 1994. Speakers are advised that the schedule for testimony will be subject to change during the course of the hearings.

IV. Other Information

For information regarding accommodations in the San Jose area, or for information regarding the San Jose Convention Center facilities, individuals can contact Joseph R. Hedges of the Office of Economic Development of the City of San Jose. Mr. Hedges can be reached by phone at (408) 277–5880; by fax at (408) 277–3615; or by mail addressed to 50 West San Fernando Street, Suite 900, San Jose, California 95113.

Dated: December 17, 1993.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

Dated: December 17, 1993.

Mary Lowe Good,

Under Secretary for Technology.

Dated: December 17, 1993.

Paul A. Landon,

Acting Under Secretary for Economic Affairs.

[FR Doc. 93–31415 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa and Certification Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

December 21, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa and certification requirements to require manufacturer's identification.

EFFECTIVE DATE: February 1, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement between the Governments of the United States and the Dominican Republic is being amended, for goods produced or manufactured in the Dominican Republic and exported from the Dominican Republic on and after February 1, 1994, to require that the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa or certification be provided on the textile visaed or certified document.

The name and address of the company should be placed somewhere on the front of the original export visaed or certified document, not within the visa or certification stamp. It should be preceded by the label "manufacturer's identification" or "M.I.D." The name is the full name of the company which performs the substantial part of the manufacturing of the product. The address should include the street name or P.O. Box number (if available), and the city and/or province where the manufacturing occurs. In the case of a shipment covered by a single export visaed or certified document containing products which are each manufactured by a number of different companies, the name and address of each company involved should be listed on the export visaed or certified document. If additional space is needed for listing the name and address of the firms, the back of the export visaed or certified document may be used. Responsible officials will make their best efforts to determine the name and address of a firm or firms which best meet the basic criterion of being an actual manufacturer of the product. This information should appear on the export visaed or certified document prior to export from the Dominican Republic. However, for goods exported during the period February 1, 1994 through February 28, 1994, the importer may type this required information on the front of the original visaed or certified document. For goods exported on or after March 1, 1994 without the M.I.D. on the export visaed or certified document, a new visaed or certified document containing this information must be obtained.

See 52 FR 6594, published on March 4, 1987.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 27, 1987, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic which were not properly visaed by the Government of the Dominican Republic.

Effective on February 1, 1994, for goods produced or manufactured in the Dominican Republic and exported from the Dominican Republic on and after February 1, 1994, you are directed to require that the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa or certification be placed on the textile visaed or certified document. This information shall appear on the export visaed or certified document prior to export from the Dominican Republic. However, for goods exported during the period February 1, 1994 through February 28, 1994, the importer may type this required information on the front of the original visaed or certified document.

Shipments entered for consumption, or withdrawn from warehouse for consumption according to this directive which are not accompanied by an appropriate export visa or certification which includes the identification of the manufacturer on the visaed or certified document shall be denied entry and a new visa or certification containing this information must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–31487 Filed 12–23–93; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 28, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 6, October 29, November 5, 1993, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (58 FR 42055, 58156 and 59015) of the proposed addition to the Procurement List.

After consideration of the material presented to it concerning the capability of qualified nonprofit agencies to provide the services, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Commissary Shelf Stocking and Custodial
Naval Air Station
Meridian, Mississippi

Grounds Maintenance
Naval and Marine Corps Reserve Center
Dayton, Ohio

Janitorial/Custodial
Naval Air Station
Lemoore, California

Janitorial/Custodial
U.S. Post Office and Courthouse
115 Hancock Avenue
Athens, Georgia

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

G. John Heyer,

General Counsel.

[FR Doc. 93–31501 Filed 12–23–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List bookcases to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 26, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 8, 1993, the Committee for Purchase From People Who Are Blind or Severely Disabled published a notice (58 F.R. 52478) of the proposed addition of these bookcases to the Procurement List.

Comments were received from the current contractor for the bookcases during the development phase of this proposed addition to the Procurement List. The commenter provided information to support its claim that addition of the total Government requirement for the bookcases to the Procurement List would have severe adverse impact on the company. In order to reduce the impact, the Committee has decided to add only the Government requirement for GSA Supply Zone 1 to the Procurement List. The impact of adding only this portion of the Government requirement to the Procurement List will be substantially less than if the entire Government requirement were added. The Committee does not consider the loss of sales for this lesser portion of the Government requirement to constitute severe adverse impact on the commenter.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to produce the commodities, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Bookcase, Steel, Contemporary

7110–00–601–9821
7110–00–601–9822
7110–01–135–1997
7110–01–135–1998
(Requirements for GSA Zone 1 only)

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

G. John Heyer,

General Counsel.

[FR Doc. 93–31502 Filed 12–23–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

VOL 58 ISS 246 DEC 27 1993 UMI

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 28, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.
2. The action does not appear to have a severe economic impact on the current contractors for the commodities and services.
3. The action will result in authorizing small entities to furnish the commodities and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List for production by the nonprofit agency listed:

Commodities

Tool Box, Portable

5140–00–388–3416

Nonprofit Agency: Custom Manufacturing Services, Inc. Louisville, Kentucky

Frame, Picture

7105–00–052–8689

Nonprofit Agency: Eastern Carolina Vocational Center Greenville, North Carolina

Stand, Office Machine

7110–00–601–9835
7110–00–601–9849
7110–01–136–1563

Nonprofit Agency: Custom Manufacturing Services, Inc. Louisville, Kentucky

Cap Assembly, Plastic Water Can

7240–00–089–7312

Nonprofit Agency: Royal Maid Association for the Blind, Inc. Hazlehurst, Mississippi

Services

Grounds Maintenance
Federal Bureau of Investigation Complex
Clarksburg, West Virginia
Nonprofit Agency: The Summit Center, Clarksburg, West Virginia

Janitorial/Custodial

Federal Bureau of Investigation Complex
Clarksburg, West Virginia
Nonprofit Agency: Marion County Opportunity Workshop, Inc. Fairmont, West Virginia

G. John Heyer,

General Counsel.

[FR Doc. 93–31503 Filed 12–23–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 28, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.
2. The action will result in authorizing small entities to furnish the service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following service has been proposed for addition to the Procurement List for production by the nonprofit agency listed:

Janitorial/Custodial
Jennings Randolph Federal Center
Elkins, West Virginia
Nonprofit Agency: Buckhannon-Upshur Work Adjustment Center, Inc. Buckhannon, West Virginia

G. John Heyer,

General Counsel.

[FR Doc. 93–31504 Filed 12–23–93; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; State Student Incentive Grant Program

AGENCY: Department of Education.

ACTION: Notice of the closing date for receipt of State applications for fiscal year 1994.

SUMMARY: The Secretary of Education (Secretary) gives notice of the closing date for receipt of State applications for fiscal year 1994 funds under the State Student Incentive Grant (SSIG) Program. This program, through matching formula grants to States for student awards, provides grants to students with substantial financial need. The SSIG Program supports Goals 2000, the President's strategy for moving the Nation toward the National Education Goals, by enhancing opportunities for postsecondary education. The National Education Goals call for increasing the rate at which students graduate from high school and pursue high quality postsecondary education.

A State that desires to receive SSIG funds for this fiscal year must have an agreement with the Secretary as provided under section 1203(a) of the Higher Education Act of 1965, as amended (HEA). The State must submit an application through the State agency that administered its SSIG Program as of July 1, 1985, unless the Governor has subsequently designated, and the Secretary has approved, a different State agency.

The Secretary is authorized to accept applications from the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Island (Palau), provided it remains a trust territory. (The future eligibility of the Republic of Palau will be determined by the provisions of the Compact of Free Association.) Authority for this program is contained in sections 415A through 415E of the HEA. (20 U.S.C. 1070c–1070c–4)

Closing Date for Transmittal of Applications

An application for fiscal year 1994 SSIG funds must be mailed or hand-delivered by April 15, 1994.

Application Form

The required application form for receiving SSIG funds will be mailed to officials of the appropriate State agency in each State at least 30 days before the closing date. Applications must be prepared and submitted in accordance with the HEA and the program regulations cited in this notice. The Secretary strongly urges that applicants only submit information that is requested.

Applications Delivered by Mail

An application sent by mail must be addressed to: Mr. Fred Sellers, Chief, Pell and State Grant Section, room 4018, ROB–3, U.S. Department of Education, Student Financial Assistance Programs, 400 Maryland Avenue, SW., Washington, DC 20202–5447.

The Secretary will accept the following proof of mailing:

(1) A legibly dated U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice, or receipt from a commercial carrier; or

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) A mail receipt that is not dated by the U.S. Postal Service. The Department of Education encourages applicants to use registered or at least first-class mail.

A late applicant cannot be assured that its application will be considered for fiscal year 1994 funding.

Applications Delivered by Hand

An application that is hand-delivered must be taken to Mr. Fred Sellers, U.S. Department of Education, Student Financial Assistance Programs, 7th and D Streets, S.W., room 4018, General Service Administration Regional Office Building #3, Washington, DC. Hand-delivered applications will be accepted between 8 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

Section 415C(a) of the HEA requires that an annual application be submitted for a State to receive SSIG funds. In preparing the application, each State agency should be guided by the table of allotments provided in the application package.

State allotments are determined according to the statutorily mandated formula under section 415B of the HEA and are not negotiable. A State may also request its share of reallotment, in addition to its basic allotment, which is contingent upon the availability of such additional funds.

In fiscal year 1993, 49 States, the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Island (Palau), and the Commonwealth of the Northern Mariana Islands received funds under the SSIG Program.

Applicable Regulations

The following regulations are applicable to the SSIG Program:

(1) The SSIG Program regulations in 34 CFR Part 692.

(2) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 76 (State-Administered Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 82 (New Restrictions on Lobbying), part 85 (Governmentwide Debarment and Suspension (Nonprocurement), and Governmentwide Requirements for Drug-Free Workplace (Grants)), and part 86 (Drug-Free Schools and Campuses).

(3) The regulations in 34 CFR part 604 that implement section 1203 of the HEA (Federal-State Relationship Agreements).

(4) The Student Assistance General Provisions in 34 CFR Part 668.

FOR FURTHER INFORMATION CONTACT: Ms. Jacquelyn C. Jones, Pell and State Grant Section, U.S. Department of Education, Student Financial Assistance Programs, Washington, DC 20202–5447; telephone (202) 708–4607. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. (20 U.S.C. 1070c–1070c–4).

(Catalog of Federal Domestic Assistance Number 84.069, State Student Incentive Grant Program)

Dated: December 17, 1993.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 93–31418 Filed 12–23–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board.

Date and Time: Wednesday, January 19, 1994, 8:30 a.m.–4 p.m.

Place: JW Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Jake W. Stewart, Designated Federal Officer, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7092.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Secretary of Energy Advisory Board was established to serve as the Secretary of Energy's primary mechanism for long-range planning and

VOL 58 ISS 246 DE 27 1993 UMI

analysis of major issues facing the Department of Energy. The Board will advise the Secretary on the research, development, energy and national defense responsibilities, activities, and operations of the Department and provide expert guidance in these areas to the Department.

Tentative Agenda

8:30 a.m.–9 a.m. Opening Remarks of the Chairman and Secretary of Energy
9 a.m.–11:30 a.m. Presentations to the Board
11:30 a.m.–12 p.m. Follow-on Activities from the Task Force on Radioactive Waste Management
12 p.m.–1:30 p.m. Adjourn for Lunch
1:30 p.m.–2 p.m. Public Comment Period
2 p.m.–3:15 p.m. Board Discussion Period
3:15 p.m.–4 p.m. Chairman and Secretary's closing remarks
4 p.m. Adjourn

A final agenda will be available at the meeting.

Public Participation: The Chairman of the Board is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. The Board welcome public comment. If business permits, members of the public will be heard in the order in which their requests are received. The Board will make every effort to hear the views of all interested parties. Written comments addressed to the Board may be submitted to Jake W. Stewart, Executive Director/Designated Federal Officer, Secretary of Energy of Advisory Board, 1000 Independence Avenue, SW., Washington, DC 20585. Written comments received by Monday, January 10, 1994, will be made available to Board members prior to the meeting.

Minutes: Minutes of the meeting will be available for public review and copying approximately 30 days following the meeting at the Department of Energy Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday.

Issued at Washington, DC, on December 20, 1993.

Marcia Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 93–31497 Filed 12–23–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Efficiency and Renewable Energy

[Case No. F–065]

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of DOE Furnace Test Procedures From Carrier Corp.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Carrier Corporation (Carrier) from the existing Department of Energy (DOE) test procedure regarding blower time delay for the company's 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces.

Today's notice also publishes a "Petition for Waiver" from Carrier. Carrier's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Carrier seeks to test using a blower delay time of 45 seconds for its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. The Department is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than January 26, 1994.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Case No. F–065, Mail Stop EE–90, room 6B–025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0561.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7140

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–9507

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter, DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On October 13, 1993, Carrier filed an Application for Interim Waiver regarding blower time delay. Carrier's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Carrier requests the allowance to test using a 45-second blower time delay when testing its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces. Carrier states that the 45-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 0.6 percent. Since current DOE test procedures do not address this variable blower time delay, Carrier asks that the Interim Waiver be granted.

The Department has published a Notice of Proposed Rulemaking on August 23, 1993 (58 FR 44583) to amend the furnace test procedure, which addresses the above issue.

Previous waivers for this type of time blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, and 57 FR 22222, May 27, 1992; Lennox Industries, 55 FR 50224, December 5, 1990, and 57 FR 49700, November 3, 1992; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, and 57 FR 38830, August 27, 1992; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, and 57 FR 23392, June 3, 1992; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, and 57 FR 27970, June 23, 1992; The Ducane Company Inc., 56 FR 63943, December 6, 1991, and 57 FR 10163, March 24, 1992; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, and 57 FR 54230, November 17, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992; and Bard Manufacturing Company, 57 FR 53733, November 12, 1992. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Carrier an Interim Waiver for its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces. Pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations part 430, the following letter granting the Application for Interim Waiver to Carrier was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. The Department solicits comments, data, and information respecting the petition.

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

December 17, 1993.

Mr. Edward A. Baily,
Vice President, Government & Industry Relations, Carrier Corporation, P.O. Box 4808, Syracuse, New York 13221.

Dear Mr. Baily: This is in response to your October 13, 1993, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedure regarding blower time delay for Carrier Corporation (Carrier) 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, and 57 FR 22222, May 27, 1992; Lennox Industries, 55 FR 50224, December 5, 1990, and 57 FR 49700, November 3, 1992; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, and 57 FR 38830, August 27, 1992; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, and 57 FR 23392, June 3, 1992; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, and 57 FR 27970, June 23, 1992; THE Ducane Company Inc., 56 FR 63943, December 6, 1991, and 57 FR 10163, March 24, 1992; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, and 57 FR 54230, November 17, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992; and Bard Manufacturing Company, 57 FR 53733, November 12, 1992. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

Carrier's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Carrier will likely experience absent a favorable determination on its application. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Carrier's Application for an Interim Waiver from the DOE test procedure for its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces regarding blower time delay is granted.

Carrier shall be permitted to test its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces on the basis of the test procedures specified in 10 CFR part 430, subpart B, Appendix N, with the modification set forth below:

(i) Section 3.0 in Appendix N is deleted and replaced with the following paragraph: 3.0 Test Procedure. Testing and measurements shall be as specified in Section 9 in ANSI/ASHRAE 103–82 with the exception of Sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows: 3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-) unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay (t-) using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ± 0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified

at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Sincerely,

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

October 13, 1993.

The Assistant Secretary for Conservation and Renewable Energy,

United States Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Gentlemen: Subject: *Petition for Waiver. and Application for Interim Waiver.*

This is a petition for Waiver and Application for Interim Waiver which are submitted pursuant to title 10 CFR 430.27 as amended November 14, 1986. Waiver is requested from Test Procedures for Measuring Energy Consumption of Furnaces found in appendix N to subpart B of part 430.

Under the existing Test Procedure, a 1.5 minute time delay between burner and blower startup is required. Carrier requests a waiver from the specified 1.5 minute delay. In its place, we request the use of a 45-second delay on Carrier's line of 48HJ, 48HM, 48TJ/580D, 43SS/588A and 48SX/589A induced draft roof-top furnaces.

The time delay in all lines of equipment is fixed within the furnace control, and cannot be adjusted by the installer or servicer.

The current test procedures do not credit Carrier for energy savings associated with the shorter blower time delays. Test data on our mid-efficiency furnaces show a decrease in the heat-up cycle energy losses when using the 45-second delay, resulting in an increased in AFUE of approximately 0.6 AFUE points. Confidential supporting test data is available upon request.

Carrier is confident that a waiver will be granted for public policy reasons in the light of previous rulings in which DOE granted waivers of this type to Carrier, Lennox Industries, Inter-City Products, Amana, Rheem Manufacturing, and Trane Company.

Respectfully,

Edward A. Baily,

Vice President, Government & Industry Relations.

[FR Doc. 93-31498 Filed 12-23-93; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket Nos. ER90-525-010, et al.]

New England Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. New England Power Company

[Docket Nos. ER90-525-010 and ER91-565-004]

December 16, 1993

Take notice that on December 13, 1993, New England Power Company (NEP) filed a refund compliance report associated with certain refund obligations under Docket Nos. ER90-525-000 et al. and ER91-565-000 et al. In accordance with the settlements approved in those dockets, NEP has reconciled to actual certain purchased power expenses, making refunds and adjusting its fuel adjustment clause. NEP stated that refunds, including interest, were made on November 30, 1993. NEP has also adjusted the level of its fuel adjustment clause for the month of November, 1993.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Michigan Power Limited Partnership

[Docket No. QF88-441-001]

December 16, 1993

On December 8, 1993, Michigan Power Limited Partnership (Applicant), in care of Sheldon L. Abramson, Esq., Destec Energy, Inc., 2500 City West Boulevard, Houston, Texas 77042 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. On June 17, 1988, in Docket No. QF88-441-000, The Dow Chemical Company (Dow) filed a notice of self certification pursuant to § 292.207(a) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the Applicant, the topping-cycle cogeneration facility which will be located adjacent to the Dow industrial chemical complex in Ludington, Michigan, will consist of a gas turbine generator, a separately fired heat recovery boiler and an extraction/condensing steam turbine generator. Steam from the facility will be used for the production of various chemical products at the Dow industrial chemical complex. The primary energy source will be natural gas. The net electric power production capacity of the facility will be 123 MW. The installation of the facility is expected to commence in the first quarter of 1995.

Comment date: January 26, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Company Services, Inc.

[Docket Nos. ER93-59-002, ER93-65-002, and EL91-29-003]

December 15, 1993

Take notice that on December 10, 1993, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company made a supplemental filing in this proceeding.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. West Texas Utilities Company

[Docket No. ER94-229-000]

December 16, 1993

Take notice that on December 9, 1993, West Texas Utilities Company (WTU) tendered for filing a Notice of Termination, which states that the Power Supply Agreement between WTU and McCulloch Electric Cooperative, Inc. (McCulloch) filed with the Commission and designated as Service Agreement No. 8 was cancelled effective June 11, 1992.

Copies of the filing have been sent to McCulloch and the Public Utility Commission of Texas.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Boston Edison Company

[Docket No. ER94-221-000]

December 16, 1993

Take notice that on December 6, 1993, Boston Edison Company (Edison) tendered for filing an agreement with the Massachusetts Bay Transportation Authority (MBTA) for the construction of a 115 Kv interconnection of Edison's K Street Substation. Edison requests that this agreement be allowed to become effective as of May 8, 1985. As good cause for a waiver of the 60 day notice requirements of section 205 to permit retroactive effective dates, Edison states that this agreement is being filed pursuant to the amnesty granted by the Commission in Docket No. PL93-2-002.

Edison states that it has served the filing on the MBTA and the Massachusetts Department of Public Utilities.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. West Texas Utilities Company

[Docket No. ER94-228-000]

December 16, 1993

Take notice that on December 9, 1993, West Texas Utilities Company (WTU) tendered for filing an Assignment of Service Agreement between WTU and Gate City Electric Cooperative, Inc. (Gate City) and Brazos Electric Power Cooperative, Inc. (Brazos). WTU also tendered for filing an Assignment of Service Agreement between WTU and Dickens Electric Cooperative, Inc. and Brazos. Pursuant to the Agreements, Gate City and Dickens have agreed to assign to Brazos existing Service Agreements pursuant to which Gate City and Dickens took full-requirements service from WTU. WTU seeks an effective date of April 1, 1986.

Copies of the filing have been served on Gate City, Dickens, Brazos, and the Public Utilities Commission of Texas.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Philadelphia Electric Company

[Docket No. ER94-231-000]

December 16, 1993

Take notice that Philadelphia Electric Company (PE) tendered for filing on December 10, 1993, as initial rate schedules borderline interchange agreements with Metropolitan Edison Company (Met-Ed) and Pennsylvania Power & Light Company (PP&L). PE states that the borderline sales are based on state commission approved retail rates.

PE states that copies of the filing were served on Met-Ed, and PP&L and the Pennsylvania Public Utility Commission.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of Oklahoma

[Docket No. ER94-233-000]

December 16, 1993

Take notice that on December 10, 1993, Public Service Company of Oklahoma (PSO) filed a request for waiver of the Commission's fuel clause regulations. While awaiting judicial resolution of an extended dispute with a coal transporter, PSO seeks to pass through the fuel clause the contract amounts in dispute until such time as a judicial order is received or a settlement reached.

PSO seeks an effective date of January 1, 1994 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing have been served on affected customers and the Oklahoma Corporation Commission. Additional copies are available for inspection in PSO's main offices in Tulsa, Oklahoma.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Tenaska Washington Partners, L.P.

[Docket No. ER94-230-000]

December 16, 1993

Take notice that Tenaska Washington Partners, L.P. (Tenaska) on December 10, 1993, tendered for filing an initial FERC electric service tariff, which is a Power Purchase and Operating Agreement between itself and Bonneville Power Administration.

The Agreement provides for sales of energy and capacity from Commonwealth to Bonneville.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER94-232-000]

December 16, 1993

Take notice that on December 9, 1993, Arizona Public Service Company (APS) requested the Commission to disclaim jurisdiction over the Operation and Maintenance Agreement (Agreement) between APS and Town of Wickenburg (Wickenburg) or, if the Commission asserts jurisdiction, to accept the Agreement for filing.

The Agreement provides that APS will operate and maintain the electrical distribution system which is owned by Wickenburg and is within the town limits of Wickenburg.

Copies of this filing have been served upon Wickenburg and the Arizona Corporation Commission.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. New York State Electric & Gas Corporation

[Docket No. ER94-191-000]

December 16, 1993

Take notice that on November 29, 1993, New York State Electric & Gas Corporation (NYSEG) tendered for filing a letter agreement between NYSEG and Consolidated Edison Company of New York, Inc. NYSEG states that this Agreement amends NYSEG'S current agreement for the borderline sale of electric energy between NYSEG and Con Edison.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Southern California Edison Company

[Docket Nos. ER86-271-005 and ER87-385-004]

December 16, 1993

Take notice that on November 29, 1993, Southern California Edison Company tendered for filing copies of corrected tariff sheets to the filing made in the above-referenced dockets on November 8, 1993.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Wisconsin Electric Power Company

[Docket No. ER94-226-000]

December 16, 1993

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on December 9, 1993, tendered for filing Exhibits B to FERC Rate Schedule Nos. 65 and 66 between itself and The Wisconsin Public Power Inc. System (WPPI). The revisions change the nominal delivery voltage from 26,400 volts to 24,900 volts at WPPI's two delivery points in the Village of Slinger, Wisconsin (Slinger). According to Wisconsin Electric there is no effect on rates or revenues.

Wisconsin Electric respectfully requests an effective date of December 6, 1993, coincident with the voltage changeover at the Village of Slinger. Wisconsin Electric is authorized to state that WPPI joins in the requested effective date.

Copies of the filing have been served on WPPI, Slinger, and the Public Service Commission of Wisconsin.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. New England Power Company

[Docket No. ER94-225-000]

December 16, 1993

Take notice that New England Power Company (NEP), on December 9, 1993, tendered for filing a letter agreement with Pepperell Power Associates. The letter agreement governs the parties' relationship concerning a Private Letter Ruling that NEP intends to seek from the Internal Revenue Service on the taxable nature of the contribution-in-aid-of-construction for the interconnection between Pepperell's exempt wholesale generating facility and NEP's transmission system. In its filing, NEP requested that the Federal Energy Regulatory Commission waive its filing regulations for agreements of this type when they involve only a strict passthrough of third-party expenses.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER91–569–005]

December 16, 1993

Take notice that on December 7, 1993, Entergy Services, Inc. filed a refund report, including a revised tariff page and revised rate calculations. Entergy Services filing was made to comply with the condition in the Commission's order of April 5, 1993, in this proceeding that the return on common equity component specified in the Energy open-access transmission tariff formula rate would be subject to refund and subject to the outcome of the consolidated proceeding in Docket Nos. ER92–341–000, EL92–35–000, and EL92–36–000.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. San Diego Gas & Electric Company

[Docket No. ER94–224–000]

December 16, 1993

Take notice that on December 8, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and the Sacramento Area Office of the Western Area Power Administration (Western).

SDG&E requests that the Commission allow the Agreement to become effective on January 31, 1994, or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Western.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

17. PSI Energy, Inc.

[Docket No. ER94–223–000]

December 16, 1993.

Take notice that PSI Energy, Inc. (PSI) on December 8, 1993, tendered for filing an Eighth Supplemental Agreement to the Power Coordination Agreement, dated August 27, 1982, between PSI and Wabash Valley Association, Inc. (WVPA).

The Power Coordination Agreement has been revised as a result of adding the Exhibit "A's" and single line schematics for all Interconnection Points between WVPA and PSI.

PSI and WVPA have requested an effective date of February 3, 1994.

Copies of the filing were served on Wabash Valley Power Association and the Indiana Utility Regulatory Commission.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

18. Portland General Electric Company

[Docket No. ER94–214–000]

December 16, 1993.

Take notice that on December 6, 1993, Portland General Electric Company (PGE) tendered for filing amendments to the General Transfer Agreement Between the Bonneville Power Administration (BPA) and PGE. These amendments will permit BPA and PGE to approximately share costs of construction on their interconnected systems in the Canby area.

PGE requests waiver of the notice requirements to allow the amendments to take effect December 8, 1993, or as soon as amendments are accepted for filing. PGE also requests waiver of the requirements of 18 CFR 35.13 that it file cost support data other than as provided in the filing.

Copies of this agreement have been served on BPA.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

19. San Diego Gas & Electric Company

[Docket No. ER94–124–000]

December 16, 1993.

Take notice that on December 9, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing an amendment to its earlier filing of a Power Sales Agreement between SDG&E and the City of Vernon (Vernon), executed on October 27, 1993. In the amended filing (1) SDG&E agrees to make a pro rata reduction in the demand charge when it is unable to deliver the power at the delivery point during any period of the month; (2) Vernon shall not be obligated to take and pay for the minimum energy schedules referenced in 4.1 and 4.2 of the Agreement when SDG&E is unable to deliver or when Vernon is unable to receive the full amount of associated energy scheduled during any hour due to Uncontrollable Forces; and (3) All transactions under the Agreement are predicated on SDG&E supplying power from its system. The energy charge equals 100% of SDG&E's system incremental energy cost (SIC) plus up to 10% SIC (where such 10% is limited to 1 mill/kWh when the SIC in the hour reflects a purchase power resource).

Copies of this filing were served upon the Public Utilities Commission of the State of California, the City of Vernon and the official service list.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

20. Public Service Electric and Gas Company

[Docket No. ER94–220–000]

December 16, 1993.

Take notice that on December 7, 1993, Public Service Electric and Gas Company, Philadelphia Electric Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Jersey Central Power & Light Company (JC), Metropolitan Edison Company (ME), Pennsylvania Electric Company, Delmarva Power & Light Company, and UGI Utilities Inc. (UGI) (the Filing Parties) tendered for filing as initial rate schedules seven agreements executed between 1965 to 1990 and not previously considered by the Filing Parties to be jurisdictional. Waiver of notice is requested for good cause pursuant to the Commission's Final Order issued July 30, 1993 in Docket No. PL93–2–000, 64 FERC ¶ 61,139, clarified on rehearing, 65 FERC ¶ 61,081.

The Filing Parties request that the "Agreement On Coordinated Program For Energy Use" dated April 1, 1977 be accepted for filing. The Filing Parties request that the Commission disclaim jurisdiction over the other agreements submitted, consisting of: "Mid-Atlantic Area Coordination Agreement" dated May 25, 1979; "Owners Agreement, Pennsylvania-New Jersey-Maryland Interconnection" dated September 26, 1990; "Facilities Agreement For Pennsylvania-New Jersey-Maryland Interconnection Office" dated June 16, 1993; "Keystone Operating Agreement" dated December 1, 1965, as amended' "Conemaugh Operating Agreement" dated December 1, 1967, as amended. These other agreements, according to the Filing Parties, are not required to be filed under section 205 of the Federal Power Act.

Waiver Of Notice is requested to allow an effective date for each of these agreements as of the date of execution, if the Commission does not disclaim jurisdiction. The Filing Parties do not include: UGI with respect to the "Owners Agreement," "Facilities Agreement" and "Articles of Association"; ME, Pepco and UGI with respect to the "Keystone Agreement"; or JC with respect to the "Conemaugh Agreement."

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

21. Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc.

[Docket No. ER94–218–000]

December 16, 1993.

Take notice that on December 7, 1993, Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc., (Montana-Dakota) tendered for filing an Interconnection and Common Use Agreement entered into between Montana-Dakota and Basin Electric Power Cooperative, Inc. (Basin). Tendered for filing with such underlying agreement are several supplemental and associated agreements between such parties related to such underlying agreement.

Montana-Dakota requests that the Commission waive the notice requirement and (a) permit the underlying agreement to become effective on January 31, 1972 and (b) permit the associated amendments and supplements to become effective as of the rates provided for in such contractual documents.

Copies of the filing were served on Basin and on the interested utility regulatory agencies.

Comment date: December 30, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31444 Filed 12–23–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–126–000, et al.]

Florida Gas Transmission Co.; et al.; Natural Gas Certificate Filings

December 15, 1993.

Take notice that the following filings have been made with the Commission:

1. Florida Gas Transmission Company

[Docket No. CP94–126–000]

Take notice that on December 10, 1993, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP94–126,000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to upgrade an existing meter station for Peoples Gas System, Inc. (Peoples) under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT states that it proposes to upgrade the Orlando Southwest Meter Station in Orange County, Florida to allow for delivery of incremental volumes of natural gas. FGT also states that the Orlando Southwest delivery point would add an additional 4-inch meter and other appurtenant facilities necessary to accommodate the measurement of gas, up to 396 Mcf per hour at 150 psig. FGT says that Peoples would reimburse it for all costs directly and indirectly incurred by FGT for the construction of the meter station. It is estimated that the total cost of construction would be $80,600, inclusive of tax gross-up.

FGT states that the proposed construction was requested by Peoples to accommodate the geographic shift of its market requirements. FGT also states it would not increase total gas deliveries to Peoples nor would it increase the current authorized level of service. FGT further states that its peak day and annual deliveries would not be impacted.

Comment date: January 31, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Questar Pipeline Company

[Docket No. CP94–123–000]

Take notice that on December 7, 1993, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111 filed in Docket No. CP94–123–000 an application pursuant to section 7(b) of the Natural Gas Act requesting authority to abandon natural-gas transportation service provided to Northern Natural Gas Company (Northern) under Questar's Rate Schedule X–31 to Original Volume No. 3 of its FERC Gas Tariff. By mutual agreement between Questar and Northern, the authorized services proposed to be abandoned by Questar will be converted to Rate Schedule T–1 transportation service under First Revised Volume No. 1 of Questar's FERC Gas Tariff, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Questar requests expedited consideration of its request so that authority to abandon the Rate Schedule X–31 transportation service to Northern may be granted as quickly as possible to enable Northern to take advantage of the opportunities available to 18 CFR part 284 shippers. Questar represents that by letter dated June 10, 1993, Northern, as a party to Questar's restructuring proceeding in Docket No. RS92–9–000, requested that its Rate Schedule X–31 transportation service be converted to Rate Schedule T–1 transportation service. Questar states that it does not propose to abandon any existing facilities in conjunction with this filing.

Questar requests Commission waiver of the provisions reflected in §§ 3 and 5 of the General Terms and Conditions of First Revised Volume No. 1 of its FERC Gas Tariff, so that the priority applicable to the quantity of gas transported for Northern under Rate Schedule X–31 may be transferred to the equivalent transportation service that will be provided under it's blanket certificate and according to 18 CFR 284.222.

Comment date: January 5, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. ANR Pipeline Company

[Docket No. CP94–78–000]

Take notice that on November 12, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed an application, as supplemented on December 14, 1993, pursuant to section 7(c) of the Natural Gas Act and part 157 of the Commission's regulations for a certificate of public convenience and necessity to (1) cover all facilities previously functionalized as gathering and not previously certificated and (2) refunctionalize from gathering to transmission all facilities (including facilities already certificated) previously functionalized as gathering for rate purposes, all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.[1]

ANR states that it constructed facilities originally functionalized as gathering to connect its system to

[1] ANR provided maps supporting its claim that the facilities at issue were properly transmission facilities. However, ANR indicated that, because of the voluminous nature of the maps, it filed only one copy of the maps with the Commission and that it would make another copy of the maps available at its Detroit, Michigan offices for parties to review.

VOL
58
ISS
246
DE
27
1993
UMI

supply sources and to allow it to gather new sources of supply to fulfill its certificated sales obligation to its customers. ANR indicates that it provided primarily a bundled sales service which required ANR to procure and gather, and then transport natural gas supplies to meet the needs of its customers at the city gate. It is further stated that Order No. 636 has forbidden ANR from continuing to provide this bundled service, and to comply with Order No. 636, ANR will cease to purchase and gather natural gas supplies from procedures to support a city-gate sales function.

ANR states that all gas on its system would be owned by third parties, and ANR would be engaged strictly in a transportation function. It is indicated that all gas entering ANR's system can be forward-hauled, backhauled, displaced, or exchanged for eventual consumption anywhere in the contiguous 48 states. It is also indicated that shippers on ANR's system would be afforded access to all receipt points and would have the flexibility to access all supply sources interconnected with its system. ANR states that its system would now be dedicated to the function of transporting gas on behalf of others, thus representing a fundamental change in the nature of the usage of ANR's system which ANR should be allowed in the functionalization of its facilities. ANR asserts that reflecting this change on a system-wide basis is consistent with the primary function test established by the Commission to make determinations between gathering and transmission facilities.

ANR states that all of its facilities currently functionalized as gathering are located in its Southeast Area comprising of facilities located in Louisiana, Texas, Mississippi and the Gulf of Mexico, and its Southwest Area consisting of facilities located in Kansas, Oklahoma, Texas and Wyoming. It is indicated that the majority of ANR's gathering facilities have been certificated by the Commission in previous applications. ANR requests permission to certificate all of the gathering facilities not previously certificated.[2] ANR indicates that the gross and net costs of the facilities requested to be refunctionalized are $445,822,458, and $47,784,165, respectively. ANR has submitted maps of the facilities, along with a discussion of why the facilities should be functionalized as transmission consistent with the criteria set forth in Farmland Industries, Inc., 23 FERC ¶ 61,063 (1983).

ANR requests an effective date of December 1, 1993, to correspond with the requested effective date of a companion rate case filed in Docket No. RP94-43-000.

Comment date: January 5, 1994, in accordance with Standard Paragraph F at the end of this notice.

[2] ANR also requests abandonment authorization for any certificated facilities determined to be gathering. ANR states that it only seeks to abandon the facilities, not any service provided through these facilities.

4. East Tennessee Natural Gas Company

[Docket No. CP94-125-000]

Take notice that on December 10, 1993, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP94-125-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point for an existing transportation customer, United Cities Gas Company (United Cities), under East Tennessee's blanket certificate issued in Docket No. CP82-412-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

East Tennessee proposes to install delivery point facilities for service to United Cities in Jefferson County, Tennessee. It is stated that East Tennessee would use the facilities to deliver up to 7,200 Dt equivalent of gas transported on a firm basis under East Tennessee's Rate Schedule FT for United Cities' account. It is explained that the purpose of the delivery point is to allow United Cities to expand its distribution service in the town of Marshtown, Tennessee. It is asserted that the construction cost would be paid by United States.

It is stated that the deliveries would be within United Cities' currently authorized entitlement from east Tennessee. It is further stated that East Tennessee has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Comment date: January 5, 1993, in accordance with Standard Paragraph F at the end of this notice.

5. Columbia Gas Transmission Corporation

[Docket No. CP94-124-000]

Take notice that on December 8, 1993, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314-1599, filed in Docket No. CP94-124-000, a request pursuant to §§ 157.205 and 157.211 of Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new point of delivery for firm transportation service to an existing customer under the blanket certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia states that it requests authorization to construct and operate the facilities necessary to provide a new point of delivery for firm transportation service to Waterville Gas & Oil Company (WGO) in Wood County, Ohio, as follows:

Customer	Estimated		
	Design day delivery, (Dth)	Annual delivery,(Dth)	Construction cost
WGO	250	40,000	$28,000

The new point of delivery has been requested by Columbia's existing customer to serve a new subdivision market. The quantities to be provided through the new delivery point are within Columbia's currently authorized level of service under Columbia's GTS Rate Schedule. The new point of delivery will be added to the existing service agreement and WGO's current daily entitlement of 3,100 Dth/Day will not be affected. WGO has agreed to reimburse Columbia for the actual cost of the interconnection, plus any gross-up required for tax purposes.

Comment date: January 31, 1994, in accordance with Standard Paragraph G at the end of this notice.

6. Tennessee Gas Pipeline Company

[Docket No. CP94-129-000]

Take notice that on December 13, 1993, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP94-129-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon transportation services it provides for 10 shippers of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that these transportation services have been inactive for several years. Tennessee further states that the implementation of restructured services under Order No. 636, effective September 1, 1993, has rendered the transportation services unnecessary and obsolete. Tennessee requests that the abandonment of the transportation services be made effective September 1, 1993. Tennessee asserts that the granting of the proposed abandonments will allow it to provide these customers with more responsive arrangements with greater flexibility under its blanket transportation authorization.

Tennessee further states that it does not propose to abandon any facilities herein.

Comment date: January 5, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31442 Filed 12-23-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP94-130-000 et al.]

Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

December 16, 1993.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP94-130-000]

Take notice that on December 13, 1993, Northern Natural Gas Company (Northern) 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP94-130-000, pursuant to section 7(b) of the Natural Gas Act and part 157 of the Commission's Regulations an application requesting approval to abandon Northern's Montana facilities by sale to NGC Energy Resources, Limited Partnership (NER). Northern also requests termination of its existing Presidential Permit to operate facilities on the international border, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

It is stated that Northern's Montana facilities consist of approximately 500 miles of pipeline and three compressor stations located in Blaine, Chouteau and Hill Counties in Montana. These facilities are noncontiguous to Northern's pipeline system and the abandonment by sale will not affect flows on Northern's remaining system.

It is further stated that the Montana facilities were installed by Northern in the early 1970's pursuant to certificate issued by the Commission at Docket Nos. CP70-69, CP70-70 and CP70-71 on May 11, 1972 and Docket No. CP73-166 on July 20, 1973.

On October 14, 1993, Northern and NER entered into the agreement providing for the sale and transfer of the Montana facilities from Northern to NER.

Comment date: January 6, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Williston Basin Interstate Pipeline Company

[Docket No. CP94-131-000]

Take notice that on December 14, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP94-131-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a tie-in valve in the Baker Storage Field located in Fallon County, Montana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Williston Basin proposes to abandon the valve which connects Wells 93 and 96 in the Baker Storage Field, because Well 96 is no longer an active storage well and has been converted to an observation well. It is asserted that Well 93 would remain connected to Williston Basin's storage gathering system by underground facilities. It is stated that Williston Basin was authorized to operate the storage facilities in Docket Nos. CP82-487-000 et al. It is asserted that the proposed abandonment would have no impact on Williston Basin's current operations or customer services.

Comment date: January 6, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

VOL 58 ISS 246 DEC 27 1993 UMI

the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31443 Filed 12-23-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. RP94-89-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

December 16, 1993.

Take notice that on December 13, 1993, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective on January 1, 1994:

First Revised Sheet Nos. 1-2
Original Sheet No. 4-A
Fourth Revised Sheet No. 5
Third Revised Sheet No. 6
Original Sheet Nos. 131-A—131-CC
First Revised Sheet No. 133
Original Sheet Nos. 133-A—133-B
First Revised Sheet Nos. 205-206
First Revised Sheet Nos. 207-210-B
Original Sheet Nos. 210-C—210-D
First Revised Sheet Nos. 236-237
First Revised Sheet No. 253
Original Sheet No. 254
First Revised Sheet No. 255
Original Sheet No. 256
Original Sheet No. 257-A
Original Sheet Nos. 301-315

National states that the proposed tariff sheets reflect three separate services to be performed by the newly created market-area Hub. The Parking (P-1), Wheeling (W-1) and Imbalance Resolution (IR-1) services will allow National to perform its Hub facilities in the vicinity of Ellisburg and Leidy, Pennsylvania as a marketing center which will improve the efficiency of gas transportation into the northeast market. The Hub includes interconnections with five interstate pipelines: Transcontinental Gas Pipe Line corporation, Tennessee Gas Pipeline Company, CNG Transmission Corporation, Texas Eastern Gas Transmission Corporation and Columbia Gas Transmission Corporation.

National also states that its filing provides for the flow back of ninety (90) percent of its annual net revenues derived from the Hub services pursuant to Section 24 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1. In addition, the proposed rates for the Hub Services are cost derived rates since National does not have any throughput experience. The proposed rates also reflect the inferior status of the services and the limited geographic area (distance of haul) encompassed.

National further states that copies of this filing were served upon National's jurisdictional customers and the Regulatory Commission's of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions to intervene or protest should be filed on or before December 23, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31413 Filed 12-23-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-45-001]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

December 16, 1993.

Take notice that on December 10, 1993, National Fuel Gas Supply Corporation (National) tendered for filing in compliance with Ordering Paragraph (D) of the "Order Accepting Tariff Sheets, Subject to Conditions, and Granting and Denying Waivers", issued November 26, 1993, hereby submits First Revised Sheet No. 227.

National states that the Commission directed National to file this revision to its tariff to reflect the Commission's policy that refunds of amounts, associated with activity prior to August 1, 1993, and recorded in Account Nos. 186 and 191, must be flowed through to National's customers regardless of when the refunds are received.

National further states that copies of this filing were served upon National's jurisdictional customers and the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before December 23, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31414 Filed 12-23-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES94-13-000]

Texas-New Mexico Power Co.; Application

December 17, 1993.

Take notice that on December 15, 1993, Texas-New Mexico Power Company filed an application under section 204 of the Federal Power Act seeking authorization to issue not more than $147.75 million of short-term debt under an existing amended loan and credit agreement with a final maturity date no later than December 31, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 14, 1994. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-31445 Filed 12-23-93; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50759B; FRL-4748-1]

Issuance of an Experimental Use Permit for a Transgenic Plant Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On July 6, 1993, EPA issued an Experimental Use Permit (EUP) to Ciba-Geigy Corporation, Seed Division (Ciba Seeds) to conduct field testing of a pesticidal substance that is produced in a plant. EPA has determined that this permit may be of regional and national significance since it is the third EUP approved under the Federal Insecticide, Fungicide, and Rodenticide Act, for testing with a pesticidal substance that is produced in a plant. The Agency evaluated the data submitted by Ciba Seeds and, based on these data and other available data, could foresee no significant risk to humans or to nontarget organisms from the group of field tests proposed by Ciba Seeds through March 1994. The Agency's assessment, however, was based solely on the EUP; eventual commercialization of Ciba Seeds transgenic corn pesticide may raise issues not addressed with this EUP. In accordance with 40 CFR 172.11(c), the Agency is notifying the public regarding issuance of this permit.

ADDRESSES: Comments, in triplicate, should bear the docket control number OPP-50759B and be submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Written comments will be available for public inspection in Room 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Details of EPA's assessment are contained in the Office of Pesticide Program's (OPP's) Scientific Position and Decision Documents. These documents, along with Ciba Seeds' application, are available for public inspection in Rm. 1128, at the address given above in OPP's public docket.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip O. Hutton, Product Manager (PM) 18, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703)305-7690

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 31, 1993 (58 FR 16827), EPA issued a notice which announced that EPA had received an application for an EUP from Ciba-Geigy Corporation, Seed Division (Ciba Seeds), P.O. Box 12257, Research Triangle Park, North Carolina 27709-2257. Further, in the **Federal Register** of May 7, 1993 (58 FR 27284), EPA extended the comment period in order to give all interested parties adequate time to submit comments. On July 6, 1993, EPA approved the EUP for plantings through March 31, 1994, and allowed for the completion of all associated activities such as, collection of field data, and harvesting and processing of seed after the last planting. Plantings beginning on or after April 1994, were not approved at this time since further information on the experimental program was needed for the Agency to conduct a complete assessment.

Ciba Seeds is testing a truncated version of the cryIA (b)-δendotoxin (derived from the soil microbe Bacillus thuringiensis) as expressed in maize plants originating from crosses of descendants of two separate transformation events (Event 171 and Event 176) of the proprietary inbred line CC00526.

Plantings under this EUP are through March 1994, and taking place in six states (Florida, Hawaii, Illinois, Iowa, Nebraska, and North Carolina), with cumulative acreage of transgenic plants at a maximum of 33 acres. Activities approved for the plantings through March 1994, are as follows: Gene efficacy evaluations, resistance management experiments, insect susceptibility studies, breeding and seed increases. The maximum total amount of cryIA(b) protein in seeds planted for this period is 35.7 grams and the maximum total amount of cryIA(b) protein produced in all the corn grown will be 38 kilograms. Any reserved transgenic plant material will be used only for research or future plantings. All other material will be destroyed. Following each field test, all plant material not required for future research or plantings is being incorporated into the soil to decompose.

On April 27, 1993, National Wildlife Federation (NWF) requested that the Agency extend the comment period for an additional 45 days. An additional 2-week comment period was provided (May 7, 1993, 58 FR 27284), to allow sufficient time for comment. The comment period ended May 21, 1993. NWF also requested that the Agency should either make relevant documents available without a Freedom of Information Act (FOIA) request or extend the comment period to reflect the Agency's ability to process FOIA requests. The Agency agrees that it should provide a sufficient amount of time for public comment for EUP applications. A 30-day comment period is provided for EUP applications. FOIA requests are normally not required for these applications. If a FOIA request were required, the Agency would take this in consideration when determining the length of the comment period.

During the extension of the comment period, the Agency received a second comment from the NWF on May 20, 1993. NWF expressed concern about the potential human health and environmental impacts of widespread use of the truncated Bt endotoxin produced in corn as well as the potential for resistance developing to Bt toxin. NWF recommended that EPA should analyze the likely benefits to using Bt-corn ". . .before it relies on them in its decision." They specified concerns stemming from ingestion of the Bt toxin by humans, domestic animals, and wildlife. NWF recommended that EPA not approve the Ciba Seeds application or any other large-scale tests of Bt-crops, except for resistance management research, ". . .until the federal government develops an enforceable regulatory program to significantly delay resistance."

The Agency agrees that human health and nontarget affects should be addressed for large-scale testing and

commercialization. Because of crop destruction, containment measures, and limited acreage proposed for the first year of this EUP application, the Agency has determined that there will not be significant exposure to humans and/or nontarget organisms. EPA is concerned about the development of resistance to the Bt delta-endotoxin. The potential for resistance can develop to any pesticide after prolonged, wide-spread use. The Agency is, therefore, currently in the process of evaluating regulatory and non-regulatory options for addressing pesticide resistance for all pesticides. In addition, Ciba Seeds requested that the Agency review its proposed resistance management plan. The Office of Pesticide Program's Pesticide Resistance Workgroup has reviewed the proposed EUP as well as a resistance management plan submitted by Ciba Seeds with the application. The Pesticide Resistance Workgroup concluded that resistance to the cryIA (b) δ-endotoxin would be unlikely during the first year of the EUP due to the limited acreage involved.

In addition to the comments from NWF, EPA received several other comments on this EUP. These comments were supportive of this EUP application because of the potential for this product in protecting corn from the European Corn Borer. These comments cited significant loses to crops from the European Corn Borer and the large amount of insecticides currently used. They also noted that Ciba Seeds was including resistance management field tests as part of the EUP. For these reasons, the commenters urged the Agency to review the application in a timely manner. The Agency appreciates the points raised in these comments. The Agency is committed to an appropriate review of EUP applications without unnecessarily impeding the development of new products.

The remainder of the comments received were from growers, State and local governments, trade associations, and universities.

The Agency has evaluated the potential for exposure to humans and nontarget organisms from this EUP and concluded that for field tests proposed for the period ending on or before March 31, 1994, exposure to the CryIA (b) gene product is not sufficient to cause concern. The potential for the CryIA (b) and marker genes to be transferred by pollination to other plants outside the field site or for the transgenic plants to survive and spread beyond the field site is minimal. There are no human dietary concerns because all the crops in field test sites will either be destroyed or used for experimental purposes or future plantings. No conclusions could be made for the tests proposed to begin on or after April 1994, because there was insufficient information in the submission regarding the experimental program for this time period.

Therefore, only plantings through March 1994, and associated activities such as collection of field data and the harvesting and processing of seed were approved.

Dated: December 14, 1993.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93-31469 Filed 12-23-93; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-51826; FRL-4751-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 100 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93-1331, 93-1332, 93-1333, 93-1334, 93-1335, 93-1336, October 19, 1993.

P 93-1337, 93-1338, 93-1339, 93-1340, 93-1341, 93-1342, 93-1343, 93-1344, 93-1345, 93-1346, 93-1347, 93-1348, 93-1349, 93-1350, 93-1351, 93-1352, 93-1353, October 20, 1993.

P 93-1354, October 22, 1993.

P 93-1355, 93-1356, 93-1357, 93-1359, 93-1360, 93-1361, 93-1362, 93-1363, October 23, 1993.

P 93-1364, 93-1365, 93-1366, 93-1367, 93-1368, 93-1369, 93-1370, 93-1371, 93-1372, 93-1373, 93-1374, October 24, 1993.

P 93-1375, 93-1376, 93-1377, 93-1378, 93-1379, October 25, 1993.

P 93-1380, 93-1381, 93-1382, October 26, 1993.

P 93-1383, 93-1384, October 25, 1993.

P 93-1385, November 6, 1993.

P 93-1386, 93-1387, 93-1388, 93-1389, 93-1390, October 25, 1993.

P 93-1391, 93-1392, 93-1393, 93-1394, October 26, 1993.

P 93-1395, October 31, 1993.

P 93-1396, October 27, 1993.

P 93-1397, October 28, 1993.

P 93-1398, 93-1399, 93-1400, 93-1401, 93-1402, 93-1403, 93-1404, 93-1405, 93-1406, 93-1407, 93-1408, 93-1409, 93-1410, 93-1411, October 30, 1993.

P 93-1412, 93-1413, October 31, 1993.

P 93-1414, November 8, 1993.

P 93-1415, 93-1416, 93-1417, November 1, 1993.

P 93-1418, 93-1419, October 31, 1993.

P 93-1420, 93-1421, November 2, 1993.

P 93-1422, November 3, 1993.

P 93-1423, 93-1424, 93-1425, 93-1426, 93-1427, 93-1428, 93-1429, 93-1430, November 2, 1993.

Written comments by:

P 93-1331, 93-1332, 93-1333, 93-1334, 93-1335, 93-1336, September 19, 1993.

P 93-1337, 93-1338, 93-1339, 93-1340, 93-1341, 93-1342, 93-1343, 93-1344, 93-1345, 93-1346, 93-1347, 93-1348, 93-1349, 93-1350, 93-1351, 93-1352, 93-1353, September 20, 1993.

P 93-1354, September 22, 1993.

P 93-1355, 93-1356, 93-1357, 93-1359, 93-1360, 93-1361, 93-1362, 93-1363, September 23, 1993.

P 93-1364, 93-1365, 93-1366, 93-1367, 93-1368, 93-1369, 93-1370, 93-1371, 93-1372, 93-1373, 93-1374, September 24, 1993.

P 93-1375, 93-1376, 93-1377, 93-1378, 93-1379, September 25, 1993.

P 93-1380, 93-1381, 93-1382, September 26, 1993.

P 93-1383, 93-1384, September 25, 1993.

P 93-1385, October 7, 1993.

P 93-1386, 93-1387, 93-1388, 93-1389, 93-1390, September 25, 1993

P 93-1391, 93-1392, 93-1393, 93-1394, September 26, 1993.

P 93-1395, October 1, 1993.

P 93-1396, September 27, 1993.

P 93-1397, September 26, 1993.

P 93-1398, 93-1399, 93-1400, 93-1401, 93-1402, 93-1403, 93-1404, 93-1405, 93-1406, 93-1407, 93-1408, 93-1409, 93-1410, 93-1411, September 30, 1993.

P 93-1412, 93-1413, October 1, 1993.

P 93-1414, October 9, 1993.

P 93-1415, 93-1416, 93-1417, October 2, 1993.

P 93-1418, 93-1419, October 1, 1993.

P 93-1420, 93-1421, October 3, 1993.

P 93-1422, October 4, 1993.

P 93-1423, 93-1424, 93-1425, 93-1426, 93-1427, 93-1428, 93-1429, 93-1430, October 3, 1993.

ADDRESSES: Written comments, identified by the document control number "[OPPTS-51826]" and the specific PMN number should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG-099, Washington, DC 20460 (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408),Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), ETG-102 at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

P 93-1331

Manufacturer. Confidential.

Chemical. (G) Acrylate-methacrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1332

Manufacturer. Confidential.

Chemical. (G) Acrylate-methacrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1333

Manufacturer. Confidential.

Chemical. (G) Acrylate-methacrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1334

Manufacturer. Confidential.

Chemical. (G) Acrylate-methacrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1335

Manufacturer. Confidential.

Chemical. (G) Acrylate-methacrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1336

Manufacturer. Confidential.

Chemical. (G) Acrylate-methacrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1337

Manufacturer. Confidential.

Chemical. (G) Acrylate-methacrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1338

Manufacturer. Confidential.

Chemical. (G) Acrylate-methacrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1339

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Cyclic urea amino epoxy adduct.

Use/Production. (G) Open, nondispersive use (coating). Prod. range: Confidential.

P 93-1340

Manufacturer. Confidential.

Chemical. (G) Fatty poycarboxylic acid salt of alkylamine.

Use/Production. (G) Fuel additive. Prod. range: Confidential.

P 93-1341

Manufacturer. E. I. du Pont de nemours & Company, Inc.

Chemical. (G) Methacrylate acid copolymer.

Use/Production. (G) Precursor substance. Prod. range: Confidential.

P 93-1342

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Methacrylic acid copolymer.

Use/Production. (G) Precursor substance. Prod. range: Confidential.

P 93-1343

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Methacrylic acid copolymer.

Use/Production. (G) Precursor substance. Prod. range: Confidential.

P 93-1344

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Methacrylate acid copolymer.

Use/Production. (G) Precursor substance. Prod. range: Confidential.

P 93-1345

Manufacturer. Confidential.

Chemical. (G) Methacrylate acid copolymer.

Use/Production. (G) Precursor substance. Prod. range: Confidential.

P 93-1346

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Methacrylate acid copolymer.

Use/Production. (G) Precursor substance. Prod. range: Confidential.

P 93-1347

Manufacturer. Confidential.

Chemical. (G) Cyclic urea amino epoxy adduct.

Use/Production. (G) Open, nonndispersive use (coating). Prod. range: Confidential.

P 93-1348

Manufacturer. Confidential.

Chemical. (G) Methacrylic acid copolymer.

Use/Production. (G) Intermediate. Prod. range: Confidential.

P 93-1349

Manufacturer. Confidential.

Chemical. (G) Methacrylic acid copolymer.

Use/Production. (G) Intermediate. Prod. range: Confidential.

P 93-1350

Manufacturer. Confidential.

Chemical. (G) Methacrylic acid copolymer.

Use/Production. (G) Intermediate. Prod. range: Confidential.

P 93-1351

Manufacturer. Confidential.

Chemical. (G) Methacrylic acid copolymer.

Use/Production. (G) Intermediate. Prod. range: Confidential.

P 93-1352

Manufacturer. Confidential.

Chemical. (G) Methacrylic acid copolymer.

Use/Production. (G) Intermediate. Prod. range: Confidential.

P 93-1353

Manufacturer. Confidential.

Chemical. (G) Methacrylic acid copolymer.

Use/Production. (G) Intermediate. Prod. range: Confidential.

P 93-1354

Manufacturer. Courtaulds Aerospace.

Chemical. (G) Polyhydroxythioether disulfide.

Use/Production. (S) Fuel tank sealant. Prod. range: 625-5,000 kg/yr.

P 93-1356
Manufacturer. Confidential.
Chemical. (G) Cyclic carbonate acrylic polymer.
Use/Production. (S) Coatings. Prod. range: 40,000–72,000 kg/yr.

P 93-1358
Manufacturer. Confidential.
Chemical. (G) Cyclic carbonate acrylic polymer.
Use/Production. (S) Coatings. Prod. range: 40,000–72,000 kg/yr.

P 93-1357
Manufacturer. Confidential.
Chemical. (G) Cyclic carbonate arcylic polymer.
Use/Production. (S) Coatings. Prod. range: 40,000–72,000 kg/yr.

P 93-1359
Manufacturer. Confidential.
Chemical. (G) Cyclic carbonate arcylic polymer.
Use/Production. (S) Coatings. Prod. range: 40,000–72,000 kg/yr.

P 93-1360
Manufacturer. Confidential.
Chemical. (G) Cyclic carbonate acrylic polymer.
Use/Production. (S) Coatings. Prod. range: 40,000–72,000 kg/yr.

P 93-1360
Manufacturer. Confidential.
Chemical. (G) Cyclic carbonate acrylic polymer.
Use/Production. (S) Coatings. Prod. range: 40,000–72,000 kg/yr.

P 93-1361
Importer. Toyo Dupont International, Ink.
Chemical. (G) 2-Propenoic acid, 2((3-((1-oxo-2 propenyl) oxo-2,2-bis ((1-oxo-2 propenyl)oxy) methyl) propoxyl) methyl)-2-((1-oxo-2-propenyloxy) methyl)-1,3-propane diyl ester.
Use/Import. (S) Printing ink (UV cure). Import range: 500–800 kg/yr.

P 93-1362
Manufacturer. Confidential.
Chemical. (G) Aliphatic epoxy amine adduct.
Use/Production. (G) Open, nondispersive use (coating). Prod. range: Confidential.

P 93-1363
Importer. Confidential.
Chemical. (G) Aliphatic epoxy amine adduct.
Use/Import. (G) Open, nondispersive use (coating). Import range: Confidential.

P 93-1364
Manufacturer. Confidential.
Chemical. (G) Poly arylene ether sulfone.
Use/Production. (G) Additive for composite board manufacture. Prod. range: Confidential.

P 93-1365
Manufacturer. Confidential.
Chemical. (G) Poly arylene ether sulfone.
Use/Production. (G) Additive for composite board manufacture. Prod. range: Confidential.

P 93-1366
Manufacturer. Confidential.
Chemical. (G) Poly arylene ether sulfone.
Use/Production. (G) Additive for composite board manufacture. Prod. range: Confidential.

P 93-1367
Manufacturer. Confidential.
Chemical. (G) Blocked polyester polyurethane.
Use/Production. (G) Component of coating with open use. Prod. range: 60,000–100,000 kg/yr.

P 93-1368
Manufacturer. DuCoa.
Chemical. (G) Hydroxyalkyl quaternary ammonium hydroxides.
Use/Production. (G) Cleaning agent for electronic products. Prod. range: Confidential.

P 93-1369
Manufacturer. Confidential.
Chemical. (G) *N,N'*-(Dialkyl heteromonocycle) aminochlorotriazine.
Use/Production. (S) Polyamide stabilizer, dye fixation improvement additive. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 2,789 mg/kg (rat). Acute dermal: LD50 > 2,000 mg/kg (rabbit). Eye irritation: Slight (rabbit). Skin irritation: Slight (rabbit). Mutagenicity: Negative. Skin sensitization: Negative (guinea pig).

P 93-1370
Manufacturer. Confidential.
Chemical. (G) Acrylate-methacrylate copolymer, salt.
Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1371
Manufacturer. Confidential.
Chemical. (G) Acrylate-methacrylate copolymer, salt.
Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1372
Manufacturer. Confidential.
Chemical. (G) Acrylate-methacrylate copolymer, salt.
Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1373
Manufacturer. Confidential.
Chemical. (G) Acrylate-methacrylate copolymer salt.
Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1374
Manufacturer. Confidential.
Chemical. (G) Acrylate-methacrylate copolymer, salt.
Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93-1375
Manufacturer. Interplastic Corporation.
Chemical. (G) Unsaturated polymer resin grinding vehicle.
Use/Production. (S) Reinforced plastics. Prod. range: Confidential.

P 93-1376
Importer. Hoechst Celanese Corporation.
Chemical. (S) Carbonic acid, dimethylester, polymer with 1,6-hexanediol; benzene, 1,3-bis (1-isocyanato-1-methyl-ethyl; 2-propenoic acid, buty ester; 2-propenoic acid, 2-methyl-,1,7,7-trimethyl-bicyclo 2,2,1 hept-2-ester, exo; ethanol, 2,2" iminobis-; propanoic acid,3-hydrox- 2yl ester; exo ,(hydroxymethyl)-2-methyl;1,4 =butanediol.
Use/Import. (G) Binder for paints. Import range: 4,000–3,8000 kg/yr.

P 93-1377
Importer. Confidential.
Chemical. (G) Monochlorotriazine, bis substituted azosubstituted cetyloxyethyl.
Use/Import. (G) Colorant. Import range: Confidential.
Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Acute dermal: LD50 > 2,000 mg/yr (rat). Acute Static: LC50 > 100 mg/l (zebra fish). Eye irritation: None (rabbit). Skin irritation: Negligible (rabbit). Mutagenicity: Negative. Skin sensitization: Negative (guinea pig).

P 93-1378
Importer. Confidential.
Chemical. (G) Phosphorylated polyester, compound with reaction products of fatty acid with alkanolamine.
Use/Import. (G) Additive, open, nondispersive use. Import range: Confidential.

Toxicity Data. Skin irritation: Moderate (rabbit).

P 93-1379
Importer. Dow Corning Corporation.
Chemical. (G) Oximo-functional polyorganosiloxane.
Use/Import. (G) Silicone coating. Import range: Confidential.
Toxicity Data. Acute oral: LD50 > 2,000 mg/kg. Acute dermal: LD50 > 2,000 mg/kg (rabbit). Eye irritation: Moderate (rabbit).

P 93-1380
Importer. Confidential.
Chemical. (S) Ethylene trimer.
Use/Import. (G) Chemical feedstock. Import range: Confidential.

P 93-1381
Manufacturer. Confidential.
Chemical. (G) Aliphatic ether.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 93-1382
Manufacturer. Confidential.
Chemical. (G) Epoxy acrylate.
Use/Production. (G) Open, nondispersive use as a printing ink binder. Prod. range: Confidential.

P 93-1383
Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanates, polyols and polyamines.
Use/Production. (G) Open, nondispersive use as a printing ink.

P 93-1384
Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanates, polyols and polyamines.
Use/Production. (G) Open, nondispersive use as a printing ink.

P 93-1385
Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanates, polyols, and polyamines.
Use/Production. (G) Open, nondispersive use as a printing ink.

P 93-1386
Manufacturer. Sanncor Industries,.
Chemical. (G) Polyurethane based on polyisocyanates, polyols and polyamines.
Use/Production. (G) Open, nondispersive use as a printing ink.

P 93-1387
Manufacturer. Sanncor Industris,Inc.
Chemical. (G) Polyurethane based on polyisocyanates, polyols and polyamines.
Use/Production. (G) Open, nondispersive use as a printing ink.

P 93-1388
Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanates, polyols and polyamines.
Use/Production. (G) Open, nondispersive use as a printing ink.

P 93-1389
Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanates, polyols and polyamines.
Use/Production. (G) Open, nondispersive use as a printing ink.

P 93-1390
Manufacturer. Sanncor Industries, Inc.
Chemical. (G) Polyurethane based on polyisocyanates, poyols and polyamines.
Use/Production. (G) Open, nondispersive use as a printing ink.

P 93-1391
Manufacturer. Confidential.
Chemical. (G) $C_{n'}$ Olefin, branched and linear.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 5.0 g/kg (rat). Acute dermal: LD50 > 3.0 g/kg (rabbit). Eye irritation: Slight (rabbit). Skin irritation: Negligible (rabbit).

P 93-1392
Manufacturer. Confidential.
Chemical. (G) $C_{n'}$ olefins, branched and linear.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 5.0 g/kg (rat). Acute dermal: LD50 > 3.0 g/kg (rabbit). Inhalation: LC50 > 50,000 ppm (rats). Eye irritation: Slight (rabbit). Skin irritation: Negligible (rabbit).

P 93-1393
Manufacturer. DSM Engineering Plastics Inc.
Chemical. (S) Poly(imino-1,4 butanediylimino(1,6-dioxo-1,6-hexanediyl) plus glass fiber.
Use/Production. (G) Raw material for injection molded articles. Prod. range: Confidential.

P 93-1394
Importer. Ciba-Geigy Corporation.
Chemical. (G) Substituted azo triazine dye.
Use/Import. (G) Textile dye. Import range: Confidential.
Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Acute dermal: LD50 > 2, mg/kg (rat). Eye irritation: None (Rabbit). Skin irritation: Negligible (rabbit).

P 93-1395
Manufacturer. Elf Atochem North America.
Chemical. (S) Acryloxyethyldimethylbenzyl ammonium chloride.
Use/Production. (S) Monomer used in the synthesis of water treatment polymer. Prod. range: 10,000–20,000 kg/yr.

P 93-1396
Manufacturer. 3M.
Chemical. (G) Copolymer containing isooctylacrylate.
Use/Production. (G) Adhesive. Prod. range: Confidential.

P 93-1397
Manufacturer. Takasogo International Corporation.
Chemical. (G) Cyclanic monocarbxylic ester.
Use/Production. (G) Soap and detergent additive. Prod. range: 800–1,000 kg/yr.

P 93-1398
Manufacturer. Confidential.
Chemical. (G) Phenol-formaldehyde, penttanediol, potassium hydride.
Use/Production. (S) Bond mineral aggregates (sand) used in the production of metal castings. Prod. range: Confidential.

P 93-1399
Manufacturer. The P. D. George Company.
Chemical. (S) Hexanediol; trimethylolpropane; diphenylmethane diisocyanate.
Use/Production. (S) Intermediate for wire enamel blends. Prod. range: 60,000 kg/yr.

P 93-1400
Manufacturer. Westvaco Corporation, Chemical Division.
Chemical. (S) Reaction product of maleated tall oil fatty acid and ethylene glycol.
Use/Production. (G) Intermediate to form salts as described in PMN TS-B7930C corrosion inhibitor for destructive and uses. Prod. range: Confidential.

P 93-1401
Manufacturer. Westvaco Corporation Chemical Division.
Chemical. (S) Reaction product of maleated tall oil fatty acid and ethylene glycol.

Use/Production. (G) Intermediate to form salts as described in PMN, ester BB930C corrosion inhibitor, for destructive and uses. Prod. range: Confidential.

P 93–1402

Manufacturer. Westvaco Corporation, Chemical Division.

Chemical. (S) Reaction product of maleated tall oil fatty acid and ethylene glycol.

Use/Production. (G) Intermediate to form salts as described in PMN, TS-B7930C corrosion inhibitor, for destructive and uses. Prod. range: Confidential.

P 93–1403

Manufacturer. Westvaco Corporation, Chemical Division.

Chemical. (S) Reaction product of maleated tall oil fatty acid ethylene glycol.

Use/Production. (G) Intermediate to form salts as described in PMN, TS-B7930C corrosion inhibitor, for destructive and uses. Prod. range: Confidential.

P 93–1404

Manufacturer. Westvaco Corporation. Chemical Division.

Chemical. (G) Reaction products of maleated tall oil fatty acid polyhydroxy polyalkane ester and ammonium or potassium hydroxide.

Use/Production. (G) Corrosion inhibitor, for destructive and contained uses. Prod. range: Confidential.

P 93–1405

Manufacturer. Westvaco Corporation Chemical Division.

Chemical. (G) Reaction products of maleated tall oil fatty acid polyhydroxy polyalkane ester and ammonium or potassium hydroxide.

Use/Production. (G) Corrosion inhibitor, for destructive and contained uses. Prod. range: Confidential.

P 93–1406

Manufacturer. Westvaco Corporation Chemical Division.

Chemical. (G) Reaction products of maleated tall oil fatty acid polyhydroxy polyalkane ester and ammonium or potassium hydroxide.

Use/Production. (G) Corrosion inhibitor, for destructive and contained uses. Prod. range: Confidential.

P 93–1407

Manufacturer. Westvaco Corporation, Chemical Division.

Chemical. (G) Reaction products of maleated tall oil fatty acid polyhydroxy polyalkane ester and ammonium or potassium hydroxide.

Use/Production. (G) Corrosion inhibitor, for destructive and contained uses. Prod. range: Confidential.

P 93–1408

Manufacturer. Westvaco Corporation, Chemical Division.

Chemical. (G) Reaction products of maleated tall oil fatty and polyhydroxy polyalkane ester and ammonium or potassium hydroxide.

Use/Production. (G) Corrosion inhibitor, for destructive and contained uses. Prod. range: Confidential.

P 93–1409

Manufacturer. Confidential.

Chemical. (G) Reaction products of maleated tall oil fatty acid polyhydroxy polyalkane ester and ammonium or potassium hydroxide.

Use/Production. (G) Corrosion inhibitor, for destructive and contained uses. Prod. range: Confidential.

P 93–1410

Manufacturer. Confidential.

Chemical. (G) Reaction products of maleated tall oil fatty acid polyhydroxy polyalkane ester and ammonium or potassium hydroxide.

Use/Production. (G) Corrosion inhibitor, for destructive and contained uses. Prod. range: Confidential.

P 93–1411

Manufacturer. Westvaco Corporation, Chemical Division.

Chemical. (G) Reaction products of maleated tall oil fatty acid polyhydroxy polyalkane ester and ammonium or potassium hydroxide.

Use/Production. (G) Corrosion inhibitor, for destructive and contained uses. Prod. range: Confidential.

P 93–1412

Importer. Elf Atochem North America.

Chemical. (S) Methacryloxyethyldiethyl ammonium chloride.

Use/Import. (G) Monomer use in synthesis of water treatment polymers. Import range: 10,000–20,000 kg/yr.

P 93–1413

Manufacturer. Confidential.

Chemical. (G) Styrenated epoxy acrylate polymer.

Use/Production. (G) Resin for protective industrial coating. Prod. range: Confidential.

P 93–1414

Importer. Hoechst Celanese Corporation.

Chemical. (G) Butanoic acid, 4-(substituted)-*H*-imidazol-2-yl azo-(substituted), ethyl ester.

Use/Import. (S) Dyestuff for polyester fiber. Import range: 500–2,500 kg/yr.

Toxicity Data. Acute oral: LD50 2.00 mg/kg (rat). Eye irritation: None (rabbit). Skin irritation: Negligible (rabbit). Mutagenicity: Negative.

P 93–1415

Importer. Hoechst Celanese Corporation.

Chemical. (G) Oxazolidine modified epoxy-amine adduct diluted in butyl glycol

Use/Import. (S) Cathodic electrodeposition primer, grinding vehicle. Import range: 10,000–30,000 kg/yr.

P 93–1416

Manufacturer. Confidential.

Chemical. (G) Complex epoxy resin/amine adduct.

Use/Production. (G) Crosslinking agent for epoxy resins. Prod. range: Confidential.

P 93–1417

Manufacturer. Confidential.

Chemical. (S) Polyester comprised of cyclohexane dimethylol tetrahydrophthalic anhydride + trimeleic anhydride.

Use/Production. (S) Printing ink. Prod. range: Confidential.

P 93–1418

Importer. Confidential.

Chemical. (G) Benzonitrile.

Use/Import. (S) Component of liquid crystal mixture for liquid crystal display. Import range: Confidential.

P 93–1419

Manufacturer. Hitac Adhesives and Coatings, Inc.

Chemical. (G) Water dispersible polyurethane with 5 com leaving isocyanate and active hydrogen.

Use/Production. (G) Adhesive tape component, coating. Prod. range: Confidential.

P 93–1420

Manufacturer. Hoechst Celanese Corporation.

Chemical. (S) 1,6-Hexanediol; cyclohexane, 1-1'-methylenebis(4-isocyanato)-; hexanedioic acid; 1,3-Benzenedicarboxylic acid; fatty acids, C_{18}-unsaturated, dimers, hydrogeenated; propanoic hydroxy; hydroxymethyl; methyl, cyclohexanemethamine; amino; trimethyl.

Use/Production. (G) Binder for paints. Prod. range: 4,000–38,000 kg/yr.

P 93–1421

Manufacturer. Confidential.

Chemical. (G) Alkyoxyamine mercaptide salt of a mono-alkyl thiadiazole disulfide.

Use/Production. (G) Marine engine oil addition. Prod. range: Confidential

P 93–1422

Manufacturer. Confidential.

Chemical. (G) Substituted polyethylene biometic amine tint.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–1423

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Silane substituted macrocyclic polyethyl.

Use/Production. (G) Intermediate for a molecular recognition material. Prod. range: Confidential.

P 93–1424

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Silane substituted macrocyclic polyether.

Use/Production. (G) Intermediate for a molecular recognition material. Prod. range: Confidential.

P 93–1425

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Silane substituted macrocyclic polyether.

Use/Production. (G) Intermediate for a molecular recognition material. Prod. range: Confidential.

P 93–1426

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Silane substituted macrocyclic polyether.

Use/Production. (G) Intermediate for a molecular recognition material. Prod. range: Confidential.

P 93–1427

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Molecular recognition material (organic ligand modified silica gel).

Use/Production. (G) Used in the removal of metals from dilute aqueous solutions. used in the detection of metals dilute. Prod. range: Confidential.

P 93–1428

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Molecular recognition material (organic ligand modified silica gel).

Use/Production. (G) Used in the removal of metals from dilute aqueous solutions, aslo the detection of metals in aquous. Prod. range: Confidential.

P 93–1429

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Molecular recognition material (organic ligand modified silica gel).

Use/Production. (G) Used in the removal of metals from dilute. Prod. range: Confidential.

P 93–1430

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Molecular recognition material (organic ligand modified silica gel).

Use/Production. (G) Used in the removal of metals from dilute. Prod. range: Confidential.

List of Subjects

Environmental protection, Premanufacture notifications.

Dated: December 13, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–31477 Filed 12–23–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59975; FRL–4751–1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 10 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 94–4, 94–5, November 9, 1993.
Y 94–6, November 18, 1993.
Y 94–7, November 24, 1993.
Y 94–9, December 8, 1993.
Y 94–10, December 13, 1993.
Y 94–11, 94–12, December 14, 1993.
Y 94–13, December 21, 1993.
Y 94–14, December 19, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), ETG–102 at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

Y 94–4

Manufacturer. Air-Products and Chemicals, Inc.

Chemical. (G) Carboxylated, vinyl acetate, acrylic ester copolymer.

Use/Production. (G) Use as a component of water-based adhesives. Prod. range: Confidential.

Y 94–5

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (S) Isocyanate or melamine cured industrial metal coatings. Prod. range: Confidential.

Y 94–6

Manufacturer. Confidential.

Chemical. (G) Ethene. polymer, with 2-propenoic acid methyl ester, and sodium-2-propenoate.

Use/Production. (G) Polymer seal layer, polymer blend component. Prod. range: Confidential.

Y 94–7

Importer. Confidential.

Chemical. (S) Ethanol, polymer with ethene and oxirane.

Use/Import. (G) Antiblooming agent, mold release agent. Import range: confidential.

Y 94–9

Manufacturer. Confidential.

Chemical. (G) Aqueous acrylic resin dispersion (emulsion).

Use/Production. (G) Resin for industrial coatings. Prod. range: Confidential.

Y 94–10

Manufacturer. Estron Chemical, Inc.

Chemical. (G) Acrylic terpolymer.

Use/Production. (S) Additive for industrial coatings to improve surface appearance. Prod. range: Confidential.

Y 94–11

Manufacturer. Confidential.

Chemical. (G) Vegetable oil, polyols and benzene, 1,3-diisocyanatomethyl-polymer.

Y 94-12

Manufacturer. Confidential.

Chemical. (G) Tall oil fatty acids with pentaerythritol, trimethylolpropane, aromatic anhydrides, and benzene, 1,3-diisocyanatomethyl-polymer.

Y 94-13

Manufacturer. Boulder Scientific Company.

Chemical. (G) Resorcinol/formaldehyde polymer, monopotassium salt.

Use/Production. (S) Ion exchange resin. Prod. range: Confidential.

Y 94-14

Manufacturer. Confidential.

Chemical. (G) Acrylic grafted poly amine-ester.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: December 13, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-31472 Filed 12-23-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Federal Emergency Management Advisory Committee for the National Urban Search and Rescue Response System

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App.), announcement is made of the following committee meeting:

Name: Advisory Committee for the National Urban Search and Rescue Response System.

Dates of Meeting: January 7-8, 1993.

Place: Renaissance Hotel, 13869 Park Center Road, Herndon, Virginia 22071.

Time: January 7, 8:30 a.m.-6 p.m.; January 8, 8:30 a.m.-5 p.m.

Proposed Agenda: The committee will be briefed on the updated program; Hurricane Emily activation; elections for Chair; renewal procedures for committee members and bylaws; and FEMA reorganization.

The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. All members of the public interested in attending the meeting should contact Kimberly C. Vasconez at 202-646-4335.

Minutes of the meeting will be prepared and will be available for public viewing at the Federal Emergency Management Agency, Operations Planning and Response Branch, 500 C Street, SW., room 613, Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Richard W. Krimm,

Deputy Associate Director.

[FR Doc. 93-31491 Filed 12-23-93; 8:45 am]

BILLING CODE 6718-01-P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Selwa America, Inc., 4900 Blazer Parkway, Dublin, OH 43017, Officers: Kazunari Tada, President/Director, Soichiro Miyazaki, Chairman/Director.

Eagle Express, Inc., 6900 N.W. 25th Street, Miami, FL 33122, Officers: Martha Rodriguez, President, Edgar F. Lara, Vice President.

International Director Marketing (IDM), dba Indochine Lines, 10,772 Capital Avenue, #7, Garden Grove, CA 92643, Officer: Quang Van Bui, President/CEO.

Crystal Forwarding, Inc., 2385 Camino Vida Roble, Suite 209, Carlsbad, CA 92009, Officers: Han Helders, President/Director/Stockholder, Roberta M. Chapas, Corp. Secretary.

Dated: December 20, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93-31500 Filed 12-23-93; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Request for Nominations of Members for Clinical Practice Guideline Panel on Management of Chronic Pain: Headache

The Agency for Health Care Policy and Research (AHCPR) has announced a request for proposals and intends to award a contract to a non-profit organization to develop, and then to update, a clinical practice guideline, and to develop related medical review criteria, standards of quality, and performance measures for management of chronic pain: Headache. The contractor will establish a panel of health care experts and consumers to assist in developing a clinical practice guideline on management of chronic pain: headache and to develop medical review criteria, standards of quality, and performance measures. The AHCPR, on behalf of the contractor, invites nominations of qualified individuals to serve as chairperson(s) and members of the panel.

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) added a new title IX to the Public Health Service Act (the Act), which established the Agency for Health Care Policy and Research (AHCPR) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services. (See 42 U.S.C. 299-299c-6 and 1320b-12.) The Agency for Health Care Policy and Research Reauthorization Act of 1992 (Pub. L. 102-410) which was enacted on October 13, 1992, extended the authorization of AHCPR and amended certain provisions related to the development of clinical practice guidelines. In keeping with its legislative mandate, AHCPR is arranging for the development, periodic review, and updating of clinically relevant guidelines that may be used by physicians, other health care practitioners, educators, and consumers to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and clinically managed. Based on the guidelines produced, AHCPR oversees development of medical review criteria, standards of quality, and performance measures.

Section 912 of the Act (42 U.S.C. 299b-1(b)), as amended by Public Law 102-410, requires that the guidelines:

1. Be based on the best available research and professional judgment;

2. Be presented in formats appropriate for use by physicians, other health care practitioners, medical educators, medical review organizations, and consumers;

3. Be presented in treatment-specific or condition specific forms appropriate for use in clinical practice, educational programs, and reviewing quality and appropriateness of medical care;

4. Include information on the risks and benefits of alternative strategies for prevention, diagnosis, treatment, and management of the particular health condition(s); and

5. Include information on the costs of alternative strategies for prevention, diagnosis, treatment, and management of the particular health condition(s), where cost information is available and reliable.

Section 913 of the Act (42 U.S.C. 299b-2) describes two mechanisms through which AHCPR can arrange for development of guidelines: 1. Multidisciplinary, private sector panels of qualified experts and health care consumers may be convened; and 2. Contracts may be awarded to public and private non-profit organizations. Contractors are required to appoint AHCPR-approved panels of experts and consumers to advise them. The AHCPR has elected to use the contract process for development of a clinical practice guideline for management of chronic pain: Headache.

Section 914 of the Act (42 U.S.C. 299b-3(a)), as amended by Public Law 102-410, identifies factors to be considered in establishing priorities for guidelines, including the extent to which the guidelines would:

1. Improve methods for disease prevention;

2. Improve methods of diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;

3. Reduce clinically significant variations among clinicians in the particular services and procedures utilized in making diagnoses and providing treatment; and

4. Reduce clinically significant variations in the outcomes of health care services and procedures.

Also, in accordance with title IX of the PHS Act and section 1142 of the Social Security Act, the AHCPR Administrator is to assure that the needs and priorities of the Medicare program are reflected appropriately in the agenda and priorities for development of guidelines.

Panel Nominations

The panel that will assist the contractor in developing the clinical practice guideline for management of chronic pain: headache will consist of two co-chairpersons and ten to fifteen other members. The work will be divided into three phases. Phase I is development of the clinical practice guideline. Phase II is development of medical review criteria, standards of quality, and performance measures based on the guideline. Phase III is the update of the guideline. One-third of the panel members will rotate off the panel after Phase II of the contract and be replaced prior to Phase III to add new expertise to the panel.

The role of the panel members is to assist the contractor to: Develop a decisionmaking process; determine the focus of the guideline and the questions to be addressed; advise and monitor the review and analysis of the scientific literature; consider and advise on principal health care issues; monitor and provide counsel on development of medical review criteria, standards of quality, and performance measures; and review and approve the interim and final drafts of the different versions of the guideline. The co-chairpersons will provide leadership to the panel in carrying out these roles.

To assist in identifying members for the panel, AHCPR is requesting recommendations from a broad range of interested individuals and organizations, including physicians representing primary care and relevant specialties, physicians' assistants, nurses, nurse practitioners, pharmacists, allied health and other health care practitioners, health care institutions, and consumers with pertinent experience or information. In making panel selections, AHCPR, will maintain, to the extent possible, a balance of individuals selected from academic settings and individuals selected without full-time academic appointments. At least two members of this panel shall be individuals who do not derive their primary source of revenue directly from the performance of procedures discussed in this guideline. Some participants in the guideline process (panel members, consultants, peer or pilot reviewers) should have expertise in epidemiology, health services research, or health economics, and familiarity with the clinical conditions being studied. To the extent possible, the panel should have appropriate representation in terms of gender, minority populations, and geographic areas of the United States.

The AHCPR is especially interested in receiving nominations of individuals with: (1) Experience in and/or commitment to developing clinical guidelines, medical review criteria, standards of quality, and performance measures; (2) relevant training and clinical experience; (3) relevant experience in basic and/or clinical research in pain management, particularly of headache pain, including publication of relevant peer-reviewed articles; (4) demonstrated interest in quality of care, medical outcomes, and medical effectiveness; (5) knowledge of the epidemiology of headaches; (6) experience in health services research or health economics, with expertise in the areas of chronic pain and/or headache; and (7) personal experience of chronic headache pain, either as a patient, family member, friend of a patient, or as a person who actively works with consumer groups interested in chronic pain management, particularly with reference to headaches. Nominees should have no substantial financial interests or professional affiliations that would significantly jeopardize the integrity of the guideline development process or the final products.

This notice requests nominations of qualified individuals to serve on the panel as members or as co-chairpersons. The functions of the panel co-chairpersons are critical to the process of developing guidelines. Co-chairpersons provide leadership regarding methodology, literature review, panel deliberations, and preparation of the final products. Nominations for co-chairpersons and members should take into consideration the criteria specified below, which AHCPR will use in approving final selections:

- Relevant training and clinical experience;
- Demonstrated interest in quality assurance and research on the clinical condition(s) under consideration and the related treatment of the condition(s), including publication of relevant peer-reviewed articles;
- Commitment to the need to produce clinical practice guidelines;
- Recognition in the field with a record of leadership in relevant activities;
- Demonstrated capacity to respond to consumer concerns;
- Prior experience in developing guidelines for the clinical condition in question; and
- No substantial financial interests or professional affiliations that would significantly impair the scientific integrity of the guidelines or final products.

Subsequent to approval by AHCPR, the contractor will appoint the panel co-chairpersons. After the panel co-chairpersons have been appointed, nominations for members of the panel will be reviewed by the contractor and the co-chairpersons, prior to proposing panel members to AHCPR. Following AHCPR review and approval of proposed members' qualifications, review of the overall composition of the panel to ensure representation of a range of expertise and experience, and review of potential conflicts of interest, the contractor will appoint panel members.

Nominations should indicate whether the individual is being recommended to serve on the panel as a co-chairperson or as a member. Each nomination must include two copies of the individual's curriculum vitae or resume, and two copies of a letter of nomination with a statement of the rationale for the specific nomination.

To be considered, nominations must be received by February 5, 1994, at the following address: Margaret Coopey, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, Willco Building, 6000 Executive Boulevard, suite 310, Rockville, MD 20852. Phone: (301) 594–4015, Fax: (301) 594–4027.

For Additional Information

Additional information on the guideline development process is contained in the AHCPR Program Note, "Clinical Practice Guideline Development," dated August 1993. This document describes AHCPR's activities with respect to clinical practice guidelines, including the process and criteria for selecting panels. This document may be obtained from the AHCPR Publications Clearinghouse, P.O. Box 8547, Silver Spring, MD 20907; or call Toll-Free: 1–800–358–9295.

Also, information can be obtained by contacting the Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, Willco Building, 6000 Executive Blvd., suite 310, Rockville, MD 20852. Information about the contract, RFP No. 282–93–0029, can be obtained from Michele Trotter, Public Health Service, Division of Acquisition Management, Government Acquisition Branch, room 5–101, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857. Requests for copies of the contract solicitation may be transmitted by facsimile to Ms. Trotter at 301–443–3849.

Dated: December 17, 1993.

J. Jarrett Clinton,

Administrator.

[FR Doc. 93–31446 Filed 12–23–93; 8:45 am]

BILLING CODE 4160–90–M

Meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation.

DATES: The meeting will be open to the public on Monday, January 24, 1994, from 9 a.m. to 4:30 p.m. A closed portion of the Council will meet on Tuesday, January 25, from 8:30 a.m. to 11 a.m.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S. Code, and section 10(d) of the Federal Advisory Committee Act, a meeting closed to the public will be held on January 25, 1994, from 8:30 a.m. to 11 a.m. to review, discuss, and evaluate grant applications. The discussion and review of grant applications could reveal confidential personal information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

ADDRESSES: The meeting will be held at the Holiday Inn Crowne Plaza Metro Center, 775 12th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Deborah L. Queenan, Executive Secretary of the Advisory Council at the Agency for Health Care Policy and Research, 2101 East Jefferson Street, suite 603, Rockville, Maryland 20852, (301) 594–1459.

In addition, if sign language interpretation or other reasonable accommodation for a disability is needed, please contact Linda Reeves, the Assistant Administrator for Equal Opportunity, AHCPR, on (301) 594–6666 no later than January 7, 1994.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) establishes the National Advisory Council for Health Care Policy, Research, and Evaluation. The Council provides advice to the Secretary and the Administrator, Agency for Health Care Policy and Research (AHCPR), on matters related to the activity of AHCPR to enhance the quality, appropriateness, and effectiveness of health care services and access to such services through scientific research and the promotion of improvements in clinical practice and the organization, financing, and delivery of health care services.

The Council is composed of public members appointed by the Secretary. These members are: Linda H. Aiken, Ph.D.; Edward C. Bessey, M.B.A.; Marian F. Bishop, Ph.D.; Linda Burnes Bolton, Dr.P.H.; Joseph T. Curti, M.D.; John W. Danaher, M.D.; David E. Hayes-Bautista, Ph.D.; William S. Kiser, M.D.; Kermit B. Knudsen, M.D.; Norma M. Lang, Ph.D.; Barbara J. McNeil, M.D., Ph.D.; Walter J. McNerney, M.H.A.; Lawrence H. Meskin, D.D.S., Ph.D.; Theodore J. Phillips, M.D.; Louis F. Rossiter, Ph.D.; Barbara Starfield, M.D.; and Donald E. Wilson, M.D.

There also are Federal ex officio Members. These members are: Administrator, Substance Abuse and Mental Health Services Administration; Director, National Institutes of Health; Director, Centers for Disease Control and Prevention; Administrator, Health Care Financing Administration; Commissioner, Food and Drug Administration; Assistant Secretary of Defense (Health Affairs); and Chief Medical Director, Department of Veterans Affairs.

II. Agenda

On Monday, January 24, 1994, the open portion of the meeting will begin at 9 a.m. with the call to order by the Council Chairman, Philip R. Lee, M.D., Assistant Secretary for Health, Department of Health and Human Services, will address the Council on Health Care Reform and other departmental missions. The Administrator, AHCPR, will provide an update on AHCPR activities. The AHCPR Evaluation Officer will conclude the morning meeting with an update on AHCPR-supported guideline evaluation activities followed by the Director of the Office of Health Technology Assessment's update on AHCPR's technology assessment criteria.

In the afternoon the Deputy Administrator, AHCPR, and staff will discuss the National Medical Expenditure Survey (NMES). Concluding the Monday meeting will be a discussion of two Patient Outcomes Research Team (PORTs) projects. The Council will recess at 4:30 p.m.

On Tuesday, January 25, 1994, the Council will begin the closed portion of the meeting to review grant applications from 8:30 a.m. to 11 a.m. The meeting will then adjourn at 11:30 a.m.

Agenda items are subject to change as priorities dictate.

Dated: December 16, 1993.

J. Jarrett Clinton,

Administrator.

[FR Doc. 93–31447 Filed 12–23–93; 8:45 am]

BILLING CODE 4160–90–M

Administration for Children and Families

[Program Announcement No. ACF/ACYF/NCS 93623–932]

Runaway and Homeless Youth Program, National Communication System: Availability of Financial Assistance for Fiscal Year (FY) 1994 and Request for Applications

AGENCY: Family and Youth Services Bureau, Administration on Children, Youth, and Families (ACYF), Administration for Children and Families (ACF).

ACTION: Announcement of availability of financial assistance and request for applications for the National Communication System for Runaway and Homeless Youth Crisis Hotline Services.

SUMMARY: The Family and Youth Services Bureau (FYSB) of the Administration on Children, Youth and Families (ACYF) announces the availability of approximately $826,900 in FY 1994 for the award of one grant on a competitive basis to operate a National Communication System (NCS) for runaway and homeless youth. This announcement contains all of the application materials needed to apply for the grant.

The purpose of the NCS is to provide information and referral services and crisis counseling to runaway and homeless youth and their families, and to assist runaway and homeless youth in communicating with their families and with service providers. The successful applicant will be required to provide communication services on a 24 hour per day, seven days per week basis throughout the United States, including Alaska and Hawaii.

DATES: The closing date for submission of applications is on February 10, 1994.

ADDRESSES: Applications should be sent to: The National Communication System for Runaway and Homeless Youth, U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, Room 341–F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Anita G. Wright, MSW, Administration on Children, Youth and Families, Family and Youth Services Bureau, Program Operations Division, P.O. Box 1182, Washington, DC 20013; Telephone: (202) 205–8030.

Part I: General Information

A. Background Information

The goals of the Basic Center Program for Runaway and Homeless Youth are: (a) To alleviate the problems of runaway and homeless youth, (b) to reunite youth with their families and to encourage the resolution of intrafamily problems through counseling and other services, (c) to strengthen family relationships and to encourage stable living conditions for youth, and (d) to help youth decide upon a future course of action.

To address the interstate nature of the runaway and homeless youth problem, the NCS was initiated in FY 1974 as an eight-month research and demonstration grant funded by the then Department of Health, Education and Welfare. It was designed to provide toll-free telephone services to runaway youth in the contiguous United States. This project is now specifically authorized by Part C, Section 331 of the Runaway and Homeless Youth Act (as amended).

B. Legislative Authority

The NCS grant is authorized under Part C, Section 331 of the Runaway and Homeless Youth Act (Pub. L. 102–586), 42 U.S.C. 5701 *et seq.* This Act was originally enacted as Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93–415), and was amended by a number of statutes, including the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690), and Public Law 102–586. Regulations governing the Runaway and Homeless Youth Program are published in 45 CFR part 1351. The Act is administered by the Family and Youth Services Bureau within the Administration on Children, Youth and Families, Administration for Children and Families, Department of Health and Human Services.

In accordance with this legislation, the NCS grantee must meet the 10 percent non-Federal share and confidentiality requirements of Sections 382 and 383 of the Runaway and Homeless Youth Act. Section 382 of the Act is explained in Section G of Part I of this announcement; Section 383 of the Act strictly prohibits the disclosure or transfer of records containing the identity of individual youths to any person or to any public or private agency.

C. Program Purpose

The overall purpose of the NCS is to link youth with a family member and/or an available resource that can provide and/or assist the youth in acquiring needed services. To fulfill this purpose, the System must include:

(1) A neutral and available channel of communication through which runaway and homeless youth may re-establish contact with their parents or guardians;

(2) The identification of resources available to runaway and homeless youth in the area in which the youth are located;

(3) The identification of home-community resources to assist young people who are contemplating running away and who contact the communication system before they run;

(4) The provision of crisis intervention counseling to clients, when appropriate, to address problems and/or issues surfaced during the telephone contact; and

(5) The provision of a service by which families/guardians may leave messages for runaways and which provide families/guardians with advice and referrals to agencies which might assist them.

D. Eligible Applicants

Any State, unit of local government, combination of units of local government, public or private agency, organization, institution, or other non-profit entity is eligible to apply for these funds. Federally recognized Indian Tribes are eligible to apply. Non-Federally recognized Indian Tribes and urban Indian organizations are also eligible to apply for grants as private, non-profit agencies.

Section 331 of the Act requires that priority be given to applicants that have documented experience in providing telephone services to runaway and homeless youth.

E. Availability of Funds

The Family and Youth Services Bureau (FYSB) will award one grant of approximately $826,900 in FY 1994 for the operation of a National Communication System. Non-competitive continuation grant awards for each of years two through five will be approximately $900,000.

F. Duration of Project

The Family and Youth Services Bureau will award one new grant for a National Communication System for up to give years (60-month project period). The initial grant award, made on a

competitive basis, will cover a one year (12-month) budget period. Applications for continuation grants beyond the first budget period, but within the 60-month project period, will be considered in subsequent years in a non-competitive basis, subject to the availability of funds, satisfactory performance of the grantee and determination that continued would be in the best interest of the government.

G. Grantee Share of the Project

The Runaway and Homeless Youth Act requires a non-Federal matching requirement of ten percent of the total Federal funds awarded. For example, a project requesting $826,900 in Federal funds for the first year budget period must include a match of at least $82,690 during the first year (10% of the Federal share). The non-Federal share may be met by cash or in-kind contribution. Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants. Applicants which do not provide the required percentage of non-Federal share will not be funded.

Part II: Evaluation Criteria

The five criteria that follow will be used to review and evaluate each application and should be used in developing the program narrative. The point values following each criterion heading indicate the numerical weight each criterion will be accorded in the review process.

Criterion 1. *Objectives and Need for Assistance (15) Points).* Pinpoint any relevant, economic, social, financial, institutional or other problems requiring a solution. Demonstrate the need for the assistance and state the goals of service objectives of the project. Supporting documentation or other testimonies from concerned interest other than the applicant may be used. Give a precise location of the project site(s) and area(s) to be served by the proposed project. Maps or other graphic aids may be attached. (The applicant should refer to Part I, Section C of this announcement for a description of this program's purposes.)

Criterion. 2. *Results or Benefits Expected (20 Points).* Identify the results and benefits to be derived from the project. State the numbers of runaway and homeless youth and their families to be served, and describe the types of quantities of services to be provided. Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project.

Criterion 3. *Approach (35 Points).* Outline a plan of action pertaining to the scope of the project and detail how the proposed work will be accomplished. Describe any unusual features of the project, such as extraordinary social and community involvement, and how the project will be maintained after termination of Federal support. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

Criterion 4. *Staff Background and Organizational Experience (20 or 25 Points).* List each organization, cooperator, consultant, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Summaries the background and experience of the project director and key project staff and the history of the organization. Demonstrate the ability to effectively managed the project and to coordinate activities with other agencies. Applicants are encouraged to discuss staff and organizational experience in working with runaway and homeless youth. (Applicants may refer to the staff resumes and to the Organizational Capability Statement included in the submission.) Legislation authorizing the NCS requires that priority for funding be given to applicants that have experience in providing telephone services to runaway and homeless youth. Therefore, applicants with at least three years of documented experience providing crisis intervention counseling services to runaway and homeless youth using an existing telecommunications system may be awarded up to 25 points. Applicants without such experience still be awarded a maximum of 20 points for this criterion.

Criterion 5. *Budget Appropriations (10 Points.)* Demonstrate that the project's costs (overall costs, average cost per youth served, costs for different services) are reasonable in view of the anticipated results and benefits. (Applicants may refer (1) to the budget information on presented in Standard Forms 424 and 424A and in the associated budget justification, and (2) to the results or benefits expected as identified under Criterion 2.)

The Program Narrative information provided by the applicant in response to the minimum responsibilities of the grantee identified in Part III of this announcement must be organized and presented according to the above five evaluation criteria.

Part III: Minimum Responsibilities of the Grantee

In addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items, on a nationwide basis, in the program narrative section of their application.

Objectives and Need for Assistance

- The applicant must specify the goals and objectives of the program and state how implementation will fulfill the purposes of the legislation identified in Part I of this announcement.
- The applicant must demonstrate the need for the proposed program by discussing the major issues and problems related to runaway and homeless youth and their use of hotline services, the availability of existing hotline services and how the proposed program would help resolve the issue/problems identified and augment existing services.
- The applicant must provide descriptive information on the overall national availability of information, referral, and crisis counseling services to runaway and homeless youth.
- The applicant must discuss existing non-hotline services for runaway and homeless youth and how the applicant would work with such agencies and organizations to help ensure that callers are properly assisted.
- The applicant must provide, in graphic form, the layout of the physical facility where the services would be provided, focusing on the telephone stations and computer terminals.

Results and Benefits Expected

- The applicant must indicate the number of runaway and homeless youth callers and their families to be assisted annually under each component of the proposed services, e.g.: Crisis counseling, referrals, conference calling and other proposed services.
- The applicant must indicate the volume of information, crisis counseling, referrals, conference calling and other services proposed.
- The applicant must discuss the anticipated impact and benefit of these services upon runaway and homeless youth and upon the existing network of national and local runaway and homeless youth service providers.
- The applicant must discuss the anticipated results of the various methods which would be employed to promote awareness of the NCS among youth, service providers and the general community.

Approach

Services:

- The applicant must describe the methods that would be used to ensure that the NCS is a neutral and confidential telephone information, referral, and crisis intervention service available to runaway and homeless youth and their families.
- The applicant must describe the proposed communication system and explain how it would operate 24 hours a day, 365 days a year; how it would be staffed using trained (paid and/volunteer) individuals; and its technical capacity to handle at least 250,000 calls each year.
- The applicant must describe its technical capacity to assist other youth-serving agencies in delivering more effective services. This would include maintaining an extensive and current resource listing and the ability to facilitate communication among service providers about specific cases to ensure continuity of services.
- The applicant must describe the approach for maintaining and utilizing trained paid and volunteer individuals who would provide crisis intervention counseling services.
- The applicant must describe its plan for establishing and maintaining service linkages with Federally and non-Federally funded youth service providers and with other hotline services for youth-at-risk for the purpose of making appropriate referrals and facilitating communication between and among service providers.
- The applicant must describe its plans for conducting outreach and public education activities throughout the United States to increase awareness and visibility of the NCS and its services.
- The applicant must discuss potential approaches and plans for minimizing such problems as crank/obscene calls and busy signals.

Administration:

- The applicant must describe the procedures that would be used to recruit, train and supervise the staff/volunteers that would receive and manage the telephone calls.
- The applicant must describe the procedures that would be used to ensure adequate telephone coverage with paid staff supervision on a 24-hour, seven-days per week basis.
- The applicant must describe the telephone system that would be used to provide the service, its capabilities and any shortcomings, information such as the number of incoming and outgoing lines, calls conferencing, and service integration with computers.

Staff Background and Organizational Experience

- The applicant must include a brief description of the organization and its related experience since priority for funding will be given to agencies and organizations that have documented experience in providing telephone services to runaway and homeless youth (See Evaluation Criterion 4). Information on the applicant's capability to carry out the proposed project should also be provided.
- The applicant must include a description of current and proposed staff skills and knowledge regarding runaway and homeless youth and indicate how staff would be utilized in achieving the goals and objectives of the program. Information on proposed staff training and brief resumes or job descriptions should be included.
- The applicant must describe procedures for strictly prohibiting the disclosure or transfer of records containing the identity of individual youths to any person or to any public or private agency.
- The applicant must describe the staffing pattern that would be used to ensure that well-trained personnel would be assigned to each shift.
- The applicant must describe how support would be sought to continue the project at the conclusion of the Federal grant period.

Budget Appropriateness

- The applicant must discuss and justify the costs of the proposed project in terms of number of youth that would be served, the types and quantities of services that would be provided, and the anticipated outcomes for the youth.
- The applicant must describe the fiscal control and accounting procedures that would be used to ensure prudent use, proper disbursement, and accurate accounting of the funds received under this program announcement.
- The applicant must describe its plan for taking maximum advantage of private sector resources to enhance the overall program. Such discussion should be over and above the required non-Federal share requirement of this announcement.

Part IV. Application Process

A. Assistance to Prospective Grantees

The Administration on Children, Youth and Families in Washington, D.C. will attempt to respond to any questions about information contained in this announcement (see address at the beginning of this announcement).

B. Application Requirements

To be considered for a grant under this program, applications must be submitted on the forms provided at the end of this announcement (see Part VI, Appendix A of this announcement) and in accordance with the guidance provided herein. The application must be signed by an individual authorized both to act on behalf of the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

All applicants must indicate, in their applications, their willingness to fully cooperate in any data collection and research efforts mandated by the Administration for Children and Families.

If more than one agency is involved in submitting a single application, one entity must be identified as the applicant organization which would have legal responsibility for administering the grant.

C. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications by OMB.

D. Notification Under Executive Order 12372

This program is covered under Executive order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the E.O., States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these 16 jurisdictions need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise,

applicants must contact their SPOCs as soon as possible to alert them to the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

The SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they must be addressed to: Runaway and Homeless Youth Programs/NCS, Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 200 Independence Avenue, SW., room 341–F.2, Hubert H. Humphrey Building, Washington, DC 20201. Attn: Maiso Bryant.

A list of the Single Points of Contact for each State and Territory is included as Part VI, Appendix B of this announcement.

E. Availability of Forms and Other Materials

A copy of the forms required to be submitted as part of each application for the NCS grant and instructions for completing the application are provided in Part VI, Appendix A. A description of the current NCS as well as a description of the National Clearinghouse on Runway and Homeless Youth are presented in Part VI, Appendices C and D. Addresses of the State Single Points of Contact (SPOCs) to which applicants must submit review copies of their proposals are listed in Part VI, Appendix B.

Legislation referenced in Part I, Section B of this announcement may be found in major public libraries and at the ACF Regional Offices listed in Part VI, Appendix E at the end of this announcement.

Additional copies of this announcement may be obtained from the ACF Regional Offices or by calling the telephone number listed at the beginning of this announcement.

F. Application Consideration

All applications which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation process against the specific criteria outlined in Part II of this announcement. In responding to the criteria, applicants should address the specific Minimum Responsibilities of the Grantee contained in Part III of this announcement. This review will be conducted in Washington, DC by non-Federal experts knowledgeable in the areas of youth development and/or human service programs. All applications will be reviewed as a part of a national competition.

The non-Federal experts will review the applications based on the Evaluation Criteria listed in Part II of this announcement and the specific Minimum Responsibilities of the Grantee contained in Part III of this announcement and will assign a score to each application. The results of the competitive review will be analyzed by Federal staff who, in consultation with ACF Regional officials, will select the application to be recommended for funding to the Commissioner, ACYF.

The Commissioner will make the final selection of the applicant to be funded. As required by the runaway and homeless youth legislation (Section 331), priority for funding will be given to grant applicants that have experience in providing telephone services to runaway and homeless youth.

In addition to the scores assigned by the non-Federal reviewers, the Commissioner also may elect to consider an applicant's past performance in providing services to runaway and homeless youth and may elect not to fund any applicant known to have management, fiscal or other problems which make it unlikely that it would be able to provide effective services.

It is anticipated that the successful applicant will receive notice of a grant award by February 1994. The successful applicant will be notified through the issuance of a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support will be given, the non-Federal share to be provided, and the total project period for which support is contemplated.

Organizations whose applications will not be funded will be notified of that decision in writing by the Commissioner of ACYF. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

Part V. Application Assembly and Submission

A. Contents of Application

Each application must contain the following items in the order listed:

1. Application for Federal Assistance (Standard Form 424, REV 4–88) (page i).
2. Budget Information (Standard Form 424A, REV 4–88) (pages ii–iii).
3. Budget Justification (Type on standard size plain white paper) (pages iv–v).
4. Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88) (pages ix–x).
5. Certification Regarding Lobbying (page xi).
6. Program Narrative Statement (pages 1 and following; 30 pages maximum, double-spaced). SPECIAL NOTE: APPLICANTS ARE STRONGLY ENCOURAGED TO LIMIT THE PROGRAM NARRATIVE STATEMENT PORTION OF THE APPLICATION TO 30 DOUBLE-SPACED PAGES.
7. Organizational Capability Statement.
8. Supporting Documents (pages SD–1 and following; 10 pages maximum, exclusive of letters of support or agreement).

B. Instructions for Preparing Application Components

1. *Standard Forms 424 and 424A:* Follow the instructions in Part VI, Appendix A. In Item 8 of Form 424, check "New." In Item 10 of the 424, clearly identify the *Catalog of Federal Domestic Assistance* Program Number and Title for the program (# 93.623, Runaway and Homeless Youth Program, National Communication System).

2. *Budget Justification:* Provide breakdowns for major budget categories and justify significant costs. List amounts and sources of all funds, both Federal and non-Federal, that would be used for this project.

3. *Standard Form 424B, Certification Regarding Drug-Free Workplace, Certification Regarding Debarment, and Certification Regarding Lobbying.* Of these forms, only the Standard Form 424B and the Certification Regarding Lobbying need to be signed and returned with the application.

4. *Program Narrative Statement:* The Evaluation Criteria in Part II must be used to organize the Narrative. All of the specifics contained in Part III, Minimum Responsibilities of the Grantee, must be addressed.

5. *Organizational Capability Statement:* Applicants must provide a description (no more than three pages, double-spaced) of how the applicant agency is organized and the types, quantities and costs of services it provides, including services to clients other than runaway and homeless youth. Provide an organizational chart showing any superordinate, parallel, or subordinate agency relationships. Summarize the purposes, clients and overall budgets of these other agencies. If the agency has multiple sites, list these sites. Indicate whether the agency is currently a recipient of funds from the Administration on Children, Youth and Families for services to runaway and homeless youth. Show how the services supported by these funds are or would be integrated with the existing services. Discuss the experience of the applicant organization in providing services to runaway and homeless youth.

6. *Supporting Documentation:* Ten, double-spaced pages is the maximum acceptable for supporting documentation, exclusive of letters of support or agreements. These documents might include resumes, newsclippings, and evidence of the program's efforts to coordinate youth services at the local level. Documentation in excess of the ten-page limit will not be reviewed. Applicants may include as many letters of support or agreement(s) as are appropriate.

C. Application Submission

To be considered for a grant, each applicant must submit one signed original and two additional copies of the grant application, including all attachments, to the application receipt point specified below. The original copy of the application must have original signatures, signed in *black* ink only. Each copy must be stapled (back and front) in the upper left corner. All copies of a single application must be submitted in a single package.

Because each application will be duplicated by the government, applicants should not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, fasten or in any way separate subsections of the application, including supporting documentation.

1. Closing Date for the Receipt of Applications

The closing date for receipt of applications for the grant program contained in this announcement on February 10, 1994.

Applications must be submitted to the following address: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 200 Independence Avenue, SW., room 341–F, Washington, DC 20201. Attn: Maiso Bryant, ACF–94–ACYF/National Communication System. (Hand delivered applications will be accepted during the normal working hours of 9 a.m. to 5:30 p.m., Monday through Friday.)

2. Deadline for Submission of Applications

a. *Deadline.* Applications will be considered as meeting the deadline if they are either:

i. Received on or before the deadline date at the above address, or

ii. Sent on or before the deadline date and received by the granting agency in time for the independent review under DHHS GAM I–62. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service as proof of timely mailing. Private metered postmarks are not acceptable as proof of timely mailing.)

b. *Late applications.* Applications which do not meet the criteria stated above are considered late applications. The Administration for Children and Families will notify each late applicant that its application will not be considered in the current competition.

c. *Extension of deadline.* The granting agency may extend the deadline for all applicants because of acts of God such as earthquakes, floods or hurricanes, etc., or when there is a widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

3. Checklist for a Complete Application

—One original application signed in black ink and dated plus two copies;
—A completed SPOC certification with the date of SPOC contact entered in item 16 on page 1 of SF 424, if applicable.
—SF 424 (The original application must have the word "ORIGINAL" hand printed in bold block letters at the top margin of its SF 424.
—SF 424A;
—Budget Justification;
—SF 424B;
—Certification Regarding Lobbying;
—Program Narrative Statement (maximum of 30 double-spaced pages);
—Organizational Capability Statement (maximum of three pages double-spaced); and
—Supporting Documents (maximum of 10 pages double-spaced).

(Catalog of Federal Domestic Assistance Number 93.623, Runaway and Homeless Youth Program-National Communication System.)

Dated: November 22, 1993.

Joseph A. Mottola,

Acting Commissioner, Administration on Children, Youth and Families.

BILLING CODE 4184-01-M

Appendix A

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist.; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Other (Specify): _____

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award; B. Decrease Award; C. Increase Duration; D. Decrease Duration; Other (specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THE PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184-01-M

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

Authorized for Local Reproduction

Standard Form 424A (4-88)

BILLING CODE 6160-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year 1	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Nonfederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years) (b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 - 19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

Instructions for the SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)—For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)—For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total of each Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is supplied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

OMB Approval No. 0348–0040

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form--LLL "Disclosure Form to Report Lobbying," in accordance with its instruction.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184-01-M

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184-01-C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tire Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions. "without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

BILLING CODE 4184-01-M

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government-wide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

'Controlled substance' means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

'Conviction' means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

'Criminal drug statute' means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

'Employee' means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All 'direct charge' employees; (ii) all 'indirect charge' employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check __ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4154-04-C

Appendix B

State Single Points of Contact

Arizona

Mrs. Janice Dunn
Arizona State Clearinghouse
3800 N. Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone (602) 280–1315

Arkansas

Ms. Tracie L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Service
Department of Finance and Administration
P.O. Box 3278
Little Rock, Arkansas 72203
Telephone (501) 682–1074

California

Glenn Stober
Grants Coordinator
Office of Planning and Research
1400 Tenth Street
Sacramento, California 95814
Telephone (916) 323–7480

Colorado

State Single Point of Contact
State Clearinghouse
Division of Local Government
1313 Sherman Street, room 520
Denver, Colorado 80203
Telephone (303) 866–2156

Delaware

Ms. Francine Booth
State Single Point of Contact
Executive Department
Thomas Collins Building
Dover, Delaware 19903
Telephone (302) 736–3326

District of Columbia

Mr. Rodney T. Hallman
State Single Point of Contact
Office of Grants Mgmt and Development
717 14th Street, N.W.
Suite 500
Washington, D.C. 20005
Telephone (202) 727–6551

Florida

Florida State Clearinghouse
Intergovernmental Affairs Policy Unit
Executive Office of the Governor
Office of Planning and Budgeting
The Capitol
Tallahassee, Florida 32399–0001
Telephone (904) 488–8114

Georgia

Mr. Charles H. Badger
Administrator
Georgia State Clearinghouse
254 Washington Street, S.W.
Room 534A
Atlanta, Georgia 30334
Telephone (404) 656–3855

Illinois

Mr. Steve Klokkenga
State Single Point of Contact
Office of the Governor
107 Stratton Building
Springfield, Illinois 62706
Telephone (217) 782–1671

Indiana

Ms. Jean S. Blackwell
Budget Director
State Budget Agency
212 State House
Indianapolis, Indiana 46204
Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann
Division of Community Progress
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309
Telephone (515) 281–3725

Kentucky

Mr. Ronald W. Cook
Office of the Governor
Department of Local Government
1024 Capitol Center Drive
Frankfort, Kentucky 40601
Telephone (502) 564–2382

Maine

Ms. Joyce Benson
State Planning Office
State House Station #38
Augusta, Maine 04333
Telephone (207) 289–3261

Maryland

Ms. Mary Abrams
Chief, Maryland State Clearinghouse
Department of State Planning
301 West Preston Street
Baltimore, Maryland 21201–2365
Telephone (301) 225–4490

Massachusetts

Ms. Karen Arone
State Clearinghouse
Executive Office of Communities and Development
100 Cambridge Street, room 1803
Boston, Massachusetts 02202
Telephone (617) 727–7001

Michigan

Mr. Richard S. Pastula
Director
Michigan Department of Commerce
Office of Federal Grants
P.O. Box 30225
Lansing, Michigan 48909
Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette
Clearinghouse Officer
Office of Federal Grant Management and Reporting
Department of Finance and Administration
301 West Pearl Street
Jackson, Mississippi 39203
Telephone (601) 949–2174

Missouri

Ms. Lois Pohl
Federal Assistance Clearinghouse
Office of Administration
P.O. Box 809
Room 430, Truman Building
Jefferson City, Missouri 65102
Telephone (314) 751–4834

Nevada

Department of Administration
State Clearinghouse
Capitol Complex
Carson City, Nevada 89710
ATTN: Mr. Ron Sparks
Clearinghouse Coordinator
Telephone (702) 687–4065

New Hampshire

Mr. Jeffrey H. Taylor
Director
New Hampshire Office of State Planning
Attn: Intergovernmental Review Process, James E. Bieber
2½ Beacon Street
Concord, New Hampshire 03301
Telephone (603) 271–2155

New Jersey

Mr. Gregory W. Adkins, Acting Director
Division of Community Resources
New Jersey Department of Community Affairs
Please direct correspondence and questions to:
Andrew J. Jaskolka, State Review Process
Division of Community Resources
CN 814, Room 609
Trenton, New Jersey 08625–0814
Telephone (609) 292–9025

New Mexico

Mr. George Elliott
Deputy Director
State Budget Division
Room 190, Bataan Memorial Building
Santa Fe, New Mexico 87503
Telephone (505) 827–3640
FAX (505) 827–3006

New York

New York State Clearinghouse
Division of the Budget
State Capitol
Albany, New York 12224
Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director

Office of the Secretary of Admin.
N.C. State Clearinghouse
116 W. Jones Street
Raleigh, North Carolina 27603–8003
Telephone (919) 733–7232

North Dakota

North Dakota Single Point of Contact
Office of Intergovernmental Assistance
Office of Management and Budget
600 East Boulevard Avenue
Bismarck, North Dakota 58505–0170
Telephone (701) 224–2094

Ohio

Mr. Larry Weaver
State Single Point of Contact
State/Federal Funds Coordinator
State Clearinghouse
Office of Budget and Management
30 East Broad Street, 34th Floor
Columbus, Ohio 43266–0411
Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director
Statewide Planning Program
Department of Administration
Division of Planning
265 Melrose Street
Providence, Rhode Island 02907
Telephone (401) 277–2656
Please direct correspondence and questions to:
Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess
State Single Point of Contact
Grant Services, Office of the Governor
1205 Pendleton Street, Room 477
Columbia, South Carolina 29201
Telephone (803) 734–0494

South Dakota

Ms. Susan Comer
State Clearinghouse Coordinator
Office of the Governor
500 East Capitol
Pierre, South Dakota 57501
Telephone (605) 773–3212

Tennessee

Mr. Charles Brown
State Single Point of Contact
State Planning Office
500 Charlotte Avenue
309 John Sevier Building
Nashville, Tennessee 37219
Telephone (615) 741–1676

Texas

Mr. Thomas Adams
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, Texas 78711
Telephone (512) 463–1778

Utah

Utah State Clearinghouse
Office of Planning and Budget
ATTN: Ms. Carolyn Wright
Room 116 State Capitol
Salt Lake City, Utah 84114
Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director
Office of Policy Research & Coordination
Pavilion Office Building, 109 State Street
Montpelier, Vermont 05602
Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director
Community Development Division
West Virginia Development Office
Building #6, room 553
Charleston, West Virginia 25305
Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey
Federal/State Relations Office
Wisconsin Department of Administration
101 South Webster Street
P.O. Box 7864
Milwaukee, Wisconsin 53707
Telephone (608) 266–0267

Wyoming

Ms. Sheryl Jeffries
State Single Point of Contact
Herachler Building
4th Floor, East Wing
Cheyenne, Wyoming 82002
Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director
Bureau of Budget and Management Research
Office of the Governor
P.O. Box 2950
Agana, Guam 96910
Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact
Planning and Budget Office
Office of the Governor
Saipan, CM
Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose E. Caro
Chairman/Director
Puerto Rico Planning Board
Minillas Government Center
P.O. Box 41119
San Juan, Puerto Rico 00940–0985
Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director
Office of Management and Budget
No. 41 Norregade Emancipation Garden Station
Second Floor
Saint Thomas, Virgin Islands 00802
Please direct correspondence to:
Ms. Linda Clarke
Telephone (809) 774–0750

Appendix C. National Runaway Switchboard

The National Runaway Switchboard:

- Facilitates communication among youth, their families and youth and community-based resources through conference calling services.
- Provides crisis intervention counseling and message delivery services to at-risk youth and their families.
- Provides information and referral services to at-risk youth and their families on youth serving agencies using a computerized national resource directory.
- Conducts an annual conference for local switchboard service providers.

The Switchboard distributes information, brochures, posters, a newsletter, and public service announcements. For more information, contact the National Runaway Switchboard, 3080 North Lincoln, Chicago, IL 60657; telephone 1–800–621–4000.

Appendix D. National Clearinghouse on Runaway and Homeless Youth

The Family and Youth Services Bureau (FYSB) established NCRHY in June 1992 in response to the need for a central source of information on runaway and homeless youth and the provision of services to that client population. As a national resource for youth service professionals, policymakers and the general public, NCRHY offers the following specific services:

Through its information line, bibliographic and FYSB program databases and special mailings, NCRHY distributes information about successful program approaches, available resources and current activities relevant to runaway and homeless youth organizations.

NCRHY develops semi-annual briefing packages to inform the field about new developments, ideas and issues related to services to runaway and homeless youth. It also produces informational packets on FYSB programs and reports on critical issues, best practices and model programs.

NCRHY facilitates FYSB-sponsored forums, bringing together experts in the field to discuss critical issues and develop strategies for addressing the causes and consequences of runaway episodes and homelessness.

NCRHY will assist FYSB in collaborating with national, State and local organizations on youth-related policy and program initiatives.

For more information, please contact the National Clearinghouse on Runaway and Homeless Youth, P.O. Box 13505, Silver Spring, Maryland 20911–3505, telephone (301) 608–8098.

Appendix E. Administration for Children and Families Regional Office Youth Contacts

Region I: Sue Rosen, Administration for Children and Families, John F. Kennedy Federal Building, Room 2011, Boston, Massachusetts 02203, (CT, MA, ME, NH, RI, VT), (617) 564–1149
Region II: Estelle Haferling, Administration for Children and Families, 26 Federal Plaza, Room 4149, New York, NY 10278, (NJ, NY, PR, VI), (212) 264–2974
Region III: Nancy Elmore, Administration for Children and Families, 3535 Market Street, P.O. Box 13714, Philadelphia, PA 19101, (DC, DE, MD, PA, VA, WV), (215) 596–0950
Region IV: Viola Brown, Administration for Children and Families, 101 Marietta Tower, Suite 903, Atlanta, GA 30323, (AL, FL, GA, KY, MS, NC, SC, TN), (404) 221–2128
Region V: Kathleen Penak, Administration for Children and Families, 105 West Adams, 23rd Floor, Chicago, IL 60603, (IL, IN, MI, MN, OH, WI), (312) 353–6503
Region VI: Ralph Rogers, Administration for Children and Families, 1200 Main Tower, 20th Floor, Dallas, TX 75202, (AR, LA, NM, OK, TX), (214) 767–6596
Region VII: Lynda Bitner, Administration for Children and Families, Federal Office Building, Room 384, 601 East 12th Street, Kansas City, MO 64106, (IA, KS, MO, NE), (816) 426–5401
Region VIII: Robert Reese, Administration for Children and Families, Federal Office Building, 1961 Stout Street, 9th Floor, Denver, CO 80294, (CO, MT, ND, SD, UT, WY), (303) 844–3106
Region IX: Les Rucker, Administration for Children and Families, 50 United Nations Plaza, San Francisco, CA 94102, (AZ, CA, HI, NV, American Samoa, Guam, Northern Mariana Islands, Marshall Islands, Federated States of Micronesia, Palau), (415) 556–7406
Region X: Steve Ice, Administration for Children and Families, 2201 Sixth Avenue, RX 32, Seattle, WA 98121, (AK, ID, OR, WA), (206) 615–2558

[FR Doc. 93–31461 Filed 12–23–93; 8:45 am]
BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 93G–0017]

Purac America, Inc.; Filing of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Purac America, Inc., has filed a petition (GRASP 3G0396), proposing to affirm that ferrous lactate is generally recognized as safe (GRAS) as a color fixative in black olives. FDA also is announcing that the agency is proposing, on its own initiative, to amend the color additive regulations to provide for the safe use of ferrous lactate as a color additive for the coloring of ripe olives.

DATES: Written comments by February 25, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Wes Long, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9519.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (the act) (secs. 201(s) and 409(b)(5) (21 U.S.C. 321(s), and 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), Purac America, Inc., c/o 700 13th St. NW., suite 1200, Washington DC 20005, has filed a petition (GRASP 3G0396), proposing that ferrous lactate be affirmed as GRAS for use as a color fixative in black olives. The agency is aware, however, based upon the information in the petition and elsewhere, that there is a question as to whether ferrous lactate, when used for the petitioned purpose, is functioning as a color fixative or a color additive. The agency's questions about this use are supported by the existing precedent that ferrous gluconate, a similar chemical, is regulated as a color additive under 21 CFR 73.160 for the coloring of ripe olives. Therefore, on FDA's own initiative, in accordance with section 721(b)(4) of the act, (21 U.S.C. 379e(b)(4)), the agency is proposing to amend the color additive regulations in 21 CFR part 73 to provide for the safe use of ferrous lactate for the coloring of ripe olives. The agency recognizes that under section 721(b)(4) of the act, a substance that is listed as GRAS can also be listed as a color additive. In support of its proposed action to list ferrous lactate as a color additive, FDA is relying on the safety data that were submitted in Purac America's GRAS affirmation petition and the safety data currently available in the agency's files. The GRAS affirmation petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170.30 and 170.35) is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Interested persons may, on or before February 25, 1994, review the petition and file comments with the Dockets Management Branch (address above). Two copies of any comments should be filed and should be identified with the docket number found in the brackets in the heading of this document. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use, and whether it should be listed for use as a color additive. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 14, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–31448 Filed 12–23–93; 8:45 am]
BILLING CODE 4160–01–F

Health Resources and Services Administration

Annual Report of Federal Advisory Committee; Notice of Filing

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committees have been filed with the Library of Congress:

National Advisory Committee on Rural Health
National Advisory Council on Migrant Health

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas

Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC. Copies may be obtained from: Dena S. Puskin, Sc.D. Acting Executive Secretary, National Advisory Committee on Rural Health, room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–0835, and Mr. Antonio E. Duran, Executive Secretary, National Advisory Council on Migrant Health, 7th Floor, 4350 East West Highway, Rockville, Maryland 20857, Telephone (301) 594–4303.

Dated: December 20, 1993.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 93–31440 Filed 12–23–93; 8:45 am]

BILLING CODE 4160–15–P

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of January 1994.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: January 29–February 1, 1994.

Place: Holiday Inn, Palo Verde, 4550 S. Palo Verde Boulevard, Tucson, Arizona, (602) 746–1161.

The meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provision of the legislation.

Agenda: The meeting will begin on Saturday, January 29, at 2 p.m. and adjourn at 5:30 p.m. On Sunday the business meeting will begin at 8 a.m. to 5 p.m. Site visits on Monday will be from 8 a.m. to 5 p.m. and on Tuesday, the meeting will be from 8 a.m. to 12 noon. The agenda will include updates on the Bureau of Primary Health Care, the National Health Service Corps, universal service, mental and dental health, and site visits to: El Rio Neighborhood Health Center, El Pueblo Health Center, La Frontera Mental Health Center, Sells Indian Health Service Hospital, San Xavier Indian Health Service Clinic, United Community Health Center and Mariposa Community Health Center.

The meeting is open to the public, however, no transportation will be provided for the site visits.

Anyone requiring information regarding the subject Council should contact Ms. Nada Schnabel, National Advisory Council on the National Health Service Corps, 8th floor, 4350 East-West Highway, Rockville, Maryland 20857, Telephone (301) 594–4136.

Agenda items are subject to change as priorities dictate.

Dated: December 20, 1993.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 93–31441 Filed 12–23–93; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–04–4110–03]

Intent To Prepare an Environmental Impact Statement (Greater Wamsutter Area II) for the Proposed Infill Development of the Greater Wamsutter Area (GWA) Located in Carbon and Sweetwater Counties, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) on the proposed infill development of natural gas fields in Carbon and Sweetwater Counties, Wyoming.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as amended, the Bureau of Land Management, Rawlins District Office, will be directing the preparation of an EIS by a third party contractor on the potential impacts of proposed further development in the Greater Wamsutter Area on Federal, State, and private lands.

DATES: Comments on the scoping process will be accepted through January 17, 1994.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Bob Tigner, Team Leader, 1300 3rd Street N, P.O. Box 670, Rawlins, WY 82301.

FOR FURTHER INFORMATION CONTACT: Bob Tigner at the Rawlins District Office, phone number (307) 324-7171.

SUPPLEMENTARY INFORMATION: Union Pacific Resources Company and other operators including Amoco Production Company intend to drill additional natural gas development wells in the Greater Wamsutter Area which includes the Echo Springs, Standard Draw, Coal Gulch, Wild Rose, and Wamsutter Field Areas. It is anticipated that a minimum of 70 additional wells would be drilled within the Standard Draw Field with an additional 250 locations drilled throughout the GWA. The Standard Draw wells would be located on a 320 acre spacing pattern. The gas produced within the analysis area would be transported by existing pipelines, new pipelines, and new gathering lines. The infill development would require the installation of an average ¼ to ½ additional miles of new road per location and a similar amount of additional pipeline.

Dated: December 20, 1993.

Ray Brubaker,

State Director.

[FR Doc. 93–31434 Filed 12–23–93; 8:45 am]

BILLING CODE 4310–22–M

[WY–030–4210–06; WYW 131150]

Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, has filed an application to withdraw 30 acres of public land for national security purposes. The proposed term of the withdrawal is 20 years. This notice closes the land to surface entry and mining for up to 2 years. The land will remain open to mineral leasing.

DATES: Comments must be received on or before March 28, 1994.

ADDRESSES: Comments should be sent to the Wyoming State Director, BLM, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Duane Feick, BLM Wyoming State Office, 307–775–6127.

SUPPLEMENTARY INFORMATION: On December 2, 1993, the Wyoming Army National Guard filed an application for the Department of the Army, Corps of Engineers, to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian

T. 25 N., R. 61 W.,
Sec. 28, N½NW¼NW¼, SW¼NW¼NW¼.

The area described contains 30 acres in Goshen County.

The proposed withdrawal area will be used as a training area and armory site by the Wyoming National Guard. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Wyoming State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Wyoming State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or cancelled, or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, rights-of-way, cooperative agreements, or discretionary land use authorizations of a temporary nature which do not significantly disturb the surface of the land or impair the existing values of the area. Consent from the Army Corp of Engineers will be needed before any use is permitted during the temporary segregation period.

The temporary segregation of the land in connection with this withdrawal application shall not affect the administrative jurisdiction over the land, and segregation shall not have the effect of authorizing any use of the land by the Army Corps of Engineers or Wyoming National Guard.

Dated: December 20, 1993.

Ray Brubaker,

State Director.

[FR Doc. 93–31435 Filed 12–23–93; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

Mississippi River Coordinating Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces the next meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Thursday, January 13, 1994; 6:30 p.m. until 9:30 p.m.

ADDRESS: Minneapolis Convention Center, room 205 A–D, 1301 2nd Avenue South, Minneapolis, Minnesota.

The agenda for the meeting consists of Commission review and discussion of options for a land use management framework to be integrated into the comprehensive management plan for the Mississippi National River and Recreation Area. The discussion continues the Commission's deliberation on public input received on the previously released draft comprehensive management plan and draft environmental impact statement.

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Public Law 100–696, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mississippi National River and Recreation Area, 175 East Fifth Street, suite 418, St. Paul, Minnesota 55101, (612) 290–4160.

Dated: December 17, 1993.

Francis A. Calabrese,

Acting Regional Director, Midwest Region.

[FR Doc. 93–31489 Filed 12–23–93; 8:45 am]

BILLING CODE 4310–70–P

Sleeping Bear Dunes National Lakeshore Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Friday, March 18, 1994; 9:30 a.m. until 12 noon.

ADDRESS: Sleeping Bear Dunes National Lakeshore Headquarters, Empire, Michigan.

The agenda for the meeting consists of the Chairman's welcome; minutes of the October 8, 1993, meeting; statement of purpose; public input; update on park activities; old business; new business; public input; next meeting date; adjournment.

The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by the law that established the Sleeping Bear Dunes National Lakeshore, Public Law 91–479. The purpose of the Commission, according to its charter, is to advise the Secretary of the Interior with respect to matters relating to the administration, protection, and development of the Sleeping Bear Dunes National Lakeshore, including the establishment of zoning by-laws, construction, and administration of scenic roads, procurement of land, condemnation of commercial property, and the preparation and implementation of the land and water use management plan.

FOR FURTHER INFORMATION CONTACT: Ivan Miller, Superintendent, Sleeping Bear Dunes National Lakeshore, 9922 Front Street Empire, Michigan 49630, (616)-326–5134.

Dated: December 17, 1993.

Francis A. Calabrese,

Acting Regional Director, Midwest Region.

[FR Doc. 93–31488 Filed 12–23–93; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders or Ms. Johnnie Davis, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–6212 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability:

AB–3 (SUB-NO. 113X), Missouri Pacific Railroad Company—Abandonment Exemption—in Scott County, Missouri (Sikeston Branch). EA available 12/17/93.

Comments on the following assessment are due 30 days after the date of availability:

AB–33 (SUB-NO. 84), Union Pacific Railroad Company—Abandonment—in Sutter County, California. EA available 12/18/93.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–31459 Filed 12–23–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-29,001]

Dow Chemical Corp., Midland, MI; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Dow Chemical Corporation, Midland, Michigan. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-29,001; Dow Chemical Corporation, Midland, Michigan (December 10, 1993)

Signed at Washington, DC, this 15th day of December 1993.

Marvin M. Fooks,

Director, Office of Adjustment Assistance.

[FR Doc. 93-31509 Filed 12-23-93; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-28,108, etc.]

Homco International, Inc. A/K/A Weatherford-Petco, et al., Bellaire, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Homco International, Inc., Bellaire, TX and operating at various locations in these states: TA-W-28,108A—Alabama; TA-W-28,108B—Alaska; TA-W-28,108C—California; TA-W-28,108D—Kansas; TA-W-28,108E—Louisiana; TA-W-28,108F—Michigan; TA-W-28,108G—Mississippi; TA-W-28,108H—New Mexico; TA-W-28,108I—Texas and Southern Flow Companies a/k/a Weatherford-Petco (a former division of Homco International, Inc.) operating at various locations in these states: TA-W-28,108J—Louisiana; TA-W-28,108K—Texas; TA-W-28,108L—Mississippi; TA-W-28,108M—Alabama; TA-W-28,108N—Oklahoma.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of Homco International, Inc., headquartered in Bellaire, Texas. The notice was published in the Federal Register on March 22, 1993 (58 FR 15384).

The notice was subsequently amended on June 15, 1993 to include the Southern Flow Companies, a division of Homco International operating in Louisiana, Texas, Mississippi, Alabama and Oklahoma. The amended notice was published in the Federal Register on June 25, 1993 (58 FR 34482).

At the request of the State Agency, the Department again reviewed the certification for workers of the subject firm. The findings show that Weatherford International purchased Homco International including the Southern Flow Division on April 1, 1993 and reported the claimants' wages under a UI tax account for Weatherford-Petco, a division of Weatherford USA, Weatherford International.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The amended notice applicable to TA-W-28,108 is hereby issued as follows:

"All workers Homco International, Inc., also known as a/k/a Weatherford-Petco and the field operations in the below cited States who were engaged in exploration and drilling who became totally or partially separated from employment on or after November 30, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

TA-W-28,108A—Alabama
TA-W-28,108B—Alaska
TA-W-28,108C—California
TA-W-28,108D—Kansas
TA-W-28,108E—Louisiana
TA-W-28,108F—Michigan
TA-W-28,108G—Mississippi
TA-W-28,108H—New Mexico
TA-W-28,108I—Texas

and

"All workers of Southern Flow Companies (a former division of Homco International, Inc., Bellaire, Texas) a/k/a Weatherford-Petco, and the field operations in the below cited States who were engaged in exploration and drilling who became totally or partially separated from employment on or after November 30, 1991, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

TA-W-28,108J—Louisiana
TA-W-28,108K—Texas
TA-W-28,108L—Mississippi
TA-W-28,108M—Alabama
TA-W-28,108N—Oklahoma

Signed at Washington, DC, this 15th day of December 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-31508 Filed 12-23-93; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-29,028]

Kaiser Aluminum and Chemical Corp., Trentwood Works, Spokane, Washington; Affirmative Determination Regarding Application for Reconsideration

On November 29, 1993, Locals #338 and 4017 of the United Steelworkers of America requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on October 29, 1993 and was published in the Federal Register on November 9, 1993 (58 FR 59491).

The union submitted new information warranting reconsideration.

Conclusion

After careful review of the application, I conclude that the new information is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 13th day of December 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93-31511 Filed 12-23-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-29,065; TA-W-29,066]

Penetrators, Inc., Midland and Houston, TX; Affirmative Determination Regarding Application for Reconsideration

On December 2nd and 3rd, 1993, the former workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on November 4, 1993 and was published in the Federal Register on November 29, 1993 (58 FR 62684).

The former workers stated that they did produce an article—crude oil and natural gas, and should be certified eligible to apply for trade adjustment assistance.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 13th day of December 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93-31510 Filed 12-23-93; 8:45 am]

BILLING CODE 4510-30-M

Farmworker Housing Assistance Program; Availability of Funds for Technical Assistance

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The U.S. Department of Labor, Employment and Training Administration (ETA), announces the availability of funds to provide technical assistance to private nonprofit and public organizations engaged in assisting farmworkers in seeking and securing temporary or permanent housing. This notice describes the application process, how grantees are to be selected and the responsibility of the grantee. As a result of this competitive process, up to six or more grants will be awarded. The total amount available for this effort will be no less than $2,354,486. The grant(s) will be for a 12-month period with the possibility of two option years.

DATES: Applications for grant award(s) will be accepted commencing December 27, 1993. The closing date for receipt of applications shall be February 25, 1994, at 2 p.m. (Eastern Standard Time) at the address below.

ADDRESSES: Mail or hand deliver application to: U.S. Department of Labor, Employment and Training Administration, Office of Grants and Contract Management, Division of Acquisition and Assistance, room S-4203, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Irene Taylor-Pindle. Reference SGA/DAA-94-002.

FOR FURTHER INFORMATION CONTACT: Ms. Irene Taylor-Pindle, Division of Acquisition and Assistance, Telephone: (202) 219-8702 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This announcement consists of five parts. Part I provides the background and objectives of the Farmworker Housing Assistance Program. Part II identifies allowable housing services. Part III describes the content of the technical proposal and the selection criteria used in reviewing proposals. Part IV describes the application process, and Part V describes the reporting requirements.

Part I—Background

To meet the problems of agriculture related underemployment and unemployment, the Congress has directed the Secretary of Labor to establish employment and training programs specifically for Migrant and Seasonal farmworkers. Under section 402 of the Job Training Partnership Act (JTPA), the Department of Labor (DOL or the Department) provides employment, training and supportive services to eligible migrant and seasonal farmworkers and their families in the conterminous forty-eight (48) States, the State of Hawaii, and the Commonwealth of Puerto Rico.

In accordance with the intent of Congress and JTPA at section 402(c)(3), these services include, but are not limited to classroom training, on-the-job training, work experience, job search assistance, counseling, job development, relocation assistance, training related and non-training related supportive services. Among the inclusive services provided over the years has been farmworker housing assistance.

The Department has awarded 21 grants in Program Year 1993; ranging in size from $36,792 to $291,081 for farmworker housing assistance. Some of the grant recipients have operated farmworker housing assistance programs, while others have served chiefly as facilitating agents—providing technical assistance in the planning, grantsmanship and management of housing operations to agencies and organizations chartered to assist farmworker families with either temporary rental housing or new construction for permanent residency and ownership.

Many of the organizations funded by the Department of Labor provide assistance and services to farmworker communities within their approximate service delivery area, while others serve farmworker communities confined to small residential pockets within and extending over large geographical regions. In some instances, this service area has extended to several contiguous States.

In the past, these grants have been noncompetitively awarded to the same organizations. On February 3, 1993, the Department published a Sources Sought Notice in the Federal Register to determine the level of interest and capability in administering a farmworker housing assistance program From a review of the responses (capability statements), the Department has concluded that there is sufficient cause to open this activity up to competition. In addition, the Department plans to reduce the number of grants funded in order to provide better oversight and more efficient administration and management of the program.

In calling for grant applications, the Department is not limiting or suggesting specific geographic regions as service areas for the implementation of a farmworker housing assistance program. In making the award(s), the Department will take into consideration the needs of the eligible migrant and seasonal farmworkers throughout the conterminous forty-eight (48) States, the State of Hawaii, and the Commonwealth of Puerto Rico which may result in the award of up to six grants.

The Department will consider applications from regional consortia or applications that feature subgrant arrangements for specified geographic regions. Inasmuch as some grant applications may contain proposed service areas which overlap the service areas of other prospective grantees, the Department reserves the right to negotiate the proposed service area with each prospective grantee in order to maximize the number of farmworkers to be served.

Organizations are discouraged from competing for more than one geographic area of the country. Preference will be given to those organizations demonstrating prior farmworker housing experience within the proposed service area.

Overall Objectives

As this farmworker housing grant program continues into a new program year, there will be a new emphasis on efficiency, cost effectiveness and measurable outcomes.

Part II—Statement of Work

This Statement of Work sets forth the objectives, general specifications, and conditions for providing farmworker housing assistance during the 12-month Program Year 1994 grant period. The desired activities sought under this solicitation should address all of the following activities and areas of expertise:

A. Farmworker Housing Technical Assistance

—Providing technical assistance to agencies or organizations specifically

chartered to provide local assistance to farmworkers seeking permanent or temporary housing.

—Providing technical assistance and training to agencies and organizations concerning legislative and regulatory changes affecting farmworker housing programs, applications and funding.

B. Farmworker Housing Rehabilitation

—Providing assistance either directly to eligible farmworkers or indirectly to agencies or organizations engaged in the provision of housing services to farmworkers with regard to housing rehabilitation through Community Development Block Grants and other applications; target area identification for program activities; program design for farmworker housing rehabilitation services; assuring farmworker community participation; performing environmental reviews prior to rehabilitation activities; program design and administration.

—Providing assistance with weatherization of farmworker housing; assisting in either conducting outreach, farmworker eligibility certification or training agencies and organization on "how to" engage in the same; providing assistance with actual weatherization, program administration, client identification, the preweatherization process involving applications, work writeups, bid process, contract negotiations, monitoring and fund disbursements.

C. Farmworker Single Family Housing Assistance

—Providing either direct assistance to individuals and communities or indirect assistance through the provision of technical assistance and training regarding the following:

—Preparing Farmers Home Administration (FmHA) 523 applications for self-help technical assistance grants; securing land and recruiting eligible farmworker families; developing housing plans, specifications and cost estimates.

—Providing assistance with regard to site development—including site identification and acquisition, engineering selection, preliminary mapping, zoning and planning reviews, FmHA site review and contractor selection.

—Providing assistance with regard to FmHA 502 Single Family Loans—including outreach and eligibility determination of farmworkers, loan packaging and filing, training on the FmHA review process and finally on the loan award and closing.

—Providing assistance concerning construction (all aspects), ownership and family accounting; and finally local program management.

D. Farmworker Rental Housing Development Assistance

—The provision of assistance either directly to farmworkers or indirectly through training and technical assistance to agencies and organizations chartered to assist farmworkers in developing or obtaining rental housing through FmHA 514, 515 and 516 programs.

—Through the provision of assistance in the following areas related to rental housing: Sponsor development and incorporation, housing survey and market analyses, site identification and property acquisition, architectural selection, preapplication through approval, zoning permits acquisition through the development of management plans, advertising for bids on construction through the loan/mortgage, closing, and rental process.

E. Sewer and Water for Farmworker Housing

—The provision of assistance to agencies and organizations engaged in the development and provision of assistance to farmworkers seeking either temporary or permanent housing as it applies to water and sewer lines.

—The provision of technical assistance in the following associated areas: Project identification, needs assessment, preliminary applications, engineering selection, land acquisition, easement, district formation, design, final applications and letters of conditions, hookup funding, environmental reviews, bidding and contract negotiations, construction, grants management, board training, revenue and budget management and finally operation and maintenance training.

F. Farmworker Housing Counseling

—The grant recipient(s) will engage in training and technical assistance to organizations working with farmworkers, or directly to farmworkers providing counseling concerning the following issues as they apply to home ownership: ownership rights and responsibilities, effects of mortgage payment delinquency and default, preoccupation, referrals for other forms of assistance along with foreclosure assistance.

G. New Housing Program Development

—The grant recipient(s) will provide training to agencies and/or organizations chartered to assist farmworkers obtain housing ownership, or directly to farmworkers with regard to building coalitions that will aid home ownership, researching resources, developing new farmworker housing programs and how to network with other farmworker housing organizations and housing programs for the mutual benefit of all concerned.

In listing these activities, the Department recognizes that all of the activities may not be necessary for a prospective grantee's proposed service area. Accordingly, prospective grantees should include appropriate justification for not including any of these activities in their proposal.

Part III—Contents of Technical Proposal and Rating Criteria

The technical proposal should provide:

1. Technical Capability of Contractor

Documentation of the applicant's capacity to develop a technical approach to accomplish the objectives as enumerated in the Statement of Work.

Should the application represent a consortia of farmworker housing agencies/organizations, or a subgrant arrangement, it should detail the arrangements and include the same information as called for above. Furthermore, the application should expound on how these arrangements will strengthen the overall technical capabilities of the applicant.

Total of 20 Points

2. Administrative Capability

A description of the applicant's qualifications in terms of relevant previous experience, facilities and other resources. Applicants should provide descriptions of at least three prior experiences demonstrating its provision of farmworker housing technical assistance that may illustrate its skills and ability to respond to this solicitation from the Department of Labor. Should the application represent a consortia or a subgrant arrangement, the applicant should describe how the varying program components would be linked together, administered, monitored, and how the applicant would provided oversight and assure that goals are met. The applicant must document its prior experience by providing the Department of Labor with the name(s) and telephone number(s) of any entity which may have awarded its funds to administer a farmworker housing assistance program. Furthermore, the proposal should include a staffing chart listing names, qualifications and experiences of key staff and the concomitant amount of time each will spend on the project if its less than full-time.

Total of 20 Points

3. Program Design

a. Description of the proposed service area including a rationale for the service area (i.e. local municipality, county(ies) and States) to which housing services for migrant and seasonal farmworkers will be targeted.

b. Description of the main problems relating to farmworker housing in the identified area(s); how the problems have been identified and how the proposed activities will address and resolve them.

c. Description of the housing activities (selected from Part II, above, that the applicant plans to undertake, and the reasons for its selection. The applicant should relate each proposed activity to the problems affecting farmworkers in the identified geographic areas within the proposed overall service area.

For each activity identified, a set of measurable (in quantifiable terms) goals for each quarter within the program year (funding period) should be defined by the applicant. This will be considered by the Department at the time of grant negotiation and incorporated into grant award documents. The applicant should include in this section an itemized annual budget indicating personnel and all other administrative costs to be charged to the grant. It should be noted that proposed expenditures must be consistent with and fully supported by the proposed housing activities.

Total of 50 Points

4. Linkages & Coordination

A description of any and all linkages that the applicant (be it a single applicant, a consortia or an applicant with subgrant arrangements) has established within the identified service area that will ensure a greater degree of success of the farmworker housing assistance activities. The applicant should identify and demonstrate (including letters of support) linkages with farmworker organizations and JTPA, section 402, employment and training recipients and effected farmworker communities, and any organizations chartered to provide services and assistance to farmworkers in the designated service area of the proposed housing assistance program. Additionally, the applicant should describe how these linkages will benefit the program.

Total of 10 Points

Applicants are advised that discussions may be necessary in order to clarify any inconsistencies in their applications, as well as to negotiate proposed service areas. Applications may be rejected where the information required is not provided in sufficient detail to permit adequate assessment of the proposal.

The final decision on the award(s) will be based on what is most advantageous to the Federal Government as determined by the ETA Grant Officer. This determination will include an assessment of the need for farmworkers assistance in seeking and securing both temporary and permanent housing throughout the conterminous forty-eight (48) States, the State of Hawaii, and the Commonwealth of Puerto Rico.

Part IV—Application Process

A. Eligible Applicants

Eligible applicants for these funds under this announcement include public organizations and private nonprofit organizations authorized by their charter or articles of incorporation to provide housing assistance services to the migrant and seasonal farmworker community.

B. Application Procedures

1. Submission of Proposal

All instructions and forms required for submittal of applications are included in this announcement. An original and three (3) copies of the application shall be submitted.

The application package shall consist of two (2) separate and distinct parts. Part I, The Financial Proposal and Part II, the Technical Proposal. The Financial Proposal, Part I, shall contain the SF–424, "Application for Federal Assistance" (Attachment No. 1) and SF424–A, "Budget" (Attachment No. 2). The budget shall include on a separate page(s) a cost analysis of the budget, identifying in detail the amount of each budget line item attributable to each cost category.

The technical proposal, Part II, shall demonstrate the applicant's capability to provide the services as outlined in this announcement. Applicants should describe the proposed technical approach including phasing of tasks and scheduling of time and personnel. Under Part III (3)(c), we request the submission of a budget to accompany the technical proposal.

No cost data or reference to price shall be included in the technical proposal so that an independent evaluation may be made on the basis of technical merit.

2. Late Proposals

Any proposal not reaching the designated place, by the specified time and date of the delivery requirements will not be considered, unless postmarked five (5) days prior to the closing date. The term "Postmark" means a printed, stamped or otherwise placed impression (exclusive of ion) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employers of the U.S. Postal Service.

3. Hard-delivered Proposals

It is preferred that proposals be mailed five days prior to the closing date. However, hand-delivered proposals must be received by 2 p.m., Eastern Standard Time on February 25, 1994. Telegraphed and/or faxed proposals will not be honored. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

4. Period of Performance

The period of performance will be 12 months beginning July 1, 1994, and continuing through June 30, 1995.

5. Option to Extend

Based on the grantee successfully completing work under this solicitation, the availability of funds, and the needs of the Department, this grant may be extended for up to three additional years.

C. Level of Effort

The total amount available for this solicitation will be no less than $2,354,486. This amount may be used for up to six grants which the Department will award under this solicitation (see Part I, Background).

D. Reports/Deliverables

Recipients of grants under this solicitation will be required to submit the following reports at the time and in the number of copies specified, to the Division of Seasonal Farmworker Programs, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department of Labor.

1. Quarterly Reports (3 Copies)

The first such report will be due 30 days after the first three months of program operation, and should reflect program activities and financial outlays. The reports will record and measure

agreed upon activities in quantifiable terms—thus allowing for a basis to determine success.

Subsequent reports will be due on a quarterly basis and will follow the format and content of the first such report. Additional and more specific items and forms will be shared at the time of grant negotiations.

2. Final/Annual Status Report (3 Copies)

The Grant Recipient will submit a final report summarizing the activities performed under this grant within 30 days of the end of the first year of program activities.

Signed at Washington, DC, this 20th day of December 1993.

James C. Deluca,

Grant Officer, ETA.

[FR Doc. 93-31478 Filed 12-23-93; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from tine to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

	Dec. 27, 1993
VOLUME II:	
Missouri	MO930042
Missouri	MO930043
Missouri	MO930044
Missouri	MO930045
VOLUME III:	
Alaska	AK930005
Alaska	AK930006
Alaska	AK930007
Alaska	AK930008
Alaska	AK930009

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

	Date of publication
VOLUME I:	
New Jersey	NJ930002 (February 19, 1993).
Tennessee	TN930005 (February 19, 1993).
VOLUME II:	
Arkansas	AR930001 (February 19, 1993).
Iowa	IA930032 (October 29, 1993).
Illinois	IL930001 (February 19, 1993).
Indiana	IN930001 (February 19, 1993).
Indiana	IN930002 (February 19, 1993).
Indiana	IN930004 (February 19, 1993).
Indiana	IN930006 (February 19, 1993).
Indiana	IN930017 (February 19, 1993).
Indiana	IN930020 (October 1, 1993).
VOLUME III:	
Alaska	AK930001 (February 19, 1993).
California	CA930001 (February 19, 1993).
California	CA930002 (February 19, 1993).
California	CA930004 (February 19, 1993).
California	CA930027 (August 20, 1993).
Colorado	CO930003 (February 19, 1993).
Colorado	CO930004 (February 19, 1993).
Colorado	CO930008 (February 19, 1993).
Colorado	CO930009 (February 19, 1993).
Colorado	CO930021 (October 1, 1993).

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 17th day of December 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93-31215 Filed 12-23-93; 8:45 am]

BILLING CODE 4510-27-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-498 and 50-499]

Houston Lighting & Power Co., City Public Service Board of San Antonio, Central Power and Light Co., City of Austin, TX (South Texas Project, Unit Nos. 1 and 2); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-76 and NPF-80, issued to the Houston Lighting & Power Company, et al. (the licensee), for operation of the South Texas Project, Unit Nos. 1 and 2, located in Matagorda County, Texas.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would consist of revisions to 10 CFR part 20 references to recognize the new section numbers, revise definitions to ensure consistency with 10 CFR part 20, and change administrative controls for reporting and recordkeeping to maintain compliance with the new part 20. The change would revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents and reflect the relocation of the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. These changes are in response to the licensee's application for amendments dated September 15, 1993, as supplemented by letter dated November 30, 1993.

The Need for the Proposed Action

The proposed action is needed in order to retain operational flexibility consistent with 10 CFR part 50, appendix I, concurrent with the implementation of the revised 10 CFR part 20.

Environmental Impacts of the Proposed Action

The proposed revision, in regards to the actual release rates as referenced in the Technical Specifications (TS) as a dose rate to the maximally exposed member of the public, will not increase the types or amounts of effluents that may be released offsite, nor increase individual or cumulative occupational radiation exposures. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments.

With regard to potential nonradiological impacts, the proposed changes do not affect nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed amendments to the TS, any alternative to the amendments will have either no significantly different environmental impact or will have greater environmental impact. The principal alternative would be to deny the requested amendments. This would not reduce environmental impacts as a result of plant operation.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of the South Texas Project, Units 1 and 2, dated August 1986.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated September 15, 1993, as supplemented by letter dated November 30, 1993, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Dated at Rockville, Maryland, this 17th day of December 1993.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Director, Project Directorate IV-2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93-31437 Filed 12-23-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-142]

Environmental Assessment and Finding of No Significant Impact Regarding Release of Facility for Unrestricted Use; University of California, Los Angeles Research Reactor Facility

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an order releasing for unrestricted use in the University of California (UCLA) Research Reactor Facility (UCLA facility) located in Los Angeles, California, in accordance with NRC guidelines and a Settlement Agreement dated September 30, 1985, between the Regents of the University of California, the Campus Committee to Bridge the Gap, and the NRC staff. An order was issued by the Atomic Safety and Licensing Board on November 8, 1985, that approved the Settlement Agreement.

Environmental Assessment

Identification of Proposed Action

By application dated October 29, 1985, as supplemented, UCLA requested authorization for Phase I dismantlement of the UCLA reactor facility and disposal of its component parts in accordance with the proposed Phase I decommissioning plan. Following an order authorizing Phase I dismantling of the UCLA facility and disposition of component parts dated July 14, 1986, UCLA completed Phase I dismantlement. Phase I concerned the removal of all UCLA facility components except for the concrete building structure, concrete biological shield, components affixed to or embedded in the biological shield, the holdup tank, primary water pump, sump pump, compressor system, floor drains, decontamination sinks, and fuel storage pits. Phase I of decommissioning was completed on August 18, 1989.

By application dated June 10, 1988, as supplemented, UCLA requested authorization for Phase II dismantlement of the UCLA facility and disposal of its component parts in accordance with the proposed Phase II decommissioning plan. Following an order authorizing Phase II dismantling of the UCLA facility and disposition of component parts dated July 28, 1989, UCLA completed Phase II dismantlement. Phase II decommissioning concerned the removal of components that remained after completion of Phase I decommissioning. When Phase II decommissioning was completed, UCLA submitted final survey information on January 4 and 28 and February 22, 1993, as a basis for release of the UCLA facility for unrestricted use.

On March 10 and 11, 1993, representatives from the Oak Ridge Institute for Science and Education (ORISE) performed an independent confirmatory survey at the UCLA facility. The survey is documented in an ORISE report, "Confirmatory Survey of the Boelter Reactor Facility, University of California at Los Angeles, California," dated August 1993. NRC Region V, in a memorandum dated September 8, 1993, found that the ORISE report findings support the data developed in the UCLA final survey report.

The Need for Proposed Action

This action is needed to release the UCLA facility for unrestricted access and use.

Environmental Impact of Release of the Facility for Unrestricted Use

UCLA indicates that the residual contamination and dose exposures comply with the criteria of Regulatory Guide 1.86, Table 1, which establishes acceptable residual surface contamination levels, and the exposure limit, established by the NRC staff, of less than 5 micro R/hr above background at 1 meter. The NRC has verified these measurements. The NRC finds that since these criteria have been met, there is no significant impact on the environment and the UCLA facility can be released for unrestricted use.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts and would deny release of the site for unrestricted use. The environmental impacts of the proposed action and the alternative action are similar. Because the reactor and component parts have been dismantled and disposed of in accordance with NRC regulations and guidelines and the Settlement Agreement, there is no alternative to release of the UCLA facility for unrestricted use.

Agencies and Persons Consulted

Personnel from the ORISE conducted an independent confirmatory survey at the UCLA facility under an interagency agreement. The staff consulted with the State of California regarding the environmental impact of the proposed action.

Finding of No Significant Impact

The NRC has determined not to prepare an environmental impact statement for the proposed action. On the basis of the foregoing Environmental Assessment, the NRC has concluded that the issuance of the Order will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the final survey for the UCLA facility dated January 4 and 28 and February 22, 1993. These documents are available for public inspection at the Commission Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 20th day of December 1993.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31436 Filed 12–23–93; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S COUNCIL ON SUSTAINABLE DEVELOPMENT

Meetings

AGENCY: President's Council on Sustainable Development.

ACTION: Meeting notice.

DATES:
January 13, 1993
9 a.m.–12 Noon—Sustainable Communities
2 p.m.–5:30 p.m.—Principles, Goals, and Definition
January 14, 1995
9 a.m.–1 p.m.—Eco-Efficiency

PLACE: The Westin Hotel, 1900 Fifth Avenue, Seattle, Washington 98101.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The President's Council on Sustainable Development is a partnership of industry, labor, government, environmental organizations, not-for-profit groups, and civil rights organizations.

The Council will participate in a roundtable discussion and public forum on sustainable communities; participate in the Eco-Efficiency Task Force roundtable discussion; consider draft principles from the Council's Task Force on Principles, Goals, and Definitions; and consider recommendations from the Council's Scoping Task Force on Climate Change.

CONTACT: Eunice Lockhart-Moss, Special Assistant to the Executive Director, President's Council on Sustainable Development (202) 208–7411.

Molly H. Olson,

Executive Director, President's Council on Sustainable Development.

[FR Doc. 93–31457 Filed 12–23–93; 8:45 am]

BILLING CODE 3127–01–M

POSTAL RATE COMMISSION

[Order No. 997; Docket No. A94–4]

Before Commissioners: W.H. "Trey" LeBlanc, III, Vice Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley.

In the Matter of: Boone, NE 68625: (Chris Christensen, Petitioner).

NOTICE AND ORDER ACCEPTING APPEAL AND ESTABLISHING PROCEDURAL SCHEDULE

Issued December 20, 1993.

Docket Number: A94–4.

Name of Affected Post Office: Boone, Nebraska 68625.

Name(s) of Petitioner(s): Chris Christensen.

Type of Determination: Closing.

Date of Filing of Appeal Papers: December 16, 1993.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the December 16, 1993 filing date of this appeal (39 U.S.C. 404(b)(5)). In the interest of expedition and in light of the 120-day decision schedule, the Commission reserves the right to request the Postal Service to submit memoranda of law on any appropriate issue. If requested, the memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioner. The Commission reserves the right to ask the petitioner for more information.

If the Postal Service files a brief or motion to dismiss or a motion to affirm the appeal, the Postal Service may incorporate by reference any memoranda it previously filed in this docket.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by January 3, 1994.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedure Schedule in the **Federal Register**.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

December 16, 1993, Filing of Appeal letter.
December 20, 1993, Commission Notice and Order of Filing of Appeal.
January 10, 1994, Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)].
January 20, 1994, Petitioner's Participant Statement or Initial Brief (Any person who has sent the Commission an appeal letter may file a Participant Statement or Initial Brief.) [see 39 CFR 3001.115(a) and (b)].
February 9, 1994, Postal Service's Answering Brief [see 39 CFR 3001.115(c)].
February 24, 1994, Petitioner's Reply Brief should Petitioner choose to file one [see 39 CFR 3001.115(d)].
March 3, 1994, Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].
April 14, 1994, Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 93–31425 Filed 12–23–93; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—John J. Lane (202) 272–3900.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings, Information, and Consumer Services, Washington, DC 20549.

New

Mutual Funds Focus Group File No. 270–386

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval a request to conduct two focus group sessions of ten individuals each, for a total of 20 participants, to obtain information regarding the public's understanding of the risks involved when purchasing mutual funds from a bank. The results will be used by the agency to get a sense from the public on their understanding of the level of risk involved when purchasing mutual funds sold through banks. The focus group sessions are estimated to require .20 burden hours per response.

General comments regarding the estimated burden hours should be directed to Gary Waxman at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to John J. Lane, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: December 15, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31495 Filed 12–23–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Application for Unlisted Trading Privileges in an Over-the-Counter Issue and To Withdraw Unlisted Privileges in an Over-the-Counter Issue

December 20, 1993.

On December 9, 1993, the Chicago Stock Exchange, Inc. ("CHX"), submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, *i.e.*, a security not registered under section 12(b) of the Act.

File No.	Symbol	Issuer
7–11716	GATE	Gateway 2000 Inc.; Common Stock; $.01 par value.

The above-referenced issue is being applied for as a replacement for the following security, which forms a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The CHX also applied to withdraw UTP pursuant to section 12(f)(4) of the Act for the following issue:

File No.	Symbol	Issuer
7–11717	IMNR	Immune Response Corp.; Common Stock; $.0025 par value.

A replacement issue is being requested due to lack of trading activity.

Comments

Interested persons are invited to submit, on or before January 10, 1994, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant

of UTP as well as the withdrawal of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension or withdrawal of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31767 Filed 12-23-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-33367; File No. SR-NASD-93-72]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Amendments to the Guidelines Regarding Communications With the Public About Collateralized Mortgage Obligations (CMOs)

December 17, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 3, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one constituting a stated policy, practice or interpretation of an existing rule of the NASD under section 19(b)(3)(A)(i) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend its Guidelines Regarding Communications With the Public About Collateralized Mortgage Obligations ("CMOs") at Article III, Section 35 of the Rules of Fair Practice ("CMO Guidelines") to require members to offer educational material on CMOs to their customers. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Guidelines Regarding Communications With the Public About Collateralized Mortgage Obligations (CMOs)

* * * * *

Educational Material

In order to ensure that customers are adequately informed about CMOs members *are required to* [should] offer to customers educational material which covers the following matters:

- A discussion of CMO characteristics as investments and their attendant risks
- An explanation of the structure of a CMO, including the various types of tranches
- A discussion of mortgage loans and mortgage securities
- Features of CMOs, including: credit quality, prepayment rates and average lives, interest rates (including effect on values and prepayment rates), tax considerations, minimum investments, transactions costs and liquidity
- Questions an investor should ask before investing, and a glossary of terms that may be helpful to an investor considering an investment.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In rule filing SR-NASD-93-63, which was effective upon filing with the Securities and Exchange Commission on November 3, 1993,[1] the NASD amended the CMO Guidelines to state that members should offer educational material concerning CMOs to their customers. A more complete description of the nature of the educational material provision may be found in that rule filing.

Subsequent to the filing of SR-NASD-93-63, the NASD's Office of General Counsel determined that the provision stating that members "should" offer educational material to their customers was intended to be mandatory as approved by the NASD Board of Governors on September 20, 1993. Accordingly, the NASD is amending the Guidelines to state that members are required to offer to customers educational material concerning CMOs.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act in that the amendment to the Guidelines relating to educational material will enhance public knowledge and information on a complex securities product and will, therefore, enhance the protection of investors and the public interest by improving the baseline of standards to guide sales practices relating to CMOs.

(B) Self-Regulatory Organization's Statement on Burden on Completion

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing with the Commission pursuant to section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b-4 thereunder in that it constitutes a stated policy, practice or interpretation of an existing rule of the NASD.

At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing.

[1] Securities Exchange Act Release No. 33169 (Nov. 9, 1993), 58 FR 60742 (Nov. 16, 1993).

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by January 13, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31496 Filed 12-23-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19960; 812-8728]

Comerica Bank, et al.; Conditional Temporary Order and Notice of Application

December 17, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Conditional temporary order and notice of application for permanent order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Comerica Bank ("Comerica") and Woodbridge Capital Management, Inc. ("Woodbridge").

RELEVANT ACT SECTIONS: Conditional temporary order granted, and permanent order requested, under section 9(c) for an exemption from the provisions of section 9(a).

SUMMARY OF APPLICATION: Applicants seek a permanent order under section 9(c) of the Act exempting them from the disqualification provisions of section 9(a) solely with respect to a securities-related injunction entered against Comerica, and a temporary order pending the Commission's determination with respect to the permanent order. Applicants request that any relief granted pursuant to the application also apply to any other entity that is or may become an affiliated person of applicants.

FILING DATE: The application was filed on December 17, 1993.

HEARING OR NOTIFICATION OF HEARING: Interested persons may request a hearing on the application by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 11, 1994, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, Comerica, One Detroit Center, Detroit, Michigan 48275-3391. Woodbridge, 100 Renaissance Center, Detroit, Michigan 48243.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Senior Attorney, at (202) 272-3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Comerica is a Michigan state-chartered bank that is a member of the Federal Reserve System. Comerica is a wholly-owned subsidiary of Comerica Incorporated, a bank holding company.

2. Woodbridge is a wholly-owned subsidiary of Comerica Investment Services, Inc., which in turn is a wholly-owned subsidiary of Comerica. Woodbridge is an investment adviser registered under the Investment Advisers Act of 1940. Woodbridge serves as investment adviser to the Ambassador Family of Mutual Funds (which currently includes twelve stock, bond, and money market funds); the Peoples S&P MidCap Index Fund, Inc.; SEI Index Funds; SEI Tax Exempt Trust; and St. Clair Fixed Income Fund, Inc. (collectively, the "Funds"). The Funds are open-end management investment companies registered under the Act.

3. Wilson, Kemp & Associates, Inc. ("Wilson") is a wholly-owned subsidiary of Comerica Investment Services, Inc., which in turn is a wholly-owned subsidiary of Comerica. Wilson is an investment adviser registered under the Investment Advisers Act of 1940. Wilson is not presently an investment adviser to any investment company registered under the Act.

4. On December 17, 1993, the Commission filed a complaint in the United States District Court for the Southern District of New York in a civil action entitled *Securities and Exchange Commission* v. *Comerica Bank* (the "SEC Action"). The complaint alleged that Comerica violated Regulation U, as promulgated by the Board of Governors of the Federal Reserve System under section 7(d) of the Securities Exchange Act of 1934, in connection with extensions of credit in a custodial trust account maintained for an individual named Mark Sendo.[1]

5. On the same day, Comerica consented to the entry of a Final Judgment of Permanent Injunction and Other Relief (the "Final Judgment"), without admitting or denying any of the allegations in the Commission's complaint except as to jurisdiction. The Final Judgment enjoins Comerica from further violations of Regulation U. The Final Judgment requires Comerica to pay a civil money penalty of $100,000. The Final Judgment also requires Comerica to adopt internal procedures designed to prevent a recurrence of the violative conduct.

6. Applicants have advised the directors of the Peoples S&P MidCap Index Fund, Inc., and the trustees of the SEI Index Funds and SEI Tax Exempt Trust of the circumstances pertinent to the Final Judgment and the actions taken by applicants to obtain temporary and permanent orders exempting applicants from the provisions of section 9(a). Applicants will promptly advise the Division of Investment Management of any action taken by the respective directors and trustees of those funds with regard to applicants. In addition, applicants have been advised by the trustees of the Ambassador Funds and the directors of the St. Clair Fixed Income Fund, Inc. (the "Boards") that (a) the Boards have reviewed the circumstances pertinent to the Final Judgment, and have considered the prior services rendered to the funds by Woodbridge; and (b) after review and consideration of such factors as they

[1] The Commission brought an action against Sendo and two of his associates for "free-riding"—paying for purchases of securities with anticipated proceeds from offsetting sales of the same securities—in violation of the antifraud and margin provisions of the federal securities laws in June 1991. *SEC* v. *Sendo, Burman and Tringale*, 91 Civ. 4408 (S.D.N.Y.), Litigation Release No. 12894 (June 27, 1991). Summary judgment was rendered in favor of the Commission in October 1992. Litigation Release No. 13475 (Dec. 17, 1992).

deemed appropriate, the Boards, including a majority of the non-interested trustees of the Ambassador Funds, and a majority of the non-interested directors of the St. Clair Fixed Income Fund, Inc., have determined that the retention of Woodbridge as investment adviser is in the best interests of the funds' shareholders.[2]

7. In making the application, applicants acknowledge, understand, and agree that the application and any temporary exemption issued by the Commission shall be without prejudice to the Commission's consideration of any application for exemptions from statutory requirements, including the consideration of the instant application for a permanent exemption pursuant to section 9(c) or the revocation or removal of any temporary exemption granted in connection with the application.

Applicants' Legal Analysis

1. Applicants seek a permanent order exempting applicants and their affiliates from the provisions of section 9(a) of the Act solely with respect to the Final Judgment, and a temporary order pending the Commission's determination with respect to the permanent order.

2. Section 9(a) of the Act, in pertinent part, disqualifies any person or company from serving or acting in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor or any principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company if such person, or an affiliated person of such person, has, by reason of misconduct, been permanently or temporarily enjoined by an order, judgment, or decree from any court of competent jurisdiction from acting as an underwriter, broker, dealer, or investment adviser, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security.

3. Section 9(c) provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that these provisions, as applied to the applicant, are unduly or disproportionately severe or that the conduct of the applicant has been such as not to make it against the public interest or protection of investors to grant such application.

4. As a result of the Final Judgment, Comerica and its affiliated persons are subject to the disqualification provisions of section 9(a). Applicants assert that the application of such provisions to applicants is unduly and disproportionately severe. Applicants further assert that the public interest and protection of investors favors granting the requested relief.

5. Applicants state that the conduct that gave rise to the Final Judgment was not in any way related to activities of applicants as investment advisers.

6. Woodbridge states that it is not a party to the SEC Action and is not alleged to have involved in any way with the activities that form the basis of that action. None of the officers or employees of Woodbridge participated in any way in the conduct alleged to have constituted the violations which resulted in the SEC Action.

7. Applicants assert that senior management of Comerica and Comerica Incorporated were not involved with, and had no knowledge of, the conduct alleged to have constituted the violations which form the basis of the SEC Action. Moreover, the SEC Action does not involve allegations of fraud.

8. Applicants assert that denial of the requested order would harm the Funds' investors because the investors would lose the services of the Funds' investment adviser. In addition, investors would be harmed by the uncertainty caused by Woodbridge being prohibited from serving as investment adviser to the Funds, which may cause, among other things, multiple redemptions of shares of the Funds.

9. Applicants state that none of applicants, Wilson, Comerica Investment Services, Inc., nor Comerica Incorporated have been the subject of prior Commission enforcement proceedings. Applicants further state that they have not previously filed an application for relief pursuant to section 9(c) of the Act.

10. Applicants state that Comerica has adopted policies and procedures to ensure that the alleged violations do not recur. In addition, pursuant to the Final Judgment, Comerica has taken or will take the following steps to remedy its conduct and prevent the recurrence of violations:

a. Comerica will maintain policies and procedures to ensure that it complies with Regulation U, including policies to ensure that purchases of securities in custodial accounts are not paid for with proceeds from sales of the same securities in the accounts.

b. Within thirty days after the entry of the Final Judgement, Comerica will retain an independent consultant who will review Comerica's custodial securities clearing operations and will make such recommendations as are necessary with respect to Comerica's policies and procedures to ensure that Comerica complies with Regulation U.

c. The consultant will issue a report within sixty days of its retention setting forth its findings and recommendations and will forward the report to the New York Regional Office. Unless the Commission objects to the consultant's recommendations within thirty days, Comerica will implement the consultant's recommendations by no later than forty days after the end of the period for the Commission to object.

Applicants' Condition

Applicants agree that any order granted by the Commission pursuant to the application will be subject to the condition that Comerica will comply with the Final Judgment.

Temporary Order

The Commission has considered the matter and, without necessarily agreeing with all the facts represented or all of the arguments asserted by applicants, finds that the issuance of a temporary order under section 9(c) of the Act, subject to the foregoing condition, is not inconsistent with the public interest or the protection of investors.

Accordingly, it is hereby ordered, under section 9(c) of the Act, that applicants and their affiliated persons be, and hereby are, granted a temporary exemption from the provisions of section 9(a) of the Act solely with respect to the Final Judgment, subject to the condition is expressly incorporated herein, pending the Commission's determination with respect to the permanent order.

By the Commission.

[FR Doc. 93-31420 Filed 12-23-93; 8:45 am]

BILLING CODE 8010-01-M

[2] The Division of Investment Management notes that the Ambassador Family of Mutual Funds and the St. Clair Fixed Income Fund, Inc., whose Boards approved the retention of Woodbridge as investment adviser, are sponsored by Comerica. In contrast, The Peoples S&P MidCap Index Fund, Inc., SEI Index Funds, and SEI Tax Exempt Trust, whose trustees and directors were advised of the circumstances pertinent to the Final Judgment and the application, are not sponsored by Comerica.

[Investment Company Act of 1940; Release No. IC-19967; File No. 812-8730]

First Investors Corporation, et al.; Temporary Order and Notice of Application

December 20, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Temporary order and notice of application for permanent exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: First Investors Corporation, First Investors Management Company, Inc., Executive Investors Corporation, Executive Investors Management Company, Inc., and First Investors Life Insurance Company (the "Corporate Applicants"), and David D. Grayson and Glenn O. Head (the "Individual Applicants").

RELEVANT ACT SECTIONS: Conditional temporary order granted and permanent order requested under section 9(c) granting an exemption from section 9(a).

SUMMARY OF APPLICATION: Applicants have been granted a conditional temporary order, and have requested a permanent order under section 9(c) exempting them from section 9(a) solely with respect to injunctions entered by courts in the States of Maine and New York and the Commonwealths of Massachusetts and Virginia on December 20, 1993 (the "Injunctions").

FILING DATE: The application was filed on December 20, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 20, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants 95 Wall Street, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. First Investors Corporation ("FIC") is a registered broker-dealer that serves as the underwriter for thirteen registered investment companies, including First Investors Fund For Income, Inc. ("FIFI") and First Investors High Yield Fund, Inc. ("FIHY"). FIC also serves as underwriter for other financial products within the First Investors complex, including certain single payment and periodic payment plans and two separate accounts established and maintained by an insurance company.

2. First Investors Management Company Inc. ("FIMCO") is a registered investment adviser that serves as the investment adviser for each of the funds for which FIC acts as underwriter, plus First Investors Special Bond Fund, Inc.

3. Executive Investors Corporation ("EIC") is a registered broker-dealer that serves as the underwriter for each of the three series of Executive Investors Trust, a registered management investment company. Executive Investors Management Company, Inc. ("EIMCO") is a registered investment adviser that serves as the investment adviser for Executive Investors Trust.

4. First Investors Life Insurance Company ("First Investors Life") is a stock life insurance company incorporated under the laws of the State of New York. First Investors Life serves as sponsor or depositor for several registered unit investment trusts. Shares of these unit investment trusts are sold exclusively through FIC.

5. All of the registered management investment companies and the unit investment trusts described above are collectively referred to herein as the "First Investors Investment Companies."

6. FIC, FIMCO, EIC, EIMCO, and First Investors Life are wholly-owned subsidiaries of First Investors Consolidated Corporation ("FICON"). FICON is a closely-held corporation of which David D. Grayson and Glenn O. Head each own or control approximately 34% of the outstanding shares.

7. Grayson serves as president and a director of EIMCO and FIMCO, and as a director of FIC, EIC, and First Investors Life. In addition, Grayson is the president and a trustee of all of the First Investors Investment Companies. Grayson also served as president of FIC and EIC until the settlement of certain state actions, as further discussed below (the "Settlement").

8. Head serves as an executive officer and a director of FIMCO, First Investors Life, and EIMCO. Head also serves as the treasurer and a director of FIC and EIC. In addition, Head is vice-president and a trustee of all of the First Investors Investment Companies. Head also served as an executive officer of FIC and EIC until the Settlement.

9. Howard A. Froman and Alvin Blumenfeld each held the title of senior vice-president for sales at FIC and were co-heads of one of FIC's sales complexes until the Settlement. Louis Woolf is a registered representative at FIC.

10. FIC, FIMCO, FICON, FIFI, FIHY, the Individual Applicants, Froman, and Blumenfeld (the "Respondents") are subject to administrative and civil actions in the States of Maine, New York, and Washington and the Commonwealths of Massachusetts and Virginia (collectively the "States"). Woolf is subject to an action brought in Massachusetts. Each of the States alleged that the Respondents, and Woolf in regard to the action brought by the Commonwealth of Massachusetts, among other things, (a) Failed to supervise adequately their registered representatives, or to establish adequate procedures to do so, with the result that those representatives did not always disclose the risks associated with FIFI and FIHY and at times recommended purchases of FIFI and FIHY that were unsuitable for the objectives and goals of certain investors, (b) provided investors with prospectuses that did not disclose all of the risks associated with FIFI and FIHY, and (c) in some cases, failed to make timely delivery of prospectuses for FIFI and FIHY.

11. The Respondents entered into separate settlement agreements jointly negotiated with the States of Maine and New York, and the Commonwealth of Virginia on October 13, 1993 (the "Settlement Agreement") and the Respondents and Woolf entered into a settlement agreement with the Commonwealth of Massachusetts on October 13, 1993 (the "Massachusetts Agreement"). (Collectively, the Settlement Agreement and the Massachusetts Agreement are referred to herein as the "Agreements.") The Agreements provide, among other things, for the full and final settlement and dismissal of the administrative and civil actions initiated by the States relating to the offer and sale of shares of FIFI and FIHY. As a result of the Agreements, no pending enforcement actions exist in any states against the Respondents and Woolf.

12. Pursuant to the Settlement Agreement, each Respondent was enjoined by courts in Maine, New York, and Virginia on December 20, 1993.[1] Pursuant to the Massachusetts Agreement, each Respondent and Woolf was enjoined by a court in Massachusetts on December 20, 1993.[2] Respondents and Woolf were enjoined from engaging in fraudulent practices relating to the offer or sale of securities to the public. In addition, the Respondents agreed to establish, or continue, various compliance and risk disclosure procedures. Further, FICON agreed to pay an additional sum of $7.5 million to the $24.7 million disgorgement fund available for distribution to defrauded investors of FIFI and FIHY.[3]

13. Under the Agreements, the Individual Applicants, Froman, and Blumenfeld are temporarily suspended from acting in certain supervisory capacities in the States for various periods. Under the Massachusetts Agreement, Woolf is temporarily suspended from acting as a sales agent and from supervising FIC's securities activity in Massachusetts.

14. The directors of the First Investors Investment Companies have been fully apprised of the allegations giving rise to the actions described above and have determined that the retention of FIC, EIC, FIMCO, and EIMCO as distributors or advisers of the FIC Investment Companies, respectively, is in the best interests of the shareholders of those companies.

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in pertinent part, prohibits any person from serving as an employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or as principal underwriter of any registered open-end company or unit investment trust, if such person or any affiliated person has been permanently or temporarily enjoined from engaging in any conduct in connection with its activities as an underwriter, broker, dealer, or investment adviser, or in connection with the purchase or sale of any security. Section 9(a)(3) prohibits a company affiliated with any disqualified person from serving or acting in the above capacities.

2. Section 9(c) of the Act provides that, upon application, the Commission shall grant an exemption from the provisions of section 9(a) either unconditionally or on appropriate temporary or other conditional basis if it is established that those provisions, as applied to the applicant, are unduly or disproportionately severe or that the conduct of applicants has been such as to not make it against the public interest or protection of investors to grant such application.

3. Applicants request an order temporarily exempting applicants from section 9(a) of the Act pending the Commission's final action on the application, and an order permanently exempting them from that provision. The order would exempt the Corporate Applicants from section 9(a) solely with respect to the Injunctions. It would permit the Corporate Applicants to continue to associate with the Individual Applicants, Froman, Blumenfeld, and Woolf and the Individual Applicants to act in the capacities of officers and trustees or directors of the First Investors Investment Companies.

4. If the relief requested by the application is granted, applicants anticipate that: Grayson would resume serving as president of FIC and EIC; Head would resume serving as an executive officer of FIC and EIC; Froman and Blumenfeld would resume serving as senior vice-presidents for sales and co-heads of one of FIC's sales complexes; and Woolf would resume serving as sales agent once their respective suspensions have been served. If the requested relief is granted, Froman, Blumenfeld, and Woolf also will remain affiliated with FIC, but will not serve in any supervisory capacity (in the case of Froman and Blumenfeld) or as sales agent or supervisor in Massachusetts (in the case of Woolf) during their respective suspensions.

5. Applicants assert that denying the requested relief from the disqualification provisions of section 9(a) would be disproportionately severe. Applicants further aver that the granting of relief is not inconsistent with the public interest and the protection of investors.

6. Applicants state that the Corporate Applicants were granted temporary relief from the provisions of section (9(c) in connection with the injunction entered by the SDNY on June 12, 1992, pending the Commission's final action on the matter.[4] Applicants further state that before the request for such relief was made, none of the Corporate Applicants had applied for or received an exemption from the provisions of section 9(a). Applicants also state that the Individual Applicants, Froman, Blumenfeld, and Woolf have not previously applied for or received an exemption from section 9(a).

7. Applicants state that since the commencement of the States' investigations, applicants have taken numerous steps designed to strengthen training, compliance, and supervision with respect to sales and distribution of FIFI and FIHY and the other First Investors Investment Companies, including: (a) Retaining an independent, outside consultant ("Broker-Dealer Consultant") to examine and report on the sales training, supervisory, and compliance practices and procedures of FIC; (b) implementing a detailed "Action Plan" incorporating the Broker-Dealer Consultant's recommendations, and instituting procedures to prevent and detect violations of the applicable laws and regulations; (c) developing and implementing a new sales presentation; (d) establishing a new training program; (e) substantially revising FIC's compliance manual; (f) increasing FIC's compliance staff that is overseen by FIC's legal department; (g) retaining outside legal counsel to examine and report on compliance with guidelines and requirements of the Act; (h) preparing a new portfolio managers' compliance manual; and (i) making changes in senior management, including, with respect to a new chief executive officer. Also, applicants assert that FIC has agreed to engage the Broker-Dealer Consultant, or another person not unacceptable to the Commission's staff, to perform a follow-up review, and further annual reviews thereafter for five years. Applicants state that after each such review, a report will be submitted to the Commission staff that will detail the extent to which the recommendations of the Broker-Dealer Consultant have been implemented and the success of the Action Plan in detecting and preventing violations of the applicable laws and regulations.

8. Applicants further assert that the disqualification of the Corporate Applicants would be harmful to the shareholders of all of the First Investors Investment Companies. Applicants also state that if the requested exemption is not granted, it would severely jeopardize the ability of applicants to remain in business and would have an adverse effect on the Corporate Applicants' employees.

Applicants' Conditions

Applicants agree that the following conditions may be imposed in any order of the Commission granting relief.

1. Pursuant to rule 8 of the Commission's Rules of Practice, applicants hereby consent to the staff of the Commission advising the Commission regarding the subject matter of the application and waive any provisions of law or of the Commission's rules that would prevent such *ex parte* communications and waive any claim of prejudgment by the Commission based upon any communications by the Staff with the Commission for the purpose set forth above.

2. Pursuant to rules 8(b) and 16(b) of the Commission's Rules of Practice, applicants hereby waive an initial determination by a hearing officer as to the matters set forth in the application.

3. Any temporary exemption issued pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigations of, or administrative proceedings against, applicants pursuant to the Act, including, without limitation, any administrative proceeding under section 9(b) of the Act or the consideration by the Commission of any application for exemptions from statutory requirements under the Act, including without limitation, the consideration of the permanent exemption pursuant to section 9(c) of the Act requested pursuant to this application or the revocation or removal of any temporary exemptions granted under the Act in connection with this application.

Temporary Order

The Commission has considered the matter and, without necessarily agreeing with all of the facts represented or all of the arguments asserted by applicants, finds that the denial of an order under section 9(c) of the Act, temporarily exempting applicants from the provisions of section 9(a) of the Act with respect to the Injunctions, would be disproportionately severe.

Accordingly, it is hereby ordered, under section 9(c) of the Act, that applicants hereby are temporarily exempted from the provisions of section 9(a) of the Act to the extent set forth below and subject to the conditions set forth in the application, until the earlier of the date on which the Commission takes final action on the application for a permanent order exempting applicants from the prohibitions of section 9(a), or June 12, 1994. The temporary order exempts the Corporate Applicants from section 9(a) solely with respect to the Injunctions. The temporary order also permits the Corporate Applicants to continue to associate with the Individual Applicants, Froman, Blumenfeld, and Woolf and the Individual Applicants to act in the capacities of officers and trustees or directors of the First Investors Investment Companies.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31493 Filed 12-23-93; 8:45 am]

BILLING CODE 8010-01-M

[1] *State of New York* v. *First Investors Corp.*, Index No. 90-46431 (Supreme Court of New York County); *State of Maine* v. *First Investors Corp.*, No. CV-91-373 (Superior Court of Kennebec County); and *Commonwealth of Virginia, ex rel., State Corporation Commission* v. *First Investors Corp.*, Case No. SEC920077 (Corporation Commission of the Commonwealth of Virginia).

[2] *Commonwealth of Massachusetts* v. *First Investors Corp.*, No. 91-6423-E (Superior Court of Suffolk County).

[3] FIC was required to establish the $24.7 million disgorgement fund as part of a consent judgment and injunction entered against FIC by the Southern District Court for the Southern District of New York ("SDNY") on June 12, 1992. The judgment and injunction followed the filing of a complaint by the Commission on June 11, 1992 which alleged that FIC violated certain provisions of the Securities Exchange Act of 1934 and the Securities Act of 1933. The conduct underlying the consent judgment and the injunctions are substantially the same.

[4] Investment Company Act Release Nos. 18778 (June 12, 1992), 19522 (June 10, 1993), and 19937 (Dec. 9, 1993).

[Rel. No. IC-19962; 812-8724]

Michigan National Bank, et al.; Conditional Temporary Order and Notice of Application

December 17, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Conditional temporary order and notice of application for permanent order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Michigan National Bank ("MNB"), Michigan National Corporation ("MNC"), and Independence One Capital Management Corporation ("IOCM").

RELEVANT ACT SECTIONS: Conditional temporary order granted, and permanent order requested, under section 9(c) for an exemption from the provisions of section 9(a).

SUMMARY OF APPLICATION: Applicants seek a permanent order under section 9(c) of the Act exempting them from the disqualification provisions of section 9(a) solely with respect to a securities-related injunction entered against MNB, and a temporary order pending the Commission's determination with respect to the permanent order. Applicants request that any relief granted pursuant to the application also apply to any other entity that is or may become an affiliated person of applicants.

FILING DATE: The application was filed on December 17, 1993.

HEARING OR NOTIFICATION OF HEARING: Interested persons may request a hearing on the application by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 11, 1994, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, 27777 Inkster Road, Farmington Hills, Michigan 48334.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Senior Attorney, at (202) 272-3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. MNB is a national banking association and a wholly-owned subsidiary of MNC. MNC is a registered bank holding company. MNB serves as investment adviser to Independence One Mutual Funds (the "Fund"). The Fund is an open-end management investment company registered under the Act, consisting of four series: Independence One Michigan Municipal Cash Fund; Independence One Prime Money Market Fund; Independence One U.S. Treasury Money Market Fund; and Independence One U.S. Government Securities Fund.

2. IOCM is a wholly-owned subsidiary of MNC and is an investment adviser registered under the Investment Advisers Act of 1940. IOCM acts as a sub-investment adviser to the Fund.

3. On December 17, 1993, the Commission filed a complaint in the United States District Court for the Southern District of New York in a civil action entitled *Securities and Exchange Commission* v. *Michigan National Bank* (the "SEC Action"). The complaint alleged that MNB violated Regulation U, as promulgated by the Board of

Governors of the Federal Reserve System under section 7(d) of the Securities Exchange Act of 1934, in connection with extensions of credit in a custodial trust account maintained for an individual named Mark Sendo.[1]

4. On the same day, MNB consented to the entry of a Final Judgment of Permanent Injunction and Other Relief (the "Final Judgment"), without admitting or denying any of the allegations in the Commission's complaint except as to jurisdiction. The Final Judgment enjoins MNB from further violations of Regulation U. The Final Judgment requires that MNB disgorge $8,500, which represents its gross custodian services fees earned on Sendo's accounts. The Final Judgment also requires MNB to adopt internal procedures designed to prevent a recurrence of the violative conduct.

5. At a meeting of the trustees of the Fund on March 8, 1993, applicants advised the trustees of the facts and circumstances giving rise to the filing of the application. The trustees then evaluated the information provided to them and, in particular, considered the alleged misconduct, the conduct of MNC and IOCM and the impact of the alleged misconduct on MNB's and IOCM's ability to serve as adviser and subadviser, respectively. In addition, the trustees at that time consulted with legal counsel who is experienced in matters involving the Act, which counsel has no relationship with or affiliation to applicants, concerning the trustees' fiduciary responsibilities. Based upon such review and consultation, the trustees, a majority of whom are not "interested persons" of applicants as such term is defined in the Act, concluded that the alleged misconduct does not adversely affect applicants' continuing ability to provide investment advisory services to the Fund. Following consideration of these matters, the trustees at that meeting unanimously voted to continue the Fund's current investment advisory contract with MNB and IOCM.

6. In making the application, applicants acknowledge, understand, and agree that the application and any temporary exemption issued by the Commission shall be without prejudice to the Commission's consideration of any application for exemptions from statutory requirements, including the consideration of the instant application for a permanent exemption pursuant to section 9(c) or the revocation or removal of any temporary exemption granted in connection with the application.

[1] The Commission brought an action against Sendo and two of his associates for "free-riding"—paying for purchases of securities with anticipated proceeds from offsetting sales of the same securities—in violation of the antifraud and margin provisions of the federal securities laws in June 1991. *SEC* v. *Sendo, Burman and Tringale*, 91 Civ. 4406 (S.D.N.Y.), Litigation Release No. 12804 (June 27, 1991). Summary judgment was rendered in favor of the Commission in October 1992. Litigation Release No. 13475 (Dec. 17, 1992).

Applicants' Legal Analysis

1. Applicants seek a permanent order exempting them and their affiliates from the provisions of section 9(a) of the Act solely with respect to the Final Judgment, and a temporary order pending the Commission's determination with respect to the permanent order.

2. Section 9(a) of the Act, in pertinent part, disqualifies any person or company from serving or acting in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company if such person, or an affiliated person of such person, has, by reason of misconduct, been permanently or temporarily enjoined by an order, judgment, or decree from any court of competent jurisdiction from acting as an underwriter, broker, dealer, or investment adviser, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security.

3. Section 9(c) provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that these provisions, as applied to the applicant, are unduly or disproportionately severe or that the conduct of the applicant has been such as not to make it against the public interest or protection of investors to grant such application.

4. As a result of the Final Judgment, MNB and its affiliated persons are subject to the disqualification provisions of section 9(a). Applicants assert that the application of such provisions to them is unduly and disproportionately severe. Applicants further assert that MNB's conduct has been such as not to make it against the public interest or protection of investors to grant the requested relief.

5. Applicants state that the conduct that gave rise to the SEC Action was not in any way related to activities of applicants as investment advisers.

6. Applicants state that the SEC Action will subject IOCM and MNC to the prohibitions of section 9(a) solely because they are affiliated persons of MNB. IOCM and MNC are not parties to the SEC Action and are not alleged to have been involved in any way with the activities that form the basis of that action. Applicants also state that none of applicants' officers or employees who are engaged in the provision of investment advisory services to the Fund participated in any way in the conduct alleged to have constituted the violations which resulted in the SEC Action.

7. Applicants assert that applicants' senior management were not involved with, and had no knowledge of, the conduct alleged to have constituted the violations which form the basis of the SEC Action. Moreover, the SEC Action does not involve allegations of fraud involving applicants' senior management.

8. Applicants assert that denial of the requested order could be detrimental to the Fund's investors because the investors would no longer have the services of the Fund's investment advisers. Investors also could be harmed by the uncertainty caused by applicants being prohibited from serving the Fund, which could result in multiple redemptions of the Fund's shares. In addition, the replacement of MNB and IOCM would result in substantial costs because of the need to obtain shareholder approval of a new investment advisory agreement with a new adviser.

9. Applicants state that MNB and IOCM have not previously been subject to any Commission enforcement proceedings. MNC, however, was the subject of two prior Commission enforcement actions. In 1981, MNC consented to the entry by the Commission of an administrative order pursuant to section 15(c)(4) of the Exchange Act. The Commission found that MNC had failed adequately to disclose all of the circumstances under which its subsidiaries engaged in sale-leaseback transactions involving bank premises with officers and directors of MNC and its subsidiary banks.[2] In 1985, MNC consented to the entry of a permanent injunction enjoining MNC from violations of the reporting, books and records, and proxy provisions of the Exchange Act. The Commission's complaint alleged that MNC's former chairman and chief executive officer obtained $282,000 in undisclosed benefits from MNC, including, among

[2] See Securities Exchange Act Release No. 17902 (June 30, 1981).

other things, construction, maintenance, and delivery services.[3] Applicants state that these prior Commission enforcement actions did not involve activities of MNB and IOCM as investment advisers.[4]

10. Applicants state that they have not previously filed an application for relief pursuant to section 9(c).

11. Applicants state that MNB has adopted policies and procedures to ensure that the alleged violations do not recur. Upon being advised of the alleged Regulation U violations, MNB took steps designed to strengthen training, compliance, and supervision, and prevent future activity which may violate applicable laws and regulations relating to Regulation U.

In addition, in accordance with the final Judgment, MNB has taken or will take the following steps to remedy its conduct and prevent the recurrence of violations:

a. MNB will maintain policies and procedures to ensure that it complies with Regulation U, including policies to ensure that purchases of securities in custodial accounts are not paid for with proceeds from sales of the same securities in the accounts.

b. Within thirty days after the entry of the Final Judgment, MNB will retain an independent consultant who will review MNB's custodial securities clearing operations and who will make such recommendations as are necessary with respect to MNB's policies and procedures to ensure that MNB complies with Regulation U.[5]

c. The consultant will issue a report within sixty days of its retention setting forth its findings and recommendations and will forward the report to the New York Regional Office. Unless the Commission objects to the consultant's recommendations within thirty days, applicants will implement the consultant's recommendations by no later than forty days after the end of the period for the Commission to object.

[3] *See SEC* v. *Michigan National Corp.*, 85 Civ. 70331 (E.D. Mich. Jan. 24, 1985), Litigation Release No. 10864 (Jan. 30, 1985).

[4] Applicants have not requested, and the Division of Investment Management has not provided, any assurance as to whether the 1985 injunction is disqualifying under section 9.

[5] Applicants state that MNB has retained an independent consultant to review MNB's custodial securities clearing operations and to make recommendations as are necessary with respect to MNB's policies and procedures to ensure that MNB complies with Regulation U. The independent consultant issued a report dated October 19, 1993 stating that appropriate policies and procedures have been implemented by MNB to ensure compliance with Regulation U.

Applicants' Condition

Applicants agree that any order granted by the Commission pursuant to the application will be subject to the condition that applicants will comply with the Final Judgment.

Temporary Order

The Commission has considered the matter and, without necessarily agreeing with all the facts represented or all of the arguments asserted by applicants, finds that the issuance of a temporary order under section 9(c) of the Act, subject to the foregoing condition, is not inconsistent with the public interest or the protection of investors.

Accordingly, it is hereby ordered, under section 9(c) of the Act, that applicants and their affiliated persons be, and hereby are, granted a temporary exemption from the provisions of section 9(a) of the Act, solely with respect to the Final Judgment, subject to the condition contained in the application, which condition is expressly incorporated herein, pending the Commission's determination with respect to the permanent order.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31421 Filed 12-23-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19661; 812-8726]

NBD Bank, N.A., et al.; Conditional Temporary Order and Notice of Application

December 17, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Conditional temporary order and notice of application for permanent order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: NBD Bank, N.A. ("NBD"), NBD Bank, and NBD Bancorp, Inc.

RELEVANT ACT SECTIONS: Conditional temporary order granted, and permanent order requested, under section 9(c) for an exemption from the provisions of section 9(a).

SUMMARY OF APPLICATION: Applicants seek a permanent order under section 9(c) of the Act exempting them from the disqualification provisions of section 9(a) solely with respect to a securities-related injunction entered against NBD, and a temporary order pending the Commission's determination with respect to the permanent order. Applicants request that any relief granted pursuant to the application also apply to any other entity that is or may become an affiliated person of applicants.

FILING DATE: The application was filed on December 17, 1993.

HEARING OR NOTIFICATION OF HEARING: Interested persons may request a hearing on the application by writing to the SEC's Secretary and serving applicants with a copy of the request, personnally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 11, 1994 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, NBD and NBD Bancorp, Inc., 611 Woodward Avenue, Detroit, Michigan 48226. NBD Bank, 211 South Wheaton Avenue, Wheaton, Illinois 60189.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Senior Attorney, at (202) 272-3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. NBD is a national banking association and a wholly-owned subsidiary of NBD Bancorp, Inc. NBD serves as investment adviser to The Woodward Funds and Renaissance Assets Trust (the "Funds"). The Funds are open-end management investment companies registered under the Act. The Woodward Funds consist of thirteen separate portfolios: Woodward Growth/Value Fund; Woodward Opportunity Fund; Woodward Intrinsic Value Fund; Woodward Equity Index Fund; Woodward Intermediate Bond Fund; Woodward Bond Fund; Woodward Money Market Fund; Woodward Government Fund; Woodward Treasury Money Market Fund; Woodward Tax-Exempt Money Market Fund; Woodward Michigan Tax-Exempt Money Market Fund; Woodward Municipal Bond Fund; and Woodward Michigan Municipal Bond Fund. It is anticipated that additional portfolios

will commence operation at calendar year-end 1993 or shortly thereafter. Renaissance Assets Trust consists of two separate portfolios: the Renaissance Government Fund and the Renaissance Money Market Fund.

2. NBD Bank is a wholly-owned subsidiary of NBD Illinois, Inc., which is a wholly-owned subsidiary of NBD Bancorp. NBD Bank is not currently an investment adviser to any registered investment company. NBD Bank has entered into an agreement to act as sub-investment adviser to the Separate Account I (the "Separate Account") of the Washington National Life Insurance Company ("Washington National").

3. NBD Bancorp, Inc. is a bank holding company incorporated under Delaware law.

4. On December 17, 1993, the Commission filed a complaint in the United States District Court for the Southern District of New York in a civil action entitled *Securities and Exchange Commission* v. *Commerce Bank* (the "SEC Action"). The complaint alleged that NBD violated Regulation U, as promulgated by the Board of Governors of the Federal Reserve System under section 7(d) of the Securities Exchange Act of 1934, in connection with extensions of credit in a custodial trust account maintained for an individual named Mark Sendo.[1]

5. On the same day, NBD consented to the entry of a Final Judgment of Permanent Injunction and Other Relief (the "Final Judgment"), without admitting or denying any of the allegations in the Commission's complaint except as to jurisdiction. The Final Judgment enjoins NBD from further violations of Regulation U. The Final Judgment requires that NBD disgorge $2,500, which represents its gross custodian services fees earned on Sendo's accounts. In addition, the Final Judgment requires NBD to pay a civil money penalty of $100,000. The Final Judgment also requires NBD to adopt internal procedures designed to prevent a recurrence of the violative conduct.

6. Applicants have been advised by the trustees of the Funds and by Washington National that (a) the trustees of the Funds and the directors of Washington National have reviewed the circumstances pertinent to the Final Judgment, and, in the case of the Funds, have considered the prior services rendered to the Funds by NBD; and (b) after review and consideration of such factors as they deemed appropriated, the trustees of the Funds and the directors of Washington National have determined that the retention of NBD in the case of the Funds and of NBD Bank in the case of Washington National as investment adviser is in the best interests of the Funds' shareholders and the account holders of the Separate Account. Applicants state that no trustee of the Funds is an interested person, as defined in the Act, of applicants.

7. In making the application, applicants acknowledge, understand, and agree that the application and any temporary exemption issued by the Commission shall be without prejudice to the Commission's consideration of any application for exemptions from statutory requirements, including the consideration of the instant application for a permanent exemption pursuant to section 9(c) or the revocation or removal of any temporary exemption granted in connection with the application.

[1] The Commission brought an action against Sendo and two of his associates for "free-riding"—paying for purchases of securities with anticipated proceeds from offsetting sales of the same securities—in violation of the antifraud and margin provisions of the federal securities laws in June 1991. *SEC* v. *Sendo, Burman and Tringale*, 91 Civ. 4408 (S.D.N.Y.), Litigation Release No. 12894 (Jun. 27, 1991). Summary judgment was rendered in favor of the Commission in October 1992. Litigation Release No. 13475 (Dec. 17, 1992).

Applicants' Legal Analysis

1. Applicants seek a permanent order exempting applicants and their affiliates from the provisions of section 9(a) of the Act solely with respect to the Final Judgment, and a temporary order pending the Commission's determination with respect to the permanent order.

2. Section 9(a) of the Act, in pertinent part, disqualifies any person or company from serving or acting in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company if such person, or an affiliated person of such person, has, by reason of misconduct, been permanently or temporarily enjoined by an order, judgment, or decree from any court of competent jurisdiction from acting as an underwriter, broker, dealer, or investment adviser, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security.

3. Section 9(c) provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that these provisions, as applied to the applicant, are unduly or disproportionately severe or that the conduct of the applicant has been such as not to make it against the public interest or protection of investors to grant such application.

4. As a result of the Final Judgment, NBD and its affiliated persons are subject to the disqualification provisions of section 9(a). Applicants assert that the application of such provisions to applicants is unduly and disproportionately severe. Applicants further assert that NED's conduct has been such as not to make it against the public interest or protection of investors to grant the requested relief.

5. Applicants state that the conduct that gave rise to the Final Judgment was not in any way related to activities of applicants as investment advisers. Applicants further state that neither applicants' senior management nor anyone involved in the management of investment advisory services on applicants' behalf were involved in the activities giving rise to the SEC Action.

6. Applicants assert that denial of the requested order would cause irreparable injury to applicants and to the Funds' investors because the investors would no longer have the services of their investment adviser. In addition, investors could be harmed by the uncertainty caused by applicants being prohibited from serving as investment advisers to the Funds.

7. NBD has implemented policies and procedures designed to prevent a recurrence by other account holders of the type of conduct that gave rise to the SEC Action. In addition, pursuant to the Final Judgment, NBD has taken or will take the following steps to remedy its conduct and prevent the recurrence of violation:

a. NBD will maintain policies and procedures to ensure that it complies with Regulation U, including policies to ensure that purchases of securities in custodial accounts are not paid for with proceeds from sales of the same securities in the accounts.

b. Within thirty days after the entry of the Final Judgment, NBD will retain an independent consultant who will review NBD's custodial securities clearing operations and who will make such recommendations as are necessary with respect to NBD's policies and procedures to ensure that NBD complies with Regulation U.

c. The consultant will issue a report within sixty days of its retention setting forth its findings and recommendations and will forward the report to the New York Regional Office.[2] Unless the Commission objects to the consultant's recommendations within thirty days, applicants will implement the consultant's recommendations by no later than forty days after the end of the period for the Commission to object.

8. Applicants state that they have not been the subject of prior Commission enforcement proceedings, and have not previously filed an application for relief pursuant to section 9(c) of the Act.

Applicants' Condition

Applicants agree that any order granted by the Commission pursuant to the application will be subject to the condition that NBD will comply with the Final Judgment.

Temporary Order

The Commission has considered the matter and, without necessarily agreeing with all the facts represented or all of the arguments asserted by applicants, finds that the issuance of a temporary order under section 9(c) of the Act, subject to the foregoing condition, is not inconsistent with the public interest or the protection of investors.

Accordingly, it is hereby ordered, under section 9(c) of the Act, that applicants and their affiliated persons be, and hereby are, granted a temporary exemption from the provisions of section 9(a) of the Act, solely with respect to the Final Judgment, subject to the condition contained in the application, which condition is expressly incorporated herein, pending the Commission's determination with respect to the permanent order.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31419 Filed 12-23-93; 8:45 am]

BILLING CODE 8010-01-M

[2] Applicants state that in a report dated July 12, 1993, an independent consultant concluded that, based on its review, the policies and procedures of the custodian securities clearing operations for non-investment adviser accounts of NBD are reasonably designed to ensure compliance with the requirements of Regulation U. Applicants state that the recommendations of the independent consultant have been implemented.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08-93-030]

Houston/Galveston Navigation Safety Advisory Committee; Meeting

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee will meet on Thursday, January 27, 1994, in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas. The meeting is scheduled to begin at approximately 9 a.m. and end at approximately 1 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Presentation of the minutes of the Inshore and Offshore Waterways Subcommittees and discussion of recommendations.
3. Discussion of previous recommendations made by the Committee.
4. Presentation of any additional new items for consideration of the Committee.
5. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District, on navigation safety matters affecting the Houston/Galveston area.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

FOR FURTHER INFORMATION CONTACT: J.P. Novotny, LT, USCG, Recording Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-6235.

Dated: December 8, 1993.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 93-31514 Filed 12-23-93; 8:45 am]

BILLING CODE 4910-14-M

[CGD 08-93-032]

Houston/Galveston Navigation Safety Advisory Committee; Offshore Waterway Management Subcommittee Meeting

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Offshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee will meet on Thursday, January 6, 1994, at West Gulf Maritime Association, Portway Plaza, suite 200, 1717 East Loop, Houston, Texas 77029. The meeting is scheduled to begin at 9 a.m. and end at 10:30 a.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the full Advisory Committee and the Offshore Waterway Management Subcommittee.
3. Presentation of any additional new items for consideration by the Subcommittee.
4. Adjournment.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

FOR FURTHER INFORMATION CONTACT: J.P. Novotny, LT, USCG, Recording Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-6235.

Dated: December 8, 1993.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 93-31516 Filed 12-23-93; 8:45 am]

BILLING CODE 4910-14-M

[CGD 08-93-031]

Houston/Galveston Navigation Safety Advisory Committee; Inshore Waterway Management Subcommittee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Inshore Waterway Management Subcommittee of the

DEPARTMENT OF STATE

Bureau of Administration

[Public Notice 1918]

North American Free Trade Agreement

Notice is hereby given that the Department of State is the federal agency to which notices and other arbitration documents are to be delivered pursuant to Article 1137(2) and Annex 1137.2 of the North American Free Trade Agreement. Delivery should be made to the attention of the Office of the Legal Adviser, Executive Director (L/EX).

Dated: December 13, 1993.

Ted A. Borek,

Assistant Legal Adviser, Economic Business and Communication Affairs.

[FR Doc. 93-31790 Filed 12-23-93; 8:45 am]

BILLING CODE 4710-08-M

Houston/Galveston Navigation Safety Advisory Committee will meet on Thursday, January 6, 1994, at West Gulf Maritime Association, Portway Plaza, suite 200, 1717 East Loop, Houston, TX 77029. The meeting is scheduled to begin at 10:30 a.m. and end at 12 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the full Advisory Committee and the Inshore Waterway Management Subcommittee.
3. Presentation of any additional new items for consideration of the Subcommittee.
4. Adjournment.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

FOR FURTHER INFORMATION CONTACT: J.P. Novotny, LT, USCG, Recording Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone number (504) 589–6235.

Dated: December 8, 1993.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 93–31517 Filed 12–23–93; 8:45 am]

BILLING CODE 4910-14-M

[CGD–05–93–029]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee will meet on Wednesday, January 12, 1994, in room 1830 of the World Trade Center, 2 Canal Street, New Orleans, Louisiana. The meeting will begin at 9 a.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Minutes of the April 20, 1993 meeting.
3. Old Business.
4. New Business.
5. VTS New Orleans update.
6. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting this waterway.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

FOR FURTHER INFORMATION CONTACT: Mr. M.M. Ledet, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone number (504) 589–4686.

Dated: December 8, 1993

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 93–31515 Filed 12–23–93; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting on Noise Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss noise certification issues.

DATES: The meeting will be held on January 20, 1994, at 9 a.m. Arrange for oral presentations by January 13, 1994.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, Suite 801, 1400 K Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Jean Casciano, Federal Aviation Administration, Office of Rulemaking (ARM–25), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–9683; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on January 20, 1994, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street, NW., Washington, DC 20005. The agenda will include:

- Committee administration.
- Consideration of a proposed task to harmonize Part 36 of the Federal Aviation Regulations with the European JAR 36.
- A discussion of future meeting dates, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by January 13, 1994, to present oral statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, DC, on December 15, 1993.

Paul R. Dykeman,

Assistant Executive Director for Noise Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–31499 Filed 12–23–93; 8:45 am]

BILLING CODE 4910-13-M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Dallas-Fort Worth International Airport, DFW Airport, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Dallas-Fort Worth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 26, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Planning and Programming Branch, ASW–610D, Airports Division, Southwest Region, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Vernell Sturns, Executive Director, Dallas-Fort Worth International Airport at the following address: Vernell Sturns, Executive Director, Dallas-Fort Worth International Airport, P.O. Drawer DFW, DFW Airport, TX 75261.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Planning and Programming Branch, ASW–610D, Airports Division, Southwest Region, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Dallas-Fort Worth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 15, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 14, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 1994.

Proposed charge expiration date: February 1, 1996.

Total estimated PFC revenue: $115,000,000.00.

Brief description of proposed project(s): Projects To (Impose and Use) PFC's. Design and Construct Runway 16/34 East and Related Development/Mitigation.

Proposed class or classes of air carriers to be exempted from collecting PFC's: All Air Taxi/Commercial Operators operating under a certificate authorizing transport of passengers for hire under FAR part 135 that file FAA form 1800–31; and Air Carriers operating under a certificate authorizing transport of passengers for hire under FAR part 121, 125, or 129 providing service from DFW Airport that enplane 5,000 or fewer passengers.

Any person may inspect the application in person at the FAA office listed above under "FOR FURTHER INFORMATION CONTACT" and at the FAA regional Airports office located at: Federal Aviation Administration, Planning and Programming Branch, Airports Division, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Dallas-Fort Worth International Airport.

Issued in Fort Worth, Texas, on December 17, 1993.

Otis T. Welch,

Acting Manager, Airports Division.

[FR Doc. 93–31462 Filed 12–23–93; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 246
Monday, December 27, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published in Federal Register on December 22, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, December 22, 1993.

CHANGES IN THE MEETING: The open meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 21, 1993

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-31578 Filed 12-22-93; 8:45 am]

BILLING CODE 6210-01-P

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Presidential Search Committee Meeting Notice

TIME AND DATE: A meeting of the Legal Services Corporation Board of Directors Presidential Search Committee will be held on January 7, 1994. The meeting will commence at 1:30 p.m.

PLACE: The Legal Services Corporation, 750 1st Street, N.E., 11th Floor, The Board Room, Washington, D.C. 20002, (202) 336-8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Approval of Minutes of December 18, 1993. Hearing.
3. Receipt and Consideration of Presentation by Thomas Gilmore, Center for Applied Research, on Background for Presidential Searches.
4. Consider and Act on Process to be Utilized for Selecting the Corporation President.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 336-8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336-8800.

Dated: December 22, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93-31704 Filed 12-22-93; 3:36 pm]

BILLING CODE 7050-01-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

By telephone vote on December 15-16, 1993, a majority of the members contacted and voting, the Board of Governors voted to add to the agenda of its meeting closed to public observation on January 3, 1994, in Washington, DC, consideration of funding requests for the Chicago, Illinois, General Mail Facility; and the Church Street Station, New York, New York.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Dyhrkopp, Mackie, Pace, Setrakian and Winters; Postmaster General Runyon; Deputy Postmaster General Coughlin; Secretary for the Board Harris; and General Counsel Elcano.

The Board determined that pursuant to section 552b(c)(6) and (9)(B) of title 5, United States Code, and section 7.3(f) and (i) of title 39, Code of Federal Regulations, the discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and further, is likely to disclose information, the premature disclosure of which would significantly frustrate proposed procurement actions.

The Board further determined that the public interest did not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation, pursuant to section 552b(c)(6) and (9)(B) of title 5, United States Code; and section 7.3(f) and (i) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary for the Board, David F. Harris, at (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 93-31702 Filed 12-22-93; 3:36 pm]

BILLING CODE 7710-12-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 9:30 a.m. on Monday, January 3, 1994, and at 8:30 a.m. to Tuesday, January 4, 1994, in Washington, DC. The January 3 meeting, at which the Board will consider (1) the August 25, 1993, Postal Rate Commission Opinion and Recommended Decision in Docket No. MC93-1, Bulk Small Parcel Service, 1992 (See 58 FR 65426, December 14, 1993); and (2) funding requests for the Chicago, Illinois, General Mail Facility, and the Church Street Station, New York, is closed to the public.

The January 4 meeting is open to the public and will be held in the Benjamin Franklin Room on the 11th floor of U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

Agenda

Monday Session, January 3—9:30 a.m. (Closed)

1. Consideration of the Postal Rate Commission Opinion and Recommended Decision in Docket No. MC93-1, Bulk Small Parcel Service, 1992. (Allen R. Kane, Vice President, Product Management)
2. Capital Investments. (Philip E. Wilson, Acting Vice President, Facilities)
   a. Interim Funding for the Chicago, Illinois, General Mail Facility.
   b. Church Street Station, New York, New York.

Tuesday Session, January 4—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, December 6-7, 1993.
2. Remarks of the Postmaster General/Chief Executive Officer. (Marvin Runyon)
3. Annual Report on the Government in the Sunshine Act Compliance. (David F. Harris, Secretary to the Board)
4. Report on the BOG Committee's Review of the Capital Investment Process. (Governors Tirso del Junco and LeGree S. Daniels)
5. Annual Report of the Postmaster General. (Corporate Relations)
6. Comprehensive Statement to Congress. (Robert F. Harris, Vice President, Legislative Affairs)
7. Capital Investments. (William J. Dowling, Vice President, Engineering)
   a. Printer/Label Applicator.
   b. Carrier Sequence Bar Code Sorter (CSBCS).
8. Election of the Board Chairman and Vice Chairman.
9. Tentative Agenda for February 7-8, 1994, meeting in Sacramento, California.

David F. Harris,

Secretary.

[FR Doc. 93-31703 Filed 12-22-93; 3:36 pm]

BILLING CODE 7710-12-M

Corrections

Federal Register
Vol. 58, No. 246
Monday, December 27, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Docket No.: EE-NOA-93-101]

Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies Management Plan

Correction

In notice document 93-27124 appearing on page 58856 in the issue of Thursday, November 14, 1993, in the second column, in the **DATES**, in the second line, "January 3, 1993." should read "January 3, 1994."

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Financial Assistance Program Notice 94-07: Computer Hardware Advanced Mathematics and Climate Physics (CHAMMP) Program

Correction

In notice document 93-30265 beginning on page 64937 in the issue of Friday, December 10, 1993, make the following correction:

On page 64938, in the 1st column, in the 2d full paragraph, in the 11th line, "1011" should read "10^{11}".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7020

[AK-932-4210-06; AA-16672, AA-17981, AA-17988]

Partial Revocation of Executive Order No. 3406 Dated February 13, 1912, for Selection of Lands by the State of Alaska; Alaska

Correction

In rule document 93-29703 appearing on page 64166 in the issue of Monday, December 6, 1993, make the following corrections:

On page 64166, in the third column:

1. In the first line from the top, "906(c)" should read "906(b)".

2. In paragraph 3., in the second line from the bottom, "5190" should read "5180".

BILLING CODE 1505-01-D

federal register

Monday
December 27, 1993

Part II

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Parts 7 and 24
Community Development Corporation and Project Investments; Final Rule

DEPARTMENT OF THE TREASURY

Office of The Comptroller of The Currency

12 CFR Parts 7 and 24

[Docket No. 93-21]

RIN 1557-AB31

Community Development Corporation and Project Investments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulations concerning national bank investments in community development corporations (CDCs) and community development projects (CD projects) to implement section 6 of the Depository Institutions Disaster Relief Act of 1992. The final rule allows national banks to request OCC approval to increase the amount of their single project and aggregate investments in CDCs and CD projects above current investment limits. The final rule also permits national banks that meet certain criteria to make most CDC and CD-project investments without prior OCC approval if they provide a brief self-certification notice of compliance with the rule. This approach will reduce regulatory burdens associated with CDC and CD-project investments, in a manner that will not endanger banks' safety and soundness. The final rule is intended to promote economic growth and investments in low- and moderate-income areas and underserved rural communities by allowing national banks to make their equity and special debt investments in CDCs and CD projects that provide affordable housing, services and jobs for low- and moderate-income people, and promote small business development.

EFFECTIVE DATE: December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Karen Bellesi, Community Development Specialist, Community Development Division, at (202) 874-4930, or Margaret C. Hesse, Attorney, Bank Operations and Assets Division, at (202) 874-4460, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

On October 23, 1992, section 6 of the Depository Institutions Disaster Relief Act of 1992, Public Law 102-485, created 12 U.S.C. 24 (Eleventh), which clarifies the community development investment authority of national banks. The primary basis for the final rule is the new statutory authority in 12 U.S.C. 24 (Eleventh), and the final rule replaces Interpretive Ruling 7.7480 (I.R. 7.7480) at 12 CFR 7.7480 as the basis for community development investments.

The OCC has historically permitted community development investments under the provisions of I.R. 7.7480 based upon the authority granted by 12 U.S.C. 24 (Eighth). Since the 1960s, national banks have submitted CDC and CD-project investment proposals for OCC review and opinion, and the OCC has responded to those requests by providing opinion letters indicating whether, and under what conditions, the CDC or CD-project investments are consistent with I.R. 7.7480.

Under 12 U.S.C. 24 (Eighth), a national bank may contribute to community funds or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, if the bank is located in a state with laws that do not expressly prohibit state banking institutions from contributing to such funds or instrumentalities. I.R. 7.7480, originally issued in 1963 and revised in 1971, permits national banks to carry, as "other assets," equity or debt investments in CDCs or CD projects that are not bankable assets by ordinary standards, provided the investments are predominantly civic, community, or public in nature. I.R. 7.7480 limits a bank's investment in an individual CDC or CD project to no more than 2 percent of its capital and surplus and the aggregate of all such investments by the bank to 5 percent of its capital and surplus. Banking Circular 185, issued in 1984 and revised in 1990, further describes OCC policies regarding CDC and CD-project investments and recommends a process banks could use to seek a prior written opinion from the OCC.

The new statute and this final regulation do not alter the OCC's position regarding any interpretations of 12 U.S.C. 24 (Eighth) that are already in effect, including opinion letters approving or disapproving past CDC or CD-project investments. While this final rule removes I.R. 7.7480, the OCC intends no change in its interpretation of 12 U.S.C. 24 (Eighth) as it applies to a national bank's charitable contributions to CDCs and CD projects. Banks should continue to expense these contributions, follow 12 U.S.C. 24 (Eighth), and refer to the Internal Revenue Code (26 U.S.C. 170) for tax treatment of the contributions.

II. The Proposed Rule

On July 16, 1993, the OCC issued a notice of proposed rulemaking (proposed rule), published at 58 FR 38474, entitled Community Development Corporation and Project Investments, to implement 12 U.S.C. 24 (Eleventh) and remove I.R. 7.7480.

There were three major goals of this action.

First, the proposed rule implements the statutory requirement for investment limits. Section 24 (Eleventh) requires the OCC to establish two limits on national bank CDC and CD-project investments—one on a national bank's investments in any one CDC or CD project, and one on the total national bank's investments in all CDCs and CD projects. A bank's aggregate investments may not exceed 5 percent of its unimpaired capital and surplus unless the OCC determines, by order, that the higher amount will pose no significant risk to affected deposit insurance fund administered by the Federal Deposit Insurance Corporation and the bank is adequately capitalized. In no case may a bank's aggregate investments exceed 10 percent of its unimpaired capital and surplus.

Second, the proposed rule reduces by approximately 80 percent the number of CDC and CD-project investments that would require the OCC's prior review. The OCC proposed a streamlined review process for most banks and some investments and established an expedited 30-day review process for investments requiring prior review. As structured, the proposed rule allows the OCC to focus its resources on the review of large, complex investments that involve structures or activities not already approved. To help identify structures and activities qualifying for self-certification, the proposed rule provides a list at § 24.13.

Third, the proposed rule clarifies the standards and definitions for CDC and CD-project investments that are primarily designed to promote the public welfare, including the welfare of low- and moderate-income families and communities, under the new statutory requirements. This clarification was intended to increase bank management's understanding of definitions, standards and requirements, and improve banks' ability to meet them.

The OCC invited public comment on any aspect of the proposed rule during a 30-day period that ended on August 16, 1993. It received 22 comment letters from national and state bank trade associations, national banks, community groups, and other trade associations. Eighteen commenters specifically supported the proposed rule. Four commenters raised issues without expressing either support or opposition to the proposed rule.

The final rule includes changes to the proposed rule based primarily on comment letters and changes that grew out of the rulemaking process although not specifically addressed by the commenters. Much of the final rule is adopted, as proposed.

III. Review of Comments

The following is a discussion of the issues raised by the commenters, the OCC's responses to those comments, and a summary of changes made as a result of the comments.

A. Section 24.4(a) Permitted Public Welfare Investments

Investments to Promote the Public Welfare

The proposed rule provides that, subject to the provisions of 12 U.S.C. 24 (Eleventh), a national bank could make an equity or debt investment in a CDC or CD project that is designed primarily to promote the public welfare. Under proposed § 24.4(a) (1) and (2), a CDC and CD-project investment promotes the public welfare if it meets two criteria. First, the primary benefit of the investment should go to low- and moderate-income persons and families or small businesses, including minority-owned small businesses. Second, the investment should benefit a community served by the bank by addressing one or more demonstrated community development needs, including the needs of low- and moderate-income areas, underserved rural communities, or governmental-designated redevelopment areas.

Many commenters were concerned that the proposed rule excluded both public purpose projects designed to benefit a bank's entire community and those projects where low- and moderate-income residents are only some of the project's beneficiaries, as occurs in mixed-use projects. Further, some commenters were concerned that the proposed rule excluded economically depressed areas with low-income residents, because of their interpretation of the proposed rule's requirement that public welfare projects must meet both the definitions of "low- and moderate-income areas" and "low- and moderate-income persons or families." Those commenters suggested that those definitions might not be appropriate for every investment and every community, and that the rule should permit bank investments in CDCs and CD projects that benefit the bank's entire community.

The underlying statute for national bank investments in CDCs and CD projects, 12 U.S.C. 24 (Eleventh), permits banks to make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families, such as by providing housing, services or jobs. The OCC did not intend to exclude public purpose projects designed to benefit economically depressed areas or a bank's entire community as long as the majority of the activities, services or products resulting from a bank's CDC or CD-project investment benefit either low- and moderate-income residents or small businesses, including minority-owned small businesses, and address a community development need that has not been addressed by the private market.

Based on the comments, the final rule modifies proposed § 24.2(a)(2) to add that the CDC or CD-project investment must address community development needs that have not been addressed by the private market within low-and moderate-income areas, underserved rural areas, or governmental-designated redevelopment areas. In addition, to be consistent with the statute regarding investments to promote the public welfare of low- and moderate-income families, § 24.4(a)(1) has been changed to add that CDC and CD-project investments, which primarily benefit low- and moderate-income persons and families, should be through activities such as those that provide housing, services, or jobs.

Demonstration of Primary Benefit

One commenter asked the OCC to explain how a bank can demonstrate that an investment primarily benefits low- and moderate-income residents or small businesses. To determine if an investment primarily benefits low- and moderate-income residents or small businesses, including minority-owned small-owned businesses, the OCC generally will use the following guidelines.

An investment usually will qualify if the CDC or CD project: (1) Involves initiatives to develop housing for low- and moderate-income persons or families; (2) provides critical services or creates jobs for low- and moderate-income persons; or (3) provides nonbankable loans or investments to either small businesses, including minority-owned small businesses, or low- and moderate-income persons. Additionally, the majority of the housing units developed, non-bankable loans or investments provided, or jobs created must be occupied by, or delivered to low- and moderate-income persons in low- to moderate-income areas, underserved rural communities, or governmental-designated redevelopment areas. In addition, if the CDC or CD-project investment involves commercial or industrial development programs and activities, the majority of the commercial and industrial space must be leased to, and occupied by small businesses, including minority-owned small businesses, located in low- to moderate-income areas, underserved rural communities, or governmental-designated redevelopment areas.

Changes to Related Definitions

The final rule also revises the definitions of a CDC in § 24.2(b) and a CD project in § 24.2(e). Specifically, the definition of a CDC in the final rule indicates that other community development initiatives include activities considered as permitted public welfare investments. Also, a CDC operates generally in low- to moderate-income areas, underserved rural communities, or governmental-designated redevelopment areas within local or state incorporated areas, such as towns, cities, counties, or states. The CD- project definition also adds reference to those community development initiatives considered as permitted public welfare investments, and clarifies that bank investments in community development banks or other community development financial intermediaries qualify as CD-project investments.

B. Section 24.4(a)(3) Community Involvement Criteria

Under proposed § 24.4(a)(3), for an investment to be considered a public welfare investment, nonbank community involvement must be demonstrated including representation by the affected low- and moderate-income housing or small business sector, including representatives of minority-owned small businesses and public officials. The proposed rule also indicates that banks must assure that a CDC controlled by one or more national banks would demonstrate community involvement in the CDC's board of directors. Three commenters suggested that the rule should provide further guidance regarding what the OCC means by nonbank community involvement in CDCs and CD projects.

The OCC agrees with the commenters' suggestion that the rule should provide additional clarity regarding nonbank community involvement. To provide that clarity, the OCC has added a

definition to the final rule, at § 24.2(j), for nonbank community involvement that describes how nonbank community involvement should be demonstrated in both CDCs and CD projects.

C. Sec. 24.4(a)(4) Restrictions on Profits and Dividends

Under proposed § 24.4(a)(4), profits and dividends received by a bank from its CDC or CD-project investment must be devoted to activities that primarily promote the public welfare, and, in the case of a for-profit CDC controlled by one or more national banks, during the first three years of operation, all profits and dividends must be reinvested in the CDC.

Some commenters said that the proposed rule's restrictions on the distribution of profits and dividends are counterproductive. They said that these restrictions would discourage bank investments in CDCs and CD projects and would not allow banks to use such funds to cover potential bank losses or to increase bank capital.

The OCC has always restricted a bank's use of profits, dividends, and other distributions from CDC and CD-project investments to activities and programs that fulfill qualifying, community or other public purposes. The OCC believes that these bank investments, not normally permissible under law, are permissible only because they meet the public welfare test of 12 U.S.C. 24 (Eleventh). Consequently, profits, dividends, tax credits and other distributions from these investments are not for general bank use like those from other private, entrepreneurial banking activities, but are restricted for qualifying public purposes. The OCC believes that reinvesting profits and dividends is one way to ensure a bank's long-term commitment to address the ongoing needs of its communities and provide benefits to low- and moderate-income persons and families and small businesses, including minority-owned small businesses. In addition, a bank benefits from these reinvestments because a strong economic environment increases the opportunity and customer base for banks to provide bankable loans.

The OCC has retained the restrictions on profits and dividends. The OCC has added in the final rule, under § 24.4(a)(4), that tax credits and other distributions from CD-project investments, for example, real estate limited partnerships, and interest income from debt investments must also be used by the bank to promote the public welfare as determined by the OCC. This will ensure that there is consistent treatment of all distributions from CDCs and CD-project investments.

D. Sec. 24.4(e) CDC and CD-Project Policies

Under proposed § 24.4(e), the bank's board of directors must adopt written policies governing CDC and CD-project investments. Some commenters opposed this requirement because they believe that their community development investments have become an integral part of their banks' Community Reinvestment Act (CRA) programs, and that CRA currently requires active board of director oversight of its CDC and CD-project investments.

The OCC continues to believe that CDC and CD-project investments can be successful for most banks if bank management devotes adequate attention to assuring compliance with regulatory requirements, evaluating and achieving CDC and CD-project goals, and managing CDC and CD-project investments. This is especially critical for CDC and CD-project investments that are eligible for the self-certification process. Bank board oversight is critical for the successful management of CDC and CD-project investments.

Based on the commenters' suggestion, the OCC has restated its requirement regarding CDC and CD-project policies. The final rule indicates that a bank's board of directors shall manage the bank's CDC and CD-project investments in a prudent manner consistent with safe and sound banking policies.

E. Self-Certification Process

Threshold for Banks to Self-Certify Investments

Under proposed § 24.11, the bank's asset size and the percent of its unimpaired capital and surplus invested are factors in determining whether an investment in a CDC or CD project is eligible for self-certification. Specifically, the proposed rule requires that no prior, written OCC approval was needed for investments in CDCs and CD projects made by banks with $100 million or less in assets in amounts up to 5 percent of their unimpaired capital and surplus, or made by banks with assets of more than $100 million in amounts up to 2 percent of their unimpaired capital and surplus.

Some commenters suggested that the OCC revise the rule to permit banks with assets of up to $150 million to self-certify investments in CDCs and CD projects up to 5 percent of their capital and surplus. A commenter further suggested that small banks should not be treated differently than large banks in the self-certification process.

The OCC has proposed this self-certification process based on its 30-year experience with national banks making investments in CDCs and CD projects. It is part of the OCC's effort to identify ways to encourage more bank investments in community development initiatives in a manner that does not endanger banks' safety and soundness. The OCC also developed a streamlined approval process to help small banks, in particular, that had been limited in how much they could invest in CDCs and CD projects by the per project limit of 2 percent of unimpaired capital and surplus.

The OCC considered the commenters' suggestions, particularly those which indicated that increasing the threshold asset size of adequately capitalized banks to self-certify their CDC or CD-project investments would facilitate additional community development investments. In response, the OCC has raised the self-certification threshold to $250 million, which the OCC believes is a more appropriate threshold to define small banks for regulatory and supervisory purposes under this rule. Because this threshold asset size represents approximately 83 percent of the national bank population, the OCC believes that many small banks will benefit by the increase in the threshold. Accordingly, the final rule permits banks with up to, and including $250 million in assets to self-certify their investments up to 5 percent of unimpaired capital and surplus, if they meet the other factors under § 24.11(a).

The OCC also considered the appropriate maximum dollar investment that could be made by banks with over $250 million in assets without prior written OCC approval. The proposed rule permitted those investments made by banks with assets greater than the threshold asset size, up to 2 percent of their unimpaired capital and surplus. Upon further consideration, and review of the comments received, the OCC became concerned that a bank could make a multi-million dollar commitment in a CDC or CD project that would result in a large concentration of the bank's resources in one CDC or CD project. The OCC's prior approval of very large bank investments would help to ensure that there is review of local capacity to absorb major dollar volume investments and review for any safety or soundness concerns regarding the bank's CDC or CD-project investment.

The final rule establishes a maximum dollar project limit of $10 million for bank investments in CDCs and CD projects under the self-certification process. A bank with assets greater than $250 million may self-certify CDC and CD-project investments in amounts that do not exceed 2 percent of its unimpaired capital and surplus, or $10 million, whichever is less. Such a bank is required to seek OCC approval of its investments that exceed the lesser of 2 percent of its unimpaired capital and surplus or $10 million.

Bank Condition

Under proposed § 24.11, another factor that the OCC will consider in determining whether an investment in a CDC or CD project is eligible for self-certification is the bank's condition. A bank with a composite rating of 3, 4 or 5, under the Uniform Financial Institutions Rating System, that is operating under an informal or formal enforcement action, or that is not adequately capitalized, is not eligible for self-certification. A commenter questioned whether it is legal for the OCC to apply safety and soundness tests to bank investments in CDCs and CD projects if the amounts of the investments are less than 5 percent of the bank's capital and surplus. In addition, a few commenters suggested that an adequately capitalized bank, with an "improving" composite rating of 3, or a bank that is covered by an informal enforcement action, should be allowed to notify the OCC prior to making an investment rather than having to obtain prior written approval.

The statute at 12 U.S.C. 24 (Eleventh) does not specify safety and soundness as a factor. However, the OCC has broad authority and responsibility under the national banking statutes to oversee the safety and soundness of any activity conducted by a national bank. Consequently, because participation in this program is only permissible as a result of Section 24 (Eleventh) and may entail varying degrees of risk, the OCC will require prior review and written approval of an investment by a bank with a composite rating of 3, 4 or 5, a bank that is covered by a formal enforcement action, or a bank that is not adequately capitalized.

Based on the commenters' suggestions, the final rule under § 24.11(b)(2) permits certain adequately capitalized banks with composite ratings of 3, with improving trends, to request authority to self-certify their investments. These banks may submit a letter to the OCC requesting approval to self-certify their investments in CDCs and CD projects consistent with the other self-certification requirements of the final rule. In addition, the final rule removes the requirement for prior OCC approval of investments made by healthy, 1 or 2-rated banks that are covered by informal enforcement actions.

Expedited Approval of Investments

A commenter suggested that the OCC should establish a process to expedite the approval of bank investments, in particular, investments in multi-bank CDC and CD projects in which other banks already have received OCC approval.

As a result of this comment, the final rule under § 24.11(d)(3) includes a process for the expedited approval of investments in CDCs and CD projects that already have been approved by the OCC as investments through either the investment proposal process or the self-certification process for a different national bank. The OCC has used this expedited approval process for the past three years and has found it successful. Adopting this process is a technical change to the rule that reduces the paperwork burden for some banks that, in the proposed rule, would have been required to submit investment proposals for prior OCC approval.

F. Section 24.13 Eligible Structures and Activities

Limited Partnership Investments

Under proposed §§ 24.13(b)(4) and 24.13(c)(2), a bank could self-certify its limited partnership investment if the partnership supports one or more projects that qualify for the federal low-income housing tax credit program and is managed by a nonprofit general or co-general partner. Some commenters suggested that the final rule permit the self-certification of investments in limited partnerships managed by a for-profit subsidiary of a nonprofit corporation because this is permitted under the Internal Revenue Service (IRS) requirements for federal low-income housing tax credits.

Based on these comments, the final rule at §§ 24.13(a)(4), 24.13(b)(1)(v), and 24.13(b)(2)(ii) permits banks to self-certify those investments in limited partnerships that are managed by a for-profit company that is a subsidiary of a nonprofit organization that qualifies under 26 U.S.C. 501 of the Internal Revenue Code as a 501(c)(3) or 501(c)(4) corporation. The final rule provides that the for-profit subsidiary must be owned by one or more 501(c)(3) or 501(c)(4) nonprofit organizations that materially participate in the development and operation of the partnership's projects, and must be considered a qualified organization eligible for federal low-income housing tax credits.

Under proposed §§ 24.13(b)(4) and 24.13(c)(2), a bank could self-certify its limited partnership investment if the partnership supported one or more projects qualifying for the federal low-income housing tax credit program that are located within the state in which the bank is located. Three commenters suggested permitting a self-certified investment in a limited partnership that operates outside the state in which the bank is located.

The OCC believes that banks will have few problems in determining the public welfare requirements for self-certification when the project is within the area or state where they operate. The OCC's review is needed when the target areas of limited partnerships are regional and nationwide, and associated questions regarding the structure of the investment, community involvement, the quality of the proposed general partner, and limits on liability become more difficult. Accordingly, no change has been made in the rule, and bank investments in limited partnerships operating outside the state in which the bank's headquarters office is located require prior written approval.

List of Structures and Activities

Under proposed §§ 24.13(b) and 24.13(c), the OCC provides a list of investment structures and activities eligible for self-certification. Some commenters suggested that those investments should include investments in wholly owned subsidiaries, community development loan funds, and community development credit unions, as well as investments involving loan guarantees. A commenter asked that the OCC clarify whether, if a CDC or CD-project investment involves loans to small businesses, the bank should consider those loans to be nonbankable.

The OCC has considered these comments. Under proposed § 24.13(c)(1)(ii), a CDC or community-based development organization could provide loan guarantees for small businesses, including minority-owned small businesses in targeted governmental-designated redevelopment areas. The OCC considers appropriate guarantees for self-certification to be no greater than 75 percent of the amount of a loan, and the final rule under § 24.13(b)(ii) provides this clarification. Furthermore, the proposed rule in § 24.4(a) discussing permitted welfare investments, indicates that any type of financing, including loans provided by a CDC or CD project to small businesses should be nonbankable. This section is unchanged in the final rule.

The list of eligible structures and activities in the final rule under § 24.13(a) and (b) provides guidance for banks that wish to self-certify their investments. The list is not intended to be all-inclusive and does not imply that the OCC would not consider or approve any other investment structure or activity. For example, bank investments in community development banks or community development financial intermediaries are investments that the OCC expects to consider for banks that submit investment proposals.

Finally, a few commenters suggested that the OCC adopt a specific schedule for revising the regulation from time to time, to add new CDC and CD-project structures and activities eligible for the self-certification process. Proposed § 24.13(a)(2) indicated that the OCC will propose revisions to the rule, from time to time, to add new CDC and CD-project structures and activities eligible for self-certification. Since the self-certification process will be new to banks as well as to the OCC, the OCC will review how well the self-certification process is working and will reconsider threshold and investment limits and other aspects of the rule periodically. However, the OCC does not believe that a set schedule is appropriate. All reference to the timing of revisions has been deleted from the final rule.

G. OCC Approval/Disapproval of Investment Proposals

Investment Amounts Requiring Approval

Under proposed § 24.11(b)(3), a bank must request the OCC's prior approval of any CDC or CD-project investment that would cause its aggregate investments in all CDCs or CD projects to exceed 5 percent of its unimpaired capital and surplus. One commenter suggested that any "single" investment which exceeds 5 percent of a bank's unimpaired capital and surplus also should be subject to OCC review.

Based on this comment, the OCC has revised this section. In the final rule, § 24.11(b)(1)(iii) provides that a bank that plans to make one or more investments in a CDC or CD project, that would cause the bank's aggregate investment in one or all CDCs and CD projects to exceed 5 percent of its unimpaired capital and surplus, must seek prior OCC approval.

Structures and Activities Requiring Prior OCC Approval

Under proposed § 24.11(b)(4), banks must seek prior OCC written approval for certain types of investments in CDCs and CD projects. As indicated earlier, some commenters suggested that banks be permitted to self-certify other investment structures, for example community development loan funds, community development credit unions, or limited partnerships managed by for-profit general partners.

This requirement is located at § 24.11(b)(1)(iv)(D) of the final rule. After careful consideration, the OCC has determined not to change the approach contained in the proposed rule. Certain investment structures and activities require prior review and approval. Examples of organizational structures that would require prior review include bank investments in community development banks, community development financial intermediaries, and in community development limited partnerships that are managed by a for-profit general, or co-general partner that is not a subsidiary of a qualifying nonprofit organization. The OCC may revisit this issue after it has gained more experience with these investments.

Further, the OCC has added a new § 24.11(b)(1)(iv)(E). This section refers specifically to CDC and CD-project activities that require prior written OCC approval. Examples of activities requiring approval include critical services or job creation that primarily benefit low- and moderate-income persons and families.

OCC's Conditions in Granting Approval

Under proposed § 24.11(e)(5), the OCC may impose one or more conditions in connection with its approval of a CDC or CD project. One commenter suggested that the rule should list the conditions that usually are included in the opinion letters to national banks.

The OCC includes conditions in the opinion letters to national banks approving or disapproving their CDC or CD-project investments. These conditions generally state the public welfare investment requirements under § 24.4. Further, as indicated in the proposed rule, under § 24.11(e)(5), the OCC may impose other conditions on a case-by-case basis in connection with its approval of a CDC or CD-project investment, especially when those investment structures and activities are unique. For example, if a bank makes an equity or debt investment in a CDC that extends loans, the bank should be aware that the CDC is a creditor covered by the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), and the CDC may also be subject to other state and federal laws. Also, the OCC may ask the bank to provide reports about its investment in the CDC or CD project, including the financial status, activities, and accomplishments of the CDC or CD project.

H. Effect of CDC and CD-Project Investments on CRA Ratings

Almost half of the commenters requested that the OCC indicate how a bank's investments in CDCs or CD projects will affect its CRA rating of performance. A few commenters were concerned that permitted public welfare investments qualifying under CRA should include investments in CDCs and CD projects that might not necessarily benefit a bank's community, for example in CDCs and CD projects that operate statewide.

The OCC currently considers a bank's investment in a CDC or CD project to affect positively its CRA performance rating to the extent that the investment helps to meet the credit, investment and other needs of the bank's community. Additionally, some CRA credit is given for investments outside the bank's community when the investment augments or compliments an overall CRA program that is directly responsive to the credit needs in an institution's delineated community. Banks should consider this in planning CDC and CD-project investments. The OCC also notes that bank investments in CDCs and CD projects and other investments are being reviewed by the federal financial regulatory agencies under the President's CRA reform initiative.

I. Calculation of Calendar Versus Work Days

Under proposed § 24.11(e), the OCC would approve or disapprove an investment proposal within 30 days of receipt and would provide the bank with written notice indicating its receipt of the proposal. The OCC could extend the 30-day review period, and after notification of the extension, a bank could proceed with the investment only upon the OCC's written approval.

A commenter suggested that the final rule should eliminate the OCC's authority to extend the 30-day review period and the requirement that the bank receive explicit written approval from the OCC before investing. Another commenter suggested that the final rule should discuss how the OCC would advise banks of an investment proposal's status, when the 30-day response would occur, and whether the rule intends 30-calendar or working days as the time frame for OCC's response.

As indicated in the proposed rule, banks submitting investment proposals receive two written notices, one acknowledging the OCC's receipt of the bank's proposal and the other an OCC opinion letter approving or disapproving the investment. The bank should expect to receive the opinion letter from the OCC within 30-calendar days of the date the OCC receives the bank's investment proposal. The OCC may extend this 30-calendar-day period for unusual investment proposals if, for example, the proposed investment is novel or precedent-setting, requires extensive additional consultation with the bank or OCC policy review, poses unlimited liability or other safety or soundness concerns for the bank, or conflicts with other related legal requirements.

Based on these comments, the final rule indicates calendar or working days when describing the time frames in OCC's schedule. The OCC will compute this time consistent with 12 CFR 19.12. Generally, if 10 days or less, the rule shall mean working days. If more than 10 days, the rule shall mean calendar days. Also, if the last day of the calendar-day period falls on a Saturday, Sunday, or federal holiday, the period runs until the end of the next day that is not a Saturday, Sunday or federal holiday regulations.

Under § 24.11(e) (2) and (3) of the final rule, the OCC will complete its review and approval of bank investments in CDCs and CD projects within 30-calendar days of the date the OCC receives the bank's proposal, unless otherwise notified. In addition, the OCC has added a new paragraph § 24.11(d)(3) regarding bank requests to make follow-up investments in CDCs and CD projects that have been approved previously for other national banks. Under the final rule, the OCC will complete its review within five working days of the date it receives the bank's request. Further, the OCC has added a new paragraph under § 24.11(a)(3) stating that the OCC will notify the bank of its receipt of the letter of self-certification and may include other pertinent information.

J. Additional Definition Changes

Under proposed § 24.2(b), a definition of "bankable" describes loans and investments that differ from those that can be made under the rule. The OCC has deleted the definition of "bankable" in the final rule. This will clarify that banks should continue their practice of making regular bankable loans to low- and moderate-income persons and small businesses that are consistent with their flexible underwriting standards in the ordinary course of business. This may include, for example, regular bankable loans with credit enhancements or that involve a flexible interpretation of an applicant's credit history.

In response to a comment asking for clarification about what is meant by "nonprofit community-based development corporations," the OCC has added a new definition of a "community-based development corporation." Under new § 24.2(f), a "community-based development corporation" means an organization that qualifies under the Internal Revenue Code (26 U.S.C. 501) as a 501(c)(3) or 501(c)(4) corporation.

In response to a comment asking the OCC to clarify the definition of a "real estate limited partnership," the OCC has added a definition of a "community development limited partnership" to explain the special real estate limited partnership permitted under the rule. Under § 24.2(d), a "community development limited partnership" is a single-purpose, or master, limited partnership, formed under state rules governing limited partnerships, the primary purpose of which is the provision of housing for low- and moderate-income persons, or other community and economic development initiatives considered permitted public welfare investments under § 24.4(a). The community development limited partnership must be located in a particular area, including a low- and moderate-income area, underserved rural community, or governmental-designated redevelopment area, such as within a neighborhood, town, city, county, or state.

Finally, the OCC includes a new definition for "unimpaired capital and surplus" for clarification. Under new § 24.2(m), a bank's unimpaired capital and surplus, for purposes of the rule, means the bank's capital and surplus as defined in 12 CFR 3.100.

IV. Other Changes

To provide clarity and consistency, the OCC has made various technical changes. Among those are the OCC's final rule modifies the proposed rule regarding the information requested in a bank's notice of self-certification and investment proposal. The final rule, at § 24.11 (a)(2), clarifies what should be included in the bank's self-certification notice for investments in CDCs and CD projects to permit appropriate supervisory monitoring. Also, § 24.11(d)(2) clarifies what should be included in the bank's investment proposal for investments that require prior written OCC approval, such as the type of bank investment in the CDC or CD project (equity or nonbankable debt investment).

V. Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. All banks, especially small banks, should benefit to some degree under this final rule. This final rule will permit larger investments in CDCs and CD projects and also enable banks to make investments on an expedited basis. This should improve the long-term health of the participating banks' market areas. The overall impact of the rule will not be significant, regardless of bank size.

VI. Effective Date

This final rule is effective on December 31, 1993. This expedited effective date is adopted because this final rule grants an exemption and relieves a restriction.

National banks that meet certain criteria will be exempted from submitting certain CDC and CD project investments for prior OCC review and approval. Instead of an investment proposal process, the final rule permits banks to submit a brief self-certification of compliance notice to the OCC. This final rule also raises the single project and aggregate limits for national bank investments in CDCs and CD projects above current limits, thereby relieving an existing restriction.

This final rule does not impose new restrictions or prohibit any currently permissible activity. Consequently, national banks will not be adversely affected by the immediate effective date.

Finally, delaying the effective date of this final rule would be contrary to the public interest. This final rule will promote economic growth and investment in low- and moderate-income areas, underserved rural communities, and governmental-designated areas.

This final rule encourages and facilitates national banks to address community financing needs by investing in CDCs and CD projects with community partners. The final rule allows national banks to make equity and special debt investments in CDCs and CD projects that go beyond regular bank lending to provide affordable housing, services, and jobs for low- and moderate-income people and to promote community development efforts designed to help small businesses, including minority-owned small businesses.

VII. Executive Order 12866

It has been determined that this document is not a significant regulatory

(d) *Community development limited* (i) *Minority-owned small businesses* § 24.4 Community development

action as defined in E.O. 12866. The final rule imposes only minimal costs and burdens and is necessary to ensure bank safety and soundness. The overall impact of the rule will not be significant, regardless of bank size.

VIII. Paperwork Reduction Act

The information requirements under this final rule were submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on these requirements should be sent to the Comptroller of the Currency, Legislative, Regulatory and International Activities Division, Attention: 1557–0194, 250 E Street, SW., Washington, DC 20219, with a copy to the Office of Management and Budget, Paperwork Reduction Project (1557–0194), Washington, DC 20503. The information required under this final rule is outlined in 12 CFR 24.11. This information is needed to promote the safety and soundness of national banks and compliance with law. It will be used to identify banks making CDC and CD-project investments, to plan examination and supervision of the investments, and to conduct prior review of investments most likely to raise legal, policy, or safety and soundness concerns.

The OCC estimates that 400 for-profit institutions will file investment proposals or self-certification letters annually. The estimated average annual burden will be approximately 1.9 hours per participating bank. The estimated average annual burden per bank is one hour, on average, for a letter, to eight hours, on average, for a complete investment proposal, depending on whether the investment requires prior review and approval or only a letter of self-certification. The estimated total annual reporting burden for 12 CFR part 24 is 757 burden hours.

List of Subjects

12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

12 CFR Part 24

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, chapter I of title 12, of the Code of Federal Regulations is amended as follows:

PART 7—[AMENDED]

1. The authority citation for part 7 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a.

§ 7.7480 [Removed]

2. Section 7.7480 is removed.

3. A new part 24 is added to read as follows:

PART 24—COMMUNITY DEVELOPMENT CORPORATION AND PROJECT INVESTMENTS

Sec.

24.1 Authority, purpose, policy, and OMB control number.
24.2 Definitions.
24.4 Community development corporation and community development project investments.
24.11 Community development corporation and community development project investment self-certification and approval.
24.13 Structures and activities eligible for the self-certification process.
24.21 Examination, records, and remedial action.

Authority: 12 U.S.C. 24 (Eleventh), 93a, 161, 481 and 1818.

§ 24.1 Authority, purpose, policy, and OMB control number.

(a) *Authority.* The requirements contained in this part are authorized under 12 U.S.C. 24 (Eleventh), 93a, 161, 481 and 1818.

(b) *Purpose.* This part implements 12 U.S.C. 24 (Eleventh), which permits national banks to make equity and special debt investments in community development corporations (CDCs) and community development projects (CD projects). Section 24 (Eleventh) permits national banks to make these investments, consistent with safe and sound banking practices, even though they would not normally be permitted under the National Bank Act (12 U.S.C. 1 *et seq.*) because they promote the public welfare, and to carry these investments as "other assets." This part provides the standards that will be used by the Office of the Comptroller of the Currency (OCC) to determine whether an investment is designed primarily to promote the public welfare and sets forth the prior approval and self-certification procedures that apply to CDC and CD-project investments.

(c) *Policy.* (1) The OCC encourages each national bank to make efforts, consistent with its capabilities and condition, to address local community development needs in low- and moderate-income areas, underserved rural areas and governmental-designated redevelopment areas, through CDC and CD-project investments that primarily benefit low- and moderate-income people and small businesses, including minority-owned small businesses, and to promote economic growth through the provision of housing, services, or jobs to low- and moderate-income persons and families, consistent with the safe and sound operation of the bank. The OCC believes that one effective way for many national banks to address such needs is by making CDC and CD-project investments.

(2) CDC and CD-project investments are equity investments, nonbankable loans or lines of credit that supplement a bank's other lending and investing programs to help meet credit, investment or other community needs. CDC and CD-project investments are not regular bankable loans or investments. Under this part, national banks may undertake community development activities, such as equity investments in real estate, equity and special debt investments in small, new companies, or the renovation of neighborhood commercial or residential properties, only if they primarily serve the public welfare, as described in § 24.4(a).

(d) *OMB control number.* The collection of information requirements contained in this part were approved by the Office of Management and Budget under OMB control number 1557–0194.

§ 24.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Adequately capitalized.* A national bank is adequately capitalized if the bank meets the definitional requirements for "well-capitalized" or "adequately capitalized" in § 6.4(b) of this chapter.

(b) *Community development corporation (CDC)* means a corporation established by one or more financial institutions, or by financial institutions and other investors or members, to develop housing, foster economic growth and revitalization, create small businesses, including minority-owned businesses, and support other community development initiatives considered permitted public welfare investments under § 24.4(a). A CDC operates within a defined neighborhood or area, including low- and moderate-income areas, underserved rural communities, and governmental-designated redevelopment areas, such as within towns, cities, counties, or states.

(c) *Community development corporation subsidiary (CDC subsidiary)* means a CDC that is a subsidiary of a national bank and that is majority-owned by that national bank, or a CDC that is majority-owned by a national bank and its affiliates.

(d) *Community development limited partnership* means a single-purpose or master limited partnership, formed under state statutes governing limited partnerships, to provide housing for low- and moderate-income persons or families or other community and economic development initiatives considered permitted public welfare investments under § 24.4(a). These community development limited partnerships operate in a particular area, including a low- and moderate-income area, underserved rural community, or a governmental-designated redevelopment area, such as within a town, city, county, or state.

(e) *Community development project (CD project)* means a specific project in a particular location or area, including a low- and moderate-income area, underserved rural community, or a governmental-designated redevelopment area, such as within a neighborhood, town, city, county, or state, whose purpose is to foster economic improvement of that area, and other community development initiatives considered permitted public welfare investments under § 24.4(a). A CD-project investment funds the development or renovation of one or more specified residential or commercial properties in a manner consistent with community and government revitalization plans. CD-project investments also include nonbankable loans or special debt investments to support community-based development organizations under § 24.2(f), and special debt or other investments in community development banks and other community development financial intermediaries.

(f) *Community-based development corporation* means a nonprofit organization that qualifies under 26 U.S.C. 501 of the Internal Revenue Code as a 501(c)(3) or 501(c)(4) organization.

(g) *Low- and moderate-income areas or communities* means areas where at least 51 percent of the residents are low- and moderate-income persons and families.

(h) *Low- and moderate-income persons and families* means individuals and families whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary of the U.S. Department of Housing and Urban Development, with adjustments for smaller and larger families. In conjunction with this term, the area involved should be determined in the same manner as an area is determined for purposes of lower-income housing assistance under 42 U.S.C. 1437f.

(i) *Minority-owned small businesses* means small businesses under § 24.2(l) that are majority-owned by members of minority groups or by women.

(j) *Nonbank community involvement in the CDC or CD project.* Nonbank community involvement means:

(1) In all CDCs, community-based development organizations, and community development banks or community development financial intermediaries, the affected primary beneficiaries of the organization's programs and activities are included on its board of directors and are involved in its decision-making. The organization's board of directors should include representatives with expertise in small business development, including minority-owned small business development, or low- and moderate-income housing, whichever is applicable, and public officials of the community to demonstrate community and government support for the organization's programs and activities; or

(2) In a CD project, the affected primary beneficiaries of the CD project and public officials have endorsed and indicated support for the CD project. A CD project should demonstrate that it addresses a community need that the private market is not addressing; has community-based support (including support from grass-roots community representatives and representatives with expertise in small business development, including minority-owned small business development, or low- and moderate-income housing, whichever is applicable); and has support from local or state governments (including financing, endorsements or approvals).

(k) *Significant risk to the deposit insurance fund* is present whenever there is a high probability that any insurance fund administered by the Federal Deposit Insurance Corporation could suffer a loss.

(l) *Small businesses* means businesses that are smaller than the maximum size eligibility standards established by the Small Business Administration (SBA) for:

(1) The Small Business Investment Company and Development Company Programs, which are set forth in 13 CFR 121.802(a)(2); or

(2) The SBA section 7(a) loan and guarantee program which is set forth in 13 CFR 121.601.

(m) *Unimpaired capital and surplus* has the same meaning as capital and surplus under 12 CFR 3.100.

§ 24.4 Community development corporation and community development project investments.

(a) *Permitted public welfare investments.* Subject to § 24.11, a national bank may make equity or debt investments (a loan or line of credit that is not bankable) in a CDC or CD project that is designed primarily to promote the public welfare. The OCC will consider a CDC and CD-project investment to be primarily designed to promote the public welfare, if all of the following criteria are met:

(1) The investment primarily benefits low- and moderate-income persons and families (such as by providing housing, services, or jobs) or small businesses, including minority-owned small businesses;

(2) The investment addresses community development needs not met by the private market in one or more communities served by the bank, including, for example, the needs of low- and moderate-income areas, underserved rural communities, or governmental-designated redevelopment areas, such as within a town, city, county, or state;

(3) There is nonbank community involvement in the CDC and CD project, as described under § 24.2(j), indicating that the affected primary beneficiaries and representatives of local or state government have endorsed and demonstrated support for the CDC or CD-project activities; and, for all CDCs, community-based development organizations, and community development banks or community development financial intermediaries, such involvement is demonstrated by the composition of the organization's board of directors; and

(4) The profits, dividends, tax credits and other distributions from equity investments, or interest income from debt investments received by the bank from the CDC or CD-project investment are devoted to activities that primarily promote the public welfare as determined by the OCC, and, in the case of a for-profit CDC subsidiary, are reinvested in the CDC during its first three years of operation.

(b) *Investment limits.* A national bank's aggregate investments under this part may not exceed 5 percent of its unimpaired capital and surplus, unless the OCC determines, by order, as described in § 24.11 that the higher amount will pose no significant risk to the deposit insurance fund and the bank is adequately capitalized. In no case may a bank's investments exceed 10 percent of its unimpaired capital and surplus.

(c) *Accounting for CDC and CD-project investments.* The instructions for Consolidated Reports of Condition and Income published by the Federal Financial Institutions Examination Council (FFIEC Call Report Instructions) provide guidance for regulatory accounting and reporting for investments in subsidiaries and similar entities. A copy of the FFIEC Call Report Instructions may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The following guidance is provided for national bank investments in CDC and CD-project investments consistent with the FFIEC Call Report Instructions:

(1) A bank's investments in CDCs and CD projects typically involve a limited ownership percentage and are not material. As a result, these investments may be recorded as "other assets" at cost.

(2) If the CDC or CD project meets the definition of a significant majority-owned subsidiary in the FFIEC Call Report Instructions, the bank's investment should be consolidated generally on a line-by-line basis.

(3) If the investment is a partnership, joint venture, or unconsolidated subsidiary over which the bank exercises significant influence, the bank's interest should be presented as an investment in a joint venture or associated company and accounted for under the equity method of accounting.

(d) *Limited liability.* A national bank shall not make a CDC or CD-project investment if that investment would expose the bank to unlimited liability.

(e) *CDC and CD-project policies.* The bank's board of directors shall manage their CDC and CD-project investments in a prudent manner consistent with safe and sound banking practices. Prudent bankers should maintain policies governing CDC or CD-project investments that address such matters as regulatory compliance, evaluation and achievement of CDC and CD-project goals, and effective CDC or CD-project management.

§ 24.11 Community development corporation and community development project investment self-certification and approval.

(a) *Investments not requiring prior review.* (1) Any investment where prior written OCC approval is not required under § 24.11(b) may be made without prior notification to, or approval by, the OCC. However, within 10 working days after the investment is made, the national bank shall submit a letter of self-certification to the Director, Community Development Division, The Office of the Comptroller of the Currency, Washington, DC 20219 (Community Development Division).

(2) The bank's letter of self-certification must attest that the investment meets the public welfare requirements of this part (§ 24.4), and is not subject to prior OCC review. Further, the letter of self-certification must include:

(i) The name of CDC or CD project and the date the investment was made;

(ii) The type of investment (equity or nonbankable debt), the eligible activities that will be undertaken, and the eligible investment structure (from the list of eligible activities and structures under § 24.13);

(iii) The bank's total investment in the CDC or CD project, and the bank's aggregate investment commitments in all CDCs or CD projects, to date; and

(iv) The applicable percentage of unimpaired capital and surplus for the bank's total investment in CDCs or CD projects, and the bank's aggregate investment commitments in all CDCs or CD projects, to date.

(3) Within five working days after receiving the bank's letter of self-certification, the OCC will provide a written notice to the bank to indicate the date of its receipt of the bank's letter and also may include other related information.

(b) *Investments requiring prior written OCC approval.* (1) A national bank shall submit an investment proposal for any planned CDC or CD-project investment to the OCC for prior review, if any of the following conditions in paragraph (b)(1) of this section exist:

(i) The national bank:

(A) Has a composite rating of 3, 4 or 5 under the Uniform Financial Institutions Rating System; or

(B) Is covered by a formal enforcement action; or

(C) Is not adequately capitalized;

(ii) The national bank has more than $250 million in assets and proposes to make a single or subsequent CDC or CD-project investments that will total an amount that exceeds the lesser of 2 percent of its unimpaired capital and surplus, or $10 million;

(iii) The national bank proposes to make CDC or CD-project investment that would cause its aggregate investment in one or all CDCs or CD projects to exceed 5 percent of its unimpaired capital and surplus, or proposes subsequent investments over 5 percent; or

(iv) The proposed CDC or CD-project investment falls in one of the following five categories:

(A) The investment is in a new CDC subsidiary or is in a CDC controlled by one national bank and its affiliates;

(B) The investment involves the transfer of properties, carried on the bank's books as "other real estate owned" (OREO), to a CDC in which the bank has or will have an ownership interest (which the OCC will consider only under limited circumstances as stated in § 24.11(e)(1)(iii));

(C) The investment provides funds for projects in a state outside the state where the bank's headquarters office is located;

(D) The investment will be in a structure other than those listed in § 24.13(a); or

(E) The investment will support an activity other than those listed in § 24.13(b).

(2) The OCC will consider, on a case-by-case basis, whether an adequately capitalized bank that has a composite rating of 3, with improving trends under the Uniform Financial Institutions Rating System can self-certify its investment in a CDC or CD project, consistent with the other requirements of this part. Banks seeking such treatment may submit a letter to the Community Development Division requesting eligibility to self-certify their proposed investments in accordance with § 24.11(a).

(c) *Optional review.* A national bank may request OCC review and approval of investment proposals for investments not covered under § 24.11(b).

(d) *CDC or CD-project investment proposal.* (1) A national bank shall submit an investment proposal for any investment covered in § 24.11(b) to the Community Development Division.

(2) A national bank shall include in its CDC or CD-project investment proposal a discussion of:

(i) The amount and type of bank investment in the CDC or CD project (equity or debt);

(ii) How the bank's proposed CDC or CD-project investment meets the requirements of a permitted public welfare investment, as described under § 24.4;

(iii) The investment structure and activities of the CDC or CD project; and

(iv) The bank's per project investment amount for the single proposed investment and its aggregate investments, to date, including the applicable percentage of the bank's unimpaired capital and surplus for the single and aggregate investments.

(3) The OCC may expedite the approval of a proposed investment by a bank in a CDC or CD project previously approved for another national bank by the OCC through the investment proposal or self-certification process.

(i) The national bank requesting this expedited approval should submit a one-page letter to the Community Development Division that includes:

(A) The name of the bank proposing to make the investment, and the name of the national bank and CDC or CD-project investment that previously received the opinion letter (from the investment proposal process) or the written response (from the self-certification process);

(B) The bank's proposed total investment in the CDC or CD project, and the bank's aggregate investment commitments in all CDCs or CD projects, to date;

(C) The applicable percentage of unimpaired capital and surplus for the bank's proposed total investment in the CDC or CD project, and the bank's aggregate investment commitments in all CDCs or CD projects, to date; and

(D) A statement that the bank has reviewed the opinion letter from the investment proposal process, and any conditions therein, or the written response from the self-certification process, and any statements therein, provided by the OCC to the national bank that received the previous opinion letter or written response and agrees to abide by the conditions or statements contained therein.

(ii) Unless otherwise notified by the OCC, the bank may make the proposed follow-up CDC or CD-project investment after seven working days from the date the OCC receives the bank's investment proposal. Within five working days of receiving the bank's request, the OCC will provide written notice to the bank to indicate the date of its receipt of the bank's request and approval or disapproval of the CDC or CD-project investment.

(e) *OCC approval of investments.* (1) The OCC may consider any information available in its decisions regarding CDC and CD-project investment proposals. The OCC generally will consider factors such as:

(i) Whether the proposal meets the requirements of this part;

(ii) Whether the investment is consistent with the safe and sound operation of the bank;

(iii) If an OREO transfer is proposed, whether the primary public welfare benefits of the transfer are demonstrated; whether all supervisory concerns regarding the transfer are addressed; and whether other factors the OCC may consider relevant are addressed; and

(iv) Whether the investment is consistent with other requirements and policies of the OCC.

(2) Unless otherwise notified by OCC, the bank may make the proposed CDC or CD-project investment after 30-calendar days from the date the OCC receives the bank's investment proposal. Within five working days of its receipt of the bank's investment proposal, the OCC will provide written notice to the bank to indicate the date of its receipt of the proposal.

(3) The OCC, by notifying the bank, may extend the 30-calendar-day period. If so notified, the bank may make the investment only with the written approval of the OCC.

(4) Notwithstanding § 24.11(e)(2), a bank must obtain explicit written approval from the OCC for any CDC or CD-project investment that causes a bank's single or aggregate investments under this part to exceed 5 percent of its unimpaired capital and surplus, and for any subsequent larger investment in excess of that amount. The OCC will approve investments only for adequately capitalized banks as defined in § 24.2(a) and only those that do not pose a significant risk to the deposit insurance fund as defined in § 24.2(k).

(5) The OCC may impose one or more conditions in connection with its approval of a CDC or CD-project investment.

§ 24.13 Structures and activities eligible for the self-certification process.

This section describes CDC and CD-project organizational structures and activities that are referred to in § 24.11(b)(4) (iv) and (v). If consistent with other requirements of §§ 24.4 and 24.11, a bank may make these investments without prior notice to, or approval by the OCC.

(a) *Eligible structures.* The structures listed in this paragraph (a) are eligible structures for the self-certification process under § 24.11(a):

(1) A for-profit or nonprofit multi-bank CDC, provided the CDC is not a CDC subsidiary as defined in § 24.2(c);

(2) A CDC, either for-profit or nonprofit, with bank and or nonbank investors, that meets the requirements of this part, established by formal action of a state or a general unit of local government or by government agencies delegated that authority by action of the state or local government;

(3) A community-based development organization that undertakes permitted public welfare investments consistent with § 24.4(a); and

(4) A community development limited partnership:

(i) Operating only in the one state where the bank's headquarters office is located that qualifies for the federal low-income housing tax credit program and is managed by a nonprofit general or co-general partner that qualifies under 26 U.S.C. 501 of the Internal Revenue Code as a 501(c)(3) or 501(c)(4) organization, or by a for-profit general or co-general partner that meets the following characteristics:

(A) Is a subsidiary of one or more 501(c)(3) or 501(c)(4) nonprofit organizations that materially participates in the development and operation of the partnership's project(s); and

(B) Is a qualified organization eligible for federal low-income housing tax credits; and

(ii) Structured to limit the bank's liability to an amount not exceeding the bank's capital investment and any specific contingent liabilities, to avoid bank participation in the control of the business of the partnership, and to reflect steps taken by the bank to limit strictly its activities within the limited partnership, consistent with state law, so that it clearly maintains its limited partner status.

(b) *Eligible activities.* (1) Activities that are eligible for the self-certification process under § 24.11(a) and that may be undertaken through CDCs or community-based development organizations listed under paragraphs (a)(1) through (a)(3) of this section include:

(i) Acquiring, developing, rehabilitating, managing, and selling or renting housing designed primarily to benefit low- and moderate-income residents of the bank's community, or offering equity or debt financing, including loans, to promote such housing activities, if the financing is not bankable;

(ii) Providing equity financing, loans that are not bankable, or loan guarantees that are no greater than 75 percent of the loan amount for small businesses, including minority-owned small businesses, to stimulate economic development and job creation for low- and moderate-income persons and families in a low- and moderate-income area, underserved rural community, or governmental-designated redevelopment area;

(iii) Providing technical assistance services, credit counseling, community development research, and/or program development assistance for small businesses, including minority-owned small businesses, low- and moderate-income families and areas, or nonprofit community development corporations to help achieve community development goals;

(iv) Acquiring, developing, rehabilitating, managing, and selling or renting commercial or industrial properties, if:

(A) Each property is in a low- and moderate-income area, underserved

rural community, or governmental-designated redevelopment area and is occupied primarily by small businesses, including minority-owned small businesses;

(B) Each property is developed in accordance with a government plan for revitalization or development; and

(C) The private market is not addressing the development need; or

(v) Investing in one or more community development limited partnerships as a limited partner to support projects that qualify for the federal low-income housing tax credit program. These community development limited partnerships must be within the one state where the bank's headquarters office is located and managed by a nonprofit general or co-general partner, or by a for-profit general or co-general partner that is a subsidiary of one or more 501(c)(3) or 501(c)(4) nonprofit organizations, which materially participates in the development and operation of the projects, and that meets all of the criteria established for for-profit entities under the federal low-income housing tax credit program.

(2) Activities that are eligible under § 24.11(a) for the self-certification process and that may be undertaken by the community development limited partnerships described in paragraph (a)(4) of this section include:

(i) Equity investments in one or more low- and moderate-income housing project(s) qualifying for the federal low-income housing tax credit, provided the projects are located within the one state where the bank's headquarters office is located; and

(ii) Equity investments as a limited partner in one or more operating limited partnership(s) that are managed by nonprofit general or co-general partners, or by a for-profit general or co-general partner that is a subsidiary of one or more 501(c)(3) or 501(c)(4) nonprofit organizations, which materially participates in the development and operation of the projects, and that develop low- and moderate-income housing projects qualifying for the federal low-income housing tax credit, provided that the projects are within the one state where the bank's headquarters office is located.

§ 24.21 Examination, records, and remedial action.

(a) *Examination.* National bank CDC or CD-project investments are subject to the examination provisions of 12 U.S.C. 481.

(b) *Records.* Each national bank shall maintain in its files information adequate to demonstrate that it is in compliance with the requirements of this part.

(c) *Remedial action.* If the OCC finds that a CDC or CD-project investment is in violation of law or regulation, is inconsistent with the safe and sound operation of the bank, or poses a significant risk to the bank deposit insurance fund, the national bank shall take appropriate remedial action as determined by the OCC.

Dated: October 22, 1993.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 93-31387 Filed 12-21-93; 12:52 pm]

BILLING CODE 4810-33-P

federal register

Monday
December 27, 1993

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassification of the Plant Pediocactus Sileri and Determination of Status for the Relict Darter and Bluemask Darter; Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB66

Endangered and Threatened Wildlife and Plants; Reclassification of the Plant Pediocactus Sileri (Siler Pincushion Cactus) From Endangered to Threatened Status

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) concludes that the plant Pediocactus sileri (Siler pincushion cactus) should be reclassified from endangered to threatened status under the Endangered Species Act of 1973 (Act), as amended. The change in classification reflects an improved understanding of the species' status and the fulfillment of reclassification criteria as stated in the Siler Pincushion Cactus Recovery Plan. Delisting is not justified at this time. Reclassification to threatened status will not alter most protections for this species under the Act. However, some collecting and malicious destruction protections provided to endangered plants by the Act's 1988 amendments have not been extended through regulation to threatened plants, and seeds of cultivated specimens of threatened plants may be sold without a permit, provided a statement of "cultivated origin" appears on their containers.

EFFECTIVE DATE: January 26, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Arizona Ecological Services State Office, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019.

FOR FURTHER INFORMATION CONTACT: Bruce Palmer (see **ADDRESSES**) at 602/379–4720.

SUPPLEMENTARY INFORMATION:

Background

Pediocactus sileri (Siler pincushion cactus) grows on gypsum soils in a scenic area of southwestern Utah and northwestern Arizona. When mature, this globose or cylindrical cactus is about 10–13 centimeters (cm) (4–5 inches (in)) tall and has spines that almost match the gray soil where it commonly occurs. The central spines, which are usually less than 3.2 cm (1.25 in) long, have a purplish or black tip when young and point upward. The flowers are yellow and appear in the spring. Plants may be single-stemmed or clustered.

Pediocactus sileri is found on gypsiferous clay to sandy soils apparently high in soluble salts (Hughes 1991). Plants occur on soils derived from the Moenkopi Formation. About 90 percent of known plants occur on the Shnabkaib Member of the formation (Gierisch 1989). The grayish Shnabkaib Member is composed of 65 percent siltstone, 25 percent gypsum, and 10 percent limestone and dolomite (Stewart et al. 1972). Most of the remaining plants are found on the Middle Red Member of the formation, which is a reddish siltstone with thin to thick layers of gypsum. Plants can be found growing on soil that ranges from shallow to 56 cm (22 in) deep (Gierisch 1981).

Pediocactus sileri populations occur in a variety of plant communities. Most commonly, the species is found in the Great Basin Desert Shrub Biotic Community. At one low elevation site, the surrounding vegetation is Mohave Desert Scrub. The higher elevation sites are located within the Great Basin Conifer Woodland and Plains, and the Great Basin Grassland (Hughes 1991). The species is found at elevations of 850–1,650 meters (2,800–5,400 feet).

When the species was listed as endangered in 1979 (44 FR 61786), the amount of habitat was unknown but presumed to be small. The total amount of occupied habitat remains unknown, but extensive surveys conducted by the Bureau of Land Management (BLM), Arizona Strip District (Hughes 1991), have documented the species on 17,000 hectares (ha) (42,100 acres (ac)) of habitat. The species will likely be found outside this area. The Moenkopi Formation covers approximately 134,000 ha (330,000 ac) in this area of the Arizona Strip; an unknown fraction of this substrate type is potential habitat for *Pediocactus sileri*.

At the time the plant was proposed for listing, fewer than 1,000 individuals were thought to exist (Phillips et al. 1979). Since that time many more plants have been discovered. *Pediocactus sileri* has a distribution typical of many plant species—a high density in some areas (Gierisch 1981, Hughes 1991) and a low density in others (Gierisch 1981; L. Hughes, BLM, St. George, Utah, pers. comm. 1988). Low density areas may support approximately 0.04–0.12 *P. sileri* plants per hectare (0.02–0.05 plants per acre) (L. Hughes, pers. comm. 1992). By contrast, the high density population at Warner Ridge contains 37–57 plants per hectare (15–23 plants per acre) (Gierisch 1989). A map prepared by BLM in 1988 shows three high density areas, widely scattered across the Arizona Strip. These populations ranged in number from 2,691 plants to 3,775 (an underestimate because all plants were not counted). The three dense populations occupy an area of about 1,700 ha (4,100 ac).

The majority of *Pediocactus sileri* habitat is managed by the Arizona Strip and Cedar City districts of BLM. Some habitat occurs on the Kaibab-Paiute Indian Reservation, but no surveys have occurred there. A small amount of habitat is privately owned.

The 1979 final rule to list *Pediocactus sileri* as endangered identified gypsum mining, off-highway vehicle (OHV) use, road construction, illegal collection, livestock grazing, construction of the proposed Warner Valley Power Plant and associated structures, and the inadequacy of regulatory mechanisms as threats to the species. The Service believed that the specialized soil type, small numbers of individuals, population disjunction, and possibly a restricted gene pool could have intensified adverse effects on *P. sileri* and its habitat. Since the species was listed, a number of recovery activities have occurred, including the completion of some management documents.

In 1985, the BLM established permanent *Pediocactus sileri* monitoring plots to collect demographic and phenological data and determine the status of the monitored populations. The BLM has reported these data annually to the Service and has most recently summarized them in Hughes (1991). Some data analysis has been done, but more sophisticated methods should be employed to determine the long-term viability of the monitored populations.

The Siler Pincushion Cactus Recovery Plan was finalized in 1986 (U.S. Fish and Wildlife Service 1986). The plan set forth the following five reclassification criteria—(1) known populations should be censused and mapped; (2) the BLM should establish monitoring plots that can be relocated and census these at least annually; (3) the BLM should develop an approved Habitat Management Plan (HMP), which includes steps to ensure the protection of the species; (4) the BLM should develop a Mineral Feasibility Report assessing the present and potential value of the habitat for mining of gypsum, selenites, and uranium; and (5) the BLM should administer mining claims within known populations, mitigate adverse effects, and initiate section 7 consultations when necessary. The necessary criteria for delisting are—

(1) demonstration of long-term population stability, (2) demonstration that reclassification criteria are suitable, (3) continued assurance of no mining or new claims in known habitat, and (4) implementation of actions identified in the HMP.

The Arizona Strip and Cedar City districts of the BLM finalized the *Pediocactus sileri* HMP in 1987 (U.S. Department of Interior (USDI) Bureau of Land Management 1987). Planned actions in the HMP included continuing monitoring studies, closing and signing the Warner Ridge/Beehive Dome area to OHVs, building an exclosure fence around a specific dense population, evaluating all surface-disturbing activities through the National Environmental Policy Act process, and placing raptor roost poles where small mammal herbivory is a problem.

In 1990, the Arizona Strip District and Dixie Resource Area (part of the Cedar City District) of the BLM completed their respective Resource Management Plans (RMPs) and Final Environmental Impact Statements (USDI Bureau of Land Management 1990a, 1990b). These RMPs guide the management of *Pediocactus sileri* habitat at a programmatic level, and incorporated and formalized the management direction for *P. sileri* from the 1987 HMP. The HMP, as an implementation plan, identified specific project actions. Both the Arizona Strip District and the Dixie Resource Area RMPs designate Areas of Critical Environmental Concern (ACECs), which have management prescriptions designed for conservation of *P. sileri* and other resource values. Additional resource management decisions made in the RMPs include establishing OHV management areas, setting livestock management goals, and providing guidelines for locatable and other mineral materials management. The specific management direction given by the RMPs and its effect on *P. sileri* are discussed below where appropriate.

Summary of Comments and Recommendations

In the March 10, 1993, proposed rule (58 FR 13244) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to development of a final rule. Appropriate state and Federal agencies, county governments, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in The Daily Spectrum, St. George, Utah, on March 23, 1993, which invited general public comment.

A total of seven comments were received. Five commenters supported the reclassification, one commenter opposed the reclassification and recommended retaining endangered status, and one respondent did not express a position. Issues raised by commenters are discussed below.

Issue 1: One commenter expressed concern that the total number of *Pediocactus sileri* populations remains very small despite the BLM survey work, which successfully located more plants.

Response: While only three high density populations are known, the BLM surveys have demonstrated a more complete geographic representation of the species across its limited range than was known at the time of the original listing. The three populations are extensive and the surveys noted additional areas with low density populations.

Issue 2: Three commenters recognized that various threats to the species remain.

Response: This situation is acknowledged by the Service and is reflected, in part, in the reclassification rather than delisting of the species. However, the increased protection offered some populations through the designation of ACECs and other land management prescriptions (see the "Background" section and Factor A in the "Summary of Factors Affecting the Species" section) and the documentation of higher numbers of plants has diminished the relative severity of these threats.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Pediocactus sileri* should be reclassified from endangered to threatened status. Procedures found at section 4(a)[1] of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be listed or reclassified as endangered or threatened due to one or more of the five factors described in section 4(a)[1]. These factors and their application to *Pediocactus sileri* (Engelm. ex Coult.) L. Benson (Siler pincushion cactus) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. The habitat of *Pediocactus sileri* occurs in the Arizona Strip, a remote and essentially uninhabited area in extreme northern Arizona. Commercial uses of *P. sileri* habitat include recreation, livestock grazing, and mining. Habitat loss and degradation due to road building, housing and commercial development, off-highway traffic, and other sources is likely to increase as human populations increase in the nearby towns of St. George and Kanab, Utah, and Fredonia, Arizona.

Off-highway traffic is adversely affecting *Pediocactus sileri* and its habitat at a few localities, including Atkin Well, the Warner Ridge/Fort Pierce area near St. George, Utah, and the area near Fredonia, Arizona, and Kanab, Utah. The convenient location of the latter two areas, the gently rolling hills, and sparse vegetation make these localities attractive sites for OHV users. Observations and data from monitoring plots indicate that few *P. sileri* deaths were directly caused by OHVs, but that the OHV traffic is fairly frequent. Gierisch (1980) found that 8 out of 1,153 cacti were killed by OHV activity on Warner Ridge. In 1985, 1 plant was killed and 6 plants were run over by OHVs out of 7,000 plants counted (USDI Bureau of Land Management 1985). Although Gierisch (1989) found no *P. sileri* mortality due to OHVs in plots on Warner Ridge, he observed 5–10 injured or destroyed plants outside the plots. He also noted that 33 of 60 plots contained single tracks of OHVs, and 5 of the 60 plots contained OHV trails that had been used repeatedly. A site near Kanab/Fredonia is heavily impacted by OHVs and other recreational uses, but no data are available on their direct or indirect effects on the cactus.

The BLM Arizona Strip District RMP and Final Environmental Impact Statement (USDI Bureau of Land Management 1990a) and Dixie Resource Area RMP and Final Environmental Impact Statement (USDI Bureau of Land Management 1990b) contain OHV designations for the District and Resource Area. Off-road traffic is permitted to varying levels throughout the range of *Pediocactus sileri*. The Warner Ridge area is closed to OHV traffic. This area, which also contains another endangered plant, is not fenced to exclude OHVs, but signs have been placed every 0.4 kilometer (0.25 mile). Nearby, in the Fort Pierce area, where a dense population of *P. sileri* occurs, the BLM permits OHV traffic on designated roads and trails. On 320 ha (800 ac) east of Kanab and Fredonia, in a dense population of *P. sileri*, OHV traffic is unrestricted. The Rhino Rally, an OHV event, takes place within the central habitat of *P. sileri*, in an area designated as an "OHV event area" in the Arizona Strip District RMP. The BLM limits the Rhino Rally to 300 entrants and restricts the event primarily to roads and washes.

within 2 years. Seeds germinate readily, imbibe water for some hours. Analysis of collecting demographic data in

Livestock grazing occurs throughout the habitat of *Pediocactus sileri*. The Service presumes that the BLM has not changed term permits, stocking rates, or grazing systems since the species was listed, because no formal or informal section 7 consultations regarding existing range management or a change in management have occurred. In addition, livestock waters have not been moved away from dense *P. sileri* populations. The Service cannot assess the effects of livestock on *P. sileri* on the Kaibab-Paiute Indian Reservation due to a lack of information.

Because forage is very sparse on soils preferred by *Pediocactus sileri*, there is little grazing if the areas are relatively distant from water sources. In these areas, little trampling occurs and *P. sileri* plants can be found in open, unprotected microsites (Gierisch and Anderson 1980). Gierisch (1989) stated that no *P. sileri* plants were destroyed due to livestock trampling on Warner Ridge. In earlier studies, he found 6 plants out of 1,153 were killed by livestock (Gierisch 1980). Gierisch (1989) found livestock tracks in 90 percent of the plots on Warner Ridge, indicating that cattle do travel through the area.

Hughes (1991) also found that livestock rarely trampled mature plants in monitoring plots. He speculated (pers. comm. 1992) that mature cacti are large enough that cattle walk around them rather than step on them. However, seedlings and juvenile plants may be too small to be seen and avoided.

At watering areas where livestock concentrate, damage or destruction of *Pediocactus sileri* is "undoubtedly severe" (Gierisch and Anderson 1980). At Atkin Well, where livestock are severely affecting the habitat, *P. sileri* plants grow in the shrub understory or along drainage slopes, areas protected from the trampling of cattle moving to and from this water source (Gierisch and Anderson 1980). Atkin Well and Lytle Spring populations showed a size class distribution with a small number of short cacti and a large number of tall cacti. These populations were judged to be of "special concern" (USDI Bureau of Land Management 1985).

Erosion has been identified as a source of mortality for *Pediocactus sileri* (Gierisch 1981, Hughes 1991). Because the substrate is erodible, a low rate of mortality due to erosion is expected and probably natural. However, OHV traffic, roads, overgrazed habitat, or areas of livestock concentration may lead to increased erosion, resulting in increased cactus mortality rates and loss of habitat.

In 1989, the Arizona Department of Agriculture, U.S. Department of Agriculture Animal and Plant Health Inspection Service (APHIS), and local ranchers proposed a large-scale (approximately 325 square kilometer, or 125 square mile) application of general pesticides to control a grasshopper infestation. Although the BLM disapproved the project, the Service anticipates that rangeland pesticide applications will be proposed in the future.

Through funding from APHIS, the U.S. Department of Agriculture Bee Biology Lab in Logan, Utah, has conducted research to understand the potential effects of rangeland pesticides on endangered and threatened plants. This research has improved our understanding of the pollination and reproductive ecology of *Pediocactus sileri*. Tepedino (1990) reported that the species is pollinated by small native bees; two of the bees are undescribed and one is very rare.

Mineral exploration and development and oil and gas leasing may contribute to the loss and degradation of *Pediocactus sileri* habitat. Currently, these adverse effects appear to be occurring at a slow rate and affecting small amounts of habitat or numbers of plants. One Mineral Feasibility Report (Swapp 1985) addressed the threat of uranium mining within high density *P. sileri* habitat and concluded that uranium exploration or mining was extremely unlikely there. Another Mineral Feasibility Report (Cormier 1985) for the Warner Ridge area did not specifically address uranium mining feasibility. However, in a survey of 246 Mining Plans of Operation (MPO) for uranium mining filed between 1980 and 1985, the BLM found that 165 occurred outside potential habitat of *P. sileri* (USDI Bureau of Land Management 1985). Of the remaining 81 MPOs occurring within potential habitat, 51 were surveyed and did not contain *P. sileri*. The remaining 30 sites within potential habitat were surveyed and found to contain *P. sileri*; projects were modified to avoid directly affecting the plants. An average of 2 ha (5 ac) were disturbed at each of the 30 sites within potential habitat. Activity has taken place within low density *P. sileri* habitat, except for one core drilling in high density habitat. Wenrich and Sutphin (1988) identified low density *P. sileri* habitat as having potential for economically important uranium deposits.

Gypsum mining or exploration is unlikely to occur in the Warner Ridge or the Lost Spring Mountain habitats of *Pediocactus sileri* (Cormier 1985, Swapp 1985). The BLM believes mining gypsum is economically feasible if the gypsum (calcium sulfate) content exceeds 90 percent (Cormier 1985, Swapp 1985). The gypsum content of the Shnabkaib and Middle Red Members of the Moenkopi Formation has been estimated at 3–5 percent (Swapp 1985) or up to 25 percent (Stewart et al. 1972). Both estimates are well below the level needed to sustain an economically viable operation.

Mineral exploration and development is permitted to occur within the five ACECs designated to provide special management prescriptions for *Pediocactus sileri* (USDI Bureau of Land Management 1990a, 1990b). If mineral exploration and development is proposed within ACECs, the BLM requires a plan of operation and special mitigation. These requirements do not necessarily apply outside of ACECs. Therefore, not all habitat or populations are covered by this protection.

Oil and gas exploration or drilling is another potential threat to *Pediocactus sileri*, although the current threat is minor. Essentially all areas within the Moenkopi Formation are under oil and gas leases (USDI Bureau of Land Management 1985). As recently as 1990 the BLM offered at least one tract containing *P. sileri* for a competitive oil and gas lease sale (BLM Minerals staff, Arizona Strip District, St. George, Utah, pers. comm. 1990). However, there are no producing oil wells nor any history of wells in the Arizona Strip District or southwestern Utah (USDI Bureau of Land Management 1985).

In summary, current mining and mineral exploration and oil and gas leases pose a minor threat to *Pediocactus sileri*. The probability of gypsum mining and active oil and gas pumping appears small. Uranium exploration is occurring and has already impacted some habitat. Although the current economic situation seems to have slowed uranium exploration, the future is uncertain.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Despite the legal protection offered by the Act and the Arizona Native Plant Law (Arizona Revised Statutes Chapter 7, Title 3, Article 1), *Pediocactus sileri* is collected by cactus enthusiasts for commercial purposes and private interest. Steve Brack (Mesa Gardens, Belen, New Mexico, pers. comm. 1992) is familiar with the worldwide cactus trade; he believes that cultivated and wild-collected plants of this species are rare in the cactus trade because it has a reputation for being hard to grow. He estimates that 99 percent of transplanted plants will die within 2 years. Seeds germinate readily, but due to a narrow tolerance for soil type and environmental conditions, the plants will mature only with skillful cultivation. Grafting, a technique commonly used to commercially propagate the endangered *Pediocactus bradyi*, is not commonly used with *P. sileri* because the latter species is too large and slow growing.

Brack (pers. comm. 1992) noted that *Pediocactus sileri* seeds are readily available in the commercial trade; he assumed the seeds are taken from wild populations. He estimated that a collector could take 5,000 seeds from a dense population in one afternoon. The Service does not have the information needed to assess the degree to which seed collecting is affecting populations.

Although serious hobbyists and professional collectors apparently avoid taking living plants from the wild, other collectors, such as the occasional tourist, resident, or unscrupulous seller, could adversely affect populations. The effects of this activity are very difficult to quantify, but are considered minor at this time.

C. Disease or predation. Various botanists have noted mortality of *Pediocactus sileri* due to disease, insects, and rodents. Within study plots, Gierisch (1989) noted that 28–32 percent of all stems were dead; he believed the mortality was due to disease and predation. Hughes (1991) reported that the most common cause of *P. sileri* mortality was herbivory. Rodents and rabbits apparently find the plants palatable, particularly during years of below-average rainfall when other food and water sources are scarce. Small mammals may attack from the top or from underground and consume the whole plant (Gierisch 1981).

In at least one case, data indicate that *Pediocactus sileri* mortality from small mammal populations may be affected by management practices. Plants inside a fenced area excluding cattle were more likely to die from small mammal herbivory than plants outside the exclosure (Hughes 1991). Hughes (pers. comm. 1988) speculated that small mammals preferred the habitat inside the exclosure because it had greater plant cover and food.

Brack (1983) noted heavy insect damage to a *Pediocactus sileri* population. Insects had eaten the cortical tissues and roots of about 80 percent of the plants. He believed the damaged plants would die.

Although insects, disease, and small mammal herbivory may appear to be natural causes of mortality, we do not know if the current rates of disease or predation are at natural levels or are imbalanced for some reason. Analysis of data from long-term monitoring should indicate whether recruitment rates in populations with disease or predation are sufficient to maintain viable populations.

D. The inadequacy of existing regulatory mechanisms. Pediocactus sileri is currently protected by the Act and is contained in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (16 U.S.C. 1538(c)). It is also protected from commercial use by the Arizona Native Plant Law (A.R.S. §§ 3–901 *et seq.*). The reclassification to threatened status will not alter most protections afforded this species under these regulatory mechanisms. Existing regulatory mechanisms determined necessary to protect this species and its habitat will remain in effect.

The Endangered Species Act amendments of 1988 provided several new protections for endangered plants that have not been extended through regulation to threatened plants. The 1988 amendments added additional provisions to section 9(a)(2)(B) of the Act to make it a violation to maliciously damage or destroy any endangered plant in any area under Federal jurisdiction, or to remove, cut, dig up, or damage or destroy any endangered plant on any non-Federal area in knowing violation of any law or regulation of any state or in the course of any violation of a state criminal trespass law. Upon reclassification to threatened status, it will still be a violation of the Act to remove and reduce to possession *Pediocactus sileri* from areas under Federal jurisdiction (50 CFR 17.71(a)). This prohibition should adequately protect *P. sileri* because no instances of malicious damage or destruction (i.e., vandalism) to *P. sileri* have been reported and few *P. sileri* plants are known from non-Federal lands.

Seeds from endangered plants are subject to the trade prohibitions of section 9(a)(2) of the Act. However, seeds from cultivated specimens of threatened plants are exempt from these trade prohibitions provided that a statement of "cultivated origin" appears on their containers (50 CFR 17.71(a)). This should have little effect on trade in *Pediocactus sileri* seeds. Because the plant is difficult to grow in cultivation, few seeds of cultivated origin are available for sale. The sale of wild-collected seeds will continue to be prohibited.

E. Other natural or manmade factors affecting its continued existence. The long-term viability of populations of this species is still uncertain. Since 1985, the BLM Arizona Strip District has been collecting demographic data in four dense population areas across the range of this species. A population viability analysis could probably indicate whether the dense population areas are reproducing sufficiently to maintain population size.

The Service has carefully assessed the best scientific and commercial information available regarding past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to reclassify *Pediocactus sileri* from endangered to threatened status. New information gathered by the BLM as well as recovery efforts for the species have changed our understanding of the range, abundance, and magnitude and relative importance of threats to *P. sileri*. Although the species is more abundant than originally believed in 1979, only three large populations are known. We do not know whether the species is able to maintain stable populations given current habitat conditions, but the BLM is accumulating data that will assist in that determination. The remaining manageable threats to the species include livestock grazing and associated developments, OHV traffic, pesticide applications, and minerals exploration. With more plants known to exist, we now believe the magnitude of threats to be less important than when the species was listed.

Critical habitat for *Pediocactus sileri* was not designated in 1979 when the species was listed because the Service believed the action was not prudent. The Service continues to believe designating critical habitat is not prudent. As discussed under Factor B in the "Summary of Factors Affecting the Species," *P. sileri* is subject to taking, an activity difficult to prevent and only regulated by the Act with respect to threatened plants in cases of removal and reduction to possession of such plants from lands under Federal jurisdiction. These provisions are difficult to enforce, and publication of critical habitat descriptions and maps would make *P. sileri* more vulnerable and increase enforcement problems. Therefore, it remains not prudent to determine critical habitat for *P. sileri*.

Effects of Rule

This rule changes the status of *Pediocactus sileri* from endangered to threatened. *Pediocactus sileri* is no longer considered to be in imminent danger of extinction throughout a significant portion of its range. Reclassification has little effect on regulations regarding protection and recovery of the species. Protection of

has been collected from only five sites

threatened species under section 7 of the Act is essentially the same as for endangered species. Protection for threatened species under section 9 of the Act is much the same as for endangered species except for those items discussed under Factor D in the "Summary of Factors Affecting the Species" section of this rule. Recovery provisions are the same for threatened species as for endangered species.

This action is not an irreversible commitment on the part of the Service and reclassifying *Pediocactus sileri* to endangered would be possible should changes in management, habitat, or other factors occur that alter the species' present likelihood of survival and recovery.

National Environmental Policy Act

The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Brack, S. 1983. Field observations, October and November 1983. U.S. Fish and Wildlife Service, Phoenix, Arizona. 1 p.

Cormier, G. 1985. Mitteral report for *Pediocactus sileri* Cactus, Washington County, Utah. USDI Bureau of Land Management, Arizona Strip District, St. George, Utah. 7 pp.

Gierisch, R.K. 1981. Observations and comments on *Pediocactus sileri* in Arizona and Utah. Desert Plants 3(1):9–10.

_____. 1989. Studying Gypsum Cactus, or Siler Pincushion Cactus, *Pediocactus sileri* (Engelm.) L. Benson and factors of its habitat on sample plots. USDI Bureau of Land Management, Arizona Strip District, St. George, Utah. 22 pp.

_____ and D.C. Anderson. 1980. A report on *Pediocactus sileri* (Engelm.) L. Benson in Arizona and Utah. USDI Bureau of Land Management, Arizona Strip District, St. George, Utah. 26 pp.

Hughes, L.E. 1991. *Pediocactus sileri* Report. USDI Bureau of Land Management, Arizona Strip District, St. George, Utah. 23 pp.

Phillips, A.M., B.G. Phillips, L.T. Green, J. Mazzoni, and E.M. Peterson. 1979. Status report for *Pediocactus sileri* (Engelm. ex Coult.) L. Benson. U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 12 pp.

Stewart, J.H, F.G. Poole, and R.F. Wilson. 1972. Geological Survey Professional Paper No. 691. U.S. Government Printing Office, Washington, D.C.

Swapp, C. 1985. Mineral potential in vicinity of *Pediocactus sileri* habitat. USDI Bureau of Land Management, Arizona Strip District, St. George, Utah. 6 pp.

Tepedino, V.J. 1990. Annual permit report to the U.S. Fish and Wildlife Service. USDI Fish and Wildlife Service, Albuquerque, New Mexico. 6 pp.

USDI Bureau of Land Management. 1985. Status report for *Pediocactus sileri*. Bureau of Land Management, Arizona Strip District, St. George, Utah. 16 pp.

_____. 1987. Siler pincushion cactus habitat management plan. Bureau of Land Management, Arizona Strip District, St. George, Utah. 23 pp.

_____. 1990a. Arizona Strip District resource management plan and final environmental impact statement. Bureau of Land Management, Arizona Strip District, St. George, Utah. 130 pp.

_____. 1990b. Dixie resource management plan and environmental impact statement. Bureau of Land Management, Cedar City District, Cedar City, Utah. 242 pp.

U.S. Fish and Wildlife Service. 1986. Siler Pincushion Cactus Recovery Plan. USDI Fish and Wildlife Service, Albuquerque, New Mexico. 57 pp.

Wenrich, K.J., and H.B. Sutphin. 1988. Recognition of breccia pipes in northern Arizona. Arizona Bureau of Geology and Mineral Technology 18:1–5.

Authors

The primary authors of this rule are Bruce Palmer and Sue Rutman (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by revising the entry for *Pediocactus sileri*, under the family Cactaceae, to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
Pediocactus sileri (= *Echinocactus s., Utahia s.*).	Siler pincushion cactus.	U.S.A. (AZ, UT) ..	T	64,524	NA	NA

Dated: November 22, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–31426 Filed 12–23–93; 8:45 am]

BILLING CODE 4310-55-P

50 CFR Part 17

RIN 1018–AB83

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Relict Darter and Bluemask (=Jewel) Darter

AGENCY: Fish and Wildlife Service, Interior

ACTION: Final rule.

SUMMARY: The Service determines endangered status for the relict darter (*Etheostoma chienense*) and bluemask (=jewel) darter (*Etheostoma* (*Doration*) sp.) under the Endangered Species Act of 1973, as amended (Act). The relict darter, which is endemic to the Bayou du Chien drainage in western Kentucky, has been collected from only five sites within this drainage and is known to spawn in only one Bayou du Chien tributary. The relict darter has been and continues to be impacted by water quality and habitat deterioration resulting from stream channelization, siltation contributed by poor land use practices, and water pollutants. The bluemask darter is believed to be endemic to the Caney Fork River system (above Great Falls), Cumberland River basin, in central Tennessee. Based on historic records, the species was known from five rivers in the Caney Fork River system. The bluemask darter is now known from four stream reaches. Its distribution has been reduced by such factors as impoundments, water withdrawal, and the general deterioration of water quality resulting from siltation and pollutants contributed by coal mining, gravel mining, poor land use practices, and waste discharges; these factors continue to impact the species and its habitat.

EFFECTIVE DATE: January 26, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above address (704/665–1195 Ext. 228).

SUPPLEMENTARY INFORMATION:

Background

Relict Darter

The relict darter is endemic to the Bayou du Chien watershed in extreme western Kentucky. This darter, which is one of 10 recognized species in the *Etheostoma squamiceps* complex of the subgenus *Catonotus*, was described by Page et al. (1992). It is a small (2½-inch) fish. Females and nonbreeding males have light tan colored backs and sides, with brown mottling and six to eight dark brown saddles. They have white unmarked undersides. Breeding males have gray to dark brown sides and backs and light tan undersides.

Warren and Burr (1991) reviewed all known recent and historical literature regarding the relict darter and surveyed known collection sites and potential habitat within the Bayou du Chien watershed. They reviewed fish collection records from adjacent watersheds and also surveyed these areas for the relict darter. They speculated that the fish was once more widespread in the Bayou du Chien system. However, based on historic and current records, they reported that the fish has only been documented from nine sites in Graves and Hickman Counties, Kentucky; only one spawning site is known.

The relict darter's distribution has apparently been reduced by such factors as channelization and the general deterioration of water and habitat quality resulting from siltation and pollutants contributed by poor land use practices and by waste discharges. These factors continue to impact the species and its habitat. Because the species presently inhabits only limited areas and is known to spawn in only one small tributary, it is very vulnerable to extirpation from toxic chemical spills. Additionally, because of its small population size, the species' long-term genetic viability is questionable.

On October 29, 1991, the Service notified by mail (22 letters) potentially affected Federal and State agencies, local governments within the species' present range, and interested individuals that a status review of the relict darter was being conducted. Three comments were received as a result of this notification. The Tennessee Valley Authority and the Kentucky State Nature Preserves Commission supported the species' potential Federal protection and the Kentucky Department of Fish and Wildlife Resources provided information on fish collections in the watershed. No objections to the potential listing of the relict darter were received.

The relict darter does not appear as a candidate in the Service's notice of review for animal candidates that was published in the **Federal Register** on November 21, 1991 (56 FR 58804). However, based on status information gathered in 1991, this species was approved as a category 1 candidate by the Service's Director on April 29, 1992. A category 1 species is a species for which the Service has sufficient information to propose for protection under the Act.

Bluemask Darter

The bluemask darter (*Etheostoma* (*Doration*) sp.), which is closely related to *E. stigmaeum*, is being described as a full species by Steven Layman (University of Alabama, personal communication, 1992). The bluemask darter is a small (1 3/4-inch) fish. Breeding males are nearly covered by a bright blue color. Females and nonbreeding males are not as brightly colored. They have six dark saddlelike markings across the back and seven to eight lateral blotches. This species inhabits areas with slow to moderate current over sand and fine gravel. This habitat type is very limited in some of the inhabited streams.

The bluemask darter is endemic to the Caney Fork River system (above Great Falls), Cumberland River basin, in central Tennessee. Based on current and historic records reviewed by Layman (1991), the species has been collected from five rivers in the Caney Fork River system—Upper Caney Fork River, Collins River, Rocky River, Calfkiller River, and Cane Creek in Grundy, Warren, Van Buren, and White Counties.

A 1991 fish survey (Layman 1991) of the Caney Fork River system above and below Great Falls revealed that the species is now restricted to isolated populations in reaches of four rivers in the Caney Fork River system—Cane Creek, Van Buren County; Collins River, Warren and Grundy Counties; Rocky River, Van Buren County; and Upper Caney Fork River, White County.

The bluemask darter has been impacted by such factors as impoundments, water withdrawals, and the general deterioration of water and substrate quality resulting from siltation and pollutants contributed by coal mining, gravel mining, poor land use practices, water withdrawal, and waste discharges; these factors continue to impact the species and its habitat.

In the Service's notice of review for candidate animals, published in the **Federal Register** of November 21, 1991 (56 FR 58804), the bluemask (=jewel) darter was identified as a category 2 candidate, i.e., a species that is being considered for possible addition to the Federal List of Endangered and Threatened Wildlife, but for which there is insufficient data to make a final decision on the need for listing. Based on the subsequent acquisition of additional status information, the Service's Director approved this species for elevation to category 1 in April 1992.

On February 28, 1992, the Service notified by mail (40 letters) potentially affected Federal and State agencies and local governments and interested individuals within the species' present range that a status review of the bluemask darter was being conducted. Three agencies responded. The Tennessee Wildlife Resources Agency said it would help protect the darter during the status review period and would continue this protection if it were listed. The U.S. Soil Conservation Service and the Department of the Air Force responded to the bluemask darter notification letter but did not take a position on the potential listing. No objections to the potential listing of the bluemask darter were received.

biological information available. The

Summary of Comments and Recommendations

In the December 11, 1992, proposed rule (57 FR 58774), and through associated notifications, all interested parties were requested to submit factual reports and information that might contribute to the development of a final rule to list the relict darter and bluemask darter as endangered species. Appropriate Federal and State agencies, county governments, scientific organizations, and interested parties were contacted by letter dated December 17, 1992, and were requested to comment. Legal notices were published in the Southern Standard, McMinnville, Tennessee, on December 27, 1992, and the Paducah Sun, Paducah, Kentucky, December 31, 1992.

Relict Darter

In response to four formal requests, a public hearing on the Service's proposal to list the relict darter as an endangered species was held on April 6, 1993, at Purchase Area Development District, 1002 Medical Drive, Mayfield, Kentucky. The comment period was reopened from March 22, 1993, through April 20, 1993. A notice of the hearing and reopening of the comment period was published in the **Federal Register** on March 4, 1993 (58 FR 12353) and in the Mayfield Messenger, Mayfield, Kentucky, on March 29, 1993.

The Service received 29 written comments and 7 oral comments (at the public hearing) regarding the proposed listing. Six commenters (The Tennessee Valley Authority, Kentucky Department of Fish and Wildlife Resources, Kentucky State Nature Preserves Commission, Association of Concerned Environmentalists, and two individuals) supported the listing, most of the others did not. Following is a summary of the comments, concerns, and questions (referred to as "Issues" for the purpose of this summary) expressed in writing and orally at the public hearing. Issues of similar content have been grouped together. These issues and the Service's response to each are presented below.

Issue 1: Numerous commenters opposed the listing primarily because of perceived impacts to farm-related activities.

Response: The Service can understand the fears of local farmers regarding the potential impact to them resulting from listing the relict darter. However, based on the results of listing other aquatic species in Kentucky, the Service does not believe there will be any major impact to local farming activities as a result of listing the relict darter. (See response to Issues 2 and 5 below.)

Issue 2: If the relict darter is federally listed, landowners along the Bayou du Chien may not be allowed to keep the creek clear of blockages or maintain field drainage ditches, tile drains, and grass waterways.

Response: Landowners will be required to apply for the same Corps of Engineers (Corps) permits that are currently required. If the permit request were to involve a project that may affect the relict darter, the Corps would be required, under section 7 of the Act, to consult with the Service to ensure that the project is not likely to jeopardize the relict darter's continued existence. The Service has consulted with the Corps and other Federal agencies on many projects in areas inhabited by federally listed species. It has been the Service's experience that in nearly all cases the project objectives can be met and the species can be protected.

The Service does not see the need to consult with the Corps, under section 7 of the Act, for the periodic removal of downed trees for normal creek-flow maintenance and flood prevention. However, the Service would encourage that (1) the trees be removed with a minimum of stream-bank and stream-bed disturbance and that, where possible, any portion of the tree that is embedded in the streambed remain in place and (2) the removal work be done in the summer, fall, or early winter to lessen the impact on relict darter spawning. The relict darter uses the undersides of tree trunks and branches and other stable substrate for spawning and cover. Also, tree trunks and large branches on the stream bottom help to stabilize the streambed.

Issue 3: Several commenters suggested that the Service move the relict darter to other streams controlled by the Service.

Response: One of the primary purposes of the Act (section 2(b) is "* * * to provide a means whereby the ecosystem upon which endangered and threatened species depend may be conserved." Propagation and stocking of a species can be positive conservation tools, and are often used to help recover a species when unoccupied historic habitat is present. However, introduction of the relict darter outside its native range would not meet the Act's objective of preserving both the species and its habitat.

Issue 4: One commenter wanted to know the Service's position on the designation of critical habitat for the relict darter.

Response: The Service does not intend to designate critical habitat for the relict darter (see the "Critical Habitat" section of this rule). This species exists in a very short reach of Bayou du Chien and is known to spawn in only one tributary. The Service believes that the identification of species-specific habitat as part of the critical habitat designation process could expose the species to an increased threat of vandalism, and it would not otherwise be beneficial to the species.

Issue 5: Numerous commenters were concerned about new restrictions that would be placed on farming activities and projects in the Bayou du Chien watershed, how they would be affected if the relict darter were federally listed, and the extent of unforeseen future impacts.

Response: New restrictions would primarily involve a requirement that Federal agencies review their actions and determine if their actions would adversely affect the relict darter. (See the "Available Conservation Measures" section of this rule.)

The Service recognizes that some landowners may consider the listing of the relict darter to be a threat to their livelihood. However, many Kentucky landowners have been dealing with federally listed aquatic species for a number of years, and the lack of reports of landowner conflicts indicates that the Federal protection of species has had minimal impacts on private landowners. The blackside dace, which was placed on the Federal list in 1987, occurs in about 30 streams in the upper Cumberland River basin in eastern Kentucky. Some mussels of the Green and Barrens Rivers in central Kentucky have been federally listed as endangered since the late 1970s. The fanshell mussel, which also exists in the Green and Barrens Rivers, as well as the Licking River in northeastern Kentucky, was listed in 1990. The Service is not aware of any cases where these species have caused significant conflicts with private landowners.

This does not mean that there will never be a conflict between the Service and landowners if the relict darter is federally listed. However, these examples indicate that, based on a historical perspective, the level of conflict involving federally listed aquatic species and private landowners has been minimal in Kentucky.

Issue 6: A number of commenters objected to the fact that the Service does not evaluate economic or other impacts when a species is listed, and also to the fact that landowners are not compensated if listing a species affects the use of their land.

Response: The Act requires the Service to list species based on the best biological information available. The Act allows the Service to consider only the species' status when determining if a species should be protected under the Act. However, once a species is listed and the Service consults with Federal agencies on projects that are likely to adversely affect the species, the Service is required to work with Federal agencies and landowners to try and develop alternatives that will allow project objectives to be met and at the same time protect the species from extinction. In the rare case where no reasonable and prudent alternative can be identified, the affected individual may apply to the Secretary of the Interior for an exemption under provisions of section 7(g) of the Act.

As stated in the response to Issue 1, the Service does not expect any major impact to local landowners to arise from the relict darter listing. In the highly unlikely event of a bona fide taking of private property, as established by Fifth Amendment case law, such a loss would be reimbursable through the Federal court system.

Issue 7: Several commenters questioned the extent of the relict darter survey, the possibility that the relict darter might exist in other streams, and whether the Service would consider conducting additional surveys before listing the species.

Response: During 1991, recent and historical fish collection records from Bayou du Chien and adjacent watersheds (Mayfield Creek, Obion Creek, Clarks River, and Obion River) were reviewed, and 41 visits were made to sites in the Obion Creek and Bayou du Chien watershed. (See the "Background" section of this rule for a more detailed description of the survey.) Based on fish collections in the Bayou du Chien and historic and recent collection records from adjacent watersheds, the Service concludes that it is not likely that additional relict darter populations will be discovered outside the Bayou du Chien watershed. There is always a possibility that this fish does exist elsewhere. However, based on the extensive surveys described above, the Service is satisfied that no additional surveys are needed.

Issue 8: Several landowners wanted to know if government employees or Service contractors had the right to trespass on private property to study the relict darter.

Response: Neither government biologists nor Service contractors have the right to violate trespass laws to study the relict darter.

Issue 9: Several commenters questioned whether safeguards were in place to ensure that the designation of the relict darter as a distinct species is based on sound scientific principles.

Response: Publication of a species description in scientific journals and a review of the description by the Service and other scientists is the primary safeguard to ensure that species descriptions are based on scientific data. The relict darter was described as a distinct species by Dr. Lawrence Page, Illinois Natural History Survey, Champaign, Illinois. Dr. Page is a noted authority on North America's freshwater fish. In preparing his description of the relict darter, Dr. Page examined the morphological and genetic characteristics of 17 species in the darter subgenus *Catonotus*. His description of the relict darter appeared in a major scientific journal (*Copeia*) and was subject to review by other scientists familiar with this species group and the taxonomy of fishes. The Service is satisfied, based on the present understanding of the relationships among the darters within this group, that the relict darter is a distinct species.

Issue 10: Several commenters wanted to know if farmers along the Bayou du Chien would be able to continue to use agricultural chemicals according to the label.

Response: The Service consults with the Environmental Protection Agency to determine if pesticides they register are likely to jeopardize the continued existence of listed species. When the use of a chemical is likely to jeopardize a listed species, the use of that chemical is restricted. Thus, it is possible that the use of a pesticide could be restricted to avoid jeopardizing the relict darter.

Issue 11: A number of commenters were concerned that the listing would affect current farming methods in the watershed.

Response: The Service has no authority under the Act to require changes in farming practices. However, the Service would encourage the use of buffer strips along water courses, reductions of pesticide and herbicide applications, and soil conservation practices that help control soil loss and siltation.

Issue 12: Several commenters wanted to know what involvement they would have in recovery planning, what actions would be required of local landowners in the recovery process, and how long recovery would take.

Response: The Service is required by the Act to provide an opportunity for public review and input into recovery plans. The Service, through provisions of the Act, can identify species and ecosystems that need special attention. However, without local support, the species and its habitat may be lost. Recovery, to be successful, must be a cooperative venture among willing participants. The Service cannot force landowners to participate in recovery. However, the Service would seek willing landowners to participate in habitat restoration for the relict darter.

Recovery is a long and complex process, and it is difficult to estimate when recovery will be reached. It has taken many years to adversely impact the relict darter and its habitat, and it will take many years to recover it.

Issue 13: Several individuals felt there might be a connection between the listing of the relict darter and a Service plan to create a refuge in western Kentucky.

Response: The Service is in the very early stages of considering a possible refuge in the Clarks River watershed near Benton, Kentucky. The relict darter is not known from this basin. There is no connection between this listing and planning for the refuge.

Issue 14: Several agencies, organizations, and individuals provided information regarding the efforts by local farmers to conserve the quality of the Bayou du Chien watershed, and one individual suggested that a cooperative effort among farmers and government agencies might be used to protect the fish without listing it.

Response: The Service recognizes and applauds the conservation efforts of many farmers in the Bayou du Chien watershed and emphasizes that it will take a coordinated effort to recover the relict darter. However, the Service believes the relict darter is in serious danger of extinction and that it was the intent of Congress to federally protect such species. Since the species meets the definition of endangered, it must be listed under the Act.

Issue 15: One individual suggested that the Service consider listing the relict darter as a threatened species.

Response: The Service has evaluated the status of the relict darter in making a determination as to whether to list the species as endangered or threatened. Based on the species' limited range, significant threats to its continued existence, and the fact that a single toxic spill could cause extinction, the Service believes that endangered status is appropriate.

Bluemask Darter

Six written comments were received on the proposal to list the bluemask darter as an endangered species. The Tennessee Valley Authority, Tennessee Wildlife Resources Agency, Tennessee Department of Environment and Conservation, and a private individual supported listing the bluemask darter.

(Warren and Burr 1991). Warren and

Caney Fork tributaries—Barrens Fork

chemical spills. This is especially true

assistance of the Service, that activities

For the foregoing reasons the Service

On January 20, 1993, the Collins River Preservation Association (CRPA) requested a public hearing on the bluemask darter proposal. A biologist with the Service's Asheville Field Office met with members of the CRPA to discuss the proposed rule and explain the potential implications of listing the bluemask darter to local residents. As a result of this meeting, the CRPA withdrew its request for a public hearing (letter dated February 5, 1993) and provided clarification regarding threats to the species. That information is included in this final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the relict darter and bluemask darter should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the relict darter (*Etheostoma chienense*) and the bluemask darter (*Etheostoma* (*Doration*) sp.) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. The relict darter is endemic to the Bayou du Chien system in extreme western Kentucky (Warren and Burr 1991). Webb and Siak (1975) indicated that this darter was "fairly common" in the high gradient reaches of the Bayou du Chien in the early 1970s. Warren and Burr (1991) speculated that in presettlement times the species was likely more widespread within the Bayou du Chien watershed in areas upstream of the Mississippi floodplain (upstream of Moscow, Kentucky).

Warren and Burr (1991) surveyed the system in 1991 and collected the species at five sites but found it abundant at only two sites (18 were collected at one site and 46 at another). The other three sites yielded a total of only eight relict darters. They and other researchers have been able to locate only one spawning area in a small tributary stream located in Graves County.

Adult relict darters are concentrated in the headwater areas in slow-flowing pools, usually associated with gravel, sand, and leaf litter substrates near fallen tree branches, undercut banks, or overhanging stream-bank vegetation (Warren and Burr 1991). Warren and Burr (1991) noted that the Bayou du Chien system has been extensively channelized. Much of the streams' sinuosity was eliminated, undercut banks were lost, stream-bank vegetation and instream cover were removed, and some smaller streams now flow only intermittently. This massive alteration of the relict darter's habitat reduced both relict darter numbers and the amount of suitable habitat. Aside from past channelization impacts, the area is extensively farmed, and much of the watershed has been deforested. These alterations result in a fairly high silt load within the Bayou du Chien system that continues to degrade the habitat and further impact the species.

The bluemask darter has only been collected from the Caney Fork River system (above Great Falls), Cumberland River basin, in central Tennessee. Layman (1991) reviewed historic collection records and reported that the species has been collected from five rivers in the Caney Fork River system—Upper Caney Fork River, Collins River, Rocky River, Calfkiller River, and Cane Creek in Grundy, Warren, Van Buren, and White Counties. Historic fish collection records are sparse for this area. However, considering the extent of the fish's preferred habitat (slow to moderate current, with sand and fine gravel substrates (Layman 1991)), which was inundated by Great Falls Reservoir in the 1910s, the species was once likely more widely distributed within this portion of the Caney Fork system than available records indicate. The belief that the species has undergone a range reduction is also supported by Starnes and Etnier (1980).

In 1991, Layman (1991) surveyed the Caney Fork River system above and below Great Falls. He found the fish restricted to isolated populations in short reaches of four rivers in the Caney Fork River system—Cane Creek, Van Buren County; Collins River, Warren and Grundy Counties; Rocky River, Van Buren County; and upper Caney Fork River, White County. Layman (1991) estimated that the bluemask darter currently inhabits about 500 feet of Cane Creek, 25 miles of the Collins River, 2 miles of the Rocky River, and 2.5 miles of the upper Caney Fork River.

The species was historically taken from two sites in the Calfkiller River, White County. However, Layman (1991) made collections at both of these historic sites and four other Calfkiller River sites, but no specimens were taken. It is believed that the species has now been extirpated from this river. Also, the fish was not taken (Layman 1991) in collections made in other Caney Fork tributaries—Barrens Fork River, Falling Water River, Charles Creek, Laurel Creek, Hickory Creek, Town Creek, and Mountain Creek.

The bluemask darter's distribution has been reduced by such factors as impoundments, water withdrawal, and the general deterioration of water quality resulting from siltation and pollutants contributed by coal mining (coal mining-related impacts do not occur in the Collins River); gravel mining; poor land use practices related to agriculture, road construction, etc.; water withdrawal, and waste discharges. These factors continue to impact the species and its habitat.

B. Overutilization for commercial, recreational, scientific, or educational purposes. The specific areas inhabited by both fish are presently not known to the general public. As a result, there has not been a problem with the general public taking these fish. However, both fish exist in very small, restricted areas; and the relict darter is known to spawn in only one short stream reach. If the specific inhabited stream reaches were to become public knowledge through critical habitat designation, it would be extremely easy for vandals to seriously impact the species. Although scientific collecting is not presently identified as a threat, take by private and institutional collectors could pose a threat if specific inhabited locations are revealed. Federal protection, through listing, will help to minimize the negative impact of illegal or inappropriate take.

C. Disease or predation. Although the relict and bluemask darters are undoubtedly consumed by predators, there is no evidence that predation is a threat to the species. Disease in not known to be a problem for either species.

D. The inadequacy of existing regulatory mechanisms. The States of Kentucky and Tennessee prohibit taking fish and wildlife for scientific purposes without a State collecting permit. These permits provide some protection for these fish. However, the species are generally not protected from other threats. Federal listing will provide additional protection for the species under the Act by requiring Federal permits to take the species and by requiring Federal agencies to consult with the Service when projects they fund, authorize, or carry out may adversely affect them.

E. Other natural or manmade factors affecting its continued existence. Because the existing relict and bluemask darter populations inhabit only short stream reaches, they are vulnerable to extirpation from accidental toxic chemical spills. This is especially true of the only known relict darter spawning site. Additionally, because the relict darter population has been drastically reduced in size, the species' long-term genetic viability is questionable.

All bluemask darter populations are now isolated by the Great Falls Reservoir. As the populations in Cane Creek and the Upper Caney Fork are extremely small and the reservoir restricts gene flow among populations, the long-term genetic viability of these populations is questionable.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by both fish in determining to make this rule final. Based on these evaluations, the preferred action is to list the relict darter (*Etheostoma chienense*) and bluemask darter (*Etheostoma* (*Doration*) sp.) as endangered. The relict darter is now known from only five sites in the Bayou du Chien system in western Kentucky. The bluemask darter is currently known from only four streams in the Caney Fork River system in central Tennessee. These fish and their habitat have been and continue to be impacted by habitat destruction and range reduction. Their limited distribution also makes them very vulnerable to toxic chemical spills. Because of their restricted distributions and their vulnerability to extinction, endangered status appears to be the most appropriate classification for these species.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. The Service finds that designation of critical habitat is not prudent for these species. Such a determination would result in no known benefit to the relict and bluemask darters, and designation of critical habitat could further threaten these two species.

Section 7(a)(2) and regulations codified at 50 CFR part 402 require Federal agencies to ensure, in consultation with and with the assistance of the Service, that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat, if designated. (See the "Available Conservation Measures" section for a further discussion of section 7.) As part of the development of this final rule, Federal and State agencies were notified of the fishes' general distribution, and they were requested to provide data on proposed Federal actions that might adversely affect the two species. No specific projects were identified. Should any future projects be proposed in areas inhabited by these fish, the involved Federal agency will already have the general distributional data needed to determine if the species may be impacted by their action, and, if needed, more specific distributional information would be provided.

Critical habitat also would not be beneficial in terms of adding additional protection for the species under section 7 of the Act. Regulations promulgated for the implementation of section 7 provide for both a "jeopardy" standard and a "destruction or adverse modification" of critical habitat standard. Due to the highly precarious status of the bluemask and relict darters, any Federal action likely to adversely affect the species would trigger both standards. Under these conditions, the "destruction or adverse modification" standard adds no additional benefit to protection of the species.

In addition, both fish are very rare, and taking for scientific purposes and private collection could pose a threat if specific site information were released. The publication of critical habitat maps in the Federal Register and local newspapers and other publicity accompanying critical habitat designation could increase the collection threat and increase the potential for vandalism during the often controversial critical habitat designation process. The locations of populations of these species have consequently been described only in general terms in this final rule. If needed, any existing precise locality data would be available to appropriate Federal, State, and local governmental agencies from the Service office described in the "ADDRESSES" section; the Service's Cookeville Field Office, 446 Neal Street, Cookeville, Tennessee 38501; the Kentucky Department of Fish and Wildlife Resources; Kentucky State Nature Preserves Commission; Tennessee Wildlife Resources Agency; and Tennessee Department of Environment and Conservation.

For the foregoing reasons the Service believes that critical habitat designation is not prudent for these species, and that their protection can be adequately accomplished through the section 7 jeopardy standard and section 9 prohibitions against take.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Service notified Federal agencies that may have programs affecting these species. No specific proposed Federal actions were identified that would likely affect the species. Federal activities that could occur and impact the species include, but are not limited to, the carrying out or issuance of permits for reservoir construction, stream alterations, wastewater facility development, pesticide registration, and road and bridge construction. It has been the experience of the Service, however, that nearly all section 7 consultations can be resolved so that the species is protected and the project objectives are met.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to

the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. These species are not in trade, and such permit requests are not expected.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Layman, S. R. 1991. Status survey for the dirty darter (*Etheostoma olivaceum*) and the jewel darter (*Etheostoma* (*Doration*) sp.) in the Caney Fork and Cumberland Rivers, Tennessee. Final report submitted to the U.S. Fish and Wildlife Service, Asheville, NC. 35 pages.

Page, L. M., P. A. Cees, D. L. Swofford, and D. G. Buth. 1992. Evolutionary relationships with the *Etheostoma squamiceps* complex (Percidae: subgenus *Catonotus*) with descriptions of five new species. Copeia 1992(3), pp.615–646.

Starnes, W. C., and D. A. Etnier. 1980. Fishes. Pages B1–B134 in D. C. Eagar and R. M. Hatcher (eds.). Tennessee's Rare Wildlife Volume 1: The Vertebrates. Tennessee Heritage Program.

Warren, M. L. 1991. Survey of the relict darter (*Etheostoma* (*Catonotus*) sp. cf *E. neopterum*). Final report submitted to the U.S. Fish and Wildlife Service, Asheville, NC. November 1991. 33 pp.

Webb, D. H., and M. E. Sisk. 1975. The fishes of west Kentucky. III. The fishes of Bayou du Chien. Trans. Ky. Acad. Sci. 36:63–7

Author

The primary author of this final rule is Richard G. Biggins, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665–1195 Ext. 228)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulations Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under Fishes, to the List of Endangered and Threatened Wildlife, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Darter, bluemask(=jewel).	*Etheostoma (Doration)* sp.	U.S.A. (TN)	Entire	E	525	NA.	
Darter, relict	*Etheostoma chienense.*	U.S.A. (KY)	Entire	E	525	NA.	

Dated: November 22, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–31427 Filed 12–23–93; 8:45 am]

BILLING CODE 4310–55–P

federal register

Monday
December 27, 1993

Part IV

Department of Agriculture

Cooperative State Research Service

Rangeland Research Grants Program for Fiscal Year 1994; Solicitation of Applications; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Rangeland Research Grants Program for Fiscal Year 1994; Solicitation of Applications

Notice is hereby given that under the authority in section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333), the Cooperative State Research Service (CSRS) of the United States Department of Agriculture (USDA) will award standard grants for basic studies in certain areas of rangeland research. No more than $80,000 will be awarded for the support of any one project, regardless of the amount requested. The total amount of funds available for grants under the Rangeland Research Grants Program (program) during fiscal year 1994 is $453,839.

Under this program, subject to the availability of funds, the Secretary may award grants to land-grant colleges and universities, State agricultural experiment stations, and to colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research, as determined by the Secretary. Except in the case of Federal laboratories, each grant recipient shall match the Federal funds expended on a research project based on a formula of 50 percent Federal and 50 percent non-Federal funding. Proposals received from scientists at non-United States organizations or institutions will not be considered for support. In addition, in the case of any equipment or product that may be authorized to be purchased with the funds provided under this program, entities receiving such funds are encouraged to use such funds to purchase only American-made equipment or products.

Applicable Regulations

This program is subject to the provisions found in 7 CFR part 3401, as amended (58 FR 21852, April 23, 1993), which sets forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, processes regarding the awarding of grants, and regulations relating to the post-award administration of grant projects. Pursuant to section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3319), funds made available under this program to recipients other than Federal laboratories shall not be subject to reduction for indirect costs or for tuition remission costs. Since these costs are not allowable costs for purposes of this program, such costs incurred by a grant recipient may not be used to meet the matching funds requirement. In addition, the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015, as amended; the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR Part 3016, as amended; the regulations governing Governmentwide Debarment and suspension (Nonprocurement) and the Governmentwide Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017, as amended; the New Restrictions on Lobbying, 7 CFR part 3018; the Audits of Institutions of Higher Education and Other Nonprofit Institutions, 7 CFR part 3051; and the CSRS regulations implementing the National Environmental Policy Act of 1969, 7 CFR part 3407, apply to this program.

Specific Areas of Research To Be Supported in Fiscal Year 1994

Standard grants will be awarded to support basic research in certain areas of rangeland research. Proposals will be considered in the following specific areas: (1) Management of rangelands and agricultural land as integrated systems for more efficient utilization of crops and waste products in the production of food and fiber; (2) methods of managing rangeland watersheds to maximize efficient use of water and improve water yield, water quality, and water conservation, to protect against onsite and offsite damage to rangeland resources from floods, erosion, and other detrimental influences, and to remedy unsatisfactory and unstable rangeland conditions; and (3) revegetation and rehabilitation of rangelands including the control of undesirable species of plants.

Program related questions should be directed to Dr. Wayne K. Murphy, CSRS–USDA; telephone (202) 401–4089.

Compliance With the National Environmental Policy Act (NEPA)

As outlined in 7 CFR part 3407 (the CSRS regulations implementing the National Environmental Policy Act of 1969), environmental data for any proposed project is to be provided to CSRS so that CSRS may determine whether any further action is needed. The applicant shall review the following categorical exclusions and determine if the proposed project may fall within one of the categories.

(1) Department of Agriculture Categorical Exclusions. (7 CFR 1b.3)

(i) Policy development, planning and implementation which are related to routine activities such as personnel, organizational changes, or similar administrative functions;

(ii) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(iii) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(iv) Educational and informational programs and activities;

(v) Civil and criminal law enforcement and investigative activities;

(vi) Activities which are advisory and consultative to other agencies and public and private entities; and

(vii) Activities related to trade representation and market development activities abroad.

(2) CSRS Categorical Exclusions. (7 CFR 3407.6)

Based on previous experience, the following categories of CSRS actions are excluded because they have been found to have limited scope and intensity and to have no significant individual or cumulative impacts on the quality of the human environment:

(i) The following categories of research programs or projects of limited size and magnitude or with only short-term effects on the environment;

(A) Research conducted within any laboratory, greenhouse, or other contained facility where research practices and safeguards prevent environmental impacts;

(B) Surveys, inventories, and similar studies that have limited context and minimal intensity in terms of changes in the environment; and

(C) Testing outside of the laboratory, such as in small isolated field plots, which involves the routine use of familiar chemicals or biological materials.

(ii) Routine renovation, rehabilitation, or revitalization of physical facilities, including the acquisition and installation of equipment, where such activity is limited in scope and intensity.

In order for CSRS to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, a separate statement must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefor. If it is the applicant's opinion that the project proposed falls within the categorical exclusions, the specific exclusion must be identified. The information submitted shall be identified in the Table of Contents as "NEPA Considerations" and the narrative statement shall be placed after the coversheet of the proposal.

Even though a project may fall within the categorical exclusions, CSRS may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exist or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

How To Obtain Application Materials

Copies of this solicitation, the Application Kit, and the Administrative Provisions for this program (7 CFR part 3401) may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Branch, Awards Management Division, Cooperative State Research Service, U.S. Department of Agriculture, room 303, Aerospace Center, Ag Box 2245, Washington, DC 20250–2245, Telephone: (202) 401–5048.

These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number, to psb@csrs.esusda.gov which states that you want a copy of the application materials for the Fiscal Year 1994 Rangeland Research Grants Program. The materials will then be mailed to you (not e-mailed) as quickly as possible.

What To Submit

An original and nine copies of each proposal must be submitted. This number of copies is necessary to permit thorough, objective merit evaluation of all proposals received before funding decisions are made.

Every effort should be made to ensure that the proposal contains all pertinent information when submitted. Prior to mailing, compare your proposal with the guidelines contained in the Administrative Provisions which govern the Rangeland Research Grants Program, 7 CFR part 3401. Proposals submitted by organizations other than Federal laboratories shall state that the 50 percent non-Federal funding requirement will be met.

Each copy of each proposal must include a Form CSRS–661, "Application for Funding." Applicants should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative. (Form CSRS–661 and the other required forms and certifications are contained in the Application Kit).

Grant proposals shall be limited to 10 pages (single-spaced and typed on one side of the page only), exclusive of required forms, bibliography and vitae of the principal investigator(s), senior associate(s), and other professional personnel.

All copies of each proposal shall be mailed in one package. Please make sure that each copy of each proposal is stapled securely in the upper left-hand corner. Do Not Bind.

One copy of each proposal not selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Where and When To Submit Applications for Funding

To be considered for funding during Fiscal Year 1994, proposals must be submitted by February 28, 1994.

Proposals submitted through the regular mail must be postmarked by February 28, 1994, and should be sent to the following address: Proposal Services Branch; Awards Management Division; Cooperative State Research Service; U.S. Department of Agriculture; room 303, Aerospace Center; Ag Box 2245; Washington, DC 20250–2245. The telephone number is: (202) 401–5048.

Hand-delivered proposals must be submitted to an express mail or a courier service, or brought to the following address by February 28, 1994: Proposal Services Branch; Awards Management Division; Cooperative State Research Service; U.S. Department of Agriculture; room 303, Aerospace Center; 901 D Street, SW.; Washington, DC 20024. The telephone number is: (202) 401–5048.

Supplementary Information

The Rangeland Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.200. For reasons set forth in the Final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, this 9th day of December 1993.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 93–31452 Filed 12–23–93; 8:45 am]

BILLING CODE 3410–22–M

VOL
58

ISS
2
4
6

DE
27

1993

UMI

federal register

Monday
December 27, 1993

Part V

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice of Approved Tribal-State Compact

VOL
58
ISS
246
DE
27
1993
UMI

DEPARTMENT OF THE INTERIOR

AGENCY: Bureau of Indian Affairs.

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Agreement Between the Northern Cheyenne Tribe and the State of Montana Concerning Class III Gaming, which was executed on September 28, 1993.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: December 13, 1993.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 93–31454 Filed 12–23–93; 8:45 am]

BILLING CODE 4310–02–P

federal register

Monday
December 27, 1993

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 880

Coal Formation Fire Control; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 880

RIN No. 1029–AB77

Coal Formation Fire Control

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior (DOI) proposes to amend its regulations, 30 CFR, Chapter VII, Subchapter R, to implement a change to the mine fire control activities under the authority of the Act of August 31, 1954, and section 205 of the Appalachian Regional Development Act of 1965. The amendments are due to changes recently enacted as part of the Energy Policy Act of 1992, Public Law 102–486 (Oct. 24, 1992).

DATES: *Written Comments:* OSM will accept written comments on the proposed rule until 5 p.m. Eastern time on February 25, 1994.

Public hearings: Upon request, OSM will hold public hearings on the proposed rule in Denver, Colorado on February 18, 1994 and in Pittsburgh, Pennsylvania on February 18, 1994. OSM will accept requests for public hearings until 5 p.m. Eastern time on January 26, 1994. Individuals wishing to attend but not testify at any hearing should contact the person identified under **FOR FURTHER INFORMATION CONTACT** beforehand to verify that the hearing will be held.

ADDRESSES: *Written Comments:* Hand deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660, 800 North Capitol St., NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 10–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public Hearings: If public hearings are scheduled in Denver or Pittsburgh (see **DATES:** *Public Hearings*), such hearings will be held at Brooks Towers, 2nd Floor Conference Room, 1020 15th St., Denver, Colorado and Building 10, Parkway Center, room 201, Pittsburgh, Pennsylvania.

Request for Public Hearings: Submit requests orally or in writing to the person and address specified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Thomas E. Browne, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–208–2661.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit three copies of their comments. Comments received after the close of the comment period (see **DATES**) or delivered to an address other than those listed above (see **ADDRESSES**) may not necessarily be considered or included in the Administrative Record for the final rule.

Public Hearings

OSM will hold public hearings on the proposed rule by request only. The dates and addresses scheduled for the hearings at two locations are specified previously in this notice (see **DATES** and **ADDRESSES**).

Any person interested in participating in one of the proposed hearings should inform Mr. Browne (see **FOR FURTHER INFORMATION CONTACT**) either orally or in writing by 5 p.m. Eastern time January 26, 1994, and should include an indication as to which hearing he or she wishes to attend. If no one has contacted Mr. Browne to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

II. Background

A. Summary of the Act of August 31, 1954

It was recognized by Congress that outcrop and underground fires in coal formations represent a serious wastage of the fuel resources of the nation, and constitute a menace to the health and safety of the public and to surface property. Congress therefore passed the Act of August 31, 1954 (30 U.S.C. 551–558), to provide for the control and extinguishment of outcrop and underground coal fires. The Secretary of the Interior was authorized: (a) To conduct surveys, investigations, and research relating to the causes and extent of outcrop and underground fires in coal formations and the methods for control or extinguishment of such fires; to publish the results of any such surveys, investigations, and research; and to disseminate information concerning such method; and (b) to plan and execute projects for control or extinguishment of fires in coal formations. These projects could be performed on lands owned or controlled by the United States or any of its agencies, with the cooperation of the agency having jurisdiction thereof, and on other lands upon obtaining proper consent or the necessary rights or interests in such lands. Federal funds could not be used to control or extinguish fires in any privately owned operating coal mine.

The United States Bureau of Mines was initially responsible for carrying out the provisions of this law, the only Federal program providing funding for the control of coal fires. With the passage of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, 30 U.S.C. 1201 *et seq.* (SMCRA) on August 3, 1977, Federal funds became available through the Abandoned Mine Land (AML) program to extinguish or control coal fires at eligible AML sites. In 1983, the responsibility for implementing the Act of August 31, 1954, was transferred to OSM.

B. Summary of Section 2504 (d), "Coal Formations," of the Energy Policy Act of 1992

The Energy Policy Act of 1992 provided additional authority for States regarding projects for the control of outcrop or underground fires in coal formations under the authority of the Act of August 31, 1954 (30 U.S.C. 551–558), and pursuant to subsection (a)(2) of section 205 of the Appalachian Regional Development Act of 1965 (Pub. L. 89–4, 79 Stat. 5). The 1992 amendments authorize the Secretary, acting through the Director of the Office of Surface Mining, to enter into cooperative agreements with States having approved abandoned mine land programs to plan and execute projects for the control or extinguishment of fires in coal formations. The amendments provide further that for States with approved AML programs, any matching share contributions are waived. The $500,000 annual limit on the total amount of funds that can be appropriated to carry out the provisions and purposes of the Act of August 31, 1954, was eliminated. Further, any such

cooperative agreement that is entered into under the Energy Policy Act of 1992 with an AML State eligible to receive funds from the Appalachian Regional Development Commission is not subject to review by that Commission.

Congress did not provide a source of funding for these cooperative agreements to extinguish or control coal formation fires in the Energy Policy Act of 1992. Congress may appropriate funding some time in the future. OSM may not use moneys from the AML Fund to extinguish or control coal formation fires if the fire is not at an eligible AML site. Section 401(d) of SMCRA states that monies from the AML Fund are only available for the purposes of SMCRA's Title IV—Abandoned Mine Reclamation.

C. Relationship of the Coal Formation Fire Control Program to the OSM AML Program

While the Department of the Interior program to extinguish or control coal outcrop fires predates SMCRA and is not funded with AML monies, it and SMCRA's AML program are interrelated. Often the same people are responsible for managing both the coal outcrop fire and the AML reclamation programs. Funds available through the coal outcrop fire program may be used to control or extinguish fires in any coal formation, except in any privately owned operating coal mine, but funds available through the AML program can only be used to control or extinguish fires involving eligible abandoned mine lands.

III. Discussion of Proposed Rule

A. Organization

The regulatory revisions are intended to implement the requirements of the Act of August 31, 1954, consistent with the purposes stated in the Act, its legislative history, and the Secretary's commitment to avoid excessive and burdensome regulations. The proposed rules would implement changes to the coal formation fire control program recently enacted as part of the Energy Policy Act of 1992, 102–486 (Oct. 24, 1992).

B. Proposed Rule

Part 880 Mine Fire Control

To reflect the new legislative provisions in the Energy Policy Act of 1992 pertaining to coal outcrop fires, OSM is amending Part 880 of Chapter VII, Subchapter R. Part 880 would be renamed "Mine Fire Control" to reflect the greater geographic expanse of its provisions. The Abandoned Mine Land Program currently has 23 States with approved programs that are now eligible to participate under the new provisions. The old Title—Mine Fire Control, Appalachia—would no longer be indicative of its provisions. OSM is proposing to amend the authority section to include The Energy Policy Act of 1992, Public Law 102–486 and delete Public Law 95–87 (SMCRA), as none of the authority for the coal formation fire control program comes from SMCRA. The current numbering system used in part 880 is not consistent with that used elsewhere in OSM regulations. Therefore, the sections would be redesignated as follows:

Existing	Redesignated
§ 880.2	§ 880.5
§ 880.3	§ 880.11
§ 880.4	§ 880.12
§ 880.5	§ 880.13
§ 880.6	§ 880.14
§ 880.7	§ 880.15
§ 880.8	§ 880.16

Section 880.2 (redesignated 880.5) would be modified by deleting one definition, modifying another, and adding three new definitions. Section 880.2(c), which limited States to only those listed in section 403 of the Appalachian Regional Development Act of 1965, would be deleted as funds would now be used in any State or by Indian tribes. It is proposed to add definitions for Approved abandoned mine reclamation program, and for two terms in the Act of August 31, 1954, to relate them to terms in SMCRA. The two terms are Operating coal mine and Inactive coal mine.

OSM proposes to modify § 880.3 (redesignated 880.11) to include the provision in the Act of August 31, 1954, that Federal funds cannot be used to fund projects to control or extinguish fires in coal formations in privately owned operating coal mines. It would also be amended to say that only projects funded by the Appalachian Regional Development Commission must be submitted by the State to the Commission and receive the approval of that body. This Commission has not funded such projects in many years.

It is proposed that section 880.4 (redesignated 880.12) be revised to state clearly the roles of OSM, States/Indian tribes, and other Federal agencies when extinguishing or controlling coal formation fires under the authority of these regulations. OSM shall, upon application by a State/Indian tribe with an approved abandoned mine reclamation program, enter into a cooperative agreement with the State/Indian tribe to control or extinguish fires in coal formations. OSM would be authorized to conduct the fire control projects in those States and with those Indian tribes not having an approved abandoned mine reclamation program. However, upon application by such a State/Indian tribe, OSM may enter into a cooperative agreement with the State/Indian tribe to fund the control or extinguishment of fires in coal formations. OSM would also be authorized to conduct the fire control projects on lands owned or controlled by the United States, with the cooperation of the agency having jurisdiction thereof. However, upon application by another Federal agency having jurisdiction for lands owned or controlled by the United States, OSM may enter into an agreement with the other Federal agency to control or extinguish such fires in coal formations. Congress did not provide a source of funding for the above cooperative agreements to extinguish or control coal formation fires in the Energy Policy Act of 1992. Congress may appropriate funding some time in the future. OSM has been funding a very small coal formation fire control program to control or extinguish such fires on lands in the west. This program is not funded with AML program funds.

The Act of August 31, 1954, requires that if a coal fire is in an inactive coal mine on lands not owned or controlled by the United States or any of its agencies, except where such project is necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies: (1) the State or the person owning or controlling such lands contribute on a matching basis 50 percent of the cost of planning and executing such project; or (2) if the state or the person furnishes evidence satisfactory to the Secretary of an inability immediately to make the matching contribution, that such State or person pay the Government, within such time as the Secretary shall determine, and amount equal to 50 percent of the cost of planning and executing such project. The Energy Policy Act of 1992 waived this requirement in States with an approved abandoned mine reclamation program.

OSM proposes to remove subparagraph (d) of § 880.4 (redesignated 880.12), which stated that none of the funds contributed by the Government or the State or the local authorities shall be used for the purchase of sand, clay, stone, or other such kinds of noncombustible materials used to control or extinguish the fire. A review of the pertinent legislation found no such restriction. In many cases, it

might be impossible to extinguish or control a coal fire if Federal or State funds could not be used to purchase sand, clay, stone, chemical foams, or other noncombustible materials used to control or extinguish the fire.

Most of § 880.5 (redesignated § 880.13), Project contracts, contains guidance relative to the contracting procedures to be followed for the extinguishment or control of coal formation fires. OSM proposes to remove subparagraphs (c) and (d) pertaining to contracts as none of the legislation authorizing this program set out any special contracting requirements. Normal contracting procedures for Federally funded contracts as set out in OSM Directive GMT 10, "Federal Assistance Manual," and other relevant documents are to be followed. In many instances, fire control projects must be initiated quickly to prevent the fire from becoming much larger or to control quickly a threat to public health and safety. States entering into cooperative agreements with OSM to extinguish or control coal formation fires may need to use more expedited contracting procedures than those used for regular AML projects. States managing their emergency AML programs have often had to develop more expedited contracting procedures. Sometimes new legislation has been required to do so.

It is also proposed to change the title of § 880.5 (redesignated 880.13) to "Project implementation." Subparagraphs (a) and (b) would establish responsibilities for implementing projects to extinguish or control coal formation fires in States having an approved abandoned mine land program and in other States or on Federal lands.

OSM proposes to modify § 880.6 (redesignated 880.14) to recognize that, while some projects to extinguish or control coal formation fires may be implemented by OSM, others may be implemented by States or another Federal agency.

Finally, subsection 880.7 (redesignated 880.15) would be amended to acknowledge that private parties may, when appropriate, be providing assistance.

IV. Procedural Matters

Paperwork Reduction Act

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12866

This rule has been reviewed under Executive Order 12866.

Regulatory Flexibility Act

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule facilitates voluntary cooperative agreements between OSM and States for the purpose of extinguishing fires in coal formation outcrops.

Author

The principal author of this rule is Thomas E. Browne, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–208–2661.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA) and has made a tentative finding that the proposed rule would not significantly affect the quality of the human environment under section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). It is anticipated that a Finding of No Significant Impact will be approved for the final rule in accordance with OSM procedures under NEPA. The EA is on file in the OSM Administrative Record at the address specified previously (see ADDRESSES). An EA will be completed on the final rule and a finding made on the significance of any resulting impacts prior to promulgation of the final rule.

Executive Order 12778 on Civil Justice Reform

This proposed rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform (56 FR 55195). In general, the requirements of section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this proposed rule. Additional remarks follow concerning individual elements of the Executive Order:

A. What is the preemptive effect, if any, to be given to the regulation?

This rule will have no preemptive effect on State/Tribal laws or regulations.

B. What is the effect on existing Federal law or regulation, if any, including all provisions repealed or modified?

This rule modifies the AML program regulations pursuant to the Act of August 31, 1954 (30 U.S.C. 551–558); section 205(a)(2) of the Appalachian Regional Development Act of 1965 (Pub. L. 89–4, 79 Stat. 5), and the Energy Policy Act of 1992, Public Law 102–486, as described herein, and is not intended to modify the rules or provisions of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Does the rule provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of the Act of August 31, 1954 and the Energy Policy Act of 1992.

D. What is the retroactive effect, if any, to be given to the regulation?

This rule is not intended to have retroactive effect.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of the proposed revision. Prior to any judicial challenge to the application of the revision, however, administrative procedures must be exhausted.

F. Does the rule define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms that are important to the understanding of this rule are set forth in 30 CFR 880.5.

G. Does the rule address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purposes of the Executive Order.

As of the date of publication in the Federal Register, the Attorney General has not issued any guidance on this requirement.

List of Subjects in 30 CFR Part 880

Appalachia, Fire control or extinguishment, Government contracts, Grant programs—Natural Resources, Mine safety and health.

Accordingly, it is proposed to amend 30 CFR Part 880 as set forth below:

Dated: October 15, 1993.

Bob Armstrong,

Assistant Secretary—Land and Minerals Management.

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER R—ABANDONED MINE LAND RECLAMATION

1. The Title of Part 880 is revised to read as follows:

PART 880—MINE FIRE CONTROL

2. The authority citation for part 880 is revised to read as follows:

Authority: 30 U.S.C. 551–558 and 40 U.S.C. App. 205.

3. Sections 880.2 through 880.8 are redesignated as follows:

Old section	New section
880.2	880.5
880.3	880.11
880.4	880.12
880.5	880.13
880.6	880.14
880.7	880.15
880.8	880.16

4. Section 880.1 is revised to read as follows:

§ 880.1 Scope.

Projects for the control or extinguishment of outcrop or underground fires in coal formations under the authority of the Act of August 31, 1954 (30 U.S.C. 551–558); section 205(a)(2) of the Appalachian Regional Development Act of 1965 (Pub. L. 89–4, 79 Stat. 5), and the Energy Policy Act of 1992 (Pub. L. 102–486).

5. Section 880.5 is amended by removing definition (c); by redesignating definition (d) and (c) and revising it; and adding new definitions (d), (e), and (f) to read as follows:

§ 880.5 Definitions.

* * * * *

(c) *Local authorities* means the State or local governmental bodies organized and existing under the authority of State laws including but not limited to a county, city, township, town, or borough;

(d) *Approved abandoned mine reclamation program* means a program meeting the requirements defined in Section 405 of PL 95–87;

(e) *Operating coal mine* means a coal mine for which the regulatory authority has not terminated its jurisdiction as set out under 30 CFR 700.11(d)(1);

(f) *Inactive coal mine* means a coal mine for which the regulatory authority has terminated its jurisdiction as set out under 30 CFR 700.11(d)(1).

6. Section 880.11 is revised to read as follows:

§ 880.11 Qualifications of projects.

The purpose of all projects to control or extinguish fires in coal formations must be, the Secretary's judgment, to prevent injury and loss of life, protect public health, conserve natural resources, or protect public and private property. Federal funds cannot be used to fund projects to control or extinguish fires in coal formations in privately owned operating coal mines. Further, any such cooperative agreement that is entered into under the Energy Policy Act of 1992 with an AML State eligible to receive funds from the Appalachian Regional Development Commission is not subject to review by that Commission.

7. Section 880.12 is amended by removing paragraph (d) and revising paragraphs (a), (b) and (c) to read as follows:

§ 880.12 Cooperative agreements.

(a) OSM shall, upon application by a State or Indian tribe with an approved abandoned mine reclamation program, enter into a cooperative agreement with the State or Indian tribe to control or extinguish fires in coal informations.

(b) OSM is authorized to conduct coal formation fire control projects with States/Indian tribes not having an approved abandoned mine reclamation program. However, upon application by such a State/Indian tribe, OSM may enter into a cooperative agreement with the State/Indian tribe and the local authorities to control or extinguish fires in coal formations. OSM shall require in connection with any project for the control or extinguishment of fires in any inactive coal mine on lands not owned or controlled by the United States or any of its agencies, except where such project is necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies in a such a State: (1) That the State or the person owning or controlling such lands contribute on a matching basis 50 percent of the cost of planning and executing such project, or (2) if such State or person furnishes evidence satisfactory to the Secretary of an inability immediately to make the matching contribution herein provided for, that such State or person pay the Government, within such time as the Secretary shall determine, an amount equal to 50 percent of the cost of planning and executing such project. If the project is funded by the Appalachian Regional Commission, the Federal share may be less than but shall not exceed 75 percent of the cost of the project.

(c) OSM is authorized to conduct fire control projects on lands owned or controlled by the United States. However, upon application by another Federal agency having jurisdiction for lands owned or controlled by the United States, OSM may enter into an agreement with the other Federal agency to control or extinguish fires in coal formations. There are no cost sharing requirements.

8. Section 880.13 is revised by changing the title to "Project implementation," removing paragraphs (c) and (d), and revising paragraphs (a) and (b) to read as follows:

§ 880.13 Project implementation.

(a) Under cooperative agreements with States having an approved AML reclamation plan:

(1) States will design, plan, and engineer a method of operation for control or extinguishment of the outcrop or underground mine fire, and will execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts.

(2) If OSM assistance is required, OSM will be reimbursed by the State for all costs incurred including OSM employees' time.

(b) In States not having an approved AML reclamation plan and on Federal lands, OSM has the authority to design, plan, and engineer a method of operation for control or extinguishment of the outcrop or underground mine fire, and will execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts. OSM, may, at its discretion, delegate authority to perform this work to States or other Federal agencies.

9. Section 880.14 has been revised to read as follows:

§ 880.14 Administration of contributions.

Financial contributions made by a State, local authorities, or another Federal agency will be deposited in trust in the Treasury of the United States for withdrawal by OSM and expenditure by the organization executing the project (OSM, a State, or another Federal agency) pursuant to the cooperative agreement and as necessary in performance of the project work. Withdrawals and expenditures from the trust fund will be made only for costs connected with the project. Any part of the money contributed by a State, local authority, or another Federal agency for an individual project that remains unexpended upon the completion or termination of projection will be

VOL
58
ISS
246
DE
27
1993
UMI

returned to the State, local authority, or other Federal agency.

10. Section 880.15 is amended by revising the section heading; by revising the introductory paragraph; and by revising paragraphs (a), (b) and (g) to read as follows:

§ 880.15 Assistance by States, local authorities, and private parties.

State, local authorities, or private parties, as may be appropriate in each particular project, and without cost or charge to project costs may:

(a) Provide assistance in planning and engineering the project as requested by the organization executing the project;

(b) Furnish best available information, data, and maps on the location of the project and the location of water, sewer, and power lines within the project area, and maps or plats showing properties and lands on which releases, consents, or rights or interests in lands have been obtained.

* * * * *

(g) Furnished noncombustible materials suitable for implementing the planned fire control work. This material may be waste or borrow material obtained at the site or brought in from off site.

* * * * *

[FR Doc. 93-31460 Filed 12-23-93; 8:45 am]

BILLING CODE 4210-65-M

federal register

Monday
December 27, 1993

Part VII

Federal Emergency Management Agency

Changes to the Hotel and Motel Fire Safety Act National Master List; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: January 26, 1994.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: Larry Maruskin, Office of Fire Prevention and Arson Control, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1141.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation effecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Tuesday, November 24, 1992, 57 FR 55314, and published changes approximately monthly since then.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 58 FR 17020 on March 31, 1993. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices.

Each update contains or may contain three categories: "Additions;" "Corrections/changes;" and "Deletions." For the purposes of the updates, the three categories mean and include the following:

"Additions" are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

"Corrections/changes" are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

"Deletions" are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

The update to the national master list follows below.

Dated: December 21, 1993.

John P. Carey,

General Counsel.

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 12/17/93 UPDATE

	Property Name	PO Box/Rt. No and Street Address	City	State/Zip	Telephone
	ADDITIONS				
AZ					
	LA QUINTA INN #4908	2510 W. GREENWAY ROAD	PHOENIX	AZ 85023	602–993–0800
CA					
	RAMADA MAINGATE—ANAHEIM	1460 S. HARBOR BLVD.	ANAHEIM	CA 92802	714–772–6777
	BEST WESTERN TROPICS MOTOR HOTEL	9274 E. HOBSON WY.	BLYTHE	CA 92225	619–922–5101
	RAMADA INN	825 EAST F ST.	OAKDALE	CA 95361	209–847–8181
	RED LION/REDDING	1830 HILLTOP DR.	REDDING	CA 96001	916–221–8700
	HORTON GRAND HOTEL	311 ISLAND AVE.	SAN DIEGO	CA 92101	619–544–1836
	BEST WESTERN ROYAL OAK MOTOR HOTEL	214 MADONNA RD.	SAN LUIS OBISPO	CA 93405	805–544–4410
CT					
	RAMADA INN CAPITOL HILL	440 ASYLUM ST.	HARTFORD	CT 06103	203–246–6591
	CLARION HOTEL	5 CONSTITUTION PLAZA	HARTFORD	CT 06103	203–278–2000
	HOLIDAY INN—EAST	363 ROBERTS STREET	HARTFORD	CT 06108	203–528–9611
	HOWARD JOHNSON LODGE	1052 BOSTON POST RD.	MILFORD	CT 06460	203–878–4511
	HOLIDAY INN—NEW HAVEN	30 WHALLEY AVENUE	NEW HAVEN	CT 06511	203–777–6221
	HOLIDAY INN—NORTH HAVEN	201 WASHINGTON AVE.	NORTH HAVEN	CT 06473	203–239–4225
	WOODSTOCK CONFERENCE CENTER	ROUTE 169	SOUTH WOODSTOCK.	CT 06281	
	HOWARD JOHNSON LODGE	2636 SOUTH MAIN STREET	WATERBURY	CT 06706	203–756–7951
	RAMADA INN-WETHERSFIELD	1330 SILAS DEANE HIGHWAY	WETHERSFIELD	CT 06109	203–563–2311
	BUDGETEL INN	64 ELLA GRASSO TURNPIKE	WINDSOR LOCKS	CT 06096	203–623–3336
GA					
	RAMADA INN ALBANY	2505 NORTH SLAPPEY BLVD.	ALBANY	GA 31701–1095	912–883–3211
	BUDGETEL INN LENOX	2535 CHANTILLY DRIVE	ATLANTA	GA 30324	404–321–0999
	DAYS INN NORTHLAKE	2158 RANCHWOOD DR.	ATLANTA	GA 30345	404–934–6000
	HOLIDAY INN CENTRAL ATLANTA	418 ARMOUR DR	ATLANTA	GA 30324	404–873–4661

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 12/17/93 UPDATE—Continued

	Property Name	PO Box/Rt. No and Street Address	City	State/Zip	Telephone
	STOUFFER CONCOURSE HOTEL	#1 HARTSFIELD CENTRE PKWY.	ATLANTA	GA 30354	404–209–9999
	BUDGETEL INN BRUNSWICK	105 TOURIST DR.	BRUNSWICK	GA 31520	912–265–7725
	RAMADA INN BRUNSWICK	3241 GLYNN AVE.	BRUNSWICK	GA 31523	912–264–8611
	DAYS INN GWINNETT PLACE	1946 DAY DR.	DULUTH	GA 30136	404–476–1211
	GLENNVILLE INN	812 NORTH MAIN ST.	GLENNVILLE	GA 30427	912–654–3407
	BUDGETEL INN ROSWELL	575 OLD HOLCOMB BRIDGE RD.	ROSWELL	GA 30076	404–552–0200
	HOWARD JOHNSON CUMBERLAND	2700 CURTIS DR.	SMYRNA	GA 30080	404–435–4990
HI					
	EWA KAI APARTMENT HOTEL	61–161 KUHINA ST.	EWA BEACH, OAHU	HI 96706	808–689–7946
	HANALEI BAY RESORT	5380 HONOIKI RD.	HANALEI, KAUAI	HI 96714	808–826–6522
	ASTON WAIKIKI BEACH TOWER	2470 KALAKAUA AVE.	HONOLULU, OAHU	HI 96815	808–926–8400
	ASTON WAIKIKI BEACHSIDE HOTEL	2452 KALAKAUA AVE.	HONOLULU, OAHU	HI 96815	808–931–2100
	BREAKERS HOTEL	250 BEACHWALK	HONOLULU, OAHU	HI 96815	808–923–3181
	EXECUTIVE CENTRE HOTEL	1088 BISHOP ST	HONOLULU, OAHU	HI 96813	808–539–3000
	HAWAII POLO INN	1696 ALA MOANA BLVD	HONOLULU, OAHU	HI 96815	808–949–0061
	HAWAII POLO INN	1696 ALA MOANA BLVD	HONOLULU, OAHU	HI 96815	808–949–0061
	HAWAIIANA HOTEL CORPORATION	260 BEACH WALK	HONOLULU, OAHU	HI 96815	808–923–3811
	HOLIDAY INN HONOLULU INTERNATIONAL AIRPORT.	3401 N. NIMITZ HWY	HONOLULU, OAHU	HI 96819	808–836–0661
	MARINE SURF WAIKIKI	364 SEASIDE AVE.	HONOLULU, OAHU	HI 96815	808–923–0277
	OUTRIGGER ALA WAI TOWER	1700 ALA MOANA BLVD	HONOLULU, OAHU	HI 96815	808–942–7722
	SHERATON PRINCESS KAIULANI HOTEL	120 KAIULANI AVE	HONOLULU, OAHU	HI 96815	808–922–5811
	WAIKIKI PARC HOTEL	2233 HELUMOA RD	HONOLULU, OAHU	HI 96815	808–921–7272
	WAIKIKI ROYAL SUITES	255 BEACH WALK	HONOLULU, OAHU	HI 96815	808–926–5641
	ALANA WAIKIKI HOTEL	410 ALA MOANA BLVD	HONOLULU, OAHU	HI 96815	808–941–7275
	ASTON KONA BY THE SEA	75–6106 ALII DR	KAILUA KONA	HI 96740	808–327–2300
	KONA VILLAGE RESORT	PO BOX 1299	KAILUA KONA	HI 96745	808–325–5556
	ASTON KAUAI BEACHBOY	4–484 KUHIO HWY	KAPAA, KAUAI	HI 96746	808–823–0916
	COCO PALMS RESORT	4–241 KUHIO HWY	KAPAA, KAUAI	HI 96746	808–823–0760
	HOTEL CORAL REEF	1516 KUHIO HWY	KAPAA, KAUAI	HI 96746	808–822–4481
	PLANTATION HALE	484 KUHIO HWY	KAPAA, KAUAI	HI 96746	808–822–4941
	MAUI SUN HOTEL	175 E. LIPOA ST	KIHEI	HI 96753	808–875–9000
	ASTON MAUI LU RESORT	575 S. KIHEI RD	KIHEI, MAUI	HI 96753	808–879–5881
	ASTON MAUI VISTA	2191 S. KIHEI RD	KIHEI, MAUI	HI 96753	808–879–7966
	MAUNA KEA BEACH HOTEL	1 MAUNA KEA BEACH DR	KOHALA	HI 96743	808–882–7222
	MAUNA LANI BAY HOTEL & BUNGALOWS	1 MAUNA LANI DR	KOHALA	HI 96743	808–885–6622
	COLONY'S POIPU KAI RESORT	1941 POIPU RD	KOLOA	HI 96746	808–742–9676
	ASTON MAUI PARK	3626 LOWER HONDAPIILANI HWY.	LAHAINA, MAUI	HI 96761	808–669–6622
	COLONY'S NAPILI SHORES RESORT	5315 HONDAPIILANI HWY	LAHAINA, MAUI	HI 96761	808–669–8061
	SHERATON MAUI HOTEL	2605 KAANAPALI PKWY	LAHAINA, MAUI	HI 96761	808–661–0031
	THE WHALER ON KAANAPALI BEACH	2481 KAANAPALI PKWY	LAHAINA, MAUI	HI 96761	808–661–4861
	ASTON KAANAPALI SHORES RESORT	3445 HONOAPIILANI HWY	LAHAINA, MAUI	HI 96761	808–667–2211
	THE LODGE AT KOELE	PO BOX 774 1 KEOMOKU HWY.	LANAI CITY, LANAI	HI 96763	808–565–7300
	ASTON KAUAI BEACH VILLAS	4330 KAUAI BEACH DR	LIHUE, KAUAI	HI 96766	808–245–7711
	OUTRIGGER KAUAI BEACH	4331 KAUAI BEACH DR	LIHUE, KAUAI	HI 96766	808–245–1955
	KALUAKOI HOTEL AND GOLF CLUB	PO BOX 1977	MAUNALOA, MOLOKAI.	HI 96770	808–552–2555
	SHERATON MAKAHA RESORT AND COUNTRY CLUB.	84–626 MAKAHA VALLEY RD	WAIANEA, OAHU	HI 96792	808–695–9511
	HYATT REGENCY WAIKOLOA	HCO2BOX 5500	WAIKOLOA	HI 96743	808–885–1234
	MAUI INTECONTINENTAL RESORT	3700 WAILEA ALANUI DR	WAILEA, MAUI	HI 96753	808–879–1922
	PALMS AT WAILEA RESORT	3200 WAILEA ALANUI DR	WAILEA, MAUI	HI 96753	808–879–5800
	KAUAI RESORT HOTEL	3–5920 KUHIO HWY	WAILUA, KAUAI	HI 96746	808–245–3931
	IHILANI RESORT AND SPA	92–1001 OLANI ST	WEST OAHU, OAHU	HI 96707	808–679–0079
IN					
	ANDERSON COMFORT INN	2205 E. 59TH ST	ANDERSON	IN 46013	317–644–4422
	AUBURN INN	225 TOURING DRIVE	AUBURN	IN 46706	219–925–6363
	ECONO LODGE	4501 E. THIRD ST	BLOOMINGTON	IN 47401	812–332–2141
	ECONO LODGE	713 PLAZA DR	CHESTERTON	IN 46304	219–929–4416
	SUPER 8 MOTEL	1025 COREY BLVD	CRAWFORDSVILLE	IN 46933	317–364–9999
	HOLIDAY INN EXPRESS NORTHEAST	9799 N. BY NORTHEAST BLVD.	FISHER	IN 46038	317–578–2000
	CARLTON LODGE GOSHEN	1930 LINCOLNWAY EAST	GOSHEN	IN 46526	219–534–3133
	EMBASSY SUITES DOWNTOWN INDIANAPOLIS.	110 W. WASHINGTON ST	INDIANAPOLIS	IN 46204	317–236–1500
	QUALITY INN EAST	3525 N. SHADELAND AVE	INDIANAPOLIS	IN 46226	317–549–2222
	WYNDHAM INDIANAPOLIS	251 E. PENNSYLVANIA PKWY	INDIANAPOLIS	IN 46280	317–574–4600

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 12/17/93 UPDATE—Continued

Property Name	PO Box/Rt. No and Street Address	City	State/Zip	Telephone
INDIANAPOLIS HILTON	31 W. OHIO ST	INDIANAPOLIS	IN 46204	317-635-2000
COMFORT INN	522 ESSEX DR	KOKOMO	IN 46901	317-452-5050
KOKOMO COMFORT INN	522 ESSEX DRIVE	KOKOMO	IN 46901	317-452-5050
RED ROOF INN	4201 STATE RT. 26 E	LAFAYETTE	IN 47905	317-448-4671
RADISSON HOTEL AT STAR PLAZA	800 EAST 81ST AVE	MERRILLVILLE	IN 46410	219-769-6311
RED ROOF INN	110 WEST KIEFFER RD	MICHIGAN CITY	IN 46360	219-874-5251
FOUR SEASONS MOTEL	2400 W. FOURTH ST	MT. VERNON	IN 47620	812-838-4821
MUNCIE COMFORT INN	4011 W. BETHEL	MUNCIE	IN 47305	317-282-5666
HOLIDAY INN	3400 S. MADISON ST	MUNCIE	IN 47302	317-358-3031
COMFORT INN AMISH ACRES	1234 W. MARKET ST	NAPPANEE	IN 46550	219-773-2011
HOLIDAY INN RICHMOND	4700 NATIONAL ROAD E	RICHMOND	IN 47374	317-962-5551
SEYMOUR HOLIDAY INN	2025 E. TIPTON ST	SEYMOUR	IN 47274	812-522-6767
RESIDENCE INN BY MARRIOTT SOUTH BEND.	716 N. NILES AVE	SOUTH BEND	IN 46617	219-289-5555
MA				
HOWARD JOHNSON	575 COMMONWEALTH AVE	BOSTON	MA 02215	617-267-3100
HOWARD JOHNSON HOTEL	187 CHELMSFORD ST	CHELMSFORD	MA 01824	508-256-7511
MI				
CARLTON LODGE ADRIAN	1629 W. MAUMEE	ADRIAN	MI 49221	317-263-7000
HAMPTON INN	1561 N. OPDYKE RD	AUBURN HILLS	MI 48326	313-370-0044
CARLTON LODGE BENTON HARBOR	1592 MALL DR	BENTON HARBOR	MI 49022	616-925-3000
RED ROOF INN	1630 MALL DR	BENTON HARBOR	MI 49022	616-927-2484
RADISSON RIVERFRONT HOTEL	ONE RIVERFRONT CENTER WEST.	FLINT	MI 48502	313-239-1234
RED ROOF INN EAST	3701 E. CORK ST	KALAMAZOO	MI 49001	616-382-5350
RED ROOF INN WEST	5425 W. MICHIGAN AVE	KALAMAZOO	MI 49009	616-375-7400
WYNDHAM NOVI	42100 CRESCENT BLVD	NOVI	MI 48375	313-344-8800
ECONO LODGE	1858 US 131 S	PETOSKEY	MI 49770	616-348-3324
RED ROOF INN	2580 CROOKS RD	ROCHESTER HILLS	MI 48309	313-853-6400
RADISSON PLAZA HOTEL AT TOWN CENTER.	1500 TOWN CENTER DR	SOUTHFIELD	MI 48075	313-827-4000
DRURY INN TROY	575 W. BIG BEAVER RD	TROY	MI 48084	313-528-3330
MN				
HOLIDAY INN EXPRESS	1010 BANDANA BLVD W	ST. PAUL	MN 55108	612-647-1637
NJ				
HOJO INN	832 N. BLACK HORSE PIKE	BLACKWOOD	NJ 08012	609-228-4040
SWAN MOTEL AND EXECUTIVE VILLAGE	PO BOX 1700 201-311 E EDGAR RD.	LINDEN	NJ 07036	908-862-4500
BENEDICT MOTEL AND APARTMENTS	PO BOX 1700 401 W. EDGAR RD.	LINDEN	NJ 07036	908-862-7700
SHERATON CROSSROADS HOTEL & TOWERS.	CROSSROADS CORPORATE CENTER.	MAHWAH	NJ 07495	201-529-1660
NOVOTEL HOTEL PRINCETON	100 INDEPENDENCE WAY	PRINCETON	NJ 08822	609-520-1200
NASSAU INN	10 PALMER SQ	PRINCETON	NJ 08542	609-921-7500
CEDARS MOTEL	1622 ROUTE 9	TOMS RIVER	NJ 08755	908-349-3557
PA				
RESIDENCE INN BY MARRIOTT—PHILA AIRPORT.	4630 ISLAND AVENUE	PHILADELPHIA	PA 19153	215-492-1611
HOLIDAY INN CITY LINE—PHILADELPHIA	4100 PRESIDENTIAL BLVD	PHILADELPHIA	PA 19131	215-477-0200
RAMADA HOTEL ON THE SQUARE	20 PUBLIC SQUARE	WILKES-BARRE	PA 18702	717-824-7100
VA				
QUALITY HOTEL ARLINGTON	1200 N. COURTHOUSE ROAD	ARLINGTON	VA 22201-0000	703-524-4000
RED ROOF INN #106	100 GRESHAMWOOD PLACE	RICHMOND	VA 23225-0000	804-745-0600
RAMADA INN	1500 EASTRIDGE ROAD	RICHMOND	VA 23229-0000	804-285-9061
WA				
RED LION ABERDEEN	521 W. WISHKAH	ABERDEEN	WA 98520	206-532-5210
HOLIDAY INN EVERETT	101 128TH ST. SE	EVERETT	WA 98208	206-745-2555
HOLIDAY INN EXPRESS VANCOUVER	9107 NE VANCOUVER	VANCOUVER	WA 98662	206-253-5000
RED LION INN YAKIMA	818 N. FIRST ST.	YAKIMA	WA 98901	509-453-0391
WY				
SHILO INN CASPER EVANSVILLE	PO BOX 246	EVANSVILLE	WY 82636	307-641-6565
CORRECTIONS/CHANGES				
CT				
MANOR HOUSE	PO BOX 447 MAPLE AVE.	NORFOLK	CT 06058	203-542-5690
CHESTERFIELD COUNTRY LODGE	RT 85, 1596 HARTFORD RD.	OAKDALE	CT 06370	203-442-0039
HI				
ASTON HONOLULU PRINCE HOTEL	415 NAHUA ST.	HONOLULU, OAHU	HI 96815	808-922-1616
ASTON INN ON THE PARK	1920 ALA MOANA BLVD.	HONOLULU, OAHU	HI 96815	808-946-8355
ASTON ISLAND COLONY HOTEL	445 SEASIDE AVE.	HONOLULU, OAHU	HI 96815	808-923-2345
ASTON WAIKIKI SUNSET HOTEL	229 PAOAKALANI AVE.	HONOLULU, OAHU	HI 96815	808-922-0511

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 12/17/93 UPDATE—Continued

Property Name	PO Box/Rt. No and Street Address	City	State/Zip	Telephone
BEST WESTERN PLAZA HOTEL	3253 N. NIMITZ HWY.	HONOLULU, OAHU	HI 96819	808-836-3636
COLONY'S PACIFIC MONARCH	142 ULUNIU AVE.	HONOLULU, OAHU	HI 96815	808-923-9805
OUTRIGGER ALA WAI TERRACE	1684 ALA MOANA BLVD.	HONOLULU, OAHU	HI 96815	808-949-7384
PLEASANT HOLIDAY ISLE HOTEL	270 LEWERS ST.	HONOLULU, OAHU	HI 96815	808-923-0777
SHERATON MOANA SURFRIDER	2365 KALAKAUA AVE.	HONOLULU, OAHU	HI 96815	808-922-3111
THE WESTIN KAUAI	KALAPAKI BEACH	KAUAI	HI 96766	808-245-5050
FOUR SEASONS RESORT	3900 WAILEA ALANUI DR.	WAILEA, MAUI	HI 96753	808-874-8000
GRAND WAILEA RESORT AND SPA	3850 WAILEA ALANUI DR.	WAILEA, MAUI	HI 96753	808-875-1234
KEA LANI HOTEL SUITES AND VILLAS	4100 WAILEA ALANUI DR.	WAILEA, MAUI	HI 96753	808-
MAUI INTERCONTINENTAL RESORT	3700 WAILEA ALANUI DR.	WAILEA, MAUI	HI 96753	808-879-1922
IN				
HOWARD JOHNSON	2508 US HIGHWAY 41	EVANSVILLE	IN 47711	812-425-1092
AIRPORT QUALITY INN	3939 FERGUSON RD.	FORT WAYNE	IN 46809	219-747-9171
HOLIDAY INN EXPRESS SOUTH KEYSTONE.	3514 S. KEYSTONE AVE.	INDIANAPOLIS	IN 46227	317-788-3100
HOLIDAY INN OF MICHIGAN CITY	5820 S. FRANKLIN ST.	MICHIGAN CITY	IN 46360	219-879-0311
PA				
COMFORT INN PENN'S LANDING	100 N. CHRISTOPHER COLUMBUS BL.	PHILADELPHIA	PA 19106	215-627-7900
VA				
NATURAL BRIDGE OF VIRGINIA INC	P.O. BOX 57, U.S. HIGHWAY 11.	NATURAL BRIDGE	VA 24578-0057	703-291-2121
VT				
CORTINA INN	RT. 4 KILLINGTON RD.	KILLINGTON	VT 05751	800-451-6108
DELETIONS				
IN				
ECONO LODGE	4501 E. 3RD	BLOOMINGTON	IN 47401	812-332-2141
ECONO LODGE HOTEL	713 PLAZA RD.	CHESTERTON	IN 46304	219-929-4416
HILTON INDIANAPOLIS	31 W. OHIO ST.	INDIANAPOLIS	IN 46204	317-635-2000
RESIDENCE INN	716 N. NILES AVE.	SOUTH BEND	IN 46601	219-289-5555

VOL
58
ISS
2
4
6
DE
27
1993
UMI

Reader Aids

Federal Register
Vol. 58, No. 246
Monday, December 27, 1993

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447
Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230
Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
General information	523–5230
Other Services	
Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, and Federal Register finding aids.	202–275–1538, or 275–0920

FEDERAL REGISTER PAGES AND DATES, DECEMBER

63277–63518.....1
63519–63884.....2
63885–64100.....3
64101–64364.....6
64365–64454.....7
64455–64668.....8
64669–64870.....9
64871–65098.....10
65099–65276.....13
65277–65526.....14
65527–65656.....15
65657–65864.....16
65865–66246.....17
66247–67302.....20
66303–67624.....21
67625–68014.....22
68015–68290.....23
68291–68504.....27

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
11.....64871

3 CFR
Proclamations:
6320 (See USTR notice of Dec. 14).....65424
6352 (See USTR notice of Dec. 14).....65424
6365 (See Proc. 6641).....66867
6515 (See Proc. 6641).....66867
6030 (See Proc. 6641).....66867
5923 (Superseded in part by Proc. 6641).....66867
6630.....63277
6631.....63279
6632.....63883
6633.....64363
6634.....64867
6635.....65279
6636.....65525
6637.....65527
6638.....65529
6639.....65865
6640.....65867
6641.....66867, 68191
6642.....67625
6643.....68288
Executive Orders:
3406 (Revoked in part by PLO 7020).....64166
12163 (See EO 12884).....64099
12884).....64099
12543 (See notice of December 2).....64361
12544 (See notice of December 2).....64361
12748 (Amended by 12883).....63281
12829 (Amended by EO 12885).....65863
12865 (See DOT final rule of Dec. 10).....64904
12883.....63281
12884.....64099
12885.....65863
Administrative Orders:
Memorandums:
December 1, 1993.....64097
December 15, 1993.....67263, 68191
Presidential Determinations:
No. 94–4 of November 19, 1993.....63519
No. 94–5 of December 3, 1993.....65277
No. 94–6 of December 6, 1993.....65099
Notices:
December 2, 1993.....64361

5 CFR
52.....64365
293.....65531
351.....65531
430.....65531
432.....65531
451.....65531
511.....65531
530.....65531
531.....65531
536.....65531
540.....65531
575.....65531
591.....65531
595.....65531
771.....65531
831.....64366, 65243

7 CFR
1.....64353
54.....64669
68.....68015
75.....64101
301.....64102, 67627
330.....66247
400.....64872, 67303
401.....64873, 67730
430.....66249
443.....67744
905.....65536
920.....65101
955.....64103
981.....64105
987.....64103
989.....64106, 64107
997.....64109
998.....67304
1001.....63283
1002.....63283
1004.....63283
1005.....63283
1007.....63283
1011.....63283
1030.....63283
1033.....63283
1036.....63283
1040.....63283
1044.....63283
1046.....63283
1049.....63283
1065.....63283
1068.....63283
1075.....64110
1079.....63283
1093.....63283
1094.....63283
1096.....63283
1097.....63283
1098.....63283

1099.....63263
1106.....63263
1108.....63263,
1124.....63263
1126.....63263
1131.....63263
1135.....63263
1136.....63263
1220.....64670
1421.....66016
1427.....66162
1484.....66017
1610.....66250
1703.....67308
1710.....66260
1714.....66260
1735.....66250
1737.....66250
1744.....66259
1751.....66259
1753.....66250
1948.....65671
1951.....64455
1980.....65671
3416.....65646

Proposed Rules:

271.....64172
301.....66304
319.....66304, 66305
321.....66305
704.....66308
723.....67376
810.....65939
930.....66065
981.....64175
985.....67378
1001.....67360
1002.....67360
1004.....67360
1005.....67360
1006.....67360
1007.....65135, 67360
1011.....67360
1012.....67360
1013.....67360
1030.....67360
1032.....67360
1033.....67360
1036.....67360
1040.....64176, 67360
1044.....67360
1046.....67360
1049.....67360
1050.....67360
1064.....67360
1065.....67360
1068.....67360
1075.....67360
1076.....67360
1079.....67360
1093.....67360
1094.....67360
1096.....67360
1099.....67360
1106.....67360
1108.....67360
1124.....67360
1126.....67360
1131.....67360, 67703
1134.....67360
1135.....67360
1137.....67360
1139.....67360
1139.....67360
1250.....65639
1410.....66308
1525.....65941

9 CFR

264.....66024

Proposed Rules:

210a.....64695

9 CFR

94.....65103, 66247
130.....67647
156.....67647
317.....66075
318.....63521, 65254
381.....66254
401.....65254

Proposed Rules:

71.....67709
92.....67709

10 CFR

1.....64110
2.....67657
19.....67657
20.....64110, 67657
30.....64110, 67657
31.....67657
32.....67657
34.....67657
35.....67657
36.....67657
39.....67657
40.....64110, 67657
50.....67657
61.....67657
70.....64110, 67657
72.....67657
73.....64110
835.....65468, 67441

Proposed Rules:

430.....67710
710.....64609

11 CFR

Proposed Rules:

100.....64190
102.....65639
113.....64190

12 CFR

7.....65464
24.....65464
202.....65657
204.....64112
205.....65539
303.....64455
332.....64458
333.....64460
360.....67662
362.....64462
611.....67644
613.....67644
614.....67644, 67665
620.....67664
621.....67664
627.....67644

Proposed Rules:

3.....66065
25.....67466
211.....65560
226.....67466
230.....64190, 65293
330.....64521
345.....67466
510.....64695
563e.....67466
611.....64442, 66069
618.....66069
620.....66069

13 CFR

121.....65281
123.....64672

14 CFR

39.....63523, 63524, 64112, 64114, 64487, 64874, 64875, 64877, 65104, 65115, 65282, 65283, 65862, 65865, 65890, 65894, 65895, 66268, 66270, 66271, 66273, 66274, 66276, 67306, 67307, 67310, 67311, 67665, 67667, 68025, 68026, 68028, 68291
71.....63293, 63885, 63886, 64116, 64117, 64444, 64489, 64879, 64880, 64880, 65897, 65900, 67668, 67669, 67770, 67771
95.....65901
97.....65904, 65905
121.....68194, 68196
158.....64118

Proposed Rules:

25.....64700, 67716
31.....64450
33.....63902
39.....63305, 63307, 64198, 64199, 64200, 64366, 64705, 64707, 64708, 65567, 65569, 65843, 67361, 67723
71.....63308, 63309, 63903, 63904, 63905, 63906, 64367, 64525, 64710, 65845, 65846, 65847, 65848, 65849, 65850, 67725, 67726, 67727, 67728, 67909, 68328, 68329
73.....63908
91.....65950

15 CFR

770.....65540
771.....64674
772.....65540
774.....65029
786.....65540
799.....64674
943.....65664
946.....64068

Proposed Rules:

303.....65294
935.....65566
936.....65566
942.....65585
944.....65566
946.....64202

16 CFR

226.....64881
229.....66292
232.....66292
1000.....64119
1210.....67671

Proposed Rules:

307.....63458
309.....64914
1303.....63311

17 CFR

200.....64120
204.....64369
230.....65541, 67312
239.....65541
240.....67729
270.....64353, 67729
274.....67729

Proposed Rules:

200.....67729
229.....67729
230.....66074
239.....67729, 66074
240.....67729
270.....67729, 66074
274.....67729, 66074

18 CFR

141.....65542

Proposed Rules:

Ch. I.....66309
141.....63312
341.....66310
352.....66310
386.....63312

19 CFR

4.....67312
123.....67312
201.....64126

Proposed Rules:

151.....65135
142.....65135
210.....64711

20 CFR

10.....66031
404.....64121, 64862, 64863, 64866, 64880, 65243
416.....63987, 63988, 64863, 64892, 64893
702.....66031

Proposed Rules:

404.....64207, 67574
416.....64207

21 CFR

5.....64489
16.....65514
100.....64123
176.....65284
177.....65548
178.....64894, 67319
310.....65452
358.....65452
510.....63890
520.....65664
522.....66295
558.....63890
900.....67558, 67565
1220.....64137
1270.....65514

Proposed Rules:

1.....67444
5.....65139
25.....65139
100.....64208
170.....65139
171.....65139
174.....65139
179.....64528
201.....67444
501.....67444
701.....67444
801.....67444
812.....64208
813.....64209
820.....64363

22 CFR

89.....65118

23 CFR

500.....63442, 64374
625.....64806
626.....63422, 64374
655.....65084

Proposed Rules:

420.....67510
511.....67510
657.....65830
658.....65677

24 CFR

200.....67671
219.....64138
246.....64032
266.....64032
905.....64141
970.....64141

Proposed Rules:

300.....64713
310.....64713
390.....64713
3500.....64066

25 CFR

262.....66246

26 CFR

1.....64887, 67676, 67694, 67699, 68033, 68294, 68295, 68297, 68300, 68301
31.....68033
47.....68304
48.....68304
602.....68033, 68297, 68300, 68301

Proposed Rules:

1.....66310, 67744, 68091, 68330, 68334, 68335, 68336, 68337
47.....68338
48.....68338
301.....63541, 68092
602.....68336, 68337

27 CFR

9.....65123

Proposed Rules:

4.....65295

28 CFR

2.....65547
544.....65850, 65851

Proposed Rules:

2.....65571, 65572

29 CFR

402.....67594
2619.....65548, 66277
2621.....65551
2676.....65548

Proposed Rules:

2520.....66339
2530.....66339

30 CFR

50.....63528
70.....63528
71.....63528
90.....63528
207.....64869
208.....64869
210.....64869
216.....64869
218.....64869
220.....64869
228.....64869
229.....64869
243.....64869
925.....64142
931.....65907
936.....64374
939.....64151

Proposed Rules:

253.....66320
700.....63316
701.....63316
705.....63316
706.....63316
715.....63316
716.....63316
785.....63316
825.....63316
870.....63316
880.....66494
906.....64210
914.....64212, 65679
934.....64529
944.....64529
950.....65681

31 CFR

317.....63529
590.....64804

32 CFR

95.....63293
706.....64678

Proposed Rules:

2.....63542
118.....65956

33 CFR

1.....65665
3.....67909
95.....64153
80.....65667
100.....66279
110.....65140, 65285
117.....65668
155.....67998
165.....65669, 66279, 66305, 66306, 66307, 66308
334.....64363

Proposed Rules:

117.....66321, 66322, 66323, 67745, 68093
156.....63544, 65683
157.....66298, 65683
165.....65684
166.....65686
167.....65686

34 CFR

648.....65836

Proposed Rules:

76.....65656
99.....65296
298.....65656
366.....67383
947.....63870

36 CFR

Proposed Rules:

5.....65141
292.....65300
1220.....64915

37 CFR

Ch. III.....67690

1.....64154, 64155
2.....64154
5.....64155
10.....64154, 64155
304.....63294

38 CFR

2.....67691
21.....63529, 67691

Proposed Rules:

3.....65958

39 CFR

Proposed Rules:

111.....64918, 65959, 67747

40 CFR

35.....63878
52.....64155, 64157, 64158, 64161, 64678, 65286, 65930, 65933, 65934, 66280, 66282, 66283, 66285, 66286, 67324, 67326, 67330, 68038
60.....64158
63.....66287
75.....67692
79.....65552
80.....65552
81.....64161, 64490, 67334, 68031
82.....65018
85.....65552
86.....66289
88.....64679
93.....67441
122.....67966
123.....67966
124.....67966
144.....63890
146.....63890
180.....63294, 64492, 64493, 64495, 64496, 65554
191.....66398
228.....64497
300.....63531
372.....63496, 63500
501.....67966
712.....68310, 68317
716.....68311, 68317
721.....63500

Proposed Rules:

51.....65573
52.....63316, 63545, 63547, 63549, 64530, 65307, 65309, 65573, 65686, 65688, 65691, 65959, 66324, 66326, 66334, 67363, 67748, 67754, 68094
60.....65573
61.....65573
63.....65768, 68078, 66336
64.....65573
68.....65311
80.....64213, 66343
81.....66334, 68094
141.....65822
143.....65822
180.....64536, 64538, 67759
258.....66363
261.....67389
300.....63551, 64539
430.....66078

41 CFR

Ch. 301.....67950
101–38.....65286
101–39.....63631, 65288

Proposed Rules:

201–3.....64369
201–4.....64369
201–9.....64369
201–11.....64369
201–18.....64369
201–20.....64369
201–21.....64369
201–22.....64369
201–23.....64369
201–24.....64369
201–39.....64369

42 CFR

57.....66297
60.....67346
405.....63626
412.....67350
413.....67350
414.....63626
417.....66366
434.....65126
481.....63533

Proposed Rules:

57.....63909
413.....65130
435.....65312
436.....65312
440.....65312
447.....65312

43 CFR

Public Land Orders:

7012.....64496
7013.....64165
7014.....64496
7015.....64499
7016.....64499
7017.....64692
7018.....64692
7019.....64693
7020.....64166, 66462
7021.....65130
7022.....65936
7023.....66299

Proposed Rules:

230.....65592
406.....65593
419.....65593
423.....65594
426.....64277
Group 3400.....64919

44 CFR

64.....63899, 67692
65.....66039, 66041, 66043, 66044
67.....66046, 66049

Proposed Rules:

67.....66101, 66105

45 CFR

400.....64499
1355.....67912, 67939
1356.....67912, 67939
1357.....67912
1602.....65291

Proposed Rules:

1370.....64920

46 CFR

1.....65130
16.....66164, 66274
67.....65130, 65243
232.....64798
585.....64909

Proposed Rules:
12.....64276
16.....64276

47 CFR
0.....59053
1.....66299
2.....59053
25.....59053
63.....64167
64.....65669
69.....65669
73.....63295, 63296, 63536, 65132, 65133, 65671, 65672, 65673, 65300
76.....64168, 67694, 68322
80.....68061
87.....67695, 68061
94.....68061
97.....64384

Proposed Rules:
3.....68373
15.....64541
63.....64280
68.....65153
73.....63318, 63319, 63320, 63321, 63553, 65155
76.....64541

48 CFR
232.....64353
501.....64693
509.....64693
552.....64693
9903.....65556

Proposed Rules:
9.....63494
15.....64824
52.....63492, 63494, 64826
904.....63553
917.....63553
936.....63553
939.....63556
943.....63553
952.....63553
970.....63553

49 CFR
7.....65824
10.....67696
171.....66302
199.....68194, 68258
217.....68194, 68232
219.....68194, 68232
390.....67370
391.....68194, 68220
392.....67370
541.....63296
544.....63299
571.....63302, 64168, 65673
614.....63442, 64374

Proposed Rules:
192.....68382
391.....65634
396.....64923
571.....63321, 65156, 67909
583.....63327
659.....64856
1105.....68383
1121.....68383
1152.....68383
1181.....65695
1182.....65695
1186.....65695
1188.....65695
1312.....64717, 68108

50 CFR
17.....65068, 68323, 68476, 68480
20.....65656
216.....63536, 65133
625.....65134, 65936
641.....68325
642.....68327
661.....68063
663.....64169
672.....65556
675.....65292, 65556
685.....67699

Proposed Rules:
17.....63328, 63560, 64281, 64828, 64927, 65097, 65325, 65696, 66383
20.....63488
36.....68012
21.....63488
215.....64285
216.....64285
222.....64856
227.....65961, 68108
285.....67761
301.....67762
611.....64798
625.....64393
630.....67761, 68109
638.....65327
641.....68385
650.....63329
672.....64798
675.....65574, 68386
678.....67761

LIST OF PUBLIC LAWS

Note: The list of Public Laws for the first session of the 103d Congress has been completed and will resume when bills are enacted into law during the second session of the 103d Congress, which convenes on January 25, 1994.

Last List December 23, 1993

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $775.00 domestic, $193.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, or Master Card). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at (202) 783–3238 from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to (202) 512-2233.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-019-00001-1)	$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101)	(869-019-00002-0)	17.00	¹ Jan. 1, 1993
4	(869-019-00003-8)	5.50	Jan. 1, 1993
5 Parts:			
1–699	(869-019-00004-6)	21.00	Jan. 1, 1993
700–1199	(869-019-00005-4)	17.00	Jan. 1, 1993
1200-End, 6 (6 Reserved)	(869-019-00006-2)	21.00	Jan. 1, 1993
7 Parts:			
0–26	(869-019-00007-1)	20.00	Jan. 1, 1993
27–45	(869-019-00008-9)	13.00	Jan. 1, 1993
46–51	(869-019-00009-7)	20.00	Jan. 1, 1993
52	(869-019-00010-1)	28.00	Jan. 1, 1993
53–209	(869-019-00011-9)	21.00	Jan. 1, 1993
210–299	(869-019-00012-7)	30.00	Jan. 1, 1993
300–399	(869-019-00013-5)	15.00	Jan. 1, 1993
400–699	(869-019-00014-3)	17.00	Jan. 1, 1993
700–899	(869-019-00015-1)	21.00	Jan. 1, 1993
900–999	(869-019-00016-0)	33.00	Jan. 1, 1993
1000–1059	(869-019-00017-8)	20.00	Jan. 1, 1993
1060–1119	(869-019-00018-6)	13.00	Jan. 1, 1993
1120–1199	(869-019-00019-4)	11.00	Jan. 1, 1993
1200–1499	(869-019-00020-8)	27.00	Jan. 1, 1993
1500–1899	(869-019-00021-6)	17.00	Jan. 1, 1993
1900–1939	(869-019-00022-4)	13.00	Jan. 1, 1993
1940–1949	(869-019-00023-2)	27.00	Jan. 1, 1993
1950–1999	(869-019-00024-1)	32.00	Jan. 1, 1993
2000-End	(869-019-00025-9)	12.00	Jan. 1, 1993
8	(869-019-00026-7)	20.00	Jan. 1, 1993
9 Parts:			
1–199	(869-019-00027-5)	27.00	Jan. 1, 1993
200-End	(869-019-00028-3)	21.00	Jan. 1, 1993
10 Parts:			
0–50	(869-019-00029-1)	29.00	Jan. 1, 1993
51–199	(869-019-00030-5)	21.00	Jan. 1, 1993
200–399	(869-019-00031-3)	15.00	Jan. 1, 1993
400–499	(869-019-00032-1)	20.00	Jan. 1, 1993
500-End	(869-019-00033-0)	33.00	Jan. 1, 1993
11	(869-019-00034-8)	13.00	Jan. 1, 1993
12 Parts:			
1–199	(869-019-00035-6)	11.00	Jan. 1, 1993
200–219	(869-019-00036-4)	15.00	Jan. 1, 1993
220–299	(869-019-00037-2)	26.00	Jan. 1, 1993
300–499	(869-019-00038-1)	21.00	Jan. 1, 1993
500–599	(869-019-00039-9)	19.00	Jan. 1, 1993
600-End	(869-019-00040-2)	28.00	Jan. 1, 1993
13	(869-019-00041-1)	22.00	Jan. 1, 1993
14 Parts:			
1–59	(869-019-00042-9)	29.00	Jan. 1, 1993
60–139	(869-019-00043-7)	26.00	Jan. 1, 1993
140–199	(869-019-00044-5)	12.00	Jan. 1, 1993
200–1199	(869-019-00045-3)	22.00	Jan. 1, 1993
1200-End	(869-019-00046-1)	16.00	Jan. 1, 1993
15 Parts:			
0–299	(869-019-00047-0)	14.00	Jan. 1, 1993
300–799	(869-019-00048-8)	25.00	Jan. 1, 1993
800-End	(869-019-00049-6)	19.00	Jan. 1, 1993
16 Parts:			
0–149	(869-019-00050-0)	7.00	Jan. 1, 1993
150–999	(869-019-00051-8)	17.00	Jan. 1, 1993
1000-End	(869-019-00052-6)	24.00	Jan. 1, 1993
17 Parts:			
1–199	(869-019-00054-2)	18.00	Apr. 1, 1993
200–239	(869-019-00055-1)	23.00	June 1, 1993
240-End	(869-019-00056-9)	30.00	June 1, 1993
18 Parts:			
1–149	(869-019-00057-7)	16.00	Apr. 1, 1993
150–279	(869-019-00058-5)	19.00	Apr. 1, 1993
280–399	(869-019-00059-3)	15.00	Apr. 1, 1993
400-End	(869-019-00060-7)	10.00	Apr. 1, 1993
19 Parts:			
1–199	(869-019-00061-5)	35.00	Apr. 1, 1993
200-End	(869-019-00062-3)	11.00	Apr. 1, 1993
20 Parts:			
1–399	(869-019-00063-1)	19.00	Apr. 1, 1993
400–499	(869-019-00064-0)	31.00	Apr. 1, 1993
500-End	(869-019-00065-8)	30.00	Apr. 1, 1993
21 Parts:			
1–99	(869-019-00066-6)	15.00	Apr. 1, 1993
100–169	(869-019-00067-4)	21.00	Apr. 1, 1993
170–199	(869-019-00068-2)	20.00	Apr. 1, 1993
200–299	(869-019-00069-1)	6.00	Apr. 1, 1993
300–499	(869-019-00070-4)	34.00	Apr. 1, 1993
500–599	(869-019-00071-2)	21.00	Apr. 1, 1993
600–799	(869-019-00072-1)	8.00	Apr. 1, 1993
800–1299	(869-019-00073-9)	22.00	Apr. 1, 1993
1300-End	(869-019-00074-7)	12.00	Apr. 1, 1993
22 Parts:			
1–299	(869-019-00075-5)	30.00	Apr. 1, 1993
300-End	(869-019-00076-3)	22.00	Apr. 1, 1993
23	(869-019-00077-1)	21.00	Apr. 1, 1993
24 Parts:			
0–199	(869-019-00078-0)	38.00	Apr. 1, 1993
200–499	(869-019-00079-8)	36.00	Apr. 1, 1993
500–699	(869-019-00080-1)	17.00	Apr. 1, 1993
700–1699	(869-019-00081-0)	39.00	Apr. 1, 1993
1700-End	(869-019-00082-8)	15.00	Apr. 1, 1993
25	(869-019-00083-6)	31.00	Apr. 1, 1993
26 Parts:			
§§ 1.0-1–1.60	(869-019-00084-4)	21.00	Apr. 1, 1993
§§ 1.61–1.169	(869-019-00085-2)	37.00	Apr. 1, 1993
§§ 1.170–1.300	(869-019-00086-1)	23.00	Apr. 1, 1993
§§ 1.301–1.400	(869-019-00087-9)	21.00	Apr. 1, 1993
§§ 1.401–1.440	(869-019-00088-7)	31.00	Apr. 1, 1993
§§ 1.441–1.500	(869-019-00089-5)	23.00	Apr. 1, 1993
§§ 1.501–1.640	(869-019-00090-9)	20.00	Apr. 1, 1993
§§ 1.641–1.850	(869-019-00091-7)	24.00	Apr. 1, 1993
§§ 1.851–1.907	(869-019-00092-5)	27.00	Apr. 1, 1993
§§ 1.908–1.1000	(869-019-00093-3)	26.00	Apr. 1, 1993
§§ 1.1001–1.1400	(869-019-00094-1)	22.00	Apr. 1, 1993
§§ 1.1401–End	(869-019-00095-0)	31.00	Apr. 1, 1993
2–29	(869-019-00096-8)	23.00	Apr. 1, 1993
30–39	(869-019-00097-6)	18.00	Apr. 1, 1993
40–49	(869-019-00098-4)	13.00	Apr. 1, 1993
50–299	(869-019-00099-2)	13.00	Apr. 1, 1993
300–499	(869-017-00100-0)	23.00	Apr. 1, 1993
500–599	(869-019-00101-8)	6.00	⁴ Apr. 1, 1990

VOL 58 ISS 246 DEC 27 1993 UMI

Title	Stock Number	Price	Revision Date
600-End	(869-019-00102-6)	8.00	Apr. 1, 1993
27 Parts:			
1-199	(869-019-00103-4)	37.00	Apr. 1, 1993
200-End	(869-019-00104-2)	11.00	[8] Apr. 1, 1991
28 Parts:			
1-42	(869-019-00105-1)	27.00	July 1, 1993
43-end	(869-019-00106-9)	21.00	July 1, 1993
29 Parts:			
0-99	(869-019-00107-7)	21.00	July 1, 1993
100-499	(869-019-00108-5)	9.50	July 1, 1993
500-899	(869-019-00109-3)	36.00	July 1, 1993
900-1899	(869-019-00110-7)	17.00	July 1, 1993
1900-1910 (§§ 1901.1 to 1910.999)	(869-019-00111-5)	31.00	July 1, 1993
1910 (§§ 1910.1000 to end)	(869-019-00112-3)	21.00	July 1, 1993
1911-1925	(869-019-00113-1)	22.00	July 1, 1993
1926	(869-017-00112-1)	14.00	July 1, 1992
1927-End	(869-017-00113-9)	30.00	July 1, 1992
30 Parts:			
1-199	(869-019-00116-6)	27.00	July 1, 1993
200-699	(869-019-00117-4)	20.00	July 1, 1993
700-End	(869-019-00118-2)	27.00	July 1, 1993
31 Parts:			
0-199	(869-019-00119-1)	18.00	July 1, 1993
200-End	(869-019-00120-4)	29.00	July 1, 1993
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-190	(869-019-00121-2)	30.00	July 1, 1993
191-399	(869-019-00122-1)	36.00	July 1, 1993
400-629	(869-019-00123-9)	26.00	July 1, 1993
630-699	(869-019-00124-7)	14.00	[6] July 1, 1991
700-799	(869-019-00125-5)	21.00	July 1, 1993
800-End	(869-019-00126-3)	22.00	July 1, 1993
33 Parts:			
1-124	(869-019-00127-1)	20.00	July 1, 1993
125-199	(869-019-00128-0)	25.00	July 1, 1993
200-End	(869-019-00129-8)	24.00	July 1, 1993
34 Parts:			
1-299	(869-019-00130-1)	27.00	July 1, 1993
300-399	(869-019-00131-0)	20.00	July 1, 1993
400-End	(869-019-00132-8)	37.00	July 1, 1993
35	(869-019-00133-6)	12.00	July 1, 1993
36 Parts:			
1-199	(869-019-00134-4)	16.00	July 1, 1993
200-End	(869-019-00135-2)	35.00	July 1, 1993
37	(869-019-00136-1)	20.00	July 1, 1993
38 Parts:			
0-17	(869-019-00137-9)	31.00	July 1, 1993
18-End	(869-019-00138-7)	30.00	July 1, 1993
39	(869-019-00139-5)	17.00	July 1, 1993
40 Parts:			
1-51	(869-017-00138-4)	31.00	July 1, 1992
52	(869-017-00139-2)	33.00	July 1, 1992
53-60	(869-017-00140-6)	36.00	July 1, 1992
61-80	(869-017-00141-4)	16.00	July 1, 1992
81-85	(869-017-00142-2)	17.00	July 1, 1992
86-99	(869-017-00143-1)	33.00	July 1, 1992
100-149	(869-017-00144-9)	34.00	July 1, 1992
150-189	(869-017-00145-7)	21.00	July 1, 1992
190-259	(869-019-00149-2)	17.00	July 1, 1993
260-299	(869-017-00147-3)	36.00	July 1, 1992
300-399	(869-017-00148-1)	15.00	July 1, 1992
400-424	(869-017-00149-0)	26.00	July 1, 1992
425-699	(869-017-00150-3)	26.00	July 1, 1992
700-789	(869-017-00151-1)	23.00	July 1, 1992
790-End	(869-017-00152-0)	25.00	July 1, 1992
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-019-00156-5)	10.00	July 1, 1993
101	(869-019-00157-3)	30.00	July 1, 1993
102-200	(869-019-00158-1)	11.00	[4] July 1, 1991
201-End	(869-019-00159-0)	12.00	July 1, 1993
42 Parts:			
1-399	(869-017-00157-1)	23.00	Oct. 1, 1992
400-429	(869-017-00158-9)	23.00	Oct. 1, 1992
430-End	(869-017-00159-7)	31.00	Oct. 1, 1992
43 Parts:			
1-999	(869-017-00160-1)	22.00	Oct. 1, 1992
1000-3999	(869-017-00161-9)	30.00	Oct. 1, 1992
4000-End	(869-017-00162-7)	13.00	Oct. 1, 1992
44	(869-017-00163-5)	26.00	Oct. 1, 1992
45 Parts:			
1-199	(869-017-00164-3)	20.00	Oct. 1, 1992
200-499	(869-017-00165-1)	14.00	Oct. 1, 1992
500-1199	(869-017-00166-0)	30.00	Oct. 1, 1992
1200-End	(869-017-00167-8)	20.00	Oct. 1, 1992
46 Parts:			
1-40	(869-017-00168-6)	17.00	Oct. 1, 1992
41-69	(869-017-00169-4)	16.00	Oct. 1, 1992
70-89	(869-017-00170-8)	8.00	Oct. 1, 1992
90-139	(869-017-00171-6)	14.00	Oct. 1, 1992
140-155	(869-017-00172-4)	12.00	Oct. 1, 1992
156-165	(869-017-00173-2)	14.00	[7] Oct. 1, 1991
166-199	(869-017-00174-1)	17.00	Oct. 1, 1992
200-499	(869-017-00175-9)	22.00	Oct. 1, 1992
500-End	(869-017-00176-7)	14.00	Oct. 1, 1992
47 Parts:			
0-19	(869-017-00177-5)	22.00	Oct. 1, 1992
20-39	(869-017-00178-3)	22.00	Oct. 1, 1992
40-69	(869-017-00179-1)	12.00	Oct. 1, 1992
70-79	(869-017-00180-5)	21.00	Oct. 1, 1992
80-End	(869-017-00181-3)	24.00	Oct. 1, 1992
48 Chapters:			
1 (Parts 1-51)	(869-017-00182-1)	34.00	Oct. 1, 1992
1 (Parts 52-99)	(869-017-00183-0)	22.00	Oct. 1, 1992
2 (Parts 201-251)	(869-017-00184-8)	15.00	Oct. 1, 1992
2 (Parts 252-299)	(869-017-00185-6)	12.00	Oct. 1, 1992
3-6	(869-017-00186-4)	22.00	Oct. 1, 1992
7-14	(869-017-00187-2)	30.00	Oct. 1, 1992
15-28	(869-017-00188-1)	26.00	Oct. 1, 1992
29-End	(869-017-00189-9)	16.00	Oct. 1, 1992
49 Parts:			
1-99	(869-017-00190-2)	22.00	Oct. 1, 1992
100-177	(869-017-00191-1)	27.00	Oct. 1, 1992
178-199	(869-017-00192-9)	19.00	Oct. 1, 1992
200-399	(869-017-00193-7)	27.00	Oct. 1, 1992
400-999	(869-017-00194-5)	31.00	Oct. 1, 1992
1000-1199	(869-017-00195-3)	19.00	Oct. 1, 1992
1200-End	(869-017-00196-1)	21.00	Oct. 1, 1992
50 Parts:			
1-199	(869-017-00197-0)	23.00	Oct. 1, 1992
200-599	(869-017-00198-8)	20.00	Oct. 1, 1992
600-End	(869-017-00199-6)	20.00	Oct. 1, 1992
CFR Index and Findings Aids	(869-019-00053-4)	36.00	Jan. 1, 1993
Complete 1993 CFR set		775.00	1993

Title	Stock Number	Price	Revision Date
Microfiche CFR Edition:			
Complete set (one-time mailing)		188.00	1990
Complete set (one-time mailing)		188.00	1991
Complete set (one-time mailing)		188.00	1992
Subscription (mailed as issued)		223.00	1993
Individual copies		2.00	1993

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1993. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 31, 1993. The CFR volume issued April 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1993. The CFR volume issued July 1, 1991, should be retained.

[7] No amendments to this volume were promulgated during the period October 1, 1991 to September 30, 1992. The CFR volume issued October 1, 1991, should be retained.

VOL
58
ISS
2
4
6
DE
27
1993
UMI



New Publication

List of CFR Sections Affected

1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16) $27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27) $25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41) $28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50) $25.00
Stock Number 069-000-00032-1

Superintendent of Documents **Publications** Order Form

Order Processing Code:
*6962

Charge your order. It's easy!

To fax your orders and inquiries—(202) 512-2250

Please Type or Print (Form is aligned for typewriter use.)
Prices include regular domestic postage and handling and are good through 12/92. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog—Bestselling Government Books	FREE	FREE
			Total for Publications	

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( )
(Daytime phone including area code)

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

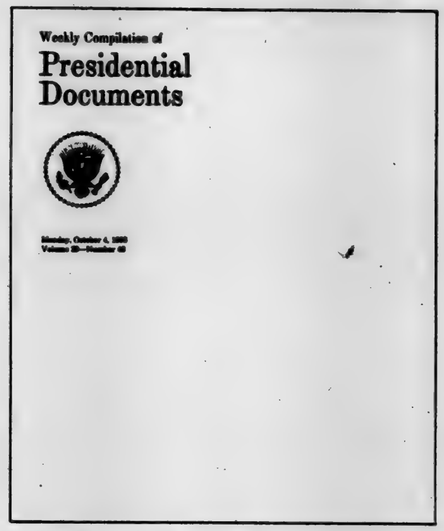
(Credit card expiration date) *Thank you for your order!*

(Signature)

Rev 6-92

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue contains an Index of Contents and a Cumulative Index to Prior Issues.

Separate indexes are published periodically. Other features include lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents Subscription Order Form

Order Processing Code:
* 5420

Charge your order. It's easy!

To fax your orders (202) 512-2233

☐ **YES,** please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $103 First Class Mail ☐ $65 Regular Mail

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to change. International customers please add 25%.

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, Zip code)

(Daytime phone including area code)

(Purchase order no.)

For privacy, check box below:
☐ Do not make my name available to other mailers

Check method of payment:
☐ Check payable to Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard ☐☐☐☐ (expiration)
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Authorizing signature) 1/94

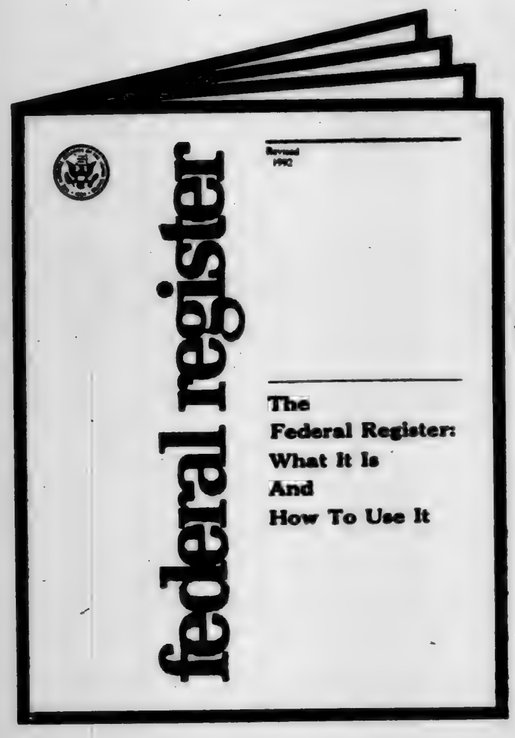
Thank you for your order!

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Mail order to:
New Orders, Superintendent of Documents
PO. Box 371954, Pittsburgh, PA 15250-7954

(Signature)

VOL
58
ISS
2
4
6
DE
27
1993
UMI



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a sample research problem.

Price $7.00

Superintendent of Documents **Publications** Order Form

P3

Order processing code:
*6173

Charge your order. It's Easy!

To fax your orders (202)-512-2250

☐ **YES**, please send me the following:

_____ copies of **The Federal Register - What It Is and How To Use It**, at $7.00 per copy. Stock No. 069-000-00044-4

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing Signature) (Rev. 1-93)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

May we make your name/address available to other mailers? ☐ ☐

P.O. Box 371954, Pittsburgh, PA 15250-7954

VOL
58
ISS
2
4
6
DE
27
1993
UMI

Printed on recycled paper

VOL
58

ISS
247

DE
28

1993

UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

REF3
3:01

12-28-93
Vol. 58 No. 247

federal register

Tuesday
December 28, 1993

Do Not Circulate

RECEIVED
LAW LIBRARY
JAN 07 1994
Brigham Young University
J. Reuben Clark Law School

DEPOSITED BY
U.S. GOVERNMENT
JAN 06 1994
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 840
A FR BRIGH358B D5 621AF
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY - DOCS
358 JRCB
PROVO UT 84602

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

VOL
58
ISS
247
DE
28
1993
UMI

12-29-93
Vol. 58 No. 247
Pages 68505-68714

federal register

Tuesday
December 28, 1993

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–783–3238
Magnetic tapes	512–1530
Problems with public subscriptions	512–2303
Single copies/back copies:	
Paper or fiche	783–3238
Magnetic tapes	512–1530
Problems with public single copies	512–2457
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Magnetic tapes	512–1530
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 58, No. 247
Tuesday, December 28, 1993

Agriculture Department
See Animal and Plant Health Inspection Service
See Federal Crop Insurance Corporation
See Forest Service
NOTICES
Environmental statements; availability, etc.:
Beltsville, MD; office complex construction, 68628
National Wilderness Preservation System:
Water rights interpretation, 68629

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Cattle from Mexico; identification requirements, 68508
Interstate transportation of animals and animal products (quarantine):
Brucellosis in swine—
State and area classifications, 68505
Official pseudorabies tests, 68506
PROPOSED RULES
Animal welfare:
Licensing and records; dealers, exhibitors, and auction sales operators, 68559
Livestock and poultry disease control:
Animals destroyed because of brucellosis, 68561

Antitrust Division
NOTICES
National cooperative research notifications:
Chevron Research & Technology Co., 68662
Fuel Cell Commercialization Group, 68662
Global Industries, Ltd., 68663
National Information Technology Center of Maryland, Inc., 68663
Southwest Research Institute, 68663

Armed Forces Retirement Home
RULES
Organization, functions, and authority delegations:
United States Soldiers' and Airmen's Home and United States Naval Home; agencies incorporated, 68505
NOTICES
Privacy Act:
Systems of records, 68629

Army Department
See Engineers Corps
NOTICES
Meetings:
Science Board, 68636

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Commerce Department
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See National Technical Information Service

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Bangladesh, 68634

Commodity Futures Trading Commission
RULES
Commodity options; prohibited trading, 68518
PROPOSED RULES
Bankruptcy; futures commission merchant in cross-margining program; property distribution, 68580

Council on Environmental Quality
NOTICES
Endangered Species Act exemption; annual report availability, 68635

Customs Service
RULES
Customs inspectional services; pay reform, 68520

Defense Department
See Army Department
See Engineers Corps
NOTICES
Agency information collection activities under OMB review, 68637
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 68636
Meetings:
Investigative Capability Advisory Board, 68635
Science Board task forces, 68635

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Binding Site, Inc., 68664
Eli Lilly Industries, Inc., 68664
High Standard Products, 68663
Orpharm, Inc., 68664
Penick Corp., 68665
Sterling Organics, 68664

Education Department
PROPOSED RULES
Vocational and adult education:
Negotiated rulemaking advisory committees; Direct Student Loan Regulations and Guaranty Agency Reserves Regulations, establishment, 68619
NOTICES
Agency information collection activities under OMB review, 68637
Grants and cooperative agreements; availability, etc.:
Direct grant programs and fellowship programs; correction, 68638
Meetings:
Federal Interagency Coordinating Council, 68638
Indian Education National Advisory Council, 68639
National Assessment Governing Board, 68639
Postsecondary education:
Federal direct student loan program, 68690

Printed on recycled paper containing 100% post consumer waste

Employment and Training Administration
NOTICES
Adjustment assistance:
Goulds Pumps, Inc., 68668
Jones & Lamson Waterbury Farrell Corp., 68668
Radiometer Technology, Inc., 68668
Simonds Industries, Inc., et al., 68668
Wyman Gordon Co., Aerospace Forging, et al., 68669

Energy Department
See Hearings and Appeals Office, Energy Department

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Red River of the North, MN; impoundments cumulative impact evaluation study, 68635

Environmental Protection Agency
RULES
Air pollution control; new motor vehicles and engines:
Heavy-duty engines and vehicles, including heavy light-duty trucks; nonconformance penalties, 65832
PROPOSED RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Chlorpyrifos, 68621
NOTICES
Agency information collection activities under OMB review, 68642
Municipal solid waste landfill permit programs; adequacy determinations:
Oklahoma, 68643

Environmental Quality Council
See Council on Environmental Quality

Executive Office of the President
See Council on Environmental Quality
See Presidential Documents

Federal Aviation Administration
RULES
Standard instrument approach procedures, 68515, 68516
PROPOSED RULES
Airworthiness directives:
de Havilland, 68575
Pratt & Whitney, 68570, 68572
Class E airspace, 68577

Federal Communications Commission
RULES
Practice and procedure:
Ship inspections; collection of fees, 68540
Television broadcasting:
Cable television systems—
Major television markets; list, 68541, 68542
NOTICES
Agency information collection activities under OMB review, 68644
Rulemaking proceedings; petitions filed, granted, denied, etc., 68649

Federal Crop Insurance Corporation
NOTICES
Standard reinsurance agreement:
Termination, 68628

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Southcentral Alaska, 68683

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
J.B. Daman (U.S.A.) Ltd., 68649
Posada International Cargo et al., 68649

Federal Reserve System
RULES
Extensions of credit by Federal Reserve banks (Regulation A):
Extension of credit limitations, 68509
PROPOSED RULES
Collection of checks and other items from Federal Reserve banks and Fedwire funds transfers (Regulation J):
Warranties, etc., 68566
Membership in State banking institutions; bank holding companies and change in bank control (Regulations H and Y):
Capital adequacy guidelines, 68563
NOTICES
Meetings; Sunshine Act, 68685

Fish and Wildlife Service
RULES
Importation, exportation, and transportation of wildlife:
Designated port status—
Orlando, FL, 68542
PROPOSED RULES
Endangered and threatened species:
Rock gnome lichen, 68623
NOTICES
Endangered and threatened species permit applications, 68658
Meetings:
Polar bear habitat protection strategy, 68659

Food and Drug Administration
NOTICES
Stratospheric ozone protection:
Ozone-depleting substances, essential use exemption petitions, 68650

Foreign Assets Control Office
RULES
Foreign assets control regulations:
Vietnam; international institutions' development projects; participation, 68529

Forest Service
NOTICES
Meetings:
National Urban and Community Forestry Advisory Council, 68629

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 68636

Health and Human Services Department
See Food and Drug Administration
See Social Security Administration

NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Planning and Evaluation, 68649

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 68639

Housing and Urban Development Department
PROPOSED RULES
Low income housing:
Housing assistance payments (Section 8)—
Contract rent annual adjustment factors, 68615

Indian Affairs Bureau
NOTICES
Grants and cooperative agreements; availability, etc.:
Contract support funds, 68694
Small tribes program, 68696
Training and technical assistance and planning programs, 68702

Inter-American Foundation
NOTICES
Meetings; Sunshine Act, 68685

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office
NOTICES
National Wilderness Preservation System:
Water rights interpretation, 68629

International Trade Commission
NOTICES
Meetings; Sunshine Act, 68685

Justice Department
See Antitrust Division
See Drug Enforcement Administration
NOTICES
Pollution control; consent judgments:
California State University et al., 68661
Middletown, OH, 68661
Nabisco, Inc., et al., 68661
Wheaton Industries, 68662

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration
NOTICES
Agency information collection activities under OMB review, 68665

Land Management Bureau
NOTICES
Alaska Native claims selection:
Tatitlek Corp., 68652
Closure of public lands:
Arizona, 68652
California; correction, 68653
Environmental statements; availability, etc.:
Newcastle Resource Area, WY, 68653
Realty actions; sales, leases, etc.:
Arizona, 68654
Nevada, 68655
Oregon, 68656
Utah, 68656
Resource management plans, etc.:
Grand Junction Resource Area, CO, 68657
Survey plat filings:
District of Columbia, 68657
Oregon and Washington, 68658

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 68685, 68686
Meetings; Sunshine Act; correction, 68687

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Enlow Fork Mining Co. et al., 68670

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Major system acquisition process; streamlining Correction, 68687
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 68636
Meetings:
Space Science Advisory Committee, 68671

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 68672

National Institute of Standards and Technology
NOTICES
Meetings:
Lead-containing reference materials production; guidelines, 68631
Weights and Measures National Conference, 68631

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Snake River sockeye salmon, etc.—
Critical habitat designation, 68543
Fishery conservation and management:
American lobster, 68555
Atlantic shark, 68556
Summer flounder, 68555
NOTICES
Fishery conservation and management:
Western Pacific bottomfish and seamount groundfish, 68631
Meetings:
Gulf of Mexico Fishery Management Council, 68632
National Weather Service, Modernization Transition Committee, 68631
North Pacific Fishery Management Council, 68632, 68633
Permits:
Marine mammals, 68633

National Park Service
NOTICES
National Register of Historic Places:
Pending nominations, 68659

VOL
58
ISS
247
DE
28
1993
UMI

National Technical Information Service
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Custom Industrial Analysis Laboratories, 68634

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 68686

Nuclear Regulatory Commission
NOTICES
Committees; establishment, renewal, termination, etc.:
Licensing Support System Advisory Review Panel, 68672
Environmental statements; availability, etc.:
Boston Edison Co., 68672
GPU Nuclear Corp., 68673
Long Island Power Authority, 68675
Meetings; Sunshine Act, 68686

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 68676
Meetings:
Federal Salary Council, 68676
Privacy Act:
Computer matching programs, 68676

Presidential Documents
EXECUTIVE ORDERS
Committees; establishment, renewal, terminations, etc.:
Entitlement Reform, Bipartisan Commission; amendment (EO 12887), 68713
Defense Department:
Uniformed services; pay and allowances; adjustments (EO 12886), 68709

Public Health Service
See Food and Drug Administration

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review, 68677

Reclamation Bureau
NOTICES
Motor vehicle use restrictions:
American Falls Dam, ID, 68658

Saint Lawrence Seaway Development Corporation
PROPOSED RULES
Tariff of tolls
Meetings, 68618

Securities and Exchange Commission
RULES
Organization, functions, and authority delegations:
Director, Market Regulation Division, 68520
PROPOSED RULES
Investment companies:
Risk-limiting conditions imposed on tax exempt money market funds, 68585
Regulatory Flexibility Act; rules scheduled for review; list, 68576
NOTICES
Applications, hearings, determinations, etc.:
High Rollers Gaming Sector Fund, Inc., 68678
Protective Life Insurance Co. et al., 68678
Public utility holding company filings, 68680
Standard Chartered Bank, 68681

Small Business Administration
NOTICES
Interest rate policy change, 68682

Social Security Administration
NOTICES
Agency information collection activities under OMB review, 68651

State Department
RULES
Visas; nonimmigrant documentation:
North American Free Trade Agreement (NAFTA); professional classification; treaty traders, investors, intracompany transferees, etc., 68526
NOTICES
Environmental statements; availability, etc.:
International Falls, MN; Boise Cascade Corp. water pipeline, 68682

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
North Dakota, 68617

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Saint Lawrence Seaway Development Corporation

Treasury Department
See Customs Service
See Foreign Assets Control Office
RULES
Benchmark survey of U.S. ownership of foreign long-term securities; reporting requirements and survey forms and instructions availability, 68528
NOTICES
Agency information collection activities under OMB review, 68683, 68684

Separate Parts In This Issue

Part II
Department of Education, 68690

Part III
Department of the Interior, Bureau of Indian Affairs, 68694

Part IV
Department of the Interior, Bureau of Indian Affairs, 68696

Part V
Department of the Interior, Bureau of Indian Affairs, 68704

Part VI
The President, 68709

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

VOL 58 ISS 247 DEC 28 1993 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12826 (Superseded by EO 12886)....68709
12878 (Amended by EO 12887)....68713
12886....68709
12887....68713

5 CFR
Ch. XI....68505

9 CFR
78....68505
85....68506
92....68508
Proposed Rules:
2....68559
51....68561

12 CFR
201....68509
Proposed Rules:
208....68563
210....68566
225....68563

14 CFR
97 (2 documents)....68515, 68516
Proposed Rules:
39 (3 documents)....68570, 68572, 68575
71....68577

17 CFR
1....68518
200....68520
Proposed Rules:
Ch. II....68578
190....68580
210....68585
230....68585
239....68585
270....68585
274....68585

19 CFR
4....68520
24....68520
122....68520
123....68520
134....68520

22 CFR
41....68526

24 CFR
Proposed Rules:
888....68615

30 CFR
Proposed Rules:
934....68617

31 CFR
129....68528
500....68529

33 CFR
Proposed Rules:
402....68618

34 CFR
Proposed Rules:
Ch. VI....68619

40 CFR
86....68532
Proposed Rules:
180....68621

47 CFR
1....68540
76 (2 documents)....68541, 68542

48 CFR
1834....68687
1870....68687

50 CFR
24....68542
226....68543
625....68555
649....68555
678....68556
Proposed Rules:
17....68623

Rules and Regulations

Federal Register
Vol. 58, No. 247
Tuesday, December 28, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

ARMED FORCES RETIREMENT HOME

5 CFR Ch. XI

Agencies Incorporated: United States Soldiers' and Airmen's Home and United States Naval Home

AGENCY: Armed Forces Retirement Home (AFRH).

ACTION: Final rule.

SUMMARY: The Armed Forces Retirement Home Act of 1991, incorporated the United States Soldiers' and Airmen's Home (USSAH) and the United States Naval Home (USNH) into an independent agency in the Executive Branch of the Federal Government to be known as the Armed Forces Retirement Home (AFRH). For this reason, Title 5 CFR Ch. XI and its current contents are obsolete. The chapter is to be renamed the Armed Forces Retirement Home.

EFFECTIVE DATE: December 28, 1993.

FOR FURTHER INFORMATION CONTACT: Doris Montgomery, Administrative Officer, Resource Management Directorate, U.S. Soldiers' and Airmen's Home, 3700 N. Capitol Street, NW., Washington, DC 20317–0002, (202) 722–3230.

SUPPLEMENTARY INFORMATION: The United States Soldiers' and Airmen's Home and the United States Naval Home are continuing care retirement facilities for former members of the Armed Forces. The USSAH was established by an Act of Congress on March 3, 1851, and operated as a separate independent Federal agency in the nature of a Congressional Trust. The USSAH is located in Washington, District of Columbia, and has been at that location since 1852. The USNH was established by Congress in 1832, as a trust fund entity in Philadelphia, Pennsylvania. During the 1930's that trust fund was incorporated into the Navy Personnel Fund and the USNH was established as a Naval Shore Command. In 1976, the USNH was moved to its present site in Gulfport, Mississippi.

For specific administrative purposes, the USSAH and the USNH operate independently with each having a Local Board of Trustees for operational oversight. The Armed Forces Retirement Home Board exercises policy oversight over both facilities and the Local Boards. The AFRH Board and the Directors of each facility are appointed by the Secretary of Defense. Local Boards are appointed by the Service Secretaries. The AFRH Board reports to the Congress on the programs, activities, and progress of the two facilities.

With the enactment of the Armed Forces Retirement Home Act of 1991, 24 U.S.C. 401–441 (Pub. L. 101–510), effective November 5, 1991, the USSAH and USNH were incorporated into an independent establishment in the Executive Branch of the Federal Government to be known as the Armed Forces Retirement Home.

For the reasons set forth in the preamble, under the authority at 24 U.S.C. 401–441 (Pub. L. 101–510), Chapter XI consisting of Part 2100 of Title 5 of the Code of Federal Regulations is removed in its entirety and a new chapter heading is added and reserved to read as set forth below:

Chapter XI—Armed Forces Retirement Home—[Reserved]

Dennis W. Jahnigen,
Armed Forces Retirement Home Chair.

[FR Doc. 93–31673 Filed 12–27–93; 8:45 am]

BILLING CODE 8220–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 93–144–1]

Validated Brucellosis-Free States; Kansas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of swine by adding Kansas to the list of validated brucellosis-free States. We have determined that Kansas meets the criteria for classification as a validated brucellosis-free State. This action relieves certain restrictions on the interstate movement of breeding swine from Kansas.

DATES: Interim rule effective December 28, 1993. Consideration will be given only to comments received on or before February 24, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–144–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Taft, Senior Staff Veterinarian, Swine Health Staff, Veterinary Services, APHIS, USDA, suite 204, Presidential Building, 6525 Belcrest Road, Hyattsville, MD 20782, (301) 436–7767.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*. The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) prescribe conditions for the interstate movement of cattle, bison, and swine.

Under the swine brucellosis regulations, States, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for swine are based upon the disease status of the individual animal, or the herd or State from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated brucellosis-free States, to include Kansas. Validated brucellosis-free status is based on a State having:

(1) The necessary authorities for classification as a validated brucellosis-free State for swine;

(2) No known focus of swine brucellosis at the time of validation, and completion of one of several methods of surveillance; or no diagnosed case of swine brucellosis in the 12-month period preceding the classification, and a statistical analysis of the combined results of the Market Swine Testing program and other tests that indicate the testing is equivalent to either complete herd testing or slaughter surveillance during a 1- or 2-year period chosen by the State; and

(3) Certification by the appropriate State animal health official, the Veterinarian in Charge, and the Administrator. A State may qualify as a validated brucellosis-free State regardless of the brucellosis status of feral swine in the State, if the feral swine are not in physical contact with domestic swine.

Breeding swine originating from a validated brucellosis-free State or herd may be moved interstate without having been tested with an official test for brucellosis within 30 days prior to interstate movement, which would otherwise be required.

After reviewing its brucellosis program records, we have concluded that Kansas meets the criteria for classification as a validated brucellosis-free State. Therefore, we are adding Kansas to the list of States in § 78.43. This action relieves certain restrictions on the interstate movement of breeding swine from Kansas.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause to publish this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of swine from Kansas.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action removes the requirement that breeding swine be tested for brucellosis prior to movement interstate from Kansas.

Swine herd producers in Kansas are all essentially small businesses (defined by the Small Business Administration as having annual gross receipts of less than $500,000). Currently, these small producers have about 30,000 adult swine tested annually for brucellosis. We are not able to determine exactly how many of these tests are performed for the purpose of certifying breeding swine for movement interstate, but we estimate the number to be very small.

Kansas State laboratories perform swine brucellosis tests at no charge. However, swine herd producers must employ private veterinarians to take the blood samples that are used in these tests.

We anticipate, therefore, that this action will have a minimal, but beneficial, economic impact on swine herd producers in Kansas. The few small producers that move breeder swine interstate will no longer be required to have them tested for brucellosis prior to movement and so will no longer need to employ private veterinarians to take the blood samples used in such tests. This action will result, therefore, in a minimal savings for swine herd producers in Kansas.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.43 [Amended]

2. Section 78.43 is amended by adding "Kansas," immediately after "Iowa,".

Done in Washington, DC, this 22nd day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–31677 Filed 12–27–93; 8:45 am]

BILLING CODE 3410–34–P

---

9 CFR Part 85

[Docket No. 92–170–2]

Official Pseudorabies Tests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the pseudorabies regulations by adding the Particle Concentration Fluorescence Immunoassay (PCFIA) test to the list of official tests for pseudorabies. The PCFIA test is an effective diagnostic test that can be conducted in less time than other diagnostic tests currently allowed. Adding the PCFIA test to the list of official tests for pseudorabies will help prevent the spread of the disease by making available an additional means by which animal health personnel may obtain timely and accurate diagnoses of pseudorabies.

EFFECTIVE DATE: January 27, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold C. Taft, Senior Staff Veterinarian, Swine Diseases Staff, Veterinary Services, APHIS, USDA, room 204, Presidential Building, 6525 Belcrest Road, Hyattsville, MD 20782, (301) 436–4916.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 85 (referred to below as "the regulations") govern the interstate movement of swine and other livestock (cattle, sheep, and goats) in order to help prevent the spread of pseudorabies. Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine, and other animals. The disease, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is caused by a herpes virus.

Official pseudorabies tests are used under certain circumstances to determine the pseudorabies status of swine. The regulations require that certain swine test negative to an official pseudorabies test before they may be moved interstate.

On July 13, 1993, we published in the **Federal Register** (58 FR 37666–37667, Docket No. 92–170–1) a proposal to amend the regulations by adding the Particle Concentration Fluorescence Immunoassay (PCFIA) test to the list of official pseudorabies tests.

We solicited comments concerning our proposal for a 60-day comment period ending September 13, 1993. We received one comment by that date, from a veterinary medical association. The commenter supported our proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12866. Based on information compiled by the Department, we have determined that this rule: (1) Will have an effect on the economy of less than $100 million; (2) will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (3) will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (5) will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

This action will provide for the use of an additional official test for determining whether an animal is infected with pseudorabies. The testing requirements for pseudorabies will not change. Moreover, the use of the PCFIA test will not affect the market price for swine. Although the date of sale may change as a result of the faster testing, the economic effect on swine producers will not be significant.

According to information gathered by the Animal and Plant Health Inspection Service, animal health authorities in nine States have expressed interest in using the PCFIA test to test for pseudorabies in swine. Of those nine States, six already own PCFIA equipment, which they currently use in brucellosis testing. The PCFIA test for pseudorabies can be run on either a fully automated Screen Machine, which has a list price of $62,000, or a semi-automated FCA Machine, which has a list price of $27,000; used and reconditioned machines may be obtained at lower cost, according to the manager of the Livestock Business Unit at IDEXX Laboratories, Westbrook, ME (January 1993).

Of the five currently approved official pseudorabies tests, the one most often used is the enzyme-linked immunosorbent assay (ELISA) test. A HerdChek® ELISA screening kit for pseudorabies contains 480 tests and costs $187.20, or $0.39 per test. By comparison, a PCFIA pseudorabies screening kit contains 4,800 tests and costs $1,776, or $0.37 per test. When the per-test savings is added to anticipated savings in time and personnel costs, we estimate that the PCFIA could cost as much as $0.07 less per test than the ELISA test. If the $0.07 per-test savings were applied to the 1.19 million pseudorabies tests run during Fiscal Year (FY) 1992 in the nine States interested in using the PCFIA, those States would realize a total savings of $83,000 for the year. Some States require swine producers, nearly all of which are considered to be small entities, to pay a share of test costs. In the nine States that have expressed an interest in using the PCFIA, the savings to swine producers would work out to approximately $25,000 for the tests run in FY 1992.

Because of the small dollar savings that is expected, and because its use is optional, the addition of the PCFIA test to the list of official pseudorabies tests will have only a negligible economic impact on State animal health agencies and affected swine producers.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 85

Animal diseases, Livestock, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 85 is amended as follows:

PART 85—PSEUDORABIES

1. The authority citation for part 85 continues to read as follows:

Authority: 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 85.1 [Amended]

2. In § 85.1, the definition of *official pseudorabies test* is amended by removing the words "tests and 5. Latex Agglutination Test (LAT)" and adding the words "tests; 5. Latex Agglutination Test (LAT); and 6. Particle Concentration Fluorescence Immunoassay (PCFIA) Test" in their place.

Done in Washington, DC, this 21st day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–31680 Filed 12–27–93; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Part 92

[Docket No. 93-063-2]

Importation of Cattle From Mexico; Identification Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the animal importation regulations to require that all cattle imported from Mexico be individually identified with a numbered, blue metal eartag issued by the Mexican Ministry of Agriculture and Water Resources. Currently, the regulations require all cattle imported from Mexico to be individually identified with numbered metal tags, but the source of the eartags is not specified. We are taking this action in response to the increasing numbers of tuberculosis-infected animals disclosed at slaughter among cattle imported into the United States from Mexico. Requiring cattle imported from Mexico to be identified with eartags issued by the Mexican Ministry of Agriculture and Water Resources will ensure that we have a uniform means of tracing an animal back to its herd of origin in Mexico, if necessary, following its importation into the United States. This requirement will facilitate the disease surveillance and traceback activities that are carried out under the National Cooperative State-Federal Bovine Tuberculosis Eradication Program.

EFFECTIVE DATE: January 27, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel Richeson, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as "the regulations") prohibit or restrict the importation of certain animals into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart D—Ruminants, §§ 92.400 through 92.435 of 9 CFR part 92, pertains to the importation of ruminants into the United States. Sections 92.424 through 92.429 of the regulations contain specific provisions regarding the importation of ruminants from Mexico.

On September 7, 1993, we published in the Federal Register (58 FR 47084-47085, Docket No. 93-063-1) a proposal to amend the regulations to require that all cattle offered for importation into the United States from Mexico be individually identified with numbered, blue metal eartags issued by the Mexican Government. We also proposed to make several minor changes to rectify omissions or errors that had occurred during previous rulemaking.

We solicited comments concerning our proposal for a 30-day comment period ending October 7, 1993. We received four comments by that date, from a cattle buyer, a veterinary medical association, a State animal health board, and a veterinary research laboratory. All four commenters supported the proposal. However, two of the commenters were concerned that an eartag might be removed following an animal's importation, thus making it unlikely that the animal could be traced back to its origin. We recognize that such a possibility exists, and recently published two proposed rules in the Federal Register that would make it less likely that a person would remove an eartag.

The first proposed rule, "Interstate Movement of Mexican-Origin Cattle; Certification Requirements," published in the November 12, 1993, Federal Register (58 FR 59959-59962, Docket No. 93-084-1), would amend the regulations in 9 CFR part 71 concerning the interstate movement of animals. If adopted, that proposed rule would, in part, have the effect of prohibiting the tampering with or removal of the eartags required by this final rule.

The second proposed rule, "Importation of Cattle from Mexico; Identification Requirements," also published in the November 12, 1993, Federal Register (58 FR 59963-59965, Docket No. 93-006-1), would, in part, amend the animal importation regulations in 9 CFR part 92 to require that all cattle imported into the United States from Mexico—not just steers, as is currently the case—bear an "M" brand on the right jaw at the time of importation. The "M" brand would permanently identify an animal as being of Mexican origin, thus making it less likely that a person would remove an eartag simply to mask an animal's Mexican origin.

During a recent meeting attended by representatives of the Animal and Plant Health Inspection Service and the Mexican Government, the Mexican officials requested that the amended regulations state that the official eartags are issued by the *Secretaria de Agricultura y Recursus Hidraulicos* (SARH), which is the Mexican Ministry of Agriculture and Water Resources. To honor that request, we have changed the amended regulations where the general term "Mexican Government" appears to indicate that the eartags are issued by SARH.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the change discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866.

Cattle imported from Mexico account for about 1 percent of the total U.S. cattle population, which in 1991 stood at 99.4 million head. The average price per head for cattle from Mexico in 1991 was $349.06, with the total value of imported Mexican cattle exceeding $361 million for the year. During 1991, approximately 1 million live cattle were imported into the United States from Mexico.

We are amending the regulations to require all cattle imported into the United States from Mexico to be individually identified with a numbered, blue metal eartag issued by SARH. Although all cattle imported into the United States from Mexico have been required to be identified with numbered metal tags, the source of the tags was not specified in the regulations. This rule requires that the eartag be obtained from a specific source, i.e. SARH. We anticipate that this requirement will have no economic effect on any U.S. businesses, large or small, because it will not increase or decrease their cost of doing business. We expect that any unanticipated additional costs that may be incurred will be borne by the exporter of the cattle.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.400 [Amended]

2. In § 92.400, in the definition of *Permitted dip*, the word "Division" is removed and the word "Administrator" added in its place.

§ 92.406 [Amended]

3. In § 92.406(a), in the first sentence, the reference "(b) and (c)" is removed and the reference "(c) and (d)" added in its place.

§ 92.427 [Amended]

4. Section 92.427 is amended as follows:

a. In paragraph (c)(1), in the first sentence, the words ", except cattle" are added immediately after the word "Mexico".

b. In paragraph (c)(1), the third sentence is amended by removing the reference "§ 92.430" and adding the reference "§ 92.429" in its place.

c. In paragraph (c)(1), the fourth sentence is amended by removing the words "or ear tag number" and adding the words "and official Mexican Ministry of Agriculture and Water Resources (SARH) blue eartag numbers" in their place.

d. In paragraph (c)(1), the fifth sentence is amended by removing the words "the subparagraph" and adding the words "this paragraph" in their place and by removing the words "eartag or" and adding the words "official Mexican Ministry of Agriculture and Water Resources (SARH) blue eartag and" in their place.

e. In paragraph (d), the introductory text is amended by removing the words "a numbered metal tag;" and adding the words "a numbered, blue metal eartag issued by the Mexican Ministry of Agriculture and Water Resources (SARH);" in their place.

f. In paragraph (d)(2), in the third proviso, the words "a numbered metal tag" are removed and the words "a numbered, blue metal eartag issued by the Mexican Ministry of Agriculture and Water Resources (SARH)" added in their place.

g. In paragraph (e)(2), the reference "§ 92.423(b)" is removed and the reference "§ 92.424(b)" added in its place, and the reference "§ 92.426(d)" is removed and the reference "§ 92.427(d)" added in its place.

Done in Washington, DC, this 21st day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93-31681 Filed 12-27-93; 8:45 am]

BILLING CODE 3410-34-P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A; Docket No. R-0808]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule to implement section 142 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), which amends section 10B of the Federal Reserve Act (FRA) in order to discourage advances, under that section, to undercapitalized and critically undercapitalized depository institutions. The Board is implementing this provision by revising rules relating to the provision of Federal Reserve credit presently contained in Regulation A—Extensions of Credit by Federal Reserve Banks.

EFFECTIVE DATE: January 30, 1994.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452-3625), or Manley Williams, Attorney (202/736-5565), Legal Division; or Gary Gillum, Senior Economist (202/452-3253), or Jim Clouse, Economist (202/452-3922), Division of Monetary Affairs, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On August 31, 1993, the Board published for comment proposed revisions to Regulation A—Extensions of Credit by Federal Reserve Banks, to implement section 142 of FDICIA (Title I of Pub. L. 102-242), 58 FR 45851, August 31, 1993. Section 142 amended section 10B of the FRA (12 U.S.C. 347b) to discourage advances under that section to undercapitalized and critically undercapitalized depository institutions by imposing liability on the Board for certain losses incurred by the funds administered by the Federal Deposit Insurance Corporation (FDIC). Specifically, the Board incurs limited liability for increased losses attributable to Federal Reserve Bank advances under section 10B of the FRA to an undercapitalized insured depository institution after that institution has borrowed for 60 days in any 120-day period. The 60 days may be extended for additional 60-day periods with a determination by the Chairman or the head of the appropriate Federal banking agency that the institution is viable. The Board also incurs limited liability for increased losses attributable to section 10B advances to a critically undercapitalized insured depository institution after a five-day period beginning on the day the institution becomes critically undercapitalized. The Board's liability for these increased losses is limited to the lesser of the amount of the loss that the Board or a Federal Reserve Bank would have incurred on any increases in the amount of advances after the expiration of the applicable lending period if those advances had been unsecured, or the amount of interest received on the increased amount of the advances. The Board must report to Congress on any such liability it incurs.

In order to reflect the new provisions of section 10B, the proposed rule made several substantive changes to Regulation A. It also incorporated a number of technical and stylistic changes to update and clarify the regulation. The principal substantive changes were:

(1) Placing limitations on Federal Reserve Bank credit to undercapitalized and critically undercapitalized insured depository institutions;

(2) Describing the loss calculations;

(3) Defining undercapitalized and critically under-capitalized insured depository institutions;

(4) Clarifying the term viable, as it applies to an undercapitalized insured depository institution; and

VOL
58
ISS
247
DE
28
1993
UMI

(5) Providing for assessments on the Federal Reserve Banks for amounts that the Board may be required to pay the FDIC under section 142.

The Board received nine comment letters on the proposed rule. The commenters included four Federal Reserve Banks, two bank holding companies, a commercial bank, a credit union, and a trade association. One commenter opposed the rule, asserting that it was needlessly complex and difficult to interpret. The Board believes, however, that these revisions to Regulation A are necessary to implement section 142 and that the complexity results from the provisions of section 142. Four commenters supported the regulation's implementation of section 142. The remaining commenters offered qualified support for the rule, urging the Board to clarify or modify particular aspects of the rule. With the exception of a clarification of the provision concerning assessments for amounts that the Board of Governors pays to the FDIC due to any excess loss, the final rule is substantially unchanged from the proposed rule.[1] The comments are discussed in greater detail below.

Limitations on Availability

Paragraphs (a) and (b) of § 201.4 of the final rule describe the limitations on the availability of Federal Reserve Bank credit to undercapitalized and critically undercapitalized insured depository institutions, respectively. These limitations apply not only to advances under section 10B of the FRA, which permits advances secured to the satisfaction of the Federal Reserve Bank and which is the only type of advance to which section 142 applies, but also to discount window credit under other sections of the FRA, such as sections 13(2) and 13(8), that are not expressly covered by section 142. The one commenter addressing the scope of the limitations approved of their extension to all discount window credit.

In the case of an undercapitalized insured depository institution, the final rule provides that a Federal Reserve Bank may make or have outstanding advances to or discounts for a depository institution that it knows to be an undercapitalized insured depository institution only:

(1) If, in any 120-day period, the advances or discounts are not outstanding for more than 60 days during which the institution is an undercapitalized insured depository institution;

(2) During the 60 days after the receipt of a written certification of viability from the Chairman of the Board of Governors or the head of the appropriate Federal banking agency; or

(3) After consultation with the Board of Governors.

In the case of a critically undercapitalized insured depository institution, the final rule provides that a Federal Reserve Bank may make or have outstanding advances to or discounts for an institution that it knows to be a critically undercapitalized insured depository institution only during the five-day period beginning on the date the institution became a critically undercapitalized insured depository institution or after consultation with the Board of Governors.

In each case, the consultation requirement generally formalizes existing practices under which Federal Reserve Bank staff discuss significant advances to troubled institutions with the Board or Board staff. It also facilitates Board involvement in discount window assistance that may exceed the section 142 limits and trigger Board liability and a reporting requirement. There could be situations, however, in which it would be difficult or impossible for a Federal Reserve Bank to consult with the Board before extending credit that could exceed the section 142 limits. For example, a Federal Reserve Bank may not know that an institution has been critically undercapitalized for more than five days or may only learn this information at the time that the lending decision arises. The final rule, therefore, provides that in unusual circumstances when prior consultation with the Board is not possible, the Federal Reserve Bank should consult with the Board as soon as possible after the extension of credit.

The consultation requirement does not necessarily contemplate formal Board consideration of each extension of credit. In many cases, the requirement could be satisfied through a discussion of a Federal Reserve Bank's plans for dealing with a particular institution. In addition, the Board contemplates delegation of the authority to conduct such consultation to the Chairman, or in his absence, the Vice Chairman in order to facilitate that consultation. The Board is preparing a written policy delineating the consultation requirement.

Five commenters addressed the consultation requirement. Three of them generally endorsed the prior consultation requirement while the fourth commenter urged that the final rule require prior authorization. One of the commenters supporting prior consultation suggested that while the Board should reserve authority over macroeconomic decisions, the primary decision-making authority concerning individual lending decisions should remain with the lending Federal Reserve Bank. The fifth commenter urged that the Board and the Conference of Federal Reserve Bank Presidents come to a general agreement on discount window credit which may result in liability under section 142, especially if Federal Reserve Banks may be liable for another Federal Reserve Bank's lending decisions.

As established by the Federal Reserve Act, a Federal Reserve Bank has the authority to make a discount or advance to a depository institution while the Board of Governors is responsible for establishing policy for the Federal Reserve System and has supervisory authority over the Federal Reserve Banks. The Board believes that the final rule's prior consultation requirement preserves the Board's authority while maintaining Federal Reserve Bank capacity to respond to individual situations as they arise. The Board expects to continue to have close coordination with the Federal Reserve Banks on discount window policy. The current rule was developed in close collaboration with Federal Reserve Bank personnel and the Subcommittee on Discounts and Credits of the Conference of Presidents. The Board is continuing to work with Federal Reserve Bank personnel to develop coordinated approaches to concerning credit to undercapitalized or critically undercapitalized depository institutions.

The Loss Calculations

The final rule introduces three new definitions, "liquidation loss," "increased loss," and "excess loss," which together function to implement the liability provisions of section 142. The term "liquidation loss" refers to the amount of loss that the FDIC would have incurred if it had liquidated the depository institution at a particular point in time. The term "increased loss" refers to the amount of the FDIC's loss which exceeds the liquidation loss due to certain advances which remain outstanding or to new advances which are made after the time the FDIC would have liquidated the institution under the liquidation loss calculation. The term "excess loss" refers to the amount of the increased loss for which the Board is liable to the FDIC under section 142. The one comment that the Board received on this section indicated that the regulation's loss calculations add clarity to the definitions in section 142.

Capital Category

Under section 142, the limitations on access to Federal Reserve Bank credit depend in part on the capital category—undercapitalized or critically undercapitalized—of the borrowing depository institution. These categories are defined in section 142 through reference to Federal banking agency ratings and through reference to the Prompt Corrective Action standards in section 38 of the Federal Deposit Insurance Act (FDI Act). Section 38 of the FDI Act largely leaves the definition of the capital categories to the Federal banking agencies. The Federal banking agencies define the categories in terms of capital ratios and link changes in capital categories to specific events (including the date that a Call Report is required to be filed, the delivery of an exam report, or the provision of written notice by the appropriate Federal banking agency). The final Regulation A, therefore, adopts the Prompt Corrective Action rules establishing capital categories, including the provisions defining when the categories become effective. This approach avoids linking changes in capital categories solely to day-to-day balance sheet fluctuations that would be impossible to track, is relatively simple, and is consistent with the Prompt Corrective Action standards. The two comments on these definitions favored the Board's approach.

The final rule also provides that a Federal Reserve Bank, before extending credit, should ascertain if an institution is an undercapitalized insured depository institution or a critically undercapitalized insured depository institution. One commenter expressed concern that it may be difficult to ascertain a depository institution's capital category and this commenter along with a second one expressed concern about information flows among Federal banking agencies. The Board is working with the other Federal banking agencies to ensure that Federal Reserve Banks have timely information concerning changes in institutions' capital categories.

Viable

Under section 142, a Federal Reserve Bank may extend discount window credit to an undercapitalized insured depository institution beyond 60 days in a 120-day period if the head of the appropriate Federal banking agency or the Chairman of the Board of Governors of the Federal Reserve System, after an examination, certifies in writing that the institution is viable. An institution is viable under section 142 if, giving due regard to the economic conditions and circumstances in the market in which the institution operates, the institution is not critically undercapitalized, is not expected to become critically undercapitalized, and is not expected to be placed in conservatorship or receivership. This definition not only permits broad discretion in taking economic factors into account, but also allows widely varying levels of expectation as to whether an institution will become critically undercapitalized or be placed into conservatorship or receivership.

In order to provide some guidance to the other Federal banking agencies in making viability determinations, the final regulation states that although there are a variety of criteria for determining viability, the Board ordinarily would consider an undercapitalized institution to be viable if it had submitted a capital restoration plan as required under prompt corrective action, if its primary Federal regulator had accepted the plan, and if the institution is complying with the plan.

Two commenters approved of the Board's clarification of the term viable. One of these commenters noted, however, that a viable institution may require credit while it is in the process of preparing a capital plan or while its primary regulator is in the process of reviewing that plan. This commenter noted that an agricultural bank which suffers losses due to a natural disaster is an example of a viable institution which may need advances before it has an approved capital restoration plan in place.

Prompt corrective action allows a depository institution up to 45 days to submit a capital restoration plan and the appropriate Federal banking agency 60 days to approve the plan. Thus, the appropriate Federal banking agency may not have approved a depository institution's capital restoration plan before the limitations on the availability of credit become effective. While the Board believes that an undercapitalized institution should swiftly restore its capital, the Board also recognizes that a viable institution may not have a capital restoration plan in place before it reaches the borrowing limitations. In such cases, the Board or the appropriate Federal regulator should look to the statutory criteria to evaluate viability.

The third commenter on the definition of viability suggested that a distinction be drawn between undercapitalized and significantly undercapitalized depository institutions and that the latter class of institution be held to a more stringent standard of viability. The Board believes that the standard of viability should be a consistent standard. It recognizes, however, that, as a general matter, the lower a depository institution's capital, the more difficult it will be to demonstrate that the institution is viable.

Assessment

Under section 142, the Board is liable to the FDIC for certain losses due to Federal Reserve Bank lending to an undercapitalized or critically undercapitalized insured depository institution beyond the time periods specified in that section. The final regulation provides that the Boardwill assess the Federal Reserve Banks for the amount of any such loss. While the regulation does not specify an assessment formula, the supplementary material accompanying the proposed rule had indicated that the Board expected that any such loss would assessed on all the Federal Reserve Banks on a *pro rata* basis rather than only on the Federal Reserve Bank making the advance.

Three of the commenters addressed the assessment on Federal Reserve Banks and all three of them proposed that the loss be borne by the lending Federal Reserve Bank. These commenters suggested that pro rata assessments would dilute the incentives intended by section 142, would reduce discipline in lending decisions, and would impose on a Federal Reserve Bank a share of the costs associated with lending decisions in which it played no role. Two of these commenters proposed that extremely large losses could be covered by the loss-sharing arrangement currently in effect among the Federal Reserve Banks and one noted that loss-sharing would prevent the Federal Reserve Banks from becoming too conservative in their lending decisions. This commenter also suggested that the Boards of Directors of the Federal Reserve Banks should be kept apprised of any potential liability under such a loss-sharing arrangement. Under the final rule, the Board expects that any assessment under section 142 will be levied on the lending Federal Reserve Bank unless the loss is large. Large losses will be covered in a manner analogous to the loss sharing agreement currently in effect among the Federal Reserve Banks.

[1] The definition of undercapitalized insured depository institution has been changed to indicate that a depository institution is an undercapitalized insured depository institution if *its* appropriate Federal banking agency has rated it a CAMEL 5, or equivalent rating, as of the most recent examination of such institution; and the section on seasonal credit has been redrafted to improve clarity.

VOL 58 ISS 247 DEC 28 1993 UMI

One commenter inquired about assessments for losses due to lending to undercapitalized and critically undercapitalized credit unions. Because credit unions are not FDIC insured, there could be no loss to the FDIC insurance funds due to advances to or discounts for a credit union and thus there could be no Board liability to the FDIC for which the Board would have to assess the Federal Reserve Banks. Nonetheless the Board expects that similar standards in extending credit will be applied to credit unions.

Other

The Board also received a number of comments which addressed issues other than those raised by section 142 and the attendant amendments to Regulation A. For example, one commenter sought clarification of the reference, in § 201.3(b)(2), to an institution's average total deposits in the preceding calendar year. This section has been redrafted to improve clarity.

One commenter, while supporting the amendment to § 201.6(d) which would permit a Federal Reserve Bank to authorize a depository institution to act as an agent of another depository institution in receiving Federal Reserve Bank credit, proposed that the Board coordinate all lending to commonly controlled depository institutions through a lead Federal Reserve Bank in the banking organization's home Federal Reserve District. The Board believes that individual depository institutions are separate corporate entities with individual access to the discount window. The proposed change would permit, but not require, affiliated institutions to coordinate their borrowing through an individual Federal Reserve Bank, with the authorization of the lending Federal Reserve Bank.

This commenter also raised a number of questions concerning permissible types of collateral. Under the Federal Reserve Act, the collateralization of discount window advances is the primary responsibility of the individual Federal Reserve Banks. The Federal Reserve Banks generally are willing to accept collateral of adequate quality in which it can perfect a security interest. The commenter also proposed that the Board permit depository institutions to borrow against collateral held by operating subsidiaries, and that the procedures and criteria for Federal Reserve Bank credit be clarified and made uniform throughout the Federal Reserve Districts. Finally, the commenter proposed that the procedures and criteria for Federal Reserve Bank credit be based on market practices. A high level of communication exists among the Federal Reserve Banks and between the Federal Reserve Banks and the Board and to the degree appropriate, the Federal Reserve Banks adhere to market standards in evaluating collateral. The Board does not believe, however, that it is appropriate at this time to restrict a Federal Reserve Bank's discretion in accepting or valuing collateral or in evaluating the enforceability of security interests. The Board also notes that the liquidation value of collateral may be lower than the market value of that collateral.

One commenter proposed that all Federal banking agencies be combined into one body. Such an action is beyond the scope of this Regulation.

Regulatory Flexibility Act Analysis

Pursuant to section 603 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board published for comment an initial regulatory flexibility analysis of its proposed Regulation A. Section 604 of the Regulatory Flexibility Act requires the Board to publish a final regulatory flexibility analysis with the final rule containing:

(1) A statement of the need for and objectives of, the rule;

(2) A summary of the issues revised by the public comment in response to the initial regulatory flexibility statement, a summary of the assessment if such comments and a statement of changes made in the proposed rule in response to comments;

(3) A description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities, and a statement of why these alternatives rejected.

Each of these items discussed in the Supplementary Information above.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit.

For reasons set forth in the preamble, the Board is amending 12 CFR part 201 as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for part 201 is revised to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 374, 374a and 461.

2. Sections 201.1 through 201.6 are revised and §§ 201.7 through 201.9 are added to read as follows:

§ 201.1 Authority, scope and purpose.

(a) *Authority and scope.* This part is issued under the authority of sections 10A, 10B, 13, 13A, and 19 of the FRA (12 U.S.C. 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 374, 374a, and 461), other provisions of the FRA, and section 7(b) of the International Banking Act of 1978 (12 U.S.C. 347d) and relates to extensions of credit by Federal Reserve Banks to depository institutions and others.

(b) *Purpose.* This part establishes rules under which Federal Reserve Banks may extend credit to depository institutions and others. Extending credit to depository institutions to accommodate commerce, industry, and agriculture is a principal function of Federal Reserve Banks. While open market operations are the primary means of affecting the overall supply of reserves, the lending function of the Federal Reserve Banks is an effective method of supplying reserves to meet the particular credit needs of individual depository institutions. The lending functions of the Federal Reserve System are conducted with due regard to the basic objectives of monetary policy and the maintenance of a sound and orderly financial system.

§ 201.2 Definitions.

For purposes of this part, the following definitions shall apply:

(a) *Appropriate Federal banking agency* has the same meaning as in section 3 of the FDI Act (12 U.S.C. 1813(q)).

(b) *Critically undercapitalized insured depository institution* means any insured depository institution as defined in section 3 of the FDI Act (12 U.S.C. 1813(c)(2)) that is deemed to be critically undercapitalized under section 38 of the FDI Act (12 U.S.C. 1831o(b)(1)(E)) and the implementing regulations.

(c) (1) *Depository institution* means an institution that maintains reservable transaction accounts or nonpersonal time deposits and is:

(i) An *insured bank* as defined in section 3 of the FDI Act (12 U.S.C. 1813(h)) or a bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(ii) A *mutual savings bank* as defined in section 3 of the FDI Act (12 U.S.C. 1813(f)) or a bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(iii) A *savings bank* as defined in section 3 of the FDI Act (12 U.S.C. 1813(g)) or a bank which is eligible to

make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(iv) An *insured credit union* as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or a credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act (12 U.S.C. 1781);

(v) A *member* as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); or

(vi) A *savings association* as defined in section 3 of the FDI Act (12 U.S.C. 1813(b)) which is an insured depository institution as defined in section 3 of the Act (12 U.S.C. 1813(c)(2)) or is eligible to apply to become an insured depository institution under section 5 of the Act (12 U.S.C. 1815(a)).

(2) The term *depository institution* does not include a financial institution that is not required to maintain reserves under Regulation D (12 CFR part 204) because it is organized solely to do business with other financial institutions, is owned primarily by the financial institutions with which it does business, and does not do business with the general public.

(d) *Liquidation loss* means the loss that any deposit insurance fund in the FDIC would have incurred if the FDIC had liquidated the institution:

(1) In the case of an undercapitalized insured depository institution, as of the end of the later of:

(i) Sixty days:

(A) In any 120-day period;

(B) During which the institution was an undercapitalized insured depository institution; and

(C) During which advances or discounts were outstanding to the depository institution from any Federal Reserve Bank; or

(ii) The 60 calendar day period following the receipt by a Federal Reserve Bank of a written certification from the Chairman of the Board of Governors or the head of the appropriate Federal banking agency that the institution is viable.

(2) In the case of a critically undercapitalized insured depository institution, as of the end of the 5-day period beginning on the date the institution became a critically undercapitalized insured depository institution.

(e) *Increased loss* means the amount of loss to any deposit insurance fund in the FDIC that exceeds the liquidation loss due to:

(1) An advance under section 10B(1)(a) of the FRA that is outstanding to an undercapitalized or critically undercapitalized insured depository institution without payment having been demanded as of the end of the periods specified in paragraphs (d)(1) and (2) of this section; or

(2) An advance under section 10B(1)(a) of the Federal Reserve Act that is made after the end of such periods.

(f) *Excess loss* means the lesser of the increased loss or that portion of the increased loss equal to the lesser of:

(1) The loss the Board of Governors or any Federal Reserve Bank would have incurred on the amount by which advances under section 10B(1)(a) exceed the amount of advances outstanding at the end of the periods specified in paragraphs (d)(1) and (2) of this section if those increased advances had been unsecured; or

(2) The interest received on the amount by which the advances under section 10B(1)(a) exceed the amount of advances outstanding, if any, at the end of the periods specified in paragraphs (d)(1) and (2) of this section.

(g) *Transaction account and nonpersonal time deposit* have the meanings specified in Regulation D (12 CFR part 204).

(h) *Undercapitalized insured depository institution* means any insured depository institution as defined in section 3 of the FDI Act (12 U.S.C. 1813(c)(2)) that:

(1) Is not a critically undercapitalized insured depository institution; and

(2) (i) Is deemed to be undercapitalized under section 38 of the FDI Act (12 U.S.C. 1831o(b)(1)(C)) and the implementing regulations; or

(ii) Has received from its appropriate Federal banking agency a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by its appropriate Federal banking agency under a comparable rating system) as of the most recent examination of such institution.

(i) *Viable*, with respect to a depository institution, means that the Board of Governors or the appropriate Federal banking agency has determined, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution is not critically undercapitalized, is not expected to become critically undercapitalized, and is not expected to be placed in conservatorship or receivership. Although there are a number of criteria that may be used to determine viability, the Board of Governors believes that ordinarily an undercapitalized insured depository institution is viable if the appropriate Federal banking agency has accepted a capital restoration plan for the depository institution under 12 U.S.C. 1831o(e)(2) and the depository institution is complying with that plan.

§ 201.3 Availability and terms.

(a) *Adjustment credit.* Federal Reserve Banks extend adjustment credit on a short-term basis to depository institutions to assist in meeting temporary requirements for funds or to cushion more persistent shortfalls of fundspending an orderly adjustment of a borrowing institution's assets and liabilities. Such credit generally is available only for appropriate purposes and after reasonable alternative sources of funds have been fully used, including credit from special industry lenders such as Federal Home Loan Banks, the National Credit Union Administration's Central Liquidity Facility, and corporate central credit unions. Adjustment credit is usually granted at the basic discount rate, but under certain circumstances a special rate or rates above the basic discount rate may be applied.

(b) *Seasonal credit.* Federal Reserve Banks extend seasonal credit for periods longer than those permitted under adjustment credit to assist smaller depository institutions in meeting regular needs for funds arising from expected patterns of movement in their deposits and loans. A special rate or rates at or above the basic discount rate may be applied to seasonal credit.

(1) Seasonal credit is only available if:

(i) The depository institution's seasonal needs exceed a threshold that the institution is expected to meet from other sources of liquidity (this threshold is calculated as certain percentages, established by the Board of Governors, of the institution's average total deposits in the preceding calendar year);

(ii) The Federal Reserve Bank is satisfied that the institution's qualifying need for funds is seasonal and will persist for at least four weeks; and

(iii) Similar assistance is not available from special industry lenders.

(2) The Board may establish special terms for seasonal credit when depository institutions are experiencing unusual seasonal demands for credit in a period of liquidity strain.

(c) *Extended credit.* Federal Reserve Banks extend credit to depository institutions under extended credit arrangements where similar assistance is not reasonably available from other sources, including special industry lenders. Such credit may be provided where there are exceptional circumstances or practices affecting a particular depository institution including sustained deposit drains, impaired access to money market funds, or sudden deterioration in loan repayment performance. Extended

credit may also be provided to accommodate the needs of depository institutions, including those with longer term asset portfolios, that may be experiencing difficulties adjusting to changing money market conditions over a longer period, particularly at times of deposit disintermediation. A special rate or rates above the basic discount rate may be applied to extended credit.

(d) *Emergency credit for others.* In unusual and exigent circumstances, a Federal Reserve Bank may, after consultation with the Board of Governors, advance credit to individuals, partnerships, and corporations that are not depository institutions if, in the judgment of the Federal Reserve Bank, credit is not available from other sources and failure to obtain such credit would adversely affect the economy. The rate applicable to such credit will be above the highest rate in effect for advances to depository institutions. Where the collateral used to secure such credit consists of assets other than obligations of, or fully guaranteed as to principal and interest by, the United States or an agency thereof, an affirmative vote of five or more members of the Board of Governors is required before credit may be extended.

§ 201.4 Limitations on availability and assessments.

(a) *Advances to or discounts for undercapitalized insured depository institutions.* A Federal Reserve Bank may make or have outstanding advances to or discounts for a depository institution that it knows to be an undercapitalized insured depository institution, only:

(1) If, in any 120-day period, advances or discounts from any Federal Reserve Bank to that depository institution are not outstanding for more than 60 days during which the institution is an undercapitalized insured depository institution; or

(2) During the 60 calendar days after the receipt of a written certification from the Chairman of the Board of Governors or the head of the appropriate Federal banking agency that the borrowing depository institution is viable; or

(3) After consultation with the Board of Governors.[1]

(b) *Advances to or discounts for critically undercapitalized insured depository institutions.* A Federal Reserve Bank may make or have outstanding advances to or discounts for a depository institution that it knows to be a critically undercapitalized insured depository institution only:

(1) During the 5-day period beginning on the date the institution became a critically undercapitalized insured depository institution; or

(2) After consultation with the Board of Governors.[2]

(c) *Assessments.* The Board of Governors will assess the Federal Reserve Banks for any amount that it pays to the FDIC due to any excess loss. Each Federal Reserve Bank shall be assessed that portion of the amount that the Board of Governors pays to the FDIC that is attributable to an extension of credit by that Federal Reserve Bank, up to one percent of its capital as reported at the beginning of the calendar year in which the assessment is made. The Board of Governors will assess all of the Federal Reserve Banks for the remainder of the amount it pays to the FDIC in the ratio that the capital of each Federal Reserve Bank bears to the total capital of all Federal Reserve Banks at the beginning of the calendar year in which the assessment is made, provided, however, that if any assessment exceeds 50 percent of the total capital and surplus of all Federal Reserve Banks, whether to distribute the excess over such 50 percent shall be made at the discretion of the Board of Governors.

(d) *Information.* Before extending credit a Federal Reserve Bank should ascertain if an institution is an undercapitalized insured depository institution or a critically undercapitalized insured depository institution.

§ 201.5 Advances and discounts.

(a) Federal Reserve Banks may lend to depository institutions either through advances secured by acceptable collateral or through the discount of certain types of paper. Credit extended by the Federal Reserve Banks generally takes the form of an advance.

(b) Federal Reserve Banks may make advances to any depository institution if secured to the satisfaction of the Federal Reserve Bank. Satisfactory collateral generally includes United States government and Federal agency securities, and, if of acceptable quality, mortgage notes covering 1-4 family residences, State and local government securities, and business, consumer and other customer notes.

(c) If a Federal Reserve Bank concludes that a depository institution will be better accommodated by the discount of paper than by an advance, it may discount any paper endorsed by the depository institution that meets therequirements specified in the FRA.

§ 201.6 General requirements.

(a) *Credit for capital purposes.* Federal Reserve credit is not a substitute for capital.

(b) *Compliance with law and regulation.* All credit extended under this part shall comply with applicable requirements of law and of this part. Each Federal Reserve Bank:

(1) Shall keep itself informed of the general character and amount of the loans and investments of depository institutions with a view to ascertaining whether undue use is being made of depository institution credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions; and

(2) Shall consider such information in determining whether to extend credit.

(c) *Information.* A Federal Reserve Bank shall require any information it believes appropriate or desirable to insure that paper tendered as collateral for advances or for discount is acceptable and that the credit provided is used in a manner consistent with this part.

(d) *Indirect credit for others.* No depository institution shall act as the medium or agent of another depository institution in receiving Federal Reserve credit except with the permission of the Federal Reserve Bank extending credit.

§ 201.7 Branches and agencies.

Except as may be otherwise provided, this part shall be applicable to United States branches and agencies of foreign banks subject to reserve requirements under Regulation D (12 CFR part 204) in the same manner and to the same extent as depository institutions.

§ 201.8 Federal intermediate credit banks.

A Federal Reserve Bank may discount for any Federal Intermediate Credit Bank agricultural paper or notes payable to and bearing the endorsement of the Federal Intermediate Credit Bank that cover loans or advances made under subsections (a) and (b) of section 2.3 of the Farm Credit Act of 1971 (12 U.S.C. 2074) and that are secured by paper eligible for discount by Federal Reserve Banks. Any paper so discounted shall have a period remaining to maturity at the time of discount of not more than nine months.

§ 201.9 No obligation to make advances or discounts.

A Federal Reserve Bank shall have no obligation to make, increase, renew, or extend any advance or discount to any depository institution.

3. In §§ 201.108 and 201.109, footnotes 1, 1a, 2, and 3 are redesignated as footnotes 3, 4, 5, and 6, respectively.

By order of the Board of Governors of the Federal Reserve System, December 16, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-31198 Filed 12-27-93; 8:45 am]

BILLING CODE 6210-01-P

[1] In unusual circumstances, when prior consultation with the Board is not possible, a Federal Reserve Bank should consult with the Board as soon as possible after extending credit that requires consultation under this paragraph.

[2] See footnote 1 in § 201.4(a)(3).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 27554; Amdt. No. 1578]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register of December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR and (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control approaches, Standard instrument, Incorporation by reference (1) navigation.

Issued in Washington, DC, on December 17, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR, part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective	State	City	Airport	FDC No.	SIAP
12/07/93	CO	Montrose	Montrose Regional	FDC 3/6512	VOR/DME Rwy 13, Amdt 8...
12/07/93	CO	Montrose	Montrose Regional	FDC 3/6513	VOR Rwy 13, Amdt 7...
12/07/93	CO	Montrose	Montrose Regional	FDC 3/6515	ILS/DME Rwy 17, Orig-A...
12/07/93	GA	Atlanta	The William B. Hartsfield Atlanta Intl.	FDC 3/6506	ILS Rwy 8L Amdt 1A...
12/07/93	GA	Atlanta	The William B. Hartsfield Atlanta Intl.	FDC 3/6507	ILS Rwy 8R Amdt 58...
12/07/93	GA	St Marys	St Marys	FDC 3/6511	Radar-1, Orig...
12/07/93	TX	Navasota	Navasota Muni	FDC 3/6525	VOR–A Amdt 1...
12/09/93	CO	Montrose	Montrose Regional	FDC 3/6554	ILS/DME Rwy 17, Orig...
12/09/93	MI	Iron Mountain	Ford	FDC 3/6546	LOC/DME BC Rwy 19 Amdt 11A...
12/09/93	MI	Muskegon	Muskegon County	FDC 3/6569	ILS Rwy 32 Amdt 16...
12/09/93	MI	Sault Ste Marie	Chippewa County Intl	FDC 3/6570	NDB Rwy 34 Amdt 4A...
12/09/93	MI	Sault Ste Marie	Chippewa County Intl	FDC 3/6571	NDB Rwy 16 Amdt 5A...
12/09/93	MI	Sault Ste Marie	Chippewa County Intl	FDC 3/6572	VOR–A or Tacan-A Amdt 5A...
12/09/93	OH	Wooster	Wayne County	FDC 3/6563	VOR Rwy 9 Orig...
12/09/93	OH	Wooster	Wayne County	FDC 3/6564	VOR Rwy 27 Orig...
12/09/93	OH	Wooster	Wayne County	FDC 3/6565	NDB Rwy 27 Amdt 7...
12/09/93	OH	Wooster	Wayne County	FDC 3/6566	Departure procedure/Take-off minimums Orig...
12/10/93	OK	Tulsa	Tulsa Intl	FDC 3/6584	Radar-1 Amdt 16...
12/14/93	AR	Fort Smith	Fort Smith Regional	FDC 3/6660	VOR or Tacan Rwy 25 Amdt 20...
12/16/93	SC	Hilton Head Island	Hilton Head	FDC 3/6668	RNAV Rwy 21 Amdt 4A...

[FR Doc. 93–31625 Filed 12–27–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27557; Amdt. No. 1577]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC, on December 17, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective March 3, 1994

Firebaugh CA, Firebaugh, VOR/DME–A, Amdt. 2

Montrose, CO, Montrose Regional, ILS/DME RWY 17, Amdt.1

Teterboro, NJ, Teterboro, ILS RWY 6, Amdt. 26

Chandler, OK, Chandler Muni, NDB RWY 17, Amdt. 3

Provo, Utah, Provo Muni, VOR–A, Amdt. 6, CANCELLED

Provo, Utah, Provo Muni, VOR RWY 13, Orig.

Provo, Utah, Provo Muni, VOR//DME RWY 13, Amdt. 3, CANCELLED

Provo, Utah, Provo Muni, ILS RWY 13, Amdt. 3

Mosinee, WI, Central Wisconsin. ILS RWY 8, Amdt. 11

Effective February 3, 1994

Los Angeles, CA Whiteman, VOR–A, Orig.

Chariton, IA, Chariton Muni, VOR RWY 17, Amdt.1

Chariton, IA, Chariton Muni, NDB RWY 17, Amdt. 3

Knoxville, IA, Knoxville Muni, NDB RWY 15, Amdt. 5

Knoxville, IA, Knoxville Muni, NDB RWY 33, Amdt. 4

Phillipsburg, KS, Phillipsburg Muni, NDB RWY 31, Amdt. 6

Clarion, PA, Clarion County, VOR–A, Amdt. 1

Clarion, PA, Clarion County, VOR/DME RNAV RWY 6, Orig.

Clarion, PA, Clarion County, VOR/DME RNAV RWY 24, Orig.

Caddo Mills, TX, Caddo Mills Muni, NDB RWY 35L, Amdt. 1

Effective January 6, 1994

Sacramento, CA, Mather Field, VOR RWY 4R, Orig.

Sacramento, CA, Mather Field, VOR/DME RWY 22L, Orig.

Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, ILS RWY 27R, Amdt. 5

Morris, IL, Morris Muni-James R Washburn Field, VOR–A, Amdt. 9

Indianapolis, IN, Greenwood Muni, VOR–A, Amdt. 4

Indianapolis, IN, Greenwood Muni, NDB RWY 1, Amdt. 2

Beaufort, NC, Michael J. Smith Field, NDB RWY 14, Amdt. 7

Beaufort, NC, Michael J. Smith Field, NDB RWY 14, Orig.

Beaufort, NC, Michael J. Smith, NDB RWY 21, Amdt. 3A, CANCELLED

Beaufort, NC, Michael J. Smith, NDB RWY 21, Orig.

Nashville, TN, Nashville Intl, ILS RWY 2R, Amdt. 3

San Antonio, TX, San Antonio Intl, ILS RWY 3, Amdt. 17

San Antonio, TX, San Antonio Intl, ILS RWY 12R, Amdt. 12

San Antonio, TX, San Antonio Intl, RADAR–1, Amdt. 25

San Antonio, TX, San Antonio Intl, VOR/DME RNAV RWY 30L, Amdt. 10

Oconto, WI, Oconto Muni, NDB RWY 11, Amdt. 4, CANCELLED

Oconto, WI, Oconto Muni, NDB RWY 29, Orig.

Effective December 3, 1993
Los Angeles, CA, Los Angeles Intl, ILS RWY 25R, Amdt. 8
[FR Doc. 93-31624 Filed 12-27-93; 8:45 am]
BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Commodity Options; Prohibited Trading

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending Rule 1.19, 17 CFR 1.19 (1992), by including an additional exception from the prohibition on futures commission merchants ("FCMs") from assuming any financial responsibility for the fulfillment of commodity options. To help ensure the financial integrity of FCMs undertaking such transactions, the Commission also is amending Rule 1.17, the Commission's rule regarding required regulatory capital for FCMs, to provide an appropriate capital treatment.

EFFECTIVE DATE: January 27, 1994.

FOR FURTHER INFORMATION CONTACT: Paul H. Bjarnason, Deputy Director, Division of Trading and Markets, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-8955, 254-6990, respectively.

SUPPLEMENTARY INFORMATION:

Commission Rule 1.19 prohibits futures commission merchants ("FCMs") and introducing brokers ("IBs") from assuming any financial responsibility for the fulfillment of any commodity option, with two exceptions. These exceptions are for options traded on or subject to the rules of a designated option contract market or on or subject to the rules of a foreign board of trade, in accordance with the requirements of part 30 of the Commission's rules.[1]

The Commission, on August 13, 1993, published a further proposed exception from the Rule 1.19 prohibition on FCMs from assuming any "financial responsibility for the fulfillment of any commodity option." 58 FR 43087. The effect of this proposed revision would have been to permit FCMs to grant certain off-exchange trade options which are permitted under Commission Rule 32.4, 17 CFR 32.4.[2]

Commission Rule 1.19 was first promulgated by the Commission's predecessor agency, the Commodity Exchange Authority, in 1973, prior to the adoption of Commission rules relating to regulatory capital.[3]

In proposing an additional exception from this prohibition for any option permitted under § 32.4 for which a capital treatment is specified in § 1.17, the Commission reasoned that:

> The Commission, upon further experience over the years, is convinced that its previously stated intent to delete the prohibition in Rule 1.19 as it applies to FCMs, subject to a capital treatment, is appropriate. In this regard, the Commission notes that Rule 1.19 already excepts FCMs from its prohibitions for options traded on exchanges. The prohibition of Rule 1.19 therefore, currently applies to off-exchange options permitted under Part 32 of the Commission's rules. Although concern over the risk to FCMs from dealing in certain over-the-counter options previously may have supported the prohibition, the Commission believes that FCMs generally have had a sufficient opportunity during the intervening years to become sufficiently familiar with option trading and theory, so that they can institute appropriate internal controls to address their risk from such positions provided that the Commission has articulated a capital treatment for such positions.
>
> 58 FR at 43088.

The risk to the FCM of assuming the positions permitted under this exception must be reflected fully by FCMs in the computation of their adjusted net capital under Commission Rule 1.17. Accordingly, the Commission proposed to extend the capital treatment provided under Rule 1.17 that certain "haircuts" be taken in computing net capital for "securities options," 17 CFR 1.17(c)(5)(vi),[4] to over-the-counter options on foreign currencies, security indices and options on government debt."[5] Moreover, the Commission proposed to apply the same capital treatment to granted over-the-counter options or options on such "securities," applying the charges to capital specified in § 1.17(c)(5)(vi) for those positions.

As noted in the Notice of Proposed Rulemaking, option positions for which Rule 1.17(c)(5)(vi) fails to specify a method of computation are excluded from the relief available under this exception until such time as Rule 1.17 is amended to reflect the risk of such positions or the Commission addresses applications on a case-by-case basis. See e.g., CFTC Interpretative Letter 91-1, (1991-1992 Transfer Binder) Comm. Fut. L. Rep., (CCH) ¶ 25,065 (May 29, 1991).[6] In this regard, the Commission sought comment regarding the issue of the appropriate methodology for potentially computing haircuts for those options for which no capital treatment was proposed and consequently which were not included within the proposed exception. Specifically, the Commission asked seven questions concerning this, and related, issues.

Two comments were submitted. One commenter is an industry association representing FCMs and other segments of the futures industry. This commenter:

> Strongly endorses the amendments to Commission rules 1.17 and 1.19 as proposed and urges their prompt promulgation. In this connection, it is important that the adoption of final rules as they relate to options on foreign currencies, stock indices and government debt should not be delayed pending resolution of those issues with respect to which the Commission has requested additional comment.
>
> [The commenter] is particularly pleased that the Commission has proposed to coordinate its capital requirements with those prescribed by the SEC. For purposes of both regulatory efficiency and competitive balance, it is essential that FCMs, many of which are also registered as broker-dealers, be subject to uniform capital treatment.

The commenter also supported the further extension of the proposed exception to over-the-counter trade options other than those specified in the proposed rule. It noted that "participation of FCMs in OTC trade options may benefit both commercial participants and the regulated markets." They reasoned that FCMs had the necessary knowledge to hedge their resulting financial exposure, and that appropriate changes to Commission and self-regulatory oversight systems could be made to accommodate this change. Finally, although noting with approval the coordination of capital rules by the Commission and the SEC, and advocating the use of capital charges that are risk-based in nature, the commenter nevertheless did not offer recommendations regarding the appropriate level of capital charges for such positions.[7]

The Commission is adopting, as final, the rules as proposed. In light of the significant issues regarding the appropriate methodology for computing net capital for option positions for which a capital treatment was not proposed in the release, the Commission believes that it is premature to extend the proposed exception to all options which are exempt under Commission Rule 32.4. Nevertheless, the Commission believes that it should proceed immediately in granting this exception for those types of options for which there is ready agreement and general acceptance of an appropriate capital treatment. The Commission is of the view that proceeding with this exception, though limited, will remove from U.S. FCMs a potential competitive disadvantage without adversely affecting the integrity of the regulated futures markets. The Commission will consider further expansions of this exception in connection with its ongoing consideration of revisions to the capital requirements.

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small entities. The Commission has previously determined that "FCMs" and similar entities are not "small entities" for purposes of the RFA. 47 FR 18618 (April 30, 1982). These rules modify certain minimum capital requirements for FCMs. The amendments also permit FCMs to undertake additional option strategies and do not otherwise impose any additional burdens, but rather, alleviate an already existing prohibition. Accordingly, if promulgated, this rule would have no significant impact on a substantial number of small entities. For the above reasons, and pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Acting Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

In this regard, the Commission invited comments from any firms or other persons which believe that the promulgation of the proposed rule amendments might have a significant impact upon their activities. None were received.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, ("PRA") imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the Act the Commission has submitted these amended rules and their associated information collection requirements to the Office of Management and Budget ("OMB"). Rule 1.19, including its proposed revision, has no burden associated with it and is not part of a group of rules having a burden.

With respect to the proposed amendments to Rule 1.17, OMB approved the collection of information associated with these rules on January 25, 1993, and assigned OMB control number 3038-0024. The burden associated with this specific final rule is as follows:

Average burden hours per response—0.50
Number of respondents—100 (FCMs); 15 (IBs)
Frequency of response—Annually

Copies of the OMB approved information collection package associated with this rule may be obtained from Gary Waxman, Office of Management and Budget, room 3220, NEOB, Washington, DC 20503, (202) 395-7340.

List of Subjects in 17 CFR Part 1

Commodity options, Financial requirements, Reporting and record keeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4c, 4f, 4g, and 8a of the Act, 7 U.S.C. 6c, 6f, 6g, and 12a (1988), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 9, 12, 12a, 12c, 13a-1, 13a-2, 16, 19, 21, 23 and 24, unless otherwise noted.

2. Section 1.17 is amended by revising paragraph (c)(5)(vi) to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

* * * * *

---

[1] Commission Rule 1.19 provides that: No futures commission merchant or introducing broker may make, underwrite, issue, or otherwise assume any financial responsibility for the fulfillment of, any commodity option except:

(a) Commodity options traded on or subject to the rules of a contract market in accordance with the requirements of part 33 of this chapter; or (b) Commodity options traded on or subject to the rules of a foreign board of trade in accordance with the requirements of part 30 of this chapter.

[2] Rule 32.4 provides, in part, that: the provisions of this part shall not apply to a commodity option offered by a person which has a reasonable basis to believe that the option is offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or byproducts thereof, and that such producer, processor, commercial user or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such.

By proposing to amend the prohibition of Rule 1.19 that FCMs not assume financial responsibility for the fulfillment of any commodity option, the Commission was not also proposing to expand the scope of options which can be traded legally. Accordingly, in light of the existing general suspension for off-exchange trading of commodity options under Commission Rule 32.11, the proposed amendment to Rule 1.19 only would have permitted FCMs to grant options, pursuant to Commission Rule 32.4, where the offeree is a producer, processor, or commercial user of, or a merchant handling, the underlying commodity in its business.

[3] A fuller explanation of the history of Commission Rule 1.19 is provided in the Notice of Proposed Rulemaking, 58 FR 43087-88.

[4] 17 CFR 1.17(c)(5)(vi) incorporates by reference the net capital rules of the Securities and Exchange Commission (SEC), which contains a generic treatment for options positions, as interpreted, stating that in computing net capital, the calculation should use: In the case of securities options used by the applicant or registrant in computing net capital, the deductions specified, in § 240.15c3-1 appendix A of this title, after effecting certain adjustments to net capital for listed and unlisted options as set forth in such appendix:

An SEC interpretative letter, covering the net capital treatment of baskets of securities offset by securities options on broad based security indices was issued to Mr. David Marcus, New York Stock Exchange, Inc., on February 27, 1986. SEC interpretative letters covering foreign currency option spreads and forwards offset by foreign currency options were issued to Ms. Susan R. Mann and Mr. Robert B. Gilmore, of the Philadelphia Stock Exchange, Inc., dated January 15, 1985 and February 14, 1986, respectively. The SEC interpretative letter covering the treatment of government debt options was issued to Mr. Salvatore Pallante, New York Stock Exchange, Inc., on January 31, 1990. Commission Rule 1.17 currently incorporates by reference securities haircuts, and is intended to automatically incorporate any amendments or adjustments to those haircuts permitted by the SEC.

[5] By extending the capital treatment of such instruments under SEC regulations to certain instruments, which are regulated by the Commission under the CEA, see, section 2(a)(1)(B) of the Act, the Commission does not intend to affect jurisdictional boundaries, but rather, merely to treat equally, for regulatory capital purposes, economically similar instruments.

[6] As noted therein, Rule 1.17(c)(5)(vi) currently does not explicitly specify the net capital treatment for all option positions which otherwise could be included under the exception, nor has the SEC rule been interpreted to reference a particular treatment for commodity options, except that the treatment of forex options, government debt securities and stock indices is separately identified by SEC interpretation. The CFTC adopts this treatment, to the extent that FCM positions can be characterized as commodity options under the Act. 58 FR 43089.

[7] The second commenter was a law firm inquiring about the application of the proposed exception from Rule 1.19 to instruments offered under parts 34 and 35 of the Commission's rules (Regulation of Hybrid Instruments and Exemption for Certain Swap Agreements, respectively.) In this regard, the Commission notes that to the extent an instrument has option-like features, and would be otherwise eligible for exemption under Rule 32.4 as a trade option, and an appropriate capital treatment has been specified, as discussed above, then this exception from Rule 1.19 would apply to FCM counterparties. However, the swaps portion of any such instrument would be treated consistent with the capital treatment specified in the concept release issued by the SEC, 56 FR 27486 at 27490, which requires treatment of the unrealized profit as an unsecured receivable and specifies a haircut on the notional amount plus an options charge pursuant to appendix A, cited above.

(c) * * *
(5) * * *
(vi) In the case of securities options and/or other options for which a haircut has been specified for the option or for the underlying instrument in § 240.15c3–1 appendix A of this title, the treatment specified in, or under, § 240.15c3–1 appendix A, after effecting certain adjustments to net capital for listed and unlisted options as set forth in such appendix;
* * * * *

3. Section 1.19 is amended by revising paragraphs (a) and (b) and adding paragraph (c) to read as follows:

§ 1.19 Prohibited trading in certain "puts" and "calls".
* * * * *

(a) Commodity options traded on or subject to the rules of a contract market in accordance with the requirements of part 33 of this chapter;
(b) Commodity options traded on or subject to the rules of a foreign board of trade in accordance with the requirements of part 30 of this chapter; or
(c) For futures commission merchants, any option permitted under § 32.4 of this chapter, *provided however*, that a capital treatment for such options is referenced in § 1.17(c)(5)(vi).

Issued in Washington, DC, this 21st day of December, 1993, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–31557 Filed 12–27–93; 8:45 am]

BILLING CODE 6351–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–33358]

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to delegate authority to the Director of the Division of Market Regulation to exempt any initiation or resumption of quotations, either unconditionally or on specified terms and conditions, pursuant to Rule 15c2–11(h) under the Securities Exchange Act of 1934. This amendment should facilitate prompt, careful review and consideration of applications for such exemptions.

EFFECTIVE DATE: December 20, 1993.

FOR FURTHER INFORMATION CONTACT: Ilene Koenigsberg, Attorney, Office of Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, telephone (202) 272–2848.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced amendments to its rules governing delegation of authority to the Division of Market Regulation ("Division").

The amendment to Rule 30–3(a)[1] authorizes the Director of the Division of Market Regulation ("Division Director") to grant exemptions where appropriate pursuant to Rule 15c2–11(h)[2] under the Securities Exchange Act of 1934 ("Exchange Act").[3] This delegation of authority will facilitate prompt, careful review and consideration of applications for such exemptions. In addition, the amendment will help conserve the resources of the Commission and Division, since the staff will not be required to present exemption requests under Rule 15c2–11 to the Commission, but can act upon them pursuant to the delegated authority. Notwithstanding these delegations of authority, the Division may bring any requests for exemptions that raise any serious questions to the Commission for consideration.

Another amendment adopted by the Commission makes certain technical changes to Rule 30–3(a)(6).[4]

The Commission finds, in accordance with Section 553(b)(A) of the Administrative Procedure Act,[5] that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment 30 days before its effective date is also unnecessary.

[1] 17 CFR 200.30–3(a).

[2] 17 CFR 240.15c2–11(h) provides: This rule shall not prohibit any publication or submission of any quotation if the Commission, upon written request or upon its own motion, exempts such quotation either unconditionally or on specific terms and conditions, as not constituting a fraudulent, manipulative or deceptive practice comprehended within the purpose of this rule.

[3] 15 U.S.C. 78a *et seq.*

[4] The paragraph in Rule 10b–6 under the Exchange Act, 17 CFR 240.10b–6, granting the Commission exemptive authority has been redesignated as (j) and Rule 10b–4 has been redesignated as Rule 14e–4 under the Exchange Act, 17 CFR 240.14e–4.

[5] 5 U.S.C. 553(b)(A).

List of Subjects in 17 CFR Part 200

Administrative, practice and procedure, Authority delegations (Government agencies).

Text of Amendment

For the reasons set out in the preamble, title 17, chapter II of Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for part 200 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.
* * * * *

2. Section 200.30–3 is amended by revising paragraph (a)(6) to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.
* * * * *

(a) * * *
(6) Pursuant to Rules 10b–6(j), 10b–7(o), 10b–8(f), 10b–13(d), 14e–4(c), and 15c2–11(h) (§§240.10b–6(j), 240.10b–7(o), 240.10b–8(f), 240.10b–13(d), 240.14e–4(c), and 240.15c2–11(h) of this chapter), to grant requests for exemptions from Rules 10b–6, 10b–7, 10b–8, 10b–13, 14e–4, and 15c2–11 §§ 240.10b–6, 240.10b–7, 240.10b–8, 240.10b–13, 240.14e–4, and 240.15c2–11 of this chapter).
* * * * *

By the Commission.

Dated: December 20, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–31562 Filed 12–27–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 24, 122, 123, and 134

[T.D. 94–2]

RIN 1515–AB30

Pay Reform for Customs Inspectional Services

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document amends the Customs Regulations to implement those provisions of the Omnibus Budget Reconciliation Act of 1993 concerning certain pay reforms applicable to Customs inspectional services. These regulations implement, in part, a new and exclusive compensation and pay schedule for Customs Officers who provide inspectional services. The compensation and pay schedule is applicable to work performed on regularly-scheduled Sundays, Federal holidays, and at night, where the majority of the hours worked occur during specific hours, as well as to work performed on an overtime and callback basis. Further, the regulations subject this compensation and pay to the applicable fiscal year pay cap established by Congress and prevent abuses in the assignment of callback work and overtime, as well as in the payment of commuting time compensation. Also, certain language and legal citation changes are made to the Customs Regulations to reflect similar statutory changes. Regulations implementing other aspects of the pay reform provisions will be issued by the Office of Personnel Management and Customs at a later date.

DATES: Interim rules are effective January 1, 1994. Comments must be received on or before February 28, 1994.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments submitted may be inspected at Franklin Court, 1099 14th Street, NW—suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kevin Cummings, Office of Workforce Effectiveness and Development (202) 927–1391.

SUPPLEMENTARY INFORMATION:

Background

As employees of the principal border enforcement agency of the United States, Customs Officers enforce some 600 laws for 60 agencies while facilitating the flow of merchandise in international commerce. Customs Officers protect American industry by safeguarding trade agreements, public health and safety, and intellectual property rights; protect the revenue; and interdict narcotics, contraband, and other illegal importations. To respond to changing trade trends, Customs Officers are continually called upon to increase their level of service, usually by working overtime.

The nature of Customs inspectional overtime services is unique in the Federal Government. For Customs Officers providing such services, the overtime is mandatory, regularly recurring, and routinely performed under the most physically and mentally demanding of conditions. These conditions routinely include activities such as confronting the criminal element, climbing aboard vessels, breathing carbon monoxide fumes on the international border traffic lanes, crawling inside cargo containers which reach temperatures in excess of 120 degrees Fahrenheit in the summer, monitoring the bowel movements of a suspected narcotics swallower, examining hazardous material, and exposing oneself to blood-borne pathogens. Further, the vast majority of this overtime is performed at times and on days when other Federal employees normally do not work: at night, *i.e.*, between the hours of 5 p.m. and 8 a.m., and on Sundays and holidays.

The Present Overtime Compensation Law (the 1911 Act)

Customs Officers who perform inspectional services after normal working hours of a port—work in excess of a 40-hour week or 8-hour day, Monday through Saturday, 8 a.m. through 5 p.m.—are currently compensated under the provisions of section 5 of the Act of February 13, 1911 (the 1911 Act) (19 U.S.C. 261 and 267). The 1911 Act compensates such services at a rate that is twice the officer's hourly rate of base pay (double-time) and provides for certain minimum hour guarantees that, in some instances, bear no relationship to the hours actually worked. Further, under the provisions of the 1911 Act, overtime earnings are not considered in pension calculations, which discourages Customs Officers from retiring because their retirement annuities are disproportionate to their total actual earnings.

Other statutory provisions that relate to compensation for inspectional services are 19 U.S.C. 1450, which pertains to the unlading of vessels after the regular hours of a port, and 19 U.S.C. 58c(f)(3), which pertains to the disposition of user fees for reimbursable inspectional overtime services.

The regulations implementing these overtime pay provisions are found in part 24 of the Customs Regulations (19 CFR part 24); other references to overtime pay are found in parts 4, 122, 123, and 134 of the Customs Regulations (19 CFR parts 4, 122, 123, and 134). The primary provision pertaining to overtime services and pay in part 24 is § 24.16, but that provision does not provide compensation or pay for night differential or other premium pay. In parts 4, 122, 123, and 134, certain sections reference reimbursable inspectional services as being performed at night, which only includes the hours between 5 p.m. and 8 a.m.

Customs Officer Pay Reform (the 1993 Act)

Today, because of the phenomenal growth in international trade, some ports of entry are routinely open 24 hours a day, 7 days a week. And although performing inspectional services after normal working hours carries unique burdens and risks, which merit a higher rate of compensation than is otherwise provided under the provisions of the Federal Employees Pay Act (FEPA) (5 U.S.C. 5542), the U.S. Customs Service subscribes to the principle that Customs Officers' compensation for overtime and work on Sundays and holidays should be directly related to the number of hours actually worked.

Due to inequities that developed under the provisions of the 1911 Act, Congress passed the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, 107 Stat. 312, 668 (August 4, 1993), Title XIII of which pertains to Customs Officer Pay Reform (the 1993 Act). In general, while the amendments retain the basic double-time compensation rate for Customs Officers performing overtime services, the three sections of Part II (§§ 13811–13813) impact Customs Officers' pay and compensation in the following way. Section 13811 creates a new and exclusive compensation and pay schedule for Customs Officers providing inspectional services after normal working hours, and requires the Secretary of the Treasury to prevent certain abuses pertaining to overtime assignments. Section 13812 allows overtime compensation to be included in the calculation of Federal retirement annuities for Customs Officers, up to an amount equal to 50 percent of the applicable statutory pay limitation, and authorize foreign language proficiency awards. Section 13813 makes certain adjustments concerning reimbursements from the Customs User Fee Account.

Section 13811

Section 13811 of the 1993 Act amends 19 U.S.C. 261, 267, and 1450 (and repeals 19 U.S.C. 1451a) to create a new and exclusive compensation arrangement for Customs Officers who perform inspectional overtime services, including work performed on a callback basis. However, this section also restricts the amount of overtime compensation payable to actual overtime hours worked, and treats certain callback duty as being not less

VOL 58 ISS 247 DEC 28 1993 UMI

than two hours of work in duration and provides limited additional compensation (three hours of pay) for certain commuting time.

This section also authorizes the payment of newly-created premium pay differentials (pay in excess of base pay) for certain shiftwork performed between the hours of 3 p.m. and 8 a.m. (15% and 20%, depending on when the majority of regularly-scheduled hours are worked), and work performed on Federal holidays (double-time pay) and Sundays (time-and-a-half pay), but further provides that this premium pay will not be treated as constituting overtime pay or compensation for any purpose. This section also limits the amount of overtime compensation and premium pay a Customs Officer can earn in a year, by including both in the applicable fiscal year pay limitation, and makes this compensation and pay schedule exclusive, so that a Customs Officer who receives overtime compensation or premium pay under the new legislation may not receive pay or other compensation for that work under any other provision of law.

Section 13811 also requires the Secretary of the Treasury to prevent the disproportionately more frequent assignment of overtime work to Customs Officers who are near to retirement, and the abuse of callback work assignments and commuting time compensation. In addition, this section limits the applicability of the new compensation and pay schedule by defining eligible "Customs Officers" as those performing functions properly classified as Customs Inspectors and Canine Enforcement Officers. Customs Employees other than Customs Officers who perform overtime services will continue to be paid for such services under the provisions of FEPA, as provided at 19 CFR 24.17. Further, this section authorizes Customs to change the administrative workweek to include Sunday, changes the overtime computation rules, deletes the provisions of 19 U.S.C. 1451a, which pertain to compensation for inspectional services payable by the United States, defines the term "holiday" (broadened to include those declared by Executive Orders), and makes certain other conforming changes to 19 U.S.C. 1450, which pertains to the unlading of vessels after the regular duty hours of a port, *i.e.*, correct the phrase "at night" to read "during overtime hours."

Thus, under the provisions of § 13811, overtime compensation or premium pay differentials will be paid to Customs Officers performing inspectional services as follows:

(1) For work performed in excess of the 40 hours of the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day, overtime compensation will be paid at an hourly rate of pay that is equal to 2 times the hourly rate of the officer's basic pay (not including any premium pay);

(2) For overtime work performed on a callback basis, a Customs Officer may be entitled to: (a) Pay for a minimum of two hours of work regardless of the time actually worked; and, (b) commute compensation in an amount equal to three times the hourly rate of the officer's basic pay (not including any premium pay);

(3) For regularly-scheduled work performed between the hours of 3 p.m. and 8 a.m., premium pay will be paid based on differentials of 15 percent and/or 20 percent, depending on when the majority of the regularly-scheduled shift work occurs;

(4) For regularly-scheduled work performed on Sundays, premium pay will be paid based on a differential of 50 percent of the hourly rate of base pay for hours worked, and;

(5) For regularly-scheduled work performed on holidays, premium pay will be paid based on a differential of 100 percent of the hourly rate of base pay for hours worked.

Sections 13812 and 13813

Sections 13812 and 13813 of the Customs Officer Pay Reform legislation are not covered in this document. Section 13812 amends 5 U.S.C. 8331(3) to provide for the inclusion of certain overtime earnings, up to 50 percent of the applicable fiscal year pay limitation, in the calculation of retirement benefits, and to authorize foreign language proficiency cash awards. Section 13813 amends section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) to provide for overtime compensation and premium pay reimbursements from the Customs User Fee account, which is not a regulatory matter.

Changes to Regulations

As the provisions of section 13811 of the 1993 Act impact on the Customs Regulations, the following sections of the Customs Regulations must be amended: §§ 4.30, 24.16, 24.17, 24.18, 122.38, 123.8, and 134.55. In § 4.30, paragraph (g) references the license to unlade vessels "at night," which under the 1911 Act meant between the hours of 5 p.m. and 8 a.m. Under the 1993 Act, however, reimbursable inspectional services may be performed at any time during a day. Accordingly, this section is amended by deleting the limiting time frame for overtime compensation; the section is so amended by substituting the phrase "during overtime hours" for the phrase "at night." The provisions of §§ 122.38 and 123.8 are similarly amended to refer to "during overtime hours" instead of "at night."

Section 24.16 is revised, in part, to reflect the new and exclusive overtime compensation and premium pay provisions of the 1993 Act, applicable only to those Customs Officers performing inspectional services; however, paragraphs (a) and (c) are retained, for the most part, without change. Since § 24.16 now has a restricted application, § 24.17 is amended and revised to apply to Customs employees performing other reimbursable services that will continue to be paid for such services under the provisions of the FEPA.

In § 24.18, the legal citation for § 5 of the Act of February 13, 1911, is amended by adding § 261, to reflect the current amendment to both 19 U.S.C. 267 and 261. In § 134.55, paragraph (b)(2) refers to Customs Officers and employees and overtime compensation within the context of § 24.16 only. To make it clear that only Customs Officers performing reimbursable overtime inspectional services are eligible to receive overtime compensation and premium pay under the provisions of § 24.16 and that Customs employees performing other reimbursable services will be compensated under the provisions of the FEPA, a reference to § 24.17 is added, as this section provides for compensation for such reimbursable overtime services.

Work Assignment Priorities

In an effort to address Congressional concerns regarding the abuse of callback work assignments and commuting time compensation, and the disproportionately more frequent assignment of overtime work to Customs Officers who are near to retirement, Customs has identified three work assignment priorities which Customs managers will follow in the assignment of regularly-scheduled and overtime work: (1) alignment of staff with the Customs workload, (2) equalization of Customs Officer's overtime earnings within participating groups, and (3) assessment of the least cost to the agency or other interested parties. These priorities are established and contained in § 24.16(d).

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with § 552 of the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b)) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1099 14th St., NW, 4th floor, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Although public comments are solicited by this document, pursuant to the provisions of 5 U.S.C. 553(a)(2), public notice is inapplicable to this interim regulation because it is a matter relating to agency management and personnel; the regulation implements compensation and management changes applicable to Customs inspectional personnel mandated by statute. Furthermore, because the effective date for these changes is statutory, pursuant to 5 U.S.C. 553(d)(3), good cause exists for dispensing with the requirement for a delayed effective date. Since this action is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Drafting Information

The principal author of this document was Gregory R. Vilders, Regulations Branch. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 4

Cargo vessels, Coastal zone, Customs duties and inspection, Fishing vessels, Harbors, Imports, Maritime carriers, Merchandise, Passenger vessels, Reporting and recordkeeping requirements, Seamen, Vessels, Yachts.

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Wages.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Air transportation, Baggage, Bonds, Customs duties and inspection, Freight, Imports, Reporting and recordkeeping requirements.

19 CFR Part 123

Administrative practice and procedure, Aircraft, Bonds, Canada, Customs duties and inspection, Imports, Mexico, Reporting and recordkeeping requirements, Vehicles, Vessels.

19 CFR Part 134

Country of origin, Customs duties and inspection, Labeling, Marking, Packaging and containers.

Amendments to the Regulations

For the reasons stated above, Title 19, Chapter 1, parts 4, 24, 122, 123, and 134 of the Customs Regulations (19 CFR parts 4, 24, 122, 123, and 134) are amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. App. 3;

* * * * *

Section 4.30 also issued under 19 U.S.C. 288, 1433, 1446, 1448, 1450–1454, 1490;

* * * * *

2. In § 4.30, paragraph (g) is amended by removing the words "at night" and adding, in their place, the words "during overtime hours".

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 is revised, in part, to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 261, 267, 1202 (General Note 8, Harmonized Tariff Schedule of the United States (HTSUS)), 1450, 1624; 31 U.S.C. 9701, unless otherwise noted.

* * * * *

Section 24.16 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623; 46 U.S.C. 2111, 2112;

Section 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562; 46 U.S.C. 2110, 2111, 2112;

* * * * *

2. In § 24.16:

a. the section heading is revised;

b. paragraph (a) is amended by removing the third sentence and adding, in its place, a new sentence;

c. paragraph (b) is revised;

d. paragraphs (d) through (h) are revised; and

e. paragraphs (i) through (k) are removed.

The additions and revisions read as follows:

§ 24.16 Overtime services; overtime compensation and premium pay for Customs Officers; rate of compensation.

(a) *General.* * * * Customs Officers entitled to overtime compensation and premium pay, pursuant to the provisions of the Customs Officer Pay Reform legislation (19 U.S.C. 261 and 267, as amended), shall not receive pay or other compensation for that work under any other provision of law. * * *

(b) *Definitions.* For purposes of this section, the following words and phrases have the meanings indicated:

(1) *The Act* refers to Part II, Subchapter D of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66.

(2) *Administrative workweek* means a period of seven consecutive calendar days beginning Sunday and continuing through the following Saturday.

(3) *Base pay* means the rate of pay fixed by law or administrative action for the position held by the Customs Officer.

(4) *Callback* means the irregular or occasional overtime work performed by a Customs Officer either on a day when work was not regularly scheduled for that officer or which begins at least one hour after the end of the officer's regularly-scheduled tour of duty and ends at least one hour before the beginning of the following regularly-scheduled assignment and requires the officer to return to a place of work.

(5) *Commute compensation* means that compensation a Customs Officer is entitled to for returning to work, under certain conditions, to perform an overtime work assignment. Commute compensation shall be deemed overtime compensation and is includable for Federal retirement benefit purposes.

(6) *Continuous assignment* means the grouping of multiple overtime assignments, performed by the same Customs Officer(s), which are separated by periods of non-work, into a single unit for computation of pay purposes.

(7) *Customs Officer* means only those individuals assigned to position descriptions entitled "Customs Inspector," "Supervisory Customs Inspector," "Canine Enforcement Officer," or "Supervisory Canine Enforcement Officer."

(8) *Fiscal year pay cap* refers to the statutory maximum, in effect for the year involved, in overtime and premium pay a Customs Officer shall receive in that fiscal year. This aggregate limit may be waived by the Commissioner of Customs or his/her designee in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

(9) *Holiday* means any day designated as a holiday by a Federal statute or declared by an Executive order.

(10) *Intermittent employee* is a non-full-time employee who does not have a regularly-scheduled tour of duty.

(11) *Majority of hours*, within the context of night work differentials, means more than half of the hours of the daily regularly-scheduled tour of duty.

(12) *Night work* means regularly-scheduled work performed by a Customs Officer on tours of duty, in which a majority of the hours worked occur between the hours of 3:00 p.m. and 8:00 a.m.

(13) *Overtime pay* means that compensation given to a Customs Officer in excess of the officer's base pay for performing officially-assigned work in excess of the 40 hours of the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day, which may include commute compensation as defined at paragraph (b)(5) of this section. Overtime pay, within the limits prescribed by the Act, is includable for Federal retirement benefit purposes.

(14) *Participating group* means an identifiable set of Customs Officers whose overtime and commute compensation earnings are considered in total and apart from those of other Customs Officers for equalization averaging purposes.

(15) *Premium pay differential* means that pay given to a Customs Officer in excess of the officer's base pay for work on holidays, Sundays and at night. Premium pay is not includable for Federal retirement benefit purposes.

(16) *Regularly-scheduled administrative workweek* means, for a full-time employee, the 40 hour period within an administrative workweek within which the employee is regularly scheduled to work, exclusive of any overtime; for a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.

* * * * *

(d) *Work Assignment Priorities.* The establishment of regularly-scheduled administrative tours of duty and assignments of Customs Officers to overtime work under this section shall be made in accordance with the following priorities, listed below in priority order:

(1) *Alignment.* Tours of duty should be aligned with the Customs workload.

(2) *Equalization.* Performing assigned overtime work is a condition of employment for Customs Officers. The overtime pay and commute compensation earnings of all Customs Officers within a designated participating group shall be equalized based upon the earnings range described in this paragraph. Unless operational considerations dictate otherwise, Customs Officers shall not be assigned to overtime if their total overtime earnings exceed the average overtime earnings of their participating group by an amount that is equal to 5 percent of the fiscal year pay cap. Customs Officers shall be required to work assigned overtime if their total overtime earnings are less than the average overtime earnings of their participating group by an amount that is equal to 5 percent of the fiscal year pay cap unless operational considerations dictate otherwise or the overtime pay for the assignment would result in the Customs Officer exceeding the fiscal year pay cap. The agency may consider new employees, or employees who return to their duty station after an extended absence, or employees who are entering a participating group, to have obtained the average overtime earnings of that group for equalization averaging purposes.

(3) *Least Cost.* All work assignments should be made in a manner which minimizes the cost to the government or party in interest. Decisions, including, but not limited to, what hours should be covered by a tour of duty or whether an assignment should be treated as a continuous assignment or subject to commute compensation, should be based on least cost considerations. However, base pay comparison of eligible employees shall not be used in the determination of staffing assignments.

(e) *Overtime Pay.* (1) A Customs Officer who is officially assigned to perform work in excess of the 40 hours in the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day shall be compensated for such overtime work performed at 2 times the hourly rate of the officer's base pay, including any locality pay, but not including any premium pay differentials for holiday, Sunday, or night work.

(2) The computation of the amount of overtime worked by a Customs Officer is subject to the following conditions:

(i) *Overtime that is less than one hour.* A quarter of an hour shall be the smallest fraction of an hour used for paying overtime under this subpart. When work is performed in other than the full quarter hour, seven minutes or less shall be rounded down and eight minutes or more shall be rounded up and the Customs Officer shall be paid accordingly.

(ii) *Absence during overtime.* Except as expressly authorized by statute, regulation, or court order (i.e., military leave, court leave, continuation of pay under the workers compensation law, and back pay awards), a Customs Officer shall be paid for overtime work only when the officer reports for the work assignment.

(f) *Special provisions relating to overtime work on a callback basis*—(1) *Minimum duration and callback requirements.* Any work for which overtime pay is authorized and for which the Customs Officer is required to return to a place of work shall be treated as being at least 2 hours in duration, but only if such work begins at least 1 hour after the end of any previous regularly-scheduled work assignment and ends at least 1 hour before the beginning of the following regularly-scheduled work assignment. An unpaid meal period shall not be considered a break in service for purposes of callback.

(2) *Commute compensation—Eligibility.* A Customs Officer shall be compensated for overtime when the officer is called back and officially assigned to perform work that:

(i) Is in excess of the 40 hours in the officer's regularly-scheduled administrative workweek or in excess of 8 hours in a day;

(ii) Begins at least 1 hour after the end of any previous regularly-scheduled work assignment;

(iii) Commences more than 2 hours prior to the start of the officer's next regularly-scheduled work assignment;

(iv) Ends at least 1 hour before the beginning of the officer's next regularly-scheduled work assignment; and,

(v) Commences less than 16 hours after the officer's last regularly-scheduled work assignment. The 16 hours shall be calculated from the end of the Customs Officer's last regularly-scheduled work assignment.

(3) *Commute compensation—Amount.* Commute compensation under this section shall be in an amount equal to 3 times the hourly rate of the Customs Officer's base pay for a one hour period, which includes applicable locality pay, but does not include any premium pay differentials for holiday, Sunday or night work. The Customs Officer shall be entitled to this amount for an eligible commute regardless of the actual commute time. However, an unpaid meal period shall not be considered a break in service for purposes of commute compensation. In addition, to prevent the inappropriate payment of commute compensation, a Customs Officer who is officially assigned to perform overtime work, which is scheduled to begin within 1 hour of the end of the officer's regularly-scheduled tour of duty, shall be held in a continuous overtime pay status from the time the officer's regularly-scheduled tour of duty ends until the end of the assignment.

(4) *Maximum Compensation for Multiple Assignments.* If a Customs Officer is assigned to perform more than one overtime assignment, in which he is required to return to a place of work more than once in order to complete the assignment, and otherwise satisfies the callback requirements of paragraph (f)(1) of this section, then the officer shall be entitled to commute compensation each time the officer returns to the place of work provided that each assignment commences less than 16 hours after the officer's last regularly-scheduled work assignment. However, in no case shall the compensation be greater than if all assignments were treated as one continuous callback assignment.

(g) *Premium pay differentials.* Premium pay differentials may only be paid for non-overtime work performed on holidays, Sundays, or, at night (work performed, in whole or in part, between the hours of 3:00 p.m. and 8:00 a.m.). A Customs Officer shall receive payment for only one of the differentials for any one given period of work. The order of precedence for the payment of premium pay differentials is holidays, Sundays, and night work.

(1) *Holiday differential.* A Customs Officer who performs any regularly-scheduled work on a holiday shall receive pay for that work at the officer's hourly rate of base pay, including locality pay as authorized, plus premium pay amounting to 100 percent of that base rate. Holiday pay shall only be paid for the time worked. Intermittent employees are not entitled to holiday differentials.

(i) When a holiday is designated by a calendar date, for example, January 1, July 4, November 11, or December 25, the holiday will be observed on that date regardless of Saturdays and Sundays. Customs Officers who perform regularly-scheduled, non-overtime, tours of duty on those days shall be paid the holiday differential. Holidays not designated by a specific calendar date, such as President's Day (the third Monday in February), shall be observed on that date, and Customs Officers who perform regularly-scheduled, non-overtime, work on those days shall be paid the holiday differential.

(ii) Inauguration Day (January 20 of each fourth year after 1965), is a legal public holiday for the purpose of the Act. Customs Officers whose duty locations are in the District of Columbia, or Montgomery and Prince George counties in Maryland, or Arlington and Fairfax counties in Virginia, or in the cities of Alexandria and Falls Church in Virginia, who perform regularly-scheduled, non-overtime, work on that day shall be paid the holiday differential. When Inauguration Day falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is the legal public holiday.

(iii) If a legal holiday falls on a Customs Officer's regularly-scheduled day off, the officer shall receive a holiday "in lieu of" that day. Holidays "in lieu of" shall not be granted for Inauguration Day. A Customs Officer who works on an "in lieu of" holiday shall be paid the holiday differential.

(iv) If a Customs Officer is assigned to a regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the 24-hour calendar day of the holiday—for example, a tour of duty starting at 8 p.m. the day prior to the holiday through 4 a.m. on the holiday, and another tour of duty starting at 8 p.m. on the holiday through 4 a.m. on the day following the holiday—the management official in charge of assigning work shall designate one of the tours of duty as the officer's holiday shift and the officer shall receive holiday differential for work performed during the entire period of the designated holiday shift. The Customs Officer shall not receive holiday differential for any of the work performed on the tour of duty which has not been designated as the holiday shift but will be eligible for Sunday or night differential as appropriate.

(v) Customs Officers who are regularly scheduled, but not required, to work on a holiday shall receive their hourly rate of base pay for that 8-hour tour plus any Sunday or night differential they would have received had the day not been designated as a holiday. To receive holiday pay under this paragraph, the Customs Officer must be in a pay status (at work or on paid leave), either the last work day before the holiday or the first work day following the holiday.

(2) *Sunday differential.* A Customs Officer who is regularly scheduled to work on a Sunday that is not a Federal holiday shall receive pay for work performed at the officer's hourly rate of base pay, including locality pay as authorized, plus a premium pay of 50 percent of that hourly rate of base pay for the work performed. The 50 percent differential shall not be applicable to overtime work performed on a Sunday. A Customs Officer whose regularly-scheduled work occurs in part on a Sunday, that is not a Federal holiday, and in part on the preceding or following day, shall receive a premium of 50 percent of the officer's hourly rate of base pay for the hours of work which are performed between 12:01 a.m. and 12 Midnight on Sunday. Intermittent employees are not entitled to Sunday differentials.

(3) *Night work differentials.* A Customs Officer shall receive a night premium pay differential for work performed during the officer's regularly-scheduled administrative workweek, including locality pay as authorized, but shall not receive a night premium pay differential for work performed during overtime assignments. When all or the majority of the hours of a Customs Officer's regularly-scheduled work occur between 3 p.m. and 8 a.m., the officer shall receive a night differential premium for all the hours worked during the assignment. Intermittent employees are not entitled to night differentials.

(i) *3 p.m. to Midnight.* If more than half of the hours of a Customs Officer's regularly-scheduled shift occur between the hours of 3 p.m. and 12 Midnight, the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 15 percent of that hourly rate of base pay for all the hours worked.

(ii) *11 p.m. to 8 a.m.* If more than half of the hours of a Customs Officer's regularly-scheduled shift occur between the hours of 11 p.m. and 8 a.m., the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 20 percent of that hourly rate of base pay for all the hours worked.

(iii) *7:30 p.m. to 3:30 a.m. Shift.* If the regularly-scheduled shift of a Customs Officer is 7:30 p.m. to 3:30 a.m., the officer shall be paid at the officer's hourly rate of base pay and shall also be paid a premium of 15 percent of that hourly rate of base pay for the work performed between 7:30 p.m. and 11:30 p.m. and 20 percent of that hourly rate of base pay for the work performed between 11:30 p.m. and 3:30 a.m.

(iv) *Work Scheduled During Two Differential Periods.* A Customs Officer shall only be paid one night differential rate per regularly-scheduled shift, except as provided for in paragraph (iii) above. A Customs Officer whose regularly-scheduled work occurs during two separate differential periods shall receive the night differential premium rate which applies to the majority of hours scheduled.

(v) *Night Work Which Occurs in Part on a Sunday.* When a Customs Officer's regularly-scheduled shift occurs in part on a Sunday, the officer shall receive Sunday differential pay for those hours of the work which are performed during the 24 hour period of the Sunday, and the night differential pay for those hours which do not fall on the Sunday. For example, a Customs Officer who is

VOL 58 ISS 247 DEC 28 1993 UMI

assigned and works a shift which starts at 8 p.m. Sunday and ends at 4 a.m. Monday, shall receive 4 hours of Sunday premium pay and 4 hours of night pay. The night differential pay shall be calculated based on the rate applicable to the particular tour of duty.

(h) *Limitations.* Total payments for overtime/commute, and differentials for holiday, Sunday, and night work that a Customs Officer is paid shall not exceed any applicable fiscal year pay cap established by Congress. The Commissioner of Customs or the Commissioner's designee may waive this limitation in individual cases to prevent excessive costs or to meet emergency requirements of the Customs Service. However, compensation awarded to a Customs Officer for work not performed, which includes overtime awards during military leave or court leave, continuation of pay under workers compensation law, and awards made in accordance with back pay settlements, shall not be applied to any applicable pay cap calculations.

3. In § 24.17, the words "officer or" or "officers or" are removed, wherever they appear.

4. Section 24.17 is further amended by:

a. revising the section heading;

b. removing the word "officer" in the first sentence of paragraph (d) introductory text and adding, in its place, the word "employee";

c. removing the word "officer" in the first sentence of paragraph (d)(1) and adding, in its place, the word "employee";

d. removing the words "services of a Customs employee temporarily assigned to act as a Customs officer" in the second sentence of paragraph(d)(1) and adding, in their place, the words "such services";

e. removing the word "officer" in the first sentence of paragraph (d)(3) and adding, in its place, the word "employee"; and,

The revision reads as follows:

§ 24.17 Reimbursable services of Customs employees.

* * * * *

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1623, 1624, 1644; 49 U.S.C. App. 1509.

§ 122.38 [Amended]

2. In § 122.38, paragraph (a)(2) is amended by removing the words "at night" and adding, in their place, the words "during overtime hours" in the parenthetical matter at the end of the sentence.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

§ 123.8 [Amended]

2. In § 123.8, paragraph (a) is amended by removing the words "at night" and adding, in their place, the words "during overtime hours" in the second sentence.

PART 134—COUNTRY OF ORIGIN MARKING

1. The authority citation for part 134 is amended to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States (HTSUS)), 1304, 1624.

§ 134.55 [Amended]

2. In § 134.55, paragraph (b)(2) is amended by adding the reference "or § 24.17" after the reference to "§ 24.16".

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: December 17, 1993.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 93-31561 Filed 12-27-93; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 1926]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule implements Chapter 16 of the North American Free Trade Agreement (NAFTA), and sections 341 and 342 of the North American Free Trade Agreement Implementation Act, (the Implementation Act), signed December 8, 1993, which address the movement of business persons among the United States, Canada, and Mexico. This rule amends regulations concerning two nonimmigrant visa classifications, treaty traders and investors and intracompany transferees, and promulgates new regulations for a category for professionals under INA section 214(e), as amended by the Implementation Act. The new regulations spell out the requirements for classification as a NAFTA professional. The Immigration and Naturalization Service and the Department of Labor will also publish necessary regulations and/or issue appropriate instructions.

DATES: This rule shall be effective on January 1, 1994 or on the date NAFTA enters into force if that date is subsequent to January 1, 1994. The Department will publish a document confirming the effective date if the effective date is not January 1. Interested persons are invited to submit written comments on or before January 30, 1994.

ADDRESSES: Written comments with a reference to this rule to insure proper and timely handling may be submitted in duplicate to: Chief, Legislation and Regulations Division, Visa Office, Washington, DC 20522-0113.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulation Division, Visa Office, (202) 663-1204.

SUPPLEMENTARY INFORMATION:

General

The United States Government concluded the North American Free Trade Agreement (NAFTA) with the governments of Canada and Mexico in December 1992. Congressional approval was given in the North American Free Trade Agreement Implementation Act (Implementation Act), which was signed into law on December 8, 1993. Section 341 of the Implementation Act specifically implements Chapter 16 of NAFTA, entitled "Temporary Entry for Business Persons", and addresses the movement of business persons among the Parties to the Agreement. Chapter 16 is patterned on the similarly titled Chapter 15 of the United States Canada Free Trade Agreement (CFTA). This chapter relates to four nonimmigrant visa categories in the U.S. Immigration and Nationality Act: Temporary visitors for business under INA 101(a)(15)(B); treaty trader and investors under INA 101(a)(15)(E); intracompany transferees under INA 101(a)(15)(L); and NAFTA professionals under INA 214(e) as amended by the Implementation Act.

Section 104 of the Immigration and Nationality Act gives the Secretary of State authority to promulgate the necessary regulations regarding the issuance and refusal of visas.

Accordingly, this rule makes the necessary changes to title 22 of the CFR to implement the Implementation Act in regard to visa issues.

Section 341 of the Implementation Act has two provisions that require visa-related regulatory action. First, the law authorizes the issuance of visas to citizens of Canada or Mexico who qualify as professionals under new INA 214(e)(2)-(5). Secondly, the law adds a new INA 214(j), which restricts issuance of a visa to a citizen of Canada or Mexico who is applying for a visa as a treaty trader or investor, an intracompany transferee, or a professional, if the admission of that person might adversely affect a labor dispute.

Professionals

This category was established by section 214(e) of the INA to implement the United States-Canada Free Trade Agreement (CFTA). Under this category a Canadian citizen who is a professional as defined by CFTA Annex 1502.1 (i.e., someone engaging in one of the listed professional activities and possessing the requisite professional credentials) may accept employment in the United States to engage in that professional activity. Section 341 of the Implementation Act amends section 214(e) of the INA to authorize the issuance of visas to Mexican and Canadian professionals as well as their derivatives. Consequently, spouses and children (as defined by the INA) of the principal can seek admission to the United States under this category.

The amended INA 214(e) expressly treats this professional category as if it were a nonimmigrant visa classification under INA 101(a)(15) for all purposes. Consequently, Canadian citizens who are generally exempt from the visa requirement may seek visa issuance, if they so desire, but Mexican citizens must apply for a visa to gain admission to the United States under this category. Unlike Canadian citizens, Mexican citizens are also subject to procedural requirements similar to those imposed on applicants for H-1A and H-1B visa classifications under INA 101(a)(15)(H)(i)(a) and (b). The prospective employer must file a labor condition attestation and obtain approval of a petition filed with INS. Furthermore, an annual numerical limitation of 5,500 has been established for Mexican citizens in this category. This professional category is designed solely for temporary entry and does not constitute a permanent or quasi-permanent visa category. The Department is therefore proposing general definitional standards which seek to provide guidance to prospective users of this category.

Labor Disputes

Chapter 16, article 1603, paragraph 2, of NAFTA authorizes each party to deny employment authorization to an alien whose "temporary entry * * * might affect adversely: (a) The settlement of any labor dispute that is in progress at the place or intended place of employment; or (b) the employment of any person who is involved in such dispute." This provision is implemented by section 341(c) of the Implementation Act which amends INA 214 by adding a new subsection (j) which in effect mandates that citizens of Canada or Mexico not be accorded nonimmigrant classification under INA 101(a)(15)(E) as treaty traders or investors, INA 101(a)(15)(L) as intracompany transferees, or INA 214(e) as professionals, if the admission of such aliens would affect a labor dispute (strike or lockout) in the fashion described above. Consequently, paragraph (f) is added to § 41.51 (treaty aliens), paragraph (e) to § 41.54 (intracompany transferees), and paragraph (c) to new section § 41.59 (professionals) to implement those provisions of INA 214(j).

Application of this provision will be triggered when the Secretary of Labor certifies to the Attorney General that these adverse conditions are present. The alien may establish, pursuant to regulations to be promulgated by the Attorney General, that his or her employment will not affect adversely the settlement of the strike or lockout. The new regulations provide for certification by the Attorney General that the showing has not been made.

Interim Rule

The implementation of this rule as an interim rule, with provision for post-promulgation public comments, is based upon the "good cause" exception found at 5 U.S.C. 553(b)(B) and 553(d)(3). NAFTA is expected to enter into force on January 1, 1994, at which time the INA amendments made by the Implementation Act will also take effect. (See sec. 342 of the Implementation Act.) This rule must take effect at the same time.

In accordance with 5 U.S.C. 605(b), it is certified that this rule will not have a "significant economic impact" on a substantial number of small entities. This rule does not have Federalism implications warranting the preparation of Federal Assessment in accordance with E.O. 12612. This rule has been reviewed as required by E.O. 12778 and certified to be consistent therewith.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Intracompany Transferees, (executives, managers, and specialists), Professionals under the North American Free Trade Agreement, Treaty trader or investor, Visas.

Accordingly, 22 CFR part 41 is amended as follows:

PART 41—[AMENDED]

1. The authority citation for part 41 is revised to read as follows:

Authority: Pub. L. 82-414, sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Pub. L. 103-182, sec. 341, 107 Stat. 2057.

2. Sec. 41.51 is revised by adding paragraph (f) to read as follows:

§ 41.51 Treaty trader or investor.

* * * * *

(f) *Labor disputes.* Citizens of Canada or Mexico shall not be entitled to classification under this section if the Attorney General and the Secretary of Labor have certified that:

(1) There is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment; and

(2) The alien has failed to establish that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout.

3. Sec. 41.54 is amended by redesignating paragraphs (e) and (f) to (f) and (g) and adding a new paragraph (e) to read as follows:

§ 41.54 Intracompany transferees (executives, managers, and specialists).

* * * * *

(e) *Labor disputes.* Citizens of Canada or Mexico shall not be entitled to classification under this section if the Attorney General and the Secretary of Labor have certified that:

(1) There is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment; and

(2) The alien has failed to establish that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout.

4. Sec. 41.59 is added to read as follows:

§ 41.59 Professionals under the North American Free Trade Agreement.

(a) *Requirements for classification as a NAFTA professional.* An alien shall be classifiable under the provisions of INA 214(e) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2) In the case of citizens of Mexico, the consular officer has received from INS an approved petition according classification as a NAFTA Professional to the alien or official confirmation of such petition approval, or INS confirmation of the alien's authorized stay in such classification; or

(3) In the case of citizens of Canada, the alien shall have presented to the consular officer sufficient evidence of an offer of employment in the United States requiring employment of a person in a professional capacity consistent with NAFTA Chapter 16 Annex 1603 Appendix 1603.D.1 and sufficient evidence that the alien possesses the credentials of that profession as listed in said Appendix; or

(4) The alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) *Visa validity.* The period of validity of a visa issued pursuant to paragraph (a) of this section may not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) of this section. The approval of a petition by INS does not establish that the alien is eligible to receive a nonimmigrant visa. The period of validity of a visa issued pursuant to subparagraph (a)(3) of this section may not exceed the period established on a reciprocal basis.

(c) *Temporary stay.* The alien must satisfy the consular officer that the proposed stay is temporary. A temporary period has a reasonable, finite end that does not equate to permanent residence. The circumstances surrounding an application should reasonably and convincingly indicate that the alien's temporary work assignment in the United States will end predictably and that the alien will depart.

(d) *Labor disputes.* Citizens of Canada or Mexico shall not be entitled to classification under this section if the Attorney General and the Secretary of Labor have certified that:

(1) There is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment; and

(2) The alien has failed to establish that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout.

Dated: December 17, 1993.

David L. Hobbs,

Deputy Assistant Secretary for Consular Affairs.

[FR Doc. 93-31527 Filed 12-27-93; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary for Economic Policy

31 CFR Part 129

Benchmark Survey of U.S. Ownership of Foreign Long-Term Securities as of March 31, 1994

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of reporting requirements and availability of survey forms and instructions.

SUMMARY: By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory survey to measure the magnitude, aggregate market value, and character of foreign long-term securities owned by United States persons (defined below) for portfolio investment purposes. The current survey is the first comprehensive attempt to evaluate U.S. long-term portfolio investment abroad since May 1943. The data that will be collected on this survey will be used to improve the measurement of official balance of payments and national income accounts and the international investment position of the United States.

The survey has been designed to collect accurate and complete information on the ownership of foreign long-term securities by United States persons as of March 31, 1994 while keeping reporting requirements to a minimum. For the purposes of this survey, foreign long-term securities include all foreign equities, including subscription rights and warrants, and all foreign debt securities whose term-to-maturity from date of issue (i.e., original maturity) is more than one year. More detailed instructions on what securities to report (and what not to report) on this survey are provided in the Survey Forms and Instructions.

This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in the section below on Who Must Report that they must respond to, and comply with, this survey. United States persons who meet the reporting requirements but who do not receive a set of the survey forms and instructions should contact the Department of Treasury at (202) 622-2240 to obtain a copy.

DATES: All United States persons who receive a set of survey forms and instructions must acknowledge their receipt by December 31, 1993 or 30 days after receipt, whichever is later. More detailed instructions on how to acknowledge receipt of the *Survey Forms and Instructions* are provided in the ACTION GUIDE to the Department of the Treasury Benchmark Survey of U.S. Ownership of Foreign Long-Term Securities as of March 31, 1994, which is contained in the survey forms and instructions booklet. All reports, including applications to file for an exemption from reporting on this survey, must be mailed to the Department of the Treasury by June 30, 1994.

ADDRESSES: All reports, including acknowledgements of receipt of the Survey Forms and Instructions as well as applications to file for an exemption from reporting on this survey, should be mailed to: Department of the Treasury, Outbound Portfolio Investment Survey Project, room 5438 Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Milton Pappas, Director of the Outbound Portfolio Investment Survey, Office of the Assistant Secretary for Economic Policy, Department of the Treasury, Washington, DC 20220, Telephone (202) 622-2240, FAX (202) 622-1294.

SUPPLEMENTARY INFORMATION: The International Investment and Trade in Services Act (22 U.S.C. 3101 *et. seq.*, [the Act]), as amended, and *E.O. 11961 of January 19, 1977 (42 FR 4321)*, as amended, authorizes the Department of Treasury to conduct a regular data collection program, including such studies and surveys as may be necessary and feasible, to secure current information on international portfolio investment, including (but not limited to) such information as may be necessary for computing and analyzing the balance of payments and international investment position of the United States. Regulations 31 CFR part 129 governing the current survey were published in the **Federal Register**, May 27, 1993, *58 FR 30707-30708*. It was stated in the Supplementary Information section that notice of specific surveys, including applicable report forms and instructions, would be published separately in the **Federal Register**.

Definitions

For purposes of reporting requirements on this survey:

(a) "Direct investment" means the ownership or control, directly or indirectly, by one person of 10 percent or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise.

(b) "Foreign", when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States. International organizations such as the International Bank for Reconstruction and Development (IBRD), or World Bank, and the Inter-American Development Bank (IDB) are also considered to be foreign even if they are physically located in the United States.

(c) "Foreign person" means any person (defined below), including a United States citizen, resident outside the United States or subject to the jurisdiction of a country other than the United States.

(d) "Foreign security" means a security that is issued by legal entities organized under the laws and subject to the jurisdiction of the courts of a foreign country, such as a foreign business enterprise or government, and a security that is issued by an international organization such as the IBRD or the IDB. The types of foreign securities to report on this survey include all foreign equities, including subscription rights and warrants, and all foreign debt securities whose term-to-maturity from date of issue (i.e., original maturity) is more than one year.

(e) "Person" means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency).

(f) "Portfolio investment" means any investment that is not direct investment.

(g) "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(h) "United States parent" means any United States person who owns or controls, directly or indirectly, 10 percent or more of the voting securities of an incorporate United States business enterprise, or an equivalent interest in an unincorporated United States business enterprise.

(i) "United States person" means any person (defined above), including a foreign citizen, resident in the United States or subject to the jurisdiction of the United States.

Who Must Report

All United States persons who manage the custody or safekeeping of foreign long-term securities for themselves and/or on behalf of other United States persons, if the total market value of these securities—aggregated over all accounts, including own custody accounts—is at least $20 million on an actual settlement-date basis as of March 31, 1994.

All United States persons who own foreign long-term securities and/or who have the authority to purchase or sell these types of securities on behalf of other United States persons, if the total market value of owned securities—aggregated over all United States funds under their management—is at least $5 million on an actual settlement-date basis as of March 31, 1994.

Any other United States persons who receive a set of survey forms and instructions.

How To Report

Respondents may file either single reports based on the consolidated business operations of the parent company and all its affiliates in the United States; or, if their normal business practice dictates, the parent company and its individual affiliates in the United States may file separate reports based on their respective business operations. Respondents who maintain multiple systems to manage the safekeeping of foreign long-term securities may file separate reports for each system.

Respondents who are submitting multiple reports for the same parent company should inform survey staff members at (202) 622-2240 that separate reports are being prepared and should obtain different control numbers for each submission. However, respondents must consolidate their own accounts and the accounts of all their affiliates in the United States to determine whether they are exempt from reporting on this survey. More detailed instructions on how to report on this survey, along with applicable report forms, are provided in the Survey Forms and Instructions.

Enforcement Provided by Law

Respondents are advised that United States persons who meet the reporting requirements set forth in this Notice and who fail to respond to, and to comply with, this survey may be subject to civil and/or criminal penalties provided by law, including injunctive relief ordering such person to comply; and, if an individual, to imprisonment not to exceed one year; any officer, director, employee, or agent of any corporation who knowingly participates in such failure to comply, upon conviction, may also be punished by a like fine, imprisonment, or both (22 U.S.C. 3105).

Dated: December 14, 1993.

Alicia H. Munnell,

Assistant Secretary for Economic Policy.

[FR Doc. 93-31241 Filed 12-27-93; 8:45 am]

BILLING CODE 4810-25-M

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations; Participation in International Institutions' Development Projects in Vietnam

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: This rule amends the Foreign Assets Control Regulations to announce the availability of a general license permitting participation by persons subject to U.S. jurisdiction in development projects in Vietnam formally proposed, approved, executed, funded or sponsored by an international institution listed in a new appendix A to the regulations, subject to certain registration and reporting requirements. Specific licenses may be issued to permit co-financing of or lending to such development projects. A further general license is added to permit banking institutions subject to U.S. jurisdiction to process transactions of the named international institutions with respect to Vietnam.

EFFECTIVE DATE: December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480), Dennis P. Wood, Chief of Compliance Programs (tel.: 202/622-2490), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

VOL 58 ISS 247 DEC 28 1993 UMI

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the Federal Register. By modem dial 202/512–1387 or call 202/512–1530 for disks or paper copies. This file is available in Postscript, WordPerfect 5.1 and ASCII.

Background

In support of the President's decision of September 13, 1993, to recognize the recent steps taken by the Vietnamese government and encourage further progress on achieving the fullest possible accounting on U.S. prisoner of war and missing in action cases from the Vietnam war, the Office of Foreign Assets Control ("FAC") is amending the Foreign Assets Control Regulations, 31 CFR part 500 (the "FACR"), to add § 500.576, which generally authorizes the participation by persons subject to U.S. jurisdiction in development projects in Vietnam formally proposed or approved for execution, funding or sponsorship by certain international institutions, such as the International Bank for Reconstruction and Development (the "World Bank"), the Asian Development Bank, the United Nations Development Program, and the World Health Organization. A list of qualified international institutions appears in new appendix A to the FACR.

Once a project (or a feasibility study for a project) has been formally proposed or approved by a qualified international institution for execution, funding or sponsorship by that institution (hereinafter referred to as a "Qualified Project"), persons subject to U.S. jurisdiction may, upon registration with FAC, provide both goods and services in relation to the Qualified Project, as contractors, subcontractors, or suppliers of related goods or services. An initial registration and annual reports are required to be filed with FAC with respect to the authorized transactions, as provided in § 500.576(d) and (e). No specific funding level on the part of qualified international institutions is required. This authorization also permits equity participation with qualified international institutions in Qualified Projects, as well as equity participation by persons subject to U.S. jurisdiction in entities in Vietnam, such as joint venture corporations, established exclusively to participate in Qualified Projects. Co-financing of or lending to Qualified Projects in Vietnam may be authorized by specific license on a case-by-case basis. Certain preparatory transactions may be undertaken by persons subject to U.S. jurisdiction with respect to proposed projects under specific licenses issued pursuant to FACR § 500.574, concerning executory contracts in which Vietnam or a Vietnamese national has an interest.

The authorization in § 500.576 does not permit performance of contracts or participation in development projects or feasibility studies for development projects prior to the formal proposal or approval of the projects or studies by a qualified international institution. Such participation is prohibited unless otherwise authorized, for example, by § 500.574 with respect to certain executory contracts in which Vietnam or a Vietnamese national has an interest. Section 500.413 is added to provide examples interpreting the scope of the authorization contained in this section.

Exports or reexports to Vietnam of goods and technical data or of the direct products of technical data (regardless of U.S. content), in connection with activities authorized by FAC with respect to Qualified Projects may require additional authorization from the U.S. Department of Commerce pursuant to the Export Administration Regulations, 15 CFR parts 768–799.

The FACR are also amended to add § 500.577, authorizing by general license banking institutions subject to United States jurisdiction to process all transactions of qualified international institutions with respect to Vietnam.

Because the FACR involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

This rule is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act. For this reason, the collection of information contained in FACR § 500.576(c) has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1501–****. Comments concerning the average annual burden and suggestions for reducing this burden should be directed to the Office of Management and Budget, Paperwork Reduction Project, Washington, D.C. 20503, with copies to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220. Any such comments should be submitted not later than February 28, 1994.

The collection of information in this rule is contained in FACR § 500.576(d) and (e). This information is required by the Office of Foreign Assets Control for compliance and enforcement purposes. This information will be used to determine the identity of organizations availing themselves of the general license in § 500.576, to determine whether persons subject to the FACR are in compliance with applicable requirements, and to determine whether and to what extent enforcement action is appropriate. The likely respondents are businesses.

Estimated total annual reporting and or recordkeeping burden: 600 hours.

The estimated annual burden per respondent/recordkeeper is expected to be 4 hours.

The estimated number of respondents and/or recordkeepers: 150.

Estimated annual frequency of responses: 1.

List of Subjects in 31 CFR Part 500

Administrative practice and procedure, Banks, Banking, Blocking of assets, Cambodia, Communist countries, Currency, Exports, Finance, Foreign Claims, Foreign investment, Foreign trade, International organizations, North Korea, Penalties, Reporting and recordkeeping requirements, Securities, Services, Telecommunications, Travel restrictions, Vietnam.

For the reasons set forth in the preamble, 31 CFR part 500 is amended as follows:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 continues to read as follows:

Authority: 50 U.S.C. App. 1–44; E.O. 9193, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 3 CFR, 1943–1948 Comp., p. 748.

Subpart D—Interpretations

2. Section 500.413 is added to subpart D to read as follows:

§ 500.413 Participation in certain development projects in Vietnam.

The following examples illustrate the scope of the authorization in § 500.576 for dealings in property in which Vietnam or a Vietnamese national has an interest with respect to development projects in Vietnam formally proposed or approved for execution, funding or sponsorship by a qualified international institution listed in appendix A to this part ("Qualified Projects").

Example # 1: The Government of Vietnam ("Vietnam") approaches a U.S. financial consulting firm (the "U.S. Consulting Firm") for advice on building cement plants in Hanoi and Ho Chi Minh City. The project might be eligible for funding by the Asian Development Bank (the "ADB"), and Vietnam wants the U.S. Consulting Firm's assistance in conducting a feasibility study for submission to the ADB. Since the project has not yet been formally proposed or approved for funding by the ADB, no involvement of the U.S. Consulting Firm is authorized pursuant to § 500.576. However, had the ADB formally proposed the project in its monthly *ADB Business Opportunities* as a project being considered for funding, or had it funded the feasibility study, § 500.576 would authorize the U.S. Consulting Firm's transactions.

Example # 2: Upon ADB approval of funding for the cement plant project, a U.S. company (the "U.S. Company") forms a joint venture with a Vietnamese company to bid on construction of the cement plants in Hanoi and Ho Chi Minh City. The joint venture's bid is successful, and it purchases construction equipment from the United States, financed by a U.S. bank and insured by a U.S. company. Several items are sourced from the United States during construction, including cement equipment, which is covered by a ten-year service and maintenance agreement. The joint venture agreement calls for the continued management and operation of the plants by the U.S. Company after completion, and for the insurance of the plants by a U.S. insurance company. Each of these transactions with respect to the Qualified Project is authorized by § 500.576.

Example # 3: The International Finance Corporation ("IFC") offers equity investment in a Vietnamese company to finance environmental safeguards for drilling operations in offshore oil fields. Various U.S. investors, including venture capital companies, brokerage firms, and investment banks contribute capital and receive shares in the Vietnamese company. This equity investment in a Qualified Project is authorized by § 500.576. The U.S. companies purchasing these shares as part of the IFC-sponsored development project may hold or resell them, including resale to other persons subject to U.S. jurisdiction. Shares acquired by entities not subject to U.S. jurisdiction may not then be purchased or repurchased by a person subject to U.S. jurisdiction.

Example # 4: (a) An Indonesian company (the "Contractor") is a successful bidder on a Qualified Project, and hires a U.S. law firm to represent it in contract negotiations with Vietnam to build a fish processing and canning facility in Vietnam funded by the World Bank. The law firm may represent the Contractor throughout the course of the project pursuant to § 500.576, once the project has been formally proposed or approved for funding by the World Bank.

(b) Once the Qualified Project is underway, the Contractor purchases equipment manufactured in France by a French company. The long-term servicing of the equipment, however, will be provided by the French company's U.S. subsidiary. The service transactions are authorized pursuant to § 500.576.

(c) After the processing facility is completed, Vietnam hires a U.S. marketing firm to develop marketing strategies for the product worldwide. It further asks the marketing firm to execute the strategies it devises and to represent the product in South-East Asia, including the domestic market in Vietnam. The marketing firm in turn would hire the brokerage services of a U.S. citizen domiciled in Thailand for the sale of the product to that country. These transactions are outside the scope of § 500.576, and violate § 500.201, because they are not directly incident to the Qualified Project funded by the World Bank.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

3. Section 500.576 is added to subpart E to read as follows:

§ 500.576 Authorization of transactions concerning certain development projects in Vietnam.

(a) All transactions by persons subject to U.S. jurisdiction in connection with participation in development projects in Vietnam formally proposed or approved for execution, funding or sponsorship by the international institutions listed in appendix A to this part ("Qualified Projects") are authorized. For purposes of this section, Qualified Projects include investment projects, structural adjustment lending, sector adjustment lending, International Monetary Fund balance-of-payments support, and general development assistance including grants, technical assistance, and loans.

(b) Persons subject to U.S. jurisdiction may provide both goods and services to any party contracting to participate in a Qualified Project pursuant to the authorization contained in this section.

(1) Services may include financial, legal, consulting, insurance, shipping and other services.

(2) Persons subject to U.S jurisdiction may participate in Qualified Projects as suppliers, contractors, or subcontractors, and through joint ventures with third-country nationals and Vietnamese nationals.

(3) Persons subject to U.S. jurisdiction may finance, or guarantee the performance of, activities of U.S. participants in a Qualified Project; co-financing of or lending to the Qualified Project itself by a person subject to U.S. jurisdiction may be authorized by specific license pursuant to § 500.801. Illustrative examples of transactions covered by this section are set forth in § 500.413.

(c) Except as otherwise authorized, persons subject to U.S. jurisdiction may not participate in development projects in Vietnam that are bilaterally funded and administered, or in projects or feasibility studies prior to formal proposal or approval by a qualified international institution for its involvement in the project or study. If a qualified international institution formally proposes but thereafter rejects, terminates, or abandons a project, the project shall no longer constitute a Qualified Project for purposes of this section. Except as otherwise specifically authorized pursuant to this part, persons subject to U.S. jurisdiction may not enter into any new commitments with respect to the project after the date of such rejection, termination, or abandonment. In addition, this section does not authorize:

(1) the importation of Vietnamese-origin goods into the United States, except as required to honor service or warranty contracts associated with Qualified Projects;

(2) offshore transactions of persons subject to U.S. jurisdiction involving the sale of Vietnamese-origin goods between Vietnam and third countries, or among third countries;

(3) flights into or out of Vietnam by aircraft owned or controlled by persons subject to U.S. jurisdiction, except when such persons transport, on aircraft they own, only passengers or cargo associated with a Qualified Project in which such persons are participating pursuant to this section;

(4) the use in Vietnam of credit cards issued by a U.S. banking institution; or

(5) a debit to a blocked account.

Example: A Vietnamese highway project feasibility study financed by a third-country development agency is not a Qualified Project for purposes of this section. However, the feasibility study would be a Qualified Project, notwithstanding the bilateral funding, if the International Development Association had formally proposed the highway project as one under consideration for funding in its *Monthly Operational Summary of World Bank and IDA Proposed Projects.*

(d) Within 10 business days after entering into an agreement for goods, services, financing, investment, or other participation in or related to a Qualified Project, the person(s) subject to U.S. jurisdiction entering into the agreement must register with the Office of Foreign Assets Control, Compliance Division, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220. The registration shall reference the fact that the agreement was entered into pursuant to 31 CFR 500.576(a), and shall provide:

(1) the name, address, telephone and facsimile numbers, and nationality of the person(s) subject to U.S. jurisdiction;

(2) if the reporting party is not an individual, the name, address, telephone and facsimile numbers of the individual to contact for further information,

(3) the name of the international institution listed in appendix A formally proposing, approving, executing, funding, or sponsoring the project;

(4) the name and a brief description of the project in Vietnam (with any contract, project, request for bid, or other identifying number);

(5) a brief description of the activity covered by the agreement, and the contract value; and

(6) if the reporting party is a subcontractor, the prime contractor's name, address, and nationality, and those of all intermediate subcontractors. Registration is not required of agencies of the Federal Government participating in Qualified Projects.

(e) Upon registration meeting the requirements of paragraph (d) of this section, the Office of Foreign Assets Control will assign a registration number to the contract involved. This number should be referenced in all funds transfers and other banking transactions that take place through banks subject to U.S. jurisdiction, and in all U.S. export documents, in connection with the Qualified Project in Vietnam in order to avoid the blocking of such funds and to facilitate export transactions.

(f) Annual reports must be filed with the Office of Foreign Assets Control on the anniversary of the issuance of a contract registration number, briefly describing the status of the project and any material changes in the information originally provided.

Note to § 500.576: Exports or reexports to Vietnam of goods and technical data, or of the direct products of technical data (regardless of U.S. content), in connection with activities licensed by FAC may require authorization from the U.S. Department of Commerce pursuant to the Export Administration Regulations, 15 CFR parts 768–799.

4. Section 500.577 is added to subpart E read as follows:

§ 500.577 Authorization of bank transactions with respect to Vietnam by certain international organizations.

All transactions by banking institutions subject to U.S. jurisdiction incidental to the processing of transactions of the international institutions identified in appendix A with reference to Vietnam are authorized.

Example: A transfer to Vietnam or a Vietnamese national of funds from the U.S. account of a qualified international institution listed in appendix A to this part, for a program, rent or salary payment, is not blocked under this part.

5. Appendix A is added to the end of part 500 read as follows:

Appendix A to Part 500—Qualifying International Institutions

Asian Development Bank (ADB)
Food and Agricultural Organization (FAO)
International Bank for Reconstruction and Development (IBRD, the "World Bank")
International Civil Aviation Organization (ICAO)
International Development Association (IDA)
International Finance Corporation (IFC)
International Fund for Agricultural Development (IFAD)
International Labor Organization (ILO)
International Maritime Organization (IMO)
International Monetary Fund (IMF)
Multilateral Investment Guarantee Association (MIGA)
UN Capital Development Fund (UNCDF)
UN Children's Fund (UNICEF)
UN Development Fund for Women (UNDFW)
UN Development Program (UNDP)
UN Economic & Social Commission for Asian and the Pacific (UNESCAP)
UN Education, Scientific and Cultural Organization (UNESCO)
UN Environment Program (UNEP)
UN Food Program (UNFP)
UN Industrial Development Organization (UNIDO)
UN International Drug Control Program (UNIDCP)
UN Population Fund (UNPF)
World Health Organization (WHO)
World Meteorological Organization (WMO)

Dated: December 17, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: December 20, 1993.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 93–31749 Filed 12–23–93; 10:35 am]

BILLING CODE 4810–25–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[A–91–29; FRL–4683–8]

RIN 2060–AC96

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Nonconformance Penalties for Heavy-Duty Engines and Heavy-Duty Vehicles, Including Heavy Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this rule, the Environmental Protection Agency (EPA) is announcing the availability of and rates for nonconformance penalties (NCPs) for heavy-duty vehicles (HDVs) and heavy-duty engines (HDEs) subject to the 1994 and later model year emission standards for particulate matter (PM). This rule also establishes the upper emission limits for HDVs and HDEs subject to those standards. The NCP will allow a manufacturer of heavy-duty engines or heavy-duty vehicles whose engines or vehicles fail to conform with certain applicable emission standards, but do not exceed a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty. The specific emission standards for which NCPs are being made available are the 1994 and later model year PM standard for heavy-duty diesel engines (HDDEs) used in urban buses, and the 1994 and later model year PM standard for HDDEs used in vehicles other than urban buses.

Other issues also addressed are configuration selection for Production Compliance Audit (PCA) testing and PCA eligibility.

EFFECTIVE DATE: This rule will become effective January 27, 1994.

ADDRESSES: Public Docket: Copies of materials relevant to this final rule are contained in Public Dockets A–91–28 and A–91–29 at the Air Docket of the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and are available for review in room M–1500 between the hours of 8:30 a.m. to noon and 1:30 to 3:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Erb, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202) 233–9259.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

Section 206(g) of the Clean Air Act (the CAA), 42 U.S.C. 7525(g), as amended by the Clean Air Act Amendments of 1990 (the CAAA), requires EPA to issue a certificate of conformity for HDEs or HDVs that exceed an applicable section 202(a) emissions standard, but do not exceed an upper limit associated with that standard, if the manufacturer pays an NCP established by rulemaking. Congress realized the dilemma that technology-forcing standards were likely to cause. If strict standards were maintained, then manufacturers who were "technological laggards" might be unable to comply initially and would be forced out of the marketplace. NCPs were intended to remedy this potential problem; the laggards would have a temporary alternative to permit them to sell their engines or vehicles through payment of a penalty. Leaders would not suffer an economic disadvantage compared to nonconforming manufacturers because the NCP would be based, in part, on the amount of money the laggard and his customer saved from producing the nonconforming rather than a conforming engine or vehicle.

Under section 206(g)(1), NCPs may be offered for HDVs or HDEs. The penalty may vary by pollutant and by class or category of vehicle or engine.

Section 206(g)(3) requires that NCPs:

- Increase with the degree of emission nonconformity;
- Increase periodically to provide an incentive for nonconforming manufacturers to achieve the emission standards; and
- Remove any competitive disadvantage to conforming manufacturers.

Section 206(g) authorizes EPA to require testing of production vehicles or engines in order to determine the emission level on which the penalty is based. If the emission level of a vehicle or engine exceeds an upper limit of nonconformity established by EPA through regulation, the vehicle or engine would not qualify for an NCP under section 206(g), and no certificate of conformity could be issued to the manufacturer. If the emission level is below the upper limit but above the standard, that emission level becomes the "compliance level" (CL) which is also the benchmark for warranty and recall liability. The manufacturer who elects to pay the NCP is liable for vehicles or engines that exceed the compliance level in-use. The manufacturer does not have in-use warranty or recall liability for emissions levels above the standard but below the compliance level.

II. Background

A. The Generic Nonconformance Penalty Rule

The generic NCP rule, Phase I (50 FR 35374, August 30, 1985) established three basic criteria for determining the eligibility of emission standards for nonconformance penalties in any given model year. First, the emission standard in question must become more difficult to meet. This can occur in two ways, either by the emission standard itself becoming more stringent, or due to its interaction with another emission standard that has become more stringent.

Second, substantial work must be required in order to meet the emission standard. EPA considers "substantial work" to mean the application of technology not previously used in that vehicle or engine class/subclass, or a significant modification of existing technology, needed to bring that vehicle or engine into compliance. EPA does not consider minor modifications or calibration changes to be classified as substantial work.

Third, a technological laggard must be likely to develop. A technological laggard is defined as a manufacturer who cannot meet a particular emission standard due to technological (not economic) difficulties and who, in the absence of NCPs, might be forced from the market. EPA makes the determination that a technological laggard is likely to develop, based in large part on the first two criteria. However, these criteria are not always sufficient to determine the likelihood of the development of a technological laggard. An emission standard may become more difficult to meet and substantial work may be required for compliance, but if that work merely involves transfer of well-developed technology from another vehicle class, it is unlikely that a technological laggard would develop.

The above three criteria were used to determine eligibility for NCPs during Phase II of the NCP rulemaking (50 FR 53454, December 31, 1985). The availability of NCPs for 1991 model year HDE standards was addressed during Phase III of the NCP rulemaking (55 FR 46622, November 5, 1990).

As in the previous NCP rules, EPA is specifying values for the following parameters in the NCP formula for each standard: COC_{50}, COC_{90}, MC_{50}, and F. The NCP formula is the same as that promulgated in the Phase I rule.

COC_{50} is an estimate of the industrywide average incremental cost per engine associated with meeting the standard for which an NCP is offered. COC_{50} is based on typical engine technology, as nearly as EPA can identify. As in the previous NCP rules, costs considered to determine COC_{50} include additional manufacturer costs and additional owner costs. Owner costs include additional expenses for maintenance, parts replacement, and fuel that will be incurred throughout the useful life of the vehicle. Consistent with previous NCP rules, the calculation of COC_{50} does not include certification cost because both complying and noncomplying manufacturers must incur certification costs.

COC_{90} is EPA's best estimate of the 90th percentile incremental cost per-engine associated with meeting the standard for which an NCP is offered. COC_{90} is based on a near worst case technology, as nearly as EPA can identify. COC_{90}, like COC_{50}, includes both manufacturer and owner costs, but not certification costs.

MC_{50} is the steepest segment of the curve describing industrywide average marginal cost of compliance with the NCP standard for engines in the NCP category. MC_{50} measures the economic tradeoff between emissions reduction and cost as certified emission levels are reduced from target levels needed to meet the NCP upper emission limit to target levels needed to meet the NCP standard itself. MC_{50} is measured in dollars per g/BHP-hr for HDEs and in dollars per gram per mile (g/mi) for LDTs.

F is a factor used to derive MC_{90}, the 90th percentile marginal cost of compliance with the NCP standard for engines in the NCP category. MC_{90} is defined as being the slope of the penalty rate curve near the standard and is equal to MC_{50} multiplied by F. For this rulemaking, EPA has determined that no reasonable estimate of MC_{90} can be made based on existing marginal cost data and has set F at a value of 1.2. This is done in accordance with the Phase 1 final NCP rule, which states that in cases where no reasonable estimate of F can be made, F shall be set 1.2.

B. Notice of Proposed Rulemaking

In the Notice of Proposed Rulemaking (NPRM) (57 FR 22675, May 29, 1992), EPA applied the generic NCP concepts to the four emission standards which become more stringent in the 1994 model year. The Agency identified emission standards for which NCPs were proposed to be available, set upper limits for those standards and specified numerical values to be used in the

calculation of the NCP for particular subclasses of engines.

First, EPA addressed in the NPRM the availability of NCPs for the 1994 Methanol-Fueled HDE standards and concluded that those standards do not meet the eligibility criteria established in the generic NCP rule. The Agency's conclusion was based on information indicating that methanol engines will not require significant modification and that currently available technology can be incorporated to meet the new 0.10 g/BHP-hr PM standard applicable to methanol fueled HDEs.

Second, EPA considered in the NPRM the need for an NCP for the 1994 Cold CO standard for heavy light-duty gasoline fueled trucks. EPA proposed not to offer NCPs based on the conclusion that no new technology would be necessary to meet the new standard.

Third, EPA proposed that an NCP be offered to meet the proposed 0.05 g/BHP-hr PM standard applicable to 1994 and later model year urban bus HDDEs (56 FR 48350, September 24, 1991). This standard represented a significant increase in stringency from the previous standard. To demonstrate compliance, urban bus engine and vehicle manufacturers were expected to employ new technology including traps, alone or in conjunction with engine redesign and refinements, and fuel injection improvements.

Fourth, EPA proposed NCPs for the 0.1 g/BHP-hr PM standard applicable to HDDEs other than urban buses. The standard for these engines, while not as stringent as that for urban buses, represents a significant increase in stringency compared to the current 0.25 g/BHP-hr standard it replaces.

Other issues that were addressed by the NPRM include configuration selection for PCA testing and eligibility requirements. EPA proposed guidance for manufacturers for the testing of multiple configurations and compliance levels. With regard to PCA eligibility, EPA reviewed the matter in the context of the manufacturers' request, but proposed no modifications.

C. Re-opening of Comment Period

On April 12, 1993, EPA re-opened the comment period to accept public comment on whether offering NCPs for petroleum-fueled urban bus HDDEs remained justified given the less stringent than proposed final 0.07 g/BHP-hr PM standard for 1994 and later model year urban bus HDDEs (58 FR 19087, April 12, 1993).

D. Final Rule—Availability of NCPs for Urban Bus and Other HDDE PM Standards

1. 1994 Standards for Which NCPs Will Be Offered

a. 1994 Heavy-Duty Diesel Engine Urban Bus Particulate Matter Standard. Since publication of the NPRM, EPA finalized the 1994 PM standard for urban buses at 0.07 g/BHP-hr (58 FR 15781, March 24, 1993). Implementation of the 0.05 g/BHP-hr PM standard for urban bus engines for Certification and Selective Enforcement Audits (SEA) has been delayed until 1996. The need for an NCP for the 1996 urban bus HDDE PM standard will be addressed in a future rulemaking.

In a written statement dated November 4, 1991 (Public Docket A–91–28, IV–D–15), Detroit Diesel Corporation (DDC) noted that the proposed 1994 0.05 g/BHP-hr PM standard was very difficult to meet. DDC's low emission results had only been achieved on a single rating within one engine family using a non-bypassing dual trap system. DDC pointed out that trap technology may not be translated to all ratings and calibrations with equal success.

In response to the re-opened comment period, DDC and the Engine Manufacturers Association (EMA) stated that NCPs remain needed for urban bus HDDEs for the 0.07 g/BHP-hr PM standard adopted in the final rule. DDC explained that the 1994 urban bus PM standard is the most stringent PM standard ever enacted and requires the use of new and unproven technology. According to DDC, technological laggards already exist with regard to this standard. A further discussion of these comments is contained in the Summary and Analysis of Comments section of this rule.

After review, EPA finds that the 1994 urban bus 0.07 g/BHP-hr PM standard represents a significant increase in stringency over the current 0.1 g/BHP-hr standard, both in terms of magnitude and timing (the 0.1 g/BHP-hr standard has only been in effect for one year). Substantial effort will be required to meet the tighter standard. The 1994 standard will require the use of technologies that are not fully tested and have never been used on a mass produced scale. Petroleum-fueled urban bus engines will have to be equipped with oxidation catalyst systems, trap oxidizer systems or other devices currently under development. DDC manufactures the majority of urban bus HDDEs for the U.S. market, and it plans to use a catalyst on the urban bus engines it produces for sale in the U.S. in 1994. Regarding oxidation catalysts, no urban bus HDDE engine has been certified using this technology to date, even in model year 1993. Given the current state of diesel engine control technology and the short lead time associated with the recent promulgation of the urban bus PM standard for 1994, EPA agrees with EMA's statement that "the 0.07 g/BHP-hr standard is likely to result in the development of technological laggards." After due consideration, EPA finds the eligibility criteria for an NCP have been met. Therefore, an NCP will be made available for the 1994 urban bus PM standard. In accordance with the previous NCP rulemakings and 40 CFR 86.1104–87, the upper PM emission limit will be the previous emission standard of 0.1 g/BHP-hr.

In its comments on the urban bus standard, DDC indicated that it intends to produce urban bus engines equipped with oxidation catalysts for PM reduction in 1994. Since DDC produces the majority of engines for the U.S. urban bus market, EPA has modified its valuation of the average cost of compliance to reflect the use of this catalyst technology. The cost for the average engine (COC_{50}) will be based on the use of an oxidation catalyst, in place of the use of trap technology as proposed in the NPRM. Additional information supporting this technology projection can be found in EPA Public Docket A–91–28.

b. 1994 PM Standard For Petroleum-Fueled HDDEs Other Than Urban Bus Engines. Information obtained since publication of the NPRM supports EPA's conclusion that substantial work will be required to meet the more stringent 1994 HDDE PM standard. Current oxidation catalyst technology achieves 30% reduction in PM emissions, allowing for a reduction from the current PM standard of 0.25 g/BHP-hr to 0.175 g/BHP-hr. From this point, a manufacturer must exert considerable effort through engine refinements (e.g. to the fuel injection system, cylinders, pistons, manifold and/or turbochargers) to consistently bring the engine below the 0.1 g/BHP-hr standard.

With regard to the employment of a particulate trap to reduce PM emissions, while trap technology has demonstrated significant reductions, its application is similarly problematic. The level of experience among manufacturers with traps is unequal. Two HDDE engine manufacturers have gained experience with traps, but in the urban bus arena. Trap systems must be tailored for each application. They are uniquely affected by many parameters, including back pressure, particulate generation rates, fuel type, particulate composition, regeneration rate and loading at the time of regeneration. In addition, trap system design affects fuel economy, electrical system loading and engine performance. Given the nature of trap technology application and the limited use of traps in the non-urban bus engine market, EPA expects that HDDE manufacturers would not be able to apply trap technology across the broad spectrum of engine families and engine ratings in time to meet the 1994 standard.

Based on the significant reduction in the PM standard for non-urban bus HDDEs in 1994 (a 60% reduction from the 1993 standard of 0.25 g/BHP-hr PM), the substantial work necessary to incorporate catalysts, traps or other modifications for the full range of HDDEs, and given the uncertainty concerning the effectiveness of the current technology to reduce emissions, EPA finds it likely that a technological laggard will develop relative to the 0.1 g/BHP-hr PM standard in 1994. Accordingly, EPA finds the NCP eligibility criteria have been met, and is offering an NCP for the 1994 PM standard of 0.1 g/BHP-hr for petroleum-fueled HDDEs other than urban bus engines. The upper emission limit will be the previous standard of 0.25 g/BHP-hr, consistent with guidelines set forth in the generic NCP rule.

In this final rule, the values of COC_{50} and COC_{90} for medium heavy-duty diesel engines (MHDDEs) and heavy heavy-duty diesel engines (HHDDEs) remain as proposed in the NPRM. However, for light heavy-duty diesel engines (LHDDEs) the value of COC_{90} has been changed in response to comment from General Motors. A further discussion of this is contained in the Summary and Analysis of Comments section of this rule.

2. 1994 Standards for Which NCPs Will Not Be Offered

a. 1994 Methanol-fueled HDE standard. Certification records reveal that two methanol engines for urban buses were certified for model year 1993. These engines each have a declared emissions limit for PM of 0.08 g/BHP-hr, with certification test results well below 0.05 g/BHP-hr. Given this information, and lacking any comments from industry justifying a need for NCPs for methanol-fueled engines for urban buses or other vehicles, EPA continues to maintain that a laggard is not likely to develop. Therefore, NCPs will not be available for the 1994 methanol-fueled HDE standard for either urban buses or other vehicles.

b. 1994 Cold CO standard for heavy light-duty gasoline fueled trucks. At the time the NPRM was written, the 1994 Cold CO standard had not been finalized. Since then, the standard was set at 12.5 g/mile @ 20 degrees Fahrenheit (57 FR 31888, July 17, 1992). EPA finds that the Cold CO standard does not meet the eligibility criteria for NCPs. The three year phase-in period will allow manufacturers ample time to incorporate currently available technology. Thus, EPA does not expect that substantial work will be required, nor is it likely that a technological laggard will develop. Thus, NCPs will not be offered for the 1994 Cold CO standard for heavy light-duty gasoline fueled trucks.

3. Other Issues

Below is a discussion of other issues addressed in this rule concerning Production Compliance Audits (PCAs) which are used to determine the compliance levels from which the amount of an NCP is determined.

a. Selection of Configuration for PCA Testing. As currently written, 40 CFR 86.1106–87(a)(2) requires Production Compliance Audit testing of the same configuration tested in certification, unless an alternate configuration is approved by the Administrator (50 FR 46622, November 5, 1990). In a letter of October 10, 1990, GM stated that this establishes an unworkable PCA requirement because certification testing often involves multiple vehicle or engine configurations and that no indication is given concerning how multiple configurations are to be PCA tested or how multiple compliance levels (CLs) are to be applied. EPA agrees with GM that the current regulations do not provide guidance as to how to determine the compliance level for one configuration based on the compliance level of engines tested from a different configuration. To remedy this problem GM suggested that § 86.1106–87(a)(2) be modified to state:

"PCA testing must be conducted on the same configurations that exceeded the standard in certification. In lieu of that requirement, the Administrator may approve testing of a greater or lesser number of configurations provided the manufacturer agrees to pay the NCP determined from the CL of each tested configuration for that configuration and for other non-tested configurations that have similar emission characteristics. If an acceptable showing of similar emission characteristics is not made, the highest CL of the configurations tested will apply to all non-tested configurations exceeding the standard."

EPA agrees with GM and this language has been incorporated into 40 CFR 86.1106–87 (a)(2) of this rule.

b. Production Compliance Audits for Conforming Engines. As currently written, § 86.1106–87 states that a manufacturer may elect to conduct a PCA for a vehicle or engine configuration that has certification test results exceeding the emission standard for a particular pollutant or that fails a Selective Enforcement Audit (SEA) with respect to a particular pollutant. In its October 10, 1990 letter, GM stated that, as a result of emission test variability, compliance cannot always be clearly determined. Therefore, GM requested manufacturers be permitted to voluntarily conduct PCAs on a conforming engine family from certification, conforming configuration(s) from SEA or conforming configuration(s) from a production change, provided certain conditions are met. These conditions include the following:

1. A definite limit on the emission increment near the standard that would allow the manufacturer the choice of conducting a PCA; and

2. A requirement that the resulting CL(s) from the PCA testing be above the standard.

EPA reviewed GM's argument and concluded that PCA testing is not available for engine families that have demonstrated their conformity by meeting the standard during certification testing or through successful completion of an SEA. This issue is discussed further in the following section.

III. Summary and Analysis of Comments

In the NPRM, EPA proposed the availability of NCPs for the 1994 and later model year Particulate Matter standard for petroleum-fueled urban bus HDDEs and for petroleum-fueled HDDEs used in other than urban buses. EPA also proposed upper limits and penalty rates associated with the NCPs.

With regard to "Other Issues," EPA proposed regulations clarifying the PCA selection procedures as suggested by GM and rejected, as stated above, GM's request for allowing PCA's to be conducted for engines or vehicles which comply with emission standards during certification and SEA.

A public hearing was not requested and, therefore, was not held for this rulemaking.

On April 12, 1993 the comment period was re-opened for two weeks in order to receive comment on whether the generic NCP criteria continued to be met for the finalized urban bus standard.

Written comments were received from four entities during the initial comment period: Joint comments from the American Gas Association and the

Natural Gas Vehicle Coalition (hereinafter referred to jointly as AGANGV), the Manufacturers of Emission Controls Association (MECA), General Motors (GM), and the Transportation Manufacturing Corporation (TMC). Comments were received from the EMA and DDC during the re-opened comment period. Comments will be addressed by topic below:

A. Availability of Nonconformance Penalties

This final rule makes NCPs available for the 1994 and later model year PM standard for petroleum-fueled HDDEs used in urban buses and vehicles other than urban buses. AGANGV stated a concern with the proposal to provide nonconformance penalties for 1994 petroleum-fueled heavy-duty diesel urban bus engines. AGANGV commented that NCPs are unnecessary if a conventionally fueled engine can comply with emission standards when converted to run on alternative fuels. AGANGV believes NCPs should only be made available when an engine can not meet the prescribed emission standards and can not be converted to run on an alternative fuel that would permit it to meet emission standards. According to AGANGV, given that the technology to meet the revised standard clearly exists (i.e., converting to an alternative fuel), and that the two urban bus engine manufacturers are commercially offering alternatively-fueled engines capable of meeting 1994 standards, there is no reason for an NCP.

EPA does not agree with AGANGV's conclusion that NCPs are not needed for the 1994 petroleum-fueled urban bus PM standard. EPA believes that fuel type must be considered when determining the availability of NCPs. The basis for EPA's position rests on prior interpretations of the 1977 Clean Air Act statutory language and the Congressional ratification of such interpretations as evidenced by the language contained in the 1990 Clean Air Act amendments. With respect to setting emission standards, the 1977 version of section 202 (a)(3)(A)(iv) stated that "in establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factors as may be appropriate." EPA relied on this authority in the 1977 CAA to separate engines into different classes on the basis of the type of fuel consumed when making NCP availability determinations. In the Phase III NCP rulemaking (55 FR 46622 November 5, 1990), EPA did not make NCPs available for 1991 methanol-fueled heavy-duty engines and petroleum fueled heavy-duty Otto cycle engines. Yet in this same rulemaking, EPA made NCPs available for the 1991 PM and NO_x standards applicable to petroleum-fueled heavy-duty diesel engines. In the NCP Phase II rulemaking (50 FR 53454, December 31, 1985), NCPs were offered for the revised HC and CO standard for gasoline-fueled HDEs, but were not offered for the revised standards for diesel-fueled HDEs. As part of that same rulemaking, NCPs were offered for the revised NO_x standard for diesel-fueled engines, but were not offered for the gasoline-fueled HDEs.

As amended in 1990, the CAA ratified the appropriateness of fuel type considerations relied on in these previous rulemakings. Section 202 (a)(3)(A)(ii), as amended, states that "in establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may base such classes or categories on gross vehicle weight, horsepower, *type of fuel used* or other appropriate factors." (emphasis added). Congress thus explicitly authorized the Administrator to rely on fuel type classifications in setting HDE standards and, by extension, in determining NCPs for standards promulgated after the 1990 Amendments. Thus, EPA believes fuel-type consumed is an appropriate consideration when determining the availability of NCPs.

In response to the re-opened comment period, EMA and DDC indicated that they believe NCPs are needed and should be offered for urban bus HDDEs in 1994. DDC cited the fact that the 1994 PM standard for urban bus engines is the most stringent PM standard ever enacted anywhere in the world and represents a 30% reduction from 1993 and results in a 70% reduction from the standard in effect in 1992. DDC stated that substantial work will be required to meet the 1994 standard requiring the use of technologies which have never been used on a mass produced scale and which are not fully developed or proof tested. DDC stated that the entire industry is in a laggard position based on the March 24, 1993 promulgation of the 1994 urban bus PM standard. Both EMA and DDC pointed out that they believe there will be technological laggards associated with the 1994 PM standard for urban buses.

Based on the above information, EPA has decided to offer an NCP for the particulate matter standard applicable to 1994 and later model year petroleum-fueled urban buses.

B. Penalty Rate Costs

This final rule incorporates by reference the discussion of penalty rates in the Phase I rulemaking (50 FR 35374, August 30, 1985), Phase II rulemaking (50 FR 53454, December 31, 1985), and Phase III rulemaking (55 FR 46622, November 5, 1990) and uses the NCP formula as promulgated in the Phase I rule. For the 1994 petroleum fueled HDDE PM standard for HHDDEs and MHDDEs, this final rule adopts the proposed values for COC_{50}, COC_{90}, and MC_{50} as stated in the NPRM. For petroleum-fueled LHDDEs, the value for COC_{90} has been modified in response to comments. The values for COC_{50} and MC_{50} for LHDDEs remain as proposed in the NPRM. For the 1994 petroleum fueled HDDE PM standard for urban bus engines the values of COC_{50} and MC_{50} have been revised in conjunction with the recently promulgated PM standard. The value of COC_{90} for the urban bus PM standard remains as stated in the NPRM. The derivation of each of the proposed cost parameters which are unchanged and remain as stated in the NPRM are described in detail in the report, "Nonconformance Penalty Rates for 1994 and Later Model Year Heavy-duty Diesel Particulate Matter Standards" (with attachment). Revisions to the cost parameters for the petroleum-fueled LHDDE and urban bus NCPs are described in the report, "Revised Nonconformance Penalty Rates for 1994 and Later Model Year Heavy-duty Diesel Urban Bus Particulate Matter Standards". Both reports are available in Public Docket A–91–29.

EPA received comments on the penalty rates from four commenters.

AGANGV stated that EPA should base the cost for compliance for urban buses on the cost of utilizing alternative fuels.

MECA commented that EPA's estimate of COC_{50} for urban buses should be based on a packaged trap oxidizer system and not one which the manufacturers develop themselves. MECA also stated that COC_{50} and COC_{90} for urban buses should not be reduced to account for the cost of removing a catalyst when a trap system is employed.

TMC questioned the proposed urban bus trap costs and provided a list of bids for buses that were trap equipped and a list of bids for similar buses that were not trap equipped for cost comparison purposes.

GM questioned the values of COC_{50} and COC_{90} which EPA proposed to apply to LHDDEs. GM also suggested that EPA consider market implications when setting NCP rates for classes of engines that compete with other classes of engines which can comply with the standard at a lower cost.

1. Urban Buses

a. Penalty Based on Use of Alternative Fuels. AGANGV stated that if EPA decides NCPs are necessary for urban buses, then EPA should base the cost of compliance on the costs of alternative fueled buses, including the cost of the refueling infrastructure required for alternative-fueled buses. EPA disagrees with AGANGV's comment. As discussed earlier, the emission standards and NCPs are set on a fuel specific basis, as authorized by the Clean Air Act. Moreover, while AGANGV is correct that manufacturers have certified urban bus engines which run on alternative fuels, these manufacturers also plan to use petroleum-fueled urban bus engines to meet the 1994 PM standard as is stated in a letter from Mr. Roger Penske of DDC to EPA (Public Docket A–91–28, IV–D–72, 09/10/92). This letter indicates that DDC, the manufacturer of the majority of the urban bus engines sold in the United States, plans to certify petroleum fueled urban bus engines which are equipped with oxidation catalysts to meet the 0.07g/BHP-hr PM standard. Based on this information indicating that petroleum-fueled urban bus engines will be produced in 1994 and the fact that the type of fuel used by an engine determines a class or category of HDEs for NCP purposes, EPA continues to base urban bus penalty rates on the costs associated with petroleum fueled engines.

b. Manufacturer Developed vs. Purchased Trap System Costs. MECA stated that it does not believe either of the two major urban bus engine manufacturers in the U.S. will manufacture their own trap system. Instead, MECA argued that manufacturers of bus engines will purchase trap systems from an independent supplier and so the value of the COC_{50} estimate should be revised.

As a result of this comment and information that has become available in connection with the rulemaking to revise the 1994 and later model year urban bus PM standard, EPA has reviewed the technology assumptions associated with this standard. Recent information contained in Public Docket A–91–28 indicates that most urban bus engines will use a catalyst to comply with the 0.07 g/BHP-hr PM standard. Thus, the value of COC_{50}, which represents the average cost that a manufacturer will encounter in demonstrating compliance with the standard, has been revised to reflect the cost associated with the use of a catalytic converter rather than a trap system. MECA's comments are no longer relevant with respect to COC_{50}. The change to COC_{50} is explained in the support document for the Final Rule, "Revised Nonconformance Penalty Rates for 1994 and Later Model Year Heavy-duty Diesel Urban Bus Particulate Matter (PM) Standards."

In the NPRM, EPA based the calculation of COC_{90} on the cost that a manufacturer would encounter when purchasing a trap system from an outside source. EPA continues to calculate COC_{90} on this basis as it is not thought that an engine manufacturer will research and develop a trap system itself but will instead purchase the packaged trap system from a particulate trap manufacturer.

c. Credit for Eliminating Catalyst Related Costs. MECA stated it disagrees with the finding in the NPRM that COC_{50} and COC_{90} should be reduced to reflect the elimination of the catalyst hardware and operating costs when a trap system is employed. MECA stated that since several HHDDE manufacturers indicated that they plan to meet the 0.1 g/BHP-hr PM standard without the use of any aftertreatment control technology, i.e., either a catalytic converter or a trap system, it is not appropriate for EPA to conclude that bus manufacturers would have employed a catalytic converter to meet that standard if a trap system were not employed.

As stated earlier, it is now known that urban bus engine manufacturers will employ a catalytic converter to meet the 0.07g/BHP-hr PM standard. Since a catalytic converter is projected to be used to meet the revised standard, the issue of a cost reduction due to the fact that the converter would be removed when the trap system is employed is no longer relevant to COC_{50}.

Regarding COC_{90}, the fact that the catalytic converter will be employed to meet COC_{50}, but will not be needed when the trap system is employed as in the case for COC_{90}, indicates that it is not appropriate to include in COC_{90} the cost of a catalytic converter. EPA believes that had the urban bus PM standard of 0.1 gram/BHP-hr been in effect for more than a single model year (1993), manufacturers would have employed a catalyst in 1993. The employment of a catalyst could have enabled the engine to meet the higher PM standard in 1993. However, it would not have enabled the engine to meet the anticipated 0.05 gram/BHP-hr. PM standard which was originally proposed for 1994. Rather than employ a new technology in 1993 with a projected lifespan of only one year, manufacturers instead certified these engines either using credits previously generated under the Banking and Trading program or through the employment of a trap system. Consequently, EPA finds that the employment of a trap system in 1994 would have eliminated the need for a catalyst. Consequently, the amount associated with the catalytic converter is deducted from the cost of the trap as it would be removed from the manufacturer's overall cost. COC_{90} remains as stated in the NPRM.

d. Cost of Trap System Hardware. TMC stated that based on its experience installing particulate trap systems, the expected cost of compliance may be more than the values listed in the NPRM. TMC provided a list of bids that were awarded for trap equipped and non-trap equipped buses. In a comparison of the awards for the 40 foot long buses the average dollar difference between the awards for trap vs. non-trap equipped buses was $14,462. In another comparison of buses on the list, two separate awards for trap equipped buses 40 feet long had low bids of $203,458 and $221,748 per bus. This difference of $18,288 was not accounted for with the information provided. It could be presumed that the differences may be attributed to different levels of optional equipment or special features which would not be relevant to trap costs. However, lacking sufficient information on the differences between the bids on the list and in view of the referenced two quotes with such a large cost difference for seemingly identical buses, EPA is not confident that all of the differences in cost between the bids for trap vs. non-trap equipped buses on the list can be attributed to the cost of the trap alone. Accordingly, EPA cannot draw any conclusions concerning the cost of the trap from the information provided, and is not revising the values stated in the NPRM.

Furthermore, as stated in the preamble for the final rule revising the 1994 PM standard for urban bus engines, EPA continues to project the costs to be in the range projected in the NPRM for this rule.[1]

2. MHDDE and HHDDE

No comments were received concerning the penalty rates for the MHDDE and HHDDE classes, and the final NCP rates are adopted as proposed in the NPRM.

3. LHDDE

GM commented that the COC_{50} and COC_{90} costs need to be revised for

[1] Written submittal from Donaldson Company, Inc. Public Docket A–91–28, IV-D–70, 09/08/92.

LHDDEs to reflect the fact that the average engine (COC_{50}) will require engine modifications and a catalytic converter, but will not require electronic controls (as projected by EPA in the NPRM). GM also stated that the near worst case engine (COC_{90}) will require electronic controls, engine modifications and a catalytic converter, but will not require a trap system (as projected by EPA in the NPRM). GM also commented that in estimating the COC_{90} cost and associated NCP factors, EPA presumed that trap technology is feasible for application to LHDDE vehicles. GM believes that feasibility must include appropriate consideration of both the availability of technology and the potential for that technology to be successfully marketed as a part of the specific vehicle product. GM stated that in the case of LHDDE vehicles, inclusion of a trap system would have a gross adverse impact on the ability of the diesel engine to compete in a vehicle market segment where gasoline and diesel engines are used almost interchangeably. GM stated that given the intense competition in the light truck market, it is unreasonable for EPA to set the NCP level at an amount that will price an engine/vehicle configuration out of the market.

a. COC_{50}. EPA does not agree with GM's position. EPA continues to believe that the costs and technology described in the NPRM for COC_{50} are appropriate. COC_{50} represents the industrywide average associated with meeting the standard. While GM may not be including electronic controls in its plans, EPA believes that other manufacturers will be including this technology and that in 1994 the average petroleum-fueled LHDDE will include electronic controls. Therefore, EPA continues to believe it is appropriate that the value for COC_{50} include the costs associated with engine modification, the employment of a catalytic converter and electronic controls.

b. COC_{90}. With regard to COC_{90} technology and associated costs, EPA agrees with GM's comment that manufacturers of LHDDEs will not require the use of trap systems to comply with the 1994 PM standards for the near worst case engine. Review of 1993 certification data and available information on 1994 model year plans confirmed GM's assessment that LHDDE manufacturers will use electronic controls, engine modifications and a catalytic converter but will not require the use of trap systems to comply with the 1994 PM standards for the near worst case engine (COC_{90}). Thus, EPA finds it appropriate to revise its calculation for COC_{90} to incorporate the costs of more expensive electronic controls and a larger catalytic converter and at the same time remove the cost of the particulate trap system from the COC_{90} calculation.

c. NCPs based on Market Considerations. With regard to GM's contention that it is not reasonable to set the NCP based on a trap system because it would price a product out of the marketplace, EPA does not believe that this issue is appropriate for consideration in this rule. The Clean Air Act requires that the NCP be set at a level which removes any competitive disadvantage to manufacturers that comply with the standard. The NCP levels in this rule are based on estimates of the costs that manufacturers will incur in complying with the 1994 PM standard, not on how a particular product will fare in the marketplace. EPA must base the NCP on the cost of the technology needed to comply with the standard to remove any competitive disadvantage to a manufacturer that complies with the standard. Although EPA disagrees with GM's comment, the issue is no longer relevant because EPA, as just explained, has removed the cost of a trap system from the COC_{90} calculation for LHDDEs.

C. Technology Application

1. Urban Buses

In the NPRM, EPA proposed that urban bus engine manufacturers would employ a dual filter front-face burner trap system to comply with the 1994 urban bus PM standard.

MECA believes that the likely trap technology used to meet the 1994 urban bus particulate standard will be a dual filter, electrically regenerated trap system rather than the front-face burner system as discussed in the NPRM. MECA stated that the COC_{50} and COC_{90} costs should be based on this technology.

Discussion of this issue with regard to COC_{50} is no longer relevant since a catalytic converter is now projected to be used in place of a trap in the case of COC_{50}. However, the use of a particulate trap is still projected for COC_{90}.

On further review, EPA agrees with MECA's statement that manufacturers employing trap technology will use an electrical heating device rather than a front face burner to regenerate trap systems. EPA has reevaluated cost based on an electrically-regenerated trap system and finds that the cost of the components for this system would be equivalent to the cost of a front face burner regenerated trap system. Therefore, although EPA agrees with MECA's comment, no changes were made in the amount of the NCP.

2. MHDDE and HHDDE

No comments were received concerning the technology applied for these classes, and EPA's views concerning the technology to be applied remain as proposed in the NPRM.

3. LHDDE

In the NPRM, EPA proposed that for LHDDEs COC_{50} be based on engine modifications and the use of a catalytic converter and electronic fuel control. COC_{90} for this class of engines was based on the use of a trap system and electronic fuel control.

GM found the NCP factors to be based on an unreasonable assessment of technology for both COC_{50} and COC_{90} with regard to LHDDEs. GM stated that COC_{50} should be based on engine modification and catalytic converter technology and that COC_{90} would include the addition of electronic engine control. Based on its own development studies, GM believes that the trap system is not required to achieve the PM Standard on any of its LHDDE configurations. Instead, GM stated that the technology presumed for the average engine in the NPRM (engine modifications, electronic control and exhaust catalytic converter) has sufficient capability to meet the PM standard.

As was stated in the Penalty Rate Costs section, EPA disagrees with GM's position relative to COC_{50} and the technology application remains as proposed. With regard to COC_{90}, EPA is in agreement with GM and has amended the COC_{90} value for LHDDEs accordingly.

D. Production Compliance Auditing (PCA) Procedures

1. Selection of Configuration for PCA Testing

In response to a suggestion by GM, EPA proposed in the NPRM that 40 CFR 86.1106–87(a)(2) be modified to allow the testing of alternative configurations provided the manufacturer agrees to pay the NCP for that configuration and other non-tested configurations that have similar emission characteristics, based upon the CL of the tested configuration. If the manufacturer does not adequately demonstrate to the Administrator that non-tested configurations have similar emission characteristics to tested configurations, the highest CL of the configurations tested will apply to all non-tested configurations.

GM stated that it strongly supports EPA's proposal. No other comments were received on this issue. Thus, EPA is finalizing the provisions as proposed in the NPRM.

2. Production Compliance Auditing

In the NPRM, EPA proposed not to accept a GM suggestion to allow PCA testing of engines that have not demonstrated noncompliance by failure of certification or SEA testing. GM did not agree with EPA's proposal and requested that EPA reconsider the issue.

As stated in the NPRM, section 206(g) of the Clean Air Act provides NCPs to allow manufacturers with engines that emit at levels above the applicable standards to obtain certificates of conformity and to avoid having these certificates suspended or revoked. Engine families that have demonstrated compliance with emission standards during certification and have not failed an SEA are not in jeopardy of not obtaining a certificate of conformity or of having that certificate suspended or revoked. Thus, there is no need for NCPs or to conduct a PCA for such engines or vehicles. EPA does not believe Congress intended NCPs to be used in the manner GM has proposed.

Moreover, EPA's position is consistent with the consensus agreement signed by the members of the NCP negotiating committee during the regulatory negotiation process that took place prior to the first NCP rulemaking. This agreement specifically stated that a PCA may be initiated under any of the following circumstances:

1. Certification emission level above the new or revised standard.
2. Selective Enforcement Audit results above the new or revised standard.
3. Production running change that causes the certification emission level to be above the new or revised standard, but not above the upper limit.
4. Carryover of a PCA emission level from a previous year.

None of these criteria are met under the GM proposal. Therefore, EPA does not believe that § 86.1106–87 should be changed as GM has suggested.

IV. Administrative Designation and Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement that a Regulatory Impact Analysis (RIA) be prepared. Major regulations are defined as any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individuals, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation will not have an annual effect on the economy in excess of $100 million and will not cause a major increase in the price of HDEs above those that would otherwise occur from compliance with the emission standards themselves. This regulation is intended to assist manufacturers that are having difficulty developing and marketing vehicles which comply with the 1994 and later model year emission standards. Without this rule a manufacturer experiencing difficulty in complying with the 1994 model year emission standards (after the use of credits) has only two alternatives: Fix the nonconforming engines for the 1994 model year or not sell them at all. NCPs provide manufacturers with additional time to bring their engines into conformity.

In addition, NCPs are calculated to deprive nonconforming manufacturers of any cost savings and competitive advantages stemming from marketing a nonconforming engine. Thus, NCPs will not have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Administrator has determined that this proposal does not constitute a "major" regulation according to these established criteria and that a RIA is not required.

V. OMB Review

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments are in the Public Docket (A–91–29).

VI. Compliance With Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires Federal agencies to consider potentially adverse impacts of Federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis.

There will not be a significant impact on a substantial number of small business entities because none of the affected manufacturers can be classified as small. Moreover, as already discussed, the NCP program can be expected to benefit manufacturers. Some Small entities do exist as manufacturers' contractors for the testing of engines for PCAs. It is EPA's practice to conduct PCA scheduling (namely, tests per day limitations) in such a way as to consider the staff and manpower capabilities of such contractors and work around any problems.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, I certify that this regulation will not have a significant impact on a substantial number of small business entities.

VII. Information Collection Requirements

This rule requires that manufacturers perform certain recordkeeping and submit certain reports to EPA. The Paperwork Reduction Act of 1980, 44 U.S.C 3501, *et seq.*, provides that reporting and recordkeeping requirements be approved by OMB before they can be imposed on the public. The information collection requirements in this rule have been addressed in the previous NCP rulemaking and approved by OMB (OMB control no. 2060–0132). At the time of the final rulemaking the Agency will submit an Inventory Correction Worksheet to OMB amending the approved burden hours to reflect the additional reports required by this rulemaking.

VIII. Statutory Authority

The promulgation of these regulations is authorized by sections 202, 203, 205, 206, 207, 208, 215, 216 and 301(a) of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, and 7601(a)).

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Air pollution control, Gasoline, Motor vehicles, Labeling, Motor vehicle pollution, and Reporting and recordkeeping requirements.

Dated: December 8, 1993.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 86, is amended as follows:

VOL 58 ISS 247 DEC 28 1993 UMI

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216, and 301(a), Clean Air Act, as amended, (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, and 7601(a)).

2. Section 86.1105–87 of subpart L is amended by revising paragraph (e) and adding paragraph (f) to read as follows:

§ 86.1105–87 Emission standards for which nonconformance penalties are available.

* * * * *

(e) The values of COC_{50}, COC_{80}, and MC_{50} in paragraph (b) of this section are expressed in December 1984 dollars. The values of COC_{50}, COC_{80}, and MC_{50} in paragraphs (c) and (d) of this section are expressed in December 1989 dollars. The values of COC_{50}, COC_{80}, and MC_{50} in paragraph (f) of this section are expressed in December 1991 dollars. These values shall be adjusted for inflation to dollars as of January of the calendar year preceding the model year in which the NCP is first available by using the change in the overall Consumer Price Index, and rounded to the nearest whole dollar in accordance with ASTM E29–67 (reapproved 1980), Standard Recommended Practice for Indicating Which Places of Figures are to be Considered Significant in Specified Limiting Values, approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This document is available from ASTM, 1916 Race Street, Philadelphia, PA 19103, and is also available for inspection as part of Public Docket A–01–06, located at the Central Docket Section, EPA, 401 M Street, SW., Washington, DC or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register on January 13, 1992. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register**.

(f) Effective in the 1994 model year, NCPs will be available for the following emission standards:

(1) Petroleum-fueled urban bus engine (as defined in § 86.091–2) particulate emission standard of 0.07 grams per brake horsepower-hour.

(i) The following values shall be used to calculate an NCP for the standard set forth in § 86.094–11(a)(1)(iv)(A) in accordance with § 86.1113–87(a):

(A) COC_{50}: $3292.

(B) COC_{80}: $10,014.

(C) MC_{50}: $109,733.

(D) F: 1.2.

(ii) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.094–11(a)(1)(iv)(A) in accordance with § 86.1113–87(h): 0.38.

(2) Petroleum-fueled diesel heavy-duty engine particulate matter emission standard of 0.10 grams per brake horsepower-hour.

(i) For petroleum-fueled light heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(*1*) COC_{50}: $772.

(*2*) COC_{80}: $1,325.

(*3*) MC_{50}: $8,178 per gram per brake horsepower-hour.

(*4*) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP in accordance with § 86.1113–87(h): 0.081.

(ii) For petroleum-fueled medium heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(*1*) COC_{50}: $1,276.

(*2*) COC_{80}: $3,298.

(*3*) MC_{50}: $15,370 per gram per brake horsepower-hour.

(*4*) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP in accordance with § 86.1113–87(h): 0.098.

(iii) For petroleum-fueled heavy heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(*1*) COC_{50}: $2,105.

(*2*) COC_{80}: $6,978.

(*3*) MC_{50}: $30,070 per gram per brake horsepower-hour.

(*4*) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP in accordance with § 86.1113–87(h): 0.083.

3. Section 86.1106–87 is amended by revising paragraph (a)(2) to read as follows:

§ 86.1106–87 Production compliance auditing.

* * * * *

(a) * * *

(2) PCA testing must be conducted on the same configurations that exceeded the standard in certification. In lieu of that requirement, the Administrator may approve testing of a greater or lesser number of configurations provided the manufacturer agrees to pay the NCP determined from the CL of each tested configuration for that configuration and for other non-tested configurations that have similar emission characteristics. If an acceptable showing of similar emission characteristics is not made, the highest CL of the configurations tested will apply to all non-tested configurations exceeding the standard.

* * * * *

[FR Doc. 93–30890 Filed 12–27–93; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Docket No. 86–285; FCC 93–503]

Collection of Fees for Ship Inspections

In the Matter of Establishment of A Fee Collection Program to Implement the Provisions of the Omnibus Budget Reconciliation Act of 1989.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission amends its rules regarding collection of fees for ship inspections and the SMRS Waiting List. The rule governing ship inspection fees has been amended because significant Commission resources are being diverted to the problem of collecting unpaid fees. Further, the Commission is eliminating the process of billing for SMRS waiting list entities because it has become administratively burdensome. The Commission will issue a Public Notice explaining how and when to remit the waiting list fee. The intended effect is to allow the Commission to operate more efficiently.

EFFECTIVE DATE: February 28, 1994.

FOR FURTHER INFORMATION CONTACT: James Mullins, Office of General Counsel, Federal Communications Commission (202) 254–6530.

SUPPLEMENTARY INFORMATION:

Order

Adopted: November 19, 1993; *Released:* December 17, 1993. By the Commission:

1. In this order the Commission adopts changes to its rules regarding collection of fees for ship inspections and the SMRS Waiting List. 47 CFR 1.1117. The rule changes are discussed below and are fully set forth in the Rule Change.

2. Currently, fees for ship inspections are collected by billing after ship inspections are conducted. 47 CFR 1.1117. However, not all licensees are paying their bills. As of the first of this year, there were 62 outstanding accounts, totalling $22,100 from prior years. Moreover, significant Commission resources are being diverted to the problem of collecting unpaid fees. To resolve this problem, we no longer will use the administrative billing procedure to collect fees for ship inspections. In the future, we will only inspect ships that have paid their fees in advance and will amend 1.1117 of the Commission's Rules accordingly.[1]

3. As to those ships currently in arrears in paying their inspection fees, licensees are also on notice that the Commission in accordance with existing rules and policies plans to enforce fully the rules governing non-payment of fees. Specifically, the Commission plans to rescind existing certifications where payment has not been made and will defer action on other pending applications.[2]

4. Finally, the Commission is also amending its Rules to eliminate the applicability of the billing procedure to the SMRS Waiting List. The process of billing SMRS Waiting List entities has proved to be administratively burdensome. The Commission will issue a Public Notice explaining how and when to remit the Waiting List fee. Any entity that fails to pay in accordance with that Notice will be dismissed from the Wait List.

5. Because the change in applicability of the billing procedure adopted herein is a matter of agency practice and procedure, prior notice and comment is not required. 5 U.S.C. 553(b)(A).

6. Accordingly, it is ordered that § 1.1117 of the Rules and Regulations of the Federal Communications Commission is amended in the manner indicated below to be effective 60 days after publication in the **Federal Register**.

7. Authority for this action is contained in sections 4(i), 4(j)8 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 158 and 303(r).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Change

Part 1 of title 47 of the CFR is amended as follows:

1. The authority citation for part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

PART 1—PRACTICE AND PROCEDURE

§ 1.1102 [Amended]

2. In § 1.1102 in the table in entry 6.e., in the "Address" column, the words "Applicants will be billed for the amount due and should remit to the address shown on the bill" are removed and the words "The FCC will release a Public Notice annually stating the fee amount due and the address to which the fee should be sent" will be added in their place.

3. Section 1.1117(a) is amended by revising the first sentence to read as follows:

§ 1.1117 Billing procedures.

(a) The fees required for the International Telecommunications Settlements (Section 1.1103(19) of this subpart) and Common Carrier Field Audits (Section 1.1105 (21) (a) and (b) of this subpart) should not be paid with the filing or submission of the request.

* * *

* * * * *

[FR Doc. 93–31453 Filed 12–27–93; 8:45 am]
BILLING CODE 6712–01–M

[1] Requiring advance payment is consistent with our procedures for most other fees. The billing procedure will continue to be used to collect applicable fees for requests for Special Temporary Authority, audits, and international Telecommunication Settlements. At this time, § 1.1117(a) is also amended to correct two references to other rule sections. These are minor technical amendments not requiring notice and comment.

[2] See 47 CFR 1.1110(c); *Establishment of a Fee Collection Program to Implement the Provisions of the Omnibus Budget Reconciliation Act*, 67 RR2d 873, 879, 880 (1990); Public Notice 2491, released June 7, 1990, "Unpaid Fees Billing Procedures."

47 CFR Part 76

[MM Docket No. 93–218; DA 93–1517]

Cable Television Service; List of Major Television Markets

In the Matter of Amendment of § 76.51 of the Commission's Rules to Include Clearwater, Florida, in the Tampa-St. Petersburg, Florida, Television Market.

AGENCY: Federal Communications Commission.

ACTION: Final rule; change of effective date.

SUMMARY: By this Order, the Commission on its own motion changes the effective date established in the Report and Order in MM Docket No. 93–218, released December 15, 1993. In order to be consistent with the Commission's stated desire to expedite proceedings involving amendment of the Commission's Rules regarding major cable television markets and the public interest in synchronizing such amendments with the copyright royalty accounting periods, the rule change adopted in this proceeding will become effective by the end of the year.

EFFECTIVE DATE: December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Order

Adopted: December 14, 1993; *Released:* December 16, 1993.

By the Chief, Mass Media Bureau:

1. In a Report and Order in the captioned proceeding (DA 93–1477, released December 15, 1993), § 76.51 of the Commission's rules were amended to include Clearwater, Florida, as a named community in the Tampa-St. Petersburg television market. That change was to become effective thirty days after publication in the **Federal Register**. For the reasons discussed below, pursuant to 47 CFR 1.108, we reopen this proceeding on our own motion to reconsider one aspect of the Report and Order.

2. The process of amending § 76.51 of the Commission's Rules was mandated by section 614(f) of the 1992 Cable Act.[1] In adopting rules to implement the Act, the Commission indicated that proceedings of this type were to be undertaken pursuant to an expedited process[2] and further indicated agreement as to the public interest in synchronizing the Commission's rules with the compulsory license copyright royalty accounting periods (January 1–June 30 and July 1–December 31).[3] In order to achieve that synchronization in the context of this proceeding, consistent with the Commission's stated desire to expedite the resolution of proceedings of this type, and in order to achieve the objectives set forth in Section 614 of the Cable Act, we had that good cause exists for making the rule changes adopted in this proceeding effective on less than 30 days notice,[4] so

[1] Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102–385, 106 Stat. 1460.

[2] Report and Order in MM Docket 92–259, 8 FCC Rcd 2965, para. 50 (1993), 58 FR 17350, April 2, 1993.

[3] *Id.* at para. 151.

[4] The Administrative Procedure Act generally requires publication in the Federal Register of

Continued

that this becomes effective by the end of the year.

3. Accordingly, it is ordered, That the rule change effective date adopted in Report and Order in MM Docket No. 93–218 (58 FR 67694, December 22, 1993) is reconsidered on our own motion and amended to become effective on December 31, 1993.

4. This action is taken by the Chief, Mass Media Bureau pursuant to authority delegated by § 0.283 of the Commission's Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93–31449 Filed 12–27–93; 8:45 am]

BILLING CODE 6712–01–M

---

47 CFR Part 76

[MM Docket No. 93–207; DA 93–1516]

Cable Television Service; List of Major Television Markets

In the Matter of: Amendment of § 76.51 of the Commission's Rules to Include Riverside, California, in the Los Angeles-San Bernardino-Corona-Fontana, California, Television Market.

AGENCY: Federal Communications Commission.

ACTION: Final rule; change of effective date.

SUMMARY: By this Order, the Commission on its own motion changes[1] the effective date established in the Report and Order in MM Docket No. 93–207, released December 7, 1993. In order to be consistent with the Commission's stated desire to expedite proceedings involving amendment of the Commission's Rules regarding major cable television markets and the public interest in synchronizing such amendments with the copyright royalty accounting periods, the rule change adopted in this proceeding will become effective by the end of the year.

EFFECTIVE DATE: December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Order

Adopted: December 14, 1993; *Released:* December 16, 1993

By the Chief, Mass Media Bureau:

1. In a Report and Order in the captioned proceeding (DA 93–1444, released December 7, 1993), § 76.51 of the Commission's rules were amended to include Riverside, California, as a named community in the Los Angeles-San Bernardino-Corona-Fontana television market. That change was to become effective thirty days after publication in the **Federal Register**. For the reasons discussed below, pursuant to 47 CFR 1.108, we reopen this proceeding on our own motion to reconsider one aspect of the Report and Order.

2. The process of amending section 76.51 of the Commission's Rules was mandated by section 614(f) of the 1992 Cable Act.[1] In adopting rules to implement the Act, the Commission indicated that proceedings of this type were to be undertaken pursuant to an expedited process[2] and further indicated agreement as to the public interest in synchronizing the Commission's rules with the compulsory license copyright royalty accounting periods (January 1–June 30 and July 1–December 31).[3] In order to achieve that synchronization in the context of this proceeding, consistent with the Commission's stated desire to expedite the resolution of proceedings of this type, and in order to achieve the objectives set forth in section 614 of the Cable Act, we find that good cause exists for making the rule changes adopted in this proceeding effective on less than 30 days notice,[4] so that this becomes effective by the end of the year.

3. Accordingly, it is ordered, That the rule change effective date adopted in Report and Order in MM Docket No. 93–207 (58 FR 67694, December 22, 1993) is reconsidered on our own motion and amended to become effective on December 31, 1993.

4. This action is taken by the Chief, Mass Media Bureau pursuant to authority delegated by § 0.283 of the Commission's Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93–31450 Filed 12–27–93; 8:45 am]

BILLING CODE 6712–01–M

---

substantive rules 30 days prior to their effective date but permits substantive rules to become effective with less than 30 days advance public in the Federal Register for good cause. See 5 U.S.C. 553(d)(1); See also 47 CFR 1.427(b).

[1] Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102–385, 106 Stat. 1460.

[2] Report and Order in MM Docket 92–259, 8 FCC Rcd 2965, para. 50 (1993), 58 FR 17350, April 2, 1993.

[3] *Id.* at para. 151.

[4] The Administrative Procedure Act generally requires publication in the **Federal Register** of substantive rules 30 days prior to their effective date but permits substantive rules to become effective with less than 30 days advance publication in the **Federal Register** for good cause. See 5 U.S.C. 553(d)(1); See also 47 CFR 1.427(b).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 24

RIN 1018–AB28

Endangered and Threatened Wildlife and Plants; Designated Ports for Listed Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (the Service) hereby amends the regulations concerning the importation, exportation, and reexportation of plants by adding Orlando, Florida, to the list of designated ports. The U.S. Department of Agriculture has opened a plant inspection station in Orlando, and the Service has determined that the station has adequate facilities and personnel to qualify as a designated port for the importation, exportation, and reexportation of plants under the terms of the Endangered Species Act of 1973, as amended (the Act), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The addition of Orlando to the list of designated ports will facilitate plant trade and the enforcement of the Act and CITES.

EFFECTIVE DATE: December 28, 1993.

FOR FURTHER INFORMATION CONTACT: Marshall P. Jones, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 420–C, Arlington, Virginia 22203, telephone (703) 358–2095.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (the Act), requires, among other things, that plants be imported, exported, or reexported only at designated ports or, under certain limited circumstances, at nondesignated ports. Section 9(f) of the Act (16 U.S.C. 1538(f)) provides for the designation of ports. Under section 9(f)(1), the Secretary of the Interior (the Secretary) has the authority to establish designated ports based on a finding that such an action would facilitate enforcement of the Act and reduce the costs of that enforcement. The United States Department of Agriculture (USDA) and the Secretary are responsible for enforcing provisions of the Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) relating to the importation, exportation, and

reexportation of plants listed as endangered or threatened under the Act or listed under CITES.

The regulations contained in 50 CFR part 24, "Importation and Exportation of Plants," are for the purpose of establishing ports for the importation, exportation, and reexportation of plants. Section 24.12(e) of the regulations contains a list of USDA ports that are, for the purposes of the Act and CITES, designated ports for the importation, exportation, and reexportation of plants that are not listed as endangered or threatened under the Act and/or not listed under CITES. (The USDA regulations in 7 CFR 319.37 contain additional prohibitions and restrictions governing the importation of plants through those ports.) Plants that are listed as endangered or threatened in 50 CFR 17.12 or are listed in the appendices to CITES in 50 CFR 23.23 are required to be accompanied by documentation and may be imported, exported, or reexported only at one of the USDA ports listed in § 24.12(a) of the regulations.

After consultations with the USDA, the United States Fish and Wildlife Service (the Service) determined that the USDA's Orlando, Florida, port of entry possesses adequate facilities and personnel to carry out enforcement activities related to the Act and CITES. Additionally, the Service determined that the location of the Orlando facility coincides with established patterns of plant trade. Accordingly, in a July 9, 1993, **Federal Register** notice (58 FR 36925), the Service proposed that the USDA port at Orlando, Florida, be added to the lists of USDA ports in 50 CFR 24.12, paragraphs (a) and (e).

Comments Submitted

The Service's July 9, 1993, notice invited the submission of written comments regarding the proposal for a 60-day comment period ending on September 7, 1993. No comments were received by that date.

Requests for Public Hearing

Section 9(f)(1) of the Act provides that any person may request an opportunity to comment at a public hearing before the Secretary of the Interior confers designated port status on any port. Accordingly, the Service's July 9, 1993, notice invited public hearing requests, which were required to be received by the Service on or before August 23, 1993. No such requests were received.

Therefore, based on the rationale set forth in the proposed rule, the Service is adopting the provisions of the proposal as a final rule without change.

Effective Date

The effect of this rule is to grant an exemption from 16 U.S.C. 1538(f), which generally prohibits importation of wildlife and plants except at such ports as may be designated. Accordingly, it may be given immediate effect under 5 U.S.C. 553(d)(1), which permits a rule that "grants or recognizes an exemption or relieves a restriction" to be given immediate effect.

Executive Order 12866 and Regulatory Flexibility Act

This rule was not subject to OMB review under Executive Order 12866. The addition of Orlando, Florida, as a designated port will facilitate the importation, exportation, and reexportation of plants listed as threatened or endangered under the Act or listed under CITES, as well as other terrestrial plants. The Service believes the addition of this port will have a postive, albeit limited, economic impact.

The volume of traffic currently handled by the designated ports in Florida indicates that the port will be utilized for the importation, exportation, or reexportation of plants. The USDA has informed the Service that it estimates that 20 or more commercial exporters/importers, many of them small entities, will use this facility on a regular basis. The USDA also projects that commercial importers based in the northern Florida area will realize at least a small savings in transportation costs as a result of the opening of the Orlando facility. The primary impact, however, will be the increased convenience of having an additional port in Florida through which plants may be imported, exported, or reexported.

Under these circumstances, the Service has determined that this action will not have a significant economic impact on a substantial number of small entities, as described in the Regulatory Flexibility Act.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. The Office of the Solicitor has determined that the requirements of Executive Order 12778 have been satisfied.

National Environmental Policy Act

The Service has determined that this final rule adding a designated port under authority of the Endangered Species Act of 1973 for the importation, exportation, and reexportation of plants is not a major Federal action which will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 50 CFR Part 24

Import, Export, Endangered and threatened plants, Treaties (Agriculture).

Accordingly, we are amending 50 CFR part 24 as follows:

PART 24—IMPORTATION AND EXPORTATION OF PLANTS

1. The authority citation for part 24 continues to read as follows:

Authority: Secs. 9(f)(1), 11(f), Pub. L. 93–205, 87 Stat. 893, 897 (16 U.S.C. 1538(f)(1), 1540(f)).

§ 24.12 [Amended]

2. Section 24.12(a) is amended by adding "Orlando, Florida" immediately under "Miami, Florida".

3. Section 24.12(e) is amended by adding "Orlando, Florida" immediately under "Miami, Florida".

Dated: November 16, 1993.

Bruce Blanchard,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 93–31568 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 920783–3285; I.D. 062992E]

Designated Critical Habitat; Snake River Sockeye Salmon, Snake River Spring/Summer Chinook Salmon, and Snake River Fall Chinook Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

VOL
58
ISS
247
DE
28
1993
UMI

SUMMARY: NMFS is designating critical habitat for the Snake River sockeye salmon (*Oncorhynchus nerka*), Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) and Snake River fall chinook salmon pursuant to the Endangered Species Act (ESA). The designated habitat for Snake River sockeye salmon consists of river reaches of the Columbia, Snake, and Salmon Rivers, Alturas Lake Creek, Valley Creek, and Stanley, Redfish, Yellow Belly, Pettit, and Alturas Lakes (including their inlet and outlet creeks). The designated habitat for Snake River spring/summer chinook salmon consists of river reaches of the Columbia, Snake, and Salmon Rivers, and all tributaries of the Snake and Salmon rivers (except the Clearwater River) presently or historically accessible to Snake River spring/summer chinook salmon (except reaches above impassable natural falls and Hells Canyon Dam). The designated habitat for Snake River fall chinook salmon consists of river reaches of the Columbia, Snake, and Salmon Rivers, and all tributaries of the Snake and Salmon Rivers presently or historically accessible to Snake River fall chinook salmon (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams). Maps are available on request (see ADDRESSES). The critical habitat designation identifies those physical and biological features of the habitat that are essential to the conservation of the species and that may require special management consideration or protection. The economic and other impacts resulting from this critical habitat designation, over and above those arising from the listing of the species under the ESA, are expected to be minimal. The designation of critical habitat provides explicit notice to Federal agencies and the public that these areas and features are vital to the conservation of the species. In addition, the designation assists Federal agencies in carrying out their responsibility to ensure that agency actions will not result in destruction or adverse modification of critical habitat.

EFFECTIVE DATE: January 27, 1994. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 1994.

ADDRESSES: Requests for maps should be addressed to NMFS, Endangered Species Branch, Environmental and Technical Services Division, 911 NE. 11th Avenue, room 620, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Garth Griffen, NMFS, Endangered Species Branch, Environmental and Technical Services Division, 911 NE. 11th Avenue, room 620, Portland, OR 97232, telephone (503) 230–5430, or Marta Nammack, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, telephone (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

NMFS published its determination to list the Snake River sockeye salmon as endangered on November 20, 1991 (56 FR 58619), and Snake River spring/summer chinook salmon and fall chinook salmon as threatened on April 22, 1992 (57 FR 14653), under the ESA (16 U.S.C. 1531 *et seq.*). Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. At the time of the proposed listing determinations, critical habitat was not determinable because information necessary to perform the required analyses was not available.

NMFS published a Federal Register notice (October 15, 1991, 56 FR 51684) requesting biological and economic information related to designation of critical habitat for Snake River sockeye salmon, Snake River spring/summer chinook salmon, and Snake River fall chinook salmon. NMFS also convened a Biological Technical Committee and an Economic Technical Committee, comprised of interested experts throughout the Pacific Northwest, to assure that available information on which to base any critical habitat determination is both accurate and complete. NMFS has considered all available scientific and economic information in making this determination.

On December 2, 1992 (57 FR 57051), NMFS published a proposed rule to designate critical habitat for Snake River sockeye salmon, Snake River spring/summer chinook salmon, and Snake River fall chinook salmon. The preamble to the proposed rule describes the procedures and criteria used to designate critical habitat. On February 5, 1993 (58 FR 7206), NMFS published a notice extending the 60-day comment period by an additional 30 days. Washington Sea Grant completed an economic impact assessment for NMFS that focused on identifying the economic consequences (costs and benefits) of implementing alternative management strategies for the listed species ("Economic Effects of Management Measures Within the Range of Potential Critical Habitat for Snake River Endangered and Threatened Salmon Species", Huppert et al., 1992). In addition, NMFS prepared an environmental assessment (EA), pursuant to the National Environmental Policy Act (NEPA), to evaluate both the environmental and economic impacts of the proposed critical habitat designations.

NMFS is designating critical habitat for the Snake River sockeye salmon, Snake River spring/summer chinook salmon, and Snake River fall chinook salmon as described in the proposed rule with modifications and clarifications suggested through the public review process.

Essential Habitat of Snake River Sockeye Salmon, Spring/Summer Chinook Salmon, and Fall Chinook Salmon

Essential Snake River salmon habitat consists of four components: (1) Spawning and juvenile rearing areas; (2) juvenile migration corridors; (3) areas for growth and development to adulthood; and (4) adult migration corridors. The Pacific Ocean areas used by listed salmon for growth and development to adulthood are not well understood, and essential areas and features have not been identified. Snake River sockeye salmon spawning and rearing is currently limited to Redfish Lake. Other historical nursery areas that are essential to the conservation of the species include Alturas, Pettit, Stanley, and Yellow Belly Lakes (including their inlet creeks). Essential features of these areas include adequate: (1) Spawning gravel; (2) water quality; (3) water quantity; (4) water temperature; (5) food; (6) riparian vegetation; and (7) access. These fishes' juvenile migration corridors include these lakes' inlet and outlet creeks, Alturas Lake Creek, that portion of Valley Creek between Stanley Lake Creek and the Salmon River, the main fork of the Salmon River, the Snake River, and the Columbia River to the Pacific Ocean. Essential features of the juvenile migration corridors include adequate: (1) Substrate (2) water quality; (3) water quantity; (4) water temperature; (5) water velocity; (6) cover/shelter; (7) food; (8) riparian vegetation; (9) space; and (10) safe passage conditions. The adult migration corridors are the same areas included in juvenile migration corridors. Essential features would include those in the juvenile migration corridors, excluding adequate food.

Snake River spring/summer chinook salmon spawning and rearing is currently sparsely distributed throughout the Grande Ronde, Imnaha, Salmon, and Tucannon subbasins, and Asotin, Granite, and Sheep Creeks. However, this critical habitat designation includes all river reaches presently or historically accessible to this species (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams). Essential features of spawning and juvenile rearing areas include adequate: (1) Spawning gravel; (2) water quality; (3) water quantity; (4) water temperature; (5) cover/shelter; (6) food; (7) riparian vegetation; and (8) space. These fishes' migration corridors are the spawning and juvenile rearing areas, plus the Snake River, and the Columbia River to the Pacific Ocean. Essential features of the juvenile and adult migration corridors are the same as those listed for Snake River sockeye salmon.

Snake River fall chinook salmon spawning and rearing is currently limited to the Snake River below Hells Canyon Dam, and within the Clearwater, Hells Canyon, Imnaha, Lower Grande Ronde, Lower North Fork Clearwater, Lower Salmon, Lower Snake, Lower Snake-Asotin, Lower Snake-Tucannon, and Palouse hydrologic units. However, this critical habitat designation includes all river reaches presently or historically accessible to this species (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams). Essential features of spawning and juvenile rearing areas are the same as for Snake River Spring/summer chinook salmon. Juvenile and adult migration corridors are the same areas as spawning and juvenile rearing areas, plus the Columbia River to its mouth at the Pacific Ocean. Essential features of the juvenile and adult migration corridors are the same as those listed for Snake River sockeye salmon.

Need for Special Management Considerations or Protection

In order to assure that the essential areas and features are maintained or restored, special management may be needed. Activities that may require special management considerations for listed Snake River salmon spawning and juvenile rearing areas include, but are not limited to: (1) Artificial propagation; (2) land management; (3) timber harvest; (4) water pollution activities; (5) livestock grazing; (6) habitat restoration; (7) irrigation withdrawal; (8) mining; and (9) road construction. For juvenile and adult migration corridors, special management considerations also include: (10) Migration barriers; (11) hydroelectric power system operation; (12) water storage; (13) dredge and fill operations; (14) predator control; and (15) barge transportation of materials. Not all of these activities are necessarily of current concern; however, they indicate the potential type of activities that will require consultation in the future. For listed Snake River salmon in the ocean environment, no special management considerations of the ocean habitat have been identified.

Special considerations and protection for these and other habitat features will be evaluated during the section 7 consultation process and in the development and implementation of a recovery plan for listed Snake River salmon. If adequate protection cannot be provided through consultation or through the recovery planning process, separate management actions with binding requirements may be considered.

Activities That May Affect the Essential Habitat

A wide range of activities may affect the essential habitat requirements of listed Snake River salmon. These activities include pollutant discharge and water management actions of Federal agencies (i.e., Bonneville Power Administration (BPA), U.S. Army Corps of Engineers (ACE), U.S. Bureau of Reclamation (BOR), and the U.S. Environmental Protection Agency (EPA)) and related or similar actions of other Federally regulated projects in the Columbia River system (e.g., Federal Energy Regulatory Commission (FERC) regulation of the Hells Canyon complex); water regulation in the Snake River Basin by the BOR; livestock grazing allocations in the Snake River Basin by the U.S. Forest Service (FS) and U.S. Bureau of Land Management (BLM); timber harvest and related activities in the Snake River Basin conducted by the FS and BLM; agricultural activities funded or carried out by the DASCS; research/monitoring by FWS, BPA, and NMFS; and planting anadromous salmonids and other fishes in the Columbia River Basin by the FWS as well as the States of Oregon, Washington, and Idaho, and Indian Tribes. Other actions of concern include dredge and fill activities, and bank stabilization activities authorized and/or conducted by ACE throughout the Columbia River Basin.

The Federal agencies that most likely will be affected by this critical habitat designation include the BPA, FERC, NMFS, ACE, BLM, EPA, FWS, and the FS. This designation will provide clear notification to these agencies, private entities, and the public of critical habitat designated for listed Snake River salmon and the boundaries of the habitat and protection provided for that habitat by the section 7 consultation process. This designation will also assist these agencies and others in evaluating the potential effects of their activities on listed Snake River salmon and their critical habitat, and in determining when consultation with NMFS would be appropriate.

Expected Impacts of Designating Critical Habitat

NMFS prepared an EA that describes the environmental and economic impacts of alternative critical habitat designations. The EA is based on the best available information, considering comments received in response to the Federal Register notice soliciting biological and economic information on critical habitat (October 15, 1991, 56 FR 51684). The environmental benefit provided by designating critical habitat is the clear notification to Federal agencies and the public of the existence and importance of critical habitat. This critical habitat designation identifies areas in the Columbia River Basin determined to be essential to the conservation of listed Snake River salmon and that may be in need of special management considerations or protection. Designation of critical habitat will have little direct impact on the water, air, or land or on the cultural or historical resources of the Columbia River Basin. The University of Washington conducted a study under a grant from NMFS to project the economic costs and benefits resulting from specific management measures within areas potentially qualifying as critical habitat. This report provides information useful for the purposes of recovery planning, as well as critical habitat designation. Assistance in the development of this report was solicited from the public (October 15, 1991, 56 FR 51684) and from an Economic Technical committee comprised of expert entities throughout the Pacific Northwest. The resulting report presented to NMFS (Huppert et al., 1992) provided a broad scope of potential management measures and projected economic effects ranging between $5.6 and 249 million annually, from which NMFS could partition the incremental costs attributable to a critical habitat proposal.

The economic costs to be considered in a critical habitat designation are the incremental costs of critical habitat designation above the economic impacts attributable to listing or attributable to authorities other than the ESA (see Consideration of Economic, Environmental and Other Factors section of this preamble). NMFS has

determined that there are no incremental net costs for areas within these species' current distribution. However, incremental costs do result from special management activities in areas outside the current distribution of the listed species that have been determined to be essential to the conservation of the species. For Snake River sockeye salmon, only those impacts from special management activities in Alturas, Pettit, Stanley, and Yellow Belly Lakes and their inlet and outlet creeks (areas previously within the range of the species) are directly attributable to a critical habitat designation. Critical habitat designation of these areas may result in an estimated, one-time nationwide economic impact of $1.0 to 1.5 million, and estimated annual impacts ranging from $66,618 to $183,625 (Fluharty et al., 1992). These estimated economic impacts may result from activities such as: Treating and buffering (one-time cost) sockeye salmon nursery lakes; providing access for juvenile and adult sockeye salmon to and from the nursery lakes; and eliminating potential competition and predation due to planted put-take salmonids. It should be noted that these costs will not be incurred immediately, and, since activities may not need to be conducted in all lakes simultaneously, the costs may be spread out over time. Plans for the timing of the needed habitat improvements will be developed through the recovery planning process, considering such factors as the current condition of the habitat, the time necessary for habitat improvements, and the plans for outplanting of smolts from the captive broodstock program or other sources.

A beneficial economic and social impact may also be realized from designating these areas as critical habitat from the establishment of a Tribal ceremonial and subsistence fishery upon the recovery of the Snake River sockeye salmon. Moreover, it is estimated that a beneficial economic impact ranging from approximately $6,000 to $305,000 per year may be realized from an increase in non-consumptive uses (i.e., viewing sockeye salmon spawning) upon the recovery of the Snake River sockeye salmon in the Stanley Basin (Fluharty et al., 1992).

For Snake River spring/summer and fall chinook salmon, no incremental costs are expected as a result of critical habitat designation because the critical habitat designation only includes habitat where these species currently exist.

Final Critical Habitat; Essential Features

The designated habitat for Snake River sockeye salmon includes: The Columbia River from the Pacific Ocean to its confluence with the Snake River; the Snake River from its confluence with the Columbia River to its confluence with the Salmon River; the Salmon River from its confluence with the Snake River to its confluence with Alturas Lake Creek; Stanley, Redfish, Yellow Belly, Pettit, and Alturas Lakes (including their inlet and outlet creeks); Alturas Lake Creek and that portion of Valley Creek between Stanley Lake Creek and the Salmon River; all river reaches presently or historically accessible (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) to Snake River sockeye salmon in the following hydrologic units: Lower Salmon, Lower Snake, Lower Snake-Asotin, Lower Snake-Tucannon, Middle Salmon-Chamberlain, Middle Salmon-Panther, and Upper Salmon.

The designated habitat for Snake River spring/summer chinook salmon includes: The Columbia River from the Pacific Ocean to its confluence with the Snake River; the Snake River from its confluence with the Columbia River to its confluence with Granite Creek; Asotin, Sheep, and Granite Creeks; all river reaches presently or historically accessible (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) to Snake River spring/summer chinook salmon in the following hydrologic units: Hells Canyon, Imnaha, Lemhi, Little Salmon, Lower Grande Ronde, Lower Middle Fork Salmon, Lower Salmon, Lower Snake-Asotin, Lower Snake-Tucannon, Middle Salmon-Chamberlain, Middle Salmon-Panther, Pahsimeroi, South Fork Salmon, Upper Middle Fork Salmon, Upper Grande Ronde, Upper Salmon, and Wallowa.

The designated habitat for Snake River fall chinook salmon includes: The Columbia River from the Pacific Ocean to its confluence with the Snake River; the Snake River from its confluence with the Columbia River to Hells Canyon Dam; the Palouse River from its confluence with the Snake River upstream to Palouse Falls; the Clearwater River from its confluence with the Snake River upstream to its confluence with Lolo Creek; the North Fork Clearwater River from its confluence with the Clearwater River upstream to Dworshak Dam; all river reaches presently or historically accessible to Snake River fall chinook salmon (except reaches above impassable natural falls) in the following hydrologic units: Clearwater, Hells Canyon, Imnaha, Lower Grande Ronde, Lower North Fork Clearwater, Lower Salmon, Lower Snake, Lower Snake-Asotin, Lower Snake-Tucannon, and Palouse.

Critical habitat for all listed Snake River salmon includes the bottom and water of the waterways and the adjacent riparian zone. The riparian zone includes those areas within 300 feet (91.4 m) of the normal line of high water of a stream channel or from the shoreline of a standing body of water. Essential features of these areas include adequate: (1) Substrate (especially spawning gravel); (2) water quality; (3) water quantity; (4) water temperature; (5) water velocity; (6) cover/shelter; (7) food; (8) riparian vegetation; (9) space; and (10) migration conditions.

Although it is important, critical habitat does not include the open ocean habitat used by listed Snake River salmon because this area does not appear to be in need of special management consideration. Degradation of this portion of the species' habitat does not appear to be a significant factor in the decline of the species. In addition, existing laws appear adequate to protect these areas, and special management of this habitat is not considered necessary at this time. However, NMFS is presently organizing a workshop that will convene regional marine scientists and managers to submit and review all available information regarding marine habitat use by listed Snake River salmon, and the impact of current laws and activities on these species during marine residence. This workshop will allow NMFS to more accurately assess the need to amend the critical habitat designation to include specific oceanic or nearshore areas, and identify associated management issues and essential habitat features in these areas. If additional evidence supports the inclusion of marine areas, NMFS may revise designated critical habitat in accordance with 50 CFR 424.16. NMFS will continue to consult under section 7 of the ESA to address Federal actions that may affect the species or result in takings in the ocean, such as Federal management of ocean fishing.

Comments and Responses

State agencies, county governments, Federal agencies and other interested parties were notified and requested to comment on the proposed rule. Public hearings on the proposed rule were held at the following locations: January 11, 1993, in Portland, OR; January 12, 1993, in Richland, WA; January 13, 1993, in Lewiston, ID; and January 14, 1993, in Boise, ID. Thirty-three individuals presented testimony at these hearings. During the 90-day comment period, NMFS received 112 written comments on the proposed rule from government agencies, non-government organizations and individuals. These comments are addressed below.

Geographic Extent of Critical Habitat

Comments: Many commenters recommended that the proposed geographic range of critical habitat for listed Snake River salmon be revised. Numerous commenters recommended that NMFS identify a portion of the ocean habitat and related special management considerations in the designation. Several recommended that critical habitat be extended to include entire watershed basins, not just riparian zones; several others requested that riparian zones be excluded from designation. Several commenters stated that all streams in Idaho should be excluded from critical habitat designation. Many expressed concern that the definitions of various stream descriptors (e.g., riparian zone, basin, subbasin, lower reaches) in the critical habitat designation were too vague. Several requested maps to more clearly identify critical habitat.

One commenter recommended removing reaches of Valley Creek upstream from its confluence with Stanley Lake Creek from designated critical habitat for Snake River sockeye salmon.

Many comments specifically addressed designated critical habitat for Snake River spring/summer chinook salmon. Many recommended that the Clearwater River be designated as critical habitat for Snake River spring/summer chinook salmon. Another suggested that NMFS should designate only currently occupied habitat in the main Salmon, Middle Fork Salmon, East Fork Salmon and Lemhi Rivers, and not all other river reaches. Two commenters noted that spring/summer chinook salmon habitat was erroneously extended to Sheep Creek and not Granite Creek. One commenter recommended the removal of Joseph Creek as critical habitat.

Several comments specifically addressed designated critical habitat for Snake River fall chinook salmon. Two commenters recommended that NMFS remove Asotin Creek as critical habitat for fall chinook salmon. One suggested that the North Fork of the Clearwater River to Dworshak Dam should be included as critical habitat for Snake River fall chinook salmon. Three commenters recommended the inclusion of the Palouse River Basin for fall chinook salmon. Three commenters requested that NMFS maintain the exclusion of critical habitat upstream of Orofino on the Clearwater River, while one requested extending critical habitat for Snake River fall chinook salmon up to Selway Falls on the Selway River, up the South Fork Clearwater River to Harpster, and up the Middle Fork of the Clearwater River into the lower reaches of the Lochsa River.

Response: Critical habitat is defined in section 3(5) of the ESA as the specific areas within the geographic area occupied by the species on which are found those physical or biological features that are essential to the conservation of the species and that may require special management considerations or protection. Based on commenters' concerns and new information received during the public comment period, NMFS has refined its designation of critical habitat for Snake River sockeye salmon, Snake River spring/summer chinook salmon, and Snake River fall chinook salmon. The following sections address these commenters' concerns and clarify NMFS' designation of critical habitat for listed Snake River salmon.

Estuarine and Marine Habitats

NMFS recognizes that the Columbia River estuary is an essential rearing area and migration corridor for listed Snake River salmon, and has maintained the designation of the estuary as critical habitat in this final rule. Although they are also important, NMFS believes that marine habitats (i.e., oceanic or nearshore areas seaward of the mouth of the Columbia River) used by listed Snake River salmon do not presently warrant designation and do not appear to be in need of special management consideration or protection. Degradation of this portion of the species' habitat does not appear to have been a significant factor in the decline of the species. Specifically, existing laws appear adequate to protect these areas, and special management of this habitat is not considered necessary at this time. However, NMFS is presently organizing a workshop that will convene regional marine scientists and managers to submit and review all available information regarding marine habitat use by listed Snake River salmon, and the impact of current laws and activities on these species during marine residence. This workshop will allow NMFS to assess more accurately the need to amend the critical habitat designation to include specific oceanic or nearshore areas, and identify associated management issues and essential habitat features in these areas. If additional evidence supports the inclusion of marine areas, NMFS may revise designated critical habitat in accordance with 50 CFR 424.16. NMFS will, of course, continue to consult under section 7 of the ESA to address Federal actions that may affect the species or result in takings in the ocean, such as Federal management of ocean fishing.

Freshwater Habitats

NMFS has determined that it is possible to designate most river reaches and lakes critical to the conservation of listed Snake River salmon. However, in areas above the confluence of the Columbia and Snake Rivers, Snake River spring/summer chinook salmon inhabit a wide range of habitats, from large rivers to small perennial and intermittent streams. This use of diverse habitats coupled with the inadequacy of existing species distribution maps makes it extremely difficult to identify all specific river reaches required by this species. Furthermore, designating each specific river reach would not necessarily aid current conservation efforts for this species since there is the potential of excluding small, yet important, tributaries from the critical habitat designation. Therefore, it is presently not feasible to designate each particular river reach that could be considered as critical habitat for Snake River spring/summer chinook salmon. However, NMFS has determined that it is prudent to designate specific hydrologic units (i.e., Federally approved river basin boundaries) that include or contain river reaches presently or historically accessible to this species (except reaches upstream of impassable natural falls, and Dworshak and Hells Canyon Dams). These reaches are known to contain physical and biological features vital to the conservation of Snake River spring/summer chinook salmon (see Table 1 in the regulatory text).

Figure 1 identifies the general geographic extent of larger rivers, lakes, and streams within hydrologic units designated as critical habitat for Snake River sockeye, spring/summer chinook, and fall chinook salmon. Note that Figure 1 does not constitute the definition of critical habitat, but instead is provided as a general reference to guide Federal agencies and interested parties in locating the general boundaries of critical habitat for listed Snake River salmon. The complete text delineating critical habitat for each species can be found at 50 CFR 226.22. Below is a table that classifies the counties in Oregon, Washington, and

VOL 58 ISS 247 DEC 28 1993 UMI

Idaho, within which at least some portion of the designated critical habitat (i.e., river reach or lake) or encompassing hydrologic unit is contained.

STATES/COUNTIES CONTAINING OR BORDERING RIVERS AND HYDROLOGIC UNITS[1] DESIGNATED AS CRITICAL HABITAT FOR ENDANGERED SNAKE RIVER SOCKEYE SALMON AND THREATENED SNAKE RIVER SPRING/SUMMER CHINOOK AND FALL CHINOOK SALMON

State	Counties	Species[2]
Oregon	Baker	2,3
	Clatsop	1,2,3
	Columbia	1,2,3
	Gilliam	1,2,3
	Hood River	1,2,3
	Morrow	1,2,3
	Multnomah	1,2,3
	Sherman	1,2,3
	Umatilla	1,2,3
	Union	2
	Wallowa	1,2,3
	Wasco	1,2,3
Washington	Adams	3
	Asotin	1,2,3
	Benton	1,2,3
	Clark	1,2,3
	Columbia	1,2,3
	Cowlitz	1,2,3
	Franklin	1,2,3
	Garfield	1,2,3
	Klickitat	1,2,3
	Lincoln	3
	Pacific	1,2,3
	Skamania	1,2,3
	Spokane	3
	Wahkiakum	1,2,3
	Walla Walla	1,2,3
	Whitman	1,2,3
Idaho	Adams	2,3
	Benewah	3
	Blaine	1,2
	Clearwater	3
	Custer	1,2
	Idaho	1,2,3
	Latah	3
	Lemhi	1,2
	Lewis	1,2,3
	Nez Perce	1,2,3
	Shoshone	3
	Valley	1,2,3

[1] Note that species may not inhabit river reaches within the county, but hydrologic units containing critical habitat fall within or border the county.

[2] Species code: 1=Snake River sockeye salmon; 2=Snake River spring/summer chinook salmon; 3=Snake River fall chinook salmon.

NMFS acknowledges that many of the river reaches within hydrologic units designated as critical habitat are not presently inhabited by the listed species. However, the vast majority of streams above the confluence of the Columbia and Snake Rivers contribute essential elements such as food, gravel, large woody debris, and water quality. Hence, their inclusion as part of the critical habitat is in keeping with the ESA's purpose "* * * to provide a means whereby the ecosystems upon which endangered species or threatened species depend may be conserved * * *" (ESA section 2(b)). Until information is developed that allows more accurate and detailed characterization of stream reaches as critical or noncritical, NMFS chooses to adopt a more inclusive critical habitat designation incorporating river reaches in hydrologic units presently or historically accessible (except reaches upstream of impassable natural falls, and Dworshak and Hells Canyon Dams) to salmon.

Experience gained by NMFS through section 7 consultations has clearly demonstrated the importance of assessing potential impacts of actions within entire watersheds. It is well documented that human activities in areas outside the immediate stream channel can have a direct effect on physical and biological features essential to the conservation of listed Snake River salmon. For example, road building and timber harvest operations in upland areas can result in adverse modifications to salmon spawning and rearing areas via landslides, sedimentation, fuel spills, and loss of riparian vegetation that provides shade, cover, and other habitat functions.

It is important to point out that designating entire hydrologic units as critical habitat does not imply that all proposed actions in a given hydrologic unit would negatively impact critical habitat. Conversely, some actions outside the designated area may have the potential to destroy or adversely modify the habitat. Through section 7 consultations, actions or groups of actions would still be considered on a case-by-case basis to determine if habitat would be destroyed or adversely modified. For areas upstream of the confluence of the Columbia and Snake Rivers, NMFS believes that refining its proposed critical habitat in terms of river reaches in specific hydrologic units is necessary to ensure the conservation of listed Snake River salmon. However, NMFS is presently investigating the feasibility of using geographic information systems to identify specific river reaches in critical habitat designations. If freshwater habitat information can be developed at an acceptable spatial resolution, NMFS may publish a notice in the **Federal Register** announcing its intent to revise designated critical habitat in accordance with 50 CFR 424.16.

Also, NMFS wants to clarify that Columbia River tributaries (e.g., Umatilla River and Willamette River) below the confluence of the Columbia and Snake Rivers are not included in the critical habitat designation because they are not considered part of the listed species' present or historical range. However, all water, waterway bottoms, and adjacent riparian zones (see Riparian Zones section of this preamble for definition) of the mainstem Columbia River from its confluence with the Snake River to the Pacific Ocean are included in the critical habitat designation, due to their importance as components of the juvenile and adult migration corridor.

Lakes, rivers, and creeks in the historical nursery area of Snake River sockeye salmon are especially important due to their contribution of essential habitat features, such as food, water, and access to spawning areas and migration corridors. However, NMFS concurs with the views of one commenter and determined that all reaches of Valley Creek upstream of its confluence with Stanley Lake's outlet creek will not be included as critical habitat for Snake River sockeye salmon. Only that portion of Valley Creek between Stanley Creek and the Salmon River is considered critical to migrating adults and juvenile sockeye salmon.

NMFS acknowledges that many river reaches (including Joseph Creek) within designated hydrologic units are not presently inhabited by Snake River spring/summer chinook salmon, and that some areas are presently inaccessible (or were historically impassable) to salmon. However, in light of the continued decline in adult returns of Snake River spring/summer chinook salmon, restricting critical habitat to a portion of this species' historic range is not considered prudent. An exception was NMFS' decision not to designate the Clearwater River Basin as critical habitat for Snake River spring/summer chinook salmon. Because of dams and hatchery-included genetic changes, the spring and summer chinook salmon inhabiting the Clearwater River Basin are not considered part of the evolutionary significant unit comprising Snake River spring/summer chinook salmon listed under the ESA. Hence, river reaches in the Clearwater River Basin are not considered critical for the conservation of listed Snake River Spring/summer chinook salmon.

Based on information acquired since proposing critical habitat for Snake River fall chinook salmon, NMFS has made several modifications to critical habitat designations for this species.

After consulting with regional fisheries biologists, NMFS has determined that Asotin Creek does not contain important spawning or rearing habitat for Snake River fall chinook salmon, and is therefore not included in this species' critical habitat designation. However, these biologists noted that the Palouse River from its confluence with the Snake River up to Palouse Falls is important spawning habitat for this species. Similarly, a short segment of the North Fork Clearwater River from Dworshak Dam downstream to its confluence with the Clearwater River also contains suitable spawning areas and is now included as critical habitat for Snake River fall chinook salmon. Despite requests from several commenters, NMFS has not extended critical habitat for Snake River fall chinook salmon upstream from Lolo Creek because there is insufficient biological information to designate these areas. However NMFS will continue to monitor activities in the Clearwater River and other river basins to determine if they need to be included in the critical habitat designation, and will continue to consult under section 7 of the ESA to address Federal actions that may affect listed Snake River species or their designated freshwater habitats.

Riparian Zones

In the Columbia River Basin, critical habitat includes the water, waterway bottom, and the adjacent riparian zone. A 1992 report by the U.S. Fish and Wildlife Service (FWS) states that riparian streambanks are composed of natural, eroding substrates supporting vegetation that either overhangs or protrudes into the water and, consequently, provides shade and escape cover for salmonids and other wildlife. Furthermore, according to a 1993 report by the interagency Forest Ecosystem Management Assessment Team (FEMAT), riparian zones consist of "areas where the vegetation complex and microclimate conditions are products of the combined presence and influence of perennial and/or intermittent water, associated high water tables, and soils that exhibit some wetness characteristics." The FEMAT report contains a comprehensive review of riparian ecosystem components, and specifies that riparian zones for fishbearing streams should consist of "* * * the area on either side of the stream extending from the edges of the active stream channel to the top of the inner gorge, or to the outer edges of the 100-year floodplain, or to the outer edges of riparian vegetation, or to a distance equal to the height of two site-potential trees, or 300 feet slope distance (600 feet, including both sides of the stream channel), whichever is greatest."

Biophysical characteristics and processes that create riparian zones vary considerably throughout the range of listed Snake River salmon. However, riparian zones along the Columbia River and throughout the hydrologic units described above are considered essential for the conservation of the listed species because they provide important space, cover/shelter, and increase river productivity. Furthermore, healthy riparian zones help ensure that water quality parameters support physiological and behavioral requirements of the listed species.

Because adverse modification of riparian zones may impede the recovery of threatened and endangered salmon, the adjacent riparian zone is included in the critical habitat designation for listed Snake River salmon. NMFS recognizes that influences of riparian vegetation progressively decrease away from the water source (e.g., river), making it difficult to identify discrete boundaries for the riparian zones. As a reasonable benchmark, NMFS defines the "adjacent riparian zone" as those areas within a horizontal distance of 300 feet (91.4 m) from the normal line of high water of a stream channel or from the shoreline of a standing body of water. NMES points out that this definition is adopted solely as a means by which agencies can evaluate the potential risk of proposed actions on designated critical habitat. The actual delineation of riparian zones at the site of a proposed action can be more accurately identified through section 7 consultations.

Seasonal Designation

Comments: Some commenters recommended that critical habitat be designated on a seasonal basis, suggesting that it could be based on the seasonal distribution of difficult species' life stages (e.g., spawning and rearing areas).

Response: A seasonal critical habitat designation for listed Snake River salmon is not appropriate because it would not be practical or beneficial for the conservation of the species. Due to the temporal differences in each species' life history strategy, either eggs, fry, juveniles, or adults are present almost year-round in the Columbia River Basin. Furthermore, actions with long-term impacts on habitat features could adversely affect the species even though taken when the species is not present. Therefore, impacts to critical habitat need to be evaluated on a year-round basis.

Economic Impacts—Incremental Approach

Comments: Many commenters believe that NMFS improperly minimized the economic impacts by separating the designation of critical habitat from the listing process (i.e., considering only the incremental economic effects of designating critical habitat beyond the effects associated with listing the species as threatened or endangered). These commenters are concerned that by separating the costs associated with the various regulatory actions (e.g., listing, critical habitat designation, section 7), NMFS underestimated the real economic consequences of protecting listed Snake River salmon as required by the ESA. Several commenters objected to NMFS' interpretation that the impact of critical habitat designation only duplicates the protection provided under section 7 of the ESA. Also, several commenters believe that using an incremental approach for critical habitat designation renders sections of the ESA meaningless and circumvents the intent of Congress.

Response: NMFS concludes that the economic impact of designating critical habitat will have only a small increase in impacts above those resulting from the listing. The law is unambiguous in both its prohibition of the consideration of economics in the listing process and its requirement to analyze the economic impact of designating critical habitat. These disparate requirements for each determination lead to an incremental analysis in which only the economic impacts resulting from the designation of the critical habitat are considered.

NMFS disagrees with the assertion that the incremental approach to economic analysis of critical habitat renders its designation meaningless. Critical habitat is important because it identifies habitat that is essential for the continued existence of a species and that may require special management measures. This facilitates and enhances Federal agencies' ability to comply with section 7 by ensuring that they are aware of the habitat that should be considered in analyzing the effects of their activities on listed species and habitats essential to support them. In addition to aiding Federal agencies in determining when consultations are required pursuant to section 7(a)(2), critical habitat can aid an agency in fulfilling its broader obligation under section 7(a)(1) to use its authority to carry out programs for the conservation of listed species.

Several commenters asserted that the incremental approach fails to take into account the substantial effect on non-

VOL 58 ISS 247 DE 28 1993 UMI

Federal interests that will be harmed by critical habitat designation to the extent they must receive Federal approvals or funds to conduct their activities. Most of the effect on non-Federal interests will be a result of the takings prohibition of section 9, or the no-jeopardy requirement of section 7, both of which are a function of the listing of the species, not designation of critical habitat. Whether or not critical habitat is designated, non-Federal interests must conduct their actions consistent with the requirements of the ESA. When a species is listed, non-Federal interests must comply with the prohibitions on takings under section 9 of the ESA or associated regulations. If the activity is funded, permitted or authorized by a Federal agency, that agency must comply with the non-jeopardy mandate of section 7 of the ESA, which is also a result of the listing of a species, not the designation of critical habitat. Once critical habitat is designated, the agency must avoid actions that destroy or adversely modify that critical habitat. However, under 50 CFR 402.02 definitions, any action that destroys or adversely modifies critical habitat is also likely to jeopardize the continued existence of the species. Therefore, NMFS does not anticipate that the designation will result in significant additional requirements for non-Federal interests.

Economic Impact Analysis

Comments: Many commenters questioned the adequacy of the economic impact analysis used by NMFS (Huppert et al., 1992), stating that the analysis did not assess all potential impacts. Several commenters objected to NMFS' determination that the proposed designation would have only minimal economic impacts, especially on small communities and counties containing important salmon spawning and rearing habitat. There were several comments on the expected costs of the proposed designation. Several commenters recommended that results of an expanded economic assessment be published in the Federal Register and that the public comment period be extended by 180 days. Several commenters expressed concern that the analysis entirely ignored impacts on Columbia River navigation/port activities. Three commenters believed the economic analysis failed to evaluate the economic impacts on dredging activities in the lower Columbia River.

Response: Under section 4(b)(2) of the ESA, the Secretary is required to designate critical habitat on the basis of the best scientific data available and after taking into account the economic impact, and other relevant impacts, of specifying any particular area as critical habitat. An area may be excluded from a critical habitat designation if the overall benefits of exclusion outweigh the benefits of designation and the exclusion will not result in the extinction of the species.

NMFS has concluded, based on an assessment of the economic impacts of designating critical habitat for listed Snake River salmon, that the designation is not likely to have significant additional adverse impacts on Federal, state, or private actions beyond those that already occur as a result of listing a species under the ESA. Although many of the comments received on the economic impact of the proposed designation suggested that the designation will have major economic costs, these costs are attributable to the economic impacts resulting from the listing of the species and not from designating their critical habitat. Furthermore, the critical habitat designation directly affects Federal agency actions. This does not encompass private, state or local actions unless there is some Federal involvement.

Currently, Federal agencies active within the range of the listed Snake River salmon species are required to consult with NMFS regarding projects and activities they permit, fund, or otherwise carry out that may affect the species, since the species are listed under the ESA. Thus, even without this critical habitat designation, Federal agencies would be required to consult with NMFS, in most if not all situations, if listed Snake River salmon habitat might be adversely affected, since any action that is likely to affect these species' habitat would also be expected to affect the species. Economic impact attributable solely to critical habitat designation above listing may occur in areas that have been designated as critical habitat but that are outside the current distribution of listed Snake River salmon (See Expected Impacts of Critical Habitat Designation).

Although NMFS recognizes that the economic analysis may not be complete, it was broader than the impacts of a critical habitat designation. Therefore, it is not necessary to revise or update the economic report before final designation of critical habitat.

Impact of Critical Habitat Designation

Comment: Several commenters stated that designating critical habitat for listed Snake River salmon is a "major rule," because the economic impacts will be greater than $100 million, and recommended that NMFS conduct a regulatory impact analysis under E.O. 12291 and under the Regulatory Flexibility Act. Many commenters stated that NMFS' environmental assessment was inadequate and recommended that NMFS prepare an environmental impact statement (EIS) pursuant to NEPA on the critical habitat designation because designation is a major Federal action and will have a significant impact on the environment.

Response: E.O. 12291 has recently been revoked, so that it is no longer necessary to classify a rule as "major." Nevertheless, NMFS notes that the designation of critical habitat for listed Snake River salmon will have an annual effect on the economy of less than $100 million. Consequently, this rule is not "economically significant" as defined in section 3(f)(1) of E.O. 12866. Also, NMFS completed an EA pursuant to NEPA and concluded that this measure would not result in significant environmental impacts. Therefore, NMFS has determined that neither a regulatory impact analysis nor an EIS are necessary.

Public Notice of Proposed Rule

Comments: Several commenters voiced complaints about the location or notification of public hearings.

Response: Upon publishing notice of the proposed designation of critical habitat in the FEDERAL REGISTER, NMFS followed the appropriate notification procedures outlined in 50 CFR 424.16(c)(1). This notification included giving notice to state and Federal agencies, private individuals, and scientific organizations known to be affected by the proposed rule. NMFS also published a summary of the proposed regulation in several newspapers with general circulation in the Pacific Northwest. The sites chosen for public hearings were located in affected areas in Oregon, Washington, and Idaho to allow ample opportunity for public attendance. Furthermore, NMFS extended the public comment period an additional 30 days to allow additional comments to be incorporated into this final rule.

Current Regulatory Mechanisms and Activities Affecting the Essential Habitat

Comments: Several commenters recommended changes to the proposed rule under the sections "Need for Special Management Considerations or Protection" and Activities That May Affect the Essential Habitat." Many commenters stated that existing management plans were sufficient to protect habitat/listed species. Two commenters recommended that effects of fish monitoring activities and research be included as special management considerations, and that NMFS be considered an agency affected by critical habitat designation. Several commenters stated that since the discharge of chemical pollutants is an activity that may affect critical habitat, the U.S. Environmental Protection Agency (EPA) should be identified as an affected Federal agency. One commenter noted that the U.S. Bureau of Reclamation (BOR) does not manage permitting for irrigation withdrawals in the Salmon River Basin.

Response: NMFS has considered existing regulatory mechanisms applicable to listed Snake River salmon and their critical habitat. A wide variety of Federal and state laws and programs have affected the abundance and survival of anadromous fish populations in the Columbia River Basin. However, they have not prevented the decline of listed Snake River salmon. Therefore, NMFS has determined that the inadequacy of existing regulatory mechanisms is a factor for listing these species as threatened or endangered.

NMFS considers the effects of scientific research/monitoring on listed Snake River salmon to be minor relative to other impacts. Furthermore, NMFS believes that the benefits derived from research/monitoring activities will promote the conservation of these species by reducing human induced mortalities associated with other activities.

Based on commenters' suggestions, NMFS and EPA have been included as Federal agencies whose activities may affect the designated critical habitat through their research/monitoring activities and regulation of pollutant discharges, respectively. In addition, NMFS acknowledges that the BOR does not regulate irrigation activities and diversions in the Salmon River Basin. However, the BOR controls large volumes of storage in the Snake River Basin, and influences the implementation of irrigation conservation measures by water users. The resulting flow regulation potentially impacts conditions in migration corridors and spawning areas of listed Snake River salmon below Hells Canyon Dam. NMFS also points out that agricultural activities funded or carried out by the U.S. Department of Agriculture Soil Conservation Service and Agricultural Stabilization and Conservation Service (DASCS) have potential effects on the critical habitat of listed Snake River salmon.

Primary Constituent Elements

Comments: Several commenters recommended that "primary constituent elements" be defined in more detail to help agencies determine when section 7 consultation is required.

Response: The primary constituent elements described under the "Need for Special Management Considerations or Protection" above and discussed in the proposed rule are provided to inform the public and to provide general guidance to Federal agencies. Detailed, quantitative descriptions of elements (e.g., nutrients, water flows and temperature, turbidity, streambank conditions, etc.) have not been included in the regulatory text because this discussion is intended to inform the public and to provide general guidance to Federal agencies. The diverse habitats and conditions that support populations of listed Snake River salmon make defining specific parameters of constituent elements extremely difficult. Furthermore, for some elements there is a lack of sufficiently detailed information to define the multitude of physicochemical conditions required to protect these species. Since it does not have the expertise to regulate criteria for all Federally permitted projects, NMFS requires Federal agencies to use their own expertise through the section 7 consultation process as a more effective method of describing potential impacts of their actions on constituent elements.

Classification

The General Counsel of the Department of Commerce has certified that this rule will not have a significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act. NMFS completed an assessment of the economic impacts of designating critical habitat. NMFS found that the regulatory effects of critical habitat designation largely duplicate the results of listing and consultations, so that the direct economic and other impacts resulting from critical habitat designation are minimal. Therefore, a regulatory flexibility analysis is not required.

NOAA Administrative Order 216–6 section 6.02c.3(h) provides that critical habitat designations under the ESA, generally, are excluded from the requirement to prepare an EA or an environmental impact statement. However, in order to evaluate more clearly the impacts of the proposed critical habitat designation, NMFS prepared an EA for this rule and has concluded that there will be no significant impact on the human environment. Copies of the EA are available on request (see ADDRESSES).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 226

Endangered and threatened species, Incorporation by reference.

Dated: December 20, 1993.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 226 is amended as follows:

PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

2. New § 226.22 is added to subpart C to read as follows:

§ 226.22 Snake River Sockeye Salmon (Oncorhynchus nerka), Snake River Spring/Summer Chinook Salmon (Oncorhynchus tshawytscha), Snake River Fall Chinook Salmon (Oncorhynchus tshawytscha).

The following areas consisting of the water, waterway bottom, and adjacent riparian zone of specified lakes and river reaches in hydrologic units presently or historically accessible to listed Snake River salmon (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams). Adjacent riparian zones are defined as those areas within a horizontal distance of 300 feet (91.4 m) from the normal line of high water of a stream channel (600 feet or 182.8 m, when both sides of the stream channel are included) or from the shoreline of a standing body of water. Figure 5 identifies the general geographic extent of larger rivers, lakes, and streams within hydrologic units designated as critical habitat for Snake River sockeye, spring/summer chinook, and fall chinook salmon. Note that Figure 5 does not constitute the definition of critical habitat, but instead is provided as a general reference to guide Federal agencies and interested parties in locating the general boundaries of critical habitat for listed Snake River salmon. The complete text delineating critical habitat for each species follows. Hydrologic units (Table 3) are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, "State Hydrologic Unit Maps," pages 1 to 22 and 17–1 to 17–13, Open-file Report 84–708, 1984, and the following DOI, USGS, 1:500,000 scale hydrologic unit maps: State of Oregon, 1974; State of Washington, 1974; State of Idaho, 1974, which are incorporated by reference. This incorporation by reference was

approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the USGS publication and maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Endangered Species Branch, Environmental and Technical Services Division, 911 NE. 11th Avenue, room 620, Portland, OR 97232, NMFS, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(a) *Snake River Sockeye Salmon (Oncorhynchus nerka).* The Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) and including all Columbia River estuarine areas and river reaches upstream to the confluence of the Columbia and Snake Rivers; all Snake River reaches from the confluence of the Columbia River upstream to the confluence of the Salmon River; all Salmon River reaches from the confluence of the Snake River upstream to Alturas Lake Creek; Stanley, Redfish, Yellow Belly, Pettit, and Alturas Lakes (including their inlet and outlet creeks); Alturas Lake Creek, and that portion of Valley Creek between Stanley Lake Creek and the Salmon River. Critical habitat is comprised of all river lakes and reaches presently or historically accessible (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) to Snake River sockeye salmon in the following hydrologic units: Lower Salmon, Lower Snake, Lower Snake-Asotin, Lower Snake-Tucannon, Middle Salmon-Chamberlain, Middle Salmon-Panther, and Upper Salmon. Critical habitat borders on or passes through the following counties in Oregon: Clatsop, Columbia, Gillium, Hood River, Morrow, Multnomah, Sherman, Umatilla, Wallowa, Wasco; the following counties in Washington: Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, Walla, Whitman; and the following counties in Idaho: Blaine, Custer, Idaho, Lemhi, Lewis, Nez Perce.

(b) *Snake River Spring/Summer Chinook Salmon (Oncorhynchus tshawytscha).* The Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) and including all Columbia River estuarine areas and river reaches proceeding upstream to the confluence of the Columbia and Snake Rivers; all Snake River reaches from the confluence of the Columbia River upstream to Hells Canyon Dam. Critical habitat also includes river reaches presently or historically accessible (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) to Snake River spring/summer chinook salmon in the following hydrologic units: Hells Canyon, Imnaha, Lemhi, Little Salmon, Lower Grande Ronde, Lower Middle Fork Salmon, Lower Salmon, Lower Snake-Asotin, Lower Snake-Tucannon, Middle Salmon-Chamberlain, Middle Salmon-Panther, Pahsimeroi, South Fork Salmon, Upper Middle Fork Salmon, Upper Grande Ronde, Upper Salmon, Wallowa. Critical habitat borders on or passes through the following counties in Oregon: Baker, Clatsop, Columbia, Gillium, Hood River, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, Wasco; the following counties in Washington: Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, Walla, Whitman; and the following counties in Idaho: Adams, Blaine, Custer, Idaho, Lemhi, Lewis, Nez Perce, Valley.

(c) *Snake River Fall Chinook Salmon (Oncorhynchus tshawytscha).* The Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) and including all Columbia River estuarine areas and river reaches proceeding upstream to the confluence of the Columbia and Snake Rivers; the Snake River, all river reaches from the confluence of the Columbia River, upstream to Hells Canyon Dam; the Palouse River from its confluence with the Snake River upstream to Palouse Falls; the Clearwater River from its confluence with the Snake River upstream to its confluence with Lolo Creek; the North Fork Clearwater River from its confluence with the Clearwater River upstream to Dworshak Dam. Critical habitat also includes river reaches presently or historically accessible (except reaches above impassable natural falls, and Dworshak and Hells Canyon Dams) to Snake River fall chinook salmon in the following hydrologic units; Clearwater, Hells Canyon, Imnaha, Lower Grande Ronde, Lower North Fork Clearwater, Lower Salmon, Lower Snake, Lower Snake-Asotin, Lower Snake-Tucannon, and Palouse. Critical habitat borders on or passes through the following counties in Oregon: Baker, Clatsop, Columbia, Gillium, Hood River, Morrow, Multnomah, Sherman, Umatilla, Wallowa, Wasco; the following counties in Washington: Adams, Asotin, Benton, Clark, Columbia, Cowlitz, Franklin, Garfield, Klickitat, Lincoln, Pacific, Skamania, Spokane, Wahkiakum, Walla, Whitman; and the following counties in Idaho: Adams, Benewah, Clearwater, Idaho, Latah, Lewis, Nez Perce, Shoshone, Valley.

3. Table 3 and Figure 5 are added to part 226 to read as follows:

Table 3 to Part 226 [Added]

TABLE 3.—HYDROLOGIC UNITS [1] CONTAINING CRITICAL HABITAT FOR ENDANGERED SNAKE RIVER SOCKEYE SALMON AND THREATENED SNAKE RIVER SPRING/SUMMER AND FALL CHINOOK SALMON

Hydrologic unit name	Hydrologic unit number		
	Sockeye salmon	Spring/summer chinook salmon	Fall chinook salmon
Hells Canyon	.....	17060101	17060101
Imnaha	.....	17060102	17060102
Lower Snake—Asotin	17060103	17060103	17060103
Upper Grande Ronde	.....	17060104	.....
Wallowa	.....	17060105	.....
Lower Grande Ronde	.....	17060106	17060106
Lower Snake—Tucannon	17060107	17060107	17060107
Palouse	.....	.....	17060108

TABLE 3.—HYDROLOGIC UNITS [1] CONTAINING CRITICAL HABITAT FOR ENDANGERED SNAKE RIVER SOCKEYE SALMON AND THREATENED SNAKE RIVER SPRING/SUMMER AND FALL CHINOOK SALMON—Continued

Hydrologic unit name	Hydrologic unit number		
	Sockeye salmon	Spring/summer chinook salmon	Fall chinook salmon
Lower Snake	17060110	17060110	17060110
Upper Salmon	17060201	17060201	.....
Pahsimeroi	.....	17060202	.....
Middle Salmon—Panther	17060203	17060203	.....
Lemhi	.....	17060204	.....
Upper Middle Fork Salmon	.....	17060205	.....
Lower Middle Fork Salmon	.....	17060206	.....
Middle Salmon—Chamberlain	17060207	17060207	.....
South Fork Salmon	.....	17060208	.....
Lower Salmon	17060209	17060209	17060209
Little Salmon	.....	17060210	.....
Clearwater	.....	.....	17060306
Lower North Fork Clearwater	.....	.....	17060308

[1] Hydrologic units and names taken from DOI, USGS 1:500,000 scale hydrologic unit maps (available from USGS); State of Oregon, 1974; State of Washington, 1974; State of Idaho, 1974.

Figure 5 to Part 226—Designated Critical Habitat, Snake River Salmon

BILLING CODE 3510-22-M

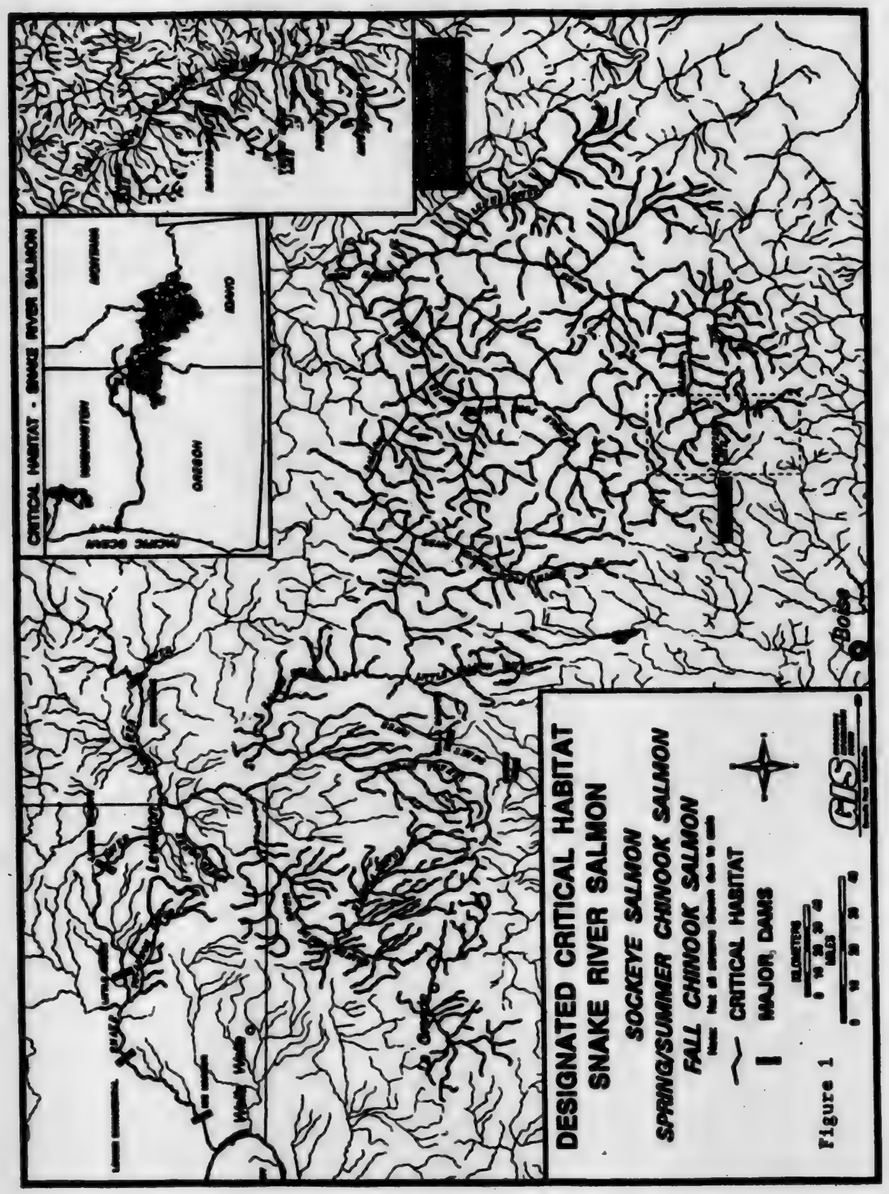


Figure 1

[FR Doc. 93–31432 Filed 12–27–93; 8:45 am]
BILLING CODE 3510–23–C

50 CFR Part 625

[Docket No. 921230–3020; I.D. 122093B]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of commercial quota harvest.

SUMMARY: NMFS issues this notification to announce that the summer flounder commercial quota available to the State of Rhode Island has been harvested. Vessels issued a Federal fisheries permit for the summer flounder fishery may no longer land summer flounder in the State of Rhode Island for the remainder of calendar year 1993. Regulations governing the Fishery Management Plan for the Summer Flounder Fishery (FMP) require publication of this notice to advise the State of Rhode Island that its quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in the State.

EFFECTIVE DATE: December 22, 1993, through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, 508–281–9101.

SUPPLEMENTARY INFORMATION: Regulations implementing the FMP are found at 50 CFR part 625. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 625.20.

The commercial quota for summer flounder for the 1993 calendar year is set equal to 12.35 million pounds (5.6 million kg) (January 22, 1993, 58 FR 5658). The quota allocated to vessels landing summer flounder in Rhode Island is 1,936,851 pounds (878,549.8 kg).

Section 625.21(c) requires the Director, Northeast Region, NMFS (Regional Director), to monitor state commercial quotas based on dealer reports and other available information, and to determine the date when a state commercial quota will be harvested. The Regional Director is further required to publish a notice in the **Federal Register** advising the state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state.

The Regional Director has determined, based on dealer reports and other available information, that the Rhode Island commercial quota will be harvested by December 22, 1993. The regulations at 625.4(a)(3) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Director has determined no longer has commercial quota available. Therefore, further landings in that state by Federally permitted vessels are prohibited for the remainder of the 1993 calendar year, effective 0001 hours December 22, 1993. Federally permitted dealers are advised that they may not purchase summer flounder from Federally permitted vessels that land in Rhode Island, for the remainder of the calendar year.

Classification

This action is required by 50 CFR part 625.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: December 22, 1993.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31696 Filed 12–27–93; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 649

[Docket No. 931232–3332; I.D. 101993A]

American Lobster Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations implementing the American Lobster Fishery Management Plan (FMP) to postpone an increase in the minimum carapace length (CL), because a comprehensive FMP amendment was transmitted by the New England Fishery Management Council (Council). The existing minimum CL of 3¼ inches (8.26 cm) will remain in effect through May 17, 1994, for vessels with Federal lobster permits or with state lobster permits that have been endorsed for fishing in the exclusive economic zone (EEZ). The intention is to maintain a consistent minimum CL applicable to American lobsters taken from state waters and those taken in the EEZ during Secretarial review of an FMP amendment.

EFFECTIVE DATE: December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Mark Millikin (Fishery Management Specialist, NMFS), 301/713–2341.

SUPPLEMENTARY INFORMATION: The American lobster fishery is managed under the FMP prepared by the Council and implementing regulations at 50 CFR part 649, pursuant to the Magnuson Fishery Conservation and Management Act (Magnuson Act). Regulations at § 649.20(b)(2) required that if, prior to December 26, 1993, the Council transmits to the Secretary a comprehensive amendment to the FMP that further addresses management strategies for American lobster throughout its range, with an emphasis on alleviating overfishing, the Director, Northeast Region, NMFS (Regional Director), shall change the date, by regulatory amendment, upon which the 3$^{9}/_{32}$ inch (8.33 cm) minimum CL becomes effective to the 146th day after the date on which the comprehensive FMP amendment was transmitted. This postponement will preserve, in the interim, the uniformity between the state and Federal minimum CLs for American lobster, one of the objectives of the FMP. Failure to postpone the minimum CL increase would create the following difficulties:

1. The failure to establish a size limit that is consistent in state and Federal waters would jeopardize the effective enforcement of the more restrictive Federal minimum size. Lobsters are landed in hundreds of small ports along more than 6,000 miles (9,600 km) of coastline in the Northeast. Most of the fishermen landing in these ports have Federal lobster permits and are subject to Federal lobster regulations. Enforcement of the Federal lobster regulations in many of these ports relies, out of necessity, on state enforcement agencies that enforce identical state regulations. If Federal size restrictions are inconsistent with state size restrictions, it would be unlikely that there would be effective enforcement of the more restrictive Federal CL standard.

2. Lobster fishermen and dealers would incur economic hardship. The Mitchell Amendment to the Magnuson Act prohibits the shipment, transport, sale, or purchase, in interstate or foreign commerce, of any whole live American lobster smaller than the Federal minimum size. If the scheduled increase in the Federal CL were allowed to occur, a significant percentage, estimated to be 5 to 7 percent of lobster landings, would meet the lower state CL restrictions, but not the increased Federal CL standard. In order to ensure that the smaller

VOL 58 ISS 247 DEC 28 1993 UMI

lobsters are not sold in interstate or foreign commerce, lobster fishermen and dealers would be forced to incur, temporarily, the added burden and expense of setting up a system to separate lobsters differing in size by an almost imperceptible 1/32 inch (0.08 cm) (and in weight by less than 1 oz. (26.3 g)). This added burden and expense coupled with the inability to sell the smaller lobsters in interstate or foreign commerce would impose an unnecessary economic hardship on the U.S. lobster industry. The restriction on selling the smaller lobster in foreign commerce would be particularly harmful on the U.S. industry's ability to compete with Canada, whose industry is subject to a smaller CL standard in the sale of the highly desirable smaller lobsters.

3. Many vessels would have an incentive to give up their Federal permits and fish exclusively in state waters in order to be subject to less restrictive CL standards, thereby forcing more effort inshore where the resource already experiences excessively high exploitation rates.

Due to the short-term nature of this action, the Council has requested that the minimum CL increase be delayed while the Secretary reviews a comprehensive FMP amendment that proposes to alleviate overfishing and set a timeframe to accomplish a program for rebuilding the stock, but that does not incorporate the lobster minimum CL increases.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary for the conservation and management of the American lobster fishery and is consistent with the Magnuson Act and with other applicable law.

The AA, pursuant to section 553(b)(B) of the Administrative Procedure Act (APA), finds that there is good cause to implement this final rule without prior notice and opportunity for public comment, and that the effective date of this rule should not be delayed later than December 23, 1993. Prior public comment is unnecessary; delaying the increase in the minimum CL was subject to prior public comment in the development and implementation of Amendment 4 to the FMP. The affected members of the public had opportunity to discuss and comment on this measure at meetings held by the Council. Further, the effect of this rule is to continue an existing measure that does not implement any new restrictions on the affected public and to relieve a restriction that would otherwise occur on December 27, 1993.

Because neither the APA nor any other law requires that notice and opportunity for public comment be given for this rule, under sections 603 and 604 of the Regulatory Flexibility Act, a regulatory flexibility analysis need not be and was not prepared.

List of Subjects in 50 CFR Part 649

Fisheries.

Dated: December 21, 1993.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 649 is amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.20, paragraph (b) is revised to read as follows:

§ 649.20 Harvesting and landing requirements.

* * * * *

(b) *Carapace length.* All American lobsters landed on the dates set forth must have a minimum carapace length as follows:

Effective dates	Minimum carapace length
December 27, 1991, through May 17, 1994.	3¼ inches (8.26 cm).
May 18, 1994, through December 26, 1994.	3 9/32 inches (8.33 cm).
December 27, 1994, and beyond.	3 5/16 inches (8.41 cm).

* * * * *

[FR Doc. 93-31626 Filed 12-22-93; 3:20 pm]

BILLING CODE 3510-22-M

50 CFR Part 678

[Docket No. 920409-3337; I.D. 120293D]

RIN 0648-AG02

Atlantic Shark Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues an interim final rule to implement commercial trip limits for permitted vessels for Atlantic large coastal sharks, as authorized by the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP), in order to lower daily landings, to extend the open season, and to reduce the likelihood that the semiannual quota will be exceeded. In addition, NMFS is soliciting written comments on this and other issues of concern in this fishery.

DATES: Effective January 1, 1994. Comments on this interim final rule must be received on or before January 27, 1994.

ADDRESSES: Comments on the interim final rule should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Clearly indicate "Atlantic Shark Comments" on the envelope. Comments may also be sent by FAX to 301-713-1035. Requests for copies of the Environmental Assessment/Regulatory Impact Review supporting this action may be sent to C. Michael Bailey at the same address.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, 301-713-2347, FAX 301-713-1035, Michael E. Justen, 813-893-3161 or Kevin Foster, 508-281-9260.

SUPPLEMENTARY INFORMATION: The fishery for Atlantic sharks is managed under the FMP prepared by NMFS under authority of section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), and was implemented through a final/interim final rule published on April 26, 1993 (58 FR 21931). Comments and responses on the draft FMP and proposed rule were discussed in the preamble to that rule and are not repeated here.

In September 1993, 13 public scoping meetings were held to receive comments from fishery participants and other members of the public regarding measures to slow the fishery and extend the season, as well as other issues in the Atlantic shark fishery. In addition, NMFS solicited written comments as part of the scoping process.

The 1993 Atlantic Shark Fishery

A number of difficulties arose in the initial year of implementation of the FMP (1993). First, the January-June biannual large coastal species group subquota was exceeded shortly after implementation of the FMP, and that portion of the commercial fishery was closed on May 10, 1993. The fishery for large coastal sharks reopened on July 1, 1993, with an adjusted quota of 875 metric tons dressed weight (mt dw). Derby-style fishing, coupled with what some participants observed to be an unusual abundance of sharks, led to a very intense and short fishing season for large coastal sharks, with the fishery closing within 1 month. Although fin prices remained strong throughout the brief season, the oversupply of shark carcasses led to reports of record low prices and poor quality. The closure was earlier than some expected, and a number of commercial fishermen and dealers indicated that they were adversely affected. The intense season also complicated the task of monitoring the large coastal quota and of closing the season with the required advance notice.

This interim final rule imposes a trip limit for large coastal sharks for permitted commercial fishing vessels, under the framework provisions of the FMP, which allow the Assistant Administrator for Fisheries, NOAA, (AA), in consultation with the Operations Team, if appropriate, to make adjustments in the management measures in order to achieve the objectives of the FMP. These adjustments may include changes in commercial trip limits.

This interim final rule allows all permitted vessels to harvest and possess up to and including 4,000 pounds (1,814 kg) of large coastal sharks per trip, with no trip limits on catch from the small coastal and pelagic species groups. Since fishermen are required under § 678.21(a)(2) to weigh the fins in conjunction with the carcasses at the vessel's first point of landing, due to the finning restrictions, this rule does not add to reporting or compliance costs. This rule also prohibits the transfer at sea of all sharks harvested.

Implementation of this trip limit for permitted vessels is intended to lower total daily landings, to extend the open season, reduce the possibility that the semiannual quota will be exceeded, and reduce the waste, economic disruption and safety problems associated with the derby-style fishery for the large coastal shark management unit. Trip limits can result in a lower daily supply and thus better quality and prices for fishermen throughout the season, particularly for shark meat. Derby-style fishing has been particularly acute in this fishery, with a 6-month fishing season reduced to less than 1 month. Because shark meat is marketed primarily in fresh form and through large volume supermarket specials advertised long in advance, the market gluts created by the derby-style fishery are particularly disruptive to the industry. A longer fishing season can also help avoid the overcapitalization in harvesting capacity, as well as off-loading and processing facilities associated with derby-style fishing. Extending the season allows a steady supply of high quality, fresh shark meat for the domestic market over a longer period of time, with benefits for U.S. consumers, as well as firms involved in shark handling and processing.

Comments and Responses

Agency responses to comments received during the scoping period are summarized below.

1. Commercial Trip Limits

Comment. One Fishery Management Council, 31 commercial shark fishing interests, two incidental commercial shark fishing interests, two recreational fishing interests, and 13 individuals provided written comments in support of commercial trip limits in order to lengthen the fishing season. Some commenters suggested that trip limits be uniform across all vessels (ranging from 500 to 10,000 pounds (227 to 4,536 kg)), while others proposed varying trip limit levels according to vessel hold capacity and/or whether the catch was directed or incidental.

Response. NMFS agrees with the commenters on the need for trip limits to slow the fishery. Given the administrative and technical difficulty of establishing trip limits according to vessel size and/or targeted species, NMFS is imposing uniform trip limits on the commercial shark fishery. The 4,000-lb trip limit represents a balance between a level low enough to extend the season, but not so low as to impose undue hardship on commercial shark fishing vessels.

Comment. Several statements made during the scoping hearings, as well as in written comments addressed possible negative effects of trip limits, including reduced profitability of larger, directed vessels fishing far offshore, highgrading, and discards. In addition, some commenters felt strongly that trip limits do not address the primary problem in the fishery, *i.e.*, rapid expansion in the number of permit holders.

Response. While NMFS agrees that trip limits could reduce profits for certain fishing vessels, notably the larger vessels engaged in a directed shark fishery at distances farther offshore, NMFS believes that only a limited number of vessels would be adversely affected. These negative effects will be offset by the benefits of an extended season, notably higher quality and prices, and reduced waste and economic disruption. NMFS also agrees that discards of large coastal sharks could increase due to highgrading or exceeding the trip limit in the final set. However, since the open season should be extended with trip limits, the number of discards due to a closure should decline. NMFS agrees that trip limits are only a short-term measure to address derby-style fishing problems. Future rulemakings will consider longer term measures.

2. Other Comments

Comment. NMFS received a number of other comments during the scoping process, including:

(1) Tiered permit system (*e.g.* directed, bycatch, and angler catch);

(2) Medium and long-term measures to address the rapid expansion in the number of permit holders (*e.g.* control date, moratorium, and individual quotas);

(3) Modifications in the quota level for large coastal sharks;

(4) Regional sub-quotas for large coastal sharks;

(5) Area/season closures for sharks (*e.g.*, nursery/pupping grounds);

(6) Modifications in the fin/carcass ratio; and

(7) Changes in the recreational fishery bag limit.

Response. This interim final rule addresses only the implementation of trip limits for large coastal sharks. Other issues raised in the scoping process may be addressed in future rulemakings.

Classification

The AA has determined that this rule is necessary for conservation and management of shark resources in the Atlantic Ocean and is consistent with the national standards and other provisions of the Magnuson Act, and other applicable law.

The AA finds that the trip limits specified in this interim final rule are necessary due to the need to address the acute problems in the shark fishery and to bring existing regulations into conformity with the objectives of the shark FMP. The AA also finds that the changes must be implemented prior to the start of the fishing year, pending more long-term regulations to address the derby-style fishing problems. Furthermore, the AA believes that the 13 scoping meetings held prior to the preparation of this interim final rule provided sufficient opportunity for the public to comment on measures to address derby-style fishing problems. Accordingly, pursuant to section 553(b)(B) of the Administrative Procedure Act (APA), the AA finds for good cause, namely the reasons above, that it is unnecessary and contrary to the public interest, to provide notice and opportunity to comment for this rule. For the same reasons, the AA, pursuant to section 553(d)(3) of the APA, finds that good cause exists not to

delay for 30 days the interim final rule's effective date.

Since notice and opportunity for comment for the interim final rule has been waived under section 553 of the APA, and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act, no initial or final Regulatory Flexibility analysis needs to be prepared for this interim final rule.

List of Subjects in 50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 21, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 678 is amended as follows:

PART 678—ATLANTIC SHARKS

1. The authority citation for part 678 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 678.2, a definition for *trip limit* is added, in alphabetical order, to read as follows:

§ 678.2 Definitions.

* * * * *

Trip limit means the total allowable take from a single trip as defined in this section.

* * * * *

3. In § 678.7, paragraph (p) is revised, and a new paragraph (x) is added to read as follows:

§ 678.7 Prohibitions.

* * * * *

(p) Transfer a shark at sea, as specified in §§ 678.21(c) and 678.22(e).

* * * * *

(x) Exceed the vessel trip limits, as specified in § 678.21(c).

4. In § 678.21, a new paragraph (c) is added to read as follows:

§ 678.21 Harvest limitations.

* * * * *

(c) *Vessel Trip limits.* (1) Vessels issued an Atlantic shark permit issued under § 678.4 may not land or possess more than 4,000 pounds (1,814 kg) dressed weight of shark from the large coastal species management unit, until a closure has been effected under § 678.24.

(2) A shark from any of the three management units may not be transferred at sea from a vessel issued an Atlantic shark permit issued under § 678.4 to any other vessel.

[FR Doc. 93–31591 Filed 12–22–93; 10:22 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 58, No. 247

Tuesday, December 28, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 2

[Docket No. 92–158–1]

Animal Welfare; Licensing and Records

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Animal Welfare regulations to require dealers, exhibitors, and operators of auction sales who apply for license renewal to certify that, to the best of their knowledge and belief, they are in compliance with the regulations before a renewal is issued. We are also proposing to require dealers and exhibitors to use certain forms to make, keep, and maintain the animal identification records required by the regulations. We believe these changes are necessary to help ensure that applicants for license renewal are in compliance with the regulations and that dealers and exhibitors keep accurate and complete records. These proposed amendments would promote compliance with the Animal Welfare Act.

DATES: Consideration will be given only to comments received on or before February 28, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92–158–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independent Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Debra E. Beasley, Senior Staff Veterinarian, Animal Care, Regulatory Enforcement and Animal Care, APHIS, USDA, room 565, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7833.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare regulations contained in 9 CFR part 2 (referred to below as "the regulations") pertain to the administrative and institutional responsibilities of regualted persons under the Animal Welfare Act (7 U.S.C. 2131, *et seq.*) (the Act). We are proposing to amend the regulations concerning licensing and recordkeeping to modify one aspect of the license renewal process and to require the use of two forms for the maintenance of certain prescribed records.

License Renewal

The regulations in § 2.1(a)(1) require any person who operates or desires to operate as a dealer, exhibitor, or operator of an auction sale, except certain persons exempted under § 2.1(a)(3), to have a valid license. A person seeking a license or license renewal must apply on an application form that is provided by the Animal and Plant Health Inspection Service (APHIS), Regulatory Enforcement and Animal Care (REAC) sector supervisor for the State in which the person operates or seeks to operate. Along with the application form, the sector supervisor will send a copy of the applicable regulations and standards contained in 9 CFR parts 1, 2, and 3 to a person seeking a license or license renewal. The person seeking a license or license renewal must acknowledge, on the application form, that he or she has received a copy of the regulations and standards and agrees to comply with the regulations and standards. If the applicant meets all the applicable requirements of the regulations, a license will be issued.

After examining the licensing process, we believe that a greater degree of compliance with the regulations could be attained if we required persons seeking to renew a license to certify that, to the best of their knowledge and belief, they are in compliance with the regulations and standards.

Therefore, we are proposing to amend § 2.2 of the regulations to require that an applicant for license renewal certify that, to the best of the applicant's knowledge and belief, he or she is in compliance with the regulations and standards and agrees to continue to be in compliance upon issuance of a renewed license. We believe that this proposed change would promote compliance with the regulations and standards by encouraging licensees to make more frequent and thorough inspections of their facilities and operations.

Recordkeeping Requirements

The regulations in § 2.75(a)(1) require each dealer and exhibitor to make, keep, and maintain records concerning each dog or cat in his or her possession or under his or her control. The records must fully and correctly disclose information concerning the acquisition, disposition, transportation, identification, and previous ownership of each dog or cat. Although the regulations do not require dealers or exhibitors to use any particular method or form to make, keep, and maintain the prescribed records, § 2.75(a)(2) does state that Record of Dogs and Cats on Hand (VS Form 18–5) and Record of Disposition of Dogs and Cats (VS Form 18–6) may be used.

APHIS has found, however, that because there are no prescribed forms for recording the information required by § 2.75(a)(1), the degree to which individual dealers and exhibitors comply with the recordkeeping requirements varies. Records that contain incorrect or incomplete information may be of little or no use to an APHIS official searching for a specific dog or cat or trying to ascertain whether a dealer or exhibitor is in compliance with the regulations. Therefore, we are proposing to amend the regulations to require dealers and exhibitors to use Record of Dogs and Cats on Hand (VS Form 18–5) and Record of Disposition of Dogs and Cats (VS Form 18–6) to make, keep, and maintain the information required by § 2.75(a)(1).

This proposed change in the regulations would promote compliance with the Act by simplifying the recordkeeping process for dealers and exhibitors. By filling out the prescribed

forms, a dealer or exhibitor would have recorded all the information required by § 2.75(a)(1). Use of the forms would also aid APHIS in its enforcement of the regulations by standardizing the format in which animal identification records are kept, thus making the task of reviewing records or searching for specific information easier.

Miscellaneous

In addition to the proposed changes set forth above, we are also proposing to amend the regulations by providing APHIS form numbers alongside the Veterinary Services (VS) form numbers currently used in the regulations. Since the 1988 APHIS reorganization that established REAC as a separate unit, APHIS form numbers have been assigned to the VS forms used by REAC. When the existing stock of VS forms in depleted, only APHIS form numbers will be used. Until that occurs, however, we believe that both APHIS and VS form numbers should be set out in the regulations to help prevent any confusion. Therefore, we are proposing to add APHIS form numbers in front of the VS form numbers that appear in §§ 2.2, 2.5, 2.35, 2.38, 2.75, 2.78, and 2.102.

Executive Order 12866 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12866. Based on information compiled by the Department, we have determined that this proposed rule: (1) Would have an effect on the economy of less than $100 million; (2) would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (3) would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (5) would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

We are proposing to amend the Animal Welfare regulations to require applicants for license renewal to certify that they are in compliance with the regulations before a renewal is issued. We are also proposing to require dealers and exhibitors to use certain forms to make, keep, and maintain the animal identification records required by the regulations. These actions are necessary to help ensure that applicants for license renewal are in compliance with the regulations and that dealers and exhibitors keep accurate and complete records. We do not expect there to be an economic impact on any entities, large or small, that would be affected by these proposed changes in the regulations.

Because all licensees are currently required to operate in compliance with the regulations, the proposed requirement for license renewal applicants to certify that they are in compliance with the regulations would have no effect in terms of increased operational costs or burdens. Similarly, the proposal to require the use of VS Form 18–5, "Record of Dogs and Cats on Hand," and VS Form 18–6, "Record of Disposition of Dogs and Cats," to make, keep, and maintain the required animal identification records would involve no new costs or burdens. Dealers and exhibitors are already required to keep the records, so they will not have to gather or record any new information in order to complete the forms. We would not require any existing records to be converted over to the new forms. Additionally, the forms would be provided by APHIS to the dealers and exhibitors free of charge.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection of recordkeeping requirements included in this proposed rule will be submitted for approval to the Office of Management and Budget. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 2

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

Accordingly, 9 CFR part 2 would be amended as follows:

PART 2—REGULATIONS

1. The authority citation for part 2 would continue to read as follows:

Authority: 7 U.S.C. 2131–2157; 7 CFR 2.17, 2.51, and 371.2(g).

2. Section 2.2 would be revised to read as follows:

§ 2.2 Acknowledgement of regulations and standards.

(a) *Appliction for initial license.* APHIS will supply a copy of the applicable regulations and standards to the applicant with each request for a license application. The applicant shall acknowledge receipt of the regulations and standards and agree to comply with them by signing the application form before a license will be issued.

(b) *Application for license renewal.* APHIS will supply a copy of the applicable regulations and standards to the applicant for license renewal with each request for a license renewal. The applicant for license renewal shall acknowledge receipt of the regulations and standards and shall certify that, to the best of the applicant's knowledge and belief, he or she is in compliance with the regulations and standards and agrees to continue to comply with the regulations and standards by signing the application form before a license will be renewed.

§ 2.5 [Amended]

3. In § 2.5, paragraph (b), the first sentence would be amended by adding the words "APHIS Form 7003/" immediately before the words "VS Form 18–3".

§ 2.35 [Amended]

4. In § 2.35, paragraph (d)(1) would be amended by adding the words "APHIS Form 7001/" immediately before the words "VS Form 18–1" and by adding the words "APHIS Form 7005/" immediately before the words "VS Form 18–5".

5. In § 2.35, paragraph (d)(2) would be amended by adding the words "APHIS Form 7001/" immediately before the words "VS Form 18–1" and by adding the words "APHIS Form 7006/" immediately before the words "VS Form 18–6".

§ 2.38 [Amended]

6. In § 2.38, paragraph (h)(3) would be amended by adding the words "APHIS Form 7001/" immediately before the words "VS Form 18–1".

7. In § 2.38, paragraph (i)(3) the beginning of the second sentence would be amended by removing the words "Veterinary Services" and adding the words "APHIS Form 7009/VS" in their place.

8. Section 2.75 would be amended as follows:

a. Paragraph (a)(2) would be revised to read as set forth below.

b. In paragraph (a)(3), the words "APHIS Form 7001/" would be added immediately before the words "VS Form 18–1", and the words "paragraph (a)(1) of this section and" would be removed.

c. In paragraph (b)(2), the words "APHIS Form 7019/" would be added immediately before the words "VS Form 18–19", and the words "APHIS Form 7020/" would be added immediately before the words "VS Form 18–20".

As revised, § 2.75 (a)(2) would be read as follows:

§ 2.75 Records: Dealers and exhibitors.

(a) * * *.

(2) Each dealer and exhibitor shall use Record of Dogs and Cats on Hand (APHIS Form 7005/VS Form 18–5) and Record of Disposition of Dogs and Cats (APHIS Form 7006/VS Form 18–6) to make, keep, and maintain the information required by paragraph (a)(1) of this section.

* * * * *

§ 2.78 [Amended]

9. In § 2.78, paragraph (d) would be amended by adding the words "APHIS Form 7001/" immediately before the words "VS Form 18–1".

§ 2.102 [Amended]

10. In § 2.102, paragraph (a)(3) the beginning of the second sentence would be amended by removing the words "Veterinary Services" and adding the words "APHIS Form 7009/VS" in their place.

Done in Washington, DC, this 21st day of December 1993.

Patricia Jensen,

Deputy Assist Secretary, Marketing and Inspection Services.

[FR Doc. 93–31679 12–27–93; 8:45 am]

BILLING CODE 3410–34–P

---

9 CFR Part 51

[Docket No. 93–023–1]

Animals Destroyed Because of Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the brucellosis indemnity regulations to provide for the payment of indemnity to owners who have brucellosis exposed cattle or bison destroyed that were previously sold or traded from any herd that has subsequent to the sale or trade been found to be affected with brucellosis. This action appears necessary to give herd owners sufficient incentive to destroy their exposed animals in a timely manner. Prompt destruction of brucellosis-affected animals would assist in eradicating the disease in the United States.

DATES: Consideration will be given only to comments received on or before January 27, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–023–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. M. J. Gilsdorf, National Brucellosis Epidemiologist, Cattle Diseases and Surveillance Staff, Veterinary Services, APHIS, USDA, room 731, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–4918.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis, also called Bang's disease or undulant fever, is a serious infectious disease of cattle, bison, and other species, including humans, caused by bacteria of the genus *Brucella*. Brucellosis in cattle and bison is characterized by fever, sterility, slow breeding, abortion, and loss of milk production. To help prevent the spread of the disease, the regulations in 9 CFR part 51 (referred to below as the regulations) provide for payment of Federal indemnity to owners of certain animals destroyed because of brucellosis. The payment of indemnity is intended to provide owners with a financial incentive for promptly destroying animals affected with or exposed to brucellosis. Because the continued presence of brucellosis in a herd seriously threatens the health of animals in that herd and possibly other herds, the prompt destruction of brucellosis-affected cattle or bison is critical if brucellosis-eradication efforts in the United States are to succeed.

In accordance with § 51.3(a)(1) of the regulations, the Administrator of the Animal and Plant Health Inspection Service (APHIS) may authorize the payment of Federal indemnity by the United States Department of Agriculture (USDA) to any owner whose cattle or bison are destroyed as brucellosis reactors.

In accordance with § 51.3(a)(2)(i) of the regulations, the Administrator of APHIS may also authorize the payment of Federal indemnity by USDA to any owner whose herd of cattle or bison is destroyed because of brucellosis. The Administrator may authorize the payment of Federal indemnity by USDA for brucellosis exposed cattle or bison in the herd only when the Administrator determines that destruction of all cattle and bison in the herd will contribute to the brucellosis eradication program.

Currently the regulations do not provide for the payment of indemnity for destroying cattle and bison that were sold or traded from a herd prior to the time that herd was found to be affected with brucellosis. We are proposing to change the regulations to allow for payment of Federal indemnity to owners who have brucellosis exposed cattle or bison destroyed that were previously sold or traded from a herd that has subsequent to the sale or trade been found to be affected with brucellosis.

Under current practice, when a herd is found to be affected with brucellosis, animals sold or traded from the herd are traced to the new owners. Animals are traced if they were in a herd during a period in which epidemiological information and professional judgment show they could have become brucellosis affected. Epidemiological information such as test results, herd history, and related evidence would be

used to establish a probable date when the herd was first infected with brucellosis. Animals sold after that date would be considered to be exposed; those sold before that date would not.

The new owners are given two options. Within the next 30 days they must decide to either:

1. Destroy the brucellosis-exposed animals, an action for which, under present regulations, the owner cannot be offered any indemnity payment; or

2. Quarantine the exposed animals or the entire herd for up to 6 months or more while the animals in the herd are being tested by USDA for the presence of brucellosis.

Due to the lack of incentive to destroy the exposed animals or depopulate the herd, owners prefer to quarantine the exposed animals or, when the exposed animals in the herd cannot be isolated, the entire herd. Quarantining is a lengthy and expensive process for both an owner and the Federal government. The government has to pay to have the quarantined portion of the herd tested periodically, until the herd is found to be free of brucellosis. An owner may not sell or move any animals while they are under quarantine, except for slaughter. Sales to slaughter provide less revenue than sales for breeding purposes. If any of the quarantined animals test positive for brucellosis, owners have two choices. They can either:

1. Have the herd remain under quarantine while trying to eliminate the disease from the herd by destroying the infected animals, a process which could take months; or

2. Have the herd depopulated.

Both herd depopulation and quarantining brucellosis-exposed cattle or bison restrict owners from moving animals for profit or replacing older animals. The opportunity for the receipt of indemnity payments, which would be made at the rates currently in effect for exposed cattle and bison destroyed during depopulation, would encourage good herd-management practices.

The proposed amendments in this document would provide an economic incentive for the timely removal of brucellosis-exposed animals from any herd, thus minimizing the risk of those animals spreading brucellosis to a new herd.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866.

The proposed change in the regulation would allow for a per-head indemnity payment as cited in § 51.3(a)(2)(ii) if the owner chose to destroy the exposed animals within a specified amount of time. In all States except Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the amount of Federal indemnity would not exceed $250 for any registered cattle, $250 for any nonregistered dairy cattle, $150 for any nonregistered cattle other than dairy cattle, and $150 for any bison. In Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the amount of Federal indemnity would not exceed $250 for any cattle or bison. If an owner chose to accept the indemnity payment, the owner would stand to lose less money than through either depopulation or quarantine. If the owner chose to accept the indemnity payment, the Government would also save money through eliminating the need for quarantining the entire herd and performing numerous retests. At the same time, there would be less risk of spreading brucellosis to the rest of the animals in the owner's herd and to adjacent herds.

APHIS experts estimate that there are about 50 owners nationwide (owning approximately 100 to 150 animals total, all of which are used for breeding purposes), who may be affected by these changes in the regulations. All of the farmers can be considered "small" entities (annual gross receipts of $0.5 million or less, according to Small Business Administration size standards).

While an owner still would stand to lose money by destroying exposed animals because the amount of the indemnity would not fully compensate an owner for the loss of an animal, the amount would likely be minimal in comparison to the potential loss if the entire herd were to become infected.

In summary, by allowing for an indemnity payment as specified in § 51.3(a)(2)(ii) for each animal that was part of a herd prior to the time that herd was found affected with brucellosis, the risk of spreading brucellosis in the new herd could be minimized. Payment of the specified indemnity per head would give owners an economic incentive to destroy an exposed animal that was part of a herd prior to the time that herd was found affected with brucellosis. The indemnity payment would provide an economic benefit to owners by minimizing their financial losses.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suite in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 51

Animal diseases, Cattle, Hogs, Indemnity payments, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 51 would be amended as follows:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The authority citation for part 51 would continue to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 51.3, paragraph (a) would be amended by adding a new paragraph (a)(4), to read as set forth below:

§ 51.3 Payment to owners for animals destroyed.

(a) * * *

(4) *Cattle or bison from a brucellosis-affected herd.* The Administrator may authorize the payment [3] of Federal indemnity by the United States Department of Agriculture to any owner who has brucellosis exposed cattle or bison destroyed that were previously sold or traded from any herd that has subsequent to the sale or trade been found to be affected with brucellosis. Epidemiological information such as test results, herd history, and related evidence would be used to establish a probable date when the herd was first infected with brucellosis. Animals sold after that date would be considered to be exposed; those sold before that date would not. In all States except Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the amount of Federal indemnity shall not exceed $250 for any registered cattle, $250 for any nonregistered dairy cattle, $150 for any nonregistered cattle other than dairy cattle, and $150 for any bison. In Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the amount of Federal indemnity shall not exceed $250 for any cattle or bison. Indemnity payments shall be made only for brucellosis exposed cattle or brucellosis exposed bison and only when the Administrator determines that the destruction of such cattle or bison will contribute to the brucellosis eradication program. Prior to payment of indemnity, proof of destruction [4] shall be furnished to the veterinarian in charge.

* * * * *

Done in Washington, DC, this 21st day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–31678 Filed 12–27–93; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-0823]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule with request for comments.

SUMMARY: The Board of Governors of the Federal Reserve System is proposing to amend its risk-based and leverage capital guidelines for State member banks and bank holding companies to include in Tier 1 capital the net unrealized changes in the value of securities available for sale for purposes of calculating the risk-based and leverage ratios. The proposal is in response to the recently adopted Financial Accounting Standards Board (FASB) Statement Number 115, *Accounting for Certain Investments in Debt and Equity Securities*, which establishes "net unrealized holding gains and losses on securities available for sale" as a new component of common stockholders' equity. Although the Board's capital guidelines indicate that common stockholders' equity is included in Tier 1 capital, they do not specifically address this new equity account. This proposed rule addresses the treatment of the new account.

DATES: All comments regarding the proposed changes must be submitted on or before January 21, 1994.

ADDRESSES: Comments should refer to Docket No. R-0823 and may be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW, Washington, DC 20551, or delivered to room B-2223, Eccles Building, between 8:45 a.m. and 5:15 p.m. Comments may be inspected in room MP-500, Martin Building, between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in Section 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FOR FURTHER INFORMATION CONTACT: Rhoger H Pugh, Assistant Director (202/728-5883), Arleen E. Lustig, Supervisory Financial Analyst (202/452-2987), and John M. Frech, Supervisory Financial Analyst (202/452-2275), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The risk-based capital guidelines adopted by the Federal Reserve Board [1] set forth a definition of Tier 1 capital that includes common stockholders' equity. The Board's risk-based capital guidelines for State member banks and bank holding companies further state that common stockholders' equity includes (1) common stock, (2) related surplus, and (3) retained earnings, including capital reserves and adjustments for the cumulative effect of foreign currency translation, net of treasury stock. On May 31, 1993, FASB issued a new accounting standard, FASB Statement Number 115 (FASB 115), *Accounting for Certain Investments in Debt and Equity Securities*, which, in essence, adds a new element to common stockholders' equity by including net unrealized gains and losses on certain securities. The Federal banking agencies have agreed to adopt FASB 115 for regulatory reporting purposes.[2] The adoption of this new accounting standard for regulatory reporting has raised the question whether the Board should include the new component of common stockholders' equity in Tier 1 capital for purposes of calculating risk-based and leverage capital ratios.

FASB 115

Under current Generally Accepted Accounting Principles (GAAP), there are three categories of securities, each of which is subject to a different accounting treatment: (1) "securities held for investment," (2) "trading securities," and (3) "securities held for sale." Under FASB 115, securities held by banking organizations will be divided among three categories: (1) securities held to maturity, a new category that replaces the securities held-for-investment category; (2) the trading securities category, which remains unchanged; and (3) securities available for sale, a new category that replaces the securities held-for-sale category.

Under FASB 115, trading securities continue to be defined as those securities that an institution buys and holds principally for the purpose of selling in the near term. As before, these securities are to be reported at fair value (*i.e.*, generally at market value), with net unrealized changes in their value reported directly in the income statement as part of an institution's earnings.

Traditionally, securities held for investment have been recorded at amortized cost. Under FASB 115, this treatment will continue to be applied to securities held to maturity. However, FASB 115 states that a banking organization may include a security in the held-to-maturity category only if management has expressed "the positive intent and ability to hold the security to maturity."

[1] The Board's guidelines implement, for State member banks and bank holding companies, the international bank capital standards as set forth in the Basle Accord. The Basle Accord is a risk-based capital framework that was proposed by the Basle Committee on Banking Regulations and Supervisory Practices and endorsed by the central bank governors of the Group of Ten (G-10) countries in July 1988. The Committee is comprised of representatives of the central banks and supervisory authorities from the G-10 countries (Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Sweden, Switzerland, the United Kingdom, and the United States) and Luxembourg.

[2] All banking organizations should adopt the new FASB 115 accounting standard, both for GAAP and regulatory reporting purposes, as of January 1, 1994, or the beginning of their first fiscal year thereafter, if later. Early adoption of this standard is also permitted to the extent allowable under FASB 115.

VOL 58 ISS 247 DEC 28 1993 UMI

Under current GAAP, securities held for sale are carried at the lower of cost or market value. Unrealized losses on such securities are reported through earnings and reduce Tier 1 capital. Securities meeting the definition of the new available-for-sale category, (*i.e.*, securities that the institution does not have both a positive intent and ability to hold to maturity, yet does not intend to trade actively as part of its trading account), will be reported at fair value. However, changes in the fair value of securities available for sale will not be included in the income statement, but will be reported, net of tax effects, directly in a separate, newly-established component of common stockholders' equity. Consequently, any unrealized appreciation or depreciation in the value of securities in the available-for-sale category will have no impact on the reported earnings of an institution, but will affect its capital position.

The available-for-sale category is likely to include more securities than are included in the current held-for-sale account. This is because institutions previously could include in the held-for-investment category securities that banking organizations intended to hold for long-term investment purposes, but not necessarily to maturity. Many such securities are now likely to be held in the available-for-sale category, and the new standard describes specific circumstances under which a debt security should be reported in the available-for-sale or trading accounts rather than in the held-to-maturity category. For example, securities that would be sold in response to changes in market interest rates or prepayment rates, or to provide liquidity to meet deposit withdrawal or increased loan demand, would have to be included in the available-for-sale or trading account; they would not be eligible for the held-to-maturity category.

FASB 115 does acknowledge that there may be events that are "isolated, nonrecurring, and unusual" in nature that could not have been reasonably anticipated by management and, thus, would permit the sale or transfer of a held-to-maturity security without necessarily calling into question the institution's intent to hold to maturity other securities carried in this category. FASB 115 notes that such unforeseen events might include certain changes in industry capital requirements, certain changes in tax laws, and evidence of a significant deterioration in the issuer's creditworthiness that would appear to permit sales or transfers without tainting other securities in the held-to-maturity category.

Proposal

The Board is proposing to amend the capital adequacy guidelines for State member banks and bank holding companies to include in Tier 1 capital the new component of common stockholders' equity created by FASB 115. Under this proposed amendment, the net amount of unrealized gains and losses, adjusted for income taxes, from securities held in the available-for-sale account would be included in Tier 1 capital for purposes of calculating both the leverage and risk-based capital ratios.

The Board believes that this proposal is consistent with the intent of section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), which stipulates, consistent with the long-standing policy of the banking agencies, that regulatory accounting standards be no less stringent than GAAP and result in financial reports that accurately reflect the capital of depository institutions. In this regard, the effect on institutions of including net gains and losses on securities available for sale in Tier 1 can perhaps best be evaluated in an economic environment in which banking organizations generally have experienced losses on their securities holdings, rather than gains as is the situation for most institutions at the present time.

The Board also believes that if unrealized gains and losses on securities available for sale were excluded from Tier 1 capital, an incentive could be created for banking organizations to sell their securities that have appreciated to increase Tier 1 capital, while continuing to hold securities that have depreciated without incurring a reduction in Tier 1 capital. An organization engaging in such a practice potentially could overstate its capital and, accordingly, could be subject to examiner criticism.

The rationale put forward by FASB for requiring the marking to market of securities available for sale is that it provides a more realistic and conservative presentation of the value of these securities than would recording them at historical cost. The premise of valuing securities at historical cost is based on the expectation that the securities will be held to maturity, at which time the institution would realize the par value of the securities. Since securities available for sale, like trading securities, are not intended to be held to maturity, valuing them at historical cost would not be as appropriate as marking them to market. Therefore, including the unrealized losses, as well as the unrealized gains, on securities available for sale in Tier 1 capital, is viewed overall as more conservative than not recognizing these changes in value by continuing to carry these securities on a historical cost basis.

The Board notes that in view of the agencies' adoption of FASB 115 for regulatory reporting purposes, additional regulatory burden would be avoided by including the new equity account in capital. Furthermore, if net unrealized changes in the fair value of securities available for sale are included in capital, the asset base used in the calculation of capital ratios would not have to be adjusted to eliminate changes in the fair value of these securities.

It also should be noted that including unrealized changes in the value of securities available for sale in Tier 1 capital, as proposed, would affect the calculation of capital for purposes of a number of laws and regulations that are based, in part, on the institution's capital levels. Such laws and regulations include prompt corrective action (12 CFR, part 208, subpart B), brokered deposit restrictions (12 CFR 337.6), and the risk-related insurance premium system (12 CFR part 327).

Consistency With the Basle Accord

The Basle capital treatment for changes in the value of assets that are marked to market is well-established in the case of the unrealized changes in the value of trading securities, which are included in Tier 1, and in the cases of the on-balance sheet revaluation reserves of bank premises and the off-balance sheet revaluation reserves of equity securities, both of which are included in Tier 2. The Board believes that including the unrealized changes in the value of securities available for sale in Tier 1 is consistent with international capital standards, as set forth in the Basle Accord.

The principle of marking-to-market securities in the trading account and including the net unrealized changes in value in Tier 1 capital is applied in many countries and has been considered consistent with the Accord since its adoption in 1988. The on-balance sheet revaluation of bank premises is practiced in some countries that have experienced periods of high rates of inflation. Accordingly, accounting standards in many of these countries require all companies, including banks, to revalue their premises on the balance sheet formally and periodically. The Basle Accord includes the associated revaluation reserve in Tier 2 capital. Banking organizations in the U.S. are not permitted to record their bank premises at market value under U.S. accounting standards and, thus, revaluation reserves associated with bank premises are not an issue for U.S. banking organizations.

The Basle Accord also includes in Tier 2 capital securities revaluation reserves that arise from a off-balance sheet addition to capital of hidden values and that pertain to "those banks whose balance sheets traditionally include very substantial amounts of equities held in their portfolio at historical cost." Many believe that Tier 2 capital treatment is appropriate for equity and premises revaluation reserves and was adopted for these reserves in part to reflect concerns about a banking organization's ability to recognize the indicated market price for securities or other assets for which there are not highly liquid markets.

The Board believes that its proposed Tier 1 capital treatment for unrealized changes in the value of securities available for sale can be viewed as an extension of the capital treatment currently applied to trading securities. Moreover, the Board also notes that, like other elements of Tier 1 capital under the Basle Accord, the net unrealized gains and losses on these securities is separately disclosed as part of common stockholders' equity on an institution's financial statements on an after-tax basis. However, the Board recognizes the importance of maintaining the consistent application of the Basle capital standards and invites comment on this issue.

Request for Public Comment

The Board invites comments on all aspects of this proposed change. In particular, the Board seeks the comments from interested parties on the following:

(1) The extent to which FASB 115 may permit an institution to sell securities from the held-to-maturity account without calling into question the institution's intent or ability to continue to hold other securities reported in that account.

(2) Examples of isolated, nonrecurring, and unusual events involving demands for liquidity that would permit the sale or transfer of held-to-maturity securities.

(3) Alternatives to including net unrealized changes in the value of securities available for sale in Tier 1 capital by:

(a) Excluding all such changes from capital, which would have the same effect as valuing these securities on a historical cost basis;

(b) Including only losses in Tier 1 capital, while not recognizing any gains for capital purposes, which would have the effect of valuing securities available for sale on lower of cost or market basis – the same treatment that currently pertains to securities held for sale;

(c) Including both the gains and losses in Tier 2 capital; and

(d) Including losses in Tier 1 capital, while including gains in Tier 2 capital.

(4) The extent to which the above alternatives may create an incentive for banking organizations to sell securities that have appreciated to realize the gains in Tier 1 capital, while holding securities that have depreciated to avoid reductions in Tier 1 capital.

(5) The manner for maintaining an Allocated Transfer Risk Reserve (ATRR) for certain foreign debt securities (e.g. "Brady Bonds") held as securities available for sale.

In seeking comments, the Board notes that its decision to propose adoption of FASB 115 for regulatory capital purposes should not be viewed as an endorsement of a wider application of market value accounting. The Board has long had concerns that market valuations of many assets are highly subjective and that market value accounting could produce undesirable volatility in earnings. The Board believes that these concerns are mitigated in the case of FASB 115 because the standard applies only to certain investment securities having a readily discernable fair value and because unrealized changes in the fair value of securities available for sale are reflected directly in capital without affecting reported earnings.

Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe adoption of this proposal would have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations), in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In addition, because the risk-based capital guidelines generally do not apply to bank holding companies with consolidated assets of less than $150 million, this proposal will not affect such companies.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Currency, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board is proposing to amend 12 CFR parts 208 and 225 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a) and (c), 321-338, 461, 481-486, 601, and 611, 1814, 1823(j), 1831o, 1831p-1, 3906-3909, 3310, 3331-3351; 15 U.S.C. 78b, 78o-4(c)(5), 78q, 78q-1, 78w, 781(b), 781(i), and 1781(q).

2. Appendix A to part 208 is amended by revising section II.A.1.a, to read as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

II. Definition of Qualifying Capital for the Risk-Based Capital Ratio

* * * * *

A. * * *

1. * * *

a. *Common stockholders' equity.* Common stockholders' equity includes: common stock; related surplus; net unrealized holding gains and losses on securities available for sale; and retained earnings, including capital reserves and adjustments for the cumulative effect of foreign currency translation, net of any treasury stock.

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3907, 3909, 3310, and 3331-3351.

2. Appendix A to part 225 is amended by revising section II.A.1.a, to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

* * * * *

II. Definition of Qualifying Capital for the Risk-Based Capitol Ratio

* * * * *

A. * * *

1. * * *

a. *Common stockholders' equity.* Common stockholders' equity includes: common stock; related surplus; net unrealized holding gains and losses on securities available for sale; and retained earnings, including capital reserves and adjustments for the cumulative effect of foreign currency translation, net of any treasury stock.

* * * * *

VOL 58 ISS 247 DEC 28 1993 UMI

Board of Governors of the Federal Reserve System, December 17, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-31339 Filed 12-27-93; 8:45 am]

BILLING CODE 6210-01-P

12 CFR Part 210

[Regulation J; Docket No. R-0821]

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is requesting comment on proposed amendments to subpart A of its Regulation J, governing collection of checks and other items by Federal Reserve Banks. The proposed amendments, in general, conform the warranties and various other provisions of Regulation J to recent amendments to Regulation CC or to the Uniform Commercial Code.

DATES: Comments must be submitted on or before January 31, 1994.

ADDRESSES: Comments, which should refer to Docket No. R-0821, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP-500 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oliver I. Ireland, Associate General Counsel (202/452-3625), or Stephanie Martin, Senior Attorney (202/452-3198), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th & C Street, NW., Washington, D C 20551.

SUPPLEMENTARY INFORMATION: Subpart A of the Board's Regulation J (12 CFR part 210) governs the collection of checks and other items by Federal Reserve Banks. Regulation J sets out the warranties made by institutions that send items for collection through the Federal Reserve as well as warranties made by Reserve Banks.[1] Regulation J also covers liability for breach of warranty, presentment of and settlement for cash items and returned checks, and other related issues.

In October 1992, the Board published amendments to its Regulation CC (12 CFR part 229) that require paying banks to make same-day settlement for certain checks presented by private-sector banks, effective January 3, 1994. As part of these amendments, the Board revised the Regulation CC warranties to require private-sector collecting, returning, and presenting banks to warrant the accuracy of cash letter totals and check encoding. Revised Regulation CC also gives the paying bank a right to set off adjustments owed to the paying bank by the presenting bank against settlement amounts owed by the paying bank to the presenting bank. The proposed changes to Regulation J would clarify that the Reserve Banks and institutions that send items to Reserve Banks also make the Regulation CC warranties, although with some variation. For example, the Regulation J proposal would provide that paying banks may not set off other claims against settlement for checks presented by a Reserve Bank.

The National Conference of Commissioners on Uniform State Laws and the American Law Institute approved new versions of Articles 3 and 4 of the Uniform Commercial Code (U.C.C.) in 1990. Articles 3 and 4 govern negotiable instruments and bank deposits and collections, respectively. (All U.C.C. references in this docket are to the 1990 version.) The proposed amendments would conform certain Regulation J provisions to the new U.C.C., as well as clarify the interaction of Regulation J, Regulation CC, and the U.C.C.

The Board has established procedures for assessing the competitive impact of changes that have a substantial effect on payments system participants.[2] Under these procedures, the Board assesses whether the proposed regulatory changes would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences. The proposed Regulation J amendments are largely technical, clarifying, or conform Regulation J to the rules applicable to private-sector banks under Regulation CC and the U.C.C. The Board believes that the proposals would not have a direct and material adverse effect on the ability of others to compete effectively with the Federal Reserve Banks.

[1] As used in this docket, *sender* means any institution that sends a check to a Reserve Bank for collection, and *bank* includes all depository institutions, such as commercial banks, savings institutions, and credit unions.

[2] These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System" (55 FR 11648, March 29, 1990).

Section-by-section analysis

Section 210.2(g)

The Board proposes to amend the terminology of the definition of "item" in keeping with the definition of "item" in U.C.C. 4-104(a)(9). Under the proposal, "item" would expressly include promises or orders, such as certain bonds or other investment securities, that are handled through the bank collection system.

Section 210.2(p)

The Board proposes to add a definition of "Uniform Commercial Code" that conforms to the definition in Regulation CC (12 CFR 229.2(ii)).

Section 210.3(a)

The Board proposes to amend this section to set forth more accurately the scope of the Federal Reserve Banks' operating circulars, which include provisions for service terms and adjustments. The proposed amendment would specify that the operating circulars may include provisions for adjustments of amounts, waiver of expenses, and payment of interest by as-of adjustment.

Both private-sector banks and Reserve Banks may vary the terms of subpart C of Regulation CC by agreement among parties that specifically assent (12 CFR 229.37). Section 4-103 of the U.C.C. allows variation of the U.C.C.'s provisions by agreement. Reserve Bank operating circulars and private-sector clearing house rules constitute "agreements" under U.C.C. 4-103(b) whether or not specifically assented to by all interested parties. Although individual bank agreements cannot bind third parties absent specific consent, groups of banks may do so through clearing house rules. Thus, the ability of Reserve Banks to bind third parties through their operating circulars would not appear to have a direct and material adverse effect on the ability of private-sector banks to compete effectively with the Reserve Banks.

Section 210.3(f)

The Board proposes to add a new paragraph to § 210.3 to clarify that Regulation J supersedes the U.C.C., other state laws, and Regulation CC to the extent of any inconsistency. This

provision parallels § 229.41 of Regulation CC, which provides that Regulation CC supersedes the U.C.C. and other state law to the extent of the inconsistency. The competitive effect of this provision depends on the effect of each separate Regulation J provision, as discussed under the appropriate section in this analysis.

Section 210.5(a)

The Board proposes to amend § 210.5(a) to conform the warranties made by banks that send items to Reserve Banks to the transfer and presentment warranties in U.C.C. 4-207 and 4-208. A sender would warrant that it was (or acted on behalf of a person who was) entitled to enforce the item. The U.C.C. substituted the concept of "person entitled to enforce" for "person with good title" in recognition that the right to enforce an instrument is not limited to holders. In addition, the proposal would require the sender to warrant that the item was not altered, dropping the adverb "materially." The U.C.C. formerly incorporated the concept of a "material" alteration as one that changed the contract of the parties in any respect. The revised U.C.C. refers to such a change simply as an alteration. Finally, the proposal would clarify that the sender also makes the warranties set forth in Regulation CC and that the Regulation J warranties may not be disclaimed and are made regardless of whether the sender's indorsement appears on the item.

Sections 210.5(d) and 210.12(i)

The Board proposes to add new paragraph (d) to § 210.5 and new paragraph (i) to § 210.12 to give a Reserve Bank a security interest in a sender's or prior collecting or returning bank's assets held by the Reserve Bank. The security interest would attach when a warranty is breached or other obligation is incurred. The proposed provisions are based on similar provisions in subpart B of Regulation J, which gives a Reserve Bank a security interest in the assets of a sender of a payment order to secure overdrafts and other obligations (§ 210.28(b)(3) and (4)). The Board believes that private-sector banks in the check collection and return process could exercise similar set-off rights against assets of banks that breach warranties or incur other obligations. Thus, the Board does not believe this amendment would have a direct and material adverse effect on the ability of private-sector banks to compete effectively with Reserve Banks.

Section 210.6(b)

The Board proposes to amend § 210.6(b) to conform the Reserve Bank warranties to the transfer and presentment warranties in U.C.C. 4-207 and 4-208. (See discussion of § 210.5(a).) The proposal would also clarify that the Reserve Banks make the warranties set out in § 229.34 of Regulation CC.

Section 210.6(c)

Section 210.6(c) currently provides a 2-year statute of limitations for claims against Reserve Banks for lack of good faith or failure to exercise ordinary care. The Board proposes to amend this section to clarify that the Regulation CC limitation period of one year would apply to any claims against a Reserve Bank for breach of a Regulation CC warranty (*see* 12 CFR 229.34 and 229.38(g)). This amendment would clarify that claims against Reserve Banks for breaches of Regulation CC warranties are subject to the same time limitations as those against private-sector banks.

Section 210.9(a)(5)

Section 210.9(a)(5) provides that paying banks must settle for checks presented by Reserve Banks by "autocharge" (*i.e.* a debit to an account at a Reserve Bank), cash, or other means agreed to by the Reserve Bank. The Board proposes to amend this section to clarify that a Reserve Bank may, in its discretion, elect to obtain settlement by autocharging the account of the paying bank for the amount of a cash letter. Virtually all Reserve Bank presentments are settled via autocharge. This amendment restates the autocharge provisions that currently are set out in the Reserve Banks' uniform cash item operating circular.

The Board also proposes to amend this section to provide that paying banks that receive presentment from Reserve Banks may not set off other claims against the amount of settlement owed to the Reserve Bank. Paying banks may set off against private-sector presenting banks under § 229.34(c)(4) of Regulation CC. The Regulation CC set-off provision was designed to protect paying banks under the same-day settlement rule, which requires paying banks to accept presentment from and settle with all presenting banks, some of which may be in poor financial condition. If a paying bank overpays a cash letter in reliance on a cash letter total or check encoding warranted by the presenting bank, it could face the risk that the presenting bank would be unable to settle for adjustments. Protection against insolvency risk would not be necessary against a Reserve Bank. In addition, as banks generally settle with Reserve Banks via autocharge, set-off against a Reserve Bank would be impractical. Therefore, the Board does not believe this amendment would have a direct and material adverse effect on the ability of private-sector banks to compete effectively with Reserve Banks.

Section 210.12(a)

Section 210.12(a) currently provides that a paying bank that has settled for a check presented by a Reserve Bank may return the check in accordance with Regulation CC, the U.C.C., and the Reserve Bank's operating circular. The Board proposes to amend this section to clarify that the paying bank may also return a check prior to settlement in accordance with § 210.9(a) of Regulation J and the Reserve Bank's operating circular. This amendment would clarify that a paying bank would have the same return rights under Regulation J as under Regulation CC and the U.C.C.

Section 210.12(c)

Section 210.12(c) currently sets out the warranties and agreements made by a bank that sends a returned check to a Reserve Bank. The Board proposes to amend this section to clarify that, in addition to the warranties set forth in § 229.34 of Regulation CC, the sender also makes any applicable warranty under state law. For example, the proposed amendment would clarify that a depositary bank that settled for a returned check could recover the amount paid plus expenses and lost interest from a prior bank that breached a transfer warranty, in accordance with U.C.C. 4-208(d). In addition, similar to the proposed amendments to § 210.5(a), the revisions to this paragraph would clarify that the Regulation J warranties may not be disclaimed and are made regardless of whether the sender's indorsement appears on the item. These proposed amendments restate provisions that are already applicable to private-sector banks under Regulation CC and the U.C.C.

Section 210.12(d)

The Board proposes to add a new paragraph (d) to § 210.12 to clarify that when a Reserve Bank transfers and receives settlement for a returned check, it makes the warranties set out in § 229.34 of Regulation CC. In addition, the new paragraph would parallel proposed § 210.6(b) (governing Reserve Bank warranties for cash items) by providing a limitation of the Reserve Bank's liabilities, other than those allowed for in Regulation J, to the Reserve Bank's own lack of good faith

VOL 58 ISS 247 DEC 28 1993 UMI

or failure to exercise ordinary care. (The proposed amendments would redesignate current §§ 210.12(d) through (g) as §§ 210.12(e) through (h).)

Section 210.12(e) (current 210.12(d)) and section 210.5(b)

The U.C.C. (section 3-119) and Regulation CC (§ 229.34(e)) provide that a bank that receives a tender of defense may in turn tender defense to a prior bank in the collection or return chain. Unless the prior bank comes in and defends, it is bound by the determination of fact common to the current litigation and any subsequent litigation.

Section 210.5(b) of Regulation J provides that, when a Reserve Bank tenders defense to a sender as a result of a tender to it, the Reserve Bank need not be a defendant in the suit in order to recover from the sender any losses that it incurs because of the judgment, so long as the judgment addresses the fact issue of breach of warranty. The Board adopted this provision in 1986 in order to reduce litigation and provide a more efficient way of handling forged indorsement cases (51 FR 21740, June 16, 1986). Due to an oversight, when the Board amended § 210.12 to provide a similar rule for returned checks, the language did not match that of § 210.5(b) and could have been interpreted to apply only when a Reserve Bank is a defendant (53 FR 21983, June 13, 1988). The Board is proposing to amend § 210.12(e) to conform it to § 210.5(b). (The proposed amendments would redesignate current § 210.12(d) as § 210.12(e) and add a new paragraph (d) as discussed above.) The Board is also correcting a typographical error in § 210.5(b).

Section 210.12(h) (current 210.12(g))

This section currently provides that a depositary bank must settle for returned checks received from a Reserve Bank in the same manner as it settles for cash items presented by the Reserve Bank. The Board proposes to amend this section to clarify that settlement for returned checks also must be made by the same *time* as settlement for cash items, as provided in § 210.9(a).

Section 210.13(a)

Section 210.13(a) currently authorizes a Reserve Bank that does not receive payment for an item to charge back the account of the sender, paying bank, or returning bank from which the item was received. The Board proposes to amend this section to clarify that a Reserve Bank also may charge the account of a prior collecting bank through which the item was received. This proposed amendment is consistent with § 229.35(b) of Regulation CC, which allows a bank that handles a check or returned check to recover from any prior indorser in the event that the bank does not receive payment for the check from a subsequent bank in the collection or return chain. In the event of such a recovery by a Reserve Bank, current § 229.13(a) provides that no bank or person in the forward collection or return chain would have an interest in any funds in the Reserve Bank's possession of the bank that failed to pay. The proposed amendment would clarify that, when a Reserve Bank charges back an item, this limitation of interest applies only when a bank or person seeks payment of the amount of the item out of funds or property held by the Reserve Bank.

Section 210.13(b)

Section 210.13(b) currently provides that a Reserve Bank will not debit an institution's reserve account for drafts or other orders on the account after receiving notice that the institution has been closed. The Board proposes to amend this section to clarify that Reserve Banks will not charge an account as authorized by § 210.9(a)(5) after receiving notice the institution is closed. The amendment also clarifies that this section applies only to charges to reserve accounts to settle for items (including returned checks) and does not affect the Reserve Bank's security interest under proposed §§ 210.5(d) and 210.12(i).

Section 210.14

Section 210.14 currently describes those circumstances under which the time limits for acting on an item may be extended, such as interruption of communication facilities, suspension of payments by a bank, and other emergency conditions. The Board proposes to amend this section to clarify that computer and equipment failure would constitute emergency conditions. This amendment is consistent with the emergency provisions in § 229.38(e) of Regulation CC and U.C.C. 4-109(b).

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rules require no additional reporting or recordkeeping requirements, and the overlap with other federal rules (*i.e.*, Regulation CC) is discussed above.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all depository institutions that receive items from or send items to Federal Reserve Banks, regardless of size. The proposed amendments generally clarify rights and duties of banks and do not impose any substantial economic burden on small entities.

List of Subjects in 12 CFR Part 210

Banks, banking, Check collection.

For the reasons set out in the preamble, 12 CFR part 210 is proposed to be amended as follows:

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE (REGULATION J)

1. The authority citation for part 210 is revised to read as follows:

Authority: 12 U.S.C. 248(i), (j), and (o), 342, 360, 464, and 4001-4010.

2. In § 210.2, paragraph (g) introductory text is revised and a new paragraph (p) is added immediately before the concluding text to read as follows:

§ 210.2 Definitions.

* * * * *

(g) *Item* means an instrument or a promise or order to pay money, whether negotiable or not, that is:

* * * * *

(p) *Uniform Commercial Code* means the Uniform Commercial Code as adopted in a state.

* * * * *

3. In § 210.3, the last sentence of paragraph (a) is revised and a new paragraph (f) is added to read as follows:

§ 210.3 General provisions.

(a) * * * The circulars may, among other things, classify cash items and noncash items, require separate sorts and letters, provide different closing times for the receipt of different classes or types of items, set forth terms of services, and establish procedures for adjustments on a Reserve Bank's books, including amounts, waiver of expenses, and payment of interest by as-of adjustment.

* * * * *

(f) *Relation to other law.* The provisions of this subpart supersede any inconsistent provisions of the Uniform Commercial Code, of any other state law, or of part 229 of this title, but only to the extent of the inconsistency.

4. In § 210.5, paragraph (a) introductory text and paragraph (a)(2) are revised, in paragraph (b)(3) the phrase "judgment or decree of the tender of defense" is revised to read "judgment or decree or the tender of defense", and a new paragraph (d) is added to read as follows:

§ 210.5 Sender's agreement; recovery by Reserve Bank.

(a) *Sender's agreement.* The warranties, authorizations, and agreements made pursuant to this paragraph may not be disclaimed and are made whether or not the item bears an indorsement of the sender. By sending an item to a Reserve Bank, the sender:

* * * * *

(2) Warrants to each Reserve Bank handling the item that:

(i) The sender is a person entitled to enforce the item or authorized to obtain payment of the item on behalf of a person entitled to enforce the item; and

(ii) The item has not been altered, but this paragraph (a)(2) does not limit any warranty by a sender or other prior party arising under state law or under subpart C of part 229 of this title; and

* * * * *

(d) *Security interest.* To secure any obligation due or to become due to a Reserve Bank by a sender or prior collecting bank under this subpart or subpart C of part 229 of this title, the sender and prior collecting bank, by sending an item directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the sender's or prior collecting bank's assets in the possession of, or held for the account of, the Reserve Bank. The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. The Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

5. In § 210.8, paragraphs (b)(1) and (b)(2) are revised, a new first sentence is added to paragraph (b) concluding text, and a new last sentence is added to paragraph (c) to read as follows:

§ 210.8 Status, warranties, and liability of Reserve Bank.

* * * * *

(b) * * *

(1) That the Reserve Bank is a person entitled to enforce the item or is authorized to obtain payment of the item on behalf of a person who is either:

(i) Entitled to enforce the item; or

(ii) Authorized to obtain payment on behalf of a person entitled to enforce the item; and

(2) That the item has not been altered. The Reserve Bank also makes the warranties set forth in § 229.34(c) of this title, subject to the terms of part 229 of this title. * * *

(c) * * * This paragraph does not lengthen the time limit for claims under § 229.38(g) of this title (which include claims for breach of warranty under § 229.34 of this title).

6. In § 210.9, paragraph (a)(5) is revised to read as follows:

§ 210.9 Settlement and payment.

(a) * * *

(5) Settlement with a Reserve Bank under paragraphs (a)(1) through (4) of this section shall be made by debit to an account on the Reserve Bank's books, cash, or other form of settlement to which the Reserve Bank agrees, except that the Reserve Bank may, in its discretion, obtain settlement by charging the paying bank's reserve or clearing account. A paying bank may not set off against the amount of a settlement under this section the amount of a claim with respect to another cash item, cash letter, or other claim under § 229.34(c) of this title or other law.

* * * * *

7. In § 210.12, a new sentence is added after the first sentence of paragraph (a), paragraph (c) introductory text and paragraph (c)(2) are revised, paragraphs (d) through (g) are redesignated as paragraphs (e) through (h), respectively, new paragraphs (d) and (i) are added, and newly-designated paragraph (e) concluding text and newly-designated paragraph (h) are revised to read as follows:

§ 210.12 Return of cash items and handling of returned checks.

(a) * * * A paying bank that receives a cash item directly or indirectly from a Reserve Bank also may return the item prior to settlement, in accordance with § 210.9(a) and its Reserve Bank's operating circular.* * *

* * * * *

(c) *Paying bank's and returning bank's agreement.* The warranties, authorizations, and agreements made pursuant to this paragraph may not be disclaimed and are made whether or not the returned check bears an indorsement of the paying bank or returning bank. By sending a returned check to a Reserve Bank, the paying bank or returning bank—

* * * * *

(2) Makes the warranties set forth in § 229.34 of this title (but this paragraph does not limit any warranty by a paying or returning bank arising under state law); and

* * * * *

(d) *Warranties by Reserve Bank.* By sending a returned check and receiving settlement or other consideration for it, a Reserve Bank makes the returning bank warranties as set forth in § 229.34 of this title, subject to the terms of part 229 of this title. The Reserve Bank shall not have or assume any other liability to the transferee returning bank, to any subsequent returning bank, to the depositary bank, to the owner of the check, or to any other person, except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care as provided in subpart C of part 229 of this title.

(e) * * *

the Reserve Bank may, upon the entry of a final judgment or decree, recover from the paying bank or returning bank the amount of attorneys' fees and other expenses of litigation incurred, as well as any amount the Reserve Bank is required to pay because of the judgment or decree or the tender of defense, together with interest thereon.

* * * * *

(h) *Settlement.* A subsequent returning bank or depositary bank shall settle for returned checks in the same manner and by the same time as for cash items presented for payment under this subpart.

(i) *Security interest.* To secure any obligation due or to become due to a Reserve Bank by a paying bank, returning bank, or prior returning bank under this subpart or subpart C of part 229 of this title, the paying bank, returning bank, and prior returning bank, by sending a returned check directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the paying bank's, returning bank's, and prior returning bank's assets in the possession of, or held for the account of, the Reserve Bank. The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. The Reserve Bank may take any action authorized by law to recover the amount of an obligation, including,

but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

8. Section 210.13 is revised to read as follows:

§ 210.13 Unpaid items.

(a) *Right of recovery.* If a Reserve Bank does not receive payment in actually and finally collected funds for an item, the Reserve Bank shall recover by charge-back or otherwise the amount of the item from the sender, prior collecting bank, paying bank, or returning bank from or through which it was received, whether or not the item itself can be sent back. In the event of recovery from such a party, no party, including the owner or holder of the item, shall, for the purpose of obtaining payment of the amount of the item, have any interest in any reserve balance or other funds or property in the Reserve Bank's possession of the bank that failed to make payment in actually and finally collected funds.

(b) *Suspension or closing of bank.* A Reserve Bank shall not pay or act on a draft, authorization to charge (including a charge authorized by § 210.9(a)(5)), or other order on a reserve balance or other funds in its possession for the purpose of settling for items under § 210.9 or § 210.12 after it receives notice of suspension or closing of the bank making the settlement for that bank's own or another's account.

9. Section 210.14 is revised to read as follows:

§ 210.14 Extension of time limits.

If a bank (including a Reserve Bank) or nonbank payor is delayed in acting on an item beyond applicable time limits because of interruption of communication or computer facilities, suspension of payments by a bank or nonbank payor, war, emergency conditions, failure of equipment, or other circumstances beyond its control, its time for acting is extended for the time necessary to complete the action, if it exercises such diligence as the circumstances require.

By order of the Board of Governors of the Federal Reserve System, December 14, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-30939 Filed 12-27-93; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-ANE-72]

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Pratt & Whitney (PW) JT8D series turbofan engines, that currently requires initial and repetitive inspections of installed third and fourth stage low pressure turbine (LPT) blade sets for blade shroud crossnotch wear, and removal of blade sets found with excessively worn blade shroud crossnotches. This action would continue to require inspections, and removal, if necessary, of blade sets, but would also require, as a terminating action to the inspections: Installation of improved LPT containment hardware, installation of an improved No. 6 bearing scavenge pump bracket bushing, and modification of third and fourth stage LPT vanes with a reduced platform leading edge dimension. This proposal is prompted by reports of additional uncontained engine failures since publication of the current AD, and the availability of improved LPT containment hardware. The actions specified by the proposed AD are intended to prevent damage to the aircraft resulting from engine debris following an LPT blade or shaft failure.

DATES: Comments must be received by February 28, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-ANE-72, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main Street, East Hartford, CT 06108. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7137, fax (617) 238-7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-ANE-72." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-ANE-72, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

On May 4, 1992, the Federal Aviation Administration (FAA) issued AD 92-10-05, Amendment 39-8239 (57 FR 23050, June 1, 1992), applicable to Pratt & Whitney (PW) JT8D-15A, -17A, and -17AR engines, to require initial and repetitive inspections of the third and fourth stage low pressure turbine (LPT) blade sets for excessively worn blade shroud crossnotches, and the removal of blade sets found with excessively worn blade crossnotches. That AD is not applicable, however, to PW JT8D-15A, -17A, and -17AR engines that contain the third and fourth stage LPT containment hardware installed in accordance with PW Alert Service Bulletin (ASB) No. 6039, Revision 1, dated February 20, 1992. That action was prompted by reports of ten uncontained third and fourth stage LPT blade fractures. Five were attributed to fractures of the third stage LPT blade and five to fractures of the fourth stage LPT blade. In one LPT blade fracture event, uncontained engine debris penetrated the airframe causing the failure of an aircraft hydraulic system. That condition, if not corrected, could result in damage to the aircraft resulting from engine debris following an LPT blade or shaft failure.

Since the issuance of that AD, the FAA has received additional reports of eight uncontained engine failures due to LPT blade failures in the last 18 months. Although none of these events involved containment hardware introduced by PW ASB No. 6039, the FAA has determined that some features of that hardware have proven to be inadequate in the event of an LPT shaft fracture. PW has developed a new containment hardware configuration that supplies improved containment capability of LPT blade failures due to LPT shaft fracture. The new hardware configuration has redesigned gang angle nut assemblies and stronger attaching bolts. In addition, it includes a thicker duct with a greater quantity of bolts. The new configuration also includes larger duct attaching plates with an improved bolt hole pattern and increased number of bolts used on the attaching plates.

In addition, the FAA has received reports of two uncontained engine failures following LPT overspeed caused by LPT shaft fracture. Investigation revealed that limited meshing of the LPT blades and vanes was insufficient to prevent the LPT overspeed. Interference of the No. 6 bearing scavenge pump drive gear with the scavenge pump bracket during an LPT shaft fracture can result in insufficient rearward movement of the LPT rotor and prevent complete blade and vane meshing. PW has developed a modification that installs bushings in the No. 6 bearing scavenge pump bracket mount holes. In the event of a LPT shaft fracture the force of the LPT rotor moving rearward will shear the bushing flanges and allow complete meshing of the LPT blades and vanes to occur, thus preventing an LPT overspeed.

Finally, PW has developed procedures for removing material from the inner platform leading edge on third and fourth stage LPT vane and vane cluster assemblies. Removing this material increases the clearance between vane inner platform leading edges and disk rims, which limits LPT rotor overspeed by allowing increased meshing of the LPT rotor blades and stator vane airfoils in the event of a LPT shaft rupture.

The FAA has reviewed and approved the technical contents of the following service documents: PW ASB No. A5913, Revision 6, dated October 15, 1993, that describes the third and fourth stage LPT blade set inspection procedures and replacement requirements; PW ASB No. A6110, Revision 1, dated October 15, 1993, that describes procedures for installation of improved LPT containment hardware; PW ASB No. A6131, dated August 24, 1993, that describes procedures for installation of an improved No. 6 bearing scavenge pump bracket bushing; and PW SB No. 5748, Revision 5, dated August 3, 1993, that describes procedures for removing material from the inner platform leading edge on third and fourth stage LPT vane and vane cluster assemblies, and remarking these modified vanes with new identification numbers.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 92-10-05, and continue to require repetitive inspections of installed third and fourth stage LPT blade sets for blade shroud crossnotch wear, and removal of blade sets found with excessively worn blade shroud crossnotches. These inspections are not required, however, for PW JT8D-15A, -17A, and -17AR engines that contain the third and fourth stage LPT containment hardware installed in accordance with PW ASB No. 6039, Revision 3, dated October 15, 1993, or earlier revisions. The proposed AD would require, however, for all engines, installation of improved third stage LPT containment hardware at the next access to the third stage LPT air sealing ring, but not later than December 31, 1998; installation of the improved fourth stage LPT containment hardware at the next shop visit, but not later than December 31, 1998; installation of the improved No. 6 bearing scavenge pump bracket bushing at the next shop visit, but not later than December 31, 1998; and modification and remarking with a new identification number third and fourth stage LPT vanes with a reduced platform leading edge dimension at the next shop visit, but not later than December 31, 1998. The installation of improved containment hardware would serve as terminating action for the repetitive inspections. Based on the historical PW JT8D shop visit rate, the proposed five-year program with an end date of December 31, 1998, would provide a rate of fleet installation that minimizes the possibility of forced engine removals while addressing the safety issues involved. The actions would be required to be accomplished in accordance with the service documents described previously.

The FAA estimates that 944 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately an average of 4 work hours, based on fleet configuration mix, per engine to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $7,235 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,037,520.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8239 (57 FR 23050, June 1, 1992) and by adding a new airworthiness directive to read as follows:

Pratt & Whitney: Docket No. 93–ANE–72. Supersedes AD 92–10–05, Amendment 39–8239.

Applicability: Pratt & Whitney (PW) Model JT8D–15A, –17A, and –17AR turbofan engines, installed on but not limited to Boeing 737 and 727 series aircraft, and McDonnell Douglas DC–9 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the aircraft resulting from engine debris following a low pressure turbine (LPT) blade or shaft failure, accomplish the following:

(a) For engines that do not contain PW honeycomb third stage outer airseal, Part Number (P/N) 801931, 802097, 797594, or 798279, or Parts Manufacturer Approval honeycomb third stage outer airseal P/N PI9336 or P/N M2433, and fan exhaust inner front duct segment assemblies that are installed in accordance with PW Alert Service Bulletin (ASB) No. 6039, Revision 3, dated October 15, 1993, or earlier revisions, accomplish the following:

(1) Conduct initial and repetitive inspections on installed third and fourth stage LPT blade sets, and remove and replace with serviceable blade sets, as necessary, in accordance with the requirements of Part 2 of the Accomplishment Instructions of PW ASB No. A5913, Revision 6, dated October 15, 1993; or PW ASB No. 5913, Revision 5, dated August 10, 1992; or PW ASB No. 5913, Revision 4, dated February 20, 1992, as follows:

(i) Initially inspect the blade shroud crossnotches of the third stage LPT blade set when specified in paragraph (a)(1)(i)(A) or (a)(1)(i)(B) of this AD, whichever occurs later, as follows:

(A) Inspect within 3,000 cycles or 3,000 hours time in service, whichever occurs first, since new, since the last blade shroud crossnotch inspection specified in Section 72–53–12 of PW JT8D Engine Manual P/N 481672, or since the last blade shroud crossnotch repair that was accomplished per the requirements specified in Section 72–53–12 of PW JT8D Engine Manual P/N 481672; or

(B) Inspect within 500 cycles or 500 hours time in service, whichever occurs first, after the effective date of this AD.

(ii) Initially inspect the blade shroud crossnotches of the fourth stage LPT blade set when specified in paragraph (a)(1)(ii)(A) or (a)(1)(ii)(B) of this AD, whichever occurs later, as follows:

(A) Inspect within 3,000 cycles or 3,000 hours time in service, whichever occurs first, since new, since the last blade shroud crossnotch inspection specified in Section 72–53–13 of PW JT8D Engine Manual P/N 481672, or since the last blade shroud crossnotch repair that was accomplished per the requirements specified in Section 72–53–13 of the PW JT8D Engine Manual P/N 481672; or

(B) Inspect within 500 cycles or 500 hours time in service, whichever occurs first, after the effective date of this AD.

(iii) Thereafter, inspect the third and fourth stage LPT blade sets in accordance with the procedures and intervals specified in PW ASB No. A5913, Revision 6, dated October 15, 1993; or PW ASB No. 5913, Revision 5, dated August 10, 1992; or PW ASB No. 5913, Revision 4, dated February 20, 1992.

(2) At the next shop visit after the effective date of this AD, but not later than December 31, 1998, install the improved inner front fan exhaust duct and associated hardware in accordance with Part A of the Accomplishment Instructions of PW ASB No. A6110, Revision 1, dated October 15, 1993.

(3) At the next access to the third stage turbine air sealing ring after the effective date of this AD, but not later than December 31, 1998, install the improved third stage turbine air sealing ring and associated hardware in accordance with Part B of the Accomplishment Instructions of PW ASB No. A6110, Revision 1, dated October 15, 1993.

(4) At the next shop visit after the effective date of this AD, but not later than December 31, 1998, install the improved No. 6 bearing scavenge pump bracket bushing in accordance with the Accomplishment Instructions of PW ASB No. A6131, dated August 24, 1993.

(5) At the next shop visit after the effective date of this AD, but not later than December 31, 1998, remove material from the inner platform leading edge on third and fourth stage LPT vane and vane cluster assemblies, and reidentify these modified vanes in accordance with the Accomplishment Instructions of PW SB No. 5748, Revision 5, dated August 3, 1993.

(6) Accomplishment of the installations and modification required by paragraphs (a)(2), (a)(3), (a)(4), and (a)(5) of this AD constitutes terminating action to the repetitive inspections required by paragraph (a)(1) of this AD.

(b) For engines that do contain PW honeycomb third stage outer airseal, P/N 801931, 802097, 797594, or 798279, or Parts Manufacturer Approval honeycomb third stage outer airseal P/N PI9336 or P/N M2433, and fan exhaust inner front duct segment assemblies that are installed in accordance with PW ASB No. 6039, Revision 3, dated October 15, 1993, or earlier revisions, perform the installations and modifications required by paragraphs (a)(2), (a)(3), (a)(4), and (a)(5) of this AD at the times specified in those respective paragraphs.

(c) For the purpose of this AD, a shop visit is defined as an engine removal where engine maintenance entails separation of pairs of mating engine flanges or the removal of a disk, hub, or spool.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on December 20, 1993.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–31585 Filed 12–27–93; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 39

[Docket No. 93–ANE–83]

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Pratt & Whitney (PW) JT8D series turbofan engines, that currently requires initial and repetitive inspections of installed third and fourth stage low pressure turbine (LPT) blade sets for blade shroud crossnotch wear, and removal of blade sets found with excessively worn blade shroud crossnotches. This action would continue to require inspections, and removal, if necessary, of blade sets, but would also require, as a terminating action to the inspections: installation of improved LPT containment hardware, installation of an improved No. 6 bearing scavenge pump bracket bushing, and modification of third and fourth stage LPT vanes with a reduced platform leading edge dimension. This proposal is prompted by reports of additional uncontained engine failures since publication of the current AD, and the availability of improved LPT containment hardware. The actions specified by the proposed AD are intended to prevent damage to the aircraft resulting from engine debris following an LPT blade or shaft failure.

DATES: Comments must be received by February 28, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–83, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main Street, East Hartford, CT 06108. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7137, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–ANE–83." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–83, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On May 24, 1993, the Federal Aviation Administration (FAA) issued AD 93–06–05, Amendment 39–8530 (58 FR 31902, June 1, 1993), applicable to Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –17, and –17R engines, to require initial and repetitive inspections of the third and fourth stage low pressure turbine (LPT) blade sets for excessively worn blade shroud crossnotches, and the removal of blade sets found with excessively worn blade crossnotches. That AD is not applicable, however, to PW JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –17, and –17R engines that contain fan exhaust inner front duct segment assemblies that are installed in accordance with PW Alert Service Bulletin (ASB) No. 6039, Revision 2, dated May 4, 1992, or earlier revisions of PW ASB No. 6039, and either (a) PW honeycomb third stage outer airseal Part Number (P/N) 801931, 802097, 797594, or 798279; or (b) Pyromet Industries, Inc., honeycomb third stage outer airseal P/N PI9336; or (c) McClain International, Inc., honeycomb third stage outer airseal P/N M2433; or (d) a turbine case shield assembly installed in accordance with PW ASB No. 6039, Revision 2, dated May 4, 1992, or earlier revisions of PW ASB No. 6039; or (e) a third stage blade set that has third stage turbine blades that were installed in accordance with PW SB No. 5331, dated October 27, 1982.

That action was prompted by reports of ten uncontained third and fourth stage LPT blade fractures. Five were attributed to fractures of the third stage LPT blade and five to fractures of the fourth stage LPT blade. In one LPT blade fracture event, uncontained engine debris penetrated the airframe causing the failure of an aircraft hydraulic system. That condition, if not corrected, could result in damage to the aircraft resulting from engine debris following an LPT blade or shaft failure.

Since the issuance of that AD, the FAA has received additional reports of eight uncontained engine failures due to LPT blade failures in the last 18 months. Although none of these events involved containment hardware introduced by PW ASB No. 6039, the FAA has determined that some features of that hardware have proven to be inadequate in the event of LPT shaft fracture. PW has developed a new containment hardware configuration that supplies improved containment capability of LPT blade failures due to LPT shaft fracture. The new hardware configuration has redesigned gang angle nut assemblies and stronger attaching bolts. In addition, it includes a thicker duct with a greater quantity of bolts. The new configuration also includes larger duct attaching plates with an improved bolt hole pattern and increased number of bolts used on the attaching plates.

In addition, the FAA has received reports of two uncontained engine failures following LPT overspeed caused by LPT shaft fracture. Investigation revealed that limited meshing of the LPT blades and vanes was insufficient to prevent the LPT overspeed. Interference of the No. 6 bearing scavenge pump drive gear with the scavenge pump bracket during an LPT shaft fracture can result in insufficient rearward movement of the LPT rotor and prevent complete blade and vane meshing. PW has developed a modification that installs bushings in the No. 6 bearing scavenge pump bracket mount holes. In the event of an LPT shaft fracture the force of the LPT rotor moving rearward will shear the bushing flanges and allow complete meshing of the LPT blades and vanes to occur, thus preventing an LPT overspeed.

Finally, PW has developed procedures for removing material from the inner platform leading edge on third and fourth stage LPT vane and vane cluster assemblies. Removing this material increases the clearance between vane inner platform leading edges and disk rims, which limits LPT rotor overspeed by allowing increased meshing of the LPT rotor blades and stator vane airfoils in the event of an LPT shaft rupture.

The FAA has reviewed and approved the technical contents of the following service documents: PW ASB No. A5913, Revision 6, dated October 15, 1993, that describes the third and fourth stage LPT blade set inspection procedures and replacement requirements; PW ASB No. A6110, Revision 1, dated October 15, 1993, that describes procedures for installation of improved LPT containment hardware; PW ASB No. A6131, dated August 24, 1993, that describes procedures for installation of an improved No. 6 bearing scavenge pump bracket bushing; and PW SB No. 5748, Revision 5, dated August 3, 1993, that describes procedures for removing material from the inner platform leading edge on third and fourth stage LPT vane and vane cluster assemblies, and remarking these modified vanes with new identification numbers.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would

supersede AD 93-06-05 and continue to require repetitive inspections of installed third and fourth stage LPT blade sets for blade shroud crossnotch wear, and removal of blade sets found with excessively worn blade shroud crossnotches. These inspections are not required, however, for PW JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -17, and -17R engines that contain fan exhaust inner front duct segment assemblies that are installed in accordance with PW ASB No. 6039, Revision 3, dated October 15, 1993, or earlier revisions of PW ASB No. 6039, and either (a) PW honeycomb third stage outer airseal P/N 801931, 802097, 797594, or 798279; or (b) Pyromet Industries, Inc., honeycomb third stage outer airseal P/N PI9336; or (c) McClain International, Inc., honeycomb third stage outer airseal P/N M2433; or (d) a turbine case shield assembly installed in accordance with PW ASB No. 6039, Revision 3, dated October 15, 1993, or earlier revisions of PW ASB No. 6039; or (e) a third stage blade set that has third stage turbine blades that were installed in accordance with PW SB No. 5331, dated October 27, 1982.

The proposed AD would also require, however, for all engines, installation of improved third stage LPT containment hardware at the next access to the third stage LPT air sealing ring, but not later than December 31, 1998; installation of the improved fourth stage LPT containment hardware at the next shop visit, but not later than December 31, 1998; installation of the improved No. 6 bearing scavenge pump bracket bushing at the next shop visit, but not later than December 31, 1998; and modification and remarking with a new identification number third and fourth stage LPT vanes with a reduced platform leading edge dimension at the next shop visit, but not later than December 31, 1998. The installation of improved containment hardware would serve as terminating action for the repetitive inspections. Based on the historical PW JT8D shop visit rate, the proposed five-year program with an end date of December 31, 1998, would provide a rate of fleet installation that minimizes the possibility of forced engine removals while addressing the safety issues involved. The actions would be required to be accomplished in accordance with the service documents described previously.

The FAA estimates that 6,000 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take an average of 4 work hours, based on fleet configuration mix, per engine to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $7,235 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $44,730,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-8530 (58 FR 31902, June 7, 1993) and by adding a new airworthiness directive to read as follows:

Pratt & Whitney: Docket No. 93-ANE-83. Supersedes AD 93-06-05, Amendment 39-8530.

Applicability: Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -17, and -17R turbofan engines, installed on but not limited to Boeing 737 and 727 series aircraft, and McDonnell Douglas DC-9 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the aircraft resulting from engine debris following a low pressure turbine (LPT) blade or shaft failure, accomplish the following:

(a) For engines that do not contain fan exhaust inner front duct segment assemblies that are installed in accordance with PW Alert Service Bulletin (ASB) No. 6039, Revision 3, dated October 15, 1993, or earlier revisions of PW ASB No. 6039, and either PW honeycomb third stage outer airseal Part Number (P/N) 801931, 802097, 797594, or 798279; or Pyromet Industries, Inc., honeycomb third stage outer airseal P/N PI9336; or McClain International, Inc., honeycomb third stage outer airseal P/N M2433; or a turbine case shield assembly installed in accordance with PW ASB No. 6039, Revision 3, dated October 15, 1993, or earlier revisions of PW ASB No. 6039; or a third stage blade set that has third stage turbine blades that were installed in accordance with PW SB No. 5331, dated October 27, 1982, accomplish the following:

(1) Conduct initial and repetitive inspections on installed third and fourth stage LPT blade sets, and remove and replace with serviceable blade sets, as necessary, in accordance with Part 1 of the Accomplishment Instructions of PW ASB No. A5913, Revision 6, dated October 15, 1993; or PW ASB No. 5913, Revision 5, dated August 10, 1992; or PW ASB No. 5913, Revision 4, dated February 20, 1992, as follows:

(i) Initially inspect the blade shroud crossnotches of the third stage LPT blade set when specified in paragraphs (a)(1)(i)(A) or (a)(1)(i)(B) of this AD, whichever occurs later. Engines that contain a third stage blade set that have third stage turbine blades that were installed per the requirements specified in PW Service Bulletin No. 5331, dated October 27, 1982, do not require the third stage blade set inspection.

(A) Inspect within 6,000 cycles or 6,000 hours time in service, whichever occurs first, since new, since the last blade shroud crossnotch inspection specified in Section 72-53-12 of PW JT8D Engine Manual P/N 481672, or since last blade shroud crossnotch repair that was accomplished per the requirements specified in Section 72-53-12 of PW JT8D Engine Manual P/N 481672; or

(B) Inspect within 1,000 cycles or 1,000 hours time in service, whichever occurs first, after the effective date of this AD.

(ii) Initially inspect the blade shroud crossnotches of the fourth stage LPT blade set when specified in paragraph (a)(1)(ii)(A) or (a)(1)(ii)(B) of this AD, whichever occurs later. Engines that contain fan exhaust inner front duct segment assemblies that were installed per the requirements of PW ASB No. 6039, Revision 3, dated October 15, 1993, or earlier revisions of PW ASB No. 6039, do not require the fourth stage blade set inspection.

(A) Inspect within 6,000 cycles or 6,000 hours time in service, whichever occurs first, since new, since the last blade shroud crossnotch inspection specified Section 72-53-13 of PW JT8D Engine Manual P/N 481672, or since last blade shroud crossnotch repair that was accomplished per the requirements specified in Section 72-53-13 of PW JT8D Engine Manual P/N 481672; or

(B) Inspect within 1,000 cycles or 1,000 hours time in service, whichever occurs first, after the effective date of this AD.

(iii) Thereafter, inspect the third and fourth stage LPT blade sets in accordance with the procedures and intervals specified in PW ASB No. A5913, Revision 6, dated October 15, 1993; or PW ASB No. 5913, Revision 5, dated August 10, 1992; or PW ASB No. 5913, Revision 4, dated February 20, 1992.

(2) At the next shop visit after the effective date of this AD, but not later than December 31, 1998, install the improved inner front fan exhaust duct and associated hardware in accordance with Part A of the Accomplishment Instructions of PW ASB No. A6110, Revision 1, dated October 15, 1993.

(3) At the next access to the third stage turbine air sealing ring after the effective date of this AD, but not later than December 31, 1998, install the improved third stage turbine air sealing ring and associated hardware in accordance with Part B of the Accomplishment Instructions of PW ASB No. A6110, Revision 1, dated October 15, 1993.

(4) At the next shop visit after the effective date of this AD, but not later than December 31, 1998, install the improved No. 6 bearing scavenge pump bracket bushing in accordance with the Accomplishment Instructions of PW ASB No. A6131, dated August 24, 1993.

(5) At the next shop visit after the effective date of this AD, but not later than December 31, 1998, remove material from the inner platform leading edge on third and fourth stage LPT vane and vane cluster assemblies, and reidentify these modified vane in accordance with the Accomplishment Instructions of PW SB No. 5748, Revision 5, dated August 3, 1993.

(6) Accomplishment of the installations and modification required by paragraphs (a)(2), (a)(3), (a)(4), and (a)(5) of this AD constitutes terminating action to the repetitive inspections required by paragraph (a)(1) of this AD.

(b) For engines that do contain fan exhaust inner front duct segment assemblies that are installed in accordance with PW ASB No. 6039, Revision 3, dated October 15, 1993, or earlier revisions of PW ASB No. 6039, and either PW honeycomb third stage outer airseal P/N 801931, 802097, 797594, or 798279; or Pyromet Industries, Inc., honeycomb third stage outer airseal P/N PI9336; or McClain International, Inc., honeycomb third stage outer airseal P/N M2433; or a turbine case shield assembly installed in accordance with PW ASB No. 6039, Revision 3, dated October 15, 1993, or earlier revisions of PW ASB No. 6039; or a third stage blade set that has third stage turbine blades that were installed in accordance with PW SB No. 5331, dated October 27, 1982, perform the installations and modifications required by paragraphs (a)(2), (a)(3), (a)(4), and (a)(5) of this AD, at the times specified in those respective paragraphs.

(c) For the purpose of this AD, a shop visit is defined as an engine removal where engine maintenance entails separation of pairs of mating engine flanges or the removal of a disk, hub, or spool.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on December 20, 1993.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93-31586 Filed 12-27-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 91-CE-47-AD]

Airworthiness Directives: de Havilland DHC-6 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 88-13-11, which currently requires repetitively inspecting both wing main spar lower cap angles for corrosion, and repairing or replacing any corroded part. The proposed action would retain these inspection and possible repair or replacement requirements, but would eliminate the dual compliance time of both hours time-in-service (TIS) and calendar time. The Federal Aviation Administration (FAA) has determined that, since corrosion occurs regardless of whether the airplane is in service, the best compliance method for the proposed action is calendar time. The actions specified by the proposed AD are intended to prevent failure of the wing structure because of corroded wing main spar lower cap angles.

DATES: Comments must be received on or before March 11, 1994.

ADDRESSES: Submit comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-47-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91-CE-47-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-47-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 88-13-11, Amendment 39-5960 (53 FR 23755, June 24, 1988), currently

requires repetitively inspecting both wing main spar lower cap angles for corrosion on certain de Havilland DHC-6 series airplanes, and repairing or replacing any corroded part. The actions are accomplished in accordance with the Accomplishment Instructions section of de Havilland Service Bulletin (SB) No. 6/492, Revision A, dated October 23, 1987.

AD 88-13-11 has a compliance method that is based on both hours TIS and calendar time. Since corrosion can occur regardless of whether the airplane is in service, the FAA has determined that the best way to detect corrosion is through a compliance method based solely on calendar time.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken in order to prevent failure of the wing structure because of corroded wing main spar lower cap angles.

Since an unsafe condition has been identified that is likely to exist or develop in other de Havilland DHC-6 series airplanes of the same type design, the proposed AD would supersede AD 88-13-11 with a new AD that would retain the requirement of repetitively inspecting both wing main spar lower cap angles for corrosion, but require these inspections with a compliance method based solely on calendar time. The proposed actions would be accomplished in accordance with the Accomplishment Instructions section of de Havilland SB No. 6/492, Revision A, dated October 23, 1987.

The FAA estimates that 169 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 workhours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $74,360. The only difference between the proposed AD and AD 88-13-11, which would be superseded by the proposed action, is limiting the compliance method to only calendar time instead of both calendar time and hours TIS. Therefore, the proposed action would not impose any additional cost impact upon the public than that which is already required by AD 88-13-11.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 88-13-11, Amendment 39-5960 (53 FR 23755, June 24, 1988), and by adding the following new airworthiness directive:

De Havilland: Docket No. 91-CE-47-AD. Supersedes AD 88-13-11, Amendment 39-5960.

Applicability: Models DHC-6-1, DHC-6-100, DHC-6-200, and DHC-6-300 airplanes (all serial numbers), certificated in any category.

Compliance: Required initially in accordance with whichever of the following is applicable, unless already accomplished, and thereafter at intervals not to exceed 60 calendar months:

- Upon the accumulation of 120 calendar months from the date of manufacture or within the next 3 calendar months after the effective date of this AD, whichever occurs later;
- Upon the accumulation of 120 calendar months after incorporating Wing Box Replacement Modification No. 6/1630 in accordance with de Havilland Service Bulletin (SB) No. 6/362, Revision 1, dated January 18, 1985, or within the next 3 calendar months after the effective date of this AD, whichever occurs later; or
- Upon the accumulation of 120 calendar months of original manufacture of wings if used wings have been installed on the airplane or within the next 3 calendar months after the effective date of this AD, whichever occurs later.

To prevent failure of the wing structure because of corroded wing main spar lower cap angles, accomplish the following:

(a) Visually inspect the wing main spar and lower spar cap extensions for corrosion using a high intensity light in accordance with paragraph A in the Accomplishment Instructions section of de Havilland SB No. 6/492, Revision A, dated October 23, 1987.

(b) If corrosion is found during the inspection required by paragraph (a) of this AD that exceeds the criteria specified in the Compliance section of de Havilland SB No. 6/492, Revision A, dated October 23, 1987, prior to further flight, accomplish the following:

(1) Remove all surface corrosion and replace the cap angles in accordance with the Accomplishment Instructions section of de Havilland SB No. 6/492, Revision A, dated October 23, 1987.

(2) Dye penetrant inspect all parts where corrosion was removed to ensure that the part is corrosion-free. Replace any parts that have corrosion damage and reprotect reworked areas utilizing information specified in de Havilland Technical Advisory Bulletin No. 626/1, dated November 1970.

(c) If any parts are reworked per the inspection result requirements of this AD, prior to further flight, accomplish the following:

(1) Submit the details of all reworked areas to the manufacturer through the New York Aircraft Certification Office at the address specified in paragraph (e) of this AD; and

(2) Incorporate any additional instructions provided by the New York Aircraft Certification Office as a condition for returning the airplane to service.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York Aircraft Certification Office.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5 Canada; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment supersedes AD 88-13-11, Amendment 39-5960.

Issued in Kansas City, Missouri, on December 20, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-31587 Filed 12-27-93; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 71

[Airspace Docket No. 93-ASW-40]

Proposed Modification of Class E Airspace; Harrison, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class E airspace at Harrison, AR, to provide for continuous control of the airspace to the surface of the airport. Designated airspace from the surface of an airport where there is no operating control tower is now Class E airspace. The intended effect of this proposal is to increase the hours of operation of the controlled airspace to a continuous basis (24 hours).

DATES: Comments must be received on or before February 15, 1994.

ADDRESSES: Send comments on the proposal in triplicate to Manager, System Management Branch, Air Traffic Division, Southwest Region, Docket No. 93-ASW-40, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: 817-222-5590.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed under the caption "ADDRESSES." Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 93-ASW-40." The postcard will be date and time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 2601 Meacham Blvd, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class E airspace at Harrison, AR, to provide for continuous control of the airspace to the surface of the airport. Airspace reclassification, effective September 16, 1993, has discontinued the use of the term "control zone." Designated airspace from the surface, for an airport where there is no operating control tower, is now Class E airspace. The intended effect of this proposal is to modify the existing Class E airspace at Harrison, AR, to provide for a continuous operation (24 hours).

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designated as surface areas for airports are published in Paragraph 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is no minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A,

Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6002: Class E airspace areas designated as a surface area for an airport.

* * * * *

ASW AR, E2 Harrison, AR [Modify]

Boone County Airport, AR
(latitude 36°15'41"N., longitude 93°09'17"W.)
Boone County ILS Localizer
(latitude 36°16'09"N., longitude 93°09'19"W.)

That airspace within a 4.3-mile radius of Boone County Airport and within 1.4 miles each side of the Boone County ILS Localizer south course extending from the 4.3-mile radius to 5.3 miles south of the airport.

* * * * *

Issued in Fort Worth, TX, on December 10, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93-3 Filed 12-27-93; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Chapter II

[Release Nos. 33-7039, 34-33361, 35-25955, 39-2317, IC-19969, IA-1395; File No. S7-35-93]

List of Rules To Be Reviewed Pursuant to the Regulatory Flexibility Act

AGENCY: Securities and Exchange Commission.

ACTION: Publication of list of rules scheduled for review.

SUMMARY: The Securities and Exchange Commission is today publishing a list of rules to be reviewed pursuant to Section 610 of the Regulatory Flexibility Act. The list is published to provide the public with notice that these rules are scheduled for review by the agency and to invite public comment on them.

DATES: Public comments are due by January 31, 1994.

ADDRESSES: Persons wishing to submit written views should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., room 6184, stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-35-93, and will be available for public inspection and copying at the Commission's Public Reference Room, room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: The name of the individual to contact concerning a particular rule is given at the end of each rule grouping.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act ("RFA")[1] requires that each agency review every ten years each of its rules that has a significant economic impact upon a substantial number of small entities. The purpose of the review is "to determine whether such rules should be continued without change, or should be amended or rescinded * * * to minimize any significant economic impact of the rules upon a substantial number of such small entities."[2] The RFA stipulates certain specific considerations that must be addressed in the review of each rule.[3] The rules listed below are scheduled for review by staff of the Commission during the next twelve months. The rules are grouped according to which Division or Office of the Commission has responsibility for, and will review, each rule.

The Commission's 1993 Regulatory Flexibility Act Schedule of Rule Reviews is as follows:

Rules and Forms To Be Reviewed by the Division of Corporation Finance

Title: Regulation C (general rules governing registration under the Securities Act)
Citation: 17 CFR 230.400-230.479; 230.490-496
Authority: 15 U.S.C. 77f; 77g; 77h; 77j; 77s; 78c; 78l; 78m; 78o; 78w; 79t; 77sss; 80a-37

Title: Form S-20 (for registration of standardized options)
Citation: 17 CFR 239.20
Authority: 15 U.S.C. 77g; 77j; 77s; 78l; 78m; 78n; 78o

Title: Rule 3b-2 (definition of "officer")
Citation: 17 CFR 240.3b-2
Authority: 15 U.S.C. 77c; 77d; 77s; 77ttt; 78c; 78d; 78i; 78j; 78l; 78m; 78n; 78o; 78p; 78s; 78w; 78x; 79q; 79t; 80a-29; 80a-37

Title: Rule 3b-6 (liability for certain statements by issuers)
Citation: 17 CFR 240.3b-6
Authority: 15 U.S.C. 77c; 77d; 77f; 77g; 77h; 77s; 77ttt; 78c; 78d; 78i; 78j; 78l; 78m; 78n; 78o; 78p; 78s; 78w; 78x; 79q; 79t; 80a-29; 80a-37

Title: Rule 3b-7 (definition of "executive officer")
Citation: 17 CFR 240.3b-7
Authority: 15 U.S.C. 77c; 77d; 77s; 77ttt; 78c; 78d; 78i; 78j; 78l; 78m; 78n; 78o; 78p; 78s; 78w; 78x; 79q; 79t; 80a-29; 80a-37

Title: Regulation 12B (general registration and reporting rules under the Exchange Act)
Citation: 17 CFR 240.12b-1 through 240.12b-36
Authority: 15 U.S.C. 77c; 77d; 77s; 78c; 78d; 78i; 78j; 78l; 78m; 78n; 78o; 78p; 78s; 78w; 78x; 79q; 79t; 80a-29; 80a-37

Title: Rule 12g-1 (exemption from section 12(g) of the Exchange Act)
Citation: 17 CFR 240.12g-1
Authority: 15 U.S.C. 77c; 77d; 77s; 78c; 78d; 78i; 78j; 78l; 78m; 78n; 78o; 78p; 78s; 78w; 78x; 79q; 79t; 80a-29; 80a-37

Title: Rule 12g-2 (securities deemed to be registered pursuant to section 12(g)(1) upon termination of exemption pursuant to section 12(g)(2) (A) or (B))
Citation: 17 CFR 240.12g-2
Authority: 15 U.S.C. 77c; 77d; 77s; 78c; 78d; 78i; 78j; 78l; 78m; 78n; 78o; 78p; 78s; 78w; 78x; 79q; 79t; 80a-29; 80a-37

Title: Rule 12g-4 (certifications of termination of registration under section 12(g))
Citation: 17 CFR 240.12g-4
Authority: 15 U.S.C. 77c; 77d; 77s; 78c; 78d; 78i; 78j; 78l; 78m; 78n; 78o; 78p; 78s; 78w; 78x; 79q; 79t; 80a-29; 80a-37

Title: Rule 12h-1 (exemptions from registration under section 12(g) of the Exchange Act)
Citation: 17 CFR 240.12h-1
Authority: 15 U.S.C. 78c; 78l

Title: Rule 13a-1 (requirements of annual reports)
Citation: 17 CFR 240.13a-1
Authority: 15 U.S.C. 78l; 78m; 78o

Title: Rule 13a-2 (annual reports of predecessors)
Citation: 17 CFR 240.13a-2
Authority: 15 U.S.C. 77d; 77s; 78l; 78m; 78p; 78x

Title: Regulation 13D-G (reports filed by significant beneficial holders)
Citation: 17 CFR 240.13d-1 through 240.13d-102
Authority: 15 U.S.C. 78c; 78m; 78w

Title: Regulation 14D (tender offer rules and schedules)
Citation: 17 CFR 240.14d-1 through 240.14d-101
Authority: 15 U.S.C. 77g; 77j; 77s; 78c; 78j; 78m; 78n; 78w; 79t; 77ttt; 80a-37

Title: Rule 15d-1 (requirements of annual reports)

[1] Pub. L. No. 96-354, 94 Stat. 1165 (September 19, 1980).

[2] 5 U.S.C. 610(a).

[3] These considerations are (1) the continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. 5 U.S.C. 610(c).

Citation: 17 CFR 240.15d-1
Authority: 15 U.S.C. 78l; 78m; 78o

Title: Rule 15d-6 (suspension of duty to file reports)
Citation: 17 CFR 240.15d-6
Authority: 15 U.S.C. 78l; 78m; 78o; 78w

Title: Form 8-A (for registration of certain classes of securities pursuant to section 12(b) or (g) of the Exchange Act)
Citation: 17 CFR 249.208a
Authority: 15 U.S.C. 78m; 78o; 78w

Title: Form 8-B (for registration of securities of certain successor issuers pursuant to section 12(b) or (g) of the Exchange Act)
Citation: 17 CFR 249.208b
Authority: 15 U.S.C. 78m; 78o; 78w

Title: Form 18 (for foreign governments and political subdivisions thereof)
Citation: 17 CFR 249.218
Authority: 15 U.S.C. 78l; 78m; 78n; 78o; 78w

Title: Form 8-K (for current reports)
Citation: 17 CFR 249.308
Authority: 15 U.S.C. 78m; 78o; 78w

Title: Form 18-K (annual report for foreign governments and political subdivisions thereof)
Citation: 17 CFR 249.318
Authority: 15 U.S.C. 78m; 78o; 78w

Contact person: James R. Budge, Special Counsel, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, DC 20549.

Rules and Forms To Be Reviewed by the Division of Investment Management

Title: Rule 0-1 (definition of terms)
Citation: 17 CFR 270.0-1
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 0-2 (general requirements of papers and applications)
Citation: 17 CFR 270.0-2
Authority: 15 U.S.C. 77s; 78w; 79c; 79t; 77eee; 77ggg; 77nnn; 77sss; 80w-37; 80c-39; 80b-3; 80b-4; 80b-11; 80a37; 80c-89

Title: Rule 0-3 (amendments to registration statements and reports)
Citation: 17 CFR 270.0-3
Authority: 15 U.S.C. 80a-8; 80a-29

Title: Rule 0-4 (incorporation by reference)
Citation: 17 CFR 270.0-4
Authority: 15 U.S.C. 77s; 78m; 78o; 78w; 79t; 77eee; 77ggg; 77nnn; 77sss; 80a-38

Title: Rule 0-5 (procedure with respect to applications and other matters)
Citation: 17 CFR 270.0-5
Authority: 15 U.S.C. 80a-1 et seq.; 80a-37; 80a-39

Title: Rule 0-6 (payment of fees)
Citation: 17 CFR 270.0-8
Authority: 15 U.S.C. 77f.(b) and 77f.(c); 78ee

Title: Rule 2a-7 (use of the amortized cost valuation and penny-rounding pricing methods by certain money market funds)
Citation: 17 CFR 270.2a-7
Authority: 15 U.S.C. 80a-37; 80c-89; 80a-6c; 80a-22(c); 80a-37(a)

Title: Rule 8b-1 (scope of section 270.8b-1 to 270.8b-32)
Citation: 17 CFR 270.8b-1
Authority: 15 U.S.C. 80a-1 et seq.; 80a-37; 80a-39

Title: Rule 8b-2 (definitions)
Citation: 17 CFR 270.8b-2
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-3 (title of securities)
Citation: 17 CFR 270.8b-3
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-4 (interpretation of requirements)
Citation: 17 CFR 270.8b-4
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-5 (time of filing original registration statement)
Citation: 17 CFR 270.8b-5
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-6 (fee for registration)
Citation: 17 CFR 270.8b-6
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-10 (requirements as to proper form)
Citation: 17 CFR 270.8b-10
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-11 (number of copies; signatures; binding)
Citation: 17 CFR 270.8b-11
Authority: 15 U.S.C. 77s; 80a-8; 80a-37

Title: Rule 8b-12 (requirements as to paper, printing and language)
Citation: 17 CFR 270.8b-12
Authority: 15 U.S.C. 77s; 80a-8; 80a-37

Title: Rule 8b-13 (preparation of registration statement or report)
Citation: 17 CFR 270.8b-13
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-14 (riders; inserts)
Citation: 17 CFR 270.8b-14
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-15 (amendments)
Citation: 17 CFR 270.8b-15
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-20 (additional information)
Citation: 17 CFR 270.8b-20
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-21 (information unknown or not available)
Citation: 17 CFR 270.8b-21
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-22 (disclaimer of control)
Citation: 17 CFR 270.8b-22
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-23 (incorporation by reference)
Citation: 17 CFR 270.8b-23
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-24 (summaries or outlines of documents)
Citation: 17 CFR 270.8b-24
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-25 (extension of time for furnishing information)
Citation: 17 CFR 270.8b-25
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-30 (additional exhibits)
Citation: 17 CFR 270.8b-30
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-31 (omission of substantial identical documents)
Citation: 17 CFR 270.8b-31
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39

Title: Rule 8b-32 (incorporation of exhibits by reference)
Citation: 17 CFR 270.8b-32
Authority: 15 U.S.C. 77s; 78m; 78o; 78w; 79t; 77eee; 77ggg; 77nnn; 77sss; 80a-38

Title: Rule 10f-3 (exemption of acquisition of securities during the existence of underwriting syndicate)
Citation: 17 CFR 270.10f-3
Authority: 15 U.S.C. 30(a); 80a-37

Title: Rule 11a-1 (definition of "exchange" for purposes of section 11 of the Investment Company Act of 1940)
Citation: 17 CFR 270.11a-1
Authority: 15 U.S.C. 80a-11

Title: Rule 12b-1 (distribution of shares by registered open-end management investment company)
Citation: 17 CFR 270.12b-1
Authority: 15 U.S.C. 80a-12(b); 80a-37(a)

Title: Rule 13a-1 (exemption for change of status by temporarily diversified company)
Citation: 17 CFR 270.13a-1
Authority: 15 U.S.C. 80a-1 *et seq.*

Title: Rule 17d-3 (exemption relating to certain joint enterprises or arrangements concerning payment for distribution of shares of a registered

open-end management investment company)
Citation: 17 CFR 270.17d-3
Authority: 15 U.S.C. 80a-17(d); 80a-38(a)
Title: Rule 17f-1 (custody of securities with members of national securities exchanges)
Citation: 17 CFR 270.17f-1
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39
Title: Rule 17f-2 (custody of investments by registered management investment company)
Citation: 17 CFR 270.17f-2
Authority: 15 U.S.C. 80a-1 *et seq.*; 80a-37; 80a-39
Title: Rule 17f-3 (free cash accounts for investment companies with bank custodians)
Citation: 17 CFR 270.17f-3
Authority: 15 U.S.C. 80a-17(f)
Title: Rule 17f-4 (deposits of securities in securities depositories)
Citation: 17 CFR 270.17f-4
Authority: 15 U.S.C. 80a-17(f); 80a-37(a)
Title: Rule 19b-1 (frequency of distribution of capital gains)
Citation: 17 CFR 270.19b-1
Authority: 15 U.S.C. 80a-19(b)
Title: Rule 22c-1 (pricing of redeemable securities for distribution, redemption and repurchase)
Citation: 17 CFR 270.22c-1
Authority: 15 U.S.C. 80a-6(c); 80a-22(c); 80a-37(a)
Title: Rule 32a-1 (exemption of certain companies from affiliation provisions of section 32(a))
Citation: 17 CFR 270.32a-1
Authority: 15 U.S.C. 80a-1 *et seq.*
Title: Form N–1A (registration statement of open-end management investment companies)
Citation: 17 CFR 274.11a
Authority: 15 U.S.C. 77g; 77j; 77(s); 80a-8; 80a-29; 80a-37
Title: Form N–6F (notice of intent to elect to be subject to sections 55 through 65 of the Investment Company Act of 1940)
Citation: 17 CFR 274.15
Authority: 15 U.S.C. 80a-6(f); 80a-37(a); 80a-53; 80a-58
Title: Form N–54A (notification of election to be subject through 65 of the Investment Company Act of 1940 filed pursuant to section 54(a) of the Act)
Citation: 17 CFR 274.53
Authority: 15 U.S.C. 80a-6(f); 80a-37(a); 80a-53; 80a-58
Title: Form N–54C (notification of withdrawal of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed pursuant to section 54(c) of the Act)
Citation: 17 CFR 274.54
Authority: 15 U.S.C. 80a-6(f); 80a-37(a); 80a-53; 80a-58
Title: Rule 203–1 (application for registration of investment adviser)
Citation: 17 CFR 275.203–1
Authority: 15 U.S.C. 80b-3
Title: Rule 204–1 (amendments to application for registration)
Citation: 17 CFR 275.204–1
Authority: 15 U.S.C. 78o(b)(1); 78w(a)
Title: Form ADV (application for registration of investment adviser and for amendments to such registration statement)
Citation: 17 CFR 279.1
Authority: 15 U.S.C. 80b-3
Title: Form ADV-S (annual report of registered advisers)
Citation: 17 CFR 279.3
Authority: 15 U.S.C. 78o(b)(1); 78w(a)
Title: Rule 110 (small entities for purposes of the Regulatory Flexibility Act)
Citation: 17 CFR 250.110
Authority: 15 U.S.C. 79a *et seq.*

Contact Person: Carolyn A. Miller, Senior Financial Analyst, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, (202) 272–2762.

Rules To Be Reviewed by the Division of Market Regulation

Title: Rule 3b-9 (definition of "bank" for purposes of Sections 3(a)(4) and (5) of the Exchange Act)
Citation: 17 CFR 240.3b-9
Authority: 15 U.S.C. 77c; 77d; 77s; 77ttt; 78b; 78c; 78d; 78i; 78j; 78*l*; 78m; 78n; 78o; 78p; 78s; 78w; 78x; 79q; 79t; 80a–29; 80a–37
Title: Definitions (rule pertaining to transfer agents)
Citation: 17 CFR 240.17Ad–9
Authority: 15 U.S.C. 78q–1(a)(2)
Title: Maintenance of Accurate Security Holder Files and Safeguarding of Funds and Securities by Registered Transfer Agents (rule pertaining to transfer agents)
Citation: 17 CFR 240.17Ad–10
Authority: 15 U.S.C. 78q–1(a)(2)
Title: Reports Regarding Aged Record Differences, Buy-Ins and Failure to Post Certificate Detail to Master Securityholder and Subsidiary Files (rule pertaining to transfer agents)
Citation: 17 CFR 240.17Ad–11
Authority: 15 U.S.C. 78q–1(a)(2)
Title: Safeguarding of Funds and Securities (rule pertaining to transfer agents)
Citation: 17 CFR 240.17Ad–12
Authority: 15 U.S.C. 78q–1(a)(2)
Title: Annual Study and Evaluation of Internal Accounting Control (rule pertaining to transfer agents)
Citation: 17 CFR 240.17Ad–13
Authority: 15 U.S.C. 78q–1(a)(2)

Contact Person: Andrew S. Margolin, Attorney, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, (202) 504–2418.

Rules To Be Reviewed by the Office of the Chief Accountant

Title: Article 3 of Regulation S–X (general instructions as to financial statements)
Citation: 17 CFR 210.3
Authority: 15 U.S.C. 77f; 77g; 77j; 77s(a); 77aa(25) to (26); 78*l*; 78m; 78*o*(d); 78w(a); 79e(b); 79n; 79t(a); 80a–8; 80a–29

Contact Person: Robert Burns, Chief Counsel, Office of the Chief Accountant, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, (202) 272–2130.

Dated: December 21, 1993.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–31567 Filed 12–27–93; 8:45 am]

BILLING CODE 8010–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 190

Distribution of Property of Bankrupt Futures Commission Merchant That Had Participated in a Cross-Margining Program

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission (Commission) is proposing an additional appendix to its bankruptcy rules that would govern the distribution of property where the debtor was a futures commission merchant (FCM) that holds cross-margin (XM) accounts as well as non-XM accounts. This proposed distributional framework is intended to assure that non-XM customers of such an FCM will not be adversely affected by a shortfall in the pool of XM funds.

DATES: Comments must be received by January 27, 1994.

ADDRESSES: Comments should be sent to Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC. 20581 and should refer to "Bankruptcy Appendix."

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or John C. Lawton, Associate Director, Division of Trading and Markets, at the above address. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Background of XM Program

In XM programs, intermarket positions with offsetting risk characteristics are margined together as a single portfolio. These intermarket positions include stock index futures, options on stock index futures and stock index options, as well as foreign currency futures, options on foreign currency futures and foreign currency options. Because the related intermarket positions are essentially offsetting and therefore may effectively serve as margin collateral for one another, the margin requirement for the combined position may be lower than if each were margined separately.

Currently, there generally are two types of XM programs—proprietary and non-proprietary.[1] In proprietary programs, XM treatment is given to intermarket positions in proprietary (i.e., non-customer) accounts maintained by participating clearing members. With non-proprietary XM programs, XM treatment is given at the clearing organization level for intermarket positions maintained by clearing members for market professionals.

II. Current Bankruptcy Distribution in the Context of XM Programs

Under the various non-proprietary XM programs, the futures trades and securities positions of eligible market professionals are deemed to be customer property under section 4d(2) of the Commodity Exchange Act[2] and any customer net equity claim which a participating market professional has in respect of XM property held by a clearing firm in a non-proprietary XM account must be treated as a customer net equity claim under part 190 of the Commission's rules[3] and subchapter IV of chapter 7 of title 11 of the Bankruptcy Code (the commodity broker liquidation provisions).[4] In the case of an FCM bankruptcy, the commodity broker liquidation provisions of the Bankruptcy Code and part 190 of the Commission's rules provide for a pro rata distribution of assets among the section 4d(2) customers whose accounts are carried by such FCM. Thus, absent some provision to the contrary, if a participating clearing member defaulted due to losses in its non-proprietary XM account, non-XM customers could be forced to share in those losses.[5]

In order to avoid this possibility, Commission orders approving each of the current non-proprietary XM programs have required participating market professionals to execute agreements whereby they subordinate their XM-related claims to customer claims based on non-XM positions in the event of the clearing member's bankruptcy. The net equity claims of non-XM customers are thus accorded priority over the net equity claims of XM customers. The relevant Commission orders approving the various cross-margin programs and various subordination agreements, as prescribed by relevant exchange rules, among market professionals, their clearing members and the clearing organizations involved, establish the current bankruptcy distribution framework. In the case of the bankruptcy of a clearing member participating in a non-proprietary XM program, the trustee would marshal all of the assets that are available to satisfy customer claims as set forth in Commission Rule 190.08 (whether such funds derived from XM customers, non-XM customers or any other available source and irrespective of whether the shortfall in the segregated funds accounts were attributable to XM or non-XM customers). The trustee would determine if there were sufficient funds to satisfy in full the net equity claims of all non-XM customers cleared by the clearing member. If all such net equity claims of non-XM customers could be satisfied in full, the trustee would make the appropriate distributions and market professionals who participated in an XM program would receive any remaining funds to be shared on a pro rata basis. If there were not sufficient funds to satisfy non-XM net equity claims in full, the trustee would distribute to the non-XM customers only whatever funds were available on a pro rata basis and market professionals participating in the XM program would receive nothing.

The result of the market professionals' subordination required by the Commission orders is that the market professionals' XM-related assets would be included within the pool of customer funds available to meet the claims of the clearing member's non-XM customers.[6] Upon satisfaction of these "regular" customer claims, any excess customer property would be distributed to the various market professionals cleared by the defaulting member based upon their XM-related claims consistent with the pro rata distribution scheme of the Bankruptcy Code and part 190 of the Commission's rules. Thus, non-XM customers would never receive less than they would have received in the absence of an XM program.[7]

III. Proposed Bankruptcy Distribution in the Context of the XM Programs

When the Commission adopted its part 190 bankruptcy rules,[8] it included an appendix intended to facilitate a trustee's operation of the estate of a bankrupt commodity broker. This appendix includes a schedule of trustee's duties, forms concerning customer instructions for return of non-cash property and transfer of hedge

[1] The Commission has approved a number of proprietary XM programs between futures clearing organizations and the Options Clearing Corporation (OCC), a clearing organization for options listed on the American Stock Exchange, Chicago Board Options Exchange, New York Stock Exchange, Pacific Stock Exchange and Philadelphia Stock Exchange. To date, the Commission has approved proprietary XM programs between the OCC and the following futures clearing organizations: Intermarket Clearing Corporation (ICC) (June 1, 1988); Chicago Mercantile Exchange (CME) (September 26, 1989); Board of Trade Clearing Corporation (BOTCC) (October 31, 1991); Kansas City Board of Trade (KCBTCC) (February 25, 1992); and Comex Clearing Association (September 9, 1992). On June 2, 1993, the Commission also approved a trilateral proprietary XM program among the CME, ICC and OCC.

Similarly, the Commission has approved non-proprietary XM programs between OCC and the following futures clearing organizations: CME (November 26, 1991); ICC (November 26, 1991); BOTCC (July 21, 1993); and KCBTCC (July 21, 1993). The Commission also approved a trilateral non-proprietary XM program among CME, ICC and OCC on June 2, 1993.

[2] 7 U.S.C. 6d(2) (1988).

[3] 17 CFR part 190.

[4] Without some contrary provision, the assets of a securities broker-dealer who cleared the options trades of a cross-margining market professional would be distributed in the event of a bankruptcy pursuant to subchapter III of chapter 7 of the Bankruptcy Code, 11 U.S.C. 741–752 (1988), or the Securities Investors Protection Act (SIPA), 15 U.S.C. 78aaa *et seq.* (1988). For a securities broker-dealer to participate in a non-proprietary XM program, it must elect customer property treatment under part 190 of the Commission's rules in lieu of under SIPA, as further discussed below.

[5] 11 U.S.C 761–766 (1988). See, e.g., Commission Order, In the Matter of the Chicago Mercantile Exchange Proposal to Expand its Cross-Margining Program with the Options Clearing Corporation to Include the Cross-Exchange Net Margining of the Positions of Market Professionals at 9 (November 26, 1991), reprinted in 56 FR 61404, 61606 (December 3, 1991), and Commission Order, In the Matter of The Intermarket Clearing Corporation Proposal to Expand its Cross-Margining Program with the Options Clearing Corporation to Include the Cross-Exchange Net Margining of the Positions of Market Professionals at 9 (November 26, 1991), reprinted in 56 FR 61406, 61408 (December 3, 1991).

[6] Market professionals also would be included within this group of customers to the extent they had non-XM related customer claims.

[7] Where there is a shortfall in the amount of funds in segregation attributable to non-XM customers and there are remaining funds in segregation attributable to XM customers, non-XM customers could achieve a greater distribution than if there were no XM program and subordination agreement.

[8] 48 FR 8716 (March 1, 1983).

contracts, and a proof of claim form. The Commission is now proposing to add a new appendix to part 190 to provide further guidance to a trustee of a bankrupt FCM with respect to the appropriate distribution of property where the FCM had been a participant in an XM program that includes non-proprietary positions. As described above, such programs are now numerous and include non-proprietary positions in certain instances and where they do so, participating market professionals are required by Commission order, among other things, to execute agreements whereby they subordinate their XM-related claims to the claims of non-XM customers in the event of bankruptcy in all instances. The proposed new bankruptcy appendix is intended to continue the concept of subordination for purposes of assuring treatment of the securities as part of the commodity estate but to modify the method for distribution of property of a bankrupt FCM which had participated in an XM program that includes non-proprietary positions such that the subordination to futures customers in the event of bankruptcy is more limited. However, the Commission orders and the clearing organization rules will continue to require each market professional participating in an XM program to agree that all of his XM assets carried by his clearing member, including securities options, will not be deemed to be "customer property" under SIPA and will be treated pursuant to the commodity broker liquidation provisions of the Bankruptcy Code. Thus, the market professional would remain removed from the class of customers whose claims would be disposed of pursuant to SIPA[9] and, accordingly, the market professional's XM assets carried by a securities broker-dealer would continue to be considered as other than SIPA customer property, since such property is defined to include only cash or securities held for the account of a SIPA customer.[10]

The guiding principles of the proposed new appendix to part 190 are to assure that there is generally pro rata distribution to customers of the customer funds in the bankrupt FCM's commodity interest estate and that non-XM customers of such an FCM are not adversely affected by a shortfall in the pool of XM funds. The proposed new appendix would preserve the principle that non-XM customers would never receive less than they would have received in the absence of an XM program, but the distributional rule would be in lieu of requiring market professionals participating in XM programs to subordinate claims they may make for customer property in all instances. Under the proposal, a bankruptcy trustee handling the commodity interest estate of a bankrupt FCM with XM customer funds would first determine the respective shortfalls, if any, in the pools of XM customer and non-XM customer segregated funds. The trustee then would calculate the shortfall in each pool as a percentage of the segregation requirement for the pool. If there were no shortfall in either of the two pools; if there were an equal percentage shortfall in the two pools; if there were a shortfall in the non-XM pool only; or if the percentage of shortfall were greater in the non-XM pool than in the XM pool, the two pools of segregated funds would be combined and XM customers and non-XM customers would share pro rata in the combined pool.[11] However, if there were a shortfall in the XM pool only, or if the percentage of shortfall were greater in the XM pool than in the non-XM pool, the two pools of segregated funds would not be combined.[12] Rather, XM customers would share pro rata in the pool of XM segregated funds, while non-XM customers would share pro rata in the pool of non-XM segregated funds. To facilitate this distributional framework, subclasses of customer accounts, an XM account and a non-XM account, would be recognized.

As with the current distribution system for a bankrupt FCM with XM-related claims, the proposed appendix would ensure that non-XM customers would never receive less than they would have received in the absence of an XM program. Of course, without the specific subordination of XM customer claims to non-XM customer claims in all cases by market professionals participating in XM programs, non-XM customers would, depending upon the circumstances, receive either equivalent or less favorable distributions under the approach of the proposed appendix than they would under the Commission's current bankruptcy distribution for FCMs participating in an XM program. In those cases where there is no shortfall in the non-XM pool (see Examples 1 and 3), the distribution to non-XM customers would be the same under the proposal as it is currently. However, in those cases where there is a shortfall in the non-XM pool, the pro rata distribution across the combined XM and non-XM pools (see Examples 2, 5 and 6) or the separate treatment of the XM and non-XM pools and the XM and non-XM account subclasses (see Example 4) will generally mean a less favorable distribution to the non-XM customers than is currently required.[13] This is the result because there would no longer be a marshalling of all assets available from segregated funds, including those attributable to XM customers, to satisfy all claims from non-XM customers before any claim of an XM customer can be satisfied. The Commission believes these outcomes would be fair to all parties involved, consistent with general bankruptcy principles and eliminate the need for execution of a separate subordination agreement to comply with section 4d(2) of the Commodity Exchange Act once participating market professionals elect "commodity" customer treatment for the XM account.

If the proposed new appendix were adopted, the Commission would modify its orders relating to XM programs by deleting the provision requiring that a customer net equity claim of a participating market professional be subordinated to the customer net equity claims of "public customers" that do not relate to XM property and substitute a reference to the distributional rule set forth in the new appendix B. The Commission has consulted with the Securities and Exchange Commission (SEC) and the Securities Investor Protection Corporation and believes that this change will not adversely affect continued treatment of XM funds under the commodity broker, rather than the securities broker-dealer, liquidation provisions of the Bankruptcy Code. The Commission also understands that the Options Clearing Corporation will submit conforming rule changes to the SEC to eliminate the subordination to public customer requirement from its approval order.

[9] Specifically, SIPA excludes a person from the definition of a SIPA customer "to the extent that such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law * * * is subordinated to the claims of any or all creditors of the debtor * * *" 15 U.S.C. 78lll(2)(B)(1988).

[10] 15 U.S.C. 78lll(4); Securities Exchange Act Release No. 34–29991, 56 FR 61458 (December 3, 1991); Securities Exchange Act Release No. 34–30041, 56 FR 64824 (December 12, 1991). See also Memorandum Recommending Approval of the Chicago Mercantile Exchange's and the Intermarket Clearing Corporation's Proposals to Expand Their Respective Cross-Margining Programs with the Options Clearing Corporation to Include the Cross-Exchange Net Margining of the Positions of Certain Market Professionals at 68–69, reprinted in (1990–1992 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶25,190 at 38,504–38,505 (November 21, 1991).

[11] See Examples 1, 6, 2 and 5 of the proposed appendix B to part 190, Framework 1.

[12] See Examples 3 and 4 of the proposed appendix B to part 190, Framework 1.

[13] Of course, if there were no segregated funds available at all attributable to XM customers, which could be the case in extreme circumstances under Examples 4 or 6, there would also be no difference in the distribution to non-XM customers as a result of the proposed appendix.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–611 (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These rules would affect distributees of a bankrupt FCM's estate where the FCM had participated in an XM program. Currently, market professionals with an XM account must subordinate their claims in a bankruptcy to those of non-XM customers in all instances, so the proposed rules which would eliminate the need for such subordination should not adversely impact such market professionals. Further, the proposed distributional framework is intended to assure that non-XM customers of such FCM will not be adversely affected by a shortfall in the pool of XM funds and thus there should not be a significant economic impact on such customers if these proposed rules are adopted. Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any person or entity which believes that this proposed rule would have a significant impact on its operations.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has submitted this proposed rule and its associated information collection requirements of the Office of Management and Budget. While this proposed rule has no burden, the group of rules of which this is a part has the following burden:

Rules 190.06 and 190.10 (3038–0021):

Average Burden Hours Per Response	.35
Number of Respondents	802
Frequency of Response	[1]

[1] Occassionally.

Persons wishing to comment on the information which would be required by this proposed rule should contact Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K St. NW., Washington, D.C. 20581, (202) 254–9735.

List of Subjects in 17 CFR Part 190

Bankruptcy.

Accordingly, the Commission, pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 1a, 2(a), 4c, 4d, 4g, 5e, 8a, 15, 19 and 20 thereof, 7 U.S.C. 1a, 2 and 4a, 6c, 6d, 6g, 7, 7a, 12a, 19, 23 and 24 (1988 & Supp. IV 1992), and in the Bankruptcy Code and, in particular, sections 362, 546, 548, 556 and 761–766 thereof, 11 U.S.C. 362, 546, 548, 556 and 761–766 (1988), hereby proposes to amend part 190 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 190—BANKRUPTCY

1. The authority citation for part 190 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 4a, 6c, 6d, 6g, 7, 7a, 12, 19, 23 and 24 and 11 U.S.C. 362, 546, 548, 556 and 761–766.

2. Section 190.08 is proposed to be amended by revising the introductory text to read as follows:

§ 190.08 Allocation of property and allowance of claims.

The property of the debtor's estate must be allocated among account classes and between customer classes as provided in this section, except for special distributions required under Appendix B to this part. The property so allocated will constitute a separate estate of the customer class and the account class to which it is allocated, and will be designated by reference to such customer class and account class.

* * * * *

3. Part 190 is proposed to be amended by redesignating appendix to part 190 as appendix A to part 190 and by adding appendix B to part 190 to read as follows:

Appendix B to Part 190—Special Bankruptcy Distributions

Framework 1—Special Distribution of Customer Funds When FCM Participated in Cross-Margining

The Commission has established the following distributional convention with respect to customer funds held by a futures commission merchant (FCM) that participated in a cross-margining (XM) program:

All customer funds held in respect of XM accounts, regardless of the product that customers holding such accounts are trading, are required by Commission order to be segregated separately from all other customer segregated funds. For purposes of this distributional rule, XM accounts will be deemed to be commodity interest accounts and securities held in XM accounts will be deemed to be received by the FCM to margin, guarantee or secure commodity interest contracts. The maintenance of property in an XM account will result in subordination of the claim for such property to certain non-XM customer claims and thereby will operate to cause such XM claim not to be treated as a customer claim for purposes of the Securities Investors Protection Act and the XM securities to be excluded from the securities estate. This creates subclasses of customer accounts, an XM account and a non-XM account (a person could hold each type of account), and results in two pools of customer segregated funds: An XM pool and a non-XM pool. In the event that there is a shortfall in the non-XM pool of customer class segregated funds and there is no shortfall in the XM pool of customer segregated funds, all customer net equity claims, whether or not they arise out of the XM subclass of accounts, will be combined and will be paid pro rata out of the total pool of available XM and non-XM customer funds. In the event that there is a shortfall in the XM pool of customer segregated funds and there is no shortfall in the non-XM pool of customer segregated funds, then customer net equity claims arising from the XM subclass of accounts shall be satisfied first from the XM pool of customer segregated funds, and customer net equity claims arising from the non-XM subclass of accounts shall be satisfied first from the non-XM customer segregated funds. Furthermore, in the event that there is a shortfall in both the non-XM and XM pools of customer segregated funds: (1) If the non-XM shortfall as a percentage of the segregation requirement in the non-XM pool is greater than or equal to the XM shortfall as a percentage of the segregation requirement in the XM pool, all customer net equity claims will be paid pro rata; and (2) if the XM shortfall as a percentage of the segregation requirement in the XM pool is greater than the non-XM shortfall as a percentage of the segregation requirement of the non-XM pool, non-XM customer net equity claims will be paid pro rata out of the available non-XM segregated funds, and XM customer net equity claims will be paid pro rata out of the available XM segregated funds. In this way, non-XM customers will never be adversely affected by an XM shortfall.

The following examples illustrate the operation of this convention. The examples assume that the FCM has two customers, one with exclusively XM accounts and one with exclusively non-XM accounts. However, the examples would apply equally if there were only one customer, with both an XM account and a non-XM account.

1. Sufficient Funds to Meet Non-XM and XM Customer Claims.

	Non-XM	XM	Total
Funds in Segregation	150	150	300
Segregation Requirement	150	150	300
Shortfall (dollars)	0	0	0
Shortfall (percent)	0	0	0
Distribution	150	150	300

There are adequate funds available and both the non-XM and the XM customer claims will be paid in full.

2. Shortfall in Non-XM Only.

	Non-XM	XM	Total
Funds in Segregation	100	150	250
Segregation Requirement	150	150	300
Shortfall (dollars)	50	0	.....
Shortfall (percent)	50/150=33.3	0	.....
Pro rata (percent)	150/300=50	150/300=50	.....
Pro rata (dollars)	125	125	.....
Distribution	125	125	250

Due to the non-XM account, there are insufficient funds available to meet both the non-XM and the XM customer claims in full. Each customer will receive his pro rata share of the funds available, or 50% of the $250 available, or $125.

3. Shortfall in XM Only.

	Non-XM	XM	Total
Funds in Segregation	150	100	250
Segregation Requirement	150	150	300
Shortfall (dollars)	0	50	.....
Shortfall (percent)	0	50/150=33.3	.....
Pro rata (percent)	150/300=50	150/300=50	.....
Pro rata (dollars)	125	125	.....
Distribution	150	100	250

Due to the XM account, there are insufficient funds available to meet both the non-XM and the XM customer claims in full. Accordingly, the XM funds and non-XM funds are treated as separate pools, and the non-XM customer will be paid in full, receiving $150 while the XM customer will receive the remaining $100.

4. Shortfall in Both, With XM Shortfall Exceeding Non-XM Shortfall.

	Non-XM	XM	Total
Funds in Segregation	125	100	225
Segregation Requirement	150	150	300
Shortfall (dollars)	25	50	.....
Shortfall (percent)	25/150=16.7	50/150=33.3	.....
Pro rata (percent)	150/300=50	150/300=50	.....
Pro rata (dollars)	112.50	112.50	.....
Distribution	125	100	225

There are insufficient funds available to meet both the non-XM and the XM customer claims in full, and the XM shortfall exceeds the non-XM shortfall. The non-XM customer will receive the $125 available with respect to non-XM claims while the XM customer will receive the $100 available with respect to XM claims.

5. Shortfall in Both, With Non-XM Shortfall Exceeding XM Shortfall.

	Non-XM	XM	Total
Funds in Segregation	100	125	225
Segregation Requirement	150	150	300
Shortfall (dollars)	50	25	.....
Shortfall (percent)	50/150=33.3	25/150=16.7	.....
Pro rata (percent)	150/300=50	150/300=50	.....
Pro rata (dollars)	112.50	112.50	.....
Distribution	112.50	112.50	225

There are insufficient funds available to meet both the non-XM and the XM customer claims in full, and the non-XM shortfall exceeds the XM shortfall. Each customer will receive 50% of the $225 available, or $112.50.

6. Shortfall in Both, Non-XM Shortfall = XM Shortfall.

	Non-XM	XM	Total
Funds in Segregation	100	100	200
Segregation Requirement	150	150	300

	Non-XM	XM	Total
Shortfall (dollars)	50	50	.....
Shortfall (percent)	50/150=33.3	50/150=33.3	.....
Pro rata (percent)	150/300=50	150/300=50	.....
Pro rata (dollars)	100	100	.....
Distribution	100	100	200

There are insufficient funds available to meet both the non-XM and the XM customer claims in full, and the non-XM shortfall equals the XM shortfall. Each customer will receive 50% of the $200 available, or $100.

These examples illustrate the principle that pro rata distribution across both accounts is the preferable approach except when a shortfall in the XM account could harm non-XM customers. Thus, pro rata distribution occurs in Examples 1, 2, 5 and 6. Separate treatment of the XM and non-XM accounts occurs in Examples 3 and 4.

Issued in Washington, DC, on December 21, 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–31558 Filed 12–27–93; 8:45 am]

BILLING CODE 8221–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 230, 239, 270, and 274

[Release Nos. 33–7035; IC–19959; S7–34–93]

RIN 3235–AE17

Revisions to Rules Regulating Money Market Funds

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rules and forms.

SUMMARY: The Securities and Exchange Commission is proposing for public comment amendments to rules and forms under the Securities Act of 1933 and the Investment Company Act of 1940 that govern money market funds. The proposed amendments would tighten the risk-limiting conditions imposed on tax exempt money market funds by rule 2a–7 under the Investment Company Act of 1940; impose additional disclosure requirements on tax exempt funds; and make certain other changes to the Commission rules and forms applicable to all money market funds. The amendments are designed both to reduce the likelihood that a tax exempt fund will not be able to maintain a stable net asset value and to increase investor awareness of the risks of investment in a money market fund.

DATES: Comments must be received on or before April 6, 1994.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. All comment letters should refer to File No. S7–34–93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Berman, Deputy Office Chief, or Martha H. Platt, Senior Attorney, (202) 272–2107, Office of Disclosure and Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is proposing for comment amendments to rules and forms affecting money market funds ("funds"), including rule 2a–7 (17 CFR 270.2a–7) (the "rule") under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) ("1940 Act").[1] The proposed amendments primarily relate to funds that hold themselves out as distributing income that is exempt from regular federal income tax.

In addition to the amendments being proposed to rule 2a–7, amendments are being proposed to the following rules and forms: 17 CFR 210.12–12; 17 CFR 230.134; 17 CFR 270.2a41–1; 17 CFR 270.12d3–1; 17 CFR 270.17a–9; 17 CFR 270.31a–1; Form N–1A (17 CFR 239.15A and 274.11A); Form N–3 (17 CFR 239.17a and 274.11b); and Form N-SAR (17 CFR 274.101). The Commission is also publishing three new or revised staff guides to Forms N–1A and N–3 which do not appear in the Code of Federal Regulations.

Table of Contents

Executive Summary
I. Background
A. Money Market Funds and Rule 2a–7
B. Tax Exempt Funds
II. Proposed Revisions to Rule 2a–7
A. Proposed Issuer Diversification Conditions
1. National Funds
2. Single State Funds
3. Pre-Refunded Bonds
4. Diversification Safe Harbor; Three-Day Safe Harbor
B. Quality Limitations on Portfolio Securities
1. Single State Funds
2. National Funds
3. NRSRO Ratings Comparability
C. Puts and Demand Features
1. Background
2. Diversification and Quality Standards for Put Providers
a. Diversification Requirements: Conditional Puts
b. Put Diversification Requirements: Twenty-Five Percent Basket
c. Diversification Requirements: Multiple and Layered Puts and Guarantees
d. Quality Limitations on Put Providers
(1) Providers of Puts in Excess of Five Percent of Fund Assets
(2) Unrated Put Providers
(3) Rating Determinations; Issuer Demand Features
(4) Non-Bank Put Providers
3. Conditional Puts
4. Asset Backed and Synthetic Securities
a. Definitional Matters
b. Quality Determinations and NRSRO Ratings
c. Maturity Determinations
d. Diversification: General
e. Diversification: First Loss Guarantees
5. Puts and Fund Liquidity
D. Other Proposed Amendments
1. Review, Information, and Notice Requirements
a. Continuing Disclosure and Review Requirement
b. Analysis of Underlying Securities
c. Notice of Substitution of Put Provider
2. Variable and Floating Rate Securities
a. Maturity Determinations: Floating Rate Securities
b. Maturity Determinations: Variable Rate Securities
c. Adjustable Rate Government Securities
d. Other Issues Concerning Adjustable Rate Instruments

[1] Unless otherwise noted, all references to rule 2a–7, or to any paragraph of the rule, will be to the applicable paragraph of 17 CFR 270.2a–7 as currently in effect. When a paragraph is renumbered in the rule as it is proposed to be amended, citations will be both to rule 2a–7 "as proposed to be amended" and to the current rule.

3. Repurchase Agreements
4. U.S. Dollar-Denominated Instruments
5. Investment in Other Money Market Funds
6. Board Approval of Certain Securities
7. Recordkeeping
8. Defaulted Securities
9. Technical Amendments
III. Proposed Revisions to Disclosure Rules
A. Single State Funds
B. Disclosure of Exposure to Put Providers
C. Identification of Put Providers
D. Risk Disclosure in Certain Advertisements
IV. Proposed Exemptive Rule Governing Purchases of Certain Portfolio Instruments by Affiliated Persons
V. Conforming Amendment
VI. Transition Period
VII. General Request for Comments
VIII. Cost/Benefit of the Proposal
IX. Summary of Initial Regulatory Flexibility Analysis
X. Statutory Authority
XI. Appendices
XII. Text of Proposed Rule and Form Amendments

Executive Summary

In February 1991, the Commission amended the rules and forms governing money market funds. These amendments focussed primarily on taxable money market funds and required that such funds limit their investments in the securities of any one issuer (other than Government securities)[2] to five percent of fund assets (the "Five Percent Diversification Test"), and limit fund investment in "second tier securities" (as defined in the rule) to no more than five percent of fund assets, with investment in the second tier securities of any one issuer being limited to the greater of one percent of fund assets or one million dollars (the "Second Tier Security Tests").

The Commission is now proposing to amend rule 2a–7 to provide tax exempt fund investors with protections similar to those afforded taxable fund investors by the 1991 amendments. The proposed amendments take into account the different characteristics of "national" funds, which have as their primary objective distributing income exempt from federal taxation, and "single state" funds, which have as their primary objective distributing income exempt not only from federal taxation, but the income taxes of a specific state.

[2] Under paragraph (a)(8) of rule 2a–7 (paragraph (a)(13) of rule 2a–7 as proposed to be amended), the term "Government security" means those securities issued or guaranteed by the United States or its instrumentalities—the definition of that term given in section 2(a)(16) of the 1940 Act (15 U.S.C. 80a–2(a)(16)). It does not include securities issued or guaranteed by state governments or instrumentalities.

Diversification

The proposed amendments would require that national funds comply with the Five Percent Diversification Test. Single state funds would not be subject to the Five Percent Diversification Test, but would be required to provide additional prospectus disclosure to alert investors to the increased risks presented by these funds.

Credit Quality

To address the increased risks that may result from lack of diversification, the proposed amendments would require that single state funds invest only in "first tier securities" (as defined in the rule). National funds would be limited to investing five percent of fund assets in second tier securities that are "conduit securities" (as proposed to be defined in the rule) with investment in the conduit securities of any one issuer that are second tier securities being limited to one percent of fund assets.

Puts and Demand Features

A "put" permits security holders to demand repayment of a security within a specified period of time. A "demand feature" is a put that can be exercised on relatively short notice. A substantial portion of tax exempt fund portfolios are subject to puts and demand features. The proposed amendments would provide that a fund could not invest more than ten percent of its assets in securities subject to puts from, or directly issued by, the same institution. Currently, the rule imposes this put diversification limitation on seventy-five percent of a tax exempt fund's assets, and applies a five percent limitation to a "conditional put" from a single institution. In addition, the proposed amendments would:

(a) Limit the percentage of fund assets that may be subject to puts of a single institution that are second tier securities to five percent of fund assets;

(b) Require puts that are demand features to be rated by a nationally recognized statistical rating organization ("NRSRO"); and

(c) Specify the types of conditions that can apply to a conditional put.

Asset Backed Securities and "Synthetic" Securities

The rule amendments would accommodate rule 2a–7 to asset backed and synthetic securities—types of securities in which many money market funds currently invest. To provide an independent evaluation of the risks posed by these structures, funds would be limited to investing in asset backed and synthetic securities that have been rated by a NRSRO. In addition, the amendments would specify how the rule's diversification requirements and security maturity limitations would apply to these securities.

Continuing Credit Risk Analysis

The Commission is also proposing amendments to improve fund procedures for analyzing certain securities. A significant portion of tax exempt portfolios is comprised of instruments that are long-term, but are subject to demand features that shorten their maturity. The amendments would require credit risks to be reviewed on an ongoing basis to assure that the securities continue to present minimal credit risks. The amendments would require funds to establish written procedures designed to assure that they have access to sufficient financial and other pertinent information concerning the issuer of the underlying security to permit the fund to perform a credit analysis of the issuer in certain circumstances. If this information cannot be obtained in these circumstances, the fund would be required to dispose of the security.

Interest Rate Risk Analysis

Under rule 2a–7, the maturities of certain securities with adjustable interest rates may be determined by reference to the date on which the next interest rate adjustment occurs if the security can reasonably be expected to have a market value that approximates its par value upon readjustment of its interest rate. The Commission is proposing to amend rule 2a–7 to specify that the instrument must reasonably be expected to have a market value that approximates its par value after each interest rate adjustment over the life of the instrument or until the instrument's principal can be recovered through demand. The proposed amendments also would require that the fund periodically review whether the security can reasonably be expected to have a market value that approximates its par value upon readjustment of its interest rate. In addition, funds would be required to retain records documenting the credit analyses currently required by rule 2a–7 and the diversification analyses proposed to be required for asset backed securities.

Other Amendments to Rule 2a–7

The Commission is also proposing amendments that would address fund investment in repurchase agreements and whether an instrument is "U.S. dollar denominated" (as required by the rule), and would eliminate the requirement that a fund's board of directors approve or ratify the

acquisition of every security that is not rated by at least two NRSROs.

Disclosure

The Commission is proposing amendments to Form N–1A to require that a single state fund disclose in its prospectus risks related to the geographic concentration of its investments and lack of diversification. The Commission is also publishing for comment a draft Staff Guide that discusses certain disclosures that should be made by tax exempt funds.

Exemptive Rule

The Commission is proposing new rule 17a–9 under the 1940 Act to permit an affiliate of a fund to repurchase from the fund securities that are no longer eligible securities at the higher of their amortized cost value or market value, without having to seek prior Commission approval.

Recordkeeping

The Commission is proposing amendments to rule 31a–1 under the 1940 Act to require money market funds to maintain records identifying the provider of any put or guarantee with respect to a portfolio security, as well as other information necessary to identify, value, and account for each investment.

I. Background

A. Money Market Funds and Rule 2a–7

Money market funds are management investment companies registered under the 1940 Act that have as their investment objective generation of income and preservation of capital and liquidity through investment in short-term, high-quality securities. Currently, 932 money market funds have total assets of $578 billion.[3] Seventeen percent of money market fund assets ($101 billion) are held by 325 funds that have as their principal investment objective the distribution of income exempt from federal income taxes ("tax exempt funds").[4] Almost one third of the assets held by tax exempt funds ($31 billion) is held by 158 funds that seek to distribute income that is also exempt from the income taxes of a specific state or locality ("single state funds").[5] The balance is held by funds that do not limit their investments to securities exempt from the income taxes of a specific state ("national funds").

Unlike other investment companies, money market funds seek to maintain a stable share price, typically at $1.00 per share.[6] To do so, most funds use the amortized cost method of valuation ("amortized cost method")[7] and the penny-rounding method of pricing ("penny rounding method")[8] permitted by rule 2a–7. The 1940 Act and applicable rules generally require investment companies to calculate current net asset value per share by valuing portfolio instruments at market value or, if market quotations are not readily available, at fair value as determined in good faith by the board of directors.[9] Rule 2a–7 exempts money market funds from these provisions but contains conditions designed to minimize the deviation between a fund's stabilized share price and the market value of its portfolio.[10]

In February 1991, the Commission amended the rules and forms governing money market funds (the "1991 Amendments")[11] to respond to developments in the commercial paper market since rule 2a–7 was adopted in 1983.[12] Among other things, the 1991 Amendments permit funds to invest only in "eligible securities," defined generally as securities that are rated in one of the highest two short-term rating categories by the "requisite NRSROs,"[13] or comparable unrated securities. Taxable funds must further limit their investments in the securities of any one issuer (other than Government securities) to five percent of fund assets,[14] and limit fund investment in second tier securities[15] to no more than

[3] See IBC/Donoghue's Money Fund Report at 2, July 30, 1993 ("Money Fund Report").

[4] Id. Money market fund investments are held in over twenty-three million investor accounts, of which over 1.4 million accounts hold tax exempt funds. Investment Company Institute Mutual Fund Fact Book at 60–61 (33d ed. 1993). See Investment Company Act Rel. No. 17589 (July 17, 1990) (55 FR 30239 (July 25, 1990)) ("Release 17589") at nn. 3–7 and 15–20 and accompanying text for a summary of the development of money market funds, which were first introduced in the early 1970s.

[5] Money Fund Report, supra note 3, at 2. Single state funds are available for thirteen states: Arizona, California, Connecticut, Florida, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Virginia. Id.

[6] The stable $1.00 price has encouraged investors to view money market funds as an alternative to bank deposits and checking accounts, even though money market funds lack federal deposit insurance.

[7] Under the amortized cost method, portfolio securities are valued by reference to their acquisition cost as adjusted for amortization of premium or accretion of discount. Paragraph (a)(1) of rule 2a–7.

[8] Share price is determined under the penny rounding method by valuing securities at market value, fair value, or amortized cost and rounding the per share net asset value to the nearest cent on a share value of a dollar, as opposed to the nearest one tenth of one cent. Paragraph (a)(11) of rule 2a–7 (paragraph (a)(16) of rule 2a–7 as proposed to be amended). See also Investment Company Act Rel. No. 13380 (July 11, 1983) (48 FR 32555 (July 18, 1983)) ("Release 13380") (adopting rule 2a–7) at n.8, and Investment Company Act Rel. No. 12206 (Feb. 1, 1982) (47 FR 5428 (Feb. 5, 1982)) ("Release 12206") (proposing rule 2a–7) at n.8.

[9] See section 2(a)(41) of the 1940 Act (15 U.S.C. 80a–2(a)(41)), together with rules 2a–4 and 22c–1 thereunder (17 CFR 270.2a–4 and 270.22c–1).

[10] If shares are sold or redeemed based on a net asset value which has been either understated or overstated in comparison to the amount at which portfolio instruments could have been sold, the interests of either existing shareholders or new investors will be diluted. See Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Sen. Comm. on Banking and Commerce, 76th Cong., 3rd Sess. 136–138, 298 (1940), and Release 17589, supra note 4, at n.7.

[11] Investment Company Act Rel. No. 18005 (Feb. 20, 1991) (56 FR 8113 (Feb. 27, 1991)) ("Release 18005"). The 1991 Amendments were proposed in Release 17589, supra note 4, and became effective on June 1, 1991.

[12] Before the 1991 Amendments, rule 2a–7 permitted funds to invest in "high quality" securities, that is, securities that had received at least the second highest rating from one NRSRO. See Release 13380, supra note 8, at n.34. In the summer of 1989 and the spring of 1990, several taxable funds held approximately $125 million in defaulted commercial paper issued by Mortgage and Realty Trust or Integrated Resources Inc.; in the fall of 1990 several funds held commercial paper issued by MNC Financial Corp. that was downgraded to below high quality, resulting in a significant decline in its market price. In all three cases, the commercial paper had the second highest rating from one NRSRO when purchased by the funds and thus was eligible for fund investment under rule 2a–7 as then in effect. Shareholders of funds that held these commercial paper issues were not adversely affected, however, because each fund's investment adviser purchased the paper from the funds at amortized cost or principal amount or otherwise agreed to indemnify the fund. See Release 17589, supra note 4, at n.18 and accompanying text.

[13] "Requisite NRSROs" are defined as: (1) any two NRSROs that have issued a rating with respect to an instrument or class of debt obligations of an issuer, or (2) if only one NRSRO has issued a rating with respect to such instrument or issuer at the time the fund purchases or rolls over the security, that NRSRO. Paragraph (a)(13) of rule 2a–7 (paragraph (a)(19) of rule 2a–7 as proposed to be amended).

The term NRSRO is defined in paragraph (a)(10) of rule 2a–7 (paragraph (a)(15) of rule 2a–7 as proposed to be amended) to have the same meaning as in the Commission's uniform net capital rule (17 CFR 240.15c3–1(c)(2)(vi)(E), (F) and (H)). The Commission's Division of Market Regulation responds to requests for NRSRO designation through no-action letters. Currently, the Division of Market Regulation has designated six NRSROs: Duff and Phelps, Inc. ("D&P"), Fitch Investors Services, Inc. ("Fitch"), Moody's Investors Service Inc. ("Moody's"), Standard & Poor's Corp. ("S&P"), and two specialized NRSRO's: IBCA Limited and its subsidiary, IBCA Inc. ("IBCA"), which is recognized as a NRSRO only with respect to its ratings of debt issued by banks, bank holding companies, United Kingdom building societies, broker-dealers and broker-dealers' parent companies, and bank-supported debt, and Thomson BankWatch, Inc. ("TBW"), which is recognized as a NRSRO only with respect to ratings for debt issued by banks, bank holding companies, non-bank banks, thrifts, broker-dealers, and broker-dealers' parent companies.

[14] Paragraph (c)(4)(i) of rule 2a–7. A limited exception is provided for certain securities held for not more than three business days.

[15] A "second tier security" is an eligible security that is not a "first tier security." Paragraph (a)(14) of rule 2a–7 (paragraph (a)(20) of rule 2a–7 as proposed to be amended). A first tier security is generally a security that is rated by the requisite

Continued

five percent of fund assets, with investment in the second tier securities of any one issuer being limited to the greater of one percent of fund assets or one million dollars.[16]

The Five Percent Diversification Test and the Second Tier Security Tests were not made applicable to tax exempt funds.[17] In proposing the 1991 Amendments, the Commission explained that it did not propose to subject tax exempt funds to these tests because doing so could require many of them to substantially restructure their portfolios and, perhaps, lose some of their tax advantages.[18] Since the adoption of the 1991 Amendments, the Commission has closely examined the characteristics of short-term tax exempt securities, the markets in which they trade, and tax exempt fund portfolios to determine what, if any, revisions to rule 2a–7 should be proposed to provide tax exempt fund investors with protections similar to those afforded taxable fund investors by the 1991 Amendments.[19]

B. Tax Exempt Funds

Tax exempt funds, like taxable funds, offer individual investors a means to participate in the short-term debt markets while achieving the benefits of diversification.[20] Both taxable and tax exempt funds maintain stable share prices and distribute dividends that reflect current short-term interest rates. Significant differences exist in the securities in which these two types of funds invest.

Taxable funds invest primarily in high quality commercial paper, short-term securities issued by the Federal government, and bank instruments, such as certificates of deposit. These securities, by their terms, mature one year or less from the time of issuance, and their purchase by funds is generally based on the credit quality of the issuers.

Tax exempt funds typically hold instruments that by their terms are long-term. A large percentage (approximately sixty percent of the assets held by single state funds, and seventy percent of the assets held by national funds) of the securities in tax exempt fund portfolios consists of variable rate demand notes and similar instruments ("VRDNs"). VRDNs are long-term securities that have interest rates that periodically adjust to reflect short-term rates and are subject to "demand features," generally provided by third parties.[21] The adjustable rates and demand features are designed to give these instruments the characteristics of short-term instruments in order to make them permissible investments under rule 2a–7's maturity limitations.[22] A demand feature may also enhance or, if unconditional, serve as a substitute for the credit of the underlying issuer, providing the basis for making the instruments eligible for fund investment under rule 2a–7's credit quality limitations.[23]

Largely because of the growth of tax exempt funds and the limited types of securities that distribute tax free income, the demand for short-term tax exempt securities has exceeded supply,[24] resulting in the creation by various financial institutions of derivative or "synthetic" short-term tax exempt instruments.[25] These instruments usually are subject to demand features designed to make them eligible for fund investment.

One consequence of the use of demand features is that tax exempt fund portfolios largely consist of securities guaranteed by banks and other financial institutions. While these securities pay tax free dividends because they are issued by state, municipal or other entities that may issue tax exempt securities, their credit quality largely depends on banks. Investors who believe that the designation "tax exempt" signifies that portfolio securities are issued by state or local governments that are unlikely to default on their obligations may not appreciate that the credit quality of portfolio securities (and the ability of a tax exempt fund to maintain a stable net asset value) is largely dependent on the financial health of foreign and domestic banks and other put providers.[26]

A significant portion of tax exempt fund portfolios is also dependent on the financial health of corporate issuers rather than state or local governments. At one time, general obligation notes issued by state and local governments were the most prevalent type of tax exempt security. Today, a significant percentage of tax exempt securities are so-called "conduit securities"—that is, tax exempt instruments issued by a statutory authority or special purpose entity that have as their ultimate obligor a corporation.[27] Conduit securities held by tax exempt funds are often subject to demand features.

The implications of the dependence of tax exempt funds on conduit securities subject to demand features was illustrated in July 1991, when New Jersey insurance regulators seized Mutual Benefit Life Insurance Company ("MBLI"). Until immediately before it was seized, MBLI's debt was rated in the highest short-term rating category by Standard & Poor's Corporation ("S&P"), and several tax exempt funds held conduit securities issued by various housing development projects subject to demand features and other credit enhancements provided by MBLI. When MBLI could not honor its put obligations, advisers to funds holding MBLI-backed securities took various actions to prevent shareholder losses that would have occurred had the funds been required to price their shares at less than $1.00 ("break a dollar").[28] The advisers either repurchased the MBLI-backed instruments from the funds at their amortized cost or obtained a replacement guarantor.

II. Proposed Revisions to Rule 2a-7

The proposed amendments to rule 2a-7 are designed to minimize the risk that tax exempt funds will not be able to maintain a stable price of $1.00. Because of the differences between taxable and tax exempt funds, the Commission is proposing to apply somewhat different risk-limiting conditions to tax exempt funds.

A. Proposed Issuer Diversification Conditions

To limit risk, mutual funds generally diversify their portfolios by spreading the risk of loss among a number of securities. This practice reduces the likelihood that a fund will suffer significant losses if the issuer of one of its portfolio securities has financial difficulties that affect the value of its securities because only a small portion of the portfolio will be affected. For this reason, rule 2a-7 requires taxable funds to limit investment in a single issuer to five percent of fund assets and investment in the second tier securities of a single issuer to one percent of fund assets.

Although the 1991 Amendments did not extend diversification requirements to tax exempt funds, many tax exempt funds elect to meet the diversification requirements of section 5(b)(1) of the 1940 Act.[29] Many single state funds, and some national funds, are not diversified under section 5(b)(1). These funds meet only the Internal Revenue Code's diversification requirements for "Regulated Investment Companies" ("RICs"), which require a RIC to be diversified as to fifty percent of its assets.[30] For these funds, a credit problem with respect to a single security could result in a significant decrease in the value of fund assets.

1. National Funds

The proposed amendments would extend the Five Percent Diversification Test to national funds.[31] National funds typically are diversified within the meaning of section 5(b)(1) and do not use the "twenty-five percent basket" (the portion of a diversified fund's assets that may be invested in a single issuer) to invest more than five percent of their assets in a single issuer. Comment is requested on the effect that the proposed requirement would have on the portfolios of national funds.[32]

2. Single State Funds

The Commission is not proposing to extend the Five Percent Diversification Test to single state funds. Single state funds invest generally in the securities of a single state (or other issuers within a single state) with the objective of distributing income that is free from both federal and state (and local) income tax. Because these investment policies limit the universe of issuers in whose securities they may invest, most single state funds invest more than five percent of their assets in a single issuer, and many are not diversified within the meaning of section 5(b)(1) of the 1940 Act.

Commenters stated that single state funds would have great difficulty in complying with a Five Percent Diversification Test. In many cases, they asserted, an insufficient number of high quality issuers exist within a particular state to permit a single state fund to meet a diversification requirement and to continue to meet its objective of distributing dividends exempt from federal and state income taxes. On the other hand, lack of diversification may present increased risks not characteristic of other types of money market funds.

NRSROs in the highest rating category for short-term debt obligations, and comparable unrated securities. Paragraph (a)(6) of rule 2a–7 (paragraph (a)(11) of rule 2a–7 as proposed to be amended).

[16] Paragraph (c)(4)(i)(B) of rule 2a–7. The 1991 Amendments also shortened the maximum dollar-weighted portfolio maturity that a fund may maintain from 120 to ninety days, and codified the actions that a fund must take in certain events, including defaults and rating downgrades. See paragraphs (c)(2) and (c)(5) of rule 2a–7. The 1991 Amendments also require that the cover page of fund prospectuses and certain fund advertisements and sales literature state prominently that investment in a fund is not guaranteed or insured by the U.S. Government and that there can be no assurance that a fund can maintain a stable net asset value per share. See Form N–1A, item 1(a)(vi); Form N–3, item 1(a)(ix); and rule 482(a)(7) under the Securities Act of 1933 ("1933 Act") (17 CFR 230.482(a)(7)).

[17] Tax exempt funds are subject to a diversification test with respect to puts, as they had been prior to the adoption of the 1991 Amendments. Paragraph (c)(4)(ii) of rule 2a–7 (paragraph (c)(4)(iii) of rule 2a–7 as proposed to be amended).

[18] Release 17589, *supra* note 4, at Section II.6. Single state funds were thought to present particular problems because they must concentrate their investments in debt securities issued by a single state (or by issuers located within that state), making diversification more difficult to achieve. *Id.* at n.73.

[19] In proposing the 1991 Amendments, the Commission requested comment on the appropriate regulation of tax exempt funds. Seventeen commenters responded, including thirteen fund complexes, one NRSRO, and three trade associations. These comment letters, as well as other letters concerning tax exempt funds and rule 2a–7 cited in this Release, have been placed in the "S7" public comment file applicable to this proposal and are available in the Commission's Public Reference Room in Washington, D.C.

[20] Money market securities are often sold in large denominations which makes direct investment impracticable for many individual investors.

[21] The demand feature permits the fund to demand payment of the principal amount of the instrument at relatively short intervals, usually seven days (but at least annually) and on no more than thirty days notice.

[22] See paragraphs (c)(2) and (d) of rule 2a–7.

[23] The credit quality of these instruments is determined largely by the quality of the providers of the demand features (generally banks or other financial institutions), rather than the quality of the underlying issuer. See paragraphs (c)(3)(i) and (c)(3)(ii) of rule 2a–7.

[24] See "Return of Supply Problems Imminent, Stein Roe Manager Says," Global Guaranty, May 24, 1993 (derivatives provide one solution but many present unacceptable tax risks); "Nuveen Money Market Manager Seeks Diamonds in the Rough," Global Guaranty, May 10, 1993 (VRDN and semi-annual put bond market is shrinking); "Vanguard's Huge Money Market Fund Turns to Derivatives," Global Guaranty, Apr. 5, 1993 (shrinking supply in some markets fuels creation of synthetics, desire for diversification in states with sufficient supply also creates demand); "Risks Associated With Derivatives for Tax-Exempt Money Funds," Moody's Special Comment, May 3, 1993 (managers of tax-exempt money market funds have had increasing difficulty over last few years in finding high quality securities that also meet liquidity needs).

[25] Synthetic instruments are typically created by placing long-term fixed rate bonds of a single issuer in a trust. The holder of the interest in the trust is paid interest at a variable rate that reflects short-term interest rates (and is always less than the fixed rate of the bonds). The balance of the coupon payments are allocated to the sponsor or to pay administrative expenses. These instruments have demand features which allow holders to demand their principal back at periodic intervals, generally from a third party such as a bank. *Id.*

Scarcity of supply has not been an issue for taxable funds since, in the absence of high quality corporate issuers, they can generally invest in U.S. government securities. Nonetheless, securities that can be characterized as "synthetics," such as asset backed securities, have been developed for taxable funds. See infra Section II.C.4.

[26] As discussed infra in Section III.B, the Commission is publishing a new staff guide that would require a fund to disclose in its prospectus that the credit quality of the fund's portfolio depends on the financial health of put providers if more than forty percent of the fund's portfolio is subject to puts.

[27] These types of securities are generally issued to finance business development (industrial development bonds), the construction of health care facilities and nursing homes, and housing development.

[28] Without these actions, the amortized cost value of the affected funds' portfolios may have deviated by more than one half of one percent from market value, and the affected funds would have been required to sell and redeem shares at a price of less than $1.00. Under paragraphs (c)(6)(ii) (B) and (C) of rule 2a-7, if the value of the fund portfolio securities decline such that the market value per share is less than 99.5 cents, the fund board must promptly consider what action, if any, should be initiated by the board and, if the board believes that the extent of any deviation may have dilutive or unfair results, cause the fund to take appropriate action to eliminate or reduce the deviation. These actions may include reducing the fund's share price or net asset value to less than $1.00. In addition, once a demand feature is dishonored, in the absence of a suitable substitute demand feature, the remaining maturity of the instrument must be measured by reference to its final maturity. As a result, several funds would have violated the requirement that average weighted portfolio maturity not exceed ninety days. See paragraph (c)(2) of rule 2a-7 and Release 17589, *supra* note 4, at nn. 16–18 and accompanying text.

[29] Section 5(b)(1) provides that a diversified investment company may not, with respect to seventy-five percent of its assets, invest more than five percent of its assets in instruments of any issuer, other than cash, cash items, Government securities (as defined in section 2(a)(16) of the 1940 Act (15 U.S.C. 80a-2(a)(16))) and securities of other investment companies. The remaining twenty-five percent of the fund's assets (the "twenty-five percent basket") may be invested in any manner. If an investment company invests more than five percent of its assets in any issuer, the entire investment is placed in the twenty-five percent basket, and then aggregated with other investments that are greater than five percent to determine whether the fund is in compliance with section 5(b)(1). The investment company may not invest more than twenty-five percent of its assets in a single issuer by splitting its investment into two lots between the twenty-five percent basket and the diversified portion of its portfolio. See Lybrand, Ross Bros. & Montgomery (Oct. 24, 1941) (pub. avail. Nov. 22, 1991). Section 5(b)(1) also prohibits diversified funds, with respect to seventy-five percent of their assets, from investing in securities that comprise more than ten percent of the outstanding voting securities of an issuer.

[30] At the close of each quarter of its taxable year the RIC must have invested: (1) At least fifty percent of its total assets in (A) cash and cash items, government securities and other RIC securities, and (B) other securities, limited for any issuer to not greater than five percent of the RIC's total assets; and (2) not more than twenty-five percent of its total assets in the securities of any one issuer (except government securities and the securities of other RICs) or in securities of two or more issuers that are controlled by the RIC and that are engaged in similar businesses. See section 851 of the Internal Revenue Code (26 U.S.C. 851). A fund must qualify as a RIC to receive pass-through tax treatment for income.

[31] A shareholder vote is not required under section 13(a)(1) of the 1940 Act (15 U.S.C. 80a-13) when a non-diversified fund becomes diversified within the meaning of section 5(b) of the 1940 Act.

[32] A sufficient amount of outstanding securities issued by a sufficient number of tax exempt issuers appears to be available to enable national funds to meet the proposed test. National funds have almost $70 billion in assets (see Money Fund Report, supra note 3); according to the Public Securities Association ("PSA"), total short- and long-term municipal issuance in 1992 alone was $278 billion, and there are an estimated 50,000 municipal issuers. While much of this issuance is probably not eligible for money market fund investment because of its maturity or credit quality, the Commission's recent examinations of a number of tax exempt funds revealed that most national funds already meet the Five Percent Diversification Test and that those that do not could do so with relatively modest adjustments to their portfolios.

VOL 58 ISS 247 DEC 28 1993 UMI

Instead of extending the Five Percent Diversification Test to single state funds, the Commission is proposing to limit single state fund investments to first tier securities. A relatively small percentage of all single state funds' assets are currently invested in second tier securities,[33] but these lower quality investments represent the greatest credit-related risk to single state funds. Requiring that single state funds only invest in the highest quality securities minimizes the additional risks that may accompany lower levels of diversification.

The Commission is proposing two additional rule amendments to address the risks related to the relative lack of diversification in single state funds. First, single state funds would be subject to the put diversification provisions discussed below. Second, single state funds would be required to alert investors to the risks inherent in greater concentration in their prospectuses.[34] Because a significant percentage of single state fund portfolios are subject to unconditional demand features from banks and other financial institutions, put diversification will provide some assurance that the credit risks of single state fund portfolios will be diversified, although not to the same extent as other money market funds.

The Commission requests comment on whether requiring single state funds to restrict their investments to first tier securities is an adequate counterbalance to the risks presented by reduced diversification. Will the proposed credit quality conditions assure that single state funds provide the degree of safety expected by investors? As an alternative, should single state funds be required to meet the diversification requirements of section 5(b)(1) of the 1940 Act? As another alternative, should single state funds be required to meet the diversification standards set forth in the definition of a RIC, not only on a quarterly basis as required by the Internal Revenue Code but with respect to each security when it is purchased?[35]

Finally, are there alternative requirements that could be imposed on single state and national funds that would better satisfy the safety objectives of rule 2a-7? For example, tax exempt securities are often issued to finance specific types of projects (whether for a public or private purpose) such as transportation, higher education, or health care. Fund concentration in securities issued by a particular type of project creates risks because economic, business or political developments affecting one such project may likewise affect the other projects.[36] A change in the Federal formula for Medicare reimbursements, for example, may affect the financial condition of all health care projects. The Commission requests comment on whether rule 2a-7 should limit the extent to which tax exempt funds may concentrate their investments in securities related to the projects, facilities, or commercial enterprises of a particular industry to further insulate funds from investment risk. If such an approach is adopted, what level of concentration should be permitted? Should the concentration level for single state funds be more restrictive than the level for other tax exempt funds?

3. Pre-Refunded Bonds

A significant portion of tax exempt fund assets consist of pre-refunded bonds—that is, bonds the payment of which is funded and secured by escrowed Government securities.[37] The Commission is proposing to allow funds to "look through" such bonds to the escrowed securities. This treatment would be allowed only for securities that have been pre-refunded with escrowed Government securities when the escrow arrangements satisfy certain conditions designed to assure that the bankruptcy of the issuer of the pre-refunded bonds will not affect payments on the bonds from the escrow account.[38] In addition, a fund could invest no more than twenty-five percent of its assets in the pre-refunded bonds of the same issuer.[39] Because these securities would, in effect, be treated as Government securities, they would not be subject to any diversification limitation (other than the twenty-five percent limitation).

Comment is requested on whether any other measures should be taken to facilitate compliance with the Five Percent Diversification Test. For example, given their record of safety, should securities backed by the full faith and credit of state governments be treated as Government securities for purposes of the rule's diversification tests?[40]

4. Diversification Safe Harbor; Three-Day Safe Harbor

The diversification requirements of rule 2a-7 differ in some respects from those of section 5(b)(1) and the rules under that section. Although the rule 2a-7 requirements are more strict, circumstances may occur when a money market fund is in compliance with rule 2a-7, but not in compliance with section 5(b)(1).[41] Therefore, the Commission is proposing to add a provision to rule 2a-7 stating that money market funds complying with the rule's diversification requirements are deemed to be diversified under section 5(b)(1).[42]

Rule 2a-7 currently permits a fund to invest more than five percent of its assets in the First Tier Securities of a single issuer for up to three business days (the "three-day safe harbor") and does not contain any limitation on the percentage of fund assets that can be invested in accordance with this provision. Since the provision is primarily applicable to taxable funds, and since most taxable funds are diversified companies within the

[33] Recent inspections conducted by the Division of Investment Management suggest that approximately 8.4 percent of single state fund assets is invested in second tier securities.

[34] See *infra* Section III.A.

[35] See *supra* note 30 and accompanying text. Under this approach, the fund would be diversified at the five percent level as to fifty percent of its assets and could invest not more than twenty-five percent of assets in a single issuer, other than government securities and securities of other RICs.

[36] See Investment Company Act Rel. No. 9785 (May 31, 1977) (42 FR 29130 (June 7, 1977)) ("Release 9785") (stating that tax-exempt funds must disclose concentration policy if twenty-five percent or more of the fund's assets are invested in securities that relate to similar type projects).

[37] As noted *supra* in note 2, under paragraph (a)(13) of rule 2a-7 as proposed to be amended, the term "Government security" means those securities issued or guaranteed by the United States or its instrumentalities—the definition of that term given in section 2(a)(16) of the 1940 Act.

[38] See paragraphs (a)(16) (definition of "refunded security") and (c)(4)(iv)(B) (acquisition of a refunded security deemed to be acquisition of Government security) of rule 2a-7 as proposed to be amended. This change codifies for both taxable and tax exempt money market funds the no-action position in T. Rowe Price Tax-Free Funds (pub. avail. June 24, 1993), regarding treatment of these securities for purposes of section 5(b)(1) of the 1940 Act. This is consistent with the rule's treatment of fully collateralized repurchase agreements. Paragraph (c)(4)(i) of rule 2a-7 (paragraph (c)(iv)(A) of rule 2a-7 as proposed to be amended).

[39] Paragraph (c)(4)(iv)(B) of rule 2a-7 as proposed to be amended. This twenty-five percent limitation was a condition specified in T. Rowe Price Tax-Free Funds, *supra* note 38.

[40] See *infra* note 47 and accompanying text.

[41] One difference that may cause this to occur is the timing of the measurement of diversification. Compliance with section 5(b)(1) is measured on a quarterly basis (rule 5b-1 (17 CFR 270.5b-1)), while compliance with rule 2a-7 is measured at the time the security is purchased (paragraph (c)(4)(i)). In addition, under section 5(b)(1), conditional puts from a single issuer are subject to a five percent limit (outside of the twenty-five percent basket), while under rule 2a-7 as proposed to be amended, they would be subject to a ten percent limit. Paragraph (c)(4)(iii) of rule 2a-7 as proposed to be amended.

[42] Paragraph (c)(4)(vi) of rule 2a-7 as proposed to be amended. This safe harbor would not be available to single state funds that are diversified investment companies under section 5(b)(1), because rule 2a-7, as proposed to be amended, would not impose diversification requirements on these funds other than with respect to puts. The safe harbor would be available to these funds to assure that compliance with rule 2a-7's put diversification requirements satisfies section 5(b)(1).

meaning of section 5(b)(1), a fund could not use this provision to invest more than twenty-five percent of its assets in the securities of a single issuer. To assure that the proposed diversification safe harbor does not have the effect of allowing a national or taxable fund to invest more than twenty-five percent of its assets in a single issuer at any time, the proposed amendments would limit to twenty-five percent the percentage of fund assets that may be invested under the safe harbor at any one time.[43]

B. Quality Limitations on Portfolio Securities

Rule 2a-7 requires both taxable and tax exempt funds to invest only in eligible securities: Those securities receiving at least the second highest rating from the requisite NRSROs or comparable unrated securities.[44] Taxable funds also must comply with the Second Tier Security Tests. The Commission is proposing to limit single state funds to first tier securities and to apply to national funds the Second Tier Security Tests only with respect to conduit securities.

1. Single State Funds

As discussed above, the Commission is not proposing to extend the diversification requirements imposed on other money market funds to single state funds.[45] A single state fund could therefore hold a substantial portion of its assets in the securities of one issuer. If such an issuer encountered financial difficulties or defaulted, there would be a substantial likelihood that the fund would have to break a dollar. To reduce the risk of this occurring, the Commission is proposing to limit single state funds to investing in first tier securities. The Commission requests comment on whether those single state funds that can meet the Five Percent Diversification Test (or alternative diversification standard) should be permitted to invest in second tier securities, subject to the limitations discussed below.

2. National Funds

While their securities are not risk-free, state and municipal governments have rarely experienced defaults.[46] Generally, state and local governments have resources (such as taxing powers) that are not available to corporate issuers.[47] Moreover, some market participants believe that credit problems involving major municipalities are detected further in advance than in the taxable market, with the result that a tax exempt fund can dispose of its investment before a crisis occurs. Therefore, the Commission is not proposing to extend the Second Tier Securities Tests except to conduit securities, as described below.

Unlike traditional state and municipal securities, conduit securities are issued to finance non-governmental "private purpose" projects, such as retirement homes, private hospitals, local housing projects, and industrial development projects with respect to which the ultimate obligor is not a governmental entity.[48] Conduit securities are not backed by the taxing authority of any state or municipality or a revenue source from any essential public facility. The credit risks of these securities are significantly higher than those of traditional state and municipal securities.[49] Because there does not appear to be any reason to treat conduit securities differently from the securities of comparable issuers that are offered to taxable funds, the Commission is proposing to apply the Second Tier Securities Tests to conduit securities.[50] The effect of this new provision would be to preclude a tax exempt fund from investing more than five percent of its assets in second tier conduit securities, with investment in the second tier conduit securities of any one issuer being limited to the greater of one percent of fund assets or one million dollars.[51]

A conduit security would be defined as a security issued through a state or territory of the United States, or any political subdivision or public instrumentality thereof, which is not (1) Payable from the revenues of such governmental unit; (2) unconditionally guaranteed by such governmental unit; (3) related to a project or facility owned and operated by such governmental unit; or (4) related to a facility leased to and under the control of an industrial or commercial enterprise that is part of a public project owned and under the control of such governmental unit.[52] For purposes of the rule's diversification provisions, the issuer of a conduit security would be the ultimate obligor for payment of principal and interest, not the "shell" or special purpose entity through which the issuance is made.[53] Comment is requested on the scope of this definition and whether it is too broad or too narrow in view of the objective of subjecting securities of non-governmental issuers to the Second Tier Securities Tests. Commenters are

[43] Paragraphs (c)(4) (i) and (ii) of rule 2a-7 as proposed to be amended.

[44] See *supra* note 13 and accompanying text and paragraph (a)(5) of rule 2a-7 (paragraph (a)(9) of rule 2a-7 as proposed to be amended).

[45] See supra Section II.A.2. Single state funds would be required to dispose of portfolio securities that become second tier after acquisition unless the fund board concludes that holding a security is in the best interest of the fund. Paragraph (c)(5) of rule 2a-7 as proposed to be amended.

[46] The default rate for all municipal issues between 1986 and 1991 was 0.4 percent; Moody's Investors Service, Inc. found the default rate for corporate debt during the same period was almost two percent. See "Current Regulations Adequately Protect Muni Investors, PSA Tells MSRB; PSA Study Shows Low Incidence of Default Among Non-Rated Issues," Municipal Market Developments (PSA), Mar. 1993.

[47] Tax exempt notes are usually backed either by the general taxing power of a government or a reliable revenue source, such as the proceeds of a particular tax (in the case of tax anticipation notes) or of a bond issuance (in the case of bond anticipation notes). No state general obligation has defaulted since the late 1800s. See N. Cohen, Municipal Default Patterns—An Historical Study, Fall-Winter 1988 at 6 (Enhance Reinsurance Company 1988). However, risks to the timely payment of principal and interest can result from state budget and political dynamics. See "State of Confusion—California's Budget Crisis Is Over With * * * or Is It?" Barron's, Sept. 7, 1992, at 18–19.

[48] In addition, certain types of quasi-governmental entities, such as special tax districts, serve as conduits for the issuance of securities used to fund the construction of housing developments and associated infrastructure by private firms.

[49] For example, the default rate for unrated conduit securities related to health care facilities was 6.3 percent between 1986 and 1991. See Public Securities Assoc., An Examination of Non-Rated Municipal Defaults 1986–1991, Jan. 8, 1993, at 4. By contrast, the default rate for investment grade corporate issues is between one and two percent, according to the Bond Investors Association, and the default rate for municipal general obligations was zero between 1980 and 1991. See U.S. Securities and Exchange Commission Division of Market Regulation, Staff Report on the Municipal Securities Market, Sept. 1993, at App.B, n.4 and accompanying text.

[50] No more than five percent of a fund's assets could be subject to second tier puts from the same institution. Paragraph (c)(4)(iii) of rule 2a–7 as proposed to be amended. See infra notes 84–85 and accompanying text.

[51] Credit quality determinations for a conduit security would generally be made by reference to the underlying corporate or project issuer, unless the conduit security is subject to an unconditional demand feature. Similarly, unless the conduit security is itself rated, a fund would rely on the ratings of the corporate issuer to determine if the conduit security was a first or second tier security. Credit quality determinations with respect to conduit securities subject to demand features would be made by reference to the provider of the demand feature, and, in the case of a conditional demand feature, the long-term rating of the underlying corporate or project issuer. See infra note 67 and paragraphs (c)(3)(i) and (ii) of rule 2a–7 as proposed to be amended. In addition, for purposes of calculating compliance with the one percent limit on second tier securities of a single issuer, the issuer of the conduit security (that is, the corporation or project)—not the issuer of the credit enhancement—would be treated as the issuer. See paragraph (c)(4)(iv)(C) of rule 2a–7, as proposed to be amended.

[52] Paragraph (a)(7) of rule 2a–7 as proposed to be amended.

[53] Paragraph (c)(4)(iv)(C) of rule 2a–7 as proposed to be amended. The Commission has applied this approach in interpreting section 5(b)(1) of the 1940 Act. See Release 9785, supra note 36, at nn. 2–3 and accompanying text.

encouraged to submit alternative definitions, having particular regard to the objective of allowing portfolio managers readily to identify conduit securities without obtaining legal and other expert opinions. For example, should conduit securities be defined by reference to the provisions of the Internal Revenue Code governing "private activity bonds" (section 141 of the Internal Revenue Code)?

The Commission requests comment on whether tax exempt second tier securities that are not conduit securities present a level of risk that would warrant extending the Second Tier Security Tests to them.[54] Could modified forms of the Second Tier Security Tests be developed for all securities held by tax exempt funds and, if so, what would be the effect of these alternatives on investors, funds and issuers? For example, should the Second Tier Security Tests be applied to all securities other than those backed by the full faith and credit of a state? A relatively high percentage of tax exempt fund securities are rated by only one NRSRO and are rated generally by no more than two.[55] Does this suggest that split-rated securities held by tax exempt funds should be treated differently from those held by taxable funds and that the definition of the term "requisite NRSROs" should be modified for tax exempt funds?[56]

3. NRSRO Ratings Comparability

Rule 2a–7 relies on the pre-existing rating categories of the six NRSROs in defining securities eligible for fund investment.[57] That is, the rule categorizes NRSRO-rated securities based on the two highest short-term rating categories of the NRSROs, although the rule recognizes that certain NRSROs have developed sub-categories indicating relative standing.[58] The approach is designed to provide a "buffer" of one investment grade category between a second tier and a more speculative security, and thus better assure that funds have an opportunity to dispose of a downgraded security before the security becomes less than investment grade.

The short-term rating categories of the different NRSROs with respect to taxable securities appear to be roughly comparable in terms of the NRSROs' descriptions of the categories and the percentage of instruments that fall into each rating category.[59] While split-ratings do occur in the short-term taxable securities markets, it does not appear that this has occurred in a systematic way.[60]

Industry commenters have observed that the correlation among NRSRO tax exempt rating categories does not appear to have been as consistent as the correlation among taxable ratings.[61] The Commission requests comment on whether NRSRO ratings categories are comparable and if not, how the rule could be amended to address the lack of comparability. For example, should the rule adopt a variation of the "high quality" terminology of the original rule without attempting to define the generic rating levels that identify an eligible or first tier security? Should each sub-category be treated as a separate rating category? Should rule 2a–7 specify the ratings that are considered by the Commission to be first tier and those that are considered to be second tier? Commenters addressing these questions are urged to provide data illustrating the correlation (or lack of correlation) among the various NRSRO rating categories.

C. Puts and Demand Features

1. Background

A "put" is a right to sell a specified underlying security within a specified period of time and at a specified exercise price that may be sold, transferred, or assigned only with the underlying security.[62] A demand feature is a put that may be exercised at specified intervals not exceeding 397 calendar days and upon no more than 30 days' notice.[63] Demand features can serve three purposes: To shorten the maturity of a variable or floating rate security ("adjustable rate securities"),[64] to enhance the instrument's credit quality, and to provide a source of liquidity.[65]

Demand features may be conditional or unconditional.[66] Under rule 2a–7, a demand feature used as a substitute for the credit quality of the underlying security must be an "unconditional put," defined to include any guarantee, letter of credit ("LOC") or similar unconditional credit enhancement that by its terms would be readily exercisable in the event of a default in payment of principal or interest on the underlying security.[67]

Rule 2a–7 permits funds to acquire "standby commitments," which are puts that entitle the holder to achieve same day settlement and to receive an exercise price equal to the amortized cost of the underlying security or securities plus accrued interest, if any, at the time of exercise.[68] Standby commitments are generally arrangements with broker-dealers that allow funds to put the security back to the broker at an agreed upon price, and were developed to provide tax exempt funds with liquidity.[69] A standby commitment cannot be used to enhance the credit quality or to shorten the maturity of the instrument unless it meets the requirements of a demand feature.[70]

The use of puts, demand features and standby commitments by tax exempt funds raises questions with respect to the nature and valuation of tax exempt fund portfolio securities and the conditions that should be placed on the use of these features under rule 2a–7. Money market fund portfolios are generally limited to highly liquid short-term debt securities[71] that are not expected to fluctuate significantly in value because of interest rate or credit quality changes (the primary justification for allowing money market funds to use the amortized cost and penny rounding methods). The widespread use of puts, demand features and standby commitments results in tax exempt fund portfolios composed primarily of long-term securities with characteristics similar to those of short-term debt securities. If a demand feature cannot be exercised, the fund will be holding a long-term and possibly illiquid lower rated security, the value of which (to the fund) may have declined significantly.[72]

The Commission is proposing several amendments to decrease the risks associated with the use of puts and demand features and to simplify the operation of rule 2a–7. These amendments also address new types of securities that use puts and demand features that have developed since the 1986 Amendments. The proposed amendments would apply to both taxable and tax exempt (including single state) funds.

The amendments would not modify the basic framework established by the 1986 Amendments, and comment is requested on whether this framework continues to reflect market practices or whether any other types of puts have developed that should be reflected in the rule. Given the effect that the loss of a put could have on a fund's portfolio, comment is requested on whether any additional requirements with respect to the use of puts, particularly conditional puts, should be adopted.

2. Diversification and Quality Standards for Put Providers

Rule 2a–7 imposes a general diversification requirement with respect to puts to ensure that the liquidity of a fund will not be impaired by heavy reliance upon one institution, or a handful of institutions, to support securities in the fund's portfolio.[73] The 1986 Amendments tracked the diversification requirements of section 5(b)(1) of the Act, and provided that a fund could not, with respect to seventy-five percent of its assets, have more than the specified percentage of its assets (five percent for conditional puts; ten percent for unconditional puts[74]) invested in securities subject to puts from, or directly issued by, the same institution.[75] The 1991 Amendments require that taxable funds meet these standards with respect to 100 percent of fund assets.[76] The Commission is proposing to make the limitations on conditional and unconditional puts uniform and to eliminate the twenty-five percent basket for tax exempt funds.

a. Diversification requirements: conditional puts. Although rule 2a–7 permits funds to invest in unconditional puts from a single institution guaranteeing up to ten percent of the fund's assets, the limit for conditional puts is five percent of the fund's assets.[77] There appears to be no reason to require a higher level of diversification for conditional puts than unconditional puts. A fund would, in fact, have greater exposure to a provider of an unconditional put that has substituted its credit for that of the issuer of the underlying security.

Under the proposed amendments, the ten percent limit would be applicable to all puts, whether conditional or unconditional. Thus, conditional and unconditional puts from a single issuer, as well as securities directly issued by the issuer of the put, would be aggregated for purposes of determining whether the ten percent limit has been reached.[78] Comment is requested on whether the percent of assets that may be subject to a put (whether conditional or unconditional) should be more or less than ten percent.

b. Put diversification requirements: twenty-five percent basket. The proposed amendments would eliminate the twenty-five percent basket for puts currently available to tax exempt funds. Permitting a fund to rely on one put

---

[54] While the historical data suggests that tax exempt securities have low levels of default, some observers expect an increase in municipal fiscal distress. See "Insured Issuance Soars to Record Level," Municipal Market Developments (PSA), Mar. 1993 (record levels of insured municipal issuance attributable in part to deteriorating fiscal condition of state and local governments).

[55] See Investment Company Act Rel. No. 16080 (Apr. 8, 1981) (56 FR 14901 (Apr. 12, 1991)).

[56] See Release 16005, supra note 11, at nn. 42–48 and accompanying text, discussing the approach taken in the 1991 Amendments to securities that have different ratings from different NRSROs ("split-rated securities"). The Investment Company Institute ("ICI") has recommended that split-rated tax exempt securities rated by two NRSROs be treated as having the higher of the two ratings (the treatment afforded under rule 2a–7 prior to the adoption of the 1991 Amendments). When more than two NRSROs rate a security, the rating of the majority of the NRSROs would determine its category. The ICI asked that this treatment of split-rated securities also apply to taxable money market funds to facilitate compliance with rule 2a–7. See Letter of Matthew Fink, Senior Vice President and General Counsel, Investment Company Institute, to Marianne Smythe, Director, Division of Investment Management (Mar. 25, 1991) ("ICI Letter") (available in S7 file; see supra note 19).

[57] See supra notes 12–13 and accompanying text.

[58] For example, S&P has developed a sub-category (A–1+) of its highest category (A–1) that is used to designate issuers with "extremely strong safety characteristics." Standard & Poor's Commercial Paper Guide (Nov. 1993).

[59] See appendix A to this Release.

[60] A split-rating may be the result of the failure of one NRSRO to perceive quality problems (or improvements) that another NRSRO has reflected in its ratings; it may also reflect differences among NRSROs as to the emphasis placed on different credit factors.

[61] Two commenters suggested that the S&P rating of SP–2 indicates lower credit quality than the second highest rating categories of the other NRSROs. See Letters to Jonathan G. Katz from Citibank, at 5 (Sept. 20, 1990) and the Government Finance Officers Association, at 6 (Sept. 24, 1990) and appendix B to this Release. NRSROs use several rating scales for tax-exempt instruments. Moody's assigns notes "MIG" ("Moody's Investment Grade") ratings, while S&P employs an "SP" rating scale, and Fitch uses an "F" scale. VRDNs are assigned "VMIG" ("Variable Moody's Investment Grade") ratings by Moody's, along a scale identical with the MIG scale, to reflect the strength of the unconditional put feature. VRDNs rated by Moody's often also carry a long-term rating. The long-term rating indicates the long-term strength of the put provider when the put is unconditional, and of the issuer of the underlying securities when the put is conditional. S&P also assigns VRDNs a short-term and a long-term rating. Unlike Moody's, however, it employs the commercial paper rating scale (A–1, A–2, etc.) to indicate the quality of the unconditional put. Fitch employs the F rating scale for VRDNs as well as for notes. Moody's and S&P employ commercial paper ratings with respect to tax-exempt commercial paper issuers; Fitch employs the same F scale used for notes and VRDNs.

[62] Paragraph (a)(17) of rule 2a–7 as proposed to be amended. The definition of "put" would be amended to specify that the put must enable the holder to receive the principal amount or amortized cost of the instrument, plus accrued interest. This would conform the definition to that of a "standby commitment" (paragraph (a)(16) of rule 2a–7 and paragraph (a)(23) of rule 2a–7 as proposed to be amended) and reflect the usual terms of these instruments.

[63] See paragraph (a)(4) of rule 2a–7 (paragraph (a)(8) of rule 2a–7 as proposed to be amended).

[64] Paragraphs (d)(3) and (4) of rule 2a–7. Initially, rule 2a–7 provided that only demand features that ran to the issuer of the security could be used to shorten maturities. See Release 13380, *supra* note 8, at n.9. This was changed by the amendments to rule 2a–7 adopted in 1986 in response to market developments.

Limiting the use of demand features to shorten maturity to adjustable rate securities is designed to assure that the market based value of the security will not deviate significantly from its amortized cost value between the exercise dates of the demand feature. Investment Company Act Rel. No. 14983 (Mar. 12, 1986) (51 FR 9773 (Mar. 21, 1986)) ("Release 14983") at n.9 and accompanying text.

[65] A money market fund is limited to investing no more than ten percent of its assets in illiquid securities. See Release 13380, *supra* note 8, at nn. 37–38 and accompanying text. See also Investment Company Institute (pub. avail. Dec. 9, 1992). The Commission has reiterated that fund boards of directors have particular responsibilities with regard to the acquisition and valuation of illiquid securities. See Release 14983, *supra* note 64, at n.22 and accompanying text.

[66] Both conditional and unconditional puts may operate as demand features to shorten maturities of adjustable rate securities. As discussed *infra* in Part II.C.3, the proposed amendments would limit the types of conditions to which exercise of a put could be subject. Paragraph (a)(6) of rule 2a–7 as proposed to be amended.

[67] Paragraph (a)(19) of rule 2a–7 (paragraph (a)(27) of rule 2a–7 as proposed to be amended). A demand feature that is conditional also may serve as the basis for determining whether a security is an eligible security and categorizing it as a first or second tier security; however, the long-term credit quality of the security subject to a conditional demand feature must also be analyzed. See paragraph (c)(3)(ii) of rule 2a–7.

[68] Paragraph (a)(16) of rule 2a–7 (paragraph (a)(23) of rule 2a–7 as proposed to be amended).

[69] Investment Company Act Rel. No. 14607 (July 1, 1985) (50 FR 27982 (July 9, 1985)) ("Release 14607") (proposing the 1986 Amendments) at Section B. The 1986 Amendments codified a series of exemptive orders that enabled money market funds to acquire standby commitments for municipal securities from broker dealers. Among other things, these orders permitted tax exempt funds to value these standby commitments at zero for purposes of computing share price.

[70] Paragraphs (d)(3) and (d)(5) of rule 2a–7 as proposed to be amended. Paragraph (a)(9)(iii)(A) of rule 2a–7 as proposed to be amended clarifies that where a standby commitment is used only for liquidity purposes, it may be considered an eligible security upon a finding that its issuer presents a minimal risk of default.

[71] The money market is generally considered to be the market for "short-term debt instruments—negotiable certificates of deposit, Eurodollar certificates of deposit, commercial paper * * * among others." Barron's Dictionary of Finance and Investment Terms (1987).

[72] The value of the security will decline either because it will be of lower credit quality or its interest rate will be lower than long-term rates, or a combination of these two factors. The security may also decline in value if it becomes illiquid.

[73] Release 14983, supra note 64, at Section A.2.

[74] See rule 5b–2 under the 1940 Act (17 CFR 270.5b–2). Rule 5b–2 provides that a guarantee is not deemed to be a security of the guarantor provided that the value of all securities held by an investment company guaranteed or issued by the guarantor does not exceed ten percent of its total assets.

[75] A fund may not, however, invest more than five percent of its assets in securities (other than puts) directly issued by that institution. Paragraph (c)(4)(i)(A) of rule 2a–7.

[76] Paragraph (c)(4)(ii) of rule 2a–7. Tax exempt funds can invest, within the twenty-five percent basket, more than ten percent of assets in instruments backed by unconditional puts from one institution and more than five percent of assets in instruments supported by conditional puts from a single institution.

[77] Paragraphs (c)(4) (ii) and (iii) of rule 2a–7.

[78] Paragraph (c)(4) (iii) of rule 2a–7 as proposed to be amended. Without aggregation, a fund's exposure to a single put provider could be as high as twenty percent. Rule 2a–7 does not currently require aggregation of securities subject to conditional and unconditional puts from the same institution. See T. Rowe Price Associates (pub. avail. June 2, 1983).

VOL 58 ISS 247 DEC 28 1993 UMI

provider to provide credit support or liquidity with respect to as much as twenty-five percent of its assets could present considerable risks to a fund seeking to maintain a stable net asset value under rule 2a–7, and may be inconsistent with the safety expectations of investors. Tax exempt funds could invest no more than ten percent of fund assets in securities subject to puts from, or directly issued by, a single issuer. Elimination of the twenty-five percent undiversified put basket would be particularly important for single state funds, which are not and would not be required to be diversified with respect to underlying issuers.

Requiring put diversification as to 100 percent of fund assets could require funds to rely on a larger number of put providers than they do under the current rule.[79] Industry participants have suggested that because relatively few banks provide credit enhancement for most of the municipal market, increased diversification could cause funds to invest in securities subject to puts from weaker financial institutions. A review of fund portfolios suggests that while a small number of banks provide credit enhancement for one-third or more of the market, the remainder of the credit enhanced issues are supported by a wide assortment of put providers.[80] Comment is requested on whether the proposed requirement will cause tax exempt funds to rely on lower quality banks in order to satisfy this limitation, or whether it may cause funds to spread their put exposure more evenly among banks and/or encourage additional highly-rated banks to enter the market.

c. *Diversification requirements: multiple and layered puts and guarantees.* To reduce the cost of credit enhancement, some issuers arrange for two or more institutions to provide joint puts or guarantees covering all or a portion of the value of the securities guaranteed. In addition, funds have invested in securities subject to double layers of puts and guarantees that apply to the entirety of the principal amount. VRDN issuers may obtain bond insurance covering the payment of the principal and interest when due, and then purchase a bank LOC or conditional put at a less expensive rate than would otherwise apply. When the rating of a bank providing an LOC with respect to a VRDN declines, some funds have insisted that the first LOC be wrapped, i.e., that a second bank LOC be obtained that supports the first one. Multiple puts and guarantees are purchased because the underlying credit of the issuer, or first put provider or guarantor, is considered weak.

For purposes of rule 2a–7's put diversification provisions, the Commission is proposing to require that each such put provider or guarantor be deemed to have guaranteed the entire principal amount of the security, notwithstanding that the security is subject to puts from other institutions.[81] Comment is requested on whether other methods of accounting for a fund's exposure to layered guarantees would be more appropriate.[82]

d. *Quality limitations on put providers—(1) Providers of puts in excess of five percent of fund assets.* Permitting a money market fund to invest in puts from one institution covering more than five percent of its assets will expose the fund to the credit quality of that institution to a greater extent than rule 2a–7 otherwise generally allows under the Five Percent Diversification Test. The nature of the fund's exposure to institutions providing puts, however, is different from its exposure to the issuer of the underlying security. When an institution providing a put is downgraded by a NRSRO, in the absence of an adverse development with respect to the issuer of the underlying security, issuers or investors generally can either put the instrument back on short notice or persuade the issuer to obtain a substitute for the downgraded institution.[83] This consideration is reflected in rule 2a–7's lower level of put diversification.

Nevertheless, the Commission believes that it may be desirable to limit a fund's reliance on any single put provider that is rated below the highest rating category. The proposed amendments would require that when a fund invests more than five percent of its assets in securities supported by a put from a single put provider (whether conditional or unconditional), the put be provided by an institution that has received the highest rating with respect to its short-term debt obligations from the requisite NRSROs.[84]

Compliance with the five percent limit on second tier puts would be measured at the time the put was acquired by the fund. Because a security subject to a put may be in a fund portfolio for a relatively long time, the quality of the put could decline after its acquisition and a put that was first tier when acquired could become second tier (or unrated) with the passage of time. Therefore, the Commission is proposing to amend rule 2a–7 to require that when more than five percent of the fund's assets are subject to a demand feature from a single institution that is no longer first tier, the fund must reduce the amount of securities subject to the demand feature to no more than five percent of the fund's assets by exercising the demand feature at the next succeeding exercise date.[85]

The five percent limit on second tier puts from any single institution should not materially affect current fund investment practices since most institutions providing puts are first tier issuers. The Commission requests comment on the assumptions on which these proposed amendments are based, and how they would affect the management of tax exempt funds.

[79] Under the current rule, if 100 percent of a fund's portfolio is subject to unconditional puts, a minimum of nine institutions would have to provide the puts (eight institutions at the ten percent level and one institution at the twenty percent level); in the case of conditional puts, the minimum is sixteen (fifteen institutions at the five percent level and one at the twenty-five percent level). Under the proposed amendments, a minimum of ten institutions would be required in either case. See paragraph (c)(4)(iii) of rule 2a–7 as proposed to be amended.

[80] Five banks (Industrial Bank of Japan Ltd., Sumitomo Bank Ltd., Credit Suisse, Sanwa Bank Ltd., and Dai Ichi Kangyo Bank Ltd.) wrote forty-three percent of all letters of credit ("LOCs") in the first half of 1993. See "Japanese Banks Lead LOC Enhancement Pack," Global Guaranty, July 26, 1993, at 1. Four banks (Canadian Imperial Bank of Commerce, Union Bank of Switzerland, Sumitomo Bank Ltd., and Mitsubishi Bank Ltd.) and the Student Loan Marketing Association wrote thirty-one percent of LOCs in 1992. See "Canadian Imperial Bank Led LOC Enhancement Pack in 1992," Global Guaranty, Feb. 1, 1993, at 6.

[81] Paragraph (c)(4)(iv)(D) of rule 2a–7 as proposed to be amended. The proposed amendments would clarify that this provision is applicable to all forms of puts and guarantees, including financial guarantee (bond) insurance.

[82] Occasionally, an institution will provide a fractional put or guarantee; that is, the institution will assume the risk of paying only a fraction of the losses on an instrument. In these circumstances, the put provider would be deemed to guarantee only the portion of the value of the instrument actually guaranteed. For example, if two banks issue puts on the same VRDN and each agrees to absorb fifty percent of the losses, each would be deemed to guarantee fifty percent. The Commission is proposing an exception to this approach with respect to "first loss guarantees" on asset backed securities. See *infra* Section II.C.4.e.

[83] Issuers of securities subject to puts are often required to obtain replacement puts if an institution providing a put is downgraded. In other instances, holders have persuaded issuers to obtain replacements to assure that the security remains eligible for money market fund investment under rule 2a–7.

[84] Paragraph (c)(4)(iii) of rule 2a–7 as proposed to be amended.

[85] Paragraph (c)(5)(i)(C) of rule 2a–7 as proposed to be amended. If the demand feature is no longer an eligible security, paragraph (c)(5)(ii) of rule 2a–7 would require the fund to obtain a new demand feature or dispose of the underlying security (unless the board of directors found that it would be in the best interest of the fund not to dispose of the security). See also *infra* Section II.D.1.b, concerning certain other actions a fund would be required to take in the event of the deterioration of the credit quality of the demand feature.

(2) *Unrated put providers.* Rule 2a–7 permits a fund to invest in securities subject to unrated puts so long as the fund's board, or its delegate, determines that the security is of comparable quality to a rated security.[86] In light of the potential exposure of a fund portfolio to an individual put provider under the current rule and the proposed amendments, however, the Commission believes that a NRSRO rating may provide protection by ensuring input into the quality determination by an outside source. In addition, funds may have limited ability to monitor the credit quality of some put providers, such as foreign banks. A NRSRO rating may facilitate a fund's ability to determine that a security subject to a put represents minimal credit risks.[87] Therefore, the proposed amendments would limit funds to investing in puts (other than standby commitments) that are rated, or provided by institutions that are rated, by NRSROs.[88] Comment is requested on whether this approach will provide an additional degree of protection to fund investors.[89]

(3) *Rating determinations; issuer demand features.* Rule 2a–7 permits a fund to substitute the NRSRO rating of an issuer of an unconditional demand feature for the rating of the underlying security.[90] In some cases, funds invest in a VRDN based upon the rating of the demand feature; in other cases the entire VRDN is rated. In the latter cases, the NRSRO examines not only the financial soundness of the demand feature provider, but also the terms of the VRDN to assure that the demand feature will permit the holder of the underlying security to realize on the demand feature in the event of the bankruptcy of the underlying issuer. Comment is requested on whether rule 2a–7 should require that all VRDNs have NRSRO ratings. Alternatively, in those instances in which a VRDN is rated, should funds be required to rely on the specific rating of the VRDN rather than the rating of the demand feature provider?[91] Under this approach, an instrument subject to a demand feature (*e.g.*, a VRDN) would be considered to be unrated unless a NRSRO has actually rated the entire instrument.

Demand features are sometimes provided by the issuer of the underlying security. The rule, as originally adopted, provided that only issuer-provided demand features could be used to shorten the maturity of a security. The Commission requests comment on whether issuer-provided demand features should continue to be used in this fashion. While issuer-provided demand features may be "readily exercisable in the event of a default of principal or interest on the underlying securities" as required by the rule, it is unlikely that the issuer will be in a position to honor the demand feature. One approach on which comment is requested would be to require issuer-provided demand features to be secured by a LOC or some other unconditional guarantee provided by a third party.

(4) *Non-bank put providers.* The Commission seeks comment on whether it should limit fund reliance on non-bank put providers. Although most VRDNs are backed by bank LOCs, some are backed by insurance companies, pension funds, utilities, or affiliates of the issuer.[92] Commenters have suggested that access to a central bank as a source of liquidity in a crisis assures that banks will be able to honor their put obligations.[93]

3. Conditional Puts

The inability of a fund to exercise a demand feature because of the occurrence of a condition precluding exercise would result in violation of the maturity limitations of rule 2a–7, the liquidity requirements of the 1940 Act, and a loss of value of the underlying security when, for example, a short-term security paying interest at short-term rates is transformed into a long-term security.[94] Rule 2a–7 does not currently restrict the types of conditions to which a demand feature may be subject. As one commenter pointed out, the occurrence of some conditions attached to demand features cannot be effectively monitored by funds.[95] In addition, some conditions may have "hair triggers"—that is, they could occur suddenly without any advance warning (such as a downgrade of a security's rating from AAA to AA)—or be based on subjective factors (such as a "material adverse change" in the financial condition or prospects of the issuer), effectively depriving a fund of sufficient warning that the demand feature may no longer be available.[96]

The Commission believes that it may not be appropriate under rule 2a–7 to use demand features to shorten the maturity or enhance the credit quality or liquidity of a security if a fund cannot effectively determine, from a source other than the issuer of the underlying security, whether a condition precluding exercise has occurred or is likely to occur. A fund must be able to monitor the continued availability of a demand feature and, in certain circumstances, take steps to sell the security or replace the demand feature if it appears that conditions that would limit the ability of the fund to exercise the demand feature are likely to occur.[97] Therefore, the Commission is proposing amendments that would limit the permissible conditions with respect to conditional puts to the following:

1. Default in the payment of principal or interest on the underlying security;

2. The bankruptcy, insolvency, or receivership of the issuer or a guarantor of the underlying security;

3. The downgrading of the underlying security or a guarantor by more than two full rating categories; and

4. In the case of a tax-exempt security, a determination by the Internal Revenue Service of taxability with respect to the interest on the security.[98]

[86] Paragraphs (c)(3) and (a)(5)(iii) of rule 2a–7.

[87] A NRSRO rating cannot be the sole basis for making this determination. Paragraph (c)(3) of rule 2a–7 requires credit risk determinations to be based on factors pertaining to credit quality in addition to the NRSRO rating.

[88] A security that is itself unrated but that is subject to a demand feature that is rated would not be considered to be an unrated security. See paragraph (a)(29)(i)(B) of rule 2a–7 as proposed to be amended. This reflects the approach of many portfolio managers who generally rely on the credit quality and rating of the bank providing the demand feature to determine whether the VRDN is an eligible security. The proposed amendments remove from the definition of eligible security unrated securities that are subject to demand features. Paragraph (a)(9)(iii)(D) of rule 2a–7 as proposed to be amended. Thus, in order for a security subject to a demand feature to be eligible, either the security or the demand feature must be rated.

[89] As noted *infra* in Section II.C.4, the Commission is also adopting this approach for fund investment in certain other types of "structured" securities, including asset backed and synthetic securities.

[90] Paragraph (c)(3)(i) of rule 2a–7.

[91] Under paragraph (c)(3)(i) of rule 2a–7, a demand instrument that has an unconditional demand feature may be an eligible security or a first tier security based solely on the status of the unconditional demand feature. This determination may be based on the ratings of comparable debt securities of the issuer of the demand feature. See paragraphs (a)(5) and (a)(6) of rule 2a–7 (paragraphs (a)(9) and (a)(11) of rule 2a–7 as proposed to be amended).

[92] The use of alternative put providers has increased as LOCs have become more expensive, which is due in part to the revised capital requirements adopted for banks. See "Municipal Bond Insurance—The Economics of the Market," Municipal Finance Journal, Vol. 13 No. 2 (Summer 1992).

[93] A liquidity crisis appears to some extent to have been the cause of the MBLI default when a "run" on MBLI occurred after a newspaper article appeared. See "State Outlines Plan to Rescue Mutual Benefit," Wall Street Journal, July 17, 1991, at A3; "Seizure of Insurer Roils Bonds," Wall Street Journal, July 16, 1991, at A1.

[94] The fund could lose liquidity at the time when it is most necessary. A money market fund is limited to investing no more than ten percent of its assets in illiquid securities. See *supra* note 68.

[95] See ICI Letter, *supra* note 56.

[96] *Id.*

[97] See Nuveen Advisory Corp. (pub. avail. Sept. 4, 1990).

[98] Paragraph (a)(6) of rule 2a–7 as proposed to be amended.

Other than the fourth condition (which appears to be customary and can often be addressed through appropriate legal opinions), these conditions relate directly to credit quality and other factors that may be monitored if the fund or other third parties have continuing access to financial data concerning the issuer.[99] Comment is requested on whether any additional conditions should be permitted, whether any of these conditions are inappropriate, and whether different conditions are appropriate depending on whether the put is used for liquidity (standby commitments) or to shorten maturity (demand features).

4. Asset Backed and Synthetic Securities

In response to the shortage of short-term tax exempt securities, market participants have created highly structured "synthetic" tax exempt securities and asset backed securities ("ABSs") designed to meet the requirements of rule 2a–7. Both types of instruments generally rely on demand features and complex liquidity arrangements to meet the requirements of the rule. The Commission is proposing a number of amendments to rule 2a–7 to address these securities.

An ABS represents an interest in a pool of financial assets, such as credit card or automobile loan receivables. Typically, an ABS is sponsored by a bank or other financial institution to pool financial assets and convert them into capital market instruments, thereby enabling the sponsor to transform typically illiquid assets into cash and increase balance sheet liquidity.[100] Unlike a conventional debt security, an ABS is structured to assure that the issuer of the ABS will not be affected by the bankruptcy of the sponsor. This structure enables a NRSRO to provide the ABS with a rating that is often higher than that of the sponsor. In addition, the structure of the ABS affects the nature and amount of the credit enhancement. While these structural issues affect the risks associated with many types of securities, they are particularly important in evaluating ABSs.[101]

Synthetic securities are another form of ABSs that have been developed to address the shortage in the supply of short-term tax exempt securities.[102] While a variety of synthetic structures exist, all involve trusts or partnerships that in effect convert long-term fixed-rate bonds into variable or floating rate demand instruments. Typically, one or more long-term, high quality fixed rate bonds of a single state or municipal issuer (the "core securities") are deposited in a trust by a sponsor. Interests in the trust may be distributed through a public offering or private placement. Holders of interests in the trust receive interest at the current short-term market rate and the sponsor receives the difference (after administrative expenses) between the current market interest rate and the long-term rate paid by the core securities. An affiliate of the sponsor or a third party (usually a bank) issues a conditional demand feature permitting holders to recover principal at par within a specified period. Thus, the instruments satisfy rule 2a–7's maturity limitations. The puts are conditional to address tax-related concerns.[103]

Synthetic structures offer their sponsors the capacity to transform relatively standard, well-understood securities (*e.g.*, long-term municipal bonds) into conventional VRDNs as well as more complex instruments, such as interest-only and principal-only strips and inverse floaters, all of which have very different risk characteristics from those of the underlying security.[104] The structures by which the core securities are deposited, held, and divided into various interests, and the credit § enhancement and liquidity features built into these structures are extremely complex.[105] The proposed amendments would establish certain criteria for fund investment in synthetic securities and other ABSs and address issues concerning their treatment for diversification and maturity purposes.

a. *Definitional matters.* The proposed revisions would define an ABS as a fixed income security issued by a "special purpose entity," substantially all of the assets of which consist of "qualifying assets"—generally, financial assets that by their terms convert into cash in a fixed period of time.[106] The proposed definition would exclude issuers that are not typically considered to be direct issuers of ABSs, such as finance companies.[107] Comment is requested on whether the proposed definition could be refined to assure

[99] See *infra* Section II.D.1.

[100] For a detailed discussion of ABSs, see U.S. Securities and Exchange Commission Division of Investment Management, Protecting Investors: A Half Century of Investment Company Regulation, May 1992, at 1–103 and Investment Company Act Rel. No. 18736 (May 29, 1992) (57 FR 23980 (June 5, 1992) and Investment Company Act Rel. No. 19105 (Nov. 19, 1992) (57 FR 56248 (Nov. 27, 1992)) ("Release 19105") respectively proposing and adopting rule 3a–7 under the 1940 Act (17 CFR 270.3a–7), the rule excluding the issuers of certain ABSs from the definition of investment company.

[101] While the structure of ABSs vary, the ABSs that have been marketed to money market funds generally involve: (i) The trust, which issues the ABSs; (ii) the sponsor, which contributes the assets to the trust; (iii) the servicer, which is responsible for administering the assets in the pool; (iv) the trustee, which monitors the activities of the servicer; and (v) the bank, which provides some form of liquidity and/or credit enhancement to assure that the trust will have sufficient funds to meet interest and amortization payments in the event that cash flow from the underlying assets is insufficient to meet the payment schedule of the ABS.

[102] See "Taxable Money Funds Still Shifting into FRNs," Donoghue's Money Fund Report, Aug. 27, 1993 ("derivatives and structured financing products are the investments of choice these days as money managers struggle with paltry yields and thinner supply in traditional products"). To date, synthetic securities have generally been offered to money market funds through private placements.

[103] For distributions from the trust to be tax exempt, the owner of trust interests must be deemed the owner of the core securities for tax purposes. The conditions attached to the puts are designed to assure that investors in the trust bear some of the credit risks of the core securities, thus establishing some indicia of ownership. If the proposed amendments are adopted, any put conditions would have to meet the proposed limitations on conditional puts discussed *supra* in Part II.C.3. When analyzing the structure of a trust, the fund must ensure that it bears a substantial portion of the "benefits and burdens" associated with the long-term bonds and that it will have control (access) to the securities at some point. See "Risks Associated With Derivatives Held by Tax-Exempt Money Funds," Moody's Public Finance, June 15, 1993.

[104] See *infra* Section II.D.2.d for a discussion of the interest related risks presented by certain types of instruments that have been developed using these structures.

[105] The tax-free derivative market is changing and expanding constantly to meet demand for municipal issuance. For example, new derivative securities are being created that resemble existing structures but that also have multi-class features similar to those used in the mortgage-backed securities market. See "Firms Line Up to Create New Derivatives in Secondary Market as SEC Rules Change," Bond Buyer, Apr. 26, 1993. Industry participants have sought to address the tax and other uncertainties presented by these structures through legislative proposals that would permit creation of "tax-exempt municipal investment conduits," or "TEMICs." See "Bond Industry Officials Send TEMIC Proposal To Treasury, Congress," Bond Buyer, Sept. 14, 1993.

[106] Paragraph (a)(2) of rule 2a–7 as proposed to be amended. Qualifying assets would consist of "financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders." This definition is similar to the definition of "eligible assets" in rule 3a–7.

[107] Paragraph (a)(2) of rule 2a–7 as proposed to be amended would define a "special purpose entity" as a trust, corporation, partnership or other entity organized for the sole purpose of issuing fixed income securities, which securities entitle their holders to receive payments that depend primarily on the cash flow from qualifying assets. Typically, finance companies and similar enterprises are not organized for the sole purpose of owning qualifying assets and issuing ABSs and have some other purpose, such as providing financing for the sale of an affiliate's products. Registered investment companies would be explicitly excluded from the definition.

that securities other than ABSs will not be included in the rule.

b. *Quality determinations and NRSRO ratings.* The credit quality of a typical ABS depends both upon the structure of the security and the quality of the underlying assets. Determining that an ABS presents minimal credit risks requires an examination of the criteria used to select the underlying assets, the credit quality of the put providers,[108] and the conditions of the contractual relationships among the parties to the arrangement. When an ABS consists of a large pool of financial assets, such as credit card receivables or mortgages, it may not be susceptible to conventional means of credit risk analysis because credit quality is based not on a single issuer but on an actuarial analysis of a pool of financial assets.[109] The complexity of these arrangements has caused investors typically to rely on the ratings given an ABS by a NRSRO.

NRSROs have played a significant role in the development of ABSs by analyzing the structural integrity of ABSs and assuring that the underlying assets are properly valued and provide adequate asset coverage for the cash flows required to fund the ABS.[110] In rating ABSs, NRSROs consider the structure of the instruments and the quality of the underlying assets.[111]

The Commission is concerned that fund credit analysts may be unable to perform the thorough legal, structural and credit analyses required to determine whether a particular ABS involves inappropriate risks for money market funds. Therefore, the Commission is proposing that money market funds invest only in ABSs that have a short-term and, when the final maturity of the ABS exceeds 397 days, a long-term debt rating, from a NRSRO.

[108] Each put must qualify as an eligible security, and, if the put is conditional, the security must have received a first or second tier long-term rating from the requisite NRSROs or, if it is unrated, be of comparable quality. See paragraph (c)(3)(ii) of rule 2a–7. In the case of a synthetic security, the core security generally will have the requisite rating.

[109] The complexity of credit risk analyses currently may be less of a concern for synthetic securities, the underlying assets of which generally consist of the securities of a single issuer. This concern may increase as synthetic securities funded by a significant number of securities continue to develop.

[110] Release 19105, supra note 100.

[111] "Asset-Backed CP's New Look," Fitch Research Structured Finance Special Report, May 10, 1993. In addition, both Moody's and S&P rate synthetic instruments. For a description of the process by which one NRSRO analyzes synthetics, see "Moody's Rating Criteria for Custodial Receipts," Moody's Perspective on Structured Finance, Apr. 15, 1991; "Understanding Custodial Receipts: Tender Option Bonds," Moody's Perspective on Structured Finance, Nov. 2, 1992.

In view of the role that NRSROs have played in the structured finance markets, the proposed rating requirements should not be burdensome.

Except for the requirement that it be rated by a NRSRO, an ABS would be treated as is any other debt security for purposes of the rule's credit quality conditions. As under the current rule, a fund would be required to make its own assessment that the security posed the minimal credit risks appropriate for a fund seeking to maintain a stable share price and a high level of liquidity.[112] Comment is requested on the proposed NRSRO rating requirement. Specifically, would a NRSRO rating assist funds in assuring that these securities are appropriate investments? Can NRSRO ratings measure the risks of the conditions usually attached to the puts? Would the requirement of an NRSRO rating inhibit or assist the development of a market for these instruments? Are there preferable alternatives to this approach? For example, should fund investment in ABSs be limited to a specified percentage (such as ten or fifteen percent) of fund assets?

c. *Maturity determinations.* Certain types of ABSs raise questions concerning rule 2a–7's maturity limitations. Some ABSs are structured as conventional debt securities, such as commercial paper or other fixed income obligations with fixed maturities. These securities are often characterized as "pay throughs" because the ABS has maturities and payment schedules different from those of the underlying assets. Others are characterized as "pass throughs" because the cash generated by the assets passes through directly to the ABS holders, who receive pro rata shares of the cash flows, net of fees. The ultimate maturity of these instruments depends upon the rate of repayment of the underlying assets.[113]

[112] See Release 13380, supra note 8. In the case of synthetic securities, this assessment should include an analysis of current and historical interest rate trends (to determine whether short-term market rates will likely exceed the interest rate of the core security, which normally results in the dissolution of the trust and in the fund holding the long-term core securities) and whether the circumstances that could result in the termination of the put would occur prior to the time the put is next exercisable. See Nuveen Advisory Corp., supra note 97. If an analysis of these factors suggests that the synthetic security no longer presents minimal credit risks, the put must generally be exercised. See paragraph (c)(5)(ii) of rule 2a–7.

[113] Some ABSs (generally backed by credit card receivables) sold to money market funds appear to combine the characteristics of pay throughs and pass throughs: They are structured to allow the holder to make an election to receive principal payments earlier than scheduled, but the repayment obligation is conditioned on sufficient funds being generated by the underlying assets or being provided by liquidity and credit enhancers.

[114] These types of repayment elections currently do not qualify as demand features because the definition of demand feature requires repayment no more than 30 days after demand. Paragraph (a)(4) of rule 2a–7 (paragraph (a)(8) of rule 2a–7 as proposed to be amended).

[115] This proposal would supersede the interpretive position taken in Merrill Lynch, Pierce, Fenner & Smith (pub. avail. Mar. 6, 1987).

[116] Paragraph (a)(8) of rule 2a–7 as proposed to be amended.

Pass-through ABSs held by money market funds generally are not scheduled to return a holder's principal for three to five years. They typically provide for periodic interest rate resets and for principal to be returned after some period (not exceeding thirteen months) after a demand for repayment is made.[114] The Commission is proposing to revise rule 2a–7 to clarify that the final maturity of these instruments is the date on which principal is scheduled to be returned to the holder (regardless of whether demand has been made),[115] and to provide that the maturity of an ABS subject to this type of demand provision be measured by reference to the date on which principal is scheduled to be repaid once demand is made.[116] As a result, before the election to begin principal payments is made, a pass-through ABS with a five year final maturity and a feature permitting a fund to obtain principal within thirteen months would be considered a thirteen month instrument at all times (*i.e.*, on a rolling basis).

Comment is requested on this approach and on whether any other maturity-based conditions should be adopted to further reduce the risks of investment in ABSs. For example, since pass throughs do not have scheduled maturities, should fund investment be limited to first tier securities to assure that funds would only invest in instruments with respect to which the likelihood that principal would amortize as scheduled is extremely high? Should the definition of qualifying assets be limited to short-term debt obligations to reflect the short-term liquidity needs of funds and to assure that the market value and pay-out schedule of the ABS would not be subject to fluctuations that characterize long-term assets, such as fixed rate mortgages?

d. *Diversification: general.* For purposes of the diversification provisions of rule 2a–7, the issuer of the ABS would be deemed to be the issuer of the qualifying assets unless the qualifying assets consist of the securities of more than ten issuers. When the ten issuer limit is exceeded, the sponsor of

VOL 58 ISS 247 DE 28 1993 UMI

the ABS would be considered its issuer.[117] In the case of the typical tax exempt synthetic security, the acquisition of a synthetic security would be deemed to be an acquisition of the core security. This approach would assure that no more than five percent of taxable and national fund assets are exposed to the issuer of the core security. Funds would be required to maintain information regarding the nature of the qualifying assets of the ABS, and if the number of issuers of securities that constitute the qualifying assets of the ABS is ten or less, a record setting forth the identities of the issuers, the percentage of the qualifying assets constituted by the securities of each and the overall exposure of the fund's portfolio to those issuers.[118]

In the case of a typical ABS whose qualifying assets may consist of receivables from thousands of obligors, the financial institution that sponsored the ABS would be deemed to be the issuer. Thus, if five percent of a taxable fund's assets were invested in an ABS sponsored by a particular bank, the fund could not invest any more of its assets in the securities of that bank.[119] This limitation is designed to assure that no more than five percent of a fund's assets would be exposed to the loan portfolio of a specific financial institution. This proposed approach assumes that the credit quality of the ABS reflects the asset origination practices of the sponsor and that, in many cases, the sponsor provides some form of credit enhancement to the trust.[120]

Comment is requested on the proposed approach. How should this limitation be applied to ABSs that have multiple sponsors? Should each sponsor be treated as an issuer based on its proportionate contribution to the trust? Should the trust be treated as the issuer if it is diversified as to depositors (*i.e.*, no single depositor contributed more than five or ten percent of the trust's assets)?

e. Diversification: first loss guarantees. Some ABSs are issued with guarantees as to first losses, in which, for example, one guarantor guarantees all losses up to ten percent of the assets of the pool. Because the loss coverage is usually a multiple of the likely losses to be experienced, the possibility of the losses exceeding the coverage is generally considered to be remote. As a result, a first loss guarantee exposes the guarantor to essentially the same risk as a guarantor of the entire value of the security.

The proposed amendments would treat a first loss guarantor as the guarantor of the entire security for purposes of the diversification requirements of rule 2a–7.[121] For example, the guarantor of the first $1,000,000 of losses on a $10,000,000 principal amount ABS would be deemed to have guaranteed $10,000,000 for purposes of rule 2a–7's put diversification provisions. Comment is requested on the proposed approach to limiting a fund's exposure to first loss guarantors. Comment is also requested on whether and, if so, how limits on second and third loss guarantors should be measured.

5. Puts and Fund Liquidity

Comment is requested on the use of conditional demand features and standby commitments as a source of liquidity for fund portfolios. Have these liquidity arrangements been successfully used during times of stress in the financial markets? Commenters on the 1986 Amendments suggested that standby commitments would only be used as a last resort because their use would result in losses to the broker-dealer providing the commitment. Were these commenters correct and, if so, does this suggest that standby commitments merely create the appearance of liquidity in order to comply with the Commission's policy that money market funds limit investment in illiquid securities to ten percent of fund assets?[122]

Comment is also requested concerning the liquidity of the tax exempt security market, and the mechanisms that can be used to dispose of portfolio securities subject to demand features. Do demand features provide the only mechanism for disposing of securities or are there secondary market mechanisms? What mechanisms exist for disposing of securities with demand features that cannot be exercised in intervals of seven days or less? In the release adopting the 1986 Amendments, the Commission stated that it expected boards of directors, in determining the liquidity of demand instruments, to establish procedures to evaluate the existence and depth of the secondary market for the instruments, and to consider the period remaining until the principal amount can be recovered through demand.[123] Are markets sufficiently developed for a fund to determine that a security with a demand feature that cannot be exercised every seven days is liquid?

D. Other Proposed Amendments

1. Review, Information, and Notice Requirements

a. Continuing disclosure and review requirement. When maturity is determined by reference to a demand feature, a portfolio security is, in essence, a long-term instrument.[124] The short-term securities typically held in taxable fund portfolios must be periodically "rolled over," triggering the obligation to perform a new credit risk evaluation.[125] In contrast, if the demand feature to which a long-term instrument is subject is not exercised, the security may remain in the fund's portfolio for a considerable length of time after the fund makes its initial determination that the demand feature and the underlying security present minimal credit risks.

Funds have a continuing duty under rule 2a–7 to ensure that all securities in their portfolios continue to present minimal credit risks.[126] Periodic reviews of instruments subject to demand features may be particularly important due to the length of time the instruments are in the fund's portfolio. During reviews subsequent to the initial purchase of a security, it may be necessary to review both the risks presented by the demand feature and, when the demand feature is conditional, those presented by the underlying issuer of the security.

The Commission is proposing to require funds to adopt written procedures concerning ongoing reviews of the credit risks of any security (other than a Government security) for which

[117] Paragraph (c)(4)(iv)(E) of rule 2a–7 as proposed to be amended. Treating the sponsor as the issuer of the security for diversification purposes is consistent with section 2(4) of the 1933 Act (15 U.S.C. 77b(4)), which provides that the person "performing the acts and assuming the duties of depositor or manager" under provisions of the relevant trust instruments is the issuer of interests in an unincorporated investment trust not having a board of directors.

[118] Paragraph (c)(6)(v) of rule 2a–7 as proposed to be amended.

[119] The fund could invest up to an additional five percent of its assets in securities subject to puts from that bank.

[120] The put diversification requirements would continue to apply to the puts and demand features applicable to a synthetic security.

[121] Paragraph (c)(4)(iv)(F) of rule 2a–7 as proposed to be amended.

[122] See supra note 85.

[123] Release 14983, supra note 64, at Section A.4.

[124] See supra Section II.C.1.

[125] Paragraph (c)(3) of rule 2a–7.

[126] Rule 2a–7 originally required a fund board to review on a quarterly basis the credit quality of instruments subject to demand features. The 1986 Amendments deleted this requirement because most of these instruments had high quality ratings from at least one NRSRO and because of concern about the appropriateness of having fund boards of directors perform these reviews. The provision of rule 2a–7 that limits fund investments to securities that present minimal credit risk requires that funds monitor their existing investments to assure that they continue to present minimal credit risks. See paragraphs (c)(3), (c)(5)(ii), (c)(6)(i), and (c)(7) of rule 2a–7.

maturity is determined by reference to a demand feature.[127] This review should be based on all pertinent financial and other credit related information about the issuer of the security (or where the security is subject to an unconditional demand feature, the issuer of the demand feature) that is publicly available or provided under the terms of the security's governing documents. The review should also include an examination of pertinent information about the provider of any demand feature or other credit or liquidity enhancement. Under paragraph (e) of rule 2a–7, the credit review could be delegated to the fund's investment adviser, subject to the conditions for delegation.

b. Analysis of underlying securities. A fund may determine whether a security subject to an unconditional demand feature is an eligible or first tier security based solely on the unconditional demand feature.[128] It may be appropriate in certain circumstances for the fund to review or have available not only information concerning the credit risks of the demand feature but the underlying security as well. These circumstances may include a significant adverse change in the credit quality of the provider of the demand feature or the impending expiration of the demand feature.[129] The proposed amendments would require that, in these circumstances, funds obtain sufficient information about the issuers of securities subject to unconditional demand features to permit them to value the security without the demand feature.[130] The information that funds should consider obtaining would include financial statements, notices concerning unscheduled draws on any reserve fund or credit enhancement established to assure timely payment of interest or principal on the security, and notice of any events of default.[131]

Comment is requested on whether the circumstances specified are appropriate and whether additional circumstances that warrant a credit review of the underlying issuer are appropriate. Comment is also requested on whether the rule should specify what events or standards should be used to determine that a "significant adverse change" in the credit quality of the demand feature has occurred.

Tax exempt funds may experience particular problems obtaining information concerning issuers of securities subject to demand features because tax exempt issuers generally do not file periodic reports with the Commission.[132] The lack of reports may make it difficult for funds to obtain current information about the financial condition of these issuers. The consequences of the lack of publicly available information regarding municipal issuers were illustrated when money market funds holding approximately $110 million of MBLI-backed VRDNs experienced difficulty in obtaining current financial information about the issuers of the underlying securities. This lack of information impeded obtaining a replacement for MBLI and contributed to problems in valuing these securities.[133] In at least one case, a fund did not reflect the effects of the MBLI seizure in ascertaining the market price of its holding for five weeks.[134] Under the proposed revisions, if a fund could not obtain this information in the specified circumstances, the fund would be required to dispose of the security as soon as practicable by sale or by exercise of the demand feature.[135]

Comment is requested on whether the Commission should prohibit funds from investing in securities subject to demand features unless the issuer of the security is subject to the periodic reporting requirements of the Securities Exchange Act of 1934 or submits information to the Commission under rule 12g3–2(b) (17 CFR 240.12g3–2(b)) thereunder, or the holder of the instrument has the right to obtain from the issuer pertinent credit information sufficient to permit the fund to conduct periodic credit risk reviews. Do other standards for secondary market information provide more appropriate guidelines for the information that should be available to money market funds?[136] Should such an information requirement be applied only to securities that have final maturities longer than thirteen months and for which the demand feature also serves to shorten their maturity? Should securities currently outstanding be subject to such an information requirement or should funds be able to continue to hold (or purchase) currently outstanding securities if the required credit information is not available? As an alternative, should a security subject to an unconditional demand feature be held to a requirement of high quality independent of the demand feature?

c. Notice of substitution of put provider. The Commission is aware of several instances in which a money market fund has invested in a security backed by a LOC or other credit or liquidity enhancement (such as a remarketing arrangement with a broker-dealer) that was replaced during the life of the underlying security without notice to the fund. It is important for purposes of assuring compliance with rule 2a–7 that a fund know the identity of the put provider.[137]

[127] Paragraphs (c)(6)(ii)(D) and (c)(7)(ii)(A) of rule 2a–7 as proposed to be amended.

[128] Paragraph (c)(3)(i) of rule 2a–7. See supra text accompanying notes 66–67.

[129] For example, if the financial condition of the issuer of an LOC-backed demand feature has deteriorated significantly, security holders may desire to obtain a substitute or supplemental LOC to assure that the security continues to be first tier. It may be impracticable to obtain a new LOC in the absence of financial information about the underlying issuer. Similarly, if the LOC is approaching its expiration, a fund should be in a position to know whether substitute LOCs will be available. In either case, the fund should be in a position to know if the financial condition of the underlying issuer has deteriorated, so that the fund can demand payment prior to the expiration of the LOC.

[130] Paragraph (c)(6)(ii)(E) and (c)(7)(ii)(B) of rule 2a–7 as proposed to be amended.

[131] The last two items are among the information the American Bankers Association Corporate Trust Committee has recommended that issuers direct the trustees of their bond issues to provide to security holders on a voluntary basis. See American Bankers Association Corporate Trust Committee, Disclosure Guidelines for Corporate Trustees (Oct. 1991) ("ABACT Guidelines").

[132] See sections 3(a)(12)(A) (including municipal securities in the definition of an "exempted security") and 12(a) (excluding "exempted securities" from registration requirements) of the 1934 Act [15 U.S.C. 78c(a)(12)(A) and 78*l*(a)]. See also "Staff Report on the Municipal Securities Market," supra note 49, at 39 (quality of municipal securities market disclosure could be addressed through a variety of means, including rescission of statutory exemptions).

[133] See "Caution Flags for Muni Investors," Wall Street Journal, July 22, 1991 ("even as investors scramble to determine what their [MBLI backed] bonds are worth, they are finding the task extremely difficult due to the lack of financial disclosure in the $800 billion municipal bond market").

[134] See In the Matter of Bank of California, Investment Company Act Rel. No. 19545, 54 SEC Dkt. 1300 (June 28, 1993).

[135] Paragraph (c)(5)(ii)(E) of rule 2a–7 as proposed to be amended. Disposal would not be required if the fund board concluded that disposing of the security would not be in the best interests of the fund.

[136] See, e.g., Government Finance Officers Association, Disclosure Guidelines for State and Local Government Securities (1991) ("GFOA Guidelines"). The GFOA Guidelines, published by an association of state and local finance officers, identify information that over the years has been important for primary and secondary market disclosure. Adherence to the GFOA Guidelines is voluntary. The American Bankers Association Corporate Trust Committee, representing bank trustees, published guidelines designed to guide bond indenture trustees in assisting issuers of municipal securities with respect to secondary market information disclosure. ABACT Guidelines, supra note 131. See "Staff Report on the Municipal Securities Market," supra note 49, at 29–31 for a discussion of other efforts by the Commission, the Municipal Securities Rulemaking Board, and market participants to improve secondary market disclosure.

[137] A fund must know the identity of the put provider for purposes of determining compliance with the rule's put diversification test. Paragraph (c)(4)(iii) of rule 2a–7 as proposed to be amended.

Continued

Comment is requested on whether rule 2a–7 should be amended to restrict funds to investing only in those credit or liquidity enhanced securities that obligate the issuer or the trustee under any applicable indenture to inform investors of the substitution of a credit enhancer or, alternatively, securities whose issuer has agreed to provide written notice to funds in the event that the credit or liquidity enhancer is replaced.

2. Variable and Floating Rate Securities

Rule 2a–7 defines a "variable rate security" as an instrument the terms of which provide for the adjustment of the interest rate on specified dates and that, upon adjustment, can reasonably be expected to have a market value that approximates par value.[138] A "floating rate" security is defined as an instrument the terms of which provide for the adjustment of its interest rate whenever a specified benchmark changes and that, at any time, can reasonably be expected to have a market value that approximates par value.[139] Rule 2a–7 allows variable and floating rate securities ("adjustable rate instruments") to be treated as having maturities shorter than their final maturities; however, the manner in which adjustable rate instruments are treated depends upon whether they have demand features, the final maturity of the instrument and whether the instrument is a Government security.

a. Maturity determinations: Floating rate securities. The maturity of a floating rate security subject to a demand feature is the period remaining until principal can be recovered through demand.[140] The same test is generally applicable in determining the maturity of a variable rate security subject to a demand feature, the principal amount of which is scheduled on the instrument's face to be paid in more than 397 days.[141] In contrast, a variable rate security (without a demand feature) scheduled to be paid in 397 days or less may be treated as having a maturity equal to the period remaining until the next readjustment of the interest rate.[142] There is no parallel provision for floating rate securities with final maturities of 397 days or less.

Because variable and floating rate securities expose funds to similar types of interest rate risk, the Commission is proposing to amend the rule to permit funds to determine the maturity of floating rate securities with final maturities of 397 days or less by referring to the interest rate reset.[143] The interest rate of a floating rate security moves in tandem with changes in the interest rate to which it is linked, and the proposed amendment will permit funds to treat these instruments as having one-day maturities.

b. Maturity determinations: Variable rate securities. When the period remaining until the final maturity of a variable rate demand instrument (i.e., its maturity without reference to the demand feature) is less than 397 days, its maturity under rule 2a–7 is the longer of the period remaining until the next interest rate readjustment or the date on which principal can be recovered on demand.[144] A variable rate security with the same final maturity that does not have a demand feature is treated as having a remaining maturity equal to the period remaining until the next readjustment in the interest rate.[145] The effect of these provisions is that a variable rate security with a final maturity of less than 397 days will have a longer maturity when a demand feature is added to it. To correct this anomaly, the amendments would provide that only a variable rate demand security with a final maturity in excess of 397 days would have its maturity measured by the longer of the period remaining until its next interest rate adjustment or the date on which principal can be recovered on demand;[146] the maturities of securities with final maturities of less than 397 days would be measured by reference to the earlier of the date on which the interest rate next readjusts or the date on which principal can be recovered on demand.[147]

Comment is requested on whether rule 2a–7 could be simplified by allowing the maturity of a variable rate demand instrument to be determined by reference to the date on which principal can be recovered on demand as opposed to the longer of the period remaining until the next interest rate readjustment or the date on which principal can be recovered on demand.[148] Comment is also requested on whether funds should be permitted to use the interest rate reset date to determine the fund's weighted average portfolio maturity.[149] The put date would be used to determine whether the fund could purchase the instrument.[150]

c. Adjustable rate government securities. Rule 2a–7 provides that "an instrument that is issued or guaranteed by the United States government or any agency thereof which has a variable rate of interest adjusted no less frequently than every 762 days"[151] is deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate.[152] The Commission is proposing amendments to clarify the scope of this provision.

First, the rule would be amended to make clear that the maturity of the security may only be determined by reference to the interest readjustment date if, upon readjustment, the security can reasonably be expected to have a market value that approximates par value.[153] This change would make explicit that Government securities are treated the same way as other adjustable rate securities under the rule.[154]

Second, the reference to Government securities in paragraph (d)(1) of rule 2a–7 would be conformed to other provisions of the rule relating to Government securities. As proposed to be amended, the provision would apply to all Government securities, including securities issued by persons controlled or supervised by and acting as instrumentalities of the U.S. Government.[155]

d. Other issues concerning adjustable rate instruments. Rule 2a–7 allows the maturity of adjustable rate instruments to be determined by reference to interest rate adjustment dates if the instrument "can reasonably be expected to have a market value that approximates its par value" upon adjustment of the interest rate.[156] When rule 2a–7 was adopted, the Commission acknowledged limited experience with adjustable rate instruments, emphasized that the funds' boards, as part of a general duty to supervise to ensure share price stability, should make volatility determinations for long-term notes, and stated that rule amendments would be considered if "market experience indicates that it is inappropriate to the rule's overall purposes."[157]

The Commission is proposing to clarify that the board of directors or its delegate must have a reasonable expectation that, upon adjustment of its interest rate at any time until the final maturity of the instrument or until the principal amount can be recovered through demand, the instrument will return to or maintain its par value.[158] The Commission also is proposing to require that funds maintain written records of the determination, with respect to a security the maturity of which is determined by reference to the date on which the next interest rate readjustment is to occur, that the instrument will either maintain a value of par (for a floating rate instrument) or return to par (for a variable rate instrument).[159]

New types of adjustable rate instruments have recently been developed and purchased by money market funds whose advisers have asserted that they meet the definitions of variable or floating rate instruments because they believe they are likely to return to par upon the next interest rate adjustment date. These instruments include "inverse floaters,"[160] "capped floaters,"[161] "CMT floaters,"[162] leveraged floaters[163] and instruments linked to an interest rate that significantly lags prevailing short-term rates.[164] These securities share the common characteristic that, at the time of issuance, changes in interest rates or other conditions that can reasonably be foreseen to occur during their term will result in their market value not returning to par at the time of an interest rate adjustment. To compensate funds

---

In addition, substitution of a put provider may require the fund to take certain actions if the substitute put has a lower NRSRO rating than the original put or, if as a result of the substitution, the security ceases to be an eligible security or no longer presents minimal credit risks. Paragraph (c)(3) of rule 2a–7. Finally, if proposed amendments to Regulation S–X are adopted, funds will have to know the identity the put provider for purposes of preparing the portfolio schedule that accompanies fund financial statements. See infra Section III.C.

[138] Paragraph (a)(21) of rule 2a–7 (paragraph (a)(30) of rule 2a–7 as proposed to be amended). These instruments must be expected to return the value of the instrument to par so that the market-based value of the instrument does not deviate significantly from its amortized cost value. See Release 14983, supra note 64, at nn. 10–11 and accompanying text.

[139] Paragraph (a)(7) of rule 2a–7 (paragraph (a)(12) of rule 2a–7 as proposed to be amended).

[140] Paragraph (d)(4) of rule 2a–7.

[141] Paragraph (d)(3) of rule 2a–7.

[142] Paragraph (d)(2) of rule 2a–7.

[143] Paragraph (d)(4) of rule 2a–7 as proposed to be amended.

[144] Paragraph (d)(3) of rule 2a–7.

[145] Paragraph (d)(2) of rule 2a–7.

[146] Paragraph (d)(3) of rule 2a–7 as proposed to be amended.

[147] Paragraph (d)(2) of rule 2a–7 as proposed to be amended.

[148] It is the Commission's understanding that while interest reset dates may occur more frequently than dates on which demand features can be exercised, demand feature exercise dates almost always correspond to interest rate readjustment dates.

[149] Industry representatives have suggested that the interest rate sensitivity of a variable rate security depends upon the frequency of its interest rate reset dates and that weighted average maturity is often treated as an indication of the fund's sensitivity to interest rate changes. The current manner in which weighted average maturity is calculated may overstate a fund's interest rate sensitivity.

[150] For example, a variable rate instrument with quarterly reset dates and subject to annual demand would be treated as having a one year maturity for purposes of determining whether the fund could buy it under paragraph (c)(2)(i) of the rule but as having a ninety day maturity for purposes of calculating the fund's average portfolio maturity under paragraph (c)(2)(iii) of the rule.

[151] Paragraph (d)(1) of rule 2a–7. Generally, the readjustment must occur every 397 days to reflect the rule's maturity requirements. For certain funds that mark-to-market, however, readjustment may occur every 762 days. See paragraph (c)(2)(ii) of rule 2a–7.

[152] Paragraph (d)(1) of rule 2a–7.

[153] This would codify the position taken by the Division of Investment Management in no-action letters. See Investment Company Institute (pub. avail. June 16, 1993) ("ICI Capped Floater Letter"); Morgan Keegan & Company, Inc. (pub. avail. July 24, 1992) at n.7.

[154] The proposed amendments would also make clear that this provision applies to floating rate Government securities. See paragraph (d)(1) of rule 2a–7 as proposed to be amended. As proposed, funds may treat floating rate Government securities as having a maturity of one day.

[155] The amendment would reflect a no-action position taken by the Division of Investment Management with respect to securities issued by instrumentalities of the U.S. government. See Student Loan Marketing Association (pub. avail. Jan. 18, 1989).

Paragraph (c)(3) of rule 2a–7 limits money market fund investments to instruments that present minimal credit risks and requires a fund's board to determine instruments' creditworthiness, including securities issued by the U.S. government and its agencies. A practical application of this requirement to Government securities requires different levels of analyses depending upon the government entity issuing the security and the terms of the security. The depth of the analysis required—and the adequacy of a fund's records of the analysis—will depend on: (i) whether the securities are backed by the full faith and credit of the U.S. Government; and (ii) whether the instrument has any special features or a guarantee structure that might increase the riskiness of the instrument or the fund's potential failure to comply with some aspect of rule 2a–7. Comment is requested on the level of credit analysis and related documentation that would be appropriate for various types of Government securities.

[156] Paragraphs (a)(7) and (a)(21) of rule 2a–7. Adjustable rate securities may be priced at a premium to par value when the instrument pays interest above market rates. A fund may treat the instrument as an adjustable rate instrument for purposes of rule 2a–7's maturity provisions if the fund reasonably expects that upon readjustment of the interest rate, the market value of the instrument will approximate its amortized cost. The premium generally would be amortized over the life of the instrument. It is critical that the fund carefully consider all factors involved in the valuation of the instrument, particularly the likelihood of prepayment before the premium is fully amortized. An accelerated return of principal will require the fund to write off the premium before it is amortized, and could result in a significant deviation between the amortized cost and market value of the instrument.

[157] Release 13380, supra note 8, at note 16.

[158] Paragraphs (a)(12) and (a)(30) of rule 2a–7 as proposed to be amended.

[159] Paragraphs (c)(6)(ii)(F), (c)(7)(ii)(C) and (c)(8)(iv) of rule 2a–7 as proposed to be amended.

[160] An inverse floater has an interest rate that fluctuates inversely with market rates. Thus, if interest rates increase, the interest rate of the inverse floater (and its market value) would decrease. Typically, the interest rate adjustment mechanisms are such that the effect of a market rate change is magnified through use of a multiplier, resulting in a highly volatile security. See infra note 163. The Division of Investment Management has stated, and the Commission agrees, that these instruments are not appropriate investments for money market funds. See Investment Company Institute (pub. avail. Dec. 6, 1991) ("ICI Inverse Floater Letter").

[161] A capped floater limits the amount by which the interest rate may increase. The cap may place a limit on the amount the interest rate can increase over the instrument's lifetime or for each interest rate readjustment period (e.g., a cap of 25 basis points per quarter). The staff has interpreted rule 2a–7 as not permitting its maturity shortening provisions to be applicable to these instruments in the absence of a demand feature. Thus, a capped floater with a final maturity of more than thirteen months is generally not eligible for fund investment because the rule's maturity shortening provisions may not be used. This position has not been applied when the cap is set to conform with state usury laws and the maximum rate is in excess of twenty percent. ICI Capped Floater Letter, supra note 153. When the capped floater has a demand feature, the maturity shortening provisions can be used regardless of the reason for the cap and the level at which it is set, subject to certain conditions (e.g., it can be expected to reset at par). See Nuveen Advisory Corp., supra note 97. When a capped floater has a remaining maturity of less than thirteen months and no demand feature, it may be purchased by the funds but its maturity must be measured by reference to its final maturity date. Investment Company Institute (pub. avail. June 25, 1993).

[162] CMT floaters and similar instruments have interest rates that are tied to fixed rates that are often medium- or long-term, raising the question of whether these instruments will return to par in the event of a change in short-term rates relative to long-term rates (i.e., a change in the shape of the yield curve). Yields on Treasury securities at constant maturity are interpolated by the U.S. Treasury from the yield curve, which is based on the market bid yields on actively traded Treasury securities in the over-the-counter market. The constant maturity yield values are read from the yield curve at fixed points of between one year and thirty years.

[163] The interest rate adjustment mechanism of a leveraged floater employs multipliers so that the effect of an increase or decrease in interest rates on the coupon of the instrument is greatly magnified. For example, for an instrument with a multiplier of 3.0 in its interest rate reset mechanism, a decrease of 50 basis points in short-term market rates would result in a decrease of 150 basis points in the instrument's coupon. Such "leveraged" coupons could result in an instrument trading far below par should interest rates decline even slightly. ICI Inverse Floater Letter, supra note 160, at n.2.

[164] An example of this type of mechanism is one linked to the monthly Cost of Funds Index ("COFI"), representing the cost of funds to thrift institutions in the Eleventh Federal Home Loan Bank District. Changes in the COFI can significantly lag the market. This lag means that an instrument with a rate linked to the COFI always trades at a premium or a discount to par since a change in the COFI will always occur following market rate changes. In a declining interest rate environment, COFI floaters have generally traded at a premium; however, in an environment in which short-term rates steadily rise, the lag will result in COFI floaters trading under par, creating significant risks for funds.

for assuming this risk, these instruments typically offer yields greater than short-term instruments of comparable maturity and credit quality. Some fund advisers have justified investment in these instruments by asserting that they would be able to sell them before an interest rate adjustment occurs that would result in the value of the security falling below par. Because many of these securities have been designed for and are held primarily by money market funds, a significant change in interest rates (or even a widely anticipated change) could result in a "fire sale" of these securities by funds. The increased selling pressure could result in the instruments having market values of less than par. Selling funds would realize losses and funds that did not sell might have to take actions to address any resulting significant deviation between market and par value. This type of risk is inappropriate for a money market fund to assume.

The effect of the proposed language would be to prohibit funds from purchasing a long-term adjustable rate Government security unless the adjustment mechanism can reasonably be expected to return the instrument to par upon all interest rate adjustment dates during the life of the instrument. A fund could purchase a short-term adjustable rate security the value of which the fund does not expect to return to par on all interest rate adjustment dates, but would have to treat the security as a fixed rate security and measure its maturity by reference to its final maturity. Adjustable rate securities with demand features generally would not be affected by the proposed changes because if a discount develops or is likely to develop a fund could exercise the demand feature and receive the amortized cost value of the instrument.

Comment is requested on whether alternative amendments are required to reflect the development of the types of instruments described above. For example, should funds relying on the maturity-shortening provisions of the rule be restricted to investing in instruments whose interest rate mechanisms are based solely on a single short-term interest rate benchmark? Comment is requested on whether other tests can be developed to measure interest rate risk. For example, should the rule establish interest rate risk criteria based on "duration" as opposed to maturity? Should adjustable rate instruments be subject to a price sensitivity test (that would preclude fund investment if the estimated market price of the instrument would shift by more than a specified amount in the event of a significant immediate and sustained parallel shift in the yield curve)? [165] In addition, the Commission requests information on other interest rate mechanisms that may result in securities not returning to par and on whether these mechanisms are used primarily for Government securities, non-government securities, or both.

3. Repurchase Agreements

Rule 2a–7 permits a fund to "look through" a repurchase agreement ("repo") to the underlying collateral for diversification purposes when the obligation of the counterparty to repurchase the securities from the fund is "collateralized fully." [166] A repo is collateralized fully if, among other things, the collateral consists entirely of Government securities or securities that, at the time the repurchase agreement is entered into, are rated in the highest rating category by the requisite NRSROs.[167] The proposed amendments would limit the types of collateral that could be used for purposes of the "look through" provisions to assure that a repo can be liquidated if the counterparty enters bankruptcy or, in the case of a federally insured depository institution, a conservator or receiver is appointed.[168]

The Federal Bankruptcy Code (11 U.S.C. 101 et seq.) (the "Bankruptcy Code") provides special treatment in bankruptcy to repos collateralized by securities issued or guaranteed by the U.S. Government or one of its agencies, certificates of deposit and certain bankers' acceptances.[169] If the counterparty is a bank, the Federal Deposit Insurance Act affords preferential treatment to repos collateralized by certain mortgage-related securities as well.[170] Both statutes provide that repos collateralized by the specified securities can be liquidated immediately and the lender can realize immediately on the collateral.

The proposed amendments would permit repos to be treated as fully collateralized only if, among other things, they are collateralized by securities that would qualify the repo for preferential treatment.[171] Repos otherwise collateralized would be deemed to be securities issued by the counterparty for purposes of the rule's diversification and quality requirements.[172] As under the current rule, the non-Government securities constituting collateral also would have to be first tier securities.

Comment is requested on whether money market funds should only be permitted to enter into repos when they may "look through" the counterparty. Comment is also requested on the need to retain the current requirement that funds make a minimal credit risk determination with respect to repo counterparties that are collateralized fully. The requirement that a fund analyze the repo counterparty reflected uncertainty concerning the treatment of repurchase agreements in bankruptcy proceedings.[173] Have the Bankruptcy Code amendments sufficiently addressed these concerns or do the

[165] See Federal Financial Institutions Examinations Council Supervisory Policy Statement on Securities Activities, 57 FR 4028 (Feb. 3, 1992).

[166] Paragraph (c)(4)(i) of rule 2a–7.

[167] Paragraph (a)(3)(iv) of rule 2a–7.

[168] Depository institutions are not eligible for protection under the Bankruptcy Code. Section 109 of the Bankruptcy Code (11 U.S.C. 109). Instead, the bank regulatory laws provide for the establishment and conduct of conservatorship and receiverships of depository institutions in default. See, e.g., section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821).

[169] See, e.g., section 559 of the Bankruptcy Code (11 U.S.C. 559).

[170] See 12 U.S.C. 1821(e)(8)(A) and (C) (affording preferential treatment to "qualified financial contracts"), 12 U.S.C. 1821(e)(8)(D)(i) (defining qualified financial contract to include repurchase agreements) and 12 U.S.C. 1821(e)(8)(D)(v) (defining repurchase agreement).

[171] Paragraph (a)(4) of rule 2a–7 as proposed to be amended. Not all collateral that would qualify a repo for preferential treatment under the Federal Deposit Insurance Act would be permitted. Of the mortgage-related securities referred to in 12 U.S.C. 1821(e)(8)(D)(v), only "mortgage related securit[ies]" as defined in section 3(a)(41) of the 1934 Act (15 U.S.C. 78c(a)(41)) would be permitted.

[172] If the collateral does not qualify for special treatment under these statutes, a fund could encounter significant liquidity problems if a large percentage of its assets were invested in a repo with a bankrupt counterparty. The "look through" provisions of the rule may be inappropriate in these circumstances because the credit risks assumed by the fund would be directly tied to the counterparty rather than the issuers of the underlying collateral.

[173] See Release 13380, supra note 8, at n.31. Before the passage of the Bankruptcy Amendments and Federal Judgeship Act of 1984 ("BAFJA") [Pub. L. No. 98–353], the treatment of a repo under the Bankruptcy Code depended upon whether it was characterized as a secured loan or a purchase-and-sale transaction. If the repo was characterized as a secured loan, the borrower-counterparty would retain at least an equitable interest in the securities, and the securities would be subject to the automatic stay provisions of the Bankruptcy Code, preventing the lender from taking any action against the borrower's property. If the repo was characterized as a purchase-and-sale transaction, the open portion of the repo (the repurchase obligation) would be viewed as an executory contract, which the bankruptcy trustee could reject or accept. Until rejection or acceptance, the buyer (i.e., the fund) would be exposed to the market risk of the securities. Regardless of the repo's characterization, prior to BAFJA a question existed whether "mark-to-market" payments (the payments required to keep the repo fully collateralized) could be voided by the trustee as preferential transfers. The BAFJA amendments removed qualifying repos from operation of the Bankruptcy Code's stay and avoidance provisions.

mechanics of bankruptcy filings and the manner in which these provisions have been applied suggest that funds should continue to analyze the counterparty's credit quality? For example, the protection from the automatic stay provisions offered by section 559 do not apply to stockbrokers or depositary institutions, which constitute the counterparties of many repos entered into by funds. Thus, a liquidation of a stockbroker could result in a repo with that stockbroker being temporarily illiquid.[174] Comment is also requested on whether repos with foreign institutions receive protections similar to those afforded by U.S. insolvency laws such that they should be treated as being fully collateralized for purposes of rule 2a–7.

The definition of "collateralized fully" in Rule 2a–7 would be amended to include a definition of the term "resale price." [175] The resale price would be equal to the price paid to the seller of the securities plus the accrued resale premium—the "interest rate" specified in the repo agreement or the daily amortization of the difference between the purchase price and the resale price.[176] Currently, the rule requires that the market value of the collateral be at least equal to the resale price provided in the repo agreement. This has been interpreted to require that the full repurchase price (including unaccrued interest) must be collateralized at all times, rather than allowing additional margin to be transferred as interest accrues. By contrast, interest on an open repo can be collateralized as it accrues over the term of the repo. The proposed amendment would permit all repos to be collateralized as interest accrues.

Rule 2a–7 also would be amended to provide that a repo that is "collateralized fully" need not always be deemed to be an acquisition of the underlying securities. When a repo permits the counterparty to substitute collateral to replicate the original collateral, determinations that the collateral meets the rule's diversification requirements may be difficult. In these cases, the proposed amendments would permit a fund to look to the counterparty, rather than to the underlying collateral, in meeting the diversification requirements of the rule.[177]

4. U.S. Dollar-Denominated Instruments

To eliminate their exposure to foreign currency risk, money market funds are limited by rule 2a–7 to investing only in "United States dollar-denominated instruments." [178] The purpose of this provision was to preclude exposure of the fund to currency fluctuations. The Commission is proposing to define the term "United States dollar-denominated" to clarify that it means: (1) The payment of interest and principal must be made in U.S. dollars in all circumstances; [179] and (2) an eligible instrument's interest rate may not vary or float with a rate tied to foreign currencies, foreign interest rates, or any index expressed in a currency other than U.S. dollars.[180]

5. Investment in Other Money Market Funds

The Commission is proposing amendments to rule 2a–7 that codify existing staff positions regarding money market fund investment in other money market funds ("acquired funds"). The amendments clarify that shares in other money market funds that comply with rule 2a–7: (i) Are First Tier Securities; [181] and (ii) should be treated as having a rolling maturity equal to the period of time within which the acquired fund is required to make payment upon redemption under applicable law.[182] A shorter maturity may be used if the fund making the investment has a contractual arrangement with the acquired fund for more rapid receipt of redemption proceeds. For diversification purposes, an investment in another money market fund would generally be treated as an investment in any other issuer (and therefore could generally not exceed five percent of the investing fund's assets).[183]

An exception to this treatment would be made for funds that invest substantially all of their assets in shares of another money market fund (the "underlying fund"),[184] in which case the fund would be permitted to "look through" the shares to the assets of the underlying fund.[185] As proposed, such a fund would be deemed to be in compliance with rule 2a–7 for diversification and other purposes if the board of directors reasonably believes that the underlying money market fund is in compliance with the rule. The proposed amendment would not require the board of directors of the fund to monitor every investment decision made by the underlying fund. Rather, the board could review the underlying fund's procedures and obtain regular reports concerning the underlying fund's compliance with the rule.

6. Board Approval of Certain Securities

The 1991 Amendments added a requirement that the board of directors

[174] In a liquidation of a stockbroker, the Securities Investors Protection Corporation ("SIPC") may request an order from the court barring the closeout of repo transactions with the debtor firm. 15 U.S.C. 78aaa et seq. However, SIPC has developed a policy to address the unwinding of repos in insolvency proceedings designed to minimize the effects of the proceedings on their liquidity when the repo would be a qualified repo under the Bankruptcy Code. See Letter from Michael E. Don, Deputy General Counsel of SIPC, to Robert A. Fortnoy, Deputy Executive Director and General Counsel of the Public Securities Association (Feb. 4, 1986).

[175] Paragraph (a)(4)(v) of rule 2a–7 as proposed to be amended.

[176] Under the proposed amendment, the collateralization of "open" repos and those with established repurchase prices would be subject to the same collateralization requirements.

[177] Paragraph (c)(4)(iv)(A) of rule 2a–7 as proposed to be amended.

[178] Paragraph (c)(3) of rule 2a–7.

[179] For example, an instrument that pays interest in Mexican pesos in the event of the devaluation of the peso is currently ineligible for fund investment under the rule. The proposed definition would clarify this interpretation.

[180] For example, an instrument with an interest rate linked to the London Interbank Offered Rate ("LIBOR") for a currency other than United States dollars (e.g., Swiss franc LIBOR) or the consumer price index of another nation would not be eligible for fund investment under rule 2a–7.

[181] See paragraph (a)(11)(iv) of rule 2a–7, as proposed to be amended.

[182] See paragraph (d)(8) of rule 2a–7 as proposed to be amended. Currently, this period would be seven calendar days. See section 22(e) of the 1940 Act (15 U.S.C. 80a–22(e)). Under revisions to rule 15c6–1 effective June 1, 1993, purchases and sales of shares in a fund distributed by a registered broker-dealer must settle within three business days of the trade date. See Rel. No. 34–33023; Investment Company Act Rel. No. 19768 (Oct. 6, 1993) (58 FR 52891 (Oct. 12, 1993)). Thus, after June 1, 1993, shares of a fund that are distributed by a broker-dealer may be deemed to have a rolling maturity of three days.

In addition, draft staff guides to Forms N–1A and N–3 being published with this Release state that the two money market funds must not have inconsistent investment objectives and policies. For example, a money market fund whose investments are limited to Government securities could not invest in a money market fund that invests primarily in commercial paper and other corporate obligations. See proposed Guide 34 to Form N–1A and proposed Guide 38 to Form N–3.

[183] Investment by one fund in another is limited by section 12(d)(1)(A) of the 1940 Act (15 U.S.C. 80a–12(d)(1)(A)). Section 12(d)(1)(A) provides that a fund may not invest more than ten percent of its assets in securities issued by other investment companies, invest more than five percent of its assets in any single investment company, or acquire more than three percent of the voting securities of another investment company.

[184] The restrictions of Section 12(d)(1)(A) do not apply if the fund making the investment invests all of its assets in the shares of another fund, subject to certain conditions. Section 12(d)(1)(E) (15 U.S.C. 80a–12(d)(1)(E)).

[185] These include feeder funds in "master-feeder" arrangements and certain separate accounts offering variable insurance products. In a "master-feeder" structure, one or more open-end management investment companies with their own service and distribution arrangements invest all of their assets in a single mutual fund or a single series of a mutual fund. In some variable insurance structures, a unit investment trust offers units of interest in variable insurance contracts to investors and invests at least a portion of the proceeds in a mutual fund.

of a taxable fund approve or ratify purchases of unrated securities and securities that are rated by only one NRSRO.[186] The Commission excepted tax exempt funds from the ratification requirement prior to its becoming effective.[187] Seven commenters urged the Commission also to eliminate the requirement for taxable funds, arguing that directors lack the specialized, technical knowledge necessary for credit analysis. They suggested that board involvement in these determinations on a day-to-day basis was inappropriate and that boards should be permitted to delegate this responsibility to portfolio managers. The proposed amendments would eliminate this requirement for taxable funds.

Two commenters recommended eliminating the requirement that the fund board promptly reassess whether a security presents minimal credit risks when the fund's investment adviser becomes aware that an unrated security or second tier security has been given a rating by any NRSRO below the NRSRO's second highest rating category.[188] The Commission requests comment on whether to permit delegation of the reassessment requirement.

7. Recordkeeping

During 1991, the Commission staff conducted special inspections of almost all money market funds to examine, among other things, whether they were performing the credit analysis required to determine that portfolio securities present minimal credit risks.[189] Some funds lacked adequate records to document their analysis and, thus, the Commission could not confirm that these funds had complied with the rule. To permit the Commission to determine compliance with rule 2a–7, the Commission is proposing to amend the rule to specifically require a fund to maintain a written record of the determination that a portfolio instrument presents minimal credit risks and to maintain a record of the NRSRO ratings (if any) used to determine the status of the security under the rule.[190] In addition, funds would be required to keep a written record of their diversification analysis of any ABS the qualifying assets of which consist of the securities of ten or fewer issuers.[191]

The Commission's recent examinations of money market funds also indicate that funds frequently fail to maintain sufficient records regarding the particular features of each security to permit ready determination that the security complies with rule 2a–7. The Commission is proposing an amendment to rule 31a–1 that would require money market funds to maintain in their portfolio investment records information identifying: (1) Each security by its legal name; (2) any liquidity and credit enhancements associated with each security; and (3) any coupons, accruals, maturities, puts, calls, or any other information necessary to identify, value, and account for each security.

8. Defaulted Securities

Rule 2a–7 requires a fund to dispose of defaulted securities as soon as practicable (subject to certain conditions)[192] and to report to the Commission if it holds defaulted securities that, prior to the default, accounted for more than one half of one percent of the fund's assets.[193] Some funds believed that it was unclear whether the seizure of MBLI by New Jersey regulators and MBLI's subsequent refusal to honor its puts constituted a default within the meaning of these requirements. To clarify the application of these requirements, rule 2a–7 would be amended to include "events of insolvency" with respect to the issuer of the security or any put to which the security is subject as events that trigger these obligations.[194]

The Commission is proposing an amendment to the rule that would change the circumstances under which a money market fund must notify the Commission that an issuer of securities held by the fund has defaulted. Rule 2a–7 currently requires funds to report to the Commission by telephone (or fax) and on Form N-SAR all defaults related to the financial condition of the issuer. Under the proposed rule, reporting would be required, in the case of a security subject to a credit enhancement or put, only when the provider of the credit enhancement or put fails to fulfill its obligations, whether by continuing to make principal and interest payments on the security without protest or by paying out the security's full value when it is put back by the fund.

9. Technical Amendments

Additional technical revision to rule 2a–7 are being proposed to clarify the terminology and operation of the rule. References to "instruments" would be changed to "securities." In addition, the definition of "unrated security" would be revised to clarify that if an unrated security becomes rated while held by the fund, the fund may continue to treat it as an unrated security, in the same manner as a fund may continue to determine whether a security rated by a single NRSRO is first or second tier if a second NRSRO rates the security after it is acquired by the fund.[195] Comments are requested on other necessary clarifications.

III. Proposed Revisions to Disclosure Rules

The Commission continues to believe, as reflected in the 1991 Amendments, that investors should be given information that makes it clear that investment in a money market fund is not without risk. The Commission is proposing amendments to the forms and advertising rules used by tax exempt funds and publishing a draft Staff Guide designed to elicit disclosures concerning the specific risks of investing in tax exempt funds.

A. Single State Funds

To alert investors to the greater risks of investing in single-state funds, Form N–1A would be amended to require that a single state fund disclose in its prospectus that: (1) Its investments are geographically concentrated; (2) for a single state fund that does not meet the Five Percent Diversification Test, that the fund may invest a significant percentage of its assets in the securities of a single issuer; and (3) that an investment in the fund therefore may be riskier than an investment in other types of money market funds.[196] Comment is requested as to whether single state funds that meet the diversification

[186] Paragraph (c)(3) of rule 2a–7.

[187] Investment Company Act Rel. No. 18177 (May 31, 1991) (56 FR 26028 (June 6, 1991)). Tax exempt funds argued that the high percentage of tax exempt securities that were either unrated or single-rated would make the requirement impracticable and unduly burdensome for these funds.

[188] Paragraph (c)(5)(i)(A) of rule 2a–7.

[189] Paragraph (c)(3) of rule 2a–7 requires funds to limit portfolio investments to securities determined to present minimal credit risks.

[190] These records would include the proposed "minimal risk" analysis with respect to certain adjustable rate instruments. See supra note 159 and accompanying text. A fund would be required to retain these records in a readily accessible location for a period of three years after the date the fund acquired the instrument or last reviewed its credit risks, whichever is later. See paragraphs (c)(8)(iii) and (iv) of rule 2a–7 as proposed to be amended.

[191] Paragraph (c)(8)(v) of rule 2a–7 as proposed to be amended. The Commission is proposing to require that the diversification requirements be met as to issuers of qualifying assets when the qualifying assets consist of the securities of no more than ten issuers. See supra Section II.C.4.d.

[192] Paragraph (c)(5)(ii) of rule 2a–7.

[193] Paragraph (c)(5)(iii) of rule 2a–7.

[194] Id. "Event of insolvency" would be defined in paragraph (a)(10) of rule 2a–7 as proposed to be amended.

[195] Paragraph (a)(29) of rule 2a–7 as proposed to be amended.

[196] Item 4(c) of Form N–1A as proposed to be amended.

requirements of section 5(b)(1) of the 1940 Act should be permitted to provide modified risk disclosure.

B. Disclosure of Exposure to Put Providers

A substantial portion of many money market fund portfolios is supported by credit and liquidity enhancements from third parties, generally LOCs issued by domestic and foreign banks.[197] As a result, the credit quality of these portfolios is largely dependent on the credit quality of banks. Because investors may believe that the designation "tax exempt" signifies that the credit quality of the portfolio is more closely tied to that of municipal and state issuers, the Commission is publishing for comment an amendment to Staff Guide 21 of Form N–1A that would interpret the form as requiring a fund to disclose in its prospectus the relationship between the credit quality of put providers and that of the fund's portfolio; that letters of credit are not necessarily subject to federal deposit insurance; and that adverse developments in the banking industry may adversely affect the credit quality of the portfolio and the fund's ability to maintain a stable net asset value and share price. These requirements would apply where more than forty percent of a fund's portfolio is subject to puts. Comment is requested on whether funds should be required to make any other disclosures concerning the composition of their portfolios, such as the extent to which the fund invests in unrated securities.

C. Identification of Put Providers

Investment company financial statements include a "portfolio schedule" of all securities held by the fund.[198] A portfolio schedule lists the name of the issuer and the title of the issue, but is not required to list the name of the party providing a put or guarantee with respect to the security.[199] Because the credit quality of a financial institution providing a put is important in assessing an instrument's quality, the Commission is proposing that the portfolio schedules of money market funds include the names of parties providing puts.[200] Identifying these institutions would make the portfolio schedules of money market funds more meaningful to investors. Comment is requested on whether this disclosure should not be required if the put is a standby commitment designed only to provide liquidity. In addition, should the portfolio schedule be required to state the ratings of the securities held by the fund? Finally, should this disclosure be required for all investment companies?

D. Risk Disclosure in Certain Advertisements

Funds are required to include in certain advertisements and sales literature a statement that an investment in a money market fund is not insured or guaranteed by the U.S. Government and there can be no assurance that the fund will maintain a stable net asset value.[201] The proposed amendments would extend this requirement to "tombstone" advertisements under rule 134 under the 1933 Act.

IV. Proposed Exemptive Rule Governing Purchases of Certain Portfolio Instruments by Affiliated Persons

When money market funds have held a defaulted security, fund advisers or related persons generally have repurchased the security from the fund at the security's principal amount plus accrued interest (or amortized cost value) to avoid any fund shareholder loss.[202] These transactions came within section 17(a)(2) of the 1940 Act (15 U.S.C. 80a–17(a)(2)), which prohibits an affiliated person of a fund from knowingly purchasing a security from the fund in the absence of a Commission exemption.[203] Nevertheless, these transactions appeared to be reasonable, fair, in the best interests of fund shareholders, and consistent with the actions that a fund should take in the event of a default of a portfolio security.[204] Thus, the staff of the Division of Investment Management has advised the parties to these transactions that the staff would not recommend enforcement action to the Commission if these transactions were consummated.

The Commission now is proposing new rule 17a–9 under the 1940 Act to exempt these types of transactions from section 17(a). The proposed exemption would apply when (1) The security is no longer an eligible security; (2) the purchase price is paid in cash; and (3) the purchase price is equal to the greater of the amortized cost of the security or its market price (in each case, including accrued interest). Funds using the exemptive rule would continue to be required to notify the Commission in the event of a default with respect to portfolio securities that account for one half of one percent or more of a fund's assets before the occurrence of the default.[205] Comment is requested on the scope of the proposed exemption and these conditions. Should the exemption be available when the fund board has determined that a security no longer presents minimal credit risks?[206]

V. Conforming Amendment

Rule 12d3–1 under the 1940 Act (17 CFR 270.12d3–1) provides exemptive relief to permit investment companies to purchase or otherwise acquire securities issued by persons engaged in securities related activities, subject to certain limitations. Under rule 12d3–1, an investment company, including any money market fund, may acquire puts issued by persons engaged in securities related activities, provided that the company complies with the diversification requirements in rule 2a–7.[207] Rule 2a41–1 (17 CFR 270.2a41–1) under the 1940 Act allows investment companies to assign a fair value of zero to standby commitments under certain conditions.[208] The Commission is proposing to amend rule 12d3–1 to reflect the proposed diversification limitations,[209] and to amend rule 2a41–1 to revise the reference therein to rule 2a–7.

[197] Recent money market fund inspections suggest that approximately seventy percent of national fund and sixty-one percent of single state fund assets are subject to unconditional credit enhancements.

[198] Financial statements are included in a fund's Statement of Additional Information that is part of the fund's registration statement under the Securities Act of 1933 and must be delivered on request to prospective investors. See Items 1 and 23 of Form N–1A (17 CFR 230.15A and 274.11A). They are also included in fund semi-annual and annual reports to shareholders. See rule 30d–1 under the 1940 Act (17 CFR 270.30d–1).

[199] See section 210.12–12 of Regulation S–X.

[200] 17 CFR 210.12–12 as proposed to be amended. Funds would also be required to maintain a written record of the liquidity and credit enhancements associated with each portfolio security under the proposed amendment to rule 31a–1. See supra Section II.D.7.

[201] Paragraph (a)(7) of rule 482 (17 CFR 230.482(a)(7)) and introductory paragraph of rule 34b–1 (17 CFR 270.34b–1).

[202] See supra notes 12 and 28 and accompanying text.

[203] The definition of "affiliated person" is contained in section 2(a)(3) of the 1940 Act (15 U.S.C. 80a–2(a)(3)).

[204] Paragraph (c)(5)(ii) of rule 2a–7 requires funds holding a defaulted security to dispose of the security as soon as practicable consistent with achieving an orderly disposition of the security, unless the fund board concludes that disposal would not be in the best interests of the fund.

[205] Paragraph (c)(5)(iii) of rule 2a–7.

[206] As in the case of a default and a security no longer being an eligible security, in this instance the rule requires the fund to dispose of the security as soon as practicable. See paragraph (c)(5)(ii) of rule 2a–7.

[207] See Release 14983, supra note 64. These diversification requirements were not changed by the 1991 Amendments except to make them applicable to taxable funds with respect to 100 percent of these funds' assets.

[208] Id.

[209] See supra Section II.C.2.a.

VI. Transition Period

If the proposed rule and form amendments are adopted, the Commission would expect to make the amendments effective ninety days after publication in the Federal Register to provide registrants, issuers, and other participants in the money markets with an appropriate period of time to make any changes required by the rule. Comment is requested on whether ninety days would be sufficient or whether a shorter or longer period would be appropriate.

VII. General Request for Comments

Any interested persons wishing to (1) submit written comments on the proposed rule and form changes that are the subject of this Release; (2) suggest additional changes (including changes to provisions of rule 2a–7 that the Commission is not proposing to amend); or (3) submit comments on other matters that might have an effect on these proposals, are requested to do so. Commenters suggesting alternative approaches are encouraged to submit proposed rule text.

VIII. Cost/Benefit of the Proposal

The Commission believes that the proposals discussed above will not substantially increase costs for money market funds. Whatever increased costs are incurred should be outweighed by the benefits of increased money market fund safety. Most national funds already comply with the Five Percent Diversification test, and those national funds not in compliance should be able to adapt to the proposed limit without great expense. Because most single state fund assets consist of first tier securities, these funds are not likely to incur significant additional costs if the proposal to limit their investments to first tier securities is adopted.

The Commission believes that although most funds meet the proposed quality and diversification requirements for put providers, a significant minority of funds may not. The Commission requests comments on the extent to which finding alternative put providers will increase fund costs. The conditions proposed with respect to ABSs may impose some additional costs on funds, but it is not expected that these costs will be significant and they should be outweighed by the benefits of clarifying the conditions under which funds may invest in these instruments, which may facilitate development of the ABSs markets. The proposed rescission of the requirement that boards of directors of taxable funds approve or ratify unrated and single-rated securities should reduce fund costs to a limited extent. Most funds currently meet the proposed recordkeeping requirements, and these should impose only modest costs on funds. The proposed disclosure requirements would not impose any expense for funds, since it is anticipated that additional disclosure will be permitted to be added when the funds make their annual updates. These costs should be outweighed by the benefits of additional disclosure. The proposed exemptive rule governing purchases of certain portfolio securities from funds by fund affiliates should produce savings in administrative expenses for those funds that hold securities that are no longer eligible for fund investment and whose advisers wish to repurchase the security as permitted by the rule.

The Commission requests specific comment on its assessment of the costs and benefits associated with the proposal, including specific estimates of costs and benefits.

IX. Summary of Initial Regulatory Flexibility Analysis

An Initial Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 603 concerning the proposed amendments. The analysis explains that in February 1991 the Commission adopted amendments to rule 2a–7 to tighten the risk-limiting conditions of the rule. These amendments were applicable primarily to taxable money market funds. Thereafter, the Commission examined the characteristics of tax exempt funds and the markets in which they trade to determine whether the same or similar amendments should apply to tax exempt funds. This examination has revealed certain areas of concern that have led the Commission to propose further amendments to rule 2a–7 applicable primarily to tax exempt funds. The analysis describes the characteristics of tax exempt funds and explains that the safety of these funds would be increased by application of certain risk-limiting conditions tailored specifically to their characteristics.

The analysis summarizes the proposed amendments to rule 2a–7 and related rules and forms and a new proposed rule. The amendments to rule 2a–7 would tighten the conditions of the rule relating to the quality and diversity of tax exempt fund investments, including puts. The amendments would require funds to reevaluate at least annually the credit risks of certain long-term portfolio investments, and limit investments in such securities to those whose issuers supply periodic financial and other information. The amendments to related rules and forms would require ongoing credit reviews and certain other procedures with respect to fund investments in securities subject to puts. A new exemptive rule would permit funds to sell securities that are no longer eligible securities to advisers and other affiliated persons without obtaining exemptive relief.

The analysis states that the objectives of the proposals are to (1) tighten the quality standards in the rule; (2) reduce the exposure of tax exempt funds to the credit risks posed by investment in a single issuer; (3) limit risks associated with investing in securities subject to puts, including ABSs; (4) provide for continuing determinations with respect to the credit quality of issuers of certain long-term securities; (5) rationalize the provisions of the rule relating to the determination of maturity of certain instruments; (6) allow fund boards of directors to delegate certain portfolio management responsibilities, subject to oversight; (7) improve fund recordkeeping; and (8) limit the risks associated with investing in repurchase agreements. The objectives of the amendments to related rules and forms are intended to improve money market fund disclosure relating to (1) fund investments in securities subject to puts; and (2) lack of diversification of certain single state funds. The objective of proposing a new exemptive rule under section 17(a) is to facilitate certain transactions between funds and their affiliates that benefit shareholders.

The analysis states that as of September 29, 1993, 211 money market funds are small entities for purposes of rule 0–10 of the 1940 Act (17 CFR 270.0–10). Of these 211 funds, ninety-three were tax exempt funds. The proposed amendments would primarily affect tax exempt funds.

The analysis states that the reporting, recordkeeping and other compliance requirements of the proposed amendments should not be significantly greater than those currently imposed by rule 2a–7, and that the additional costs, if any, should not be any greater for small money market funds than for other money market funds. The analysis further states that the Commission believes that there are no duplicative, overlapping or conflicting rules.

The analysis discusses the significant alternatives to the proposed amendments that would accomplish their objectives while minimizing any significant economic effect of the proposals on small funds. For example, the analysis states that the Commission considered the establishment of different compliance or reporting requirements or timetables that would take into account the resources available to small money market funds, and the simplification of compliance and reporting requirements under rule 2a–7 for small money market funds. The use of performance rather than design standards was considered. Lastly, the Commission considered the alternative of exempting small money market funds from one or more of the conditions of the rule. The analysis concludes that these alternatives would not accomplish the objectives of the rule, nor would the alternatives be consistent with the statutory mandate of the Commission under the 1940 Act. A copy of the analysis may be obtained by contacting Martha H. Platt, Office of Disclosure and Adviser Regulation, Division of Investment Management, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

X. Statutory Authority

The Commission is proposing to amend rule 2a–7 under the exemptive authority set forth in sections 6(c) (15 U.S.C. 80a–6(c)), 22(c) (15 U.S.C. 80a–22(c)), 34(b) (15 U.S.C. 80a–33(b)), and 38(a) (15 U.S.C. 80a–37(a)) of the Investment Company Act of 1940. The authority citations for the amendments to the rules and forms precede the text of the amendments.

XI. Appendices

Appendix A

The following table sets forth the terminology used by the NRSROs to characterize their highest ratings for taxable short-term debt:

Moody's (P–1)	S&P (A–1)	Fitch (F–1)	D&P (Duff–1)	IBCA (A1+)	TBW (TBW–1)
Superior	Strong	Very strong	Very high certainty of timely repayment	Very highest quality	Very strong

APPENDIX B

The following table sets forth the ratings categories of the principal NRSROs that rate tax-exempt notes and the meaning that the NRSROs ascribe to the rating:

	Moody's	S&P	Fitch
MIG–1	Best quality		
SP–1		Very strong or strong	
F–1			Very strong
MIG–2	High quality		
SP–2		Satisfactory	
F–2			Good
MIG–3	Favorable quality		
SP–3		Speculative	
F–3			Fair
MIG–4	Adequate quality		
F–S			Weak
SG	Speculative quality		
D			Actual or imminent default

XII. Text of Proposed Rule and Form Amendments

List of Subjects in 17 CFR Parts 210, 230, 239, 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Commission is proposing to amend chapter II, title 17 of the Code of Federal Regulations as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. The authority citation for part 210 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77aa(25), 77aa(26), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e(b), 79j(a), 79n, 79t(a), 80a–8, 80a–20, 80a–29, 80a–30, 80a–37a, unless otherwise noted.

2. Section 210.12–12 is amended by adding the following as the second sentence in footnote two:

§ 210.12–12 Investment in securities of unaffiliated issuers

* * * * *

2 * * * In the case of a money market fund, also identify any institution providing a put (as defined in rule 2a–7 under the Investment Company Act of 1940 [§ 270.2a–7 of this chapter]) or guarantee with respect to a portfolio security and give a brief description of the nature of the put (e.g., unconditional demand feature, conditional demand feature, guarantee, letter of credit, or bond insurance). * * *

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

3. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78l, 78m, 78n, 78o, 78w, 79*ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

4. Section 230.134 is amended by adding paragraph (e) to read as follows:

§ 230.134 Communications not deemed a prospectus.

* * * * *

(e) In the case of an investment company registered under the Investment Company Act of 1940 that holds itself out as a "money market fund," a communication used under this section shall contain the disclosure required by § 230.482(a)(7).

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

5. The authority citation for part 270 is amended by removing the third paragraph in the sub-authority to read as follows:

Authority: 15 U.S.C. 80a–1 et seq., 80a–37, 80a–39 unless otherwise noted;

* * * * *

6. Section 270.2a–7 is revised to read as follows:

§ 270.2a–7 Money market funds.

(a) *Definitions.*

(1) *Amortized Cost Method* of valuation shall mean the method of calculating an investment company's net asset value whereby portfolio securities are valued at the fund's acquisition cost as adjusted for amortization of premium or accretion of discount rather than at their value based on current market factors.

(2) *Asset Backed Security* shall mean a fixed income security issued by a Special Purpose Entity (as hereinafter defined), substantially all of the assets of which consist of Qualifying Assets (as hereinafter defined). *Special Purpose Entity* shall mean a trust, corporation, partnership or other entity organized for the sole purpose of issuing fixed income securities which entitle their holders to receive payments that depend primarily on the cash flow from Qualifying Assets, but does not include a registered investment company. *Qualifying Assets* shall mean financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders.

(3) *Business day* shall mean any day, other than Saturday, Sunday, or any customary business holiday.

(4) *Collateralized Fully* in the case of a repurchase agreement shall mean that:

(i) The value of the securities collateralizing the repurchase agreement (reduced by the transaction costs (including loss of interest) that the money market fund reasonably could expect to incur if the seller defaults) is, and during the entire term of the repurchase agreement remains, at least equal to the Resale Price (as defined hereinafter) provided in the agreement; and

(ii) The money market fund or its custodian either has actual physical possession of the collateral or, in the case of an instrument registered on a book entry system, the book entry is maintained in the name of the money market fund or its custodian; and

(iii) The money market fund retains an unqualified right to possess and sell the collateral in the event of a default by the seller; and

(iv) The collateral consists entirely of securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency thereof, and/or certificates of deposit, bankers' acceptances which are eligible for acceptance by a Federal Reserve Bank, and, if the seller is a depositary institution as defined in 12 U.S.C. 1813(c), mortgage related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)) that, at the time the repurchase agreement is entered into, are rated in the highest rating category by the Requisite NRSROs; and

(v) *Resale Price* shall mean the purchase price paid to the seller of the securities plus the accrued resale premium on such purchase price. The accrued resale premium shall be the amount specified in the repurchase agreement or the daily amortization of the difference between the purchase price and the resale price specified in the repurchase agreement.

(5) A *Conditional Demand Feature* shall mean a Conditional Put that is also a Demand Feature.

(6) A *Conditional Put* shall mean a Put that is not an Unconditional Put, provided that its exercise is subject only to one or more of the following conditions:

(i) A default in the payment of principal of or interest on the underlying security;

(ii) An Event of Insolvency with respect to the issuer of the underlying security or guarantor of the underlying security;

(iii) The downgrading of the underlying security or a guarantor of the underlying security by more than two full rating categories by an NRSRO; and

(iv) In the case of a security the interest payments on which purport to be exempt from federal income tax, a determination of taxability by the Internal Revenue Service.

(7) *Conduit Security* shall mean a security issued by a state or territory of the United States (including the District of Columbia), or any political subdivision or public instrumentality thereof, which is not:

(i) Payable from the revenues of such governmental unit;

(ii) Unconditionally guaranteed by such governmental unit;

(iii) Related to a project or facility owned and operated by such governmental unit; or

(iv) Related to a facility leased to and under the control of an industrial or commercial enterprise that is part of a public project which, as a whole, is owned by and under the control of such governmental unit.

(8) *Demand Feature* shall mean a Put that may be exercised either:

(i) At any time on no more than 30 days' notice; or

(ii) At specified intervals not exceeding 397 calendar days and upon no more than 30 days' notice;

Provided, however, that in the case of an Asset Backed Security, a feature permitting the holder of the Asset Backed Security to receive principal and interest within thirteen months of making demand shall be deemed a Demand Feature.

(9) *Eligible Security* shall mean:

(i) A security with a remaining maturity of 397 days or less that is rated (or that has been issued by an issuer that is rated with respect to a class of Short-term debt obligations, or any debt obligation within that class, that is comparable in priority and security with the security) by the Requisite NRSROs in one of the two highest rating categories for Short-term debt obligations (within which there may be sub-categories or gradations indicating relative standing); or

(ii) A security:

(A) That at the time of issuance was a Long-term debt obligation but that has a remaining maturity of 397 calendar days or less, and

(B) Whose issuer has received from the Requisite NRSROs a rating, with respect to a class of Short-term debt obligations (or any debt obligation within that class) that is now comparable in priority and security with the security, in one of the two highest rating categories for Short-term debt obligations (within which there may be sub-categories or gradations indicating relative standing); or

(iii) An Unrated Security (other than a security subject to a Demand Feature or an Asset Backed Security) that is of comparable quality to a security meeting the requirements of paragraphs (a)(9) (i) or (ii) of this section, as determined by the money market fund's board of directors; *Provided, however,* that:

(A) The board of directors may base its determination that a Standby Commitment that is not a Demand Feature is an Eligible Security upon a finding that the issuer of the commitment presents a minimal risk of default;

(B) A security that at the time of issuance was a Long-term debt obligation but that has a remaining maturity of 397 calendar days or less and that is an Unrated Security is not an Eligible Security if the security has a Long-term rating from any NRSRO that is not within the NRSRO's two highest categories (within which there may be sub-categories or gradations indicating relative standing);

(C) An Asset Backed Security shall not be an Eligible Security unless:

(*1*) It has short-term debt rating from an NRSRO and,

(*2*) In the case of an Asset Backed Security that has a final maturity of greater than 397 days that is subject to a Conditional Demand Feature and the Qualifying Assets of which do not consist of securities that have a long-term debt rating from an NRSRO; and

(D) A security that is subject to a Demand Feature shall not be an Eligible Security unless the Demand Feature has received a rating from an NRSRO (or the issuer of the Demand Feature has received from an NRSRO a rating with respect to a class of short-term debt obligations or any debt obligation within that class that is comparable in priority and security to the Demand Feature).

(10) *Event of Insolvency* shall mean, with respect to an issuer or guarantor, an admission of insolvency, the application by the issuer or guarantor for the appointment of a trustee, receiver, rehabilitator, or similar officer for all or substantially all of its assets, a general assignment for the benefit of creditors, the filing by the issuer of a voluntary petition in bankruptcy or application for reorganization or an arrangement with creditors, or the institution of similar proceedings by another person (other than a governmental agency responsible for regulating the activities of the issuer or guarantor) which is not contested by the issuer or guarantor.

(11) *First Tier Security* shall mean any Eligible Security that:

(i) Is rated (or that has been issued by an issuer that is rated with respect to a class of Short-term debt obligations, or any debt obligation within that class, that is comparable in priority and security with the security) by the Requisite NRSROs in the highest rating category for Short-term debt obligations (within which there may be sub-categories or gradations indicating relative standing); or

(ii) Is a security described in paragraph (a)(9)(ii) of this section whose issuer has received from the Requisite NRSROs a rating, with respect to a class of Short-term debt obligations (or any debt obligation within that class) that now is comparable in priority and security with the security, in the highest rating category for Short-term debt obligations (within which there may be sub-categories or gradations indicating relative standing); or

(iii) Is an Unrated Security that is of comparable quality to a security meeting the requirements of paragraphs (a)(11)(i) and (ii) of this section, as determined by the fund's board of directors; or

(iv) Is a security issued by a registered investment company that is a money market fund.

(12) *Floating Rate Security* shall mean a security the terms of which provide for the adjustment of its interest rate whenever a specified interest rate (such as a bank's designated prime lending rate) changes and which, at any time until the final maturity of the instrument or the period remaining until the principal amount can be recovered through demand, can reasonably be expected to have a market value that approximates its par value.

(13) *Government Security* shall mean any Government security as defined in section 2(a)(16) of the Act.

(14) *Long-term* shall mean having a remaining maturity greater than 366 days.

(15) *NRSRO* shall mean any nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi) (E), (F) and (H) of § 240.15c3–1 of this chapter that is not an affiliated person, as defined in section 2(a)(3)(c) of the Act (15 U.S.C. 80a–2(a)(3)(c)), of the issuer of, or any insurer, guarantor or provider of credit support for, the security.

(16) *Penny-Rounding Method* of pricing shall mean the method of computing an investment company's price per share for purposes of distribution, redemption and repurchase whereby the current net asset value per share is rounded to the nearest one percent.

(17) A *Put* shall mean a right to sell a specified underlying security or securities within a specified period of time and at an exercise price equal to the amortized cost of the underlying security or securities plus accrued interest, if any, at the time of exercise, that may be sold, transferred or assigned only with the underlying security or securities.

(18) *Refunded Security* shall mean a debt security the principal and interest payments of which are to be paid by Government Securities ("deposited securities") that have been irrevocably placed in an escrow account pursuant to agreement between the issuer of the debt security and an escrow agent that is not an affiliated person, as defined in section 2(a)(3)(c) of the Act (15 U.S.C. 80a–2(a)(3)(c)), of the issuer of the debt security, and, in accordance with such escrow agreement, are pledged only to the payment of the debt security and, to the extent that excess proceeds are available after all payments of principal, interest, and applicable premiums on the Refunded Securities, the expenses of the escrow agent; *provided* that:

(i) The deposited securities shall not be redeemable prior to their final maturity;

(ii) At the time the deposited securities are placed in the escrow account, an independent certified public accountant or an NRSRO shall have certified to the escrow agent that the deposited securities will satisfy all scheduled payments of principal, interest and applicable premiums on the Refunded Securities; and

(iii) The escrow agreement shall prohibit the substitution of the deposited securities unless the substituted securities are Government Securities and, at the time of such substitution, the escrow agent shall have received a certification substantially the same as that required by paragraph (a)(18)(ii) of this section which certification shall give effect to the substitution.

(19) *Requisite NRSROs* shall mean:

(i) Any two NRSROs that have issued a rating with respect to a security or class of debt obligations of an issuer, or

(ii) If only one NRSRO has issued a rating with respect to such security or class of debt obligations of an issuer at the time the fund purchases or rolls over the security, that NRSRO.

(20) *Second Tier Security* shall mean any Eligible Security that is not a First Tier Security.

(21) *Short-term* shall mean having a remaining maturity of 366 days or less.

(22) *Single State Fund* shall mean a Tax Exempt Fund that holds itself out as primarily distributing income exempt from the income taxes of a specified state or locality.

(23) *Standby Commitment* shall mean a Put that entitles the holder to achieve same day settlement and to receive an exercise price equal to the amortized cost of the underlying security or securities plus accrued interest, if any, at the time of exercise.

(24) *Tax Exempt Fund* shall mean any money market fund that holds itself out as distributing income exempt from regular federal income tax.

(25) *Total Assets* shall mean, with respect to a money market fund using the Amortized Cost Method, the total amortized cost of its assets and, with respect to any other money market fund, the total market-based value of its assets.

(26) An *Unconditional Demand Feature* shall mean an Unconditional Put that is also a Demand Feature.

(27) An *Unconditional Put* shall mean a Put, any guarantee, or letter of credit or similar unconditional credit enhancement that by its terms would be readily exercisable in the event of a default in payment of principal or

interest on the underlying security or securities.

(28) *United States Dollar-Denominated* shall mean, with reference to a security, that all principal and interest payments on such security are payable to security holders in United States dollars under all circumstances and that the interest rate of, the principal amount to be repaid, and the timing of payments related to such security do not vary or float with the value of a foreign currency, the rate of interest payable on foreign currency borrowings, or with any other interest rate or index expressed in a currency other than United States dollars.

(29) An *Unrated Security* shall mean:

(i) A security with a remaining maturity of 397 days or less issued by an issuer that did not, at the time it was acquired or rolled over by the fund, have a current short-term rating assigned by any NRSRO:

(A) To the security, or

(B) To the issuer of the security with respect to a class of Short-term debt obligations (or any debt obligation within that class) that is comparable in priority and security with the security, or a Demand Feature with respect to the security; and

(ii) A security:

(A) That at the time of issuance was a Long-term debt obligation but that has a remaining maturity of 397 calendar days or less, and

(B) Whose issuer had not at the time it was acquired or rolled over by the fund received from any NRSRO a rating with respect to a class of Short-term debt obligations (or any debt obligation within that class) that now is comparable in priority and security with the security; and

(iii) A security that is a rated security and is the subject of an external credit support agreement (including an arrangement by which the security has become a Refunded Security) that was not in effect when the security (or the issuer) was assigned its rating unless the security has a rating from an NRSRO reflecting the existence of the credit support agreement.

(iv) A security is not an Unrated Security if any Short-term debt obligation ("reference security") that is issued by the same issuer and is comparable in priority and security with that security is rated by an NRSRO. The status of such security as an Eligible Security or First Tier Security shall be the same as that of the reference security.

(30) A *Variable Rate Security* shall mean a security the terms of which provide for the adjustment of its interest rate on set dates (such as the last day of a month or calendar quarter) and which, upon each adjustment until the final maturity of the instrument or the period remaining until the principal amount can be recovered through demand, can reasonably be expected to have a market value that approximates its par value.

(b) *Holding Out.* It shall be an untrue statement of material fact within the meaning of section 34(b) of the Act (15 U.S.C. 80a–33(b)) for a registered investment company, in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to the Act, including any advertisement, pamphlet, circular, form letter, or other sales literature addressed to or intended for distribution to prospective investors that is required to be filed with the Commission by section 24(b) of the Act (15 U.S.C. 80a–24(b)) to:

(1) Adopt the term *money market* as part of its name or title or the name or title of any redeemable securities of which it is the issuer, or

(2) Hold itself out to investors as, or adopt a name which suggests that it is, a money market fund or the equivalent of a money market fund, unless such registered investment company meets the conditions of paragraphs (c)(2), (c)(3), and (c)(4) of this section. For purposes of this paragraph, a name which suggests that a registered investment company is a money market fund or the equivalent thereof shall include one which uses such terms as "cash," "liquid," "money," "ready assets" or similar terms.

(c) *Share Price Calculations.* The current price per share, for purposes of distribution, redemption and repurchase, of any redeemable security issued by any registered investment company ("money market fund"), notwithstanding the requirements of section 2(a)(41) of the Act (15 U.S.C. 80a–2(a)(41)) and of §§ 270.2a–4 and 270.22c–1 thereunder, may be computed by use of the Amortized Cost Method or the Penny-Rounding Method; *Provided, however,* that:

(1) *Board Findings.* The board of directors of the money market fund shall determine, in good faith, that it is in the best interests of the fund and its shareholders to maintain a stable net asset value per share or stable price per share, by virtue of either the Amortized Cost Method or the Penny-Rounding Method, and that the money market fund will continue to use such method only so long as the board of directors believes that it fairly reflects the market-based net asset value per share.

(2) *Portfolio Maturity.* The money market fund shall maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share or price per share; *Provided, however,* that the money market fund will not:

(i) Except as provided in paragraph (c)(2)(ii) of this section, purchase any instrument with a remaining maturity of greater than 397 calendar days, or

(ii) In the case of a money market fund not using the Amortized Cost Method, purchase a Government Security with a remaining maturity of greater than 762 calendar days; or

(iii) Maintain a dollar-weighted average portfolio maturity that exceeds ninety days.

(3) *Portfolio Quality.* The money market fund shall limit its portfolio investments, including Puts and repurchase agreements, to those United States Dollar-Denominated securities that its board of directors determines present minimal credit risks (which determination must be based on factors pertaining to credit quality in addition to the rating assigned to such securities by an NRSRO) and which are at the time of acquisition Eligible Securities and, in the case of a Single State Fund, First Tier Securities. For purposes of this section:

(i) A security that is subject to an Unconditional Demand Feature may be determined to be an Eligible Security or a First Tier Security based solely on whether the Unconditional Demand Feature is an Eligible Security or First Tier Security, as the case may be; and

(ii) A security that is subject to a Conditional Demand Feature may be determined to be an Eligible Security or a First Tier Security only if:

(A) The Conditional Demand Feature is an Eligible Security or First Tier Security, as the case may be, and,

(B) The security (or the Long-term debt securities of the issuer of the security subject to the Conditional Demand Feature) has been rated by the Requisite NRSROs in one of the two highest rating categories for Long-term debt obligations (within which there may be sub-categories or gradations indicating relative standing), or, if unrated, are determined to be of comparable quality by the money market fund's board of directors.

(4)(i) *Portfolio Diversification: Taxable Funds.* (A) Immediately after the acquisition of any security (other than a Government Security), a money market fund that is not a Tax Exempt Fund shall not have invested more than five percent of its Total Assets in securities issued by the issuer of the security; *Provided, however,* that a fund may invest more than five percent of its Total Assets in the First Tier Securities of a single issuer for a period of up to three Business days after the purchase thereof; *Provided, further,* that such investments made by the money market fund in accordance with the foregoing proviso at any time may not exceed twenty-five percent of the money market fund's Total Assets; and

(B) In the event that such security is a Second Tier Security, the money market fund shall not have invested more than:

(*1*) The greater of one percent of its Total Assets or one million dollars in securities issued by that issuer which, when acquired by the money market fund (either initially or upon any subsequent roll over) were Second Tier Securities, and

(*2*) Five percent of its Total Assets in securities which, when acquired by the money market fund (either initially or upon any subsequent roll over) were Second Tier Securities.

(ii) *Portfolio Diversification: National Funds.* (A) Immediately after the acquisition of any security (other than a Government Security), a Tax Exempt Fund that is not a Single State Fund shall not have invested more than five percent of its Total Assets in securities issued by the issuer of the security, *Provided, however,* that a fund may invest more than five percent of its Total Assets in the First Tier Securities of a single issuer for a period of up to three Business days after the purchase thereof; *Provided, further,* that such investments made by the money market fund in accordance with the foregoing proviso at any time may not exceed twenty-five percent of the fund's Total Assets;

(B) In the event that such security is a Second Tier Security that is a Conduit Security, the money market fund shall not have invested more than:

(*1*) The greater of one percent of its Total Assets or one million dollars in securities issued by that issuer which, when acquired by the money market fund (either initially or upon any subsequent roll over) were Second Tier Securities, and

(*2*) Five percent of its Total Assets in securities which, when acquired by the money market fund (either initially or upon any subsequent roll over) were Second Tier Securities that are Conduit Securities.

(iii) *Portfolio Diversification: Puts.* Immediately after the acquisition of any Put or security subject to a Put, no more than ten percent of the money market fund's Total Assets may be invested in securities issued by or subject to Puts from the institution that issued such Put. In addition, if at the time of its acquisition, such Put (or the security, after giving effect to the Put) was a Second Tier Security, the fund shall not, after giving effect to the acquisition of such Put, have invested more than five percent of its Total Assets in securities issued by or subject to Puts from the institution that issued such Put.

(iv) *Portfolio Diversification: Certain Calculations.* For purposes of making calculations under this paragraph (c)(4):

(A) The acquisition of a repurchase agreement which provides for the repurchase of underlying securities at a date certain not later than one year after the purchase of the underlying securities may be deemed to be an acquisition of the underlying securities, provided that the obligation of the seller to repurchase the securities from the money market fund is Collateralized Fully;

(B) The acquisition of a Refunded Security shall be deemed to be an acquisition of a Government Security, provided that the fund has not invested more than twenty-five percent of its assets in the Refunded Securities of a single issuer;

(C) A Conduit Security shall be deemed to be issued by the person ultimately responsible for payments of interest and principal on the security;

(D) If a security is subject to Puts from more than one institution, the diversification requirements of paragraph (c)(4)(iii) of this section shall be satisfied as to each institution and each institution shall be deemed to have guaranteed the entire principal amount of the security unless the obligation of the institution is otherwise limited (except as provided in paragraph (c)(4)(iv)(F) of this section);

(E) The acquisition of an Asset Backed Security shall be deemed to be an acquisition of the securities comprising the Qualifying Assets unless the Qualifying Assets consist of securities issued by more than ten issuers, in which case it shall be deemed to be an acquisition of a security issued by the institution that deposited the assets in the Special Purpose Entity that issued the Asset Backed Security; and

(F) Each institution providing a credit enhancement with respect to an Asset Backed Security (whether the enhancement consists of a Put, a line of credit or an obligation to maintain specified levels of collateral) shall be deemed to be the issuer of a Put with respect to the entire principal amount of the Asset Backed Security.

(v) A money market fund substantially all of the assets of which consist of shares of another money market fund acquired in reliance on section 12(d)(1)(E) of the Act (15 U.S.C. 80a–12(d)(1)(E)) shall be deemed to be in compliance with this section if the board of directors reasonably believes that the money market fund in which it has invested is in compliance therewith.

(vi) A money market fund that satisfies the applicable diversification requirements of paragraph (c)(4) of this section shall be deemed to have satisfied the diversification requirements of section 5(b)(1) of the Act (15 U.S.C. 80a–5(b)(1)) and the rules promulgated thereunder.

(5)(i) *Downgrades.* (A) In the event that:

(*1*) A portfolio security of a money market fund (other than a Single State Fund) ceases to be a First Tier Security (either because it no longer has the highest rating from the Requisite NRSROs or, in the case of an Unrated Security, the board of directors of the money market fund determines that it is no longer of comparable quality to a First Tier Security), or

(*2*) The money market fund's investment adviser (or any person to whom the money market fund's board of directors has delegated portfolio management responsibilities) becomes aware that any Unrated Security or Second Tier Security held by the money market fund has, since the security was acquired by the fund, been given a rating by any NRSRO below the NRSRO's second highest rating category, the board of directors of the money market fund shall reassess promptly whether such security presents minimal credit risks and shall cause the money market fund to take such action as the board of directors determines is in the best interests of the money market fund and its shareholders.

(B) The reassessments required by paragraph (c)(5)(i)(A) of this section shall not be required if, in accordance with the procedures adopted by the board of directors, the security is disposed of (or matures) within five business days of the specified event and, in the case of events specified in paragraph (c)(5)(i)(A)(*2*) of this section, the board is subsequently notified of the adviser's actions.

(C) In the event that after giving effect to a rating downgrade, more than five percent of the fund's Total Assets are invested in securities issued by or subject to Demand Features from a single institution that are Second Tier Securities, the board of directors shall cause the fund to reduce its investment in securities issued by or subject to Demand Features from that institution to five percent of its Total Assets by exercising the Demand Features at the next succeeding exercise date(s).

(ii) *Defaults and other events.* In the event:

(A) Of a default with respect to a portfolio security (other than an immaterial default unrelated to the financial condition of the issuer);

(B) A portfolio security of a money market fund ceases to be an Eligible Security or, in the case of a Single State Fund, a First Tier Security;

(C) It has been determined that a portfolio security no longer presents minimal credit risks;

(D) Of an Event of Insolvency with respect to the issuer of or the provider of any Put with respect to a portfolio security; or

(E) The fund is unable to obtain the information specified by paragraphs (c)(6)(ii)(E) or (c)(7)(ii)(B) of this section concerning the issuer of a security subject to an Unconditional Demand Feature prior to the last time that the Unconditional Demand Feature can be exercised or upon the occurrence of a significant adverse change in the credit quality of the issuer of the Unconditional Demand Feature; absent a finding by the board of directors that disposal of the portfolio security would not be in the best interests of the money market fund (which determination may take into account, among other factors, market conditions that could affect the orderly disposition of the portfolio security), the money market fund shall dispose of such security as soon as practicable consistent with achieving an orderly disposition of the security, by sale, exercise of any Demand Feature or otherwise.

(iii) *Notice to the Commission.* In the event of a default with respect to one or more portfolio securities (other than an immaterial default unrelated to the financial condition of the issuer) or an Event of Insolvency with respect to the issuer of the security or any Put to which it is subject, where immediately before default the securities (or the securities subject to the Put) accounted for 1/2 of 1 percent or more of a money market fund's Total Assets, the money market fund shall promptly notify the Commission of such fact and the actions the money market fund intends to take in response to such situation. Notification under this paragraph shall be made telephonically or by means of a facsimile transmission, followed by letter sent by first class mail, directed to the attention of the Director of the Division of Investment Management.

(iv) *Defaults for Purposes of Paragraphs (c)(5) (ii) and (iii).* For purposes of paragraphs (c)(5) (ii) and (iii) of this section, an instrument subject to a Demand Feature or unconditional credit enhancement shall not be deemed to be in default (and an Event of Insolvency with respect to the security shall not be deemed to have occurred) if:

(A) In the case of an instrument subject to a Demand Feature, the Demand Feature has been exercised and the fund has recovered either the principal amount or the amortized cost of the instrument, plus accrued interest, or

(B) The provider of the credit enhancement is continuing to make payments as due on the instrument without protest.

(6) *Required Procedures: Amortized Cost Method.* In the case of a money market fund using the Amortized Cost Method:

(i) In supervising the money market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors, as a particular responsibility within the overall duty of care owed to its shareholders, shall establish written procedures reasonably designed, taking into account current market conditions and the money market fund's investment objectives, to stabilize the money market fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at a single value.

(ii) Included within the procedures adopted by the board of directors shall be the following:

(A) Written procedures providing that the extent of deviation, if any, of the current net asset value per share calculated using available market quotations (or an appropriate substitute which reflects current market conditions) from the money market fund's amortized cost price per share, shall be calculated at such intervals as the board of directors determines appropriate and reasonable in light of current market conditions; periodic review by the board of directors of the amount of the deviation as well as the methods used to calculate the deviation; and maintenance of records of the determination of deviation and the board's review thereof; and

(B) In the event such deviation from the money market fund's amortized cost price per share exceeds 1/2 of 1 percent, a requirement that the board of directors shall promptly consider what action, if any, should be initiated by the board of directors; and

(C) Where the board of directors believes the extent of any deviation from the money market fund's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall cause the fund to take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results; and

(D) In the case of a security for which maturity is determined by reference to a Demand Feature, written procedures requiring ongoing review of the security's continued minimal credit risks, which review must be based on, among other things, financial data for the most recent fiscal year of the issuers of the Demand Feature and, in the case of a security subject to a Conditional Demand Feature, the security, whether publicly available or provided under the terms of the security's governing documentation; and

(E) In the case of a security subject to an Unconditional Demand Feature, written procedures designed to assure that the fund has access to sufficient financial and other information concerning the issuer of the security subject to the Demand Feature to permit the fund to perform a credit analysis of the issuer:

(*1*) In the event of a significant adverse change in the credit quality of the issuer of the Unconditional Demand Feature; and

(*2*) Prior to the last time that the Demand Feature can be exercised or the expiration of any letter of credit or other credit enhancement securing the Demand Feature, unless the credit enhancement will be timely substituted for or renewed in a manner that preserves the security's eligibility for purposes of this section; and

(F) In the case of a Variable Rate or Floating Rate Security that does not have a Demand Feature and for which maturity is determined pursuant to paragraphs (d)(1) or (d)(2) of this section, written procedures requiring periodic review of whether the security, upon readjustment of its interest rate, can reasonably be expected to have a market value that approximates its par value.

(7) *Required Procedures: Penny-Rounding Method.* (i) In the case of a money market fund using the Penny-Rounding Method, in supervising the money market fund's operations and delegating special responsibilities involving portfolio management to the money market fund's investment adviser, the money market fund's board of directors undertakes, as a particular responsibility within the overall duty of care owed to its shareholders, to assure to the extent reasonably practicable, taking into account current market conditions affecting the money market fund's investment objectives, that the money market fund's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one percent, will not deviate from the single price established by the board of directors.

(ii) The board of directors shall also:

(A) In the case of a security for which maturity is determined by reference to a Demand Feature, adopt written procedures requiring ongoing review of the security's continued minimal credit risks, which review must be based on, among other things, financial data for the most recent fiscal year of the issuers of the Demand Feature and, in the case of a security subject to a Conditional Demand Feature, the security, whether publicly available or provided under the terms of the security's governing documentation;

(B) In the case of a security subject to an Unconditional Demand Feature, adopt written procedures designed to assure that the fund has access to sufficient financial and other information concerning the issuer of the security subject to the Demand Feature to permit the fund to perform a credit analysis of the issuer:

(*1*) In the event of a significant adverse change in the credit quality of the issuer of the Unconditional Demand Feature; and

(*2*) Prior to the last time that the Demand Feature can be exercised or the expiration of any letter of credit or other credit enhancement securing the Demand Feature, unless the credit enhancement will be timely substituted for or renewed in a manner that preserves the security's eligibility for purposes of this section; and

(C) In the case of a Variable Rate or Floating Rate Security that does not have a Demand Feature and for which maturity is determined pursuant to paragraphs (d)(1) or (d)(2) of this section, adopt written procedures requiring periodic review of whether the security, upon readjustment of its interest rate, can reasonably be expected to have a market value that approximates its par value.

(8) *Record Keeping and Reporting.* (i) The money market fund will record, maintain, and preserve:

(A) For a period of not less than six years following the replacement of such procedures with new procedures (the first two years in an easily accessible place), a written copy of the procedures (and any modifications thereto) described in paragraphs (c)(5), (c)(6), (c)(7) and (e) of this section;

(B) For a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings;

(C) For a period of not less than three years from the date of the acquisition of a portfolio security (or the date that the credit risks of a portfolio security were most recently reviewed in accordance with paragraph (c)(6)(ii)(D) or (c)(7)(ii)(A) of this section), in an easily accessible place, a written record of the determination that a portfolio security presents minimal credit risks and the NRSRO ratings (if any) used to determine the status of the security as an Eligible Security, First Tier Security or Second Tier Security;

(D) For a period of not less than three years from the date of the acquisition of a portfolio security, in an easily accessible place, a written record of the determination required by paragraphs (c)(6)(ii)(F) or (c)(7)(ii)(C) of this section that a Variable Rate or Floating Rate Security that does not have a Demand Feature and for which maturity is determined pursuant to paragraphs (d)(1) or (d)(2) of this section can reasonably be expected, upon readjustment of its interest rate at all times during the life of the instrument, to have a market value that approximates its par value;

(E) For a period of not less than three years from the date of the acquisition of an Asset Backed Security the Qualifying Assets of which are comprised of the securities of ten or fewer issuers, in an easily accessible place, a written record of the identities of the issuers of the Qualifying Assets and the percentage of the Qualifying Assets constituted by the securities of each such issuer and the percentage of the fund's Total Assets that are invested in securities of each issuer of Qualifying Assets.

(ii) The documents preserved pursuant to this paragraph (c)(8) shall be subject to inspection by the Commission in accordance with section 31(b) of the Act (15 U.S.C. 80a–30(b)) as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act (15 U.S.C. 80a–30(a)). If any action was taken under paragraphs (c)(5)(ii) (with respect to defaulted securities) or (c)(6)(ii)(B) of this section, the money market fund will attach an exhibit to the Form N–SAR (17 CFR 274.101) filed for the period in which the action was taken describing with specificity the nature and circumstances of such action. The money market fund will report in an exhibit to such Form any securities it holds on the final day of the reporting period that are not Eligible Securities.

(d) *Maturity of portfolio securities.* For the purposes of this section, the maturity of a portfolio security shall be deemed to be the period remaining (calculated from the trade date or such other date on which the fund's interest in the security is subject to market action) until the date on which, in accordance with the terms of the security, the principal amount must unconditionally be paid, or in the case of a security called for redemption, the date on which the redemption payment must be made, except that:

(1) A Government Security which is a Variable Rate Security where the variable rate of interest is readjusted no less frequently than every 762 days shall be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate. A Government Security which is a Floating Rate Security shall be deemed to have a remaining maturity of one day.

(2) A Variable Rate Security, the principal amount of which, in accordance with the terms of the security, must unconditionally be paid in 397 calendar days or less shall be deemed to have a maturity equal to the earlier of the period remaining until the next readjustment of the interest rate or the period remaining until the principal amount can be recovered through demand.

(3) A Variable Rate Security, the principal amount of which is scheduled to be paid in more than 397 days, that is subject to a Demand Feature shall be deemed to have a maturity equal to longer of the period remaining until the next readjustment of the interest rate or the period remaining until the principal amount can be recovered through demand.

(4) A Floating Rate Security, the principal amount of which, in accordance with the terms of the security, must unconditionally be paid in 397 calendar days or less shall be deemed to have a maturity of one day.

(5) A Floating Rate Security, the principal amount of which is scheduled to be paid in more than 397 days, that is subject to a Demand Feature shall be deemed to have a maturity equal to the period remaining until the principal amount can be recovered through demand.

(6) A repurchase agreement shall be deemed to have a maturity equal to the period remaining until the date on which the repurchase of the underlying securities is scheduled to occur, or, where no date is specified, but the agreement is subject to a demand, the

notice period applicable to a demand for the repurchase of the securities.

(7) A portfolio lending agreement shall be treated as having a maturity equal to the period remaining until the date on which the loaned securities are scheduled to be returned, or where no date is specified, but the agreement is subject to demand, the notice period applicable to a demand for the return of the loaned securities.

(8) An investment in a money market fund shall be treated as having a maturity equal to the period of time within which the acquired money market fund is required to make payment upon redemption, unless the acquired money market fund has agreed in writing to provide redemption proceeds to the investing money market fund within a shorter time period, in which case the maturity of such investment shall be deemed to be the shorter period.

(e) *Delegation.* The money market fund's board of directors may delegate to the fund's investment adviser or officers the responsibility to make any determination required to be made by the board of directors under this section (other than the determinations required by paragraphs (c)(1), (c)(5)(i)(A)(*2*), (c)(5)(ii), (c)(6)(i), (c)(6)(ii) (A), (B), and (C), and (c)(7)(i) of this section) provided that the board:

(1) Establishes and periodically reviews written guidelines (including guidelines for determining whether securities present minimal credit risks as required in paragraph (c)(3) of this section) and procedures under which the delegate makes such determinations; and

(2) Exercises adequate oversight (through periodic reviews of fund investments and the delegate's procedures in connection with investment decisions and prompt review of the adviser's actions in the event of the default of a security that requires notification of the Commission under paragraph (c)(5)(iii) of this section) to assure that the guidelines and procedures are being followed.

7. Section 270.2a41–1 is amended by revising paragraph (a), introductory text, to read as follows:

§ 270.2a41–1 Valuation of standby commitments by registered investment companies.

(a) A standby commitment as defined in § 270.2a–7(a)(23) may be assigned a fair value of zero, Provided, that:

* * * * *

8. Section 270.12d3–1 is amended by revising paragraph (d)(7)(v) to read as follows:

§ 270.12d3–1 Exemption of acquisitions of securities issued by persons engaged in securities related businesses.

* * * * *

(d) * * *

(7) * * *

(v) Acquisition of Puts, as defined in § 270.2a–7(a)(17), provided that, immediately after the acquisition of any Put:

(A) In the case of a company (other than a money market fund), the company will not, with respect to 75 percent of the total value of its assets, have invested more than ten percent of the total value of its assets in securities underlying Puts from the same institution; and

(B) In the case of a money market fund, no more than ten percent of the total value of its assets may be invested in securities issued by or subject to Puts from the same institution.

For the purposes of this section, a Put will be considered to be from the party to whom the company will look for payment of the exercise price.

* * * * *

9. Section 270.17a–9 is added to read as follows:

§ 270.17a–9 Purchase of certain securities from a money market fund by an affiliate, or an affiliate of an affiliate.

The purchase of a security that is no longer an Eligible Security (as defined in paragraph (a)(9) of § 270.2a–7) from an open-end investment company holding itself out as a "money market" fund by an affiliated person of the company, or any affiliated person of such a person, shall be exempt from section 17(a) of the Act (15 U.S.C. 80a–17(a)), provided that:

(a) The purchase price is paid in cash; and

(b) The purchase price is equal to the greater of the amortized cost of the security or its market price (in each case, including accrued interest).

10. Section 270.31a–1 is amended by adding a sentence to the end of paragraph (b)(1) to read as follows:

§ 270.31a–1 Records to be maintained by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.

* * * * *

(b) * * *

(1) * * * In the case of a money market fund, also identify the provider of any put (as defined in § 270.2a–7(a)(17)) or guarantee with respect to a portfolio security and give a brief description of the nature of the put (e.g., unconditional demand feature, conditional demand feature, guarantee, letter of credit, or bond insurance) and, in a subsidiary portfolio investment record, provide the complete legal name and accounting and other information (including sufficient information to calculate coupons, accruals, maturities, puts, and calls) necessary to identify, value, and account for each investment.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

11. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

12. The authority citation for part 274 continues to read as follows:

Authority: 15 U.S.C. 80a–1, et seq., unless otherwise noted.

Note: The following Forms and Guides do not and the amendments will not appear in the Code of Federal Regulations.

§§ 239.15A and 274.11A [Amended]

13. Form N–1A (§ 239.15A and § 274.11A) is amended by adding a sentence and an Instruction to the end of paragraph (c) of Part A, Item 4 to read as follows:

FORM N–1A

* * * * *

PART A INFORMATION REQUIRED IN A PROSPECTUS

* * * * *

Item 4. General Description of Registrant

* * * * *

(c) * * * In the case of a Registrant that holds itself out as a money market fund primarily distributing income exempt from the income taxes of a specified state or locality ("single state fund"), a prominent statement that (1) the registrant is concentrated in securities issued by the state or entities within the state and (2) the registrant may invest a significant percentage of its assets in a single issuer, and that therefore investment in the Registrant may be riskier than an investment in other types of money market funds.

Instruction. The disclosure required for money market funds by Item 4(c) may be modified if the registrant limits investment in a single issuer to five percent of fund assets as to 100 percent of assets.

* * * * *

§§ 239.17a and 274.11b [Amended]

14. Form N–3 (17 CFR 239.17a and 274.11b) is amended by adding Instruction 11.e. to Part A, paragraph (a) of Item 4 to read as follows:

FORM N–3

* * * * *

PART A INFORMATION REQUIRED IN A PROSPECTUS

* * * * *

Item 4. Condensed Financial Information

(a) * * *

Instructions

11. The portfolio turnover rate to be shown at caption 10 shall be calculated as follows:

* * * * *

e. A registrant that holds itself out as a money market fund is not required to provide a portfolio turnover rate in response to this Item.

* * * * *

§ 274.101 [Amended]

15. Form N–SAR (17 CFR 274.101) is amended by revising the definition of "Money Market Fund" in General Instruction G to read as follows:

FORM N–SAR

* * * * *

GENERAL INSTRUCTIONS

* * * * *

G. Definitions

* * * * *

Money Market Fund: The term "money market fund" means any open-end investment company that maintains a stable price per share and holds itself out as a "money market fund."

* * * * *

16. Form N–SAR (17 CFR 274.101) is amended by revising the last sentence of the Instruction to Item 63 to read as follows:

FORM N–SAR

* * * * *

Instructions to Specific Items

* * * * *

ITEM 63: Dollar Weighted Average Maturity

* * * A money market fund shall make this calculation in the same manner as it would in monitoring compliance with the average portfolio maturity provisions of Rule 2a–7 under the Act.

17. Form N–SAR (17 CFR 274.101) is amended by adding a sentence at the end of the first paragraph of the Instruction to Item 71 to read as follows:

FORM N–SAR

* * * * *

Instructions to Specific Items

* * * * *

ITEM 71: Portfolio Turnover Rate

* * * A money market fund should enter a portfolio turnover rate of "0" even if it owns securities that have maturities in excess of one year.

* * * * *

§§ 239.15A and 274.11A [Amended]

18. Guide 21 (Disclosure of Risk Factors) to Form N–1A (§§ 239.15A and 274.11A) is amended by adding a paragraph to the end of the Guide to read as follows:

Guide 21. Disclosure of Risk Factors

* * * * *

In many cases, a substantial portion of the portfolio securities held by tax exempt money market funds is supported by credit and liquidity enhancements from third parties, generally letters of credit from foreign or domestic banks. These securities include variable rate demand notes, tender or "put" bonds and similar securities. Where more than forty percent of a money market fund registrant's portfolio consists, or is likely to consist, of securities subject to these features, the registrant should, in response to Item 4, state that the credit quality of the securities in its portfolio is largely based on letters of credit and other arrangements with foreign and domestic banks and other financial institutions, that these arrangements are not necessarily subject to federal deposit insurance, and that adverse developments in the banking industry could have a significant negative effect on the credit quality of the registrant's portfolio securities and the registrant's ability to maintain a stable net asset value and share price.

19. Guide 34 is added to Form N–1A (17 CFR 239.15A and 274.11A) to read as follows:

Guide 34. Money Market Fund Investments in Other Money Market Funds

Money market funds are permitted to invest in the securities of other money market funds in accordance with the provisions of rule 2a–7 and section 12(d)(1) of the 1940 Act. Except when a fund has invested substantially all of its assets in the other money market fund, the investing fund does not need to "look through" the shares of the fund(s) in which it is investing in order to determine compliance with the diversification or Second Tier Security limitations of rule 2a–7.[43] However, the investment objectives and policies of the money market fund making the investment and the money market fund(s) in which it is investing should not be inconsistent. Paragraph (c)(4)(v) of rule 2a–7 describes the obligations of a fund that invests substantially all of its assets in another money market fund.

20. Guide 38 is added to Form N–3 to read as follows:

Guide 38. Money Market Fund Investments in Other Money Market Funds

Money market funds are permitted to invest in the securities of other money market funds in accordance with the provisions of rule 2a–7 and section 12(d)(1) of the 1940 Act. Except when a fund has invested substantially all of its assets in the other money market fund, the investing fund does not need to "look through" the shares of the fund(s) in which it is investing in order to determine compliance with the diversification or Second Tier Security limitations of rule 2a–7.[43] However, the investment objectives and policies of the money market fund making the investment and the money market fund(s) in which it is investing should not be inconsistent. Paragraph (c)(4)(v) of rule 2a–7 describes the obligations of a fund that invests substantially all of its assets in another money market fund.

By the Commission.

Dated: December 17, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31212 Filed 12–27–93; 8:45 am]

BILLING CODE 8010–01–P

[43] See Letter to Investment Company Registrants from the Division of Investment Management (Feb. 22, 1993).

[43] See Letter to Investment Company Registrants from the Division of Investment Management (Feb. 22, 1993).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R–93–1697; FR–3588–P–01]

RIN 2502–AG17

Section 8 Housing Assistance Payments Program: Contract Rent Annual Adjustment Factors—Revision to "Rounding" Factor

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the method for "rounding" contract rents. Existing regulations provide for adjustment to be made to the contract rent of a dwelling unit by rounding the computed monthly contract rent which contains a fractional dollar amount to the next higher whole dollar amount. (The monthly contract rent is rounded to the next higher whole dollar amount even when the dollar fraction is as low as .01.) HUD would revise the adjustment by providing for contract rents which contain fractional dollar amounts of .01 to .50 to be rounded to the next lower dollar amount, and for contract rents which contain fractional dollar amounts of .51 to .99 to be rounded to the next higher

dollar amount. This revision to the "rounding" factor would more accurately reflect the actual rent adjustments, and would result in significant savings of section 8 subsidies which HUD can use to help other low-income families who need housing assistance.

DATES: Comment due date: February 28, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Planning and Procedures Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., room 6160, Washington, DC 20410. Telephone (202) 708–3944 (voice) or (202) 708–4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 888.203(b) of HUD's regulations in 24 CFR part 888 provides as follows:

> The adjusted monthly amount of the Contract Rent of a dwelling unit shall be determined by multiplying the Contract Rent in Effect on the anniversary date of the contract by the applicable Automatic Annual Adjustment Factor (see paragraph (a) of this section) and rounding the result to the next higher whole dollar amount.

The rounding procedure in § 888.203(b) provides for all contract rents which contain fractional dollar amounts to be rounded to the next higher whole, regardless if the dollar fraction is as low as .01. HUD has determined that there are approximately two million dwelling units receiving section 8 assistance. The rounding procedure provided by § 888.203(b) costs about $24 million in annual section 8 subsidies (2,000,000 units×$1 per unit×12 months=$24,000,000), and provides many housing authorities and project owners with section 8 subsidies substantially beyond their section 8 assistance needs.

Through this rule, HUD proposes to revise the rounding procedure to make this procedure consistent with generally accepted mathematical and statistical principles, and to bring disbursement of section 8 subsidies more in line with a housing authority's or project owner's actual section 8 subsidy needs. HUD proposes to revise § 888.203(b) to read as follows:

> The adjusted monthly amount of the Contract Rent of a dwelling unit shall be determined by multiplying the Contract Rent in Effect on the anniversary date of the contract by the applicable Automatic Annual Adjustment Factor (see paragraph (a) of this section) and rounding the result as follows:
>
> (1) If the result contains a fractional dollar amount ranging from $0.01 to $0.50, round to the next lower whole dollar amount;
>
> (2) If the result contains a fractional dollar amount ranging from $0.51 to $0.99, round to the next higher whole dollar amount.

The proposed revision to § 888.203(b) would adjust section 8 contract rents by an average of fifty cents per unit per month less than contract rents are now adjusted using the current rounding procedure. HUD estimates that it would save approximately $12 million annually in section 8 subsidies—subsidies that are urgently needed to provide housing assistance to other low-income families.

HUD acknowledges that the revised rounding procedure will result in less section 8 subsidies for a considerable number of housing authorities and project owners. However, the reduced section 8 subsidies are more consistent with the actual computed contract rents. As stated earlier, the current rounding procedure provides many housing authorities and owners with section 8 subsidies substantially beyond their section 8 assistance needs.

Because HUD's resources are tightly constrained, even as the need for housing assistance intensifies, it is essential that HUD use existing resources more efficiently so that HUD may meet the increased demands for housing assistance. The revision to the method of rounding section 8 contract rents, as proposed by this rule, is one way in which HUD is attempting to address these increased housing needs through more effective use of existing resources.

Other Matters

Environmental Impact

An environmental assessment is unnecessary because statutorily required establishment and review of rent schedules that do not constitute a development decision affecting the physical condition of specific project areas or building sites is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(l).

Executive Order 12866

This proposed rule was reviewed by the Office of Management and Budget as a significant regulatory action under Executive Order 12866.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication, and, by approving it, certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule, if implemented, would result in reduced section 8 subsidies for a substantial number of housing authorities (not necessarily small housing authorities) and project owners. However, the reduced section 8 subsidies would not result in a significant economic impact on these entities because a substantial number of these authorities are currently receiving section 8 subsidies considerably beyond their actual section 8 housing assistance needs. The savings in section 8 subsidies achieved by this rule, if implemented, would result in disbursement of section 8 subsidies to additional housing authorities and owners. Thus, the proposed rule would not result in a significant economic impact on a substantial number of small entities within the meaning of the order.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12612, Federalism, has determined that this proposed rule would not have a substantial, direct effect on the States or their political subdivisions or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government. The proposed rule relates solely to the method of determining Federal financial assistance—that is, the method of determining the amount of section 8 assistance needed by a housing authority or project owner, based on the procedure for computing adjusted contract rent. This matter does not affect the States or their political subdivisions or the distribution of power or responsibilities among the various levels of government.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this proposed rule would not have a potential significant impact on family formation, maintenance, and general well-being, and thus is not subject to review under the order. No significant change in existing HUD policies or programs will proposed rule, as those policies and programs relate to family concerns.

Regulatory Agenda

This proposed rule was not listed in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56402) under Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 888

Grant programs—housing and community development, Rent subsidies.

Accordingly, 24 CFR part 888 would be amended as follows:

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

1. The authority citation for part 888 would continue to read as follows:

Authority: 42 U.S.C. 1437c, 1437f, and 3535(d).

2. In § 888.203, paragraph (b) would be revised to read as follows:

§ 888.203 Use of contract rent automatic annual adjustment factors.

* * * * *

(b) The adjusted monthly amount of the Contract Rent of a dwelling unit shall be determined by multiplying the Contract Rent in Effect on the anniversary date of the contract by the applicable Automatic Annual Adjustment Factor (see paragraph (a) of this section) and rounding the result as follows:

(1) If the result contains a fractional dollar amount ranging from $0.01 to $0.50, round to the next lower whole dollar amount;

(2) If the result contains a fractional dollar amount ranging from $0 51 to $0.99, round to the next higher whole dollar amount.

Dated: December 20, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 93–31522 Filed 12–27–93; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of additional revisions pertaining to a previously proposed amendment to the North Dakota permanent regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for North Dakota's proposed rules pertain to: Reimbursement of costs of training provided under the Small Operator Assistance Program (SOAP); proposed rules to implement North Dakota's revised statutory provisions for SOAP; the definition of "road" as referenced in the coal exploration performance standards; and the statutory authorization for individual civil and criminal penalties under the North Dakota coal exploration program. The amendment is intended to revise the North Dakota program to be consistent with the corresponding Federal regulations.

This document sets forth the times and locations that the North Dakota program and proposed amendment to that program are available for public inspection and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., m.s.t., January 12, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office; Office of Surface Mining Reclamation and Enforcement; 100 East B Street, room 2128; Casper, WY 82601–1918. Telephone: (307) 261–5776

Edward J. Englerth, Director, Reclamation Division; Public Service Commission; Capitol Building; Bismarck, ND 58505–0165. Telephone: (701) 224–4092

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program as administered by the Public Service Commission. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program can be found in the December 15, 1980, **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.15 and 934.16.

II. Submission of Proposed Amendment

By letter dated April 21, 1993 (Administrative Record No. ND–Q–01), North Dakota submitted a proposed amendment ("Amendment XVIII") to its permanent program pursuant to SMCRA. The North Dakota proposed amendment reflects changes to the North Dakota Century Code (NDCC) chapter 38–12.1 in response to the required program amendments 30 CFR 934.16(l) and (y), published in the January 9, 1992 **Federal Register** (57 FR 827). In addition, North Dakota has proposed state-initiated changes to NDCC chapter 38–14.1 reflecting 1992 changes (Energy Policy Act, Pub. L. 102–486) to the Small Operator Assistance Program in SMCRA 507(c), and changes to the requirements for preblasting surveys.

The provisions of the North Dakota Century code (NDCC) that North Dakota proposes to amend are: NDCC 38–14.1–21(5) [permit approval or denial standards]; NDCC 38–14.1–24(13)(e) [environmental protection performance standards]; NDCC 38–14.1–37 [small operators]; NDCC 38–12.1–03 [definitions, coal exploration program]; and NDCC 38–12.1–08 [civil and criminal penalties, coal exploration program].

OSM published a notice in the May 19, 1993, **Federal Register** (58 FR 29155) announcing receipt of the amendment and inviting public comment on its adequacy (Administrative Record No. ND–Q–7). The public comment period ended June 18, 1993.

During its review of the amendment, OSM identified concerns relating to the provisions of: NDCC 38–14.1–21(5) regarding the requirement for an operator to reimburse the regulatory authority for the costs of training if that operator produces in excess of 300,000 tons of coal during the 12 months following permit issuance; NDCC 38–12.1–03(6) regarding the definition of "road" in the coal exploration program; and NDCC 38–12.1–08, pertaining to civil and criminal penalties in the coal exploration program. OSM notified North Dakota of the concerns by letter dated November 12, 1993 (Administrative Record No. ND–Q–14). North Dakota responded in a letter dated December 3, 1993, by submitting clarifications and proposed rule revisions (Administrative Record No. ND–Q–15).

In its December 3, 1993, response, North Dakota states with regard to the first concern above that it intends to submit, in the future, additional statutory changes regarding reimbursement of costs for training provided under SOAP. With regard to the second and third concerns above, North Dakota's response proposes new changes to the rules implementing the coal exploration program, as follows.

North Dakota Administrative Code (NDAC) 43–02–01–20.3(c)(2)

North Dakota proposes to add a new clause clarifying that a road is to be considered altered if it is constructed, reconstructed, improved, or maintained in any way that causes the changes addressed in the rule.

NDAC 43–02–01–05

North Dakota proposes to add a new paragraph providing that, when corporate permittees violate NDCC 38–12.1 or any implementing rule, or any permit condition, directors, officers, or agents who knowingly cause such violations would be subject to the criminal penalties of NDCC 38–12.1–08(2); further, such directors, officers, or agents would be subject to the civil penalties of NDCC 38–12.1-08(1) if they willfully or negligently violate NDCC 38–12.1, any implementing rule, or any permit condition; finally, knowingly, willfully, and negligently are to be understood as defined by NDCC 12.1–02–02.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed North Dakota program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 17, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 93–31581 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of meetings.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. The Corporation is considering recommending to the Authority that joint rulemaking be undertaken to change the fundamental basis of the toll structure. In order to determine whether such a rulemaking is warranted, what the substance should be, and what is the scope of the issues involved, the Corporation is holding three public meetings to discuss the problems encountered under the existing toll structure and possible solutions. This notice announces the dates, times, and places of the meetings.

DATES: The meetings will be held on February 1, 1994, in Chicago, Illinois, on February 9, 1994, in Cleveland, Ohio, and on February 17, 1994, in Duluth, Minnesota, each beginning at 9 a.m. and concluding at 12 noon.

ADDRESSES: The meetings will be held in: The Cordova Room, Intercontinental Hotel, 505 North Michigan Avenue, Chicago, Illinois; the Conference Room, Cleveland-Cuyahoga County Port Authority, 101 Erieside Avenue, Cleveland, Ohio; and the Conference Room, Seaway Port Authority of Duluth, 1200 Port Terminal Drive, Duluth, Minnesota.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, P.O. Box 44090, Washington, DC 20026–4090, (202) 366–0091.

SUPPLEMENTARY INFORMATION: Discussions between the Corporation and the Authority about the Seaway Tariff of Tolls has resulted in several basic conclusions for future Tariff amendments. It is necessary to take into account prevailing market conditions and not unduly restrict maritime commerce or create additional barriers to trade in the development of the Tariff. Both parties wish to pursue fairness among their primary goals and strive for equal treatment for vessels and cargoes using the Seaway. It is necessary to seek simplicity in developing the Tariff as complexity and ambiguity tend to provide a disincentive to using the Seaway. Lastly, both parties wish to strive for stability so that those engaged in commerce on the Seaway can make long-term planning decisions with some confidence of future conditions.

Based upon these mutual conclusions, the Corporation is considering recommending to the Authority that joint rulemaking be undertaken to change the fundamental basis of the toll structure. In order to determine whether such a rulemaking is warranted, what the substance should be, and what is the scope of the issues involved, the Corporation is holding three public meetings to discuss the problems encountered under the existing tool structure and possible solutions. These meetings will be open for discussion, however, any person wishing to make a formal presentation is requested to notify the Corporation at least ten working days before the meetings and provide the approximate time desired for the presentation to Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, P.O. Box 44090, Washington, DC 20026–4090. In addition, the Corporation requests an original written text of any formal presentation along with five copies before or at the time of the meeting. Finally, if any person wishes to present written comments, but not participate in the meetings, they may submit those comments to that same address at any time before or at the time of the meetings.

The meetings are open to the public, each beginning at 9 a.m. and concluding at 12 noon, and will be at the following dates and places: On February 1, 1994, in the Cordova Room, Intercontinental Hotel, 505 North Michigan Avenue, Chicago, Illinois; on February 9, 1994, in the Conference Room, Cleveland-Cuyahoga County Port Authority, 101 Erieside Avenue, Cleveland Ohio; and on February 17, 1994, the Conference Room, Seaway Port Authority of Duluth, 1200 Port Terminal Drive, Duluth, Minnesota.

Issued at Washington, DC, on December 21, 1993.

Saint Lawrence Seaway Development Corporation.

Marc C. Owen,

Chief Counsel.

[FR Doc. 93–31635 Filed 12–27–93; 8:45 am]

BILLING CODE 4810–61–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

34 CFR Ch. VI

Direct Student Loan Regulations Negotiated Rulemaking Advisory Committee and the Guaranty Agency Reserves Regulations Negotiated Rulemaking Advisory Committee; Proposed Establishment

AGENCY: Department of Education.

ACTION: Notice of proposed establishment.

SUMMARY: The Secretary of Education and the Assistant Secretary for Postsecondary Education announce their intention to establish two negotiated rulemaking advisory committees to draft proposed rules for direct lending and guaranty agency reserves, in order to implement the Student Loan Reform Act of 1993. That statute, enacted on August 10, 1993, established a new loan program, known as the Direct Loan Program, under the Higher Education Act of 1965, as amended (HEA). See subtitle A of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). This program will phase in a system of direct federal lending.

DATES: The first meetings of both committees will be held in mid to late January, 1994, with the specific date, time, and location of each meeting to be announced in a subsequent notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Peck, Office of the Assistant Secretary for Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4082, ROB–3), Washington, DC 20202–5100 Telephone: (202) 708–5547. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Department has retained the services of two professional mediators to serve as neutral convenors and facilitators for the negotiations. Brian Kerrigan, Deputy Director for the Policy, Training, and Analysis Service in the Office of Postsecondary Education is proposed to serve as the negotiator for the Department of Education on the direct lending committee. Donald Feverstein, Special Assistant in the Office of Postsecondary Education, is proposed to serve as the Department's negotiator on the guaranty agency reserves committee. Administrative support for the committees will be provided by the Office of Postsecondary Education. Each negotiating committee will be balanced and representative of all the significantly affected interests, including those of higher education organizations, banks, guaranty agencies, loan servicers, legal aid, students, and states.

1. Issues To Be Negotiated

A. Director Lending Issues To Be Negotiated

—Development of a sliding fee schedule for the payment of fees to schools and consortia that originate Direct Loans. As required by the HEA, the origination fee paid to a school will decrease as the number of loans originated at the school increases.

—Development of procedures to determine the last date on which a student or parent who is eligible for a Direct Loan may apply for that loan, and development of procedures for late disbursement of a Direct Loan.

—Development of procedures and criteria to be used to select schools to participate in the Direct Loan Program in future years. Negotiators will determine to what extent factors such as a school's default rate, commitment to direct lending, capacity to implement and administer the Direct Loan Program, and electronic capabilities will be considered in determining which schools will participate in the Direct Loan Program.

—Development of criteria to be used to determine whether a school participating in the Direct Loan Program will originate Direct Loans or will use an alternative originator to originate Direct Loans. Negotiators will determine to what extent factors such as the school's electronic capabilities and ability to administer the program will be considered in determining which schools originate loans and which schools use alternative origination. The procedures by which an alternative originator participates will also be negotiated.

—Development of procedures under which a school may withdraw from the Direct Loan Program, including the timeframe in which a school may withdraw from the program and the amount of notice a school must give before it may withdraw.

—Development of procedures for the U.S. Department of Education's termination of agreements with schools that participate in the Direct Loan Program, including the type and timing of notice that must be given to a school before termination may occur.

—Development of the terms of the repayment plans for Direct Loans. The four repayment plans required by the HEA are the standard repayment plan, in which the borrower makes fixed payments over a fixed period of time; the extended repayment plan, in which the borrower makes fixed payments for an extended period of time; the graduated repayment plan, in which the borrower makes payments at two or more levels for a fixed or extended period of time; and the income contingent repayment plan, in which the borrower pays a percentage of the income of the borrower and the borrower's spouse (if applicable) over a period of time not to exceed 25 years. Negotiators will determine the method by which income contingent repayment will be calculated and the method by which a borrower's income will be determined and documented.

—Development of procedures under which the Secretary will select a repayment plan for borrowers who do not select a plan for themselves. In accordance with the HEA, the Secretary may select the standard, extended, or graduated repayment plans for a borrower who does not select a repayment plan.

—Development of the terms and conditions under which the Secretary may provide an alternative repayment plan to a borrower who demonstrates that available repayment plans do not accommodate the borrower's exceptional circumstances. Negotiators will determine issues such as the circumstances. under which the Secretary may provide an alternative repayment plan and the permissible terms of an alternative repayment plan.
—Development of the circumstances under which the Secretary may require a borrower who has defaulted on a Direct Loan to repay the loan on an income contingent repayment plan, and development of procedures for placing a borrower who has defaulted on a Direct Loan into an income contingent repayment plan.
—Development of procedures for maintaining fiscal control and accountability for federal funds, including a determination of whether schools must deposit Direct Loan Program funds in an account that is separate from accounts containing other funds under title IV of the HEA, and the development of the accounting procedures that a school in the Direct Loan Program must follow to account for program funds.

B. Guaranty Agency Reserves Issues To Be Negotiated

—Development of the standards by which the Secretary may direct a guaranty agency to return to the Secretary the portion of its reserve fund that the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the agency.
—Development of the standards by which the Secretary may require a guaranty agency to return (to the Secretary or the guaranty agency) reserve funds or assets held by, or under control of, any other entity, if the Secretary determines those funds or assets are needed to pay the program expenses and contingent liabilities of the guaranty agency, or are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets.

2. Agenda for First Meetings

The following is a draft agenda for the first meeting of each committee, which will be organizational. Meetings will not be held simultaneously.

(1) Welcoming remarks.

(2) Introduction of facilitators and participants.

(3) Discussion of procedural ground rules.

(4) General discussion of participants' perspectives on substantive issues.

(5) Development of issue agendas or drafts for subsequent meetings.

3. Structure of Committees

A. The ultimate goal of negotiated rulemaking is to reach a consensus through discussion and negotiation among all interested and affected parties, including the Department of Education. With this in mind, the Department will conduct these negotiations within a structure that is designed to reach this goal fairly and efficiently and that takes account of the large number and complex nature of the issues to be negotiated.

The neutral convenors retained by the Department have recommended that the Department establish within each Committee a "full" membership and an "associate" membership. All members will be able to participate in discussion and negotiation. However, only full members will have the power to vote to reach a consensus. The Department has determined full members to be those whose interests will be significantly affected by the final rule. Some organizations are proposed to serve as full members of both committees, but, in general, all full members of the Direct Student Loan Negotiated Rulemaking Advisory Committee are proposed to serve as associate members of the Guaranty Agency Reserves Negotiated Rulemaking Advisory Committee, and vice versa. Some organizations with similar interests are proposed as coalition members.

B. The organizations listed below are proposed as full members of the Direct Student Loan Regulations Negotiated Rulemaking Advisory Committee:

Department of Education
American Association of Community Colleges
American Association of Universities
American Association of State Colleges and Universities
American Council on Education
National Association of Independent Colleges and Universities
National Association of State Universities and Land Grant Colleges
Career College Association
American Association of Cosmetology Schools
National Association of State Financial Aid Administrators
National Association of College and University Business Officers
Federation of Associations of Schools for Health Professionals
National Association for Equal Opportunity in Higher Education/United Negro College Fund (a coalition)
Hispanic Association of Colleges and Universities
United States Student Universities
United States Student Association
Legal Aid (a coalition)
State Higher Education Executive Officers Association
Student Loan Servicing Alliance

C. The following organizations are proposed as full members of the Guaranty Agency Reserves Negotiated Rulemaking Advisory Committee:

Department of Education
Consumer Bankers Association
Education Finance Council
National Coalition of Higher Education Loan Programs
Private Guaranty Agency Coalition
Sallie Mae
State Higher Education Executive Officers Association
Student Loan Servicing Alliance
United States Student Association
Legal Aid (a coalition)

D. The following organizations are proposed as full members of both committees:

Department of Education
Legal Aid (a coalition)
Student Loan Servicing Alliance
United States Student Association
State Higher Education Executive Officers Association

4. *Invitation To Comment*

The Secretary and the Assistant Secretary invite comments from interested parties on the proposal to establish the committees described in this notice and the proposed membership of the committees. If an organization believes that it has a significantly affected interest that would not be represented by the proposed members and wishes to apply for membership or nominate another organization for membership, it may do so. Comments on this notice and requests for membership should be sent to Jennifer Peck, at the address stated at the beginning of this notice, no later than 20 days after the publication of this notice. A request must include:

1. Name of the proposed member and a description of the interests to be represented;

2. Evidence that the proposed member is authorized to represent parties related to the interests the member would represent;

3. A written commitment that the proposed member will participate actively and in good faith in the development of the rule under consideration; and

4. The reasons that the organizations listed in the notice to do not adequately represent the interest of the organization submitting the request or nomination.

Please note that participation in the rulemaking process is not limited to members of the committee. Meetings of the negotiated rulemaking committees are open to the public so that interested parties may observe the negotiations, and each meeting will include an opportunity for comment by observers. In addition, following the negotiated rulemaking process, proposed rules will be published in the Federal Register for public comment. There are expected to be a total of approximately five meetings of each committee, all of which will be held in the Metropolitan Washington, DC area. The target date for publication of proposed rules developed by the committees is July 1, 1994.

Dated: December 22, 1993.

Richard W. Riley,

Secretary of Education.

[FR Doc. 93–31618 Filed 12–27–93; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4E4288 and PP 4E4289/P574; FRL–4750–8]

RIN 2070–AC18

Pesticide Tolerances for Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to revise tolerances for residues of the insecticide chlorpyrifos in or on the raw agricultural commodities pears, peaches, nectarines, and plums. The proposed regulations to revise maximum permissible levels for residues of chlorpyrifos were requested in petitions submitted by DowElanco and are needed to cover maximum expected residues in or on imported commodities.

DATES: Comments, identified by the document control number [PP 4E4288 and PP 4E4289/P574], must be received on or before January 28, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Product Manager (PM) 19, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-6386).

SUPPLEMENTARY INFORMATION: DowElanco has submitted pesticide petition PP 4E4288 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.342 by revising the tolerance for residues of the insecticide chlorpyrifos in or on the raw agricultural commodity pears from 0.01 part per million (ppm) to 0.05 ppm; and pesticide petition PP 4E4289 requesting revision of tolerances for residues in or on peaches, nectarines, and plums from 0.01 ppm to 0.05 ppm. These revisions in the tolerances are needed because of differing use patterns of chlorpyrifos in other parts of the world as compared to the U.S.

The Agency has reviewed preliminary residue data and concluded that residues should not exceed the proposed tolerances. However, the Agency has determined that additional residue data for imported pears, peaches (data for peaches will suffice for nectarines), plums, and prunes (the processed commodity of plums) must be submitted. Therefore, the Agency is proposing to revise these tolerances with a 2-year expiration date, at which time the tolerances will revert to the previous 0.01 ppm for the named commodities. Once the required residue data are submitted and determined to be adequate, the Agency, upon request by DowElanco, will take appropriate steps to make the proposed tolerances permanent.

The available data do not support a change in the U.S. use pattern for the crops listed above. If such a change is desired, additional residue data generated in the U.S. must be submitted.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year dog feeding study with a no-observed-effect level (NOEL) for systemic effects of 1.0 milligram (mg)/kilogram (kg)/day and lowest effect level (LEL) (increased liver weight) of 3.0 mg/kg/day. The NOELs for cholinesterase (ChE) inhibition were as follows: 0.01 mg/kg/day for plasma, 0.1 mg/kg/day for red blood cells, and 1.0 mg/kg/day for brain cells. Levels tested were 0, 0.01, 0.03, 0.1, 1.0, and 3 mg/kg/day.

2. A voluntary human study with ChE NOEL of 0.03 mg/kg/day (based on 20 days of exposure at this level).

3. A 2-year mouse chronic toxicity/carcinogenicity study with a NOEL of 15 ppm for systemic effects (equivalent to 2.25 mg/kg/day) and no carcinogenic effects observed under the conditions of the study at all levels tested (0, 0.5, 5, and 15 ppm, equivalent to 0.075, 0.75, and 2.25 mg/kg/day).

4. A 2-year rat feeding/carcinogenicity study with ChE NOEL of 0.1 and LEL of 1.0 mg/kg/day (based on decreased plasma and brain ChE activity), and a systemic NOEL of 1.0 mg/kg/day and LEL of 10 mg/kg/day (based on decreased erythrocyte and hemoglobin values and increased platelet count during the first year). There were no observed carcinogenic effects at the levels tested (0.05, 0.1, 1.0, and 10 mg/kg/day) under the conditions of the study.

5. A three-generation reproduction study in rats with no reproductive effects observed at the dietary levels tested (0, 0.1, 0.3, and 1.0 mg/kg/day).

6. Two rat developmental toxicity studies: one negative for developmental toxicity at all dose levels (levels tested were 0.1, 3.0, and 15.0 mg/kg/day); and one with maternal and developmental NOELs of 2.5 mg/kg/day (levels tested, by gavage, were 0, 0.5, 2.5, and 15 mg/kg/day).

7. A mouse developmental toxicity study with a teratogenic NOEL greater than 25 mg/kg/day (highest dose tested) and a developmental fetotoxic NOEL of 10 mg/kg/day and LEL of 25 mg/kg/dav (decreased fetal length and increased skeletal variants).

8. A developmental toxicity study in rabbits with maternal and developmental NOELs of 81 mg/kg/day, and maternal and developmental LELs of 140 mg/kg/day (based on maternal

decreased food consumption on gestation days 15 to 19, and body weight loss during the dosing period followed by a compensatory weight gain; and based on a slight reduction in fetal weights and crown-rump lengths, and fetal increased incidence of unossified fifth sternebrae and/or xiphisternum). Levels tested were 0, 1, 9, 81, and 140 mg/kg/day.

9. An acute delayed neurotoxicity study in the hen that was negative at 50 and 100 mg/kg/day.

10. Several mutagenicity studies which were all negative. These include an Ames assay, two Chinese hamster ovary cell mutation assays, a micronucleus assay for chromosomal aberration, an *in vitro* chromosomal aberration assay with and without enzymatic activation, and an unscheduled DNA synthesis assay.

11. A general metabolism study in rats shows that the major metabolite of chlorpyrifos is 3,5,6-trichloro-2-pyridinol (TCP). The studies listed below were conducted to demonstrate that TCP is less toxic than chlorpyrifos and is not a ChE inhibitor.

a. A 90-day rat feeding study with a systemic NOEL of 30 mg/kg/day. Levels tested were 0, 10, 30, and 100 mg/kg/day.

b. A rat developmental toxicity study with no developmental toxicity observed at the dosages tested (0, 50, 100, and 150 mg/kg/day).

c. Mutagenicity studies (including an Ames assay and an unscheduled DNA synthesis assay) were negative for mutagenic effects.

Based on the above studies, the Agency has concluded that the TCP metabolite is not of toxicological concern.

The reference dose (RfD) based on the human voluntary ChE study (ChE NOEL of 0.03 mg/kg/day) and using a 10-fold uncertainty factor is calculated to be 0.003 mg/kg of body weight/day. Tolerances for food uses appear in 40 CFR 180.342 and 40 CFR 185.1000. The Dietary Risk Exposure Section (DRES) chronic dietary exposure analysis made use, when justified and appropriate, of anticipated residues rather than published tolerance values, and data regarding percent crop treated (when less than 100%). The anticipated residue contribution (ARC) from published uses of chlorpyrifos is 0.000859 mg/kg of body weight/day for the overall U.S. population. This represents 28.6% of the RfD. The proposed tolerances on pears, nectarines, peaches, and plums contribute 0.000001 mg/kg of body weight/day of exposure, raising the ARC to 0.000860 mg/kg of body weight/ day, or 28.7% of the RfD. None of the DRES subgroups has an exposure that exceeds the RfD. The population subgroup most highly exposed is nonnursing infants, less than 1 year old, with an ARC from published uses of 0.002137 mg/kg of body weight/day, 71.2% of the RfD. The proposed tolerances contribute 0.000011 mg/kg of body weight/day, which raises the ARC for that subgroup to 0.002147 mg/kg of body weight/day, or 71.6% of the RfD. The next most highly exposed population subgroup is children, 1 to 6 years old, with an ARC from published uses of 0.001912 mg/kg of body weight/day, 63.7% of the RfD. The proposed tolerances contribute 0.000002 mg/kg of body weight/day, which raises the ARC for that subgroup to 0.001914 mg/kg of body weight/day, or 63.8% of the RfD.

Adequate gas chromatographic analytical methods are available in the Pesticide Analytical Manual, Vol. II (PAM II), for enforcement purposes. There are currently no actions pending against continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR 180.342 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408 (e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 4E4288 and PP 4E4289/P574]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 14, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.342, by amending paragraph (c) by removing the entries in the table therein for nectarines, peaches, pears, and plums and by adding new paragraph (e), to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues

* * * * *

(e) Tolerances are established as follows for residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] in or on the following raw agricultural commodities:

Commodity	Parts per million	
	Until Jan. 28, 1996	After Jan. 28, 1996
Nectarines	0.05	0.01
Peaches	0.05	0.01
Pears	0.05	0.01
Plums	0.05	0.01

[FR Doc. 93-31473 Filed 12-21-93; 4:52 pm]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AC23

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Gymnoderma Lineare

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the lichen *Gymnoderma lineare* (rock gnome lichen) as an endangered species under authority of the Endangered Species Act of 1973, as amended (Act). This lichen, which is limited to 25 populations in North Carolina and 7 populations in Tennessee, is threatened by collection, logging, and habitat disturbance due to heavy use by hikers and climbers. It is also indirectly threatened by exotic insect pests and possibly air pollution, which are contributing to the demise of Fraser fir forests at higher elevations in the Southern Appalachians. This proposal, if made final, would implement the Act's protection and recovery provisions for *Gymnoderma lineare*.

DATES: Comments from all interested parties must be received by February 28, 1994. Public hearing requests must be received by February 11, 1994.

ADDRESSES: Comments and materials and requests for public hearings concerning this proposal should be sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the above address (704/665-1195, Ext. 231).

SUPPLEMENTARY INFORMATION:

Background

Gymnoderma lineare, first described by Evans (1947) as *Cladonia linearis* from material collected in Tennessee, is a squamulose lichen in the reindeer moss family. This species is the only member of its genus occurring in North America (Yoshimura and Sharp 1968). *Gymnoderma lineare* occurs in rather dense colonies of narrow straps (squamules). The only similar lichens are the squamulose species of the genus *Cladonia*. *Gymnoderma lineare* has terminal portions of the strap-like individual lobes that are blue-grey on the upper surface and generally shiny-white on the lower surface; near the base they grade to black (unlike squamulose *Cladonia*, which are never blackened toward the base) (Weakley 1988, Hale 1979). Hale's (1979) description of the species reads as follows: "Squamules dark greenish mineral grey; lower surface white to brownish toward the tips, weakly corticated; podetia lacking, but small clustered apothecia common on low tips. K plus yellow (atranorin)." Weakley further describes the species as having squamules about 1 millimeter across near the tip, tapering to the blackened base, sparingly and subdichotomously branched, and generally about 1 to 2 centimeters long (though they can be longer or shorter, depending upon environmental factors). The squamules are nearly parallel to the rock surface, but the tips curl away from the rock, approaching or reaching a perpendicular orientation to the rock surface. The fruiting bodies (apothecia) are borne at the tips of the squamules and are black (contrasting to the brown or red apothecia of *Cladonia* spp.) (Weakley 1988). The apothecia are borne singly or in clusters, usually at the tips of the squamules but occasionally along the sides; these have been found from July through September (Evans 1947, North Carolina Natural Heritage Program records 1991). The apothecia are either sessile or borne on short podetia 1 to 2 millimeters in height, and the largest of these have a diameter of about 1 millimeter, with most being much smaller. The apothecia are cylindrical in shape and radial in symmetry (Evans 1947). The primary means of propagation of this lichen appears to be asexual, with colonies spreading clonally. *Gymnoderma* was considered a monotypic genus for over a century, until its revision by Yoshimura and Sharp (1968). These authors reclassified Evans' (1947) *Cladonia linearis* as *Gymnoderma lineare* on the basis of its short and solid podetia that lack symbiotic algae.

Gymnoderma lineare is endemic to North Carolina and Tennessee and occurs only in areas of high humidity, either at high elevations, where it is frequently bathed in fog, or in deep gorges at lower elevations. It is primarily limited to vertical rock faces where seepage water from forest soils above flows at (and only at) very wet times. It is almost always found growing with the moss *Andreaea* in these vertical intermittent seeps. This association makes it rather easy to search for, due to the distinctive reddish-brown color of *Andreaea* that can be observed from a considerable distance (Weakley 1988). Most populations occur above 5,000 feet elevation. In Tennessee, it is apparently limited to the Great Smoky Mountains. Other common associates of this species include *Huperzia selago, Stereocaulon* sp., *Scirpus cespitosus, Carex misera, Rhododendron* spp., *Saxifraga michauxii, Krigia montana, Heuchera villosa, Geum radiatum*, and sometimes *Juncus trifidus*. The high-elevation coniferous forests adjacent to the rock outcrops and cliffs most often occupied by the species are dominated by red spruce (*Picea rubens*) and another Federal candidate species, Fraser fir (*Abies fraseri*).

Thirty-seven populations of *Gymnoderma lineare* have been reported historically; thirty-two remain in existence. Seven of these populations are in Sevier County, Tennessee. In North Carolina, two populations remain in Mitchell County, five in Jackson County, four in Yancey County, one in Swain County, three in Transylvania County, four in Buncombe county, two in Avery County, two in Ashe County, one in Rutherford County, and one in Haywood County. Five additional populations were historically known for this species. The reasons for the disappearance of the species at most of these sites are undocumented; however, one is believed to have been destroyed by highway construction. Many of the formerly occupied sites are subjected to heavy recreational use by hikers, climbers, and sightseers. In addition, the coniferous forests, particularly those dominated by Fraser fir at the high-elevation sites, are being decimated by the balsam wooly adelgid, an exotic insect pest, and possibly by air pollution. The death of the forests adjacent to the habitat occupied by this lichen has resulted in locally drastic changes in microclimate, including desiccation and increased temperatures.

The continued existence of this species is threatened by trampling and

associated soil erosion and compaction, other forms of habitat disturbance due to heavy recreational use of the habitat by hikers, climbers, and sightseers, as well as by development for commercial recreational facilities and residential purposes. It is also potentially threatened by logging, collectors, and directly or indirectly by air pollution.

Only 7 of the remaining 32 populations cover an area larger than 2 square meters. Most are 1 meter or less in size. It is unknown what constitutes a genetic individual in this species, and it is possible that each of these small colonies or patches consists of only a single clone (Weakley 1988). Over the past decade several of the currently extant populations have undergone significant declines (Paula DePriest, Smithsonian Institution, personal communication, 1992; Karin Holman, Environmental Consultant, personal communication, 1992), some within as little as 1 year (Alan Smith, Environmental Consultant, personal communication, 1992). Although all but five of the remaining populations are in public ownership, many continue to be impacted by collectors, recreational use, and environmental factors. Although no populations are known to have been lost as a result of logging operations, this is a potential threat.

Federal government actions on *Gymnoderma lineare* began with the 1990 publication in the Federal Register of a revised notice of review of plant taxa for listing as endangered or threatened species (55 FR 6184); *Gymnoderma lineare* was included in that notice as a category 2 species. Category 2 species are those for which listing as endangered or threatened may be warranted but for which substantial data on biological vulnerability and threats are not currently known or on file to support proposed rules.

Subsequent to that notice, the Service received additional information from the North Carolina Natural Heritage Program (Alan Weakley, North Carolina Natural Heritage Program, personal communication, 1991) and the Smithsonian Institution (DePriest, personal communication, 1992); this information and additional field data gathered by the North Carolina Natural Heritage Program, the Fish and Wildlife Service, and the National Park Service (Keith Langdon and Janet Rock, Great Smoky Mountains National Park, personal communication, 1992; Bambi Teague, Blue Ridge Parkway, personal communication, 1991) indicate that the addition of *Gymnoderma lineare* to the Federal List of endangered or threatened plants is warranted. The Service included this species as category 1 candidate in the September, 1993, plant notice of review (58 FR 51167).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal list. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Gymnoderma lineare* are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Gymnoderma lineare is a narrow endemic, restricted to high-elevation mountaintops and cliff faces and the lower-elevation gorges in the Southern Appalachians of western North Carolina and eastern Tennessee (see "Background" section for specific distributions). Although populations are declining and vanishing for reasons that are, in many cases, not clearly understood, destruction and adverse modification of habitat pose a major threat to the remaining populations of this species. Fourteen percent of the historically known populations have been completely extirpated, and many others have been severely reduced in size. Only 32 populations, most less than 1 square meter in extent, remain.

Five of these populations are on privately owned lands, with one slated for residential development within the near future. Although the majority of the remaining populations are on publicly owned lands, most of these are subject to heavy recreational use, and many have been damaged as a result. Four populations contain 75 percent of the remaining plants. Three of these are located on lands administered by the National Park Service and the U.S. Forest Service, at sites where they are subjected to intense use by hikers, climbers, and sightseers. The only other relatively large population is located on a privately owned site which has been developed as a commercial recreational facility. All the known populations combined cover a total area of approximately 142 square meters. All five privately owned sites are unprotected and are located in an area that is rapidly developing as a center for resorts and tourism.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Gymnoderma lineare is not currently a significant component of the commercial trade in native plants. Hale (1979) stated, "This is one of the most unusual endemic lichens in North America and should not be collected by individuals." Nevertheless, many populations have been decimated by scientific collectors. Paula DePriest (personal communication, 1992) observed that at least one population in the Great Smokies was virtually wiped out by collections made during a field trip of lichenologists. Given the very small size of most colonies and the slow growth rate of this species, extirpation by collecting or by natural accident (such as slides or floods) is a distinct possibility (Weakley 1988). Many of the populations are easily accessible, being close to trails or roads. Publicity could generate an increased demand and intensify collecting pressure (see "Critical Habitat" section for reasons why critical habitat is not being designated).

C. Disease or Predation

This taxon is not known to be threatened by disease or predation.

D. The Inadequacy of Existing Regulatory Mechanisms

Gymnoderma lineare is afforded legal protection in North Carolina by North Carolina General Statute, Article 20, Chapter 106, Sections 202.1–202.8, that prohibits intrastate trade and taking of State-listed plants without a State permit and written permission of the landowner. *Gymnoderma lineare* is listed in North Carolina as threatened; it is not currently listed in Tennessee. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitat or unintentional damage from recreational use. The Endangered Species Act will provide additional protection and encouragement of active management for *Gymnoderma lineare*, particularly on Federal lands.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

This taxon is rare and vulnerable due to its specialized habitat requirements for bare rock faces with a precise amount of moisture and light. As mentioned in the previous sections of this proposed rule, most of the remaining populations are small in numbers of individuals and in terms of area covered by the plants. Therefore, there is probably little genetic variability in this species, making it more important to maintain as much habitat and as many of the remaining colonies as possible. Rock slides, severe storms or droughts, or other natural events could easily eliminate populations of this lichen.

In recent years the spruce-fir forests adjacent to the high-elevation cliffs and rock outcrops occupied by this rare lichen have suffered dramatic declines due, at least in part, to airborne pollution and the impacts of an exotic insect, the balsam wooly adelgid. The impacts of this forest decline on *Gymnoderma lineare* cannot be accurately assessed at this time. Even though rock gnome lichen often grows in exposed places, the drastic decline of adjacent high-elevation forests may result in excessive desiccation of the moist sites required by the species. This theory would seem to be supported by the fact that *Geum radiatum*, already federally listed as endangered, is showing drastic declines at many of the same sites. With all but seven of the remaining populations of *Gymnoderma lineare* being less than 2 square meters in size, and with this species' very slow growth rate, even relatively small declines could pose a significant threat to the long-term survival and recovery of the species.

In addition to the indirect effects of air pollution on this species' habitat, lichens are known to effectively accumulate a wide variety of pollutants washed from the atmosphere by precipitation (St. Clair 1987). Photosynthetic rates, respiration rates, and membrane integrity of lichens have all been found to be very sensitive to a wide range of common air pollutants, including sulfur dioxide. St. Clair (1987) states, "Indeed lichen physiological processes appear to provide an indication of pollution damage long before any visible thallus necrosis or changes in community structure can be detected." A field study conducted by Pearson and Rodgers (1982) showed that membrane integrity in lichens is severely impacted following exposure to sulfur dioxide. Lawrey (1987) found that increasing levels of sulfur dioxide pollution had resulted in the elimination of some species of lichens in an area just north of the range of *Gymnoderma lineare*. Heavy metals and ozone also have been found to negatively affect lichens' potassium efflux, chlorophyll content, and photosynthetic rates (Puckett 1976, Nash and Sigal 1979, Sigal and Taylor 1979). Several observers have already noted declines in populations of *Gymnoderma lineare* which cannot be directly attributed to physical disturbance of the habitat (Weakley, personal communication, 1992; DePriest, personal communication, 1992; Shawn Oakley, The Nature Conservancy, North Carolina Field Office, personal communication, 1992). With the extremely small size of most of the remaining populations, declines of just a few centimeters a year could result in the imminent extinction of all but three of the remaining populations of this species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Gymnoderma lineare* as endangered. With 14 percent of the known populations having been completely extirpated and all the remaining populations subject to some form of threat, this species warrants protection under the Act. With the small number of individuals and area covered by the remaining populations, and with significant declines having been documented in many of these, this species is in danger of extinction throughout all or a significant portion of its range and, therefore, qualifies as an endangered species under the Act. Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for *Gymnoderma lineare*. Publication of critical habitat descriptions and maps would increase public interest and possibly lead to additional threats for this species from collecting and vandalism (see threat factor "B" above). The species has already been subjected to excessive collecting by scientific collectors at several sites. Increased publicity and a provision of specific location information associated with critical habitat designation could result in increased collection from the remaining wild populations. Although taking of endangered plants from lands under Federal jurisdiction (and from privately owned lands under certain circumstances—see "Available Conservation Measures" section) and reduction to possession is prohibited by the Endangered Species Act, taking provisions are difficult to enforce. Publication of critical habitat descriptions would make *Gymnoderma lineare* more vulnerable and would increase enforcement problems for the U.S. Forest Service and the National Park Service. Also, the populations on private lands would be more vulnerable to taking. Increased visits to population locations stimulated by critical habitat designation, even without collection of plants, could adversely affect the species due to the associated increase in trampling of the fragile habitat occupied by this lichen. The lichen is easily scraped off its rocky substrate, and denuded habitat is not quickly recolonized. The Federal and State agencies and land owners involved in managing the habitat of this species have been informed of the plant's locations and of the importance of protection; therefore, it would not be prudent and no additional benefit would result from a determination of critical habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency

must enter into formal consultation with the Service.

The U.S. Forest Service and the National Park Service have jurisdiction over portions of the species' habitat.

Federal activities that could impact *Gymnoderma lineare* and its habitat in the future include, but are not limited to, the following: Construction of recreational facilities (including trails, buildings, or maintenance of these facilities), use of aerially applied retardants in fire-fighting efforts, road construction, certain timber-harvesting techniques, permits for mineral exploration, and any other activities that do not include planning for the species' continued existence. The Service will work with the involved agencies to secure protection and proper management of *Gymnoderma lineare* while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All trade prohibitions at section 9(a)(2) of the Act, implemented by 50 CFR 17.61 would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, the 1988 amendments (Pub. L. 100–478) to the Act protect endangered plants from malicious damage or destruction on Federal lands, and the removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since *Gymnoderma lineare* is not common in the wild and is not commercially cultivated. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions should be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, MS 432, 1849 C Street, NW., Washington, DC 20240 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Gymnoderma lineare;*

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, and distribution, of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Gymnoderma lineare.*

Final promulgation of the regulation on *Gymnoderma lineare* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Asheville Field Office (see "ADDRESSES" section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Evans, A. W. 1947. A study of certain North American *Cladoniae.* Bryologist 50:14–51.

Hale, M. 1979. How to know the lichens, second edition. William C. Brown Company, Dubuque, IA. P. 231.

Lawrey, J. D. 1987. Lichens as indicators of atmospheric quality in the northern district of Shenandoah National Park, Virginia. Final report to the U.S. National Park Service, Denver, CO. Contract number CX-0001–4–0059.

Nash, T., III, and L. Sigal. 1979. Gross photosynthetic response of lichens to short-term ozone fumigations. The Bryologist 82(2):280–285.

Pearson, L., and G. Rodgers. 1982. Air pollution damage to cell membranes in lichens. III. Field experiments. Phyton 22(2):329–327.

Puckett, K. 1976. The effects of heavy metals on some aspects of lichen physiology. Canadian Journal of Botany 54(23):2695–2703.

St. Clair, L. 1987. Final report concerning the establishment of an air quality biomonitoring program using various lichen parameters in the James River Face Wilderness Area, Jefferson National Forest, Virginia. U.S. Forest Service, Jefferson National Forest, Roanoke, VA. 16 pp.

Sigal, L., and O. Taylor. 1979. Preliminary studies on the gross photosynthetic response of lichens to peroxyacetylnitrate fumigations. The Bryologist 82(4):564–575.

Weakley, A. S. 1988. Species account for *Gymnoderma lineare.* North Carolina Plant Conservation Program, Raleigh, NC. 3 pp.

Yoshimura, I., and A. J. Sharp. 1968. A revision of the genus *Gymnoderma. American Journal of Botany 55(5):635–640.*

Author

The primary author of this proposed rule is Ms. Nora Murdock Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665–1195, Ext. 231).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulations Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. § 17.12(h) is amended by adding the following, in alphabetical order, under *Cladoniaceae,* to the List of Endangered and Threatened Plants, to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cladoniaceae—Reindeer moss family:						
Gymnoderma lineare.	Rock gnome lichen	U.S.A. (NC, TN)	E		NA	NA

Dated: November 9, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–31580 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 58, No. 247
Tuesday, December 28, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Intent To Prepare an Environmental Impact Statement for the Construction of an Office Complex in Beltsville, Prince Georges County, MD

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), the Department of Agriculture (USDA) announces its intent to prepare an Environmental Impact Statement (EIS) for the proposed construction of a building complex on Government-owned land within the Beltsville Agricultural Research Center, Prince Georges County, Maryland. The complex has been considered to be constructed in two phases, each with 350,000 square feet of space plus parking for up to 1400 vehicles. The building complex will house elements of USDA currently housed in leased facilities in Washington, DC, Maryland, Virginia and in the Agriculture Headquarters Complex in Washington, DC.

The EIS will consider—Site A: approximately 100 acres located north of Interstate 95, southeast of the intersection of Rhode Island Avenue with Sunnyside Avenue; Site B: approximately 220 acres located east of the Baltimore/Washington Parkway, southeast of the intersection of Powder Mill Road with Soil Conservation Service Road; and Site C: approximately 75 acres located east of Edmonston Road, and 1000 feet south of Beaverdam Road. The EIS will also consider a No Action alternative—continued use of scattered leased facilities.

Potential environmental impacts resulting from the proposed project include short-term construction-related impacts, long-term changes in traffic, and socio-economic and physical conditions within the project area.

USDA will initiate the EIS process with a public scoping meeting for the purpose of determining significant issues related to the proposed construction and relocation of USDA employees. A public scoping meeting will be scheduled for *Monday, January 31, 1994, at 7:00 p.m.* in the auditorium of the *Beltsville Public Library*, located at *4319 Sellman Road*, Beltsville, Maryland. A short formal presentation will precede the request for public comments. USDA representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that Federal, state and county agencies, and interested individuals and groups take this opportunity to identify environmental concerns that should be addressed during the preparation of the Draft EIS. In the interest of available time, each speaker will be asked to limit oral comments to ten (10) minutes.

In addition to the scoping meeting, USDA has made available for inspection at the Beltsville Library, and upon request, an Environmental Assessment (EA) addressing construction of the proposed complex at Site A. Agencies and the general public are invited and encouraged to provide written comments on the EA, in addition to, or in lieu of oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address.

All written statements and/or questions regarding the USDA Beltsville Office Complex must be mailed no later than *Wednesday, February 16, 1994*, to the address below.

Mr. Michael Sazonov, Contracting Officer Technical Representative, United States Department of Agriculture, Office of Operations, Facilities Management Division, Engineering Branch, South Building, room S–313, 14th Street & Independence Avenue SW., Washington, DC 20250.

Dated: December 6, 1993.

Wardell C. Townsend, Jr.,

Assistant Secretary for Administration.

[FR Doc. 93–31606 Filed 12–27–93; 8:45 am]

BILLING CODE 3410-96-M

Federal Crop Insurance Corporation

Termination of the Standard Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of termination of the Standard Reinsurance Agreement, and Agency Sales and Service Contract.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice that it will terminate the current (1994) Standard Reinsurance Agreement, and Agency Sales and Service Contract, effective as of June 30, 1994.

FOR FURTHER INFORMATION CONTACT: E. Heyward Baker, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 254–8245.

SUPPLEMENTARY INFORMATION: The Food, Agriculture, Conservation, and Trade Act of 1990 (The 1990 Farm Act), enacted on November 28, 1990 (Pub. L. 101–624, 104 Stat. 3359) amended the Federal Crop Insurance Act (5 U.S.C. 1501 *et seq.*) to provide that beginning with the 1992 reinsurance year, the FCIC shall revise its reinsurance agreements to require an assumption of a greater share of risk by reinsured companies. In addition, the Omnibus Budget Reconciliation Act of 1993 requires the FCIC to take management actions to achieve budget savings and a projected loss ratio of 1.10 or less by October 1, 1995, and thereafter.

This action is necessary to provide FCIC sufficient time to address issues and changes for the 1995 Standard Reinsurance Agreement and is consistent with the direction provided by the 1990 Farm Act, Omnibus Budget Reconciliation Act of 1993, and other program improvements necessary to attain greater financial soundness in the multiple peril crop insurance program.

Notice

Accordingly, The Federal Crop Insurance Corporation (FCIC) herewith gives notice that it will terminate the current (1994) Standard Reinsurance Agreement and Agency Sales and Service Contract, effective as of June 30, 1994.

Done in Washington, DC on December 20, 1993.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 93–31699 Filed 12–27–93; 8:45 am]

BILLING CODE 3410-08-M

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Ft. Lauderdale, Florida, January 20–22, 1994 with a tour of local projects, January 20, 8:30 a.m., to 4:30 p.m. The Council is comprised of 15 members appointed by the Secretary of Agriculture. The purpose of the meeting is to begin oversight responsibilities and budget estimates for members of Congress. The meeting will be Chaired by William Kruidenier of the International Society of Arboriculture and is open to the public. Time will be provided at the beginning of each major agenda topic for public input. Time to speak must be requested in advance from the committee staff. However, Council discussion is limited to Forest Service staff and Council members. Persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting.

DATES: The meeting will be held January 20–22, 1994.

ADDRESSES: The meeting will be held at the Courtyard Marriott, 7780 SW., 6th Street, Plantation, Florida 33324.

Send written statements and/or requests for agenda items or participation in the tour to Brian McGuire, National Urban and Community Forestry Advisory Council, c/o Forest Service—Cooperative Forestry, USDA, P.O. Box 96090, Washington, DC 20090–6090, or phone (202) 205–1689.

FOR FURTHER INFORMATION CONTACT: Brian McGuire, Cooperative Forestry Staff, (202) 205–1689.

Dated: December 21, 1993.

Michael T. Rains,

Acting Deputy Chief, State and Private Forestry.

[FR Doc. 93–31523 Filed 12–27–93; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Office of General Counsel

DEPARTMENT OF THE INTERIOR

Office of the Solicitor

Water Rights Under the Wilderness Act

AGENCIES: Office of General Counsel, Agriculture; Office of the Solicitor, Interior.

ACTION: Notice with request for comment.

SUMMARY: The Departments of Agriculture and the Interior are seeking public comment on a reevaluation of the Federal position on interpreting the Wilderness Act of 1964 in relation to Water rights.

DATES: Comments are requested by April 1, 1994.

ADDRESSES: Comments may be submitted to James Gilliland, General Counsel, Department of Agriculture, room 107W, Administration Building, 14th and Independence Ave. SW., Washington, DC 20250–1401, or to John D. Leshy, Solicitor, Department of the Interior, MS 6352, 1849 C St. NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James Gilliland, 202–720–3351, or John D. Leshy, 202–208–4423.

SUPPLEMENTARY INFORMATION: The Departments of Agriculture and the Interior, in consultation with the Department of Justice, are undertaking to reexamine the position of their agencies not to file claims for water rights under federal law based upon congressional designation of federal lands as part of the National Wilderness Preservation System. Pending that reevaluation, a Department of the Interior Solicitor's Opinion reaching that conclusion (# M–36914) (Supp. III) (July 26, 1988), overruling a portion of Solicitor's Opinion M–36914, 86 I.D. 553 (June 25, 1979), has been suspended, as has the concurrence of the Attorney General in the 1988 Opinion.

The legal issue presented is primarily the interpretation to be given certain provisions of the Wilderness Act of 1964 and related federal legislation. As part of this reevaluation, comment is sought from interested persons, including especially state water rights administrators, water users, and others interested in water management. Comment is invited not only on the legal issues, but also on any practical questions that may be raised by their resolution.

Those interested are urged to submit views on these issues and questions to either or both of the addresses listed above by April 1, 1994.

Pending completion of this reevaluation, pertinent federal agencies will, in order not to forfeit claims of water rights that might be made as a result of this reevaluation, file claims for water rights in pertinent designated wilderness areas when required to file water rights claims by court deadlines in pending adjudications.

Dated: December 16, 1993.

James Gilliland,

General Counsel, Department of Agriculture.

John D. Leshy,

Solicitor, Department of the Interior.

[FR Doc. 93–31645 Filed 12–27–93; 8:45 am]

BILLING CODE 4310-RF-M

ARMED FORCES RETIREMENT HOME

Privacy Act of 1974; Systems of Records

AGENCY: Armed Forces Retirement Home (AFRH).

ACTION: Notice; systems of records.

SUMMARY: This notice provides an Armed Forces Retirement Home system of records and the routine uses pursuant to the Privacy Act of 1974, (5 U.S.C. 552a) as amended.

DATES: The system of records becomes effective January 27, 1994. Any public comments must be received before the effective date.

ADDRESSES: Written comments may be sent or delivered to the Administrative Officer, Administration Division/ Resource Management Directorate, U.S. Soldiers' and Airmen's Home, 3700 North Capitol Street, NW., Washington, DC 20317–0002.

FOR FURTHER INFORMATION CONTACT: Doris D. Montgomery, 202–722–3230.

SUPPLEMENTARY INFORMATION: The Armed Forces Retirement Home Act of 1991, incorporated the U.S. Soldiers' and Airmen's Home (USSAH) and the United States Naval Home (USNH) into an independent establishment in the Executive Branch of the Federal Government to be known as the Armed Forces Retirement Home. This law requires its residents, who are persons who have met the criteria for membership, to pay a monthly fee, which is a fixed percentage of their monthly Federal payments.

The "Armed Forces Retirement Home Resident Fee Maintenance System" is a system of records used by AFRH/ USSAH personnel to compile information on the source(s) and gross amount(s) of all Federal income entitled to each resident for computation,

billing, and collection of the monthly Resident Fee. The Federal payments include retired or retainer pay, civil service annuity, compensation or pension paid by the Secretary of Veterans Affairs, and Social Security.

The system of records is comprised of hard copies, computer printouts and computerized database. The records will be indexed by the residents' names and/or Social Security numbers.

The records in this system will be maintained in a secure manner and the personnel will be required to adhere to the provisions of the Privacy Act of 1974, (5 U.S.C. 552a) as amended. The system manager will control access to the data . Only authorized users having official duties requiring the use of the information have regular access to the records in this system. Authorized users are AFRH/USSAH employees responsible for implementing the AFRH Resident Fee Maintenance System. Records will be stored in computerized electronic database and file cabinets. Rooms and cabinets where records are stored are locked when not in use. During regular business hours, rooms and cabinets are unlocked but are controlled by on-site personnel.

AFRH—1

SYSTEM NAME:

Armed Forces Retirement Home Resident Fee Maintenance System.

SYSTEM LOCATION:

U.S. Soldiers' and Airmen's Home, Fiscal Division, Resource Management Directorate, 3700 North Capitol Street, NW., Washington, DC 20317–0002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Residents of the Armed Forces Retirement Home.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information relating to the residents of the Armed Forces Retirement Home, their Federal income sources, and gross monthly entitlement/s. (Name, SSN, address, source/s of Federal payment, gross amounts of payments, Resident Fee amount, payment history).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 24 U.S.C. 401–441, Armed Forces Retirement Home Act of 1991.

PURPOSE:

The purpose of the system of records is to provide a single central facility within the AFRH to maintain the Federal income sources of each resident for the purpose of billing, maintenance and collection of the monthly Resident Fee. All records in the system are subject to use in authorized approved computer matching programs as regulated by the Privacy Act of 1974, (5 U.S.C. 552a) as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system of records may be disclosed as indicated below:

1. To the Defense Manpower Data Center, Department of Defense, for the verification of retired or retainer benefit pay of the subjects of record.

2. To the Social Security Administration for the verification of benefit payments of the subjects of record.

3. To the Department of Veterans Affairs for the verification of veterans compensation or pension benefits of the subjects of record.

4. To the Office of Personnel Management for the verification of annuity benefits of the subjects of record.

5. To any other Federal agency for verification of Federal payments of subjects of record.

6. To the Inspector General of Department of Defense or his/her designee, while conducting inspections of the records of the AFRH.

7. To a Congressional office in response to an inquiry from that office made at the request of, or about, a subject of a record.

8. To a Federal agency, or an organization or person contracting with the AFRH for information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and/or making analytical or financial studies to support the function for which the records were collected and maintained.

9. To a Federal agency, a court, or a party in litigation before a court, or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in a computerized electronic database, magnetic tape, computer printouts, and on cards.

RETRIEVABILITY:

These records are retrieved by the Social Security Number or name of the individual.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel. Confidential passwords are required for access to automated records.

RETENTION AND DISPOSAL:

Records are retained for 3 years. Manual records are destroyed by shredding. Tapes and diskettes are erased.

SYSTEM MANAGER AND ADDRESS:

Budget Officer, Fiscal Division/ Resource Management Directorate, U.S. Soldiers' and Airmen's Home, 3700 North Capitol Street, NW., Washington, DC 20317–0002.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether the system of records contains information about themselves should contact the System Manager. Written requests should include full name and Social Security Number, and be signed by the requesting individual. For personal visits, the requesting individual must provide acceptable identification, e.g. USSAH or USNH Identification Card, U.S. Uniformed Services Identification Card, driver's license, etc.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about themselves should contact the System Manager. Written requests should include full name and Social Security Number, and be signed by the requesting individual. For personal visits, the requesting individual must provide acceptable identification, e.g., USSAH or USNH Identification Card, U.S. Uniformed Services Identification Card, driver's license, etc.

CONTESTING RECORD PROCEDURE:

Individuals seeking to amend their records should contact the System Manager. Written requests should include full name and Social Security Number, and be signed by the requesting individual. For personal visits, the requesting individual must provide acceptable identification, e.g., USSAH or USNH Identification Card, U.S. Uniformed Services Identification Card, driver's license, etc.

RECORDS SOURCE CATEGORIES:

Information in this system comes from the individual to whom it applies or the next of kin, relative, power of attorney, conservator and/or guardian acting on behalf of the individual. Verification of income is necessary and is made through the Defense Manpower Data Center, Social Security Administration, Department of Veterans Affairs, and the Office of Personnel Management.

Dennis W. Jahnigen, M.D.,

Armed Forces Retirement Home Chair.

[FR Doc. 93–31674 Filed 12–27–93; 8:45 am]

BILLING CODE 8250–01–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Preparation of Guidelines for the Production of Lead Containing Reference Materials

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of public meeting.

SUMMARY: The Inorganic Analytical Research Division (IARD) of the National Institute of Standards and Technology, and the Chemical Management Division of the Office of Pollution Prevention and Toxics of the Environmental Protection Agency will conduct a one day meeting to discuss the preparation of guidelines for the production of lead-containing reference materials which will provide benchmarks for quantitative chemical analyses of lead in paint, soil, and dust. A publication will be produced from this meeting. Interested members of the public are invited to attend. Preregistration is required by January 21, 1994.

DATE: The meeting will convene January 28, 1994, at 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held in Lecture Room D, Administration Building, National Institute of Standards and Technology, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. William F. Koch, Deputy Chief, Inorganic Analytical Research Division, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–4143 or Mr. John Scalera, Office of Pollution Prevention and Toxics, Environmental Protection Agency, telephone number (202) 260–6709. Preregister by calling Jo Ann Brooks at (301) 975–4143.

Dated: December 20, 1993.

Samuel Kramer,

Associate Director.

[FR Doc. 93–31596 Filed 12–27–93; 8:45 am]

BILLING CODE 3510–13–M

Announcement of Meeting of National Conference on Weights and Measures

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Interim Meeting of the National Conference on Weights and Measures will be held January 9 through 13, 1994, at the Hyatt Regency Bethesda Hotel, Bethesda, MD. The meeting is open to the public.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States, and private sector representatives. The interim meeting of the conference, as well as the annual meeting to be held next July (a notice will be published in the **Federal Register** prior to such meeting), brings together enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations to discuss subjects that relate to the field of weights and measures technology and administration.

Pursuant to section 2(5) of its Organic Act (15 U.S.C. 272(5)), the National Institute of Standards and Technology acts as a sponsor of the National Conference on Weights and Measures in order to promote uniformity among the States in the complex of laws, regulations, methods, and testing equipment that comprises regulatory control by the States of commercial weighing and measuring.

DATE: The meeting will held January 9–13, 1994.

LOCATION OF MEETING: Hyatt Regency Bethesda Hotel, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Dr. Carroll Brickenkamp, Executive Secretary, National Conference on Weights and Measures, P.O. Box 4025, Gaithersburg, Maryland 20885. Telephone: (301) 975–4005.

Dated: December 20, 1993.

Samuel Kramer,

Associate Director.

[FR Doc. 93–31595 Filed 12–27–93; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

National Weather Service, Modernization Transition Committee

Time and Date: January 12, 1994 from 8:30 a.m.–12 noon and 1–4:30 p.m.; and January 13, 1994 from 8:30 a.m.–12 noon and 1–2:30 p.m.

Place: This meeting will take place at the Quality Hotel, 8727 Colesville Road Silver Spring, Maryland 20910.

Status: The meeting will be open to the public. The last 30 minutes of the last day will be set aside for oral comments from the public. Approximately 20 seats will be available on a first-come first-served basis for the public.

Matters to be Considered: This meeting will cover: (1) Final Consultation with the Committee on the FY95 National Implementation Plan and the Final Modernization Criteria; (2) a briefing to the Committee by the National Weather Service Employees Organization; and (3) a briefing by NWS on the status of the Automated Weather Interactive Processing System (AWIPS).

Contact Person for More Information: Mr. Senator Raygor, National Weather Service, Transition Program Office, 1325 East-West Highway, SSMC2, Silver Spring, MD 20910, telephone: (301) 713–0391.

Elbert W. Friday,

Assistant Administrator for Weather Services.

[FR Doc. 93–31569 Filed 12–27–93; 8:45 am]

BILLING CODE 3510–12–M

[Docket No. 931235336; I.D. 111593A]

Western Pacific Bottomfish and Seamount Groundfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic Atmospheric Administration (NOAA), Commerce.

ACTION: Intent to issue a limited entry permit.

SUMMARY: The Regional Director, Southwest Region, NMFS, in consultation with the Western Pacific Fishery Management Council, has determined that the Northwestern Hawaiian Islands (NWHI) limited entry bottomfish fishery in the Ho'omalu Zone is able to support an additional fishing vessel. Under the regulations governing this fishery, this determination is to be announced in the **Federal Register**. The Regional Director intends to issue a limited entry permit to an eligible vessel owner according to regulations at 50 CFR 683.25 governing the bottomfish and seamount groundfish fisheries in the western Pacific region.

DATES: Applications for a NWHI bottomfish limited entry permit must be received by 4:30 p.m., HST January 3, 1994.

ADDRESSES: Requests for and submissions of NWHI bottomfish permit applications should be directed to the

Pacific Area Office, NMFS, 2570 Dole Street, Honolulu, Hawaii 96822, Attn: Permit Application.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Long Beach, California 90802 (310) 980–4034; or Alvin Katekaru, Pacific Area Office, Southwest Region, NMFS, Honolulu, Hawaii (808) 955–8831.

SUPPLEMENTARY INFORMATION: The bottomfish fishery in the exclusive economic zone of the NWHI is managed by the Secretary of Commerce (Secretary) according to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). The Council prepared, and the Secretary approved, the FMP under the authority of the Magnuson Fishery Conservation and Management Act. Permit requirements governing participation of U.S. vessels in the NWHI bottomfish limited access fishery are contained in 50 CFR part 683.

In 1988, Amendment 2 to the FMP created a limited access program for the NWHI bottomfish fishery. A vessel owner who meets one of the six eligibility criteria in the FMP for participation in the NWHI bottomfish limited access fishery (Ho'omalu Zone) was given 5 years from the effective date of the program (i.e., until the end of 1993) to file an application and receive a limited entry permit. This was intended to prevent a rush of entry or reentry to the Ho'omalu Zone and thus reduce the risk of overfishing. The regulations also provide mechanisms for future issuance of permits as exit from the fishery or increases in the stocks provide room for new entry.

At its 81st meeting in September 1993, the Council determined that the NWHI bottomfish fishery is able to support additional vessels in the fishery since the projected total annual revenue to the expanded fleet operating on a full-time equivalent basis will still exceed the total estimated annual fixed and variable costs of the fleet in the Ho'omalu Zone. There has been a gradual decrease in the level of participation in the fishery during the past few years. The number of active vessels dropped from 12 in 1988 to 5 in 1992, and only one of the participants in 1992 was fishing in the area full time. It is estimated the stocks in the Ho'omalu Zone could support 6.5 vessels on a full time basis and up to 11 vessels at the average level of participation on 1992.

The limited entry program anticipated some attrition in the fishery over time. Under the regulations, a permit holder must make three landings in a year to qualify for renewal of his permit. Several persons have lost their permit eligibility. New entry is provided for in two ways: First, prospective entrants may earn "points" toward eligibility by fishing in the Mau Zone or around the main Hawaiian Islands; or second, a former permit holder may surrender his permit to the Regional Director and gain priority for consideration for a permit if the fishery is opened to new persons.

The application deadline for limited entry permits under the initial eligibility criteria occurs at the end of 1993. Based on records available to him concerning participation in the fishery prior to the limited entry program, the Regional Director anticipates that no more than two persons would qualify for permits under the initial criteria. Both of these individuals have indicated an interest in obtaining permits to be effective in 1994. If these persons do apply, there would still be space for one additional vessel. Therefore, in concurrence with the Council's recommendation, the Regional Director has determined that there is room for one additional vessel. He intends to issue one permit under this provision. This permit will be issued to a previous permit holder who was the first to surrender his permit under § 683.25(e)(4) of the regulations and who therefore has top priority for a permit for the fishery.

If the two permit applications anticipated for receipt within the original 5-year application period are not received, the Regional Director will announce a new opportunity for prospective new entrants to apply for permits.

Dated: December 21, 1993.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 93–31574 Filed 12–27–93; 8:45 am]

BILLING CODE 3510-22-M

[I.D. 121793A]

Gulf of Mexico Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council's (Council) Shrimp Advisory Panel (Panel) will meet on January 10, 1994, at the Radisson Inn New Orleans Airport, 2150 Veterans Memorial Boulevard, Kenner, LA; telephone: (504) 467–3111. The meeting will be held from 10 a.m. until 5 p.m.

The Panel will complete the following:

(1) Review the results of the 1993 shrimp season in the Gulf of Mexico and develop recommendations to the Council for the seasonal closure off Texas for 1994;

(2) Receive a status report on studies to characterize and reduce finfish bycatch in shrimp trawls; and

(3) Review Draft Amendment #7 to the Fishery Management Plan for Gulf Shrimp which would provide a definition for overfishing of white shrimp and remedial action if overfishing should occur. It would also delete the total allowable level of foreign fishing for royal red shrimp and increase the domestic harvest levels.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Laura Mataluni at the address below by January 3, 1994.

FOR FURTHER INFORMATION CONTACT: Terrance R. Leary, Fishery Biologist, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL; telephone: (813) 228–2815.

Dated: December 17, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31693 Filed 12–27–93; 8:45 am]

BILLING CODE 3510-22-P

[I.D. 122093D]

North Pacific Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council's Industry Individual Fishing Quota (IFQ) Implementation Workgroup will meet on January 4, 1994, at 8 a.m. in conference room 445, at the Federal Building, 709 W. 9th Street, Juneau, AK.

The workgroup will discuss aspects of the final rulemaking for the Sablefish/Halibut IFQ program, which is scheduled to go into effect in 1995.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Judy Willoughby, on (907) 271–2809, at least 10 working days prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: Chris Oliver, The North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

Dated: December 21, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31694 Filed 12–27–93; 8:45 am]

BILLING CODE 3510-22-P

Marine Mammals

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Receipt of applications for a scientific research permit (P79H and P558).

SUMMARY: Notice is hereby given that: The Institute of Marine Sciences and Department of Biology, University of California, Santa Cruz, CA 95064 (Dr. Ronald Schusterman, Principal Investigator); and Department of Anatomy, Tulane University School and Medicine, New Orleans, LA 70112 (Dr. Robert D. Yates, Principal Investigator), have each applied for a Permit to take elephant seals (*Mirounga angustirostris*) for scientific research.

ADDRESSES: Documents submitted in connection with the above applications are available for review by writing to or by appointment in the Permits Division, Office of Protected Resources, NMFS, 1315 East-West Hwy., Suite 13130, Silver Spring, MD 20910 (301/713–2289);

(P79H and P558): Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; and

(P558): Director, Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, FL 33702–2432 (813–893–3141).

SUPPLEMENTARY INFORMATION: The University of California and Tulane University School of Medicine each request a Scientific Research Permit as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dr. Schusterman of the Santa Crus will conduct research on one elephant seal. An animal will be obtained from beached/stranded stock or if a suitable animal is not available, a seal will be collected from the wild. If collection will be from the wild, permission is requested to take three animals initially to determine trainability. Two will then be released back into the wild within 1 to 2 weeks after capture. The animal will be used in research to determine aerial and underwater pure tone detection thresholds. The object is to gain an understanding of the sensory systems of the elephant seal in its environment, as well as to determine the impacts of anthropogenic underwater noise on the animal's hearing abilities.

Dr. Yates of TU School of Medicine requests authority to obtain four beached/stranded elephant seals from rehabilitation centers that are earmarked for euthanasia. The hearings will be removed and used for study and biopsies will be taken and processed for routine light and electron microscopy and immunocytochemistry. The objective is to extend the level of information on how cardiac cell ultrastructure varies with activity and the environment. The long-term goal is to apply these findings to an understanding of human cardiac disorders.

Written data or views, or requests for a public hearing on either application should be submitted to the Assistant Administrator for Fisheries, NMFS, U.S. Department of Commerce, 1315 East-West Hwy., room 13130, Silver Spring, MD 20910, within 30 days of the publication of this notice.

Dated: December 21, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–31588 Filed 12–27–93; 8:45 am]

BILLING CODE 3510-22-M

[I.D. 122093E]

North Pacific Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council), its Advisory Panel (AP), and Scientific and Statistical Committee (SSC) will meet on January 9–11, 1994, at the Anchorage Hilton Hotel, 3rd Avenue & F Street, Anchorage, AK; telephone: (907) 272–7411.

The AP will begin its meeting on January 9 at 1 p.m., and the SSC will begin its meeting on January 10 at 10:30 a.m. The Council will meet on January 11 at 8 a.m. and continue through the week until the agenda is completed.

The Council will consider and may take action on the following agenda items:

(1) Review of elements and options for the comprehensive rationalization program for groundfish and crab fisheries off Alaska;

(2) Final review of a regulatory amendment that would implement a 5,000 lb. (2267.96 kg) trip limit on the 12-hour halibut openings in International Pacific Halibut Commission area 4B, with a 20-percent set-aside for vessels fishing under the trip limits;

(3) Final review of analysis for a superexclusive registration area for the Norton Sound red king crab fishery;

(4) Review of the provisions in the final rule to implement the Sablefish and Halibut Individual Fishing Quota program and receive a progress report on implementation;

(5) Receive a report from the Halibut Charter Working Group on management options for the Alaska halibut charter fleet and discuss future action;

(6) Develop research priority recommendations to forward to NMFS;

(7) Review an experimental permit request from Terra Marine Research, if available;

(8) Review activities of the Salmon Foundation and receive a report on chum salmon interceptions;

(9) Discuss and develop alternatives for full utilization of the fishery resources off Alaska;

(10) Receive a progress report from NMFS on development of alternatives for requiring total weight measurement in the fisheries; and

(11) Receive a report on bycatch of *C. opilio* in all fisheries and determine whether to proceed with further analysis of prohibited species caps.

Other committees and workgroups may meet during the week. All meetings are open to the public with the exception of a Council executive session, which will be held during the lunch hour sometime during the week. During executive sessions, the Council receives reports on litigation, international affairs, and personnel matters.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Judy Willoughby, on (907) 271–2809, at least 10 working days prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: The North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

Dated: December 21, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-31695 Filed 12-27-93; 8:45 am]

BILLING CODE 3510-22-P

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application Ser. No. 8-087,374, titled "Device for the Removal and Concentration of Organic Compounds from the Atmosphere," to Customs Industrial Analysis Laboratories, having a place of business in St. Joseph, MO. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. While the primary purpose of this notice is to announce NTIS' intent to grant an exclusive license to practice Ser. No. 8-087,374, it also serves to publish said patent's availability for licensing in accordance with law. The prospective exclusive license may be granted unless, within ninety days from the date of this published notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention describes a device and method for removing, concentrating and analyzing airborne organic compounds. The device includes a nonporous membrane which contains a collection media. The liquid collection media typically includes a component which has a molecular weight that is too large to pass through transport corridors in the nonporous membrane and a component which has a molecular weight which is sufficiently small to pass through the transport corridors in the nonporous membrane and thereby forming a thin film on the exterior surface of the device. The collection media can consist of only components too large to pass through the membrane transport corridors. Organic contaminants are trapped in the thin film on the exterior surface of the device or the membrane and transported by concentration gradient diffusion forces into the bulk of the collection media within the nonporous membrane.

A copy of the above-identified patent application may be purchased from the NTIS Sales Desk by telephoning 1-800-553-NTIS or by writing NTIS at 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Neil L. Mark, Office of Federal Patent Licensing, NTIS, box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Acting Director, Office of Federal Patent Licensing.

[FR Doc. 93-31541 Filed 12-27-93; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

December 21, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992; and 58 FR 62645, published on November 29, 1993). Also see 57 FR 60174, published on December 18, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 11, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1993 and extends through January 31, 1994.

Effective on December 23, 1993, you are directed to amend further the directive dated December 11, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of Bangladesh:

Category	Adjusted twelve-month limit [1]
334	122,261 dozen.
335	181,024 dozen.
347/348	1,659,021 dozen.
635	241,956 dozen.
647/648	827,650 dozen.
847	390,153 dozen.

[1] The limit has not been adjusted to account for any imports exported after January 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-31671 Filed 12-27-93; 8:45 am]

BILLING CODE 3510-DR-F

COUNCIL ON ENVIRONMENTAL QUALITY

Endangered Species Act Exemption; Annual Report Availability

December 21, 1993.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only: Notice of availability of annual report on Endangered Species Act exemption.

SUMMARY: This notice announces the availability of the 14th Annual Report submitted by Basin Electric Power Cooperative, as Project Manager for the Missouri Basin Power Project in the matter of an exemption granted from the requirements of the Endangered Species Act to Grayrocks Dam. The lead federal agency in the project is the Rural Electrification Administration.

DATES: The report was submitted to the Council On December 3, 1993.

SUPPLEMENTARY INFORMATION: Under the Endangered Species Act, any agency granted an exemption under 16 U.S.C. 1536(h) must submit to the Council on Environmental Quality an annual report describing its compliance methods with the mitigation and enhancement measures prescribed by 16 U.S.C. 1536. See 16 U.S.C. 1536(L)(2). This subsection further requires that the Council publish availability of the report in the **Federal Register**.

On February 7, 1979, the Endangered Species Committee granted an exemption from the requirements of the Endangered Species Act to Grayrocks Dam. In granting the Exemption Order, the Committee, as required by the Act, established requirements for reasonable mitigation and enhancement measures. These requirements are set out in an "Agreement of Settlement and Compromise" and is part of the Annual Report announced here.

ADDRESSES: The Annual Report is available from Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, ND 58501-0564; Telephone (701) 223-0441.

FOR FURTHER INFORMATION CONTACT: Elisabeth Blaug, Attorney, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503; telephone (202) 395-5754.

Ray Clark,

Senior Policy Analyst.

[FR Doc. 93-31529 Filed 12-27-93; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Advisory Board on Investigative Capability of the Department of Defense

AGENCY: Advisory Board on Investigative Capability of the Department of Defense.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a forthcoming meeting of the Advisory Board on the Investigative Capability of the Department of Defense. The purpose of the meeting is to discuss the course of action for the Advisory Board over the next year. This meeting is open to the public.

DATES: January 14, 1994.

ADDRESSES: 1700 N. Moore Street, suite 1420, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: E. Vaughn Dunnigan, Deputy Staff Director, Advisory Board on the Investigative Capability of the Department of Defense, 1700 N. Moore Street, suite 1420, Arlington, VA 22209; telephone (703) 696-6055.

Dated: December 21, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-31553 Filed 12-27-93; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Acquiring Defense Software Commercially

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Acquiring Defense Software Commercially will meet in open session on January 21, 1994 at Strategic Analysis, Inc., Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will review current DoD software acquisition regulations, DoD acquisition experience with selected software-intensive systems, and contractor acquisition experiences with DoD and commercial software-intensive systems.

Persons interested in further information should call Ms. Virginia Castor at (703) 614-0212.

Dated: December 21, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-31556 Filed 12-27-93; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Depot Management

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Depot Management will meet in closed session on January 20-21, 1994 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will assess the overall performance and management of depot-level activities of the Department of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1)(1988), and that accordingly this meeting will be closed to the public.

Dated: December 21, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-31555 Filed 12-27-93; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Corps of Engineers

Intent To Prepare a Draft Environment Impact Statement (DEIS), Red River of the North Cumulative Impact Evaluation Study of Impoundments

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The St. Paul District, Corps of Engineers, has received a number of Section 404 permit applications to construct surface water impoundments in the Red River of the North basin. The purpose of these impoundment is flood control, fish and wildlife enhancement/restoration, or a combination of purposes. Nationally significant natural, cultural, and socioeconomic resources

exist in the Red River Basin. Construction of impoundments could result in significant cumulative impacts to these resources. In order to evaluate the potential cumulative impacts of impoundment projects, a joint EIS with the Minnesota Department of Natural Resources will be prepared.

FOR FURTHER INFORMATION CONTACT: Questions concerning the DEIS can be directed to: Colonel James T. Scott, District Engineer, St. Paul District, Corps of Engineers, ATTN: Mr. Robert Whiting, 190 5th Street East, St. Paul, Minnesota 55101–1638.

SUPPLEMENTARY INFORMATION: The EIS will evaluate the potential for the construction of the proposed impoundments to result in cumulative environmental impacts. Alternatives to impoundments will also be evaluated. These alternatives include: levees, channelization, wetland restoration, greenbelt, watershed treatment, floodplain management, and others.

Significant issues and resources to be analyzed in the DEIS will be identified through coordination with responsible Federal, State, and local agencies; the general public; interested private organizations and parties; and affected Native Americans. Anyone who has an interest in participating in the development of the DEIS is invited to contact the St. Paul District, Corps of Engineers.

Significant issues identified to date for discussion in the DEIS are as follows:

1. Natural resources including: fishery, wildlife, vegetation, wetlands, riparian areas, and water quality;
2. Cultural resources in the basin;
3. Federally and State listed threatened or endangered plant or animal species;
4. Social and economic resources in the basin;
5. Tribal Trust resources and responsibilities.

Additional issues of significance may be identified through public and agency meetings. A notice will be provided to interested parties and to local news media.

Our environmental review and consultation will be conducted according to the requirements of the National Environmental Policy Act of 1969, National Historic Preservation Act of 1966, Council on Environmental Quality Regulations, Endangered Species Act of 1973, Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and applicable Corps of Engineers regulations and guidance.

We anticipate that the DEIS will be available to the public in March 1995.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–31575 Filed 12–27–93; 8:45 am]

BILLING CODE 3710–CY–M

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of committee: Army Science Board (ASB).
Date of Meeting: 13 January 1993.
Time of meeting: 0800–1700.
Place: Fort Monmouth, NJ.
Agenda: The Army Science Board's C3I Issue Group will meet to hear selected briefing related to the team study titled—"Leveraging Commercial Technologies in Army C3 Systems." This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Office, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–31546 Filed 12–27–93; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92–463), announcement is made of the following Committee Meeting:

Name of committee: Army Science Board (ASB).
Date of meeting: 20 January 1993.
Time of meeting: 0800–1700.
Place: Fort Gordon, GA.
Agenda: The Army Science Board's C3I Issue Group will meet to hear selected briefing related to the team study titled—"Leveraging Commercial Technologies in Army C3 Systems." This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–31547 Filed 12–27–93; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).
Date of meeting: 14 January 1994.
Time of meeting: 0800–1700.
Place: Fort Monmouth, NJ.
Agenda: The Army Science Board's C31 Issue Group will meet to hear selected briefing related to the team study titled—"Moving Army Tactical Command and Control System (ATCCS) from a Character-Oriented Message System to a Data-Oriented Message System and Leveraging Commercial technologies in Army C3 Systems." This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–31548 Filed 12–27–93; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of committee: Army Science Board (ASB).
Date of meeting: 12 January 1994.
Time of meeting: 0900–1700.
Place: Pentagon, Washington, DC.
Agenda: The Army Science Board's C31 Issue Group will meet to hear selected briefing related to the team study titled—"Moving Army Tactical Command and Control System (ATCCS) from a Character-Oriented Message System to a Data-Oriented Message System." This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–31550 Filed 12–27–93; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTION

OMB Clearance Request for Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Certificate

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of new request for OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980, the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Certificate.

DATES: Comments may be submitted on or before February 28, 1994.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the North American Free Trade Agreement (NAFTA) Implementation Act, unless specifically exempted by statute or regulation, agencies are required to evaluate offers over a certain dollar limitation to supply an eligible product without regard to the restrictions of the Buy American Act or the Balance of Payments program. Offerors identify excluded end products and NAFTA end products on this certificate.

The contracting officer uses the information to identify the offered items which are domestic and NAFTA country end products so as to give these products a preference during the evaluation of offers. Items having components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .167 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW, room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 1,140; responses per respondent, 5; total annual responses, 5,700; preparation hours per response, .167; and total response burden hours, 952.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB clearance request regarding Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Certificate, FAR case 93–310, in all correspondence.

Dated: December 15, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–31023 Filed 12–27–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, applicable form, and OMB control number: The Army Alumni Survey
Type of request: New Collection
Number of respondents: 4,500
Responses per respondent: 1
Annual responses: 4,500
Average burden per response: 30 minutes
Annual burden hours: 2,250
Needs and uses: This is a survey of Army veterans being conducted to obtain information on their transition to civilian life and their post-service careers. The data will be used to inform those responsible for recruiting, retention, and transition policies and programs.
Affected public: Individuals or households
Frequency: One time
Respondent's obligation: Voluntary
OMB desk officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD clearance officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: December 21, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–31554 Filed 12–27–93; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before January 27, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., Room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public

participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden ; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: December 21, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: New.
Title: Fast Response Survey System—Survey of Public Library Services to Children and Young Adults.
Frequency: One time.
Affected Public: Individuals or households.
Reporting Burden:
Responses: 2,400.
Burden Hours: 792.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: The purpose of this survey is to collect information regarding the services and resources that public libraries offer children and young adults. The Department will use the information to assess public libraries as they relate to the National Education Goals and to update two previous surveys.

[FR Doc. 93–31571 Filed 12–27–93; 8:45 am]

BILLING CODE 4000–01–M

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.
ACTION: Correction.

In the notice inviting applications for new awards for fiscal year 1994, beginning on page 50138 in the issue of Friday, September 24, 1993, make the following corrections:

On page 50141, in the chart for Office of Elementary and Secondary Education, the listing for CFDA No. 84.258A, Even Start Program—Indian Tribes and Tribal Organizations, should be deleted. The competition for new awards under this program for FY 1994 has been withdrawn. Revised funding estimates preclude an expenditure of funds for new awards for FY 1994.

On page 50147, in the continuation of Chart 4.—Office of Elementary and Secondary Education, the listing for CFDA No. 84.258A, Even Start Program—Indian Tribes and Tribal Organizations, should be deleted for the reason stated in the preceding paragraph.

On page 50151 the application notice for CFDA No. 84.258A, Even Start Program—Indian Tribes and Tribal Organizations, should be deleted.

FOR INFORMATION CONTACT: Patricia McKee, U.S. Department of Education, 400 Maryland Avenue, SW., room 2017, Washington, DC 20202–6132. Telephone (202) 401–1692. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Dated: December 20, 1993.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 93–31619 Filed 12–27–93; 8:45 am]

BILLING CODE 4000–01–P

Federal Interagency Coordinating Council Meeting (FICC)

AGENCY: Federal Interagency Coordinating Council, Education.
ACTION: Notice of a public meeting.

SUMMARY: This notice describes the schedule and agenda of a forthcoming meeting of the Federal Interagency Coordinating Council. Notice of this meeting is required under section 685(c) of the Individuals With Disabilities Education Act, as amended, and is intended to notify the general public of their opportunity to attend the meeting. The meeting will be accessible to individuals with disabilities.

DATE AND TIME: January 20, 1994, from 10 a.m. to 5 p.m.

ADDRESSES: Crystal Gateway Marriott, Salon VI, 1700 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Connie Garner, U.S. Department of Education, 400 Maryland Avenue, SW., room 4613, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–8124. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–8170.

SUPPLEMENTARY INFORMATION: The Federal Interagency Coordinating Council (FICC) is estimated under section 685 of the Individuals With Disabilities Education Act, as amended (20 U.S.C. 1484a). The Council is established to: (1) Minimize duplication across Federal, State and local agencies of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families and preschool services for children with disabilities; (2) ensure effective coordination of Federal early intervention and preschool programs, including Federal technical assistance and support activities; and (3) identify gaps in Federal agency programs and services and barriers to Federal interagency cooperation. To meet these programs, the FICC seeks to: (1) identify areas of conflict, overlap, and omissions in interagency policies related to the provision of services to infants, toddlers, and preschoolers with disabilities; (2) develop and implement joint policy interpretations on issues related to infants, toddlers, and preschoolers that cut across Federal agencies, including modifications of regulations to eliminate barriers to interagency programs and activities; and (3) coordinate the provision of technical assistance and dissemination of best practice information. The FICC is chaired by the Assistant Secretary for Special Education and Rehabilitative Services.

At this meeting the FICC plans to identify and discuss cross-cutting interagency issues for consideration around the reauthorization of the Individuals With Disabilities Education Act (IDEA).

The meeting of the FICC is open to the public. Written public comment will be accepted at the conclusion of the meeting. These comments will be included in the summary minutes of the meeting. The meeting will be physically accessible, with meeting materials provided in both braille and large print.

Interpreters for persons who are hearing impaired will be available. Individuals with disabilities who plan to attend and need other reasonable accommodations should contact the contact person named above in advance of the meeting.

Summary minutes of the FICC meetings will be maintained and available for public inspection at the U.S. Department of Education, 400 Maryland Avenue, SW., room 3127, Switzer Building, Washington, DC 20202–2644, from the hours of 9 a.m. to 5 p.m., weekdays, except Federal holidays.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 93–31599 Filed 12–27–93; 8:45 a.m.]

BILLING CODE 4000–01–M

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education, Education.
ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIME: Tuesday, January 25, 1994 from 9 a.m. to 5 p.m. and Wednesday, January 26, 1994 from 9 a.m. to 3:30 p.m.

ADDRESSES: The meeting will beheld at the Sheraton Tampa East Hotel, 7401 East Hillsborough Avenue, Tampa, Florida, 33610, (813) 626–0999.

FOR FURTHER INFORMATION CONTACT: Robert K. Chiago, Executive Director, National Advisory Council on Indian Education, 330 C Street, SW., room 4072, Switzer Building, Washington, DC 20202–7556. Telephone: 202/205–8353.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (Part C, Title V, Pub. L. 100–297) and to advise Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

The meeting is open to the public. The agenda of the National Advisory Council on Indian Education includes a general business meeting and a review session of the findings from hearings previously held by the NACIE Executive Committee on November 18 and 19, 1993 in Albuquerque, New Mexico. The hearings were held to allow the Indian community the opportunity to provide written and/or oral testimony on the reauthorization of the Elementary and Secondary Education Act and the Goals 2000: Educate America Act.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Indian Education located at 330 C Street SW., room 4072, Washington, DC 20202–7556 from the hours of 9 a.m. to 4:30 p.m. Monday through Friday.

Dated: December 21, 1993.

Robert K. Chiago,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 93–31579 Filed 12–27–93; 8:45 am]

BILLING CODE 4000–01–M

Nominations Committee of the National Assessment Governing Board; Closed Meeting

AGENCY: National Assessment Governing Board; Education.
ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming closed meeting of the Nominations Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: January 7, 1994.

TIME: 9 a.m. to 4:30 p.m.

LOCATION: 800 North Capitol Street, NW., Suite 825, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC 20002–4233; Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons

The Nominations Committee of the National Assessment Governing Board will meet in closed session on January 7, 1994, from 9 a.m. until 4:30 p.m., to review and discuss personal qualifications and experience of nominees recommended to serve in the respective category for Board membership. The review and subsequent discussion of this information will touch upon matters that relate solely to the internal rules and practices of an agency and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552b(c) of title 5 U.S.C.

The Public is given less than fifteen days notice of this meeting because of problems encountered in scheduling.

A summary of the activities of the meeting and related matters, which are informative to the public, consistent with the policy of 5 U.S.C. 552b, will be available to the public within fourteen days after the meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. until 5 p.m.

Dated: December 22, 1993.

Roy Truby,

Executive Director, NAGB.

[FR Doc. 93–31605 Filed 12–27–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.
ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures

for the disbursement of $200,000, plus accrued interest, obtained by the DOE under the terms of a settlement agreement entered into with the consolidated bankruptcy estate of Ted True, Inc. and Ted W. True (Case No. LEF–0115). The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 F.R. 27899 (August 4, 1986).

DATE AND ADDRESS: Applications for Refund from the crude oil funds should be clearly labeled "Application for Crude Oil Refunds" and should be mailed to Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Applications for Refund must be filed in duplicate no later than June 30, 1994. Any party who has previously filed an Application for Refund should not file another Application for Refund from the present crude oil funds. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the procedures are finalized.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute $200,000, plus accrued interest, that has been remitted by the consolidated bankruptcy estate of Ted True, Inc. and Ted W. True to the DOE. The DOE is currently holding the funds in an interest bearing account pending distribution.

The DOE has determined to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, federal government, and injured purchasers of refined products. Under the plan, refunds to the states will be in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products that they purchased and the extent to which they can demonstrate injury.

Applications for Refund must be postmarked no later than June 30, 1994. As we state in the Decision, any party who has previously submitted a refund application for in the crude oil refund proceedings should not file another application for refund in the crude oil proceedings. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the procedures are finalized.

Dated: December 20, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order

December 20, 1993.

Names of Firms: Ted True, Inc. and Ted W. True.

Date of Filing: October 7, 1993.

Case Number: LEF–0115.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

In this Decision and Order, we consider a Petition for Implementation of Special Refund Procedures filed by the ERA on October 7, 1993 for crude oil overcharge funds. The funds at issue in this Petition were obtained from the consolidated bankruptcy estate of Ted True, Inc. and Ted W. True (hereafter collectively referred to as "True"). This Office issued a Remedial Order against True for violations of the crude oil price regulations during the period from June 1979 through November 1980. *Ted True, Inc., et al.*, 15 DOE ¶ 83,032 (1987). On October 25, 1990, the United States Bankruptcy Court for the Northern District of Texas issued an order approving a compromise and settlement agreement between the Trustee for True and the DOE. In this agreement, the Trustee for True agreed to pay $200,000 to the DOE in order to resolve the DOE's claim without the expense and inconvenience of further judicial proceedings. The total amount was received by the DOE on November 14, 1990. This Decision and Order establishes the OHA's procedures to distribute those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR part 205, subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement subpart V procedures with respect to the monies received from True and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in *In re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all Subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the Subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, i.e., *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988) (*NYP*); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988) (*Allerkamp*), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case *In re: The Department of Energy Stripper Well Exemption Litigation*, various states filed a Motion with the Kansas District Court, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. *In re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318 (D. Kan. 1987), *aff'd*, 857 F. 2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323.

The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. *The Proposed Decision and Order*

On October 29, 1993, the OHA issued a Proposed Decision and Order (PDO) establishing tentative procedures to distribute the alleged crude oil violation amount obtained from True. 58 Fed. Reg 59030 (November 5, 1993). The OHA tentatively concluded that the funds should be distributed in accordance with the MSRP and the April Notice. Pursuant to the MSRP, the OHA proposed to reserve initially twenty percent of the crude oil violation funds for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining eighty percent of the funds would be distributed to the states and federal government for indirect restitution. After all valid claims have been paid, any remaining funds in the claim reserve would also be divided between the states and federal government. The federal government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the PDO, the OHA proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged crude oil overcharges. The PDO stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry are presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a volumetric refund amount, as described in the April Notice. The PDO provided a period of 30 days from the date of publication in the **Federal Register** in which comments could be filed regarding the tentative distribution process. More than 30 days have elapsed and the OHA has received no comments concerning the proposed procedures for the distribution of the True settlement funds. Consequently, the procedures will be adopted as proposed.

III. *The Refund Procedures*

A. Refund Claims

The OHA has concluded that the $200,000, plus interest that has accrued on that amount, should be distributed in accordance with the crude oil refund procedures discussed above. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $40,000, plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in Subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g., Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986) (*Mountain Fuel*). As in non-crude oil cases, applicants will be required to document their purchase volumes of covered products and prove that they were injured as a result of the alleged violations. Generally, a covered product is any product that was covered by the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751–760, and was primarily produced at a crude oil refinery. *E.g., Anchor Continental, Inc.*, 22 DOE ¶ 85,003 (1992). Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *E.g., A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,893–96 (1987). However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. *E.g., Berry Holding Co.*, 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. *E.g., NYP*, 18 DOE at 88,701–03.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the *OHA Report to the District Court in the Stripper Well Litigation, reprinted in* 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under Subpart V. *Mid-America Dairyman, Inc.* v. *Herrington*, 878 F. 2d 1448 (Temp. Emer. Ct. App. 1989); *accord, Boise Cascade Corp.*, 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($200,000) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel*, 14 DOE at 88,868 n.4. This yields a volumetric refund amount of $0.0000000989 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one Application for crude oil overcharge funds. *E.g., Allerkamp*, 17 DOE at 88,176. Any party that has previously submitted a refund Application in the crude oil refund proceedings need not file another Application. That previously filed Application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. The DOE has established June 30, 1994 as the final deadline for filing an Application for Refund from the crude oil funds. See 58 FR 26,318 (May 3, 1993). It is the policy of the DOE to pay all crude oil refund claims filed within this deadline at the rate of $.0008 per gallon. However, while we anticipate that applicants that filed their claims within the original June 30, 1988 deadline will receive a supplemental refund payment, we will decide in the future whether claimants that filed later Applications should receive additional refunds. *E.g., Seneca Oil Co.*, 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the **Federal Register.**

B. Crude Oil Application Requirements

To apply for a crude oil refund, a claimant should submit an Application for Refund containing all of the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is a corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for any additional information, and the name and address of the person who should receive any refund check.[1] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify these names;

(2) If the applicant's firm is owned by another company, or owns other companies, a list of those companies' names, addresses, and descriptions of their relationship to the applicant's firm;

(3) A brief description of the claimant's business and the manner in which it used the petroleum products listed on its application;

(4) A statement identifying the petroleum products which the applicant purchased during the period August 19, 1973 through January 27, 1981, an annual schedule displaying the number of gallons of each petroleum product purchased during this refund period, and the total number of gallons of all petroleum products claimed on the refund application;

(5) An explanation as to how the applicant obtained the above mentioned purchase volumes, and, if estimates were used, a description of its method of estimation;

(6) A statement that neither the claimant, its parent firm, affiliates, subsidiaries, successors, nor assigns has waived any right it may have to receive a crude oil refund (e.g., by having executed and submitted a valid waiver accompanying a claim to any of the escrow accounts established pursuant to the Stripper Well Settlement Agreement);

(7) A statement that the applicant has not filed any other refund application in the Subpart V crude oil refund proceeding;

(8) If the applicant is not an end-user, was covered by the DOE price regulations, or is related to the petroleum industry, a showing

[1] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not wish to submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 CFR part 205, subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

that the applicant was injured by the alleged crude oil overcharges;

(9) If the Applicant is a regulated utility or a cooperative, certifications that it will pass on the entirety of any refund received to its customers, will notify its state utility commission, other regulatory agency, or membership body of the receipt of any refund, and a brief description as to how the refund will be passed along;

(10) The statement listed below signed by the individual applicant or a responsible official of the company filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled "Application for Crude Oil Refund." Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for this information to be publicly disclosed, it must submit an original application, clearly designated "confidential," containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be sent to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

The filing deadline is June 30, 1994. Even though an applicant is not required to use any specific form for its crude oil refund application, a suggested form has been prepared by the OHA and may be obtained by sending a written request to the address listed above.

C. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or $160,000, plus interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to segregate the $160,000, plus interest, available for disbursement to the states and federal government and transfer one-half of that amount, or $80,000, plus interest, into an interest-bearing subaccount for the states, and one-half, or $80,000, plus interest, to an interest bearing subaccount for the federal government. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It Is Therefore Ordered That:

(1) Applications for Refund from the alleged crude oil overcharge funds remitted by the consolidated bankruptcy estate of Ted True, Inc. and Ted W. True ("True") may now be filed.

(2) All Applications submitted pursuant to paragraph (1) above must be filed in duplicate and postmarked no later than June 30, 1994.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer $200,000 (plus interest) from the True subaccount (Account Number 6A0X00300Z), pursuant to Paragraphs (4), (5), and (6) of this decision.

(4) The Director of Special Accounts and Payroll shall transfer $80,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $80,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $40,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Claimants 4," Number 999DOE010Z.

Dated: December 20, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93-31683 Filed 12-27-93; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4818-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 27, 1994.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain a copy of this ICR, contact Sandy Farmer at 202-260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Determining Conformity of General Federal Actions to State or Federal Implementation Plans—Information Requirements (EPA ICR No. 1637.02). This is a request for approval of a new information collection.

Abstract: On November 30, 1993 (58 FR 63214), the EPA promulgated a rule to ensure that Federal actions conform to the appropriate State implementation plan (SIP). This rule is effective January 31, 1994, and will be codified at 40 CFR part 51, subpart W and 40 CFR part 93, subpart B. The General Conformity for all Federal actions, except Federal highway and transit actions ("transportation conformity"). Transportation conformity requirements were established in a separate rulemaking (see 58 FR 62188, November 24, 1993).

Conformity to a SIP is defined as meaning conformity to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards (NAAQS) and achieving expeditious attainment of these standards. The Federal agency responsible for a proposed action is required to determine if its actions conform to the applicable SIP and to submit information to the appropriate State or local air quality agency.

At the time of promulgation of the General Conformity rule, EPA had not yet submitted an ICR to OMB under the Paperwork Reduction Act. Therefore, the final rule was published with a statement that the information requirements would not be effective until approved by OMB. In compliance with the Paperwork Reduction Act, this notice announces that the ICR for the General Conformity rule has been forwarded to OMB for review.

Burden Statement: The public reporting burden for this collection of information is estimated to average 370 hours per response. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Respondents: Federal Agencies or private sponsors of activities that require Federal support or approval; State and local air quality agencies.

Estimated No. of Respondents: 802.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 297,140 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460.

and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: December 21, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93-31621 Filed 12-27-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4815-5]

Oklahoma; Final Determination of Adequacy of State/Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination on Application of Oklahoma for Full Program Adequacy Determination.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) that may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

Oklahoma applied for a determination of adequacy under section 4005 of RCRA. EPA reviewed Oklahoma's application and proposed a determination that Oklahoma's MSWLF permit program is adequate to ensure compliance with the revised MSWLF Criteria. After consideration of all public comments received, EPA is today issuing a final determination that the State's program is adequate.

EFFECTIVE DATE: The determination of adequacy for Oklahoma shall be effective on December 28, 1993.

FOR FURTHER INFORMATION CONTACT: Becky Weber, Chief, Solid Waste Section, US EPA Region 6, Dallas, Texas 75202; (214) 655-6760.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR Part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the Federal Criteria under Part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of Oklahoma

On August 10, 1993, Oklahoma submitted an application for adequacy determination for Oklahoma's municipal solid waste landfill permit program. On September 16, 1993, EPA published a tentative determination of adequacy for all portions of Oklahoma's program. Further background on the tentative determination of adequacy appears at 58 FR 48516, 48518 (September 16, 1993). A 30-day public comment period was held until October 18, 1993. In this notice of tentative determination, EPA announced that a public hearing would be held if a sufficient number of people requested a hearing. The Agency received one comment letter in response to the tentative determination. No requests for a public hearing were received, therefore, a hearing was not held.

In the tentative determination notice, EPA discussed that Oklahoma was required to pass regulations that are as stringent as the Federal regulations cited at 40 CFR part 258 (RCRA - Subtitle D) before final approval of the solid waste permitting program would be granted by EPA. On September 22, 1993, the Environmental Quality Board (the Board) of the Oklahoma Department of Environmental Quality (ODEQ) approved the proposed Oklahoma regulations, with some nonsubstantive revisions, as temporary regulations which will expire on June 30, 1994. The Oklahoma regulations were implemented on a temporary basis because of administrative requirements and because of the additional changes made by the Board. It is EPA's understanding that these additional

revisions are beyond Subtitle D requirements. On October 8, 1993, the Governor of the State of Oklahoma signed the Oklahoma regulations into law on an emergency basis effective until June 30, 1994. At the request of the Board, ODEQ currently is amending its solid waste regulations for permanent adoption on or before June 30, 1994. The amendments that are being proposed are minor in nature and do not affect the Subtitle D requirements of the Oklahoma regulations (Oklahoma Administrative Code, Title 252, Chapter 510). These minor amendments are tentatively scheduled to be presented to the Board on February 23, 1994 for final adoption.

C. Public Comments

EPA received one public comment on the tentative determination of adequacy for Oklahoma's MSWLF permit program. The commentator stated that he fully supported the approval of Oklahoma's Solid Waste Management program.

D. Decision

After reviewing the public comment and the temporary nature of the rules adopted by ODEQ on October 8, 1993, EPA concludes that Oklahoma's application for adequacy determination currently meets all of the statutory and regulatory requirements established by RCRA. EPA's final approval of the solid waste program is only applicable through June 30, 1994, since the ODEQ's solid waste regulations adopted on September 22, 1993, expire on that date. Once the ODEQ's Board adopts permanent regulation revisions (proposed date February 23, 1994) and these permanent regulations are submitted by the Governor of the State of Oklahoma as final rules, EPA will re-evaluate the revised regulations to ensure the permanent rules are as stringent as the Federal Criteria for solid waste disposal (40 CFR part 258). EPA will publish another determination of adequacy based on these permanent rule revisions in the **Federal Register**. Accordingly, Oklahoma is granted a determination of adequacy through June 30, 1994, for all portions of its municipal solid waste permit program as adopted on September 22, 1993, and signed by the Governor on October 8, 1993. Oklahoma's solid waste program does not apply and cannot be enforced in Indian country in the State. Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's/Tribe's program are already in effect as a matter of State/Tribal law. EPA's action today does not impose any new compliance requirements on the regulated community. Nor do these requirements become enforceable by EPA as federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this notice from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority

This notice is issued under the authority of Section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: December 15, 1993.

Joe D. Winkle,

Acting Regional Administrator.

[FR Doc. 93-31700 Filed 12-27-93; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3561.

OMB Number: 3060-0549

Title: Cable Programming Service Rate Complaint Form

Form Number: FCC Form 329

Action: Revision of a currently approved collection

Respondents: Individuals or households, state or local governments, nonprofit institutions and businesses or other for-profit (including small businesses)

Frequency of Response: On occasion reporting requirement

Estimated Annual Burden: 23,000 responses; .75 hours average burden per response; 17,250 hours total annual burden

Needs and Uses: The Mass Media Bureau has, on its own motion, adopted a revised cable programming service rate form in order to ensure that all interested parties are able to more easily communicate their cable complaints to the Commission. The revised FCC Form 329 will make it easier for consumers and franchising authorities to request that the FCC investigate alleged violations of the Cable Act. The revised form requests the same information as the earlier edition, but in a more "user-friendly" format. The revised form also provides consumers with helpful information about cable regulations in general. Instructions for using the form have been clarified and the form has been redesigned with questions and instructions in larger type and larger spaces provided for responses. Comments for this information collection will be accepted.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

BILLING CODE 6712-01-M

Federal Communications Commission
Washington D.C. 20554

Approved by OMB
3060-0549
Expires 10/30/XXX

FCC 329

CABLE PROGRAMMING SERVICE RATE COMPLAINT FORM INSTRUCTIONS

The Federal Communications Commission (FCC) investigates the reasonableness of rates for cable programming service based on complaints filed by subscribers, as well as local and state governments. By filing this form, you begin an investigation of your cable system's rates for cable programming service. Therefore, your participation is critical to the enforcement of the FCC's cable rate regulation rules.

Please read the following information before completing the attached Cable Programming Service Rate Complaint Form.

Who Regulates Cable Rates?

When you subscribe to cable television, your cable system offers you the option of choosing from among different programming packages. Some packages are regulated by the FCC and others by your local franchising authority.

The Federal Communications Commission is the federal administrative agency charged with regulating communications by radio, television, wire, satellite and cable.

A franchising authority is the local municipal, county or other government organization that regulates your cable television service. The name of your local franchising authority should be on the front or back of your current cable bill.

If the information is not on your bill, contact your cable company or your local government.

What Do Local Franchising Authorities Regulate?

In most instances, your local franchising authority is responsible for regulating:

- Rates for basic cable service, equipment used to receive basic cable service and installation and service charges related to basic service. The term "basic service" refers to the lowest level of cable service you can buy, and is the program package that includes signals from local television stations (such as ABC, NBC and CBS affiliates and independent television stations) and public, educational and governmental access channels. Your cable system may use other terms to describe this service.
- Customer service -- for instance, complaints about bills, a cable system's response to inquiries about signal quality and a cable system's response to service requests.
- Franchise fees -- the fees paid by the cable system to the franchising authority for the right to offer cable service.

You should contact your local franchising authority if you believe your rates for basic service, related equipment or installation are unreasonable. Your local franchising authority will tell you if it is not responsible for regulating these rates.

You should contact your local franchising authority, and not the FCC, with complaints regarding customer service and franchise fees.

What Cable Rates Does the FCC Regulate?

The FCC regulates rates you pay for certain programming that the FCC refers to as cable programming service. "Cable programming service" includes all program channels on your cable system that are not included in basic service and are not separately offered as pay-per-channel programming or pay-per-program services.

The FCC also regulates rates for equipment used solely to receive cable programming service and installation and service charges related solely to cable programming service. However, since most equipment used to receive cable programming service is also used to receive basic service, equipment complaints should generally be directed to your local franchising authority.

Are There Some Rates That Neither the FCC Nor Local Franchising Authorities Regulate?

Yes. Neither the FCC nor your local franchising authority regulates rates for pay-per-channel programming (for instance, a premium movie channel such as HBO or Showtime) and pay-per-program services (for instance, pay-per-view sports events). Therefore, you should not file a complaint about these services with the FCC or your local franchising authority..

FCC Form 329
December, 1993

Who Should Fill Out This Form?

You should fill out this form and submit it to the FCC if you are a cable subscriber wishing to file a complaint with the FCC about cable programming service, related equipment or installation. Franchising authorities and other relevant state or local governments may also use this form to file a complaint with the FCC about cable programming service, related equipment or installation.

How Does the Complaint Process Work?

Your complaint begins a legal process that requires your cable company to demonstrate that its rates are reasonable under the law.

The FCC requires your cable company to respond in writing to your complaint within thirty days of the date you file your complaint, unless your cable company is notified by the FCC that your complaint cannot be processed. In its response, your cable company must show that its rates are reasonable under the law. The cable company must provide you with a copy of its response. The FCC will examine the information submitted by the cable company and determine whether its rates for cable programming service are too high. If so, the FCC may order a refund and/or a rate reduction for the cable programming service. You and the franchising authority will receive a copy of the FCC's final ruling on the reasonableness of the cable programming service rate charged by your cable company.

Your complaint will be maintained by the FCC under the cable company's community unit identifier, which is a number assigned to each cable system by the FCC for administrative purposes. This number should appear on your cable bill. Your complaint will not be filed under your name. If you have a question concerning the status of your complaint, you may call (202) 416-0910. Please be prepared to tell us the name of the cable system and the name of the community where the cable system is located.

How To Fill Out This Form

1. You should use this form only to complain about rates for cable programming service, related equipment or installation, as described above.

2. In order to complete this form, you will need a copy of your current cable bill and the name and address of your local franchising authority. The name and address of your local franchising authority should appear on the front or back of your cable bill. If it does not, you must contact your cable company or your local government to obtain this information. We cannot process your complaint unless you include this information!

3. You may ask your local franchising authority for assistance in filling out this form. You may also attach a statement from your local franchising authority describing its views about the cable programming service rate in question. However, this is not a requirement.

4. Please fill in all information requested on this form. If you do not do so, we may not be able to process your complaint.

5. If you have any questions about how to fill out this form, you may call the FCC at (202) 416-0802.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information in this form is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine the reasonableness of a cable company's rates. In reaching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. All information provided in this form will be available for public inspection. Your response is required to obtain the requested relief.

Public reporting burden for this collection of information is estimated to average 45 minutes including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, AMD-PRB, Washington, D.C. 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0640), Washington, D.C. 20503.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1975, 5 U.S.C. 522(A)(e)(E) AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

Federal Communications Commission
Washington, D.C. 20554

FCC 329

Approved by OMB
3060-0546
Expires 05/31/95

CABLE PROGRAMMING SERVICE RATE COMPLAINT FORM

1. **PLEASE READ THE ATTACHED INSTRUCTIONS BEFORE COMPLETING THIS FORM**

Your Name		Street Address	
City	State	Zip Code	Daytime Phone Number (optional)

2.

Franchising Authority Name		Street Address	
City	State	Zip Code	The name of your franchising authority should appear on your cable bill. If not, contact your cable company or local government for information

3.

Cable System Name		Street Address	
City	State	Zip Code	If you are complaining about the rates charged by more than one cable system, you must complete and file a separate form for each system

4. What is the FCC's community unit identifier for your cable system? This is a two letter abbreviation followed by four numbers -- for example, PA0000 -- that should appear on your cable bill. If it does not, leave this space blank. [ ][ ][ ][ ][ ][ ]

5. Have you previously filed a complaint against this cable
☐ Yes, on ☐ ☐ ☐ (MONTH DAY YEAR)
☐ No

If yes, was your complaint returned to you by the FCC with a request for additional information?
☐ Yes, on ☐ ☐ ☐ (MONTH DAY YEAR)
☐ No

6. Complaints about rate increases for cable programming services or related equipment must be received by the FCC within 45 days from the date you first received a bill showing the rate increase. (There is one exception to this rule. If you are challenging a rate that was in effect on September 1, 1993, you have until February 28, 1994, to file a complaint about that rate.) Late-filed complaints will be returned and your cable company will not be required to file a response to your complaint, so be sure to file your complaint within 45 days of the first time your bill includes the rate increase.

When did you first receive a bill reflecting the rate increase you are complaining about? (If you are complaining about a rate in effect on September 1, 1993, please enter "September 1, 1993" in this box.) ☐ ☐ ☐ (MONTH DAY YEAR)

7. What is your current monthly rate for cable programming service? $

If you are complaining about a rate increase, what was your previous monthly rate for cable programming service? $

FCC Form 329 December 1993

8. Have any channels been added to or dropped from your cable programming service since your last bill?

a. Yes, channels have been added ☐

b. Yes, channels have been dropped ☐

c. No, there has been no change ☐

9. If you are a cable subscriber, you must attach a copy of your current cable bill or we will not be able to process your complaint. You may attach a copy of your previous cable bill as well; however, this is not required.

10. You may attach any additional comments or explanations to this form.

11. You must send copies of this complaint, your cable bill and any additional comments to your cable company and to your local franchising authority at the addresses you listed above by first class mail, postage prepaid, on the same date you sent this complaint to the FCC. If you do not send the copies, your cable company will not be required to respond and we will not be able to process your complaint.

On what date did you send the copies?

MONTH	DAY	YEAR

12. By signing this form, I certify:

a. That to the best of my knowledge, the information supplied on this form is true and correct;
b. That I am sending a copy of this complaint, including a copy of my cable bill and any additional comments, to the cable company and the local franchising authority at the addresses listed above via first class mail, postage prepaid; and
c. That I believe the cable company's rate for my cable programming service or related equipment is unreasonable.

This form must be signed or we will not be able to process your complaint.

Signature Date

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001)

13. Mail the original signed copy of this completed form, with a copy of your cable bill and any additional comments, to:

Federal Communications Commission
Attention: Cable Programming Service Rate Complaint
P.O. Box 19968
Washington, D.C. 20036
Fax Number: (202) 418-0679

Remember to also mail copies of the form, with a copy of your cable bill and any additional comments, to your cable company and your local franchising authority.

YOUR PARTICIPATION IS CRITICAL TO THE IMPLEMENTATION OF THE CABLE ACT.
YOUR INVOLVEMENT IS GREATLY APPRECIATED!

[FR Doc. 93–31628 Filed 12–23–93; 9:44 am]
BILLING CODE 6712–01–C

[Report No. 1993]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

December 22, 1993.

Petitions for reconsideration and clarification have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to these petitions must be filed by January 12, 1994. See 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992 (MM Docket No. 92–266).

Petitions for Reconsideration

Number of Petitions Filed: 10.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 93–31602 Filed 12–27–93; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Rescission of Order of Revocation

Notice is hereby given that the Order of Revocation pertaining to the following ocean freight forwarder has been rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License No.	Name/Address
3376	J.B. Daman (U.S.A.) Ltd., 2500 A Broening Highway, Ste. 203, Baltimore, MD 21224.

Bryant L. VanBrakle,
Director, Bureau of Tariffs, Certification and Licensing.
[FR Doc. 93–31559 Filed 12–27–93; 8:45 am]
BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 3640
Name: Ruben Posada dba Posada International Cargo
Address: 1595 East El Segundo Blvd., El Segundo, CA 90245
Date Revoked: November 17, 1993
Reason: Failed to maintain a valid surety bond.

License Number: 2667
Name: Eurocontinental, Inc.
Address: 860 Thomas Dr., Bensenville, IL 60106
Date Revoked: November 18, 1993

License Number: 3421
Name: Damco Maritime Corp.
Address: 2 Hudson Place, Hoboken, NJ 07030
Date Revoked: November 26, 1993
Reason: surrendered license voluntarily.

License Number: 340
Name: B.A. McKenzie & Co., Inc.
Address: 8138 Pacific Avenue, P.O. Box 1435, Takoma, WA 98401
Date Revoked: December 1, 1993
Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,
Director, Bureau of Tariffs, Certification and Licensing.
[FR Doc. 93–31560 Filed 12–27–93; 8:45 am]
BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegation of Authority

Part A (Office of the Secretary), Chapter AE (Office of the Assistant Secretary for Planning and Evaluation) of the Statement of Organization, Functions and Delegation of Authority for the Department of Health and Human Services (last amended at 55 FR 249 on December 27, 1990) is amended. The changes are as follows:

A. Chapter AE paragraph E. "The Office of Human Services Policy," delete in its entirety and replace with the following:

E. The Office of Human Services Policy—The Office of Human Services Policy is responsible for policy development—including policy planning, policy and budget analysis, review of regulations and formulation of legislation—and for the conduct and coordination of research and evaluation on issues relating to income assistance, income security, employment, and related human services programs. In particular, the office is responsible for policies concerning families, child and youth development, welfare, retirement and disability assistance. In these matters, the office works closely with the Social Security Administration and the Office of the Assistant Secretary for Children and Families.

1. The Division of Economic Support for Families is responsible for policy coordination, long-range planning, budget and economic analysis, program analysis, review of regulations and reports on legislation, review and conduct of research and evaluation activities, research, and information dissemination related to the Department's programs that provide cash and employment and training assistance to non-elderly populations including families and their children. The principal Department programs examined are Aid to Families with Dependent Children, Child Support Enforcement, Low-Income Home Energy Assistance, JOBS, and refugee assistance. The division performs oversight functions in regard to programs outside the Department that affect employment and income support, such as the Earned Income Tax Credit, Food Stamps, housing assistance programs, and employment and training programs.

2. The Division of Economic Security for the Elderly and Persons with Disabilities is responsible for policy coordination, long-range planning, budget and economic analysis, program analysis, review of regulations and reports on legislation, research, and information dissemination related to income security policies for the aged and persons with disabilities and especially for the Department's Social Security programs. The Division is responsible for monitoring and evaluating the performance of policies and programs affecting the economic well-being of the aged and persons with disabilities in this and other Departments including the Old Age and Survivors Insurance Program, the Supplemental Security Program, the Disability Insurance Program, pension and retirement policies, and favored tax treatment. Responsibilities include advising the Secretary about his or her decisions as a trustee of the several Social Security funds.

3. The Division of Children and Youth Policy is responsible for policy coordination and development, planning, formulating budget and legislative proposals, economic analysis, policy and program analysis, review of regulations, research, and information collection and dissemination related to programs and policies affecting children and youth. The principal areas of responsibility include: child welfare and child protection, family support, child care, child development, human services for children and youth, and issues related to special populations of children such as drug-exposed children, runaway youth, and homeless children and their families.

4. The Division of Data and Technical Analysis is responsible for the development and oversight of research and data gathering activities, analysis of databases, technical assistance and support for policy development, and modeling. The division focuses on Administration for Children and Families and cross-cutting income security issues, including Aid to Families with Dependent Children, Child Support Enforcement, Low-Income Energy Assistance, the Earned Income Tax Credit, Food Stamps, housing assistance programs, and child care.

Kenneth S. Apfel,

Assistant Secretary for Management and Budget.

[FR Doc. 93-31551 Filed 12-27-93; 8:45 am]

BILLING CODE 4110-60-P

Food and Drug Administration

[Docket No. 93N-0485]

Opportunity for Submission of Petitions for Essential Use Exemption for Certain Ozone-Depleting Substances Pursuant to the Clean Air Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing specific procedures whereby a manufacturer of a potentially essential medical product that is regulated by FDA and that is affected by the nonessential use bans under the Clean Air Act (CAA), as amended in 1990, may apply to FDA, using the petition process provided in FDA's administrative regulations for an exemption from the bans if the product meets certain criteria.

DATES: Submit written comments by January 27, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Submit petitions that do not contain confidential commercial information, pursuant to this notice, to the Dockets Management Branch (address above).

FOR FURTHER INFORMATION CONTACT: For specific questions contact the appropriate center:

For general questions: Ilisa B. Bernstein, Office of Policy, Food and Drug Administration, 5600 Fishers Lane (HF-23), rm. 15-74, Rockville, MD 20857, 301-443-2831.

For questions about medical devices: Kerry G. Rothschild, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301-594-4765.

For questions about human drugs: Wayne Mitchell, Center for Drug Evaluation and Research (HFD-362), Food and Drug Administration, rm. 116, 7500 Standish Place, Rockville, MD 20855, 301-594-1046.

For questions about biological products: Thomas G. Bird, Center for Biological Products (HFM-2), Food and Drug Administration, 1401 Rockville Pike, suite 200S, Rockville, MD 20852, 301-496-3556.

For questions about animal drug products: John C. Mathison, Center for Veterinary Medicine (HFV-150), Food and Drug Administration, MPN-2, 7500 Standish Pl., Rockville, MD 20855, 301-594-1679.

SUPPLEMENTARY INFORMATION:

I. Background

Title VI of the CAA, as amended in 1990 (42 U.S.C. 7671), directs the U.S. Environmental Protection Agency (EPA) to promulgate regulations that prohibit, among other things, the sale or distribution in interstate commerce of certain nonessential products that release class I ozone-depleting substances into the environment (section 610(b) of the CAA) and any aerosol or pressurized dispenser that contains a class II ozone-depleting substance (section 610(d) of the CAA). Class I and class II substances are defined in sections 601(3) and (4) of the CAA. (See EPA's listing notice of January 22, 1991 (56 FR 2420)). Class I ozone-depleting products include chlorofluorocarbons (CFC's), halons, carbon tetrachloride, and methyl chloroform. Class II ozone-depleting substances include hydrochlorofluorocarbons (HCFC's). Section 610(b) of the CAA authorizes EPA to determine which products that release class I substances are nonessential (58 FR 4768, January 15, 1993.) Section 610(d) of the CAA addresses the nonessential use ban for class II substances and authorizes EPA to grant exceptions to the class II ban in certain circumstances (proposed September 27, 1993, 58 FR 50464). Medical products, as defined in section 601(8) (42 U.S.C. 7671(8)), are exempt from the nonessential use ban (42 U.S.C. 7671i(e)). Exempt medical products consist of:

> * * * any device (as defined in the Federal Food, Drug, and Cosmetic Act [21 U.S.C. § 321)), diagnostic product, drug (as defined in the Federal Food, Drug, and Cosmetic Act [21 U.S.C. § 301 et seq.]), and drug delivery system—
>
> (A) if such device, product, drug, or drug delivery system utilizes a class I or class II substance for which no safe and effective alternative has been developed, and where necessary, approved by the Commissioner [of FDA]; and
>
> (B) if such device, product, drug, or drug delivery system, has, after notice and opportunity for public comment, been approved and determined to be essential by the Commissioner in consultation with the Administrator [of EPA].
>
> (42 U.S.C. 7671(8).)

EPA's existing or proposed regulations state that exceptions to the class I (58 FR 4768, January 15, 1993) and class II (proposed September 27, 1993, 58 FR 50464) bans include medical products that FDA considers essential and medical products that FDA has listed in § 2.125(e) (21 CFR 2.125(e)). Pursuant to EPA regulations, the class I ban is effective January 17, 1994. The class II ban is effective January 1, 1994.

Currently, § 2.125 addresses the use of CFC propellants in self-pressurized containers. This document describes the process by which manufacturers of products that use other class I substances and class II substances as propellants in self-pressurized containers, and in aerosols and other pressurized containers, may petition for an exemption from the ban. Petitions need not be submitted for products already listed in § 2.125(e). The use of a CFC propellant in a self-pressurized container in those products is considered an essential use, and such products are exempt under EPA regulations implementing section 610(b) of the CAA (58 FR 4768, January 15, 1993).

II. Opportunity to Petition

A. Process for Submitting a Petition Requesting Exemption

A manufacturer of an FDA-regulated product seeking an essential use exemption from the section 610(b) and section 610(d) bans under the CAA may submit a petition to FDA in accordance with § 10.30 (21 CFR 10.30) requesting the exemption. The petition should include the following information:

1. A request to amend § 2.125(e) to specify the use as essential;

2. The name of the class I or class II substance used in the product and a description of how it is used;

3. A request for an interim exemption pending a decision on the petition;

4. A statement containing an explanation of the basis for the exemption and certifying that:

(a) There are no technically feasible alternatives to the use of a class I or class II ozone-depleting substance in the product;

(b) The product provides a substantial health benefit, environmental benefit, or other public benefit that would not be obtainable without the use of a class I or class II ozone-depleting substance; and

(c) The use does not involve a significant release of class I or class II ozone-depleting substances into the atmosphere or the release is warranted in view of the consequence if the use were not permitted; and

5. Data and information to support the statement described in section II.A.4. of this document.

The criteria listed in section II.A.4. of this document are the same criteria currently listed in § 2.125(f), but they are expanded to apply to all class I and class II substances. These criteria are consistent with the nonessential use criteria that the CAA states EPA shall consider. These include "the purpose or intended use of the product, the technological availability of substitutes for such product and for such class I substance, safety, health, and other relevant factors." (42 U.S.C. 7671i). In addition to these criteria, FDA may also consider the criteria for exemption under the Montreal Protocol on Substances that Deplete the Ozone Layer for that use, including the economic feasibility of using an alternative to a CFC, other class I substance, or class II substance. (See 58 FR 50464 for a summary of the Montreal Protocol).

Petitions should be submitted to the Dockets Management Branch (address above). If a petition contains confidential commercial information that the petitioner does not want to disclose publicly, the petition should be submitted directly to the appropriate reviewing center within FDA. In such an event, a copy of the petition, which refers to, but does not include the confidential data, must also be submitted to the Dockets Management Branch. The center contact person and their address is listed in the "Summary" section of this document.

B. Interim Exemption

Because of the impending effective dates for the class I and class II bans, FDA will consider granting an interim exemption based on the filing of a petition that includes the statement and summary explanation of the basis for the requested exemption, specified in section II.A.4. of this document, and a statement that the supporting data and information specified in section II.A.5. of this document will be provided to FDA within 90 days of filing the original petition. The statements must be certified by a responsible company official.

If an interim exemption has been granted and FDA determines that the certified statement, or any other element of the petition is not supported by data or information available to the agency, was not made in good faith, contains false or misleading information, or the data or information identified in section II.A.5. of this document was not provided to the agency within 90 days, FDA will rescind the interim exemption.

FDA believes that the interim exemption procedure is necessary to prevent a possible public health hazard that may result from the removal from the market of a potentially essential medical product under the CAA. This interim exemption is provided to ensure continued availability of potentially essential medical products pending a full review of all available data and information by the agency.

Pursuant to section 601(8) of the CAA, FDA will consult with EPA prior to granting an interim exemption for a medical product. Periodically, FDA will publish in the **Federal Register** a list of products that have received interim exemptions. FDA intends to place the petitions in the public docket for public comment. FDA also intends to undertake notice and comment rulemaking and to consult with EPA in determining essential use exemptions, which will be codified in FDA regulations. FDA intends to amend § 2.125 and other affected sections to reflect the essential use exemptions and the expansion of the regulation to include other class I and class II substances.

At this time, FDA is not proposing any specific medical products for exemption under § 2.125(e) and section 601(8) of the CAA. Products already exempted in § 2.125(e) will continue to be exempted. FDA will only consider a new exemption or interim exemption upon submission of a petition as described above.

III. Opportunity for Public Comment

Interested persons may, on or before January 27, 1994, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 22, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-31705 Filed 12-22-93; 5:08 pm]

BILLING CODE 4160-01-P

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on Friday, December 3, 1993.

(Call Reports Clearance Officer on (410) 965-4142 for copies of package.)

1. Certificate of Election for Reduced Spouse's Benefits— 0960-0398. The information on form SSA-25 is used by the Social Security Administration to entitle eligible spouses to reduced benefits for months in which they do not have an entitled child in care. The affected public consists of spouses who file this certificate to elect reduced benefits.

Number of Respondents—30,000
Frequency of Response—1
Average Burden Per Response—2 minutes
Estimated Annual Burden—1,000 hours

2. Appointment of Representative—0960–NEW. The information on form SSA–1696 is used by the Social Security Administration (SSA) to verify the applicant's appointment of a representative. It allows SSA to inform the representative of items which affect the applicant's claim. The affected public consists of applicants who notify SSA that they have appointed a person to represent them and such representatives.

Number of Respondents—360,000
Frequency of Response—1
Average Burden Per Response—10 minutes
Estimated Annual Burden—60,000 hours

3. Marital Relationship Questionnaire—0960–0460. The information on form SSA–4178 is used by the Social Security Administration to determine if two unrelated individuals of the opposite sex who are living together are considered married for Supplemental Security Income (SSI) purposes. The respondents are applicants for and recipients of SSI who are living together in a questionable relationship.

Number of Respondents—5,100
Frequency of Response—1
Average Burden Per Response—5 minutes
Estimated Annual Burden—425 hours

4. Letter to Employer Requesting Wage Information—0960–0138. The information on form SSA-L4201 is used by the Social Security Administration to verify wages claimed by an applicant for Supplemental Security Income. The affected public consists of employers who are requested to verify the applicant's claim by completing this form.

Number of Respondents—133,000
Frequency of Response—1
Average Burden Per Response—30 minutes
Estimated Annual Burden—66,500 hours

5. Request for Correction of Earnings Record—0960–0029. Form SSA–7008 is used by individuals to request that the Social Security Administration (SSA) correct its record of earnings. The respondents are individuals who question SSA's record of their earnings.

Number of Respondents—375,000
Frequency of Response—1
Average Burden Per Response—10 minutes
Estimated Annual Burden—62,500 hours

6. Report to U.S. Social Security Administration by Person Receiving Benefits for a Child or for an Adult Unable to handle Funds (SSA–7161); Report to U.S. Social Security Administration (SSA–7162)—0960–0049. The information on these forms is used by the Social Security Administration to determine continuing entitlement and proper benefit amounts for Social Security beneficiaries who live outside the U.S. The affected public consists of persons living outside the U.S. who are entitled to benefits or who are representative payees for an entitled beneficiary.

Number of Respondents—275,000
Frequency of Response—1
Average Burden Per Response—(SSA–7161) 15 minutes, (SSA–7162) 5 minutes
Estimated Annual Burden—31,250 hours

7. Employer Classification Update—0960–0262. The information on form SSA–L378 is combined with other data obtained by the Social Security Administration and used in program planning, revenue estimates, and employment studies. The affected public consists of employers who have at least 11 employees and who have not provided sufficient information on form SS–4 for geographical and industrial classification.

Number of Respondents—75,000
Frequency of Response—1
Average Burden Per Response—3 minutes
Estimated Annual Burden—3,750 hours

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: January 21, 1993.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 93–31596 Filed 12–27–93; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–967–4230–15; AA–6703–B, AA–6703–D, AA–6703–F, and AA–6703–A2]

Alaska Native Claims Selection; Tatitlek Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to The Tatitlek Corporation for approximately 7,789.335 acres. The lands involved are in the vicinity of the Village of Tatitlek, Alaska.

Copper River Meridian, Alaska

T. 11 S., R. 6 W., T. 12 S., R. 6 W., T. 11 S., R. 7 W., T. 12 S., R. 7 W., T. 13 S., R. 8 W., T. 9 S., R. 9 W., T. 10 S., R. 9 W., T. 13 S., R. 9 W., T. 10 S., R. 10 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Cordova Times. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 27, 1994, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 93–31580 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–JA–P

[AZ–050–04–7122–14–X218; AZA–054–04–01]

Arizona: Temporary Closure of Selected Public Lands in La Paz County, Arizona

AGENCY: Bureu of Land Management, Interior.

ACTION: Temporary closure of selected public lands in Las Paz County, Arizona, during the operation of the 1994 SCORE Parker 400 Off-Road Vehicle Race.

SUMMARY: The District Manager of the Yuma District announces the temporary closure of selected public lands under its administration. This action is being taken to help ensure public safety and prevent unnecessary environmental degradation during the official permitted running of the 1994 SCORE Parker 400 Off-Road Vehicle Race.

DATES: January 19, 1994, through January 23, 1994.

SUPPLEMENTARY INFORMATION: Specific restrictions and closure periods are as follows:

Designated Course

1. The portion of the course comprised of Bureau of Land Management lands, roads, and ways is south of the Bill Williams River. East and north of Highway 72 and west of Wenden Road is closed to public vehicle use from 6 p.m. Wednesday, January 19, 1994, to 12 p.m. (noon) Sunday, January 23, 1994 (Mountain Standard Time).

2. Vehicles are prohibited from the following four Wilderness Areas and one Wilderness Study Area (WSA):

a. AZ–050–12 (Gibraltar Mountain).
b. AZ–050–15A (Swansea).
c. AZ–050–71 (Buckskin Mountains).
d. AZ–050–14A/B (Cactus Plain).
e. AZ–050–17 (East Cactus Plain, WSA).

3. The entire area encompassed by the designated Course and all areas within 1 mile outside the designated Course are closed to all vehicles except authorized and emergency vehicles. Access routes leading to the course are closed to vehicles. All closed routes will be posted throughout the closure period.

4. Vehicle parking or stopping along Bouse Road, Shea Road, and Swansea Road is prohibited except for the designated spectator areas.

5. Spectator viewing is limited to two designated spectator areas located at:

a. South of Shea Road, approximately 6 miles east of Parker, Arizona.
b. Bouse Road, also known as Swansea Road (about 1½ miles north of Bouse, Arizona).

6. The following regulations will be in effect for the duration of the closure. Unless otherwise authorized, no person shall:

a. Camp in any area outside of the designated spectator areas.
b. Enter any portion of the race course or any wash located within the race course, including all portions of Osborne Wash.
c. Spectate or otherwise be located outside of the designated spectator areas.
d. Cut or collect firewood of any kind, including dead and down wood or other vegetative material.
e. Be in possession of any alcoholic beverage unless that person has reached the age of 21 years.
f. Possess, discharge, or use firearms, other weapons, or fireworks.
g. Park, stop, or stand any vehicle outside of the designated spectator areas.
h. Operate any vehicle, including an off-highway vehicle, which is not legally registered for street and highway operation, including operation of such a vehicle in spectator viewing areas, along the race course, and in designated pit areas.
i. Park any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property, or feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.
j. Take any vehicle through, around, or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier.
k. Fail to keep their site free of trash and litter during the period of occupancy or fail to remove all personal equipment, trash, and litter upon departure.
l. Violate quiet hours by causing an unreasonable noise as determined by the authorized officer between the hours of 10 p.m. and 6 a.m. Arizona time (Mountain Standard Time).
m. Allow any pet or other animal in their care to be unrestrained at any time.

Signs and maps directing the public to the designated spectator areas will be provided by the Bureau of Land Management and the event sponsor.

Signs and maps directing the public to the designated spectator areas will be provided by the Bureau of Land Management and the event sponsor.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the State of Arizona, or to La Paz County. Vehicles under permit for operation by event participants must follow the race permit stipulations. Operators of permitted vehicles shall maintain a maximum speed limit of 35 mph on all La Paz County and Bureau of Land Management administered roads and ways. Authority for closure of public lands is found in 43 CFR 8340, subpart 8341, 43 CFR 8360, subpart 8364.1, and 43 CFR 8370, subpart 8372. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $100,000 and/or imprisoned for not more than 12 months.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management Law Enforcement Ranger Mark Harris or Outdoor Recreation Planner Myron McCoy, Havasu Resource Area Office, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86406, telephone (602) 855–8017

Dated: December 17, 1993.

Michael A. Taylor,

Associate District Manager.

[FR Doc. 93–31583 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–35–M

[CA–068–94–4930–10–4503]

Emergency Closure of Public Lands; California; Correction

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Correction to an emergency closure of certain public lands to motorized vehicle use in the Juniper Flats Area of San Bernardino County, California for a period of two years.

Correction

In notice document 93–22712 beginning on page 48667 in the issue of Friday, September 17, 1993, make the following correction:

Insert an additional paragraph in the third column below paragraph (9), describing roads to be exempted from the closure, to read:

(10) Moss Hill Road, south of Moss Hill to Forest Service Road 3N59A, east of Bowen Ranch through public lands only in Sections 11 and 12 of T. 3 N., R. 3 W.

Dated: December 8, 1993.

Karla K.H. Swanson,

Area Manager

[FR Doc. 93–31433 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–40–M

[WY–060–03–4410–02]

Draft Environmental Impact Statement for Newcastle Resource Area, WY

AGENCY: Bureau of Land Management, Interior. Newcastle Resource Area Casper District, Wyoming.

ACTION: Notice of availability of the draft environmental impact statement for the Newcastle Resource Management Plan, for public review and comment.

SUMMARY: The draft environmental impact statement (ESI) for the Newcastle Resource Management Plan (RMP) describes and analyzes four alternative resource management plans (RMPs), including the BLM's preferred alternative, for managing the Wyoming portion of the Newcastle Resource Area. The planning area is located in Crook, Weston and Niobrara Counties, in northeastern Wyoming. When completed, the Newcastle RMP will provide the management direction for future land and resource management actions on approximately 291,000 acres

of public land surface and approximately 1,700,000 acres of Federal mineral estate administered by the BLM within this portion of the Newcastle Resource Area.

The draft EIS focuses on resolving three key issues that were identified with public involvement early in the planning process. These issues are: (1) Retention or disposal of public lands; (2) surface disturbance; and (3) special management area designations.

There is one designated area of environmental concern (ACEC) within the Newcastle RMP planning area, the Whoopup Canyon ACEC designation be retained and that the area of the ACEC be expanded in size. While the potential for new ACEC designation was explored, none were identified and none are proposed in the preferred alternative.

During development of the draft EIS, the BLM conducted a Wild and Scenic Rivers review of BLM administered public lands that lie along waterways within the planning area. There were no BLM administered public lands in the planning area that were found to meet the Wild and Scenic Rivers eligibility criteria to be given further consideration for inclusion in the Wild and Scenic Rivers System.

The coal screening process (including application of the coal unsuitability criteria under 43 CFR part 3461) was not conducted for the planning effort. Any interest in coal exploration or leasing will be handled on a case-by-case basis. If an application for a coal lease is received sometime in the future, an appropriate land use environmental analysis will be conducted (which will include conducting the coal screening process), to determine whether or not the coal areas applied for are acceptable for development and leasing consideration. The RMP will be amended as necessary. To date, there has been no interest expressed to the BLM for leasing and development of BLM-administered coal in the planning area.

Wilderness management and wild horse management were not addressed in the planning effort. There are no wilderness areas or wilderness study areas on BLM-administered public lands in the planning area. In addition, there have been no other areas with wilderness characteristics identified on public lands in the planning area. There are no known wild horses or wild horse herd management areas in the planning area.

DATES: Written comments will be accepted for 90 days following the date the Environmental Protection Agency (EPA) publishes the filing of the Newcastle RMP draft EIS in the Federal Register. This EPA notice was published on December 3, 1993. A public meeting, open house, or both will be held during the 90-day comment period. Notices of these public involvement activities will be sent to all those on the Newcastle RMP mailing list.

ADDRESSES: Copies of the draft EIS for the Newcastle RMP are available from the BLM Newcastle Resource Area Office at 1101 Washington Boulevard, Newcastle, Wyoming 82701, or the BLM Casper District Office at 1701 East "E" Street, Casper, Wyoming 82601. Comments, and requests to be placed on the Newcastle RMP mailing list, should be sent to the Newcastle Area Manager at the Newcastle Resource Area Office.

FOR FURTHER INFORMATION CONTACT: Floyd Ewing, Newcastle Area Manager, or Gary Lebsack, Newcastle RMP Team Leader, at the above address or by telephone (307) 746–4453.

SUPPLEMENTARY INFORMATION: The Newcastle Resource Area is responsible for managing the BLM administered public lands in Crook, Niobrara, and Weston counties in Wyoming, and all BLM administered public lands in Nebraska. Management of the BLM administered public lands in Nebraska is covered under the Nebraska Resource Management Plan complete in 1992.

Within the Newcastle RMP planning area, there are varied and intermingled land surface ownerships and overlapping mineral ownerships. Therefore, the administrative jurisdictions for land use planning and for managing the land surface and minerals are also varied, intermingled, and sometimes overlapping. For this reason, it is important to understand that the Newcastle RMP draft EIS does not address management of lands or minerals within the planning area that are privately owned or owned by the State of Wyoming or local governments (about 1,000 acres). It also does not address those federally owned minerals within the planning area that are under federal land surface managed by other federal agencies (about 420,000 acres).

The draft EIS for the Newcastle RMP presents for alternative, multiple use resource management plans for managing the BLM administered public lands in the planning area, Alternative A (continuation of present management) and three other alternatives that suggest different combinations and emphases for managing the various resource and land uses on the BLM administered public lands, on the basis of needs, opportunities, and public demand. The four alternative plans focus on allocating public lands and resources among their valid uses and prescribing general management actions that would be taken. The Preferred Alternative is a combination of parts of alternatives, A, B, and C and represents what BLM believes is the best balance between the public land and resource uses and environmental protection in the planning area. The various impacts that would be expected from implementing each of the alternatives is also presented in the draft EIS.

Dated: December 13, 1993.

Ray Brubaker,

State Director.

[FR Doc. 93–31647 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–22–M

[AZ–040–5410–10–A111; AZ 28181]

Receipt of Application for the Conveyance of Federally-Owned Mineral Interests

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to Section 209 of the Act of October 21, 1976, 90 Stat. 2757, Rayben L. Lebrecht, Trustee, Pima County, Tucso, Arizona, has applied to purchase the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 18 S., R. 15 E.,
Sec. 10, lots 3 and 4, N½SW¼;
Sec. 15, lots 3 and 4, S½NW¼, SW¼.
Containing 471.54 acres.

Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, September 24, 1993, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this application may be obtained from the Realty Specialist at the Tucson Resource Area Office, 12661 East Broadway, Tucson, Arizona 85748.

Dated: December 14, 1993.

Frank L. Rowley,

Acting District Manager.

[FR Doc. 93–31532 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–32–M

[AZ–040–5410–10–A112; AZA 28280]

Receipt of Application for the Conveyance of Federally-Owned Mineral Interests

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, San Gabriel Properties, an Arizona Limited Partnership, Pima County, Tucson, Arizona, has applied to purchase the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 17 S., R. 13 E.,
SEC. 21, N½S½;
SEC. 22, W½.
Containing 480 acres.

Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, November 30, 1993, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this application may be obtained from the Realty Specialist at the Tucson Resource Area Office, 12661 East Broadway, Tucson, Arizona 85748.

Dated: December 14, 1993.

Frank L. Rowley,

Acting District Manager.

[FR Doc. 93–31534 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–32–M

[AZ–040–5410–10–A113; AZA 28294]

Receipt of Application for the Conveyance of Federally-Owned Mineral Interests

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, The Dunne Family Trust, Alexander Dunne and Thomas Griffin Dunne, Santa Cruz County, Arizona, has applied to purchase the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 23 S., R. 14 E.,
Sec. 27, S½;
Sec. 34, NE¼NE¼, W½NE¼, W½.
T. 24 S., R. 14 E.,
Sec. 3, lots 3 and 4, S½NW¼.
Containing 924.65 acres.

Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, December 10, 1993, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this application may be obtained from the Realty Specialist at the Tucson Resource Area Office, 12661 East Broadway, Tucson, Arizona 85748.

Dated: December 15, 1993.

Frank L. Rowley,

Acting District Manager.

[FR Doc. 93–31535 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–32–M

[NV–930–4210–05; N–57367]

Realty Action: Lease/Purchase for Recreation and Public Purposes; Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purpose lease/purchase.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/purchase for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The County of Clark, a political subdivision of the State of Nevada, proposes to use the land for a Metropolitan Police Substation.

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,
Sec. 17: SE¼SW¼SE¼
Containing 10.00 acres, more or less.

The land is not required for any federal purpose. The lease/purchase is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement 50.00 feet in width along the south boundary, with 20.00 foot radius spandrel at the east and west corners, in favor of Clark County for roads, public utilities and flood control purposes.

2. An easement 30.00 feet in width along the west boundary, with 15.00 foot radius spandrel at the northerly corner, in favor of Clark County for roads, public utilities and flood control purposes.

3. An easement 30.00 feet in width along the north boundary, with 15.00 foot radius spandrel at the easterly corner in favor of Clark County for roads, public utilities and flood control purposes.

4. An easement 30.00 feet in width along the east boundary in favor of Clark County for roads, public utilities and flood control purposes.

2. Those rights for power project purposes which have been granted to the Federal Energy Regulatory Commission by Permit No. N–56078 under the Act of March 3, 1879 (43 U.S.C. 31).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/purchase under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The

lands will not be offered for lease/purchase until after the classification becomes effective.

Dated: December 16, 1993.

Gary Ryan,

District Manager, Las Vegas, NV.

[FR Doc. 93-31545 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-HC-M

[OR 36783; OR-060-04-4210-05; G4-062]

Realty Action; Proposed Recreation and Public Purposes Act Lease

December 16, 1993.

The following described public land has been examined and determined to be suitable for classification for lease to Linn County under the authority of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*):

Willamette Meridian, Oregon.

T. 11 S., R. 3 E.,
Sec. 35, SW¼NE¼SW¼,
N½SE¼NE¼SW¼,
SW¼SE¼NE¼SW¼, W½ Lot 3,
W½SE¼ Lot 3.

The above-described parcel contains 42.65 acres in Linn County.

Linn County has requested that Recreation and Public Purposes Lease OR 36783 be substituted with a new lease, as provided in 43 CFR 2912.3. The only change requested is to add the above-described parcel to its 459.15-acre existing lease. The lease is for the "Quartzville Creek Recreation Area", an area that has become popular for recreational gold panning. Lease of the parcel is consistent with current BLM land use planning and will be in the public interest.

The lease, when issued, will be subject to the following:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Detailed information concerning this action is available for review at the Salem District Office, 1717 Fabry Road SE., Salem, Oregon 97306.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the mining laws, except the mineral leasing laws and for lease under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments regarding the proposed classification and lease to the Santiam Area Manager, Salem District Office, at the above address. Any adverse comments will be reviewed by the Salem District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Paul Jeske,

Santiam Area Manager.

[FR Doc. 93-31543 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-33-M

[UT-942-04-5700-11; UTU-67340 to UTU-67342, UTU-67344, UTU-67346]

Realty Action; Noncompetitive (Direct) Sale of Public Land in Emery County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, UTU-67340 to UTU-67342, UTU-67344, UTU-67346, Noncompetitive (Direct) Sale of public land in Emery County, Utah.

SUMMARY: Notice is given that the following described parcels of public land have been examined, and through the development of local land-use planning decisions, based upon public input, resource, considerations, regulations, and Bureau policies, the parcels have been found suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2750; 43 U.S.C. 1713) using noncompetitive (direct) sale procedures (43 CFR 2711.3-3):

Salt Lake Meridian, Utah

T. 22S., R. 6E.,
Section 4, Lots 11-16.
The above land aggregates 3.85 acres in Emery County, Utah.

Also, classification of the following land pursuant to the Recreation and Public Purposes Act of 1926, as amended (43 U.S.C. 869, et seq.), is hereby modified to allow for disposal of the land through sale under section 203 of FLPMA (90 Stat. 2750; 43 U.S.C. 1713) using noncompetitive (direct) sale procedures (43 CFR 2711.3-3):

Salt Lake Meridian, Utah

T. 22S., R. 6E.,
Section 4, Lots 11-10.
The above land aggregates 36.14 acres in Emery County, Utah.

The parcels are difficult and uneconomic to manage as part of the public lands, are not needed for any resource programs, and are not suitable for management by the Bureau or any other Federal department or agency.

The parcels will not be offered for sale until at least sixty (60) days after publication of this notice in the Federal Register. These parcels will be sold at no less than the appraised fair market value (FMV).

The Bureau proposes to sell the surface estate only as follows:

UTU-6740, Dermus Jensen, Lots 12 & 16 (0.36 & 1.17 acres respectively, totalling 1.53 acres), FMV $1,000;
UTU-6741, Roger Clark, Lot 11 (1.47 acres), FMV $1,000;
UTU-6742, Russell Jensen, Lot 13 (0.47 acre), FMV $500;
UTU-6744, Randy Anderson, Lots 14 & 15 (0.18 & 0.20 acre, total 0.38 acre), FMV $500.

The above direct sales are being conducted to resolve unauthorized use and occupancy of the public lands. The sales to the adjoining land owners would assure land use compatibility with adjoining lands and protect investments in improvements made to the lands.

UTU-67346, Emery County School District (ECSD), Lot 10 (38.14 acres), FMV $7,650. The land was leased to ECSD under REcreation and Public Purposes (R&PP) lease UTU-48777 with the right to purchase following construction of a public school within five years. The school was not constructed but ECSD desires to purchase the land for future development.

Publication of this notice in the Federal Register segregates the public land from the operation of the public land laws and the mining laws. The segregative effective will end upon issuance of a patent, or two hundred seventy (270) days from the date of the publication, whichever occurs first.

The terms and conditions applicable to the sale are:

1. All minerals, including oil and gas, shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

2. A right-of-way will be reserved for ditches and canels constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

3. Road right-of-way UTU-70142, issued in the Town of Emery, will be reserved in the patents (45 feet from appropriate side of the centerline) under the authority of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

4. The sale of the parcels will be subject to all valid existing rights, reservations, and privileges of record. Existing rights, reservations, and privileges of record include, but are not limited to the following:

Parcels UTU-67340, UTU-67342, and UTU-67344

a. A right-of-way, Serial Number UTU-53807, to Emery Telephone, its successors or assignees, for a buried telephone line located in SLM, Utah, T. 22 S., R. 6E., Section 4, Lots 12-15, under the authority of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

b. A right-of-way, Serial Number UTU-53813, to PacifiCorp dba UP & L, its successors or assignees, for a powerline located in SLM, Utah, T.22 S. R. 6E., Section 4, Lots 12-15, under the authority of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

SALE PROCEDURES: The buyer will be required to submit the appraised fair market value of the property on the date of the sale. The lands will be offered for sale at the San Rafael Resource Area Office. If the lands are not sold on the same date, they will remain for sale over-the-counter until sold or withdrawn from the market. Over-the-counter bidder qualifications are noted below.

BIDDER QUALIFICATIONS: Bidders must be U.S. citizens 18 years of age or over, a State or State instrumentetlity authorized to hold property; a corporation authorized to hold property; or a corporation authorized to own real estate in the State of Utah.

BID STANDARDS: The BLM reserves the right to accept or reject any and all offers or withdraw the land from sale if, in the opinion of the Authorized officer, consummation of the sale would not be fully consistent with section 203(g) of FLPMA or other applicable laws.

COMMENTS: For a period of forty-five (45) days from the date of publication of this Notice in the Federal Register, interested parties may submit comments to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532. Objections will be reviewed by the Utah State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Additional information concerning the lands and the terms and conditions of the sale may be obtained from Laurelle Hughes, Area Realty Specialist, San Rafael Resource Area, 900 North East, Price, Utah 84501, (801) 637-4584 or From Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood Drive, P.O. Box 970, Moab, Utah 84532 (801) 259-6111.

Dated: December 17, 1993.

Roger Zortman,

District Manager.

[FR Doc. 93-31521 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-DQ-M

[CO-070-04-3110-02]

Intent To Consider Amendment of the Grand Junction Resource Area, Resource Management Plan, 1987

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to consider amendment of the Grand Junction Resource Area Resource Management Plan, 1987, to address changes proposed in the Grand Mesa Slopes Special Management Area Management Plan, 1993, and Notice of Public Comment Period to identify issues to be addressed in an Environmental Assessment on the proposed amendment.

SUMMARY: Pursuant to section 102 of the National Environmental Policy Act of 1969 and section 202 of the Federal Land Policy and Management Act of 1976, the Bureau of Land Management, Grand Junction Resource Area, will consider an amendment of the Grand Junction Resource Area Resource Management Plan, 1987, and will prepare an Environmental Assessment on the proposed amendment.

SUPPLEMENTARY INFORMATION: The Plan Amendment and Environmental Assessment are being developed to consider changes that have been proposed in the Grand Mesa Slopes Special Management Area Management Plan, 1993. The Grand Mesa Slopes Special Management Area is approximately 80 square miles of mixed ownership lands in Mesa County, Colorado, immediately southeast of Grand Junction, Colorado. A cooperative management plan for the area has been developed involving over 30 government and private entities. The primary goals of the plan are to protect municipal watersheds, manage critical wildlife habitat, provide for managed public recreational uses, protect scenic open space values, and coordinate management of other natural resource programs.

Proposed changes to the Grand Junction Resource Area Resource Management Plan, 1987 involve: (1) Changing the classification of approximately 7,600 acres of BLM land immediately southeast of Grand Junction, Colorado from "suitable for disposal" to "retention as BLM land or suitable for exchange"; (2) Classifying approximately 1,200 acres of BLM land 10 miles southeast of Grand Junction, Colorado as suitable for exchange; (3) Designating approximately 20,000 acres of BLM land immediately southeast of Grand Junction, Colorado as limited to motor vehicle travel only on designated routes, and; (4) Designating approximately 500 acres of BLM land four miles south of Grand Junction, Colorado as open for off-highway-vehicle use.

A public meeting to accept comments on the Grand Mesa Slopes Special Management Area Management Plan, 1993, and the related actions in the proposed Grand Junction Resource Area Resource Management Plan, 1987 Plan Amendment will be held January 27, 1994 at 7 p.m. in the City/County Auditorium, 250 North 5th Street, Grand Junction, Colorado. For a period of 30 days from the date of this notice, interested parties may submit comments to the District Manager, Grand Junction District Office, 2815 H Road, Grand Junction, Colorado, 81506.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this proposal is available for review at the Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506, or by contacting Carlos Sauvage, Realty Specialist, at (303) 244-3022.

Tim Hartzell,

District Manager.

[FR Doc. 93-31538 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-JE-M

[ES-960-4050-10-4600; ES-046618, Group 2, Washington, DC]

Filing of Plat of Dependent Resurvey

The plat, in one sheet, of a portion of the boundary of U.S. Reservation No. 501, Washington, DC, has been officially filed in Eastern States, Springfield, Virginia, at 7:30 a.m., on December 15, 1993.

The survey was made upon request submitted by the National Park Service.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Dated: December 15, 1993.

Carson W. Culp, Jr.,

State Director.

[FR Doc. 93-31649 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-GJ-M

[OR-942-09-4730-02; G4-049]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 9 S., R. 3 E., accepted November 24, 1993
T. 40 S., R. 6 E., accepted November 16, 1993
T. 33 S., R. 35 E., accepted October 19, 1993
T. 9 S., R. 41 E., accepted November 3, 1993
T. 20 S., R. 2 W., accepted November 15, 1993
T. 20 S., R. 2 W., accepted November 15, 1993
T. 21 S., R. 5 W., accepted November 22, 1993
T. 18 S., R. 6 W., accepted October 28, 1993
T. 20 S., R. 7 W., accepted November 3, 1993

Washington

T. 32 N., R. 41 E., accepted October 28, 1993
T. 18 N., R. 12 W., accepted November 27, 1993

If the protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 N.E. 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision. **FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, 1300 N.E. 44th Avenue, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 15, 1993.

William E. Bliesner,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93-31537 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-33-M

Bureau of Reclamation

Enforce Existing Off-Road Motor Vehicle Closure on Bureau of Reclamation Lands Below American Falls Dam, Idaho

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Reclamation (Reclamation) is enforcing a 1972 off-road motor vehicle closure on the lands within the American Falls Natural Resource Area. Current public off-road vehicle activity requires active enforcement of the closure. This action is necessary to protect and preserve archeological sites located in the area.

ADDRESSES: Maps are available for review at:

- American Falls Dam, 2881 Highway 39, American Falls, Idaho 83211;
- Minidoka Project Office, 1359 Hansen Avenue, Burley, Idaho 83318;
- Pacific Northwest Regional Office, 1150 N. Curtis Rd., Boise, Idaho 83706

EFFECTIVE DATE: The off-road vehicle closure has been in effect since 1972, but not actively enforced. The closure will be enforced effective December 28, 1993 and will continue to be enforced until a decision is made on the future use and management of the area.

FOR FURTHER INFORMATION CONTACT: Eileen R. Salenik, Resource Management Planner, Bureau of Reclamation, Pacific Northwest Region, 1150 N. Curtis Rd., Boise, Idaho 83706, (208) 378-5314

SUPPLEMENTARY INFORMATION: American Falls Natural Resource Area, approximately 3,000 acres, is located just below American Falls Dam in southeastern Idaho. The general location is described below:

Reclamation withdrawn and acquired lands along the Snake River (between American Falls dam and the Minidoka National Wildlife Refuge) located in:

T. 8 S., R. 30 E., Boise Meridian: portions of Sections 15, 21, 22, 28, 29, 31, and 32
T. 9 S., R. 30 E., B.M.: portions of Section 6
T. 9 S., R. 29 E., B.M.: portions of Sections 1, 9-12, 14-17, and 19-21
T. 9 S., R. 28 E., B.M.: portions of Section 24

A 1992 Cultural Resource Class III survey verified this area has over 150 archeological sites dating back as far as 10,000 years. Pursuant to the authority granted by section 9(b) of Executive Order 11644, Feb. 8, 1972, 3 CFR 1971-1975 Comp., p. 666, as amended by Executive Order 11989, May 24, 1977, 3 CFR 1977 Comp., p. 120, Reclamation in 1972 closed to off-road vehicles the land administered by Reclamation downstream of American Falls Reservoir along the Snake River in southeastern Idaho. Previously limited enforcement resources and increasing off-road vehicle use by the public in contravention of the previous closure require reiteration of the closure notice. Reclamation will begin enforcing the closure immediately. Additional information concerning the closure and enforcement is available at Reclamation's Pacific Northwest Regional Office located at 1150 N. Curtis Road in Boise, Idaho, 83706.

The Shoshone-Bannock Tribes indicate this area has traditional cultural values and may consider the entire area to qualify for protection under the American Indian Religious Freedom Act.

In 1992, Reclamation worked with an agency/citizen task force to develop a feasible range of alternatives for the American Falls Resource management Plan Environmental Assessment. The Environmental Assessment, prepared in accordance with the National Environmental Policy Act and the National Historic Preservation Act, is available for public review and comment until December 31, 1993. The closure will be enforced until a decision for public use in the American Falls Natural Resource Area is made in 1994.

Dated: December 17, 1993.

Donald R. Glaser,

Deputy Commissioner.

[FR Doc. 93-31622 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-94-P

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT-760716

Applicant: Exotic Animals, Tarzana, CA.

The applicant requests a permit to import one male captive-born tiger (*Panthera tigris*) from the Bahamas. This tiger is progeny of the applicant's own tigers that are currently performing in the Bahamas. The tiger will be imported for the purpose of enhancement of survival through conservation education.

PRT-763786

Applicant: San Antonio Zoological Gardens, San Antonio, TX.

The applicant requests a permit to purchase in interstate commerce one captive-held female gavial (*Tomistoma schlegeli*) from the Buffalo Zoo for the purpose of enhancement of survival through conservation education and zoological exhibition.

PRT-765126

Applicant: University of Nevada, Reno, NV.

The applicant requests a permit to import blood and tissue samples taken from wild black-faced impala (*Aepyceros melampus petersi*) for DNA analysis to enhance the propegation and survival of the species.

PRT-765148

Applicant: Ogden Environmental and Energy Services, Co., Inc., San Diego, CA.

The applicant requests a permit to take endangered Riverside fairy shrimp (*Streptocephalus woottoni*) from vernal pools using hand and/or plankton nets to determine the presence or absence of the species on Miramar Naval Air Station, California.

PRT-770279

Applicant: New York Zoological Society, Bronx, NY.

The applicant requests a permit to import blood and tissue samples from live animals and carcasses, respectively, obtained opportunistically from wild origin deer (*Cervidae*), tapirs (*Tapiridae*), crocodiles (*Crocodilidae*), falcons (*Falconidae*), psittacines (*Psittacidae*), ibises (*Ciconidae*), and vultures (*Cathartidae*) in Bolivia for the purpose of scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: December 22, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93-31675 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-55-P

Polar Bear Habitat Protection Strategy

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a polar bear habitat protection strategy, conduct public meetings, and request information.

SUMMARY: The U.S. Fish and Wildlife Service (Service) intends to develop and implement a strategy for the identification and protection of important polar bear habitats. Development of the strategy for Alaska will be achieved as part of the Service's on-going polar bear conservation planning process and in cooperation with the State of Alaska, Alaska Natives, oil and gas industry, conservation organizations, and others. The Service is requesting information, suggestions, and participation in the development of this strategy.

DATES: Comments and information should be received by February 11, 1994. Public meetings on the strategy are schuduled as follows:

1. January 20, 1994, 7:30 p.m., Wilda Marston Theater, 1st floor, Loussac Library, 3600 Denali Street, Anchorage, Alaska.
2. January 25, 1994, 7:30 p.m. North Slope Borough Assembly Chambers, Barrow, Alaska.

ADDRESSES: Written comments should be submitted to Supervisor, Marine Mammals Management, U.S. Fish and Wildlife Service, 4230 University Drive, suite 310, Anchorage, AK 99508. Comments may also be hand delivered to the same address or sent by FAX (907) 271-2381. Comments and materials received in response to this action will be available for public inspection at this address during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Scott Schliebe at the U.S. Fish and Wildlife Service, Marine mammals Management, 4230 University Drive, suite 310, Anchorage, AK 99508, (800) 362-5148 or (907) 271-2394.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1992, the Service issued a proposed rule that would authorize the incidental take of small numbers of polar bear and Pacific walrus during oil and gas industry operations year round in the Beaufort Sea and adjacent northern coast of Alaska (57 FR 62283). The final rule to authorize incidental take was issued on Tuesday, November 16, 1993.

The final rule contains a provision that the U.S. Fish and Wildlife Service will develop and begin implementing a polar bear habitat protection strategy within 18 months. This provision is in response to public comments on the proposed rule and in agreement with the 1973 International Agreement on the Conservation of Polar Bears.

Information Solicited

The Service requests interested persons to submit comments, information, and suggestions concerning the development and implementation of an Alaska Polar Bear Habitat Protection Strategy. A draft Polar Bear Habitat Protection Strategy will be developed based upon comments received, information generated from polar bear research, and local knowledge of the indigenous people. A Federal Register notice will announce the development of the draft Alaska Polar Bear Habitat Protection Strategy. Once the draft Strategy is developed, opportunities for public review and comment will be provided.

Date: December 16, 1993

Walter O. Stieglitz,

Regional Director.

[FR Doc. 93-31530 Filed 12-27-93; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 18, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by January 12, 1994.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Conecuh County

New Evergreen Commercial Historic District, Roughly bounded by Mill, Cooper, Rural,

Court, Liberty, E. Front, Cary and Desplous Sts., Evergreen, 93001542

Houston County

Atlantic Coastline Railroad Passenger Depot, Jct. of Powell St. and Headland Ave., Dothan, 93001519

Monroe County

Dellet Plantation, Along US 84 on W bank of Alabama R., Monroeville vicinity, 93001517

ARKANSAS

Miller County

Crenshaw Site, Address Restricted, Hervey vicinity, 93001521

CALIFORNIA

San Diego County

Harris, C. W., Site Archeological District, Address Restricted, Rancho Santa Fe, 93001520

DELAWARE

Kent County

Thomas' Methodist Episcopal Chapel, Rt. 206 W of Chapeltown, West Dover Hundred, Chapeltown vicinity, 93001516

New Castle County

Newport Railroad Station, James St. at Penn Central RR tracks, N side, Newport, 93001515

GEORGIA

Jefferson County

Louisville Commercial Historic District, Area surrounding Broad St. between Peachtree and Screven Sts., including parts of Walnut, Mulberry and Green Sts., Louisville, 93001469

IOWA

Page County

White, W. T. S., House and Carriage House, 400 N. 16th St., Clarinda, 93001544

Wright County

Quasdorf Blacksmith and Wagon Shop, Jct. of Train and W. Railroad Sts., Dows, 93001545

KANSAS

Reno County

Graber, John P. O., House, 208 E. 6th St., Hutchinson, 93001518

KENTUCKY

Woodford County

Ayres House (Northwest Woodford County MPS), US 421 S side, less than 3/10 mi. E of Drucker's Rd., Midway vicinity, 93001522

Big Sink Rural Historic District (Northwest Woodford County MPS), W of Midway off I–64, Midway vicinity, 93001523

Broadhead, Lucas, House (Northwest Woodford County MPS), Jct. of Midway Pike and Aiken Rd., SW corner, Versailles vicinity, 93001524

Cole, Richard, Homestead (Northwest Woodford County MPS), Leestown Rd., S side, NW of Midway, Midway vicinity, 93001525

Cooper House (Northwest Woodford County MPS), Leestown Rd., N side, 9/10 mi. E of I–64 Midway exit, Midway vicinity, 93001526

Elkwood (Northwest Woodford County MPS), 158 Leestown Pike W., Midway vicinity, 93001527

Leavy Tobacco Barn (Northwest Woodford County MPS), Georgetown Rd. E side, 4/5 mi. N of I–64 Midway exit, Midway vicinity, 93001528

Nuckols, Claiborne W., Farmstead (Northwest Woodford County MPS), US 60 N side, 1½ mi. N of jct. with Midway Pike, Versailles vicinity, 93001529

Nugent's Crossroad Historic District (Northwest Woodford County MPS), Jct. of Old Frankfort Pike and Midway Pike, Midway vicinity, 93001530

Taylor, E.W., House (Northwest Woodford County MPS), Midway Pike E side, about ½ mi. N of jct. with Old Frankfort Pike, Midway vicinity, 93001531

Wallace Station Historic District (Northwest Woodford County MPS), Wallace Station, Old Frankfort Pike, Midway vicinity, 93001534

Wallace, Samuel, House (Northwest Woodford County MPS), Old Frankfort Pike N side, E of Wallace, Midway vicinity, 93001532

Wallace-Alford Farmstead (Northwest Woodford County MPS), S.S. Weisenberger (Craig's) Mill Rd. E of Lansing Ln., Midway vicinity, 93001533

LOUISIANA

Caddo Parish

B'Nai Zion Temple, 802 Cotton St., Shreveport, 93001547

Iberville Parish

St. John Baptist Church, 31925 Lacroix Rd., Dorseyville, 93001549

St. John The Baptist Parish

Reserve Plantation House (Louisiana's French Creole Architecture MPS), 1628 LA 44, Reserve, 93001548

NEW YORK

Albany County

New Scotland Avenue (Troop B) Armory (Army National Guard Armories in New York State MPS), 130 New Scotland Ave., Albany, 93001536

Erie County

Tonawanda (25th Separate Company) Armory (Army National Guard Armories in New York State MPS), 79 Delaware Ave., Tonawanda, 93001539

Montgomery County

First Baptist Church, Polin Rd., Charleston, 93001546

New York County

369th Regiment Armory (Army National Guard Armories in New York State MPS), 2366 Fifth Ave., New York, 93001537

69th Regiment Armory (Army National Guard Armories in New York State MPS), 68 Lexington Ave., New York, 93001538

NORTH CAROLINA

Buncombe County

Jarrett, Thomas, House (Northwest Woodford County MPS), 46 Louisiana Ave., Asheville, 93001535

Perquimans County

Fletcher-Skinner-Nixon House and Outbuildings, NC 1301 NE side, 0.45 mi. SE of jct. with NC 1300, Hertford vicinity, 93001541

Rockingham County

Reidsville High School, Former, 116 N. Franklin St., Reidsville, 93001540

Yadkin County

Davis Brothers Store, E. Main St. N side, just E of jct. with Flint Hill Rd., East Bend, 93001543

NORTH CAROLINA

Morton County

Rehm, Louis, Barn, 2.5 mi. N of Hebron, Hebron vicinity, 93001550

OREGON

Clackamas County

Lewthwaite-Moffatt House, 4891 Willamette Falls Dr., West Linn, 93001501

Smith, R.S., Motor Company Building, 39150 Pioneer Blvd., Sandy, 93001502

Coos County

Koski Building, 241 N. Broadway, Coos Bay, 93001509

Seelig-Byler House, 1920 N. Fourteenth St., Coos Bay, 933001510

Hood River County

Mt. Hood Hotel Annex, 102–108 Oak St., Hood River, 93001511

Jackson County

Madden-McCaskey House, 3347 Old Stage Rd., Central Point vicinity, 93001506

Medford Geneva—Minnesota Historic District, Geneva and Minnesota Sts., from E. Main to Crater Lake Ave., Medford, 93001508

Lincoln County

Mt. Hood Railroad Linear Historic District, Mt. Hood RR right-of-way from Hood River to Parkdale, Hood River, 933001507

Marion County

Hinkle-Reid House, 525 NE. Adler St., Mill City, 93001503

Multnomah County

Clyde Hotel, 1022 SW. Starke St., Portland, 93001498

Salmon, W.S., House, 923 SE. Thirteenth Ave., Portland, 93001498

Yeon Building, 522 SW. Fifth Ave., Portland, 93001497

Umatilla County

Ireland, Sarah E., House, 311 S. Main St., Milton—Freewater, 93001500

Wallowa County

Gotter Hotel, 301 W. Main St., Enterprise, 93001499

Washington County

First Church of Christian Scientist, 1904 Pacifica Ave., Forest Grove, 93001505

Roy, Harold Wass, House, 5611 NE. Elam Young Pkwy., Hillsboro, 9300154

SOUTH CAROLINA

Charleston County

Ashley River Historic District, Roughly, along the Ashley R. from just E of SC 165 to the Seaboard Coast Line RR bridge, Charleston vicinity, 93001514

Boone Hall Plantation House and Historic Landscape, Long Point Rd. W of jct. with US 17/701, Mount Pleasant vicinity, 93001512

Towles Farmstead, 4595, 4611 Towles Rd., Meggett vicinity, 93001513

[FR Doc. 93–31589 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in United States versus California State University et al., Civil Action No. CV–S–93–1910 LKK GGH was lodged on December 7, 1993 with the United States District Court for the Eastern District of California. The proposed decree settles an action brought pursuant to section 113(b) of the Clean Air Act (the "Act"), 42 U.S.C. 7413(b) and the National Emission Standards for Hazardous Air Pollutants for Asbestos ("NESHAP"), promulgated under sections 112 and 114 of the Act, 42 U.S.C. 7412 and 7414, and codified at 40 CFR part 61, subpart M. The complaint alleges that the defendants are liable for conducting a demolition of a facility owned by California State University without (1) adequately wetting the friable asbestos materials exposed during cutting and disjointing, in violation of 40 CFR 61.147(b) (1989) and section 112 of the Act, 42 U.S.C. 7412, and (2) ensuring that the friable asbestos materials stripped or removed from pipes were kept adequately wet until collected for disposal, in violation of 40 CFR 61.147(e)(1) (1989) and section 112 of the Act, 42 U.S.C. 7412. Under the terms of the decree, ACG agrees to pay a civil penalty of $35,000, and CSU and Bender will be subject to an injunction to comply with the asbestos NESHAP in the future.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to United States versus California State University, et. al., DJ# 90–5–2–1–1491. The proposed consent decree may be examined at the office of the United States Attorney, 555 Capitol Mall, 15th Floor, Sacramento, California 95814; the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $11.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31639 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that a proposed consent decree in *United States and the State of Ohio* v. *City of Middletown, Ohio*, Civil Action No. C–1–93–861, was lodged on December 10, 1993 with the United States District Court for the Southern District of Ohio. The Consent Decree resolves claims of the United States for civil penalties arising from alleged violations of Sections 301, 402 and 404 of the Clean Water Act, 33 U.S.C. 1311, 1342 and 1344 by the City of Middletown, Ohio. The Consent Decree requires defendant Middletown to pay a civil penalty of $288,000 for its past violations of the Clean Water Act.

The Department of Justice will receive, for a period of thirty (3)) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and the State of Ohio* v. *City of Middletown, Ohio*, DOJ Ref. t90–5–1–1–3779.

The proposed consent decree may be examined at the office of the United States Attorney, 602 Federal Building, 200 West Second Street, Dayton, Ohio, 45402; the Region Five Office of the Environmental Protection Agency, 77 West Jackson Blvd., Chicago, Illinois, 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $3.25 (25 cents per page reproduction costs,), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31636 Filed 12–27–93; 8:45am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA")

In accordance with Department policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that a proposed consent decree in *United States* v. *Nabisco, Inc., et al.*, Civil Action No. 93–5611, was lodged on December 10, 1993, with the United States District Court for the Eastern District of New York. The Consent Decree addresses the hazardous waste contamination at the Rowe Industries Superfund Site ("Rowe Site") in the Town of Sag Harbor, New York. The Consent Decree requires the defendants to implement the remedial action selected by the Environmental Protection Agency in the Record of Decision dated September 30, 1992. Additionally, $493,561 in U.S. EPA past costs at the Rowe Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed

consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Nabisco, Inc., et al.*, DOJ Ref. # 90–11–3–112A.

The proposed consent decree may be examined at the office of the United States Attorney for the Eastern District of New York, 1 Pierrpont Plaza, Brooklyn, New York, 11201; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York, 10278 (contact Assistant Regional Counsel Beverly Kolenberg); and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $56.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31638 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 As Amended

In accord with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Wheaton Industries*, Civil Action No. 90–3880 (CSF), was lodged on December 15, 1993 with the United States District Court for the District of New Jersey. The decree resolves claims of the United States against defendant *Wheaton Industries* ("Settling Defendant") in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at the Williams Property Superfund Site in Middle Township, New Jersey (the "Site"). In the proposed consent decree the Settling Defendant agrees to pay the United States $3,554,400.00 in settlement of the United States' claims for response costs incurred and to be incurred by the Environmental Protection Agency at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Wheaton Industries*, DOJ Ref. # 90–11–2–288.

The proposed consent decree may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, New Jersey; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31637 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—"Petroleum Environmental Research Forum Project No. 93–07: Tertiary Treatment Options for Reducing the Toxicity of Refinery Effluents"

Notice is hereby given that, on November 9, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Chevron Research and Technology Company, acting on behalf of the Petroleum Environmental Research Forum ("PERF") Project No. 93–07: "Tertiary Treatment Options for Reducing the Toxicity of Refinery Effluents" filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of extending the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties and its general areas of planned activity are Amoco Oil Company, Naperville, IL; ARCO Products Company, Anaheim, CA; Chevron Research and Technology Company, Richmond, CA; Marathon Oil Company, Littleton, CO; this venture was created to investigate three tertiary treatment options for reducing the toxicity of refinery effluents, specifically: sampling and testing of effluent treated by granular activated carbon, wetlands and a fluidized bed reactor.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–31644 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Fuel Cell Commercialization Group

Notice is hereby given that, on November 30, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Fuel Cell Commercialization Group ("FCCG") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, New England Electric System, Westborough, MA; Northern States Power, Minneapolis, MN; Oglethorpe Power Corporation, Tucker, GA; and Washington Water Power Company, Spokane, WA have become members of the FCCG. In addition, Pacific Gas & Electric Company has resigned from the FCCG.

No other changes have been made in either the membership or planned activity of the FCCG. Membership in the FCCG remains open subject to certain adjustments in the membership benefits available to members joining hereafter. The FCCG intends to file additional written notification disclosing all future changes in membership.

On September 21, 1990, the FCCG filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice to the Federal Register pursuant to section 6(b) of the Act on October 25, 1990, 55 FR 43050. The last notification was filed with the Department on August 12, 1992. A notice was published in the Federal Register pursuant to section 6(b) of the Act on October 13, 1992, 57 FR 46879.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–31643 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Underwater Welding Research and Development Program

Notice is hereby given that, on October 26, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), Global Industries, Ltd. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following additional parties have become new members of the project: U.S. Department of the Interior Mineral Management Services, Herndon, VA; Health and Safety Executive, Offshore Safety Division, London, England; and Chevron Research and Technology Company, Richmond, CA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Global Industries, Ltd. intends to file additional written notification disclosing all changes in membership.

On January 25, 1993, Global Industries, Ltd. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on March 9, 1993, 58 FR 13091.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–31641 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Information Technology Center of Maryland, Inc.

Notice is hereby given that, on December 2, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the National Information Technology Center of Maryland, Inc. ("NITC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have become members of NITC: Bechtel Corporation, Gaithersburg, MD; Intermax CD–ROM, Rockville, MD; Montgomery College, Rockville, MD. The following has withdrawn from membership in NITC: Federal Information Exchange.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NITC intends to file additional written notification disclosing all changes in membership.

On September 12, 1991, NITC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on October 22, 1991 (56 FR 54,586).

The last notification was filed with the Department on September 3, 1993. A notice was published in the Federal Register pursuant to section 6(b) of the Act on October 8, 1993 (58 FR 52,508).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–31642 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—"Texas School District Cooperative Research Project: Cost Effectiveness of Alternative Fuels Using Life-Cycle Cost Benefit Analysis"

Notice is hereby given that, on July 15, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Southwest Research Institute ("SwRI") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of the "Texas School District Cooperative Research Project: Cost Effectiveness of Alternative Fuels Using Life-Cycle Cost Benefit Analysis." The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following party has become a new member of the project: Wichita Falls Independent School District, Wichita Falls, TX.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the members intend to file additional written notification disclosing all changes in membership.

On August 28, 1992, SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on October 27, 1992, 57 FR 48636.

The last notification was filed with the Department on May 25, 1993. A notice was published in the Federal Register pursuant to section 6(b) of the Act on June 22, 1993, 58 FR 33955.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–31640 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 5, 1993, High Standard Products, 1100 W. Florence Avenue, #B, Inglewood, California 90301, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458).	I
Normorphine (9313)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

High Standard Products plans to procure or manufacture small quantities from 10 to 20 grams annually for manufacturing standards and deuterated analytical standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than January 27, 1994.

Dated: December 21, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–31611 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to section 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on November 9, 1993, Orpharm, Inc., 728 West 19th Street, Houston, Texas 77006, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II basic class of controlled substance Methadone (9250).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than January 27, 1994.

Dated: December 21, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–31612 Filed 12–28–93; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on November 2, 1993, The Binding Site, Inc., 5889 Oberlin Drive, Suite 101, San Diego, California 92121, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamid (7315)	I
Tetrahydrocannabinols (7370)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Ethylmorphine (9190)	II
Methadone-intermediate (9254)	II

The firm plans to import the above listed substances in milligram quantities for labelling with enzymes, fluorophores and radioisotopes for immunoassays.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than January 27, 1994.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to improt a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Director, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: December 21, 1993.

Gene R. Haislip,

Director, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 93–31613 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Registration

By Notice dated October 18, 1993, and published in the **Federal Register** on October 26, 1993 (58 FR 57623), Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146 7, State Road 2, Mayaguez, Puerto Rico 00680, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Dextropropoxyphene, bulk (non-dosage forms) (9273), a basic class of controlled substance listed in Schedule II.

No comments of objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Director hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: December 21, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–31614 Filed 12–27–93; 8:45am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Registration

By Notice dated October 18, 1993, and published in the **Federal Register** on October 26, 1993, (58 FR 57624), Sanofi Winthrop L. P., DBA Sterling Organics, 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Meperidine (9230), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Director hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: December 21, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–31615 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated April 27, 1992, and published in the **Federal Register** on May 1, 1992, (57 FR 18909), Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Phenylacetone (8501)	II
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium, poppy (9650)	II
Poppy Straw Concentrate (9670)	II

Two registered manufacturers did file objections with respect to the continued registration of Penick Corporation, however, no written request for a hearing was filed. The DEA has considered the comments and has concluded that the registration of Penick Corporation as an importer is in the public interest.

Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: December 21, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–31617 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated November 4, 1993, and published in the **Federal Register** on November 12, 1993, (58 FR 60061), Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations Section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: December 21, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–31616 Filed 12–27–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement. The OMB and/or Agency identification numbers, if applicable. How often the recordkeeping/reporting requirement is needed. Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Bureau of Labor Statistics

Pricing Collective Bargaining Settlements—Private Sector

Businesses or other for-profit

396 respondents; 35.1 minutes per response; 232 total hours; 2 forms

The Bureau of Labor Statistics will use the information collected in Pricing Collective Bargaining Settlements to compile quarterly measures of collective bargaining settlements. As a Primary Federal Economic Indicator, the series are used by Federal policymakers to help set economic policy. In addition, company officials and labor groups request the data for collective bargaining negotiations and researchers use the data for compensation and unionization analyses.

New

Assistant Secretary for Administration and Management
Customer Satisfaction Survey Generic Clearance
One-time surveys
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations
40,000 respondents; 15 minutes per response; 10,000 total hours

The Department of Labor is seeking a generic clearance for Customer Satisfaction Surveys in accordance with the requirements of Executive Order 12862, Setting Customer Service Standards.

New

Employment and Training Administration
Employment Service Performance Measures Pilot Self-Definition Profile
One-time survey
State or local governments
52 respondents; 1 hour per response; 52 total hours

As part of the effort to pilot test a variety of Employment service performance measures, State Employment Service Agencies are being invited to participate in voluntarily testing a limited number of performance measures. Given the broad range of operating environments, the Self-Definition Profile provides background information for use in analysis of results.

Extension

Bureau of Labor Statistics
Pricing Collective Bargaining Settlements—Public Sector
1220–0048; BLS 3116B, BLS 3116C
Other (usually every 2 or 3 years)
State or local governments
250 respondents; .8 hours per response; 150 total hours; 2 forms

The Bureau of Labor Statistics' series on State and local government collective bargaining agreements provides data on the size or negotiated changes in wages and compensation. This series covers about half of the unionized non-Federal public sector workforce. The data are used by Federal policymakers, State and local government officials, and labor groups.

Extension

Employment Standards Administration
Agreement and Undertaking
1215–0034; OWCP–1
On occasion
Businesses or other for-profit
300 respondents; .25 hr. per response; 75 total hours; 1 form.

The OWCP–1 (Office of Workers Compensation Programs) is a joint use form (Longshore and Black Lung programs) completed by employers to provide the Secretary of Labor with authorization to sell securities, or to bring suit under indemnity bonds deposited by the self-insured employers in the event there is a default in the payment of benefits.

Extension

Employment and Training Administration
Characteristics of the Insured Unemployed
1205–0009; ETA 203
Monthly
State or local governments
53 respondents; .34 average hours per response; 212 total hours; 1 form

The Characteristics of the Insured Unemployed report is the only source of current, consistent demographic information (age, race/ethnic, sex, occupation, industry) of the unemployment insurance claimant population. These characteristics identify important claimant cohorts for legislative, economic and social planning purposes and evaluation of the UI program on the Federal and State levels.

Extension

Employment and Training Administration
Annual Plans for State Employment Service Activities
1205–0209
Annually
State or local governments
54 respondents; 90 hours per response; 4,860 total hours

The Wagner-Peyser Act, P.L. 97–300, Section 8 requires that States desiring to receive the benefits of the Act submit to the Secretary of Labor detailed plans for carrying out the provision of the Act. The details of the plans are described in 20 CFR 652.4, 652.6 and 652.7.

Extension

Employment and Training Administration
Attestation by Facilities Temporarily Employing Nonimmigrant Aliens as Registered Nurses
1205–0305; ETA 9029
On occasion
Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations
1,024 respondents; 11 hours 8 minutes per response; 11,415 total hours; 1 form

The information provided on this form by health care facilities will permit the Department to meet Federal responsibilities for program administration, management, and oversight.

Extension

Mine Safety and Health Administration
Roof Control Plans
1219–0004
Annually
Businesses or other for-profit; Small businesses or organizations 2,000 respondents, 7.565 average hours per response; 15,130 total hours

All underground coal mine operators are required to develop and submit roof plans to the Mine Safety and Health Administration for evaluation and approval. These plans are evaluated to determine if they are adequate for prevailing mining conditions.

Extension

Mine Safety and Health Administration
Ground Control Plan
1219–0026
On occasion
Businesses or other for-profit; Small businesses or organizations 300 respondents; 40 hours per response; 12,000 total hours
Requires operators of surface coal mines to establish and follow a ground control plan to ensure safe working conditions around highwalls and spoil banks. The plan is used to ensure that highwalls and spoil banks are based on sound engineering design and excavated and maintained with suitable equipment.

Extension

Occupational Safety and Health Administration
1218–0064
Notice of Alleged Safety and Health Hazards
On occasion
Individuals or households
16,500 respondents; .28 hours per response; 4,686 total hours; 1 form

The OSHA–7 form can be used by an employee or employee representative to notify the Occupational Safety and Health Administration if he/she believes that there is a violation of a safety or health standard or if imminent danger to an employee exists. The Occupational Safety and Health Administration uses the form's information to determine if there are reasonable grounds to believe that a violation or danger exists and to determine appropriate agency action. The form is also used to provide an employer with a copy of any complaints as required by the Occupational Safety and Health Act, and to provide local magistrates with evidence of just cause for obtaining a warrant for those cases

in which an employer has not allowed the Occupational Safety and Health Administration to investigate a complaint.

Extension

Occupational Safety and Health Administration
Coke Oven Emissions
1218–0125
On occasion
Businesses or other for-profit; Small businesses or organizations 2 respondents; 1 hour per response; 2 total hours

The purpose of this standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with the occupational exposure to coke oven emissions. The standard requires employers to allow the Occupational Safety and Health Administration to have access to various records to ensure that employers are complying with disclosure provisions of the standard. The standard also requires that employers contact the National Institute of Occupational Safety and Health (NIOSH) when there is no successor to receive or retain the records for the prescribed period of time. Employers may be required to submit their records to NIOSH.

Extension

Occupational Safety and Health Administration
Inorganic Arsenic
1218–0104
On occasion
Businesses or other for-profit; Small businesses or organizations 42 respondents; 2.05 hours per response; 86 total hours

The purpose of this standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to inorganic arsenic. The standard requires employers to notify the Occupational Safety and Health Administration Area Office of regulated areas and changes to regulated areas. The standard also requires that the Occupational Safety and Health Administration have access to various records to ensure that employers are complying with disclosure provisions of the inorganic arsenic standard.

Revision

Bureau of Labor Statistics
Standard Industrial Classification (SIC) – Forms 1220–0032

Form No.	Affected public	Respondents	Frequency	Average time per response
BLS 3023VS	Service Industries	1,630,815	Every 3 yrs	.063 hours.
BLS 3023VM	Service Industries	106,148	Every 3 yrs	.25 hours.
BLS 3023CA	All industries	45,359	Every 3 yrs	.167 hours.
BLS 3023V	Service Industries	121,940	Every 3 yrs	.083 hours.
179,591 total hours.				

Accurate industrial coding based on the 1987 Standard Industrial Classification Manual is needed by many Federal, State, and local government officials and private researchers. This extension will permit the use of previously approved forms to gather this information.

Revision

Employment and Training Administration
Program Monitoring Report and Job Service Complaint Form 1205–0039; ETA 8429 and 5148

Form No.	Affected public	Respondents	Frequency	Average time per response
ETA 8429 Recordkeeping	Local Offices	168	15	25 minutes.
ETA 8429	Local Offices	2,520	One-time	8 minutes.
Outreach Log Recordkeeping	Local Offices	150	130 times	12 minutes.
ETA 5148	State Gov.	52	Quarterly	1 hour 10 min.
5,630 total hours.				

Job Service forms are necessary as part of Federal regulations at 20 CFR parts 651, 653 and 658 published as a result of the NAACP v. Brock. The forms allow the United States Employment Service to track regulatory compliance of services provided to Migrant Seasonal Farmworkers by the State Employment Service Agencies.

Revision

Pension Welfare and Benefits Administration
Annual Report/Form 5500 Series
1210–0016; Form 5500
Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
832,000 respondents; 1.2 hours per response; 998,400 total hours

Section 104(a) of the Employee Retirement Income Security Act (ERISA) requires plan administrators to file an annual report containing the information described in section 103 of ERISA. The Form 5500 Series provides a standard format for filing that requirement.

Reinstatement

Employment and Training Administration
Statement of Selected Workloads and Expenditures of Federal Funds for Unemployment Compensation for Federal Employees and Ex-servicepersons
1205–0162; ETA 191
Quarterly
State or local governments
53 respondents; 6 hours per response; 1,272 total hours; 1 form

Federal and military agencies must reimburse the Federal Employees Compensation Account for the amount expended for benefits to former Federal (civilian) employees (UCEF) and ex-servicemembers (UCX). The report informs the Employment and Training Administration of the amount to bill each such agency.

Signed at Washington, DC this 21st day of December, 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–31665 Filed 12–27–93; 8:45 am]

BILLING CODE 4510–30–P; 4510–30–P

Employment and Training Administration

[ETA-W-28,854]

Goulds Pumps, Inc., Lubbock, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Goulds Pumps, Incorporated, Lubbock, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-28,854; Goulds Pumps, Incorporated
Lubbock, TX (December 15, 1993)

Signed at Washington, DC this 20th day of December, 1993.

Marvin M. Fooks,
Director, Office of Adjustment Assistance.

[FR Doc. 93-31660 Filed 12-27-93; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-28,496]

Jones and Lamson Waterbury Farrell Corp. a/k/a Waterbury Farrell Technologies, Cheshire, CT. Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Revised Determination on Reopening on December 2, 1993 for workers of Jones & Lamson Waterbury Farrell Corporation in Cheshire, Connecticut. The certification notice was published in the **Federal Register** on December 13, 1993 (58 FR 65195).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that Waterbury Farrell Technologies in Cheshire, Connecticut meets all the requirements of a successor-in-interest firm for Jones & Lamson Waterbury Farrell Corporation.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The amended notice applicable to TA-W-28,496 is hereby issued as follows:

All workers and former workers of Jones & Lamson Waterbury Farrell Corporation, Cheshire, Connecticut also known as (a/k/a) Waterbury Farrell Technologies, Cheshire, Connecticut who became totally or partially separated from employment on or after March 17, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC., this December 20, 1993.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-31658 Filed 12-27-93; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-28,939]

Radiometer Technology, Inc., Westlake, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of Radiometer Technology, Inc., Westlake, Ohio. The notice was issued on October 7, 1993 and published in the **Federal Register** on October 21, 1993 (58 FR 54377).

At the request of one of the workers, the Department reviewed the certification for workers of the subject firm. New findings from the company show that some workers were separated a few weeks prior to the July 1, 1993 impact date set in the certification. The workers were laid off in anticipation of company imports.

Accordingly, the Department is amending the certification to show the correct impact date.

The amended notice applicable to TA-W-28,939 is hereby issued as follows:

"All workers Radiometer Technology, Inc., Westlake, Ohio engaged in employment related to the production of arterial blood samplers who became totally or partially separated from employment on or after May 1, 1993 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC this 17th December, 1993.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-31662 Filed 12-27-93; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of December, 1993.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-29,037; Simonds Industries, Inc., Newcomerstown, OH
TA-W-29,087; Charles E. Gillman Co., Rio Rico, AZ
TA-W-29,063; Virginia Apparel Corp., Blackstone, VA
TA-W-29,096; Nelbro Packing Co., Anacortes, WA
TA-W-28,997; AGIP Petroleum Co., Inc., Houston TX
TA-W-29,071; Midcon Cables Co., Joplin, MO
TA-W-29,086; Sunstrand Electrical Power Systems, Lima, OH
TA-W-28,692; Continental Electric Co., Inc., Newark, NJ
TA-W-29,157; Loranger Manufacturing Corp., Warren, PA
TA-W-29,046; George Newman & Co., Biddeford, ME
TA-W-29,103; Greenleaf Corp., Saegertown, PA
TA-W-29,160; Benteler Industries, Grand Rapids, MI

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-28,993; Brown & Root Industrial Service, Houston, TX
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,967; Lyondell Petrochemical Co., Houston, TX
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-29,146; GTE North, Inc., Westfield, IN
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-29,007; The Standard Products Co., Port Clinton Div., Port Clinton, MI
Increased imports did not contribute importantly to worker separations at the firm.

TA-W-29,097; FD Services, Inc., Casper, WY
Increased imports did not contribute importantly to worker separations at the firm.

TA-W-29,100; Intratex Gas Co., (An Affiliate of Enron Corp), Houston, TX
Increased imports did not contribute importantly to worker separations at the firm.

TA-W-29,220; Spot-Bilt, Inc., Bangor, ME
The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period for certification.

TA-W-29,091; UVC Corp., Irvine, CA
The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period for certification.

TA-W-29,151; Brown Shoe Co/Pagoda Trading Co., St. Louis, MO
The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-29,207; Kerr-McGee Refining, Wynnewood, OK
The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the revelant period for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA-W-29,208; Kerr-McGee Pipeline, Wynnewood, OK
The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the revelant period for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations

TA-W-29,187; E.I. Dupont & Co., Inc., Martinsville, VA
A certification was issued covering all workers separated on or after October 20, 1992.

TA-W-29,013; Lincoln Brass Works, Inc., Detroit, MI
A certification was issued covering all workers separated on or after August 16, 1992.

TA-W-29,092; Great Northern Paper, Inc., Millinocket East & West Operations, Millinocket, ME
A certification was issued covering all workers separated on or after May 22, 1993.

TA-W-28,976; RNH Corp., Canastota, NY
A certification was issued covering all workers separated on or after July 1, 1993.

TA-W-28,977; The People Pool, Inc., Canastota, NY
A certification was issued covering all workers separated on or after July 1, 1993.

TA-W-29,254; Reed & Barton, Silversmiths, Taunton MA
A certification was issued covering all workers separated on or after November 5, 1992.

TA-W-29,249; MG Products, Inc., Independence, OH
A certification was issued covering all workers separated on or after November 8, 1992.

TA-W-29,118; Linden Sportswear, Linden, AL
A certification was issued covering all workers separated on or after September 30, 1992.

TA-W-29,165; American Precision Industries (API), Delevan Div., East Aurora, NY and
TA-W-29,166; American Precision Industries (API), Surface Mount Div., Arcade, NY
A certification was issued covering all workers separated on or after October 4, 1992.

TA-W-29,268; Mount Olive Sportswear Corp., Mount Olive, NC
A certification was issued covering all workers separated on or after November 16, 1992.

TA-W-29,026; IBM Adstar, Rockester, MN
A certification was issued covering all workers separated on or after September 1, 1993.

TA-W-29,038; Saha-Union International (GA), Inc., Tallapoosa, GA
A certification was issued covering all workers separated on or after September 8, 1992.

TA-W-29,039; Develco, Inc., Houston, TX
A certification was issued covering all workers separated on or after September 5, 1992 and before January 1, 1993.

TA-W-29,109; Titanium Metals Corp., Toronto, OH
A certification was issued covering all workers separated on or after September 28, 1992.

TA-W-29,128 & TA-W-29,129; Hitchcock, Industries, Inc., Bloomington, MN and Lakeville, MN
A certification was issued covering all workers separated on or after September 29, 1992.

I hereby certify that the aforementioned determinations were issued during the month of December, 1993. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: December 20, 1993.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-31659 Filed 12-27-93; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 7, 1994.

Interested persons are invited to submit written comments regarding the

subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 7, 1994.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington DC this 13th day of December, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Wyman Gordon Co, Aerospace Forging (USWA).	North Grafton, MA ..	12/13/93	11/29/93	29,312	Aerospace Forgings.
Thom McAn Manufacturing, Inc. (Wkrs)	Wilkesboro, NC	12/13/93	11/01/93	29,313	Men's Leather Shoes.
Sterling Abrasive Products (USWA)	Tiffin, OH	12/13/93	11/16/93	29,314	Grinding Wheels.
S&S Fashions (ILGWU)	Pittston, PA	12/13/93	11/29/93	29,315	Cutting Room.
Sir. Bros. Nursery, Inc (Co/Wkrs)	East Palo Alto, CA .	12/13/93	11/30/93	29,316	Miniature Carnations.
Rexham Graphics (AWPP)	Portland, OR	12/13/93	11/30/93	29,317	Coating Specialty Papers.
National Steel Corp (USWA)	Keewatin, MN	12/13/93	12/04/93	29,318	Taconite Pellets.
Koch Gathering System, Inc (Wkrs)	Duncan, OK	12/13/93	12/01/93	29,319	Pipeline Operation.
Gibbs Ellison, Inc (Co)	Houston, TX	12/13/93	12/02/93	29,3320	Engineering Consultants.
Frigidaire Co (UAW)	Connersville, IN	12/13/93	11/17/93	29,321	Washer and Dryer.
Dudley Sports (Wkrs)	Sellersville, PA	12/13/93	11/11/93	29,322	Softball Leather Covers.
Digital Equipment Corp. (Wkrs)	Albuquerque, NM ...	12/13/93	11/30/93	29,323	Printed Circuit Boards.
Berwick Knitwear, Inc. (Wkrs)	Holdenville, OK	12/13/93	12/03/93	29,324	Cotton Sweaters.
Ameripex International, Inc. (Wkrs)	Denver, CO	12/13/93	12/01/93	29,325	Oil and Gas Drilling, Exploration.
Rockwell International, NAA (Wkrs)	El Segundo, CA	12/13/93	11/11/93	29,326	Aerospace Products and Services.

[FR Doc. 93–31661 Filed 12–27–93; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Enlow Fork Mining Company

[Docket No. M–93–314–C]

Enlow Fork Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.380(d)(4) (escapeways; bituminous and lignite mines) to Enlow Fork Mine (I.D. No. 36–07416) located in Greene County, Pennsylvania. The petitioner proposes to maintain a minimum clearance of 4 feet along the development and retreat section in the primary escapeway. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

2. Buck Mountain Coal Company No. 2

[Docket No. M–93–313–C]

Buck Mountain Coal Company No. 2, R.D. 2, Box 425–B2, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Buck Mountain Slope (I.D. No. 36–02053) located in Schuylkill County, Pennsylvania. The petitioner proposes to use bar and pin or link and pin couplers on underground haulage equipment instead of automatic couplers. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Costain Coal, Inc.

[Docket No. M–93–316–C]

Costain Coal, Inc., P.O. Box 289, Sturgis, Kentucky 42459–0289 has filed a petition to modify the application of 30 CFR 77.1911(b)(1) (ventilation of slopes and shafts) to its Baker Mine (I.D. No. 15–14492) located in Webster County, Kentucky. The petitioner proposes to operate its ventilation fan at an underground location and ventilate further slope development by using the existing return entries; to install a fire suppression system above the fan; and to install a carbon monoxide monitoring device down wind of the fan to show both a visual and audible alarm within sight of the excavation area and at the mouth of the slope when carbon monoxide reaches 10 ppm above the ambient. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. Richland Coal Company

[Docket No. M–93–317–C]

Richland Coal Company, P.O. Box 340, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its Mine No. 36 (I.D. No. 15–13873) located in Knox County, Kentucky. The petitioner proposes to monitor continuously with a hand-held methane and oxygen detector instead of using a methane monitoring system on permissible three-wheel tractors with drag bottom buckets. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Consolidation Coal Company

[Docket No. M–93–318–C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.343(b) (underground shops) to its Humphrey No. 7 Mine (I.D. No. 46–01453) located in Monongalia County, West Virginia. Due to deteriorating conditions in the air course, traveling the entire area would be unsafe. The petitioner proposes to ventilate the underground motor barn with intake air that is coursed through the affected air course directly into a return air course and that is not used to ventilate working places; and to establish check points to monitor for methane and the quantity of air in the affected area on a weekly basis. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

6. Raven Mining Company

[Docket No. M–93–319–C]

Raven Mining Company, P.O. Box 1409, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.333(b)(3) (ventilation controls) to its No. 2 Mine (I.D. No. 15–16832) located in Martin County, Kentucky. The petitioner proposes to stack 8" x 8" x 16" concrete blocks without mortered joints on the intake side of the belt in short panels, 800 feet or less, off the mains with return side stopping line left intact, and to remove the intake side stopping line as each short panel is completed. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

7. Consol Pennsylvania Coal Company

[Docket No. M–93–320–C]

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (weekly examination) to its Bailey Mine (I.D. No. 36–07230) located in Greene County, Pennsylvania. Due to deteriorating roof conditions, certain areas of the intake air course cannot be traveled safely. The petitioner proposes to establish check points and to have a certified person test for methane and the quantity of air at each check point on a weekly basis and record test results in a record book which would be kept on the surface and made available for inspection by interested persons. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Energy West Mining Company (formerly Utah Power & Light Mining Company)

[Docket No. M–93–321–C]

Energy West Mining Company, P.O. Box 310, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.1101–8 (water sprinkler systems; arrangement of sprinklers) to its Deer Creek Mine (I.D. No. 42–00121); its Cottonwood Mine (I.D. No. 42–01944); and its Trail Mountain Mine (I.D. No. 42–01211) all located in Emery County, Utah. The petitioner request that previously granted petition, docket number M–85–49–C, be amended. The petitioner proposes to protect all belt drives in these mines with water sprinkler systems; to use upright type sprinkler heads instead of the previously approved pendant type sprinkler heads; and to include an optional 2-inch outlet at the end of the 2-inch sprinkler pipe to extend the circuit to provide optional coverage of remote headrollers. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Energy West Mining Company

[Docket No. M–93–322–C]

Energy West Mining Company, P.O. Box 310, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.352 (return air courses) to its Trail Mountain Mine (I.D. No. 42–01211) located in Emery County, Utah. The petitioner proposes to use belt entries as return entries during two entry longwall panel development mining to provide miners with maximum protection under deep cover. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternate method would provide at least the same protection as would the mandatory standard.

10. Jersey Miniere Zinc

[Docket No. M–93–12–M]

Jersey Miniere Zinc, P.O. Box 359, Gordonsville, Tennessee 38563 has filed a petition to modify the application of 30 CFR 75.11050(a) (escapeways and refuges) to its Elmwood/Gordonsville Mine (I.D. No. 40–00864) located in Smith County, Tennessee. The petitioner proposes to remove the Stonewall No. 6 Shaft from its designation as a secondary escapeway and delete it from the Mine Evacuation Plan, due to ground problems in the shaft area. The petitioner states that using the No. 6 Shaft for escape would result in a diminution of safety to the miners.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 27, 1994. Copies of these petitions are available for inspection at that address.

Dated: December 21, 1993.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 93–31663 Filed 12–27–93; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–094]

NASA Advisory Council, Space Science Advisory Committee; Space Physics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Space Physics Subcommittee.

DATES: January 5–7, 1994, 8 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC–5m 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. George L. Withbroe, Code SS, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1544.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Space Physics Division Overview: Budget, Ongoing Program, Future Activities
—Program Reports for Magnetospheric, Cosmic and Heliospheric Physics, Solar Physics, and Ionosphere—Thermosphere—Mesophere
—Space Physics Research and Analysis Program
—Strategic Planning
—Discussion and Writing Groups

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: December 21, 1993.

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93-31601 Filed 12-27-93; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of title 5, United States Code.

1. *Date:* January 24, 1994
Time: 8:30 to 5 p.m.
Room: 415
Program: This meeting will review applications for the National Heritage Preservation Program Projects, submitted to the Division of Preservation and Access, for projects beginning after July 1, 1994.

2. *Date:* January 31, 1994
Time: 8:30 to 5 p.m.
Room: M-07
Program: This meeting will review applications for the National Heritage Preservation Program Projects, submitted to the Division of Preservation and Access, for projects beginning after July 1, 1994.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 93-31549 Filed 12-27-93; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Licensing Support System Advisory Review Panel; Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of renewal of the Licensing Support System Advisory Review Panel (LSSARP) for a period of three months.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has determined that renewal of the charter for the LSSARP for a period of three months commencing December 9, 1993 is in the public interest in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act after consultation with the Commission Management Secretariat, General Services Administration.

The purpose of the LSSARP is to provide advice to (1) the Department of Energy on the fundamental issues of design and development of an electronic information management system to be used to store and retrieve documents relating to the licensing of a geologic repository for the disposal of high-level radioactive waste, and (2) the Nuclear Regulatory Commission on the operation and maintenance of the system. This electronic information management system is known as the Licensing Support System (LSS).

Membership of the Panel is drawn from those interests that will be affected by the use of the LSS, including the Department of Energy, the NRC, the State of Nevada, Tribal interests, affected units of local governments in Nevada, and the nuclear industry. Federal agencies with expertise and experience in electronic information management system also participate on the Panel.

Further information regarding the LSS Advisory Review Panel may be obtained from John Hoyle, Office of the Secretary, NRC, Washington, DC 20555; telephone: (301) 504-1968.

John C. Hoyle,

Advisory Committee Management Officer.

Dated: December 21, 1993

[FR Doc. 93-31600 Filed 12-27-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co., Pilgrim Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the approval of an exemption, pursuant to 10 CFR 20.2301, from the requirements of 10 CFR part 20, Appendix B, Table 1, to Boston Edison Company, for the Pilgrim Nuclear Power Station (PNPS) located in Plymouth, Massachusetts. The requested exemption would allow the use of a derived air concentration (DAC) of 10^{-6} for krypton-89 and a DAC of 10^{-5} xenon-137, instead of using the generic value DAC of 10^{-7} µCi/ml that is specified in Appendix B to 10 CFR 20.1001-20.2402 for these two radionuclides, when determining when an area is, and requires posting as, an airborne radioactivity area in accordance with the requirements of 10 CFR part 20.

Environmental Assessment

Identification of the Proposed Action

The proposed action would approve the use of the requested DAC values for posting airborne radioactivity areas at PNPS. Posting of airborne radioactivity areas is required by 10 CFR part 20 as one means of controlling occupational radiation exposure.

The Need for the Proposed Action

The Boston Edison Company (BECo) states the requested exemption is needed because krypton-89 and xenon-137 are a significant fraction of the noble gas radioactivity in a boiling water reactor (BWR) and the DAC of 10^{-7} µCi/ml specified in Appendix B to 10 CFR 20.1001-20.2402 is too small for these particular radionuclides. BECo further states that the use of the 10^{-7} µCi/ml value for the krypton-89 and xenon-137 DACs would cause over posting of airborne radioactivity areas, which erodes the significance of the posting and consumes resources. BECo also states that the use of the 10^{-7} µCi/ml value for the krypton-89 and xenon-137 DACs would result in undue hardship and would overburden operational staff by posting areas that are normally not required to be posted while providing little to no benefit.

Environmental Impacts of the Proposed Action

The Commission has evaluated the environmental impact of the proposed action and has concluded that the use of the proposed DACs for posting airborne radioactivity areas will not result in any significant increase in individual or cumulative occupational radiation exposure. The radiation doses corresponding to the DAC values requested by BECo for krypton-89 and xenon-137 are within the radiation dose limits that were used to calculate the DAC values for the other radioisotopes of krypton and xenon that are listed in Appendix B to 10 CFR 20.1001-20.2402. The staff has determined that this exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released. Accordingly, the Commission has concluded that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed approval would not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there is no significant nonradiological environmental impact associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternatives with equal or greater environmental impact need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impact attributable to this facility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Pilgrim Nuclear Power Station, dated May 1972.

Agencies and Persons Consulted

The NRC staff consulted with Dr. Keith Eckerman, Oak Ridge National Laboratory, to obtain calculations of relevant radiation dose conversion factors for krypton-89 and xenon-137.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the application for exemption dated September 13, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, and at the local public document room located at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Dated at Rockville, Maryland, this 21st day of December 1993.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-3, Division of Reactor Project—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 93-31608 Filed 12-27-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

Environmental Assessment and Finding of No Significant Impact; GPU Nuclear Corp., Three Mile Island Nuclear Station, Unit No. 2

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the Possession Only License (POL) DPR-73 issued to GPU Nuclear Corporation (the licensee or GPUN). The amendment would substantially change and reissue the Appendix A and B Technical Specifications for the Three Mile Island Nuclear Station Unit 2 (TMI-2), located in Dauphin County, Pennsylvania.

The licensee has requested by letter dated August 16, 1988, as amended by submittals dated September 19, 1988, February 9, 1989, March 31, 1989, June 26, 1989, October 10, 1989, November 22, 1989, June 21, 1990, October 15, 1990, November 7, 1990, February 19, 1991, April 19, 1991, June 21, 1991, August 28, 1991, October 9, 1991, January 13, 1992, January 18, 1993, May 28, 1993, October 24, 1993, and November 12, 1993, that the technical specifications for TMI-2 be amended to permit long term storage of the facility.

Environmental Assessment

Identification of the Proposed Action

The POL allows the licensee to possess but not operate TMI-2 and establishes requirements that are applicable to the facility in its post accident, inoperable, and essentially defueled condition. The proposed amendment to the facility technical specifications would permit the licensee to place the TMI-2 facility in long-term monitored storage, termed Post-Defueling Monitored Storage (PDMS) by the licensee.

The Need for the Proposed Action

The licensee has completed the current phase of the cleanup effort. The licensee has determined that the facility should be maintained in the PDMS condition until the time Three Mile Island Nuclear Station Unit 1 (TMI-1) is ready for decommissioning, at which time both TMI-1 and TMI-2 will be decommissioned simultaneously. In order to permit and facilitate long term storage of TMI-2, the licensee has proposed a number of changes to the technical specifications. The licensee has determined that many of the requirements contained in the current technical specifications are inappropriate and not required to ensure the safety of a post-accident, inoperable, and essential defueled facility possessing a POL.

Background

In March 1981, the NRC staff issued NUREG-0683, "Programmatic Environmental Impact Statement Related to Decontamination and Disposal of Radioactive Wastes Resulting from the March 28, 1979 Accident at TMI-2" (PEIS). The PEIS has been supplemented by the staff three times. In August 1989, the NRC staff issued PEIS Final Supplement 3, which assessed, in part the environmental impacts associated with the licensee plans to place the facility into PDMS. Seven alternatives to the licensee proposal were also evaluated in PEIS Supplement 3.

The staff concluded in PEIS Supplement 3 that the licensee proposal:

(1) Is within the applicable regulatory limits, and could be implemented without significant environmental impact since the health impact on both the workers and the offsite public is very small;

(2) Would result in a radiological dose to the public that are fractions of the dose received from background radiation;

(3) Would result in substantial occupational dose savings and reduced transportation impacts over several of the alternatives considered; and

(4) Is environmentally acceptable and will not significantly affect the quality of the human environment.

The staff evaluation of the licensee proposal was based principally on the licensee description of PDMS contained in the 1987 licensee submittal entitled "Technical Plan, TMI–2, Cleanup Program Post-Defueling Monitored Storage" and on the licensee submittal of August 1988, entitled "Post-Defueling Monitored Storage Proposed License Amendment and Safety Analysis Report." The 1988 submittal by the licensee provided the detailed system by system description of the facility during PDMS and provided the safety analysis necessary to assess the potential for environmental impact during storage. Since August 16, 1988 submittal, the licensee has updated the PDMS proposed license amendment and Safety Analysis Report (SAR) 19 times (September 19, 1988 through November 12, 1993). Since issuance, by the NRC staff, of the August 1989, PEIS Supplement 3, the PDMS proposed license amendment and SAR have been updated 15 times (October 10, 1989 through November 12, 1993).

The purpose of this environmental assessment is to determine if the August 1989, PEIS Supplement 3 dealing with PDMS remains valid after a review of the 15 amendments to the August 16, 1988 SAR, as well as other significant submittals, issued since publication of PEIS Supplement 3.

Environmental Assessment

The staff has reviewed the licensee amendments to the August 16, 1988 submittal that have been submitted to the NRC staff since issuance of the August 1989, PEIS Supplement 3. The staff also reviewed the licensee Defueling Completion Report dated February 22, 1990, the results of the post lower head sampling program cleanup in a letter dated April 12, 1990, the post-defueling survey reports, the initial report dated September 30, 1988 and final report dated Febraury 1, 1993, and the results of the independent staff analyses done for the staff by Battelle Pacific Northwest Laboratory. The purpose of this reviews was to determine if the licensee proposal and the subsequent assessment of environmental impact is still within the scope of the August 1989 PEIS Supplement 3.

The amendments to the August 16, 1988 submittal, sent to the staff after the publication of the August 1989, PEIS Supplement 3, consist primarily of written respnses to detailed staff questions, updates to the descriptive information in the SAR, and changes in the proposed PDMS Technical Specifications. Some of the changes to the SAR resulted in physical changes to the facility that were not considered during the preparation of PEIS Supplement 3 (e.g. a closure mechanism for the atmospheric breather, and containment penetration overpressurization limits). The staff has reviewed these changes and has determined that there is no significant change in potential environmental impact due to these modifications. Some of the changes identified in the amendments to the SAR deal with changes in values of measurements, estimates, or monitoring programs (e.g. residual fuel in the facility, level of contamination, unfiltered leak rate test for the reactor building). These revised values or tests do not alter the conclusions in the PEIS Supplement 3. Finally, some of the changes in the SAR revise analyses of potential accidents (e.g. fire in containment). Review of these revised analyses did not reveal any significant changes in predicted impact.

The staff reviewed the licensee-submitted Defueling Completion Report, the Post-Defueling Survey Reports (PDSR, particulary the PDSR of February 1, 1993 related to the reactor vessel, and the licensee submittal of December 18, 1992 entitled "TMI–2 Reactor Vessel Criticality Safety Analysis". The principal issue in this review was the potential for inadvertent recriticality of the fuel remaining at the facility. The staff found that the feul remaining at the facility was in a configuration that precluded criticality. This condition was assumed by the staff in PEIS Supplement 3; therefore, the finding is consistent with the earlier evaluation by the staff.

The staff reviewed the results of independent analyses done while preparing the PDMS Safety Evaluation (SE). These analyses were done by both the NRC staff and their contractor, Battelle Pacific Northwest Laboratory. In one case, the results of an analysis of a different fire scenario in the reactor containment building showed offsite doses in excess of those evaluated for the fire analysis in PEIS Supplement 3. PEIS Supplment 3 predicted the consequences of a fire in the containment stairwell as a 50-year dose commitment to the maximally exposed member of the public of 1.6 mrem to the whole body. The staff PDMS SE evaluated the consequences of a fire inside the D-rings in the containment. The predicted 50-year dose commitment to the maximally exposed member of the public for this accident scenario is 49 mrem to the whole body.

For an accident situation, the guidance provided in 10 CFR part 100 limits the total radiation dose to a member of the public to less than 25 rem to the whole body. The U.S. Environmental Protection Agency (EPA) Protective Action Guidelines (PAG) trigger actions on the part of the licensee, local and state governments to limit public exposure in the range of 1 to 5 rem to the whole body. Although the predicted 50-year dose commitment to the maximally exposed member of the public in the revised accident analysis presented in the staff-issued PDMS SE is greater than that predicted in PEIS Supplement 3, the revised whole body dose of 49 mrem to the maximally exposed member of the public is still a small fraction (lses than 0.2 percent) of the 10 CFR Part 100 guidance and well below the EPA PAG.

This small increase (from 1.6 to 49 mrem) in the 50-year whole body dose commitment to the maximally exposed member of the public does not change the conclusions of PEIS Supplement 3. Specifically, the calculated dose to the public are fractions of the dose received by a member of the public from background radiation (≈ 300 mrem annually), are within the applicable regulatory limits (<25 rem), and the potential health impact on the public is very small. Based on the above evaluation, the staff concludes that the proposed changes to the Appendix A and B Technical Specifications for TMI–2 will result in environmental impacts that are still within the scope of the August 1989, PEIS Supplement 3.

Alternatives to the Proposed Action

Alternatives to the proposed action are evaluated in PEIS Supplement 3. The staff concludes in PEIS Supplement 3 that the licensee proposal, and the seven NRC staff-identified alternatives (with the exception of the no-action alternative which was found not to be viable because it would be contrary to regulations) could each be implemented without significant environmental impact. The staff has not identified any new alternatives or any new information, since issuance of PEIS Supplement 3, that would change its evaluation and conclusions on impacts for the licensee proposal or any of the alternatives. Therefore, any reasonable alternative to this action would not have a significant environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered by the NRC staff in the March 1981, PEIS (NUREG–0683) as supplemented.

Agencies and Persons Consulted

The staff widely distributed PEIS Draft Supplement 3 and received comments from a number of Federal, State, and local agencies, the licensee, local citizens and citizen organizations. These comments were incorporated in PEIS Final Supplement 3, issued in August 1989. On April 25, 1991, the staff published a notice of opportunity for a prior public hearing regarding, in part, the license amendment request for the changes to the technical specifications (56 FR 19128). In response to the staff notice of opportunity for a prior public hearing, a member of the public petitioned to intervene. A settlement agreement, between the petitioner, the licensee, and the NRC staff, was filed on September 25, 1992, before the Atomic Safety and Licensing Board (ASLB), assigned to this docket. Based on the settlement agreement, the ASLB dismissed the proceedings on October 16, 1992. The NRC staff consulted with a representative of the Commonwealth of Pennsylvania regarding the environmental impact of the proposed action on December 21, 1993. The State representative contacted had no comment.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed actions will not have a significant effect on the quality of the human environment and the impacts of this action remain within the scope of those evaluated in the August 1989, PEIS Supplement 3. Therefore, the Commission has determined that the PEIS Final Supplement 3 (NUREG–0683) need not be supplemented.

PEIS Final Supplement 3 (NUREG–0683), the staff Safety Evaluation, the licensee amendments to their August 16, 1988 submittal, as amended by submittals dated September 19, 1988, February 9, 1989, March 31, 1989, June 26, 1989, October 10, 1989, November 22, 1989, June 21, 1990, October 15, 1990, November 7, 1990, February 19, 1991, April 19, 1991, June 21, 1991, August 28, 1991, October 9, 1991, January 13, 1992, January 18, 1993, May 28, 1993, October 24, 1993, November 12, 1993, and the licensee February 22, 1990 Defueling Completion Report, the Post-Defueling Survey Reports (PDSR), particularly the PDSR of February 1, 1993 related to the reactor vessel, and the licensee submittal of December 18, 1992 entitled "TMI–2 Reactor Vessel Criticality Safety Analysis" are available for public inspection at the Commission Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and the local public document room at the Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 21st day of December 1993.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31609 Filed 12–27–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322]

Long Island Power Authority, Shoreham Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an exemption from the requirements of 10 CFR 50.54(w) to the Code of Federal Regulations to the Long Island Power Authority (LIPA or the licensee) for the Shoreham Nuclear Power Station (SNPS), Unit 1, pursuant to the requirements of 10 CFR 50.12.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant LIPA an exemption from the requirements of 10 CFR 50.54(w) to maintain on-site property insurance for the Shoreham Nuclear Power Station, pursuant to the requirements of 10 CFR 50.12. By letter dated August 2, 1993, the licensee requested this exemption.

The Need for the Proposed Action

The exemption is needed to eliminate the requirements of 10 CFR 50.54(w) that are appropriate for an operating plant but are not needed at a defueled plant that is being dismantled. Granting the proposed exemption would remove the requirements to comply with 10 CFR 50.54(w) to maintain on-site property insurance for an accident of a type that cannot occur at SNPS.

Environmental Impact of the Proposed Action

The proposed exemption would eliminate the requirements to have in effect, and to continue to maintain, on-site property insurance. Granting the exemption will have no environmental impact because SNPS is permanently shutdown, defueled, 75 percent decommissioned, and the risk of an accident that would require reactor stabilization or extensive decontamination as defined in 10 CFR 50.54(w) does not exist at Shoreham. In addition, there are no credible accident scenarios that could result in offsite doses greater than a small fraction of the U.S. Environmental Protection Agency's "Protective Action Guidelines."

The requested exemption would not authorize a change in licensed activities and would not effect changes in the permitted types or amounts of radiological effluent. Accordingly, the NRC staff concludes that this proposed action would result in no significant radiological environmental impact. With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the NRC concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the NRC concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

Alaternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement" for SNPS.

Agencies and Persons Consulted

The licensee initiated this exemption request. The NRC staff is reviewing this request. The State of New York was notified of the proposed exemption and provided no comments.

Finding of No Significant Impact

Based upon this environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the NRC staff will not prepare an environmental impact statement for the proposed exemption.

A copy of the licensee's request for exemption and supporting

documentation dated August 2, 1993, and the NRC staff's Safety Evaluation, included in the exemption, are available for public inspection at the NRC's Public Document Room, 2120 L Street, NW., Washington, DC 20037, and at the local public document room at the Shoreham Wading River Public Library, Shoreham Wading River High School, Route 25A, Shoreham, NY 11792.

Dated at Rockville, Maryland, this 14th day of December, 1993.

For The Nuclear Regulatory Commission.

John H. Austin,

Chief, Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93-31607 Filed 12-27-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Revision of Forms RI 30-2, and RI 30-44

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In acordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of a revised information collection. Form RI 30-2, Annuitant's Report of Income, is used by disability annuitant's under age 60 to report their earnings annually to the Office of Personnel Management. RI 30-44, Report of Income is Not Usable, is used to report earnings when the information from the RI 30-2 is unusable.

There are estimated to be 60,000 respondents for RI 30-2, and 780 for RI 30-44. It takes approximately 30 minutes to complete RI 30-2, and 5 minutes to complete RI 30-44. The combined annual burden is 30,065 hours.

For copies of this proposal, call C. Ronald Trueworthy on (703) 908-8550.

DATES: Comments on this proposal should be received on or before January 27, 1994.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E. Street, NW., room 3349, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief, Forms Analysis and Design (202) 606-0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 93-31430 Filed 12-27-93; 8:45 am]

BILLING CODE 6325-01-M

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meetings.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the thirty-first meeting of the Federal Salary Council will be held at the time and place shown below. At the meeting the Council will continue discussing issues relating to locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meetings are open to the public.

DATES: January 18, 1994, at 10 a.m.

ADDRESSES: Office of Personnel Management, 1900 E Street, NW., room 7B09, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary Systems Division, Office of Personnel Management, 1900 E Street, NW., room 6H31, Washington, DC 20415-0001. Telephone number: (202) 606-2838.

For the President's Pay Agency.

Lorraine A. Green,

Deputy Director.

[FR Doc. 93-31429 Filed 12-27-93; 8:45 am]

BILLING CODE 6325-01-M

Privacy Act of 1974: Computer Matching Program Between the Office of Personnel Management and the Social Security Administration

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice of a computer matching program between OPM and the Social Security Administration (SSA) for public comment.

SUMMARY: OPM is publishing notice of its computer matching program with SSA to meet the reporting and publication requirements of Pub. L. 100-503, the Computer Matching and Privacy Protection Act of 1988. In this match, SSA records are used in redetermining and recomputing certain annuitants' benefits where computations are based, in part, on military service performed after December 1956 under the Civil Service Retirement System (CSRS) and for annuitants under the Federal Employees' Retirement System (FERS) who have a CSRS component in their FERS annuity computation. The purpose of this match is to identify these beneficiaries.

DATES: This proposed action will become effective 40 days after the agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, unless either the Congress or the Office of Management and Budget objects thereto. Any public comments on this matching program must be submitted within the 30-day public notice period, which begins on the publication date of this notice.

ADDRESSES: Send comments to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, 1900 E Street, NW, room 4351, Washington, DC 20044; or deliver to OPM, room 4351, 1900 E Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joy Anderson, (202) 606-2099.

SUPPLEMENTARY INFORMATION: OPM and SSA have concluded an agreement to conduct a computer matching program between the two agencies. The purpose of the agreement is to establish the conditions under which SSA agrees to the disclosure of Social Security Benefit and/or tax return information to OPM. OPM, as specified in 5 U.S.C. 8332(j)(1), has an obligation to use post-1956 earnings data in redetermining and recomputing annuities for certain CSRS and FERS annuitants. Section 1106 of the Social Security Act (42 U.S.C.) requires that SSA disclose the needed data to OPM.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Report of Computer Matching Program Between the Office of Personnel Management and the Social Security Administration

A. Participating Agencies

OPM and SSA.

B. Purpose of the Matching Program

Chapters 83 and 84 of title 5, United States Code (U.S.C.), provide the basis for computing annuities under the Civil Service Retirement System and the Federal Employees' Retirement System respectively, and require release of information by SSA in order to administer post-1956 data exchanges. In this match, SSA records are used in redetermining and recomputing certain annuitants' benefits where computations are based, in part, on military service performed after December 1956 under the Civil Service Retirement System (CSRS) and for annuitants under the Federal Employees' Retirement System (FERS) who have a CSRS component in their FERS annuity computation. The purpose of this match is to identify these beneficiaries.

C. Authority for Conducting the Match Program

Chapters 83 and 84, title 5, United States Code, section 1106 of the Social Security Act (42 U.S.C. 1306), and the Internal Revenue Code (26 U.S.C. 6103).

D. Categories of Records and Individuals Covered by the Match

SSA will disclose data from its Master Beneficiary Record and Master Earnings Files, and manually extract post-1956 military wage information from SSA's "1086" microfilm file when required. SSA has published routine uses for these systems of records, published at 58 FR 35025, June 30, 1993, and also at 58 FR 45895, August, 31, 1993.

OPM's records consist of annuity data from its system of records entitled OPM/Central-1—Civil Service Retirement and Insurance Records, last published in the **Federal Register** at 58 FR 19154 on April 12, 1993, and revised at 58 FR 41300, August 3, 1993.

E. Description of Matching Program

OPM provides a monthly magnetic tape to SSA containing data on those individuals for whom OPM requests post-1956 military service benefit information. These elements will be matched against SSA records. SSA furnishes OPM by magnetic tape benefit information on these individuals, including the amount of the SSA benefit attributable to the post-1956 military service (which constitutes the CSRS or FERS annuity reduction amount).

F. Privacy Safeguards and Security

The personal privacy of the individuals whose names are included in the tapes is protected by strict adherence to the provisions of the Privacy Act of 1974 and OMB's "Guidance Interpreting the Provisions of Pub. L. 100-503, the Computer Matching and Privacy Protection Act of 1988." Access to the records used in the data exchange is restricted to only those authorized employees and officials who need it to perform their official duties. Records matched or created will be stored in an area that is physically safe from access by authorized personnel during duty hours as well as nonduty hours or when not in use. Records used in this exchange and any records created by this exchange will be processed under the immediate supervision and control and authorized personnel in a manner which will protect the confidentiality of the records.

Both SSA and OPM have the right to make onsite inspections or make other provisions to insure that adequate safeguards are being maintained by the other agency.

F. Inclusive Dates of the Matching Program

This computer matching program is subject to review by the Congress and the Office of Management and Budget. OPM's report to these parties must be received at least 40 days prior to the initiation of any matching activity. If no objections are raised by either Congress or OMB, and the mandatory 30-day public notice period for comment for this **Federal Register** notice expires with no significant receipt of adverse public comments resulting in a contrary determination, then this computer matching program becomes effective. By agreement between OPM and SSA, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

[FR Doc. 93-31428 Filed 12-27-93; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Employer's Quarterly Report of Contributions Under the RUIA.

(2) *Form(s) submitted:* DC-1.

(3) *OMB Number:* 3220-0012.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* Quarterly.

(7) *Respondents:* Businesses or other for-profit, Small businesses or organizations.

(8) *Estimated annual number of respondents:* 550.

(9) *Total annual responses:* 2,200.

(10) *Average time per response:* .4168 hours.

(11) *Total annual reporting hours:* 917.

(12) *Collection description:* Railroad employers are required to make contributions to the RUI fund quarterly or annually equal to a percentage of the creditable compensation paid to each employee. The information furnished on the report accompanying the remittance is used to determine correctness of the amount paid.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 93-31536 Filed 12-28-93; 8:45 am]

BILLING CODE 7905-01-M

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Prior Service Reports.

(2) *Form(s) submitted:* AA-15, AA-2P(R), G-86.

(3) *OMB Number:* 3220-0003.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the

substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households, Businesses or other for-profit.

(8) *Estimated annual number of respondents:* 410.

(9) *Total annual responses:* 410.

(10) *Average time per response:* .358 hours.

(11) *Total annual reporting hours:* 147.

(12) *Collection description:* Railroad service prior to 1937 which can be used to determine entitlement to and amount of annuity under the RRA is not carried on Railroad Retirement Board records. The reports obtain verification of such records, or in the absence of such records, obtain information from the applicant to support the claim.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 93–31540 Filed 12–27–93; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 19964; 811–7722]

High Rollers Gaming Sector Fund, Inc.; Notice of Application

December 20, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: High Rollers Gaming Sector Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on December 13, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 14, 1994, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, D.C. 20549. Applicant, 400 Park Place, suite 2C, Fort Lee, N.J. 07024.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 272–3018, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company organized under the laws of the State of New Jersey. On May 13, 1993, applicant filed a Notification of Registration pursuant to section 8(a) of the Act on Form N–8A. Applicant did not file a registration statement pursuant to section 8(b) of the Act. Applicant has never made any sales of securities of which it is the issuer.

2. Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not engaged, and does not propose to engage in any business activities, other than those necessary to wind-up its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–31566 Filed 12–27–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19966; No. 812–8053]

Protective Life Insurance Company, et al.

December 20, 1993.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Protective Life Insurance Company ("Protective Life"), Protective Variable Annuity Separate Account ("Variable Account"), and Investment Distributors, Inc. ("IDI") (collectively, "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) from the Investment Company Act of 1940 ("1940 Act") granting exemptions from the provisions of Sections 26(a)(2) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction from the assets of the Variable Account of mortality and expense risk charges in connection with the offer and sale of certain flexible premium deferred variable and fixed annuity contracts.

FILING DATE: The application was filed on October 28, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 14, 1994, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Protective Life Insurance Co., 2801 Highway 280 South, Birmingham, Alabama 35223.

FOR FURTHER INFORMATION CONTACT: Yvonne Hunold, Senior Counsel (202) 272–2878, or Michael Wible, Special Counsel (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Commission a Public Reference Branch.

Applicant's Representations

1. Protective Life, a wholly-owned subsidiary of Protective Life Corporation ("PL–Corp.") is licensed to conduct business in the District of Columbia, Puerto Rico, Guam, and in all states except New York. Protective Life engages in the sale of life and health insurance and annuities. As of December 31, 1992, Protective Life had assets of over $3.7 billion.

2. The Variable Account is a separate account of Protective Life. On October 28, 1993, the Variable Account filed on Form N–8A (File No. 811–8108) a notice of registration as a unit investment trust under the 1940 Act. The Variable Account also filed a registration statement on Form N–4 (File No. 33–70984) under the Securities Act of 1933 in connection with a flexible premium deferred variable annuity contract ("Contract") and under section 8(b) of the 1940 Act in connection with the Variable Account. The Variable Account has six sub accounts: Money Market, Select Equity, Small Cap Equity, International Equity, Growth and Income and Global Income ("Sub-Accounts"). Each Sub-Account invests in shares of the corresponding investment portfolio of Protective Investment Company ("PIC"). Other portfolios of PIC or other mutual funds also may be made available for investment in the future through additional sub-accounts.

3 IDI, a wholly owned subsidiary of PL-Corp., is the principal underwriter of the Contracts, a registered broker-dealer under the Securities Exchange Act of 1934, as amended, and a member of the National Association of Securities Dealers, Inc. Registered representatives of IDI and licensed agents of Protective Life will offer the Contracts on a continuous basis. IDI also will contract with other broker-dealers for their services in connection with the distribution of the Contract.

4. The Contract will be offered in connection with certain retirement plans that receive special federal income tax treatment and to individuals and entities that do not qualify for special tax treatment. The Contracts require certain minimum initial payments, permit certain additional payments, and restrict the maximum aggregate payments, unless otherwise approved by Protective Life (collectively, "Payments"). Contractowners may allocate Payments, and later transfer accumulated Contract Value, among and between the different Sub-Accounts or to Protective Life's general account ("General Account") prior to the Annuity Commencement Date. A Guaranteed Death Benefit will be payable.

5. Various fees and expenses are deducted from each Contract. While no sales charges are deducted from premium payments, a 7% contingent deferred sales charge ("CDSC") is deducted for full or partial surrenders during the Contract's first year. Beginning in the Contract's second year, the CDSC will be a maximum of 6% of each payment for deductions or surrenders within a year after such payment is made, thereafter declining by 1% per year to 0% at the end of the sixth year. The aggregate CDSC applicable to any Contract, however, will not exceed 8.5% of total Payments. Under certain circumstances, up to 10% of the initial Payment will not be subject to the CDSC, and the CDSC may be waived under certain circumstances. If the CDSC is insufficient to pay the cost of distributing the Contracts, the deficiency will be met from General Account assets, which may include amounts derived from the mortality and expense risks charge discussed below.

6. An Administration Charge of .15% of the daily value of net assets in the Variable Account is deducted on an annual basis prior to the Annuity Commencement Date. This charge is guaranteed not to increase for the duration of the Contract.

7. An annual Contract Maintenance Fee of $35 will be deducted from the Variable Accounts Value attributable to each Sub-Account in proportion to the amounts invested in each Sub-Account. This fee also will be deducted upon surrenders, other than on a Contract anniversary, in order to partially compensate Protective Life for administrative services. The fee may be waived under certain circumstances.

8. Currently, there is no charge for transfers ("Transfer Fee"). Protective Life, however, reserves the right to charge a $25 Transfer Fee for each transfer after the first 12 transfers in any Contract Year. The Transfer Fee will be deducted, either from the Payment when received, upon partial or full surrenders, or from the amount applied to effect an annuity, for payment of a premium tax in states that impose this tax. No other charges currently are made against the Variable Account for federal, state or local taxes, but these charges may be imposed in the future.

9. Each Fund will pay all its operating expenses. Each Fund also pays a monthly fee from its daily net assets to its investment manager for managing its investments and business affairs. The investment management fees vary among the Funds and range from an annual rate of .60% for the Protective Money Market Fund to 1.10% for each of the Protective International Equity and Protective Global Income Funds.

10. The charges for administration of the Contracts are deducted in reliance on Rule 26a–1 of the 1940 Act and are not greater than the cost of the administrative services to be provided over the life of the Contract. Protective Life does not expect or intend to make a profit from the Administration Charge, the Contract Maintenance Fee, or any Transfer Fee.

11. An annual charge of 1.25% of the Variable Account's assets will be deducted for mortality and expense risks assumed by Protective Life, of which approximately .50% is for mortality risks and .75% for expense risks. The 1.25% rate is guaranteed not to increase for the duration of the Contract. If the charge is insufficient to cover the assumed risks, the loss will be assumed by Protective Life. Conversely, the charge may be a source of profit for Protective Life which will be added to Protective Life's surplus. Protective Life currently anticipates a profit from this charge. Any profits which may result from this charge may be used by Protective Life for, among other things, the payment of distribution, sales and other expenses.

12. The mortality risk assumed by Protective Life under the Contracts arises from its contractual obligation to make periodic annuity payments in accordance with annuity tables and other contract provisions regardless of how long all Annuitants or any one Annuitant may live. Thus, Protective life assumes the risk that Annuitants, as a class, may live longer than has been estimated by its actuaries, and Contractowners are assured that neither longevity nor an improvement in life expectancy, generally, will have an adverse effect on annuity payments. Protective Life also incurs a mortality risk in connection with the Guaranteed Death Benefit.

13. The expense risk assumed by Protective Life is that the actual expenses involved in administering the Contracts and the Variable Account in connection with the Contracts will exceed the amounts recovered from the Administration Charge, the Contract Maintenance Fee, and, if applicable, the Transfer Charge.

Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is "necessary or appropriate

in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act."

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants request exemptions from Sections 26(a)(2) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction from assets of the Variable Account of the 1.25% charge for the assumption of mortality and expense risks. Applicants represent that the charge is consistent with the protection of investors because it is a reasonable and proper insurance charge to compensate Protective Life for assuming the mortality and expense risks. Protective Life represents that the 1.25% per annum mortality and expense risks charge is within the range of industry practice for comparable annuity products. This representation is based upon an analysis of publicly available information about similar industry products, taking into consideration such factors as the current charge levels, existence of charge level guarantees, any death benefit guarantees, guaranteed annuity rates, and other policy options. Protective Life will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

4. The charge of mortality and expense risks may be a source of profit which would increase Protective Life's general assets available to pay distribution expenses not reimbursed by a sales charge. There is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract Owners. The basis for that conclusion will be set forth in a memorandum which will be maintained by Protective Life at its administrative offices and made available to the Commission upon request.

5. The Variable Account will only invest in management investment companies which undertake, in the event any such company adopts a plan under Rule 12b-1 to finance distribution expenses, to have a board of directors or trustees, a majority of whom are not interested persons, formulate and approve any such plan.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-31564 Filed 12-27-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25863]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

December 17, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 10, 1994, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc., et al. (70-7822)

American Electric Power Company, Inc. ("AEP"), a registered holding company, and its nonutility subsidiary company, AEP Resources, Inc. ("Resources") (collectively, "Applicants"), both located at 1 Riverside Plaza, Columbus, Ohio 43215, have filed a post-effective amendment pursuant to sections 6, 7, 9(a), 10, 12(b), 13(b), 32, and 33 of the Act and Rules 45, 53, 87, 90, and 91 thereunder to their application-declaration filed pursuant to sections 6(a), 7, 9(a), 10, 12(b), and 13(b) of the Act and Rules 43, 45, 50(a)(5), 87, 90, and 91 thereunder.

By orders dated June 6, 1989 and October 8, 1993 (HCAR Nos. 24898 and 25905), AEP was authorized to invest in Resources up to $7.5 million per year through December 31, 1996 for preliminary development activities related to qualifying cogeneration facilities or small power production facilities (collectively, "QFs"), as defined in the Public Utility Regulatory Policies Act of 1978 and rules thereunder.

The Applicants now propose to expand the scope of Resources's preliminary development activities to include activities related to independent power production facilities ("IPPs"), exempt wholesale generators ("EWGs"), and foreign utility companies ("FUCOs"). AEP also proposes to issue guarantees and assume liabilities of Resources owed to third parties in connection with development activities. The arrangements would take the form of direct contractual obligations of AEP, and would not involve the interposition of unaffiliated third parties, such as a letter of credit bank. The Applicants state that these arrangements can provide them with opportunities to participate in power opportunities on a favorable basis without expanding funds. The Applicants represent that, until such time as there is no possibility of a claim against AEP or Resources, the full contingent amount of any guarantee or assumption of liability would be counted as part of the $7.5 million authorized development activities limit described above.

The Applicants would not acquire an interest in a QF or IPP without prior Commission approval. In addition, the Applicants would not organize any intermediate subsidiary that would acquire an interest in a FUCO without prior Commission approval. No associate company of AEP would provide services to an EWG or FUCO in which it has an interest without prior Commission approval. In addition, in no event will Resources provide services to an EWG or FUCO.

Resources' preliminary development activities include the investigation of sites, preliminary engineering and licensing activities, acquiring options and rights, contract drafting and negotiating, preparation of proposals and other necessary activities to identify and analyze feasible investment opportunities and to initiate the commercialization of a project. Authorized administrative activities will include the ongoing personnel, accounting, engineering, legal, financial and other support activities necessary for Resources to manage its preliminary development activities related to Power Projects, and potential investments therein.

Resources will undertake development activities on its own and in conjunction with third parties through cost sharing contractual arrangements which will not involve the formation of corporations, partnerships, joint ventures or other business entities. Resources states that, by its participation in these informal and unincorporated consortia, it intends to diversify its risk, access skills and relationships that it may require, and access more of a diversity of projects than it could if it concentrated on developing such project by itself.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-31563 Filed 12-27-93; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Release No. 19965; International Series Release No. 623; (812-8568)]

Standard Chartered Bank; Notice of Application

December 20, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Standard Chartered Bank ("SCB").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 17(f).

SUMMARY OF APPLICATION: SCB seeks an order to permit the maintenance of foreign securities and other assets of registered investment companies other than investment companies registered under section 7(d) of the Act (an "Investment Company"), and custodians of such investment companies, with Standard Chartered Bank Malaysia ("SCBM"), a subsidiary of SCB located in Malaysia.

FILING DATE: The application was filed on November 5, 1993, and amended on December 8, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Daniel L. Goelzer, Esq., Baker & McKenzie, 815 Connecticut Avenue, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 272-3030, or Barry D. Miller, Senior Special Counsel, (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations and Legal Analysis

1. SCB seeks an order to exempt it, any Investment Company, any custodian for an Investment Company, and SCBM, from section 17(f) of the Act to permit SCB, such Investment Company, and such custodian to maintain foreign securities, cash, and cash equivalents (collectively, "Assets") in custody of SCBM. For purposes of this application, "foreign securities" includes (a) securities issued and sold primarily outside the United States by a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country, and (b) securities issued or guaranteed by the Government of the United States or by any state or any political subdivision thereof or by any agency thereof or by any entity organized under the laws of the United States or of any state thereof which have been issued and sold primarily outside the United States.

2. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain enumerated entities. Rule 17f-5 under the Act expands the group of entities located outside the United States that are permitted to serve as custodians for the Assets of registered management investment companies. Rule 17f-5 defines the term "eligible foreign custodian" to include a banking institution or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof and that has shareholders' equity in excess of US$200,000,000.

3. SCB is a wholly-owned subsidiary of Standard Chartered PLC, an English public limited company. SCB is an "eligible foreign custodian" under the requirements of rule 17f-5 since it has shareholders' equity well in excess of the pound sterling equivalent of US$200,000,000; it is organized and existing under the laws of England and Wales; and it is authorized and regulated as a bank in the United Kingdom by the Bank of England. In the United States, SCB is regulated as a bank holding company and is subject to the International Banking Act of 1978. Standard Chartered PLC, with its subsidiaries, including SCB, set up a division known as the "Equitor Group," which maintains a network of custodial and sub-custodial services for Investment Companies and their custodians at various locations throughout the world through SCB, it branches and subsidiaries. Although the Equitor Group currently offers custodial services in Malaysia through SCB's Kuala Lumpur branch, under new legislation in Malaysia, SCB may continue doing business in Malaysia only through a locally incorporated entity. To comply with Malaysian law, SCB proposes to transfer all the activities of its branch, as well as its personnel, to SCBM, when SCBM obtains a Malaysian banking license.

4. SCBM, a wholly-owned subsidiary of SCB, was incorporated in Malaysia in 1984 but has been inactive since then and has only nominal capital. Its application for a banking license in Malaysia is pending and is expected to issue in the near future. Pending the issuance of the order requested herein, SCB's Kuala Lumpur branch will continue to perform custodian services

for Investment Company Assets. When licensed, SCBM will assume the assets, liabilities, and business of the Kuala Lumpur Head Office and other branches of SCB in Malaysia and become subject to the supervision of the Malaysian Central Bank under the Banking and Financial Institutions Act.

5. Where custodial services are required in Malaysia, SCB will hold the Assets of Investment Companies and their custodians and will deposit the Assets with SCBM in the manner contemplated by the agreement described in condition 2 below.

6. SCBM satisfies the requirements of rule 17f–5 insofar as it is a banking institution or trust company incorporated or organized under the laws of a country other than the United States and will be regulated as such by that country's government or an agency thereof upon issuance of its banking license. Applicant will not offer the custodial services of SCBM to Investment Companies until the license is issued. SCBM, however, does not meet the shareholders' equity requirement of the rule.

7. SCBM is well-qualified to provide custodial and sub-custodial services for Investment Company Assets. SCB's Kuala Lumpur branch is experienced in providing custodial services, and SCBM, as the successor to the business of the branch, will subsume the personnel and functions of SCB's branches in Malaysia. Under the proposed foreign custody arrangements, the protection afforded the assets of Investment Companies held by SCBM would not be diminished from the protection afforded the assets held directly by SCB.

Applicant's Conditions

Applicant agrees that any order of the SEC granting the requested relief may be conditioned upon the following:

1. The foreign custody arrangements proposed regarding SCBM satisfy the requirements of rule 17f–5 in all respects other than SCBM's level of shareholders' equity.

2. SCB will deposit Assets with SCBM only in accordance with an agreement (the "Agreement") required to remain in effect at all times during which SCBM fails to satisfy all the requirements of rule 17f–5. Each Agreement will be a three-party agreement among SCB, SCBM, and the Investment Company or the custodian for an Investment Company pursuant to which SCB will undertake to provide specified custodial or sub-custodial services and will delegate to SCBM such of the duties and obligations of SCB as will be necessary to permit SCBM to hold in custody in Malaysia Assets of the Investment Company or custodian. The Agreement will further provide that the delegation by SCB to SCBM will not relieve SCB of any responsibility to the Investment Company or custodian for an Investment Company for any loss due to such delegation, and that SCB will be liable for any loss or claim arising out of or in connection with the performance by SCBM of its responsibilities under the Agreement to the same extent as if SCB had itself been required to provide custody services under the Agreement.

3. SCB currently satisfies and will continue to satisfy the minimum shareholders' equity requirement set forth in rule 17f–5(c)(2)(i).

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–31565 Filed 12–27–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Interest Rate Policy Change

The current Small Business Administration (SBA) maximum interest rate for fixed rate section 7(a) loans is 2.75 percentage points over the Wall Street Journal Prime Rate for loans with a maturity of seven years or longer and 2.25 percentage points over the Prime Rate for loans with a maturity of less than seven years. SBA has received requests to modify the fixed rate policy. Lenders have indicated to SBA that the permitted spreads are not sufficient to induce them to make fixed rate loans.

SBA is proposing a new maximum interest rate policy for fixed rate loans. The new policy will permit lenders to add up to 3.75 percentage points to the Wall Street Journal Prime Rate to establish the interest rate on a fixed rate loan. There will be no change in the manner in which the interest rate is determined. The rate will be established on the date that the loan application is received by the SBA field office or the date the loan number is given to the lender for a loan approved under the Preferred Lenders Program.

The purpose of this change is to encourage lenders to make fixed rate loans. SBA's fixed rate lending has dropped from 30% of activity in the mid 1980s to about 20% presently. The Agency wishes to give its small business clientele the opportunity to lock in the favorable rates that presently exist in the market place.

Previously, SBA approved an increase in the spread that may be added to the base interest rate for loans of $50,000 and less. After this change, small lending increased from approximately 14% to about 16% of approvals. This 14% increase in small loans cannot be completely attributed to the interest rate increase, but SBA is of the opinion that the increase was a significant factor. We hope that the increase in the maximum rate for fixed rate loans will have a similar effect.

Respondents are asked to comment on whether the proposed increase in the maximum rate will encourage lenders to make fixed rate loans. For further information write to James W. Hammersley, Deputy Director, Office of Financing, Small Business Administration, 8th floor, 409 3rd St. SW., Washington, DC 20416, or call 202–205–6493.

Dated: December 21, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93–31597 Filed 12–27–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Bureau of Economic and Business Affairs

[Public Notice 1917]

Finding of No Significant Impact: Boise Cascade Corporation Pipeline at International Falls, MN

AGENCY: Department of State.

ACTION: Notice of a finding of no significant impact with regard to an application to change the use of an existing pipeline across the U.S.-Canada border.

SUMMARY: The Department of State has conducted an environmental assessment of a change in use of an existing Boise Cascade Corporation water pipeline across the International Falls Bridge at International Falls, Minnesota. Based on the environmental assessment and after reviewing all comments, the Department of State has concluded that issuance of a new Presidential Permit authorizing the proposed change in use of the pipeline will not have a significant effect on the human environment.

FOR FURTHER INFORMATION ON THE PIPELINE CHANGE OF USE APPLICATION, CONTACT: Donald E. Grabenstetter, Office of International Energy Policy, room 3535, U.S. Department of State, Washington DC, 20520, (202) 647–4557.

FOR FURTHER INFORMATION ON THE ENVIRONMENTAL ASSESSMENT, CONTACT: Evelyn Wheeler, Office of Ecology, and Terrestrial Conservation, room 4325, U.S. Department of State, Washington DC 20520, (202) 647–3367.

SUPPLEMENTARY INFORMATION: Boise Cascade Corporation has applied for a Presidential Permit authorizing a change in the use of an existing 10-inch pipeline routed across the International Bride between Fort Francis, Ontario and International Falls, Minnesota. The pipeline currently transports water and the proposed change in use would add up to 300 dry tons a day of wood pulp to the water. The purpose of the proposed change is to eliminate dual waste water treatment facilities in the two Boise Cascade factories on either side of the border.

The Department of State, Bureau of Oceans and International Environmental and Scientific Affairs and Bureau of Economic and Business Affairs, has concluded that issuance of the permit will not have a significant effect on the quality of the human environment within the United States. This finding is based on an environmental assessment conducted by the Department of State which included review and comments by the following federal agencies: the Department of Defense, Department of the Treasury, Department of the Interior, Department of Commerce, Department of Justice, Department of Transportation, Interstate Commerce Commission and Federal Emergency Management Agency.

The proposed change in use of the pipeline will require no physical construction or alteration of the existing pipeline. The proposed change will eliminate the need to construct, operate and maintain duplicate water treatment facilities on both ends of the pipeline. The treatment of waste water by Boise Cascade is subject to regulation by the Environmental Protection Agency.

Dated: December 6, 1993.

Joan E. Spero,

Under Secretary of State for Economic and Agricultural Affairs.

[FR Doc. 93–31576 Filed 12–27–93; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Southcentral Alaska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway reconstruction project in southcentral Alaska.

FOR FURTHER INFORMATION CONTACT: Phillip A. Smith, Field Operations Engineer, Federal Highway Administration, P.O. Box 21648, Juneau, Alaska, 99802–1648, Telephone (907) 586–7428; and Rodney R. Platzke, P.E., Director, Alaska Department of Transportation and Public Facilities, Division of Design and Construction, Northern Region, 2301 Peger Road, Fairbanks, Alaska, 99709–5316, Telephone (907) 451–2215.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Alaska Department of Transportation and Public Facilities (ADOT&PF) will prepare an Environmental Impact Statement (EIS) on a proposed project to reconstruct the existing gravel road from Chitina to McCarthy in southcentral Alaska. The purpose and need for the proposed project is to accommodate the increasing number of visitors to the Wrangell-St. Elias National Park and Preserve, the town of McCarthy, and the historical Kennecott Mines. The number and size of recreational vehicles has increased to the point that it becomes dangerous to drive the existing one-lane road. The proposed project would increase the safety and accessibility for both the recreational visitors and the local area residents whose homes are scattered along the length of the road.

The McCarthy Road is accessed via the Edgerton Highway approximately 31 miles from the Richardson Highway. It begins at Chitina on the banks of the Copper River and follows the historic Copper River and Northwestern Railway corridor (which is eligible for the National Register of Historic Places) for approximately 60 miles, ending at McCarthy. Approximately 4.5 miles beyond McCarthy are the historic remains of the Kennecott mining operations.

About 1/2 mile before reaching McCarthy, the Kennecott River crosses the alignment. The bridges over this river washed out about 20 years ago and were replaced with hand-operated trams for pedestrian access. Vehicle access ends on the western bank of the river.

Alternatives that will be investigated in the EIS include: (1) No-action, and (2) upgrading the existing highway to current design standards that meet both the Federally approved State standards and the National Park Service guidelines for park access roads. Alternatives will range from the current situation (vehicle access only to Kennecott river and pedestrian access on to McCarthy) to full vehicle access to McCarthy. The alternative of completely realigning the highway is neither necessary nor considered a feasible nor prudent alternative.

In addition to merely considering alternatives for the safe passage of increased traffic, the EIS will consider highway amenities. These could include scenic turnouts, waysides, traveler rest areas, picnic areas and camping facilities, and interpretive areas for historic and geological interest. Historical aspects of the proposed action will be considered. The potential for discovering historic and prehistoric remains will also be investigated.

Letters describing the proposed action and soliciting input will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed, or are known to have an interest in this proposal. Scoping activities will also include meetings with the appropriate agencies at a convenient location. Public meetings will be held in potentially affected communities. In addition, public hearings will be held following publication of the Draft EIS in late 1995. Public notice will be given of the time and place of the meetings and hearings. The Draft EIS will be available for public and agency review and comment prior to the public hearings.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are requested from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the ADOT&PF at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: December 16, 1993.

Robert E. Ruby,

Division Administrator, Juneau, Alaska.

[FR Doc. 93–31542 Filed 12–27–93; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 21, 1993

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980,

VOL 58 ISS 247 DE 28 1993 UMI

Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510–0007.
Form Number: SF 1199A.
Type of Review: Extension.
Title: Direct Deposit Form.
Description: The Direct Deposit Sign-Up Form is used by recipients to authorize the deposit of Federal payments into their accounts at financial institutions. This information is used to route the Direct Deposit payment to the correct account at the correct financial institution. It identifies persons who have processed the form.
Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.
Estimated Number of Respondents: 3,850,000.
Estimated Burden Hours Per Response: 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 654,500 hours.
Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
OMB Reviewer: Milo Sunderhauf (202) 395–6880,Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland

Departmental Reports Management Officer.

[FR Doc. 93–31572 Filed 12–27–93; 8:45 am]

BILLING CODE 4810-35-P

Public Information Collection Requirements Submitted to OMB for Review

December 16, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Office of Thrift Supervision

OMB Number: 1550–0021.
Form Number: None.
Type of Review: Extension.
Title: Loan Application Register.
Description: Reporting is required to assist the Office of Thrift Supervision (OTS) in monitoring compliance with fair lending laws.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents 1,500.
Estimated Burden Hours Per Respondent: 55 hours, 36 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 83,430 hours.
Clearance Officer: Colleen Devine (202) 906–6025,Office of Thrift Supervision, 2nd Floor, 1700 G. Street, NW.,Washington, DC 20552.
OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–31573 Filed 12–27–93; 8:45 am]

BILLING CODE 4810-35-P

Sunshine Act Meetings

Federal Register
Vol. 58, No. 247
Tuesday, December 28, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, January 3, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on December 15, 1993.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

DATED: December 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–31771 Filed 12–23–93; 11:18 am]

BILLING CODE 6210-01-P

INTER-AMERICAN FOUNDATION BOARD MEETING

TIME AND DATE: December 11, 1994, 2:00 p.m.–4:00 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open except for the portions specified as closed session as provided in 22 CFR Part 1004.4(b).

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the July 12, 1993, Board Meeting
2. Chairman's Report
3. President's Report
4. Staff Assessment of Management Program and Learning Improvements
5. Audit Committee Report
6. Proposal to hold a Board Meeting one week prior to Submission of Foundation Budget to OMB
7. Proposal to Re-establish a Board Budget Committee
8. Performance Plans and Process (Closed Session)

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 841–3894.

Dated: December 23, 1993.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 93–31829 Filed 12–23–93; 2:56 pm]

BILLING CODE 7025-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: January 4, 1994 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 406–TA–13 (Final) (Honey from China)—briefing and vote on remedy.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205–2000.

Dated: December 22, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–31740 Filed 12–23–93; 9:06 am]

BILLING CODE 7020-02-P

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Operations and Regulations Committee Meeting; Notice

TIME AND DATE: The Legal Services Corporation Board of Directors Operations and Regulations Committee will meet on January 7, 1994. The meeting will commence at 9 a.m. It is anticipated the substantive, open portion of the meeting (i.e., deliberation of agenda item number 4) will commence at approximately 10 a.m.

PLACE: The Legal Services Corporation, 750 First Street NE., the Board Room, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open, except that part of the meeting may be closed pursuant to a vote, to be solicited prior to the meeting, of a majority of the Board of Directors. Should the aforementioned majority vote to close all or a portion of the meeting be obtained, the Committee will hear the report of the General Counsel on litigation to which the Corporation is or may become a party. In addition, the Committee will consider and act on internal personnel and operational matters related to the Executive Office, the Office of the General Counsel, and the Office of Administration and Human Resources/Equal Opportunity, the three offices of the Corporation under the Committee's purview. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. 552b(c) (2), (6), and (10)], and the corresponding regulation of the Legal Services Corporation [45 CFR 1622.5 (a), (e), and (h)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street NE., Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.

Closed Session

2. Consider and Act on General Counsel's Report on Litigation to Which the Corporation Is or May Become a Party.
3. Consider and Act on Internal Personnel and Operational Matters.

Open Session (Resumed)

4. Approval of Minutes of December 4, 1993 Meeting.
5. President's Report.
6. General Counsel's Report.
7. Office of Administration and Human Resources Director's Report.
8. Development of Mission Statement to Guide the Committee in Its Rulemaking Activities.
9. Development of Process to Guide the Committee in Its Rulemaking Activities.
10. Development of Mission Statement to Guide the Corporation in Its Reauthorization-Related Activities.
11. Consider and Act on Report on Finalized Grant Assurances for 1994.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individual who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Dated: December 22, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93–31741 Filed 12–23–93; 9:17 am]

BILLING CODE 7035-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Audit and Appropriations Committee Meeting Notice

TIME AND DATE: The Legal Services Corporation Board of Directors Audit and Appropriations Committee will meet on January 6–7, 1994. The meeting of January 6, 1994 will commence at 5:30 p.m., and on January 7, 1994, the meeting will commence at 9:00 a.m. The meeting will be held at the following location on both days.

PLACE: The Washington Court Hotel, 525 New Jersey Avenue, NW., the Sagamore Hill Room, Washington, DC 20001, (202) 628–2100.

STATUS OF MEETING: Open.

January 6, 1994, Agenda

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Approval of Minutes of December 19–20, 1993 Meeting.
3. Consider and Act on Proposed Fiscal Year 1994 Consolidated Operating Budget for the Corporation.
4. Consider and Act on Staff Recommendations on Fiscal Year 1995 Budget for the Management and Administration Line of the Corporation's Budget.

January 7, 1994, Agenda

MATTERS TO BE CONSIDERED:

Open Session

5. Receipt and Consideration of Public Comment Regarding Funding for the Provision of Legal Services to Migrants by the Corporation.
6. Receipt and Consideration of Public Comment Regarding Whether and How the Corporation Should Assist Grantees With the Recruitment of Staff Attorneys.
7. Receipt and Consideration of Public Comment Regarding Whether and How the Corporation Should Assist Grantees Defray the Cost of Law School Loans Incurred by Grantee Staff Attorneys.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Dated: December 22, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93–31742 Filed 12–23–93; 9:07 am]

BILLING CODE 7035-01-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting of the Board of Directors

TIME AND DATE: 2:30 p.m., Wednesday, January 5, 1994.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., 8th Floor Board Room, Washington, DC 20005.

STATUS: Open except for personnel matters in item VI.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/ Secretary (202) 376–2441.

Agenda

I. Call to Order
II. Approval of Minutes, September 17, 1993, Regular Meeting
III. Budget Committee Report: a. Proposed FY '94 Revisions
IV. Treasurer's Report
V. Executive Director's Quarterly Management Report
VI. Personnel Committee Report: November 12, 1993, Closed Meeting
VII. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 93–31770 Filed 12–23–93; 11:20 am]

BILLING CODE 7570-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 27, 1993, January 3, 10, and 17, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 27

There are no meetings scheduled for the Week of December 27.

Week of January 3—Tentative

There are no meetings scheduled for the Week of January 3.

Week of January 10—Tentative

Monday, January 10

10:30 a.m.
Briefing on Status of NRC's Agreement States Program (Public Meeting) (Contact: Richard Bangart, 301–504–3340)
2:00 p.m.
Briefing on NRC Research Program on Low Level Wage (Public Meeting) (Contact: Nick Constenzi, 301–492–3760)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 17—Tentative

Wednesday, January 19

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has yet been identified as requiring any Commission vote on this date.

The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: December 22, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–31772 Filed 12–23–93; 8:45 am]

BILLING CODE 7590-01-M

Corrections

Federal Register

Vol. 58, No. 247

Tuesday, December 28, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Meetings

Correction

In sunshine notice document 93-30924 appearing on page 66073 in the issue of Friday, December 17, 1993, in the third column, in the first line, "Friday" should read "Saturday".

BILLING CODE 1505-01-D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1834 and 1870

Interim Changes to NASA FAR Supplement Streamlining the Major System Acquisition Process by Eliminating the Requirement for a Formal Solicitation Between Each Phase of the Procurement

Correction

In rule document 93-26910 beginning on page 58791 in the issue of Thursday, November 4, 1993 make the following corrections:

1. On page 58792, in the 1st column, in the 43rd line, "agreement" should read "agreed" and in the 58th line, "classes" should read "clauses".

1834.005-1 [Corrected]

2. On page 58793, in section 1834.005-1(b)(3), "design" should read "Design".

1870.503 [Corrected]

3. On page 58795, in section 1870.503, under **Appendix I**, 1.(b), in the third column, in the third line from the bottom of the paragraph, "an" should read "and" and in 1.(c), in the third line from the bottom of the paragraph, "solicitation" should read "solicitations".

BILLING CODE 1505-01-D

VOL
58
ISS
247
DE
28
1993
UMI

federal register

Tuesday
December 28, 1993

Part II

Department of Education

Federal Direct Student Loan Program; Notice

DEPARTMENT OF EDUCATION

Federal Direct Student Loan Program

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education issues a notice announcing the schools selected for participation in the first year of the Federal Direct Student Loan Program (Direct Loan Program), which is the academic year beginning July 1, 1994.

EFFECTIVE DATE: This notice is effective on December 28, 1993.

FOR FURTHER INFORMATION CONTACT: Barbara Ragon, U.S. Department of Education, 400 Maryland Ave. SW., (room 4310, ROB–3), Washington, DC 20202–5162. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Student Loan Reform Act of 1993, part of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66), established a new loan program under title IV, part D of the Higher Education Act of 1965, as amended (HEA). Under this program, known as the Federal Direct Student Loan Program (Direct Loan Program), loan capital is provided directly to student and parent borrowers by the Federal Government rather than through private lenders.

In a notice published in the **Federal Register** on September 10, 1993, 58 FR 47816, the Secretary invited applications by schools to participate in the Direct Loan Program for the academic year beginning July 1, 1994. The notice outlined the requirements for participation in this program and the criteria for school selection. Over 1,100 schools applied.

For the first academic year during which the Direct Loan Program is operational, the year beginning July 1, 1994, the Secretary has selected 104 schools to participate from those that applied. The Secretary believes that the selection of these schools will result in the Direct Loan Program making up 5 percent of the new student loan volume for the 1994–95 academic year. The Secretary also believes the selection of these schools will ensure as smooth an implementation of the program as possible and provide a solid base of experience for the increase in Direct Loan volume. The goals for the percentage of new student loan volume made under this program increase significantly in subsequent years. See section 453(a)(2) of the HEA. Schools selected to participate in the Direct Loan Program in the 1994–95 academic year are expected to continue to participate and will not be required to reapply.

The Secretary will publish rules regarding the administration and operation of the Direct Loan Program for the 1994–1995 academic year in the **Federal Register** in January 1994. Schools that have been selected to participate in the Direct Loan Program will be allowed to withdraw within 30 days of the date of publication of the rules. If a school wishes to withdraw, it must submit a written request to that effect within that period. The written request should be submitted to the Direct Loan Task Force, U.S. Department of Education, room 4034, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202.

(Catalog of Federal Domestic Assistance Number has not been assigned.)

Dated: December 21, 1993.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

SCHOOLS SELECTED FOR PARTICIPATION IN THE FEDERAL DIRECT STUDENT LOAN PROGRAM—1994–1995

FFEL ID No.	School name	City and State
011484	ADVANCED INSTITUTE OF HAIR DESIGN	MILWAUKEE, WI.
030361	AERO MECHANICS SCHOOL	RIVERSIDE, MO.
021105	AMERICAN BUSINESS & FASHION INST	CHARLOTTE, NC.
001434	AMERICAN UNIVERSITY	WASHINGTON, DC.
002115	AMHERST COLLEGE	AMHERST, MA.
002911	BENNETT COLLEGE	GREENSBORO, NC.
001641	BRADLEY UNIVERSITY	PEORIA, IL.
025673	BRAXTON SCHOOL	RICHMOND, VA.
024503	BROWN UNIVERSITY	PROVIDENCE, RI.
007164	BRYAN COLLEGE OF COURT REPORTING	LOS ANGELES, CA.
025590	CAD INSTITUTE	PHOENIX, AZ.
023519	CALIFORNIA ACADEMY OF MERCHANDISING	SACRAMENTO, CA.
001131	CALIFORNIA INSTITUTE OF TECHNOLOGY	PASADENA, CA.
001909	CLOUD COUNTY COMMUNITY COLLEGE	CONCORDIA, KS.
003426	COLLEGE OF CHARLESTON	CHARLESTON, SC.
007297	COLORADO AERO TECHNOLOGY	BROOMFIELD, CO.
001350	COLORADO STATE UNIVERSITY	FT. COLLINS, CO.
010217	COMPUTER TECHNOLOGY	PITTSBURGH, PA.

SCHOOLS SELECTED FOR PARTICIPATION IN THE FEDERAL DIRECT STUDENT LOAN PROGRAM—1994–1995—Continued

FFEL ID No.	School name	City and State
021344	CONNECTICUT INSTITUTE OF ART	GREENWICH, CT.
002711	CORNELL UNIVERSITY	ITHACA, NY.
003040	CUYAHOGA COMMUNITY COLLEGE	CLEVELAND, OH.
030280	DALFORT AIRCRAFT TECHNOLOGY	DALLAS, TX.
021449	DELAWARE TECHNICAL & COMMUNITY COLLEGE	NEWARK, DE.
022986	DEVRY INSTITUTE OF TECHNOLOGY	ADDISON, IL.
012348	DOVER BUSINESS COLLEGE	DOVER, NJ.
001793	EARLHAM COLLEGE	RICHMOND, IN.
022625	FAUST INSTITUTE OF COSMETOLOGY	STORM LAKE, IA.
001480	FLORIDA AGRICULTURAL & MECHANICAL UNIV	TALLAHASSEE, FL.
025226	FOX COLLEGE	OAK LAWN, IL.
002973	GASTON COLLEGE	DALLAS, NC.
001574	GEORGIA STATE UNIV	ATLANTA, GA.
002353	GUSTAVUS ADOLPHUS COLLEGE	ST. PETER, MN.
025830	GWINNETT COLLEGE OF BUSINESS	LILBURN, GA.
002155	HARVARD UNIVERSITY	CAMBRIDGE, MA.
002076	HOOD COLLEGE	FREDERICK, MD.
002273	HOPE COLLEGE	HOLLAND, MI.
003464	HURON UNIVERSITY	HURON, SD.
003936	INTER AMERICAN UNIV. OF PUERTO RICO	SAN JUAN, PR.
025203	INTERIOR DESIGNERS INSTITUTE	NEWPORT BEACH, CA.
025329	INTERNATIONAL BUSINESS COLLEGE, LAS CRUCES	LAS CRUCES, NM.
004547	INTERSTATE BUSINESS COLLEGE	FARGO, ND.
001859	IOWA STATE UNIV. OF SCIENCE & TECHNOLOGY	AMES, IA.
004563	ITT TECHNICAL INSTITUTE	BOISE, ID.
023610	ITT TECHNICAL INSTITUTE	MURRAY, UT.
021519	KEISER COLLEGE OF TECHNOLOGY	FT. LAUDERDALE, FL.
024911	KENTUCKY CAREER INSTITUTE	FLORENCE, KY.
008441	KEYSTONE SECRETARIAL & BUSINESS ADMIN. SCH	SWARTHMORE, PA.
003856	LAWRENCE UNIVERSITY	APPLETON, WI.
006810	LEHIGH COUNTY COMMUNITY COLLEGE	SCHNECKSVILLE, PA.
003509	MEMPHIS STATE UNIVERSITY	MEMPHIS, TN.
003076	MIAMI JACOBS JUNIOR COLLEGE OF BUSINESS	DAYTON, OH.
020603	MICHIGAN INSTITUTE OF AERONAUTICS	BELLEVILLE, MI.
010618	MID AMERICA COLLEGE OF FUNERAL SERVICE	JEFFERSONVILLE, IN.
002488	MISSOURI SOUTHERN STATE COLLEGE	JOPLIN, MO.
025331	MODERN TECHNOLOGY SCHOOL OF XRAY	NORTH HOLLYWOOD, CA.
002532	MONTANA STATE UNIVERSITY	BOZEMAN, MT.
009039	MR. BERNARD'S SCHOOL OF HAIR FASHION	LEWISTON, ME.
026020	NEON ART & TUBE BENDING SCHOOL	PORTLAND, OR.
007303	NEW ENGLAND TECH INSTITUTE OF CONNECTICUT	NEW BRITAIN, CT.
002655	NEW MEXICO JUNIOR COLLEGE	HOBBS, NM.
011745	OHIO AUTO DIESEL TECHNICAL INSTITUTE	CLEVELAND, OH.
003100	OHIO UNIVERSITY	ATHENS, OH.
003170	OKLAHOMA STATE UNIVERSITY	STILLWATER, OK.
003726	OLD DOMINION UNIVERSITY	NORFOLK, VA.
002791	PACE UNIVERSITY	NEW YORK, NY.
002792	PACE UNIVERSITY, PLEASANTVILLE BRIARCLIFF	NEW YORK, NY.
024723	PHILADELPHIA COLLEGE OF PHARMACY & SCIENCE	PHILADELPHIA, PA.

SCHOOLS SELECTED FOR PARTICIPATION IN THE FEDERAL DIRECT STUDENT LOAN PROGRAM—1994–1995—Continued

FFEL ID No.	School name	City and State
003630	PRAIRIE VIEW A & M UNIVERSITY	PRAIRIE VIEW, TX.
005732	RED RIVER TECHNICAL COLLEGE	HOPE, AR.
007849	ROCKY MOUNTAIN COLLEGE OF ART & DESIGN	DENVER, CO.
003410	ROGER WILLIAMS COLLEGE	BRISTOL, RI.
002809	ROWAN COLLEGE OF NEW JERSEY	GLASSBORO, NJ.
002629	RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY	NEW BRUNSWICK, NJ.
002091	SALISBURY STATE COLLEGE	SALISBURY, MD.
002632	SETON HALL UNIVERSITY	SOUTH ORANGE, NJ.
023342	SOUTHEASTERN ACADEMY	KISSIMMEE, FL.
003615	SOUTHWEST TEXAS STATE UNIVERSITY	SAN MARCOS, TX.
020714	ST. LOUIS TECHNICAL	ST. ANN, MO.
002217	STONEHILL COLLEGE	NORTH EASTON, MA.
002841	SUNY COLLEGE, BROCKPORT	BROCKPORT, NY.
002868	SUNY HUDSON VALLEY COMMUNITY COLLEGE	TROY, NY.
003626	TARRANT COUNTY JUNIOR COLLEGE	FT. WORTH, TX.
002439	TOUGALOO COLLEGE	TOUGALOO, MS.
001052	UNIVERSITY OF ALABAMA, BIRMINGHAM	BIRMINGHAM, AL.
001314	UNIVERSITY OF CALIFORNIA, IRVINE	IRVINE, CA.
001370	UNIVERSITY OF COLORADO, BOULDER	BOULDER, CO.
001535	UNIVERSITY OF FLORIDA	GAINESVILLE, FL.
001628	UNIVERSITY OF IDAHO	MOSCOW, ID.
001775	UNIVERSITY OF ILLINOIS	URBANA, IL.
002033	UNIVERSITY OF MAINE, PRESQUE ISLE	PRESQUE ISLE, ME.
002325	UNIVERSITY OF MICHIGAN	ANN ARBOR, MI.
002388	UNIVERSITY OF MINNESOTA, DULUTH	DULUTH, MN.
003223	UNIVERSITY OF OREGON	EUGENE, OR.
001441	UNIVERSITY OF THE DISTRICT OF COLUMBIA	WASHINGTON, DC.
003696	UNIVERSITY OF VERMONT	BURLINGTON, VT.
003798	UNIVERSITY OF WASHINGTON	SEATTLE, WA.
007501	UNIVERSAL TECHNICAL INSTITUTE	OMAHA, NE.
004947	WEST TENNESSEE BUSINESS COLLEGE	JACKSON, TN.
003827	WEST VIRGINIA UNIVERSITY	MORGANTOWN, WV.
001380	WESTERN CONNECTICUT STATE COLLEGE	DANBURY, CT.
002330	WESTERN MICHIGAN UNIVERSITY	KALAMAZOO, MI.
002625	WILLIAM PATERSON COLLEGE OF NEW JERSEY	WAYNE, NJ.
002229	WILLIAMS COLLEGE	WILLIAMSTOWN, MA.
024774	XAVIER UNIVERSITY OF LOUISIANA	NEW ORLEANS, LA.

[FR Doc. 93–31570 Filed 12–27–93; 8:45 am]
BILLING CODE 4000-01-P

federal register

Tuesday
December 28, 1993

Part III

Department of the Interior

Bureau of Indian Affairs
Distribution of Fiscal Year Contract Support Funds; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Distribution of Fiscal Year 1994 Contract Support Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of method for distribution and use of FY 1994 Contract Support Funds.

SUMMARY: The purpose of this Announcement is to provide information to Indian tribes and tribal organizations contracting under the Indian Self-Determination and Education Assistance Act, as amended, about the distribution and use of Contract Support Funds (CSF) Fiscal Year (FY) 1994.

FOR FURTHER INFORMATION: Please contact the Bureau of Indian Affairs, Division of Self-Determination Services, 1849 C Street, NW., MS–4627–MIB, Washington, DC 20240, or (202) 208–3708.

This Notice is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.1.

SUPPLEMENTARY INFORMATION: The information detailed herein has been developed to comply with the following language in the Appropriation Act for the Department of the Interior and related agencies for FY 1994, Public Law 103–138:

"* * * Provided further, that not to exceed $91,223,000 of the funds in this Act shall be available for payments to tribes and tribal organizations for indirect costs associated with contracts or grants or compacts authorized by the Indian Self-Determination Act of 1975, as amended, for FY 1994 and previous years, * * *"

In addition, the Conference Report accompanying the FY 1994 Interior Appropriation Act states:

"The managers have agreed to a total of $91,223,000 for contract support, which includes $6,415,000 for the self-governance tribes. Bill language proposed by the Senate earmarking the total amount available in 1994 has been modified to authorize payments of contract support shortfalls from previous years, based on amounts agreed to by tribes and the Inspector General's Office. Since making these prior year payments will reduce the amount of funds available for FY 1994 contract support costs, the Bureau is directed to allocate funding in such a manner throughout the year that all tribes will be treated the same if there is a shortfall in contract support funds by the end of the year. The managers remain very concerned about the continued growth in contract support costs, and caution that it is unlikely that large increases for this activity will be available in future years' budgets. It is also a concern that significant increases in contract support will make future increases in tribal programs difficult to achieve. The managers believe the Bureau should look at establishing a self-determination fund for new or expanded contracting in the 1995 budget. The Bureau should also work with the tribes on possible methodologies for establishing advance notification requirements for new contracting."

The above language limits the amount of CSF to ($91,223,000) that the Bureau can pay in FY 1994 to Public Law 93–638 contractors for indirect costs. The language also authorizes payment, to be taken from this amount, of prior year shortfall and implies that the prior year shortfall amount should be paid before payment is made for current year contracts. It further states that all tribes should be treated the same if there is a shortfall in CSF.

Prior Year Shortfall

Based on the above language the Bureau will pay the prior year shortfall "off the top" from the amount available for CSF. At this time, approximately $15,365,000 has been identified as prior year shortfall need. After payments are made to cover the prior year shortfall, the amount remaining to meet FY 1994 contractor indirect cost rates will be $75,858,000.

Using FY 1993 experience which resulted in a total CSF need of approximately $85,000,000, we project a shortfall of at least $10,000,000 in FY 1994 and possibly a shortfall as high as $25,000,000. It is important to restate that the Bureau can only utilize the amount appropriated for the CSF account to meet indirect cost needs. That is, the Bureau can no longer reprogram funds from other Bureau accounts to cover CSF shortfalls.

In order to satisfy the Congressional language to treat all tribes the same in the event of a shortfall in CSF this year, the Bureau will institute the following procedures.

FY 1994 Contracts and Compacts

1. A cutoff date of May 1, 1994, has been established for funding of any new CSF needs as a result of higher or new indirect cost rates. Any new or renewal contracts or compacts executed after May 1, 1994, through the end of the Fiscal Year will not receive CSF in the event of the anticipated shortfall. Consequently, areas are directed to obligate all CSF based on the above procedures for legitimate needs received and verified by each area prior to May 1.

2. There will be two distributions of CSF from the Central Office to each area office. The first distribution will be made immediately upon publication of this Notice and the second will be made as close to May 1, 1994 as possible.

3. The amount of CSF allotted in the first distribution to the areas will include; (a) the prior year shortfall amount that has been identified; and (b) a total of $56,893,500 to cover FY 1994 needs. The $56,893,500 will be distributed to each area based on our FY 1993 experience.

4. Each area director is directed to first fully fund identified prior year shortfalls. Secondly, each area director shall fund not more than fifty percent of FY 1994 indirect cost requirements for contracts or compacts based on the current approved indirect cost rate, for Bureau programs being contracted or compacted as shown in the negotiated rate agreement.

5. In determining legitimate FY 1994 indirect cost requirements each area director should fund only those contracting or compacting tribal organizations that have current approved indirect cost rates or current indirect cost proposals being considered by the Bureau or to be negotiated by the Inspector General. After determining legitimate costs, each area should then fund eligible tribal organizations at fifty percent of the identified need. Current proposals mean proposals scheduled for active consideration which are submitted to the Inspector General prior to May 1, 1994.

Additional Reports

In early Spring 1994 each area will be asked to provide the Central Office with a report showing the amounts provided to cover prior year shortfalls, the amounts and percentages funded for current year contracts and a revised detailed need request. As mentioned above, the second distribution of CSF will be made around May 1, and will be based on the revised need request submitted by each area. At the time the second distribution is made to the areas, instructions will be provided advising each area of the level to be applied to each contract.

Dated: December 17, 1993.

Marshall M. Cutsforth,

Acting Assistant Secretary.

[FR Doc. 93–31524 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–02–P

federal register

Tuesday
December 28, 1993

Part IV

Department of the Interior

Bureau of Indian Affairs

Small Tribes Grant Program; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Small Tribes Grant Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of discretionary grant funds for small federally recognized Indian tribes.

SUMMARY: The Bureau of Indian Affairs invites applications from small Indian tribes within the contiguous 48 United States and Alaska, population 1500 or less Indian people residing on or near the applicant tribe's reservation or community, for a grant program. The purpose of this grant program is to permit small tribes to improve their capabilities to manage and administer tribal governmental affairs as well as federal and tribal programs. Grant awards will be made on a competitive basis under criteria, terms, and conditions set forth in this Announcement. Grants awarded under this Announcement are authorized by Section 103 of the Indian Self-Determination and Education Assistance Act of 1975, Public Law 93-638, as amended by Public Law 100-472, Public Law 101-301, and Public Law 101-644. This Notice is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

DATES: The closing date for submission of applications under this Announcement is February 28, 1994.

ADDRESSES: Applications should be sent to the appropriate Bureau of Indian Affairs Area Office listed below.

Aberdeen Area Office

Diane Turgeon, 115 4th Avenue, SE, Aberdeen, SD 57401-4382, Telephone: (605)226-7426

Albuquerque Area Office

Karen Foster, 615 1st Street, NW., Box 26567, Albuquerque, NM 87125-6567, Telephone: (505)766-3172 or 766-2559

Minneapolis Area Office

Stuart Manl, 331 South 2nd Avenue, Minneapolis, MN 55401-2241, Telephone: (612)373-1031

Muskogee Area Office,

Edward L. Lowery, 5th & West Okmulgee, Muskogee, OK 74401-4898, Telephone: (918)687-2447

Anadarko Area Office

Terry Bruner, WCD Office Complex, Box 368, Anadarko, OK 73005-0368, Telephone: (405)247-6673 ext. 209

Portland Area Office

Timothy R. Brown, 911 N. E. 11th Avenue, SO, Portland, OR 97232-4169, Telephone: (503)231-6702

Sacramento Area Office

Joan Burcell, 2800 Cottage Way, Sacramento, CA 95825-1884, Telephone: (916)978-4690

Phoenix Area Office

Wilson Gillette, P.O. Box 10, Phoenix, AZ 85001-0010, Telephone: (602)379-6760

Eastern Area Office

Larry Blair, 3701 N Fairfax Dr, MS-260-VA Arlington, VA 22203, Telephone: (703)235-2443

Juneau Area Office

Regina Parot, P.O. Box 25520, Juneau, AK 99802-5520, Telephone: (907)586-7453

SUPPLEMENTARY INFORMATION:

A. Purpose of the Grant Program

The purpose of this grant program is to provide financial support to enable small Indian tribes to meet the administrative needs necessary to develop, improve, and/or maintain tribal government functions as well as tribal service delivery systems. To accomplish this purpose, the Bureau of Indian Affairs announces the availability of up to $2.275 million for a Small Tribes Grant Program which is more responsive to the needs of small Indian tribes. The program is designed to meet the needs of three (3) categories of small tribes, as follows:

(1) Developmental Component

This program component is for small Indian tribes without basic management systems and without experience operating under such systems; small Indian tribes not heretofore contracting or applying for grants; tribes or villages in consortia which want to contract or receive grants on their own;

(2) Basic Small Tribes Component

This program component is for small Indian tribes experiencing problems operating programs and operating properly under basic management systems (this is the basic Core Management type program component);

(3) Expansion/Enhancement Component

This program component is for small Indian tribes which, for the most part, have eliminated their administrative and management problems and want to plan for the expansion or the enhancement of governmental functions as well as for the expansion or enhancement of service delivery systems but do not have the capability or the resources to do so.

B. Eligibility Criteria

(1) Developmental Component

Small tribes applying for a grant under this component shall meet the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize a multi-tribal organization to apply for, a grant under this Announcement;

(b) Only a federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this Announcement.

(c) In addition to the basic eligibility criteria in (a) and (b), above, to be eligible for a grant under this component a tribe must satisfy at least three (3) of the following:

(i) Have an active tribal government;

(ii) Have a tribal office;

(iii) Lack financial resources to meet its core administrative or management needs;

(iv) Have inadequate or ineffective management systems.

(2) Basic Small Tribes Component

Small tribes applying for a grant under this component shall meet all of the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize a multi-tribal organization to apply for, a grant under this Announcement;

(b) Only a federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this Announcement.

(c) The tribe must lack financial resources to meet its core administrative or management needs.

(d) The tribe must have inadequate management systems, or problems operating thereunder.

(3) Expansion/Enhancement Component

Small tribes applying for a grant under this component shall meet all of the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize a multi-tribal organization to apply for, a grant under this Announcement;

(b) Only a federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this Announcement:

(c) In addition to the basic eligibility criteria in (a) and (b), above, tribes applying for a grant under this component must provide a copy of their current organization-wide Single Audit Report prepared in accordance with the Single Audit Act of 1984 (Pub. L. 98-502), as implemented through OMB Circular A-128. Such Audit Report must be free of any significant or material weaknesses.

C. Content of Application

(1) Applications for a grant in response to this Anpouncement shall follow the application requirements set forth in Office of Management and Budget Circular A-102, Uniform Requirements for Assistance to State and Local Governments (the Common Rule), and as implemented within the Department of the Interior in 43 CFR part 12. Under Part IV of Standard Form 424, Program Narrative Statement, applicants shall provide the following:

(a) Developmental Component

(i) In addition to the basic eligibility criteria in Section B(1), above, tribal applicants must provide a statement of specific needs or problems to be addressed under the proposed grants which may include, but not be limited to, the following:

(A) Staff

—Tribal Administrator
—Clerical/Bookkeeper

(B) Training of Tribal Officials and Staff

(C) Management Systems/includes Certification

(D) Funds to cover office costs, such as:

—Supplies
—Equipment/Furniture
—Telephone
—Utilities
—Space
—Postage

(ii) A description of how the grant funds will be used to overcome the problems or meet the needs which have been identified.

(iii) A schedule for the start and projected completion dates for actions or efforts to be taken to resolve problems or meet needs identified under the proposed grants.

(iv) A description of the personnel required, if any, to carry out grant activities and/or objectives; also provide position descriptions which include qualifications for education and experience.

(v) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(vi) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(b) Basic Small Tribes Component

(i) In addition to the basic eligibility criteria in section B(2), above, to be eligible to receive a grant under this component a tribe must furnish documents such as audits, reports, and correspondence which indicate difficulties in the performance Federal and State grants, programs and contracts, examples include, but are not limited to the following:

(A) Current Audit Report indicates serious financial management problems;

(B) Delinquency in making progress or financial status reports;

(C) Failure to close-out program grants or contracts which are no longer in operation;

(D) Problems in achieving current or past grant or contract program goals or objectives.

(ii) Tribal applicants may propose to meet their respective core administrative or management needs in a variety of ways. Tribes must provide a statement of specific needs or problems to be addressed under the proposed grant which may include, but not be limited to, the following:

(A) Employ an administrator and/or necessary support staff;

(B) Employ a bookkeeper;

(C) Hire a "Circuit Rider" accountant, administrator, planner and/or other key staff position to meet the needs of a multi-tribal consortium;

(D) Employ staff to address specific managerial problems under a one-time only grant;

(E) Retain an accountant to prepare for the conduct of annual independent audits and/or to correct current or past audit deficiencies.

(iii) A statement of specific needs and/or problems to be addressed under the proposed grants.

(iv) A description of how the grant funds will be used to overcome the problems or meet the needs which have been identified.

(v) A schedule for the start and projected completion dates for actions or efforts to be taken to resolve problems or meet needs identified under the proposed grants.

(vi) A description of the personnel required, if any, to carry out grant activities and/or objectives; also provide position descriptions which include qualifications for education and experience.

(vii) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(viii) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(c) Expansion/Enhancement Component

(i) Tribal applicants may propose to meet their respective expansion or enhancement needs in a variety of ways. Such grants may be used by a tribe to centralize or consolidate all of its administrative functions, to consolidate or integrate federal programs serving the tribe as well as formulate short and long range plans for tribal governmental development including enhancing a tribe's ability to exercise it's authority.

(ii) Expansion/enhancement grants permit, but are not limited to, the following:

(A) Monitor, evaluate, plan and design or redesign federal programs serving the tribe;

(B) Assume more control over programs designed to serve tribal populations, diminishing federal domination over programs serving Indians;

(C) To assist tribes in their efforts to reduce dependence on federal grants or contracts for services, income, and employment opportunities.

(iii) A work statement of how the applicant will accomplish the goals and objectives under the proposed grant.

(iv) A description of how the grant funds will be used to meet the goals and objectives identified under the proposed grant.

(v) A schedule for the start and projected completion dates for actions or efforts to be taken to meet the goals and objectives identified under the proposed grant.

(vi) A description of the personnel required, if any, to carry out grant activities and/or objectives; also provide position descriptions which include qualifications for education and experience.

(vii) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(viii) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(2) The applicant must indicate how other available resources such as tribal income, other Bureau grants or capacity

building grants from other agencies will be committed to complement or support this effort.

(3) The applicant must make a written commitment to incorporate and maintain the positive results expected from the grant and to maintain sound management systems.

(4) The applicant must certify that no elected tribal official will receive a salary or any other form of compensation from a grant under this Announcement.

(5) If a tribe's application is prepared by an outside consultant, the application must indicate the role of the grant preparer to the tribe during the grant period; e.g., will the preparer be funded through the proceeds of the grant as a consultant, full time employee, part time employee, etc.

(6) The grantee must agree in its application to submit quarterly financial status and progress reports;

(7) Progress and accomplishment reports for a prior year grant must be submitted with an application for a continuation grant. Reports will be used in the rating of continuation grant applications, appropriations permitting, since subsequent grants will include performance as a criteria for grant renewal.

(8) The applicant must complete a certification regarding drug-free workplace requirements.

(9) The grant funds awarded under this Announcement may be used as matching shares for any other federal or non-federal grant programs which contribute to the purposes for which these grants are made.

D. Application Review and Rating

Applications submitted in response to this Announcement will be received and rated as follows:

(1) Agency Office Responsibility

Applications shall initially be submitted to the appropriate agency Superintendent for review and comment, with a recommendation to approve or disapprove the application to insure that the application is consistent with the conditions set forth in Sections A, B, and C of this Announcement. The Superintendent upon receipt of the application shall:

(a) Acknowledge in writing receipt of the application within five (5) calendar days of its arrival at the agency office.

(b) Review the application for completion of information and, within ten (10) calendar days, request any additional information which may be required to conduct a review of the application.

(c) If the application is sufficiently complete, forward it to the Area Director with comments and recommendations to approve or disapprove within fifteen (15) calendar days.

(d) In instances where disapproval of an application is recommended, the Superintendent shall provide detailed reasons for the recommendation.

(2) Area Office Responsibility

Upon receipt of the application the Area Director shall:

(a) Within fifteen (15) calendar days, conduct a review of each application for consistency with Sections A, B, and C of this Announcement, in this review the Area Director shall utilize the comments and recommendations from the agency Superintendent.

(b) Upon completion of the application review process, the Area Director shall rate each application based on the criteria set forth in Sections A, B, and C of this Announcement in accord with the following guidelines:

(i) Developmental Component

(A) Criteria—the applicant can document or demonstrate it satisfies 3 or more of the needs contained in Section B (1). Points: (0–35)

(B) Work Statement—the application work plan describes in detail how it will satisfy the goals and objectives of the proposed grant. The work plan contains a schedule of activities, which if executed properly will accomplish the goals and objectives of the proposed grant. Points: (0–35)

(C) Budget Justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable. Points: (0–15)

(D) Management or Self-Monitoring System—the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary. Points: (0–15)

(ii) Basic Small Tribes Component

(A) Purpose—applications most consistent with the purpose of this component of the program will receive higher ratings than those which are for the purpose of purchasing professional expertise or equipment. An application for staff with a sound position description would rate higher than one used to hire a consultant since a good staff person will enable the grantee to meet the grant objectives on a more permanent basis. Points: (0–10)

(B) Need/Problem Statement—the applicant can document or demonstrate it satisfies all of the criteria contained in Section B (2). Points: (0–30)

(C) Work Statement—the application work plan describes in detail how it will meet the needs or overcome problems cited in (B), above. The work plan contains a schedule of activities, which if executed properly will accomplish the objectives and goals of the proposed grant. Points: (0–35)

(D) Budget Justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable. Points: (0–10)

(E) Management or Self-Monitoring System—the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary. Points: (0–15)

(iii) Expansion/Enhancement Component

(A) Purpose—applications most consistent with the purpose of this component of the program and those with clearly stated developmental objectives will receive higher ratings than those which are for the purpose of purchasing professional expertise or equipment. Points: (0–25)

(B) Work Statement—the application work plan describes in detail how it will accomplish the purpose and objectives of the application cited in (A), above. The work plan contains a schedule of activities, which if executed properly will accomplish the objectives and goals of the proposed grant. Points: (0–40)

(C) Budget Justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable. Points: (0–20)

(D) Management or Self-Monitoring System—the application indicates how grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary. Points: (0–15)

(c) Upon completion of the application review and rating process the Area Director shall, within fifteen (15) calendar days, initiate one of the following actions:

(i) Approve the application for funding based on the Superintendent's recommendation and the Area Office review and rating process.

(ii) Disapprove the application based on the Area Office review and rating process. Notify the applicant by explanatory letter of the decision to disapprove the application, advising the applicant of its appeal rights.

d. Within thirty (30) calendar days of notification of approval of a grant, the Area Director shall award the grant funds to the successful tribal applicant.

E. Other Conditions

(1) Appeals from administrative decisions made by the Bureau of Indian Affairs shall be made under provisions as set forth in 25 CFR, part 2. Send appeals to the appropriate Area Office. The Area Office will forward the appeals to: Office of Hearings and Appeals, Board of Indian Appeals, Attention: Kathryn A. Lynn, Chief Administrative Judge, 4015 Wilson Boulevard, MS–1103, Ballston Tower No. 3, Arlington, Va 22203.

(2) Unresponsive applications will not be reviewed or rated, and there shall be no appeal rights for non-funding of such applications. An unresponsive application is an application without a current tribal council or governing body resolution; an application requesting a grant where the anticipated grant outcomes have no relationship to the purposes of these grants; e.g., to fund and/or augment the funding of a wildlife and parks program grant, etc.

(3) Applicants should submit an original and two copies of their applications.

(4) No indirect cost funds shall be provided for grants under this Announcement.

(5) Tribal applicants may request grant funds up to a maximum of $35,000.

G. Submission of Applications

Applications submitted in response to this Announcement must be:

(1) Postmarked no later than midnight February 28, 1994, if mailed;

(2) Received in the agency office no later than the close of business February 28, 1994, if hand delivered. Send appeals to the appropriate area office.

Marshall M. Cutsforth,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 93–31525 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–02–P

VOL
58

ISS
2
4
7

DE
28

1993

UMI

federal register

Tuesday
December 28, 1993

Part V

Department of the Interior

Bureau of Indian Affairs

Training and Technical Assistance Grant and Planning Grant Programs; Notice

VOL 58 ISS 247 DEC 28 1993 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Training and Technical Assistance Grant and Planning Grant Programs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of discretionary grant funds for federally recognized Indian tribes.

SUMMARY: The Bureau of Indian Affairs invites applications from Indian tribes within the contiguous 48 United States and Alaska, for two (2) separate grant programs. The purposes of these grant programs are: (1) To allow tribes to address governmental and/or program operational problems through technical assistance grants; and, (2) to monitor, contract, plan, design or redesign programs serving the tribe under a planning grant. Grant awards will be made on a competitive basis under criteria, terms, and conditions set forth in this Announcement. Such grants are authorized by Section 103 of the Indian Self-Determination and Education Assistance Act of 1975, Public Law 93–638, as amended by Public Law 100–472, Public Law 101–301 and Public Law 101–644. This Notice is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

DATES: The closing date for submission of applications under this Announcement is 60 days from the publication date of this Announcement in the **Federal Register**.

ADDRESSES: Applications should be sent to the appropriate Bureau of Indian Affairs Area Office listed below.

Aberdeen Area Office

Diane Turgeon, 115 4th Avenue, SE., Aberdeen, SD 57401–4382, Telephone: (605)226–7426

Albuquerque Area Office

Karen Foster, 615 1st Street, NW., Box 265, Albuquerque, NM 87125–6567, Telephone: (505)766–3172 or 766–2559

Minneapolis Area Office

Stuart Mani, 331 South 2nd Avenue, Minneapolis, MN 55401–2241, Telephone: (612)373–1031

Muskogee Area Office

Edward L. Lowery, 101 North 5th Street, Muskogee, OK 74401–6206, Telephone: (918)687–2447

Anadarko Area Office

Terry Bruner, WCD Office Complex, Box 368, Anadarko, OK 73005–0368, Telephone: (405)247–6673 ext. 209

Billings Area Office

Henry Graham, 316 North 26th Street, Billings, MT 59101, Telephone: (406)657–6313

Eastern Area Office

Larry Blair, 3701 N Fairfax Dr, MS–260–VA-SQ, Arlington, VA 22203, Telephone: (703)235–2443

Juneau Area Office

Regina Parot, P.O. Box 25520, Juneau, AK 99802–5520, Telephone: (907)586–7453

Phoenix Area Office

Wilson Gillette, P.O. Box 10, Phoenix, AZ 85001–0010, Telephone: (602)379–6760

Portland Area Office

Timothy R. Brown, 911 NE. 11th Avenue, Portland, OR 97232–4169, Telephone: (503)231–6702

Sacramento Area Office

Joan Burcell, 2800 Cottage Way, Sacramento, CA 95825–1884, Telephone: (916)978–4590

SUPPLEMENTARY INFORMATION:

A. Purpose of the Grant Programs

The purpose of the grant programs under this Announcement is twofold: (1) To allow tribes to address needs and/or problem areas associated with governmental affairs, program administration and operations, and/or service delivery; and, (2) to permit tribes to monitor, evaluate, plan and design or redesign the federal programs serving them.

Each of these grant initiatives has its own criteria and guidelines which are designed to accomplish specific objectives for a targeted subgroup of tribes. For instance, the criteria for training and technical assistance grants requires that the tribal applicants document specific needs and/or problems and devise step-by step strategies to satisfy the needs or resolve the problems which are impediments to their growth. Using the same principle, criteria for planning grants were formulated to specify that these grants would be awarded to the most capable tribes. These are tribes not normally in need of strategical technical assistance since they generally have clean audits, operate mature contracts and have the reputation of administering "good" programs and service delivery systems. Tribes most capable of planning and operating programs may receive planning grants for comprehensive program planning, program redesign, as well as planning for reservation resources development.

To accomplish these ends, the Bureau of Indian Affairs announces the availability of up to $2.0 Million for the two (2) grant programs.

B. Training and Technical Assistance Grant Program

(1) Purpose of the grant program

The purpose of this grant program is to allow tribes to address needs and/or problems associated with governmental affairs, program administration and operations, and/or service delivery. Such grants will enable tribes to resolve present and past problems thereby permitting grantee tribes to improve conditions, advance their movement toward self-sufficiency, and to exercise a greater degree of self-determination in the operation of programs designed to benefit their membership and/or other resident Indian peoples.

(2) Eligibility criteria

To receive a training and technical assistance grant, a tribe, including an authorized tribal organization, must be able to document and/or demonstrate its needs utilizing five (5) or more of the following identifying conditions or criteria:

(a) The current organization-wide, single audit report findings contain significant and/or material audit exceptions;

(b) Correspondence or other documentation that the tribe is not presently capable of withstanding an organization-wide single audit. This means that:

(i) The tribe's books or records are missing, incomplete or are not in reviewable condition and/or in a condition to sustain a full audit;

(ii) The tribe has not met specific audit requirements for a federal program it operates although the program is complete and an audit is due; and/or

(iii) The tribe has been notified it cannot receive an initial or continuation grant or contract from one (1) or more agencies due to outstanding audits and/or audit exceptions;

(c) The tribe has had debt collection notices and/or notification it cannot receive a grant or contract until an approved corrective action plan which has the potential to resolve current and/or past audit exceptions is formulated and is in place;

(d) The tribe is unable to accomplish current or past grant/contract objectives and/or is not capable of preparing successful grant/contract applications;

(e) The tribe is not able to operate properly under its management systems although the systems have been approved as satisfying regulatory requirements;

(f) The tribal government has little or no control over its various program operations, thus no control over service delivery, and cost overruns, etc.;

(g) The tribal government needs help but is in such a state it is unable to indicate the type or amount of assistance needed;

(h) The tribal government is experiencing serious internal strife and the tribe is paralyzed with political factionalism which results in the deterioration of its government as well as its program or service delivery systems.

(3) Continuation grants

In cases where a continuation grant is requested, documentation of the prior year's performance is an additional requirement. A continuation grant application must document that the applicant tribe has accomplished, or can demonstrate that it has made substantial progress toward accomplishing its prior year's grant objectives in order to receive a continuation grant. Prior year quarterly and annual progress and/or accomplishment reports must be submitted with the application for a continuation grant. To document continuing needs or problems, the applicant may furnish new Office of Management and Budget (OMB) Circular A–128 organization-wide single audit reports, OMB Circular A–123 internal control reviews, Area and/or Agency Office monitoring reports reflecting the existence of problems or poor program performance, and/or Office of the Inspector General (OIG) or General Accounting Office (GAO) reports. Further, evidence that one (1) or more federal agencies have initiated debt collection action against the applicant tribe and will not renew or award any new grants or contracts to the applicant tribe until the debt is cleared.

(4) Content of application

Applications for a training and technical assistance grant must:

(a) Contain a current tribal council resolution which specifically authorizes the preparation of an application for a training and technical assistance grant.

(b) Contain a written commitment to use the training and technical assistance grant to address the needs and/or problems cited in the section B(2) of this Announcement.

(c) Follow the application requirements set forth in Office of Management and Budget Circular A–102, Uniform Requirements for Assistance to State and Local Governments (The Common Rule), and as implemented within the Department of the Interior in 43 CFR part 12. Under Part IV of Standard Form 424, Program Narrative Statement, applicants shall provide the following:

(i) A statement of specific needs and/or problems to be addressed under the proposed grant along with the documentation used to support the needs or problems statement; e.g., OMB Circular A–128 Audit Reports;

(ii) A description of how the grant funds will be used to overcome the problems or meet the needs which have been identified;

(iii) A schedule for the start and projected completion dates for actions or efforts to be taken to resolve problems or meet needs identified under the proposed grants;

(iv) A description of the personnel required, if any, to carry out grant activities and/or objectives; and provide position descriptions which include qualifications for education and experience;

(v) A line item budget, with narrative justification, to demonstrate how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant, and that costs associated with the grant application are reasonable, allowable and allocable to the program in terms of the cost principles found in OMB Circular A–87, Cost Principles for State and Local Governments.

(d) The applicant must indicate how other available resources such as tribal income, other Bureau grants or capacity building grants from other agencies will be committed to complement or support this effort.

(e) The applicant must make a written commitment to maintain the positive results expected from the grant.

(f) The applicant must certify that no elected tribal official will receive a salary or any other form of compensation from a grant under this Announcement.

(g) If a tribe's application is prepared by an outside consultant, the application must indicate the role of the grant preparer to the tribe during the grant period; e.g., will the preparer be funded through the proceeds of the grant as a consultant, full-time employee, parttime employee, etc.

(h) The grantee must agree in its application to submit quarterly financial status and progress reports.

(i) The applicant must complete a Certification regarding drug-free workplace requirements.

(j) No indirect cost funds shall be provided for grants under this Announcement.

(5) Other conditions

(a) Contain the vitae or resumes of project staff and/or third party technical assistance providers or, if the project staff and/or third party technical assistance providers have not been selected, a description of the qualifications and experience necessary for project staff and/or third party technical assistance providers to accomplish the tribe's grant objectives;

(b) A tribe making application for the purchase of third party technical assistance must agree to develop a plan for delivery of technical assistance which contains a schedule of activities and clearly indicates the person(s) responsible for carrying out each of the grant activities;

(c) Deviation or non-adherence to the technical assistance plan by the technical assistance provider can result in nonpayment to the technical assistance provider.

(d) The funds awarded under this Announcement may be used as matching shares for any other federal or non-federal grant programs which contribute to the purposes for which these grants are made.

(6) Review, rating and approval of applications for training and technical assistance grants

An original and two (2) copies of the training and technical assistance grant application are to be submitted to the local Agency Office. Applications submitted in response to this Announcement will be received, reviewed, and rated as follows:

(a) Application Review Process

(i) Agency office responsibility. Applications shall be submitted to the appropriate Agency Superintendent for review and comment. The Superintendent upon receipt of the application shall:

(A) Acknowledge, in writing, receipt of the application within five (5) calendar days of its arrival at the Agency office.

(B) Review the application for completeness of information and to insure that the application is consistent with the conditions set forth in Sections B(1) through B(5) of this Announcement. Within ten (10) calendar days of its arrival in the Agency office, request any additional information which may be required to conduct a review of the application.

(C) If the application is sufficiently complete, forward it to the Area Director with comments and recommendations for approval or disapproval within fifteen (15) calendar days of its receipt.

(D) In instances where disapproval of an application is recommended, the Superintendent shall provide detailed reasons for the recommendation.

(ii) Area office responsibility. Upon receipt of the application the Area Director shall:

(A) Within fifteen (15) calendar days, conduct a review of each application for consistency with Sections B(1) through B(5) of this Announcement. In this review the Area Director shall utilize the comments and recommendations from the Agency Superintendent.

(B) Exception in this application review process. An application for a technical assistance grant received from a tribe experiencing internal strife may be recommended for approval based on the Area Director's judgment that the applicant tribe is making a serious effort to resolve its internal problems. Further, it must be clearly documented in the application that the tribal factions will accept third party intervention in an attempt to resolve the problems causing the internal strife.

(b) Application Rating Process

(i) Upon completion of the application review process the Area Director shall rate each application based on the criteria set forth in Sections B(1) through B(5) of this Announcement.

(ii) Applications shall be rated in accordance with the following guidelines:

(A) *Criteria—Need/Problem:* the applicant can furnish documentation or demonstrate it has five (5) or more of the identifying conditions or criteria listed in section B(2) of the Training and Technical Assistance Grant program. *Points* (0–30)

(B) *Criteria—Work Statement:* the application work plan describes in detail how it will meet the needs or overcome problems cited in criteria (A). The work plan also contains a schedule of activities, which if executed properly, will accomplish the goals and/or objectives of the grant. *Points* (0–30)

(C) *Criteria—Applicant Capability:* the application contains the vitae or resumes of project staff and/or third party technical assistance providers or, if the project staff and/or third party technical assistance providers have not been selected, a description of the qualifications and experience necessary for project staff and/or third party technical assistance providers to accomplish the grant objectives. *Points* (0–15)

(D) *Criteria—Budget Justification:* the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable. *Points* (0–10)

(E) *Criteria—Management or Self-Monitoring System:* the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary. *Points* (0–15)

(c) Application Approval Process

Upon completion of the application review and rating process the Area Director shall, within fifteen (15) calendar days, initiate one of the following actions:

(i) Approve the application for funding based on the Superintendent's recommendation and the Area Office review and rating process.

(ii) Disapprove the application based on the Area Office review and rating process. Notify the applicant by letter of the specific reason for the disapproval of the application; advise the applicant of its appeal rights.

(d) Within thirty (30) calendar days of notification of approval of a grant, the Area Director shall award the grant funds to the successful tribal applicant.

(7) Schedule for the Receipt of Training/Technical Assistance Grant Applications

Area Offices are to formally notify Agency Offices and tribes that this program exists in FY 1994, immediately upon the receipt of this Announcement. Area Offices shall provide copies of the grant criteria and all other pertinent information to all Agency Offices and tribes in an Area Office's jurisdiction.

(8) Submission of applications for training and technical assistance grants

Applications submitted in response to this Announcement must be:

(a) Postmarked no later than midnight February 28, 1994, if mailed;

(b) Received in the Agency office no later than the close of business February 28, 1994, if hand delivered.

(9) Appeals

Appeals of administrative actions by the Bureau of Indian Affairs on training/technical assistance grant applications are governed by part 2 of 25 CFR.

C. Planning Grant Program

(1) Purpose of the grant program

To allow tribes to assume more control over programs designed to serve tribal populations, generally diminishing federal domination over programs serving Indians.

A planning grant may be used by a tribe to centralize or consolidate all of its administrative functions, to consolidate or integrate federal programs serving the tribe, as well as formulate short and long-range plans for reservation resources development.

(2) Eligibility criteria

Tribes receiving planning grants must not only be capable of developing plans, they must also be capable of successfully implementing the plans.

(a) To receive a planning grant a tribe must:

(i) Survey or inform its reservation or community population that the tribe wishes to plan, and carry out such plans as may be developed, to make significant changes in its programs and its service delivery to Indian beneficiaries;

(ii) Have no significant or material audit exceptions noted in any and all current cost audits and/or the current OMB Circular A–128 organization-wide single audit report;

(iii) Administer mostly "mature" contracts; i.e., those meeting the definitions of "mature" as found in Public Law 93–638, as amended;

(iv) Have a history of operating or administering federal programs and services in a sound manner;

(v) Have a stable tribal government as evidenced by a tribe's not having made radical, unplanned changes in program direction which have resulted in the diminishment of services to Indian beneficiaries and resulted in significant audit exceptions under criteria (ii), above;

(b) When a tribe is requesting a planning grant which encompasses activities identified as reservation resources development, the tribe must also satisfy one (1) or more of the following additional conditions:

(i) The tribe has successfully administered other developmental projects and has done so without governmental or political interference;

(ii) The tribe's plan reflects its willingness to accept guidance and assistance for the modification, if necessary, of its comprehensive development plans from subject matter experts; and/or

(iii) The tribe's plan reflects its willingness to accept monitoring and technical assistance as may be arranged by subject matter experts to ensure the best opportunity for success of the grant activity.

(3) Continuation grants

In cases where a continuation grant is requested, documentation of the prior year's performance is an additional requirement. A continuation grant Application must document that the applicant tribe has accomplished, or is able to demonstrate that it has made substantial progress toward accomplishing, its prior year's grant objectives in order to receive consideration for approval of a continuation grant. Prior year quarterly and annual progress and/or accomplishment reports must be submitted with the application for a continuation grant.

(4) Application content

Applications for a planning grant must:

(a) Follow the application requirements set forth in Office of Management and Budget Circular A–102, Uniform Requirements for Assistance to State and Local Governments (The Common Rule), as implemented within the Department of the Interior in 43 CFR part 12. Under Part IV of Standard Form 424, Program Narrative Statement, the grant application must:

(i) Contain a current tribal council resolution which specifically authorizes the preparation of an application for a planning grant;

(ii) Contain a clear statement of the goals and objectives to be achieved through the proposed grant along with the rationale to support the goals and objectives proposed;

(iii) Contain a program narrative which describes, step-by-step how and by whom the goals and objectives of the grant project will be satisfied;

(iv) Contain the vitae or resumes of project staff and/or third party technical assistance providers or, if project staff and/or third party technical assistance providers have not been selected, a description of the qualifications and experience necessary for project staff and/or third party technical assistance providers to accomplish the grant objectives; and,

(v) A line item budget, with narrative justification, to demonstrate that costs associated with the grant application are reasonable, allowable and allocable to the program in terms of the cost principles found in OMB Circular A–87, Cost Principles for State and Local Governments.

(b) Contain a schedule for the start and projected completion dates for actions or efforts to be taken to meet the goals and objectives identified under the proposed grant.

(c) A description of the personnel required, if any, to carry out grant activities and/or objectives and provide position descriptions which include qualifications for education and experience.

(d) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, other Bureau grants and/or contracts or other capacity building grants from other agencies.

(e) The applicant must certify that no elected tribal official will receive a salary or any other form of compensation from a grant under this Announcement.

(f) If a tribe's application is prepared by an outside consultant, the application must indicate the role of the grant preparer to the tribe during the grant period; e. g., will the preparer be funded through the proceeds of the grant as a consultant, full-time employee, part-time employee, etc.

(g) The grantee must agree in its application to submit quarterly financial status and progress reports.

(h) Progress and accomplishment reports for a prior year grant must be submitted with an application for a continuation grant which will be used for rating of the continuation grant applications, appropriations permitting, since subsequent grants will include performance as a criteria for grant renewal.

(i) The applicant must complete a Certification regarding drug-free workplace requirements.

(j) No indirect cost funds shall be provided for grants under this Announcement.

(5) Other Conditions

(a) A tribe's application for the purpose of planning must clearly outline a monitoring schedule for planning activities and clearly indicate the person(s) responsible for carrying out each of the grant activities;

(b) Deviation or non-adherence to the planning schedule by a technical assistance provider can result in nonpayment to the provider;

(c) The funds awarded under this Announcement may be used as matching shares for any other federal or non-federal grant programs which contribute to the purposes for which these grants are made.

(6) Review, Rating and Approval of Application for Planning Grants

An original and two (2) copies of the planning grant application are to be submitted to the local Agency Office. Applications submitted in response to this Announcement will be received, reviewed, and rated as follows:

(a) Application Review Process

(i) Agency office responsibility. Applications shall be submitted to the appropriate Agency Superintendent for review to determine if the application is consistent with the conditions set forth in sections C(1) through C(5) of this Announcement. The Superintendent upon receipt of the application shall:

(A) Acknowledge, in writing, receipt of the application within five (5) calendar days of its arrival at the Agency office.

(B) Review the application for completeness of information and, within ten (10) calendar days of its arrival at the Agency office, request any additional information which may be required to conduct a review of the application.

(C) If the application is sufficiently complete, forward it to the Area Director with comments and recommendations for approval or disapproval within fifteen (15) calendar days of its receipt.

(D) In instances where disapproval of an application is recommended, the Superintendent shall provide detailed reasons for the recommendation.

(ii) Area office responsibility. Upon receipt of the application the Area Director shall within fifteen (15) calendar days, conduct a review of each application for consistency with sections C(1) through C(5) of this Announcement. In this review the Area Director shall utilize the comments and recommendations from the Agency Superintendent.

(b) Application Rating Process

(i) Upon completion of the application review process the Area Director shall rate each application based on the criteria set forth in Sections C(1) through C(5) of this Announcement.

(ii) Applications shall be rated in accordance with the following guidelines:

(A) *Criteria—Work statement:* the application work plan describes in detail how it will achieve the goals and objectives specified in the proposed Planning Grant. The work plan also contains a schedule of activities, which if executed properly, will accomplish the objectives and/or goals of the proposed Planning Grant. *Points* (0–40)

(B) *Criteria—Applicant capability:* (1) The applicant must furnish documentation of operating mostly mature contracts and an A–128 Audit Report; (2) application contains the vitae or resumes of project staff and/or third party technical assistance providers or, if project staff and/or third party technical assistance providers have not been selected, a description of the qualifications and experience of project staff and/or third party technical assistance providers necessary to accomplish the grant objectives. *Points* (0–25)

(C) *Criteria—Budget justification:* the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable. *Points* (0–15)

(D) *Criteria—Management or self-monitoring system:* the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary. *Points* (0–20)

(c) Application approval process

Upon completion of the application review and rating process the Area Director shall, within fifteen (15) calendar days, initiate one of the following actions:

(i) Approve the application for funding based on the Superintendent's recommendation and the Area Office review and rating process.

(ii) Disapprove the application based on the Area Office review and rating process. Notify the applicant by letter of the specific reasons for the decision to disapprove the application, advising the applicant of its appeal rights.

(d) Within thirty (30) calendar days of notification of approval of a grant, the Area Director shall award the grant funds to the successful tribal applicant.

(7) Schedule for the Receipt of Planning Grant Applications

Area Offices are to formally notify Agency Offices and tribes that this program exists in FY 1994, immediately upon the receipt of this Announcement. Area Offices shall provide copies of the grant criteria and all other pertinent information to all Agency Offices and tribes in an Area Office's jurisdiction.

(8) Submission of Applications for Planning Grants

Applications submitted in response to this Announcement must be:

(a) Postmarked no later than midnight February 28, 1994, if mailed;

(b) Received in the Agency office no later than the close of business February 28, 1994, if hand delivered.

Appeals: Appeals of Administrative actions by the Bureau of Indian Affairs on planning grant applications are governed by part 2 of 25 CFR.

Dated: December 17, 1993.

Marshall M. Cutsforth,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 93–31526 Filed 12–27–93; 8:45 am]

BILLING CODE 4310–02–P

federal register

Tuesday
December 28, 1993

Part VI

The President

Executive Order 12886—Adjustments of Rates of Pay and Allowances for the Uniformed Services

Executive Order 12887—Amending Executive Order No. 12878

VOL
58
ISS
2
47
DE
28
1993
UMI

Federal Register
Vol. 58, No. 247
Tuesday, December 28, 1993

Presidential Documents

Title 3—

The President

Executive Order 12886 of December 23, 1993

Adjustments of Rates of Pay and Allowances for the Uniformed Services

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 601 of Public Law 103–160, it is hereby ordered as follows:

Section 1. The rates of monthly basic pay (37 U.S.C. 203(a)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for quarters (37 U.S.C. 403(a)) for members of the uniformed services are adjusted as set forth on the schedule attached hereto and made a part hereof.

Sec. 2. The adjustments in rates of monthly basic pay and allowances for subsistence and quarters set forth on the attached schedule are effective on January 1, 1994.

Sec. 3. Section 4 and Schedule 8 of Executive Order No. 12826 of December 30, 1992, are superseded.

William J. Clinton

THE WHITE HOUSE,
December 23, 1993.

Billing code 3195–01–P

UMI
1993
DE
28
ISS
247
VOL
58

SCHEDULE OF PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

(Effective on January 1, 1994)

PART I--MONTHLY BASIC PAY

YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
COMMISSIONED OFFICERS															
O-10[1]	$6801.60	$7040.70	$7040.70	$7040.70	$7040.70	$7311.00	$7311.00	$7716.00	$7716.00	$8267.70	$8267.70	$8821.50	$8821.50	$8821.50	$9371.10*
O-9	6027.90	6185.70	6317.40	6317.40	6317.40	6478.20	6478.20	6747.60	6747.60	7311.00	7311.00	7716.00	7716.00	7716.00	8267.70
O-8	5459.70	5623.50	5756.70	5756.70	5756.70	6185.70	6185.70	6478.20	6478.20	6747.60	7040.70	7311.00	7491.30	7491.30	7491.30
O-7	4536.60	4845.00	4845.00	4845.00	5062.20	5062.20	5385.60	5385.60	5623.50	6185.70	6611.10	6611.10	6611.10	6611.10	6611.10
O-6	3362.40	3696.30	3936.30	3936.30	3936.30	3936.30	3936.30	3936.30	4070.10	4713.60	4954.20	5062.20	5385.60	5536.80	5808.60
O-5	2689.20	3157.50	3375.90	3375.90	3375.90	3375.90	3478.20	3665.40	3911.10	4203.90	4444.50	4579.50	4739.40	4739.40	4739.40
O-4	2266.80	2760.30	2944.50	2944.50	2999.10	3131.40	3345.00	3533.10	3694.20	3856.50	3962.70	3962.70	3962.70	3962.70	3962.70
O-3[2]	2106.30	2358.30	2517.90	2785.80	2919.00	3023.70	3187.50	3345.00	3427.20	3427.20	3427.20	3427.20	3427.20	3427.20	3427.20
O-2[2]	1836.90	2005.80	3410.20	2491.20	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80	2542.80
O-1[2]	1594.80	1659.90	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80	2005.80
COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER															
O-3	-	-	-	$2785.80	$2919.00	$3023.70	$3187.80	$3345.00	$3478.20	$3478.20	$3478.20	$3478.20	$3478.20	$3478.20	$3478.20
O-2	-	-	-	2491.20	2542.80	2623.50	2760.30	2866.20	2944.50	2944.50	2944.50	2944.50	2944.50	2944.50	2944.50
O-1	-	-	-	2005.80	2143.20	2222.10	2302.50	2382.60	2491.20	2491.20	2491.20	2491.20	2491.20	2491.20	2491.20

* Basic pay is limited to the rate of basic pay for level V of the Executive Schedule, which is $9,016.80 per month.

[1] While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is $10,340.10*, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[2] Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

SCHEDULE OF PAY AND ALLOWANCES OF THE UNIFORMED SERVICES (PAGE 2)

YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
WARRANT OFFICERS															
W-5	-	-	-	-	-	-	-	-	-	-	-	$3662.70	$3801.60	$3911.40	$4076.10
W-4	$2146.20	$2302.50	$2302.50	$2355.30	$2462.40	$2570.70	$2678.70	$2866.20	$2999.10	$3104.40	$3187.50	3290.40	3400.50	3506.40	3665.40
W-3	1950.60	2115.90	2115.90	2143.20	2168.10	2326.80	2462.40	2542.80	2623.50	2701.80	2785.80	2894.40	2999.10	2999.10	3104.40
W-2	1708.50	1848.30	1848.30	1902.00	2005.80	2115.90	2196.30	2276.70	2355.30	2438.10	2517.90	2597.10	2701.80	2701.80	2701.80
W-1	1423.20	1632.00	1632.00	1768.20	1848.30	1927.50	2005.80	2088.90	2168.10	2248.80	2326.80	2410.20	2410.20	2410.20	2410.20
ENLISTED MEMBERS															
E-9[1]	-	-	-	-	-	-	$2496.90	$2552.70	$2610.60	$2670.60	$2730.30	$2783.40	$2929.20	$3043.20	$3214.20
E-8	-	-	-	-	-	$2093.70	2153.70	2210.40	2267.70	2327.70	2381.10	2439.60	2582.70	2697.90	2870.40
E-7	$1461.60	$1578.00	$1636.20	$1693.80	1751.40	1807.20	1865.10	1923.30	2010.30	2067.30	2124.60	2152.20	2296.80	2411.10	2582.70
E-6	1257.60	1370.70	1427.70	1488.60	1544.40	1599.90	1658.70	1744.20	1798.80	1857.00	1885.20	1885.20	1885.20	1885.20	1885.20
E-5	1102.40	1201.20	1259.70	1314.30	1401.00	1458.00	1515.60	1571.40	1599.90	1599.90	1599.90	1599.90	1599.90	1599.90	1599.90
E-4	1029.30	1087.20	1151.10	1239.90	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80	1288.80
E-3	969.90	1023.00	1063.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80	1105.80
E-2	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30	933.30
E-1[2]	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80	832.80
E-1[3]	770.10	-	-	-	-	-	-	-	-	-	-	-	-	-	-

[1] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $3,906.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[2] Applies to personnel who have served 4 months or more on active duty.

[3] Applies to personnel who have served less than 4 months on active duty.

SCHEDULE OF PAY AND ALLOWANCES OF THE UNIFORM SERVICE (PAGE 3)

PART II--BASIC ALLOWANCE FOR QUARTERS RATES

Pay Grade	Without dependents Full rate[1]	Without dependents Partial rate[2]	With dependents
COMMISSIONED OFFICERS			
O-10	$730.50	$50.70	$899.10
O-9	730.50	50.70	899.10
O-8	730.50	50.70	899.10
O-7	730.50	50.70	899.10
O-6	670.20	39.60	809.70
O-5	645.30	33.00	780.30
O-4	598.20	26.70	687.90
O-3	479.40	22.20	569.40
O-2	380.10	17.70	486.30
O-1	320.10	13.20	434.40
COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER			
O-3	$517.50	$22.20	$611.70
O-2	440.10	17.70	552.00
O-1	378.30	13.20	510.00
WARRANT OFFICERS			
W-5	$607.50	$25.20	$663.90
W-4	539.70	25.20	608.70
W-3	453.60	20.70	558.00
W-2	402.60	15.90	513.30
W-1	337.20	13.80	444.00
ENLISTED MEMBERS			
E-9	$443.40	$18.60	$584.10
E-8	407.10	15.30	538.50
E-7	347.40	12.00	500.10
E-6	314.70	9.90	462.30
E-5	290.10	8.70	415.50
E-4	252.30	8.10	361.50
E-3	247.80	7.80	336.30
E-2	201.30	7.20	320.10
E-1	179.10	6.90	320.10

[1] Payment of the full rate of basic allowance for quarters at these rates to members of the uniformed services without dependents is authorized by section 403 of title 37, United States Code, and Part IV of Executive Order 11157, as amended.

[2] Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under section 403(b) or (c) of title 37, United States Code, are not entitled to the full rate of basic allowance for quarters, is authorized by section 1009(c)(2) of title 37, United States Code, and Part IV of Executive Order 11157, as amended.

PART III--BASIC ALLOWANCE FOR SUBSISTENCE

Officers (per month) $142.46

Enlisted Members (per day):

	E-1 (less than 4 months of active duty)	All Other Enlisted
When on leave or authorized to mess separately	$6.28	$6.80
When rations in-kind are not available	7.08	7.67
When assigned to duty under emergency conditions where no messing facilities of the United States are available	9.39	10.16

PART IV--RATE OF MONTHLY CADET OR MIDSHIPMAN PAY

The rate of monthly cadet or midshipman pay authorized by section 203(c)(1) of title 37, United States Code, is $543.90.

[FR Doc. 93-31916
Filed 12-27-93; 11:57 am]
Billing code 3810-01-C

Presidential Documents

Executive Order 12887 of December 23, 1993
Amending Executive Order No. 12878

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

Section 1, subsection (a), of Executive Order No. 12878 (November 5, 1993) is amended—

1. in the second sentence, by deleting "30 members", and inserting "32 members"; and

2. in the fifth sentence, by deleting "Ten members", and inserting "Twelve members".

William J. Clinton

THE WHITE HOUSE,
December 23, 1993.

[FR Doc. 93-31917
Filed 12-27-93; 11:58 am]
Billing code 3195-01-P

VOL 58 ISS 247 DEC 28 1993 UMI

Reader Aids

Federal Register
Vol. 58, No. 247
Tuesday, December 28, 1993

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, and Federal Register finding aids.	202–275–1538, or 275–0920

FEDERAL REGISTER PAGES AND DATES, DECEMBER

63277–63518	1
63519–63884	2
63885–64100	3
64101–64364	6
64365–64454	7
64455–64668	8
64669–64870	9
64871–65098	10
65099–65276	13
65277–65526	14
65527–65656	15
65657–65864	16
65865–66246	17
66247–67302	20
66303–67624	21
67625–68014	22
68015–68290	23
68291–68504	27
68505–68714	28

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

11 64871

3 CFR

Proclamations:
6820 (See USTR notice of Dec. 14) 65424
6352 (See USTR notice of Dec. 14) 65424
5365 (See Proc. 6841) 66867
6515 (See Proc. 6641) 66867
6030 (See Proc. 6641) 66867
5923 (Superseded in part by Proc. 6641) 66867
6630 63277
6631 63279
6632 63883
6633 64363
6634 64667
6635 65279
6636 65525
6637 65527
6638 65529
6639 65865
6640 65867
6641 ..... 66867, 68191
6642 67625
6643 68288
Executive Orders:
3406 (Revoked in part by PLO 7020) 64166
12163 (See EO 12884) 64099
12884) 64099
12543 (See notice of December 2) 64361
12544 (See notice of December 2) 64361
12748 (Amended by 12883) 63281
12826 (Superseded in part by EO 12886) 68709
12829 (Amended by EO 12885) 65863
12865 (See DOT final rule of Dec. 10) 64904
12878 (Amended by EO 12887) 68713
12883 63281
12884 64099
12885 65863
12886 68709
12887 68713
Administrative Orders:
Memorandums:
December 1, 1993 64097
December 15, 1993 ..... 67263, 68191
Presidential Determinations:
No. 94–4 of November 19, 1993 63519
No. 94–5 of December 3, 1993 65277
No. 94–6 of December 6, 1993 65099
Notices:
December 2, 1993 64361

5 CFR

52 64365
293 65531
351 65531
430 65531
432 65531
451 65531
511 65531
530 65531
531 65531
536 65531
540 65531
575 65531
591 65531
595 65531
771 65531
831 ..... 64366, 65243
Ch. XI 68505

7 CFR

1 64353
54 64869
68 68015
75 64101
301 ..... 64102, 67627
330 66247
400 ..... 64872, 67303
401 ..... 64873, 67730
430 66249
443 67744
905 65538
920 65101
955 64103
981 64105
987 64103
989 ..... 64106, 64107
997 64109
998 67304
1001 63283
1002 63283
1004 63283
1005 63283
1007 63283
1011 63283
1030 63283
1033 63283
1036 63283
1040 63283
1044 63283
1046 63283
1049 63283
1065 63283

VOL 58 ISS 247 DE 28 1993 UMI

1068.....63283
1075.....64110
1079.....63283
1093.....63283
1094.....63283
1096.....63283
1097.....63283
1098.....63283
1099.....63283
1106.....63283
1108.....63283
1124.....63283
1126.....63283
1131.....63283
1135.....63283
1138.....63283
1220.....64670
1421.....66016
1427.....65102
1464.....66017
1610.....66250
1703.....67306
1710.....66260
1714.....66260
1735.....66250
1737.....66250
1744.....66250
1751.....66250
1753.....66250
1946.....65871
1951.....64455
1980.....65871
3416.....65646

Proposed Rules:
271.....64172
301.....66304
319.....66304, 66305
321.....66305
704.....66306
723.....67376
810.....65939
930.....68065
981.....64175
985.....67378
1001.....67380
1002.....67380
1004.....67380
1005.....67380
1006.....67380
1007.....65135, 67380
1011.....67380
1012.....67380
1013.....67380
1030.....67380
1032.....67380
1033.....67380
1036.....67380
1040.....64176, 67380
1044.....67380
1046.....67380
1049.....67380
1050.....67380
1064.....67380
1065.....67380
1068.....67380
1075.....68509
1076.....67380
1079.....67380
1093.....67380
1094.....67380
1096.....67380
1099.....67380
1106.....67380
1108.....67380
1124.....67380
1126.....67380
1131.....67380, 67703
1134.....67380
1135.....67380
1137.....67380
1138.....67380
1139.....67380
1250.....65939
1410.....66306
1525.....65941

8 CFR
264.....68024

Proposed Rules:
210a.....64695

9 CFR
78.....68505
85.....68506
92.....68506
94.....65103, 66247
130.....67647
156.....67647
317.....66075
318.....63521, 65254
381.....65254
401.....65254

Proposed Rules:
2.....68559
51.....68561
71.....67706
92.....67709

10 CFR
1.....64110
2.....67657
19.....67657
20.....64110, 67657
30.....64110, 67657
31.....67657
32.....67657
34.....67657
35.....67657
36.....67657
39.....67657
40.....64110, 67657
50.....67657
61.....67657
70.....64110, 67657
72.....67657
73.....64110
835.....65458, 67441

Proposed Rules:
430.....67710
710.....64509

11 CFR

Proposed Rules:
100.....64190
102.....65559
113.....64190

12 CFR
7.....68464
24.....68464
201.....68509
202.....65657
204.....64112
265.....65539
303.....64455
332.....64458
333.....64460
360.....67662
362.....64462
611.....67644
613.....67644
614.....67644, 67665
620.....67664
621.....67664
627.....67644

Proposed Rules:
3.....68065
25.....67466
208.....68563
210.....68566
211.....65560
225.....68563
226.....67466
230.....64190, 65293
330.....64521
345.....67466
510.....64695
563e.....67466
611.....64442, 68069
618.....68069
620.....68069

13 CFR
121.....65281
123.....64672

14 CFR
39.....63523, 63524, 64112, 64114, 64487, 64874, 64875, 64877, 65104, 65115, 65282, 65283, 65662, 65888, 65890, 65984, 65895, 66268, 66270, 66271, 66273, 66274, 66276, 67306, 67307, 67310, 67311, 67665, 67667, 68025, 68026, 68028, 68291
71.....63293, 63885, 63886, 64116, 64117, 64444, 64488, 64879, 64880, 64880, 65897, 65900, 67668, 67669, 67770, 67771
95.....65901
97.....65904, 65905, 68515, 68516
121.....68194, 68198
158.....64118

Proposed Rules:
25.....64700, 67716
31.....64450
33.....63902
39.....63305, 63307, 64198, 64199, 64200, 64386, 64705, 64707, 64708, 65567, 65569, 65943, 67381, 67723, 68570, 68572, 68575
71.....63308, 63309, 63903, 63904, 63905, 63906, 64387, 64525, 64710, 65945, 65946, 65947, 65948, 65949, 65950, 67725, 67726, 67727, 67728, 67909, 68328, 68329, 68577
73.....63908
91.....65950

15 CFR
770.....65540
771.....64674
772.....65540
778.....68029
799.....65540
799.....64674
943.....65664
946.....64088

Proposed Rules:
303.....65294
935.....65686
936.....65686
942.....65686
944.....65686
946.....64202

16 CFR
228.....64881
229.....68292
232.....68292
1000.....64119
1210.....67671

Proposed Rules:
307.....63488
309.....64914
1303.....63311

17 CFR
1.....68518
200.....64120, 68520
204.....64369
230.....65541, 67312
239.....65541
240.....67729
270.....64353, 67729
274.....67729

Proposed Rules:
Ch. II.....68578
190.....68580
200.....67729
210.....68585
229.....67729
230.....68074, 68585
239.....67729, 68074, 68585
240.....67729
270.....67729, 68074, 68585
274.....67729, 68074, 68585

18 CFR
141.....65542

Proposed Rules:
Ch. I.....66309
141.....63312
341.....66310
352.....66310
388.....63312

19 CFR
4.....67312, 68520
24.....68520
122.....68520
123.....67312, 68520
134.....68520
201.....64120

Proposed Rules:
151.....65135
142.....65135
210.....64711

20 CFR
10.....68031
404.....64121, 64882, 64883, 64886, 64890, 65243
416.....63887, 63888, 64883, 64892, 64893
702.....68031

Proposed Rules:
404.....64207, 67574
416.....64207

21 CFR
5.....64489
16.....65514
100.....64123
176.....65284
177.....65546
178.....64894, 67318
310.....65462
358.....65462
510.....63890
520.....65664
522.....65285
558.....63890
900.....67558, 67565
1220.....64137
1270.....65514

Proposed Rules:
1.....67444
5.....65139
25.....65139
100.....64208
170.....65139
171.....65139
174.....65139
179.....64526
201.....67444
501.....67444
701.....67444
801.....67444
812.....64209
813.....64209
820.....64353

22 CFR
41.....66526
89.....65118

23 CFR
500.....63442, 64374
625.....64895
626.....63422, 64374
655.....65084

Proposed Rules:
420.....67510
511.....67510
657.....65830
658.....65877

24 CFR
200.....67671
219.....64138
246.....64032
266.....64032
905.....64141
970.....64141

Proposed Rules:
300.....64713
310.....64713
390.....64713
500.....64066
888.....68615

25 CFR
262.....65246

26 CFR
1.....64897, 67676, 67684, 67689, 68033, 68294, 68295, 68297, 68300, 68301
31.....68033
47.....68304
48.....68304
602.....68033, 68297, 68300, 68301

Proposed Rules:
1.....66310, 67744, 68091, 68330, 68334, 68335, 68336, 68337
47.....68338
48.....68338
301.....63541, 68092
602.....68336, 68337

27 CFR
9.....65123

Proposed Rules:
4.....65295

28 CFR
2.....65547
544.....65850, 65851

Proposed Rules:
2.....65571, 65572

29 CFR
402.....67594
2619.....65548, 66277
2621.....65551
2676.....65548

Proposed Rules:
2520.....68339
2530.....68339

30 CFR
50.....63526
70.....63526
71.....63526
90.....63526
207.....64899
208.....64899
210.....64899
216.....64899
218.....64899
219.....64899
220.....64899
228.....64899
229.....64899
243.....64899
925.....64142
931.....65907
936.....64374
938.....64151

Proposed Rules:
253.....66320
700.....63316
701.....63316
705.....63316
706.....63316
715.....63316
716.....63316
785.....63316
825.....63316
870.....63316
880.....68494
906.....64210
914.....64212, 65679
934.....64526, 66617
944.....64529
950.....65681

31 CFR
129.....68526
317.....63529
500.....68529
590.....64904

32 CFR
95.....63293
706.....64678

Proposed Rules:
2.....63542
116.....65956

33 CFR
1.....65665
3.....67909
66.....64153
80.....65667
100.....66279
110.....65140, 65285
117.....65668
155.....67988
165.....65669, 66279, 68305, 68306, 68307, 68308
334.....64383

Proposed Rules:
117.....66321, 66322, 66323, 67745, 68093
156.....63544, 65683
157.....65298, 65683
165.....65684
166.....65686
167.....65686
402.....68618

34 CFR
648.....65838

Proposed Rules:
76.....65856
99.....65298
296.....65858
368.....67383
647.....63870
Ch. VI.....68619

36 CFR

Proposed Rules:
6.....65141
292.....65300
1220.....64915

37 CFR
Ch. III.....67690
1.....64154, 64155
2.....64154
5.....64155
10.....64154, 64155
304.....63294

38 CFR
2.....67691
21.....63529, 67691

Proposed Rules:
3.....65958

39 CFR

Proposed Rules:
111.....64918, 65959, 67747

40 CFR
35.....63878
52.....64155, 64157, 64158, 64161, 64678, 65286, 65930, 65933, 65934, 66280, 66282, 66283, 66285, 66286, 67324, 67326, 67330, 68036
60.....64158
63.....66287
75.....67692
79.....65552
80.....65552
81.....64161, 64490, 67334, 68031
82.....65018
85.....65552
86.....66289, 68532
88.....64679
93.....67441
122.....67966
123.....67966
124.....67966
144.....63890
146.....63890
180.....63294, 64492, 64493, 64495, 64496, 65554
191.....66398
228.....64497
300.....63531
372.....63496, 63500
501.....67966
712.....68310, 68317
716.....68311, 68317
721.....63500

Proposed Rules:
51.....65573
52.....63316, 63545, 63547, 63549, 64530, 65307, 65309, 65573, 65686, 65688, 65691, 65959, 66324, 66326, 66334, 67383, 67748, 67754, 68094
60.....65573
61.....65573
63.....65768, 66078, 66336
64.....65573
68.....65311
80.....64213, 68343
81.....66334, 68094
141.....65622
143.....65622
180.....64536, 64538, 67759, 68621
258.....68353
261.....67389
300.....63551, 64539
430.....66078

41 CFR
Ch. 301.....67950
101-38.....65268
101-39.....63631, 65268

Proposed Rules:
201-3.....64389
201-4.....64389
201-9.....64389
201-11.....64389
201-18.....64389
201-20.....64389
201-21.....64389
201-22.....64389
201-23.....64389
201-24.....64389
201-39.....64389

42 CFR
57.....66297
60.....67348
405.....63626
412.....67350
413.....67350
414.....63626
417.....68366
434.....65126
491.....63533

Proposed Rules:
67.....63909
413.....65130
435.....65312
436.....65312
440.....65312
447.....65312

43 CFR

Public Land Orders:
7012.....64498
7013.....64165
7014.....64498
7015.....64499
7016.....64499
7017.....64692

44 CFR
64.....65687
65.....65689, 65691
67.....65693, 65695, 65697, 65699, 65701, 65703, 65705, 65707, 65709, 65711, 65713, 65715, 65717, 65719, 65721, 65723, 65725, 65727, 65729, 65731, 65733, 65735, 65737, 65739, 65741, 65743, 65745, 65747, 65749, 65751, 65753, 65755, 65757, 65759, 65761, 65763, 65765, 65767, 65769, 65771, 65773,

7018.....64662
7019.....64663
7020.....64166, 65462
7021.....65139
7022.....65636
7023.....66290
Proposed Rules:
230.....65662
466.....65663
419.....65663
423.....65664
426.....64277
Group 3400.....64919

44 CFR
64.....63669, 67602
65.....66638, 66641, 66643, 66644
67.....66646, 66649
Proposed Rules:
67.....66101, 66105

46 CFR
400.....64468
1355.....67912, 67939
1356.....67912, 67939
1357.....67912
1602.....65291
Proposed Rules:
1370.....64620

48 CFR
1.....65130
16.....66164, 66274
57.....65130, 65343
232.....64788
585.....64669
Proposed Rules:
12.....64278
16.....64278

47 CFR
0.....66663
1.....66299, 66540
2.....66663
25.....66663
63.....64167
64.....65669
68.....65669
73.....63295, 63296, 63536, 65132, 65133, 65671, 65672, 65673, 66669
76.....64168, 67694, 66322, 66541, 66542
80.....66661
87.....67695, 66661
94.....66661
97.....64364
Proposed Rules:
3.....65375
15.....64541
63.....64269
69.....65163
73.....63318, 63319, 63320, 63321, 63568, 65186
76.....64641

48 CFR
232.....64368
501.....64663
509.....64663
552.....64663
1834.....63667
1870.....63667
9903.....65666
Proposed Rules:
9.....63494
15.....64824
52.....63482, 63494, 64826
904.....63553
917.....63553
936.....63553
939.....63566
943.....63553
952.....63568
970.....63553

49 CFR
7.....65824
10.....67696
171.....66302
199.....68194, 66266
217.....68194, 66232
219.....68194, 66232
390.....67376
391.....68194, 66220
392.....67376
541.....63296
544.....63296
571.....63302, 64168, 65673
614.....63442, 64374
Proposed Rules:
192.....66362
391.....66634
396.....64923
571.....63321, 65166, 67698
583.....63327
659.....64656
1105.....66363
1121.....66363
1152.....66363
1161.....66665
1162.....66665
1169.....66665
1312.....64717, 66106

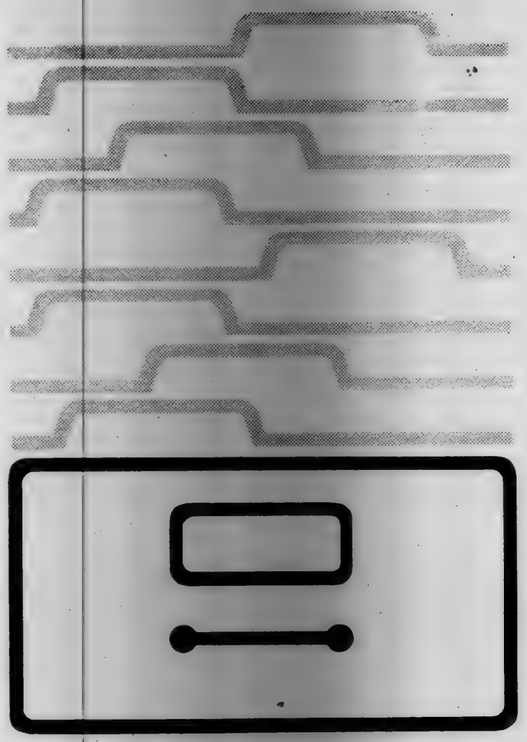
50 CFR
17.....65666, 66323, 66478, 66499
20.....66656
24.....66542
216.....63536, 65133
226.....66643
625.....65134, 66636, 66656
641.....66325
642.....66327
649.....66665
661.....66663
663.....64169
672.....65666
675.....65292, 65656
676.....66666
685.....67699
Proposed Rules:
17.....63328, 63566, 64261, 64828, 64827, 65097, 65325, 65696, 66383, 66823
20.....63499
36.....66012
21.....63488
215.....64265
216.....64265
222.....64265
227.....65661, 66109
285.....67761
301.....67762
611.....64798
625.....64393
630.....67761, 66109
638.....65327
641.....66365
650.....63329
672.....64798
675.....65574, 66386
676.....67761

LIST OF PUBLIC LAWS

Note: The list of Public Laws for the first session of the 103d Congress has been completed and will resume when bills are enacted into law during the second session of the 103d Congress, which convenes on January 25, 1994.

Last List December 23, 1993

VOL 58 ISS 247 DEC 28 1993 UMI



Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

SUPPLEMENT: Revised January 1, 1993

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

Compiled by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Publications** Order Form

Order Processing Code:
*

P3

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512-2250

☐ **YES**, please send me the following:

_____copies of the 1992 GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR S/N 069-000-00046-1 at $15.00 each.

_____copies of the 1993 SUPPLEMENT TO THE GUIDE, S/N 069-001-00052-1 at $4.50 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

YES NO

May we make your name/address available to other mailers? ☐ ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

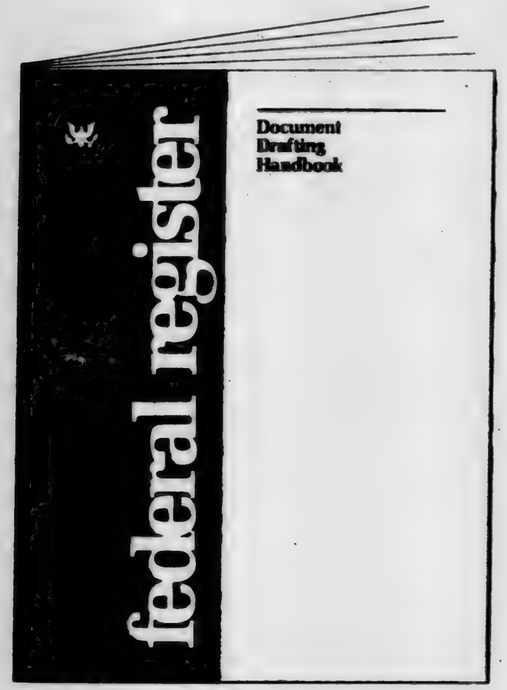
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date) *Thank you for your order!*

(Authorizing Signature) (5/93)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

VOL
58
ISS
2
4
7
DE
28
1993
UMI



Federal Register Document Drafting Handbook

A Handbook for Regulation Drafters

This handbook is designed to help Federal agencies prepare documents for publication in the Federal Register. The updated requirements in the handbook reflect recent changes in regulatory development procedures, document format, and printing technology.

Price $5.50

Superintendent of Documents Publication Order Form

Order processing code: *6133

Charge your order. It's easy!

To fax your orders and inquiries—(202) 512-2250

☐ **YES,** please send me the following indicated publications:

_____ copies of **DOCUMENT DRAFTING HANDBOOK at $5.50 each.** S/N 069-000-00037-1

1. The total cost of my order is $_____ Foreign orders please add an additional 25%. All prices include regular domestic postage and handling and are subject to change.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature) (Rev 12/91)

4. Mail To: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954

VOL
58
ISS
2
4
7
DE
28
1993
UMI



Printed on recycled paper

VOL
58
ISS
248
DE
29
1993
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

12-29-93
Vol. 58 No. 248

federal register

Wednesday
December 29, 1993

RECEIVED
JAN 05 1994
Brigham Young University
J. Reuben Clark Law School

RPES
3-91

DEPOSITORY
U.S. GOVERNMENT
JAN 06 1994
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 846

A FR BRIGH358B DS 621AF
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY - DOCS
358 JRCB
PROVO UT 84602

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

Wednesday
December 29, 1993

VOL
58
ISS
2
4
8
DE
29
1993
UMI

12-29-93
Vol. 58 No. 248
Pages 68715-68168

federal register

Wednesday
December 29, 1993

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–783–3238
Magnetic tapes	512–1530
Problems with public subscriptions	512–2303
Single copies/back copies:	
Paper or fiche	783–3238
Magnetic tapes	512–1530
Problems with public single copies	512–2457
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Magnetic tapes	512–1530
Problems with Federal agency subscriptions	533–5343

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

(TWO BRIEFINGS)

WHEN: January 13 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 58, No. 248

Wednesday, December 29, 1993

Agency for Health Care Policy and Research
NOTICES
Privacy Act:
Systems of records, 68992–68993

Agency for Toxic Substances and Disease Registry
NOTICES
Privacy Act:
Systems of records, 69056

Agriculture Department
See Farmers Home Administration
See Forest Service
See Rural Electrification Administration
NOTICES
Agency information collection activities under OMB review, 68849

Army Department
NOTICES
DECCA electronic navigation lattices; removal from new chart editions, 68879
Military traffic management:
Overdimensional and overweight hauling permits, 68879–68880

Centers for Disease Control and Prevention
NOTICES
Meetings:
Childhood Lead Poisoning Prevention Advisory Committee, 68916
Prevention of HIV Infection Advisory Committee, 68916
Privacy Act:
Systems of records, 69048–69052

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Mitigation of environmental impacts to Indian lands due to Defense Department activities, 69106–69125
Head Start program:
Smoke-free environment requirement for program participants, 68914–68916

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Florida, 68851

Commerce Department
See Economic Development Administration
See Export Administration Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See Technology Administration
NOTICES
Agency information collection activities under OMB review, 68851–68852

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Mexico, 68877–68878
Special regime program; textile products from Mexico; ITA-370P form requirement termination, 68878

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Chicago Mercantile Exchange—
One-year U.S. Treasury bill, 68879

Customs Service
RULES
Articles conditionally free, subject to reduced rate, etc.:
Works of art imported free of duty; declarations requirements, 68741–68743
Petitions by domestic interested parties:
Frozen produce packages; country of origin marking, 68743–68747
Military Freight Traffic Rules, 68879–68880

Defense Department
See Army Department
See Navy Department

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Adams, Barton J., D.O., 68952

Economic Development Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Economic development assistance program, 69102–69103
Trade adjustment assistance eligibility determination petitions:
Ioline Corp. et al., 68852–68853

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Direct grant programs and fellowship programs, 68880–68881
Direct grant programs and fellowship programs; correction, 68881

Employment and Training Administration
RULES
Job Training Partnership Act:
Job Corps program under Title IV-B, 69098–69100
NOTICES
Adjustment assistance:
Hermitage Hospital Products, 68952–68953

Energy Department
See Energy Efficiency and Renewable Energy Office
See Energy Information Administration
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department

RULES
Patent Compensation Board regulations; North American Free Trade Agreement (NAFTA) compliance, 68732–68735
NOTICES
Environmental statements; availability, etc.:
B-Factory particle accelerator (asymmetric electron positron collider), 68881–68883
Natural gas exportation and importation:
CanStates Petroleum Marketing, 68902
JMC Fuel Services, Inc., 68902
Pawtucket Power Associates Limited Partnership, 68902
Poco Petroleum, Inc., 68902
Salmon Resources Ltd., 68902–68903
UMC Petroleum Corp., 68903

Energy Efficiency and Renewable Energy Office
NOTICES
Consumer products; energy conservation program:
Representative average unit costs of energy, 68901

Energy Information Administration
NOTICES
Agency information collection activities under OMB review and reporting and recordkeeping requirements, 68883–68887

Environmental Protection Agency
PROPOSED RULES
Air programs:
Federal operating permit programs—
Early reductions sources permits, 68804–68826
Drinking water:
National primary and secondary drinking water regulations—
Fluoride, 68826–68827
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer, 68827–68829
NOTICES
Air programs:
Control techniques guidelines document—
Batch processes, 68905
Industrial wastewater, 68906
Hazardous waste:
Land disposal restrictions; exemptions—
Morton International, Inc., 68907
Pesticides; emergency exemptions, etc.:
Fenoxycarb, 68907–68908
Propazine, 68908–68909
Pyrithiobac-sodium, 68909
Pesticides; temporary tolerances:
Consep Membranes, Inc., 68909–68910

Executive Office of the President
See Presidential Documents

Export Administration Bureau
RULES
Export licensing:
Editorial clarifications and corrections, 68740–68741

Farmers Home Administration
RULES
Program regulations:
Loan applications; receiving and processing loans, 68717–68722
Property management—
Lease with option to purchase farmer program farm real estate properties; additional notice to Indian tribes and tribal members, 68722–68726

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
Airspace overlying waters between 3 and 12 nautical miles from U.S. coast; warning areas establishment 69128–69130
Class E airspace; correction, 68740
PROPOSED RULES
Airworthiness directives:
Airbus Industrie, 68786–68787
Boeing, 68787–68789
Canadair, 68789–68791
Airworthiness standards:
Special conditions—
Pratt & Whitney models PW4073, PW4084, and PW4088 turbofan engines, 68784–68786
NOTICES
Advisory circulars; availability, etc.:
Aircraft—
Primary category aircraft; certification procedures, 68981–68982
Experimental airworthiness certificates, issuance; exhibition or air racing and special flight authorizations, 68982–68983
Meetings:
Hawaii; flight safety, aircraft noise, and possible intrusive flights of helicopters, 68983–68985
Passenger facility charges; applications, etc.:
Pullman-Moscow Regional Airport, WA, 68985

Federal Communications Commission
PROPOSED RULES
Radio broadcasting:
AM directional antennas; proof-of-performance evaluation policies and procedures, 68843–68844
Television broadcasting:
Cable television systems—
Major television markets; list, 68844–68845
NOTICES
Agency information collection activities under OMB review, 68910

Federal Deposit Insurance Corporation
PROPOSED RULES
Capital maintenance:
Leverage and risk-based capital standards, 68781–68784

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
New England Power Service et al., 68887–68890
Wisconsin Public Service Corp. et al., 68890–68891
Environmental statements; availability, etc.:
Liberty Pipeline Co. et al., 68891–68894
Hydroelectric applications, 68894–68896
Natural gas certificate filings:
Koch Gateway Pipeline Co. et al., 68896–68897
Trunkline Gas Co. et al., 68897
Natural Gas Policy Act:
Natural gas data collection system—
Electronic filing record formats and edit checks for FERC Form Nos. 2 and 2A; availability, 68897–68898

Applications, hearings, determinations, etc.:
Arkla Energy Resources Co., 68898–68899
KansOk Partnership, 68899
South Georgia Natural Gas Co., 68899
Tennessee Gas Pipeline Co., 68899–68900
Transcontinental Gas Pipe Line Corp., 68900
Trunkline Gas Co., 68900
Viking Gas Transmission Co., 68900

Federal Maritime Commission
PROPOSED RULES
Practice and procedure:
Private complaint actions, 68841–68843
NOTICES
Agreements filed, etc., 68910–68911

Federal Reserve System
RULES
Equal credit opportunity (Regulation B):
Appraisals and enforcement
Correction, 68735
Membership in State banking institutions; bank holding companies and change in bank control (Regulations H and Y):
Capital adequacy guidelines, 68735–68740
NOTICES
Applications, hearings, determinations, etc.:
First Bancorporation of Ohio et al., 68911
First Chicago Corp., 68911–68912
Mahaska Investment Co. et al., 68912
Marshall & Ilsley Corp., 68912–68913
Scarborough, Rodney Barrett, et al., 68913

Federal Trade Commission
NOTICES
Prohibited trade practices:
Revlon, Inc., et al., 68913–68914
Trans Union Corp., 68914

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
Western Atlantic Reinsurance Corp., 68988

Fish and Wildlife Service
NOTICES
Endangered and threatened species:
Recovery plans—
Moapa dace, 68949–68950
Environmental statements; availability, etc.:
Northern spotted owl; protective measures in California, Oregon, and Washington, 69132–69149

Food and Drug Administration
PROPOSED RULES
Food for human consumption:
Food labeling—
Dietary supplements; health claims requirements; correction, 68791
NOTICES
Meetings:
Advisory committees, panels, etc., 68916
Privacy Act:
Systems of records, 69056

Forest Service
NOTICES
Environmental statements; availability, etc.:
Plumas National Forest, CA, 68849–68850

Health and Human Services Department
See Agency for Health Care Policy and Research
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See National Institutes of Health
See Public Health Service
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
PROPOSED RULES
Medicare:
Clinical psychologist, other psychologist, and clinical social worker services; coverage and payment, 68829–68841

Health Resources and Services Administration
See Public Health Service
NOTICES
Privacy Act:
Systems of records, 69052–69056

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 68903–68905

Housing and Urban Development Department
PROPOSED RULES
Community development block grants:
Joint community development program, 68795–68798
NOTICES
Grant and cooperative agreement awards:
Flexible subsidy program—
Operating assistance and capital improvement loans, 68943–68945
Public and Indian housing—
Drug elimination program, 68929–68943, 68945–68948
Grants and cooperative agreements; availability, etc.:
Community development work study program, 68925–68929

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

Internal Revenue Service
RULES
Income taxes:
Bad debt reserves of banks, 68753–68765
Interest reimbursements on qualified mortgages; information reporting, 68751–68753
Securities dealers; mark to market, 68747–68751
PROPOSED RULES
Income taxes:
Low-income housing credit—
State housing credit ceiling, 68799–68804
Securities dealers; mark to market; cross-reference, 68798–68799

International Broadcasting Board
NOTICES
Meetings; Sunshine Act, 68990

International Trade Administration
NOTICES
Antidumping:
Forged stainless steel flanges from—
India, 68853–68859
Taiwan, 68859–68862
Stainless steel wire rods from—
Brazil, 68862–68865
France, 68865–68874
Export trade certificates of review, 68874–68875
Applications, hearings, determinations, etc.:
Geological Survey et al., 68875
University of—
California et al., 68875–68876

International Trade Commission
NOTICES
Import investigations:
Removable hard disk cartridges and products containing same, 68950
Silicomanganese from—
Brazil et al., 68950
Sputtered carbon coated computer disks and products containing same, including disk drives, 68950–68951

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Transtar Holdings, L.P., 68951
Railroad services abandonment:
Norfolk Southern Railway Co., 68951–68952

Justice Department
See Drug Enforcement Administration
See Prisons Bureau
RULES
Acquisition regulations:
Contracting authority and responsibilities, definitions, competition advocates, and acquisition planning, 68774–68779

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Bolo Station Landfill, CA, 68948
Squirrel River, AK, 68948–68949
Survey plat filings:
District of Columbia, 68949
Withdrawal and reservation of lands:
Nevada; meeting, 68949

Mine Safety and Health Administration
NOTICES
Mining products; testing, evaluation, and approval fees, 68953–68957

National Aeronautics and Space Administration
NOTICES
Meetings:
Aeronautics Advisory Committee, 68968
Space Science Advisory Committee, 68968

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 68967–68968

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Compressed natural gas fuel containers, 68846–68847
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Century Products Co., 68985–68987

National Institute of Standards and Technology
NOTICES
Meetings:
Organic coating systems service life prediction improvement; cooperative research and development consortium, 68876

National Institutes of Health
NOTICES
Inventions, Government-owned; availability for licensing, 68917–68920
Meetings:
Fogarty International Center Advisory Board, 68920
National Cancer Institute, 68920–68921
National Heart, Lung, and Blood Institute, 68921
National Institute of Dental Research, 68921
National Institute on Deafness and Other Communication Disorders, 68921
National Institute on Drug Abuse, 68922
President's Cancer Panel, 68920–68921
Privacy Act:
Systems of records, 69003–69048

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Gulf of Alaska and Bering Sea and Aleutian Islands groundfish, 68848
Marine mammals:
Protected species special exception permits, 68848
NOTICES
Meetings:
Pacific Fishery Management Council, 68876–68877
South Atlantic Fishery Management Council, 68877

National Science Foundation
RULES
Federal claims collection:
Administrative offset, 68772–68774
Salary offset, 68769–68772
NOTICES
Antarctic Conservation Act of 1978; permit applications, etc., 68968
Meetings:
Research, Evaluation, and Dissemination Special Emphasis Panel, 68968
Science Resources Studies Special Emphasis Panel, 68968–68969

Navy Department
NOTICES
Meetings:
Naval Research Advisory Committee, 68880
Planning and Steering Advisory Committee, 68880

Nuclear Regulatory Commission
RULES
Licensed facilities decommissioning; self-guarantee as additional financial assurance mechanism, 68726–68732
NOTICES
Environmental statements; availability, etc.:
Gulf States Utilities Co., 68969
Louisiana Energy Services, L.P., 68969
Applications, hearings, determinations, etc.:
Florida Power Corp., 68969–68971

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
G. Robert Taylor Individual Retirement Account et al., 68957–68964
Texas Instruments et al., 68964–68967

Personnel Management Office
RULES
Prevailing rate systems, 68715–68717

Presidential Documents
EXECUTIVE ORDERS
Courts-Martial Manual, United States, 1984; amendments (EO 12888), 69153–69168

Prisons Bureau
RULES
Inmate control, custody, care, etc.:
Production or disclosure of Federal Bureau of Investigations/National Crime Information Center information, 68765–68766

Public Health Service
See Agency for Health Care Policy and Research
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Privacy Act:
Systems of records, 68992
Veterans Health Care Act:
Limitation on prices of drugs purchased by covered entities, 68922–68925

Rural Electrification Administration
PROPOSED RULES
Telephone loan program:
Loan security documents; adjusted net worth to asset requirements in mortgage between REA and its borrowers, 68780–68781
NOTICES
Environmental statements; availability, etc.:
Western Farmers Electric Cooperative, 68850–68851

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Depository Trust Co., 68971
Midwest Clearing Corp., 68971–68972
Midwest Stock Exchange, Inc., 68972–68974
National Association of Securities Dealers, Inc., 68974–68975
New York Stock Exchange, Inc., 68975–68979
Applications, hearings, determinations, etc.:
SunAmerica Multi-Asset Portfolios, Inc., 68979–68980

Small Business Administration
NOTICES
Disaster loan areas:
Oregon, 68980
Interest rates; quarterly determinations, 68980

State Department
PROPOSED RULES
Visas; immigrant documentation:
Diversity immigrants; annual numerical limitation, 68791–68795
NOTICES
Gifts to Federal employees from foreign governments; listing, 69058–69096
Meetings:
Shipping Coordinating Committee, 68980

Substance Abuse and Mental Health Services Administration
NOTICES
Privacy Act:
Systems of records, 68993–69003

Technology Administration
NOTICES
Meetings:
Cooperation between TA and Japan's Industrial Science and Technology Agency, 68877

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 68980
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 68981

Treasury Department
See Customs Service
See Fiscal Service
See Internal Revenue Service
NOTICES
Boycotts, international:
Countries requiring cooperation; list, 68987–68988

Veterans Affairs Department
RULES
Vocational rehabilitation and education:
Rehabilitation criteria update, 68766–68769
NOTICES
Privacy Act:
Computer matching programs, 68988–68989

Separate Parts in This Issue

Part II
Department of Health and Human Services, Public Health Service, Agency for Health Care Policy and Research, Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, Food and Drug Administration, Health Resources and Services Administration, National Institutes of Health, Substance Abuse and Mental Health Services Administration, 68992–69056

Part III
Department of State, 69058–69096

Part IV
Department of Labor, Employment and Training Administration, 69098–69100

Part V
Department of Commerce, Economic Development Administration, 69102–69103

Part VI
Department of Health and Human Services, Children and Families Administration, 69106–69125

Part VII
Department of Transportation, Federal Aviation Administration, 69128–69130

Part VIII
Department of the Interior, Fish and Wildlife Service, 69132–69149

Part IX
The President, 69153–69168

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12473 (See EO 12888)....69153
12484 (See EO 12888)....69153
12586 (See EO 12888)....69153
12708 (See EO 12888)....69153
12767 (See EO 12888)....69153

5 CFR
532 (2 documents)....68715, 68716

7 CFR
1910....68717
1955....68722
1980....68717
Proposed Rules:
1735....68780

10 CFR
30....68726
40....68726
50....68726
70....68726
72....68726
780....68732

12 CFR
202....68735
208....68735
225....68735
Proposed Rules:
325....68781

14 CFR
71....68740
73....69128
Proposed Rules:
33....68784
39 (3 documents)....68786, 68787, 68789

15 CFR
770....68740
773....68740
785....68740

19 CFR
10....68741
175....68743

20 CFR
626....69098
638....69098

21 CFR
Proposed Rules:
101....68791

22 CFR
Proposed Rules:
42....68791

24 CFR
Proposed Rules:
570....68795

26 CFR
1 (3 documents)....68747, 68751, 68753
301....68753
602 (3 documents)....68747, 68751, 68753
Proposed Rules:
1 (2 documents)....68798, 68799

28 CFR
513....68765

36 CFR
21....68766

40 CFR
Proposed Rules:
63....68804
71....68804
141....68826
180....68827

42 CFR
Proposed Rules:
410....68829
417....68829
447....68829

45 CFR
607....68769
608....68772

46 CFR
Proposed Rules:
502....68841

47 CFR
Proposed Rules:
73....68843
76 (2 documents)....68844

48 CFR
2801....68774
2802....68774
2806....68774
2807....68774

49 CFR
Proposed Rules:
571....68846

50 CFR
Proposed Rules:
215....68848
216....68848
222....68848
672....68848
675....68848

Rules and Regulations

Federal Register
Vol. 58, No. 248
Wednesday, December 29, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AF73

Prevailing Rate Systems; Definition of Santa Clara, CA, Wage Area to Alameda-Contra Costa, CA, Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing an interim regulation to abolish the Santa Clara, California, Nonappropriated Fund (NAF) wage area for pay-setting purposes. The Santa Clara wage area is composed of Santa Clara County (survey area) and San Mateo County (area of application). The current host activity for the Santa Clara wage area survey, Naval Air Station (NAS) Moffett Field, will close on July 1, 1994, and does not have the capability to carry out the local wage survey scheduled to begin in the Santa Clara wage area in September 1993. No other installation in the Santa Clara wage area has the capability to conduct a wage survey. This regulation redefines Santa Clara and San Mateo Counties to the area of application of the Alameda-Contra Costa, California, wage area.

DATES: This interim rule is effective on September 1, 1993. Comments must be received on or before January 28, 1994.

ADDRESSES: Send or deliver comments to Barbara L. Fiss, Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Mark Allen (202) 606–2848.

SUPPLEMENTARY INFORMATION: The Santa Clara, California, wage area is currently defined as a separate wage area for FWS pay-setting purposes. The Department of Defense notified OPM that the facilities of the host activity for the Santa Clara wage area, NAS Moffett Field, will be transferred to the National Aeronautics and Space Administration on July 1, 1994. Downsizing is underway and NAS Moffett Field, with 27 or fewer NAF employees, does not have the capability to conduct the wage survey required to begin in the Santa Clara wage area in September 1993 in accordance with appendix B to subpart B of part 532, title 5, Code of Federal Regulations. No other Federal activity in the Santa Clara wage area has the capability to conduct a local wage survey. The two counties currently constituting the Santa Clara wage area, Santa Clara and San Mateo, must therefore be combined with another wage area for pay-setting purposes.

The following criteria are taken into consideration when two or more counties are combined to constitute a single wage area:

(1) Proximity of largest activity in each county;

(2) Transportation facilities and commuting patterns; and

(3) Similarities of the counties in:

(i) Overall Population;

(ii) Private employment in major industry categories; and

(iii) Kinds and sizes of private industrial establishments.

Geographically, NAS Moffett Field in Santa Clara County if about the same distance from the Oakland Army Base, host installation for the Alameda-Contra Costa wage area (approximately 68 km (42 miles)), and the Presidio of San Francisco, host installation for the San Francisco, California, wage area (approximately 69 km (43 miles)). Transportation facilities do not favor redefining Santa Clara to one wage area over any other. Commuting patterns for both out-commuters and in-commuters favor the Alameda-Contra Costa wage area. Santa Clara County, population 1,497,577, is more similar in overall population to the Alameda-Contra Costa wage area (2,082,905) than to the San Francisco wage are (723,959). Santa Clara County is also most similar to the Alameda-Contra Costa wage area in terms of kinds and sizes of private industrial establishments. In summary, the regulatory criteria favor redefining Santa Clara County to the Alameda-Contra Costa wage area.

Geographically, the Menlo Park Department of Veterans Affairs (VA) Medical Center in San Mateo County is about the same distance from the Oakland Army Base in the Alameda-Contra Costa wage area (approximately 58 km (36 (miles)) and the Presidio of San Francisco in the San Francisco wage area (approximately 56 km (35 miles)). Transportation facilities do not favor either wage area over the other. Commuting patterns for out-commuters favor the San Francisco wage area, while commuting patterns for in-commuters only slightly favor the San Francisco wage area. San Mateo County, population 649,623, is more similar in overall population to the San Francisco wage area (723,959) than to the Alameda-Contra Costa wage area (2,082,905). San Mateo County is also most similar to the San Francisco wage area in terms of kinds and sizes of private industrial establishments.

Although this examination of regulatory criteria slightly favors redefining San Mateo County to the San Francisco wage area, an important additional consideration also applies in this case. The sole NAF employer in San Mateo County, the VA Medical Center near Menlo Park (psychiatric hospital), is an administrative division of the Palo Alto VA Medical Center (general hospital) in Santa Clara County. Only about five kilometers (3 miles) separate the two hospitals and the Menlo Park hospital is located only 1 kilometer (about one-half mile) inside the San Mateo County line.

All NAF employees at the two hospitals work in similar occupations in hospital canteens and are currently paid from the same wage schedule. Given the organizational relationship and minimal distance between the two VA facilities, changing the historic uniformity of pay treatment could be disruptive to personnel management in the two hospitals. These additional considerations indicate that San Mateo County should be redefined to the Alameda-Contra Costa wage area.

Based on this review of the criteria for establishing and combining wage areas, we find that the Santa Clara, California, wage area should be abolished as of September 1, 1993. As requested by the Department of Defense and Department

of Veterans Affairs, employees paid from the current Santa Clara, California, wage schedule will remain on their current schedule until the next wage schedule for the Alameda-Contra Costa wage area becomes effective on the first day of the first pay period beginning on or after January 1, 1994.

The Federal Prevailing Rate Advisory Committee reviewed this request and recommended approval by consensus.

Pursuant to sections 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking to accommodate changes necessitated by Department of Defense downsizing and expedite this wage area redefinition. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days to avoid the expenditure of resources needed to prepare for the required September 1993 survey of the Santa Clara, California, wage area. NAS Moffett Field is unable to function as the host activity for the survey and no other activity within the Santa Clara wage area has the capability to conduct the survey.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATES SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 is also issued under 5 U.S.C. 552.

Appendix B to Subpart B—[Amended]

2. In appendix B to subpart B, the listing for the Santa Clara, California, wage area is removed.

3. Appendix D to subpart B is amended by removing the listing for the Santa Clara, California, wage area and by revising the wage area listing for the Alameda-Contra Costa, California, wage area to read as follows:

Appendix D to Subpart B of Part 532—Non-Appropriated Fund Wage and Survey Areas

* * * * *

Alameda-Contra Costa

Survey area

California:
  Alameda
  Contra Costa
Area of Application, Survey area plus:
California
  Santa Clara [1]
  San Mateo [1]

* * * * *

[FR Doc. 93–31603 Filed 12–28–93; 8:45 am]

BILLING CODE 6325–01–M

---

5 CFR Part 532

RIN 3206–AF72

Prevailing Rate Systems; Clark-Hardin-Jefferson, KY, NAF Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing an interim regulation to delete Clark County, Indiana, from the survey area of the Clark-Hardin-Jefferson, Kentucky, Federal Wage System (FWS) Nonappropriated Fund (NAF) wage area for pay-setting purposes. The wage area will be renamed Hardin-Jefferson, Kentucky. OPM recently learned that there are no longer any NAF wage employees in Clark County. Because by law FWS NAF wage areas consist only of areas having NAF employees, Clark County must be dropped from this wage area.

DATES: This interim rule becomes effective on December 29, 1993. Comments must be received by January 28, 1994.

ADDRESSES: Send or deliver comments to Barbara L. Fiss, Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

[1] Effective date January 1, 1994.

SUPPLEMENTARY INFORMATION: The Department of Defense notified OPM that the only NAF wage employees in Clark County, Indiana, were those employed by the Army and Air Force Exchange Service activity located at the Indiana Army Ammunition Plant, an activity that closed in July 1991.

Dropping Clark County from the survey area will not have a significant impact on the results of future wage surveys. Ft. Knox in Hardin County, Kentucky, employs 96 percent of the 676 NAF wage employees in the wage area. In the 1992 full-scale wage survey, only 176 (4.3 percent of the total) weighted matches were from firms in Clark County, Indiana. The remaining 2-county survey area will still meet the criteria in 5 CFR 532.219(b) for the establishment of NAF wage areas. There are far more than the minimum of 26 NAF wage employees in the survey area and local activities have the capability to do the survey. Within the survey area, there are more than the required minimum of 1,800 private enterprise employees in establishments within survey specifications.

The full-scale surveys will continue to be ordered in February of even numbered fiscal years, e.g. in February 1994. The Federal Prevailing Rate Advisory Committee (FPRAC) reviewed this request and by consensus recommended approval.

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days because the wage survey for the Hardin-Jefferson, Kentucky, wage area will be conducted in February 1994, requiring the drawing of survey establishment lists in December 1993.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix B to Subpart B—[Amended]

2. Appendix B to subpart B is amended for Clark-Hardin-Jefferson, Kentucky, by revising the wage area listing from "Clark-Hardin-Jefferson" to "Hardin-Jefferson."

3. Appendix D to subpart B is amended by removing the wage area listing for Clark-Hardin-Jefferson and by adding in its place a listing for Hardin-Jefferson to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Area

* * * * *

Kentucky

* * * * *

Hardin-Jefferson

Survey Area

Kentucky:
  Hardin
  Jefferson
Area of Application, Survey area plus:
Indiana:
  Jefferson
Kentucky:
  Fayette
  Madison
  Warren

* * * * *

[FR Doc. 93–31604 Filed 12–28–93; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1910 and 1980

RIN 0575–AB56

Receiving and Processing Applications for Farmer Programs Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to conform to provisions of the Agricultural Credit Improvement Act of 1992. This action will modify regulations governing the processing of Farmer Programs direct and guaranteed loan applications. The intended effect is to reduce application processing times.

DATES: Interim rule effective December 29, 1993. Written comments must be submitted on or before January 28, 1994.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations Analysis and Control Branch, FmHA, USDA, room 6348–S, 14th Street and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mark A. Falcone, Deputy Director, Farmer Programs Loan Making Division, Farmers Home Administration, U.S. Department of Agriculture, South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 690–4019.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this interim rule in conformance with Executive Order 12866, and we have determined that it is not a "significant regulatory action." Based on information compiled by the Department, we have determined that this interim rule:

(1) Will have an effect on the economy of less than $100 million;

(2) Will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice 7 CFR part 3015 subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of FmHA Programs and Activities" (December 23, 1983), Emergency Loans, Farm Ownership Loans, and Farm Operating Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. The Soil and Water Loan Program, however, is subject to the provisions of Executive Order 12372.

Programs Affected

These changes affect the following FmHA programs, as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program." The FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (E.O.) 12778. It is the determination of FmHA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the E.O.

Paperwork Reduction Act

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control numbers 0575–0134 and 0575–0079 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). The interim final rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

Discussion of Interim Rule

The Agricultural Credit Improvement Act of 1992 (Public Law 102–554) (Act) required a number of changes to FmHA regulations governing the approval of Farmer Programs loans made and guaranteed by the Agency. The purpose of this interim rule is to conform FmHA regulations to the requirements of sections 332 and 333A of the Consolidated Farm and Rural Development Act (CONACT), as amended by sections 11 and 13 of the Act. Other changes have been made that are administrative and are not required

by the Act. These internal changes are for clarification purposes. There is no need for public comment on these changes.

It is the policy of the Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. This revision, however, is not published for proposed rulemaking because section 23 of the Act requires that interim regulations be issued to implement provisions of this Act. Therefore, this regulation is published as an interim rule with a 30-day comment period.

This interim rule deals with the following requirements of the Act:

Section 11—Time Period Within Which County Committee Is Required To Meet To Consider Applications for Farm Ownership and Operating Loans and Guarantees and Beginning Farmer Plans

Previous regulations required County Committees to review applications for direct and guaranteed loans, but did not set deadlines in all cases. CONACT section 332(e) requires the County Committee to make an eligibility determination on all direct and guaranteed farm ownership and operating loan applications, as well as the farm plans for those applying under FmHA's special operating loan program for beginning farmers. The County Committee must act on the application or farm plan not later than 5 days after receipt in the County Office when there is more than one other application or plan pending, and not later than 15 days when there are no other applications or plans pending. The Agency has amended 7 CFR part 1910, subpart A, § 1910.4(h) and 7 CFR part 1980, subpart B, § 1980.115(a) accordingly. It has clarified that these timeframes will be 5/15 "calendar" days, and are based upon County Offices receiving all information needed for the County Committee review.

Section 13—Processing of Applications for Farm Operating Loans

7 CFR part 1910, subpart A, § 1910.4 (c) and (i), and 7 CFR part 1980, subpart B, § 1980.114, implement requirements of this section.

CONACT Section 333A(a)(2)(B) requires FmHA to notify direct and guaranteed farm operating loan applicants in writing within 10 calendar days of receipt of their application in the County Office of any additional information needed to make the application complete. If the information is not received within 20 calendar days of the date of the first letter, the Agency must again notify the applicant, as well as the Agency's District Office, of the information still needed. The Agency has added language that applicants (and lenders for guaranteed applications) will be notified that their application will be withdrawn if information is not received within the established due dates. The Agency believes these timeframes are sufficient. An applicant always has the option to submit another application at any time.

CONACT Section 333A(a)(2)(B) also requires other USDA Agencies to provide information to FmHA within 15 calendar days of a request when an FmHA direct or guaranteed operating loan application is involved. The Agency has entered into Memorandums of Understanding with the Agricultural Stabilization and Conservation Service and the Soil Conservation Service stating information will be provided to FmHA within the required timeframe, whenever possible.

FmHA County Offices further are required by statute to notify the District Office of operating loan applications pending more than 45 days after receipt. The District Office must ensure that final actions are taken no later than 15 days after such notification. District Offices must notify the State Offices of applications pending more than 45 days after its receipt and provide the reasons they are pending. The Agency has clarified "applications" to mean "complete applications" and 45/15 days to mean 45/15 "calendar" days. CONACT Section 333A(a)(1) requires the Agency to approve or disapprove each application not later than 60 days after it is considered complete.

The statute also requires FmHA, on a monthly basis, to notify the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, of operating loan applications on which final action has not been taken within 60 days of its receipt. Once again, the Agency has clarified this to mean "complete" applications. "Final action" means approval, denial, or withdrawal of the application. FmHA's FOCUS Ad-Hoc Reporting System, a nation-wide computerized information network, already provides the State and National Offices electronic access to such data. The Agency has set up a monthly procedure under which the required information will be gathered and collated using the FOCUS system.

For direct loans, the Agency has made revisions in 7 CFR part 1910, subpart A, § 1910.4(b) to clarify the applicant and FmHA's responsibilities in completing an application. This was done to reduce confusion and expedite processing. Forms FmHA 1945–22, "Certification of Disaster Losses," and FmHA 1940–38, "Request for Lender's Verification of Loan Application," are needed when an applicant is applying for an emergency loan. These forms, previously shown as FmHA's responsibilities, are now shown as the applicant's responsibilities. It was misleading to have these listed under FmHA's responsibilities as the applicant has always had to supply information on these forms. No additional burden has been placed on applicants.

7 CFR part 1910, subpart A, § 1910.4(b) also has been clarified to state that several items are needed from certain applicants only. Now only new applicants must provide a brief written description of their farm training and/or experience. Only new applicants and existing borrowers with significant changes in their operations must provide a brief written description of their proposed operations. These clarifications reflect FmHA's desire to impose procedural requirements only as needed. In addition, several FmHA responsibilities previously needed to consider the application complete are no longer part of what is needed for a "complete application," but must be completed before loan approval is determined. When an application becomes complete, the 60-day time period for loan approval or rejection begins. Amendatory language also instructs County Supervisors to provide assistance as necessary to help applicants complete their applications.

Section 11 of the Act refers to direct and guaranteed farm operating and farm ownership loan applications, and section 13 refers to direct and guaranteed farm operating loan applications. However, FmHA has decided to make the provisions of these sections apply to all Farmer Programs loans, including Soil and Water loans and Emergency loans. This procedural change will maintain consistency for all farm loans, avoid complication and possible confusion in interpreting Agency instructions, and expedite the processing of loan requests.

In 7 CFR part 1980, subpart B, § 1980.114, notification procedures for incomplete loan guarantee applications have been tightened beyond the strict requirements of the Act. Lenders are notified that an application is incomplete no later than 5 (versus 10) calendar days after the application has been received in the County Office. Formerly, this notification requirement was contingent on the availability of a County Supervisor and employment ceilings affecting FmHA. The Agency approval timeframe for guaranteed

Farmer Programs loan applications is currently 30 days (14 days under the Certified Lender Program). Regulations now will require the District Office to ensure completion of processing on guarantee applications on which final action is not taken within this timeframe. FmHA instituted this change in response to concerns expressed by lenders regarding guaranteed processing times, and recommendations resulting from studies carried out by the Agency. Additional notification requirements previously discussed also have been adopted for guaranteed loan processing.

7 CFR part 1910, Exhibit A to subpart A has been removed from the Code of Federal Regulations, as everything in the Exhibit is contained in the body of the regulation (7 CFR part 1910, subpart A, § 1910.4(b)).

Finally, portions of § 1910.4 of subpart A of part 1910, and § 1980.116 of subpart B of part 1980 have been revised for clarification.

List of Subjects

7 CFR Part 1910

Applications, Credit, Loan programs—housing and community development, Low and moderate income housing, Marital status discrimination, Sex discrimination.

7 CFR Part 1980

Agriculture, Loan programs—agriculture.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1910—GENERAL

1. The authority citation for part 1910 continues to read as follows:

Authority: 7 U.S.C 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Receiving and Processing Applications

2. Section 1910.4 is amended by revising paragraphs (b), (c), (d), (h), (i), and (k) to read as follows:

§ 1910.4 Processing applications.

* * * * *

(b) *Complete Farmer Programs applications and additional FmHA responsibilities.* All persons requesting an application will be provided Exhibit A (available in any FmHA office). The County Supervisor will provide assistance as necessary to help applicants complete their applications. Complete applications will be processed in the order of date received, except as outlined in § 1910.10 of this subpart. If the application is complete when it is first received, a County Office official will stamp the filing date on the front of Form FmHA 410–1 and enter the date in the "Application Received" and "Application Completed" fields in the Application Processing Module of the Management Records System (MRS). On the date all information necessary to process an application is received, a County Office official will send the applicant FmHA Guide Letter 1910–A–3 (available in any FmHA office) notifying the applicant that the application is considered complete. The date entered in the "Application Completed" field in the Application Processing Module of MRS will establish the 30-day and 60-day timeframes for determining eligibility and loan approval/disapproval, respectively. The County Supervisor will verify the information furnished by the applicant, and record and assemble additional information needed to properly evaluate the applicant's qualifications and credit needs. Additional information may be obtained and verified by County Office records, personal contacts, and visits to the applicant's operation. A complete Farmer Programs application requires fulfillment of both the applicant and FmHA's responsibilities. Once this information is received and the application is considered complete, FmHA has additional responsibilities before loan approval is determined. The various responsibilities are as follows:

Applicant's Responsibilities for a Complete Application

(1) Completed Form FmHA 410–1, "Application for FmHA Services," including a signed Form FmHA 410–9, "Statement Required by the Privacy Act."

(2) If the applicant is a cooperative, corporation, partnership, or joint operation:

(i) A complete list of members, stockholders, partners or joint operators showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the cooperative or corporation, by each, or the percentage of interest held in the partnership or joint operation, by each.

(ii) A current personal financial statement from each of the members of a cooperative, stockholders of a corporation, partners of a partnership, or joint operators of a joint operation.

(iii) A current financial statement from the cooperative, corporation, partnership, or joint operation itself.

(iv) A copy of the cooperative's or corporation's charter, or any partnership or joint operation agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing), and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative, corporation, partnership, or joint operation to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(3) A brief written description as to the farm training and/or experience of the applicant and the individual members of an entity applicant (new applicants only).

(4) Supporting and documented verification that the applicant (and all members of an entity applicant) cannot obtain credit elsewhere, including a guaranteed loan.

(5) Financial records for the past five years. Income tax records may be provided by the applicant when other financial records are not available.

(6) Five years of production history immediately preceding the year of application, unless the applicant has been farming less than 5 years.

(7) A brief written description of the proposed operation and the proposed size of the operation (required for new applicants and existing borrowers with significant changes in their operations).

(8) Verification of off-farm employment, if any. This will be used only when the applicant is relying on off-farm income to pay part of the applicant's expenses.

(9) Projected production, income and expenses, and loan repayment plan, which may be submitted on Form FmHA 431–2, "Farm and Home Plan," or other similar plans of operation acceptable to FmHA.

(10) Applicable items required in Exhibit M of subpart G of part 1940 of this chapter including SCS Form CPA–026, "Highly Erodible Land and Wetland Conservation Determination," Form AD–1026, "Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification," and Form FmHA 1940–20, as required by subpart G of part 1940 of this chapter.

(11) A legal description of farm, real estate property and/or (if applicable) a copy of any lease, contract, option or agreement entered into by the applicant which may be pertinent to consideration of the application, or when a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement.

(12) Form FmHA 440–32, "Request for Statement of Debts and Collateral," when applicable.

(13) Forms FmHA 1945–22, "Certification of Disaster Losses," and FmHA 1940–38, "Request for Lender's Verification of Loan Application," (EM loans only).

FmHA's Responsibilities for a Complete Application

(14) Send Form FmHA 410–7, "Notification to Applicant on Use of Financial Information from Financial Institution," to the applicant when applicable.

(15) Form FmHA 1945–26, "Calculation of Actual Losses" (EM loans only).

(16) Credit reports as provided in subparts B and C of this part.

(17) Form FmHA 1945–29, "ASCS Verification of Farm Acreages, Production and Benefits," (EM loans only).

(18) The Current/Past Debt Inquiry and Borrower Cross-Reference Systems. The Current/Past Debt Inquiry System must be reviewed for each application and copies of the screens must be attached to the applicant's file.

(19) For special beginning farmer or rancher operating (OL) loan assistance, a plan of operation will be developed for each of the first 5 years for which such assistance is requested. A projection of the financial status of the operation showing financial viability within the commitment period will also be developed. The 5-year plan and projection will be developed as described in § 1941.15 of subpart A of part 1941 of this chapter. This information will be presented on reports generated on the FmHA automated Farm and Home Plan system, or in other plans or documents consistent and acceptable to FmHA.

Additional FmHA Responsibilities

(20) Form FmHA 1924–1, "Development Plan," if necessary.

(21) Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions," or Class I or Class II assessment, whichever is applicable.

(22) Real estate and/or chattel appraisal, when applicable.

(c) *Incomplete Farmer Programs applications.* (1) When an incomplete application is received, a County Office official will stamp the filing date on the front of Form FmHA 410–1, and enter the date in the "Application Received" and "Incomplete Application" fields in the Application Processing Module of MRS.

(2) When an application that was received incomplete is completed, the date will be entered in the "Application Completed" field in the Application Processing Module of MRS. The County Supervisor will follow the requirements of paragraph (b) of this section.

(3) Applicants who do not submit necessary information for complete applications, as described in paragraph (b) of this section, for EM, FO, OL and SW loans, will be handled as follows:

(i) No later than 10 calendar days after receipt of the application, the County Supervisor will send the applicant a letter similar to FmHA Guide Letter 1910–A–1 (available in any FmHA office). The letter will:

(A) List the additional information needed.

(B) State that the application cannot be processed until all required information is received in the FmHA County Office.

(C) Set a specific due date for the information. This date will be 20 calendar days after the date of the letter.

(ii) When information is needed from other USDA Agencies, the County Supervisor will inform those Agencies and the applicant of the information needed, and note the date of the request in the running record. For operating loan applications, the County Supervisor will request that the Agencies return the information to the County Office within 15 calendar days of the date of receipt of the request.

(iii) If the necessary information has not been received from the applicant 20 calendar days after the date of the first written notification of an incomplete application, the County Supervisor will immediately send the applicant a letter similar to FmHA Guide Letter 1910–A–2 (available in any FmHA office).

(A) The letter will again list the additional information needed, and state that the application cannot be processed until all the required information is received.

(B) The letter will set a due date of 10 calendar days from the date of the letter. It will further state that unless the applicant supplies the required information or contacts the County Office by that date, the application will be withdrawn without further notice.

(C) This letter will contain the Equal Credit Opportunity Act (ECOA) statement set forth in § 1910.6 (b)(1) of this subpart.

(D) A copy of this letter must be sent to the District Office at the same time it is sent to the applicant.

(iv) If the applicant has not contacted the County Office by the due date set in the second notification letter, the County Supervisor will then withdraw the application.

(v) All applications withdrawn will be handled in accordance with § 2033.7 of FmHA Instruction 2033–A (available in any FmHA office).

(d) *Notifying applicants (including presently indebted borrowers) about Limited Resource loans.* Immediately after an application for OL, FO, SW, or EM assistance is received, and prior to County Committee action, the County Supervisor will send a letter similar to FmHA Guide Letter 1924–B–1 (available in any FmHA office) to the applicant telling the applicant about Limited Resource loans.

* * * * *

(h) *County Committee actions.* All actions by the committee regarding applicant eligibility will be taken in committee meetings attended by at least two committee members.

(1) When the County Office receives an application consisting of all pertinent information relative to the eligibility decision, including a plan required under § 1941.15 (e) of subpart A of part 1941 of this chapter in the case of special beginning farmer OL applicants, the County Committee will meet not later than:

(i) Five calendar days after the application's receipt by the County Office if there is more than one application pending needing County Committee action.

(ii) Fifteen calendar days after the application's receipt by the County Office if there are no other applications pending.

(2) County Committee action will be taken in the absence of the applicant. If the County Committee is unable to reach a decision based on the information available, it may request a personal interview with the applicant.

(3) County Committee members are required to adhere to all applicable provisions of this regulation when determining eligibility of applicants. Applicants may not be interviewed for reasons unrelated to proper eligibility considerations.

(i) *Timeliness.* Processing requirements for each program area are as follows:

(1) *Farmer Programs applications.* Each application must be approved or disapproved and the applicant notified in writing of the action taken, not later than 60 days after receipt of a complete application. The District Director will monitor the processing of all applications to ensure that each is processed in a timely manner and receives a final disposition (i.e. approval, rejection, or withdrawal) within the timeframes outlined in this section.

(i) Receipt by the applicant of a signed copy of Form FmHA 1940–1, "Request for Obligation of Funds," will be considered written notice of loan approval.

(ii) If a complete application is not approved or disapproved 45 calendar days after all necessary information is received, the following steps will be taken:

(A) The County Supervisor will make sure that the data in the County Office MRS data base regarding the application are up-to-date, and that the reason it remains pending is noted. A selection of reasons is listed in MRS.

(B) Every week the District Director will generate a report, using the FmHA FOCUS Ad-Hoc Reporting System, based on the weekly upload of information from each County Office MRS data base. The District Director will note each complete application pending more than 45 calendar days, and immediately take steps to ensure that final disposition on the application is taken no later than 60 calendar days after receipt of the complete application.

(C) The Administrator will utilize MRS data and any other information available to comply with any statutory reporting requirements concerning the status of applications.

(2) *Single Family Housing (SFH) loans.* Written notice of eligibility or ineligibility will be sent to each applicant not later than 30 days after receipt of a complete application. If a determination of eligibility cannot be made within 30 days from the date of receipt of the complete application, the applicant will be notified in writing of the circumstances causing the delay and the approximate time needed to make a decision.

(3) *Labor Housing (LH) preapplications.* Preapplications must be determined eligible and feasible and the applicant notified in writing in accordance with applicable program regulations not later than 45 days after receipt of a complete preapplication. This eligibility determination will be made regardless of funding levels.

(4) *LH applications.* If a determination of eligibility cannot be made within 30 days from the date of receipt of a complete application, the applicant will be notified in writing of the circumstances causing the delay and the approximate time needed to make a decision.

(5) *Adverse decisions.* If an applicant is given an adverse decision, the applicant will be given appeal rights as provided in subpart B of part 1900 of this chapter. The letter will contain the ECOA statement set forth in § 1910.6 (b)(1) of this subpart.

* * * * *

(k) *Active applications.* An applicant may voluntarily withdraw an application at any time. Except for incomplete Farmer Programs applications, when an applicant has been determined eligible, but further processing is delayed due to an apparent lack of interest, the applicant will be advised by letter that the application will be considered withdrawn unless the County Office receives a written request within 30 days that further consideration is desired. The letter to the borrower will contain the ECOA statement set forth in § 1910.6(b)(1) of this subpart.

(1) Applications for RH, RHS, and LH loans (posted on Form FmHA 1905–4, "Application and Processing Card—Individual," or inputted in the Application Processing Module of MRS) received during any fiscal year will remain active during the remainder of that fiscal year in which they were received, plus the subsequent fiscal year, unless withdrawn or disapproved, or unless the loan is closed.

(2) Applications received for FO, SW, OL, EM, and persons applying for RH loans on farms or nonfarm tracts who derive a major portion of their income from farming (inputted in the Application Processing Module of MRS), will remain active for 12 months from the date a complete application is received, unless withdrawn or disapproved, or unless the loan is closed.

(3) See paragraph (c) of this section for procedures for incomplete Farmer Programs applications.

(4) All applications which are withdrawn or rejected will be handled in accordance with § 2033.7 of FmHA Instruction 2033–A (available in any FmHA office). If notice has been received by FmHA that an adverse action is under investigation or in litigation, that application and all related material will be retained until final disposition of the matter.

(5) When an application has been approved and funds are not available, and the steps outlined in § 1910.6(g) of this subpart have been taken, the following provisions apply:

(i) The County Supervisor will, during the 11th month following loan approval, notify the applicant that the application will expire 12 months from the date of loan approval.

(ii) If the applicant wants the application to remain active, the applicant must provide the County Office with a written request within 30 days, requesting that the application remain active.

(iii) The applications retained at the applicant's request will be extended for only one additional 12-month period.

(iv) If the applicant fails to respond to the County Supervisor's written request, the application will be withdrawn.

Subpart A—[Amended]

3. Exhibit A to subpart A is removed and reserved.

PART 1980—GENERAL

4. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70

Subpart B—Farmer Program Loans

§ 1980.113 [Amended]

5. Section 1980.113 is amended by revising "Form AD–1026, 'Highly Erodible Land and Wetland Conservation Certification,'" to read "Form AD–1026, 'Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification,'" in paragraph (a)(10).

6. Section 1980.114 is amended by removing ADMINISTRATIVE paragraphs A. and F. and redesignating ADMINISTRATIVE paragraphs B. through E. as A. through D. respectively; by redesignating paragraphs (a) and (b) as paragraphs (c) and (d), respectively; by revising the introductory text; by revising the word "working" to read "calendar" in the first sentence of newly redesignated paragraph (c), and by adding new paragraphs (a) and (b) to read as follows:

§ 1980.114 FmHA evaluation of applications.

When the County Supervisor receives an application, the proper independent investigations, inspections, and appraisal reviews will be made to determine whether the loan applicant is eligible, whether the proposed loan/line of credit is for authorized purposes, whether there is reasonable assurance of a positive cash flow projection, and whether there is sufficient collateral and equity. The determinations will be recorded on Form FmHA 449–23, "Guaranteed Loan Evaluation (Farmer Programs)." This evaluation is for the benefit of FmHA, not the lender.

(a) *Incomplete applications.* (1) When an incomplete application is received, a County Office official will stamp the filing date on the front of Form FmHA 1980–25, and enter the date in the "Application Received" and "Incomplete Application" fields in the Application Processing Module of the Management Records System (MRS).

(2) When an application that was received incomplete is completed, the date will be entered in the "Application Completed" field in the Application Processing Module of MRS. The County Supervisor will follow the requirements of paragraphs (b)(2) and (b)(3) of this section.

(3) Lenders who omit from an application necessary information as described in § 1980.113 will be notified as follows:

(i) No later than 5 calendar days after the receipt of the application, the County Supervisor will send to the lender a letter similar to FmHA Guide Letter 1980–B–1 (available in any FmHA office). The letter will:

(A) List the additional information needed.

(B) State that the application cannot be processed until all required information is received in the County Office.

(C) Set a specific due date for the information. This date will be 20 calendar days after the date of the letter.

(ii) When information is needed from other USDA Agencies, the County Supervisor will inform those Agencies and the lender of the information needed, and note the date of the request in the running record. For operating loan guarantee applications, the County Supervisor will request that the information be returned to the County Office within 15 calendar days of the date of receipt of the request.

(iii) If the necessary information has not been received from the lender 20 calendar days after the date of the first written notification of an incomplete application, the County Supervisor will immediately send to the lender a letter similar to FmHA Guide Letter 1980–B–2 (available in any FmHA office).

(A) The letter will again list the additional information needed, and state that the application cannot be processed until all the required information is received.

(B) The letter will set a due date of 10 calendar days from the date of the letter. It will further state that unless the lender supplies the required information or contacts the County Office by that date, the application will be withdrawn without further notice.

(C) A copy of this letter will be sent to the District Office at the same time.

(iv) If the lender has not contacted the County Office by the due date set in the second notification letter, the County Supervisor will then withdraw the application.

(v) All applications withdrawn will be handled in accordance with § 2033.7 of FmHA Instruction 2033–A (available in any FmHA office).

(b) *Complete applications.* (1) If the application is complete when it is first received, a County Office official will stamp the filing date on the front of Form 1980–25 and enter the date in the "Application Received" and "Application Completed" fields in the Application Processing Module of MRS.

(2) On the date all information necessary to process an application is received, a County Office official will send the lender FmHA Guide Letter 1980–B–3 (available in any FmHA office) notifying the lender that the application is considered complete.

(3) The date entered in the "Application Completed" field of MRS will establish the timeframes for eligibility and loan approval/disapproval.

* * * * *

7. Section 1980.115 is amended by redesignating paragraphs (a) and (b) as paragraphs (c) and (d) respectively; adding new paragraphs (a) and (b) and ADMINISTRATIVE paragraph C., and revising the introductory text to read as follows:

§ 1980.115 County Committee Review.

The County Committee will review loan applications to determine whether the loan applicants meet FmHA eligibility requirements and meet the definition of "beginning farmer or rancher," as defined in § 1980.106 of this subpart. See § 1980.176(k) for County Committee actions relative to special OL assistance to beginning farmers or ranchers. Applications do not need to be complete before they are reviewed by the County Committee; however, all information relating to the eligibility must be received.

(a) *County Committee timeframes.* When the County Office receives an application consisting of all information relative to the eligibility decision, the County Committee will meet not later than:

(1) Five calendar days after the application's receipt by the County Office if there is more than one application pending needing County Committee action.

(2) Fifteen calendar days after the application's receipt by the County Office if there are no other applications pending.

(b) *Notification of eligibility determination.* The County Supervisor will promptly notify both the lender and loan applicant in writing within 5 calendar days of the County Committee's determination.

* * * * *

Administrative

* * * * *

C. *Approval timeframes.* The District Director will monitor the processing of all applications to ensure that each is processed in a timely manner and receives a final disposition (i.e., approval, rejection, or withdrawal) within 30 calendar days. If an application is not approved or disapproved 30 calendar days after all necessary information is received, the following steps will be taken:

(1) The County Supervisor will make sure that the data in the County Office MRS data base regarding the application are up-to-date, and that the reason it remains pending is noted. A selection of reasons is listed in MRS.

(2) Every week the District Director will generate a report, using the FmHA FOCUS Ad-Hoc Reporting System, based on the weekly upload of information from each County Office MRS data base. The District Director will note each complete application pending more than 30 calendar days, and immediately take steps to ensure that final disposition on the application is taken no later than 60 calendar days after receipt of the complete application.

(3) The Administrator will utilize MRS data and any other information available to comply with any statutory reporting requirements concerning the status of applications.

§ 1980.116 [Amended]

8. Section 1980.116 is amended by removing the words "as set out in subpart A of part 1910 of this chapter," from the last sentence.

Dated: November 8, 1993.

Bob J. Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 93–31078 Filed 12–28–93; 8:45 am]

BILLING CODE 3410–07–U

---

7 CFR Part 1955

RIN 0575–AB63

Providing Additional Notice to Indian Tribes and Tribal Members; Lease With Option To Purchase Farmer Program Farm Real Estate Properties

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulations to allow additional notification and bidding instructions when dealing with the acquisition of real estate which is located on a federally recognized Indian Reservation. It also deals with the manner in which FmHA is allowed to dispose of inventory farm property through the use of lease with an option to purchase.

This action is necessary due to provisions in the Agricultural Credit Improvement Act of 1992 dated October 28, 1992, that requires the Agency to take certain actions when it becomes apparent that the Native American borrower owner/operator is unable to continue their operation. The intended effect is to ensure that timely and effective notification is made in order to allow real estate to be acquired either by the former owner/operator or the tribe in which the real estate is located.

DATES: Interim rule effective on December 19, 1993. Written comments must be submitted on or before January 28, 1994.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations, Analysis and Control Branch (RACB), Farmers Home Administration, USDA, room 6348, South Agricultural Building, 14th Street and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Gary West, Senior Loan Officer, Farmer Programs Loan Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5437, South Agricultural Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 690–4008.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this interim rule in conformance with Executive Order 12866, and we have determined that it is not a "significant regulatory action." Based on information compiled by the Department, we have determined that this interim rule:

(1) Would have an effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded with the exception of nonfarm enterprise activity from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loans Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Discussion of Interim Rule

The purpose of this interim rule is to initiate the process of implementing provisions of the Agricultural Credit Improvement Act of 1992. Several sections of the Bill refer to the disposal of farm real estate. Section 16 states that if a farm has been classified as surplus and FmHA has been unable to sell the property, it would be permissible to offer the property for lease with an option to purchase to any party who may meet the requirements for FmHA assistance. Section 17 of the above mentioned Act requires that FmHA provide additional notice to those Native American borrowers who are unable to resolve their financial difficulties through present FmHA servicing action, that they could convey their property to FmHA and that FmHA will accept their offer under certain conditions. This section also provides that the tribe which has jurisdiction over the reservation on which the real estate is located will receive notification prior to acquisition by FmHA. This notice will inform the tribe that FmHA has offered the borrower an opportunity to convey the property to the government, and if action is not taken to convey the property, FmHA will foreclose the account and the Agency will bid either the market value or the debt owed to FmHA, whichever is greater, at the foreclosure sale. The only deviation from the amount of the authorized bid will be for an allowance related to the investigation and clean-up of environmental hazards, such as hazardous waste. Other changes of an editorial nature may also be included.

List of Subjects in 7 CFR Part 1955

Foreclosure, Government acquired property, Sale of government acquired property, Surplus government property.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1955—PROPERTY MANAGEMENT

1. The authority citation for part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

2. Section 1955.3 is amended by adding, alphabetically, a definition for "Loans to Native Americans" to read as follows:

§ 1955.3 Definitions.

* * * * *

Loans to Native Americans. Farmer Program loans secured by real estate located within the boundaries of a federally recognized Indian reservation. The Native American borrower-owner is defined as the party who pledged real estate as collateral for an FP loan and is the tribe or a member of the tribe with control over the reservation.

* * * * *

3. Section 1955.9 is added to read as follows:

§ 1955.9 Requirements for voluntary conveyance of real property located within a federally recognized Indian Reservation and owned by a Native American borrower-owner.

(a) The borrower-owner is a member of the tribe that has jurisdiction over the reservation in which the real property is located. An Indian tribe may also meet

the Native American borrower-owner criterion if it is indebted for FP loans.

(b) A voluntary conveyance will only be accepted after all preacquisition primary and preservation servicing actions have been considered in accordance with subpart S of part 1951 of this chapter.

(c) When all servicing actions have been considered under subpart S of part 51 of this chapter and a positive outcome cannot be achieved, the following additional actions are to be taken:

(1) The County Supervisor will notify the Native American borrower-owner and the tribe by certified mail, return receipt requested, and by regular mail if the certified mail is not received, that:

(i) The borrower-owner may convey the real estate security to FmHA and FmHA will consider acceptance of the property into inventory in accordance with paragraph (d) of this section;

(ii) The borrower-owner must inform FmHA within 60 days from receipt of this notice of the borrower-owner's decision to deed the property to FmHA;

(iii) FmHA must inform the borrower-owner and the borrower-owner's spouse and children of leaseback/buyback rights;

(iv) A wetlands conservation easement may be placed on the real estate security which the borrower-owner deeds to FmHA and which FmHA leases or conveys back to the borrower-owner;

(v) The borrower-owner has the opportunity to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located, or counsel, to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under FmHA regulations;

(vi) If the borrower-owner does not voluntarily deed the property to FmHA,

(A) The Government may foreclose on the property;

(B) In the event of foreclosure, the property will be offered for sale;

(C) At the foreclosure sale, FmHA must offer a bid for the property that is equal to the fair market value of the property, or the outstanding principal and interest of the loan, whichever is higher;

(D) At the foreclosure sale, the property may be purchased by someone other than the Government; and

(E) If the property is purchased by another party, the property will not be placed in FmHA inventory and the borrower-owner will forfeit the rights and protections under FmHA regulations.

(vii) FmHA shall accept the offer of voluntary conveyance of the property unless a hazardous substance as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, is located on the property and will require FmHA to take remedial action to protect human health or the environment if the property is taken into inventory. In this case, a voluntary conveyance will be accepted only if FmHA determines that it is in the best interests of the Government to acquire title to the property.

(2) *Reserved.*

(d) When determining whether to accept a voluntary conveyance of a Native American borrower-owner's real property, the County Supervisor must consider:

(1) The cost of cleaning or mitigating the effects if a hazardous substance contamination is found on the property. A deduction equal to the amount of the cost of hazardous waste clean-up will be made to the fair market value of the property to determine if it is in the best interest of the Government to accept title to the property. FmHA will accept the property if clear title can be obtained and if the value of the property after removal of hazardous substances exceeds the cost of the hazardous waste clean-up.

(2) If the property is located within the boundaries of a federally recognized Indian reservation, and is owned by a member of the tribe with jurisdiction over the reservation, FmHA will credit the Native American borrower-owner's account based on the fair market value of the property or the FmHA debt against the property, whichever is greater.

4. Section 1955.10 is amended by removing the words ", 'Worksheet for Accepting a Voluntary Conveyance of Farmer Program Security Property into Inventory,'" from the ninth sentence of the introductory paragraph; by revising the reference "§ 1955.10(h)" to read "§ 1955.10(g)" in the last sentence of paragraph (f)(1) (iii); by redesignating paragraphs (f)(2) (i) and (ii) as paragraphs (f)(2) (iv) and (v) respectively; by adding new paragraphs (f)(2) (i), (ii), and (iii); and by revising the introductory text of paragraph (f)(2), and paragraphs (f)(3)(i)(M), (f)(3)(ii)(F), and (g)(1) to read as follows:

§ 1955.10 Voluntary conveyance of real property by the borrower to the Government.

* * * * *

(f) * * *

(2) *Consolidated Farm and Rural Development Act (CONACT) loans to individuals.* For CONACT loans to individuals, as defined in § 1955.3 of this subpart, where the FmHA indebtedness plus any prior liens exceeds the market value of the property, the County Committee must take certain action if it is to recommend that the borrower and any cosigner be released from liability.

(i) *Release from liability.* The County Committee must determine that the borrower(s) and any cosigner do not have reasonable ability to pay all or a substantial part of the balance of the debt owed after the voluntary conveyance, taking into consideration their assets and income at the time of the conveyance; and that the borrower and any cosigner have cooperated in good faith, used due diligence to maintain the security against loss, and have otherwise fulfilled the covenants incident to the loan to the best of their ability; and they must recommend that the borrower and any cosigner be released from personal liability for any balance due on the secured indebtedness upon conveyance of the property to the Government. This action will be documented by checking the appropriate block on Form FmHA 440–2, "County Committee Certification or Recommendation," as specified in the Forms Manual Insert (FMI).

(ii) *Unsatisfied indebtedness.* If the County Committee does not recommend release from liability, the borrower must be informed that the indebtedness cannot be satisfied but a credit can be given equal to the market value less prior lien(s) (if any) and the borrower will determine if the borrower wishes to make a new offer on that basis. If a new offer is made and accepted, the account will be handled as an unsatisfied account as outlined in § 1955.18(f) of this subpart. When the FmHA debt less the market value and prior lien(s) exceeds $150,000, release of liability must be approved or disapproved by the Administrator or designee; otherwise, the State Director must approve or disapprove the release of liability. All cases requiring a release of liability will be submitted for review in accordance with Exhibit A (available in any FmHA office).

(iii) *Crediting accounts.* FmHA will credit the account of a Native American borrower-owner whose real property secured an FP loan with the fair market value or the FmHA debt against the property, whichever is greater. To receive such credit, the real property must be located within the boundaries of a federally recognized Indian reservation and the County Committee must certify that:

(A) The borrower-owner is a member of a tribe or the tribe.

(B) The property is located within the confines of a federally recognized Indian reservation.

* * * * *

(3) * * *

(i) * * *

(M) Form FmHA 440–2, executed in accordance with the FMI, when applicable.

(ii) * * *

(F) Form FmHA 442–3;

* * * * * *

(g) *Closing of conveyance.*

(1) The conveyance to the Government will be considered closed when the recorded deed has been returned to FmHA, a certification of title is received from the closing agent that title is vested in the Government with no outstanding encumbrances other than the FmHA lien(s) or previously approved prior liens, and the borrower is notified of the acceptance of the conveyance. For loans to organizations, OGC will be requested to review the case to verify that it was closed properly. The property will be assigned an ID number and entered into the Acquired Property Tracking System through the Automated Discrepancy Processing System (ADPS) terminal in the County Office.

* * * * *

5. Section 1955.15 is amended by adding the words "or tribal" after the first occurrence of the word "State" in the second sentence of the introductory text of paragraph (d)(3)(i); by adding a sentence to the end of the introductory paragraph and paragraph (d)(1); and by revising the introductory text of paragraph (d)(3)(i)(A) and paragraphs (f)(1), (3), and (6) to read as follows:

§ 1955.15 Foreclosure by the Government of loans secured by real estate.

* * * For real property located within the confines of a federally recognized Indian reservation and owned by a Native American borrower, proper notice of voluntary conveyance must be given as outlined in § 1955.9 (c)(1) of this subpart.

* * * * * *

(d) * * *

(1) * * * For real property located within the confines of a federally recognized Indian reservation owned by a Native American borrower-owner, an analysis of whether FmHA should acquire title must include facts which demonstrate the fair market value after considering the cost of clean-up of hazardous substances on the property.

* * * * * *

(3) * * *

(i) * * *

(A) Payment in full [see Exhibit D of this subpart (available in any FmHA office)] may consist of the following means of fully satisfying the debt.

* * * * * *

(f) *Completion of foreclosure*—(1) *Foreclosure advertisement for organization loans subject to title VI of the Civil Rights Act of 1964.*—(i) The advertisement for foreclosure sale of property subject to title VI of the Civil Rights Act of 1964 will contain a statement substantially similar to the following: "The property described herein was purchased or improved with Federal financial assistance and is subject to the nondiscrimination provisions of title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973 and other similarly worded Federal statutes and regulations issued pursuant thereto that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age or sex in programs or activities receiving Federal financial assistance, for as long as the property continues to be used for the same or similar purposes for which the Federal assistance was extended or for so long as the purchaser owns it, whichever is later." At least 30 days before the foreclosure sale, the County Supervisor will notify, in writing, the Indian tribe which has jurisdiction over the reservation, and in which the real property is owned by a Native American member of said tribe that a foreclosure sale will be conducted to resolve this account, and will provide:

(A) Projected sale date and location;

(B) Fair market value of property;

(C) Amount FmHA will bid on the property; and

(D) Amount of FmHA debt against the property.

(ii) The purchaser will be required to sign Form FmHA 400–4, "Assurance Agreement," if the property will be used for its original or similar purposes.

* * * * * *

(3) *Expenses.* Expenses which are incurred in connection with foreclosure, including legal fees, will be paid at the time recommended by OGC by processing the necessary documents as outlined in § 1955.5 (d) of this subpart. Costs will be charged as outlined in FmHA Instruction 2024–A (available in any FmHA office).

* * * * * *

(6) *Amount of Government's bid.* Except for FP loans and as modified by paragraph (f)(7)(ii) of this section, the Government's bid will be the amount of FmHA's gross investment or the market value of the security, whichever is less. For real property located within the confines of a federally recognized Indian reservation and which is owned by an FmHA borrower who is a member of the tribe with jurisdiction over the reservation, the Government's bid will be the greater of the fair market value or the FmHA debt against the property, unless FmHA determines that, because of the presence of hazardous substances on the property, it is not in the best interest of the Government to bid such amount, in which case there may be a deduction from the bid for the costs for hazardous material assessment and/or mitigation. For FP loans, except as modified by paragraph (f)(7)(ii) of this section, the Government's bid will be the amount of FmHA's gross investment or the amount determined by use of Exhibit G–1 of this subpart, whichever is less. When the foreclosure sale is imminent, the State Director must request the servicing official to submit a current appraisal (in existing condition) as a basis for determining the Government's bid. Except for MFH properties, if an FmHA appraiser is not available, the State Director may authorize an appraisal to be obtained by contract from a source outside FmHA in accordance with FmHA Instruction 2024–A (available in any FmHA office). For MFH properties, prior approval of the Assistant Administrator, Housing, is necessary to procure an outside appraisal.

* * * * * *

6. Section 1955.18 is amended by revising the words "Part 1955 of this chapter" to the words "this part" in the last sentences of the introductory text of paragraph (b) and paragraph (c), and by revising the sixth sentence of paragraph (a) and paragraph (d) to read as follows:

§ 1955.18 Actions required after acquisition of property.

* * * * * *

(a) * * * For MFH projects with rental assistance, Form FmHA 1944–55 must be attached to Form FmHA 1965–19 indicating the status of the rental assistance while the property is in inventory. * * *

* * * * * *

(d) *Inventory account.* The Finance Office will establish an inventory account under the Property ID Number assigned. The value of the property entered into the inventory account will be the market value as of the date acquired.

* * * * * *

Subpart C—Disposal of Inventory Property

7. Section 1955.107 is amended by adding the words ",'County Committee Certification or Recommendation,'" following "Form FmHA 440–2" in

paragraph (d)(2) and by revising paragraph (a) to read as follows:

§ 1955.107 Sale of suitable property (CONACT).

* * * * *

(a) *Sale by FmHA.* When possible, the sale of suitable CONACT property should be handled by County Supervisors and District Directors. The date Form FmHA 1955–40, "Notice of Real Property for Sale," is posted is the date the property is offered for sale. Farm property will be advertised for sale by publishing, as a minimum, three consecutive weekly announcements at least twice annually, in at least one newspaper that is widely circulated in the county in which the farm is located. Also, either Form FmHA 1955–40 or Form FmHA 1955–41, "Notice of Sale," will be posted in a prominent place in the County Office. If a program applicant is not available locally, the official with responsibility for the property will advise other FmHA District and County Offices in the market area of the availability of the property. The second advertisement will contain a paragraph that indicates that if no party purchases the property, FmHA will consider leasing the property with or without an option to purchase to any party that would be able to meet the eligibility and priority criteria established to purchase inventory farm property. When requested by the County Supervisor, State Office Farmer Programs staff will assist in publicizing property for sale or lease by informing other FmHA County, District, and/or State Offices. Maximum publicity should be given to the sale under guidance provided by § 1955.146 of this subpart and care should be taken to spell out eligibility criteria. Tribal Councils or other recognized Indian governing bodies having jurisdiction over Indian reservations as defined in § 1955.103 of this subpart shall be responsible for notifying those parties listed in § 1955.66 (d)(2) of subpart B of this part.

* * * * *

Dated: October 26, 1993.

Bob Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 93–31077 Filed 12–28–93; 8:45 am]

BILLING CODE 3410–07–U

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 70, 72

RIN 3150–AE16

Self-Guarantee as an Additional Financial Assurance Mechanism

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations for decommissioning licensed facilities to allow certain non-electric utility licensees to use self-guarantee as a means of financial assurance. The rule reduces the cost burden of financial assurance while providing NRC with sufficient assurance that decommissioning costs will be funded. This rule grants a petition for rulemaking (PRM–30–59) from General Electric Company and Westinghouse Electric Corporation and completes action on the petition.

EFFECTIVE DATE: January 28, 1994.

FOR FURTHER INFORMATION CONTACT: Clark Prichard, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington DC 20555, telephone (301) 492–3734.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 1993 (58 FR 3515), the NRC published a notice of proposed rulemaking that would allow self-guarantee as an additional mechanism for complying with the regulations on financial assurance for decommissioning. This action was in response to a petition for rulemaking (PRM–30–59) from the General Electric Company (GE) and the Westinghouse Electric Corporation (Westinghouse). The notice of receipt of the petition was published on September 25, 1991 (56 FR 48445). The petitioners requested that the NRC amend its decommissioning regulations contained in 10 CFR parts 30, 40, 50, 70, and 72 to provide a means for self-guarantee of decommissioning funding costs by certain NRC licensees who meet stringent financial standards and related reporting and oversight requirements. The petitioners proposed that electric utility reactor licensees under 10 CFR part 50 not be affected by the proposals in the petition.

Under the original decommissioning regulations (53 FR 24018; June 27, 1988), licensees were permitted to provide financial assurance for decommissioning funding through prepayment, insurance, surety bond, letter of credit, or parent company guarantee. Electric utilities were also allowed to establish an external sinking fund. The proposed rule sought public comments on amendments to parts 30, 40, 50, 70, and 72 to allow self-guarantee as an additional method of complying with the decommissioning requirements in those parts.

The objective of this rule is to reduce the licensee's cost burden without causing adverse effects on public health and safety. The regulatory analysis developed for this rule estimates that the annual industry cost savings would be approximately $730,000 if all licensees meeting the criteria use the self-guarantee. This estimate is based on rather conservative assumptions (i.e., $750,000 total decommissioning cost per license); the actual cost savings may be considerably greater.

The cost savings would result from the elimination of the cost of third party financial assurance for licensees qualifying to use the self-guarantee. Annual fees for letters of credit, surety bonds, and other forms of third party financial assurance typically are approximately 1.5 percent of the amount of financial assurance provided.

A. Proposed Criteria

The proposed criteria for corporate self-guarantee included these financial criteria:

(1) Tangible net worth of at least $1 billion;

(2) Tangible net worth at least 10 times the current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor;

(3) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the current decommissioning cost estimate (or the current amount required if certification is used); for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor;

(4) A current bond rating of AAA, AA, or A as issued by Standard and Poors (S&P), or Aaa, Aa, or A as issued by Moodys.

Procedural requirements proposed were:

(1) The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934;

(2) The company shall provide the Commission with copies of all reports filed with the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934;

(3) The company's independent certified public accountant must compare the data used by the company in the financial test with the company's independently audited yearend financial statements;

(4) The company must repeat passage of the test within 90 days after the close of each succeeding fiscal year; and

(5) The company must notify NRC within 90 days of any matters that may come to the attention of the auditor that may cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

The self-guarantee would be available only for an applicant or licensee having no parent company holding majority control of its voting stock.

B. Alternative Criteria

Because a majority of commenters on the notice of receipt of the petition questioned the need for the financial criteria to be so stringent, the Commission offered an alternative set of criteria to that of the petition as contained in the proposed rule. The alternative was the same financial criteria presented in the proposed rule, without the $1 billion net worth requirement.

A company's tangible net worth is an important factor in determining its bond rating. The rating itself, combined with the other criteria, may be a sufficient indicator of financial stability. Because all firms qualifying would need an A or better bond rating, this alternative may not be riskier in terms of financial assurance than the proposed rule. The regulatory analysis examined the effects on availability of the self-guarantee to licensees of deleting the $1 billion tangible net worth requirement from the financial criteria in the proposed rule, all other criteria remaining constant. The conclusion was that this alternative, if adopted, would allow an additional 7 firms to use the proposed self-guarantee. (Approximately 20 firms would qualify with the $1 billion criterion included.) The additional availability would save industry an estimated $130,000 annually and, since all firms would need an A or better bond rating, would maintain a high level of assurance. An A or better bond rating indicates that a company has substantial net worth. A company which merits an A or better bond rating has passed a stringent review by the independent ratings agencies of its ability to meet its financial obligations. A report by Moody's gives the default rate associated with companies whose bonds are rated A or above in 1 of the 3 years prior to default as only 0.13 percent annually.[1] In addition, all companies, irrespective of their overall size, must demonstrate that they possess tangible net worth of at least 10 times the current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing license and as parent grantor.

The alternate criteria, as well as the criteria in the proposed rule, do not apply to electric utilities. Electric utilities would be excluded from using self-guarantee under either set of criteria. Public comments were requested on this alternative financial criteria—the criteria in the proposed rule without the $1 billion tangible net worth requirement.

Minor Wording Changes

The proposed rule deleted the phrase "should the licensee default" from §§ 30.35(f)(2), 40.36(e)(2), 50.75(e)(1)(iii), 70.25(f)(2), and 72.30(c)(2) to accommodate self-guarantee.

Summary of Public Comments

The Commission received fourteen comment letters in response to the publication of the notice of proposed rulemaking. All but one of the letters supported a revision of the Commission's regulations to allow self-guarantee. The following is a summary of significant public comments and the Commission's response. A more detailed analysis of public comments has been prepared. This analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington DC.

Opposition to Self-Guarantee

One commenter opposed the proposed self-guarantee mechanism on the grounds that current capabilities of electronically transferring funds make self-guarantee meaningless even if a firm has initially demonstrated that it has the required assets. The commenter argued that recent failures of pensions and health benefits assured by self-guarantee indicate that self-guarantees cannot be trusted.

Response: NRC does not agree that a well-designed self-guarantee mechanism cannot be trusted to provide financial assurance. Self-guarantees have been used in a number of applications without incurring the problems pointed out by the commenter. The Environmental Protection Agency currently allows self-guarantee as a means of financial assurance for cleanup of hazardous waste treatment, storage, and disposal facilities. Because the qualification to use self-guarantee is based in large part on a specified bond rating, the NRC believes that it is tying the self-guarantee to an accurate measure of the financial strength of the self-guarantor. By requiring annual recertification, and submission of SEC reports, the NRC believes that potential problem situations will be identified and addressed in a timely manner.

Use of Self-Guarantee by Electric Power Utility Licensees

One commenter indicated that electric utilities licensed under Part 50, which are prohibited from using the proposed self-guarantee, should be allowed to use that option. The commenter, pointing to the Regulatory Analysis, argued that NRC's stated reasons do not create a strong technical basis for not allowing nuclear power licensees to use self-guarantee.

Response: The objective of the rule is to reduce the licensee's cost burden without causing adverse effects on public health and safety. The Commission already allows electric utilities to accumulate decommissioning funds in an external sinking fund. Unlike other licensees who are subject to financial assurance for decommissioning, electric utilities do not have to provide the full amount of required financial assurance "up front" but can instead build up their sinking funds over time. Thus, electric utilities already are permitted a cost-reducing financial assurance mechanism.

Requirement That 90 Percent of Total Assets Be in the U.S.

One commenter suggested dropping what is described as the requirement that self-guarantors demonstrate that 90 percent of their total assets are located in the United States, because otherwise some large, multinational companies will be excluded from using the self-guarantee simply because a majority of their assets may be outside the U.S.

Response: The proposed self-guarantee financial test included a provision requiring the self-guarantor to show that it had assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as a self-guaranteeing licensee and as parent-guarantor. A licensee using self-

[1] Corporate Bond Defaults and Default Rates, Moody's Special Report, January, 1991, p. 32.

guarantee does not have to show that 90 percent of its assets are in the United States. The licensee could show that it has assets in the U.S. amounting to at least 10 times decommissioning costs. A large, multinational corporation should readily be able to demonstrate that it has assets in the United States amounting to at least 10 times the decommissioning responsibilities.

Net Worth Criterion

Several commenters favored the self guarantee concept but argued for less stringent financial criteria.

Response: The Commission has considered various alternative financial criteria. It has decided to drop the $1 billion tangible net worth criterion. However, tangible net worth will be an important factor in the requirements for self-guarantee for several reasons:

(1) The financial criteria in the final rule contain the requirement that to qualify to use self-guarantee, a licensee must have tangible net worth at least 10 times decommissioning costs, and

(2) A company must have at least an A bond rating. The A or better bond rating indicates that a company has substantial net worth. Net worth is an important factor in comprising a bond rating.

Bond ratings are reviewed often, and changed in response to changes in the issuer's financial condition. A bond rating of A or better assures that the financial strength of a licensee offering a self-guarantee has been independently reviewed and affirmed. It provides an excellent guide to the ability of a company to meet its obligations. According to Moodys, default rates associated with companies whose bonds are rated A or above in 1 of the 3 years prior to default are 0.13 percent annually.[2]

The criteria for parent guarantee were given consideration as financial criteria for self-guarantee in the final rule. Under current NRC decommissioning regulations, the parent company of a licensee that meets the financial criteria in 10 CFR part 30, appendix A may guarantee that funds will be available to decommission the facility of its subsidiary licensee. The financial criteria for the NRC parent guarantee include a lower bond rating (BBB or Baa) requirement and a lower net worth times decommissioning cost requirement (6, rather than 10 times decommissioning costs) than the criteria in this rule.

The Commission has decided against using the criteria for parent guarantee in the rule. This is the first instance in which self-guarantee is being allowed under the Commission's decommissioning regulations. The Commission prefers that the more conservative criteria be used. At some future time, when the Commission has gained some experience with self-guarantee, it may consider an appropriate revision of the financial criteria.

Use of Self-Guarantee by Non-Profit Entities

Several commenters suggested that NRC should amend the proposed rule to allow universities and other non-profit entities to use self-guarantee. They argued that many non-profit entities have been in existence and been financially stable for long periods of time. These commenters proposed several alternative criteria, including size of endowments, that they said could be used to assess the financial strength of non-profit entities.

Response: NRC plans to begin shortly a study of extending the availability of cost-saving financial assurance alternatives to non-profit entities other than universities. A similar study for universities will be deferred until after planned rulemaking on fee recovery. However, including these non-profit entities in the self-guarantee program established by this rulemaking presents certain problems. The analysis which was prepared to evaluate the financial criteria in the proposed rule did not include non-profit entities. In order to extend the use of self-guarantees to non-profit entities, new criteria would have to be developed to assess the financial strength of the non-profit licensees. Development of financial criteria to assess the qualifications of a non-profit entity to provide a self-guarantee is likely to require detailed consideration of the different financial accounting methods used by medical institutions. The financial accounting and reporting of non-profit entities are unique and substantially different from the accounting and reporting of for-profit entities.

The financial reporting practices of public and private hospitals generally follow standards for these institutions established by the American Institute of Certified Public Accountants. Development of financial criteria for a self-guarantee for hospitals also would involve analysis of the various accounting funds utilized and establishment of adequate criteria.

NRC's review of decommissioning financial assurance submissions identified third-party financial mechanisms, such as surety bonds and letters of credit, as well as escrows and trusts, as the financial mechanisms used most often by private non-profit entities. In a few instances, private non-profit entities have sought to use parent company guarantees. Publicly owned non-profit entities, particularly public universities, have sought to use statements of intent (a financial assurance mechanism available only to government licensees). To the extent that non-profit entities have been able to make use of guarantees or statements of intent, cost saving financial assurance alternatives already exist for those licensees.

The Commission anticipates that in the future it will carry out a study of potential self-guarantee criteria for non-profit licensees other than universities. Because of the time required for such a study however, it cannot include non-profit entities in the self-guarantee program established by this rulemaking. The NRC will review the situation relative to universities after its planned rulemaking on fee recovery.

Requiring Additional Written Commitment by Self-Guarantors

One commenter recommended adding a requirement that self-guarantors execute a binding commitment to make the necessary funds available for decommissioning. Under this recommendation, in addition to submitting proof of the required financial strength, the self-guarantor would also have to submit a written agreement that, upon issuance of an order by the Commission to undertake decommissioning, the licensee will set up a trust fund in favor of the Commission, or obtain other surety accessible to the Commission.

Response: The addition of a written commitment is a useful suggestion. A provision is being included in the self-guarantee requirements calling for the licensee to provide the Commission with a written guarantee (a written commitment by a corporate officer) stating that the licensee will fund and carry out the required decommissioning activities, or, upon issuance of an order by the Commission, it will set up and fund a standby trust with sufficient funds to carry out the required decommissioning activities based on the current cost estimates.

Changes From the Proposed Rule

There are only three changes from the proposed rule. First, the specific $1 billion tangible net worth criterion has been deleted from the financial criteria required for a non-electric utility licensee to use self-guarantee. The financial criteria included in the final rule are:

(1) Tangible net worth at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor;

(2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor;

(3) A current rating for its most recent bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P), or Aaa, Aa, or A as issued by Moodys.

As used by the ratings agencies, an A rating marks a discrete point on the ratings scale, different from A−. An A− or lower rating would not be acceptable.

The second change is the addition of the requirement for the licensee to provide the Commission with a written guarantee.

The third change is that additional language has been added to Appendix B to clarify procedural requirements for notification of the Commission and provision of alternate financial assurance if a licensee no longer meets the requirements for self-guarantee.

Agreement State Compatibility

Section 72.30 is assigned Division 4 compatibility, since regulation of independent storage of spent nuclear fuel and high-level radioactive waste are functions reserved to the NRC pursuant to the Atomic Energy Act.

Sections 30.35, 40.36, and 70.25 are currently considered Division 2 compatibility. The addition of the self-guarantee mechanism for providing the required financial guarantee does not change the division of compatibility. Division 2 compatibility allows the Agreement States flexibility to be more stringent. The agreement States must provide mechanisms in their regulations, but due to the specific State financial regulations, certain mechanisms may not be acceptable in their States. Limiting the mechanisms to a subset of those provided for in the NRC regulations is within the flexibility provided in Division 2 compatibility.

Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(10)(i). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*). These requirements have been approved by the Office of Management and Budget, approval numbers: 3150–0017, –0020, and –0009.

The public reporting burden for this collection of information is estimated to average 19 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0017, –0020, and –0009), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Clark W. Prichard, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC, 20555 telephone (301) 492–3734.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The licensees affected by this rule do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the size standards of the NRC applicable to a small business (56 FR 56671; November 6, 1991).

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule and, therefore, that a backfit analysis is not required for this rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalty, Government contracts, Intergovernmental relations, Isotopes, Nuclear material, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalty, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalty, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 70

Criminal penalty, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 30, 40, 50, 70, and 72.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for part 30 continues to read as follows:

[2] Corporate Bond Defaults and Default Rates, Moody's Special Report, January 1991, p. 32.

VOL 58 ISS 248 DE 29 1993 UMI

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 30.8 paragraph (b) is revised to read as follows:

§ 30.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 30.9, 30.11, 30.15, 30.19, 30.20, 30.32, 30.34, 30.35, 30.36, 30.37, 30.38, 30.50, 30.51, 30.55, 30.56, and appendix A and B to this part.

* * * * *

3. In § 30.35, the introductory text of paragraph (f)(2) is revised to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

* * * * *

(f) * * *

(1) * * *

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A of this part. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix B of this part. A guarantee by the applicant or licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

4. A new appendix B is added to part 30 to read as follows:

Appendix B to Part 30—Criteria Relating to Use of Financial Tests and Self Guarantees for Providing Reasonable Assurance of Funds for Decommissioning

I. Introduction

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self guarantee and establishes the terms for a self-guarantee.

II. Financial Test

A. To pass the financial test, a company must meet all of the following criteria:

(1) Tangible net worth at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

(2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

(3) A current rating for its most recent bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P), or Aaa, Aa, or A as issued by Moodys.

B. To pass the financial test, a company must meet all of the following additional requirements:

(1) The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934.

(2) The company's independent certified public accountant must have compared the data used by the company in the financial test which is derived from the independently audited, yearend financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform NRC within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(3) After the initial financial test, the company must repeat passage of the test within 90 days after the close of each succeeding fiscal year.

C. If the licensee no longer meets the requirements of Section II.A. of this appendix, the licensee must send immediate notice to the Commission of its intent to establish alternate financial assurance as specified in the Commission's regulations within 120 days of such notice.

III. Company Self-Guarantee

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee will remain in force unless the licensee sends notice of cancellation by certified mail to the Commission. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the Commission, as evidenced by the return receipt.

B. The licensee shall provide alternative financial assurance as specified in the Commission's regulations within 90 days following receipt by the Commission of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the Commission has terminated the license or until another financial assurance method acceptable to the Commission has been put in effect by the licensee.

D. The licensee will promptly forward to the Commission and the licensee's independent auditor all reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of section 13 of the Securities and Exchange Act of 1934.

E. If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poors or Moodys, the licensee will provide notice in writing of such fact to the Commission within 20 days after publication of the change by the rating service. If the licensee's most recent bond issuance ceases to be rated in any category of A or above by both Standard and Poors and Moodys, the licensee no longer meets the requirements of Section II.A. of this appendix.

F. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

6. In § 40.8 paragraph (b) is revised to read as follows:

§ 40.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 40.25, 40.26, 40.31, 40.35, 40.36, 40.42, 40.43, 40.44, 40.60, 40.61, 40.64, 40.65, and appendix A to this part.

* * * * *

7. In § 40.36 the introductory text of paragraph (e)(2) is revised to read as follows:

§ 40.36 Financial assurance and recordkeeping for decommissioning.

* * * * * *

(e) * * *

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained jn appendix A of 10 CFR part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix B of 10 CFR part 30. A guarantee by the applicant or licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

8. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 - 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

9. In § 50.8 paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in § § 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.63, 50.64, 50.65, 50.71, 50.72, 50.75, 50.80, 50.82, 50.90, 50.91, and appendices A, B, E, G, H, I, J, K, M, N, O, Q, and R to this part.

10. In § 50.75 the introductory text of paragraph (e)(1)(iii) and paragraph (e)(2)(iii) are revised to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(e) * * *

(1) * * *

(iii) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

(2) * * *

(iii) A surety method, insurance, or other guarantee method. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A of 10 CFR part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix B of 10 CFR part 30. A guarantee by the applicant or the licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

11. The authority citation for part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

12. In § 70.25, the introductory text of paragraph (f)(2) is revised to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

* * * * *

(f) * * *

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A of 10 CFR part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix B of 10 CFR part 30. A

VOL 58 ISS 248 DEC 29 1993 UMI

guarantee by the applicant or the licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

13. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

15. In § 72.30 the introductory text of paragraph (c)(2) is revised to read as follows:

§ 72.30 Decommissioning planning including financing and recordkeeping.

* * * * *

(c) * * *

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A of 10 CFR part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix B of 10 CFR part 30. A guarantee by the applicant or the licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

Dated at Rockville, MD, this 2d day of December 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–31767 Filed 12–28–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 780

Patent Compensation Board Regulations

AGENCY: Department of Energy (DOE).

ACTION: Final Rulemaking.

SUMMARY: Today's rule amends the Department's Patent Compensation Board regulations to comply with the North American Free Trade Agreement, commonly referred to as "NAFTA," and its implementing legislation. These regulations are amended in response to the Statement of Administrative Action on NAFTA that was submitted to Congress under section 1103 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2903) where the Administration expressed its intent to amend regulations as required to implement U.S. obligations under the agreement at the time NAFTA enters into force. House Document 103–159, vol. 1.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Sue Hagarman, Office of the Assistant General Counsel for Intellectual Property (GC–42), U.S. Department of Energy, Washington, DC 20585, (202) 586–3499.

SUPPLEMENTARY INFORMATION:

I. Background.
A. Discussion.
II. Procedural Requirements.
A. Review Under Executive Order 12866.
B. Review Under Executive Order 12778.
C. Review Under the Regulatory Flexibility Act.
D. Review Under the Paperwork Reduction Act.
E. Review Under Executive Order 12612.
F. Review Under the National Environmental Policy Act.
G. General.

I. Background

A. Discussion

The effect of Article 1709(10) of NAFTA is to limit the extent to which a government that is a party to NAFTA may allow the use of a patent without the patent owner's permission, i.e., compulsorily license a patent.

Section 104(b) of the North American Free Trade Agreement Implementation Act (Act), Pub. L. 103–182, provides that appropriate officers of the United States may issue necessary regulations to ensure that a provision of NAFTA, such as Article 1709(10), is fully effective on the date that NAFTA enters into force, subject to the restriction that the effective date of such regulations is no earlier than the date of entry into force. Section 101(b) of the Act authorizes the President to exchange notes with the Government of Canada or Mexico, providing for entry into force, on or after January 1, 1994. On page 14 of the Statement of Administrative Action on NAFTA that was submitted to Congress under section 1103 of Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2903), there is an expression of the Administration's intent to amend regulations as required to implement U.S. obligations under the agreement at the time NAFTA enters into force. House Document 103–159, vol. 1.

Section 153 of the Atomic Energy Act authorizes the Department of Energy (DOE) to issue compulsory licenses under certain conditions, 42 U.S.C. 2183. The DOE regulations (10 CFR part 780), which implement section 153, set forth the procedures to be followed when compulsorily licensing a patent. The DOE regulations include the requirements of paragraphs (a) and (i)–(l) of Article 1709(10). 10 CFR 780.10 and 780.30. However, all of the requirements of each of paragraphs (b)–(h) of Article 1709(10) are not so included.

Article 1709(10) of NAFTA reads as follows:

Where the law of a Party allows for use of the subject matter of a patent, other than that

use allowed under paragraph 6, without the authorization of the right holder, including use by the government or other persons authorized by the government, the Party shall respect the following provisions:

(a) Authorization of such use shall be considered on its individual merits;

(b) Such use may only be permitted if, prior to such use, the proposed user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and such efforts have not been successful within a reasonable period of time. The requirement to make such efforts may be waived by a Party in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use. In situations of national emergency or other circumstances of extreme urgency, the right holder shall, nevertheless, be notified as soon as reasonably practicable. In the case of public non-commercial use, where the government or contractor, without making a patent search, knows or has demonstrable grounds to know that a valid patent is or will be used by or for the government, the right holder shall be informed promptly;

(c) The scope and duration of such use shall be limited to the purpose for which it was authorized;

(d) Such use shall be non-exclusive;

(e) Such use shall be non-assignable, except with that part of the enterprise or goodwill that enjoys such use;

(f) Any such use shall be authorized predominantly for the supply of the Party's domestic market;

(g) Authorization for such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances that led to it cease to exist and are unlikely to recur. The competent authority shall have the authority to review, on motivated request, the continued existence of these circumstances;

(h) The right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization;

(i) The legal validity of any decision relating to the authorization shall be subject to judicial or other independent review by a distinct higher authority;

(j) Any decision relating to the remuneration provided in respect of such use shall be subject to judicial or other independent review by a distinct higher authority;

(k) The Party shall not be obliged to apply the conditions set out in subparagraphs (b) and (f) where such use is permitted to remedy a practice determined after judicial or administrative process to be anti-competitive. The need to correct anti-competitive practices may be taken into account in determining the amount of remuneration in such cases. Competent authorities shall have the authority to refuse termination of authorization if and when the conditions that led to such authorization are likely to recur;

(l) The Party shall not authorize the use of the subject matter of a patent to permit the exploitation of another patent except as a remedy for an adjudicated violation of domestic laws regarding anti-competitive practices.

Paragraphs (b)–(h) of Article 1709(10) are not inconsistent with any of the specific requirements of section 153. Furthermore, the provisions of paragraphs (b)–(h) are either very specific or capable of implementation on a case-by-case basis. Accordingly, the regulations at 10 CFR part 780 can be conformed to paragraphs (b)–(h) by issuing final interpretive regulatory amendments that closely follow the language of those paragraphs.

Consistent with DOE's obligations and authority under NAFTA, the implementing Act, and the Atomic Energy Act, and pursuant to the above-described expression of intent in the Statement of Administrative Action which accompanied NAFTA, DOE is today amending 10 CFR part 780 to incorporate the requirements of paragraphs (b)–(h) of Article 1709(10) of NAFTA. The requirements of paragraph (b) are repeated in the amendments to 10 CFR 780.34(b) and 780.45(d). The requirements of paragraphs (c)–(g) are repeated in the amendments to 10 CFR 780.36 and 780.47. The requirements of paragraph (h) are reflected in the amendment of 10 CFR 780.53. In compliance with the above-described restriction in section 104(b) of the implementing Act regarding the "effective date," and consistent with the Administrative Procedure Act, 5 U.S.C. 553(d)(2), today's regulatory amendments take effect on January 1, 1994.

II. Procedural Requirements

A. Review Under Executive Order 12866

It has been determined that today's regulatory action is not a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that executive order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency subject to Executive Order 12291 to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. This final rule will have no preemptive effect; will not have any effect on existing Federal laws; and will only clarify the existing regulations on this subject. The revised regulations will apply only to compulsory licenses granted after the effective date of this rule, January 1, 1994, and, thus, will have no retroactive effect. Therefore, DOE certifies that this final rule meets the requirements of sections 2(a) and (b) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

This rule will require only an insignificant addition to the data collection required for the Standard Forms 294 and 295. Accordingly, no OMB clearance is required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

E. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, and in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's final rule will only add detail to certain policy and procedural requirements. However, DOE has determined that none of the revisions

VOL 58 ISS 248 DE 29 1993 UMI

will have a substantial direct effect on the institutional interests or traditional functions of States.

F. Review Under the National Environmental Policy Act

The DOE has determined that this rule is covered under the Categorical Exclusions codified at 10 CFR part 1021 that apply to rulemakings that are strictly procedural or to the amendment of existing regulation that does not change the environmental effect of the regulation being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

G. General

The DOE has not provided for a public comment period because today's regulatory amendments are an interpretative rule which is exempt from the requirement to propose rules for public comment under the Administrative Procedure Act, 5 U.S.C. 553.

Ordinarily, final rules take effect 30 days from the date of publication. However, today's regulatory amendments take effect on January 1, 1994, pursuant to section 104(a) of the implementing Act for NAFTA and the exception from the 30-day effective date requirement in 5 U.S.C. 553(d)(2).

List of Subjects in 10 CFR Part 780

Inventions, Patents, Licenses and Patent Compensation Board.

Issued in Washington, DC, on December 23, 1993.

Eric Fygi,

Acting General Counsel.

For the reasons stated in the preamble, DOE hereby amends 10 CFR part 780 as follows:

PART 780—PATENT COMPENSATION BOARD REGULATIONS

1. The citation for authority for part 780 is revised as follows:

Authority: 42 U.S.C. 7151, 7254; 42 U.S.C. 5814, 5815; 42 U.S.C. 2183, 2187, 2223; 35 U.S.C. 183; North American Free Trade Agreement, Article 1709(10), as implemented by the North American Free Trade Agreement Implementing Act, Pub. L. 103–182.

2. Section 780.34 is amended by revising paragraph (b) to read as follows:

§ 780.34 Criteria for decision to issue a license.

* * * * *

(b) The applicant has made efforts to obtain reasonable commercial terms and conditions and such efforts have not been successful within a reasonable period of time. The requirement to make such efforts may be waived by the Board in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use. Where this requirement is waived due to national emergency or other circumstances of extreme urgency, the owner of the patent shall be notified as soon as reasonably practicable. Where this requirement is waived for a public non-commercial use, the owner of the patent shall be notified promptly.

3. Section 780.36 is revised to read as follows:

§ 780.36 Conditions and issuance of license.

(a) Upon receipt of the Board's decision and instruction to issue a patent license, the General Counsel shall issue a license which complies with the following:

(1) The scope and durations of such use shall be limited to the purpose for which it was authorized;

(2) Such use shall be non-exclusive;

(3) Such use shall be non-assignable, except with that part of the enterprise or goodwill that enjoys such use;

(4) Any such use shall be authorized predominantly for the supply of the U.S. market; and,

(5) Authorization for such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances that led to it cease to exist and are unlikely to recur.

(b) The Board shall have the authority to review, on motivated request, the continued existence of these circumstances. The parties will propose and agree on a reasonable royalty fee within a reasonable time as determined by the General Counsel. A reasonable royalty shall provide adequate remuneration for the circumstances of each case, taking into account the economic value of the authorization. If a party does not agree with the terms and conditions of the license as determined by the General Counsel or if a royalty fee cannot be agreed upon within the reasonable time period established by the General Counsel, any party may, within 30 days after the expiration of such time period, initiate a proceeding before the Board, in accordance with subpart E of this part, for a reconsideration of the General Counsel's determination. After the proceeding under subpart E of this part is completed, the General Counsel shall modify the patent license in accordance with the Board's determination.

4. Section 780.45 is amended by revising paragraph (d) to read as follows:

§ 780.45 Criteria for decision to issue a license.

* * * * *

(d) The applicant has made efforts to obtain reasonable commercial terms and conditions and such efforts have not been successful within a reasonable period of time. The requirement to make such efforts may be waived by the Board in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use. Where this requirement is waived due to national emergency or other circumstances of extreme urgency, the owner of the patent shall be notified as soon as reasonably practicable. Where this requirement is waived for a public non-commercial use, the owner of the patent shall be notified promptly.

* * * * *

5. Section 780.47 is revised to read as follows:

§ 780.47 Condition and issuance of license.

(a) Upon receipt of the Board's decision and instruction to issue a patent license, the General Counsel shall issue a license which complies with the following:

(1) The scope and durations of such use shall be limited to the purpose for which it was authorized;

(2) Such use shall be non-exclusive;

(3) Such use shall be non-assignable, except with that part of the enterprise or goodwill that enjoys such use;

(4) Any such use shall be authorized predominantly for the supply of the U.S. market; and,

(5) Authorization for such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances that led to it cease to exist and are unlikely to recur.

(b) The Board shall have the authority to review, on motivated request, the continued existence of these circumstances. The parties will propose and agree on a reasonable royalty fee within a reasonable time as determined by the General Counsel. A reasonable royalty shall provide adequate remuneration for the circumstances of each case, taking into account the economic value of the authorization. If a party does not agree with the terms and conditions of the license as determined by the General Counsel or if a royalty fee cannot be agreed upon within the reasonable time period established by the General Counsel, any party may, within 30 days after the expiration of such time period, initiate a proceeding before the Board, in accordance with subpart E of this part, for a reconsideration of the General Counsel's determination. After the proceeding under subpart E of this part is completed, the General Counsel shall modify the patent license in accordance with the Board's determination.

6. Section 780.53 is amended by redesignating paragraphs (a)(1)–(a)(4) as (a)(2)–(a)(5) and adding a new paragraph (a)(1) to read as follows:

§ 780.53 Criteria for decisions for royalties, awards and compensation.

(a) * * *

(1) The economic value of the compulsory license and the Board shall strive to provide adequate remuneration for the circumstances of each case.

* * * * *

[FR Doc. 93–31836 Filed 12–28–93; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Regulation B; Docket No. R-0782]

Equal Credit Opportunity; Appraisals and Enforcement; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule (Docket No. R-0782) which was published Thursday, December 16, 1993 (58 FR 65657). The amendments to Regulation B concerned providing credit applicants with a right to receive copies of appraisal reports.

EFFECTIVE DATE: December 29, 1993.

FOR FURTHER INFORMATION CONTACT: Michael Bylsma, Senior Attorney, or Jane Ahrens, Jane Gell or Mary Jane Seebach, Staff Attorneys (202/452-3667), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

In the issue of December 16, 1993, on page 65657, in the third column, second paragraph, five lines down from the top of the paragraph, the date "June 6, 1994" is corrected to read "June 14, 1994".

Board of Governors of the Federal Reserve System, December 22, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-31779 Filed 12-28-93; 8:45 am]

BILLING CODE 6210-01-F

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-0756]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System is amending its risk-based capital guidelines for state member banks and bank holding companies. This final rule implements section 618(b) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and section 305(b)(1)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991. The effect of the final rule will be to permit state member banks and bank holding companies to lower from 100 percent to 50 percent the risk weight assigned to certain multifamily housing loans.

EFFECTIVE DATE: This final rule is effective as of December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Rhoger H. Pugh, Assistant Director (202/728–5883), Norah M. Barger, Manager (202/452–2402), Robert E. Motyka, Supervisory Financial Analyst (202/452–3621), or Barbara J. Bouchard, Senior Financial Analyst (202/452–3072), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve, 20th & C Street NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 1992, the Federal Reserve Board (Board) issued for public comment a proposal to amend its risk-based capital guidelines that would lower the risk weight from 100 percent to 50 percent for certain multifamily housing loans meeting specified criteria. This proposal was made to satisfy the requirements of section 618(b) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTCRRIA). In addition, this proposal would implement section 305(b)(1)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) which requires the Federal banking agencies [1] to revise their risk-based capital guidelines to reflect the actual performance and expected risk of loss of multifamily housing loans.

Section 618(b) of RTCRRIA mandates that a 50 percent risk weight be accorded to loans for multifamily housing meeting certain criteria. These statutory criteria were incorporated into the Board's proposal and include the following:

(1) The loan is secured by a first lien;

(2) The ratio of the principal obligation to the appraised value of the property, that is, the loan-to-value (LTV) ratio does not exceed 80 percent (75 percent if the loan is based on a floating interest rate);

(3) The annual net operating income generated by the property (before debt service) is not less than 120 percent of the annual debt service on the loan (115 percent if the loan is based on a floating interest rate);

(4) Amortization of principal and interest is over a period of not more than 30 years and the minimum maturity for repayment of principal is not less than 7 years; and

(5) All principal and interest payments have been made on the loan on time for a period of not less than one year prior to placement in the 50 percent risk category.

Section 618(b) also provides that the appropriate Federal banking agencies may establish additional criteria that a multifamily housing loan must meet before being accorded a 50 percent risk weight. In this regard, and in agreement with the other Federal banking agencies, the Board's proposed amendment set forth the following four additional criteria to ensure that only those multifamily housing loans that expose an institution to minimal levels of credit risk would receive a 50 percent risk weight:

(1) The loan-to-value ratio used for the purpose of the statutory criterion cited above is based upon the most current appraised value of the property (which normally would be the appraised value at the time the loan was originated, unless a more recent evaluation or appraisal has been performed);

(2) The loan is performing in accordance with its original terms and is not more than 90 days past due or carried in nonaccrual status;

(3) The average annual occupancy for the property securing the loan has been

[1] The three other Federal banking agencies have also issued for public comment similar proposals to lower the risk weight for multifamily housing loans meeting the specified criteria. The Office of Thrift Supervision (OTS) currently permits certain multifamily loans to be included in the 50 percent risk weight category. The proposal issued by the OTS would modify its existing criteria for such loans to qualify for a 50 percent risk weight.

at least 80 percent for the preceding year; and

(4) The loan has been made in accordance with prudent underwriting standards.

The existing risk-based capital guidelines provide that loans secured by mortgages on 1- to 4-family residential properties must meet the first, second, and fourth additional criteria in order to be assigned a 50 percent risk weight. The third proposed criterion is a requirement under the OTS guidelines for loans for multifamily housing accorded a 50 percent risk weight.

Under the proposed revision to the risk-based capital guidelines, privately-issued securities backed by multifamily housing loans that meet the above cited criteria at the time the securities are originated would also qualify for inclusion in the 50 percent risk category provided that the structure of the security meets certain technical criteria set forth in the guidelines. This treatment would parallel the treatment for privately-issued securities backed by loans for 1- to 4-family residential properties under the risk-based capital guidelines. Application of this treatment to a security backed by multifamily housing loans means that the security would not qualify for inclusion in the 50 percent risk category unless all the underlying mortgages have been outstanding and performing for at least one year prior to origination of the security.

Section 618(b)(2) of RTCRRIA requires the agencies to amend their capital regulations and guidelines to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement should be treated as sold to the extent that loss is incurred by the purchaser of the loan. Section 618(b)(3) of RTCRRIA directs the agencies to take into account other loss sharing arrangements, in connection with the sale of any loan that is fully secured by a first lien on multifamily housing property, to determine the extent to which such loans should be treated as sold.

The Board's existing guidelines set forth guidance on the treatment of assets sold with recourse, including those sold subject to loss sharing arrangements.

The risk-based capital guidelines for state member banks state that the risk-based capital definition of the sale of assets with recourse, including assets sold subject to loss sharing arrangements, is the same as the definition contained in the instructions to the commercial bank Consolidated Reports of Condition and Income (Call Report) glossary entry for "sales of assets." Those instructions set out conditions that must be met in order for a bank to treat a sale of assets as a true sale and, thus, to remove from its balance sheet assets it has sold. Assets that have been sold and removed from a bank's balance sheet in accordance with the Call Report instructions are excluded from the calculation of risk-weighted assets.

Specifically with regard to the sale of assets, the Call Report instructions provide:

if the risk retained by the seller is limited to some fixed percentage of any losses that might be incurred and there are no other provisions resulting in retention of risk, either directly or indirectly, by the seller, the maximum amount of possible loss for which the selling bank is at risk (the stated percentage times the sale proceeds) shall be reported as a borrowing and the remaining amount of the assets transferred reported as a sale.

This treatment, which applies to sales of multifamily housing loans subject to pro rata loss sharing arrangements, is consistent with the language of section 618(b)(2) of RTCRRIA.

The Call Report instructions also provide that other transfers of assets, including the sale of assets subject to other loss sharing arrangements, generally are reported as sales only if the selling institution:

(1) Retains no risk of loss from assets transferred resulting from any cause, and

(2) Has no obligation to any party for the payment of principal or interest on the assets transferred resulting from any cause. This treatment, which applies to sales of multifamily housing loans subject to other loss sharing arrangements, is consistent with the language of section 618(b)(3) of RTCRRIA.

Bank holding companies generally file their regulatory reports in accordance with generally accepted accounting principles (GAAP). Under GAAP, bank holding companies are permitted to treat some asset sales with recourse, including those sold subject to loss sharing arrangements, as "true" sales and, thus, may remove the assets from the balance sheet. The risk-based capital guidelines for bank holding companies state that where such transactions have been removed from the balance sheet but meet the definition of assets sold with recourse contained in the instructions to the Call Report, the assets sold must be included in the calculation of risk-weighted assets. For this purpose the assets that are sold are treated as an off-balance sheet exposure and are converted at 100 percent to a credit equivalent amount and assigned to the appropriate risk weight. This existing treatment, which applies to sales of multifamily housing loans subject to pro rata and other loss sharing arrangements, is consistent with the requirements of RTCRRIA sections 618(b) (2) and (3).

Comments Received

Public comments were received from twenty-three respondents: ten banking organizations, three savings institutions, nine trade associations, and one law firm. Of the twenty-three commenters, eighteen favored lowering the risk weight for qualifying multifamily mortgages from 100 percent to 50 percent; one opposed the lower risk weight; and four gave no overall opinion on the proposal. Commenters responding favorably to the proposal generally agreed that, although loans for multifamily residential properties could be riskier than loans for 1- to 4-family properties, the combination of the criteria required by section 618(b) of RTCRRIA and the additional criteria proposed by the Board should assure that only high quality multifamily housing loans would be included in the 50 percent risk weight category. The one commenter that did not support the proposal expressed the view that certain multifamily loans should stay in the 100 percent risk category because of the historically higher charge-off rates associated with these assets.

Several commenters requested clarification as to whether the qualifying criteria would be applied only once at the time of loan origination or on a continuous basis. Three respondents addressed the application of the annual net operating income-to-debt service ratio as applied to loans to finance multifamily buildings owned by cooperative housing corporations. They noted that since this type of property is generally operated as a not-for-profit enterprise, it would not meet the proposed annual net operating income-to-debt service coverage standard and thus, loans to finance acquisition of such properties could not qualify for the 50 percent risk weight category. Two commenters discussed the treatment of securities backed by multifamily housing loans. One of these commenters expressed the view that the requirement that a multifamily housing loan must perform in accordance with its terms for at least one year before it could qualify for a 50 percent risk weight would prevent securitization of multifamily loans at origination. This commenter also noted that it would be difficult to monitor each underlying loan in a security for continuous compliance with the qualifying criteria.

Final Rule

After review of the public comments, and in agreement with the other Federal banking agencies, the Board is adopting a final rule amending the risk-based capital guidelines to lower the risk weight from 100 percent to 50 percent for loans secured by mortgages on multifamily residential properties meeting certain conditions as well as for securities backed by such qualifying mortgages. This final rule implements section 618(b) of RTCRRIA and section 305(b)(1)(B) of FDICIA. The criteria a multifamily housing loan must meet to be included in the 50 percent risk category are the same as those proposed, except that the 80 percent average annual occupancy requirement has been eliminated and clarification has been made with regard to other criteria.

Following consultations with the other agencies, the Board has decided to eliminate the requirement that the property financed must have maintained an average annual occupancy rate of at least 80 percent for the previous year. Comments received by the other agencies indicated that the additional safeguards this occupancy criterion might provide would be minimal in comparison to the increased record-keeping burden it would create. The Board believes that the remaining criteria should be sufficient to satisfy concerns related to safety and soundness of loans secured by multifamily residential property that are assigned a 50 percent risk weight.

Several commenters noted that certain cooperative properties and other not-for-profit multifamily residential properties may not be able to generate sufficient cash flow to satisfy the annual net operating income-to-debt service ratio required in the qualifying criteria. In light of these comments, the final rule specifies that cooperative and other not-for-profit multifamily residential properties may be deemed to satisfy the annual net operating income-to-debt service ratio requirement if they generate sufficient cash flow to provide comparable protection to the institution. Sufficient cash flow to provide comparable protection may be generated in a variety of ways, for example, through additions to special operating reserve accounts or special subsidies provided by Federal, state, local, or private sources. This comparable protection accommodation could allow low- and moderate-income not-for-profit multifamily housing projects to qualify for the 50 percent risk category, provided that they meet the other criteria.

The Board notes that the annual debt service ratio requirements must be satisfied on an on-going basis for a multifamily housing loan to continue to receive a 50 percent risk weight.

In addition, the final rule states that for purposes of satisfying the one year's timely performance criterion in the case where the existing owner of a multifamily residential property is refinancing a loan on that property, all principal and interest payments on the loan being refinanced must have been made on a timely basis in accordance with the terms of the loan for at least the preceding year.

The existing risk-based capital guidelines specify that prudent underwriting standards include a conservative loan-to-value ratio, and the proposed rule stated that, in the case of a loan secured by multifamily residential property, the loan-to-value ratio would not be deemed conservative if it exceeded 80 percent (75 percent if the loan is based on a floating interest rate). The final rule notes that prudent underwriting standards dictate that a loan-to-value ratio used in the case of a loan to acquire a property would not be deemed conservative unless the value is based on the lower of the purchase price of the property or the value as determined by the most current appraisal or, if appropriate, the most current evaluation. Otherwise, the loan-to-value ratio generally would be based upon the value of the property as determined by the most current appraisal or, if appropriate, the most current evaluation. Subsequent appraisals (or evaluations) of a multifamily property will not be required for the purpose of continuing to include the loan secured by such property in the 50 percent risk category. However, if a subsequent appraisal (or evaluation) is obtained and it indicates that the loan-to-value ratio exceeds the statutory requirements, the loan would have to be reassigned to the 100 percent risk category.

In connection with the loan-to-value ratio criterion, the Board also notes that under the agencies' 1992 real estate lending standards regulations and guidelines, as a general matter, institutions may extend loans to improved property, which includes existing multifamily residential property, with loan-to-value ratios of up to 85 percent. These guidelines, which implement section 304 of FDICIA, became effective on March 19, 1993. While these guidelines permit institutions to make loans secured by existing multifamily property with loan-to-value ratios that exceed 80 percent, such loans would not qualify for the 50 percent risk category. Rather, they should be assigned to the 100 percent risk category.

The final rule provides that securities backed by mortgages on multifamily residential properties may be accorded a 50 percent risk weight if each underlying mortgage satisfies all the criteria for eligibility for the 50 percent risk weight at the time the pool is originated and the structure of the security meets certain technical criteria set forth in the guidelines. This treatment parallels that accorded to securities backed by mortgages on 1- to 4-family residential properties that qualify for a 50 percent risk weight. In light of issues raised by commenters, the Board is clarifying that the final rule does not require monitoring of each loan that has been pooled into a security for continuous compliance with all the qualifying criteria. As a safeguard against deterioration in the underlying assets, however, the final rule stipulates that a security backed by multifamily mortgage loans may be accorded a 50 percent risk weight only as long as principal and interest payments on the security are not more than 30 days past due.

Finally, in order to conform the Board's regulatory language to that of the other agencies, the final rule amends the risk-based capital guidelines for state member banks by clarifying in a footnote that a multifamily housing loan that is sold subject to a pro rata loss sharing arrangement is to be treated by the selling bank as sold (and excluded from the balance sheet assets), to the extent that the sales agreement provides for the purchaser of the loan to share in any loss incurred on the loan on a pro rata basis with the selling bank. This means that, in such a transaction, the portion of the loan that is treated as sold by the selling bank is excluded from the calculation of the risk-based capital ratio.

With regard to bank holding companies, a footnote in the final rule clarifies that multifamily housing loans sold subject to such pro rata loss sharing arrangements, may be treated as sold, for risk-based capital purposes, to the same extent as for banks. The portion that is sold would not be subject to the 100 percent conversion factor normally applied to assets sold with recourse but rather would be excluded from the calculation of the risk-based capital ratio.

The clarifying footnotes also provide guidance on the risk-based capital treatment of sales of multifamily housing loans in which the purchaser of

a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis. These other loss sharing arrangements are taken into account, for purposes of determining the extent to which such loans are treated by the selling banking organization as sold for risk-based capital purposes, and excluded from a bank's balance sheet assets or the credit equivalent amount of a bank holding company's off-balance sheet items, in the same manner as prescribed in the instructions to the Call Report. As noted earlier, these footnotes reflect the existing Call Report and risk-based capital treatment with respect to such assets sold subject to loss sharing arrangements.

In addition, the Board notes that the Board and the other banking agencies, under the auspices of the Federal Financial Institutions Examination Counsel (FFIEC), have been working together to develop revisions to the agencies' risk-based capital standards that will better distinguish between the degrees of risk in loss sharing arrangements involving asset sales in general. In this regard, on December 16, 1993, the Board approved a recommendation from the Federal Financial Institution Examination Council to seek public comment on a Notice of Proposed Rulemaking and an Advanced Notice of Proposed Rulemaking concerning the regulatory treatment of assets sold subject to loss sharing arrangements. To the extent these proposals apply to multifamily housing loans, they would, if adopted, also satisfy the requirements of section 618(b)(3) of RTCRRIA.

Finally, the Board finds, for good cause, that an immediate effective date is necessary in order to serve the public interest, avoid confusion, and expedite the reporting of a capital charge that is commensurate with the risks associated with multifamily housing loans that meet the specified criteria. A December 31, 1993 effective date will enable banking organizations to use the reduced risk weight for multifamily housing loans in their end-of-year regulatory reports. In addition, the Board believes this effective date is appropriate because the revision would reduce, rather than expand, regulatory burden.

Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe adoption of this final rule would have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations), in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In this regard, the final rule would reduce certain regulatory burdens on bank holding companies as it would reduce the capital charge on certain transactions. In addition, because the risk-based capital guidelines generally do not apply to bank holding companies with consolidated assets of less than $150 million, this proposal will not affect such companies.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Currency, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble the Board is amending 12 CFR parts 208 and 225 to read as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a) and (c), 321–338, 461, 481–486, 601, 611, 1814, 1823(j), 1831o, 1831p–1, 3906–3909, 3310, 3331–3351; 15 U.S.C. 78b, 78o–4(c)(5), 78q, 78q–1, 78w, 781(b), 781(i), and 1781(g).

2. Appendix A to part 208 is amended by revising the first paragraph of section III.C.3., and Category 3 Item 1. of Attachment III to read as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

III. Procedures for Computing Weighted Risk Assets and Off-Balance Sheet Items

* * * * *

C. Risk Weights

* * * * *

3. *Category 3: 50 percent.* This category includes loans fully secured by first liens [34] on 1- to 4-family residential properties, either owner-occupied or rented, or on multifamily residential properties,[35] that meet certain criteria.[36] Loans included in this category must have been made in accordance with prudent underwriting standards;[37] be performing in accordance with their original terms; and not be 90 days or more past due or carried in nonaccrual status. The following additional criteria must also be applied to a loan secured by a multifamily residential property that is included in this category: all principal and interest payments on the loan must have been made on time for at least the year preceding placement in this category, or in the case where the existing property owner is refinancing a loan on that property, all principal and interest payments on the loan being refinanced must have been made on time for at least the year preceding placement in this category; amortization of the principal and interest must occur over a period of not more than 30 years and the minimum original maturity for repayment of principal must not be less than 7 years; and the annual net operating income (before debt service) generated by the property during its most recent fiscal year must not be less than 120 percent of the loan's current annual debt service (115 percent if the loan is based on a floating interest rate) or, in the case of a cooperative or other not-for-profit housing project, the property must generate sufficient cash flow to provide comparable protection to the institution. Also included in this category are privately-issued mortgage-backed securities provided that

(1) The structure of the security meets the criteria described in section III(B)(3) above;

(2) If the security is backed by a pool of conventional mortgages, on 1- to 4-family residential or multifamily residential properties each underlying mortgage meets the criteria described above in this section for eligibility for the 50 percent risk category at the time the pool is originated;

(3) If the security is backed by privately-issued mortgage-backed securities, *each* underlying security qualifies for the 50 percent risk category; and

(4) If the security is backed by a pool of multifamily residential mortgages, principal and interest payments on the security are not 30 days or more past due.

Privately-issued mortgage-backed securities that do not meet these criteria or that do not qualify for a lower risk weight are generally assigned to the 100 percent risk category.

* * * * *

Attachment III—Summary of Risk Weights and Risk Categories for State Member Banks

* * * * *

Category 3: 50 Percent

1. Loans fully secured by first liens on 1- to 4-family residential properties or on multifamily residential properties that have been made in accordance with prudent underwriting standards, that are performing in accordance with their original terms, that are not past due or in nonaccrual status, and that meet other qualifying criteria, and certain privately-issued mortgage-backed securities representing indirect ownership of such loans. (Loans made for speculative purposes are excluded.)

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3907, 3909, 3310, and 3331–3351.

2. Appendix A to part 225 is amended by revising the first paragraph of section III.C.3., footnote 48 in section III.D.1., and Category 3 Item 1. of Attachment III to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

* * * * *

III. Procedures for Computing Weighted Risk Assets and Off-Balance Sheet Items

* * * * *

C. Risk Weights

* * * * *

3. *Category 3: 50 percent.* This category includes loans fully secured by first liens [37] on 1- to 4-family residential properties, either owner-occupied or rented, or on multifamily residential properties,[38] that meet certain criteria.[39] Loans included in this category must have been made in accordance with prudent underwriting standards;[40] be performing in accordance with their original terms; and not be 90 days or more past due or carried in nonaccrual status. The following additional criteria must also be applied to a loan secured by a multifamily residential property that is included in this category: all principal and interest payments on the loan must have been made on time for at least the year preceding placement in this category, or in the case where the existing property owner is refinancing a loan on that property, all principal and interest payments on the loan being refinanced must have been made on time for at least the year preceding placement in this category; amortization of the principal and interest must occur over a period of not more than 30 years and the minimum original maturity for repayment of principal must not be less than 7 years; and the annual net operating income (before debt service) generated by the property during its most recent fiscal year must not be less than 120 percent of the loan's current annual debt service (115 percent if the loan is based on a floating interest rate) or, in the case of a cooperative or other not-for-profit housing project, the property must generate sufficient cash flow to provide comparable protection to the institution. Also included in this category are privately-issued mortgage-backed securities provided that:

(1) The structure of the security meets the criteria described in section III(B)(3) above;

(2) if the security is backed by a pool of conventional mortgages, on 1- to 4-family residential or multifamily residential properties, each underlying mortgage meets the criteria described above in this section for eligibility for the 50 percent risk category at the time the pool is originated;

(3) If the security is backed by privately-issued mortgage-backed securities, each underlying security qualifies for the 50 percent risk category; and

(4) If the security is backed by a pool of multifamily residential mortgages, principal and interest payments on the security are not 30 days or more past due. Privately-issued mortgage-backed securities that do not meet these criteria or that do not qualify for a lower risk weight are generally assigned to the 100 percent risk category.

* * * * *

D. Off-Balance Sheet Items

* * * * *

1. * * * [48]

* * * * *

Attachment III—Summary of Risk Weights and Risk Categories for Bank Holding Companies

* * * * *

Category 3: 50 Percent

1. Loans fully secured by first liens on 1- to 4-family residential properties or on multifamily residential properties that have been made in accordance with prudent underwriting standards, that are performing in accordance with their original terms, that are not past due or in nonaccrual status, and that meet other qualifying criteria, and certain privately-issued mortgage-backed securities representing indirect ownership of

---

builders with substantial project equity for the construction of 1- to 4-family residences that have been presold under firm contracts to purchasers who have obtained firm commitments for permanent qualifying mortgage loans and have made substantial earnest money deposits.

The instructions to the Call Report also discuss the treatment of loans, including multifamily housing loans, that are sold subject to a pro rata loss sharing arrangement. Such an arrangement should be treated by the selling bank as sold (and excluded from balance sheet assets) to the extent that the sales agreement provides for the purchaser of the loan to share in any loss incurred on the loan on a pro rata basis with the selling bank. In such a transaction, from the standpoint of the selling bank, the portion of the loan that is treated as sold is not subject to the risk-based capital standards. In connection with sales of multifamily housing loans in which the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis, these other loss sharing arrangements are taken into account for purposes of determining the extent to which such loans are treated by the selling bank as sold (and excluded from balance sheet assets) under the risk-based capital framework in the same manner as prescribed for reporting purposes in the instructions to the Call Report.

[34] Residential property loans that do not meet all the specified criteria or that are made for the purpose of speculative property development are placed in the 100 percent risk category.

[35] Prudent underwriting standards include a conservative ratio of the current loan balance to the value of the property. In the case of a loan secured by multifamily residential property, the loan-to-value ratio is not conservative if it exceeds 80 percent (75 percent if the loan is based on a floating interest rate). Prudent underwriting standards also dictate that a loan-to-value ratio used in the case of originating a loan to acquire a property would not be deemed conservative unless the value is based on the lower of the acquisition cost of the property or appraised (or if appropriate, evaluated) value. Otherwise, the loan-to-value ratio generally would be based upon the value of the property as determined by the most current appraisal, or if appropriate, the most current evaluation. All appraisals must be made in a manner consistent with the Federal banking agencies' real estate appraisal regulations and guidelines and with the bank's own appraisal guidelines.

[36] If a bank holds the first and junior liens(s) on a residential property and no other party holds an intervening lien, the transaction is treated as a single loan secured by a first lien for the purpose of determining the loan-to-value ratio.

[37] Loans that qualify as loans secured by 1- to 4-family residential properties or multifamily residential properties are listed in the instructions to the commercial bank Call Report. In addition, for risk-based capital purposes, loans secured by 1- to 4-family residential properties include loans to

---

[37] If a banking organization holds the first and junior lien(s) on a residential property and no other party holds an intervening lien, the transaction is treated as a single loan secured by a first lien for the purpose of determining the loan-to-value ratio.

[38] Loans that qualify as loans secured by 1- to 4-family residential properties or multifamily residential properties are listed in the instructions to the FR Y–9C Report. In addition, for risk-based capital purposes, loans secured by 1- to 4-family residential properties include loans to builders with substantial project equity for the construction of 1- to 4-family residences that have been presold under firm contracts to purchasers who have obtained firm commitments for permanent qualifying mortgage loans and have made substantial earnest money deposits.

[39] Residential property loans that do not meet all the specified criteria or that are made for the purpose of speculative property development are placed in the 100 percent risk category.

[40] Prudent underwriting standards include a conservative ratio of the current loan balance to the value of the property. In the case of a loan secured by multifamily residential property, the loan-to-value ratio is not conservative if it exceeds 80 percent (75 percent if the loan is based on a floating interest rate). Prudent underwriting standards also dictate that a loan-to-value ratio used in the case of originating a loan to acquire a property would not be deemed conservative unless the value is based on the lower of the acquisition cost of the property or appraised (or if appropriate, evaluated) value. Otherwise, the loan-to-value ratio generally would be based upon the value of the property as determined by the most current appraisal, or if appropriate, the most current evaluation. All appraisals must be made in a manner consistent with the Federal banking agencies' real estate appraisal regulations and guidelines and with the banking organization's own appraisal guidelines.

[48] In regulatory reports and under GAAP, bank holding companies are permitted to treat some asset sales with recourse as "true" sales. For risk-based capital purposes, however, such assets sold with recourse and reported as "true" sales by bank holding companies are converted at 100 percent and assigned to the risk category appropriate to the underlying obligor or, if relevant the guarantor or nature of the collateral, provided that the transactions meet the definition of assets sold with recourse (including assets sold subject to pro rata and other loss sharing arrangements), that is contained in the instructions to the commercial bank Consolidated Reports of Condition and Income (Call Report). This treatment applies to any assets, including the sale of 1- to 4-family and multifamily residential mortgages, sold with recourse. Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of 1- to 4-family residential mortgages, are to be converted at 100 percent and assigned to the risk category appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The only exception involves transfers of pools of residential mortgages that have been made with insignificant recourse for which a liability or specific non-capital reserve has been established and is maintained for the maximum amount of possible loss under the recourse provision.

VOL 58 ISS 248 DEC 29 1993 UMI

such loans. (Loans made for speculative purposes are excluded.)

* * * * *

Board of Governors of the Federal Reserve System, December 17, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–31338 Filed 12–28–93; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–ANM–12]

Amendment of Class E Airspace; Wenatchee, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule published on September 28, 1993. This final rule amended the Wenatchee, Washington, Class E airspace to provide controlled airspace extending upward from 700 feet above ground level for aircraft executing a revised instrument approach procedure at Pangborn Memorial Airport. The airspace description erroneously specified the airspace distance as 4.2 miles northeast of the VOR/DME. This distance should be a 4.3-mile radius northwest of the VOR/DME.

EFFECTIVE DATE: December 29, 1993.

FOR FURTHER INFORMATION CONTACT: James E. Riley, ANM–537, Federal Aviation Administration, Docket No. 93–ANM–12, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2537.

SUPPLEMENTARY INFORMATION: On September 28, 1993, the Federal Aviation Administration (FAA) published a final rule that amended the Wenatchee, Washington, Class E airspace to provide controlled airspace extending upward from 700 feet above ground level for aircraft executing a revised instrument approach procedure at Pangborn Memorial Airport, Wenatchee, Washington (58 FR 50514). The airspace description erroneously specified the airspace distance at 4.2 miles northeast of the VOR/DME. This distance should be a 4.3-mile radius northwest of the VOR/DME.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the publication on September 28, 1993 (58 FR 50514), and the description in FAA Order 7400.9A, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

On page 50515, in the second column, the description for the Wenatchee, Washington, Class E airspace is corrected by removing "4.2-mile to 13.4 miles northeast" and inserting in its place "4.3-mile radius to 13.4 miles northwest."

Issued in Seattle, Washington, on December 21, 1993.

Temple H. Johnsen, Jr.

Manager, Air Traffic Division.

[FR Doc. 93–31756 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 773, and 785

[Docket No. 931074–3274]

Revisions to the Export Administration Regulations; Clarifications

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration is amending the Export Administration Regulations (EAR), to make certain editorial clarifications and corrections and, in some cases, insert material inadvertently omitted from earlier amendments.

EFFECTIVE DATE: This rule is effective December 29, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, U.S. Department of Commerce, telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION: Specifically, this rule makes the following corrections and clarifications:

(1) For the sake of clarity, this rule provides a definition of "cooperating country" and identifies the countries currently cooperating with the Coordinating Committee for Multilateral Export Controls (COCOM) in § 770.2;

(2) Revises § 773.2(e)(2) to clarify the amendment procedures when adding (additional) Export Control Classification Numbers (ECCNs) under the Project License procedure;

(3) Revises § 773.9(a)(2) to accurately reflect eligible chemical and biological equipment under the Special Chemical License procedure; and

(4) Revises § 785.2 to clarify that Cambodia and Laos are not Coordinating Committee (COCOM) proscribed countries and applications to export or reexport commodities and technical data to these countries do not require review by COCOM.

Rulemaking Requirements

1. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0006, 0694–0007, and 0694–0067.

2. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is issued in final form. However, comments from the public are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Part 773

Exports, Reporting and recordkeeping requirements.

15 CFR Part 785

Communist countries, Exports.

Accordingly, parts 770, 773, and 785 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citations for 15 CFR Part 770 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40) ; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

2. The authority citations for 15 CFR parts 773 and 785 continue to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

PART 770—[AMENDED]

3. Section 770.2 is amended by adding a definition for "Cooperating country" immediately after the definition for "Controlled country", to read as follows:

§ 770.2 Definition of terms.

* * * * *

Controlled country. * * *

Cooperating country. A country that cooperates fully with the COCOM member countries in restricting strategic exports to controlled countries in accordance with COCOM standards. The "Cooperating Countries" are: Austria, Finland, Hong Kong, Ireland, New Zealand, Sweden, and Switzerland.

* * * * *

PART 773—[AMENDED]

4. Section 773.2 is amended, as follows:

(a) By revising paragraph (a)(1),

(b) By redesignating paragraph (e)(2)(v) as paragraph (e)(2)(vi), and adding a new paragraph (e)(2)(v);

(c) By removing paragraph (e)(3); and

(d) By redesignating paragraph (e)(4) as paragraph (e)(3).

The revision and addition read as follows:

§ 773.2 Project license.

* * * * *

(a) * * *

(1) The items to be exported are covered by entries in the Commerce Control List under at least two different categories and licensed by two of the branches (for example, Categories 4 and 6, licensed by the Computer Systems Branch and the Capital Goods Branch);

* * * * *

(e) * * *

(2) * * *

(v) *Adding an ECCN by amendment.* A license holder must submit Form BXA–685P (Request for Amendment Action) to request the addition of an ECCN not covered by the commodity description on the approved application.

* * * * *

5. Section 773.9 is amended by revising paragraph (a)(2) to read as follows:

§ 773.9 Special Chemical License.

* * * * *

(a) * * *

(2) Chemical and biological equipment controlled under ECCNs 1B70E and 1B71E.

* * * * *

PART 785—[AMENDED]

6. Section 785.2 is amended by revising the section heading and paragraph (a)(3) to read as follows:

§ 785.2 Country Groups Q, W, and Y[1]; Geographic area of the former U.S.S.R., Eastern Europe, Mongolian People's Republic, Cambodia, and Laos.

(a) * * *

(3) Applications covering certain commodities and technical data that are controlled by the United States and certain other nations that cooperate in an international export control system and are proposed for export or reexport to Country Groups Q, W, or Y (excluding Cambodia and Laos) may have to be forwarded to the Coordinating Committee (COCOM) of the international export control system for consideration in accordance with established COCOM procedures.

* * * * *

Dated: December 21, 1993.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 93–31672 Filed 12–28–93; 8:45 am]

BILLING CODE 3510–DT–P

[1] See Supplement No. 1 to part 770 of this subchapter for listing of Country Groups.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

RIN 1515–AB29

[T.D. 94–3]

Declarations Required To Be Filed With Certain Imported Works of Art Entered Free of Duty

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Customs Regulations require that works of art entered free of duty under certain provisions of the Harmonized Tariff Schedule of the United States shall have either a declaration filed with the entry by the artist who produced the articles showing whether the articles are originals, replicas, reproductions or copies, or a declaration by the seller or shipper with the same information if the declaration by the artist is not available. This document amends 19 CFR 10.48 to make it easier for importers to satisfy the declaration requirements and to reduce the instances in which a declaration will be required.

EFFECTIVE DATE: January 28, 1994.

FOR FURTHER INFORMATION CONTACT: Norman W. King, Commercial Rulings Division, Office of Regulations and Rulings, (202–482–7020).

SUPPLEMENTARY INFORMATION:

Background

The Harmonized Tariff Schedule of the United States (HTSUS), 19 U.S.C. 1202, provides in subheadings 9701.90.00, 9702.00.00 and 9703.00.00, for the classification of various "works of art" which are entitled to duty-free entry if classified therein. Section 10.48, Customs Regulations (19 CFR 10.48), sets forth procedures to assist Customs

VOL 58 ISS 248 DEC 29 1993 UMI

in making the determination whether merchandise so claimed is actually a "work of art" and thus properly classified in the above cited provisions. Section 10.48 states that Customs field personnel may require that a declaration be filed with an entry by the artist who produced the articles showing whether the articles are originals, replicas, reproductions, or copies; or a declaration by the seller or shipper with the same information if the declaration by the artist is not available. The regulation also states that, whereas the declarations of these parties may be waived upon a showing of impossibility, the declaration of the importer shall be required in all cases.

On October 7, 1992, the Customs Service published a notice in the **Federal Register** (57 FR 46112) proposing to amend § 10.48. The reason for the proposed amendment was to facilitate the movement of merchandise and save importers time and money by making it easier to provide the declaration, when one is deemed necessary by Customs, and by providing Customs with greater flexibility not to require a declaration. Another reason for the proposed amendment was to eliminate inconsistencies that exist between the regulation and the provisions of the HTSUS (and applicable interpretative notes) which the regulation was intended to help implement. The elimination of inconsistencies in this instance would have the effect of further reducing requirements placed on importers by eliminating an entire series of merchandise, i.e., merchandise classified in subheading 9701.90.00, HTSUS, from the merchandise for which Customs may require such declaration.

Analysis of Comments

No comments were received in response to the published notice of proposed rulemaking to amend § 10.48.

Conclusion

After careful review, the Customs Service has concluded that the amendments should be adopted as proposed, with one modification. Customs has eliminated the clause in the declaration in § 10.48(b) referring to mosaics because mosaics are not required to be originals to be classifiable under subheading 9701.90.00, HTSUS.

Explanation of Other Amendments

1. The section heading change is necessary because "drawings" are specifically provided for in subheading 9701.10.00, HTSUS; 19 CFR 10.48 does not apply to subheading 9701.10.00.

2. The change to § 10.48(a) is based on the fact that subheading 9701.90.00, HTSUS, is the provision in which "collages and similar decorative plaques" are classified. There is no requirement that these items be original works of art (see Explanatory Note 97.01 (B)); the declaration in the revised § 10.48(b) will not be required when an item is entered under subheading 9701.90.00.

3. The changes to § 10.48(b) are intended to accomplish two goals. First, the language is changed to make it easier for the parties involved in the importation, i.e., the importer, artist, seller and shipper, to provide a declaration, if required, by providing each of the parties with equal authority to make and provide the declaration. Secondly, the regulation is harmonized with Additional U.S. Note 1 to Chapter 97, HTSUS, and the Explanatory Notes to Chapter 97. Those interpretative notes refer to the first twelve (12) castings, replicas or reproductions as being classifiable in heading 9703 rather than the first ten (10) as presently required in the regulation.

4. Section 10.48(c) is changed to provide Customs personnel with greater flexibility to waive the requirement of a declaration.

5. The removal of paragraph (e) is necessitated by the change (in number 2, above) which removes subheading 9701.90.00 merchandise from the impact of 19 CFR 10.48.

Regulatory Flexibility Act

For the reasons set forth in the preamble and pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is hereby certified that the amendments set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Drafting Information

The principal author of this document was Norman W. King, Commercial Rulings Division, Office of Regulations and Rulings. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Caribbean Basin Initiative, Customs duties and inspections, Exports, Reporting and record keeping requirements.

Amendments to the Regulations

Part 10, Customs Regulations (19 CFR part 10), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

2. Section 10.48 and is revised to read as follows:

§ 10.48 Engravings, sculptures, etc.

(a) Invoices covering works of art claimed to be free of duty under subheadings 9702.00.00 and 9703.00.00, HTSUS, shall show whether they are originals, replicas, reproductions, or copies, and also the name of the artist who produced them, unless upon examination the Customs officer is satisfied that such statement is not necessary to a proper determination of the facts.

(b) The following evidence shall be filed in connection with the entry: A declaration in the following form by the artist who produced the article, or by the seller, shipper or importer, showing whether it is original, or in the case of sculpture, the original work or model, or one of the first twelve castings, replicas, or reproductions made from the original work or model; and in the case of etchings, engravings, woodcuts, lithographs, or prints made by other hand-transfer processes, that they were printed by hand from hand-etched, hand-drawn, or hand-engraved plates, stones, or blocks:

I, _____, do hereby declare that I am the producer, seller, shipper or importer of certain works of art, namely _____ covered by the annexed invoice dated _____; that any sculptures or statuary included in that invoice are the original works or models or one of the first twelve castings, replicas, or reproductions made from the sculptor's original work or model; and that any etchings, engravings, woodcuts, lithographs, or prints made by other hand-transfer processes included in that invoice were printed by hand from hand-etched, hand-drawn, or hand-engraved plates, stones, or blocks.

(c) The district director may waive the declaration requirement set forth in paragraph (b) of this section.

(d) Artists' proof etchings, engravings, woodcuts, lithographs, or prints made by other hand-transfer processes should bear the genuine signature or mark of the artist as evidence of their authenticity. In the absence of such a signature or mark, other evidence shall be required which will establish the authenticity of the work to the satisfaction of the district director.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: December 6, 1993.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 93-31854 Filed 12-28-93; 8:45 am]

BILLING CODE 4820-02-P

19 CFR Part 175

[T.D. 94-5]

Decision Following Petition by Domestic Interested Party—Location of Country of Origin Marking for Frozen Produce Packages

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final interpretive rule.

SUMMARY: This document gives notice that Customs has made a determination pursuant to a petition filed by a domestic interested party that packages of frozen produce subject to the requirements of section 304, Tariff Act of 1930, as amended, shall show the country of origin marking on the front side of the package to be considered as marked in a conspicuous place. Further, this document sets forth specifications for such marking.

EFFECTIVE DATE: The marking requirements set forth in this decision for frozen produce articles shall become effective as to merchandise entered, or withdrawn from warehouse, for consumption, on or after February 11, 1993. However, parties adversely affected by compliance obligations shall have until May 8, 1994, to bring their frozen produce packaging into conformity with these requirements. After that date, all packaged frozen produce articles entered for consumption or withdrawn from warehouse for consumption and not marked to indicate the country of origin in accordance with this decision and other marking requirements of the Tariff Act and Customs Regulations shall be assessed marking duties.

FOR FURTHER INFORMATION CONTACT: Robert Cascardo, Value and Marking Branch, Office of Regulations and Rulings, U.S. Customs Service, (202) 482-7010.

SUPPLEMENTARY INFORMATION:

Background

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Failure to mark an article in accordance with the requirements of 19 U.S.C. 1304 shall result in the levy of a duty of ten percent *ad valorem*.

Part 134, Customs Regulations (19 CFR part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304.

Counsel for the domestic petitioners, packers of produce grown domestically, first raised the question of whether the front or the back side of a frozen produce package was a conspicuous place for country of origin marking by seeking a ruling from Customs in 1988. A ruling was requested to the effect that packaged frozen produce was not marked in a conspicuous place unless the marking appeared on the front side of such packaging in prominent lettering. Customs responded by issuing a determination that the sample packages of imported produce submitted by the domestic packers as insufficiently marked were legally marked by names and words which appeared on the back side of the packaging in close proximity to nutritional and other information. HRL 731830 (November 21, 1988).

The packers appealed this determination to the Court of International Trade. In *Norcal/Crosetti Foods, Inc. et al.* v. *U.S. Customs Service*, 758 F. Supp. 729 (1991)(*Norcal I*), the CIT (Musgrave, J.) ruled that frozen produce is not marked in a conspicuous place unless marked on the front side of the package. At the direction of the CIT, Customs issued T.D. 91-48 (56 FR 24115, May 28, 1991), requiring that packages of frozen produce be so marked.

On appeal by the government, the Court of Appeals for the Federal Circuit ruled on procedural grounds in *Norcal II*, 963 F. 2d 356 (1992), that the packers' claims were not properly before the lower court and ordered the complaint dismissed for lack of jurisdiction. The appellate court indicated that a proper course would have been for the packers to initiate a proceeding before Customs under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), as they now have done.

Because the petition asks Customs to reconsider the position stated in HRL 731830, and to adopt the findings of the Court of International Trade, we summarize at length that court's findings. It is noted that Customs did not contest the court's substantive findings, its appeal having been based only upon various procedural points.

The Court of International Trade found that the only consistency in the country of origin marking practices for imported frozen produce was the inconsistency of where the manufacturer may choose to place the marking. Most often, the marking is lost among the various small typeface information which appears on the back or side panels. The court stated that producers are reluctant to display conspicuously the source of the food. The result of these inconsistencies, it found, was that a customer could not be assured of easily finding the country of origin marking, even if he or she were to casually inspect the package within a reasonable time frame. This is at cross-purposes with Congress' attempt to provide the country of origin to consumers before they decide to purchase.

The court took judicial notice of the common method of displaying the merchandise in shelved freezers or frozen food bins with the front panel in view and the rear panel obscured and found that frozen vegetables are commonly marketed in long, low freezers with open tops, or wall-mounted freezers with glass doors. The court also took judicial notice that access to frozen produce is limited and sometimes awkward, given that the produce must not defrost. It found that the packages are usually displayed so that only the front panel is clearly visible. Customers are unable to scan the labels on frozen produce as easily as they can for those on dry goods or other produce that is not frozen. The court noted, firstly, that the product is actually frozen and cold to the touch and secondly that, at least in upright freezers, the freezer door must be held open. The court found that these factors prevent the consumer from having the opportunity to see the country of origin marking that is secluded among the small print on the back of the package.

The Court of International Trade found the analogy in the ruling to the placement of nutritional information on packages unconvincing, because that information was not required information at all. In contrast, it found a more persuasive analogy in the Food and Drug Administration (FDA) requirement that packages disclose the weight of their contents on the principal display panel. Such quantity of contents disclosure must be a certain size, located on the front, or most prominent

panel, of the package. However, the court cautioned that Customs cannot interpret the marking statute according to requirements set forth in FDA Regulations, and should analogize "hesitantly and perspicaciously" to these Regulations.

The court also observed that certain packages of frozen produce listed the name and U.S. address of the manufacturer, and failed to indicate the country of origin in close proximity as required under the Customs Regulations. Applying 19 CFR 134.46, the court held that if the words "U.S.," or "America," or a United States address appear on those labels, the article would have to be marked to indicate the country of origin in lettering of at least a comparable size.

The court concluded by finding that although Customs has routinely interpreted "conspicuous" through 19 CFR 134.41(b), it failed in its issuance of HRL 731830 to follow the clear meaning of the statute or the regulation. Section 134.41(b) of the Customs Regulations provides, among other things, that a country of origin marking shall be easily found by the ultimate purchaser and read without strain. For imported frozen produce, country of origin marking requirements were not met by the present practice of indicating the country of origin marking on the rear or side panel of frozen produce.

The Petition

The instant petition was initiated by letters dated January 13 and January 29, 1993, and filed with Customs under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) and part 175, Customs Regulations (19 CFR part 175). The petitioners are Norcal Crosetti Foods, Inc. and Patterson Frozen Foods, Inc., California packers of produce grown domestically. The International Brotherhood of Teamsters, on behalf of its Local 912, submitted a letter dated March 1, 1993, supporting the Norcal and Patterson petition. The petitioners contend that imported frozen produce is not marked in accordance with the requirement of 19 U.S.C. 1304 that the country of origin shall appear in a conspicuous place; under a correct application of 19 U.S.C. 1304 the indication of country must appear on front side of a package to be considered as marked in a conspicuous place. These domestic producers argue further that Customs standards for the size and prominence of such markings are not in conformity with 19 U.S.C. 1304.

The petition and other supporting materials include numerous samples of current frozen produce packages which are alleged to be defective for the various reasons stated above, and for others. The presently claimed defects in the permitted marking for these articles closely mirror the findings of the Court of International Trade: Current marking is found "buried in a sea of cooking instructions" on the back panel in a manner that cannot be noticed; as displayed for retail sale, only the front side of the package is visible, and it is not likely or practical for the consumer to turn it over to look for country of origin marking; imported produce is sold in the same type of packaging used previously for domestic products; and various products are marked illegibly, confusingly, or misleadingly.

Customs published a notice in the **Federal Register** on September 9, 1993 (58 FR 47413), advising the public of the petitioners' contentions and providing opportunity for public comments on the issues raised in the petition.

Discussion of Comments and Issuers

Twenty-three comments were submitted. The commenters include a number of trade organizations, companies in the business of manufacturing, processing, and distributing produce; an organization representing a group of domestic farmers; an import/export organization; a sales and marketing company; two members of the U.S. House of Representatives; the Canadian government; a Canadian trade organization; private U.S. citizens; members and officials of the International Brotherhood of Teamsters; the California Department of Justice; District Attorneys in California; and the petitioners.

Approximately half of the public comments expressed support of the Norcal petition to require the country of origin marking of imported frozen produce to appear on the front panel of the packaging.

These commenters presented extensive data and argument concerning the nature of frozen produce and the manner of its storage and presentation for sale, contending mainly that the inherent coldness of frozen produce makes the packaging more cumbersome to handle than other food products. These commenters believe accordingly that the ultimate purchaser is likely to examine the produce in haste, and is not likely to see country of origin marking which appears on the back or side of the packaging.

Some respondents also expressed concern that frozen produce packaging tends to accumulate frost while being stored in refrigerators, such that the country of origin marking often becomes obscured in a way that is unique to frozen produce. In view of these factors, it is argued, country of origin marking which does not appear on the front of these frozen produce packages cannot be considered in a conspicuous place, and cannot meet the standard stated at 19 CFR 134.41(b) that marking must be easily found and read without strain.

Commenters opposed to the petition tend to dismiss these contentions as unfounded. They see no reason to establish a different marking location for frozen produce packages as opposed to other imported articles. They see coldness as no fundamental obstacle to handling a frozen produce package and turning it over to find country of origin marking. They assert that even the information appearing on the front panel probably cannot be read without picking up the package.

Customs believes it is appropriate to consider the nature of an imported article, and in particular, the manner of its presentation to ultimate purchasers in the U.S., in determining the acceptable location for country of origin marking. In this instance the coldness of the article, and its manner of presentation, are factors to be given some weight. The opponents of the petition have not shown any established consumer expectation of marking which appears exclusively or customarily on the back or side panels, and we find credible the petitioners claims of a reduced likelihood that ultimate purchasers will examine the back or side panels of packaged frozen produce to find marking. Moreover, the specific findings of the Court of International Trade on these points will be given appropriate deference by the Customs Service.

The petitioners, as well as several subsequent commenters, submitted for consideration numerous samples of frozen produce packaging as evidence of common marking practices which were said to be short of the statutory standards for permanence, legibility, and conspicuousness. All the markings shown on the sample packages appear on the back panel.

One major category of sample packages consisted of rectangular packages on which all the printed information, except the country of origin marking, is pre-printed. The latter instead is evidently stamped after the package is filled with frozen produce. The quality of this marking tends to be poor, and for the most part does not satisfy existing standards for permanence and legibility. The location is quite inconsistent between various packages in the same batch. Sometimes the lettering is stamped over pre-printed information; sometimes it is sideways or crooked; and sometimes it is smudged. These stamped-on markings are insufficient under all three of the principal criteria of 19 U.S.C. 1304—legibility, permanence, and conspicuous placement.

Commenters opposed to the petition believe that these defects should be remedied by enforcement under the regulations of current standards governing legibility, permanence, and conspicuous placement, and that there is no compelling evidence that the current regulations are inadequate.

While some of the packages with stamped-on markings are in compliance with the requirements of section 304, this seems to have occurred by happenstance and not by consistently following any pattern of marking. Customs believes that the petitioners and other respondents have identified a marking practice for which one obvious remedy is a requirement for a single location for marking these products. A marking which is not consistently placed, on an article which may be bought repeatedly by the same ultimate purchaser, tends to be a marking which is not easily found. This problem is compounded, in the case of frozen produce, by the fact that supplies may change on short notice between domestic and foreign and among foreign sources. The petitioners and other commenters have made a credible showing that present marking practices for these products tend to minimize disclosure of country of origin.

Other sample packages submitted by the petitioners and other commenters, while marked permanently and legibly under current standards (on the back panel), showed geographic markings or names which could create confusion or be misleading as to the country of origin of the frozen produce. Some such names or markings were part of the distributors' trade marks, while others used generic names for vegetable products in potentially confusing ways. The petitioners and other commenters argue that the remedy for these potentially confusing or misleading markings is country of origin marking which appears uniformly on the front panel of the package. They believe the ultimate purchaser is less likely to inspect frozen produce on its back panel to ascertain its country of origin when the front panel of the packaging indicates in print a reference to a locale in a country other than the country of origin.

Commenters opposed to the petition do not believe that ultimate purchasers are deceived by such references. One opponent indicated that while in some cases marking on the front panel of the package may be needed, it is not generally necessary if the current regulations were enforced in all cases.

One of the sample packages already has been the subject of corrective action and a ruling by Customs. See HQ 735085 (June 4, 1993) (Mixed frozen vegetables sold as "American Mixtures" required to have country of origin marking on front of package to be considered conspicuously marked; Customs indicated at that time, however, that marking on the back could be permissible in the absence of potentially confusing words or marks).

Customs is of the view that while it could continue, on a case-by-case basis, to correct the types of marking problems identified by the petitioners, and will do so as necessary, a more comprehensive solution is needed to assure proper marking of frozen produce articles. More restricted remedies might include specifying, in rulings and other decisions, all the circumstances in which the requirements of 19 CFR 134.46 are to apply. That provision of the Customs Regulations requires the name of an article's country of origin to appear "in close proximity" and in lettering of comparable size to any reference to a place other than the country of origin which appears on an imported article. Customs is electing, however, to adopt instead a blanket requirement that marking appear on the front of the frozen produce package in the lettering and placement specified below. This will afford a definitive solution to a problem which the petitioners have shown to be extensive.

Much of the imported frozen produce sold in the U.S. is packaged after importation. As such, the marking of the packages is not subject to physical supervision by Customs, but is performed under importers' certifications for the marking of repacked articles tendered in accordance with 19 CFR 134.25. The administrative burden of enforcing the marking of such repacked articles case by case is an additional reason for setting out instead uniform specifications for the marking of frozen produce. Such specifications will reduce ambiguity and interpretive questions, thus facilitating broad-based compliance by importers, packagers and distributors.

Finally, the petitioners and other commenters claim that country of origin markings which appear on the back sides of packages are obscured, or as they put it, "buried", by their placement among numerous items of printed information. Some of this information is nutritional statements, some is recipe material, and some is general distribution information.

The commenters in favor of retaining Customs' current standards of conspicuousness, i.e., that the back or side panels of frozen produce packages are conspicuous places for marking, do not believe that frozen produce presents any unique circumstances which would necessitate implementing a separate standard of marking. In support of their position against changing the current standard, they point out that the back panel of a produce package is considered conspicuous for listing nutritional information under food labeling regulations administered by the Food and Drug Administration. They maintain that the ultimate purchaser interested in knowing the country of origin will look at the back panel for the country of origin marking as well. To date, this also has been the basis for the Customs position that marking the country of origin on the back of the package is acceptable. See HRL 731830 (November 21, 1988).

The petitioners and their supporters point to the same lack of consistency in the placement of marking noted by the CIT. They argue that Customs was mistaken in supposing that because FDA regulations for nutritional information allowed it to be placed on the back panel, country of origin marking on the back panel was also conspicuous; nutritional information was not required food labeling information at the time of the Customs ruling in 1988. A number of commenters endorse the court's finding that if the food labeling requirements of the Food and Drug Administration are to serve as guidance, the requirements to be consulted are those for the declaration of a food article's net quantity of contents. For this information, bold lettering in specified type sizes, appearing on the front panel, is the standard. The adoption of this FDA standard for country of origin marking would be facilitated by the familiarity of packaging designers with FDA printing requirements.

One commenter states that in recent years there has been a proliferation of statements appearing on the back panels of frozen produce, such that back panels no longer are conspicuous places for the location of country of origin marking. One commenter submitted a survey of California consumers in which 60 percent of those asked could not find the country of origin marking on the "American Mixtures" packaging within two minutes. Another commenter argued that permitting country of origin marking to appear near nutritional information on the back side of the

VOL 58 ISS 248 DE 29 1993 UMI

VOL 58 ISS 248 DEC 29 1993 UMI

package allows it to appear in one of the least conspicuous places on the package.

Customs agrees with the petitioners and with the court that marking of frozen produce on the front panel is needed to place the marking in the conspicuous place required under 19 U.S.C. 1304. While marking on the front side is obviously conspicuous, the nature of the back panels of these packages is such that country of origin marking appearing there cannot be reliably found easily and read without strain by the ultimate purchaser. 19 CFR 134.41(b). The likelihood that the marking will be "buried" has been suffiently demonstrated by the petitioners and other commenters to make this requirement necessary to give effect to the intent of the drafters of 19 U.S.C. 1304.

Further, taking account of the the court's admonition against analogizing without due care to regulations of another agency, Customs agrees with the petitioners and others that standards and specifications based upon the Food Labeling Regulations of the Food and Drug Administration are useful models. Here, the statutory standard of prominence and conspicuousness for food labeling, embodied in 21 U.S.C. 343(f), is sufficiently similar to the Tariff Act requirement of conspicuousness as to make these specifications serviceable for Tariff Act purposes. We are adopting specifications for the marking of frozen produce articles, as set forth below, closely modeled upon the Food Labeling requirements for the declaration of net quantity of contents.

Customs Decision on the Petition

Customs has determined, after review of all the comments and upon consideration of the legal and policy factors, that the arguments presented in the petition have merit. The correct administration of the country of origin marking statute and regulations with respect to frozen produce requires a reversal of the previous Customs position. Customs has given full weight and consideration to the views and findings of the Court of International Trade in *Norcal I*. We find that the nature of frozen produce and its typical retail presentation makes marking on the back panel insufficient; that there are numerous examples of insufficient and potentially misleading marking practices based on marking the back side; that marking appearing on the back panels of frozen produce packages is not easily found and read without strain; and that consequently, a uniform standard of conspicuousness is needed for these products to assure proper marking under 19 U.S.C. 1304. The standards for the declaration of net quantity of contents under the Food Labeling regulations are, again, useful models for marking which is conspicuous. standards for country of origin marking on packaged frozen produce.

Customs is for these reasons exercising its authority under 19 U.S.C. 1304(a)(1) to prescribe "* * * any reasonable method of marking * * * and a conspicuous place on the article (or container) where the marking shall appear." The effect of such a determination, as effected under § 134.42, Customs Regulations (19 CFR 134.42), is to remove any option on the part of an importer or other person to select from marking locations and methods which satisfy the general criteria of section 304 of the Tariff Act; a limited number of locations or methods will be acceptable for the marking of frozen produce.

Implementation of Front Panel Marking

Customs recognizes that manufacturers, distributors, and packers of imported frozen produce will need to consider revisions in their current packaging which may be needed to comply with this decision. Recognizing the potential burdens, Customs has determined that the usual 30-day period for implementing a correction in valuation, classification, or rate of duty set forth at 19 CFR 175.22(a) is not sufficient. The legally effective date of this change in practice or position is on or after the 30th day after the date of this decision. However, to minimize the burden of this new requirement upon affected persons, the date for compliance with this decision will be May 8, 1994. This date coincides with the date established by the U.S. Food and Drug Administration for compliance with its new labeling requirements under the Nutrition Labeling and Education Act of 1990, Public Law 101–535. See 58 FR 2065 *et seq.* (January 6, 1993) for the regulatory requirements for food labeling which will take effect on that date.

Inasmuch as companies already are engaged in extensive revisions of labeling on food packaging, any burdens caused by this decision should be incremental. Food manufacturers and packagers, including foreign concerns already importing into the U.S., are intimately familiar with the Food Labeling Regulations administered by the Food and Drug Administration. It will be less burdensome for them to comply with requirements modeled after existing standards affecting the frozen produce industry than to meet separate, uncoordinated standards for country of origin marking.

In general, and for all practical purposes, the front side of frozen produce packaging corresponds with the area of a package designated as the "principal display panel" under § 101.1 of the Federal Food Labeling Regulations (21 CFR 101.1). The principal display panel is defined as the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale. *id.* For purposes of country of origin marking under 19 U.S.C. 1304 and part 134, Customs Regulations, the front side of a frozen produce package shall be the principal display panel as defined above.

The Food Labeling Regulations provide further that all information appearing on the principal display panel shall appear prominently and conspicuously, and in no case may the letters or numbers be less than one-sixteenth inch in height. See 21 CFR 101.2(c). Under the Food, Drug, and Cosmetic Act, information that is required to appear on the food label must appear with adequate prominence and conspicuousness to assure that it will be read and understood by consumers. 21 U.S.C. 343(f). The presentation of the required information may lack the requisite conspicuousness and prominence if the label fails to provide sufficient label space; there is interference from non-required words, statements, designs or devices; or if the information is rendered in small or illegible type, with insufficient background contrast, or with crowding. These considerations, enumerated at 21 CFR 101.15, closely parallel the factors usually considered by Customs in defining conspicuousness and legibility for purposes of 19 U.S.C. 1304.

To further insure the conspicuousness and legibility of the indication of country of origin, and in recognition of the expertise of the Food and Drug Administration with respect to food labeling, we are modeling Customs requirements on certain of the specifications set forth under § 101.105 of the Food Labeling Regulations which apply to the required declaration of net quantity of contents as the specification for the indication of origin. Like our new requirement for marking on the front of the package, the declaration of net quantity of contents is required to appear on the principal display panel In its new labeling regulations the Food and Drug Administration itself relied upon the net quantity of content

provisions in setting new type size requirements.

Particular Specifications

The following specifications, modeled after 21 CFR 101.105, are needed for the enforcement of uniform standards of conspicuousness and legibility, and are to be followed in marking packages of frozen produce under 19 U.S.C. 1304.

1. The indication of origin shall appear as a distinct item on the principal display panel, separated by a space at least equal to the height of the lettering used in the indication. It is not required that the indication of origin appear within the bottom 30 percent of the area of the panel, but the lettering must be in lines generally parallel to the base on which the package rests as it is designed to be displayed. (Reference: 21 CFR 101.105(f)).

2. The indication shall appear in conspicuous and easily legible boldface upper case Roman or san serif print or type which shall be in distinct contrast (by typography, layout, or color) to its background. Condensed or compressed typefaces or arrangements shall not be used. (Reference: 21 CFR 101.105(h)).

3. The ratio of height to width of a letter shall not exceed a differential of 3 units to 1 unit (no more than three times as high as it is wide). (Reference: 21 CFR 101.105(h)(1)).

4. The indication shall be in letters and numerals in a type size established in relationship to the area of the principal display panel of the package and shall be uniform for all packages of substantially the same size by complying with the following type specifications:

(a) Not less than one-sixteenth inch in height on packages the principal display panel of which has an area of 5 square inches or less.

(b) Not less than one-eighth inch in height on packages the principal display panel of which has an area of more than 5 but not more than 25 square inches.

(c) Not less than three-sixteenths inch in height on packages the principal display panel of which has an area of more than 25 but not more than 100 square inches.

(d) Not less than one-fourth inch in height on packages the principal display panel of which has an area of more than 100 square inches, except not less than 1/2 inch in height if the area is more than 400 square inches. (Reference: 21 CFR 101.105(i)).

Country of origin marking meeting the foregoing minimum specifications will be required to appear beginning on May 8, 1994, on all packages of frozen produce which are subject to the requirements of 19 U.S.C. 1304 and Part 134, Customs Regulations. Equally, this marking will be required for all such articles imported into the U.S. which are subject to the certification and post-importation packaging and marking requirements of 19 CFR 134.25 and 19 CFR 134.26.

Compliance Advisory

Affected persons are reminded of Customs position that the mere combining or mixing of frozen produce prior to retail packaging does not relieve any person of the obligation to mark the packaged article in accordance with Customs requirements. Thus, if foreign origin produce is mixed with domestic produce, the package is subject to marking in accordance with this decision. Packages containing produce from a variety of sources are required to be marked to indicate all the foreign countries of origin of the produce they contain. See HQ 735085 (June 4, 1993)(Green Giant "American Mixtures" decision). Any interested person who believes that a particular form of processing excepts an article from marking may seek confirmation from Customs by applying for a ruling in accordance with 19 CFR part 177.

Previous Decisions Affected

HRL 731830 (November 21, 1988), is revoked. T.D. 91–48 (May 28, 1991), is modified. Conspicuous marking within the meaning of T.D. 91–48 shall be limited to marking which complies with the specifications set forth in this decision.

Authority

This notice is published in accordance with section 175.22(a), Customs Regulations (19 CFR 175.22(a)).

Drafting Information

The principal drafter of this document was Robert Cascardo, Value and Marking Branch, U.S. Customs Service. Personnel from other Customs offices participated in its development.

Approved: December 17, 1993.

George J. Weise,

Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 93–31855 Filed 12–28–93; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8505]

RIN 1545–AS31

Mark to Market for Dealers in Securities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations providing guidance to enable taxpayers to comply with the mark-to-market requirements of section 475. The temporary regulations provide guidance concerning the meaning of the statutory terms "dealer in securities," "held for investment," and "security." The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

DATES: These temporary regulations are effective December 29, 1993.

For dates of applicability, see § 1.475(e)–1T.

FOR FURTHER INFORMATION CONTACT: Robert B. Williams at (202) 622–3960 or Jo Lynn Ricks at (202) 622–3920 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1422. The estimated annual burden per recordkeeper varies from .25 to 3 hours, depending on individual circumstances, with an estimated average of 1 hour.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the IRS. Individual recordkeepers may require greater or less time, depending on their particular circumstances.

For further information concerning this collection of information and where to submit comments on this collection of information, the accuracy of the estimated burden, and suggestions for reducing this burden. please refer to the

preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the Federal Register.

Background

This document contains temporary regulations under section 475 (relating to mark-to-market accounting for dealers in securities). Section 475 was added by section 13223 of the Revenue Reconciliation Act of 1993, Pub. L. 103–66, 107 Stat. 481, and is effective for all taxable years ending on or after December 31, 1993.

On October 25, 1993, the IRS issued a revenue ruling that began the process of providing substantive guidance under the mark-to-market rules. The ruling was published as Rev. Rul. 93–76, 1993–35 I.R.B. 11 (November 8, 1993). These temporary regulations clarify several issues that were addressed in that ruling, including the meaning of the statutory terms "dealer in securities" and "held for investment."

Explanation of Provisions

Section 475(b) exempts certain securities from mark-to-market accounting under section 475(a). Among the exempted securities are those held for investment and debt securities not held for sale. The regulations clarify that held for investment, within the meaning of section 475(b)(1)(A), and not held for sale, within the meaning of section 475(b)(1)(B), have the same meaning. The regulations provide that both terms refer to a security that is not held by a taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business.

By providing that a security is held for investment if it is not held primarily for sale to customers in the ordinary course of a trade or business, the regulations adopt the concept of held for investment in section 1236(a). Thus, under these regulations, a dealer in securities may identify as held for investment a security that it holds primarily for sale to non-customers (e.g., a trading security). The IRS believes that providing a single standard for purposes of sections 475 and 1236 is consistent with the purpose of section 475. Comments are requested regarding other ways to simplify the task of identification.

Holding 5 of Rev. Rul. 93–76 suggested that some securities properly identified as held for investment under section 1236(a) may not be identified as held for investment under section 475(b). Accordingly, Holding 5 of Rev. Rul. 93–76 is modified.

The regulations identify certain assets that are inherently investments and, thus, may not be marked to market under section 475. Under the regulations, the following assets held by a dealer in securities are deemed to be properly identified as held for investment: (1) Stock in a corporation that the taxpayer controls; (2) a partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust that the taxpayer controls; and (3) an annuity, endowment, or life insurance contract. The regulations define control for these purposes. Comments are requested as to other *per se* investments that should be deemed identified as held for investment.

Under the authority of section 475(b)(4), the regulations provide that certain notional principal contracts and derivative securities (described in section 475(c)(2)(D) or (E)) that are held by a dealer in those securities are generally not eligible to be exempted from mark-to-market treatment as held for investment. This rule does not apply, however, if the taxpayer establishes unambiguously that the security was acquired other than in the taxpayer's capacity as a dealer in such securities. It is anticipated that this exception will apply only in rare instances.

The regulations provide rules regarding a security held by a taxpayer as of the close of the last taxable year ending before December 31, 1993. If the security was identified under section 1236 as a security held for investment, the security is treated as being identified as held for investment for purposes of section 475(b). If the security was not identified under section 1236, the regulations provide that the security is treated as having been properly identified under section 475(b)(2) if the information in the dealer's records as of the close of that year supports the identification. If there is any ambiguity in those records, the taxpayer must, no later than January 31, 1994, place in its records a statement unambiguously indicating which securities are to be treated as properly identified. Any information that supports treating a security as having been properly identified under section 475(b)(2) must be applied consistently from one security to another. For purposes of identifying the position under section 475(c)(2)(F)(iii), these rules also apply to a position that is a security by virtue of section 475(c)(2)(F).

Holding 9 of Rev. Rul. 93–76 established certain standards that a dealer in securities must apply in determining which of its securities must be marked to market at the beginning of its first taxable year that ends on or after December 31, 1993. This determination also controls the amount of the taxpayer's net section 481(a) adjustment. The regulations provide rules that are slightly different from the standards set forth in Holding 9. Consistent with the regulatory interpretation of "held for investment" (discussed above), the regulations clarify whether certain securities are treated as having been properly identified for purposes of being exempted from mark to market. Accordingly, Holding 9 of Rev. Rul. 93–76 is modified.

Because the regulations provide new rules concerning the permissibility of certain identifications, a taxpayer has until January 31, 1994, to add or remove these identifications. For example, the regulations provide rules for adding identifications so that securities that were held for sale but were not held for sale to customers may be identified as being described in section 475(b)(1)(A) or (B). This identification may be added only if, prior to December 28, 1993, the taxpayer identified none of these securities as being described in section 475(b)(1)(A) or (B) and only if the retroactive identification is added for all of these securities. A security is not subject to the consistency provision in the preceding sentence if it may be timely identified after the date on which the retroactive identification is added. Thus, a taxpayer gains additional flexibility by making the retroactive identification early. In addition, any taxpayer that is a dealer in notional principal contracts or derivatives described in section 475(c)(2)(D) or (E) that had identified any such securities as held for investment may remove the identification.

If a taxpayer adds or removes an identification discussed above, the regulations provide that the addition is timely for purposes of section 475(b)(2) and that the removal does not subject the taxpayer to the provisions of section 475(d)(2), regarding improper identifications. Similar relief is provided to a taxpayer that corrects identifications of securities held as of the close of the taxpayer's last taxable year ending before December 31, 1993.

In general, the regulations provide that a taxpayer that sells nonfinancial goods or provides nonfinancial services (e.g., a consumer products retailer or an accountant) does not become a dealer in securities within the meaning of section 475(c)(1) by virtue of extending credit for the purchase of its goods or services, even if the taxpayer subsequently sells the evidences of indebtedness so acquired.

The regulations provide that a taxpayer that regularly purchases securities from customers in the ordinary course of a trade or business (including regularly making loans to customers in the ordinary course of a trade or business of making loans) is not thereby a dealer in securities provided that the taxpayer does not sell more than a negligible portion of the securities so acquired. Whether the portion sold is negligible is generally determined without regard to certain extraordinary sales and certain sales of loans that declined in quality after the taxpayer acquired them. The regulations provide examples to illustrate the meaning of the term "negligible portion."

Under the regulations, certain items are not securities within the meaning of section 475(c)(2). These items include: stock of the taxpayer or options to buy or sell the taxpayer's stock; liabilities of the taxpayer; REMIC residual interests that economically represent a liability at the time their basis is determined; and other REMIC residual interests or arrangements that the Commissioner determines have substantially the same economic effect (e.g., a widely held partnership that holds noneconomic REMIC residual interests). Marking these items to market would not carry out the purposes of section 475 and certain other Code sections (e.g., sections 1032 and 860E). Comments are requested as to other items that should similarly be excluded from the definition of a security.

Comments are requested regarding whether additional rules are needed to carry out the purposes of section 475 for taxpayers that hold economic REMIC residual interests or interests in other passthrough entities (including subchapter S corporations or widely held partnerships).

The regulations clarify that marking to market a security that is not held in connection with a taxpayer's activities as a dealer in securities does not affect the character of gain or loss from that security.

These temporary regulations generally apply to taxable years ending on or after December 31, 1993.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Robert B. Williams and Jo Lynn Ricks, Office of Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.475(b)–1T also issued under 26 U.S.C. 475(b)(4) and 26 U.S.C. 475(e).

Section 1.475(b)–2T also issued under 26 U.S.C. 475(b)(2), 26 U.S.C. 475(e), and 26 U.S.C. 6001.

Section 1.475(c)–1T also issued under 26 U.S.C. 475(e).

Section 1.475(c)–2T also issued under 26 U.S.C. 475(e) and 26 U.S.C. 860G(e).

Section 1.475(d)–1T also issued under 26 U.S.C. 475(e).

Section 1.475(e)–1T also issued under 26 U.S.C. 475(e). * * *

Par. 2. Sections 1.475(b)–1T, 1.475(b)–2T, 1.475(c)–1T, 1.475(c)–2T, 1.475(d)–1T, and 1.475(e)–1T are added under the heading "Inventories" to read as follows:

§ 1.475(b)–1T Scope of exemptions from mark-to-market requirement (temporary).

(a) Securities held for investment or not held for sale. Except as provided by paragraph (c) of this section, a security is held for investment (within the meaning of section 475(b)(1)(A)) or not held for sale (within the meaning of section 475(b)(1)(B)) if it is not held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business.

(b) *Securities deemed identified as held for investment*—(1) *In general.* The following items held by a dealer in securities are *per se* held for investment within the meaning of section 475(b)(1)(A) and are deemed to be properly identified as such for purposes of section 475(b)(2)—

(i) Stock in a corporation that the taxpayer controls (within the meaning of paragraph (b)(2)(i) of this section);

(ii) A partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust that the taxpayer controls (within the meaning of paragraph (b)(2)(ii) of this section); or

(iii) A contract that is treated for Federal income tax purposes as an annuity, endowment, or life insurance contract (see sections 817 and 7702).

(2) *Control defined.* Control means the ownership, directly or indirectly through persons described in section 267(b) (taking into account section 267(c)), of—

(i) 50 percent or more of the total combined voting power of all classes of stock entitled to vote; or

(ii) 50 percent or more of the capital interest, the profits interest, or the beneficial ownership interest in the widely held or publicly traded partnership or trust.

(c) *Securities deemed not held for investment—(1) General rule for dealers in notional principal contracts and derivatives.* Section 475(b)(1)(A) (exempting certain securities from mark-to-market accounting) does not apply to a security if—

(i) The security is described in subparagraph (D) or (E) of section 475(c)(2) (describing certain notional principal contracts and derivative securities); and

(ii) The taxpayer is a dealer in such securities.

(2) *Exception for securities not acquired in dealer capacity.* Paragraph (c)(1) of this section does not apply if the taxpayer establishes unambiguously that the security was not acquired in the taxpayer's capacity as a dealer in such securities.

§ 1.475(b)–2T Exemptions—Transitional issues (temporary).

(a) *Transitional identification*—(1) *Certain securities previously identified under section 1236.* If, as of the close of the last taxable year ending before December 31, 1993, a security was identified under section 1236 as a security held for investment, the security is treated as being identified as held for investment for purposes of section 475(b).

(2) *Consistency requirement for other securities.* In the case of a security (including a security described in

VOL 58 ISS 248 DE 29 1993 UMI

section 475(c)(2)(F)) that is not described in paragraph (a)(1) of this section and that was held by the taxpayer as of the close of the last taxable year ending before December 31, 1993, the security is treated as having been properly identified under section 475(b)(2) or section 475(c)(2)(F)(iii) if the information contained in the dealer's books and records as of the close of that year supports the identification. If there is any ambiguity in those records, the taxpayer must, no later than January 31, 1994, place in its records a statement resolving this ambiguity and indicating unambiguously which securities are to be treated as properly identified. Any information that supports treating a security as having been properly identified under section 475(b)(2) or section 475(c)(2)(F)(iii) must be applied consistently from one security to another.

(b) *Corrections on or before January 31, 1994*—(1) *Purpose.* This paragraph (b) allows a taxpayer to add or remove certain identifications covered by § 1.475(b)–1T.

(2) *To conform to § 1.475(b)–1T(a)*—(i) *Added identifications.* To the extent permitted by paragraph (b)(2)(ii) of this section, a taxpayer may identify as being described in section 475(b)(1) (A) or (B)—

(A) A security that was held for immediate sale but was not held primarily for sale to customers in the ordinary course of the taxpayer's trade or business (e.g., a trading security); or

(B) An evidence of indebtedness that was not held for sale to customers in the ordinary course of the taxpayer's trade or business and that the taxpayer intended to hold for less than one year.

(ii) *Limitations.* An identification described in paragraph (b)(2)(i) of this section is permitted only if—

(A) Prior to December 28, 1993, the taxpayer did not identify as being described in section 475(b)(1) (A) or (B) any of the securities described in paragraph (b)(2)(i) of this section;

(B) The taxpayer identifies every security described in paragraph (b)(2)(i) for which a timely identification of the security under section 475(b)(2) cannot be made after the date on which the taxpayer makes these added identifications; and

(C) The identification is made on or before January 31, 1994.

(3) *To conform to § 1.475(b)–1T(c).* On or before January 31, 1994, a taxpayer described in § 1.475(b)–1T(c)(1)(ii) may remove an identification under section 475(b)(1)(A) of a security described in § 1.475(b)–1T(c)(1)(i).

(c) *Effect of corrections.* An identification added under paragraph (a)(2) or (b)(2) of this section is timely for purposes of section 475(b)(2) or section 475(c)(2)(F)(iii). An identification removed under paragraph (a)(2) or (b)(3) of this section does not subject the taxpayer to the provisions of section 475(d)(2).

§ 1.475(c)–1T Definitions—Dealers in securities (temporary).

(a) *Sellers of nonfinancial goods and services.* If the principal activity of a taxpayer is selling nonfinancial goods or providing nonfinancial services, the fact that the taxpayer extends credit to the purchasers of its nonfinancial goods or services does not make the taxpayer a dealer in securities within the meaning of section 475(c)(1), even if the taxpayer sells the evidences of indebtedness so acquired. The preceding sentence does not apply if, for purposes of section 471, the taxpayer claims to be a dealer in those evidences of indebtedness.

(b) *Taxpayers that purchase securities but do not sell more than a negligible portion of the securities*—(1) *Exemption from dealer status.* A taxpayer that regularly purchases securities from customers in the ordinary course of a trade or business (including regularly making loans to customers in the ordinary course of a trade or business of making loans) is not thereby a dealer in securities for purposes of section 475(c)(1) if the taxpayer does not sell more than a negligible portion of the securities so acquired. The preceding sentence does not apply if, for purposes of section 471, the taxpayer claims to be a dealer in those securities.

(2) *Negligible portion.* The meaning of negligible portion is illustrated by the following examples:

(i) *Example 1. A* regularly acquires loans (both by making loans to customers and by otherwise purchasing loans) in the ordinary course of its business. *A* retains almost all of the loans that it acquires. In 1993, *A* sells fewer than 60 loans. Accordingly, in 1993 *A* does not sell more than a negligible portion of the securities it acquired.

(ii) *Example 2. B* regularly acquires loans (both by making loans to customers and by otherwise purchasing loans) in the ordinary course of its business. In 1993, *B* sells more than 60 loans, but the total adjusted basis of the loans that *B* sells in 1993 is less than 5% of the total basis, immediately after acquisition, of the loans that it acquires in that year. Accordingly, in 1993 *B* does not sell more than a negligible portion of the securities it acquired.

(3) *Special rules.* Whether the portion of securities sold is negligible is determined without regard to—

(i) Sales of evidences of indebtedness that decline in quality while in the taxpayer's hands and that are sold pursuant to an established policy of the taxpayer to dispose of evidences of indebtedness below a certain quality; or

(ii) Sales that are necessitated by exceptional circumstances and that are not undertaken as recurring business activities.

§ 1.475(c)–2T Definitions—Items that are not securities (temporary).

(a) *In general.* The following items held by a dealer in securities are not securities within the meaning of section 475(c)(2) and, therefore, are not subject to section 475—

(1) Stock (including treasury stock) of the taxpayer and any option to buy or sell its stock (including treasury stock);

(2) A liability of the taxpayer; or

(3) A REMIC residual interest that is described in paragraph (b) of this section or an interest or arrangement that is determined by the Commissioner to have substantially the same economic effect.

(b) *Negative value REMIC residuals.* A residual interest in a REMIC is described in this paragraph (b) if, on the date the taxpayer acquires the residual interest, the present value of the anticipated tax liabilities associated with holding the interest exceeds the sum of—

(1) The present value of the expected future distributions on the interest; and

(2) The present value of the anticipated tax savings associated with holding the interest as the REMIC generates losses.

(c) *Special rules.* Solely for purposes of paragraphs (a)(3) and (b) of this section—

(1) If a transferee taxpayer acquires a residual interest with a basis determined by reference to the transferor's basis, then the transferee is deemed to acquire the interest on the date the transferor acquired it (or is deemed to acquire it under this paragraph (c)(1)).

(2) Anticipated tax liabilities, expected future distributions, and anticipated tax savings are determined under the rules in § 1.860E–2(a)(3) and without regard to the operation of section 475.

(3) Present values are determined under the rules in § 1.860E–2(a)(4).

§ 1.475(d)–1T Character of gain or loss (temporary).

If a security is never held in connection with the taxpayer's activities as a dealer in securities, section 475(d)(3)(A) does not affect the character of gain or loss from the security, even if the taxpayer fails to identify the security under section 475(b)(2).

§ 1.475(e)–1T Effective dates (temporary).

Sections 1.475(b)–1T, 1.475(b)–2T, 1.475(c)–1T, 1.475(c)–2T, and 1.475(d)–1T generally apply to taxable years ending on or after December 31, 1993.

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. Section 602.101(c) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control number
* * *	* * *
1.475(b)–2T	1545–1422
* * *	* * *

Margaret Milner Richardson,
Commissioner of Internal Revenue.
Approved: December 15, 1993.
Leslie Samuels,
Assistant Secretary of the Treasury.
[FR Doc. 93–31310 Filed 12–28–93; 8:45 am]
BILLING CODE 4830–01–U

26 CFR Parts 1 and 602

[TD 8507]

RIN 1545–AQ78

Information Reporting for Reimbursements of Interest on Qualified Mortgages

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 6050H of the Internal Revenue Code relating to the information reporting requirements for reimbursements of interest paid in connection with a qualified mortgage. This information is required by the Internal Revenue Service to encourage compliance with the tax laws relating to the deductibility of payments of mortgage interest. The information will be used to determine whether mortgage interest reimbursements have been correctly reported on the return of the taxpayer who receives the reimbursement.

EFFECTIVE DATE: These regulations are effective December 29, 1993.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1339. The collection of information requirement in these regulations is satisfied by including the additional information on a Form 1098 filed with the Service and on a statement furnished to the payor of record (a substitute Form 1098). The estimated burden for filing Form 1098 and the statement to the payor of record (substitute Form 1098) is reflected in the burden estimates for Form 1098.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

This document provides final regulations amending the Income Tax Regulations (26 CFR part 1) under section 6050H of the Internal Revenue Code of 1986 (Code). On October 16, 1992, the IRS published in the **Federal Register** a Notice of Proposed Rulemaking (57 FR 47428) relating to the information reporting requirements for reimbursements of interest paid on qualified mortgages. Before adopting the final regulations, the IRS solicited comments and held a public hearing on the proposed regulations. The IRS received eighteen written comments. In addition, three persons provided oral comments at the public hearing held on November 30, 1992. The amendments to the regulations contained in this document are adopted after consideration of the written comments and the testimony at the public hearing.

Comments on Proposed Regulations

A. Effective Date

Under section 6050H, interest recipients must (1) file an information return (Form 1098) with the IRS, and (2) furnish a statement to the payor of record on the mortgage. Under the proposed regulations, Forms 1098 filed with the IRS after December 31, 1993, were required to include the information relating to the reimbursement of mortgage interest. However, mortgage interest reimbursements were to be reported on statements required to be furnished to payors of record after December 31, 1992 (i.e., for statements relating to 1992 reimbursements).

Commentators argued that compliance with this effective date would be unduly burdensome and, in some cases, impossible. The commentators noted that the data processing systems of the interest recipients had not been programmed to identify reimbursements of interest made in 1992 and, thus, compliance with the regulations would require a very costly manual search of records and preparation of statements. Commentators requested that the effective date for statements furnished to payors of record be after December 31, 1993, consistent with the effective date for Forms 1098 filed with the IRS.

The final regulations, therefore, provide that reimbursements of interest on a qualified mortgage made in 1993 and subsequent calendar years must be reported on both Forms 1098 filed with the IRS and statements furnished to payors of record. This change was first announced in Notice 92–60, 1992–2 C.B. 387. In addition, for reimbursements made in 1993, no penalties will be imposed under sections 6721 through 6724 for failure to comply with the reporting requirements of these regulations. Reimbursements made prior to 1993 are not required to be reported.

B. Information Reported to Payors of Record

The proposed regulations provided that, on the statement furnished to payors of record under § 1.6050H–2(b), the year or years in which the interest overpayments were made and the portion of the reimbursement attributable to each year must be reported. Commentators recommended that this requirement not be included in the final regulations. The commentators argued that compliance would impose data processing difficulties. Further, the commentators noted that reporting the year or years of overpayment is important to only a small minority of payors of record—those that deducted all of their mortgage interest in some years but not in other years. Because the information is relevant to only a small number of payors of record, the commentators argued that it should not be required to be reported. Rather, if a payor of record needs to know the year(s) of overpayment, the payor of

record can contact the interest recipient directly to obtain the information.

Therefore, the requirement in the proposed regulations that interest recipients report to the payor of record the year or years in which the interest overpayments were made and the portion of the reimbursement attributable to each year has been excluded from the final regulations. Under the final regulations, with respect to mortgage interest reimbursements, the reimbursement amount reported on Form 1098 to the Internal Revenue is the only amount required to be reported on statements furnished to payors of record. This change was first announced in Notice 92–60.

C. Information Reporting Threshold

The proposed regulations required any reimbursement of prior year overpayments of interest to be reported if the reimbursement relates to an amount of interest required to be reported on a Form 1098 in such prior year. Commentators stated that the regulations should provide a de minimis rule relating to the amount of reimbursement that must be reported. Some commentators recommended a $600 threshold for the reporting of reimbursements, consistent with the threshold for reporting mortgage interest received.

In response to those comments, the final regulations provide that, with respect to reimbursements of interest on a qualified mortgage in a calendar year, (a) reimbursements aggregating $600 or more must be reported, and (b) reimbursements aggregating less than $600 must be reported only in instances where $600 or more of interest on the qualified mortgage is received in the calendar year of the reimbursement from the payor of record. Thus, under the regulations, reimbursements aggregating $600 or more in a calendar year must be reported. However, reimbursements aggregating less than $600 must be reported only if a Form 1098 is otherwise required to be filed for the payor of record that received the reimbursement because at least $600 of mortgage interest is received in the calendar year from the payor of record.

D. Reporting Reimbursements on Form 1098

Some commentators contended that reimbursements of interest on a qualified mortgage are reportable under section 6041 of the Code and thus should be reported on Form 1099–MISC. The proposed regulations make clear that the reimbursements are reportable under section 6050H on Form 1098.

The final regulations maintain the position prescribed in the proposed regulations that reimbursements of interest on a qualified mortgage must be reported on Form 1098. The Internal Revenue explored the possibility of requiring the reporting of mortgage interest reimbursements on Form 1099–MISC under section 6041. It was decided, however, that section 6050H was the more appropriate reporting section because the reporting of reimbursements of mortgage interest clearly comes within section 6050H(b)(2)(D), which allows the Secretary to require other information to be reported under section 6050H in addition to the name and address of the taxpayer and the amount of mortgage interest received during the calendar year. A reimbursement of mortgage interest relates to an amount that in all likelihood was previously deducted by the borrower. The inclusion of the reimbursed amount in gross income effectively reverses part of the mortgage interest previously deducted. Thus, the requirement to report the interest reimbursement under section 6050H is in keeping with the statutory intent of that section, which is to encourage compliance with the tax laws relating to the deduction for mortgage interest. See H.R. Rep. No. 432, 98th Cong., 2d Sess. 1353 (1984). Finally, the Internal Revenue wishes to clarify that reimbursements of mortgage interest are not subject to Form 1099 reporting under section 6041.

E. Reporting of Interest on Reimbursements

Commentators requested more guidance on the reporting of interest paid with respect to reimbursed amounts (i.e., the amount paid to the borrower, in addition to the refund of an overpayment, that constitutes interest for the use of the borrower's funds). The proposed regulations provide only that Form 1098 and the statement furnished to the payor of record must not include any amount that constitutes interest on the reimbursement paid to the payor of record.

The final regulations provide that, in the case of a person carrying on the banking business (or a middleman, as defined in § 1.6049–4(f)(4), of a person carrying on the banking business), rules relating to the reporting of interest on a reimbursement of mortgage interest are provided in section 6049 and the regulations thereunder. Persons subject to section 6049 must report payments of interest aggregating $10 or more to a payor of record during the calendar year.

The final regulations also provide that, for persons not subject to section 6049 reporting for the payment of interest on a reimbursement of mortgage interest, rules relating to the reporting of such interest payments are provided in section 6041 and the regulations thereunder. Because section 6041 provides a $600 threshold amount, persons not subject to section 6049 reporting for the payment of interest on a reimbursement of mortgage interest would be required to report only those payments of interest aggregating $600 or more to a payor of record.

F. Other Comments

The IRS received a number of comments in addition to those summarized above. Some of the suggestions contained in the comments have been adopted in the final regulations. Other suggested changes were not adopted primarily because those suggestions were inconsistent with the purpose of the regulations.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking for the regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Stephen J. Toomey of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *. Section 1.6050H–2 is also issued under 26 U.S.C. 6050H. * * *

Par. 2. Section 1.6050H–2 is amended as follows:

1. The word "and" at the end of paragraph (a)(2)(iii) is removed.
2. Paragraph (a)(2)(iv) is redesignated as paragraph (a)(2)(v).
3. A new paragraph (a)(2)(iv) is added.
4. Paragraphs (a)(3) and (a)(4) are redesignated as paragraphs (a)(4) and (a)(5), respectively, and a new paragraph (a)(3) is added.
5. Newly designated paragraph (a)(4) is revised.
6. Paragraph (b)(2)(ii) is revised.
7. At the end of paragraph (b)(2)(iii), "." is removed and "; and" is added in its place.
8. Paragraph (b)(2)(iv) is added.
9. Paragraph (b)(6) is revised.
10. The added and revised provisions read as follows:

§ 1.6050H–2 Time, form, and manner of reporting interest received on qualified mortgage.

(a) * * *

(2) * * *

(iv) With respect to reimbursements of interest on a qualified mortgage (as discussed in paragraph (a)(3) of this section) made to the payor of record in the calendar year—

(A) Reimbursements aggregating $600 or more; and

(B) Reimbursements aggregating less than $600, but only if $600 or more of interest on the qualified mortgage is received in the calendar year from the payor of record; and

* * * * *

(3) *Reimbursements of interest on a qualified mortgage.* For purposes of paragraph (a)(2)(iv) of this section, a reimbursement of interest on a qualified mortgage is a reimbursement of an amount received in a prior year that was required to be reported for that prior year under paragraph (a)(2)(iii) of this section by any interest recipient. Only the interest recipient that makes the reimbursement is required to report the reimbursement under this section. Form 1098 and the statement furnished to the payor of record under paragraph (b) of this section must not include any amount that constitutes interest on the reimbursement paid to the payor of record. Rules relating to the requirement to report interest on a reimbursement are, in the case of a person carrying on the banking business (or a middleman, as defined in § 1.6049–4(f)(4), of a person carrying on the banking business), provided in section 6049 and the regulations thereunder, and, for other persons, provided in section 6041 and the regulations thereunder. Reimbursements of interest on a qualified mortgage (as described in this section) made in 1993 and subsequent calendar years must be reported on Form 1098 and statements furnished to payors of record. Reimbursements made prior to 1993 are not required to be reported.

(4) *Time and place for filing return.* An interest recipient must file a return required by paragraph (a) of this section on or before February 28 of the year following the calendar year for which it receives the mortgage interest. If no interest is required to be reported for the calendar year, but a reimbursement of interest on a qualified mortgage is required to be reported for the calendar year, then a return required by paragraph (a) of this section must be filed on or before February 28 of the year following the calendar year in which the reimbursement was made. An interest recipient must file the return required by paragraph (a) of this section with the IRS office designated in the instructions for Form 1098.

* * * * *

(b) * * *

(2) * * *

(ii) A legend that—

(A) Identifies the statement as important tax information that is being furnished to the IRS; and

(B) Notifies the payor of record that if the payor of record is required to file a return, a negligence penalty or other sanction may be imposed on the payor of record if the IRS determines that an underpayment of tax results because the payor of record overstated a deduction for this mortgage interest (if any) or understated income from this mortgage interest reimbursement (if any) on the payor of record's return;

* * * * *

(iv) With respect to any information required to be reported under paragraph (a)(2)(iv) of this section, an instruction providing that the amount of the reimbursement is not to be deducted and that the amount must be included in the gross income of the payor of record if the reimbursed interest was deducted by the payor of record in a prior year so as to reduce income tax.

* * * * *

(6) *Time and place for furnishing statement.* An interest recipient must furnish a statement required by paragraph (b)(1) of this section to a payor of record on or before January 31 of the year following the calendar year for which it receives the mortgage interest. If no mortgage interest is required to be reported for the calendar year, but a reimbursement of interest on a qualified mortgage is required to be reported for the calendar year, then the statement required by paragraph (b)(1) of this section must be furnished on or before January 31 of the year following the calendar year in which the reimbursement was made. The interest recipient will be considered to have furnished the statement to the payor of record if it mails the statement to the payor of record's last known address.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par 5. In § 602.101(c), the table is amended by revising the entry for § 1.6050H–2 to read: "1.6050H–2 * * * 1545–0901, 1545–1339".

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 16, 1993.

Samuel Y. Sessions,
Acting Assistant Secretary of the Treasury.

[FR Doc. 93–31307 Filed 12–28–93; 8:45 am]
BILLING CODE 4830–01–U

26 CFR Parts 1, 301 and 602

[TD 8513]

RIN 1545–AJ31

Bad Debt Reserves of Banks

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final income tax regulations relating to bad debt reserves of large banks. These regulations are necessary because the Tax Reform Act of 1986 repealed bad debt reserves for large banks. The regulations implement this repeal.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Craig Wojay, (202) 622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has

been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1290. The estimated annual burden per respondent varies from 10 minutes to 20 minutes, depending on individual circumstances, with an estimated average of 15 minutes.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the IRS. Individual respondents may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer PC:FP, Washington, DC. 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC. 20503.

Background

This document provides final regulations on the repeal, for large banks, of the reserve method of accounting for bad debts that is allowed by section 585 of the Internal Revenue Code (Code). These regulations reflect Code section 585(c), which was added by section 901 of the Tax Reform Act of 1986, Public Law 99–514, 100 Stat. 2085, 2375–2380 (1986), and amended by section 1009(a) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100–647, 102 Stat. 3342, 3445 (1988). These final regulations supersede related portions of 26 CFR 301.9100–7T (formerly 26 CFR 5h.5), which provides temporary regulations on the time and manner of making various elections under the Tax Reform Act of 1986.

Proposed regulations under Code section 585(c) were published in the **Federal Register** on December 12, 1990 (55 FR 51124). No public hearing on these regulations was requested or held, but a number of written comments were received. After consideration of the comments, the proposed regulations are adopted as modified by this Treasury decision.

Explanation of Provisions

Code section 585(c) provides that large banks may not use the reserve method of section 585 for taxable years beginning after December 31, 1986. After this date, large banks must use the specific charge-off method of accounting for bad debts. Section 585(c) also provides procedures for large banks to use in changing from the reserve method of section 585 to the specific charge-off method. Section 585(c)(3) provides a recapture method of change, and section 585(c)(4) provides an elective cut-off method of change.

The final regulations contained in this document implement section 585(c) by adding new §§ 1.585–5 through 1.585–8 and by making conforming amendments to §§ 1.585–1,1.585–2 and 1.585–3. Section 1.585–5 states the general rule of denial of bad debt reserves for large banks. Section 1.585–6 provides guidance on the recapture method of change; § 1.585–7, on the cut-off method of change; and § 1.585–8, on making and revoking elections allowed under the regulations.

The extent to which this Treasury decision reflects the comments received on the proposed regulations is discussed below.

Section 1.585–5: Denial of Bad Debt Reserves for Large Banks

Section 1.585–5(a) requires a large bank to change to the specific charge-off method in the first taxable year beginning after 1986 for which it is a large bank (the disqualification year). Section 1.585–5(b) explains how to determine whether an institution is a large bank, and § 1.585–5(c) explains how to determine a bank's average total assets for purposes of applying the $500 million test of large bank status.

Section 1.585–5(a): Thrift Institutions

Several commentators on the proposed regulations objected to a provision in proposed § 1.585–5(a) that prohibited an institution from following the rules of § 1.585–6 or § 1.585–7 if it had maintained a reserve under Code section 593, rather than section 585. Proposed regulations under section 593 (57 FR 1232 (1992)) address this issue, and § 1.585–5(a) has been modified to reflect the fact that those regulations, when finalized, will provide guidance. Final § 1.585–5(a) prohibits these institutions from following §§ 1.585–6 and 1.585–7, "except as may be provided otherwise in regulations prescribed under section 593."

Section 1.585–5(b)(1): Once a Large Bank

A commentator on the proposed regulations objected to the "once a large bank, always a large bank" rule that is provided by § 1.585–5(b)(1)'s reference to any preceding taxable year after 1986. However, Code section 585(c)(2) specifically requires this reference. Moreover, the Conference Committee on the Technical and Miscellaneous Revenue Act of 1988 rejected a proposed exception to this rule. H.R. Conf. Rep. No. 1104, 100th Cong., 2d Sess., Vol. II, at 243–244 (1988). For these reasons, the final regulations retain the "once a large bank" rule.

Section 1.585–5(b)(1): Section 338 Elections

To clarify the application of the "once a large bank" rule, the final regulations provide guidance on the treatment of section 338 elections in determining large bank status. New Example 4 of § 1.585–5(b)(3) involves a corporation that purchases the stock of a bank and elects under section 338 to treat the purchase as an asset acquisition. Under section 338, the acquired bank is treated as a new corporation for purposes of subtitle A. Accordingly, the bank's prior status as a large bank does not cause it to be considered a large bank after its sale.

Section 1.585–5(b)(2): Transfer of Large Bank's Assets

Several commentators focused on proposed § 1.585–5(b)(3), which applied the "once a large bank" rule to certain acquisitions of substantially all of a large bank's assets. In response to the comments, final § 1.585–5(b)(2)(iii) limits this provision primarily to acquisitions to which section 381(a) applies. Under final § 1.585–5(b)(2)(iv), other acquisitions of substantially all of a large bank's assets result in large bank treatment only if a principal purpose of the acquisition is to avoid treating the acquired assets as those of a large bank and the acquiror is related to the large bank whose assets are acquired, as specified in the regulations.

Section 1.585–5(c)(2): Dates for Determining Average Total Assets

The final regulations also modify § 1.585–5(c), which defines a bank's average total assets for purposes of applying the $500 million test. As requested by a commentator, the final regulations give banks the option of determining their average total assets on a more frequent basis than quarterly. Under new § 1.585–5(c)(2)(i)(B), a bank may compute its average total assets for a year on the basis of its adjusted tax bases of assets held at the end of any regular interval more frequent than quarterly, such as bi-monthly, monthly, or weekly. A more frequent determination of assets generally produces a more accurate average for the year.

Section 1.585–5(c)(3): Foreign Corporation's Assets

Final § 1.585–5(c)(3)(ii) makes it clear that in determining the amount of a foreign corporation's total assets, all of its assets are taken into account, including those that are not effectively connected with the conduct of a banking business within the United States. Section 585(c)(2) applies the $500 million test to "all assets" of a bank or its parent-subsidiary controlled group, and § 1.585–6(d)(3)(i) provides the equivalent clarification for purposes of determining a bank's nonperforming loan percentage.

Section 1.585–5(d): Disqualification Year

In response to a comment, the final regulations also clarify the definition of the term *disqualification year*. A new example in § 1.585–5(d)(3) makes it clear that if a small bank becomes large because its stock is acquired by a large bank, the disqualification year of the acquired bank is its first taxable year ending after the acquisition date. Pursuant to § 1.585–8(d), the acquired bank is then entitled to make its own election regarding use of the recapture or cut-off method of change.

Section 1.585–6: Recapture Method of Change

Under the recapture method of change, a bank includes the balance of its bad debt reserve in income over a four-year period, and recapture is suspended for any taxable year in which the bank is financially troubled. Commentators on the proposed regulations focused on § 1.585–6(c), which explains the effects of a disposition of loans by a large bank that is using the recapture method, and § 1.585–6(d), which provides guidance for financially troubled banks.

Section 1.585–6(c)(2): Cessation of Business

Proposed § 1.585–6(c)(2) provided that a large bank that ceases to engage in the banking business before completing recapture of its reserve must include in income the remainder of its section 481(a) adjustment in the taxable year of the cessation. Proposed § 1.585–6(c)(2) also provided that a bank would not be considered to have ceased to engage in the banking business if the cessation was the result of a section 381 transaction. Since the issuance of the proposed regulations, the Service, pursuant to section 446(e) and § 1.446–1(e), published uniform standards for accounting method changes that include guidance on when a taxpayer is considered to have ceased to engage in business for section 481(a) purposes. See Rev. Proc. 92–20, 1992–1 C.B. 685, 701. To be consistent with this uniform approach, final § 1.585–6(c)(2)(i) provides that whether a bank ceases to engage in the banking business generally is determined under the principles of § 1.446–1(e)(3)(ii) and its administrative procedures. In addition, final § 1.585–6(c)(2)(ii) provides a transition rule for section 381 transactions that occur, or for which a binding written commitment is entered into, on or before March 29, 1994. Under the transition rule, a bank that ceases to engage in the banking business as the result of such a transaction is not treated as ceasing to engage in this business. In response to comments, the final regulations also expand the examples in § 1.585–6(c)(4) to provide additional guidance on the tax consequences of section 381 transactions to which the transition rule applies.

Section 1.585–6(d)(3)(ii): Nonperforming Loan Percentage of Group

Section 1.585–6(d)(3) provides rules for computing a bank's nonperforming loan percentage, which determines whether the bank is considered financially troubled. The numerator of this percentage is the amount of the bank's nonperforming loans, and the denominator is the amount of its equity. Under § 1.585–6(d)(3)(ii), if a bank is a member of a parent-subsidiary controlled group, the nonperforming loans and the equity of all members of the group that are financial institutions are treated as those of the bank. In response to a comment, the final regulations permit a bank to count the loans and equity of all members of the parent-subsidiary controlled group of which the bank is a member. A bank that computes its nonperforming loan percentage on this basis must do so for all taxable years, and any other bank member of the group must do the same.

Section 1.585–6(d)(3) (iii) and (iv): Amount Reported to Regulator

Proposed § 1.585–6(d)(3)(iii) defined a nonperforming loan essentially as any loan that is considered to be nonperforming by the holder's primary Federal regulatory agency. Similarly, proposed § 1.585–6(d)(3)(iv) defined a bank's equity as its equity (i.e., assets minus liabilities) as determined by the bank's primary Federal regulatory agency. In response to a comment, these sections have been revised to make it clear that the amount of a bank's nonperforming loans or equity is not determined by reference to the adjusted Federal income tax bases of assets, but rather by reference to amounts that are required to be reported to the primary Federal regulator.

Section 1.585–6(d)(3)(iii)(A): Types of Nonperforming Loans

The final regulations also clarify the definition of a nonperforming loan by identifying specific types of loans that are considered nonperforming. As requested by commentators, and in accordance with the Conference Committee report on the Tax Reform Act of 1986 (page II–329), final § 1.585–6(d)(3)(iii)(A) provides that nonperforming loans include the following types of loans as defined by the Federal Financial Institutions Examination Council (FFIEC): Loans that are past due 90 days or more and still accruing; loans that are in nonaccrual status; and loans that are restructured troubled debt. A loan is not considered to be nonperforming merely because it is past due, if it is past due less than 90 days.

Section 1.585–6(d)(3)(iii)(B): Definition of Loan

The final regulations also provide a definition of the term *loan*. This definition reflects the standards prescribed by the FFIEC. Accordingly, a troubled debt restructuring that is in substance a foreclosure or repossession is not considered a loan. The FFIEC treats "in substance" foreclosures and repossessions the same as formal foreclosures and repossessions; collateral that is considered foreclosed or repossessed is treated as an asset other than a loan. The final regulations provide a special rule for certain securities and bank deposits that are an integral part of a restructuring of troubled loans to a foreign government.

Section 1.585–6(d)(3)(iii): Accrual of Interest

A commentator suggested that the definition of a nonperforming loan that is contained in § 1.585–6(d)(3)(iii) should be used to determine whether interest income on a loan must continue to be accrued under Code section 451. This issue is outside the scope of section 585(c) and therefore is not addressed in these final regulations.

Section 1.585–6(d)(4): Estimated Tax of Financially Troubled Banks

Section 1.585–6(d)(4) provides relief from certain penalties for failure to pay estimated tax. Essentially, this section waives the penalty for failure to pay estimated tax in cases where a bank that is financially troubled in one quarter (and therefore does not pay quarterly estimated tax attributable to recapture of

its reserve) is not financially troubled for the year as a whole (and thus has underpaid its estimated tax). In response to comments, § 1.585–6(d)(4) has been revised to provide that the determination of whether a bank is financially troubled, for purposes of waiving the penalty for failure to pay an installment of estimated tax, is to be based on the bank's nonperforming loan percentage at the time the installment is due. In effect, final § 1.585–6(d)(4) allows a bank to obtain relief from penalties on the basis of its financial status as of the end of the most recent period for which it is required to report to its primary Federal regulator. New Example 3 in § 1.585–6(d)(5) illustrates the operation of this provision.

Section 1.585–7: Elective Cut-off Method of Change

Under the cut-off method of change, a bank continues to maintain its bad debt reserve for loans that it held when it became a large bank (pre-disqualification loans), but it may not deduct new additions to the reserve. If the reserve balance at the end of any taxable year exceeds the amount of the bank's outstanding pre-disqualification loans, the bank must include the amount of the excess in income for that year. Commentators on the proposed regulations focused on § 1.585–7(b), which provides guidance on maintaining a reserve for pre-disqualification loans, and § 1.585–7(d), which explains the effects of a disposition of loans by a large bank that is using the cut-off method.

Section 1.585–7(b)(1): Losses From Sale of Loans

Section 1.585–7(b)(1) requires a bank to charge against its cut-off reserve any losses resulting from its pre-disqualification loans, including losses resulting from the sale or other disposition of these loans. A commentator objected to applying this requirement to losses from the disposition of loans. However, Code section 585(c)(4)(B) specifically requires that "any losses" resulting from pre-disqualification loans be charged against the reserve. Removing this requirement for losses resulting from a disposition of loans would allow banks using the cut-off method to obtain current deductions for pre-disqualification loans that become partially or wholly worthless by selling or otherwise disposing of the loans without charging the losses against the reserve. For these reasons, the requirement is retained.

Section 1.585–7(b)(2): Post-disqualification Increase in Loan Balance

Another commentator suggested that § 1.585–7(b)(2), which defines a pre-disqualification loan, should be expanded to provide that if the balance of such a loan is increased during or after the disqualification year, the amount of the increase is treated as a pre-disqualification loan. However, neither section 585(c) nor its legislative history provides support for this approach. For this reason, the final regulations do not take the approach suggested by the commentator. Instead, § 1.585–7(b)(2) has been clarified by providing that if the amount of a pre-disqualification loan is increased during or after the disqualification year, the amount of the increase is not treated as a pre-disqualification loan.

Section 1.585–7(d)(2): Small Bank's Acquisition of Large Bank's Assets

Another commentator requested guidance on the consequences of a section 381 transaction in which a small bank that maintains a bad debt reserve acquires the assets of a large bank that is using the cut-off method of change, if the acquiror remains small after the acquisition and continues to use the reserve method. New § 1.585–7(d)(2)(ii) and new Example 5 in § 1.585–7(e) explain these consequences. In this case, the large bank's reserve immediately before the section 381 transaction carries over to the acquiror, but the acquiror does not continue the cut-off procedure begun by the large bank. If the six-year moving average amount for all of the newly acquired loans exceeds the balance of the reserve that carries over, the acquiror increases this balance by the amount of the excess. Any such increase in the reserve results in a negative section 481(a) adjustment that must be taken into account as required under section 381.

Section 1.585–7(d)(3): Dispositions Intended to Change Status

Section 1.585–7(d)(3) provides a special rule for dispositions of pre-disqualification loans that are intended to change the status of the loans. The rule applies only if a bank disposes of a "significant amount" of loans, and a commentator suggested that a significant amount be defined. However, a significant amount of loans varies from bank to bank. No fixed dollar amount or percentage is an appropriate measure of significance for all banks. Therefore, the final regulations do not define this term.

Section 1.585–8: Making and Revoking Elections

Certain elections are allowed under §§ 1.585–6 and 1.585–7. A bank may elect to use the cut-off method of change instead of the recapture method, and a bank that uses the recapture method may elect to recapture more than 10 percent of its reserve in its first year of recapture. Commentators on the proposed regulations focused on the time for making and revoking these elections.

Section 1.585–8 (a) and (c): Time for Making and Revoking Elections

Section 1.585–8(a) requires any election to be made by the later of the date that is 60 days after these final regulations are published, or the due date (taking extensions into account) of the electing bank's tax return for the year for which the election is made. Section 1.585–8(c) does not allow an election to be freely revoked after the final date for making the election. Commentators suggested that this time period for making and revoking elections should be extended for banks that become large more than 60 days after these final regulations are published. However, the time period provided for these banks in the regulations is the time period ordinarily provided by the Service for making and revoking elections when final regulations are in effect. Taxpayers ordinarily are not permitted to change elections merely to reduce their tax liability. Therefore, the final regulations do not modify the time period for making and revoking elections.

Section 1.585–8(e): Certain Elections Made or Revoked by Amended Return

A new § 1.585–8(e) applies to elections that are sought to be made or revoked by amended return on or before February 28, 1994. To make or revoke such an election, amended returns must be filed for intervening taxable years if necessary to report tax liability in a manner consistent with the making or revoking of the election.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for these regulations was submitted to the Small Business Administration for comment on its impact on small business.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 602 are amended as follows:

PART 1—INCOME TAX

Paragraph 1. The authority citation for part 1 is amended by adding a citation in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Sections 1.585–5 through 1.585–8 also issued under 26 U.S.C. 585(b)(3).

Par. 2. Section 1.585–1 is amended as follows:

1. The first sentence of paragraph (a) is amended by removing "166(c)" and adding in its place "585(a) (or, for taxable years beginning before January 1, 1987, section 166(c))".

2. The seventh sentence of paragraph (a) is amended by removing "166(c) and the regulations thereunder" and adding in its place "585 (or, for taxable years beginning before January 1, 1987, section 166(c)) and the regulations under section 166".

3. The tenth sentence of paragraph (a) is amended by removing "(a), (b), and (c)".

4. A sentence is added at the end of paragraph (a).

5. Paragraph (b) is revised.

6. The additions and revisions read as follows:

§ 1.585–1 Reserve for losses on loans of banks.

(a) * * * For rules relating to large banks, see §§ 1.585–5 through 1.585–8.

(b) *Application of section*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, section 585 and this section apply to the following financial institutions—

(i) Any bank (as defined in section 581 and the regulations thereunder) other than a mutual savings bank, domestic building and loan association, or cooperative bank, to which section 593 applies; and

(ii) Any corporation to which paragraph (b)(1)(i) of this section would apply except for the fact that it is a foreign corporation and in the case of any such foreign corporation, the rules provided by section 585(a) and (b), this section, §§ 1.585–2, 1.585–3, and 1.585–4 apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.

(2) *Exception.* For taxable years beginning after December 31, 1986, section 585(a) and (b) and this section do not apply to any large bank (as defined in § 1.585–5(b)). For these years, a large bank may not deduct any amount under section 585 or any other section nor an addition to a reserve for bad debts.

§ 1.585–2 [Amended]

Par. 3. In § 1.585–2, the last sentence of paragraph (d)(3) is amended by adding "585(a)(1) or former section" immediately before "166(c)".

§ 1.585–3 [Amended]

Par. 4. Section 1.585–3 is amended as follows:

1. The first sentence of paragraph (a) is amended by removing "166(c)" and adding in its place "585(a) (or, for taxable years beginning before January 1, 1987, section 166(c))".

2. The first sentence of paragraph (b) is amended by removing "166(c)" and adding in its place "585(a) (or, for taxable years beginning before January 1, 1987, section 166(c))".

3. The second and third sentences of paragraph (b) are amended by removing "166(c)" and adding in its place "585(a) (or former section 166(c))".

Par. 5. Sections 1.585–5, 1.585–6, 1.585–7 and 1.585–8 are added to read as follows:

§ 1.585–5 Denial of bad debt reserves for large banks.

(a) *General rule.* For taxable years beginning after December 31, 1986, a large bank (as defined in paragraph (b) of this section) may not deduct any amount under section 585 or any other section for an addition to a reserve for bad debts. However, for these years, except as provided in § 1.585–7, a large bank may deduct amounts allowed under section 166(a) for specific debts that become worthless in whole or in part. Any large bank that maintained a reserve for bad debts under section 585 for the taxable year immediately preceding its disqualification year (as defined in paragraph (d)(1) of this section) must follow the rules prescribed by § 1.585–6 or § 1.585–7 for changing from the reserve method of accounting for bad debts that is allowed by section 585, to the specific charge-off method of accounting for bad debts, in its disqualification year. However, except as may be provided otherwise in regulations prescribed under section 593, the rules prescribed by §§ 1.585–6 and 1.585–7 do not apply to a large bank that maintained a reserve for bad debts under section 593 for the taxable year immediately preceding its disqualification year.

(b) *Large bank*—(1) *General definition.* For purposes of this section, a large bank is any institution described in § 1.585–1(b)(1) (i) or (ii) if, for the taxable year (or for any preceding taxable year beginning after December 31, 1986)—

(i) The average total assets of the institution (determined under paragraph (c) of this section) exceed $500,000,000; or

(ii) The institution is a member of a parent-subsidiary controlled group (as defined in paragraph (d)(2) of this section) and the average total assets of the group exceed $500,000,000.

(2) *Large bank resulting from transfer by large bank*—(i) *In general.* If a corporation acquires the assets of a large bank (as defined in this paragraph (b)) in an acquisition to which paragraph (b)(2) (ii), (iii) or (iv) of this section applies, the acquiring corporation (the acquiror) is treated as a large bank for any taxable year ending after the date of the acquisition in which it is an institution described in § 1.585–1(b)(1) (i) or (ii).

(ii) *Transfer of significant portion of assets where control is retained.* This paragraph (b)(2)(ii) applies to any direct or indirect acquisition of a significant portion of a large bank's assets if, after the acquisition, the transferor large bank owns more than 50 percent (by vote or value) of the outstanding stock of the acquiror. For this purpose, stock of an acquiror is considered owned by a transferor bank if the stock is owned by any member of a parent-subsidiary controlled group (as defined in paragraph (d)(2) of this section) of which the bank is a member, by any related party within the meaning of section 267(b) or 707(b), or by any person that received the stock in a transaction to which section 355 applies.

(iii) *Transfer to which section 381 applies.* This paragraph (b)(2)(iii) applies to any acquisition to which section 381(a) applies if, immediately after the acquisition, the acquiror's principal method of accounting for bad

VOL 58 ISS 248 DE 29 1993 UMI

debts (determined under § 1.381(c)(4)–1(c)(2)) with respect to its banking business is the specific charge-off method. In applying § 1.381(c)(4)–1(c)(2) for this purpose, the following rules apply: A transferor large bank is considered to use the specific charge-off method for all of its loans immediately before the acquisition; an acquiror is considered to use a reserve method for all of its loans immediately before the acquisition; and all banking businesses of the acquiror immediately after the acquisition are treated as one integrated business. See §§ 1.585–6(c)(3) and 1.585–7(d)(2) for rules on the treatment of assets acquired from large banks in section 381(a) transactions.

(iv) *Transfer of substantially all assets to related party.* This paragraph (b)(2)(iv) applies to any direct or indirect acquisition of substantially all of a large bank's assets if the transferor large bank and the acquiror are related parties before or after the acquisition and a principal purpose of the acquisition is to avoid treating the acquired assets as those of a large bank. A transferor bank and an acquiror are considered to be related parties for this purpose if they are members of the same parent-subsidiary controlled group (as defined in paragraph (d)(2) of this section) or related parties within the meaning of section 267(b) or 707(b).

(3) *Examples.* The following examples illustrate the principles of this paragraph (b):

Example 1. Bank M, a calendar year taxpayer, is an institution described in § 1.585–1(b)(1)(i). For its taxable year beginning on January 1, 1987, M has average total assets of $600 million. Since M's average total assets for 1987 exceed $500 million, M is a large bank for that year. Pursuant to § 1.585–5(d)(1), 1987 is M's disqualification year. If M maintained a bad debt reserve under section 585 for its immediately preceding taxable year (1986), M must change in 1987 to the specific charge-off method of accounting for bad debts, in accordance with § 1.585–6 or § 1.585–7.

Example 2. Assume the same facts as in Example 1. Also assume that in 1988 M disposes of a portion of its assets and, as a result, M's average total assets for taxable year 1988 fall to $400 million. M remains a large bank for taxable year 1988 and succeeding taxable years, since its average total assets for a preceding taxable year (1987) beginning after December 31, 1986, exceeded $500 million.

Example 3. Bank P, a calendar year taxpayer, is an institution described in § 1.585–1(b)(1)(i). P has average total assets of $300 million for its taxable year beginning on January 1, 1988. For the same year, P is a member of a parent-subsidiary controlled group (within the meaning of § 1.585–5(d)(2)) that has average total assets of $800 million. In February 1989, the group sells its stock in P to several individual investors. P is a large bank for taxable year 1988 because it is a member of a group described in § 1.585–5(b)(1)(ii) for that year. P also is a large bank for taxable year 1989 and succeeding taxable years because it was a member of a group described in § 1.585–5(b)(1)(ii) for a preceding taxable year (1988) beginning after December 31, 1986.

Example 4. Assume the same facts as in Example 3, except that P's stock is purchased by a corporation that is not a large bank under § 1.585–5(b). Also assume that the purchasing corporation elects under section 338 to treat the stock purchase as an asset acquisition. Under section 338, P is considered to have sold all of its assets on the purchase date and is treated as a new corporation that purchased these assets on the next day. Since P is treated as a new corporation, its prior membership in a group described in § 1.585–5(b)(1)(ii) does not cause it to be treated as a large bank for taxable years ending after the date of its sale by the group. However, P may be treated as a large bank because of new membership in such a group or pursuant to § 1.585–5(b)(1)(i) or (b)(2).

Example 5. Bank Q is a large bank, within the meaning of § 1.585–5(b)(1), for its taxable year beginning on January 1, 1988, and hence for all later years. On March 1, 1989, Q transfers $200 million of its $600 million of assets to Bank R, a newly created subsidiary, in a transaction to which section 351 applies; these assets are R's only assets. On the same day, Q then spins off R in a transaction to which section 355 applies. After these transactions, the shareholders of Q own more than 50 percent of R's outstanding stock. Although R's average total assets do not exceed $500 million, R becomes a large bank on March 1, 1989, pursuant to § 1.585–5(b)(2)(ii). These transactions do not affect Q's status as a large bank.

Example 6. Bank S is a large bank, within the meaning of § 1.585–5(b)(1)(ii), for its taxable year beginning on January 1, 1987. As a result, S changes to the specific charge-off method of accounting for bad debts in that year. Bank T, which is not a large bank under § 1.585–5(b), uses the reserve method of accounting for bad debts. On June 30, 1988, T acquires substantially all of S's assets in a transaction to which section 381(a) applies. Immediately before the acquisition, S's banking business has total assets of $200 million, and T's has total assets of $250 million. To determine whether T is a large bank under § 1.585–5(b)(2)(iii) for taxable years ending after the acquisition, it is necessary to determine T's principal method of accounting for bad debts with respect to its banking business immediately after the acquisition. This determination requires an application of § 1.381(c)(4)–1(c)(2). For this purpose, T's original and acquired banking businesses are treated as an integrated business. Applying § 1.381(c)(4)–1(c)(2), it is determined that the business's principal method of accounting for bad debts immediately after the acquisition is the reserve method. Hence, the acquisition does not cause T to become a large bank under § 1.585–5(b)(2)(iii).

(c) *Average total assets*—(1) *In general.* For purposes of paragraph (b)(1) of this section, and except as otherwise provided in paragraph (c)(3)(ii) of this section, the average total assets of an institution or group for any taxable year are determined by—

(i) Computing, for each report date (as defined in paragraph (c)(2) of this section) within the taxable year, the amount of total assets (as defined in paragraph (c)(3) of this section) held by the institution or group as of the close of business on the report date;

(ii) Adding these amounts; and

(iii) Dividing the sum of these amounts by the number of report dates within the taxable year.

(2) *Report date*—(i) *Institutions*—(A) *In general.* A report date for an institution generally is the last day of the regular period for which the institution must report to its primary Federal regulatory agency. However, an institution that is required to report to its primary Federal regulatory agency more frequently than quarterly may choose the last day of the calendar quarter as its report date, and an institution that is required to report to its primary Federal regulatory agency less frequently than quarterly must choose the last day of the calendar quarter as its report date. If an institution does not have a Federal regulatory agency, its primary State regulatory agency is considered its primary Federal regulatory agency for purposes of this paragraph (c)(2)(i)(A). In the case of a short taxable year that does not otherwise include a report date, the first or last day of the taxable year is the institution's report date for the year.

(B) *Alternative report date.* In lieu of the report date prescribed by paragraph (c)(2)(i)(A) of this section, for any taxable year an institution may choose as its report date the last day of any regular interval in the taxable year that is more frequent than quarterly (such as bi-monthly, monthly, weekly, or daily).

(ii) *Groups.* If all members of a parent-subsidiary controlled group have the same taxable year, a report date for the group is the report date, determined under paragraph (c)(2)(i) of this section, for any one member of the group that is an institution described in § 1.585–1(b)(1) (i) or (ii). The same report date must be used in applying paragraph (b)(1)(ii) of this section to all members of the group for a taxable year. If all members of a parent-subsidiary controlled group do not have the same taxable year, a report date for the group must be determined under similar principles.

(iii) *Member of group for only part of taxable year.* If an institution is a member of a parent-subsidiary controlled group for only part of a taxable year, paragraph (b)(1)(ii) of this section is applied to the institution for that year on the basis of the group's average total assets for the portion of the year that the institution is a member of the group. Thus, only the group's report dates (as determined under paragraph (c)(2)(ii) of this section) that are included in that portion of the year are taken into account in determining the group's average total assets for purposes of applying paragraph (b)(1)(ii) of this section to the institution. If no report date of the group is included in that portion of the year, the first or last day of that portion of the year must be treated as the group's report date for purposes of this paragraph (c)(2)(iii).

(3) *Total assets*—(i) *All corporations.* The amount of total assets held by an institution or group is the amount of cash, plus the sum of the adjusted bases of all other assets, held by the institution or group. For this purpose, the adjusted basis of an asset generally is its basis for Federal income tax purposes, determined under sections 1012, 1016 and other applicable sections of the Internal Revenue Code. In determining the amount of total assets held by a group, any asset of a member of the group that is an interest in another member of the group is not to be counted.

(ii) *Foreign corporations.* In determining the amount of total assets held by a foreign corporation, all of the corporation's assets are taken into account, including those that are not effectively connected with the conduct of a banking business within the United States. In the case of a foreign corporation that is not engaged in a trade or business in the United States, the adjusted basis of an asset must be determined substantially in accordance with United States tax principles as provided in regulations under section 964. In the case of a foreign corporation that is engaged in a trade or business in the United States, the amount of its average total assets for a taxable year (within the meaning of paragraph (c)(1) of this section) is the amount of the corporation's average worldwide assets used for purposes of computing the interest expense deduction allowable under section 882 and § 1.882–5 for the taxable year.

(4) *Estimated adjusted tax bases*—(i) *In general.* The amount of the adjusted Federal income tax bases (tax bases) of assets held on a report date may be estimated, for purposes of applying paragraph (c)(3) of this section. This estimate must be based on the adjusted bases of the assets on that date as determined by reference to the asset holder's books and records maintained for financial reporting purposes (book bases). The estimate must reflect any change in the ratio between the asset holder's tax and book bases of assets that occurs during the taxable year, and the estimate must assume that this change occurs ratably. If an institution or group member estimates the tax bases of assets held on any report date during a taxable year, it must do so for all assets (other than cash) held on that report date, and it must do so for all other report dates during the year. However, the tax bases of assets may not be estimated for any report date that is the first or last day of the taxable year or that is determined under paragraph (c)(2)(i)(B) of this section.

(ii) *Formulas.* The estimated amount of the tax bases of assets held on any report date during a taxable year is based on the following variables: The total book bases of the assets on the report date (B); the asset holder's tax/book ratio as of the close of the preceding taxable year (R); and the result (whether positive or negative) obtained when R is subtracted from the asset holder's tax/book ratio as of the close of the current taxable year (Y). For purposes of determining R and Y, an asset holder's tax/book ratio is the ratio of the total tax bases of all of the holder's assets (other than cash), to the total book bases of those assets. If an asset holder's taxable year is the calendar year and its report date is the last day of the calendar quarter, its estimated tax bases of assets held on the first three report dates of the year are determined under the following formulas:

1st Report Date=B×(R+¼Y)
2nd Report Date=B×(R+½Y)
3rd Report Date=B×(R+¾Y)

(5) *Examples.* The following examples illustrate the principles of this paragraph (c):

Example 1. Bank U is a fiscal year taxpayer, and its fiscal year ends on January 31. U reports to its primary Federal regulatory agency as of the last day of the calendar quarter. U does not choose under § 1.585–5(c)(2)(i)(B) a report date more frequent than quarterly. Thus, U's report dates under § 1.585–5(c)(2)(i)(A) are March 31, June 30, September 30, and December 31. For its taxable year beginning on February 1, 1987, U has total assets (within the meaning of § 1.585–5(c)(3)) of $480 million on March 31, $490 million on June 30, $510 million on September 30, and $540 million on December 31. Thus, pursuant to § 1.585–5(c)(1), U's average total assets for its taxable year beginning on February 1, 1987, are $505 million.

Example 2. Bank W is a calendar year taxpayer, and its report date (within the meaning of § 1.585–5(c)(2)(i)(A)) is the last day of the calendar quarter. Pursuant to § 1.585–5(c)(4), W chooses to estimate the tax bases of its assets for 1990. Therefore, W must estimate the tax bases of all of its assets (other than cash) for its first three report dates in 1990. Since W's fourth report date (December 31) is the last day of its taxable year, the tax bases of its assets may not be estimated for this date. The adjusted tax bases of all of W's assets (other than cash) are $450z on December 31, 1989, and $480z on December 31, 1990. The book bases of those assets are $500z on December 31, 1989; $520z on March 31, 1990; $540z on June 30, 1990; $560z on September 30, 1990; and $600z on December 31, 1990. Applying the formulas provided in § 1.585–5(c)(4)(ii), W's tax/book ratio as of the close of 1989 (R), is 0.9 (450z/500z). W's tax/book ratio as of the close of 1990 is 0.8 (480z/600z). Thus, Y is −0.1. The estimated adjusted tax bases of all of W's assets (other than cash) on the first three report dates of 1990 are as follows:

1st = B×(R+¼Y)
= $520z×[0.9+¼(−0.1)]
= $455z
2nd = B×(R+½Y)
= $540z×[0.9+½(−0.1)]
= $459z
3rd = B×(R+¾Y)
= $560z×[0.9+¾(−0.1)]
= $462z

(d) *Definitions.* The following definitions apply for purposes of this section and §§ 1.585–6, 1.585–7 and 1.585–8:

(1) *Disqualification year.* A bank's disqualification year is its first taxable year beginning after December 31, 1986, for which the bank is a large bank within the meaning of paragraph (b) of this section.

(2) *Parent-subsidiary controlled group.* A parent-subsidiary controlled group includes all of the members of a controlled group of corporations described in section 1563(a)(1). The members of such a group are determined without regard to whether any member is an excluded member described in section 1563(b)(2), a foreign entity, or a commercial bank.

(3) *Example.* The following example illustrates the principles of this paragraph (d):

Example. Bank X is a large bank within the meaning of § 1.585–5(b)(1)(i). Bank Y is not a large bank under § 1.585–5(b), and it maintains a bad debt reserve under section 585. In 1988, X purchases all of the stock of Y. If the acquisition causes Y to become a member of a parent-subsidiary controlled group described in § 1.585–5(b)(1)(ii), Y is a large bank beginning in its first taxable year that ends after the date of the acquisition. Pursuant to § 1.585–5(d)(1), this year is Y's disqualification year. Y must change in this year to the specific charge-off method of accounting for bad debts, in accordance with § 1.585–6 or § 1.585–7.

§ 1.585–6 Recapture method of changing from the reserve method of section 585.

(a) *General rule.* This section applies to any large bank (as defined in § 1.585–5(b)) that maintained a reserve for bad debts under section 585 for the taxable year immediately preceding its disqualification year (as defined in § 1.585–5(d)(1)) and that does not elect the cut-off method set forth in § 1.585–7. Except as otherwise provided in paragraphs (c) and (d) of this section, any bank to which this section applies must include in income the amount of its net section 481(a) adjustment (as defined in paragraph (b)(3) of this section) over the four-year period beginning with the bank's disqualification year. If a bank follows the rules prescribed by this section, its change to the specific charge-off method of accounting for bad debts in its disqualification year will be treated as a change in accounting method that is made with the consent of the Commissioner. Paragraph (b) of this section specifies the portion of the net section 481(a) adjustment to be included in income in each year of the recapture period; paragraph (c) of this section provides rules on the effect of disposing of loans; and paragraph (d) of this section provides rules on the suspension of recapture by financially troubled banks.

(b) *Four-year spread of net section 481(a) adjustment*—(1) *In general.* If a bank to which this section applies does not make the election allowed by paragraph (b)(2) of this section, the bank must include in income the following portions of its net section 481(a) adjustment in each year of the four-year recapture period: 10 percent in the bank's disqualification year; 20 percent in its first taxable year after its disqualification year; 30 percent in its second taxable year after its disqualification year; and 40 percent in its third taxable year after its disqualification year.

(2) *Election to include more than 10 percent in disqualification year.* A bank to which this section applies may elect to include in income, in its disqualification year, any percentage of its net section 481(a) adjustment that is larger than 10 percent. Any such election must be made at the time and in the manner prescribed by § 1.585–8. If a bank makes such an election, the bank must include in income the remainder, if any, of its net section 481(a) adjustment in the following portions: 3/6 of the remainder in the bank's first taxable year after its disqualification year; 1/3 of the remainder in its second taxable year after its disqualification year; and 1/6 of the remainder in its third taxable year after its disqualification year. For this purpose, the remainder of a bank's net section 481(a) adjustment is any portion of the adjustment that the bank does not elect to include in income in its disqualification year.

(3) *Net section 481(a) adjustment.* For purposes of this section, the amount of a bank's net section 481(a) adjustment is the amount of the bank's reserve for bad debts as of the close of the taxable year immediately preceding its disqualification year. Since the change from the reserve method of section 585 is initiated by the taxpayer, the amount of the bank's bad debt reserve for this purpose is not reduced by amounts attributable to taxable years beginning before 1954.

(4) *Examples.* The following examples illustrate the principles of this paragraph (b):

Example 1. Bank M is a large bank within the meaning of § 1.585–5(b). M's disqualification year is its taxable year beginning on January 1, 1989, and M maintained a bad debt reserve under section 585 for the preceding taxable year. Pursuant to § 1.585–5(a), M must change from the reserve method of accounting for bad debts to the specific charge-off method in its disqualification year. M does not elect the cut-off method set forth in § 1.585–7. Thus, M must follow the recapture method set forth in this § 1.585–6. M's net section 481(a) adjustment, as defined in § 1.585–6(b)(3), is $2 million. M does not make the election allowed by § 1.585–6(b)(2). Pursuant to § 1.585–6(b)(1), M must include the following amounts in income: $200,000 in taxable year 1989; $400,000 in 1990; $600,000 in 1991; and $800,000 in 1992.

Example 2. Assume the same facts as in Example 1, except that M elects under § 1.585–6(b)(2) to recapture 55 percent of its net section 481(a) adjustment in its disqualification year. Pursuant to § 1.585–6(b)(2), M must include the following amounts in income: $1,100,000 in taxable year 1989; $200,000 in 1990; $300,000 in 1991; and $400,000 in 1992.

(c) *Effect of disposing of loans*—(1) *In general.* Except as provided in paragraphs (c)(2) and (c)(3) of this section, if a bank to which this section applies sells or otherwise disposes of any of its outstanding loans on or after the first day of its disqualification year, the disposition does not affect the bank's obligation under this section to include in income the amount of its net section 481(a) adjustment, and the disposition does not affect the amount of this adjustment.

(2) *Cessation of banking business*—(i) *In general.* If a bank to which this section applies ceases to engage in the business of banking before it is otherwise required to include in income the full amount of its net section 481(a) adjustment, the bank must include in income the remaining amount of the adjustment in the taxable year in which it ceases to engage in the business of banking. For this purpose, and except as provided in paragraph (c)(2)(ii) of this section, whether a bank ceases to engage in the business of banking is determined under the principles of § 1.446–1(e)(3)(ii) and its administrative procedures.

(ii) *Transition rule.* A bank that ceases to engage in the business of banking as the result of a transaction to which section 381(a) applies is not treated as ceasing to engage in the business of banking if, on or before March 29, 1994, either the transaction occurs or the bank enters into a binding written agreement to carry out the transaction.

(3) *Certain section 381 transactions.* This paragraph (c)(3) applies if a bank to which this section applies transfers outstanding loans to another corporation on or after the first day of the bank's disqualification year (and before it has included in income the full amount of its net section 481(a) adjustment) in a transaction to which section 381(a) applies, and under paragraph (c)(2) (i) or (ii) of this section the transferor bank is not treated as ceasing to engage in the business of banking as a result of the transaction. If this paragraph (c)(3) applies, the acquiring corporation (the acquiror) steps into the shoes of the transferor with respect to using the recapture method prescribed by this section and assumes all of the transferor's rights and obligations under paragraph (b) of this section. The unrecaptured balance of the transferor's net section 481(a) adjustment carries over in the transaction to the acquiror, and the acquiror must complete the four-year recapture procedure begun by the transferor. In applying this procedure, the transferor's taxable year that ends on or includes the date of the acquisition and the acquiror's first taxable year ending after the date of the acquisition represent two consecutive taxable years within the four-year recapture period.

(4) *Examples.* The following examples illustrate the principles of this paragraph (c):

Example 1. Bank P is a bank to which this § 1.585–6 applies. P's disqualification year is its taxable year beginning on January 1, 1989, and P recaptures 10 percent of its net section 481(a) adjustment in that year pursuant to § 1.585–6(b)(1). In July 1990 P disposes of a portion of its loan portfolio in a transaction to which section 381(a) does not apply, and P continues to engage in the business of banking. Pursuant to § 1.585–6(c)(1), the disposition does not affect P's obligation under § 1.585–6(b)(1) to recapture the remainder of its net section 481(a) adjustment in 1990, 1991 and 1992. Nor does the disposition affect the amount of the adjustment.

Example 2. Assume the same facts as in Example 1, except that P ceases to engage in the business of banking in 1990, as determined under the principles of § 1.446–1(e)(3)(ii) and its administrative procedures. Pursuant to § 1.585–6(c)(2)(i), in 1990 P must include in income the remaining 90 percent of its net section 481(a) adjustment.

Example 3. Assume the same facts as in Example 1, except that P's 1990 disposition of loans is a transaction to which section 381(a) applies, P ceases to engage in the business of banking as a result of the transaction, and P's taxable year ends on the date of the transaction. Thus, in the transaction, P transfers substantially all of its loans to an acquiring corporation (Q). Q is a calendar year taxpayer. Because the transaction occurred before March 29, 1994, the transition rule of § 1.585–6(c)(2)(ii) applies, and P is not treated as ceasing to engage in the business of banking. Pursuant to § 1.585–6(c)(3), Q steps into P's shoes with respect to using the recapture method prescribed by § 1.585–6. The unrecaptured balance of P's net section 481(a) adjustment carries over to Q in the section 381(a) transaction, and Q must complete the four-year recapture procedure begun by P. Pursuant to §§ 1.585–6(b) and 1.585–6(c)(3), P includes 20 percent of its net section 481(a) adjustment in income in its taxable year ending on the date of the section 381(a) transaction, and Q includes 30 percent of the adjustment in income in 1990 and 40 percent in 1991.

Example 4. Assume the same facts as in Example 3. Assume also that Q becomes a large bank under § 1.585–5(b) as a result of the transaction and maintained a bad debt reserve immediately before the transaction. Q must change to the specific charge-off method for all of its loans in the first taxable year that it is a large bank. Thus, Q not only completes the recapture procedure begun by P but also follows the rules prescribed by § 1.585–6 or § 1.585–7 with respect to its own reserve.

Example 5. Assume the same facts as in Example 3. Assume also that Q is not a large bank after the transaction and properly establishes a bad debt reserve for the loans it receives in the transaction. This establishment of the reserve results in a new negative section 481(a) adjustment. Thus, Q not only completes the recapture procedure begun by P but also takes into account the new negative adjustment as required under section 381.

(d) *Suspension of recapture by financially troubled banks*—(1) *In general.* Except as provided in paragraph (d)(2) of this section, a bank that is financially troubled (within the meaning of paragraph (d)(3) of this section) for any taxable year must not include any amount in income under paragraphs (a) and (b) of this section for that taxable year and must disregard that taxable year in applying paragraphs (a) and (b) of this section to other taxable years. See paragraph (d)(4) of this section for rules on determining estimated tax payments of financially troubled banks, and see paragraph (d)(5) of this section for examples illustrating this paragraph (d).

(2) *Election to recapture.* A bank that is financially troubled (within the meaning of paragraph (d)(3) of this section) for its disqualification year may elect to include in income, in one taxable year, any percentage of its net section 481(a) adjustment that is greater than 10 percent. This election may be made for the bank's disqualification year, for the first taxable year after the disqualification year in which the bank is not financially troubled (within the meaning of paragraph (d)(3) of this section), or for any intervening taxable year. Any such election must be made at the time and in the manner prescribed by § 1.585–8. A bank that makes this election must include an amount in income under paragraphs (a) and (b) of this section in the year for which the election is made (election year) and must not disregard this year in applying paragraphs (a) and (b) of this section to other taxable years. Such a bank must follow the rules of paragraph (b)(2) of this section in applying paragraph (b) of this section to later taxable years, treating the election year as the disqualification year for purposes of applying paragraph (b)(2) of this section. However, if the bank is financially troubled for any year after its election year, the bank must not include any amount in income under paragraphs (a) and (b) of this section for the later year and must disregard the later year in applying paragraphs (a) and (b) of this section to other taxable years.

(3) *Definition of financially troubled*—(i) *In general.* For purposes of this section, a bank is considered financially troubled for any taxable year if the bank's nonperforming loan percentage for that year exceeds 75 percent. For this purpose, a bank's nonperforming loan percentage is the percentage determined by dividing the sum of the outstanding balances of the bank's nonperforming loans (as defined in paragraph (d)(3)(iii) of this section) as of the close of each quarter of the taxable year, by the sum of the amounts of the bank's equity (as defined in paragraph (d)(3)(iv) of this section) as of the close of each such quarter. The quarters for a short taxable year of at least 3 months are the same as those of the bank's annual accounting period, except that quarters ending before or after the short year are disregarded. If a taxable year consists of less than 3 months, the first or last day of the taxable year is treated as the last day of its only quarter. In lieu of determining its nonperforming loan percentage on the basis of loans and equity as of the close of each quarter of the taxable year, a bank may, for all years, determine this percentage on the basis of loans and equity as of the close of each report date (as defined in § 1.585–5(c)(2), without regard to § 1.585–5(c)(2)(i)(B)). In the case of a bank that is a foreign corporation, all nonperforming loans and equity of the bank are taken into account, including loans and equity that are not effectively connected with the conduct of a banking business within the United States.

(ii) *Parent-subsidiary controlled groups*—(A) *In general.* If a bank is a member of a parent-subsidiary controlled group (as defined in § 1.585–5(d)(2)) for the taxable year, the nonperforming loans and the equity of all members of the bank's financial group (as determined under paragraph (d)(3)(ii)(B) of this section) are treated as the nonperforming loans and the equity of the bank for purposes of paragraph (d)(3)(i) of this section. However, any equity interest that a member of a bank's financial group holds in another member of this group is not to be counted in determining equity. Similarly, any loan that a member of a bank's financial group makes to another member of the group is not to be counted in determining nonperforming loans. All banks that are members of the same parent-subsidiary controlled group must (for all taxable years that they are members of this group) determine their nonperforming loan percentage on the basis of the close of each quarter of the taxable year, or all must (for all such taxable years) determine this percentage on the basis of the close of each report date (as determined under § 1.585–5(c)(2)(ii), applied without regard to § 1.585–5(c)(2)(i)(B)).

(B) *Financial group*—(*1*) *In general.* All banks that are members of the same parent-subsidiary controlled group must (for all taxable years that they are members of this group) determine their financial group under paragraph (d)(3)(ii)(B)(*2*) of this section, or all must (for all such taxable years) determine their financial group under paragraph (d)(3)(ii)(B)(*3*) of this section.

(*2*) *Financial institution members of parent-subsidiary controlled group.* A bank's financial group, determined under this paragraph (d)(3)(ii)(B)(*2*), consists of all financial institutions within the meaning of section 265(b)(5) (and comparable foreign financial institutions) that are members of the parent-subsidiary controlled group of which the bank is a member.

(3) *All members of parent-subsidiary controlled group.* A bank's financial group, determined under this paragraph (d)(3)(ii)(B)(*3*), consists of all members of the parent-subsidiary controlled group of which the bank is a member.

(iii) *Nonperforming loan*—(A) *In general.* For purposes of this section, a nonperforming loan is any loan (as defined in paragraph (d)(3)(iii)(B) of this section) that is considered to be nonperforming by the holder's primary Federal regulatory agency. Nonperforming loans include the following types of loans as defined by the Federal Financial Institutions Examination Council: Loans that are past due 90 days or more and still accruing; loans that are in nonaccrual status; and loans that are restructured troubled debt. A loan is not considered to be nonperforming merely because it is past due, if it is past due less than 90 days. The outstanding balances of nonperforming loans are determined on the basis of amounts that are required to be reported to the holder's primary Federal regulatory agency. For purposes of this paragraph (d)(3)(iii)(A), a holder that does not have a Federal regulatory agency is treated as Federally regulated under the standards prescribed by the Federal Financial Institutions Examination Council.

(B) *Loan.* For purposes of paragraph (d)(3)(iii)(A) of this section, a loan is any extension of credit that is defined and treated as a loan under the standards prescribed by the Federal Financial Institutions Examination Council. (Accordingly, a troubled debt restructuring that is in substance a foreclosure or repossession is not considered a loan.) In addition, a debt evidenced by a security issued by a foreign government is treated as a loan if the security is issued as an integral part of a restructuring of one or more troubled loans to the foreign government (or an agency or instrumentality thereof). Similarly, a deposit with the central bank of a foreign country is treated as a loan if the deposit is made under a deposit facility agreement that is entered into as an integral part of a restructuring of one or more troubled loans to the foreign country's government (or an agency or instrumentality thereof).

(iv) *Equity.* For purposes of this section, the equity of a bank or other financial institution is its equity (i.e., assets minus liabilities) as required to be reported to the institution's primary Federal regulatory agency (or, if the institution does not have a Federal regulatory agency, as required under the standards prescribed by the Federal Financial Institutions Examination Council). The balance in a reserve for bad debts is not treated as equity.

(4) *Estimated tax payments of financially troubled banks.* For purposes of applying section 6655(e)(2)(A)(i) with respect to any installment of estimated tax, a bank that is financially troubled as of the due date of the installment is treated as if no amount will be included in income under paragraphs (a) and (b) of this section for the taxable year. For this purpose, a bank is considered financially troubled as of the due date of an installment of estimated tax only if its nonperforming loan percentage (computed under paragraph (d)(3) of this section) would exceed 75 percent for a short taxable year ending on that date. For purposes of computing this nonperforming loan percentage, the ending of such a short taxable year would not cause the last day of that year to be treated as the last day of a quarter of the taxable year.

(5) *Examples.* The following examples illustrate the principles of this paragraph (d):

Example 1. Bank R is a bank to which this § 1.585–6 applies. R's disqualification year is its taxable year beginning on January 1, 1987. R is not financially troubled (within the meaning of § 1.585–6(d)(3)) for taxable year 1987 or for any taxable year after 1989, but it is financially troubled for taxable years 1988 and 1989. Since R is not financially troubled for its disqualification year, R must include an amount in income under § 1.585–6 (a) and (b) for that year (taxable year 1987). R may make the election allowed by § 1.585–6(b)(2) for that year. Since R is financially troubled for taxable years 1988 and 1989, pursuant to § 1.585–6(d)(1) R does not include any amount in income under § 1.585–6 (a) and (b) for these years, and it treats taxable years 1990, 1991 and 1992 as the first, second and third taxable years after its disqualification year for purposes of applying § 1.585–6 (a) and (b).

Example 2. Assume the same facts as in Example 1, except that R is financially troubled for taxable year 1987 (its disqualification year). R may make the election allowed by § 1.585–6(d)(2) for 1987 (the disqualification year), for 1990 (the first year after the disqualification year in which R is not financially troubled), or for 1988 or 1989 (the intervening years). R elects to include 60 percent of its net section 481(a) adjustment in income in 1987. Thus, the remainder of the adjustment, for purposes of applying the rules of § 1.585–6(b)(2), is 40 percent. R must include in income 2/9 of the remainder in 1990, 1/3 of the remainder in 1991, and 4/9 of the remainder in 1992.

Example 3. Bank S, which is not a member of a parent-subsidiary controlled group, is a bank to which this § 1.585–6 applies. S's disqualification year is its taxable year beginning on January 1, 1987. S determines its nonperforming loan percentage under § 1.585–6(d)(3) on a quarterly basis. S is not financially troubled for taxable year 1987 and includes 10 percent of its net section 481(a) adjustment in income in that year. S's outstanding balance of nonperforming loans (as defined in § 1.585–6(d)(3)(iii)) is $80 million on March 31, 1988; $68 million on June 30, 1988; and $59 million on September 30, 1988. The amount of S's equity (as defined in § 1.585–6(d)(3)(iv)) is $100 million on each of these three dates. Thus, S's nonperforming loan percentage, computed under § 1.585–6(d)(3), would be 80 percent (80/100) for a short taxable year ending on April 15 or June 15, 74 percent [(80+68) ÷ 200] for a short taxable year ending on September 15, and 69 percent [(80+68+59) ÷ 300] for a short taxable year ending on December 15. Since S's nonperforming loan percentage for a short taxable year ending on April 15 or June 15 would exceed 75 percent pursuant to § 1.585–6(d)(4) S is considered financially troubled as of these dates. Thus, S is treated as if no amount will be included in income under § 1.585–6 (a) and (b) for the year for purposes of applying section 6655(e)(2)(A)(i) with respect to the installments of estimated tax that are due on April 15, 1988, and June 15, 1988. However, since S's nonperforming loan percentage for a short taxable year ending on September 15 or December 15 would not exceed 75 percent S is not considered financially troubled as of these dates. Thus, S is treated as if 20 percent of its net section 481(a) adjustment will be included in income under § 1.585–6 (a) and (b) for the year for purposes of applying section 6655(e)(2)(A)(i) with respect to the installments of estimated tax that are due on September 15, 1988, and December 15, 1988

§ 1.585–7 Elective cut-off method of changing from the reserve method of section 585.

(a) *General rule.* Any large bank (as defined in § 1.585–5(b)) that maintained a reserve for bad debts under section 585 for the taxable year immediately preceding its disqualification year (as defined in § 1.585–5(d)(1)) may elect to use the cut-off method set forth in this section. Any such election must be made at the time and in the manner prescribed by § 1.585–8. If a bank makes this election, the bank must maintain its bad debt reserve for its pre-disqualification loans, as prescribed in paragraph (b) of this section, and the bank must include in income any excess balance in this reserve, as required by paragraph (c) of this section. The bank may not deduct, for its disqualification year or any subsequent taxable year, any amount allowed under section 166(a) for pre-disqualification loans (as defined in paragraph (b)(2) of this section) that become worthless in whole or in part, except as allowed by paragraph (b)(1) of this section. However, except as provided in paragraph (d)(3) of this section, the bank may deduct, for its disqualification year or any subsequent taxable year, amounts allowed under section 166(a) for loans that the bank originates or acquires on or after the first day of its disqualification year and that become worthless in whole or in part. If a bank makes the election allowed by this paragraph (a), its change to the specific charge-off method of accounting for bad debts in its disqualification year does not give rise to a section 481(a) adjustment.

(b) *Maintaining reserve for pre-disqualification loans*—(1) *In general.* A bank that makes the election allowed by paragraph (a) of this section must maintain its bad debt reserve for its pre-disqualification loans (as defined in paragraph (b)(2) of this section). Except as provided in paragraph (d)(3) of this section, the bank must charge against the reserve the amount of any losses resulting from these loans (including losses resulting from the sale or other disposition of these loans), and the bank must add to the reserve the amount of recoveries with respect to these loans. In general, the reserve must be maintained in the manner provided by former section 166(c) of the Internal Revenue Code and the regulations thereunder. However, after the balance in the reserve is reduced to zero, the bank is to account for any losses and recoveries with respect to outstanding pre-disqualification loans under the specific charge-off method of accounting for bad debts, as if the bank always had accounted for these loans under this method.

(2) *Definition of pre-disqualification loans.* For purposes of this section, a pre-disqualification loan of a bank is any loan that the bank held on the last day of its taxable year immediately preceding its disqualification year (as defined in § 1.585–5(d)(1)). If the amount of a pre-disqualification loan is increased during or after the disqualification year, the amount of the increase is not treated as a pre-disqualification loan.

(c) *Amount to be included in income when reserve balance exceeds loan balance.* If, as of the close of any taxable year, the balance in a bank's reserve that is maintained under paragraph (b) of this section exceeds the balance of the bank's outstanding pre-disqualification loans, the bank must include in income the amount of the excess for the taxable year. The balance in the reserve is then reduced by the amount of this excess. See paragraph (d) of this section for rules on the application of this paragraph (c) when a bank disposes of loans.

(d) *Effect of disposing of loans*—(1) *In general.* Except as provided in paragraphs (d)(2) and (d)(3) of this section, if a bank that makes the election allowed by paragraph (a) of this section sells or otherwise disposes of any of its outstanding pre-disqualification loans, the bank is to reduce the balance of its outstanding pre-disqualification loans by the amount of the loans disposed of, for purposes of applying paragraph (c) of this section.

(2) *Section 381 transactions.* If a bank that makes the election allowed by paragraph (a) of this section transfers outstanding pre-disqualification loans to another corporation in a transaction to which section 381(a) applies, the acquiring corporation (the acquiror) must follow the rules of paragraph (d)(2)(i) or (ii) of this section.

(i) *Acquiror completes cut-off method of change.* Except as provided in paragraph (d)(2)(ii) of this section, the acquiror steps into the shoes of the transferor in the section 381(a) transaction with respect to using the cut-off method of change. Thus, the transferor's bad debt reserve immediately before the section 381(a) transaction carries over to the acquiror, and the acquiror must complete the cut-off method begun by the transferor. For purposes of completing the transferor's cut-off method, the acquiror's balance of outstanding pre-disqualification loans immediately after the section 381(a) transaction is the balance of these loans that it receives in the transaction, and the acquiror assumes all of the transferor's rights and obligations under this section.

(ii) *Acquiror uses reserve method.* If the acquiror is not a large bank (within the meaning of § 1.585–5(b)) immediately after the section 381(a) transaction and uses a reserve method of accounting for bad debts attributable to the pre-disqualification loans (and any other loans) received in the transaction, the acquiror does not step into the shoes of the transferor with respect to using the cut-off method of change. The transferor's bad debt reserve immediately before the section 381(a) transaction carries over to the acquiror, but the acquiror does not continue the cut-off method begun by the transferor. If the six-year moving average amount (as defined in § 1.585–2(c)(1)(ii)) for all of the loans received in the transaction exceeds the balance of the reserve that carries over to the acquiror, the acquiror increases this balance by the amount of the excess. Any such increase in the reserve results in a negative section 481(a) adjustment that is taken into account as required under section 381.

(3) *Dispositions intended to change the status of pre-disqualification loans.* This paragraph (d)(3) applies if a bank that makes the election allowed by paragraph (a) of this section sells, exchanges, or otherwise disposes of a significant amount of its pre-disqualification loans (as defined in paragraph (b)(2) of this section) and a principal purpose of the transaction is to avoid the provisions of this section by increasing the amount of loans for which deductions are allowable under the specific charge-off method. If this paragraph (d)(3) applies, the District Director may disregard the disposition for purposes of paragraphs (b)(1) and (d)(1) of this section or treat the replacement loans as pre-disqualification loans. If loans are so treated as pre-disqualification loans, no deductions are allowable under the specific charge-off method for the loans, except as provided in paragraph (b)(1) of this section, and the disposition that causes the loans to be so treated may be disregarded for purposes of paragraphs (b)(1) and (d)(1) of this section. If a bank sells pre-disqualification loans and uses the proceeds of the sale to originate new loans, this paragraph (d)(3) does not apply to the transaction.

(e) *Examples.* The following examples illustrate the principles of this section:

Example 1. Bank M is a bank that properly elects to use the cut-off method set forth in this § 1.585–7. M's disqualification year is its taxable year beginning on January 1, 1987. On December 31, 1986, M had outstanding loans of $700 million (pre-disqualification loans), and the balance in its bad debt reserve was $10 million. M must maintain its reserve for its pre-disqualification loans in accordance with § 1.585–7(b), and it may not deduct any addition to this reserve for taxable year 1987 or any later year. For these years, M may deduct amounts allowed under section 166(a) for loans that it originates or acquires after December 31, 1986, and that become worthless in whole or in part.

Example 2. Assume the same facts as in Example 1. Also assume that in 1987 M collects $150 million of its pre-disqualification loans, M determines that $2 million of its pre-disqualification loans are worthless, and M recovers $1 million of pre-disqualification loans that it had previously charged against the reserve as worthless. On December 31, 1987, the balance in M's bad debt reserve is $9 million ($10 million − $2 million + $1 million), and the balance of its outstanding pre-disqualification loans is $548 million ($700 million − $150 million − $2 million).

Example 3. Assume the same facts as in Examples 1 and 2. Also assume that on December 31, 1990, the balance in M's bad debt reserve is $5 million and the balance of its outstanding pre-disqualification loans is $25 million. In 1991 M collects $21 million of its outstanding pre-disqualification loans and determines that $1 million of its outstanding pre-disqualification loans are worthless. Thus, on December 31, 1991, the balance in M's bad debt reserve is $4 million ($5 million − $1 million), and the balance of its outstanding pre-disqualification loans is $3 million ($25 million − $21 million − $1 million). Accordingly, M must include $1 million ($4 million − $3 million) in income in taxable year 1991, pursuant to § 1.585–

VOL 58 ISS 248 DEC 29 1993 UMI

7(c). On January 1, 1992, the balance in M's reserve is $3 million ($4 million − $1 million).

Example 4. Assume the same facts as in Examples 1 through 3. Also assume that in 1992 M transfers substantially all of its assets to another corporation (N) in a transaction to which section 381(a) applies, and N is treated as a large bank under § 1.585–5(b)(2) for taxable years ending after the date of the transaction. Pursuant to § 1.585–7(d)(2)(i), N steps into M's shoes with respect to using the cut-off method. M's bad debt reserve immediately before the section 381(a) transaction carries over to N, and N must complete the cut-off procedure begun by M. For this purpose, N's balance of outstanding pre-disqualification loans immediately after the section 381(a) transaction is the balance of these loans that it receives from M.

Example 5. Assume the same facts as in Examples 1 through 4, except that N is not treated as a large bank after the section 381(a) transaction. Also assume that N uses the reserve method of section 585 and plans to use this method for all of the loans it acquires from M (including loans that were not pre-disqualification loans). Pursuant to § 1.585–7(d)(2)(ii), M's bad debt reserve immediately before the section 381(a) transaction carries over to N in the transaction; however, N does not continue the cut-off procedure begun by M and does not treat any loan as a pre-disqualification loan. If the six-year moving average amount (as defined in § 1.585–2(c)(1)(ii)) for all of N's newly acquired loans exceeds the balance of the reserve that carries over to N, N increases this balance by the amount of the excess. Any such increase in the reserve results in a negative section 481(a) adjustment that is taken into account as required under section 381.

§ 1.585–8 Rules for making and revoking elections under §§ 1.585–6 and 1.585–7.

(a) *Time of making elections*—(1) *In general.* Any election under § 1.585–6(b)(2), § 1.585–6(d)(2) or § 1.585–7(a) must be made on or before the later of—

(i) February 28, 1994; or

(ii) The due date (taking extensions into account) of the electing bank's original tax return for its disqualification year (as defined in § 1.585–5(d)(1)) or, for elections under § 1.585–6(d)(2), the year for which the election is made.

(2) *No extension of time for payment.* Payments of tax due must be made in accordance with chapter 62 of the Internal Revenue Code. However, if an election under § 1.585–6(b)(2), § 1.585–6(d)(2) or § 1.585–7(a) is made or revoked on or before February 28, 1994 and the making or revoking of the election results in an underpayment of estimated tax (within the meaning of section 6655(a)) with respect to an installment of estimated tax due on or before the date the election was so made or revoked, no addition to tax will be imposed under section 6655(a) with respect to the amount of the underpayment attributable to the making or revoking of the election.

(b) *Manner of making elections*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, an electing bank must make any election under § 1.585–6(b)(2), § 1.585–6(d)(2) or § 1.585–7(a) by attaching a statement to its tax return (or amended return) for its disqualification year or, for elections under § 1.585–6(d)(2), the year for which the election is made. This statement must contain the following information:

(i) The name, address and taxpayer identification number of the electing bank;

(ii) The nature of the election being made (i.e., whether the election is to include in income more than 10 percent of the bank's net section 481(a) adjustment under § 1.585–6 (b)(2) or (d)(2) or to use the cut-off method under § 1.585–7); and

(iii) If the election is under § 1.585–6(b)(2) or (d)(2), the percentage being elected.

(2) Certain tax returns filed before December 29, 1993. A bank is deemed to have made an election under § 1.585–6(b)(2) or (d)(2) if the bank evidences its intent to make an election under section 585(c)(3)(A)(iii)(I) or section 585(c)(3)(B)(ii) for its disqualification year (or, for elections under § 1.585–6(d)(2), the election year), by designating a specific recapture amount on its tax return or amended return for that year (or attaching a statement in accordance with § 301.9100–7T(a)(3)(i) of this chapter), and the return is filed before December 29, 1993. A bank is deemed to have made an election under § 1.585–7(a) if the bank evidences its intent to make an election under section 585(c)(4) for its disqualification year by attaching a statement in accordance with § 301.9100–7T(a)(3)(i) of this chapter to its tax return or amended return for that year, and the return is filed before December 29, 1993.

(c) *Revocation of elections*—(1) *On or before final date for making election.* An election under § 1.585–6(b)(2), § 1.585–6(d)(2) or § 1.585–7(a) may be revoked without the consent of the Commissioner on or before the final date prescribed by paragraph (a)(1) of this section for making the election. To do so, the bank that made the election must file an amended tax return for its disqualification year (or, for elections under § 1.585–6(d)(2), the year for which the election was made) and attach a statement that—

(i) Includes the bank's name, address and taxpayer identification number;

(ii) Identifies and withdraws the previous election; and

(iii) If the bank is making a new election under § 1.585–6(b)(2), § 1.585–6(d)(2) or § 1.585–7(a), contains the information described in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section.

(2) *After final date for making election.* An election under § 1.585–6(b)(2), § 1.585–6(d)(2) or § 1.585–7(a) may be revoked only with the consent of the Commissioner after the final date prescribed by paragraph (a)(1) of this section for making the election. The Commissioner will grant this consent only in extraordinary circumstances.

(d) *Elections by banks that are members of parent-subsidiary controlled groups.* In the case of a bank that is a member of a parent-subsidiary controlled group (as defined in § 1.585–5(d)(2)), any election under § 1.585–6(b)(2), § 1.585–6(d)(2) or § 1.585–7(a) with respect to the bank is to be made separately by the bank. An election made by one member of such a group is not binding on any other member of the group.

(e) *Elections made or revoked by amended return on or before February 28, 1994.* This paragraph (e) applies to any election that a bank seeks to make under paragraph (b) of this section, or revoke under paragraph (c) of this section, by means of an amended return that is filed on or before February 28, 1994. To make or revoke an election to which this paragraph (e) applies, a bank must file amended returns for all taxable years after the taxable year for which the election is made or revoked by amended return, to any extent necessary to report the bank's tax liability in a manner consistent with the making or revoking of the election by amended return.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 6. The authority citation for part 301 is amended by removing the first entry for "Section 301.9100–7T" and adding an entry to read as follows:

Authority: 26 U.S.C. 7805 * * * Section 301.9100–7T also issued under 26 U.S.C. 42(f)(1), 42(g)(1), 42(i)(2), 42(j)(5), 48(b)(2), 56(f)(3)(B), 83(c)(3), 141(b)(9), 142(d)(1), 142(d)(4)(B), 143(k)(9)(D)(iii), 145(d), 147(b)(4)(A), 165(l)(1), 168(b)(5), 168(f)(1), 168(g)(7), 168(h)(6)(F)(ii), 216(b)(3), 263(i), 263A(d)(3), 382(l)(5)(H), 448(d)(4), 453C(b)(2)(B), 453C(e)(4), 468B, 469(j)(9), 474, 616(d), 617(h), 1059(c)(4), 2632(b)(3), 2652(a)(3), 3121(w)(2), 4982(e)(4), and 7701(b). * * *

§ 301.9100–7T [Amended]

Par. 7. Section 301.9100–7T is amended as follows:

1. The table in paragraph (a)(1) is amended by removing the two entries for "901(a)".

2. The table in paragraph (a)(4)(ii) is amended by removing the entry for "901(a)".

PART 602—OMB CONTROL NUMBER UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 9. Section 602.101(c) is amended by adding the following entry to the table:

§ 602.101 OMB control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control number
. . .	. . .
1.585–8	1545–1290
. . .	. . .

Philip Brand,

Acting Commissioner of Internal Revenue.

Approved: December 16, 1993.

Samuel Y. Sessions,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93–31577 Filed 12–28–93; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 513

Control, Custody, Care, Treatment and Instruction of Inmates; Production or Disclosure of FBI/NCIC Information

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document the Bureau of Prisons is amending its rule on Production or Disclosure of FBI/NCIC Information to conform to required procedures of the National Crime Information Center (NCIC). Under NCIC procedures, any request by an inmate for his or her National Crime Information Center Interstate Identification Index (NCIC/III) is to be made directly to the Federal Bureau of Investigation (FBI). This amendment is conforming in nature and is intended to provide for the continued efficient operation of the Bureau of Prisons.

EFFECTIVE DATE: December 29, 1993.

ADDRESSES: Office of General Counsel, Bureau of Prisons, Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on Production or Disclosure of FBI/NCIC Information to conform to required procedures of the National Crime Information Center. A final rule on this subject was published in the **Federal Register** June 30, 1980 (45 FR 44228) and was amended March 12, 1990 (55 FR 9300).

The Bureau's rule on Production or Disclosure of FBI/NCIC Information had allowed for Bureau staff to provide to a requesting inmate a copy of his or her National Crime Information Center Interstate Identification Index (NCIC/III) record. The NCIC/III record is a computerized version of the FBI identification record which may contain additional information. Revised procedures of the NCIC restrict Bureau staff from directly releasing information from these files. According to NCIC procedures, any request from an inmate for this record must be made directly to the Federal Bureau of Investigation (FBI) under the procedures in 28 CFR 16.30 through 16.34. The Bureau is therefore amending its regulations in order to conform to NCIC procedures.

In making this conforming amendment, the Bureau has reorganized and reworded its rule for the sake of clarity and understandability.

Because these amendments are conforming or editorial in nature, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 513

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), subchapter A of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 513—ACCESS TO RECORDS

1. The authority citation for 28 CFR part 513 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Subpart B, consisting of §§ 513.10 through 513.13, is revised to consist of §§ 513.10 through 513.12 as follows:

Subpart B—Production or Disclosure of FBI/NCIC Information

Sec.

513.10 Purpose and scope.

513.11 Procedures for requesting a FBI identification record or a NCIC/III record.

513.12 Inmate request for record clarification.

Subpart B—Production or Disclosure of FBI/NCIC Information

§ 513.10 Purpose and scope.

This subpart describes the procedures to be followed by an inmate who requests a copy of his or her FBI identification record or National Crime Information Center Interstate Identification Index (NCIC/III) record and references the procedures to follow in order to challenge the contents of such record.

§ 513.11 Procedures for requesting a FBI identification record or a NCIC/III record.

(a) *FBI identification record.* (1) An inmate may request a copy of his or her current FBI identification record directly from the FBI by following the procedure outlined in 28 CFR 16.30 through 16.34.

(i) Bureau of Prisons staff shall assist the inmate to obtain the fingerprint impressions required to be submitted with such an application.

(ii) The inmate may direct that funds be withdrawn from his or her institution account to pay the applicable fee.

(2) An inmate may request a copy of his or her FBI identification record from institution staff.

(i) If the requested FBI identification record is in the inmate's institution file, staff shall provide the inmate with a copy.

(ii) If the requested FBI identification record is not in the inmate's institution file, staff shall direct the inmate to the procedure referenced in paragraph (a)(1) of this section.

(b) *NCIC/III identification record.* An inmate who wishes to obtain a copy of his or her NCIC/III record must submit a written request to the FBI. The procedures outlined in 28 CFR 16.32, 16.33, and paragraphs (a)(1)(i) and (ii) of this section apply to such request.

§ 513.12 Inmate request for record clarification.

Where the inmate believes that his or her FBI identification record is incorrect or inaccurate, the inmate may follow procedures outlined in 28 CFR 16.34. The procedures in 28 CFR 16.34 also apply for the clarification of an inmate's NCIC/III record.

[FR Doc. 93-31847 Filed 12-28-93; 8:45 am]

BILLING CODE 4410-05-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AF49

Updating Rehabilitation Criteria

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs is revising current provisions under which a service-disabled veteran who has been provided a program of rehabilitation services may be found rehabilitated. Under prior criteria, a determination of rehabilitation was generally limited to cases in which the veteran secured the type of employment specified in his or her rehabilitation plan or had achieved the goals of a program of rehabilitation services. The revision is more consistent with the statutory provisions by also declaring a veteran rehabilitated if he or she has overcome the employment handicap which necessitated the program of rehabilitation services, but may not have done so as stipulated in the rehabilitation plan. The intended effect of these regulatory changes is to make decisions regarding the determination of rehabilitation more consistent with statutory provisions.

DATES: These final rules are effective January 28, 1994.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, (202) 233-6496, Rehabilitation Consultant, Policy and Program Development, Vocational Rehabilitation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC 20420.

SUPPLEMENTARY INFORMATION: VA is amending current provisions for determination of rehabilitation under the vocational rehabilitation program. A veteran may be found rehabilitated if he or she secures suitable employment which meets certain criteria or achieves a substantial increase in his or her independence in daily living. These amendments make substantive changes to criteria for determinations of rehabilitation through the achievement of suitable employment. Determinations of rehabilitation through increased independent living capacity are not substantively changed.

These amendments retain existing provisions under which a veteran is considered to be rehabilitated if he or she secures employment in the field for which training was furnished or in a closely related occupation. The amendments would also allow VA to declare a veteran rehabilitated if one of the following conditions is met.

1. An intensive search for employment in the occupational objective of the veteran's plan or in a closely related occupation or field is unsuccessful. The veteran subsequently secures employment in another occupation or field that also is consistent with his or her abilities, aptitudes, and interests. In addition, the employment must use some of the academic, technical or professional knowledge and skills which the veteran has obtained during his or her participation in the rehabilitation program. He or she must maintain this employment for at least 60 days.

2. A veteran completes the training and rehabilitation services authorized in his or her rehabilitation plan and then declines VA employment services, choosing instead to pursue further training beyond that which may be provided by VA under the rehabilitation program. The veteran may be declared rehabilitated if the additional training will enhance the veteran's ability to secure suitable employment.

3. The veteran does not complete all of the prescribed program of rehabilitation services and subsequently obtains employment which is not in the field or occupation specified in the plan or in a closely related field or occupation. The veteran may be declared rehabilitated if the employment which he or she has obtained makes substantial use of the services provided in the rehabilitation plan and is consistent with his or her abilities, aptitudes, and interests. The veteran must maintain this employment for at least 60 days.

On June 15, 1992, at pages 26632 through 26634, these proposed regulatory amendments revising criteria for determination of rehabilitation were published in the **Federal Register**.

Interested persons were given 30 days in which to submit their comments, suggestions, or objections to the proposed regulatory amendments. We received extensive comments from a veterans organization.

The veterans organization questioned the intent of the proposed changes, objected to their implementation, and suggested alternatives. These comments have been grouped in the following categories.

Intent of the Proposed Regulatory Changes

Comment. The proposed regulatory amendment is not more consistent with the statutory intent and liberal provisions of 38 U.S.C. chapter 31 than current provisions for determinations of rehabilitation.

Response. VA has established a case status system for administrative purposes to mark the progress of a veteran through the stages of a rehabilitation program. In this system, the "rehabilitated" status is reserved for the purpose of identifying cases in which rehabilitation or employment services goals contemplated by the statute are substantially achieved. However, the current regulation, unfortunately, indicates that administrative assignment of this case status occurs only when the veteran has obtained and maintained employment consistent with the veteran's Individualized Written Rehabilitation Plan (IWRP). Specifically, it does not, as currently worded, permit VA to include cases in which the individual has successfully surmounted an employment handicap through means that did not depend upon completion of the IWRP or elected to forego immediate pursuit of employment goals in order to pursue additional training for another personal objective.

For example, this provision fails to include those cases in which the veteran has overcome his or her employment handicap to the maximum extent feasible, as demonstrated by becoming successfully employed, but may not have done so in the field or occupation stipulated by the IWRP. Since this outcome is consistent with the statutory purpose of 38 U.S.C. 3100,. i.e., attainment of suitable employment, VA believes that for administrative purposes the individual may be considered to have reached the status of "rehabilitated." Thus, the new regulation would merely recognize this fact in describing cases of individuals deemed to have successfully reached the point of rehabilitation, provided that VA efforts substantially contributed to that result.

Comment. The proposed regulatory amendment is presented purely as a measure of fiscal control.

Response. The proposed changes do not have any effect upon the fiscal costs of administering the vocational rehabilitation program. They are merely descriptive of the facts found. VA will continue to expend the same resources in the cases in question regardless of the outcome, but will merely be recognizing that a successful outcome to which its efforts contributed in a material manner has in fact been reached. It should be noted that the law and regulations also provide for appropriate assistance to individuals previously found rehabilitated, but who, due to changed circumstances, are found to need further VA assistance. Those provisions remain and are in no way limited by the proposal. Thus, fiscal costs are not diminished or increased by the proposal, rather, they remain the same.

Comment. The commenter states that these changes "will have a deleterious effect on VA's Vocational Rehabilitation Program by severely limiting services and probably causing Vocational Rehabilitation Specialists to intentionally develop veterans cases to premature 'rehabilitated' status for case control purposes."

Resppnse. The proposed changes will not affect the services to which a veteran is entitled as a part of a rehabilitation program nor cause premature "rehabilitations." The basis for providing a program of rehabilitation services is a finding that an employment handicap exists which prevents the person from being employed in an occupation which is consistent with his or her abilities, aptitudes, and interests. The services which VA determines are necessary to overcome the employment handicap are provided to the extent that the individual is able and willing to receive them regardless of how that individual is administratively classified. The proposal only recognizes that, for the purposes of administrative classification, some individuals who do not choose to follow the full, original plan for rehabilitation and employment may, nonetheless, with the VA services provided, overcome their employment handicaps and, in fact, become fully rehabilitated.

Far from rushing to premature "rehabilitation", VA policy requires careful consideration of the programs and services needed for a successful outcome. For example, a veteran may have completed the training portion of a rehabilitation plan and be experiencing difficulty in becoming employed in the objective for which training has been provided. If VA determines that an additional period of training is needed, and any of the conditions for providing additional training under § 21.284(c) are met, the veteran can elect to receive the additional training needed for employment in the occupation specified in the plan.

However, if the veteran, without further assistance from VA, elects to broaden his or her employment search to include occupations to which the training already provided materially contributes, but which may not be in the field which was the original objective of the program, that is the individual's prerogative. If evaluation of the case then indicates that the veteran has successfully obtained employment which is consistent with his or her abilities, aptitudes, and interests, and requires no further VA assistance, VA should be able to consider that individual to have been successfully "rehabilitated." As noted, a case may be reopened if circumstances change and the individual then qualifies for additional assistance.

Comment. There is potential for abuse of entitlement for future veterans who experience worsening of their conditions to the point of acquiring an employment handicap, but who retain employment in "sheltered positions," e.g., family businesses and public service non-profit industries.

Response. The proposed changes do not affect the entitlement of service-disabled veterans who request assistance under the vocational rehabilitation program in the future. The criteria for entitlement to a program of rehabilitation services are statutory. Under these provisions, entitlement is the result of the existence of an employment handicap. Any individual who has such a handicap and is entitled by the law to receive vocational rehabilitation services will continue to receive these services to the same extent as at present. Being administratively declared to be "rehabilitated" is not necessarily a bar to future services. The conditions under which a veteran who has been declared "rehabilitated" may be provided additional services are prescribed in § 21.284. Further, successful employment in a sheltered environment does not conclusively and irrevocably lead to the classification "rehabilitated" on the basis of being suitably employed. If the individual is found to have capacities which are beyond that level and is otherwise eligible for further VA assistance, the assistance will be offered.

Comment. The following scenario is presented as an example of how veterans programs would be adversely affected. A service-disabled veteran whose condition is evaluated at 50 percent disabling is found entitled to a program of rehabilitation services. The rehabilitation plans calls for training in culinary arts to provide the veteran with the skills needed to qualify for suitable employment. To supplement his income, the veteran takes a part-time job as a helper at his brother's hamburger stand. Sixty days later, VA can determine that he is rehabilitated because he obtained and retained employment in a closely related occupation.

Response. This scenario would not take place under the proposed regulatory changes. A veteran for whom a program of training in the culinary arts has been established is expected to pursue that training and VA will assist the veteran in doing so. If, as in the example, the veteran works part-time for his brother or anyone else to secure additional income to help him meet living expenses while pursuing the rehabilitation plan, this does not in any way affect the veteran's right to continue to participate in a VA rehabilitation plan. Taking a job to supplement one's income to continue to pursue a program in culinary arts indicates the veteran's commitment to the course he has selected and is reason for VA's continuing the training program rather than for any adverse action. This is not the case of an individual dropping out of the training program to take the hamburger stand job as his or her permanent vacation. The commenter's reference to completion of 60 days of successful employment is intended to refer to employment consistent with an individual's abilities, aptitudes, and interests. The part-time incidental employment postulated by the commenter clearly would not meet those criteria.

Comment. VA ostensibly could withdraw a veteran from training under the proposed regulations, during a period when the veteran is unable to factually demonstrate overcoming the employment handicap as specified in the proposal.

Response. The commenter's point is not clear, but it should be noted that once a finding of employment handicap has been made, no redetermination of that finding is made unless there was a clear and unmistakable error of fact or law in the original finding or unless the facts demonstrate that the employment handicap no longer exists. The proposed regulation does not, either in purpose or effect, allow VA to withdraw an individual from a rehabilitation program but merely to properly classify the individual's status thereunder. Thus, one who, having successfully obtained employment of a suitable nature, no longer requires nor seeks vocational rehabilitation services is "rehabilitated." In other words, the individual has successfully overcome his or her employment handicap by becoming suitably employed for a reasonable time.

Alternatives to the Proposed Regulatory Change

Comment. This proposal ignores the fact that employers, including the United States Government, place newly hired employees on probationary status for a period of 30, 60 or 90 days or more during which employment may be terminated without cause, but due to service-connected employment handicap. VA should permit receipt of full benefit entitlement and at least a one-year trial period to determine the veteran's successful readjustment to employment prior to rendering a determination of "rehabilitation" in any sense of the word.

Response. We agree that the veteran should be provided necessary followup services during the post-employment phase of the program to assure that there is a sound, stable adjustment to the demands of the employment situation before a finding of rehabilitation is made. Existing law and implementing regulations already provide for services which accomplish this goal. The changes do not diminish these provisions.

Both current provisions and proposed changes state that the veteran must be found adjusted in suitable employment for a period of at least 60 days. This provision gives the case manager substantial latitude in determining if these requirements for a finding of rehabilitation are met after 60 days or if a longer period is needed to make this decision. Continuation of such flexibility is more appropriate than the mandatory 1 year limit the commenter prefers.

The comments, objections and suggestions submitted do not provide a basis for a change in the regulatory revisions which have been proposed. Consequently, these rules are adopted as final.

VA has determined that these amendments do not contain a major rule as that term is defined in Executive Order 12291, Federal Regulation. The amendments will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

These regulatory amendments are effective 30 days after the date of final publication in the **Federal Register**. The Secretary certifies that these amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA) 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that the amendments only affect individual beneficiaries. No new regulatory burdens are imposed on small entities by these amendments.

The Catalog of Federal Domestic Assistance number is 64.116.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 16, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR, part 21, is amended as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

1. The authority citation for part 21, subpart A is revised to read as follows

Authority: 38 U.S.C. 501(a).

2. Section 21.194 is amended by revising paragraph (d) (1) and (2) to read as follows:

§ 21.194 "Employment services" status.

* * * * *

(d) *Termination of employment services status.* * * *

(1) He or she is determined to be rehabilitated under the provisions of § 21.283; or

(2) He or she is:

(i) Employed for at least 60 days in employment that does not meet the criteria for rehabilitation contained in § 21.283, if the veteran intends to maintain this employment and declines further assistance; and

(ii) Adjusted to the duties and responsibilities of the job.

* * * * *

3. Section 21.196 is amended by revising paragraph (b) and the authority citation to paragraph (b) to read as follows:

§ 21.196 "Rehabilitated" status.

* * * * *

(b) *Assignment to "rehabilitated" status.* A veteran's case shall be assigned to "rehabilitated" status when his or her case meets the criteria for rehabilitation contained in § 21.283.

(Authority: 38 U.S.C. 3102, 3107 and 3117)

* * * * *

4. In part 21, subpart A, § 21.283 is added to read as follows:

§ 21.283 Rehabilitated.

(a) *General.* For purposes of chapter 31 a veteran shall be declared rehabilitated when he or she has overcome the employment handicap to the maximum extent feasible as described in paragraph (c), (d) or (e) of this section.

(Authority: 38 U.S.C. 3101 (1), (2))

(b) *Definition.* The term "suitably employed" includes employment in the competitive labor market, sheltered situations, or on a nonpay basis which is consistent with the veteran's abilities, aptitudes and interests if the criteria contained in paragraph (c) (1) or (2) of this section are otherwise met.

(Authority: 38 U.S.C. 3100)

(c) *Rehabilitation to the point of employability has been achieved.* The veteran who has been found rehabilitated to the point of employability shall be declared rehabilitated if he or she:

(1) Is employed in the occupational objective for which a program of services was provided or in a closely related occupation for at least 60 continuous days;

(2) Is employed in an occupation unrelated to the occupational objective of the veteran's rehabilitation plan for at least 60 continuous days if the veteran concurs in the change and such employment:

(i) Follows intensive, yet unsuccessful, efforts to secure employment for the veteran in the occupation objective of a rehabilitation plan for a closely related occupation contained in the veteran's rehabilitation plan;

(ii) Is consistent with the veterans's aptitudes, interests and abilities; and

(iii) Utilizes some of the academic, technical or professional knowledge and skills obtained under the rehabilitation plan; or

(3) Pursues additional education or training, in lieu of obtaining employment, after completing his or her prescribed program of training and rehabilitation services if:

(i) The additional education or training is not approvable as part of the veteran's rehabilitation program under this chapter; and

(ii) Achievement of employment consistent with the veterans's aptitudes, interests, and abilities will be enhanced by the completion of the additional education or training.

(Authority: 38 U.S.C. 3101(1), 3107 and 3117)

(d) *Rehabilitation to the point of employability has not been completed.* A veteran under a rehabilitation plan who obtains employment without being declared rehabilitated to the point of employability as contemplated by the plan, including a veteran in a rehabilitation program consisting solely of employment services, is considered to be rehabilitated if the following conditions exist:

(1) The veteran obtains and retains employment substantially using the services and assistance provided under the plan for rehabilitation.

(2) The employment obtained is consistent with the veterans's abilities, aptitudes and interests.

(3) Maximum services feasible to assist the veteran to retain the employment obtained have been provided.

(4) The veteran has maintained the employment for at least 60 continuous days.

(Authority: 38 U.S.C. 3101(1), 3107 and 3117)

(e) *Independent living.* A veteran who has pursued a program of independent living services will be considered rehabilitated when all goals of the program have been achieved, or if not achieved, when:

(1) The veteran, nevertheless, has attained a substantial increase in the level of independence with the program assistance provided;

(2) The veteran has maintained the increased level of independence for at least 60 days; and

(3) Further assistance is unlikely to significantly increase the veteran's level of independence.

(Authority: 38 U.S.C 3101 (1), (2) 3107)

§ 21.284 [Amended]

5. In § 21.284, the introductory text to paragraph (a) is amended by removing the reference to "§ 21.196" and adding in its place "§ 21.283."

[FR Doc. 93–31782 Filed 12–29–93; 8:45 am]

BILLING CODE 8320–01–M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 607

Claims Collection; Salary Offset

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: This regulation implements the Debt Collection Act of 1982, as amended, which authorizes the Federal government to collect debts owed by a Federal employee to the United States through salary offset.

DATES: This regulation will be effective on December 29, 1993.

ADDRESSES: For additional information contact Jesse E. Lasken, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230 (Telephone: 202–357–9435) or Amy Tsai, Division of Financial Management, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230 (Telephone: 703–306–1282).

FOR FURTHER INFORMATION CONTACT: Jesse E. Lasken or Amy Tsai at the addresses or phone numbers above.

SUPPLEMENTARY INFORMATION: Under the Debt Collection Act of 1982, when the head of a Federal agency or his or her designee determines that an employee of an agency is indebted to the United States or is notified by a head of another Federal agency that an agency employee is indebted to the United States, the employee's debt may be offset against his or her salary. Certain due process rights must be afforded to an employee before salary offset deductions begin. As is required by the Debt Collection Act of 1982, this regulation is consistent with salary offset regulations issued by the Office of Personnel Management, 5 CFR part 550, subpart K and was approved by the Office of Personnel Management pursuant to section 8(1) of Executive Order 12107.

No comments were received as a result of the notice of the proposed regulation published on September 2, 1993 at pages 46597–46600 of Volume 58, No. 169 of the **Federal Register** and no changes have been made to the proposed rule published there.

Paperwork Reduction Act

This regulation does not include provisions for information collection that require review and approval by the Office of Management and Budget under section 3518 of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and 5 CFR part 1320.

Regulatory Flexibility Act

The Director of NSF certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies only to individual Federal employees. Accordingly, no regulatory flexibility analysis is required.

Executive Order 12291

This rule is not a "major rule" as defined under Executive Order 12291 and no regulatory impact analysis is required.

List of Subjects in 45 CFR Part 607

Administrative offset, Administrative practice and procedures, Claims, Debt collection, Government employees, Wages.

Authority: 5 U.S.C. 5514, E.O. 11809 (redesignated E.O. 12107), and 5 CFR part 550, subpart K.

Neal Lane,

Director.

For the reasons set out in the preamble, part 607 of title 45 of the Code of Federal Regulations is added to read as follows:

PART 607—SALARY OFFSET

607.1 Purpose and scope.
607.2 Definitions.
607.3 Applicability.
607.4 Notice requirements before offset.
607.5 Hearing.
607.6 Written decision.
607.7 Coordinating offset with another Federal agency.
607.8 Procedures for salary offset.
607.9 Refunds.
607.10 Statute of limitations.
607.11 Non-waiver of rights.
607.12 Interest, penalties, and administrative costs.

Authority: 5 U.S.C. 5514; E.O. 12107, 3 CFR, 1978 Comp., p. 264; 5 CFR part 550, subpart K.

§ 607.1 Purpose and scope.

(a) This part provides procedures for the collection by administrative offset of a federal employee's salary without his or her consent to satisfy certain debts owed to the Federal government. This part applies to all Federal employees who owe debts to the National Science Foundation (NSF) and to current employees of NSF who owe debts to other Federal agencies. This part does not apply when the employee consents to recovery from his or her current pay account.

(b) This part does not apply to debts or claims arising under: (1) The Internal Revenue Code of 1954, as amended, 26 U.S.C. 1 *et seq.*; (2) the Social Security Act, 42 U.S.C. 301 *et seq.*; (3) the tariff laws of the United States; or (4) any case where a collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(c) This part does not apply to any adjustment to pay arising out of an employee's selection of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

(d) This part does not preclude the compromise, suspension, or termination of collection action where appropriate under the standards implementing the Federal Claims Collection Act, 31 U.S.C. 3711 *et seq.*, and 4 CFR parts 101 through 105.

(e) This part does not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of the debt by submitting a subsequent claim to the General Accounting Office. This part does not preclude an employee from requesting a waiver pursuant to other statutory provisions applicable to the particular debt being collected.

(f) Matters not addressed in this part should be reviewed in accordance with the Federal Claims Collection Standards at 4 CFR 101.1 *et seq.*

§ 607.2 Definitions.

For the purposes of this part the following definitions will apply:

Agency means an executive agency as defined at 5 U.S.C. 105, including the U.S. Postal Service and the U.S. Postal Rate Commission; a military department as defined at 5 U.S.C. 102; an agency or court in the judicial branch; an agency of the legislative branch, including the U.S. Senate and House of Representatives; and other independent establishments that are entities of the Federal government.

Certification means a written debt claim received from a creditor agency which requests the paying agency to offset the salary of an employee.

Chief Financial Officer means the Chief Financial Officer of NSF or such other official of NSF who is designated by the Chief Financial Officer to determine whether an employee is indebted to the United States and to take action to collect such debts.

Creditor agency means an agency of the Federal Government to which the debt is owed.

Debt means an amount owed by a Federal employee to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interests, fines, forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

Disposable pay means the amount that remains from an employee's Federal pay after required deductions for social security, Federal, State or local income tax, health insurance premiums, retirement contributions, life insurance premiums, Federal employment taxes, and any other deductions that are required to be withheld by law.

Hearing official means an individual responsible for conducting a hearing with respect to the existence or amount of a debt claimed, or the repayment schedule of a debt, and who renders a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Chief Financial Officer or of persons having supervision or control over the Chief Financial Officer.

NSF means the National Science Foundation.

Paying agency means the agency that employs the individual who owes the debt and authorizes the payment of his or her current pay.

Salary offset means an administrative offset to collect a debt pursuant to 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

§ 607.3 Applicability.

The regulations in this part are to be followed when:

(a) NSF is owed a debt by an individual who is a current employee of the NSF; or

(b) NSF is owed a debt by an individual currently employed by another Federal agency; or

(c) NSF employs an individual who owes a debt to another Federal agency.

§ 607.4 Notice requirements before offset.

(a) Salary offset shall not be made against an employee's pay unless the employee is provided with written notice signed by the Chief Financial Officer of the debt at least 30 days before salary offset commences.

(b) The written notice shall contain:

(1) A statement that the debt is owed and an explanation of its nature and amount;

(2) The agency's intention to collect the debt by deducting from the employee's current disposable pay account;

(3) The amount, frequency, proposed beginning date, and duration of the intended deduction(s);

(4) An explanation of interest, penalties, and administrative charges, including a statement that such charges will be assessed unless excused in accordance with the Federal Claims Collections Standards at 4 CFR 101.1;

(5) The employee's right to inspect, request, and receive a copy of government records relating to the debt;

(6) The employee's opportunity to establish a written schedule for the voluntary repayment of the debt in lieu of offset;

(7) The employee's right to an oral hearing or a determination based on a review of the written record ("paper hearing") conducted by an impartial hearing official concerning the existence or the amount of the debt, or the terms of the repayment schedule;

(8) The procedures and time period for petitioning for a hearing,

(9) A statement that a timely filing of a petition for a hearing will stay the commencement of collection proceedings;

(10) A statement that a final decision on the hearing (if requested) will be issued by the hearing official not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;

(11) A statement that knowingly false or frivolous statements, representations, or evidence may subject the employee to appropriate disciplinary procedures and/or statutory penalties;

(12) A statement of other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(13) Unless there are contractual or statutory provisions to the contrary, a statement that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(14) A statement that the proceedings regarding such debt are governed by section 5 of the Debt Collection Act of 1982 (5 U.S.C. 5514).

§ 607.5 Hearing.

(a) *Request for hearing.* (1) An employee may file a petition for an oral or paper hearing in accordance with the instructions outlined in the agency's notice to offset.

(2) A hearing may be requested by filing a written petition addressed to the Chief Financial Officer stating why the employee disputes the existence or amount of the debt or, in the case of an individual whose repayment schedule has been established other than by a written agreement, concerning the terms of the repayment schedule. The petition for a hearing must be received by the Chief Financial Officer not later than fifteen (15) calendar days after the employee's receipt of the offset notice, or notice of the terms of the payment schedule, unless the employee can show good cause for failing to meet the filing deadline.

(b) *Hearing procedures.* (1) The hearing will be presided over by an impartial hearing official.

(2) The hearing shall conform to procedures contained in the Federal Claims Collection Standards, 4 CFR 102.3(c). The burden shall be on the employee to demonstrate that the existence or the amount of the debt is in error.

§ 607.6 Written decision.

(a) The hearing official shall issue a final written opinion no later than 60 days after the filing of the petition.

(b) The written opinion will include a statement of the facts presented to demonstrate the nature and origin of the alleged debt; the hearing official's analysis, findings, and conclusions; the amount and validity of the debt, if any; and the repayment schedule, if any.

§ 607.7 Coordinating offset with another Federal agency.

(a) When the NSF is the creditor agency and the Chief Financial Officer determines that an employee of another agency (i.e., the paying agency) owes a debt to the NSF, the Chief Financial Officer shall, as appropriate:

(1) Certify in writing to the paying agency that the employee owes the debt, the amount and basis of the debt, the date on which payment was due, and the date the Government's right to collect the debt accrued, and that this part 607 has been approved by the Office of Personnel Management.

(2) Unless the employee has consented to salary offset in writing or signed a statement acknowledging receipt of the required procedures, and the written consent is sent to the paying agency, the Chief Financial Officer must advise the paying agency of the action(s) taken under this part 607, and the date(s) they were taken.

(3) Request the paying agency to collect the debt by salary offset. If deductions must be made in installments, the Chief Financial Officer may recommend to the paying agency the amount or percentage of disposable pay to be collected in each installment;

(4) Arrange for a hearing upon the proper petitioning by the employee.

(b) When the NSF is the creditor agency and the employee is in the process of separating from the Federal service, the NSF must submit its debt claim to the paying agency as provided in this part. The paying agency must certify the total amount collected, give a copy of the certification to the employee, and send a copy of the certification and notice of the employee's separation to the NSF. If the paying agency is aware that the employee is entitled to Civil Service Retirement and Disability Fund or other similar payments, it must certify to the agency responsible for making such payments that the debtor owes a debt, including the amount of the debt, and that the provisions of 5 CFR 550.1108 have been followed.

(c) When the NSF is the creditor agency and the employee has already separated from Federal service and all payments due from the paying agency have been paid, the Chief Financial Officer may request, unless otherwise prohibited, that money payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be collected by administrative offset.

(d) When the NSF is the paying agency, upon receipt of a properly certified debt claim from another agency, deductions will be scheduled to begin at the next established pay interval. The employee must receive written notice that NSF has received a certified debt claim from the creditor agency, the amount of the debt, the date salary offset will begin, and the amount of the deduction(s). NSF shall not review the merits of the creditor agency's determination of the validity or the amount of the certified claim. If the employee transfers to another agency after the creditor agency has submitted its debt claim to NSF and before the debt is collected completely, NSF must certify the amount collected. One copy of the certification must be furnished to the employee. A copy must be furnished to the creditor agency with notice of the employee's transfer.

§ 607.8 Procedures for salary offset.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Chief Financial Officer's notice of intention to offset as provided in § 607.4. Debts will be collected in one lump sum where possible. If the employee is financially unable to pay in one lump sum, collection must be made in installments.

(b) Debts will be collected by deduction at officially established pay intervals from an employee's current pay account unless alternative arrangements for repayment are made.

(c) Installment deductions will be made over a period not greater than the anticipated period of employment. The size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. The deduction for the pay intervals for any period must not exceed 15% of disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(d) Unliquidated debts may be offset against any financial payment due to a separated employee including but not limited to final salary or leave payment in accordance with 31 U.S.C. 3716.

§ 607.9 Refunds.

(a) NSF will promptly refund to an employee any amounts deducted to satisfy debts owed to NSF when the debt is waived, found not owed to NSF, or when directed by an administrative or judicial order.

(b) Another creditor agency will promptly return to NSF any amounts deducted by NSF to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.

(c) Unless required by law, refunds under this section shall not bear interest.

§ 607.10 Statute of limitations.

If a debt has been outstanding for more than 10 years after NSF's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

§ 607.11 Non-waiver of rights.

An employee's involuntary payment of all or any part of a debt collected under the regulations in this part will not be construed as a waiver of any rights that the employee may have under 5 U.S.C. 5514 or any other provision of law.

§ 607.12 Interest, penalties, and administrative costs.

Charges may be assessed on a debt for interest, penalties, and administrative costs in accordance with 31 U.S.C. 3717

and the Federal Claims Collection Standards, 4 CFR 101.1.

[FR Doc. 93–31593 Filed 12–28–93; 8:45 am]
BILLING CODE 7555–01–P

45 CFR Part 608

Claims Collection; Administrative Offset

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: This regulation implements the claims and debt collection procedures of the Debt Collection Act of 1982. Subject to various limitations and due process requirements, the Act authorizes agencies to seek collection of claims, to report claims to consumer reporting agencies, to compromise claims, to administratively offset claims, and to offset claims against tax refunds.

DATES: This regulation will be effective on December 29, 1993.

ADDRESSES: For additional information contact Jesse E. Lasken, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230 (Telephone: 202–357–9435) or Amy Tsai, Division of Financial Management, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230 (Telephone: 703–306–1282).

FOR FURTHER INFORMATION CONTACT: Jesse E. Lasken or Amy Tsai at the addresses or phone numbers above.

SUPPLEMENTARY INFORMATION: This regulation and a related regulation at 45 CFR part 607 implementing the salary offset provisions at 5 U.S.C. 5514 provide a regulatory framework under which NSF can effectively utilize the authorities of 31 U.S.C. 3711, 3716, 3718 and 3720A and participate in various interagency cooperative programs designed to improve the ability of Federal agencies to collect debts owing to them with due regard to appropriate procedural safeguards. 31 U.S.C. 3711 and 3716 require agencies to issue regulations. The Department of the Treasury also requires agencies to issue a regulation in order to utilize the Federal Tax Refund Offset Program established pursuant to 31 U.S.C. 3720A. By this regulation and delegations under related statutes not covered by this regulation, the implementation of NSF's debt collection program and the exercise of the authority granted by the statutes will be delegated by the Director of NSF to its Chief Financial Officer.

No comments were received as a result of the notice of the proposed regulation published on September 2, 1993 at pages 46600–46602 of Volume 58, No. 169 of the **Federal Register** and no changes have been made to the proposed rule published there.

Paperwork Reduction Act

This regulation does not include provisions for information collection that require review and approval by the Office of Management and Budget Under section 3518 of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and 5 CFR part 1320.

Regulatory Flexibility Act

The Director of NSF certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. NSF data indicates that a very small debt is owed to NSF. Hence, this regulation will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Public Law 96–354, 5 U.S.C. 605(b). Accordingly, no regulatory flexibility analysis is required.

Executive Order 12291

This rule is not a "major rule" as defined under Executive Order 12291 and no regulatory impact analysis is required.

List of Subjects in 45 CFR Part 608

Administrative offset, Administrative practice and procedures, Claim collection, Debt collection, and Tax refund offset.

Authority: 31 U.S.C. 3711, 3716, 3718 and 3720A.

Neal Lane,

Director.

For the reasons set out in the preamble, part 608 of title 45 of the Code of Federal Regulations is added to read as follows:

PART 608—CLAIMS COLLECTION AND ADMINISTRATIVE OFFSET

608.1 Purpose and scope.
608.2 Collection, compromise, and use of consumer reporting agencies
608.3 Administrative offset
608.4 Reductions of tax refunds

Authority: 31 U.S.C. 3711, 3716, 3718 and 3720A.

§ 608.1 Purpose and scope.

(a) This part sets forth policies and procedures for the collection and compromise claims and the administrative offset of claims by the National Science Foundation (NSF) pursuant to 31 U.S.C. 3711, 3716, 3718 and 3720A. It is not intended to limit or govern the rights of the NSF or the United States to collect, compromise, or administratively offset debts or claims under other authority and procedures that may be legally available to it.

(b) Matters not addressed in this part should be reviewed and handled in accordance with applicable statutory provisions and the Federal Claims Collection Standards issued jointly by the Attorney General and the Comptroller General (4 CFR parts 101 through 105).

(c) Any action other than the issuance of regulations specifically required to be done by the head of the agency by any of the statutes or regulations referred to in paragraphs (a) and (b) of this section shall be done on behalf of NSF by its Chief Financial Officer or by those to whom the Chief Financial Officer delegates authority. This is not intended to prevent the Chief Financial Officer from issuing additional internal procedures and guidance consistent with this part.

§ 608.2 Collection, compromise, and use of consumer reporting agencies.

(a) Subject to the specific limitations and procedures of 31 U.S.C. 3711 and in accordance with the applicable provisions of the Federal Claims Collection Standards, NSF, acting through its Chief Financial Officer or those to whom he or she delegates authority or assigns responsibilities, shall try to collect claims of the United States Government for money or property arising out of the activities of NSF or that are referred to NSF and may compromise or suspend or end collection action of certain claims. In making demands for payment, NSF will follow the guidance set forth at 4 CFR 102.2. In appropriate cases, as authorized by and subject to 31 U.S.C. 3718 and 4 CFR 102.6, NSF may contract for collection services. Before compromising or suspending or ending the collection of a claim in excess of $5,000, the matter shall be referred to the NSF Office of General Counsel for legal review.

(b) When trying to collect a claim of the Government (except for claims under the Internal Revenue Code of 1986, 26 U.S.C. 1 *et seq.*), NSF may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if (1) a notice published pursuant to 5 U.S.C. 552a(3)(4) indicates that information in the system of records may be disclosed to a consumer reporting agency that an individual is responsible for a claim and (2) if the Chief Financial Officer of NSF decides that the claim is valid and overdue. Such disclosures to a consumer reporting agency will be done only under the conditions and procedures specified in 31 U.S.C. 3711(f) and in the Federal Claims Collections Standards. Specifically, before NSF provides the information to the consumer reporting agency, the individual will be given the notice required by 31 U.S.C. 3711(f)(1)(C); and in accordance with 4 CFR 102.5(c), the right of administrative review to be provided to the individual shall be consistent with the provisions of 4 CFR 102.3(c). If NSF does not have a current address for the individual in its files, it will take reasonable action to locate the individual, but if unsuccessful will mail the notice to the individual's last known address. NSF will disclose information only to a consumer reporting agency that gives satisfactory assurances that it is complying with all laws of the United States relating to providing consumer credit information. The information provided by NSF shall be limited to the type of information described in 31 U.S.C. 3711(f)(1)(F). Moreover, NSF will not provide such information until it has established internal procedures to disclose promptly to a consumer reporting agency to which disclosure is made of any substantial changes in the condition or amount of the claim and to verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed.

(c) If in response to the notice referred to in paragraph (b) of this section, the individual repays or agrees in writing with NSF to a repayment plan, the information will not be disclosed to a consumer reporting agency. If in response to the notice referred to in paragraph (b) the individual requests a review or reconsideration of the claim, information shall not be disclosed to the consumer reporting agency until such a review is provided.

(d) The review referred to in paragraph (c) of this section shall be based only on the written documentation in the file, including any additional written information provided by the individual in response to the notice referred to in paragraph (b). A written summary briefly describing the nature of the review performed and the conclusion reached shall be made. The written summary and conclusion shall be referred to the NSF Office of General Counsel for legal review. After legal review, a copy of the written summary shall be sent to the individual.

§ 608.3 Administrative offset.

(a) If NSF is unable to collect a claim from a person after trying to do so in accordance with § 608.2, NSF may collect the claim by administrative offset subject to the procedures and limitations of 31 U.S.C. 3716 and the applicable provisions of the Federal Claims Collection Standards. Determinations to pursue administrative offset shall be made on a case-by-case basis taking into account the considerations specified at 31 U.S.C. 3716(b) and 4 CFR 102.3(a). Before employing administrative offset, NSF will comply with the notice, hearing, review, or other procedural requirements of 31 U.S.C. 3716(a) and 4 CFR 102.3(b) and (c). Furthermore, before an administrative offset is taken by NSF pursuant to the authority of this part 608, the matter shall be referred to the Office of General Counsel for legal review to ensure that the required procedures have been followed.

(b) When another agency requests NSF to administratively offset a claim owing to that agency, NSF will normally comply with such request if the requesting agency has provided the certification required by 4 CFR 102.3(f) and offset would not be contrary to law. Before imposing administrative offsets at the request of another agency under this part 608, the matter shall be referred to the NSF Office of General Counsel for legal review.

(c)(1) In appropriate cases, NSF may request another agency to administratively setoff a claim owed to NSF. Before making the certification to the other agency required by 4 CFR 102.3(f), the matter shall be referred to the NSF Office of General Counsel for legal review.

(2) Unless otherwise prohibited by law, NSF may request that moneys that are due and payable to a debtor from the Civil Service Retirement and Disability Fund, the Foreign Service Retirement Fund or any other Federal retirement fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments debts owed the United States by the debtor. Such requests shall be made to the appropriate officials of the respective fund servicing agency in accordance with such regulations as may be prescribed by that agency. The requests for administrative offset will certify in writing that (i) the debtor owes the United States a debt and the amount of the debt; (ii) NSF has complied with applicable regulations and procedures; and (iii) NSF has followed the requirements of the Federal Claims Collection Standards as made applicable by this section. Once NSF decides to request offset from a Federal retirement fund, it will make the request as soon as practical after completion of the applicable procedures in order that the fund servicing agency may identify and flag the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the fund and to ensure that offset will be initiated prior to the expiration of the statute of limitations.

(3) If NSF collects part or all of the debt by other means before deductions are made or completed pursuant to this paragraph (c), NSF shall act promptly to modify or terminate its request for offset.

(4) This paragraph (c) does not require or authorize the fund servicing agency to review the merits of (i) NSF's determination with respect to the amount and validity of the debt, (ii) NSF's determination as to waiver under an applicable statute, or (iii) NSF's determination to provide or not provide an oral hearing.

(d) No collection by administrative offset shall be made on any debt that has been outstanding for more than ten years unless facts material to the Government's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering the debt.

(e) Administrative offset under this section will not be initiated against:

(1) A debt in which administrative offset of the type of debt involved is explicitly provided for or prohibited by a statutes other than 31 U.S.C. 3716, including debts subject to the Salary offset procedures at 45 CFR part 607;

(2) Debts owed by other agencies of the United States or by any State or local Government; or

(3) Debts arising under the Internal Revenue Code of 1954; the Social Security Act; or the tariff laws of the United States.

§ 608.4 Reductions of tax refunds.

(a) In accordance with regulations and guidance issued by the Secretary of the Treasury at 26 CFR 301.6402–6 and the requirements of 31 U.S.C. 3720A, NSF will participate in the Federal Tax Refund Offset Program for offset against income tax refunds of persons owing past due legally enforceable debts to NSF.

(b) For purposes of this section, a past-due legally enforceable debt referable to the IRS is a debt which is owed to the United States and:

(1) Except in the case of a judgment debt, has been delinquent for at least three months but has not been

delinquent for more than ten years at the time the offset is made;

(2) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(3) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by NSF against amounts payable to or on behalf of the debtor by or on behalf of NSF;

(4) With respect to which NSF has notified or has made a reasonable attempt to notify the taxpayer that the debt is past-due and, unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax;

(5) With respect to which NSF has given the taxpayer at least 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, has considered the evidence presented by such taxpayer, and has determined that an amount of such debt is past-due and legally enforceable;

(6) Has been disclosed by NSF to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless a consumer reporting agency would be prohibited from using such information by 15 U.S.C. 1681c, or unless the amount of the debt does not exceed $100.00;

(7) Is at least $25.00;

(8) All other requirements of 31 U.S.C. 3720A and the Internal Revenue Service regulations at 26 CFR 301.6402–6 relating to the eligibility of a debt for tax return offset have been satisfied.

(c) NSF will make a request for reduction of an IRS tax refund only after the NSF determines that an amount is owed and past-due and provides the debtor with 60 days written notice. NSF's notice of intention to collect by IRS tax refund offset (Notice of Intent) will state:

(1) The amount of the debt;

(2) That unless the debt is repaid within 60 days from the date of the NSF's Notice of Intent, NSF intends to collect the debt by requesting the IRS to reduce any amounts payable to the debtor as refunds of Federal taxes paid by an amount equal to the amount of the debt and all accumulated interest and other charges;

(3) That the debtor has a right to present evidence that all or part of the debt is not past-due or legally enforceable; and

(4) A mailing address for forwarding any written correspondence and a contact name and phone number for any questions.

(d) A debtor who receives a Notice of Intent has the right to present evidence that all or part of the debt is not past-due or not legally enforceable. To exercise this right, the debtor must:

(1) Send a written request for a review of the evidence to the address provided in the notice.

(2) State in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable.

(3) Include with the request any documents which the debtor wishes to be considered or state that additional information will be submitted within the remainder of the 60-day period.

(e) The failure of a debtor to respond as provided in paragraph (d) of this section will result in an automatic referral of the debt to the IRS without further action by NSF. If the debtor responds, NSF will consider all available evidence related to the debt and issue a written determination, including supporting rationale, whether its prior determination that the debt is past-due and legally enforceable is sustained, amended, or canceled. Before this determination is made the matter shall be referred to the NSF Office of General Counsel for legal review. NSF will give prompt notification of this determination to the debtor.

[FR Doc. 93–31592 Filed 12–28–93; 8:45 am]
BILLING CODE 7555–01–M

DEPARTMENT OF JUSTICE

48 CFR Parts 2801, 2802, 2806, and 2807

Justice Acquisition Circular 94–1; Amendment to the Justice Acquisition Regulations (JAR) Regarding: Contracting Authority and Responsibilities, Definitions, Competition Advocates, and Acquisition Planning

AGENCY: Office of the Procurement Executive, Justice Management Division, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the JAR by prescribing new policies and procedures for redelegation of authority for contractual actions of goods and services and acquisitions by lease or purchase of any interest in real property; removing regulations on modifying delegation documents; revising regulations to reflect new policies and procedures for reviews of contractual actions conducted by the Office of the Procurement Executive; revising regulations to set forth the Department of Justice system for selection, appointment, and termination of appointment of contracting officers; redefining an existing contracting activity and incorporating an additional contracting activity; incorporating existing agency policy and procedures concerning Competition Advocates; and incorporating existing agency policy and procedures regarding Acquisition Planning.

EFFECTIVE DATE: December 29, 1993.

FOR FURTHER INFORMATION CONTACT: W.L. Vann, Procurement Executive, Justice Management Division (202) 514–6868.

SUPPLEMENTARY INFORMATION: The determination is hereby made that this amendment must be issued as a final rule. This amendment was not published for public comment because it does not have an effect beyond the internal operating procedures of the agency. The Director, Office of Management and Budget, by memorandum dated December 14, 1984, exempted agency procurement regulations from review under Executive Order 12291, except for selected areas. The exception applies to this rule. The Department of Justice certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601–612) because the amendment sets forth, wholly, internal departmental procedures. No additional time or cost burden will be placed on contractors by the promulgation of this regulation.

List of Subjects in 48 CFR Part 2801, 2802, 2806, and 2807

Government procurement.

Stephen R. Colgate,
Assistant Attorney General for Administration.

1. The authority citation for 48 CFR part 2801, 2802, 2806, and 2807 continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

PART 2801—DEPARTMENT OF JUSTICE ACQUISITION REGULATIONS SYSTEM

2. Section 2801.601 is revised to read as follows:

2801.601 General.

(a) In accordance with Attorney General Order 1687–93, the authority vested in the Attorney General with respect to contractual actions, for goods and services, is delegated to the following officials:

(1) Assistant Attorney General for Administration (for the offices, boards, and divisions (OBDs);

(2) Director, Federal Bureau of Investigation;

(3) Director, Bureau of Prisons;

(4) Commissioner, Federal Prison Industries;

(5) Commissioner, Immigration and Naturalization Service;

(6) Administrator, Drug Enforcement Administration;

(7) Assistant Attorney General, Office of Justice Programs;

(8) Director, U.S. Marshals Service;

(9) Director, National Institute of Corrections; and

(10) Inspector General

(b) In accordance with Attorney General Order 1688–93, the authority vested in the Attorney General with respect to acquisition by lease or purchase of any interest in real property has been redelegated to the Assistant Attorney General for Administration.

(1) The following authorities have been redelegated to the Director, Facilities and Administrative Services Staff, JMD, for the efficient and proper administration of the Department's real property operations:

(i) Acquire by lease or purchase any interest in real property for all components of the Department of Justice.

(ii) Secure delegations of lease acquisition authority from GSA for all components of the Department.

(iii) Approve ratification requests of $5,000 or less with respect to interests in real property.

(iv) Only the authority contained in paragraph (b)(1)(i) of this section may be redelegated.

(2) Authority contained in paragraph (b)(1)(i) is redelegated to the heads of Bureaus, as defined in the Order as follows:

(i) Assistant Attorney General for Administration (for the offices, boards, divisions, United States Attorneys, and United States Trustees);

(ii) Director, Federal Bureau of Investigation;

(iii) Director, Bureau of Prisons;

(iv) Commissioner, Federal Prison Industries, Inc.;

(v) Commissioner, Immigration and Naturalization Service;

(vi) Administrator, Drug Enforcement Administration;

(vii) Assistant Attorney General, Office of Justice Programs;

(viii) Director, United States Marshals Service; and

(ix) Inspector General, Office of the Inspector General.

(c) The acquisition authority delegated to the officials in 2801.601 (a) and (b)(2) may be redelegated to subordinate officials as necessary for the efficient and proper administration of the Department's acquisition operations. Such redelegated authority shall expressly state whether it carries the power of redelegation and the limits, if any, of the redelegation of authority.

(d)(1) Contracting officer authority to other than those positions expressly identified in paragraphs (a)(1) through (a)(10) of this section for goods and services shall be redelegated only to subordinate individuals who:

(i) Are employed in the 1100 personnel classification series, have met the requirements of § 2801.603 and have been certified as competent by the Bureau Director or designee, in accordance with the Certification Program required by OFPP Policy Letter 92–3, Procurement Professionalism Program Policy—Training for Contracting Personnel; or,

(ii) Must function as contracting officers for goods and services in the performance of their duties, have met the requirements of § 2801.603 and have been certified as competent by the Bureau Director or designee, in accordance with the Certification Program required by OFPP Policy Letter 92–3, Procurement Professionalism Program Policy—Training for Contracting Personnel; except that,

(iii) Authority to make small purchases for goods and services may be redelegated to subordinate individuals not classified in the 1100 series provided,

(A) That the office(s) they serve would otherwise be without supply support for their immediate needs or the individuals are being authorized to place delivery orders or similar instruments against established DOJ or other agency contracts; and,

(B) The individuals have been adequately instructed in the regulations concerning small purchases and have been certified as competent by the Bureau Director or designee, in accordance with the Certification Program required by OFPP Policy Letter 92–3, Procurement Professionalism Program Policy—Training for Contracting Personnel.

(2) Real property contracting authority may be redelegated to individuals not in the 1100 series, provided that the qualification requirements stated in 2801.603–2(d)(2) are met.

(3) The redelegation of contracting authority directly to specific persons without regard for intermediate organizational levels only establishes authority to represent the Government in its commercial business dealings. It is not intended to affect the organizational relationship between the contracting officers and higher administrative and supervisory levels in the performance of their duties.

(e) When exercising delegated contracting officer authority, a designated employee shall be identified as the contracting officer and shall function within the limits prescribed by law, the FAR, the JAR, and his/her delegation of contracting authority. Additionally, real property contracting officers shall be subject to the GSAR and the JPMR.

(f) A contracting officer shall maintain evidence of his/her delegation of authority and while functioning as a contracting officer, shall make such evidence available upon request.

2801.601–70 [Removed]

3. Section 2801.601–70 is removed.

4. Section 2801.602–70 is revised to read as follows:

2801.602–70 Office of the Procurement Executive.

(a)(1) The contracting officer shall forward the proposed contract action to the Office of the Procurement Executive for review prior to execution of any contractual action which:

(i) Exceeds $50,000 and was solicited using other than full and open competition procedures, including amendments or modifications to these contracts which cause the total contract costs to exceed $50,000;

(ii) Exceeds $100,000, and was solicited using full and open competition procedures, including amendments or modifications to these contracts which cause the total contract costs to exceed $100,000; or

(iii) Is evaluated on the basis of system life costs and/or is evaluated on the basis of option pricing regardless of dollar value;

(2) For the purposes of this section contractual actions include all pre-award, award, and post-award contractual actions above the thresholds in paragraphs (a)(1) (i) through (iii) including, but not limited to modifications, ratifications, and options, but excluding orders from Federal Supply Schedules and orders from Basic Ordering Agreements. Review by the Office of the Procurement Executive is applicable to all organization elements in the Department, with the exception of the FBI as noted in this section. It is the responsibility of the FBI's Contract Review Board to ensure that procurement actions for goods and services are awarded in conformity with applicable statutes, regulations, and procedures. This exemption, however, does not exempt the FBI from the

review by the Office of the Procurement Executive of all real property procurement actions above the thresholds cited in paragraphs (a)(1) (i) through (iii) of this section, or from other oversight responsibilities of the Office of the Procurement Executive, including Procurement Executive review and approval of justifications for other than full and open competition on contracts over $10 million.

(b) Prior to submission to the Procurement Executive, the legal officer for each Bureau procurement activity is responsible for reviewing and approving all such procurement actions for legal sufficiency.

(c) The AAG/A and/or the Procurement Executive may waive any requirements for preaward contract review, except those imposed by statute. Requests for waivers shall be submitted to the Procurement Executive in accordance with paragraph (d) of this section.

(d) A request for a waiver must be submitted in writing by the head of the contracting activity and include a detailed explanation as to why a waiver is required, as well as information explaining reasons why a contract or class of contracts cannot be reviewed on a preaward basis. Oral waivers may be requested and granted under circumstances of compelling urgency, but written documentation of the waiver shall be made as soon as time permits. All contract documents that are available at the time a waiver request is made must accompany the request for review. All available documents will be reviewed to assure that the award is legally sufficient prior to the granting of a waiver. A postaward review of the completed contract file is required. Waivers will not be granted near the end of a fiscal year for the purpose of obligating year end funds.

(e) In accordance with Attorney General Orders 1687–93 and 1688–93, the head of a Bureau may appeal a decision of the Procurement Executive to the Contract Appeals Panel (Panel), in writing, within 15 calendar days after receipt of the decision of the Procurement Executive. The Panel shall be composed of the Deputy Attorney General who shall serve as chairperson, the Associate Attorney General and the Assistant Attorney General for Administration. The Panel shall meet on an ad hoc basis as necessary and determined by the chairperson. When appealing a decision of the Procurement Executive, the head of the Bureau shall follow the procedures described in paragraphs (e) (1) through (4) of this section.

(1) The appeal file shall be submitted through the Office of the Procurement Executive (OPE) to the Deputy Attorney General as Chairperson of the Contract Appeals Panel. Submission of the appeal through the OPE is required so that the Procurement Executive may provide a written response to the issues raised in the appeal and, due to the ad hoc nature of the Contract Appeals Panel, provide a location for the collection and maintenance of appeal documents and files. The Procurement Executive shall forward the appeal file to the Chairperson within five working days of receipt.

(2) *Content of the appeal file.* The appeal file must be complete in that it fully addresses the issue(s) being appealed. The file shall include a copy of the proposed contract or other award action, documents relied upon by the contracting officer in taking the action under dispute, the Procurement Executive's decision and a statement of facts setting forth the basis on which the appeal is made. The statement of facts shall cite, where applicable, procurement regulations, statutes, or decisions by other authorities, such as GAO decisions, that support or form the basis of the appeal. A summary shall be provided stating the resolution requested by the Bureau. An original and three copies of the appeal file shall be submitted.

(3) The head of the Bureau shall also submit to the OPE, with the appeal file, the original contract file as submitted to the OPE for review.

(4) The Contract Appeals Panel, following review and consideration of the appeal shall issue its decision in writing to the head of the Bureau through the Office of the Procurement Executive and return, with the decision, all documents submitted by the Bureau. Unless the Attorney General directs that the matter be referred to him/her, the decision of the Panel will be the final Department of Justice position as to whether a particular procurement action complies with the applicable statute, regulation, policy or procedure.

(f) The Procurement Executive is authorized to review any procurement actions, including real property procurement actions, throughout the Department and direct that such corrective action be taken as the Procurement Executive deems necessary, and to inspect at any time the procurement operations of any component of the Department.

5. Section 2801.603 is revised to read as follows:

2801.603 Selection, appointment and termination of appointment.

2801.603–2 Selection.

(a) *Policy.* It is the Department's objective in issuing contracting officer Certificates of Appointment, SF 1402s, to ensure that only those officials who are fully qualified to obligate the Government for the expenditure of public funds are appointed as contracting officers.

(b) *Appointment levels.* There are four levels of authority as follows:

(1) Level I: Applies to personnel who have been delegated contracting authority at or under the small purchases threshold, or with authority to place delivery orders at any dollar level.

(2) Level II: Applies to personnel who have been delegated contracting authority up to a maximum of $100,000.

(3) Level III: Applies to personnel who have been delegated contracting authority up to a maximum of $500,000.

(4) Level IV: Applies to all personnel who have been delegated contracting authority which exceeds $500,000.

(c) *Selection procedures.* (1) Once the organizational need is determined, the supervisor will nominate a contracting officer candidate. The supervisor shall submit, through appropriate bureau channels, a qualification statement to the bureau official authorized to grant the delegation of procurement authority. The qualification statement must include, as applicable, a copy of the employee's most recently completed Individual Development Plan (IDP), a Certificate of Competency, and an updated SF–171 or equivalent which contains the following information:

(i) Name;

(ii) Title, series, grade;

(iii) Office;

(iv) Education, including—

(A) Highest level completed;

(B) College or university name;

(C) Degree received;

(D) Chief undergraduate/graduate college subject;

(v) Experience.

(2) Upon review and determination that the applicant meets the required qualification standards set forth in 2801.603–2(d), the appointing official (refer to 2801.601(a), (b)(2), and (c) for identification of the appointing officials) shall issue a SF 1402, Certificate of Appointment, in accordance with 2801.603–3.

(d) *Required qualifications.* Qualification standards are listed, respectively, for goods and services and real property procurement authority. Additional qualification standards for each level may be established, as determined appropriate to support a bureau's mission.

(1) *Goods and services.* A contracting officer candidate must be certified as competent at the appropriate career level prior to receiving a delegation of procurement authority. The level of delegated procurement authority and corresponding career level certification requirements are listed below. The mandatory training requirements shall be met through attending courses that provide skill training in the units of instruction outlined in the Federal Acquisition Institute (FAI) Contract Specialist Workbook, as specified by OFPP Policy Letter 92–3. Courses may be taken from any institution as long as they provide the requisite skill training. For all in-house courses, i.e., courses that are conducted or sponsored by the bureaus or by the DOJ Training Center, the Procurement Executive will determine which courses meet the criteria. For all outside courses, i.e., courses that are conducted or sponsored by sources other than DOJ personnel or DOJ contractors, each bureau will be required to determine which courses qualify. The OJT units of instruction and related tasks for Level I contracting officers shall be completed as listed in the Department's Master Development Plan for purchasing personnel. The OJT units of instruction, related tasks and standards for Levels II, III, and IV, as mandated by OFPP Policy Letter 92–3, are contained in the Contract Specialist Workbook and shall be completed as listed in the Department's Master Development Plan (MDP) for all contracting personnel.

(i) *Level I.* Completion of the following course and related OJT units of instruction that are set forth in the Master Development Plan—Purchasing. (If the individual is not in the 1102 or 1105 occupational series, the OJT units of instruction are not required to be completed.):

Course	Hours
Small Purchase Basics	40

(ii) *Level II.* Completion of the following courses and applicable OJT units of instruction that are set forth in the Department's MDP—Contracting.

Courses	Hours
Introduction to Contracting	40
Procurement Planning	40
Contracting by Sealed Bidding	40
Price Analysis	40
Contracting By Negotiation	40
Cost Analysis	40
Total	240

(iii) *Level III.* In addition to completion of the courses and OJT units of instruction specified for Level II, the following courses and applicable OJT units of instruction that are set forth in the Department's MDP—Contracting must be completed.

Courses	Hours
Negotiation Techniques	40
Gov't Contract Administration	40
Gov't Contract Law	40
Types of Gov't Contracts	24
Total	144

(iv) *Level IV.* In addition to completion of the courses and OJT units of instruction specified for Levels II and III, the following courses and applicable OJT units of instruction that are set forth in the Department's MDP—Contracting must be completed.

Courses	Hours
Advanced Contract Administration	40
Advanced Cost and Price Analysis	40
Advanced Contract Negotiation	40
Termination	40
Total	160

(2) *Real property.*

(i) Training subject areas for real property procurement.

(A) It is understood that the following are meant to be general subject areas, which pertain to the authority to enter into real property acquisitions, not course titles. The bureau, in determining the acceptability of a particular course, will make a determination based on what is generally understood in the area of real property acquisition and related training.

(*1*) Federal Real Property Leasing or Basic Lease Contracting (40 hours);

(*2*) Real Estate Law or Federal Real Property Lease Law (40 hours);

(*3*) Pricing of Lease Proposal (40 hours);

(*4*) Real Estate Appraisal Principles or equivalent course (40 hours);

(*5*) Techniques of Negotiating Federal Real Property Leases (40 hours).

Total—200 Hours

(B) The Price and Cost Analysis courses and Negotiation Techniques course listed under 2801.603–2(d)(1) may be substituted for the required Pricing of Lease Proposal and Techniques of Negotiating Federal Real Property Leases courses, respectively.

(ii) The levels of delegated real property authority and the qualification requirements are listed below.

(A) *Level I.* Signatory authority to enter into real property contracts up to the small purchase threshold as set forth in FAR Part 13.

(*1*) Completion of the qualification standards cited in 2801.603–2(d)(1) and receipt of a Level I delegation of procurement authority for supplies and services, or for realty leasing and sales personnel, completion of one year of real estate experience that demonstrate the ability to perform at Level I; and

(*2*) Completion of 200 hours of training from the subject areas listed in 2801.603–2(d)(2)(i).

(B) *Level II.* Signatory authority to enter into real property contracts up to $100,000.

(*1*) Completion of the qualification standards cited in 2801.603–2(d)(1) and receipt of a Level II delegation of procurement authority for goods and services, or for realty leasing and sales personnel, completion of two years of real estate experience that demonstrate the ability to perform at Level II; and

(*2*) Completion of 200 hours of training from the subject areas listed in 2801.603–2(d)(2)(i).

(C) *Level III.* Signatory authority to enter into real property contracts up to $500,000.

(*1*) Completion of the qualification standards cited in 2801.603–2(d)(1) and receipt of a Level III delegation of procurement authority for goods and services, or for realty leasing and sales personnel, three years of real estate experience that demonstrate the ability to perform at Level II, including six months as a Real Property Contracting Officer equivalent to Level II responsibilities that demonstrate the ability to perform at Level III; and

(*2*) Completion of 200 hours of training from the subject areas listed in 2801.603–2(d)(2)(i).

(D) *Level IV.* Signatory authority to enter into real property contracts exceeding $500,000.

(*1*) Completion of the qualification standards cited in 2801.603–2(d)(1) and receipt of a Level IV delegation of procurement authority for goods and services, or for realty leasing and sales personnel, completion of four years of real estate experience that demonstrate the ability to perform at Level III, including one year as a Real Property Contracting Officer equivalent to the Level III responsibilities that demonstrated the ability to perform at Level IV; and

(*2*) Completion of 200 hours of training from the subject areas listed in 2801.603–2(d)(2)(i).

(3) The qualification standards cited under 2801.603–2(d) (1) and (2) are not applicable to management officials of

the Department and its components who have contracting officer authority for goods and services by virtue of their organizational placement at a level above the chief of the contracting office as defined in JAR 2802.102(f).

(e) *Equivalencies.*

(1) Prior procurement training and work experiences of senior and intermediate level personnel may be substituted for the mandatory training requirements for goods and services (both course work and units of instruction) if it is determined by the supervisor that the individual is already competent to perform applicable contracting officer's duties. The supervisor's determination shall be based on the results of an interview and review of the individual's prior education, procurement training, and work experiences. (The standard procurement career levels, which are applicable to individuals in the 1102 and 1105 series, as well as to those in other classification series who perform contracting duties more than 50 percent of the time, are: (i) Entry—GS–1102–5/8; (ii) Intermediate—GS–1102–9/12; (iii) Senior—GS/GM–1102–13/Above; and (iv) Purchasing—GS–1105 any grade.)

(2) Completion of an advanced degree in Government Contracting, completion of a certification program in Government Contracting, or passing an examination which is given by a nationally recognized professional contract management organization such as the National Contract Management Association, may be substituted for the mandatory training courses for procurement of goods and services, if these items have been completed prior to the effective date of Justice Acquisition Circular (JAC) 94–1. The individual shall, however, be required to complete all applicable on-the-job training units of instruction.

(3) Completion of courses towards an undergraduate or advanced degree may be taken into consideration, on a case-by-case basis, as a substitute for the mandatory training courses. The individual shall, however, be required to complete all applicable on-the-job training units of instruction for procurement of goods and services, and all applicable work experience for procurement of real property.

(4) Completion of a Juris Doctor (J.D.) degree from an American Bar Association accredited law school may be substituted for the following Level II mandatory training courses for procurement of goods and services: Introduction to Contracting; Procurement Planning; Contracting by Sealed Bidding; and Contracting by Negotiation. The individual shall, however, be required to complete all applicable on-the-job training units of instruction.

(5) Management of Defense Acquisition Contracts (Basic) course, if completed prior to the effective date of JAC 94–1, is equivalent to the following mandatory training courses for procurement of goods and services: 40 hours of Introduction to Contracting, 40 hours of Sealed Bidding, 40 hours of Contracting by Negotiation, 40 hours of Government Contract Administration, and 24 hours of Types of Government Contracts.

(6) Management of Defense Acquisition Contracts (Advanced course), if completed prior to the effective date of JAC 94–1, is equivalent to the following mandatory training courses for procurement of goods and services: 40 hours of Advanced Contract Administration and 40 hours of Advanced Contract Negotiation.

(7) All employees' IDPs shall be documented to reflect the substituted training and on-the-job training units of instruction, as applicable.

(f) *Implementation schedule and waivers.*

(1) Individuals holding existing delegations of authority may retain their delegations until October 1, 1995, while qualifying under the standards in this section. Existing delegations shall not be changed to increase or decrease the dollar authority, or remove other limitations until the individual is determined qualified under the prescribed standards. Effective October 1, 1995, only those individuals who meet the minimum standards set forth in the regulation in this section shall be delegated contracting officer's authority. If an individual holding an existing delegation of authority fails to qualify under the standards set forth in the regulation in this section, by October 1, 1995, the existing delegation of authority shall be terminated by the contracting activity. It is recognized that under certain circumstances, an unusual need might dictate delegation of a warrant to an individual who does not meet the standards in this section. In those rare circumstances where it is necessary to nominate a candidate who does not fully meet the standards, a written waiver request must be submitted, by the Head of the contracting activity, for approval of the Procurement Executive.

(2) All waiver requests must contain a complete justification for the action requested and, as applicable, a copy of the employee's IDP which specifies the action to be taken to meet the delegation of procurement authority requirements.

2801.603–3 Appointment.

(a) Delegations of authority to other than those positions expressly identified in section 2801.601 (a) and (b) shall be made only to individuals by name. The delegations shall be issued in writing on Standard Form 1402, Certificate of Appointment, and shall contain the following mandatory elements:

(1) Type of delegation, e.g., goods and services, lease contracting, real property.

(2) The dollar limit, if any, of the delegation.

(3) If the delegation of authority carries the power of redelegation and the limits of the redelegation of authority.

(4) Any limitations of the type of purchases, i.e., open market, GSA schedules, etc.

(b) Upon issuance, a copy of all SF 1402s, along with the individual's qualification statement shall be submitted to the Office of the Procurement Executive.

(c) A copy of the SF 1402 and qualification statement shall be maintained, in accordance with bureau procedures, for each contracting officer.

2801.603–4 Terminations.

When an appointing official determines to make a change in the delegation of authority, including increasing or decreasing the limitations, a new SF 1402, Certificate of Appointment shall be issued and the existing warrant shall be officially terminated.

PART 2802—DEFINITIONS OF WORDS AND TERMS

6. In section 2802.102, paragraph (a) is revised to read as follows:

2802.102 Definitions.

* * * * *

(a) *Contracting acitivity* means an office, board, division, or bureau within the Department which has been delegated procurement authority to manage contracting functions associated with its mission or, as is the case with the Office of Justice Programs, which must adhere to the procurement policy of the Attorney General. See 2801. 602 (a), (b)(1) and (b)(2).

* * * * *

PART 2806—COMPETITION REQUIREMENTS

7. Part 2806 is amended as set forth below:

a. In 2806.304(a) remove the words "bureau Procurement Chief" and add in their place the words "chief of the contracting activity" and also remove the words "bureau Competition Advocate" and "bureau competition advocate" and add, in their place the words "procuring activity competition advocate".

b. In section 2806.501 paragraph (b) is revised to read as follows:

2806.501 Requirement.

* * * * *

(b) The agency head will appoint in each bureau an official to be the procuring activity competition advocate. The procuring agency competition advocates shall be vested with the overall responsibility for competition activities within their respective procuring activity. No individual in the contracting office at or below the level of chief of the contracting office may serve as the procuring activity competition advocate. An individual at any level in the supervisory chain above the chief of the contracting office may serve as procuring activity competition advocate.

c. Section 2806.502 is revised to read as follows:

2806.502 Duties and responsibilities.

(a) The Procurement Executive shall:

(1) Provide guidance to competition advocates in formulating plans, goals, and procedures to achieve the goals of enhancing competition and challenging barriers to full and open competition; and,

(2) Review and approve justifications for other than full and open competition for contract requirements over $10 million in accordance with JAR 2806.303–2.

(b) The DOJ Competition Advocate is responsible for the duties and responsibilities described in FAR 6.502.

(c) The Procuring Activity Competition Advocate shall:

(1) Actively enforce the Department's Competition Advocacy Program within the procuring activity. Ensure that systems are established for the effective internal control of procuring activity functions and activities which implement the Department's Competition Advocacy Program.

(2) Review specifications for unnecessary detail and statements of need for undue restrictions which have not been successfully tested in the marketplace. Should the procuring activity competition advocate challenge that the specifications are not conducive to full and open competition or that the statement of need is unduly restrictive, corrective action shall be taken as the chief of the contracting office determines necessary.

(3) Review and approve justifications for other than full and open competition for contract requirements over $100,000 but not exceeding $1 million. Justifications submitted to the procuring activity competition advocate shall be prepared pursuant to FAR 6.303 and shall contain the concurrence of the chief of the contracting office before being forwarded to the competition advocate.

(4) Concur with justifications for other than full and open competition for contract requirements over $1 million but not exceeding $10 million which require the review and approval by the head of the contracting activity or designee. Such justifications shall be prepared pursuant to FAR 6.303 and the JAR 2806.303–2. In addition to obtaining the concurrence of the procuring activity competition advocate, the concurrence of the chief of the contracting office shall also be obtained before being forwarded for higher level review and approval.

(5) Identify and challenge barriers to full and open competition.

(6) Implement specific goals and objectives to enhance competition.

(7) Prepare and submit to the DOJ Competition Advocate, by November 30th of each year, an annual report of competition advocacy activities conducted during the prior fiscal year.

PART 2807—ACQUISITION PLANNING

8. Part 2807 is amended as set forth below:

a. In § 2807.102, paragraph (b) is revised to read as follows:

2807.102 Policy

* * * * *

(b) Acquisition planning shall be accomplished in accordance with the Department's Advance Procurement Planning Program Order. Approval for alterations of programs or DOJ forms must be obtained from the Office of the Procurement Executive.

b. In section 2807.103, paragraph (a) is revised to read as follows:

2807.103 Agency-head responsibilities.

(a) The Department's Advance Procurement Planning Program Order provides that heads of components (Offices, Boards, Divisions and Bureaus) shall appoint an acquisition planner for all programs and activities requiring contract actions estimated at $500,000 or more in any given contract year. Acquisition planners shall be responsible for developing and maintaining written advance procurement plans. The acquisition planner shall work with the component procurement representative in developing advance procurement plans.

* * * * *

2807.7001 [Amended]

c. In section 2807.7001, paragraph (b)(1), remove the words "Department's Advance Procurement Planning Order" and add, in their place, the words "Department's Advance Procurement Planning Program Order," and also remove the words "chiefs of procurement activities" and add, in their place "chiefs of the contracting offices".

[FR Doc. 93–31544 Filed 12–28–93; 8:45 am]
BILLING CODE 4410–01–M

Proposed Rules

Federal Register
Vol. 58, No. 248
Wednesday, December 29, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1735

Telephone Program Loan Policies, Types, and Requirements

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend its regulation concerning general policies for telephone loans to make consistent for all telephone borrowers the adjusted net worth to assets requirement set forth in the mortgage between REA and its borrowers. The proposed rule would establish at 10 percent, the percentage of adjusted assets used in determining both the borrower's allowable distribution of capital, and certain reporting requirements. This percentage would be incorporated in new mortgages and would also apply to borrowers with outstanding loans regardless of the percentage stated in their existing mortgages.

DATES: Comments concerning this proposed rule must be received by REA or bear a postmark or its equivalent no later than February 28, 1994.

ADDRESSES: Submit written comments to Matthew P. Link, Director, Rural Telephone Bank Management Staff, U.S. Department of Agriculture, Rural Electrification Administration, 14th & Independence Avenue, SW., room 2832-S, Washington, DC 20250–1500. REA requests an original and three copies of all comments (7 CFR part 1700). All comments received will be made available for public inspection at room 2238-S, at the address listed above, between 8:30 a.m. and 5 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Cheryl Gamboney, Management Analyst, Rural Telephone Bank Management Staff, at the address listed above, telephone number (202) 720–0530.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this proposed rule will not:

(1) Preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule;

(2) Have any retroactive effect; and

(3) Require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

REA has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The REA program provides loans to REA borrowers at interest rates and terms that are more favorable than those generally available from the private sector. REA borrowers, as a result of obtaining federal financing, receive economic benefits which exceed any direct economic costs associated with complying with REA regulations and requirements. Moreover, this proposed rule corrects inequities and establishes a more consistent standard.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, the information collection and recordkeeping requirements contained in this proposed rule have previously been approved by OMB under control number 0572–0031. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, New Executive Office Building, Washington, DC 20503.

National Environmental Policy Act Certification

REA has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA and RTB loans and loan guarantees to governmental and nongovernmental entities from coverage under this Order.

Background

REA requires that mortgages and other documents securing REA telephone loans limit the borrower's authority to distribute its capital if the borrower does not have an adjusted net worth in excess of 40 percent of its adjusted assets. The standard form of mortgage also provides an alternative dividend limitation based upon an amount determined by a lower percentage of the borrower's adjusted net worth to adjusted assets together with certain adjustments provided in the borrower's mortgage. The lower percentage of adjusted net worth to adjusted assets is also used to specify when the borrower is subject to certain requirements set forth in the mortgage.

Prior to June 10, 1991, the alternative lower percentage was 20 percent for certain borrowers and 10 percent for all others. All mortgages associated with loans made after June 10, 1991, specify 10 percent. REA proposes to use 10 percent to determine whether a borrower that has not received a loan since June 10, 1991, is in compliance with REA's capital distributions policy and reporting requirements set forth in the standard form of mortgage. By applying the same alternative lower percentage to all borrowers, this proposed change corrects existing inequities and establishes a more consistent and reasonable policy.

List of Subjects in 7 CFR Part 1735

Accounting, Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For reasons set forth in the preamble, Chapter XVII of Title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELEPHONE PROGRAM

1. The authority citation for part 1735 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*

2. In § 1735.46, the undesignated paragraph is redesignated paragraph (a) and new paragraphs (b) through (h) are added to read as follows:

§ 1735.46 Loan security documents.

(a) * * *

(b) The standard form of mortgage or other security document required by REA to secure telephone loans prohibits the borrower from making certain investments or distributions of assets unless, after such action, the borrower's adjusted net worth is at least:

(1) Forty percent of its adjusted assets; or

(2) As an alternative, the sum of ten percent of its adjusted assets plus certain other adjustments specified in the mortgage.

(c) The standard form of telephone mortgage also states that if the borrower's adjusted net worth is at least ten percent of its adjusted assets, the borrower is not required to take or refrain from taking certain actions as set forth in the mortgage.

(d) REA will apply the ten percent requirement to all telephone borrowers regardless of whether the borrower's existing mortgage sets forth a higher percentage of adjusted net worth to assets for purposes of determining whether the borrower can:

(1) Use the alternative calculation described in paragraph (b)(2) of this section to determine if it can make investments or distributions; or

(2) Take advantage of the benefits described in paragraph (c) of this section.

(e) A borrower with an adjusted net worth of less than twenty percent of its adjusted assets shall continue to fulfill the requirements of the mortgage relating to reporting its ownership and transfers of its ownership, including capital stock, membership certificates and equity capital certificates.

(f) Any borrower meeting the standard forty percent limitation described in paragraph (b)(1) of this section shall continue to be able to pay dividends or make investments in accordance with the borrower's mortgage.

(g) References to a borrower's mortgage in this section include deeds of trust and any other loan document applying the same requirements to a borrower.

(h) This regulation does not limit the rights of any parties to the mortgage other than REA or RTB.

Dated: December 21, 1993.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc 93–31715 Filed 12–28–93; 8:45 am]
BILLING CODE 3410–15–F

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AB29

Capital Maintenance

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rule.

SUMMARY: The FDIC is proposing to amend its leverage and risk-based capital standards to conform with the recently-issued Statement of Financial Accounting Standards No. 115, "Accounting for Certain Investments in Debt and Equity Securities" (FASB 115), which requires banks to explicitly recognize net unrealized holding gains and losses on available-for-sale securities in determining the amount of an institution's common stockholders' equity. Since Tier 1 capital is defined to include common stockholders' equity, this proposal, if adopted, would also affect the calculation of Tier 1 capital. The proposal is consistent with recent Call Report guidance issued by the Federal Financial Institutions Examination Council (FFIEC) that requires banks to adopt FASB 115 for Call Report purposes. In addition, the proposed changes would appear to be consistent with the intent of section 37 of the Federal Deposit Insurance Act, which provides that accounting principles applicable to depository institutions should be no less stringent than generally accepted accounting principles (GAAP). Because institutions must adopt FASB 115 for Call Report purposes, recognizing the FASB 115 adjustments for regulatory capital purposes will avoid a regulatory burden that would otherwise arise if the treatment of these unrealized gains and losses for regulatory capital purposes were to differ from the method required for GAAP and Call Report purposes.

DATES: Comments on the proposal must be received by January 28, 1994.

ADDRESSES: All comments should be submitted to Hoyle L. Robinson, Executive Secretary, Attention: Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429 or delivered to room F–400, 1776 F Street, NW., between the hours of 9 a.m. and 5 p.m. on business days. Comments will be available for inspection in room 7118, 550 17th Street, NW., Washington, DC between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: For supervisory purposes, Stephen G. Pfeifer, Examination Specialist (202/898–8904), or Robert F. Storch, Section Chief (202/898–8906), Accounting Section, Division of Supervision; for legal issues, Cristeena G. Naser, Attorney, Legal Division (202/898–3587).

SUPPLEMENTARY INFORMATION:

I. Background

The FDIC's leverage and risk-based capital standards (12 CFR part 325—subpart A and appendix A to part 325) set forth a definition of Tier 1 capital that includes common stockholders' equity. The capital definitions (12 CFR 325.2(d) and section 1.A.1. of appendix A) further explain that common stockholders' equity includes common stock and any related surplus, undivided profits, disclosed capital reserves that represent a segregation of undivided profits, and foreign currency translation adjustments, less unrealized losses on marketable equity securities.

In May 1993, the Financial Accounting Standards Board (FASB) issued FASB 115 which, in effect, changes the calculation of stockholders' equity in financial statements prepared in accordance with GAAP by including as a separate component of equity the amount of net unrealized holding gains and losses on debt and equity securities that are deemed to be available-for-sale.

In addition, in materials accompanying the September 1993 Call Report forms, the FFIEC notified all banks that they must adopt the new FASB 115 accounting standard as of January 1, 1994, or the beginning of their first fiscal year thereafter, if later. Early adoption of this standard is also permitted to the extent allowable under FASB 115.

Call Report instructions that apply prior to the adoption of FASB 115 require a separate capital component only for the net unrealized loss on marketable equity securities, consistent with the provisions of Statement of Financial Accounting Standards No. 12, "Accounting for Certain Marketable Securities" (FASB 12). FASB 115, which supersedes FASB 12, broadens the scope of this separate component of stockholders' equity in that the FASB 115 capital component will include unrealized gains and losses on all securities that are available-for-sale (debt as well as equity), rather than just the net unrealized losses on marketable equity securities.

This new GAAP accounting standard and the conforming Call Report guidance raise the question of how the FASB 115 capital component for unrealized gains and losses on available-for-sale securities should be treated in determining the amount of an institution's regulatory capital under part 325. As a result, the FDIC is proposing to amend its leverage and risk-based capital standards to explicitly recognize net unrealized holding gains and losses on available-for-sale securities in determining the amount of an institution's common stockholders' equity.

This proposed regulatory capital treatment is consistent with the manner in which the FASB 115 capital component will be handled for financial reporting purposes under GAAP and for regulatory reporting purposes in the Call Reports that are filed by banks in accordance with the instructions issued by the FFIEC. Since Tier 1 capital under the FDIC's capital standards is defined to include common stockholders' equity, this proposal, if adopted, would also affect the calculation of Tier 1 capital.

II. Summary of FASB 115 Accounting Requirements

Under the GAAP rules and the Call Report instructions that apply to banks prior to the adoption of FASB 115, the basis of accounting for securities differs, depending on whether the securities are held for investment, held for trading, or held for sale. FASB 115 revises the categories among which depository institutions must divide their securities holdings to held-to-maturity, trading, and available-for-sale, and provides a different accounting treatment for each category.

Held-to-Maturity

The held-to-maturity category supplants the current held-for-investment category, but the accounting basis (i.e., amortized cost) remains the same. FASB 115 permits an institution to include a security in the held-to-maturity category only if the institution has "the positive intent and ability to hold the security to maturity".

Trading Securities

The accounting treatment for trading securities remains unchanged. Trading securities are those debt and equity securities that an institution buys and holds principally for the purpose of selling in the near term. Trading securities will continue to be reported at fair value (i.e., generally market value) with unrealized changes in value (appreciation and depreciation) reported directly in the income statement as a part of the institution's earnings.

Available-for-Sale

Securities in the available-for-sale category are those securities for which the institution does not have the positive intent and ability to hold to maturity, yet does not intend to trade actively as part of its trading account. Under GAAP that exists prior to the adoption of FASB 115, debt securities held for sale have been carried at the lower of cost or fair value, with the offsetting entry reported directly in the income statement. However, securities meeting the new FASB 115 definition of available-for-sale will be reported at fair value, but any changes in the fair value of available-for-sale securities will not be included in the bank's income statement. Rather, the unrealized holding gains and losses on these securities, net of any applicable tax effect, will be reported directly as a separate component of stockholders' equity. Consequently, any unrealized appreciation or depreciation in the value of securities in the available-for-sale category, after adjusting for any applicable tax effects, will increase or decrease an institution's equity capital, respectively, but will have no immediate effect on the reported earnings of the institution.

The available-for-sale category is likely to include more securities than are included in the held-for-sale category it replaces. This is because institutions previously could include in the held-for-investment category securities that banks intended to hold for long-term investment purposes, but for which they may not necessarily have possessed the positive intent and ability to hold to maturity. Under FASB 115, however, a security should not be reported in the held-to-maturity category if, for example, the security may be sold in response to: (1) Changes in market interest rates and related changes in prepayment risk; (2) liquidity needs; (3) changes in the availability of and the yield on alternative investments; (4) changes in funding sources and terms; or (5) changes in foreign currency risk (FASB 115, ¶9).

FASB 115 indicates that certain changes in circumstances may cause an institution to sell or transfer a held-to-maturity security without necessarily calling into question the institution's intent to hold to maturity other securities carried in this category. Such changes in circumstances include, for example, evidence of a significant deterioration in the issuer's creditworthiness, a change in regulatory requirements significantly modifying what constitutes a permissible investment or the maximum level of investments in certain securities, a significant increase in the industry's capital requirements, and a significant increase in the risk weights of debt securities used for risk-based capital purposes. In addition, FASB 115 states that there may be other events that are "isolated, nonrecurring, and unusual" in nature that could not have been reasonably anticipated by management that may cause an institution to sell or transfer securities from the held-to-maturity category without tainting other securities that remain in that category (FASB 115, ¶8).

III. Impact of FASB 115 for Regulatory Capital Purposes

As discussed above, FASB 115 will restrict the circumstances under which securities may be reported at amortized cost. Thus, a greater proportion of an institution's securities may need to be carried at amounts that consider their fair value than in the past. Although the FDIC's proposal to adopt FASB 115 for part 325 capital purposes will not affect reported earnings, it may result in more volatility in the amount of regulatory capital as the net appreciation or depreciation figure for securities in the available-for-sale category changes over time.

Because of the interest rate environment over the past several years, the fair value of many institutions' securities portfolios may exceed book value. Consequently, this proposal, if adopted, would result in an immediate increase in Tier 1 capital for those institutions that have net appreciation in the securities they will designate as available-for-sale when FASB 115 is adopted.

Nonetheless, as the interest rate environment changes over time, some institutions may find that the impact of this proposal could result in lower regulatory capital and possibly additional regulatory restrictions under the prompt corrective action rules (12 CFR part 325—subpart B) and under various other laws and regulations that are based, in part, on the institutions' capital levels.[1]

The volatility arising from changes in the fair value of available-for-sale securities may be minimized if, for example, the institution employs effective asset/liability and interest rate risk management techniques that reduce a bank's exposure to movements in interest rates and related market risks. Further, many institutions maintain capital cushions over and above the minimum capital standards and therefore will be better able to absorb any adverse fluctuations in capital levels that may arise from FASB 115 fair value adjustments.

The proposed changes to the FDIC's capital standards would conform the part 325 capital definitions with the new FASB 115 accounting standard and with the recent notification to banks about the applicability of this standard for Call Report purposes. In addition, the proposed changes would appear to be consistent with the intent of section 37 of the Federal Deposit Insurance Act (12 U.S.C. 1831n), which provides that accounting principles applicable to depository institutions should be no less stringent than GAAP and should: (a) Result in financial statements and reports of condition that accurately reflect the capital of such institutions, (b) facilitate effective supervision of the institutions, and (c) facilitate prompt corrective action at the least cost to the insurance funds. Section 37 also promotes uniformity among the agencies in the accounting standards used to determine compliance with regulatory requirements applicable to depository institutions, including regulatory capital requirements. This proposal has been developed in consultation with the other federal banking agencies to ensure uniformity in the application of FASB 115 for regulatory capital purposes.

Since institutions must adopt FASB 115 for Call Report purposes, recognizing the FASB 115 adjustments for regulatory capital purposes will avoid a regulatory burden that would otherwise arise if the treatment of these unrealized gains and losses for regulatory capital purposes were to differ from the method required for GAAP and Call Report purposes.

The FDIC notes that the decision to propose the adoption of FASB 115 for regulatory capital purposes should not be viewed as an endorsement of a wider application of market value accounting. The FDIC's longstanding concerns that market valuations of many assets are highly subjective and that market value accounting could produce undesirable volatility in earnings are somewhat mitigated in the case of FASB 115, since this accounting standard applies only to certain investment securities having a readily discernible fair value and since unrealized holding gains and losses on available-for-sale securities are reflected directly in capital without affecting reported earnings.

If the proposed part 325 revisions are adopted, FDIC examiners will continue to consider the quality and not just the level of a bank's capital in evaluating capital adequacy. Institutions with available-for-sale securities possessing net unrealized holding gains that comprise a disproportionately large portion of Tier 1 capital may possibly be exposed to excessive levels of interest rate or market risk. These institutions will be expected to maintain capital levels above the minimum regulatory capital standards and commensurate with the institutions' particular risk profiles.

After the federal banking agencies take final action on this proposal, the FDIC intends to consult with the Office of the Comptroller of the Currency, the Federal Reserve Board, and the Conference of State Bank Supervisors concerning the need, if any, for revisions to the "Uniform Agreement on the Classification of Assets and Appraisal of Securities Held by Banks". The FDIC and the other federal and state bank supervisors last revised this joint statement in May 1979. The statement contains guidance on the appraisal of securities in bank examinations, including the effect of appreciation and depreciation in investment securities on regulatory capital.

IV. Issues for Specific Comment

The FDIC invites comments on all aspects of this proposed regulatory capital rule. In addition to other comments that respondents to this proposal may wish to provide, the FDIC requests specific comments on the following:

(1) *Recognition of FASB 115 Capital Adjustments for Regulatory Capital Purposes.* Given the provisions of section 37 of the FDI Act and the other issues discussed in this preamble, should the FASB 115 capital adjustments that institutions are required to reflect for GAAP and Call Report purposes also be taken into consideration for purposes of determining an institution's Tier 1 capital under the FDIC's leverage and risk-based capital standards? If not, what regulatory capital treatment should be applied?

(2) *Effect of FASB 115 Adjustments on Other Capital-Based Regulations.* If the FASB 115 capital adjustments are recognized for purposes of calculating an institution's leverage and risk-based capital ratios, these adjustments may also have an effect on certain other laws and regulations that are based, in part, on regulatory capital levels, including the prompt corrective action rules (12 CFR part 325—subpart B), the risk-related insurance premium system (12 CFR part 327), the brokered deposit restrictions (12 CFR 337.6), and the restrictions on activities and investments of insured state banks (12 CFR part 362), such as the limitations in § 362.3(d)(4) on the book value of certain equity investments as a percent of Tier 1 capital. If the FASB 115 capital adjustments are recognized in calculating an institution's compliance with the minimum leverage and risk-based capital standards, should these adjustments also be recognized for purposes of the other rules noted above that are based, in part, on an

[1] Some of the laws and regulations that may be affected if the proposed revisions are adopted include those dealing with the risk-related insurance premium system (12 CFR part 327), brokered deposit restrictions (12 CFR part 337.6), and restrictions on activities and investments of insured state banks (12 CFR part 362). For example, under § 362.3(d)(4) of the FDIC's regulations, certain equity investments are subject to a maximum permissible investment limitation as a percent of Tier 1 capital. If the FASB 115 adjustments for available-for-sale securities are recognized for regulatory capital purposes, as is being proposed, this would affect the calculation of the amount of additional investments, if any, an insured state bank can make under this limitation. The book value of equity investments and Tier 1 capital are used in computing this amount. The FDIC recognizes that banks whose equity investments under part 362 are already at the maximum may have to adjust their holdings if FASB 115 is adopted for regulatory capital purposes since any upward adjustment to the book value of these securities for unrealized holding gains will be based on the gross amount of unrealized appreciation before considering applicable tax effects whereas the actual increase in Tier 1 capital for this unrealized appreciation will be net of applicable tax effects. In addition, the FDIC notes that state-chartered banks will need to consult with their respective state banking authorities to determine the impact, if any, that FASB 115 may have on the application of state laws and regulations, including legal lending limits.

institution's regulatory capital levels? If not, what treatment should be used for these other regulations?

(3) *Appropriateness of Recognizing FASB 115 Net Appreciation for Regulatory Capital Purposes.* In determining the amount of any FASB 115 adjustment to stockholders' equity for changes in the fair value of available-for-sale securities, FASB 115 as well as the conforming Call Report guidance take into consideration all changes in the fair value of these securities, regardless of whether these changes represent net appreciation or net depreciation. Under the accounting rules that are applicable prior to the adoption of FASB 115, an institution's capital for GAAP and Call Report purposes could not be increased by the amount of any net unrealized appreciation on securities held for sale. Should the regulatory capital treatment for changes in the fair value of securities held in the FASB 115 available-for-sale category differ, depending upon whether the change represents net appreciation or net depreciation? If so, what treatment is appropriate?

V. Regulatory Flexibility Act Statement

The Board of Directors of the FDIC hereby certifies that these amendments to part 325 will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq). These amendments will not necessitate the development of sophisticated recordkeeping or reporting systems by small institutions nor will small institutions need to seek out the expertise of specialized accountants, lawyers or managers to comply with the regulation. In light of this certification, the Regulatory Flexibility Act requirements (at 5 U.S.C. 603, 604) to prepare initial and final regulatory flexibility analyses do not apply.

VI. Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, Banking, Capital adequacy, Reporting and recordkeeping requirements, State nonmember banks, Savings associations.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 325 of title 12 of the Code of Federal Regulations as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 3907, 3909; Public Law 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Public Law 102–242, 105 Stat. 2236, 2355, 2386 (12 U.S.C. 1828 note).

2. Section 325.2(d) is revised to read as follows:

§ 325.2 Definitions.

* * * * *

(d) *Common stockholders' equity* means the sum of common stock and related surplus, undivided profits, disclosed capital reserves that represent a segregation of undivided profits, foreign currency translation adjustments, and net unrealized holding gains and losses on available-for-sale securities.

* * * * *

3. In appendix A to part 325, the definition of common stockholders' equity in section I.A.1. is revised to read as follows:

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

I. * * *
A. * * *
1. * * *

—Common stockholders' equity capital (includes common stock and related surplus, undivided profits, disclosed capital reserves that represent a segregation of undivided profits, foreign currency translation adjustments, and net unrealized holding gains and losses on available-for-sale securities);

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C. this 14th day of December, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–31656 Filed 12–28–93; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. 93–ANE–68; Notice No. 33–ANE–07]

Special Conditions; Pratt & Whitney Model(s) PW4073, PW4084, and PW4088 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Pratt & Whitney (PW) Model(s) PW4073, PW4084, and PW4088 turbofan engines. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from water and hail ingestion. This notice proposes the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 33 of the Federal Aviation Regulations (FAR).

DATES: Comments must be submitted on or before February 14, 1994.

ADDRESSES: Comments on this proposal may be submitted in triplicate to: Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 93–ANE–68, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. Comments must be marked: docket No. 93–ANE–68. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5229; telephone (617) 238–7117; fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under "ADDRESSES." All communications received on or before the closing date for comments, specified under "DATES," will be considered by the Administrator before taking action on the proposal. The proposal contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed special conditions. all comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this proposal will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93–ANE–68." The postcard will be date stamped and returned to the commenter.

Background

On December 10, 1990, Pratt & Whitney applied for type certification of Model(s) PW4073 and PW4084 turbofan engines. The Model PW4088 engine was added at a later date. The FAA has determined that the current water and hail ingestion requirements of § 33.77(c) of the FAR do not represent the inclement weather threat encountered in service.

A study of in-service inclement weather events has indicated a need to modify the water and hail ingestion requirements of this section to ensure design integrity and demonstrate an adequate level of safety. This study indicated that a potential flight safety threat existed for engines when operating in severe weather environments. Although current requirements provide adequate validation of the engine's resistance to mechanical damage due to hail impact and case contractions from water ingestion, the study showed that the current standards did not adequately address engine power loss anomalies, such as rollback and flameout at lower than takeoff rated power settings.

The FAA has concluded that additional safety standards must be applied to Pratt & Whitney Model(s) PW4073, PW4084, and PW4088 turbofan engines to demonstrate that they are capable of acceptable operation in severe weather environments.

Type Certification Basis

Under the provisions of § 21.101 of the FAR, Pratt & Whitney must show that Model(s) PW4073, PW4084, and PW4088 turbofan engines meet the requirements of the applicable regulations in effect on the date of the application. Those Federal Aviation Regulations are § 21.21 and part 33, effective February 1, 1965, as amended through August 10, 1990, Amendment 33–14.

The Administrator finds that the applicable airworthiness regulations in Part 33, as amended, do not contain adequate or appropriate safety standards for Pratt & Whitney Model(s) PW4073, PW4084, and PW4088 turbofan engines because of unique design criteria. Therefore, the Administrator proposes these special conditions under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR, after public notice and opportunity for comment, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Conclusion

This action affects only Pratt & Whitney Model(s) PW4073, PW4084, and PW4088 turbofan engines. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these new design criteria on the engine.

List of Subjects in 14 CFR Part 33

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421, 1423; and 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Pratt & Whitney Model(s) PW4073, PW4084, and PW4088 turbofan engines.

In addition to the requirements of FAR § 33.77, the following tests and analyses must be conducted, unless compliance can be shown by alternate methods acceptable to the Administrator.

(a) The most critical operating point(s) for water and hail ingestion must be determined by test, analysis, or other acceptable methods, and must be based on the threat levels defined in Table 1 and Table 2 of this proposal. The critical point(s) determination must address the entire operating envelope of the engine. The critical operating point(s) is defined as those operating conditions within the engine flight envelope at which an engine operability margin is reduced to a minimum level.

TABLE 1.—RAIN THREAT

Altitude (feet)	Liquid water content (LWC) (grams water per cubic meter air)
0	20.0
20,000	20.0
26,300	15.2
32,700	10.8
39,300	7.7
46,000	5.2

Note: LWC and HWC values at other altitudes may be determined by linear interpolation.

TABLE 2.—HAIL THREAT

Altitude (feet)	Hail water content (HWC) (grams water per cubic meter air)
0	8.9
7,300	8.9
8,500	9.4
10,000	9.8
11,000	9.9
12,000	10.0
15,000	10.0
16,000	8.9
17,700	7.8
19,300	6.6
21,500	5.6
24,300	4.4
29,000	3.3
46,000	3.3

Note: LWC and HWC values at other altitudes may be determined by linear interpolation.

(b) The engine will be shown to operate at an acceptable level for a minimum of three minutes when subjected to the critical point conditions for water ingestion. The percentage of water to airflow by weight, at the critical point, is to be reproduced during the engine test. The test method should adequately model the inflight water concentration effect at the primary flow (core) inlet. Water droplet size and velocity distributions must be representative of the critical water ingestion point. All variable systems, whose position could effect engine operation during water ingestion, must be scheduled for the most critical positions.

(c) The engine will be shown to operate at an acceptable level for a minimum of 30 seconds when subjected to the critical point conditions for hail

ingestion. The percentage of hail to airflow by weight, at the critical point, is to be reproduced during the engine test. The test should adequately model the inflight hail concentration effect at the primary flow (core) inlet. Hailstone size and velocity distributions must be representative of the critical hail ingestion point. All variable systems whose position could effect engine operation during hail ingestion, must be scheduled for the most critical positions.

(d) Acceptable engine operation, as noted in paragraphs (b) and (c) of the this special condition, must preclude rundown, flameout, surge, loss of acceleration capability, limit exceedance, or any other engine anomaly which would negatively affect the operability of the engine.

(e) The engine, as operated under the conditions defined in paragraphs (b) and (c) of this special condition, must show that it will operate acceptably if exposed to other probable factors associated with normal operations. These other probable factors include, but are not limited to, performance losses, installation effects, inlet distortion, and throttle transients.

Issued in Burlington, Massachusetts, on December 20, 1993.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–31754 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 93–NM–210–AD]

Airworthiness Directives; Airbus Industrie Model A320–111, –211, and –231 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320–111, –211, and –231 airplanes. This proposal would require modification of the currently installed one-stage shock absorbers on the main landing gear to two-stage shock absorbers. This proposal is prompted by the results of an evaluation of the air-to-ground sensing logic relative to the operation of other airplane systems during landing in adverse weather conditions. The actions specified by the proposed AD are intended to prevent a delay in sensing by the air-to-ground logic system that the airplane is on the ground, which could prevent the airplane from achieving the landing distances specified in the FAA-approved Airplane Flight Manual (AFM).

DATES: Comments must be received by February 24, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–210–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–210–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–210–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056

Discussion

Recently, the FAA conducted an evaluation of the air-to-ground sensing logic relative to the operation of other airplane systems while landing during adverse weather conditions. The results of this evaluation indicated that under certain landing conditions the extension of the ground spoilers (also the application of auto-brakes and thrust reverser deployment) may be delayed due to a delay by the air-to-ground logic system to sense that the airplane is on the ground.

One of the major components of the air-to-ground logic system is the Spoilers Elevator Computers (SEC). Model A320 series airplanes use SEC's to provide the signal that controls deployment and retraction of hydraulically actuated speed brakes (flight spoilers) and ground spoilers. The SEC's must receive input signals with specific characteristics that meet certain criteria, prior to commanding movement of the speed brakes or ground spoilers.

Three different SEC's control a total of five pairs of spoilers on the left- and right-hand wings. Ground spoilers utilize all five pairs of spoilers, while the speed brakes utilize only three pairs of spoilers. Prior to commanding the deployment of ground spoilers upon landing, the SEC's must properly sense a "flight to ground transition." The following logic criteria must be met: Both main landing gears (MLG) wheel speed must be greater than 72 knots; or the radio altimeter height must be less than 10 feet, and both the left- and right-hand MLG shock absorbers must be compressed by an amount equivalent to a specified weight on the landing gear. (There are other signals the SEC's must receive prior to ground spoiler deployment, but they are not pertinent to this discussion.) If wheel speed is less than 72 knots or if proper load is not sensed on the MLG shock absorbers, extension of the ground spoilers would be inhibited.

Model A320 series airplanes on which Airbus Modification No. 22150 (double chamber MLG oleo), described in Airbus Industrie Service Bulletin A320–32–1058, Revision 2, dated June 16, 1993, has not been installed, must have a load of 6.3 tons per oleo to trigger the ground signal.

Landing conditions exist where the SEC may inhibit extension of the grounds spoiler even though the ground spoilers are needed to achieve the landing distances specified in the FAA-approved Airplane Flight Manual (AFM). The reason for the inhibition can be traced to the input signals that the SEC's receive. During adverse weather, landing conditions could exist where wheel speed may not initially reach 72 knots and sufficient load on the MLG shock absorbers may not be present to trigger the ground signal. Thus, the ground spoilers would not be deployed until these conditions are met. If "CONFIG FULL" (flaps/slats fully deployed) is selected, the in-flight deployment of speed brakes (flight spoilers) would be inhibited due to current system design requirements. To deploy the speed brakes, the airplane must be in a configuration other than "CONFIG FULL."

This condition, if not corrected, could result in a delay of sensing by the air-to-ground logic system that the airplane is on the ground, which could prevent the airplane from achieving the landing distances specified in the FAA-approved AFM.

Airbus Industrie has issued Service Bulletin A320–32–1058, Revision 2, dated June 16, 1993, that describes procedures for modification of the currently installed one-stage shock absorbers on the MLG to two-stage shock absorbers. The two-stage shock absorbers significantly reduce the load on the MLG that is necessary to trigger the ground signal. After modification, a load of about 2 tons per oleo is needed to trigger the ground signal. Under certain landing conditions, this decrease in the MLG load that is necessary to trigger the ground signal could allow earlier deployment of the ground spoilers, and consequently allow the airplane to achieve the landing distances specified in the FAA-approved AFM.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. The FAA has reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the currently installed one-stage shock absorbers with two-stage shock absorbers. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 35 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 58 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $16,000 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $671,650, or $19,190 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 93–NM–210–AD.

Applicability: Model A320–111, –211, and –231 airplanes, as listed in Airbus Industrie Service Bulletin A320–32–1058, Revision 2, dated June 16, 1993, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a delay in sensing by the air-to-ground logic system that the airplane is on the ground, which could prevent the airplane from achieving the landing distances specified in the FAA-approved Airplane Flight Manual (AFM), accomplish the following:

(a) Within 12 months after the effective date of this AD, modify the currently installed one-stage shock absorbers to two-stage shock absorbers in accordance with Airbus Industrie Service Bulletin A320–32–1058, Revision 2, dated June 16, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 22, 1993.

Ronald T. Wojnar,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–31744 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–P

---

14 CFR Part 39

[Docket No. 93–NM–170–AD]

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise an existing airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, and –200C series airplanes, that currently requires periodic inspections to detect missing nuts and/or damaged secondary support hardware adjacent to the engine aft mount, and replacement, if necessary. This action would provide for an optional terminating action, which, if accomplished, would eliminate the need for certain inspections. This proposal is prompted by the development of a modification that will prevent wearing of the secondary support. The actions specified by the proposed AD are intended to prevent failure of the secondary support to sustain engine loads, in the event of failure of the aft engine mount cone bolt, which could result in engine separation from the wing.

DATES: Comments must be received by February 24, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–170–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Thomas Rodriguez, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2779; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–170–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–170–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On April 5, 1991, the FAA issued AD 91–09–14, Amendment 39–6972 (56 FR 18696, April 24, 1991), applicable to all Boeing Model 737–100, –200, and –200C series airplanes, to require periodic inspections to detect missing nuts and/or damaged secondary support hardware adjacent to the engine aft mount, and replacement, if necessary. That AD also allows certain worn secondary support load limiter through-bolts to continue to be used on the airplane, if alternative inspection techniques are used for the cone bolt itself. That action was originally prompted by reports of failure of aft engine mount cone bolts which, in one case, led to the separation of an engine from the airplane. The requirements of that AD are intended to prevent failure of the secondary support to sustain engine loads, in the event of failure of the aft engine mount cone bolt, which could result in engine separation from the wing.

Since the issuance of that AD, the manufacturer has developed design changes that will prevent wearing of the secondary support. Worn parts of the secondary support system could lead to failure of the secondary support system, if fatigue fracture should occur in the aft engine mount cone bolt. The FAA has reviewed and approved Boeing Service Bulletin 737–71–1289, dated August 19, 1993, that describes procedures for replacement of the currently-installed secondary support with a new, modified secondary support. The modified secondary support has been revised with the latest design configuration that will prevent wearing of the secondary support, in the event of failure of the aft engine mount cone bolt, which could result in engine separation from the wing.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would revise AD 91–09–14 to continue to require periodic inspections to detect missing nuts and/or damaged secondary support hardware, and replacement, if necessary. The proposed AD would also continue to allow certain worn secondary support load limiter through-bolts to continue to be used on the airplane, if alternative inspection techniques are used for the cone bolt itself. Additionally, the proposed AD would provide for replacement of the existing aft engine mount secondary support with a new, modified secondary support, as optional terminating action for certain requirements of this AD. If accomplished, such replacement would eliminate the need for the inspections currently required by the AD, with the exception of the inspections to detect broken aft cone bolts required by paragraph (a)(1). The replacement of the secondary support would be required to be accomplished in accordance with the service bulletin described previously.

The format of the proposed revised AD has been revised to be consistent with the **Federal Register** style.

There are approximately 1,144 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 432 airplanes of U.S. registry would be affected by this proposed action.

The actions currently required by AD 91–09–14 take approximately 3 work hours per airplane to accomplish, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of the currently required actions on U.S. operators is estimated to be $71,280, or $165 per airplane

This proposed revision of AD 91–09–14 would add no new additional costs to operators, since it would merely provide for an optional installation that would provide terminating action for certain requirements. Should an operator elect to accomplish the installation, the associated modification would take approximately 30 work hours per airplane to accomplish The average labor rate is $55 per work hour

Required parts would cost approximately $6,818 per airplane. Based on these figures, the total cost of accomplishing the proposed optional installation is estimated to be $8,468 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6972 (56 FR 18696, April 24, 1991), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 93–NM–170–AD. Revises AD 91–09–14, Amendment 39–6972.

Applicability: All Model 737–100, –200, and 200C series airplanes, certificated in any category

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the secondary support to sustain engine loads, in the event of failure of the aft engine mount cone bolt, which could result in engine separation from the wing, accomplish the following:

(a) Within the next 45 landings after May 20, 1991 (the effective date of AD 91–09–14, amendment 39–6972), accomplish the following:

(1) Inspect the aft mount cone bolt indicator for proper alignment. Improper alignment indicates a broken aft cone bolt. Broken cone bolts must be replaced, prior to further flight, with bolts that have been inspected in accordance with Boeing Alert Service Bulletin 737–71A1212, dated December 22, 1987, using magnetic particle inspection techniques. Repeat the inspection of the indicator at intervals thereafter not to exceed 45 landings.

(2) Unless previously accomplished within the last 255 landings, inspect the aft mount cone bolt improved secondary support for missing nuts, evidence of bolt wear, and disbonded honeycomb core in accordance with Boeing Service Bulletin 737–71–1250, dated June 14, 1990. Except as provided in paragraph (b) of this AD, missing nuts, bolts worn outside the limits specified in the service bulletin, or disbonded honeycomb core must be replaced, prior to further flight, with new or repaired identical parts. Repeat the inspection at intervals not to exceed 300 landings.

(b) Perform the following inspections if discrepant hardware is found during the inspections required by paragraph (a)(2) of this AD, and replacement hardware is not immediately available:

(1) Prior to further flight, and thereafter at intervals not to exceed 300 landings, inspect for cracks in the aft engine mount cone bolt, in accordance with Boeing Alert Service Bulletin 737–71A1212, dated December 22, 1987, using ultrasonic inspection techniques. Replace cracked cone bolts, prior to further flight, with bolts that have been inspected in accordance with the above service bulletin, using magnetic particle inspection techniques. Replacement (newly installed) cone bolts must be ultrasonically inspected for internal cracking in accordance with the provisions of this paragraph at intervals not to exceed 300 landings.

(2) At the next ultrasonic inspection, as required by paragraph (b)(1) of this AD, unless previously accomplished within 150 to 300 landings after cone bolt installation, accomplish a torque check to verify that the cone bolt is torqued to the proper torque limit specified in the appropriate Boeing maintenance manual. This check is to be accomplished without loosening the bolt. After every cone bolt installation, accomplish the torque check procedure required by this paragraph, between 150 landings and 300 landings following installation. Replacement of discrepant hardware in accordance with paragraph (a)(2) of this AD constitutes terminating action for the requirements of this paragraph.

(i) If the cone bolt torque is below one-half the specified torque, remove the cone bolt and replace it with a serviceable bolt.

(ii) If the cone bolt torque is equal to, or above one-half the specified torque, but below the specified torque, re-torque to the specified level and re-check the torque within the next 150 to 300 landings. If, at that time, the torque is below 90 percent of the specified torque, replace the cone bolt with a serviceable bolt.

(c) Replacement of the existing aft engine mount secondary support with a new, modified secondary support, Kit Number 65C37057–1, in accordance with Boeing Service Bulletin 737–71–1289, dated August 19, 1993, constitutes terminating action for the inspections required by paragraphs (a)(2) and (b), (b)(1), and (b)(2) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 22, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–31745 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–NM–188–AD]

Airworthiness Directives; Canadair Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Canadair Model CL–600–2A12 and CL–600–2B16 series airplanes. This proposal would require a one-time visual inspection to verify proper installation of shoulder bolts and to detect damage of the adjacent flap actuator housings, and correction of discrepancies. This proposal is prompted by a report of failure of the flap actuator on the left wing inboard flap. The actions specified by the proposed AD are intended to prevent

asymmetric deployment or retraction (blow back) of the flaps, which could reduce controllability of the airplane.

DATES: Comments must be received by February 24, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–188–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Danko Kramar, Aerospace Engineer, Systems and Equipment Branch, ANE–173, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791–6428; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–188–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–188–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Canadair Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A) series airplanes. Transport Canada Aviation advises that a report has been received of failure of the flap actuator on the left wing inboard flap at Wing Station 76.50 on one of these airplanes. Subsequent investigation revealed that the ball screw assembly on the flap actuator broke into two pieces approximately ½ inch from the shoulder bolt and gearbox housing. The cause of the breakage apparently has been attributed to improper installation of the shoulder bolt that secures the flap actuator trunnion block to the wing trailing edge.

Improper installation of the shoulder bolt could also cause overloading of the ball screw assembly and damage of the gearbox housing, which could result in failure of both actuators on the same flap. If the actuators fail, possible asymmetric deployment or retraction (blow back) of the flaps could occur, which could reduce the controllability of the airplane.

Canadair has issued Alert Service Bulletin A601–0415, dated June 25, 1993, that describes procedures for:

1. Performing a one-time visual inspection to verify proper installation of shoulder bolts and to detect damage of adjacent flap actuator housings;
2. Reinstalling improperly installed shoulder bolts;
3. Performing an eddy current or dye penetrant inspection to detect cracking of the hinge fitting lugs on the flap actuator;
4. Replacing cracked lugs with new or serviceable parts; and
5. Replacing shoulder bolts and damaged flap actuators with new or serviceable parts.

Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian Airworthiness Directive CF–93–18, dated July 23, 1993 in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time visual inspection to verify proper installation of shoulder bolts, and to detect damage of adjacent flap actuator housings. Correction of any discrepancy found would be required prior to further flight. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 196 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed visual inspection, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $10,780, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

If replacement of any hinge fitting lug, shoulder bolt, or flap actuator is necessary, accomplishment of such replacement would entail approximately 12 work hours, at an average labor rate of $55 per work hour Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost of any necessary replacement is estimated to be $660 per replaced item.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Canadair: Docket 93–NM–188–AD.

Applicability: Model CL–600–2A12 series airplanes, serial numbers 3002 through 3066, inclusive; and Model CL–600–2B16 series airplanes, serial numbers 5001 through 5131, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent asymmetric deployment or retraction (blow back) of the flaps, which could reduce the controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, conduct a visual inspection to verify the proper installation of shoulder bolts, and to detect damage of adjacent flap actuator housings, in accordance with Canadair Alert Service Bulletin A601–0415, dated June 25, 1993 (hereafter referred to as "the alert service bulletin").

Note: Inspections accomplished prior to the effective date in accordance with Canadair Alert Service Wire TA601–0415–036, dated May 3, 1993, are considered to be in compliance with this paragraph.

(b) If all shoulder bolts are found to be installed properly and no flap actuator housings are found to be damaged, no further action is required by this AD.

(c) If any shoulder bolt is found to be improperly installed, but no flap actuator housing is found to be damaged, prior to further flight, remove the improperly installed shoulder bolt and reinstall it in accordance with the alert service bulletin.

(d) If any flap actuator housing is found to be damaged (as defined in the alert service bulletin), prior to further flight, accomplish the requirements of paragraphs (d)(1) and (d)(2) of this AD:

(1) Perform either an eddy current inspection or a dye penetrant inspection to detect cracking of the hinge fitting lugs on the flap actuator in accordance with the alert service bulletin. If any cracking is detected, prior to further flight, replace the hinge fitting lug with new or serviceable parts in accordance with the alert service bulletin.

(2) Replace the shoulder bolt and damaged flap actuator with new or serviceable parts in accordance with the service bulletin.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 22, 1993.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–31743 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 93N–0289 et al.]

RIN 0905–AD08

Food Labeling; Health Claims for Dietary Supplements; Correction

AGENCY: Food And Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of October 14, 1993 (58 FR 53296). The document proposed not to authorize health claims relating to an association between fiber and cancer, fiber and heart disease, antioxidant vitamins and cancer, *omega*-3 fatty acids and coronary heart disease, and zinc and immune function in the elderly on the label or in the labeling of dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances. The document was published with some errors. This document corrects those errors.

DATES: Written comments by December 13, 1993.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

In FR Doc. 93–25029, appearing on page 53305, in the **Federal Register** of Thursday, October 14, 1993, the following corrections are made:

§ 101.71 [Corrected]

1. On page 53305, in the 3d column, beginning in line 2, amendatory instruction number 2, is corrected by removing the phrase "of paragraph (a)", and in line 7, the paragraph designation "(a)" is removed from § 101.71 introductory text.

Dated: December 22, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–31717 Filed 12–23–93; 9:11 am]

BILLING CODE 4160–01–F

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Public Notice 1925]

Visas; Documentation of Immigrants Under the Immigration and Nationality Act, as Amended

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Notice of proposed rule.

SUMMARY: This notice proposes regulations to implement sections 201(a)(3), 201(e), 203(c), 203(e)(2), and 204(a)(1)(G) of the Immigration and Nationality Act, as amended. These sections were added to the Act by Public Law 101–649, the Immigration Act of 1990, but with a delayed effective date. Taken together, these sections of

law establish, effective for Fiscal Year 1995 and thereafter, an annual numerical limitation of 55,000 for diversity immigrants. Aliens who are natives of countries determined by specified mathematical computations based upon population totals and totals of specified immigrant admissions over a five-year period will be able to compete for immigration under this limitation.

Selection of immigrants under this limitation will be at random from among those who submit petitions for consideration during application periods established by the Department and who meet certain requirements as to education or occupational qualification.

DATES: Written comments must be received on or before January 28, 1994.

ADDRESSES: Interested persons are invited to submit comments in duplicate to: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522–0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, (202) 663–1184.

SUPPLEMENTARY INFORMATION:

General

Among the major revisions to United States immigration law contained in the Immigration Act of 1990, Public Law 101–649, was the establishment of a permanent system for the selection of immigrants on an at-random basis from among aliens meeting certain requirements who petition for consideration during specified annual application periods. A comparison of the provisions applicable here with those of certain earlier temporary enactments—section 314 of Public Law 99–603 (the NP–5 program), section 3 of Public Law 100–658 (the OP–1 program) and section 132 of Public Law 101–649 (the AA–1 program)—indicates that, both conceptually and operationally, these provisions are modeled upon the earlier ones. There are, however, important differences as well. Where the statutory provisions applicable here track provisions in the earlier enactments, the regulatory provisions based upon them will generally track earlier regulatory provisions.

Numerical Limitations

Section 201(e) specifies that the annual limitation on immigration under section 203(c) shall be 55,000. Section 203(c)(1) establishes a very complex system for the apportionment of the total limitation. The world is divided into six regions for this purpose—Africa, Asia, Europe, North America (other than Mexico), Oceania, and South America (including Mexico, Central America and the Caribbean).

The Attorney General is required to determine total admissions of preference and immediate relative immigrants over the most recent five-year period for which statistics are available, world-wide, by region and by individual foreign state. Using these figures, the Attorney General is to identify both high admission regions and high admission foreign states. A region whose admissions total is greater than one-sixth of the world-wide total is a high admission region; a region whose admissions total is one-sixth or less of the world-wide total is a low admission region. A foreign state whose admissions total is greater than 50,000 is a high admission foreign state; a foreign state whose admissions total is 50,000 or less is a low admission foreign state.

The Attorney General is next required to determine (using available estimates) the population of each of the six regions (not including the population of any high admission foreign state located in that region) and to use those totals in determining the apportionment of the world-wide limitation of 55,000 among the six regions. The mathematical computations involved are rather complicated, but the underlying objective is to ensure that a greater share of the 55,000 total is apportioned to low admission regions than to high admission regions. In effect, there will be established quotas for each of the six regions and natives of each region will compete for that portion of the total established as the quota for that region. There is, in addition, however, a provision allowing for the unused portion (if any) of a regional quota to be distributed proportionally among the other regions.

Only two provisions specifically address the apportionment of the limitation among individual foreign states. First, high admission states are excluded entirely from the apportionment. Second, there is a limit of 7 percent of the world-wide total—3,850—on the use of visas by natives of any single foreign state.

The Department does not propose to include in its regulations detailed provisions regarding the determinations described above and does not intend to discuss them in greater detail than given above. Section 203(c) imposes upon the Attorney General, not the Secretary of State, the responsibility for making these calculations and determinations. The Department is informed that the Immigration and Naturalization Service has undertaken this task. That Service will transmit its determinations and calculations to the Department when they are completed. The Department envisions that they will have been received by the time the final rule is ready for promulgation and will include them in the Supplementary Information which will accompany the final rule, as well as giving them appropriate public dissemination through other established means.

Eligibility To Compete

As has been explained above, section 203(c) provides that the number of visas to be made available to natives of high admission countries is zero. For this reason, the Department proposes to prohibit natives of such countries from competing for selection.

It will be noted that the list of such countries may change from year to year since the basis for determining which countries are high admission countries is the total of immediate relative and preference immigrant admissions for the most recent five-year period for which statistics are available. Thus, the Service will have to make the determinations required by statute annually.

The Department is taking this occasion to incorporate the definition of "native" into its permanent regulations. For many years, there was no regulatory definition of this word. In 1991, the Department decided to include one in the regulations promulgated at part 43 of title 22, Code of Federal Regulations, to implement section 132 of Public Law 101–649—the AA–1 program. Those regulations are, however, temporary in character because section 132 is itself limited to a three-year period.

The definition was included in part 43 because of the great volume of questions about the word "native". Part 43 will be repealed in due course, once the final year of the AA–1 program has been completed, and the Department believes it is desirable to establish the definition of "native" on a permanent basis. Substantively, the proposed definition here is identical with that already promulgated in part 43.

Education or Work Experience

Section 203(c)(2) disqualifies from receiving a diversity visa any alien who does not have either a high school education or its equivalent or two years experience (within the five-year period immediately preceding the date of visa application) in an occupation requiring two years or more for qualification in the occupation.

The Department proposes to interpret the phrase "high school education or its equivalent" to apply only to courses of

study. As the Department sees it, the separate provision for qualification on the basis of work experience reflects an intent that this phrase be so interpreted. With respect to the question whether an alien's work experience meets the statutory requirement, the Department proposes to rely upon the "Dictionary of Occupational Titles", published by the Employment and Training Administration of the Department of Labor.

Operationally, the Department saw three possible ways to implement this requirement—(1) require competitors for selection to include documentation of their education or work experience with their applications for selection; (2) require applicants for selection to attest to their education or work experience when applying for selection but require corroborating documents only at the time of visa interview and, therefore, only for those selected; or (3) ignore the requirement entirely in the selection process and deal with the requirement only through the visa processing system and only for those selected.

While the first two alternatives have certain benefits, the operational burdens which would result from adoption of either of them made it necessary to turn to the third alternative. Accordingly, the Department is proposing that applicants for selection not be required to include any information as to their education or work experience in their petition for selection. That information and corroborating documents would be required only of those selected and submitted for review only as part of the formal application for an immigrant visa.

Location of Alien

The Department wishes to answer before it is asked a question which will undoubtedly arise in the minds of those having an interest in this program—whether competition in this program is limited to aliens in the United States or outside the United States. As was the case with the predecessor programs already mentioned above, there is no restriction in this respect on competition. Aliens who otherwise meet the requirements for competition may compete whether they are in the United States or in a foreign country. Moreover, an alien who is in the United States need not be in lawful status to compete.

Form of Application

Those familiar with the predecessors of this program—the NP–5, OP–1, and AA–1 programs—will recall that the Department did not create a formal application form for use by those wishing to compete for selection in those programs. After considering this question again in this connection, the Department has again concluded that a formal application form should not be created. While there are factors in this program which would support creation of a petition form, theologistical and other operational problems associated with the creation, printing and distribution world-wide of a petition form argued strongly against doing so.

Accordingly, the Department is proposing that the petition be, as has been the case in the predecessor programs, a blank sheet of paper on which the petitioner will type or legibly print, using the Roman alphabet, his or her name, date and place of birth, and current mailing address. A married petitioner will include the name and date and place of birth of the spouse and of any children.

Mail-in Periods

The Department contemplates that the annual application period will last about one month. The application period for selection for fiscal year 1995 will likely be held in the spring or early summer of 1994 in order to ensure time for the selection of applicants and their notification in time to permit the commencement of visa issuance in the first month of fiscal year 1995 (October 1994).

Mail-in and Selection Process and Requirements

The mail-in and selection processes will be very similar to those employed in the OP–1 program and the last two years of the AA–1 program, but with one important difference. To facilitate the automated processing of the envelopes, the Department is proposing to require that they be between 6 and 9 inches (15 cm to 24 cm) in length and between 3½ and 4½ inches (9 cm to 11 cm) in width, as has been done in the past. As was also the case with the OP–1 and AA–1 programs, envelopes received at the designated address during the mail-in period will be reviewed as received and those meeting the regulatory requirements will be numbered sequentially.

It is here that the procedure must vary from that followed in the OP–1 and AA–1 programs. Because of the establishment of regional quotas, there will have to be a separate numbering sequence for each region in order to ensure that natives of each region are competing only with each other and not with natives of other regions. The Department intends to use numbering sequences as follows—Africa 00,000,001—19,999,999; Asia 20,000,000 39,999,999; Europe 40,000,000—59,999,999; South America 60,000,000—79,999,999; Oceania 80,000,000—89,999,999; North America 90,000,000—99,999,999. The computer program to be used for the actual selection process will have to make six distinct selections, one for each region.

The Department wishes to emphasize the importance of one seemingly minor requirement—that the alien include on the mailing envelope the name of the country of which the alien is a native Because of the need to sort the envelopes into six groups according to region, identification of the country of which the alien is a native on the envelope becomes indispensable. Accordingly, the Department will set aside and give no further consideration to any envelope which does not bear this information.

Once the envelopes have been sorted and numbered, the computer program will be activated to generate at random the rank order for each region. Thereafter, an appropriate quantity of envelopes identified according to rank order will be opened. The petitions will be reviewed to ensure that each applicant has furnished the necessary information. Those who have not done so will receive no further consideration. For those who have, the processing of the selected applications will be similar to that carried out in the recent AA–1 program.

A notice of selection will be sent to each applicant at the mailing address specified. Instructions for further action will be included with the notice. As has been the case in the predecessor programs, applicants in the United States who meet the requirements for adjustment of status generally will have the option of applying for adjustment of status. Those outside the United States or who, although in the United States, are barred from adjustment of status will have to process their application through the consular office designated.

Also, the Department proposes to make technical amendments to 22 CFR 42.51(b), Allocation of numbers, and 22 CFR 42.54(a)(2), Order of consideration. The proposed technical amendments are designed solely to make the two sections conform more exactly to the statutory requirements for the administration of the numerical limitations applicable to Diversity Immigrants.

Finally, the Department proposes to add a new § 40.104 to part 40 in order to provide an appropriate regulatory basis for the refusal of an application under INA 203(c) because the applicant does not meet either the education or work experience requirement provided in INA 203(c)(2).

This final rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, this rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith. It has also been reviewed under E.O. 12866 and determined to be consistent therewith.

List of Subjects in 22 CFR Parts 40 and 42

Aliens, Definitions, Documentation, Immigrants, Numerical limitations, Registration, Visas.

Accordingly, it is proposed to amend 22 CFR parts 40 and 42 as follows:

PART 40—[AMENDED]

1. The authority citation for part 40 would continue to read:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), Sec. 131 of Public Law 101–649, 104 Stat. 4997

2. Sec. 40.1 is amended by redesignating paragraphs (l) through (r) as paragraphs (m) through (s), respectively, and by adding a new paragraph (l) to read as follows:

§ 40.1 Definitions.

* * * * *

(l) *Native* shall mean born within the territory of a foreign state, or entitled to be charged for immigration purposes to that foreign state pursuant to section 202(b) of the Immigration and Nationality Act, as amended."

3. Part 40 is further amended by adding a new § 40.104 to subpart K read as follows:

§ 40.104. Applicant for immigrant visa under INA 203(c).

An alien shall be ineligible to receive a visa under INA section 203(c) if the alien does not have a high school education or its equivalent, as defined in 22 CFR 42.33(a)(2), or does not have, within the five years preceding the date of application for such visa, at least two years of work experience in an occupation which requires at least 2 years of training or experience.

PART 42—[AMENDED]

3. The authority citation for part 42 is revised to read:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1); 91 Stat. 847; Sec. 131, 104 Stat. 4997, 8 U.S.C. 1153 note

4. Sec. 42.33 is added to read as follows:

§ 42.33 Diversity immigrants.

(a) *General.* (1) *Eligibility to compete for consideration under INA 203(c)* An alien shall be eligible to compete for consideration for visa issuance under INA 203(c) during a fiscal year only if he or she is a native of a low-admission foreign state, as determined by the Attorney General pursuant to INA 203(c)(1)(E)(i), with respect to the fiscal year in question; and if he or she has at least a high school education or its equivalent or, within the five years preceding the date of application for a visa, has two years of work experience in an occupation requiring at least two years training or experience.

(2) *Definition of "high school education or its equivalent."* For the purposes of this section, the phrase "high school education or its equivalent" shall mean successful completion of twelve years of elementary and secondary education in the United States or successful completion in another country of a formal course of elementary and secondary education comparable to completion of twelve years' elementary and secondary education in the United States.

(3) *Determinations of work experience.* The most recent edition of the "Dictionary of Occupational Titles" published by the Employment and Training Administration, United States Department of Labor, shall be controlling in determining whether a particular occupation is one "which requires at least 2 years of training or experience" as provided in INA 203(c)(2).

(4) *Limitation on number of petitions per year* No more than one petition may be submitted by, or on behalf of, any alien for consideration during any single fiscal year. If two or more petitions for any single fiscal year are submitted by, or on behalf of, any alien, all such petitions shall be void and the alien by or for whom submitted shall not be eligible for consideration for visa issuance during the fiscal year in question.

(5) *Northern Ireland.* For purposes of determining eligibility to file a petition for consideration under INA 203(c) for a fiscal year, the districts comprising that portion of the United Kingdom of Great Britain and Northern Ireland, known as "Northern Ireland" shall be treated as a separate foreign state. The districts comprising "Northern Ireland" are Antrim, Ards, Armagh, Ballymena, Ballymoney, Banbridge, Belfast, Carrickfergus, Castlereagh, Coleraine, Cookstown, Craigavon, Down, Dungannon, Fermanagh, Larne, Limavady, Lisburn, Londonderry, Magherafelt, Moyle, Newry and Mourne Newtownabbey, North Down, Omagh, and Strabane.

(b) *Petition for consideration*—(1) *Form of petition.* An alien claiming to be entitled to compete for consideration under INA 203(c) shall file a petition for such consideration. The petition shall consist of a sheet of paper on which shall be typed or legibly printed in the Roman alphabet the petitioner's name; date and place of birth (including city and county, province or other political subdivision, and country); name[s] and date[s] and place[s] of birth of spouse and child[ren], if any; and a current mailing address.

(2) *Submission of petition*—(i) *General.* A petition for consideration for visa issuance under INA 203(c) shall be submitted by mail to the address designated by the Department for that purpose. The Department shall establish a period of not less than thirty days during each fiscal year during which petitions for consideration during the next following fiscal year may be submitted. Each fiscal year, the Department shall give timely notice of both the mailing address and the exact dates of the application period, through publication in the **Federal Register** and such other methods as will ensure the widest possible dissemination of the information, both abroad and within the United States.

(ii) *Form of mailing.* Petitions for consideration under this section shall be submitted by normal surface or air mail only. Petitions submitted by hand, telegram, FAX, or by any means requiring any form of special handling or acknowledgement of receipt will not be given consideration. The petitioner shall type or print legibly, using the Roman alphabet, on the upper left-hand corner of the envelope in which the petition is mailed his or her full name and mailing address, and the name of the country of which the petitioner is a native, as shown on the petition itself. Envelopes shall be between 6 and 9 inches (15 cm to 24 cm) in length and between 3½ and 4½ inches (9 cm to 11 cm) in width. Envelopes not bearing this information and/or not conforming to the restrictions as to size shall not be processed for consideration.

(c) *Processing of petitions.* Envelopes received at the mailing address during the application period established for the fiscal year in question and meeting the requirements of paragraph (b) shall be assigned a number in a separate numerical sequence established for each regional area specified in INA 203(c)(1)(F). Upon completion of the numbering of all envelopes, all numbers assigned for each region shall be separately rank-ordered at random by a computer using standard computer software for this purpose. The Department shall then select in the rank orders determined by the computer program a quantity of envelopes for each region estimated to be sufficient to ensure, to the extent possible, usage of all immigrant visas authorized under INA 203(c) for the fiscal year in question.

(d) *Approval of petitions.* Envelopes selected pursuant to paragraph (c) of this section shall be opened and reviewed. Petitions which are legible and contain the information specified in subsection (b) of this section shall be approved for further consideration.

(e) *Validity of approved petitions.* A petition approved pursuant to subsection (d) of this section shall be valid for a period not to exceed Midnight of the last day of the fiscal year for which the petition was submitted.

(f) *Order of consideration.* Further consideration for visa issuance of aliens whose petitions have been approved pursuant to paragraph (d) of this section shall be in the regional rank orders established pursuant to subsection (c) of this section.

(g) *Further processing.* The Department shall inform applicants whose petitions have been approved pursuant to subsection (d) of this section of the steps necessary to meet the requirements of INA 222(b) in order to apply formally for an immigrant visa.

(h) *Maintenance of information concerning petitioners who are visa recipients.* (1) The Department shall compile and maintain the following information concerning petitioners to whom immigrant visas are issued under INA 203(c)—

(i) Age;
(ii) Country of birth;
(iii) Marital status;
(iv) Sex;
(v) Level of education; and
(vi) Occupation and level of occupational qualification.

(2) Names of visa recipients shall not be maintained in connection with this information and the information shall be compiled and maintained in such form that the identity of visa recipients cannot be determined therefrom.

5. Sec. 42.51(b) is revised to read as follows:

§ 42.51 Department control of numerical limitations.

* * * * *

(b) *Allocation of numbers.* Within the foregoing limitations, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and adjustments based on the chronological order of the priority dates of visa applicants classified under INA 203(a) and (b) reported by consular officers pursuant to § 42.55(b) and of applicants for adjustment of status as reported by officers of the INS, taking into account the requirements of INA 202(e) in such allocations. In the case of applicants under INA 203(c), visa numbers shall be allocated within the limitation for each specified geographical region in the random order determined in accordance with § 42.33(c) of this part.

* * * * *

6. Sec. 42.54(a)(2) is revised to read as follows:

§ 42.54 Order of consideration.

(a) * * *

(2) Beginning with fiscal year 1995, in the random order established by the Secretary of State for each region for the fiscal year for applicants entitled to status under INA 203(c).

Dated: December 14, 1993.

David L. Hobbs,

Deputy Assistant Secretary for Consular Affairs.

[FR Doc. 93–31528 Filed 12–28–93; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R–93–1684; FR–3415–P–01]

RIN 2506–AB60

Joint Community Development Program: Institutions of Higher Education and States/Units of General Local Government; Special Purpose Grants

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the requirements and procedures for awarding and administering special purpose grants under Title I of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, to states and units of general local government and institutions of higher education with demonstrated capacity to carry out eligible activities, that jointly submit applications to HUD.

DATES: Comment due date: February 28, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed rule the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. Copies of all written comments received will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Jerome B. Friedman, Technical Assistance Division, Office of Technical Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–3176. The Telecommunications Device for the Deaf (TDD) number is (202) 708–2565. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced in the **Federal Register**. Information on these collection requirements is provided later in this preamble under Other Matters. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

II. Background

Section 801(c)(2) of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) amended section 107 of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) to add a new category of special purpose grants. This new

program authorizes grants to states and units of general local government and institutions of higher education with demonstrated capacity to carry out eligible activities under title I that jointly submit applications to HUD. This rule proposes implementation of this new grant authority. For ease of reference, this new program may be called the Joint Community Development (CD) Program.

III. Summary of Proposed Rule

Following are the highlights of the proposed rule that will govern the grants under the Joint CD Program:

1. A new § 570.411 is being added to Subpart E, Special Purpose Grants, of the Community Development Block Grant (CDBG) regulations to govern grants under this program. It should be noted that § 570.400, which contains general requirements for all special purpose grant programs, applies to this new program as well. Additionally, grantees will have to comply with the Americans with Disabilities Act of 1990.

2. Section 570.411(b) provides definitions for "demonstrated capacity" and "institutions of higher education."

3. Section 570.411(c) defines who the eligible applicants are. It indicates that an application must be filed jointly by an institution of higher education and a state or unit of general local government. This subsection also states that HUD will fund eligible applicants only once every two funding cycles.

4. Section 570.411(d) spells out the role of each participant in the joint applications.

5. Section 570.411(e) defines the eligible activities as those eligible under the basic CDBG regulations found in subpart C of part 570. It also makes clear that these activities may be designed to assist residents of colonias to improve living conditions and standards within colonias.

6. Section 570.411(f) indicates that the program will be run competitively through publication of a Notice of Funding Availability (NOFA).

7. Section 570.411(g) provides that when an institution of higher education or a state which is a joint applicant proposes to carry out an activity within the jurisdiction of one or more units of general local government, then such governments must approve the activity and indicate that it is not inconsistent with their community development plan or program.

8. Section 570.411(h) provides a general description of what will be contained in each NOFA.

9. Sections 570.411 (i) and (j) detail the selection criteria that HUD will use to evaluate applications under each NOFA competition.

10. Section 570.411(l) spells out that an applicant proposing housing activities will have to provide evidence of consistency with a Comprehensive Housing Affordability Strategy (CHAS) of the jurisdiction to be served.

11. Section 570.411(m) deals with the citizen participation requirement under the Joint CD Program. It is a modified version of the basic CDBG requirement and is similar to that used in other special purpose programs.

12. Section 570.411(n) provides details on environmental review responsibilities for this program.

Other Matters

Public Reporting Burden

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The Department has determined that the following provisions contain information collection requirements.

ANNUAL REPORTING BURDEN—24 CFR 570.411—JOINT COMMUNITY DEVELOPMENT

	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
Application	200	1	200	40	8,000
Quarterly reports	20	4	80	7	560
Final reports	20	1	20	4	80
Recordkeeping	20	1	20	32	640
					9,280

Executive Order 12866

This proposed rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Office of the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies proposed in this proposed rule would not have Federalism implications when implemented and, thus, are not subject to review under the Order. Nothing in the proposed rule implies any preemption of State or local law, nor does any provision of the proposed rule disturb the existing relationship between the Federal Government and State and local governments.

Executive Order 12606, the Family

The General Counsel, as the designated Official under Executive Order 12606, has determined that this proposed rule would not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order.

Environmental Finding

A Finding of No Significant Impact with regard to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Regulatory Flexibility

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Undersigned hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities inasmuch as the entities funded under this program will be relatively few in number. Consequently, HUD does not believe that a significant number of small entities will be affected by this program. The application requirements associated with funding under the program have been kept to the minimum necessary for administration of grant funds, and the Department does not believe it is necessary or appropriate to alter these requirements as they apply to small entities who may be prospective grantees.

Semiannual Agenda

This proposed rule was listed as item 1580 in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56402, 56438) under Executive Order 12866 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance

The Joint Community Development Program is listed in the Catalog of Federal Domestic Assistance under number 14.242.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, 24 CFR part 570 is proposed to be amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR part 570 would continue to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

2. Section 570.411 would be added to subpart E to read as follows:

§ 570.411 Joint Community Development Program.

(a) *General.* Grants under this section will be awarded to states and units of general local government and institutions of higher education having a demonstrated capacity to carry out activities under title I of the Housing and Community Development Act of 1974. For ease of reference, this program may be called the Joint Community Development Program.

(b) *Definitions.* (1) *Demonstrated capacity* to carry out eligible activities under title I means recent satisfactory activity by the institution of higher education's staff designated to work on the program, including subcontractors and consultants firmly committed to work on the proposed activities, in title I programs or similar programs without the need for oversight by a state or unit of general local government.

(2) *Institution of higher education* means a college or university granting 4-year degrees and accredited by a national or regional accrediting agency recognized by the Department of Education.

(c) *Eligible applicants.* States, units of general local government and institutions of higher education. Each application by a state or unit of general local government must be filed jointly in cooperation with an institution of higher education. For all such approved applications, the grant will be made to the state or unit of general local government. Each application by an institution of higher education must be filed by an institution with demonstrated capacity to carry out eligible activities under this part and filed jointly with a state or unit of general local government. For all such approved applications, the grant will be made to the institution of higher education. An eligible applicant will not be funded more frequently than once every other funding cycle. Thus, for the funding cycle after receiving funding, otherwise eligible applicants will not be deemed eligible. A state or unit of general local government will not be funded more frequently than once every other funding cycle even if filing jointly with a different institution of higher education in each cycle. An institution of higher education will not be funded in consecutive funding cycles even if funded one year directly and applying jointly with a state or unit of general local government in the next cycle. HUD may limit the type of eligible applicant to be funded. Any such limitations will be contained in the Notice of Funding Availability described below in paragraph (h) of this section.

(d) *Role of participants in joint applications.* A state, unit of general local government or institution of higher education may carry out eligible activities approved in the joint applications. Where a state or unit of general local government is the recipient, the institution of higher education will serve as a subrecipient. The state or unit of general local government will then be responsible for oversight of and compliance and performance by the institution of higher education and, if necessary, providing assistance to the institution of higher education. Where the institution of higher education is the recipient, it will be responsible for oversight and compliance and the state or unit of local government will serve as a subrecipient. The application will have to clearly delineate the role of each participant in the joint application. The recipient must have a subrecipient agreement with the subrecipient meeting the requirements of § 570.503. Any funding sanctions or other remedial actions by HUD for noncompliance or nonperformance, whether by the state or unit of general local government or by the institution of higher education, shall be taken against the grantee. The grantee may include appropriate provisions for its rights of recourse in the subrecipient agreement with the subrecipient.

(e) *Eligible activities.* Activities that may be funded under this section are those eligible under 24 CFR part 570—Community Development Block Grants, subpart C—Eligible Activities. These activities may be designed to assist residents of colonias, as defined in section 916(d) of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625), to improve living conditions and standards within colonias. HUD may limit the activities to be funded. Any such limitations will be contained in the Notice of Funding Availability described in paragraph (h) of this section.

(f) *Applications.* Applications will only be accepted from eligible applicants in response to a publication of a Notice of Funding Availability (NOFA) published by HUD in the **Federal Register**.

(g) *Local approval.* (1) Where an institution of higher education is the applicant, each unit of general local government where an activity is to take place must approve the activity and state the activity is not inconsistent with its community development plan or program.

(2) Where a state is the joint applicant and it proposes to carry out an activity within the jurisdiction of one or more units of general local government, then each such unit must approve the activity and state that the activity is not inconsistent with its community development plan or program.

(3) These approvals and findings must accompany each application and may take the form of a letter by the chief executive officer of each unit of general local government affected or a resolution by the legislative body of each such unit of general local government.

from identifying some securities held as

written comments that are submitted

Section 1.475(d)–1 also issued under 26

(h) *NOFA contents.* The NOFA will describe any special objectives sought to be achieved by the funding to be provided, including any limitations on the type of activities to be funded to achieve the objectives of the selection criteria, any limitations on the type of eligible applicants, and points to be awarded to each of the selection criteria and any special factors to be evaluated in assigning points under the selection factors to achieve the stated objectives. The NOFA will also state the deadline for the submission of applications, the total funding available for the competition, the period of performance and the maximum and minimum amount of individual grants. The NOFA will also state if HUD will use the various possible levels of competition: National and/or regional; entitlement areas vs. non-entitlement areas; and states or units of general local government/institutions of higher education vs. institutions of higher education with a demonstrated capacity. The NOFA will include further information and instructions for the submission of acceptable applications to HUD.

(i) *Selection criteria.* Each application submitted under this section will be evaluated by HUD using the following criteria:

(1) The extent to which the applicant addresses the objectives published in the NOFA and demonstrates how the proposed activities will have a substantial impact in achieving the objectives.

(2) The extent of the needs to be addressed by the proposed activities, particularly with respect to benefiting low- and moderate-income persons and residents of colonias, where applicable.

(3) The feasibility of the proposed activities, i.e., their technical and financial feasibility, for achieving the stated objectives.

(4) The capability of the applicant to carry out satisfactorily the proposed activities in a timely fashion, including satisfactory performance in carrying out any previous HUD-assisted projects or activities.

(5) The fair housing and equal opportunity record of the community as indicated by previous HUD monitoring/compliance activity.

(j) *Selection discretion.* HUD retains the right to exercise discretion in selecting projects in a manner that would best serve the program objectives, with consideration given to the needs of States and units of general local government and institutions of higher education, types of activities proposed, an equitable geographical distribution, and program balance. The NOFA will state whether HUD will use this discretion in any specific competition.

(k) *Certifications.* (1) Certifications required to be submitted by applicants shall be as prescribed in the NOFA.

(2) In the absence of independent evidence which tends to challenge in a substantial manner the certifications made by the applicant, the required certifications will be accepted by HUD. If independent evidence is available to HUD, however, HUD may require further information or assurances to be submitted in order to determine whether the applicant's certifications are satisfactory.

(l) *Comprehensive Housing Affordability Strategy (CHAS).* An applicant that proposes any housing activities as part of its application will be required to submit a certification that these activities are consistent with the CHAS of the jurisdiction to be served.

(m) *Citizen participation.* The citizen participation requirements of §§ 570.301 and 570.431 are modified to require the following: The applicant must certify that citizens likely to be affected by the project regardless of race, color, creed, sex, national origin, familial status, or handicap, particularly low- and moderate-income persons, have been provided an opportunity to comment on the proposal or application.

(n) *Environmental and Intergovernmental Review.* The requirements for Intergovernmental Reviews do not apply to these awards. An environmental review in accordance with 24 CFR part 58 must be carried out by the state or unit of general local government when it is the applicant. HUD will conduct the required environmental review when an institution of higher education is the applicant.

Dated: December 1, 1993.

Mark Gordon,

Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 93–31651 Filed 12–28–93; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI–72–93]

RIN 1545–AS30

Mark to Market for Dealers in Securities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations to provide guidance concerning the meaning of the statutory terms "dealer in securities," "held for investment," and "security." This guidance will enable taxpayers to comply with the mark-to-market requirements of section 475. The text of the temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by February 28, 1994. Outlines of oral comments to be presented at the public hearing scheduled for Tuesday, April 12, 1994, at 10 a.m. must be received by February 28, 1994.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (FI–72–93), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered to: CC:DOM:CORP:T:R (FI–72–93), Internal Revenue Service, room 5228, 1111 Constitution Avenue NW., Washington, DC 20224. The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Robert B. Williams at (202) 622–3960 or Jo Lynn Ricks at (202) 622–3920; concerning submissions and the hearing, Regulations Unit, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224.

The collections of information are in § 1.475(b)–2. This information is required by the IRS to prevent taxpayers from identifying some securities held as of the close of the last taxable year ending before December 31, 1993, as held for investment and inconsistently failing to identify other securities similarly held. This information will be used to determine whether securities have been properly excluded from mark-to-market treatment. The likely recordkeepers are business or other for-profit institutions.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the IRS. Individual recordkeepers may require more or less time, depending on their particular circumstances.

Estimated total annual recordkeeping burden: 25,000 hours.

The estimated annual burden per recordkeeper varies from 15 minutes to 3 hours, depending on individual circumstances, with an estimated average of 1 hour.

Estimated number of recordkeepers: 25,000.

Background

Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 475 by adding new §§ 1.475(b)–1T, 1.475(b)–2T, 1.475(c)–1T, 1.475(c)–2T, 1.475(d)–1T, and 1.475(e)–1T. The temporary regulations contain rules relating to mark-to-market accounting for dealers in securities.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, April 12, 1994, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of § 601.601(a)(3) apply to the hearing.

Persons who have submitted written comments by February 28, 1994, and want to present oral comments at the hearing must submit by February 28, 1994, an outline of the topics to be discussed and the time to be devoted to each topic. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Robert B. Williams and Jo Lynn Ricks, Office of Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR part 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.475(b)–1 also issued under 26 U.S.C. 475(b)(4) and 26 U.S.C. 475(e).

Section 1.475(b)–2 also issued under 26 U.S.C. 475(b)(2), 26 U.S.C. 475(e), and 26 U.S.C. 6001.

Section 1.475(c)–1 also issued under 26 U.S.C. 475(e).

Section 1.475(c)–2 also issued under 26 U.S.C. 475(e) and 26 U.S.C. 860G(e).

Section 1.475(d)–1 also issued under 26 U.S.C. 475(e).

Section 1.475(e)–1 also issued under 26 U.S.C. 475(e). * * *

Par. 2. Sections 1.475(b)–1, 1.475(b)–2, 1.475(c)–1, 1.475(c)–2, 1.475(d)–1, and 1.475(e)–1 are added to read as follows:

§ 1.475(b)–1 Scope of exemptions from mark-to-market requirement.

[The text of this proposed section is the same as the text of § 1.475(b)–1T published elsewhere in this issue of the **Federal Register**].

§ 1.475(b)–2 Exemptions—Transitional issues.

[The text of this proposed section is the same as the text of § 1.475(b)–2T published elsewhere in this issue of the **Federal Register**].

§ 1.475(c)–1 Definitions—Dealers in securities.

[The text of this proposed section is the same as the text of § 1.475(c)–1T published elsewhere in this issue of the **Federal Register**].

§ 1.475(c)–2 Definitions—Items that are not securities.

[The text of this proposed section is the same as the text of § 1.475(c)–2T published elsewhere in this issue of the **Federal Register**].

§ 1.475(d)–1 Character of gain or loss.

[The text of this proposed section is the same as the text of § 1.475(d)–1T published elsewhere in this issue of the **Federal Register**].

§ 1.475(e)–1 Effective dates.

[The text of this proposed section is the same as the text of § 1.475(e)–1T published elsewhere in this issue of the **Federal Register**].

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 93–31311 Filed 12–28–93; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[PS–106–91]

RIN 1545–AQ41

State Housing Credit Ceiling and Other Rules Relating to the Low-Income Housing Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed Income Tax Regulations concerning the low-income housing

credit of section 42 of the Internal Revenue Code. The proposed regulations provide rules relating to the order in which housing credit dollar amounts are allocated from each State's housing credit ceiling under section 42(h)(3)(C) and the determination of which States qualify to receive credit from a national pool of credit under section 42(h)(3)(D). The proposed regulations affect State and local housing credit agencies and taxpayers receiving credit allocations, and provide them with guidance for complying with section 42.

DATES: Written comments must be received by February 28, 1994. Requests to appear at a public hearing scheduled for 10 a.m. on April 26, 1994, and outlines of oral comments must be received by April 5, 1994.

ADDRESSES: Send comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, (Attn: CC:DOM:CORP:T:R (PS–106–91), room 5228), Washington, DC 20044. Alternatively, comments, requests to appear at the public hearing, and outlines may be hand delivered to: CC:DOM:CORP:T:R (PS–106–91), Internal Revenue Service, room 5228, 1111 Constitution Ave. NW., Washington, DC 20044. The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, contact Christopher J. Wilson 202–622–3040 (not a toll-free call); concerning the hearing, contact Micahel Slaughter, Regulations Unit, (202) 622–8543 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information in this proposed regulation is contained in § 1.42–14(d)(3)(i). This information is required by the Internal Revenue Service in order to properly account for housing credit dollar amounts that are returned to the state and local housing credit agencies. The likely respondents are state and local housing credit agencies, individuals, business or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

These estimates are an approximation of the average time expected to be necessary for the collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances. Estimated total reporting burden: 275 hours. The estimated annual burden per State or local government respondent varies from 2 hours to 6 hours, with an estimated average of 4 hours. The estimated annual burden for all other respondents varies from .5 hours to 1.5 hours, with an estimated average of 1 hour. Estimated number of State or local government respondents: 55. Estimated number of all other respondents: 55. Estimated annual frequency of State or local government responses (for reporting requirement only): 4. Estimated annual frequency of all other responses (for reporting requirement only): one time.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 42 of the Internal Revenue Code of 1986. These amendments are proposed to provide guidance under section 42(h)(3), as amended by section 7108(b) of the Omnibus Budget and Reconciliation Act of 1989. Section 42(h)(3) provides rules for determining the housing credit dollar amount available to housing credit agencies for allocation in any given calendar year.

Explanation of Provisions

Section 42 provides for a low-income housing credit that may be claimed as part of the general business credit under section 38. In general, the credit is allowable only if the owner of a qualified low-income building receives a housing credit allocation from a State or local housing credit agency (Agency) of the jurisdiction where the building is located.

The aggregate housing credit dollar amount that an Agency may allocate for any calendar year is limited to the State housing credit ceiling apportioned to the Agency for that year. Under section 42(h)(3)(C), the State housing credit ceiling of any State for any calendar year is an amount equal to the sum of: (a) $1.25 multiplied by the State population (the population component); (b) the unused State housing credit ceiling, if any, of the State for the preceding calendar year (the unused carryforward component); (c) the amount of State housing credit ceiling returned in the calendar year (the returned credit component); plus (d) the amount, if any, allocated to the State by the Secretary under section 42(h)(3)(D) from a national pool of unused credit (the national pool component).

The proposed regulations set forth the rules governing the order in which credit is allocated from the various components of the State housing credit ceiling under section 42(h)(3)(C) (the stacking rules). In general, under the stacking rules, credit is allocated first from the sum of the population and returned credit components, then from the unused carryforward component, and finally from the national pool component. The proposed regulations also reflect the statutory rule that unallocated credit attributable to the national pool component cannot be carried forward, and therefore is not included in the carryforward component for the following year. In addition, the regulations provide that no credit allocated prior to calendar year 1990, and no credit allowable under section 42(h)(4) (relating to the portion of credit attributable to eligible basis financed by certain tax-exempt obligations under section 103), may be returned for reallocation; thus, this credit is not included in the returned credit component for any year.

The proposed regulations permit an Agency to treat credit returned from a project to the Agency after October 31 of any calendar year and not reallocated by the Agency by the close of the year as returned at the beginning of the succeeding calendar year. For example, an Agency that receives returned credit from a project in November and does not have an opportunity to reallocate the credit by the end of the year may treat the credit as returned on January 1 of the following year (the two-month rule). If so treated, the credit becomes part of the returned credit component of the State housing credit ceiling for the succeeding calendar year.

The proposed regulations also provide guidance on satisfying the requirement of section 42(h)(5) and § 1.42–1T(c)(5) that credit be set aside for projects involving nonprofit organizations (the nonprofit set-aside). Under the regulations, the nonprofit set-aside is determined annually by reference to the total State housing credit ceiling of the State, and not to each component of the State housing credit ceiling. Therefore, Agencies need not track each component of the State housing credit ceiling to ensure that at least 10 percent of each component is set aside for projects involving nonprofit organizations, provided that 10 percent of the total State housing credit ceiling is set aside for those projects. Agencies also need not track whether credit that was allocated in a calendar year and returned in a subsequent year was credit that was allocated from the nonprofit set-aside for the calendar year of the initial allocation.

Under section 42(h)(3)(D), States that have unused housing credit carryovers must assign them to the Secretary for inclusion in a national pool of unused credit (the National Pool), and the Secretary must allocate National Pool credit among qualified States. The proposed regulations provide rules for: (a) Calculating the unused housing credit carryover of a State; (b) determining which States are "qualified States" eligible to participate in the National Pool; and (c) determining the amount of credit reallocated from the National Pool to each qualified State.

As a general rule, if there is any unallocated credit within the State at the close of a calendar year, the State is not a qualified State and is ineligible to receive an allocation of credit from the National Pool the subsequent calendar year. Because of the two-month rule discussed above, unanticipated returns of credit at year-end need not disqualify States from the National Pool. In addition, the proposed regulations provide an exception for States that have a de minimis amount of unallocated credit remaining in their State housing credit ceiling at the close of a calendar year. Under the proposed regulations, a de minimis amount is not more than 1% of the State housing credit ceiling for the year. In determining whether there is any unallocated credit within the State at the close of a calendar year, and in applying the de minimis rule, the housing credit dollar amounts apportioned to all Agencies within the State (including Agencies of constitutional home rule cities in the State) and the allocations of all Agencies within the State are considered.

In addition to the 1% de minimis rule, the proposed regulations provide that in other circumstances where relief is deemed appropriate, the Internal Revenue Service may determine that a State is a qualified State eligible to participate in the National Pool. The Service is specifically interested in receiving comments on the types of circumstances where relief should be granted to qualify a State for the National Pool, and whether this relief is necessary given the opportunity States have to correct administrative errors and omissions, the two-month rule for returned credits, and the 1% de minimis rule.

Proposed Effective Date

These proposed regulations are proposed to be effective January 1, 1994.

Special Analyses

It has been determined that these proposed rules do not constitute a significant regulatory action as defined in Executive Order 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of this notice of proposed rulemaking is being sent to the Chief Counsel for Advocacy of the Small Business Administration for comment on the regulations impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying.

A public hearing will be held on Tuesday, April 26, 1994, at 10 a.m. in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply to the public hearing.

Persons who have submitted written comments by February 28, 1994, and who also desire to present oral comments at the hearing on the proposed regulations, should submit, not later than April 5, 1994, a request to speak and an outline of the oral comments to be presented at the hearing stating the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers thereto.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building before 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Christopher J. Wilson, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, other personnel from the Service and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and Recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; * * * § 1.42–14 is also issued under 26 U.S.C. 42(n).* * *

Par. 2. New § 1.42–14 is added to read as follows:

§ 1.42–14 Allocation rules for post-1989 State housing credit ceiling amounts.

(a) *In general.* The State housing credit ceiling for a State for any calendar year after 1989 is comprised of four components. The four components are:

(1) $1.25 multiplied by the State population (the population component);

(2) The unused State housing credit ceiling, if any, of the State for the preceding calendar year (the unused carryforward component);

(3) The amount of State housing credit ceiling returned in the calendar year (the returned credit component); plus

(4) The amount, if any, allocated to the State by the Secretary under section 42(h)(3)(D) from a national pool of unused credit (the national pool component).

(b) *The population component.* The population component of the State housing credit ceiling of a State for any calendar year is determined pursuant to section 146(j). Thus, a State's population for any calendar year is determined by reference to the most

recent census estimate, whether final or provisional, of the resident population of the State released by the Bureau of the Census before the beginning of the calendar year for which the State's housing credit ceiling is set. Unless otherwise prescribed by applicable revenue procedure, determinations of population are based on the most recent estimates of population contained in the Bureau of the Census publication, "Current Population Report, Series P–25; Population Estimates and Projections, Estimates of the Population of States." For convenience, the Internal Revenue Service publishes the population estimates annually.

(c) *The unused carryforward component.* The unused carryforward component of the State housing credit ceiling for any calendar year is the excess, if any, of the sum of the population and returned credit components, over the aggregate housing credit dollar amount allocated for the year. Any credit amounts attributable to the national pool component of the State housing credit ceiling that remain unallocated at the close of a calendar year are not carried forward to the succeeding calendar year; instead, the credit expires and cannot be reallocated by any Agency.

(d) *The returned credit component*—(1) *In general.* The returned credit component of the State housing credit ceiling for any calendar year equals the housing credit dollar amount returned during the calendar year that was validly allocated within the State in a prior calendar year to any project that does not become a qualified low-income housing project within the period required by section 42, or as required by the terms of the allocation. The returned credit component also includes credit allocated in a prior calendar year that is returned as a result of the cancellation of an allocation by mutual consent or by an Agency's determination that the amount allocated is not necessary for the financial feasibility of the project. For purposes of this section, credit is allocated within a State if it is allocated from the State's housing credit ceiling by an Agency of the State or of a constitutional home rule city in the State.

(2) *Limitations and special rules.* The following limitations and special rules apply for purposes of this paragraph (d).

(i) *General limitations.* Notwithstanding any other provision of this paragraph (d), returned credit does not include any credit that was—

(A) Allocated prior to calendar year 1990;

(B) Allowable under section 42(h)(4) (relating to the portion of credit attributable to eligible basis financed by certain tax-exempt obligations under section 103); or

(C) Allocated during the same calendar year that it is received back by the Agency.

(ii) *Credit period limitation.* Notwithstanding any other provision of this paragraph (d), an allocation of credit may not be returned any later than 180 days following the close of the first taxable year of the credit period for the building that received the allocation. After this date, credit that might otherwise be returned expires, and cannot be returned to or reallocated by any Agency.

(iii) *Two-month rule for returned credit.* An Agency may, in its discretion, treat credit that is returned from a project after October 31 of a calendar year and that is not reallocated by the close of the calendar year as returned on January 1 of the succeeding calendar year. In this case, the returned credit becomes part of the returned credit component of the State housing credit ceiling for the succeeding calendar year.

(iv) *Returns of credit.* Subject to the limitations of paragraph (d)(2) (i) and (ii) of this section, credit is returned to the Agency in the following instances in the manner described in paragraph (d)(3) of this section.

(A) *Building not qualified within required time period.* If a building is not a qualified building within the time period required by section 42, it loses its credit allocation and the credit is returned. A building is not qualified within the required time period if it is not placed in service within the period required by section 42 or if the project of which the building is a part fails to meet the minimum set-aside requirements of section 42(g)(1) by the close of the first year of the credit period.

(B) *Noncompliance with terms of the allocation.* If a building does not comply with the terms of its allocation, it loses the credit allocation and the credit is returned. The terms of an allocation are the written conditions agreed to by the Agency and the allocation recipient in the allocation document. However, if the terms of the allocation violate any requirement of section 42, the allocation is not valid and is treated as if it had not been made; in this case the credit is treated as if it had not been allocated, and is not a returned credit.

(C) *Mutual consent.* If the Agency and the allocation recipient cancel an allocation of an amount of credit by mutual consent, that amount of credit is returned.

(D) *Amount not necessary for financial feasibility.* If an Agency determines under section 42(m)(2) that an amount of credit allocated to a project is not necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period, that amount of credit is returned.

(3) *Manner of returning credit*—(i) *Taxpayer notification.* After an Agency determines that a building or project no longer qualifies under paragraph (d)(2)(iv)(A), (B), or (D) of this section for all or part of the allocation it received, the Agency must provide written notification to the allocation recipient, or its successor in interest, that all or part of the allocation is no longer valid. The notification must also state the amount of the allocation that is no longer valid. The date of the notification is the date the credit is returned to the Agency. If an allocation is cancelled by mutual consent under paragraph (d)(2)(iv)(C) of this section, there must be a written agreement signed by the Agency, and the allocation recipient, or its successor in interest, indicating the amount of the allocation that is returned to the Agency. The date of the agreement is the date the credit is returned to the Agency.

(ii) *Internal Revenue Service notification.* If a credit is returned within 180 days following the close of the first taxable year of the building's credit period as provided in paragraph (d)(2)(ii) of this section, and a Form 8609 has been issued for the building, the Agency must notify the Internal Revenue Service (Service) that the credit has been returned. The Service should be notified as prescribed in § 1.42–5(e)(3). If the building is eligible for a reduced credit, the Form 8609 should be amended to reflect the reduction in credit.

(e) *The national pool component.* The national pool component of the State housing credit ceiling of a State for any calendar year is the portion of the National Pool allocated to the State by the Secretary for the calendar year. The national pool component for any calendar year is zero unless a State is a "qualified State". (See paragraph (i) of this section for rules regarding the National Pool and the description of a qualified State.) Credit from the national pool component of a State housing credit ceiling must be allocated prior to the close of the calendar year or the credit expires and cannot be reallocated by any Agency. A national pool component credit that is allocated during a calendar year and returned after the close of the calendar year may qualify as part of the returned credit component of the State housing credit ceiling for the calendar year that the credit is returned.

(f) *When the State housing credit ceiling is determined.* For purposes of accounting for the State housing credit ceiling on Form 8610, Annual Low-Income Housing Credit Agencies Report, and for purposes of determining the set-aside apportionment for projects involving qualified nonprofit organizations described in section 42(h)(5) and § 1.42–1T(c)(5), the State housing credit ceiling for any calendar year is determined at the close of the calendar year.

(g) *Stacking order.* Under section 42(h)(3)(C), credit is treated as allocated from the various components of the State housing credit ceiling in the following order. The first credit allocated for any calendar year is treated as credit from the sum of the population and returned credit components of the State housing credit ceiling. Once all of the credit in these components has been allocated, the next credit allocated is treated as credit from the unused carryforward component of the State housing credit ceiling. Finally, after all of the credit from the population component, returned credit component, and unused carryforward component has been allocated, any further credit allocated is treated as credit from the national pool component.

(h) *Nonprofit set-aside*—(1) *Determination of set-aside.* Under section 42(h)(5) and § 1.42–1T(c)(5), at least 10 percent of a State housing credit ceiling in any calendar year must be set aside exclusively for projects involving qualified nonprofit organizations (the nonprofit set-aside). However, credit allocated from the nonprofit set-aside in a calendar year and returned in a subsequent calendar year does not retain its nonprofit set-aside character. The credit becomes part of the returned credit component of the State housing credit ceiling for the calendar year that the credit is returned, and must be included in determining the nonprofit set-aside of the State housing credit ceiling for that calendar year. Similarly, credit amounts that are not allocated from the nonprofit set-aside in a calendar year and are returned in a subsequent calendar year become part of the returned credit component of the State housing credit ceiling for that year, and are also included in determining the set-aside for that year.

(2) *Allocation rules.* An Agency may allocate credit from any component of the State housing credit ceiling as part of the nonprofit set-aside, and need not reserve 10 percent of each component for the nonprofit set-aside. Thus, an Agency may satisfy the nonprofit set-aside requirement of section 42(h)(5) and § 1.42–1T(c)(5) in any calendar year by setting aside for allocation, from any one or more components of the State housing credit ceiling, an amount equal to at least 10 percent of the total State housing credit ceiling for the calendar year.

(i) *National Pool*—(1) *In general.* The unused housing credit carryover of a State for any calendar year is assigned to the Secretary for inclusion in a national pool of unused housing credit carryovers (the National Pool) that is reallocated among qualified States the succeeding calendar year. The assignment to the Secretary is made on Form 8610.

(2) *Unused housing credit carryover.* The unused housing credit carryover of a State for any calendar year is the excess, if any, of the unused carryforward component of the State housing credit ceiling for the calendar year over the excess, if any, of—

(i) The total housing credit dollar amount allocated for the year, over

(ii) The sum of the population and returned credit components of the State housing credit ceiling for the year.

(3) *Qualified State*—(i) *In general.* The term "qualified State" means, with respect to any calendar year, any State that has allocated its entire State housing credit ceiling for the preceding calendar year and for which a request is made by the State, not later than May 1 of the calendar year, to receive an allocation of credit from the National Pool for that calendar year. Except as provided in paragraph (i)(3)(ii) of this section, a State is not a qualified State in a calendar year if there remains any unallocated credit in its State housing credit ceiling at the close of the preceding calendar year that was apportioned to any Agency within the State for the calendar year.

(ii) *Exceptions*—(A) *De minimis amount.* If the amount remaining unallocated at the close of a calendar year is only a de minimis amount of credit, the State is a qualified State eligible to participate in the National Pool. A credit amount is de minimis if it does not exceed 1 percent of the aggregate State housing credit ceiling of the State for the calendar year.

(B) *Other circumstances.* The Internal Revenue Service may, under appropriate circumstances, determine that a State is a qualified State eligible to participate in the National Pool even though the State's unallocated credit is not a de minimis amount.

(iii) *Time and manner for making request.* The time and manner for making a request of housing credit dollar amounts from the National Pool by a qualified State is prescribed in Rev. Proc. 92–31, 1992–1 C.B. 775.

(4) *Formula for determining the National Pool.* The amount allocated to a qualified State in any calendar year is an amount that bears the same ratio to the aggregate unused housing credit carryovers of all States for the preceding calendar year as that State's population for the calendar year bears to the population of all qualified States for the calendar year.

(j) *Coordination between Agencies.* The Agency responsible for filing Form 8610 on behalf of all Agencies within a State and making any request on behalf of the State for credit from the National Pool (the Filing Agency) must coordinate with each other Agency within the State to ensure that the various requirements of this section are complied with. For example, the Filing Agency of a State must ensure that all Agencies within the State that were apportioned a credit amount for the calendar year have allocated all their respective credit amounts for the calendar year before the Filing Agency can make a request on behalf of the State for a distribution of credit from the National Pool.

(k) *Examples.* The operation of the rules of this section may be illustrated by the following examples. Unless otherwise stated in an example, Agency A is the sole Agency authorized to make allocations of housing credit dollar amounts in State M, all of Agency A's allocations are valid, and for calendar year 1994 Agency A has available for allocation a State housing credit ceiling consisting of the following housing credit dollar amounts:

A. Population component	$100
B. Unused carryforward component	50
C. Returned credit component	10
D. National pool component	0
Total	160

In addition, the $10 of returned credit component was returned before November 1, 1994.

Example (1)—(i) *Additional facts.* By the close of 1994, Agency A had allocated $80 of the State M housing credit ceiling. Of the $80 allocated, $16 was allocated to projects involving qualified nonprofit organizations.

(ii) *Application of stacking rules.* The first credit allocated is treated as allocated from the population and returned credit components of the State housing credit ceiling, to the extent of those components. In this case, the $80 of credit allocated is less than the sum of the population and returned credit components. The excess of the sum of the population and returned credit components over the total amount allocated for the calendar year ($110 − 80=$30) becomes the unused carryforward component of State M's 1995 State housing credit ceiling.

Because Agency A did not allocate credit in excess of the sum of the population and returned credit components, no credit is treated as allocated from State M's $50 unused carryforward component in 1994. Because none of this component may be carried forward, all $50 is assigned to the Secretary for inclusion in the National Pool. Under paragraph (i)(3) of this section, State M does not qualify for credit from the National Pool for the 1995 calendar year.

(iii) *Nonprofit set-aside.* Agency A allocated exactly the amount of credit to projects involving qualified nonprofit organizations as necessary to meet the nonprofit set-aside requirement ($16, 10% of the $160 ceiling).

Example (2).—(i) *Additional facts.* By the close of 1994, Agency A had allocated $130 of the State M housing credit ceiling. Of the $130 allocated, $20 was allocated to projects involving qualified nonprofit organizations.

(ii) *Application of stacking rules.* The first $110 of credit allocated is treated as allocated from the population and returned credit components. In this case, because all of the population and returned credit components are allocated, no amount is included in State M's 1995 State housing credit ceiling as an unused carryforward component. The next $20 of credit allocated is treated as allocated from the $50 unused carryforward component. The $30 remaining in the unused carryforward component is assigned to the Secretary for inclusion in the National Pool for the 1995 calendar year. Under paragraph (i)(3) of this section, State M does not qualify for credit from the National Pool for the 1995 calendar year.

(iii) *Nonprofit set-aside.* Agency A allocated $4 more credit to projects involving qualified nonprofit organizations than necessary to meet the nonprofit set-aside requirement. This does not reduce the application of the 10% nonprofit set-aside requirement to the State M housing credit ceiling for the succeeding year.

Example (3).—(i) *Additional fact.* None of the applications for credit that Agency A received for 1994 were for projects involving qualified nonprofit organizations.

(ii) *Nonprofit set-aside.* Because at least 10% of the State housing credit ceiling must be set aside for projects involving a qualified nonprofit organization, Agency A can allocate only $144 of the $160 State housing credit ceiling for calendar year 1994 ($160 − 16=$144). If Agency A allocates $144 of credit, the credit is treated as allocated $110 from the population and returned credit components and $34 from the unused carryforward component. The $16 of unallocated credit that is set aside for projects involving qualified nonprofit organizations is treated as the balance of the unused carryforward component, and is assigned to the Secretary for inclusion in the National Pool. Under paragraph (i)(3) of this section, State M does not qualify for credit from the National Pool for the 1995 calendar year.

Example (4).—(i) *Additional facts.* The $10 of returned credit component was returned prior to November 1, 1994. However, a $40 credit that had been allocated in calendar year 1993 to a project involving a qualified nonprofit organization was returned to the Agency by a mutual consent agreement dated November 15, 1994. By the close of 1994, Agency A had allocated $160 of the State M housing credit ceiling, including $16 of credit to projects involving qualified nonprofit organizations.

(ii) *Effect of two-month rule.* Under the two-month rule of paragraph (d)(2)(iii) of this section, Agency A may treat the $40 of previously allocated credit as returned on January 1, 1995. If Agency A treats the $40 amount as having been returned in calendar year 1995, the State M housing credit ceiling for 1994 is $160. This entire amount, including the $16 nonprofit set-aside, has been allocated in 1994. Under paragraph (i)(3) of this section, State M qualifies for the National Pool for the 1995 calendar year.

(iii) *If two-month rule not used.* If Agency A treats the $40 of previously allocated credit as returned in calendar year 1994, the State housing credit ceiling for the 1994 calendar year will be $200 of which $50 will be attributable to the returned credit component ($10+$40=$50). Because credit amounts allocated in a prior calendar year that are returned in a subsequent calendar year do not retain their nonprofit character, the nonprofit set-aside for calendar year 1994 is $20 (10% of $200). The $160 that Agency A allocated during 1994 is first treated as from the population and returned credit components, which total $150. The next $10 of credit allocated is treated as from the unused carryforward component. The $40 of unallocated credit from the unused carryforward component includes the $4 of unallocated nonprofit set-aside. The entire $40 of unallocated credit from the carryforward component is assigned to the Secretary for inclusion in the National Pool for the 1995 calendar year. State M does not qualify for credit from the National Pool for the 1995 calendar year.

Example 5.—(i) *Additional facts.* For calendar year 1994, Agency A has a State housing credit ceiling that consists of the following housing credit dollar amounts:

A. Population component	$100
B. Unused carryforward component	0
C. Returned credit component	20
D. National pool component	10
Total	$130
Minimum nonprofit set-aside	13
Ceiling amount not set-aside	117

In addition, the $20 of returned credit component was returned before November 1, 1994. By the close of 1994, Agency A had allocated $100 of the State housing credit ceiling.

(ii) *Application of stacking rules.* The $20 excess of the sum of the population component and the returned credit component over the total amount allocated for the calendar year ($120 − 100=$20) becomes the unused carryforward component of the State housing credit ceiling for the 1995 calendar year. The $10 of unallocated credit from the national pool component expires and cannot be reallocated. This amount is neither carried over to 1995 by State M nor assigned to the Secretary for inclusion in the National Pool. Under paragraph (i)(3) of this section, State M does not qualify for credit from the National Pool for the 1995 calendar year.

(l) *Effective date.* The rules set forth in this notice of proposed rulemaking are proposed to be effective January 1, 1994.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 93–31739 Filed 12–28–93; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 71

[AD–FRL–4617–1]

Federal Operating Permit Programs; Permits for Early Reductions Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 112(i)(5) of the Clean Air Act (Act), a rule governing the granting of compliance extensions for sources achieving early reductions of hazardous air pollutants (HAPs) was promulgated in the **Federal Register** on December 29, 1992. Sources qualifying for a compliance extension under the Early Reductions Rule must obtain a permit containing an emission limitation to ensure that the early reductions are maintained throughout the compliance extension period and are federally enforceable. This rulemaking would establish an interim permitting mechanism for such sources until permanent permitting programs become effective pursuant to title V of the Clean Air Act (Act), as amended.

Also proposed in this rule is an amendment to the Early Reductions Rule which would append to an enforceable commitment information on emission reduction measures employed to achieve early reductions. This proposed change would enhance the enforceability of such a commitment.

DATES: *Comments.* Comments must be received on or before January 28, 1994.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by January 12, 1994, a public hearing will be held on January 26, 1994 beginning at 10 a.m. Persons interested in attending the hearing should call Ms. Deanna Allen at (919) 541–5573 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by January 12, 1994.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Air Docket (LE–131), Attention Docket Number A–93–08 (see Docket section below), room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Docket. Docket No. A–93–08, containing supporting information used in developing the proposed rule is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC. A reasonable fee may be charged for copying.

All information used in the development of the proposed amendment to the Early Reductions Rule is contained in the preamble below. However, Docket No. A–90–47, containing the supporting information for the original Early Reductions Rule, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room M–1500, 1st floor, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. David Beck, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5421.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Background and Purpose for Proposed Permits Rule
- A. The Early Reductions Program
- B. Permitting Problem under Early Reductions
- C. The EPA's Proposed Solution
- D. Implementation

II. Summary of and Rationale for Proposed Permits Rule
- A. Program Overview
- B. Permit Applications
- C. Permit Content
- D. Permit Issuance, Reopenings, and Revisions
- E. Public Participation and Administrative Review

III. Summary of and Rationale for Proposed Amendment to Early Reductions Rule

IV. Administrative Requirements

I. Background and Purpose for Proposed Permits Rule

A. The Early Reductions Program

The Clean Air Act Amendments of 1990 revised section 112 of the Act, which directs the EPA to establish national emission standards for hazardous air pollutants (HAP). A new provision, section 112(i)(5), offers to sources that achieve substantial early reductions of HAP emissions an extension in complying with applicable standards to be promulgated under section 112(d). Specifically, the early reductions provision allows an existing source emitting HAPs to be granted a six-year extension of compliance with an otherwise applicable section 112(d) standard upon demonstration by the owner or operator of the source that it has achieved, prior to certain dates, a HAP reduction of 90 percent or more from established base year emission levels (95 percent or more for HAPs which are particulate matter). Generally, sources would have to achieve the 90 (95) percent reduction prior to proposal of an applicable section 112(d) standard. However, sources that would be subject to early section 112(d) standards also have the option of participating by making an enforceable commitment, prior to proposal of an applicable section 112(d) standard, to achieve the 90 (95) percent reduction before January 1, 1994. For sources successfully demonstrating qualifying HAP reductions, a permit would be issued granting the source the six-year compliance extension and containing a federally enforceable alternative emission limitation reflecting the qualifying reduction.

On December 29, 1992, the EPA promulgated in the **Federal Register** (57 FR 61970) an implementing rule for the Early Reductions provision of the Act. The Early Reductions Rule established procedures and requirements for source owners or operators wishing to obtain the six-year compliance extension.

B. Permitting Problem Under Early Reductions

Prior to promulgation of the Early Reductions Rule, the EPA anticipated that permit applications for section 112(i)(5) compliance extensions simply would be part of a comprehensive title V permit application for the entire plant site, since section 112(i)(5)(D) of the Act specifies that sources granted compliance extensions must have their alternative emission limitations embodied in a permit issued pursuant to title V of the Act. Under section 504(a) of the Act, a comprehensive title V permit application would encompass all Act requirements applicable to all emitting units at the plant site, not just the alternative emission limitation related to the early reductions source. (An early reductions source can consist of a designated subgroup of all HAP emitting units at the facility.) These applications were to have been processed by States with approved title V permitting programs or, where a State program had not yet been approved, by the EPA pursuant to regulations anticipated to be promulgated for Federal title V permitting (future part 71 rule).

Shortly before the rule for the Early Reductions Program was promulgated, it became apparent that neither State nor Federal comprehensive title V permitting programs would be in place in time to process the initial early reductions permit applications which will be filed by April 30, 1994. States are not required to submit title V permit programs to the EPA for approval until November 15, 1993, and EPA has until November 15, 1994 to approve or disapprove the State's proposed program. Additionally, a Federal title V permit program, which primarily would be used when a State has failed to obtain approval of a title V program, likely will not be promulgated until 1995.

C. The EPA's Proposed Solution

Since there will be no comprehensive title V permit issuance mechanism available to process initial early reductions related permit applications, the EPA is proposing in today's notice to establish a title V program limited to implementation of the Early Reductions Program. The legal rationale for establishing such a limited Federal permit program under title V is expanded upon below.

The EPA considered various alternatives for implementing the Early Reductions Program in advance of the comprehensive title V program. The first alternative was to delay any permit application deadlines for early reductions sources until a title V permitting mechanism was available. Although this option would be the simplest to implement administratively, it has several drawbacks. Primarily, section 112(i)(5) evidences an intent that alternative emission limitations are to be embodied in a permit issued pursuant to title V. The EPA therefore believes that, to be consistent with the Act, it must make the title V permit the implementing vehicle for the Early Reductions Program, except where it would be strictly infeasible to do so.

In addition to this legal consideration, permit issuance delays under this option could be significant, possibly a year or two behind original expectations. The delay would mean that a source owner or operator would not know for a considerable length of time whether the EPA (or other permitting authority) would approve the early reduction demonstration and grant a compliance extension from a section 112(d) standard. If the extension is not granted, the source may have little if

any time to prepare to meet an impending section 112(d) standard compliance deadline. Additionally, this option would allow participating sources to operate without a permit for possibly two years or more after the early reductions were required to be achieved, which is not desirable from an enforcement standpoint. For these reasons this option was rejected.

Another alternative was to use federally enforceable permit programs already in effect. Some states have permitting functions which are federally enforceable under State Implementation Plans. Presumably, this mechanism could be adapted to handle early reductions permit applications. However, as with the first alternative described above, this alternative is flawed in that it does not utilize the permitting mechanism intended by the Act, namely, title V.

In addition, under this scenario the EPA still would have to promulgate a rule or at least issue guidance describing how such existing permit programs would have to be modified for the writing of early reductions permits, with additional time spent approving the modified programs. Moreover, not all States have federally enforceable air permit programs, and some other mechanism must be sought in those instances. This option therefore did not offer a complete solution to the problem, although it could be considered for use where federally enforceable State permit programs exist and where no State or Federal title V mechanism has been established.

A third alternative considered and eventually selected by EPA was the establishment of a new permit program tailored to the Early Reductions Program. Again, however, any such program would be flawed from a legal standpoint if it was not established under the authority in title V. Furthermore, the establishment of a special early reductions permit program apart from title V would be needlessly redundant since EPA considers title V permits to be an adequate vehicle for alternative emission limitations, and since these limitations will eventually need to be incorporated into the State-issued, comprehensive, title V permits once they are available.

D. Implementation

This rule establishing the specialty permits program may not be promulgated until after the April 30, 1994 permit application deadline for early reductions sources subject to enforceable commitments. Therefore, applications submitted by that date may have to be based on the requirements contained in today's proposed rule. The EPA will begin evaluation of applications submitted by April 30, 1994, but will not issue any specialty permits until after promulgation of this rule. Should the promulgated rule differ from this proposed rule such that permit applications already submitted need to be revised, the owner or operator will be notified of the change(s) and asked to amend the original application.

II. Summary of and Rationale for Proposed Permits Rule

The proposed rule describes an interim, Federal, title V permit program specific to hazardous air pollutant emissions from sources participating in the Early Reductions Program. It is meant only to fill the need to issue timely permits to these sources in the interval prior to the availability of a comprehensive title V permitting mechanism and does not change a source's obligations under title V of the Act. Therefore, companies issued specialty title V permits under this rule still must file comprehensive title V permit applications as required after State title V permit program approval occurs and the specialty permit eventually would become part of the comprehensive permit issued for the plant site.

The EPA believes there is ample authority under the CAA to issue specialty title V permits in this instance. Permits issued pursuant to the rule would meet all the requirements of title V, with the exception of section 504(a). Section 504(a) requires that each title V permit assure compliance with all applicable requirements of the Act. EPA reads the general mandate of section 504(a) in conjunction with section 112(i)(5) to allow narrower specialty permits that address only the alternative emissions limitation.

While this reading does not appear to be fully consistent with the literal language of section 504(a) standing alone, it is necessary in order to meet Congress' goals with respect to the Early Reductions program. If section 504(a) were read to require title V permits issued to early reductions sources to assure compliance with all applicable requirements (which, under the part 70 regulation, includes, at a minimum, SIP requirements and existing NESHAP and NSPS standards), significant delay in permit issuance to such sources would occur, compromising the viability of the Early Reductions Program. Unless an Early Reductions source is able to obtain a specialty title V Early Reductions permit before it is issued a comprehensive title V permit, it would in effect be required to achieve early emissions reductions and maintain those reductions while remaining at peril of enforcement of the relevant section 112(d) standard (because the evaluation of the reduction demonstration and granting of the compliance extension occurs in the context of permit issuance). Moreover, without the specialty permit, the permitting authority has no way to enforce the required emissions reduction against the source.

This reading is consistent with the purpose of section 504(a), which is to assure that permits issued pursuant to a comprehensive title V program address all applicable requirements. Nothing in this proposed rule would affect part 70 requirements to issue permits that address all applicable requirements. The main functions of this rule are to set requirements for permit applications and permit content and establish procedures for permit issuance and revision. The rule was composed by adapting provisions from the promulgated part 70 rule (57 FR 32250, July 21, 1992) for State title V permitting programs to fit the needs of this interim Federal program. Thus, there are many similarities in language and structure between the two rulemakings. Two significant differences between this rulemaking and the part 70 rule are: (1) The part 70 rule describes required elements and procedures for establishing State title V permitting programs whereas this rulemaking *is* an actual permit program and (2) the part 70 rule requires comprehensive permits which address all applicable requirements at a plant site while this rulemaking would establish permits only for the hazardous air pollutant emissions from the defined early reductions source at a plant site. These differences led to the deletion of several sections of the part 70 rule and revision of others.

The remainder of this section describes the contents of the proposed rule and the rationale behind the proposed provisions. It is not the purpose of this preamble to reiterate the rationale for the part 70 rule for State permit programs but rather concentrate on areas where the part 70 rule was revised or new requirements added. The reader may refer to the proposal and promulgation notices for the part 70 rule for further information on its provisions and the rationale behind the provisions. (Part 70 was proposed on May 10, 1991, 56 FR 21712, and promulgated on July 21, 1992, 57 FR 32250.)

The two sections of the proposed rule not discussed under separate sections of the preamble are definitions (§ 71.22) and applicability (§ 71.23). Most of the definitions for the proposed rule were taken directly from the promulgated part 70 rule, although several were not incorporated because they were not applicable to this rulemaking. A few definitions also were added from the promulgated Early Reductions Rule. The applicability section of the part 70 rule was deleted and replaced by two short paragraphs to narrow the scope of the rule to sources participating in the Early Reductions Program. Several other sections of the part 70 rule not pertinent to this rulemaking and not incorporated include: Program Submittals and Transition (§ 70.4), Permit Review by the EPA and Affected States (§ 70.8), Federal Oversight and Sanctions (§ 70.10), and Requirements for Enforcement Authority (§ 70.11). These sections apply specifically to State program requirements or to the approval and oversight aspects of State title V permit programs. Finally, a section on public participation and administrative appeal (§ 71.27) was added in order to establish: Specific procedures for notice and comment on draft permits and elements of the administrative record on permit decisions; procedures for appeal of final permit decisions; and prerequisites for judicial review.

A. Program Overview

This section of the rule (§ 71.21) describes the purpose, which is to establish an interim mechanism for issuing specialty, Federal title V permits for sources participating in the Early Reductions Program, and more importantly details how this specialty permits program interfaces with the States and their responsibilities under title V.

Early reductions specialty permits issued under this rulemaking will have a fixed term of five years, the maximum allowed under title V of the Act. However, prior to expiration of these permits, States probably will obtain approval of their comprehensive title V programs and will be in position to start issuing comprehensive title V permits. As this occurs, the EPA eventually will stop issuing specialty title V permits for early reductions sources and defer to the approved State title V programs. Several questions arise related to this transition: at exactly what point will the EPA stop issuing the specialty permits, would a State with an approved title V program be able to issue specialty early reductions permits in cases where the permit application was being processed by the EPA at the time of title V program approval, and how will existing specialty permits be treated when comprehensive title V permits are established for the entire plant site?

In resolving the first two questions, a primary concern was to ensure that permit issuance (and associated granting of a compliance extension) would not be substantially delayed as a result of the transition to State responsibility for permitting. Owners or operators must know in a timely fashion whether their sources will be granted a compliance extension. If a reduction demonstration is denied for some reason, the source will have to meet the section 112(d) emission standard on schedule. In such cases, the later a source receives word of an early reduction demonstration disapproval, the less time the source has to prepare to meet the 112(d) standard. Under the proposed rule, the Administrator will issue a specialty permit to an early reductions source within 12 months of receiving a complete specialty permit application. If a complete application has been received and is being processed by the EPA at the time a State obtains approval of a part 70 program, simply turning over the application to the State and letting the 12 month process begin all over again would produce substantial delay in permit issuance. The delay would be exacerbated if the source owner or operator had to rework the specialty permit application and resubmit it as a comprehensive title V application (under the part 70 rule owners or operators normally would be allowed up to one year to prepare and submit a comprehensive application).

To avoid this scenario, the proposed rule stipulates that the EPA may continue to process and issue an early reductions specialty permit in cases where: The permit application is filed with, but the permit has not yet been issued by, the EPA prior to the involved State obtaining approval of a part 70 program; or the specialty permit application deadline for the early reductions source [according to § 71.24(b) of the proposed rule] occurs before the comprehensive permit application deadline set in the State title V program. EPA solicits comment on whether it is necessary or appropriate for it to retain discretion to process and issue a specialty permit in the latter instance.

Note that the rule does not stipulate that the Administrator definitely will continue to issue specialty permits in the two cases above, but may do so. The key to whether EPA will issue the specialty permit or defer to the State for permit issuance is the degree of delay that would occur in granting the compliance extension through the State program. If the permit could be issued by the State within a few months of the time EPA would have issued the permit, it is likely that EPA would not have to issue a specialty permit and would defer to the State.

The third question examines what happens to an existing early reductions specialty permit once the involved State has obtained approval of a part 70 program, and the answer is derived from an understanding of the character of such permits. It is the EPA's intent within this rulemaking to issue permits granting qualifying sources six-year compliance extensions from otherwise applicable section 112(d) standards and containing an alternative emission limitation to be met by the source until the extension expires. These permits are to be issued as specialty title V permits, meaning that their content will be consistent with the requirements of title V of the Act and consistent with part 70 rules establishing requirements for State title V programs for issuing comprehensive permits. However, a specialty permit will encompass only the early reductions source (which can be a designated subset of all HAP emitting equipment at the plant site) and only the HAP emissions from it. All other Act applicable requirements for emitting units from the plant site, including those for non-HAP emissions from the early reductions source, will be covered by the comprehensive title V permit issued for the plant site at a later time. Thus an owner or operator of a plant issued a permit under this subpart will have satisfied title V requisites for the early reductions source and for one applicable Act requirement, i.e., the otherwise applicable standards promulgated under section 112(d) of the Act. An existing early reductions specialty permit will be incorporated, without reopening, as part of the comprehensive permit issued for a facility, unless reopening is necessary for some other reason according to § 71.26(e). In issuing a comprehensive permit, a State may, however, extend the term of an existing early reductions permit so that it coincides with the expiration of the remainder of the comprehensive permit or the six-year compliance extension, as applicable.

The EPA invites comment on its proposed position regarding the relationship between incorporation of the specialty permit into the comprehensive part 70 permit and reopening of the specialty permit. Specifically, EPA requests comments on whether the entire specialty permit (as opposed to merely the early reductions determination) should be incorporated without reopening, or whether instead the State should have the option of excluding certain elements of the specialty permit such as the permit

shield, the emergency upset provision, or provisions for operational flexibility from the comprehensive part 70 permit.

The EPA is proposing to allow for the delegation of this early reductions specialty permit program to a State prior to the State obtaining full approval of a title V permitting program. Functions delegated would include the evaluation and approval or disapproval of the emission reduction demonstration which would qualify the source for a compliance extension (unless the State already had been delegated this function under an earlier delegation for the Early Reductions Program) and the issuance of a specialty title V permit granting the extension and establishing an alternative emission limitation for the source. However, after the specialty permit program is delegated to the State, appeals of final permit decisions would still be taken to the Environmental Appeals Board, pursuant to the administrative appeal provisions of § 71.27. The EPA plans to issue guidance, similar to that issued for the early reductions rule, which will further clarify the conditions under which EPA will delegate this specialty permit program to States. The EPA plans to evaluate State resources and capacity for successful implementation of the specialty permit program prior to granting a delegation. This will likely include, at a minimum, examination of the State's legal authority, resources, ability to assure compliance consistent with relevant schedules, and whether the State, in implementing the specialty permits rule, will otherwise satisfy its objectives and the objectives of the early reductions rule.

Enforcement of issued specialty permits would be delegated only if the State demonstrates that it is has enforcement authority substantially equivalent to that described in the part 70 rule (§ 70.11), including: the ability to restrain any person from engaging in an activity which is in violation of a permit and which poses an imminent and substantial danger to public health or welfare, or the environment; the ability to assess or sue to recover in court civil penalties and to seek criminal remedies; and a burden of proof under State law for establishing violations that is no greater than the burden of proof required under the Act. The requirement that a State merely have authority "substantially equivalent" to that in § 70.11 would not allow the exclusion of any elements of that section. Rather, it is intended to allow delegation to a State which takes a different approach to a particular element that in EPA's judgment attains the same enforcement results. Comment is solicited on this delegation requirement, and in particular whether EPA should require stricter consistency with § 70.11, or whether instead it should allow States to depart more freely from those requirements.

The EPA does not intend that Federal title V permit programs be delegable to the States generally. Title V addresses the transfer of authority to States through specific program approval procedures, which is the primary mechanism for such transfer. The EPA generally contemplates promulgation of a Federal operating permits program only where the State fails to obtain or retain approval. However, EPA believes that delegation of this program is warranted in light of the special circumstances surrounding this rule. As explained above, this specialty permits program is not being established in response to the failure of any State to comply with title V. Rather it is an interim measure designed to fill a gap in the statute where there otherwise would be no permit issuance mechanism to implement the Early Reductions Program.

Although it is the intent of title V that it be implemented by the States wherever possible, it appears unrealistic to expect States to gain approval of a title V program, even one limited in scope to the early reductions program, in time to implement this specialty permit program from its inception. If States are to issue permits to early reductions sources prior to approval of a comprehensive title V program, EPA must be able to delegate this part 71 program directly to the States. The EPA believes this outcome is preferable, provided the State program is adequate, because allowing the State to issue the initial specialty permit will greatly facilitate the transition to a State-implemented title V program.

Similar to the situation above regarding specialty permit issuance after a State obtains approval of a comprehensive title V program, the Administrator may continue to process and issue a specialty permit in cases where the permit application is filed prior to the State obtaining delegation to implement this subpart. Again, whether EPA or the State issues the specialty permit depends on the amount of delay induced by transfer to the State. If the delay would not be significant, the application could be transferred to the delegatee.

B. Permit Applications

Procedures for filing permit applications under this subpart and the information required for complete permit applications are covered in § 71.24 of the rule. The section is patterned after the identically named section in the part 70 permit rule, although much of the original part 70 section has been revised or deleted to reflect the purposes of the early reductions specialty permit program.

To apply for an alternative emission limitation and a compliance extension for an early reductions source, an owner or operator must file a specialty permit application with the EPA Administrator. The Administrator will delegate the review and final disposition of permit applications under this subpart to the EPA Regional Offices and, therefore, applications actually should be sent to the appropriate EPA Region. Applications, in general, must be filed no later than 120 days after the date of proposal of an applicable standard issued pursuant to section 112(d) of the Act or 120 days after promulgation of this subpart, whichever is later. However, sources that have made enforceable commitments must submit applications by April 30, 1994. These deadlines will help assure that permits for early reductions sources will be issued in a timely manner.

Generally, a specialty permit application must contain all required information upon initial submittal in order to be considered a "complete" application. However, one exception is the documentation of actual post-reduction emissions, which cannot be completed until after the post-reduction year. (The post-reduction year is the year following the deadline for making early reductions, or in other words the year after the proposal date of an applicable section 112(d) standard or, for sources that have made enforceable commitments, calendar year 1994.) Therefore, the documentation of actual post-reduction emissions will not be part of the initial permit application but will be filed later as a supplement to the application. The supplement must be filed after the post-reduction year but no later than 13 months after the applicable deadline for making early reductions. For sources that have made enforceable commitments, the supplement must be filed after December 31, 1994 but no later than January 31, 1995.

Although the overall demonstration of actual post-reduction emissions will not be filed until after the end of the post-reduction year, source test results that will be used in the overall demonstration must be sent with the permit application. This requirement assures that source tests are conducted early in the post-reduction year (or sooner). For example, if an owner or operator plans to source test an emitting unit in the early reductions source to help substantiate post-reduction emissions for the unit, the testing must be completed in time to submit results from the test with the permit application. These test results later would be combined with some type of emission monitoring or relevant parameter monitoring information to demonstrate actual emissions for the emitting unit for the post-reduction year. The EPA will begin evaluating permit applications when they are received, and a "completeness" determination will be made. The EPA 12-month timetable for permit issuance begins upon receipt of a complete application. However, no specialty permit will be issued until the post-reduction emission demonstration has been submitted and approved.

The Administrator will determine whether a permit application under this subpart is complete within 45 days of receipt. If no completeness determination is made within 45 days, the application will be deemed complete. The 45-day completeness determination period is somewhat less than that established in the part 70 rule (60 days) because specialty applications will be shorter than comprehensive permit applications and will be reviewed on a priority basis by EPA. During the processing of a complete application the Administrator may request the applicant to send additional information, if it is needed to evaluate or take final action on the permit. An applicant also has the responsibility to amend a permit application upon becoming aware that relevant facts were initially omitted, incorrect information was submitted, or new requirements became applicable after the permit application was filed. The source must submit this information in a timely manner or its application will no longer be considered complete.

For a permit application to be complete, the requirements of paragraphs § 71.24(c) and (e) must be met. These requirements are similar to those in the part 70 rule for State title V programs, but have been revised somewhat to apply to early reductions sources. The primary components of the application are: identifying information for the facility; a description of the early reductions source; substantiated base year emissions for the source; information on emission reduction measures employed to achieve the early reductions and results from any short-term emission tests completed after employment of such measures; the alternative emission limitation proposed for the source; and monitoring, recordkeeping, certification and reporting requirements proposed for the source. If an enforceable commitment has been filed and approved, it can be used to supply the facility information, source description, and base year emissions required for the permit application. As mentioned above, the complete post-reduction emissions demonstration, which documents actual annual post-reduction HAP emissions and shows achievement of qualifying early reductions, is submitted later as a supplement to the initial permit application.

Detailed requirements for the description of the early reductions source, the associated base year and post-reduction hazardous air pollutant emissions, emission reduction measures employed, and other information necessary to demonstrate that the source has achieved qualifying early reductions will not be discussed in this preamble but are contained in the Early Reductions Rule § 63.74 and are incorporated into this rulemaking by reference. Thus, the permit application must contain sufficient information to satisfy § 63.74 of the Early Reductions Rule.

The source owner or operator also must propose in the permit application an alternative emission limitation to be met throughout the compliance extension period [§ 71.24(e)(3)]. This number would constitute an annual cap on HAP emissions from the early reductions source and would reflect at least a 90 percent reduction from the established base year emissions (95 percent reduction for sources emitting particulate HAP). Aggregate HAP emissions from all emitting equipment or operations in the early reductions source must remain at or below the alternative emission limitation on an annual basis. If the early reductions source emits any of the hazardous air pollutants designated "high-risk" pollutants by the Early Reductions Rule, then a second alternative emission limitation would be required. This second limitation would be set at a level at least 90 (95) percent below base year emissions adjusted by the weighting factors of any high-risk pollutants emitted.

Section 71.24(e)(4) also requires the permit application to include "additional emission limitations, limitations on operation, work practice standards, and any other emission limiting requirements for the early reductions source necessary to assure compliance with the alternative emission limitation(s)." It may not be necessary to delineate additional individual emission limits for emitting units in the early reductions source provided that the monitoring, reporting, and recordkeeping terms of the permit are sufficient to assure enforceability of the alternative emission limitation. The reader is referred to the following section on permit content for more detail on additional limits in early reductions permits.

The permit application also must contain information necessary to define alternative operating scenarios for the early reductions source and identify associated permit terms and conditions needed to assure that the source will meet the alternative emission limitation under the alternative scenarios. Many emitting processes or operations vary during the course of a year due to seasonal factors, production rate changes, raw material switching, product changes, or other variations considered normal for a particular business. Such variations would become allowable under an early reductions permit if they are defined in the permit and associated limiting terms or conditions in the permit assure that the alternative emission limitation will not be exceeded.

The last requirement for a permit application, § 71.24(e)(6), includes statements related to compliance. Specifically, each application must contain: (a) A statement of the methods proposed to demonstrate continuing compliance with the alternative emission limitation and other permit conditions, including a description of monitoring devices or activities for the emissions units in the source, test methods, and recordkeeping and reporting; (b) a schedule of submissions of compliance certifications during the permit term (at least annually); and (c) a statement indicating the source's compliance status with applicable enhanced monitoring requirements (if any) and compliance certification requirements of the Act.

As noted in the previous paragraph, the permit application must contain the owner or operator's proposed compliance provisions (monitoring, recordkeeping, reporting, and compliance certifications) necessary to assure that the early reductions source maintains compliance with the alternative emission limitation. The EPA cannot prescribe the types of monitoring required within this rulemaking because the Early Reductions Program is open to all types of source categories and emission reduction measures and selection of appropriate monitoring methods directly depends on emission characteristics and reduction measures used. Nonetheless, it is the owner or operator's responsibility to propose appropriate monitoring for the early

reductions source. Guidance for generating proposed monitoring requirements in an early reductions permit application will be available through the following means.

Major sources of HAP, those that emit 10 tons per year or more of an individual HAP or 25 tons per year or more of any combination of HAP, will be subject to enhanced monitoring requirements under section 114(a)(3) of the Act, and other sources may be subject to such enhanced monitoring requirements. The EPA is in the process of establishing implementing regulations for the enhanced monitoring provision of the Act. If the enhanced monitoring regulations are not promulgated at the time of filing a permit application under this rulemaking, any proposed enhanced monitoring regulations should be used as a guide. If such promulgation occurs after the time of permit application filing but prior to permit issuance, the promulgated regulations will be taken into account in the final permit. Once a permit is issued, EPA does not anticipate requiring a revision of the permit for monitoring until renewal. (Renewal of specialty permit terms and conditions for an early reductions source will be accomplished pursuant to an approved comprehensive title V permit program, since the specialty permit itself will not be renewed.)

Additional help for establishing monitoring requirements for specific types of emissions may be available from existing emission standards for the same type or similar type of source, or from standards based on use of the same or similar emission reduction measures. Normally, specific monitoring requirements are established as part of an emission standard for a source category, e.g., a new source performance standard issued under section 111 of the Act or existing hazardous air pollutant standards issued under section 112. Such standards could provide useful information to guide the owner or operator in proposing monitoring methods for the early reductions source.

In general, for early reductions sources containing multiple individual emission points, which in aggregate are subject to the alternative emission limitation, monitoring devices/activities should be specified for each point to substantiate ongoing performance of the source. This does not mean that every emission point will be required to have a monitoring device that directly measures emissions. Other methods may suffice to indicate with accuracy that emissions are within allowable levels, such as monitoring process or equipment parameters or material flows, or performing equipment inspections. Factors influencing acceptability of a monitoring method include the accuracy and reliability of the method, the frequency of monitoring or testing, and the amount of emissions from the unit to be monitored. The larger emission units in the source likely will be subject to more rigorous monitoring requirements. During the post-reduction year, owners or operators should begin implementing monitoring they plan to propose in their permit applications to help substantiate post-reduction emissions.

To complement compliance monitoring, the source owner or operator must include recordkeeping and reporting requirements in the permit application. Records would be kept of compliance monitoring results and would be reported to the EPA periodically. Such reports must be submitted at least every six months, more frequently if necessary for adequate enforcement of the alternative emission limitation. Additional detail on recordkeeping and reporting is in the following section of this preamble on permit content.

Finally, the permit application must provide a statement indicating the source's compliance status with respect to the enhanced monitoring requirements of the Act, where applicable. These requirements will be detailed in regulations EPA will issue in the near future. If the regulations have not been promulgated at the time of filing the permit application, the applicant should use the proposed version of the regulations in discussing the source's enhanced monitoring compliance status.

Any permit application, report, or compliance certification submitted under this subpart must contain a certification by a responsible official indicating the submittal is true, accurate, and complete based on information available to the official and conclusions reached after reasonable inquiry into the contents of the submittal.

C. Permit Content

The permit content section of the proposed rule (§ 71.25) details the information and requirements that must be in permits issued under this subpart. It mirrors a similar section of the part 70 rule for State permit programs and contains several parallels to the previous section on permit applications. Overall, the section contains much of the same language from the part 70 rule. For the most part, only relatively minor revisions have been made to the part 70 counterpart due to the narrow focus of this rulemaking on hazardous air pollutants from early reduction sources. For example, because these permits do not implement applicable requirements of the Act but rather create alternative emission limits, the proposed rule contains no requirement that these permits address all applicable requirements.

The most significant changes are that the part 70 paragraphs on general permits and temporary sources have been deleted. General permits are designed to cover numerous similar sources with essentially the same permit conditions and limitations, thus reducing the time and expense of issuing separate permits for the sources. Early reductions sources will be different from each other and will require different permit terms and conditions. No general permits are contemplated for early reductions sources. Temporary sources are nonpermanent operations that will operate at multiple locations during the permit term. Early reductions sources will be permanent operations at a fixed site. Therefore, any provisions in the State permit program rule for temporary sources would not apply to this rulemaking.

In general, a permit will contain an alternative emission limitation for the early reductions source; additional emission limitations, operational limits, or work practice standards for the early reductions source, as necessary to assure practical enforceability of the alternative emission limitation; monitoring, recordkeeping, compliance certification, and reporting requirements; alternate operating scenarios provisions, if requested by the applicant; provisions for trading emissions increases and decreases, if feasible and requested by the applicant; compliance requirements (including compliance certifications); a provision for emergencies which may arise within the early reductions source; and a "permit shield" provision. The development of the permit content provisions will not be discussed in detail in this preamble since the requirements are very similar to the part 70 rule for State title V permit programs. The reader is referred to the **Federal Register** notices for that rulemaking for such information. The following paragraphs primarily will summarize the most important provisions and explain any significant departures from the part 70 rule.

Each early reductions source will receive an alternative emission limitation for hazardous air pollutants, written in terms of an annual cap. If the source emits any of the 47 high-risk

pollutants listed in the final early reductions rule, an additional alternative emission limitation will have to be issued which takes into account the weighting factors assigned to the high-risk pollutants.

As noted in the previous section of this preamble on permit applications, § 71.25(a)(2) also requires the permit to include "additional emission limitations, limitations on operation, work practice standards, and any other emission limiting requirements for the early reductions source necessary to assure compliance with the alternative emission limitation(s)." This requirement is not meant to mandate additional limitations but rather to provide for their use, as necessary, to ensure practical enforceability of early reductions permits. It is important that EPA have the ability any time during the year to track a source's progress toward meeting the alternative emission limitation, discern excess emissions, and require corrective action. Annual emissions limits alone are not easily enforced because it is difficult to discern and prove at any given time that the source will exceed the annual emissions cap. Monitoring, reporting, and recordkeeping terms written into a specialty permit would enhance the enforceability of the annual cap, particularly where they include provisions incorporating a rolling annual emission determination, perhaps on a quarterly or monthly basis. With this mechanism there would be more frequent determination and reporting of emissions for the previous 12 month period, thereby giving a better, more timely indication of a source's performance. However, if this method still would not create sufficient enforceability for a particular source, additional short-term emission limits might be appropriate.

No prejudgments are made in this rulemaking as to whether additional limitations on the source would be necessary to ensure enforceability of the alternative emission limitation under the Early Reductions Program. The likely variety in numbers and types of emitting units comprising early reductions sources precludes this. These decisions will be made during permit issuance and will be based on several factors including: The ability of EPA to be able to determine compliance more frequently than annually, the number of distinct emitting units in the source, and the emission characteristics of the emitting units.

The additional requirements may be work practices or limits on operation, as authorized by section 112(h) of the Act. Examples include a permit requirement to properly utilize floating roofs with adequate seals to prevent emissions from storage tanks or a requirement to operate an emissions control device, such as an incinerator, within a specified temperature range. Short-term emission limits on certain emitting units also could be specified, such as monthly or daily emission limits on the larger emissions in the early reductions source.

Each permit will contain monitoring requirements necessary to assure compliance with the alternative emission limitation and other limitations on the early reductions source. As described in the section above on permit applications, monitoring methods will be proposed by the applicant and will be confirmed, or if necessary revised, as part of the permit evaluation and issuance process. The permit also will specify records to be kept at the facility and periodic reports to be submitted to EPA.

Many of the permit content section requirements related to monitoring, recordkeeping, reporting, and compliance certification contain detail that will guide the applicant in preparing a complete initial permit application. For example, records of monitoring information must include the date, place, and time of sampling or measurements; the date analyses were performed; the company that performed the analyses; the analytical techniques or methods used; the results of such analyses; and the operating conditions existing at the time of sampling or measurement.

At a minimum, the early reductions source owner or operator must submit reports of all monitoring at least every six months. Shorter reporting intervals could be specified within the permit if warranted, perhaps for some of the most significant emission points in the early reductions source or where emissions are expected to vary substantially with time or seasonally.

The owner or operator also will be obligated to report deviations from permit requirements within ten days of occurrence, including those due to upset conditions. The counterpart requirement in the part 70 rule for State programs requires "prompt" reporting of such deviations but allows the State to set specific deadlines. For the purposes of this rulemaking, the ten-day deadline is considered to constitute "prompt" reporting. Ten days was judged to provide reasonably quick notice of deviations to the permitting authority, yet give the owner or operator sufficient time to investigate the event and prepare a brief report. To minimize the number of reportable "deviations," the permit should include, as comprehensively as possible, terms and conditions covering routine variations in operations and maintenance, including startups and shutdowns. (Of course the permit terms and conditions for routine variations still must assure compliance with the alternative emission limitation.) The EPA seeks comment on the 10-day reporting deadline for permit deviations.

The permit will contain terms and conditions for alternate operating scenarios at the early reductions source, if requested by the applicant. The purpose of this provision, which is similar to the part 70 rule, is to accommodate different operating modes without requiring a permit modification. The permit will be written to ensure that the alternative emission limitation is met under each operating scenario and will require the owner or operator to record in a log the scenario under which it is operating.

As noted in the preamble to the final operating permit regulations, EPA believes that the operational flexibility provisions of section 502(b)(10) of the Act are a mandatory element of any title V permit program. [See 57 FR 32250, 32266 (July 21, 1992)]. Accordingly, the part 70 regulations provided for three alternatives, two of which were mandatory for any State operating permit program, for implementing this section of the Act. The two mandatory elements are at least potentially applicable to this rule. The optional element did not pertain to section 112 requirements, and therefore can have no relevance here. Part 70 requires, first, that a State program allow certain narrowly defined changes at a permitted facility that contravene permit terms ("section 502(b)(10) changes"). Second, State programs must provide for emissions trading within a permitted facility for purposes of complying with a federally enforceable emissions cap established in the permit independent of or more strict than an applicable requirement.

The EPA has considered the range of application for operational flexibility in this specialty permit program, and has decided, for the reasons discussed below, that only the second of the alternatives described above is appropriate for this program. The EPA solicits comment on whether the emissions trading provision retained in this rule is appropriate or necessary, and whether it should be augmented with a provision for "section 502(b)(10) changes."

Proposed § 71.25(a)(10) provides for the permit to allow trading hazardous air pollutant emission increases and

decreases between emissions units covered by the alternative emission limitation, where the permittee requests it and the permittee proposes adequate procedures to quantify the increases and decreases and ensure that the alternative emission limitation will not be violated. Additionally, the changes precipitating the emissions increases and decreases cannot constitute a modification under title I of the Act and the permittee must give a seven-day advance notice of the change to the permitting authority. Such notice must describe the proposed change, when it will occur, and how the change will comply with the alternative emission limitation and other terms and conditions of the permit.

The incorporation of this operational flexibility provision into the proposed specialty permits rule is consistent with the part 70 provisions for operational flexibility, since the alternative emission limitation is essentially a federally enforceable emissions cap established independent of otherwise applicable requirements. It also is consistent with the purposes of the Early Reductions Program, because it allows the source considerable flexibility in how it will meet the reduction level. At the same time, it assures that the specialty part 71 permit will be enforceable, since the permitting authority may not accept a proposal for emissions trading that does not include replicable procedures adequate to ensure that individual trades will be quantifiable and enforceable.

As noted above, the proposed rule does not allow for "section 502(b)(10) changes." These are defined in the part 70 regulation as changes that contravene an express permit term, where such changes would not contravene federally enforceable permit terms that are applicable requirements of the Act or are monitoring (including test methods), reporting, recordkeeping, or compliance certification requirements. As conveyed in the preamble to the part 70 regulations, this provision is designed to allow changes that contravene permit terms not needed to enforce emission limitations or a federally enforceable cap assumed to avoid an otherwise applicable requirement.

The EPA does not believe there will be any such superfluous terms in specialty permits. Because EPA will be the permitting authority for these specialty permits (or will have an oversight function where a State has been delegated the specialty permits program), it will be able to ensure that nonessential requirements do not find their way into the permit. This task should be greatly facilitated by the fact that these permits will address only the alternative emission limitation. There will be no need, for example, to examine State requirements associated with delegated Federal standards or State Implementation Plans and determine whether certain terms are unnecessary for ensuring compliance with these requirements.

Given the narrow programmatic focus of these permits, the source-specific nature of the limitations to be incorporated, and the careful scrutiny that will be given to each permit by EPA prior to its issuance, the EPA believes it is highly unlikely that the flexibility intended by § 70.4(b)(12)(i) of the part 70 regulations is needed in this program. Moreover, in light of this finding, EPA believes that providing sources with the authority to contravene any specialty permit terms would be inconsistent with section 502(b)(10) of the Act. For this reason, EPA is proposing not to allow the flexibility to make "section 502(b)(10) changes" in this specialty permits program.

Other provisions on permit content in § 71.25 of the proposed rule which are very similar to the part 70 rule include: a severability clause to ensure continued validity of the various permit requirements in the event of a challenge to any portion of a specialty permit, certain provisions related to permit enforcement, compliance requirements, the permit shield, and the emergency provision. These provisions will not be discussed in detail, except for a summary of compliance certification requirements and a brief discussion of the permit shield as applied to early reductions sources.

As required by title V of the Act, permits must contain requirements that the source certify compliance at least annually. Early reductions sources will have to show at the end of every year that the alternative emission limitation has been met as well as the other terms and conditions in the specialty permit. The permit could require certification of terms and conditions more frequently than annually, if necessary for proper enforcement of the permit. A compliance certification must contain: an identification of each term or condition of the permit that is the basis of the certification; a discussion of the compliance status and whether compliance was continuous or intermittent during the year (or other reporting period); the methods used to determine compliance over the reporting period; and other facts required by the permitting authority, if any, to determine compliance status.

Section 71.25(d) of the proposed rule allows for the establishment of a permit shield. Under this provision, EPA will provide in any permit that compliance with the terms and conditions of the permit will be deemed compliance with the requirements of the early reductions regulations (part 63, subpart D). Like the permit shield provided for in part 70, this shield essentially protects the source against a claim in an enforcement action that the permit does not adequately implement the underlying requirement. Also similar to part 70, the permit shield provided for in this program does not shield the source against any changes to the regulations that may occur following permit issuance.

Unlike the part 70 permit shield, the shield proposed here has a very limited range of operation. It does not shield the source relative to any applicable requirements other than the Early Reductions Rule. Moreover, it does not explicitly act as a shield relative to the section 112(d) standards that would apply in the absence of the alternative emission limitations. The EPA believes that no such shield is necessary, since it is inherent in the operation of the Early Reductions provision of the Act (section 112(i)(5)) that these standards will not be enforceable against the source while the alternative emission limitation is in effect.

The permit shield provision in the proposed rule differs in another respect from that in part 70. Under part 70, a State retains discretion not to grant a shield in any particular circumstance. The EPA is proposing to grant a shield for each specialty permit it issues.

The EPA believes that, in spite of the narrow range of requirements addressed in these specialty permits, the permit shield may be useful in this permit program in that it may provide the source with additional assurance that the terms of its permit faithfully implement the requirements of the Early Reductions Rule. The EPA solicits comment on this use of the shield, and in particular whether such assurance against differing interpretations of the Early Reductions Rule in an enforcement action is necessary or appropriate.

A final point of discussion on the permit content section of the rule relates to the payment of fees by the early reductions source. Title V of the Act requires State permit programs to contain provisions for the collection of fees to cover the cost of issuing comprehensive permits. However, under circumstances in which the Administrator issues a comprehensive permit under title V, the Administrator's collection of fees is discretionary. For the issuance of specialty permits under this rulemaking, the EPA has adopted the stance that fees may be required by the Administrator (§ 71.25(a)(8)).

Although EPA is reserving the right to collect fees for issuing specialty permits, at this time the EPA does not anticipate collecting such fees due to the effort involved in setting up and administering a fees collection system and because EPA expects to issue relatively few permits for the brief duration of this specialty permits program. Under a delegation, States would be expected to collect fees for issuing specialty permits sufficient to cover the cost of administering the delegated program. The EPA solicits comment specific to this policy on collection of fees for federally issued permits under this rule. Taking into consideration such comments, EPA intends to make a definite statement in the promulgated version of the rule on whether fees will be collected for federally issued specialty permits.

D. Permit Issuance, Reopenings, and Revisions

Section 71.26 of the proposed rule pertaining to the mechanics of issuing permits is similar in structure to its counterpart in the part 70 rule (§ 70.7). Edits have been made to the part 70 language to make the section appropriate for the Early Reductions Program. Additionally, a couple of significant changes have been made and are discussed below.

A specialty permit or specialty permit modification will be issued by the Administrator only if: A complete application for the permit or modification has been submitted, public participation requirements of § 71.27 of the proposed rule have been met, the terms and conditions of the permit meet all the requirements of § 71.25 for permit content, and the permit provides for compliance with an alternative emission limitation reflecting the emissions reduction which qualified the early reductions source for a six-year compliance extension under the Early Reductions Rule. Within 45 days of receiving an application, the Administrator will notify the applicant that the application is complete or that it is incomplete and request additional information. If no notification is sent within 45 days, the application is deemed complete. Permits will be issued within 12 months of receipt of a complete application. (Although, as mentioned earlier in this preamble, no permit will be issued until this rule is promulgated and the demonstration of post-reduction emissions has been submitted and approved.)

For all permit applications and permit modifications, the Administrator will provide for public comment, including comment by affected States, and for a public hearing if requested. Notice of the proposed action will be provided according to the requirements of § 71.27. The draft permit and supporting materials will be available for public inspection during the comment period, which shall be at least 30 days. Within 30 days of issuance of final permit decisions, appeals may be filed with the Environmental Appeals Board, and such appeals shall be prerequisites for judicial review of final permit decisions. If the Administrator approves a State program for the implementation of this subpart, the Administrator will retain the right to object to issuance of a permit or permit modification that does not meet the requirements of this subpart, according to the procedures described in § 71.26(f).

Unlike comprehensive title V permits, specialty permits that would be issued under this rulemaking will not be renewed. The issuance of specialty permits to early reductions sources is an interim means of meeting the requirements of section 112(i)(5) of the Act until a comprehensive title V permit issuance mechanism is available, and the five-year term of a specialty permit will be sufficient to bridge this interval. Therefore, renewal is not necessary. A specialty permit eventually will be incorporated into the comprehensive permit for the facility containing the early reductions source. If for some reason there is a delay in issuing the comprehensive permit to the facility despite the timely filing of a complete comprehensive application, then any existing specialty permit reaching the end of its term shall not expire but will remain in effect until the comprehensive permit is issued. However, the fact that a specialty permit exists for an early reductions source in no way shields an owner or operator from an obligation to file a timely application for a comprehensive title V permit for the entire facility.

The part 70 rule section on permit issuance (§ 70.7) contains procedures for three different types of modifications to permits: Administrative amendments, minor permit modifications, and significant modifications. For specialty permits under this rulemaking, only two procedures are being proposed, one for administrative amendments and one for all other types of modifications. Administrative amendments are narrowly defined, minor revisions to permits and include only the following types of actions: correction of typographical errors; changes to name, address, or phone number of a person identified in the permit; incorporation of more frequent monitoring or reporting by the permittee; and changes in ownership that do not involve other permit changes. Administrative amendments may be implemented by the owner or operator upon submittal of the request to the Administrator. The Administrator will take action on such requests within 60 days and need not provide notice to the public or affected States.

All other permit revisions that cannot be classified as administrative amendments must be processed through the modification procedures (§ 71.26(d)). Permit modifications are processed in the same way as initial permit applications. The modification application need only address the proposed changes to terms and conditions in the existing permit but otherwise must meet the requirements for permit applications (§ 71.24) and will be offered for public comment as in § 71.27. The Administrator will take final action on permit modifications within 12 months of receipt of a complete application for the modification.

Specialty permits may be reopened and revised if the Administrator determines that the permit contains a material mistake, that inaccurate statements were made in establishing the alternative emission limitation or other terms or conditions of the permit, or that the permit must be revised to assure compliance with the alternative emission limitation. Procedures for reopening and revising a permit are the same as for initial permit issuance and affect only those parts of the permit which caused the reopening. The Administrator will provide the owner or operator at least 30 days advance notice before reopening a permit.

As previously indicated and unlike the part 70 rule for comprehensive permits, no provision has been made in this rulemaking for minor modifications to specialty permits. The minor modifications provisions of part 70 allow a permitted source to make certain changes immediately upon application to the permitting authority, thereby avoiding the delay associated with review and issuance procedures for significant modifications. Although this rulemaking currently does not contain such a provision, the EPA is considering inclusion of minor modification procedures in the final rule that either would be similar to those in part 70 or would provide for a 30 or 60 day expedited review of minor modifications prior to the source making the change, as opposed to the significant modification process which may take up to twelve months.

The part 70 rule (§ 70.7(e)(2)(i)(A)) provides criteria for determining whether proposed changes at a source may be processed as minor modifications. Most relevant here are subsection (i)(A)(*2*), which prohibits use of the minor modification track for significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit, and subsection (i)(A)(*4*), which provides that a minor modification cannot "seek to establish or change a permit or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject," including, specifically, "an alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act."

The EPA recognizes that situations may arise in which an early reductions source owner or operator wishes to make insignificant changes to compliance terms in the permit, such as those involving monitoring, reporting, or recordkeeping. On the one hand, subsection (i)(A)(*4*) would prohibit use of the minor modification track to revise an alternative emission limitation, and presumably any compliance terms in the permit necessary for enforcement of that limitation. On the other hand, alternative emission limitations, similar to a promulgated standard augmented by compliance terms existing only in the permit, may be susceptible to changes to those compliance terms that are truly insignificant. Therefore, EPA does not believe that subsections (i)(A)(*2*) and (i)(A)(*4*)(*B*) are mutually exclusive, but rather that these two subsections, read together, may yield an interpretation which would allow insignificant changes to monitoring, recordkeeping, or reporting requirements associated with an early reductions alternative limitation.

Despite the viability of this interpretation from a textual standpoint, certain policy concerns have led EPA to exclude the minor modification track from the proposed rule. In particular, there is concern that allowing "insignificant" changes to a specialty permit's monitoring, reporting, or recordkeeping provisions to be treated as minor modifications could weaken enforcement of the overall alternative emission limitation. Similar to the alternative emission limitation, there will be no specific applicable requirements of the Act underlying the monitoring, reporting, and recordkeeping terms of a specialty permit (except perhaps for general requirements for enhanced monitoring promulgated under section 114(a)(3) of the Act). Such terms essentially will be negotiated and determined by the Administrator to be adequate for the purposes of the Early Reductions Program at the time of permit issuance. Therefore, if a supposedly insignificant monitoring change were to be made at an early reductions source, processed as a minor modification, and after review by the permitting authority found to be a significant change, the only recourse for the permitting authority would be to require the source to return to the original permit terms. There would be no possibility of enforcement of the underlying applicable requirement, since none exists, and no penalty to the source. Additionally, the monitoring change made may have resulted in inaccurate or unreliable information, compromising the ability of the permitting authority to determine later whether the source had met the alternative emission limitation for the year.

Moreover, the ability to effect insignificant changes to compliance provisions in the permit prior to governmental review will be practicable only if there is sufficient predictability concerning what changes reach the significance threshold. For requirements of general applicability, this predictability can be achieved through the establishment of guidelines addressing significance in the context of compliance regimes found in established requirements. However, inherent in the concept of an early reductions alternative emission limitation is the probability that it will contain compliance provisions tailored uniquely to the permitted source. The EPA believes that, for a source permitted in this manner, the forum for predicting what changes to compliance terms may be insignificant should be the permit itself. Any flexibility to make insignificant changes to monitoring, recordkeeping, or reporting provisions should therefore be either written into the permit at issuance, or approved by the Administrator in advance of the change through a significant modification process.

Finally, it is not altogether clear that early reductions sources will need the flexibility provided by a minor permit modification procedure. Each specialty permit will contain requirements specifically designed for the types of pollutants emitted and reduction measures employed at the subject early reductions source. Such requirements will be proposed by the owner or operator in the permit application and, although proposed requirements can be modified during the permit issuance process, presumably will reflect the owner's or operator's preferences. This likely would limit the need to make changes during the permit term.

The EPA seeks comment on this issue specifically with regard to the need for minor modification procedures for specialty permits, the appropriateness of having such procedures, the enforceability of the alternative emission limitation if minor modification procedures were to be adopted, and whether an expedited review of proposed changes in advance of the change would be more appropriate for early reductions sources than allowing changes prior to governmental review as in the part 70 minor modification procedures.

E. Public Participation and Administrative Review

Section 71.27 of the proposed rule provides detailed procedural requirements for public participation in and administrative review of permitting decisions. While the Part 70 rule establishes minimum requirements for public participation in State administered programs, EPA believes that since the Early Reductions Program will be federally administered and not subject to further rulemaking before the program is in effect, specific procedures for public participation and administrative review should be established concurrently with the other requirements of this rule. This approach is consistent with other federally administered permitting programs, such as the Prevention of Significant Deterioration ("PSD"), National Pollutant Discharge Elimination System ("NPDES") and Resource Conservation and Recovery Act ("RCRA") programs.

EPA considered two alternative methods of establishing the public participation and administrative review procedural requirements. The first alternative would be to amend the existing procedures in 40 C.F.R. Part 124, which establishes specific decisionmaking procedures for RCRA, Underground Injection Control ("UIC") PSD and NPDES permits, so that they would be compatible with the Early Reductions Program. EPA would then incorporate those provisions by reference in the early reductions permit rule. The second alternative was to establish public participation and administrative appeal procedures as a separate section of this rule. This alternative has the advantage of allowing these procedures to focus specifically on the needs of the Early Reductions Program as well as appear in close proximity to the permit program requirements in the Code of Federal Regulations.

The proposal follows the second alternative. These public participation and administrative appeals procedures are set out at § 71.27, and are based closely on the selected provisions part 124, subpart A. The EPA does not believe the choice of one format over the other will have a substantial impact on the implementation of this rule. The EPA will further consider these issues of regulatory structure as it develops the comprehensive part 71 program, and solicits comment on this question in this rulemaking as well.

Once a permit application is complete, including an application to modify an existing permit, EPA will tentatively decide whether to prepare a draft permit. Such draft permits will contain permit conditions specified in § 71.25, and be publicly noticed and made available for comment. Administrative modifications of permits will not be subject to draft permit or public notice requirements. All draft permits will be accompanied by a statement of basis that briefly describes the derivation of the conditions of the draft permit and the reasons for them.

Section 71.27(d) establishes public notice and comment procedures for early reductions permit actions, including application denials, draft-permit preparation, scheduling of public hearings, reopening of the public comment period, and granting of appeals. Notice of draft permits (including permit modifications) will provide at least 30 days for public comment, and notices of hearings will issue at least 30 days before hearings are held. Notice will be provided by mail to interested persons, publication, or other reasonable means, and will include information on the permittee, the processing agent, contact persons, and general procedures on submitting comments and requesting to speak at hearings. In addition, notices of hearings will provide information on dates, times and places of hearings, as well as applicable rules and procedures. EPA may hold hearings either upon the basis of requests or on its own initiative.

Interested persons are required to raise all reasonably ascertainable issues during the public comment period, but EPA may reopen the public comment period on its own initiative or at the request of interested persons if doing so would expedite the decisionmaking process. Comments filed pursuant to such reopenings will be limited to the new questions that necessitated reopening. After the close of all public comment periods, EPA will issue a final permit decision that includes information on procedures for appeal, accompanied by a response to comments filed by the public. EPA will individually notify affected States whose recommendations are not accepted for the permit. Final permit decisions will be based on the administrative record defined in § 71.27(k), including comments received, hearing transcripts, the response to comments, the final permit, the permit application, and the draft permit and its statement of basis.

Section 71.27(l) grants a right of appeal of final permit decisions and establishes procedures for such appeals. Within 30 days of a final permit decision, interested persons may petition the Environmental Appeals Board to review the final permit decision. Petitions for review must include a statement of the reasons supporting review and may address only issues raised during the public comment period, unless it was impracticable to raise the relevant objections during such period or the grounds for objection arose after the period closed. An example of a situation in which it is impracticable to raise an objection during the comment period would be when a significant change is made from a draft to final permit without providing an opportunity for public comment. Moreover, while persons who participated in the comment or hearing processes may petition the Board to review any condition of the final permit decision, persons who failed to file comments or participate in hearings may petition the Board only with respect to changes from the draft to final permit decision. When an early reductions permit is appealed, it will nevertheless remain fully effective and enforceable against the permitted source.

Finally, all permits may be modified, revoked and reissued, or terminated at the request of any interested person or upon EPA's initiative for reasons specified in §§ 71.25(a)(7) and 71.26(e). EPA tentative decisions to modify, revoke and reissue, or terminate permits will follow the same public notice and comment procedures as initial draft permits. Denials of requests may be appealed to the Environmental Appeals Board, and such appeals are prerequisites for judicial review.

EPA seeks comment on its method of establishing procedures for public participation and administrative review, and on the appropriateness of the specific procedures proposed. EPA particularly seeks comment on the issues of petitions to modify and terminate permits, the statement of basis accompanying draft permits, the proposed public notice and comment requirements, and appeals of permits.

III. Summary of and Rationale for Proposed Amendment to Early Reductions Rule

The Early Reductions Rule requires an enforceable commitment to include a description of the participating source, documentation of actual HAP emissions from the source for the chosen base year, and a statement of commitment to achieve actual annual post-reduction emissions of a specified amount, where the amount is set by the requirement to achieve a 90 (95) percent reduction from the actual base year emissions. If a source had 100 tons per year of gaseous HAP emissions, then the source owner or operator would commit to achieving a 90 percent reduction or 10 tons of HAP emissions per year. No other explicit promises were required to be in an enforceable commitment.

According to the Early Reductions provisions of the Act, enforceable commitments made under the Early Reductions Program are to be enforceable to the same extent as a section 112(d) standard that would otherwise apply to the early reductions source. Therefore, EPA can initiate enforcement action against sources that fail to live up to their commitments. Owners or operators of participating sources would demonstrate achieving promised reductions by submitting post-reduction emission information for the year following the reduction deadline (calendar year 1994). Since this information would not be submitted to EPA until after the end of 1994 and since the source owner or operator was not required to make any other specific promises in the enforceable commitment, little opportunity exists for EPA to check on a participating source's compliance with an enforceable commitment until after the end of 1994.

Nonetheless, a source that has made an enforceable commitment is expected to have implemented before January 1, 1994 emission reduction measures sufficient to ensure that 1994 actual HAP emissions fall within the commitment level. A description of all such emission reduction measures employed is required to accompany the permit application to be submitted by participating sources by April 30, 1994. EPA is proposing to append the emission reduction measures information to the enforceable commitment to complement the participant's commitment to a specific numerical reduction target. In essence, adding this information to an enforceable commitment would present EPA the opportunity to inspect

participating facilities during 1994 to see that declared reduction measures were operational and functioning properly. In the event an inspection shows that a claimed reduction measure is not in operation or is not being operated or carried out properly and the cause is not attributed to a sudden, unavoidable malfunction of emission reduction equipment or processes, the source would be in violation of its enforceable commitment. A violation of this type could cause the source to be subject to a penalty or could cause the source's later demonstration of achieving qualifying reductions to be invalidated (resulting in EPA refusing to grant an early reductions compliance extension), unless the owner or operator can show to the satisfaction of EPA that the 90 (95) percent reduction target had been achieved despite the violation.

During 1994, an owner or operator of a participating source may discover that reduction measures listed in the initial permit application are not needed to achieve the reduction levels specified in the enforceable commitment or may need to replace failed emission reduction equipment. For such situations, a source making any change prior to the end of 1994 in the emission reduction measures described in the initial permit application must submit a notice describing the changes to EPA within 5 days of making the change. Such notice will constitute an amendment to the enforceable commitment.

IV. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed specialty permits rule and the proposed amendment to the Early Reductions Rule in accordance with section 307(d)(5) of the Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Air Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

B. External Participation

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and other regulatory agencies. The Administrator welcomes comments on all aspects of the proposed regulation.

C. Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and involved industries to readily identify and locate documents so that they can participate effectively in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated rule and EPA responses to significant comments, the content of the docket, except for interagency review materials, will serve as the record in case of judicial review [section 307(d)(7)(A)].

D. Paperwork Reduction Act

The information collection requirements in the proposed specialty permits rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1650.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, DC 20460; or by calling (202) 260–2740.

This collection of information is estimated to have a public reporting burden averaging 554 hours per respondent for one-time burden items and 43 hours per respondent annually for recurring burden items. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

The information collection requirements of the previously promulgated Early Reductions Rule (57 FR 61970) were submitted to and approved by the Office of Management and Budget. A copy of this ICR (OMB control number 2060–0222) may be obtained from Sandy Farmer at the address mentioned in the first paragraph of this section. Today's proposed change to the Early Reductions Rule would not affect information collection requirements of the rule. No new information is being solicited and the existing ICR does not require revision.

E. Executive Order 12291 Review

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The criteria set forth in section 1 of the Order for determining whether a regulation is a major rule are as follows: (1) Is likely to have an annual effect on the economy of $100 million or more; (2) is likely to cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local governments; or (3) is likely to result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The EPA has concluded that the specialty permits rule would result in none of the economic effects set forth in section 1 of the order as grounds for the finding "major rule." The Early Reductions Program is a voluntary program, open to sources that seek a temporary alternative to meeting an otherwise applicable section 112(d) standard. Generally, sources will participate in the program if they feel participation would lower compliance costs compared to meeting the section 112(d) standard. It is not possible to predict with accuracy the magnitude of compliance cost reduction through participation in the Early Reductions Program, although it surely would not be great enough to produce annual compliance cost reductions of $100 million. Through the first two years, the program has attracted about 70 participants. It is expected that there will be 50 or less participants per year for the remainder of the program. If there are as many as 50 participants per year, their annual cost reduction would have to average $2 million to reach the economic effect threshold of $100 million annually for a major rule. Indications from current participants are that the savings are much less.

The proposed amendment to the Early Reductions Rule regarding the content of enforceable commitments is a minor action. It requires no actions on the part of participants in the Early Reductions Program and only affects EPA's enforcement opportunities under the program. No economic effects are associated with the proposed change.

The proposed specialty permits rule and the proposed change to the Early Reductions Rule presented in this notice were submitted to OMB for review as required by Executive Order 12291. Any written comments from OMB to EPA and any written EPA response to those comments will be included in the dockets listed at the beginning of today's notice under ADDRESSES. The dockets are available for public inspection at the EPA's Air Docket Section, which is listed in the ADDRESSES section of this preamble.

F. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the specialty permits rule and the amendment to the Early Reductions Rule, if promulgated, will not have a significant economic impact on a substantial number of small business entities. The EPA estimates that this rule will have no direct economic impact on any business entities for two reasons. First, the Early Reductions Program is a voluntary program, an alternate means of complying with otherwise applicable standards forthcoming under section 112(d) of the Act. Generally, companies would participate in the program if they thought their compliance costs would be less than those associated with meeting otherwise applicable standards. Costs could be less because the 90 (95) percent reduction threshold to qualify for an extension likely will be lower than the reduction required by applicable section 112(d) standards. Moreover, the Early Reductions Rule provides owners or operators considerable flexibility to average qualifying reductions among participating emissions units.

Second, the specialty permits program rulemaking simply adapts for earlier use the intended mechanism for eventually delineating and enforcing all Act requirements at individual facilities, namely the title V permit. Sources not electing to participate in the Early Reductions Program would have to obtain title V permits anyway when comprehensive title V. Therefore, this rulemaking does not add any additional requirements to participants. The impacts from the requirements of title V were considered in the promulgated part 70 rule for State comprehensive programs (57 FR 32250). Moreover, the proposed change to the Early Reductions Rule would have no economic effect on any large or small business entities.

List of Subjects in 40 CFR Part 71

Environmental protection, Air pollution control, Hazardous air pollutants, Operating permits, Reporting and recordkeeping requirements.

Dated: November 22, 1993.

Carol M. Browner,

Administrator.

Title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—COMPLIANCE EXTENSIONS FOR EARLY REDUCTIONS

1. The authority citation for part 63 subpart D continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart D—[Amended]

2. Section 63.75 is revised by adding paragraph (g) to read as follows:

§ 63.75 Enforceable commitments.

* * * * *

(g) The control measure information required under § 63.74(d)(1) as part of post-reduction emission documentation and submitted in a permit application according to the provisions of § 63.77 shall become part of an existing enforceable commitment upon receipt of the permit application by the permitting authority. An owner or operator shall notify the permitting authority of any change made to the source during calendar year 1994 which affects such control measure information and shall mail the notice within 5 days (postmark date) of making the change. The notice shall be considered an amendment to the source's enforceable commitment.

3. Part 71 is added to read as follows:

PART 71—FEDERAL OPERATING PERMIT PROGRAMS

Subpart A—[Reserved]

Subpart B—Permits for Early Reductions Sources

Sec.
71.21 Program overview.
71.22 Definitions.
71.23 Applicability.
71.24 Permit applications.
71.25 Permit content.
71.26 Permit issuance, reopenings, and revisions.
71.27 Public participation and administrative review.

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—[Reserved]

Subpart B—Permits for Early Reductions Sources

§ 71.21 Program overview.

(a) The regulations in this subpart provide for a limited, Federal, title V, permit program to establish alternative emission limitations for early reductions sources that have demonstrated qualifying reductions of hazardous air pollutants under section 112(i)(5) of the Act. A permit issued under this subpart which establishes such an enforceable alternative emission limitation shall grant all emissions units in the early reductions source a six-year extension from otherwise applicable dates of compliance for standards promulgated under section 112(d) of the Act.

(b) After approval of a State's comprehensive permit program pursuant to title V of the Act, the Administrator may continue to issue specialty permits under this subpart only under the following circumstances:

(1) The early reductions source filed a permit application under this subpart before the State obtained approval of a comprehensive title V permit program but the permit had not been finally issued at the time of State program approval; or

(2) The early reductions source will be required to file an early reductions permit application under § 71.24(b) before a comprehensive permit application is required by the State under the approved program.

(c) A permit issued to an early reductions source under this subpart shall have a term not to exceed five years. Such a specialty permit shall be incorporated into a comprehensive title V permit subsequently issued to the facility containing the early reductions source, without reopening or revision of the specialty permit except as provided in § 71.26(e).

(d) Issuance of a specialty permit under this subpart does not relieve a source from an obligation to file a timely and complete comprehensive permit application as required under an approved comprehensive title V permit program.

(e) *Delegation to other permitting authorities.* (1) The Administrator may delegate to another permitting authority the responsibility to implement this permit program. Under such a delegation, the Administrator reserves the right to issue a final permit to early

68818 Federal Register / Vol. 58, No. 248 / Wednesday, December 29, 1993 / Proposed Rules

Federal Register / Vol. 58, No. 248 / Wednesday, December 29, 1993 / Proposed Rules 68819

reductions sources that filed permit applications with the Administrator prior to the permitting authority obtaining delegation.

(2) Under any delegation, the Administrator will require that the permitting authority have enforcement authority substantially equivalent to that specified in § 70.11 of this chapter.

(3) Upon any delegation, administrative appeals of permit decisions issuing pursuant to the delegated program shall continue to be subject to the requirements of § 71.27(l).

§ 71.22 Definitions.

All terms used in this subpart not defined below are given the same meaning as in the Act or in subpart D of part 63 of this chapter.

Act means the Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.*

Actual emissions means the actual rate of emissions of a pollutant, but does not include excess emissions from a malfunction, or startups and shutdowns associated with a malfunction. Actual emissions shall be calculated using the early reductions source's actual operating rates, and types of materials processed, stored, or combusted during the selected time period.

Affected States are all States:

(1) Whose air quality may be affected and that are contiguous to the State in which a permit, permit modification or permit renewal is being proposed; or

(2) That are within 50 miles of the permitted source.

Comprehensive title V permit program means a program approved by the Administrator under part 70 or a program promulgated for EPA permit issuance under title V that encompasses all applicable requirements of the Clean Air Act.

Draft permit means the version of a permit for which the Administrator offers public participation under § 71.27.

Early reductions source means an emitter of hazardous air pollutants as defined pursuant to § 63.73 of this chapter that is seeking to obtain a compliance extension through a permit application filed under this subpart.

Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any hazardous air pollutant.

Enforceable commitment means a document drafted pursuant to section 112(i)(5)(B) of the Act and signed by a responsible company official which commits a company to achieving before January 1 1994 sufficient reductions in hazardous air pollutants from a designated early reductions source to qualify such source for a compliance extension under section 112(i)(5)(A) of the Act.

The *EPA* or the *Administrator* means the Administrator of the EPA or his or her designee.

Final permit means the version of a permit issued by the Administrator under this subpart that has completed all review procedures required by § 71.27.

Hazardous air pollutant means any air pollutant listed pursuant to section 112(b) of the Act.

Permit means any permit covering an existing early reductions source that is issued, amended, or revised pursuant to this subpart.

Permit modification means a revision to a permit issued under this subpart that meets the requirements of § 71.26(d).

Permit revision means any permit modification or administrative permit amendment.

Permitting authority means either of the following:

(1) The Administrator, in the case of EPA-implemented programs; or

(2) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under this subpart.

Responsible official means one of the following:

(1) For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representative is approved in advance by the permitting authority;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).

State means any non-Federal permitting authority, including any local agency, interstate association, or statewide program. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Where such meaning is clear from the context, "State" shall have its conventional meaning.

§ 71.23 Applicability.

(a) *Sources covered.* The provisions of this subpart apply to an owner or operator of an existing source who is seeking a compliance extension under section 112(i)(5) of the Act and who, pursuant to part 63, subpart D of this chapter, is required to file a permit application for the extension prior to the date a comprehensive title V permit program is approved for the State in which the existing source is located.

(b) *Covered emissions.* All hazardous air pollutant emissions from the early reductions source shall be included in permit applications and part 71 permits issued under this subpart.

§ 71.24 Permit applications.

(a) *Where to file.* To apply for a compliance extension and an alternative emission limitation under this subpart, the owner or operator of an early reductions source shall file a complete permit application with the appropriate EPA Regional Office. The owner or operator shall also send a copy of the application to the appropriate State agency; to the EPA Emission Standards Division, Mail Drop 13, Research Triangle Park, North Carolina, 27711 (attention: Early Reductions Officer); and to the EPA Office of Enforcement, EN–341W, 401 M Street, SW., Washington, DC 20460 (attention: Early Reductions Officer).

(b) *Deadlines.* (1) Permit applications under this subpart for early reductions sources not subject to enforceable commitments shall be submitted by the later of the following dates:

(i) Within 120 days of the date of proposal of an otherwise applicable standard issued under section 112(d) of the Act, or

(ii) 120 days after [THE EFFECTIVE DATE OF THIS SUBPART].

(2) Permit applications for early reductions sources subject to enforceable commitments established pursuant to § 63.75 of this chapter shall be filed no later than April 30, 1994.

(3) Except as provided in paragraph (b)(4) of this section, the post-reduction emissions information required under paragraph (e)(2) of this section shall not be filed as part of the initial permit application but shall be filed later as a supplement to the application. The supplemental information shall be filed no earlier than one year after the date early reductions had to be achieved according to § 63.72(a)(2) of this chapter and no later than 13 months after such date.

(4) If a source test will be the supporting basis for establishing post-reduction emissions for one or more emissions units in the early reductions source, the test results shall be submitted by the deadline for submittal of a permit application under this section.

(c) *Complete application.* To be deemed complete, an application must provide all information required pursuant to paragraph (e) of this section, except for the information on post-reduction emissions required under paragraph (e)(2) of this chapter. Applications for permit revision need supply the information required under paragraph (e) of this section only if it is related to the proposed change. Information submitted under paragraph (e) of this section must be sufficient to allow the Administrator to determine if the early reductions source meets the applicable requirements of subpart D of part 63 of this chapter. Unless the Administrator determines that an application is not complete within 45 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in § 71.26(a)(3). If, while processing an application that has been determined or deemed to be complete, the Administrator determines that additional information is necessary to evaluate or take final action on that application, the Administrator may request such information in writing and set a reasonable deadline for a response.

(d) *Duty to supplement or correct application.* Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional or revised information as necessary to address any requirements of subpart D of part 63 of this chapter (Compliance Extensions for Early Reductions) or of this subpart that become applicable to the early reductions source after the date it filed a complete application but prior to release of a draft permit.

(e) *Required information.* Information as described below accounting for each emissions unit within the early reductions source shall be included in the application. Required information shall be submitted both in hard copy and in a computerized format compatible with the Aerometric Information Retrieval System (AIRS). (Note: EPA has not yet finalized AIRS formatting requirements for title V permit information; additional information pertaining to computerized formats for title V submittals will be supplied upon publication of the final rule). The following elements are required information for permit applications under this subpart:

(1) Identifying information, including company name, telephone number, and address (and plant name, telephone number, and address if different from the company name); owner's name, telephone number, and agent; and telephone number(s) and name(s) of plant site manager/contact;

(2) All information required in § 63.74 of this chapter, including that needed to describe the early reductions source, its base year and post-reduction emissions, and supporting basis for the emissions;

(3) A statement of the proposed alternative emission limitation for hazardous air pollutants from the early reductions source on an annual basis, reflecting the emission reductions required to qualify the early reductions source for a compliance extension under subpart D of part 63 of this chapter;

(4) Additional proposed emission limits for specific emissions units, limitations on operation, work practice standards, and any other emission limiting requirements necessary to assure proper operation of installed control equipment and compliance with the annual alternative emission limitation for the early reductions source;

(5) Information necessary to define alternative operating scenarios for the early reductions source or permit terms and conditions for trading hazardous air pollutant increases and decreases under § 71.25(a)(10), including any associated permit terms and conditions needed to assure compliance with the alternative emission limitation under the alternative operating scenarios or pollutant trading;

(6) Statements related to compliance meeting the following criteria:

(i) A statement of methods proposed to determine compliance by the early reductions source with the proposed alternative emission limitation, including a description of monitoring devices and activities, recordkeeping, and reporting requirements and test methods;

(ii) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually; and

(iii) A statement indicating the early reductions source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(f) Any application form, report, or compliance certification submitted pursuant to the regulations in this subpart shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

§ 71.25 Permit content.

(a) *Standard permit requirements.* Each permit issued under this subpart shall include the following elements:

(1) *Alternative emission limitation.* An annual alternative emission limitation for hazardous air pollutants from the early reductions source reflecting the 90 percent reduction (95 percent for hazardous air pollutants which are particulate matter) which qualified the early reductions source for a compliance extension under subpart D of part 63 of this chapter;

(2) *Additional emission limitations.* Additional emission limitations, limitations on operation, work practice standards, and any other emission limiting requirements for the early reductions source necessary to assure compliance with the alternative emission limitation;

(3) *Monitoring requirements.* Each permit shall contain the following monitoring requirements;

(i) All emissions monitoring and analysis procedures or test methods necessary to assure compliance with the emission limitations established under paragraphs (a) (1) and (2) of this section. Such monitoring or testing shall be consistent with the demonstration made pursuant to § 63.74 of this chapter and any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act;

(ii) Periodic monitoring or testing sufficient to yield reliable data from the relevant time period that are representative of the early reductions source's compliance with the permit. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the demonstration made pursuant to § 63.74 of this chapter. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph (a)(3)(ii) of this chapter; and

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(4) *Recordkeeping requirements.* The permit shall contain recordkeeping requirements including the following, as applicable:

(i) Records of required monitoring information that include the following:

(A) The date, place as defined in the permit, and time of sampling or measurements;

(B) The date(s) analyses were performed;

(C) The company or entity that performed the analyses;

(D) The analytical techniques or methods used;

(E) The results of such analyses; and

(F) The operating conditions as existing at the time of sampling or measurement;

(ii) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(5) *Reporting requirements.* The permit shall require the following:

(i) Submittal of reports of all required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports.; and

(ii) Reporting within ten calendar days of any deviations from permit requirements, including those attributable to upset conditions as defined in the permit. Such reports shall include the probable cause of such deviations and any corrective actions or preventive measures taken.

(6) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) Provisions stating the following:

(i) The permittee must comply with all conditions of the part 71 permit issued under this subpart. A violation of an alternative emission limitation, as well as any other requirement established in a permit issued under this subpart, is enforceable pursuant to the authority of section 113 of the Act, notwithstanding any demonstration of continuing 90 percent (95 percent in the case of hazardous air pollutants which are particulates) emission reduction over the entire early reductions source. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for permit termination, revocation and reissuance, or modification.

(ii) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(iii) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(iv) The permit does not convey any property rights of any sort, or any exclusive privilege.

(v) The permittee shall furnish to the Administrator, within a reasonable time, any information that the Administrator may request in writing to determine whether cause exists for modifying the permit, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Administrator copies of records required to be kept by the permit.

(8) If required by the Administrator, a provision to ensure that an early reductions source pays fees to the Administrator consistent with the level of effort expended by the Administrator in issuing the permit pursuant to this subpart.

(9) Terms and conditions for reasonably anticipated operating scenarios identified by the early reductions source in its application as approved by the Administrator. Such terms and conditions:

(i) Shall require the early reductions source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating; and

(ii) Must ensure that the terms and conditions of each such alternative scenario meet the alternative emission limitation and the requirements of this subpart.

(10) Terms and conditions, if the permit applicant requests them, for the trading of hazardous air pollutant emissions increases and decreases among emissions units within the early reductions source without permit revision or case-by-case approval of each emissions trade, provided that:

(i) Such terms and conditions include all terms required under paragraphs (a) and (c) of this section to determine compliance;

(ii) The changes in hazardous air pollutant emissions do not exceed the emissions allowable under the permit;

(iii) The changes in hazardous air pollutant emissions are not modifications under any provision of title I of the Act; and

(iv) The early reductions source owner or operator provides the Administrator written notification at least 7 days in advance of the proposed changes and includes in the notification a description of the change in emissions that will occur, when the change will occur, and how the increases and decreases in emissions will comply with the alternative emission limitation and other terms and conditions of the permit.

(b) *Federally enforceable requirements.* All terms and conditions in a permit issued under this subpart are enforceable by the Administrator and citizens under the Act.

(c) *Compliance requirements.* All permits issued under this subpart shall contain the following elements with respect to compliance:

(1) Consistent with paragraphs (a)(3), (a)(4), and (a)(5) of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit shall contain a certification by a responsible official that meets the requirements of § 71.24(f).

(2) Inspection and entry provisions that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Administrator or an authorized representative to perform the following:

(i) Enter upon the permittee's premises where the early reductions source is located or emissions-related activity is conducted, or where required records are kept;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(iv) Sample or monitor at reasonable times substances or parameters for the purpose of determining compliance with the permit.

(3) Requirements for compliance certification with terms and conditions contained in the permit, including the alternative emission limitation. Permits shall include each of the following:

(i) The frequency (not less than annually) of submissions of compliance certifications;

(ii) Consistent with paragraph (a)(3) of this section, a means for monitoring the compliance of the early reductions source with its alternative emission limitation;

(iii) A requirement that the compliance certification include the following:

(A) The identification of each term or condition of the permit that is the basis of the certification;

(B) The compliance status;

(C) Whether compliance was continuous or intermittent;

(D) The method(s) used for determining the compliance status of the early reductions source, currently and over the reporting period consistent with paragraph (a)(3) of this section; and

(E) Such other facts as the permitting authority may require to determine the compliance status of the early reductions source;

(iv) A requirement that all compliance certifications be submitted to the Administrator or the Administrator's designated agent; and

(v) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act.

(4) Such other provisions as the Administrator may require.

(d) *Permit shield.* (1) The Administrator will expressly include in a permit issued pursuant to this subpart a provision stating that compliance with the conditions of the permit shall be deemed compliance with part 63, subpart D of this chapter (the Early Reductions Rule), as of the date of permit issuance.

(2) A permit shield may be extended to all permit terms and conditions that allow increases and decreases in hazardous air pollutant emissions pursuant to paragraph (a)(10) of this section.

(3) Nothing in this paragraph or in any permit issued pursuant to this subpart shall alter or affect the following:

(i) The provisions of section 303 of the Act (emergency orders),

(ii) The liability of an owner or operator of an early reductions source for any violation of applicable requirements prior to or at the time of permit issuance, or

(iii) The ability of the Administrator to obtain information from an early reductions source pursuant to section 114 of the Act.

(e) *Emergency provision*—(1) *Definition.* An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the early reductions source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the early reductions source to exceed an emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(2) *Effect of an emergency.* An emergency constitutes an affirmative defense to an action brought for noncompliance with such an emission limitation if the conditions of paragraph (e)(3) of this section are met.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(ii) The permitted facility was at the time being properly operated;

(iii) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission limitation, or other requirements in the permit; and

(iv) The permittee submitted notice of the emergency to the Administrator within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of paragraph (a)(5)(ii) of this section. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

§ 71.26 Permit issuance, reopenings, and revisions.

(a) *Action on application.* (1) A permit or permit modification may be issued only if all of the following conditions have been met:

(i) The Administrator has received a complete application for a permit or permit modification;

(ii) The requirements for public participation under § 71.27 have been followed; and

(iii) The conditions of the proposed permit or permit modification meet all the requirements of § 71.25 and provide for compliance with an alternative emission limitation relecting the emissions reduction which qualified the early reductions source for a compliance extension under part 63, subpart D of this chapter.

(2) The Administrator will take final action on each permit application (including a request for permit modification) within 12 months after receiving a complete application, except that final action may be delayed where an applicant fails to provide additional information in a timely manner as requested by the Administrator under § 71.24(c).

(3) The Administrator will promptly provide notice to the applicant of whether the application is complete. Unless the Administrator requests additional information or otherwise notifies the applicant of incompleteness within 45 days of receipt of an application, the application shall be deemed complete.

(4) If a source submits a timely and complete application for permit issuance, the source's failure to have a title V permit for purposes of any requirements under section 112 pertaining to the early reductions source is not a violation of this part until the Administrator takes final action on the permit application. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to paragraph (a)(3) of this section, and as required by § 71.24(d), the applicant fails to submit by the deadline specified in writing by the Administrator any additional information identified as being needed to process the application.

(b) *Permit renewal and expiration.* (1) Permits issued under this subpart shall not be renewed. Permit renewal for expiring permits issued under this subpart shall be accomplished according to the requirements of title V of the Act for comprehensive permits for the facility containing the early reductions source.

(2) Except as specified in paragraph (b)(3) of this section, permit expiration terminates the early reductions source's right to operate.

(3) If, consistent with the requirements of title V of the Act, a timely and complete application for a comprehensive title V permit for the facility containing the early reductions source has been submitted but the permitting authority has failed to issue or deny the comprehensive permit prior to expiration of a permit issued under this subpart, then the existing permit for the early reductions source shall not expire until the comprehensive title V permit for the facility has been issued or denied.

VOL 58 ISS 248 DE 29 1993 UMI

(c) *Administrative permit amendments.* (1) An "administrative permit amendment" is a permit revision that:

(i) Corrects typographical errors;

(ii) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(iii) Requires more frequent monitoring or reporting by the permittee; or

(iv) Allows for a change in ownership or operational control of an early reductions source where the permitting authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority.

(2) *Administrative permit amendment procedures.* An administrative permit amendment may be made by the Administrator consistent with the following:

(i) The Administrator will take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that any such permit revisions are designated as having been made pursuant to this paragraph.

(ii) The early reductions source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(d) *Permit modification.* (1) A permit modification is any revision to a permit issued under this subpart that cannot be accomplished under the program's provisions for administrative permit amendments under paragraph (c) of this section.

(2) *Modification procedures.* Permit modifications shall meet all requirements of this subpart, including those for applications, public participation, and review by affected States, as they apply to permit issuance. The Administrator shall complete review on permit modifications within 12 months after receipt of a complete application.

(e) *Reopening for cause.* (1) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened. A permit shall be reopened and revised under any of the following circumstances:

(i) The Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emission limits or other terms or conditions of the permit.

(ii) The Administrator determines that the permit must be revised to assure compliance with the alternative emission limitation.

(2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.

(3) Reopenings under paragraph (e)(1) of this section shall not be initiated before a notice of such intent is provided to the early reductions source by the Administrator. Such notice will be provided at least 30 days in advance of the date that the permit is to be reopened, except that the Administrator may provide a shorter time period in the case of an emergency.

(f) *EPA review under State programs for issuing specialty permits.* (1) If the Administrator approves a State program for the implementation of this subpart, the State program shall require that the Administrator receive a copy of each permit application (including any application for permit modification), each proposed permit, and each final permit issued pursuant to this subpart. The State program may require that the applicant provide a copy of any permit application directly to the Administrator.

(2) The Administrator will object to the issuance of any proposed permit determined by the Administrator not to be in compliance with requirements under this subpart or part 63 of this chapter. If the Administrator objects in writing within 45 days of receipt of a proposed permit and all necessary supporting documentation, the State shall not issue the permit.

(3) Any EPA objection to a proposed permit will include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections. The Administrator will provide the permit applicant a copy of the objection.

(4) Failure of the State to do any of the following also shall constitute grounds for an objection:

(i) Comply with paragraph (f)(1) of this section;

(ii) Submit any information necessary to review adequately the proposed permit; or

(iii) Process the permit under procedures approved to meet paragraph (f) of this section.

(5) If the State fails, within 90 days after the date of an objection under paragraph (f)(2) of this section, to revise and submit a proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of this subpart.

(6) *Public petitions to the Administrator.* Within 60 days after expiration of the Administrator's 45-day review period, any person may petition the Administrator in writing to make an objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for and consistent with § 71.27, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this paragraph, the permitting authority shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an objection. If the permitting authority has issued a permit prior to receipt of an EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in 40 CFR 70.7(g)(4) or (g)(5)(i) except in unusual circumstances, and the permitting authority may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

§ 71.27 Public participation and administrative review.

All permit proceedings, including preparation of draft permits, initial permit issuance, permit modifications, and granted appeals, shall provide adequate procedures for public participation, including notice, opportunity for comment, a hearing if requested, and administrative appeal. Specific procedures shall include the following:

(a) *Modification, revocation and reissuance, or termination of permits.* (1) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Administrator's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in §§ 71.25(a)(7) and 71.26(e). All requests shall be in writing and shall contain facts or reasons supporting the request

(2) If the Administrator decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the Administrator may be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts. The Board may direct the Administrator to begin modification, revocation and reissuance, or termination proceedings under paragraph (a)(3) of this section. The appeal shall be considered denied if the Board takes no action within 60 days after receiving it. This informal appeal is, under 42 U.S.C. 307, a prerequisite to seeking judicial review of EPA action in denying a request for modification, revocation and reissuance, or termination.

(3) (i) Except in the case of administrative modifications of permits, if the Administrator tentatively decides to modify or revoke and reissue a permit under §§ 71.25(a)(7) and 71.26(e), he or she shall prepare a draft permit under paragraph (b) of this section incorporating the proposed changes. The Administrator may request additional information and, in the case of a modified permit, shall require the submission of an updated application. In the case of revoked and reissued permits, the Administrator shall require the submission of a new application.

(ii) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(4) If the Administrator tentatively decides to terminate a permit under §§ 71.25(a)(7) and 71.26(e), he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under paragraph (b) of this section. A notice of intent to terminate shall not be issued if the Administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved State under § [illegible] 21(e).

(5) Any request by the permittee for modification to an existing permit shall be treated as a permit application and shall be processed in accordance with all requirements of § 71.24.

(b) *Draft permits.* (1) Once an application is complete, the Administrator shall tentatively decide whether to prepare a draft permit or to deny the application.

(2) If the Administrator tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. If the Administrator's final decision is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (b)(4) of this section.

(3) If the Administrator decides to prepare a draft permit, he or she shall prepare a draft permit that contains the permit conditions under § 71.25.

(4) All draft permits prepared under this section shall be publicly noticed and made available for public comment. The Administrator shall give notice of opportunity for a public hearing, issue a final decision and respond to comments. For all early reductions permits, an appeal may be taken under paragraph (l) of this section.

(c) *Statement of basis.* The Administrator shall prepare a statement of basis for every draft permit. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

(d) *Public notice of permit actions and public comment period—(1) Scope*—(i) The Administrator shall give public notice that the following actions have occurred:

(A) A permit application has been tentatively denied under paragraph (b)(2) of this section;

(B) A draft permit has been prepared under paragraph (b)(3) of this section;

(C) A hearing has been scheduled under paragraph (f) of this section;

(D) An appeal has been granted under paragraph (l)(3) of this section.

(ii) No public notice is required in the case of administrative permit modifications, or when a request for permit modification, revocation and reissuance, or termination has been denied under paragraph (a)(2) of this section. Written notice of that denial shall be given to the requester and to the permittee.

(iii) Public notices may describe more than one permit or permit action.

(2) *Timing.* (i) Public notice of the preparation of a draft permit or permit modification (including a notice of intent to deny a permit or permit modification application) shall allow at least 30 days for public comment.

(ii) Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit or permit modification and the two notices may be combined.)

(iii) The Administrator shall provide such notice and opportunity for participation to Affected States on or before the time that the Administrator provides this notice to the public.

(3) *Methods.* Public notice of activities described in paragraph (d)(1)(i) of this section shall be given by the following methods:

(i) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any permit):

(A) The applicant;

(B) Any other agency which the Administrator knows has issued or is required to issue any other permit under the Clean Air Act for the same facility or activity;

(C) Affected States and Indian Tribes;

(D) Affected State and local air pollution control agencies, the chief executives of the city and county where the early reductions source is located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the regulated activity;

(E) Persons on a mailing list developed by:

(*1*) Including those who request in writing to be on the list;

(*2*) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

(*3*) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State funded newsletters, environmental bulletins, or State law journals. (The Administrator may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Administrator may delete from the list the name of any person who fails to respond to such a request.)

VOL 58 ISS 248 DE 29 1993 UMI

(4) To any unit of local government having jurisdiction over the area where the early reductions source is located and to each State agency having any authority under State law with respect to the operation of such source.

(ii) By publication of a notice in a daily or weekly newspaper of general circulation within the area affected by the early reductions source.

(iii) By any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) *Contents.*

(i) *All public notices.* All public notices issued under this subpart shall contain the following minimum information:

(A) The name and address of the Administrator or the Administrator's designated agent processing the permit;

(B) The name and address of the permittee or permit applicant and, if different, of the facility regulated by the permit;

(C) The activity or activities involved in the permit action;

(D) The emissions change involved in any permit modification;

(E) The name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials, and all other materials available to the Administrator that are relevant to the permit decision;

(F) A brief description of the comment procedures required by paragraphs (e) and (f) of this section and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

(G) Any additional information considered necessary or proper.

(ii) *Public notices for hearings.* In addition to the general public notice described in paragraph (d)(4)(i) of this section, the public notice of a hearing under paragraph (f) of this section shall contain the following information:

(A) Reference to the date of previous public notices relating to the permit;

(B) Date, time, and place of the hearing;

(C) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(5) In addition to the general public notice described in paragraph (d)(4)(i) of this section, all persons identified in paragraphs (d)(3)(i)(A), (B), and (C) of this section shall be mailed a copy of the fact sheet or statement of basis, the permit application (if any), and the draft permit (if any).

(e) *Public comments and requests for public hearings.* During the public comment period provided under paragraph (e) of this section, any interested person may submit written comments on the draft permit or permit modification and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised at the hearing. All comments shall be considered in making the final decision and shall be answered as provided in paragraph (j) of this section. The Administrator will keep a record of the commenters and of the issues raised during the public participation process, and such records shall be available to the public.

(f) *Public hearings.* (1)(i) The Administrator shall hold a hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit or permit modification;

(ii) The Administrator may also hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision;

(iii) Public notice of the hearing shall be given as specified in paragraph (d) of this section.

(2) Whenever a public hearing is held, the Administrator shall designate a Presiding Officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(3) Any person may submit oral or written statements and data concerning the draft permit or permit modification. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under paragraph (d) of this section shall be automatically extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(4) A tape recording or written transcript of the hearing shall be made available to the public.

(g) *Obligation to raise issues and provide information during the public comment period.* All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Administrator's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably ascertainable arguments supporting their position by the close of the public comment period (including any public hearing). Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting materials not already included in the administrative record available to EPA as directed by the Administrator. (A comment period longer than 30 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this section. Additional time shall be granted to the extent that a commenter who requests additional time demonstrates the need for such time.)

(h) *Reopening of the public comment period.* (1)(i) The Administrator may order the public comment period reopened if the procedures of this paragraph could expedite the decisionmaking process. When the public comment period is reopened under this paragraph, all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Administrator's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than 60 days after public notice under paragraph (h)(1)(ii) of this section, set by the Administrator. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than 20 days after the date set for filing of the material, set by the Administrator.

(ii) Public notice of any comment period under this paragraph shall identify the issues to which the requirements of paragraph (h)(1)(i) of this section shall apply.

(iii) On his or her own motion or on the request of any person, the Administrator may direct that the requirements of paragraph (h)(1)(i) of this section shall apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of paragraph (h)(1)(i) of this section will substantially expedite the decisionmaking process. The notice of the draft permit shall state whenever this has been done.

(iv) A comment period of longer than 60 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they shall be granted to the extent they appear necessary.

(2) If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the Administrator may take one or more of the following actions:

(i) Prepare a new draft permit, appropriately modified;

(ii) Prepare a revised statement of basis, a fact sheet or revised fact sheet, and reopen the comment period; or

(iii) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

(3) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice shall define the scope of the reopening.

(4) Public notice of any of the above actions shall be issued under paragraph (d) of this section.

(i) *Issuance and effective date of permit.* (1) After the close of the public comment period on a draft permit, the Administrator shall issue a final permit decision. The Administrator shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a permit. For the purposes of this paragraph (i), a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(2) A final permit decision shall become effective 30 days after the service of notice of the decision unless:

(i) A later effective date is specified in the decision; or

(ii) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

(j) *Response to comments.* (1) At the time that any final permit decision is issued, the Administrator shall issue a response to comments. This response shall:

(i) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(ii) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

(2) Any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in paragraph (k) of this section. If new points are raised or new material supplied during the public comment period, EPA may document its response to those matters by adding new materials to the administrative record.

(3) The response to comments shall be available to the public.

(4) The Administrator will notify in writing any Affected State of any refusal to accept recommendations for the permit that the State submitted during the public or Affected State review period.

(k) *Administrative record for final permit.* (1) The Administrator shall base final permit decisions on the administrative record defined in this paragraph (k).

(2) The administrative record for any final permit shall consist of:

(i) All comments received during the public comment period, including any extension or reopening;

(ii) The tape or transcript of any hearing(s) held;

(iii) Any written material submitted at such a hearing;

(iv) The response to comments required by paragraph (j) of this section and any new materials placed in the record under paragraph (j) of this section;

(v) Other documents contained in the supporting file for the permit;

(vi) The final permit;

(vii) The application and any supporting data furnished by the applicant;

(viii) The draft permit or notice of intent to deny the application or to terminate the permit;

(ix) The statement of basis for the draft permit;

(x) All documents cited in the statement of basis.

Other documents contained in the supporting file for the draft permit.

(3) The additional documents required under paragraph (k)(2) of this section should be added to the record as soon as possible after their receipt or publication by EPA. The record shall be complete on the date the final permit is issued.

(4) This section applies to all final permits.

(5) Material readily available at the issuing Regional Office, or published materials which are generally available and which are included in the administrative record under the standards of paragraph (j) of this section ("response to comments"), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments.

(l) *Appeal of permits.* (1) Within 30 days after a final permit decision has been issued, any person who filed comments on the draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this subsection begins with the service of notice of the Administrator's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues raised were raised during the public comment period (including any public hearing) to the extent required by the regulations in this subpart unless the petitioner demonstrates that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period, and, when appropriate, a showing that the condition in question is based on:

(i) A finding of fact or conclusion of law which is clearly erroneous, or

(ii) An exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in its discretion, review.

(2) The Board may also decide on its initiative to review any condition of any permit issued under this subpart. The Board must act under this paragraph within 30 days of the service date of notice of the Administrator's action.

(3) Within a reasonable time following the filing of the petition for review, the Board shall issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action. Public notice of any grant of review by the Board under paragraph (l) (1) or (2) of this section shall be given as provided in paragraph (d) of this section. Public notice shall set forth a briefing schedule for the appeal and shall state that any interested person may file an amicus brief. Notice of denial of review shall be sent only to applicant and to the person(s) requesting review.

VOL 58 ISS 248 DE 29 1993 UMI

(4) A petition to the Board under paragraph (l)(1) of this section is, under 42 U.S.C. 307(b), a prerequisite to the seeking of judicial review of the final agency action.

(5)(i) For purposes of judicial review, final agency action occurs when a final permit is issued or denied by EPA and agency review procedures are exhausted. A final permit decision shall be issued by the Administrator:

(A) When the Board issues notice to the parties that review has been denied;

(B) When the Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(C) Upon the completion of remand proceedings if the proceedings are remanded, unless the Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(ii) *Reserved.*

(6) Neither the filing of a petition for review of any condition of the permit or permit decision nor the granting of an appeal by the Environmental Appeals Board shall stay the effect of any contested permit or permit condition.

(m) *Computation of time.* (1) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

(2) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event, except as otherwise provided.

(3) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.

(4) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days shall be added to the prescribed time.

[FR Doc. 93–31359 Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 141

[WH-FRL–4818–3]

Drinking Water Maximum Contaminant Level Goal; Fluoride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent not to revise fluoride drinking water standards.

SUMMARY: By this notice, EPA is announcing its decision not to revise the maximum contaminant level goal (MCLG) for fluoride after considering recent reports concerning the health effects of fluoride. EPA's decision is based in part on advice from the National Academy of Sciences that the existing MCLG for fluoride provides for the protection of the health of persons. EPA invites public comment on this decision.

DATES: Comments should be postmarked or delivered by hand on or before February 28, 1994.

ADDRESSES: Send written comments to Fluoride Docket Clerk, Water Docket (MC–4101); U.S. Environmental Protection Agency; 401 M St. SW., Washington, DC 20460. Please submit any references cited in your comments. EPA requests an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted as EPA can not ensure that they will be submitted to the Docket.

Supporting documentation for this notice as well as all comments received are available for review at the Water Docket at the address given above. For access to Docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, Telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern time. For technical information, contact Ken Bailey, Health and Ecological Criteria Division, Office of Water (4304), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 260–5535.

SUPPLEMENTARY INFORMATION: EPA regulates fluoride in drinking water under the Safe Drinking Water Act (SDWA). In 1985 and 1986, EPA promulgated three separate but related standards for fluoride in drinking water under the SDWA.

On November 14, 1985, EPA promulgated a recommended maximum contaminant level for fluoride in drinking water at 4 mg/L (50 FR 47142). The RMCL for fluoride was upheld by the U.S. Court of Appeals for the D.C. Circuit in *NRDC* v. *EPA*, 812 F.2d 721 (D.C. Cir. 1987). Since the publication of the RMCL for fluoride, the 1986 Amendments to the Safe Drinking Water Act changed the term "recommended maximum contaminant level" to "maximum contaminant level goal" or MCLG. MCLGs are nonenforceable health goals which are set at a level at which no known or anticipated adverse health effects occur and which allows an adequate margin of safety. The 4 mg/L MCLG was designed to protect against crippling skeletal fluorosis.

On April 2, 1986, EPA promulgated a maximum contaminant level (MCL) for fluoride in drinking water at 4 mg/L (51 FR 11396). MCLs are enforceable standards and are to be set as close to the MCLGs as feasible. "Feasible" means feasible with the use of the best technology, treatment techniques and other means which the Administrator finds are available (taking cost into consideration).

At the same time, EPA promulgated a secondary maximum contaminant level (SMCL) for fluoride in drinking water of 2 mg/L to protect against objectionable dental fluorosis (51 FR 11396, 11401). Objectionable dental fluorosis includes moderate and severe dental fluorosis (50 FR 20164, 20169). Moderate dental fluorosis is characterized in part by white opaque areas covering at least 50% of a given tooth; severe dental fluorosis is characterized by stains and severe pitting of the teeth. SMCLs set limits for contaminants in drinking water which may affect the public welfare. SMCLs may apply to contaminants in drinking water which may affect aesthetic qualities of water and public acceptance, or which otherwise may affect the public welfare. SMCLs are not federally enforceable. The SMCL, at 40 CFR 143.5, provides for public notification when public water systems exceed the SMCL.

Since EPA promulgated the 4 mg/L MCL in 1986, a number of studies concerning fluoride in drinking water have been published. On January 3, 1990, EPA published a notice requesting additional information bearing on the existing standards for fluoride (55 FR 160). In that notice, EPA specifically requested copies of peer-reviewed scientific publications, published since January 1, 1985, dealing with the following topics as they relate to fluoride: (1) Possible adverse health effects (e.g., crippling skeletal fluorosis); (2) the incidence of objectionable dental fluorosis; (3) total exposure; and (4) water treatment technology and costs, especially in smaller public water supplies that serve from 25 to 3,300 persons. EPA received more than 1,500 responses to the January 3, 1990 notice.

On November 23, 1992, EPA published an update of its ongoing review of drinking water regulations for fluoride (57 FR 54957). In that update, EPA summarized significant events since the January 3, 1990 notice. Specifically, EPA noted that a 1992 report of the National Toxicology Program (NTP) which detailed a two-year chronic rat and mouse fluoride bioassay, concluded that, while there was equivocal evidence of carcinogenic activity of sodium fluoride in male F344/N rats, there was no evidence of carcinogenic activity in female F344/N rats or male or female mice. The update also noted that, in 1990, the Procter and Gamble (P&G) Company published the results of a chronic fluoride bioassay in which the authors concluded that sodium fluoride is not carcinogenic in male or female Sprague-Dawley rats.

Finally, the update noted the publication of a 1991 Department of Health and Human Services (DHHS) review of the results of the benefits and risks of fluoride entitled "Review of Fluoride Benefits and Risks," which provides an extensive review of both the NTP and P&G bioassays, as well as a significant body of additional data. The DHHS review concluded that, "[t]aken together, the data available at this time from these two animal studies fail to establish an association between fluoride and cancer" and "optimal fluoridation of drinking water does not pose a detectable cancer risk in humans." (Review of Fluoride: Benefits and Risks. Report of the Ad Hoc Subcommittee on Fluoride of the Committee to Coordinate Environmental Health and Related Programs. Public Health Service. Department of Health and Human Services. February 1991.) The DHHS review recommended that EPA review the fluoride drinking water regulations in light of the DHHS review and upcoming fluoride conferences.

In December 1991, as part of EPA's fluoride risk assessment, EPA asked the National Academy Sciences (NAS) of the National Research Council to review current toxicological and exposure data on fluoride and determine whether EPA's existing drinking water standards are adequate for protecting the public from the adverse health effects of fluoride. EPA also asked that the NAS identify gaps in fluoride toxicity data and make recommendations for future research. Because the public comments EPA received in response to the January 3, 1990 notice raised many of the issues EPA expected the NAS to address, EPA made these comments available to the NAS, along with material EPA had gathered separately.

In response to EPA's request, the NAS's Committee on Toxicology organized the Subcommittee on Health Effects of Ingested Fluoride. The Subcommittee included scientists with expertise in toxicology, pathology, medicine, dentistry, epidemiology, biostatistics, and risk assessment. On August 17, 1993, the Subcommittee released its report entitled "Health Effects of Ingested Fluoride." The preface to the Report summarized the work of the Subcommittee:

> The Subcommittee reviewed various kinds of toxicity that have been attributed to ingestion of fluoride (dental fluorosis; bone fracture; reproductive, renal, gastrointestinal, and immunological toxicities; genotoxicity; and carcinogenicity) and assessed the current EPA drinking-water standard for fluoride to determine if it is protective of public health. The report of the subcommittee is intended for use by EPA in deciding whether to maintain or revise its current drinking-water standard for fluoride (NAS, 1993, p. xiii).

The Executive Summary to the NAS Report provided the conclusions of the Subcommittee:

> Based on its review of available data on toxicity of fluoride, the Subcommittee concludes that EPA's current MCL of 4 mg/L for fluoride in drinking water is an appropriate interim standard. At that level, a small percentage of the U.S. population will exhibit moderate or even severe dental fluorosis. However, the question of whether to consider dental fluorosis a cosmetic effect or an adverse health effect and the balancing of the health risks and health benefits of fluoride are matters to be determined by regulatory agencies and are beyond the charge or expertise of this committee.
>
> The Subcommittee found inconsistencies in the fluoride toxicity data base and gaps in knowledge. Accordingly, it recommends further research in the areas of fluoride intake, dental fluorosis, bone strength and fractures, and carcinogenicity. The subcommittee further recommends that EPA's interim standard of 4 mg/L should be reviewed when results of new research become available and, if necessary, revised accordingly (NAS, 1993, p.11).

The Subcommittee, in its 133-page Report, evaluated in detail each of the following areas: Dental fluorosis, fluoride exposure and risk of bone fracture, reproductive effects of fluoride, effects of ingested fluoride on renal, gastrointestinal, and immune systems, genotoxicity of fluoride, carcinogenicity of fluoride and intake, metabolism, and disposition of fluoride (NAS, 1993). In each of these areas, the Subcommittee prepared detailed evaluations of available data and provided conclusions and, in some areas, recommendations for research.

As previously indicated, the Report noted that the question of whether to consider dental fluorosis a cosmetic effect or an adverse health effect was beyond the change or expertise of the NAS. Consequently, the Report contained no recommendations in this regard. On the issue of whether objectionable dental fluorosis should be considered a cosmetic effect or an adverse health effect, EPA has no new information leading the Agency to change the decision by former EPA Administrator, Lee Thomas, that objectionable dental fluorosis is a cosmetic effect and not an adverse health effect. That decision was supported by determinations of the former U.S. Surgeon General, C. Everett Koop (See 51 FR at 11401–11402; *NRDC* v. *EPA*, 812 F.2d 721, 724 (D.C. Cir. 1987); see also 50 FR 47142, 47143–47147). EPA will continue to consider any new information that might suggest otherwise. EPA also has requested advice from the U.S. Surgeon General, Dr. Joycelyn Elders, regarding the issue of whether dental fluorosis should be considered as an adverse health effect. Should that advice suggest a reconsideration of former Administrator Lee Thomas' decision, EPA will undertake such a review.

In conclusion, EPA believes the recommendations of the NAS Subcommittee on Health Effects of Ingested Fluoride support a decision not to revise the current MCLG for fluoride at this time. At this time, EPA has no evidence suggesting that the MCLG does not protect against adverse health effects with an adequate margin of safety and reaffirms the exisiting MCLG of 4 mg/L. EPA will consider any new evidence suggesting that the existing MCLG does not protect against adverse health effects with an adequate margin of safety.

Research is currently underway on the areas recommended by the NAS. EPA anticipates that results from that research will become available on an ongoing basis and will complete by 2001. EPA solicits public comment on this decision and will issue a final decision after consideration of comments received.

Dated: December 16, 1993.

Carol M. Browner,

Administrator, U.S. Environmental Protection Agency.

[FR Doc. 93–31701 Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 180

[OPP–300308; FRL–4649–7]

RIN No. 2070–AC18

Polyethylene Glycol-Polyisobutenyl Anhydride-Tall Oil Fatty Acid Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer

VOL 58 ISS 248 DEC 29 1993 UMI

when used as an inert ingredient (surfactant, dispersing agent, suspending agent, or related adjuvant) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. This proposed regulation was requested by ICI Americas, Inc.

DATES: Comments, identified by the document control number [OPP-300308], must be received on or before January 28, 1994.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall Bldg. #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Westfield Bldg. North, 6th Fl., 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8320.

SUPPLEMENTARY INFORMATION: ICI Americas, Inc., Wilmington DE 19897, has submitted pesticide petition (PP) 3E4201 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for residues of polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer when used as an inert ingredient (surfactant, dispersing agent, suspending agent, or related adjuvant) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk. The Agency has decided that the data normally required to support the proposed tolerance exemption for polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer will not need to be submitted. The rationale for this decision is described below:

In the case of certain chemical substances which are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria which are used to identify low-risk polymers:

1. The minimum number-average molecular weight of the above-mentioned copolymer is 5,000. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. The above-mentioned copolymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

3. The above-mentioned copolymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. The above-mentioned copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. The above-mentioned copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. The above-mentioned copolymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. The above-mentioned copolymer is not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. The above-mentioned copolymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. The above-mentioned copolymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300308]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic effect on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: December 10, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
Polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer (minimum number-average molecular weight 5,000).	.....	Surfactant, dispersing agent, suspending agent, or related adjuvant.
* * *	*	* * *

* * * * *

[FR Doc. 93-31476 Filed 12-28-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 410, 417, and 424

[BPD-706-P]

RIN 0938-AE99

Medicare Program; Medicare Coverage and Payment of Clinical Psychologist, Other Psychologist, and Clinical Social Worker Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would address the provisions of section 6113 of the Omnibus Budget Reconciliation Act of 1989 and section 4157 of the Omnibus Budget Reconciliation Act of 1990 by establishing requirements for Medicare coverage of services furnished by a clinical psychologist or as an incident to the services of a clinical psychologist and for services furnished by a clinical social worker. We are also proposing that clinical psychologists and clinical social workers use International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) coding when submitting Medicare Part B claims.

DATES: To be considered, comments must be mailed or delivered to the appropriate address, as provided below and must be received by 5 p.m. on February 28, 1994.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-706-P, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD-706-P. Comments received timely will be available for public inspection as they are received, beginning approximately 3 weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

Please address a copy of comments on information collection requirements to: Allison Herron Eydt, HCFA Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Regina Walker, (410) 966-6735, regarding coverage issues. Elisa Tunanidas, (410) 966-4505, regarding payment issues.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clinical Psychologist Services

Before the enactment of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), Public Law 101-239, Medicare Part B paid for the services of clinical psychologists (CPs) only in certain situations. Services of CPs could be covered if furnished as an incident to the services of a physician (under section 1861(s)(2)(A) of the Social Security Act (the Act)) and also if furnished as outpatient hospital services under sections 1861(s)(2)(B), 1861(s)(2)(C), and 1861(ff)(2)(A) of the Act. In addition, CP services could be covered in other settings such as risk-based health maintenance organizations (HMOs) or competitive medical plans (CMPs), comprehensive outpatient rehabilitation facilities (CORFs), and community mental health centers

(CMHCs). Under certain circumstances described below, services could be covered when furnished off-site from a CMHC. Medicare Part B paid for the services if the CP was legally authorized to perform the services and if the services would have been covered if furnished by a physician or as an incident to a physician's service.

With respect to outpatient hospital services, Medicare Part B covers both the diagnostic and therapeutic services furnished by hospitals, or under arrangements by hospitals, to its outpatients. Covered diagnostic services to outpatients generally can include the services of nurses, psychologists, and technicians, drugs and biologicals necessary for diagnostic study, and the use of supplies and equipment.

For CP services furnished other than through a CMHC, payment was based on the payment methodology applicable to the facility. Payment was made directly to a CP only for services furnished through a CMHC and only on an assignment-related basis. Payment could also be made to a CP for services and supplies furnished at a CMHC or off-site of a CMHC as an incident to a CP's services if the services would be covered if furnished by a physician or as an incident to a physician's service. Payment to a CP was based on the lesser of the actual charge for the services or a fee schedule established by the Secretary. Additionally, under the predecessor provisions of section 1833(c) of the Act, payment in any year was limited to 80 percent of the lesser of an annual dollar amount specified by law (for example, $1,375 for 1989) or the "incurred expense" (62½ percent of the Medicare approved amount). The services of a CP furnished in a CMHC or off-site of a CMHC, and those services incident to a CP's services, were characterized in the law as "qualified psychologist services."

The relevant statutory provisions contained in the Act are as follows:

- Concerning amounts paid for CP services—section 1833(a)(1)(L).
- Concerning the limitation on payment for mental health treatment services—section 1833(c).
- Concerning assignment—section 1833(p).
- Concerning covered services—sections 1861(s)(2)(M) and 1861(aa)(1)(B).
- Concerning definition of "qualified psychologist services"—section 1861(ii).
- Concerning CP services in an HMO—section 1861(s)(2)(H)(ii).
- Concerning CP services in a CORF—section 1861(cc)(1)(D).

Section 6113(a) of OBRA '89, which was generally effective on July 1, 1990, revised section 1861(ii) of the Act by removing the restriction under which qualified psychologist services had to be furnished at a CMHC, or off-site if the patient was unable to travel to the center because of physical or mental impairment, institutionalization, or a similar reason. This, in effect, allows payment to be made directly to a CP for qualified psychologist services furnished by the CP or incidental to the CP's services (except for services furnished to hospital patients). The provision was effective for services furnished as of July 1, 1990. Section 1833(p) of the Act, which requires that payment for qualified psychologist services be made only on an assignment-related basis, was unchanged by the OBRA '89 amendments.

Section 6113(d) of OBRA '89 amended section 1833(d)(1) of the Act to eliminate the dollar limitation on payment for outpatient mental health treatment but retained the 62½ percent limitation. (Note that section 1833(d)(1) has been redesignated as section 1833(c) by the Medicare Catastrophic Coverage Repeal Act of 1989, Pub. L. 101–234.) This change applies to expenses for mental health treatment services incurred beginning with calendar year 1990.

Section 6113(c) of OBRA '89 requires the Secretary, while taking into consideration concerns for patient confidentiality, to develop criteria regarding direct payment to CPs under which the CPs must agree to consult with a patient's attending physician.

As a further development, section 4157(a) of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101–508, amended section 1861(b) of the Act, which defines "inpatient hospital services," by revising paragraph (3) to exclude, effective January 1, 1991, CP services furnished to a hospital inpatient from the definition. In addition, section 4157(c) of OBRA '90 amended section 1862(a) of the Act, which concerns exclusions from coverage, by revising paragraph (14) to permit direct billing by CPs for qualified psychologist services and those services and supplies incident to their services if provided to hospital patients. (We had determined, based on the way the Act read as of July 1, 1990, that the services of CPs and services incident to a CP's services provided to hospital patients were "bundled" so that only the hospital could bill for them and, therefore, direct billing for these services did not apply.)

B. Diagnostic Psychological Tests

Before enactment of the qualified psychologist services benefit (that is, the CP benefit authorized under section 1861(ii) of the Act), HCFA authorized, under section 1861(s)(3) of the Act, Medicare coverage for diagnostic psychological testing services performed by a qualified psychologist practicing independently of an institution, agency, or physician's office. In order to have his or her diagnostic services covered under this provision, the psychologist must have met certain qualifications and the diagnostic services must have been ordered by a physician. These services were covered as "other diagnostic tests" and Medicare paid for them on a reasonable charge basis.

C. Clinical Social Worker Services

Before the enactment of OBRA '89, services of a clinical social worker (CSW) were payable by Medicare Part B when furnished in various settings, such as a risk-based HMO, as part of hospital outpatient services under sections 1861(s)(2)(B), 1861(s)(2)(C), and 1861(ff)(2)(C) of the Act, or as an incident to the services of a physician under section 1861(s)(2)(A) of the Act. The applicable HMO statutory provision is contained at section 1861(s)(2)(H)(ii) of the Act, which includes these services in the list of "medical and other health services."

Section 6113(b) of OBRA '89 amended section 1861(s)(2) of the Act by adding a new subparagraph (N) to include CSW services in the definition of medical and other health services generally covered under Part B of Medicare. It also amended section 1861(hh), which defines a CSW, to add a new subparagraph (hh)(2) to define "clinical social worker services" as services performed by a legally authorized CSW for the diagnosis and treatment of mental illnesses (other than services furnished to an inpatient of a hospital and other than services furnished to an inpatient of a skilled nursing facility (SNF) that the facility is required to provide as a requirement for participation) and that would be covered if furnished by a physician or as an incident to a physician's professional service. This provision is effective for services furnished on or after July 1, 1990.

Section 6113(b)(3) of OBRA '89 amended section 1833 of the Act, "Payment of Benefits," by adding paragraph (a)(1)(F) to establish the payment basis for CSW services as 80 percent of the lesser of (1) the actual charge for the services or (2) 75 percent of the fee schedule amount for CP services that are covered under section 1861(s)(2)(M) of the Act. This section of OBRA '89 also amends section 1833 of the Act by revising paragraph (p) to specify that Part B payment for CSW services (as defined in section 1861(hh)(2) of the Act) is made only on an assignment-related basis.

D. Payment in Certain Facilities

In accordance with section 1876(a)(6) of the Act, payment for services furnished to an enrollee of a risk-based HMO or CMP can only be made to the HMO or CMP. Thus, a CP or CSW who furnishes services in these settings may not bill Medicare directly for these services. Payment will continue to be made through the risk-based HMO or CMP under the appropriate payment methodology.

It should be noted, however, that the scope of services requirement for both cost and risk-based HMOs and CMPs is changed with the addition of CP and CSW services to the list of "medical and other health services" defined under section 1861(s) of the Act. The scope of services requirement for both cost and risk-based HMOs and CMPs is set forth in existing § 417.440(b) and includes all Part A and Part B services that are available to Medicare beneficiaries in the HMO's or CMP's geographic area. Therefore, both cost and risk contracting HMOs and CMPs must now furnish CP and CSW services as Medicare covered services. Note, however, that under section 1861(hh) of the Act, there is no coverage under Part B for services and supplies incident to a CSW's services. Coverage, however, is provided, under section 1861(s)(2)(H)(ii) of the Act, for services and supplies incident to a CSW's services if furnished in a risk-based HMO or CMP. Thus, services and supplies incident to a CSW's services are covered by Medicare only when furnished by risk-based HMOs and CMPs.

It should also be noted that, prior to the OBRA '89 amendment, Medicare permitted the services of CPs and CSWs furnished through risk-based HMOs and CMPs to be furnished without physician supervision. This permission has been extended, for covered CP and CSW services, to cost-based HMOs and CMPs.

CORFs could bill for CP services furnished through December 31, 1990. However, effective January 1, 1991, a separate claim must be submitted under Part B for services of a CP in a CORF furnished to CORF patients. This is because, as of January 1, 1991, services of CPs are not included in the scope of CORF services described under section 1861(cc)(1) of the Act. In that section, the law states that CORF services do not include any item or service that is not included under section 1861(b) of the Act if furnished to an inpatient of a hospital. As noted above, section 1861(b), which contains the statutory definition of "inpatient hospital services," as amended by section 4157(a) of OBRA '90, provides that inpatient hospital services means " * * * items and services furnished to an inpatient of a hospital * * * by the hospital * * * excluding, however— * * * qualified psychologist services * * *." As a result, a separate claim must also be submitted under Part B for CP services to hospital inpatients. The same policy applies to CORFs under section 1861(cc)(1) of the Act, as noted, to SNFs under section 1861(h)(7) of the Act, and to HHAs under the language following paragraph (m)(7) of section 1861 of the Act.

Note also that, in accordance with section 1881(b) of the Act, § 405.2163(c), which governs services required for outpatient maintenance dialysis patients furnished in end stage renal disease (ESRD) facilities, includes the services of social workers. Payment for social worker services is included in the composite rate payment made to the dialysis facility. Therefore, when a CSW furnishes social services as required under § 405.2163(c), these services are billed by the ESRD facility, and these services are paid for by Medicare as part of the composite rate. The composite rate, a payment rate provided for under section 1881(b) of the Act, is a comprehensive, all inclusive, prospective payment for all of the items and services required for outpatient maintenance dialysis.

Section 1861(aa) of the Act includes the services of CPs and CSWs in the services of a Federally qualified health center. Payment for these services is addressed in 42 CFR 405.2462 through 405.2468.

Payment for the services of CPs and CSWs furnished in rural health clinics will be addressed in a separate proposed rule.

II. Proposed Provisions of the Regulations

A. Clinical Psychologist Services

1. Inclusion as Medical and Other Health Services

We propose to revise § 410.10, "Medical and other health services: Included services," by adding a new paragraph (u) to include in the list of medical and other health services covered under Part B the diagnostic and therapeutic services furnished by a CP and services and supplies furnished as an incident to a CP's services. This is consistent with section 1861(s)(2)(M) of the Act, which includes these services as medical and other health services, and section 1861(ii) of the Act, which defines qualified psychologist services.

2. Covered Services

We propose, in a new § 410.71, that Medicare Part B cover (subject to the 62½ percent limitation for certain outpatient mental health treatment services) services that are furnished by a CP who meets the Medicare requirements discussed below and that are within the scope of his or her State license if the services would be covered if furnished by a physician or as an incident to a physician's services. This policy is based on the definition of qualified psychologist services in section 1861(ii) of the Act. There are a number of issues involved in this proposed provision, which we discuss below.

- In a new § 410.71(b), we would specify, based on the limitation set forth in section 1833(c) of the Act, that the outpatient mental health treatment services of CPs and services and supplies furnished as an incident to those services are subject to the 62½ percent payment limitation set forth in proposed § 410.155.
- In a new § 410.71(d), we would specify that payment for the services of CPs and incident—to services to hospital inpatients and outpatients through December 31, 1990, is made to the hospital. The practice of covering services furnished to hospital patients by an outside supplier as hospital services is referred to as "rebundling" or "bundling." Under the "rebundling" requirement, the services of a CP and incident—to services furnished to a hospital patient were considered to have been built into the hospital payment methodology, and payment was made to the hospital.

While § 411.15(m) of the regulations provides the basic rules for services provided by nonphysicians to hospital inpatients, there is no specific regulation that sets forth the basic rules for services provided by nonphysicians to hospital outpatients. (However, a notice of proposed rulemaking was published in the Federal Register on August 5, 1988, (53 FR 29486) that discusses the issue of rebundling of services furnished to hospital outpatients.)

As mentioned earlier, section 4157(a) of OBRA '90 amended section 1862(a) of the Act, which concerns exclusions from coverage, by revising paragraph (14) to permit direct billing by CPs for qualified psychologist services and for services and supplies furnished as an

VOL 58 ISS 248 DE 29 1993 UMI

incident to their services to hospital patients. Thus, the policy regarding the bundling of CP services provided to hospital patients has been changed. Effective January 1, 1991, CPs may bill Medicare Part B directly for their services to hospital patients.

• Section 1861(ii) of the Act does not define "clinical psychologist" but looks to the Secretary to do so. Current Medicare regulations related to HMOs and CMPs at § 417.416(d)(2) define a clinical psychologist as an individual who—

+ Holds a doctoral degree in psychology from a program in clinical psychology of an educational institution that is accredited by an organization recognized by the Council on Post-Secondary Accreditation;

+ Is licensed or certified at the independent practice level of psychology in the State in which he or she practices; and

+ Possesses 2 years of supervised clinical experience at least one of which is postdegree.

The definition at § 417.416(d)(2) has been used for purposes of coverage of CP services in HMOs and was issued in final regulations on January 10, 1985. Application of this definition in the CMHC setting was addressed through instructions issued in September 1986, and, for purposes of the expanded CP benefit, instructions were issued in August 1990.

There has been extensive concern that the education criterion (that is, that in order to have his or her services covered by Medicare, a psychologist must have a doctoral degree from "a program in clinical psychology") excludes psychologists who have been trained and licensed as "clinical" psychologists from receiving payment under Medicare because they have graduated from programs that are not identified as "clinical" by the academic institutions that grant the degrees. While we were not aware of any particular problems in this regard before the enactment of section 6113(a) of OBRA '89 and issuance of the CP instructions in August 1990, questions have arisen since that time.

Specifically, it is alleged that the current definition is too narrow in that it excludes many qualified practitioners of psychology whose doctoral degrees are not in "clinical psychology" but who have analogous training and practical experience in other branches of psychology. Thus, professional organizations, such as the American Psychological Association and various State psychological associations, as well as individual practitioners, members of the Congress, and beneficiaries have repeatedly requested that we undertake to ensure that coverage is available for the services of psychologists qualified to practice "clinical psychology," regardless of how their doctorate degrees are labeled.

As an interim measure, pending resolution of the issue through rulemaking, we informed the Medicare Part B carriers that they could use their discretion to include in the CP definition those psychologists who have appropriate training, knowledge, and experience in clinical psychology, even if their doctorates are from programs titled other than "Clinical Psychology." Based on the information available to us, about two-thirds of the carriers have adopted criteria in this regard similar to that which we are proposing in this rule.

There are many subfields in psychology within which one may obtain doctoral degrees. For example, in addition to Clinical and Counseling doctorates, there are also Neuropsychology, School, Developmental, Educational, Comparative, Experimental, and Industrial Psychology doctorates, among others, that may be received from various educational institutions. While it is not our intent to exclude from Medicare coverage the services of psychologists who are trained to practice "clinical psychology" simply because the programs that granted their degrees were not labeled as "clinical psychology programs," we must adhere to the statutory language as it appears in section 1861(ii) of the Act: "The term 'qualified psychologist services' means * * * services * * * furnished by a clinical psychologist (as defined by the Secretary) * * *." Thus, our task is to develop a definition of "clinical psychologist" that conforms to congressional intent and one that will not arbitrarily exclude those psychologists who have received education and training that is, in fact, indistinguishable from that received in a "Clinical Psychology" program.

We believe that, by using the term "clinical psychologist," the Congress was referring to persons educated and trained to furnish diagnostic testing and assessment services and preventive or therapeutic intervention services directly to individuals whose mental growth, adjustment, or functioning is impaired or is at risk of impairment.

The word "clinical" is defined in "Dorland's Medical Dictionary" as "pertaining to or founded on actual observation and treatment of patients, as distinguished from theoretical or experimental." Hence, we believe that persons who obtain doctorates from programs that provide such education and training, whether they be labeled as "Clinical Psychology" programs or not, should be able to qualify for Medicare coverage. Thus, we propose, in new § 410.71(e)(1), that a clinical psychologist is an individual who—

+ Holds a doctoral degree in psychology from an accredited program that prepares the candidate to practice clinical psychology by providing appropriate clinical psychology training;

+ Is licensed or certified at the independent practice level of clinical psychology by the State in which he or she practices; and

+ Possesses 2 years of supervised clinical experience, at least one of which is post-doctoral degree experience, and the supervision was provided by a psychologist qualified at the doctorate level.

We understand that the various States, in enforcing licensing and certification statutes, may employ concepts of what constitutes clinical psychology that are different from what we propose. Therefore, we specifically invite comments concerning this issue. The underlying premise of these proposals is that the program must provide education and training that prepares an individual for the practice of clinical psychology.

In making these proposals, we are trying to ensure the quality of services that the Congress intended for Medicare beneficiaries seeking psychological help yet not unduly restrict the professionals considered qualified under the statute to provide that care. We nonetheless realize that there may still be some psychologists with essentially equivalent education and training who would not qualify even under this broad definition and that there may be other approaches worthy of consideration. One solution we considered was to state as the sole criterion that, in order to qualify, a person must have a doctoral degree in psychology. However, given the fact that the statute uses the term "clinical psychologist" and that the various subfields of psychology recognize doctorates that are not clinical in nature, we believe that the standard must reference the clinical psychology criterion. While we do not know for certain what each individual State's standards are for practice in clinical psychology, we would want to avoid situations in which, for example, persons with education and training solely in industrial or experimental psychology could be billing Medicare for clinical psychology services. Additionally, as we understand congressional intent, services furnished in theoretical or academic settings, as distinguished from therapeutic work directly with patients, would not qualify as clinical psychology services. However, in preparing the final rule, we will be willing to consider variations of this basic approach or other responsible approaches that commenters may suggest.

The requirements for licensing or certification and supervised clinical experience in § 410.71(e)(1) would be the same as those established in 1985 in the HMO regulations at § 417.416(d)(2), except for the broader interpretation of what constitutes a degree from a "program in clinical psychology."

To ensure consistency, we are also proposing to revise the HMO rules at § 417.416(d)(2) to cross-refer to this definition.

Finally, it is apparently not unusual for a person to obtain a doctorate in one field of psychology and then later return to academia for a doctorate in another field of psychology. We understand, for example, that the American Psychological Association (APA) has set standards for training programs for persons wishing to change fields.

In establishing criteria for qualification as a clinical psychologist, we believe that appropriate retraining as a clinical psychologist of a psychologist originally trained in another field should be able to qualify for Medicare coverage purposes. However, we are not able to set specific standards for retraining programs and do not know whether there are standards other than those established by the APA. Therefore, we request public comment on this issue and ask that any suggested standards comply with our position concerning clinical psychology, as outlined above, and that the retraining program prepare the candidate to practice clinical psychology.

• We are proposing, in § 410.71(e)(2), that, when applying for a provider number and annually thereafter, CPs who bill Medicare Part B directly must submit an attestation statement agreeing to consult with the beneficiary's attending or primary care physician in accordance with accepted professional ethical norms, taking into consideration patient confidentiality. Section 6113(c) of OBRA '89 directs that—

> The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for qualified psychologist services for which payment may be made directly to the psychologist under part B of title XVIII of the Social Security Act under which such a psychologist must agree to consult with a patient's attending physician in accordance with such criteria.

We believe that an attestation statement is a practical way to document the existence of an agreement between the CP and HCFA, to which the Secretary has delegated the administration of this provision.

The intended purpose of the consultation is to consider whether medical conditions or medication may be contributing to or causing the mental health problem. In the report of the House Budget Committee on H.R. 3299 (H.R. Rep. No. 247, 101st Cong., 1st Sess. 361 (1989)), the Energy and Commerce Committee expressed particular concern in the case of elderly patients, many of whom have multiple health problems and are taking one or more prescription drugs. We share this concern, and we believe that, to promote detection of causative or contributing factors, it is appropriate and good professional practice for CPs to consult with the beneficiary's attending or primary care physician.

It is important to note that section 6113(c) of OBRA '89 requires that the Secretary establish criteria under which payment may be made directly to the CP under Medicare Part B. These criteria must address the circumstances under which the CP will consult with the physician. The provision became effective on July 1, 1990. However, as discussed above, from the time this OBRA provision became effective, through December 31, 1990, CP services to hospital patients (inpatients and outpatients) were "bundled," and payment for inpatient services was made under Part A. Therefore, because CPs could not bill Medicare Part B directly for services to hospital patients and payment for such services was made to the hospital, the consultation provision was not applied to CPs furnishing services in the hospital setting.

However, enactment of section 4157(a) of OBRA '90 changed the situation because it excluded CP services from the definition of inpatient hospital services. Thus, under section 4157(c) of OBRA '90, effective January 1, 1991, CP services are "unbundled," and CPs can now bill Medicare Part B directly for such services.

We believe that the original congressional intent regarding the consultation requirement should be maintained for CP services furnished to hospital patients. Therefore, the proposed consultation requirement would apply to CPs who furnish services to hospital patients and bill Medicare Part B directly for such services.

The terms primary care physician and attending physician are used alternatively because there are situations where a patient may be under the care of a primary care physician only, or treated by the primary care physician and the attending physician concurrently, or the attending physician may also be the patient's primary care physician. While most Medicare patients are at least under the care of a primary care physician such as an internist or gynecologist for routine care, there are occasions that arise where a patient's medical condition requires more specialized treatment. In such cases, it is usually the primary care physician who refers the patient to an attending physician (for example, a surgeon or an oncologist) for such treatment. When these situations exist, it may be important for the CP to consult equally with both physicians to be fully aware of all the potential medical conditions or medications that may interfere with treatment for the patient's mental illness. However, we would specify, as a minimum requirement, that the consultation must be with one or the other.

In recognition of the beneficiary's right to confidentiality, we are proposing, in § 410.71(e)(2)(i), that the CP must agree to inform the beneficiary, prior to a consultation, that it is desirable to consult with the beneficiary's primary care or attending physician to consider any medical conditions that may be contributing to the beneficiary's condition. We would require, in § 410.71(e)(2)(iii), that if the beneficiary assents, the CP must agree to consult with the physician within 1 week of obtaining the beneficiary's consent. We believe this is a reasonable period of time, and we understand that this is the professional standard that would apply routinely in such circumstances. However, we specifically invite public comment on this subject.

In § 410.71(e)(2)(ii), we propose that the annual attestation contain an agreement to include a notation in the beneficiary's medical records to the effect that he or she was notified of the desirability of a consultation between the CP and the beneficiary's primary care or attending physician, and the patient's response to the notification. We believe this would be a suitable means of documenting that the CP has complied with the consultation agreement. With respect to the frequency of the required attestation, we believe that it would be appropriate to update such attestations on an annual basis. (One precedent occurs, for example, at § 412.46 where we require physician attestations for inpatient hospital medical review requirements to be updated annually). However, we are

interested in receiving public comment about this matter.

We propose, in § 410.71(e)(2)(iii), that in the attestation statement the CP agree that, if he or she is unable to reach the physician after at least four attempts, he or she will notify the physician in writing about the provision of care to the beneficiary. We specifically invite comments concerning this matter as well.

3. Incidental Services

In § 410.71(a)(2), we would specify that Medicare Part B would cover services and supplies furnished as an incident to a CP's services if the incidental services and supplies would be covered if furnished by a physician or as an incident to a physician's services. This is consistent with the definition of "qualified psychologist services" in section 1861(ii) of the Act.

We also propose that, in order for services and supplies furnished incident to the services of the CP to be covered by Medicare, they must meet the longstanding Medicare requirements that are applicable to services furnished as an incident to the professional services of a physician. The requirements are that the services must be—

- The type that are commonly furnished in a physician's or CP's office and are either furnished without charge or are included in the CP's bill;
- An integral, although incidental, part of professional services performed by the CP;
- Performed under the direct supervision of the CP (that is, the CP must be physically present and immediately available); and
- Performed by an employee of either the CP or the legal entity that employs the supervising CP under the common law control test of section 210(j) of the Act (42 U.S.C. 410(j)), as more fully set forth in 20 CFR 404.1007.

4. Consultation

In discussing the consultation between the CP and the patient's physician, the report of the House Ways and Means Committee stated that "The Committee intends that such consult would not be a billable service." (H. R. Report No. 247, 101st Cong., 1st Sess. 1015). We think such consultation is an inherent and incidental component of the services the psychologist provides to the beneficiary and should not constitute a separate and distinct service. Therefore, we are proposing, in § 410.71(c), that consultation between the CP and the beneficiary's primary care or attending physician would not be a separately-billable service for Medicare payment purposes. The primary care or attending physician also would not be permitted to bill Medicare for this consultation.

5. Payment on an Assignment-Related Basis

We propose to revise § 410.150, "To whom payment is made," by adding a new paragraph (b)(14) to specify that payment is made directly to the CP on an assignment-related basis for CP services furnished by him or her and for services and supplies furnished as an incident to his or her services. This is consistent with section 1833(p) of the Act, which requires payment for such services be made only on an assignment-related basis, and section 1861(ii) of the Act, which defines qualified clinical psychologist services.

Note that the assignment requirement would not preclude a CP from furnishing his or her services as an incident to the services of another health care practitioner if these services meet all of the incident-to requirements. In such a case, the practitioner may bill Medicare for the incident-to services. In this case, payment would be made by Medicare to the practitioner. (This is consistent with long-standing Medicare policy governing coverage of services furnished as an incident to the services of physicians or other health care professionals.)

6. Limitation on Mental Health Treatment Services

We propose, in accordance with the limitation in section 1833(c) of the Act, to revise § 410.152(a)(1)(iv), which concerns amounts of payment, to remove the annual dollar limitation on covered mental health treatment services as a factor in determining incurred expenses. (Incurred expenses are Part B covered expenses incurred by an individual during his or her coverage period.) We have revised this section by removing the specifics regarding the limitation amount and cross-referencing the limitation described in § 410.155.

7. Payment Amount

We propose to revise § 410.152, "Amounts of payment," by adding a new paragraph (l) to specify that Medicare Part B pays, subject to the mental health treatment limitation of § 410.155(c), 80 percent of the lesser of the actual charge or the fee schedule amount for CP services. This is based on the payment level established at section 1833(a)(1)(L) of the Act.

8. Definition of Mental Health Treatment

Section 1833(c) of the Act, as amended by section 6113(d) of Public Law 101–239, states that—

> * * * with respect to expenses incurred in any calendar year in connection with the *treatment* of mental, psychoneurotic, and personality disorders of an individual who is not an inpatient of a hospital at the time such expenses are incurred, there shall be considered as incurred expenses * * * 62½ percent of such expenses * * *. (Emphasis added.)

In addition to precluding the application of the limitation to mental health treatment services furnished to hospital inpatients, this section of the law goes on to specify that, for purposes of this limitation, the term "treatment" does not include brief office visits to a physician for the sole purpose of monitoring or changing drug prescriptions used in the treatment of mental disorders or partial hospitalization services that are not directly provided by a physician. We propose to add a definition of "mental health treatment" to paragraph (a) of § 410.155, "Mental health treatment limitation." We would define "mental health treatment" as "therapy for the treatment of a mental, psychoneurotic, or personality disorder." We would also specify a distinction between "treatment" and "diagnosis," as discussed below.

We would also revise § 410.155(b) to include examples of services that are subject to, or excluded from, the application of the limitation.

- We would state that the limitation does not apply to mental health treatment furnished to hospital inpatients, brief office visits to a physician for the purpose of monitoring or changing drug prescriptions used in the mental health treatment, partial hospitalization services that are not directly provided by a physician, and diagnostic services that are performed to establish a diagnosis.
- We would state that the limitation will apply not only to mental health treatment furnished by physicians and CORFs but also to mental health treatment furnished as an incident to the services of a physician and to the mental health services of other health care practitioners whether the services are furnished directly by the practitioners or as an incident to their services. Thus, for example, the limitation would apply to the services of CPs, services furnished as an incident to the services of CPs, and to the services of CSWs.

With respect to diagnostic psychological testing and other diagnostic services, we would provide that services performed in order to establish a patient's diagnosis are not subject to the limitation, because those services do not represent *treatment* of a mental disorder. Their purpose is to determine whether, in fact, the patient has a mental disorder and to identify the specific disorder. These diagnostic services must be completed *before* the patient's condition can be identified. Once the patient is determined to have a mental disorder, subsequent services to treat that disorder are subject to the limitation. Consequently, we believe that the limitation should apply to testing that is part of treatment (for example, when it is used to evaluate a patient's progress during treatment). Only diagnostic services used to establish a diagnosis for a patient's mental illness would be excluded from the limitation.

Section 6113(d) of Public Law 101–239 specifically eliminated the dollar limitation (formerly $1,375.00) on mental health services, effective January 1, 1990. However, the 62½ percent limitation on expenses for such services remains unchanged. Consistent with the statute, we would revise § 410.155(c) of the regulations to remove the dollar limitation.

We would also revise the heading of § 410.155, from "Psychiatric services" limitations: Expenses incurred for physician services and CORF services" to "Mental health treatment limitation." The example in existing paragraph (d) of how the limitation is applied would also be updated.

As a technical revision, we would remove the reference to "medical services for the diagnosis and treatment of tuberculosis" from the definition of "hospital" in § 410.155(a). Section 2335 of the Deficit Reduction Act of 1984 (Pub. L. 98–369) repealed the special conditions and requirements associated with coverage of treatment of tuberculosis patients and eliminated the special provider category of tuberculosis hospitals.

9. Bases for Payment

We propose, based on the payment provision at section 1833(a)(1)(L) of the Act, to revise § 424.55(b)(1), which concerns accepting assignment, to reflect that, in accepting assignment, a supplier (which includes a CP) agrees to accept, as the full charge for the service, the charge approved by the carrier as the basis for determining the Medicare Part B payment. We propose to revise paragraph (b)(2)(i) of this section, which currently reads: "To collect nothing for those services for which Medicare pays 100 percent of the reasonable charge." We would change "reasonable charge" to "approved amount". This would reflect that, based on recent statutory changes, there are also fee schedules and other bases for payment, in addition to reasonable charge.

We would also revise paragraph (b)(2)(ii) of § 424.55. This paragraph currently limits the amount that the supplier may collect from the beneficiary or other source to only the amount of any unmet deductible, plus 20 percent of the difference between the reasonable charge and the unmet deductible for those services for which Medicare pays 80 percent of that difference. We would revise this to state that, for those services for which Medicare pays less than 100 percent of the approved amount, the supplier may collect only the difference between the Medicare approved amount and the Medicare Part B payment (that is, the amount of any reduction in incurred expenses under § 410.155(c) and any applicable deductible and coinsurance amount). This change would recognize that a supplier may collect, from the beneficiary or other source, the 37½ percent differential that results from the mental health treatment limitation.

B. Diagnostic Psychological Tests

Diagnostic psychological testing services performed by an independent psychologist other than a CP, which we describe at section 2070.2 of the Medicare Carriers Manual, practicing independently of an institution, agency, or physician's office are currently covered as other diagnostic tests under section 1861(s)(3) of the Act.

We believe that, by establishing section 1861(ii) of the Act, the Congress did not intend to preclude coverage of diagnostic psychological tests under section 1861(s)(3) of the Act and, therefore, we intend to continue to cover this type of testing. We are, however, inviting public comment at this time on methods to employ that will control the potential for excessive use of psychological testing.

In addition, we intend to address the coverage requirements for the psychological tests benefit in a separate rulemaking in the near future. At that time, we will invite public comment about the professional qualifications that should be required for the persons who perform these tests. Until the rule establishing these qualifications is effective, we intend to continue to cover this type of testing if furnished by any psychologist who is licensed or certified to practice psychology in the State or jurisdiction where he or she is furnishing services or, if the jurisdiction does not issue licenses, if provided by any practicing psychologist. (It is our understanding that all States, the District of Columbia, and Puerto Rico license psychologists, but that some trust territories do not. Examples of psychologists, other than CPs, whose services would continue to be covered in the interim period include, but are not limited to, educational psychologists and counseling psychologists.)

Payment for psychological tests that are billed directly by these independent psychologists is no longer made on the basis of reasonable charges. Effective January 1, 1992, payment for psychological tests performed by these practitioners is made on the basis of the fee schedule for physicians' services. Hence, the payment amount for psychological tests (Current Procedural Terminology code 90830) is the same for physicians, clinical psychologists, and independent psychologists.

C. Clinical Social Worker Services

1. We propose, based on section 1861(s)(2)(N) of the Act, which includes the services of CSWs among medical and other health services, to add a new paragraph (v) to the list of medical and other health services at § 410.10 to include the services of CSWs.

2. We propose, in a new § 410.73(a), to define a CSW based on the definition of a CSW in section 1861(hh)(1) of the Act. We would define a CSW as an individual who—

- Possesses a master's or doctor's degree in social work;
- After obtaining the degree, has performed at least 2 years of supervised clinical social work; and
- Either is licensed or certified as a clinical social worker by the State in which the services are performed or, in the case of an individual in a State that does not provide for licensure or certification, has completed at least 2 years or 3,000 hours of post master's degree supervised clinical social work practice under the supervision of a master's degree level social worker in an appropriate setting such as a hospital, SNF, or clinic.

3. We propose, in a new § 410.73(b), to specify that Medicare Part B pays for services performed by a CSW for the diagnosis and treatment of mental illness that the CSW is legally authorized to perform if the services would be covered if furnished by a physician or as an incident to a physician's professional services. This is based on the definition of CSW services in section 1861(hh)(2) of the Act.

4. In a new § 410.73(c)(1), we would specify that payment for CSW services

VOL 58 ISS 248 DEC 29 1993 UMI

furnished to hospital inpatients and outpatients is made to the hospital. All services provided by CSWs to hospital patients (inpatients and outpatients) are bundled under section 1862(a)(14) of the Act. Therefore, CSWs cannot bill Medicare Part B directly for these services.

Section 4157 of OBRA '90 did not amend section 1862(a)(14) of the Act, which concerns exclusion from coverage, to unbundle inpatient and outpatient hospital services provided by CSWs. This section specifically unbundles only the following services:

- Physician services.
- Certified nurse midwife services.
- Qualified psychologist services (that is, services of CPs).
- Certified registered nurse anesthetist services.
- Services described under section 1861(s)(2)(K)(i) of the Act; that is, physician assistant services.

Therefore, CSW services to hospital patients remain bundled, which means that CSWs are precluded from billing the Medicare program for these services directly.

In a new § 410.73(c)(2), we would specify that payment for CSW services furnished to inpatients of an SNF, if the SNF is required to provide such services as a requirement for participation, is made to the SNF. Section 6113(b) of Public Law 101–239 explicitly excludes from the definition of "clinical social worker services" services furnished to an inpatient of an SNF that the SNF is required to provide as a requirement for participation. However, under existing § 483.15, which concerns quality of life requirements for long term care facilities, SNFs are required to hire a qualified social worker to provide social services in facilities with more than 120 beds. These social workers need not meet the statutory definition for a CSW, because, as provided in § 483.15(g)(4), they may qualify with a bachelor's level training and experience.

Payment for all social worker services performed in an SNF, in accordance with § 483.15, is made directly to the SNF and billed as an SNF service. However, under the statute any coverable CSW services furnished in an SNF that the SNF is not required to furnish as a requirement for participation could be billed by the CSWs directly under Part B.

While it is true that SNFs furnish social services, we cannot say that these services are always (or even ever) performed by individuals with the credentials of CSWs, or that services furnished in an SNF by a social worker (including a CSW who is an SNF employee) are diagnostic and therapeutic mental health services as envisioned in terms of CSW coverage. In studying the provision, we at first concluded that one practical approach would be to attempt to delineate types of services that could, and could not, be provided under Part B in an SNF setting. Thus, we considered proposing that—

- All generalized social worker services furnished to all SNF inpatients without individualization would be excluded from Part B coverage no matter who provides them.
- All identifiable CSW services furnished to individual patients in order to diagnose or treat the individual patient's mental illness would be covered under Part B if provided by a CSW.

However, this approach would be difficult to administer because both of these categories of services are difficult to identify and seem potentially to fall under the SNF requirements for participation. Therefore, carriers would not be able to distinguish, or limit in a clearly definable way, those services that are not required by the SNF requirements for participation. A clear distinction is needed, not only for Part A and Part B payment reasons, but also for SNF certification and survey purposes.

Furthermore, language in section 1819(b) of the Act that establishes required SNF services is somewhat imprecise, in that several major components of that subsection seem to entail the very type of work that CSWs might be expected to perform in an SNF, particularly, providing "specialized rehabilitative services" and "medically-related social services" in order "to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident." Section 1819(b)(4)(A)(v) of the Act requires SNFs to provide an ongoing program that furnishes these services and that is provided in accordance with an assessment made for each patient. On the face of it, services furnished to meet these requirements seem necessarily tailored to the individual. Hence, it is difficult to see how those functions could constitute "generalized" services furnished to all patients "without individualization."

Thus, we are inviting public comment and suggestions on how we can clearly identify or differentiate the level of services that would clearly qualify under the statute as CSW services performed in SNFs from those services that are required by the SNF requirements for participation.

As noted above, the conditions of coverage for ESRD facilities require that social worker services be made available to dialysis patients. Concerning the issue of whether CSWs could be paid directly for social worker services furnished to dialysis patients that the dialysis facilities are required to furnish as a condition of coverage, the composite rate is a comprehensive, all inclusive, prospective payment for all of the items and services required for outpatient maintenance dialysis. Because payment for the CSW services will be included in the composite rate payment made to the dialysis facility, we do not believe that CSWs can be paid directly for these services furnished to dialysis patients. Therefore, in a new § 410.73(c)(3), we would specify that payment for social services furnished to dialysis patients that are required by the conditions for coverage for ESRD facilities is made to the ESRD facility. However, we invite public comment regarding whether any CSW services to dialysis patients can be distinguished from the required facility services.

5. We have the same concerns regarding the need for consultation between the CSW and the beneficiary's physician as we do in the case of CPs. We believe that it is important that the CSW take into consideration medical conditions that may be causing or contributing to the beneficiary's problems and that the best way to identify these conditions is through consultation with the beneficiary's primary care or attending physician. Based on language in the conference report that accompanied H.R. 3299, it is clear that the conference committee had the same concern. The conference agreement stated:

> The conferees intend that the criteria developed by the Secretary stipulate that the patient's medical record include documentation that: (1) The psychologist or *clinical social worker* has informed the patient of the desirability of conferring with the patient's primary care physician to consider potential medical conditions contributing to the patient's condition * * * [Emphasis added.] (H.R. Rep. No. 247, 101st Cong., 1st Sess. 361 (1989))

Therefore, in a new § 410.73(d), we propose to hold those CSWs who bill Medicare Part B directly to the same consultation requirements as we would CPs. Accordingly, the CSW, when applying for a Medicare provider number and annually thereafter, would be required to submit to the carrier an attestation statement agreeing to consult with the beneficiary's attending or primary care physician in accordance with professional ethical norms, taking into consideration patient confidentiality. We would require that the attestation statement contain the same information proposed for the attestation statement we would require of CPs.

We also propose to specify, in a new § 410.73(c)(5), that a CSW or attending or primary care physician may not bill Medicare or the beneficiary for the consultation that would be required by this rule.

6. We propose to revise § 410.150, which explains to whom payment is made, by adding a new paragraph (b)(16) to specify that payment may be made directly to the CSW, on an assignment-related basis, for services he or she furnished.

7. As discussed under section II.A. of this preamble, we would revise §§ 410.152, "Amounts of payment," and 410.155(b), "Services subject to limitation," regarding application of the mental health treatment limitation. The provisions of proposed §§ 410.152 and 410.155(b) would also apply to services of CSWs.

8. We propose, based on the payment provision of section 1833(a)(1)(F) of the Act, to further revise § 410.152 by adding a new paragraph (m), which would specify that Medicare Part B pays, subject to the mental health treatment limitation of § 410.155(c), 80 percent of the lesser of the actual charge for the therapeutic services of a CSW or 75 percent of the fee schedule amount for CP services, which will be described in a separate rule addressing the provisions of section 1833(a)(1)(L) of the Act.

9. Before OBRA '89, we permitted the covered services of CPs and CSWs furnished through risk-based HMOs and CMPs to be furnished without physician supervision. We would amend § 417.416, "Qualifying condition: Furnishing of services," by adding a new paragraph (d)(3) to specify that a cost-based HMO or CMP may permit the covered services of a CSW to be furnished without physician supervision. Because under section 1861(hh) of the Act there is no coverage under Part B for services and supplies incident to a CSW's services, we would clarify that services incident to the professional services of a CSW are not covered by Medicare if furnished in a cost-based HMO or CMP.

10. The proposed revision to § 424.55, "Payment to the supplier," discussed in section II.A.9 of this preamble, would also apply to CSWs.

D CPs and CSWs Diagnostic Coding

When CPs and CSWs submit claims to carriers for services furnished to Medicare beneficiaries, they may have been using diagnosis codes either from the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) (DSM–III–R) or the International Classification of Diseases, 9th Revision, Clinical Modification (ICD–9–CM). We are proposing that, beginning with the effective date of the final rule, CPs and CSWs would be required to use only ICD–9–CM diagnostic coding when submitting claims to our carriers. We have a long history of use of the ICD–9–CM coding system for reporting purposes for our Medicare beneficiaries. All of our hospital data are recorded using the ICD–9–CM coding system. Although DSM–III–R is based on ICD–9–CM, it is not compatible with our system software, and it would be costly to make it compatible. It would also be burdensome for physicians to be required to buy two sets of coding books.

In addition, note that section 1842(p) of the Act, as enacted by section 202(g) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360), requires that each request for payment, or bill submitted, for an item or service furnished by a physician for which payment may be made include the appropriate diagnosis code or codes established by the Secretary. In a proposed rule "Physician Billing Diagnostic Information," published on July 21, 1989, (54 FR 30558) we proposed to designate ICD–9–CM codes as the appropriate and sole diagnosis coding system for physicians' services. Further, section 1833(e) of the Act stipulates that no payment shall be made to any provider of services or other person under Part B unless the information necessary to determine the amounts due such provider or other person has been furnished. Thus, we believe that it would be appropriate to extend these requirements to CPs and CSWs.

III. Regulatory Impact Analysis

A. Introduction

We generally prepare and publish a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (U.S.C. 601 through 612) unless the Secretary certifies that a rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all psychologists, social workers, and hospitals to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We believe this proposed rule would not have a significant economic impact on a substantial number of small rural hospitals since it is unlikely that they would be involved in providing CP and CSW services, unless the facility is one providing services primarily for the mentally ill. We have prepared the following analysis, which in combination with the other sections of this proposed rule, is intended to conform to the objectives of the RFA and section 1102(b) of the Act.

To the extent that a legislative provision being announced by a rule such as this may have a significant effect on beneficiaries or providers or may be viewed as controversial, we believe that we should address any potential concerns. In this instance, we believe it is desirable to inform the public of our estimate of the substantial budgetary effect of these statutory changes.

It is the amendments to the Act as a result of sections 6113 (a) through (d) of OBRA '89 and section 4157(a) of OBRA '90 that would increase Medicare program expenditures, not these regulations, which merely conform to statutory provisions. The statutory elimination of the restriction on the site of service has increased the accessibility and availability of services, resulting in a significant increase in the number of services provided to Medicare beneficiaries. In addition, removal of the annual dollar limitation, which was effective on January 1, 1990, has also resulted in an increase in payment for mental health services provided by CPs and CSWs for Medicare patients whose cost of care may exceed what was the annual limitation of $1,375.00. We project that the combination of additional sites of service, additional providers, and removal of the annual dollar limitation would result in the following estimated increase in expenditures:

ESTIMATED INCREASE IN MEDICARE EXPENDITURES FOR CLINICAL PSYCHOLOGIST AND CLINICAL SOCIAL WORKER SERVICES

(In millions, rounded to the nearest $10 million)

FY 94	FY 95	FY 96	FY 97
$260	$320	$390	$430

The total expenditures are dependent upon the number of services and the charge per service of CPs and CSWs. We believe the increase in expenditures would be due primarily to an increase in the number of users rather than an increase in the average charge per service or the average number of services per beneficiary. We estimate the number of users would increase 10 percent each year due to additional providers, provider outreach, and an increasing number of beneficiaries.

It is also important to note that, in the absence of final regulations defining the criteria a CP must meet for Medicare purposes, the Medicare carriers have had the authority to determine whether a particular psychologist qualifies to have services covered by Medicare. In using this authority, the carriers decide if the educational background and experience of a particular psychologist qualify him or her as a CP. As noted earlier, we estimate that two-thirds of the carriers currently are paying psychologists based on the education and experience factors that would be adopted under this proposed rule. Therefore, the estimates presented above reflect amounts currently being paid for the services of psychologists, as approved by the carriers.

Another factor affecting these estimates is that, because of the availability of coverage of the service of CPs and CSWs, these professionals substitute for the services of psychiatrists. Thus, there is an offsetting effect in terms of program outlays.

B. Entities Affected

1. Effect on Clinical Psychologists

Under this proposed rule, CPs would be able to bill Medicare directly for all CP services, including those furnished to hospital patients. We anticipate an increase in services provided by CPs because there may have been a need for mental health care that was unmet because of limited access to CP and CSW services and also because demand may be stimulated when information concerning the availability of coverage for these services becomes more widely known.

2. Effect on Other Psychologists

These proposed regulations would continue to permit independent psychologists to bill the Medicare program directly for furnishing diagnostic psychological tests ordered by a physician or CP. Payment would be made under the fee schedule for physicians' services.

3. Effect on Clinical Social Workers

Clinical social workers were not previously able to bill directly for their services. Therefore, it is difficult to project accurately the number of CSWs who would elect to participate in the Medicare program and the number of beneficiaries who would be served. The services that are covered are those that are otherwise covered if furnished by a physician or as an incident to a physician's professional service. We believe the services provided by CSWs would be in addition to those previously furnished by psychiatrists and psychologists rather than a substitute for the service of medical doctors and CPs. The additional providers, and the willingness of the CSWs to participate in the Medicare program, would increase the access to care by persons in need of these services.

IV. Paperwork Reduction Act

Proposed regulations at §§ 410.71(e) and 410.73(e) contain information collection and recordkeeping requirements that are subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The information collection requirements concern the attestation statement from CPs and CSWs and the notation of medical records regarding consultation. The respondents who would provide the information are CPs and CSWs. Public reporting burden for this collection of information is estimated to be ½ hour per year per beneficiary receiving CP or CSW services. A notice will be published in the **Federal Register** after approval is obtained. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the OMB official whose name appears in the **ADDRESSES** section of this preamble.

V. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. We will, however, consider all comments that we receive by the date specified in the **DATES** section of this preamble and, if we proceed with a final rule, we will respond to the comments in the preamble of the final rule.

List of Subjects

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays

42 CFR Part 417

Administrative practice and procedure, Health maintenance organization (HMO), Medicare, Reporting and recordkeeping requirements.

42 CFR Part 424

Assignment of benefits, Physician certification, Claims for payment, Emergency services, Plan of treatment.

For the reasons set forth in the preamble, 42 CFR chapter IV is proposed to be amended as follows:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

A. Part 410 is amended as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1832, 1835, 1861 (r)(s), (cc), (hh), and (ii), 1862(a), 1871, 1876, and 1881 of the Social Security Act, and sec. 6113(c), Public Law 101–239 (42 U.S.C. 1302 1395k, 1395n, 1395x (r), (s), (cc), (hh), and (ii), 1395y(a), 1395hh, 1395mm, and 1395rr, and 13951 (note)).

Subpart B—Medical and Other Health Services

2. In § 410.10, the introductory text is republished, and new paragraphs (u) and (v) are added to read as follows:

§ 410.10 Medical and other health services: Included services.

Subject to the conditions and limitations specified in this subpart, "medical and other health services" includes the following services:

* * * * *

(u) Clinical psychologist services and services and supplies furnished as an incident to the services of the clinical psychologist, as provided in § 410.71.

(v) Clinical social worker services, as provided in § 410.73.

3. New §§ 410.71 and 410.73 are added to read as follows:

§ 410.71 Clinical psychologist services and services and supplies incident to clinical psychologist services.

(a) *Included services.* (1) Medicare Part B covers services furnished by a clinical psychologist, who meets the requirements specified in paragraph (e) of this section, that are within the scope of his or her State license, if the services would be covered if furnished by a physician or as an incident to a physician's services.

(2) Medicare Part B covers services and supplies furnished as an incident to the services of a clinical psychologist if the following requirements are met:

(i) The services and supplies would be covered if furnished by a physician or as an incident to a physician's services.

(ii) The services or supplies are of the type that are commonly furnished in a physician's or clinical psychologist's office and are either furnished without charge or are included in the physician's or clinical psychologist's bill.

(iii) The services are an integral, although incidental, part of professional services performed by the clinical psychologist.

(iv) The services are performed under the direct supervision of the clinical psychologist (that is, the clinical psychologist must be physically present in the office suite and immediately available).

(v) The individual performing the service must be an employee of either the clinical psychologist or the legal entity that employs the supervising clinical psychologist, under the common law control test of the Act as more fully set forth in 20 CFR 404.1007.

(b) *Application of mental health treatment limitation.* The treatment services of a clinical psychologist and services and supplies furnished as an incident to those services are subject to the limitation on payment for outpatient mental health treatment services set forth in § 410.155.

(c) *Payment for consultations.* A clinical psychologist or an attending or primary care physician may not bill Medicare or the beneficiary for the consultation that is required under paragraph (e)(2) of this section.

(d) *Billing procedures.* Payment for the services of a clinical psychologist and for services furnished as an incident to a clinical psychologist's services that were furnished to hospital inpatients and outpatients through December 31, 1990, is made to the hospital. Effective January 1, 1991, clinical psychologists may bill Medicare Part B directly for these services.

(e) *Requirements for payment for services*—(1) *Qualifications.*—For purposes of this requirement, a clinical psychologist is an individual who meets the following requirements:

(i) Holds a doctoral degree in psychology from an accredited program that prepares the candidate to practice clinical psychology by providing appropriate clinical psychology training.

(ii) Is licensed or certified at the independent practice level of clinical psychology by the State in which he or she practices.

(iii) Possesses 2 years of supervised clinical experience, at least one of which is postdoctoral degree experience and the supervision was provided by a psychologist qualified at the doctorate level.

(2) *Agreement to consult.* When applying for a Medicare provider number, and annually thereafter, a clinical psychologist who bills Medicare Part B directly must submit to the carrier an attestation statement agreeing to consult with the beneficiary's attending or primary care physician (providing the beneficiary has such a physician) in accordance with accepted professional ethical norms, taking into consideration patient confidentiality. The attestation must specify that the clinical psychologist agrees to the following:

(i) To inform the beneficiary, before a consultation, that it is desirable to consult with the beneficiary's primary care or attending physician to consider relevant medical conditions.

(ii) To include a notation in the beneficiary's medical records that he or she was notified of the desirability of a consultation between the clinical psychologist and the primary care or attending physician, and the beneficiary's response to that notification.

(iii) If the beneficiary assents to the consultation, to consult with the primary care or attending physician within 1 week of obtaining the beneficiary's consent. In addition, the clinical psychologist must agree to notify the physician in writing about the provision of care to the beneficiary if, after at least four attempts, he or she is unable to consult directly with the physician.

§ 410.73 Clinical social worker services.

(a) *Definition.* For purposes of this part, a clinical social worker is defined as an individual who—

(1) Possesses a master's or doctor's degree in social work;

(2) After obtaining the degree, has performed at least 2 years of supervised clinical social work; and

(3) Either is licensed or certified as a clinical social worker by the State in which the services are performed or, in the case of an individual in a State that does not provide for licensure or certification, has completed at least 2 years or 3,000 hours of post master's degree supervised clinical social work practice under the supervision of a master's degree level social worker in an appropriate setting such as a hospital, SNF, or clinic.

(b) *Included services.* Medicare Part B covers the services of a clinical social worker furnished for the diagnosis and treatment of mental illness that the clinical social worker is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which the services are performed. The services must be of a type that would be covered if they were furnished by a physician or as an incident to a physician's professional service and must meet the requirements of this section.

(c) *Billing and payment for certain services.* (1) Payment for covered clinical social worker services furnished to hospital inpatients and outpatients is made to the hospital.

(2) Payment for covered clinical social worker services furnished to inpatients of an SNF, if the SNF is required to provide the services as a requirement for participation, is made to the SNF.

(3) Payment for social services furnished to dialysis patients that are required by the conditions for coverage for ESRD facilities under § 405.2163 of this chapter is made to the ESRD facility.

(4) A clinical social worker may not bill Medicare for the services specified in paragraphs (c)(1) through (c)(3) of this section.

(5) A clinical social worker or an attending or primary care physician may not bill Medicare or the beneficiary for the consultation that is required under paragraph (d) of this section.

(d) *Requirements for Medicare payment: Agreement to consult.* As a requirement for Medicare payment, when applying for a Medicare provider number, and annually thereafter, a clinical social worker who bills Medicare Part B directly must submit to the carrier an attestation statement agreeing to consult with the beneficiary's attending or primary care physician (providing the beneficiary has such a physician) in accordance with accepted professional ethical norms, taking into consideration patient confidentiality. The attestation must specify that the clinical social worker agrees to the following:

(1) To inform the beneficiary, before a consultation, that it is desirable to consult with the beneficiary's primary care or attending physician to consider medical conditions contributing to the beneficiary's condition.

(2) To include a notation in the beneficiary's medical records that he or she was notified of the desirability of a consultation between the clinical social

VOL 58 ISS 248 DEC 29 1993 UMI

worker and the primary care or attending physician, and the beneficiary's response to the notification.

(3) If the beneficiary assents to the consultation, to consult with the primary care or attending physician within 1 week of obtaining the beneficiary's consent. In addition, the clinical social worker must agree to notify the physician in writing about the provision of care to the beneficiary if, after at least four attempts, he or she is unable to consult directly with the physician.

Subpart E—Payment of SMI Benefits

4. In § 410.150, the introductory text of paragraph (b) is republished, new paragraphs (b)(12) through (b)(14) are added and reserved, and new paragraphs (b)(15) and (b)(16) are added to read as follows:

§ 410.150 To whom payment is made.

* * * * *

(b) *Specific rules.* Subject to the conditions set forth in paragraph (a) of this section, Medicare Part B pays as follows:

* * * * *

(12) [Reserved.]
(13) [Reserved.]
(14) [Reserved.]

(15) To a clinical psychologist on the individual's behalf for clinical psychologist services and for services and supplies furnished as an incident to his or her services.

(16) To a clinical social worker on the individual's behalf for clinical social worker services.

5. In § 410.152, the title of paragraph (a) is revised, the introductory text of paragraph (a)(1) is republished; paragraph (a)(1)(iv) and the introductory text for paragraphs (a)(2) and (b) are revised; new paragraph (k) is added and reserved; and new paragraphs (l) and (m) are added to read as follows:

§ 410.152 Amounts of payment.

(a) *General provisions*—(1) *Exclusion from incurred expenses.* As used in this section, "incurred expenses" are expenses incurred by an individual during his or her coverage period, for covered Part B services, excluding the following:

* * * * *

(iv) Expenses for mental health treatment services in excess of the mental health treatment limitation described in § 410.155.

(2) *Other applicable provisions.* Medicare Part B pays for incurred expenses the amounts specified in paragraphs (b) through (m) of this section, subject to the following:

* * * * *

(b) *Basic rules for payment.* Except as specified in paragraphs (c) through (m) of this section, Medicare Part B pays the following amounts:

* * * * *

(k) [Reserved.]

(l) *Amount of payment: Clinical psychologist services.* Medicare Part B pays 80 percent, subject to the limitation of § 410.155(c), of the lesser of the actual charge or the fee schedule amount for clinical psychologist services.

(m) *Amount of payment: Clinical social worker services.* Medicare Part B pays 80 percent, subject to the limitation of § 410.155(c), of the lesser of the actual charge for the services of a clinical social worker or 75 percent of the fee schedule amount for clinical psychologist services.

6. In § 410.155, the section heading is revised; in paragraph (a), the semicolon and the phrase "and medical services for the diagnosis and treatment of tuberculosis" is removed from the end of the definition of *hospital*, and a definition of *mental health treatment* is added at the end of the paragraph; and paragraphs (b), (c)(1), and (d) are revised to read as follows:

§ 410.155 Mental health treatment limitation.

(a) * * * *"Mental health treatment"* means therapy for the treatment of a mental, psychoneurotic, or personality disorder.

(b) *Application of the limitation.* (1) Services subject to the limitation include the following:

(i) Mental health treatment by physicians and other health care practitioners, whether furnished directly or as an incident to the services of the physician or other health care practitioner.

(ii) CORF mental health treatment furnished by physicians or other health care practitioners.

(2) Services not subject to the limitation include the following:

(i) Services furnished to a hospital inpatient.

(ii) Brief office visits for the purpose of monitoring or changing drug prescriptions used in the mental health treatment.

(iii) Partial hospitalization services not directly provided by a physician.

(iv) Diagnostic services, such as psychological testing, that are performed to establish a diagnosis.

(c) *Limitation*—(1) *Current limit.* Of the expenses incurred for services subject to the limit as specified in paragraph (b) of this section, only 62½ percent of the expenses will be considered payable under Medicare Part B, subject to the amount of payment and deductible provisions set forth in §§ 410.152 and 410.160, respectively.

* * * * *

(d) *Examples*—(1) As a private patient, whose physician accepted assignment, Mr. X's only medical expenses during calendar year 1991 were for physicians' services in connection with the treatment of a mental disorder that did not require inpatient hospitalization. The physician submitted a claim for $780, and the Medicare approved amount was determined to be $750. The statutory limit on the amount of expenses that are covered is 62½ percent of such expenses. (Here, $468.75 represents 62½ percent of $750.) Mr. X is required to meet the first $100 of total covered expenses for the Medicare Part B deductible, 20 percent of the balance of total covered expenses (20 percent of $368.75), and the difference between the Medicare approved amount and the total covered expenses ($750 minus $468.75). The remaining 80 percent is payable under Medicare Part B.

Total covered expenses	Mr. X's Payment	Medicare payment
$468.75	[2] $281.25	
[1] −100.00	[1] 100.00	
$368.75	[3] 73.75	[4] $295.00
	[5] $455.00	

[1] Deductible, as described in § 410.160.
[2] In excess of $468.75.
[3] 20 percent of total covered expenses less deductible.
[4] 80 percent of total covered expenses less deductible.
[5] Total payments by Mr. X.

(2) If Mr. X's physician had not accepted assignment, Mr. X would also have been liable for the difference between the actual charge of $780 and the approved amount of $750; that is, for an additional $30.

(3) If Mr. X had incurred $350 of the above expenses while an inpatient of a hospital (see paragraph (b) of this section), and the remaining $400 while not an inpatient of a hospital, payment would be computed as follows:

Total covered expenses	Mr. X's payment	Medicare payment
[1] $250.00	[2] $150.00	
[3] +350.00		

Total covered expenses	Mr. X's payment	Medicare payment
$600.00	[4] $100.00	
[1] −100.00		
$500.00	[5] $100.00	[6] $400.00
	[7] $350.00	

[1] 62½ percent of $400.
[2] In excess of 62½ percent of $400.
[3] 100 percent of expenses incurred while an inpatient.
[4] Deductible.
[5] 20 percent of total covered expenses less deductible.
[6] 80 percent of total covered expenses less deductible.
[7] Total payments by Mr. X.

(4) In 1991, a clinical psychologist submits a claim for $100 for a covered mental health treatment service. The approved amount is $80. The "payment amount" is the lesser of $100 and $80, or $80. The beneficiary previously satisfied $70 of his annual Part B deductible of $100, leaving $30 unsatisfied. The actual benefit amount is computed as follows:

- $80×.625=$50
- $50−$30=$20
- $20×.80=$16 (the actual benefit payable).

Since the clinical psychologist must accept assignment, the beneficiary is liable for $80−$16=$64. If the deductible had previously been satisfied, the actual benefit payable would have been $40 ($50×.80) and the beneficiary would have been liable for $80−$40=$40.

B. Part 417 is amended as follows:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

1. The authority citation for part 417 continues to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1866(a), 1871, 1874, and 1876 of the Social Security Act (42 U.S.C. 1302, 1395*l*(a)(1)(A), 1395x(s)(2)(H), 1395cc(a), 1395hh, 1395kk, and 1395mm); sec. 114(c) of Pub. L. 97-248 (42 U.S.C. 1395mm note); 31 U.S.C. 9701; and secs. 215 and 1301 through 1318 of the Public Health Service Act (42 U.S.C. 216 and 300e through 300e-17), unless otherwise noted.

Subpart J—Qualifying Conditions for Medicare Contracts

2. In § 417.416, the introductory text of paragraph (d) is republished; paragraph (d)(2) is revised; and a new paragraph (d)(3) is added to read as follows:

§ 417.416 Qualifying condition: Furnishing of services.

* * * * *

(d) *Exceptions to physician supervision.* The following services may be furnished without the direct personal supervision of a physician:

* * * * *

(2) The organization may permit the services of clinical psychologists who meet the qualifications specified in § 410.71(e)(1) of this chapter, and the services and supplies incident to their professional services, to be furnished without the direct personal supervision of a physician.

(3) An organization that contracts on—

(i) A risk basis may permit the services of a clinical social worker (as defined at § 410.73 of this chapter) and the services and supplies incident to their professional services, to be furnished without physician supervision; or

(ii) A cost basis may permit the services of a clinical social worker (as defined in § 410.73 of this chapter) to be furnished without physician supervision. Services incident to the professional services of a clinical social worker furnished by an organization contracting on a cost basis are not covered by Medicare and payment will not be made for such services.

* * * * *

C. Part 424 is amended as follows:

PART 424—CONDITIONS FOR MEDICARE PAYMENT

1. The authority citation for part 424 is revised to read as follows:

Authority: Secs. 216(j), 1102, 1814, 1815(c), 1833, 1835, 1842(b), 1861, 1866(d), 1870 (e) and (f), 1871, and 1872 of the Social Security Act (42 U.S.C. 416(j), 1302, 1395f, 1395(l), 1395(n), 1395u(B), 1395x, 1395cc(d), 1395gg (e) and (f), 1395hh, and 1395ii).

2. In § 424.55(b), the introductory text is republished, and paragraphs (b)(1) and (b)(2) are revised to read as follows:

§ 424.55 Payment to the supplier.

* * * * *

(b) In accepting assignment, the supplier agrees to the following:

(1) To accept, as full charge for the service, the amount approved by the carrier as the basis for determining the Medicare Part B payment (the reasonable charge or the lesser of the fee schedule amount and the actual charge).

(2) To limit charges to the beneficiary or any other source as follows:

(i) To collect nothing for those services for which Medicare pays 100 percent of the Medicare approved amount.

(ii) To collect only the difference between the Medicare approved amount and the Medicare Part B payment (for example, the amount of any reduction in incurred expenses under § 410.155(c), any applicable deductible amount, and any applicable coinsurance amount) for services for which Medicare pays less than 100 percent of the approved amount.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.774 Medicare—Supplementary Medical Insurance.)

Dated: July 19, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: August 30, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93-31552 Filed 12-28-93; 8:45 am]

BILLING CODE 4120-01-P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 93-24]

Amendment to Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to amend its Rules of Practice and Procedure to make the complainant in a private complaint action responsible for service of the complaint and certain other documents in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure, when the Commission has been unsuccessful, for any reason, in effectuating service by certified or registered mail. The proposed rule would also require complainant, when it effectuates service of a complaint, to notify the Commission of the date and manner of service, and the respondent of the time in which it must answer the complaint. Similar amendments are proposed for the Commission's Rules governing small claims. The proposed rule would conform the Commission's Rules regarding service more closely to the Federal Rules of Civil Procedure.

DATES: Comments due February 14, 1994.

ADDRESSES: Send comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573-0001.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001 (202) 523–5725.

SUPPLEMENTARY INFORMATION: Under Rule 113 of its Rules of Practice and Procedure, 46 CFR 502.113, the Commission is presently charged with the responsibility for service of private complaints, amendments to complaints, and complainant's memoranda filed in shortened procedure cases, while section Rule 114, 46 CFR 502.114 requires that parties serve all other pleadings. In administering Rule 113, the Commission has experienced occasions where complaints and other pleadings have been returned by the United States Postal Service because the respondent refused delivery, an incorrect address was provided by the complainant, or the respondent had moved leaving no forwarding address. In such circumstances, the Commission has resorted to alternative methods of service such as utilizing a Commission investigator to personally find and serve the respondent, or serving the secretary of state pursuant to state law.

Section 11(b) of the Shipping Act of 1984, 46 U.S.C. app. 1710(b), requires the Commission to "furnish a copy" of a private complaint to the named respondent, but this would not appear to require the Commission to expend its own resources on behalf of a private complainant beyond an initial service by certified or registered mail. Accordingly, the Commission proposes to amend Rule 113 to shift the responsibility of service to the complainant when the Commission has been unsuccessful in effectuating service by certified or registered mail. In that event, it would be left to the complainant to effectuate service in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure, including, but not limited to, delivering a copy of the complaint personally to the respondent or to an agent authorized by appointment or by law to receive service of process.

The proposed rule would also require the complainant, if required to effectuate service, to notify the Commission's Secretary of the date and manner of service, and to notify the respondent of the time prescribed by Rule 64 of the Commission's Rules of Practice and Procedure, 46 CFR 502.64, within which the respondent must answer the complaint. A new form—Notice of Complaint Filed—would be added to Exhibit 1, Subpart E of Part 502, Complaint Form and Information Checklist, which would inform the respondent of the time within which the complaint must be answered, similar to a summons in federal court. The proposed rule would also amend 46 CFR 502.304(d), governing claims filed under Subpart S, Informal Procedure for Adjudication of Small Claims, to require the claimant to effectuate service when service by certified or registered mail by the settlement officer has been unsuccessful. A new form—Notice of Claim Filed—would be added to subpart S as Exhibit 3.

The proposed rule would conform the Commission's Rules regarding service more closely to the Federal Rules of Civil Procedure, which require the plaintiff or the plaintiff's attorney to be responsible for prompt service of a complaint. Also, the proposed amendment would remove the burden on the Commission to effect service on those occasions when service by certified mail or registered mail has been unsuccessful.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that because this rule deals only with agency practice and procedure, it will not have a significant impact on a substantial number of small entities, including small businesses, small organizational units, and small government jurisdictions.

List of Subjects in 46 CFR 502

Administrative practice and procedure, Claims, Equal access to justice, Informal procedures for investigations, Lawyers, Penalties, Reporting and recordkeeping requirements.

Therefore, notice is hereby given that the Commission proposes to amend part 502 of title 46 CFR as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559, 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O 11222 of May 8, 1965 (30 FR 6469); 21 U.S.C. 853a; and Pub. L. 88–777 (46 U.S.C. app. 817d, 817e).

2. Section 502.113 is revised to read as follows:

§ 502.113 Service by the Commission and complainant.

(a) Complaints filed pursuant to § 502.62, amendments to complaints (unless otherwise authorized by the presiding officer pursuant to § 502.70(b)), and complainant's opening memoranda filed in shortened procedure cases will be served by the Commission by certified or registered mail. If service by the Commission is unsuccessful for any reason, the complainant must effectuate service in any manner and within the time period authorized by Rule 4 of the Federal Rules of Civil Procedure, notify the Secretary of the date and manner of service, and notify the respondent of the time, pursuant to § 502.64, within which respondent must answer the complaint. A form—Notice of Complaint Filed—is set forth in exhibit No.1a, subpart E.

(b) In addition to and accompanying the original of every document filed with the Commission for service by the Commission, there shall be a sufficient number of copies for use of the Commission (see § 502.118) and for service on each party to the proceeding. [Rule 113)].

3. Section 502.304(d) is revised to read as follows:

§ 502.304 Procedure and filing fee.

* * * * *

(d) A copy of each claim filed under this subpart, with attachments, shall be served by certified or registered mail by the Settlement Officer on the respondent involved. If service by the Settlement Officer is unsuccessful for any reason, the claimant must effectuate service in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure, notify the Settlement officer of the date and manner of service, and notify the respondent of the time, pursuant to paragraph (e) of this section, within which respondent must answer the complaint. A form—Notice of Claim Filed—is set forth in exhibit 3, subpart S.

* * * * *

4. Exhibit No. 1a is added to subpart E, and exhibit No. 3 is added to subpart S to read as follows:

Exhibit No. 1a to Subpart E (§ 502.62)—Notice of Complaint Filed

Federal Maritime Commission, Washington, DC 20573

NOTICE OF COMPLAINT FILED
DOCKET NUMBER:
V.
TO: (Name and Address of Respondent)

You are hereby notified that a complaint has been filed against you, and you are required to file with the Secretary of the Commission and serve upon
COMPLAINANT OR COMPLAINANT'S ATTORNEY (Name and Address)

an answer to the complaint which is herewith served upon you, within _____ days after service of this notice upon you, exclusive of the day of service, unless additional time is permitted under Rule 64 of the Commission's Rules of Practice and Procedure, 46 CFR Part 502 (See also Rules 2, 41, 42, 101, and 111–118). If you fail to answer timely, judgment by default may be taken against you for the relief demanded in the complaint.

Secretary, Federal Maritime Commission

Date

Exhibit No. 3 to Subpart S [§ 502.304(d)]—Notice of Claim Filed

Federal Maritime Commission, Washington, DC 20573

NOTICE OF CLAIM FILED
INFORMAL DOCKET NUMBER:
V.
TO: (Name and Address of Respondent)

You are hereby notified that a claim has been filed against you, and you are required to file with the Settlement Officer, Federal Maritime Commission and serve upon
CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address)

an answer to the claim which is herewith served upon you, within 25 days after service of this notice upon you, exclusive of the day of service, unless additional time is permitted by the Settlement Officer. Your failure to respond is conclusively deemed to indicate your consent to the informal complaint procedure (46 CFR 502.304(e)), and an adverse decision may be entered against you; such decision will become final unless the Commission elects to review it within 30 days of the date of its service (46 CFR 502.304(g)).

Settlement Officer

Date

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 93–31505 Filed 12–28–93; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–177, Rm–7594; DA 93–1534]

AM Radio Service Directional Antenna Performance

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; further extension of reply comment period.

SUMMARY: The Commission further extends time for filing reply comments in its proceeding examining the policies and rules pertaining to the performance verification of directional antenna systems at AM Broadcast Radio Service stations from December 29, 1993 to March 1, 1994. This action is being taken to allow parties knowledgeable in this area additional time for consultation and evaluation of the complex engineering issues raised in this Inquiry.

DATES: Reply comments are now due March 1, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC, 20554.

FOR FURTHER INFORMATION CONTACT: Joseph Johnson, Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Order Granting Further Extension of Time

Adopted: December 20, 1993; Released: December 21, 1993.

Reply Comment Date: March 1, 1994.

By the Chief, Mass Media Bureau:

1. On June 14, 1993, the Commission adopted a Notice of Inquiry, 8 FCC Rcd 4345 (1993), 58 FR 36184 (July 6, 1993), ("Inquiry") in MM Docket 93–177 to examine the policies and rules pertaining to the performance verification of directional antenna systems at AM Broadcast Radio Service stations. The directional antenna rules were initially promulgated in the late 1930s when there were few operational stations and all engineering calculations were performed manually. In the years since those rules were established, they have been amended many times, but no thorough top-to-bottom review has ever been undertaken in order to bring them uniformly up to a state-of-the-art status. The purpose of the Inquiry was to commence such a process by gathering all of the data and other information necessary for releasing a comprehensive set of proposals for rule amendments. The original deadlines for filing comments and reply comments to the Inquiry were August 20, 1993 and September 7, 1993, respectively.

2. On July 12, 1993, the Association of Federal Communications Consulting Engineers requested an extension of the comment and reply comment periods. An Order Granting Extension of Time, 8 FCC Rcd 6324, (1993), 58 FR 45311 (August 27, 1993), was adopted on August 19, 1993, extending the dates for comments and replies to October 29, 1993 and December 29, 1993, respectively. As of the end of the comment period, approximately 20 formal comments had been received at the agency. In addition, a meeting was held on November 17, 1993 at the Commission between agency staff and several representatives of engineering consulting firms to discuss the progress of gathering data for use in drafting proposed rule amendments.

3. The Commission now has before it a petition to further extend the date for filing of reply comments by 60 days. The petition was filed by the engineering firms du Treil, Lundin & Rackley; Hatfield & Dawson; Suffa & Cavell; Silliman & Silliman; and Moffet, Larson & Johnson. These firms are also the petitioners who originally requested this Inquiry. Petitioners state that they and others in the broadcast industry are engaged in a study of the issues raised in the Inquiry and that a forum will be held in January where all interested parties can discuss these matters with the aim of developing reply comments which are thorough and focused.

4. After reviewing the Inquiry comments and discussing some of the relevant issues with industry representatives, it is clear that the technical complexity involved in formulating certain of the necessary amendments to our rules is quite significant. For example, some of the computer software programs now available for analyzing antenna patterns are extremely complicated and any action by the agency to eliminate existing measurement requirements and substitute in their place theoretical calculations based on these programs must be based on a thorough examination of the software and an evaluation of how its use would affect antenna pattern accuracy. We believe that the petitioners and others are making progress in formulating their proposals, but that further work is necessary and that such work would be materially aided by the forum planned for January. Therefore we agree with petitioners that a further extension of the deadline for filing reply comments is warranted.

5. Accordingly, *It is ordered* That the request to extend the reply comment date filed by du Treil, Lundin & Rackley; Hatfield & Dawson; Suffa & Cavell; Silliman & Silliman; and Moffet, Larson & Johnson is granted. The date for filing reply comments is extended to March 1, 1994.

6. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b), 0.283, 1.45 and 1.46 of the Commission's Rules.

7. Further information may be obtained from Joseph Johnson, Mass Media Bureau, Engineering Policy Branch, (202) 632–9660.

VOL 58 ISS 248 DEC 29 1993 UMI

Federal Communications Commission.
Roy J. Stewart,
Chief, Mass Media Bureau.
[FR Doc. 93-31802 Filed 12-28-93; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 76

[MM Docket No. 93-303; DA 93-1499]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on its proposal, initiated by a request filed by Diversified Communications, the licensee of television station WYOU(TV), Scranton, The New York Times Company, licensee of television station WNEP-TV, Scranton, and WBRE Associates, licensee of television station WBRE-TV, Wilkes-Barre, Pennsylvania (collectively "joint petitioners"), to amend the Commission's Rules, regarding Major Television Markets, to add the communities of Hazelton and Williamsport, Pennsylvania, to the Wilkes-Barre-Scranton, Pennsylvania television market. This action is taken to test the proposal for market hyphenation through the record established based on comments filed by interested parties.

DATES: Comments are due on or before January 18, 1994, and reply comments are due on or before February 2, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-303, adopted December 8, 1993, and released December 21, 1993. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Washington, DC 20037.

Synopsis of the Notice of Proposed Rule Making

1. The Commission, in response to a Petition for Rulemaking filed by the joint petitioners, proposed to amend Section 76.51 of the rules to add the communities of Hazelton and Williamsport, Pennsylvania to the Wilkes-Barre-Scranton television market.

2. In evaluating past requests for hyphenation of a market, the Commission has considered the following factors as relevant to its examination: (1) The distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area; (3) the presence of a clear showing of a particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change. Each of these factors helps the Commission to evaluate individual market conditions consistent "with the underlying competitive purpose of the market hyphenation rule to delineate areas where stations can and do, both actually and logically, compete."

3. Based on the facts presented, the Commission believes that a sufficient case for redesignation of the subject market has been set forth so that this proposal should be tested through the rulemaking process, including the comments of interested parties. It appears from the information before us that the television stations license to Wilkes-Barre, Scranton, Hazelton and Williamsport do compete for audiences and advertisers throughout much, if not all, of the proposed combined market area, and that evidence has been presented tending to demonstrate commonality between the proposed communities to be added to a market designation and the market as a whole. Moreover, the joint petitioners' proposal appears to be consistent with the Commission's policies regarding redesignation of a hyphenated television market.

Initial Regulatory Flexibility Analysis

4. The Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act. A few cable television system operators will be affected by the proposed rule amendment. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ex Parte

5. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

Comment Dates

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before January 18, 1994, and reply comments on or before February 2, 1994. All relevant and timely comments will be considered before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comment, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

7. Accordingly, this action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by § 0.283 of the Commission's Rules.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.
Roy J. Stewart,
Chief, Mass Media Bureau.
[FR Doc. 93-31801 Filed 12-28-93; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 76

[MM Docket No. 93-304; DA 93-1500]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on its proposal, initiated by a request filed by Golden Orange Broadcasting Co., Inc., to amend the Commission's Rules, regarding Major Television Markets, to add the community of Anaheim to the Los Angeles-San Bernardino-Corona-Fontana, California hyphenated television market. This action is taken to test the proposal for market hyphenation through the record established based on comments filed by interested parties.

DATES: Comments are due on or before January 18, 1994, and reply comments are due on or before February 2, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-304, adopted December 8, 1993, and released December 21, 1993. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Washington, DC 20037.

Synopsis of the Notice of Proposed Rule Making

1. The Commission, in response to a Petition for Rulemaking filed by Golden Orange Broadcasting Co., Inc., licensee of KDOC-TV, Channel 56, Anaheim, California, proposed to amend Section 76.51 of the Rules to change the designation of the Los Angeles-San Bernardino-Corona-Fontana, California, television to include Anaheim as a designated community in the hyphenated market.

2. In evaluating past requests for hyphenation of a market, the Commission has considered the following factors as relevant to its examination: (1) The distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area; (3) the presence of a clear showing of a particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change. Each of these factors helps the Commission to evaluate individual market conditions consistent "with the underlying competitive purpose of the market hyphenation rule to delineate areas where stations can and do, both actually and logically, compete."

3. Based on the facts presented, the Commission believes that a sufficient case for redesignation of the subject market has been set forth so that this proposal should be tested through the rulemaking process, including the comments of interested parties. It appears from the information before us that Station KDOC-TV and stations licensed to communities in the subject television market do compete for audiences and advertisers throughout much of the proposed combined market area, and that evidence has been presented tending to demonstrate commonality between the proposed community to be added to a market designation and the market as a whole. Moreover, the petitioner's proposal appears to be consistent with the Commission's policies regarding redesignation of a hyphenated television market.

4. The Commission also noted that, by Report and Order in MM Docket No. 93-207, DA 93-1444 (released December 7, 1993), Section 76.51 was amended to add Riverside, California, as a designated community in the market. Additionally, the Commission recognized that the proposed major market adjustment under consideration involves a particularly large television market, the nation's second largest. In another proceeding, the Commission is considering several alternative possibilities other than market hyphenation to respond to competition issues that are raised with regard to stations operating in large markets under existing rules. See Notice of Proposed Rule Making in MM Docket No. 93-290 (Newton, New Jersey and Riverhead, New York), 58 FR 62085 (Nov. 24, 1993). In this regard, the Commission stated that interested parties may wish to address the issues raised in that proceeding in connection with the instant proposal.

Initial Regulatory Flexibility Analysis

5. The Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act. A few cable television system operators will be affected by the proposed rule amendment. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

Ex Parte

6. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission's Rules. See *generally* 47 C.F.R. Sections 1.1202, 1.1203 and 1.1206(a).

Comment Dates

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before January 18, 1994, and reply comments on or before February 2, 1994. All relevant and timely comments will be considered before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comment, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

8. Accordingly, this action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by § 0.283 of the Commission's Rules.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.
Roy J. Stewart,
Chief, Mass Media Bureau.
[FR Doc. 93-31803 Filed 12-28-93; 8:45 am]
BILLING CODE 6712-01-M

VOL
58
ISS
248
DE
29
1993
UMI

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–02; Notice 03]

RIN 2127–AF14

Federal Motor Vehicle Safety Standards; Compressed Natural Gas Fuel Containers

AGENCY: National Highway Traffic Safety Administration (NHTSA), Transportation (DOT).

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This notice proposes to modify the agency's January 1993 proposal to establish a new Federal motor vehicle safety standard related to Compressed Natural Gas Fuel Containers. In its earlier notice, the agency proposed several requirements to ensure the safety of CNG containers including a burst requirement to evaluate the container's initial strength and its degradation over time. In this notice, the agency is proposing to pattern the burst requirement more closely on the American National Standards Institute's (ANSI) voluntary industry standard, known as NGV2. The agency's decision to seek comment on this alternative approach is prompted by the agency's consultation with other Federal agencies and its review of comments to the January proposal and other available information.

DATES: *Comments:* Comments on this notice must be received by the agency no later than January 28, 1994.

Proposed effective date: The standard would become effective six months after publication.

ADDRESSES: Comments on this notice should refer to the above docket and notice number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5267. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Gary R. Woodford, NRM–01.01, Special Projects Staff, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4931).

SUPPLEMENTARY INFORMATION: On January 21, 1993, NHTSA published a notice of proposed rulemaking (NPRM) in which the agency proposed to establish a new Federal motor vehicle safety standard specifying performance requirements for vehicles fueled by compressed natural gas (CNG).[1] (58 FR 5323). The proposal was based on comments received in response to an advance notice of proposed rulemaking (ANPRM) published on October 12, 1990 and other available information (55 FR 41561). The NPRM was divided into two segments: (1) Vehicle requirements regarding the integrity of the entire vehicle fuel system, and (2) equipment requirements regarding the fuel containers[2] alone.

The agency's proposals regarding equipment requirements for CNG containers included a proposal that the CNG containers would be subject to a pressure cycling test to evaluate container durability and a burst test to evaluate the container's initial strength and its degradation over time. More specifically, NHTSA proposed with respect to the burst test that a CNG fuel container would have to withstand an internal hydrostatic pressure of 3.50 times the service pressure for 60 seconds, without any leakage or circumferential deformation over one percent. The multiple of the internal hydrostatic pressure, 3.50, is known as the safety factor. The agency tentatively concluded that the burst test, together with a pressure cycling test, would be sufficient to assure adequate levels of safety performance for both the strength and durability of CNG fuel containers used in motor vehicles.

Inclusion of a burst test with a safety factor in the proposal was based on ANSI/AGA–NGV2–1992 (NVG2), an industry standard promulgated by the Natural Gas Vehicle Coalition (NGVC) that has subsequently been approved by ANSI. NGV2 specifies several sets of detailed material and design requirements. For each set of those requirements, the standard specifies a unique safety factor for calculating the internal hydrostatic pressure that the tank must withstand. The safety factors range from 2.25 to 3.50, depending on the material and design involved. Thus, to satisfy this aspect of the standard, a container must meet both the material and design requirements as well as the burst test.

The agency did not propose adoption of the material and design requirements of NGV2. Instead, the agency proposed the single safety factor of 3.50 for all containers, regardless of their materials or design. It tentatively concluded that the factor would not impede technological development, yet would assure an acceptable level of safety for all containers.

CNG container manufacturers, CNG associates (NGVC and the American Gas Association (AGA)), utility companies, the American Automobile Manufacturers Association (AAMA) and other commenters addressed the issue of the safety factor. Most commenters disagreed with the agency's proposal to require that all containers meet a single safety factor.

NGVC, AGA, and the container manufacturers generally stated that they believed that the material and design of the fuel container must be taken into account in establishing an appropriate safety factor, if safe, cost-effective, and light-weight containers are to be produced. Establishing an overly high factor for a given combination of material and design could result in over-designed, heavy containers. They believed that some materials, such as fiberglass, need a higher safety factor because they degrade faster over time. In contrast, they stated that other materials such as steel or carbon composite maintain their strength for a longer time, and therefore containers made of those materials can be made with a lower safety factor.

Many of these commenters stated that the agency should adopt NGV2. NGVC and AGA believed that the NGVC voluntary standard provides a more appropriate level of safety, given the different container constructions, than the regulations proposed by NHTSA.

Two commenters said they believed that a single safety factor was appropriate. CNG Pittsburgh, a consulting firm, stated that a safety factor of 3.50 is conservative but reasonable for CNG fuel containers. AAMA stated that adopting NGV2's approach with various safety factors between 2.25 to 3.50 depending on the material and design involved would limit a manufacturer's choice of container designs and materials.

After reviewing the comments, NHTSA consulted with other Federal agencies knowledgeable about high pressure container technology, including the Department of Transportation's Research and Special Programs Administration (RSPA), the Department of Commerce's National Institute of Standards and Technology (NIST), and the National Aeronautics and Space Administration (NASA). From discussions with these agencies and analysis of comments to the NPRM, NHTSA has tentatively concluded that there are no procedures that could

[1] Natural gas is a vapor at standard temperature and pressure that is lighter than air. When used as a motor fuel, it is compressed in high pressure containers to increase the vehicle's driving range.

[2] Among the terms used to describe CNG fuel tanks are tanks, containers, cylinders, and high pressure vessels. The agency will refer to them as "containers" throughout this document.

adequately test a container's susceptibility to fatigue and degradation over time. Specifying a single safety factor would not protect in all instances against these problems since the strength of some containers is highly dependent on the specific material and method of design. Therefore, NHTSA is considering a burst test which links the use of particular designs and materials to compliance with safety factors tailored to those designs and materials, since it appears that this approach may be necessary to ensure the safe performance of pressure vessels used for fuel containers. The agency further notes that international standards addressing CNG fuel containers, including regulations of Transport Canada and those being drafted by the International Standards Organization (ISO) follow this practice; i.e., linking use of particular designs and materials with strength requirements suitable for those designs and materials.

Based on these considerations, NHTSA is requesting comment on the appropriateness of requiring CNG containers to meet design and material requirements, such as those specified in NGV2, and to meet safety factors tailored to those requirements. More specifically, the agency is considering NGV2's specifications of types of primary and reinforcement materials, construction methods and practices, container dimensions, composite reinforcement, and tests for yield strength, tensile strength, and material elongation (NGV2 1–5 a-e, 1–6 c-f, 1–7 a-e, 1–9 a and b, 1–12a, and 1–13 b1 and b2). The agency advises commenters to review NGV2 for specific information about these and other provisions that the agency may decide to include in the final rule.

NHTSA notes that by incorporating NGV2 material and design provisions in the FMVSS, the only way a container manufacturer could comply with the Federal standard would be with a container that uses those materials and designs specified in NGV2. To permit containers using other materials or designs not specified in NGV2, a manufacturer would have to petition NHTSA to amend the Federal standard. An alternative to the petition process would be for the Federal standard to specify a catch-all high end safety factor for any container whose design and materials are not specified in NGV2. While the agency is concerned whether inclusion of a high-end safety factor would be sufficient by itself to prevent the manufacture of containers using inferior designs or materials that degrade rapidly, it nevertheless requests comments about the appropriateness of such a catch-all provision. More generally, the agency requests comment about the effect of adopting NGV2 on future container technology.

Rulemaking Analyses

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has analyzed this supplemental proposal and determined that it is not "significant" within the meaning of Executive Order 12866 or the Department of Transportation regulatory policies and procedures. The agency believes that CNG container manufacturers already comply with NGV2. Thus, the estimates of potential regulatory impacts in the Preliminary Regulatory Evaluation remain valid. That evaluation has been placed in the docket for this rulemaking.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the discussion in the immediately preceding paragraph, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12612 (Federalism)

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the proposed rule would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this proposed rule. The agency has determined that this proposed rule, if adopted as a final rule, would not have any adverse impact on the quality of the human environment. On the contrary, because NHTSA anticipates that ensuring the safety of CNG vehicles would encourage their use, NHTSA believes that the proposed rule would yield positive environmental consequences because CNG burns cleaner than gasoline or diesel fuels. VII.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket at the above address. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and NHTSA recommends that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50

Issued on December 22, 1993.

Barry Felrice,

Associate Administrator for Rulemaking

[FR Doc. 93–31712 Filed 12–23–93; 9:48 am]

BILLING CODE 4910–59–M

VOL 58 ISS 248 DE 29 1993 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 215, 216, and 222

[Docket No. 930404-3104; I.D. 122193B]

RIN 0648-AD11

Protected Species Special Exception Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; notice of public briefing and extension of comment period.

SUMMARY: In response to several requests, NMFS will hold a second public briefing on a proposed rule to revise regulations for public display, scientific research, and enhancement permits. To enable interested persons that attend this briefing an opportunity to comment, the comment period on the proposed rule is extended by 2 weeks.

DATES: The public briefing on the proposed revised permit regulations will be held at 10 a.m., on January 7, 1994. Written comments on the proposed rule must be postmarked or received by January 28, 1994.

ADDRESSES: The briefing will be held in Building 9 Auditorium, NOAA Sand Point Facility, 7600 Sand Point Way N.E., Seattle, WA 98115. Written comments on the proposed rule should be mailed to the Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Clearly mark the outside of the envelop "Proposed Rule Comments." A copy of the proposed rule may be obtained by writing to the same address, or by sending a facsimile to Ann Terbush at (301) 713-0376.

FOR FURTHER INFORMATION CONTACT: Ann Hochman, Ann Terbush, or Art Jeffers at (301) 713-2289, or Brent Norberg at (206) 526-6140. If you need accommodations to attend the briefing, please call Ann Hochman on (301) 713-2289 (voice). People who are deaf or hearing impaired may place a call through the Maryland Relay Service on 1-800-735-2258.

SUPPLEMENTARY INFORMATION: The proposed rule was published in the Federal Register (58 FR 53320) on Thursday, October 14, 1993. Three public hearings and one public briefing were held on the proposed rule (58 FR 58680). The comment period was extended previously until January 14, 1994 (58 FR 64285).

List of Subjects

50 CFR Part 215

Administrative practice and procedure, Marine Mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine Mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: December 23, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93-31864 Filed 12-28-93; 8:45 am]

BILLING CODE 3510-22-P

50 CFR Parts 672 and 675

Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS issues this notice that the North Pacific Fishery Management Council (Council) has submitted Amendment 25 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) for Secretarial review and is requesting comments from the public. Copies of the amendment may be obtained from the Council (see ADDRESSES).

DATES: Comments on the FMP amendment should be submitted on or before February 22, 1994.

ADDRESSES: Comments on the FMP amendment should be submitted to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska, 99802 (Attn: Lori Gravel).

Copies of the amendment and the environmental assessment/regulatory impact review prepared for the amendment are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510 (telephone 907-271-2809).

FOR FURTHER INFORMATION CONTACT: Susan Salveson, National Marine Fisheries Service, Alaska Region, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon reviewing the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments received during the comment period in determining whether to approve the plan or amendment.

Amendment 25 would eliminate the primary pacific halibut prohibited species catch (PSC) limit that, when reached, closes Bycatch Limitation Zones 1 and 2H of the Bering Sea.

A proposed rule to implement Amendment 25 has been submitted for Secretarial review and approval. The proposed rule also includes regulatory amendments that would (1) authorize the release of vessel specific observer data on bycatch of prohibited species, and (2) prohibit the discard of salmon taken as bycatch in the BSAI groundfish trawl fisheries until each salmon has been counted by a NMFS-certified observer.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 23, 1993.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-31830 Filed 12-23-93; 2:01 pm]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 58, No. 248

Wednesday, December 29, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 23, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 690-2118.

Revision

- Farmers Home Administration
7 CFR 1924-A, Planning and Performing Construction and Other Development
FmHA 1924-1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 18, 19, 25, and CC-257
Recordkeeping; on occasion
Individuals or households; farms; businesses or other for-profit; non-profit institutions; small businesses or organizations; 412,582 responses; 141,696 hours
Jack Holston (202) 720-9736

Reinstatement

- Farmers Home Administration
7 CFR 1948-C, Intermediary Relending Program
Form FmHA 1948-1
Recordkeeping; on occasion
State or local governments; businesses or other for-profit; non-profit institutions; small businesses or organizations; 5,030 responses; 17,258 hours
Jack Holston (202) 720-9736

- Farmers Home Administration
7 CFR 1956-C, Debt Settlement—Community and Business Programs
On occasion
Individuals or households; State or local governments; businesses or other for-profit; non-profit institutions; 55 responses; 448 hours
Jack Holston (202) 720-9736

- Farmers Home Administration
7 CFR 1951-E, Servicing of Community and Insured Business Programs Loans and Grants
FmHA 1951-15; 1951-33
On occasion
State or local governments; non-profit institutions; 180 responses; 120 hours
Jack Holston (202) 720-9736

New Collection

- Agricultural Stabilization and Conservation Service
7 CFR Part 1464, Subpart B—Importer Assessments
CCC-100
Every 10 days
Businesses or other for-profit; 3,600 responses; 11,300 hours
Gary Wheeler (202) 720-7562

- Forest Service
Cultural Perceptions of Wildland Recreation
Quarterly
Individuals or households; 1,860 responses; 480 hours
Donald B.K. English (706) 546-2451

Donald E. Hulcher,

Deputy Department Clearance Officer.

[FR Doc. 93-31716 Filed 12-28-93; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Feather Fork Mine Development, Plumas National Forest; Intent to Prepare an Environmental Impact Statement

SUMMARY: The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement to disclose the environmental consequences of the proposed Feather Fork Mine development by Plumas Gold, USA, Inc. The project is located on the La Porte Ranger District, Plumas National Forest, Plumas County, California. The Feather Fork Mine is on both private and public lands, and is approximately 5 air miles northeast of the town of La Porte, California in Section 14, T. 22 N., R. 9 E, Mt. Diablo Meridian. The Forest Service invites written comments on this proposal. A full environmental analysis will be conducted. The Draft Environmental Impact Statement (DEIS) will be published in February 1994 and the Final Environmental Impact Statement (FEIS) will be available for review in May 1994.

DATE: Comments concerning the scope of analysis should be received in writing by January 14, 1994.

ADDRESSES: Submit written comments and suggestions to Charles W. Smay, District Ranger, PO Drawer 369, Challenge, CA 95925.

FOR FURTHER INFORMATION CONTACT: Michael A. Heath, Resource Officer, phone 916-675-2462. (The person who can answer most of the questions on the project).

SUPPLEMENTARY INFORMATION: The Plumas National Forest Land and Resource Management Plan provides direction for management of the project area located within Management Area 15, Little Grass. The Forest Plan has designated the area to be managed under the Timber Emphasis and Maximum Modification Prescriptions.

The project proposal is an underground gold mining operation submitted by Plumas Gold Mines USA, Inc. A new decline will be constructed to access the underground workings and transport ore to the surface. Gravels will be loaded by a road header onto trucks, much like a coal mining operation. This material will be stock piled for processing seven days a week. The gravels will be passed through a grizzly and onto a wash plant for sizing and washing. A jig and gold room will be used for the final concentration of gold. The mine life is 20 years at the design rate of 500 tons per day. Total tons to be mined is 3,600,000. Approximately 15-20 workers will be employed by Plumas Gold Mines, USA.

VOL 58 ISS 248 DE 29 1993 UMI

To maintain a 500 tons per day processing rate, winter access will be required by plowing snow over 10 miles of the main access road to the mine. A range of alternatives for this project will be considered, one of which would be a no action alternative. Other alternatives include various combinations of winter access to resolve conflicts with winter sport activities.

H. Wayne Thornton, Forest Supervisor, Plumas National Forest, Quincy, California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). Some initial scoping and analysis has been completed for this proposed project. Major issues at this point include: (1) Conflict with other uses of the forest resources with "right to access" under the 1872 Mining Law, and (2) The mine site is located in a Protected Activity Area (PAC) for the California Spotted Owl.

The Forest Service will be seeking information, comments and assistance from federal, state agencies, local agencies, and other individuals and organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the DEIS. The scoping process includes:

1. Identifying potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The U.S. Forest Service is the Lead Agency. The Plumas County Planning Department has agreed to participate as a cooperating agency to evaluate impacts on both private and public lands that may exist in the proposed mining area.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January 1994. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register**. The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency's Notice of Availability appears in the **Federal Register**. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

After the comment period for the DEIS ends, the comments received will be analyzed and considered by the Forest Service in preparation of the FEIS. The FEIS is scheduled to be completed by April 1994. In the FEIS the Forest Service is required to respond to comments received (40 CFR 1503.4). The responsible official will consider comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

Dated: December 2, 1993.

Calvin Bird,

Acting Forest Supervisor.

[FR Doc. 93-31856 Filed 12-28-93; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Western Farmers Electric Cooperative; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) with respect to the potential environmental impacts resulting from a project proposed by Western Farmers Electric Cooperative (Western Farmers), of Anadarko, Oklahoma. The proposed project consists of the construction of approximately 32.0 miles of 138 kV transmission line and associated facilities in Pittsburg and Latimer Counties, Oklahoma.

REA has concluded that the environmental impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not required.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, REA, Agriculture South Building, Washington, DC 20250, telephone (202) 720-1784.

SUPPLEMENTARY INFORMATION: REA, in accordance with its environmental policies and procedures, required that Western Farmers prepare a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER, which includes input from the Federal, State, and local agencies, has been adopted as REA's Environmental Assessment for the project in accordance with 7 CFR 1794.61. REA has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The proposed project should have no impact on cultural resources, floodplains, wetlands, water quality and Federally listed or proposed for listing threatened or endangered species or their critical habitat. Approximately 2.4 acres of prime farmland will be impacted by the proposed Manning Substation.

The proposed transmission line will tap Western Farmers' existing Tupelo-Lone Oak Transmission Line at a site approximately 1.5 miles north of Hartshorne, Oklahoma. The line will extend approximately 15.0 miles east to the proposed Manning Substation site located approximately 2.0 miles southwest of the town of Wilburton. The line would then continue east approximately 17.0 miles to the new Red Oak Substation site located approximately 4.0 miles southwest of the town of Red Oak.

Alternatives considered to the project as proposed were no action, purchase of power from Oklahoma Gas and Electric, renewal of existing contracts for substation use and wheeling of power with Public Service of Oklahoma, and alternative routes. REA has considered these alternatives and concluded that the project as proposed meets the present and future engineering and economic needs of Western Farmers and its member systems.

Copies of the BER and FONSI are available for review at REA at the aforementioned address, or can be reviewed at or obtained from the offices of Western Farmers, 710 NE 7th Street, Anadarko, Oklahoma 73005.

Dated: December 22, 1993.

Wally Beyer,

Administrator.

[FR Doc. 93-31721 Filed 12-28-93; 8:45 am]

BILLING CODE 3410-15-P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will Convene at 1 p.m. and adjourn at 5 p.m. on Wednesday, January 26, 1994, at the Sheraton River House, 3900 NW. 21st Street (1/4 mile from the Miami International Airport), Miami, Florida 33142. The purpose of the meeting is to discuss the status of the Commission, SACs, 1994 appropriations, and staff and Commissioner appointments; discuss and update the current project, "Racial and Ethnic Tensions in Florida," and to discuss civil rights developments in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairpersen Bradford Brown, 305-361-4284, or Bobby D. Doctor, Director of the Southern Regional Office, 404-730-2476 (TDD 404-730-2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 17, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93-31634 Filed 12-28-93; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).
Title: Request for Amendment Action.
Agency Form Number: BXA-685P.
OMB Control Number: 0694-0007.
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 224 hours.
Number of Respondents: 840.
Avg Hours Per Response: 15 minutes for form; 1 minute for recordkeeping.
Needs and Uses: This requirement permits U.S. exporters of controlled goods to amend their outstanding export licenses. The amendment, if approved by BXA, allows the exporter to make the changes in lieu of applying for a new license.
Affected Public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Gary Waxman, (202) 395-7340.

Agency: Bureau of Export Administration (BXA).
Title: Notification of Delivery Verification Requirement.
Agency Form Number: BXA-648P.
OMB Approval Number: 0694-0008.
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 6 hours.
Number of Respondents: 11.
Avg Hours Per Response: 30 minutes.
Needs and Uses: In order to increase the effectiveness of export controls on international trade in strategic commodities, COCOM and other countries participate in the Import Certificate/Delivery Verification procedure. This clearance request is for the form used to notify U.S. exporters that they must require from their foreign consignee a certification that the commodities exported were actually delivered to the foreign consignee.
Affected Public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Gary Waxman, (202) 395-7340.

Agency: Bureau of Export Administration (BXA).
Title: Recordkeeping Requirements Under General License GLOG.
Agency Form Number: No form number but requirements can be found at Section 771.7(b) of the Export Administration Regulations.
OMB Approval Number: 0694-0065.
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 50 hours.
Number of Recordkeepers: 50.
Avg Hours Per Recordkeeper: 1 hour.
Needs and Uses: BXA needs information to be maintained for the record to ensure that unprocessed western red cedar being exported is not harvested from public lands and therefore not subject to short supply regulations. These records are subject to audit.
Affected Public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: Recordkeeping.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Gary Waxman, (202) 395-7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).
Title of Survey: Marine Mammal Takings (Stranding Reports).
Agency Form Number: None assigned.
OMB Approval Number: 0648-0178.
Type of Request: Revision of a currently approved collection.
Burden: 1,333 hours.
Number of Respondents: 650.
Avg Hours Per Response: 20 minutes.
Needs and Uses: Marine mammal stranding reports provide baseline information on marine mammal mortalities, human interactions, and population dynamics. The agency uses the information to fulfill its management responsibilities under the Marine Mammal Protection Act. The information is submitted primarily by volunteer members of the marine mammal stranding networks.
Affected Public: Individuals, state or local governments, federal agencies or employees, and non-profit institutions.
Frequency: On occasion — as strandings occur.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Don Arbuckle, (202) 395-7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Cooperative Game Fish Tagging Report.
Agency Form Numbers: NOAA 88-162 and 88-163.
OMB Approval Number: 0648-0247.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 360 hours.

Number of Respondents: 2,000.

Avg Hours Per Response: 2 minutes.

Needs and Uses: The Cooperative Marine Game Fish Tagging Program began in the Southeast Region in 1971. Data are needed to determine migratory patterns, distance traveled, stock boundaries, age, and growth of billfish and other recreational and commercially valued species. Anglers volunteer to participate in the program. Resulting analyses are used to develop fishery management plans.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Gary Waxman or Don Arbuckle, as appropriate, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: December 22, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–31839 Filed 12–28–93; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1996 Pretests for the Survey of Income and Program Participation (SIPP) Redesign.

Form Number(s): Control, Core and Topical Modules In An Automated Instrument, and Reminder Card.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 840 hours.

Number of Respondents: 840.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The 1996 Pretests are part of a program of evaluation and development emerging from a comprehensive reassessment of the SIPP. The SIPP redesign is an evolving process that has multiple developmental and testing stages. Full implementation of the SIPP redesign is scheduled for February 1996. This clearance request is to accommodate pretests using a newly designed automated survey instrument. The pretests will involve two waves of interviews. The persons interviewed in Wave 1 will be interviewed again 4 months later in Wave 2. Objectives of the pretests are: to evaluate the total integration of the automated instrument; to observe field interviewing techniques through laptop management application; to assess the case management system's ability to assign, accept, and transfer cases; and to test closeout activities and post–closeout data preparations. Pretest interviewing will take place between April and September 1994.

Affected Public: Individuals or households.

Frequency: Twice during 1994.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: December 23, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–31835 Filed 12–28–93; 8:45 am]

BILLING CODE 3510–07–F

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 11/16/93–12/15/93

Firm name	Address	Date petition accepted	Product
Ioline Corporation	12020 113th Avenue Northeast, Kirkland, WA 98034.	11/20/93	Vinyl sign cutter and computer aided design plotter.
Enterprise Machine & Development Corporation.	100 Fernwood Avenue, New Castle, DE 19720.	11/24/93	Air texturing machine, air jet manifold.
United States Gear Corporation	9420 Stony Island Avenue, Chicago, IL 60617.	11/24/93	Gears for trucks.
Aviat, Inc	672 South Washington Street, Afton, WY 83110.	11/26/93	Light aircraft.
Dynabil Industries, Inc	P.O. Box 810, Flint Mine Road, Coxsackie, NY 12051.	11/26/93	Aircraft skins, brackets door, window frames, structural and exhaust assembly components.
Refractron Technologies Corp	5750 Stuart Avenue, Newark, NY 14513	11/29/93	Ceramic filters and diffusers and filter drier cores.
Cris Craft, Ltd	3152 Maiden Lane, Manchester, MD 21102.	11/29/93	Ladies skirts, shorts and warm-up suits.
North Bergen Piece Dye Works, Inc	1701 75th Street, North Bergen, NJ 07047	12/01/93	Dyed and finished woven fabric made of polyester, nylon, acetate and rayon.
Insulated Duct & Cable Company	96 Stokes Avenue, Trenton, NJ 08605	12/07/93	Tubing and hoses.
PCI Group, Inc	Industrial Park, Box B–976, New Bedford, MA 02741.	12/07/93	Shoe eyelets.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 11/16/93–12/15/93—Continued

Firm name	Address	Date petition accepted	Product
Nevin Laboratories, Inc	5000 S. Halsted Street, Chicago, IL 60609	12/07/93	Dental work stations and cabinets, of sheet steel, with countertops, lights and shelves.
S. Bent & Bros., Inc	85 Winter Street, Gardner, MA 01440	12/07/93	Tables, chairs and case goods.
Wagner Mining & Construction Equipment Company.	P.O. Box 20307, Portland, OR 97220–0307.	12/07/93	Scoop trams and mining and coal vehicles.
American Massage Products, Inc	341 Central Avenue, Silver Creek, NY 14136.	12/10/93	Therapeutic chairs and therapeutic beds.
Synehi Castings, Inc	P.O. Box 2097, Greenwood, SC 29646	12/10/93	Textile machine parts and electrical control components.
A&D Fashions, Inc	55–57 South 7th Street, Emmaus, PA 18049.	12/14/93	Ladies tops and T-shirts.
Cattle Kate, Inc	3530 South Park Drive, Jackson, WY 83001.	12/14/93	Silk scarves.
DTM Products, Inc	6268 Monarch Park Place, Niwot, CO 80503.	12/14/93	Computer parts, burglar alarm parts, roller blades wheels, tooth brushes and waterpiks.

International Trade Administration

[A–533–809]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Forged Stainless Steel Flanges from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 29, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or Brian Smith, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1756 or (202) 482–1766, respectively.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that certain forged stainless steel flanges (flanges) from India are being, or likely to be, sold in the United States at less than fair value, as provided in Section 735 of the Tariff Act of 1930, as amended (the Act). We also determine that critical circumstances exist for Mukand Ltd. (Mukand), Sunstar Metals Ltd. (Sunstar), Bombay Forgings Pvt. Ltd. (Bombay Forgings) Dynaforge and for all other manufacturers, producers or exporters of subject merchandise. Further, we determine that critical circumstance do not exist for Akai Impex Ltd. (Akai). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of the preliminary determination on July 29, 1993, (58 FR 41713 (August 5, 1993)), the following events have occurred. On August 2, 1993, Akai, one of the respondents in this investigation, submitted its response to the Department's deficiency letter regarding U.S. sales data.

On August 6, 1993, Akai requested a postponement of the final determination. We granted Akai's request and on August 11, 1993, we postponed the final determination until not later than December 20, 1993 (58 FR 44493 (August 23, 1993)).

On August 10, 1993, Akai requested a hearing. On August 13, 1993, Mukand, another respondent, also requested a hearing. However, both respondents withdrew their request prior to the scheduled hearing date.

On August 11, 1993, we received Akai's response to information requested by the Department concerning the production of subject merchandise sold during the period of investigation (POI).

On August 25, 1993, we received Akai's response to the Department's supplemental deficiency questionnaire regarding sales and cost data.

On August 30, 1993, Mukand submitted its case brief. Also on August 30, 1993, we received cost questionnaire responses from Forshas Forgings Pvt. Ltd. (Forshas) and Echjay Forgings Pvt Ltd, (Echjay), two unrelated companies to whom Akai subcontracted a portion of its production of flanges. On August 31, 1993, we received a cost response from M.K. Engineers, another of Akai's unrelated subcontractors. However, these submissions were not filed in accordance with 19 CFR 353.31 and 353.32. Therefore, we returned these submissions and allowed these companies to resubmit their responses by no later than September 17, 1993. All three companies refiled their Section D

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: December 22, 1993.

Pedro R. Garza,

Deputy Assistant Secretary for Program Operations.

[FR Doc. 93–31840 Filed 12–28–93; 8:45 am]

BILLING CODE 3510–DS–M

VOL 58 ISS 248 DEC 29 1993 UMI

submissions within the prescribed deadline.

On September 15, 1993, we requested further information and clarification of the cost responses submitted by Echjay, Forshas and M.K. Engineers. On September 22, 1993, we received a response from Echjay. We did not receive response from either Forshas or M.K. Engineers.

On September 23, 1993, we advised Akai that there were discrepancies in its total volume and values reported in its previous response. On the same day, Akai submitted revised statistics for its sales exported to the United States during the period January 1991 to July 1993, a revised U.S. sales listing, and its audited balance sheet for the year ending March 31, 1993.

From October 4 through October 13, 1993, we verified the questionnaire responses submitted by Akai, Echjay and Forshas and M.K. Engineers. On October 18, 1993, we received comments from Echjay concerning our method of determining the "all other" rate.

We received case briefs from petitioners and Akai on November 17, 1993. We received rebuttal briefs from petitioners and Akai on November 21, 1993.

On November 22, 1993, petitioners alleged that both Akai and Mukand were planning to circumvent the upcoming antidumping duty order, should one be issued. On December 8, 1993, Gerlin, Inc., one of the petitioners in this investigation, also submitted a letter to the Department concerning possible circumvention of the potential antidumping duty order. Since this information was received too late to be addressed in this investigation pursuant to CFR 353.31(a)(l)(i), we have forwarded this information to the office of Antidumping Compliance for consideration.

Scope of Investigation

The products covered by this investigation are certain forged stainless steel flanges, both finished and not-finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld neck, (used for butt-weld line connections), threaded, (used for threaded line connections), slip-on & lap joint, (used with stub ends/butt-weld line connections), socket weld, (used to fit pipe into a machined recession), and blind, (used to seal off a line). The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above described merchandise are included in the scope. Specifically excluded from the scope of this investigation are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this investigation are currently classifiable under subheading 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this investigation remains dispositive.

Period of Investigation

The POI is July 1, 1992, through December 31, 1992.

Such or Similar Comparisons

We have determined that the product covered by this investigation constitutes a single category of such or similar merchandise.

Fair Value Comparisons

To determine whether sales of flanges from India to the United States were made at less than fair value, we compared the United States Price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

Bombay Forgings and Dynaforge

As discussed in detail in our preliminary determination, as best information available (BIA), we are assigning Bombay Forgings and Dynaforge the highest rate in the petition. These two companies failed to respond to our mini-Section A antidumping questionnaire.

Mukand and Sunstar

As discussed in detail in our preliminary determination, as BIA we are also assigning Mukand and Sunstar the highest rate in the petition. We determined that these two companies significantly impeded our proceeding. (See Comment 2 in the "Interested Party Comments" Section of this notice for further discussion.)

Akai

United States Price

For Akai, we based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation. We calculated purchase price based on packed, CIF (*i.e.*, cost, marine insurance and freight) prices to unrelated customers. We corrected Akai's data for minor errors and omissions found at verification. We made deductions for ocean freight, marine insurance and containerization, which included foreign inland freight, in accordance with section 772(d)(2) of the Act. Regarding marine insurance, we determined that Akai incorrectly reported these expenses for a significant number of transactions. Accordingly, we have based the deductions for these expenses on BIA. As BIA, we used the highest verified percentage of gross unit price represented by this expense and applied this percentage to all of Akai's sales transactions. (See Comment 5.)

Foreign Market Value

We have used constructed value (CV) to calculate FMV for Akai because Akai does not have sales in the home market or sales to third countries.

We have determined that Akai is the producer in this investigation because Akai controls the costs for all elements incorporated in the manufacture of the subject merchandise. (See final concurrence memorandum dated December 20, 1993, for a detailed analysis of our decision. (See also Comment 1.)

We relied on the CV submitted data, except in the following instances where the costs were not approximately quantified or valued:

1. Since Akai had incorrectly applied its packing cost calculation methodology to more than 45 percent of the transactions examined, as BIA, we recomputed packing costs using the highest verified percentage of gross unit price represented by this expense (See Comment 5);
2. We increased general and administrative expenses (G&A) to account for depreciation expense on administrative fixed assets (See Comment 14);
3. We increased the cost of manufacturing (COM) by the weighted-average variance noted at verification from sampled cost of manufacturing components (See Comment 11);
4. We included quality control costs incurred during the POI in the COM (See Comment 13);
5. For product codes with duplicate costs, we used the highest value reported for each product code, as BIA;
6. For one product code with an aberrational material cost, we used the reported material cost for the most similar flange; and
7. For those product codes for which we did not have product specific CV, as BIA, we applied the highest margin otherwise calculated for Akai to those sales transactions.

In accordance with section 773(e)(1) of the Act, we included in CV Akai's cost of materials and fabrication based on Akai's acquisition prices from its subcontractors for the manufacturing of subject merchandise. We also included the greater of (1) Akai's reported general expenses or (2) the statutory minimum of ten percent of COM. For profit, we used the statutory minimum of eight percent of the sum of COM and general expenses because Akai had no home market or third country sales. We also used U.S. selling expenses (direct and indirect) as a surrogate for home market class or kind selling expenses because Akai had no home market or third country sales.

Before comparing USP to CV, we corrected Akai's data for minor errors and omissions found at verification. We reclassified Akai's export expenses, bank charges and export credit guaranty corporation (ECGC) commissions, reported in Akai's cost responses but not separately identified in its U.S. sales listings, as direct selling expenses. (See Comment 6.) We also recalculated credit expenses, using the revised payment dates noted at verification. (See Comment 8.) We then made circumstance of sale adjustments, where appropriate, for credit, bank charges, ECGC commissions, stamp fees and export expenses. We added packing to the FMV.

Currency Conversion

Because certified daily exchange rates from the Federal Reserve were unavailable, we made currency conversions based on the official quarterly exchange rates in effect on the dates of the U.S. sales as certified by the U.S. Treasury.

Verification

As provided in section 776(b) of the Act, we verified information provided by Akai and its subcontractors by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Critical Circumstances

Petitioners allege that "critical circumstances" exist with respect to imports of the subject merchandise from India. Section 735(a)(3) of the Act provides that critical circumstances exist if:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Under 19 CFR 353.16(f), we normally consider the following factors in determining whether imports have been massive over a short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

In determining knowledge of dumping, we normally consider margins of 15 percent or more sufficient to impute knowledge of dumping under section 735(a)(3)(A)(ii) for exporters sales price sales, and margins of 25 percent or more for purchase price sales. (See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy, 52 FR 24198, (June 29, 1987)).

For purposes of determining whether critical circumstances exist, we have determined that there is no history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of this investigation. Moreover, because the final margin for Akai is less than 25 percent, we determine in accordance with section 735(a)(3)(A)(ii) of the Act that knowledge of dumping does not exist for that company. Regarding massive imports, we determine that Akai had massive imports during the POI, based on the above criteria. However, because neither history nor knowledge of dumping exists for Akai, we determine that critical circumstances do not exist for Akai.

Regarding Mukand, Sunstar, Bombay Forgings, and Dynaforge, since the final margins for those companies are over 25 percent, we determine that knowledge of dumping exists, in accordance with section 735(a)(3)(A)(ii) of the Act. Furthermore, as BIA for these companies, we are making the adverse assumption that imports were massive over a relatively short period of time in accordance with section 735(A)(3)(B) of the Act. Based on this analysis, we determine that critical circumstances exist for imports of flanges from India for Mukand, Sunstar, Bombay Forgings and Dynaforge.

With respect to the firms covered by the "all others" rate, because the final margin exceeds 25 percent, we determine in accordance with section 735(a)(3)(A)(ii) of the Act that knowledge of dumping exists. Also, because we have determined that Akai and all other companies assigned a margin in this investigation had massive imports during the POI, we are also determining that massive imports exist for "all other" manufacturers, producers or exporters of subject merchandise. Therefore, we determine that critical circumstances exist for "all other" manufacturers, producers or exporters of subject merchandise.

Interested Party Comments

Comment 1

Petitioners contend that Akai is not the proper respondent in this case because Akai cannot be considered the manufacturer, insofar as Akai does not own any of the machines used in the manufacturing or finishing of the subject merchandise, did not direct or control the production of the subject merchandise during the POI, and could not demonstrate at verification that it purchased all the raw materials used by its subcontractors. Therefore, petitioners contend that Akai's costs and financial data cannot be used in any margin calculation. Petitioners further state that the facts in this case are almost identical to those in Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan; Final Results of Changed Circumstances Antidumping Administrative Review, 58 Fed. Reg. 32644 (June 11, 1993) ("MMF Sweaters"), where the Department found that the respondent (Jia Farn) was not a producer, but was simply reselling merchandise made by other manufacturers.

Akai argues that it is the producer of the subject merchandise insofar as it purchases and delivers the raw materials to subcontractors, controls the production and inspection of the end products, and owns the machines which were used for the finishing of flanges at its related party. Akai also states that at a minimum, it is an appropriate respondent as a reseller.

DOC Position

We disagree with petitioners that Akai is not the producer of the subject merchandise under investigation. Based on the facts set forth below, we have determined that Akai is the producer of this merchandise and, consequently, its costs are the appropriate basis for CV.

In this investigation, the Department is basing FMV on CV. Under section 773(e)(1) of the Act, as well as 19 CFR 353.50(a), the Department is required, in calculating CV, to determine the sum of the costs for materials, fabrication, and packing, as well as general expenses and profit. The Department is required to capture all the costs involved in the

production of the subject merchandise, and must therefore look to the company that controls the costs of production of the merchandise.

We verified that Akai purchases and maintains title (during the entire course of production) to the raw materials used for the production of the vast majority of the flanges, and that Akai directs and controls the manufacturing process insofar as it determines the quantity, size, and type of flanges to be produced. Accordingly, for the vast majority of the flanges produced and sold during the POI, we have determined that Akai controls the costs for all elements incorporated in the production of the flanges.

For a small percentage of the flanges produced and sold in the POI, Akai purchased completed rough flanges from unrelated producers. Some of these rough forgings were forwarded to machining shops for further manufacturing prior to shipment to the United States. We are using Akai's acquisition price to these unrelated forgers in constructing a value for the manufacture of these forgings. We are also using Akai's acquisition price for the small quantity of rough and machined flanges purchased from its wholly-owned related company. Ideally, we would use the costs of those manufacturers in calculating CV for those rough flanges sent to the United States without further manufacturing However, all of the flanges are essentially fungible, and it is not possible to separate the sales of those flanges from the rest of the sales. On the basis of the information available, it is reasonable, in the context of calculating the estimated dumping margin in this investigation, to use Akai's acquisition cost for this comparatively small number of flanges.

We also disagree with petitioners regarding MMF Sweaters. This case is readily distinguishable from MMF Sweaters in that Jia Farn could not show that it bought the raw materials used to produce the subject merchandise, directed or controlled the process of manufacture or production, or performed any processing on the subject of merchandise Akai, on the other hand, performs all of these functions with respect to most of its sales of flanges.

Comment 2

Mukand argues that both the Department's termination of the investigation with respect to Mukand and the continued application of the most adverse BIA rate to that company is inappropriate. Mukand asserts that the antidumping law is intended to be remedial, rather than punitive, in nature. Accordingly, Mukand contends that the Department's refusal to consider Mukand's data achieves none of the goals intended by the antidumping law.

Moreover, Mukand contends that it did not seriously impede the proceeding (the basis cited by the Department for using BIA), in that once Mukand became aware of the inconsistencies in its responses, it took all the necessary steps to correct the problem. Mukand asserts that, by assigning it the highest rate in the petition, the Department is effectively ignoring the numerous timely submissions made by Mukand, as well as the remedial actions taken by the company after the difficulties were identified.

According to Mukand, the Department should reconsider its position and use Mukand's actual data in the final determination. Alternatively, Mukand argues that, in the event that the Department determines that BIA is justified, the Department should apply a less adverse BIA rate because it "substantially cooperated" in the investigation.

DOC Position

In a June 22, 1993, memorandum to Barbara R. Stafford, Deputy Assistant Secretary for Investigations, we determined that Mukand and Sunstar, by their submissions of misleading and contradictory information, had significantly impeded this investigation. Section 776(c) of the Tariff Act of 1930, as amended, provides that whenever a party significantly impedes an investigation, the Department shall use BIA. We determined that, as evidenced by their submissions, respondents had misled the Department as to their business relationship and selling products. This information was critical to our analysis, and, without credible information, we were unable to proceed with the investigation. Accordingly, because Mukand and Sunstar have significantly impeded the Department's antidumping duty investigation, the statute requires the application of BIA. As BIA we used the highest margin contained in the petition.

Comment 3

Petitioners argue that Echjay and Forshas knew that the merchandise they were manufacturing for Akai was destined for the United States. Petitioners state that this is a critical point because the fact that these manufacturers knew the goods were to be exported must be taken into account by the Department in its determination of who the appropriate producer, and therefore respondent, is in this investigation. Specifically, petitioners cite Antifriction Bearings (Other Than Taper Roller Bearings) and Parts Thereof From France: et al; Final Results of Antidumping Duty Administrative Reviews (57 FR 28360, June 24, 1992), where the Department terminated its review of a reseller of antifriction bearings on the grounds that the reseller's suppliers had knowledge at the time they sold their merchandise to the reseller that those sales were destined for the United States. Petitioners note that in that review the Department reasoned that the suppliers were effectively acting as exporters, and, as such, the Department determined that it must use the pricing structure of the suppliers (rather than the resellers) to measure dumping activity. Petitioners contend that the fact pattern in the instant investigation is directly analogous, because Echjay and Forshas knew that the flanges in question were destined for the United States. Consequently, petitioners argue that Akai's U.S. prices are not relevant and that the Department should terminate its investigation of Akai

DOC Position

We disagree. In this case, the Department has determined that Akai is the producer of the merchandise under investigation and, consequently, is the appropriate respondent. (See Comment 1, above.) Therefore, it is irrelevant whether the subcontractors to which Akai paid an acquisition fee for processing its raw material knew the ultimate destination of the end product.

Comment 4

Akai argues that, in contrast to the data available at the preliminary determination, the Department now has sufficient information with which to calculate its dumping margin. Akai notes that the Department verified the fundamental data in Akai's submissions and that, in those cases where the Department found discrepancies at verification, either they involved minor adjustments or the Department was able to obtain the data to make the necessary corrections.

Petitioners disagree, stating that, not only is Akai not the proper respondent in this investigation, but also the errors and omissions discovered at verification were so significant that their correction would result in an entirely new response. Moreover, petitioners maintain that the information collected at verification was "new information" and that the Department is prohibited from using it under § 353.31 of the Department's regulations because it is untimely

DOC Position

We agree with Akai. Although at verification we found errors in the calculation of certain of Akai's expenses, the errors were not so significant as to call into question the fundamental integrity of Akai's response. Moreover, contrary to petitioners assertions, we did not accept "new information" at verification. Rather, we found that Akai failed to report certain direct selling expenses in its U.S. sales listing. This information, however, was on the record prior to verification as part of the Section D response. Accordingly, we have accepted Akai's response for purposes of the final determination.

Comment 5

Petitioners argue that Akai incorrectly reported its packing and marine insurance expenses in a significant number of instances. Regarding packing, petitioners assert that the Department sampled the packing material expenses reported and found that Akai had incorrectly applied its calculation methodology in over 45 percent of the cases. Moreover, petitioners assert that Akai completely failed to report packing labor expenses. Regarding marine insurance, petitioners contend that Akai incorrectly reported these expenses for over 66 percent of the transactions examined at verification. Furthermore, petitioners maintain that Akai incorrectly allocated these expenses to specific transactions in its sales listing using volume, rather than value.

Akai argues that its packing expenses were neither systematically under- or over-stated. Akai further maintains that these expenses represent an insignificant part of total cost. Accordingly, Akai contends that, if the Department uses BIA to determined the amount of these expenses for purposes of the final determination, it should use the average expense reported.

DOC Position

We agree with petitioners that Akai incorrectly reported its packing material charges and marine insurance. Because of the significant number of transactions involved, as BIA, we have used the highest verified expense factors (*i.e.*, the expense expressed as a percentage of unit price) for packing and marine insurance and applied them to all of Akai's sales transactions.

We disagree with petitioners regarding packing labor. At verification we noted Akai's related party, which is responsible for packing the merchandise for export, had no employees dedicated to its packing operations and had no packing labor costs separately identified in its accounting system. Thus, we found that any packing labor costs were likely to be negligible. Company officials stated that whatever incidental labor cost was incurred by the related party would be charged to Akai as part of the transfer price to Akai. Thus, we find that neither Akai nor its related party had any non-negligible or measurable packing labor cost and we find that the use of BIA is not warranted.

Comment 6

Petitioners argue that Akai failed to report bank charges and commissions, although the Department found at verification that Akai incurred them on each transaction reported in its U.S. sales listing.

DOC Position

We agree that Akai did not report its bank charges and commissions in its U.S. sales listing. However, contrary to petitioners' assertion, we noted at verification that Akai reported these charges as part of its cost response. Thus, Akai mistakenly misreported these expenses, rather than not reporting tham at all. Because we typically consider these expenses to be direct selling expenses, we have reclassified them as such for purposes of the final determination. Accordingly, we calculated transaction-specific expenses for each of Akai's U.S. sales, using the data examined at verification. We then made the appropriate circumstances of sale adjustments to FMV to account for these charges.

Comment 7

Petitioners argue that Akai did not report the proper gross unit price in its U.S. sales database because it failed to account for exchange rate gains and loss. Petitioners contend that the prices for 100 percent of the sales reported do not represent the actual payment received by Akai. Therefore, they argue that these prices should not be used for purposes of the final determination.

According to Akai, however, the Department verified that it reported the correct transaction prices. Akai notes that the sales verification report states that there were "no discrepancies found in the amounts recorded in Akai's sales register and the amounts shown on Akai's final invoices received from the bank."

DOC Position

We disagree with petitioners that Akai should have reported exchange gains or losses in its U.S. sales. The Department's practice is not, and has never been, to require respondents to report this type of adjustment. Moreover, the Department's questionnaire instructs respondents to report sales prices in the currency in which the sales are made. We determined at verification that Akai had accurately reported its U.S. sales prices in accordance with the questionnaire instructions (*i.e.*, in U.S. dollars because this is the currency in which Akai invoices its U.S. customers.) Accordingly, we have used these prices for purposes of the final determination.

Comment 8

Petitioners argue that the Department found at verification that Akai incorrectly reported its credit expenses, date of payment and direct and indirect selling expenses. Petitioners contend that the Department should not correct any of these discrepancies because collectively they are so extensive that correcting them would result in the creation of a significantly different questionnaire response.

DOC Position

We disagree, in part. We found at verification that Akai did misreport its payment period and direct and indirect selling expenses. However, we disagree that these errors are so egregious that correcting them would result in the creation of a new response. Accordingly, we have corrected these errors for purposes of the final determination, based on our findings at verification.

Comment 9

Echjay argues that it should be assigned the same dumping margin as Akai, rather than the "all others" rate. According to Echjay, Akai's rate is appropriate because Echjay's cost data forms the basis for Akai's margin. Echjay further notes that it cooperated fully in this investigation because it responded to each of the Department's request for information.

Petitioners maintain that the Department should apply the all other rate to all of Akai's subcontractors (including Echjay), because the Department does not have the information necessary to calculate company-specific margins for these companies for purposes of the final determination. Petitioner's further argue that the all other rate is also appropriate for Akai, because Akai is not the appropriate respondent in this investigation. (See Comment 1, above.) As the all other rate, petitioners assert that the Department should use the average of the margins contained in the petition. Petitioners reason that this is

VOL 58 ISS 248 DE 29 1993 UMI

VOL 58 ISS 248 DE 29 1993 UMI

the appropriate rate because, given the circumstances surrounding the application of adverse BIA to Mukand, it would be unfair to penalize other exporters for the behavior of an unrelated company

DOC Position

We disagree with Echjay. It is the Department's practice to assign the "all others" rate to companies who have not submitted responses to the Department's sales questionnaire. Absent a full questionnaire response, the Department does not have sufficient data with which to calculate a company-specific margin. While Echjay provided selected cost data, it elected not to provide data on its selling practices (*i.e.*, it chose not to submit a voluntary response). Consequently, we do not have any data upon which we could base USP for Echjay. We also note that the purpose of verification is not to collect such data. We disagree with Echjay that we could use Akai's data for this purpose as there is no evidence on the record that these data are representative of Echjay's selling practices. Accordingly, we have not assigned Echjay the same rate as Akai.

With regard to petitioners' argument that the Department should calculate the all other rate based on the average of the margins provided in the petition, we also disagree. It is the Department's practice to calculate the all other rate based on the margins assigned to the companies under investigation. Consequently, we calculated the all other rate in this case in accordance with our standard practice.

Comment 10

Petitioners claim that (1) Akai did not provide evidence that they used domestic raw materials for manufacturing the subject merchandise during the POI; (2) information on the record implies that Akai received less than the actual International Price Reimbursement Scheme (IPRS) claims submitted to the government; and (2) it was unclear whether the reimbursements received several months after the POI were earned on production during the POI. Accordingly, petitioners argue that the Department should disallow Akai's IPRS rebates entirely.

Akai argues that supporting documentation provided at verification demonstrated that domestic raw materials were purchased and used to manufacture the subject merchandise during that POI.

DOC Position

We disagree with petitioners. At verification, we determined that all raw materials used in manufacturing the subject merchandise were purchased from unrelated Indian suppliers. Since Akai sold the subject merchandise exclusively to the United States and because Akai used only domestic raw materials, all raw material inputs qualified under the IPRS government program.

The record clearly demonstrates that Akai was entitled to the reimbursement, that the total claim was approved by the Indian Government and Akai was in the process of collecting on these receivables. Even though the government reimbursements were received subsequent to the POI, the total reimbursement claim revenue reported during the POI was properly used to match revenue with the related raw material expenses incurred. Therefore, we have not disallowed these rebates for purposes of the final determination.

Comment 11

Based upon the results of a random sample taken at verification, petitioners claim Akai understated its COM. Consequently, petitioners argue that the Department should assume that all reported costs were understated by the largest variance determined from the random sample and should increase Akai's cost accordingly.

Akai states that the Department has sufficient data to make the cost adjustments deemed necessary

DOC Position

We disagree with petitioners. The largest variance accounts for one error, whereas the weighted-average adjustment represents all understatement errors in the sample. Therefore, Akai's COM was increased by the weighted-average of all understated COM variances found in the sample.

Comment 12

Petitioners argue Akai incorrectly reported its U.S. profit on a product-specific basis.

DOC Position

We agree. Under 18 CFR 353.50 (a)(2), the Department is required to use the profit on the class or kind of merchandise sold in the home market in calculating CV. Since there were no home market or third country sales, the statutory minimum profit of eight percent was applied.

Comment 13

Petitioners state that Akai incorrectly reported its quality controls costs as direct selling expenses, rather than including them in the COM.

Akai states that the Department has sufficient data to make any adjustments deemed necessary.

DOC Positions

We agree with petitioners. Quality control costs are considered a cost of manufacturing. Additionally, there is no information on the record to support that this testing was a condition of sale Therefore, we increased COM by the amount of quality control costs as a percent of the revised COM excluding this adjustment, and reduced direct selling expenses accordingly

Comment 14

Petitioners maintain that Akai incorrectly reported G&A costs by excluding depreciation expenses.

Akai states the Department has sufficient data to make the adjustment deemed necessary.

DOC Position

We agree with petitioners that depreciation expense on administrative fixed assets should be included in the reported G&A costs. Accordingly, we increased the submitted G&A by the amount of depreciation expenses reported in Akai's 1993 financial statement

Comment 15

Petitioners contend that Akai underreported its raw material costs by failing to report commissions and brokerage charges

DOC Position

We disagree. During the cost verification we saw no evidence that Akai incurred commission and brokerage charges on raw materials. Consequently, we have made no adjustment for these charges for purposes of this final determination

Comment 16

Petitioners contend that the Department cannot rely on the information submitted by Akai's subcontractors because if found pervasive deficiencies in this information at verification. Accordingly, petitioners argue that the Department must resort to BIA for these costs. should the Department determine that it is appropriate to use them to calculate Akai's margin.

DOC Position

Because we have used the acquisition prices between Akai and its subcontractors, this issue is moot

Continuation of Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, we are directing the Customs Service to continue to retroactively suspend liquidation of entries of subject merchandise for Mukand, Sunstar, Bombay Forgings and Dynaforge. We are also directing Customs Service to retroactively suspend liquidation of all entries of subject merchandise for all other companies except Akai. Retroactive suspension will apply to entries of flanges from India that are entered, or withdrawn from warehouse, for consumption on or after May 7, 1993, which is the date 90 days prior to the date of publication of our preliminary determination in the **Federal Register**. For Akai, we are directing the Customs Service to continue to suspend liquidation of all entries of flanges from India, that are entered, or withdrawn from warehouse, for consumption on or after August 5, 1993, which is the date of our preliminary determination. The Customs Service shall require a cash deposit or the posting of a bond equal to the margins below on all entries of flanges from India. The suspension of liquidation will remain in effect until further notice. The estimated dumping margins are as follows:

Manufacturer/producer/exporter	Margin (percentage)
Mukand Ltd	210.00
Sunstar Metals Ltd	210.00
Bombay Forgings Pvt. Ltd	210.00
Dynaforge	210.00
Akai Impex Pvt. Ltd	19.74
All Others	162.44

International Trade Commission Notification

In accordance with Section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry within 45 days.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to Section 735(d) of the Act (19 U.S.C. 1673d(d)), and 19 CFR 353.20(a)(4).

Dated: December 20, 1993.

Barbara Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-31669 Filed 12-28-93; 8:45 am]

BILLING CODE 3510-DS-P

[A-583-821]

Final Determination of Sales at Less Than Fair Value: Certain Forged Stainless Steel Flanges From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 29, 1993.

FOR FURTHER INFORMATION CONTACT: Pamela Ward, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1174.

Final Determination

The Department of Commerce (the Department) determines that certain forged stainless steel flanges (flanges) from Taiwan are being, or likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of the preliminary determination on July 29, 1993 (58 FR 41716 (August 5, 1993)), the following events have occurred. On August 2, 1993, one of the respondents in this investigation, Ta Chen Stainless Pipe Co., Ltd. (Ta Chen), notified the Department that its subcontractors would not respond to the Department's cost of production (COP) questionnaire. In addition, on August 2, 1993, Ta Chen, requested a postponement of the final determination. We granted this request, and on August 11, 1993, we postponed the final determination until not later than December 20, 1993 (58 FR 44493 (August 23, 1993)).

On August 24, 1993, Ta Chen submitted its response to the Department's June 4, 1993, supplemental questionnaire.

On October 1, 1993, Ta Chen submitted a letter stating that it would not participate in verification and withdrew from this investigation.

On October 12 and October 13, 1993, respectively, petitioners and Enlin Steel Corporation (Enlin), another respondent, submitted case briefs. On October 18 and October 20, 1993, respectively, petitioners and Enlin submitted rebuttal briefs.

Scope of Investigation

The products covered by this investigation are certain forged stainless steel flanges both finished and not-finished, generally manufactured to specification ASTM A-182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld neck, used for butt-weld line connections, threaded, used for threaded line connections, slip-on & lap joint, used with stub ends/butt-weld line connections, socket weld, used to fit pipe into a machined recession, and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above described merchandise are included in the scope. Specifically excluded from the scope of this investigation are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A-351. The flanges subject to this investigation are currently classifiable under subheading 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this investigation remains dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 1992, through December 31, 1992.

Best Information Available

Enlin

In the preliminary determination, the Department determined that Enlin had been uncooperative in this investigation. The Department based this decision on the fact that Enlin did not file a response to sections B and C of the Department's questionnaire, due by April 23, 1993. In making this determination, the Department took into consideration that, on April 30, 1993, Enlin stated in writing that it would not be responding to the Department's questionnaire and requested a suspension agreement. (*See* Comment 1.) Section 776(c) of the Act provides that whenever a party refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, the Department shall use the best

VOL 58 ISS 248 DEC 29 1993 UMI

information otherwise available (BIA). We have done so in this investigation.

Because Enlin refused to answer the Department's questionnaire, we find it has been uncooperative in this investigation. As BIA for Enlin, we are assigning the highest margin provided in the petition, in accordance with the two-tiered BIA methodology under which the Department imposes the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding. The Department's two-tier methodology for assigning BIA based on the degree of respondent's cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (*See Allied-Signal* v. *U.S.*, Slip-Op. 93–049 (CAFC)(June 22, 1993) (*Allied*); *see also Krupp Stahl AG et al.* v. *U.S.*, Slip Op. 93–84 (CIT May 26, 1993).) The highest margin in the petition is 48.00 percent. (See Comment 1.)

Ta Chen

Ta Chen did not allow the Department to verify the information it submitted for the record in this investigation. In addition, Ta Chen withdrew from this investigation, stating that it no longer had an economic interest in the outcome of this proceeding. Section 776(b) of the Act provides that if the Department is unable to verify the accuracy of the information submitted, it shall use BIA as the basis for its determination, which may include the information submitted in support of the petition. Because Ta Chen's data was not verified, the Department must rely on BIA to determine Ta Chen's margin.

As BIA for Ta Chen, we are assigning the highest margin provided in the petition, in accordance with the two-tiered BIA methodology under which the Department imposes the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding. Accordingly, because Ta Chen significantly impeded this investigation by not participating in verification and withdrawing from this proceeding, we are assigning the highest margin in the petition of 48.00 percent as BIA. (See Comment 2.)

Tay Precision

As detailed in the preliminary determination, Tay Precision requested proprietary treatment of its volume and value submission, but failed to provide a public version of its response. The Department informed Tay Precision that if a public version was not submitted that the Department would return its response. Because Tay Precision did not respond to the Department's request and properly file a response to our questionnaire, on June 23, 1993, we returned its response in accordance with 19 CFR 353.32(d). We determined that the use of BIA is appropriate for Tay Precision Industries Co., Ltd. (Tay Precision) because it failed to provide the information requested in the form required. In deciding whether to use BIA, section 776(c) provides that the Department may take into account whether the respondent was able to produce information requested in a timely manner and in the form required.

Consequently, we determined that it is appropriate to assign Tay Precision the highest margin contained in the petition, 46.00 percent, in accordance with the two-tiered BIA methodology under which the Department imposes the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding.

Critical Circumstances

Petitioners allege that "critical circumstances" exist with respect to imports of flanges from Taiwan. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

In determining knowledge of dumping, we normally consider margins of 15 percent or more sufficient to impute knowledge of dumping for exporter's sales price sales, and margins of 25 percent or more for purchase price sales. (See, e.g., Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy, 52 FR 24198, June 29, 1987.) Since the final margins for flanges from Taiwan for all parties are above 25 percent, we determine, in accordance with section 735(a)(3)(A)(ii) of the Act that knowledge of dumping existed for flanges from Taiwan.

Under 19 CFR 353.16(f) and 19 CFR 353.16(g), we normally consider the following factors in determining whether imports have been massive over a short period of time: (1) the volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of the domestic consumption accounted for by imports.

As BIA for Enlin, Ta Chen, and Tay Precision we are making the adverse assumption that imports were massive over a relatively short period of time in accordance with section 735(a)(3)(B) of the Act.

Based on the above analysis, we determine that critical circumstances exist for imports of flanges from Taiwan for Enlin, Ta Chen, and Tay Precision. With respect to firms covered by the "All Other" rate, because the dumping margin is sufficient to impute knowledge of dumping, and because we have determined, as BIA, that imports of flanges have been massive over a relatively short period of time for the companies under investigation, we determine that critical circumstances also exist for "All Other" firms.

Interested Party Comments

Comment 1

Enlin maintains that the Department must select the less adverse second-tier BIA in assigning its final dumping margin because Enlin has exhibited a high level of cooperation with the Department. Enlin states that it provided a timely response to section A of the Department's questionnaire. In addition, when it informed the Department that it was unable to provide further questionnaire responses due to the prohibitive costs involved, Enlin indicated its desire to enter into negotiations for a suspension agreement with the Department. Furthermore, Enlin cites *Allied* as support because Enlin states that it continued to participate by offering to sign a suspension agreement. Additionally, Enlin asserts that it satisfies the requirements for a suspension agreement outlined in section 734 of the Act because it accounts for "substantially all" of U.S. imports of the subject merchandise during the POI.

Petitioners state that Enlin has refused to cooperate with the Department by refusing to respond to requests for information which are necessary for any margin calculation based on actual sales data. Petitioners contend that Enlin's offer to discuss a suspension agreement is not cooperation, because petitioners claim that Enlin knows that it does not meet the requirements for a suspension agreement.

Petitioners argue that this case is distinguishable from Allied. Unlike in this investigation, the respondent in Allied did not refuse to respond to the Department's questionnaire, but proposed that it supply a more simplified response. Here, Enlin did not state that it could not adequately prepare questionnaire responses using the information it had, but rather stated that it could not justify the expense of collecting the information.

DOC Position

We agree with petitioners. The purpose of the BIA rule is to induce a noncomplying respondent to provide the Department with timely, complete, and accurate factual information. The courts have recognized that cooperation by the parties is essential for the Department to gather needed information, and that it cannot be left to the largesse of the parties at their discretion to supply the Department with information. *See Atlantic Sugar Ltd.*, v. *U.S.*, 744 F.2d 1556, 1560 (1984); *Olympic Adhesives, Inc.* v. *U.S.*, 899 F2d 1565, 1571 (Federal Cir. 1990).

The United States Court of Appeals for the Federal Circuit has held that the Department's two-tier methodology is a reasonable and permissible exercise of the Department's statutory authority to use BIA when a respondent refuses or is unable to provide requested information. (See Allied at page 15.) The Department's two-tier methodology for assigning BIA is based on the degree of a respondent's cooperation with the Department. In accordance with its first-tier, the Department imposes the most adverse margin rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding. In contrast, respondents who substantially cooperate but nonetheless fail to provide information requested in the required form and in a timely manner are subject to second-tier BIA.

Enlin argues that it should be deemed a cooperative respondent based on the Federal Appeal Court's decision in Allied. There the court found a second-tier cooperative BIA rate appropriate because the respondent had not refused to respond, but instead had demonstrated a willingness to work with the Department by submitting information it had to the extent it could (which was in a simplified manner). Enlin's situation is distinguishable. Unlike in Allied where the respondent indicated an interest in accommodating the Department's request by submitting information requested in a simplified manner, here Enlin simply refused to answer questionnaire sections B and C and made no other efforts to comply during the investigation. Unlike the respondent in Allied, Enlin stated on the record that, since U.S. exports of the subject merchandise were a "relatively minor part of Enlin's export business" the resulting cost of preparing a full response could not be "economically justified." (See Enlin letter to the Department dated April 30, 1993.) Enlin made a calculated decision that it was not worth its time, effort, and expense. The Department will not find that refusing to answer a questionnaire can be construed as cooperating in an investigation. (See Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Argentina; et al., 58 FR 37062 (July 9, 1993).) Indeed, a recent court decision is analogous and lends support to our position. See *Yamaji Fishing Net Co. Inc.*, v. *U.S.*, Slip. Op. 93–62 (CIT) (August 13, 1993) (Yamaji). In Yamaji, the court upheld an uncooperative BIA rate for a respondent who failed to submit its records in computer format, even though it did not maintain computer records. The court found that a mere letter from the respondent indicating it would not comply with information requests because it did not maintain computer records, and that therefore it would be too much of a burden in time and expense to put its records into computer format, was not a request for a waiver from the Department's requirement of submitting data in computer format.

Furthermore, the fact that Enlin evinced an interest to negotiate a suspension agreement with the Department is unlike the respondent's willingness in Allied to work out a simplified review process and is not indicative of a willingness to work with the Department in responding to our questionnaire. We cannot agree with Enlin that a party can merely request a suspension agreement from the Office of Antidumping Investigations (OAI) and be considered a cooperative party in an on-going proceeding. Enlin was specifically instructed in May 1993, by OAI officials to contact the Office of Agreements Compliance (OAC), the office which handles suspension agreements, regarding its request to enter into negotiations for a suspension agreement. However, Enlin never pursued further entering into a suspension agreement with either OAC or OAI officials, nor did Enlin ever submit a draft proposed agreement to either OAC or OAI officials as required by 19 CFR 353.18(g)(1)(i). Moreover, under 19 CFR 353.18 the Department has no affirmative obligation to initiate discussion of a possible suspension agreement.

Furthermore, in order to qualify for a suspension agreement, signatories of the agreement must account for substantially all the imports of the subject merchandise during the POI. Here, Enlin alone could not qualify because it does not account for "substantially all" of the imports to the United States. (See Memorandum to The File, dated November 23, 1993, and accompanied attachments for a detailed factual discussion.) Accordingly, we have continued to assign Enlin a rate based on first-tier BIA. As BIA we have used the highest rate in the petition.

Comment 2

Petitioners contend that because Ta Chen withdrew from this investigation and has refused to allow the Department to verify its information, that the Department must consider Ta Chen an uncooperative respondent. Petitioners add that Ta Chen's participation prior to its withdrawal should have no bearing on the selection of BIA. Petitioners cite the Final Determination of Sales at Less than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong 55 FR 30733 (July 27, 1990), where the Department assigned the highest margin in the petition because of a respondent's refusal to allow its data to be verified.

DOC Position

We agree. Because Ta Chen withdrew from the proceeding and did not allow the Department to verify its information submitted for the record of this investigation, the Department cannot rely on Ta Chen's data for the final determination. (See Section 776(b) of the Act.) Accordingly, we find that Ta Chen has significantly impeded this investigation and we have assigned Ta Chen the highest margin in the petition as adverse BIA.

Comment 3

Petitioners contend that the Department should use adverse BIA with respect to Tay Precision because the firm refused to provide information requested by the Department in proper form. Petitioners submit that the Department should use the two-tiered BIA methodology used in the preliminary determination and assign the highest margin alleged in the petition as BIA for Tay Precision. Furthermore, petitioners state that in the Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from

VOL 58 ISS 248 DEC 29 1993 UMI

Argentina; et al., 58 FR 37062 (July 9, 1993) the Department found that refusing to answer questionnaires could not be construed as cooperating in an investigation. Furthermore, petitioners add that the BIA provision is intended to encourage responsiveness by the firms involved in an investigation, and Tay Precision's refusal to respond calls for the use of an adverse BIA rate.

DOC Position

We agree. As stated in our preliminary determination, we found that Tay Precision failed to provide the information requested in proper form as required by 19 CFR 353.32(b)(1) and 19 CFR 353.32(b)(2). Therefore, the Department returned information to Tay Precision pursuant to 19 CFR 353.32(d). Accordingly, we have continued to assign this company a rate based on first-tier BIA. As BIA we have used the highest rate in the petition.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(4) of the Act, we are directing the Customs Service to continue to suspend liquidation for Enlin, Tay Precision and "All Others" and to retroactively suspend liquidation for Ta Chen of entries of flanges from Taiwan, that are entered, or withdrawn from warehouse, for consumption on or after May 7, 1993, which is the date 90 days prior to the date of publication of our preliminary determination in the Federal Register. The Customs Service shall require a cash deposit or the posting of a bond equal to the margins below on all entries of flanges from Taiwan. The suspension of liquidation will remain in effect until further notice. The estimated dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Enlin Steel Corporation	48.00
Ta Chen Stainless Pipe Co., Ltd.	48.00
Tay Precision Industries Co., Ltd.	48.00
All Others	48.00

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry within 45 days.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)), and 19 CFR 353.20(a)(4).

Dated: December 20, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-31668 Filed 12-28-93; 8:45 am]

BILLING CODE 3510-DS-P

(A-351-819)

Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rods From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 29, 1993.

FOR FURTHER INFORMATION CONTACT: Jim Cunningham, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4207.

FINAL DETERMINATION: We determine that stainless steel wire rods from Brazil are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since publication of the affirmative preliminary determination on August 5, 1993 (58 FR 41723), the following events have occurred.

On August 18, 1993, the Department sent Eletrometal-Metais Especiais SA (Eletrometal) a deficiency questionnaire. On September 7, 1993, Eletrometal responded to the deficiency questionnaire.

On September 13, 1993, the Department visited Eletrometal's facilities in Sumare, Brazil for verification. Also, on September 13, 1993, the Department notified Eletrometal that it was terminating verification because respondent had omitted a significant number of sales from the sales listing it had submitted to the Department.

On October 26, 1993, Al Tech Specialty Steel Corp., Armco Stainless & Alloy Products, Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Inc., and United Steelworkers of America, AFL-CIO/CLC (petitioners) and Eletrometal submitted case briefs. On November 1, 1993, petitioners submitted their rebuttal brief.

Scope of Investigation

For purposes of this investigation, certain stainless steel wire rods (SSWR) are products which are hot-rolled or hot-rolled, annealed, and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States are round in cross-sectional shape, annealed, and pickled. The most common size is 5.5 millimeters in diameter.

The SSWR subject to this investigation are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, 7221.00.0080 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 1992, through December 31, 1992.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of subject merchandise in this investigation. In deciding whether to use BIA, section 776(c) provides that the Department may take into account whether the respondent was able to produce information requested in a timely manner and in the form required. In this case, the exporters of SSWR from Brazil did not do so. Consequently, we based our determination in this investigation on BIA.

We applied BIA to respondents in accordance with the two-tiered BIA methodology, under which the Department imposes the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding. The Department's two-tier methodology for assigning BIA based on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (See Allied-Signal Aerospace Co. v. the United States, Slip Op. 93-1049 (Fed Cir. June 22, 1993); *see also Krupp Stahl AG. et al. v. the United States*, Slip Op. 93-84 (CIT May 26, 1993).)

Acos Finos Piratini SA and Acos Villares SA

During the course of this investigation, the Department encountered serious problems in obtaining from these two firms the volume and value data needed for its analysis. The Department attempted to solicit this information, stating that if we did not receive a response to our requests, we might make our determination on the basis of BIA. In spite of this attempt, we did not receive any information from either Acos Finos Piratini SA (Piratini) and Acos Villares SA (Villares), the two manufacturers and exporters named in the petition.

Since Piratini and Villares did not respond to our questionnaires, we used as BIA the highest margin contained in the January 15, 1993, pre-initiation amendment to the petition in this investigation, 26.50 percent.

Eletrometal

We did not use Eletrometal's response to the Department's questionnaire for purposes of our preliminary determination since it contained major deficiencies which could not be corrected in time for use in the preliminary determination. We gave Eletrometal the opportunity to correct the deficiencies in its response prior to verification. Because of the problems encountered at the verification of Eletrometal, we have used as BIA for this respondent the average of the margins contained in the January 15, 1993, pre-initiation amendment to the petition.

We terminated verification because at the start of our verification, Eletrometal informed the verifiers that it had omitted a significant portion of its home market sales from the sales listing it reported to the Department.

Moreover, in reaching our decision to terminate verification, we considered the fact that the Department had already afforded Eletrometal opportunities to respond to three supplemental questionnaires in order to rectify deficiencies in its previous responses and that the time for making substantial revisions to questionnaire responses had passed.

We decided that, given these previous opportunities to rectify its responses, Eletrometal's admission that a significant percentage of sales were omitted from its home market sales database called into question the reliability and accuracy of its home market sales database and areas of its response affected by this database. The omission of these sales taints Eletrometal's entire database since it affects model matching, the calculation of differences in physical merchandise, and weighted-average home market expenses. Even if Eletrometal had provided a corrected sales database at verification, the untimely submission of such a substantial amount of data would not have allowed the Department an adequate opportunity to analyze it prior to attempting to verify its accuracy.

Despite Eletrometal's deficiencies, we consider it a cooperative respondent. In reaching this determination, we have considered Eletrometal's deficiency responses and other attempts to comply with our requests for information. While Eletrometal's responses were inadequate and unreliable for purposes of our investigation, these problems do not appear to have stemmed from a deliberate attempt to deceive the Department. We have also considered the fact that Eletrometal volunteered the omitted sales at the start of verification and that it provided a reasonable explanation for its error. For Eletrometal, therefore, we have used, as BIA for a cooperating respondent, the average of the margins contained in petitioners' January 15, 1993, amendment to the petition, 24.63 percent.

Critical Circumstances

Petitioners alleges that "critical circumstances" exist with respect to imports of the subject merchandise from Brazil. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Under 19 CFR 353.16(f), we normally consider the following factors in determining whether imports have been massive over a short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports, if such data is available.

In determining knowledge of dumping, we normally consider margins of 15 percent or more sufficient to impute knowledge of dumping under section 735(a)(3)(A)(ii) of the Act for exporters sales price sales, and margins of 25 percent or more for purchase price sales. (See, e.g., Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy, 52 FR 24198, June 29, 1987).

Since the margins for SSWR from Brazil for Piratini and Villares are above 25 percent, we determine in accordance with section 735(a)(3)(A)(ii) of the Act that importers had knowledge of dumping of SSWR by these companies. Since Piratini and Villares have not responded to our questionnaire, we are making the adverse assumption, as BIA, that imports from Piratini and Villares were massive over a relatively short period of time in accordance with section 735(a)(3)(B) of the Act. Based on this analysis, we find that critical circumstances exist for imports of SSWR from Brazil for Piratini and Villares.

Since all of Eletrometal's sales to the United States are purchase price sales, and the margin assigned to Eletrometal is less than 25 percent, we determine that importers did not have knowledge of dumping of SSWR by Eletrometal. Furthermore, no allegation has been made that there is a history of dumping in the SSWR industry. Since the first prong of the critical circumstances test is not met for Eletrometal, it is not necessary to examine whether there have been massive imports of SSWR over a relatively short period. Therefore, we find that critical circumstances do not exist with respect to Eletrometal.

Because we have not found that critical circumstances exist with respect to all respondents, we also do not find that critical circumstances exist with respect to all other exporters and producers of subject merchandise from Brazil.

Analysis of Comments Received

Comment 1

Petitioners argue that Eletrometal failed verification and should, therefore,

be assigned a margin based on BIA. Petitioners state that given the problems with Eletrometal's data during the course of this investigation and its failure to complete verification, the Department should use a BIA margin of 26.50 percent for Eletrometal for this determination.

DOC Position

We agree in part. While we agree that early termination of Eletrometal's verification warrants the use of BIA, as stated above, we consider Eletrometal a cooperative respondent. For the reasons stated above, we have used, as BIA for a cooperating respondent, the average of the margins contained in petitioners' January 15, 1993, amendment, 24.63 percent.

Comment 2

Petitioners argue that the Department should find that critical circumstances exist with respect to imports from all exporters. They state that since Piratini and Villares did not respond to the Department's questionnaire, the Department must affirm its preliminary finding that imports from these two companies were massive over a relatively short period of time. They further state that since Eletrometal failed verification, and, since the integrity of its response and all the data contained in the response is unreliable, the Department should find that critical circumstances exist with respect to Eletrometal also.

DOC Position

We agree in part. While we agree with petitioners' statement that critical circumstances exist with respect to Piratini and Villares, we disagree that critical circumstances exist with respect to Eletrometal.

Since petitioners have not alleged a history of dumping in the SSWR industry, and since all of Eletrometal's sales to the United States are purchase price sales and the margin assigned to Eletrometal is less than the 25 percent threshold at which the Department will impute knowledge of dumping in purchase price situations, we have determined that critical circumstances do not exist with respect to Eletrometal.

Comment 3

Eletrometal argues that the Department should have accepted its additional sales prior to or at the start of verification. Eletrometal states that there is no regulatory provision that prohibits the Department from accepting additional information prior to verification and that the Department should not penalize Eletrometal for omitting these sales from its responses to the Department's questionnaire. Eletrometal explains that the omission of these sales was due to an administrative error at the time of preparing its questionnaire response and that a list of the omitted sales was presented to the Department at the start of verification. It also states that the Department has no basis to reject this information on grounds that Eletrometal has not cooperated with the Department's investigation.

Eletrometal argues that the Department regularly accepts corrected information after verification and cites *Monsanto Co.* v. *United States*, 698 F. Supp 275 (CIT 1988). Eletrometal also argues that the Court of International Trade (CIT) has held that the Department enjoys considerable discretion not to verify every piece of information regarding a respondent's sales. It also argues that Congress intended that the Department have latitude in its verification procedures and, in support, cites *Kerr-McGee Chemical Corp.* v. *United States*, 739 F. Supp. 613 628 (CIT 1990).

DOC Position

We disagree with respondent. The omitted sales in question were never properly reported, even at verification. It was only at verification that the Department was informed of their existence, provided company reports illustrating these sales and given the percentage of home market sales represented by these omitted transactions. While Eletrometal did provide a list of sales that were omitted, this list was presented at the end of the verification. Under 19 CFR 353.31(a)(i), the deadline for submitting factual information is seven days before the scheduled date on which the verification is to commence, unless the Department requests such factual information. The Department did not request this information. Moreover, the information Eletrometal presented did not include information, such as control numbers, product codes, payment terms, taxes, movement expenses, and selling expenses, which were requested by the Department in the antidumping questionnaire. Thus, with regard to Eletrometal's argument that the Department should have accepted additional sales that it submitted at verification, the Department cannot accept information that has not been properly submitted in a timely fashion.

Moreover, the Department's three deficiency letters provided ample opportunities for Eletrometal to adequately examine the accuracy of the sales listings that it had submitted. While we agree that Eletrometal has cooperated with the Department's investigation, Eletrometal's omission of such substantive data calls into question the reliability and accuracy of Eletrometal's home market sales database and areas of its response affected by this database. Moreover, the late submission of such substantive data would not have allowed the Department an adequate opportunity to analyze it prior to verification.

Unlike the situation in *Monsanto Co.* v. *United States*, the information omitted by Eletrometal neither corrected nor clarified information submitted in the original questionnaire response. The omitted information was not in support of previously submitted information but pertained to additional sales independent of existing data. Furthermore, while Congress and the CIT have granted the Department considerable latitude in its verification procedures, this discretion is granted because of the impracticability of examining all of a company's information at verification, not to require the Department to verify any and all new information provided at verification.

Comment 4

Eletrometal states that the Department should not have cancelled verification simply because respondent disclosed additional home market sales at the start of verification. Eletrometal states that even if the Department refused to accept the sales information that it presented at the start of verification, the Department was unjustified in cancelling the entire verification. Respondent also argues that the Department would have been able to verify the great majority of home market sales that it reported and that the Department could have chosen to apply BIA only to those sales that had been omitted from Eletrometal's questionnaire response.

Eletrometal argues that the Department's decision to cancel verification is inconsistent with its prior practice. It cites Bicycle Speedometers from Japan (58 FR 42,289) (August 9, 1993,) and Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina (54 FR 13,913) (April 6, 1989) (Argentine Tubing), in which the Department discovered unreported sales during the verifications.

Petitioners argue that as late as the issuance of the Department's preliminary determination, Eletrometal's responses were seriously deficient. Petitioners also state that in an effort to provide Eletrometal every opportunity to comply with its requests, the Department indicated it would verify Eletrometal's responses. Petitioners further state that when it became clear at verification that the responses were not complete, the Department properly terminated verification. Petitioners also refute Eletrometal's interpretation of the Department's prior practice.

DOC Position

We agree with petitioners. The Department provided ample opportunity for Eletrometal to properly and fully report its sales data. While the Department may well have been able to verify some of respondent's data, Eletrometal's omission of a significant amount of data casts doubts over the completeness and the reliability of Eletrometal's home market sales database and areas of its response affected by the database.

With regard to the Department's prior practice concerning unreported sales at verification, the cases cited by Eletrometal are not contrary to the position taken by the Department in this case. The verification in Bicycle Speedometers from Japan took place in the context of an administrative review of an order which had been previously verified. Thus, the Department already had an understanding of the overall extent of respondent's sales. Furthermore, the volume of unreported sales involved in that verification was not specified.

Respondent's reliance on Argentine Tubing is also misplaced. Although the Department's analysts did continue verification after the respondent submitted a new home market sales listing at the verification site, the analysts did so only "after warning [respondent] that the Department was not likely to accept such a massive revision this late in an investigation." Argentine Tubing at 13914. In fact, the Department did reject this new database, and relied totally on BIA at the final determination, noting the "[w]hile the Department allows minor revisions to questionnaire responses after the preliminary determination and during verification, it is well-established Department policy not to accept new responses after the preliminary determination because at that point in an investigation there is insufficient time for the Department to analyze and verify properly the new information." Id. at 13915.

If anything, Argentine Tubing is a case study in the futility of attempting the verification of substantial late home market database changes with the attendant impact on product matches, difmers, etc., not a policy statement that verification must be continued under such conditions.

Comment 5

Eletrometal states that prior to the start of verification, it disclosed inventory carrying costs. Eletrometal states that if these inventory carrying costs were added, they would decrease the home market price.

Petitioners argue that Eletrometal's claim regarding inventory carrying costs is irrelevant because all of Eletrometal's U.S. sales are purchase price sales, and the Department's purchase price methodology does not involve any treatment of inventory carrying costs. Petitioners also state that any addition to home market price would increase, not decrease, the home market price and its margin of dumping.

DOC Position

This issue is moot since the Department is using an assigned BIA margin rather than a calculated margin in this investigation.

Suspension of Liquidation

In accordance with section 735(c)(4) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of certain stainless steel wire rods from Brazil manufactured or exported by Piratini or Villares that are entered, or withdrawn from warehouse, for consumption on or after May 7, 1993, which is 90 days prior to the date of publication of our preliminary determination in the Federal Register. We are directing the Customs Service to continue to suspend liquidation of all entries of certain stainless steel wire rods from Brazil manufactured or exported by Eletrometal and all other manufacturers that are entered, or withdrawn from warehouse, for consumption on or after August 5, 1993, which is the date of publication of our preliminary determination in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the margins listed below on all entries of SSWR from Brazil. This suspension of liquidation will remain in effect until further notice. The estimated dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Eletrometal—Metais Especiais S.A.	24.63
Acos Finos Piratini SA	26.50
Acos Villares SA	26.50
All Others	25.88

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our determination. The ITC will make its determination whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on SSWR from Brazil entered or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market exceeds the United States price.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: December 20, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-31670 Filed 12-28-93; 8:45 am]

BILLING CODE 3510-DS-P

[A-427-811]

Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 29, 1993.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3464.

Final Determination

We determine that certain stainless steel wire rods from France are being, or

VOL 58 ISS 248 DE 29 1993 UMI

are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our preliminary determination on July 28, 1993 (58 FR 41726, August 5, 1993) and the postponement of our final determination on August 18, 1993 (58 FR 44660, August 24, 1993), the following events have occurred:

On August 9, 1993, Al Tech Specialty Steel Corp., Armco Stainless & Alloys Products, Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Inc. and the United Steelworkers of America, AFL–CIO/CLC (collectively petitioner) requested that a public hearing be held. On August 12 and 31, 1993, Imphy, S.A. (Imphy), Ugine-Savoie, Metalimphy Alloys Corp. (MAC) and Techalloy Company, Inc. (Techalloy) (collectively respondent) requested that a public hearing be held.

In September 1993, respondent submitted revised home market and U.S. sales listings, supplemental section D and E questionnaire response information, and corrections and/or revisions to its submissions. Respondent also attempted to submit additional sales in late October 1993.

We conducted verification of respondent's sales and cost questionnaire responses in France in late September and early October 1993, and in the United States in mid-October 1993. In November 1993, respondent submitted revised sales listings to correct for errors discovered at verification.

Case and rebuttal briefs were submitted by petitioner and respondent on November 17 and 24, 1993, respectively. A public hearing was held on November 29, 1993.

Scope of Investigation

For purposes of this investigation, certain stainless steel wire rods (SSWR) are products which are hot-rolled or hot-rolled annealed, and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed, and pickled. The most common size is 5.5 millimeters in diameter.

The SSWR subject to this investigation is currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, 7221.00.0080 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 1992, through December 31, 1992.

Such or Similar Comparisons

We have determined that the product covered by this investigation comprises a single category of "such or similar" merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) Grade; (2) diameter; (3) further manufacturing. We made adjustments for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Fair Value Comparisons

To determine whether sales of SSWR from France to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based USP for some U.S. sales on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sales price (ESP) methodology, in those instances, was not otherwise indicated. We accepted all of respondent's classifications of purchase price sales (see Comment #1 in the Interested Party Comments section of this notice). We excluded certain U.S. sales with zero prices or zero quantities because these sales constituted an insignificant portion of total U.S. sales.

In addition, where certain sales to the first unrelated purchaser took place after importation into the United States, we based USP on ESP, in accordance with section 772(c) of the Act.

For purchase price and ESP sales, we made deductions, where appropriate, for discounts and the following movement charges: foreign brokerage, foreign inland freight, marine insurance, ocean freight, U.S. brokerage, U.S. duty, and U.S. inland freight. We added amounts for billing adjustments and freight revenue.

For both purchase price and ESP sales, we re-calculated credit for those sales that had missing payment or shipment dates. As best information available (BIA), we used the date of the final determination for the missing payment dates, and the date of sale for the missing shipment dates (see Comment #8 in the Interested Party Comments section of this notice). In addition, we added an additional amount to brokerage charges to account for an understatement of this expense discovered at verification (see Comment #6 in the Interested Party Comments section of this notice). Furthermore, we have reclassified inventory carrying costs as credit expenses for consignment sales (see Comment #5 in the Interested Party Comments section of this notice).

For ESP sales only, we deducted commissions, direct U.S. selling expenses, including credit expenses, warranty expenses, and warehousing, other direct non-U.S. selling expenses, indirect selling expenses, inventory carrying costs, and premiums for product liability insurance. For further manufacturing sales, we deducted the amount of general and administrative (G&A) expenses included in indirect selling expenses, since these G&A expenses were included in respondent's cost of production. (See Comment #15 of the Interested Party Comments section of this notice.)

In addition, we made deductions, where appropriate, for all value added in the United States pursuant to section 772(e)(3) of the Act. The value added consists of the costs associated with further manufacturing the imported product, including a proportional amount of any profit. We calculated profit attributable to further manufacturing in the United States by deducting from the sales price all applicable costs incurred in producing the further manufactured product. We then allocated the total profit proportionally to all components of cost. We deducted only the profit attributable to the value added in the United States. In determining the costs incurred to produce the further manufactured products, we included (1) the costs of manufacture; (2) movement and packing expenses; and (3) general, selling and administrative expenses, and (4) interest expenses. We adjusted respondent's further manufacturing cost data for certain G&A expenses which respondent had excluded in its

response. This adjustment was specific to each further manufacturing facility. For those sales of further manufactured merchandise where respondent did not specify the facility of further manufacture, we made this adjustment by using the highest G&A rate applied to any facility as BIA.

For price-to-price comparisons only, we made an adjustment to U.S. price for the value-added tax (VAT) paid on the comparison sale in France. In *Federal-Mogul Corporation and The Torrington Company v. United States*, Slip Op. 93–194 (CIT October 7, 1993), the Court of International Trade (CIT) rejected our revised implementation of the Act's instructions on taxes (our implementation was demonstrated in the preliminary determination in this investigation) and prohibited us from applying a purely tax neutral margin calculation methodology. Accordingly, we have again changed our practice, as instructed by the CIT, and adjusted U.S. price for tax by multiplying the home market tax rate by the U.S. price at the point in the chain of commerce of the U.S. merchandise that is analogous to the point in the home market chain of commerce at which the foreign government applies the home market consumption tax.

In this investigation, the tax levied on the subject merchandise in the home market is 18.6 percent. We calculated the appropriate tax adjustment to be 18.6 percent of U.S. price net of adjustments reflected on the invoice at the time of sale (which, in this case, is the point in the chain of commerce of the U.S. merchandise that is analogous to the point in the home market chain of commerce at which the foreign government applies the home market consumption tax), and added this amount to the U.S. price. We also calculated the amount of the tax adjustment that was due solely to the inclusion of price deductions in the original tax base (i.e., 18.6 percent of the sum of any adjustments, expenses and charges that were deducted from the tax base). We deducted this amount from the net U.S. price after all other additions and deductions had been made. By making this additional tax adjustment, we avoid a distortion that would cause the creation of a dumping margin even when pre-tax dumping is zero.

Respondent reported additional sales to the Department on October 15, 25 and 28, 1993. These sales were submitted too late to be included in our analysis. (See Comment #2 in the Interested Party Comments section of this notice.) We also discovered that the cost of further manufacturing data did not include costs associated with certain further manufactured sales of MAC. Consequently, we were unable to adjust the prices of these sales for their further manufacturing costs. As BIA, we have assigned these sales the higher of either: (1) the average of all margins alleged in the petition for the relevant class or kind of merchandise; or (2) the highest non-aberrant calculated margin for any other sale of merchandise.

Foreign Market Value

We compared the volume of home market sales of SSWR to the volume of third country sales in accordance with 19 CFR 353.48(a) to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating FMV. We found that the home market was viable for sales of SSWR.

We used the Department's related party test to determine whether sales to related customers were made on an arm's-length basis. See Appendix II to the Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37077, July 9, 1993) for more information on the Department's related party test. We did not include in our price-to-price comparisons any sales to related customers that we determined were not at arm's-length.

Cost of Production

Petitioner alleges that respondent's home market sales of SSWR were made at prices below cost of production (COP). On the basis of petitioner's allegations, we gathered data on production costs. We compared the weighted-average home market prices to the COP.

If over 90 percent of respondent's sales of a given model were at prices equal to or greater than the COP, we did not disregard any below-cost sales because we determined that respondent's below-cost sales were not made in substantial quantities. If between ten and 90 percent of respondent's sales of a given model were at prices equal to or greater than the COP, we disregarded only the below-cost sales, if they were found to be made over an extended period of time. Where we found that more than 90 percent of respondent's sales were at prices below the COP, we disregarded all sales for that model and calculated FMV based on constructed value (CV), if those sales were made over an extended period of time. We disregarded below-cost sales because the respondent failed to demonstrate, as requested by the Department in the COP questionnaire, that these below-cost sales were made at prices permitting the recovery of all costs within a reasonable period of time in the normal course of trade.

In order to determine whether below-cost sales were made over an extended period of time, we performed the following analysis on a product-specific basis: (1) If respondent sold a product in only one month of the POI and there were sales in that month below the COP, or (2) if respondent sold a product during two months or more of the POI and there were sales below the COP during two or more of those months, then below-cost sales were considered to have been made over an extended period of time.

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of respondent's cost of materials, fabrication, selling, general and administrative (SG&A) expenses, and interest expenses. We compared home market selling prices, net of movement charges and discounts and rebates, to each product's COP.

Price-to-Price Comparisons

For those products for which there are an adequate number of sales at prices equal to or greater than the COP, we based FMV on home market prices. For the subject merchandise, we calculated FMV based on delivered prices, inclusive of packing and VAT, to unrelated customers in the home market and to related customers, sales to which are at arm's-length under the related party test. We deducted inland freight, inland insurance, discounts and rebates from these prices. We added home market interest revenue to these prices. We also deducted home market packing costs and added U.S. packing costs. We re-calculated credit for those sales that had missing payment or shipment dates. As BIA, we used the date of the final determination for the missing payment dates, and the date of sale for the missing shipment dates.

For comparisons involving both purchase price and ESP, we included in FMV the amount of the VAT collected in the home market. We also calculated the amount of the tax that was due solely to the inclusion of price deductions in the original tax base (i.e., 18.6 percent of the sum of any adjustments, expenses, charges and offsets that were deducted from the tax base). We deducted this amount from the FMV after all other additions and deductions had been made. By making this additional tax adjustment, we avoid a distortion that would cause the

creation of a dumping margin even when pre-tax dumping is zero.

For purchase price comparisons, pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made circumstance-of-sale adjustments for credit expenses and warranties, where appropriate. We deducted home market indirect selling expenses from FMV, capped by the amount of the U.S. commission. In addition, we re-calculated a re-adjustment of the amount of tax on the U.S. direct selling expenses added to FMV by applying the tax rate to those expenses. We also added this re-adjustment to FMV.

For ESP comparisons, we deducted home market indirect selling expenses from FMV, capped by the sum of U.S. indirect selling expenses and the U.S. commission amount. Although respondent reported related party commissions in the home market, respondent has not claimed them as direct selling expenses and, instead, included these expenses in indirect selling expenses.

For ESP comparisons, where there were no U.S. commissions, we offset the indirect selling expenses in the United States by providing for a corresponding deduction for indirect selling expenses in the home market, capped by the total indirect selling expenses incurred on the U.S. sale in the comparison.

Constructed Value

For those products without an adequate number of sales at prices above the COP, we based FMV on CV. We calculated CV based on the sum of the cost of materials, fabrication, general expenses, and U.S. packing cost. We included the respondent's reported general expenses in CV since these expenses were greater than the statutory minimum of ten percent of the cost of manufacture (COM). We re-calculated the weighted-average profit from the adjusted home market net sales prices and reported COPs. Since this amount was greater than the statutory minimum of eight percent of the COM, we used the re-calculated profit for CV.

For purchase price comparisons, we made circumstance-of-sale adjustments for differences in credit and warranty expenses, where appropriate. We deducted home market indirect selling expenses from FMV capped by the amount of the U.S. commission. For ESP comparisons, we deducted home market indirect selling expenses capped by the sum of U.S. indirect selling expenses and the U.S. commission amount. Although respondent reported related party commissions in the home market, respondent has not claimed them as direct selling expenses and, instead, included these expenses in indirect selling expenses.

For ESP comparisons, where there were no U.S. commissions, we offset the indirect selling expenses in the United States by providing for a corresponding deduction for indirect selling expenses in the home market, capped by the total indirect selling expenses incurred on the U.S. sale in the comparison.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondent by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1: In the preliminary determination, the Department treated certain U.S. sales as purchase price sales. We treated these sales as purchase price sales because respondent claimed that they were sales of merchandise that was produced to specification, sold prior to importation, and was not available for sale to other customers (see the July 16, 1993, memorandum from team to Richard Moreland).

Petitioner argues that the Department should reclassify these sales as ESP transactions. First, petitioner claims that although the sales in question were made prior to importation, respondent nonetheless warehoused or "inventoried" the merchandise before it shipped it to its customers. Second, petitioner argues that direct shipments to the unrelated buyer are not in the normal commercial channel of sale for respondent and that most sales of SSWR from France are inventoried by MAC. Third, petitioner argues that MAC's sales activities extend well beyond a communication link or processor of sales-related documents. Consequently, petitioner argues that the sales in question, along with sales that are not warehoused in the United States and are shipped directly from France to the U.S. customer, should be classified as ESP sales.

Respondent maintains that the Department found no evidence of significant U.S. market activity by MAC at verification. Respondent argues that there is no merit to petitioner's assertions that warehousing by MAC after importation precludes the finding that such sales are purchase price sales. Respondent contends that its sales are always made-to-order, are always sold prior to importation, and are never available for sale to other customers or out of pre-existing inventory.

DOC Position: We agree with respondent and have treated these sales as purchase price sales based on the use of the three purchase price/ESP criteria set forth in the Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Finland (56 FR 56363, November 4, 1991). In that case, the Department stated that where the terms of sale are set prior to the date of importation, the Department would examine several additional criteria when making a decision as to whether a sale should be considered as purchase price or ESP. As a result, we classify a sale as purchase price if the following criteria are met.

The first criterion is that the merchandise in question is shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent. The second criterion is that this arrangement is the customary commercial channel for sales of this merchandise between the parties involved.

First, we should note that not all sales classified as purchase price sales were warehoused by the U.S. subsidiary. Instead, they were shipped directly from France to the unrelated customer.

For the remaining sales that respondent classified as purchase price, the merchandise is warehoused by the related U.S. selling agent but not inventoried. The term "inventory", as it is commonly used in business, implies that the merchandise is in storage and is available for sale. We determined at verification that, with regard to the sales in question, the merchandise is not available for sale to any customer. Instead, the merchandise is considered as being warehoused, as it is awaiting delivery to a specific customer. Consequently, petitioner's arguments concerning the merchandise being inventoried, and that this is the customary commercial channel for sales of the subject merchandise, are not applicable.

The third criterion is that the related selling agent located in the United States acts only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer. No information submitted on the record, or found at verification, shows that MAC advertises or provides in-house technical services, although it does indicate that MAC participates in sales negotiations and takes title to the merchandise. At verification, the team tried to determine the extent to which MAC sets the terms of sale. Based on information gathered at verification, we have determined that MAC does not have the flexibility to set the price or terms of sale and acts only as processor of sales-related documentation. Therefore, we have determined that these sales are purchase price sales and have treated them as such.

Comment 2: On October 15 and 25, 1993, respondent submitted sales that it, until those dates, had omitted from its response. One of the sales submitted on October 15 was a sample transaction.

Petitioner argues that the Department should use BIA to derive dumping margins for all U.S. sales first reported on October 25, 1993. Petitioner claims that these sales were submitted untimely and that respondent had several opportunities to report these sales in a timely manner in revisions made to its sales database. As BIA, petitioner states that the Department should use "the higher of the average margin in the petition for the relevant class or kind of merchandise, or the highest non-aberrant calculated margin," as was done in the Certain Hot-Rolled, Cold-Rolled, Corrosion-Resistant and Cut-to-Length Carbon Steel Flat Products Investigations from France (58 FR 37125, July 9, 1993) (Carbon Steel Products from France).

Respondent maintains that there is no reason to exclude these sales in the final determination. Respondent points out that the sales in question represent a very minor portion of the U.S. database and were reported as soon as they were discovered. Respondent maintains that it was faced with a formidable task of reporting subject sales, and these particular sales were omitted in prior submissions due to an isolated computer error.

Respondent maintains that it has cooperated fully with the Department's investigation. Respondent states that the Department fully verified the volume and expenses associated with the additional sales reported. Respondent further states that if the Department decides that BIA is warranted for these sales, the most appropriate BIA would be to exclude these sales from the Department's analysis. Alternatively, respondent states that the Department should use a weighted-average margin from all of the other sales as BIA.

DOC Position: We agree with petitioner and have applied BIA margins to these unreported sales (see United States Price section of this notice). We have determined that these sales constitute a significant portion of total U.S. sales. According to 19 CFR 353.31(a)(1)(i), submissions of factual information must be made no later than seven days before the scheduled date on which verification is to commence. Here, respondent did not meet this deadline. As BIA, we assigned these sales the higher of either: (1) The average of all margins alleged in the petition for the relevant class or kind of merchandise; or (2) The highest non-aberrant calculated margin for any other sale of merchandise. This use of BIA is consistent with that used in Carbon Steel Products from France, where the facts of the case were similar.

Comment 3: Petitioner argues that the Department, as BIA, should disallow any difference in merchandise (difmer) adjustments claimed by respondent that reduce foreign market value, or resort to the next most costly home market product grouping for comparison to U.S. sales where dissimilar sales must be compared. Petitioner states that there is no evidence on the record to demonstrate that respondent's difmer adjustments relate only to physical characteristics of the merchandise. Petitioner asserts that respondent has stated that it incorporates non-physical characteristics into its product coding system and has failed to state or to prove that the difmers exclude cost differences resulting from non-physical differences in the products.

Respondent argues that it adhered to the Department's methodology for making difmer adjustments and has demonstrated that the cost differentials which were the basis for the difmer adjustments relate to physical differences in the merchandise. Respondent states that the Department's questionnaire instructed respondent to provide information on physical differences between the U.S. and home market merchandise, as well as differences in costs of materials, labor and variable production overhead for producing the merchandise. Respondent states that difmer adjustments for similar products were based on the variable costs for producing the merchandise. Respondent further states that its product codes, which were relied upon in identifying identical and similar matches, include the production process and end-use of the merchandise. Respondent argues that there can be no separation between production process and end-use from physical characteristics and that the production process and end-use are directly related to and result in physical differences in the products.

DOC Position: We agree with respondent. The Department verified that the matching of U.S. and home market products was, in fact, done pursuant to the guidelines established in Appendix V of the Department's questionnaire. At Ugine-Savoie, we verified that certain Ugine-Savoie products contained non-metallic physical properties which distinguished them from similar products with the same metallic composition. At respondent's company, we verified that certain products had different chemical properties, including metallic properties, which were more specific and inclusive than the basic criteria established in Appendix V of the questionnaire. These physical characteristics, such as the precise percentage of aluminum, were reflected in the product code precisely because the end-use for the wire rod would require specific physical composition of the product (e.g., percentages of nickel, copper, aluminum, etc. determine whether the rod is best suited for future cold-heating, fine wire drawing, welding, etc.).

The accounting team verified that the costs reported were based on the processes used for specific heats. The specific processes of a heat would depend on the physical characteristics desired for the finished product and, in some cases, the size of orders and the corresponding capacity of the production sites; some costs then might relate to a process (such as which particular furnace was used) based on aspects not absolutely related to the exact physical characteristics of the finished product. Considering the volume and complexity of the heats processed during the POI and the nature of the respondent's accounting system, the reliance on heat-specific costs was a reasonable measure; based on the facts specific to this case, requiring

respondent to retroactively calculate and eliminate any processing costs which related to the specific size or timing of a heat would represent an unreasonable burden on respondent.

We therefore used the reported difmer adjustments in calculating the dumping margin for purposes of the final determination.

Comment 4: Petitioner asserts that in accordance with the decision of the appellate court in *Zenith Electronics Corp.* v. *United States*, the Department should eliminate its circumstance of sale adjustment for VAT without any further adjustments to USP. Petitioner claims that the Department's current practice of adding to USP the absolute amount of tax assessed on the comparison merchandise sold in the country of exportation is contrary to the holding of the appellate court in the 1993 *Zenith* decision and has been rejected by the CIT in several other cases. Petitioner believes that the statute requires the adjustment to be based on the amount of tax that would have been applied to the U.S. sale.

Respondent argues that the Department properly adjusted for VAT on the U.S. side. Respondent contends that the Department's methodology is not precluded by statute or recent court holdings. Respondent states that the *Zenith* decision requires the Department to increase USP for the amount, instead of the rate, of the ad valorem tax and that the statute does not permit the Department to make a circumstance-of-sale adjustment for any residual distortions in the dumping margin caused by the adjustment of USP. Respondent further argues that the *Zenith* decision acknowledged that the Department has the authority and the ability to make tax-neutral assessments by adding the amount of home market taxes to USP.

DOC Position: On October 7, 1993, the CIT, in *Federal-Mogul Corp. and The Torrington Co.* v. *United States*, Slip Op. 93–194 (CIT, October 7, 1993), rejected the Department's methodology for calculating an addition to USP under section 772(d)(1)(C) of the Act to account for taxes that the exporting country would have assessed on the merchandise had it been sold in the home market. The CIT held that the addition to USP under section 772(d)(1)(C) of the Act should be the result of applying the foreign market tax rate to the price of the United States merchandise at the same point in the chain of commerce that the foreign market tax was applied to foreign market sales. *Federal-Mogul*, Slip Op. 93–194 at 12.

The Department has changed its methodology in accordance with the *Federal-Mogul* decisions, and has applied this new methodology in making its final determination in this investigation. From now on, the Department will add to USP the result of multiplying the foreign market tax rate by the price of the United States merchandise at the same point in the chain of commerce that the foreign market tax was applied to foreign market sales. The Department will also adjust the USP tax adjustment and the amount of tax included in FMV. These adjustments will deduct the portions of the foreign market tax and the USP tax adjustment that are the result of expenses that are included in the foreign market price used to calculate foreign market tax and are included in the United States merchandise price used to calculate the USP tax adjustment and that are later deducted to calculate FMV and USP. These adjustments to the amount of the foreign market tax and the USP tax adjustment are necessary to prevent our new methodology for calculating the USP tax adjustment from creating antidumping duty margins where no margins would exist if no taxes were levied upon foreign market sales.

This margin creation effect is due to the fact that the bases for calculating both the amount of tax included in the price of the foreign market merchandise and the amount of the USP tax adjustment include many expenses that are later deducted when calculating USP and FMV. After these deductions are made, the amount of tax included in FMV and the USP tax adjustment still reflects the amounts of these expenses. Thus, a margin may be created that is not dependent upon a difference between USP and FMV, but is the result of the price of the United States merchandise containing more expenses than the price of the foreign market merchandise. The Department's policy to avoid the margin creation effect is in accordance with the United States Court of Appeals' holding that the application of the USP tax adjustment under section 772(d)(1)(C) of the Act should not create an antidumping duty margin if pre-tax FMV does not exceed USP. *Zenith Electronics Corp.* v. *United States*, 988 F.2d 1573, 1581 (Fed. Cir. 1993). In addition, the CIT has specifically held that an adjustment should be made to mitigate the impact of expenses that are deducted from FMV and USP upon the USP tax adjustment and the amount of tax included in FMV. *Daewoo Electronics Co., Ltd.* v. *United States*, 760 F. Supp. 200, 208 (CIT, 1991).

However, the mechanics of the Department's adjustments to the USP tax adjustment and the foreign market tax amount as described above are not identical to those suggested in *Daewoo*. (See the "Fair Value Comparisons" section of this notice.)

Comment 5: Petitioner asserts that respondent understated the direct credit expenses incurred on U.S. consignment sales and that the Department should correct for this understatement. Petitioner states that respondent's classification of costs incurred during the consignment inventory period as inventory carrying costs and therefore as indirect selling expenses is inconsistent with the position taken by respondent's parent company in the investigation of Carbon Steel Products from France. Petitioner contends that in that investigation, respondent argued that the credit period for home market consignment sales began at the time the merchandise left the mill and not when the end customer was invoiced by respondent's customer. Petitioner states that the Department accepted that methodology in that case and should therefore calculate direct credit costs by adding the inventory carrying costs and the direct credit costs reported by respondent for each of its consignment sales.

Respondent maintains that expenses attributable to the Techalloy consignment sales were properly reflected. Respondent argues that the sale to its customer is not consummated until the consigned inventory has been withdrawn from the warehouse of respondent's customer and respondent's customer has then been invoiced. Respondent further argues that it is not the Department's practice to treat carrying costs on consignment sales as a direct selling expense where respondent is invoiced at the time the customer withdraws the merchandise from the warehouse.

DOC Position: We agree with that costs incurred during the consignment inventory period are not inventory carrying costs but are direct credit expenses. During the period that the merchandise remained in respondent's customer's consignment inventory, the merchandise was not available for sale to any other of respondent's customers. Since it was not available for sale, we have determined that the expense incurred by respondent while it remained in its customer's inventory is a direct expense. The maintenance of consignment inventory on the respondent's customer's site was a condition of the sale.

This approach is consistent with the Department's determination in Carbon

Steel Products from France. As petitioner correctly notes, in that investigation the Department determined that the credit period for home market consignment sales began at the time the merchandise left the producing mill en route to its consignment customer's inventory, and not when the final customer was invoiced (respondent invoiced its consignment customer when the consignment customer withdrew the material from its warehouse and invoiced its customer).

Comment 6: Petitioner argues that the Department should use the highest unreported expense amount uncovered during verification as BIA to correct for respondent's understatement of its foreign and U.S. brokerage charges. Petitioner asserts that the Department should increase the U.S. and foreign brokerage charges for all of respondent's U.S. sales.

Respondent states that the minor foreign brokerage discrepancies noted by petitioner apply only to sales of Ugine-Savoie products, and therefore the Department should not inflate all of the expenses of all of the U.S. sales reported by respondent. Furthermore, respondent states that the U.S. brokerage expenses were generally tiny and were offset by an overstatement of the shipment expenses incurred on its U.S. sales. Therefore, respondent contends that petitioner's argument should be rejected.

DOC Position: We agree with petitioner, in part. At verification, Ugine-Savoie company officials explained that their computer system systematically failed to pick up certain brokerage expenses (see November 9, 1993, verification report from William H. Crow II to David L. Binder at pages 36, 39, and 44). Respondent had not previously reported these expenses in its response. Therefore, we have used the averages of the missing brokerage charges examined during verification, and increased the charge reported under U.S. brokerage for Ugine-Savoie sales only by the average per-unit omission specific to each type of sale (*e.g.*, purchase price, ESP, further manufactured) for use in the final determination.

Comment 7: Petitioner contends that information obtained at verification demonstrates that respondent significantly underreported the actual commission expenses it incurred on its U.S. sales. Petitioner argues that the Department should calculate a commission expense for all of respondent's U.S. sales.

Respondent states that it accurately reported the commissions paid on U.S. sales. Respondent contends that the suggestion of a defect in the listing of commissions in the verification report is an error in that report which respondent addressed in its case brief. Therefore, respondent contends that petitioner's argument should be rejected.

DOC Position: We agree with respondent. The verification report's suggestion of an error in the listing of commissions was incorrect. We did not find any deficiencies in respondent's reporting of commissions. (See memorandum to the file from John Beck dated December 20, 1993.)

Comment 8: Petitioner states that in calculating imputed credit on sales for which respondent has not yet received payment, the Department, as BIA, should use as the payment date the scheduled date of the final determination. Petitioner states that for all U.S. sales where payment was not received as of the questionnaire response submission date, respondent should not be allowed to calculate imputed credit based on the customer's normal payment terms.

Respondent argues that there is no basis for selecting the date of the final determination as the date of payment for these sales. Respondent states that it has made updated payment information as requested by the Department. Respondent further states that for those sales still left unpaid, its practice of imputing credit expense based upon the normal payment terms plus the customer's average days of late payment is reasonable.

DOC Position: We agree with petitioner. For sales where the customer had not paid as of the time of verification, we re-calculated credit expenses using the date of the final determination as the date of payment. This is consistent with how we treated unreported dates of payment in the Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Belgium, (58 FR 37083, July 9, 1993).

Comment 9: Respondent argues that the Department should not exclude sales to related customers in calculating FMV. According to respondent, these sales to related parties were made at arm's-length prices. Respondent also argues that the Department has no basis to apply the "arm's-length test" in this case because, this test is arbitrary and capricious. Respondent maintains that the test only proves that different purchasers may pay different prices. Further, respondent states that the test is faulty because it does not properly account for variables which may affect prices, such the size of the individual sale, the total volume of purchases by customers, and the fact that the volume purchased by a particular customer may affect the price to that customer.

Petitioner argues that the Department properly excluded sales to related parties in calculating FMV because there is no evidence that such sales were made at arm's-length prices. Petitioner notes that the Department has been given ample flexibility to devise methodologies to calculate dumping margins, is expected to follow the same methodology used in prior cases, and has relied on the related party test as a reasonable means to implement its regulations pertaining to related party sales. Petitioner states that the related party test is a reasonable means of implementing the Department's regulations and is not arbitrary.

DOC Position: We agree with petitioner and have used the related party test and excluded sales that were not found to be at arm's-length based on this test. As we stated in the Carbon Steel Products from France investigation, the Department's view is that the related party test fully conforms to 19 CFR 353.45(a), which provides that the Department should calculate FMV using sales to related parties only if it is satisfied that the prices of those sales are comparable to the prices of the subject merchandise sold to unrelated customers. Such instructions give the Department substantial latitude in defining "comparability." The results of the test in this investigation show that respondent's related party sales were not made at arm's-length prices.

Comment 10: Respondent contends that at the preliminary determination, the Department should not have excluded sales to related customers in calculating profit for purposes of computing CV. Respondent contends that the questionnaire provides that CV is to include home market profit from sales of the class or kind of merchandise. Respondent states that in Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Final Results of the Antidumping Duty Order (58 FR 39729, July 26, 1993), the Department rejected a narrow formulation of profit and instead based it on all home market sales, even those to related parties. Therefore, respondent urges the Department to use its home market related party sales for purposes of the final determination.

Petitioner maintains that the exclusion of sales to related parties in

calculating profit for CV purposes was appropriate at the preliminary determination. Petitioner argues that the Department's regulations do not allow for the calculation of FMV based on related party sales where the price to the related parties is not comparable to the price to unrelated parties. For this reason, petitioner believes that sales which are excluded based on the related party test should also be excluded from determining profit for CV. Petitioner argues that selling price is a key factor in determining profits. Petitioner further states that profit reflects a value component rather than a cost component. Petitioner notes that the statute gives the Department authority to disregard related party transactions in calculating CV where any value element does not fairly reflect the amount usually reflected in sales in the market under consideration.

DOC Position: We agree with petitioner and have excluded all home market sales to related parties that fail the arm's-length test in calculating profit for CV purposes. We have determined that if sales to related parties are excluded for price-to-price comparisons, these sales cannot be included for determining profit for the calculation of CV. This is consistent with our treatment of related party sales found not to have been made at arm's-length in the Certain Hot-Rolled, Cold-Rolled, Corrosion-Resistant and Cut-to-Length Carbon Steel Flat Products Investigations from Korea (58 FR 37176, July 9, 1993). In that case, we excluded sales that were made to related parties in calculating profit for CV. While in AFBs the Department may have used related-party sales found not to have been at arm's-length when calculating profit for CV, we have reconsidered this approach in this case and have determined that it is more appropriate to exclude them.

Comment 11: Petitioner states that the Department should correct for certain errors in respondent's U.S. sales listing found at verification. These errors included omission of certain U.S. brokerage and handling charges, packing costs, warranty expenses, indirect selling expenses, foreign brokerage and handling charges, and foreign inland freight charges.

Respondent agrees that these errors should be corrected.

DOC Position: We agree with petitioner and respondent and have corrected for the errors made in the respondent's U.S. sales listing.

Comment 12: Petitioner states that the Department should continue to adjust respondent's further manufacturing costs to include expenses omitted by respondent. Specifically, petitioner states that the non-recurring costs associated with plant closure, hazardous waste facility fees, and write-off of slow moving inventory are included in the U.S. financial statements and, therefore, they should be included in the further manufacturing G&A costs.

Respondent argues that the Department should not have included these costs in calculating the further manufacturing costs. Respondent contends that it properly omitted amounts noted in its financial statements regarding a hazardous waste facility fee assessment, a plant closure, and slow moving inventory because these items have nothing to do with increased value attributable to the further manufacture of the merchandise under investigation.

Respondent asserts that the hazardous waste fee is only an accrual for a potential liability for period prior to the POI and also prior to the current ownership of the company. Moreover, respondent claims that it may receive reimbursement of the fees in the future.

Respondent maintains that the amount attributable to the write-off of slow moving inventory is included in the financial statements as a footnote only and describes the write-off policy of the ultimate parent company and does not reflect a cost in the U.S. financial statements.

DOC Position: We agree with petitioner in part and respondent in part. We included the plant closure costs and the hazardous waste fees in the calculation of the further manufacturing costs because these items are included in the financial statements and reflect costs incurred during the POI. Even though the damages occurred prior to the POI, and the respondent may receive reimbursement in the future, the liability is currently payable, and recognized in the current period in the financial statements. This is consistent with what the Department did in the Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Germany (58 FR 37136, July 9, 1993). The Department did not include the slow-moving inventory write-off since it is not reflected in the U.S. income statement of the further manufacturer.

Comment 13: Petitioner argues that the Department should use BIA to calculate respondent's interest expense. Petitioner argues that we should use BIA because during verification, the Department discovered that respondent had deducted both short-term and long-term interest income when calculating its net interest expense. As BIA, petitioner recommends applying Usinor-Sacilor's (Imphy's and Ugine-Savoie's parent company) average long-term interest rate as stated in the footnotes to the financial statements to total debt.

Respondent maintains that it is not possible for Usinor-Sacilor to separate interest income from interest expense from the consolidating companies. The consolidating companies only report net interest to Usinor-Sacilor for consolidation.

DOC Position: We agree with petitioner in part. We increased interest expense by the estimated amount of long-term interest income that is included as an offset to interest expense. The Department normally allows only short-term interest income as an offset to financing expense. This is consistent with the methodology the Department applied in the Final Determination of Sales at Less Than Fair Value: Steel Wire Rope from Korea, (58 FR 11029, 11035, February 23, 1993). To estimate long-term interest income, we used the amount of assets which would generate long-term interest income, derived from Usinor-Sacilor's 1992 consolidated financial statements, multiplied by the 1992 French average annual long-term interest income rate published in the OECD Financial Statistics Monthly (January 1993).

Comment 14: Petitioner argues that the Department should correct respondent's alleged understatement of Ugine-Savoie's electricity expense. Respondent reduced Ugine-Savoie's electricity expense for income generated by the sale of electricity to an unrelated party. Petitioner contends that the cost of production calculations should be based on the actual cost of the inputs used to manufacture the merchandise under investigation and not reduced by unrelated income.

Respondent claims that it did not understate Ugine-Savoie's electricity expense. Respondent maintains that it gets reimbursed for the electricity that it sells to an unrelated company. Respondent argues that the Department's practice has been to reduce costs actually incurred where the respondent can demonstrate the extent to which the costs are unrelated to the production or sale of the subject merchandise.

DOC Position: We agree with petitioner. For cost of production and CV, we increased the electricity costs for the amount of the reimbursement in excess of the cost of the electricity. We based the calculation of cost of production on the actual costs of the inputs used to manufacture the merchandise under investigation. We do not reduce those costs by income unrelated to the production and sale of the subject merchandise. This is consistent with what the Department did in Television Receivers, Monochrome and Color, from Japan: Final Results of Antidumping Duty Administrative Review, (54 FR 13917, April 6, 1989). In that case, the respondent reported royalty income unrelated to televisions, and rents received from related parties for the lease of equipment and buildings. Because none of these categories was related to sales of the product under review or current operations, the Department excluded the income from production costs. We did not make this adjustment to the cost of production reported for further manufactured products because the data was not presented in a way to allow us to do so and any adjustment would be insignificant. As BIA, we accepted this portion of the further manufactured cost data as reported.

Comment 15: Petitioner asserts that in the preliminary determination, the Department properly included in the cost of further manufacturing 100 percent of respondent's G&A expenses instead of accepting respondent's allocation of a portion of its G&A expenses to indirect selling expenses. Petitioner argues that the Department should continue to include all of respondent's G&A expenses in the cost of further manufacturing, since respondent did not produce a breakdown, or identify these indirect selling expenses.

Respondent argues that it properly allocated a relative share of G&A costs to selling expenses since the G&A expenses supported both the selling function and the further manufacturing function. Respondent maintains that by attributing 100 percent of the G&A to further manufacturing, the Department erroneously inflated the further processing costs.

DOC Position: We agree with petitioner and have included in the cost of further manufacturing the total G&A costs without allocating any of these costs to indirect selling expenses. Respondent provided no detail of the G&A cost items that it wanted to reclassify as indirect selling expenses. Respondent had the opportunity to provide such detail in its response to the Department's questionnaire and at verification. It failed to do so. Consequently, without such detail, we have no way of knowing whether respondent accurately allocated the costs.

Comment 16: Respondent contends that the Department should not have used BIA for sales where there was no reported Techalloy plant code factor in the computer database for the preliminary determination. This identifying factor was necessary in order to assign the appropriate plant-specific G&A to those sales. For all sales of further manufactured merchandise where a specific Techalloy plant code was not specified, the Department applied a G&A adjustment factor representing the highest percentage adjustment that had been applied to any particular Techalloy facility as BIA applicable to the unidentified facility.

The sales without a plant code factor represent sales by MAC and United Stainless and Alloys (a division of MAC). The respondent asserts that these sales should not be adjusted by the BIA factor.

DOC Position: We agree with respondent. The Department used BIA for the adjustment at the preliminary determination because respondent had not provided the Department with the appropriate data needed to make respondent's claimed adjustment. Subsequently, respondent submitted the appropriate information on its further manufacturing computer tape. We verified this information and have used it in the final determination. Therefore, the use of BIA in this particular instance is no longer warranted.

Comment 17: Respondent contends that its calculation of value-added costs was appropriate. Respondent explains that major elements of respondent's value-added costs, such as labor and electricity, are recorded at actual cost on a product-by-product basis only at the end of the year. For this reason, respondent calculated value-added costs on an annual basis. Respondent argues that this approach comports with the Department's practice of using annual costs where they are a more accurate measure of actual cost.

Petitioner argues that the Department should revise respondent's fabrication costs to reflect costs incurred during the POI because respondent used fabrication costs based on average actual costs for the fiscal year, as opposed to costs specific to the POI. To do this, petitioner suggests that the Department use BIA to adjust for fabrication costs for respondent from an annual basis to the POI. Petitioner suggests that the Department should increase the cost of manufacture of SSWR manufactured by respondent by a percentage identified in the cost verification report, where the Department stated that respondent's failure to submit costs based on the POI decreased the submitted costs by a specific amount. (See November 9, 1993, verification report of COP and CV for Imphy S.A. and Ugine-Savoie at page 1.)

DOC Position: We agree with respondent and for the purpose of the final determination, we did not adjust certain fabrication costs in the cost of production calculation. The costs reflected in respondent's monthly reports do not reflect costs actually incurred because, for example, for electricity an annual payment may be required depending on the annual electricity used. In respondent's normal cost accounting system these certain costs are not adjusted to actual until the end of the fiscal year. Consequently, it would have been very difficult for respondent to isolate costs for the POI. Accordingly, for the final determination, we accepted the fabrication costs submitted by Ugine-Savoie. This is consistent with the Department's approach in the Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom (58 FR 6207, January 27, 1993).

Comment 18: Respondent maintains that its depreciation methodology is reasonable. Respondent explains that its basis for allocating depreciation to product lines is derived from a theoretical study performed in 1986, and that the results of this study are used in the company's normal accounting system. Respondent also notes that there was no deviation from the normal method employed by the company to calculate depreciation used in the submission. In addition, respondent points out that the submitted depreciation expense is based on total actual expense.

Petitioner argues that the Department should calculate respondent's depreciation costs based on the cost and estimated useful lives of the assets that respondent used to manufacture stainless steel wire rod. Petitioner claims that the theoretical study performed in 1986 on depreciation was done based on replacement costs, as opposed to actual costs. Further, petitioner argues, the study is not appropriate for application to this investigation because the methodology proposed in the study and applied by respondent does not reflect the actual value of the assets used to produce the merchandise under investigation.

DOC Position: While we agree with petitioner that the use of a 1986 study which uses estimated replacement costs and estimated yields is not reflective of

actual depreciation costs for the subject merchandise, this allocation methodology is used by respondent in its normal accounting system. Without a more accurate alternative, we accepted respondent's methodology.

Comment 19: Respondent expresses concern about a statement in the Verification of Cost of Production and Constructed Value report of Imphy S.A. and Ugine-Savoie at page 2 regarding the "Financial Link Account." The report states that ". . . expenses in this account were not identifiable as they resulted from the consolidation." Respondent argues that expenses included in this account do not relate to the subject merchandise, and therefore, should not be included in the calculation of COP and CV. Respondent emphasizes that it demonstrated at verification that the submitted G&A expenses reconciled to the income statements. Further, respondent argues, the submitted G&A expenses included an allocation of the actual management expenses incurred by the Usinor-Sacilor Group, and that respondent demonstrated the reconciliation of the actual management expenses to the accounts of the management group.

DOC Position: We disagree with respondent. We included the amounts in the financial link account in the calculation of the interest and general and administrative rates. At verification, respondent indicated that these amounts relate to the expense category where they are reported in the income statement but could not be matched in the consolidation process. The financial statements for all Usinor-Sacilor Group companies are consolidated at the end of the year. On elimination of intercompany transactions during the consolidation process, there is not always a perfect match. These non-matching eliminations are then put into the financial link account. Since these costs could not be specifically identified or reconciled, it is possible that they relate to the subject merchandise. It is the Department's practice to include all costs relevant to the subject merchandise in the calculation of COP and CV. Therefore we included these additional costs in the calculation of the interest and G&A rates.

Comment 20: Petitioner argues that the Department should adjust respondent's COP to properly account for restructuring costs and for amortization of goodwill expense. Petitioner contends that these costs were included in respondent's financial statements, but excluded from the submission.

Respondent argues that the Department reviewed the calculation of the cost of manufacture and general expenses at verification, and found that all appropriate costs had been included. Respondent also points out that there is no amortization of goodwill in Imphy's 1992 financial statement. Thus, there is no basis for the Department to adjust respondents' cost of production for restructuring or goodwill.

DOC Position: We agree with respondent. At verification we found the costs of restructuring that are included in the financial statements were properly included in G&A expenses. We also determined that the amortization of intangible assets was properly included in the COP.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of SSWR from France that are entered, or withdrawn from warehouse, for consumption on or after August 5, 1993, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FMV of the merchandise subject to these investigations exceeds the U.S. price, as shown below. The weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Imphy and Ugine-Savoie	24.39
All others	24.39

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: December 20, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-31629 Filed 12-28-93; 8:45 am]

BILLING CODE 3510-DS-P

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of Export Trade Certificate of Review No. 84-00011.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to Watsand International, Ltd. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to Watsand International, Ltd.

FOR FURTHER INFORMATION CONTACT: Friedrich R. Crupe, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") [Pub. L. No. 97-290, 15 U.S.C. 4011-21] authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325 (1986). Pursuant to this authority, a certificate of review was issued on May 25, 1984 to Watsand International, Ltd.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (Section 308 of the Act, 15 U.S.C. 4018, § 235.14 (a) of the Regulations, 15 CPR 325.14 (a)). The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (Sections 325.14 (b) of the Regulations, 15 CFR 325.14 (b)). Failure to submit a complete annual report may be the basis for revocation. Sections 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a) (3) and 325.14(c).

On May 14, 1993, the Department of Commerce sent to Watsand International, Ltd. a letter containing annual report questions with a reminder that its annual report was due on July 9, 1993. Additional reminders were sent on July 13, 1993 and on August 13, 1993. The Department has received no written response from Watsand International, Ltd. to any of these letters.

On November 17, 1993, and in accordance with § 325.10 (c) (2) of the Regulations, [15 CFR 325.10 (c) (2)], the Department of Commerce sent a letter by certified mail to notify Watsand International, Ltd. that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing Watsand International, Ltd. thirty days to respond was published in the **Federal Register** on November 22, 1993 at 58 FR 61674. Pursuant to 325.10(c) (2) of the Regulations (15 CFR 325.10(c) (2)), the Department considers the failure of Watsand International, Ltd. to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to Watsand International, Ltd. for its failure to file an annual report. The Department has sent a letter, dated December 22, 1993, to notify Watsand International, Ltd. of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** 325.10(c) (4) and 325.11 of the Regulations, 15 CFR 324.10(c) (4) and 325.11 of the Regulations, 15 CFR 325.10(c) (4) and 325.11.

Dated: December 22, 1993.

Friedrich R. Crupe,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 93-31630 Filed 12-28-93; 8:45 am]

BILLING CODE 3510-DR-P

U.S. Geological Survey, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 93-116. *Applicant:* U.S. Geological Survey, Lakewood, CO 80225. *Instrument:* Borehole, In Situ Hydrochemical Electrode System. *Manufacturer:* Svensk Kärnbränslehantering AB, Sweden. *Intended Use:* See notice at 58 FR 51618, October 4, 1993. *Reasons:* The foreign instrument provides the following resolutions: (1) hydrostatic potential (Eh) of 0.001 volt, (2) pH of 0.02 unit, (3) sulphide concentration of 0.5 mg/l, (4) temperature of 0.05° celsius, and can withstand pressure in boreholes to 1.0 km. *Advice Received From:* Department of Energy, November 22, 1993.

Docket Number: 93-123. *Applicant:* University of Alaska, Fairbanks, AK 99775-0800. *Instrument:* Low Light Level Color Television Camera, Model Pavicam-S. *Manufacturer:* Pavic Inc., Japan. *Intended Use:* See notice at 58 FR 55043, October 25, 1993. *Reasons:* The foreign instrument provides: (1) a sensitivity of 2 lux scene illumination with f2.8 lens for full video (100% IRE) at 0 dB, (2) signal to noise ratio of 56 dB, (3) horizontal resolution of 500 lines and (4) a silicon intensifier target tube. *Advice Received From:* Naval Research Laboratory, November 24, 1993.

Docket Number: 93-126. *Applicant:* Research Foundation, State University of New York, Stony Brook, NY 11794. *Instrument:* Microstructure Profiler. *Manufacturer:* Seimac Ltd., Canada. *Intended Use:* See notice at 58 FR 55043, October 25, 1993. *Reasons:* The foreign instrument provides velocity and temperature measurements at sub-centimeter resolution using rapid sampling and extra velocity microstructure sensors. *Advice Received From:* National Oceanic and Atmospheric Administration and a private research institution, November 24, 1993.

The Department of Energy, Naval Research Laboratory, National Oceanic and Atmospheric Administration and a private research institution advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-31667 Filed 12-28-93; 8:45 am]

BILLING CODE 3510-DS-P

University of California et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 93-030R. *Applicant:* University of California, San Diego, San Diego, CA 92121. *Instrument:* Wave Measuring Equipment. *Manufacturer:* Datawell, BV, The Netherlands. Original notice of this resubmitted application was published in the **Federal Register** of April 26, 1993.

Docket Number: 93-145. *Applicant:* Brigham Young University, Purchasing Department, C-144 ASB, Provo, UT 84602. *Instrument:* Microvolume Stopped Flow Spectrofluorimeter, Model SX.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* The instrument will be used for studies of vitamin B6 containing enzymes in experiments that deal with changes in spectral properties upon substrate addition with the objective of characterizing kinetic and mechanistic properties. In addition, the instrument will be used in graduate research courses in chemistry and biochemistry to teach fundamental research techniques to undergraduate students. *Application Received by Commissioner of Customs:* November 16, 1993.

Docket Number: 93-146. *Applicant:* Hunter College, Biological Sciences Department, 695 Park Avenue, Room 315HN, New York, NY 10021. *Instrument:* Northern Light Illuminator. *Manufacturer:* Imaging Research, Inc., Canada. *Intended Use:* The instrument is part of an image analysis system which will be used to quantitate mRNA levels in coronal sections of brain tissue which will allow the cellular determination of shifts in neuronal plasticity due to environmental challenge. *Application Received by*

Commissioner of Customs: November 17, 1993.

Docket Number: 93–147. *Applicant:* Department of Veterans Affairs, Middleville Road, Northport, NY 11768. *Instrument:* Electron Microscope, Model JEM 1010. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used to examine various types of specimens of tumors, blood cells, brain, spinal cord, heart muscle, kidneys and lymph nodes, etc., from patients with pathological disorders. In addition, the instrument will be used on a one-to-one basis to train and teach staff members and medical residents in pathology, all aspects of Diagnostic Electron Microscopy. *Application Received by Commissioner of Customs:* November 18, 1993.

Docket Number: 93–148. *Applicant:* U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, John C. Stennis Space Center, Building 1103, Room 218, Stennis Space Center, MS 39529–6000. *Instrument:* Sounder System, Model EK 500. *Manufacturer:* Simrad Subsea, Norway. *Intended Use:* The instrument will be used on a research ship to acoustically sample fish densities, over a wide expanse of ocean during population density studies. *Application Received by Commissioner of Customs:* November 18, 1993.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–31666 Filed 12–28–93; 8:45 am]

BILLING CODE 3510-DS-F

National Institute of Standards and Technology

Meeting to Discuss an Opportunity to Join a Cooperative Research and Development Consortium for Improving the Service Life Prediction of Organic Coating Systems

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Meeting notice.

SUMMARY: The National Institute of Standards and Technology (NIST) in cooperation with the Federal Highway Administration (FHWA) invites interested parties to attend a meeting on February 1, 1993 to discuss the possibility of setting up a cooperative research consortium on the development of new technology to develop techniques for improved service life prediction of coatings. Parties interested in participating in the consortium should be prepared to invest adequate resources in the collaboration and be firmly committed to the goal of developing new coating service life prediction technology.

Any program undertaken will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Pub. L. 99–502, 15 U.S.C. 3710a), 2 which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may contribute personnel, equipment and facilities—but no funds—to the cooperative research program.

The meeting will be held on February 1, 1994 at 8:30 a.m., room B221—Building 226 at NIST in Gaithersburg, MD, for interested parties. The meeting will discuss the possible formation of a research consortium including NIST, FHWA, industry and academia to conduct research in this area. This is not a grant program.

DATES: The meeting will be held on February 1, 1994. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than January 15, 1994.

ADDRESSES: The meeting will be held at 8:30 a.m., room B221—Building 226, National Institute of Standards and Technology, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Dr. Jonathan Martin, Building 226, room B348, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–6717; FAX: 301–990–6891.

Dated: December 20, 1993.

Samuel Kramer,

Associate Director.

[FR Doc. 93–31766 Filed 12–28–93; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

[I.D. 122293A]

Pacific Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's Groundfish Permit Review Board (GPRB) will meet on January 18–20, 1994, at the Holiday Inn Crowne Plaza, Portola B Room, 600 Airport Boulevard, Burlingame, CA; telephone: (415) 340–8500. The meeting will begin on January 18 at 1 p.m., and reconvene on January 19 and 20 at 8 a.m. The meeting will not recess for the day until the business for each day is completed.

The GPRB will review appeals on NMFS denials of applications for West Coast groundfish limited entry permits.

This meeting is physically accessible to the disabled. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas Bigford at (206) 526–6140 at least 5 days prior to the January 18–20 meeting date.

FOR FURTHER INFORMATION CONTACT: Thomas Bigford, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115; telephone: (206) 526–6140.

Dated: December 23, 1993.

Richard H. Schaefer,

Director, Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31833 Filed 12–28–93; 8:45 am]

BILLING CODE 3510-22-F

[I.D. 122293B]

Pacific Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) will meet on January 18–21, 1994, at the Council's office, 2000 SW First Avenue, Suite 420, Portland, OR; telephone: (503) 326–6352. The meeting will begin on January 18 at 10 a.m., and continue each day for the remainder of the week, from 8 a.m. until 5 p.m.

The STT will draft the "Review of 1993 Ocean Salmon Fisheries." The final report will be distributed to the public and reviewed by the Council at its March meeting in Portland, OR.

This meeting is physically accessible to the disabled. Requests for sign language interpretation or other auxiliary aids should be directed to Michelle Perry Sailer at (503) 326–6352 at least 5 days prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: John Coon, Fishery Management Coordinator (Salmon), Pacific Fishery Management Council, 2000 SW First Avenue, suite 420, Portland, OR 97201; telephone: (503) 326–6352.

Dated: December 23, 1993.

Richard H. Schaefer,

Director, Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31832 Filed 12–28–93; 8:45 am]

BILLING CODE 3510-22-F

[I.D. 122293C]

South Atlantic Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Council's (Council) Billfish Advisory Panel (Panel) will meet on January 20–21, 1994, at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC; telephone: (803) 571–4366. The meeting will be held on January 20 from 1 p.m. until 5 p.m., and on January 21, from 8:30 a.m. until 12 noon.

The panel will review the status of the billfish stocks and will discuss recommendations for future management.

This meeting is physically accessible to the disabled. Requests for sign language interpretation or other auxiliary aids should be directed to Carrie Knight at the council address below by January 13.

FOR FURTHER INFORMATION CONTACT: Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, suite 306, Charleston, SC 29407–4699; telephone: (803) 571–4366.

Dated: December 23, 1993.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–31831 Filed 12–28–93; 8:45 am]

BILLING CODE 3510-22-F

Technology Administration

Public Meeting to Discuss Proposed Cooperation Between the Technology Administration and Japan's Agency of Industrial Science and Technology

AGENCY: Technology Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: This is to notify interested parties of a public meeting to be held at the offices of the U.S. Department of Commerce to provide a forum for discussion of possible activities under a proposed Memorandum of Understanding (hereinafter "MOU") to be entered into between the Technology Administration (hereinafter "TA"), U.S. Department of Commerce, and the Agency of Industrial Science and Technology (hereinafter ("AIST"), of Japan's Ministry of International Trade and Industry (hereinafter "MITI"), and of possible joint research activities to be undertaken thereunder.

Under the proposed MOU, the parties will engage in mutual research, development, collaboration and other joint activities in the field of civil industrial technologies.

TIME AND PLACE: This public meeting will take place on January 11, 1994 from 1 p.m. to 5 p.m. The meeting will take place at the Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Please fax Dr. Phyllis Genther Yoshida at (202) 482–4826 one week prior to the meeting for a reservation and the specific location.

AGENDA:

1. Discuss the general purpose and scope of the MOU and the activities referenced therein.

2. Discuss possible participation in MOU-related activities by private and public sector entities.

3. Discuss intended benefits to U.S. and Japanese industry and commerce.

4. Discuss possible initiatives and enhanced incentives to improve U.S. access to Japanese technology, covering the areas of personnel issues, notification of research opportunities, scientific and technical information, and centers in Japan to provide support for U.S. researchers.

PUBLIC PARTICIPATION: The meeting will be open to the public, and will consist primarily of an open discussion. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: Dr. Phyllis Genther Yoshida, Director, Japan Technology Program, Office of International Technology Policy and Programs, Technology Administration, U.S. Department of Commerce, room 4817, 14th Street and Constitution Avenue, NW., Washington, DC 20230, fax (202) 482–4826.

Dated: December 21, 1993.

Mary L. Good,

Under Secretary for Technology.

[FR Doc. 93–31631 Filed 12–28–93; 8:45 am]

BILLING CODE 3510-BP-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the United Mexican States

December 23, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing levels for the first year of the North America Free Trade Agreement.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6711. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In order to implement Annex 300–B of the North America Free Trade Agreement (NAFTA), restrictions and consultation levels for certain cotton, wool and man-made fiber textile products from Mexico are being established for the period beginning on January 1, 1994 and extending through December 31, 1994.

These restrictions and consultation levels do not apply to NAFTA originating goods, as defined in Annex 300–B, chapter 4 and Annex 401 of the agreement. In addition, restrictions and consultation levels do not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90; or Chapter 61, 62 or 63 if, after such assembly, those goods that would have qualified for treatment under 9802.00.90 have been subject to bleaching, garment dyeing, stone-washing, acid-washing or perma-pressing. Restrictions and consultation levels will also not apply to textile and apparel goods which are exported from the United States and subsequently re-imported after repairs or alterations and entered under

Harmonized Tariff Schedule (HTS) number 9802.00.40 or 9802.00.50.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to implement levels for the 1994 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 58 FR 62645, published on November 29, 1993).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of NAFTA, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 23, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the provisions of Executive Order 11651 of March 3, 1972, as amended; and pursuant to the North America Free Trade Agreement (NAFTA) between the Governments of the United States, the United Mexican States and Canada, you are directed to prohibit, effective on January 1, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Mexico and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994, in excess of the following levels:

Category	Twelve-month level
219	9,438,000 square meters.
313	16,854,000 square meters.
314	6,966,904 square meters.
315	6,966,904 square meters.
317	8,427,000 square meters.
338/339/638/639	650,000 dozen.
340/640	120,439 dozen.
347/348/647/648	650,000 dozen.
410	397,160 square meters.
433	11,000 dozen.
443	150,000 numbers.
611	1,267,710 square meters.
633	10,000 dozen.
643	155,556 numbers.

Imports charged to these category levels for the period January 1, 1993 through December 31, 1993 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the levels established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future pursuant to the provisions of Annex 300–B of the NAFTA.

The foregoing levels do not apply to NAFTA originating goods, as defined in Annex 300–B, chapter 4 and Annex 401 of the agreement. In addition, restrictions and consultation levels do not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90; or Chapter 61, 62 or 63 if, after such assembly, those goods that would have qualified for treatment under 9802.00.90 have been subject to bleaching, garment dyeing, stone-washing, acid-washing or perma-pressing. Restrictions and consultation levels will also not apply to textile and apparel goods which are exported from the United States and subsequently re-imported after repairs or alterations and entered under Harmonized Tariff Schedule (HTS) number 9802.00.40 or 9802.00.50.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–31845 Filed 12–28–93; 8:45 am]

BILLING CODE 3510–DR–F

Termination of the Requirement for an ITA–370P Form for Textile Products Exported From Mexico Under the Special Regime Program

December 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs terminating the requirement for a ITA–370P form for goods exported under the Special Regime Program.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Lori Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Pursuant to the North America Free Trade Agreement, effective on January 1, 1994, shipments of products exported from Mexico and entered into the United States under Harmonized Tariff Schedule (HTS) provision 9802.00.90.00 (formerly the Special Regime Program) will no longer require an ITA–370P form (Shippers Export Declaration)

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on January 1, 1994, to amend the existing export visa and certification requirements for Mexico to terminate the requirement that shipments of U.S formed and cut fabric from Mexico be accompanied by an ITA–370P form (Shippers Export Declaration). Also effective on January 1, 1994, U.S. Customs will neither accept nor sign the ITA–370P form for such shipments.

See 53 FR 32421, published on August 25, 1988.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 22, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on August 22, 1988, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive establishes export visa and exempt certification requirements for certain textiles and textile articles, produced, manufactured or assembled in Mexico

Effective on January 1, 1994, you are directed to terminate the requirement that shipments of apparel made from U.S. formed and cut fabric from Mexico entered into the United States under Harmonized Tariff Schedule (HTS) provision 9802.00.90.00 (formerly the Special Regime Program) be accompanied by an ITA–370P form (Shippers Export Declaration). Also effective on January 1, 1994, you are directed to neither accept nor sign the ITA–370P form for such shipments.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–31846 Filed 12–28–93; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Options on One-Year U.S. Treasury Bill Futures Contracts, and Amendments to, and Reactivation of, the Underlying Dormant One-Year U.S. Bill Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of a proposed commodity option contract and amendments to the underlying futures contract.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in options on the One-Year U.S. Treasury Bill futures contract. In addition, the CME proposes to amend and reactivate the dormant One-Year U.S. Treasury Bill futures contract that would underlie the proposed contract. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before January 28, 1994.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CME One-Year U.S. Treasury Bill futures and option contacts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: Regarding the dormant One-Year U.S. Treasury Bill futures contract, the CME proposes to convert the physical delivery procedures to cash settlement procedures based on the highest accepted yield at the first one-year U.S. Treasury bill auction during the futures contract month. Further, the CME proposes to double the contract size to $500,000. In addition, the CME proposes to increase the speculative position limits.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CME in support of the application for contract market designation and the amendments to the underlying futures contract may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME. should send such comments to Jean A. Webb. Secretary, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on December 22, 1993.

Blake Imel,

Acting Director.

[FR Doc. 93–31808 Filed 12–28–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Removal of DECCA Electronic Lattices From DMA Charts

AGENCY: Defense Mapping Agency, DOD.

ACTION: Notice.

SUMMARY: This notice announces that the Defense Mapping Agency intends to begin removing DECCA Electronic Navigation Lattices from new editions of charts commencing January 1, 1994. With the advent of the Global Positioning System (GPS), the requirement from DECCA navigation has diminished.

ADDRESSES: Director, Defense Mapping Agency, ATTN: PRB, Mail Stop A–13, 8613 Lee Highway, Fairfax, Virginia 22031–2127.

FOR FURTHER INFORMATION CONTACT: Mr. Jace Singler, (703) 385–9260.

Kenneth L. Denton,

Army Federal Register Liaison Office.

[FR Doc. 93–31784 Filed 12–28–93; 8:45 am]

BILLING CODE 3710–08–M

Military Freight Traffic Rules Publication (MFTRP) No. 1A: Proposed Changes

AGENCY: Military Traffic Management Command, DoD.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command proposes to amend the procedures used to reimburse commercial motor carriers for the cost of overdimensional and overweight permits. The amendment has two parts. The first part is the cancellation of Item 416, Overweight Permit Shipments (OQ), and Item 417, Overdimensional Permit Charges (OD), shown in MTMC Military Freight Traffic Rules Publication (MFTRP) No. 1A. These items provide individual state rates and charges for overweight and overdimensional shipments that require special permits. The second part of the amendment is a new Item 421, Overdimensional/Overweight Permits, to be published in MFTRP No. 1A. This item will read as follows:

Item 421 Overdimensional/Overweight Permits

1. When a carrier is required to obtain hauling permits in connection with overdimensional and/or overweight articles, the actual fee paid to any state, county or municipality for the permit, will be assessed, in addition to all other applicable charges. The carrier will be compensated for obtaining the permit through Item 55, ADVANCING CHARGES.

2. Definitions.

a. Overdimensional shipment. A shipment containing one or more non-divisible articles which measure in excess of 576 inches (48 feet) in length, 102 inches (8 feet, 6 inches) in width, or 162 inches (13 feet, 6 inches) in height from the ground to the top of the article after loading.

b. Overweight shipment. A shipment containing non-divisible article which exceeds 48,000 pounds (45,000 pounds on lowboy equipment).

3. The shipper will advise the carrier that a shipment is overdimensional/overweight when equipment is ordered. The carrier will provide the shipper a copy or facsimile of the origin state permit at time of loading. The carrier will provide the estimated permit costs

and ancillary charges to the shipper no later than 24 hours prior to loading. The shipper will cite the fees on the Government Bill of Lading (GBL) and include them in the estimated charges. The carrier will attach a copy of the permit receipt to the GBL it submits for payment.

DATES: Comments must be received on or before January 28, 1994.

ADDRESSES: Comments may be mailed to Headquarters, Military Traffic Management Command, ATTN: MTOP–T–NI, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Mr. John Alexander, (703) 756–1870.

SUPPLEMENTARY INFORMATION: Carriers are currently reimbursed for overweight and overdimensional permit costs based on charges published in Items 416 and 417, respectively, of MFTRP No. 1A. The charges consist of individual state permit fees. As states change their fees, Items 416 and 417 become outdated. In lieu of frequently updating these items, MTMC is proposing to reimburse carriers for actual permit costs incurred plus ancillary expenses. In Federal Register Volume 58, No. 51, MTMC proposed that carriers should include permits costs in their linehaul rates. Carrier comments opposed to this proposal ca used MTMC to reexamine this issue, resulting in the current proposal.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–31785 Filed 12–28–93; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Littoral Warfare/ Amphibious Warfare will meet on January 10, 11, and 12, 1994. The meeting will be held at MacDill Air Force Base, Tampa, Florida. The meeting will commence at 8:00 a.m. and terminate at 5:45 p.m. on January 10; commence at 8:00 a.m. and terminate at 6:00 p.m. on January 11; commence at 8:00 a.m. and terminate at 5:00 p.m. on January 12, 1994. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide the Department of the Navy with (1) an assessment of the capabilities and readiness of the U.S. Navy and Marine Corps to effectively conduct littoral and amphibious warfare operations, and (2) recommendations for technological investments that can improve performance while reducing risk to Marine and Naval forces. The agenda will include briefings and discussions related to 21st century advanced land warfare; joint littoral warfare training initiatives and advanced training/rehearsal decision aiding technologies; strike warfare, riverine warfare operations, and electronic warfare initiatives; offensive mining initiatives; science and technology issues impacting littoral warfare; and integrated command and control.

These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander R. C. Lewis, USN, Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000 Telephone Number: (703) 696-4870.

Dated: December 22, 1993

Michael P. Rummel

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-31849 Filed 12-28-93; 8:45 am]

BILLING CODE 3810-AE-F

Planning and Steering Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Planning and Steering Advisory Committee will meet January 13, 1994, from 0900 to 1530, at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss topics relevant to SSBN security. The entire agenda will consist of classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that all sessions of the meeting shall be closed to the public because they concern matters listed in 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: LCDR D. B. Rich, Pentagon Room 4D534, Washington, DC 20350, Telephone Number: (703) 693-7248.

Dated: December 23, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-31850 Filed 12-28-93; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.183A, 84.183D, 84.183E, 84.183F]

Direct Grant Programs and Fellowship Programs; Extension of Closing Dates

AGENCY: Department of Education

ACTION: Extension of closing dates.

SUMMARY: On September 24, 1993, the Department of Education published a combined application notice inviting applications for new awards for fiscal year 1994 under many of the Department's direct grant and fellowship programs. Detailed information concerning each competition was included in each program notice.

The purpose of this notice is to extend the deadline for transmittal of applications and the deadline for intergovernmental review for four programs under the Fund for the Improvement of Postsecondary Education. This action is taken as a result of the unavailability of application forms and guidelines until December 30, 1993.

The four programs affected by this extension are as follows:

- *CFDA 84.183A.* Drug-Prevention Programs in Higher Education—Institution-Wide Program (58 FR 50141, 50151, 50155–56). The revised deadline for transmittal of applications is February 25, 1994. The revised deadline for intergovernmental review is April 26, 1994.
- *CFDA 84.183D.* Drug-Prevention Programs in Higher Education—Special Focus Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention) (58 FR 50141, 50152, 50156–57). The revised deadline for transmittal of applications is March 11, 1994. The revised deadline for intergovernmental review is May 10, 1994.
- *CFDA 84.183E.* Drug-Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Dissemination of Successful Projects (58 FR 50141, 50152, 50157) The revised deadline for transmittal of applications is February 14, 1994. The revised deadline for intergovernmental review is April 15, 1994.
- *CFDA 84.183F.* Drug-Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects (58 FR 50141, 50152, 50157–58). The revised deadline for transmittal of applications is February 16, 1994. The revised deadline for intergovernmental review is April 17, 1994.

FOR APPLICATIONS OR INFORMATION CONTACT: The Fund for the Improvement of Postsecondary Education (FIPSE), U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–5175. Telephone: (202) 205–0104 to order applications; or (202) 708–5750 for information. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 3211.

Dated: December 22, 1993.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 93–31795 Filed 12–28–93; 8:45 am]

BILLING CODE 4000–01–P

Direct Grant Programs and Fellowship Programs; Correction

AGENCY: Department of Education.

ACTION: Correction.

In the notice inviting applications for new awards for fiscal year 1994, beginning on page 50138 in the issue of Friday, September 24, 1993, make the following corrections:

On page 50141, in the chart for Office of Postsecondary Education, in the listing for CFDA No. 84.103, Training Program for Federal TRIO Programs, in the fourth column the application deadline date should read "3/31/94."

On page 50154, in the application notice for CFDA No. 84.103, Training Program for Federal TRIO Programs, in the first column, paragraph nine, Estimated Award Date, the date should read "August 1, 1994."

FOR FURTHER INFORMATION CONTACT: May J. Weaver, U.S. Department of Education, 400 Maryland Avenue, SW., room 5065, Washington, DC 20202–5249. Telephone (202) 708–4804. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Dated: December 22, 1993.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 93–31796 Filed 12–28–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Finding of No Significant Impact; Proposed B-Factory (Asymmetric Electron Positron Collider)

AGENCY: U.S. Department of Energy.

ACTION: Finding of no significant impact.

SUMMARY: The Department of Energy (DOE) issues this Finding of No Significant Impact (FONSI) on its proposal to construct and operate the B-Factory. This finding is based on the DOE B-Factory Environmental Assessment (EA), DOE/EA–0882, September 1993, which evaluated the environmental effects of construction and operation of a proposed B-Factory particle accelerator (Asymmetric Electron Positron Collider) at either the Stanford Linear Accelerator Center (SLAC) near Menlo Park, California, or at the Cornell Electron Storage Ring (CESR) in Ithaca, New York. The B-Factory would produce certain subatomic particles, known as B mesons, that are important to high-energy physics. Subsequent to the release of the EA and Proposed FONSI, the Secretary of Energy announced on October 4, 1993, that SLAC had been selected as DOE's preferred site.

Based on the analyses in the EA, DOE has determined that the proposed action is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq. Three documents were received from the public which provided comments on the proposed FONSI, EA or project. The Town of Ithaca, New York, indicated that it concurred with the FONSI. The Department of Planning of Tompkins County, New York, expressed concern about the possibility of spills of hazardous materials near Cascadilla Creek and requested copies of the Spill Prevention Control and Countermeasures Plan and the Stormwater Pollution Prevention Plan. A citizen from Woodside, California, wrote a letter expressing concerns with alternative energies and the economics of efficiency improvements which would generate more jobs. No Federal or State agencies responded. DOE has reviewed the comments received and has concluded that no new information was provided that would change the determination that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, 42 U.S.C. 4321 et seq. Therefore, an environmental impact statement is not required. Further, it is DOE's conclusion that the comments provided no new information that would cause DOE to change its mind with regard to the selection of SLAC as the preferred site.

FOR FURTHER INFORMATION CONTACT: Requests for further information on the proposed project or for copies of the EA and FONSI should be sent to: James K. Farley, U.S. Department of Energy, Office of Energy Research (ER–8), 1000 Independence Avenue, SW., Washington, DC 20585, (301) 903–2314.

The FONSI, EA and related documents are also available for public review at the DOE public reading rooms listed below.

California: U.S. Department of Energy, San Francisco Operations Office, 1301 Clay Street, Room 700N, Oakland, California 94612, (510) 637–1762

District of Columbia: U.S. Department of Energy, Freedom of Information

Reading Room, Forrestal Building, Room 1E–90, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020

New York: Newman Laboratory, Cornell University, Ithaca, New York 14853–5001, (607) 255–4951

For information on the availability of specific documents and the hours of operation of the DOE reading rooms, please contact reading rooms at the telephone numbers provided.

For general information on the DOE NEPA review process, contact: Carol M. Borgstrom, U.S. Department of Energy, Office of NEPA Oversight (EH–25), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Proposed Action

The proposed action is to build a B-Factory at one of two locations, SLAC or Cornell, by modification of existing collider or accelerator facilities at either site. At SLAC, the existing facility is known as the Positron-Electron Colliding-Beam Storage Ring Project (PEP); at Cornell, the existing facility is called the Cornell Electron Storage Ring (CESR). After the EA and the Proposed FONSI were issued, DOE announced that SLAC was chosen as the preferred alternative site for the B-Factory.

B-Factory at SLAC

Construction and operation of a B-Factory at SLAC, referred to as PEP–II and identified by the Secretary as the preferred site, would involve collaboration of SLAC, Lawrence Berkeley Laboratory (LBL), and Lawrence Livermore National Laboratory (LLNL), as well as other institutions, in the design, assembly, and testing of components and equipment for the B-Factory. No conventional construction or modification to surface buildings would be required for PEP–II. The existing conventional facilities for PEP consist of beam housings, research halls, support buildings, roads, earthwork, fencing, landscaping, electrical and mechanical utilities, and the sanitary-sewer and storm-drain systems. These existing systems and facilities have adequate capacity for PEP–II.

The upgrade of the existing PEP collider to the PEP–II B-Factory would involve:

(1) The removal and disassembly of various components such as magnets, vacuum chambers, etc.;

(2) The refurbishment of reusable PEP components;

(3) The fabrication of new components at SLAC, LBL, LLNL, or other collaborating institutions;

(4) The assembly of PEP–II components into the existing tunnels and detection facilities at SLAC;

(5) Minor modifications to the linear accelerator focusing and transport systems; and

(6) Disposal of some components that cannot be reused, possibly as low-level radioactive waste.

Operation of PEP–II is expected to begin in 1998, with an estimated operational life for experimentation of 10–15 years. During operations, positrons and electrons would be accelerated in a linear accelerator and injected into storage rings where they would circulate in opposite directions, until they are brought together and collide in an interaction hall of a tunnel, thereby producing the B mesons for observation and study.

CESR–B Alternate Site

The upgrade of the existing CESR accelerator at Cornell to a B-Factory, referred to as the CESR–B, would involve: (1) The removal and disassembly of existing components; (2) conventional construction to provide approximately 49,500 square feet of additional space for electrical and mechanical equipment and x-ray beam lines; (3) conventional construction to add 2,900 square feet to the tunnel flare; (4) construction to expand existing routes of electric transmission lines; (5) reuse of some CESR components in CESR–B; and (6) disposal of some components, with possibly a few pieces disposed of as low-level radioactive waste. Component design, assembly, and construction at Cornell would take 3–4 years. Operation is expected to begin in 1998, with an estimated life of about 15 years.

Alternatives

Two alternatives to the proposed action were considered: (1) No action; and (2) the construction and operation of a B-Factory at a DOE facility other than SLAC or Cornell. Under the no action alternative, the B-Factory would not be built, and existing SLAC and Cornell facilities would continue to operate until the termination of their useful lifetime. At SLAC, the existing PEP facility would remain idle until new uses are determined or it is decommissioned. At Cornell, the existing CESR would continue to operate for about five years. The alternative to construct and operate a B-Factory at another DOE facility was not evaluated further in the EA due to its lack of feasibility in meeting the objectives of time, cost, and technical potential.

Environmental Impacts

The EA analyzed the impacts of constructing and operating a B-Factory at both the SLAC and Cornell sites for effects from construction, normal operations, accidents, decontamination and decommissioning, and cumulative and long term impacts. The EA considered impacts to air and water quality, land use, biological resources, noise, traffic, and hazardous materials usage. As described in the EA, there would be no significant impacts from construction or upgrade of the existing facilities at SLAC or Cornell.

PEP–II Alternate Site

Operation of the PEP–II would not significantly affect air and water quality, worker health and safety, public health and safety, and waste management systems. The impacts of ionizing radiation produced during operation are anticipated to be negligible. Nearly all of the radiation would be absorbed by the self-shielding copper vacuum chamber, the concrete tunnel walls, and the surrounding earth. Induced radioactivity could occur in a small number of components or devices. The number of workers that would be exposed to measurable amounts of radiation from PEP–II in the course of normal operations would not exceed 50. Based on a dose-to-risk conversion factor of 4×10^{-4} latent cancer fatalities per person-rem for adult workers, the risk of fatal cancer to the potentially exposed population of 50 workers over the 15-year operating period is less than 0.03. There are no persons residing within 0.3 km of the SLAC boundary. The population residing between 0.3 km and 0.5 km from the SLAC boundary is about 1200 people. Based on a dose-to-risk conversion factor of 5×10^{-4} latent cancer fatalities per person-rem for the whole population, the estimated latent cancer fatalities for this population over the 15-year operation of PEP–II is less than 0.002. (A conversion factor of 5×10^{-4} is used for the general population to reflect the presence of children, who appear to be at greater risk of dying from cancer as a result of exposure to radiation than adults.)

Impacts from radiological accidents would not significantly affect worker or public health and safety at PEP–II. The most serious accident involving worker and/or public exposure to radiation would be beam dumps from component and sub-system failures. The maximum potential dose equivalent at the PEP–II site boundary of the most serious radiation accident would be less than 0.005 mrem in a year, far below the operating limit of 10 mrem/year. For a population of 1,200, an exposure of 0.005 mrem/year results in a population dose of 0.09 person-rem over 15 years; less than 5×10^{-5} latent cancer fatalities.

Decontamination and decommissioning (D&D) activities at PEP–II are anticipated to have negligible impacts to worker and public health and safety. Non-radiological effects would be similar to those involved in facility construction: potential short-term effects to air and water quality, noise, dust, vehicle emissions, storm-water management, and waste handling and disposal. Radiological impacts are anticipated to be minimal through controlled storage of material with residual radioactivity and shipment to an approved low-level waste disposal facility.

No cumulative or measurable long-term environmental impacts are expected from the proposed PEP–II facility. The contributions of waste products from construction, operation, maintenance, and D&D activities would add to waste accumulation and the environmental impacts associated with disposal facilities. Their contribution to such impacts would be negligible. PEP–II operations are not expected to cause soil or groundwater activation. The radiological dose equivalent attributable to PEP–II operations would have negligible contributions to the cumulative impact of SLAC operations. There are no current or reasonably foreseeable major construction projects in the immediate vicinity of SLAC; thus, the PEP–II facility would not have any substantial effects on local offsite construction.

CESR–B Alternate Site

Operation of the CESR–B would not significantly affect air and water quality, worker health and safety, public health and safety, and waste management systems. The impacts of ionizing radiation produced during operation are anticipated to be negligible. Nearly all of the synchrotron radiation would be absorbed by the copper vacuum chamber. Based on an occupation risk factor of 4×10^{-4} fatal cancers/person-rem, the number of potential fatal cancers for radiation workers is 0.024, and for non-radiation workers is 0.0006. The dose to the general public over the 15-year operational life of the facility is estimated to be less than 0.1 person-rem, or less than 0.00005 fatal cancers (using 5×10^{-4} fatal cancers/person-rem risk factor).

No cumulative or measurable long-term environmental impacts are expected from the proposed CESR–B facility. The contributions of waste products from construction, operation, maintenance, and D&D activities would be negligible. CESR–B operations are not expected to cause soil or groundwater activation. The radiological dose equivalent attributable to CESR–B operations would make a negligible contribution to the cumulative impact of radiological operations at Cornell. The only other source of radiation exposure on campus is the Ward research reactor which shares no facilities with CESR, and would not be a source of cumulative exposures to workers or the public. The cumulative radioactive exposures to the public are anticipated to be negligible.

Determination

Based on the analyses in the EA and the comments received on the proposed FONSI, the DOE has determined that the proposed construction and operation of a B-Factory at SLAC does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the NEPA. Therefore, an environmental impact statement is not required.

Issued in Washington, DC this 13th day of December, 1993.

Tara O'Toole,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 93–31682 Filed 12–28–93; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Inventory of Current DOE Reporting and Recordkeeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Department of Energy's inventory of energy information collections, including reporting and recordkeeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) herein publishes an inventory of energy information collections (including reporting and recordkeeping requirements) which had Office of Management and Budget (OMB) approval of October 1, 1993, the first day of Fiscal Year (FY) 1994. The inventory is published for the use of respondents and other interested parties. DOE's management and procurement collections are the responsibility of DOE's Assistant Secretary for Human Resources and Administration and are not included in these notices.

The listing that follows includes DOE energy information collections that had OMB approval as of October 1, 1993. For each information collection utilizing a structured form, Part I lists the current DOE control or form number, the title of the requirement, the OMB control number, and the OMB approval expiration date. Part II lists those information collections which do not utilize structured forms and the corresponding citations from the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: Herbert Miller, Energy Information Administration (EI–73), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 254–5346. Information on the availability of single, blank copies of those information collections utilizing structured forms can be obtained by contacting the National Energy Information Center (EI–231), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8800.

SUPPLEMENTARY INFORMATION: As DOE's energy information collections are submitted for review and approval to OMB during FY 1994 (October 1, 1993 through September 30, 1994), **Federal Register** notices will be published informing the public to that effect. Such notices not only provide an opportunity for the public to review and comment on the collections but also notify the public of proposed changes to the inventory. Questions concerning the inventory or the changes that take place during FY 1994 may be directed to Mr. Miller at the address above.

STATUTORY AUTHORITY: Section 2(a) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), which amended Chapter 35 of title 44 United States Code (See 44 U.S.C. 3506(a) and (c), (1).

Issued in Washington, DC, December 20 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

VOL 58 ISS 248 DE 29 1993 UMI

PART I.—DOE ACTIVE INFORMATION COLLECTIONS

[October 1, 1993 Inventory]

DOE number	Title	OMB control number	Expiration date
Civilian Radioactive Waste Management			
NWPA–830R–A–G	Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Waste (R-Contract is on standby; A–F-Annual report is on standby; G-Quarterly Report—Standard Remittance Advice is active).	19010260	2/28/94
RW–859	Nuclear Fuel Data	19010287	12/31/94
Conservation and Renewable Energy			
CE–63A/B	Annual Solar thermal Collector Manufacturers Survey and Annual Photovoltaic Module/cell Manufacturers Survey.	19010292	08/31/95
Domestic and International Energy Policy			
EIA–767(2)	Steam Electric Plan Operation and Design Report	19010267	01/31/96
Emergency Planning and Operations			
OE–411	Coordinated Regional Bulk Power Supply Program Rerport	19010286	10/31/96
OE–417R	Power System Emergency Reporting Procedures	19010288	10/31/95
Energy Information Administration			
EIA–1	Weekly Coal Monitoring Report—General Industries and Blast Furnaces (Standby Form)	19050167	03/31/96
EIA–3	Quarterly Coal Consumption Report—Manufacturing Plants	19050167	03/31/96
EIA–3A	Annual Coal Quality Report—Manufacturing Plants	19050167	03/31/96
EIA–4	Weekly Coal Monitoring Report—Coke Plants (Standby Form)	19050167	03/31/96
EIA–5	Coke Plant Report—Quarterly	19050167	03/31/96
EIA–5A	Annual Coal Quality Report—Coke Plants	19050167	03/31/96
EIA–6	Coal Distribution Report	19050167	03/31/96
EIA–7A	Coal Production Report	19050167	03/31/96
EIA–14	Refiners' Monthly Cost Report	19050174	09/30/96
EIA–20	Weekly Telephone Survey of Coal Burning Utilities (Standby Form)	19050167	03/31/96
EIA–23	Annual Survey of Domestic Oil and Gas Reserves	19050057	12/31/94
EIA–23P	Oil and Gas Well Operator List Update Report	19050157	12/31/94
EIA–28	Financial Reporting System	19050149	12/31/93
EIA–64A	Annual Report of the Origin of Natural Gas Liquids Production	19050057	12/31/94
EIA–176	Annual Report of Natural and Supplemental gas Supply and Disposition	19050175	12/31/93
EIA–182	Domestic Crude Oil First Purchase Report	19050174	09/30/96
EIA–191	Underground Gas Storage Report	19050175	12/31/93
EIA–191S	Weekly Underground Gas Storage Report (Standby Form)	19050175	12/31/93
EIA–254	Semiannual Report on Status of Reactor Construction	19050160	12/31/94
EIA–412	Annual Report of Public Electric Utilities	19050129	12/31/95
EIA–475A/H	Residential Energy Consumption Survey	19050092	06/30/96
EIA–627	Annual Quantity and Value of Natural Gas Report	19050175	12/31/93
EIA–759	Monthly Power Plant Report	19050129	12/31/95
EIA–782A	Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report	19050174	09/30/96
EIA–782B	Resellers'/Retailers' Monthly Petroleum Product Sales Report	19050174	09/30/96
EIA–782C	Monthly Report of Prime Supplier Sales of Petroleum Products Sold for Local Consumption	19050174	09/30/96
EIA–800	Weekly Refinery Report	19050165	01/31/96
EIA–801	Weekly Bulk Terminal Report	19050165	01/31/96
EIA–802	Weekly Product Pipeline Report	19050165	01/31/96
EIA–803	Weekly Crude Oil Stocks Report	19050165	01/31/96
EIA–804	Weekly Imports Report	19050165	01/31/96
EIA–807	Propane Telephone Survey	19050165	01/31/96
EIA–810	Monthly Refinery Report	19050165	01/31/96
EIA–811	Monthly Bulk Terminal Report	19050165	01/31/96
EIA–812	Monthly Product Pipeline Report	19050165	01/31/96
EIA–813	Monthly Crude Oil Report	19050165	01/31/96
EIA–814	Monthly Imports Report	19050165	01/31/96
EIA–816	Monthly Natural Gas Liquids Report	19050165	01/31/96
EIA–817	Monthly Tanker and Barge Movement Report	19050165	01/31/96
EIA–818	International Energy Agency Imports/Stocks-at-Sea Report	19050165	01/31/96
EIA–819A	Annual Oxygenate Capacity Report	19050165	01/31/96
EIA–819M	Monthly Oxygenate Telephone Report	19050165	01/31/96
EIA–820	Annual Refinery Report	19050165	01/31/96
EIA–821	Annual Fuel Oil and Kerosene Sales Report	19050174	09/30/96
EIA–822A/D	Oxygenate Operations Identification Survey	19050165	01/31/96
EIA–825	Petroleum Facility Operator Identification Survey	19050165	01/31/96

PART I.—DOE ACTIVE INFORMATION COLLECTIONS—Continued

[October 1, 1993 Inventory]

DOE number	Title	OMB control number	Expiration date
EIA–826	Monthly Electric Utility Sales and Revenue Report with State Distributions	19050129	12/31/95
EIA–846A/D	Manufacturing Energy Consumption Survey	19050169	11/31/94
EIA–851	Domestic Uranium Mining Production Report	19050160	12/31/94
EIA–856	Monthly Foreign Crude Oil Acquisition Report	19050174	09/30/96
EIA–857	Monthly Report of Natural Gas Purchases and Deliveries to Consumers	19050175	12/31/93
EIA–857S	Weekly Report of Natural Gas Supplies and Deliveries to Consumers (Standby Form)	19050175	12/31/93
EIA–858	Uranium Industry Annual Survey	19050160	12/31/94
EIA–860	Annual Electric Generator Report	19050129	12/31/95
EIA–861	Annual Electric Utility Report	19050129	12/31/95
EIA–863	Petroleum Product Sales Identification Survey	19050174	09/30/96
EIA–867	Annual Nonutility Power Producer Report	19050129	12/31/95
EIA–871A/F	Commercial Buildings Energy Consumption Survey	19050145	06/30/95
EIA–876A/E	Residential Transportation Energy Consumption Survey	19050068	12/31/93
EIA–877	Winter Heating Fuels Telephone Survey	19050174	09/30/96
EIA–878	Motor Gasoline Price Survey	19050174	09/30/96
Federal Energy Regulatory Commission			
FERC–1	Annual Report of Major Electric Utilities, Licensees and Others	19020021	07/31/95
FERC–1–F	Annual Report of Nonmajor Public Utilities and Licensees	19020029	07/31/95
FERC–2	Annual Report of Major Natural Gas Companies	19020028	07/31/96
FERC–2A	Annual Report of Nonmajor Natural Gas Companies	19020030	07/31/96
FERC–6	Annual Report of Oil Pipeline Companies	19020022	06/30/96
FERC–8	Underground Gas Storage Report	19020026	08/31/95
FERC–11	Natural Gas Pipeline Company Monthly Statement	19020032	06/30/96
FERC–73	Oil Pipeline Service Life Data	19020019	08/31/95
FERC–80	Licensed Hydropower Development Recreation Report	19020106	10/31/95
FERC–423	Monthly Report of Cost and Quality of Fuels for Electric Plants	19020024	12/31/93
FERC–523	Application for Authorization of the Issuance of Securities or the Assumption of Liabilities	19020043	09/30/95
FERC–549	Gas Pipeline Rates: Natural Gas Policy Act Title III Transactions	19020086	08/31/94
FERC–561	Annual Report of Interlocking Positions	19020099	10/31/95
FERC–580	Fuel Purchase Practices	19020137	03/31/94
FERC–592	Marketing Affiliates of Interstate Pipelines	19020157	12/31/93
FERC–597	Customer Satisfaction Survey	19020163	01/31/94
FERC–598	Certification of Entities Seeking Exempt Wholesale Generator Status	19020166	04/30/96
FERC–714	Annual Electric Power System Report	19020140	05/31/96
FERC–715	Annual Transmission Planning and Evaluation Report	19020167	05/31/96
FPC–14	Annual Report for Importers and Exporters of Natural Gas	19020027	08/31/95
Fossil Energy			
EIA–767(3)	Steam Electric Plant Operation and Design Report	19010298	01/31/96
FE–748	Enhanced Oil Recovery Annual Report	19010291	12/31/95
FE–782R	Annual Report of International Electric Export/Import Data	19010296	09/30/94

PART II.—DOE ACTIVE INFORMATION COLLECTIONS (NOT UTILIZING STRUCTURED FORMS)

[October 1, 1993 Inventory]

DOE Number	Title	OMB control number	Expiration date	CFR citation
Economic Regulatory Administration				
ERA–766R	Recordkeeping Requirements of DOE's General Allocation and Price Rules.	19030073	10/31/93	10 CFR 210.1.
Energy Information Administration				
EIA–882T	Generic Clearance for Questionnaire Testing, Evaluation, and Research.	19050186	06/30/96	
Federal Energy Regulatory Commission				
FERC–16A	Monitoring (Omnibus) Report (stand-by authority).	19020105	10/31/95	By FERC Order.
FERC–16AT	Interstate Pipeline Curtailment	19020139	11/30/96	By FERC Order.
FERC–500	Application For License for Hydropower Projects Greater Than 5MW.	19020058	07/31/94	18 CFR 4.38, 4.39, 4.40, 4.41, 4.50, 4.51, 4.200–202.

PART II.—DOE ACTIVE INFORMATION COLLECTIONS (NOT UTILIZING STRUCTURED FORMS)—Continued

[October 1, 1993 Inventory]

DOE Number	Title	OMB control number	Expiration date	CFR citation
FERC–505	Application for License for Water Projects 5MW or Less.	19020115	7/31/94	18 CFR 4.61, 4.71, 4.92, 4.93, 4.107, 4.108, 4.112, 4.113, 4.201–.202.
FERC–510	Application for Surrender of Electric License	19020068	05/31/96	18 CFR 6.1, 6.3.
FERC–511	Application for Transfer of Electric License	19020069	10/31/94	18 CFR 9.1, 9.2, 9.10.
FERC–512	Application for Preliminary Permit	19020073	09/30/94	18 CFR 4.31, 4.32, 4.33, 4.81, 4.82.
FERC–515	Hydropower License—Declaration of Intention	19020079	09/30/94	18 CFR 24.1.
FERC–516	Electric Rate Schedule Filings	19020096	05/31/95	18 CFR 35, Subpart A, 35.12–.16, 35.26, 35.30, 35.31, 292, 301.
FERC–519	Disposition of Facilities, Mergers, and Acquisitions of Securities.	19020082	03/31/96	18 CFR 33.
FERC–520	Application for Authority to Hold Interlocking Directorate Positions.	19020083	02/28/96	18 CFR 45.
FERC–521	Headwater Benefits	19020087	08/31/95	18 CFR 11.16.
FERC–525	Financial Audits	19020092	02/28/95	18 CFR 101, 201.
FERC–537	Gas Pipeline Certificates: Construction, Acquisition & Abandonment.	19020060	04/30/95	18 CFR 2.79, 157.5–.21, .100, .201–.218, 159.1, 284.107, .127, .221.
FERC–538	Gas Pipeline Certificate: Initial Service	19020061	01/31/94	18 CFR 156.3, 156.4, 156.5.
FERC–539	Gas Pipeline Certificate: Import/Export Related.	19020062	04/30/94	18 CFR 153.
FERC–541	Gas Pipeline Certificate: Curtailment Plan	19020066	03/31/94	18 CFR 2.78, 281.
FERC–542	Gas Pipeline Rates: Initial Rates, Rate Change, and PGA Tracking.	19020070	03/31/94	18 CFR 154.38, 154.61–154.67.
FERC–542A	Tracking and Recovery of Alaska Natural Gas Transportation System.	19020129	12/31/93	18 CFR 154.201–154.213.
FERC–543	Gas Pipeline Rates: Purchased Gas Adjustment Tracking.	19020152	03/31/94	18 CFR 154.38.
FERC–544	Gas Pipeline Rates: Rate Change (Formal)	19020153	02/28/94	18 CFR 154.63–154.67.
FERC–545	Gas Pipeline Rates: Rate Change (Non-Formal).	19020154	06/30/96	18 CFR 154.63–154.67.
FERC–546	Gas Pipeline Rates: Certificated Rate Filings	19020155	02/28/94	18 CFR 154.62–154.67.
FERC–547	Gas Pipeline Rates: Refund Obligations	19020084	05/31/94	18 CFR 154.38(5)(V)(H), 270.101, 273.301, 273.302.
FERC–549B	Gas Pipeline Rates: Capacity Release Information.	19020169	09/30/96	18 CFR 284(b)(5).
FERC–550	Oil Pipeline Rates: Tariff Filings	19020089	08/31/95	18 CFR 340–345, 347.
FERC–555	Records Retention Requirements	19020098	04/30/95	18 CFR 125, 156, 160.1, 225, 276.106, 277.210, 356.
FERC–556	Cogeneration and Small Power Production	19020075	10/31/94	18 CFR 292.
FERC–566	Report of Utility's Twenty Largest Purchasers	19020114	02/28/95	18 CFR 46.3.
FERC–567	Gas Pipeline Certificates: Annual Reports of System Flow Diagrams and System Capacity.	19020005	08/31/96	18 CFR 260.8, 284.12.
FERC–574	GAs Pipeline Certificates—Hinshaw Exemption.	19020116	08/31/95	18 CFR 152.
FERC–576	Report by Certain Natural Gas Companies on Service Interruptions.	19020004	05/31/95	18 CFR 260.9.
FERC–577	Gas Pipeline Certificates: Environmental Impact Statement.	19020128	12/31/94	18 CFR 2.80, 2.82, 157.14.
FERC–577(A)	Gas Pipeline Certificates: Environmental Impact Statement (Interim Rule).	19020161	12/31/94	18 CFR 2.80, 2.82, 157.14.
FERC–581	Management and Procurement Reporting and Recordkeeping Requirements.	19020130	11/30/96	48 CFR Subtitle A, Chapter 9.
FERC–582	Oil, Gas, and Electric Fees and Annual Charges.	19020132	10/31/96	18 CFR 381.106, 382.105(A), 382.201(B)(4).
FERC–583	Hydroelectric Fees and Annual Charges	19020136	10/31/96	18 CFR 11.1, 11.3, 11.4, 11.5.
FERC–585	Reports on Electric Energy Shortages & Contingency Plans Under PURPA 206.	19020138	12/31/93	18 CFR 294.
FERC–588	Emergency Natural Gas Sale, Transportation and Exchange Transactions.	19020144	06/30/94	18 CFR 284, Subpart I.
	Fossil Energy			
FERC–329R	Regulatory Reporting and Recordkeeping Requirements Pursuant to 10 CFR 500, 501, 503, and 504.	19010297	06/30/95	10 CFR 500, 501, 503, 504, 505, 508, 515.

PART II.—DOE ACTIVE INFORMATION COLLECTIONS (NOT UTILIZING STRUCTURED FORMS)—Continued

[October 1, 1993 Inventory]

DOE Number	Title	OMB control number	Expiration date	CFR citation
FE–746R	Import and Export of Natural Gas	19010294	01/31/96	10 CFR 205, 590.
FE–750R	Annual Compilation of Proposed and Final List of Utilities Covered by Public Utility Regulatory Policies Act and National Energy Conservation Policy Act.	19010295	04/30/94	10 CFR 463.

[FR Doc. 93–31828 Filed 12–28–93; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER93–925–000, et al.]

New England Power Service, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

December 21, 1993.

Take notice that the following filings have been made with the Commission.

1. New England Power Service

[Docket No. ER93–925–000]

Take notice that on November 22, 1993, England Power Service on behalf of New England Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp

[Docket No. ER94–264–000]

Take notice that PacifiCorp on December 16, 1993, tendered for filing in accordance with the Commission's Order pertaining to agreements involving final amnesty for jurisdictional service and waiver of notice, issued July 30, 1993 under Docket No. PL93–2–002, the Contract for Sale of Electric Power and Energy and for Operation and Maintenance Services between the United States Bureau of Reclamation and PacifiCorp dated October 6, 1960.

Copies of this filing were supplied to the United States Bureau of Reclamation, the Public Utility Commission of Oregon and the Utah Public Service Commission.

PacifiCorp requests waiver of prior notice requirements be granted.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Electric Power Co.

[Docket No. ER94–242–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on December 14, 1993, tendered for filing an amendment to the interchange agreement between itself and Madison Gas and Electric Company (MG&E). The amendment would replace Service Schedule A—Limited Term Power and Energy with Service Schedule A—Negotiated Capacity and Energy.

Wisconsin Electric requests an effective date of sixty days after filing. Wisconsin Electric is authorized to state that MG&E joins in the requested effective date.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. El Paso Electric Co.

[Docket No. ER94–241–000]

Take notice that on December 14, 1993, El Paso Electric Company (EPE) requested the Commission to disclaim jurisdiction over an agreement between EPE and Texas-New Mexico Power Company (TNP) which provides the terms and conditions for participation in the construction, operation, maintenance and use of the Amrad to Artesia 345 kV transmission facilities and DC terminal by EPE and TNP, or, if the Commission asserts jurisdiction, to accept the agreements for filing to become effective December 8, 1981.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp; Public Service Company of Colorado

[Docket No. ER94–240–000]

Take notice that on December 14, 1993, PacifiCorp tendered for filing on behalf of Public Service Company of Colorado (PSCo) and itself, in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, revisions to the Power and Transmission Services Agreement among PSCo, Tri-State Generation and Transmission Association, Inc. (Tri-State) and PacifiCorp (PSCo Rate Schedule FERC No. 50 and PacifiCorp Rate Schedule FERC No. 319).

Copies of this filing have been supplied to PSCo, Tri-State, the Colorado Public Utilities Commission, the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER94–236–000]

Take notice that on December 13, 1993, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (the GPU Electric Utilities) tendered for filing pursuant to Rule 205 of the Commission's Rules of Practice and Procedure (18 CFR 385.205) a proposed rate schedule change relating to the allocation among the GPU electric utilities of their respective Forecast Capacity Responsibility and the determination of their respective Annual Size Factors under the GPU System Power Pooling Agreement. The subject rate change, which was filed in response to the Orders of the Federal Energy Regulatory Commission issued July 30, 1993 and October 19, 1993, provides such data for periods beginning in 1976.

Copies of the filing have been furnished to the Pennsylvania Public Utility Commission and New Jersey Board of Regulatory Commissioners.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Sound Power & Light Co.

[Docket No. ER94–200–000]

Take notice that on November 30, 1993, Puget Sound Power & Light Company (Puget) tendered for filing an initial rate schedule between the United States of America Department of Energy acting by and through the Bonneville Power Administration ("Bonneville"), Public Utility District No. 1 of Chelan

County, Washington ("District") and Puget, executed December 23, 1957 (the "Agreement"). A copy of the filing was served upon Bonneville and District.

Puget states that the Agreement relates to Bonneville's provision of transmission services from District to Puget. The Agreement also provides that the amounts of energy to be delivered by Bonneville to Puget are to be the amounts deemed to be made available to Bonneville by the District, adjusted for losses incurred by Bonneville between its point of interconnection with District and its point or points of delivery to Puget.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Gas Corp.

[Docket No. ER94-269-000]

Take notice that on December 16, 1993, New York State Electric & Gas Corporation (NYSEG) tendered for filing an agreement with Steuben Rural Electric Cooperative, Inc. (Cooperative). Pursuant to the agreement, NYSEG agreed to construct certain tap facilities to facilitate transmission service to the Cooperative. NYSEG requests that the Commission consider the Agreement an expired CIAC agreement. NYSEG requests that the Commission consider the Agreement an expired CIAC agreement. In the alternative, NYSEG is filing the agreement as an initial rate schedule, and NYSEG requests an effective date of October 31, 1973. Accordingly, it has requested waiver of the Commission's notice requirements for good cause shown.

NYSEG states that a copy of this filing has been served by mail upon the Cooperative and upon the Public Service Commission of the State of New York.

Comment date: January 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Great Bay Power Corp.

[Docket No. ER94-215-000]

Take notice that on November 29, 1993, Great Bay Power Corporation (Great Bay) tendered for filing an executed copy of the service agreement for Green Mountain and Great Bay under the Tariff submitted on September 1, 1993 and amended October 14, 1993 in Docket No. ER93-924-000.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Co.

[Docket Nos. ER93-208-000, ER93-209-000, ER93-210-000 and ER93-215-000]

Take notice that on December 15, 1993, Consolidated Edison Company of New York Inc. (Con Edison), in response to the Commission's Staff request for additional information, tendered for filing additional information relative to the below-listed interconnection agreements.

Docket No.	Persons receiving service
ER93-208-000	Orange & Rockland Utilities, Inc. (O&R).
ER93-209-000	New York Power Authority (NYPA).
ER93-210-000	Central Hudson Gas & Electric Corporation (CH).
ER93-215-000	NYPA.

Con Edison states that a copy of this filing has been served by mail upon O&R, NYPA and CH.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corp.

[Docket No. ER94-252-000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), on December 15, 1993, tendered for filing an agreement between Niagara Mohawk and Indeck Energy Services of Corinth, Inc. (Indeck) dated June 1, 1992 providing for the terms and conditions of an interconnection between Indeck's cogeneration facility and Niagara Mohawk's transmission system.

The effective date of June 1, 1992 is requested by Niagara Mohawk.

Copies of this filing were served upon Indeck and the New York State Public Service Commission.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Otter Tail Power Co.

[Docket No. ER94-251-000]

Take notice that on December 15, 1993, Otter Tail Power Company (Otter Tail) tendered for filing a list of retail shared service contracts that may or may not be deemed under FERC jurisdiction. Otter Tail states that this filing is being done as a result of Docket No. PL93-3-002, Prior Notice and Filing Requirements Under Part II of the Federal Power Act.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER94-261-000]

Take notice that on December 16, 1993, Pacificorp tendered for filing, the Agreement for Transmission Services between Idaho Power Company and Pacific Power & Light Company (now PacifiCorp) dated September 10, 1980. In addition, PacifiCorp has requested a rate schedule designation for the Restated Transmission Services Agreement between PacifiCorp, dba PacifiCorp Electric Operations, and Idaho Power dated February 6, 1992 which has already been filed and accepted by the Commission. PacifiCorp has requested a waiver of the Commission's prior notice requirements.

Copies of this filing have been supplied to Idaho Power Company, the Idaho Public Utilities Commission, the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Portland General Electric Co.

[Docket No. ER94-258-000]

Take notice that on December 15, 1993, Portland General Electric Company (PGE) tendered for filing the Northern Intertie and Network Transmission Agreement (Agreement) Between the Bonneville Power Administration (BPA) and PGE. Under the Agreement PGE purchases transmission services from BPA and PGE is responsible for the replacement of transmission losses and, under some circumstances, the return of energy to BPA.

Waiver of the Commission's notice requirements is requested during the general amnesty period announced by the Commission in its order of July 30, 1993 in Docket No. PL93-2-002, to allow the Agreement to be effective January 1, 1993.

Copies of this agreement have been served on the distribution list, as included in the filing.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

15. Northern Indiana Public Service Co.

[Docket No. ER94-259-000]

Take notice that Northern Indiana Public Service Company (Northern Indiana), on December 15, 1993, tendered for filing a proposed initial rate schedule for inclusion in its FERC ElectricService Tariff in order to provide service to Greenfield Mills, Inc. (Greenfield Mills), the owner and operater of a hydroelectric facility in Lagrange County, Indiana. Pursuant to the rate schedule, Northern Indiana will purchase power generated by Greenfield Mills and, should Greenfield Mills need electricity for its operations, Northern Indiana will provide such "backfeed" power from its system supply. Northern Indiana will purchase power generated by Greenfield Mills during the 18-hour period from 6:00 a.m. to midnight at a rate of 7 mills per kilowatt hour (kWh); power generated during the remaining six hours of the day will be purchased by Northern Indiana at a rate of 3 mills per kWh. Northern Indiana sells backfeed to Greenfield Mills by offsetting two kWh of power purchased for every one kWh of power sold.

Northern Indiana is filing this rate schedule under the general "amnesty" provided in the Commission's Final Order in Docket No. PL93-2-002, 64 FERC ¶ 61,139 (1993). Northern Indiana and Greenfield Mills executed the contract at issue in this proceeding on May 1, 1959. Northern Indiana seeks Commission approval, without modification or condition, of the rate schedule as filed and a waiver of the 60-day notice requirement contained in the Federal Power Act. In addition, due to the de minimis nature of its contract with Greenfield Mills, Northern Indiana seeks waivers of certain of the filing requirements found in 18 CFR 35.12. Copies of Northern Indiana's application are on file with the Commission and are available for public inspection.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

16. PacifiCorp

[Docket No. ER94-255-000]

Take notice that on December 15, 1993, PacifiCorp, tendered for filing, in accordance with 18 CFR 35.13(a)(2)(ii) of the Commission's Rules and Regulations, PacifiCorp's proposed FERC Electric Tariff, Original Volume No. 8 (Tariff).

PacifiCorp respectfully requests pursuant to § 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that this filing be accepted for filing effective on August 2, 1991 or in the alternative effective on August 26, 1935, the approval date of the Public Utility Act of 1935.

Copies of this filing were supplied to the Public Utility Commission of Oregon.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

17. South Carolina Electric & Gas Co.

[Docket No. ER94-258-000]

Take notice that South Carolina Electric & Gas Company on December 15, 1993, tendered for filing an Interchange Agreement between South Carolina Electric & Gas Company and Oglethorpe Power Corporation.

Under the proposed Interchange Agreement between South Carolina Electric & Gas Company and Oglethorpe Power Corporation, the parties agree to service schedules for Reserve, Short Term Power, Limited Term Power, Economy Interchange and Other Energy Transactions.

Copies of this filing were served upon Oglethorpe Power Corporation.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Power Service Corporation on behalf of Mongahela Power Company, et al.

[Docket No.ER94-246-000]

Take notice that on December 14, 1993, Allegheny Power Service Corporation on behalf of Mongahela Power Company, The Potomac Edison Company and West Penn Power Company (The APS Companies) and Virginia Electric and Power Company, filed seven borderline service agreements within the Central Maine amnesty period pursuant to the Commission's Final Order—Prior Notice and Filing Requirements—Docket No. PL93-2-002. Allegheny Power Service Corporation requests waiver of notice requirements and asks the Commission to honor the proposed effective dates specified in the agreements.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

19. Iowa Electric Light and Power Co.

[Docket No. ER94-243-000]

Take notice that Iowa Electric Light and Power Company (Iowa Electric) on December 14, 1993, tendered for filing various documents evidencing Iowa Electric's agreement to provide transmission services to Iowa Public Service Company (IPS). Iowa Electric requests the Commission, pursuant to the amnesty provisions issued in the Final Order in Docket No. PL93-2-002, to waive its prior notice requirements and authorize an effective date for the rate schedule of October 1, 1987.

A copy of the filing was served upon Iowa State Utilities Board and Midwest Power Systems Inc., the successor to IPS.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

20. PacifiCorp

[Docket No. ER94-253-000]

Take notice that on PacifiCorp, on December 16, 1993, tendered for filing in accordance with Commission's Order pertaining to agreements involving final amnesty for jurisdictional service and waive of notice, issued July 30, 1993 under Docker No. PL93-2-002, the Electric Service Agreement between Emerald People's Utility District (Emerald) and PacifiCorp dated November 9, 1983.

Copies of this filing were supplied to Emerald, the Public Utility Commission of Oregon, and the Utah Public Service Commission.

PacifiCorp requests that a waiver of prior notice requirements be granted.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

21. Iowa Electric Light and Power Co.

[Docket No. ER94-247-000]

Take notice that Iowa Electric Light and Power Company (Iowa Electric) on December 14, 1993, tendered for filing an Operating and Transmission Agreement (Agreement), dated January 1, 1991, between Iowa Electric and Central Iowa Power Cooperative (CIPCO). Under the terms of the Agreement, the parties have integrated the operations of portions of their generating and transmission systems. Iowa Electric requests the Commission, pursuant to the amnesty provisions issued in the Final Order in Docket No. PL93-2-002, to waive its prior notice requirements and authorize an effective date for the rate schedule of January 1, 1991.

A copy of the filing was served upon Iowa State Utilities Board and CIPCO.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

22. Wisconsin Public Service Corporation, et al.

[Docket No. ER94-245-000]

Take notice that on December 14, 1993, Wisconsin Public Service Corporation (WPS), Wisconsin Power and Light Company (WPL), Wisconsin Electric Power Company (WEPCO) and Madison Gas and Electric Company (MGE)(collectively Joint Owners) requested that the Commission not require the filing of (1) an agreement for the construction and operation of the Edgewater 5 generating unit, together with amendments and (2) sections of

joint operating manuals which provide for the sharing of costs of transmission substations associated with the Kewaunee, Columbia and Edgewater 4 and 5 generating units. However, if the Commission should decide to require that the agreements and manuals be filed, the Edgewater 5 agreement and manuals are tendered for filing.

Comment date: January 7, 1994, in accordance with Standard Paragraph E at the end of this notice.

23. PacifiCorp

[Docket No. ER94-262-000]

Take notice that PacifiCorp on December 16, 1993, tendered for filing in accordance with the Commission's Order pertaining to agreements involving final amnesty for jurisdictional service and waiver of notice, issued July 30, 1993 under Docket No. PL93-2-002, agreements which contain provisions involving a return of energy losses associated with the purchase of Townsend-Garrison Transmission service from the Bonneville Power Administration (Bonneville).

Copies of this filing were supplied to Bonneville, The Montana Power Company, Portland General Electric Company, Puget Sound Power & Light Company, The Washington Water Power Company, the Public Utility Commission of Oregon, and the Utah Public Service Commission.

PacifiCorp requests waiver of prior notice requirements be granted and that the filed agreements be accepted for filing effective as indicated for the agreement.

Comment date: January 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

24. PacifiCorp

[Docket No. ER94-267-000]

Take notice that PacifiCorp on December 16, 1993, tendered for filing in accordance with the Commission's Order pertaining to agreements involving final amnesty for jurisdictional service and waiver of notice, issued July 30, 1993 under Docket No. PL93-2-002, the Transmission and Interconnection Agreement between The Washington Water Power Company and PacifiCorp, effective January 1, 1993.

Copies of this filing were supplied to The Washington Water Power Company, the Public Utility Commission of Oregon and the Utah Public Service Commission.

PacifiCorp requests waiver of prior notice requirements be granted.

Comment date: January 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

25. Southern California Edison Company

[Docket No. ER94-268-000]

Take notice that on December 16, 1993, Southern California Edison Company (Edison) tendered for filing an Amendment to the Power Contract designated Rate Schedule FERC No. 112, which has been executed by Edison and the California Department of Water Resources (CDWR): Amendment No. 3 to the Power Contract.

The Amendment provides for revised amounts of firm transmission service for an existing transmission service path.

The Amendment is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the California Department of Water Resources.

Comment date: January 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31805 Filed 12-28-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. ER94-239-000, et al.]

Wisconsin Public Service Corp., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

December 21, 1993.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Public Service Corp.

[Docket No. ER94-239-000]

Take notice that on December 14, 1993, Wisconsin Public Service Corporation (WPSC) requested the Commission to disclaim jurisdiction over an executed Transmission Facilities Extension Agreement between WPSC and Rhinelander Paper Company which provides for the construction at Rhinelander's expense of a radial 115 Kv transmission line which WPSC will own and over which WPSC will provide Rhinelander with retail service when the line is completed by May of 1995. If the Commission asserts jurisdiction, WPSC tenders the agreements for filing.

WPSC requests the Commission to act on this submission within 60 days.

Comment date: January 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Electric Power Co.

[Docket No. ER94-237-000]

Take notice that on December 13, 1993, Wisconsin Public Service Corporation (WPSC) requested the Commission to disclaim jurisdiction over an agreement under which WPSC provides retail electric service to the Wausau Center shopping mall in Wausau, Wisconsin (Wausau Center), under WPSC's Cp-1 large commercial and industrial retail rate, or, if the Commission asserts jurisdiction, to accept the agreement for filing to become effective August 3, 1983.

Comment date: January 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Service Co.

[Docket No. ER94-234-000]

Take notice that on December 13, 1993, New England Power Service Company (NEPS) on behalf of New England Power Company tendered for filing a letter stating that NEP has entered into agreements with certain transmission customers regarding manual load shedding procedures.

Comment date: January 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Co.

[Docket No. ER94-235-000]

Take notice that on December 13, 1993, Northeast Utilities Service Company (NUSCO) tendered for filing a letter, on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company and Holyoke Water Power Company, stating that it was filing a changed rate schedule for sales of system power to Chicopee Municipal Lighting Plant.

NUSCO requests that the change in rate schedule become effective on December 1, 1993 and that such rate schedule change supersede FERC Rate Schedule Nos. CL&P 504 and HWP 49 at that time.

Comment date: January 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Central Vermont Public Service Corp.

[Docket No. ER94-205-000]

Take notice that on November 30, 1993, Central Vermont Public Service Corporation (CVPS) tendered for filing a letter stating that CVPS does not plan to file a forecast 1994 report for the FERC Electric Tariff, Original Volume No. 4.

Comment date: January 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin)

[Docket No. ER93-412-001]

Take notice that on December 15, 1993, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (hereafter jointly NSP) tendered for filing its Compliance Filing to the Commission's "Order Accepting and Suspending Rates, Subject to Refund" dated November 30, 1993 in Docket No. ER93-412-000.

Pursuant to the Commission Order, NSP's proposed 3rd Substitute Original Sheet No. 200 (Rate Schedule P) and service schedule amendments are to be effective May 1, 1993.

Comment date: January 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Union Electric Co.

[Docket No. ER94-238-000]

Take notice that on December 13, 1993, Union Electric Company (UE) tendered for filing a System Participation Power Agreement dated April 28, 1993, under the provisions of the Interconnection Coordinating Agreement Northern States Power Complaint, et al and UE dated January 7, 1965. UE asserts that the purpose of the Agreement is to set out specific terms for system participation power transactions.

UE requests that the filing be permitted to become effective May 1, 1993.

Comment date: January 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Co.

[Docket No. ER94-248-000]

Take notice that on December 14, 1993, Arizona Public Service Company (APS) tendered for filing the Nonfirm Transmission Service Agreement for Arizona between El Paso Electric Company (EPE) and Arizona Public Service Company (APS or Company) (EPE Agreement) and the Edison-Arizona Interruptible Transmission Service Agreement between Southern California Edison Company (SCE) and APS (SCE Agreement).

The EPE Agreement provides for EPE to provide nonfirm transmission service to APS and the SCE Agreement provides for SCE to provide interruptible transmission service to APS.

Copies of this filing have been served upon EPE, SCE and the Arizona Corporation Commission.

Comment date: January 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Central Power and Light Co.

[Docket No. ER94-249-000]

Take notice that on December 14, 1993, Central Power and Light Company (CPL) submitted to the Commission a Construction, Ownership and Operating Agreement under which CPL will be entitled to reimbursement from the Public Utilities Board of the City of Brownsville, Texas (City) for certain costs of maintaining two recently constructed transmission lines between Brownsville, Texas and Matamoros, Mexico. CPL has requested that the Commission disclaim jurisdiction over the Agreement or, in the alternative, accept the Agreement for filing as a rate schedule under the Federal Power Act.

Copies of the filing have been served upon the City and the Public Utility Commission of Texas.

Comment date: January 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Co.

[Docket No. ER94-250-000]

Take notice that Wisconsin Electric Power Company (WEPCO) on December 15, 1993, tendered for filing a Joint Use and Facility Sharing Agreement dated April 30, 1991, and Amendment No. 1 thereto, among Marquette Board of Light and Power (Marquette), Upper Peninsula Power Company (UPPCO), and WEPCO. Under the terms of the Agreement WEPCO shares with other parties, at no charge, the use of transmission line structures and right of way owned by WEPCO.

WEPCO states that its filing is being made pursuant to the Final Order and the Appendix thereto issued July 30, 1993 in Docket No. PL93-2-000. WEPCO requests that the Commission disclaim jurisdiction over the Agreement or, in the alternative, that the Commission accept the Agreement for filing and permit it to become effective in accordance with its terms.

Copies of the filing have been served on Marquette, UPPCO, and the Michigan Public Service Commission.

Comment date: January 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31738 Filed 12-28-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP92-715-000; et al.]

Liberty Pipeline Co., et al.; Intent To Resume Preparation of a Draft Environmental Impact Statement for the Proposed Liberty Pipeline Project and Request for Comments on Environmental Issues

December 22, 1993.

In the matter of Liberty Pipeline Co., Docket Nos. CP92-715-000, CP92-715-001; Texas Eastern Transmission Corp., Docket Nos. CP92-719-000, CP92-719-001, CP92-720-000, CP92-720-001, CP93-105-000, CP93-105-001, Transcontinental Gas Pipe Line Corp., Docket Nos. CP92-721-000, CP92-721-001; Texas Gas Transmission Corp., Docket Nos. CP92-730-000, CP92-730-001, CP92-734-000, CP92-734-001.

The staff of the Federal Energy Regulatory Commission (FERC or the Commission) will resume the preparation of an environmental impact statement (EIS) that will discuss environmental impacts of the construction and operation of natural gas facilities proposed in the Liberty

Pipeline Project.[1] This EIS will be used by the Commission in its decision-making process (whether or not to approve the individual projects).

A number of Federal agencies are being asked to indicate whether they wish to cooperate with us in the preparation of the EIS. These agencies are listed in Appendix 1 and may choose to participate once they have evaluated each proposal relative to their agencies' responsibilities.[2]

Summary of the Proposed Projects

Liberty Pipeline Company (Liberty) wants Commission authorization to transport up to 500,000 dekatherms of natural gas per day (Dthd) for six local natural gas distribution companies and electric generation companies and to construct and operate the following facilities needed to transport those additional volumes:

- 38.2 miles of new pipeline;
- One new meter station; and
- Two new delivery taps.

About 29.8 miles of the proposed new pipeline would be located under water between Middlesex County, New Jersey and the Borough of Queens, New York.

Texas Eastern Transmission Corporation (Texas Eastern) has an existing natural gas pipeline system consisting of various diameter pipe that extends from the State of Texas and offshore Louisiana through the Appalachian area to the Eastern Seaboard in the Philadelphia and New York area. Texas Eastern wants Commission authorization to expand and modify its facilities to transport up to an additional 255,744 Dthd to various local gas distribution companies and electric generation companies and to construct and operate the following facilities needed to transport those volumes:

- 134.1 miles of loop, replacement, and new lateral pipeline in 13 segments;[3]
- One new compressor station with a total of 4,600 horsepower (hp) of compression, and 27,800 hp of additional compression at seven existing compressor stations;
- Two new meter stations; and
- Minor modifications at other existing meter and compressor stations.

Transcontinental Gas Pipe Line Corporation (Transco) has an existing natural gas pipeline system consisting of various diameter pipe that extends from its principal sources of natural gas supply in Texas, Louisiana, Mississippi, and the offshore Gulf of Mexico area, through the states of Alabama, Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, and New Jersey, to its end in the New York City metropolitan area. Transco wants Commission authorization to expand and modify its facilities to transport up to an additional 115,000 Dthd to various gas distribution companies and electric generation companies and to construct and operate the following facilities needed to transport those volumes:

- 18.3 miles of loop and new lateral pipeline in three segments;
- 12,000 hp of additional compression at one existing compressor station;
- one new tap;
- one new meter station; and
- minor modification of one existing regulator station.

Transco also proposes to hydrostatically test and upgrade 29.4 miles of existing pipeline.

Texas Gas Transmission Corporation (Texas Gas) has an existing natural gas pipeline system located in Texas, onshore and offshore Louisiana, Arkansas, Mississippi, Tennessee, Kentucky, Indiana, Illinois, and Ohio. Texas Gas wants Commission authorization to expand and modify its facilities to transport up to an additional 137,803 Dthd to various gas distribution companies and electric generation companies and to construct and operate the following facilities needed to transport those volumes:

- 51.3 miles of loop pipeline in five segments.

The general locations of the facilities proposed by Liberty, Texas Eastern, Transco, and Texas Gas are shown in Appendices 2 through 4. A detailed listing of the facilities is in Appendices 5 and 6.

Three of the customers receiving gas from the Liberty Pipeline Project will use the natural gas to fuel new electric cogeneration plants. Although these facilities are not under the jurisdiction of the FERC, they will be discussed in the EIS and are included in appendix 6.

Background

On September 21, 1992 and December 14, 1992, Liberty, Texas Eastern, Transco, and Texas Gas applied to the Commission for authorization to construct new facilities and expand existing facilities to transport approximately 541,600 Dthd of natural gas through their systems as part of the Liberty Pipeline Project.[4] We issued the original Notice of Intent for the project on January 22, 1993, and conducted a thorough analysis of those proposals. However, because project changes were indicated by the applicants, we issued a notice of postponement for the project on July 16, 1993. By November 2, 1993, the applicants amended their proposals to reflect the following:

- A delay in the initial in-service date from November 1, 1994 to November 1, 1995;
- A phasing of the project so that some service would be provided beginning November 1, 1995, and the remainder would be provided beginning November 1, 1996;
- Changes in the locations of some of Texas Eastern's proposed loops and replacements, as necessary to allow the phasing of the project; and
- Changes in the locations of some of Texas Gas' proposed loops to avoid certain topographical constraints and residential areas.

The proposed facilities described in Appendices 5 and 6 reflect the above changes to the project. Appendix 7 lists all facilities which we have not yet studied.

Areas Previously Studied

In addition to the previous analysis we began for the Liberty Pipeline Project, some of Texas Gas' proposed facilities were previously studied in the ANR Phase II Project environmental assessment (EA) (Docket Nos. CP90–688–000, et al.).

All analyses previously conducted as part of the ANR Phase II EA, and mitigation methods authorized by the Commission in its Order of June 11, 1991, will be deemed still valid unless the Commission is otherwise notified by agencies or interested parties. Likewise, we request updated environmental information about areas that remain in the project, if the information supplied during the original Liberty Project analysis is no longer valid.

[1] Liberty Pipeline Company's, Texas Eastern Transmission Corporation's, Transcontinental Gas Pipe Line Corporation's, and Texas Gas Transmission Corporation's applications were filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference Branch, room 3104, 941 North Capitol Street, NE., Washington, DC 20426 or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] A loop is a segment of pipeline that is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through that part of the pipeline system. A replacement allows more gas to be moved through a pipeline by replacing a segment of pipe with stronger or larger diameter pipe, usually in the same ditch. A lateral is a pipeline that branches off the mainline delivery system and serves to transport gas to an outlying region.

[4] Part of the originally proposed Liberty Pipeline Project was for the transportation of natural gas to customers in Elizabethtown, New Jersey (Docket No. CP92–716–000) and has since been dropped from the proposal.

Land Requirements for Construction

Pipelines

The proposed loops would generally be built parallel and adjacent to Texas Eastern's, Transco's, and Texas Gas' existing pipelines, using as much of the existing rights-of-way as possible. The majority of the proposed pipeline segments would be adjacent to existing pipeline or road, railroad, or electric transmission line rights-of-way. The land portion of Liberty's new pipeline would be constructed almost entirely within city streets.

The companies would use rights-of-way ranging in width from 50 to 100 feet, depending on pipe diameter, topography, and environmental concerns. After construction, the disturbed area would be restored, and a 0- to 50-foot-wide right-of-way in addition to existing rights-of-way would be permanently maintained. The remainder of the land would revert to its preconstruction use.

Aboveground Facilities

Liberty would construct the Howard Beach Meter Station on a 1.4-acre site in Queens County, New York. Texas Eastern would construct its proposed Glen Karn Compressor Station on 6 acres of a 48-acre site in Darke County, Ohio; the Leidy Compressor and Meter Stations on an approximate 40-acre site in Clinton County, Pennsylvania; and the South Amboy Meter Station on a 1.8-acre site in Middlesex County, New Jersey. Transco would construct its South Amboy Meter Station on a 3.4-acre site adjacent to Texas Eastern's proposed South Amboy Meter Station.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from a major Federal action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. The EIS we are preparing will give the Commission the information to do that. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues, and to separate these from issues that are insignificant and do not require detailed study.

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general subject headings:

- Geology
- Soils
- Water resources
- Fish and wildlife
- Endangered and threatened species
- Vegetation
- Wetlands
- Air quality and noise
- Land use
- Visual resources
- Recreation
- Socioeconomics
- Cultural resources
- Marine resources

We will also evaluate possible alternatives to the projects, or portions of the projects, and make recommendations on how to lessen or avoid impacts on the various resource areas. The City of New York, Borough of Queens has identified an alternative to the proposed route of the land portion of the Liberty Pipeline. This alternative is shown in appendix 8, along with an additional alternative route that we have identified. We will study these and possibly other alternatives along with the proposed routes.

Our independent analysis of the issues will result in the publication of a Draft EIS which will be mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for these proceedings. This Draft EIS will include our analysis of the newly proposed facilities and will reproduce our previous analyses in the ANR Phase II EA and the Liberty Pipeline Project. A 45-day comment period will be allotted for review of the Draft EIS. We will consider all comments on the Draft EIS and revise the document, as necessary, before issuing a Final EIS. The Final EIS will include our response to each comment received.

We plan to issue the Draft EIS in May 1994. Pending the identification and resolution of environmental issues, we plan to issue the Final EIS in late October 1994.

Currently Identified Environmental Issues

We have already identified a number of issues that we think deserve attention, based on a preliminary review of the proposed facilities and the environmental information provided by Liberty, Texas Eastern, Transco, and Texas Gas. These issues are presented in Appendix 9. Keep in mind that this is a preliminary list; the list of issues will be added to, subtracted from, or changed based on your comments and our own analysis.

Public Participation and Scoping Meetings

You can make a difference by sending a letter with your specific comments or concerns about the projects. You should focus on the potential environmental effects of the proposals, alternatives to the proposals (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426.
- Reference Docket Nos. CP92–715–000, *et al.*;
- Send a copy of your letter to: Mr. Jeffrey Gerber, EIS Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., NE., room 7312 Washington, DC 20426; and
- Mail your comments so that they are received in Washington, DC on or before February 4, 1994.

During our previous analysis of these projects, we conducted scoping meetings in Lawrence, New York and Edison, New Jersey to provide you with more detailed information and another opportunity to offer your comments on the proposed projects. After we more fully review the changes that have been made to the proposed projects, we may decide to conduct additional scoping meetings. These meetings will be announced in the **Federal Register** and by a mailing to all parties receiving this notice in the mail.

Becoming an Intervenor

In addition to involvement in the EIS scoping process, you may want to become an official party to the proceedings or an "intervenor". Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a Motion to Intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (Title 18 CFR 385.214) which is attached as Appendix 10.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested and/or potentially affected by the proposed project. It is also being sent to all

potential right-of-way grantors to solicit focused comments regarding environmental considerations related to the proposed project. As details of the project become established, representatives of Liberty, Texas Eastern, Transco, or Texas Gas will directly contact landowners, communities, and public agencies concerning any other matters, including acquisition of permits and rights-of-way.

If you do not want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EISs, please return the Information Request (appendix 11). If you do not return the Information Request you will be taken off the mailing list.

Additional information about the proposed project is available from Mr. Jeffrey Gerber, EIS Project Manager, at (202) 208–0282.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31730 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–P

[Project Nos. 7745–003, et al.]

Hydroelectric Applications; Jerry Kaufman, et al.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. Type of Application: Surrender of Exemption.

b. Project No: 7745–003.

c. Date Filed: November 17, 1993.

d. Applicant: Jerry Kaufman.

e. Name of Project: Garden Bar Power Plant.

f. Location: Camp Far West Ditch, near Lincoln, Placer County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Jerry Mason, 3035 Prospect Park Drive, suite 120, Rancho Cordova, CA 95670, (916) 858–0133.

i. FERC Contact: Patricia Massie, (202) 219–2681.

j. Comment Date: January 26, 1994.

k. Description of Application: Mr. Kaufman intends to remove the power plant. The turbines are old and the cost of putting the plant back into operation is too prohibitive. The liability of having the plant sit is also unacceptable.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

2a. Type of Application: Preliminary Permit.

b. Project No.: 11447–000.

c. Date filed: November 2, 1993.

d. Applicant: North Unit Irrigation District.

e. Name of Project: Wickiup.

f. Location: At the existing Bureau of Reclamation Wickiup dam on the Deschutes River, near Bend in Deschutes County, Oregon.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Harold V. Schonneker, North Unit Irrigation District, 2024 NW Beach Street, Madras, OR 07741, (503) 475–3625.

i. FERC Contact: Michael Spencer at (202) 219–2846.

j. Comment Date: February 22, 1994.

k. Description of Project: The proposed project utilize the Bureau of Reclamation's Wickiup dam and would consist of: (1) two penstocks connected to the dam's outlet works, one would be a 96-inch-diameter, 79-foot-long steel penstock and the other a 96-inch-diameter, 67-foot-long steel penstock; they would converge into a single 120-inch-diameter, 21-foot-long penstock; (2) a powerhouse containing a generating unit with a capacity of 7.0 MW and estimated average annual generation of 26.1 GWh; (3) a 90-foot-long concrete tailrace; and (4) a 9.1-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $50,000.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

3a. Type of Application: Amendment of License.

b. Project No: 1835–100.

c. Date Filed: October 28, 1993.

d. Applicant: Nebraska Public Power District.

e. Name of Project: North Platte/Keystone Diversion Dam.

f. Location: On the North and South Platte Rivers, Nebraska.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Applicant Contact: Mr. R. L. Peterson, Nebraska Public Power District, P.O. Box 310, North Platte, NE 69103, (308) 532–9200.

i. FERC Contact: Mr. Steve Hocking, (202) 219–2656.

j. Comment Date: January 26, 1994.

k. Description of proposed amendment: Nebraska Public Power District, licensee for the North Platte/Keystone Diversion Dam Project, filed an application to amend article 401 of their license. Article 401 requires the licensee to develop and maintain eight islands as nesting habitat for interior least terns and piping plovers. The proposed amendment would allow the licensee to substitute up to four sand pits for four of the eight islands they are required to develop. The proposed amendment requires a plan on how these sand pits would be developed. A draft plan was included in the licensee's filing.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

4a. Type of Application: Approval of Report on Recreation Resources and Change in Project Boundary.

b. Project No: 3133–012.

c. Date Filed: October 29, 1993.

d. Applicant: Errol Hydroelectric Ltd. Partnership and Union Water Power Company.

e. Name of Project: Errol Project.

f. Location: Umbagog Lake and Androscoggin River, Coos County, New Hampshire and Oxford County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Gerald Poulin, President, Union Water Power Company, 150 Main Street, Lewiston, ME 04240, (207) 623–3521.

i. FERC Contact: Heather Campbell, (202) 219–3097.

j. Comment Date: February 3, 1994.

k. Description of Project: The Errol Hydroelectric Ltd. Partnership and Union Water Power Company, licensees for the Errol Project, filed a report on recreation resouces. They propose revising the project boundary to incorporate a canoe portage. The revision will affect lands owned by the licensees near the project powerhouse.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

5a. Type of Application: Exhibit Drawings.

b. Project No.: 2301–011.

c. Date Filed: December 15, 1992.

d. Applicant: Montana Power Company.

e. Name of Project: Mystic Lake Project.

f. Location: On the West Rosebud Creek, a tributary of the Stillwater River, in Custer National Forest and Stillwater County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. G. Howard Van Noy, Senior Vice President, Generation and Transmission, Montana Power Company, 40 East Broadway, Butte, MT 59701, (406) 496–5064.

i. FERC Contact: Paul Shannon, (202) 219–2866.

j. Comment Date: February 3, 1994.

k. Description of Drawings: Montana Power Company requests approval of as-built exhibit K drawings that show the project boundary for the Mystic Lake Project. The exhibits show an additional three acres of federal lands within the project boundary compared to the exhibit K drawings filed in 1980. The three acres are near the project's inverted siphon. The licensee also submitted a copy of the Special Use Permit from the U.S. Forest Service which authorizes the use of the additional lands.

l. This paragraph also consists of the following standard paragraphs: B, C1, and D2.

6a. Type of Application: Project Boat Launch Plan.

b. Project No: 9821–067.

c. Date Filed: December 1, 1993.

d. Applicant: Trafalgar Power Company.

e. Name of Project: Ogdensburg Project.

f. Location: Odgensburg, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Lippman Tam, Trafalgar Power, Inc., P.O. Box 369, Rome, NY 13442, (504) 273–8891.

i. FERC Contact: Dan Hayes, (202) 219–2860.

j. Comment Date: February 4, 1994.

k. Description of Project: Trafalgar Power, Inc., licensee for the Ogdensburg Project, has filed an application to construct a boat launch and fishermen's access on the Ogdensburg impoundment on the South bank of the Ogdensburg impoundment adjacent to the Spring Street Bridge. The facility will have paved parking for ten vehicles, and paved access from Lake Street.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

7a. Type of Application: Non-project Use of Project Lands—Timber Harvest.

b. Project No: 2329–011.

c. Date Filed: October 6, 1993.

d. Applicant: Central Maine Power Company.

e. Name of Project: Wyman Hydroelectric Project.

f. Location: On the Kennebec River in Kennebec County, Maine.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Applicant Contact: Ms. Wendy Bley, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 526–9600.

i. FERC Contact: Steve Hocking (202) 219–2656.

j. Comment Date: January 26, 1994.

k. Description of proposed non-project use of project lands: Central Maine Power Company (CMP), licensee for the Wyman Hydroelectric Project, proposes a selective timber harvest on 295 acres of project lands. CMP proposes to harvest 76 acres of non-project lands as well. The proposed harvest includes areas just below Wyman Dam and on the eastern shore of Wyman Lake. A timber management plan is included in the proposal.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit with be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in

all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: December 22, 1993, Washington, DC

Lois D. Cashell,

Secretary.

[FR Doc. 93–31807 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–128–000, et al.]

Koch Gateway Pipeline Co., et al.; Natural Gas Certificate Filings

December 21, 1993

Take notice that the following filings have been made with the Commission:

1. Koch Gateway Pipeline Co.

[Docket No. CP94–128–000]

Take notice that on December 13, 1993, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP94–128–000 a request pursuant to §§ 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act for authorization to place in service an existing six-inch diameter meter station and flow computer located in Nueces County, Texas, under its blanket certificate issued in Docket No. CP82–430–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Koch states that the metering facilities are presently used to provide section 311 transportation service for Delhi Gas Pipeline Corporation (Delhi). Koch indicates that the authorization sought herein will provide Delhi with the additional ability to use these facilities as a delivery point on Delhi's blanket transportation agreements with Koch.

Comment date: February 4, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. El Paso Natural Gas Co.

[Docket No. CP94–135–000]

Take notice that on December 15, 1993, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP94–135–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon two segments, totaling approximately 0.463 mile, of the Yuma Line, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

The request for authorization states that by order issued October 15, 1975, El Paso was issued a budget-type certificate of public convenience and necessity in Docket No. CP76–53. The request for authorization further states, that El Paso received blanket certificate authorization in Docket No. CP82–435–000 for routine certificate activities and abandonments of services and facilities, and in Docket No. CP88–433–000 for the transportation of natural gas on behalf of others. It is further stated that pursuant to such budget-type authorization, and at the request of the State of Arizona Highway Department, in 1976, El Paso relocated and replaced a total of approximately 0.50 mile of existing 16 inch loop line serving the Yuma, Arizona area, with approximately 0.463 mile of 6⅝ inch pipeline in order to accommodate new construction of Interstate 8 Highway in the City of Yuma, Arizona.

It is stated that the Yuma Line is used to transport natural gas received from El Paso's 26 inch California Line and 26 inch California First Loop Line, for deliveries of gas to Southwest Gas Corporation (Southwest) and Arizona Public Service Company (APS), and at the Yuma Power Plant also, respectively, both in the Yuma, Arizona area.

El Paso states that effective September 1, 1991 and October 1, 1991, Southwest and APS, respectively, elected to convert their firm sales entitlements under their existing Service Agreements to firm transportation service pursuant to the provisions of El Paso's Global Settlement in Docket No. RP88–44–000, et al. It is stated that the firm transportation service is rendered pursuant to the terms and conditions of two Transportation Service Agreements, both dated August 9, 1991, between El Paso and Southwest, and one Transportation Service Agreement dated October 24, 1990, between El Paso and APS, which provide for the firm transportation of Southwest's full requirements of natural gas to consumers situated within the States of Arizona and Nevada and APS' full requirements of natural gas for use in its power plants situated within the State of Arizona.

It is stated that the relocation and replacement of the segments of the Yuma Line as requested by the State of Arizona Highway Department did not result in any change in service by El Paso in 1976. El Paso further states that beginning with the 1990's there has been extensive business and industrial development, together with growth in the residential sector in the Yuma, Arizona area. It is averred that today, the pipeline segments that were relocated no longer are sufficient for El Paso to provide the necessary transportation service to Southwest and APS in the Yuma, Arizona area. El Paso states that, as a solution to this problem, El Paso would install, under § 157.208(a) of the Commission's Regulations, two new segments of 16 inch line in replacement of the two segments to be abandoned. It is stated that such construction would be accomplished subsequent to receipt of the abandonment authorization requested herein. Therefore, El Paso is proposing to abandon, by removal, the two segments of 6⅝ inch Yuma Line. El Paso also states that the abandonment and installation of the two new segments of 16 inch pipeline will be accomplished without service interruptions.

Comment date: February 4, 1994, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31737 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–132–000, et al.]

Trunkline Gas Co., et al. Natural Gas Certificate Filings

December 17, 1993.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP94–132–000]

Take notice that on December 14, 1993, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP94–132–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon exchange services with Transcontinental Gas Pipe Line Corporation (Transco) and a transportation service provided for Southern Natural Gas Company (SONAT), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Trunkline states that it proposes to abandon the exchange services with Transco under its Rate Schedules X–7, E–14 and TE–6. Trunkline further states that it proposes to abandon the transportation service provided for SONAT under its Rate Schedules T–1.

Trunkline says that it notified Transco of its desire to terminate the exchange agreements by letter dated July 30, 1993. Transco accepted Trunkline's termination letter on September 2, 1993, it is stated, and requests authority to abandon these exchange agreements effective the date of Commission authorization.

Trunkline states that by letter dated November 15, 1993, SONAT notified Trunkline of its desire to terminate the transportation agreement effective September 1, 1994. Trunkline further states that it accepted SONAT's letter of termination and requests authority to abandon Rate Schedule T–1 effective September 1, 1994.

No facilities are proposed to be abandoned by this application.

Comment date: January 7, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Canyon Creek Compression Co.

[Docket No. CP94–138–000]

Take notice that on December 16, 1993, Canyon Creek Compression Company (Canyon Creek), 701 East 22nd Street, Lombard, Illinois, filed in Docket No. CP94–138–000 an application pursuant to section 7(b) of the Natural Gas Act for authorization to abandon firm transportation and compression service for Natural Gas Pipeline Company of America (Natural), Questar Pipeline Company (Questar), and Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Canyon Creek proposes to abandon, effective December 1, 1993, firm transportation and compression services for Natural, Questar, and CIG, performed under authorization granted in Docket No. CP80–547 and under Canyon Creek's Rate Schedule C. Canyon Creek also proposes that it and its three shippers make up imbalances attributable to the above transportation and compression services at the existing interconnections specified in their service agreements or under other transportation and compression agreements between the parties or at more convenient interconnections between their systems, or by offsetting imbalances among them or with imbalances under other transportation and compression agreements between them.

Canyon Creek has included letters dated November 8, 1993, November 29, 1993, and December 7, 1993, from Natural, Questar, and CIG, respectively, requesting that the current services be terminated. It is also indicated that the shippers wish to replace the agreements with firm transportation and compression services to be performed under Canyon Creek's Rate Schedule FCS and Part 284 of the Commission's Regulations.

Canyon Creek proposes retroactive authorization effective December 1, 1993, to allay Natural's, Questar's, and CIG's concerns that they would be liable to pay Canyon Creek additional demand charges after December 1, 1993. Canyon Creek does not propose to abandon any facilities.

Comment date: January 7, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31736 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RM87–17–000]

Natural Gas Data Collection System; New and Revised Record Formats and Edit Checks for the FERC Form Nos. 2 and 2–a

December 23, 1993

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of new and revised electronic filing record formats and edit checks for the FERC Form Nos. 2 and 2–A.

SUMMARY: On March 31, 1993, the Commission issued Order No. 552 (58 FR 17982, April 7, 1993) which established accounting requirements for:

Allowances for emission of sulfur dioxide under the Clean Air Act Amendments of 1990; and assets and liabilities created through the ratemaking actions of regulatory agencies. In implementing these new accounting requirements, the final rule also adopted several new and revised schedules for the Form Nos. 2 and 2–A for reporting the information on allowances and regulatory assets and liabilities. Since information on the Form Nos. 2 and 2–A is also collected electronically (Order 493, et al.), new and revised record formats and instructions were developed to include the new reporting requirements of Order No. 552.

DATES: The complete record format and instruction manuals and list of new and revised edit checks for the Form Nos. 2 and 2–A are available on December 23, 1993.

ADDRESSES: Requests for the complete record format and instruction manuals and list of new and revised edit checks should be directed to the: Public Reference and Files Maintenance Branch, Federal Energy Regulatory Commission, 941 North Capitol Street, NE., room 3104, Washington, DC 20426, (202) 208–1371.

FOR FURTHER INFORMATION CONTACT: For general information on the record formats and edit checks, contact: Robert Trimble at (202) 208–0906.

SUPPLEMENTARY INFORMATION: The revised versions of the record formats, and instructions also correct some minor deficiencies that existed in the previous record format manuals. Most specifically, the records for reporting "Gas Account—Natural Gas" for the Form No. 2 (records F7/29, 30, 31) and the Form No. 2–A (Form No. 2 substitute pages provided in records F8/74, 75, 76) now require the 'Name of System' or 'System ID' to be entered on each of these records.

The new and revised edit checks not only provide for the checking of new information required under Order No. 552 but also significantly expand the scope of the validation of previously required data. Formerly, the edit checks were defined primarily as columnar, vertical, mathematical equations for certain items on each page or schedule. The majority of the new edit checks now provide for mathematically checking horizontally, across the page, and will further enhance the validation of the data submitted by the reporting companies. A complete set of updated record formats and list of all new and revised edit checks is available in WordPerfect 5.1 format. Appendix A shows a directory listing of the record format and edit check files for each form (one form per diskette) that is available from the duplication contractor at the Commission.[1] A complete list of all edit checks and related error messages will also be published in the User's Manual for these two forms when revised Form No. 2 and 2–A software is issued early next year. Details of the new and revised electronic record formats and edit checks for the Form No. 2 are listed in Appendices B and D, respectively. Details of the new and revised electronic record formats and edit checks for the Form No. 2–A are listed in Appendices C and E, respectively.

Copies of the complete record formats and new and revised edit checks for each form are available through the Commission's duplication contractor, LaDorn System Corporation (LaDorn). The record formats and edit checks can be purchased on diskette in the following ways:

(1) By written request to the Commission, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, ATTN: Mr. William McDermott, Chief, Public Reference & Files Branch. Please enclose a check, payable to LaDorn System Corporation for $7.00 per diskette ordered and $3.40 to cover postage and handling. Allow 10–14 days for processing and delivery.

(2) Directly from LaDorn System Corporation at the cashier's window in the Commission's Public Reference Room for $7.00 per diskette plus applicable sales tax, if any. The Public Reference Room is located on the third floor, 941 N. Capitol Street, NE., Washington, DC.

(3) By telephone request to LaDorn Energy Information Services at 1–800–676–FERC. Orders placed by phone will be assessed charges as follows:

(a) A $25.00 processing fee,
(b) $7.00 per diskette ordered, and
(c) Cost of shipping and handling.

(The requestor will have a choice of regular mail, 2–Day Express Mail or Federal Express).

Please contact the Commission's Public Reference & Files Maintenance Branch on (202) 208–1371 or LaDorn (1–800–676–FERC) for information and the cost of purchasing the paper version of the record formats and list of new and revised edit checks for each form.

LaDorn System Corporation employees cannot answer questions regarding the use of the record formats and edit checks. Any questions concerning the application of the information contained in these documents should be directed to the individual listed in the **FOR FURTHER INFORMATION CONTACT:** section of this notice.

This notice, including all of the appendices, is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service that provides access to formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed on a 24-hour basis using a personal computer with a modem. Your communications software should be set at full duplex, no parity, eight data bits and one stop bit. To access CIPS at 300, 1200 or 2400 baud dial (202) 208–1397. For access at 9600 baud dial (202) 208–1781. FERC is using U.S. Robotics HST Dual Standard modems. If you have any problems, please call (202) 208–2474. The notice will be available on CIPS for 30 days from the date of issuance of the notice.

In addition to publishing the text of this notice in the **Federal Register**, excluding Appendices A through E, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this notice during normal business hours in the Reference and Information Center (room 3308) at the Commission's headquarters, 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31804 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–P

[1] The Appendices are not being published in the **Federal Register**, but are available from the Commission's Public Reference Branch.

[Docket No. CP94–140–000]

Arkla Energy Resources Co.; Application

December 22, 1993.

Take notice that on December 20, 1993, Arkla Energy Resources Company (AER), Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP94–140–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the replacement of certain existing metering facilities to provide transportation service to Arkansas Louisiana Gas Company (ALG) for redelivery to residential and industrial customers located in Kay County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AER specifically proposes to replace an existing 2-inch U-Shaped residential meter setting with a 3-inch U-Shape commercial meter setting at an existing delivery tap on AER's transmission Line A–3 for additional deliveries to ALG's customers on existing rural extension No. 898 in Kay County, Oklahoma. AER states that the replacement meter would increase AER's metered capability from 200 Mcf per day to 450 Mcf per day. AER states that the existing meter needs to be replaced immediately, because, if required to measure the additional peak day volumes during the upcoming winter, the existing meter could break up under pressure. AER estimates a facility cost of $4,248, which it indicates would be reimbursed by ALG.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1994, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate for the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for AER to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31720 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. PR94–3–000]

KansOk Partnership; Petition for Rate Approval

December 22, 1993.

Take notice that on November 30, 1993, KansOk Partnership (KansOk) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable the following rates for firm and interruptible transportation services performed under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA):

Firm Reservation Charge
$4.5544 per MMBtu
Firm Usage Charge
$0.0567 per MMBtu
Interruptible Usage Charge
$0.2064 per MMBtu

KansOk states that these rates are derived using the Straight Fixed Variable methodology. Further, for transportation on its East Leg, KansOk proposes to also reserve as compressor fuel 2.38% of the gas received for transportation.

KansOk states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA and it owns and operates an intrastate pipeline system in the State of Oklahoma. Pipeline proposes an effective date of November 20, 1993.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before January 10, 1994. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31731 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP92–74–012]

South Georgia Natural Gas Co.; Compliance Filing

December 22, 1993.

Take notice that on October 29, 1993, South Georgia Natural Gas Company (South Georgia) in purported compliance with the requirements set forth in the Commission's October 19, 1993 order, submitted for filing a revised allocation schedule indicating the demand components of its Account No. 191 costs with respect to Atlanta Gas Light Company's (Atlanta) Valdosta and Montezuma, Georgia, service areas.

South Georgia states that it has allocated the demand components of its Account No. 191 costs to Valdosta and Montezuma individually and has therefore calculated both the demand and commodity components on a consistent basis. South Georgia notes that the total costs allocated to Atlanta did not change as a result of this revision.

South Georgia states that it has served the filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before January 3, 1994. All such protests will be considered by the Commission in determining the appropriate proceeding, but will not serve to make protestant a party to the proceedings. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31734 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–203–000 and RP92–132–000]

Tennessee Gas Pipeline Co.; Informal Settlement Conference

December 22, 1993.

Take notice that an informal settlement conference will be convened in these proceedings on January 11, 1994, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined

by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald Williams (202) 208–0743 or Dennis H. Melvin (202) 208–0042.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31806 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–P–M

[Docket No. TM94–7–29–000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

December 22, 1993.

Take notice that on December 16, 1993 Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets included in Appendix A attached to the filing.

TGPL states that the purpose of the instant filing is to track rate changes attributable to (1) storage service purchased from CNG Transmission Corporation (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under TGPL's Rate Schedules LSS and GSS, (2) storage service purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X–28 the costs of which are included in the rates and charges payable under TGPL's Rate Schedule S–2 and (3) transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under TGPL's Rate Schedule FT–NT. The tracking filing is being made pursuant to Section 4 of TGPL's Rate Schedule LSS, Section 3 of TGPL's Rate Schedule GSS, Section 26 of the General Terms and Conditions of Volume No. 1 of TGPL's FERC Gas Tariff and Section 4 of TGPL's Rate Schedule FT–NT.

TGPL states that included in Appendices B through E attached to the filing are the explanations of the rate changes and details regarding the computation of the revised LSS, GSS, S–2 and FT–NT rates, respectively.

TGPL states that copies of the filing are being mailed to each of its LSS, GSS, S–2 and FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 3, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31735 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–229–015]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

December 22, 1993.

Take notice that on December 17, 1993, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, revised tariff sheets as reflected in Appendix A attached to the filing.

Trunkline proposes that these sheets become effective September 1, 1992 and subsequent dates as shown on the tariff sheets.

Trunkline states that these revised tariff sheets are being filed to amend Rate Schedule T–61 for the transportation of natural gas provided jointly by Trunkline and Panhandle Eastern Pipe Line Company (Panhandle) on behalf of United Cities Gas Company (United Cities) to reflect Panhandle's current transportation rates as approved in Panhandle's Docket Nos. RP91–229–012, RP92–166–009, RP91–229–018, et al. by the Commission's Orders dated October 30, 1992, April 29, 1993 and April 16, 1993, respectively.

Trunkline states that a copy of this filing is being served on Panhandle, United Cities and the applicable state regulatory agency.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before January 3, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31732 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–54–000]

Viking Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 22, 1993.

Take notice that on December 17, 1993, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective February 1, 1994:

First Revised Sheet No. 94
First Revised Sheet No. 95
First Revised Sheet No. 96
First Revised Sheet No. 139
First Revised Sheet No. 140

Viking states that the purpose of this filing is to amend the pro forma Gas Transportation Agreement (For Use Under Rate Schedule FT–A or FT–GS) and the Form of Released Transportation Service Agreement in Viking's tariff to include certain representations and warranties required by an indenture agreement as part of Viking's recent refinancing.

Viking states that copies of the filing is being mailed to each of Viking's customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 3, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–31733 Filed 12–28–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy (DOE or Department) is forecasting the representative average unit cost of five residential energy sources for the year 1994. The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene. The representative unit cost of these energy sources are used in the Energy Conservation Program for Consumer Products established by the Energy Policy and Conservation Act; Public Law 94–163, 89 Stat. 871, as amended, (EPCA).

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective January 28, 1994 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Dr. Barry P. Berlin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–43, 1000 Independence Avenue, SW. Washington, DC 20585 (202) 586–9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–41, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–9507

SUPPLEMENTARY INFORMATION: Section 323 of the EPCA, (Act)[1] requires that DOE prescribe test procedures for the determination of the estimated annual operating costs and other measures of energy consumption for certain consumer products specified in the Act. These test procedures are found in 10 CFR part 430, subpart B.

Section 323(b) of the Act requires that the estimated annual operating costs of a covered product be computed from measurements of energy use in a representative average-use cycle and from representative average unit costs of energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures. Most notably, these costs are used under the Federal Trade Commission appliance labeling program established by section 324 of the Act and in connection with advertisements of appliance energy use and energy costs which are covered by section 323(c) of the Act.

The Department last published representative average unit costs of residential energy for use in the Conservation Program for Consumer Products on January 5, 1993. (58 FR 345). Effective January 28, 1994, the cost figures published on January 5, 1993, will be superseded by the cost figures set forth in this notice.

The Department's Energy Information Administration (EIA) has developed the 1994 representative average unit costs of electricity, natural gas, no. 2 heating oil, propane and kerosene prices found in this notice. These costs were taken from the EIA report, State Energy Projections for the Residential Sector, 1993–1994, SR/EMEU/93–01, which provides national and state-level forecasts of key residential energy prices. The report is prepared for the Administration for Children and Families, U.S. Department of Health and Human Services, which provides State grants to assist eligible households in meeting the costs of home energy use for space heating or cooling under the Low Income Home Energy Assistance Program.

The national average price forecasts found in the above EIA report are based on the mid-price case scenario of the Short-Term Integrated Forecasting System, as published in the third quarter 1993 EIA Short-Term Energy Outlook, DOE/EIA–0202 (93/3Q). Copies of this report are available at the National Energy Information Center, Forrestal Building, room 1F–048, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8800.

The 1994 representative average unit costs stated in Table 1 are provided pursuant to section 323(b)(4) of the Act and will become effective January 28, 1994 of publication. They will remain in effect until further notice.

Issued in Washington, DC, December 17, 1993.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

TABLE 1—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES—(1994)

Type of energy	In common terms	As required by test procedure	Dollars per million Btu[1]
Electricity	8.41¢/kWh[2,3]	$.0841¢/kWh	$24.65
Natural gas	60.4¢/therm[4] or	.00000604/Btu	6.04
	$6.22/MCF[5,6]		
No. 2 Heating Oil	1.054/gallon[7]	.00000760/Btu	7.60
Propane	0.983/gallon[8]	.00001076/Btu	10.76
Kerosene	1.133/gallon[9]	.00000839/Btu	8.39

[1] Btu stands for British thermal units.
[2] kWh stands for kilowatt hour.
[3] 1 kWh = 3,412 Btu.
[4] 1 therm = 100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,030 Btu.
[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[1] References to the "Act" refer to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, the National Appliance Energy Conservation Act of 1987, the National Appliance Energy Conservation Amendments of 1988, and the Energy Policy Act of 1992. 42 U.S.C. §§ 6291–6309.

Office of Fossil Energy

[FE Docket No. 93-142-NG]

Canadates Petroleum Marketing; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting CanStates Petroleum Marketing blanket authorization to import up to 180 Bcf of natural gas from Canada over a period of two years beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on December 20, 1993.

Clifford Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31685 Filed 12-28-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-129-NG]

JMC Fuel Services, Inc.; Blanket Authorization to Import Natural Gas From and Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice that it has issued an order granting JMC Fuel Services, Inc. (JMC Fuel) blanket authorization to import from and export to Canada up to a combined total of 62 Bcf of natural gas over a two-year term beginning on the date of first delivery of either imports or exports. The combined import/export authorization replaces two prior separate orders authorizing JMC Fuel to import gas from and export gas to Canada.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on December 20, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31689 Filed 12-28-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-120-NG]

Pawtucket Power Associates Limited Partnership; Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting long-term authorization to Pawtucket Power Associates Limited Partnership (Pawtucket) to import from Canada up to 8,230 Mcf of natural gas per day and a total of 57,618,230 Mcf, over a period of 20 years. The gas will be supplied by Home Oil Company Limited. This order also amended a previous order issued to Pawtucket to remove the import authorization for volumes supplied under a recently terminated gas purchase contract between Pawtucket and Anderson Oil and Gas.

The order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 15, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31691 Filed 12-28-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-130-NG]

Poco Petroleum, Inc.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Poco Petroleum, Inc. (Poco) blanket authorization to import up to 200 Bcf of natural gas from Canada over a period of two years beginning on the date of the first delivery after January 20, 1994, the date Poco's existing blanket import authorization expires.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on December 20, 1993.

Clifford Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31686 Filed 12-28-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-134-NG]

Salmon Resources Ltd.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Salmon Resources Ltd. authorization to import up to 100 billion cubic feet of natural gas from Canada over a two-year term beginning on the date of first delivery after February 15, 1994.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 15, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31687 Filed 12-28-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-133-NG]

Salmon Resources Ltd.; Order Granting Blanket Authorization to Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Salmon Resources Ltd. blanket authorization to export up to 100 billion cubic feet of natural gas to Canada over a two-year term beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 15, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31688 Filed 12-28-93; 8:45 am]

BILLING CODE 6450-01-P

[FE Docket No. 93-124-NG]

UMC Petroleum Corp.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting UMC Petroleum Corporation blanket authorization to import up to 44 billion cubic feet (Bcf) of natural gas from Canada and to export up to 44 Bcf of natural gas to Canada over a two-year term beginning on the date of the first import or export.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 14, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-31690 Filed 12-28-93; 8:45 am]

BILLING CODE 6450-01-P

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.
ACTION: Notice of Proposed Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $610,000.00, plus accrued interest, in alleged crude oil overcharges obtained by the DOE under the terms of the Consent Order entered into with J.R. Cone, Case No. LEF-0118. The OHA has tentatively determined that the funds obtained from Cone, plus interest accrued, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges.

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days of publication of this notice in the **Federal Register**, and should be addressed to the Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should be marked with the reference number LEF-0118.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants $610,000.00, plus accrued interest, obtained by the DOE under the terms of the Consent Order entered into with J.R. Cone on May 14, 1993. The funds were paid by Cone towards the settlement of alleged violations of the DOE price and allocation regulations involving the sale of crude oil during the period September 1, 1973, through December 31, 1976.

The OHA has proposed to distribute the Cone Consent Order fund in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986)(the MSRP). Under the MSRP, crude oil overcharge monies are divided between the federal government, the states, and injured persons of refined petroleum products. Refunds to the states would be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the degree to which they can demonstrate injury.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 3 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 100 Independence Avenue, SW., Washington, DC 20585.

Dated: December 20, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Name of Firm: J.R. Cone
Date of Filing: November 16, 1993
Case Number: LEF-0118

On November 16, 1993, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute funds which J.R. Cone (Cone) remitted to the DOE pursuant to a Consent Order entered into by Cone and the DOE on May 14, 1993. Pursuant to the Consent Order, Cone has remitted $610,000.00 to the DOE. In accordance with the procedural regulations codified at 10 CFR part 205, subpart V (subpart V), the ERA requests in its petition that the OHA establish special procedures to make refunds in order to remedy the effects of alleged regulatory violations which were resolved by the Consent Order. This Proposed Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

On September 28, 1978, the ERA issued a Notice of Probable Violation (NOPV) to Cone regarding two oil-producing properties, the Eubanks Lease Property and the Cone Jalmat-Yates Pool Unit (Cone Unit). After considering Cone's response to the NOPV, the ERA issued a Proposed Remedial Order (PRO) on May 31, 1979. The PRO tentatively found that Cone had sold crude oil produced from these properties in excess of the lawful ceiling prices. On March 25, 1983, the OHA issued a Remedial Order (RO) adopting the ERA's findings in the PRO. On October 31, 1985, the Federal Energy Regulatory Commission (FERC) affirmed the OHA's determinations concerning the Cone Unit but reversed the RO concerning the Eubanks Lease property

and remanded the RO to the OHA. On March 24, 1986, the OHA issue a Supplementary Order (SO) which reduced the alleged overcharges from the Eubanks Lease Property. Cone appealed the SO, which was vacated by the administrative law judge (ALJ) on May 12, 1986. The FERC vacated the certification on June 17, 1986, and remanded the case to the ALJ. On July 23, 1986, the FERC issued an Order Clarifying Prior Decision and Dismissing Appeal. In this Order, the FERC vacated its June 17, 1986, order and found that it had properly reversed OHA's findings of overcharges from the Eubanks Lease Property in its October 31, 1985, Order. On May 14, 1993, Cone and the DOE entered into a Consent Order, wherein Cone tendered a cashier's check for $610,000.00 in settlement of all claims resulting from the March 25, 1983, RO. These funds are being held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper distribution.

II. Jurisdiction and Authority

The subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the subpart V process to distribute such funds. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501–07, *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vicker's*).

We have considered the ERA's petition that we implement a subpart V proceeding with respect to the Cone Consent Order fund and have determined that such a proceeding is appropriate. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute this fund.

III. Proposed Refund Procedures

A. Crude Oil Refund Policy

We propose to distribute the funds obtained with the Cone Consent Order in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (The MSRP). The MSRP was issued as a result of a court-approved Settlement Agreement *In re: The Department of Energy Stripper Well Exemption Litigation*, 653 F.Supp. 108 (D. Kan.), 6 Fed. Energy Guidelines ¶ 90,509 (1986) (the Stripper Well Settlement Agreement). The MSRP establishes that 40 percent of the crude oil funds will be remitted to the federal government, another 40 percent to the states, and up to 20 percent may be initially reserved for payment of claims by injured parties. The MSRP also specifies that any monies remaining after all valid claims by injured purchasers are paid be disbursed to the federal government and the states in equal amounts.

The OHA has utilized the MSRP in all subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). This Order provided a period of 30 days for filing of comments or objections to our proposed use of the MSRP as the groundwork for evaluating claims in crude oil refund proceedings. Following this period, the OHA issued a Notice evaluating the numerous comments which it had received pursuant to the Order Implementing the MSRP. This notice was published at 52 FR 11737 (April 10, 1987) (the April 10 Notice).

The April 10 Notice contained guidance to assist potential claimants wishing to file refund applications for crude oil monies under the subpart V regulations. Generally, all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) show that they were injured by the alleged crude oil overcharges. We also specified that end-users of petroleum products whose business were unrelated to the petroleum industry will be presumed to have been injured by the alleged crude oil overcharges. End-users, therefore, need only submit documentation of their purchase volumes. *See City of Columbus, Georgia*, 16 DOE ¶ 85,550 (1987). Additionally, we stated that we would calculate crude oil refunds on a per gallon (or volumetric) basis, which we obtained by dividing the crude oil refund pool by the total consumption of petroleum products in the United States during the crude oil price control period. The OHA has adopted the refund procedures outlined in the April 10 Notice in numerous cases. *See, e.g. Shell Oil Co.*, 17 DOE ¶ 85,204 (1988) (*Shell*); *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986) (*Mountain Fuel*).

B. Refund Claims

We propose to adopt the DOE's standard crude oil refund procedures to distribute the monies in the Cone Consent Order fund. We have chosen to initially reserve 20 percent of the fund, plus accrued interest, for direct refunds to claimants in order to ensure that sufficient funds will be available for injured parties.

The OHA will evaluate crude oil refund claims in a manner similar to that used in subpart V proceedings to evaluate claims based on alleged overcharges. *See Mountain Fuel* 14 DOE at 88,869. Under these procedures, claimants will be required to document their purchase volumes of petroleum products and prove that they were injured as a result of the alleged overcharges.

We will adopt a presumption that the crude oil overcharges were absorbed, rather than passed on, by applicants which were (1) end-users of petroleum products, (2) unrelated to the petroleum industry, and (3) not subject to the regulations promulgated under the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751–760h. Under this presumption, end-user claimants need not submit documentation to show injury, and may become eligible for a refund by simply documenting their purchase volumes. *See Shell*, 17 DOE at 88,406.

Petroleum retailer, refiner, and reseller applicants must submit detailed documentation of injury. They may not rely upon the injury presumptions utilized in some refined products refund cases. *Id.* These applicants may, however, use econometric evidence of the type found in the *OHA Report on Stripper Well Overcharges*, 6 Fed. Energy Guidelines ¶ 90,507 (1985). *See also* Petroleum Overcharge Distribution and Restitution Act section 3003(b)(2) codified at 15 U.S.C. 4502(b)(2). If a claimant has executed and submitted a valid waiver pursuant to one of the escrows established by the Stripper Well Agreement, it has waived its rights to file an application for subpart V crude oil refund monies. *See Mid-America Dairymen* v. *Herrington*, 878 F.2d 1448 (Temp. Emer. Ct. App.), 3 Fed. Energy Guidelines ¶ 26,617 (1989); *In re: Department of Energy Stripper Well Exemption Litigation*, 707 F. Supp. 1267 (D. Kan.), 3 Fed. Energy Guidelines ¶ 26,613 (1987).

As we have stated in prior Decisions, a crude oil refund applicant need only submit one application for its share of all available crude oil overcharge funds. *See e.g. A. Tarricone, Inc.*, 15 DOE ¶ 85,495 (1987). A party that has already submitted a claim in any other crude oil refund need not file another claim. The prior application will be deemed to be held in all crude oil refund proceedings finalized to date. The DOE has established June 30, 1994, as the final deadline for filing an Application for Refund from the crude oil funds. *See* 58 FR 26,318 (May 3, 1993). It is the policy of the DOE to pay all crude oil refund claims at the rate of $.0008 per gallon. While we anticipate that the applicants that filed their claims before June 30, 1988 will receive a supplemental refund payment, we will decide in the future whether claimants that filed later applications should receive additional refunds. *See e.g. Seneca Oil Co.*, 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the **Federal Register**.

C. Payments to the Federal Government and the States

Under the terms of the MSRP, we propose that the remaining eighty percent of the alleged crude oil overcharge amounts subject to this Proposed Decision, plus accrued interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement 6 Fed. Energy Guidelines ¶ 90,509 at 90,687. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Settlement Agreement.

It Is Therefore Ordered That: The refund amount remitted to the Department of Energy by J.R. Cone pursuant to the Consent Order entered into on May 14, 1993, will be distributed in accordance with the foregoing Decision.

[FR Doc. 93–31684 Filed 12–28–93; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4819–1]

Control Techniques Guidelines Document: Batch Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Release of draft control techniques guidelines (CTG) document for public review.

SUMMARY: A draft CTG document for control of volatile organic compound (VOC) emissions from batch processes is available for public review and comment. This information document has been prepared to assist States in analyzing and determining reasonably available control technology (RACT) for stationary sources of VOC emissions located within ozone national ambient air quality standard nonattainment areas. The draft document recommends RACT for seven industries: Plastic Materials and Resins (Standard Industrial Classification [SIC] 2821), Pharmaceutical Preparations (SIC 2834), Medicinal Chemicals and Botanical Products (SIC 2833), Gum and Wood Chemicals (SIC 2861), Cyclic Crudes and Intermediates (SIC 2865), Industrial Organic Chemicals (SIC 2869), and Agricultural Chemicals (SIC 2879). The control techniques described in this CTG are universal and can be used to reduce VOC emissions from batch processing operations in other industries.

DATES: *Comments.* Several aspects of the document regarding applicability calculations and implementation are complex. Comments on these aspects are especially desired. Comments must be received on or before February 28, 1994.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Randy McDonald, (919) 541–5402, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Copies of the draft CTG may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, N.C. 27711, telephone number (919) 541–2777.

Project File. To make an appointment to view the project file, contact Ms. Marguerite Thweatt, (919) 541–5607, Emission Standards Division (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Mr. Randy McDonald, (919) 541–5402, Emissions Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

SUPPLEMENTARY INFORMATION: Under the Clean Air Act as amended (1990 Amendments), State implementation plans (SIP's) for ozone nonattainment areas must be revised to require RACT for control of VOC emissions from sources for which EPA has already published a CTG or for which it will publish a CTG between the date the 1990 Amendments were enacted and the date an area achieves attainment status. **Federal Register** notice 44 FR 53761 (September 17, 1979) defines RACT as the "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering the technological and economic feasibility."

The CTG's review current knowledge and data concerning the technology and costs of various emissions control techniques. The CTG's are intended to provide State and local air pollution authorities with an information base for proceeding with their own analyses of RACT to meet statutory requirements.

Each CTG contains a "presumptive norm" for RACT for a specific source category, based on the EPA's evaluation of the capabilities and problems general to that category. Where applicable, EPA recommends that States adopt requirements consistent with the presumptive norm. However, the presumptive norm is only a recommendation. States may choose to develop their own RACT requirements on a case-by-case basis, considering the emission reductions needed to obtain achievement of the national ambient air quality standards and economic and technical circumstances of the individual source.

This CTG recommends a RACT presumptive norm for the control of VOC emissions from batch processes. Each of the industries addressed in this CTG use batch processing steps in manufacturing their products. Many of these steps involve use of organic solvents or other volatile organic liquids, and are a source of VOC emissions. The sources, mechanisms, and control of these VOC emissions are described in the CTG.

Under Executive Order (E.O.) 12291, the EPA must judge whether a rule is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This CTG document is not "rulemaking;" rather it provides information to States to aid them in developing rules. However, this **Federal Register** notice and the draft CTG were submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any EPA responses to those comments will be included in the project file. This file is available for public inspection at the EPA's office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, which is listed in the **ADDRESSES** section of this notice.

Dated: December 15, 1993.

Ann E. Goode,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–31682 Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–P

[AO-FRL-4818-9]

Control Techniques Guideline Document: Industrial Wastewater

AGENCY: Environmental Protection Agency (EPA).

ACTION: Release of a draft control techniques guideline (CTG) document for public review.

SUMMARY: The EPA is announcing the availability of a draft CTG document for control of volatile organic compound (VOC) emissions from the collection and treatment of industrial wastewater. This CTG document has been prepared to assist States in analyzing and determining reasonably available control technology (RACT) for stationary sources of VOC emissions located within ozone national ambient air quality standard nonattainment areas. The draft document recommends RACT for VOC wastewater emissions from four industries: The organic chemicals, plastics, and synthetic fibers (OCPSF) industry; the pesticides industry; the pharmaceuticals industry; and the hazardous waste treatment, storage, and disposal facilities (TSDF) industry. The draft CTG contains information on two other industries: pulp and paper industry and petroleum refinery industry, but does not recommend RACT for them due to other regulatory actions that will address them.

The control strategy and national impact analysis in this document is intended to reflect the approach taken in the wastewater portion of the proposed Hazardous Organic NESHAP (HON) even though the HON is addressing hazardous air pollutant (HAP) emissions and the CTG is addressing VOC emissions in nonattainment areas. The HON will set maximum achievable control technology (MACT) standards for HAP emissions from wastewater generated in the synthetic organic chemical manufacturing industry (SOCMI), which is a subset of the OCPSF industry. Because the technical basis and requirements of the wastewater portion of the HON have been subject to ongoing discussions and revisions, and may be modified further based on public comments, there may be some inconsistencies between this document and the HON; however, any revisions to the HON wastewater standards will be incorporated into the final CTG before it is published. The Agency's intent is that the timing and requirements of the final CTG, the HON and other MACT wastewater standards be complementary.

DATES: *Comments.* Comments must be received on or before February 28, 1994.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Ms. Elaine Manning, ATTN: Industrial Wastewater Comments, U.S. Environmental Protection Agency, Emission Standards Division (MD–13), Research Triangle Park, North Carolina 27711.

Control Techniques Guideline. Copies of the draft CTG, document EPA–453/D–93–056, may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777.

Project File. To make an appointment to view the project file, contact Ms. Jolynn Collins, (919) 541–5671, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Manning, (919) 541–5499, Emission Standards Division (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: Under the Clean Air Act (CAA) Amendments of 1990, State implementation plans (SIP's) for ozone nonattainment areas must be revised to require RACT for control of VOC emissions from sources for which EPA has already published a CTG or for which it will publish a CTG between the date the Amendments were enacted and the date an area achieves attainment status. **Federal Register** notice 44 FR 53761 (September 17, 1979) defines RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering the technological and economic feasibility."

The CTG's review current knowledge and data concerning the technology and costs of various emissions control techniques. The CTG's are intended to provide State and local air pollution authorities with an information base for proceeding with their own analyses of RACT to meet statutory requirements.

Each CTG contains a "presumptive norm" for RACT for a specific source category, based on the EPA's evaluation of the capabilities and problems general to that category. Where applicable, EPA recommends that States adopt requirements consistent with the presumptive norm. However, the presumptive norm is only a recommendation. States may choose to develop their own RACT requirements on a case-by-case basis, considering the emission reductions needed to obtain achievement of the national ambient air quality standards and economic and technical circumstances of the individual source.

This CTG recommends a RACT presumptive norm for the control of VOC emissions from the collection and treatment of industrial wastewater. Each of the industries addressed in this CTG generates large quantities of wastewater containing organic compounds. Generally, this wastewater is collected and treated to reduce the organic compound loading in the discharged water stream. However, during collection and treatment, the wastewater containing organic compounds generally contacts ambient air, creating a source of VOC emissions. The sources, mechanisms, and control of these VOC emissions are described in the CTG.

The Agency requests public comments on this draft CTG document. Comments are specifically requested on the cost effectiveness considerations in the development of the recommended RACT option. As shown in Table 6–1 of the draft CTG document, the national cost effectiveness of the recommended RACT option for all the industries is 480 dollars per megagram and the incremental cost effectiveness beyond the next less stringent option is 1400 dollars per megagram of VOC's controlled. Comments are requested on specific situations where the cost effectiveness of the recommended RACT option would differ significantly from these estimates and ways the CTG could achieve emissions reductions at lower costs.

Under Executive Order (E.O.) 12291, the EPA must judge whether a rule is "major" and therefore subject to the requirement of a regulatory impact analysis. This CTG document is not "rulemaking," rather it provides information to States to aid them in developing rules. This **Federal Register** notice and the draft CTG were submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291. Any comments from OMB to EPA and any EPA responses to those comments will be included in the project file. This file is available for public inspection at the EPA's Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, which is listed in the **ADDRESSES** section of this notice.

Dated: December 15, 1993.

Ann E. Goode,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 93–31683 Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4819–3]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions; Petition for Exemption-Class I Hazardous Waste Injection; Morton International, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition modification.

SUMMARY: Notice is hereby given that a modification to an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Morton International, Inc. This modification authorizes use of a new injection well at the Moss Point, Mississippi facility. As required at 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows Morton International, Inc. to inject the specific restricted hazardous waste identified in the petition into the Class I hazardous waste well authorized by the modified petition until September 30, 2000. As required at 40 CFR 124.10, a public notice was issued on August 19, 1993. A single response was received before the close of the comment period on October 3, 1993. The concerns addressed in that response did not pertain to the proposed modification, hence a public hearing was not held. This decision constitutes final Agency action and there is no Administrative appeal.

DATED: This action is effective as of November 19, 1993.

ADDRESSES: Copies of the modified petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region IV, Water Management Division, Ground Water Protection Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Thomas J. Hansen, Chief, Underground Injection Control Section, EPA Region IV, telephone (404) 347–3379.

Dated: December 13, 1993.

Patrick M. Tobin,

Acting Regional Administrator, Region IV.

[FR Doc. 93–31661 Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–P

[OPP–180909; FRL 4749–3]

Receipt of Application for Emergency Exemption to use Fenoxycarb; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Washington Department of Agriculture (hereafter referred to as the "Applicant") for use of the pesticide fenoxycarb (CAS 72490–01–8) to control pear psylla *Cacopsylla pyricola* on up to 25,000 acres of pears. The Applicant proposes the first food use of an active ingredient; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before January 13, 1994.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180909," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1128, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: 6th Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8791.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of the insecticide, fenoxycarb, manufactured as Fenoxycarb 25 WP, by Cibe-Geigy Corporation, to control pear psylla, on up to 25,000 acres of pears. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that pear psylla is a major, chronic pest of all Washington pear orchards. If the pest is left uncontrolled, it will cause dramatic yield decreases, and eventual tree debilitation. The pear psylla causes injury by the copious amounts of honeydew which are secreted by the feeding nymphs. Honeydew on the fruit causes deformed fruit and russeting, major quality problems which cause downgrading of fruit and increased cullage. In addition, the honeydew causes secondary problems with black sooty mold on the fruit. The pear psylla also causes damage by injecting a toxin into the tree during the feeding process, which, in the long run, is debilitating and reduces vigor and, ultimately, yield. Pear psylla overwinter as adults in the trees. Dormant spraying is necessary to reduce the overwintering adult population before they lay eggs. The only effective winter spray materials for some years were the synthetic pyrethroids, permethrin and fenvalerate. When widespread resistance to these materials became evident in the psylla population by 1987–88, the Applicant states that cyfluthrin was used under section 18 exemptions in 1988–92, and was found to be efficacious.

In 1993 (last season), the Applicant first requested this use of fenoxycarb, claiming that failure of cyfluthrin had been demonstrated, indicating the development of pear psylla populations which are resistant to this previously effective material. However, the toxicology data available at that time for fenoxycarb did not support use of this material, and the request was withdrawn by the Applicant. The Applicant again used cyfluthrin last season under section 18, for this pest, but claims that much of the pear psylla populations in north central Washington are now resistant to cyfluthrin. The Applicant is therefore requesting the use of fenoxycarb, and claims that field trials have

demonstrated that this material provides excellent control of pear psylla in pears.

The Applicant wishes to treat up to 25,000 acres of pear trees using up to 6,250 pounds of active ingredient. Up to two applications would be made per growing season, at a maximum rate of 2 oz. active ingredient (8 oz. product) per acre, diluted in water to make a minimum spray volume of 50-400 gallons per acre. Application of fenoxycarb would not be allowed by air or through chemigation equipment.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing the first food use of an active ingredient. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Washington Department of Agriculture.

List of Subjects

Environmental protection, Pesticide and pests, Crisis exemptions.

Dated: December 9, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–31471 Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180910; FRL 4750–1]

Receipt of Applications for Emergency Exemptions To Use Propazine; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the New Mexico and the Texas Departments of Agriculture (hereafter referred to as the "Applicants") to use the pesticide propazine (CAS 139–40–2) to treat up to 50,000 and 1,823,000 acres of sorghum, respectively, to control pigweed. The Applicants propose the use of a new (unregistered) chemical; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before January 13, 1994.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180910," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8791.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue specific exemptions for the use of propazine on sorghum to control pigweed. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Sorghum is grown as a rotational crop with cotton and wheat, in order to comply with the soil conservation requirements. Propazine, which was formerly registered for use on sorghum, was voluntarily canceled by the former Registrant, who did not wish to support its re-registration. The Applicants claim that this has left sorghum growers in most of Texas and New Mexico with no pre-emergent herbicides that will adequately control certain broadleaf weeds, especially pigweed. Until recently, growers have been using up existing stocks of propazine. The Applicants state that other available herbicides have serious limitations on their use, making them unsuitable for control of pigweed in sorghum. Although the original Registrant of propazine has decided not to support this chemical through re-registration, another company has committed to support the data requirements for this use. Propazine was once registered for this use, but has now been voluntarily canceled and is therefore considered to be a new chemical.

The Applicants state that, because growers have been using existing stocks of propazine since the time of its voluntary cancellation, yields have not shown a decrease. However, this is the first season where most growers have depleted their stocks of propazine, and the Applicants claim that significant economic losses will occur without the availability of propazine.

The Applicants propose to apply propazine at a maximum rate of 1.2 lbs of active ingredient (a.i.), (2.4 pts. of product) per acre, by ground or air, with a maximum of one application per crop growing season. Therefore, use under these exemptions could potentially amount to a maximum total of 60,000 lbs. of active ingredient (15,000 gal. of product) in New Mexico, and 2,187,600 lbs. of active ingredient (546,900 gal. of product) in Texas. This is the first time that New Mexico has applied for this use of propazine on sorghum, and the second time for Texas. Texas was issued an exemption for this use for last growing season. This notice does not constitute a decision by EPA on the applications themselves. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the New Mexico and Texas Departments of Agriculture.

List of Subjects

Environmental protection, Pesticide and pests, Crisis exemptions.

Dated: December 14, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–31475 Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180914; FRL 4750–8]

Receipt of Application for Emergency Exemption To Use Pyrithiobac-Sodium; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Mississippi Department of Agriculture and Commerce (hereafter referred to as the "Applicant") for use of the pesticide pyrithiobac-sodium to control common cocklebur on up to 450,000 acres of cotton in Mississippi. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before January 13, 1994.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180914," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Stanton, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: 6th Floor, Crystal Station I, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308—8327.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for use of the herbicide, pyrithiobac-sodium, available as Staple Herbicide from DuPont Agricultural Products, to control common cocklebur on up to 450,000 acres of cotton in Mississippi. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, dense populations of common cocklebur have the potential to cause substantial yield and economic losses in cotton. The herbicides which have historically been used to control economically damaging infestations of cocklebur are the organic arsenicals, DSMA and MSMA. In 1992, arsenical-resistant cocklebur populations were documented in a number of Mississippi counties. Although there are several other registered herbicides which can be used for cocklebur control in cotton, including both pre-emergent (floumetron, clomazone, diuron and norflurazon) and post-emergent (lactofen) herbicides, the Applicant claims that none of these is as effective at controlling cocklebur as pyrithiobac-sodium.

Under the proposed exemption, a single ground or aerial application of Staple Herbicide would be made at 1.2 ounces of product (1.0 ounce active ingredient (a.i.) per acre. No applications would be made within 45 days of harvest. A maximum of 33,750 pounds of product (28,688 pounds a.i.) would be needed to treat up to 450,000 acres of cotton.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide) [40 CFR 166.24 (a)(1)]. Pyrithiobac-sodium is a new chemical. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Mississippi Department of Agriculture and Commerce.

List of Subjects

Environmental protection, Pesticide and pests, Crisis exemptions.

Dated: December 14, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–31474 Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–F

[PP 1G3964/T652; FRL 4748–6]

Consep Membranes, Inc.; Extension of an Exemption From Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the temporary exemption from the requirement of a tolerance for the combined residues of the pheromone codlure, (*E,E*)-8,10-Dodecadien-1-o1, in or on all raw agricultural commodities when applied to the branches of trees via a membrane type dispenser.

DATES: This temporary exemption from the requirement of a tolerance expires December 30, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 18, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Office location and telephone number: Rm. 213, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–7690).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of March 10, 1993 (58 FR 13263) that a temporary exemption from the requirement of a tolerance had been extended for the combined residues of the pheromone codlure, (*E,E*)-8,10-Dodecadien-1-o1, in or on all raw agricultural commodities when applied to the branches of trees via membrane type dispenser. This exemption from the requirement of a tolerance was established in response to

a pesticide petition (PP) 1G3964, submitted by Consep Membranes, Inc., c/o Gary Clark, Manager of Regulatory Affairs, 213 SW., Columbia St., Bend, Oregon 97702–1013.

The company has requested a 1-year extension of the temporary tolerance to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 56336–EUP–2, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the exemption from the requirement of a tolerance will protect the public health. Therefore, the temporary exemption from the requirement of a tolerance has been extended on the condition that the pesticides be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredients to be use must not exceed the quantity authorized by the experimental use permit.

2. Consep Membranes, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires December 30, 1994. Residues remaining in or on all the raw agricultural commodities after this expiration date will not be considered actionable if the pesticides are legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemption from the requirement of a tolerance. This temporary exemption from the requirement of a tolerance may be revoked if the experimental use premit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 [46 FR 24950].

Authority: 21 U.S.C. 346a(j).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 10, 1993.

Stephen L. Johnson,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–31470; Filed 12–28–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632–6934.

Federal Communications Commission

OMB Control No.: 3060–0579

Title: Expanded Interconnection with Local Telephone Company Facilities for Interstate Switched Transport Services

Expiration Date: 11/30/96

Estimated Annual Burden: 1996 total hours; 124.75 hours per response.

Description: In the Second Report and Order and Third Further Notice of Proposed Rulemaking, in the Expanded Interconnection proceeding, CC Docket No. 91–141, the Commission required Tier 1 local exchange carriers (LECs) to provide expanded opportunities for third-party interconnection with their interstate switched transport facilities. The Commission concluded that the LECs should be required to provide certain cost support to justify the rate levels for the tariff charges to be paid by interconnectors for expanded interconnection. The Commission required the price cap LECs to provide cost support for the connection charges using the same methodologies employed to support new services under the price cap rules. The Commission required the LECs to develop and justify consistent methodologies for deriving the direct cost of providing similar types of offerings, including expanded interconnection services covered by the connection charge elements. The Commission also required the LECs to justify any deviations from uniform overhead loadings that they propose for pricing connection charges.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–31800 Filed 12–28–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; A.P. Moller—Maersk Line, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–011102–019.

Title: U.S. Atlantic & Gulf/Western Mediterranean Rate Agreement.

Parties:

A.P. Moller-Maersk Line.
Evergreen Marine Corporation (Taiwan) Ltd.
Italia di Navigazione, S.p.A.
Lykes Bros. Steamship Co., Inc
Nedlloyd Lijnen B.V.
P&O Containers Limited.
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment will permit the Agreement members to take independent action on rate or service items that are exempted from the tariff filing requirements of section 8 of the Shipping Act on or after June 30, 1994.

Agreement No.: 232–011444.

Title: Frontier Liner Services/Kirk Line Agreement.

Parties:

Frontiner Liner Services.
Kirk Line Ltda.

Synopsis: The proposed Agreement authorizes the parties to charter space to each other and rationalize sailing in the trade between U.S. Florida ports and inland and coastal points served via Florida on the one hand and, on the other hand, ports of Aruba, Bonaire, Curacao and Atlantic Coast ports of Columbia and inland and coastal points in Colombia via Colombian Atlantic Coast ports.

Dated: December 22, 1993.

By order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 93–31713 Filed 12–28–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Bancorporation of Ohio, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 20, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Bancorporation of Ohio, Akron, Ohio; to acquire 100 percent of the voting shares of Peoples Savings Bank, FSB, Ashtabula, Ohio, which will in turn convert into a national bank to be named Peoples Bank, National Association.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Adamsville Bancshares, Inc., Adamsville, Tennessee; to acquire 100 percent of the voting shares of Lewis County Bank, Hohenwald, Tennessee.

2. Boatmen's Bancshares, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Woodland Bancorp, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Woodland Bank, Tulsa, Oklahoma.

3. Boatmen's Oklahoma, Inc., St. Louis, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Boatmen's First National Bank of Oklahoma, Oklahoma City, Oklahoma.

4. First Tennessee National Corporation, Memphis, Tennessee; to acquire at least 90 percent of the voting shares of Cleveland Bank and Trust Company, Cleveland, Tennessee.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community First Bankshares, Inc., Fargo, North Dakota; to acquire 100 percent of the voting shares of Ada BancShares, Inc., Ada, Minnesota, and thereby indirectly acquire The Ada National Bank, Ada, Minnesota.

2. First Bank System, Inc., Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Boulevard Bancorp, Inc., Chicago, Illinois, and thereby indirectly acquire Boulevard Bank National Association, Chicago, Illinois; National Security Bank of Chicago, Chicago, Illinois; First National Bank of Des Plaines, Des Plaines, Illinois; and Citizens National Bank of Downers Grove, Downers Grove, Illinois. First Bank System, Inc., Minneapolis, Minnesota; has also applied to acquire 19.9 percent of the voting shares of Boulevard Bancorp, Inc., Chicago, Illinois.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Southeast Kansas Bancshares, Inc., Girard, Kansas; to become a bank holding company by acquiring 99 percent of the voting shares of Prescott State Bank Holding Company, Prescott, Kansas, and thereby indirectly acquire Prescott State Bank, Prescott, Kansas, and to acquire 86.59 percent of the voting shares of Exchange State Bank, St. Paul, Minnesota. **Comments on this application must be received by January 13, 1994.**

E. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. First Marshall Corporation, Marshall, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of East Texas National Bank of Marshall, Marshall, Texas.

2. Southern Bancshares, Inc., Houston, Texas; to acquire 100 percent of the voting shares of First State Bank of Brazoria, Brazoria, Texas.

Board of Governors of the Federal Reserve System, December 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-31722 Filed 12-28-93; 8:45 am]

BILLING CODE 6210-01-F

First Chicago Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 17, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Chicago Corporation, Chicago, Illinois; to engage *de novo*, through its subsidiary, First Chicago Leasing Corporation, Chicago, Illinois, in arranging and investing in entities for the financing of low-income housing eligible for Federal income tax credits under section 42 of the Internal Revenue Code, and providing advice to customers in connection with the arranging of such entities pursuant to § 225.25(b)(6) of the Regulation Y.

Board of Governors of the Federal Reserve System, December 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-31723 Filed 12-28-93; 8:45 am]

BILLING CODE 6210-01-F

Mahaska Investment Company, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1643(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than January 20, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Mahaska Investment Company, Oskaloosa, Iowa; to acquire On-Site Commercial Services, Oskaloosa, Iowa, and thereby engage in making and servicing loans/factoring through the purchase and management of the account receivables of small to medium size companies pursuant to § 225.25(b)(1)(v); and data processing services by providing bookkeeping services pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Bank, Inc., Clayton, Missouri; to acquire Heartland Savings Bank, F.S.B., St. Louis, Missouri, and thereby engage in operating a savings and loan association § 225.25(b)(9); and in insurance activities pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota, and Norwest Financial Services, Inc., Des Moines, Iowa; to acquire Community Credit Co., Edina, Minnesota, and thereby engage in the consumer finance business, predominately automobile financing pursuant to § 225.25(b)(1); and credit insurance activities pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-31724 Filed 12-28-93; 8:45 am]

BILLING CODE 6210-01-F

Marshall & Ilsley Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 20, 1994.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Marshall & Ilsley Corporation, Milwaukee, Wisconsin; to merge with Valley Bancorporation, Appleton, Wisconsin, and thereby indirectly acquire Valley Bank, Madison, Wisconsin; Valley Bank, La Crosse, Wisconsin; Valley Bank, Menomonie, Wisconsin; Valley Bank East Central, Kewaskum, Wisconsin; Valley Bank Janesville, Janesville, Wisconsin; Valley Bank Milwaukee, Thiensville, Wisconsin; Valley Bank, N.A., Watertown, Wisconsin; Valley Bank, Northeast, Green Bay, Wisconsin; Valley Bank of Oshkosh, Oshkosh, Wisconsin; Valley Bank of Shawano, Shawano, Wisconsin; Valley Bank, Southwest, Spring Green, Wisconsin; Valley First National Bank, Rhinelander, Wisconsin; Valley First National Bank of Ripon, Ripon, Wisconsin; Valley Western Bank, Appleton, Wisconsin; and Pierce County Bank and Trust Company, Ellsworth, Wisconsin.

In connection with this application, Applicant also proposes to acquire Valley Bancorporation, Appleton, Wisconsin, and thereby indirectly acquire Valley Trust Company, Appleton, Wisconsin, and thereby engage in providing trust services pursuant to § 225.25(b)(3); Valley United Bank, S.S.B., Sheboygan, Wisconsin; and Valley Bank Western, F.S.B., Sparta, Wisconsin, and thereby operate a savings association pursuant to § 225.25(b)(9); Valley Real Estate Services Corporation, Sheboygan, Wisconsin, and thereby engage in providing residential 1-4 family mortgage loan servicing to Valley Bank subsidiaries pursuant to § 225.25(b)(1); Community Life Insurance Company, Phoenix, Arizona, and thereby engage in underwriting credit-related insurance in connection with loans originated by Valley Bank subsidiaries pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-31725 Filed 12-28-93; 8:45 am]

BILLING CODE 6210-01-F

Rodney Barrett Scarborough, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 17, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Rodney Barrett Scarborough, Timmonsville, South Carolina; to acquire an additional 14 percent, for a total of 29 percent, of the voting shares of Pee Dee Bankshares, Inc., Timmonsville, South Carolina, and thereby indirectly acquire Pee Dee State Bank, Timmonsville, South Carolina.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Craig L. Campbell to acquire 0.77 percent, Douglas L. Campbell to acquire 2.07 percent, and Scott L. Campbell to acquire 1.92 percent, of the voting shares of Peotone Bancorp, Inc., Peotone, Illinois, and thereby indirectly acquire Peotone Bank and Trust Company, Peotone, Illinois; Rock River Bank, Rock River, Illinois; Worth Bank and Trust, Worth, Illinois; Mount Greenwood Bank, Chicago, Illinois; First National Bank of Danville, Danville, Illinois; Sun City Bank, Sun City, Arizona; and Founders Bank of Arizona, Scottsdale, Arizona.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. David J. Flo, to acquire an additional 4.53 percent for a total of 25.06 percent; The Donald B. Flo Credit Trust to acquire an additional 5.78 percent for a total of 45.37 percent; Signe M. Flo, as trustee of the Donald B. Flo Credit Trust, to acquire an additional 5.78 percent for a total of 45.37 percent of the voting shares of South Central Financial Services, Inc., Bricelyn, Minnesota, and thereby indirectly acquire State Bank of Bricelyn, Bricelyn, Minnesota.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Frank and Rosaline Kiang, Oakland, California; to acquire an additional 9.36 percent, for a total of 49.71 percent, of the voting shares of Met Financial Corporation, Oakland, California, and thereby indirectly acquire Metropolitan National Bank, Oakland, California.

Board of Governors of the Federal Reserve System, December 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-31726 Filed 12-28-93; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. 9231]

Revlon, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a New York-based corporation and its subsidiary to have scientific evidence to support any future claims regarding the effectiveness of cellulite treatments or sunscreen products. Respondents also are required to disclose the sun protection factor value in any sunscreen advertisement in which it proclaims the ability of the product to protect against the sun's rays.

DATES: Amended Complaint and Order issued November 17, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Phoebe Morse, Boston Regional Office, Federal Trade Commission, 10 Causeway St., room 1184, Boston, MA. 0222. (617) 565-7240 or Brinley Williams, Cleveland Regional Office, Federal Trade Commission, 668 Euclid Ave., suite 520-A, Cleveland, OH. 44114. (216) 4207.

SUPPLEMENTARY INFORMATION: On Thursday, September 9, 1993, there was published in the **Federal Register**, 58 FR 47463, a proposed consent agreement with analysis In the Matter of Revlon, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52.

Donald S. Clark,

Secretary.

[FR Doc. 93-31787 Filed 12-28-93; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. 9255]

Trans Union Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, an Illinois-based consumer reporting agency to require, in its contracts, that those who obtain consumer reports from the company, in the form of lists developed through credit prescreening, make a firm offer of credit to each person on the list, and to take reasonable steps to enforce those contract provisions. In addition, the respondent is required to provide company officials with a copy of the order, and obtain their signature acknowledging receipt.

DATES: Complaint issued December 15, 1992. Order issued November 18, 1993.[1]

FOR FURTHER INFORMATION CONTACT: David Medine, FTC/S-4429, Washington, DC 20580. (202) 326-3224.

SUPPLEMENTARY INFORMATION: On Thursday, September 9, 1993, there was published in the **Federal Register** 58 FR 47466, a proposed consent agreement with analysis In the Matter of Trans Union Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

Authority: 15 U.S.C. 1681 *et seq.*

Donald S. Clark,

Secretary.

[FR Doc. 93-31788 Filed 12-28-93; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Head Start Program; Proposed Program Instruction

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of Proposed Program Instruction.

SUMMARY: The Administration on Children, Youth and Families is issuing this Notice of Proposed Program Instruction to obtain public comments on an instruction that would require all Head Start programs to provide a smoke-free environment for children and adults who participate in their program.

DATES: In order to be considered, comments on this proposed Program Instruction must be received on February 28, 1994.

ADDRESSES: Please address comments to the Acting Associate Commissioner, Head Start Bureau, Administration on Children, Youth and Families, PO Box 1182, Washington, DC 20013.

Beginning 14 days after close of the comment period, comments will be available for public inspection in room 2224, 330 C Street, SW., Washington, DC 20201, Monday through Friday between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Madelyn Schultz, Head Start Bureau, (202) 205-8398.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

Head Start is authorized under the Head Start Act (the Act), Section 635 of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, as amended (42 U.S.C. 9801 *et seq.*) It is a national program providing comprehensive developmental services primarily to low-income preschool children, age three to the age of compulsory school attendance, and their families. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs. Parents also receive training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1992, Head Start served 621,078 children through a network of 1,370 grantees and 575 delegate agencies, each of which has an approved written agreement with a grantee to operate a Head Start program.

II. Authority for Proposed Program Instruction

The authority for this Proposed Program Instruction which interprets 45 CFR 1304.2-3 is derived from section 644(c) of the Head Start Act (42 U.S.C. 9839c). The ACYF's authority to issue interpretations of its regulations is a corollary to its obligation under section 644(c) of the Act to make rules and regulations which supplement the administrative requirements and standards set forth in section 644(a).

The Proposed Program Instruction is being issued in the manner prescribed by section 644(d) of the Act. This Section requires that "at least 30 days prior to their effective date, all rules, regulations, guidelines, instructions and application forms shall be published in the **Federal Register** and shall be sent to each grantee with the notification that each such grantee has the right to submit comments to * * * the Secretary prior to the final adoption * * *."

III. Proposed Program Instruction

To: Head Start Grantees and Delegate Agencies.

Subject: Establishing a Smoke-Free Environment in Head Start Programs.

Legal and Related References: The Head Start Act, as amended, 42 U.S.C. 9801 *et seq.*; 45 CFR 1304.2-3.

Purpose: The purpose of this Program Instruction is to set forth Head Start policy requiring Head Start grantees and delegate agencies to create a smoke-free environment and to eliminate exposure to tobacco smoke by children, staff and parents in the Head Start program. Information on the adverse effects of tobacco smoke on the health of children and adults is provided in this Instruction.

Background: There has been a growing concern in America about the harmful effects of exposure to tobacco smoke on both young children and adults. Recent research, cited below, has established that non-smokers can suffer health damage from exposure to tobacco smoke. This is known as passive smoking or environmental tobacco smoking (ETS) and comes from exposure to the smoke given off by burning cigarettes, cigars and pipes and the smoke exhaled by someone who is smoking.

Passive smoking or ETS is one of the most harmful indoor air pollutants according to an officially released scientific report published by the U.S. Environmental Protection Agency (EPA) in 1992, entitled "Respiratory Health Effects of Passive Smoking: Lung Cancers and Other Disorders." The report reveals that ETS contains 43 carcinogenic (cancer causing) compounds. These compounds are known to produce lung cancer and other respiratory complications in adults and children.

The EPA Fact Sheet entitled "Respiratory Effects of Passive Smoking" (January, 1993) reports the following conclusions based on scientific evidence:

- ETS is responsible for approximately 3,000 lung cancer deaths annually among U.S. adult non-smokers;
- Between 150,000 to 300,000 of the lower respiratory tract infections reported annually in infants and young children under 18 months of age are attributable to ETS exposure;
- ETS exposure increases the prevalence of fluid in the middle ear in children, which is a sign of chronic middle ear disease;
- ETS exposure in children irritates the upper respiratory tract and is associated with a small but significant reduction in lung functioning; and
- ETS exposure in children increases the frequency of episodes and severity of symptoms in asthmatic children. An estimated 200,000 to 1,000,000 asthmatic children have their condition worsened by exposure to ETS.

The detrimental effects of maternal smoking upon prenatal development are widely recognized (National Academy of Sciences Committee to Study the Prevention of Low Birthweight (1985), *Preventing Low Birthweight*, National Academy Press, Washington, DC). Maternal smoking increases the likelihood of low birth weight which correspondingly increases risks for developmental and health impairment. Lactating mothers who continue to smoke after giving birth not only place their children at risk due to the environmental effects of passive smoking, but also expose their children to toxic substances through breast feeding.

Many Head Start centers are required to comply with State and local regulations regarding smoke-free environments for child-care facilities.

Most States have regulations limiting smoking in child day care centers, although few require the centers to be completely smoke-free (Nelson, D.E., Sacks, J.J. and Addiss, D.G. (1993), "Smoking Policies of Licensed Child/Day Care Centers in the United States," *Pediatrics* 91:460-463). However, the American Academy of Pediatrics and the American Public Health Association have recently published guidelines recommending that day care centers adopt smoke-free indoor policies (in "Caring for Our Children—National Health and Safety Performance Standards: Guidelines for Out of Home Child Care Programs," (1992)).

A number of Head Start programs have already initiated policies regarding a smoke-free environment. Policy councils, parents, and staff of these agencies have endorsed the initiatives and are to be commended for their leadership.

Instruction: Because there is considerable evidence that environmental tobacco smoke is harmful to children and adults; and because Head Start has the mission of promoting the healthy development of the children and families it serves, it is imperative that all Head Start programs create smoke-free environments.

Therefore, we are requiring all grantees to work with their Policy Councils, Health Advisory Committees, parents, and staff in order to establish and enforce written policies which will ensure that, effective 60 days from the date of this issuance in its final form, their Head Start program center-based sites will be smoke-free.

The Head Start smoke-free environment policies must prohibit smoking at all times in all space utilized by the program. This includes classrooms, staff offices, kitchens, restrooms, parent and staff meeting rooms (used in the evenings as well as during the day), hallways, outdoor play areas, and vehicles used for transporting children. The policies should also address home visits and group socialization activities (which include field trips, neighborhood walks or other outdoor group activities) so that parents and staff refrain from smoking when Head Start activities are taking place.

For Head Start programs that share a building with other occupants, grantees should take steps to reduce children's exposure to smoke from other sources in the building, for example, by modifying ventilation, altering traffic patterns, and/or establishing a "smoke-free zone" around the Head Start site. If necessary, the Regional Offices (including the American Indian Programs Branch and the Migrant Programs Branch) should be contacted regarding the use of program funds to address this problem.

We expect that a smoke-free environment will increasingly be recognized as a basic safety and health requirement of any program serving children. We know that Head Start programs will continue their tradition of being in the forefront of advocacy and best practice in promoting the healthy development of young children by establishing a smoke-free environment.

Implementation: This Program Instruction is effective 60 days from the date of the issuance in its final form. Please be advised that a smoke-free environment will be one of the requirements monitored during on-site program reviews. Evidence of compliance will include:

- The posting of written policies, approved by Policy Councils, regarding a smoke-free environment;
- Evidence that all staff have been informed about these policies;
- Correspondence and meeting notices advising parents and staff of the new policies;
- Evidence of compliance with a no-smoking policy through physical inspection of the facility; and
- For programs that share space in a building with other occupants, evidence of efforts to limit the introduction of environmental tobacco smoke (ETS) from outside sources into the Head Start space.

To assist Head Start programs in their efforts to provide a smoke-free environment for Head Start children and their families, a listing of Federal and private information resources (such as an annotated bibliography regarding smoke-free environments and ETS, guides to implement smoke-free environments, additional sources of Federal information, etc.) will be made available by the Administration on Children, Youth and Families, following publication of this Program Instruction in its final form.

III. Impact Analysis

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96-511, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirement inherent in a proposed or final rule, program announcement, or program instruction. This program instruction does not contain information collection requirements or increase Federal paperwork burden on the public or private sector. Thus, no submission to OMB is required.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: August 27, 1993.

Joseph A. Mottola,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 93–31714 Filed 12–28–93; 8:45 am]

BILLING CODE 4184–01–M

Centers for Disease Control and Prevention

Advisory Committee on Childhood Lead Poisoning Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–436), the National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

NAME: Advisory Committee on Childhood Lead Poisoning Prevention.

TIMES AND DATES: 1 p.m.–5 p.m., February 14, 1994. 8:30 a.m.–4 p.m., February 15, 1994.

PLACE: Sheraton Century Center Hotel, 2000 Century Boulevard, NE., Atlanta, Georgia 30345–3377.

STATUS: Open to the public, limited only by the space available.

SUPPLEMENTARY INFORMATION: In October 1991 the Secretary of the Department of Health and Human Services released the CDC policy statement, "Preventing Lead Poisoning in Young Children." This statement is used by pediatricians and lead screening programs throughout the United States, and great progress has been made in implementing the statement. Copies of this statement may be requested from the contact person listed below.

MATTERS TO BE DISCUSSED: Since the release of this statement, new data have become available and some information gaps have been identified. The committee met in June 1993 to discuss this new research data and information on management of lead toxicity and make recommendations concerning revision of the statement. The committee will discuss progress to date on draft chapters and other issues related to revising the statement, specifically, screening issues, environmental management, diagnostic evaluation and medical management, lead hazards in the community, and the plan for completing the statement.

Agenda items are subject to change as priorities dictate.

Persons wishing to make written comments regarding additions or changes to the statement should provide such written comments to the contract person no later than February 9, 1994.

Persons wishing to make oral comments on the statement at the meeting should notify the contact person in writing or by telephone no later than close of business February 8, 1994. All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Depending on the time available and the number of requests, it may be necessary to limit the time of each presenter.

CONTACT PERSON FOR MORE INFORMATION: Barbara Nelson, Program Analyst, Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE., (F42), Atlanta, Georgia 30341–3724, telephone 404/488–7330, FAX 404/488–7335.

Dated: December 22, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–31750 Filed 12–28–93; 8:45 am]

BILLING CODE 4160–18–M

CDC Advisory Committee on the Prevention of HIV Infection (CDC ACPHI): Executive Subcommittee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

NAME: CDC ACPHI Executive Subcommittee.

TIME AND DATE: 9:30 a.m.–2:30 p.m., January 18, 1994.

PLACE: Henry J. Kaiser Family Foundation, Board Room, 2400 Sand Hill Road, Menlo Park, California 94025.

STATUS: Open to the public, limited only by the space available.

PURPOSE: The Executive Subcommittee will review the final reports of the five subcommittees which conducted an external review of CDC's HIV prevention programs. In-depth discussions will lead to the development of a list of recommendations which will be presented to the full advisory committee at a meeting tentatively scheduled for late February. Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, N.E, Mailstop E–40, Atlanta, Georgia 30333, telephone (404) 639–2918.

Dated: December 22, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–31748 Filed 12–28–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. January 27 and 28, 1994, 8 a.m., Versailles Ballrooms I and II, Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, January 27, 1994, 8 a.m. to 8:45 a.m., unless public participation does not last that long; open committee discussion, 8:45 a.m. to 3:15 p.m.; closed committee deliberations, 3:15 p.m. to 3:45 p.m.; open committee discussion, 3:45 p.m. to 6 p.m.; open public hearing, January 28, 1994, 8 a.m. to 8:45 a.m., unless public participation does not last that long; open committee discussion, 8:45 a.m. to 9:30 a.m.; closed committee deliberations, 9:30 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 6 p.m.; Nancy T. Cherry or Stephanie A. Milwit, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–594–1054.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before January 20, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On January 27, 1994, the committee will: (1) Discuss the influenza virus vaccine formulation for 1994–1995; (2) review safety and efficacy data for a vaccine for the prevention of varicella; and (3) discuss indications for use of such a product. On January 28, 1994, the committee will review safety and efficacy data for a vaccine for the prevention of hepatitis A. The committee will also discuss alternative immunization schedules for hepatitis B vaccines.

Closed committee deliberations. The committee will review trade secret and/or confidential commercial information relevant to pending product licensing applications. These portions of the meetings will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: December 22, 1993.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 93–31769 Filed 12–28–93; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated Licensing Specialist at the Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, Maryland 20892 (telephone 301/496–7735; fax 301/402–0220). A signed Confidentiality Agreement will be required to receive copies of the patent applications. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

A Process of Making Tetrahydropteroylpoly-L-Glutamic Acid Derivatives

Fitzhugh, A. (NCI)
Serial No. 07/558,535
Filed 27 Jul 90
US Patent 5,153,309 issued 6 Oct 92; and

A Process of Separating the Diastereomers of (6R,6S)-5,6,7,8-Tetrahydrofolic Acid Derivatives

Fitzhugh, A.L., Akee, R.K. (NCI)
Serial No. 07/977,008
Filed 16 Nov 92
Licensing Specialist: Carol Lavrich

Together these processes allow the large scale, purely chemical synthesis of 6S(or 6R)-tetrahydropteroyl-poly-L-glutamic acid, without the use of enzymes or of special chiral separation steps. Derivatives of the 6S product are useful as substrates or inhibitors of folic acid enzymes, and, have use in cancer treatment. U.S. patent 5,153,309 concerns a simple, inexpensive, purely chemical synthesis of the poly-glutamic acid product starting from the mono-glutamic acid. The patent application 07/977,008 concerns a simple, inexpensive process of resolving the 6S and 6R diesteromers of the mono-glutamic acid starting material by using a simple esterification procedure, then resolution using normal separation techniques such as HPLC, non-chiral column chromatography or fractional crystallization.

Mammalian Bilirubin UDP-Glucoronosyltransferase Clones and Methods of Use Thereof

Owens, I.S., Ritter, J.K. (NICHD)
Serial No. 07/639,453
Filed 10 Jan 91
Licensing Specialist: Carol Lavrich

This invention provides cDNA clones which encode mammalian bilirubin UDP-glucoronosyltransferase. These cDNA clones may be used in gene therapy for patients with the fatal Crigler-Najjar Type I Syndrome and in the development of a gene-based prenatal diagnostic probe for fetuses at risk for this syndrome. Liver transplantation is currently the only treatment for Crigler-Najjar Type I Syndrome. These cDNA clones may also be used as inexpensive diagnostic probes for patients with other hyperbilirubinemic syndromes such as Gilbert's Disease and Type II Crigler-Najjar Syndrome.

Qualification of Indicators of Fibrosis

Striker, G., Striker, L.J. (NIDDK)
Serial No. 07/963,475
Filed 10 Oct 92
Licensing Specialist: Carol Lavrich

This invention involves a method for the early diagnosis and monitoring of the progression of fibrotic diseases and glomerulonephritis. Accurate early diagnosis and evaluation of treatment of a fibrosing condition is important. At present, there is a severe lack of adequately diagnostic capability of fibrotic diseases. This invention utilizes a combination of reverse transcription, polymerase chain reaction, and microdissection to diagnose and monitor a fibrosing condition at the molecular level. This invention overcomes obstacles encountered with accurately diagnosing fibrotic diseases quickly and inexpensively.

Reducing Cytopathicity in T Cells Infected by Lentivirus

Cohen, D.I., Samelson, L.E., Lane, H.C., Tani, Y. (NIAID)
Serial No. 07/899,210
Filed 16 Jan 92
Licensing Contact: Mark D. Hankins

A new process capable of limiting T-cell death (also termed T-cell syncytium formation) initiated by HIV–1 infection has been discovered. It is believed that such cell death may be due to intracellular signals transmitted when HIV–1 envelope glycoproteins interact with their cellular receptor, CD4, and other receptors on a second cell. When certain intercellular signals associated with HIV–1 envelope are blocked, the cellular changes triggered by HIV are also dramatically inhibited. These experiments employed a new T-cell line (HIVenv2–8) stably transfected to express all of the HIV envelope glycoproteins, including gp160, gp120, and gp41. This cell line has been used to find that a specific inhibitor of protein tyrosine kinases, herbimycin A, reduced HIV enveloped-associated synctium formation and thus may be a basis for treatment of HIV infection.

Composition and Method for Weight Reduction in Mammals

Yeh, S.Y. (NIDA)
Serial No. 08/010,343 [CIP of 07/906,945 (ABN)]
Filed 28 Jan 93
Licensing Specialist: Carol Lavrich

Substituted hydroxybenzylalcohols, including (alpha)-methylepinephrine, (alpha)-methylnorepinephrine, metaraminol and N-substituted (alpha)-methylnorepinephrines, have been discovered to be useful as weight reducing agents in mammals. The derivatives exhibit potent anorectic activity without having strong CNS stimulatory properties. Animal studies demonstrate the effectiveness of these compounds for body weight reduction. Pharmaceutical compositions, some novel compounds, and methods are claimed.

Muscarinic Receptor Fusion Proteins and Subtype-Specific Antisera

Levey, A.I., Stormann, T., Brann, M.R. (NINDS)
Filed 26 Apr 93
Serial No. 08/053,292 [FWC of 07/654,971 (ABN)]
Licensing Specialist: Arthur Cohn

Recombinant proteins and protein-generated antibodies directed against the five human muscarinic receptors have been developed. These receptors mediate acetylcholine function in the normal nervous system and are believed to be critical in the pathogenesis and/or treatment of many neurological and psychiatric disorders. Recombinant expression plasmids which encode unique regions of the inner third (i3) cytoplasmic loops of the human muscarinic receptors, m1–m5, were made. The expressed fusion proteins were used to produce polyclonal antisera. The novel antibodies selectively react with the five receptors *in vitro* and therefore may be useful in localizing and measuring muscarinic receptors in cells and tissues. Prior technologies include antibodies raised to short, synthetic oligopeptides that are limited in their ability to recognize native proteins and receptors. The new recombinant proteins and antibodies are proposed for use in basic research, drug development, and possibly as diagnostic tools.

Method and Use of Trichohyalin and Transglutaminase-3

Steinert, P.M., Lee, S–C, In-Gyu, K. (NIAMS)
Serial No. 08/056,200
Filed 30 Apr 93
Licensing Specialist: Carol Lavrich

The invention relates to the discovery of the DNA and RNA sequences of several proteins which are involved in forming structural components of the hair follicle and epidermis: human trichohyalin, human transglutaminase-3 and mouse transglutaminase-3. Human trichohyalin is an ideal substrate for cross-linking to other proteins by transglutaminase enzymes. Cross-linking forms a tough, fibrous, and insoluble gel. Differing amounts of crosslinking can form products of differing degrees of flexibility and/or rigidity. Trichohyalin and transglutaminase-3 proteins can be used to form gels for medicinal, food and cosmetic purposes. Another aspect of the invention is directed to a method of facilitating the healing of wounds using the trichohyalin and transglutaminase proteins.

Metalloproteinase Peptides

Stetler-Stevenson, W.G., Liotta, L.A., Krutzsch, H.C. (NCI)
Serial No. 08/075,855 (FWC of 07/837,102)
Filed 10 Jun 93
Licensing Specialist: Daniel Passeri

Inappropriate degradation of extracellular matrix molecules by metalloproteinases plays an important role in a wide variety of pathologic conditions including neoplasia and arthritis. This invention is an isolated protein of approximately 23,000 daltons in size which binds to metalloproteinases with high affinity, can be purified using affinity chromatography on solid phase metalloproteinases, and is potentially useful for therapy of pathologic conditions involving the inappropriate production of metalloproteinases.

Neutralizing Monoclonal Antibody to Human Alpha PDGF Receptors

LaRochelle, W., Pierce, J., Jensen, R., Aaronson, S.A. (NCI)
Serial No. 08/081,216
Filed 25 Jun 93
Licensing Specialist: Daniel Passeri

These monoclonal antibodies specifically bind to an epitope on α PDGFR, inhibit PDGF binding with PDGF, antagonize PDGF, and does not bind β PDGFR receptor. A hybridoma cell line producing such a monoclonal antibody, methods of *in vivo* imaging of a pathological condition, and methods of inhibiting the growth of a neoplasia expressing α PDGFR which use these monoclonal antibodies are also described. *In vitro* assays for detecting the presence of α PDGFR and for evaluating the binding affinity of a test compound are also described.

Cloning of the recA Gene from Thermus Aquaticus YT–1

Camerini—Otero, R.D., Angov, E. (NIDDK)
Filed 26 Jul 93
Serial No. 08/097,831 [CIP of 08/041,341 and 08/089,910]
Licensing Specialist, Arthur Cohn

An oligonucleotide encoding the *Thermus aquaticus* recA protein, vectors containing the gene, and a purified *T. aquaticus* recA protein have been isolated. The recA protein is a critical component in recombinational DNA repair, homologous genetic recombination and the cellular SOS response which occurs in response to DNA damage. Unlike previously cloned recA proteins, a thermostable analogue, such as the one provided in the present invention, will be suitable for various procedures which require the enzyme to act at higher temperatures. The methods provided include: hybridizing a primer to a template with increased binding affinity at higher temperatures, improving the accuracy of sequencing DNA by the DNA chip method, and producing a oligonucleotide that is complementary to a DNA template, e.g., as part of a gene amplification technique, such as Polymerase Chain Reaction (PCR), self–sustained sequence replication (3SR), beta–Q replicase (βQR), first strand synthesis with DNA polymerase, and ligation amplification reaction or ligase-based amplification system (LAR/LAS). The recA protein of this invention will also be useful in the practice of the related patent applications disclosing methods of constructing three-stranded DNA (see U.S. Patent Applications 07/611,268, 07/733,744, 08/041,341 and 08/089,910.

Pre-Binding of Retroviral Vector Particles With Complement Components to Enable the Performance of Human Gene Therapy in Vivo

Mason, J.M. (NHLBI)
Serial No. 08/098,944
Filed 28 Jul 93
Licensing Specialist: Carol Lavrich

This invention relates to an improvement in the use of retroviral vectros in gene therapy. Most gene therapy protocols involve treating cells from the patient *ex vivo* and then reintroducing the cells into the patient. *In vivo* gene therapy treatment is preferred because the gene can be introduced into the cells without removing the cells from the patient. The use of retroviral gene therapy vectors *in vivo* has been limited because many retroviruses are inactivated in the circulatory system of primates and humans by the complement system. This invention specifically discloses the use of C1 complement subcomponents or of antibody fragments to protect retroviral vector particles from attack by primate complement systems *in vivo*. The invention has been shown to work in human serum. Pharmaceutical compositions containing retroviral vector particles prebound with C1 complement subcomponents or with antibody fragments, as well as gene therapy methods, are part of this invention.

Method of Stimulating Immunity by Peripheral Delivery of Non-Peptide Opioids

Weber, R.J. and Rice, K.C. (FDA)
Serial No. 08/107,192
Filed 17 Aug 93
Licensing Specialist: Carol Lavrich

This invention concerns a method of stimulating the immune system by administering either a) a non-peptide opioid incapable of passing the blood-brain barrier (exemplified by noroxymorphone) or b) the same type of non-peptide opioid and interleukin-2 (IL–2). Mice given either a) or b) had spleen cells which proliferated in response to nitrogens with at least a 2-fold enhancement over control animals. The same mice were shown to have natural killer cells with twice the normal activity as measured by a standard chromium release assay with a mouse lymphoma cell line as targets. Administration of b) resulted in a synergistic effect and means that coadministration of the non-peptide opioid reduces the dose of IL–2 needed. Applications include treating immunodeficiency conditions and any other where IL–2 is indicated.

Convection-Enhanced Drug Delivery System

Laske, D.W., Oldfield, E.H., Bobo, R.H., Dedrick, R.L., Morrison, P.F. (NINDS)
Serial No. 08/112,370
Filed 27 Aug 93
Licensing Specialist: John Fahner-Vihtelic

This application describes an apparatus and method of convention-enhanced delivery of drugs into the brain and other solid tissue structures. The method involves positioning the tip of an infusion catheter within a tissue structure and supplying an agent

through the catheter while maintaining a pressure gradient from the tip of the catheter during infusion. The catheter is connected to a pump which delivers the desired drug and maintains a desired pressure gradient throughout delivery of the agent. Agent delivery at rates of 0.5 to 4.0 microliters/minute have been used experimentally with infusion distances greater than 1 cm. from the delivery source. This technology addresses the problem of delivering high molecular weight polar molecules such as: growth factors, enzymes, antibodies, protein conjugates, and genetic vectors.

Use of Synthetic Peptides to Modify the Cytoskeleton of Cells

Steinert, P.M., Goldman, R.D., DiGovanna, J.J. (NIAMS)
Serial No. 08/112,783
Filed 25 Aug 93
Licensing Specialist: Daniel Passeri

Synthetic peptides corresponding to different regions of the human keratin 1 chain can disassemble preformed keratin intermediate filaments or inhibit filament assembly both *in vitro* and *in vivo*. The disruption of keratin filaments may have therapeutic applications in the treatment of epithelial abnormalities.

Dated: December 14, 1993.

Donald P. Christoffersen,

Acting Director, Office of Technology Transfer.

[FR Doc. 93–31759 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

John E. Fogarty International Center for Advanced Study in the Health Sciences; Meeting of the Fogarty International Center Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the twenty-sixth meeting of the Fogarty International Center (FIC) Advisory Board, February 8, 1994, in the Lawton Chiles International House (Building 16), at the National Institutes of Health.

The meeting will be open to the public from 8:30 a.m. to 2:15 p.m. the morning agenda will include a report by the Director, FIC; a report of December 1 meeting of the Advisory Committee to the Director, NIH; and presentations on the NIH Office of AIDS Research, and the World Bank's World Development Report—1993.

The afternoon agenda will include reports on FIC's Long-Range Plan, the Board's Biennial Report to Congress, and the Inclusion of Women and Minorities in NIH Research.

In accordance with the provisions of Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 2:45 p.m. to adjournment for the review of applications to the International Research Fellowship and Senior International Fellowship, and Fogarty International Research Collaboration Awards programs; and nominations to the Scholars-in-Residence program and proposals for Scholar's conferences.

Myra Halem, Committee Management Assistant, Fogarty International Center, Building 31, room B2C08, National Institutes of Health, Bethesda, Maryland 20892 (301–496–1491), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Coralie Farlee, Assistant Director for International Legislation and Advisory Activities, Fogarty International Center (Executive Secretary), Building 31, room B2C08, telephone 301–496–1491, will provide substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Halem at least 2 weeks in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.989, Senior International Awards Program, and 93.934, Fogarty International Research Collaboration Award.)

Dated: December 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–31760 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, February 3–4, 1994, at the Executive Plaza North Building, Conference room G, 6130 Executive Boulevard, Rockville, Maryland 20852.

This meeting will be open to the public from 9 a.m. to 10 a.m. on February 3 to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on February 3 from 10 a.m. to recess and on February 4 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Executive Plaza North, room 630E, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892–9903, Tel. (301) 496–5708, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Harvey P. Stein, Scientific Review Administrator, Contracts Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Executive Plaza North, room 601C, 9000 Rockville Pike, Bethesda, Maryland 20892–9903, Tel. (301) 496–7030, will furnish substantive program information.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Ms. Alma O. Carter at (301) 496–7523 in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research, 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: December 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–31851 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting, President's Cancer Panel

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, January 31, 1994 at the National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10.

This meeting will be open to the public on January 31, 1994 from 8 a.m. to approximately 5 p.m. The topic will be: The Role of Government Agencies in the National Cancer Program.

Ms. Carole Frank, Committee Management Specialist, National Cancer Institute, Executive Plaza North, room 630, 9000 Rockville Pike, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a roster of the committee members upon request.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Ms. Nora Winfrey, (301–496–1148), in advance of the meeting.

Dr. Maureen O. Wilson, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, room 4A34, National Institute of Health, Bethesda, Maryland 20892 (301/496–1148) will provide a roster of the Panel members and substantive program information upon request.

Dated: December 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–31761 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications, contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Panel: NHLBI SEP on the National Marrow Donor Program
Date of Meeting: January 12, 1994
Time of Meeting: 9 a.m.
Place of Meeting: Bethesda Hyatt Regency, Bethesda, Maryland
Agenda: To review contract proposal(s).
Contact Person: C. James Scheirer, Ph.D., 5333 Westbard Avenue, room 548, Bethesda, Maryland 20892, (301) 594–7452.

Name of Panel: NHLBI SEP on Ischemic Heart Disease, Sudden Cardiac Death and Heart Failure (Specialized Centers)
Dates of Meeting: January 18–20, 1994
Time of Meeting: 7 p.m.
Place of Meeting: Holiday Inn Chevy Chase, Chevy Chase, Maryland
Agenda: To review grant application(s).
Contact Person: Carl A. Ohata, Ph.D., 5333 Westbard Avenue, room 5A09, Bethesda, Maryland 20892, (301) 594–7483.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: December 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–31763 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Meeting of the National Advisory Dental Research Council

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, to be held January 24–25, 1994, Conference Room 10, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m. to recess on January 24 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting of the Council will be closed to the public on January 25 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Dushanka V. Kleinman, Executive Secretary, National Advisory Dental Research Council, and Deputy Director, National Institute of Dental Research, National Institutes of Health, Building 31, room 2C39, Bethesda, Maryland 20892, (telephone (301) 496–9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed above in advance of the meetings.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: December 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–31765 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meeting of the Communication Disorders Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Communication Disorders Review Committee on February 17–18, 1994. The Committee will meet at the Hyatt Regency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814. Notice of the meeting room will be posted in the hotel lobby.

The Committee meeting will be open to the public from 8 a.m. until approximately 8:30 a.m. on February 17 to discuss administrative details relating to Committee business. Attendance by the public will be limited to space available.

The meeting of the Committee will be disclosed to the public from approximately 8:30 a.m. on February 17 until adjournment on February 18 in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Committee meeting may be obtained from Dr. Craig A. Jordan, Scientific Review Administrator, National Institute on Deafness and Other Communication Disorders, room 400B Executive Plaza South, Bethesda, Maryland 20892, 301–496–8683. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Jordan two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communication Disorders)

Dated: December 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–31764 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council on Drug Abuse, National Institute on Drug Abuse on January 25–26, 1994, at the National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public on January 25 from 9 a.m. to 1 p.m. and on January 26 from 9 a.m. to 5 p.m. for announcements and reports of administrative, legislative, and program developments in the drug abuse field.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on January 25 from 1 p.m. to 5 p.m. for the review, discussion, and evaluation of grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and a roster of committee members may be obtained from Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, room 10–42, 5600 Fishers Lane, Rockville, Maryland 20857 (301/443–2755).

Substantive program information may be obtained from Ms. Eleanor C. Friedenberg, room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301/443–2755).

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs.)

Dated: December 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–31762 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Notice Regarding Section 602 of the Veterans Health Care Act of 1992 Entity Guidelines

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: Section 602 of Public Law 102–585, the "Veterans Health Care Act of 1992" (the "Act"), enacted section 340B of the Public Health Service Act ("PHS Act"), "Limitation on Prices of Drugs Purchased by Covered Entities." Section 340B provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a pharmaceutical pricing agreement (the "Agreement") with the Secretary of Health and Human Services in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed the amount determined under a statutory formula.

The purpose of this notice is to inform the covered entities of recent decisions regarding program implementation. Further, covered entities who wish to participate in the drug discount program have certain responsibilities created by the Agreement and section 340B of the PHS Act. These include the prohibition against selling or transferring section 340B discounted drugs to persons who are not patients of the entity, (section 340B(a)(5)(B) of the PHS Act) and generating Medicaid rebates while accepting section 340B discounts on the same drugs, (section 340B(a)(5)(A) of the PHS Act). The Department has developed guidelines related to these prohibitions, and this notice discusses the proposed guidelines and invites public comment.

Section II contains a description of the mechanism to prevent duplicate discounts and rebates and methods for its implementation. The mechanism was published on May 7, 1993, and public comments were submitted at that time. We are not inviting further comment on this section.

DATES: The public is invited to submit comments on the proposed covered entity guidelines (all sections except II which was subject to an earlier notice inviting public comment) by January 28, 1994. Subject to consideration of the comments submitted, the Department intends to publish a final notice regarding these entity guidelines.

FOR FURTHER INFORMATION CONTACT: Marsha Alvarez, R. Ph., Chief Pharmacy Officer, Attn: Drug Pricing Program, Bureau of Primary Health Care, Health Resources and Services Administration, East West Towers Rm 10–3A1, Bethesda, Maryland 20814, Phone: (301) 594–4353.

ADDRESSES: Comments should be submitted to Marsha Alvarez at the address listed above.

SUPPLEMENTARY INFORMATION: The PHS Act and the Agreement contain several important prohibitions for covered entities.

(I). Confidential Drug Pricing Information

Section III(f) of the Public Health Service (PHS) Pharmaceutical Pricing Agreement states that "[t]he Secretary shall require, under a reasonable schedule of implementation, that covered entities not reveal confidential drug pricing information." "Confidential drug pricing information" includes both "best price" and "average manufacturer price." The quoted price or the actual price given by the manufacturer to the covered entity is not confidential.

(II). Duplicate Discount/Rebate Potential

There is a potential for a drug purchased by a covered entity at the statutory discount to be subject to a Medicaid rebate under section 1927 of the Social Security Act, if the drug is reimbursed by the Medicaid program. Accordingly, the PHS Act directs the Secretary of HHS to establish a mechanism to avoid the potential double price reduction.

In consultation with the Health Care Financing Administration (HCFA), which is responsible for the administration of the Medicaid program, the PHS developed a mechanism. The proposed mechanism was published in the **Federal Register** on May 7, 1993, and the Department requested public comment. The comments were addressed in a final notice published on June 23, 1993, at 58 FR 34058, which adopted the proposed mechanism without substantive change. The Department began implementation of the mechanism on July 1, 1993. The mechanism is as follows:

(a). Billing Per Encounter

For all-inclusive rates (either per encounter or visit), drug purchases are not billed as separate cost items; therefore, there is no opportunity for a Medicaid rebate to be sought. To the extent that covered entities are reimbursed by Medicaid through all-inclusive rates, there is no possibility that the duplicate discount and rebate can occur. These entities included on the initial list of covered entities may request drug discounts retroactive to December 1, 1992, if appropriate documentation of drug purchases is presented to the manufacturer.

(b). Billing on a Cost Basis for Drugs

For other entities billing on a cost basis for drug purchases, PHS is providing a list of participating covered entities to State Medicaid agencies with the Medicaid provider numbers for each covered entity in the respective State. Based on the provider number, the State Medicaid agency will create a separate provider file for claims from covered entities. They will exclude data from these provider files when generating the rebate bills to the manufacturers under the Medicaid rebate program.

The entity must provide the Drug Pricing Program with the Medicaid provider number so that State Medicaid agencies can create the appropriate exclusion files. The first group of State Medicaid provider numbers was mailed to the State Medicaid agencies on June 25, 1993. The Department will create a separate computer file on the Electronic Data Retrieval System which will list those entities and their Medicaid provider numbers which were added to the eligibility list and entities which chose to withdraw from the program. From October 1993, until June 30, 1994, the computer file will be updated on a quarterly basis. Thereafter, the file will be updated annually.

There are large facilities which house several different clinics. Some of these clinics are covered entities eligible for the section 340B discounts and others are not eligible. Because the exclusion file (i.e., flagging or marking the entity file for exclusion from Medicaid rebate program) will effectively eliminate all of the facility's outpatient drug purchases from the Medicaid rebate program, the facility must request from its respective State Medicaid agency a separate Medicaid provider number for the eligible clinics. With this separate number, only the outpatient drug purchases from the eligible clinics will be excluded from the Medicaid rebate program. For those States which cannot generate additional Medicaid provider numbers for entities, covered entities must discuss an alternative arrangement with the States to accomplish this objective.

A covered entity which bills Medicaid separately for covered outpatient drugs can accept a discount on those drugs for which no claims for Medicaid reimbursement were sent to its respective State Medicaid agency. For drugs reimbursed by Medicaid, the covered entity may accept the discounted price once its Medicaid provider number is received by the Drug Pricing Program, and the Program provides the number to the respective State Medicaid agency through the regularly scheduled updates to the covered entity file. If a covered entity has adequate documentation proving drugs purchased at the section 340B discount were not billed separately to Medicaid or did not generate Medicaid rebates, the entity may accept the discount and also request discounts retroactive to December 1, 1992. For retroactive adjustments, the entity must have been listed on the initial eligibility list.

(c). Billing Medicaid at Acquisition Cost

When a covered entity submits a bill to the State Medicaid agency for a drug purchase by or on behalf of a Medicaid beneficiary, the amount billed may not exceed the entity's actual acquisition cost for the drug, as charged by the manufacturer at a price consistent with the Veterans Health Care Act of 1992, plus a reasonable dispensing fee established by the State Medicaid agency. This will assure that the cost savings to the covered entity will be passed on to the State Medicaid agency, offset the loss of the collection of the rebate by that agency, and prevent the duplicate discount/rebate by the drug manufacturer. This mechanism is consistent with the Veterans Health Care Act and the limitations established in the Medicaid regulations, 42 CFR 447.331–447.334, which limit the amount the Medicaid State agency may reimburse providers.

(III). Eligibility for Retroactive Discounts

Until November 30, 1993, or 30 days after publication of the final entity guidelines, whichever is later, eligible covered entities included on the initial eligibility list may request retroactive discounts (discounts, rebates, or account credit) for covered outpatient drugs purchased retroactive to December 1, 1992. Only those entities on the initial eligibility list that (1) bill covered outpatient drugs using an all-inclusive rate (either per visit or per encounter), (2) have not billed Medicaid for those covered outpatient drugs since December 1, 1992, or (3) have adequate documentation proving that drugs for which a retroactive discount is being requested have not generated Medicaid rebates, may request the retroactive discount.

(IV). Entity Guidelines Regarding Drug Diversion

Section 340B contains a number of prohibitions related to drug diversion which might require entities to develop alternate systems. These systems will be necessary to avoid diversion and will provide adequate documentation for audit purposes.

(a). Diversion to Nonpatients of the Covered Entity

Covered entities are required not to resell or otherwise transfer outpatient drugs purchased at the statutory discount to an individual who is not a patient of the entity. If individuals, other than patients of the covered entity obtain covered outpatient drugs from the pharmaceutical dispensing facility, the entity must take affirmative steps to prevent their receipt of discounted drugs. The entity must develop and institute adequate safeguards to prevent the transfer of discounted outpatient drugs to individuals who are not eligible for the discount (e.g., separate purchasing accounts and dispensing records).

(b). Diversion to Ineligible Entities Within the Same Facility

Section 340B(a)(6) of the PHS Act recognizes that a covered entity may be part of a larger facility and states that the larger facility (e.g., a hospital) will not be considered eligible for the discounted drug prices unless it is listed as a covered entity. Only the covered entity (e.g., the eligible clinic) housed within the hospital organization will be eligible for section 340B drug discounts. Another example is a department of health that contains an eligible family planning clinic but itself is not covered. Only the family planning clinic is eligible for section 340B discounts. Therefore, the facility which contains an eligible entity within its structure is required to establish separate purchasing accounts and maintain separate dispensing records for the eligible entity.

(c). Diversion to Excluded Services of the Covered Entity

Section 340B mandates the statutory price only for outpatient drugs; therefore, the covered entity must use these discounted drugs only in connection with outpatient services. Because the covered entity may not use the covered outpatient drug in excluded services such as inpatient, a separate method for purchasing and dispensing the discounted drugs (or alternate systems as approved by the Secretary) is required.

(d). Adequate Systems To Safeguard Against Diversion

Developing a separate purchasing system, including separate purchase number and a separate dispensing system for outpatient drugs, should

provide a sufficient audit trail to prove the prevention of drug diversion.

The covered entity may, at its option, develop an alternative system, short of tracking each discounted drug through the purchasing and dispensing process, by which it can prove compliance. If an alternate system of tracking is proposed to be used, this system must meet criteria developed by the Drug Pricing Program. These criteria will be developed at a later date. The Drug Pricing Program welcomes comments or suggestions concerning alternative tracking systems that could be included in the program.

(V). Audit Requirements

All entities receiving statutory prices are required to maintain records of purchases of covered outpatient drugs and of any claims for reimbursement submitted for such drugs under title XIX of the Social Security Act. The entity must permit HHS and the manufacturer to audit any record of a covered drug purchase that was subject to the discount. Manufacturer audits will be conducted in accordance with procedures developed by the Secretary of HHS. Until these guidelines are developed and published in the **Federal Register**, entities are not required to permit audits by manufacturers except as approved by the Secretary. This notice addresses only audits related to purchases as a covered entity; it does not address other audit requirements related to participation in State Medicaid programs or receipt of Federal grant funding.

(VI). Entity Participation

Covered entity participation in the section 340B drug discount program is voluntary. Once an entity has elected to participate in the program and has submitted its Medicaid provider number to the Drug Pricing Program, the entity must wait to withdraw from the program until the next official updating of the eligible entity list. The entity must comply with all requirements of the discount program until the date it is removed from the eligibility list. This date can be obtained from the Office of Drug Pricing Program. This restriction does not apply to entities that use all-inclusive rates or that do not bill Medicaid for covered outpatient drugs.

(VII). Group Purchasing

(a). Disproportionate Share Hospitals

The Department has interpreted the group purchasing restriction of section 340B(a)(4)(L)(iii) regarding disproportionate share hospitals ("DSH") that are covered entities as follows: (1) A DSH may participate in a group purchasing arrangement for inpatient drug use without affecting its eligibility to purchase section 340B discounted drugs. (2) If a DSH participates in a group purchasing organization (GPO) or arrangement for covered outpatient drugs, the DSH will no longer be an eligible covered entity and cannot purchase covered outpatient drugs at the section 340B discount prices. This is a new policy approach which we are considering adopting for two reasons. First, this approach appears to carry out more fully the legislative intent. Section 340B(a)(4)(l) states that a hospital is a covered entity if it meets three criteria. This first two criteria deal with the public nature of the hospital and the level of its disproportionate share adjustment percentage. The third criterion states that the hospital must not "obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement," section 340B(a)(4)(l)(iii). The proposed policy would appear to achieve the Congressional intent better than the earlier interpretation.

Second, the earlier interpretation which allowed DSHs to participate both in the section 340B discount program and also in a GPO resulted in Federal dollars being lost. When a DSH elected to participate in the program, it provided its Medicaid provider number to allow the State Medicaid agency to exclude it from the Medicaid rebate mechanism. The result was that GPO drugs were excluded from rebate mechanism, with Medicaid losing the statutory rebate it would otherwise receive. Thus, while the DSH could obtain comparable price reductions for outpatient drugs purchased through a GPO, the corresponding Federal savings would be lost.

(b). Group Purchasing Arrangements - Other

States, or other groups, which purchase drugs for covered entities (other than disproportionate share hospitals) are not included on the list of covered entities; however, they are eligible to purchase at the section 340B discount if the following requirements are met: (1) The group purchasing arrangement must be comprised of only covered entities, or (2) if group purchasing arrangements contain entities which are not eligible for the discount, separate purchasing accounts and dispensing/distribution must be maintained.

(VIII). Purchasing Agents

A covered entity is permitted to use a purchasing agent without forfeiting its right to the section 340B drug discounts. If a purchasing agent is used, the arrangement must be in writing and the terms of the agent's relationship with the entity must be clearly defined. The entity and the agent should decide whether the agent simply negotiates the drug purchasing contracts on behalf of the entity or actually receives drug shipments for distribution to the entity If the latter, the transfer of purchased pharmaceuticals from an agent to the entity would not be viewed as drug diversion. This paragraph does not supersede the statutory limitations that DSHs eligible to receive the section 340B drug discounts may not participate in group purchasing arrangements.

(IX). Definition of Covered Outpatient Drug

The Department has adopted an interpretation of the statutory definition of "covered outpatient drug" developed by the Health Care Financing Administration ("HCFA"). Section 1927(k)(2) of the Social Security Act defines "covered outpatient drug" to include most drugs and biologicals which may be dispensed only by prescription and which require approval by the Food and Drug Administration or a license under section 351 of the PHS Act. Section 1927(k)(3) limits the definition of "covered outpatient drug" to exclude certain settings (e.g., such services as emergency room, hospice, dental, physician, nursing facilities, x-ray, lab, and renal dialysis) in some instances. In these settings, if a covered drug is included in the per diem rate (i.e., bundled with other payments in an all-inclusive, per visit, or an encounter rate), it will not be included in the section 340B discount program. However, if a covered drug is billed and paid for instead as a separate line item as an outpatient drug in a cost basis billing system, this drug will be included in the program.

(X). Dealing Direct or Through a Wholesaler

Under the PHS Agreement signed by each manufacturer participating in the Medicaid program, the manufacturer has the option of dealing either directly with the covered entity or through a wholesaler (the Agreement, section II(a)(3)). If purchasing through a wholesaler, the entity will be required to provide the manufacturer with information necessary to arrange for such purchases consistent with the terms of the Agreement.

The purpose of the option for direct or wholesaler purchases was to allow manufacturers, when dealing with covered entities, to continue their usual business practices. If a manufacturer has customarily dealt directly with a particular covered entity, "then requiring the continuation of this form of purchasing with the covered entity is reasonable. When dealing directly with a covered entity, manufacturers must offer covered outpatient drugs at or below the section 340B discount prices. If a manufacturer customarily uses a wholesaler as a means of distribution, then it may continue this practice. If the manufacturer's drugs are available to covered entities through wholesalers, the discount must be made available through that avenue.

Manufacturers may not single out covered entities from their other customers for restrictive conditions that would undermine the statutory objective. Manufacturers must not place limitations on the transactions (e.g., minimum purchase amounts) which would have the effect of discouraging entities from participating in the discount program.

(XI). Manufacturer's Contracts Requiring Entity Compliance

A manufacturer may not condition the offer of statutory discounts upon an entity's assurance of compliance with section 340B provisions. The enforcement of section 340B provisions is a Federal responsibility. Covered entity assurances regarding the following activities may not be required: (1) Eligibility to participate in the program; (2) utilization of covered outpatient drugs only in authorized services; (3) maintaining the confidentiality of the drug pricing information; (4) permitting the manufacturers to audit purchase, inventory, and related records prior to the publication of approved PHS guidelines; and (5) submitting information related to drug acquisition, purchase, and inventory systems. Entities are not required to sign agreements assuring manufacturers of their compliance with section 340B provisions. (If a manufacturer asks a covered entity whether the entity is in fact participating in the section 340B discount program, the entity must supply the manufacturer with this information).

Dated: December 21, 1993.

William A Robinson,

Acting Administrator, Health Resources and Services Administration.

[FR Doc. 93–31791 Filed 12–28–93; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–3686; FR–3584–N–01]

Community Development Work Study Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability.

SUMMARY: This notice invites applications from institutions of higher education, area-wide planning organizations, and States for grants under the Community Development Work Study Program (CDWSP). The CDWSP, authorized by the Housing and Community Development Act of 1974, as amended, assists economically disadvantaged and minority students participating in work study programs in such institutions. This notice announces HUD's intention to award up to $3 million from FY 1994 appropriations (plus any additional funds recaptured from prior appropriations) to fund work study programs to be carried out from August, 1994 to September, 1996.

DATES: Applications may be requested beginning on January 8, 1994. The application submission deadline date and time will be in the application kit.

FOR FURTHER INFORMATION CONTACT: James H. Turk, Technical Assistance Division, Office of Technical Assistance, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, Telephone (202) 708–3176 (Voice). The TDD number for the hearing impaired is (202) 708–2564. These are not toll-free numbers. Application packages (requests for grant application) may be obtained by written request from the following address: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., room 7255, Washington, DC 20410.

SUPPLEMENTARY INFORMATION:

A. Background

Section 107(c) of the Housing and Community Development Act of 1974, as amended, (the Act) authorizes the CDWSP. Under this section, HUD is authorized to provide grants to institutions of higher education, either directly or through area-wide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students, including students with disabilities, who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community or economic development, community planning, or community management. Two-year institutions are not eligible applicants for funding under this program. This notice announces HUD's intention to award up to $3 million from FY 1994 appropriations (plus any additional funds recaptured from prior appropriations). Awards will be made under the HUD implementing regulations at 24 CFR 570.400 and 570.415 and the provisions of this Notice.

B. Eligible Applicants

The following are eligible to apply for assistance under the program subject to the conditions noted below:

1. Institutions of higher education offering graduate degrees in a community development academic program.

2. Institutions of higher education offering undergraduate degrees in a community development academic program if no institutions of higher education in the standard metropolitan statistical area (SMSA) or non-SMSA area in which they are located offer graduate degrees in a community development academic program. (Note: Two-year institutions of higher education are not eligible applicants for funding under this program.)

3. Area-wide planning organizations (APOs) which apply on behalf of two or more institutions of higher education located in the same SMSA or non-SMSA area as the APO.

4. States which apply on behalf of two or more institutions of higher education located in the State. If a State is approved for funding, institutions of higher education located in the State are not eligible recipients. If an APO is approved for funding, institutions of higher education located in the SMSA or non-SMSA non-metropolitan area served by the APO are not eligible recipients.

C. Threshold Requirements

To be eligible for ranking, applications must meet each of the following threshold requirements:

1. The application must be filed in the application form prescribed by HUD, and within the required time prescribed by the Request For Grant Application (RFGA) released pursuant to this notice.

2. The application must demonstrate that the applicant is eligible to participate.

3. The applicant must demonstrate that each institution of higher education participating in the program as a recipient has the required academic programs and faculty to carry out its activities under CDWSP. Each work placement agency must have the required staff and community development work study program to carry out its activities under CDWSP.

4. Institutions of higher education, APOs, and States must maintain at least a 50 percent rate of graduation of students from the FY 1991 funding round which covered school years September 1991 to September 1993 in order to participate in the current round of CDWSP funding. Institutions of higher education, APOs, and States funded under the FY 1991 CDWSP funding round which did not maintain such a rate will be excluded from participating in the FY 1994 funding round. Such institutions, APOs, and States are eligible to participate in the 1995 round.

D. Selection Factors for Institutions of Higher Education (110 points)

The following factors will be considered by the Department in evaluating applications received from institutions of higher education in response to the solicitation.

1. Academic Program (53 points, as allocated below).

Each application will be reviewed for evidence of the school's commitment to administering a CDWSP and the overall strength of its commitment to meeting the needs of minority and economically disadvantaged individuals, including students with disabilities. This commitment will be evaluated in the following areas:

a. Relative quality of the academic program offered by the institution of higher education.

(1) Quality of the academic program in terms of community and economic development course offerings and academic requirements for students. (8 points)

(2) Appropriateness of the curriculum to prepare students for careers in the community and economic development field. (8 points)

(3) Qualifications of the faculty and the percentage of time they will teach in the academic area. (6 points)

b. Quality of academic supervision—Qualifications of the academic supervisor and the percentage of time they will commit to the students. (7 points)

c. Amount of resources to be committed by the institution to the academic program.

(1) Appropriateness and adequacy of the resources (facilities and equipment) that will be devoted to the academic area. (2 points)

(2) The degree to which the applicant is able to contribute funds to support the total cost of the project. (5 points)

(3) The degree to which the applicant will utilize faculty and staff administrators on staff. (7 points)

d. Rate of graduation—Applicant's success rate in graduating students previously enrolled in the HUD CDWSP or similar work study program. (10 points)

2. *Student Work Placement Assignment* (9 points, as allocated below)

a. The extent to which the participating students will receive a sufficient number and variety of work placement assignments. (3 points)

b. The extent to which the assignments will provide practical and useful experience to students participating in the program. (3 points)

c. The extent to which the assignments will further the participating students' preparation for professional careers in community or economic development, community planning, or community management. (3 points)

3. *Seminars* (4 points)

The degree to which the proposed seminars will (a) relate the experience provided under the work placement assignments with the educational experience provided under the academic programs and (b) address career planning and permanent job placement. (4 points)

4. *Placement Opportunities* (13 points, as allocated below)

a. Extent to which the institution's educational program (based on past experience) leads directly and immediately to career opportunities in the community and economic development fields. (6 points)

b. The applicant's success in assisting graduates of the HUD CDWSP or similar work study program to find permanent employment in community development funded agencies. (7 points)

5. *Program Coordination and Administration* (16 points, as allocated below)

a. The applicant's ability to track and monitor the progress of the students previously enrolled in the HUD or similar work study program, including the students who drop out of the program. (4 points)

b. The degree to which the Program Director has clear responsibility, ample percentage of time, and sufficient institutional or academic authority to coordinate the overall administration of the program. (8 points)

c. The adequacy of the applicant's plan for placing students on rotating assignments in community development work placement assignments and keeping track of students during the two-year academic period and the internship. (4 points)

6. *Institution's Commitment* (15 points, as allocated below)

a. The extent to which the applicant has a recruitment program that demonstrates an active, aggressive, and imaginative effort to identify and attract qualified minorities and economically disadvantaged students, including students with disabilities. (2 points)

b. The success of past and current efforts in preparing these students for careers in community and economic development. (6 points)

c. The extent to which the CDWSP award will result in a net increase of these students in each academic area. (3 points)

d. The extent to which the CDWSP award will not result in a decrease in the amount of the institution's own financial support available for minority and economically disadvantaged students in the academic areas or the institution as a whole. (2 points)

e. The extent to which the applicant has provided reasonable accommodations for students with disabilities to enable them to participate in the college/university's academic and work-study programs. (2 points)

E. Selection Factors for Area-Wide Planning Organizations and States (110 points)

The following factors will be considered by the Department in evaluating applications received from area-wide planning organizations and States in response to this NOFA. Each application must contain sufficient technical information to be reviewed for its technical merit.

1. *Academic Program* (53 points, as allocated below)

a. Relative quality of the academic program offered by the institutions of higher education.

(1) Quality of the academic program in terms of community and economic development course offerings and academic requirements for students. (8 points)

(2) Appropriateness of the curriculum to prepare students for careers in the community and economic development field. (8 points)

(3) Qualifications of the faculty at each college/university listed in the submission and the percentage of time they will teach in the academic area. (6 points)

b. Qualifications of the academic area supervisor at each college/university listed in the submission and the percentage of time they will commit to the students. (7 points)

c. The applicant's and institution's plan for the use of its facilities, equipment and financial resources in support of the CDWSP. (2 points)

d. The degree to which each college/university listed in the application is able to contribute funds to support the total cost of the project. (5 points)

e. The degree to which each college/university listed in the application will utilize faculty and staff administrators on staff. (7 points)

f. The success rate of each institution of higher education applying under the applicant in graduating students previously enrolled in the HUD CDWSP or similar work study program. (10 points)

2. *Student Work Placement Assignment* (9 points, as allocated below)

a. The extent to which the participating students will receive a sufficient number and variety of work placement assignments. (3 points)

b. The extent to which the assignments will provide practical and useful experience to students participating in the program. (3 points) and

c. The extent to which the assignments will further the participating students' preparation for professional careers in community or economic development, community planning, or community management. (3 points)

3. *Seminars*

The degree to which the proposed seminars will (a) relate to the experience provided under the work placement assignments with the educational experience provided under the academic program and (b) address career planning and permanent job placement. (4 points)

4. *Placement Opportunities* (13 points, as allocated below)

a. The extent to which the educational program for each college/university listed in the application (based on past experience) leads directly and immediately to career opportunities in the community and economic development fields. (6 points)

b. The applicant's success in assisting graduates of the HUD Community Development Work Study Program (CDWSP) or similar work study program to find permanent employment in community development funded agencies. (7 points)

5. *Program Coordination and Administration* (16 points, as allocated below)

a. The extent to which the applicant has established a committee to coordinate activities between program participants to advise the recipient on policy matters, to assist the recipient in ranking and selection of participating students, and to review disputes concerning compliance with program agreements and performance. (8 points)

b. The applicant's ability to track and monitor progress of students enrolled in the program and those who drop out. (4 points)

c. The adequacy of the applicant's plan for placing students in work placement assignments and keeping track of students during the two-year academic period and during the internship, respectively. (4 points)

6. *Institution's Commitment* (15 points, as allocated below)

a. The extent to which the applicant has a recruitment program that demonstrates an active, aggressive, and imaginative effort to identify and attract qualified minorities and economically disadvantaged students, including students with disabilities. (2 points)

b. The success of past and current efforts of colleges/universities listed in the application in preparing these students for careers in community and economic development. (6 points)

c. The extent to which the CDWSP award will result in a net increase of these students in each academic area. (3 points)

d. The extent to which the CDWSP award will not result in a decrease in the amount of the institutions's own financial support available for minority and economically disadvantaged students in the academic areas or the institution as a whole. (2 points)

e. The extent to which the applicant has provided reasonable accommodations for students with disabilities to enable them to participate in the college/university academic and work-study program. (2 points)

F. Program Policy Factors

HUD may provide assistance to support a number of students that is less than the number requested under applications in order to provide assistance to as many highly rated applications as possible. In addition, HUD might recommend a lower funding level than the requested amount for tuition, work stipend, books and additional support.

G. Obtaining Application

For an application kit, contact the Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7255, Washington, DC 20410. Applications may be requested beginning on January 8, 1994. Requests for application kits must be in writing, but may be faxed to (202) 708–3363 (This is not a toll-free number). Please refer to FR–3584, and provide your name, address (including zip code) and telephone number (including area code).

H. Submitting Applications and Deadline Date

Applications for funding under this NOFA must be complete and must be physically received in the place designated in the application kit for receipt, by the deadline date and time specified in the application kit. The deadline date and time specified in the kit will be firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery related problems. The application submission deadline contained in the application kit will be no less than 60 days after the initial date on which application kits are made available to requestors.

Following the expiration of the application submission deadline, HUD will review and rank applications in a manner consistent with the procedures described in this Notice and the provisions of the program regulations at 24 CFR 570.425. Applicants awarded a CDWSP grant from FY 1994 appropriations will be notified approximately 40 days after the deadline date for applications set out in the application kit.

1. Application Content

Applicants must complete and submit applications in accordance with instructions contained in the application kit. The following is a checklist of the application content that will be specified in the RFGA:

(a) Transmittal letter.
(b) A completed and signed Standard Form 424, Application For Federal Assistance.
(c) Abstract.
(d) Table of Contents.
(e) Proposal narrative statement addressing the factors for award.
(f) Sample copy of student/recipient binding agreement.

(g) Sample copy of recipient/student work placement agreement.
(h) Management/Workplan Guidelines.
(i) Resumes of Key staff and faculty.
(j) Budget for resident and non-resident students.
(k) Tuition and fee Schedule.
(l) Audit/financial management system information.
(m) Certification by IPA or cognizant audit agency of applicant's financial management system.
(n) If applicable, document verifying a 50 per cent rate of graduation of students from the FY 1991 funding round.

2. Certifications and Exhibits

Applications must also include the following:

(a) Drug-Free Workplace Certification.
(b) Certification prohibiting excessive force against nonviolent civil rights demonstrators, pursuant to 42 U.S.C. 5304 (applies only to applicants that are units of general local government).
(c) Certification on HUD Form 2880, Applicant/Recipient Disclosure, Update Report, disclosing receipt of at least $200,000 in covered assistance during the fiscal year, pursuant to 24 CFR part 12, subpart C, Accountability in the Provision of HUD Assistance.
(d) Disclosure of Lobbying Activities on SF–LLL must be used to disclose lobbying with other than Federally appropriated funds at the time of application if the applicant deems it applicable.

J. Corrections to Deficient Applications

After the submission deadline date, HUD will screen each application to determine whether it is complete. If an application lacks certain technical items or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of HUD's written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD will disqualify the application.

This 14-day cure period applies only to non-substantive deficiencies or errors. Any deficiency capable of cure will involve only items not necessary for HUD to assess the merits of an application against the factors specified in this NOFA.

K. Other Matters

1. Federalism Impact The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies and procedures contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order.

2. Impact on the Family The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice will likely have a beneficial impact on family formation, maintenance, and general well-being. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

3. Accountability in the Provision of HUD Assistance

HUD has promulgated a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 16, 1992, HUD published at 57 FR 1942, additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation, public access, and disclosure requirements of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

a. Documentation and Public Access

HUD will ensure documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

b. HUD Responsibilities—Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports, both applicant disclosures and updates, will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

c. State and Unit of General Local Government Responsibilities—Disclosures

States and units of general government receiving assistance under this NOFA must make all applicant disclosure reports available to the public for three years. Required update reports must be made available along with the applicant disclosure reports, but in no case for a period less than three years. Each State and unit of general local government may use HUD Form 2880 to collect the disclosures, or may develop its own form. (See 24 CFR part 12, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on these disclosure requirements.)

4. Prohibition Against Advance Information on Funding Decisions

HUD's regulation implementing section 103 of the HUD Reform Act, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (voice), (202) 708–1112 (TDD). These are not toll-free numbers. The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

5. Prohibition Against Lobbying of HUD Personnel

Section 112 of the HUD Reform Act added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.). Section 13 contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

HUD regulations implementing section 13 are at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the regulation, particularly the examples contained in appendix A of the rule.

Any questions about the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–3000. Telephone: (202) 708–3815 (voice), (202) 708–1112 (TDD). (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

6. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

7 The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and assigned OMB control number 2506–0104.

8. The assistance under this NOFA is categorically excluded from review under the National Environmental Policy Act, pursuant to 24 CFR 50.20(b).

L. The Catalog of Federal Domestic Assistance program:

The Catalog of Federal Domestic Assistance Number is 14.234.

Authority: 42 U.S.C. 5301–5320; 42 U.S.C. 3535(d); 24 CFR 570.402.

Dated: December 21, 1993.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 93–31848 Filed 12–28–93; 8:45 am]

BILLING CODE 4210–29–P

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–93–3527; FR–3362–N–02]

Public and Indian Housing Drug Elimination Program; Announcement of Funding Awards for FY 1993

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the NOFA for Public and Indian Housing Drug Elimination Program. This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Malcolm E. Main, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197 or 708–3502. A telecommunication device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to provide funds to Public and Indian Housing Drug Elimination Program for use in eliminating drug-related crime. This program is authorized under chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et. seq.*), and regulations at 24 CFR part 961). The Department published a Fiscal Year 1993 NOFA announcing the availability of $145,525,000 for Drug Elimination.

The 1993 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on January 19, 1993 (58 FR 5150). Applications were scored and selected for funding based on criteria contained in the Notice.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing in the names, addresses, and the amount of funds awarded, as set out at the end of this Notice.

Dated: December 13, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS

[Fiscal Year 1993; Program name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
Housing Authority of the City of Hartford, 475 Flatbush Ave., Hartford, CT 06106–3728	$516,000

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100-690, November 18, 1988]

Funding recipient (name and address)	Amount approved
Housing Authority of the City of Ansonia, 75 Central Street, Ansonia, CT 06401-2042	134,500
Malden Housing Authority, P.O. Box 365, Malden, MA 02148-4361	250,000
Worcester Housing Authority, 40 Belmont St., Worcester, MA 01605-0000	250,000
Springfield Housing Authority, P.O. Box 1609, Springfield, MA 01101-1609	250,000
Boston Housing Authority, 52 Chauncey St., Boston, MA 02111-2302	1,941,750
New Bedford Housing Authority, P.O. Box A-2081, New Bedford, MA 02741-2081	316,696
Brockton Housing Authority, PO Box 340, Brockton, MA 02403	250,000
Cambridge Housing Authority, 270 Green St., Cambridge, MA 02139-3360	370,400
Somerville Housing Authority, 30 Memorial Rd., Somerville, MA 02145	218,500
Medford Housing Authority, 121 Riverside Ave., Medford, MA 02155	240,500
Gloucester Housing Authority, P.O. Box 1599, Gloucester, MA 01931-1599	50,000
Lawrence Housing Authority, 353 Elm Street, Lawrence, MA 01842	250,000
Lowell Housing Authority, P.O. Box 60, Lowell, MA 01853-60	333,800
Fall River Housing Authority, P.O. Box 989, Fall River, MA 02722-0989	356,600
Chelsea Housing Authority, 54 Locke Street, Chelsea, MA 02150-2209	175,000
Portland Housing Authority, 14 Baxter Blvd., Portland, ME 04101-4935	250,000
Nashua Housing Authority, 101 Major Drive, Nashua, NH 03060-4763	250,000
Manchester Housing & Redev. Authority, 198 Hanover St., Manchester, NH 03140	248,167
Providence Housing Authority, 100 Broad Street, Providence, RI 02903-4129	484,000
Newport Housing Authority, One Park Holm, Newport, RI 02840-1212	250,000
Pawtucket Housing Authority, P.O. Box 1303, Pawtucket, RI 02860-1303	211,000
Housing Authority of the City of Paterson, 160 Ward Street, Paterson, NJ 07505-1998	429,600
Housing Authority of Plainfield, 510 East Front St., Plainfield, NJ 07060-1443	234,500
Housing Authority of the City of Hoboken, 400 Harrison St., Hoboken, NJ 07030-6299	269,000
Housing Authority of the City of East Orange, 160 Halsted St., East Orange, NJ 07018-4228	226,000
Housing Authority of the City of Bayonne, 50 East 21 Street, Bayonne, NJ 07002-3761	276,800
Housing Authority of the City of Perth Amboy, 881 Amboy Ave., Perth Amboy, NJ 08862-1999	250,000
The Housing Authority of the City of Salem, 205 Seventh Street, Salem, NJ 08079-1040	129,000
Penns Grove Housing and Redevelopment Authority, Penn Tower South, Penns Grove, NJ 08069-1327	50,000
Housing Authority of the City of New Brunswick, P.O. Box 110, New Brunswick, NJ 08903-1368	250,000
Wildwood Housing Authority, 3700 New Jersey Ave., Wildwood, NJ 08260-7379	85,000
Jersey City Housing Authority, 400 US Highway 1, Jersey City, NJ 07306	751,400
Rahway Housing Authority, 165 East Grand Ave., Rahway, NJ 07065	138,500
Carteret Housing Authority, 96 Roosevelt Ave., Carteret, NJ 07008	126,000
Woodbridge Housing Authority, 10 Buns Lane, Woodbridge, NJ 07095	250,000
Edison Housing Authority, Willard/Dunham Drive, Edison, NJ 08837-3570	79,000
Housing Authority Township of Irvington, 624 Nye Ave., Irvington, NJ 07111	250,000
Elizabeth Housing Authority, 688 Maple Ave., Elizabeth, NJ 07202-	334,000
Bridgeton Housing Authority, 110 East Commerce St., Bridgeton, NJ 08302-	225,000
Camden Housing Authority, 517 Market Street, Camden, NJ 08101-	466,600
Newark Housing Authority, 57 Sussex St., Newark, NJ 07103-	1,600,000
Vineland Housing Authority, 191 Chestnut Ave., Vineland, NJ 08360-	250,000
Housing Authority of the Town of West New York, 6100 Adams Street, West New York, NJ 07093-1537	250,000
Trenton Housing Authority, P.O. Box 795, Trenton, NJ 08605-0795	390,000
Atlantic City Housing & Redevelopment Agency, P.O. Box 1258, Atlantic City, NJ 08404-7549	402,600
The Housing Authority of the City of Passaic, 333 Passaic Street, Passaic, NJ 07055-5896	250,000
Freeport Housing Authority, 3 Buffalo Ave., Freeport, NY 11520-4098	180,500
Long Beach Housing Authority, 500 Centre Street, Long Beach, NY 11561-2099	188,500
New Rochelle Municipal Housing Authority, 50 Sickles Ave., New Rochelle, NY 1801-4029	250,000
Village of Spring Valley Housing Authority, 76 Gesner Drive, Spring Valley, NY 10977-3998	70,110
Municipal Housing Authority for the City of Yonkers, P.O. Box 35, Yonkers, NY 10710-0035	510,200
Kingston Housing Authority, 202 Flatbush Ave., Kingston, NY 12401-2630	67,500
Newburgh Housing Authority, P.O. Box 89, Newburgh, NY 12550-3601	67,500
Monticello Housing Authority, 76 Evergreen Drive, Monticello, NY 12701-1630	50,000
Poughkeepsie Housing Authority, P.O. Box 630, Poughkeepsie, NY 12601-0632	180,000
Village of Hempstead Housing Authority, 75 Laurel Ave., Hempstead, NY 11550-5599	181,000
Peekskill Housing Authority, 807 Main Street, Peekskill, NY 10566-2028	141,000
Port Chester Housing Authority, P.O. Box 347, Port Chester, NY 10573-0347	160,000
Town of Hempstead Housing Authority, 760 Jerussiem Ave., Uniondale, NY 11553-2929	261,800
New York City Housing Authority, 250 Broadway, New York, NY 10007-2516	15,500,836
Troy Housing Authority, 1 Eddy's Lane, Troy, NY 12180-1498	282,400
Amsterdam Housing Authority, 52 Division St., Amsterdam, NY 12010-4002	132,500
Mechanicville Housing Authority, Harris Ave., Mechanicville, NY 12118-2210	80,000
Niagara Falls Housing Authority, 744 10th St., Niagara Falls, NY 14301-1852	249,972
Watervliet Housing Authority, 2400 Second Ave., Watervliet, NY 12189-2746	138,596
Municipal Housing Authority of Schenectady, 375 Broadway, Schenectady, NY 12305-2595	250,000
Cohoes Housing Authority, Jay McDonald Towers, Cohoes, NY 12047-2603	154,500
Buffalo Municipal Housing Authority, 300 Perry St., Buffalo, NY 14204-2299	999,200
Municipal Housing Authority of the City of Utica, 509 Second St., Utica, NY 13501-2450	250,000

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100-690, November 18, 1988]

Funding recipient (name and address)	Amount approved
Rochester Housing Authority, 140 West Ave., Rochester, NY 14611-2744	488,514
Syracuse Municipal Housing Authority, 516 Burt St., Syracuse, NY 13202-3999	495,400
Binghamton Housing Authority, P.O. Box 1906, Binghamton, NY 13902-1906	250,000
Delaware State Housing Authority, 18 The Green, Dover, DE 19903-	164,515
Housing Authority of Frederick, 209 Madison Street, Frederick, MD 21701-	228,000
St. Michaels Housing Authority, P.O. Box 296, St. Michaels, MD 21663-	50,000
Housing Authority of the City of Rockville, 14 Moore Drive, Rockville, MD 20850-1230	82,500
Housing Opportunity Commission, Montgomery County, 10400 Detrick Avenue, Kensington, MD 20895-	266,200
Bucks County Housing Authority, P.O. Box 1329, Doylestown, PA 18901-0967	249,960
Chester Housing Authority, 6 West Sixth Street, Chester, PA 19016-4210	341,400
York Housing Authority, P.O. Box 1963, York, PA 17405-	250,000
Luzerne County Housing Authority, 250 First Avenue, Kingston, PA 18704-5815	259,832
Lancaster Housing Authority, 333 Church Street, Lancaster, PA 17602-4253	228,834
Chester County Housing Authority, 222 N. Church St., West Chester, PA 19380-2695	250,000
Franklin Country Housing Authority, 202 Elder Avenue, Waynesboro, PA 17268-1224	158,160
Philadelphia Housing Authority, 2012 Chestnut Street, Philadelphia, PA 19103	3,317,900
Easton Housing Authority, P.O. Box 876, Easton, PA 18042-4441	202,484
Erie Housing Authority, 606 Holland Street, Erie, PA 16501-1285	336,480
Fayette County Housing Authority, P.O. Box 1007, Uniontown, PA 15401	334,800
Beaver County Housing Authority, 300 State Avenue, Beaver, PA 15009-1798	387,000
Westmoreland County Housing Authority, R.D #6 Box 223, Greensburg, PA 15601-	366,600
Pittsburgh Housing Authority, 200 Ross St., Pittsburgh, PA 15219-2068	1,339,963
Washington County Housing Authority, 100 Crumrine Tower, Washington, PA 15301	216,536
Newport News Redevelopment & Housing Authority P.O. Box 77, Newport News, VA 23607-0077	457,800
Staunton Redevelopment & Housing Authority, P.O. Box 1369, Staunton, VA 24401-0831	75,000
Hampton Redevelopment & Housing Authority, P.O. Box 280, Hampton, VA 23669-0280	250,000
City of Roanoke Redevelopment & Hsg. Authority, P.O. Box 6359, Roanoke, VA 24017-0359	297,200
Suffolk Redevelopment & Housing Authority, P.O. Box 3079, Suffolk, VA 23434-3079	233,000
Petersburg Redevelopment & Housing Authority, P.O. Box 311, Petersburg, VA 23804-0311	245,996
Chesapeak Redevelopment & Housing Authority, P.O. Box 1304, Chesapeak, VA 23327-1304	201,000
Norfolk Redevelopment & Housing Authority, P.O. Box 968, Norfolk, VA 23501-0968	830,800
Franklin Redevelopment & Housing Authority, P.O. Box 267, Franklin, VA 23851-0267	112,500
Danville Redevelopment & Housing Authority, P.O. Box 2689, Danville, VA 24541-0689	249,995
Portsmouth Redevelopment & Housing Authority, P.O. Box 1098, Portsmouth, VA 237905-1098	381,200
Waynesboro Redevelopment & Housing Authority, P.O. Box 1138, Waynesboro, VA 22980-0821	82,015
Richmond Redevelopment & Housing Authority, P.O. Box 26887, Richmond, VA 23261-6887	750,250
Bristol Redevelopment & Housing Authority, 650 Quarry Street, Bristol, VA 24201-4390	240,500
Fairfax County, Redevelopment & Housing Authority, 3900 Pender Drive, Fairfax, VA 22030-7444	196,024
Alexandria Redevelopment & Housing Authority, 600 N Fairfax St, Alexandria, VA 22314-2094	250,000
Housing Authority of the City of Wheeling, P.O. Box 391, Wheeling, WV 26003-0050	248,140
Housing Authority of the City of Parkersburg, 1901 Cameron Avenue, Parkersburg, WV 26101-9316	69,500
Housing Authority of the City of Clarksburg, 916 W. Pike Street, Clarksburg, WV 26301-2250	163,000
Housing Authority of the City of Charleston, P.O. Box 86, Charleston, WV 25321-	314,000
Housing Authority of the City of Huntington, P.O. Box 2183, Huntington, WV 25722-2183	250,000
Housing Authority of the City of Alexander City, P.O. Box 788, Alexander City, AL 35010-0788	238,500
Anniston Housing Authority, P.O. Box 2225, Anniston, AL 36202-2225	250,000
Housing Authority of the Birmingham District, P.O. Box 55906, Birmingham, AL 35255-5906	1,021,800
Housing Authority of the City of Dothan, P.O. Box 1727, Dothan, AL 36302-1727	250,000
Greater Gadsden Housing Authority, P.O. Box 1219, Gadsden, AL 35902-1219	250,000
Housing Authority of the City of Decatur, P.O. Box 878, Decatur, AL 35602-	250,000
Mobile Housing Board, P.O. Box 1345, Mobile, AL 36633-1345	836,200
Housing Authority of the City of Huntsville, P.O. Box 486, Huntsville, AL 35804-0486	349,100
Housing Authority of the City of Montgomery, 1020 Bell St., Montgomery, AL 36104-3056	521,200
Housing Authority of the City of Foley, 302 Fourth Ave., Foley, AL 36535-	50,000
Housing Authority of the City of Jasper, P.O. Box 582, Jasper, AL 35501-0582	169,000
Jefferson County Housing Authority, 2100 Walker Chapel, Fultondale, AL 35068	250,000
Housing Authority of the City of Prichard, P.O. Box 10307, Prichard, AL 36610-	214,000
Housing Authority of the City of Jacksonville, 100 Roebuck Manor, Jacksonville, AL 36265	75,000
Northport Housing Authority, P.O. Drawer 359, Northport, AL 35476-0349	198,500
Housing Authority of the City of Ozark, P.O. Box 566, Ozark, AL 36361-0566	191,240
Selma Housing Authority, P.O. Box S, Selma, AL 36701	250,000
Washington County Housing Authority, P.O. Box 569, Chatom, AL 36518-	50,000
Housing Authority of the City of Tuskegee, 2901 Davison, St., Tuskegee Institute, AL 36088-	207,000
Sylacauga Housing Authority, P.O. Box 539, Sylacauga, AL 35150-	250,000
Housing Authority of the City of Roanoke, 209 Avenue A, Roanoke, AL 36274	50,000
Tuscaloosa Housing Authority, P.O. Box 2281, Tuscaloosa, AL 35403-2281	250,000
Housing Authority of the City of Eufaula, P.O. Box 36, Eufaula, AL 36027-0036	160,500
Hsg. Auth. of the City of Homestead, P.O. Box 278, Homestead, FL 33030-0278	250,000
Ocala Housing Authority, 1415 NE. 32nd Terr., Ocala, FL 34779-	158,500

VOL 58 ISS 248 DE 29 1993 UMI

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
DeLand Housing Authority, 300 Sunflower Circle, DeLand, FL 32724–	99,500
Hsg. Auth. of the City of Ft. Myers, 4224 Michigan Avenue, Ft. Myers, FL 33916–	250,000
Housing Authority of the City of Orlando, 300 Reeves Court, Orlando, FL 32801–3199	340,600
Hsg. Auth. of the City of Key West, P.O. Box 2476, Key West, FL 33040–2476	250,000
Clearwater Housing Authority, P.O. Box 960, Clearwater, FL 33617–	177,290
Broward County Housing Authority, 1773 N. State Road 7, Lauderhill, FL 33313	244,569
Tampa Housing Authority, 1514 Union Street, Tampa, FL 33607–	987,200
Pasco County Housing Authority, 507 Acorn Circle, Dade City, FL 33525–	103,500
Housing Authority of Avon Park, P.O. Box 1327, Avon Park, FL 33825–	54,500
Hsg. Auth. of the County of Flagler, P.O. Box 188, Bunnell, FL 32110–0188	56,000
Hsg. Auth. of the City of St. Petersburg, P.O. Box 12849, St. Petersburg, FL 33733–2849	217,105
Boca Raton Housing Authority, 201 W. Palmetto Pk Rd., Boca Raton, FL 33432–	47,500
Hsg. Auth. of the City of Lakeland, P.O. Box 1009, Lakeland, FL 33802–1009	250,000
Pinellas County Housing Authority, 209 South Garden Ave., Clearwater, FL 34616–	208,526
Hialeah Housing Authority, 70 East 7th Street, Hialeah, FL 33010–4454	297,600
Housing Authority of Brevard County, P.O. Box 540338, Merritt Island, FL 32953–4645	250,000
Housing Authority of the City of Cocoa, P.O. Box 540338, Merritt Island, FL 32954–0338	218,000
Hsg. Auth. of the City of Titusville, P.O. Box 540338, Merritt Island, FL 32954–0338	126,000
West Palm Beach Housing Authority, 3801 Georgia Street, West Palm Beach, FL 33405–0247.	
Housing Authority of New Smyrna Beach, P.O. Box 688, New Smyrna Beach, FL 32170–0688	63,000
Alachua County Housing Authority, 636 N.E. First St., Gainesville, FL 32601–	158,000
Gainesville Housing Authority, P.O. Box 1468, Gainesville, FL 32602–	250,000
Melbourne Housing Authority, P.O. Box 540338, Merritt Island, FL 32954–0338	129,000
Housing Authority of the City of Daytona Beach, 118 Cedar Street, Daytona Beach, FL 32114–4904	250,000
Housing Authority of the City of Monroe, P.O. Box 550, Monroe, GA 30655–0550	191,000
Housing Authority of the City of Madison, P.O. Box 550, Monroe, GA 30655–0550	50,000
Housing Authority of the City of Loganville, P.O. Box 550, Monroe, GA 30655–0550	50,000
Housing Authority of the City of Macon, P.O. Box 4928, Macon, GA 31208–4928	425,000
Housing Authority of the City of Americus, 825 N. Mayo Street, Americus, GA 31709–2627	250,000
Housing Authority of the City of Athens, P.O. Box 1469, Athens, GA 30603–1469	254,000
Housing Authority of the City of Milledgeville, P.O. Box 112, Milledgeville, GA 31061–0112	50,000
Housing Authority of the City of Atlanta, 739 W. Peachtree, NE, Atlanta, GA 30365	1,067,651
Housing Authority of the City of Montezuma, P.O. Box 67, Montezuma, GA 31063–1724	82,000
Housing Authority of the City of Newton, P.O. Box 247, Camilla, GA 31730	50,000
Housing Authority of the City of Bremen, P.O. Box 776, Bremen, GA 30110–2160	50,000
Housing Authority of the City of Brunswick, P.O. Box 1118, Brunswick, GA 31521–1118	250,000
Housing Authority of the City of Pelham, P.O. Box 269, Pelham, GA 31779–0269	105,000
Housing Authority of the City of Camilla, , P.O. Box 247, Camilla, GA 31730–0247	229,000
Housing Authority of the City of Rome, P.O. Box 1428, Rome, GA 30161–2737	250,000
Housing Authority of the City of Royston, P.O. Box 86, Royston, GA 30662–0066	92,471
Housing Authority of the City of Savannah, P.O. Box 1179, Savannah, GA 31402–1179	535,396
Housing Authority of the City of Social Circle, P.O. Box 550, Monroe, GA 30655–0550	50,000
Housing Authority of the City of Warner Robins, P.O. Box 2048, Warner Robins, GA 31099–2048	202,000
Housing Authority of the City of Canton, 1 Shipp Street, Canton, GA 30114–2813	76,000
Housing Authority of the City of Waycross, P.O. Box 1407, Waycross, GA 31502–1407	250,000
Housing Authority of the City of Winder, P.O. Box 505, Winder, GA 30680–0505	137,600
Housing Authority of the City of Carrollton, P.O. Box 627, Carrollton, GA 30117–0627	139,400
Housing Authority of the City of Cedartown, P.O. Box 211, Cedartown, GA 30125–0211	146,409
Housing Authority of the City of Columbus, P.O. Box 630, Columbus, GA 31993	425,600
Housing Authority of the City of Covington, P.O. Box 1367, Covington, GA 30209–1367	140,000
Housing Authority of the City of Eastman, P.O. Box 100, Eastman, GA 31023–0100	109,000
Housing Authority of the City of Douglas, P.O. Box 917, Douglas, GA 31533–	205,000
Housing Authority of the County of Fulton, 10 Park Place, S.E., Atlanta, GA 30303	250,000
Housing Authority of the City of Gainesville, P.O. Box 653 Gainesville, GA 30503–0653	248,000
Housing Authority of the City of Hartwell, 500 W. Franklin Pl., Hartwell, GA 30643–0745	89,500
Housing Authority of the City of Calhoun, 111–F South Fair St., Calhoun, GA 30701–2369	125,000
Housing Authority of the City of Augusta, P.O. Box 3246, Augusta, GA 30901	554,800
Housing Authority of Covington, 2940 Madison Ave., Covington, KY 41015–	247,310
Housing Authority of Lexington, 635 Ballard Street, Lexington, KY 40508	332,400
Housing Authority of Paducah, 2330 Ohio St., Paducah, KY 42003–	250,000
Housing Authority of Richmond, P.O. Box 447, Richmond, KY 40475–	167,500
Housing Authority of Morgantown, P.O. Box 628, Morgantown, KY 42261–	89,200
Housing Authority of Georgetown, 139 Scroggin Park, Georgetown, KY 40324	163,484
City of Albermarle, Dept. of Housing, P.O. Drawer 1367, Albemarle, NC 28002	100,000
Burlington Housing Authority, P.O. Box 2380, Burlington, NC 27216–	183,998
City of Concord, Dept. of Housing, P.O. Box 308, Concord, NC 28025–	76,000
Housing Authority of the City of Durham, P.O. Box 1726, Durham, NC 28025–	419,800
Housing Authority of the City of Goldsboro, P.O. Box 1403, Goldsboro, NC 27533–	250,000
Greensboro Housing Authority, P.O. Box 21287, Greensboro, NC 27420	477,000

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
Greenville Housing Authority, P.O. Box 1426, Greenville, NC 27835–1426	250,000
City of Hickory Public Housing Authority, P.O. Box 2927, Hickory, NC 28603	139,500
Housing Authority of the City of High Point, P.O. Box 1779, High Point, NC 27261	269,800
Laurinburg Housing Authority, P.O. Box 1437, Laurinburg, NC 28352	235,550
Lincolnton Housing Authority, P.O. Box 753, Lincolnton, NC 28092	115,560
Maxton Housing Authority, P.O. Box 126, Maxton, NC 28364	50,000
Morganitown Housing Authority, P.O. Box 1053, Morgantown, NC 28655	125,000
Housing Authority of the City of Raleigh, P.O. Box 28007, Raleigh, NC 27611	407,400
Housing Authority of the City of Rocky Mount, P.O. Box 4717, Rocky Mount, NC 27803	244,000
Rowan County Housing Authority, 121 W. Council St., Salisbury, NC 28144	100,000
Housing Authority of the City of Salisbury, P.O. Box 159, Salisbury, NC 28145–	250,000
Sanford Housing Authority, P.O. Box 636, Sanford, NC 27331	232,500
Selma Housing Authority, 711 Lizzie St., Selma, NC 27576	91,500
Smithfield Housing Authority, P.O. Box 1058, Smithfield, NC 27577	102,500
Statesville Housing Authority, P.O. Box 187, Statesville, NC 28677	230,500
Thomasville Housing Authority, 201 James Ave., Thomasville, NC 27360–2426	130,000
Washington Housing Authority, P.O. Box 1046, Washington, NC 27889	191,500
Williamston Housing Authority, P.O. Box 709, Williamston, NC 27892	74,919
Housing Authority of the City of Wilmington, P.O. Box 899, Wilmington, NC 28402	347,989
Houing Authority of the City of Wilson, P.O. Box 3876, Wilson, NC 27895–	186,089
Housing Authority of the City of Winston-Salem, 901 Cleveland Ave., Winston-Salem, NC 27101	427,000
Puerto Rico Public Housing Administration, P.O. Box 363188, Rio Piedras, PR 00936–3188	6,000,000
Housing Authority of the City of Rock Hill, P.O. Box 11579, Rock Hill, SC 29730–1579	62,000
Housing Authority of the City of York, P.O. Box 687, York, SC 29745–0687	62,000
Knoxville's Community Development Corporation, P.O. Box 3550, Knoxville, TN 37927	799,000
The Town of Crossville Housing Authority, P.O. Box 425, Crossville, TN 38557–	145,500
Maryville Housing Authority, 100 Broadway Towers, Maryville, TN 37803–0428	196,500
Cleveland Housing Authority, P.O. Box 2846, Cleveland, TN 37311–2846	216,490
Kingsport Housing Authority, P.O. Box 44, Kingsport, TN 37662–0044	216,200
Chattanooga Housing Authority, P.O. Box 1486, Chattanooga, TN 37401–1148	730,027
Metropolitan Development & Housing Agency, P.O. Box 846, Nashville, TN 37202–0846	947,700
Pulaski Housing Authority, P.O. Box 1058, Pulaski, TN 38478–1058	121,000
Poarch Band of Creek Indians of Alabama, HCR 69A Box 85B, Atmore, AL 36502–	50,000
Seminole Tribe of Florida, 6073 Stirling Road, Hollywood, FL 33024–	216,931
Madison County Housing Authority, 1609 Olive Street, Collinsville, IL 62234	250,000
Waukegan Housing Authority, 200 S. Utica Street, Waukegan, IL 60085–	50,000
Morgan County Housing Authority, 301 W. Beecher, Jacksonville, IL 62650	50,000
Alton Housing Authority, P.O. Box 967, Alton, IL 62002–0967	143,756
Rockford Housing Authority, 330 Fifteenth Avenue, Rockford, IL 61108	422,400
Randolph County Housing Authority, 214 Opdyke Street, Chester, IL 62233	110,500
Cook County Housing Authority, 59 E. Van Buren St., Chicago, IL 60605–	436,400
Decatur Housing Authority, 1808 East Locust St., Decatur, IL 62521–1409	250,000
Kankakee County Housing Authority, P.O. Box 1289, Kankakee, IL 60901–1289	177,300
LaSalle County Housing Authority, P.O. Box 782, Ottawa, IL 61350–0782	200,000
Marion County Housing Authority, 719 E. Howard Street, Centralia, IL 62801	179,250
St. Claire County Housing Authority, 100 N. Forty-Eighth, Belleville, IL 62223	250,000
Champaign County Housing Authority, P.O. Box 183, Urbana, IL 61801–0183	250,000
Housing Authority of East St. Louis, 700 N. Twentieth St., East St. Louis, IL 62205	476,400
Union County Housing Authority, P.O. Box 317, Anna, IL 62906–0317	172,876
Chicago Housing Authority, 22 W. Madison Street, Chicago, IL 60602	5,950,650
Hammond Housing Authority, 7329 Columbia Circle, Hammond, IN 46324–2819	113,150
Evansville Housing Authority, P.O. Box 3605, Evansville, IN 47735–	249,971
Michigan City Housing Authority, P.O. Box 416, Michigan City, IN 46360–0416	182,500
East Chicago Housing Authority, P.O. Box 498, East Chicago, IN 46312–0498	250,000
Indianapolis Housing Authority, 410 N. Meridian St., Indianapolis, IN 46204–1790	543,000
Fort Wayne Housing Authority, 2013 S. Anthony, Fort Wayne, IN 46809–3489	250,000
Pleasant Point Passamaquoddy Reserv. Housing Auth., P.O. Box 339, Perry, ME 04667–	65,500
Port Huron Housing Commission, 905 Seventh Street, Port Huron, MI 48060–5399	220,000
Ecorse Housing Commission, 266 Hyacinth Street, Ecorse, MI 48229–1699	100,000
Flint Housing Commission, 3820 Richfield Road, Flint, MI 48506–2616	250,000
Mount Clemens Housing Commission, 50 Church Street, Mt. Clemens, MI 48043–2253	144,000
Saginaw Housing Commission, 2611 Davenport St., Saginaw, MI 48602–3747	250,000
Royal Oak Township Housing Commission, 21312 Wyoming Ave., Ferndale, MI 48220–2125	64,000
Ypsilanti Housing Commission, 601 Armstrong Drive, Ypsilanti, MI 48197–5224	109,000
Detroit Housing Department, 2211 Orleans, Detroit, MI 48207–2780	1,276,350
Pontiac Housing Commission, 132 Franklin Blvd., Pontiac, MI 48341	250,000
Saginaw Chippewa Housing Authority, 2451 Nishnabeanong, Mt. Pleasant, MI 48858–	50,000
Sault Ste Marie Tribe of Chippewa Indians, 2218 Shunk Road, Sault Ste Marie, MI 49783–	136,500
Minneapolis PHA in and for the City of Minneapolis, 1001 Washington Ave, Minneapolis, MN 55401	1,001,290

VOL 58 ISS 248 DE 29 1993 UMI

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100-690, November 18, 1988]

Funding recipient (name and address)	Amount approved
Public Housing Agency of the City of Saint Paul, 413 Wacouta Street, St. Paul, MN 55101	851,000
Housing & Redevelopment Authority of Rochester, 2116 Campus Drive SE, Rochester, MN 55904-4744	50,000
Housing & Redevelopment Authority of Winona, 165 East Fourth St., Winona, MN 55987-3514	139,100
Housing & Redevelopment Authority of Duluth, P.O. Box 16900, Duluth, MN 55816-0900	208,368
Red Lake Indian Reservation Housing Authority, P.O. Box 219, Red Lake, MN 56671-	238,000
Mille Lacs Indian Housing Authority, HCR 67 Box 194, Onamia, MN 56359-	50,000
White Earth Reservation Tribal Council, P.O. Box 418, White Earth, MN 56591-	174,500
Choctaw Housing Authority, P.O. Box 6088, Philadelphia, MS 39350-	246,511
Qualla Housing Authority, P.O. Box 1749, Cherokee, NC 28719-	250,000
Cincinnati Metropolitan Housing Authority, 16 W. Central Pkwy, Cincinnati, OH 45210-1991	1,143,398
Dayton Metropolitan Housing Authority, 400 Wayne Avenue, Dayton, OH 45410-1108	901,100
Lucas Metropolitan Housing Authority, P.O. Box 477, Toledo, OH 43692-0477	656,400
Trumbull Metropolitan Housing Authority, 1977 Niles Road, Warren, OH 44484-5197	247,295
Stark Metropolitan Housing Authority, 1600 W. Tuscarawas, Canton, OH 44708-4997	480,087
Jefferson Metropolitan Housing Authority, 815 N. Sixth Avenue, Steubenville, OH 43952-1847	149,526
Cambridge Metropolitan Housing Authority, P.O. Box 744, Cambridge, OH 43725-0744	50,000
Chillicothe Metropolitan Housing Authority, 178 West Fourth St., Chillicothe, OH 45601	168,500
Zanesville Metropolitan Housing Authority, 2746 Maple Ave., Zanesville, OH 43701	250,000
Allen Metropolitan Housing Authority, 600 S. Main, Lima, OH 45804	93,500
Milwaukee Housing Authority, P.O. Box 324, Milwaukee, WI 53201	950,800
Madison Comm. Develop. Authority, P.O. Box 1785, Madison, WI 53701-1785	250,000
Bad River Band of Lake Superior Chippewa, P.O. Box 57, Odanah, WI 54861-	79,500
Menominee Tribal Housing Authority, P.O. Box 459, Keshena, WI 54315-0459	228,000
Oneida Housing Authority, P.O. Box 68, Oneida, WI 54155-	130,500
Housing Authority of the City of North Little Rock, Box 516, North Little Rock, AR 72115-0516	250,000
Housing Authority of the City of Brinkley, 501 West Cedar St., Brinkley, AR 72021-2713	67,000
Housing Authority of the city of Arkadelphia, 670 S. 6th Street, Arkadelphia, AR 71923	50,000
Housing Authority of the City of Warren, Box 602, Warren, AR 71671-0602	85,500
Housing Authority of the City of Texarkana, 110 Bramble Courts, Texarkana, AR 75502	201,500
Housing Authority of the City of Little Rock, 1000 Wolfe St., Little Rock, AR 72202-	330,200
Housing Authority of the City of England, 102 Benefield, England, AR 72046-0214	60,500
Kickapoo Housing Authority of Kansas, Rt. 1, Box 800A, Horton, KS 66439	50,000
Sac & Fox Hous. Auth./MO, Rt. 1, Box 97, Unit 12, Reserve, KS 66434-	45,000
Housing Authority of East Baton Rouge Parish, 4546 North St., Baton Rouge, LA 70806-3422	230,000
Housing Authority of DeRidder, P.O. Box 387, DeRidder, LA 70634-0387	50,000
Housing Authority of Shreveport, 625 Jordan Street, Shreveport, LA 71101-	238,000
Housing Authority of Sulphur, P.O. Box 271, Sulphur, LA 70664-0271	106,000
Housing Authority of Monroe, P.O. Box 1194, Monroe, LA 71201-1194	304,400
Housing Authority of Morgan City, P.O. Box 2393, Morgan City, LA 70381-	164,300
Housing Authority of St. James Parish, P.O. Box 280, Lutcher, LA 70001-0280	159,000
Housing Authority of the City of Natchitoches, P.O. Box 754, Natchitoches, LA 71457-0754	179,560
Housing Authority of St. John the Baptist Parish, P.O. Box 1599, Laplace, LA 70069-1599	158,000
Housing Authority of the City of Santa Fe, P.O. Box 4039, Santa Fe, NM 87502-4039	230,500
Housing Authority of the City of T or C, 108 South Cedar St., Truth or Consequences, NM 87901	50,000
Housing Authority of the Town of Bernalillo, P.O. Box 70, Bernalillo, NM 87004-0070	50,000
Housing Authority of the County of Santa Fe, 52 Camino De Jacobo, Santa Fe, NM 87501	110,000
Housing Authority of the City of Las Cruces, 926 South San Pedro, Las Cruces, NM 88001-	143,500
Housing Authority of the City of Tulsa, P.O. Box 6369, Tulsa, OK 74148-0369	531,400
Housing Authority of the City of McAlester, P.O. Box 819, McAlester, OK 74501-0819	137,000
Housing Authority of the City of Hugo, P.O. Box 727, Hugo, OK 74743-0727	96,135
Housing Authority of the City of Idabel, P.O. Box 838, Idabel, OK 74745-0838	100,000
Housing Authority of the City of Lawton, 620 E. Ave., Lawton, OK 73501-4501	159,500
Oklahoma City Housing Authority, 1700 NE Fourth St., Oklahoma City, OK 73117	628,400
Housing Authority of the City of Langston, P.O. Box 90, Langston, OK 73050-0090	50,000
Kaw Tribe, P.O. Box 371, Newkirk, OH 74647	50,000
Absentee Shawnee Tribe, P.O. Box 425, Shawnee, OK 74801	250,000
Cherokee Nation, P.O. Box 1007, Tahlequah, OK 74464	519,814
Choctaw Nation, P.O. Box G, Hugo, OK 74743	479,200
Kiowa IHA, P.O. Box 847, Anadarko, OK 73005	161,500
Seneca-Cayuga Tribe, P.O. Box 1304, Miami, OK 74354	194,000
Sac & Fox Tribe of OK, P.O. Box 1252, Shawnee, OK 74801	188,500
Housing Authority of Wichita Falls, P.O. Box 544, Wichita Falls, TX 76307-0544	250,000
Housing Authority of Corsicana, P.O. Box 1090, Corsicana, TX 75151-1090	131,500
Housing Authority of Sherman, P.O. Box 2147, Sherman, TX 75091-2147	150,000
Housing Authority of Slaton, P.O. Box 317, Slaton, TX 79364-0317	50,000
Housing Authority of Fort Worth, P.O. Box 430, Fort Worth, TX 76101-0430	250,000
Housing Authority of New Boston, P.O. Box 806, New Boston, TX 75570-0806	45,241
Housing Authority of Denison, P.O. Box 447, Denison, TX 75021-0447	100,000
Housing Authority of Texarkana, P.O. Box 5766, Texarkana, TX 75501-5766	250,000

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100-690, November 18, 1988]

Funding recipient (name and address)	Amount approved
Housing Authority of Plano, 1581 Ave K, Plano, TX 75074-6231	50,000
Housing Authority of El Paso, P.O. Box 9895, El Paso, TX 79989-9895	940,350
Housing Authority of Lubbock, P.O. Box 2568, Lubbock, TX 79408-2568	250,000
Housing Authority of Abilene, P.O. Box 60, Abilene, TX 79604-0060	106,471
Housing Authority of Temple, P.O. Box 634, Temple, TX 76504-0634	162,650
Housing Authority of Dallas, P.O. Box 191485, Dallas, TX 75212-0000	1,023,300
Housing Authority of the City of Bay City, 3012 Sycamore, Bay City, TX 77414	50,000
Housing Authority of the City of Orange, P.O. Box 3107, Orange, TX 77631-3107	195,667
Housing Authority of the City of Port Arthur, P.O. Box 2295, Port Arthur, TX 77643-2295	174,530
Housing Authority of the City of Texas City, 817 2nd Ave. North, Texas City, TX 77590	65,000
Housing Authority of the City of Houston, P.O. Box 2971, Houston, TX 77252-2971	805,400
Austin Housing Authority, P.O. Box 6159, Austin, TX 78762-6159	381,800
Brownsville Housing Authority, P.O. Box 4420, Brownsville, TX 78520-4420	250,000
Edinburg Housing Authority, P.O. Box 295, Edinburg, TX 78540-0295	233,995
Harlingen Housing Authority, P.O. Box 1669, Harlingen, TX 78551-1669	250,000
Kingsville Housing Authority, P.O. Box 847, Kingsville, TX 78363	99,000
La Joya Housing Authority, P.O. Box 1409, La Joya, TX 78560-1409	50,000
Laredo Housing Authority, 2000 San Francisco, Laredo, TX 78040	250,000
Luling Housing Authority, P.O. Box 229, Luling, TX 78648-0229	63,603
Mercedes Housing Authority, P.O. Box 985, Mercedes, TX 78570-0985	155,942
Mission Housing Authority, 906 E. 8th Street, Mission, TX 78572	91,070
Pharr Housing Authority, 211 West Audrey, Pharr, TX 78577-	182,500
San Antonio Housing Authority, P.O. Drawer 1300, San Antonio, TX 78295-1300	1,176,988
San Benito Housing Authority, P.O. Box 1950, San Benito, TX 78586-1950	165,000
Bastrop Housing Authority, P.O. Box 707, Bastrop, TX 78602-0707	50,000
McAllen Housing Authority, 2301 Jasmine Avenue, McAllen, TX 78501	75,000
Starr Co. Housing Authority, P.O. Box 50, Rio Grande City, TX 78582-0050	50,000
Low Rent Housing Agency of Clinton, P.O. Box 2958, Clinton, IA 52733-2958	50,000
Iowa City Housing Authority, 410 E. Washington St., Iowa City, IA 52240-1826	50,000
Southern Iowa Regional Housing Authority, 219 N. Pine St., Creston, IA 50801-2413	59,575
North Iowa Regional Housing Authority, 217 2nd St., Mason City, IA 50401-	53,500
Des Moines Public Housing Authority, 1101 Crocker St., Des Moines, IA 50309-1110	250,000
Kansas City, Kansas Housing Authority, 1124 North Ninth, Kansas City, KS 66101-2197	424,000
Topeka Housing Authority, 1312 Polk, Topeka, KS 66612-	250,000
Housing Authority of Atchison, 7th & Mall, Atchison, KS 66002-2882	95,000
Housing Authority of Kansas City, 299 Paseo, Kansas City, MO 64106-2608	403,400
Housing Authority of Springfield, 421 W. Madison St., Springfield, MO 65806-2931	249,810
Housing Authority of the City of Columbia, 1201 Paquin #1, Columbia, MO 65201-5053	250,000
Saint Louis Housing Authority, 4100 Lindell Blvd., St. Louis, MO 63108-2999	1,015,350
Housing Authority of the City of Jefferson, P.O. Box 1029, Jefferson City, MO 65101-1029	179,500
Housing Authority of Saint Louis County, P.O. Box 23886, St. Louis, MO 63121-0580	48,150
Housing Authority of the City of Fulton, P.O. Box 814, Fulton, MO 65251-0814	89,000
Housing Authority of the City of Kinloch, 5662 MLK Blvd., Kinloch, MO 63140-1597	102,000
Omaha Housing Authority, 540 South 27 St., Omaha, NE 68105-1521	575,000
Denver Housing Authority, P.O. Box 4305, Denver, CO 80204	783,800
Billings Housing Authority, 2415 1st Avenue N., Billings, MT 59101	39,714
Helena Housing Authority, 812 Abbey Street, Helena, MT 59601	180,000
Chippewa Cree, P.O. Box 615, Box Elder, MT 59521	146,000
Fort Peck, PO Box 667, Poplar, MT 29255	250,000
Fort Berthold, Box 310, New Town, ND 58763-	250,000
Standing Rock, PO Box 484, Ft Yates, SD 58538-	245,200
Rosebud, PO Box 69, Rosebud, SD 57570	241,728
Salt Lake County Housing Authority, 1962 S. 200 E., Salt Lake City, UT 84115	250,000
Chandler Housing and Redevelopment Division, 99 N. Delaware St., Chandler, AZ 85225-	100,000
City of Phoenix Housing Department, 830 E. Jefferson St., Phoenix, AZ 85034-2298	480,200
City of Tucson, Community Services Department, Box 27210, Tucson, AZ 85726-7210	264,600
Housing Authority of the City of Yuma, 1350 W. Colorado St., Yuma, AZ 85364-	92,500
Pinal County Housing Department, 970 N. 11 Mile Rd., Casa Grande, AZ 85222-9621	46,900
Nogales Housing Authority, 951 W. Kitchen St., Nogales, AZ 85628-0777	93,000
City & County of San Francisco Housing Authority, 440 Turk St., San Francisco, CA 94102-	973,550
Oakland Housing Authority, 1619 Harrison Street, Oakland, CA 94612-	660,098
Housing Authority of the City of Fresno, P.O. Box 11985, Fresno, CA 93776-1985	250,000
Housing Authority of the County of Fresno, P.O. Box 11985, Fresno, CA 93776-1985	250,000
Housing Authority of the County of Stanislaus, P.O. Box 3958, Modesto, CA 95352-3958	249,925
Housing Authority of the County of Monterey, 123 Rico Street, Salinas, CA 93907-	195,210
Housing Authority of the County of Marin, P.O. Box 4282, San Rafael, CA 94913-4282	183,700
Housing Authority of the County of Contra Costa, P.O. Box 2759, Martinez, CA 94553	250,000
Housing Authority of the County of Merced, 405 "U" Street, Merced, CA 95340	227,000
Housing Authority of the City of Oxnard, 1470 Colonia Road, Oxnard, CA 93030-3714	249,998

VOL 58 ISS 248 DE 29 1993 UMI

VOL 58 ISS 248 DE 29 1993 UMI

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100-690, November 18, 1988]

Funding recipient (name and address)	Amount approved
Housing Authority of the City of Santa Barbara, 808 Laguna Street, Santa Barbara, CA 93101-1590	237,300
San Diego Housing Commission, 1625 Newton Avenue, San Diego, CA 92113	250,000
Housing Authority of the City of Calexico, 1006 East Fifth St., Calexico, CA 92231	151,000
Housing Authority of the County of Kern, 525 Roberts Lane, Bakersfield, CA 93308-4799	250,000
Housing Authority of the City of Los Angeles, P.O. Box 17157, Los Angeles, CA 90017-1295	1,324,350
Community Development Commission, County of L.A., 2525 Corporate Place, Monterey Park, CA 91754	565,600
Sacramento City Housing & Redevelopment Agency, P.O. Box 1834, Sacramento, CA 95812-1834	250,000
Sacramento County Housing & Redevelopment Agency, P.O. Box 1834, Sacramento, CA 95812-1834	250,000
Housing Authority of the County of San Joaquin, P.O. Box 447, Stockton, CA 95201	250,000
Karuk Tribe Housing Authority, 1320 Yellowhammer, Yreka, CA 96097	49,500
Housing Authority of the County of Clark, 5064 East Flamingo Pl, Las Vegas, NV 89122	249,070
Housing Authority of the City of Las Vegas, P.O. Box 1897, Las Vegas, NV 89125	524,800
Housing Authority of the City of Reno, 1525 East Ninth St., Reno, NV 89512-3012	250,000
Housing Authority of the City of North Las Vegas, 1632 Yale Street, North Las Vegas, NV 89030-6827	125,500
Alaska Housing Finance Corporation, P.O. Box 230329, Anchorage, AK 99523-0329	249,686
Housing Authority of the County of Clackamas, 13930 S. Gain Street, Oregon City, OR 97045	223,986
Housing Authority of Portland, 135 SW Ash Street, Portland, OR 97204	537,200
HA of the City of Pasco and Franklin County, P.O. Box 687, Pasco, WA 99301-0687	138,700
King County Housing Authority, 15455 65th Ave. S., Seattle, WA 98188-2583	622,800
Housing Authority of the City of Seattle, 120 6th Ave. N., Seattle, WA 98109	980,650
Housing Authority of Snohomish County, 3425 Broadway, Everett, WA 98201-5095	99,500
Housing Authority of the City of Tacoma, 1728 E. 44th St., Tacoma, WA 98404-4699	291,400
Housing Authority of the City of Yakima, 110 Fair Avenue, Yakima, WA 98901-3072	75,000
Makah Housing Authority, P.O. Box 868, Neah Bay, WA 98357-0068	95,500

[FR Doc. 93-31653 Filed 12-28-93; 8:45 am]

BILLING CODE 4210-33-P

[Docket No. N-93-3405; FR-3158-N-03]

Public and Indian Housing Drug Elimination Program, Announcement of Funding Awards for FY 1992

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the NOFA for Public and Indian Housing Drug Elimination Program. This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Malcolm E. Main, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1197 or 708-3502. A telecommunication device for hearing or speech impaired persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

The purpose of the competition was to provide funds to Public and Indian Housing Drug Elimination Program for use in eliminating drug-related crime. This program is authorized under chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et. seq.*), and regulations at 24 CFR part 961. The Department published a Fiscal Year 1992 NOFA announcing the availability of $140,550,000 for Drug Elimination.

The 1992 awards announced in this Notice were selected for funding in a competition announced in a Federal Register Notice published on April 30, 1992 (57 FR 18774) and an extension Notice published on May 22, 1992 (57 FR 21819). Applications were scored and selected for funding based on criteria contained in the Notice.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names, addresses, and the amount of funds awarded, as set out at the end of this Notice.

Dated: December 13, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS

[Fiscal Year 1992; Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100-690, November 18, 1988]

Funding recipient (name and address)	Amount approved
New London Housing Authority, 186 Coleman Street, New London, CT 06320-	$50,000
Town of Greenwich Housing Authority, P.O. Box 141, Greenwich, CT 06836-6620	91,478
City of New Britain Housing Authority, 34 Marimac Road, New Britain, CT 06053-2699	250,000
State of Connecticut Department of Housing, P.O. Box 786, Hartford, CT 06103	250,000
City of New Haven Housing Authority, P.O. Box 1912, New Haven, CT 06509	704,400
Town of Stratford Housing Authority, P.O. Box 344, Stratford, CT 06497-0911	146,500

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1992; Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100-690, November 18, 1988]

Funding recipient (name and address)	Amount approved
Bridgeport Housing Authority, P.O. Box 2344, Bridgeport, CT 06608	438,200
City of Lawrence Housing Authority, 353 Elm Street, Lawrence, MA 01842	250,000
City of New Bedford Housing Authority, P.O. Box 2081, New Bedford, MA 02741-2081	250,000
City of Fall River Housing Authority, P.O. Box 989, Fall River, MA 02722-0989	248,860
City of Springfield Housing Authority, P.O. Box 1609, Springfield, MA 01101-1609	250,000
City of Brockton Housing Authority, P.O. Box 340, Brockton, MA 02403	250,000
City of Cambridge Housing Authority, 270 Green Street, Cambridge, MA 02139-3360	370,400
City of Boston Housing Authority, 52 Chauncy Street, Boston, MA 02111-2302	1,949,400
City of Lynn Housing Authority, 174 Common Street, Lynn, MA 01905-2513	233,000
Lowell Housing Authority, P.O. Box 3063, Lowell, MA 01853	250,000
City of Gloucester Housing Authority, P.O. Box 1599, Gloucester, MA 01931-1599	45,300
City of Woburn Housing Authority, 59 Campbell Street, Woburn, MA 01801	50,000
City of Chelsea Housing Authority, 54 Locke Street, Chelsea, MA 02150-2209	175,000
City of Portland Housing Authority, 14 Baxter Boulevard, Portland, ME 04101-4935	250,000
City of Nashua Housing Authority, 101 Major Drive, Nashua, NH 03060-4783	250,000
City of Dover Housing Authority, 62 Whittier Street, Dover, NH 03820-2994	214,245
City of Providence Housing Authority, 100 Broad Street, Providence, RI 02904	298,265
City of Bayonne Housing Authority, 50 E. 21st Street, Bayonne, NJ 07002-3761	275,694
City of Passaic Housing Authority, 333 Passaic Street, Passaic, NJ 07055	250,000
City of East Orange Housing Authority, 160 Halstead Street, East Orange, NJ 07018-4228	226,000
City of Paterson Housing Authority, 160 Ward Street, Paterson, NJ 07509	429,600
City of Camden Housing Authority, 422 Dudley Street, Camden, NJ 08105-1465	466,600
City of North Bergen Housing Authority, 6121 Grand Avenue, North Bergen, NJ 07047-5436	250,000
City of Trenton Housing Authority, P.O. Box 795, Trenton, NJ 08605-0795	390,000
City of Newark Housing Authority, 57 Sussex Avenue, Newark, NJ 07103-3892	1,603,350
Atlantic City Housing and Redevelopment Authority, P.O. Box 1258, Atlantic City, NJ 08404-7548	333,094
Jersey City Housing Authority, 400 US Highway 1, Jersey City, NJ 07306-0000	724,400
City of Long Branch Housing Authority, P.O. Box 336, Long Branch, NJ 07740-0336	250,000
City of New Brunswick Housing Authority, 176 Memorial Parkway, New Brunswick, NJ 08903-1368	250,000
City of Elizabeth Housing Authority, 688 Maple Avenue, Elizabeth, NJ 07202-2680	334,000
City of Woodbridge Housing Authority, 10 Bunns Lane, Woodbridge, NJ 07095-1799	250,000
City of Salem Housing Authority, 205 Seventh Street, Salem, NJ 08079-1040	129,000
City of Rahway Housing Authority, 165 E. Grand Avenue, Rahway, NJ 07065-5491	126,500
City of Asbury Park Housing Authority, 1000½ Third Ave., Asbury Park, NJ 07712-3847	250,000
City of Vineland Housing Authority, 191 Chestnut Avenue, Vineland, NJ 08360-5417	250,000
City of Hoboken Housing Authority, 400 Harrison Street, Hoboken, NJ 07030	245,440
City of Bridgeton Housing Authority, 110 E. Commerce Street, Bridgeton, NJ 08302-2606	36,800
Edison Housing Authority, Willard Dunham Dr., Edison, NJ 08837-3570	80,000
Glassboro Housing Authority, 737 Lincoln Blvd., Gloucester County, NJ 08028-	50,000
City of Plainfield Housing Authority, 510 E. Front Street, Plainfield, NJ 07060-1443	234,500
City of Schenectady Municipal Housing Authority, 375 Broadway Schenectady, NY 12305-2585	250,000
City of Buffalo Municipal Housing Authority 901 City Hall Buffalo, NY 14202	759,750
City of Albany Housing Authority, 4 Lincoln Square, Albany, NY 12202-1637	347,600
City of Syracuse Housing Authority 516 Burt Street Syracuse, NY 13202-3999	495,500
City of Binghamton Housing Authority, P.O. Box 1906, Binghamton, NY 13902-1906	250,000
City of Niagara Falls Housing Authority, 744 10th Street, Niagara Falls, NY 14301-1852	250,000
City of Rochester Housing Authority, 140 West Avenue, Rochester, NY 14611-2744	492,304
City of Utica Housing Authority, 509 Second Street, Utica, NY 13501-2450	250,000
City of Troy Housing Authority, 1 Eddy's Lane, Troy, NY 12180-1498	253,800
City of Watervliet Housing Authority, 2400 Second Avenue, Watervliet, NY 12189-2746	149,647
Village of Hempstead Housing Authority, 75 Laurel Avenue, Hempstead, NY 11550-5599	130,240
City of New York Housing Authority, 250 Broadway, New York, NY 10007	15,035,363
City of Long Beach Housing Authority, 500 Centre Street, Long Beach, NY 11561-2015	146,861
City of Freeport Housing Authority, 3 Buffalo Avenue, Freeport, NY 11520-4098	180,500
City of Greenburgh Housing Authority, 9 Maple Street, White Plains, NY 10603	57,500
Town of Hempstead Housing Authority, 75 Laurel Avenue, Hempstead, NY 11550-5599	130,240
City of New Rochelle Housing Authority, 50 Sickles Avenue, New Rochelle, NY 10801-4029	251,800
City of Peekskill Housing Authority, 807 Main Street, Peeksville, NY 10566-2028	141,000
City of White Plains Housing Authority, 223 Grove Street White Plains, NY 10601-4199	249,977
City of Yonkers Housing Authority, P.O. Box 35, Yonkers, NY 10710-0035	491,800
City of Port Chester Housing Authority, P.O. Box 347, Port Chester, NY 10573-5202	153,656
Town of Islip Housing Authority, 963 Montauk Highway, Oakdale, NY 11769-1494	176,000
City of Poughkeepsie Housing Authority, 221 Smith Street, Poughkeepsie, NY 12601-0632	175,000
Newburgh, HA, 40 Walsh Rd., Newburgh, NY 12550-	57,500
Amsterdam, HA, 52 Division St., Amsterdam, NY 12010-	132,500
District of Columbia Housing Authority, 1133 Capitol St. NE, Washington, DC 20002	1,776,904
Delaware State Housing Authority, 18 The Green, Dover, DE 19903	55,508
City of Wilmington Housing Authority, 400 Walnut, Wilmington, DE 19801	514,531
City of Baltimore Housing Authority, 417 E. Lafayette St., Baltimore, MD 21202	2,697,831

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1992; Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
City of Frederick Housing Authority, 209 Madison Street, Frederick, MD 21701	228,000
St. Michael's Housing Authority, P.O. Box 296, St. Michael's, MD 21663–	50,000
City of Annapolis Housing Authority, P.O. Box 296, St. Michael's, MD 21663–	50,000
City of Annapolis Housing Authority, 1217 Madison Street, Annapolis, MD 21403	250,000
City of Cumberland Housing Authority, 635 E. First Street, Cumberland, MD 21502	214,450
Montgomery County Housing Opportunities Agency, 10400 Detrick Avenue, Kensington, MD 20895	266,700
City of Wilkes-Barre Housing Authority, Lincoln Plaza, Wilkes-Barre, PA 18702	250,000
Lawrence County Housing Authority, P.O. Box 968, New Castle, PA 16103	250,000
Beaver County Housing Authority, 300 State Street, Beaver, PA 15009–1798	387,000
Fayette County Housing Authority, P.O. Box 1007, Uniontown, PA 15401	175,438
Lycoming County Housing Authority, 400 Lycoming Street, Williamsburg, PA 17701–4976	163,062
City of Reading Housing Authority, 400 Hancock Blvd., Reading, PA 19611	322,000
Lackawanna County Housing Authority, 2019 W. Pine Street, Dunmore, PA 18512–0079	247,900
City of Lancaster Housing Authority, 333 Church Street, Lancaster, PA 17602–4253	245,846
Washington County Housing Authority, #100 Crumrine Tower, Washington, PA 15301	249,054
City of Montgomery Housing Authority, 55 E. Marshall Str. Norristown, PA 19401–4866	250,000
City of Bethlehem Housing Authority, 645 Main Street, Bethlehem, PA 18018–3645	250,000
City of York Housing Authority, P.O. Box 1963, York, PA 17405	250,000
City of Harrisburg Housing Authority, 351 Chestnut Street, Harrisburg, PA 17105–9713	245,200
City of Allentown Housing Authority, 1339 Allen Street, Allentown, PA 18102–2143	249,396
City of Bristol Redevelopment Housing Authority, 650 Quarry Street, Bristol, VA 24201–4390	244,000
City of Danville Redevelopment Housing Authority, P.O. Box 2669, Danville, VA 24541–0669	250,000
Alexandria Redevelopment & Housing Authority, 600 North Fairfax St., Alexandria, VA 22314–	250,000
Cumberland Plateau Regional Housing Authority, P.O. Box 1328, Lebanon, VA 24266–1328	154,000
City of Portsmouth Housing Authority, P.O. Box 1098, Portsmouth, VA 23705–1098	381,000
Hampton Redevelopment Housing Authority, P.O. Box 280, Hampton, VA 23669–0280	250,000
Fairfax County Redevelopment & Housing Auth, 1 University Plaza, Fairfax, VA 22030–4423	250,000
City of Norfolk Housing Authority, P.O. Box 968, Norfolk, VA 23501–0968	816,800
City of Hopewell Redevelopment Housing Authority, P.O. Box 1361, Hopewell, VA 23860–1361	199,890
Newport News Redevelopment Housing Authority, P.O. Box 77, Newport News, VA 23607–0077	453,800
City of Richmond Redevelopment Housing Authority, P.O. 26887, Richmond, VA 23261–6887	700,697
City of Suffolk Housing Authority, P.O. Box 1858, Suffolk, VA 23434	50,000
Housing Authority of the City of Bluefield, P.O. Box 1475, Bluefield, WV 24701–	69,935
Housing Authority of the City of Fairmont, 517 Fairmont Avenue, Fairmont, WV 26544–	68,500
Parkersburg Housing Authority, 1901 Cameron Ave., Parkersburg, WV 26101–	70,000
City of Florence Housing Authority, 303 N. Pine Street, Florence, AL 35630–5493	249,825
City of Greenville Housing Authority, P.O. Box 521, Greenville, AL 36037–0521	99,000
City of Gadsden Housing Authority, P.O. Box 1219, Gadsden, AL 35902–1219	250,000
City of Tuscaloosa Housing Authority, P.O. Box 2281, Tuscaloosa, AL 35403–2281	250,000
City of Northport Housing Authority, P.O. Box Drawer 349, Northport, AL 35476–0349	198,500
City of Eufaula Housing Authority, P.O. Box 36, Eufaula, AL 36027–0036	160,500
City of Bessemer Housing Authority, 1100 5th Avenue 'N', Bessemer, AL 35020	250,000
Jefferson County Housing Authority, 2100 Walker Chapel, Fultondale, AL 35068	250,000
City of Decatur Housing Authority, P.O. 878, Decatur, AL 35602–0878	250,000
City of Huntsville Housing Authority, P.O. Box 486, Huntsville, AL 35804–0486	350,600
City of Jacksonville Housing Authority, 100 Roebuck Manor, Jacksonville, AL 36265	75,000
City of Mobile Housing Authority, P.O. Box 1345, Mobile, AL 36633–1345	836,200
City of Foley Housing Authority, 302 Fourth Avenue, Foley AL 36535	50,000
City of Montgomery Housing Authority, 1020 Bell Street, Montgomery, AL 36197–3501	520,200
Alexander City Housing Authority, P.O. Drawer 788, Alexander City, AL 35010–0788	236,050
City of Enterprise Housing Authority, Nell Court Office, Enterprise, AL 36330	74,000
City of Dothan Housing Authority, P.O. Box 1727, Dothan, AL 36302–1727	250,000
City of Auburn Housing Authority, P.O. Box 1912, Auburn, AL 36830–1912	160,000
Housing Authority of the City of Roanoke, 209 Avenue 'A', Roanoke, AL 36274–	50,000
City of Piedmont Housing Authority, P.O. Box 420, Piedmont, AL 36272–0420	105,000
City of Ozark Housing Authority, P.O. Box 586, Ozark, AL 36361–0586	216,500
City of Prichard Housing Authority, P.O. Box 10307, Prichard, AL 36610–0307	214,000
The Housing Authority of the City of Uniontown, 104 Plumblee Street, Uniontown, AL 36786–	50,000
City of Lineville Housing Authority, P.O. Box 455, Lineville, AL 36266–0455	50,000
Phenix City Housing Authority, P.O. Box 338, Phenix City, AL 36868–0338	250,000
City of Sylacaugh Housing Authority, P.O. Box 539, Sylacauga, AL 35150–0539	250,000
City of Tuskegee Housing Authority, 2901 Davidson Street, Tuskegee Institute, AL 36088	250,000
City of Clearwater Housing Authority, P.O. Box 960, Clearwater, FL 33517–0960	245,002
City of Key West Housing Authority, P.O. Box 2476, Key West, FL 33040–2476	250,000
Broward County Housing Authority, 1773 N. State Road 7, Lauderhill, FL 33313	220,304
City of Hialeah Housing Authority, 70 East 7th Street, Hialeah, FL 33010–4465	240,000
City of Sarasota Housing Authority, 1300 Sixth Street, Sarasota, FL 34236	250,000
City of Lakeland Housing Authority, P.O. Box 1009, Lakeland, FL 33802	250,000
Palm Beach County Housing Authority, 3432 W. 45th Street, West Palm Beach, FL 33407–1897	245,369

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1992; Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
City of Deerfield Beach Housing Authority, 425 N.W. 1st Terrace, Deerfield Beach, FL 33441	98,980
City of Daytona Beach Housing Authority, 118 Cedar Street, Daytona Beach, FL 32014–4804	250,000
City of Palatka Housing Authority, 400 N. 15th Street, Palatka, FL 32077	238,795
Dade County Department of HUD, P.O. Box 350250, Miami, FL 33125	1,639,119
City of Ft. Myers Housing Authority, 4224 Michigan Ave., Fort Meyers, FL 33916	250,000
City of Pensacola Housing Authority, P.O. Box 18370, Pensacola, FL 32523–8370	250,000
City of Orlando Housing Authority, 300 Reeves Court, Orlando, FL 32801–3199	349,000
City of Gainesville Housing Authority, P.O. Box 1468, Gainesville, FL 32602–1468	250,000
City of Alachua County Housing Authority, 636 N. E. First Str., Gainesville, FL 32601–5398	141,000
City of DeLand Housing Authority, 300 Sunflower Circle, DeLand, FL 32724–5999	99,500
Housing Authority for the County of Flagler, 414 S. Bacher Street, Bunnell, FL 32110–	60,000
City of Sanford Housing Authority, P.O. Box 2359, Sanford, FL 32772–2359	227,733
City of Boca Raton Housing Authority, 201 W. Palmetto Pk., Boca Raton, FL 33432	47,500
City of Ft. Walton Beach Housing Authority, 27 Robinwood Dr. SW, Fort Walton Beach, FL 32548–5394	86,201
City of Macon Housing Authority, P.O. Box 4928, Macon, GA 31208–4928	420,290
City of Savannah Housing Authority, P.O. Box 1179, Savannah, GA 31402–1179	535,325
City of Augusta Housing Authority, P.O. Box 3246, Augusta, GA 30901	554,000
City of Calhoun Housing Authority, 111–F South Fair St., Calhoun, GA 30701–2369	125,000
County of Dekalb Housing Authority, P.O. Box 1627, Decatur, GA 30031–1627	250,000
City of Brunswick Housing Authority, P.O. Box 1118, Brunswick, GA 31521–1118	250,000
City of Decatur Housing Authority, P.O. Box 1627, Decatur, GA 30031–1627	141,600
Housing Authority of the City of Canton, 1 Shipp Road, Canton, GA 30114–	76,000
Housing Authority of the City of Loganville, P.O. Box 560, Monroe, GA 30655–	50,000
City of Atlanta Housing Authority, 739 W. Peachtree, NE., Atlanta, GA 30365	2,179,500
City of Carrollton Housing Authority, P.O. Box 627, Carrollton, GA 30117–0627	81,382
City of Lawrenceville Housing Authority, 502 Glenn Edge Drive, Lawrenceville, GA 30245	106,000
City of Cordele Housing Authority, 401 South 10th St., Cordele, GA 31015–2301	237,500
City of Dublin Housing Authority, P.O. Box 36, Dublin, GA 31040	250,000
The Housing Authority of the City of Madison, P.O. Box 550, Monroe, GA 30655–	50,000
Housing Authority of the City of Montezuma, P.O. Box 67, Montezuma, GA 31063–	82,000
City of College Park Housing Authority, 1908 West Princeton, College Park, GA 30337–2814	210,420
City of Columbus Housing Authority, P.O. Box 630, Columbus, GA 31993	425,600
City of Covington Housing Authority, P.O. Box 1367, Covington, GA 30209–1367	149,000
City of Moultrie Housing Authority, P.O. Box 1048, Moultrie, GA 31768	208,500
City of Camilla Housing Authority, P.O. Box 247, Camilla, GA 31730–0247	65,280
City of East Point Housing Authority, P.O. Box 90788, East Point, GA 30344–2560	241,500
Housing Authority of the City of Bremen, Haralson County, Bremen, GA 30110–	50,000
City of Jesup Housing Authority, P.O. Box 396, Jesup, GA 31545–3001	107,000
County Fulton Housing Authority, 10 Park Place, S.E., Atlanta, GA 30303	250,000
City of Albany Housing Authority, P.O. Box 485, Albany, GA 31702–0485	245,300
City of Bainbridge Housing Authority, P.O. Box 304, Bainbridge, GA 31717–0304	148,500
City of Monroe Housing Authority, P.O. Box 550, Monroe, GA 30655–0550	191,500
City of Warner Robins Housing Authority, P.O. Box 2048, Warner Robins, GA 31099–2048	222,000
City of Lexington and Fayette Housing Authority, 635 Ballard Street, Lexington, KY 40508	332,400
City of Danville Housing Authority, P.O. Box 666, Danville, KY 40422–0666	107,930
City of Louisville Housing Authority, 420 South Eighth St., Louisville, KY 40203	717,495
City of Bowling Green Housing Authority, P.O. Box 116, Bowling Green, KY 42102–0116	250,000
Housing Authority of Georgetown, 139 Scroggin Park, Georgetown, KY 40324–	163,693
City of Covington Housing Authority, 2940 Madison Avenue, Covington, KY 41015	249,985
Housing Authority of Todd County, P.O. Box 68, Guthrie, KY 42234–	48,580
City of Tupelo Housing Authority, P.O. Box 3, Tupelo, MS 38802–0003	198,700
City of Meridian Housing Authority, P.O. Box 870, Meridian, MS 39302–0870	254,400
Mississippi Southern Region VIII Housing Agency, P.O. Box 2347, Gulfport, MS 39505–2347	358,600
City of Water Valley Housing Authority, HH–1 Blackmur Drive, Water Valley, MS 38965	98,500
The Housing Authority of the City of Lumberton, P.O. Box 192, Lumberton, MS 39455–	46,940
City of Greensboro Housing Authority, P.O. Box 21287, Greensboro, NC 27420	477,000
City of Fayetteville Housing Authority, P.O. Box 2349, Fayetteville, NC 28302	226,000
City of Raleigh Housing Authority, P.O. Box 28007, Raleigh, NC 27611	410,699
City of Greenville Housing Authority, P.O. Box 1426, Greenville, NC 27835–1426	250,000
City of High Point Housing Authority, P.O. Box 1779, High Point, NC 27261	268,500
Housing Department of the City of Concord, P.O. Box 308, Concord, NC 28025–0308	76,000
City of Kinston Housing Authority, P.O. Box 697, Kinston, NC 28501	250,000
City of Durham Housing Authority, P.O. Box 1726, Durham, NC 27702	419,800
City of Salisbury Housing Authority, P.O. Box 159, Salisbury, NC 28145–0159	250,000
City of Wilmington Housing Authority, P.O. Box 899, Wilmington, NC 28402	250,000
City of Ashville Housing Authority, P.O. Box 1898, Asheville, NC 28802	312,400
City of Statesville Housing Authority, 433 S. Meeting St., Statesville, NC 28677–0187	230,500
City of Washington Housing Authority, P.O. Box 1046, Washington, NC 27889–1046	191,500
Town of Laurinburg Housing Authority, P.O. Box 1437, Laurinburg, NC 28352–1437	236,000

VOL 58 ISS 248 DE 29 1993 UMI

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1992; Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
City of Goldsboro Housing Authority, 1729 Edgerton Street, Goldsboro, NC 27533–1403	230,260
City of New Bern Housing Authority, P.O. Box 1486, New Bern, NC 28560	210,487
City of Winston-Salem Housing Authority, 920 Mock Street, Winston-Salem, NC 27127–	426,800
City of Hendersonville Housing Authority, P.O. Box 1106, Hendersonville, NC 28739–1106	193,564
City of Charlotte Housing Authority, P.O. Box 36795, Charlotte, NC 28236	766,292
City of Rocky Mount Housing Authority, P.O. Box 4717, Rocky Mount, NC 27803	249,342
Ayden Housing Authority, P.O. Box 452, Ayden, NC 28513–	87,497
Williamston Housing Authority, P.O. Box 709, Williamston, NC 27892–	73,819
City of Burlington Housing Authority, P.O. Box 2380, Burlington, NC 27216–2380	183,908
City of Lumberton Housing Authority, P.O. Box Drawer 709, Lumberton, NC 28359	250,000
Rowan County Housing Authority, 121 W. Council St., Salisbury, NC 28144	100,000
Town of Chapel Hill Department of Housing and Community Development, 317 Caldwell St. Ext., Chapel Hill, NC 27516–	51,000
City of Monroe Housing Authority, P.O. Box 805, Monroe, NC 28110–0805	103,000
Plymouth Housing Authority, 306 West Water Street, Plymouth, NC 27962–	94,500
City of Charleston Housing Authority, 20 Franklin Street, Charleston, SC 29401–1954	249,511
City of Florence Housing Authority, P.O. Box Drawer 969, Florence, SC 29503	168,556
City of York Housing Authority, P.O. Box 687, York, SC 29745–0687	62,000
City of Beaufort Housing Authority, P.O. Box 1104, Beaufort, SC 29901–1104	130,000
City of North Charleston Housing Authority, P.O. Box 10367, North Charleston, SC 29411	239,224
Greenwood Housing Authority, P.O. Box 973, Greenwood, SC 29648–0973	50,000
City of Anderson Housing Authority, 1335 East River St., Anderson, SC 29621	119,500
Housing Authority of Fort Mill, 105 Bozeman Dr., Fort Mill, SC 29715–	61,000
Nashville Metropolitan Development & Housing Agency, P.O. Box 846, Nashville, TN 37202–0846	947,850
City of Franklin Housing Authority, P.O. Box 304, Franklin, TN 37064–0304	153,380
City of Dyersburg Housing Authority, P.O. Box 824, Dyersburg, TN 38025–0824	238,950
Knoxville Community Development Corporation, P.O. Box 3550, Knoxville, TN 37927	806,200
City of Jackson Housing Authority, P.O. Box 3188, Jackson, TN 38301–3188	250,000
City of Clarksville Housing Authority, P.O. Box 603, Clarksville, TN 37041–0603	235,280
City of Kingsport Housing Authority, P.O. Box 44, Kingsport, TN 37662–0044	250,000
City of Chattanooga Housing Authority, P.O. Box 1486, Chattanooga, TN 37401–1148	735,600
City of McMinnville Housing Authority, 301 Hardaway Street, McMinnville, TN 37110	201,988
City of Brownsville Housing Authority, P.O. Box 194, Brownsville, TN 38012–0194	81,500
City of Columbia Housing Authority, P.O. Box 115, Columbia, TN 38401–0115	120,317
Poarch Band of Creek Housing Authority, HCR 69A, Box 858, Atmore, AL 36502–	50,000
Seminole Tribal IHA, 3101 NW 63rd Avenue, Hollywood, FL 33024	217,988
City of East St. Louis Housing Authority, 700 N. Twentieth St., East St. Louis, IL 62205	522,958
City of Chicago Housing Authority, 22 W. Madison Street, Chicago, IL 60602	5,827,100
City of Decatur Housing Authority, 1808 East Locust St., Decatur, IL 62521–1409	246,000
Champaign County Housing Authority, P.O. Box 183, Urbana, IL 61801–0183	243,045
City of Rock Island Housing Authority, 111 Twentieth Street, Rock Island, IL 61201–6827	250,000
City of Danville Housing Authority, P.O. Box 312, Danville, IL 61834–0312	250,000
Madison County Housing Authority, 1609 Olive Street, Collinsville, IL 62234	250,000
City of Rockford Housing Authority, 330 Fifteenth Avenue, Rockford, IL 61108	341,600
City of Joliet Housing Authority, P.O. Box 2519, Joliet, IL 60434–2519	250,000
Cook County Housing Authority, 59 E. Van Buren St., Chicago, IL 60605	436,400
City of Freeport Housing Authority, 10 North Galena, Freeport, IL 61032–4302	123,370
St. Clair County Housing Authority, 100 N. Forty-Eighth, Belleville, IL 62223	243,700
City of Bloomington Housing Authority, Wood Hill Towers, Bloomington, IL 61701–6768	250,000
Marion County Housing Authority, 719 E. Howard Street, Centralia, IL 62801	223,000
Franklin County Housing Authority, P.O. Box 68, West Frankfort, IL 62896–0068	227,101
City of Fort Wayne Housing Authority, P.O. Box 13489, Fort Wayne, IN 46802	250,000
City of Gary Housing Authority, 578 Broadway Street, Gary, IN 46402–1986	435,565
City of South Bend Housing Authority, P.O. Box 11057, South Bend, IN 46634–0057	250,000
City of Evansville Housing Authority, P.O. Box 3605, Evansville, IN 47735	240,590
City of Indianapolis Housing Authority, 410 N. Meridian St., Indianapolis, IN 46204–1790	468,075
City of Elkhart Housing Authority, 1396 Benham Avenue, Elkhart, IN 46516–2505	231,128
City of East Chicago Housing Authority, P.O. Box 498, East Chicago, IN 46312–0498	243,045
City of Flint Housing Commission, 3820 Richfield Road, Flint, MI 48506–2616	250,000
City of Benton Harbor Housing Commission, 925 Buss Street, Benton Harbor, MI 49022	179,000
Ypsilanti Housing Commission, 601 Armstrong Drive, Ypsilanti, MI 48197–	109,000
City of Inkster Housing Commission, 2000 Inkster Road, Inkster, MI 48141–1871	250,000
City of Port Huron Housing Commission, 905 Seventh Street, Port Huron, MI 48060–5399	220,000
City of Lansing Housing Commission, 310 Seymour Avenue, Lansing, MI 48933	250,000
Sault Sainte Marie Tribal IHA, 2218 Shunk Road, Sault Ste. Marie, MI 49783	136,500
City of St. Paul Housing Authority, 413 Wacouta Street, St. Paul, MN 55101	846,800
Red Lake Tribal IHA, P.O. Box 219, Hwy 1, Red Lake Falls, MN 56671–0219	225,834
White Earth Tribal IHA, P.O. Box 436, White Earth, MN 56591–0436	158,687
Fond Du Lac Tribal IHA, 105 University Ave., Cloquet, MN 55720	146,500
Bois Forte Housing Authority, P.O. Box 12, Nett Lake, MN 55772	50,000

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1992; Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
North Carolina State Tribal IHA, P.O. Box 2343, Fayetteville, MN 28302–2343	116,920
Cuyahoga Metropolitan Housing Authority, 1441 W. 25th Street, Cleveland, OH 44113–3101	1,758,750
Dayton Metropolitan Housing Authority, 400 Wayne Avenue, Dayton, OH 45410	857,800
Lucas Metropolitan Housing Authority, P.O. Box 477, Toledo, OH 43692–0477	657,986
Akron Metropolitan Housing Authority, 180 West Cedar St., Akron, OH 44307–2546	751,349
Zanesville Metropolitan Housing Authority, 2746 Maple Avenue, Zanesville, OH 43701	250,000
Portsmouth Metropolitan Housing Authority, 410 Court Street, Portsmouth, OH 45662	249,888
Jefferson Metropolitan Housing Authority, 815 N. Sixth Avenue, Steubenville, OH 43952–1847	235,928
Stark Metropolitan Housing Authority, 1800 W. Tuscarawas, Canton, OH 44708–4997	480,189
Springfield Metropolitan Housing Authority, 437 East John Street, Springfield, OH 45505	110,000
City of Superior Housing Authority, 1219 N. Eighth Str., Superior, WI 54880	217,500
City of Milwaukee Housing Authority, P.O. Box 324, Milwaukee, WI 53201–0324	943,400
Madison Community Development Housing Authority, P.O. Box 1785, Madison, WI 53701	240,000
Oneida Tribe of Wisconsin IHA, P.O. Box 68, Oneida, WI 54155–0068	124,193
Lac Courte Oreilles Tribal IHA, Rural Route 2, Hayward, WI 54843–0002	201,200
Menominee Housing Authority, P.O. Box 476, Keshena, WI 54135–0476	198,293
City of Conway Housing Authority, 360 CHA Street, Conway, AR 72032	77,000
DeWitt Housing Authority, P.O. Box 447, DeWitt, AR 72042	50,000
City of Forrest Housing Authority, P.O. Box 997, Forrest City, AR 72335–0997	225,000
City of Hope Housing Authority, 720 Texas Street, Hope, AR 71801–6399	94,000
City of Malvern Housing Authority, P.O. Box 550, Malvern, AR 72104–0550	78,600
City of North Little Rock Housing Authority, P.O. Box 516, North Little Rock, AR 72115–0516	250,000
Polk County Housing Authority, Mena, AR 71953	71,146
City of Searcy Housing Authority, 501 S. First Street, Searcy, AR 72143	67,678
City of Texarkana Housing Authority, 110 Bramble Courts, Texarkana, AR 75502	173,176
City of East Baton Rouge Housing Authority, 4546 North Street, Baton Rouge, LA 70806	250,000
City of Houma Housing Authority, 332 W. Park Avenue, Houma, LA 70364–4267	119,600
City of Lake Charles Housing Authority, P.O. Box 1206, Lake Charles, LA 70602–1206	166,015
City of Monroe Housing Authority, P.O. Box 1194, Monroe, LA 71201–1194	304,400
City of New Orleans Housing Authority, 918 Carondelet St., New Orleans, LA 70130	1,955,089
Dequincy Housing Authority, 500 Grant Avenue, Dequincy, LA 70633	50,000
St. Charles Parish Housing Authority, P.O. Box 448, Boutte, LA 70039	67,914
City of Albequerque Housing Authority, P.O. Box 25064, Albuquerque, NM 87125–5064	250,000
City of Las Cruces Housing Authority, 926 S. San Pedro, Las Cruces, NM 88001	143,500
City of Santa Fe Housing Authority, P.O. Box CC, Santa Fe, NM 87502	208,500
Town of Bernalillo Housing Authority, 990 Calle Los Mayore, Bernalillo, NM 87004–	50,000
City of Broken Bow Housing Authority, P.O. Box 177, Broken Bow, OK 74728–0177	65,808
City of Hugo Housing Authority, P.O. Box 727, Hugo, OK 74743–0727	76,111
City of Lawton Housing Authority, 620 E. Ave., Lawton, OK 73501–4501	159,500
Oklahoma City Housing Authority, 1700 NE Fourth St., Oklahoma City, OK 73117	579,906
City of Shawnee Housing Authority, P.O. Box 3427, Shawnee, OK 74802–3427	207,000
City of Tulsa Housing Authority, P.O. Box 6369, Tulsa, OK 74148–0369	494,800
Choctaw Nation Housing Authority, P.O. Box G, Hugo, OK 74743–	436,800
Absentee Shawnee Housing Authority, P.O. Box 425, Shawnee, OK 74802–0425	250,000
Housing Authority of the Sac and Fox Nation, 526 N Kimberly, Shawnee, OK 74802	250,000
City of Austin Housing Authority, P.O. Box 6159, Austin, TX 78762–6159	381,800
City of Beaumont Housing Authority, P.O. Box 1312, Beaumont, TX 77704–1312	215,125
City of Corpus Christi Housing Authority, P.O. Box 7019, Corpus Christi, TX 78467–7019	388,058
Crystal City Housing Authority, 1014 E. Uvalde, Crystal City, TX 78839	143,800
City of Dallas Housing Authority, P.O. Box 191485, Dallas, TX 75219	985,418
City of Del Rio Housing Authority, P.O. Box 4080, Del Rio, TX 78841–4080	182,000
Denison Housing Authority, P.O. Box 477, Denison, TX 75020–0447	99,000
City of Edinburg Housing Authority, P.O. Box 295, Edinburg, TX 78540–0295	234,491
City of El Paso Housing Authority, P.O. Box 9895, El Paso, TX 79902–9895	931,906
City of Fort Worth Housing Authority, P.O. Box 430, Fort Worth, TX 76101–0430	185,675
City of Galveston Housing Authority, 920 53rd Street, Galveston, TX 77550–1012	205,950
City of Houston Housing Authority, P.O. Box 2971, Houston, TX 77252–9950	805,400
Jefferson Housing Authority, 610 N. Cass Street, Jefferson, TX 75657–	50,000
City of Laredo Housing Authority, 2000 San Francisco, Laredo, TX 78040	250,000
City of Mission Housing Authority, 906 E. 8th Street, Mission, TX 78572	154,000
Pearsall Housing Authority, 501 W. Medina, Pearsall, TX 78061–	50,000
City of Pharr Housing Authority, 211 W. Audrey, Pharr, TX 78577–	164,250
City of Robstown Housing Authority, 625 W. Avenue F, Robstown, TX 78380	120,000
City of San Antonio Housing Authority, P.O. Drawer 130, San Antonio, TX 78295–1300	1,168,800
City of San Benito Housing Authority, P.O. Box 1950, San Benito, TX 78586–1950	163,850
City of San Marcos Housing Authority, 1201 Thorp Lane, San Marcos, TX 78666	60,669
City of Sherman Housing Authority, P.O. Box 2147, Sherman, TX 75090–2147	141,640
City of Temple Housing Authority, P.O. Box 634, Temple, TX 76501–0634	161,395
City of Waco Housing Authority, P.O. Box 978, Waco, TX 76706–0978	250,000

VOL 58 ISS 248 DE 29 1993 UMI

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1992; Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
City of Lubbock Housing Authority, P.O. Box 2568, Lubbock, TX 79408–2568	241,750
City of Des Moines Housing Authority, 1101 Crocker Street, Des Moines, IA 50309–1110	250,000
City of Knoxville Low Rent Housing Agency, 305 S. Third Street, Knoxville, IA 50138–2287	50,000
Iowa City Housing Authority, 410 E. Washington St., Iowa City, IA 52240–	30,930
Southern Iowa Regional Housing Authority, 421 North Vine St., Creston, IA 50201–	50,000
City of Topeka Housing Authority, 1312 Polk, Topeka, KS 66608	250,000
Atchison Housing Authority, 103 South 7th Street, Atchison, KS 66002–2862	95,500
Kansas City Kansas Housing Authority, 1124 N. Ninth Street, Kansas, KS 66101–2197	250,000
City of Macon Housing Authority, 218 Lakeview Towers, Macon, MO 63552–4160	52,500
City of Mexico Housing Authority, P.O. Box 484, Mexico, MO 65265–0484	127,000
St. Louis Co. Housing Authority (Kinloch), 8865 Natural Br. Rd., St. Louis, MO 63121–	100,000
City of Charleston Housing Authority, P.O. Box 67, Charleston, MO 63834–0067	139,981
City of Hannibal Housing Authority, P.O. Box 996, Hannibal, MO 63401–0996	127,051
City of Wellston Housing Authority, 1584 Ogden Avenue, Wellston, MO 63133–2413	105,000
City of Columbia Housing Authority, P.O. Box K, Columbia, MO 65205–5010	249,730
County of St. Louis Housing Authority, P.O. Box 23886, St. Louis, MO 63121	250,000
City of St. Louis Missouri Housing Authority, 4100 Lindell Bl., St. Louis, MO 63108–2999	766,915
Fulton Housing Authority, PO Box 814, Fulton, MO 65251–0814	90,000
City of Kansas City Missouri Housing Authority, 299 Paseo, Kansas City, MO 64106–2808	403,400
City of Omaha Housing Authority, 540 27th Street, Omaha, NE 68105–1521	614,800
City of Denver Housing Authority, P.O. Box 4305, Denver, CO 80204	788,325
City of Great Falls Housing Authority, 1500 Sixth Avenue, Great Falls, MT 59405–2599	110,000
Blackfeet Indian Housing Authority, P.O. Box 790, Browning, MT 59417–0790	230,000
Northern Cheyenne Tribal IHA, P.O. Box 327, Lame Deer, MT 59043–0327	250,000
Crow Tribal IHA, P.O. Box 99, Crow Agency, MT 59022–0099	129,968
Chippewa Cree Tribal IHA, P.O. Box 615, Box Elder, MT 59521–0615	191,000
Fort Peck Tribal IHA, P.O. Box 667, Poplar, MT 59255–0667	250,000
Fort Belknap Tribal IHA, Fort Belknap Indian Agency, Harlem, MT 59526–	240,500
Turtle Mountain Tribal IHA, P.O. Box 620, Belcourt, ND 58316–0620	250,000
Trenton Indian Housing Authority, P.O. Box 155, Trenton, ND	52,641
Cheyenne River Tribal IHA, P.O. Box 480, Eagle Butte, SD 57625–0480	245,000
Salt Lake City Housing Authority, 1800 SW Temple, Salt Lake City, UT 84115	148,276
Salt Lake County Housing Authority, 1962 South 200 East, Salt Lake City, UT 84115	250,000
Davis County Housing Authority, P.O. Box 328, Farmington, UT 84025–	77,000
City of Chandler Housing/Redevelopment Division, 99 North Delaware, Chandler, AZ 85225–	92,250
Pinal County Housing Department, 970 N 11 Mile Corner, Casa Grande, AZ 85222–	27,304
Housing Authority of the City of Yuma, 1350 W Colorado St., Yuma, AZ 85364–	92,500
City of Tucson Housing Authority, P.O. Box 27210, Tucson, AZ 85726–7210	219,400
City of Phoenix Housing Authority, 920 E. Madison, Phoenix, AZ 85034–2230	398,800
Nogales Housing Authority, 951 N. Kitchen St., Nogales, AZ 85621–	92,800
Housing Authority of the City of Eloy, 100 West Phoenix Ave., Eloy, AZ 85231–	47,700
City of Glendale Housing Authority, 6842 North 61st Ave., Glendale, AZ 85301–	50,000
Camarillo Area-Wide Housing Authority, 99 S. Glenn Drive, Camarillo, CA 93010	139,000
Housing Authority of the City of Madera, 205 North "G" Street, Madera, CA 93637–	100,000
County of Los Angeles Housing Authority, 4800 Brooklyn Avenue, Los Angeles, CA 90022–1399	198,240
City of Fresno Housing Authority, P.O. Box 11985, Fresno, CA 93776–1198	250,000
City of Oakland Housing Authority, 1619 Harrison Street, Oakland, CA 94612	661,158
County of Los Angeles Housing Authority, 4800 Brooklyn Avenue, Los Angeles, CA 90022–1399	107,616
San Bernardino County Housing Authority, 1053 North D Street, San Bernardino, CA 92410–3854	250,000
San Diego Housing Commission, 1625 Newton Street, San Diego, CA 92113	250,000
Imperial Valley Housing Authority, 1401 "D" Street, Brawley, CA 92227–	245,000
Santa Barbara County Housing Authority, P.O. Box 397, Santa Barbara, CA 93438–0397	249,500
Fresno County Housing Authority, P.O. Box 11985, Fresno, CA 93776–1198	250,000
County of Los Angeles Housing Authority, 4800 Brooklyn Avenue, Los Angeles, CA 90022–1399	260,544
City of Sacramento Housing Authority, P.O. Box 1834, Sacramento, CA 95809	155,553
Sacramento County Housing Authority, P.O. Box 1834, Sacramento, CA 95809–1834	76,782
City of Contra Costa Housing Authority, P.O. Box 2759, Contra Costa, CA 94553–2759	250,000
City of Los Angeles Housing Authority, P.O. Box 17157, Los Angeles, CA 90017–1295	1,340,400
City and County of San Francisco Housing Authority, 440 Turk Street, San Francisco, CA 94102	1,013,550
County of Marin Housing Authority, P.O. Box 4282, Marin, CA 94913–4282	50,000
Santa Barbara City Housing Authority, 808 Laguna Street, Santa Barbara CA 93101–1590	237,250
Northern Circle Indian Housing Authority, 894 Pinoleville Dr., Ukiah, CA 95482	102,060
State of Hawaii Housing Authority, P.O. Box 17907, Honolulu, HI 96817–1790	746,570
City of Reno Housing Authority, 1525 E. Ninth Street, Reno NV 89512	151,617
City of Las Vegas Housing Authority, P.O. Box 1897, Las Vegas, NV 89125	514,400
Housing Authority of the City of North Las Vegas, 1632 Yale Street, North Las Vegas, NV 89030	125,000
Cook Inlet Native Housing Authority, 670 W. Fireweed Lane, Anchorage, AK 99503	50,000
City of Portland Housing Authority, 135 SW Ash, Portland, OR 97204	526,800
City of Salem Housing Authority, P.O. Box 808, Salem, OR 97308–0808	168,075

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1992; Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (name and address)	Amount approved
City of Seattle Housing Authority, 120 Sixth Avenue, Seattle, WA 98109	974,850
King County Housing Authority, 15455 65th Avenue S, Seattle, WA 98199–2583	630,370
City of Bremerton Housing Authority, P.O. Box 631, Bremerton, WA 98310–0131	250,000
City of Tacoma Housing Authority, 1728 44th Street, Tacoma, WA 98404–4699	291,400
Snohomish County Housing Authority, 3425 Broadway, Everett, WA 98201–5095	90,555
City of Yakima Housing Authority, 110 Fair Ave., Yakima, WA 98901–3072	75,000
Makah Indian Housing Authority, P.O. Box 868, Neah Bay, WA 98357	95,500

[FR Doc. 93–31654 Filed 12–28–93; 8:45 am]

BILLING CODE 4210–33–P

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3556; FR–3357–N–02]

Flexible Subsidy Program: Announcement of Funding Awards for FY 1993

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding award decisions made by the Department under its Flexible Subsidy Program for Fiscal Year 1993. The announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Program Support Branch, Office of Multifamily Housing Management, 451 Seventh Street SW., Washington DC 20410, telephone (202) 708–2654 (voice) or (202) 708–3938 (TDD for hearing-impaired). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The Department's Flexible Subsidy Program provides assistance to multifamily projects experiencing extreme financial difficulty. The Flexible Subsidy Program consists of two components:

(1) *Operating Assistance*—Operating assistance, provided in the form of a deferred loan and, in conjunction with other resources, is designed to restore or maintain the physical and financial soundness of eligible projects.

(2) *Capital Improvement Loans*—Capital improvement loans are provided for projects that need capital improvements to achieve physical soundness, and that cannot be funded from project reserve funds without jeopardizing other major repairs or replacements that are reasonably expected to be required in the near future.

The Flexible Subsidy Fund is comprised of excess rental receipts paid to HUD from owners of section 236 projects, interest earned on the fund, repayment of Operating Assistance loans made by the Department in past fiscal years, and amounts appropriated by Congress, if any, to carry out the purposes of the Flexible Subsidy Program.

On June 7, 1993 (58 FR 32022), HUD published a Notice of Funding Availability (NOFA) which announced the availability of $69,600,000 in funding for HUD's Flexible Subsidy Program. Of this amount, $12,000,000 was made available for Capital Improvement Loans, and $57,600,000 was made available for Operating Assistance.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names and addresses of the projects awarded funds under the FY 1993 Flexible Subsidy NOFA, and the amount of funds awarded to each project. This information is provided in Appendix A to this document.

Dated: December 20, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

APPENDIX A—LIST OF FLEXIBLE SUBSIDY PROJECTS FUNDED PURSUANT TO THE FY 1993 NOFA

FHA number	Project name/location	Owner's name/location	Program/amount awarded
REGION 01:			
017–55004	WOOSTER SQUARE, NEW HAVEN, CT.	WOOSTER SQUARE CORP., NEW HAVEN, CT.	OPERATING ASSISTANCE, 837,732
REGION 02:			
012–11012	FINIAN SULLIVAN HOUSES, YONKERS, NY.	SACRED HEART HSG CORP., YONKERS, NY.	OPERATING ASSISTANCE, 259,000
031–44088	VITA GARDENS, ASBURY PARK, NJ.	BETHEL NP HOUSING CORP., ASBURY PARK, NJ.	OPERATING ASSISTANCE, 357,867
035–44802	ACACIA LUMBERTON MANOR, LUMBERTON, NJ.	GRAND LODGE F&AM OF NJ, MILFORD, NJ.	OPERATING ASSISTANCE, 535,000
REGION 03:			
000–55007	ST. JAMES MUTUAL HOMES, WASHINGTON, DC.	ST. JAMES MUTUAL HMS, INC., WASHINGTON, DC.	OPERATING ASSISTANCE, 1,139,333
033–44044	MON VIEW HEIGHTS, WEST MIFFLIN, PA.	MON VIEW HEIGHTS ASSOC., PITTSBURGH, PA.	CAPITAL IMPROVEMENT, 6,384,210
051–44074	BELL DIAMOND MANOR, NORFOLK, VA.	BEACON LIGHT CIVIC, INC., NORFOLK, VA.	OPERATING ASSISTANCE, 1,053,403

VOL 58 ISS 248 DE 29 1993 UMI

APPENDIX A—LIST OF FLEXIBLE SUBSIDY PROJECTS FUNDED PURSUANT TO THE FY 1993 NOFA—Continued

FHA number	Project name/location	Owner's name/location	Program/amount awarded
REGION 04:			
061–35006	BETHEL CHURCH HOMES I, ATHENS, GA.	BETHEL CHURCH HOMES, INC., ATHENS, GA.	OPERATING ASSISTANCE, 2,082,108
063–44007	CATHEDRAL TERRACE, JACKSONVILLE, FL.	CATHEDRAL FOUNDATION, JACKSONVILLE, FL.	OPERATING ASSISTANCE, 1,386,132
066–44022	TOWN PARK PLAZA SOUTH, MIAMI, FL.	TOWN PARK PLAZA SO, INC., MIAMI, FL.	OPERATING ASSISTANCE, 1,404,586
067–35006	TAMPA PARK I, TAMPA, FL	TAMPA PARK APTS, INC., TAMPA, FL.	CAPITAL IMPROVEMENT 828,135
067–35006	DO	DO	OPERATING ASSISTANCE, 411,265
067–44802	MENORAH CENTER ST. PETERSBURG, FL.	MENORAH CENTER, INC., ST. PETERSBURG, FL.	CAPITAL IMPROVEMENT, 416,600
083–44073	JACKSON HOUSE, PADUCAH, KY.	WEST KY SR CITIZEN UNION, PADUCAH, KY.	OPERATING ASSISTANCE 1,729,199
086–55005	CWA APARTMENTS II, NASHVILLE, TN.	COMMUNICATION WORKERS, NASHVILLE, TN.	OPERATING ASSISTANCE 1,659,585
086–55005	DO	DO	CAPITAL IMPROVEMENT 178,672
REGION 05:			
043–44065	CROSSROADS APARTMENTS, COLUMBUS, OH.	TUSKEGEE ALUMNI HSG., COLUMBUS, OH.	CAPITAL IMPROVEMENT, 1,446,676
044–55178	BIRCH RUN CO-OP, ROMULUS, MI.	BIRCH RUN COOP, ROMULUS, MI.	OPERATING ASSISTANCE, 1,882,331
046–44083	MALVERN PLACE APARTMENTS, CINCINNATI, OH.	MT. AUBURN GOOD HOUSING, CINCINNATI, OH.	OPERATING ASSISTANCE 1,023,974
047–55010	STRATFORD TOWNHOUSES I, GRAND RAPIDS, MI.	STRATFORD TW CON HSG. CORP., GRAND RAPIDS, MI.	OPERATING ASSISTANCE, 575,512
047–55010	DO	DO	CAPITAL IMPROVEMENT 137,813
047–55046	STRATFORD TOWNHOUSES II, GRAND RAPIDS, MI.	DO	OPERATING ASSISTANCE, 862,424
047–55046	DO	DO	CAPITAL IMPROVEMENT, 133,875
071–44146	MAYSLAKE VILLAS, OAKBROOK, IL.	FRANCISCAN TERTIARY, CHICAGO, IL.	OPERATING ASSISTANCE 373,538
075–35071	OAKWOOD HAVEN, CRIVITZ, WI	CRIVITZ NP HOUSING CORP., CRIVITZ, WI.	CAPITAL IMPROVEMENT, 58,895
075–35072	COLEMAN MANOR, COLEMAN, WI.	COLEMAN MANOR, INC., COLEMAN, WI.	CAPITAL IMPROVEMENT, 61,930
075–35073	LAONA MANOR, LAONA, WI	LAONA MANOR NP HSG. CORP., LAONA, WI.	CAPITAL IMPROVEMENT, 62,040
075–35076	PIONEER VILLA, SURING, WI	SURING NP HOUSING CORP., SURING, WI.	CAPITAL IMPROVEMENT, 67,450
075–35077	VINE COURT APARTMENTS, NIAGARA, WI.	NIAGARA NP HOUSING CORP., NIAGARA, WI.	CAPITAL IMPROVEMENT, 62,040
075–35078	GOODMAN APARTMENTS, GOODMAN, WI.	GOODMAN HOMES NOW CORP., GOODMAN, WI.	CAPITAL IMPROVEMENT, 62,040
075–44096	SOUTHSIDE REVITALIZATION, RACINE, WI.	THE HOME COMPANY, INC., RACINE, WI.	OPERATING ASSISTANCE, 92,032
092–44203	BOOTH MANOR, MINNEAPOLIS, MN.	THE SALVATION ARMY, BROOKLYN CENTER, MN.	OPERATING ASSISTANCE, 2,875,500
REGION 06:			
059–35056	NATCHITOCHES-THOMAS APTS, NATCHITOCHES, LA.	NATCHITOCHES-THOMAS APTS, NATCHITOCHES, LA.	OPERATING ASSISTANCE, 1,254,300
082–35036	HAYGOOD-NEAL GARDEN APTS, EL DORADO, AR.	CHRISTIAN METH EPIS CH, MEMPHIS, TN.	OPERATING ASSISTANCE, 568,030
082–35036	DO	DO	CAPITAL IMPROVEMENT, 592,380
082–35109	SMITH-KEYS VILLAGE APTS, TEXARKANA, AR.	CHRISTIAN METHO EPIS CH, MEMPHIS, TN.	OPERATING ASSISTANCE, 819,498
082–35109	DO	DO	CAPITAL IMPROVEMENT, 717,320
114–35050	SUNSET HILLS APARTMENTS, SAN AUGUSTINE, TX.	KNIGHTS OF PHYTHIAS, SAN AUGUSTINE, TX.	OPERATING ASSISTANCE, 702,996
REGION 07:			
074–44010	HORIZON HMS OF DAVENPORT, DAVENPORT, IA.	HORIZON HMS OF DAVENPORT, DAVENPORT, IA.	CAPITAL IMPROVEMENT 649,603
084–44014	NORTHWOOD TERRACE APTS, ST. JOSEPH, MO.	ST. JOSEPH, PCAP, INC., ST JOSEPH MO.	CAPITAL IMPROVEMENT 265,372
084–44055	CENTURY 37, KANSAS CITY, MO.	CENTURY 37 APTS, LTD., KANSAS CITY, MO.	OPERATING ASSISTANCE 125,015

APPENDIX A—LIST OF FLEXIBLE SUBSIDY PROJECTS FUNDED PURSUANT TO THE FY 1993 NOFA—Continued

FHA number	Project name/location	Owner's name/location	Program/amount awarded
102–44019	COMMERCE GARDENS, HUTCHINSON, KS.	COMMERCE GARDENS, INC., HUTCHINSON, KS.	OPERATING ASSISTANCE, 737,974
REGION 08:			
091–44013	MEL ROS VILLAGE I, ABERDEEN, SD.	MEL ROS VILLAGE, LTD., ABERDEEN, SD.	CAPITAL IMPROVEMENT, 1,118,571
101–44145	GATEWAY VILLAGE, FORT MORGAN, CO.	FMHA GATEWAY CORP., FORT MORGAN, CO.	OPERATING ASSISTANCE, 1,800,000
REGION 09:			
121–35099	HUMBOLT PLAZA, ARCATA, CA	HUMBOLT PLAZA INC., ARCATA, CA.	CAPITAL IMPROVEMENT, 553,180
121–35216	EMMANUEL TERRACE APTS, SAN JOSE, CA.	EMMANUEL TERRACE I, SAN JOSE, CA.	OPERATING ASSISTANCE, 26,730
121–44080	VILLA GARCIA APARTMENTS, SAN JOSE, CA.	HUMAN BRIDGE, INC., BERKELEY, CA.	OPERATING ASSISTANCE 642,642
121–44164	COLORADO PARK APARTMENTS, PALO ALTO, CA.	COLORADA HSG CORPORATION, PALO ALTO, CA.	OPERATING ASSISTANCE, 485,182
121–44280	MARTIN LUTHER KING SQ., FRESNO, CA.	KING OF KINGS HSG. DEV., FRESNO, CA.	OPERATING ASSISTANCE, 562,876
121–44442	LINDA GLEN, OAKLAND, CA	SATELITE SENIOR HMS, INC., OAKLAND, CA.	OPERATING ASSISTANCE, 67,755
121–44801	BETH ASHER APARTMENTS, OAKLAND, CA.	DO	OPERATING ASSISTANCE, 257,184
121–44812	SATELITE CENTRAL, OAKLAND & BERKELEY, CA.	DO	OPERATING ASSISTANCE, 1,517,000
121–44816	ST. PATRICKS TERRACE, OAKLAND, CA.	DO	OPERATING ASSISTANCE, 498,395
121–44817	DTTERBEIN MANOR, OAKLAND, CA.	DO	OPERATING ASSISTANCE, 220,555
121–44818	ST. ANDREW'S MANOR, OAKLAND, CA.	DO	OPERATING ASSISTANCE, 472,764
121–44819	LAWRENCE MOORE APTS, BERKELEY, CA.	DO	OPERATING ASSISTANCE, 420,760
122–44812	PLYMOUTH WEST APARTMENTS, LONG BEACH, CA.	UNITED CH RETIREMENT HMS, LONG BEACH, CA.	OPERATING ASSISTANCE, 925,078

[FR Doc. 93–31650 Filed 12–28–93; 8:45 am]
BILLING CODE 4210–27–P

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–93–3619; FR–3506–N–02]

Public and Indian Housing Drug Elimination, Technical Assistance Program; Announcement of Funding Awards for FY 1993

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the NOFA for Public and Indian Housing Drug Elimination, Technical Assistance Program. This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Elizabeth Cocke, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197. A telecommunication device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. [These are not toll-free telephone numbers.]

SUPPLEMENTARY INFORMATION: The purpose of the competition was to provide funds to Public and Indian Housing Drug Elimination, Technical Assistance Program for short-term technical assistance to public housing agencies, Indian housing authorities, resident management corporations, and incorporated resident councils that are combating abuse of controlled substances in public housing communities. This program have been appropriated by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Pub. L. 102–389, approved October 6, 1992). The Department published a Fiscal Year 1993 NOFA announcing the availability of $600,000 for technical assistance in public housing.

The 1993 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on June 4, 1993 (58 FR 31870). Applications were scored and selected for funding based on criteria contained in the Notice.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing in the names, addresses, and the amount of funds awarded, as set out at the end of this Notice.

Dated: December 13, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS

[Fiscal Year 1993; Program Name: Public and Indian Housing Drug Elimination Technical Assistance Program; Statute: Public Law 102–389, October 6, 1992]

Funding recipient (name, address, PHA/IHA/RMC/RC site)	Amount approved
Dev. Research & Programs, P.O. Box 5844, Salem, OR 97304, Housing Authority of Baltimore City, Baltimore, MD	8,834
Florence Adcock, 4615 Summerhill Rd., #, Texarkana, TX 75503, Prescott Housing Authority, Prescott, AR	7,250
Veronica Alfonzo, Calle 5 E–10, Camuy, PR 00627, Corporacion De Residents, Arecibo, PR	7,400
Horus Alkebu-Lan, P.O. Box 121, Chesterfield, VA 23832, Ida Barbour Tenant Council, Portsmouth, VA	7,146
Robert Anderson, 444 North Capitol St., Washington, DC 20001, Newark Housing Authority, Newark, NJ	9,994
Michael Appleby, 1533 Clay Street, Blacksburg, VA 24060–9159, Bristol Housing Authority, Bristol, VA	9,680
C. Jean Bennett, 207 Valley North Blvd., Jackson, MS 39206, Natchez Housing Authority, Natchez, MS	6,277
C. Jean Bennett, 207 Valley North Blvd., Jackson, MS 39206, Housing Authority of the City of Vicksburg, Vicksburg, MS	7,000
Robert Borghese, 21 South 12th Street, Philadelphia, PA 19107, Newburgh Housing Authority, Newburgh, NY	8,100
Robert Borghese, 21 South 12th Street, Philadelphia, PA 19107, Housing Authority of the Town of Laurinburg, Laurinburg, NC	8,348
Robert Borghese, 21 South 12th Street, Philadelphia, PA 19107, Lynn Housing Authority, Lynn, MA	5,973
Lynn Borrell, 1165 North Clarke, Sui, Chicago, IL 60610, Austin Housing Authority, Austin, TX	10,000
Lynn Borrell, 1165 North Clarke, Sui, Chicago, IL 60610, Plattsburgh Housing Authority, Plattsburgh, NY	8,093
James Brooks, 6628 Fran Drive, Macon, GA 31206, Douglas Housing Authority, Douglas, GA	9,310
Michael Browning, P.O. Box 712055, Los Angeles, CA 90071, Mar Vista Gardens Resident Council, Los Angeles, CA	8,200
David Buches, R.D. 1, Box 735A, Dover, DE 19901, Fayette County Housing Authority, Uniontown, PA	8,580
David Buches, R.D. 1, Box 735A, Dover, DE 19901, Montgomery County Housing Authority, Norristown, PA	6,580
David Buches, R.D. 1, Box 735A, Dover, DE 19901, Housing Authority of Winston-Salem, Winston-Salem, NC	8,356
Bernard Buckner, 1244 Wagar Road, Rocky River, OH 44116–1425, Stark Metropolitan Housing Authority, Canton, OH	8,920
John Burgess, 95 Forest Avenue, Middletown, RI 02840, Spring Valley Housing Authority, Spring Valley, NY	8,250
Frank Burks, 1756 East 74th Street, Chicago, IL 60649, Housing Authority of the County of Contra Costa, Martinez, CA	2,155
Billy Burwell, 7206 Willow Street, Meridian, MS 39307, Mississippi Regional Housing Authority #8, Gulfport, MS	6,410
Billy Burwell, 7206 Willow Street, Meridian, MS 39307, Hazlehurst Housing Authority, Hazlehurst, MS	6,410
Herbert Carter, P.O. Box 12311, Raleigh, NC 27605, Pawtucket Housing Authority, Pawtucket, RI	2,420
Herbert Carter, P.O. Box 12311, Raleigh, NC 27605, Lexington Housing Authority, Lexington, NC	9,863
Ted Chism, P.O. Box 5889, Charleston, OR 97420, Nampa Housing Authority, Nampa, ID	6,950
Ted Chism, P.O. Box 5889, Charleston, OR 97420, North Bend City/Coos-Curry Counties Housing Authority, North Bend, OR	2,988
Henry Clark, 534 East 37th, Chicago, IL 60653, Housing Authority of the County of Contra Costa, Martinez, CA	2,260
Joseph Cleary, 345 Grand View Blvd., Yonkers NY 10710, Bridgeport Housing Authority, Bridgeport, CT	7,235
Charles Coletti, 65 Lafayette Drive, Port Chester, NY 10573, Meriden Housing Authority, Meriden, CT	7,160
Charles Coletti, 65 Lafayette Drive, Port Chester, NY 10573, Johnstown Housing Authority, Johnstown, PA	7,470
Ella Collins-Nelson, P.O. Box 8714, Forth Worth, TX 76124–8714, Grapevine Housing Authority, Grapevine, TX	8,785
Ella Collins-Nelson, P.O. Box 8714, Forth Worth, TX 76124–8714, Abilene Housing Authority, Abilene, TX	9,802
Gary Cordner, 410 Stratton Building, Richmond, KY 40475, Richmond Housing Authority, Richmond, KY	5,500
Delia Council, 875 Glenway Dr. #46, Inglewood, CA 90302, Housing Authority of the City of Los Angeles, Los Angeles, CA	9,275
Shirley Curry, 113 Below Circle, Waynesboro, TN 38485, Cumberland Plateau Regional Housing Authority, Lebanon, VA	8,599
Katherine Dahlem, 900 Summit Avenue East, Seattle, WA 98102, Seattle Housing Authority, Seattle, WA	7,076
Jerry Eames, 718 St. Charles, Moberly, MO 65270, Macon Housing Authority, Macon, MO	7,360
Anne Fallis, R.R. 1, Box 1845, Rapid City, SD 57702–9715, Fort Berthold Housing Authority, New Town, ND	8,670
Kenneth Finlayson, 813 North Van Buren St., Wilmington, DE 19806, South Bend Housing Authority, South Bend, IN	9,800
James George, 6350 North Park Avenue, Indianapolis, IN 46220, Marion Housing Authority, Marion, IN	5,796
Joseph Girardo, 206 Hall Avenue, Point Pleasant, NJ 08742, Stella Wright Resident Management Corporation, Newark, NJ	6,500
Kirk Gray, 7188 Cradlerock Way, S, Columbia, MD 21045, Holyoke Housing Authority, Holyoke, MA	9,172
Susan Guyette, 97 Moya Road, Santa Fe, NM 87505, Southern Ute Tribal Housing Authority, UT	9,998
Susan Guyette, 97 Moya Road, Santa Fe, NM 87505, Chickasaw Indian Housing Authority Grant #1, Ada, OK	9,484
Susan Guyette, 97 Moya Road, Santa Fe, NM 87505, Sac & Fox of Kansas, Reserve, KS	8,566
Susan Guyette, 97 Moya Road, Santa Fe, NM 87505, Tonkawa Tribal Housing Authority, Tonkawa, OK	9,340
Robert Harrison, 11302 Lake Front Court, Mitchellville, MD 20721, Housing Opportunities Commission of Montgomery County, Rockville, MD	3,800
Robert Harrison, 11302 Lake Front Court, Mitchellville, MD 20721, St. Michaels Housing Authority, St. Michaels, MD	4,580
Spencer Haywood, 1442C Robert Bradby Dr, Detroit, MI 48207, Chippewa Cree Housing Authority, Box Elder, MT	9,877
John Heeney, P.O. Box 20626, Kansas City, MO 64195–0626, Moberly Housing Authority, Moberly, MO	3,163
Ian Homcastle, 830 South Woodlawn Ave, Okmulgee, OK 74447, Butler Metropolitan Housing Authority, Hamilton, OH	8,172
Ian Homcastle, 830 South Woodlawn Ave, Okmulgee, OK 74447, Cullman Housing Authority, Cullman, AL	8,162
Ian Homcastle, 830 South Woodlawn Ave, Okmulgee, OK 74447, Anniston Housing Authority, Anniston, AL	8,085
Johnathan Howland, 84 East Newton Street, Boston, MA 02118, Plymouth Housing Authority, Plymouth, MA	6,775
Johnathan Howland, 85 East Newton Street, Boston, MA 02118, Attleboro Housing Authority, Plymouth, MA	3,750
Jim Hullihan, 148 South Victory Blvd, Burbank, CA 91502, Daytona Beach Housing Authority, Daytona Beach, FL	8,900
Julia Iacono, 10 Carder Street, West Warwick, RI 02893, Akwesasne Housing Authority, Akwesasne, NY	7,724
El Bromoe Ibrahim, P.O. Box 121, Chesterfield, VA 23832, Pin Oaks Estates Resident Council Grant #1, Petersburg, VA	9,350
Ricardo Jasso, P.O. Box 11615, Casa Grande, AZ 85230, Kaw Tribe Housing Authority, Newkirk, OK	7,520
Ricardo Jasso, P.O. Box 11615, Casa Grande, AZ 85230, Absentee Shawnee Housing Authority, Shawnee, OK	7,553
Irene Johnson, 4806 West 44th Street, Chicago, IL 60638, Alemanny Resident Management Corporation, San Francisco, CA	7,600
Herman Jones, 1329 Page Street, Pittsburgh, PA 15233, Marianna Terrace Resident Council, Cincinnati, OH	8,996
Richard Keefe, 48 Goetze Street, Bay Head, NJ 08742, Boonton Housing Authority, Boonton, NJ	5,000
Carolyn Kusler, 2706 Raintree Circle, Sapulpa, OK 74136, Idabel Housing Authority, Idabel, OK	9,438
Carolyn Kusler, 2706 Raintree Circle, Sapula, OK 74136, Tulsa Housing Authority, Tulsa, OK	6,183
Arthur Lachioma, 4224 Michigan Avenue, Fort Myers, FL 33916, Chester Housing Authority, Chester, PA	4,910
Margot Lebrasseur, 725 2nd Street, NE, Washington, DC 20002, Keweenaw Bay Ojibwa Housing Authority, Baraga, MI	9,389

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program Name: Public and Indian Housing Drug Elimination Technical Assistance Program; Statute: Public Law 102–389, October 6, 1992]

Funding recipient (name, address, PHA/IHA/RMC/RC site)	Amount approved
Margot Lebrasseur, 725 2nd Street, NE, Washington, DC 20002, Menominee Tribal Housing Authority, Keshena, WI	8,177
Nancy Lowe-Connor, 3406 Wild Cherry Road, Baltimore, MD 21207, Fontana Village Resident Council, Baltimore, MD	9,666
Nancy Lowe-Connor, 3406 Wild Cherry Road, Baltimore, MD 21207, Housing Authority of the City of Frederick, Frederick, MD	9,716
Nancy Lowe-Connor, 3406 Wild Cherry Road, Baltimore, MD 21207, Lackawanna Housing Authority, Lackawanna, NY	8,407
Allyson Maida, P.O. Box 1757, Port Chester, NY 10573, Port Chester Housing Authority, Port Chester, NY	8,473
James Martin, P.O. Box 138, Biddeford Pool, ME 04006, Malden Housing Authority, Malden, MA	7,686
Richard Martin, P.O. Box 12311, Raleigh, NC 27605, Pawtuckett Housing Authority, Pawtucket, RI	6,490
Eloise Matthews, 1233 Richards Blvd., Sacramento, CA	6,430
Christoper McCall, 1585 West Clossinger S. Statesville, NC 28677, Titusville Housing Authority, Titusville, FL	7,602
Carolyn McKenzie, 211 Porter Lane, Jonesboro, GA 30236, Housing Authority of the City of Savannah, Savannah, GA.	7,072
Beverly McLendon, 870 TWHS 1 Lucas Creek, Newport News, VA 23602, Chesapeake Redevelopment and Housing Authority, Chesapeake, VA	7,900
Renard McNeil, 131 Ponce De Leon Ave., Atlanta, GA 30308, Alma Housing Authority, Alma, GA	9,750
Gulia Muler, 3724 38th Avenue, South, Seattle, WA 98144, Rosebud Tribal Housing Authority, Rosebud, SD	10,000
Jim Munro, 7335 North Shores Driv., Navarre, FL 32566, Fort Walton Beach Housing Authority, Fort Walton Beach, FL	6,087
Murali Nair, 207 Mather Hall, Cleveland, OH 44115, Truth or Consequences Housing Authority, Truth or Consequences, NM	7,350
James Nolan, 5228 Fairfield Blvd., Virginia Beach, VA 23464, Norfolk Redevelopment and Housing Authority, Norfolk, VA	2,120
Susan Noonan, 801 Plum Street, Room, Cincinnati, OH 45202–1968, Cincinnati Resident Advisory Board, Cincinnati, OH	8,300
Michael Norman, 482 Edgewood Avenue, Atlanta, GA 30360, Fairfield Resident Management Corporation, Fairfield, AL	8,410
Nuva, Inc., 100 Main Street, Gloucester, MA 01930, Presque Isle Housing Authority, Presque Isle, ME	7,510
Nuva, Inc., 100 Main Street, Gloucester, MA 01930, Melbourne Housing Authority, Melbourne, FL	9,628
Nuva, Inc., 100 Main Street, Gloucester, MA 01930, Gloucester Housing Authority, Gloucester, MA	5,000
Jeffrey Oshins, 271 Rosario Park Road, Santa Barbara, CA 93105, Helena Housing Authority, Helena, MT	7,200
Jeffrey Oshins, 271 Rosario Park Road, Santa Barbara, CA 93105, North Bend City/Coos-Curry Counties Housing Authority, North Bend, OR	5,754
Jeffrey Oshins, 271 Rosario Park Road, Santa Barbara, CA 93105, Eureka Housing Authority, Eureka, CA	7,605
Darren Palmer, P.O. Box 1626, Atlantic City, NJ 08404, Scattered Sites Tenants Association, Atlantic City, NJ	2,474
Randall Payne, 513 South Court Drive, Michigan City, IN 46360, Hammond Housing Authority, Hammond, IN	9,330
Ronald Porter, 112 North Beatty Street, Pittsburgh, PA 15206, Housing Authority of the City of Pittsburgh, Pittsburgh, PA	7,775
Ronald Porter, 112 North Beatty Street, Pittsburgh, PA 15206, Columbus Metropolitan Housing Authority, Columbus, OH	9,001
Pride, 1240 Johnson Ferry Pl., Marietta, GA 30068, Yamhill County Housing Authority, McMinnville, OR	5,592
Pride, 1240 Johnson Ferry Pl., Marietta, GA 30068, Housing Authority of the City of Salem, Salem, OR	9,372
Quadel Con, 1250 Eye Street, NW, S, Washington, DC 20005, Greater Metropolitan Housing Authority of Rock Island County, Silvis, IL	6,520
Chester Quarles, Route 5, Box 227–C, Oxford, MS 38655, Tacoma Housing Authority, Tacoma, WA	7,000
Chester Quarles, Route 5, Box 227–C, Oxford, MS 38655, Mississippi Regional Housing Authority #6, Jackson, MS	7,720
Nazim Rashid, 226 Orange Street, #3, Oakland, CA 94610, Marin City Resident Management Corporation, Marin City, CA	4,900
Raymond Rivers, P.O. Box 1184, Elizabeth City, NC 27909, Housing Authority of the City of Wheeling, Wheeling, WV	3,740
Susan Robertson, 30 Washington Street, Central Falls, RI 02863, South Portland Housing Authority, South Portland, ME	5,803
James Rogers, Oklahoma State Univ. W, Stillwater, OK 740780618, Pascua Yaqui Housing Authority, Tucson, AZ	7,200
David Rouen, P.O. Box 1827, Carolina Beach, NC 28412, Philadelphia Resident Advisory Council, Philadelphia, PA	9,806
David Rouen, P.O. Box 1827, Carolina Beach, NC 28412, Northport Housing Authority, Northport, AL	9,292
Amy Rowen, 3571 Woodbridge Road, Cleveland Heights, OH 44121, Hartford Housing Authority, Hartford, CT	9,137
Michelle Saka El, 811 West 49th Street, Richmond, VA 23225, Pin Oaks Estates Resident Council Grant #2, Petersburg, VA	6,455
Karriem Shabazz, 3150 Borge Street, Oakton, VA 22124, Montgomery County Housing Authority, Rockville, MD	4,550
Karriem Shabazz, 3150 Borge Street, Oakton, VA 22124, Norfolk Redevelopment and Housing Authority, Norfolk, VA	3,800
Karriem Shabazz, 3150 Borge Street, Oakton, VA 22124, Housing Authority of the Birmingham District, Birmingham, AL	5,680
Karriem Shabazz, 3150 Borge Street, Oakton, VA 22124, Newport Housing Authority, Newport, RI	5,056
Ronald Simpkins, P.O. Box 157151, Cincinnati, OH 45215, Winton Terrace Resident Council, Cincinnati, OH	4,793
Ronald Simpkins, P.O. Box 157151, Cincinnati, OH 45215, Findlater Gardens Resident Council, Cincinnati, OH	4,793
Bessie Singletary, 3732 Veat Mill Road, Winston Salem, NC 27103, Kimberly Park Resident Council, Winston-Salem, NC	8,500
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827, Statesville Housing Authority, Statesville, NC	6,240
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827, Pasco and Franklin County Housing Authority, Pasco, WA	9,854
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827, Newport News Redevelopment and Housing Authority, Newport News, VA	5,992
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827, Bristol Housing Authority, Bristol, CT	7,896
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827, Alma Housing Authority, Alma, AR	7,190
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827, Ecorse Resident Council, Ecorse, MI	10,000
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827, Woonsocket Housing Authority, Woonsocket, RI	9,590
Severin Sorensen, P.O. Box 34469, Bethesda, MD 20827, Decherd Housing Authority, Decherd, TN	7,567
Charles Stansbury, 206 Renfrew Avenue, Trenton, NJ 08618, Long Branch Housing Authority, Long Branch, NJ	8,580
Errol Strider, P.O. Box 583, Boulder, CO 80306, Fort Myers Housing Authority, Fort Myers, FL	6,097
Strive, 715 Commerce, Tacoma, WA 98402, Salishan Alliance for Community Services, Tacoma, WA	9,870
Ann Sturges, 324 Timberwind Road, Edmond, OK 73034, Langston Housing Authority, Langston, OK	4,640
Alexander Sutton, 1133 Kensington Avenue, Plainfield, NJ 07060, Princeton Housing Authority, Princeton, NJ	8,180
Graylyn Swilley, 3909 Reading Road, Cincinnati, OH 45229, Seminole Housing Authority, Seminole, OK	9,690
Paul Tanner, 5818 Shorewood Road, Jacksonville, FL 32210, Pahokee Housing Authority, Pahokee, FL	8,711
Paul Tanner, 5818 Shorewood Road, Jacksonville, FL 32210, Maxton Housing Authority, Maxton, NC	7,693
Douglas Tennant, 162 Third Avenue North, Nashville, TN 37201, Franklin Housing Authority, Franklin, TN	9,050

PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Fiscal Year 1993; Program Name: Public and Indian Housing Drug Elimination Technical Assistance Program; Statute: Public Law 102–389, October 6, 1992]

Funding recipient (name, address, PHA/IHA/RMC/RC site)	Amount approved
Douglas Tennant, 162 Third Avenue North, Nashville, TN 37201, Springfield Housing Authority, Springfield, TN	7,824
Paul Turner, 410 Castello Road, Lafayette, CA 94549, Yakima Nation Resident Council, Wapato, WA	9,595
Alberto Varela, Ave. Hostos No. 431, Hato Rey, PR 00918, Management-Administration Service Corporation, Rio Piedras, PR	7,840
Ralph Varela, 1262 Avenida Grande, Casa Grande, AZ 85222, Alamosa Housing Authority, Alamosa, CO	5,350
Carol Voorhees, 2563 Neffs Circle, Salt Lake City, UT 84111, Alameda Housing Authority, Alameda, CA	6,718
John Waddy, Jr., 209 South High Street, Columbus, OH 43215, Bluefield Housing Authority, Bluefield, WV	6,851
Gilbert Walker, 7724 South Luella, Chicago, IL 60653, Housing Authority of the County of Contra Costa, Martinez, CA	4,300
Nina Wallerstein, 2400 Tucker NE., Univ., Albuquerque, NM 87131, Tucumcari Housing Authority, Tucumcari, NM	8,560
Michele Waltz, 7640 SW. 34th #1, Portland, OR 97219, Clackamas County Housing Authority, Oregon City, OR	8,720
Barbara Warner-Ross, 4900 NW. 36th, Oklahoma City, OK 73122, Delaware Tribal Housing Authority, Chelsea, OK	6,970
Barbara Warner-Ross, 4900 NW. 36th, Oklahoma City, OK 73122, Comanche Tribe Housing Authority, Lawton, OK	6,297
George Waters, 309 Market Street, Sui, Camden, NJ 08102, Camden Housing Authority, Camden, NJ	8,535
Leon Watkins, 220 E. 60th Street, Los Angeles, CA 90011, Alison-Village Resident Advisory Council, Los Angeles, CA	600
Abbie Weist, P.O. Box 662, Boca Grande, FL 33921, Sarasota Housing Authority, Sarasota, FL	6,650
Denise Wesley, 6417 Scott Lane, Fort Myers, FL 33916, Chester Housing Authority, Chester, PA	4,730
Brian Westphal, 6390 Douglas Drive, #3, Brooklyn Park, MN 55429, St. Cloud Housing Authority, St. Cloud, MN	6,000
Brian Westphal, 6390 Douglas Drive, #3, Brooklyn Park, MN 55429, Duluth Housing Authority, Duluth, MN	5,110
Brian Westphal, 6390 Douglas Drive, #3, Brooklyn Park, MN 55429, Rochester Housing Authority, Rochester, MN	4,622
Brian Westphal, 6390 Douglas Drive, #3, Brooklyn Park, MN 55429, River Rouge Tenant Council, River Rouge, MI	6,946
Brian Westphal, 6390 Douglas Drive, #3, Brooklyn Park, MN 55429, Hibbing Housing Authority, Hibbing, MN	5,011
Brian Westphal, 6390 Douglas Drive, #3, Brooklyn Park, MN 55429, Moorhead Housing Authority, Moorhead, MN	5,480
Lexie Williams, 1177 Dominion Court, Port Orange, FL 32119, Cocoa Housing Authority, Cocoa, FL	2,847
Debra Williams-House, 1809 Fairpoints Trace, Stone Mountain, GA 30083, Detroit Mousing Department, Detroit, MI	9,640
Mark Willie, 2363 Phillips Road, Mt. Holly, NJ 08060, Housing Authority of the City of Savannah, Savannah, GA	2,922
Peggy Wireman, 4001 Monona Drive, #10, Madison, WI 53716, Crossville Housing Authority, Crossville, TN	6,225
Herman Wrice, 649 North 35th Street, Philadelphia, PA 19104, Marion Housing Authority, Marion, IN	4,170
Herman Wrice, 649 North 35th Street, Philadelphia, PA 19104, Dublin Housing Authority, Dublin, GA	4,639
Herman Wrice, 649 North 35th Street, Philadelphia, PA 19104, Key West Housing Authority, Key West, FL	9,068
Harold Wright, 2551 Melaway Drive, Richmond, VA 23228, Franklin Redevelopment and Housing Authority, Franklin, VA	9,156
Stephen Wright, 8437 Saddlebrook Drive, North Charleston, SC 29420, Kanawha Housing Authority, Kanawha, WV	4,200
Stephen Wright, 8437 Saddlebrook Drive, North Charleston, SC 29420, Huntington Housing Authority, Huntington, WV	4,780
Janice Yates, Route 3, Box 35, Wellston, OK 74881, Albion Housing Authority, Albion, MI	7,500
Janice Yates, Route 3, Box 35, Wellston, OK 74881, Chickasaw Tribal Housing Authority Grant #2, ADA, OK	7,545
Lillian Young, 1447 Peachtree Street, Atlanta, GA 30309, Ocala Housing Authority, Ocala, FL	9,911
Lillian Young, 1447 Peachtree Street, Atlanta, GA 30309, Ellijay Housing Authority, Ellijay, GA	8,621

[FR Doc. 93–31655 Filed 12–28–93; 8:45 am]
BILLING CODE 4210–33–P–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–5440–10 B021]

Availability of Supplemental Draft Environmental Statement for Bolo Station Landfill, San Bernardino County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of supplemental draft environmental impact statement.

SUMMARY: Notice is hereby given that the Bureau of Land Management and the County of San Bernardino have prepared a joint Federal-County supplemental draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Rail-Cycle proposed Class III Bolo Station landfill disposal site, near Amboy, California. A draft EIR/EIS was distributed in December, 1992. With the collection of additional data and additional analysis on Air Quality, Geology and Groundwater, and Purpose and Need, it was determined that a supplemental EIR/EIS be prepared for public review. The public review period for the supplemental EIR/EIS begins December 23, 1993 and will continue to February 21, 1994. All comments must be in writing.

DATES: Written comments will be accepted, if dated on or before February 21, 1994.

ADDRESSES: Comments should be sent to Bureau of Land Management, California Desert District Office, Attn: Rail-Cycle, 6221 Box Springs Blvd., Riverside, CA 92507.

FOR FURTHER INFORMATION CONTACT: Douglas Romoli, Environmental Specialist, California Desert District—909–697–5230.

Dated: December 21, 1993.

Henri R. Bisson,

District Manager.

[FR Doc. 93–31752 Filed 12–28–93; 8:45 am]
BILLING CODE 4310–40–M

[AK–070–04–4410–02–P]

Intent to Prepare an Environmental Impact Statement; Wild and Scenic River Study; Squirrel River, AK.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS); Wild and Scenic River Study, Squirrel River, Alaska.

SUMMARY: The Bureau of Land Management (BLM), Kobuk District Office, is preparing an Environmental Impact Statement for the study of the Squirrel River for possible inclusion in the national wild and scenic rivers system. This proposed action was authorized by the Alaska National Interest Lands Conservation Act of December 2, 1980 (ANILCA, Pub. 96–487). The Squirrel River, a tributary of the Kobuk River in northwest Alaska, was studied in 1985 by the National Park Service (NPS) for possible inclusion in the national wild and scenic river system. After publication of a draft EIS, further action by NPS was deferred for several reasons. One of these reasons included the delegation of authority to BLM to conduct wild and scenic river studies on rivers under its management.

The proposed action in the NPS study called for designation of the federally-administered portion of the Squirrel River, plus the lower 6 miles of the river's North Fork and the lower 15 miles of the Omar River. BLM is now proceeding at the scoping level in order to obtain maximum public input on the study. Preliminary review of the draft EIS published by NPS in 1985 indicates potential issues may now include mineral development in the region, identification of transportation corridors, and subsistence lifeways in the area. Information received as a result of current scoping on this action will be used to update the NPS draft EIS and produce a new Squirrel River draft EIS.

DATES: Comments and requests to be placed on the mailing list will be accepted on or before January 31, 1994.

ADDRESSES: Comments and mailing requests should be sent to the District Manager, Kobuk District Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709–3844.

FOR FURTHER INFORMATION CONTACT: Susan Will (907) 474–2338 or Curtis Wilson (907) 272–5546.

Dated: December 21, 1993.

Gary Foreman,

Acting Manager, Kobuk District.

[FR Doc. 93–31746 Filed 12–28–93; 8:45 am]
BILLING CODE 4310–JA–P

[ES–960–4950–10–8500; ES–046520, Group 3, Washington, D.C.]

Filing of Plat of Dependent Resurvey and Survey of Restriction Line

The plat, in one sheet, of a portion of the boundary of U.S. Reservation No. 545, Washington, DC, has been officially filed in Eastern States, Springfield, Virginia, at 7:30 a.m., on December 15, 1993.

The survey was made upon request submitted by the National Park Service.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy

Dated: December 15, 1993.

Carson W. Culp, Jr.,

State Director

[FR Doc. 93–31648 Filed 12–28–93; 8:45 am]
BILLING CODE 4310–GJ–M

[NV–930–4210–06; N–57922]

Public Meeting on Air Force Proposed Withdrawal Adjacent to Nellis Range Complex; Nevada

December 21, 1993.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule for a public meeting to be held on the Air Force's proposed withdrawal application N–57922. This meeting will provide an opportunity for public involvement in the proposed withdrawal processing. The purpose of the withdrawal is to ensure the public safety and the safe and secure operation of activities in the Nellis Range Complex.

FOR FURTHER INFORMATION CONTACT: Curtis Tucker, Area Manager, BLM Caliente, Caliente, Nevada 702–726–8100.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal for the Air Force proposed withdrawal was published in the **Federal Register** on October 18, 1993, and a correction notice was published on November 5, 1993. The same notice was also published in the Las Vegas Review Journal.

A public meeting to gather information as to the proposed withdrawal will be held as follows:

Meeting address	Date	Time
VFW Hall, Caliente, Nevada.	January 31, 1994.	7–9 p.m. PST.

This meeting will be open to all interested persons, including those who desire to be heard in person and those who desire to submit written statements on the proposed withdrawal. Oral statements will be limited to 5 minutes. Written comments can also be submitted at the meeting.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 93–31747 Filed 12–28–93; 8:45 am]
BILLING CODE 4310–HC–M

Fish and Wildlife Service

Reopening of Comment Period on the Draft Recovery Plan for the Moapa Dace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of comment period on the draft recovery plan for the Moapa dace (Moapa coriacea).

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the comment period will be reopened on the draft revised recovery plan for the endangered Moapa dace (*Moapa coriacea*). The reopening of the comment period will allow comments on this plan to be submitted from all interested parties.

COMMENTS: Must be received by February 14, 1994, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, U.S. Fish and Wildlife Service, Nevada Ecological Services Field Office, 4600 Kietzke Lane, Building G–125, Reno, Nevada 89502–5093 (telephone: 702–784–5227). Written comments and materials regarding the plan should be addressed to Mr. David L. Harlow, Field Supervisor, at the above Reno, Nevada, address. Comments and materials received will be available on request for public inspection, by appointment, during normal business hours at the above Reno, Nevada, address.

FOR FURTHER INFORMATION CONTACT: Ms. Selena Werdon at the above Reno, Nevada, address (telephone: 702–784–5227).

SUPPLEMENTARY INFORMATION:

Background

Moapa dace are endemic to the Warm Springs area of the Muddy (Moapa) River system, Clark County, Nevada. Their historical range includes approximately 25 springs and 16 km of headwater tributary and main stem Muddy River habitat. Currently, Moapa dace are restricted to the upper 3 km of the Muddy River and five tributary spring systems. In 1987, the population was estimated at 2,800 individuals. The principle causes of decline for this species are habitat modification and non-native fish introductions. Recovery efforts will focus on maintaining and enhancing the existing population, rehabilitating historical habitats, and eliminating threats from non-native species. Historical habitat is currently public land administered by the Service and private lands.

The comment period on the draft recovery plan originally closed on December 6, 1993 (58 FR 51844). Written comments may now be submitted until February 14, 1994, to the above Reno, Nevada address.

Author

The author of this notice is Ms. Selena Werdon (See above Reno, Nevada, address (telephone: 702–784–5227)).

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: December 20, 1993.

William E. Martin,

Region 1, Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 93–31753 Filed 12–28–93; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–351]

Certain Removable Hard Disk Cartridges and Products Containing Same; Commission Determination Not to Review an Initial Determination Adding One Respondent and Designating the Investigation "More Complicated"

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) adding one respondent and designating the above-captioned investigation "more complicated." The deadline for completion of this investigation is November 28, 1994.

FOR FURTHER INFORMATION CONTACT: Rachele R. Valente, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–3089.

SUPPLEMENTARY INFORMATION: On October 26, 1993, complainant Syquest Technology, Inc. filed a motion to amend the complaint and the notice of investigation to add one respondent, Iomega Corporation, and to designate the investigation more complicated. On October 28, 1993, respondent Nomai, S.A. responded to Syquest's motion, opposing the more complicated designation, but consenting to the addition of Iomega as a respondent, contingent upon adherence to the existing hearing schedule. On October 29, 1993, the Commission investigative attorney filed a response in support of Syquest's motion. On November 1, 1993, the presiding ALJ issued an ID (Order No. 11) granting Syquest's motion.

Pursuant to Commission interim rule 210.59(a), a more complicated investigation refers to an investigation that is of an involved nature owing to the subject matter, difficulty in obtaining information, the large number of parties involved, or other significant factors. This investigation was designated more complicated owing to difficulties in obtaining information and complainant Syquest's need for more time to put on its case at the hearing.

No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–2648.

Dated: December 21, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–31718 Filed 12–28–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 731–TA–671–674 (Preliminary)]

Silicomanganese From Brazil, The People's Republic of China, Ukraine, and Venezuela; Import Investigation

Determination

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports from Brazil, the People's Republic of China, Ukraine, and Venezuela of silicomanganese (ferrosilicon manganese), provided for in subheading 7202.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On November 12, 1993, a petition was filed with the Commission and the Department of Commerce by Elkem Metals Company, Pittsburgh, PA, and the Oil, Chemical and Atomic Workers, Local 3–639, Belpre, OH, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela. Accordingly, effective November 12, 1993, the Commission instituted antidumping investigations Nos. 731–TA–671–674 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of November 23, 1993 (58 FR 61919). The conference was held in Washington, DC, on December 3, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on December 27, 1993. The views of the Commission are contained in USITC Publication 2714 (December 1993), entitled "Silicomanganese from Brazil, the People's Republic of China, Ukraine, and Venezuela: Investigations Nos. 731–TA–671–674 (Preliminary)."

Dated: December 23, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–31809 Filed 12–28–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–350]

Certain Sputtered Carbon Coated Computer Disks and Products Containing Same, Including Disk Drives; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding administrative law judge in the above captioned investigation terminating the following respondent on the basis of a settlement agreement: Tosoh Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on December 21, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: December 21, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–31719 Filed 12–28–93; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32411]

Transtar Holdings, L.P.—Corporate Family Exemption—Transtar, Inc.

Transtar Holdings, L.P. (Transtar Holdings), formerly known as Blackstone Transportation Partners L.P. (BTP), and Blackstone Capital Partners L.P. (BCP) have filed a notice of exemption for a transaction within their corporate family. The transaction was expected to be consummated on or after December 6, 1993.

The Commission previously exempted the control of Transtar, Inc. (Transtar), by BTP and BCP (collectively referred to as Blackstone) through ownership of 51% of its voting stock.[1] Transtar in turn controls eight carriers regulated by the Commission.[2] Blackstone plans to reorganize its holdings of Transtar's voting stock. BCP will transfer its voting shares of Transtar (24.9%) to Transtar Holdings, BTP will be renamed Transtar Holdings and then Transtar Holdings will hold the 51% of Transtar's voting stock.

A new corporation will be formed, Blackstone Transportation Company, Inc. (Blackstone Transportation), which will become the general partner of BTP, replacing Blackstone Management Associates L.P. (BMA). Blackstone Transportation's sole shareholders are Peter G. Peterson, Stephen A. Schwarzman, David A. Stockman, James R. Birle, Lawrence D. Fink, and James Mossman, who were the same general partners of BMA.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The transaction will not result in adverse changes in service levels, significant operational changes, or change in the competitive balance with carriers outside applicants' corporate family. The purpose of the transaction is to consolidate Blackstone's holdings in Transtar into one partnership, Transtar Holdings. This restructuring will facilitate a series of transactions that will effect: (i) A substantial reduction of the interest rate payable with respect to Transtar's long term debt; (ii) the repayment of Transtar's 13¾% Junior Subordinated Payment-In-Kind notes held by USX; and (iii) the issuance by Transtar Holdings of senior discount notes, which senior discount notes will not be an obligation of, or guaranteed by, Transtar.

To ensure that all employees who may be affected by the transaction are given the protection afforded under 49 U.S.C. 10505(g)(2) and 49 U.S.C. 11347, the labor conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979), are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Anne D. Smith, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

Decided: December 21, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–31811 Filed 12–28–93; 8:45 am]

BILLING CODE 7035–01–P

[1] See Finance Docket No. 31363, Blackstone Capital Partners L.P., Blackstone Transportation Partners L.P. and USX Corporation—Exemption From 49 U.S.C. 10746, 11321, and 11343, (not printed) served December 23, 1988.

[2] The Commission granted an exemption for the acquisition of control of the following carriers: Bessemer & Lake Erie Railroad Company; Birmingham Southern Railroad Company; Duluth, Missabe & Iron Range Railway Company; Elgin, Joliet & Eastern Railway Company; Lake Terminal Railroad Company; and Warrior & Gulf Navigation Union Railroad Company.

[Docket No. AB–290 (Sub-No. 128X)]

Norfolk Southern Railway Co. Abandonment Exemption; Between Brickdale and Greenwood, In Greenwood County, SC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by Norfolk Southern Railway Company of its Brickdale-Greenwood line in Greenwood County, SC. The 17.9-mile line is located between milepost V–71.0 in Brickdale, SC, and milepost new V–86.6 in Greenwood, SC, and milepost V–80.1 and milepost old V–82.4, in Greenwood. The exemption is subject to historical and standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on January 28, 1994. Formal expressions of intent to file an offer [1] of financial assistance

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

under 49 CFR 1152.27(c)(2) must be filed by January 8, 1994, petitions to stay must be filed by January 13, 1994, and petitions for reconsideration must be filed January 24, 1994. Requests for a public use condition must be filed by January 18, 1994.

ADDRESSES: Send pleadings referring to Docket No. AB–290 (Sub-No. 128X) to (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and (2) Robert J. Cooney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 927–5610. [TDD for the hearing impaired (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927–5721].

Decided: December 20, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips and Philbin.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–31810 Filed 12–28–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Barton J. Adams, D.O.; Revocation of Registration

On March 18, 1993, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Barton J. Adams, D.O., 261 Lalo Street, Kahului, Hawaii, proposing to revoke his DEA Certificate of Registration, AA2833641, and to deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Dr. Adams' lack of authorization to handle controlled substances in the State of Hawaii. 21 U.S.C. 824(a)(3).

A returned registered mail receipt indicates that the Order to Show Cause was received on March 30, 1993. More than thirty days have passed since the Order to Show Cause was received and the Drug Enforcement Administration has received no response thereto. Therefore, the Acting Administrator concludes that Dr. Adams has waived his opportunity for a hearing on the issues raised in the Order to Show Cause and, pursuant to 21 CFR 1301.54(d) and 1301.54(e), enters this final order based on the information contained in the DEA investigative file.

The Acting Administrator finds that in 1984, Dr. Adams was licensed as an osteopathic physician by the Hawaii Board of Osteopathic Examiners. On March 29, 1990, Dr. Adams sexually assaulted a patient. Criminal proceedings were filed in the Circuit Court of the Second Circuit, State of Hawaii. On January 30, 1992, a jury returned a guilty verdict on three counts of sexual assault in the second degree in violation of HRS Section 707–731(1)(a). On May 7, 1992, Dr. Adams was sentenced to ten years incarceration and a psychological evaluation.

As a result of the conviction and other allegations of sexual assault, the Hawaii Department of Commerce and Consumer Affairs filed an Ex Parte Motion for Summary Suspension and a Petition for Disciplinary Action against Dr. Adams. On February 24, 1992, Dr. Adams' medical license was summarily suspended by the Hawaii Board of Osteopathic Examiners (Board). On May 15, 1992, a hearing was held by the Board. At the conclusion of the hearing, the board issued an Interim Order in which it temporarily revoked Dr. Adams' medical license. On July 10, 1992, the Board issued its Findings of Fact, Conclusions of Law and Final Order and revoked Dr. Adams' medical license.

The Acting Administrator additionally finds that on June 30, 1992, Dr. Adams' state controlled substance registration expired. The Acting Administrator concludes that DEA does not have the statutory authority under the Controlled Substances Act to maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. See 21 U.S.C. 802(21), 21 U.S.C. 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *Steven K. Campbell, M.D.*, 57 FR 56512 (1992); *Bobby Watts, M.D.*, 53 FR 11919 (1988); *Robert F. Witek, D.D.S.*, 52 FR 47770 (1987) and cases cited therein.

The Acting Administrator further finds that as a result of Dr. Adams' conviction, on February 23, 1993, the Office of the Inspector General, United States Department of Health and Human Services, excluded Dr. Adams from participation in the Medicare program for a period of ten years pursuant to 42 U.S.C. 1320a–7(a). Such exclusion provides a second statutory basis for the revocation of Dr. Adams' DEA registration. 21 U.S.C. 824(a)(5); *Nelson Ramirez-Gonzalez, M.D.*, 58 FR 52787 (1993).

Having considered the facts and circumstances in this matter, the Acting Administrator concludes that Dr. Adams' DEA Certificate of Registration should be revoked due to his lack of authorization to handle controlled substances in the State of Hawaii and his exclusion from the Medicare program.

Accordingly, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AA2833641, previously issued to Barton J. Adams, D.O. be, and it hereby is, revoked. The Acting Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective January 28, 1994.

Dated: December 21, 1993.

Stephen H. Greene,

Acting Administrator of Drug Enforcement

[FR Doc. 93–31827 Filed 12–28–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–28,798]

Hermitage Hospital Products A/K/A Keilei International, Niantic, Connecticut; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 20, 1993, applicable to all workers of Hermitage Hospital Products, Niantic, Connecticut. The certification notice was published in the **Federal Register** on November 9, 1993 (58 FR 59490).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that Hermitage Hospital Products was purchased by Keilei International and meets all the requirements of a successor-in-interest firm.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The amended notice applicable to TA–W–28,798 is hereby issued as follows:

All workers of Hermitage Hospital Products, Niantic, Connecticut, also known as (a/k/a) Keilei International, Niantic, Connecticut, who became totally or partially separated from employment on or after June 9, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this December 20, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–31657 Filed 12–28–93; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Fee Adjustments for Testing, Evaluation, and Approval of Mining Products

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of fee adjustments.

SUMMARY: This notice revises the Mine Safety and Health Administration's (MSHA) user fees for testing, evaluation, and approval of certain products manufactured for use in underground mines. These fees are based on fiscal year 1993 data and reflect changes in approval processing operations as well as costs incurred to process approval actions.

DATES: These fee schedules are effective from January 1, 1994 through December 31, 1994. Approval applications postmarked before January 1, 1994 will be chargeable under the fee schedules as published on December 21, 1992.

FOR FURTHER INFORMATION CONTACT: Peter M. Turcic, Chief, Approval and Certification Center, R.R. 1, Box 251, Triadelphia, West Virginia 26059.

SUPPLEMENTARY INFORMATION: In general, MSHA has computed the revised fees based on the cost to the government to provide testing, evaluation, and approval of products manufactured for use in underground mines. On May 8, 1987 (52 FR 17506), MSHA published a final rule, 30 CFR Part 5—Fees for Testing, Evaluation, and Approval of Mining Products, which established the specific procedures for fee calculation, administration, and revisions. This revised fee schedule is established in accordance with the procedures of that rule.

The final rules for 30 CFR part 7, Subpart J—Electric Motor Assemblies and Subpart K—Electric Cables, Signaling Cables and Cable Splice Kits were issued February 22, 1993. Subpart J has a 3-year phase-in period. Subpart K has a 1-year phase-in period; therefore, applications for electric cables, signaling cables and cable splice kits postmarked after February 22, 1994, must be submitted under part 7.

Fees under part 18, action codes 47 and 48, Permit for Extension of Time and Permit Modification, represent programs previously in effect under action code 26, Permits. These have been separated to reflect the difference in expended time and cost. Action code 47 is subject to a flat rate and action code 48 is subject to an hourly rate.

A new approval program being introduced during fiscal year 1994 is Material Acceptance. This acceptance is subject to an hourly rate and is included under the schedule for part 75, action code 15.

Under the provisions of part 5, one approval area has been converted from an hourly rate to a flat rate: Dust Collector Approval with Certification of Performance. All flat rate approvals require payment to the MSHA Division of Finance, P.O. Box 25367, Denver, CO 80225, at the time of application submittal to the MSHA Approval and Certification Center.

Dated: December 22, 1993.

Richard L. Brechbiel,

Acting Assistant Secretary Mine Safety and Health.

FEE SCHEDULE EFFECTIVE JANUARY 1, 1994

[Based on FY 1993 data]

	Action title	Hourly rate	Flat rate	Application fee
30 CFR	Part 7—Product Testing by Third Party:			
12	Approval Evaluation—Battery Assemblies	$40		$100
12	Approval Evaluation—Brattice and Ventilation Tubing	46		100
12	Approval Evaluation—Multiple-Shot Blasting Units	40		100
12	Approval Evaluation—Electric Motor Assemblies[1]	40		100
12	Approval Evaluation—Electric Cables and Splice Kits[2]	46		100
14	Approval Extension—Batteries Assemblies	40		100
14	Approval Extension—Brattice and Ventilation Tubing	43		100
14	Approval Extension—Multiple-Shot Blasting Units	40		100
14	Approval Extension—Electric Motor Assemblies[1]	40		100
14	Approval Extension—Electric Cables and Splice Kits[2]	43		100
40	Stamped Notification Acceptance Program (SNAP)		$258	
30 CFR	Part 15—Explosives:			
12	Approval Evaluation[3]	44		100
	Permissibility Tests for Explosives:			
	Weigh-in		420	
	Physical Exam: First size		295	
	Chemical Analysis		1,797	
	Air Gap—Minimum Product Firing Temperature		418	
	Air Gap—Room Temperature		320	
	Pendulum Friction Test		148	
	Detonation Rate		320	
	Gallery Test 7		5,760	
	Gallery Test 8		5,030	
	Toxic Gases (Large Chamber)		732	
	Permissibility Tests for Sheathed Explosives:			
	Physical Examination		128	
	Chemical Analysis		1,044	
	Gallery Test 9		1,944	

FEE SCHEDULE EFFECTIVE JANUARY 1, 1994—Continued

[Based on FY 1993 data]

	Action title	Hourly rate	Flat rate	Application fee
	Gallery Test 10		1,944	
	Gallery Test 11		1,944	
	Gallery Test 12		1,944	
	Drop Test		648	
	Temperature Effects/Detonation		672	
	Toxic Gases		580	
14	Approval Extension	44		100
30 CFR Part 18—Electric Motor Driven Equipment and Accessories:				
12	Approval—Machine Evaluation[3]	45		100
	Approval—Machine Testing:			
	Explosion Test	37		
	Surface/Temperature Test	34		
	Impact Test	38		
	Thermal Shock Test	38		
	Product Flame Test	45		
12	Approval—Instrument (testing included)	45		100
14	Approval Extension—Machine Evaluation[3]	45		100
	Approval Extension—Machine Testing:			
	Explosion Test	37		
	Surface/Temperature Test	34		
	Impact Test	38		
	Thermal Shock Test	38		
	Product Flame Test	45		
14	Approval Extension—Instruments (testing included)	45		100
15	Acceptance Evaluation[2,3]	43		100
	Acceptance Testing:			
	Explosion Test	37		
	Wall Thickness Test	44		
	Surface/Temperature Test	34		
	Impact Test	38		
	Thermal Shock Test	38		
	Product Flame Test	45		
	Cable/Splice Test	44		
	Cable Flame Test	45		
	Dielectric Test	48		
	Compressibility Test (asbestos substitutes)	48		
16	Certification Evaluation[3]	40		100
	Certification Testing:			
	Explosion Test	37		
	Surface/Temperature Test	34		
	Impact Test	38		
	Thermal Shock Test	38		
	Product Flame Test	45		
17	Acceptance Extension[2,3]	42		100
	Cable Flame Test	45		
	Product Flame Test	45		
	Cable/Splice Test	44		
18	Certification Extension[3]	39		100
	Certification Extension Testing:			
	Explosion Test	37		
	Surface/Temperature Test	34		
	Impact Test	38		
	Thermal Shock Test	38		
	Product Flame Test	45		
21	Field Modification	47		100
23	Field Approval		152	
26	Permit—Machines[3]	47		100
	Permit Testing:			
	Explosion Test	37		
	Surface/Temperature Test	34		
	Impact Test	38		
	Thermal Shock Test	38		
	Product Flame Test	45		
26	Permit—Instruments (testing included)	47		100
30	Intrinsic Safety Determination (testing included)	47		100
31	Intrinsic Safety Determination Extension (testing included)	44		100
32	Simplified Certification[3]	40		100
	Simplified Certification Testing:			
	Explosion Test	37		
	Surface/Temperature Test	34		

FEE SCHEDULE EFFECTIVE JANUARY 1, 1994—Continued

[Based on FY 1993 data]

	Action title	Hourly rate	Flat rate	Application fee
	Impact Test	38		
	Thermal Shock Test	38		
	Product Flame Test	45		
34	Simplified Certification Extension[3]	40		100
	Simplified Certification Extension Testing:			
	Explosion Test	37		
	Surface/Temperature Test	34		
	Impact Test	38		
	Thermal Shock Test	38		
	Product Flame Test	45		
40	Stamped Notification Acceptance Program (SNAP)		258	
41	Longwall Approval	46		100
42	Longwall Approval Extension	46		100
45	Shearer Evaluation	48		100
46	Shearer Evaluation Extension	47		100
47	Permit—Extension of Time		57	
48	Permit Modification—Machine	47		100
48	Permit Modification—Instrument (testing included)	47		100
30 CFR Part 19—Electric Cap Lamps:				
12	Approval (testing included)	43		100
14	Approval Extension (testing included)	41		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 20—Electric Mine Lamps:				
12	Approval (testing included)	45		100
14	Approval Extension (testing included)	42		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 21—Flame Safety Lamps:				
12	Approval (testing included)	44		100
14	Approval Extension (testing included)	44		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 22—Portable Methane Detectors:				
12	Approval (testing included)	49		100
14	Approval Extension (testing included)	46		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 23—Telephones and Signaling Devices:				
12	Approval (testing included)	46		100
14	Approval Extension (testing included)	46		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 24—Single-shot Blasting Units:				
12	Approval (testing included)	47		100
14	Approval Extension (testing included)	47		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 26—Lighting Equipment for Illumination:				
12	Approval (testing included)	47		100
14	Approval Extension (testing included)	47		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 27—Methane Monitoring Systems:				
16	Certification (testing included)	47		100
18	Certification Extension (testing included)	47		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 28—D.C. Current Fuses:				
12	Approval (testing included)	48		100
14	Approval Extension (testing included)	48		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 29—Portable Dust Analyzers and Methane Monitors:				
12	Approval	44		100
14	Approval Extension	44		100
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 31—Diesel Mine Locomotives:				
12	Approval	44		100
14	Approval Extension	44		100
30 CFR Part 32—Mobile Diesel-powered Equipment for Noncoal Mines				
12	Approval	44		100
14	Approval Extension	44		100
16	Certification Evaluation[3]	45		100
	Certification Testing:			
	Emissions Test	46		
	Pre/Post Test Preparation	45		
18	Certification Extension Evaluation[3]	44		100

FEE SCHEDULE EFFECTIVE JANUARY 1, 1994—Continued

[Based on FY 1993 data]

	Action title	Hourly rate	Flat rate	Application fee
	Certification Extension Testing:			
	Emissions Test	46		
	Pre/Post Test Preparation	45		
30 CFR Part 33—Dust Collectors:				
12	Approval Evaluation without Cert. of Performance [3]	45		100
	Approval Testing:			
	Dust Collector Test	49		
14	Approval Extension Evaluation [3]	45		100
	Approval Extension Testing:			
	Dust Collector Test	49		
16	Certification Evaluation [3]	47		100
	Certification Testing:			
	Dust Collector Test	49		
18	Certification Extension [3]	47		100
	Certification Extension Testing:			
	Dust Collector Test	49		
21	Field Modification	49		100
29	Dust Collector Approval with Cert. of Performance		170	
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 35—Fire-Resistant Hydraulic Fluids:				
12	Approval (testing included)	43		100
14	Approval Extension (testing included)	42		100
30 CFR Part 36—Mobile Diesel-Powered Equipment:				
12	Approval	46		100
14	Approval Extension	46		100
16	Certification—Engine Evaluation [3]	44		100
	Certification—Engine Testing:			
	Emissions Test	46		
	Explosion Test	48		
	Surface Temperature/Safety Controls Test	47		
	Pre/Post Test Preparation	44		
18	Certification Extension—Engine Evaluation [3]	44		100
	Certification Extension—Engine Testing:			
	Emissions Test	46		
	Explosion Test	48		
	Surface Temperature/Safety Controls Test	47		
	Pre/Post Test Preparation	44		
21	Field Modification	48		100
27	Certification—Diesel Components Evaluation [3]	45		100
	Certification—Diesel Components Testing:			
	Emission Test	46		
	Explosion Test	48		
	Water Consumption/Cooling Efficiency Test	50		
	Surface Temperature	47		
	Safety Control Test	47		
	Pre/Post Test Preparation	44		
28	Certification Extension—Diesel Components Evaluation [3]	45		100
	Certification Extension—Diesel Components Testing:			
	Emission Test	46		
	Explosion Test	48		
	Water Consumption/Cooling Efficiency Test	50		
	Surface Temperature	47		
	Safety Control Test	47		
	Pre/Post Test Preparation	44		
40	Stamped Notification Acceptance Program (SNAP)		258	
30 CFR Part 74—Coal Mine Dust Personal Sampler Units:				
12	Approval	44		100
00 Other A&CC Services:				
15	Acceptance—Overcurent Relays (testing included)	44		100
15	Statement of Test and Evaluation (ST&E)		40	
15	Material Acceptance (testing included)	44		100
15	Monitor and Power System (MAPS) (testing included)	44		100
15	Acceptance—Ground Check Monitor/Ground Wire Devices (testing included)	44		100
17	Acceptance Extension—Overcurrent Relays	44		100
17	Acceptance Extension—Interim Criteria	42		100
17	Statement of Test and Evaluation (ST&E) Extension		40	
17	Material Acceptance Extension (testing included)	44		100
17	Acceptance Extension—Ground Check Monitor/Ground Wire Devices	44		100
20	Stamped Revision Acceptance (SRA) [4]		227	
24	Acceptance—Panic Bar	44		100

FEE SCHEDULE EFFECTIVE JANUARY 1, 1994—Continued

[Based on FY 1993 data]

	Action title	Hourly rate	Flat rate	Application fee
33	Generic Statement of Test and Evaluation (ST&E)	43		100
35	Administration Records Update	10		NONE
37	Acceptance—Interim Criteria [3]	42		100
	Interim Criteria Testing:			
	Product Flame Test	45		
40	Stamped Notification Acceptance program (SNAP)—Ground Check Monitor/Ground Wire Device/Overcurrent Relay		258	
40	Stamped Notification Acceptance Program (SNAP) ST&E		34	
41	Approval—Longwall Area Lighting	45		100
42	Approval Extension—Longwall Area Lighting	44		100
50	Mine Wide Monitoring System (MWMS) Evaluation		307	
52	Mine Wide Monitoring System (MWMS) Barrier Classification		114	
54	Mine Wide Monitoring System (MWMS) Sensor Classification		271	
00	Retesting for Approval as a Result of Post-Approval Product Audit [5]			

[1] Electric motor assemblies final rule was issued February 22, 1993. The phase-in period for this program is 3 years.
[2] Applications for electric cables, signaling cables, and splice kits postmarked after February 22, 1994, must be submitted under 30 CFR, Part 7—Third Party Testing. Applicable fees are listed under the part 7 fee schedule.
[3] Full approval fee consists of evaluation cost plus applicable test costs.
[4] Fee covers SRA application accompanied by up to five documents.
[5] Fee based upon the approval schedule in effect at the time of retest.

NOTE: When testing and evaluation are required at locations other than MSHA's premises, the applicant shall reimburse MSHA for traveling, subsistence, and incidental expenses of MSHA's representation in accordance with standardized government travel regulations. This reimbursement is in addition to the fees charged for evaluation and testing.

[FR Doc. 93-31824 Filed 12-28-93; 8:45 am]

BILLING CODE 4510-43-P

Pension and Welfare Benefits Administration

[Application No. D-9460, et al.]

Proposed Exemptions; G. Robert Taylor Individual Retirement Account, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

G. Robert Taylor Individual Retirement Account (the Account) Located in Chattanooga, Tennessee

[Application No. D-9460]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the

application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash of certain shares of stock from the Account to R. Scott Taylor, a disqualified person with respect to the Account, provided that the following conditions are met:

1. The fair market value of the stock is established by an appraiser independent of G. Robert Taylor (Taylor);

2. The buyer pays no less than current fair market value for the stock;

3. The transaction is entirely for cash; and

4. The Account pays no fees or commissions in regard to the sale.

Summary of Facts and Representations

1. The Account was established in March 1987 for the benefit of Taylor. The custodian for the Account is Merrill Lynch, Pierce, Fenner & Smith. The Account was initially funded with rollover proceeds from a qualified profit sharing plan in the amount of $271,484. Taylor also made a cash contribution of $1,216 to the Account at that time. All the assets of the Account were subsequently used to purchase 27,270 shares of common stock of the Bank of Cleveland, Tennessee (the Bank) at a price of $10 per share.

2. The shares of the Bank were acquired in June 1987 when the Bank was organized. The purchase of Bank stock by the Account originally accounted for 9.4 percent of the total outstanding shares of the Bank. Taylor was one of the organizers of the Bank and has held the position of chairman and chief executive officer of the Bank since the time of its formation.[1]

In January 1989, the shares of Bank stock held by the Account were exchanged in a tax-free reorganization for an equal number of shares of Bradley County Financial Corporation, a one bank holding company (the Holding Company) which became the parent company of the Bank. The shares of Holding Company stock held by the Account currently account for 7.5 percent of the total Holding Company shares outstanding. The applicant represents that 70.5 percent of the total shares outstanding of the Holding Company are held by investors unrelated to Taylor. Taylor is presently the chairman of the Holding Company.

[1] The Department notes that, in proposing this exemption for the sale of the Bank stock by the Account, it is expressing no opinion concerning whether the past acquisition of such stock violated the provisions of any other law. In particular, we are not ruling on the interpretation or application of the exclusive benefit rule under section 406(a) of the Internal Revenue Code. The Internal Revenue Service has sole responsibility for that section.

3. Taylor obtained an appraisal dated April 12, 1993, on the Holding Company stock from Casey M. Stuart of Hazlett, Lewis and Biester (the Appraiser), a firm of certified public accountants located in Chattanooga. The applicant represents that the Appraiser is independent of Taylor and the Holding Company, except for an annual audit of the Holding Company which represents under one percent of the Appraiser's business. According to the Appraiser, there is no established market for the Holding Company stock. The Appraiser considered, among other factors, capitalization of earnings, capitalization of book value, and recent sales of stock of the Holding Company. Accordingly, the Appraiser estimated that, as of the date of the appraisal, the Holding Company stock had a fair market value of $24 per share.

4. The Holding Company stock is not widely traded and currently produces no income for the Account. Taylor proposes to have the Account sell the shares to his son, R. Scott Taylor. The buyer will pay no less than the fair market value of the Holding Company stock at the time of sale, based on an updated independent appraisal. The transaction will be entirely for cash, and the Account will pay no fees or commissions in regard to the sale. The Account will reinvest the proceeds of the sale in income producing assets.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 4975(c)(2) of the Code because:

(1) The Holding Company stock is not liquid and currently produces no income;

(2) the buyer will pay no less than current fair market value for the stock, based on an updated independent appraisal;

(3) the sale will be entirely for cash;

(4) the Account will pay no fees or commissions in connection with the transaction; and

(5) the proceeds of the sale will be reinvested in assets which produce income for the Account.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

General Motors Hourly-Rate Employees Pension Plan; and the General Motors Retirement Program for Salaried Employees (together, the Plans) Located in New York, New York

[Application Nos. D–8402 and D–8405]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I—Transactions

If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the following transactions if the conditions set forth in Section II below are met:

(a) The acquisition or sale of a net profits interest (NPI), a royalty interest (Royalty), or a production payment contract (Production Payment), in oil and gas properties (the Properties) between the Plans and oil and gas companies or their affiliates that are parties in interest with respect to the Plans (collectively, the Companies);

(b) any loan by the Plans to the Companies where such loans are secured by interests in the Properties, including loans with conversion rights to acquire a NPI, Royalty, or Production Payment in the Properties;

(c) The acquisition or sale between the Plans and the Companies of any stock, or debt securities which are convertible into such stock, issued by the Companies (Company Securities); and

(d) The acquisition or sale between the Plans and the Companies of any interests in certain limited partnerships which invest in such Properties where the Company is a general partner and/or operating owner for the Properties (Company Partnership Interest), or interests in certain joint ventures which invest in such Properties where the Company is a joint venturer and/or operating owner for the Properties (Company Venture Interest).

Section II—Conditions

(a) A "qualified oil and gas investment manager" (as defined below) fully reviews each transaction before recommending the transaction to the Pension Investment Committee of General Motors Corporation (the PIC) or, as of December 1, 1992, to the General Motors Investment Management Corporation (GMIMCo), fiduciaries of the Plans. The decision to enter into the transaction is made by the PIC or GMIMCo, which retains final approval authority over the transaction. The "qualified oil and gas investment manager" negotiates the transaction and manages the oil and gas investments for the Plans, in its capacity as a fiduciary for the Plans, and monitors all

transactions on behalf of the Plans in order to take any appropriate action necessary to safeguard the interests of the Plans.

(b) The Companies and their affiliates are independent of and unrelated to:

(i) The General Motors Corporation (GMC);

(ii) Any person directly or indirectly controlling, controlled by, or under common control with GMC;

(iii) Any officer or director of GMC or any of its subsidiaries or affiliated companies;

(iv) Any partnership in which GMC is a 10 percent or more (directly or indirectly in capital or profits) partner; and

(v) Any "qualified oil and gas investment manager" which acts for the Plans with respect to an oil and gas transaction covered by the proposed exemption, or any other person who exercises discretionary authority, responsibility or control or who provides investment advice for the investment of the Plans' assets involved in oil and gas transactions.

(c) In any transaction where the Plans acquire a NPI, Royalty, Production Payment, Company Security, Company Partnership Interest, or Company Venture Interest from the Companies, the Plans pay a purchase price which is no greater than the fair market value of such interests or securities based on an appraisal developed by the Plans' fiduciaries or an independent, qualified appraiser selected by the Plans' fiduciaries.

(d) In any transaction where the Plans sell a NPI, Royalty, Production Payment, Company Security, Company Partnership Interest, or Company Venture Interest to the Companies, the Plans receive a price which is no less than the fair market value of such interests or securities based on an appraisal developed by the Plans' fiduciaries or an independent, qualified appraiser selected by the Plans' fiduciaries.

(e) In instances involving the acquisition of the Properties by a Company from a third party with a simultaneous sale of a NPI, Royalty, or Production Payment by the Company to the Plans, the Plans pay a purchase price which reflects the fair market value of the interest as agreed to by the Plans' fiduciaries in arm's-length negotiations directly involving the Plans, the Company, and the third party seller.

(f) In instances involving the sale of a NPI, Royalty, or Production Payment by the Plans to a Company in connection with the Company's simultaneous sale of a WI in the Properties to a third party, the Plans receive a sales price which reflects the fair market value of the interest as agreed to by the Plans' fiduciaries in arm's-length negotiations directly involving the Plans, the Company, and the third party buyer.

(g) In any loan by the Plans to a Company in connection with an oil and gas investment, the Plans obtain terms which include: (i) an interest rate that is commensuate with the prevailing market rate for such loans at the time of the transaction, as determined by the Plans' fiduciaries in accordance with rates quoted by established commercial lenders offering similar loans; and (ii) a security interest in designated oil and gas investment interests in the Properties, which have a fair market value that equals at least 150% of the amount loaned by the Plans throughout the duration of such loan, based on an appraisal of such interests developed by the Plans' fiduciaries or by an independent, qualified appraiser selected by the Plans' fiduciaries.

(h) All other terms of each such transaction are not less favorable to the Plans than the terms generally available in an arm's-length transaction between unrelated parties.

(i) The amount of each Plan's total assets involved in all transactions with the Companies represents no more than three percent (3%) of such Plan's total assets as of the date of approval of each transaction by the PIC or GMIMCo.

(j) No investment management fee, advisory fee, underwriting fee, brokerage or sales commission, or similar compensation is paid to the Companies by the Plans with regard to the transactions.

(k) GMC maintains for the duration of each transaction and for six years thereafter records necessary to enable persons described below in subsection (l) to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of GMC or an affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest, other than GMC and its affiliates, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by subsection (l) below; and

(l)(1) Except as provided in subsection (l)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in subsection (k) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service, and

(ii) Any participant or beneficiary of the Plans or duly authorized representative of such participant or beneficiary.

(2) None of the persons described in subsection (l)(1)(ii) shall be authorized to examine trade secrets of the Companies or any commercial or financial information which is privileged or confidential.

Section III—Definitions

For purposes of this proposed exemption:

(a) The term "Company" means a publicly or privately owned oil and gas exploration, development and operating company or partnership which is independent of and unrelated to GMC, its affiliates, and various Plan fiduciaries described in Section II(a) above.

(b) The term "affiliate" of a Company means any entity directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the Company.

(c) The term "control," for purposes of the above definition, means the power to exercise a controlling influence over the management or policies of an entity.

(d) The term "qualified oil and gas investment manager" means a fiduciary as defined in section 3(21) of the Act which: (i) Is independent of and unrelated to any of the Companies and their affiliates (as defined above); (ii) is a financial institution or business organization that in the normal course of business advises institutional investors regarding oil and gas investments; (iii) acknowledges in writing to the Plans that it will manage specific oil and gas investments on behalf of the Plans, in its capacity as a fiduciary of the Plans, as designated by the PIC or GMIMCo; and (iv) satisfies the definition of "qualified professional asset manager" (QPAM) under Section V(a) of Prohibited Transaction Exemption 84–14 (PTE 84–14, 49 FR 9494, March 13, 1984), except for the fact that either the PIC or GMIMCo retains final approval authority for all oil and gas investments recommended by such fiduciary.

(e) The term "Property" or "Properties" means any oil and gas properties such as long-term leasehold interests in oil and gas producing fields and the oil and gas in place on the properties. Such "Property" may

include an interest in the oil and gas wells, platforms, wellheads, piping, as well as the gas gathering system or processing facility through which gas produced from the wells is either transported to the gas pipeline for shipment to various end users or treated before delivery to the end users.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective May 8, 1990.

TEMPORARY NATURE OF EXEMPTION: This proposed exemption, if granted, will be effective for all transactions described herein which have been entered into by the Plans and the Companies since May 8, 1990. However, this proposed exemption will not apply to any transactions which are entered into with the Companies after five years from the date on which the Final Grant of this proposed exemption is published in the Federal Register.

Summary of Facts and Representations

1. The Plans were established by GMC to provide retirement benefits for eligible hourly and salaried employees of GMC and its affiliates. The aggregate fair market value of the assets of the Plans was approximately $34.5 billion, as of November 30, 1992. The Plans covered a total of approximately 821,169 active and retired participants, as of June 30, 1992.

Bankers Trust Company of New York (Bankers Trust) is the trustee of each of the Plans. Bankers Trust has no discretionary authority over the investment management of the assets held in the Plans relating to the subject transactions.

2. Prior to December 1, 1992, the Finance Committee of the Board of Directors of GMC (the Finance Committee), as named fiduciary of the Plans, delegated to the PIC the responsibility for allocating funds among trustees and investment managers, determining asset mix in accordance with the broad investment guidelines established by the Finance Committee, and overseeing in-house investing for a portion of the assets of the Plans. The PIC is comprised of officers of GMC, all of whom are independent of the Companies. However, as of December 1, 1992, the PIC delegated various duties and responsibilities to GMIMCo, a wholly-owned subsidiary of GMC. GMIMCo is a registered investment adviser under the Investment Advisers Act of 1940 which now has overall responsibility for managing investments for the assets of the Plans, recommending to the PIC certain asset allocation changes and investment policy guidelines, appointing and terminating external investment managers, allocating assets among investment managers, and engaging in private market investment transactions and related public securities (including all oil and gas investments made by the Plans).

3. The applicant represents that the PIC decided in 1988 to allocate a certain portion of the assets of the Plans to oil and gas investments, particularly through the acquisition of NPIs or Royalties in certain Properties from the Companies.[2] In both instances, the Companies would be the owner of a working interest (i.e. WI) in the Properties.[3] The applicant states that the Companies are or would become parties in interest with respect to the Plans as a result of the NPI investments (see Item #9 below).

4. On September 12, 1988, RPI Institutional Services, Inc. (RPI) was appointed by the PIC to serve as the initial "qualified oil and gas investment manager" for the Plans pursuant to the terms of an investment management agreement (the Agreement). RPI is an experienced oil and gas investment manager providing a full range of services to various institutional investors, including employee benefit plans. The applicant states that RPI is unrelated to, and independent of, any of the Companies.

Under the Agreement, RPI reviewed and recommended oil and gas investments to the PIC, prior to December 1, 1992. RPI currently performs such functions for GMIMCo which, as the PIC's delegate within GMC's in-house investment staff, retains final approval authority for any oil and gas investments proposed by RPI. RPI retains qualified professional engineers to review the investments, prepares financial projections on the expected rate of return, and reviews the reputation and financial strength of the parties involved in the investment. The applicant states that either RPI or another qualified, independent appraiser chosen by RPI, appraises the fair market value of the underlying Properties as well as the NPI, Royalty, or Production Payment involved prior to RPI's recommendation of the investment to GMIMCo.[4] In addition, if the proposed investment is approved by the GMIMCo, RPI negotiates the structure, terms and conditions of the proposed investment, and manages the investment on behalf of the Plans.

The applicant represents that RPI does not satisfy the definition of a QPAM under PTE 84–14 because either the PIC or GMIMCo has retained final approval authority for all oil and gas investments recommended by RPI. Further, the assets of the Plans managed by RPI represent more than 20% of RPI's total assets under management (see Part I(e) of PTE 84–14). Therefore, the relief provided in PTE 84–14 is unavailable for transactions engaged in by RPI on behalf of the Plans. The applicant states that GMIMCo may appoint other "qualified oil and gas investment managers" in the future which, like RPI, would not meet the requirements of PTE 84–14 but which would be engaged under agreements with terms and conditions similar to the Agreement (see Item #12 below).

5. The Companies, including any affiliates thereof, are either publicly or privately owned oil and gas exploration, development and operating companies or partnerships which are independent of and unrelated to GMC and its affiliates. As the WI owner of the Properties in which the Plans acquire a NPI, Royalty, or Production Payment, the Companies are obligated to pay all of the costs, as well as operate, supervise and maintain the production of oil and gas from the Properties. The Companies calculate the amount of net income for the NPI or gross income for the Royalty or Production Payment to be received by the Plans, subject to review by RPI. In managing the investment for the Plans, RPI monitors the oil and gas production from the Properties as well as the marketing of all oil and gas products by the Companies. RPI reviews each Company's calculation of the net income for the NPI or gross income for the Royalty or Production Payment. With respect to the Plans' NPI investment, RPI has certain oversight responsibilities regarding the operation of the Properties by the Companies, such as decisions which are made by a Company to increase oil and gas production from a particular Property. RPI monitors a Company's operating decisions through its normal ongoing due diligence review of the Company's activities on behalf of the Plans. RPI can negotiate changes in the Company's operating decisions, pursuant to terms and conditions agreed to by the parties, to resolve any disputes or other activities concerning the Properties.

6. The acquisition of the Properties by the Company usually occurs in the form of an acquisition of a long-term leasehold interest in certain oil and gas producing fields. The Properties are acquired by the Company from an unrelated party. Contemporaneously with the acquisition by the Company, the Plans normally acquire either a NPI, Royalty or Production Payment in the Properties from the Company. Such interests are acquired by paying a specified percentage (for example, 95%) of the total costs incurred by the Company in connection with its acquisition of the Properties.

The acquisition of a NPI is effected by a Conveyance of Net Profit Overriding Royalty Interest (the Conveyance), an agreement executed by the Plans and the Company, which enumerates the terms of the transaction. The Conveyance empowers the Company to manage the Properties, subject to the interests of the NPI owner, and imposes on the Company certain reporting and disclosure duties. These reporting and disclosure duties are intended to apprise the Plans, as NPI owner, of the Company's operating decisions. The Conveyance sets forth the Plans' entitlement to a specified percentage of the net income from the production of oil and gas derived from the Properties (for example, 90% of net income). The applicant states that it is customary in this type of oil and gas transaction for an investor, such as the Plans, to receive a NPI in the Properties reflecting a percentage less than the investor's actual share of the total costs incurred by the Company in acquiring the Properties. The Company receives the percentage of net income higher than the Company's share of the acquisition costs as compensation for operating and developing the Properties as the WI owner.[5]

The Company does not receive any separate fee or other compensation for services rendered to the Plans with respect to the operation of the Properties. In this regard, the Company establishes a net profits account (the NP Account) which is credited with the gross proceeds received from the sale of oil and gas associated with the Properties to unrelated parties during each month of operation, in accordance with the level of production determined by the Company as WI owner. The NP Account is debited by an amount equal to the sum of all permissible costs, expenses, and disbursements associated with the operation of the Properties under the terms of the Conveyance. The Plans' NPI share is wire transferred each month from the NP Account to the Plans' account at Bankers Trust, the Plans' trustee, and the Company, as WI owner, contemporaneously receives the remaining amount. The applicant states that at no time is the Company, as WI owner, allowed to unilaterally spend monies held in the NP Account, other than payment of the above costs and expenses, prior to such distribution.

The Company furnishes RPI with a detailed statement each month on the status of the NP Account. Such monthly reports identify all costs the Company has incurred in managing and operating the Properties which have resulted in reductions, debits or credits to the NP Account as well as the quantities of oil and gas produced, the volume and prices at which such quantities were sold and the taxes paid. The Company also provides the Plans with an annual report containing detailed information on the Company's activities with respect to the Properties during the preceding year, as well as an annual financial statement regarding the status of the NP Account, which is audited by an independent accounting firm.

In addition, the Conveyance requires the Company to defend the Plans' title to the NPI from any claims against the Properties by creditors. The Conveyance provides the Plans with a recourse mechanism to challenge calculation of the NPI or the "wellhead value" of the oil and gas produced from the Properties and receive adjustments if such calculations prove to be erroneous.[6] The Conveyance also requires that the Company operate the Properties as a "reasonably prudent operator" in accordance with industry standards. The applicant states that the Company's failure to fulfill this "prudent operator standard" would mean a cause of action by the Plans to recover monetary damages for losses sustained by the Plans through the Company's breach of the standard. Any disputes arising under the Conveyance regarding the determination and proper payments of net profits by the Company may be submitted to an independent arbitrator. Other matters not related to the determination or payment of net profits, that are viewed as a breach of the Conveyance, may be remedied by the Plans at law or in equity.

The Conveyance allows the Plans a right to assign, exchange, sell, transfer or otherwise convey the NPI in the Properties to a third party. Therefore, if the Company does not perform its activities as WI owner in a prudent manner or if the oil and gas wells located on the Properties are no longer profitable, RPI may recommend and GMIMCo may approve the sale or assignment of the NPI. The applicant states that the Plans' NPI will be marketable to third parties and that all decisions concerning whether to sell the NPI will be made by GMIMCo. The Conveyance states such a sale or assignment by the Plans would be subject to the prior written consent of the Company, which consent may not be unreasonably withheld. In this regard, the Plans must provide the Company with notice of the proposed sale or assignment within 30 days of the transaction.

The Conveyance also states that the Company must notify the Plans within 30 days of the Company's intent to release, assign, surrender or abandon any interest in the Properties. In such instances, the Plans will convey the NPI to the Company contemporaneously with the Company's negotiated sale or auction of the WI to a third party buyer if GMIMCo determines that the transaction would be in the Plans' best interest. The Plans will receive from the sale proceeds an amount reflecting the value of the NPI, as determined by arm's-length negotiations directly involving the Plans' fiduciaries, the Company, and the third party buyer. However, the Plans may choose not to sell the NPI back to the Company and, in such instances, will continue to hold the NPI with a new WI owner.

7. With respect to the acquisition by the Plans of a Royalty, the Company does not transfer the Royalty pursuant to a Conveyance. Instead, the parties agree through a Sale and Assignment of the Royalty to pay the Plans a specified percentage of gross income from the oil and gas production from the Properties (for example, 85% of gross income). As with the NPI, it is customary for the Plans to receive a Royalty in the Properties reflecting a percentage less than the Plans' actual share of the total costs incurred by the Company in acquiring the Properties. The Company receives a percentage of gross income higher than the Company's share of the acquisition cost as compensation for operating and developing the Properties as the WI owner. Payment of the Royalty continues during the term of a producing oil and gas lease for the Properties or for a stated period. The Royalty owner, like the NPI owner, is not liable for losses or for the cost of exploration, development and operations associated with the Properties. The applicant states that a

[2] A NPI is a non-operating interest entitling the owner to a share of the gross production from an oil and gas property measured by the net profits derived from such property. A Royalty is a similar interest which entitles the owner to a percentage of gross profits derived from the property.

[3] A working interest or WI is a leasehold, operating, or cost-bearing interest in an oil and gas property under which the owner bears all costs and receives all revenues, net of taxes and those revenues payable to nonoperating interests.

[4] The applicant states that all services performed by RPI for the Plans and fees paid by the Plans for such services satisfy the conditions of section 408(b)(2) of the Act and the regulations thereunder

[5] The "wellhead value" is the price paid to the Company for the oil and gas sold from the Properties.

VOL 58 ISS 248 DE 29 1993 UMI

Royalty is similar to a NPI, but with far less involvement by the WI owner of the Properties in the calculation or payment of the Royalty proceeds. The calculation of the Royalty payments by the Company is a fraction of the gross proceeds from the sale of oil and gas associated with the Properties, in accordance with the level of production determined by the Company as WI owner. As with a NPI, the Company does not receive any separate fee or other compensation from the Plans for the operation of the Properties.

The Royalty may be sold or assigned by the Plans to a third party, subject to the Company's prior consent, upon 30 days notice to the Company. The Company will also notify the Plans of the Company's intent to release, assign, surrender or abandon any interest in the Properties. In such instances, the Plans may sell the Royalty back to the Company contemporaneously with the Company's negotiated sale of the WI to a third party buyer. As with the NPI, the Plans will receive from the sale proceeds an amount reflecting the value of the Royalty, as determined by arm's-length negotiations directly involving the Plans' fiduciaries, the Company, and the third party buyer. The Plans may also choose not to sell the Royalty back to the Company and, in such instances, will continue to hold the Royalty with a new WI owner.

With respect to the acquisition by the Plans of a Production Payment, the applicant states that such an interest is transferred through a sale and assignment that is very similar to a Royalty. A Production Payment is a non-operating interest in oil and gas produced from the Properties, providing the owner with a fractional share of the gross proceeds from the oil and gas produced, free of the costs of production. However, unlike a Royalty, a Production Payment will terminate at a pre-determined point in time or when a pre-determined specified dollar amount or volume of oil and gas production has been realized from the Properties by the Production Payment owner (i.e. the Plans). The Production Payment owner is also not liable for losses or for the costs of exploration, development and operations associated with the Properties. The applicant represents that RPI will ensure that all other conditions and safeguards which are present with a Royalty acquired from a Company will be present in any Production Payment.

8. All acquisitions of the Properties relating to either the Plans' acquisition of a NPI, Royalty, or Production Payment are negotiated at arm's-length between the Company, the Plans and the third party-seller of the Properties. The Plans' experts and the Company's experts, acting separately, gather information on the Properties to determine the appropriate offering price for the Properties. The Company cannot acquire any Properties for a simultaneous Conveyance of a NPI or assignment of a Royalty or Production Payment to the Plans without the approval of GMIMCo. The terms of any Conveyance of a NPI or assignment of a Royalty or Production Payment are negotiated by RPI pursuant to separate arm's-length negotiations with the Company. The Company has no control, discretion or influence with regard to the decision of the Plans' fiduciaries to acquire any interest in the Properties or to engage in any subsequent transactions with the Company (see Item #9 below).

9. The applicant represents that with respect to the acquisition by the Plans of a NPI in any Properties, the total activities that are conducted by the Company pursuant to the terms of the Conveyance create a sufficient level of services on the part of the Company in favor of the Plans' NPI in the Properties as to make the Company a party in interest with respect to the Plans as a service provider for the Plans.[6] Therefore, any subsequent acquisition of a NPI by the Plans from the Company, or the acquisition by the Plans of a Royalty or Production Payment from the Company, would be a prohibited transaction under the Act. In addition, a sale of either a NPI, Royalty or Production Payment by the Plans back to the Company would be a prohibited transaction under the Act. Moreover, RPI may recommend that the Plans acquire an additional NPI, Royalty or Production Payment from the Company by first making a loan to the Company where the Plans will have a right to convert the loan into such an interest in a particular Property at a later date. Under such circumstances, the loan and the future conveyance of the NPI, Royalty or Production Payment to the Plans by the Company would be prohibited transactions under the Act. The applicant states that RPI may also recommend to the GMIMCo an acquisition of a Company Security, on a private placement basis, from the Company or a sale of the Company Security back to the Company. Such a Company Security would be either stock issued by the Company or an affiliate, as defined above, or a debt security issued by the Company or an affiliate which is convertible into such stock at the option of the owner at a later date. The acquisition or sale of the Company Security, where the Company is a party in interest with respect to the Plans, would be a prohibited transaction under the Act. Finally, RPI may recommend to GMIMCo an acquisition or sale of a Company Partnership Interest or a Company Venture Interest. These transactions would involve entities where the Company could be either a general partner or a joint venturer as well as an operating owner for certain Properties. In such instances, the Plans would acquire a nonoperating oil and gas investment interest in the entity directly from the Company or would sell such an interest back to the Company. All such transactions by the Plans with the Company, where the Company is a party in interest with respect to the Plans, would be prohibited transactions under the Act.

10. RPI, as the Plans' qualified oil and gas investment manager, will negotiate the terms of each transaction with the Companies, will review each transaction for the Plans based on a thorough analysis of the Companies and the Properties involved, and will recommend approval of the transaction to GMIMCo. RPI's analysis will include a review of all relevant documents, including engineering reports and financial statements relating to the Properties as well as appraisals of the fair market value of the Properties. GMIMCo will approve each transaction based on RPI's recommendations and will make its own independent analysis of the terms of the transaction and the suitability of the transaction as an investment for the Plans' portfolio.

The applicant states that the terms of each transaction described above will be at least as favorable to the Plans as the terms generally available in an arm's-length transaction between unrelated parties. When the Plans decide to acquire a NPI, Royalty or Production Payment from a Company, RPI will negotiate the terms of the acquisition in arm's-length negotiations with the Company. Such transactions will generally involve Properties which were acquired by the Company on the open market with a simultaneous assignment of the interest by the Company to the Plans. RPI will ensure that the acquisition documents include terms and conditions which are favorable to the Plans. If at any time the Plans decide to sell the NPI, Royalty or Production Payment back to the Company, RPI will negotiate for a price which reflects the fair market value of the interest, as determined by the Plan's fiduciaries based on appraisals of the Properties made by qualified, independent appraisers. In this regard, GMIMCo retains the right to choose either RPI or another qualified, independent appraiser to appraise the Properties to determine the fair market value of the Plans' interest prior to the sale. However, if the Plans cannot obtain from the Company a price for the interest which reflects the fair market value of such interest, the Plans' fiduciaries will not sell the interest back to the Company and will sell the interest on the open market.

If the Plans choose to sell a NPI, Royalty or Production Payment back to the Company in connection with the Company's sale of the WI to a third party buyer, RPI will negotiate for a price which reflects the fair market value of the interest, as agreed to by the Plans' fiduciaries in arm's-length negotiations directly involving the Plans, the Company, and the third party buyer.

If the Plans determine that it would be appropriate to engage in a loan transaction with a Company, RPI will negotiate for terms which reflect interest rates that are commensuate with the prevailing market rates quoted by established commercial lenders for similar loans. RPI will ensure that the loan is secured by interests in Properties which will have a significant value to the Plans in case of foreclosure or in case the Plans exercise a conversion option to acquire a NPI, Royalty or Production Payment in such Properties. The applicant represents that the designated oil and gas investment interests in the Properties used as collateral for a loan will have a fair market value of at least 150% of the loan amount throughout the duration of the loan, as determined in accordance with appraisals of such Properties by RPI or another an independent, qualified appraiser selected by RPI.

If the Plans decide to acquire or sell any Company Securities, Company Partnership Interests, or Company Venture Interests from or to a Company, RPI will negotiate the terms of such transactions with the Company at arms-length. RPI will ensure that the price paid or received by the Plans for such securities or interests reflects their fair market value, based on appraisals developed by RPI or other qualified, independent appraisers selected by RPI.

RPI will monitor all transactions on behalf of the Plans and will take appropriate actions to safeguard the interests of the Plans. RPI's actions will include: Negotiating a correction with the Company of any activities by the Company which adversely affect the Plans' NPI; recommending to GMIMCo a sale of any NPI, Royalty, or Production Payment involving the Properties; monitoring the fair market value of the Properties or interests therein used to secure a loan made by the Plans; and exercising conversion rights with respect to any debt interests or securities held by the Plans which allow the Plans to obtain either a NPI, Royalty or Production Payment in certain Properties or stock in a Company.

The Plans will not pay any commissions or other expenses with respect to the transactions with the Companies. The applicant states that no investment management fee, advisory fee, underwriting fee, sales commission or similar compensation will be paid to the Companies by the Plans in connection with any of the transactions. In addition, the applicant represents that the Company's only compensation for operating and developing the Properties as the WI owner, under any Conveyance of a NPI or assignment of a Royalty or Production Payment, will be its share of the income from the Properties under the terms of the transaction (as discussed in Item 6 above).

11. RPI represents that direct investments in interests in the Properties offer the Plans unusual potential for long-term appreciation and profit. RPI states that the oil and gas investments described in the proposed exemption are in the best interests of the Plans and their participants and beneficiaries. RPI states further that the annualized cash return to the Plans, through June 30, 1993, for those oil and gas investments supervised and managed by RPI, on behalf of the Plans, was averaging approximately 17%.

12. The applicant states that GMIMCo may decide to appoint other oil and gas investment managers for the Plans in the future. Therefore, the applicant requests that the proposed exemption apply to trustees or investment managers other than RPI that are "qualified oil and gas investment managers" as defined herein. Such fiduciaries will be entities that would otherwise satisfy the definition of a QPAM under Section V(a) of PTE 84–14 except for the fact that GMIMCo retains final approval authority for all oil and gas investments recommended by such fiduciaries (see Section I(c) of PTE 84–14). In addition, the assets of the Plans managed by such a fiduciary may represent more than 20% of the fiduciary's total assets under management (see Section I(e) of PTE 84–14). However, the applicant represents that otherwise such fiduciaries:

(i) Will be independent of and unrelated to the Companies and will have significant experience in evaluating and managing oil and gas investments for institutional investors, such as the Plans;

(ii) Will provide oil and gas investment advisory services to the Plans pursuant to a management agreement or trust agreement containing similar due diligence requirements as exist with respect to RPI;

(iii) Will perform the oil and gas investment advisory services pursuant to investment guidelines reviewed and approved by GMIMCo that are substantially similar to RPI's investment guidelines;

(iv) Will actively manage the investment on behalf of the Plans after the investment is made and will monitor the activities of the Company and provide reports to the GMIMCo similar to those prepared and delivered by RPI;

(v) Will be subject to significant review and oversight by GMIMCo;

(vi) Will review and recommend to GMIMCo any transaction between the Plans and the Company in a manner substantially similar to RPI's activities on behalf of the Plans;

(vii) Will negotiate terms and conditions of any transaction between the Plans and the Company which are no less favorable to the Plans than the terms generally available in an arm's-length transaction between unrelated parties; and

(viii) Will consummate any transaction between the Plans and the Company only if the safeguards set forth in the proposed exemption are met.

[6] The applicant states that a NPI is a distinct property interest which does not reflect an equity interest in any underlying assets (i.e. other oil and gas investment interests in the Properties or the Properties themselves). Thus, the applicant maintains, there is no "look-through" to the underlying oil and gas Properties and such Properties are not "plan assets" by virtue of the Plans' ownership of a NPI, under the Department's "plan asset" regulation (see 29 CFR 2510.3–101). The applicant states that the Company's party in interest status under section 3(14) of the Act is obtained solely through the services it provides to the Plans as a NPI owner, pursuant to the Conveyance, but not as a result of any services provided to the Plans as a Royalty or Production Payment owner.

The Department expresses no opinion as to whether: (1) The Plans' ownership of either a NPI, Royalty or Production Payment would establish a party in interest relationship with the Company; (2) the Properties are considered "plan assets" by virtue of the Plans' ownership of any NPI, Royalty or other interest; or (3) the Companies are considered fiduciaries with respect to the Plans under section 3(21) of the Act by virtue of their management and operation of the Properties as WI owners. Accordingly, the proposed exemption extends only to those transactions discussed herein and does not extend to any prohibited transactions under section 406(a) or 406(b) which may result from operating decisions made by the Companies with respect to the Properties or from any services provided by the Companies with respect to the Plans' interests in the Properties.

VOL 58 ISS 248 DE 29 1993 UMI

VOL 58 ISS 248 DE 29 1993 UMI

13. The applicant states that the amount of each Plan's total assets involved in all transactions with the Companies has represented, and will continue to represent, no more than three percent (3%) of such Plan's total assets as of the date of approval of each such transaction by the PIC or GMIMCo.

14. On May 8, 1990, the Plans acquired through a Conveyance an 88% NPI in certain Properties from Callon Offshore Production, Inc. (Callon), an oil and gas exploration and development company whose principal offices are located in Natchez, Mississippi. The Properties are located in Louisiana. The applicant states that Callon had contemporaneously acquired the Properties from Chevron U.S.A., Inc., an unrelated party. The Plans paid approximately 98% of the $28 million purchase price of the Properties to Callon for the Plans' NPI. The Plans had acquired a NPI from Callon in certain other Properties prior to the time of the Plans' acquisition of an NPI from Callon on May 8, 1990. Therefore, the applicant states that Callon was a party in interest with respect to the Plans on such date. The applicant states further that the Plans have purchased additional NPIs in other Properties, as well as Royalties in certain Properties, from Callon and other Companies since May 8, 1990, and that all such transactions have met the safeguards and protections incorporated in the exemption application. Accordingly, the applicant requests that the exemption be effective as of May 8, 1990, and apply to all other transactions with Companies as described herein that are parties in interest with respect to the Plans at the time of such transactions.

15. In summary, the applicant represents that the transactions meet the statutory criteria contained in section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) Each transaction engaged in by the Plans and the Companies with respect to the oil and gas investments described herein has been and will continue to be reviewed and recommended by a "qualified oil and gas investment manager" acting on behalf of the Plans which is independent of the Companies, and has been and will be approved by either the PIC or GMIMCo to ensure that the transaction meets the investment objectives of the Plans and that each transaction is in the best interests of the Plans;

(b) The Companies have not had, and will not have, any authority or control over the decisions of the Plans' fiduciaries to acquire any NPI or other interest in the Properties or to engage in any subsequent oil and gas transactions described herein with the Companies;

(c) The terms of each transaction have been and will continue to be no less favorable to the Plans than the terms generally available in an arm's-length transaction between unrelated parties;

(d) No investment management fee, advisory fee, underwriting fee, brokerage or sales commission, or similar compensation has been or will be paid by the Plans to the Companies with regard to the transactions;

(e) A "qualified oil and gas investment manager" will continue to monitor all transactions on behalf of the Plans and will take any appropriate actions necessary to safeguard the interests of the Plans; and

(f) The amount of each Plan's total assets involved in oil and gas transactions with the Companies will not represent more than three percent (3%) of such Plan's total assets.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department at (202) 219–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 23rd day of December, 1993.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 93–31793 Filed 12–28–93; 8:45 am]

BILLING CODE 4510–29–P

[Prohibited Transaction Exemption 93–83; Exemption Application No. D–9213, et al.]

Grant of Individual Exemptions; Texas Instruments Employees Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Texas Instruments Employees Pension Plan (the Plan) Located in Dallas, Texas

[Prohibited Transaction Exemption No. 93–83; Application No. D–9213]

Exemption

The restrictions of section 406(a)(1)(A), 406(a)(1)(D), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a)(1) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the leasing by the Plan to Texas Instruments, Inc. (the Employer) of either or both of two parcels of improved real property located in Dallas, Texas (the Dallas Parcels) and to the continued holding by the Plan of the Dallas Parcels, effective upon the sale, lease, or other disposition to third parties of another parcel owned by the Plan, located in a suburb of Detroit, Michigan (the Michigan Parcel), or upon the expiration of the existing lease between the Plan and the Employer on the Michigan Parcel. This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) An independent qualified fiduciary (the I/F), acting on behalf of the Plan, determines that the transactions are feasible, in the interest of, and protective of the Plan;

(b) The I/F manages the Dallas Parcels on an on-going basis and is empowered to take whatever action it deems appropriate to serve the best interest of the Plan and its participants and beneficiaries, including but not limited to the retention, leasing, or sale of the Dallas Parcels;

(c) The fair market value of the Dallas Parcel(s) will at no time exceed twenty-five percent (25%) of the value of the total assets of the Plan;

(d) The I/F negotiates, reviews, and approves the terms of the leases with the Employer on the Dallas Parcels;

(e) The terms and conditions of each of the leases with the Employer on the Dallas Parcels will be no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties;

(f) An independent qualified appraiser determines the fair market value of the rental on each of the Dallas Parcels;

(g) The I/F monitors compliance with the terms of the leases on the Dallas Parcels to the Employer throughout the duration of such leases and is responsible for legally enforcing the payment of the rent and the proper performance of all other obligations of the Employer under the terms of the leases on the Dallas Parcels;

(h) The Plan incurs no fee, costs, commissions, or other charges or expenses as a result of its participation in the transactions, other than the fee payable to the I/F; and

(i) The I/F ensures that the terms and conditions described herein are at all time satisfied.[1]

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department invited all interested persons to submit written comments and requests for a hearing on the exemption. All comments and requests for hearing were due by November 29, 1993.

The Department received three letters from interested persons commenting on the exemption; none of these comment letters contained a request for a hearing.

With respect to the written comments submitted by interested persons, the Department forwarded copies of the comment letters to the applicant and requested that the applicant address the concerns raised by the commentators in writing. In this regard, one of the commentators expressed the belief that the exemption should not be granted, as the transaction would jeopardize the soundness of the Plan. The other commentator expressed concern that as a result of the exemption, she would no longer be entitled to receive benefits.

With respect to the first comment that the transactions might jeopardize the soundness of the Plan, the applicant stated that there are sufficient safeguards in the transactions to protect the Plan and its participants and beneficiaries. The applicant noted that the exemption protects the Plan from having to dispose of the Dallas Parcels, to lease to third parties, or to acquire real property for reasons other than investment considerations. With respect to the second comment, the applicant asserts that the commentator's arguments addressing her entitlement to early retirement benefits are not relevant to the transactions which are the subject of the exemption.

The applicant also submitted a comment in a letter, dated November 29, 1993, seeking clarifications of the language, as set forth in condition (h) on page 53579 and page 53583 of the Notice, which states that the Plan may incur "no fee, costs, commissions, or other charges or expenses as a result of its participation in the transactions, other than the fee payable to the I/F." The applicant interprets this condition as not precluding the payment by the Plan of the broker's commission on the sale by the Plan of the real property in Michigan to unrelated third parties. In the view of the applicant, as the transactions involve the leasing by the Plan to the Employer of either or both of two parcels of improved real property located in Dallas, Texas and the continued holding by the Plan of such parcels, the payment by the Plan of brokerage commission does not arise as a result of its participation in the transactions; but rather is a cost incurred in connection with the sale of the real estate in Michigan to unrelated third parties. The Department concurs in this interpretation.

Accordingly, after giving full consideration to the record, including the comments by commentators and the responses of the applicant, the Department has determined to grant the exemption, as described herein. In this regard, the comments submitted to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental

[1] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, room N–5507, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on October 15, 1993, 58 FR 53578.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Packaging Systems, Inc. 401(k) Profit Sharing Plan (the Plan) Located in Des Plaines, Illinois

[Prohibited Transaction Exemption No. 93–84; Application No. D–9355]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply for a period of 5 years from the date of publication of this exemption to (1) the purchase by the Plan of certain leases of equipment (the Leases) from Rapak, Inc., an affiliate of Packaging Systems, Inc. (the Employer), and (2) the agreement by the Employer to indemnify the Plan against any loss relating to the Leases and also to repurchase any leases that are in default in accordance with paragraph (E) below, provided that the following conditions are met:

A. Any sale of Leases to the Plan will be on terms at least as favorable to the Plan as an arm's length transaction with an unrelated third party would be.

B. The acquisition of a lease from Rapak, Inc. shall not cause the Plan to hold immediately following the acquisition (i) more than 20% of the current value (as that term is defined in section 3(26) of the Act) of Plan assets in Leases sold by Rapak, Inc., or (ii) more than 5% of Plan assets in Leases of any one lessee.

C. Prior to the purchase of each Lease, an independent, qualified fiduciary must determine that the purchase is appropriate and suitable for the Plan and that any Lease purchase is a fair market value transaction.

D. The independent fiduciary, on behalf of the Plan, will monitor the terms of the Leases and the exemption and take whatever action is necessary to enforce the rights of the Plan.

E. Upon default by the lessee on any payment due under a Lease, the Employer has agreed to repurchase the Lease from the Plan at the face value as of the date of the default, without discount, and to indemnify the Plan for any loss suffered. The occurrence of any of the following events shall be considered events of default for purposes of this section: The lessee's failure to pay any amounts due hereunder within five days after receipt of written notice from the Plan's independent fiduciary, or the lessee's failure to pay any amounts due hereunder within 30 days after payment becomes past due, if earlier; the lessee's failure to perform any other obligation under this agreement within ten days of receipt of written notice from the Plan's independent fiduciary; abandonment of the equipment by the lessee; the lessee's cessation of business; the commencement of any proceeding in bankruptcy, receivership or insolvency or assignment for the benefit of creditors by the lessee; false representation by the lessee as to its credit or financial standing; attachment or execution levied on lessee's property; or use of the equipment by third parties without lessor's prior written consent.

F. The Plan receives adequate security for the property underlying the Lease. For purposes of this exemption, the term adequate security means that the property leased is secured by a perfected security interest which will name the Plan as the secured party.

G. Insurance against loss or damage to the leased property from fire or other hazards will be procured and maintained by the lessee and the proceeds from such insurance will be assigned to the Plan.

H. The Plan shall maintain for the duration of any Lease which is sold to the Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The records referred to above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plan, during normal business hours by the Internal Revenue Service, the Department of Labor, Plan participants, any employer organization any of whose members are covered by the Plan, or any duly authorized employee or representative of the above described persons.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 29, 1993 at 58 FR 58198.

Temporary Nature of Exemption

The exemption is temporary and will expire five years from the date this Final Grant is published in the **Federal Register** with respect to the Plan's purchase of a Lease. The Plan may hold the Leases pursuant to the terms of the exemption subsequent to the end of the five year period.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Mastercraft Industries, Inc. Master Employee Benefit Plan & Trust (the Plan) Located in Mt. Pleasant, Texas

[Prohibited Transaction Exemption 93–85; Exemption Application Nos. D–9434 and D–9435]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act shall not apply to the sale by the Plan to Mastercraft Company, L.P., a party in interest with respect to the Plan, of certain real property and related personal property (collectively, the Property), provided the sales price is not less than the fair market value of the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 15, 1993, at 58 FR 53583.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Solar Screen of Florida Employees' Profit Sharing Plan (the Plan) Located in Maitland, Florida

[Prohibited Transaction Application 93–86; Exemption Application No. D–9433]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan to Solar Screen of Florida, Inc. (the Employer), a party in interest with respect to the Plan, of a Wegoma SD 15 double mitre saw (the Saw) and a 1954 Clark forklift (the Forklift), provided that: (a) The proposed sales prices for the Saw and the Forklift are paid in a single sum of cash on the date of the sale, and (b) the proposed sales prices for the Saw and the Forklift are not less than the greater of (i) the fair market values of the Saw and the Forklift as of the proposed sale date, or (ii) the Plan's aggregate costs of acquiring and holding the Saw and the Forklift.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 29, 1993 at 58 FR 58193/58194.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan, of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 23rd day of December, 1993.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 93–31792 Filed 12–28–93; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before February 14, 1994. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of the agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Justice, Federal Bureau of Investigation (N1–65–93–3). Headquarters Electronic Surveillance Manual entries for disposable case files which have been entered into an automated index.

2. Department of Transportation, Federal Highway Administration (N1–406–94–1). Copies of Motor Carrier Safety Assistance program grant files.

3. ACTION (N1–362–94–5). Accessibility certifications and general administrative records.

4. Commission on National and Community Service (N1–220–94–3). Completed Grants and Deputy Director Correspondence.

5. National Archives and Records Administration (N2–032–93–1). Purchase orders, semi-monthly construction reports, and rental housing) statements, 1917–1920 from the United States Shipping Board.

6. National Credit Union Administration (N1–413–93–1). Records relating to the operation of the Central Liquidity Facility.

7. White House Commission on Presidential Scholars (N1–220–93–15). Routine administrative records.

Dated: December 16, 1993.
Trudy Huskamp Peterson,
Acting Archivist of the United States.
[FR Doc. 93–31707 Filed 12–28–93; 8:45 am]
BILLING CODE 7515–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–096]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.
ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Aviation Safety Reporting System Subcommittee.

DATES: January 26, 1994, 9 a.m. to 5:30 p.m.

ADDRESSES: National Business Aircraft Association, suite 200, 1200 18th Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Dr. William Reynard, Office of Aviation Safety Reporting System, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 415/969–3969.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:
—Operations Overview
—Research Report
—Database Development
—Make/Model Identification
—International Activities

Dated: December 22, 1993.
Timothy M. Sullivan,
Advisory Committee Management Officer.
[FR Doc. 93–31781 Filed 12–28–93; 8:45 am]
BILLING CODE 7510–01–M

[Notice 93–095]

NASA Advisory Council, Space Science Advisory Committee (SScAC); Meeting

AGENCY: National Aeronautics and Space Administration.
ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee.

DATES: January 18, 1994, 8:30 a.m. to 5:15 p.m.; January 19, 1994, 8:30 a.m. to 6 p.m.; and January 20, 1994, 8:30 a.m. to 3 p.m.

ADDRESSES: The National Aeronautics and Space Administration, 300 E Street, SW., 5th Floor Conference Room, MIC–5, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Lawrence J. Caroff, Code SZF, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–0351.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:
—Overview of Office of Space Science Status
—Strategic Planning
—Divisional Reports
—Subcommittee Reports
—Hubble Servicing Highlights
—Mission Operations and Data Analysis Issues
—Integrated Technology Plan

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: December 22, 1993.
Timothy M. Sullivan,
Advisory Committee Management Officer.
[FR Doc. 93–31760 Filed 12–28–93; 8:45 am]
BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Office of Polar Programs; Permit Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.
ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is require to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan, Permit Office, Office of Polar Programs, National Science Foundation, Washington, D.C. 20550.

SUPPLEMENTARY INFORMATION: On November 17, 1993 a notice in the **Federal Register** of permit applications received. Permit to enter import into USA-Port of Entry Honolulu and enter site of special scientific interest, was issued to David R. Marchant on December 20, 1993.

Thomas F. Forhan,
Permit Officer, Office of Polar Programs.
[FR Doc. 93–31706 Filed 12–28–93; 8:45 am]
BILLING CODE 7555–01–M

Special Emphasis Panel in Research, Evaluation, and Dissemination; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation, and Dissemination.
Date and Time: January 26, 1994; 8:30 a.m. to 5:30 p.m. January 27, 1994; 8:30 a.m. to 4 p.m.
Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Ms. Barbara Lovitts, Assistant Program Director, 4201 Wilson Boulevard, room 855, Arlington, VA 22230. Telephone (703) 306–1652.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Research in Teaching and Learning Program.
Reason for Closing: Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: December 22, 1993.
M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 93–31708 Filed 12–29–93; 8:45 am]
BILLING CODE 7555–01–M

Special Emphasis Panel in Science Resources Studies: Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Science Resources Studies.
Date and Time: January 20, 1994, from 6 p.m. to 8 p.m.; and January 21, 1994, from 8:30 a.m. to 5:00 p.m.
Place: National Science Foundation, 4201 Wilson Boulevard, room 390, Washington, DC.
Type of Meeting: Open.

Contact Person: Jennifer Sue Bond, Program Director, Science and Engineering Indicators Program, Division of Science Resources Studies, room 965, National Science Foundation, Arlington, Va. 22230, (703) 306–1777.
Purpose of Meeting: Provide advice and suggestions regarding technical reports. Review the methodology report and a detailed codebook for the 1993 Joint NSF/NIH survey of Public Understanding of Science.
Agenda: Review draft methodology report; review codebook and draft analytical report for questionnaire 2 concerning public attitudes toward and understanding of biomedicine and behavioral sciences.
Minutes. May be obtained from contact person listed above.

Dated: December 22, 1993.
M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 93–31709 Filed 12–28–93; 8:45 am]
BILLING CODE 7555

NUCLEAR REGULATORY COMMISSION

Gulf States Utilities Co.; Environmental Assessment and Finding of No Significant Impact

[Docket No. 50–458]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License No. NPF–47, issued to Gulf States Utilities Company (GSU), for operation of the River Bend Station, Unit 1, located in West Feliciana Parish, Louisiana.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would extend the schedule for performing certain Type C local leak rate tests required by 10 CFR part 50, appendix J, section III.D.3, to be completed within a two-year time interval.

The Need for the Proposed Action

The exemption is requested on a one-time only basis to support the current refueling outage schedule. Requiring a plant shutdown solely to perform surveillance tests would cause an unnecessary thermal transient on the plant and could result in unnecessary exposure to personnel.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption. The proposed exemption would allow GSU to conduct the local leak rate tests during the next refueling outage, an extension of 29 days. There will be no changes to the facility or the environment as a result of the exemption.

Alternative to the Proposed Action

It has been determined that there is no impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or will have a greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for River Bend Station, Unit 1 dated January 1985.

Agencies and Persons Consulted

The NRC staff reviewed GSU's request and consulted with the Louisiana State official. The State official had no comments regarding the NRC's proposed action.

Finding of No Significant Impact

Based on the foregoing environmental assessment, the Commission has concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the exemption request dated November 18, 1993, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, Lower Level, 2120 L Street NW., Washington, DC 20555, and at the local public document room, located at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 22nd day of December 1993.

For the Nuclear Regulatory Commission.
Suzanne C. Black,
Director, Project Directorate IV–2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.
[FR Doc. 93–31842 Filed 12–28–93; 8:45 am]
BILLING CODE 7590–01–M

[Docket 70–3070]

Louisiana Energy Services, L.P.; Extension of Commeat Period for the Draft Environmental Impact Statement for the Claiborne Enrichment Center, Homer, LA

By Federal Register Notice published November 24, 1993 (58 FR 62148), the U.S. Nuclear Regulatory Commission (the Commission) announced the availability of the Draft Environmental Impact Statement (DEIS) (NUREG–1484) regarding the proposed construction and operation of the Claiborne Enrichment Center to be located near Homer, Louisiana, with comments on the DEIS from interested persons due to the Commission by January 10, 1994.

In order to ensure that sufficient time is allowed for public comment, the Commission hereby extends the comment period for the DEIS for an additional 15 days, with comments due for the Commission's consideration by January 25, 1994. Comments received after January 25, 1994, will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. Comments on the DEIS should be sent to the Chief, Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, Mail Stop 4–E–4, U.S. Nuclear Regulatory Commission, Washington, DC 20555. All comments received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, DC, and the Local Public Document Room at the Claiborne Parish Library, 901 Edgewood Drive, Homer, Louisiana.

FOR FURTHER INFORMATION, CONTACT: Merri Horn, Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 504–2606.

Dated at Rockville, Maryland, this 22nd day of December 1993.

For the Nuclear Regulatory Commission.
John W. N. Hickey,
Chief, Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.
[FR Doc. 93–31843 Filed 12–28–93; 8:45 am]
BILLING CODE 7590–01–P

[Docket No. 50–302]

Forida Power Corp., (Crystal River Nuclear Generating Plant, Unit 3); Exemption

I

Florida Power Corporation (FPC or the licensee) is the holder of Facility Operating License No. DPR–72, which authorizes operation of the Crystal River Unit 3 Nuclear Generating Plant (CR–3 or the facility) at steady-state reactor power level not in excess of 2544 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations and

Orders of the Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect. The facility consists of one pressurized water reactor located at the licensee's site in Citrus County, Florida.

II

Section 50.54(q) of 10 CFR part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR part 50. Section IV.F.2 of Appendix E requires that each licensee annually exercise its emergency plan. Section IV.F.3 of Appendix E requires that each licensee shall exercise with offsite authorities such that the State and local emergency plans are exercised biennially.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a) are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Special circumstances exist when application of the regulation in the particular circumstance would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule [10 CFR 50.12(a)(2)(ii)]. The underlying purpose of 10 CFR part 50, Appendix E, Sections IV.F.2 and IV.F.3, is to demonstrate that the emergency plans are adequate and capable of being implemented, and that the state of emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. In addition, special circumstances exist when the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation [10 CFR 50.12(a)(2)(v)].

III

By letter dated October 27, 1993, the licensee requested an exemption from the requirements of 10 CFR 50.47 and Appendix E to conduct an annual exercise of the CR–3 Radiological Emergency Plan in 1993. The licensee had planned to conduct a full-participation exercise involving the State of Florida and local response organizations on November 3, 1993. The licensee requested that an exemption be granted because the State and local government agencies requested a delay of the 1993 annual exercise from November 3, 1993 to January 20, 1994. The request to move the exercise date was originated by the Citrus County Sheriff's Department (Emergency Management Section) because they would be unable to participate on November 3rd as a result of a conflicting community issue which could have necessitated their involvement at that time. The licensee states that the issue involved the well-being of Citrus County residents. This proposed delay will prevent the licensee from meeting the annual requirements to exercise the CR–3 Radiological Emergency Plan as specified in Appendix E to 10 CFR part 50, and, therefore, FPC requested a schedular exemption.

The previous emergency preparedness exercise at Crystal River was successfully conducted on November 5, 1992, and included the participation of State and local agencies. The licensee had scheduled, planned, and coordinated the 1993 exercise with participating Federal, State, and local agencies for early November. The scope and objectives, and the final scenario documentation for the November 1993 exercise were submitted to the NRC on August 19, 1993 and September 17, 1993, respectively, which is within the timeframes established for their submittal in support of a November 1993 exercise. In addition, the licensee states that a training exercise with the State of Florida and local agencies was conducted on October 1, 1993, which activated all emergency facilities and included participation from all major responder groups.

The schedule for future exercises will not be affected by this exemption. FPC has stated it will conduct the previously scheduled 1994 exercise the week of October 24, 1994, as planned. In that the 1993 exercise was to be evaluated by the Federal Emergency Management Agency (FEMA), concurrence for the revised date of January 20, 1994 has been received from FEMA.

Therefore, the licensee demonstrated a good faith effort in attempting to comply with the regulation, and the exemption will provide only temporary relief from the regulation.

The most recent NRC Systematic Assessment of Licensee Performance (SALP) report for CR–3, issued on January 12, 1993, for the period April 28, 1991 through August 22, 1992, indicated that the licensee has demonstrated an effective response capability for dealing with emergency situations during the full State and local participation exercises. The licensee has consistently maintained a Category 1 rating in the functional area of emergency preparedness. Additionally, the June 18, 1993, inspection report (50–302/93–12) of the CR–3 Emergency Preparedness Program, conducted May 10–19, 1993, indicates the emergency response program is fully capable of being effectively implemented in the event of an emergency and that the emergency preparedness program activities were organized and adequately documented.

IV

Based upon a review of the licensee's request for an exemption from the requirement to conduct an exercise of the Crystal River Emergency Plan in 1993, the NRC staff finds that the underlying purpose of the regulation will not be adversely affected by the reschedule of the November 3, 1993 exercise to January 20, 1994. The effective response capability demonstrated by the licensee during the 1992 emergency preparedness exercise, the activities in preparation for the 1993 exercise, including the comprehensive training exercise conducted with offsite authorities on October 1, 1993, and the readiness of the licensee's emergency preparedness program as reflected in its SALP rating and the most recent inspection report, provide assurance that the resources and personnel necessary for proper emergency response are in place to respond to a nuclear emergency at the Crystal River site. Thus, an exercise in 1993 is not necessary to achieve the underlying purpose of the rule and the requested exemption from the requirement in 10 CFR part 50, Appendix E, Section IV.F, to defer the performance of an exercise of the CR–3 Radiological Emergency Plan until January 20, 1994, will not adversely affect the overall state of emergency preparedness at the Crystal River site.

For these reasons, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter dated October 27, 1993, as discussed above, is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and that special circumstances are present as set forth in 10 CFR 50.12(a)(2) (ii) and (v).

Pursuant to 10 CFR 51.32, the Commission has determined that granting this exemption will have no significant impact on the environment (58 FR 66385). This exemption is effective upon issuance.

Dated at Rockville, Maryland this 22nd day of December 1993.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Acting Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31841 Filed 12–28–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33365; File No. SR–DTC–93–14]

Self-Regulatory Organizations; The Depository Trust Co.; Filing of Proposed Rule Change Relating to a Clarification of Rule 5

December 21, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 20, 1993, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This rule filing will clarify that Rule 5 of DTC's Rules does not in any way require DTC to determine whether securities, when deposited with DTC, may be lawfully transferred by book-entry in light of Federal securities laws.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The DTC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify the meaning of Rule 5 of DTC's Rules. On December 13, the Commission issued an order approving a proposed rule change by DTC relating to the eligibility of Rule 144A securities at DTC.[2] In the order, the Commission suggested that Rule 5, Section 1 of DTC's Rules requires that DTC must determine whether "in light of the Federal securities laws, particularly the provisions of Rules 144, 144A, and 145, the securities, when deposited with DTC, may be lawfully transferred by book-entry."[3] The purpose of this rule change is to clarify that, contrary to the implication of the aforementioned language in the Commission's order, Rule 5 of DTC's Rules does not in any way require DTC to determine whether securities, when deposited with DTC, may be lawfully transferred by book-entry in light of Federal securities laws.[4]

The proposed rule change is consistent with section 17A[5] of the Act and the rules and regulations thereunder applicable to DTC because the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has neither sought nor received comments on the proposed rule change from participants.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–93–14 and should be submitted by January 19, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31775 Filed 12–28–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33366; File No. SR–MCC–93–05]

Self-Regulatory Organization; Midwest Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change To Modify MCC's Fund/Serv Rules

December 31, 1993.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on October 6, 1993, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by MCC, a self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

---

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 33327 (December 13, 1993), FR _____ (File No. SR–DTC–90–06).

[3] *Id.* n. 22 and accompanying text.

[4] In the near future, DTC plans to adopt and file with the Commission as a proposed rule change revisions to Rule 5 that will, in part, further clarify the meaning of the rule.

[5] 15 U.S.C. 78q–1 (1988).

[6] 17 CFR 200.30–3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies MCC's Mutual Fund Settlement, Entry, and Registration Verification ("Fund/Serv") service to provide for the automated transfer of mutual fund assets in the form of eligible book-entry shares.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

On January 31, 1989, the Commission approved a proposed rule change by MCC to establish facilities for MCC participants use of the Fund/Serv service.[2] Under Fund/Serv, MCC participants generally exchange data with the National Securities Clearing Corporation ("NSCC"), MCC's Fund/Serv facilities manager.

On November 20, 1989, the Commission approved a proposed rule change by NSCC to provide for the automated transfer of mutual fund assets in the form of eligible book-entry shares that are transferred through Fund/Serv (i.e., to link Fund/Serv to the automated Customer Account Transfer Service ["ACATS"]).[3] Although NSCC's participants currently have access to this linkage, MCC's participants have been unable to transfer Fund/Serv eligible assets in a client's account from one brokerage firm to another using the ACATA service.

The proposed rule change adds Section 16 (ACATS/Transfers) to Article VI, Rule 9 (Mutual Fund Settlement, Entry and Registration Verification) of MCC Rules to provide for an ACATS automated transfer of mutual fund assets between brokerage firms in the form of eligible book entry shares. The ACATS-Fund/Serv link will provide an interface and thereby will provide automatic settlement of eligible mutual fund securities transferred through the ACATS system. This procedure, MCC believes, will alleviate certain problems currently encountered in the settlement of account transfers of mutual funds. MCC notes that input and output time frames under the proposal will be identical to the current ACATS and Fund/Serv system. MCC states that the purpose of the proposed rule filing is to give MCC participants greater control over the transfer of Fund/Serv eligible assets.

MCC believes that the proposed rule change is consistent with section 17A of the Act[4] in that it promotes the prompt and accurate clearance and settlement of mutual fund transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

MCC has not solicited or received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[5] and Rule 19(b)–4(e)(4) thereunder[6] because the proposal effects a change in an existing service of MCC which does not adversely affect the safeguarding of securities or funds of the custody or control of MCC or for which it is responsible and does not significantly affect the respective rights or obligations of MCC or persons using the services.

At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of MCC. All submissions should refer to File No. SR–MCC–93–05 and should be submitted by January 19, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31776 Filed 12–28–93; 8:45 am]

BILLING CODE 8010–01–M

[2] Securities Exchange Act Release No. 26056 (January 31, 1989), 54 FR 6051 (File Nos. SR–MCC–88–05 and 07). The Fund/Serv system is a service that provides users with the capability to place and confirm mutual fund orders through a central processing facility and provides a net settlement environment and registration processing facility.

[3] Securities Exchange Act Release No. 27454 (November 20, 1989), 54 FR 48962 (File No. SR–NSCC–89–12). ACATS facilitates customer account transfers from one NSCC participant to another.

[4] 15 U.S.C. 78q–1 (1988).

[5] 15 U.S.C. 78s(b)(A) (1988).

[6] 17 17 CFR 240.189b–4(e)(4) (1991).

[7] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–33364; File No. SR–MSE–93–15]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Amendments To Exchange Rules Regarding the Authority of the Exchange's Floor Procedure Committee and the Composition and Authority of its Subcommittees

December 21, 1993.

On June 3, 1993, the Midwest Stock Exchange Inc. ("MSE" or "Exchange")[1] submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b–4 thereunder,[3] a proposal to amend two Exchange Rules—Article IV, Rule 3 and Article XII, Rule 3—which address the authority of the Exchange's Floor Procedure Committee and the composition and authority of its subcommittees.

Notice of the proposal appeared in the **Federal Register** on September 21, 1993.[4] No comments were received on the proposal.

I. Proposal

The Exchange proposes to amend two exchange rules[5] dealing with the authority of the Exchange's Floor Procedure Committee and the authority and composition of its subcommittees. The Floor Procedure Committee ("Committee") has general supervision of the conduct and dealings on the Exchange floor and recommends rules and regulations necessary for the convenient and orderly transaction of business on the Exchange floor.[6] The amendments primarily concern the sanctions that can be imposed by the Committee and its subcommittees for violations of conduct rules, and the appropriate levels of review for actions taken against the membership.

In order to accomplish its stated goals, the Exchange amended Article IV, Rule 3 to permit Floor Procedure Committee subcommittees to be composed of Exchange members who are not members of the full Floor Procedure Committee. The Chairman of each subcommittee, however, shall be a member of the full Floor Procedure Committee. This change is intended to permit the Floor Procedure Committee to function more effectively and efficiently as a policy making group with fewer members than it has done in the past. The Floor Procedure Committee believes that it can carry out its policy making goal and oversee its other responsibilities without having various subcommittee members involved in all aspects of Floor Procedure Committee work.

The amendments to Article XII, Rule 3 increase the maximum amount of a summary fine to $2,500 from the previous $500 maximum, and increase the time a member can be excluded from Exchange premises to a maximum of five days, up from the previous maximum of two days. The amendment also extends the authority to impose these sanctions, previously limited to the Floor Procedure Committee only, to an appropriately designated subcommittee of the Floor Procedure Committee.

A new interpretation to Article XII, Rule 3 sets out two types of violations of decorum rules: Class A, representing more serious violations such as fighting, threatening speech, and other conduct which is detrimental to the interest or welfare of the Exchange, and Class B violations, involving less serious offenses such as dress code and speed violations.

Article XII, Rule 3 is further amended by permitting a member of the Committee or a member of its appropriately designated subcommittee, for the purpose of assuring decorum on Exchange premises, to summarily fine a member for violative conduct classified as a Class B offense in an amount up to $100. For violative conduct classified as a Class A offense, any member of the Floor Procedure Committee or member of its appropriately designated subcommittee, with the concurrence of two other floor officials (floor governors if immediately available) may summarily fine a member up to $2,500 and summarily exclude a member from exchange premises for the remainder of the trading day. With respect to this type of summary exclusion, another interpretation to the rule states that a member so summarily excluded can petition for reinstatement after a "cooling-off" period.

Finally, the amended rule permits a member adversely affected by a determination by anyone other than the full Floor Procedure Committee (other than a summary exclusion discussed above) to appeal the sanction to the full Floor Procedure Committee within five days, by written request. The Floor Procedure Committee's determination is final for any fine not greater than $100. Other sanctions may be further appealed to the Executive Committee upon written request within 10 days of the Floor Procedure Committee's determination. The Executive Committee's decision is final. Any action appealed is stayed until the appeal is decided. The Floor Procedure Committee and the Executive Committee may increase or diminish the sanctions appealed but may not impose a fine greater than $2,500 or exclusion for more than five days.

The Exchange states that the purpose of the proposed rule change is to increase the deterrent effect that potential fines and exclusions from the trading floor have on the membership for violations of the Exchange's decorum rules as well as for other improper conduct. The Exchange believes that the Floor Procedure Committee, on its own initiative or through its appropriate subcommittee, must be able to take fair but meaningful remedial action for conduct which is disruptive, threatening to individual safety or Exchange facilities, or otherwise detrimental to the welfare of the Exchange. The Exchange asserts that the current level of fines and exclusions from the trading floor do not carry a forceful deterrent effect not do they adequately address an offending member's behavior commensurate with the type of misconduct involved.

With respect to immediate exclusion from the Exchange floor, the Exchange believes that three appropriate individuals should have authority to take this action without having to convene the entire Floor Procedure Committee. The Exchange does not believe that any one individual should unilaterally be empowered to impose fines in excess of $100 or to exclude a member from the premises. The Exchange believes that the concurrence of three appropriate individuals will ensure against arbitrary and capricious sanctions.

II. Discussion

The Commission finds the proposed rule change to be consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of sections 6(b)(5), 6(b)(6) and 6(b)(7) of the Act.[7] Section 6(b)(5) of the Act, requires that, inter alia, the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities, and in general, to protect investors and the public interest. The Commission believes that the proposed changes will provide for increased fines and an increased ability to enforce the decorum rules through less cumbersome procedures, thereby facilitating

[1] As of July 8, 1993, the MSE changed its name to the Chicago Stock Exchange, Inc. See Securities Exchange Act Release Nos. 32488 (June 18, 1993), 58 FR 34284 (June 24, 1993) (File No. SR–MSE–93–13) (immediate effectiveness of proposed rule change relating to amendments to the MSE's Certificate of Incorporation and Constitution to effect a name change) and 32489 (June 18, 1993), 58 FR 34285 (June 24, 1993) (File No. SR–MSE–93–16) (immediate effectiveness of proposed rule change relating to amendments to the MSE's Rules to make conforming changes in accordance with its name change).

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b–4 (1991).

[4] See Securities Exchange Act Release No. 32885 (September 14, 1993), 58 FR 49072 (September 21, 1993).

[5] The Exchange proposes to amend Article IV, Rule 3 and Article XII, Rule 3 of its Rules.

[6] The MSE's Floor Procedure Committee is comprised of not less than seven members (at least three of whom shall be active on the floor of the Exchange as specialists, odd-lot dealers or floor brokers) in addition to the ex-officio members. See MSE Article IV, Rule 3.

[7] 15 U.S.C. 78f(f)(b)(5)(1), (f)(b)(6) and (f)(b)(7) (1988).

transactions effected on the Exchange floor

Section 6(b)(6) provides that the rules of the Exchange should provide that exchange members and persons associated with its members be appropriately disciplined for violation of the provisions of the Act or rules and regulations thereunder or the rules of the exchange by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. The Commission believes that the proposed changes are consistent with section 6(b)(6) in that they provide for appropriate fines or other sanctions for violations of the conduct rules or other improper conduct. The changes will increase the deterrent effect that fines and exclusions from the trading floor have on the membership for violations of the Exchange's decorum rules or other similar improper conduct. The Commission also believes that it is appropriate that the Exchange have authority to take immediate action against a member to protect individual safety and Exchange facilities. To accomplish these objectives, the proposed changes appropriately increase permissible summary fines and permissible exclusion from the trading floor. In addition, the Exchange has created two classes of fines so that the more serious minor offenses are separated from and treated differently than the less serious minor offenses, thereby making it easier to expedite such minor offenses. Overall, the changes in procedures will put Exchange members on notice that minor rule violations are being taken more seriously by the Exchange and the changes will make it easier for the Exchange to make decisions about such minor rule violations.

Similarly, section 6(b)(7) of the act provides, inter alia, that the rules of an exchange must provide a fair procedure for the disciplining of members and persons associated with members. The Commission believes that, overall, the changes create fair and equitable procedures for disciplining members for floor decorum violations because the violations are clearly outlined in the Exchange rules and the punishment is commensurate with the nature of the violation. The Commission also believes that it is appropriate for disciplinary action to be taken by a subcommittee of at least three members of the Exchange since this provision creates a smaller decision making group which will help to ensure that decisions are made more quickly and effectively, and since this provision provides for adequate review of such subcommittee action. The Commission also believes that the rules permitting summary action by a Committee member or subcommittee member, in conjunction with two other floor officials, represent an appropriate balance between the need for summary action and the avoidance of arbitrary or capricious sanctions.

In addition, the changes provide for the appeal of sanctions and exclusions to the full Floor Procedure Committee and then to the Executive Committee. The proposed changes provide that the reviewing body may affirm, reverse, or modify a previous determination. The Commission believes that the proposed rule changes will, therefore, create fair procedures for review of decisions on appeal in accordance with the Act as two levels of review are put in place.

III. Conclusion

For the reasons discussed above, the Commission finds that the proposed changes to the Exchange's floor decorum provisions are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–MSE–93–15) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31777 Filed 12–28–93; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–33363; File No. SR–NASD–93–71]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Assessments and Fees on Members

December 21, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 2, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one establishing or changing a fee under section 19(b)(3)(A)(ii) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing a rule change to amend Schedule A to the By-Laws to adjust the amount of credit applied to the entire calendar year 1993 as set forth in Subsection 1(d) of Schedule A, which is currently 62%, to 67%, and to credit the adjusted increase against member firms' 1994 assessments.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Pursuant to Article VI of the By-Laws of the Corporation, the NASD requires its members to pay an annual assessment fee based on gross income as defined by Schedule A, Section 1 to the By-Laws.[1] The NASD also allows a credit against such assessment pursuant to Subsection 1(d). In accordance with the NASD's shift from a fiscal to a calendar budget year in 1991, the NASD calculates the gross income assessment from the gross income reported for the calendar or fiscal year preceding the NASD's calendar budget year. Based on final gross income reports for 1992, the NASD in 1993 amended the amount of credit set forth in Subsection 1(d) of Schedule A to the By-Laws from 59% to 62% to reflect the assessment revenue budgeted for 1993.[2]

However, because overall 1993 revenue for the NASD is exceeding budget projections, the NASD believes that the credit against the gross income assessment should be raised from 62% to 67%. This increase will result in an adjustment to 1993 member assessments which will be credited against member firms' 1994 assessments. This proposed rule change, therefore, amends the amount of the credit set forth in Section 1(d) of Schedule A to the By-Laws from 62% to 67% to reflect the need for lower assessment revenue for 1993 in view of the realization of higher revenues than budgeted from other sources, principally corporate financing and Nasdaq issuer entry fees. The practical effect of the proposed rule change is that members will be assessed a smaller amount on 1992 gross income to cover 1993 operating costs, and this amount will be realized by members in 1994 in the form of a credit against 1994 assessments.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(5) of the Act,[3] which require that the rules of the Association provide for the equitable allocation of reasonable dues, fees, and other charges among members in that the proposed rule change equitably returns on a pro-rata basis to members a portion of revenues not needed for 1993 operations or corporate financing goals.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act and Subparagraph (e) of Rule 19b–4 promulgated thereunder in that it constitutes a due, fee, or other charge imposed by a self-regulatory organization.

At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by January 19, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31778 Filed 12–28–93; 8:45 am]

BILLING CODE 8010–01–M

[1] NASD Manual, Schedule A to the By-Laws, Sec. 1(d), (CCH) ¶ 1752.

[2] See Securities Exchange Act Release No. 32289 (May 10, 1993), 58 FR 28905 (May 17, 1993), (approving file SR–NASD–93–30).

[3] 15 U.S.C. 78o–3 (1988).

[Release No. 34–33368; International Series No. 624; File No. SR–NYSE–93–44]

Self-Regulatory Organizations; Order Granting Approval and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to European Portfolio Market Index Target-Term Securities

December 22, 1993

I. Introduction

On November 3, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to list and trade Market Index Target-Term Securities ("MITTS"),[3] the return on which is based upon a portfolio of securities of European companies ("European Portfolio").[4] Notice of the proposal appeared in the **Federal Register** on November 15, 1993.[5] No comment letters were received on the proposed rule change. On December 16, 1993, the NYSE filed Amendment No. 1 to the proposed rule change.[6] This order approves the proposal.

II. Description of the Proposal

Under Section 703.19 of the Exchange's Listed Company Manual ("Manual"), the NYSE may approve for listing securities which can not be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, and warrants.[7] The NYSE is now proposing under Section 703.19 of the Manual to list for trading MITTS based on the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] "MITTS" and "Market Index Target-Term Securities" are service marks of Merrill Lynch & Co., Inc. ("Merrill Lynch").

[4] The European Portfolio is a static portfolio consisting of 24 equity securities listed as (1) common shares outside of the United States in the countries having the greatest trading volume for the shares; (2) common shares in the United States; or (3) as American Depositary Receipts ("ADRs") in the United States. An ADR is a negotiable receipt which is issued by a depositary, generally a bank, representing shares of a foreign issuer that have been deposited and are held, on behalf of holders of the ADRs, at a custodian bank in the foreign issuer's home country. The securities which comprise the European Portfolio are securities issued by corporations formed under the laws of France, Germany, Italy, Netherlands, Spain, Sweden, Switzerland, and United Kingdom.

[5] See Securities Exchange Act Release No. 33168 (November 9, 1993), 58 FR 60227 (November 15, 1993).

[6] Amendment No. 1 to the proposed rule change altered the European Portfolio by replacing the five securities that were ADRs traded on the OTC Bulletin Board Service operated by the National Association of Securities Dealers, Inc. ("NASD Bulletin Board"), with the equity securities underlying such ADRs. Four of these new component shares trade in Germany (Bayer AG, Deutsche Bank AG, Hoechst AG, and Siemens AG) and one trades in Switzerland (Nestle, S.A.). Amendment No. 1 also states that if Merrill Lynch, Pierce, Fenner & Smith Inc. ("MLPFS"), the affiliate of Merrill Lynch which will calculate the value of the European Portfolio, is required to use the bid and offer price for a portfolio security to determine the market price of such portfolio security, then MLPFS will not use any bid or offer price announced by MLPFS or any other affiliate of Merrill Lynch. See Letter from William Massey, Brown & Wood, to Richard Zack, Branch Chief, Office of Derivatives Regulation, Division of Market Regulation, Commission, dated December 16, 1993 ("December 16 Letter").

[7] See Securities Exchange Act Release Nos. 29229 (May 23, 1991), 56 FR 24852 (May 31, 1991), and 28217 (July 18, 1990), 55 FR 30056 (July 24, 1990) ("Hybrid Approval Orders").

European Portfolio ("European Portfolio MITTS").[8]

As with the Global Telecommunications MITTS, the European Portfolio MITTS will conform to the listing guidelines under Section 703.19 of the Manual, which provide that: (1) Issues must have a minimum public distribution of one million securities; (2) a minimum of 400 shareholders; (3) a minimum duration of one year; (4) a market value of at least $4 million; and (5) otherwise comply with the NYSE's initial listing criteria.[9] In addition, the Exchange will monitor the European Portfolio MITTs to verify compliance with the Exchange's continued listing criteria.[10] MITTs are non-callable senior hybrid debt securities of Merrill Lynch that provide for a single payment at maturity, and will bear no periodic payments of interest. At maturity, a holder of a MITT is entitled to receive from the issuer 90% of the principal amount plus an amount based upon the change in the market value of a stock index or portfolio. European Portfolio MITTS are cash-settled in that they do not give the holder any right to receive a portfolio security or any other ownership right or interest in the portfolio securities, although the return on the investment is based on the aggregate portfolio value of the European Portfolio securities.

According to the NYSE, European Portfolio MITTS will allow investors to combine the protection of a portion of the principal amount of the MITTS with potential additional payments based upon the performance of a portfolio of securities representing 24 highly capitalized companies throughout Europe encompassing a wide variety of products and services. In particular, the proposed European Portfolio MITTS will provide 90 percent principal protection of the original issue price at maturity with the opportunity to participate in any upside appreciation of the underlying European Portfolio. European Portfolio MITTS will mature in June 1999.

The European Portfolio consists of securities of 24 European companies that have significantly different levels of market capitalization, ranging from a high of approximately US$57.8 billion for Royal Dutch Petroleum Company to a low of approximately US$2.3 billion for Benetton Group S.p.A.[11] The securities in the European Portfolio include the ADRs of 17 European companies,[12] the stocks of two European companies listed and trading on the Exchange,[13] and the stocks of five other European companies listed and trading outside of the United States.[14] The average daily trading volume for the components of the European Portfolio for the period from July 1, 1993, through August 31, 1993, ranged from a high of approximately 1.36 million ADR shares for Royal Dutch Petroleum Company, to a low of approximately 3,100 ADR shares for Unilever plc. In addition, the public float[15] as of December 6, 1993 for the securities comprising the global portfolio ranged from a high of approximately US$55.5 billion for Royal Dutch Petroleum Company to a low of approximately US$583 million for Benetton Group S.p.A.[16]

At the outset, each of the securities in the European Portfolio will have equal representation. Specifically, each security included in the portfolio will be assigned a multiplier on the date of issuance so that the security represents an equal percentage of the value of the entire portfolio on the date of issuance. The multiplier indicates the number of shares (or fraction of one share) of a security, given its market price, to be included in the calculation of the portfolio. Accordingly, each of the 24 companies included in the European Portfolio will represent approximately 4.167 percent of the total portfolio at the time of issuance.

The multiplier for each security in the European Portfolio will generally remain unchanged except for limited adjustments that may be necessary as a result of stock splits or stock dividends.[17] There will be no adjustments to the multipliers to reflect cash dividends paid with respect to a portfolio security. In addition, no adjustments of any multiplier of a portfolio security will be made unless such adjustment would require a change of at least 1% in the multiplier then in effect.

If the issuer of a security included in the European Portfolio no longer exists, whether for reason of a merger, acquisition or similar type of corporate control transaction, then Merrill Lynch will assign to that security a value equal to the security's final value for the purposes of calculating portfolio values. For example, if a company included in the portfolio is acquired by another company, Merrill Lynch shall thereafter assign a value to the shares of the acquired company's securities equal to the value per share at which time the acquisition takes place.

If the issuer of a portfolio security is in the process of liquidation or subject to a bankruptcy proceeding, insolvency, or other similar adjudication, such security will continue to be included in the European Portfolio so long as a market price for such security is available. If a market price is no longer available for a portfolio security, including, but not limited to, liquidation, bankruptcy, insolvency, or any other similar proceeding, then the value of the portfolio security will be assigned a value of zero in connection with calculating the daily portfolio value and the closing portfolio value of the European Portfolio, for so long as no market price exists for that security.[18]

The value of the European Portfolio will initially be calculated once a day by MLPFS. These values will be disseminated to investors once a day after 5 p.m. Eastern Standard Time. The portfolio value, for any day, will equal the sum of the products of the most recently available market prices and the applicable multipliers for the portfolio securities.[19] In addition, the Securities Pricing Service ("SPS"), a division of MLPFS, will calculate and regularly publish the portfolio value during the term of the European Portfolio MITTS. Moreover, MLPFS and SPS have undertaken to implement certain surveillance and compliance procedures with respect to the dissemination of the portfolio value, requiring that the portfolio value be announced only through public dissemination and restricting the access of the MLPFS trading desk to the portfolio value determined by SPS.

European Portfolio MITTS will be denominated in U.S. dollars[20] and will entitle the owner at maturity[21] to receive an amount based upon the percentage change in the value of the European Portfolio from the date of issuance to the "final calculation period," subject to a minimum repayment amount of 90% of the original principal amount. The "final calculation period" is a specified number of days prior to the maturity date.[22] The average value of the European Portfolio during the final calculation period will be used in calculating the amount holders will receive upon maturity.[23]

If the market value of the portfolio has declined, the holder will receive not less than 90% of the original principal amount of the security. For example, if the market value of the portfolio used to calculate the amount payable at maturity has declined more than ten percent, the holders of the European Portfolio MITTS will receive 90 percent of the principal amount of the securities. The payment in addition to the minimum principal amount at maturity is based on changes in the value of the European Portfolio, but does not reflect the payment of dividends on the securities that comprise the European Portfolio.

Like the Global Telecommunication MITTS listed on the NYSE, European Portfolio MITTS may not be redeemed prior to maturity and are not callable by the issuer. Holders of European Portfolio MITTS will be able to cash-out of their investment by selling the security on the NYSE. The Exchange anticipates that the trading value of the security in this secondary trading market will depend in large part on the value of the securities comprising the European Portfolio and also on such other factors as the level of interest rates, the volatility of the value of the European Portfolio, the time remaining to maturity, dividend rates, and the creditworthiness of the issuer, Merrill Lynch.[24]

Because European Portfolio MITTS are linked to a portfolio of equity securities, the NYSE's existing equity floor trading rules will apply to the trading of European Portfolio MITTS. First, pursuant to NYSE Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading European Portfolio MITTS.[25] Second, consistent with NYSE Rule 405, the Exchange will further require that a member or member firm specifically approve a customer's account for trading European Portfolio MITTS prior to, or promptly after, the completion to the transaction. Third, European Portfolio MITTS will be subject to the equity margin rules of the Exchange. Fourth, in accordance with the NYSE's Hybrid Approval Orders, the Exchange will prior to trading European Portfolio MITTS, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in European Portfolio MITTS and highlighting the special risks and characteristics of the European Portfolio MITTS.[26]

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities

---

[8] The Commission recently approved the listing and trading on the Exchange of MITTS based upon a global portfolio of securities representing telecommunications companies ("Global Telecommunications MITTS"). See Securities Exchange Act Release No. 32840 (September 2, 1993), 58 FR 47485 (September 9, 1993) ("Exchange Act Release No. 32840").

[9] The hybrid listing standards in Section 703.19 of the Manual are intended to accommodate listed companies in good standing, their subsidiaries and affiliates, and non-listed equities which meet the Exchange's original listing standards. Domestic issuers must also meet the earnings and net tangible assets criteria set forth in Section 102.01 and 102.02 of the Manual. Specifically, the minimum original listing criteria requires that issuers have: (1) 2,000 holders holding 100 shares or more or have 2,200 holders with an average monthly trading volume of 100,000 shares; (2) a public float of 1.1 million shares; (3) an aggregate public market value of $18 million or total net tangible assets of $18 million; and (4) earnings before taxes of $2.5 million in the latest fiscal year and earnings before taxes of $2 million in each of the preceding two fiscal years, or earnings before taxes of $6.5 million in the aggregate for the last three fiscal years with a $4.5 million minimum in the most recent fiscal year (all three years are required to be profitable).

[10] The continued listing criteria for capital or common stock requires that: (1) The number of holders of 100 shares or more is equal to or greater than 1,200; (2) the number of publicly-held shares is equal to or greater than 600,000; (3) the aggregate market value of publicly-held shares is equal to or greater than $5 million; (4) the aggregate market value of shares outstanding (excluding treasury stock) is equal to or greater than $6 million and average net income after taxes for the past three years is equal to or greater than $600,000; and (5) net tangible assets available to common stock are equal to or greater than $8 million and average net income after taxes for the past three years is equal to or greater than $600,000. In addition, the continued listing standards for bonds require that outstanding publicly-held bonds have an aggregate market value or principal amount equal to or greater than $1 million. See Section 602 of the Manual.

[11] These values are as of December 6, 1993.

[12] Each of the ADRs is either listed or traded on, or traded over the facilities of, U.S. securities markets. The ADRs represent Alcatal Alsthom Compagnie Generale d'Electricite; Banco Santander, S.A.; Benetton Group S.p.A.; British Petroleum Company, plc; British Telecommunications plc; Cadbury Schweppes plc; Grand Metropolitan, plc; Hanson plc; L.M. Ericsson Telephone Co., Inc.; Reuters Holding plc; Rhone-Poulenc S.A.; Societe Nationale Elf Acquitane; Telefonica de Espana; Total S.A.; Unilever plc; Vodaphone Group plc; and Waste Management International plc.

[13] Philips Electronics N.V., and Royal Dutch Petroleum Company.

[14] The five foreign stocks, none of which are listed or trading on, or traded over the facilities of, U.S. securities markets, represent Bayer AG; Deutsche Bank AG; Hoechst AG; Nestle S.A.; and Siemens AG. ADRs representing each of these companies trade in the U.S. through the NASD Bulletin Board, however, none of those ADRs are subject to last sale reporting requirements and therefore, for purposes of calculating the settlement value of the European Portfolio, the underlying stock values have been substituted for the ADRs in the European Portfolio pursuant to Amendment No. 1. See December 16 Letter, *supra* note 6.

[15] As used herein, "public float" is defined as total outstanding shares less treasury stock, minority interests, and insider holdings. *Id.*

[16] *Id.*

[17] Merrill Lynch will adjust the multiplier of any portfolio security if the security is subject to a stock split or reverse split or similar adjustment in the case of an ADR, to equal the product of the number of shares issued with respect to one share of the portfolio security, or the number of receipts issued with respect to an ADR, and the prior multiplier. In the case of a stock dividend, the multiplier will be adjusted so that the new multiplier will equal the former multiplier plus the product of the number of shares of such portfolio security issued with respect to one share of the portfolio security and the prior multiplier.

[18] Merrill Lynch will not attempt to find a replacement stock or to compensate for the extinction of a security due to bankruptcy or a similar event.

[19] The procedure for determining the value of the European Portfolio will be the same as that approved by the Commission for Global Telecommunications MITTS (see Exchange Act Release No. 32840, *supra* note 8). See December 16 Letter, *supra* note 6. Specifically, the market price used for calculation of the portfolio value is the last reported sale price if the portfolio security is listed and traded on a national securities exchange, or is traded through the National Association of Securities Dealers, Inc. ("NASD") Automated Quotation ("NASDAQ") system's National Market System ("NMS"). If the portfolio security is a security of a foreign issuer or is an ADR that is not listed in a national securities exchange in the U.S. or is not a NASDAQ–NMS security, then the market price is the last reported sale price on the securities exchange on which the portfolio security is listed having the greatest volume of trading for the preceding calendar month as determined by MLPFS, provided that if such last reported sale price is for a transaction that occurred more than 4 hours prior to the close of such exchange, then the market price is the average of the last available bid and offer price on such exchange. If a foreign-issued portfolio security is not listed or trading on any securities exchange or if the last reported sale price or bid and offer are not obtainable, then the market price is the last reported sale price on the OTC market with the greatest volume of trading as determined by MLPFS. However, if such last reported sale price is for a transaction which occurred more than 4 hours prior to when trading in such OTC market typically ends, then the market price is the average of the last available bid and offer price of the three most active dealers, as selected by MLPFS. If MLPFS is required to use the bid and offer price for a portfolio security to determine the market price of such portfolio security, then MLPFS will not sue any bid or offer price announced by MLPFS or any other affiliate of Merrill Lynch. See December 16, 1993 Letter, *supra* note 6.

[20] The prices of the foreign stock components of the European Portfolio are quoted in currencies other than U.S. dollars. Therefore, investments in securities indexed to the value of non-U.S. securities may involve greater risks, subject to fluctuations of foreign exchange rates, future foreign political and economic developments, and the possible imposition of exchange controls or other foreign governmental laws or restrictions applicable to such investments.

[21] The maturity date for European Portfolio MITTS will be in June 1999.

[22] In particular, the final calculation period for European Portfolio MITTS will consist of the 90 business days prior to maturity of the security. Within this time period, Merrill Lynch will use for calculation purposes, the first 45 business days that occur without a market disruption event.

[23] The closing value for the European Portfolio will be determined by MLPFS and will equal the sum of the products of the average market price and the applicable multiplier for each portfolio security over the final calculation period.

[24] Merrill Lynch will deposit registered global securities representing European Portfolio MITTS with its depository, the Depository Trust Company ("DTC"), so as to permit book-entry settlement of transactions by participants in DTC.

[25] NYSE Rule 405 requires that every member member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

[26] See Hybrid Approval Orders, *supra* note 7

VOL 58 ISS 248 DE 29 1993 UMI

exchange, and, in particular, the requirements of section 6(b)(5). Specifically, the Commission believes that providing for exchange-trading of European Portfolio MITTS will offer a new and innovative means of participating the market for European securities. In particular, the Commission believes that European Portfolio MITTS will permit investors to gain equity exposure in European companies, while at the same time, limiting the downside risk of the original investment. For the reasons discussed in the Commission's order approving the Global Telecommunications MITTS, the Commission finds that the listing and trading of European Portfolio MITTS is in the public interest.[27]

As with Global Telecommunications MITTS, European Portfolio MITTS are not leveraged instruments, however, their price will still be derived and based upon the underlying linked security. Accordingly, the level of risk involved in the purchase or sale of a European Portfolio MITTS is similar to the risk involved in the purchase or sale of traditional common stock. Nonetheless, as with the Global Telecommunications MITTS, the Commission has several specific concerns regarding the trading of this type of product.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to European Portfolio MITTS. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of European Portfolio MITTS. Moreover, the Exchange will distribute a circular to its membership calling attention to the specific risks associated with European Portfolio MITTS.

The Commission notes that MLPFS intends to publish the value of the European Portfolio once each business day after 5 p.m. Eastern Standard Time for dissemination to electronic reporting services as well as to newspapers and trade publications. As with the Global Telecommunications MITTS, Merrill Lynch asserts that the value of a MITT does not necessarily correlate with the intra-day price moves related to the underlying component securities, largely as a result of the time value to maturity of the MITT.[28]

As a general matter, the Commission continues to believe that for new derivative products, real-time dissemination of the value of the underlying instrument should be provided to all investors. Nevertheless, the Commission has determined to permit European Portfolio MITTS to trade without real-time dissemination at this time for several reasons. First, a MITT is not a leveraged product that has its value determined primarily from the underlying individual security or security index but rather guarantees recoupment of 90% of the principal amount. Second, factors such as the creditworthiness of the issuer, in addition to price movements in the underlying securities will be relevant in pricing the European Portfolio MITTS. Third, the European Portfolio MITTS should, at least prior to expiration, trade more like a bond or debt security, based on the issuer's ability to perform rather than the value of the European Portfolio.[29] Accordingly, the Commission believes that real-time dissemination of the aggregate market value of the underlying European Portfolio is not necessary at this time but would nevertheless expect Merrill Lynch, along with the NYSE, to monitor the product to determine if increased reporting is necessary especially as the product approached maturity.[30]

The Commission realizes that European Portfolio MITTS are dependent upon the individual credit of the issuer, Merrill Lynch. To some extent this credit risk is minimized by the Exchange's continued listing standards which require issuers to maintain an aggregate market value of $5 million for its publicly-held shares.[31] In addition, the Exchange's hybrid listing standards further require that European Portfolio MITTS have at least $4 million in market value. In any event, financial information regarding Merrill Lynch, in addition to the information on the issuers of the underlying securities comprising the European Portfolio, will be publicly available.[32]

The Commission also has a systemic concern, however, that a broker-dealer, such as Merrill Lynch, or a subsidiary providing a hedge for the issuer will incur position exposure. As discussed in the approval order for the Global Telecommunications MITTS, the Commission believes this concern is minimal given the size of European Portfolio MITTS issuance in relation to the net worth of Merrill Lunch.[33]

The Commission believes that the listing and trading of European Portfolio MITTS should not unduly impact the market for the underlying securities comprising the European Portfolio. First, the underlying securities comprising the portfolio are either well-capitalized stocks, or in the case of ADRs, represent in dollar terms substantial market value.[34] Second, the issuers of the underlying securities comprising the European Portfolio are subject to reporting requirements under the Act, and the majority of the portfolio securities are either listed or traded on, or traded over the facilities of, U.S. securities markets.[35] Third, the Exchange has surveillance agreements in place for a large percentage of the securities in the European Portfolio for the sharing of market information.[36] This in addition to the NYSE's surveillance procedures will serve to deter as well as detect any potential manipulation. Fourth, Merrill Lynch will not include quotations made by or through Merrill Lynch or its affiliates when calculating the value of the European Portfolio. Lastly, MLPFS has agreed to restrict information with respect to all calculations of portfolio securities so that individuals trading such securities at MLPFS will only be able to receive such information through public means and not prior to its release to the public.[37]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. The Commission finds that the proposal, as amended, is substantially similar to the Global Telecommunications MITTS which were previously approved by the Commission. Additionally, the Commission has not received any comments, and has not been made aware of any problems that have arisen with respect to the trading of the Global Telecommunications MITTS. Furthermore, Amendment No. 1 further minimizes any regulatory concerns the Commission might have with respect to the pricing of the components of the European Portfolio. By substituting the underlying foreign stocks for the five ADRs originally proposed, each of the securities in the European Portfolio will be subject to last sale reporting requirements either in the U.S. (for the 17 ADRs and the two NYSE-listed component securities) or in the country where the greatest volume of trading for the previous calendar month has occurred (for the five securities traded outside of the U.S.).[38] Finally, the Exchange's original Global Portfolio MITTS proposal as well as this proposal were each published in the Federal Register for the full 21-day comment period without any comments being received by the Commission. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 1 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld form the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–44 and should be submitted by January 19, 1994.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[39] that the proposed rule change (File No. SR–NYSE–93–44) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[40]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31774 Filed 12–28–93; 8:45 am]

BILLING CODE 8010–01–M

---

[27] See Exchange Act Release No. 32840, *supra* note 8.

[28] *Id.*

[29] As the Global Telecommunications MITTS, Merrill Lynch has agreed to monitor the volatility of the market price of the European Portfolio MITTS in relation to the underlying European Portfolio and to discuss with the Commission the need to implement more frequent portfolio value dissemination in the event of an increase in intra-day volatility. See Letter from Markus Wiltshire, Brown & Wood, to Brad Ritter, Attorney, Office of Derivatives Regulation, Division of Market Regulation, Commission, dated December 22, 1993 ("December 22 Letter").

[30] Notwithstanding the above, the Commission still believes that it is useful and beneficial for all investors and market participants to have access to the value of the portfolio on a real-time basis and encourages the NYSE and Merrill Lynch to further explore the possibilities in this area.

[31] See *supra* note 10.

[32] The companies that comprise the European Portfolio are either reporting companies under the Act or subject to a limited exemption under Rule 12g3–2(b) of the Act. See December 22 Letter, *supra* note 29.

[33] See Exchange Act Release No. 32840, *supra* note 8.

[34] *See* supra note 11 and accompanying text.

[35] The Commission notes that 19 of the 24 component securities are traded on either the NYSE or NASDAQ–NMS.

[36] See Securities Exchange Act Release No. 32840, *supra* note 8.

[37] See December 22 Letter, *supra* note 29.

[38] See December 16 Letter, *supra* note 6.

[39] 15 U.S.C. 78s(b)(2) (1988).

[40] 17 CFR 200.30–3(a)(12) (1992).

[Investment Company Act Rel. No. 19970; 811–5247]

SunAmerica Multi-Asset Portfolios, Inc.; Application for Deregistration

December 21, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: SunAmerica Multi-Asset Portfolios, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 14, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 18, 1994 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 733 Third Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company organized as a Maryland corporation. On July 20, 1987, applicant (then known as Integrated Multi-Asset Portfolios, Inc.) filed a notification of registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933. The registration statement became effective on November 19, 1987, and applicant commenced its initial public offering on that date.

2. On March 31, 1993, applicant's board of directors approved a plan of reorganization whereby applicant agreed: (a) To transfer all of its assets and liabilities of its SunAmerica Total Return Fund series ("Total Return") to SunAmerica Balanced Assets Fund ("Balanced Assets"), a newly created portfolio of SunAmerica Equity Funds, in exchange for shares of beneficial interest of Balanced Assets; and (b) to transfer all of its assets and liabilities of its SunAmerica Diversified Income series ("Diversified Income") to SunAmerica Diversified Income Fund ("Income Fund"), a newly created portfolio of SunAmerica Income Funds, in exchange for shares of beneficial interest of Income Fund. In accordance with rule 17a–8 of the Act, applicant's directors determined that the sale of applicant's assets to the acquiring funds was in the best interests of applicant's shareholders, and that the interests of the existing shareholders would not be diluted as a result.[1]

3. Preliminary proxy materials soliciting shareholder approval of the reorganization were filed with the SEC on May 17, 1993 for Total Return, and on June 17, 1993 for Diversified Income. Definitive proxy materials for both series were filed with the SEC on July 29, 1993. Proxy materials were distributed to the applicant's shareholders of record on or about July 29, 1993. The reorganization was approved, in accordance with Maryland law, by applicant's shareholders at meetings held on September 23, 1993.

---

[1] Applicant and the acquiring funds may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and common officers. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

4. Immediately prior to the reorganization, applicant had 2,058,959.461 shares of common stock of Total Return outstanding (having an aggregate net asset value of $32,675,686.64 and a per share net asset value of $15.87) and 17,887,412.246 shares of common stock of Diversified Income outstanding (having an aggregate net asset value of $90,331,431.84 and a per share net asset value of $5.05). On September 24, 1993, applicant transferred all of the assets and liabilities of Total Return to Balanced Assets. In exchange, applicant received 2,058,959.461 shares of common stock of Balanced Assets, having an aggregate net asset value of $32,675,686.64 and a per share net asset value of $15.87. On October 1, 1993, applicant transferred all of the assets and liabilities of Diversified Income to Diversified Fund. In exchange, applicant received 17,887,412.246 shares of common stock of Diversified Fund, having an aggregate net asset value of $90,331,431.84 and a per share net asset value of $5.05. The shares received in exchange for applicant's assets were distributed to applicants shareholders *pro rata* in accordance with their respective interests in applicant.

5. The expenses in connection with the reorganization consisted of legal, accounting, printing, and proxy materials expenses, which are not expected to exceed $50,000 for each of Total Return and Diversified Income. These expenses were borne by applicant and the acquiring funds.

6. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31773 Filed 12–28–93; 8:45 am]

BILLING CODE 8717–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2685]

Oregon; Amendment #2; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of an earthquake on September 20, 1993, and subsequent aftershocks. Applications from victims in the previously designated counties will be accepted through January 5, 1994.

All other information remains the same, i.e., the termination date for filing applications for economic injury is July 6, 1994.

Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.

Dated: December 8, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93–31798 Filed 12–28–93; 8:45 am]

BILLING CODE 8025–01–M

Interest Rates

The interest rate on section 7(a) Small Business Administration direct loans (as amended by Pub. L. 97–35) and the SBA share of immediate participation loans is 6⅝ percent for the fiscal quarter beginning January 1, 1994.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 122.8–4(d)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the January—March quarter of FY 94, this rate will be 5⅝ percent.

John R. Cox,

Acting Assistant Administrator for Financial Assistance.

[FR Doc. 93–31799 Filed 12–28–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1922]

Shipping Coordinating Committee Subcommittee for the Prevention of Marine Pollution; Meeting

The Subcommittee for the Prevention of Marine Pollution (SPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on March 2, 1994, at 9:30 a.m. in room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of this meeting will be to review the agenda items to be considered at the thirty-fifth session of the Marine Environment Protection Committee (MEPC 35) of the International Maritime Organization (IMO) to be held from March 7–11, 1994. Proposed U.S. positions on the agenda items for MEPC 35 will be discussed.

The major items for discussion will be the following:

1. Prevention of oil pollution. Work will continue on guidelines for implementation of Regulations 13F and 13G to Annex I of The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). This will include guidelines for structural and operational requirements for existing ships, equivalencies for double-hulls for new ships, and guidelines for enhanced inspections.

2. Implementation of the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC). An IMO working group will address topics such as development of model pollution response courses and the practical application of OPRC to hazardous and noxious substances.

3. Follow-up action to the United Nations Conference on Environment and Development (UNCED). An MEPC working group will examine IMO's role in implementation of UNCED.

4. Unwanted aquatic organisms in ballast water. A working group will discuss a possible technical annex to MARPOL 73/78 to prevent the introduction of exotic species through discharge of ballast water.

5. Enforcement of Pollution Conventions. A working group will consider refuse recordkeeping amendments to Annex V of MARPOL 73/78 proposed by the United States.

6. The future work program of the MEPC.

Members of the public may attend these meetings up to the seating capacity of the room.

For further information or documentation pertaining to the SPMP meeting, contact Lieutenant Commander M. L. McEwen, U.S. Cost Guard Headquarters (G–MEP–3), 2100 Second Street, SW., Washington, DC 20593–0001, Telephone: (202) 267–0423.

Dated: December 15, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 93–31646 Filed 12–28–93; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements filed during the Week Ended December 17, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 49312
Date filed: December 15, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Reso Reso/P 0560 dated December 10, 1993, TC3 (except US Territories) Expedited Resos R–1 R–26
Proposed Effective Date: January 31, 1994

Docket Number: 49313
Date filed: December 15, 1993
Parties: Members of the International Air Transport Association
Subject: TC31 Reso/P dated November 16, 1993, Circle Pacific resos, r–1—001ff r–2—07c
Proposed Effective Date: April 1, 1994

Docket Number: 49319
Date filed: December 16, 1993
Parties: Members of the International Air Transport Association
Subject: TC2 Reso/P 1504 dated November 5, 1993, Within Europe (Not applicable-EC) r–1 to r–25; TC2 Reso/P 1505 dated November 5, 1993, Within Europe (Applicable-EC) r–26 to r–42; TC2 Reso/P 1506 dated November 5, 1993, Within Europe (Applicable–EC) r–43 to r–51
Proposed Effective Date: April 1, 1994

Docket Number: 49320
Date filed: December 16, 1993
Parties: Members of the International Air Transport Association
Subject: TC23 Reso/P 0622 dated November 5, 1993, Middle East–TC3 Resos r–1 to r–29
Proposed Effective Date: April 1, 1994

Docket Number: 49321
Date filed: December 16, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Reso/P 0562 dated December 14, 1993, TC3 (US Territories) r–1 to r–3
Proposed Effective Date: January 31, 1994

Docket Number: 49322
Date filed: December 16, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Reso/P 0563 dated December 14, 1993, Expedited TC3 (US Territories) Reso 085t
Proposed Effective Date: February 1, 1994

Docket Number: 49323
Date filed: December 16, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Reso/P 0561 dated December 14, 1993, Expedited TC3 (except US Territories) Resos r–1 to r–5
Proposed Effective Date: February 1, 1994

Docket Number: 49324
Date filed: December 16, 1993
Parties: Members of the International Air Transport Association
Subject: COMP Telex Mail Vote 662, Amend Rounding Units for Iceland
Proposed Effective Date: January 5, 1994

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–31729 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–62–P

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ended December 17, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 49325
Date filed: December 17, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 14, 1994
Description: Application of Presidential Air, pursuant to section 401(d)(3) of the Act, and subpart Q of the Regulations, requests authority to engage in interstate and overseas charter air transportation of persons, property, and mail, between any point in any state or the United States or the District of Columbia, or any territory or possession of the United States and any point outside thereof.

Docket Number: 49326
Date filed: December 17, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 14, 1994
Description: Application of Volga-Dnepr J.S. Cargo Airlines, pursuant to section 402 of the Act and subpart Q of the Regulations applies for a foreign air carrier permit to engage in scheduled and charter cargo service between the Russian Federation and the United States.

Docket Number: 48265
Date filed: December 14, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 11, 1994
Description: Amendment No. 1 to the application of LTE International Airways, S.A., pursuant to section 402 of the Act and subpart Q of the Regulations, requests amendment of Exhibits 8 and 11 to its original application with respect to Ownership and Management

Docket Number: 45059
Date filed: December 13, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 10, 1994
Description: Motion of Continental Micronesia, Inc., pursuant to Rules 5 and 18 of the Department's rules of practice, and section 401 of the Act and subpart Q of the regulations, moves for leave to adopt Continental's application in this docket as its own and to amend the application to give Continental Micronesia the same authority Continental had sought to secure flexible route authority available under the U.S. Philippines bilateral air transport agreements.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–31728 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Proposed Advisory Circular 21.24–T.B.D.: Primary Category Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: The FAA has prepared a proposed Advisory Circular (AC) to provide guidance in complying with the procedures to certificate primary category aircraft. The proposed AC discusses type, production, and airworthiness certification, and associated maintenance procedures and operating limitations that are unique to primary category aircraft.

DATES: Comments must be received on or before February 28, 1994.

ADDRESSES: Comments on proposed AC 21.24–T.B.D. may be mailed or delivered to: Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Policy and Procedures Branch, AIR–110; 800 Independence Avenue, SW., room 805; Washington, DC 20591. Copies of the proposed AC may be obtained from

Policy and Procedures Branch, Aircraft Engineering Division, AIR–100.

FOR FURTHER INFORMATION CONTACT: Manuel Macedo, Policy and Procedures Branch, AIR–110, 800 Independence Ave., SW., room 804; Washington, DC 20591, telephone (202) 267–8566.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications must identify the AC number and must be submitted to the address specified above. All communications received on or before the closing date for comments will be considered before issuing AC 21.24–T.B.D.

Background

On March 7, 1989, the FAA issued a Notice of Proposed Rulemaking (NPRM), No. 89–7 (54 FR 9738), proposing the adoption of a new category of aircraft to be known as primary category aircraft. These aircraft were proposed to be of simple design and intended for pleasure and personal use only. As described in the notice, primary category aircraft (airplanes, gliders, rotorcraft, manned free balloons, etc.) would be unpowered or powered by a single naturally aspirated engine having a certificated takeoff rating of 200 shaft horsepower or less, would have a maximum weight of 2,500 pounds or less, and would have an unpressurized cabin. The notice proposed to permit pilot-owners of primary category aircraft to do certain maintenance procedures, including inspections, on their own aircraft after receiving the appropriate training. The notice also proposed to permit the conversion of aircraft that are within the primary category engine and weight limits from standard category to primary category. The notice proposed to allow the use of primary category aircraft for pilot training and to prohibit the use of all primary category aircraft for compensation or hire.

On August 1, 1991, the FAA issued a Supplemental Notice of Proposed Rulemaking (SNPRM) (56 FR 36972), to correct a statement in the original NPRM that indicated that Part 36 noise requirements do not apply to primary category aircraft. The SNPRM explained that the FAA has no discretion in the application of noise requirements; Part 36 applies to primary category aircraft.

On August 1, 1991, the FAA also published Notice No. 89–7A (56 FR 36976), reopening the comment period to address new information and proposals presented to the FAA. The reopening was based on a February 1990 meeting between representatives of the Experimental Aircraft Association (EAA), the Aircraft Owners and Pilots Association, and the FAA. Because of that meeting and subsequent EAA comments, the FAA reopened the comment period to solicit comments on several EAA-requested changes from the original March 1989 NPRM. Those proposed changes were: changing the maximum weight criteria from 2,500 to 2,700 pounds; replacing the 200-horsepower engine limitation with a 61-knot stall speed limitation for airplanes and a 6-pound per square foot main rotor disc maximum load for rotorcraft; allowing the use of primary category aircraft for primary pilot training and for rental if the aircraft is maintained by an FAA-certificated mechanic or repair station; and allowing the use of primary category aircraft that are maintained by the pilot-owner, rather than an FAA certificated mechanic or repair station, to provide limited checkouts for other primary category pilots.

The final rule, Amendments 21–70, 36–19, 43–34, 91–230, and 147–6 to FAR Parts 21, 36, 43, 91, and 147, was published on September 9, 1992 (57 FR 41360), and was effective December 31, 1992.

This AC provides an acceptable means, but not the only means, of complying with the primary category aircraft type certification requirements. This AC discusses type, production, and airworthiness certification, and associated maintenance procedures and operating limitations unique to primary category aircraft. This guidance material is neither mandatory nor regulatory in nature and does not constitute a regulation in itself. The Federal Aviation Regulations referenced in this AC are those that have been modified to include requirements unique to primary category aircraft. This AC does not discuss other general certification requirements that are common to all aircraft that also apply to primary category aircraft. Their absence from this AC may not be construed to imply that these other requirements are not applicable to primary category aircraft.

Comments received on the proposed AC may be examined before and after the closing date in Room 804, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m., weekdays.

How to Obtain Copies:

A copy of proposed AC 21.24–T.B.D., Primary Category Aircraft, may be obtained by contacting the person under "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, DC on December 21, 1993.

John K. McGrath,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 93–31607 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–M

Request for Comments Regarding the Issuance of Experimental Airworthiness Certificates for the Purpose of Exhibition or Air Racing and Special Flight Authorizations (SFA)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: On July 9, 1993, the FAA established a moratorium on the processing of applications relating to non-type certificated aircraft, manufactured outside the United States, for experimental airworthiness certificates for the purpose of air racing or exhibition and requests for SFA. This action was necessary because of a proliferation of such applications and requests, which raised concerns that the FAA could not adequately surveil the aircraft. The FAA began a study to determine if adequate surveillance could be achieved through its current directives, policy statements, and advisory material. On August 18, 1993, the FAA lifted the moratorium and established interim requirements for certification and operations which are imposed as limitations on the operation of the subject aircraft. This notice requests public comment on what factors should be considered in establishing new limitations.

DATES: Comments must be submitted on or before February 14, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. John Hozella, Aircraft Manufacturing Division (AIR–200), Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–7990.

SUPPLEMENTARY INFORMATION: There has been a recent dramatic increase in applications to the FAA for issuance of experimental airworthiness certificates under § 21.191(d), Exhibition, and § 21.191(e), Air Racing, of the Federal Aviation Regulations (FAR), as well as Special Flight Authorizations (SFA) under § 91.715 of the FAR, for non-U.S. manufactured aircraft for which type certificates under FAR § 21.29 have not been issued.

Little was known by the FAA concerning the design, manufacturing processes, safety record, maintenance, or service history of these aircraft. Moreover, the FAA was concerned that these aircraft may be used for a purpose other than the purpose for which they were certificated, in violation of § 91.319(a)(1) of the FAR. The surge of applications and requests raises the prospect of a large increase of these aircraft operating in U.S. airspace, a dramatically different situation than when there were only a handful of these aircraft requiring FAA surveillance. The increase in requests for experimental airworthiness certificates and SFA's had an obvious impact on the FAA's limited resources, due to the necessity for FAA original airworthiness certification and surveillance of continued airworthiness and proficiency. With these limited resources available, if strong enforcement measures are imposed, "selective" enforcement would probably result due to the lack of inspector resources.

The FAA, therefore, has determined that, in the interest of safety, it must re-assess the standards and limitations applicable to these aircraft. On July 9, 1993, the FAA placed a moratorium on the issuance of experimental airworthiness certificates and SFA's. Thereafter, the FAA studied how it could best resolve its safety concerns using existing directives, policy statements, and advisory material. On August 18, 1993, the FAA lifted the moratorium by establishing interim limitations on the operation of the subject aircraft.

This notice requests public comment on what factors need to be considered in order to address the safety concerns described above. Members of the public have suggested several possible means: limiting the number of aircraft certificated per year; appointing additional FAA designees to make findings of compliance for some certification functions; and limiting the purposes for which SFA's will be issued.

Another question revolves around the purpose of exhibition as stated in FAR § 21.191(d), "Exhibiting the aircraft's flight capabilities, performance, or unusual characteristics at air shows, motion picture, television, and similar productions, and the maintenance of exhibition flight proficiency, including (for persons exhibiting aircraft) flying to and from such air shows and productions." As noted above, operation of an experimental aircraft is limited to the purpose for which it was certificated. The FAA recognizes that aviation enthusiasts want to see a wide variety of aircraft based on historical significance or uniqueness, but there is a question as to how many aircraft are necessary to fill this need. Many of the aircraft being imported are the same model, e.g. Aero Vodochody L–29, Antonov AN–2, Mikoyan M–15, Yakovlev Y–18, etc. The FAA also has been questioned as to what would constitute a reasonable limit on the number of aircraft that should be certificated for the purpose of exhibition, i.e., when does a particular model of aircraft cease to be unique?

Another concern is the fact that experience in the areas of certification, continued airworthiness, and pilot skills for these aircraft, both in the FAA and the general aviation public, is limited. The FAA solicits comments as to the appropriate minimum experience and training requirements necessary to properly maintain and pilot these aircraft. In the same vein, the FAA solicits comments as to how the continued airworthiness of these aircraft can be maintained, i.e., what is the availability (now and in the future) of replacement parts, what level of detail for the FAA-approved inspection program is necessary? The FAA also requests input on a means by which the applicant/FAA can identify which parts have life-limits and determine the current status of those life-limited parts.

There are no type ratings issued for these aircraft. Instead, the FAA issues a letter of authorization to a pilot for a specific model of aircraft. Some of these aircraft are piston-powered (over 800 hp) or turbine powered and were flown as fighter/tactical aircraft by the military of the country of origin. Considering the complexity, performance characteristics, and operational environment of these aircraft, it may be appropriate, in the interest of safety, to establish semi-annual flight reviews, a requirement for a first- or second-class medical certificate, and/or a currency requirement similar to the 90-day requirement in FAR § 61.57.

The FAA has received reports of experimental exhibition aircraft that are being used for purposes other than exhibition, e.g., executive/private transportation, used for compensation and hire, carrying passengers, cargo, sky diving. This is an abuse of the experimental aircraft regulations, which exist solely for the purpose described. Aircraft used for other purposes must be certificated to the appropriate design standards in the FAR. The FAA requests comments concerning any known abuses and comments regarding if this might suggest whether the purposes of experimental airworthiness certification should be expanded or further limited.

Some of the aircraft currently certificated for the purpose of exhibition or air racing are not flown for these purposes. A proposal has been made to "grandfather" a few of these aircraft that received airworthiness certificates prior to the July 9, 1993, moratorium. The FAA requests input on a whether and how aircraft should be grandfathered, i.e., based on category or particular model of aircraft, date of original U.S. airworthiness certification. Additionally, comments are requested as to what specific operating limitations must be developed to define when and how the aircraft may be flown, i.e., only within 100 miles of the aircraft's base of operations, day visual flight rules (VFR) only.

The FAA welcomes comments on these issues and will take any comments received into consideration in revising the procedures and planning any future initiatives, including, when appropriate, instituting rulemaking. Comments must be submitted on or before the date stated in the "DATES" caption in this Notice. Interested parties can express their views by submitting written comments to the FAA, Aircraft Manufacturing Division (AIR–200), 800 Independence Ave., SW., Washington, DC, 20591.

Issued in Washington, DC on December 21, 1993.

Thomas E. McSweeny,

Director, Aircraft Certification Service.

[FR Doc. 93–31757 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–M

Aircraft Overflight Issues in the State of Hawaii; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) is investigating complaints regarding flight safety, aircraft noise and possible intrusive flights of helicopters in Hawaii. The FAA will conduct four public meetings in Hawaii on the islands of Oahu, Kauai, Maui and Hawaii on January 24, through January 27, 1994. The purpose of these meetings is to gather information relevant to aircraft safety and the impact of aircraft operations on Hawaiian residential communities, National and State parks, wildlife refuges areas, state natural area reserves, sanctuaries and areas of significant historic value. Interested persons will be given an opportunity to present their views, recommendations and comments concerning these issues in this public forum. All comments received will be considered in any future FAA actions, rules, or policy developments on aircraft operation and airspace use.

DATES: The public meetings will be held on January 24, 1994 on Oahu; January 25, 1994 on Kauai; January 26, 1994 on Maui; and January 27, 1994 on Hawaii. Written statements are invited and must be received by the FAA on or before February 15, 1994.

ADDRESSES: The public meetings will be held as follows:.

Monday January 24, 1994, 5:30 pm to 8:30 pm; Oahu; Federal Aviation Administration, Flight Standards District Office, Honolulu International Airport, 135 Nakolo Place, Honolulu, Hawaii

Tuesday January 25, 1994, 5:30 pm to 8:30 pm; Kauai; Kauai War Memorial Convention Hall, 4191 Hardy Street, Lihue, Hawaii

Wednesday January 26, 1994, 5:30 pm to 8:30 pm; Maui; County Building (8th floor), 200 S. High Street, Wailuki, Hawaii

Thursday January 27, 1994, 5:30 pm to 8:30 pm; Hawaii; Hilo County Building, room 201, 25 Aupuni Street, Hilo, Hawaii

Persons unable to attend the meetings may mail their comments (in triplicate) to: Air Traffic Rules Branch, ATP–230, ATTN: Melodie De Marr, Aircraft Overflight Issues in the State of Hawaii, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at a meeting or questions regarding the subject matter of the meetings should be directed to Melodie De Marr, Air Traffic Rules Branch, ATP–230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591 telephone (202) 267–8783; telefax (202) 267–5809. Hawaiian residents may call John Gordon, the FAA Western Pacific Regional Office Representative, for additional information at (808) 541–1238.

SUPPLEMENTARY INFORMATION:

Background

The FAA will be conducting four meetings in Hawaii to provide the opportunity for the public to present their concerns and recommendations concerning aircraft overflight issues to officials for consideration in any future policy and regulatory action.

The majority of flights conducted by helicopter companies in Hawaii are commercial air tour/sightseeing operations. Recent complaints have spurred a plea for congressional action, through proposed legislation, that would require rulemaking by the FAA.

Issues such as air traffic congestion, aircraft noise, flight safety, and airport constraints near scenic areas are sometimes exacerbated by the growth of air tour/sightseeing activity and the associated increase in the number of flights conducted over a given area. The source of some complaints thought to be from sightseeing helicopter activity may actually come from other aviation operations such as military, police, drug interdiction or other government agency activity.

Commercial air tour and sightseeing flights are normally conducted under part 91 or part 135 of the Federal Aviation Regulations (FAR). Section 135.1(b)(2) of the FAR excepts nonstop sightseeing flights that begin and end at the same airport and are conducted within a 25-statute mile radius of that airport from the requirements of part 135. These flights are permitted to be conducted entirely under part 91 regardless of whether or not the flight is conducted for hire. Presently, operators flying only under part 91 do not hold an operating certificate, and do not have FAA reporting requirements. Part 91 sightseeing flights might include flights conducted by private individuals or small companies that provide only occasional rides in the local area of their home airport or heliport. The FAA has received recommendations that all air tour-sightseeing flights be conducted under FAR part 135 with certificated operators.

Helicopters are limited by regulation to a minimum altitude based on safety of flight that will permit, in the event of a power failure, an emergency landing without undue hazard to persons or property on the surface. Commercial helicopter flights conducted under Federal Aviation Regulation part 135 are restricted to no less than 300 feet above the surface when operating over a congested area. The Helicopter Association International (HAI) of Alexandria, Virginia founded the voluntary "fly neighborly" program. The program is widely supported by the helicopter industry to mitigate complaints about low-flying helicopters. The Hawaii Helicopter Operators Association (HHOA) operates with similar goals to fly neighborly in Hawaii. The HHOA has expanded the HAI fly neighborly concept with a structured member compliance program that includes a minimum standoff/altitude rule of 1500 feet.

The FAA has received requests for special regulations in Hawaii to include special air tour routes and marked areas where overflights of all aircraft are limited by altitude. Community groups have expressed their desire to limit the frequency of overflights and to have no-fly time slots. The FAA has met with representatives of local citizen groups and the helicopter industry in Hawaii regarding all of these important issues and will now conduct public meetings to gather further information in the State of Hawaii.

Participation at the Meeting

Requests from persons who wish to present oral statements at the public meetings should be submitted to Melodie De Marr at the address listed in the section entitled **FOR FURTHER INFORMATION CONTACT** no later than January 21, 1994. Such requests should include a written summary of remarks to be presented and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested.

Meeting Procedures

The following procedures are established to facilitate the meeting:

(a) There is no admission fee or other charge to attend or to participate in the meeting.

(b) This meeting will be informal in nature and will be conducted by designated representatives of the Administrator. Each participant will be given an opportunity to deliver comments or make a presentation.

(c) Any person wishing to make a presentation at the meeting must notify the FAA prior to the meeting and provide an estimate of the time needed for the presentation. This procedure will permit allocation of an appropriate amount of time for each presenter. The FAA may allocate the time available for each presentation to accommodate all speakers. Everyone who has provided advance notice will have the opportunity to address the meeting panel. Time will also be set aside for brief, unscheduled comments. The meeting will be adjourned at any time if all persons present have had the opportunity to speak.

(d) Any person who wishes to present a position paper to the FAA, pertinent to the issues associated with aircraft overflights in the State of Hawaii, may do so. Persons wishing to distribute pertinent position papers to the attendees should present 10 copies of all materials to the panel members.

Additional copies of each handout should be available for other attendees.

(e) Materials relating to issues associated with aircraft overflights in the State of Hawaii will be accepted at the meeting. Every reasonable effort will be made to hear every request for presentation consistent with a reasonable closing time for the meeting. Persons may submit written comments by February 15, 1994, regardless of intent to attend the meetings.

(f) Statements made by members of the meeting panel are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a member of the panel is not intended to be, and should not be construed, as a position of the FAA.

(g) The meeting is designed to solicit public views and more complete information on aircraft overflight issues in the State of Hawaii. Therefore, the meeting will be conducted in an informal and non-adversarial manner. No individual will be subject to cross-examination by any other participant; however, panel members may ask questions to clarify a statement and to ensure a complete and accurate record.

(Authority: 49 U.S.C. App. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2451 et. seq.; 49 U.S.C. 106(g)).

Issued in Washington, DC, on December 22, 1993.

Willis C. Nelson,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–31755 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–M

Intent to Rule on Application to Impose and Use and Impose Only the Revenue From a Passenger Facility Charge (PFC) at Pullman-Moscow Regional Airport, Pullman, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Pullman-Moscow Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 28, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

J. Wade Bryant, Seattle Airports District Office, SEA–ADO, Federal Aviation Administration, 1601 Lind Avenue SW., Suite 250, Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David Crowner, airport Manager at the following address:

Pullman-Moscow Regional Airport, 3200 Airport Complex N., Pullman, WA 99163.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Pullman-Moscow Regional Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (206) 227–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, WA 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Pullman-Moscow Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 20, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Pullman, WA and the City of Moscow, ID was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 22, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: April 1, 1994

Proposed charge expiration date: October 31, 1997

Total estimated PFC revenue: $169,287.65

Brief description of proposed project(s): Impose and Use projects: Runway 5/23 rehabilitation, runway and taxiway signage, lighting upgrade and runway 5 safety area stabilization, master plan update, aircraft rescue and fire fighting (ARFF) vehicle acquisition and storm water pollution prevention plan development, modify ARFF building and expand general aviation (GA) apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operator filing FAA form 1800–31, commuters or small certificated air carriers filing DOT Form 298–C schedule T1 or E1 and large certificated route air carriers filing RSPA Form T–100.

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT"** and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW, Suite 540 Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Pullman.

Issued in Renton, Washington on December 20, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–31758 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 93–93; Notice 1]

Century Products Company; Receipt of Petition for Determination of Inconsequential Noncompliance

Century Products Company (Century) of Macedonia, Ohio has determined that some of its child safety seats fail to comply with the flammability requirements of 49 CFR 571.213, "Child Restraint Systems," Federal Motor Vehicle Safety Standard (FMVSS) No. 213, and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Century has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.7 of FMVSS No. 213 states that "[e]ach material used in a

child restraint system shall conform to the requirements of S4 of FMVSS No. 302 (571.302)." Paragraph S4.3(a) of FMVSS No. 302 states that "[w]hen tested in accordance with S5, material described in S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 4 inches per minute." Paragraph S4.2.1 of FMVSS No. 302 states that "[a]ny material that does not adhere to other material(s) at every point of contract shall meet the requirements of S4.3 when tested separately."

During the period of December 1991 to May 1993, Century manufactured and sold 192,824 Model 4594 and 4595 child safety seats that do not comply with the flammability requirements of FMVSS No. 213. On June 7, 1993, NHTSA informed Century that, when its Model 4595 child safety seat was tested, the fabric seat cover failed to meet the Standard No. 213 flammability requirements (Century's Model 4594 has the same construction as its Model 4595, and therefore is also at issue). Calspan tested six samples of the seat covers for NHTSA, yielding burn rates of between 6.3 and 7.6 inches per minute (Agency Investigation File NCI 213–DTL–93–036).

The subject child seats are constructed of fabric, fiberfill, and backing. The covers on these seats are formed by sewing three sections together: The left side, the right side, and the center. Each section is fully sewn around its perimeter and the three sections are sewn together. The entire perimeter of the cover is then permanently and completely sewn together with an overlock to assure that the layers are securely attached. There is additional stitching surrounding the buckle opening and belt loop areas. Because of the construction of the seats, Century felt that composite testing, or testing the fabric, fiberfill, and backing together, would be the most accurate means of determining the flammability of the product.

Century supports its petition for inconsequential noncompliance with the following (Century also submitted test reports which are available for review in the NHTSA docket.):

Under the National Traffic and Motor Vehicle Safety Act (the "Act"), 15 U.S.C. § 1391 *et seq.*, each FMVSS that is promulgated is required to be practicable, and designed to "meet[ ] the need for motor vehicle safety." 15 U.S.C. 1391(2). The definition of "motor vehicle safety" is as follows:

> "Motor vehicle safety" means the performance of motor vehicles or motor vehicle equipment in such a manner that the public is protected against *unreasonable risk of accidents* occurring as a result of the design, construction or performance of motor vehicles and also protected against *unreasonable risk of death or injury* to persons in the event that accidents do occur, and includes nonoperational safety of such vehicles. 15 U.S.C. 1391(1) (emphasis added by Century).

Section 157 of the Act, 15 U.S.C. 1417, exempts manufacturers from the Act's notice and remedy requirements when the Secretary determines that a defect or noncompliance is inconsequential as it relates to motor vehicle safety. By enacting section 157, Congress acknowledged that there are circumstances where a manufacturer has failed to comply with a FMVSS and yet the impact on motor vehicle safety is so slight that an exemption from the notice and remedy requirements of the Act is justified. Century submits that this is one of those cases.

Under FMVSS No. 213, section S5.7, "each material used in a child restraint system shall conform to the requirements of S4 of FMVSS No. 302." 49 CFR 571.213 S5.7 (1992). FMVSS No. 302 sets the standard for the flammability of materials used in the interior of motor vehicles. The purpose of FMVSS No. 302 is to "reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes."

When FMVSS No. 302 was originally proposed, materials used in the interior of motor vehicles were to be tested separately regardless of how the materials were used. FMVSS No. 302 was revised prior to its release to require testing as a composite if the surface material is "bonded, sewed or mechanically attached to the underlying material." 36 FR 290 (1971). The purpose of the revision was to eliminate "an element or complexity found unnecessary for safety purposes." Under this version of FMVSS No. 302, Century's infant restraint would have been tested as a composite and readily passed the standard.

However, in 1975, the testing procedure was again revised, and the standard now in place was adopted. 40 FR 14,318 (1975). Under the revised standard, materials are tested as a composite only if the material "adhere[s] to other materials(s) at every point of contact." 49 CFR 571.302 S4.2.1. The standard was revised to take into account some omission in the testing scheme "and to reduce the complexity of testing single and composite materials." 40 FR 14,319 (1975). The standard was *not* revised because former FMVSS No. 302 was found to be inadequate to meet the safety standards of the Act, but to reduce the complexity of the testing.

The current version of FMVSS No. 302 may go further than necessary to prevent the "unreasonable risk of injury or death." This is evidenced by the results of a study completed by Failure Analysis Associates in March 1991. A study of the U.S. CPSC NEISS database and the NHTSA Complaint File back to 1978 revealed *not one* instance in which an infant or child was injured because a car seat ignited. Failure Analysis Associated, Inc., *Flammability Tests and Examination of Accident/Injury and Complaint Data* 11 (1991). A study conducted by James H. Shanley, Jr. in conjunction with Fisher-Price's petition for determination of inconsequential noncompliance also found no instances in which a vehicle fire started in a child safety seat. *Fisher-Price*, Dkt. No. 93–79, 58 FR 59,511 (1993) (Notice of Receipt of Petition for Determination of Inconsequential Noncompliance). Century realizes that the facts in their case are different from Fisher-Price and only cites the document for the purpose stated in this Petition. Moreover, in 1971 a much larger portion of our society smoked. Now, with fewer and fewer Americans smoking, the risks that an infant or child restraint could be set on fire by lighted cigarettes or matches is becoming ever more remote.

The Agency could submit that the reason there have been no fires is because of FMVSS 302 and their aggressive enforcement of the standard. But, it is important to remember that the Agency standard does not require nonflammable materials; it only requires material which burns slowly. Hence, the standard, while admirable, would not explain the fact that there has been no recorded evidence of a fire.

The frequency of incidents involving nonconforming or defective equipment is a factor in determining whether defects or noncompliance has an impact on safety. See, *e.g.*, *United States* v. *General Motors Corp.*, 656 F. Supp. 1555 (D.D.C. 1987), *aff'd*, 841 F.2d 400 (D.C. Cir. 1988) (premature wheel lockup in 1980 X-cars was not a "safety related defect" when the risk of failure was no worse than, and in most instances better than, the rate for all cars); *United States* v. *General Motors Corp.*, 561 F.2d 923 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1033 (1978) (government presented evidence of a disproportionately high number of replacement parts (35,366) and inferred, in the absence of challenge by General Motors, that replacement part sales were due to a disproportionately high rate of failures and concluded that defect

safety-related). The fact that no child has been injured by fire caused by a child car seat for the last 15 years militates strongly against a finding that Century's noncompliance has an effect on safety.

NHTSA has recognized that some technical violations of NHTSA standards do not affect safety and [has] exempted manufacturers from the notice and remedy requirements of the Act. See, *e.g.*, *General Motors Corp.*, Dkt. No. 92–23, 57 FR 45,866 (1992) (one test point on side reflex reflector failed to meet standard, but when values for reflector considered overall, noncompliance inconsequential). Another example, in *General Motors Corp.*, Dkt. No. 91–10–IP–No. 2, 56 FR 33,323 (1991), NHTSA found that the technical violation at issue had an inconsequential effect on safety because the potential hazards were so remote.

In *General Motors Corp.*, General Motors' high beam telltale in its 1990 Oldsmobile Toronado was not in compliance with NHTSA standards because when the cigar lighter was in use, the telltale dimmed or extinguished. The Agency granted GM's petition for inconsequential noncompliance because problems would occur only under a particular set of circumstances:

> The noncompliance could only manifest itself during upper beam use when the cigar lighter was also in use. But only a comparatively small portion of driving occurs at night, the time of headlamp activation. Because of State and local laws prohibiting upper beam use, only a very small percentage of nighttime driving is performed using the upper beam. The 25-second use of the cigar lighter would comprise only a limited amount of the time the upper beam is in use. The safety hazard most likely to be created by the noncompliance is glare in the eyes of oncoming driver on a two or three-lane road, but, if discomforted, the instinctive reaction of that driver would be to flash the upper beams, alerting the noncompliant vehicle to lower that vehicle's upper beams. *The probability of all these facts occurring simultaneously is low.* [Emphasis added.] *Id.* at 33,324.

[Century asserts that] the "probability of all these facts occurring simultaneously" in this Century case is exceedingly low. When tested as a composite, Century's Model 4594 and 4595 infant restraints fall within NHTSA burning rate. The components of the infant restraint are securely sewn together. In order for Century's infant restraint to pose a hazard to a passenger, (1) the seat would have to have somehow torn apart around the numerous sewn seams; (2) the fabric would have to be frayed in such a way that the fabric is sticking up away from the fiberfill; and (3) the source of ignition would have to land on the exposed fabric. Again, the "probability of all these facts occurring simultaneously" is low. Coupling the need for these unlikely probabilities with the fact that there has never been a fire caused by a child car seat ignition should make this a case where fairness requires a granting of the Petition.

Under the standard as enacted in 1971, Century's infant restraint would have been tested as a composite, and therefore, would be in compliance with NHTSA standards. FMVSS No. 302 was revised in 1975, not to address safety concerns, but simply for purposes of administrative ease. The fact that the requirements of FMVSS No. 302 are in excess of those needed to ensure the safety of the restraint's occupants was dramatically demonstrated by the results of a study performed by Patrick Kennedy, an expert retained by Fisher-Price. Mr. Kennedy's study revealed that typical children's clothing burns at a rate far in excess of the standard imposed by FMVSS No. 302.

Therefore, an infant sitting in Century's infant restraint is at far greater risk from the clothing he or she wears than from the infant restraint itself.

Century's infant restraints do not pose an unreasonable risk to the infants they hold. The question of whether Century's infant restraint meets the objectives of the Act could be phrased in this fashion: Would a reasonable parent, after being made aware of all the facts and circumstances surrounding this noncompliance, still be willing to place his or her infant in the Model 4594 or 4595 infant restraint? Century is satisfied that a reasonable parent would use their Model 4594 and 4595 restraints without any hesitation.

Century understands how serious the flammability issue is to the Agency and commends the Agency for its vigilance. Century is also serious about the issue, and would not consider selling a product that would place a child at risk. Century strongly believes that if there is a risk in this case, it is not an unreasonable risk as required by the Act. As Century's tests have shown, the seat pad on the infant restraint as a composite burns well within the burn rate acceptable to the Agency. Furthermore, the seat pad is constructed in a way that makes tears unlikely. Because Century's infant restraints meet the objectives of the Act, Century noncompliance is inconsequential as it relates to motor vehicle safety. For these reasons, Century respectfully requests that NHTSA grant its petition for exemption.

Interested persons are invited to submit written data, views, and arguments on the petition of Century, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: January 28, 1994.

Authority: 15 U.S.C. 1417; delega ions of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on December 22, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–31797 Filed 12–28–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986):

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: December 22, 1993.

Samuel Y. Sessions,

Deputy Assistant Secretary for Tax Policy.

[FR Doc. 93-31783 Filed 12-28-93; 8:45am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1993 Rev., Supp. No. 6]

Surety Companies Acceptable on Federal Bonds; Western Atlantic Reinsurance Corp.

A Certificate of Authority as an acceptable reinsurer on Federal Bonds is hereby issued to the following company under sections 9304 to 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1993 Revision, on page 35824 to reflect this addition:

Western Atlantic Reinsurance Corporation. BUSINESS ADDRESS: 380 Madison Avenue, New York, NY, 10017. PHONE: (212) 973-5800. UNDERWRITING LIMITATION *b*: $9,110,000.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874-6602.

Dated: December 23, 1993.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 93-31822 Filed 12-28-93; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Reporting Matching Program

ACTION: Notice of matching program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA), Veterans Health Administration (VHA), intends to conduct a recurring computer matching program matching Internal Revenue Service (IRS) and Social Security Administration (SSA) income records with VA patient income data contained in the patient medical record. The goal of these matches is to compare income, social security number, and employment status as reported to VHA with income records maintained by IRA and SSA. For the information of all concerned, a summary report of the VHA matching program, describing the computer matches follows. In accordance with 5 U.S.C. 552a(o)(2), copies of the matching agreements are being sent to both houses of Congress. These matches are expected to commence not sooner than 40 days after agreements by the parties are submitted to Congress and the Office of Management and Budget and not sooner than 30 days from the date of publication of this notice, or 40 days from the date this notice was approved, whichever is later. The matches may be extended by the involved Data Integrity Boards for a twelve month period provided all agencies involved certify to the Data Integrity Boards, within three months of the termination date of the original match, that the matching programs will be conducted without change and the matching programs have been conducted in compliance with the original matching agreements. The matches will not continue past the date the legislative authority to obtain this information expires.

ADDRESSES: Interested individuals may comment on the matches by writing to the Director, Administration Services Office (161), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT:

Celia Winter (202) 535-7437, Program Analyst, Medical Administration Services.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by Title 5 U.S.C. 552a(e)(12), the Privacy Act of 1974, as amended. A copy of this notice has been provided to both houses of Congress and the Office of Management and Budget.

Approved: December 13, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

Report of Matching Program

Department of Veterans Affairs Patient Medical Records with Income Records Maintained by the Internal Revenue Service and the Social Security Administration

a. **Authority:** Title 38 U.S.C. 5106 and 5317; Pub. L. 101-508 as amended by Pub. L. 102-568.

b. **Program Description:**

(1) *Purpose:* (a) The Department of Veterans Affairs (VA), Veterans Health Administration (VHA) plans to match the household income information contained in the medical records of certain nonservice-connected veterans, with the income records for those persons maintained by the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Those nonservice-connected veterans subject to income verification matching are those veterans who are receiving VA medical care in a mandatory eligibility category due to a finding of low-income subsequent to means testing.

(b) Currently, information about a veterans household income (i.e., veteran and spouses receipt of wage, self-employment and other income as well as employment status, health insurance coverage and number of dependents) is obtained when the veteran makes application for medical care at a VA medical care facility. The household income and dependent data is evaluated in a "means test" which takes into account deductions of certain income not counted as such for Veterans Health Administration eligibility purposes. Once a net income for the veteran is established, it is applied against means test thresholds, or levels of income establishing mandatory or discretionary eligibility for medical care. If the veterans' net income falls below the applicable means test threshold, he or she is eligible for mandatory care (i.e., no-cost care); however, if the net income falls over the applicable threshold, the veteran is given a discretionary eligibility. Veterans who are eligible for discretionary care are provided care if the VA medical facility has the resources to treat discretionary veterans, and if the veteran agrees to make a co-payment for such care. The proposed matching programs will enable VA to verify the accuracy of reported income and employment status and therefore more accurately determine eligibility for medical care.

(2) *Procedures:* VA's Veterans Health Administration has established an Income Verification Match (IVM) Center. The IVM Center will electronically extract demographic and income data from each VA medical care facility's database on nonservice-connected veterans found eligible for mandatory care based solely on low income. The VHA IVM extract file will be matched against IRS and SSA income records. If a VHA record and SSA or IRS record match on social security number and name, the IVM Center will begin an extensive case development and verification process. This process will assure the validity of the matched cases by verifying the IRS/SSA reported income amount with the payer(s) and recipients of the income. Each veteran and/or spouse identified by the match will be contacted in order to notify the veteran and/or spouse of the income discrepancy identified by the match, to verify the discrepancy, and to advise him or her of potential changes to the veterans' medical care eligibility at the VA medical center, and the potential billing action for co-payments. Before any adverse action is taken, the individual(s) identify by the match will be given the opportunity to contest the findings. Where there are reasonable grounds to believe that there has been a violation of criminal laws, the matter will be referred for prosecutive consideration in accordance with existing VA policies.

c. **Records to be Matched.** The VA records involved in the match are patient medical records maintained in the "Patient Medical Record—VA (24VA136)" contained in the Privacy Act Issuances, 1991 Compilation, Volume II, and amended at 57 FR 28003, June 23, 1992; 57 FR 45419; October 1, 1992; 58 FR 29853, May 24, 1993, and 58 FR 40852, July 30, 1993. The IRS records are from the Wage and Information Returns (IRP) Master File, Privacy Act System Treas/IRS 22.061. The SSA records are from the Earnings Recording and Self-Employment Income System, HHS/SSA/OSR 09-60-0059.

d. **Period of Match.** The initial data exchanges are expected to begin 40 days after the matching agreements are signed by the Data Integrity Boards (DIB's) and Congressional Offices and OMB have been notified, and 30 days from the date of publication of notice in the **Federal Register** or 40 days from the date this notice is approved, whichever is later. These matches may be extended by the involved DIB's for a twelve month period provided the agencies participating in the match certify to the Data Integrity Boards, within three months of the termination date of the original match, that the matching programs will be conducted without change and the matching programs have been conducted in compliance with the original matching agreements. The matches will not continue past the date of legislative authority to obtain this information expires.

[FR Doc. 93-31202 Filed 12-28-93; 8:45 am]

BILLING CODE 8320-01-M

VOL 58 ISS 248 DEC 29 1993 UMI

Sunshine Act Meetings

Federal Register
Vol. 58, No. 248
Wednesday December 29, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 11:00 a.m., January 3, 1994.

PLACE: 1001 Pennsylvania Avenue, NW., suite 500, Great Lakes Room, Washington, DC 20004.

CLOSED MEETING: The members of the Board for International Broadcasting will meet in closed session to discuss potential measures for achieving budget reductions consistent with the broad foreign policy objectives of the United States. The meeting will be closed pursuant to 5 U.S.C. 552b(c)(1), (2), and (9)(B), and 22 CFR 1302.4 (a), (b), and (h), because premature disclosure of the information discussed would be likely to significantly frustrate implementation of a proposed agency action, including but not limited to negotiations abroad. The closed meeting will be followed by a closed meeting of the Board of Directors of RFE/RL, Inc., a nonprofit private corporation.

CONTACT PERSON FOR MORE INFORMATION: Patricia Sowick, Program Officer, Board for International Broadcasting, suite 400, 1201 Connecticut Avenue, NW., Washington, DC 20036.

Dated: December 27, 1993

Richard W. McBride,

Executive Director

[FR Doc. 93-32005 Filed 12-27-93; 3:46 pm]

BILLING CODE 6155-01-M

federal register

Wednesday
December 29, 1993

Part II

Department of Health and Human Services

Public Health Service; Office of the Assistant Secretary for Health; Agency for Health Care Policy and Research; Substance Abuse and Mental Health Services Administration; National Institute of Health; Centers for Disease Control; Agency for Toxic Substances and Disease Registry; Health Resources and Services Administration; and Food and Drug Administration

Privacy Act of 1974; Annual Publication of Systems of Records

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary for Health; Privacy Act of 1974; Annual Publication of Systems of Records Notices

AGENCY: Public Health Service, HHS.

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Office of the Assistant Secretary for Health (OASH) in the Public Health Service (PHS) has reviewed its system notices and determined that there are no changes.

SUPPLEMENTARY INFORMATION: OASH has completed the annual review of its systems of records. Since the publication of December 31, 1992, OASH has made no changes to its inventory of systems of records that affect the public's right or need to know. A Table of Contents of active systems of records is published below. The complete text of the system notices was last published in the Office of the Federal Register's 1991 biennial Compilation of Privacy Act Issuances.

Dated: November 12, 1993.

Wilford J. Forbush,

Director, Office of Management.

Table of Contents

09–37–0001 Office of the Assistant Secretary for Health Correspondance Control System, HHS/OASH/OM.
09–37–0002 PHS Commissioned Corps Personnel Records, HHS/OASH/OSG.
09–37–0003 PHS Commissioned Corps Medical Records, HHS/OASH/OSG.
09–37–0005 PHS Commissioned Corps Board Proceedings, HHS/OASH/OSG.
09–37–0006 PHS Commissioned Corps Grievance, Investigatory, and Disciplinary Files, HHS/OASH/OSG.
09–37–0008 PHS Commissioned Corps Unofficial Personnel Files and Other Station Files, HHS/OASH/OSG.
09–37–0017 Proceedings of the Board for Correction of Public Health Service Commissioned Corps Records, HHS/OASH/OM.
09–37–0020 Office of Minority Health Grants Records System, HHS/OASH/OMH
09–37–0022 Records of Health Experts Maintained by the Office of International Health, HHS/OASH/OIH.

[FR Doc. 93–28371 Filed 12–28–93; 8:45 am]
BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Department of Health and Human Services (HHS); Public Health Service (PHS); Agency for Health Care Policy and Research (AHCPR).

ACTION: Annual Publication of Revisions to PHS Privacy Act System Notices.

SUMMARY: The Agency for Health Care Policy and Research (AHCPR) is publishing this notice in accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," which requires that agencies review each system of records annually and publish any minor changes in the **Federal Register**.

The AHCPR has completed the annual review of its systems of records and is publishing below (1) a table of contents which lists all active systems of records in AHCPR, and (2) those minor changes which an individual needs to know to obtain access to his or her records, such as changes in the system location of records or the address of system managers.

Dated: November 1, 1993.

J. Jarrett Clinton,

Administrator.

Table of Contents

09–35–0001 Agency for Health Care Policy and Research, Grants Information and Tracking System with Contracts Component (GIAnT), HHS/AHCPR/OM.
09–35–0002 National Medical Expenditure Survey, HHS/AHCPR/CGHSIR.
09–35–0003 AIDS Cost and Services Utilization Survey (ACSUS), HHS/AHCPR/CGHSER.
09–35–0004 Medical Treatment Effectiveness Program (MEDTEP), HHS/AHCPR.

09–35–0002

SYSTEM NAME:

National Medical Expenditure Survey, HHS/AHCPR/CGHSIR.

Minor changes have been made to this system notice. The following categories are hereby revised:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals and members of households selected by probability sampling techniques to be representative of the civilian noninstitutionalized population of the United States; health care providers, staff responding on behalf of health insurers and the employers of members of sampled households; (2) residents and next-of-kin of such residents of nursing and personal care homes, selected by probability sampling techniques to be representative of residents of such homes, and facilities and the staff responding on behalf of such facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing information on: (1) The incidence of illness and accidental injuries, prevalence of diseases and impairments, the extent of disability, the use, expenditures and sources of payment for health care services, and other characteristics of individuals obtained in household interviews (demographic and socioeconomic characteristics such as age, marital status, education, occupation and family income) and the names, telephone numbers and addresses of the responding staffs of health care providers, health insurers, and employers; (2) the utilization of long-term care, nursing home care, care in personal care homes through data on residents (demographic and social characteristics, health status and charges and sources of payment for care); through data facility characteristics (general characteristics, certification, services offered and corresponding expenses), and through data on next-of-kin or representatives of residents (demographic and social characteristics, health status, and expenditures for health care of residents); and (3) Medicare claims records of members of sampled households and of sampled residents of nursing and personal care homes.

RECORD SOURCE CATEGORIES:

Respondents in the survey samples including: Members of households, physicians, hospitals, health insurers, employers, staff of nursing and personal care homes, the next-of-kin of residents of such homes and facilities, and Systems 09–70–0005, Medicare Bill File (Statistics), HHS/HCFA/BDMS.

09–35–0003

SYSTEM NAME:

AIDS Cost and Services Utilization Survey (ACSUS), HHS/AHCPR/CGHSER.

Minor changes have been made to this system notice. The following category is hereby revised:

SYSTEM MANAGER AND ADDRESS:

Director, Division of Cost and Financing, Center for General Health Services Extramural Research, Agency for Health Care Policy and Research, Executive Office Center, Suite 502, 2101 East Jefferson Street, Rockville, Maryland 20852–4908

09–35–0004

SYSTEM NAME:

Agency for Health Care Policy and Research, Medical Treatment Effectiveness Program (MEDTEP), HHS/AHCPR.

Minor changes have been made to this system notice. The following categories are hereby revised.

SYSTEM LOCATION:

Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, Willco Building, Suite 310, 6000 Executive Boulevard, Rockville, Maryland 20852–3883, (301) 594–4015

Bureau of Data Management and Strategy, Office of Computer Operations, The Health Care Financing Administration, 6325 Security Boulevard, Baltimore Maryland 21218

Division of Computer Research and Technology (DCRT), National Institutes of Health, Building 12A, Room 4037, 9000 Rockville Pike, Bethesda, Maryland 20892

Parklawn Computer Center (PCC), Public Health Service, Parklawn Computer Center, Rockville, Maryland 20857

Inactive records will be stored at: Washington National Records Center, Room 125, 4205 Suitland Road, Suitland, Maryland 20409

A current list of contractor sites is available by writing to the System Manager at the address below: Director, Cost Analysis and Evaluation Unit, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, Willco Building, Suite 310, 6000 Executive Boulevard, Rockville, Maryland 20852–3883, (301) 594–4015

SAFEGUARDS:

1. *Authorized users:* These records will be maintained on the Health Care Financing Administration's (HCFA) computer in Baltimore, MD, National Institutes of Health's (NIH)—DCRT mainframe computer in Bethesda, MD, at the Parklawn Computer Center (PCC) in Rockville, MD, or on AHCPR contractor computers, and access is by password known only to authorized users who are AHCPR staff or contractors or their employees responsible for the conduct of authorized research.

2. *Physical safeguards:* Access to computer systems where data are stored electronically is restricted to individuals with special identification codes and accounts. The data set names are known only to those individuals with a need to know for authorized research. Inactive records in hard copy or on magnetic media are stored at the Federal Records Storage Facility with Records Management approval and with the safeguards and security provided by the facility. Rooms where records are stored are double locked when not in use. During regular business hours rooms are unlocked but access is controlled by on-site personnel.

3. *Procedural and technical safeguards:* Approval for access and use of the HCFA, NIH, PCC and contractors mainframe computers is required prior to issuing a user ID and account. A password is required to access the terminal and a data set name controls the release of data only to authorized users. All users of confidential information in connection with the performance of their research (see Authorized Users, above) protect information from public view and from unauthorized personnel entering an unsupervised office. Records maintained at the Federal Records Storage Facility cannot be released without proper procedure and only to authorized individuals in AHCPR. AHCPR staff monitors contractor compliance with the provisions of the Privacy Act, as well as compliance with the confidentiality protection in 42 U.S.C. 299a-1(c). Contractor system security must be commensurate with the use and sensitivity of the records.

RETENTION AND DISPOSAL:

After completion of the proposed studies, AHCPR staff and contractors will retire hard copy records and/or records on magnetic media to a Federal Records Center. Contractors will delete all records from their computer systems upon completion of the specified studies and retain no copies of any of these records. Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the AHCPR Records Control Schedule. The records control schedule and disposal standard for these records may be obtained by writing to the system manager at the address below.

Policy-Coordinating Official:

Director, Cost Analysis and Evaluation Unit, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, Willco Building, Suite 310, 6000 Executive Boulevard, Rockville, Maryland 20852–3883, (301) 594–4015.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Cost Analysis and Evaluation Unit, Center for Medical Effectiveness Research, Agency for Health Care Policy and Research, Executive Office Center, 2101 East Jefferson Street, Suite 605, Rockville, Maryland 20852–4908, (301) 594–1485

Project Officer, Pediatric Gastroenteritis Research, Center for Medical Effectiveness Research, Agency for Health Care Policy and Research, Executive Office Center, 2101 East Jefferson Street, Suite 605, Rockville, Maryland 20852–4908, (301) 594–1485

Project Officer, C-Section Research, Center for Medical Effectiveness Research, Agency for Health Care Policy and Research, Executive Office Center, 2101 East Jefferson Street, Suite 605, Rockville, Maryland 20852–4908, (301) 594–1485

Project Officer, Schizophrenia Research, Center for Medical Effectiveness Research, Agency for Health Care Policy and Research, Executive Office Center, 2101 East Jefferson Street, Suite 605, Rockville, Maryland 20852–4908, (301) 594–1485

Project Officer, Low Birth Weight Research, Center for Medical Effectiveness Research, Agency for Health Care Policy and Research, Executive Office Center, 2101 East Jefferson Street, Suite 605, Rockville, Maryland 20852–4908, (301) 594–1485

Project Officer, Stroke Research, Center for Medical Effectiveness Research, Agency for Health Care Policy and Research, Executive Office Center, 2101 East Jefferson Street, Suite 605, Rockville, Maryland 20852–4908, (301) 594–1485

[FR Doc. 93–27737 Filed 12–28–93; 8:45 am]
BILLING CODE 4160–90–P

Public Health Service

Substance Abuse and Mental Health Services Administration Privacy Act of 1974; Annual Publication of Revisions to Systems Notices

AGENCY: Public Health Service, DHHS.

ACTION: Privacy Act: Annual Publication of Revisions to System Notices.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) is publishing this notice in accordance with the Office of Management and Budget Circular No A–130, Appendix I, "Federal Agency

Responsibilities for Maintaining Records about Individuals," which requires that agencies review each system of records annually and publish any minor changes in the **Federal Register**. SAMHSA is publishing (1) a table of contents which lists all active systems of records in SAMHSA, and (2) those minor changes, such as systems names, legislative authorities, system locations, and addresses of system managers, that improve clarity and are a result of the reorganization of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

SUPPLEMENTARY INFORMATION: On October 1, 1992, ADAMHA was reorganized into SAMHSA as mandated by the ADAMHA Reorganization Act of 1992, Pub. L. 102–321. As required by law, SAMHSA consists of the Office of the Administrator and three Centers, which administer the prevention and treatment services programs formerly in ADAMHA—the Center for Substance Abuse Prevention, the Center for Substance Abuse Treatment, and the Center for Mental Health Services. The research Institutes formerly at ADAMHA—the National Institute of Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health—became components of the National Institutes of Health.

Table of Contents

09–30–0023—Records of Contracts Awarded to Individuals, HHS/SAMHSA/OA; published **Federal Register**, Vol. 49, No. 106, p. 22713.
09–30–0027—Grants and Cooperative Agreements: ADM Services Evaluation, Training, Service, Education, Demonstration, Fellowship, Clinical Training, Community Services, HHS/SAMHSA/OA; published **Federal Register**, Vol. 49, No. 106, p. 22714.
09–30–0029—Records of Guest Workers, HHS/SAMHSA/OA; published **Federal Register**, Vol. 48, No. 230, p. 53823.
09–30–0033—Correspondence Files, HHS/SAMHSA/OA; published **Federal Register**, Vol. 48, No. 230, p. 53825.
09–30–0036—Alcohol, Drug Abuse, and Mental Health Epidemiologic Data HHS/SAMHSA/OA; published **Federal Register**, Vol. 49, No. 206, p. 42639.
09–30–0047—Patient Records on Chronic Mentally Ill Merchant Seamen Treated at Nursing Homes in Lexington, Kentucky, (1942 to Present), HHS/SAMHSA/CMHS, published **Federal Register**, Vol. 51, No. 226, p. 42395.
09–30–0049—Consultant Records Maintained by ADAMHA Contractors, HHS/SAMHSA/OA; published **Federal Register**, Vol. 52, No. 195, p. 37660.

09–30–0023—

SYSTEM NAME:

Records of Contracts Awarded to Individuals, HHS/SAMHSA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Substance Abuse and Mental Health Services Administration, Office of the Administrator, Office of Management, Planning, and Communciations, SAMHSA Contracts Office, Room 13C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

An individual who receives a contract as well as individuals who apply or compete for an award but do not receive the award and their consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae, salary information, evaluations of proposals by contract review committees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

SAMHSA: Public Health Service Act, sections 301 (42 U.S.C. 241), 322 (42 U.S.C. 249(c)), and 501–05 (42 U.S.C. 290aa et seq.). CSAT: Center for Substance Abuse Treatment, section 507–12 (42 U.S.C. 290bb et. seq.). CSAP: Center for Substance Abuse Prevention, section 515–8 (42 U.S.C. 290bb–21 et seq.). CMHS: Center for Mental Health Services, sections 506 (42 U.S.C. 290aa–5) and 520–35 (42 U.S.C. 290bb–31 et seq.). Protection and Advocacy for Individuals with Mental Illness Act of 1986 as amended (42 U.S.C. 10801 et seq.); Refugee Education Assistance Act of 1980, section 501(c) (8 U.S.C. 1522 note), Pub. L. 96–422; Executive Order 12341; and Disaster Relief Act of 1974, section 413, Pub. L. 93–288, as amended by section 416 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100–107.

PURPOSE(S):

To document the history of each contract procurement action and award made within SAMHSA to an individual. The records are also used by contract review committee members when evaluating a proposal submitted by an individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. A record from this system may be disclosed to the following entities in order to help collect a debt owed the United States:

(a) To another Federal agency so that agency can effect a salary offset;

(b) To another Federal agency so that agency can effect an administrative offset under common law or under 31 U.S.C. 3716 (withholding from money payable to, or held on behalf of, the individual);

(c) To the Treasury Department to request his/her mailing address under I.R.C. 6103(m)(2) in order to locate him/her or in order to have a credit report prepared;

(d) To agents of the Department and to other third parties to help locate him/her in order to help collect or compromise a debt;

(e) To debt collection agents under 31 U.S.C. 3718 or under common law to help collect a debt; and

(f) To the Justice Department for litigation or further administrative action.

Disclosure under part (d) of this routine use is limited to the individual's name, address, Social Security number, and other information necessary to identify him/her. Disclosure under parts (a)–(c) and (e) is limited to those items; the amount, status, and history of the claim; and the agency or program under which the claim arose. An address obtained from IRS may be disclosed to a credit reporting agency under part (d) only for purposes of preparing a commercial credit report on the individual. Part (a) applies to claims or debts arising or payable under the Social Security Act if and only if the employee consents in writing to the offset.

4. SAMHSA may disclose information from its records in this system to consumer reporting agencies in order to obtain credit reports to verify credit worthiness of contract applicants. Permissible disclosures include name, address, Social Security number or other information necessary to identify the individual; the funding being sought; and the program for which the information is being obtained.

5. When a debt becomes partly or wholly uncollectible, either because the time period for collection under the statute of limitations has expired or because the Government agrees with the individual to forgive or compromise the debt, a record from this system of records may be disclosed to the Internal Revenue Service to report the written-off amount as taxable income to the individual.

6. A record from this system may be disclosed to another Federal agency that has asked the Department to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States.

Disclosure under this routine use is limited to: name, address, Social Security number, and other information necessary to identify the individual, information about the money payable to or held for the individual, and other information concerning the administrative offset.

7. SAMHSA may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's name, address, Social Security number, and other information necessary to identify the debtor; (2) the amount of the debt; and (3) the program under which the debt arose, so that IRS can offset against the debt any income tax refunds which may be due to the debtor.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681 (F)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of such disclosures is to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Information disclosed will be limited to name, Social Security number, address, other information necessary to establish the identity of the individual, and amount, status, and history of the claim, and the agency or program under which the claim arose. Such disclosures will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been met.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage: Documents filed in folders in enclosed and/or locked file cabinets.

Retrievability: By contract number and cross indexed by individual's name.

SAFEGUARDS:

1. *Authorized users:* Federal contract and support personnel, Federal contract review staff and outside consultants acting as peer reviewers of the project.

2. *Physical safeguards:* All folders are in file cabinets in a room that is locked after business hours in a building with controlled entry (picture identification). Files are withdrawn from cabinet for Federal staff who have a need to know by a sign in and out procedure.

3. *Procedural safeguards:* Access to records is strictly limited to those staff members trained in accordance with the Privacy Act.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual.

RETENTION AND DISPOSAL:

Records are retired to a Federal Records Center and subsequently disposed of in accordance with the SAMHSA Records Control Schedule. The records control schedule and disposal standard for these records may be obtained by writing the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

SAMHSA Contracts Officer, Substance Abuse and Mental Health Services Administration, Office of the Administrator, Office of Management, Planning, and Communications, Room 13C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate System Manager at the address above. An individual may learn if a record exists about himself/herself upon written request with notarized signature. The request should include, if known, contractor's name, contract number, and approximate date contract was awarded. An individual may also request accounting of disclosures that have been made of his/her record, if any.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above and reasonably identify the record, specify the information being contested, the corrective action sought, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Contract proposals and supporting contract documents, contract review committees, site visitors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–30–0027

SYSTEM NAME:

Grants and Cooperative Agreements ADM Services Evaluation, Training, Service, Education, Demonstration, Prevention, Fellowships, Clinical Training, Community Programs, HHS/SAMHSA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Substance Abuse and Mental Health Services Administration, Office of the Administrator, Office of Management, Planning, and Communications, SAMHSA Grants Management Office, Room 13C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal investigators, program directors, trainees, fellows, and other employees of applicant or grantee institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant and cooperative agreement applications and review history, including curriculum vitae, salary information, summary of review committee deliberations and supporting documents, progress reports, financial records, and payback records of clinical training awardees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

SAMHSA: Public Health Service Act, sections 301 (42 U.S.C. 241), 303 (42 U.S.C. 242(a)), 322 (42 U.S.C. 249(c)),

501 (42 U.S.C. 290aa), 503 (42 U.S.C. 290aa–2), and 505 (42 U.S.C. 290aa–4). CSAT: Center for Substance Abuse Treatment, section 507–12 (42 U.S.C. 290bb et. seq.). CSAP: Center for Substance Abuse Prevention, section 515–18 (42 U.S.C. 290bb–21 et. seq.). CHMS: Center for Mental Health Services, sections 506 (42 U.S.C. 290aa–5) and 520–35 (42 U.S.C 290bb–31 et. seq.). Protection and Advocacy for Individuals with Mental Illness Act of 1986 as amended (42 U.S.C. 10801 et. seq.); Refugee Education Assistance Act of 1980, section 501(c) (8 U.S.C. 1522 note), Pub. L. 96–422; Executive Order 12341; and Disaster Relief Act of 1974, section 413, Pub. L. 93–288, as amended by section 416 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100–107.

PURPOSE(S):

Records are maintained as official documentation relevant to the review, award, and administration of grant programs. Specifically, records are: 1. Used by staff program and management specialists for purpose of awarding and monitoring grant funds; 2. used to maintain communication with former trainees/fellows who have incurred an obligation for clinical training, Public Health Service Act, section 303 (42 U.S.C. 242a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to qualified experts not within the definition of Department employees for opinion during the application review process.

2. Disclosure may be made to SAMHSA contractors for the purpose of providing services related to the grant review or for carrying out quality assessment, program evaluation, and management reviews. Contractors are required to maintain Privacy Act safeguards with respect to the records.

3. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal (e.g., the Department of Justice) or State (e.g., the State's Attorney's Office), charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto for litigation.

4. Disclosure may be made to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

5. Where Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

6. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

7. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

8. A record from this system may be disclosed to the following entities in order to help collect a debt owed the United States:

(a) To another Federal agency so that agency can effect a salary offset;

(b) To another Federal agency so that agency can effect an administrative offset under common law or under 31 U.S.C. 3716 (withholding from money payable to, or held on behalf of, the individual);

(c) To the Treasury Department to request his/her mailing address under I.R.C. 6103(m)(2) in order to locate him/her or in order to have a credit report prepared;

(d) To agents of the Department and to other third parties to help locate him/her in order to help collect or compromise a debt;

(e) To debt collection agents under 31 U.S.C. 3718 or under common law to help collect a debt; and

(f) To the Justice Department for litigation or further administrative action.

Disclosure under part (d) of this routine use is limited to the individual's name, address, social security number and other information necessary to identify him/her. Disclosure under parts (a)-(c) and (e) is limited to those items; the amount, status, and history of the claim; and the agency or program under which the claim arose. An address obtained from IRS may be disclosed to a credit reporting agency under part (d) only for purposes of preparing a commercial credit report on the individual. Part (a) applies to claims or debts arising or payable under the Social Security Act if and only if the employee consents in writing to the offset.

9. SAMHSA may disclose information from its records in this system to consumer reporting agencies in order to obtain credit reports to verify credit worthiness of grant/cooperative agreement applicants. Permissible disclosures include name, address, Social Security number or other information necessary to identify the individual; the funding being sought; and the program for which the information is being obtained.

10. When a debt becomes partly or wholly uncollectible, either because the time period for collection under the statute of limitations has expired or because the Government agrees with the individual to forgive or compromise the debt, a record from this system of records may be disclosed to the internal revenue service to report the written-off amount as taxable income to the individual.

11. A record from this system may be disclosed to another Federal agency that has asked the Department to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States.

Disclosure under this routine use is limited to: name, address, Social Security number, and other information necessary to identify the individual, information about the money payable to or held for the individual, and other information concerning the administrative offset.

12. SAMHSA may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's name, address, Social Security number, and other information necessary to identify the debtor; (2) the amount of the debt; and (3) the program under which the debt arose, so that IRS can offset against the debt any income tax refunds which may be due to the debtor.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of such disclosures is to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Information disclosed will be limited to name, Social Security number, address, other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose. Such disclosures will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been met.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Noncomputerized documents are filed in folders in enclosed file cabinets and open shelves. Information on 3×5 cards in file cabinets. Computerized records exist in tape and disk form.

RETRIEVABILITY:

By grant numbers and cross-indexed by name.

SAFEGUARDS:

1. *Authorized users:* Access is limited to the SAMHSA Grants Management Officer and staff authorized by him/her: Grants specialists, grants technicians, program officials, assigned computer personnel, and possibly contractor staff including the project director and research associates.

2. *Physical safeguards:* Records are maintained in a secured area. During normal work hours, area is staffed by authorized personnel who must show identification for entry. At other times, the computer area is locked. Hard copy files are stored in rooms which are locked at night. A 24-hour security guard patrols building.

3. *Procedural safeguards:* Computer records are password protected; passwords are changed periodically. Contractors working on computerized records are given passwords to access data only on a need-to-know basis.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf 45–13 of the General Administration Manual and Part 6, "ADP System Security" of the ADP Systems Security Manual.

RETENTION AND DISPOSAL:

Records are retired to a Federal Records Center 2 years after termination of support and the completion of final audit.

SYSTEM MANAGER(S) AND ADDRESS:

SAMHSA Grants Management Officer, Substance Abuse and Mental Health Services Administration, Office of the Administrator, Office of Management, Planning, and Communications, Room 13C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate System Manager at the above address. Verifiable proof of identity is required.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought, and should provide the official grant number when possible. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the appropriate System Manager at the address specified above and reasonably identify the record, specify the information being contested, the corrective action sought, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Applicants, grantees, fellows, trainees, personnel at grantee institution on whom the record is maintained, Federal advisory committees, site visitors, consultants, references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–30–0029

SYSTEM NAME:

Record of Guest Workers, HHS/SAMHSA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Substance Abuse and Mental Health Services Administration, Division of Personnel Management, Room 15C–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals using SAMHSA facilities who are not employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information including name, address, date and place of birth, education, employment, purpose for which SAMHSA facilities are desired, outside sponsor and SAMHSA sponsor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, section 301 (42 U.S.C. 241).

PURPOSE(S):

To document individual's presence at SAMHSA and as a record that the individual is not performing services for SAMHSA and is therefore not an employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to the U.S. Office of Personnel Management for program evaluation purposes.

2. Disclosure may be made to institutions providing financial support for subject individual.

3. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

4. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is

compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

1. *Authorized users:* Authorized employees of the Division of Personnel Management and SAMHSA managers and supervisors with legitimate interest in guest workers.

2. *Physical safeguards:* Records are stored in locked rooms.

3. *Procedural safeguards:* Authorized individuals have been trained in accordance with the Privacy Act.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual.

RETENTION AND DISPOSAL:

Retained for 2 years after completion of visit, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Personnel Management, Substance Abuse and Mental Health Services Administration, Office of the Administrator, Office of Management, Planning, and Communications, Room 15C–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact the System Manager at the address above. Individuals who request notification in person must supply one proof of identity containing individual's complete name and one other identifier with picture (e.g., driver's license, building pass). Individuals who request notification by mail must supply notarized signature as proof of identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information to be contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Subject individual and SAMHSA sponsor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–30–0033

SYSTEM NAME:

Correspondence Files. HHS/SAMHSA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Substance Abuse and Mental Health Services Administration, Office of the Administrator, Executive Secretariat, Room 12C–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Center for Substance Abuse Prevention, Office of the Director, Room 9D10, Rockwall II Building, 5600 Fishers Lane, Rockville, Maryland 20857

Center for Substance Abuse Treatment, Office of the Director, Room 10–75, Rockwall II Building, 5600 Fishers Lane, Rockville, Maryland 20857

Center for Mental Health Services, Office of the Director, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request information on SAMHSA programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

SAMHSA: Public Health Service Act, sections 301 (42 U.S.C. 241), 322 (42 U.S.C. 249(c)), and 501–05 (42 U.S.C. 290aa et seq.). CSAT: Center for Substance Abuse Treatment, section 507–12 (42 U.S.C. 290bb et seq.). CSAP: Center for Substance Abuse Prevention, section 515–8 (42 U.S.C. 290bb–21 et seq.). CMHS: Center for Mental Health Services, sections 506 (42 U.S.C. 290aa–5) and 520–35 (42 U.S.C. 290bb–31 et seq.). Protection and Advocacy for Individuals with Mental Illness Act of 1986 as amended (42 U.S.C. 10801 et seq.); Refugee Education Assistance Act of 1980, section 501(c) (8 U.S.C. 1522 note), Pub. L. 96–422; Executive Order 12341; and Disaster Relief Act of 1974, section 413, Pub. L. 93–288, as amended by section 416 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100–107.

PURPOSE(S)

To provide reference retrieval and control to assure timely and appropriate attention.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence records maintained in hard copy; control records maintained on computer printout, tape, and disk.

RETRIEVABILITY:

Hard copy records indexed alphabetically by name and date of outgoing correspondence, by subject, and/or by computerized numerical code. Records are cross-referenced in detail on computer.

SAFEGUARDS:

1. *Authorized users:* Authorized correspondence control staff in each location and managers and supervisors on a need-to-know basis.

2. *Physical safeguards:* Records are maintained in file cabinets in a locked, secure location; computer system records are secured through the use of passwords which are changed frequently.

3. *Procedural safeguards:* Only authorized personnel have access to files and passwords.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual and Part 6, "ADP System Security" in the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

Records are retired to the Federal Records Center after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Same as location.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about himself or herself by contacting the applicable System Manager at the address above. Give name and approximate date of records requested. Individuals who request notification in person must supply one proof of identity containing individual's complete name and one other identifier with picture (e.g., driver's license, building pass). Individuals who request notification by mail must supply notarized signature as proof of identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the appropriate official at the address specified under Notification Procedures above and reasonably identify the record. Specify the information to be contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Records are derived from incoming and outgoing correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–30–0036

SYSTEM NAME:

Alcohol, Drug Abuse, and Mental Health Epidemiologic Data, HHS/SAMHSA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at facilities which collect or provide service evaluations for this system under contract to the agency. Contractors may include, but are not limited to, research centers, clinics, hospitals, universities, research foundations, national associations, and coordinating centers. Records may also be located at the Office of Applied Studies, Center for Substance Abuse Prevention, the Center for Substance Abuse Treatment, and the Center for Mental Health Services. A current list of sites is available by writing to the appropriate System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subjects of epidemiologic, methodologic, services evaluations, and longitudinal studies and surveys of mental health and alcohol and drug use/abuse. These individuals are selected as representative of the general adult and/or child population or of special groups. Special groups include, but are not limited to, normal individuals serving as controls; clients referred for or receiving medical, mental health, and alcohol and/or drug abuse related treatment and prevention services; providers of services; demographic subgroups as applicable, such as age, sex, ethnicity, race, occupation, geographic location; and groups exposed to hypothesized risks, such as relatives of individuals who have experienced mental health and/or alcohol, and/or drug abuse disorders, life stresses, or have previous history of mental, alcohol, and/or drug abuse related illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains data about the individual as relevant to a particular study. Examples include, but are not limited to, items about the health/mental health and/or alcohol or drug consumption patterns of the individual; demographic data; social security numbers (voluntary); past and present life experiences; personality characteristics; social functioning; utilization of health/mental health, alcohol, and/or drug abuse services; family history; physiological measures; and characteristics and activities of health/mental health; alcohol abuse, and/or drug abuse care providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

SAMHSA: Public Health Service Act, sections 301 (42 U.S.C. 241), 322 (42 U.S.C. 249(c)), 501 (42 U.S.C. 290aa), 503 (42 U.S.C. 290aa–2), and 505 (42 U.S.C. 290aa–4). CSAT: Center for Substance Abuse Treatment, section 507–12 (42 U.S.C. 290bb et. seq.). CSAP: Center for Substance Abuse Prevention, section 515–18 (42 U.S.C. 290bb–21 et seq.). CMHS: Center for Mental Health Services, sections 506 (42 U.S.C. 290aa–5) and 520–35 (42 U.S.C. 290bb–31 et seq.). Protection and Advocacy for Individuals with Mental Illness Act of 1986 as amended (42 U.S.C. 10801 et seq.); Refugee Education Assistance Act of 1980, section 501(c) (8 U.S.C. 1522 note), Pub. L. 96–422; Executive Order 12341; and Disaster Relief Act of 1974, section 413, Pub. L. 93–288, as amended by section 416 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100–107

PURPOSE(S):

The purpose of the system of records is to collect and maintain a data base for health services evaluations activities of the Center for Substance Abuse Prevention, the Center for Substance Abuse Treatment, and the Center for Mental Health Services. Analyses of these data involve groups of individuals with given characteristics and do not refer to special individuals. The generation of information and statistical analyses will ultimately lead to a better description and understanding of mental, alcohol, and/or drug abuse disorders, their diagnosis, treatment and prevention, and the promotion of good physical and mental health.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record may be disclosed for an evaluation purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; e.g., disclosure of alcohol or drug abuse patient records will be made only in accordance with 42 U.S.C. 290 (dd–2).

(b) Has determined that the study purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the health services evaluation project, unless the recipient has presented adequate justification of

an analytical or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another health service research or evaluation project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the evaluation project, if information that would enable study subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; and

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by, these provisions.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from a congressional office made at the written request of that individual.

3. In the event of litigation, where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected (e.g., disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of the individuals' participation in activities of a Federal Government supported research project).

4. The Department contemplates that it will contract with a private firm for the purpose of collecting, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on index cards, file folders, computer tapes and disks, microfiche, microfilm, and audio and video tapes. Normally, the factual data, with study code numbers, are stored on computer tape or disk, while the key to personal identifiers is stored separately, without factual data, in paper files.

RETRIEVABILITY:

During data collection stages and follow up, if any, retrieval by personal identifier (e.g., name, social security number) (in some studies), or (medical record number), is necessary. During the data analysis stage, data are normally retrieved by the variables of interest (e.g., diagnosis, age, occupation).

SAFEGUARDS:

1. *Authorized users:* Access to identifiers and to link files is strictly limited to the authorized personnel whose duties require such access. Procedures for determining authorized access to identified data are established as appropriate for each location. Personnel, including contractor personnel, who may be so authorized include those directly involved in data collection and in the design of research studies, e.g., interviewers and interviewer supervisors; project managers; statisticians involved in designing sampling plans.

2. *Physical safeguards:* Records are stored in locked rooms, locked file cabinets, and/or secured computer facilities. Personal identifiers and link files are separated as much as possible and stored in locked files. Computer data access is limited through the use of key words known only to authorized personnel.

3. *Procedure safeguards:* Collection and maintenance of data is consistent with legislation and regulations in the protection of human subjects, informed consent, confidentiality, and confidentiality specific to drug and alcohol abuse patients where these apply. When an Institute Division or a contractor provides anonymous data to research scientists for analysis, study numbers which can be matched to personal identifiers will be eliminated, scrambled, or replaced by the agency or contractor with random numbers which cannot be matched. Contractors who maintain records in this system are instructed to make no further disclosure of the records. Privacy Act requirements are specifically included in contracts for survey and evaluation activities related to this system. The HHS project directors, contract officers, and project officers oversee compliance with these requirements.

4. *Implementation guidelines:* DHHS Chapter 45– and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual and Part 6, "ADP System Security" of the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

Personal identifiers are retained only as long as they are needed for the purposes of the current evaluation project, and for follow-up studies generated by the present study. Removal or disposal of identifiers is done according to the storage medium (e.g., erase computer tape, shred or burn index cards, etc.). A staff person designated by the System Manager will oversee and will describe and confirm the disposal in writing.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Applied Studies, Office of the Director, Room 615, Rockwall II Building, 5600 Fishers Lane, Rockville, Maryland 20857

Center for Substance Abuse Prevention, Office of the Director, Room 9D10, Rockwall II Building, 5600 Fishers Lane, Rockville, Maryland 20857

Center for Substance Abuse Treatment, Office of the Director, Room 10–75, Rockwall II Building, 5600 Fishers Lane, Rockville, Maryland 20857

Center for Mental Health Services, Office of the Director, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate System Manager at the address above. Provide individual's name; current address; date of birth; date, place and nature of participation in specific evaluation study; name of individual or organization administering the study (if known); name or description of the study (if known); address at the time of participation; and a notarized statement by two witnesses attesting to the individual's identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

CONTESTING RECORD PROCEDURE:

Contact the appropriate official at the address specified under System Manager(s) above and reasonably identify the record, specify the information being contested, and state corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The system contains information obtained directly from the subject individual by interview (face-to-face or telephone), by written questionnaire, or by other tests, recording devices or observations, consistent with legislation and regulation regarding informed consent and protection of human subjects. Information is also obtained from other sources, such as health, mental health, alcohol, and/or drug abuse care providers; relatives; guardians; and clinical medical research records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–30–0047

SYSTEM NAME:

Patient Records on Chronic Mentally Ill Merchant Seamen Treated at Nursing Homes in Lexington, Kentucky, (1942 to the present), HHS/SAMHSA/CMHS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

CONTRACTOR: Commonwealth of Kentucky, Department of Mental Health/Mental Retardation, Mental Health Branch, Cabinet for Human Resources, 275 E. Main Street, Frankfort, Kentucky 40621

SUBCONTRACTORS: Homestead Nursing Center, Inc., 1608 Versailles Road, Lexington, Kentucky 40505

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Chronic mentally ill former merchant seamen originally treated at PHS Hospitals in Fort Worth, Texas, and Lexington, Kentucky, and now in nursing homes in Lexington, Kentucky (1942 to the present).

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative records, such as admission and release dates; name, address, Social Security number, and other demographic data; medical records, such as, but not limited to, psychological, medical and social evaluations as well as treatment information, any laboratory test, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 9079 (1942) authorizes the care and treatment of these individuals.

PURPOSE(S):

The records are used to facilitate patient care, to monitor progress, and to ensure quality and continuity of care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. In the event of litigation where the defendant is (a) the Department, and component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

2. Disclosure may be made to the Center for Mental Health Services (CMHS) contractors and subcontractors, including nursing home staff, for the purpose of carrying out and maintaining quality care. Contractors maintain, and are also required to ensure that the subcontractors maintain, Privacy Act safeguards with respect to the records.

3. Disclosure may also be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual or his legally authorized representative.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files stored in locked file cabinets in the State office. In the nursing homes records are hard copy maintained at nursing stations.

RETRIEVABILITY:

The records are retrieved by patient name.

SAFEGUARDS:

1. *Authorized users:* Only the System Manager and designated staff, designated contractor staff and appropriate subcontractor staff at the nursing home.

2. *Physical safeguards:* The State records are stored in locked file cabinets. These cabinets are in a room within a building that is locked at night after business hours. Patient records of subject individuals at the nursing homes are commingled with the records of other patients at nursing stations under the supervision of the attendant on duty.

3. *Procedural safeguards:* Only the System Manager, contractor staff and appropriate nursing home staff have access to the files. Only those authorized personnel are allowed to gain access to material in the locked file cabinets.

4. *Implementation procedures:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 in the General Administration Manual.

RETENTION AND DISPOSAL:

The administrative and medical records will be retained for 25 years after last treatment or after the death of a patient, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

James E. Pittman, Construction Monitoring Branch, Center for Mental Health Services, Substance Abuse and Mental Health Services, Administration, Room 15C-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual or his legally authorized representative may learn if a record exists about himself upon written request with notarized signature. The request should include full name or any alias used and birth date.

An individual or his legally authorized representative who requests notification of, or access to, a medical record shall, at the time the request is made, designate a family physician or other health professional (other than a family member) to whom the record will be released. The representative must verify relationship to the individual as well as his/her own identity

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requestors should also reasonably specify the record contents being sought. An individual or his legally authorized representative may also request an accounting of disclosures that have been made of the subject individual's records, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information to be contested, and state the corrective action sought with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Patients; legally authorized representatives; nursing home and hospital personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-30-0049

SYSTEM NAME:

Consultant Records Maintained by SAMHSA Contractors, HHS/SAMHSA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at various contractor sites. A list of specific contractor sites is available from the appropriate system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants who participate in Substance Abuse and Mental Health Services Administration (SAMHSA) conferences, meetings, evaluation projects, or technical assistance at site locations arranged by contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, qualifications, curricula vitae, travel records, and payment records for consultants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

SAMHSA: Public Health Service Act, sections 301 (42 U.S.C. 241), 322 (42 U.S.C. 249(c)), and 501–05 (42 U.S.C. 290aa et seq.). CSAT: Center for Substance Abuse Treatment, section 507–12 (42 U.S.C. 290bb et seq.). CSAP: Center for Substance Abuse Prevention, section 515–8 (42 U.S.C. 290bb–21 et seq.). CMHS: Center for Mental Health Services, sections 506 (42 U.S.C. 290aa–5) and 520–35 (42 U.S.C. 290bb–31 et seq.). Protection and Advocacy for Individuals with Mental Illness Act of 1986 as amended (42 U.S.C. 10801 et seq.); Refugee Education Assistance Act of 1980, section 501(c) (8 U.S.C. 1522 note), Pub. L. 96–422; Executive Order 12341; and Disaster Relief Act of 1974, section 413, Pub. L. 93–288, as amended by section 416 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100–107.

PURPOSE(S):

This umbrella system of records covers a varying number of separate sets of records used in different projects. These records are established by contractors to organize programs, obtain and pay consultants, and to provide necessary reports programs for SAMHSA. SAMHSA personnel may use records when a technical assistance consultant is needed for a specialized area of research, review, advice, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

3. SAMHSA proposes to contract with private firms for the purposes of handling logistics for conferences, reviews, development of training materials, and of obtaining the services of consultants. Relevant records will be disclosed to such a contractor or may be developed by the contractor for use in the project. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. Information in this system of records is used routinely to prepare W–2 and 1099 Forms to submit to the Internal Revenue Service and applicable State and local governments those items to be included as income to an individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, on index cards, computer tapes and disks, microfiche, microfilm.

RETRIEVABILITY:

Information will be retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized users:* Only SAMHSA personnel working on these projects and personnel employed by SAMHSA contractors to work on these projects are authorized users as designated by the system managers.

2. *Physical safeguards:* Records are stored in locked rooms, locked file cabinets, and/or secured computer facilities.

3. *Procedural safeguards:* Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act requirements are specifically included in contracts and in agreements with grantees or collaborators participating in research activities supported by this system. HHS project directors, contract officers, and project officers oversee compliance with these requirements.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual, and Part 6, "ADP System Security" in the HHS Information Resource Management Manual.

RETENTION AND DISPOSAL:

Records will be destroyed 3 years after they are no longer used, or, if payment is involved, 3 years after closeout of the contract.

SYSTEM MANAGER(S) AND ADDRESS:

The policy coordinating official for this system of records is also the System Manager. SAMHSA Contracts Officer, Substance Abuse and Mental Health Services Administration, Office of the Administrator, Office of Management, Planning, and Communications, Room 13C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate System Manager at the address above. Provide notarized signature as proof of identity. The request should include as much of the following information as possible: (a) Full name; (b) title of project individual participated in; (c) SAMHSA project officer, and (d) approximate date(s) of participation.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information gathered from individual consultants and from assignment or travel documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Readers who notice any errors or omissions in the SAMHSA systems of records notices are invited to bring them to my attention at the following address: Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 12–105, Rockville, Maryland 20857.

Dated: December 17, 1993.

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93–31242 Filed 12–28–93; 8:45 am]

BILLING CODE 4162–20

National Institutes of Health

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service, DHHS.

ACTION: Privacy Act: Annual republication of notices of revised systems of records.

SUMMARY: The National Institutes of Health (NIH) has conducted a comprehensive review of all Privacy Act systems of records and is publishing the resulting revisions. None of the revisions meet the OMB criteria for a new or altered system of records requiring an advance period for public comment. These changes are in compliance with Circular A–130, Appendix 1. The notices republished below are complete and accurate as of November 29, 1993.

SUPPLEMENTARY INFORMATION: The following information summarizes the current status of systems of records which had minor modifications during 1993 and lists all systems maintained by NIH:

A. SYSTEM NAME.

The following systems have been updated to reflect a change in the name of the system:

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/ORS.
09–25–0106, Administration: Office of the NIH Director and Institute/Center/Division Correspondence Records, HHS/NIH/OD.
09–25–0108, Personnel: Guest Researchers, Special Volunteers, and Scientists Emeriti, HHS/NIH/DPM.
09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.
09–25–0170, Diabetes Clinical Data System, HHS/NIH/NIDDK.

B. SYSTEM LOCATION.

The following systems have been updated to reflect a change in the system locations. These changes do not affect the access by the individual to the individual's records.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD.
09–25–0007, Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS.
09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS.
09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.
09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.
09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/ORS.
09–25–0106, Administration: Office of the NIH Director and Institute/Center/Division Correspondence Records, HHS/NIH/OD.
09–25–0108, Personnel: Guest Researchers, Special Volunteers, and Scientists Emeriti, HHS/NIH/DPM.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.
09–25–0165, National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD.
09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

C. CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM.

The following systems have been updated to reflect a change in the categories covered by the system. This change does not alter the character or purpose of the system.

09–25–0106, Administration: Office of the NIH Director and Institute/Center/Division Correspondence Records, HHS/NIH/OD.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG.
09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

D. CATEGORIES OF RECORDS.

The following systems have been updated to reflect a change in the categories of records in the system. This change does not alter the character or purpose of the system.

09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG.

E. AUTHORITY.

The following system has been updated to reflect a change in the authority. This change does not alter the character or purpose of the system.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.

F. STORAGE.

The following systems have been updated to reflect a change in system storage practices:

09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.
09–25–0145, Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI.
09–25–0203, National Institute on Drug Abuse, Addiction Research Center, Federal

Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.

G. RETRIEVAL:

The following systems have been updated to reflect a change in retrieval practices.

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/ORS.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG.

H. SAFEGUARDS:

There are no changes in this category.

I. RETENTION AND DISPOSAL:

The following systems have been updated to reflect a change in retention and disposal:

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/ORS.
09–25–0106, Administration: Office of the NIH Director and Institute/Center/Division Correspondence Records, HHS/NIH/OD.

J. SYSTEM MANAGER(S) AND ADDRESSES:

The following systems have been updated to reflect a change in the system manager or the address of the system manager. These changes do not affect the access by the individual to the individual's records.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD.
09–25–0037, Clinical Research: Baltimore Longitudinal Study of Aging, HHS/NIH/NIA.
09–25–0042, Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR.
09–25–0046, Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID.
09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.
09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.
09–25–0106, Administration: Office of the NIH Director and Institute/Center/Division Correspondence Records, HHS/NIH/OD.
09–25–0108, Personnel: Guest Researchers, Special Volunteers, and Scientists Emeriti, HHS/NIH/DPM.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.
09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI.
09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.
09–25–0145, Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG.
09–25–0165, National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD.
09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/NIDA and HHS/NIH/NIMH.
09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

K. RECORD ACCESS:

The following system has been updated to reflect a change in the record access procedures.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.

L. NOTIFICATION PROCEDURES:

The following systems have been updated to reflect a change in the office, official, and/or address to write to in order to determine whether or not the system contains a record about the individual.

09–25–0046, Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID.
09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.
09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.
09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.

M. THE FOLLOWING SYSTEMS HAVE BEEN CHANGED FOR CLARITY AND EDITING PURPOSES:

09–25–0036, Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement/Chartered Advisory Committee, HHS/NIH/DRG and HHS/NIH/CMO.
09–25–0037, Clinical Research: Baltimore Longitudinal Study of Aging, HHS/NIH/NIA.
09–25–0038, Clinical Research: Patient Data, HHS/NIH/NIDDK.
09–25–0106, Administration: Office of the NIH Director and Institute/Center/Division Correspondence Records, HHS/NIH/OD.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS.
09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG.
09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

N. ORGANIZATION NAME CHANGE:

There are no changes in this category.

O. DELETED SYSTEMS OF RECORDS:

The following systems of records which appeared in the January 13, 1993, annual publication are now being deleted because:

09–25–0075, Institutions Submitting Assurances for Protection from Research Risks and Animal Welfare, HHS/NIH/OD/OER.

System records are now filed by organization/institution and are no longer filed under individual names.

09–25–0204, Records of Contracts Awarded to Individuals, HHS/NIH/NIDA, HHS/NIH/NIAAA and HHS/NIH/NIMH.

System records are now filed by organization/institution and are no longer filed under individual names.

09–25–0206, Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA.

Personal identifiers have been deleted from the system.

The following is a list of active systems of records maintained by NIH.

Table of Contents

09–25–0001, Clinical Research: Patient Records, HHS/NIH/NHLBI, published Federal Register, Vol. 55, Number 101, May 24, 1990.
09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0007, Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0010, Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0011, Clinical Research: Blood Donor Records, HHS/NIH/CC, published Federal Register, Vol. 56, Number 247, December 24, 1991.

09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0014, Clinical Research: Student Records, HHS/NIH/CC, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0016, Clinical Research: Collaborative Perinatal Project HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0026, Clinical Research: Nervous System Studies, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0033, International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0035 International Activities: Health Scientist Exchange Programs, HHS/NIH/FIC, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0036, Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement/Chartered Advisory Committee, HHS/NIH/DRG and HHS/NIH/CMO, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0037, Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0038, Clinical Research: Patient Data, HHS/NIH/NIDDK, published Federal Register, Vol. 58, No. 247, December 24, 1991.
09–25–0039, Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/NIH/NIDDK, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0040, Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIDDK, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0041, Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0042, Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0046, Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0053, Clinical Research: Vision Studies, HHS/NIH/NEI, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0054, Administration: Property Accounting, HHS/NIH/ORS, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0057, Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0067, Clinical Research: National Cancer Incidence Surveys, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, published Federal Register, Vol. 58, Number 8, January 13, 1993.
09–25–0074, Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0077, Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0078, Administration: Consultant File, HHS/NIH/NHLBI, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0087, Administration: Senior Staff, HHS/NIH/NIAID, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0091, Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0093, Administration: Administration Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0099, Clinical Research: Patient Medical Records, HHS/NIH/CC, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0100, Clinical Research: Neuropharmacology Studies, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0102, Administration: Grants Associates Program Working Files, HHS/NIH/DRG, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/ORS, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0106, Administration: Office of the NIH Director and Institute/Center/Division Correspondence Records, HHS/NIH/OD, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0108, Personnel: Guest Researchers, Special Volunteers, and Scientists Emeriti, HHS/NIH/DPM, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0121, International Activities: Senior International Fellowships Program, HHS/NIH/FIC, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0124, Administration: Pharmacology Research Associates, HHS/NIH/NIGMS, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0126, Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD, published Federal Register, Vol. 56, No. 247, December 24, 1991.
09–25–0130, Clinical Research: Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS, published Federal Register, Vol. 56, No. 8, January 11, 1991.
09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID, published Federal Register, Vol. 58, No. 8, January 13, 1993.
09–25–0145, Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the

National Eye Institute, HHS/NIH/NEI, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.
09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, published **Federal Register**, Vol. 56, No. 247, December 24, 1991.
09–25–0151, Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct in Science or Subject to Sanctions for Such Misconduct, HHS/PHS/OSR, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0154, Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD, published **Federal Register**, Vol. 58, Number 8, January 13, 1993.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0160, United States Renal Data System (USRDS), HHS/NIH/NIDDK published **Federal Register**, Vol. 56, No. 8, January 11, 1991.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0165, National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0166, Administration: Radiation Safety Information, HHS/NIH/ORS, published **Federal Register**, Vol. 56, No. 247, December 24, 1991.
09–25–0167, National Institutes of Health (NIH) Transhare Program, HHS/NIH/OD, published **Federal Register**, Vol. 57, No. 171, September 2, 1992.
09–25–0168, Invention, Patent and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients and Contractors, HHS/PHS/NIH/OTT, published **Federal Register**, Vol. 58, No. 164, August 26, 1993.
09–25–0170, Diabetes Control and Complications Trial (DCCT) Data System, HHS/NIH/NIDDK, published **Federal Register**, Vol. 58, No. 107, June 7, 1993.
09–25–0201, Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0202, Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/NIDA, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0203, National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/NIDA and HHS/NIH/NIMH, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0211, Intramural Research Program Records of In- and Out-Patients With Various Types of Alcohol Abuse and Dependence, Relatives of Patients With Alcoholism, and Healthy Volunteers, HHS/NIH/NIAAA, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.
09–25–0212, Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH, published **Federal Register**, Vol. 58, No. 8, January 13, 1993.

Dated: December 7, 1993.

Harold Varmus,

Director, National Institutes of Health.

09–25–0005

SYSTEM NAME:

Administration: Library Operations and User I.D. File, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located in National Institutes of Health (NIH) facilities in Bethesda, Maryland, or facilities of contractors of the NIH. Write to the appropriate system manager listed below for list of current contractor locations.

National Institutes of Health, Building 10, Room 1L07, 9000 Rockville Pike, Bethesda, MD 20892 and
National Institutes of Health, Building 12A, Room 3018, 9000 Rockville Pike, Bethesda, MD 20892 and
National Institutes of Health, Building 38, Room 1S33, 8600 Rockville Pike, Bethesda, MD 20894 and
National Institutes of Health, Building 38, Room 1N21, 8600 Rockville Pike, Bethesda, MD 20894 and
National Institutes of Health, Building 38, Room B1E21, 8600 Rockville Pike, Bethesda, MD 20894 and
National Institutes of Health, Building 38A, Room 4N419, 8600 Rockville Pike, Bethesda, MD 20894 and
National Technical Information Service, Accounting Department, 8001 Forbes Place, Room 208F, Springfield, Virginia 22151

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of Library Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization, address, phone number, user code and identification number; and when applicable, credit card number and billing information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of the Public Health Service Act, describing the general powers and duties of the Public Health Service relating to research and investigation (42 U.S.C. 241).

PURPOSE(S):

(1) To monitor library material, services, and circulation control; (2) to provide user documentation; (3) to provide copying services (duplication of library materials); and (4) to manage invoice and billing transactions for library services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to contractors and staff to monitor library material, services, circulation control; to provide user documentation; and to process or refine the records. Recipients are required to maintain Privacy Act safeguards with respect to those records.

4. Disclosure may be made for billing purposes to: (a) Contractors providing copying services: and (b) NTIS for Medlars Services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer tape and disc, microfiche, paper and file cards.

RETRIEVABILITY:

Records are retrieved by name, user code and/or identification number.

SAFEGUARDS:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to Library staff members who need to verify that Library identification cards have been issued to those Library users requesting services such as MEDLINE and other computer online bibliographic searches, translations and interlibrary loans. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager. The contractor maintains a list of personnel having authority to access records to perform their duties.

2. *Physical safeguards:* The offices housing the cabinets and file drawers for storage of records are locked during all library off-duty hours. During all duty hours offices are attended by employees who maintain the files. The contractor has secured records storage areas which are not left unattended during the working hours and file cabinets which are locked after hours.

3. *Procedural safeguards:* Access to the file is strictly controlled by employees who maintain the files. Records may be removed from files only at the request of the system manager or other authorized employees. Access to computerized records is controlled by the use of security codes known only to authorized users. Contractor personnel receive instruction concerning the significance of safeguards under the Privacy Act.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 8000–D–2, which allows records to be kept until superseded or for a maximum period of 6 years. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGERS AND ADDRESS:

The Policy Coordinating Official for this system is the Management Analyst, Office of Administration; National Library of Medicine; Building 38, Room 2N21; 8600 Rockville Pike; Bethesda, MD 20894.
Chief, Reference and Bibliographic Services Section, Library Branch, National Center for Research Resources, National Institutes of Health, Building 10, Room 1L21, 9000 Rockville Pike, Bethesda, MD 20892 and
Chief, Division of Computer Research and Technology Library, National Institutes of Health, Building 12A, Room 3018, 9000 Rockville Pike, Bethesda, MD 20892 and
Supervisory Librarian, Preservation Section, Public Services Division, Library Operations, National Library of Medicine, National Institutes of Health, Building 38, Room B1E21, 8600 Rockville Pike, Bethesda, MD 20894 and
Chief, Public Services Division, Library Operations, National Library of Medicine, National Institutes of Health, Building 38, Room 1S33, 8600 Rockville Pike, Bethesda, MD 20894 and
Head, Prints and Photographs Collection, History of Medicine Division, NLM, NIH, Building 38, Room 1N21, 8600 Rockville Pike Bethesda, MD 20894 and
Chief, Medlars Management Section Bibliographic Services Division, Library Operations, National Institutes of Health, National Library of Medicine, Building 38A, Room 4N419, 8600 Rockville Pike, Bethesda, MD 20894.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, NIH Library ID card data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0007

SYSTEM NAME:

Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 13, Room G904, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any

Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIH employees who apply for safety glasses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Explanation of eye impact and hazard occupation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902.

PURPOSE(S):

Records are used for proper distribution of safety glasses and for proof of delivery.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* Access is limited to personnel involved in safety glasses issuance program, to supervisors of employees who have requested glasses and to personnel involved in accounting.

2. *Physical safeguards:* Record storage locations are locked when unattended.

3. *Procedural safeguards:* Access to file rooms and files is controlled by system manager or designee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1300–B–3, which allows records to be kept for a maximum period of 5 years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Division of Safety, ORS, Building 31, Room 1C02, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting information to how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Previous employer and education institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0031

SYSTEM NAME:

Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 36, Room 4B07, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with possible perinatal, acute or chronic diseases and normal volunteers in NIH-related studies pertaining to the central nervous system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical records, laboratory test results for viruses, pathology and identifications and characterizations of etiological agents of diseases under study, and curriculum vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289h.

PURPOSE(S):

Clinical research by HHS scientists and their authorized collaborators and research on blood serum, specifically to discover the role of infections (particularly those caused by a virus) in diseases of the central nervous system and also to study the role of vaccines in these diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

2. Certain diseases and conditions, including infectious diseases may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

3. Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in laboratory notebooks, papers, file folders, cinematography and photography.

RETRIEVABILITY:

Records are retrieved by name and number.

SAFEGUARDS:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant access only to HHS scientists and their assistants and authorized collaborators.

2. *Physical safeguards:* Records are kept in cabinets which are locked at all times that system is not in use, in a location which is also locked when system is not in use.

3. *Procedural safeguards:* Personnel having access to system have been trained in Privacy Act requirements. Records are used in a designated work area and the system location is attended at all times during working hours.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief, Laboratory of Central Nervous Systems Studies, Intramural Research Program, Building 36, Room 5B21, NIH 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Chief, Administrative Services Branch, NINDS Building 31, Room 8A49, NIH 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Hospital records, volunteers and laboratory data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0036

SYSTEM NAME:

Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement Information/Chartered Advisory Committee Information), HHS/NIH/DRG and HHS/NIH/CMO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892 and
Building 12, NIH Computer Center, 9000 Rockville Pike, Bethesda, MD 20892, and
For information pertaining to the chartered advisory committees of the National Institutes of Health: Building 31, Room 3B–55, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicant and Principal Investigators; Program Directors; NRSA Trainees and Fellows; Research Career Awardees; and Chartered Advisory Committee Members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, awards, associated records, trainee appointments, and current and historical information pertaining to chartered advisory committees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241c, 58 Stat. 691 c & d repealed.

PURPOSES:

(1) To support centralized grant programs of the Public Health Service. Services are provided in the areas of grant application assignment and referral, initial review, council review, award processing and grant accounting. The data base is used to provide complete, accurate, and up-to-date reports to all levels of management. (2) To maintain communication with former fellows and trainees who have incurred a payback obligation through the National Research Service Award Program. (3) To maintain current and historical information pertaining to the establishment of chartered advisory committees of the National Institutes of Health and the appointment or designation of their members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to the National Technical Information Service (NTIS), Department of Commerce, for dissemination of scientific and fiscal information on funded awards (abstract of research projects and relevant administrative and financial data).

2. Disclosure may be made to the cognizant audit agency for auditing.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to qualified experts not within the

definition of Department employees as prescribed in Department Regulations for opinions as a part of the application review process.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision in the matter.

6. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

7. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

8. Disclosure may be made to the grantee institution in connection with performance or administration under the conditions of the award.

9. Disclosure may be made to the Department of Justice, or to a court or other tribunal, from this system of records when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on discs and magnetic tapes.

RETRIEVABILITY:

Records are retrieved by name, application, grant or contract ID number.

SAFEGUARDS:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to PHS extramural and committee management staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Physical access to DRG work areas is restricted to DRG employees.

3. *Procedural safeguards:* Access to source data files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee. Access to computer files is controlled by the use of registered accounts, registered initials, keywords, etc. The computer system maintains an audit record of all attempted and successful requests for access.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–A–2, which allows records to be destroyed when no longer needed for administrative purposes. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information Systems Branch, Division of Research Grants, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892 and

For information pertaining to the chartered advisory committees of the National Institutes of Health: NIH Committee Management Officer, Building 31, Room 3B–55, 9000 Rockville Pike,Bethesda, MD 20892

NOTIFICATION PROCEDURE:

To determine if a record exists write to: Privacy Act Coordinator, Division of Research Grants, Westwood Building, Room 449, 5333 Westbard Avenue, Bethesda, MD 20892 and

For information pertaining to the chartered advisory committees of the National Institutes of Health: NIH Committee Management Officer, Building 31, Room 3B–55, 9000 Rockville Pike, Bethesda, MD 20892

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, individual's educational institution and references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0037

SYSTEM NAME:

Clinical Research: Baltimore Longitudinal Study of Aging, HHS/NIH/NIA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20892 and

Longitudinal Studies Branch, IRP, NIA, Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary participants in the Gerontology Research Center (GRC) Longitudinal Study of Aging.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, psychological and physical test results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289k–2, k–4. Health Research Extension Act of 1985 Pub. L. 99–158.

PURPOSE(S):

Research on the human aging process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on computer files, and on microfiche.

RETRIEVABILITY:

Records are retrieved by ID number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to the clinical, research and support staff of the GRC. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Hard copy files are kept in locked file cabinets.

3. *Procedural safeguards:* Access to manual files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Computer Scientist, Longitudinal Studies Branch, IRP, National Institutes of Health, Gerontology Research Center, GRC, 4940 Eastern Avenue, Baltimore, MD 21224.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals, research staff, test results.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0038

SYSTEM NAME:

Clinical Research: Patient Data, HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 9N222, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients of the National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK).

CATEGORIES OF RECORDS IN THE SYSTEM:

Patient history, demographic data, miscellaneous correspondence with patients.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281a, 289c.

PURPOSE(S):

(1) Care and treatment of patients with diabetic, endocrine, metabolic, digestive, liver or kidney diseases; (2) Experimentation and investigation on the etiology, treatment and prevention of diabetic, endocrine, metabolic, digestive, liver or kidney diseases; (3) Administration of these clinical and research programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on magnetic tape.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the NIDDK whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. *Procedural safeguards:* Access to manual files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESSES:

National Institutes of Health, Chief, Clinical Investigations, NIDDK, Building 10, Room 9N222, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURES:

To determine if a record exists write to: National Institutes of Health, Administrative Officer, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0042

SYSTEM NAME:

Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 1B01, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and other participants in current and past research projects of the National Institute of Dental Research (NIDR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and dental histories, dental pathologies and therapies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, 401, 405 and 453 of the Public Health Service Act (42 U.S.C. 241, 281, 284, 285h). These sections establish the National Institute of Dental Research and authorize the conduct and support of dental and oral research and related activities.

PURPOSE(S):

(1) To record the diagnosis and treatment of patients with diseases of the mouth, tongue, teeth and surrounding tissues; (2) To record the normal condition of the mouth, tongue, teeth and surrounding tissues of individuals referred to the dental clinic; (3) To provide clinical data for research into the etiology, treatment and prevention of oral diseases; (4) For review and planning of the NIDR clinical program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the clinical and research purposes for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and hospital ID number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to dentists, physicians, dental hygienists, dental assistants and other health care personnel involved in the care and treatment of patients in the NIDR dental clinic, and to referring professionals. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Records are stored in a cabinet which is locked at all times when not in use.

3. *Procedural safeguards:* Access is controlled by clerical staff of the Dental Clinic during clinic hours, and by the Officer of the Day when the clinic is closed.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

National Institutes of Health, Deputy Clinical Director, NIDR, Building 10, room 1N-113, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists contact: NIDR Privacy Act Coordinator, building 31, room 2C-35, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or

incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, parents or guardians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0046

SYSTEM NAME:

Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 7, Rooms 106 and 202, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients, volunteers, laboratory personnel in the National Institute of Allergy and Infectious Diseases (NIAID).

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical specimens, attendant data and laboratory results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE(S):

For diagnostic and epidemiologic studies of viral respiratory diseases and hepatitis, conducted by NIAID staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in data books.

RETRIEVABILITY:

Records are retrieved by name, patient or study number.

SAFEGUARDS:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to HHS scientists conducting research, and staff whose duties require the use of such information. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the System Manager.

2. *Physical safeguards:* Data books are kept in locked rooms. Offices are locked during off-duty hours.

3. *Procedural Safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the System Manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESSES:

Chief, Respiratory Viruses Section, LID, NIAID, Building 7, Room 106, NIH, 9000 Rockville Pike, Bethesda, MD 20892 and
Chief, Hepatitis Virus Section, LID, NIAID, Building 7, Room 202, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Privacy Act Coordinator, NIAID, Solar Building, Room 3C–23, 6003 Executive Blvd., Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and

specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical records, field study records, and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0060

SYSTEM NAME:

Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, 8601 Old Georgetown Road, Bethesda, MD 20892 and Frederick Cancer Research and Development Center, Building 426, Frederick, MD 21701 and
National Cancer Institute, Biological Response Modifiers Program (BRMP), 501 W. 7th Street, Suite #3, Frederick, MD 21701 and
National Cancer Institute, Navy Hospital, Building 8, Room 3146, Bethesda, MD 21814 and
National Cancer Institute, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, DCT, Executive Plaza North, Suite 804, Bethesda, MD 20892 and at hospitals and clinics, educational and research institutions, Federal, State or local government agencies, and private facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All patients who have been hospitalized or seen in outpatient clinics on treatment research protocols in the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE(S):

(1) Patient care and treatment. (2) Clinical and epidemiological research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tapes, microcomputer disks, index cards, microfiche, and manual paper records.

RETRIEVABILITY:

Records are retrieved by patient name or number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, or its contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. *Procedural safeguards:* Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESSES:

Head, Biostatistics and Data Management Section, National Institutes of Health, 8601 Old Georgetown Road, Bethesda, MD 20892, and
Chief, Clinical Research Branch, Biological Response Modifiers Program, Frederick Cancer Research and Development Center, 501 W. 7th Street, Suite #3, Frederick, MD 21701, and

Navy Hospital, Deputy Branch Chief, NCI—Naval Medical Oncology Branch, Building 8, Room 5101, Bethesda, MD 20814, and
Chief, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, DCT, National Cancer Institute, Executive Plaza North, Suite 804, Bethesda, MD 20892, and
Director, Extramural Clinical Studies, BRB, BRMP, Division of Cancer Treatment, National Cancer Institute, Frederick Cancer Research and Development Center, Fort Detrick, Frederick, MD 21701

NOTIFICATION PROCEDURE:

Write to system manager for the appropriate location to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Hospital medical records, referring physician, referring hospitals, clinical laboratories, patient contact, and Central Tumor Registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0099

SYSTEM NAME:

NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Genetic and Clinical Epidemiology Branches, DCE, Executive Plaza North, Rooms 400 and 439, 6130 Executive Blvd., Bethesda, MD 20892 and
National Institutes of Health, Division of Computer Research and Technology, Building 12A, 9000 Rockville Pike, Bethesda, MD 20892 and
WESTAT, Inc., Manugistics Building, Suite 402, 2115 E. Jefferson Street, Rockville, MD 20852 and
Survey Research Associates, Inc., Manugistics Building, Suite 400, 2115 E. Jefferson Street, Rockville, MD 20852

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former cancer patients and their family members admitted to the NIH Clinical Center or the National Cancer Institute (NCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, reports and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 265a.

PURPOSE(S):

National Cancer Institute physicians and supporting staff are involved in research on the cause and diagnosis of disease and the treatment of patients, requiring the maintenance of working files to chart progress, responses to treatment, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

5. (a) PHS may inform the sexual and/or needle-sharing partner(s) of a subject individual who is infected with the human immunodeficiency virus (HIV) of their exposure to HIV, under the following circumstances: (1) The information has been obtained in the course of clinical activities at PHS facilities carried out by PHS personnel or contractors; (2) The PHS employee or contractor has made reasonable efforts to counsel and encourage the subject individual to provide the information to the individual's sexual or needle-sharing partner(s); (3) The PHS employee or contractor determines that the subject individual is unlikely to provide the information to the sexual or needle-sharing partner(s) or that the provision of such information cannot reasonably be verified; and (4) The notification of the partner(s) is made, whenever possible, by the subject individual's physician or by a professional counselor and shall follow standard counseling practices.

(b) PHS may disclose information to State or local public health departments, to assist in the notification of the subject individual's sexual and/or needle-sharing partner(s), or in the verification that the subject individual has notified such sexual or needle-sharing partner(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on computer files.

RETRIEVABILITY:

Records are retrieved by identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute and the Clinical Center whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Records are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. *Procedural safeguards:* Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31)

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

National Institutes of Health, National Cancer Institute, Division of Cancer Etiology, Epidemiology and Biostatistics Program, Chief, Genetic Epidemiology Branch, Executive Plaza North, Suite 439, Bethesda, MD 20892 and
Chief, Clinical Genetics Section, Clinical Epidemiology Branch, Executive Plaza North, Suite 400, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Patients' personal physicians, NIH staff treating the patients or performing tests, requested outside records, and patients themselves.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0087

SYSTEM NAME:

Administration: Senior Staff, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 7A32, 9000 Rockville Pike. Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former key professional employees of the Institute and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Press releases, curriculum vitae, nominations for awards and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d) 289a.

PURPOSES:

For background records to provide public announcements on National Institute of Allergy and Infectious Diseases (NIAID) research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to staff whose duties require the use of such information. Authorized users are located in the Office of the Director, NIAID. Other one time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Records in this system are stored in file folders which are kept in locked cabinets. The room is locked during off-duty hours.

3. *Procedural safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Communications, National Institutes of Health, Building 31, Room 7A–32, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: National Institutes of Health, Privacy Act Coordinator, NIAID, Solar Bldg., Room 3C–23, 6003 Executive Blvd., Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the System Manager at the address above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals and newspaper clippings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0105

SYSTEM NAME:

Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 10 and 13, NIH, 9000 Rockville Pike, Bethesda, MD. 20892
Westwood Building, 5333 Westbard Ave., Bethesda, MD. 20892
Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Rocky Mountain Laboratories, Hamilton, Montana 59840

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, fellows, visiting scientists, relatives of inpatients, visitors, contractors working on site.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901.

PURPOSE(S):

1. For medical treatment;

2. Upon researcher request with individual's written permission, release of record for research purposes to medical personnel;

3. Upon request by HHS personnel offices for determination of fitness for duty, and for disability retirement and other separation actions;

4. For monitoring personnel to assure that safety standards are maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to Federal, State, and local government agencies for adjudication of benefits under workman's compensation, and for disability retirement and other separation actions.

2. To district office of OPEC, Department of Labor with copies to the U.S. Office of Personnel Management for processing of disability retirement and other separation actions.

3. Upon non-HHS agency request, for examination to determine fitness for duty with copies to requesting agency and to the U.S. Office of Personnel Management.

4. Disclosure may be made to a congressional office from the record of an individual in response to any inquiry from the congressional office made at the request of the individual.

5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and SSN.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project.

Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* Access is limited to authorized personnel (system manager and staff; Occupational Medicine Service staff; and personnel and administrative officers with need for information for fitness for duty, disability, and other similar determinations.)

2. *Physical safeguards:* Files are maintained in locked cabinets.

3. *Procedural safeguards:* Access to files is strictly controlled by authorized staff.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule, Manual Chapter 1743 (HHS Records Management Manual, Appendix B–361), item 2300–792–3.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Division of Safety, NIH Building 31, Room 1C02, 9000 Rockville Pike, Bethesda, MD 20892
Chief, Rocky Mountain Operations Branch, Rocky Mountain Laboratories (RML), National Institutes of Health Hamilton, MT 59840

NOTIFICATION PROCEDURE:

Contact System Manager at appropriate treatment location listed above, to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to 5,000 dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requester should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Records contain data resulting from clinical and preventative services provided at treatment location, and data received from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0106

SYSTEM NAME:

Administration: Office of the NIH Director and Institute/Center/Division Correspondence Records, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Executive Secretariat, Office of the Director, Building 1, Room B1–55, 9000 Rockville Pike, Bethesda, MD 20892
Office of Legislative Policy and Analysis, Office of the Director, Building 1, Room 244, 9000 Rockville Pike, Bethesda, MD 20892, and Institute/Center/Division Staff Offices that retain correspondence files.

Write to the appropriate system manager listed in Appendix I for a list of current locations and for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have contacted the NIH Director or his/her subordinates, or have been contacted in writing by one of these officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and other supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 44 U.S.C. 3101.

PURPOSE(S):

1. To control and track all correspondence documents addressed or directed to the NIH Director or his/her subordinates, as well as documents/supporting documents initiated by them, in order to assure timely and appropriate attention.

2. Incoming correspondence and supporting documentation is forwarded to other HHS components when a response from them is warranted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from this system of records by the Department of Health and Human Services (HHS) to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored by computer index and in file folders.

RETRIEVABILITY:

Records are retrieved by name, document number, date, and subject.

SAFEGUARDS:

1. *Authorized users:* Access to textual records is limited to authorized personnel (system managers and staff).

2. *Physical safeguards:* Physical access to records is restricted to authorized personnel.

3. *Procedural safeguards:* Access to textual records is strictly controlled by system managers and staff. Records may be removed from files only at the request of system managers or other authorized employees. Computer files are password protected.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records"

VOL 58 ISS 248 DE 29 1993 UMI

(HHS Records Management Manual, Appendix B–361), item 1700–C, which allows records to be kept for a maximum period of 6 years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

System Managers are listed in Appendix I; each maintains full responsibility for their specific correspondence system.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate system manager as listed in Appendix I. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Records are derived from incoming and outgoing correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System managers

Director, Executive Secretariat, Office of the Director, Building 1, Room B1–55, 9000 Rockville Pike, Bethesda, MD 20892
Acting Associate Director, Office of Legislative Policy and Analysis, Office of the Director, Building 1, Room 244, 9000 Rockville Pike, Bethesda, MD 20892
National Cancer Institute (NCI), Secretary to the Director, Building 31, Room 11A48, Bethesda, MD 20892
National Heart, Lung and Blood Institute (NHLBI), Secretary to the Director, Building 31, Room 5A52, Bethesda, MD 20892
National Institute of Diabetes and Digestive and Kidney (NIDDK), Director, OHRR, Building 31, Room 9A04, Bethesda, MD 20892
National Institute of Environmental Health Sciences (NIEHS), Executive Secretariat, P.O. Box 12233, South Campus, Building 2, Room B201, Research Triangle Park, NC 27709
National Eye Institute (NEI), Administrative Officer, Building 31, Room 6A17, Bethesda, MD 20892
National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS), Director, Office of Scientific and Health Communications, Building 31, Room 4C05, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders (NIDCD), Chief, Administrative Management Branch, Building 31, Room 3C21, Bethesda, MD 20892
National Institute of General Medical Sciences (NIGMS), Secretary to the Director, Westwood Building, Room 926, Bethesda, MD 20892
National Library of Medicine (NLM), Staff Assistant, Office of the Director, Building 38, Room 2E17, Bethesda, MD 20894
Fogarty International Center (FIC), Secretary to the Director, Building 31, Room B2C06, Bethesda, MD 20892
Office of AIDS Research (OAR), Special Assistant for Liaison Activities, Building 31, Room 5C12, Bethesda, MD 20892
National Institute on Drug Abuse (NIDA), Executive Secretariat, Room 10–15, Parklawn Building, Rockville, MD 20857
National Institute on Alcohol Abuse and Alcoholism (NIAAA), Executive Secretariat, Room 16–97, Parklawn Building, Rockville, MD 20857
National Institute of Mental Health (NIMH), Executive Secretariat, Room 17C–25, Parklawn Building, Rockville, MD 20857
Washington National Records Center, 4205 Suitland Road, Washington, DC 20857

09–25–0108

SYSTEM NAME:

Personnel: Guest Researchers, Special Volunteers, and Scientists Emeriti, HHS/NIH/DPM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system is located in the personnel/administrative offices of individual Institutes/Centers/Divisions of the National Institutes of Health.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals using NIH facilities who are not NIH employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information including name, address, date and place of birth, education, employment, purpose for which NIH facilities are desired, outside sponsor, and NIH sponsor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(a)(2), 42 U.S.C. 282(b)(10), and 42 U.S.C. 284(b)(1)(k).

PURPOSE(S):

To determine eligibility to use NIH facilities, to document the individual's presence at NIH, and to record that the individual is not an employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to U.S. Office of Personnel Management for program evaluation purposes; to General Accounting Office for fund disbursement determinations.
2. Disclosure may be made to institutions providing financial support.
3. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the request of that individual.
4. Disclosure may be made to the Department of Justice or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

For each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* Access is granted only to personnel staff, administrative office staff and management officials directly involved in the administration of the Guest Researcher, Special Volunteer and Scientist Emeriti programs.
2. *Physical safeguards:* Record facilities are locked when system personnel are not present.
3. *Procedural safeguards:* Access to files is strictly controlled by system personnel. Records may be removed from the file only with the approval of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–3(a), which allows records to be destroyed after a maximum period of 2 years after the individual completes work at NIH. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESSES:

Personnel/Administrative Officers of National Institutes of Health Institutes/Centers/Divisions.

NOTIFICATION PROCEDURE:

To determine if a record exists and where it is located, contact: National Institutes of Health, Division of Personnel Management, Privacy Act Coordinator, Building 31, Room 1C39, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Contact the Personnel Officer or Administrative Officer in whose office the record is located and provide verification of identity as described under notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual, NIH sponsor, funding institution.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0112

SYSTEM NAME:

Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant applicants and Principal Investigators; Program Directors; Institutional and Individual Fellows; Research Career Awardees; and other employees of Applicant and/or grantee institutions.

CATEGORIES OF RECORD IN THE SYSTEM:

Grant and cooperative agreement applications and review history, awards, financial records, progress reports, payback records, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Research and Investigation," "Appointment and Authority of the Directors of the National Research Institutes," "National Institute of Mental Health," "National Institute on Drug Abuse," " National Institute on Alcohol Abuse and Alcoholism," "National Cancer Institute," "National Heart, Lung and Blood Institute," "National Institute of Diabetes, and Digestive and Kidney Diseases," "National Institute of Arthritis and Musculoskeletal and Skin Diseases," "National Institute on Aging," "National Institute on Allergy and Infectious Diseases," "National Institute of Child Health and Human Development," "National Institute of Dental Research;" "National Eye Institute," "National Institute of Neurological Disorders and Stroke," "National Institute of General Medical Sciences," "National Institute of Environmental Health Sciences," "National Institute on Deafness and Other Communication Disorders," "National Institute of Nursing Research," and the "National Library of Medicine," of the Public Health Service Act. (42 U.S.C. 241, 284, 285, 285(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), 286b–286b–7.

PURPOSE(S):

1. Information provided is used by NIH staff for review, award, and administration of grant programs.
2. Information is also used to maintain communication with former fellows who have incurred an obligation through the National Research Service Award Program.
3. Staff may also use curriculum vitae to identify candidates who may serve as ad hoc consultants or committee and council members in the grant peer review process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made of assignments of research investigators and project monitors to specific research projects to the National Technical Information Service (NTIS), Department of Commerce, to contribute to the Smithsonian Science Information Exchange, Inc.
2. Disclosure may be made to the cognizant audit agency for auditing.
3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.
4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
5. Disclosure may be made to qualified experts not within the definition of Department employees as prescribed in Department Regulations, 45 CFR 56.2, for opinions as a part of the application review and award administration processes.

6. Disclosure may be made to a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

7. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected; or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

8. Disclosure may be made to a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in a system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records;

9. Disclosure may be made to the grantee institution in connection with the review of an application or performance or administration under the terms and conditions of the award, or in connection with problems that might arise in performance or administration if an award is made on a grant proposal.

10. Disclosure may be made to the profit institution's president or official responsible for signing the grant application in connection with the review or award of a grant application and in connection with the administration and performance of a grant under the terms and conditions of the awards.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

The Department may disclose to consumer reporting agencies information on individuals who have failed to meet payback obligations incurred under awards made under authority of the National Research Service Awards Program (41 U.S.C. 289l–1). Information disclosed includes data identifying the individual, the amount, status and history of the obligation, and that the obligation arose from an award made under the National Research Service Awards Program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders, on computer tapes and discs, cards and in notebooks.

RETRIEVABILITY:

Retrieved by name and grant number.

SAFEGUARDS:

A variety of physical and procedural safeguards are implemented, as appropriate, at the various locations of this system:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to officials whose duties require use of the information. These officials include review groups, grants management staff, other extramural program staff, health science administrators, data processing and analysis staff and management officials with oversight responsibilities for extramural programs. Other one-time and special access is granted on an individual basis as specifically authorized by the system manager. Authorization for access to computerized files is controlled by the system manager or designated official and is granted on a need-to-know basis. Lists of authorized users are maintained

2. *Physical safeguards:* Secured facilities, locked rooms, locked cabinets, personnel screening; records stored in order of grant numbers which are randomly assigned.

3. *Procedural safeguards:* Access to file rooms and files is strictly controlled by files staff or other designated officials; charge-out cards identifying users are required for each file used; inactive records are transferred to controlled storage in Federal Records Center in a timely fashion; retrieval of records from inactive storage is controlled by the system manager or designated official and by the NIH Records Management Officer; computer files are password protected and access is actively monitored by the Computer Center to prevent abuse. Employees are given specialized training in the requirements of the Privacy Act as applied to the grants program.

These particular safeguards are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items: 4000–B–1; 4000–B–4; 4000–C–1 and, 4600–D–1. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

See Appendix II.

NOTIFICATION PROCEDURE:

Write to official at the address specified in Appendix II to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Write to the official at the address specified in Appendix IV to obtain access to a record, and provide the same information as is required under the Notification Procedures above. Requesters should also reasonably specify the record contents being sought.

Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified in Appendix II, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information submitted by applicant; supplemented by outside reviewers and internal staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Location

National Cancer Institute, Executive Plaza South, Suite T–42, 6120 Executive Boulevard, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, Westwood Building, Room 4A09, 5333 Westbard Avenue, Bethesda, MD 20892
National Library of Medicine, Building 38A, Room 5N509, 8600 Rockville Pike, Bethesda, MD 20894
National Institute of Allergy and Infectious Diseases, Acting Chief, Grants Management Branch, DEA, Solar Bldg., Room 4C–09, 6003 Executive Blvd., Rockville, MD 20892
National Institute of Allergy and Infectious Diseases, Acting Chief, Management Information Systems Section, FMISB, OAM, Solar Building, Room 4A–03733, 6003 Executive Blvd., Rockville, MD 20892
National Institute of Diabetes and Digestive and Kidney Diseases, Westwood Building, Room 610, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Westwood Building, Room 5A03, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Child Health and Human Development, 6100 Executive Blvd., Room 7A07, Bethesda, MD 20892
National Institute on Aging, Gateway Building, Room 2N–212, 7201 Wisconsin Avenue, Bethesda, MD 20892
National Institute of Dental Research, Grants Management Officer, Westwood Building, Room 518, Bethesda, MD 20892
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, NC 27709
National Institute of General Medical Sciences, Grants Management Officer, Westwood Building, Room 953, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke, Federal Building, Room 10A12, 7550 Wisconsin Avenue, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Executive Plaza South, Room 400B, 6120 Executive Boulevard, Rockville, MD 20852
National Eye Institute, Executive Plaza South, Room 350, 6120 Executive Boulevard, Bethesda, MD 20892
National Center for Research Resources, Westwood Building, Room 853, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Nursing Research, Westwood Building 31, Room 748, 5333 Westbard Avenue, Bethesda, MD 20892
Fogarty International Center, Building 31, Room B2C32, 9000 Rockville Pike, Bethesda, MD 20892
Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409
National Institute on Drug Abuse, Grants Management Branch, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
National Institute on Alcohol Abuse and Alcoholism, Grants Management Branch, Room 16–86, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
National Institute of Mental Health, Grants Management Branch, ORM, Room 7C–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Appendix II: System Manager and Address

National Cancer Institute, Grants Management Analyst, Executive Plaza South, Suite 234, 6120 Executive Boulevard, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, Chief, Grants Operations Branch, Division of Extramural Affairs, Westwood Building, Room 4A10, 5333 Westbard Avenue, Bethesda, MD 20892
National Library of Medicine, Associate Director for Extramural Programs, Building 38A, Room 5N505, 8600 Rockville Pike, Bethesda, MD 20894
National Institute of Allergy and Infectious Diseases, Acting Chief, Grants Management Branch, DEA, Solar Bldg., Room 4B–21, 6003 Executive Blvd., Bethesda, MD 20892
National Institute of Allergy and Infectious Diseases, Acting Chief, Management Information Systems Section, FMISB, OAM, Solar Building, Room 4A–03, 6003 Executive Blvd., Bethesda, MD 20892
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Grants Management Officer, Westwood Building, Room 407, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Diabetes and Digestive and Kidney Disease, Grants Management Officer, Room 637, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Child Health and Human Development, Chief, Office of Grants & Contracts, 6100 Executive Blvd., Room 8A01, Bethesda, MD 20892
National Institute on Aging, Grants Management Officer, Gateway Building, Room 2N–212, 7201 Wisconsin Avenue, Bethesda, MD 20892
National Institute of Dental Research, Grants Management Officer, NIDR, Westwood Building, Room 518, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, N.C. 27709
National Institute of General Medical Sciences, Grants Management Officer, NIGMS, Westwood Building, Room 953, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke, Grants Management Officer, Federal Building, Room 1004A, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Grants Management Officer, Executive Plaza South, Room 400B, 6120 Executive Boulevard, Rockville, MD 20892
National Institute of Nursing Research, Grants Management Officer, Westwood Building, Room 748, 5333 Westbard Avenue, Bethesda, MD 20892
National Eye Institute, Grants Management Officer, Executive Plaza South, Room 350, 6120 Executive Boulevard, Bethesda, MD 20892
National Center for Research Resources, Director, Office of Grants and Contracts Management, Westwood Building, Room 853, 5333 Westbard Avenue, Bethesda, MD 20892
Fogarty International Center, Scientific Review Administrator, International Studies Branch, Building 31, Room B2C32, 9000 Rockville Pike, Bethesda, MD 20892
National Institute on Drug Abuse, Chief, Grants Management Branch, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
National Institute on Alcohol Abuse and Alcoholism, Chief, Grants Operation Section, Room 16–86, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
National Institute of Mental Health, Grants Management Officer, ORM, Room 7C–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Appendix III: Notification Procedures

National Cancer Institute, See Appendix II
National Heart, Lung, and Blood Institute, Privacy Act Coordinator, Building 31, Room 5A08, Bethesda, MD 20892
National Library of Medicine, See Appendix II
National Institute of Allergy and Infectious Diseases, See Appendix II
National Institute of Diabetes and Digestive and Kidney Diseases, Administrative Officer, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Child Health and Human Development, See Appendix II
National Institute of Aging, See Appendix II
National Institute of Dental Research, NIDR Privacy Act Coordinator, Building 31,

Room 2C-35, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Environmental Health Sciences, See Appendix II
National Institute of General Medical Sciences, See Appendix II
National Institute of Neurological Disorders and Stroke, See Appendix II
National Institute on Deafness and Other Communication Disorders, See Appendix II
National Eye Institute, See Appendix II
National Center for Nursing Research, See Appendix II
National Center for Research Resources, See Appendix II
Fogarty International Center, See Appendix II
National Institute on Drug Abuse, See Appendix II
National Institute on Alcohol Abuse and Alcoholism, See Appendix II
National Institute of Mental Health, Privacy Act Coordinator, Room 15-81, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Appendix IV: Records Access Procedures

National Cancer Institute, Privacy Act Coordinator, Building 31, Room 10A30, 9000 Rockville Pike, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, See Appendix III
National Library of Medicine, See Appendix II
National Institute of Allergy and Infectious Diseases, Privacy Act Coordinator, Solar Bldg., Room 3C-23, Bethesda, MD 20892
National Institute of Diabetes and Digestive and Kidney Diseases, See Appendix II
National Institute of Child Health and Human Development, See Appendix II
National Institute on Aging, See Appendix II
National Institute of Dental Research, Grants Management Officer, Westwood Building, Room 518, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Environmental Health Sciences, See Appendix II
National Institute of General Medical Sciences, Privacy Act Coordinator, Westwood Building, Room 722, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke, Chief, Administrative Services Branch, Building 31, Room 8A49, 9000 Rockville Pike, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Chief, Administrative Management Branch, Building 31, Room 3C02, 9000 Rockville Pike, Bethesda, MD 20892
National Eye Institute, Administrative Officer, Building 31, Room 6A17, 9000 Rockville Pike, Bethesda, MD 20892
National Center for Research Resources, Privacy Act Coordinator, Westwood Building, Room 10A15, 5333 Westbard Avenue, Bethesda, MD 20892
Fogarty International Center, See Appendix II
National Institute on Drug Abuse, See Appendix II
National Institute on Alcohol Abuse and Alcoholism, See Appendix II
National Institute of Mental Health, See Appendix II
National Institute of Nursing Research, See Appendix II.

09-25-0115

SYSTEM NAME:

Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Solar Bldg., Room 3A01, 6003 Executive Blvd., Bethesda, MD 20892 and Ogden BioServices Corporation, 621A Lofstrand Lane, Rockville, MD 20850

Write to the System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants and Clinical Investigators under National Institute of Allergy and Infectious Diseases (NIAID) Investigational New Drug Applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289g.

PURPOSE(S):

(1) To maintain a record of the investigators under Investigational New Drug (IND) applications, and (2) To appoint consultants to the NIAID Institutional Review Board (IRB).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in books.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to NIAID staff whose duties require the use of such information. Authorized users are located in the Clinical and Regulatory Affairs Branch, Division of Microbiology and Infectious Diseases, NIAID. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Building is locked during off-duty hours.

3. *Procedural safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 1100-G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Clinical and Regulatory Affairs Branch, DMID, NIAID, Solar Bldg., Room 3A-01, 6003 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator, Solar Bldg., Room 3C-23, 6003 Executive Blvd., Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written

certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0118

SYSTEM NAME:

Contracts: Professional Services Contractors, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 31, Room 3A52, DCT, 9000 Rockville Pike, Bethesda, MD 20892
Building 31, Room 11A33, OD, 9000 Rockville Pike, Bethesda, MD 20892
Executive Plaza North, Room 604, DEA, 9000 Rockville Pike, Bethesda, MD 20892
Building 31, Room 11A11, DCE, 9000 Rockville Pike, Bethesda, MD 20892
Building 31, Room 10A50, DCPC, 9000 Rockville Pike, Bethesda, MD 20892

Write to System Manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals under contract with the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Professional Services Contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d); 281.

PURPOSE(S):

Used by staff for general administrative purposes to assure compliance with contract program requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

1. *Authorized users:* Access is limited to authorized personnel (system manager and staff).

2. *Physical safeguards:* Records are maintained in offices which are locked when not in use.

3. *Procedural safeguards:* Access to files is strictly controlled by system manager and staff.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 2600-A-4, which allows records to be destroyed after a maximum period of 6 years and 3 months after final payment. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, DCT, Building 31, Room 3A52, 9000 Rockville Pike, Bethesda, MD 20892
Administrative Officer, OD, National Institutes of Health, Building 31, Room 11A33, 9000 Rockville Pike, Bethesda, MD 20892
Administrative Officer, DEA, Executive Plaza North, Room 604, 9000 Rockville Pike, Bethesda, MD 20892
Administrative Officer, DCE, Building 31, Room 11A11, 9000 Rockville Pike, Bethesda, MD 20892
Administrative Officer, DCPC, Building 31, Room 10A50, 9000 Rockville Pike, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

Write to the appropriate System Manager listed above to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals in the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0120

SYSTEM NAME:

Clinical Research: Neural Prosthesis & Biomedical Engineering Studies, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Federal Building, Room 9C02, 7550 Wisconsin Ave., Bethesda, Md 20892 and: (1) At hospitals and medical centers under contract, and (2) Federal Records Centers. A list of locations is available upon request from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and normal volunteers, males and females, participating in clinical studies to determine the feasibility of neural prostheses, and in clinical studies related to the development of instrumentation for diagnosis and treatment of neurological and sensory disorders conducted under contract for the National Institute of Neurological Disorders and Stroke (NINDS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical research data as related to studies which seek to determine the feasibility of neural prostheses and to develop instrumentation for diagnosis and treatment of neurological and sensory disorders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 421, 289a, 289c.

PURPOSE(S):

(1) Clinical research on the development of neural prosthesis (artificial devices) to enhance function of individuals with various disorders of the central nervous system.

(2) Research on the development of new instruments to improve diagnosis and treatment of disorders of the nervous system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant access only to HHS scientists and their authorized collaborators.

2. *Physical safeguards:* Records are kept in a locked room when not in use.

3. *Procedural safeguards:* Personnel having access to this system are informed of Privacy Act requirements.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Fundamental Neurosciences Program, NINDS Federal Building, Room 916 7550 Wisconsin Ave Bethesda, MD 20892

NOTIFICATION PROCEDURE:

Write to: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, 9000 Rockville Pike, Bethesda, MD 20892 and ask if a file with your name exists in the Neural Prosthesis or Biomedical Engineering Studies. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to system manager and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Patients, patients' families, hospital records and clinical investigators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0134

SYSTEM NAME:

Clinical Research: Epidemiology and Clinical Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute of Environmental Health Services (NIEHS), Epidemiology Branch, P. O. Box 12233, Research Triangle Park, North Carolina 27709, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating government agencies. Inactive records may be stored in a Federal Records Center. A list of locations and contracts is available upon request made to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adults and minors, both male and female, with known or suspected diseases, maladies, chemical or biological contaminations, as well as normal or non-suspect individuals and minors in control or study groups for the purposes of comparison. Individuals included in this system of records normally have volunteered to participate in the study and voluntarily provided information for inclusion in the system.

The participants may be, but are not limited to, patients; workers subject to specific environments; individuals selected because of social, nutritional, physical, genetic and economic conditions and behavioral characteristics; and members of the general population subject to the variety of contaminants present in the environment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records pertinent to an individual's current health status; Medical history; occupational history and work environments; and selected items of personal data such as smoking habits, family size, family medical history and domiciles. Examples of information which may be included in this system are name, Social Security Number, date of birth, weight, height, sex, race, medical history, blood type, laboratory results, examination findings, current and previous medications received, list of employers, descriptions of the work environment, substances or compounds routinely handled or exposed to, and a history of current and previous residences.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE(S):

National Institute of Environmental Health Sciences uses the data collected to:

1. Determine whether or not general conditions, chemicals and/or other substances found in the environment have effects on the health and well being of individuals or groups of individuals;

2. Determine how these conditions, chemicals or other substances, acting by themselves or in combination, produce adverse effects on health;

3. Identify individual or group characteristics that make a person susceptible to chemical contamination, disease or other adverse health effects from these environmental conditions or agents;

4. Determine whether there is a general or background level of exposure or other chemical effects in a local area, regional area, or nationally as well as within general or specific work environments;

5. Develop and/or validate epidemiologic or laboratory methods for detecting adverse effects due to environmental exposures;

6. Determine the scientific basis for advising regulatory agencies such as the Environmental Protection Agency, the National Institute of Occupational Safety and Health and the Department of Labor's Occupational Safety and Health Administration regarding the adverse health effects of substances and conditions found in the environment;

7. Determine the scientific basis for advising local, state, other governmental agencies and international governments regarding the adverse health effects of substances and conditions found in the environment; and

8. Determine the scientific basis for advising the Congress, industry, workers, scientific or public agencies and other interested parties regarding the known or potential for adverse health effects from exposure to substances or conditions found in the environment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of the individual in response to an inquiry from the congressional office, made at the request of the individual, and in the case of a minor, the minor's parent or legal guardian.

3. Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

4. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

5. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in one of a combination of the following mediums: File folders, data forms, punch card, magnetic tape discs, microfiche/microfilm, and computer tapes.

RETRIEVABILITY:

Information is retrieved by personal identifier such as name or code number. Social security numbers which are supplied on a voluntary basis also are used for retrieval.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* Use of these records is limited to those persons whose official duties require such access. Access to the information is controlled by the Project Officer or his representative at remote locations. Contractors or collaborating researchers, by formal agreement, comply with the provisions of the Privacy Act and Department regulations.

2. *Physical safeguards:* Hard copy data is maintained in locked file cabinets at the National Institute of Environmental Health Sciences or remote study locations. Information stored in computer systems is accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor in accordance with Departmental standards and National Bureau of Standards guidelines.

3. *Procedural safeguards:* Subjects directly participating in studies are advised that their identity is known only to those persons involved in conducting the study, and that any

VOL 58 ISS 248 DE 29 1993 UMI

published findings will be in a format which precludes individual identification.

The particular safeguards implemented at each site are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Epidemiology Branch, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

NOTIFICATION PROCEDURE:

Individuals may write to the System Manager to determine if a file exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. In writing, they should provide the following data:

a. Complete name at the time of the study.

b. Birth date.

c. Home address at the time of the study.

d. The facility where the examination was given or information otherwise collected.

e. Date, or approximate dates when information was collected or an examination conducted.

f. Name of study if known.

g. A current name, address and telephone number where they can be reached.

An individual who requests notification of or access to a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's description.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

The same information as outlined under notification procedures is needed for access to records. The request should be addressed to the System Manager. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the System Manager and specify the record and the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, universities, medical schools, hospitals, commercial, institutions, labor and trade organizations, State agencies, international agencies, foreign governments, other U.S. Government agencies, patients and normal volunteers, physicians, researchers and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0143

SYSTEM NAME:

Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with infectious diseases, immunologic diseases involving adverse reactions of the body (e.g., allergic reactions) and related diseases (e.g. Acquired Immunodeficiency Disease Syndrome/AIDS), normal healthy volunteers who serve as controls for comparison with patients, relatives of patients and other individuals whose characteristics or conditions are being studied for possible connections with the occurrence of the diseases under investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personal interviews, questionnaires, progress reports, correspondence or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 241, 289a, 289c.

PURPOSE(S):

This system will be used to support: (1) Epidemiologic, clinical and biometric investigations into the causes, nature (morbidity and mortality), outcome, therapy and cost of infectious, immunologic and related diseases; and (2) Review and evaluation of the progress of these research projects, and identification of and planning for improvements or for additional research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the

research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g. tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs, and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

1. *Authorized users:* Access to or disclosure of information is limited to collaborating researchers, contractors and NIAID employees who are involved in the conduct, support or review and evaluation of the research activities supported by this system.

2. *Physical safeguards:* Data are kept in secured areas (e.g. rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or authorized personnel; all other information is stored in locked files.

3. *Procedural safeguards:* Contractors and collaborating researchers are required to comply with the provisions of the Privacy Act and with Department regulations.

These and other appropriate safeguards are implemented in each project in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESSES:

Chief, Epidemiology and Biometry Branch, DMID, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3A24, Bethesda, Maryland 20892 and

Special Assistant, Clinical Research Program, DAIDS, Room 2C–20, Solar Building, 6003 Executive Blvd., Bethesda, MD 20892

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator, Solar Bldg., Room 3C–23, 6003 Executive Blvd., Bethesda, MD 20892, and provide the following information:

1. System name,
2. Complete name and home address at the time of the study,
3. Birth date,
4. Facility conducting study,
5. Disease type (if known),
6. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from physicians, research investigators and other collaborating persons and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0145

SYSTEM NAME:

Clinical Research: Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals, universities, research centers, research foundations, and coordinating centers under contract with the National Eye Institute (NEI), and in NEI, National Institutes of Health, Building 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

A current list of contractor sites is available by writing to the System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include (1) individuals who have been or who are presently being treated by the NEI or its contractors for visual disorders or conditions of the eye, (2) individuals who present physiological symptoms usually preceding or evidencing diseases or disorders of the eye, (3) offspring of previously studied populations, (4) populations at high-risk for development of certain eye disorders, such as age-related, and (5) normal volunteers who have agreed to provide control data germane to these studies. Studies are usually five years in duration and follow-up studies may occur in later years if information indicates they are appropriate.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of clinical, medical, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observation. The system also includes records of current addresses of study participants, photographs of structures of the eye, and correspondence from or about participants in these studies. Social security numbers, disclosed voluntarily, are included to assist in locating patients for follow-up studies, or verifying their existence through mortality registers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 301, 401, 405, 455, Public Health Service Act (42 U.S.C. 281, 284, 285i). These sections establish the National Eye Institute and authorize the conduct and support of vision research and related activities.

PURPOSE(S):

1. To monitor and evaluate incidence of visual disorders and/or diseases or the conditions under investigation and the relationship of various factors to the occurrence of these diseases.

2. To monitor the progression of various eye disorders and the efficacy of specific treatments of these disorders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to a private firm or a research institution for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. A record may be disclosed for a research purpose, when the Department (A) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk, if any, to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, on magnetic tapes or discs, bound note books, and/or photographs.

RETRIEVABILITY:

Information is retrieved by a combination of a coded name and patient identification number.

SAFEGUARDS:

1. *Authorized users:* Employees who maintain records in the system are instructed to grant access to principal investigators and other treating physicians, clinic coordinators, and NEI employees whose duties require the use of such information. Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for each record maintained in each project.

2. *Physical safeguards:* Clinics are located in University Hospitals and the Clinical Center, NIH. These clinics are locked and records are kept in locked files with access by keys issued to principal investigators, appropriate physicians and coordinators. There is a security force at each center to avoid unauthorized entries. The computer records are accessed by passwords available only to principal investigators and authorized operators. Data is protected by enforcement of State laws applicable to fire and safety at each facility, as well as ADP Security and the Privacy Act regulations for each state.

3. *Procedural safeguards:* Routine visits are scheduled by the clinic coordinator who is authorized to access records. New records are generated each time a patient is seen by the physician and a copy of the form which is applicable to that visit is added to the patient's medical folder. (Documents forwarded to the data and reading centers do not bear individual identifiers) The folder is then returned to the locked file. Clinics are also locked when patients are not being seen, and medical staff is present when patients are in the clinic. If data is entered in computers as part of the hospital record, Privacy Act and hospital safeguards are enforced by access codes and passwords.

These practices are in compliance with the standards of Chapter 45-13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45-13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions. (Records at contractor sites are retained by the facility consonant with its institutional records retention schedule.)

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Biometry and Epidemiology, National Eye Institute, 9000 Rockville Pike, Building 31, room 6A-52, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

To determine if record exists, write to: NEI Privacy Act Coordinator, 9000 Rockville Pike, Building 31, room 6A-17, Bethesda, MD 20892.

The requestors must verify his/her identity by providing: A written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the act, subject to $5,000 fine. An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

(1) Name, description of study
(2) Location
(3) Approximate date of participation

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures that have been made of their records, if any. An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who is willing to review the record and inform the subject individual of its contents at the representative's discretion. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the Privacy Act Coordinator at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought and the reason(s) for requesting the correction, along with supporting justification to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained by the principal investigator, treating physician, or clinic coordinator, directly from individual study participants, by interview to record certain pertinent historical facts, and by physical examination and photographs to record medical data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

09-25-0156

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located either in the organizations responsible for conducting evaluations or at the sites of programs or activities under evaluation. Locations include Public Health (PHS) facilities, or facilities of contractors of the PHS. Write to the appropriate System Manager below for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are those who provide information or opinions that are useful in evaluating programs or activities of the PHS, other persons who have participated in or benefitted from PHS programs or activities; or other persons included in evaluation studies for purposes of comparison. Such individuals may include (1) participants in research studies; (2) applicants for and recipients of grants, fellowships, traineeships or other awards; (3) employees, experts and consultants; (4) members of

VOL 58 ISS 248 DEC 29 1993 UMI

advisory committees; (5) other researchers, health care professionals, or individuals who have or are at risk of developing diseases or conditions studied by PHS; (6) persons who provide feedback about the value or usefulness of information they receive about PHS programs, activities or research results; (7) persons who have received Doctorate level degrees from U.S. institutions; (8) persons who have worked or studied at U.S. institutions that receive(d) institutional support from PHS.

CATEGORIES OF RECORDS IN THE SYSTEM:

This umbrella system of records covers a varying number of separate sets of records used in different evaluation studies. The categories of records in each set depend on the type of program being evaluated and the specific purpose of the evaluation. In general, the records contain two types of information: (1) Information identifying subject individuals, and (2) information which enables PHS to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, Social Security Number, or other identifying number as appropriate to the particular group included in an evaluation study.

(2) Information used for evaluation varies according to the program evaluated. Categories of evaluative information include personal data and medical data on participants in clinical and research programs; personal data, publications, professional achievements and career history of researchers; and opinions and other information received directly from individuals in evaluation surveys and studies of PHS programs.

The system does not include any master list, index or other central means of identifying all individuals whose records are included in the various sets of records covered by the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the authorities regarding the establishment of the National Institutes of Health, its general authority to conduct and fund research and to provide training assistance, and its general authority to maintain records in connection with these and its other functions (42 U.S.C. 203, 241, 289l–1 and 44 U.S.C. 3101), and Section 301 and 493 of the Public Health Service Act.

PURPOSE(S):

This system supports evaluation of the policies, programs, organization, methods, materials, activities or services used by PHS in fulfilling its legislated mandate for (1) conduct and support of biomedical research into the causes, prevention and cure of diseases; (2) support for training of research investigators; (3) communication of biomedical information.

This system is not used to make any determination affecting the rights, benefits or privileges of any individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and State and local officials for the purpose of conducting evaluation studies or collecting, aggregating, processing or analyzing records used in evaluation studies. The recipients are required to protect the confidentiality of such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. The Department may disclose information from this system of records to the Department of Justice, to court or other tribunal, or to another party before such tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible media (e.g., magnetic tapes or discs).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number within each evaluation study. There is no central collection of records in this system, and no central means of identifying individuals whose records are included in the separate sets of records that are maintained for particular evaluation studies.

SAFEGUARDS:

A variety of safeguards are implemented for the various sets of records in this system according to the sensitivity of the data each set contains. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information, such as personal or medical history or individually identified opinions, is protected according to its level of sensitivity. Records derived from other systems of records will be safeguarded at a level at least as stringent as that required in the original systems. Minimal safeguards for the protection of information which is not available to the general public include the following:

1. *Authorized users:* Regular access to information in a given set of records is limited to PHS or to contractor employees who are conducting, reviewing or contributing to a specific evaluation study. Other access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the system manager or designated responsible official.

2. *Physical safeguards:* Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use. Records collected in each evaluation project are maintained separately from those of other projects. Sensitive records are not left exposed to unauthorized persons at any time. Sensitive data in machine-readable form may be encrypted.

3. *Procedural safeguards:* Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in mainframe computers is accessed only through the use of keywords known only to authorized personnel. When personal computers are used, magnetic media (e.g. diskettes) are protected as under Physical Safeguards. When data is stored within a personal computer (i.e., on a "hard disk"), the machine itself is treated as though it were a record, or records, under Physical Safeguards. Contracts for operation of this system of records require protection of the records in accordance with these safeguards; PHS project and contracting officers monitor contractor compliance.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–C–2. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

See Appendix 1.

Policy coordination for this system is provided by: Director, Division of Planning and Evaluation, Office of Science Policy and Legislation, National Institutes of Health, Building 31, room 4B25, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the official of the organization responsible for the evaluation, as listed in Appendix 2. If you are not certain which component of PHS was responsible for the evaluation study, or if you believe there are records about you in several components of PHS, write to: NIH Privacy Act Coordinator, Building 31, room 3B07, 9000 Rockville Pike, Bethesda, MD 20892.

Requesters must provide the following information:

1. Full name, and name(s) used while studying or employed;

2. Name and location of the evaluation study or other PHS program in which the requester participated or the institution at which the requester was a student or employee, if applicable;

3. Approximate dates of participation, matriculation or employment, if applicable.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants; from systems of records 09–25–0036, "Grants: IMPAC (Grants/Contract Information), HHS/NIH/DRG;" 09–25–0112, "Grants: Research, Research Training, Fellowship and Construction Applications and Awards, HHS/NIH/OD"; NSF–6, "Doctorate Record File", NSF–43", "Doctorate Work History File" (previously entitled "NSF–43, "Roster and Survey of Doctorate Holders in The United States" and other records maintained by the operating programs of NIH; the National Academy of Sciences, professional associations such as the AAMC and ADA, and other contractors; grantees or collaborating researchers; or publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1: System Managers

National Institutes of Health, Office of the Director, Director, Division of Planning and Evaluation, Office of Science Policy and Legislation, Building 31, room 4B25, 9000 Rockville Pike, Bethesda, MD 20892.

National Institutes of Health, Office of the Director, Director, Division of Personnel Management, Building 1, room B1–60, 9000 Rockville Pike, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute (NHLBI), NHLBI Minority Coordinator, Building 31, room 5A07, Bethesda, MD 20892.

National Library of Medicine (NLM), Assistant Director for Planning and Evaluation, Building 38, room 2S18, Bethesda, MD 20894.

National Eye Institute (NEI), Associate Director for Science Policy and Legislation, Building 31, room 6A25, Bethesda, MD 20892.

National Cancer Institute (NCI), Public Health Educator, OCC, NCI, National Institutes of Health Building 31, room 4B43, Bethesda, MD 20892.

National Institute on Aging (NIA), Chief, Office of Planning, Analysis, Technical Information and Evaluation, Federal Building, room 6A09, 7550 Wisconsin Avenue, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases (NIAID), Chief, Evaluation and Reporting Section, Policy Analysis and Legislation Branch, Office of Administration Management, Building 31, room 7A–16, Bethesda, MD 20892.

National Institute of Child Health and Human Development (NICHD), Chief, Office of Science Policy and Analysis, Building 31, room 2A10, Bethesda, MD 20892.

National Institute on Deafness and Other Communication Disorders, Chief, Program Planning and Health Reports Branch, Building 31, room 3C35, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Dental Research (NIDR), Chief, Office of Planning Evaluation, and Communications, Building 31, room 2C36, Bethesda, MD 20892.

National Institute of Environmental Health Sciences (NIEHS) Program, Analyst, Office of Program Planning and Evaluation, P.O. Box 12233, Research Triangle Park, NC 27709.

National Institute of General Medical Sciences (NIGMS), Chief, Office of Program Analysis, Westwood Building, room 934, 5333 Westbard Avenue, Bethesda, MD 20892.

Fogarty International Center (FIC), National Institutes of Health, Assistant Director for Planning, Evaluation and Public Affairs, Building 31, room B2C32, Bethesda, MD 20892.

Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, room 457, 5333 Westbard Avenue, Bethesda, MD 20892.

National Center for Research Resources (NCRR), Evaluation Officer, Office of Science Policy, Westwood Building, room 8A03, Bethesda, MD 20892.

National Institute of Nursing Research (NINR), Chief, Office of Planning, Analysis and Evaluation, Building 31, room 5B09, Bethesda, MD 20892.

Office of Research Integrity, Policy Analyst, Division of Policy and Education, U.S. Public Health Service, 5515 Security Lane, suite 700, Rockwall-II Building, Rockville, MD 20852.

Appendix 2: Notification and Access Officials

NIH, Office of the Director, Associate Director for Science, Policy and Legislation, Building 1, room 137, 9000 Rockville Pike, Bethesda, MD 20892.

National Institutes of Health, Office of the Director, Director, Division of Personnel Management, Building 1, room B1–60, 9000 Rockville Pike, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute (NHLBI), Privacy Act Coordinator, Building 31, room 5A29, Bethesda, MD 20892.

National Library of Medicine (NLM), Assistant Director for Planning and Evaluation, Building 38, room 2S18, Bethesda, MD 20894.

National Eye Institute (NEI), Executive Officer, Building 31, room 6A25, Bethesda, MD 20892.

Fogarty International Center (FIC), National Institutes of Health, Assistant Director for Planning, Evaluation and Public Affairs, Building 31, room B2C32, Bethesda, MD 20892.

Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, room 457, 5333 Westbard Avenue, Bethesda, MD 20892.

National Center for Research Resources (NCRR), Evaluation Officer, Office of Science Policy, NIH, Westwood Building, room 8A03, Bethesda, MD 20892.

National Cancer Institute, Privacy Act Coordinator, National Institutes of Health, Building 31, room 10A30, Bethesda, MD 20892.

09–25–0158

SYSTEM NAME:

Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system is located in each of the intramural offices and laboratories where the Intramural Research Training Awards (IRTA) Fellow is located and assigned, including the respective Scientific Director's office, the administrative and personnel offices, and in Division of Personnel Management branches responsible for administering the IRTA Program, and Office of Education, Building 10, room 1C125, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRTA Fellowships, current IRTA Fellows, and former IRTA Fellows.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, scientific publications; research goals; letters of reference; and personal information such as name, date of birth, Social Security number, home address and citizenship; and information related to fellowship awards such as stipend levels, training assignments, training expenses and travel allowances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 284(b)(1)(C), 286b-3, and 287c-1 authorizes PHS to make awards for biomedical research and research training.

PURPOSE(S):

Records in this system are used to determine individuals' eligibility and evaluate their qualifications for IRTA Fellowships; to document the basis for management actions relating to Fellowships that are awarded; and to provide data for program evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to the Office of Personnel Management for evaluation of NIH Personnel programs.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual.

3. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. Disclosure may be made to a Federal, State or local agency maintaining civil, criminal or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the selection or retention of a fellow.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with hiring or retention of an employee, the issuance of a security clearance, an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on magnetic tapes and disks.

RETRIEVABILITY:

Records are retrieved by name, Social Security number, or institute list number.

SAFEGUARDS:

1. *Authorized Users:* Access is granted only to NIH scientists, administrative office staff, personnel staff and financial management staff directly involved in the administration of the IRTA Program.

2. *Physical Safeguards:* File folders are kept in locked drawers or locked rooms when system personnel are not present.

3. *Procedural safeguards:* Access to file folders is controlled by system personnel. Records may be removed from the files only with the approval of the system manager or other authorized employees. Data stored in the automated system is accessed through the use of keywords known only to authorized personnel.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology

Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–E–3. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel/Administrative Officers of the National Institutes of Health Institutes/Centers/Divisions. Contact the individual listed under Notification Procedure for the name and address of the appropriate System Manager.

NOTIFICATION PROCEDURE:

To determine if a record exists and where it is located, contact: Chief, Staffing Management Branch, Division of Personnel Management, NIH, Building 31, Room 1C31, 9000 Rockville Pike, Bethesda, MD 20892. The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORDS ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under the notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is untimely, incomplete, irrelevant or inaccurate. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Applicants, persons and institutions supplying references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0161

SYSTEM NAME:

Administration: NIH Consultant File, HHS/NIH/DRG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located in each of the NIH organizational components or facilities of contractors of the NIH.

Division of Computer Research and Technology, Data Management Branch, Building 12A, room 4041B, National Institutes of Health, Bethesda, Maryland 20892.

Write to the appropriate system manager listed in Appendix I for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants who provide the evaluation of extramural grants and cooperative agreement applications and research contract proposals, including the NIH Reviewers' Reserve and/or advise on policy. Consultants who participate in NIH conferences, workshops, evaluation projects and/or provide technical assistance at site locations arranged by contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, resumes, curriculum vitae (C.V.s), areas of expertise, gender, minority status, business status, AREA-eligible status, publications, travel records, and payment records for consultants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of the Public Health Service Act, describing the general powers and duties of the Public Health Service relating to research and investigation, and section 402 of the Public Health Service Act, describing the appointment and authority of the Director of the National Institutes of Health, (42 U.S.C. 241, 282 and 290aa).

PURPOSE(S):

This umbrella system comprises separate sets of records located in each of the NIH organizational components or facilities of contractors of the NIH. These records are used: (1) To identify and select experts and consultants for program reviews and evaluations; (2) To identify and select experts and consultants for the review of special grant and cooperative agreement applications and research contract proposals and (3) To obtain and pay consultants who participate in NIH conferences, workshops, evaluation projects and/or provide technical assistance at site locations arranged by contractors, and (4) To provide necessary reports related to payment to the Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to contractors to process or refine the records. Contracted services may include transcription, collation, computer input, and other records processing.

4. Information in this system of records is used routinely to prepare W–2 and 1099 Forms to submit to the Internal Revenue Service and applicable State and local governments those items to be included as income to an individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, computer tapes and disks, microfiche, and microfilm.

RETRIEVABILITY:

Records are retrieved by name, expertise, gender, minority status, business status, AREA-eligible status and experimental system used.

SAFEGUARDS:

1. *Authorized users:* Data on computer files is accessed by keyword known

only to authorized users who are PHS or contractor employees involved in managing a review or program advisory committee, conducting a review of extramural grant applications, cooperative agreement applications, or research contract proposals, performing an evaluation study or managing the consultant file. Access to information is thus limited to those with a need to know.

2. *Physical safeguards:* Rooms where records are stored are locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel.

3. *Procedural safeguards:* Names and other identifying particulars are deleted when data from original records are encoded for analysis. Data stored in computers is accessed through the use of keywords known only to authorized users. Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act.

This system of records will be protected according to the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

The policy coordinator for this system is also the system manager listed for the Division of Research Grants.

Chief, Biological Sciences Review Section, Referral and Review Branch, Division of Research Grants, Westwood Building, room 417, 5333 Westbard Avenue, Bethesda, Maryland 20892, and See Appendix I

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate system manager as listed in Appendix I.

The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requestor is whom he or she claims to be. The request should include: (a) Full name, and (b) appropriate dates of participation.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, reasonably identify the record, specify the information to be contested, and state the corrective action sought with supporting information. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Managers

Office of the Director (OD), Extramural Programs Management Officer, Building 1, room 328, Bethesda, MD 20892.

National Center for Research Resources (NCRR), Director, Office of Review, Westwood Building, room 8A16, Bethesda, MD 20892.

National Cancer Institute (NCI), Chief, Review Logistics Branch, Executive Plaza North, room 636, Bethesda, MD 20892.

National Eye Institute (NEI), Review and Special Projects Officer, Executive Plaza South, room 350, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute (NHLBI), Associate Director for Review, Westwood Building, room 557A, Bethesda, MD 20892.

National Institute on Aging (NIA), Chief, Scientific Review Office, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases (NIAID), Director, Scientific Review Program, Division of Extramural Activities, Solar Bldg., room 3C–16, 6003 Executive Blvd., Bethesda, MD 20892.

National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS), Chief, Grants Review Branch, Westwood Building, room 406, Bethesda, MD 20892.

National Institute of Child Health and Human Development (NICHD), Director, Division of Scientific Review, 6100 Executive Boulevard, room 5E03H, Bethesda, MD 20892.

National Institute on Deafness and Other Communication Disorders (NIDCD), Chief, Scientific Review Branch, Executive Plaza South, room 400B, 620 Executive Boulevard, Rockville, MD 20852.

National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), Chief, Review Branch, Westwood Building, room 603, Bethesda, MD 20892.

National Institute of Dental Research (NIDR), Chief, Scientific Review Section, POB, Westwood Building, room 519, Bethesda, MD 20892.

National Institute of Environmental Health Sciences (NIEHS), Deputy Director, Division of Extramural Research and Training, P.O. Box 12233, Research Triangle Park, NC 27709.

National Institute of General Medical Sciences (NIGMS), Chief, Office of Review Activities, Westwood Building, room 9A18, Bethesda, MD 20892.

National Institute of Neurological Disorders and Stroke (NINDS), Chief, Scientific Review Branch, Federal Building, room 9C10A, Bethesda, MD 20892.

National Institute of Nursing Research (NINR), Chief, Office of Review, Westwood Building, room 740, Bethesda, MD 20892.

National Library of Medicine (NLM), Chief, Biomedical Information Support Branch, Building 38A, room 5S522, Bethesda, MD 20894.

National Center for Human Genome Research (NCHGR), Chief, Office of Scientific Review, Building 38A, room 606, Bethesda, MD 20892.

National Institute of Mental Health, Contract Officer, Contracts Management Branch, ORM, Parklawn Building, room 7C18, 5600 Fishers Lane, Rockville, MD 20857.

National Institute on Alcohol Abuse and Alcoholism, Contract Officer, Contracts Management Branch, OPRM, Parklawn Building, room 14C06, 5600 Fishers Lane, Rockville, MD 20857.

09–25–0165

SYSTEM NAME:

National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of AIDS Research (OAR), National Institutes of Health, Federal Building, room 102, 7550 Wisconsin Avenue, Bethesda, Maryland 20892 and

Division of Computer Research and Technology (DCRT), National Institutes of Health, Building 12A, room 4037, 9000 Rockville Pike, Bethesda, Maryland 20892 and

Operations Accounting Branch, Division of Financial Management (DFM), National Institutes of Health, Building 31, room B1B55, 9000 Rockville Pike, Bethesda, Maryland 20892.

See Appendix I for a listing of other NIH offices responsible for administration of the AIDS Research Loan Repayment Program. Write to the System Manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for, who have been approved to receive, who are receiving, and who have received funds under the NIH AIDS Research LRP; and individuals who are interested in participation in the NIH AIDS Research LRP.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number; service pay-back obligations, standard school budgets, educational loan data including deferment and repayment/delinquent/default status information; employment data; professional and credentialing history of licensed health professionals including schools of attendance; personal, professional, and demographic background information; employment status verification (which includes certifications and verifications of continuing participation in AIDS research); Federal, State and local tax information, including copies of tax returns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 487A (42 U.S.C. 288–1) of the PHS Act, as amended, directing the NIH to establish and implement a program of educational loan repayment for qualified health professionals who agree to conduct, as employees of NIH, AIDS research. The provisions of section 338B of the PHS Act (42 U.S.C. 2541–1), as amended, governing the NHSC loan repayment program, are incorporated except as inconsistent. The Internal Revenue Code at 26 U.S.C. 6109 requires the provision of the SSN for the receipt of loan repayment funds under the NIH AIDS Research LRP.

PURPOSE(S):

(1) To identify and select applicants for the NIH AIDS Research LRP; (2) To monitor loan repayment activities, such as payment tracking, deferment of service obligation, and default; and (3) To assist NIH officials in the collection of overdue debts owed under the NIH AIDS Research LRP. Records may be transferred to system No. 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA," for debt collection purposes when NIH officials are unable to collect overdue debts owed under the NIH AIDS Research LRP.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States of any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

4. NIH may disclose records to Department contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

5. NIH may disclose information from this system of records to private parties such as present and former employers, references listed on applications and associated forms, other references and educational institutions. The purpose of such disclosures is to evaluate an individual's professional accomplishments, performance, and educational background, and to determine if an applicant is suitable for participation in the NIH AIDS Research LRP.

6. NIH may disclose information from this system of records to a consumer reporting agency (credit bureau) to obtain a commercial credit report to assess and verify the ability of an individual to repay debts owed to the Federal Government. Disclosures are limited to the individual's name, address, Social Security number and other information necessary to identify him/her; the funding being sought or amount and status of the debt; and the program under which the applicant or claim is being processed.

7. NIH may disclose from this system of records a delinquent debtor's or a defaulting participant's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose, as follows:

a. To another Federal agency so that agency can effect a salary offset for debts owed by Federal employees; if the claim arose under the Social Security Act, the employee must have agreed in writing to the salary offset.

b. To another Federal agency so that agency can effect an unauthorized administrative offset; i.e., withhold money, other than federal salaries, payable to or held on behalf of the individual.

c. To the Treasury Department, Internal Revenue Service (IRS), to request an individual's current mailing address to locate him/her for purposes of either collecting or compromising a debt, or to have a commercial credit report prepared.

8. NIH may disclose information from this system of records to another agency that has asked the Department to effect a salary or administrative offset to help collect a debt owed to the United States. Disclosure is limited to the individual's name, address, Social Security number, and other information necessary to identify the individual to information about the money payable to or held for the individual, and other information concerning the offset.

9. NIH may disclose to the Treasury Department, Internal Revenue Service (IRS), information about an individual applying for loan repayment under any loan repayment program authorized by the Public Health Service Act to find out whether the applicant has a delinquent tax account. This disclosure is for the sole purpose of determining the applicant's creditworthiness and is limited to the individual's name, address, Social Security number, other information necessary to identify him/

her, and the program for which the information is being obtained.

10. NIH may report to the Treasury Department, Internal Revenue Service (IRS), as taxable income, the written-off amount of a debt owed by an individual to the Federal Government when a debt becomes partly or wholly uncollectible, either because the time period for collection under the statute of limitations has expired, or because the Government agrees with the individual to forgive or compromise the debt.

11. NIH may disclose to debt collection agents, other Federal agencies, and other third parties who are authorized to collect a Federal debt, information necessary to identify a delinquent debtor or a defaulting participant. Disclosure will be limited to the individual's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose.

12. NIH may disclose information from this system of records to any third party that may have information about a delinquent debtor's or a defaulting participant's current address, such as a U.S. post office, a State motor vehicle administration, a professional organization, an alumni association, etc., for the purpose of obtaining the individual's current address. This disclosure will be strictly limited to information necessary to identify the individual, without any reference to the reason for the agency's need for obtaining the current address.

13. NIH may disclose information from this system of records to other Federal agencies that also provide loan repayment at the request of these Federal agencies in conjunction with a matching program conducted by these Federal agencies to detect or curtail fraud and abuse in Federal loan repayment programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

14. NIH may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's or a defaulting participant's name, address, Social Security number, and other information necessary to identify the individual; (2) the amount of the debt; and (3) the program under which the debt arose, so that IRS can offset against the debt any income tax refunds which may be due to the individual.

15. NIH may disclose information provided by a lender to other Federal agencies, debt collection agents, and other third parties who are authorized to collect a Federal debt. The purpose of this disclosure is to identify an individual who is delinquent in loan or benefit payments owed to the Federal Government.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purposes of these disclosures are: (1) To provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records, and (2) to enable NIH to improve the quality of loan repayment decisions by taking into account the financial reliability of applicants, including obtaining a commercial credit report to assess and verify the ability of an individual to repay debts owed to the Federal Government. Disclosure of records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: Records are maintained in file folders, computer tape, discs, and file cards.

RETRIEVABILITY: Records are retrieved by name, Social Security number, or other identifying numbers.

SAFEGUARDS:

1. *Authorized users:* Data on computer files is accessed by keyword known only to authorized users who are NIH employees responsible for implementing the NIH AIDS Research LRP. Access to information is thus limited to those with a need to know.

2. *Physical safeguards:* Rooms where records are stored are locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel. Security guards perform random checks on the physical security of the data.

3. *Procedural and technical safeguards:* A password is required to access the terminal and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs (see Authorized Users, above) protect information from public view and from unauthorized personnel entering an unsupervised office.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, the Department's Automated Information System Security Handbook and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–537–1. Participant case files are transferred to a Federal Records Center one year after closeout and destroyed five years later. Closeout is the process by which it is determined that all applicable administrative actions and loan repayments have been completed by the LRP and service obligations have been completed by the participant. Applicant case files are destroyed three years after disapproval or withdrawal of their application. Official appeal and litigation case files are destroyed six years after the calendar year in which the case is closed. Other copies of these files are destroyed two years after the calendar year in which the case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NIH AIDS Research Loan Repayment Program, Office of AIDS Research, National Institutes of Health, Federal Building, room 102, 7550 Wisconsin Avenue, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be. The request should include: (a) Full name, and (b) appropriate dates of participation. The requester must also understand that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. Requesters appearing in person must provide a valid driver's license or passport, including photo, and at least one other form of identification.

RECORD ACCESS PROCEDURES:

Write to the System Manager specified above to attain access to records and provide the same information as is required under the Notification Procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual; participating lending institutions; educational institutions attended; other Federal agencies; consumer reporting agencies/credit bureaus; and third parties that provide references concerning the subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Locations

Office of AIDS Research, National Institutes of Health, Building 31, room 5C12, 9000 Rockville Pike, Bethesda, Maryland 20892.

Division of Computer Research and Technology, National Institutes of Health, Building 12A, room 4037, 9000 Rockville Pike, Bethesda, Maryland 20892.

Operations Accounting Branch, Division of Financial Management, National Institutes of Health, Building 31, room B1B55, 9000 Rockville Pike, Bethesda, Maryland 20892.

Division of Cancer Treatment, National Cancer Institute, National Institutes of Health, Building 31, room 3A44, 9000 Rockville Pike, Bethesda, MD 20892.

Division of Cancer Etiology, National Cancer Institute, National Institutes of Health, Building 41, room A208, 9000 Rockville Pike, Bethesda, MD 20892.

Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, National Institutes of Health, Building 31, room 3A05, 9000 Rockville Pike, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute, National Institutes of Health, Building 10, room 7N218, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Dental Research, National Institutes of Health, Building 31, room 2C23, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 10, room 9N222, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Neurological Disorders and Stroke, National Institutes of Health, Building 10, room 5N220, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, room 7A05, 9000 Rockville Pike, Bethesda, MD 20892.

Pharmacological Sciences Program, National Institute of General Medical Sciences, National Institutes of Health, 5333 Westbard Avenue, room 919, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Child Health and Human Development, National Institutes of Health, Building 31, room 2A25, 9000 Rockville Pike, Bethesda, MD 20892.

National Eye Institute, National Institutes of Health, Building 10, room 10N202, 9000 Rockville Pike, Bethesda, MD 20892

National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, NC 27709.

Gerontology Research Center, National Institute on Aging, National Institutes of Health, 4940 Eastern Avenue, Baltimore, MD 21224.

National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Building 31, room 4C13, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Deafness and Communication Disorders, National Institutes of Health, Building 31, room 3C02, 9000 Rockville Pike, Bethesda, MD 20892.

National Center for Research Resources, National Institutes of Health, Building 31, room 3B36, 9000 Rockville Pike, Bethesda, MD 20892.

National Center for Nursing Research, National Institutes of Health, Building 31, room 5B06, 9000 Rockville Pike, Bethesda, MD 20892.

Critical Care Medicine Department, Clinical Center, National Institutes of Health, Building 10, room 7D43, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Parklawn Building, room 16C05, 5600 Fishers Lane, Rockville, MD 20857.

National Institute on Drug Abuse, National Institutes of Health, Parklawn Building, room 10A38, 5600 Fishers Lane, Rockville, MD 20857.

National Institute of Mental Health, National Institutes of Health, Parklawn Building, room 1599, 5600 Fishers Lane, Rockville, MD 20857.

09–25–0170

SYSTEM NAME:

Diabetes Clinical Data System, HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Diabetes Clinical Trials Program Office, Division of Diabetes, Endocrinology and Metabolic Diseases, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Westwood Building, room 628, Bethesda, Maryland 20892.

DCCT Data Coordinating Center (Contractor), Biostatistics Center, George Washington University, 6110 Executive Boulevard, suite 750, Rockville, MD 20852.

DCCT Central Biochemistry Laboratory (Subcontractor), University of Minnesota Hospital and Clinic, Box 198, Harvard Street at East River Road, Minneapolis, Minnesota 55455–0980.

A list of all contractor/subcontractor locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who participated in the Diabetes Control and Complications Trial (DCCT) and are continuing in follow-up studies and family members of these participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Participant names, addresses, phone numbers; Social Security numbers (voluntary), phone numbers, driver's license numbers, employer information spouse names, study identification numbers, names of medical provider, medical record identification numbers, health and medical record data collected during the DCCT and follow-up studies; the names, addresses and phone numbers of acquaintances and relatives to assist in follow-up; and information pertaining to DCCT stored biologic specimens (including blood, urine and genetic materials).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301(a) of the Public Health Service (PHS) Act (42 U.S.C. 241(a)), describing the general powers and duties of the Public Health Service relating to research and investigation, and section 426 of the PHS Act (42 U.S.C. 285c) describing the purpose of the National Institute of Diabetes and Digestive and Kidney Diseases to conduct research with respect to, among other areas, diabetes mellitus.

PURPOSE(S):

These records are used to: (1) Conduct follow-up studies (projected follow-up of 7–10 years) on the morbidity and mortality experiences of DCCT participants; and (2) provide relevant demographic, health and medical record data on DCCT participants to biomedical researchers authorized to use DCCT information and stored biologic materials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Department of Justice has agreed to represent such employee, for example, in defending a claim against the Public Health Service, based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

3. NIH may disclose records to Department contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

4. A record may be disclosed for a research purpose, when the Department: (A) has determined that the use or disclosure does not violate legal or policy limitstions under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

5. Information from this system may be disclosed to Federal agencies, State agencies (including the Motor Vehicle Administration and State vital statistics offices, private agencies, and other third parties (such as current or prior employers, acquaintances, relatives), in order to obtain information on morbidity and mortality experiences and to locate individuals for the follow-up studies. Social Security numbers may be disclosed: (1) To the National Center for Health Statistics to ascertain vital status through the National Death Index; (2) to the Health Care Financing Agency to ascertain morbidities; and (3) to the Social Security Administration to ascertain disabilities and/or location of participants. Social Security numbers may also be given to other Federal agencies, and State and local agencies for purposes of locating individuals for participation in follow-up studies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders and computer tapes and diskettes, microfiche, and file cards.

RETRIEVABILITY:

Records are retrieved by name, Social Security number, or other identifying numbers, keywords, and parameters of individual patient health or medical record data.

SAFEGUARDS:

1. *Authorized users:* Data on computer files is accessed by keyword known only to authorized users who are NIH or contractor employees who have a need for the data in performance of their duties as determined by the system manager. Researchers authorized to conduct research on biologic specimens will have access to the system through the use of encrypted identifiers sufficient to link individuals with records in such a manner that does not compromise confidentiality of the individual. Access to information is thus limited to those with a need to know.

2. *Physical safeguards:* Records and data tapes are stored in locked files in secured areas with restricted access. During regular business hours rooms are unlocked but are controlled by on-site personnel. Terminal access is controlled by user ID and keywords; off-site data backup is maintained in a separate building; fire protection is maintained by an on-site fire extinguisher system and fire alarm system present in the computer room.

3. *Procedural and technical safeguards:* Names and other identifying particulars are deleted when data from original records are encoded for analysis. Data stored in computers is accessed through the use of keywords known only to authorized users. A password is required to access the terminal and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs (see Authorized Users, above) protect information from public view and from unauthorized personnel entering an unsupervised office. Contractors and subcontractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the System Manager and permitted by the Privacy Act. Privacy Act requirements are specifically included in contracts and in agreements with grantees or collaborators participating in research activities supported by this system. HHS project directors, contract officers, and project officers oversee compliance with these requirements.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the Department's Automated Information System Security Program Handbook, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3(b), which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Diabetes Clinical Trials Program, DPB, Division of Diabetes, Endocrinology and Metabolic Diseases, NIDDK, National Institutes of Health, Westwood Building, Room 628, 5333 Westbard Avenue, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. The request should include: (a) Full name, and (b) appropriate dates of participation.

Individuals who request notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's/incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify their relationship to the child/incompetent person as well as his/her own identity.

RECORD ACCESS PROCEDURE:

Write to the System Manager specified above to attain access to records and provide the same information as is required under the Notification Procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual; patient health and medical record data; data generated from the DCCT; Federal, State and local agencies (including the Social Security Administration), and if the person is deceased, from the National Death Index, and/or family members and other knowledgeable third persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0205

SYSTEM NAME:

Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/NIDA and HHS/NIH/NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at the research facilities which collect or provide research data for this system under contract to the agency. Contractors may include, but are not limited to, research centers, clinics, hospitals, universities, research foundations, national associations, and coordinating centers. Records may also be located at the research facilities of the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institute on Drug Abuse (NIDA); and the National Institute of Mental Health (NIMH). A current list of sites is available by writing to the appropriate System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subjects of research in epidemiologic, clinical, methodologic, and longitudinal research studies and surveys of mental health and alcohol and drug use/abuse and mental, alcohol, and/or drug abuse disorders. These individuals are selected as representative of the general adult and/or child population or of special groups. Special groups include, but are not limited to, normal individuals serving as controls; clients referred for or receiving medical, mental health, and alcohol and/or drug abuse related treatment and prevention services; providers of services; demographic sub-groups as applicable, such as age, sex, ethnicity, race, occupation, geographic location; and groups exposed to hypothesized risks, such as relatives of individuals who have experienced mental health and/or alcohol, and/or drug abuse disorders, life stresses, or have previous history of mental, alcohol, and/or drug abuse related illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains data about the individual as relevant to a particular research study. Examples include, but are not limited to, items about the health/mental health and/or alcohol or drug consumption patterns of the individual; demographic data; social security numbers (voluntary); past and present life experiences; personality characteristics; social functioning; utilization of health/mental health, alcohol, and/or drug abuse services; family history; physiological measures; and characteristics and activities of health/mental health; alcohol abuse, and/or drug abuse care providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301 and 405 (42 U.S.C. 241, and 284, General Research and Investigation Authorities); Public Health Service Act, sections 301, 302, 303 and title V, parts A and B (42 U.S.C. 241, 242, 242(a).

PURPOSE(S):

The purpose of the system of records is to collect and maintain databases for research activities. Analyses of these data involve groups of individuals with given characteristics and do not refer to special individuals. The generation of information and statistical analyses will ultimately lead to a better description and understanding of mental, alcohol, and/or drug abuse disorders, their diagnosis, treatment and prevention, and the promotion of good physical and mental health.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record may be disclosed for a research purpose, when the Department: (a) As determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; e.g., disclosure of alcohol or drug abuse patient records will be made only in accordance with the restrictions of confidentiality statutes and regulations 42 U.S.C. 290 (dd-3), 42 U.S.C. 241 and 405, 42 CFR part 2, and where applicable, no disclosures will be made inconsistent with an authorization of confidentiality under 42 U.S.C. 242a and 42 CFR part 2a; (b) as determined that the research purpose (1) cannot be reasonably accomplished unless the

record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; and (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by, these provisions.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from a congressional office made at the written request of that individual.

3. In the event of litigation, where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected (e.g., disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of the individual's participation in activities of a Federal Government supported research project).

4. The Department contemplates that it will contract with a private firm for the purpose of collecting, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on index cards, file folders, computer tapes and disks, microfiche, microfilm, and audio and video tapes. Normally, the factual data, with study code numbers, are stored on computer tape or disk, while the key to personal identifiers is stored separately, without factual data, in paper files.

RETRIEVABILITY:

During data collection stages and followup, if any, retrieval by personal identifier (e.g., name, social security number) (in some studies), or medical record number), is necessary. During the data analysis stage, data are normally retrieved by the variables of interest (e.g., diagnosis, age, occupation).

SAFEGUARDS:

1. *Authorized users:* Access to identifiers and to link files is strictly limited to the authorized personnel whose duties require such access. Procedures for determining authorized access to identified data are established as appropriate for each location. Personnel, including contractor personnel, who may be so authorized include those directly involved in data collection and in the design of research studies, e.g., interviewers and interviewer supervisors; project managers; statisticians involved in designing sampling plans.

2. *Physical safeguards:* Records are stored in locked rooms, locked file cabinets, and/or secured computer facilities. Personal identifiers and link files are separated as much as possible and stored in locked files. Computer data access is limited through the use of key words known only to authorized personnel.

3. *Procedural safeguards:* Collection and maintenance of data is consistent with legislation and regulations in the protection of human subjects, informed consent, confidentiality, and confidentiality specific to drug and alcohol abuse patients where these apply. When an Institute Division or a contractor provides anonymous data to research scientists for analysis, study numbers which can be matched to personal identifiers will be eliminated, scrambled, or replaced by the agency or contractor with random numbers which cannot be matched. Contractors who maintain records in this system are instructed to make no further disclosure of the records. Privacy Act requirements are specifically included in contracts for survey and research activities related to this system. The HHS project directors, contract officers, and project officers oversee compliance with these requirements.

4. *Implementation guidelines:* DHHS Chapter 45- and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual and Part 6, "ADP System Security" of the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

Personal identifiers are retained only as long as they are needed for the purposes of the current research project, and for followup studies generated by the present study. Removal or disposal of identifiers is done according to the storage medium (e.g., erase computer tape, shred or burn index cards, etc.). A staff person designated by the System Manager will oversee and will describe and confirm the disposal in writing.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Coordinator, National Institute of Mental Health, Room 15–81, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Deputy Director, Division of Biometry and Epidemiology, National Institute on Alcohol Abuse and Alcoholism, Room 14C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Deputy Director, Division of Clinical and Prevention Research, National Institute on Alcohol Abuse and Alcoholism, Room 14C–10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Privacy Act Coordinator, National Institute on Drug Abuse, Room 10A–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate System Manager at the address above. Provide individual's name; current address; date of birth; date, place and nature of participation in specific research study; name of individual or organization administering the research study (if known); name or description of the research study (if known); address at the time of participation; and a notarized statement by two witnesses attesting to the individual's identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

CONTESTING RECORD PROCEDURE:

Contact the appropriate official at the address specified under System Manager(s) above and reasonably identify the record, specify the information being contested, and state corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The system contains information obtained directly from the subject individual by interview (face-to-face or telephone), by written questionnaire, or by other tests, recording devices or observations, consistent with legislation and regulation regarding informed consent and protection of human subjects. Information is also obtained from other sources, such as health, mental health, alcohol, and/or drug abuse care providers; relatives; guardians; and clinical medical research records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0307

SYSTEM NAME:

Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

University of California, San Francisco, Langley Porter Psychiatric Institute, San Francisco, California 94143.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Normal, healthy adults who voluntarily participate in studies on the pharmacokinetics of psychoactive drugs at Langley Porter Psychiatric Institute, during the period September 1987 through September 1993.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research records on each subject-participant contain the following information: Name; clinician's records including medical history, laboratory test results, physical examinations, psychological profile, and drug use profile; drug study data including records of drugs administered, exposures to radioactivity, and drug reactions; and date of study in which the subject participated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301(a), 503 and 405 (42 U.S.C. 241 and 284).

PURPOSE(S):

The primary purpose of this system is to support research on the pharmacokinetics of drugs of abuse. The term "pharmacokinetics" refers to the manner in which the human body processes a drug.

The clinical investigator used data of a medical nature that is contained in the system to make determinations regarding drug dosages and/or radiochemical exposures appropriate to the individual human subject-participants, in order to preserve and protect the health of each. The system also provides baseline data for studying the drug effects. The Food and Drug Administration (FDA) also may use the records in routine inspections FDA conducts in accordance with its responsibilities to develop standards on the composition, quality, safety, and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. We may disclose to a congressional office the record of an individual in response to a verified inquiry from the congressional office made at the written request of the individual.

2. NIH contractors, use the records in this system to accomplish the research purpose for which the records are collected. The contractors are required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The contractor maintains the records on paper in file folders.

RETRIEVABILITY:

The contractor indexes and retrieves the records by the subject-participant's name.

SAFEGUARDS:

1. *Authorized users:* Only the contract Project Director and his/her research team and the Federal Project Officer and his/her support staff have access to these records.

2. *Physical safeguards:* The contractor keeps all records in a locked metal file cabinet in premises with limited accessibility. Only the clinical investigator (Project Director) has the key to the locked files.

3. *Procedural safeguards:* Only the contract staff have access to the files. Persons other than subject participants who request individually identifiable data from a record, must provide written consent from the subject participant permitting the requested disclosure. The only exception would be for disclosure to persons or organizations permitted by the Privacy Act, section 3(B) to obtain personally identifiable data.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual. In addition, the contract staff complies with contractor's (School of Medicine of the University of North Carolina) standard procedures for safeguarding data.

RETENTION AND DISPOSAL:

The records will be kept no later than September 1998 (5 years after the anticipated completion of the studies). At that time, the NIDA project officer will authorize in writing the clinical investigators to destroy the records by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Pharmacokinetic Studies on Drugs of Abuse, Medications Development Division, National Institute on Drug Abuse, National Institutes of Health, Room 11A55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager listed above. Provide the following information:

Subject-participant's full name and a letter of request (or permission, if the requester is not the subject-participant) with notarized signature of the individual who is the subject of the record, approximate date(s) of experiment(s) in which the individual participated, and drug name (if known). In addition, an individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its content at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above and reasonably identify the record, specify the information to be contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The subject-participants and the contractor personnel conducting the research studies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0208

SYSTEM NAME:

Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Research Triangle Institute, Center for Social Research and Policy Analysis, Research Triangle Park, North Carolina 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary adult clients of federally funded treatment programs, including Treatment Alternative Street Crime (TASC) Programs of the Department of Justice, who requested to be included in TOPS from 1979 through 1986. New data collected from voluntary adults/adolescent clients of public and private funded-treatment programs beginning in 1991 and will continue through 1995.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories are: Demographic data, treatment outcome data, treatment process data, client locator information, and personal identifiers (name and assigned numerical identifier).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301 and 405 (42 U.S.C. 241 and 284).

PURPOSE(S):

The purpose of the system is to compile information on drug abusers in drug abuse treatment programs in order to derive information on the treatment environments and abusers' behaviors and characteristics subsequent to treatment. Researchers and drug abuse service providers may use the aggregate data to address issues and generate hypotheses to understand better the interactions among the client and community.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Within the restrictions set forth in HHS regulations concerning the confidentiality of drug abuse patient records (42 CFR 2.56), we may disclose a record for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except: (A) In emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to, abide by these provisions.

2. The Research Triangle Institute, an NIH contractor, uses the records in this system to accomplish the research purpose for which the records are collected. In the event of followup studies or continuation studies because the contract has been terminated for convenience by the Government, we may disclose records in this system to a subsequent NIH contractor. We would require the new contractor to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Interview forms, magnetic tapes, and disks.

RETRIEVABILITY:

Records are indexed and retrieved by unique alpha numerical identifier. In order to relate the data collected to specific individuals, one must use the link file discussed under Safeguards.

SAFEGUARDS:

1. *Authorized users:* Contractor personnel, the agency project officer, and agency employees whose duties require the use of the information in the system.

2. *Physical safeguards:* The data management task leader, the project leader, or the project director provide technical supervision of all data collection and processing activities. Individually identified forms are stored in a secure, vault-like room provided for this purpose. Authorized personnel have access to the room by one locked door with controlled entry, i.e., only on the written authority of the professional staff member in charge. Computerized records are kept in a vault area with limited accession.

3. *Procedural safeguards:* Because some of the data collected in this study, such as data on drug use, are sensitive and confidential, special safeguards have been established. A Certificate of Confidentiality has been issued under 42 CFR part 2a. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding the names or other identifying characteristics from all persons not connected with the conduct

of the research. Persons so authorized may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals. In addition, these records are subject to 42 CFR part 2, the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56), which state: "Where the content of patient records has been disclosed pursuant to (these regulations) for the purpose of conducting scientific research * * * information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily or in response to any legal process whether Federal or State."

Another safeguard is that the forms containing subject identification information for client followup and data matching purposes do not include any reference to the purpose of the study. Identification and location information is kept separate from any information that would suggest that the respondent has been in a drug treatment program.

Information on completed forms is entered immediately on the computer. Completed forms and computerized data are released only to authorized persons. Only aggregate data are provided and used in the preparation of necessary and appropriate reports.

A link file system is used. This system has three components: (1) Personal information, (2) data base information, and (3) the link file, which contains identifying number pairs which can be used to match data with individuals. The advantage of this system is that the data base can be used directly for report generation, etc., without the use of decrypting subroutines or access to the personal information or matching link files.

In addition, the computer center being utilized has developed an extensive security system to protect computer account codes and data. This system is described in a publication that is available from the System Manager upon request.

We do not anticipate any disclosure of individually identifiable information to other persons or organizations within the Department of Health and Human Services. Nor does the contractor provide individually identification information to the Department of Justice, with which NIDA has a cooperative agreement for this study.

4. *Implementation Guidelines:* We used the National Bureau of Standards guidelines and Part 6, HHS ADP Systems Security Manual, "ADP System Security" in developing the computer safeguard procedures. Safeguards for nonautomated records are in accordance with DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual. In addition, project staff complies with the contractor's (Research Triangle Institute) standard procedures for safeguarding data.

The contractor provides only aggregate information to NIDA.

RETENTION AND DISPOSAL:

The contractor destroys interview forms by shredding or burning immediately after contractor staff have completed and verified direct entry on magnetic tape or disk storage. The contractor will destroy individual identification and location data by shredding or burning, under the explicit written authorization of the System Manager, which is anticipated to be no longer than 5 years after the termination of the study unless the information is needed for research purposes. We will retain aggregate data tapes for research purposes. These tapes will not have any individually identifiable information. In accordance with the NIH Records Control Schedule, these tapes will be retained for 5 years after completion of the project (approximately 2000). At that time, the tapes will be retired to the Federal Records Center and destroyed when they are 10 years old or when they are no longer needed for research purposes.

SYSTEM MANAGERS AND ADDRESS:

Drug Abuse Treatment Outcome Study (DATOS), Project Officer, Treatment Services Research Branch, Division of Clinical Research, National Institute on Drug Abuse, National Institutes of Health, Room 10A–30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual may learn if a record exists about himself/herself upon written request, with notarized signature. The request should include, if known, name of the researcher, location of the research site, approximate date of data collection, any alias used, and subject identification number.

An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or legal guardian who requests notification of an adolescent's record shall designate a family physician or other health professional (other than a family member) of the Division of Clinical Research staff to whom the record, if any, will be sent. The parent or legal guardian must verify in writing the relationship to the adolescent as well as his/her own identity.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

Persons other than subject individuals, who request individually identifiable data from a record must provide written consent from the subject individual permitting the requested disclosure. The only exception (if not in conflict with confidentiality regulations) would be for disclosure to persons or organizations permitted by the Privacy Act, section 3(b), to obtain personally identifiable data.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Research subjects, and staff in participating drug abuse treatment programs, written clinical evaluations, counselors, psychiatrists, psychotherapists, family members, research assistants, hospitals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0210

SYSTEM NAME:

Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Research Technology Branch, Division of Basic Research, National Institute on Drug Abuse, Room 10A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Research Triangle Institute, Research Triangle Park, North Carolina 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual researchers and organizations who are registered with the Drug Enforcement Administration (DEA), Department of Justice (DOJ), some since 1966, and who have voluntarily submitted documentation to the National Institute on Drug Abuse (NIDA) in order to obtain, through the NIDA Drug Supply Program (DSP), drugs of abuse for use in a research project.

CATEGORIES OF RECORDS IN THE SYSTEM:

While the records in this system are research project-related, they support the eligibility of individual researchers to receive drugs of abuse. Types of information contained in the records are: researcher's name, curriculum vitae, research protocol, DEA and (if applicable) Nuclear Regulatory Commission registration numbers (when a radiolabeled compound is requested and shipped), business address (location of research project) and telephone number, summary of research project(s), requests for substance(s), name and amount of each compound requested and shipped, dates material is shipped and received, shipment numbers, and order form numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301, and 405 (42 U.S.C. 241 and 284); Controlled Substances Act of 1970 (21 U.S.C. 801 et seq.); Atomic Energy Act of 1954, as amended, section 81 (42 U.S.C 2111); and Energy Reorganization Act of 1974, section 201 (42 U.S.C. 5841). Energy Reorganization Act of 1974, section 201 (42 U.S.C. 5841).

PURPOSE(S):

To facilitate operation of DSP which is a centralized research support service through which the United States Government supplies to the national and international scientific community for research purposes, most Schedule I and many Schedule II–V controlled and noncontrolled substances as specified in the Controlled Substances Act (CSA) of 1970 (21 U.S.C. 801 et seq.). Controlled substances are chemicals and other substances, and their immediate precursors, that the Attorney General has determined to have such potential for abuse as to warrant regulation under the CSA. Some of these substances are radiolabeled materials. Radiolabeled materials are substances to which a small amount of radioactivity is added for use in various studies, such as drug metabolism and mechanisms of drug actions.

This system of records was established to facilitate DSP by enabling NIDA:

1. To verify that requests for drugs of abuse, some of which are radiolabeled, are from authorized individuals/organizations for use in a research project;
2. To verify that the amounts of the materials requested by researchers for animal, in vivo, and in vitro research are justified and available;
3. To supply controlled substances in amounts approved by the Food and Drug Administration (FDA) to researchers conducting research with human subjects;
4. To ship these materials securely in accordance with CSA and the Atomic Energy Act; and
5. To maintain records of these transactions.

FDA also may use the records in routine inspections in accordance with FDA's responsibilities to develop standards on the composition, safety, and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. We may disclose the record of an individual to a congressional office in response to a verified inquiry from the congressional office made at the written request of the individual.
2. We may disclose information to DEA, DOJ, to enable DEA to carry out its responsibilities as described in the Controlled Substances Act of 1970.
3. An NIH contractor routinely uses the records in this system to ship controlled substances to authorized recipients. Such contractor is required to maintain Privacy Act safeguards with respect to these records.
4. An NIH contractor may have access to the records in this system in the performance of its software modification/correction tasks specified in its contract. Such contractor is required to maintain Privacy Act safeguards with respect to these records.
5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

NIDA maintains "hard copy" records in file folders and automated records on computer disk.

RETRIEVABILITY:

Authorized NIDA and contractor personnel index and retrieve the computerized records by a researcher code number assigned by a computer program at the time a new record is established. Authorized NIDA personnel index and retrieve "hard copy" records by researcher's name. NIDA maintains a computerized, alphabetical cross-reference list that matches names and numbers.

SAFEGUARDS:

1. *Authorized users:* The Chief, Research Technology Branch and his or her support staff, program assistant and clerk-typist, and the contracts' project directors and their support staffs have access to the records.

2. *Physical safeguards:* The "hard copy" records and main computer are physically located at the Parklawn Building, Rockville, Maryland. The computerized records are kept in a room with limited admittance. The room is locked after working hours. The "hard copy" records are stored in locked file cabinets in a room with very limited admittance. This room is also locked after working hours. The Parklawn Building has a 24-hour guard patrol service.

3. *Procedural safeguards:* The terminals are housed in a secured work area with limited admittance. Contract personnel use a password identification system to obtain access; NIDA changes the passwords periodically.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual, and Part 6, "ADP System Security," in the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

NIDA maintains an individual's record for 5 years after the researcher's last request for, or shipment of, a drug of abuse. We consider the record inactive after that, and erase it from the computer disk by a delete routine. The delete routine automatically deletes the computerized cross-reference as well. We destroy the "hard copy" record by shredding. The system is checked once a year for inactive records.

SYSTEM MANAGER(S) AND ADDRESS:

Project Director, Drug Supply Program, Research Technology Branch, Division of Basic Research, Room 10A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual may learn if a record exists about himself or herself upon written request. The request should include the researcher's name and business address at the time of last shipment. The request must be signed in ink by the individual researcher. Verifiable proof of identity is required.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Initial source is the individual researcher. Some of the DEA registration information provided by a researcher is verified through a DEA computer check. FDA provides information concerning type and amount of controlled substance(s) to be shipped to an individual researcher for research projects involving human subjects.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0211

SYSTEM NAME:

Intramural Research Program Records of In- and Out-Patients With Various Types of Alcohol Abuse and Dependence, Relatives of Patients With Alcoholism, and Healthy Volunteers, HHS/NIH/NIAAA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

A list of specific project sites is available from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In- and out-patients with alcohol abuse and dependence, alcohol-induced organic brain syndromes; their relatives; and healthy volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research data of wide variety including biochemical measures, psychophysiological and psychological tests, questionnaires, clinical and behavioral observations and interviews, physical examinations, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, as amended, sections 301 (42 U.S.C. 241) and 510 (42 U.S.C. 290bb). These sections authorize the conduct of general health research and research into alcoholism and alcohol abuse.

PURPOSE(S):

These records are used for diagnosis and treatment of patients with alcohol abuse and dependence and related conditions; behavioral research relating to the causes, diagnoses, and treatment of addictions; and basic research on behavioral and biological processes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system are covered by section 527 of the Public Health Service Act (42 U.S.C. 290ee-3) and 42 CFR, chapter I, subchapter A, part 2, on confidentiality of alcohol and drug abuse patient records. In accordance with these regulations, the records are confidential and may only be disclosed with the written consent of the patient with specific restrictions, and without the patient's consent in the following instances: (1) To medical personnel to the extent necessary to meet a bona fide emergency; (2) to qualified personnel for the purpose of conducting scientific research; or (3) if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefore, after certain considerations, and with appropriate safeguards. Routine uses of information in this system are limited to the following:

1. A record may be disclosed for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose: (1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to—(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office at the written request of that individual, in accordance with 42 CFR, chapter I, subchapter A, part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, on index cards, computer tapes and disks, microfiche, microfilm and audio and video tapes. Normally the factual data, with study code numbers, are stored on computer tape or disk, while the key to personal identifiers is stored separately, without factual data, in paper files.

RETRIEVABILITY:

During data collection stages and followup, retrieval by personal identifier (e.g., name or medical record number) is necessary. During the data analysis stage, data are normally retrieved by variables of interest, e.g., age, diagnosis, etc.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for the particular records maintained in each project. Depending on the sensitivity of the project, additional safeguards may be added.

1. *Authorized users:* Only NIAAA medical and research staff have access to these records, as authorized by the system manager.

2. *Physical safeguards:* Records are stored in locked rooms, locked file cabinets, and/or secured computer facilities. Personal identifiers and link codes are separated as much as possible and stored in locked files.

3. *Procedural safeguards:* Collection and maintenance of data are consistent with legislation and regulations for protection of human subjects, informed consent, confidentiality, and confidentiality specific to drug and alcohol abuse patients. Computer data access is limited through the use of key words, a series of account numbers, and passwords which are changed frequently and known only to authorized personnel.

4. *Implementation Guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual, and Part 6, "ADP System Security" in the HHS Information Resource Management Manual.

RETENTION AND DISPOSAL:

Records are held for 5 years after completion of the project, retired to a Federal Records Center, and subsequently disposed of after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Clinical Director, Laboratory of Clinical Studies, Division of Intramural Clinical and Biological Research, National Institutes of Health, Building 10, Room 3B–19, 9000 Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. Provide notarized signature as proof of identity. The request should include as much of the following information as possible: (a) Full name; (b) nature of illness (if any); (c) title of study; (d) name of researcher conducting study. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of child's/incompetent person's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information gathered from individuals under study, either patient or normal subject, contract surveys, hospital records, medical and nursing staff notes, and from Privacy Act system of records "90–25–0099, "Clinical Research: Patient Medical Records, HHS/NIH/CC."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–30424 Filed 12–30–93; 8:45 am]

BILLING CODE 4101–21–P

Centers for Disease Control and Prevention

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Publication of minor changes to notices of systems of records.

SUMMARY: In accordance with the Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Centers for Disease Control and Prevention (CDC) is publishing the table of contents and minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION:

CDC has completed the annual review of its systems of records and is publishing below the table of contents and those minor changes which affect the public's right or need to know, such as clarification of categories of individuals covered by systems, and changes in the system location of records, or the designation and address of system managers.

1. Table of Contents

A. The following CDC active system of records was last published in the **Federal Register**, 57 FR 62812, December 31, 1992:

09–20–0136 Epidemiologic Studies and Surveillance of Disease Problems, HHS/CDC/NCID.

B. The following CDC active systems of records were last published in the **Federal Register**, 51 FR 42449, November 24, 1986:

09–20–0000 Cooperative Mycoses Study, HHS/CDC/NCID.
09–20–0001 Certifying Interpreting Physician File, HHS/CDC/NIOSH.
09–20–0055 Administrative Files for Research/Demonstration and Training Grants, and Cooperative Agreements Applications, HHS/CDC/PGO.
09–20–0059 Division of Training Mailing List, HHS/CDC/NIOSH.
09–20–0089 Studies of Treatment of Tuberculosis and Other Mycobacterioses, HHS/CDC/NCPS.
09–20–0090 Studies of Testing for Tuberculosis and Other Mycobacterioses, HHS/CDC/NCPS.
09–20–0096 Records of Tuskegee Study Health Benefit Recipients, HHS/CDC/NCPS.
09–20–0102 Alien Mental Waiver Program, HHS/CDC/NCPS.
09–20–0103 Alien Tuberculosis Follow-up Program, HHS/CDC/HCPS.
09–20–0106 Specimen Handling for Testing and Related Data, HHS/DCD/NCID.
09–20–0112 Fellowship Program and Guest Researcher Records, HHS/CDC/PMO.
09–20–0113 Epidemic Investigation Case Records, HHS/CDC/NCID.
09–20–0117 Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies, HHS/CDC/NIOSH.
09–20–0118 Study at Work Sites Where Agents Suspected of Being Occupational Hazards Exist, HHS/CDC/NIOSH.
09–20–0137 Passport File, HHS/CDC/IHPO.
09–20–0138 Epidemic Intelligence Service Officers Files, HHS/CDC/EPO.
09–20–0147 Occupational Health Epidemiological Studies, HHS/CDC/NIOSH.
09–20–0149 Morbidity Studies in Coal Mining, Metal and Non-metal Mining and General Industry, HHS/CDC/NIOSH.
09–20–0153 Mortality Studies in Coal Mining, Metal and Non-metal Mining and General Industry, HHS/CDC/NIOSH.
09–20–0154 Medical and Laboratory Studies, HHS/CDC/NIOSH.
09–20–0157 Clinical Laboratory Personnel Proficiency Test Results (Medicare), HHS/CDC/PHPPO.
09–20–0159 Records of Subjects in Certification, Testing, Studies of Personal Protective Devices, and Accident Investigations, HHS/CDC/NIOSH.
09–20–0160 Records of Subjects in Health Promotion and Education Studies, HHS/CDC/NCCDPHP.
09–20–0161 Records of Health Professionals in Disease Prevention and Control Training Programs, HHS/CDC/NCPS.
09–20–0162 Records of Subjects in Agent Orange, Vietnam Experience, and Selected Cancers Studies, HHS/CDC/NCEH.

C. The following active CDC systems were last published in the **Federal Register**, 51 FR 42368, November 24, 1986:

09–20–0163 Applicants for National Center for Health Statistics Technical Assistance, HHS/CDC/NCHS. (Formerly numbered 09–37–0009.)
09–20–0168 Curricula Vitae of Consultants to the National Center for Health Statistics, HHS/CDC/NCHS. (Formerly numbered 09–37–0014.)
09–20–0169 Users of Health Statistics, HHS/CDC/NCHS. (Formerly numbered 09–37–0016.)

D. The following CDC active systems were last published in the **Federal Register**, 49 FR 37692, September 25, 1984:

09–20–0164 Health and Demographic Surveys Conducted in Probability Samples of the United States Population, HHS/CDC/NCHS. (Formerly numbered 09–37–0010.)
09–20–0165 Health Manpower Inventories and Surveys, HHS/CDC/NCHS. (Formerly number 09–37–0011.)
09–20–0166 Vital Statistics for Births, Deaths, Fetal Deaths, Marriages, and Divorces Occurring in the United States During Each Year, HHS/CDC/NCHS. (Formerly numbered 09–37–0012.)
09–20–0167 Health Resources Utilization Statistics, HHS/CDC/NCHS. (Formerly numbered 09–37–0013.)

2. The Preventive Health Amendments of 1992 changed the title of the Centers for Disease Control to the Centers for Disease Control and Prevention. This new organizational title represents minor changes in system location and system manager and address categories of all of CDC's systems. These system notice modifications will be shown in this document in those notices in which there are other address changes. The next comprehensive republication of notices will describe all of CDC's systems in their entirety.

In late October of 1993, the Secretary, Department of Health and Human Services, approved the establishment of the National Immunization Program. Elevating the immunization activities of CDC from a division level within the National Center for Prevention Services to a program reporting to the Director, CDC, communicates the Administration's support and commitment to improving the immunization level of children. This new organizational title represents minor changes in the system location and system manager and address categories of systems 09–20–0113 and 09–20–0136, which are shown in their proper sequence in Section 3 below.

3. The following systems are amended to reflect changes in the system location of records or the system manager and address category:

09–20–0089

SYSTEM NAME:

Studies of Treatment of Tuberculosis and Other Mycobacterioses, HHS/CDC/NCPS.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Division of Tuberculosis Elimination, National Center for Prevention Services, Corporate Square, Bldg. 10, Rm. 2208, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333 and Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identified data are currently located is available upon request to the system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Tuberculosis Elimination, National Center for Prevention Services, Corporate Square, Bldg. 10, Rm. 2313, MS E10, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0090

SYSTEM NAME:

Studies of Testing for Tuberculosis and other Mycobacterioses, HHS/CDC/NCPS.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Division of Tuberculosis Elimination, National Center for Prevention Services, Corporate Square, Bldg. 10, Rm. 2208, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333 and Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Tuberculosis Elimination, National Center for Prevention Services, Corporate Square, Bldg. 10, Rm. 2313, MS E10, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0096

SYSTEM NAME:

Records of Tuskegee Study Health Benefit Recipients, HHS/CDC/NCPS.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

National Center for Prevention Services, Corporate Square, Bldg. 11, Rms. 2117, 2118, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333 and Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Center for Prevention Services, Corporate Square, Bldg. 11, Rm. 2106, MS E07, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0102

SYSTEM NAME:

Alien Mental Waiver Program, HHS/CDC/NCPS.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Medical Screening Section, Division of Quarantine, National Center for Prevention Services, Corporate Square, Bldg. 10, Rm. 1105, Centers for Disease Control and Prevention, 1600 Clifton

Road, NE, Atlanta, GA 30333 and Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Quarantine, National Center for Prevention Services, Corporate Square, Bldg. 10, Rm. 1207, MS E03, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333

* * * * *

09–20–0103

SYSTEM NAME:

Alien Tuberculosis Follow-up Program, HHS/CDC/NCPS.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Office of the Director, Division of Quarantine, National Center for Prevention Services, Corporate Square, Bldg. 10, Rm. 1209, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Quarantine, National Center for Prevention Services, Corporate Square, Bldg. 10, Rm. 1207, MS E03, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0106

SYSTEM NAME:

Specimen Handling for Testing and Related Data, HHS/CDC/NCID.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Material, Data and Specimen Handling Section, Scientific Resources Program, National Center for Infectious Diseases, Bldg. 4, Rm. B35, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

San Juan Laboratories, National Center for Infectious Diseases, Centers for Disease Control and Prevention, San Juan, Puerto Rico 00936.

Division of Vector-Borne Infectious Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Foot Hills Campus, Fort Collins, CO 80522 and Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the appropriate system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Center for Infectious Diseases, Bldg. 1, Rm. 6013, MS C12, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Chief, Dengue Branch, Division of Vector-Borne Infectious Diseases, San Juan Laboratories, National Center for Infectious Diseases, Centers for Disease Control and Prevention, GPO Box 4532, San Juan, Puerto Rico 00936.

Director, Division of Vector-Borne Infectious Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, PO Box 2087 (Foot Hills Campus), Fort Collins, CO 80522.

Policy coordination is provided by: Associate Director for Management and Operations, Bldg. 1, Rm. 2011, MS D15, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0112

SYSTEM NAME:

Fellowship Program and Guest Research Records, HHS/CDC/PMO.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Recruitment Branch, Personnel Management Office, Bldg. 1, Rm. B237, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333 and National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Recruitment Branch, Personnel Management Office, Bldg. 1, Rm. 1043, MS D45, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0113

SYSTEM NAME:

Epidemic Investigation Case Records, HHS/CDC/NCID.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

National Center for Infectious Diseases, Bldg. 1, Rm. 6013, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Epidemiology Program Office, Bldg. 1, Rm. 5009, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

National Center for Prevention Services, Corporate Square, Bldg. 11, Rm. 2106, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

National Center for Environmental Health, Chamblee Bldg. 101, Rm. 3116, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

National Center for Injury Prevention and Control, Koger Davidson Bldg., Rm. 1078, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

National Immunization Program, Corporate Square, Bldg. 12, Rm. 5113, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333 and Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Center for Infectious Diseases, Bldg. 1, Rm. 6013, MS C12, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Director, Epidemiology Program Office, Bldg. 1, Rm. 5009, MS C08, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Director, National Center for Prevention Services, Corporate Square, Bldg. 11, Rm. 2106, MS E07, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Director, National Center for Environmental Health, Chamblee Bldg. 101, Rm. 3116, MS F29, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

Director, National Center for Injury Prevention and Control, Koger Davidson Bldg., Rm. 1078, MS F36, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

Director, National Immunization Program, Corporate Square, Bldg. 12, Rm. 5113, MS E05, Centers for Disease

Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Policy coordination is provided by: Associate Director for Management and Operations, Bldg. 1, Rm. 2011, MS D15, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0136

SYSTEM NAME:

Epidemiologic Studies and Surveillance of Disease Problems, HHS/CDC/NCID.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

National Center for Infectious Diseases, Bldg. 1, Rm. 6013, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

San Juan Laboratories, National Center for Infectious Diseases, Centers for Disease Control and Prevention, San Juan, Puerto Rico 00936.

National Center for Prevention Services, Corporate Square, Bldg. 11, Rm. 2106, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

National Center for Environmental Health, Chamblee Bldg. 101, Rm. 3116, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

National Center for Injury Prevention and Control, Koger Davidson Bldg., Rm. 1078, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

Epidemiology Program Office, Bldg. 1, Rm. 5009, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Public Health Practice Program Office, Executive Park, Bldg. 24, Rm. 110, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

National Center for Chronic Disease Prevention and Health Promotion, Rhodes Bldg., Rm. 4000, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

National Immunization Program, Corporate Square, Bldg. 12, Rm. 5113, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333 and Federal Records Centers, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the appropriate system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Center for Infectious Diseases, Bldg. 1, Rm. 6013, MS C12, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Director, National Center for Prevention Services, Corporate Square, Bldg. 11, Rm. 2106, MS E07, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Director, National Center for Environmental Health, Chamblee Bldg. 101, Rm. 3116, MS F29, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

Director, National Center for Injury Prevention and Control, Koger Davidson Bldg., Rm. 1078, MS F36, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

Director, Epidemiology Program Office, Bldg. 1, Rm. 5009, MS C08, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Director, Public Health Practice Program Office, Executive Park, Bldg. 24, Rm. 110, MS E20, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Director, National Center for Chronic Disease Prevention and Health Promotion, Rhodes Bldg., Rm. 4000, MS K40, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

Director, National Immunization Program, Corporate Square, Bldg. 12, Rm. 5113, MS E05, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Policy coordination is provided by: Associate Director for Management and Operations, Bldg. 1, Rm. 2011, MS D15, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0157

SYSTEM NAME:

Clinical Laboratory Personnel Proficiency Test Results (Medicare), HHS/CDC/PHPPO.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Public Health Practice Program Office, Chamblee Bldg. 102, Rm. 2401, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341–3724.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Public Health Practice Program Office, Executive Park, Bldg. 24, Rm. 110, MS E20, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09–20–0161

SYSTEM NAME:

Records of Health Professionals in Disease Prevention and Control Training Programs, HHS/CDC/NCPS.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

National Center for Prevention Services, Corporate Square, Bldg. 12, Rm. 3308, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Public Health Practice Program Office, Bldg. 2, Rm. B50, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Division of Health Education, Executive Park, Bldg. 4, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE, Atlanta, GA 30333 and Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Center for Prevention Services, Corporate Square, Bldg. 11, Rm. 2106, MS E07, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, Ga 30333.

Director, Public Health Practice Program Office, Executive Park, Bldg. 24, Rm. 110, MS E20, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

Director, Division of Health Education, Executive Park, Bldg. 4, Rm. 2220D, MS E33, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE, Atlanta, GA 30333.

Policy coordination is provided by: Associate Director for Management and Operations, Bldg. 1, Rm. 2011, MS D15,

Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333.

* * * * *

09-20-0162

SYSTEM NAME:

Records of Subjects in Agent Orange, Vietnam Experience, and Selected Cancers Studies, HHS/CDC/NCEH.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

National Center for Environmental Health, Chamblee Bldg. 101, Rm. G336, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341-3724 and Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

Data are located at contractor sites as data are collected. A list of contractor sites where individually identifiable data are currently located is available upon request to the appropriate system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Center for Environmental Health, Chamblee Bldg. 101, Rm. 3116, MS F29, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Atlanta, GA 30341-3724.

* * * * *

4. The Department of Energy (DOE) effected a Memorandum of Understanding with the Department of Health and Human Services (HHS) to transfer its analytic epidemiology research program to HHS. The National Institute for Occupational Safety and Health and the National Center for Environmental Health within the Centers for Disease Control and Prevention have responsibility for epidemiologic studies, including laboratory analysis, of workers exposed to radiation and other physical and chemical hazards at DOE facilities. These are workers who have been employed by DOE and its predecessor agencies and their contractors at 111 sites in over 30 states since the early 1940's. Accordingly, the following system notices have been updated to clarify and more accurately describe the categories of individuals section within the affected systems:

09-20-0136

SYSTEM NAME:

Epidemiologic Studies and Surveillance of Disease Problems, HHS/CDC/NCID.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adults and children with diseases and other preventable conditions of public health significance; also included are control group participants. Workers employed by the Department of Energy and its predecessor agencies and their contractors are also included.

* * * * *

09-20-0147

SYSTEM NAME:

Occupational Health Epidemiological Studies, HHS/CDC/NIOSH.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Working populations exposed to physical and/or chemical agents that may damage the human body in any way. Some examples are: (1) Organic carcinogens, (2) inorganic carcinogens, (3) mucosal or dermal irritants, (4) fibrogenic materials, (5) acute toxic agents including sensitizing agents, (6) neurotoxic agents, (7) mutagenic (male and female) and teratogenic agents, (8) bio-accumulating non-carcinogen agents, and (9) chronic vascular disease-causing agents. Also included are those individuals in the general population who have been selected as control groups. Workers employed by the Department of Energy and its predecessor agencies and their contractors are also included.

* * * * *

Dated: November 1, 1993.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93-27226 Filed 12-28-93; 8:45 am]

BILLING CODE 4160-18-P

Health Resources and Services Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Department of Health and Human Services; Public Health Service (PHS); Health Resources and Services Administration (HRSA).

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," HRSA is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: HRSA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as system deletions, title changes, and changes in the system location of records, or the addresses of systems managers.

1. HRSA has added the following systems of records since the last annual review:

09-15-0058 Faculty Loan Repayment Program HHS/HRSA/BHPr. 57 FR 60325-60327, December 18, 1992.

09-15-0059 Health Resources and Services Administration Correspondence Control System, HHS/HRSA/OA. 58 FR 36972-36974, July 9, 1993.

2. New routine users were added to the following systems:

09-15-0044 Health Education Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr. 58 FR 16537, March 29, 1993.

09-15-0058 Faculty Loan Repayment Program, HHS/HRSA/BHPr. 58 FR 12589, March 5, 1993.

3. The following system of records was altered:

09-15-0037 Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC. 58 FR 12968-12973, March 8, 1993.

4. The following system of records has been deleted:

09-15-0006 Emergency Non-PHS Treatment Authorization File, HHS/HRSA/BPHC. This system has not been used since the Public Health Service hospitals and clinics were closed in 1981. Records that were in that system are now included in system of records 09-15-0029 PHS Beneficiary-Contract Medical/Health Care Records, HHS/HRSA/BPHC.

5. Other minor system-notice changes affecting individual categories are published below.

Dated: November 8, 1993.

James A. Walsh,

Associate Administrator for Operations and Management.

Table of Contents

The following table of contents lists all currently active Privacy Act systems of records maintained by the Health Resources and Services Administration:

09-15-0001 Division of Federal Occupational Health Medical and Counseling Records, HHS/HRSA/BPHC.
09-15-0002 Record of Patients' Personal Valuables and Monies, HHS/HRSA/BPHC.
09-15-0003 Contract Physicians and Consultants, HHS/HRSA/BPHC.
09-15-0004 Federal Employee Occupational Health Data System, HHS/HRSA/BPHC.
09-15-0007 Patients Medical Records System PHS Hospitals/Clinics, HHS/HRSA/BPHC.
09-15-0022 Accounts Receivable, HHS/HRSA/OA.
09-15-0026 Medical Fellowships and Educational Loans, HHS/HRSA/OA.
09-15-0028 PHS Clinical Affiliation Trainee Records, HHS/HRSA/BPHC.
09-15-0029 PHS Beneficiary-Contract Medical/Health Care Records, HHS/HRSA/BPHC.
09-15-0037 Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participant Records System, HHS/HRSA/BPHC.
09-15-0038 Disability Claims of the Nursing Student Loan Program, HHS/HRSA/BPHC.
09-15-0039 Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr.
09-15-0040 Health Professions Student Loan Repayment Program, HHS/HRSA/BHPr.
09-15-0041 Health Professions Student Loan Cancellation, HHS/HRSA/BHPr.
09-15-0042 Physician Shortage Area Scholarship Program, HHS/HRSA/BPHC.
09-15-0043 Cuban Loan Program, HHS/HRSA/OA.
09-15-0044 Health Educational Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr.
09-15-0045 Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA.
09-15-0046 Health Professions Planning and Evaluation, HHS/HRSA/OA.
09-15-0052 Nurse Practitioner and Nurse Midwifery Traineeship Program, HHS/HRSA/BHPr.
09-15-0054 National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr.
09-15-0055 Organ Procurement and Transplantation Network (OPTN) Data System, HHS/HRSA/BHRD.
09-15-0056 National Vaccine Injury Compensation Program, HHS/HRSA/BHPr.
09-15-0057 Scholarships for the Undergraduate Education of Professional Nurses Grant Programs, HHS/HRSA/BHPr.
09-15-0058 Faculty Loan Repayment Program, HHS/HRSA/BHPr.
09-15-0059 Health Resources and Services Administration Correspondence Control System, HHS/HRSA/OA.

Changes

09-15-0001

SYSTEM NAME:

Division of Federal Occupational Health Medical and Counseling Records, HHS/HRSA/BPHC.

Minor changes have been made to this system. In addition to the System Name, the following categories should be revised:

* * * * *

SYSTEM LOCATION:

A current list of health and counseling unit sites is available by writing to the System Manager at the address below.

Data are occasionally located at medical laboratories, medical consultants, or computer processing firm sites. A list of sites where individually identifiable data is currently located is available upon request to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees seen in health units under agreements with the Division of Federal Occupational Health (PHS/DFOH) and individuals examined/treated/counseled by PHS/DFOH staff and health professionals under contract to PHS/DFOH.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

2. In the event of a change in sponsorship of a PHS/DFOH health unit or in the case of a mass transfer of employees covered by a PHS/DFOH health unit to one served by a nondepartmental organization, the health records will be transferred to the custodianship of the new organization, with the approval of PHS/DFOH.

* * * * *

SAFEGUARDS:

1. *Authorized users:* DFOH Health Unit personnel, physicians, nurses, and other allied health professionals.

2. *Physical safeguards:* All users of personal information in connection with the performance of their jobs protect information from the public view and from unauthorized personnel entering an unsupervised office. Access to records is strictly limited to those staff members trained in accordance with the DFOH Manual of Operations. Patient-authorized release of records to a third party will only be accomplished when the third party has a suitable system of records, such as those meeting the requirements of 5 CFR part 293, designed to minimize unauthorized access. Contractors are required to maintain confidentiality safeguards with respect to these records. These safeguards are in accordance with DHHS Chapter 45-13 and supplementary Chapter PHS.hf: 45-13 of the General Administration Manual.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Federal Occupational Health, Bureau of Primary Health Care, Health Resources and Services Administration, 3rd Floor, West Tower Building, 4530 East West Highway, Rockville, MD 20857.

* * * * *

09-15-0002

SYSTEM NAME:

Record of Patient's Personal Valuables and Monies, HHS/HRSA/BPHC.

A minor change has been made to this system. The following category should be revised:

* * * * *

RETENTION AND DISPOSAL:

Number of years held: Until audited by HHS Audit Agency. How destroyed: Incinerator or shredding.

* * * * *

09-15-0003

SYSTEM NAME:

Contract Physicians and Consultants, HHS/HRSA/BPHC.

Minor changes have been made to this system. The following categories should be revised.

* * * * *

SYSTEM LOCATION:

Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

General Services Officer, Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

* * * * *

09-15-0004

SYSTEM NAME:

Federal Occupational Health Data System, HHS/HRSA/BPHC. Minor changes have been made to this system.

In addition to the System Name, the following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Federal Occupational Health, Bureau of Primary Health Care,

3rd Floor, West Tower Building, 4350 East West Highway, Bethesda, Maryland. MAILING ADDRESS: 3rd Floor, West Tower Building, 4350 East West Highway, Rockville, MD 20857.

* * * * *

SAFEGUARDS:

1. *Authorized Users:* DFOM personnel, service provision site physicians, nurses, and other allied health professionals with a need to know.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Federal Occupational Health, Bureau of Primary Health Care, Health Resources and Service Administration, 3rd Floor, West Tower Building, 4350 East West Highway, Bethesda, Maryland. MAILING ADDRESS: 3rd Floor, West Tower Building, 4350 East West Highway, Rockville, MD 20857.

* * * * *

09–15–0007

SYSTEM NAME:

Patients Medical Records System PHS Hospitals/Clinics, HHS/HRSA/BPHC.

A minor change has been made to this system. The following category should be revised.

* * * * *

Appendix 1

B. Successor Organizations

* * * * *

Director, Johns Hopkins Medical Service, 3100 Wyman Park Drive, Baltimore, MD 21211.

Director, Brighton Marine Public Health Center, 77 Warren Street, Boston, MA 02135.

Administrator, Lutheran Medical Center, 2609 Franklin Boulevard, Cleveland, OH 44114.

Director, Hospital of St. John, 2050 Space Park Drive, Nassau Bay, TX 77058.

Administrator, Martins Point Health Center, 331 Veranda Street, Portland, ME 04103.

Officer-in-Charge, U.S. Army St. Louis Outpatient Clinic, 1520 Market Street, St. Louis, MO 63103.

Director, Pacific Medical Center, 1200 12th Avenue South, Seattle, WA 98114.

Director, Baley Seton Hospital, Bay Street and Vanderbilt Avenue, Staten Island, NY 10304.

* * * * *

09–15–0037

SYSTEM NAME:

Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC.

Minor changes have been made to this system. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Scholarships and Loan Repayments, Bureau of Primary Health Care, Health Resources and Services Administration (HRSA), 10th Floor, West Tower Building, 4350 East West Highway, Bethesda, Maryland.

Division of National Health Service Corps, Bureau of Primary Health Care, HRSA, 8th Floor, West Tower Building, 4350 East West Highway, Bethesda, Maryland.

Parklawn Computer Center, 5600 Fishers Lane, Room 2A–53, Rockville, MD 20857.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

PHS Health Data Center, Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

Records are also located at contractor sites. A list of contractor sites where individually identifiable data are currently located is available upon request to the Policy-Coordinating Official at that individual's address shown in the "System Manager(s) and Address" section of this notice.

Partial records are also located at Department of Health and Human Services (HHS) regional offices. A list of regional offices where individually identifiable data are currently located is available upon request to the Policy-Coordinating Official.

* * * * *

RETENTION AND DISPOSAL:

Applications of individuals not selected for participation in a scholarship program are retained for six months, then destroyed by shredding. Applications, contracts, and other records of NHSC scholarship recipients are retained through the completion or other disposition of the scholarship service obligation, then sent to the Federal Records Center for an additional 15-year retention period and destroyed in accordance with Federal Records Center disposition standards. Automated historical tapes are sent to a Federal Records Center and the initial records are destroyed in accordance with the HRSA Records Control Schedule.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Policy-Coordinating Official: Director, Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA), 11th Floor, West Tower Building, 4350 East West Highway, Rockville, MD 20857.

Scholarship Applicants/Recipients: Director, Division of Scholarships and Loan Repayments, BPHC, HRSA, 10th Floor, West Tower Building, 4350 East West Highway, Rockville, MD 20857.

Placement/Assignment: Director, Division of National Health Service Corps, BPHC, HRSA, 8th Floor, West Tower Building, 4350 East West Highway, Rockville, MD 20857.

* * * * *

09–15–0008

SYSTEM NAME:

Disability Claims of the Nursing Student Loan Program, HHS/HRSA/BHPr.

A minor change has been made to this system. The following category should be revised:

* * * * *

SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–34, Rockville, MD 20857.

Washington National Records Center, 4204 Suitland Road, Suitland, MD 20409.

* * * * *

09–15–0042

SYSTEM NAME:

Physician Shortage Area Scholarship Program, HHS/HRSA/BPHC.

Minor changes have been made to this system. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Scholarships and Loan Repayments, Bureau of Primary Health Care, Health Resources and Services Administration, 10th Floor, West Tower Building, 4350 East West Highway, Bethesda, Maryland.

Parklawn Computer Center, 5600 Fishers Lane, Room 2A–53, Rockville, MD 20857.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

PHS Health Data Center, Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

* * * * *

STORAGE:

File folders and Model 204 Data Base.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Scholarships and Loan Repayments, Bureau of Primary Health Care, Health Resources and Services Administration, 10th Floor, West Tower Building, 4350 East West Highway, Rockville, MD 20857.

MAILING ADDRESS: 10th Floor, West Tower Building, 4350 East West Highway, Bethesda, Maryland.

MAILING ADDRESS: 10th Floor, West Tower Building, 4350 East West Highway, Rockville, MD 20857.

* * * * *

09–15–0044

SYSTEM NAME:

Health Educational Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr.

Minor changes have been made to this system. The following categories should be revised:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 727 and 728 of the Public Health Service Act, as amended (42 U.S.C. 294), which authorizes the establishment of a federal program of student loan assistance;

Section 739 of the Public Health Service Act, as amended (42 U.S.C. 2941), which directs the Secretary to require institutions to provide information for each student who has a loan;

Debt Collection Act of 1982 (5 U.S.C. 5514 note);

Section 222 of the Health Professions Training Assistance Act of 1985 (50 U.S.C. App. 462 note) which provides for a study on compliance with the Selective Service Act; and

Section 709 of the Health Professions Education Extension amendments of 1992 (42 U.S.C. 292) which authorizes disclosure and publication of HEAL defaulters.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, HEAL Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–29, Rockville, MD 20857.

* * * * *

09–15–0045

SYSTEM NAME:

Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA.

A minor change has been made to this system. The following category should be revised:

* * * * *

SYSTEM LOCATION:

Division of Fiscal Services, Office of the Administrator, Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 16–05, Rockville, MD 20857.

Bureau of Health Professions, HRSA, 5600 Fishers Lane, Room 8–05, Rockville, MD 20857.

Bureau of Primary Health Care, HRSA, 14th Floor, West Tower Building, 4350 East West Highway, Bethesda, Maryland.

Indian Health Service, 5600 Fishers Lane, Room 6–05, Rockville, MD 20857.

Grants Management Branch, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–25, Rockville, MD 20857.

Grants Management Branch, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Room 16–86, Rockville, MD 20857.

Grants Management Branch, OPS, National Institute of Mental Health, 5600 Fishers Lane, Room 7C–23, Rockville, MD 20857.

Federal Assistance Accounting Branch, Division of Financial Management, National Institutes of Health, Building 31, Room B1B04, 9000 Rockville Pike, Bethesda, MD 20892.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

* * * * *

09–15–0046

SYSTEM NAME:

Health Professions Planning and Evaluation, HHS/HRSA/OA.

A minor change has been made to this system. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND LOCATION:

Deputy Director, Division of Information and Analysis, Office of Planning, Evaluation and Legislation, HRSA, 5600 Fishers Lane, Room 14–36, Rockville, MD 20857.

* * * * *

09–15–0054

SYSTEM NAME:

National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr.

A minor change has been made to this system. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Quality Assurance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–67, Rockville, MD 20857.

* * * * *

09–15–0059

SYSTEM NAME:

Health Resources and Services Administration Correspondence Control System, HHS/HRSA/OA.

Minor changes have been made to this system. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

* * * * *

4. Office of Program and Policy Development, Bureau of Primary Health Care, HRSA, 4350 East West Highway, Room 7–2B3, Rockville, MD 20857.

* * * * *

SYSTEM MANAGER(S) AND LOCATIONS:

Policy Coordinator: Associate Administrator for Policy Coordination, HRSA, 5600 Fishers Lane, Room 14–15, Rockville, MD 20857.

System Manager: Chief, Executive Secretariat, Office of Policy Coordination, Office of the Administrator, HRSA, 5600 Fishers Lane, Room 14A–08, Rockville, MD 20857.

System Manager: Chief, Extramural Activities Branch, Office of Program Development, Bureau of Health Resources Development, HRSA, 5600 Fishers Lane, Room 13A–22, Rockville, MD 20857.

System Manager: Information Systems Specialist, Office of Program and Policy Development, Bureau of Primary Health Care, HRSA, 4350 East West Highway, Room 7–2B3, Rockville, MD 20857.

System Manager: Correspondence Coordinator, Office of the Director, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18–05, Rockville, MD 20857.

* * * * *

[FR Doc. 93–28075 Filed 12–28–93; 8:45 am]

BILLING CODE 4160–15–M

Agency for Toxic Substances and Disease Registry

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Agency for Toxic Substances and Disease Registry, HHS.

ACTION: Publication of minor change to notice of system of records.

SUMMARY: In accordance with the Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency

Responsibilities for Maintaining Records About Individuals," the Agency for Toxic Substances and Disease Registry (ATSDR) is publishing the table of contents and a minor change to its notice of system of records.

SUPPLEMENTARY INFORMATION: ATSDR has completed the annual review of its system of records and is publishing below the table of contents and the minor change which affect the public's right or need to know: the clarification of categories of individuals covered by the system.

1. Table of Contents

The following system notice currently maintained by ATSDR was published in the Federal Register, 53 FR 30720, August 15, 1988:

09-19-0001 Records of Persons Exposed or Potentially Exposed to Toxic or Hazardous Substances. HHS/ATSDR/DHS.

2. System 09-19-0001 is amended to reflect a clarification of the categories of individuals section of the system:

09-19-0001

SYSTEM NAME:

Records of Persons Exposed or Potentially Exposed to Toxic or Hazardous Substances. HHS/ATSDR/DHS.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals exposed or potentially exposed to toxic or hazardous substances may include the following: (1) Selected persons living or having lived near a hazardous waste site, including facilities owned or operated by the United States; (2) Persons exposed or potentially exposed to environmental hazards resulting from ingestion of contaminated drinking water, persons exposed to contaminated soil, persons living on mining wastes, persons inhaling toxic substances (all of which may or may not be the result of contamination by a specified waste site); (3) Participants in health outcome studies (including exposure studies, symptom and disease prevalence studies, cluster investigations), and epidemiologic studies to determine the public health threat of exposure to hazardous or toxic substances; (4) Registry participants with exposures associated with specific chemicals; (5) Participants from sites of emergency activities, and other sites that are the subject of a citizen's petition; (6) Persons working or having worked in response actions at hazardous waste sites or other occupational settings where exposure to hazardous substances occurred. The first five categories of persons above may include children as well as adults.

* * * * *

Dated: October 28, 1993.

Walter R. Dowdle,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 93-27227 Filed 12-28-93; 8:45 am]

BILLING CODE 4160-70-P

Food and Drug Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: The Food and Drug Administration (FDA) is publishing this document in accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals."

SUPPLEMENTARY INFORMATION: FDA has completed the annual review of its systems of records and is publishing below (1) a table of contents which lists all active systems of records in FDA, and (2) minor changes which affect the public's right or need to know. FDA has deleted one system of records, 09-10-0015, Blood Donors for Tissue Typing Sera and Cell Analysis and Related Research, HHS/FDA/CBER, because this program has been discontinued. All records contained in the system have been destroyed.

Dated: November 8, 1993.

James A. O'Hara III,

Associate Commissioner for Public Affairs.

Table of contents

09-10-0002 Regulated Industry Employee Enforcement Records, HHS/FDA/OC.
09-10-0003 FDA Credential Holder File, HHS/FDA/OC.
09-10-0004 Communications (Oral and Written) With the Public, HHS/FDA/OC.
09-10-0005 State Food and Drug Official File, HHS/FDA/ORA.
09-10-0007 Science Advisor Research Associate Program (SARAP), HHS/FDA/ORA.
09-10-0008 Radiation Protection Program Personnel Monitoring System, HHS/FDA/CDRH.
09-10-0009 Special Studies and Surveys on FDA-Regulated Products, HHS/FDA/OM.
09-10-0010 Bioresearch Monitoring Information System, HHS/FDA.
09-10-0011 Certified Retort Operators, HHS/FDA/CFSAN.
09-10-0013 Employee Conduct Investigative Records, HHS/FDA/OM.
09-10-0017 Epidemiological Research Studies of the Center for Devices and Radiological Health, HHS/FDA/CDRH.
09-10-0018 Employee Identification Card Information Records, HHS/FDA/OC.

Minor alterations have been made to the following system notice:

09-10-0011

SYSTEM NAME:

Certified Retort Operators, HHS/FDA/CFSAN.

The system location and system manager portions have been revised to reflect organizational changes.

SYSTEM LOCATION:

Division of Hazard Analysis Critical Control Point, (HACCP) Programs (HFS-615), Center for Food Safety and Applied Nutrition, 200 C Street, SW., Washington, DC 20204.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Hazard Analysis Critical Control Point (HACCP) Programs (HFS-615), Center for Food Safety and Applied Nutrition, 200 C Street, SW., Washington, DC 20204.

[FR Doc. 93-28210 Filed 12-28-93; 8:45 a.m.]

BILLING CODE 4160-01-M

---

federal register

Wednesday
December 29, 1993

Part III

Department of State

Office of Protocol

Gifts to Federal Employees From Foreign Government Sources in Calendar Year 1992; Notice

VOL 58 ISS 248 DE 29 1993 UMI

DEPARTMENT OF STATE

Office of Protocol

[Public Notice 1923]

Gifts to Federal Employees From Foreign Government Sources Reported to Employing Agencies in Calendar Year 1992

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 1992 concerning gifts received from foreign government sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statute.

Publication of this listing in the **Federal Register** is required by section 7342(f) of title 5, United States Code, as added by section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Pub. L. 95–105, August 17, 1977, 91 Stat. 865).

Dated: October 19, 1993.

Richard Moose,

Under Secretary for Management.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Flowers: Four dozen red long-stem roses. President to keep personally. Recd: Dec. 23, 1992. Est. value: $200.	His Excellency Abdul Rahman Bin Fares Al-Khalifa, Ambassador of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Flowers: Large box of cymbidium orchids, purple and white blossoms, five stems to a bunch (10 bunches); from Singapore Orchids PTE. Ltd., Mandai Garden, Singapore. Accepted by other agency/official use. Recd: Dec. 24, 1992. Est. value: $500.	His Excellency; (and Mrs.) S.R. Nathan, Ambassador of the Republic of Singapore.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Miscellaneous: (1) A set of six leather-bound volumes, "History of Australia," by Prof. Manning Clark; pub. by Melbourne University Press, 1988. Enclosed in a wooden fitted box. (for the President). (2) A quilt called Geckos, of patchwork design of lizard-like animals hand-pieced and based on a Maurice Escher design adapted by Kay Parker; made 1985–1989 from fabric purchased from an Amish quilter in Illinois. Muted colors; 46″ 69″ (for Mrs. Bush). Archives, Foreign. Recd: Jan. 01, 1992. Est. value: $1,750.	The Honorable; (and Mrs.) Paul Keating Prime Minister of Australia, Australia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Misc.: (1) Two leather photograph albums. One contains 50 photos; one contains 41 photos; the majority of the photos are 8″ 10″; three photos are inscribed; both albums bear the seal of Australia. (2) Two large albums containing newspaper clippings about the President and Mrs. Bush's visit to Australia; each album is titled "Visit to Australia, Selected Press Clippings" and is 23½″ 26″. Archives, foreign. Recd: Apr. 30, 1992. Est. value: $1,695.	The Honorable Paul Keating, Prime Minister of Australia, Australia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Artwork: Needlepoint picture. A multicolored carnival scene depicting people, animals, rides, kites, balloons, etc., in gold-painted wood frame; 28″ 39″. (for the President). A floral crewelwork picture; displayed in gold-painted wood frame with red fabric liner; 18½″ 19½″ (for Mrs. Bush). Archives, Foreign. Recd: Mar. 19, 1992. Est. value: $1,550.	Her Excellency Begum Khaleda Zia, Prime Minister of the Republic of Bangladesh, Bangladesh.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: Crystal box. Belgian crystal box made by Val St. Lambert; approx. 4″ 6⅛″ 2″ (deep); small cirdet of twelve stars engraved on lid. Archives, Foreign. Recd: Dec. 24, 1992. Est. value: $215.	His Excellency Jacques Delors, President, Commission of the European Communities Belgium.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Photograph: Color photograph of President and Mrs. Von Weizsaecker inscribed; 8″ 10″; displayed in a blue leather frame bearing the double eagle crest. Archives, Foreign. Recd: Apr. 29, 1992. Est. value: $75.	His Excellency Richard Von Weizsaecker, President of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Miscellaneous: (1) Silk brocade table runner, blue and gold, fringed two ends; 23¾″ 37″. (for Mrs. Bush). (2) A photo book on Kyoto, Japanese and English text. (for the President). (3) Four lapel pins commemorating the City of Kyoto. (for the President). (4) Japanese doll, dressed in ceremonial costume; displayed in glass case; doll is approx. 11″ high; case is 13″ 14½″ 16″. (for Mrs. Bush). Archives, Foreign. Recd: Jan. 07, 1992. Est. value: $344.	The Honorable Taiichio Asanaid, Governor Kyoto Prefecture, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Miscellaneous: (1) Color photograph of their Imperial Majesties, the Emperor and Empress of Japan in formal attire, inscribed; displayed in an 11″ 14″ sterling silver frame with imperial crest at top; enclosed in velvet case. (for President & Mrs. Bush). (2) a copper box decorated with floral and bird design; 3½″ 4″ 6½″. (for Mrs. Bush). (3) An Arita pottery bowl decorated with an overall floral design, 18½″ diam. (for Mrs. Bush). Archives, Foreign. Photograph: Twenty 5″ 7″ color photographs of their Imperial Majesties, the Emperor and Empress of Japan, the President and Mrs. Bush, et al., taken on occasion of the President's trip to Japan; enclosed in a covered lacquered box. Archives, Foreign. Recd: Jan. 8, 1992. Est, value: $23,650.	Their Imperial Majesties the Emperor and Empress of Japan, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Miscellaneous: (1) Book: "Kyoto", a pictorial volume on the ancient city, English text. (for the President). (2) Medallion, silver colored bearing motif of City of Kyoto. (for the President). (3) Incense burner. A metal footed container sparsely decorated with gold-colored design; included are a box of incense, tongs, and other paraphernalia to use with the burner. (for Mrs. Bush). Archives, Foreign. Recd: Jan. 7, 1992. Est. value: $860.	The Honorable Tomoyuki Tanabe, Mayor of Kyoto Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Photograph: Color photograph of President and Mrs. Roh, inscribed in Korean, displayed in a sterling silver frame with gold emblem at top; photo is 8"x11"; frame is 10"x14½". Contained in velvet covered case. Archives, Foreign. Recd: Jan. 6, 1992. Est. value: $350.	His Excellency; (and Mrs.) Tae Woo Roh, President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Consumables: One box of two dozen Korean pears; packed separately in wrapping. Accepted by other agency/official use. Recd: Nov. 20, 1992. Est. value: $120.	His Excellency Tae Woo Roh, President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: Bowl and tray. A silver bowl with smaller covered glass caviar bowl inside (silver lid); outer bowl is 7" diam., small bowl is 4" diam. and a silver tray, 10½"x14". By Christofle of France. Included are five gel packs for keeping the caviar cold; three packs are of a multi-colored striped design; two are plain velvet-covered; Archives, Foreign. Flowers: Large mixed arrangement of lilies, snapdragons, quince blossoms, Roses, etc; accepted by other agency/official use. Floral container: A Chinese reproduction blue and gold floral design porcelain jardiniere. Archives, Foreign. Recd: Jan. 11, 1992. Est. value: $875.	His Majesty Hassan II, King of Morocco, Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Artwork: Painting. A watercolor titled "Singapore River, 1985," by Aw Tee Hong, signed; double-matted under plexiglass in golden metal frame; image: 20½"x29½"; overall: 30"x38". Archives, Foreign. Recd: Jan. 4, 1992. Est. Value: $400.	His excellency; (and Mrs.) Chok Tong Goh, Prime Minister of the Republic of Singapore, Singapore.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Photograph: Photograph album. A red leather album of 94.5"x7" color photographs of President and Mrs. Bush, et al. during their trip to Singapore; album cover stamped in gold: "State Visit by the President of the United States of America and Mrs. Bush. 3–6 January 1992 Singapore, Presented by the Ministry of Foreign Affairs". Archives, Foreign. Recd: Jan. 23, 1992. Est. value: $820.	His Excellency S.R. Nathan Ambassador of the Republic of Singapore, Singapore.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: Lamp. A copper lamp on stand. (has an electrical cord only for attaching to a U.S. style plug); 35" high Archives, Foreign. Recd: Feb. 26, 1992. Est. value: $1,000.	His excellency Frederick Chiluba, President of the Republic of Zambia, Zambia.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
President	Photograph: Photograph album. A black album of 18 color photographs with text commemorating the Security Council Summit Meeting of January 31, 1992. Excellent quality photographs. Archives, Foreign. Recd: Apr. 23, 1992. Est. value: $510.	His Excellency Boutros Boutros-Ghali Secretary General of the United Nations.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Plaque. Lacquered plaque depicting a ship being tossed on a rough sea; crafted in Fedoskino Village by V. Obukhov, 1991; 9½" 16".* * * * * * * *Removed from Camp David 1/5/93 for transport to College Station, TX. For use in Laurel office recreation in the Presidential library* * * * "Tagged for Archives* * * * * * * *. Archives, Foreign. Recd: Feb. 1, 1992. Est. value: $500.	His Excellency Boris Yel'tsin, President of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Wooden document box. A modern style box, made from cedar, wheel tree, and tupil oak, by Pru Shaw; engraved with a crown motif on underside of hinged lid and attached with an engraved brass presentation plaque; 4" 10" 16". Archives, Foreign. Recd: Jan. 1, 1992. Est. value: $200.	The Honorable; (and Mrs.) William George Hayden, Governor General of Australia, Australia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Desk accessory: Box. A circular silver metal all-purpose box, modernistic ribbed design with horizontal handle on lit; by Christofle of Paris, France; 3¼" diam., 3¾" high. Archives, Foreign. Recd: Apr. 22, 1992. Est. value: $215.	His Excellency Jacques Delors, President, Commission of the European Communities, Belgium.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Glass fish. A handblown glass fish designed in hues of blues, greens, and pinks; crafted by Bermuda Glass Blowing Studio; 6" wide, 12½" long: Archives, Foreign. Recd: May 27, 1992. Est. value: $240.	The Honorable John W.D. Swan, M.P., Premier of Bermuda; Bermuda.	Non-acceptance would cause embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Artwork: Painting. A modernistic rendering of an adult tamala figure holding a baby with a male adult figure standing alongside; by Gil Imana Garron; displayed in black and gold-colored wood frame with linen matting; image: 11½" 16½"; overall: 20½" 25". Archives, Foreign. Recd: Feb. 10, 1992. Est. value: $4000.	His Excellency Jaime Paz Zamora, President of the Republic of Bolivia, Bolivia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Bucket. A copy of an antique leather fire bucket, by leather works, Nova Scotia; 9" diam., 10" high. Archives, Foreign. Recd: May 20, 1992. Est. value: $350.	The Right Honorable Brian Mulroney, Prime Minister of Canada, Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Clothing and accessories: Poncho. An Aymara poncho, alpaca wool, in striped colorings of gray, black, white, brown, etc.; fringed on two ends; 54" 78". Archives, Foreign. Recd: May 13, 1992. Est. value: $337.	His Excellency Patricio Aylwin Azocar, President of the Republic of Chile, Chile.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Book: Book, titled "Flora Husayquilensis," Auctore Johanne Tafalla, Tomus I, Introductio Historica et Admotationes Ab Eduardo Estrella, Editio Facta Ab Instituto Ad Conservandam Naturam et Ab Horto Regio Matritense, Matriti Anno MCMLXXXIX. (Book is not bound but consists of individual pages of Spanish text and 211 color reproduction plates; contained in a paper-covered slipcase; each plate image is 10" 14"). Archives, Foreign. Recd: Feb. 4, 1992. Est. value: $350.	His Excellency Rodrigo Borja, President of the Republic of Ecuador, Ecuador.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Clothing and accessories: Oiled cotton thornproof fabric of 100% long staple Egyptian cotton; cotton tartan lining; large size. Archives, Foreign. Recd: June 6, 1992. Est. value: $395.	The Right Honorable John Major, M.P., Prime Minister, England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Silver-plated tray and stand. Approximately 2' X 2' blue hardbound lined case including a drawer with 2' X 1½' silver-plated serving tray imprinted w/ the emblem of a tree 1½' silver-plated stand for use with tray as a serving table. Archives, Foreign. Recd: July 07, 1992. Est. value: $700.	His Excellency Francois Mitterand, President of the Republic of France, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Enameled bronze plate, 10" in diameter; unfinished wooden frame, 16" X 16". Entitled "Good Defeats Evil", it portrays "A sculpture by Georgian born Zurab Tsereteli". The figure on a white horse "Depicts St. George Destroying the Soviet SS–20 and Pershing II missiles.". Archives, Foreign. Recd: May 28, 1992. Est. value: $275.	His Excellency Sviad Gamsakhurdiya, President of the Republic of Georgia, Georgia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Bronze bas-relief plaque depicting 5 Georgian shepherds and two sheep; approximately 9½" in diameter; encased in shadow-box frame lined in blue velvet. Archives, Foreign. Recd: July 8, 1992. Est. value: $800.	His excellency Eduard Shevardnadze, Chairman, State Council, Georgia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Misc: (1) Black souvenir sports bag w/ Wirtschaftsgipfel Munchen 1992 logo; (2) Junghans quartz-wecker alarm clock; (3) pair rocco sun glasses; (4) German beer mug; (5) box of Deutsche Spitzenweine (2 bottles of German wine); (6) 8" 11" book, "Munchen," by Rudolf Reiser, published by F. Bruckmann KG Munchen, 1991; hardbound w/color-plated cover; (7) 8" 11" book, "Wirtschaftsgipfel Munchen 1992," souvenir documentation by Helmut Reuther. Archives, Foreign. 1975–1991; Hardbound w/slipcase; blk & white color plates; (8) 15" 12" blk satchel w/ logo "Wirtschaftsgipfel Munchen 1992" by Quelle, velcro closure, with additional gifts enclosed; (9) 4" model car, "Audi Cabriolet"; (10) 3" 4" English-German dictionary; (11) Lufthansa plastic watch; (12) cassette disc "Sommer Konzerte, Donau und Altmuhl"; (13) 3.5" computer diskette "Off to Europe," computer game by the German Foreign Office; (14) promotional. Archives, Foreign. Phone card by Telekom; (15) 4" 6" book of Germany; (16) one set of 5 Schwan Stabilo markers and pencils; (17) paperback "Munchen im Juli 1992"; (17) promotional folder of 3 booklets about "Munchen"; (18) Erzgebirge nutcracker soldier, 15" in height; (19) Erzgebirge Christmas Pyramid approximately 2" High; (20) pair of Jena binoculars 10x40 B, luxury model, in red leather case. Archives, Foreign. Recd: July 3, 1992. Est. value: $714.	His Excellency; Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Misc. (1) Porcelain Bavarian figurine of a lion lettered "President Bush," 12" high; by Nymphenburg; (2) Gift set consisting of a book titled "Bayern" and two compact discs titled "Musical Life in Bavaria". Archives, Foreign. Recd: July 5, 1992. Est. value: $340.	Dr. (and Mrs.) H.C. Max Streibl, President of the Bavarian Ministry, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Model ship. A wooden replica model of the "Berlin" frigate, the original of which was launched in Holland in 1674 and chartered for Frederick William, the Elector of Brandenburg; primarily handmade over a period of 400 hours; 13" deep, 28" high, 35" long. * * * removed from Camp David 1/5/93 for transport to College Sta., TX, for use in Laurel office recreation in Presidential library * * *. Archives, Foreign. Recd: April 29, 1992. Est. value: $12,000.	His Excellency Richard Von Weizsaecker, President of the Federal Republic of Germany, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Scrapbook: Five scrapbooks, each containing 40 color photos of President and Mrs. Bush during their visit to Greece in July, 1991 (8" 10"), bound in blue leather with the seal of Greece depicted on the covers. Archives, Foreign. Recd: Jan. 10, 1992. Est. value: $2375.	His Excellency Constantine Mitsotakis, Prime Minister of the Hellenic Republic, Greece.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Crystal, bowl. Shamrock motif, scalloped edge, by Tyrone Crystal; 4½"9". (shamrocks included in "B" record; value: $2.); Archives, Foreign, Shamrocks. Destroyed. Recd: Mar. 17, 1992. Est. value: $202.	His Excellency David Andrews, Minister for Foreign Affairs of Ireland, Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Oil lamps. "Set of ancient oil lamp(s)" made of terra cotta w/ varied designs; one "Jewish oil lamp, 1st–2nd cent. C.E.", 2½"3½"; one "Christian oil lamp, 4th cent. C.E.", 2½"3¼"; one "Moslem oil lamp, 8th cent. C.E.", 3"4"; certificate of antiquity by A. Klein Ltd., Jerusalem, Dated 1992. Archives, Foreign. Recd: Nov. 16, 1992. Est. value: $1,500.	His Excellency Chaim Herzog, President of Israel, Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Silver bowl and accessories. Ornate silver fruite bowl with floral design and scalloped edges, approx. 10" in diam. Silver reproductions of Israeli fruit include orange, grape cluster, two strawberries on stem, apple, pineapple, fig, and sweetsop; sizes range between 2" to 3" in width and 4" to 7" in length. Archives, Foreign. Recd: Aug. 10, 1992. Est. value: $1200.	His Excellency Yitzhak Rabin, Prime Minister of Israel, Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Flower: One dozen sprays of assorted orchids. Accepted by other agency/official use. Recd: Apr. 27, 1992. Est. value: $250.	The Honorable Takashi Hiraoka, Mayor of the city of Hiroshima, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Book: Book. "The Seasons in the Land of Yamato," a volume of color photographs and Japanese text; cloth-covered; included is a related soft-cover publication titled "Nara Yamatoji." slipcased. Archives, Foreign. Recd: Jan. 7, 1992. Est. value: $230.	The Honorable Yoshiya Kakimoto, Governor of Nara Prefecture, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Stamps: Two vol. set Japanese commemorative postage stamps, each page with different stamp, description in Japanese and English. Handbound volumes in brocade. One hardbound book covered in brocade w/slipcase. One hardbound book of commemorative postage stamps. Nine envelopes, each with one 62 yen stamp. All issued by the ministry of Posts and Telecommunications. (separate stamp included in "B" record; value: $2.). Archives, Foreign. Stamps: One 62 yen stamp enclosed in folder; President to keep personally coins: Two proof coins commemorating the 20th anniversary of the reversion of Okinawa to Japan: 500 yen each, on one side featuring the State Hall of Shuri Castle, on the reverse, rising dragons; each in velvet presentation case. 40 circulation coins, as described above, each in paper packet; Archives, Foreign. Stamps: One 62 yen stamp and one 500 yen coin commemorating the 20th Anniversary of the Reversion of Okinawa to Japan. Stamp shows Shuri Castle, morning sun and swallows, issued May 15, 1992. Coin features State Hall of Shuri Castle of one side, on reverse, rising dragons. Archives, Foreign. Recd: June 4, 1992. Est. value: $438.	The Honorable Shin Kanemaru, Vice President, Liberal Democratic Party of Japan, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Lacquered box. A black lacquered box depicting two cranes flying over a marshy area; crafted from Wajima in Ishikawa Prefecture; 6"6½"10½". Archives, Foreign. Recd: Jan. 8, 1992. Est. value: $3,000.	His Excellency Kiichi Miyazawa, Prime Minister of Japan, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Body warmers. Five boxes of gel type packets used for stiff muscles, etc. Each box contains 24 packets and each packet contains 10 individual body warmers. Item is activated by natural body heat. GSA. Recd: Jan. 9, 1992. Est. value: $400.	His Excellency Kiichi Miyazawa, Prime Minister of Japan, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Photograph: Two large photograph albums. Bound in heavy blue cloth with gold floral design at top center, front cover; gilt edges, approx. 14" 18" in size, end-papers in yellow with floral design faintly outlined. Exact duplicates, except one copy, which has a fly-leaf, each album contains 55 color photographs commemorating the state visit of President and Mrs. Bush to Japan January 7th to 10th, 1992; gift of "Government of Japan." Archives, Foreign. Recd: June 26, 1992. Est. value: $1,590.	His Excellency Kiichi Miyazawa, Prime Minister, Japan, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Hobbies: Camera. "Compact Cardia 'BYU–N,' a multiexposure rapid-sequence camera." Battery operated, approx. 3" 7", black. The camora delivers a set of eight rapid-sequence photos "on two panorama format (13 36mm) frames"; instructions in Japanese; separate instructions in English included (illus., 14 p.). Archives, Foreign. Recd: July 2, 1992. Est. value: $230.	His Excellency Kiichi Miyazawa, Prime Minister, Japan, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Consumables: 3 boxes of apples from Aomori Prefecture. The apples are known as "Ochinai Ringo", apples that did not fall—because they stayed on their trees during a fierce typhoon. They are considered lucky, and therefore an appropriate gift for students about to take exams. Or, in this case, a politician before an election. Approx. 33 apples in each box. Accepted by other agency/official use. Recd: Feb. 3, 1992. Est. value: $743.	The Honorable Sakari Ogasawara, Mayor of Fujisaki, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Painting. A painting of six doves symbolizing the world's six continents as well as mankind's longing for world peace; by Issa Kobayashi; image: 24" 29"; overall: 30½" 35". Displayed under glass in aluminum frame. Archives, Foreign. Recd: Jan. 9, 1992. Est. value: $2,000.	Mr. Yoshihiko Tsuchiya, Member of the House of Councillors, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Household: Vase. A blue glass vase, decorated predominately in gold and silver-colored Arabic calligraphy denoting various general excerpts from the Koran (these recited when praying); signed on underside by craftsman Abdul Alhakem Abu Al Saud, 1992; 12" high. Archives, Foreign. Recd: Mar. 18, 1992. Est. value: $210.	His Majesty Hussein I, King of the Hashemite Kingdom of Jordan, Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Misc. (1) Wine container. A leather wine flask. (2) Book. A copy of "In the Land of the Seven Rivers," a color photograph book on flora and fauna, Russian text. (3) Wristwatch. A watch with a sketch of President Nazarbayev and his name on the dial. Archives, Foreign. Recd: May 19, 1992. Est. value: $95.	His Excellency Nursultan Nazarbayev, President of the Republic of Kazakhstan, Kazakhstan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Model of a turtle ship. A metal model of a turtle ship, the first iron-clad ship in the world; approx. 10" 18" 18"; displayed in a plaqued glass case including a separate plaque lettered with the background information on the original ship; Archives, Foreign. Audio/visual recording: cassette recordings. Three tapes of speeches; one by President Bush on February 27, 1989; one by Vice-President Bush on April 26, 1982; one by President Bush on January 6, 1992. Archives, Foreign. Recd: Jan. 6, 1992. Est. value: $237.	His Excellency Jyun Kyu Park, Speaker of the National Assembly, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Tennis equipment: Tennis racquet. A cyclone power and technic tennis racquet, high modulus graphite, ER–927, by Esquire; inscribed and enclosed in its own nylon case. Archives, Foreign. Recd: Jan. 5, 1992. Est. value: $285.	His Excellency Tae Woo Roh, President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Vase. An open-mouth oviation vase with an overall floral design; 11" diam., 14" high; contained in a fabric-covered chest. Archives, Foreign. Recd: Jan. 6, 1992. Est. value: $1,000.	His Excellency Tae Woo Roh, President of the Republic of Korea, Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Flowers: Floral arrangement. Wicker basket filled with irises, pink lilies, and anthurium. Accepted by other agency/official use. Recd: Nov. 20, 1992. Est. value: $150.	His Excellency Tae Woo Roh, President of the Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Flowers: Large floral arrangement of lilies, roses, iris, heliconia, and tropical plants and flowers in basket. Accepted by other agency/official use. Recd: June 16, 1992. Est. value: $250.	His Excellency Shaikh Saud Nasir Al-Sabah, Ambassador of the State of Kuwait, Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Artwork: Figure. A sterling silver sculpture of a fish; 5"5⅛"6⅛". Displayed in a plexiglass case Archives, Foreign. Recd: Feb. 27, 1992. Est. Value: $800.	His Excellency Carlos Salinas De Gortari, President of the United Mexican States, Mexico.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Silver candlesticks. Two sterling silver/granite candlesticks; modern design of arched silver scalloped base over granite, 9" base; 3"6". Archives, Foreign. Recd: Oct. 7, 1992. Est. value: $200.	His Excellency Carlos Salinas De Gortari, President of the United Mexican States, Mexico.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Consumables: Fauchon chocolates, Paris, France, in two separate quantities, one group in assorted sizes and shapes (107 pieces), the other, similar chocolates individually wrapped in Fauchon foil paper (121 pieces); Accepted by other agency/official use. Two large boxes, Fauchon, Paris, France (contained candy described in record A): One round box, 21" in diameter, black stripes against pink and green background; one oblong box, 16"20", decorated in multicolored floral design. First Lady to keep personally. Recd: June 12, 1992. Est. Value: $286.	His Majesty Hassan II, King of Morocco, Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Reproduction of pre-Colombian Huaca entitled "El Condor", 24 K gold plate, approx. 4"5" and set inside ornate gold frame, 16"16", against black velvet background. Huaca is "hand-made, using * * * the same method that the ancient Indians used * * *"—CF. Reprosa (encl. leaflet). Inscription to President Bush from Pres. Endara on brass plate (in Spanish) dated June 11, 1992, beneath Huaca. Archives, Foreign. Recd: June 11, 1992. Est. value: $250.	His Excellency Guillermo Endara (Galimany), President of the Republic of Panama, Panama.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Misc. (1) Bronze metal plaque depicting the bust of J. Padereswki; 7" round; designed by Edward Gorol, medalist. (2) Copy No. 2 reprint of 400, of an original map in the cartographic collection of the Library of Polish Academy of Sciences in Cracow depicting the Map of the Americas from 1785; on canvas; size 38"50"; contained in a portfolio Archives, Foreign. Recd: July 5, 1992. Est. Value: $215.	His excellency; (and Mrs.) Lech Walesa, President of Poland, Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Household: Porcelain bowl. A white porcelain covered bowl, decorated with a butterfly and floral design, adapted from a Chinese bowl from the Kang Hsi period (1662–1772); Fu dog figure attached to lid; made in Portugal by Mottahedeh; 9" diam., 10 " high Archives, Foreign. Recd: Apr. 22, 1992. Est. value: $425.	His Excellency Anibal Cavaco Silva, Prime Minister of Portugal, Portugal.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Painted and lacquered box, depicting three male warriors on horseback; red interior; 3½"8"10½". Archives, Foreign. Recd: Mar. 10, 1992. Est. value: $500.	The Honorable Eduard Rossel, Governor of Yekaterinburg, Russian Federation (Russia).	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Brass vase covered in silver filigree. Silver fashioned in intricate floral shapes, 8" in diameter, approx. 14" deep. Heavy plastic case lined in red velvet and gray satin. Archives, Foreign. Recd: June 16, 1992. Est. value: $500.	His Excellency Boris Yeltsin, President of the Russian Federation, Russian Federation (Russia).	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Flowers: Large arrangement of king protea, fresh tulips, tuber roses, azalea, yellow oncidium orchids, ginger, etc., in wicker basket. Accepted by other agency/official use. Recd: Jan. 13, 1992. Est. value: $300.	Fahd Bin Abd Al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia, Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Flowers: Large arrangement of bird of paradise, orchids, African violets, anthurium, heather, ginger, etc. in a non-archivable ceramic container. Accepted by other agency/official use. Recd: Jan. 13, 1992. Est. value: $200.	His Royal Highness Abdullah Bin Abdulaziz Al-Saud, Crown Prince of the Kingdom of Saudi Arabia, Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Flowers: Large arrangement of bird of paradise, tulips, heather, orchids, ginger, pineapple, etc., in a non-archivable ceramic bowl. Accepted by other agency/official use. Recd: Jan. 13, 1992. Est. value: $100.	His Royal Highness Prince Bandar Bin Sultan Bin Abdulaziz, Ambassador of Saudi Arabia, Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Perfumer. 19th century copy of a piece from the dressing table set presented by Madrid City Council to Queen Maria Isabel De Braganza on the occasion of her marriage to King Fernando VII; gilded silver; 2⅛" deep, 4" high, 5" long; displayed in a black leather case with brass fittings; key to box in leather pouch. Archives, Foreign. Recd: Mar. 2, 1992. Est. value: $350.	His Excellency Felipe Gonzalez (Marquez), President of the Government of Spain, Spain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Crystal stemware. 24 claret glasses with stems gilded in 22 karat gold, designed by Gunnar Cyren for the 90th anniversary of the Nobel Foundation; produced by Orrefors. Archives, Foreign. Recd: Feb. 20, 1992. Est. value: $1800.	His Excellency Carl Bildt, Prime Minister of Sweden, Sweden.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Golfing equipment: Golf putter. A "deity" custom made jade putter. Archives, Foreign. Recd: Jan. 29, 1992. Est. value: $750.	The Honorable Teng-Hui Lee, President of the Republic of China, Taiwan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Free form brass sculpture, 25" high, on 7" square marble base; lettered in French from His Excellency General Eyadema, Togo; contained in a gold-tooled black leather box with a 3" gold-colored medallion depicting the Seal of Togo; key-locked. Archives, Foreign. Recd: July 17, 1992. Est. value: $500.	His Excellency General Gnassingbe Eyadema, President of the Republic of Togo, Togo.	Non-acceptance would cause embarrassment to donor and J.S. Government.
President	Household: Bowl. Silver (900) fluted bowl with gold bas relief floral design around edges; 6" high, 6" diam. across open mouth. And a matching tray, 12⅛" diam.; contained in a red-velvet chest (for the President). Archives, Foreign. Recd: Feb. 11, 1992. Est. value: $650.	His Excellency (and Mrs.) Suleyman Demirel, Prime Minister of the Republic of Turkey, Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Hand-painted plate. Enamel and gold in two layers of crystal; 9" in diameter; signed and dated by artist: "Feliz Denizer 039011"; includes wooden stand; all enclosed within velvet case, 10"10". Archives, Foreign. Recd: May 28, 1992. Est. value: $200.	His Excellency Turgut Ozal, President of the Republic of Turkey, Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Jewelry: Pin. A limited edition (13 of 100) metal sculpted brooch of a little pygmy possum, cast by the lost wax technique, by Ruth Waterhouse; displayed on a velvet background in a silver metal frame; 3¼"5¼". Archives, Foreign. Recd: Jan. 1, 1992. Est. value: $100.	The Honorable; (and Mrs.) William George Hayden, Governor General of Australia, Australia.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Book: Book "Icones de Bulgarie", in Bulgarian text, published by Sofia Press, 1980. This is a rare book, per Ingeborg Baum, Library of the Supreme Council. Archives, Foreign. Recd: Mar. 2, 1992. Est. value: $350.	Dr. Elena Georgieva-Dimitrova (wife of the Prime Minister), Bulgaria.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: Figure. A silver (coin silver) turkey on a raised base; delicately engraved and designed; used by Chileans to hold herbal tea and sip it through an accompanying silver straw; 7" wide, 11" high. Archives, Foreign. Recd: May 13, 1992. Est. value: $250.	Mrs. Patricio Aylwin Azocar (wife of the President of the Republic of Chile), Chile.	Non-Acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Photograph: Photograph Album. Fine leather album, 10"12", with German eagle outlined on front cover; 35 col. photos on 30 leaves with covering guardsheets, 2 fly-leaves at front. Commemorates the visit of Mrs. Bush at Economic Summit, Munich, July 5–7, 1992. Archives, Foreign. Recd: July 29, 1992. Est. value: $550.	Mrs. Helmut Kohl (wife of the Chancellor of the Federal Republic of Germany), Federal Republic of Germany.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Artwork: Wooden statute of Christ in chains, carved by artist Herbert Haseidl, Oberammergau; 9" high. Archives, Foreign. Recd: July 5, 1992. Est. value: $75.	Dr.; (and Mrs.) H.C. Max Streibl, President of the Bavarian Ministry, Federal Republic of Germany.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Candelabrum. A white porcelain two socketed candleholder, decorated in gold and multicolored floral motifs and topped with a figurine of a young child reading: 10 ¾"13¾"; by KPM Royal Berlin Porcelain; numbered 64 on underside. Archives, Foreign. Recd: Apr. 29, 1992. Est. value: $1,100.	His Excellency Richard Von Weizsaecker, President of the Federal Republic of Germany, Federal Republic of Germany.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Sewing box. A portable sewing box with five drawers and a hinged top section with a "secret compartment" inside; contains a pin cushion or "haribako", three thread winders, and a needle threader; crafted of mulberry wood in a medium brown polished finish; 9"11 ½"14". Archives, Foreign. Recd: Jan. 8, 1992. Est. value: $1,500.	Mrs. Kiichi Miyazawa (wife of the Prime Minister of Japan), Japan.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Clothing and Accessories: Braided gold-like decoration for traditional Korean dress; "MADUP" to hang on wall, per Korean desk at state. Archives, Foreign. Recd: Mar. 6, 1992. Est. value: $300.	Mrs.Young Sam Kim (wife of the chairman) (The Democratic Liberal Party), Republic of Korea.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Tennis equipment: Tennis racquet. A cyclone power and technic tennis racquet, high modulus graphite, ER–927, by Esquire; inscribed and enclosed in its own nylon case; enclosed in a separate nylon carrying case. Archives, Foreign. Recd: Jan. 5, 1992. Est. value: $285.	His Excellency Tae Woo Roh, President of the Republic of Korea, Republic of Korea.	Non-Acceptance would cause embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Artwork: Boat. Handcarved ebony fishing vessel, lettered "Lake Malawi"; two male figures are seated inside boat holding a net with three wooden fish while another male figure is rowing the boat. 13" H., 19 " L; Archives, Foreign. Consumables: Macadamia nuts. 15 boxes of plain macadamia nuts, each box approx. one pound. Accepted by other agency/official use. Recd: Feb. 20, 1992. Est. value: $400.	Mama Cecilia Tamanda Kadzamira, official Hostess of Malawi, Malawi.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Consumables: Five bottles of toilet water from Morocco, each spray bottle has a gold-colored top and bears the Kings' facsimile signature; contained in a compartmentalized leatherette and gold-stamped case, key-locked. Archives, Foreign. Recd: June 8, 1992. Est. value: $700.	His Majesty Hassan II, King of Morocco, Morocco.	Non-Acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Flowers: Floral arrangement. Large Assortment of several varieties in pastel colors; accepted by other agency/official use. Household: Reproduction of Chinese porcelain vase; multi-colored flowers and figures; 17" in diameter, 14" depth, 2" rim. Gift delivered from mail room. Archives, Foreign. Recd: June 8, 1992. Est. value: $550.	His Majesty Hassan II King of Morocco, Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Six crystal fruit bowls; 5" wide and 2" deep; hand cut lead crystal by Julia; made in Poland. Archives, Foreign. Recd: July 5, 1992. Est. Value: $180.	His Excellency; (and Mrs.) Lech Walesa, President of Poland, Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Bowl. Frosted crystal bowl depicting a leaf design, by Vas Vitreum; produced by Svenskt Glas, Stockholm; 7" H., 10½" diam. Archives, Foreign. Recd: Feb. 20, 1992. Est. value: $666.	Mrs. Carl Bildt (wife of the Prime Minister of Sweden), Sweden.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Candy dish. A silver (900) lidded container decorated with 18 kt. gold floral design; 6" diam; contained in a red velvet case. Archives, Foreign. Recd: Feb. 11, 1992. Est. value: $250.	Mrs. Suleyman Demirel (wife of the Prime Minister of the Republic of Turkey), Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James A. Baker, III, Chief of Staff and Senior Counselor to the President.	Book, titled "His Royal Highness The Prince of Wales Watercolours", published by Little, Brown and Company, London; A collection of the Prince of Wales' amateur paintings. Since the book was valued at $35. It was retained by Mr. Baker personally. And the Ginger Jar $335.00 was turned over to the National Archives for possible placement in the future Bush Presidential Library and Museum; Presidential staff to keep personally. Royal Crown Derby English Bone China Ginger Jar #1128 L III, in the "Olde Imari" pattern. Because the Ginger Jar was archival in nature, it was turned over to the National Archives for possible future in the Bush Presidential Library and Museum. Archives/staff gift special. Recd: Dec. 18, 1992. Est. value: $365.	The Right Honorable John Major, M.P., Prime Minister, United Kingdom, England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Dr Michael J. Boskin, Chairman of the Council of Economic Advisers.	Jewelry: Set of coral and biwa pearls for Mrs. Boskin. Pearls valued at $150. Were retained personally by Mrs. Boskin. The additional gift of the enamel plate valued at $75. Was turned over to GSA as excess Government property; Presidential staff to keep personally. Household: Cloisonne enamel plate with wooden stand. Plate valued at $75. Was turned over to GSA as excess Government property. The pearls valued at $150. Were retained by Mrs. Boskin personally. GSA. Recd: June 18, 1992. Est. value: $225.	His Excellency; (and Mrs.) Fredrick F. Chien, Minister of Foreign Affairs, People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Douglas A. Davidson, Assistant Press Secretary.	Desk accessory: Black fountain pen, made by Mont Blanc. GSA. Recd: Jan. 7, 1992. Est. value: $345.	His Excellency Suleiman Abd Al-Awadi, Kuwait Foundation for the Advancement of Sciences, Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Catherine S. Fenton, Deputy Social Secretary.	Household: Meissen Porcelain Bowl. White with yellow flower in the center, gilt rim; approx. 8" in diameter. Presidential staff to keep personally. Recd: Apr. 28, 1992. Est. value: $200.	His Excellency Richard Von Weizsacker, President of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Max Marlin Fitzwater, Assistant to the President and Press Secretary	Mont Blanc Pen Meisterstuck No. 149, and Case. GSA. Recd: Jan. 3, 1992. Est. value: $345.	His Excellency Suleiman Abd Al-Awadi, Kuwait Foundation for the Advancement of Sciences, Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Richard N. Haass, Special Assistant to the President for National Security Affairs.	Lead Crystal artcraft of Petra—individually numbered and signed GSA. Recd: Oct. 27, 1992. Est. value: $300.	Lt. General, Mustafa Abd Al-Karim Qaysi, Director of Jordanian Intelligence, Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Deputy Assistant to the President for National Security Affairs.	Artwork: Hand-embroidered picture depicting a floral motif, made of various colors of thread; approx. 30" square, in a gold-colored wooden frame. Gift ret'd by recipient, not interested in official display; it will be turned over to GSA as Government property. GSA. Recd: Mar. 23, 1992. Est. value: $250.	His Excellency Rahman Ziaur, Prime Minister of Bangladesh, Bangladesh.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Deputy Assistant to the President for National Security Affairs.	Sterling silver cigarette box with wooden lining. Not permissible, item must be turned over to GSA as excess Government property. GSA. Recd: Nov. 2, 1992. Est. value: $250.	Lt. Gen. Mustafa Abd Al-Karim Qaysi, Director, Jordanian General Intelligence Directorate, Jordan.	Non-acceptance would cause embarrassment to donor and U.S Government.
Deputy Assistant to the President for National Security Affairs.	Pakistani carpet depicting a Middle Eastern motif and medallion in the center; approx. 4'1"×6'2". On official display in recipient's home. Recipient would like to purchase this gift when official display ends. Paperwork being prepared by M. Houston for GSA regarding the purchase. GSA will contact Admiral Howe directly when they have completed their action; GSA. Women's purse, cordovan-colored with gold-colored metal emblem lettered "Paris, Roma, Tokyo". Recipient will retain this part of the gift personally as it is below the $200. Value limitation. Presidential staff to keep personally Recd: Jan. 7, 1992. Est. value: $430.	General Asif Nawaz, Chief of Army Staff of Pakistan, Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
General Brent Scowcroft, Assistant to the President for National Security Affairs.	Weapons: Defense revolver, 357 magnum, model "MR 73", with a wooden handle, made in France Manurhin. GSA office of Contracting and Prop. Mgmt. has ret'd papers stating that it was released to the Smithsonian Institution as a museum specimen and it cannot be sold or traded by that institution for other specimens. Oder #333131–2U–163, 7–22–92. GSA. Recd: Feb. 5, 1992. Est. value: $1122.	His Excellency Pierre Joxe, Minister of Defense of the French Republic France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
General Brent Scowcroft, Assistant to the President for National Security Affairs.	Set of bowls and spoons, made of low quality silver. The set contains a single large bowl, approx. 8" in diameter, six bowls 4" in diameter. Six spoons, and a large serving spoon; GSA. Weapons: Small dagger with a wooden sheath, in a wooden case; both are of primitive quality. Presidential staff to keep personally. Recd: Apr. 7, 1992. Est. value: $320.	His Excellency Sharad Pawar, Minister of Defense, India.	Non-acceptance would cause embarrassment to donor and U.S Government.
General Brent Scowcroft, Assistant to the President for National Security Affairs.	Vase. white/brown hand carved marble vase, 4"×13¼.". Presidential staff; for official use/display. Recd: Sep. 22, 1992. Est. value: $300.	His Excellency Aleksandr N. Chokhin, Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 through Dec. 31, 1992

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Samuel Knox Skinner, former Chief of Staff to the President.	Photo album commemorating Mr. Skinner's visit to Israel; vinyl with several color photographs inside. Photographs are 8"×10". Silver and gold-plated menorah. GSA. Recd: Jan. 22, 1992. Est. value: $225.	His excellency Moshe Katsav, Transport Minister of Israel, Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Unknown Unknown, staff member unknown.	Book: Fifty-seven paperback books of photographs of Nara Prefecture (center of Japan) and information in Japanese and English text. GSA. Recd: Jan. 1, 1992. Est. value: $570.	The Honorable Yoshiya Kakimoto, Governor of Nara Prefecture, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

Parameter names	Current values	Interpretation of the parameters
Reporting year	1993	Year specified for record selection.
Report reprint	No	This is not a reprint of an earlier year.
Printing format	Final	Report will print in a final format.
Substitute for rare	Indeterminable	This word will replace rare in the report text.
Update file	No	Gifts database will not be updated.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 Through Dec. 31, 1993

Name and title of recipient	Gift, date of acceptance, est. value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Household: Bronze figure. "Danseuse Espagnole" (Spanish Dancer), by Degas; reproduction from the Jeu De Paume Museum, Paris; Approx. 8"×16". Archives, Foreign. Recd: Jan. 3, 1993. Est. value: $1,200.	His Excellency Francois Mitterrand, President of the French Republic, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Misc. (1) Handcrafted wooden triptych. Panel 1 portrays Pres. Bush & Yeltsin, Wash., DC.; #2, Columbus, Spanish monarchs, Map of New World (both panels approx. 9"×17"); #3, Washington, Franklin, Jefferson, & Lincoln (approx. 17"×23"); Wooden frame for triptych, 26"×50" (hinged center), honors 500th anniv., discov. of America. (2) Lge. vinyl suitcase encloses all, incl. tools. (3) Samovar and tray (Chrome & Enamel) in felt-lined wooden/iron trunk, 16"×25". Archives, Foreign.	His excellency Boris Yeltsin, President of the Russian Federation, Russian Federation (Russia).	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—All Gifts Received From Foreign Officials Over Minimum Dollars—Jan. 1 Through Dec. 31, 1993

Name and title of recipient	Gift, date of acceptance, est. value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	Desk accessory: Parker Pen. Black w/gold, approx. 6" long; used to sign the START–II Treaty; wooden case w/brass plate portrays U.S. and Russian flags in enamel, inside lid, w/ facsim. Signatures of the two presidents; Brass plate outside, center lid, engraved, "January, 1993". Metal in "Top of Pen is From the U.S. Pershing and Soviet SS20 Nuclear Missiles, Fused Together, Symbolizing an End to the Nuclear Arms Race." 2 ink cartridge refills enclosed. Houston office. Recd: Jan. 3, 1993, Est. value: $890.		
President	Gold replica. "Replica of an Ancient Fortress of the Royal Family. Made of 24 Karat Gold, the piece weighs 88 kilos and its dimensions are 4'×4'×16". The fortress is encased in a green display case and was shipped in a wooden crate." Archives, Foreign. Recd: Jan. 3, 1993. Est. value: $1,400,000.	His Royal Highness Fahd Bin Abd Al-Aziz Al Sa'ud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia, Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Tea set. Four pieces of "Gzhel" pottery, hand-made in Russia from ancient design; white w/delft blue floral pattern. Creamer in fish shape w/"tail" forming handle, 3"×7½" incl. lid; single candelabra for two candles, horses' heads facing outward, 6"×7"; bowl has single handle w/decorative dog at top, lid w/2 children back to back 5½"×8½" incl. lid; large tea-pot in circular cone shape (hollow at center), 10½"×14", incl. lid. Archives, Foreign. Recd: Jan. 3, 1993, Est. value: $275.	Mrs. Boris Yeltsin (wife of) President of the Russian Federation, Russian Federation (Russia).	Non-acceptance would cause embarrassment to donor and U.S. Government.

UNITED STATES SENATE

Report of Tangible Gifts—Calendar Year 1992

Name and title of persons accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Howard M. Metzenbaum, U.S. Senator.	Pakistani Rug, Rec'd November 15, 1992; Est. Value $400; Disposition: Display in Senator's Office.	Government of Pakistan, Chief of Army Staff, Asif Nawaz.	Refusal would likely cause offense or embarrassment.
Howard M. Metzenbaum, U.S. Senator.	Pakistani Rug, Rec'd November 15, 1992; Est. Value $200; Disposition: Display in Senator's Office.	Government of Pakistan, Senate Chairman, Wasim Saijad.	Refusal would likely cause offense or embarrassment.

UNITED STATES SENATE—Continued

Report of Tangible Gifts—Calendar Year 1992

Name and title of persons accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Paul Simon, U.S. Senator	Pakistani Rug, Rec'd November 15, 1992; Est. Value $400; Disposition: Display in Senator's Office.	Government of Pakistan, Chief of Army Staff, Asif Nawaz.	Refusal would likely cause offense or embarrassment.
Paul Simon, U.S. Senator	Pakistani Rug, Rec'd November 15, 1992; Est. Value $200; Disposition: Display in Senator's Office.	Government of Pakistan, Senate Chairman, Wasim Saijad.	Refusal would likely cause offense or embarrassment.

UNITED STATES SENATE

Report of Travel or Expenses of Travel—Calendar Year 1992

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
David L. Boren, U.S. Senator	Transportation between Beijing and Shanghai, December 3, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Molly Boren, spouse of Senator Boren.	Transportation between Beijing and Shanghai, December 3, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Hank Brown U.S. Senator	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Dino Carluccio, Deputy Staff Director, Select Committee on POW/MIA Affairs.	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Dino Carluccio, Deputy Staff Director, Select Committee on POW/MIA Affairs.	Transportation on December 19–21, 1992; Lodging and food on December 19–20, 1992.	Government of North Korea	Nonacceptance would cause donor embarrassment.
William Codinha, Counsel, Select Committee on POW/MIA Affairs.	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Janice Demers, Personal Assistant to Senator Pell.	Transportation between Beijing and Shanghai, December 3, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Deborah DeYoung, Communications Director, Select Committee on POW/MIA Affairs.	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Dave Durenberger, U.S. Senator	Transportation in country, July 9, 1992.	Government of Turkey	Nonacceptance would cause donor embarrassment.
John Erikson, Minority Staff, Select Committee on POW/MIA Affairs.	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Rick Evans, Administrative Assistant to Senator Durenberger.	Transportation in country, July 9, 1992.	Government of Turkey	Nonacceptance would cause donor embarrassment.
Richard Fieldhouse, Legislative Assistant to Senator Levin.	Transportation between Beijing, Shengdu, Lhasa and Shanghai, December 3–5, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Charles E. Grassley, U.S. Senator	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Tom Harkin U.S. Senator	Food, lodging, and transportation in Moscow, May 14–19, 1992.	Government of Russia	Nonacceptance would cause donor embarrassment.
Ruth Harkin, spouse of Senator Harkin.	Food, lodging and transportation in Moscow, May 14–19, 1992.	Government of Russia	Nonacceptance would cause donor embarrassment.
Thomas Hohenthaner, Legislative Assistant to Senator Pressler.	Transportation in country, January 17, 1992.	Government of India	Nonacceptance would cause donor embarrassment.
Thomas Hohenthaner, Legislative Assistant to Senator Pressler.	Transportation in country, January 19, 1992.	Government of Sri Lanka	Nonacceptance would cause donor embarrassment.
John F. Kerry, U.S. Senator	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Richard Kessler, Professional Staff Member, Foreign Relations Committee.	Transportation between Beijing and Shanghai, December 3, 1992.	Government of China	Nonacceptance would cause donor embarrassment.

UNITED STATES SENATE—Continued

Report of Travel or Expenses of Travel—Calendar Year 1992

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Tom Lang, Investigator, Select Committee on POW/MIA Affairs.	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Carl Levin, U.S. Senator	Transportation between Beijing, Shengdu, Lhasa and Shanghai, December 3–5, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Barbara Levin, spouse of Senator Levin.	Transportation between Beijing and Shanghai, December 3, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
John McCreary, Investigator, Select Committee on POW/MIA Affairs.	Transportation on December 19–21, 1992; Lodging and food on December 19–20, 1992.	Government of North Korea	Nonacceptance would cause donor embarrassment.
Christopher A. McLean, Legal Counsel & Legislative Assistant to Senator Exon.	Helicopter transportation around Hong Kong, April 14, 1992.	Government of Hong Kong	Nonacceptance would cause donor embarrassment.
Zach Measitte, Press Spokesman, Intelligence Committee.	Transportation between Beijing and Shanghai, December 3, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Claiborne Pell, U.S. Senator	Transportation between Beijing, Shengdu, Lhasa and Shanghai, December 3–5, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Nuala Pell, spouse of Senator Pell	Transportation between Beijing and Shanghai, December 3, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Larry Pressler, U.S. Senator	Transportation in country, January 17, 1992.	Government of India	Nonacceptance would cause donor embarrassment.
Larry Pressler, U.S. Senator	Transportation in country, January 19, 1992.	Government of Sri Lanka	Nonacceptance would cause donor embarrassment.
Charles S. Robb, U.S. Senator	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Robert Smith, U.S. Senator	Transportation on December 19–21, 1992; Lodging and food on December 19–20, 1992.	Government of North Korea	Nonacceptance would cause donor embarrassment.
Robert Smith, U.S. Senator	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Christopher Straub, Professional Staff Member, Intelligence Committee.	Transportation between Beijing and Shanghai, December 3, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
C.E. Thomas, Legislative Assistant to Senator Harkin.	Food and lodging in Moscow, May 15–19, 1992.	Government of Russia	Nonacceptance would cause donor embarrassment.
Barry Valentine, Majority Staff, Select Committee on POW/MIA Affairs.	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Sally Walsh, Deputy Director, Office of Interparliamentary Services.	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.
Daniel G. Webber, Press Secretary to Senator Boren.	Transportation between Beijing, Shengdu, Lhasa and Shanghai, December 3–5, 1992.	Government of China	Nonacceptance would cause donor embarrassment.
Frances Zwerlig, Chief of Staff, Select Committee on POW/MIA Affairs.	Transportation in country, April 24–25, 1992.	Government of Laos	Nonacceptance would cause donor embarrassment.

AGENCY: DEPARTMENT OF THE AIR FORCE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Gen. Jimmie V. Adams, Commander in Chief, Pacific Air Forces, Hickam Air Force Base, HI.	Eight pillows. Recd: Mar. 31, 1992. Est. Value: $250. On official display in the CINCPACAF's quarters, Hickam Air Force Base, HI.	General and Mrs. Akio Suzuki, Chief of Staff, Air Staff Office, Japan Air Self Defense Forces.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF THE AIR FORCE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mr. Robert Bauerlein, Deputy Under Secretary of the Air Force.	Brass ship's clock. Recd: Dec. 7, 1992. Est. Value: $500. On official display in room 4E334, Pentagon, Office of the Deputy Under Secretary of the Air Force.	Admiral Liu, CJCS, Taiwan Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gen. Ronald R. Fogleman, Commander, Air Mobility Command, Scott Air Force Base, IL.	Celadon vase. Recd: June 25, 1992. Est. Value: $400 to $450. On official display at the Headquarters Building, 7th Air Force, Osan Air Base, Korea.	General Han, Chu Sok, Republic of Korea Air Force Chief of Staff.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Mrs. Anne N. Foreman, Under Secretary of the Air Force.	2'4" X 4'2" Pakistani Carpet. Recd: July 23, 1992. Est. Value: $350. Awaiting disposition with GSA for turn-in.	Air Chief Marshall Farooq, Pakistani Chief.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Major Gen. Billy J. McCoy, Commander, Lackland Training Center, Lackland Air Force Base, TX.	Rado Analog wristwatch with seal of Saudi Arabia on watch face. Recd: Oct. 13, 1992. Est. Value: $600. On official display at Headquarters, Lackland Training Center, Lackland Air Force Base, TX.	Lt. Col. Hamad, Saudi Arabian liaison officer at the Defense Language Institute, English Language Center, Lackland Air Force Base, TX.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Major General Billy J. McCoy, Commander, Lackland Training Center, Lackland Air Force Base, TX.	Decorated gown. Recd: Oct. 13, 1992. Est. Value: $150. On official display at Headquarters, Lackland Training Center, Lackland Air Force Base, TX.	Lt. Col. Hamad, Saudi Arabian liaison officer at the Defense Language Institute, English Language Center, Lackland Air Force Base, TX.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gen. Merrill A. McPeak, Chief of Staff, U.S. Air Force.	18K Gold Bracelet. Recd: Oct. 15, 1991. Est. Value: $425. Being held in the office of the Chief of Staff pending transfer to GSA for disposition. Gen. McPeak does not desire to participate in sale.	Mrs. Anne Stathias, wife of Gen. Athanassios Stathias, Hellenic Air Force Chief of Staff.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gen. Merrill A. McPeak, Chief of Staff, U.S. Air Force.	Silver sword, one meter in length. Recd: Oct. 29, 1991. Est. Value: $275. On official display in the office of the Chief of Staff, Room 4E925, the Pentagon, Washington, DC.	Air Vice Marshall Talik, Commander, Royal Air Force of Oman.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gen. Merrill A. McPeak, Chief of Staff, U.S. Air Force.	Cedar-lined wooden chest. Recd: Oct. 29, 1991. Est. Value: $325. On official display at the Air House, the official residence of the Chief of Staff.	Lt. Gen. Dato' Seri/Haji Mohammed Yunus, Chief of Staff, Royal Malaysian Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gen. Merrill A. McPeak, Chief of Staff, U.S. Air Force.	"Dosemealti" (Lohoousak pattern) Turkish rug. Recd: Nov. 27, 1991. Est. Value: $350. On official display at the Air House, the official residence of the Chief of Staff.	Gen. Siyami Tastan, Commander, Turkish Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gen. Merrill A. McPeak, Chief of Staff, U.S. Air Force.	"World globe" (all Russian language), approx. 4 feet in diameter, 3 feet high (divides in half). Recd: May 7, 1992. Est. Value: $1,000. Transferred to GSA for consignment to Smithsonian Institution on Dec. 18, 1992.	General and Mrs. Pytor Deynekin, Commander of the Air Force of the Unified Forces of the Commonwealth of Independent States.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dr. Donald B. Rice, Secretary of the Air Force.	8" high white glass vase. Recd: Jan. 20, 1992. Est. Value: $100. On official display in Room 4E871, Pentagon, Office of the Secretary of the Air Force.	General-Major Kubizniak, Deputy Chief of Staff for Air Force Matters—CSFR.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF THE AIR FORCE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Dr. Donald B. Rice, Secretary of the Air Force.	18" high crystal vase. Recd: Jan. 20, 1992. Est. Value: $436. On official display in Room 4E871, Pentagon, Office of the Secretary of the Air Force.	General-Major Kubiznak, Deputy chief of Staff for Air Force Matters—CSFR.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dr. Donald B. Rice, Secretary of the Air Force.	11" high vase made of mauve colored glass and metal. Recd: Jan. 25, 1992. Est. Value: $400. On official display in Room 4E871, Pentagon, Office of the Secretary of the Air Force.	General Puchala, Chief of General Staff, Polish Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dr. Donald B. Rice, Secretary of the Air Force.	18" long dagger and scabbard. Recd: Jan. 25, 1992. Est. Value: $135. On official display in Room 4E871, Pentagon, Office of the Secretary of the Air Force.	General Puchala, Chief of General Staff, Polish Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dr. Donald B. Rice, Secretary of the Air Force.	6" high metal goblet. Recd: Apr. 15, 1992. Est. Value: $85. On official display in Room 4E871, Pentagon, Office of the Secretary of the Air Force.	Horst Buttner, Mayor of Bitburg, Germany.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dr. Donald B. Rice, Secretary of the Air Force.	Six 7" high mauve colored wine glasses. Recd: Apr. 15, 1992. Est. Value: $150. On official display in Room 4E971, Pentagon, Office of the Secretary of the Air Force.	Horst Buttner, Mayor of Bitburg, Germany.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Col. Francis X. Taylor, Commander, Air Force Office of Special Investigations District 45, Osan Air Base, Korea.	19-inch Goldstar color television. Recd: Jan. 21, 1991. Est. Value: $240. On official display within Headquarters AFOSI District 45, Osan Air Base, Korea.	Lieutenant General Cho, Kun Hee, Commander, Air Force Operations Command, Osan Air Base, Korea.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

[1] Presented to General Fogleman in his former position as Commander, 7th Air Force, Osan Air Base, Korea.

AGENCY: DEPARTMENT OF THE ARMY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Maj. Gen. H.E. Burch, Cdr, Combined Support Command, APO New York 09325.	Handmade Kurdish rugs (black/white 4'x5') and dark brown/light brown 4'x5'). Recd: July 19, 1991. Est. Value: $965. Reported to GSA Dec. 31, 1992. Approved for official use.	Local Turkish officials	Non-acceptance would have caused embarrassment to U.S. Government.
Lt. Gen. R.D. Chelberg, Chief of Staff, U.S. European Command, APO New York 09128.	One (1) snake skin briefcase; one (1) crocodile skin purse; and one (1) crocodile skin briefcase. Recd: Late 1991. Est. Value: $1,850. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	A Mali African official	Non-acceptance would have caused embarrassment to donor.
Lt. Gen. W.W. Crouch, Chief of Staff, U.S. Forces, Korea, APO San Francisco 96205.	One (1) Yonex Boron 400 golf club. Recd: Aug. 12, 1992. Est. Value: $400. Reported to GSA Dec. 31, 1992. Approved for official use.	Maj. Gen. I.K. Do, Republic of Korea.	Non-acceptance would have caused embarrassment to donor.
Maj. Gen. T.C. Foley, Cdr, U.S. Army Armor Center and Fort Knox, Fort Knox, KY 40121–5000.	One Longines Flagship stainless steel and goldtone watch. Recd: Feb. 2, 1992. Est. Value: $595. Reported to GSA December 31, 1992, pending transfer to GSA.	Maj. Gen. Mit'Eb Bin Abdullah Bin Abul Aziz, Deputy Chief of Military Organization for the Saudi Arabian National Guard.	Non-acceptance would have caused embarrassment to donor.

AGENCY: DEPARTMENT OF THE ARMY—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Gen. J.W. Foss, Cdr, U.S. Army Training and Doctrine Command, Fort Monroe, VA 23651	One AK–47 Soviet Assault Rifle (demilitarized). Recd: May 15, 1991. Est. Value: $500. Reported to GSA December 31, 1992. Approved for official use.	Staff of the German Infantry School, Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donor.
Lt. Gen. H.D. Graves, Superintendent, U.S. Military Academy, West Point, NY 10996.	One (1) set of six silver dessert spoons and a vase. Recd: Sept. 24, 1991. Est. Value: $250. Reported to GSA Dec. 31, 1992. Approved for official use.	President Roh Tae Woo and his wife, Republic of Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Maj. Gen. R.E. Haddock, Cdr, U.S. Army Security Assistance Command, 5001 Eisenhower Avenue, Alexandria, VA 22333.	One (1) silver plated tea and incense set. Recd: June 23, 1992. Est. Value: $250. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	Colonel Ahmad Abdul Karim Bu-Allai, Assistant Chief of Staff for Logistics and Supply, Bahrain Defence Force.	Non-acceptance would have caused embarrassment to U.S. Government.
General G.A. Joulwan, Commander-in-Chief, U.S. Southern Command, APO Miami 34003.	One (1) .45 caliber Thompson sub-machine gun. Recd: Mar. 1992. Est. Value: $3,000. Reported to GSA Dec. 31, 1992. Approved for official use.	Brig. Gen. Alberto Malley, Cdr, Argentina's Military Institute.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
General G.A. Joulwan, Commander-in-Chief, U.S. Southern Command, APO Miami 43003.	One (1) AK–47 Soviet assault rifle. Recd: Aug. 1992. Est. Value: $500. Reported to GSA Dec. 31, 1992.	General Garcia, Guatemala's Minister of Defense.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
Colonel P.J. Kern, Cdr, 2d Brigade, 24th Infantry Division, Fort Stewart, GA 31314.	One oriental rug. Recd: Mar. 16, 1991. Est. Value: $1,200. Reported to GSA Dec. 31, 1992. Approved for official use.	Mayor Emir Shafi, Al Uyainah, Saudi Arabia.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
Colonel G.F. King, Cdr, U.S. Army Support Cmd, Fort Shafter, HI 96858.	One (1) multicolored lithograph entitled "One World." Recd: Sept. 28, 1991. Est. Value: $210. Reported to GSA Dec. 31, 1992. Approved for official use.	President Roh Tae Woo, Republic of Korea.	Non-acceptance would have caused embarrassment to donor.
Lt. Gen. G.E. Luck, Cdr, XVIII Airborne Corps, Fort Bragg, NC 28307.	One (1) Browning high power automatic pistol (9 mm). Recd: July 17, 1990. Est. Value: $460. Reported to GSA Dec. 31, 1992. Approved for official use.	Lt. Gen. Anton Slimak, Chief of Staff, Czechoslovakian Army.	Non-acceptance would have caused embarrassment to donor.
Lt. Gen. G.E. Luck, Cdr, XVIII Airborne Corps, Fort Bragg, NC 28307.	One (1) French FA–MAS assault rifle (5.56 mm). Recd: Late March 1991. Est. Value: $1,200. Reported to GSA Dec. 31, 1992. Approved for official use.	Maj. Gen. Janvier, Cdr of the French 6th Light Armor Corps.	Non-acceptance would have caused embarrasement to donor.
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) Rolex watch. Recd: March 15, 1989. Est. Value: $8,400. Reported to GSA December 31, 1992, pending transfer to GSA.	Amir Bin Isa Al Khalifa, Bahrain ...	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) Rado Swiss watch. Recd: Dec. 28, 1989. Est. Value: $450. Reported to GSA December 31, 1992, pending transfer to GSA.	Prince Abdullah, The Crown Prince, Saudi Arabia.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) Concord Swiss watch. Recd: Dec. 31, 1990. Est. Value: $2,000. Reported to GSA December 31, 1992, pending transfer to GSA.	Crown Prince Abdullah, Saudi Arabia.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) gold plated pistol (9 mm). Recd: July 19, 1990. Est. Value: $500. Reported to GSA December 31, 1992, pending transfer to GSA.	General Abu Shanaf, Chief of Staff, Egyptian Armed Forces.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: DEPARTMENT OF THE ARMY—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) gold plated coffee pot, tray, and cups. Recd: June 17, 1990. Est. Value: $400. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	Othamibn M. Al-Humaid, Assistant Defence Minister.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) silver coffee pot, tray, and incense burner. Recd: Sept. 15, 1990. Est. Value: $400. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	Khalifa Bin Hamad Al-Thani, Air of Qatar.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) Omega watch, cufflinks, and ring (gold). Recd: July 22, 1991. Est. Value: $20,000. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	Amir Jabir Al Sabah, Kuwait	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) Rolex watch. Recd: Sept. 22, 1990. Est. Value: $2,200. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	Prince Mohammed Bin Fahd Al Saud, Eastern Prince Governor, Saudi Arabia.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
General H.N. Schwarzkopf, Commander in Chief, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) shotgun. Recd: Dec. 8, 1990. Est. Value: $300. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	General Abu Traleb, Deputy Prime Minister and Minister of Defense.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
Lt. Col. D.W. Smith, HHC, 7th MEDCOM, Unit 29218 Box 37, APO New York 09102.	One (1) Omega watch. Recd: July 13, 1992. Est. Value: $750. Reported to GSA Dec. 31, 1992. Approved for official use.	Director General of the Saudi Medical Services Department.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
Mr. Michael P.W. Stone, Secretary of the Army.	One (1) 22–24K gold cuff links and key chain. Recd: Oct. 29, 1991. Est. Value: $750. Retained for official use; pending transfer to GSA.	General Tantawi, Minister of Defense, Egypt.	Non-acceptance would have caused embarrassment to the donor and Egyptian Government.
Mr. Michael P.W. Stone, Secretary of the Army.	One (1) magnum pistol (357 mm). Recd: Mar. 26, 1992. Est. Value: $680. Pending transfer to GSA.	Dr. Kommissar, Military Industries, LTD, Israel.	Non-acceptance would have caused embarrassment to donor and the Israeli Government.
Mr. Michael P.W. Stone, Secretary of the Army.	One (1) Baccarat crystal clock. Recd: Mar. 1992. Est. Value: $450. Returned to donor.	Euro-Copter France, France	Non-acceptance would have caused embarrassment to donor and the French Government.
Maj. Gen. P.J. Vanderploog, Director of Logistics and Security Assistance, U.S. Central Command, MacDill Air Force Base, FL 33608–7001.	One (1) Rolex watch. Recd: Oct. 1, 1991. Est. Value: $2,970. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	Sheikh Isa Bin Salmon Al Khalifa, the Amir of Bahrain.	Non-acceptance would have caused embarrassment to the donor.
Mr. T.M. Williamson, Chief Counsel, U.S. Army Program Manager, Saudi Arabian National Guard Modernization Unit 61304, APO Armed Forces Atlantic 09803–1304.	One (1) Chopard women's silver or white gold wristwatch. Recd: Aug. 15, 1991. Est. Value: $500. Reported to GSA Dec. 31, 1992, pending transfer to GSA.	Sheikh Abdul Aziz bin Abdul Mohsin Al Tuwaijiri, Assistant Deputy Commander, Saudi Arabian National Guard.	Non-acceptance would have caused embarrassment to the donor

AGENCY: CENTRAL INTELLIGENCE AGENCY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert M. Gates, Director, Central Intelligence.	Israeli repousse sterling plaque, View of an Old City, by I. Yehieliel. Mounted on a marble plinth with presentation to Mr. Robert M. Gates. H: 5; L: 12 inches. Recd: Feb. 6, 1992. Est. value: $250. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Robert M. Gates, Director, Central Intelligence.	Israeli terra cotta head of Astorte. With card dating 1800 B.C. In a plexiglass dust proof case. H, of bust: approximately 2 in. Recd: Feb. 6, 1992. Est. value: $300. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Robert M. Gates, Director, Central Intelligence.	Egyptian repousse silver jewel box. Rectangular with bombe body and hinged lid repoussed with trellising vines and leaves and raised on four openwork feet. The interior with blue velvet lining. L: 9 in. Recd: Feb. 5, 1992. Est. value: $400. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Robert M. Gates, Director, Central Intelligence.	Egyptian cast silver three-light low candelabra. Each cast with a teelage supporting double scroll handles with watch fob candle sockets. H: 7¼ inches; Wt: approximately 22 oz. Recd: Apr. 13, 1992. Est. value: $250. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Robert M. Gates, Director, Central Intelligence.	Swiss gentleman's oyster perpetual date wristwatch. Maker. Rolex. With stainless steel case and band. Recd: June 19, 1992. Est. value: $250. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral W.O. Studeman, USN, Deputy Director, Central Intelligence.	Pair 9 carat yellow gold mounted and gold one Krugerrand coin cuff links. Recd: May 14, 1992. Est. value: $350. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency employee	Swiss gentleman's wristwatch. Maker Omega. With black leather strap. Case Number 51339619. Recd: Apr. 30, 1992. Est. value: $250. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency employee	Tunisian Tabriz design rug. 7×4.9. With a central shaped medallion enclosing a star, lattice and guard border with rose ground and trellising vine palmette guard border, on light blue ground. Recd: Apr. 24, 1992. Est. value: $300. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: CENTRAL INTELLIGENCE AGENCY—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	*Identity of foreign donor and government*	Circumstances justifying acceptance
Agency employee	Goun silk rug. 3.10x2.6. Ivory ground with trellising vine and palmette fields centering a star medallion on red ground, with complementary spandrels, palmette trellising vine guard border on navy blue ground. Recd: May 1, 1992. Est. value: $400. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency employee	Taipei three-piece coin commemorative set. Consisting of one silver coin and two gold coins. Weight of silver: 1 oz. Total weight of gold coins: 1½ oz. Recd: Dec. 17, 1991. Est. value: $300. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency employee	Taipei three-piece coin commemorative set. Consisting of one silver coin and two gold coins. Weight of silver 1 oz. Total weight of gold coins: 1½ oz. Recd: Dec. 17, 1992. Est. value: $300. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency employee	24 karat textured yellow gold miniature figure of a turtle. Wt: 18.25 grams; 11.74 dwt. Recd: July 15, 1992. Est. value: $250. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: COMMODITY FUTURES TRADING COMMISSION

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identify of foreign donor and government	Circumstances justifying acceptance
Andrea M. Corcoran, director, Division of Trading & Markets.	Meals and lodging. May 21–23, 1992. Approximately $800.	Department of Trade and Industry, United Kingdom.	Attendance at International Securities Regulators Meeting.
Dennie A. Klejna, director, Division of Enforcement.	Meals and lodging. May 21–23, 1992. Approximately $800.	Department of Trade and Industry, United Kingdom.	Attendance at International Securities Regulators Meeting.
Daniel F. Waters, assistant director, Division of Enforcement.	Meals and lodging. May 21–23, 1992. Approximately $800.	Department of Trade and Industry, United Kingdom.	Attendance at International Securities Regulators Meeting.

AGENCY: DEPARTMENT OF DEFENSE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Craig Alderman, Jr., Deputy Under Secretary (Security Policy).	Brass navigational instrument, in wooden box with brass corners and a plate engraved: "Astrolabio Nautico sec. XVII". Recd: June 26, 1992. Est. Value: $250. Approved for official display.	Colonel Luis Carreiro deCamara, National Security Authority, Ministry of National Defense, Portugal.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Lt. Gen. Teddy G. Allen, USA, Director, Defense Security Assistance Agency.	Large chess set with a mother-of-pearl inlaid board, with carved bone chess pieces, in red velour case. Recd: October 28, 1992. Est. Value: $300. Reported to GSA January 26, 1993; pending transfer to GSA.	LTG Salah Halaby, Chief of Staff, Egyptian Armed Forces.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Lt. Gen. Teddy G. Allen, USA, Director, Defense Security Assistance Agency, and Mrs. Allen.	Jade golf putter, in blue box; and silver and gold pin with five (5) coral stones, in small red velour case. Recd: December 3, 1992. Est. Value: $625. Reported to GSA January 26, 1993; pending transfer to GSA.	Gen. and Mrs. Liu Ho-Chien, Chief of the General Staff, Ministry of National Defense, Republic of China, and Mrs. Liu Ho-Chien.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Donald J. Atwood, Deputy Secretary of Defense.	1929 Service Revolver, in black case with presentation plaque inside. Recd: March 30, 1992. Est. Value: $350. Reported to GSA June 25, 1992; transferred to Smithsonian Institution October 14, 1992.	Toni J. Wicki, Armament Chief of Defense Technology and Procurement Agency, Switzerland.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense.	Dagger with bone and brass handle with brass sheath, in display box; silver-plated plaque; round wooden table with mother-of-pearl design, approx. 19" diameter; and Pakistani rug, beige, burgundy, gray and black, approx. 6'x4'. Recd: January 7, 1992. Est. Value: $1,880. Approved for official display.	General Asif Nawaz Janjua, Chief of the Army Staff, Pakistan.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense.	Porcelain figurine of lion holding blue and white shield, approx. 6" tall, in box. Recd: January 10, 1992. Est. Value: $275. Approved for official display; holding in vault.	Theodor Waigel, Head of Christian Socialist Union, Germany.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense.	Sword with black and brass handle and tassel, with leather and brass sheath, in cloth cover. Recd: February 4, 1992. Est. Value: $250. Reported to GSA August 11, 1992; pending transfer to GSA.	Pierre Joxe, Minister of Defense, France.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense.	Large wooden etching, hand-carved, local street scene, approx. 3'x2'. Recd: February 17, 1992. Est. Value: $225. Reported to GSA February 1, 1993; pending transfer to GSA.	Brig. Gen. Luis Mendoza Garcia, Minister of Defense, Guatemala.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense, and Mrs. Cheney.	Sword with gold-tone and black handle, with gold strap trimmed in green and red (handle has small St. Stephen emblem on it); and pottery wall plate (blue, white, gold with brown letters). Recd: March 17, 1992. Est. Value: $300. Reported to GSA February 1, 1993; pending transfer to GSA.	Lajos Fur, Minister of Defense, Hungary, and Mrs. Fur.	Non-acceptane would have caused embarrassment to donor & U.S. Government.
Mrs. Lynne V. Cheney, wife of the Secretary of Defense.	Ladies' gold, lizard-shaped pin, with boulder opal on back. Recd: May 1, 1992. Est. Value: $400. Reported to GSA June 29, 1992; pending transfer to GSA.	Sydney, Australia	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Dick Cheney, Secretary of Defense.	Fishing reel, 24 carat gold-plated, Ambassadeur 6000 CDL, Abu Garcia; and a blue/yellow patch for "International Ambassadeur Club abu". Recd: May 29, 1992. Est. Value: $500. Reported to GSA June 30, 1992; pending transfer to GSA.	Abu Garcia, Sweden	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense, and Mrs. Cheney.	Stockholm doll, blonde hair, blue eyes, yellow print dress, and a straw bonnet, with glass/wood-en display case. Doll is approx. 19" tall. Brass clock, set in large piece of black oak, 17" long. Recd: May 30, 1992. Est. Value: $360. Reported to GSA August 3, 1992; pending transfer to GSA.	Anders Bjorck, Minister of Defense, Sweden.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Mrs. Lynne V. Cheney, wife of the Secretary of Defense.	Orrefors crystal bowl (Urbino), approx. 6¼" diameter, 3¾" tall. Recd: June 1, 1992. Est. Value: $315. Reported to GSA August 11, 1992; pending transfer to GSA.	Manager, Orrefors, Stockholm, Sweden.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense, and Mrs. Cheney.	Stainless steel sword with black and gold-tone handle, with general officer epaulets, belt and two straps, in black velour case; wooden plaque, with burgundy velvet in the center with Turkish seal, approx. 9"×6", in red velour case; and oval wall mirror, silver with repousee design, approx. 15" wide, in purple velour case. Recd: June 15, 1992. Est. Value: $810. Reported to GSA July 30, 1992; pending transfer to GSA.	Nevzat Ayaz, Minister of National Defence, Turkey, and Mrs. Ayaz.	Non-acceptance would have caused embarrassment to donor & U.S Government.
Dick Cheney, Secretary of Defense.	Binoculars by Zeiss, made in West Germany, in leather carrying case. Recd: July 2, 1992. Est. Value: $1,455. Reported to GSA July 23, 1992; transferred to Smithsonian Institution December 3, 1992.	Volker Rushe, Minister of Defense, Germany.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense, and Mrs. Cheney.	Cloisonne vase with wooden stand, gold, blue, green and red, approx. 12" tall; and limited edition gold-plated statue of "The Stately Horse". Recd: September 9, 1992. Est. Value: $315. Approved for official display.	Yeo Ning Hong, Minister of Defense, Singapore.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Mrs. Lynne V. Cheney, wife of the Secretary of Defense.	Crystal wine decanter, Carina by Orrefors. Recd: September 22, 1992. Est. Value: $430. Pending transfer to GSA.	Anders Bjorck, Minister of Defense, Sweden.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Dick Cheney, Secretary of Defense, and Mrs. Cheney.	Large 10-panel Oriental screen, with paintings of "Ten Symbols of Longevity," approx. 66" tall; and cloisonne dish with cover, painted with flowers and butterflies, gold-toned. Recd: October 6, 1992. Est. Value: $315. Reported to GSA January 27, 1993; pending transfer to GSA.	Choi Sae Chang, Minister of National Defense, Republic of Korea, and Mrs. Choi Sae Chang.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Dick Cheney, Secretary of Defense.	Stainless steel sword with bone handle and sheath, in burgundy case. Recd: October 10, 1992. Est. Value: $350. Reported to GSA January 19, 1993; pending transfer to GSA.	Minister of Defense, Russia	Non-acceptance would have caused embarrassment to donor & U.S. Government
Dick Cheney, Secretary of Defense, and Mrs. Cheney.	Tony Hsieh golf putter, labeled "Jewelry Golf," with jade putter on golf club, in brown case; and 16" strand of knotted pearls, labeled "South Ocean, Mother of Pearl," in red case. Recd: December 3, 1992. Est. Value: $760. Reported to GSA January 19, 1993; pending transfer to GSA.	Liu Ho-Chien, Chief of General Staff, Ministry of Defense, Republic of China, and Mrs. Liu Ho-Chien.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Dick Cheney, Secretary of Defense.	Brass navigational instrument, in wooden box with brass corners, and a plate engraved: "Astrolabio Nautico sec. XVII," in box approx. 10½"×8¼". Recd: October 8, 1991. Est. Value: $250. Reported to GSA August 12, 1992; pending transfer to GSA.	Dr. Joaquin Fernando Nogueira, Minister of National Defense, Portugal.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Dick Cheney, Secretary of Defense.	Traditional Korean bow and arrow set, approx. 4'×2½', in a wooden/glass display case, containing one bow, seven arrows and one quiver. Recd: November 21, 1991. Est. Value: $2,500. Reported to GSA July 1, 1992; pending transfer to GSA.	Lee Jong Koo, Minister of Defense, Republic of Korea.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Capt. Charles J. Dale, USN, Country Director, Office of the Assistant Secretary (International Security Affairs).	Pakistani rug, approx. 5'×3'. Recd: February 18, 1992. Est. Value: $950. Approved for official display.	General Asif Nawaz, Chief of the Army Staff, Pakistan Army.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Stephen M. Duncan, Assistant Secretary of Defense (Reserve Affairs).	Three (3) gold-plated daggers in sheaths, with mother-of-pearl handles, in a blue presentation case, lined with red velvet. Recd: September 30, 1991. Est. Value: $350. Reported to GSA January 22, 1993; has requested to buy the gift.	Chief of Defense General Staff, Rome, Italy.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Stephen M. Duncan, Assistant Secretary of Defense (Reserve Affairs).	Watercolor painting (abstract) of lady's face, in wooden frame, approx. 22"×30". Recd: January 1992. Est. Value: $280. Reported to GSA September 25, 1992; pending transfer to GSA.	Ignacio Morales Lechuga, Attorney General of Mexico.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Louis H. Dupart, Deputy Assistant Secretary (Inter-American Affairs).	Black Mexican statue, obsidian glass, with four (4) malachite stones and five (5) soldalite stones, accented with sterling silver, with fancy headdress, approx. 15" tall. Recd: September 11, 1992. Est. Value: $350. Reported to GSA January 14, 1993; has requested to buy it.	General Antonio Riviello Bazan, Secretary of National Defense, Mexico.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Louis H. Dupart, Deputy Assistant Secretary (Inter-American Affairs).	Sterling silver urn with lid, approx. 7" tall. Recd: December 10, 1992. Est. Value: $250. Reported to GSA January 29, 1993; pending transfer to GSA.	Mrs. Antonio Riviello Bazan, wife of the Secretary of National Defense, Mexico.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Carl W. Ford, Principal Deputy Assistant Secretary (International Security Affairs).	Silver dagger in scabbard, in red velour case. Recd: May 30, 1992. Est. Value: $250. Reported to GSA October 15, 1992; pending transfer to GSA.	Major General Khalifa Bin Ahmad Al-Khalifa, Minister of Defence and Deputy Commander-in-Chief, State of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Carl W. Ford, Principal Deputy Assistant Secretary (International Security Affairs).	Men's Piaget gold watch, with matching gold cuff links, in red leather case. Recd: November 2, 1992. Est. Value: $13,500. Reported to GSA December 3, 1992; pending transfer to GSA.	Isa bin Salman Ali, Emir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Carl W. Ford, Principal Deputy Assistant Secretary (International Security Affairs).	Ten (10) piece traditional Bahraini silver-plated coffee service, in red presentation case. Recd: November 3, 1992. Est. Value: $380. Reported to GSA January 29, 1993; pending transfer to GSA.	Major General Al-Khalifa, Minister of Defense, State of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Stephen J. Hadley, Assistant Secretary (International Security Policy).	Turkish Kilim rug, burgundy, blue, beige and black, approx. 9'7"×14'2". Recd: April 28, 1992. Est. Value: $500. Approved for official display.	General Fikret Kupeli, Deputy Chief of State, Ministry of Defense, Turkey.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Adm. David E. Jeremiah, USN, Vice Chairman, Joint Chiefs of Staff.	Pakistani rug, beige and brown tones, approx. 6'×4'. Recd: July 23, 1992. Est. Value: $850. Approved for official display.	Air Chief Marshal Farooq Khan, Chief, Pakistan Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James R. Lilley, Assistant Secretary (International Security Affairs).	Pakistani rug, beige and gold, approx. 5'×3'6". Recd: January 7, 1992. Est. Value: $950. Approved for official display.	General Asif Nawaz, Chief of the Army Staff, Pakistan Army.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James R. Lilley, Assistant Secretary (International Security Affairs).	Pakistani rug, beige, green and gray, approx. 6'×4'. Recd: September 23, 1992. Est. Value: $1,000. Approved for official display.	Ali Ghous Shah, Minister of Defense, Pakistan.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James R. Lilley, Assistant Secretary (International Security Affairs).	Pakistani rug, multi-colored with red background, approx. 5'×3'. Recd: September 24, 1992. Est. Value: $250. Approved for official display.	ACM Farooq Khan, Chief of the Pakistani Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
James R. Lilley, Assistant Secretary (International Security Affairs).	Pakistani rug, multi-colored with blue background, approx. 6½'×4'. Recd: September 24, 1992. Est. Value: $750. Approved for official display.	General Asif Nawaz, Chief of the Army Staff, Pakistan Army.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
H. Diehl McKalip, Director, Security Assistance Operations, Defense Security Assistance Agency.	Men's Baume & Mercier Riviera Watch, gold and stainless steel, in leather case, with matching small leather card case. Recd: November 3, 1992. Est. Value: $475. Reported to GSA February 3, 1993; pending transfer to GSA.	Government of Bahrain	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Col John B. Meagher, USMC, Country Director, Persian Gulf Affairs, International Security Affairs.	Men's Baume & Mercier Riviera Watch, gold and stainless steel. Recd: November 3, 1992. Est. Value: $450. Reported to GSA November 19, 1992; pending transfer to GSA.	Sheik Isa bin Sulman al-Khalifa, Emir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Gen Colin L. Powell, USA, Chairman, Joint Chiefs of Staff.	Pakistani rug, approx. 6'×4'; dagger in brass sheath; and plaque with Pakistani emblem. Recd: January 6, 1992. Est. Value: $1,675. Rug was approved for official display; dagger and plaque were reported to GSA June 9, 1992, pending transfer to GSA.	General Asif Nawaz Janjua, Chief of the Army Staff, Pakistan Army.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gen Colin L. Powell, USA, Chairman, Joint Chiefs of Staff, and Mrs. Powell.	Single strand of pearls with silver clasp; and small Oriental vase with top and stand. Recd: April 23, 1992. Est. Value: $450. Reported to GSA May 20, 1992; pending transfer to GSA.	Admiral Makoto Sakuma, Chairman, Joint Staff Council, Japan Self Defense Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Gen Colin L. Powell, USA, Chairman, Joint Chiefs of Staff, and Mrs. Powell.	Dagger with silver and bone handle and silver scabbard; and silver incense container. Recd: October 14, 1992. Est. Value: $575. Reported to GSA January 29, 1993; pending transfer to GSA.	LTG and Mrs. Khamis bin Humaid Salim Al Kilbani, Chief of Staff, Sultan's Armed Forces, Sultanate of Oman.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Lic Victor Rapheel, Military Assistant to the Principal Deputy Assistant Secretary (International Security Affairs).	Men's Baume & Mercier Riviera Watch, gold and stainless steel. Recd: November 2, 1992. Est. Value: $450. Reported to GSA February 3, 1993; pending transfer to GSA.	Isa bin Salman Ali, Emir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Frederick C. Smith, Acting Deputy Assistant Secretary (Near Eastern and South Asian Affairs), and Mrs. Smith.	Men's Baume & Mercier watch, gold and stainless steel; and single strand pearl necklace with graduated pearls and sterling silver clasp. Recd: October 11, 1991. Est. Value: $1000. Reported to GSA September 30, 1992; pending transfer to GSA.	Shaikh Khalifa bin Ahmadal-Khalifa, Minister of Defense, State of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Frederick C. Smith, Acting Deputy Assistant Secretary (Near Eastern and South Asian Affairs).	Men's Baume & Mercier watch, gold and stainless steel. Recd: October 18, 1991. Est. Value: $500. Reported to GSA September 30, 1992; pending transfer to GSA.	Isa bin Salman al-Khalifa, Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Paul Wolfowitz, Under Secretary for Policy.	Decorative bowl by Kutani, gold-tone with floral design, approx. 12¼" diameter, with stand, in wooden box. Recd: June 15, 1992. Est. Value: $250. Reported to GSA August 3, 1992; pending transfer to GSA.	Gen. Tetsuya Nishimoto, Chief of Staff, JGSDF, Japan.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Paul Wolfowitz, Under Secretary for Policy.	Silver box with repousse design, approx. 7½"×4¼", in printed cloth-covered box. Recd: June 21, 1992. Est. Value: $275. Reported to GSA August 10, 1992; pending transfer to GSA.	B.J. Habibie, Minister of State for Research and Technology, Republic of Indonesia.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Paul Wolfowitz, Under Secretary for Policy.	Silver box with repousse design, approx. 7¼"x4¼", in printed cloth-covered box. Recd: October 27, 1992. Reported to GSA February 3, 1993; pending transfer to GSA.	B.J. Habibie, Minister of State for Research and Technology, Republic of Indonesia.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Paul Wolfowitz, Under Secretary of Defense for Policy, and Mrs. Wolfowitz.	Battery operated ship's clock; and set of four (4) silk pillow covers, with floral designs (hand-painted). Recd: December 3, 1992. Est. Value: $290. Reported to GSA January 29, 1993; pending transfer to GSA.	Gen. and Mrs. Liu Ho-Chien, Chief of the General Staff, Ministry of National Defense, Republic of China.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF EDUCATION

Report of Travel or Expenses of Travel

Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor or government	Circumstances justifying acceptance
Received—May 1–11, 1992, Estimated Value—$5,320, Expended for in-country transportation, some hotel, meals and miscellaneous expenses.	Government of Australia	To accompany Secretary of Education on official State Department business trip to Australia. Contact: Ms. JoAnn Di Carlo, Executive Management Staff Director, Office of the Secretary 202–205–3697.

AGENCY: DEPARTMENT OF JUSTICE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert S. Mueller, III, Assistant Attorney General, Criminal Division.	14K tie-bar and chain w/amethyst. Recd: July 7, 1992. Est. Value: $295. Delivered to GSA on Sept. 16, 1992.	Mr. Jeong, Prosecuter General of South Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: U.S. GENERAL ACCOUNTING OFFICE

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Harry S. Havens, Assistant Comptroller General.	Recd: October 3–12, 1992. Est. Value: $1,615. Expended for hotel, meals, car and driver, and cultural activities.	Russian Federation Supreme Soviet, Russia.	To determine whether or not a continuing cooperative relationship between the U.S. General Accounting Office and organs of the Supreme Soviet of the Russian Federation would be mutually beneficial to both organizations and, if so, what would be the appropriate next steps in developing such a relationship.

AGENCY: U.S. GENERAL ACCOUNTING OFFICE—Continued

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
David G. Mathiasen, Special Assistant to the Assistant Comptroller General.	Recd: October 3–12, 1992. Est. Value: $1,615. Expended for hotel, meals, car and driver, and cultural activities.	Russian Federation Supreme Soviet, Russia.	To determine whether or not a continuing cooperative relationship between the U.S. General Accounting Office and organs of the Supreme Soviet of the Russian Federation would be mutually beneficial to both organizations and, if so, what would be the appropriate next steps in developing such a relationship.
Irvin L. White, Member of the National Research Council/National Academy of Sciences, Spouse of Mary R. Hamilton, Director for Quality Management.	Recd: November 9–17, 1992. Est. Value: $900. Expended for in-country lodging, meals, and transportation.	Romanian Government, Romania	Served as Chair and member of a delegation for the National Research Council/National Academy of Sciences that participated in a joint workshop with Romanian scientists and energy experts hosted in Romania.

AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Daniel S. Goldin, Administrator, National Aeronautics and Space Administration.	Russian Lacquer Box. Rec: July 16, 1992. Est. value: $500.	Yuri Koptev, General Director, Russian Space Agency.	Non-Acceptance would have caused embarrassment to donor and U.S. Government.
Mr. Jack Lee, Director, Marshall Space Flight Center.	Original Oil Painting of Spacelab Mission I. Rec: March 25, 1992. Est. value: $2,000. Approved for Official Use.	H.R.H. Phillipe, Prince of Belgium	Non-Acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: NATIONAL SPACE COUNCIL

REPORT OF TRAVEL OR EXPENSES OF TRAVEL

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Steven D. Harrison, Director for Advance Concepts, Science and Technology.	Recd: Aug. 19, 1992. Est. value: $237. Expended for accommodations.	"Ettore Majorana", International Centre for Scientific Culture, Office of the President, Italy.	To attend international seminar on: "Proliferation of Weapons for Mass Destruction" and "International Cooperation on Defense Systems".

AGENCY: DEPARTMENT OF THE NAVY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Honorable H. Lawrence Garrett III, Secretary of the Navy.	Gold cuff links and gold key ring. Recd: October 29, 1991. Est. Value: $700. Being held in General Counsel's office pending transfer to GSA for disposition.	General Mohamed Hussein Tantawi, Minister of Defense, Cairo, Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: DEPARTMENT OF THE NAVY—Continued
Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
General Joseph P. Hoar, USMC, Commander in Chief, U.S. Central Command.	Pakistani carpet. Recd: April 12, 1992. Est. Value: $650. Officially accepted by SJA to CMC of the Marine Corps, and retained at U.S. Central Command until SNO changes command, at which time it will be forwarded to GSA.	General Shamin Alam Khan, Chairman of Pakistan JCS Committee.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Joseph P. Hoar, USMC, Commander in Chief, U.S. Central Command.	Tabrizi carpet. Recd: April 14, 1992. Est. Value: $800. Accepted by SJA to CMC, and retained at USCENTCOM.	Lieutenant General Ayaz Ahmad, Commander, 11th Corps, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Joseph P. Hoar, USMC, Commander in Chief, U.S. Central Command.	Ceremonial sword & scabbard. Recd: June 3, 1992. Est. Value: $600. Accepted by SJA to CMC, and retained at USCENTCOM.	Major General Jabir Al-Khalid Al-Sabah, Chief, General Staff, Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General Joseph P. Hoar, USMC, Commander in Chief, U.S. Central Command.	Pakistani carpet. Recd: July 24, 1992. Est. Value: $650. Accepted by SJA to CMC, and retained at USCENTCOM.	Farooq Feroze Khan, Chief of Air Force Staff, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral Frank B. Kelso II, USN, Chief of Naval Operations.	Wool rug (6 x 4 feet) Recd: January 21, 1992. Est. Value: $700. Being retained in CNO Quarters, Tingey House, Washington Navy Yard.	Admiral Saeed Mohammad Khan, Chief of Naval Staff, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral Frank B. Kelso, II, USN, Chief of Naval Operations.	Wool rug (6 x 4 feet. Recd: December 8, 1992. Est. Value: $700. Being retained in CNO Quarters, Tingey House, Washington Navy Yard.	Admiral Saeed Mohammad Khan, Chief of Naval Staff, Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General General Carl E. Mundy, Jr., USMC, Commandant of the Marine Corps.	Ceremonial Sword Recd: October 19, 4992. Est. Value: $400. Being retained in the house of the Commandant.	General Marie Voynot, Government of France.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: PEACE CORPS
Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	*Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition of location*	*Identity of foreign donor and government*	*Circumstances justifying acceptance*
Barbara Zartman, Acting Director .	(1) Sterling Silver Dove. Nov. 23, 1992. Est. Value: over $200. Currently on Display at Peach Corps Office of Washington, DC.	Government of Tunisia	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: SECURITIES AND EXCHANGE COMMISSION
Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	*Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States*	*Identity of foreign donor and government*	*Circumstances justifying acceptance*
Frank Kelly, Deputy Director, Office of Public Affairs, Policy Evaluation, & Research.	Recd: Apr. 1992. Est. Value: $2,500. Extended for airfare, hotel & meals.	Hanns Seidel Foundation, Munich, Germany.	Cultural and educational program of Germany and Czechoslovakia.

AGENCY: U.S. DEPARTMENT OF TREASURY
Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Nicholas F. Brady, Secretary	July 6, 1992. Est. Value: $200 Procelain Lion.	Theo Weigel, German Finance Minister.	Non-acceptance would have caused embarrassment to the donor and the U.S. Govt.

AGENCY: U.S. DEPARTMENT OF TREASURY
Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Nicholas F. Brady, Secretary	July 5–8, 1992. Est. Value: $2,800. Expenses for hotel accommodations.	German Government	Lodging Expenses at Ec. Summit.
David Mulford, Under Secretary ...	July 5–8, 1992. Est. Value: $1,133.30. Expended for Hotel Accommodations.	German Government	Lodging Expenses at Ec. Summit.
Olin Wethington, Assistant Secretary.	July 5–8, 1992. Est. Value: $1,133.30. Expended for Hotel Accommodations.	German Government	Lodging Expenses at Ec. Summit.

AGENCY: BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Stephen E. Higgins, Director, Alcohol, Tobacco and Firearms.	Payment for all lodging expenses by the Italian American Trade Ministry. Recd-November 14, 1992 Est Cost—$520.00 for four nights of lodging, November 11–14, 1992. Reported to Main Treasury.	Siena, Italy, The American Wine Committee of the Italian Trade Commission.	Attemped payment for lodging was unsuccessful; further effort would have caused embarrassment to donor.

AGENCY: U.S. CUSTOMS SERVICE
Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Jack J. Harriman, Inspector	Korean Celadon Vase. Recd: November 12, 1992. Est. Value: $410. Reported to GSA December 22, 1992; recipient indicates interest in purchasing.	Kwang-su Park, Director General, Korean Customs Administration.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: DEPARTMENT OF STATE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James A. Baker III, Secretary of State.	Framed oil painting of a tropical landscape, 2224 inches. Recd: January 17, 1992. Est. Value: $225. In Office of Protocol pending transfer to GSA.	Violeta B. de Chamorro, President of Nicaragua.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	(1) Ceremonial Dagger. Est. Value: $65. Retained by recipient. (2) Large rug, rust and copper in color, 68 feet. Est. Value: $900. In Office of Protocol pending transfer to GSA. Recd: February 12, 1992.	Ayaz Mutalibov, President of Azerbaijan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	Large rug, patterned in red, 810 feet. Recd: February 13, 1992. Est. Value: $1,800. In Office of Protocol pending transfer to GSA.	Saparmurad Niyazov, President of Turkmenistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	(1) Large tole tray with black and floral design. Est. Value: $250. (2) Marble picture of a winter scene. Est. Value: $100. (3) Small painting of two trees on a cliff, 4.512 inches. Est. Value: $10. Recd: February 14, 1992. In Office of Protocol pending transfer to GSA.	Evgeny Avronin, Director, Institute of Technology, Russia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	(1) Green marble and purple quartz desk set. Est. Value: $200. In Office of Protocol pending transfer to GSA. (2) Small black lacquer box. Est. Value: $150. Retained by recipient. (3) Painting on marble of a church scene. Est. Value: $15. In Office of Protocol pending transfer to GSA. Recd: February 15, 1992.	Eduard Rossel, Governor of Yekaterinburg, and Mrs. Rossel, Russia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	(1) Purple robe with gold border. Est. Value: $150. In Office of Protocol pending transfer to GSA. (2) Black felt hat. Est. Value: $5. Retained by recipient. (3) Large porcelain vase with orange floral design, with a photograph of recipient on front. Est. Value: $175. Retained by recipient. Recd: February 16, 1992.	Abduganiyevich Karnov Islam, President of Uzbekistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	(1) Hunter's powder flask, carved on front with an animal scene. Est. Value: $175. Retained by recipient. (2) Leather picture frame, 810 inches. Est. Value: $90. In Office of Protocol pending transfer to GSA. Recd: April 29, 1992.	Richard Von Weizsaecker, President of Germany.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	Tradifional sterling silver herbal tea cup. Recd: May 12, 1992. Est. Value: $250. In Office of Protocol pending transfer to GSA.	Patricio Aylwin, President of Chile	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James A. Baker III, Secretary of State.	(1) Dagger and sheath. Est. Value: $50. Retained by recipient. (2) White cape. Est. Value: $150. Retained by recipient. (3) Large abstract painting. Est. Value: $150. In Office of Protocol pending transfer to GSA. (4) Metal statue of Christopher Columbus and a ship with flags flying. Est. Value: $50. In Office of Protocol pending transfer to GSA. Recd: May 26, 1992.	Eduard Shevardnadze, Chairman of State Council, Georgia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	(1) Hand-bound book of 1991 Japanese postage stamps. Est. Value: $40. (2) Hand-bound book of Mt. Fuji commemorative stamps. Est. Value: $60 (3) Silk scarf: orange, yellow and blue. Est. Value: $150. (4) Lacquer ware plate with stand. Est. Value: $35. Recd: June 4, 1992. In Office of Protocol pending transfer to GSA.	Shin Kanemaru, LDP Vice President, Japan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
James A. Baker III, Secretary of State.	Porcelain statue of lion, with personalized inscription. Recd: July 7, 1992. Est. Value: $250. In Office of Protocol pending transfer to GSA.	Max Streibl, Minister-President of Bavaria, Germany.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker III, wife of Secretary of State.	Modern stone sculpture on wooden base. Recd: January 17, 1992. Est. Value: $225. In Office of Protocol pending transfer to GSA.	Pier Pierson, Vice Minister of Culture, Nicaragua.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker III, wife of Secretary of State.	Small Ananov egg locket. Recd: May 1, 1992. Est. Value: $1,000. In Office of Protocol pending transfer to GSA.	Anatoly Sobchak, Mayor of St. Petersburg, Russia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. James A. Baker III, Secretary of State.	Jewelry set: amber and silver necklace, bracelet and earrings. Recd: June 16, 1992. Est. Value: $225. In Office of Protocol pending transfer to GSA.	Naina Yeltsin, wife of President of Russia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William Brown, U.S. Ambassador to Israel and Mrs. Brown.	Limited Edition Lithograph 90/150: "Operation Entebbe". Recd: January 1992. Est. Value: $250. In Office of Protocol pending transfer to GSA.	Chiam Herzog, President of Israel, and Mrs. Herzog.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Edward P. Djerejian, Assistant Secretary of State, Bureau for Near Eastern and South Asian Affairs.	Gold and stainless steel Eterna watch. Recd: February 17, 1992. Est. Value: $600. In Office of Protocol pending transfer to GSA.	Shaikh Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Jennifer Ann Fitzgerald, Deputy Chief of Protocol.	Gold necklace and earrings. Recd: January 10, 1993. Est. Value: $250. In Office of Protocol pending transfer to GSA.	Jerry John Rawlings, President of Ghana.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Charles W. Hostler, U.S. Ambassador to Bahrain.	One Khanjar (curved Arabic dagger). Recd: February 25, 1992. Est. Value: $1,000. In Office of Protocol pending transfer to GSA.	Shaikh Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Joseph Lebaron, wife of Foreign Service Officer, American Embassy Abu Dhabi.	One pair of 18 karat gold earrings. Recd: December 19, 1992. Est. Value: $272. In Office of Protocol pending transfer to GSA.	Shaikh Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

VOL 58 ISS 248 DE 29 1993 UMI

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
David L. Mack, Deputy Assistant Secretary of State, Bureau for Near Eastern and South Asian Affairs.	Tissot wrist watch. Recd: February 17, 1992. Est. Value: $250. In Office of Protocol pending transfer to GSA.	Shaikh Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Nicholas Platt, wife of the U.S. Ambassador to Pakistan.	One pair of gold earrings with blue stone and clear crystalline insert. Recd: October 20, 1992. Est. Value: $212. In Office of Protocol pending transfer to GSA.	Begum Nawaz Sharif, wife of the Prime Minister of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. William Rugh, wife of the U.S. Ambassador to the United Arab Emirates.	One pair of 18 karat gold earrings. Recd: December 19, 1992. Est. Value: $272. In Office of Protocol pending transfer to GSA.	Sheikha Mahra, wife of the Ruler of Ras Al Khaimah, Shaikh Saqu bin Mohammmed al Qasimi, United Arab Emirates.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Paul Taylor, wife of the U.S. Ambassador to the Dominican Republic.	Antique coin pendant. Recd: January 6, 1992. Est. Value: $240. In Office of Protocol pending transfer to GSA.	Secretary of Commerce and Industry and Mrs. Bello Andino, Dominican Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Michael Ussery, U.S. Ambassador to Morocco.	One silver belt. Recd: January 13, 1992. Est. Value: $300. In Office of Protocol pending transfer to GSA.	Abdewahmane Bouftas, Minister of Housing of Morocco.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Edward Walker, wife of the U.S. Ambassador to the United Arab Emirates.	One 21 karat gold necklace. Est. Value: $800. One 21 karat gold bracelet. Est. Value: $314. One 21 karat gold bracelet. Est. Value: $595. Recd: June 25, 1992. In Office of Protocol pending transfer to GSA.	Government of the United Arab Emirates.	Non-acceptance would have caused embarrassment to donor and U.S. Government
John Gillen Weinmann, Chief of Protocol.	Silver plated, wood-lined box. Recd: May 13, 1993. Est. Value: $300. In Office of Protocol pending transfer to GSA.	Carlos Klammer, Chief of Protocol of Chile.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John Gillen Weinmann, Chief of Protocol.	Crystal handled desk set, with 24 karat gold plating. Recd: April 2, 1992. Est. Value: $450. In Office of Protocol pending transfer to GSA.	Felipe Gonzalez, Prime Minister of Spain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Frank G. Wisner, U.S. Ambassador to the Philippines.	Commemorative gold coin. Recd: May 6, 1992. Est. Value: $355. In Office of Protocol pending transfer to GSA.	Corazon C. Aquino, President of the Philippines.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

[FR Doc. 93-31424 Filed 12-28-93; 8:45 am]

BILLING CODE 4710-39-M

federal register

Wednesday
December 29, 1993

Part IV

Department of Labor

Employment and Training Administration

20 CFR Parts 626 and 638

Job Training Partnership Act: Job Corps Program Under Title IV–B; Rule

VOL 58 ISS 248 DEC 29 1993 UMI

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626 and 638

RIN 1205–AA

Job Training Partnership Act: Job Corps Program Under Title IV–B

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Office of Job Corps of the Employment and Training Administration of the Department of Labor is amending its regulations for operation of the Job Corps program under title IV–B of the Job Training Partnership Act (JTPA). These amendments are required so that the regulations will conform to the Job Training Reform Amendments of 1992 (1992 Amendments). With the amended regulations, Job Corps can implement related portions of the 1992 Amendments.

EFFECTIVE DATE: This final rule is effective on January 28, 1994. Any requirement mandated by the Job Training Reform Amendments of 1992 was implemented by the Department of Labor on July 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy F. Sullivan, Chief, Division of Program Planning and Development, Office of Job Corps, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., room N4510, Washington, DC 20210. Telephone: (202) 219–5556 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

A. Introduction

The Employment and Training Administration (ETA) of the Department of Labor (DOL) is amending its regulations for the operation of Job Corps. On June 14, 1993, DOL published in the **Federal Register** at 58 FR 33000 a proposed rule to amend the Job Corps regulations, inviting comments from interested persons through July 14, 1993. The final rule set forth below is being promulgated after full consideration of the comments received in response to that notice of proposed rulemaking. Its purpose is to implement amendments to the Job Training Partnership Act (JTPA or Act) applicable to Job Corps and contained in the Job Training Reform Amendments of 1992 (1992 Amendments), which became effective July 1, 1993. The amendments in this final rule involve: (1) A change in the language related to income eligibility, (2) changes in the definitions of "family" and "family of one," (3) a change in the language defining eligibility for Job Corps through receipt of food stamps, (4) provision for a portion of the total Job Corps enrollment to come from persons who are ages 22 through 24, (5) a change requiring the national performance measurement system to include the establishment of annual performance standards for centers and other program components, (6) provision of a management fee for all Job Corps contractors, (7) addition of language giving priority in nonresidential programs to single parents, (8) provision for concurrent or subsequent enrollment of participants in JTPA titles II and IV–B programs, (9) change in the language related to individuals with handicaps, and (10) provision for child care at centers where practicable.

B. Comments on Proposed Rule and DOL's Responses

The proposed rule to amend the Job Corps regulations was published in the **Federal Register** at 58 FR 33000 (June 14, 1993). Written comments from interested persons were invited through July 14, 1993. The comments, summarized by topic, and DOL's response to those comments, are set forth below.

Job Corps received three comments on the proposed rule. Most were directed to the amended definition of family, income eligibility through receipt of food stamps, and transfer of participants between JTPA titles II and IV–B.

The comments are responses are as follows:

1. Section 638.200 Definitions

a. "Economically Disadvantaged"

Two commentors expressed a concern about the difficulty in determining income eligibility for Job Corps of youth who receive or whose families receive food stamps, or who are eligible for food stamps within the 6-month period before application to Job Corps. The commentors believed that eligibility for food stamps within the 6-month period would be difficult to verify and document. While Job Corps appreciates the difficulty in obtaining such information, the definition is contained in the 1992 Amendments and therefore no revision to this definition is appropriate.

b. "Family"

Two commentors were concerned that the amendment definition of "family" may affect eligibility for Job Corps under the economically disadvantaged criterion. They recognize it is more narrow than the previous regulatory definition and excludes relatives other than spouse, child, parent or legal guardian, with who a youth might live, such as grandparents, aunts, uncles, siblings or cousins. The definitions of "family" is contained in the 1992 Amendments and therefore no revision to this definition is appropriate See 29 U.S.C. 1503(34) (1993 supp.)

One commentor believed that the definition implies that foster children are considered family through "decrees of court" and that this would impact how family income is calculated in determining the eligibility of the foster child. Job Corps regulations, however, state that foster children and wards of the court, on behalf of whom State or local government payments are made, are eligible for Job Corps under the economically disadvantaged criterion, so no income calculation is needed. 20 CFR 638.200, definition of "economically disadvantaged", paragraph (4); see also 29 U.S.C. 1503(8)(E) (1993 supp.).

c. "Income"

One commentor questioned how family members are counted and how income is computed for those who live in the household for only a portion of the 6 months prior to application. The regulations state that income of a family member is counted for only that portion of the period when the person is actually a member of the family. No change will be made in the definition.

With respect to the same definition, one commentor expressed confusion in the use of "individual" and "individual with disabilities." While Job Corps will continue to define a youth who falls within one definition of "family" for income purposes as an "individual," the term "person with disabilities" or other similar nomenclature can easily be substituted for "individual with disabilities" when discussing youth in the context of income eligibility for Job Corps.

d. Section 638.541 Job Corps Training Opportunities

Two commentors indicated that the use of the term "transfer" to apply to the amended language which allows for concurrent or subsequent participation in both title II and title IV–B programs, did not describe the relationship accurately. Job Corps agrees and has revised the language of the regulation to describe the relationship.

One commentor recommended that Job Corps link with state Job Opportunities and Basic Skills (JOBS) programs. See 42 U.S.C. 681 *et seq.*; and 45 CFR part 251. Job Corps regulations already specify development of linkages with "services supporting participants in the Job Opportunities and Basic Skills Training Program [JOBS]." See 20 CFR 638.541 (1993).

One commentor proposed reducing the age of enrollees to 14 for parenting teens. The purpose of Job Corps is to train young adults for placement in jobs. Since the legal age for employment is 16, youth under 16 could not be placed. In addition, Job Corps believes the variation in age and maturity between 14-year-olds and 24-year-olds is too great to mix them in a residential program.

e. Section 638.542 Child Care Services

A comment was received recommending that Job Corps provide day care at all centers. The current policy of Job Corps is to utilize local day care when available. Funding has not been provided for Job Corps to operate day care programs at all centers and the Department has determined that it is not practicable. 29 U.S.C. 1698(e) (1993 supp.). Accordingly, the language contained in the regulation has not been amended.

Regulatory Impact

This final rule applies only to changes in Job Corps regulations required by enactment of the Job Training Reform Amendments of 1992. It does not constitute "a significant regulatory action" within the meaning of Executive Order 12866 of September 30, 1993 (58 FR 51735). For the same reasons, as required by the Regulatory Flexibility Act, the Department of Labor, at the time the proposed rule was published, notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction

The final rule contains no new collection of information requirements.

List of Subjects

20 CFR Part 626

Grant programs, Labor, Manpower training programs.

20 CFR Part 638

Contract programs, Labor, Training and employment programs.

Final Rule

Accordingly, 20 CFR chapter V is amended as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

1. The authority citation to 20 CFR part 626 continues to read:

Authority: 29 U.S.C. 1579(a); section 6305(f), Pub. L. 100–418, 102 Stat. 1107; 29 U.S.C. 1791i(e).

§ 626.4 [Amended]

2. The consolidated table of contents in § 626.4 is amended by revising the heading for § 638.302 to read as follows:

§ 626.4 Table of contents for the regulations under the Job Training Partnership Act.

* * * * *

638.302 Performance measurement

* * * * *

PART 638—JOB CORPS PROGRAM UNDER TITLE IV–B OF THE JOB TRAINING PARTNERSHIP ACT

3. The authority for part 638 continues to read as follows:

Authority 29 U.S.C. 1579(a).

4. Section 638.200 is amended as follows:

a. In the definition of *"Economically disadvantaged"*, the introductory language in paragraph (2) is revised and paragraph (3) is revised;

b. The definition of *"Family"* is revised;

C. The definition of *"Family income"* is removed and the definition of *"Income"* is added;

d. The definition of *"Individual with handicaps"* is removed and the definition of *"Individual with disabilities"* is added;

e. The definition of *"Family of one"* is removed and the definition of "Individual" is added; to read as follows:

§ 638.200 Definitions.

* * * * *

Economically disadvantaged means an individual who:

* * * * *

(2) Has, or is a member of a family which has received a total income for the 6-month (annualized) period prior to application to the program which, in relation to family size or for an individual, was not in excess of the higher of:

* * * * *

(3) Is receiving (or has been determined within the 6-month period prior to the application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977, as administered by the U.S. Department of Agriculture;

* * * * *

Family means persons living in a single residence who are related by blood, marriage, or decrees of court and are included in one or more the following categories:

(1) A husband, wife and dependent children,

(2) A parent or guardian and dependent children, and

(3) A husband and wife. A step-child or step-parent is considered to be related by marriage.

* * * * *

Income means all income actually received from all sources by an individual or, in the case of a family, by all members of the family for the 6-month (annualized) period prior to application. Family size is the maximum number of family members during the 6-month period prior to application. When computing family income, income of a spouse and other family members is counted for the portion of the 6-month (annualized) period prior to application that the person was actually a member of the family.

(1) For the purpose of determining an individual's eligibility for participation in the Job Corps program, family income includes:

(i) Gross wages, including wages from community service employment (CSE), work experience, and on-the-job training (OJT) paid from Job Training Partnership Act funds, and salaries (before deductions);

(ii) Net self-employment income (gross receipts minus operating expenses); and

(iii) Other money income received from sources such as interest, net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, and periodic income from insurance policy annuities, and other sources of income.

(2) Family income does not include:

(i) Non-cash income such as food stamps or compensation received in the form of food or housing;

(ii) Imputed value of owner-occupied property, *i.e.*, rental value;

(iii) Public assistance payments;

(iv) Cash payments received pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act, or disability insurance payments received under title II of the Social Security Act;

(v) Federal, State, or local unemployment benefits;

(vi) Capital gains and losses;
(vii) One-time unearned income, such as, but not limited to:
(A) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;
(B) One-time or fixed-term scholarship or fellowship grants;
(C) Accident, health, and casualty insurance proceeds;
(D) Disability and death payments including fixed-term (but not lifetime) life insurance annuities and death benefits;
(E) One-time award and gifts;
(F) Inheritance, including fixed-term annuities;
(G) Fixed-term workers compensation awards;
(H) Soil bank payments; and
(I) Agricultural crop stabilization payments;
(viii) Pay or allowance which were previously received by any veteran while serving on active duty in the Armed Forces;
(ix) Educational assistance and compensation payments to veterans and other eligible persons under chapters 11, 13, 31, 34, 35, and 36, of title 38, U.S. Code;
(x) Payments made under the Trade Act of 1974;
(xi) Payments received under the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*);
(xii) Any income directly or indirectly derived from, or arising out of, any property held by the United States in trust for any Indian tribe, band, or group or any individual; per capita payments; and services, compensation or funds provided by the United States in accordance with, or generated by, the exercise of any right guaranteed or protected by treaty; and any property distributed or income derived therefrom, or any amounts paid to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim; and
(xiii) Child support payments.

Individual means a person who lives alone, or who lives with unrelated individuals, or who lives in a single residence where no family member claims that person as a dependent. An individual with disabilities has an option of applying and being considered as a member of a family or as an individual.

Individual with disabilities means any person within the definition at 29 CFR part 33 or 34 or 41 CFR part 60–741 as applicable. Although the definition employs the plural form "disabilities," and individual with a single impairment is covered within the definition. See §§ 638.539(g) and 638.811(a).

* * * * *

5. In § 638.301, a new paragraph (j) is added to read as follows:

§ 638.301 Funding procedures.

* * * * *

(j) All Job Corps contractors shall be provided with an equitable and negotiated management fee of not less than 1 percent of the contract amount.

6. Section 638.302 is revised to read as follows:

§ 638.302 Performance measurement.

The Job Corps Director shall establish a national performance measurement system for centers and other program components which shall include annual performance standards.

7. In § 638.400, paragraph (a) is revised to read as follows:

§ 638.400 Eligibility for participation.

* * * * *

(a) Is at least 16 and not yet 25 years of age at the time of enrollment, with the following exceptions:

(1) In the case of an otherwise eligible individual with disabilities, there is no upper age limit;

(2) Not more than 20 percent of the individuals enrolled by Job Corps may be ages 22 through 24; and

(3) Youths 14 to 15 years of age may be eligible for enrollment upon a specific determination by the Job Corps Director to enroll them;

* * * * *

8. In § 638.401, a new paragraph (d) is added to read as follows:

§ 638.401 Outreach and screening of participants.

* * * * *

(d) In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children.

* * * * *

9. In § 638.539, paragraph (g)(1) is revised to read as follows:

§ 638.539 Complaints and Disputes.

* * * * *

(1) 29 CFR part 34 and subparts B and C and Appendix A of 29 CFR part 32 for programs receiving financial assistance under JTPA.

* * * * *

10. Section 638.541 is amended by adding a sentence at the end to read as follows:

§ 638.541 Job Corps training opportunities.

* * * Nothing in this part shall be construed to prohibit an individual who has been a participant in Job Corps from concurrently or subsequently participating in programs under title II of JTPA, or to prohibit an individual who has been a participant in programs under title II of JTPA from concurrently or subsequently participating in Job Corps.

11. Section 638.542 is amended as follows:

a. The present undesignated paragraph is redesignated as paragraph (b); and

b. A new paragraph (a) is added, to read as follows:

§ 638.542 Child care services.

(a) Job Corps centers shall, where practicable, arrange for the provision of child care for students with dependent children.

* * * * *

Signed at Washington, DC, this 21st day of December 1993.

Doug Ross,

Assistant Secretary of Labor.

[FR Doc. 93–31506 Filed 12–28–93; 8:45 am]

BILLING CODE 4510-30-M

federal register

Wednesday
December 29, 1993

Part V

Department of Commerce

Economic Development Administration

Federal Levee Repair Policy Under Economic Development Assistance for Disaster Relief Activities; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 930942-3331]

Federal Levee Repair Policy Under Economic Development Assistance for Disaster Relief Activities

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) is announcing that it will begin receiving requests for assistance through grants to non-Federal facilities for levee repairs in accordance with the Supplementary Notice in 58 FR 54008, October 19, 1993, as part of its economic recovery assistance program for the Midwest Floods of 1993.

In carrying out this program, EDA will collaborate with the U.S. Army Corps of Engineers (Corps) to ensure that the proposed levee repairs will meet all appropriate Corps criteria so that levees repaired under this notice will be eligible in the future for participation in the Corps' program of Emergency Levee Repairs under P.L. 84-99. The final decision as to whether a levee will be repaired with funds available under this Notice shall be solely that of EDA.

DATES: This announcement is effective immediately. Preapplications in accordance with criteria set forth herein, for levee repairs which are needed to protect critical public infrastructure will be received until January 28, 1994.

ADDRESSES: To establish merits of project proposals, interested parties should contact the EDA office for the area (see Appendix A) for a preapplication. Form ED-101P (SF-424). Requests for assistance shall be submitted directly to the EDA regional office that serves the area (see Appendix A).

FOR FURTHER INFORMATION CONTACT: See listing in Appendix A.

SUPPLEMENTARY INFORMATION:

Funding Availability

Funds up to $18 million are available for this levee repair program. These funds are provided from the $200 million for emergency expenses which are appropriated under Public Law 103-75. It is anticipated that the funds announced herein for repairing levees may not be sufficient to repair all the levees for which requests are received.

Grant Rates

The EDA grant rate is 75 percent. The recipient's share of the cost of a levee rehabilitation project for which assistance is made available by EDA shall be:

—To provide all land, easements, rights-of-way, and dredged material disposal areas necessary for the project; and

—To provide 25 percent of the costs of construction on the project of which at least 5 percent shall be paid in cash.

Funding Instrument

Awards will be made as grants in accordance with the requirements of Title I, Title IV, or Title IX of the Public Works and Economic Development Act of 1965, as amended (Pub. L. 89-136; 42 U.S.C. 3121 *et seq.*) (PWEDA). The appropriate program authority for grant application and award will be determined by EDA based on the nature of the project and the eligibility of the area.

Eligible Applicants

Eligible applicants include any of the states or political subdivisions thereof, including municipalities and quasi-public corporations and authorities, Indian tribes, and nonprofit corporations representing an EDA designated area or part thereof located in areas affected by the Midwest Floods of 1993.

Project Criteria

An invitation to submit an application does not assure EDA funding. Factors that will be considered in evaluating proposals include if, and to what extent, the proposed project meets the selection criteria. Selection criteria will not be assigned weights. However, a key selection criterion will be the nature of the critical public infrastructure that is protected by the levee.

Corps of Engineers Criteria

Levees which are within the Corps' geographic area of responsibility (i.e., contributing drainage areas of 400 square miles or greater) that were ineligible to receive assistance because of the lack of participation by a public sponsor prior to the Midwest Floods of 1993, will be eligible for assistance from EDA, provided that:

—It is demonstrated that the levee protests "critical" public infrastructure;

—A public sponsor is identified that can demonstrate sufficient financial capability to comply with the requirements of this section;

—The levee rehabilitation otherwise meets the requirements established by the Corps for design, operation, maintenance;

—It is demonstrated that the benefits derived from repair or reconstruction of the levee will exceed the repair costs; and

—The public sponsor agrees to include its levee in the Corps' program and enters into a written agreement acknowledging that future Federal assistance will be conditional upon the public sponsor's continued participation in the program (future assistance will be forthcoming under the Corps' Public Law 84-99 Emergency Levee Program)

—The proposed work consists primarily and essentially of repairs to an existing levee.

Selection Criteria

It is anticipated that the funds announced herein for repairing levees may not be sufficient to repair all the levees for which requests are received EDA will use the following criteria to select the levees to be repaired: (1) The critical nature of the infrastructure protected by the levee, (2) environmental impact, (3) past performance of the applicant regarding operation and maintenance of the existing levee, (4) the applicant's ability to ensure proper and efficient administration of the levee rehabilitation project and of satisfactory operation and maintenance of the levee in accordance with standards established by the Corps, (5) the feasibility of the project, cost and other factors considered, (6) the potential the project has for assisting in the long-term rehabilitation of the area, and (7) the extent to which the project will directly or indirectly tend to improve opportunities in the area for the establishment or expansion of industrial or commercial facilities or primarily benefit members of low-income families.

Application Process

EDA, working in conjunction and collaboration with the Corps, will screen preapplications to determine whether they can meet the criteria established above before inviting formal applications. After all requests have been screened, EDA will notify the Corps regarding the potential projects for which a site inspection, Damage Survey Report and Cost Benefit Analysis are required.

Following the review of the preapplications and the Damage Survey Reports and Cost Benefit Analysis, EDA will invite those entities whose projects are selected for consideration to submit full applications.

Except as modified herein, application procedures, competitive selection criteria and post approval project implementation information for the applicable assistance are described in the Federal Register of January 11, 1993, (58 FR 3800) announcing EDA's Notice of Availability of Funds for FY 1993.

Dated: December 22, 1993.

Willur F. Hawkins,

Acting Assistant Secretary for Economic Development.

Appendix A

Contact the appropriate Economic Development Representative or EDA Regional Office listed below:

Denver Regional Office (ND, NE, SD, IA, MO, KS)

Economic Development Administration, Denver Regional Office, Room 670, 1244 Speer Boulevard, Denver, CO 80204, Telephone: (303) 844-4714

Denver Region Economic Development Representatives (EDR)

North Dakota
Cornelius Grant, Disaster Field Office, P.O. Box 1911, Bismarck, ND 58501, Telephone: (701) 250-4321

South Dakota and Nebraska
Warren Albertson, Federal Building, Room 219, Pierre, SD 57501, Telephone: (605) 224-8280

Iowa
Robert Cecil, Federal Building, Room 593A, 210 Walnut Street, Des Moines, IA 50309, Telephone: (515) 284-4746

Missouri
Forrest Koch, Robert A. Young Building, Room 8.308H, 1222 Spruce Street, St. Louis, MO 63103, Telephone: (314) 539-2321

Kansas
John Zender, Room 632, 1244 Speer Boulevard, Denver, CO 80204, Telephone: (303) 844-4902

Chicago Regional Office (WI, MN, IL)

Economic Development Administration, Chicago Regional Office, Suite 855, 111 North Canal Street, Chicago, IL 60606-7204, Telephone: (312) 353-7706

Chicago Region Economic Development Representatives, (EDR)

Wisconsin
Jack D. Price, Suite 114, 1320 West Clairemont Avenue, Eau Claire, WI 54701-6026, Telephone: (715) 834-4079

Minnesota
John B. Arnold, III, 104 Federal Building, 515 West First Street, Duluth, MN 55802, Telephone: (218) 720-5326

Illinois
Alfred L. Casals, 509 West Capitol, Suite 204, Springfield, IL 62704, Telephone: (217) 492-4224

[FR Doc. 93-31632 Filed 12-28-93; 8 45 am]

BILLING CODE 3510-24-M

VOL
58
ISS
248
DE
29
1993
UMI

federal register

Wednesday
December 29, 1993

Part VI

Department of Health and Human Services

Administration for Children and Families

Mitigation of Environmental Impacts to Indian Lands Due to Department of Defense Activities; Availability of Financial Assistance; Notice

VOL 58 ISS 248 DEC 29 1993 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Program Announcement No. 93612–943, Availability of Financial Assistance for the Mitigation of Environmental Impacts to Indian Lands due to Department of Defense Activities.

AGENCY: Administration for Native Americans, Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of availability of competitive financial assistance to assist eligible applicants address environmental problems and impacts from Department of Defense activities to Indian lands.

DEFINITION: For purposes of this program announcement, Indian lands is defined as all lands of American Indian tribes and Alaska Native Villages.

SUMMARY: The Congress has recognized that Department of Defense activities may have caused environmental problems for Indian tribes and Alaska Natives. These environmental hazards can negatively impact the health and safety as well as their social and economic welfare. Accordingly, the Congress has taken steps to help those affected begin to mitigate environmental impacts from Department of Defense activities by assisting them in the planning, development and implementation of programs for such mitigation.

This program announcement is initiated in response to the Department of Defense Appropriations Act (the Act), Public Law 103–139, which was enacted on November 11, 1993. Section 8094A of the Act states, of the funds appropriated to the Department of Defense for Operation and Maintenance, Defense-Wide, not less than $8,000,000 shall be made available until expended to the Administration for Native Americans within 90 days of enactment of this Act only for the mitigation of environmental impacts, including the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation on Indian lands resulting from Department of Defense activities.

The Administration for Native Americans (ANA) and the Department of Defense (DOD) have entered into an Interagency Agreement to facilitate carrying out this Congressional mandate. Through this Interagency Agreement, the ANA and DOD announce the availability of FY 1994 funds for eligible applicants to begin the process of addressing the environmental problems and damage caused from defense activities.

FOR FURTHER INFORMATION CONTACT: Sharon McCully—(202) 690–5780, Rita LeBeau—(202) 690–5790, Administration for Native Americans, Department of Health and Human Services, 200 Independence Avenue, SW., room 348F, Washington, DC 20201–0001.

DATES: The closing date for submission of applications is August 26, 1994.

A. Introduction and Purpose

The program announcement states the availability of fiscal year 1994 financial assistance to eligible applicants using funds provided by the Department of Defense through the Administration for Native Americans for the purpose of mitigating environmental impacts on Indian lands related to Department of Defense activities.

Financial assistance awards made under this program announcement will be on a competitive basis and the proposals will be reviewed against the evaluation criteria in this announcement.

The Federal government recognizes that substantial environmental problems, resultant from defense activities, exist on Indian lands and will geographically range from border to border and from coast to coast. The nature and magnitude of the problems will most likely be better defined when affected Indian tribes and Alaska Natives have completed environmental assessments called for in Phase I of this four-phase program.

The Federal government has also recognized that Indian tribes, Alaska Natives and their tribal organizations must have the opportunity to develop their own plans and technical capabilities and access the necessary financial and technical resources in order to assess, plan, develop and implement programs to mitigate any impacts caused by Department of Defense activities.

The Administration for Native Americans (ANA) and the Department of Defense (DOD) recognize the potential environmental problems created by DOD activities that may affect air, water, soil and human and natural resources (i.e., forests, fish, plants). It is also recognized that potential applicants may have specialized knowledge and capabilities to address specific concerns at various levels within the four phase program. Under this announcement proposals will be accepted for any and all of the four phases or one specific phase.

The following are some known areas of concern. It is expected that applicants may identify additional areas of concerns in their applications:

- Damage to treaty protected spawning habitats caused by artillery practice or other defense activities;
- Damage to Indian lands and improvements (e.g., wells, fences) and facilities caused by bombing practice;
- Damage caused to range and forest lands by gunnery range activities;
- Low-level flights over sacred sites and religious ceremonies which disrupt spiritual activities;
- Operation of dams by the Army Corps of Engineers which has had adverse impacts on spawning beds and treaty fishing rights and water quality due to problems of siltation; reduced stream flows; increased water temperatures; and, dredge and fill problems;
- Leaking of underground storage tanks on lands taken from Indians for temporary war-time use by the Department of Defense;
- Unexploded ordnance from gunnery and bombing practice on Indian lands resulting in significant damage to rangelands, wildlife habitat, stock water wells, etc.;
- Disposal activities related to removal of unexploded ordnance, nuclear waste materials, toxic materials, and biological warfare materials from Indian lands;
- Transportation of live ordnance, nuclear waste, chemical and biological warfare materials from and across Indian lands;
- Seepage of fluids suspected of containing toxic materials onto Indian lands;
- Chlorofluorocarbons (CFC's) resulting from abandoned containers and/or dumping onto Indian lands;
- Polychlorinated biphenyls (PCB's) from transformers which have been abandoned and/or dumped onto Indian lands;
- Public health concerns regarding electromagnetic fields surrounding Defense-related transmission facilities which cross Indian lands; and
- Reclamation activities required to mitigate any or all of the above stated conditions and other activities as they become known.

It is anticipated that mitigation efforts will involve four phases of work: Phase I—assessment of Indian lands to develop as complete an inventory as possible of environmental impacts caused by Department of Defense activities; Phase II—identification and exploration of alternative means for

mitigation of these impacts and determination of the technical merit, feasibility and expected costs and benefits of each approach in order to select one approach; Phase III—development of a detailed mitigation plan, and costing and scheduling for implementation of the design, including strategies for meeting statutory or regulatory requirements and for dealing with other appropriate Federal agencies; and, Phase IV—implementation of the mitigation plan.

B. Proposed Projects to be Funded in FY 1994

The purpose of this announcement is to invite single year or up to thirty-six month proposals from eligible applicants to undertake any or all of the Phases.

Applicants may apply for projects of up to 36 months duration. A multi-year project, requiring more than 12 months to develop and complete, affords applicants the opportunity to develop more complex and in-depth projects. Funding after the first 12 month budget period of an approved multi-year project is non-competitive and subject to availability of funds. (see Part E for further information)

Phase I

The purpose of Phase I is to conduct the research and planning needed to identify environmental impacts to Indian lands caused by Department of Defense activities on or near Indian lands and to plan for remedial investigations to determine and carry out a preliminary assessment of these problems. These activities may include, but not be limited to, the following:

- Conduct site inspections to identify problems and causes related to DOD activities;
- Identify and develop approaches to handle raw data that will assist in performing comprehensive environmental assessments of problems and causes related to DOD activities;
- Identify approaches and develop methodologies which will be used to develop the activities to be undertaken;
- Identify other Federal agency programs, if any, that must be involved in mitigation activities and their requirements;
- Identify potential technical assistance and expertise required to address the activities to be undertaken; and
- Identify other Federal environmental restoration programs that could be accessed to cooperatively coordinate and mobilize resources in addressing short and long-term activities developed under Phase III.

Phase I should result in adequately detailed documentation of the problems and sources of help in solving them to provide a useful basis for examining alternative mitigation approaches in Phase II.

Phase II

The purpose of Phase II activities is to examine alternative approaches for mitigation of the impacts identified in Phase I and to lead toward the mitigation design to be developed in Phase III. Phase II activities may include, but need not be limited to the following:

- Conduct remedial investigation and/or feasibility studies as necessary;
- Plan for the design of a comprehensive mitigation strategy to address problems identified during Phase I which address areas such as land use restoration, clean-up processes, contracting and liability concerns; regulatory responsibilities; and resources necessary to implement clean up actions;
- Design strategies that coordinate with or are complementary to existing DOD cleanup programs such as the defense Environmental Restoration Program which promotes and coordinates efforts for the evaluation and cleanup of contamination at DOD installations;
- Review possible interim remedial strategies that address immediate potential hazards to the public health and environment in order to provide alternative measures i.e., providing alternate water supplies, removing concentrated sources of contaminants, or constructing structures to prevent the spread of contamination;
- Identify specific types of technical assistance and management expertise required to assist in developing specific protocols for environmental assessments, remedial investigations, feasibility studies, interim remedial actions and strategic planning for existing and future mitigation activities;
- Review other types of assessments that need to be considered, reviewed and incorporated into the conduct and/or design process such as:

—Estimates of clean-up cost;
—Estimate of impacts of short-term approach;
—Estimate of impacts of long-term approach;
—Cultural impacts;
—Economic impacts;
—Human health-risk impacts; and

- Document approaches and procedures which have been developed in order to negotiate with appropriate Federal agencies for necessary cleanup action and to keep the public informed.

In establishing the basis for a design process, particularly when there are multiple problems, the applicants may want to consider a prioritization process as follows:

- Emergency situations that require immediate clean-up;
- Time-critical sites, i.e. sites where the situation will deteriorate if action is not taken soon;
- Projects with minimum funding requirements;
- Projects with intermediate-level funding requirements;
- Projects with maximum funding requirements.

Achieving compliance with Federal environmental protection legislation is the driving force behind all Federal clean-up activities. The following is a list of major Federal environmental legislation that should be recognized in a regulatory review as all Federal, state and local regulatory requirements which could have major impacts in the design of mitigation strategies:

- Indian Environmental General Assistance Program Act of 1992,
- Clean Air Act (CAA);
- Clean Water Act (CWA);
- Safe Drinking Water Act (SDWA);
- Surface Mining Control and Reclamation Act of 1977 (SMCRA);
- Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA);
- Toxic Substances Control Act (TSCA);
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA);
- Nuclear Waste Policy Act of 1982 (NWPA);
- Comprehensive Environmental Resource Conservation and Liability Act (CERCLA or Superfund);
- Resource Conservation and Recovery Act of 1976 (RCRA);
- Hazardous and Solid Waste Amendments of 1984 (HSWA);
- National Environmental Policy Act of 1969 (NEPA);

Other Federal legislation that should be included in the regulatory review and that should be of assistance are the tribal specific legislative acts, such as:

- American Indian Religious Freedom Act;
- National Historic Preservation Act of 1991;
- Indian Environmental Regulatory Enhancement Act of 1990;

Other regulatory considerations could involve applicable tribal, village, state and local laws, codes, ordinances, standards, etc. which should also be reviewed to assist in planning, the mitigation design, and development of the comprehensive mitigation strategy.

Phase II should result in a carefully documented examination of alternative

VOL 58 ISS 248 DE 29 1993 UMI

approaches and the selection of an approach to be used in the Phase III design process.

Phase III

The purpose of Phase III is the completion of activities initiated under Phase II, the initiation of new activities required to implement programs, and the design of on-site actions required to mitigate environmental damage from DOD activities.

The Phase III activities may include but need not be limited to:

- Development and implementation of a detailed management plan to: Guide corrective action; resolve issues rising from overlapping or conflicting jurisdictions; guide a cooperative and collaborative effort among all parties to ensure there are no duplicative or conflicting regulatory requirements governing the cleanup actions; and, establish a tribal or village framework and/or parameter(s) that will guide the negotiations process for one or multiple cleanup actions;
- Establishment of priorities for mitigation programs when there are multiple clean-up sites; consider at a minimum the nature of the hazard involved: such as its physical and chemical characteristics, including concentrations and mobility of contaminants; the pathway indicating potential for contaminant transport via surface water, ground water and air/soil, and any other indicators that are identified during the environmental assessment, including the prioritization process identified under Phase II;
- Program design and implementation of information dissemination strategies prior to start up of on-site implementation of mitigation program activities;
- Development of a legal and jurisdictional strategy that addresses DOD/contractor liability issues to ensure quality, cost-effective mitigation services, and to evaluate any measures providing equitable risk between the DOD and the remediation contractor, as well as to incorporate Tribal Employment Rights Office (TERO) and other policies and procedures, if required;
- Design of an approval process and other processes necessary for the implementation of tribal and village codes and regulations for current and future compliance enforcement of all mitigation actions;
- Development/design of a documentation strategy to ensure all DOD and contractor cleanup activities are conducted and completed in an environmentally clean and safe manner for the social and economic welfare, as well as public health of Indian and Alaska Native people and the surrounding environment;
- Development and conduct of certified training programs that will enable a local work force to become technically capable to participate in the mitigation activities, if they so choose; and
- Conduct of any other activities deemed necessary to carry out Phase I, II and III activities.

Phase III should result in a comprehensive plan for conducting all aspects of mitigation action contemplated.

Phase IV

The Phase IV activities are the implementation of mitigation plans specified in the detailed plan completed in Phase III.

C. Eligible Applicants

The following organizations are eligible to apply:

- Federally recognized Indian tribes;
- Incorporated Non-Federally and State recognized Indian tribes;
- Alaska Native villages, tribes or tribal governing bodies (IRA or traditional councils) as recognized by the Bureau of Indian Affairs in the **Federal Register** Notice dated October 21, 1993;
- Nonprofit Alaska Native Regional Associations and/or Corporations with village specific projects;
- Nonprofit Native organizations in Alaska with village specific projects;
- Other tribal or village organizations or consortia of Indian tribes.

In addition, current ANA grantees who meet the above eligibility criteria are also eligible to apply for a grant award under this program announcement.

D. Available Funds

Subject to availability of funds, approximately $8 million of financial assistance is available in FY 1994 under this program announcement for eligible applicants.

Each eligible applicant described above (Part C) can receive only *one* grant award under this announcement.

E. Multi-Year Projects

This announcement is soliciting applications for project periods up to 36 months. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be as long as 36 months. Funding after the 12 month budget period of an approved multi-year project is non-competitive. The non-competitive funding for the second and third years is contingent upon the grantee's satisfactory progress in achieving the objectives of the project according to the approved work plan, the availability of Federal funds, compliance with the applicable statutory, regulatory and grant requirements, and determination that continued funding is in the best interest of the Government.

F. Grantee Share of Project

Grantees must provide at least five (5) percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $300,000 in Federal funds (based on an award of $100,000 per budget period), must include a match of at least $15,789 (5% total project cost). Applicants may request a waiver of the requirement for a 5% non-Federal matching share (See 45 CFR part 1336, Subpart E—Financial Assistance Provisions).

It is the policy of ANA to apply the waiver of the non-Federal matching share requirement for the purposes of this particular program announcement.

G. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372.

H. Application Process

(1) Availability of Application Forms: In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied, including Form-424, and in the manner prescribed by ANA. The application kits containing the necessary forms and instructions may be obtained from: Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, Room 348F, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201–0001, Attention: Rita LeBeau—(202) 690–5790.

(2) Application Submission: Each application should include one signed original and two (2) copies of the grant application, including all attachments. These include the forms on: drug free workplace; debarment; and anti-lobbying. Assurances and certifications must be completed. The application must be hand delivered or mailed by the closing date to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, Room 341–F–1, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201–0001, Attention: ANA 93612–943.

The application must be signed by an individual authorized: 1) to act for the applicant tribe, village or organization, and 2) to assume the applicant's obligations under the terms and conditions of the grant award.

(3) Application Consideration: The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement.

The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. An independent review panel consisting of reviewers familiar with environmental problems of Indian tribes and Alaska Native villages will evaluate each application against the published criteria in this announcement. The results of this review will assist the Commissioner in making final funding decisions.
- The Commissioner's decision will also take into account the comments of ANA staff, state and Federal agencies having performance related information, and other interested parties.
- As a matter of policy the Commissioner will make grant awards consistent with the stated purpose of this announcement and all relevant statutory and regulatory requirements under 45 CFR parts 74 and 92 applicable to grants under this announcement.
- After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within approximately 120 days of the closing date. Successful applicants are notified through an official Financial Assistance Award (FAA) document. The Administration for Native Americans staff cannot respond to requests for funding decisions prior to the official notification to the applicants. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-Federal matching share requirement.

I. Review Process and Criteria

Applications submitted by the post-marked date under this program announcement will undergo a pre-review to determine that:

- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement.
- The application materials submitted are sufficient to allow the panel to undertake an in-depth evaluation. (All required materials and forms are listed in the Grant Application Checklist.)

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the evaluation criteria. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success. A proposed project should reflect the purposes stated and described in the *Introduction and Program Purpose* (Section A) of this announcement. The evaluation criteria are:

(1) Goals and Available Resources (15 points)

(a) The application presents specific mitigation goals related to the proposed project. It explains how the tribe or village intent to achieve these goals has been identified and clearly documents the involvement and support of the community in the planning process and implementation of the proposed project.

(b) Available resources (other than ANA) which will assist, and be coordinated with the project are described. These resources may be personnel, facilities, vehicles or financial and may include other Federal and non-Federal resources.

(2) Organizational Capabilities and Qualifications (10 points)

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is well defined. The application clearly demonstrates the successful management of prior or current projects of similar scope by the organization and/or by the individuals designated to manage the project.

(b) Position descriptions or resumes of key personnel, including those of consultants, are presented. The position descriptions and resumes relate specifically to the staff proposed in the Approach Page and in the proposed Budget of the application. Position descriptions very clearly describe the position and its duties and clearly relate to the personnel staffing required for implementation of the project activities Either the position descriptions or the resumes present the qualifications that the applicant believes are necessary for overall quality management of the project.

(3) Project Objectives, Approach and Activities (45 points)

The Objective Work Plan in the application includes project objectives and activities related to the long term goals for each budget period proposed and demonstrates that these objectives and activities:

- Are measurable and/or quantifiable;
- Are based on a fully described and locally determined balanced strategy for mitigation of impacts to the environment;
- Clearly relate to the tribe or village long-range goals which the project addresses;
- Can be accomplished with available or expected resources during the proposed project period;
- Indicate when the objective, and major activities under each objective will be accomplished;
- Specify who will conduct the activities under each objective; and
- Support a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period.

(4) Results or Benefits Expected (20 points)

The proposed project will result in specific measurable outcomes for each objective that will clearly contribute to the completion of the project and will help the tribe or village meet its goals. The specific information provided in the application on expected results or benefits for each objective is the basis upon which the outcomes can be evaluated at the end of each budget year.

(5) Budget (10 points)

There is a detailed budget provided for each budget period requested. (This is especially necessary for multi-year applications.) The budget is fully explained. It justifies each line item in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source. Sufficient cost and other detail is included and explained to facilitate the determination of cost allowability and the relevance of these costs to the proposed project. The funds requested are appropriate and necessary for the scope of the project.

VOL 58 ISS 248 DE 29 1993 UMI

J. Guidance to Applicants

The following is provided to assist applicants to develop a competitive application.

(1) Program Guidance

- The Administration for Native Americans will fund projects that present the strongest prospects for meeting the stated purposes of this program announcement. Projects will not be funded on the basis of need alone.
- In discussing the problems being addressed in the application, relevant historical data should be included so that the appropriateness and potential benefits of the proposed project will be better understood by the reviewers and decision-maker.
- Supporting documentation, if available, should be included to provide the reviewers and decision-maker with other relevant data to better understand the scope and magnitude of the project.
- The applicant should provide documentation showing support for the proposed project from authorized officials, board of directors and/or officers through a letter of support or resolution. It would be helpful, particularly for organizations, to delineate the membership, make-up of the board of directors, and its elective procedures to assist reviewers in determining authorized support.

(2) Technical Guidance

- Applicants are strongly encouraged to have someone other than the author apply the evaluation criteria in the program announcement and to score the application prior to its submission, in order to gain a better sense of its quality and potential competitiveness in the review process.
- ANA will accept only one application under this program announcement from any one applicant. If an eligible applicant sends two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.
- An application from an Indian tribe, Alaska Native Village or other eligible organization must be submitted by the governing body of the applicant.
- The application's Form 424 must be signed by the applicant's representative (tribal official or designate) who can act with full authority on behalf of the applicant.
- The Administration for Native Americans suggests that the pages of the application be numbered sequentially from the first page and that a table of contents be provided. The page numbering, along with simple tabbing of the sections, would be helpful and allows easy reference during the review process.
- Two (2) copies of the application plus the original are required.
- The Cover Page should be the first page of an application, followed by the one-page abstract.
- Section B of the Program Narrative should be of sufficient detail as to become a guide in determining and tracking project goals and objectives.
- The applicant should specify the entire length of the project period on the first page of the Form 424, Block 13, not the length of the first budget period. ANA will consider the project period specified on the Form 424 as governing.
- Line 15a of the Form 424 should specify the Federal funds requested for the first *Budget period*, not the entire project period.
- Applicants proposing multi-year projects need to describe and submit project objective workplans and activities for each budget period. (Separate itemized budgets for the Federal and non-Federal costs should be included).
- Applicants for multi-year projects must justify the entire timeframe of the project and also project the expected results to be achieved in each budget period and for the total project period.

(3) Projects or activities that generally will not meet the purposes of this announcement

- Proposals from consortia of tribes or villages that are not specific with regard to support from, and roles of member tribes.
- The purchase of real estate or construction.

K. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record keeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ANA grant applications under the Program Narrative Statement by OMB.

L. Due Date for Receipt of Applications

The closing date for applications submitted in response to this program announcement is August 26, 1994.

M. Receipt of Applications

Applications must either be hand delivered or mailed to the address in Section H, Application Process: Application Submission.

The Administration for Native Americans will not accept applications submitted via facsimile (FAX) equipment.

Deadline

Applications shall be considered as meeting the announced deadline if they are either:

1. Received on or before the deadline date at the place specified in the program announcement, or
2. Sent on or before the deadline date and received by the granting agency in the time for the independent review under DHHS GAM Chapter 1–62 (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private Metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria above are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines

The granting agency may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

(Catalog of Federal Domestic Assistance Program Number 93.612 Native American Programs)

Dated: December 21, 1993.

Dominic J. Mastrapasqua,

Acting Commissioner, Administration for Native Americans.

BILLING CODE 4184-01-M

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name	Organizational Unit
Address (give city, county, state, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist.; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Other (Specify) _____

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award; B. Decrease Award; C. Increase Duration; D. Decrease Duration; Other (specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐☐ ☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):

13. PROPOSED PROJECT: Start Date; Ending Date

14. CONGRESSIONAL DISTRICTS OF: a. Applicant; b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities)
13. Self-explanatory
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds: Federal (c)	Estimated Unobligated Funds: Non-Federal (d)	New or Revised Budget: Federal (e)	New or Revised Budget: Non-Federal (f)	New or Revised Budget: Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

Authorized for Local Reproduction

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Nonfederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years) (b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 - 19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

VOL 58 ISS 248 DE 29 1993 UMI

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Authorized for Local Reproduction

VOL 58 ISS 248 DEC 29 1993 UMI

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

VOL 58 ISS 248 DEC 29 1993 UMI

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check __ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State of local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services(HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transaction. " provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

VOL 58 ISS 248 DEC 29 1993 UMI

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions
(To Be Supplied to Lower Tire Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions. "without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

VOL 58 ISS 248 DEC 29 1993 UMI

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the require statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
☐ b. grant
☐ c. cooperative agreement
☐ d. loan
☐ e. loan guarantee
☐ f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
☐ b. initial award
☐ c. post-award

3. Report Type:
☐ a. initial filing
☐ b. material change
For Material Change Only:
year _____ quarter ____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier ____, if known:
Congressional District, if known:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
Congressional District, if known:

6. Federal Department/Agency:

7. Federal Program Name/Description:
CFDA Number, if applicable: _____

8. Federal Action Number, if known:

9. Award Amount, if known:
$

10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):

b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment (check all that apply):
$ _____ ☐ actual ☐ planned

12. Form of Payment (check all that apply):
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment (check all that apply):
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

[FR Doc. 93-31610 Filed 12-28-93; 8:45 am]
BILLING CODE 4184-01-C

VOL
58
ISS
248
DE
29
1993
UMI

federal register

Wednesday
December 29, 1993

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 73

Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States; Rule

VOL 58 ISS 248 DEC 29 1993 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. 25767; Special Federal Aviation Regulation (SFAR) No. 53–3]

Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; extension of expiration date; request for comments.

SUMMARY: This action continues for an additional 24 months the effectiveness of warning areas established in airspace subject to FAA jurisdiction in order to reflect presidential action extending the territorial sea of the United States, for international purposes, from 3 to 12 nautical miles from the coast of the United States. The warning areas were established in the same location as nonregulatory warning areas previously designated over international waters. The Department of Defense (DOD) conducts hazardous military flight activities in these areas. The warning areas were established for an initial period of 1 year to permit the FAA to consider the need for rulemaking action to meet military training needs in this airspace. The establishment of those areas was extended by subsequent rulemakings to allow the DOD sufficient time to analyze its needs in the affected airspace and present its recommendations to the FAA. At this time, the DOD has not finalized its airspace analysis and usage projections. This action, therefore, continues the effectiveness of warning areas while airspace analyses and rulemaking efforts are ongoing.

DATES: Effective date: December 27, 1993. Expiration date: January 15, 1996. Comment date: Comments must be received on or before February 28, 1994.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration Office of the Chief Counsel; Attention: Rules Docket (AGC–200), Docket No. 25767, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 25767. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Melodie De Marr, Air Traffic Rules and Regulations, ATP–230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the rulemaking process by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this amendment are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or amendment number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments specified will be considered by the Administrator. This final rule may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with Federal Aviation Administration (FAA) personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25767." The postcard will be date stamped and mailed to the commenter.

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

Background

Presidential Proclamation No. 5928, signed on December 27, 1988, extended the sovereignty of the United States government, for international purposes, over the territorial seas from 3 to 12 nautical miles from the coast of the United States (including its territories). By final rule issued on that same date, the FAA amended parts 71 and 91 of the Federal Aviation Regulations to extend controlled airspace and the applicability of general flight rules to the airspace overlying the waters between 3 and 12 nautical miles from the coast of the United States (54 FR 264; January 4, 1989). The FAA amended part 71 by extending the Continental Control Area, the Alaskan Positive Control Area, and the Continental Positive Control Area to 12 nautical miles from the U.S. Coast. The FAA amended part 91 by extending the applicability of subpart A, sections 91.1 through 91.43, and all of subpart B, to 12 nautical miles from the U.S. coast.

When the airspace was considered to be over international waters, military aircraft were not prohibited from conducting hazardous training activities within this area. Warning areas were designated in this airspace to provide notice to nonparticipating pilots of the location of hazardous military training operations. However, nonparticipating pilots were not restricted from operating in these areas.

Upon the extension of part 91 operating rules to this airspace, the DOD would have been prohibited from hazardous flight activities without an exemption from the regulations or the designation of an airspace category for that purpose. Warning areas established in international airspace, under FAA internal procedures, do not in themselves authorize hazardous activities. An interruption of military operations normally conducted in warning areas would have an adverse impact on national defense. An exemption would permit the continuation of military operations, but would not in itself adequately inform the general flying public of the existence of these activities. Accordingly, by regulation the FAA established warning areas to permit the continuation of existing military training activities in the same areas where those activities were and are still being conducted.

To preclude the interruption of ongoing DOD training activities in that airspace while the issue was studied and resolved, the FAA amended part 73 by promulgating SFAR 53. SFAR 53 established warning areas in the airspace overlying the waters between 3 and 12 nautical miles from the U.S. coast by final rule (54 FR 260; January 4, 1989) for an initial period of 1 year to permit the FAA to consider the need for rulemaking action to meet military training needs in this airspace. The warning areas established by SFAR 53 are unique airspace designations intended solely to allow the continuation of military training activity and to maintain the right of

nonparticipating aircraft to fly through such areas. Controlled flights are not affected by SFAR 53, as such flights will continue to be routed around active warning areas. This action maintains the existing level of safety since it allows military training activity to continue without interruption.

Warning area designations and descriptions are not contained in the Code of Federal Regulations (CFR). For Federal Register citations affecting the warning areas, see the List of CFR Sections Affected in the Finding Aids section of 14 CFR part 73.

On December 27, 1989, the FAA, at the request of the DOD, extended the expiration date of SFAR 53 to December 27, 1990. The DOD stated that this delay would enable it, in consultation with the FAA, to determine the best course of implementation of regulatory special use airspace (54 FR 51286; December 13, 1989).

On May 8, 1990, the DOD submitted a letter to the FAA requesting a legal opinion from the Office of the Chief Counsel regarding the feasibility of creating a new category of airspace to maintain the status quo. The DOD suggested the creation of "domestic warning areas." The DOD claimed that it would incur excessive costs if special use airspace is extended to 12 nautical miles from the U.S. coast in the form of increased fuel costs for transient flight time and costs affiliated with environmental analysis, etc.

On December 27, 1990, the FAA extended the expiration date of SFAR 53 for an additional 3 years to December 27, 1993. The DOD stated it was continuing to assess the impact of the expansion of the territorial airspace on military operations. The DOD had completed a survey of individual command training and operational requirements for this airspace to determine the areas that should be converted to another form of regulatory or nonregulatory special use airspace. However, development of a proposed airspace configuration was incomplete. Preliminary results indicate that, in a number of areas, there will be a continuing need for special use airspace to provide connectivity for hazardous operation, such as DOD and National Aeronautics and Space Administration (NASA) missile launches, and to encompass existing range resources located between 3 and 12 nautical miles offshore.

A number of events have precluded the DOD from completing its study of operational needs in the airspace over the coastal waters. The magnitude of the task of assessing the training needs of the military in the airspace between 3 and 12 nautical miles from the U.S. coast is in itself a formidable task. However, in the past year a significant number of military bases have been targeted for closure further impacting the projected utilization of warning areas as military aviation units are relocated or eliminated. The FAA acknowledges that the long-range effects of the base closures on military training needs and airspace requirements are difficult to assess. The DOD is in the process of identifying warning area segments that are critical to those training needs, as well as those segments that are no longer needed.

Based on representation from the DOD, the FAA expects to see the DOD recommendations for the disposition of the airspace within 3 to 12 miles off the U.S. coast within 6 to 9 months after the date of this extension. This action continues the effectiveness of SFAR 53 for an additional 24 months to: (1) Prevent any interruption of ongoing military training activity; (2) warn nonparticipating aircraft of possible hazardous activities while permitting the aircraft to fly through such areas; (3) permit the DOD additional time to finalize its airspace analysis and usage projections including any environmental assessments that may be necessary; and, (4) allow the FAA sufficient time to effect rulemaking or other action necessary to implement revision to the current warning areas after receipt of the DOD recommendations.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization Standards and Recommended Practices (SARP) to the maximum extent practicable. The FAA has determined that this rule will not present any differences with the SARP.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this rule.

Regulatory Evaluation

This SFAR does not alter the provision of air traffic control (ATC) services, nor does it have an impact on ATC system users. This special rule merely allows military training activity to continue without interruption, while permitting nonparticipating pilots to fly through such areas. Accordingly, because the costs of the rule are so minimal, further regulatory evaluation has not been prepared. Although the FAA has initially determined that any possible costs imposed by this amendment will be minimal, we seek comments from the public on the possible impact of this rule.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires the FAA to review each rule that may have "a significant economic impact on a substantial number of small entities."

The amendment will not alter the provision of air traffic control (ATC) services, nor will it have an impact on ATC system users. Hence, the amendment will not impose a significant cost on a substantial number of small entities.

Federalism Implications

The amendment set forth herein will not have substantial direct effects on the States, on the relationship between the national government and the States or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this rule is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations.

Effective Date of Final Rule

Since this action does not involve a change in the actual dimensions, configuration, or operating requirements of airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Furthermore, I find that good cause exists, pursuant to 5 U.S.C. 553(d), for making this amendment effective in less than 30 days to avoid confusion on the part of pilots operating in the warning areas.

List of Subjects in 14 CFR Part 73

Aviation safety, Special use airspace.

The Amendment

For the reasons set forth above, the FAA is amending 14 CFR part 73 as follows:

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending Special Federal Aviation Regulation No. 53 to revise the Applicability paragraph (which expires December 27, 1993), to read as follows:

Special Federal Aviation Regulation No. 53—Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast

1. Applicability. This rule establishes warning areas in the same location as nonregulatory warning areas previously designated over international waters. This special regulation does not affect the validity of any nonregulatory warning area which is designated over international waters beyond 12 nautical miles from the coast of the United States. This special regulation expires on January 15, 1996.

* * * * *

Issued in Washington, DC, on December 22, 1993.

Willis C. Nelson,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 93-31858 Filed 12-23-93; 2:50 pm]

BILLING CODE 4910-13-M

federal register

Wednesday
December 29, 1993

Part VIII

Department of the Interior

Fish and Wildlife Service

Conservation of the Northern Spotted Owl; Intent to Prepare an Environmental Impact Statement; Notice

VOL 58 ISS 248 DE 29 1993 UMI

VOL 58 ISS 248 DEC 29 1993 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent to Prepare an Environmental Impact Statement on a Proposed Rule Pursuant to Section 4(d) of the Endangered Species Act for the Conservation of the Northern Spotted Owl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent and invitation to the scoping process.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (FWS) intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for a proposed special rule that would redefine the Federal protective measures for the northern spotted owl (*Strix occidentialis caurina*) on non-Federal lands in California, Oregon, and Washington. The FWS is also in the process of developing additional regulatory guidance regarding the incidental take of marbled murrelets and is actively considering the inclusion of such guidance in the proposed special rule for the northern spotted owl. Although the FWS takes the position that the National Environmental Policy Act (NEPA) does not apply to actions it takes under section 4 of the Endangered Species Act of 1973, as amended (ESA) (see *Pacific Legal Foundation v. Andrus*, 654 F.2d 829 (6th Cir. 1981), in this instance the FWS voluntarily has decided to do an EIS to accompany the proposed section 4(d) rule. This notice is being furnished consistent with the NEPA Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Public comments and participation in this scoping are solicited.

DATES: Written comments should be received by January 31, 1994.

ADDRESSES: Comments should be addressed to Mr. Marvin Plenert, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181.

FOR FURTHER INFORMATION CONTACT: Mr. H. Dale Hall, Assistant Regional Director, Ecological Services, at the above address (503/231–6159); Mr. Kahler Martinson, EIS Team Leader, U.S. Fish and Wildlife Service (503/231–2254); at the above address; Mr. David C. Frederick, Special Rule Team Leader and State Supervisor, Washington State Office, 3704 Griffin Lane SE., suite 102, Olympia, Washington 98501 (206/753–9440); Mr. Russell Petersen, State Supervisor, U.S. Fish and Wildlife Service, 2600 SE. 98th Avenue, Suite 100, Portland, Oregon 97266 (503/231–6179); or Mr. Wayne S. White, State Supervisor, U.S. Fish and Wildlife Service, 2800 Cottage Way, suite E–1803, Sacramento, California 95825 (916/978–4613).

SUPPLEMENTARY INFORMATION:

Definitions

"Activity center" is used to mean a site containing a nest tree or an area of concentrated breeding activity of a pair or resident single spotted owl. Such an activity center may also be called a "breeding or nesting area." For the purposes of this proposed rule, an activity center encompasses an area within a 1,000-foot radius (70 acres) of a nest site. Criteria for determining activity centers may be found in the Service-endorsed owl survey protocol.

"Adaptive management area" means the ten landscape units that were designated in Option 9 of the report, Forest Ecosystem Management: An Ecological, Economic, and Social Assessment, (USDA *et al.* 1993) for development and testing of technical and social approaches to achieving specific ecological, economic, and other social objectives.

"Dispersal" is defined to mean movements by juvenile spotted owls leaving their natal area to establish their own territory, movement of non-territorial singles, or displaced adults searching for new territories. Successful dispersal requires habitat conditions that provide foraging and roosting habitat and protection from predators during this period of movement.

"Federal reserve" is used to mean those Federal lands identified by the report, Forest Ecosystem Management: An Ecological, Economic, and Social Assessment, (USDA *et al.* 1993) in which timber harvests are either not allowed or are severely limited. There are two types of reserves: late-successional reserves, which encompass older forest stands, and riparian reserves, which consist of protected strips along the banks of rivers, streams, lakes, and wetlands which act as a buffer between these water bodies and areas where timber harvesting is allowed.

"Genetic isolation" means geographic conditions where populations of spotted owls are unable to interbreed (a) because of insufficient quality and/or quantity of dispersal habitat (b) because of natural barriers to dispersal such as mountain ranges and large water bodies, or (c) because the numbers of breeding spotted owls within a geographic area are too small.

"Home range area" means the area a spotted owl uses and traverses in the scope of normal activities to fulfill its biological needs during the course of its life span. For the purpose of this proposed rule, the median annual home range area, by province, are: 14,271 acres for the Olympic Peninsula province; 6,657 acres for the Western and Eastern Washington Cascades provinces; 4,766 acres for the Oregon Coast Ranges provinces; 2,955 acres for Western and Eastern Oregon Cascades; and 3,340 acres for the Oregon-Klamath province and the range of the northern spotted owl in California.

"Matrix" is used to mean those Federal lands outside of the Congressionally and Administratively withdrawn areas, Federal reserves and Adaptive Management Areas identified in the report, Forest Ecosystem Management: An Ecological, Economic, and Social Assessment, (USDA *et al.* 1993). The Matrix is important for providing successful dispersal opportunities for northern spotted owls.

"Nesting, roosting, and foraging habitat" is those areas with the vegetative structure and composition necessary to assure successful nesting, roosting, and foraging activities by northern spotted owls and their prey organisms. The spatial area and distribution of this nesting, roosting, and foraging habitat will vary, given the different topographic, vegetational, and climatic conditions of spotted owl provinces. Habitat with these features is normally referred to as "suitable."

"Province" is used to mean one of eleven geographic areas for the northern spotted owl which have similar sets of biological and physical characteristics and processes; they result from the action of climate and geology that produces common patterns of soils and broad-scale vegetative communities.

Overview

The EIS will evaluate the environmental effects of a FWS proposal to issue a "special rule" pursuant to section 4(d) of the Endangered Species Act of 1973, as amended (ESA), for the northern spotted owl. This special rule would revise the incidental take prohibitions currently applicable to the owl on non-Federal lands pursuant to section 9 of the ESA. The FWS has developed a proposed action and three alternatives for a special rule. The primary focus of the alternatives is on take of northern spotted owls incidental to timber harvests on non-Federal lands in California, Oregon, and Washington. The proposed action and each of the alternatives retains existing prohibitions against interstate and foreign commerce and the intentional killing of the northern spotted owl. Each alternative has differing effects on lands within the range of the northern spotted owl.

Under the proposed action, the FWS would issue a section 4(d) rule that would relieve or reduce Federal prohibitions against the take of northern spotted owls incidental to specific forest management activities on non-Federal lands in specifically identified geographic areas across the range of the owl. The section 4(d) rule would also propose to generally defer to Tribal resource regulations for timber management activities on Indian forest lands within Indian reservations. Moreover, in recognition of the State of California's comprehensive efforts to protect northern spotted owls, the FWS proposes to lift Federal prohibitions against incidental take of northern spotted owls from timber harvests in that State. Timber harvest activities that are conducted in accordance with California law would be freed from having to comply with a separate set of Federal prohibitions regarding incidental take of northern spotted owls. The FWS intends to periodically assess the continued adequacy of California law with regard to the northern spotted owl. If at some point in the future, California law became inadequate for maintaining northern spotted owls well distributed across their range, the FWS would reconsider the need for imposing separate Federal restrictions on the incidental take of the owl.

In Oregon and Washington, the proposed action would retain a high level of protection against the incidental take of northern spotted owls located on non-Federal lands in ten Special Emphasis Areas (SEAs). These areas were chosen to fill in gaps in Federal land ownership in support of the Federal owl conservation strategy outlined in Alternative 9 of the Draft Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (Draft SEIS) which is the preferred alternative for managing lands administered by the Forest Service and the Bureau of Land Management within the range of the northern spotted owl. Within these Special Emphasis Areas, timber harvests generally would not be prohibited if they retain at least 40 percent of a home range area of a northern spotted owl as suitable nesting, roosting, and foraging habitat and did not otherwise "harm" an owl as that term is defined by the Fish and Wildlife Service at 50 CFR 17.3. Timber harvests that reduce suitable habitat to below 40 percent of a home range area would risk prosecution if "harm" to an owl occurs.

To develop this Notice of Intent, including a proposed action for a special rule for the northern spotted owl, the FWS considered (a) the level of protection the owl would be provided on Federal lands under Alternative 9 of the Draft SEIS; (b) the range, location, and number of northern spotted owls known to exist on non-Federal lands; and (c) the underlying State regulatory programs for forest practices in California, Oregon, and Washington.

The special rule to be proposed for the northern spotted owl is a direct result of the Forest Conference convened by President Clinton on April 2, 1993. After that conference, the President established a Forest Ecosystem and Management Assessment Team (FEMAT) to develop options for management of forest ecosystems on Federal lands in California, Oregon, and Washington. FEMAT developed ten management options which are outlined in the Team's report, Forest Ecosystem Management: An Ecological, Economic, and Social Assessment (USDA *et al.* 1993). The Bureau of Land Management (BLM), the Forest Service (FS), the Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service prepared a Draft Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (Draft SEIS) on all of the options developed by FEMAT. The Draft SEIS identified Alternative 9 as the preferred alternative.

After assessing the proposed Federal land management strategy outlined in Alternative 9 as it relates to the northern spotted owl, the FWS re-considered the need to maintain existing prohibitions for the northern spotted owl on non-Federal lands. The FWS now intends to propose a special rule that reflects this re-consideration. An environmental impact statement will be prepared for the special rule.

Proposed Action

The FWS has developed a proposed action and three alternative approaches to a special rule for the northern spotted owl. A description of the proposed action and alternatives is included in this notice. Each alternative retains prohibitions against import and export, interstate and foreign commerce, and against the direct take of spotted owls. The alternatives primarily focus on the take of northern spotted owls incidental to timber harvest activities on non-Federal lands in California, Oregon, and Washington. The alternatives differ from each other by the degree to which they retain prohibitions against incidental take of northern spotted owls on non-Federal (that is, State and local government, Tribal, and private) lands.

The proposed action would relieve existing Federal prohibitions against incidental take of northern spotted owls associated with timber harvests on all non-Federal lands in California that are in compliance with State law, and would reduce such prohibitions for non-Federal lands in Oregon and Washington except on lands in ten Special Emphasis Areas (MAP 1). The ten Special Emphasis Areas that are proposed were selected because the Federal land base is inadequate (in terms of habitat quantity, habitat quality, or distribution) in a key area to conserve the northern spotted owl or to connect important populations of northern spotted owls. The Special Emphasis Areas that are proposed would occur in the following areas:

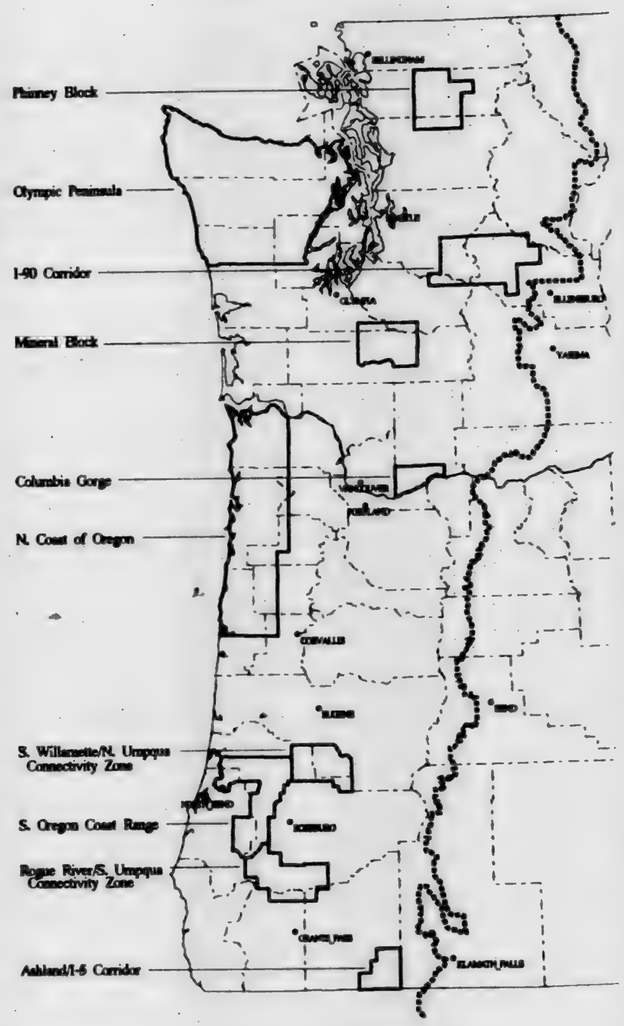
Oregon: The Ashland/I–5 area, south of Ashland, Oregon (MAP 2); the Rogue River/South Umpqua area of Oregon (MAP 3); the South Willamette/Northern Umpqua area (MAP 4); parts of the Southern Oregon Coast Range (MAP 5); and the North Coast Range (MAP 6).

Washington: The Columbia River Gorge (MAP 7); the Mineral Block south of the I–90 corridor (MAP 8); the I–90 corridor where it crosses the Cascade Mountains MAP 9); the Olympic Peninsula (MAP 10); and the Phinney Block (MAP 11).

BILLING CODE 4310-55-M

Map 1

SPECIAL EMPHASIS AREAS
WASHINGTON & OREGON



22 December 1993 1:3681898

Map 2

ASHLAND / I-5 CORRIDOR
Special Emphasis Area

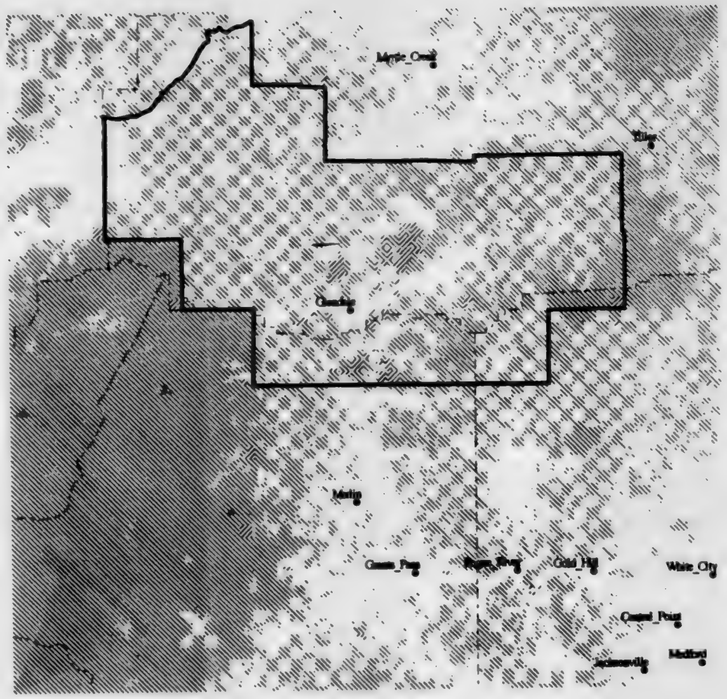


22 December 1993 1:564729

Map 3

ROGUE RIVER / SOUTH UMPQUA CONNECTIVITY ZONE

Special Emphasis Area



Federal Lands
State Lands
Tribal Lands
4D Rule Boundary
County Boundary
State Boundary
Owl Range Boundary

21 December 1993 1:590595

Map 4

SOUTH WILLAMETTE / NORTH UMPQUA CONNECTIVITY ZONE

Special Emphasis Area



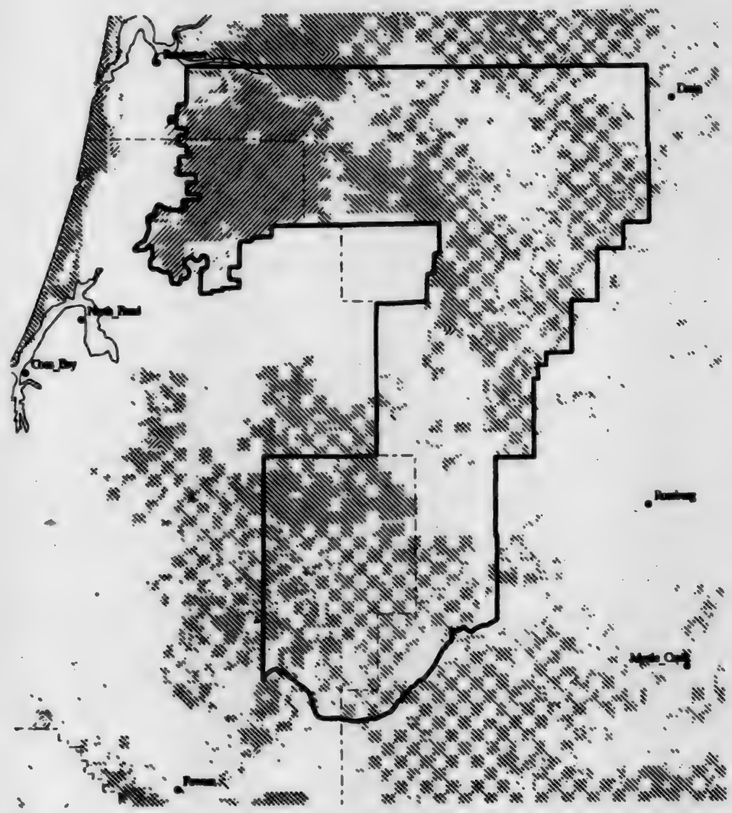
Federal Lands
State Lands
Tribal Lands
4D Rule Boundary
County Boundary
State Boundary
Owl Range Boundary

22 December 1993 1:582419

Map 5

SOUTHERN OREGON COAST RANGE

Special Emphasis Area



22 December 1993 1:564754

Map 6

NORTH COAST of OREGON

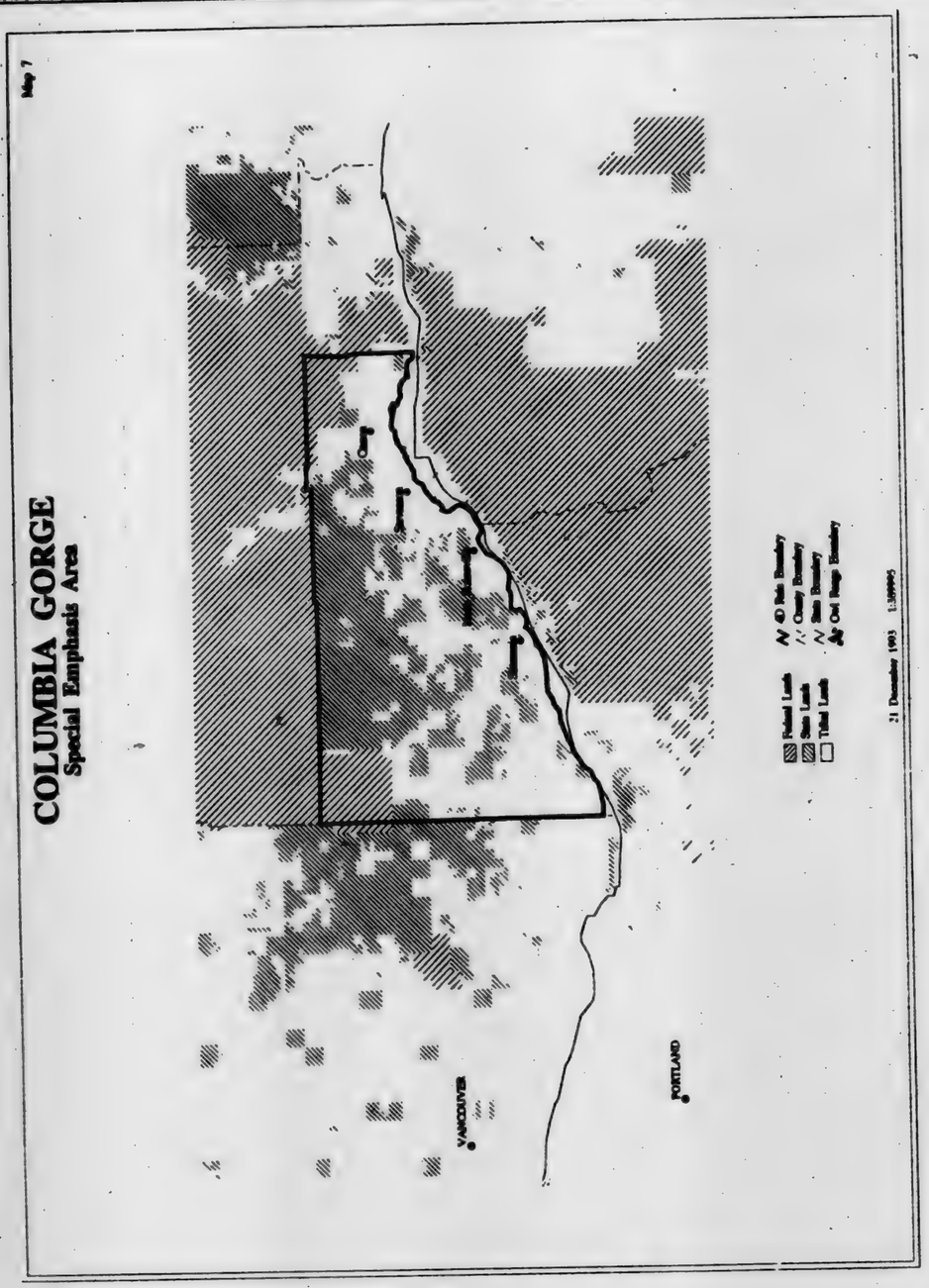
Special Emphasis Area



21 December 1993 1:984092

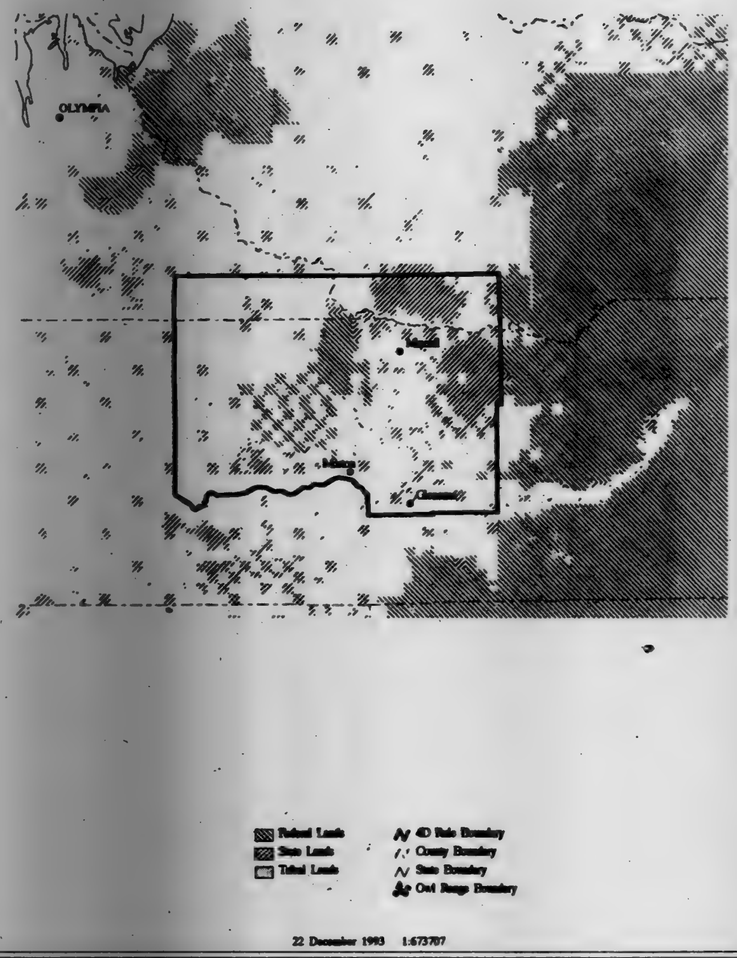
Map 7

COLUMBIA GORGE
Special Emphasis Area



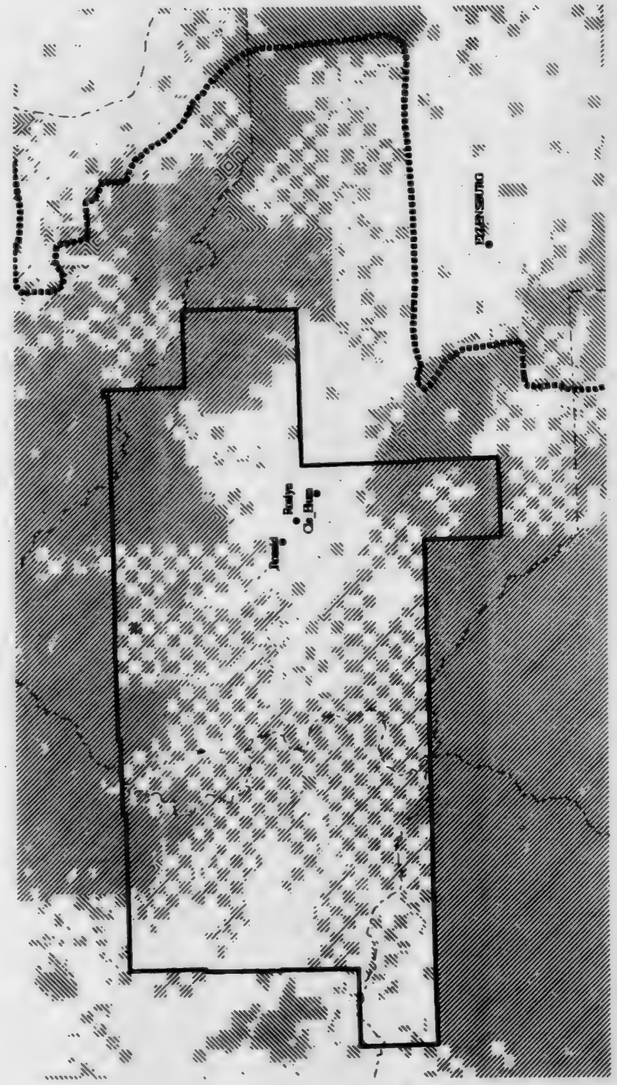
Map 8

MINERAL BLOCK
Special Emphasis Area



Map 9

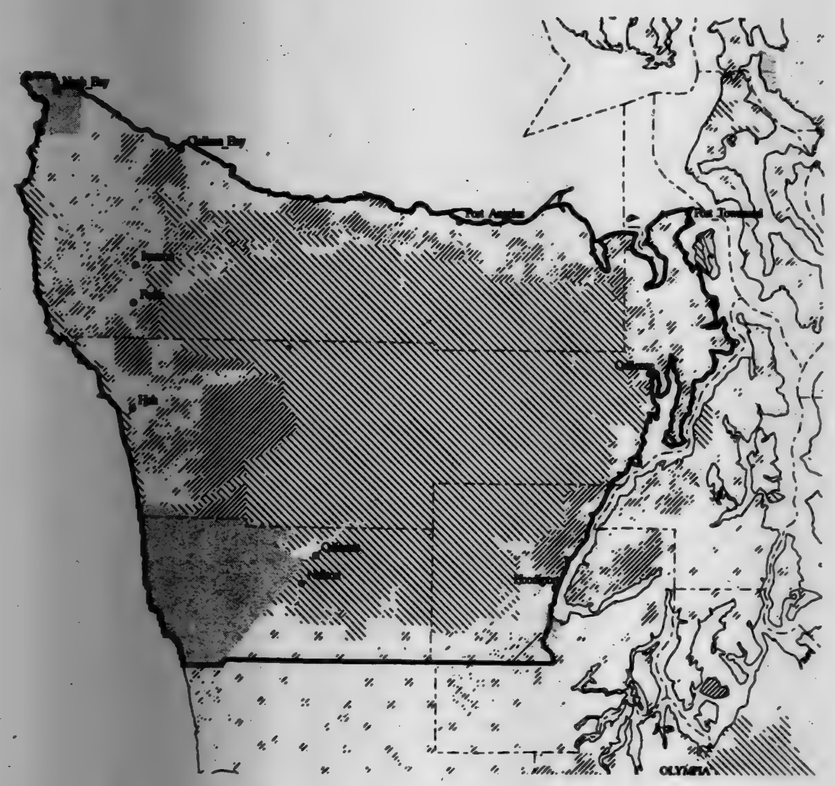
I-90 CORRIDOR
Special Emphasis Area



22 December 1993 1:364358

Map 10

OLYMPIC PENINSULA
Special Emphasis Area

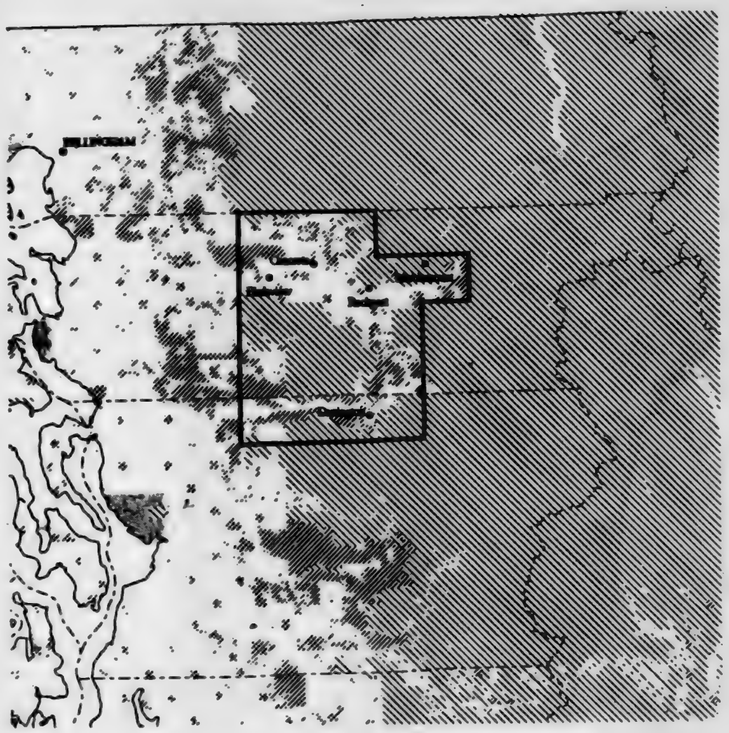


21 December 1993 1:969471

Map 11

PHINNEY BLOCK

Special Emphasis Area



BILLING CODE 4310-55-C

On non-Federal lands in these Special Emphasis Areas, timber harvests generally would not be prohibited if they retain at least 40 percent of a home range area of a northern spotted owl as suitable nesting, roosting, and foraging habitat and did not otherwise injure or kill an owl. The sizes of the home ranges to be used, by province, are: 14,271 acres for the Olympic Peninsula province; 6,657 acres for the Western and Eastern Washington Cascades provinces; 4,766 acres for the Oregon Coast Range province; 2,955 acres for Western and Eastern Oregon Cascades, and 3,340 acres for the Oregon Klamath province.

The take of northern spotted owls incidental to timber harvests on non-Federal lands in Oregon and Washington that are located outside of the Special Emphasis Areas would be prohibited if such harvests occurred within the 70 acres surrounding an active northern spotted owl nest. Thus, all existing habitat would have to be retained within 1,000 feet (70 acres) from an active northern spotted owl activity center, and any harvest within 0.25 miles would be subject to seasonal restrictions. Restrictions within the 70 acres would remain in place until surveys indicate that the sites are unoccupied (per Fish and Wildlife Service Owl Survey Protocol).

A different approach would be taken with regard to non-Federal lands in California. California laws that apply to timber harvests in suitable habitat for the northern spotted owl provide significant conservation benefits to the owl. In recognition of the conservation contributions of these laws and regulations, the FWS proposes to impose no separate Federal restrictions or prohibitions for timber harvests that are conducted in accordance with applicable California law.

Similarly, the FWS recognizes the owl conservation contributions of the timber harvest practices of various Indian Nations, such as the Yakima Indian Nation in Washington and the Warm Springs Indian Tribe in Oregon. The FWS also recognizes that other Indian forest lands managed by Indian Nations may provide marginal habitat for the northern spotted owl. In recognition of these circumstances, the Secretary's trust responsibility for Native Americans, and the development and proposal of an unprecedented Federal land based strategy for the conservation of the spotted owl, the FWS proposes generally to eliminate Federal prohibitions against the take of the northern spotted owl incidental to timber harvests on Indian forest lands (as that term is defined at 25 CFR 163.1) in California, Oregon and Washington. Prohibitions under Tribal law would continue to apply.

Incidental Take of Northern Spotted Owls on Federal Lands

Timber harvest activities on Federal lands are subject to the section 7 consultation process of the ESA. Biological opinions under section 7 will deal with the issue of take on Federal lands.

Alternatives Considered

The FWS has identified three alternatives to the proposed action. Each alternative describes a different approach to prohibiting take of the northern spotted owl on Federal and non-Federal lands.

Alternative A (No Action): Retain All Current Prohibitions Against Taking

When the northern spotted owl was listed as a threatened species (on June 26, 1990 (55 FR 26114)), the FWS did not promulgate special regulations for the species under section 4(d) of the ESA. As a result, the prohibitions for endangered species, including prohibitions against take, became applicable to the northern spotted owl pursuant to 50 CFR 17.31. Under this alternative, existing prohibitions against any incidental taking of the northern spotted owl on Federal and non-Federal lands would remain in place and would not be reduced or relieved through the proposed special rule. An incidental take permit could be sought under existing FWS procedures.

For section 7 consultation on Federal actions, the FWS and Federal action agencies use information on the amount and condition of nesting, roosting, and foraging habitat within an area that approximates the home range of resident northern spotted owls in order to anticipate incidental take. Estimated home range areas for northern spotted owls vary by province and are based on local data collected from radio-telemetered spotted owls. Incidental take of northern spotted owls is anticipated when the amount of nesting, roosting, and foraging habitat drops to levels where studies indicate it is likely to affect the survival or reproductive capabilities of the individual spotted owls.

The risk of incidental take from activities on non-Federal lands is evaluated on a case-by-case basis. To evaluate the risk, the FWS examines, among other factors, the effect of the proposed action on habitat condition, habitat quantity, the degree of habitat fragmentation, and the history of known resident spotted owls in the vicinity of the action.

Alternative B: Eliminate All Current Prohibitions Against Taking on All Non-Federal and Some Federal Lands

Under this alternative, the FWS would promulgate a special rule pursuant to section 4(d) under which all take of northern spotted owls incidental to timber harvest activities on non-Federal lands would be authorized under the ESA. The special rule would retain all other prohibitions against import, export, interstate and foreign commerce, and some forms of take (e.g., killing, wounding, hunting, trapping, capture, collection) for the northern spotted owl.

Under Alternative B, prohibitions against taking northern spotted owls incidental to timber harvests would remain for Federal lands contained in the Federal reserves, riparian reserves, and Adaptive Management Areas proposed under Alternative 9 of the Draft SEIS.

Alternative C: Reduce Existing Prohibitions Against Incidental Taking on Non-Federal Lands Except in an Expanded List of Special Emphasis Areas

This alternative differs from the proposed action primarily in the number and location of Special Emphasis Areas in Oregon and Washington. This alternative would retain all existing prohibitions against taking northern spotted owls on Federal lands. This alternative would also retain prohibitions against incidental take on some Indian reservations. This alternative includes the following Special Emphasis Areas:

Oregon: The North Coast Range; parts of the Southern Oregon Coast Range; the South Willamette/North Umpqua area; the Rogue River/South Umpqua area of Oregon; the Ashland/I–5 area, south of Ashland, Oregon; the Santiam Pass area along the Oregon State Highway 20 east of Sweet Home; the Santiam River area east of Stayton; the McKenize River area along McKenize River east of Springfield; the Hood River area south of Hood River; and the Southeast Cascades area west of Klamath Falls.

Washington: The Olympic Peninsula; the Phinney Block; the I–90 corridor where it crosses the Cascade Mountains; the Mineral Block south of the I–90 corridor; the Columbia River Gorge; the Green River area near the Green River within Mount St. Helens National Monument; the Blewett Pass area in the vicinity of Swak Pass along State highway 97; the Southern Puget Sound East area extending east from Interstate

5 through Fort Lewis Military Reservation; the Yakima Indian Reservation area; the Siouxon Creek area along the upper reach of the Lewis River and Swift Creek Reservoir; the Sugarloaf Peak and Leavenworth Reserves area located north of the town of Leavenworth; the Edwards Peak area south of the Town of Leavenworth; the White Salmon area; the Entiat Ridge area; the Southwest Washington Lowlands Province; and the Bowman Mountain East area located east of the Town of Clipper.

On non-Federal lands in these Special Emphasis Areas, timber harvests would be subject to the same incidental take as are described in the proposed action noted previously.

Under this alternative, take of northern spotted owls incidental to timber harvest on non-Federal lands outside of Special Emphasis Areas would be subject to the same reduced restrictions as set forth in the proposed action for such areas.

Significant Issues To Be Addressed in the EIS

The environmental impact statement will discuss the environmental impacts of the proposed and alternate 4(d) rule formulations for the range of the northern spotted owl in California, Oregon, and Washington. The range of the northern spotted owl is the same as that defined in the Draft SEIS, and is the area generally bounded by the Canadian border, the Pacific Ocean, the eastern side of the Cascade Range, and Marin County, California.

A wide number of species are associated with the forests that provide habitat for the northern spotted owl. These species include, among others, such federally-listed species as the marbled murrelet, bald eagle, grizzly bear, and gray wolf, and a large number of additional species that are candidates for Federal listing as threatened or endangered. The EIS will assess the effects of the proposed section 4(d) rule on these species. This assessment will be approached by considering the effects of the proposed section 4(d) rule on the forest ecosystems associated with these species; this approach should help the EIS address concerns about conservation of biodiversity and the need to prevent future imperilment of species that are associated with the late-successional and old-growth forests of the Pacific northwest.

Similarly, a large number of human communities and individuals are dependent upon the forests that provide habitat for the northern spotted owl. The proposed EIS will also address concerns about the social and economic effects of the proposed action and each of the alternatives to the section 4(d) rule for the northern spotted owl.

The FWS has identified the following significant environmental effects of the proposed section 4(d) rule for the northern spotted owl to be addressed in the EIS:

- Effects on the northern spotted owl, including its recovery.
- Effects on late-successional and old growth forests in the range of the northern spotted owl.
- Effects on other listed, proposed, and candidate species associated with late-successional and old growth forests in the range of the northern spotted owl.
- Effects on the conservation of stocks of salmonids (particularly anadromous stocks) within the range of the northern spotted owl.
- Effects on non-listed terrestrial wildlife and their habitats within the range of the northern spotted owl.
- Effects on aquatic species and their habitats within the range of the northern spotted owl.
- Effects on soil conservation in the range of the northern spotted owl.
- Effects on water and air quality in the range of the northern spotted owl.
- Effects on Native American peoples in the range of the northern spotted owl.
- Effects on cultural and historical resources in the range of the northern spotted owl.
- Effects on communities, large or small, that depend upon timber harvests in the range of the northern spotted owl.
- Effects on national, regional, State, and local economies.
- Effects on import and export markets.
- Cumulative effects of the proposed action, with other actions, within the range of the northern spotted owl.

Background

The Northern Spotted Owl

The FWS published a proposal to list the northern spotted owl as a threatened species on June 23, 1989 (54 FR 26666). On June 26, 1990 (55 FR 26114), the FWS listed the northern spotted owl as a threatened species. The northern spotted owl was listed as a threatened species primarily because of the loss and adverse modification of suitable habitat throughout its range. In the early to mid-1800s western Washington and Oregon were covered by an estimated 24 to 28 million acres of forest of which 70 percent may have been old growth (Spies and Franklin 1991). Historical estimates of forested habitat in northern California are 1.3 to 3.2 million acres of old-growth Douglas-fir or mixed conifer forests and about 2.2 million acres of old growth coastal redwood forests.

Over the past 190 years, these forests and suitable habitat for the northern spotted owl are estimated to have declined by as much as 88 percent (Spies and Franklin 1991, Thomas *et al* 1990). When habitat fragmentation, reduction in individual stand size, and edge effects are considered, the amount of nesting, roosting, and foraging habitat remaining may be less than 50 percent of the remaining old growth forest. This reduction in habitat is primarily attributable to timber harvesting and land conversion practices although natural perturbations, such as forest fires, have caused habitat loss as well. Approximately 90 percent of suitable habitat for northern spotted owls now occurs on public land (Thomas *et al.* 1990).

The inadequacy of existing regulatory mechanisms under State and Federal laws and regulations also contributed to the decision to list the northern spotted owl as a threatened species. Even today, the degree of protection accorded the northern spotted owl varies under State laws. The northern spotted owl is listed under Washington law as an endangered species, under Oregon law as threatened, and under California law as a sensitive species.

Overutilization and disease were lesser factors in the decision to list the spotted owl as threatened species under the ESA. However, predation by great horned owls (*Bufo virginianus*) was cited as a major source of mortality in northern spotted owls (Dawson *et al.* 1986, Simberloff 1987). The effects of great horned owls on the northern spotted owl were at least partially related to forest fragmentation: northern spotted owls are exposed to greater predation by great horned owls as they move across open terrain or within forests edges where great horned owls are more numerous.

Critical Habitat for the Northern Spotted Owl

The FWS published a proposed critical habitat designation for the northern spotted owl on May 6, 1991 (56 FR 20816). On August 31, 1991 (56 FR 40001), the FWS published a revised critical habitat proposal which superseded the previous proposal. On January 15, 1992 (57 FR 1796), the FWS designated critical habitat for the northern spotted owl encompassing 6.9 million acres of Federal land in the States of California, Oregon, and Washington. Non-Federal lands were not included in the designation. Identification of critical habitat into discrete units were based, with some modifications, on the conceptual framework in the Interagency Scientific

Committee's report (Thomas *et al.* 1990).

Lands were included in the critical habitat designation when management considerations to benefit the northern spotted owl needed to be given highest priority. The critical habitat designation concentrated on the quantity and quality of habitat that was believed to be suitable for the nesting, roosting, and foraging needs of the northern spotted owl, particularly when that habitat occurred in large, contiguous blocks of land. The areas that were designated critical habitat were also selected to minimize dispersal distances between adjacent units of suitable habitat.

The Proposed Forest Ecosystem Management Plan

After the April 2, 1993, Forest Conference in Portland, Oregon, the President established a Forest Ecosystem Management Assessment Team (FEMAT) to develop options for management of forest ecosystems on Federal lands in California, Oregon, and Washington. FEMAT developed ten management options which are outlined in the Team's report, Forest Ecosystem Management: An Ecological, Economic, and Social Assessment.

On July 1, 1993, the President identified Alternative 9 as his preferred alternative for resource management on Federal lands. A final decision has yet to be made. This awaits completion of the NEPA process. The management strategy proposed under Alternative 9 is based on a system of Congressional reserves, administratively withdrawn areas and late-successional reserves, riparian reserves, Adaptive Management Areas, and a matrix of other Federal lands.

Alternative 9 would change the management prescriptions for Federal forest lands within the range of the northern spotted owl. In most instances, Federal management prescriptions associated with Alternative 9 are much more strict than current land management prescriptions that protect the owl; in other instances, Federal management prescriptions associated with Alternative 9 are less strict than current prohibitions.

The SEIS

The Bureau of Land Management, the Forest Service, the Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service prepared a Draft Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (Draft SEIS) to present the options in the FEMAT report to the public. Each option is presented as an alternative in the Draft SEIS, with disclosure of the environmental consequences of each alternative. The Final SEIS is currently being prepared and will be available in March 1994. The Fish and Wildlife Service intends to closely coordinate the preparation of the draft EIS for the section 4(d) rule with the review of public comments received on the Draft SEIS for FEMAT. To the extent the strategy for Federal lands ultimately adopted differs from the preferred alternative, such differences will be addressed in the EIS on the section 4(d) rule.

Overview of Alternative 9

In its current form, Alternative 9 proposes a network of Federal reserves totalling over 18 million acres of Federal lands in California, Oregon, and Washington. That total includes 7.1 million acres of late-successional reserves, 2.2 million acres of riparian reserves, 7.0 million acres of Congressional reserves, and 1.7 million acres of administratively withdrawn areas.

The Federal reserves proposed with Alternative 9 would provide 5.6 million acres of suitable nesting, roosting, and foraging habitat for the northern spotted owl. The Congressional reserve provide 1.6 million acres, the administratively withdrawn areas provide 0.4 million acres, the late-successional reserves provide 3.0 million acres, and the riparian reserves provide 0.6 million acres. Seventy-three percent of the 7.6 million Federal acres of nesting, roosting, and foraging habitat for the northern spotted owl is in reserve.

Additionally, the Federal reserves proposed with Alternative 9 would provide 2.1 million acres of marbled murrelet nesting habitat. The Congressional reserves provide 0.7 million acres, the administratively withdrawn areas provide 0.1 million acres, the late-successional reserves provide 1.1 million acres, and the riparian reserves provide 0.2 million acres. Eighty-one percent of the 2.6 million Federal acres of nesting habitat for the marbled murrelet is in reserve.

Timber harvests would not be allowed in reserves under Alternative 9, except for some thinning or salvage of timber in the late-successional reserves if it would be beneficial to the maintenance or creation of late-successional forest conditions.

Timber harvests would not be allowed in riparian reserves under Alternative 9, and agencies would be required to minimize the effects of other resource activities in these reserves. These riparian reserves would eventually provide a considerable amount of late-successional forest because they represent approximately 31 percent of the lands in the matrix. Based on current information, approximately 28 percent of the riparian reserves currently provide suitable nesting, roosting, and foraging habitat for spotted owls, and 54 percent of the riparian reserves provide suitable dispersal habitat for spotted owls.

Alternative 9 also proposes placing an additional 1.5 million acres of Federal land in ten special "Adaptive Management Areas." Management activities in these Adaptive Management Areas would emphasize innovative forestry techniques with the goals of speeding attainment of late-successional characteristics and on restoring watersheds. Nesting, roosting, and foraging habitat for the northern spotted owl represents approximately 0.4 million acres of the lands that are proposed for Adaptive Management Areas.

In summary, Alternative 9, as currently proposed, would provide conditions on Federal lands that would contribute significantly to the conservation needs of the northern spotted owl. In areas where the Federal contribution is limited by lack of Federal forest lands, non-Federal forest lands continue to play an important role in the conservation of the species.

The Relationship of the Section 4(d) EIS to the SEIS

The respective proposed actions subject to analysis in the Draft SEIS for Federal lands and EIS for the 4(d) rule are different. The scope of the Draft SEIS is direction concerning old-growth forest management activities on Federal lands within the range of the northern spotted owl. Specifically, the Draft SEIS identifies and analyzes ten alternative strategies for amending management of old-growth forest lands administered by the Bureau of Land Management (BLM) and the Forest Service within the range of the northern spotted owl. The anticipated scope of the 4(d) EIS is direction concerning removal or revision of the incidental take prohibitions currently in place for the northern spotted owl. The alternatives for the 4(d) EIS are set forth above.

Notwithstanding the different proposed actions that are the bases of their preparation, the EIS' both will address, among other things, effects on the northern spotted owl and/or its habitat. Consequently, the EIS' likely will rely upon the same or similar information and overlap to a certain

VOL 58 ISS 248 DEC 29 1993 UMI

degree. To avoid unnecessary repetition and proliferation of paper, the EIS on the 4(d) rule may incorporate by reference some of the analysis contained in the Federal lands SEIS. Nevertheless, both EIS' will reflect consideration of cumulative effects consistent with NEPA regulations on the basis of the best information available at the time of their respective preparation.

Section 4(d) of the Endangered Species Act

Section 9 of the ESA prohibits "take" of endangered species. "Take" is defined in section 3(18) of the ESA to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." "Harass" in the definition of "take" in the ESA means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). "Harm" in the definition of "take" has been interpreted in regulation to mean an action that actually kills or injures wildlife. Such an action may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

The ESA automatically provides endangered species with all of the protections against take. However, the FWS has more flexibility to manage threatened species. Section 4(d) and its implementing regulation (50 CFR 17.31) give the FWS authority to issue regulations that provide threatened species with some, all, or different prohibitions than those provided in section 9 of the ESA. Section 4(d) provides:

Whenever any species is listed as a threatened species * * *, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1) * * * with respect to endangered species.

Under 50 CFR 17.31, the prohibitions applicable to endangered species under section 9(a) automatically apply to each threatened species unless the FWS publishes a "special" regulation under section 4(d) of the ESA establishing a different set of prohibitions for the species. Congress intended section 4(d) to provide the Secretary with broad flexibility to tailor protective regulations for a threatened species to suit the particular needs of the species:

"Once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. He may, for example, permit taking, but not importation of the species, or he may choose to forbid both taking and importation but allow the transportation of such species." (H.R. Rep. No. 412, 93d Cong. 1st Sess. 12 (1973)).

A section 4(d) rule can be used to secure the protection of a species, while providing needed regulatory flexibility to minimize unnecessary or inappropriate restrictions on otherwise lawful activity. However, that flexibility is not unlimited. The FWS has interpreted the ESA as requiring that section 4(d) regulations advance the conservation of the species, provide a net benefit to the species, and not preclude the recovery of the species.

Previous Section 4(d) Rules

The FWS has issued section 4(d) rules for several threatened species. For example, the FWS permitted a Federal program to control the amount of livestock lost to the threatened population of the gray wolf (*Canis lupus*) in Minnesota. The FWS justified the section 4(d) rule for the wolf because it would lessen public hostility toward the wolf, which would improve the chances of protecting the wolf in the long term (see 50 CFR 17.40(d)).

The FWS issued a section 4(d) rule that allows limited take of the Louisiana black bear (*Ursus americanus*) incidental to normal forest practices on private land and in accordance with a management plan. In this case, removal of mature trees can result in newly opened clearings that help to create food and shelter for the bear, such as meadows, berry patches and young trees (see 50 CFR 17.40(i); 57 FR 588, 593).

More recently, on December 10, 1993 (58 FR 16758), the FWS proposed a section 4(d) rule that would authorize limited take of the threatened coastal California gnatcatcher (*Polioptila californica californica*) incidental to specific activities undertaken in its habitat. To be exempt from the take releases the remainder to other land uses.

To identify a proposed action for a section 4(d) rule for the northern spotted owl, the FWS has considered the benefits that the unprecedented Federal land management scheme recommended by Alternative 9 of the Draft SEIS would provide to the northern spotted owl. The FWS also considered the contribution of other mechanisms to protect the northern spotted owl. Examples of these mechanisms include the critical habitat that has been designated for the northern spotted owl, and Federal, State, and the possibility of private landowner habitat management plans designed to protect and conserve federally listed species within the range of the northern spotted owl.

As with the coastal California gnatcatcher, the FWS has given particular attention to State protective land management plans that affect large portions of the range of the owl. As with the Louisiana black bear, the FWS has also taken into account private landowner management plans that have been developed or are likely to be developed and are protective of the northern spotted owl.

Public Comments Solicited

The FWS solicits public comments on the scope of the issues to be addressed in the EIS for a section 4(d) rule for the northern spotted owl. In particular, the FWS seeks specific comments on:

(1) Biological, commercial, trade, or other relevant data on the distribution and abundance of the northern spotted owl on non-Federal lands in California, Oregon, and Washington;

(2) Biological, commercial, trade, or other relevant data on the distribution and abundance of the northern spotted owl that identifies the effects of the alternatives for a section 4(d) rule on northern spotted owl;

(3) The scope of the issues that have been identified for the environmental impact statement on a proposed special rule;

(4) The range of alternatives that have been identified for the environmental impact statement on a proposed special rule;

(5) The FWS is considering including provisions in a section 4(d) rule which would provide further guidance on avoiding the incidental take of the marbled murrelet (*Brachyramphus marmoratus marmoratus*), which is listed as a threatened species. A special rule that included both the spotted owl and the marbled murrelet would allow the FWS to address two species that are associated with similar forest ecosystems at the same time. The FWS seeks particular input and public comment on how suitable habitat for the marbled murrelet should be identified and how should it be protected, and data on the distribution and abundance of the marbled murrelet on non-Federal land in California, Oregon, and Washington;

(6) The FWS is considering several optional management provisions for non-Federal landowners in Special Emphasis Areas. One would allow them to propose refinements in prohibitions against take of northern spotted owls incidental to timber harvests based on site-specific information. This "local option" would allow individuals to propose adjustment to prohibitions against take of northern spotted owls without going through the normal habitat conservation planning process. If a "local option" is included in a proposed section 4(d) rule for the northern spotted owl, the FWS is likely to propose specific acreage limits and procedural requirements. An additional optional management provision would allow non-Federal landowners in Special Emphasis Areas to adopt the matrix management standards and guidelines applicable to Federal lands in the Special Emphasis Area. The FWS seeks public comment on these options;

(7) The FWS is also considering the implications of a special rule on small, fully independent, private forest land ownerships. There may be situations where it would be warranted to exempt small (e.g., ten acres or smaller) plots of non-commercial forest land from the prohibitions of this proposed rule to avoid undue economic hardship. The FWS solicits comments on this proposal both as to its feasibility and its environmental effects;

(8) The FWS seeks public comment on the boundaries of the Special Emphasis Areas in the proposed action, including impacts and effects of alternative boundaries, if suggested;

(9) The FWS seeks public comment on possible mitigation measures, such as multi-species Habitat Conservation Plans (HCPs) or conservation agreements that provide long-term, enforceable, and protective land management prescriptions for non-Federal lands; and

(10) The FWS seeks public comment on whether to retain Federal incidental take restrictions for Indian forest lands included within the boundary of a Special Emphasis Area.

The environmental review for this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), NEPA regulations (40 CFR Part 1500–1508), other applicable Federal regulations, and FWS procedures for compliance with those regulations.

The FWS will distribute a flyer summarizing this notice of intent to individuals receiving and commenting on the Draft Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl. This flyer will contain a comment sheet to facilitate public comments.

References Cited

Dawson, W.R., J.D. Ligon, J.R. Murphy, J.P. Myers, D. Simberloff, and J. Verner. 1987. Report of the Scientific Advisory Panel on the spotted owl. The Condor 89:205–229.

Simberloff, D. 1987. The spotted owl fracas: mixing academic, applied, and political ecology. Ecology 68:766–772.

Spies, T.A., and J.F. Franklin. 1991. The structure of natural young, mature, and old-growth Douglas-fir forests in Oregon and Washington. Pages 91–121. In: L.F Ruggiero; K.B. Aubry; A.B. Carey; and M.M. Huff (eds.) Wildlife and vegetation of unmanaged Douglas-fir forests. U.S. Department of Agriculture, Forest Service, Pacific Northwest Forest and Range Experiment Station General Technical Report PNW–GTR–285. Portland, Oregon.

Thomas, J.W., E.D. Forsman, J.B. Lint, E.C. Meslow, B.R. Noon, and J. Verner. 1990. A conservation strategy for the northern spotted owl. Interagency Scientific Committee to Address the Conservation of the Northern Spotted Owl. USDA Forest Service, USDI Bureau of Land Management, Fish and Wildlife Service, and National Park Service. Portland, Oregon. U.S. Government Printing Office 791–171/20026, Washington, D.C.

USDA/USDI/NOAA/EPA. 1993. Forest Ecosystem Management: An Ecological, Economic, and Social Assessment. A Report of the Forest Ecosystem Management Assessment Team. July 1993. Portland, Oregon.

Dated: December 17, 1993.

Richard N. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 93–31866 Filed 12–28–93; 8:45 am]

BILLING CODE 4310–55–M

VOL
58
ISS
248
DE
29
1993
UMI

federal register

Wednesday
December 29, 1993

Part IX

The President

Executive Order 12888—Amendments to the Manual for Courts-Martial, United States, 1984

VOL
58
ISS
2
48
DE
29
1993
UMI

Federal Register
Vol. 58, No. 248
Wednesday, December 29, 1993

Presidential Documents

Title 3—

The President

Executive Order 12888 of December 23, 1993

Amendments to the Manual for Courts-Martial, United States, 1984

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), in order to prescribe amendments to the Manual for Courts-Martial, United States, 1984, prescribed by Executive Order No. 12473, as amended by Executive Order No. 12484, Executive Order No. 12550, Executive Order No. 12586, Executive Order No. 12708, and Executive Order No. 12767, it is hereby ordered as follows:

Section 1. Part II of the Manual for Courts-Martial, United States, 1984, is amended as follows:

a. R.C.M. 109 is amended to read as follows:

"(a) *In general.* Each Judge Advocate General is responsible for the professional supervision and discipline of military trial and appellate military judges, judge advocates, and other lawyers who practice in proceedings governed by the code and this Manual. To discharge this responsibility each Judge Advocate General may prescribe rules of professional conduct not inconsistent with this rule or this Manual. Rules of professional conduct promulgated pursuant to this rule may include sanctions for violations of such rules. Sanctions may include but are not limited to indefinite suspension from practice in courts-martial and in the Courts of Military Review. Such suspensions may only be imposed by the Judge Advocate General of the armed service of such courts. Prior to imposing any discipline under this rule, the subject of the proposed action must be provided notice and an opportunity to be heard. The Judge Advocate General concerned may upon good cause shown modify or revoke suspension. Procedures to investigate complaints against military trial judges and appellate military judges are contained in subsection (c) of this rule.

(b) *Action after suspension or disbarment.* When a Judge Advocate General suspends a person from practice or the Court of Military Appeals disbars a person, any Judge Advocate General may suspend that person from practice upon written notice and opportunity to be heard in writing.

(c) *Investigation of judges.*

(1) *In general.* These rules and procedures promulgated pursuant to Article 6a are established to investigate and dispose of charges, allegations, or information pertaining to the fitness of a military trial judge or appellate military judge to perform the duties of the judge's office.

(2) *Policy.* Allegations of judicial misconduct or unfitness shall be investigated pursuant to the procedures of this rule and appropriate action shall be taken. Judicial misconduct includes any act or omission that may serve to demonstrate unfitness for further duty as a judge, including but not limited to violations of applicable ethical standards.

(3) *Complaints.* Complaints concerning a military trial judge or appellate military judge will be forwarded to the Judge Advocate General of the service concerned or to a person designated by the Judge Advocate General concerned to receive such complaints.

(4) *Initial action upon receipt of a complaint.* Upon receipt, a complaint will be screened by the Judge Advocate General concerned or by the individual designated in subsection (c)(3) of this rule to receive complaints. An initial inquiry is necessary if the complaint, taken as true, would constitute judicial misconduct or unfitness for further service as a judge. Prior to the commencement of an initial inquiry, the Judge Advocate General concerned shall be notified that a complaint has been filed and that an initial inquiry will be conducted. The Judge Advocate General concerned may temporarily suspend the subject of a complaint from performing judicial duties pending the outcome of any inquiry or investigation conducted pursuant to this rule. Such inquiries or investigations shall be conducted with reasonable promptness.

(5) *Initial inquiry.*

(A) *In general.* An initial inquiry is necessary to determine if the complaint is substantiated. A complaint is substantiated upon finding that it is more likely than not that the subject judge has engaged in judicial misconduct or is otherwise unfit for further service as a judge.

(B) *Responsibility to conduct initial inquiry.* The Judge Advocate General concerned, or the person designated to receive complaints under subsection (c)(3) of this rule, will conduct or order an initial inquiry. The individual designated to conduct the inquiry should, if practicable, be senior to the subject of the complaint. If the subject of the complaint is a military trial judge, the individual designated to conduct the initial inquiry should, if practicable, be a military trial judge or an individual with experience as a military trial judge. If the subject of the complaint is an appellate military judge, the individual designated to conduct the inquiry should, if practicable, have experience as an appellate military judge.

(C) *Due process.* During the initial inquiry, the subject of the complaint will, at a minimum, be given notice and an opportunity to be heard.

(D) *Action following the initial inquiry.* If the complaint is not substantiated pursuant to subsection (c)(5)(A) of this rule, the complaint shall be dismissed as unfounded. If the complaint is substantiated, minor professional disciplinary action may be taken or the complaint may be forwarded, with findings and recommendations, to the Judge Advocate General concerned. Minor professional disciplinary action is defined as counselling or the issuance of an oral or written admonition or reprimand. The Judge Advocate General concerned will be notified prior to taking minor professional disciplinary action or dismissing a complaint as unfounded.

(6) *Action by the Judge Advocate General.*

(A) *In general.* The Judge Advocates General are responsible for the professional supervision and discipline of military trial and appellate military judges under their jurisdiction. Upon receipt of findings and recommendations required by subsection (c)(5)(D) of this rule the Judge Advocate General concerned will take appropriate action.

(B) *Appropriate Actions.* The Judge Advocate General concerned may dismiss the complaint, order an additional inquiry, appoint an ethics commission to consider the complaint, refer the matter to another appropriate investigative agency or take appropriate professional disciplinary action pursuant to the rules of professional conduct prescribed by the Judge Advocate General under subsection (a) of this rule. Any decision of a Judge Advocate General, under this rule, is final and is not subject to appeal.

(C) *Standard of Proof.* Prior to taking professional disciplinary action, other than minor disciplinary action as defined in subsection (c)(5)(D) of this rule, the Judge Advocate General concerned shall find, in writing, that the subject of the complaint engaged in judicial misconduct or is otherwise unfit for continued service as a military judge, and that such misconduct or unfitness is established by clear and convincing evidence.

(D) *Due process.* Prior to taking final action on the complaint, the Judge Advocate General concerned will ensure that the subject of the complaint is, at a minimum, given notice and an opportunity to be heard.

(7) *The Ethics Commission.*

(A) *Membership.* If appointed pursuant to subsection (c)(6)(B) of this rule, an ethics commission shall consist of at least three members. If the subject of the complaint is a military trial judge, the commission should include one or more military trial judges or individuals with experience as a military trial judge. If the subject of the complaint is an appellate military judge, the commission should include one or more individuals with experience as an appellate military judge. Members of the commission should, if practicable, be senior to the subject of the complaint.

(B) *Duties.* The commission will perform those duties assigned by the Judge Advocate General concerned. Normally, the commission will provide an opinion as to whether the subject's acts or omissions constitute judicial misconduct or unfitness. If the commission determines that the affected judge engaged in judicial misconduct or is unfit for continued judicial service, the commission may be required to recommend an appropriate disposition to the Judge Advocate General concerned.

(8) *Rules of procedure.* The Secretary of Defense or the Secretary of the service concerned may establish additional procedures consistent with this rule and Article 6a."

b. R.C.M. 305(f) is amended to read as follows:

"*Military Counsel.* If requested by the prisoner and such request is made known to military authorities, military counsel shall be provided to the prisoner before the initial review under subsection (i) of this rule or within 72 hours of such a request being first communicated to military authorities, whichever occurs first. Counsel may be assigned for the limited purpose of representing the accused only during the pretrial confinement proceedings before charges are referred. If assignment is made for this limited purpose, the prisoner shall be so informed. Unless otherwise provided by regulations of the Secretary concerned, a prisoner does not have a right under this rule to have military counsel of the prisoner's own selection.".

c. R.C.M. 305(h)(2)(A) is amended to read as follows:

"(A) *Decision.* Not later than 72 hours after the commander's ordering of a prisoner into pretrial confinement, or after receipt of a report that a member of the commander's unit or organization has been confined, whichever situation is applicable, the commander shall decide whether pretrial confinement will continue.".

d. R.C.M. 305(i)(1) is amended to read as follows:

"(1) *In general.* A review of the adequacy of probable cause to believe the prisoner has committed an offense and of the necessity for continued pretrial confinement shall be made within 7 days of the imposition of confinement under military control. If the prisoner was apprehended by civilian authorities and remains in civilian custody at the request of military authorities, reasonable efforts will be made to bring the prisoner under military control in a timely fashion. In calculating the number of days of confinement for purposes of this rule, the initial date of confinement shall count as one day and the date of the review shall also count as one day.".

e. R.C.M. 405(i) is amended to read as follows:

"(i) *Military Rules of Evidence.* The Military Rules of Evidence—other than Mil. R. Evid. 301, 302, 303, 305, 412, and Section V—shall not apply in pretrial investigations under this rule.".

f. R.C.M. 701(g)(3)(C) is amended to read as follows:

VOL 58 ISS 248 DEC 29 1993 UMI

"(C) Prohibit the party from introducing evidence, calling a witness, or raising a defense not disclosed; and".

g. R.C.M. 704(e) is amended to read as follows:

"(e) *Decision to grant immunity.* Unless limited by superior competent authority, the decision to grant immunity is a matter within the sole discretion of the appropriate general court-martial convening authority. However, if a defense request to immunize a witness has been denied, the military judge may, upon motion of the defense, grant appropriate relief directing that either an appropriate general court-martial convening authority grant testimonial immunity to a defense witness or, as to the affected charges and specifications, the proceedings against the accused be abated, upon findings that:

(1) The witness intends to invoke the right against self-incrimination to the extent permitted by law if called to testify; and

(2) The Government has engaged in discriminatory use of immunity to obtain a tactical advantage, or the Government, through its own overreaching, has forced the witness to invoke the privilege against self-incrimination; and

(3) The witness' testimony is material, clearly exculpatory, not cumulative, not obtainable from any other source and does more than merely affect the credibility of other witnesses.".

h. R.C.M. 910(a)(1) is amended to read as follows:

"(1) *In general.* An accused may plead as follows: guilty; not guilty to an offense as charged, but guilty of a named lesser included offense; guilty with exceptions, with or without substitutions, not guilty of the exceptions, but guilty of the substitutions, if any; or, not guilty. A plea of guilty may not be received as to an offense for which the death penalty may be adjudged by the court-martial.".

i. R.C.M. 918(a)(1) is amended to read as follows:

"(1) *As to a specification.* General findings as to a specification may be: guilty; not guilty of an offense as charged, but guilty of a named lesser included offense; guilty with exceptions, with or without substitutions, not guilty of the exceptions, but guilty of the substitutions, if any; not guilty only by reason of lack of mental responsibility; or, not guilty. Exceptions and substitutions may not be used to substantially change the nature of the offense or to increase the seriousness of the offense or the maximum punishment for it.".

j. R.C.M. 920(b) is amended to read as follows:

"(b) *When given.* Instructions on findings shall be given before or after arguments by counsel, or at both times, and before the members close to deliberate on findings, but the military judge may, upon request of the members, any party, or sua sponte, give additional instructions at a later time.".

k. R.C.M. 1103(g)(1)(A) is amended to read as follows:

"*In general.* In general and special courts-martial which require a verbatim transcript under subsections (b) or (c) of this rule and are subject to review by a Court of Military Review under Article 66, the trial counsel shall cause to be prepared an original and four copies of the record of trial. In all other general and special courts-martial the trial counsel shall cause to be prepared an original and one copy of the record of trial.".

Sec. 2. Part III of the Manual for Courts-Martial, United States, 1984, is amended as follows:

a. Mil. R. Evid. 311(e)(2) is amended to read as follows:

"(2) *Derivative Evidence.* Evidence that is challenged under this rule as derivative evidence may be admitted against the accused if the military judge finds by a preponderance of the evidence that the evidence was not obtained as a result of an unlawful search or seizure, that the evidence ultimately would have been obtained by lawful means even if the unlawful search or seizure had not been made, or that the evidence was obtained by officials who reasonably and with good faith relied on the issuance of an authorization to search, seize, or apprehend or a search warrant or an arrest warrant. Notwithstanding other provisions of this Rule, an apprehension made in a dwelling in a manner that violates R.C.M. 302(d)(2)&(e) does not preclude the admission into evidence of a statement of an individual apprehended provided (1) that the apprehension was based on probable cause, (2) that the statement was made subsequent to the apprehension at a location outside the dwelling, and (3) that the statement was otherwise in compliance with these rules.".

b. Mil. R. Evid. 505(a) is amended to read as follows:

"(a) *General rule of privilege.* Classified information is privileged from disclosure if disclosure would be detrimental to the national security. As with other rules of privilege this rule applies to all stages of the proceedings.".

c. Mil. R. Evid. 505(g)(1)(D) is amended by adding the following at the end:

"All persons requiring security clearances shall cooperate with investigatory personnel in any investigations which are necessary to obtain a security clearance.".

d. Mil. R. Evid. 505(h)(3) is amended to read as follows:

"(3) *Content of notice.* The notice required by this subdivision shall include a brief description of the classified information. The description, to be sufficient, must be more than a mere general statement of the areas about which evidence may be introduced. The accused must state, with particularity, which items of classified information he reasonably expects will be revealed by his defense.".

e. Mil. R. Evid. 505(i)(3) is amended to read as follows:

"(3) *Demonstration of national security nature of the information.* In order to obtain an in camera proceeding under this rule, the Government shall submit the classified information and an affidavit ex parte for examination by the military judge only. The affidavit shall demonstrate that disclosure of the information reasonably could be expected to cause damage to the national security in the degree required to warrant classification under the applicable executive order, statute, or regulation.".

f. Mil. R. Evid. 505(i)(4)(B) is amended to read as follows:

"*Standard.* Classified information is not subject to disclosure under this subdivision unless the information is relevant and necessary to an element of the offense or a legally cognizable defense and is otherwise admissible in evidence. In presentencing proceedings, relevant and material classified information pertaining to the appropriateness of, or the appropriate degree of, punishment shall be admitted only if no unclassified version of such information is available.".

g. Mil. R. Evid. 505(j)(5) is amended to read as follows:

"(5) *Closed session.* The military judge may exclude the public during that portion of the presentation of evidence that discloses classified information.".

h. Mil. R. Evid. 609(a) is amended to read as follows:

"(a) *General rule.* For the purpose of attacking the credibility of a witness, (1) evidence that a witness other than the accused has been convicted of a crime shall be admitted, subject to Mil. R. Evid. 403, if the crime was punishable by death, dishonorable discharge, or imprisonment in excess

of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the military judge determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and (2) evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment. In determining whether a crime tried by court-martial was punishable by death, dishonorable discharge, or imprisonment in excess of one year, the maximum punishment prescribed by the President under Article 56 at the time of the conviction applies without regard to whether the case was tried by general, special, or summary court-martial.".

i. Mil. R. Evid. 1101(d) is amended to read as follows:

"(d) *Rules inapplicable.* These rules (other than with respect to privileges and Mil. R. Evid. 412) do not apply in investigative hearings pursuant to Article 32; proceedings for vacation of suspension of sentence pursuant to Article 72; proceedings for search authorizations; proceedings involving pretrial restraint; and in other proceedings authorized under the code or this Manual and not listed in subdivision (a).".

Sec. 3. Part IV of the Manual for Courts-Martial, United States, 1984, is amended as follows:

a. Paragraph 37c is amended by inserting the following new subparagraphs (10) and (11) at the end thereof:

"(10) *Use.* 'Use' means to inject, ingest, inhale, or otherwise introduce into the human body, any controlled substance. Knowledge of the presence of the controlled substance is a required component of use. Knowledge of the presence of the controlled substance may be inferred from the presence of the controlled substance in the accused's body or from other circumstantial evidence. This permissive inference may be legally sufficient to satisfy the government's burden of proof as to knowledge.

(11) *Deliberate ignorance.* An accused who consciously avoids knowledge of the presence of a controlled substance or the contraband nature of the substance is subject to the same criminal liability as one who has actual knowledge.".

b. The last paragraph of paragraph 37e is amended to read as follows:

"When any offense under paragraph 37 is committed: while the accused is on duty as a sentinel or lookout; on board a vessel or aircraft used by or under the control of the armed forces; in or at a missile launch facility used by or under the control of the armed forces; while receiving special pay under 37 U.S.C. Section 310; in time of war; or in a confinement facility used by or under the control of the armed forces, the maximum period of confinement authorized for such an offense shall be increased by 5 years.".

c. Paragraph 43d is amended to read as follows:

"d. *Lesser included offenses.*

(1) *Premeditated murder and murder during certain offenses.* Article 118(2) and (3)—murder

(2) *All murders under Article 118.*

(a) Article 119—involuntary manslaughter

(b) Article 128—assault; assault consummated by a battery; aggravated assault

(c) Article 134—negligent homicide

(3) *Murder as defined in Article 118(1), (2), and (4).*

(a) Article 80—attempts

(b) Article 119—voluntary manslaughter

(c) Article 134—assault with intent to commit murder

(d) Article 134—assault with intent to commit voluntary manslaughter".

d. Para 45d(1) is amended by adding the following at the end thereof:

"(e) Article 120(b)—carnal knowledge".

e. Para 45f(1) is amended to read as follows:

"(1) *Rape.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 19__, rape _____ (a person who had not attained the age of 16 years).".

f. The following new paragraph is inserted after paragraph 96:

"96a. Article 134 (Wrongful interference with an adverse administrative proceeding)

a. *Text. See* paragraph 60.

b. *Elements.*

(1) That the accused wrongfully did a certain act;

(2) That the accused did so in the case of a certain person against whom the accused had reason to believe there were or would be adverse administrative proceedings pending;

(3) That the act was done with the intent to influence, impede, or obstruct the conduct of such adverse administrative proceeding, or otherwise obstruct the due administration of justice;

(4) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.* For purposes of this paragraph "adverse administrative proceeding" includes any administrative proceeding or action, initiated against a servicemember, that could lead to discharge, loss of special or incentive pay, administrative reduction in grade, loss of a security clearance, bar to reenlistment, or reclassification. Examples of wrongful interference include wrongfully influencing, intimidating, impeding, or injuring a witness, an investigator, or other person acting on an adverse administrative action; by means of bribery, intimidation, misrepresentation, or force or threat of force delaying or preventing communication of information relating to such administrative proceeding; and, the wrongful destruction or concealment of information relevant to such adverse administrative proceeding.

d. *Lesser included offenses.* None.

e. *Maximum punishment.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. *Sample specification.* In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 19__, wrongfully (endeavor to) [impede (an adverse administrative proceeding) (an investigation) (_____)] [influence the actions of _____, (an officer responsible for making a recommendation concerning the adverse administrative proceeding) (an individual responsible for making a decision concerning an adverse administrative proceeding) (an individual responsible for processing an adverse administrative proceeding) (_____)] [(influence) (alter) the testimony of _____ a witness before (a board established to consider an adverse administrative proceeding or elimination) (an investigating officer) (_____)] in the case of _____, by [(promising) (offering) (giving) to the said _____, (the sum of $_____) (_____, of a value of about $_____)] [commu-

nicating to the said ———————————— a threat to ————————————] [————————————], (if) (unless) the said ————————————, would [recommend dismissal of the action against said ————————————] [(wrongfully refuse to testify) (testify falsely concerning ————————————) (————————————)] [(at such administrative proceeding) (before such investigating officer) (before such administrative board)] [————————————].".

Sec. 4. These amendments shall take effect on January 21, 1994, subject to the following:

a. The amendments made to paragraphs 37c, 37e, 43d(2), 45d(1), and 96a of Part IV shall apply to any offense committed on or after January 21, 1994.

b. The amendments made to Section III shall apply only in cases in which arraignment has been completed on or after January 21, 1994.

c. The amendment made to Rules for Courts-Martial 405(i), 701(g)(3)(C), and 704(e) shall apply only in cases in which charges are preferred on or after January 21, 1994.

d. The amendments made to Rules for Courts-Martial 910, 918, and 920 shall apply only to cases in which arraignment occurs on or after January 21, 1994.

e. The amendments made to Rule for Courts-Martial 305 shall apply only to cases in which pretrial confinement is imposed on or after January 21, 1994.

f. The amendment to Rule for Courts-Martial 1103(g)(1)(A) shall apply only in cases in which the sentence is adjudged on or after January 21, 1994.

g. Nothing contained in these amendments shall be construed to make punishable any act done or omitted prior to January 21, 1994, which was not punishable when done or omitted.

h. The maximum punishment for an offense committed prior to January 21, 1994, shall not exceed the applicable maximum in effect at the time of the commission of such offense.

i. Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to January 21, 1994, and any such restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

Sec. 5. The Secretary of Defense, on behalf of the President, shall transmit a copy of this order to the Congress of the United States in accord with section 836 of title 10 of the United States Code.

William J. Clinton

THE WHITE HOUSE,
December 23, 1993.

Billing code 3195-01-P

Changes to the Discussion Accompanying the Manual for Courts-Martial, United States, 1984

A. The following Discussion is inserted after R.C.M. 109(c)(2):

"The term 'unfitness' should be construed broadly, including, for example, matters relating to the incompetence, impartiality, and misconduct of the judge. Erroneous decisions of a judge are not subject to investigation under this rule. Challenges to these decisions are more appropriately left to the appellate process.".

B. The following Discussion is inserted after R.C.M. 109(c)(3):

"Complaints need not be made in any specific form, but if possible complaints should be made under oath. Complaints may be made by judges, lawyers, a party, court personnel, members of the general public or members of the military community. Reports in the news media relating to the conduct of a judge may also form the basis of a complaint.

An individual designated to receive complaints under this subsection should have judicial experience. The chief trial judge of a service may be designated to receive complaints against military trial judges.".

C. The following Discussion is inserted after R.C.M. 109(c)(4):

"Complaints under this subsection will be treated with confidentiality. Confidentiality protects the subject judge and the judiciary when a complaint is not substantiated. Confidentiality also encourages the reporting of allegations of judicial misconduct or unfitness and permits complaints to be screened with the full cooperation of others.

Complaints containing allegations of criminality should be referred to the appropriate criminal investigative agency in accordance with Appendix 3 of this Manual.".

D. The following Discussion is inserted after R.C.M. 109(c)(5)(B):

"To avoid the type of conflict prohibited in Article 66(g), the Judge Advocate General's designee should ordinarily not be a member of the same Court of Military Review as the subject of the complaint. If practicable, a former appellate military judge should be designated.".

E. The following Discussion is inserted after R.C.M. 109(c)(6)(B):

"The discretionary reassignment of military trial judges or appellate military judges to meet the needs of the service is not professional disciplinary action.".

F. The following Discussion is inserted after R.C.M. 109(c)(7):

"The Judge Advocate General concerned may appoint an ad hoc or a standing commission.".

G. The Discussion to R.C.M. 701(g)(3) is amended by adding the following after the first paragraph:

"The sanction of excluding the testimony of a defense witness should be used only upon finding that the defense counsel's failure to comply with this rule was willful and motivated by a desire to obtain a tactical advantage or to conceal a plan to present fabricated testimony. Moreover, the sanction of excluding the testimony of a defense witness should only be used if alternative sanctions could not have minimized the prejudice to the Government. Before imposing this sanction, the military judge must weigh the defendant's right to compulsory process against the countervailing public interests, including (1) the integrity of the adversary process; (2) the interest in the fair and efficient administration of military justice; and (3) the potential prejudice to the truth-determining function of the trial process.".

H. The Discussion following R.C.M. 910(a)(1) is amended to read as follows:

"*See* paragraph 2, Part IV, concerning lesser included offenses. When the plea is to a named lesser included offense without the use of exceptions and substitutions, the defense counsel should provide a written revised specification accurately reflecting the plea and request that the revised specification be included in the record as an appellate exhibit. A plea of guilty to a lesser included offense does not bar the prosecution from proceeding on the offense as charged. *See also* subsection (g) of this rule.

VOL 58 ISS 248 DE 29 1993 UMI

A plea of guilty does not prevent the introduction of evidence, either in support of the factual basis for the plea, or, after findings are entered, in aggravation. *See* R.C.M. 1001(b)(4).".

I. The last two paragraphs of the Discussion accompanying R.C.M. 918(a)(1) are amended to read as follows:

"*Lesser included offenses.* If the evidence fails to prove the offense charged but does prove an offense necessarily included in the offense charged, the factfinder may find the accused not guilty of the offense charged but guilty of a named lesser offense, which is included in the offense charged, without the use of exceptions and substitutions. Ordinarily, an attempt is a lesser included offense even if the evidence establishes that the offense charged was consummated. *See* Part IV concerning lesser included offenses.

Offenses arising from the same act or transaction. The accused may be found guilty of two or more offenses arising from the same act or transaction, whether or not the offenses are separately punishable. *But see* R.C.M. 906(b)(12); 907(b)(3)(B); 1003(c)(1)(C).".

J. The Discussion accompanying R.C.M. 920(b) is amended to read as follows:

"After members have reached a finding on a specification, instructions may not be given on an offense included therein which was not described in an earlier instruction unless the finding is illegal. This is true even if the finding has not been announced. When instructions are to be given is a matter within the sole discretion of the military trial judge.".

Changes to the Analysis Accompanying the Manual for Courts-Martial, United States, 1984

1. Changes to Appendix 21, the Analysis accompanying the Rules for Courts-Martial (Part II, MCM, 1984).

a. R.C.M. 109. The Analysis is amended by inserting the following at the end thereof:

"*1993 Amendment*: Subsection (a) was amended to conform with subsection (c). The amendment to subsection (a) clarifies that the Judge Advocates General are responsible for the supervision and discipline of judges and attorneys. The amendment to subsection (a) is not intended to limit the authority of a Judge Advocate General in any way.

New subsection (c) is based on Article 6a, Uniform Code of Military Justice. Article 6a was enacted by the Defense Authorization Act for Fiscal Year 1990. "Military Appellate Procedures," title XIII, § 1303, National Defense Authorization Act for Fiscal Year 1990, Pub. L. No. 101–189, 103 Stat. 1352, 1576 (1989). The legislative history reveals Congressional intent that, to the extent consistent with the Uniform Code of Military Justice, the procedures to investigate and dispose of allegations concerning judges in the military should emulate those procedures found in the civilian sector. *See H.R. Conf. Rep. No. 331, 101st Cong., 1st Sess. 656 (1989) [hereinafter Conf. Rep. No. 331].* The procedures established by subsection (c) are largely patterned after the pertinent sections of the *ABA Model Standards Relating to Judicial Discipline and Disability Retirement (1978) [hereinafter ABA Model Standard]* and the procedures dealing with the investigation of complaints against federal judges in *28 U.S.C. § 372 (1988).* The rule recognizes, however, the overall responsibility of the Judge Advocates General for the certification, assignment, professional supervision and discipline of military trial and appellate military judges. *See* Articles 6, 26 & 66, Uniform Code of Military Justice.

Subsection (c)(2) is based on the committee report accompanying the FY 90 Defense Authorization Act. *See Conf. Rep. No. 331 at 658.* This subsection is designed to increase public confidence in the military justice system while contributing to the integrity of the system. See Landmark Communications v. Virginia, 435 U.S. 829 (1978).

The first sentence of the Discussion to subsection (c)(2) is based on the committee report accompanying the Defense Authorization Act. *Conf. Rep. No. 331 at 358.* The second and third sentences of the discussion are based on the commentary to *ABA Model Standard 3.4. See also Chandler v. Judicial Council,* 398 U.S. 74 (1970).

Subsections (c)(3), (c)(5), and (c)(7) reflect, and adapt to the conditions of military practice, the general principle that judges should investigate judges.

The first paragraph of the Discussion to subsection (c)(3) is based on the commentary to *ABA Model Standard 4.1.*

The discussion to subsection (c)(4) is based on the commentary to *ABA Model Standard 4.6.*

The clear and convincing standard found in subsection (c)(6)(c) is based on *ABA Model Standard 7.10.*

Under subsection (c)(7), the principal purpose of the commission is to advise the Judge Advocate General concerned as to whether the allegations contained in a complaint constitute a violation of applicable ethical standards. This subsection is not intended to preclude use of the commission for other functions such as rendering advisory opinions on ethical questions. *See ABA Model Standard 9* on the establishment and role of an advisory committee.

Subsection (c)(7)(A) is based on *ABA Model Standard 2.3,* which provides that one-third of the members of a commission should be active or retired judges.".

b. R.C.M. 305(f). The Analysis accompanying R.C.M. 305(f) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to subsection (f) provides a specific time period by which to measure compliance. Because it is possible to obtain credit for violations of this section under subsection (k), a standard of compliance was thought necessary. *See, e.g., United States v. Chapman,* 26 M.J. 515 (A.C.M.R. 1988), *pet. denied* 27 M.J. 404 (C.M.A. 1989). This amendment, while protecting the rights of the prisoner, also gives reasonable protection to the Government in those cases where the prisoner is confined in a civilian facility and the request is never, or is belatedly, communicated to military authorities. While it is expected that military authorities will have procedures whereby civilian confinement authorities communicate such requests in a timely fashion, the failure to communicate such a request, or the failure to notify military authorities in a timely manner should be tested for prejudice under Article 59, and should not be considered as invoking the credit provisions of subsection (k) of this rule.".

c. R.C.M. 305(h)(2)(A). The Analysis accompanying R.C.M. 305(h)(2)(A) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to subsection (h)(2)(A) clarifies that the 72 hour period operates in two distinct situations: (a) if the commander orders the prisoner into pretrial confinement, the commander has 72 hours to decide whether pretrial confinement will continue, and (b) if someone other than the prisoner's commander orders the prisoner into pretrial confinement, the prisoner's commander has 72 hours from receipt of a report that the prisoner has been confined to decide whether pretrial confinement will continue.".

d. R.C.M. 305(i)(1). The Analysis accompanying R.C.M. 305(i)(1) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to subsection (i)(1) provides that the required review only becomes applicable whenever the accused is confined under military control. For example, if the prisoner was apprehended and is being held by civilian authorities as a military deserter in another state from where the prisoner's unit is located and it takes three days to transfer the prisoner to an appropriate confinement facility, the seven

day period under this rule would not begin to run until the date of the prisoner's transfer to military authorities. Any unreasonable period of time that it may take to bring a prisoner under military control should be tested for prejudice under Article 59, and should not be considered as invoking the credit provisions of subsection (k) of this rule absent evidence of bad faith by military authorities in utilizing civilian custody. *But see United States v. Ballesteros*, 29 M.J. 14 (C.M.A. 1989). However, any time spent in civilian custody at the request of military authorities would be subject to pretrial confinement credit mandated by *United States v. Allen*, 17 M.J. 126 (C.M.A. 1984).

The amendment further clarifies the method of calculation to determine if the rule has been violated. *See United States v. DeLoatch*, 25 M.J. 718 (A.C.M.R. 1987); *contra, United States v. New*, 23 M.J. 889 (A.C.M.R. 1987).".

e. R.C.M. 405(i). The Analysis accompanying R.C.M. 405(i) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to R.C.M. 405(i) makes the provisions of Mil. R. Evid. 412 applicable at pretrial investigations.".

f. R.C.M. 701(g)(3)(C). The Analysis accompanying R.C.M. 701(g)(3)(C) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to R.C.M. 701(g)(3)(C), based on the decision of *Taylor v. Illinois*, 484 U.S. 400 (1988), recognizes that the Sixth Amendment compulsory process right does not preclude a discovery sanction that excludes the testimony of a material defense witness. This sanction, however, should be reserved to cases where the accused has willfully and blatantly violated applicable discovery rules, and alternative sanctions could not have minimized the prejudice to the Government. *See Chappee v. Commonwealth of Massachusetts*, 659 F.Supp. 1220 (D. Mass. 1988). The Discussion to R.C.M. 701(g)(3)(C) adopts the test, along with factors the judge must consider, established by the *Taylor* decision.".

g. R.C.M. 704(e). The Analysis accompanying R.C.M. 704(e) is amended by inserting the following at the end thereof:

"*1993 Amendment*. Subsection (e) to R.C.M. 704 was amended to make the military practice for granting immunity for defense witnesses consistent with the majority rule within the Federal Courts. *United States v. Burns*, 684 F.2d 1066 (2d Cir. 1982), *cert. denied*, 459 U.S. 1174 (1983); *United States v. Shandell*, 800 F.2d 322 (2d Cir. 1986); *United States v. Turkish*, 623 F.2d 769 (2d Cir. 1980), *cert. denied*, 449 U.S. 1077 (1981); *United States v. Thevis*, 665 F.2d 616 (5th Cir. 1982), *cert. denied*, 459 U.S. 825 (1982); *United States v. Pennell*, 737 F.2d 521 (6th Cir. 1984); *United States v. Taylor*, 728 F.2d 930 (7th Cir. 1984); *United States v. Brutzman*, 731 F.2d 1449 (9th Cir. 1984); *McGee v. Crist*, 739 F.2d 505 (10th Cir. 1984); *United States v. Sawyer*, 799 F.2d 1494 (11th Cir. 1986). The amended rule conforms R.C.M. 704(e) with case law requiring the military judge to consider the Government's interest in not granting immunity to the defense witness. *See United States v. Smith*, 17 M.J. 994, 996 (A.C.M.R. 1984), *pet. denied*, 19 M.J. 71 (C.M.A. 1984); *United States v. O'Bryan*, 16 M.J 775 (A.F.C.M.R. 1983), *pet. denied*, 18 M.J. 16 (C.M.A. 1984).".

The majority rule recognizes that an accused has no Sixth Amendment right to immunized testimony of defense witnesses and, absent prosecutorial misconduct which is intended to disrupt the judicial fact-finding process, an accused is not denied Fifth Amendment due process by the Government's failure to immunize a witness. If the military judge finds that the witness is a target for prosecution, there can be no claim of Government overreaching or discrimination if a grant of immunity is denied. *United States v. Shandell*, *supra*.

The prior military rule was based on *United States v. Villines*, *supra*, which had adopted the minority view espoused in *Government of Virgin Islands v. Smith*, 615 F.2d 964 (3d Cir. 1980). This view permitted the court to also immunize a defense witness when the witness' testimony

was clearly exculpatory, essential to the defense case and there was no strong Government interest in withholding testimonial immunity. This rule has been sharply criticized. *See, e.g., United States v. Turkish, supra; United States v. Taylor, supra; United States v. Pennel, supra; United States v. Zayas*, 24 M.J. 132, 137 (C.M.A. 1987)(dissenting opinion by Judge Cox).

The current rule continues to recognize that a military judge is not empowered to immunize a witness. Upon a finding that all three prerequisites exist, a military judge may only abate the proceedings for the affected charges and specifications unless the convening authority grants immunity to the witness.".

h. R.C.M. 910(a)(1). The Analysis accompanying R.C.M. 910(a)(1) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to R.C.M. 910(a)(1) removed the necessity of pleading guilty to a lesser included offense by exceptions and substitutions. This parallels the amendment to R.C.M. 918(a)(1), allowing a finding of guilty to a named lesser included offense without mandating the use of exceptions and substitutions, made to more closely correspond to verdict practice in federal district courts. *See* Analysis comments for R.C.M. 918(a)(1).".

i. R.C.M. 918(a)(1). The Analysis accompanying R.C.M. 918(a)(1) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to R.C.M. 918(a)(1) allows for a finding of guilty of a named lesser included offense of the charged offense, and eliminates the necessity of making findings by exceptions and substitutions. This serves to conform military practice to that used in criminal trials before federal district courts. *See* Fed. R. Crim. P. 31(c); E. Devitt and C. Blackman, **Federal Jury Practice and Instructions**, 18.07 (1977). The practice of using exceptions and substitutions is retained for those cases in which the military judge or court members must conform the findings to the evidence actually presented, *e.g.*, a larceny case in which the finding is that the accused stole several of the items alleged in the specification but not others.".

j. R.C.M. 920(b). The Analysis accompanying R.C.M. 920(b) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to R.C.M. 920(b) is based on the 1987 amendments to Federal Rule of Criminal Procedure 30. Federal Rule of Criminal Procedure 30 was amended to permit instructions either before or after arguments by counsel. The previous version of R.C.M. 920 was based on the now superseded version of the federal rule.

The purpose of this amendment is to give the court discretion to instruct the members before or after closing arguments or at both times. The amendment will permit courts to continue instructing the members after arguments as Rule 30 and R.C.M. 920(b) had previously required. It will also permit courts to instruct before arguments in order to give the parties an opportunity to argue to the jury in light of the exact language used by the court. *See United States v. Slubowski*, 7 M.J. 461 (C.M.A 1979); *United States v. Pendry*, 29 M.J. 694 (A.C.M.R. 1989).".

k. The Analysis accompanying R.C.M. 1103(g)(1)(A) is amended by inserting the following at the end thereof:

"*1993 Amendment*: Subsection (g)(1)(A) was amended by adding the phrase "and are subject to review by a Court of Military Review under Article 66" to eliminate the need to make four copies of verbatim records of trial for courts-martial which are not subject to review by a Court of Military Review. These cases are reviewed in the Office of the Judge Advocate General under Article 69 and four copies are not ordinarily necessary.".

2. Changes to Appendix 22, the Analysis accompanying the Military Rules of Evidence (Part III, MCM, 1984).

a. The Analysis accompanying M.R.E. 303 is amended by inserting the following at the end thereof:

VOL 58 ISS 248 DE 29 1993 UMI

"*1993 Amendment*: R.C.M. 405(i) and Mil. R. Evid 1101(d) were amended to make the provisions of Mil. R. Evid. 412 applicable at pretrial investigations. These changes ensure that the same protections afforded victims of nonconsensual sex offenses at trial are available at pretrial hearings. *See* Criminal Justice Subcommittee of House Judiciary Committee Report, 94th Cong., 2d Session, July 29, 1976. Pursuant to these amendments, Mil. R. Evid. 412 should be applied in conjunction with Mil. R. Evid. 303. As such, no witness may be compelled to answer a question calling for a personally degrading response prohibited by Rule 303. Mil. R. Evid. 412, however, protects the victim even if the victim does not testify. Accordingly, Rule 412 will prevent questioning of the victim or other witness if the questions call for responses prohibited by Rule 412.".

b. The Analysis accompanying M.R.E. 311(e)(2) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The amendment to Mil. R. Evid. 311(e)(2) was made to conform Rule 311 to the rule of *New York* v. *Harris*, 495 U.S. 14 (1990). The purpose behind the exclusion of derivative evidence found during the course of an unlawful apprehension in a dwelling is to protect the physical integrity of the dwelling, not to protect suspects from subsequent lawful police interrogation. *See id.* A suspect's subsequent statement made at another location that is the product of lawful police interrogation is not the fruit of the unlawful apprehension. The amendment also contains language added to reflect the "good faith" exception to the exclusionary rule set forth in *United States v. Leon*, 468 U.S. 897 (1984), and the "inevitable discovery" exception set forth in *Nix v. Williams*, 467 U.S. 431 (1984).".

c. The Analysis accompanying Mil. R. Evid. 412 is amended by inserting the following at the end thereof:

"*1993 Amendment*. R.C.M. 405(i) and Mil. R. Evid. 1101(d) were amended to make the provisions of Rule 412 applicable at pretrial investigations. Congress intended to protect the victims of nonconsensual sex crimes at preliminary hearings as well as at trial when it passed Fed. R. Evid. 412. *See* Criminal Justice Subcommittee of the House Judiciary Committee Report, 94th Cong., 2d Session, July 1976.".

d. The Analysis accompanying M.R.E. 505(a) is amended by inserting the following at the end thereof:

"*1993 Amendment*: The second sentence was added to clarify that this rule, like other rules of privilege, applies at all stages of all actions and is not relaxed during the sentencing hearing under M.R.E. 1101(c).".

e. The Analysis accompanying M.R.E. 505(g) is amended by inserting the following at the end thereof:

"*1993 Amendment*: Subsection (g)(1)(D) was amended to make clear that the military judge's authority to require security clearances extends to persons involved in the conduct of the trial as well as pretrial preparation for it. The amendment requires persons needing security clearances to submit to investigations necessary to obtain the clearance.".

f. The Analysis accompanying M.R.E. 505(h) is amended by inserting the following at the end thereof:

"*1993 Amendment*: Subsection (h)(3) was amended to require specificity in detailing the items of classified information expected to be introduced. The amendment is based on *United States v. Collins*, 720 F.2d. 1195 (11th Cir. 1983).".

g. The Analysis accompanying M.R.E. 505(i) is amended by inserting the following at the end thereof:

"*1993 Amendment*: Subsection (i)(3) was amended to clarify that the classified material and the government's affidavit are submitted only to the military judge. The word "only" was placed at the end of the sentence to make it clear that it refers to "military judge" rather than to "examination."

The military judge is to examine the affidavit and the classified information without disclosing it before determining to hold an in camera proceeding as defined in subsection (i)(1). The second sentence of subsection (i)(4)(B) was added to provide a standard for admission of classified information in sentencing proceedings.".

h. The Analysis accompanying M.R.E. 505(j) is amended by inserting the following at the end thereof:

"*1993 Amendment*: Subsection (j)(5) was amended to provide that the military judge's authority to exclude the public extends to the presentation of any evidence that discloses classified information, and not merely to the testimony of witnesses. *See generally United States v. Hershey*, 20 M.J. 433 (C.M.A. 1985), *cert. denied*, 474 U.S. 1062 (1986).".

i. The Analysis accompanying Mil. R. Evid. 609(a) is amended by adding the following at the end thereof:

"*1993 Amendment*. The amendment to Mil. R. Evid. 609(a) is based on the 1930 amendment to Fed. R. Evid. 609(a). The previous version of Mil. R. Evid. 609(a) was based on the now superseded version of the Federal Rule. This amendment removes from the rule the limitation that the conviction may only be elicited during cross-examination. Additionally, the amendment clarifies the relationship between Rules 403 and 609. The amendment clarifies that the special balancing test found in Mil. R. Evid. 609(a)(1) applies to the accused's convictions. The convictions of all other witnesses are only subject to the Mil. R. Evid. 403 balancing test. *See Green v. Bock Laundry Machine Co.*, 490 U.S. 504 (1989).".

j. The Analysis accompanying Mil. R. Evid. 1101(d) is amended by inserting the following at the end thereof:

"*1993 Amendment*. Mil. R. Evid. 1101(d) was amended to make the provisions of Mil. R. Evid. 412 applicable at pretrial investigations.".

3. Changes to Appendix 21, the Analysis accompanying the punitive articles (Part IV, MCM, 1984).

a. The Analysis accompanying paragraph 37c, Part IV, is amended by inserting the following at the end thereof:

"*1993 Amendment*. Paragraph c was amended by adding new paragraphs (10) and (11). Subparagraph (10) defines the term "use" and delineates knowledge of the presence of the controlled substance as a required component of the offense. *See United States v. Mance*, 26 M.J. 244 (C.M.A. 1988). The validity of a permissive inference of knowledge is recognized. *See United States v. Ford*, 23 M.J. 331 (C.M.A. 1987); *United States v. Harper*, 22 M.J. 157 (C.M.A. 1986). Subparagraph (11) precludes an accused from relying upon lack of actual knowledge when such accused has purposefully avoided knowledge of the presence or identity of controlled substances. *See United States v. Mance, supra* (Cox, J., concurring). When an accused deliberately avoids knowing the truth concerning a crucial fact (i.e., presence or identity) and there is a high probability that the crucial fact does exist, the accused is held accountable to the same extent as one who has actual knowledge. *See United States v. Newman*, 14 M.J. 474 (C.M.A. 1983). Subsection (11) follows federal authority which equates actual knowledge with deliberate ignorance. *See United States v. Ramsey*, 785 F.2d 184 (7th Cir.), *cert. denied*, 476 U.S. 1186 (1986).".

b. The Analysis accompanying paragraph 43d(2), Part IV, is amended by inserting the following at the end thereof:

"*1993 Amendment*. The listed lesser included offenses of murder under Article 118(3) were changed to conform to the rationale of *United States v. Roa*, 12 M.J. 210 (C.M.A. 1982). Inasmuch as Article 118(3) does not require specific intent, attempted murder, voluntary manslaughter, assault

with intent to murder and assault with intent to commit voluntary manslaughter are not lesser included offenses of murder under Article 118(3).".

c. The Analysis accompanying paragraph 45(d), Part IV, is amended by inserting the following at the end thereof:

"*1993 Amendment.* The amendment to para 45d(1) represents an administrative change to conform the Manual with case authority. Carnal knowledge is a lesser included offense of rape where the pleading alleges that the victim has not attained the age of 16 years. *See United States v. Baker*, 28 M.J. 900 (A.C.M.R. 1989); *United States v. Stratton*, 12 M.J. 998 (A.F.C.M.R. 1982), *pet. denied*, 15 M.J. 107 (C.M.A. 1983); *United States v. Smith*, 7 M.J. 842 (A.C.M.R. 1979).".

d. The Analysis accompanying paragraph 96a, Part IV, is amended by inserting the following after the analysis to paragraph 96:

"*1993 Amendment.* Paragraph 96a is new and proscribes conduct that obstructs administrative proceedings. *See generally* 18 U.S.C. § 1505, *Obstruction of proceedings before departments, agencies, and committees.* This paragraph, patterned after paragraph 96, covers obstruction of certain administrative proceedings not currently covered by the definition of criminal proceeding found in paragraph 96c. This paragraph is necessary given the increased number of administrative actions initiated in each service.".

[FR Doc. 93-31979
Filed 12-27-93; 2:48 pm]
Billing code 3810-01-P

Reader Aids

Federal Register
Vol. 58, No. 248
Wednesday, December 29, 1993

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-3447
Code of Federal Regulations	
Index, finding aids & general information	523-5227
Printing schedules	523-3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230
The United States Government Manual	
General information	523-5230
Other Services	
Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, and Federal Register finding aids.	202-275-1538, or 275-0920

FEDERAL REGISTER PAGES AND DATES, DECEMBER

63277-63518	1
63519-63884	2
63885-64100	3
64101-64364	6
64365-64454	7
64455-64668	8
64669-64870	9
64871-65098	10
65099-65276	13
65277-65526	14
65527-65656	15
65657-65864	16
65865-66246	17
66247-67302	20
67303-67624	21
67625-68014	22
68015-68290	23
68291-68504	27
68505-68714	28
68715-69168	29

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

11 64871

3 CFR

Proclamations:
6320 (See USTR notice of Dec. 14) 65424
6352 (See USTR notice of Dec. 14) 65424
5365 (See Proc. 6641) 66867
6515 (See Proc. 6641) 66867
6030 (See Proc. 6641) 66867
5923 (Superseded in part by Proc. 6641) 66867
6630 63277
6631 63279
6632 63883
6633 64363
6634 64667
6635 65279
6636 65525
6637 65527
6638 65529
6639 65865
6640 65867
6641 ..... 66867, 68191
6642 67625
6643 68288
Executive Orders:
3406 (Revoked in part by PLO 7020) 64166
12163 (See EO 12884) 64099
12473 (See EO 12888) 69153
12484 (See EO 12888) 69153
12543 (See notice of December 2) 64361
12544 (See notice of December 2) 64361
12586 (See EO 12888) 69153
12708 (See EO 12888) 69153
12748 (Amended by 12883) 63281
12767 (See EO 12888) 69153
12826 (Superseded in part by EO 12886) 68709
12829 (Amended by EO 12885) 65863
12865 (See DOT final rule of Dec. 10) 64904
12878 (Amended by EO 12887) 68713
12883 63281
12884 64099
12885 65863
12886 68709
12887 68713
Administrative Orders:
Memorandums:
December 1, 1993 64097
December 15, 1993 ..... 67263, 68191
Presidential Determinations:
No. 94-4 of November 19, 1993 63519
No. 94-5 of December 3, 1993 65277
No. 94-6 of December 6, 1993 65099
Notices:
December 2, 1993 64361

5 CFR

52 64365
293 65531
351 65531
430 65531
432 65531
451 65531
511 65531
530 65531
531 65531
532 ..... 68715, 68716
536 65531
540 65531
575 65531
591 65531
595 65531
771 65531
831 ..... 64366, 65243
Ch. XI 68505

7 CFR

1 64353
54 64669
68 68015
75 64101
301 ..... 64102, 67627
330 66247
400 ..... 64872, 67303
401 ..... 64873, 67730
430 66249
443 67744
905 65538
920 65101
955 64103
981 64105
987 64107
989 ..... 64106, 64107
997 64109
998 67304
1001 63283
1002 63283
1004 63283

VOL 58 ISS 248 DE 29 1993 UMI

1005.....63283
1007.....63283
1011.....63283
1030.....63283
1033.....63283
1036.....63283
1040.....63283
1044.....63283
1046.....63283
1049.....63283
1065.....63283
1068.....63283
1075.....64110
1079.....63283
1093.....63283
1094.....63283
1096.....63283
1097.....63283
1098.....63283
1099.....63283
1106.....63283
1108.....63283
1124.....63283
1126.....63283
1131.....63283
1135.....63283
1138.....63283
1220.....64670
1421.....68016
1427.....65102
1464.....68017
1610.....66250
1703.....67306
1710.....66260
1714.....66260
1735.....66250
1737.....66250
1744.....66250
1751.....66250
1753.....66250
1910.....68717
1946.....65871
1951.....64455
1955.....68722
1980.....65871, 68717
3416.....65646

Proposed Rules:
271.....64172
301.....66304
319.....66304, 66305
321.....66305
704.....66308
723.....67376
810.....65939
930.....68065
981.....64175
985.....67378
1001.....67380
1002.....67380
1004.....67380
1005.....67380
1006.....67380
1007.....65135, 67380
1011.....67380
1012.....67380
1013.....67380
1030.....67380
1032.....67380
1033.....67380
1036.....67380
1040.....64176, 67380
1044.....67380
1046.....67380
1049.....67380
1050.....67380
1064.....67380
1065.....67380
1068.....67380
1075.....67380
1076.....67380
1079.....67380
1093.....67380
1094.....67380
1096.....67380
1099.....67380
1106.....67380
1108.....67380
1124.....67380
1126.....67380
1131.....67380, 67703
1134.....67380
1135.....67380
1137.....67380
1138.....67380
1139.....67380
1250.....65939
1410.....66308
1525.....65941
1735.....68780

8 CFR
264.....68024

Proposed Rules:
210a.....64695

9 CFR
78.....68505
85.....68506
92.....68508
94.....65103, 66247
130.....67647
156.....67647
317.....66075
318.....63521, 65254
381.....65254
401.....65254

Proposed Rules:
2.....68559
51.....68561
71.....67708
92.....67709

10 CFR
1.....64110
2.....67657
19.....67657
20.....64110, 67657
30.....64110, 67657, 68726
31.....67657
32.....67657
34.....67657
35.....67657
36.....67657
39.....67657
40.....64110, 67657, 68726
50.....67657, 68726
61.....67657
70.....64110, 67657, 68726
72.....67657, 68726
73.....64110
780.....68732
835.....65458, 67441

Proposed Rules:
430.....67710
710.....64509

11 CFR

Proposed Rules:
100.....64190
102.....65559
113.....64190

12 CFR
7.....68464
24.....68464
201.....68509
202.....65657, 68735
204.....64112
208.....68735
225.....68735
265.....65539
303.....64455
332.....64458
333.....64460
360.....67662
362.....64462
611.....67644
613.....67644
614.....67644, 67665
620.....67664
621.....67664
627.....67644

Proposed Rules:
3.....68065
25.....67466
208.....68563
210.....68566
211.....65560
225.....68563
228.....67466
230.....64190, 65293
325.....68781
330.....64521
345.....67466
510.....64695
563e.....67466
611.....64442, 68069
618.....68069
620.....68069

13 CFR
121.....65281
123.....64672

14 CFR
39.....63523, 63524, 64112, 64114, 64487, 64874, 64875, 64877, 65104, 65115, 65282, 65283, 65662, 65888, 65890, 65984, 65895, 66268, 66270, 66271, 66273, 66274, 66276, 67306, 67307, 67310, 67311, 67665, 67667, 68025, 68026, 68028, 68291
71.....63293, 63885, 63886, 64116, 64117, 64444, 64488, 64879, 64880, 64880, 65897, 65900, 67668, 67669, 67770, 67771, 68740
73.....69128
95.....65901
97.....65904, 65905, 68515, 68516
121.....68194, 68198
158.....64118

Proposed Rules:
25.....64700, 67716
31.....64450
33.....63902, 68784
39.....63305, 63307, 64198, 64199, 64200, 64386, 64705, 64707, 64708, 65567, 65569, 65943, 67381, 67723, 68570, 68572, 68575, 68786, 68787, 68789
71.....63308, 63309, 63903, 63904, 63905, 63906, 64387, 64525, 64710, 65945, 65946, 65947, 65948, 65949, 65960, 67725, 67726, 67727, 67728, 67909, 68328, 68329, 68577
73.....63908
91.....65950

15 CFR
770.....65540, 68740
771.....64674
772.....65540
773.....68740
778.....68029
785.....68740
788.....65540
799.....64674
943.....65664
946.....64088

Proposed Rules:
303.....65294
935.....65686
936.....65686
942.....65686
944.....65686
946.....64202

16 CFR
228.....64881
229.....68292
232.....68292
1000.....64119
1210.....67671

Proposed Rules:
307.....63488
309.....64914
1303.....63311

17 CFR
1.....68518
200.....64120, 68520
204.....64369
230.....65541, 67312
239.....65541
240.....67729
270.....64353, 67729
274.....67729

Proposed Rules:
Ch. II.....68578
190.....68580
200.....67729
210.....68585
229.....67729
230.....68074, 68585
239.....67729, 68074, 68585
240.....67729
270.....67729, 68074, 68585
274.....67729, 68074, 68585

18 CFR
141.....65542

Proposed Rules:
Ch. 1.....66309
141.....63312
341.....66310
352.....66310
388.....63312

19 CFR
4.....67312, 68520
10.....68741
24.....68520
122.....68520
123.....67312, 68520
134.....68520

175.....68743
201.....64120

Proposed Rules:
151.....65135
142.....65135
210.....64711

20 CFR
10.....68031
404.....64121, 64882, 64883, 64886, 64890, 65243
416.....63887, 63888, 64883, 64892, 64893
626.....69098
638.....69098
702.....68031

Proposed Rules:
404.....64207, 67574
416.....64207

21 CFR
5.....64489
16.....65514
100.....64123
176.....65284
177.....65546
178.....64894, 67318
310.....65452
358.....65452
510.....63690
520.....65684
522.....65285
558.....63690
900.....67558, 67565
1220.....64137
1270.....65514

Proposed Rules:
1.....67444
5.....65139
25.....65139
100.....64208
101.....65791
170.....65139
171.....65139
174.....65139
179.....64526
201.....67444
501.....67444
701.....67444
801.....67444
812.....64209
813.....64209
820.....64353

22 CFR
41.....68525
89.....65118

Proposed Rules:
42.....68791

23 CFR
500.....63442, 64374
625.....64895
626.....63422, 64374
655.....65084

Proposed Rules:
420.....67510
511.....67510
657.....65830
658.....65677

24 CFR
200.....67671
219.....64138
246.....64032
266.....64032
905.....64141
970.....64141

Proposed Rules:
300.....64713
310.....64713
390.....64713
500.....64066
570.....68795
888.....68615

25 CFR
262.....65245

26 CFR
1.....64897, 67676, 67684, 67689, 68033, 68294, 68295, 68297, 68300, 68301, 68747, 68751, 68753
31.....68033
47.....68304
48.....68304
602.....68033, 68297, 68300, 68301, 68753, 68747, 68751, 68753

Proposed Rules:
1.....66310, 67744, 68091, 68330, 68334, 68335, 68336, 68337, 68798, 68799
47.....68338
48.....68338
301.....63541, 68092
602.....68336, 68337

27 CFR
9.....65123

Proposed Rules:
4.....65295

28 CFR
2.....65547
513.....68765
544.....65850, 65851

Proposed Rules:
2.....65571, 65572

29 CFR
402.....67594
2619.....65548, 66277
2621.....65551
2676.....65548

Proposed Rules:
2520.....68339
2530.....68339

30 CFR
50.....63528
70.....63528
71.....63528
90.....63528
207.....64899
208.....64899
210.....64899
216.....64899
218.....64899
219.....64899
220.....64899
228.....64899
229.....64899
243.....64899
925.....64142
931.....65907
936.....64374
938.....64151

Proposed Rules:
253.....66320
700.....63316
701.....63316
705.....63316
706.....63316
715.....63316
716.....63316
785.....63316
825.....63316
870.....63316
880.....68494
906.....64210
914.....64212, 65679
934.....64528, 68617
944.....64529
950.....65681

31 CFR
129.....68528
317.....63529
500.....68529
590.....64904

32 CFR
95.....63293
706.....64678

Proposed Rules:
2.....63542
118.....65956

33 CFR
1.....65665
3.....67909
66.....64153
80.....65667
100.....66279
110.....65140, 65285
117.....65668
155.....67988
165.....65669, 66279, 68305, 68306, 68307, 68308
334.....64383

Proposed Rules:
117.....66321, 66322, 66323, 67745, 68093
156.....63544, 65683
157.....65298, 65683
165.....65684
166.....65686
167.....65686
402.....68618

34 CFR
648.....65838

Proposed Rules:
76.....65856
99.....65298
298.....65856
366.....67383
647.....63870
Ch. VI.....68619

36 CFR

Proposed Rules:
6.....65141
292.....65300
1220.....64915

37 CFR
Ch. III.....67690
1.....64154, 64155
2.....64154
5.....64155
10.....64154, 64155
304.....63294

38 CFR
2.....67691
21.....63529, 67691, 68766

Proposed Rules:
3.....65958

39 CFR

Proposed Rules:
111.....64918, 65959, 67747

40 CFR
35.....63676
52.....64155, 64157, 64158, 64161, 64678, 65286, 65930, 65933, 65934, 66280, 66282, 66283, 66285, 66286, 67324, 67326, 67330, 68036
60.....64158
63.....66287
75.....67692
79.....65552
80.....65552
81.....64161, 64490, 67334, 68031
82.....65018
85.....65552
86.....66289, 68532
88.....64679
93.....67441
122.....67966
123.....67966
124.....67966
144.....63890
146.....63890
180.....63294, 64492, 64493, 64495, 64496, 65554
191.....66398
228.....64497
300.....63531
372.....63496, 63500
501.....67986
712.....68310, 68317
716.....68311, 68317
721.....63500

Proposed Rules:
51.....65573
52.....63316, 63545, 63547, 63549, 64530, 65307, 65309, 65573, 65686, 65688, 65691, 65959, 66324, 66326, 66334, 67383, 67748, 67754, 68094
60.....65573
61.....65573
63.....65768, 66076, 66336, 68804
64.....65573
68.....65311
71.....68804
80.....64213, 68343
81.....66334, 68094
141.....65622, 68826
143.....65622
180.....64536, 64538, 67759, 68621, 68827
258.....68353
261.....67389
300.....63551, 64539
430.....66078

41 CFR
Ch. 301.....67950
101-38.....65288
101-39.....63631, 65288

Proposed Rules:
201-3.....64389
201-4.....64389

201–9.....64389
201–11.....64389
201–18.....64389
201–20.....64389
201–21.....64389
201–22.....64389
201–23.....64389
201–24.....64389
201–39.....64389

42 CFR

57.....66297
60.....67346
405.....63626
412.....67350
413.....67350
414.....63626
417.....68366
434.....65126
491.....63533

Proposed Rules:

67.....63909
410.....68829
413.....65130
417.....68829
435.....65312
436.....65312
440.....65312
447.....65312, 68829

43 CFR

Public Land Orders:

7012.....64498
7013.....64165
7014.....64498
7015.....64499
7016.....64499
7017.....64692
7018.....64692
7019.....64693
7020.....64166, 68462
7021.....65130
7022.....65938
7023.....66299

Proposed Rules:

230.....65892
406.....65693
419.....65693
423.....65694
426.....64277
Group 3400.....64919

44 CFR

64.....63899, 67692
65.....69039, 68041, 68043, 68044
67.....68046, 68049

Proposed Rules:

67.....68101, 68105

45 CFR

400.....64499
607.....68769
608.....68772
1355.....67912, 67939
1356.....67912, 67939
1357.....67912
1602.....65291

Proposed Rules:

1370.....64920

46 CFR

1.....65130
16.....68164, 68274
67.....65130, 65243
232.....64798
585.....64909

Proposed Rules:

12.....64278
16.....64278
502.....68841

47 CFR

0.....68053
1.....66299, 68540
2.....68053
25.....68053
63.....64167
64.....65669
69.....65669
73.....63295, 63296, 63536, 65132, 65133, 65671, 65672, 65673, 66300
76.....64168, 67694, 68322, 68541, 68542
80.....68061
87.....67695, 68061
94.....68061
97.....64384

Proposed Rules:

3.....68373
15.....64541
63.....64280
68.....65153
73.....63318, 63319, 63320, 63321, 63553, 65155, 68843
76.....64541, 68844

48 CFR

232.....64353
501.....64693
509.....64693
552.....64693
1834.....68687
1870.....68687
2801.....68774
2802.....68774
2806.....68774
2807.....68774
9903.....65556

Proposed Rules:

9.....63494
15.....64824
52.....63492, 63494, 64826
904.....63553
917.....63553
936.....63553
939.....63556
943.....63553
952.....63553
970.....63553

49 CFR

7.....65824
10.....67696
171.....66302
199.....68194, 68258
217.....68194, 68232
219.....68194, 68232
390.....67370
391.....68194, 68220
392.....67370
541.....63296
544.....63299
571.....63302, 64168, 65673
614.....63442, 64374

Proposed Rules:

192.....68382
391.....65634
396.....64923
571.....63321, 65156, 67909, 68846
583.....63327
659.....64856
1105.....68383
1121.....68383
1152.....68383
1181.....65695
1182.....65695
1186.....65695
1188.....65695
1312.....64717, 68108

50 CFR

17.....65088, 68323, 68476, 68480
20.....65656
24.....68542
216.....63536, 65133
226.....68543
625.....65134, 65936, 68555
641.....68325
642.....68327
649.....68555
661.....68063
663.....64169
672.....65556
675.....65292, 65556
678.....68556
685.....67699

Proposed Rules:

17.....63328, 63560, 64281, 64828, 64927, 65097, 65325, 65696, 68383, 68623
20.....63488
36.....68012
21.....63488
215.....64285, 68848
216.....64285, 68848
222.....64285, 68848
227.....65961, 68108
285.....67761
301.....67762
611.....64798
625.....64393
630.....67761, 68109
638.....65327
641.....68385
650.....63329
672.....64798, 68848
675.....65574, 68386, 68848
678.....67761

LIST OF PUBLIC LAWS

Note: The list of Public Laws for the first session of the 103d Congress has been completed and will resume when bills are enacted into law during the second session of the 103d Congress, which convenes on January 25, 1994.

Last List December 23, 1993

Public Laws

103d Congress, 1st Session, 1993

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 103d Congress, 1st Session, 1993.

(Individual laws also may be purchased from the Superintendent of Documents, Washington, DC 20402-9328. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws and prices).

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
* 6216

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy!
To fax your orders (202) 512-2233

_____ subscriptions to **PUBLIC LAWS** for the 103d Congress, 1st Session, 1993 for $156 per subscription.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

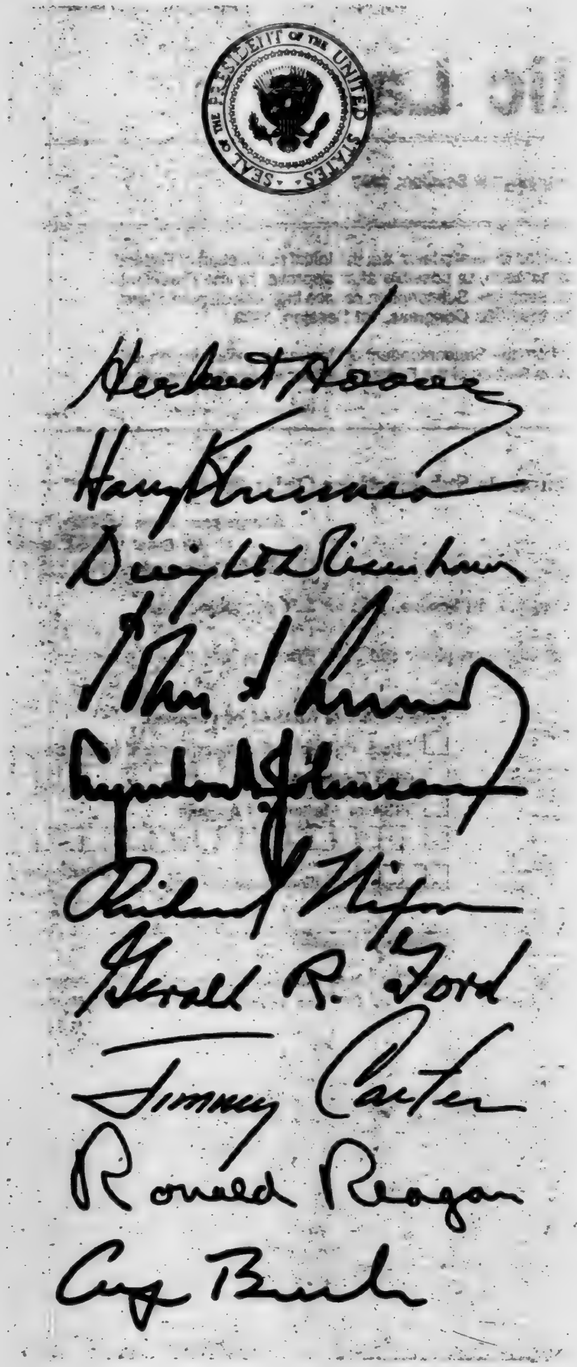
☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date) *Thank you for your order!*

(Authorizing Signature) (1993)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Order Now!

VOL
58
ISS
2
4
8
DE
29
1993
UMI



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Ronald Reagan

1983 (Book I) $31.00
1983 (Book II) $32.00
1984 (Book I) $36.00
1984 (Book II) $36.00
1985 (Book I) $34.00
1985 (Book II) $36.00
1986 (Book I) $37.00
1986 (Book II) $35.00
1987 (Book I) $33.00
1987 (Book II) $35.00
1988 (Book I) $38.00
1988–89 (Book II) $38.00

George Bush

1989 (Book I) $38.00
1989 (Book II) $40.00
1990 (Book I) $41.00
1990 (Book II) $41.00
1991 (Book I) $41.00
1991 (Book II) $44.00
1992 (Book I) $47.00

Published by the Office of the Federal Register, National Archives and Records Administration

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev 7/93)

Order Now!

The United States Government Manual 1993/94

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$30.00 per copy



Superintendent of Documents **Publications** Order Form

Order Processing Code:
*6395

Charge your order. It's easy! MasterCard VISA

To fax your orders (202) 512–2250

☐ **YES,** please send me _____ copies of the **The United States Government Manual, 1993/94** S/N 069–000–00053–3 at $30.00 ($37.50 foreign) each.

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to change.

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, Zip code)

(Daytime phone including area code)

(Purchase order no.)

Please choose method of payment:
❑ Check payable to the Superintendent of Documents
❑ GPO Deposit Account ☐☐☐☐☐☐–☐
❑ VISA ❑ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing signature) (Rev. 9/93)

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

New Publication

VOL
58
ISS
2
4
8
DE
29
1993
UMI



New Publication
List of CFR Sections Affected
1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16).....$27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27).....$25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41).....$28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50).....$25.00
Stock Number 069-000-00032-1

Superintendent of Documents Publications Order Form

Order Processing Code:
*6962

Charge your order. It's easy! MasterCard VISA

To fax your orders and inquiries–(202) 512-2250

Please Type or Print (Form is aligned for typewriter use.)
Prices include regular domestic postage and handling and are good through 12/92. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog–Bestselling Government Books	FREE	FREE

Total for Publications

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( )
(Daytime phone including area code)

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date) *Thank you for your order!*

(Signature)

Rev 6-92

VOL
58

ISS
2
4
8

DE
29

1993

UMI



Printed on recycled paper

VOL
58

ISS
249

DE
30

1993

UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

12–30–93
Vol. 58 No. 249

Thursday
December 30, 1993

RECEIVED
JAN 1 1994
Brigham Young University
J. Reuben Clark Law School

DEPOSITED BY
U.S. GOVERNMENT
JAN 11 1994
BRIGHAM
LAW LIBRARY

federal register

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 846
A FR BRIGH358B DS 621AF
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY - DOCS
358 JRCB
PROVO UT 84602

12–30–93
Vol. 58 No. 249

Thursday
December 30, 1993

VOL
58
ISS
249
DE
30
1993
UMI

12–30–93
Vol. 58 No. 249
Pages 69169–69684

federal register

Thursday
December 30, 1993

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–783–3238
Magnetic tapes	512–1530
Problems with public subscriptions	512–2303
Single copies/back copies:	
Paper or fiche	783–3238
Magnetic tapes	512–1530
Problems with public single copies	512–2457
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Magnetic tapes	512–1530
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 58, No. 249
Thursday, December 30, 1993

Agricultural Marketing Service
RULES
Fruits; import regulations:
Avocados, grapefruit, kiwifruit, etc., 69182–69186
Vegetables and specialty crops; import regulations:
Potatoes, onions, tomatoes, etc., 69186–69190
NOTICES
Meetings:
Organic livestock and livestock products, 69315–69316

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Farmers Home Administration
See Federal Grain Inspection Service
See Forest Service

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, foreign:
Fruits and vegetables, importation, 69176–69182

Antitrust Division
NOTICES
National cooperative research notifications:
Semiconductor Research Corp., 69409
Southwest Research Institute, 69409–69410

Architectural and Transportation Barriers Compliance Board
NOTICES
Meetings, 69328–69329
Recreation Access Advisory Committee, 69328

Army Department
See Engineers Corps
NOTICES
Meetings:
Science Board, 69356

Centers for Disease Control and Prevention
NOTICES
Meetings:
Vessel sanitation program (cruise ship industry, etc.); current status, 69367

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Alabama, 69328
West Virginia, 69328

Coast Guard
RULES
Ports and waterways safety:
Boston Inner Harbor, MA; safety zone, 69233–69234
East River, NY; safety zone, 69232–69233
Inland waterways navigation regulations—
Ambrose Channel, NY; deletion, 69231–69232
Upper Mississippi River; safety zone, 69234–69235
PROPOSED RULES
Pollution:
Gulf of Mexico; lightering zones, 69313
NOTICES
Environmental statements; availability, etc.:
Haiku Valley, Oahu, HI; housing project, 69441

Commerce Department
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Export visa requirements; certification, wnivers, etc.:
Mexico, 69350–69351

Consumer Affairs Office
NOTICES
National Information Infrastructure; privacy preservation; hearings, 69372–69373

Customs Service
RULES
North American Free Trade Agreement (NAFTA); implementation, 69460–69566
PROPOSED RULES
Petitions by domestic interested parties:
Flat goods with outer surface of reinforced or laminated plastics; classification, 69301–69302

Defense Department
See Army Department
See Engineers Corps
RULES
Organization, functions, and authority delegations:
Assistant to Secretary for Public Affairs, 69229–69231
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Electronic contracting, 69588–69592
NOTICES
Agency information collection activities under OMB review, 69352

Education Department
RULES
Postsecondary education:
Student assistance general provisions—
Abuse elimination, 69594

Employment and Training Administration
RULES
North American Free Trade Agreement (NAFTA):
Aliens on H-1B visas temporarily employed in specialty occupations and as fashion models; labor condition applications and requirements for employers, 69226–69228

Employment Standards Administration
See Wage and Hour Division

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Presidential permit applications and electricity export and import authorizations, permits, etc.:
Detroit Edison Co., 69356–69357

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Baltimore Harbor anchorages and channels, MD; feasibility study, 69352–69353
Rio Fajardo, PR; flood control project, 69353–69354
Grants and cooperative agreements; availability, etc.:
Construction productivity advancement research program, 69354–69356

Environmental Protection Agency
RULES
Air programs:
Stratospheric ozone protection—
Class I ozone-depleting substances; nonessential products ban, 69672–69678
Class II ozone-depleting substances; nonessential products ban, 69638 –69669
Ozone-depleting substances; accelerated phaseout schedule; baseline production and consumption allowances, 69235–69238
Air quality planning purposes; designation of areas:
Tennessee; correction, 69235
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 69238–69239
PROPOSED RULES
Air programs:
Stratospheric ozone protection—
Labeling requirements, 69568–69583
Clean Air Act:
Acid rain program—
Permits and allowance system; substitution and reduced utilization plans, 69314
NOTICES
Agency information collection activities under OMB review, 69359–69361
Clean Air Act:
Citizens suits; proposed settlements, 69361
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 69361–69362
Weekly receipts, 69362
Meetings:
Environmental Statistics Technical Advisory Committee, 69362
Gulf of Mexico Program Policy Review Board, 69362
Municipal solid waste landfill permit programs; adequacy determinations:
Nevada, 69362–69364
Superfund; response and remedial actions, proposed settlements, etc.:
Gallup's Quarry Site, CT, 69364

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 69456

Executive Office of the President
See Presidential Documents

Farmers Home Administration
RULES
Program regulations:
Borrower training, 69190–69205
PROPOSED RULES
Program regulations:
Loan assessment, market placement, and seasoned direct loan borrowers graduation to loan guarantee program, 69274–69298

Federal Aviation Administration
RULES
Air carrier certification and operations:
Ground icing conditions; training and checking, 69620–69630
Airworthiness directives:
Boeing, 69221–69223
PROPOSED RULES
Airworthiness directives:
Hamilton Standard, 69298–69299
Luscombe, 69299–69301
NOTICES
Advisory circulars; availability, etc.:
Aircraft—
Ground deicing and anti-icing; training, testing, and checking, 69631–69636

Federal Communications Commission
RULES
Common carrier services:
Universal Service Fund for local exchange telephone carriers; jurisdictional separations, 69239–69243

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Colorado Interstate Gas Co., 69357–69358
Texas Eastern Transmission Corp., 69358–69359
Texas Eastern Transmission Corp. et al., 69359
Transwestern Pipeline Co., 69359

Federal Grain Inspection Service
NOTICES
Agency designation actions:
Illinois et al., 69316
Iowa, 69316–69317
Nebraska, 69317–69318

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
Associated International Consultants, Inc. Texas, et al., 69364–69365
Ocean freight forwarders, marine terminal operations, and passenger vessels:
Automated Tariff Filing and Information System (ATFI)—
Tariff cancellations, 69365

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 69456

Federal Trade Commission
RULES
Trade regulation rules:
Franchising and business opportunity ventures; disclosure requirements and prohibitions—
Earnings claim and preemption requirements; withdrawn, 69223–69224
Uniform franchise offering circular guidelines; disclosures authorization, 69224–69225

Food and Drug Administration
NOTICES
Debarment orders:
Bae, Kun Chae, 69368

Forest Service
NOTICES
Environmental statements; availability, etc.:
Payette National Forest, ID, 69318–69319
Organic Administration Act:
Forest lieu selection lands; title, 69319–69327

General Services Administration
RULES
Acquisition regulations:
Board of Contract Appeals; rules of procedure, procurement protests, and contract disputes, 69246–69273
North American Free Trade Agreement (NAFTA)—
U.S. and European Economic Community; memorandum of understanding on government procurement and NAFTA, 69243–69245
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Electronic contracting, 69588–69592
NOTICES
Acquisition regulations:
Small business competitiveness demonstration program; solicitation procedures change, 69366
Environmental statements; availability, etc.:
Suitland, MD; Suitland Federal Center, 69366–69367

Government Ethics Office
RULES
Organization, functions, and authority delegations, and conflict of interests; miscellaneous amendments, 69176

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health

Health Care Financing Administration
NOTICES
Privacy Act:
Computer matching programs, 69370–69372

Housing and Urban Development Department
NOTICES
Grant and cooperative agreement awards:
Supportive housing programs—
Elderly and persons with disabilities, 69373–69400
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 69400–69402

Immigration and Naturalization Service
RULES
North American Free Trade Agreement (NAFTA):
Temporary entry of business persons; facilitation, 69205–69219

Indian Affairs Bureau
NOTICES
Juvenile detention facilities construction and planning of new institutions (PONI) study applications, 69586

Interior Department
See Indian Affairs Bureau
See Land Management Bureau

Internal Revenue Service
PROPOSED RULES
Income taxes:
Qualified retirement plans, etc.—
Annual compensation; limitation, 69302–69310

International Trade Administration
NOTICES
Antidumping:
3.5-inch microdisks and coated media from—
Japan, 69339–69341
Aramid fiber formed of poly-phenylene terephthalamide from—
Netherlands, 69329
Brazing copper wire and rod from—
New Zealand, 69329–69330
Potassium permanganate from—
China, 69330–69332
Stainless steel hollow products from—
Sweden, 69332–69336
Tapered roller bearings, four inches or less in outside diameter, and components, from—
Japan, 69336–69339
Cheese quota; foreign government subsidies:
Annual list, 69341–69342
Countervailing duties:
Non-rubber footwear from—
Argentina, 69342
Stainless steel cooking ware from—
Korea, 69342–69343
Taiwan, 69343–69344
Stainless steel wire rod from—
Spain, 69343
United States-Canada free-trade agreement; binational panel reviews:
Magnesium, pure and alloy, from—
Canada, 69344
Softwood lumber products from—
Canada, 69344–69346

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Garden City, Gulf & Northern Railroad Co., et al., 69407–69408
Railroad services abandonment:
Consolidated Rail Corp., 69408

Justice Department
See Antitrust Division
See Immigration and Naturalization Service
NOTICES
Pollution control; consent judgments:
Martech USA, Inc., 69408–69409
Tempcon Corp. et al., 69409

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration
See Wage and Hour Division
NOTICES
Organization, functions, and authority delegations:
North American Agreement on Labor Cooperation, International Labor Affairs Bureau, National Administrative Office, 69410–69411

Land Management Bureau
RULES
Public land orders:
Idaho, 69239
NOTICES
Base land parcels relinquished to United States; initial list, 69402–69405
Desert Tortoise Natural Area, CA; reptiles and amphibians collecting restrictions, 69405
Environmental statements; availability, etc.:
Book Cliffs Resource Area, UT, 69405–69406
Opening of public lands:
Idaho, 69406
Realty actions; sales, leases, etc.:
Arizona, 69406–69407
Survey plat filings:
Colorado, 69407
Withdrawal and reservation of lands:
Nevada, 69407

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 69456–69457

Mine Safety and Health Administration
RULES
Metal and nonmetal mine safety and health:
Explosives, 69596–69617
PROPOSED RULES
Coal mine safety and health:
Underground coal mine ventilation; safety standards, 69312–69313

National Aeronautics and Space Administration
RULES
Acquisition regulations:
North American Free Trade Agreement (NAFTA) expedited implementation; synopsizing requirements, 69245–69246
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Electronic contracting, 69588–69592
NOTICES
Meetings:
Space Science Advisory Committee, 69411–69412

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 69441–69447

National Institute of Standards and Technology
NOTICES
Grants and cooperative agreements; availability, etc.:
Materials Science and Engineering Laboratory; ceramics, metallurgy, etc., 69346–69347
Information processing standards, Federal:
Data encryption standard, 69347–69350

National Institutes of Health
NOTICES
Meetings:
Sponsored Research Agreements Forum, 69369–69369

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 69273
Gulf of Mexico and South Atlantic coastal migratory pelagic resources, 69273

National Science Foundation
NOTICES
Antarctic Conservation Act of 1978; permit applications, etc., 69412

Nuclear Regulatory Commission
RULES
Combined construction permits and operating licenses; amendments, 69220–69221
Radiation protection standards:
Operations Center telephone number, 69219–69220
NOTICES
Environmental statements; availability, etc.:
Commonwealth Edison Co., 69412–69413
Applications, hearings, determinations, etc.:
Florida Power Corp., 69413

Personnel Management Office
RULES
Pay under General Schedule:
Locality-based comparability payments, 69169–69175
EXECUTIVE ORDERS
NAFTA; implementation (EO 12889), 69681–69684

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Railroad Retirement Board
NOTICES
Supplemental annuity program; determination of quarterly rate of excise tax, 69413

Research and Special Programs Administration
NOTICES
Hazardous materials:
International standards on transport of dangerous goods—Competent authority ruling, 69447–69448
Meetings:
International standards on transport of dangerous goods, 69448–69450
Reports; availability, etc.:
High-level radioactive waste and spent nuclear fuel, shipping; identification of factors for selecting modes and routes, 69450

Securities and Exchange Commission
RULES
Securities:
Preliminary proxy materials; elimination of filing requirements, 69225–69226
NOTICES
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 69413–69415
Chicago Board Options Exchange, Inc., 69415–69416, 69417–69419
Chicago Stock Exchange, Inc., 69416–
National Association of Securities Dealers, Inc., 69419–69430
New York Stock Exchange, Inc., 69430–69433
Participants Trust Co., 69433–69434
Applications, hearings, determinations, etc.:
Calvert Fund et al., 69434–69438
OFFITBANK Investment Fund, Inc., et al., 69438–69440

State Department
NOTICES
Bridge permit applications:
Brownsville, TX, 69440–69441
Progreso, TX, 69441
Grants and cooperative agreements; availability, etc.:
Russian-American Enterprise Fund et al., 69441

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration

Treasury Department
See Customs Service
See Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 69450–69451

United States Enrichment Corporation
NOTICES
Conflict of interests, 69451–69452

United States Information Agency
NOTICES
Grants and cooperative agreements; availability, etc.:
Russian Federation; college and university partnerships program, 69452–69455

Wage and Hour Division
RULES
North American Free Trade Agreement (NAFTA):
Aliens on H-1B visas temporarily employed in specialty occupations and as fashion models; labor condition applications and requirements for employers, 69226–69228
PROPOSED RULES
Fair Labor Standards Act; domestic service employees; minimum wage and overtime compensation exemptions, 69310–69312

Separate Parts In This Issue

Part II
Department of Treasury, Customs Service, 69460–69566

Part III
Environmental Protection Agency, 69568–69583

Part IV
Department of the Interior, Bureau of Indian Affairs, 69586

Part V
Department of Defense, General Services Administration, National Aeronautics and Space Administration, 69588–69592

Part VI
Department of Education, 69594

Part VII
Department of Labor, Mine Safety and Health Administration, 69596–69617

Part VIII
Department of Transportation, Federal Aviation Administration, 69620–69636

Part IX
Environmental Protection Agency, 69638–69669

Part X
Environmental Protection Agency, 69672–69678

Part XI
The President, 69681–69684

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers and Federal Register finding aids is available on 202–275–1538 or 275–0920.

VOL 58 ISS 249 DE 30 1993 UMI

VOL 58 ISS 249 DEC 30 1993 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12682 (Superseded in part by EO 12889).....69681
5 CFR
531.....69169
2600.....69176
2636.....69176
2637.....69176
2638.....69176
7 CFR
319.....69176
944.....69182
980.....69186
999.....69186
1910.....69190
1924.....69190
1941.....69190
1943.....69190
1945.....69190
1951.....69190
1980.....69190
Proposed Rules:
1910.....69274
1924.....69274
1941.....69274
1943.....69274
1945.....69274
1951.....69274
1962.....69274
1980.....69274
8 CFR
103.....69205
212.....69205
214.....69205
235.....69205
274a.....69205
10 CFR
20.....69219
52.....69220
14 CFR
39.....69221
125.....69620
135.....69620
Proposed Rules:
39 (2 documents).....69298, 69299
16 CFR
436 (2 documents).....69223, 69224
17 CFR
240.....69225
19 CFR
10.....69460
12.....69460
24.....69460
123.....69460
134.....69460
162.....69460
174.....69460
177.....69460
178.....69460
181.....69460
191.....69460
Proposed Rules:
175.....69301
20 CFR
655.....69226
26 CFR
Proposed Rules:
1.....69302
29 CFR
507.....69226
Proposed Rules:
552.....69310
30 CFR
56.....69596
57.....69596
Proposed Rules:
175.....69312
32 CFR
375.....69229
33 CFR
162.....69231
165 (3 documents).....69232, 69233, 69234
Proposed Rules:
156.....69313
34 CFR
668.....69594
40 CFR
81.....69235
82 (3 documents).....69235, 69638, 69672
300.....69236
Proposed Rules:
72.....69314
73.....69314
82.....69568
43 CFR
Public Land Orders:
7024.....69239
47 CFR
36.....69239
48 CFR
525.....69243
552.....69243
1805.....69245
6101.....69246
Proposed Rules:
2.....69688
4.....69588
5.....69588
8.....69588
12.....69588
13.....69588
14.....69588
15.....69588
16.....69588
49.....69588
52.....69588
53.....69588
50 CFR
642.....69273
675.....69273

Rules and Regulations

Federal Register
Vol. 58, No. 249
Thursday, December 30, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206–AF46

Pay Under the General Schedule; Locality-Based Comparability Payments

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations on locality-based comparability payments for General Schedule employees, as required by the Federal Employees Pay Comparability Act of 1990. The final regulations reflect the determination of the President's Pay Agent concerning the "locality pay areas" within which locality-based comparability payments will be made. In addition, the final regulations provide that the "locality rate of pay" is to be calculated in all cases on the basis of the employee's "scheduled annual rate of pay," which excludes a special salary rate authorized by OPM (whether local, nationwide, or worldwide in coverage). The final regulations also include pay administration rules, as well as conforming changes in the regulations governing interim geographic adjustments and special pay adjustments for law enforcement officers.

EFFECTIVE DATE: The regulations are effective January 1, 1994, and are applicable on the first day of the first pay period beginning on or after January 1, 1994.

FOR FURTHER INFORMATION CONTACT: James Weddel, (202) 606–2858.

SUPPLEMENTARY INFORMATION: On August 31, 1993, the Office of Personnel Management (OPM) published proposed regulations to implement 5 U.S.C. 5304, which provides for the payment of locality-based comparability payments to General Schedule (GS) employees when the rates payable to GS employees are generally lower than the rates paid for the same levels of work by non-Federal workers in the same locality. Interested parties were invited to comment for a 30-day period. During the comment period, OPM received comments from 2 Members of Congress, 12 agencies, 4 labor organizations, 7 professional organizations and associations, and 243 individuals.

On January 8, 1993, OPM published an interim rule implementing certain changes made by the Technical and Miscellaneous Civil Service Amendments Act of 1992 (Public Law 102–378). One of the provisions of the interim rule was that special pay adjustments for law enforcement officers would be paid on top of nationwide or worldwide special salary rates authorized by OPM under 5 U.S.C. 5305. As explained below, OPM proposed a change in this provision when the proposed locality pay regulations were published. The proposed change is made final by these regulations. OPM will publish final regulations implementing other provisions of the Technical and Miscellaneous Civil Service Amendments Act of 1992 in the near future.

Locality Pay Areas

OPM received comments on the establishment of locality pay areas from more than 225 individuals, agencies, and organizations. Section 5304(f)(1) of title 5, United States Code, authorizes the President's Pay Agent (consisting of the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of OPM) to provide for such pay localities as the Pay Agent considers appropriate. Comments on the establishment of locality pay areas were reviewed by the President's Pay Agent. After considering these comments, the Pay Agent decided to establish the same 28 locality pay areas that were recommended by the Federal Salary Council and included in the proposed locality pay regulations. The final regulations list each of these locality pay areas and are issued by OPM under the authority in 5 U.S.C. 5304(i).

For the most part, the boundaries of the locality pay areas follow those of the corresponding Metropolitan Statistical Areas (MSA's) and Consolidated Metropolitan Statistical Areas (CMSA's). MSA's and CMSA's are defined by OMB and published in OMB Bulletin No. 93–17 (June 30, 1993). One agency suggested that OPM include criteria used by the Federal Salary Council for evaluating proposed exceptions to MSA and CMSA definitions in defining locality pay areas. However, OPM has determined that there is no need to do so.

Locality Pay for Employees Receiving Special Rates

Several commenters objected to OPM's proposal to calculate locality pay on the basis of an employee's scheduled annual rate of pay, excluding a special salary rate authorized by OPM under 5 U.S.C. 5305 (whether local, nationwide, or worldwide in coverage). A labor organization argued that there is no reason for OPM to "divest" special salary rate employees from the benefits of locality-based comparability payments. An organization representing Federal physicians criticized the proposal because the compensation of Federal physicians (many of whom received worldwide special salary rates) is significantly below that of non-Federal physicians. An agency commented that treating newly-hired employees differently than on-board employees who have their adjusted rates of pay continued under § 531.106 or § 531.307 will create recruitment problems.

Section 3 of Executive Order 12748 of February 1, 1991, delegated to OPM the President's authority under 5 U.S.C. 5305(g)(1) to determine the extent to which employees receiving special salary rates will receive locality pay. Section 5 of Executive Order 12786 of December 26, 1991, delegated to OPM the President's authority under section 302(e) of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509) to determine the extent to which employees receiving special salary rates will receive interim geographic adjustments (IGA's).

After careful consideration of the comments received, OPM has concluded that the rates of pay established under the special salary rate program were established primarily to

VOL 58 ISS 249 DEC 30 1993 UMI

reduce staffing problems caused by differences between Federal and non-Federal pay. To make locality payments on top of such special salary rates would inappropriately pyramid similar pay entitlements. In the final rule, OPM has exercised its authority under section 3 of E.O. 12748 and section 5 of E.O. 12786 by providing that IGA's and locality payments will be based on an employee's scheduled annual rate of pay, excluding a special salary rate established under 5 U.S.C. 5305 (whether local, nationwide, or worldwide in coverage). No employee will suffer a reduction in pay as a result of implementing locality pay.

An agency commented that the pay retention regulations should be reviewed to prevent windfall pay increases when special salary rate authorizations are eliminated because the "locality rate of pay" equals or exceeds the special rate. By law, employees affected by a reduced or terminated special salary rate receive pay retention. Since the retained rate of pay is the employee's rate of basic pay for all purposes, locality pay must be paid on top of the retained rate. However, OPM does not plan to eliminate special salary rate authorizations solely because locality rates of pay overtake special rates.

An agency commented that there is a potential inequity if a promotion is based on a GS rate for an employee who is entitled to a locality rate of pay, but would be based on a special rate if the special rate is higher than the locality rate of pay. Since special salary rates will not be automatically eliminated solely because locality rates of pay overtake special rates, a promotion will continue to be based on the special rate, even if the employee is receiving a higher locality rate of pay.

Other Pay Administration Comments

A Federal managers' association and a labor organization commented that locality pay should be paid in addition to IGA's. OPM has not adopted this recommendation since IGA's were designed to allow the President to provide interim relief, pending implementation of the locality pay system in January 1994. The law (section 302(d)(2) of FEPCA) provides that IGA's may be reduced as the locality pay system takes effect. OPM also has authority under section 5 of E.O. 12786 to reduce the amount of IGA's when employees receive locality pay. Finally, the law requires that IGA's must be administered consistent with the administration of locality payments. Thus, both IGA's and locality payments must be calculated from the same rate of basic pay.

Section 404(a) of FEPCA provides OPM parallel authority to reduce the amount of special pay adjustments for law enforcement officers when such employees receive IGA's, special salary rates, or locality payments. The final regulations reflect OPM's exercise of this authority. (See § 531.304 (a) and (k).) Similarly, the final regulations reflect OPM's exercise of the authority in 5 U.S.C. 5305(g)(1), which provides that the President (or his designee) may determine the amount of a locality payment (if any) that may be granted to an employee who is also receiving a special salary rate authorized by OPM under 5 U.S.C. 5305. (See § 531.606(k).) As noted above, this authority was delegated to OPM by Executive Order 12748. Remarks on Notifications of Personnel Action (SF–50's) will inform employees when an IGA or special pay adjustment for LEO's has been reduced because an employee is entitled to locality pay.

As mentioned above, an agency expressed concern that recruitment problems might result if IGA's are continued for employees on nationwide or worldwide special salary rates when locality pay is implemented, but not permitted on top of special salary rates for new employees. Agencies have pay flexibilities available to them to resolve recruitment and retention problems, such as recruitment and relocation bonuses, retention allowances, and superior qualifications appointments above the minimum rate of the appropriate GS grade.

A professional organization and an agency commented that references to the Performance Management and Recognition System (PMRS) are obsolete, since the PMRS expired on October 31, 1993. We have changed references to PMRS employees to "GM employees (as defined in § 531.202)." This definition, which is incorporated in an interim rule that was published in the **Federal Register** on December 15, 1993 (58 FR 65531), provides that a GM employee is "an employee who was covered by the Performance Management and Recognition System under chapter 54 of title 5, United States Code, on October 31, 1993, and who continues to occupy a position as a supervisor or management official (as defined in paragraphs (10) and (11) of section 7103(a) of title 5, United States Code) in the same grade of the General Schedule and in the same agency without a break in service of more than 3 calendar days. Any reference to employees, grades, positions, or rates of basic pay under the General Schedule shall include GM employees for the purposes of subchapters I and III of chapter 53 of title 5, United States Code."

An employee noted that a GS employee may receive a retained rate of pay under 5 U.S.C. 5334(b)(2) and recommended that this authority be added to the other pay retention authorities cited in the definitions of scheduled annual rate of pay in three sections of the regulations. We have made these changes.

A professional association commented that an employee should be permitted to retain a locality rate of pay when he or she "transfers" into a locality pay area with a lower rate of locality pay. OPM has not adopted this recommendation since the locality pay system is designed to reflect differences in Federal and non-Federal pay in the locality where the employee's official duty station is located.

In addition, it should be noted that an entitlement to an adjusted annual rate of pay continued under § 531.106 or § 531.307 will end when an employee voluntarily or involuntarily moves to an official duty station in a non-IGA or non-special pay adjustment area, as applicable, or to a position that is not covered by a nationwide or worldwide special salary rate. On the other hand, an entitlement to an adjusted annual rate of pay continued under § 531.106 or § 531.307 will continue at the same dollar amount if an employee's official duty station is moved voluntarily or involuntarily to another IGA or special pay adjustment area, as applicable, where the employee's position will be covered by a nationwide or worldwide special salary rate.

An agency suggested that an employee retain a locality rate of pay when involuntarily downgraded within a locality pay area. As noted above under "Locality Pay for Employees Receiving Special Rates," locality pay must be paid on top of a retained rate of pay. The agency's suggestion would pyramid the locality-based comparability payment on top of a retained rate that was itself based on the locality rate of the higher grade. Under the final regulations, the retained rate will be based on the underlying GS rate, and locality pay will then be based on the retained rate of pay.

Two agencies recommended that the final regulations indicate that lump-sum payments for accumulated and accrued annual leave under subchapter VI of chapter 55, United States Code, must include the locality pay an employee would have received had he or she remained in Federal service. OPM has adopted this recommendation and has made conforming amendments to the regulations for interim geographic adjustments and special pay adjustments for law enforcement officers. (See §§ 531.103(d), 531.304(d), and 531.606(d).)

An agency recommended that the regulations specifically state that locality pay will be basic pay for purposes of the Thrift Savings Plan (TSP) under chapter 84 of title 5, United States Code, as well as the premium pay limitations in 5 U.S.C. 5547. The law specifies that locality pay will be basic pay "for purposes of retirement under chapters 83 or 84" (of title 5, U.S.C.), and the TSP is authorized by chapter 84. Although the final regulations do not specifically mention the TSP, they encompass the TSP by referring to chapters 83 or 84 of title 5, United States Code. (See §§ 531.103(b)(1), 531.304(b)(1), and 531.606(b)(1)). With regard to the comment about premium pay limitations, § 531.606(b)(3) of the final regulations states that locality pay will be considered basic pay for premium pay purposes, including the computation of premium pay limitations under 5 U.S.C. 5547.

Two agencies recommended that OPM include a list of personnel actions for which a locality rate of pay is not basic pay. Lists of purposes for which a locality rate of pay is basic pay, and for which IGA adjusted annual rates of pay and special law enforcement adjusted rates of pay are basic pay, are included in the regulations. The regulations have been revised to clarify that the same lists apply for IGA adjusted annual rates of pay and special law enforcement adjusted rates of pay that are continued under §§ 531.106(a) or 531.307(a), respectively. (See §§ 531.103(b) and 531.304(b).) In addition, the final regulations also include a number of technical and editorial corrections intended to clarify the intent of the proposed regulations.

Locality rates of pay, IGA adjusted annual rates of pay, special law enforcement adjusted rates of pay, and IGA or special law enforcement adjusted rates of pay that are continued under § 531.106(a) or § 531.307(a), respectively, are not to be used for any other pay administration purposes, such as setting pay when an employee is promoted, determining an employee's "highest previous rate," administering within-grade increases, determining supervisory differentials, and for grade and pay retention purposes. Instead, GS rates of basic pay, retained rates of pay, LEO special rates under section 403 of FEPCA, or special salary rates authorized by OPM under 5 U.S.C. 5305, as applicable, are used to set pay for these other personnel actions. (Please note, however, that OPM regulations generally preclude using special salary rates to determine an employee's "highest previous rate." See 5 CFR 531.203(d)(2).)

An agency commented that the definition of local special salary rate in § 531.301 did not appear in the January 1, 1993, revision of title 5 Code of Federal Regulations. (The final rule deletes this definition.) The definition was added by interim regulations on special pay adjustments for law enforcement officers that were published in the **Federal Register** on January 8, 1993 (58 FR 3200).

A professional association asked OPM to clarify the phrase "equivalent increase in pay within the meaning of section 5335 of title 5, United States Code" (§ 531.606(h)). An "equivalent increase" means an increase or increases in an employee's rate of basic pay equal to or greater than the difference between the rate of pay for the GS grade and step occupied by the employee and the rate of pay for the next higher step of that grade. (See 5 CFR 531.403.) Under 5 U.S.C. 5335(a), an employee normally begins a new waiting period for within-grade increase purposes when he or she receives an increase in pay equal to or greater than the amount of a within-grade increase.

An agency recommended that the regulations clarify what happens if the locality pay percentage decreases within a locality pay area. In the event of a reduction in the percentage rate of a locality payment, OPM will issue regulations or guidance to agencies as needed.

Comments Beyond the Scope of These Regulations

Several individuals opposed the implementation of locality pay, citing reasons such as the impact on the Federal budget and the adequacy of special salary rates. Since the law mandates a locality pay system for GS employees, such comments are beyond the scope of these regulations.

A professional association raised several questions concerning the precise method of calculating the locality pay percentage for each locality pay area. Such methodological issues were addressed in the report of the President's Pay Agent, which was sent to the President on November 30, 1993.

Several commenters requested the extension of locality payments to employees under non-GS pay systems, such as administrative law judges and members of the Senior Executive Service, the Foreign Service, and members of Boards of Contract Appeals. By Executive Order 12883 of November 29, 1993, the President has delegated to the President's Pay Agent his authority to extend locality-based comparability payments to employees under non-GS pay systems. On December 21, 1993, the Pay Agent determined that locality-based comparability payments should be extended to employees in certain categories of positions covered by non-GS pay systems. Further information about this determination has been provided to Federal agencies separately.

An employee asked whether the "dollar amount" of a pay increase for an employee whose adjusted annual rate of pay is continued under § 531.106(a) is an increase in the GS rate or the nationwide or worldwide special salary rate. The supplementary information for the proposed regulations clarified that this pay increase is the dollar amount of the "general adjustment under 5 U.S.C. 5303,"—i.e., the dollar amount of the increase in the GS rate of basic pay or, if applicable, a special rate for LEO's under section 403 of FEPCA.

Requests for Additional Information and Examples

Several commenters asked OPM to provide additional explanatory and clarifying information—such as training materials and computation and pay administration examples. OPM plans to provide agencies with additional explanatory information in the near future. An agency asked OPM to develop a computer-friendly pay table for each locality pay area. OPM is currently developing such pay tables.

Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making these rules effective in less than 30 days. Section 305(b) of FEPCA provides that "the first calendar year in which comparability payments under section 5304 of title 5, United States Code (as amended by this Act), are paid shall be the calendar year beginning on January 1, 1994." These regulations are being made effective on the first day of the first pay period beginning on or after January 1, 1994, in order to carry out that statutory requirement.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects

5 CFR Part 531

Government employees, Wages.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending 5 CFR part 531 of title 5, Code of Federal Regulations, as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 is revised to read as follows:Q04

Authority: 5 U.S.C. 5115, 5307, 5338, and chapter 54; E.O. 12748, 56 FR 4521, February 4, 1991, 3 CFR 1991, Comp., p. 316;

Subpart A also issued under section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), 104 Stat. 1462, 5 U.S.C. 5304, 5305, and 5553, and E.O. 12786, 56 FR 67453, December 30, 1991, 3 CFR 1991 Comp., p 376;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), 5402, and 7701(b)(2);

Subpart C also issued under section 404 of FEPCA, 104 Stat. 1466, section 3(7) of Pub. L. 102–378 (October 2, 1992), section 302 of FEPCA, 104 Stat. 1462, and 5 U.S.C. 5304, 5305, and 5553;

Subpart D also issued under 5 U.S.C. 5335(g), and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553, and E.O. 12883, 58 FR 63281, November 29, 1993.

Subpart A—Interim Geographic Adjustments

2. In § 531.101, the definition of *Local special salary rate* is removed, and the definition of *Scheduled annual rate of pay* is revised to read as follows:

§ 531.101 Definitions.

* * * * *

Scheduled annual rate of pay means—

(1) The General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range), including a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509), but exclusive of a special salary rate established under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), an adjusted annual rate of pay continued under § 531.106, a "special law enforcement adjusted rate of pay" under subpart C of this part (including a rate continued under § 531.307), a "locality rate of pay" under subpart F of this part, or additional pay of any kind;

(2) For a GM employee (as defined in § 531.202) who is receiving a special salary rate established under 5 U.S.C. 5305 or similar provision of law, the rate of pay resulting from the following computation—

(i) Using the special salary rate schedule established under 5 U.S.C. 5305 or similar provision of law, subtract the dollar amount for step 1 of the employee's grade on the special salary rate schedule from the dollar amount for the employee's special salary rate; and

(ii) Add the result of paragraph (2)(i) of this definition to the dollar amount for step 1 of the employee's grade on the General Schedule; or

(3) A retained rate of pay under part 536 of this chapter, 5 CFR 359.705, or 5 U.S.C. 5334(b)(2), if applicable.

3. In § 531.103, paragraphs (a), (b) introductory text, (b)(1), (d), and (f) are revised, and a new paragraph (k) is added, to read as follows:

§ 531.103 Administration of adjusted rates of pay.

(a) An employee shall receive the greatest of—

(1) His or her rate of basic pay, including any applicable special salary rate established under 5 U.S.C. 5305 or similar provision of law or special rate for law enforcement officers under section 403 of FEPCA;

(2) An adjusted annual rate of pay under this subpart, where applicable, including an adjusted annual rate of pay continued under § 531.106;

(3) A "special law enforcement adjusted rate of pay" under subpart C of this part, where applicable, including a "special law enforcement adjusted rate of pay" continued under § 531.307; or

(4) A "locality rate of pay" under subpart F of this part, where applicable.

(b) An adjusted annual rate of pay and an adjusted annual rate of pay that is continued under § 531.106(a) are considered basic pay for the purpose of computing—

(1) Retirement deductions and benefits under chapters 83 or 84 of title 5, United States Code;

* * * * *

(d) An adjusted rate of pay is paid only for those hours for which an employee is in a pay status, except that an adjusted rate of pay shall be included in a lump-sum payment for annual leave under 5 U.S.C. 5551 or 5552.

* * * * *

(f) Except as provided in paragraph (g) of this section, entitlement to an adjusted annual rate of pay under this subpart terminates on the date—

(1) An employee's official duty station is no longer located in an interim geographic adjustment area;

(2) An employee is no longer in a position covered by this subpart;

(3) An employee separates from Federal service;

(4) An employee's special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA) exceeds his or her adjusted annual rate of pay under this subpart;

(5) An employee's "special law enforcement adjusted rate of pay" under subpart C of this part exceeds his or her adjusted annual rate of pay under this subpart; or

(6) An employee's "locality rate of pay" under subpart F of this part exceeds his or her adjusted annual rate of pay under this subpart.

* * * * *

(k) When a employee's adjusted annual rate of pay under this subpart is greater than any applicable "locality rate of pay" under subpart F of this part or special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), the payment of the rate resulting from the comparison required by paragraph (a) of this section shall be deemed to have reduced the interim geographic adjustment payable under section 302 of FEPCA, as authorized by section 302(d)(2) or 302(e) of FEPCA, as the case may be.

4. A new § 531.106 is added to read as follows:

§ 531.106 Continuation of an adjusted annual rate of pay.

(a) Except as provided in paragraph (c) of this section, the dollar amount of an adjusted annual rate of pay that was calculated under regulations which included nationwide or worldwide special salary rates established under 5 U.S.C. 5305 in the definition of "scheduled annual rate of pay" shall not be reduced.

(b) At the time of an adjustment in pay under 5 U.S.C. 5303, an adjusted annual rate of pay continued under paragraph (a) of this section shall be increased by the lesser of—

(1) The dollar amount of the adjustment (including a zero adjustment) made under 5 U.S.C. 5303 in the General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range); or

(2) The dollar amount of the adjustment (including a zero adjustment) in the special salary rate applicable to the employee as a result of the annual review of special rates required by 5 CFR 530.304.

(c) An adjusted annual rate of pay that is continued under paragraph (a) of this section terminates on the date any of the conditions specified in § 531.103(f) is satisfied or on the date an employee is reduced in grade or is no longer in a position covered by a nationwide or worldwide special rate authorization (or, in the event of the conversion of a nationwide or worldwide special rate authorization to a local special rate authorization, a position covered by the new local special rate authorization).

Subpart C—Special Pay Adjustments for Law Enforcement Officers

5. In § 531.301, the definition of local special salary rate is removed, and the definition of scheduled annual rate of pay is revised to read as follows:

§ 531.301 Definitions.

* * * * *

Scheduled annual rate of pay means—

(1) The General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range), including a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509), but exclusive of a special salary rate established under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), an "adjusted annual rate of pay" under subpart A of this part (including a rate continued under § 531.106), a "locality rate of pay" under subpart F of this part, or additional pay of any kind;

(2) For a GM employee (as defined in § 531.202) who is receiving a special salary rate under 5 U.S.C. 5305 or similar provision of law, the rate of pay resulting from the following computation—

(i) Using the special salary rate schedule established under 5 U.S.C. 5305 or similar provision of law, subtract the dollar amount for step 1 of the employee's grade on the special salary rate schedule from the dollar amount for the employee's special salary rate; and

(ii) Add the result of paragraph (2)(i) of this definition to the dollar amount for step 1 of the employee's grade on the General Schedule; or

(3) A retained rate of pay under part 536 of this chapter, 5 CFR 359.705, or 5 U.S.C. 5334(b)(2), if applicable.

* * * * *

6. In § 531.304, paragraphs (a), (b) introductory text, (b)(1), (d), and (f) are revised, and a new paragraph (k) is added, to read as follows:

§ 531.304 Administration of special law enforcement adjusted rates of pay.

(a) A law enforcement officer shall receive the greatest of—

(1) His or her rate of basic pay, including any applicable special salary rate established under 5 U.S.C. 5305 or similar provision of law or special rate for law enforcement officers under section 403 of FEPCA;

(2) An "adjusted annual rate of pay" under subpart A of this part, where applicable, including an "adjusted annual rate of pay" continued under § 531.106;

(3) A special law enforcement adjusted rate of pay under this subpart, where applicable, including a special law enforcement adjusted rate of pay continued under § 531.307; or

(4) A "locality rate of pay" under subpart F of this part, where applicable.

(b) A special law enforcement adjusted rate of pay and a special law enforcement adjusted rate of pay that is continued under § 531.307(a) are considered basic pay for the purpose of computing—

(1) Retirement deductions and benefits under chapters 83 or 84 of title 5, United States Code;

* * * * *

(d) A special law enforcement adjusted rate of pay is paid only for those hours for which a law enforcement officer is in a pay status, except that a special law enforcement adjusted rate of pay shall be included in a lump-sum payment for annual leave under 5 U.S.C. 5551 or 5552.

* * * * *

(f) Except as provided in paragraph (g) of this section, entitlement to a special law enforcement adjusted rate of pay under this subpart terminates on the date—

(1) An employee's official duty station is no longer located in a special pay adjustment area;

(2) An employee is no longer in a position covered by this subpart;

(3) An employee separates from Federal service;

(4) An employee's special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA) exceeds his or her special law enforcement adjusted rate of pay under this subpart; or

(5) An employee's "locality rate of pay" under subpart F of this subpart exceeds his or her special law enforcement adjusted rate of pay under this subpart.

* * * * *

(k) When an employee's special law enforcement adjusted rate of pay under this subpart is greater than any applicable "adjusted annual rate of pay" under subpart A of this part, "locality rate of pay" under subpart F of this part, or special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), the payment of the rate resulting from the comparison required by paragraph (a) of this section shall be deemed to have reduced the special pay adjustment for law enforcement officers payable under section 404 of FEPCA, as authorized by section 404(a) of FEPCA.

7. A new § 531.307 is added to read as follows:

§ 531.307 Continuation of a special law enforcement adjusted rate of pay.

(a) Except as provided in paragraphs (c) and (d) of this section, the dollar amount of a special law enforcement adjusted rate of pay that was calculated under regulations which included nationwide or worldwide special salary rates established under 5 U.S.C. 5305 in the definition of "scheduled annual rate of pay" shall not be reduced.

(b) At the time of an adjustment in pay under 5 U.S.C. 5303, a special law enforcement adjusted rate of pay continued under paragraph (a) of this section shall be increased by the lesser of—

(1) The dollar amount of the adjustment (including a zero adjustment) made under 5 U.S.C. 5303 in the General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range); or

(2) The dollar amount of the adjustment (including a zero adjustment) in the special salary rate applicable to the employee as a result of the annual review of special rates required by 5 CFR 530.304.

(c) When an employee who is receiving a special law enforcement adjusted rate of pay continued under paragraph (a) of this section moves to a position in another special pay adjustment area to which a lesser special pay adjustment factor is applicable under § 531.302(a), the continued rate shall be reduced. The reduced continued rate shall be derived by—

(1) Determining the special law enforcement adjusted rate of pay to which the employee would have been entitled immediately before the employee's continued rate was first established if the special pay adjustment factor for the new area had been applicable; and

(2) Adjusting that rate as required under paragraph (b) of this section during the intervening period.

(d) A special law enforcement adjusted rate of pay that is continued under this section terminates on the date any of the conditions specified in § 531.304(f) is satisfied or on the date an employee is reduced in grade or is no longer in a position covered by a

nationwide or worldwide special rate authorization (or, in the event of the conversion of a nationwide or worldwide special rate authorization to a local special rate authorization, a position covered by the new local special rate authorization).

8. A new subpart F is added to read as follows:

Subpart F—Locality-Based Comparability Payments

Sec.

531.601 Purpose.
531.602 Definitions.
531.603 Locality pay areas.
531.604 Determining locality rates of pay.
531.605 Computation of hourly, daily, weekly, and biweekly locality rates of pay.
531.606 Administration of locality rates of pay.
531.607 Reports.

Subpart F—Locality-Based Comparability Payments

§ 531.601 Purpose.

This subpart provides regulations to implement 5 U.S.C. 5304, which authorizes locality-based comparability payments to reduce pay disparities with non-Federal workers within each locality when the locality is determined to have a pay disparity of greater than 5 percent. These regulations must be read together with 5 U.S.C. 5304.

§ 531.602 Definitions.

In this subpart:

CMSA means a Consolidated Metropolitan Statistical Area, as defined by the Office of Management and Budget (OMB).

Continental United States means the several States and the District of Columbia, but does not include Alaska or Hawaii.

Employee means—

(1) An employee in a position to which subchapter III of chapter 53 of title 5, United States Code, applies and whose official duty station is located in a locality pay area within the continental United States, including a GM employee (as defined in § 531.202) and an employee in a position authorized by 5 CFR 213.3102(w) whose rate of basic pay is established under the General Schedule; and

(2) An employee in a category of positions described in 5 U.S.C. 5304(h)(1) (A), (B), (D), or (E) for which the President (or his designee) has authorized locality-based comparability payments under 5 U.S.C. 5304(h)(2) and whose official duty station is located in a locality pay area.

General Schedule means the basic pay schedule established under 5 U.S.C. 5332, as adjusted by the President under 5 U.S.C. 5303.

Locality pay area means an area listed in § 531.603 of this part, as established and modified under 5 U.S.C. 5304 by the Pay Agent designated by the President under 5 U.S.C. 5304(d)(1).

Locality rate of pay means an employee's scheduled annual rate of pay increased by the percentage determined under § 531.604(a) and rounded to the nearest whole dollar, counting 50 cents and over as the next higher dollar.

MSA means a Metropolitan Statistical Area, as defined by the Office of Management and Budget (OMB).

Official duty station means the duty station for an employee's position of record as indicated on his or her most recent notification of personnel action.

Scheduled annual rate of pay means—

(1) The General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range), including a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509), but *exclusive of* a special salary rate established under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), an "adjusted annual rate of pay" under subpart A of this part (including a rate continued under § 531.106), a "special law enforcement adjusted rate of pay" under subpart C of this part (including a rate continued under § 531.307), or additional pay of any kind;

(2) For a GM employee (as defined in § 531.202) who is receiving a special salary rate under 5 U.S.C. 5305 or similar provision of law, the rate of pay resulting from the following computation—

(i) Using the special salary rate schedule established under 5 U.S.C. 5305 or similar provision of law, subtract the dollar amount for step 1 of the employee's grade on the special salary rate schedule from the dollar amount for the employee's special salary rate; and

(ii) Add the result of paragraph (2)(i) of this definition to the dollar amount for step 1 of the employee's grade on the General Schedule;

(3) The retained rate of pay under part 536 of this chapter, 5 CFR 359.705, or 5 U.S.C. 5334(b)(2), if applicable; or

(4) The rate of basic pay for an employee in a category of positions described in 5 U.S.C. 5304(h)(1) (A), (B), (D), or (E) for which the President (or his designee) has authorized locality-based comparability payments under 5 U.S.C. 5304(h)(2).

§ 531.603 Locality pay areas.

(a) Locality rates of pay under this subpart shall be payable to employees whose official duty stations are located in the locality pay areas listed in paragraph (b) of this section.

(b) The following are locality pay areas for the purpose of this subpart:

(1) Atlanta, GA—consisting of the Atlanta, GA MSA;

(2) Boston-Worcester-Lawrence, MA–NH–ME–CT—consisting of the Boston-Worcester-Lawrence, MA–NH–ME–CT CMSA;

(3) Chicago-Gary-Kenosha, IL–IN–WI—consisting of the Chicago-Gary-Kenosha, IL–IN–WI CMSA;

(4) Cincinnati-Hamilton, OH–KY–IN—consisting of the Cincinnati-Hamilton, OH–KY–IN CMSA;

(5) Cleveland-Akron, OH—consisting of the Cleveland-Akron, OH CMSA;

(6) Dallas-Fort Worth, TX—consisting of the Dallas-Fort Worth, TX CMSA;

(7) Dayton-Springfield, OH—consisting of the Dayton-Springfield, OH MSA;

(8) Denver-Boulder-Greeley, CO—consisting of the Denver-Boulder-Greeley, CO CMSA;

(9) Detroit-Ann Arbor-Flint, MI—consisting of the Detroit-Ann Arbor-Flint, MI CMSA;

(10) Houston-Galveston-Brazoria, TX—consisting of the Houston-Galveston-Brazoria, TX CMSA;

(11) Huntsville, AL—consisting of the Huntsville, AL MSA;

(12) Indianapolis, IN—consisting of the Indianapolis, IN MSA;

(13) Kansas City, MO–KS—consisting of the Kansas City, MO-KS MSA;

(14) Los Angeles-Riverside-Orange County, CA—consisting of the Los Angeles-Riverside-Orange County, CA CMSA, plus Santa Barbara County, CA, and that portion of Edwards Air Force Base, CA, not located within the Los Angeles-Riverside-Orange County, CA CMSA;

(15) Memphis, TN–AR–MS—consisting of the Memphis, TN–AR–MS MSA;

(16) New York-Northern New Jersey-Long Island, NY–NJ–CT–PA—consisting of the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA CMSA;

(17) Norfolk-Virginia Beach-Newport News, VA–NC—consisting of the Norfolk-Virginia Beach-Newport News, VA–NC MSA;

(18) Oklahoma City, OK—consisting of the Oklahoma City, OK MSA;

(19) Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD—consisting of the Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD CMSA;

(20) Sacramento-Yolo, CA—consisting of the Sacramento-Yolo, CA CMSA;

(21) St. Louis, MO–IL—consisting of the St. Louis, MO–IL MSA;

(22) Salt Lake City-Ogden, UT—consisting of the Salt Lake City-Ogden, UT MSA;

(23) San Antonio, TX—consisting of the San Antonio, TX MSA;

(24) San Diego, CA—consisting of the San Diego, CA MSA;

(25) San Francisco-Oakland-San Jose, CA—consisting of the San Francisco-Oakland-San Jose, CA CMSA;

(26) Seattle-Tacoma-Bremerton, WA—consisting of the Seattle-Tacoma-Bremerton, WA CMSA;

(27) Washington-Baltimore, DC–MD–VA–WV—consisting of the Washington-Baltimore, DC–MD–VA–WV CMSA, plus St. Mary's County, MD; and

(28) Rest of U.S.—consisting of those portions of the continental United States not located within another locality pay area.

§ 531.604 Determining locality rates of pay.

(a) To determine the locality rate of pay payable to an employee, the applicable scheduled annual rate of pay shall be increased by the percentage authorized by the President for the locality pay area in which the employee's official duty station is located.

(b) Except as provided in paragraph (c) of this section, locality rates of pay may not exceed the rate of basic pay payable for level IV of the Executive Schedule.

(c) The locality rates of pay approved by the President for an employee in a position described in 5 U.S.C. 5304(h)(1) (A)–(E), or in a position under 5 U.S.C. 5304(h)(1)(F) which the President or his designee may determine, may not exceed the rate of basic pay payable for level III of the Executive Schedule.

§ 531.605 Computation of hourly, daily, weekly, and biweekly locality rates of pay.

When it is necessary to convert an annual locality rate of pay to an hourly, daily, weekly, or biweekly rate, the following methods apply:

(a) To derive an hourly rate, divide the annual locality rate of pay by 2,087 and round to the nearest cent, counting one-half cent and over as the next higher cent;

(b) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required by the employee's basic daily tour of duty;

(c) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

§ 531.606 Administration of locality rates of pay.

(a) An employee shall receive the greatest of—

(1) His or her rate of basic pay, including any applicable special salary rate established under 5 U.S.C. 5305 or similar provision of law or special rate for law enforcement officers under section 403 of FEPCA;

(2) An "adjusted annual rate of pay" under subpart A of this part, where applicable, including an "adjusted annual rate of pay" continued under § 531.106;

(3) A "special law enforcement adjusted rate of pay" under subpart C of this part, where applicable, including a "special law enforcement adjusted rate of pay" continued under § 531.307; or

(4) A locality rate of pay under this subpart, where applicable.

(b) A locality rate of pay is considered basic pay for the purpose of computing—

(1) Retirement deductions and benefits under chapters 83 or 84 of title 5, U.S. Code;

(2) Life insurance premiums and benefits under parts 870, 871, 872, and 873 of this chapter;

(3) Premium pay under subparts A and I of part 550 of this chapter (including the computation of limitations on premium pay under 5 U.S.C. 5547, overtime pay under 5 U.S.C. 5542(a), compensatory time off under 5 U.S.C. 5543, and standby duty pay under 5 U.S.C. 5545(c)(1));

(4) Severance pay under subpart G of part 550 of this chapter; and

(5) Advances in pay under subpart B of part 550 of this chapter.

(c) When an employee's official duty station is changed to a different locality pay area, the employee's entitlement to the locality rate of pay for the new locality pay area begins on the effective date of the change in official duty station.

(d) A locality rate of pay is paid only for those hours for which an employee is in a pay status, except that a locality rate of pay must be included in a lump-sum payment for annual leave under 5 U.S.C. 5551 or 5552.

(e) A locality rate of pay shall be adjusted as of the effective date of any change in the applicable scheduled annual rate of pay.

(f) Except as provided in paragraph (g) of this section, entitlement to a locality rate of pay established for a locality pay area under this subpart terminates on the date—

(1) An employee's official duty station is no longer in the locality pay area;

(2) An employee is no longer in a position covered by this subpart;

(3) An employee separates from Federal service; or

(4) An employee's special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA) exceeds his or her locality rate of pay.

(g) In the event of a change in the geographic coverage of a locality pay area (as a result of a change made by OMB in the definition of an MSA or CMSA or as a result of a change made by the President's Pay Agent in the definition of a locality pay area), the effective date of the change in an employee's entitlement to a locality rate of pay under this subpart shall be the first day of the first applicable pay period beginning on or after the date on which the change in geographic coverage is made effective.

(h) Payment of, or an increase in, a locality rate of pay is not an equivalent increase in pay within the meaning of section 5335 of title 5, United States Code.

(i) A locality rate of pay is included in an employee's "total remuneration," as defined in 5 CFR 551.511(b), and "straight time rate of pay," as defined in 5 CFR 551.512(b), for the purpose of computations under the Fair Labor Standards Act of 1938, as amended.

(j) Reduction or termination of a locality rate of pay under paragraph (f) of this section is not an adverse action for the purpose of subpart D of part 752 of this chapter or an action under 5 CFR 930.214.

(k) When an employee's locality rate of pay under this subpart is greater than any applicable special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), the payment of the rate resulting from the comparison required by paragraph (a) of this section is deemed to have reduced the locality rate of pay payable under 5 U.S.C. 5304, as authorized by 5 U.S.C. 5305(g)(1).

§ 531.607 Reports.

The Office of Personnel Management may require agencies to report pertinent information concerning the administration of payments under this subpart.

[FR Doc. 93–32009 Filed 12–29–93; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF GOVERNMENT ETHICS

5 CFR Parts 2600, 2636, 2637, and 2638

RINs: 3209–AA13, 3209–AA14

Corrections and Updating to Certain Regulations of the Office of Government Ethics

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; technical amendments.

SUMMARY: The Office of Government Ethics is correcting and updating some of its regulations.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, telephone: 202–523–5757, FAX: 202–523–6325.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics (OGE) is amending certain of its regulations, codified at 5 CFR parts 2600, 2636, 2637, and 2638, to correct a few minor typographical errors and update two authority citations.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553 (b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking and 30-day delay in effectiveness as to these minor revisions. The notice and delayed effective date are being waived because these regulations concern matters of agency organization, practice and procedure and because it is in the public interest that correct and up-to-date information be contained in OGE's regulations in time for inclusion in the 1994 edition of title 5 of the CFR, if possible.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Parts 2600, 2636, 2637, and 2638

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

Approved: December 23, 1993.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, the Office of Government Ethics pursuant to its authority under title IV of the Ethics in Government Act is amending and correcting 5 CFR parts 2600, 2636, 2637, and 2638 as follows:

PART 2600—[AMENDED]

1. The authority citation for part 2600 is revised to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

PART 2636—[CORRECTED]

2. The authority citation for part 2636 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

§ 2636.305 [Corrected]

3. In § 2636.305, the heading of paragraph (b) *"Definitons"* is revised to read *"Definitions"*.

PART 2637—[AMENDED]

4. The authority citation for part 2637 is revised to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 207 (1988).

PART 2638—[CORRECTED]

5. The authority citation for part 2638 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

§ 2638.203 [Corrected]

6. In § 2638.203, the cross-reference in paragraph (b)(3) "§ 2634.604(c)" is revised to read "§ 2634.605(c)" and the word "effectivelly" in paragraph (b)(4) is revised to read "effectively".

§ 2638.204 [Amended]

7. In § 2638.204, the respective second cross-references in both paragraphs (a) and (b) "§ 2634.604(c)(2)" are revised to read "§ 2634.605(c)(2)".

[FR Doc. 93–31926 Filed 12–29–93; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 92–177–4]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing a number of previousiy prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, will be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables will be required to undergo prescribed treatments for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. This action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and dissemination of injurious plant pests by imported fruits and vegetables.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Frank E. Cooper, Senior Operations Officer, Port Operations, Plant Protection and Quarantine, APHIS, USDA, room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8295.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56–8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of injurious insects that are new to or not widely distributed within and throughout the United States.

On August 10, 1993, we published a document in the **Federal Register** (58 FR 42504–42513, Docket No. 92–177–1) in which we proposed to amend the regulations to allow additional fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions. The importation of those fruits and vegetables had been prohibited because of the risk that the fruits and vegetables could introduce injurious insects into the United States. We proposed to allow those importations at the request of various importers and foreign ministries of agriculture, and after determining that the fruits or vegetables could be imported under certain conditions without significant pest risk. In the proposed rule, we also proposed to modify the format of one section of the regulations for the sake of clarity.

We solicited comments on the proposed rule for a 30-day period ending on September 9, 1993. We received two comments by that date, from a State agricultural agency and a foreign embassy. One comment supported the proposed importation of peppers from Israel without commenting on any other aspect of the proposed rule. The other commenter had two concerns regarding our proposal.

First, the commenter pointed out the need for the Animal and Plant Health Inspection Service (APHIS) to constantly monitor and review the fruit fly detection programs used by other countries to establish designated fruit fly-free areas. We fully recognize this need, and have APHIS personnel stationed overseas to evaluate the effectiveness of the survey and regulatory programs that are used by foreign plant protection organizations to maintain recognized plant pest-free areas. APHIS has had experience with plant pest-free areas in several countries, and we believe that such areas are an important part of our approach to preventing the introduction of plant pests while allowing international trade in produce.

The commenter was also concerned that the burden of inspection and pest detection has been placed on APHIS inspectors who, due to a lack of resources, have only a limited ability to thoroughly inspect commodities arriving in the United States. Inspection at the port of first arrival is only one aspect of APHIS' approach to plant pest exclusion, and is never the sole means of plant pest exclusion for any commodity. Before a fruit or vegetable is approved for importation into the United States, a plant pest risk analysis is conducted for the commodity. If a plant pest risk is found to be associated with a commodity proposed for importation, APHIS then determines what, if any, measures can be taken to reduce the risk to a level that would allow the commodity to be safely imported into the United States. For example, in certain cases our regulations impose restrictions such as specific growing and shipping requirements or inspection in the country of origin. Certain commodities are required to be treated for pests at the point of origin, while in transit, or upon arrival in the United States. As a final precaution, all fruits and vegetables are subject to inspection at the port of first arrival. APHIS inspectors are aware of potential pest risks associated with a particular commodity and conduct their inspections accordingly. We consider the measures taken in the exporting countries, coupled with the safeguards required by the regulations, to be adequate to prevent the introduction of injurious plant pests into the United States.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866.

This rule amends the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that they could introduce injurious plant pests into the United States. This rule revises the status of certain commodities from certain countries, allowing their importation into the United States for the first time.

Our changes are based on biological risk assessments that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The risk assessments indicate that the fruits or vegetables listed in this rule can, under certain conditions, be imported into the United States without significant plant pest risk. All of the fruits and vegetables, as a condition of entry, will be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture (USDA) inspector. In addition, some of the fruits and vegetables in this rule will be required to undergo mandatory treatment for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. Thus, this action will provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction of injurious plant pests by imported fruits and vegetables.

Of the fruits and vegetables included in this rule, domestic production information is available only for basil, blueberries, carrots, limes, peppers, tomatoes, and watermelon.

Basil

Domestic commercial production of basil is centered largely in California, Florida, and Hawaii. Only Hawaii, however, reports its herb production. A total of 390,000 pounds of basil, with an estimated value of $715,000, was produced in Hawaii in 1991 (Hawaii Agriculture Statistics Service, Hawaii Department of Agriculture, "Hawaii Herbs," November 19, 1992). The number of farms producing basil is not known, nor is it known how many of the producers are considered to be small entities (annual gross receipts of $0.5 million or less, according to Small Business Administration (SBA) criteria).

This rule allows basil from Chile to be imported into the United States under certain conditions. Although Chile has not indicated the amount of basil it plans to export to the United States, we do not expect the importation of basil from Chile to have a significant economic impact on U.S. producers of the herb.

Blueberries

In the United States in 1987, 109.4 million pounds of cultivated blueberries were harvested on nearly 4,000 farms in 36 States. An additional 32.6 million pounds of wild blueberries were harvested on about 500 farms in 6 of those States (U.S. Department of Commerce, "1987 Census of Agriculture," Table 29). The total value of the 1987 blueberry harvest and the number of producers that meet the SBA's criteria for a small business (annual gross receipts of less than $0.5 million) are not known.

This rule allows blueberries from Bolivia and Mexico to be imported into the United States under certain conditions. APHIS does not anticipate that high volumes of blueberries will be imported from Bolivia and Mexico, so the economic impact of those importations on domestic blueberry producers is expected to be small.

Carrots

In 1987, a total of 1,580 U.S. farms harvested carrots (U.S. Department of Commerce, "1987 Census of Agriculture," Table 29); 960 of those farms were located in the 10 States that accounted for nearly 99 percent of domestic carrot production (USDA, National Agricultural Statistics Service [NASS], Agricultural Statistics Board [ASB], "1992 Vegetable Summary"). In 1991, domestic producers of carrots harvested approximately 1.9 billion pounds of carrots for sale as fresh,

VOL 58 ISS 249 DEC 30 1993 UMI

which is about 69 percent of total domestic carrot production. The remaining carrots were sold for processing. The total value of the fresh carrot production was estimated at $281.6 million (USDA, NASS, ASB, "1992 Vegetable Summary"). The number of domestic carrot producers meeting SBA criteria for small entities—annual gross receipts of less than $0.5 million—is not known, but given the number of producers and the value of production, it is likely that most carrot producers could be classified as small entities.

This rule allows carrots from Peru to be imported into the United States under certain conditions. According to the United Nations Food and Agriculture Organization (FAO), Peru produced approximately 121.3 million pounds of carrots in 1991, which is about 6.3 percent of U.S. production (FAO, "FAO Production Year 1991," Volume 45). The United States imported approximately 137 million pounds of carrots in 1991, with about 23 percent (31.3 million pounds) coming from Mexico. Even if the volume of carrots imported into the United States from Peru approaches the level of carrot imports from Mexico—which is unlikely—that volume equals only 1.6 percent of domestic production and about 1.5 percent of the total carrot supply (domestic and imported) in the United States. Assuming that a 1.5 percent increase in the total carrot supply will lead to a 1.5 percent decrease in domestic carrot prices (i.e., unitary price elasticity), there would be a price decrease of about $0.22 per hundredweight, or $0.0022 per pound, from an original price of $14.60 per hundredweight (USDA, NASS, ASB, "1992 Vegetable Summary"). As a result, again assuming unitary price elasticity, domestic carrot production would decrease by about 29.2 million pounds, resulting in a revenue decrease of $8.5 million (less than a 3 percent decrease in total revenue) for domestic producers. Therefore, we expect that allowing carrots to be imported into the United States from Peru will have a negligible economic impact on U.S. carrot producers.

Limes

From April 1990 to March 1991, 127.6 million pounds of limes, with an estimated value of $27.9 million, were harvested in the United States (USDA, "Agricultural Statistics, 1991," Table 277). Ninety percent of domestically produced limes are grown in Florida, with the remainder being grown in Arizona, California, and Hawaii. It is likely that most U.S. lime producers could be considered small entities using SBA size criteria of annual gross receipts of less than $0.5 million.

This rule allows limes from Chile to be imported into the United States under certain conditions. APHIS experts expect that Chile will export no more than 4.4 million pounds of limes to the United States, which is about 4.5 percent of total U.S. lime imports, about 3.4 percent of domestic production, and about 2.0 percent of the total lime supply. Assuming unitary price elasticity, a 2.0 percent increase in the total lime supply will lead to a 2.0 percent decrease in the domestic price of limes, or about $0.38 per box on an original price of $19.21 per box (USDA, "Agricultural Statistics, 1991," Table 277). The corresponding decrease in U.S. lime production would be 125 million pounds, resulting in a maximum revenue decrease of $1.1 million (less than 4 percent) for domestic producers. Therefore, we anticipate that allowing the importation of limes from Chile will not have a significant economic impact on U.S. lime producers.

Peppers

In 1992, 1.3 billion pounds of bell peppers, with an estimated value of $368 million, were produced domestically for the fresh market (USDA, NASS, ASB, "1992 Vegetable Summary"). In 1987, a total of 9,403 farms reported harvesting peppers on a total of 100,521 acres. It is likely that most U.S. pepper producers could be considered small entities using SBA size criteria of annual gross receipts of less than $0.5 million.

This rule allows peppers from Israel and Poland to be imported into the United States under certain conditions. In 1991, Israel reported producing approximately 116.8 million pounds of green chilies and peppers (FAO, "FAO Production Yearbook, 1991"), which is roughly 8.7 percent of U.S. production. We anticipate that Israel will export no more than 400,000 pounds of peppers, which equals approximately 0.14 percent of current U.S. pepper imports, about 0.03 percent of current U.S. production, and about 0.02 percent of the total pepper supply in the United States (USDA, Economic Research Service [ERS], "Foreign Agricultural Trade of the United States [FATUS], Calendar Year 1991 Supplement"). Assuming that a 0.02 percent increase in the pepper supply will lead to corresponding 0.02 percent decreases in domestic price and production, there would be a $0.0068 per hundredweight price decrease (from an original price of $27.41 per hundredweight) and a production drop of about 330,000 pounds, which equals a revenue decrease of $180,000 or 0.05 percent. Therefore, we anticipate that allowing the importation of peppers from Israel will not have a significant economic impact on U.S. pepper producers.

Data regarding Polish pepper production and exports are not available. We anticipate, however, that Poland will not export significantly more peppers than are expected from Israel, so it is likely that allowing peppers to be imported into the United States from Poland will have only a negligible economic impact on U.S. pepper producers.

Tomatoes

In 1987, a total of 14,542 U.S. farms harvested tomatoes (U.S. Department of Commerce, "1987 Census of Agriculture"). The number of domestic tomato producers that meet SBA criteria for small entities—annual gross receipts of less than $0.5 million—is not known, but it is likely that most tomato producers could be classified as small entities. In 1991, domestic producers of tomatoes harvested approximately 3.4 billion pounds of tomatoes for sale as fresh, which makes up about 13 percent of total domestic tomato production. (The remaining 87 percent of tomatoes were sold for processing.) The total value of the fresh tomato production was estimated at $1.1 billion, about 57 percent of the total value of domestic tomato production (USDA, NASS, ASB, "1992 Vegetable Summary").

This rule allows tomatoes from Poland to be imported into the United States under certain conditions. According to FAO data, Poland produced approximately 913 million pounds of tomatoes in 1991, which is about 26.9 percent of U.S. fresh production (FAO, "FAO Production Yearbook, 1991"). The United States imported approximately 795.5 million pounds of fresh tomatoes in 1991, with about 98 percent coming from Mexico (USDA, ERS, "FATUS, Calendar Year 1991 Supplement"). Poland exported 3.3 million pounds of tomatoes in 1990, which is roughly 0.36 percent of its total production (FAO, "FAO Trade Yearbook, 1990"). We do not expect the volume of tomatoes imported into the United States from Poland to exceed 3.3 million pounds, which is about 0.42 percent of total U.S. tomato imports, about 0.10 percent of domestic production, and about 0.08 percent of the total tomato supply. Assuming that a 0.08 percent increase in the total tomato supply will lead to a 0.08 percent decrease in domestic tomato prices, there would be a price decrease of about $0.025 per hundredweight, or $0.00025 per pound, from an original price of $31.80 per hundredweight (USDA, NASS, ASB, "1992 Vegetable Summary"). As a result, again assuming unitary price elasticity, there would be a decrease in domestic tomato production of about 2.7 million pounds, which would result in a revenue decrease of $1.7 million (less than a 0.16 percent decrease in total revenue) for domestic producers. Therefore, it is expected that allowing tomatoes to be imported into the United States from Poland will have a negligible economic impact on U.S. tomato producers.

Watermelon

In 1992, 3.5 billion pounds of watermelon, with an estimated value of $198.9 million, were produced domestically for the fresh market (USDA, NASS, ASB, "1992 Vegetable Summary"). In 1987, a total of 10,324 farms reported harvesting watermelon (U.S. Department of Commerce, "1987 Census of Agriculture"). It is likely that most U.S. watermelon producers could be considered small entities using SBA size criteria of annual gross receipts of less than $0.5 million.

This rule allows watermelon from Ecuador to be imported into the United States under certain conditions. According to FAO data, Ecuador produced approximately 132.3 million pounds of watermelon in 1990, which is about 3.8 percent of U.S. production (FAO, "FAO Production Yearbook, 1991"). The United States imported approximately 230.9 million pounds of fresh watermelon in 1991 (USDA, ERS, "FATUS, Calendar Year 1990 Supplement"). We do not expect the volume of watermelon imported into the United States from Ecuador will exceed 4.0 million pounds, which is about 1.73 percent of total U.S. watermelon imports, about 0.11 percent of domestic production, and about 0.11 percent of the total watermelon supply. Assuming a 0.11 percent increase in the total watermelon supply will lead to a 0.11 percent decrease in domestic watermelon prices, there would be a price decrease of about $0.0061 per hundredweight from an original price of $5.70 per hundredweight. As a result, again assuming unitary price elasticity, there would be a decrease in domestic watermelon production of about 3.8 million pounds, which would result in a revenue decrease of about $430,000 (less than 0.22 percent of total revenue) for domestic producers. Additionally, we expect that imports of watermelon from Ecuador will not occur during the domestic watermelon growing season, thus lessening the impact even more. Therefore, it is expected that allowing watermelon to be imported into the United States from Ecuador will have a negligible economic impact on U.S. watermelon producers.

The aggregate economic impact of this rule is expected to be positive. U.S. consumers will benefit from greater availability of fruits and vegetables. It is not likely that any U.S. producers, large or small, of fruits and vegetables will be affected in a significant way by the easing of importation restrictions on these particular commodities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule allows certain fruits and vegetables to be imported into the United States from certain parts of the world. State and local laws and regulations regarding the importation of fruits and vegetables under this rule will be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and will remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the importation of fruits and vegetables under the conditions specified in this rule will not present a risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with:

(1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*),

(2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508),

(3) USDA Regulations Implementing NEPA (7 CFR part 1b), and

(4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact may be obtained by writing to the individual listed under "FOR FURTHER INFORMATION CONTACT."

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

4. In § 319.56–2, paragraph (j), the second and third sentences are removed and a new second sentence is added to read as follows:

§ 319.56–2 Restrictions on entry of fruits and vegetables.

* * * * *

(j) * * * Fruits and vegetables from Chile otherwise eligible for importation under this subpart may be imported from these areas without treatment for Medfly.

* * * * *

§ 319.56–2m [Amended]

5. In § 319.56–2m, in the section heading, the introductory text of the section, and paragraphs (a)(2), (c), and (e), the word "plumcot," is added immediately after the word "peaches," each time it appears.

§ 319.56–2s [Amended]

6. In § 319.56–2s, in the section heading; paragraphs (a), (b), (c)(1), and (c)(2); the introductory text of paragraph (d); paragraphs (d)(1)(ii), (e), and (f)(1); the introductory text of paragraph (g); and paragraph (g)(3), the word "plumcot," is added immediately after the word "peaches," each time it appears.

7. In § 319.56–2t, the table is amended by revising the heading in the first column to read "Country/locality"; revising the entry for "Korea" in the first column to read "South Korea" and moving that entry to the appropriate alphabetical order; revising the entry for "Trinidad" in the first column to read "Trinidad and Tobago"; and by adding, in alphabetical order, the following:

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
Belize	Bay leaf	*Laurus nobilis*	leaf and stem
	Tarragon	*Artemisia dracunculus*	above ground parts
Chile	Basil	*Ocimum* spp.	above ground parts
	Lucuma	*Manilkara sapota (=Lucuma mammosa)*	fruit (From Medfly-free areas only—see § 319.56–2[j].)
	Mountain papaya	*Carica pubescens (=C. candamarcensis).*	fruit (From Medfly-free areas—see § 319.56–2[j]. Fruit from outside Medfly-free areas must be treated in accordanc with § 319.56–2x.)
	Oregano	*Origanum* spp.	leaf and stem
	Sandpear	*Pyrus pyrifolia*	fruit (From Medfly-free areas—see § 319.56–2[j]. Fruit from outside Medfly-free areas must be treated in accordance with § 319.56–2x.)
	Tarragon	*Artemisia dracunculus*	above ground parts
Colombia	Tarragon	*Artemisia dracunculus*	above ground parts
Ecuador	Banana	*Musa* spp.	flower
	Chervil	*Anthriscus* spp.	leaf and stem
Mexico	Bay leaf	*Laurus nobilis*	leaf and stem
	Blueberry	*Vaccinium* spp.	fruit
	Lambsquarters	*Chenopodium* spp.	above ground parts
Peru	Carrot	*Daucus carota*	root
Philippines	Yam bean	*Pachyrhizus tuberosus* or *P. erosus*	root
Poland	Pepper	*Capsicum* spp.	fruit
	Tomato	*Lycopersicon esculentum*	fruit
South Korea	Chinese bellflower	*Platycodon grandiflorum*	root
Thailand	Turmeric	*Curcuma domestica*	leaf and stem

Country/locality	Common name	Botanical name	Plant part(s)
Trinidad and Tobago	Lemongrass	*Cymbopogon citratus*	leaf and stem
	Shield leaf	*Cecropia peltata*	leaf and stem

8. Section 319.56–2u is amended as follows:

a. The section heading is revised as set forth below.

b. The text is designated as paragraph (a).

c. A new paragraph (b) is added to read as set forth below.

§ 319.56–2u Conditions governing the entry of pummelo and peppers from Israel.

* * * * *

(b) Peppers (fruit) (*Capsicum* spp.) from Israel may be imported into the United States only under the following conditions:

(1) The peppers have been grown in the Paran region of the Arava Valley by growers registered with the Israeli Department of Plant Protection and Inspection (DPPI).

(2) Malathion bait sprays shall be applied in the residential areas of Paran at 6- to 10-day intervals beginning not less than 30 days before the harvest of backyard host material in residential areas and shall continue through harvest.

(3) The peppers have been grown in insect-proof plastic screenhouses approved by the DPPI and APHIS. Houses shall be examined periodically by DPPI or APHIS personnel for tears in either plastic or screening.

(4) Trapping for Mediterranean fruit fly (Medfly) shall be conducted by DPPI throughout the year in the agricultural region along Arava Highway 90 and in the residential area of Paran. The capture of a single Medfly in a screenhouse will immediately cancel export from that house until the source of the infestation is delimited, trap density is increased, pesticide sprays are applied, or other measures acceptable to APHIS are taken to prevent further occurrences.

(5) Signs in English and Hebrew shall be posted along Arava Highway 90 stating that it is prohibited to throw out/discard fruits and vegetables from passing vehicles.

(6) The cartons in which the peppers are packaged must be stamped "Peppers not to be distributed outside of the following States: CT, DC, DE, IA, IL, IN, MA, MD, ME, MI, MN, NH, NJ, NY, OH, PA, RI, VT, WI, and WV."

(7) Sorting and packing of peppers shall be done in the insect-proof screenhouses in Paran.

(8) Transportation of the peppers from Paran to Tel Aviv Airport for export shall be in fruit fly-proof containers.

(9) The peppers shall be exported directly from Tel Aviv, by air, to the United States.

9. In § 319.56–2x, paragraph (a) is revised to read as follows:

§ 319.56–2x Administrative instructions; conditions governing the entry of certain fruits and vegetables for which treatment is required.

(a) The following fruits and vegetables may be imported into the United States only if they have been treated in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter:

Country/locality	Common name	Botanical name	Plant part(s)
Bolivia	Blueberry	*Vaccinium* spp.	fruit
Chile	Lime	*Citrus aurantifolia* and *C. latifolia*	fruit
	Mountain papaya	*Carica pubescens (=C. candamarcensis).*	fruit (Treatment for Mediterranean fruit fly [Medfly] not required if fruit is grown in Medfly free area [see § 319.56–2(j)].)
	Sandpear	*Pyrus pyrifolia*	fruit (Treatment for Mediterranean fruit fly [Medfly] not required if fruit is grown in Medfly free area [see § 319.56–2(j)].)
Greece	Kiwi	*Actinidia deliciosa*	fruit
	Tangerine	*Citrus reticulata*	fruit
Guatemala	Tuna	*Opuntia* spp.	fruit
Guyana	Apple	*Malus domestica*	fruit
Israel	Litchi	*Litchi chinensis*	fruit
	Loquat	*Eriobotrya japonica*	fruit
Jordan	Apple	*Malus domestica*	fruit
	Grape	*Vitis* spp.	fruit
	Persimmon	*Diospyros* spp.	fruit
Lebanon	Apple	*Malus domestica*	fruit
Panama	Bean, green and lima	*Phaseolus vulgaris* and *P. lunatus*	pod
Taiwan	Mango	*Mangifera indica*	fruit
Zimbabwe	Apple	*Malus domestica*	fruit
	Kiwi	*Actinidia deliciosa*	fruit
	Pear	*Pyrus communis*	fruit

* * * * *

10. Section 319.56–2y is amended as follows:

a. The section heading is revised as set forth below.

b. In the introductory text of paragraph (a), the words "and watermelon (fruit) (*Citrullus lanatus*)" are added immediately after the words "(*Cucumis melo*)".

c. In paragraphs (a)(1) and (a)(2), and in the first sentence of paragraph (a)(4), the words "or watermelon" are added immediately after the word "cantaloupe".

d. The second sentence of paragraph (a)(4) is revised to read as set forth below.

§ 319.56–2y Administrative instructions; conditions governing the entry of cantaloupe and watermelon from Ecuador.

(a) * * *

(4) * * * The boxes in which the cantaloupe or watermelon is packed must be stamped with the name of the commodity followed by the words "Not to be distributed in the following States or territories: AL, AS, AZ, CA, FL, GA, GU, HI, LA, MS, NM, PR, SC, TX, VI."

Done in Washington, DC, this 22nd day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–31676 Filed 12–29–93; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 944

[Docket No. FV93–944–2IFR]

Exemptions From Import Regulations for Specified Fruit Commodities

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule exempts imported avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, and Tokay grapes from grade, size, quality, and maturity requirements if those commodities are to be used in certain specified outlets. These exemptions correspond to exemptions in effect for the same commodities under Federal marketing orders. Safeguards are specified to assure that such imports are utilized in a specified exempt outlet. This rule is being implemented in accordance with the North American Free Trade Agreement and under section 8e of the Agricultural Marketing Agreement Act of 1937, and makes the import regulations more consistent with applicable domestic marketing order regulations. Exempt uses include, but are not limited to, processing, livestock feed and donations to charity.

DATES: This interim final rule is effective January 1, 1994. Comments received by February 28, 1994, will be considered prior to finalization of the rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456 or by FAX at (202) 720–5698. Three copies of all written material shall be submitted. Copies will be made available for public inspection at the Office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mark A. Hessel, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone (202) 720–5127.

SUPPLEMENTARY INFORMATION: This action is being taken under Annex 703.2(23) of the North American Free Trade Agreement (NAFTA). This provision states that when domestic agricultural commodities have to meet quality requirements and processed forms are exempted from those requirements, the same treatment is to be provided to imports destined for processing as provided for domestic product destined for processing.

This action is also being taken under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act, which provides that whenever certain specified commodities, including avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, and Tokay grapes, are regulated under a Federal marketing order, imports of those commodities must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodities.

The Act further provides that when two or more marketing orders for the same commodity produced in different areas are in effect, the imported commodity must meet the same grade, size, quality, and maturity requirements as the commodity produced in the area which the imported commodity is in most direct competition.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

The following are the approximate number of importers of the listed commodities who will be affected by this action: avocados—20, grapefruit—20, kiwifruit—75, limes—25, olives—25, oranges—20, table grapes—70, Tokay grapes—none. Small agricultural service firms, which include importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000. The majority of these importers may be classified as small entities.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This action will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this interim final rule.

The Department is taking this action primarily because NAFTA provides that imported goods destined for processing must be given no less favorable treatment than that afforded to domestic goods destined for processing. Under the Federal marketing orders covering avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, and Tokay grapes, these commodities are exempt from established quality and size requirements if they are to be used in certain processing outlets. This rule provides similar exemptions for imported product destined for processing, consistent with NAFTA.

This rule also provides exemptions for these imported commodities to be

utilized in other exempt outlets. These additional exemptions are consistent with section 8e of the Act which requires imported avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, and Tokay grapes to meet the same or comparable requirements established under domestic marketing orders for these commodities.

Some marketing orders provide additional exemptions for commodities sold at roadside stands, shipped directly to consumers, or exported. However, such exemptions are not issued for commodities offered for importation because such handling is impracticable for, or not applicable to, the importation process.

This rule revises the following 7 CFR sections:

944.28	Avocado Import Grade Regulation.
944.106	Grapefruit Regulation 6.
944.209	Lime Import Regulation 10.
944.312	Orange Import Regulation.
944.401	Olive Regulation 1.
944.503	Table Grape Import Regulation 4.
944.550	Kiwifruit Import Regulation.
944.605	Tokay Grape Import Regulation.

The avocado import grade regulation (7 CFR 944.28) is based on those in effect for avocados grown in Florida under Marketing Order No. 915 throughout the year. Under Marketing Order No. 915 any person may handle avocados without regard to established grade, size, quality, or maturity requirements provided that such avocados are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into products; (4) seed; or (5) individual shipments of up to 55 pounds. Prior to issuance of this rule, the only exemption allowed under the avocado import regulation was that for individual shipments of up to 55 pounds. Thus, this action adds consumption by charitable institutions, distribution by relief agencies, seed, and commercial processing into products to the list of exemptions allowed under the avocado import regulation.

The grapefruit import regulation (7 CFR 944.106) is based on those in effect for grapefruit grown in Florida under Marketing Order No. 905 throughout the year. Under Marketing Order No. 905, any person may handle grapefruit without regard to established grade, size, quality, or maturity requirements provided that such grapefruit are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into canned or frozen products or into a beverage base; (4) animal feed; or (5) individual shipments of up to 15 standard packed cartons (12 bushels). Prior to issuance of this rule, the only exemption allowed under the grapefruit import regulation was that for individual shipments of up to 15 standard packed cartons (12 bushels). Thus, this action adds consumption by charitable institutions, distribution by relief agencies, commercial processing into canned or frozen products or into a beverage base, and animal feed to the list of exemptions allowed under the grapefruit import regulation.

The lime import regulation (7 CFR 944.209) is based on those in effect for limes grown in Florida under Marketing Order No. 911 throughout the year. Under Marketing Order No. 911 any person may handle limes without regard to established grade, size, quality, or maturity requirements provided that such limes are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into products; or (4) individual shipments of up to 55 pounds. Prior to issuance of this rule, the only exemption allowed under the lime import regulation was that for individual shipments of up to 250 pounds. Thus, this action adds consumption by charitable institutions, distribution by relief agencies, and commercial processing into products to the list of exemptions allowed under the lime import regulation.

The orange import regulation (7 CFR 944.312) is based on those in effect for oranges grown in Texas under Marketing Order No. 906 throughout the year. Under Marketing Order No. 906 any person may handle oranges without regard to established grade, size, quality, or maturity requirements provided that such oranges are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into products; or (4) individual shipments of up to 400 pounds. Prior to issuance of this rule, the only exemption allowed under the orange import regulation was that for individual shipments of up to ten 7/10 bushels (400 pounds). Thus, this action adds consumption by charitable institutions, distribution by relief agencies, and commercial processing into products to the list of exemptions allowed under the orange import regulation.

The olive import regulation (7 CFR 944.401) is based on those in effect for olives grown in California under Marketing Order No. 932 throughout the year. Under Marketing Order No. 932 any person may handle olives without regard to established grade, size, quality, or maturity requirements provided that such olives are handled for processing into oil or donations to charitable institutions. Although there is no minimum quantity exemption for olives regulated under Marketing Order No. 932, an exemption is allowed under the olive import regulation for individual shipments up to 100 pounds. This action adds processing into oil and donations to charitable institutions to the list of exemptions allowed under the olive import regulation.

The table grape import regulation (7 CFR 944.506) is based on those in effect for table grapes grown in southeastern California under Marketing Order No. 925 from April 20 through August 15. Under Marketing Order No. 925 any person may handle table grapes without regard to established grade, size, quality, or maturity requirements provided that such table grapes are handled for processing into products. Currently, no imported shipments of table grapes are exempt from the import regulations. Thus, this action adds processing into products as an exemption allowed under the table grape import regulation.

The kiwifruit import regulation (7 CFR 944.550) is based on those in effect for kiwifruit grown in California under Marketing Order No. 920 throughout the year. Under Marketing Order No. 920 any person may handle kiwifruit without regard to established grade, size, quality, or maturity requirements provided that such kiwifruit is handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) commercial processing into products; or (4) individual shipments of up to 200 pounds. Prior to issuance of this rule, the only exemption allowed under the kiwifruit import regulation was that for individual shipments of up to 200 pounds. Thus, this action adds consumption by charitable institutions, distribution by relief agencies, and commercial processing into products to the list of exemptions allowed under the kiwifruit import regulation.

The Tokay grape import regulation (7 CFR 944.605) is based on those in effect for Tokay grapes grown in San Joaquin County, California under Marketing Order No. 926 from August 12 through November 15. Under Marketing Order No. 926 any person may handle Tokay grapes without regard to established grade, size, quality, or maturity requirements provided that such Tokay grapes are handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; (3) conversion into by-products, including wine and juice; or (4) individual shipments of five standard packages or less. Prior to issuance of this rule, the only exemption allowed under the Tokay grape import regulation was that for individual shipments of up to 250 pounds. Thus, this action adds

consumption by charitable institutions, distribution by relief agencies, and conversion into by-products to the list of exemptions allowed under the Tokay grape import regulation.

The respective marketing order committees have developed methods to monitor the marketing of the domestically produced exempt commodities from handlers to points of final disposition. Safeguard procedures in the form of reporting requirements are used to ensure that domestic products are used for the intended exempt outlets.

Two such safeguard requirements are:

(1) A certificate of privilege, issued by a committee upon application by a handler, in which a handler notifies the appropriate marketing order committee of the handler's intent to ship that commodity to a processor, livestock feeder, charity, or other exempted outlet; and

(2) A special purpose shipment report, furnished by a handler and forwarded to a committee at the time of shipment, which provides information about the shipment necessary to determine compliance. The receiver or processor subsequently returns a signed copy of the special purpose shipment report to the respective committee office.

Because of the ease with which imported commodities can enter fresh market channels of trade, this rule establishes a process to monitor exempt, imported commodities from the port of importation to the point of final disposition. A safeguard procedure, in the form of importer and receiver reporting requirements, is established to ensure that imported products are shipped to intended exempt outlets. The safeguard procedures are similar to the certificates of privilege and special purpose shipment reports currently in effect under most domestic marketing orders.

To provide consistency and ease the reporting burden on importers that deal in several commodities, this rule establishes a single set of safeguard procedures and a standardized form that can be used for imported avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes and Tokay grapes. The procedure is added in § 944.350, and is referenced in individual commodity import regulations.

An importer wishing to import commodities covered herein for uses in other than regulated commercial channels, shall complete in triplicate, prior to importation, an Importer's Exempt Commodity form. One copy notifies the Marketing Order Administration Branch (MOAB) of the Fruit and Vegetable Division, AMS, and the second copy notifies the U.S. Customs Service of the importer's intent to import a commodity under an exemption. The third copy will accompany the exempt lot to the receiver.

The form may be obtained from either the inspection or customs offices serving the port of entry. The form may also be obtained from the MOAB in Washington, DC or from its Marketing Field Offices in Fresno, California; Portland, Oregon; McAllen, Texas; or Winter Haven, Florida.

The form must be completed at the time the commodity enters the United States. Copies must be returned to the U.S. Customs Service upon completion and to MOAB within 15 days after completion of the form. Information called for on the Importer's Exempt Commodity form includes:

(1) The commodity and the variety (if known) being imported,

(2) The date and place of inspection, if applicable,

(3) Identifying marks or numbers on the containers,

(4) Identifying numbers on the railroad car, truck or other transportation vehicle transporting product to the receiver,

(5) The name and address of the importer,

(6) The place and date of entry,

(7) The quantity imported,

(8) The name and address of the intended receiver (processor, feeder, charity, or other exempt receiver),

(9) Intended use of the exempt commodity,

(10) The U.S. Customs Service entry number and harmonized tariff code number, and

(11) Such other information as may be necessary to ensure compliance with this regulation.

For purposes of this regulation, a lot is considered to be imported when it is released by the Customs Service for entry into commercial markets or other channels. Lots that are exempt from grade, size, quality, and maturity requirements of the import regulations are not subject to the inspection and certification requirements in such regulations. An imported lot intended for normal commercial channels, or any portion of such a lot, that fails established grade, size, quality, and maturity requirements, may be disposed of in exempt outlets, as specified in the pertinent import requirements for the specific commodity.

The third copy of the form will accompany the exempt lot to its intended destination. The receiver will certify that the lot has been received and it will be utilized in an exempt outlet. After the certification is signed by the receiver, the form must be returned to MOAB by the receiver, within 15 days of receipt of the lot.

The burden on both importers and receiving entities is minimal and the reporting requirements are consistent with safeguard procedures imposed on the handling of domestically-produced, exempt commodities. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), these reporting requirements have been submitted to the Office of Management and Budget (OMB) for approval.

This rule will increase the reporting burden on approximately 235 importers of avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, and Tokay grapes who will complete the Importer's Exempt Commodity Form. The estimated time to complete the form is 10 minutes. It will take receivers an estimated 5 minutes to sign the certification on the form.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim final rule.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This interim final rule reflects the Department's appraisal of the need to relax the import requirements, as hereinafter set forth, to comply with the terms of NAFTA and to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule relaxing import requirements into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This rule should become effective on January 1, 1994, to be consistent with the provision of NAFTA which states that imported goods destined for processing receive no less favorable treatment than that afforded domestic goods destined for processing. In addition, avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes and Tokay grapes that are currently being imported into the United States are now being marketed, subject to established grade, size, quality and maturity requirements. To be consistent with section 8e of the Act, which provides that domestic and imported avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, and Tokay grapes be subject to comparable

requirements, this relaxation in the import requirements should become effective as soon as possible. A 60-day comment period is provided to allow interested persons to respond to this interim final rule. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR part 944 is amended as follows:

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 944.28 is amended by revising paragraphs (c) and (e) and adding paragraph (f) to read as follows:

§ 944.28 Avocado import grade regulation.

* * * * *

(c) The term *importation* means release from custody of the United States Customs Service. The term *commercial processing into products* means the manufacture of avocado product which is preserved by any recognized commercial process, including canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

* * * * *

(e) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, seed, or commercial processing into products; prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such lot borne by the importer.

(f) The grade, size, and quality requirements of this section shall not be applicable to avocados imported for consumption by charitable institutions, distribution by relief agencies, seed, or commercial processing into products, but shall be subject to the safeguard provisions contained in § 944.350.

3. Section 944.106 is amended by revising paragraph (e) and adding paragraph (h) to read as follows:

§ 944.106 Grapefruit Regulation 6.

* * * * *

(e) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, animal feed, or commercial processing into canned or frozen products or into a beverage base; prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

* * * * *

(h) The grade, size, quality, and maturity requirements of this section shall not be applicable to grapefruit imported for consumption by charitable institutions, distribution by relief agencies, animal feed, or commercial processing into canned or frozen products or into a beverage base, but shall be subject to the safeguard provisions contained in § 944.350.

4. Section 944.209 is amended by revising paragraphs (c) and (d) and adding paragraph (f) to read as follows:

§ 944.209 Lime import Regulation 10.

* * * * *

(c) The term *importation* means release from custody of the United States Customs Service. The term *commercial processing into products* means the manufacture of lime product which is preserved by any recognized commercial process, including canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation. Limes handled for conversion into juice without further processing or preservative treatment, as herein described, shall be deemed fresh limes subject to all regulation under this section.

(d) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or commercial processing into products; prior to or after reconditioning may be exported or disposed of under supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

* * * * *

(f) The grade, size, quality and maturity requirements of this section shall not be applicable to limes imported for consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, but shall be subject to the safeguard provisions contained in § 944.350.

5. Section 944.312 is amended by revising paragraph (f) and adding paragraph (h) to read as follows:

§ 944.312 Orange import Regulation.

* * * * *

(f) Any oranges which fail too meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or processing into products; prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such oranges borne by the importer.

* * * * *

(h) The grade, size, quality, and maturity requirements of this section shall not be applicable to grapefruit imported for consumption by charitable institutions, distribution by relief agencies, or processing into products, but shall be subject to the safeguard provisions contained in § 944.350.

6. Section 944.350 is added to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 944.350 Safeguard procedures for avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, and Tokay grapes exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports:

(1) Avocados, grapefruit, kiwifruit, limes, olives, oranges, and Tokay grapes for consumption by charitable institutions or distribution by relief agencies;

(2) Avocados, grapefruit, kiwifruit, limes, oranges, table grapes, and Tokay grapes for processing;

(3) Olives for processing into oil;

(4) Grapefruit for animal feed; or

(5) Avocados for seed shall obtain a copy of an "Importer's Exempt Commodity Form" from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, or from the Fresh Products Inspection Office, Customs Office, or Processed Products Inspection Office serving the intended port of entry, and shall present the completed "Importer's Exempt Commodity Form" to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is filed.

One additional copy shall accompany the lot and another copy shall be filed with the Marketing Order Administration Branch, Fruit and

Vegetable Division, AMS, USDA within 15 days of the date of importation.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall obtain a copy of the Importer's Exempt Commodity form from the importer and shall certify by signing, and return to the Marketing Order Administration Branch within 15 days of the receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

7. Section 944.401 is amended by revising paragraph (c) and adding paragraph (j) to read as follows:

§ 944.401 Olive Regulation 1.

* * * * *

(c) The Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade and size of processed olives from imported bulk lots for use in canned ripe olives and the grade and size of imported canned ripe olives. Inspection by said inspection service with appropriate evidence thereof in the form of an official inspection certificate, issued by the service and applicable to the particular lot of olives is required. With respect to imported bulk olives, inspection and certification shall be completed prior to use as packaged ripe olives. With respect to canned ripe olives, inspection and certification shall be completed prior to importation. Any lot of olives which fails to meet the import requirements and is not being imported for purposes of contribution to a charitable organization or processing into oil may be exported or disposed of under the supervision of the Processed Products Branch, Fruit and Vegetable Division, AMS, USDA, with the cost of certifying the disposal borne by the importer.

* * * * *

(j) The grade, size, quality, and maturity requirements of this section shall not be applicable to olives imported for charitable organizations or processing for oil, but shall be subject to the safeguard provisions contained in § 944.350.

8. Section 944.503 is amended by revising paragraph (d) and adding paragraph (f) to read as follows:

§ 944.503 Table Grape Import Regulation 4.

* * * * *

(d) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of processing, prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

* * * * *

(f) The grade, size, quality and maturity requirements of this section shall not be applicable to grapes imported for processing, but shall be subject to the safeguard provisions contained in § 944.350.

9. Section 944.550 is amended by revising paragraphs (c) and (d) and adding paragraph (f) to read as follows:

§ 944.550 Kiwifruit Import Regulation.

(c) The term *importation* means release from custody of the United States Customs Service. The term *commercial processing into products* means that the kiwifruit is physically altered in form or chemical composition through freezing, canning, dehydrating, pulping, juicing, or heating of the product. The act of slicing, dicing, or peeling shall not be considered commercial processing into products.

(d) Any lot or portion thereof which fails to meet the import requirements and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or commercial processing into products may be reconditioned or exported. Any failed lot which is not reconditioned or disposed of under supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

* * * * *

(f) The grade, size, quality, and maturity requirements of this section shall not be applicable to kiwifruit imported for consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, but shall be subject to the safeguard provisions contained in § 944.350.

10. Section 944.605 is amended by revising paragraph (d) and adding paragraph (g) to read as follows:

§ 944.605 Tokay Grape Import Regulation 5.

* * * * *

(d) Any lot or portion thereof which fails to meet the import requirements and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or conversion into by-products, including wine and juice may be reconditioned or exported. Any failed lot which is not reconditioned or exported shall be disposed of under supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lots borne by the importer.

* * * * *

(g) The grade, size, quality, and maturity requirements of this section shall not be applicable to Tokay grapes imported for consumption by charitable institutions, distribution by relief agencies, or conversion into by-products, including wine and juice, but shall be subject to the safeguard provisions contained in § 944.350.

Dated: December 23, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93-31878 Filed 12-29-93; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Parts 980 and 999

[Docket Nos. FV93-980-1 IFR and FV93-999-1 IFR]

Exemptions From Import Regulations for Specified Vegetable and Specialty Crop Commodities

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule exempts imported potatoes, onions, tomatoes, dates and walnuts from grade, size, quality, and maturity requirements if those commodities are to be used in certain specified outlets. These exemptions correspond to exemptions in effect for the same commodities under Federal marketing orders. Safeguard provisions are added to assure that such imports are utilized in a specified exempt outlet. This rule is being implemented in accordance with the North American Free Trade Agreement and under section 8e of the Agricultural Marketing Agreement Act of 1937, and makes the import regulations more consistent with applicable domestic marketing order exemptions. Exempt uses include, but are not limited to, processing, livestock feed, and donation to charity.

DATES: This interim final rule is effective on January 1, 1994. Comments received by February 28, 1994, will be considered prior to finalization of the rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, Fax (202) 720-5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection at the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone (202) 720-6862, or Fax (202) 720-5698.

SUPPLEMENTARY INFORMATION: This action is being taken under Annex 703.2(23) of the North American Free Trade Agreement (NAFTA). This provision states that when domestic agriculture commodities have to meet quality requirements, and processed forms are exempt from those requirements, the same treatment is to be provided to imports destined for processing as provided for domestic product destined for processing.

This action is also being issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) (Act), which provides that whenever certain specified commodities, including potatoes, onions, tomatoes, dates and walnuts, are regulated under a Federal marketing order, imports of those commodities must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodities.

The Act further provides that when two or more marketing orders for the same commodity produced in different areas are in effect, the imported commodity must meet the same grade, size, quality, and maturity requirements as the commodity produced in the area which the imported commodity is in most direct competition. Some marketing orders provide exemptions for commodities sold at roadside stands, shipped directly to consumers, or exported. However, such exemptions are not issued for commodities offered for importation because such handling is impracticable for, or not applicable, to the importation process.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

The following are the approximate number of importers who may be affected by this interim rule: potatoes—20, onions—40, tomatoes—70, dates—25, and walnuts—15. Small agricultural service firms, which include importers of these commodities, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000. The majority of these importers may be classified as small entities.

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Department is taking this action primarily because NAFTA provides that imported goods destined for processing must be given no less favorable treatment than that afforded to domestic goods destined for processing. Under the Federal marketing orders covering potatoes, onions and tomatoes, these commodities are exempt from established quality and size requirements if they are to be used in processing outlets. This rule provides similar exemptions for imported product destined for processing, consistent with NAFTA.

This rule also provides exemptions for these imported commodities to be utilized in other exempt outlets. These exemptions are consistent with section 8e of the Act which requires imported commodities to meet the same or comparable requirements established under the domestic marketing orders for the commodities. This rule amends the following 7 CFR sections:

980.1 Import regulations; Irish potatoes,
980.117 Import regulations; onions,
980.212 Import regulations; tomatoes,
999.1 Regulation governing the importation of dates, and
999.100 Regulation governing imports of walnuts.

Safeguard provisions are added as sections 980.501 and 999.500 to assure that such imports are utilized in a specified exempt outlet.

Potatoes

The import grade regulation for potatoes (7 CFR 980.1) is based on marketing orders in effect for potatoes grown in five different potato production areas in Idaho and Oregon (MO 945), Washington (MO 946), Oregon-California (MO 947), Colorado (MO 948), and the Southeastern United States (MO 953). Under one or more of these orders, any person may handle potatoes exempt from established grade, size, quality, and maturity requirements, provided that such potatoes are used for (1) processing, (2) livestock feed, (3) charity or relief, (4) certified seed, (5) export, or (6) limited quantity shipments ranging from 500 to 1,000 pounds, depending on the individual order. Processing includes canning, freezing, dehydration, chips, shoestrings, starch and flour. Processing does not include potatoes that are only peeled, or cooled, sliced, diced, or treated to prevent oxidation. Prior to the issuance of this rule, the potato import regulation provided exemptions only for certified seed and minimum quantity shipments of 500 pounds. Thus, this interim rule adds year-round exemptions, subject to certain safeguard provisions, for potatoes that are used for: (1) Canning, freezing, or other processing, (2) livestock feed, and (3) charity or relief. The safeguard provisions are specified in section 980.501.

Onions

The import grade regulation for onions (7 CFR 980.117) is based on marketing orders in effect for onions grown in two different onion production areas in Idaho and Oregon (MO 958), and Texas (MO 959). Under one or both of these orders, any person may handle onions exempt from established grade, size, quality, and maturity requirements, provided that such onions are used for (1) processing, (2) livestock feed, (3) charity and relief, (4) plantings, (5) limited quantity shipments ranging from 110 to 2,000 pounds, depending on the individual order, or (6) pearl onions not exceeding a maximum size. Processing includes canning, freezing, dehydration, extraction (juice) and pickling in brine. Prior to the issuance of this interim rule, the onion import regulation provided exemptions for processed onions (dehydrated, canned, frozen and pickled in brine), green onions, onion sets (plantings), braided red onions, and for minimum quantity shipments of 110

pounds. Thus, this rule adds year-round exemptions, subject to certain safeguard provisions, for onions used for livestock feed, charity or relief, processing, and pearl onions. Marketing Order 958 exempts pearl onions which are smaller sized onions produced using specific cultural practices and are not larger than 1–3/4 inches in diameter. The safeguard provisions are specified in section 980.501.

Tomatoes

The import grade regulation for tomatoes (7 CFR 980.212) is based on the marketing order in effect for tomatoes grown in Florida (MO 966). Under that order, any person may handle tomatoes exempt from established grade, size, and maturity requirements, provided that such tomatoes are used for (1) processing, (2) charity, (3) relief, (4) export, (5) experimental purposes, (6) pear shaped (elongated), cherry, green house or hydroponic tomatoes, or (7) limited quantity shipments of 50 pounds per day. Prior to issuance of this interim rule, the tomato import regulation provided exemptions for experimental purposes, shipments of 60 pounds, and pear shaped, cherry, hydroponic, and greenhouse tomatoes. Thus, this rule adds exemptions, subject to certain safeguard provisions, for tomatoes used for processing (canning and pickling), charity and relief. The safeguard provisions are specified in section 980.501.

Dates

The import regulation for dates (7 CFR 999.1) is based on the marketing order in effect for dates produced or packed in Riverside County, California (MO 987). Under that order, any person may handle dates exempt from established grade requirements, if such dates are donated to "needy persons, prisoners, or Indians on reservations." Prior to issuance of this interim rule, the date import regulation provided exemptions for: (1) Processing (preparing and preserving dates into confection, coating to alter color, chopping, slicing or other processing which alters the form), (2) denatured dates unfit for human consumption, and (3) minimum quantity shipments of 70 pounds. Thus, this rule adds exemptions, subject to certain safeguard provisions, for dates donated to charity, prisoners, and Native Americans on reservations. The safeguard provisions are specified in section 999.500.

Walnuts

The import grade regulation for walnuts (7 CFR 999.100) is based on the marketing order in effect for walnuts grown in California (MO 984). Under that order, any person may handle walnuts exempt from established grade and size requirements, if such walnuts are: (1) Green (immature), (2) used by charitable institutions, relief agencies or government agencies for school lunch programs, or diverted for animal feed, or oil manufacture, or other noncompetitive outlets. Prior to issuance of this interim rule, the walnut import regulation provided exemptions from grade and size requirements for minimum quantity shipments of 60 pounds shelled or 115 pounds inshell. Thus, this rule adds exemptions, subject to certain safeguard provisions, for green walnuts, and walnuts for charity, relief, school lunch programs, animal feed or oil. The safeguard provisions are specified in section 999.500.

Exemptions for raisin imports specified under current import regulations for raisins (7 CFR Part 999.300) are consistent with exemptions under the raisin marketing order and are not affected by this interim rule.

Exemptions for filbert imports specified under current import regulations for filberts (7 CFR Part 999.400) are consistent with exemptions under the filbert/hazelnut marketing order and are not affected by this interim rule.

Exemptions for dried prune imports specified under current import regulations for prunes (7 CFR Part 999.200) are consistent with exemptions under the dried prune marketing order and are not affected by this interim rule.

The respective marketing order committees have developed methods to monitor the marketing of the domestically produced exempt commodities from handlers to points of final disposition. Safeguard procedures in the form of reporting requirements are used to ensure that domestic products are used for the intended exempt outlets.

Two such safeguard requirements are:

(1) A certificate of privilege, issued by a committee upon application by a handler, in which a handler notifies the appropriate marketing order committee of the handler's intent to ship that commodity to a processor, livestock feeder, charity, or other exempted outlet; and

(2) A special purpose shipment report, furnished by a handler and forwarded to a committee at the time of shipment, which provides information about the shipment necessary to determine compliance. The receiver or processor subsequently returns a signed copy of the special purpose shipment report to the respective committee office.

Because of the ease with which imported commodities can enter fresh market channels of trade, this rule establishes a process to monitor exempt, imported commodities from the port of importation to the point of final disposition. A safeguard procedure, in the form of importer and receiver reporting requirements, is established to ensure that imported products are shipped to intended exempt outlets. The safeguard procedures are similar to the certificates of privilege and special purpose shipment reports currently in effect under most domestic marketing orders.

To provide consistency and ease the reporting burden on importers that deal in several commodities, this rule establishes a single set of safeguard procedures and a standardized form that can be used for imported potatoes, onions, tomatoes, dates and walnuts. The procedure is added in §§ 980.501 and 999.500, and is referenced in individual commodity import regulations.

An importer wishing to import commodities covered herein for uses in other than regulated commercial channels shall complete, in triplicate, prior to importation, an Importer's Exempt Commodity form. One copy notifies the Marketing Order Administration Branch (MOAB) of the Fruit and Vegetable Division, AMS, and the second copy notifies the U.S. Customs Service of the importer's intent to import a commodity under an exemption. The third copy will accompany the exempt lot to the receiver.

The form may be obtained from either the inspection or customs offices serving the port of entry. The form may also be obtained from the MOAB in Washington, DC or from its Marketing Field Offices in Fresno, California; Portland, Oregon; McAllen, Texas; or Winter Haven, Florida.

The form must be completed at the time the commodity enters the United States. Copies must be returned to the U.S. Customs Service upon completion and to MOAB within 15 days after completion of the form. Information called for on the Importer's Exempt Commodity form includes:

(1) The commodity and the variety (if known) being imported,

(2) The date and place of inspection, if applicable,

(3) Identifying marks or numbers on the containers,

(4) Identifying numbers on the railroad car, truck or other transportation vehicle transporting product to the receiver,

(5) The name and address of the importer,

(6) The place and date of entry,

(7) The quantity imported,

(8) The name and address of the intended receiver (processor, feeder, charity, or other exempt receiver),

(9) Intended use of the exempt commodity,

(10) The U.S. Customs Service entry number and harmonized tariff code number, and

(11) Such other information as may be necessary to ensure compliance with this regulation.

For purposes of this regulation, a lot is considered to be imported when it is released by the Customs Service for entry into commercial markets or other channels. Lots that are exempt from grade, size, quality, and maturity requirements of the import regulations are not subject to the inspection and certification requirements in such regulations. An imported lot intended for normal commercial channels, or any portion of such a lot, that fails established grade, size, quality, and maturity requirements, may be disposed of in exempt outlets, as specified in the pertinent import requirements for the specific commodity.

The third copy of the form will accompany the exempt lot to its intended destination. The receiver will certify that the lot has been received and it will be utilized in an exempt outlet. After the certification is signed by the receiver, the form must be returned to MOAB by the receiver, within 15 days of receipt of the lot.

The burden on both importers and receiving entities is minimal and consistent with safeguard procedures imposed on the handling of domestically-produced exempt commodities. In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. chapter 35], this additional burden has been submitted to the Office of Management and Budget (OMB) for approval.

This rule increases the reporting burden on approximately 170 importers of potatoes, onions, tomatoes, dates and walnuts who will complete the Importer's Exempt Commodity form. The estimated time for importers to complete the form is 10 minutes. The estimated time for receivers to sign the certification is 5 minutes.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim rule.

Based on the above, the Administrator of the AMS has determined that this interim rule will not have a significant economic impact on a substantial number of small entities.

This interim rule reflects the Department's appraisal of the need to relax the import requirements, as hereinafter set forth, to comply with the terms of NAFTA and to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule relaxing import requirements into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This rule should become effective on January 1, 1994, to be consistent with the provision of NAFTA, which states that imported goods destined for processing receive no less favorable treatment than that afforded domestic goods destined for processing. In addition, potatoes, onions, tomatoes, dates and walnuts currently being imported into the U.S. are now being marketed, subject to established grade, size, quality, and maturity requirements. To be consistent with section 8e of the Act, which provides that such domestic and imported commodities be subject to comparable requirements, this relaxation in the import requirements should become effective as soon as possible.

A 60-day period is provided to allow interested persons an opportunity to comment on this interim rule. All written comments timely received, will be considered before a finalization of this rule.

List of Subjects

7 CFR Part 980

Import regulations, Onions, Potatoes, Tomatoes.

List of Subjects

7 CFR Part 999

Import regulations, Dates, Filberts, Prunes, Raisins, Walnuts.

For the reasons set forth in the preamble, 7 CFR parts 980 and 999 are amended as follows:

PART 980—VEGETABLES; IMPORT REGULATIONS

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR parts 980 and 999 are revised to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 980.1 is amended by adding a new paragraph (i) to read as follows:

§ 980.1 Import regulations, Irish potatoes.

* * * * *

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to potatoes imported for canning, freezing, other processing, livestock feed, charity, or relief, but such potatoes shall be subject to the safeguard provisions contained in § 980.501.

3. Section 980.117 is amended by adding a definition for pearl onions at the end of paragraph (h) and adding a new paragraph (i) to read as follows:

§ 980.117 Import regulations; onions.

* * * * *

(h) *Definitions.* * * * The term *pearl onions* means onions produced using specific cultural practices that limit growth to 1¾ inches in diameter or less.

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to pearl onions, or onions imported for processing, livestock feed, charity, or relief, but such onions shall be subject to the safeguard provisions in § 980.501.

4. Section 980.212 is amended by adding a new paragraph (i) to read as follows:

§ 980.212 Import regulations; tomatoes.

* * * * *

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to tomatoes for charity, relief, canning or pickling, but such tomatoes shall be subject to the safeguard provisions contained in § 980.501.

5. A new § 980.501 is added to read as follows:

§ 980.501 Safeguard procedures for potatoes, onions, and tomatoes exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports (1) potatoes, onions or tomatoes for consumption by charitable institutions or distribution by relief agencies; (2) potatoes, onions, or tomatoes for processing; (3) potatoes or onions for livestock feed; or (4) pearl onions, shall obtain a copy of Importer's Exempt Commodity form from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, or from the Fresh Products Inspection Office, the Processed Products Inspection Office, or the U.S. Customs Service serving the intended port of entry, and shall present, the completed Importer's Exempt Commodity form to the U.S. Customs Service Regional

Director or District Director, as applicable, at the port at which the customs entry is filed. One additional copy shall accompany the lot and another copy shall be filed with the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, within 15 days of the date of importation.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall obtain a copy of the Importer's Exempt Commodity form from the importer and shall certify by signing, and return to the Marketing Order Administration Branch within 15 days of receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

6. Section 999.1 is amended by removing paragraph (d), "Reconditioning prior to importation;" redesignating paragraph (d), as an untitled "Exemptions" paragraph (d)(1); and by adding a new paragraph (d)(2) to read as follows:

§ 999.1 Regulation governing the importation of dates.

* * * * *

(d)(1) * * *

(2) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to dates which are donated to needy persons, prisoners or Native Americans on reservations, but such dates shall be subject to the safeguard provisions contained in § 999.500.

* * * * *

7. Section 999.100 is amended by redesignating paragraph (e) as paragraph (e)(1) and by adding a new paragraph (e)(2) to read as follows:

§ 999.100 Regulation governing imports of walnuts.

* * * * *

(e)(1) * * *

(2) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to walnuts which are: green walnuts (so immature that they cannot be used for drying and sale as dried walnuts); walnuts used in non-competitive outlets such as use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and diversion to animal feed or oil manufacture, but such walnuts shall be subject to the safeguard provisions contained in § 999.500.

* * * * *

8. Section 999.500 is added to read as follows:

§ 999.500 Safeguard procedures for walnuts and certain dates exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports: (1) Dates which are donated to needy persons, prisoners or Native Americans on reservations; or (2) walnuts which are: green walnuts (so immature that they cannot be used for drying and sale as dried walnuts); walnuts used in non-competitive outlets such as use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and diversion to animal feed or oil manufacture, shall obtain a copy of an "Importer's Exempt Commodity Form" from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, or from the Fresh Products Inspection Office, Customs Office, or Processed Products Inspection Office serving the intended port of entry, and shall present the completed "Importer's Exempt Commodity Form" to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is filed. One additional copy shall accompany the lot and another copy shall be filed with the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA within 15 days of the date of importation.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall obtain a copy of the Importer's Exempt Commodity form from the importer and shall certify by signing, and return to the Marketing Order Administration Branch within 15 days of the receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

Dated: December 23, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93-31879 Filed 12-29-93; 8:45 am]

BILLING CODE 3410-02-P

Farmers Home Administration

7 CFR Parts 1910, 1924, 1941, 1943, 1945, 1951, and 1980

RIN 0575-AB13

Borrower Training

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to require certain guaranteed and direct Farmer Programs loan applicants and borrowers to obtain training in production and financial management concepts. This action is necessary due to provisions in the Food, Agriculture, Conservation, and Trade Act of 1990, dated November 28, 1990 (hereinafter referred to as "the 1990 FACT Act"), that require the Agency to enter into contracts to provide educational training in financial and farm management concepts associated with commercial farming to all borrowers with Farmer Programs direct and guaranteed loans. The intended effect is to improve the borrowers' production and financial management ability, thereby increasing the number of borrowers who become successful and thus able to move to commercial credit sources.

DATES: Effective February 28, 1994. Written comments must be submitted on or before April 29, 1994.

ADDRESSES: Submit written comments, in duplicate, to the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kay M. Callin, Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Building, 14th and Independence Avenue SW., Washington, DC 20250, telephone (202) 720-1186.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this interim rule in conformance with Executive Order 12866, and we have determined that it is not a "significant regulatory action." Based on information compiled by the Department, we have determined that this interim rule:

(1) Will have an effect on the economy of less than $100 million;

(2) Will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 24, 1983), Farm Operating Loans and Farm Ownership Loans are excluded with the exception of nonfarm enterprise activity from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.416 Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this interim action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (E.O.) 12778. FmHA has determined that this action does not unduly burden the Federal Court System since it meets all applicable standards provided in section 2 of the E.O.

Paperwork Reduction Act

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0575-0134, 0575-0141, 0575-0085, 0575-0083, 0575-0090, 0575-0133, and 0575-0086 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). The revised information collection contained in 0575-0061 and 0575-0079 will not become effective until approved by OMB. Please send written comments to the Office of Information Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, DC 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, FmHA, AG Box 0743, Washington, DC 20250.

Discussion of the Interim Rule

On November 25, 1992, FmHA published a proposed rule in the **Federal Register** (57 FR 55473-55483) with a comment period ending December 28, 1992. The purpose of this interim rule is to provide a way for FmHA to assist borrowers in obtaining the financial and production management skills necessary to successfully operate a farm, gain equity in the farm operation, and graduate from FmHA programs and enable them to obtain private credit. The 1990 FACT Act (Pub.L. 101-624) amended the Consolidated Farm and Rural Development Act (CONACT) by adding Section 359. This section established the requirement that a borrower must obtain training in farm and financial management concepts appropriate to the borrower's management ability, as determined by the County Committee, to obtain a direct or guaranteed Farmer Programs loan. This interim rule defines the borrower training program and establishes procedures for implementing and administering the program.

The Agency is delaying implementation of this interim rule for 60 days after the date of publication. In addition, because of the large number of comments received and the wide range of views expressed in those comments, the Agency is requesting further comments to provide the opportunity for interested parties to suggest additional alternate courses of action in implementing the program.

Discussion of Comments

In response to the proposed rule, 224 individual written comments were received from 48 respondents. In some cases, multiple employees sent in copies of the same comments. The comments were divided into seven major categories as follows: Reduce the scope of borrowers for whom training will be required; provide clearer guidance to the County Committee on implementation of borrower training; eliminate training requirement for guaranteed borrowers; revise extent, content, and format of training; revise scoring system; make decision to require training appealable; and general comments. Several comments were general in nature and not specifically related to the proposed regulation.

Comments were received from ten FmHA employees, three lenders and one from a farm advocacy group regarding farmers who have experience that would exceed the degree of training to be provided. They suggested that these should be excepted from the training requirement. In response to these comments, a revision is being made to allow the County Committee to waive the production training requirement for applicants who demonstrate the abilities of a successful and efficient producer based on past management performance. To receive such a waiver, applicants must provide documentation which, at a minimum, includes the applicant's production records for the past five years and a statement explaining how the records demonstrate production ability. Five years of production history is already a requirement for a Farmer Programs loan application, so no new burden is created. Even if these applicants receive a waiver for production training, they still must meet the financial training requirement.

Three lenders and 11 FmHA employees submitted comments that new guaranteed borrowers and borrowers requesting subordinations should not automatically be required to receive training. The statute requires that guaranteed borrowers complete training unless a waiver is granted; therefore, no change is being made in this regard. However, a revision is being made to eliminate the training requirement for borrowers requesting subordinations. In light of the comments, the Agency believes that requiring training at the point of loan making and loan servicing is sufficient. While those borrowers in loan servicing are most needy, those requesting subordinations to other lenders are often progressing towards graduation to commercial credit. The Agency does not want to interfere with this progress by unnecessarily requiring borrower training.

Three commenters requested that training be required for guaranteed borrowers. This provision was included in the proposed rule and is not being changed in the interim rule.

Comments were received from four FmHA employees that the training requirement should be restricted to limited resource and 1951-S borrowers. As stated above, the statute applies to all direct and guaranteed Farmer Programs borrowers. Therefore, no changes are being made as a result of these comments.

VOL 58 ISS 249 DEC 30 1993 UMI

Two commenters expressed concern that FmHA does not have the authority to require training for borrowers requesting loan servicing. The statute authorizes the Secretary to issue regulations establishing guidelines for the borrower training program. CONACT section 359 specifically directs the Secretary to enter into contracts to provide training to all borrowers of Farmer Programs loans made under the CONACT. The legislative history of the provision further indicates Congressional intent that FmHA assist financially troubled borrowers in obtaining the financial and farm management skills necessary to successfully operate a farm, gain equity in the operation, and graduate to private credit. Therefore, requiring an existing borrower to obtain training in order to receive debt restructuring under 1951–S is allowable and consistent with legislative intent. Consequently, no changes have been made in response to these comments.

Six respondents suggested that the County Committee should be authorized to waive borrower training for any case as they determine appropriate. However, this degree of discretion is inconsistent with the statute which permits waiver only if the County Committee has determined that the borrower demonstrates adequate knowledge in financial and farm management concepts. The proposed rule provided for a waiver of the training requirement if the applicant had completed an approved course or a similar course. Revisions have been made by this interim rule to also include a provision to allow a waiver to be granted by the County Committee based on the applicant's production experience.

Comments were received from nine individuals stating that the process for granting waivers is too subjective and may place the County Committee in an awkward position. By statute, the County Committee has the responsibility of reviewing documentation provided by the applicant to determine if a waiver should be granted. Because the County Committee serves as a representative sample of the farmers in the area, they are assumed to be qualified to make determinations based on local conditions. County Committees already must make subjective eligibility determinations in accordance with statutory and regulatory authority. Therefore, no changes are being made in response to these comments.

Four comments were received requesting clarification of the County Committee guidelines to encourage consistency when granting waivers. The guidelines for granting a waiver were written to provide flexibility for the County Committee to use their knowledge of the conditions in the area and the documentation submitted by the applicant to determine if a waiver should be granted. Therefore, no changes are being made to the regulation in response to these comments.

Comments were received from three individuals stating that the County Committee should not be provided the authority to modify the evaluation score determined by the course instructor. Revisions have been made to eliminate the County Committee's review of the instructor's evaluation. It was determined that this review was not necessary if a qualified instructor provided the evaluation. In addition, a revision was made to require the County Supervisor to review the evaluation to determine if the borrower has satisfied the training requirements or if further training should be recommended or special servicing actions required based on the borrower's score.

Three lenders expressed concern that a borrower with impeccable history who failed to attend training would be denied future credit because of the failure to attend training. If the borrower's history and past performance are outstanding, it is possible he/she would be eligible for a waiver. If a waiver is not granted, however, the borrower would be required to attend training. This is required by the statute and, therefore, no changes were made based on these comments.

Comments were received from three respondents who felt that at least one County Committee member should be required to attend the training session, at FmHA's expense, so they would be knowledgeable of the training requirements. FmHA will make the County Committee aware of the availability of training sessions. County Committee members will have the option of attending the courses at their own expense. However, a change was made based on these comments that requires the vendor to submit information regarding the policy for allowing individuals to audit the course.

One commenter suggested that the County Committee should be authorized to give partial waivers. The Agency agrees and has revised the interim rule to provide the opportunity for the applicant/borrower to receive a waiver for either production management training or financial management training or for both. For example, the Agency has found that many of its borrowers are good producers but need help in the area of financial management. A partial waiver system will be fairer and less costly to such applicants and borrowers.

Comments were received from 13 lenders and eight FmHA employees expressing concern that lenders will not participate in the guaranteed program because of added servicing requirements and additional FmHA interference. Because the statute specifically includes guaranteed borrowers in the training requirements, no changes have been made to the regulation based on these comments.

Twelve respondents felt that the training should be offered, but not required for loans because they felt borrowers must be self-motivated to improve and enhance their abilities. No changes have been made to the regulation based on these comments because training is required by statute. To be eligible for FmHA assistance, training must be completed unless a waiver is granted.

Five commenters suggested that training should be required before assistance is provided. The statutory language and legislative history indicate that Congress did not intend the training requirement to change FmHA's current consideration of a borrower's eligibility for direct or guaranteed loans. Furthermore, loan eligibility and the need for training are independent determinations made by the County Committee. If the borrower is required to complete training prior to assistance being provided, this independent determination is lost. Therefore, no changes are being made based on these comments.

Nine lenders expressed concern that guaranteed lenders would be responsible for monitoring borrower training. Respondents felt the training should be monitored by FmHA. FmHA, however, wants to limit its direct dealing with the loan applicant since the lender is responsible for servicing the account. The Agency agrees, however, that FmHA needs to be involved in the process. The regulations, therefore, are being revised to require lenders to monitor the borrowers' progress and periodically report back to FmHA. This procedure for FmHA and lender involvement is consistent with the procedure for requiring the vendor to provide the lender and FmHA with periodic progress reports.

One comment was received from a lender concerned that the Guaranteed Overview Task Force did not have input on development of borrower training for guaranteed borrowers. All interested individuals were encouraged to provide written comments on the proposed rule. This provided all members of the task force a chance to express any opinions on the development of the training program. No changes were made to the regulation based on this comment.

One lender suggested that FmHA should provide a list of vendors and courses available in each location. Because this list was provided for in the proposed rule, no changes need to be made to incorporate this recommendation.

Five comments were received regarding the length of time allowed for borrowers to complete the training program. Two commenters felt the time allowed (2 years) was too long and three felt it was not long enough. The Agency originally determined that training should be completed within two years after the agreement to complete training is signed. However, the borrower will still have the option to request a 1-year extension if the training could not be completed as anticipated. This policy was adopted in the proposed rule after consulting with experts in agricultural education and several farm advocates on training curriculum. It was determined that two years was a reasonable amount of time allowing for the usual one year training program with some leeway for late starters, longer training courses, etc. Therefore, no revisions were made based on these comments.

Two respondents felt that borrowers should be required to attend future training sessions to keep up with changes in technology and production methods. Training will be available for those borrowers who would like to attend additional courses, but the courses will be entirely optional. No changes are being made to the regulations based on these comments.

Comments from five FmHA employees suggested that the Extension Service should be given all of the vendor training responsibility. The statute lists the Extension Service as one option among several to provide training. The statute specifically says that State or private providers of farm management and counseling services may be utilized to provide training. Therefore, no changes are being made based on these comments.

Comments from two FmHA employees suggested that training should be based on FmHA forms and procedures. The ultimate goal of supervised credit is to assist borrowers in graduating from FmHA programs to private credit. Restricting training to FmHA credit situations would be a great disservice to the borrower. For that reason, no changes are being made in response to these comments.

Five commenters suggested that the curriculum should be established in terms of "hours" rather than "years" for consistency in implementation and monitoring. The curriculum was not established based on hours to allow flexibility in the training program to meet the needs of borrowers in specific areas. Therefore, no changes are being made based on these comments.

One FmHA employee stated the regulations should be written to include various methods of delivery of training, such as telenet and satellite, as acceptable methods of providing and receiving training. The proposed rule provides the opportunity for States to review the proposed vendor's methods of training prior to approval of the vendor. If the State Director feels the vendor's method of delivery of the training is acceptable for the area, the vendor may be approved. No change to the regulation is necessary to respond to this comment.

Four respondents expressed concern that it would be extremely difficult to provide production training for many different enterprises in relatively small locales, particularly if the borrower had several different enterprises. However, the proposed rule only required that borrowers complete production management courses in crop or livestock enterprises which constituted 20% or more of the projected cash farm operating costs for the coming production cycle as determined by the County Committee. The interim rule nonetheless revises this policy to require such courses only in those crop or livestock enterprises which constitute 20% or more of the total projected cash farm income. Income is a better indicator than costs of which crop or livestock production will significantly affect the overall operation. The interim rule also provides for a 1-year extension of the 2-year period in which training must be completed for circumstances beyond the control of the borrower, such as discontinuance of the necessary approved courses. This extension, therefore, would be appropriate if needed courses are unavailable. Under the interim rule, vendors' proposed sites for training should be within a reasonable commuting distance to meet approval by State Directors.

Comments were received from four individuals who suggested that the course requirements should be outlined in segments for consistency between vendors in a specific area. The proposed rule provided the opportunity for the State Director to review the vendor's proposed course outline prior to approval. The State Director can determine if the vendor's outline will allow for consistency between vendors. Flexibility is important at the State level. Therefore, no changes are being made based on these comments.

Two individuals suggested that the requirements for instructors should be more flexible. The regulations, therefore, are being revised to allow instructors and vendors with three years experience in conducting training courses or teaching to be eligible to conduct borrower training. The proposed rule required instructors and vendors to have a minimum of three years experience in training and working specifically with farmers. The requirement that the instructor have a bachelor's degree or comparable experience will remain in effect.

Three commenters requested that the training language include production training. This requirement was implied in the proposed rule although it was not mentioned specifically. Revisions are made to specifically mention production management training in the interim rule.

Comments were received from two individuals who felt that production training should be excluded from the requirement. The intent of the law was to provide borrowers training in farm management concepts as well as financial management. Therefore, production training is also required.

However, the interim regulations do provide the option of a waiver from production training.

One commenter suggested that training sources should be limited to non-profit entities only. The statute specifically allows State or private providers of farm management and counseling services to be utilized to provide training. This would include vendors who are in business to make a profit. Because Congress intended to provide as many options for training vendors as possible, no revisions are being made based on this comment.

One commenter requested clarification of who would be required to attend training in the case of a husband/wife operation. The proposed regulations required the individual who holds a majority interest or who operates the farm to complete the training. If these are different individuals, both would have to meet the training requirements in financial and production management. The intent of the regulations, however, was to allow the individual who has full responsibility for the various functions of the farm operation, particularly financial and production management, to either be granted a waiver or to be required to complete training in the specific area of responsibility. Thus, in

a husband and wife operation, if the wife solely attended to the farm's financial management and the husband solely attended to production, she would be required to receive training in financial management for the entity, and he for production management, if they did not qualify separately for partial waivers. If the husband and wife shared responsibility for financial and production management, their experience would be considered in the aggregate to determine whether a waiver or training was appropriate. The regulations are being revised to clarify this issue in response to this comment.

One comment was received regarding the determination of separate enterprises. The State Director has the opportunity to determine which enterprises will be covered by the course when approval for the course is granted. No changes are being made to the regulations in response to this comment.

One commenter suggested that the vendor should not be required to specify the training location until after approval has been granted to allow the vendor to locate training in the areas of greatest need. The regulations are being revised to require that vendors specify proposed locations for training when an application for approval is submitted, rather than the specific training sites.

Three individuals commented that training should be provided within a reasonable commuting distance for borrowers. The Agency has accepted this recommendation and the regulation is being revised.

Comments were received from two individuals who stated that the regulations needed a provision to decertify training vendors. The regulations are being revised to allow the State Director or the vendor to revoke the agreement to conduct training in writing giving 30 days notice. The State Director may revoke the agreement if the vendor fails to comply with responsibilities listed in the agreement. Such revocation is nonappealable under FmHA appeal regulations.

One commenter suggested that the final rule should require the State Director to obtain input from a committee comprised of individuals listed in the proposed rule (Chief Executive Officer of a State, State Department of Agriculture, State Extension Service, community college, and non-profit organization) to tailor the training agenda to the needs of the State. The State Director has the option of consulting with individuals from the various organizations, but is not required to do so. No change is being made in response to this comment.

One FmHA employee suggested that the system used to assign scores to the borrower should be reversed. A score of 1 would be given to borrowers who have met the training requirements and a 3 would be given to those borrowers who have not met the training requirements. The Agency has accepted this recommendation and the regulation is being revised.

One commenter requested that the notification to trainees include a description of the scoring system to be used. The Agency has accepted this recommendation and the change is being made in the interim rule.

Comments were received from four individuals suggesting that Form FmHA 440–2, "County Committee Certification or Recommendation," be revised to include an appropriate section for training and/or waivers. The Agency is adopting this recommendation.

One commenter suggested that FmHA pay for the cost of training rather than the borrower. The statute requires that the borrower pay the cost of the training. However, operating loan funds may be used to pay this expense as it is considered a farm operating expense. Therefore, no changes are being made based on this comment.

Two FmHA employees expressed concern that the extra cash cost of the training may make the borrower's plan unfeasible and requested that the County Committee have the latitude to waive the requirement in these situations. According to the statute, the County Committee may grant waivers only if the borrower demonstrates the knowledge and experience to warrant a waiver. No revision is necessary based on this comment.

Four respondents indicated that the comment period should be extended. It should be noted that written comments were accepted after the closing date of the comment period and were considered when drafting the interim rule. However, the comment period was not officially extended. A 120-day comment period is being provided with this interim rule.

Two individuals suggested that vendors would need money to prepare to provide training to FmHA borrowers. The commenters did not indicate who should provide these funds. Therefore, no response is necessary.

Thirty-four commenters felt that requiring borrower training was not going to be beneficial. Comments ranged from the training being an imprudent requirement and a waste of taxpayer money to being an additional burden imposed on borrowers, lenders, FmHA and taxpayers. Because borrower training was mandated by Congress, no revisions are being made based on these comments.

Eight individuals felt the concept was commendable but did not feel it was realistic. In developing the proposed regulations, the Agency consulted with experts in agricultural education to develop an effective training program. As previously discussed, the regulations are being revised based on comments from various individuals to make the program as efficient and realistic as possible.

Three respondents expressed strong opposition to the section of the proposed regulation dealing with appeals. Respondents felt that denial of a waiver should be considered an adverse decision and therefore appealable. Because loans will be made or serviced upon the condition that training is obtained, no adverse decision has been made which "directly and adversely affects" the borrower. Under FmHA appeal regulations, 7 CFR part 1900, subpart B, one is "directly and adversely affected" when a request for assistance is denied, or assistance is reduced, cancelled, or not reviewed. The nonappealable matter, however, would be reviewable under the appeal regulations. If a loan or loan guarantee is ultimately denied, then appeal rights will be given. Therefore, no change is being made to the regulations based on this comment.

In addition to changes made in response to public comments, other administrative changes have been made. References to "insured loans" in the regulation text are changed to read "direct loans" to reflect changes in terminology required by the Credit Reform Act of 1990. Regulation exhibits also have been revised in order to reflect changes made to the regulation text.

The regulations also are revised to exempt applicants for youth operating loans from the borrower training requirements. Though the statute states that the Secretary shall enter into contracts to provide training to all Farmer Programs borrowers, it also states that the need of a borrower who satisfies the training or farm experience requirement of CONACT section 302(a)(2) or section 312(a)(2) for borrower training will not be cause for denial of a loan or guarantee. Borrowers with Youth Loans are specifically excepted from the training or farm experience requirement by CONACT section 302(b); therefore, it appears that Congress did not intend the borrower training requirement to apply to youth loan applicants. Furthermore, application of the borrower training

requirement to youth applicants would yield ludicrous results. Youth applicants already are in training through their participation in 4–H Clubs, Future Farmers of America, and similar organizations as required by CONACT section 302(B).

List of Subjects

7 CFR Part 1910

Applications, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Marital status discrimination, Sex discrimination.

7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water resources.

7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—Agriculture.

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing, Debt restructuring.

7 CFR Part 1980

Agriculture, Loan programs—Agriculture.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1910—GENERAL

1. The authority citation for part 1910 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Receiving and Processing Applications

2. Section 1910.4 is amended by revising paragraph (b)(3) to read as follows:

§ 1910.4 Processing Applications.

* * * * * *

(b) * * *

(3) A brief written description as to the farm training and/or experience of the applicant and the individual members of an entity applicant (new applicants only). If a waiver from the training required in § 1924.74 of subpart B of part 1924 of this chapter is requested, provide verification of any courses taken which covered production and/or financial management concepts, and/or a statement explaining how the applicant's proven performance based on 5-year production records demonstrates production ability.

* * * * *

PART 1924—CONSTRUCTION AND REPAIR

3. The authority citation for part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Management Advice to Individual Borrowers and Applicants

4. Section 1924.59 is amended by adding paragraph (e)(7) to read as follows:

§ 1924.59 Supervision.

* * * * * *

(e) * * *

(7) Complete any training required by § 1924.74 of this subpart.

* * * * * *

§ 1924.73 [Amended]

5. Section 1924.73 is amended in paragraphs (a), (b)(2), and (b)(3) by revising the reference "§ 1924.60(d)" to read "§ 1924.60(c)."

6. Section 1924.74 is added to read as follows:

§ 1924.74 Borrower Training program.

(a) *Introduction.* (1) Supervised credit includes helping borrowers to develop the skills necessary for successful, efficient production and financial management of a farm business. An effective, formal training program provides a solid foundation on which borrowers can build the skills which will enable them to become efficient, financially sound producers who can obtain commercial financing. The goal of this training is for borrowers to develop and improve the financial and production management skills necessary to successfully operate a farm, build equity in the farm business, and become financially successful to graduate from FmHA programs to commercial sources of credit.

(2) The authorities contained in this section require certain Farmer Programs borrowers to obtain training in production and financial management concepts. Unless waived, this training will be an eligibility requirement for all Farmer Programs direct and guaranteed loans. The training requirement will also apply to all direct borrowers who receive Primary Loan Servicing actions approved under subpart S of part 1951 of this chapter, with the exception of net recovery buyout offers. Borrowers who do not request new loans or servicing actions will be notified during farm visits and annual analyses of approved courses in their area. Also, a current list of approved courses will be posted in the County Office.

(3) The training will be carried out by public and/or private sector providers of farm management and credit counseling services (including, but not limited to, community colleges, the Extension Service, State Departments of Agriculture, farm management firms, lenders, and similar qualified organizations).

(4) State Directors will enter into agreements with one or more qualified providers in each State to conduct the training.

(b) *Processing*—(1) *County Committee review.* The determination of an applicant/borrower's need for enhanced training in production and financial management concepts will be made by the County Committee. To make this determination, the Committee will review the case file (in the case of borrowers) and the complete application package for the assistance requested. A decision that the applicant/borrower needs such training cannot be used as a basis for rejecting the request for assistance. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator holding a majority interest in the entity or who is operating the farm must agree to complete the training on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities for production and/or financial management. This training must be completed within 2 years after Form FmHA 1924–23, "Agreement to Complete Training," is signed if a

waiver is not granted. The Committee's decision as to the requirement of training will be documented on Form FmHA 440–2, "County Committee Certification or Recommendation." When production training is required, a borrower must complete course work covering production management in crop or livestock enterprises which constitute twenty percent of the projected cash farm income for the coming production cycle, as determined by the County Committee. Borrowers who are adding a new enterprise must agree to complete any required production training in that enterprise unless a waiver is granted by the County Committee. The areas of production training will be specified on Form FmHA 440–2. Borrowers must also complete financial management training unless a waiver has been granted by the County Committee.

(i) *Loan applicants.* After the County Committee has determined that the applicant meets all eligibility criteria for the type of assistance requested, the Committee will consider the applicant's need for enhanced training in production and financial management concepts. Eligibility determinations and borrower training determinations should be made during the same Committee meeting. If the Committee determines the applicant is ineligible for assistance, the training requirement will not be considered.

(ii) *Requests for Primary Loan Servicing.* Prior to FmHA's offer of any Primary Loan Servicing action, the County Committee must determine whether the borrower must complete a training program or qualifies for a waiver. This determination should be made after a feasible plan has been developed using consolidation, rescheduling, reamortization, deferral, softwood timber, and/or writedown, but prior to FmHA's actual offer to restructure the borrower's accounts. This training requirement does not apply to those borrowers offered net recovery buyout or preservation loan servicing. If the borrower must complete a training program, fees will be included in the plan as an operating expense.

(2) *Waivers.* Applicants for loans and Primary Loan Servicing programs may request a waiver from the training requirement by submitting Form FmHA 1924–27, "Request for Waiver of Borrower Training Requirements," with the application for assistance. The waiver request must include the required documentation and records as specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this section. A waiver is not required for those applicants who have previously received a waiver, or who have previously satisfied the training requirements. The applicant/borrower must meet all training requirements for both production and financial management if no waiver is granted. If the borrower receives a waiver for production training, the requirements for financial management training must still be met. Conversely, if the borrower receives a waiver for financial management training, the requirements for production training must still be met. In the case of entity applicants, only those entity members who hold a majority interest in the operation or who operate the farm must meet the waiver conditions for the entity to qualify for a waiver. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities for production and/or financial management. The County Committee may waive the financial and/or production training requirements under the following conditions:

(i) The applicant has successfully completed an equivalent training program. To meet this requirement, the applicant must submit evidence of completion of a production and/or financial management course similar to a course approved under this section. The submission must include a description of the content and subjects covered in the course(s) completed by the applicant or entity members. The submission must also include evidence of completion, such as a grade report, certificate of completion, or written certification by the course instructor. The program must have covered subject areas in paragraph (d)(3)(iii) of this section. The County Committee will review the documentation submitted by the applicant(s) for assistance to determine whether the training completed satisfies the training requirements of this section; or

(ii) The applicant has the experience and/or training which demonstrates the abilities necessary for successful, efficient production as determined by the County Committee based on documentation provided by the applicant with the request for the waiver. This documentation must include, at a minimum, the applicant's production records for the past 5 years and a statement explaining how the records demonstrate production ability.

(3) *Notifying applicants/borrowers of the County Committee's decision regarding training.* The applicant/borrower will be informed of the County Committee's decision as follows:

(i) Loan applicants receiving a waiver from the training will be notified in the letter of eligibility, required under § 1910.6 of subpart A of part 1910 of this chapter. Applicants for Primary Loan Servicing actions who are receiving a waiver will be notified through exhibit B or exhibit F to subpart S of part 1951 of this chapter, as appropriate.

(ii) Loan applicants required to complete the training will be notified in the letter of eligibility. Applicants for Primary Loan Servicing actions who are required to complete the training will be notified through exhibit B or exhibit F to subpart S of part 1951 of this chapter, as appropriate. The notification will include the name(s) of the approved vendor(s) in the applicant/borrower's area and the specific courses required. The notification to the applicant/borrower will also include a description of the scoring system to be used to determine if the applicant/borrower has successfully met the training requirements. In both loan making and servicing cases, the decision to require certain training is not appealable. However, the decision is reviewable.

(4) *Notification of applicants determined ineligible for assistance.* In the letter informing them of the County Committee's decision, applicants determined ineligible for assistance due to lack of management training and experience will be notified, for their information, of training programs approved under this section. If the ineligible applicant chooses to enroll in a training program, eligibility for future assistance will not be automatic upon completion of the course. Applicants who complete an approved course and later apply for a new loan must still demonstrate that they possess sufficient training and experience to assure reasonable prospects of success and meet other eligibility requirements for the assistance requested.

(5) *Contacting vendor and payment.* Upon receiving the notification of the training requirement, the borrower is responsible for selecting and contacting a vendor(s), and making all arrangements to begin the training. FmHA is not a party to fee or other agreements between the borrower and the vendor. Training fees must be included in the plan of operation as a farm operating expense. Payment of training fees is an authorized use of operating loan funds.

(6) *Training agreement.* Prior to closing the loan or Primary Loan Servicing action, the applicant/borrower must sign Form FmHA 1924–23. This agreement will be placed in position 2 of the borrower case file.

(7) *Automated tracking system.* Field offices will process certain data to the automated Finance Office records in order to properly track borrower training-related information. Reference the automated system user manuals for more specific information on this automated tracking system.

(8) *County Office monitoring.* Required training will be included in Table C of Form FmHA 431–2. FmHA personnel will monitor borrower progress during farm visits and analyses in accordance with this subpart. The County Supervisor will also contact the borrower to follow up on unsatisfactory training progress reports. All contacts with the borrower will be noted in the running case record, together with the topics discussed and agreements reached.

(c) *Vendor's evaluation of borrower progress.*—(1) All required training must be completed within 2 years after the borrower signs Form FmHA 1924–23. The County Supervisor may grant a 1-year written extension to the agreement in cases where the borrower demonstrates he/she was unable to complete the training due to circumstances beyond his/her control, such as poor health or discontinuance of the necessary approved courses. Refusal to grant a 1-year extension is not an appealable decision.

(2) The vendor will provide FmHA with periodic progress reports. The frequency of these reports will be determined by the State Director. These reports are not intended to reflect a grade or score, but to indicate whether the borrower is attending sessions and honestly endeavoring to complete the training program. Upon completion of the training, the vendor will provide the County Office with an evaluation of the borrower's knowledge of the course material. This evaluation shall specifically address the borrower's improvement toward meeting the goals outlined in this section. The instructor will also assign the borrower a score according to the following criteria:

Score

1 The borrower attended classroom sessions as agreed, satisfactorily completed all assignments, and demonstrated an understanding of the course material.

2 The borrower attended classroom sessions as agreed and attempted to complete all assignments; however, the borrower does not demonstrate an understanding of the course material.

3 The borrower did not attend classroom sessions as agreed and/or did not attempt to complete assignments. In general, the borrower did not make a good faith effort to complete the training.

(i) Borrowers receiving a score of 1 will have met the requirements of the agreement. The accounts of these borrowers will be serviced in accordance with existing regulations.

(ii) Borrowers receiving a score of 2 will have met the requirements of the agreement. However, since these borrowers do not adequately demonstrate an understanding of the course material, the County Supervisor will develop a plan outlining the additional supervision the borrower will require to accomplish the objectives of FmHA assistance, such as recommending further training, more frequent farm visits, or retaining professional services of an accountant, farm management consultant, or similar expert based upon the borrower's abilities.

(iii) Borrowers receiving a score of 3 will not have met the requirements of the agreement for training. Failure to complete the training as agreed will cause the borrower to be ineligible for future FmHA benefits including future direct and guaranteed loans, Primary Loan Servicing, Interest Assistance renewals, and restructuring of guaranteed loans.

(d) *Selection and approval of organizations and courses.*—(1) *Identification of potential vendors.* Prior to the initial approval of vendors and prior to renewal of approved vendor's training agreements, the State Director or designee shall solicit applications from all interested organizations, keeping in mind its cultural diversity responsibilities. The State Director shall contact the Chief Executive Officer of the State and appropriate officials from the State Department of Agriculture, the State Extension Service, community colleges, and other private or nonprofit organizations which may be interested in conducting this training.

(2) *Application.* The vendor must submit the following items prior to consideration for approval:

(i) A sample of the course materials and a description of the method(s) of training to be used.

(ii) Specific training objectives for each section of the course. These objectives should relate to the general objectives outlined in paragraph (d)(3)(i) of this section.

(iii) A detailed course agenda specifying the topics to be covered, the time to be devoted to each topic, and the number of sessions to be attended.

(iv) A list of instructors and their qualifications, and the criteria by which additional instructors will be selected.

(v) The proposed locations where training will take place. These sites should be within a reasonable commuting distance for borrowers to be served by the vendor.

(vi) Cost per participant and/or cost per organization, *i.e.*, cost for husband/wife joint operation; father/son partnership; or multiple members of a corporation.

(vii) Minimum and/or maximum class size.

(viii) A description of the organization's experience in developing and administering training to farmers.

(ix) A description of the monitoring and/or quality control methods the organization intends to use.

(x) A description of the policy on allowing FmHA employees to attend the course for monitoring purposes, *i.e.*, the number of employees authorized to attend; the cost (if any); and the number of classes each employee can attend.

(xi) A description of how the needs of borrowers with physical and/or mental handicaps or learning disabilities will be met.

(xii) A plan of how the needs of borrowers for whom English is not their primary language will be met.

(3) *State Office review and recommendation.* Upon receipt of the application packages from the potential vendors, the State Director will review the material to assure the vendor's proposal meets the following minimum criteria for accomplishment of educational objectives, instructor qualifications, curriculum content, and vendor qualification:

(i) *Educational objectives.* Upon completion of the course, the borrower shall be able to:

(A) Describe the specific goals of the business, describe what changes are required to attain the business goals, and outline how these changes will occur using present and projected enterprise budgets.

(B) Maintain and utilize a financial management information system which includes financial and production records, a household budget, a statement of financial condition, and an accrual adjusted income statement. The borrower shall also be able to use this system when making financial and production decisions.

(C) Understand and utilize an income statement. Specifically, the borrower must understand the structure and

VOL 58 ISS 249 DEC 30 1993 UMI

VOL 58 ISS 249 DE 30 1993 UMI

major components of an income statement and its role in analyzing the performance of a business, be familiar with the cash and accrual methods of determining net farm income, and understand the relationship between a balance sheet and an income statement.

(D) Understand and utilize a balance sheet. Specifically, the borrower must understand the major components of a balance sheet and its role in analyzing the business, be familiar with the categories of assets and liabilities and be able to provide examples of entries under each, and be familiar with the cost and market methods of valuing assets and liabilities and the advantages of each method.

(E) Understand and utilize a cash flow budget. Specifically, the applicant must be able to explain and justify estimates for production and expenses, and analyze the cash flow to identify potential problems.

(F) Using production records and other production information, be able to identify problems, evaluate alternatives, and make needed corrections to current production practices to achieve greater efficiency and profitability.

(ii) *Instructor qualifications.* Instructor qualifications will be reviewed to assure sufficient knowledge of the material and sufficient experience in adult education. The instructors must have a bachelor's degree or comparable experience in the subject area they will teach and a minimum of three years experience in conducting training courses or teaching. Also, the instructors must successfully complete any instructor training which may be associated with the FmHA-approved course.

(iii) *Curriculum.* The curriculum shall be reviewed to assure that the following subject matter is sufficiently addressed. A single vendor is not required to provide all the courses necessary to cover the entire curriculum; however, to the extent practicable, all topics must be available for all FmHA districts. The State Director shall identify the specific crop or livestock enterprises for which training must be available in a given area or district, and any additional subject matter to be covered for each.

(A) *Business Planning.* The course(s) shall cover the general areas of goal setting, risk management, and planning. Goal setting will include identification of personal and family goals, business goals, and short- and long-term goals. Risk management concepts will include the sources, magnitude and frequency of risk, risk tolerance, risk-taking ability of the business, and strategies for managing risk such as use of credit, marketing, production practices, and insurance. Finally, the course(s) will guide the borrower through the formulation of a long-term business plan for the farm and presentation of this plan to a lender.

(B) *Financial Management Systems.* The course(s) shall cover all aspects of farm accounting, specifically: Instruction in financial record keeping, preparation of a household budget, development and analysis of accrual adjusted income statements, balance sheets, and cash flow budgets. The course(s) shall focus on integrating these elements into a financial management system which enables the borrower to make business decisions based on his/her analysis of financial information.

(C) *Crop Production.* The course(s) shall focus on improving the profitability of the borrower's crop enterprises. Specifically, the course shall address keeping and analyzing production records, identifying problems in current production practices, identifying sources of production information and assistance, and using production information to analyze alternatives and identify the most profitable solution.

(D) *Livestock Production.* The course(s) shall focus on improving the profitability of the borrower's livestock enterprises. Specifically, the course shall address keeping and analyzing production records, identifying problems in current production practices, identifying sources of production information and assistance, and using production information to analyze alternatives and identify the most profitable solution.

(iv) *Vendor.* The proposed vendor of the training must have demonstrated a minimum of three years experience in conducting training courses or teaching the proposed subject matter.

(4) *Approval.* After review of the applications, the State Director shall determine which vendors should be recommended for final approval. Complete application packages from the selected vendors should be submitted to the National Office for concurrence prior to final approval. Applications from accredited colleges (including community colleges) or universities, however, do not require National Office concurrence prior to final approval. If all of the instructors have not been selected at the time of request for approval of the vendor, the vendor may be approved with the condition that instructors will meet the criteria set out in paragraph (d)(3)(ii) of this section. After approval, the State Director and the vendor(s) will sign Form FmHA 1924–24, "Agreement to Conduct Production and Financial Management Training for Farmers Home Administration Borrowers." This agreement will be valid for three years, unless revoked in writing and giving 30 days notice by the State Director or the vendor. The State Director may revoke the agreement if the vendor does not comply with the responsibilities listed in the agreement. Such revocation is nonappealable. The State Director will issue a State supplement to this subpart listing the approved vendor(s), the contact person for the vendor, the terms of the vendor agreements, and the subject matter in which each vendor is approved to conduct training.

(5) *Renewals.* Renewal of agreements to conduct training will not be automatic. The vendor must request renewal in writing, provide updates to any changes in curricula, and provide information which indicates the training provided by the vendor is effective. Such information may include course evaluations, test scores, or statistics on the improvement of borrowers who have completed the course. The State Director must obtain National Office concurrence on any decisions to deny renewal of a vendor's agreement. A decision to deny renewal of a vendor's agreement is nonappealable.

(e) *Vendor monitoring.* An operational file will be maintained in the State Office for each approved vendor. This file will include the application, National Office concurrence (if required), the signed Form FmHA 1924–24, documentation of FmHA's monitoring of the vendor, and any further documentation to determine the success of the vendor's program. To assure the training organization is correctly and effectively implementing the training as proposed, the State Director or designee will be responsible for monitoring the vendor. This monitoring shall, as a minimum, consist of:

(1) Attendance at selected training sessions for each vendor to verify that the agreed-upon subject matter is being covered in sufficient detail and to assess the effectiveness of the training provided by the instructors.

(2) Review of course and instructor evaluations. Course and instructor evaluations will be completed by the borrowers on Form FmHA 1924–22, "Borrower Training Course Evaluation." This form will be provided to the borrowers by the instructor as they complete the course. The evaluations will be forwarded to the State Director for review. The results will be summarized and made part of the operational file on each vendor.

(3) Monitoring of borrowers' improvement upon completion of a course. The State Director will analyze statistics regarding borrower performance, such as the graduation and delinquency of borrowers who have completed the required training course.

PART 1941—OPERATING LOANS

7. The authority citation for part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

8. Section 1941.12 is amended by adding paragraph (c) to read as follows:

§ 1941.12 Eligibility requirements.

* * * * *

(c) *Borrower training.* Except for applicants for youth loans, all applicants must agree to meet the training requirements of § 1924.74 of subpart B of part 1924 of this chapter unless a waiver is granted in accordance with that section. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator holding a majority interest in the operation or who is operating the farm must agree to complete the training or qualify for the waiver on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities. If the applicant has previously been required to obtain training, the applicant must be enrolled in and attending, or have satisfactorily completed, the training required.

§ 1941.14 [Amended]

9. Section 1941.14 is amended by revising in paragraph (a)(3) the words "Item D" to read "Table C."

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

10. The authority citation for part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

11. Section 1943.12 is amended by adding paragraph (c) to read as follows:

§ 1943.12 Farm ownership loan eligibility requirements.

* * * * *

(c) *Borrower training.* The applicant must agree to meet the training requirements of § 1924.74 of subpart B of part 1924 of this chapter unless a waiver is granted in accordance with that section. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator holding a majority interest in the operation or who is operating the farm must agree to complete the training or qualify for the waiver on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities. If the applicant has previously been required to obtain training, the applicant must be enrolled in and attending, or have satisfactorily completed, the training required.

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

12. Section 1943.62 is amended by adding paragraph (c) to read as follows:

§ 1943.62 Soil and water loan eligibility requirements.

* * * * *

(c) *Borrower training.* The applicant must agree to meet the training requirements of § 1924.74 of subpart B of part 1924 of this chapter unless a waiver is granted in accordance with that section. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator holding a majority interest in the operation or who is operating the farm must agree to complete the training or qualify for the waiver on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities. If the applicant has previously been required to obtain training, the applicant must be enrolled in and attending, or have satisfactorily completed, the training required.

PART 1945—EMERGENCY

13. The authority citation for part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart D—Emergency Loan Policies, Procedures, and Authorizations

14. Section 1945.162 is amended by adding paragraph (m) to read as follows:

§ 1945.162 Eligibility requirements.

* * * * *

(m) *Borrower training.* The applicant must agree to meet the training requirements of § 1924.74 of subpart B of part 1924 of this chapter unless a waiver is granted in accordance with that section. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator holding a majority interest in the operation or who is operating the farm must agree to complete the training or qualify for the waiver on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities. If the

applicant has previously been required to obtain training, the applicant must be enrolled in and attending, or have satisfactorily completed, the training required.

PART 1951—SERVICING AND COLLECTIONS

15. The authority citation for part 1951 is revised to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart S—Farmer Program Account Servicing Policies

16. Section 1951.909 is amended by adding paragraphs (a)(3) and (c)(5) to read as follows:

§ 1951.909 Processing Primary Loan Service Programs requests.

(a) * * *

(3) If the borrower's completed application for Primary Loan Servicing includes a request for a waiver from the training required in paragraph (c)(5) of this section, the County Committee will, prior to the County Supervisor's offer of any Primary Loan Servicing, evaluate the borrower's knowledge and ability in production and financial management and determine the need for additional training as set forth in § 1924.74 of subpart B of part 1924 of this chapter.

* * * * *

(c) * * *

(5) The borrower must agree to meet the training requirements of § 1924.74 of subpart B of part 1924 of this chapter unless a waiver is granted in accordance with that section. The training requirement applies to all primary loan servicing programs, except for net recovery buyout offers. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator holding a majority interest in the operation or who is operating the farm must agree to complete the training or qualify for the waiver on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities. If the borrower has previously been required to obtain training, the borrower must be enrolled in and attending, or have satisfactorily completed, the training required to be considered eligible.

* * * * *

17. Attachment 1 of exhibit A of subpart S is amended by adding paragraph II (4) to read as follows:

Attachment 1 of Exhibit A of Subpart S—Primary and Preservation Loan Service and Debt Settlement Programs Purpose

* * * * *

II. * * *

(4) You must agree to meet, at your own cost, FmHA's training requirements in production and financial management. The cost will be included in your farm plan as an operating expense. The training must be completed within 2 years from the date of restructuring. The County Committee may waive this requirement if you are able to demonstrate that you have adequate training in this area. To request a waiver of this training requirement, complete Form FmHA 1924–27, "Request for Waiver of Borrower Training Requirements," and submit with your request for FmHA servicing. This training requirement is not applicable if you have previously received a waiver or you have successfully completed the required FmHA Borrower Training program.

* * * * *

18. Exhibit B of subpart S is amended by adding four paragraphs between the paragraphs beginning with the words "The attached computer printout * * *" and "If you want * * *" to read as follows:

Exhibit B of Subpart S—Notification of Offer To Restructure Debt for Financially Distressed Borrowers Current on Their Loan Payments

* * * * *

(If production and/or financial management training is to be required, insert the following paragraphs and attach a list of the courses the borrower is required to complete and a list of approved vendors in the borrower's area for these courses:)

As a condition of this restructuring, you must agree to meet, at your own cost, FmHA's training requirements which provide instruction in production and financial management within 2 years of the date your loans are restructured. The cost will be included in your farm plan as an operating expense. Upon completion of the training course(s), the instructor will assign a score according to the following criteria:

Score

1 The borrower attended classroom sessions as agreed, satisfactorily completed all assignments, and demonstrated an understanding of the course material.

2 The borrower attended classroom sessions as agreed and attempted to complete all assignments; however, the borrower does not demonstrate an understanding of the course material.

3 The borrower did not attend classroom sessions as agreed and/or did not attempt to complete assignments. In general, the borrower did not make a good faith effort to complete the training.

Attached is a list of courses you will be required to complete to fulfill the training requirement. A list of approved vendors in your area for these courses is also attached. Any denial of a request for a waiver of the training requirement is not appealable. If you fail to complete the training as agreed, you will be ineligible for future FmHA benefits including future Farmer Programs direct and guaranteed loans, Primary Loan Servicing, Interest Assistance renewals, and restructuring of guaranteed loans.

(If production and/or financial management training is being waived, insert the following sentence:)

The County Committee has waived the training requirement for the restructuring offered in this notice.

* * * * *

19. Exhibit F of Subpart S is amended by adding, in the section titled "Offer", four paragraphs between the paragraphs beginning with the words "The attached computer * * *" and "If you want * * *" to read as follows:

Exhibit F of Subpart S—Notification of Offer to Restructure Debt

* * * * *

Offer

* * * * *

(If production and/or financial management training is to be required, insert the following paragraphs and attach a list of the courses the borrower is required to complete and a list of approved vendors in the borrower's area for these courses:)

As a condition of this restructuring, you must agree to meet, at your own cost, FmHA's training requirements which provide instruction in production and financial management within 2 years of the date your loans are restructured. The cost will be included in your farm plan as an operating expense. Upon completion of the training course(s), the instructor will assign a score according to the following criteria:

Score

1 The borrower attended classroom sessions as agreed, satisfactorily completed all assignments, and demonstrated an understanding of the course material.

2 The borrower attended classroom sessions as agreed and attempted to complete all assignments; however, the borrower does not demonstrate an understanding of the course material.

3 The borrower did not attend classroom sessions as agreed and/or did not attempt to complete assignments. In general, the borrower did not make a good faith effort to complete the training.

Attached is a list of courses you will be required to complete to fulfill the training requirement. A list of approved vendors in your area for these courses is also attached. Any denial of a request for a waiver of the training requirement is not appealable. If you fail to complete the training as agreed, you will be ineligible for future FmHA benefits including future Farmer Programs direct and guaranteed loans, Primary Loan Servicing, Interest Assistance renewals, and restructuring of guaranteed loans.

(If production and/or financial management training is being waived, insert the following sentence:)

The County Committee has waived the training requirement for the restructuring offered in this notice.

* * * * *

PART 1980—GENERAL

20. The authority citation for part 1980 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Farmer Program Loans

21. Section 1980.115 is amended by adding Administrative paragraph B. 3. d. to read as follows:

§ 1980.115 County Committee Review.

* * * * *

ADMINISTRATIVE

* * * * *

B. * * *

3. * * *

d. If training is required under § 1980.191 of this subpart, the lender will be required to have the borrower sign Form FmHA 1924–23, "Agreement to Complete Training." The lender will forward the signed form to the County Office.

* * * * *

22. Section 1980.124 is amended by revising paragraph (a)(4) to read as follows:

§ 1980.124 Consolidation, rescheduling, reamortizing and deferral.

(a) * * *

(4) The borrower has acted in good faith by demonstrating sincerity and honesty in meeting agreements with, and promises made to, the lender and/or FmHA. This includes cooperating in servicing the account, maintaining the security, and satisfactorily completing the Borrower Training program, if required.

* * * * *

23. Section 1980.175 is amended by reserving paragraph (b)(3) and by adding paragraph (b)(4) to read as follows:

§ 1980.175 Operating loans.

* * * * *

(b) * * *

(3) [Reserved]

(4) The loan applicant must agree to meet the training requirements of § 1980.191 of this subpart unless a waiver is granted as set forth in that section. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator holding a majority interest in the operation or who is operating the farm must agree to complete the training or qualify for the waiver on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities. If the loan applicant has previously been required to obtain training, the loan applicant must be enrolled in and attending, or have satisfactorily completed, the training required. Borrowers applying for restructuring of guaranteed loans will not be required to complete training; however, if training has been required as part of a previous loan making action, the borrower must be enrolled and attending, or have satisfactorily completed, the training required.

* * * * *

24. Section 1980.191 is added to read as follows:

§ 1980.191 Borrower Training program.

(a) *Introduction.* (1) Supervised credit includes helping borrowers to develop the skills necessary for successful, efficient production and financial management of a farm business. An effective, formal training program provides a solid foundation on which borrowers can build the skills which will enable them to become efficient, financially sound producers who can obtain commercial financing. The goal of this training is for borrowers to develop and improve the financial and production management skills necessary to successfully operate a farm, build equity in the farm business, and graduate from FmHA programs to commercial sources of credit.

(2) The authorities contained in this section require borrowers with Farmer Programs loans from lenders guaranteed by FmHA to obtain training in production and financial management concepts. Unless waived, this training will be an eligibility requirement for all Farmer Programs direct and guaranteed loans.

(3) The training will be carried out by public and/or private sector providers of farm management and credit counseling services (including, but not limited to, community colleges, the Extension Service, State Departments of Agriculture, farm management firms, lenders, and similar qualified organizations).

(4) State Directors will enter into agreements with one or more qualified providers in each State to conduct the training.

(b) *Processing.* (1) *County Committee review.* The determination of an applicant/borrower's need for enhanced training in production and financial management concepts will be made by the County Committee. To make this determination, the Committee will review the case file (in the case of borrowers) and the complete application package for the assistance requested. A decision that the applicant/borrower needs such training cannot be used as a basis for rejecting the request for assistance. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator holding a majority interest in the operation or who is operating the farm must agree to complete the training on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities for production and/or financial management. This training must be completed within 2 years after Form FmHA 1924–23 is signed if a waiver is not granted. The Committee's decision as to the requirement of training will be documented on Form FmHA 440–2. When production training is required, a borrower must complete course work covering production management in crop or livestock enterprises which constitute twenty percent of the cash farm income for the coming production cycle, as determined by the County Committee. Borrowers who are adding a new enterprise must agree to complete

VOL 58 ISS 249 DEC 30 1993 UMI

any required production training in that enterprise unless a waiver is granted by the County Committee. The areas of production training will be specified on Form FmHA 440–2. Borrowers must also complete financial management training unless a waiver has been granted by the County Committee. In the case of loan applicants, the training requirement will be considered after the County Committee has determined that the applicant meets all eligibility criteria for the type of assistance requested. Eligibility determinations and borrower training determinations should be made during the same Committee meeting. If the Committee determines the applicant is ineligible for assistance, the training requirement will not be considered.

(2) *Waivers.* Lenders may request a waiver from the training requirement on behalf of the loan applicant by submitting Form FmHA 1980–83, "Request for Waiver of Borrower Training Requirements for Guaranteed Loan Applicants," or a written request which includes evidence that the loan applicant meets at least one of the waiver conditions listed in paragraphs (b)(2)(i) and (b)(2)(ii) of this section. The request should be submitted as part of a complete application for the assistance requested. However, lenders do not need to provide this information for loan applicants who have previously received a waiver or who have previously satisfied the training requirements. The loan applicant/borrower must meet all training requirements for both production and financial management if no waiver is granted. If the loan applicant/borrower receives a waiver for production training, the requirements for financial management training must still be met. Conversely, if the loan applicant/borrower receives a waiver for financial management training, the requirements for production training must still be met. In the case of entity applicants, only those entity members holding a majority interest in the entity or operating the farm must meet the waiver conditions for the entity to qualify for a waiver. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities for production and/or financial management. The County Committee may waive the financial and/or production training requirements under the following conditions:

(i) The loan applicant has successfully completed an equivalent training program. To meet this requirement, the loan applicant must submit via the lender evidence of completion of a program similar to a course approved under this section. The submission must include a description of the content and subjects covered in the program completed by the applicant or entity members. The submission must also include evidence of completion, such as a grade report, certificate of completion, or written certification by the course instructor. The program must have covered all subject areas in paragraph (d)(3)(iii) of this section, including the appropriate production management courses. If applicable, CLP lenders will certify that loan applicants have completed a program similar to a course approved under this section and will assemble the necessary documentation. However, CLP lenders will not be required to submit the documentation to FmHA with the request for assistance. The County Committee will review the documentation submitted by the lender for assistance to determine whether the training completed satisfies the training requirements of this section; or

(ii) The loan applicant has demonstrated adequate knowledge and ability in the subject areas covered under this training program by performing the tasks described under paragraph (d)(3)(i) of this section and the guaranteed lender has recommended a waiver. To recommend a waiver, the lender must prepare a brief narrative describing the loan applicant's past production and/or financial management performance specifically related to satisfaction of the course objectives. The County Committee will review the loan narrative and other available information to determine if the loan applicant has demonstrated adequate knowledge and ability in the subject areas covered by the training program.

(3) *Notifying lenders and loan applicants of the County Committee's decision regarding training.* The lender and loan applicant will be informed of the County Committee's decision as follows:

(i) Loan applicants receiving a waiver from the training and the lender requesting the guarantee will be notified in the letter of eligibility required under § 1980.115 of this subpart.

(ii) Loan applicants required to complete the training and their lenders will be notified in the letter of eligibility. The requirement will also be specified in Form FmHA 1980–15. The notification will include the name(s) of the approved vendor(s) in the loan applicant's area and the specific production courses required. The notification will also include a description of the scoring system to be used to determine if the loan applicant has successfully met the training requirements. The decision to require training is not appealable. However, the decision is reviewable.

(4) *Notification of loan applicants determined ineligible for assistance.* In the letter informing them of the County Committee's decision, applicants determined ineligible for assistance due to lack of management training and experience will be notified, for their information, of training programs approved under this section. If the ineligible applicant chooses to enroll in a training program, eligibility for future assistance will not be automatic upon completion of the course. Loan applicants who complete an approved course and later apply for a new loan must still demonstrate that they possess sufficient training and experience to assure reasonable prospects of success and meet other eligibility requirements for the assistance requested.

(5) *Contacting vendor and payment.* Upon receiving the notification of the training requirement, the loan applicant is responsible for selecting and contacting a vendor(s), and making all arrangements to begin the training. The lender may recommend an approved vendor. FmHA is not a party to any agreements between the loan applicant and the vendor. Training fees must be included in the plan of operation as a farm operating expense. Payment of training fees is an authorized use of operating loan funds.

(6) *Training agreement.* Before the lender closes the loan, the loan applicant must sign Form FmHA 1924–23. The lender will return the signed agreement to FmHA along with the other closing documents associated with the guaranteed loan. The agreement will be placed in position 2 of the case file.

(7) *Automated tracking system.* A training code for each borrower must be entered into the automated tracking system at the time the loan is obligated. This code is necessary in all cases, even if the County Committee granted the borrower a waiver from the

requirements of the Borrower Training program.

(8) *County Office Monitoring.* FmHA personnel will monitor borrower progress in the training program based on periodic progress reports from the lender. If an unsatisfactory progress report is received, FmHA will schedule a meeting with the lender. The meeting will be documented in the running case record and will include the topics discussed and agreements reached. Copies of this documentation will be provided to the lender and the borrower.

(c) *Vendor's evaluation of borrower progress.* (1) All required training must be completed within 2 years after the borrower signs Form FmHA 1924–23. The County Supervisor may grant a 1-year written extension to the agreement, upon recommendation by the lender, in cases where the borrower demonstrates he/she was unable to complete the training due to circumstances beyond his/her control, such as poor health, or discontinuance of the necessary approved courses. Refusal to grant a 1-year extension is not an appealable decision.

(2) The vendor will provide the lender and FmHA with periodic progress reports. The frequency of these reports will be determined by the State Director. These reports are not intended to reflect a grade or score, but to indicate whether the borrower is attending sessions and honestly endeavoring to complete the training program. Upon completion of the training, the vendor will provide the lender and FmHA with an evaluation which shall specifically address the borrower's improvement toward meeting the goals outlined in this section. The instructor will also assign the borrower a recommended score according to the following criteria:

Score

1 The borrower attended classroom sessions as agreed, satisfactorily completed all assignments, and demonstrated an understanding of the course material.

2 The borrower attended classroom sessions as agreed and attempted to complete all assignments; however, the borrower does not demonstrate an understanding of the course material.

3 The borrower did not attend classroom sessions as agreed and/or did not attempt to complete assignments. In general, the borrower did not make a good faith effort to complete the training.

(i) Borrowers receiving a score of 1 will have met the requirements of the agreement. The accounts of these borrowers will be serviced in accordance with existing regulations.

(ii) Borrowers receiving a score of 2 will have met the requirements of the agreement. However, since these borrowers do not adequately understand the course material, the lender and the County Supervisor will develop a plan outlining the additional supervision the borrower will require to accomplish the objectives of FmHA assistance.

(iii) Borrowers receiving a score of 3 will not have met the requirements of the agreement for training. Failure to complete the training as agreed will cause the borrower to be ineligible for future FmHA benefits including future direct and guaranteed loans, Primary Loan Servicing of direct Farmer Programs loans, Interest Assistance renewals, and restructuring of guaranteed loans.

(d) *Selection and approval of organizations and courses.* (1) *Identification of potential vendors.* Prior to the initial approval of vendors and prior to renewal of approved vendor's training agreements, the State Director or designee shall solicit applications from all interested organizations, keeping in mind its cultural diversity responsibilities. The State Director shall contact the Chief Executive Officer of the State and appropriate officials from the State Department of Agriculture, the State Extension Service, community colleges, and other private or nonprofit organizations which may be interested in conducting this training.

(2) *Application.* The vendor must submit the following items prior to consideration for approval:

(i) A sample of the course materials and a description of the method(s) of training to be used.

(ii) Specific training objectives for each section of the course. These objectives should relate to the general objectives outlined in paragraph (d)(3)(i) of this section.

(iii) A detailed course agenda specifying the topics to be covered, the time to be devoted to each topic, and the number of sessions to be attended.

(iv) A list of instructors and their qualifications, and the criteria by which additional instructors will be selected.

(v) The proposed locations where the training will take place. The sites should be within a reasonable commuting distance for borrowers to be served by the vendor.

(vi) Cost per participant and/or cost per organization, *i.e.* cost for husband/wife joint operation; father/son partnership; or multiple members of a corporation.

(vii) Minimum and/or maximum class size.

(viii) A description of the organization's experience in developing and administering training to farmers.

(ix) A description of the monitoring and/or quality control methods the organization intends to use.

(x) A description of the policy on allowing FmHA employees to attend the course for monitoring purposes, *i.e.*, the number of employees authorized to attend; the cost (if any); and the number of classes each employee can attend.

(xi) A description of how the needs of borrowers with physical and/or mental handicaps or learning disabilities will be met.

(xii) A plan of how the needs of borrowers for whom English is not their primary language will be met.

(3) *State Office review and recommendation.* Upon receipt of the application packages from the potential vendors, the State Director will review the material to assure the vendor's proposal meets the following minimum criteria for accomplishment of educational objectives, instructor qualifications, curriculum content, and vendor qualification:

(i) *Educational objectives.* Upon completion of the course, the borrower shall be able to:

(A) Describe the specific goals of the business, describe what changes are required to attain the business goals, and outline how these changes will occur using present and projected enterprise budgets.

(B) Maintain and utilize a financial management information system which includes financial and production records, a household budget, a statement of financial condition, and an accrual adjusted income statement. The borrower shall also be able to use this system when making financial and production decisions.

(C) Understand and utilize an income statement. Specifically, the borrower must understand the structure and major components of an income statement and its role in analyzing the performance of a business, be familiar with the cash and accrual methods of determining net farm income, and understand the relationship between a balance sheet and an income statement.

(D) Understand and utilize a balance sheet. Specifically, the borrower must understand the major components of a balance sheet and its role in analyzing the business, be familiar with the categories of assets and liabilities and be able to provide examples of entries under each, and be familiar with the cost and market methods of valuing assets and liabilities and the advantages of each method.

(E) Understand and utilize a cash flow budget. Specifically, the applicant must be able to explain and justify estimates for production and expenses, and

analyze the cash flow to identify potential problems.

(F) Using production records and other production information, be able to identify problems, evaluate alternatives, and make needed corrections to current production practices to achieve greater efficiency and profitability.

(ii) *Instructor qualifications.* Instructor qualifications will be reviewed to assure sufficient knowledge of the material and sufficient experience in adult education. The instructors must have a bachelor's degree or comparable experience in the subject area which they will teach and a minimum of three years experience in conducting training courses or teaching. Also, the instructors must successfully complete any instructor training which may be associated with the FmHA approved course.

(iii) *Curriculum.* The curriculum shall be reviewed to assure that the following subject matter is sufficiently addressed. A single vendor is not required to provide all the courses necessary to cover the entire curriculum; however, to the extent practicable, all topics must be available for all FmHA districts. The State Director shall identify the specific crop or livestock enterprises for which training must be available in a given area or district, and any additional subject matter to be covered for each.

(A) *Business Planning.* The course(s) shall cover the general areas of goal setting, risk management, and planning. Goal setting will include identification of personal and family goals, business goals, and short- and long-term goals. Risk management concepts will include the sources, magnitude and frequency of risk, risk tolerance, risk taking ability of the business, and strategies for managing risk such as use of credit, marketing, production practices, and insurance. Finally, the course(s) will guide the borrower through the formulation of a long term business plan for the farm and presentation of this plan to a lender.

(B) *Financial Management Systems.* The course(s) shall cover all aspects of farm accounting, specifically: instruction in financial record keeping, preparation of a household budget, development and analysis of accrual adjusted income statements, balance sheets, and cash flow budgets. The course(s) shall focus on integrating these elements into a financial management system which enables the borrower to make business decisions based on his/her analysis of financial information.

(C) *Crop Production.* The course(s) shall focus on improving the profitability of the borrower's crop enterprises. Specifically, the course shall address keeping and analyzing production records, identifying problems in current production practices, identifying sources of production information and assistance, and using production information to analyze alternatives and identify the most profitable solution.

(D) *Livestock Production.* The course(s) shall focus on improving the profitability of the borrower's livestock enterprises. Specifically, the course shall address keeping and analyzing production records, identifying problems in current production practices, identifying sources of production information and assistance, and using production information to analyze alternatives and identify the most profitable solution.

(iv) *Vendor.* The proposed vendor of the training must have demonstrated a minimum of 3 years experience in conducting training courses of similar scope or teaching in the proposed subject matter.

(4) *Approval.* After review of the applications, the State Director shall determine which vendors should be recommended for final approval. Complete application packages from the selected vendors should be submitted to the National Office for concurrence prior to final approval. Applications from accredited colleges (including community colleges) or universities, however, do not require National Office concurrence prior to final approval. If all of the instructors have not been selected at the time of request for approval of the vendor, the vendor may be approved with the condition that instructors will meet the criteria set out in paragraph (d)(3)(ii) of this section. After approval, the State Director and the vendor(s) will sign Form FmHA 1924–24, "Agreement to Conduct Production and Financial Management Training for Farmers Home Administration Borrowers." This agreement will be valid for three years, unless revoked in writing, giving 30 days notice by the State Director or the vendor. The State Director may revoke the agreement if the vendor does not comply with the responsibilities listed in the agreement. Such revocation is nonappealable. The State Director will issue a State supplement to this subpart listing the approved vendor(s), the contact person for the vendor, the terms of the vendor agreements, and the subject matter in which each vendor is approved to conduct training.

(5) *Renewals.* Renewal of agreements to conduct training will not be automatic. The vendor must request renewal in writing, provide updates to any changes in curricula, and provide information which indicates the training provided by the vendor is effective. Such information may include course evaluations, test scores, or statistics on the improvement of borrowers who have completed the course. The State Director must obtain National Office concurrence in any decisions to deny renewal of a vendor's agreement. A decision to deny renewal of a vendor's agreement is nonappealable.

(e) *Vendor monitoring.* An operational file will be maintained in the State Office for each approved vendor. This file will include the application, National Office concurrence (if required), the signed Form FmHA 1924–24, documentation of FmHA's monitoring of the vendor, and any further documentation to determine the success of the vendor's program. To assure the training organization is correctly and effectively implementing the training as proposed, the State Director or designee will be responsible for monitoring the vendor. This monitoring shall, as a minimum, consist of:

(1) Attendance at selected training sessions for each vendor to verify that the agreed-upon subject matter is being covered in sufficient detail and to assess the effectiveness of the training provided by the instructors.

(2) Review of course and instructor evaluations. Course and instructor evaluations will be completed by the borrowers on Form FmHA 1924–22, "Borrower Training Course Evaluation." This form will be provided to the borrowers by the instructor as they complete the course. The evaluations will be forwarded to the State Director for review. The results will be summarized and made part of the operational file on each vendor.

(3) Monitoring of borrowers' improvement upon completion of a course. The State Director will analyze statistics regarding borrower performance, such as the graduation and delinquency of borrowers who have completed the required training course.

25. Exhibit D to subpart B is amended by adding paragraph IV. J. to read as follows:

Exhibit D to Subpart B—Interest Assistance Program

* * * * *

IV. * * *

J. If the loan applicant has previously been required to obtain training in accordance with § 1980.191 of this subpart, the loan applicant must be enrolled in and attending, or have satisfactorily completed, the training required.

* * * * *

Dated: November 24, 1993.

Bob J. Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 93–31295 Filed 12–29–93; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 212, 214, 235, and 274a

[INS No. 1611–93]

RIN 1115–AB72

Temporary Entry of Business Persons Under the North American Free Trade Agreement (NAFTA)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements provisions of the North American Free Trade Agreement (NAFTA) by amending the Immigration and Naturalization Service (Service) regulations to establish procedures for the temporary entry of Canadian and Mexican citizen business persons into the United States. This rule will facilitate temporary entry on a reciprocal basis among the United States, Canada, and Mexico, while recognizing the continued need to ensure border security, and to protect indigenous labor and permanent employment in all three countries.

DATES: The effective date is January 1, 1994. Written comments must be submitted on or before February 28, 1994.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1611–93 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Jacquelyn A. Bednarz, Chief, Nonimmigrant Branch, Immigration and Naturalization Service, 425 I Street, NW., room 7122, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: On December 17, 1992, the Presidents of the United States and Mexico and the Prime Minister of Canada entered into the North American Free Trade Agreement (NAFTA). Implementation of this agreement has been provided for by the North American Free Trade Agreement Implementation Act (NAFTA Implementation Act), Public Law 103–182. The NAFTA Implementation Act was signed into law by the President of the United States on December 8, 1993. The NAFTA is currently set to enter into force on January 1, 1994.

This rule pertains to Canadian and Mexican citizen temporary visitors for business seeking classification under section 101(a)(15)(B) of the Immigration and Nationality Act (Act), to Canadian and Mexican citizen treaty traders and investors seeking classification under section 101(a)(15)(E) of the Act, to Canadian and Mexican citizen temporary workers seeking classification under section 101(a)(15)(L) of the Act, and to Canadian and Mexican citizens seeking classification for engagement in activities at a professional level under section 214(e) of the Act, as amended by section 341(b) of the NAFTA Implementation Act.

This rule establishes procedures for the temporary entry of Canadian and Mexican citizen business persons as provided in chapter 16 of the NAFTA and subtitle D of title III of the NAFTA Implementation Act. Chapter 16, subtitle D of title III, and this rule reflect the special trading relationship now established between the United States, Canada, and Mexico, and recognize the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for such temporary entry. At the same time, full recognition is given to the continued need to ensure border security while protecting the domestic labor force and permanent employment in all three countries.

The immigration-related provisions of the NAFTA are similar to those contained within the United States-Canada Free Trade Agreement (CFTA), which has been in force since January 1, 1989. The CFTA will be suspended when the NAFTA enters into force. The NAFTA provisions relate to the same four nonimmigrant classifications which were impacted by the CFTA: B–1, E, L–1, and Professional (previously designated TC for Canadian citizens under CFTA and redesignated TN for Canadian and Mexican citizens under NAFTA).

Section D of Annex 1603 of the NAFTA, however, permits the United States to establish a numerical limit with respect to professionals from Mexico for a transition period of up to ten years. Under Appendix 1603.D.4 of the NAFTA, beginning on the date of entry into force of the NAFTA, the numerical limit is set at 5,500 for such Trade Professionals annually. The United States and Mexico may mutually agree to increase the numerical limit or eliminate it entirely prior to the end of the ten year period.

Along with the numerical limit, citizens of Mexico who seek classification as a professional must do so on the basis of a petition filed by a United States employer. Before the employer may file the petition, it will be required to meet the labor attestation requirements of section 212(m) of the Act in the case of a registered nurse, and the application requirement of section 212(n) of the Act in the case of all other professionals set out in Appendix 1603.D.1 of the NAFTA.

Additionally, Article 1603 of the NAFTA states that each party to the agreement may refuse to issue an immigration document to a NAFTA business person where the temporary entry of that person may affect adversely the settlement of any labor dispute in progress at the place or intended place of employment, or if temporary entry would affect adversely the employment of any person involved in such dispute. The regulations relating to classification and admission of citizens of Canada and Mexico in the E, L–1, and Professional categories have been amended to reflect this provision. These provisions are designed to protect the domestic labor force of each signatory country.

Specific changes to 8 CFR are as follows:

8 CFR 103.1(f)(2)

Paragraphs (f)(2)(X) and (f)(2)(xxiii) of § 103.1 have been amended to include within the appellate jurisdiction of the Associate Commissioner, Examinations, those petitions filed by United States employers in behalf of citizens of Mexico seeking classification as professionals under Appendix 1603.D.1 to Annex 1603 of the NAFTA.

8 CFR 103.7(b)

Section 103.7(b) is amended to allow for the entry of citizens of Canada to engage in business activities at a professional level pursuant to chapter 16 of the NAFTA, rather than pursuant to chapter 15 of the CFTA, which will be suspended with entry into force of the NAFTA. The processing fee to be remitted upon entry remains $50.00. It should be noted that no fee is to be remitted by a citizen of Canada who has been previously admitted in TC status and is seeking readmission to the United States in TN status for the remainder of the period authorized on Form I–94 (Arrival-Departure Record).

No fee is to be remitted by a citizen of Mexico who is entering to engage in business activities at a professional level.

8 CFR 212.1(1)

Section B to Annex 1603 of the NAFTA provides for the temporary entry of Canadian and Mexican citizens as treaty traders and investors. Section 341(a) of the NAFTA Implementation Act provides that such persons are considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of the Act. (Canadians were previously classifiable as treaty traders and investors under the CFTA.) Paragraph (1) is amended to replace the reference to the CFTA with a reference to the NAFTA. The requirement that an alien seeking admission as a treaty trader or investor be in possession of a nonimmigrant visa is maintained.

8 CFR 214.2(b)(1)

Section 214.2(b)(1) is amended to remove the language authorizing the admission in B–2 visitor status of the dependents of Canadian citizens admitted as TC professionals under the CFTA. A separate nonimmigrant visa classification has been established for the dependents of Professionals seeking entry under the NAFTA and has been designated TD (Trade Dependent).

8 CFR 214.2(b)(4)

Section 214.2(b)(4) is amended to provide for the entry in B–1 nonimmigrant classification of citizens of Mexico and Canada pursuant to Section A of Annex 1603 of the NAFTA. Additionally, Schedule 1 to Annex 1502.1 of the CFTA is replaced with Appendix 1603.A.1 to Annex 1603 of the NAFTA. Appendix 1603.A.1 is a list of business activities representative of a complete business cycle in which a B–1 business visitor seeking entry under the NAFTA may engage. Appendix 1603.A.1 is not an exhaustive list. Nothing precludes a citizen of Mexico or Canada from seeking entry to engage in traditional B–1 activities which are not included within Appendix 1603.A.1., provided they meet all requirements for entry in such status, including restrictions on sources or remuneration.

Appendix 1603.A.1 as it is contained within paragraph (b)(4)(i) of this section is almost identical with Schedule 1. The language has been amended to include citizens of Mexico. It should be noted that, during the course of negotiations relating to the NAFTA immigration provisions, Mexico decided not to be a Party to the language involving temporary entry of customs brokers into the signatory countries. Therefore, Mexican citizen customs brokers are not referenced in Appendix 1603.A.1 nor are they included in this regulatory amendment. A citizen of Mexico is not, however, precluded from seeking entry into the United States in B–1 status to perform the functions of a customs broker, provided that the individual meets all existing requirements for B–1 admission. Also, specific reference to the allowable activities of tour bus operators has been included at paragraph (b)(4)(i)(G)(*6*).

8 CFR 214.2(e)

A new paragraph (e)(3) sets in regulation the language regarding the denial of E treaty trader or investor classification to a citizen of Canada or Mexico in the case of certain labor disputes. Article 1603(2) of the NAFTA permits the United States to deny E classification where the temporary entry of the citizen of Canada or Mexico may affect adversely the settlement of a labor dispute or the employment of a person involved in such a dispute.

A strike or other work stoppage of workers must be first certified to or otherwise be made known to the Attorney General by the Secretary of Labor before a citizen of Canada or Mexico seeking E classification maybe denied entry under this paragraph.

Regulations pertaining to the denial of issuance of E visas will be provided by the Department of State.

The Service is not, at this time, amending section 248 of this chapter relating to change of nonimmigrant classification. Citizens of Canada and Mexico are, however, classifiable as treaty traders and investors under the NAFTA and may, therefore, seek to change status to E–1 or E–2 classification while in the United States. If such change of status is granted to a citizen of Canada or Mexico and he or she subsequently departs the United States, he or she must obtain a valid E–1 or E–2 visa from a consular officer in order to seek reentry into the United States in that status.

8 CFR 214.2(l)(17)

Paragraph (1)(17)(i) is revised to limit the ports of entry which will accept and adjudicate Form I–129 (Petition for a Nonimmigrant Worker) filed in behalf of a Canadian citizen beneficiary seeking classification as an L–1 intracompany transferee. In order to provide more efficient service, it was decided to limit port adjudication of Form I–129 to those ports of entry located along the U.S.-Canadian border and at pre-flight/pre-clearance stations located in Canada. It is at these ports of entry where, since entry into force of the CFTA, the vast majority of Forms I–129 have been filed, rather than at ports along the U.S.-Mexican border or at international airports within the U.S. Also, most ports of entry along the U.S.-Canadian border have Free Trade Examiners on staff who have expertise in the adjudication of such forms.

It was determined to be more beneficial to the public to concentrate such adjudication along the U.S.-Canadian land border and at pre-flight stations within Canada. Those few individuals who would have filed a Form I–129 at either a port of entry on the U.S.-Mexican border or at an international airport located within the U.S. may do so with the Director of the appropriate Service Center.

8 CFR 212.2(l)(18)

A new paragraph (1)(18) has been added to provide for denial of L–1 classification for a citizen of Mexico or Canada if there is a labor dispute in progress at the place of current or intended employment. If a strike or work stoppage of workers has been certified by or otherwise made known by the Secretary of Labor to the Attorney General, the Service may deny a petition for L–1 classification, suspend an approved petition, or deny entry to a citizen of Canada or Mexico seeking L–1 classification at a port of entry.

A citizen of Canada or Mexico who has been admitted for employment in L–1 classification at a location where a labor dispute has been certified by the Secretary of Labor shall not be deemed to be failing to maintain status solely on account of participation in the strike or other labor dispute. Additionally, participation in a strike or work stoppage does not extend or modify in any way the L–1's period of authorized stay in the United States.

8 CFR 214.6

Section 214.6 was added to 8 CFR when the CFTA entered into force on January 1, 1989 and provided for the classification and admission of Canadian citizens seeking temporary entry to engage in business activities at a professional level. The classification was designated TC (Trade Canada). Chapter Sixteen of the NAFTA allows citizens of Mexico to seek temporary entry to engage in business activities at a professional level as well as citizens of Canada. The nonimmigrant classification has been redesignated TN (Trade NAFTA), and specific requirements for citizens of Mexico have been set forth in this revision of § 214.6. As with the CFTA, admission as a TN under this section does not imply

that the citizen of Canada or Mexico would otherwise qualify as a professional under sections 101(a)(15)(H)(i) or 203(b)(3) of the Act.

Paragraph (a) is amended to replace the reference to the CFTA with reference to the NAFTA and include citizens of Mexico among those business persons who can seek entry to engage in business activities at a professional level.

Paragraph (b) contains definitions of terms used within § 214.6. Definitions of the terms "business person", "business activities at a professional level", and "temporary entry" were not substantively modified except to replace references to the CFTA with the NAFTA. A new definition of the term "engage in business activities at a professional level" has been included and does not allow for entry in TN status of those business persons who are seeking entry to engage in self-employment. Such self-employment was never specifically addressed under the regulations promulgated by the Service in response to the CFTA.

Annex 1603, Section B, establishes the appropriate category of temporary entry for a Party citizen seeking to develop and direct investment operations in another Party country, while Annex 1603, Section D, provides for the entry of a Party citizen seeking to render professional level services for an entity in another Party country. As stated in the NAFTA Implementation Act Statement of Administrative Action at page 178, "Section D of Annex 1603 does not authorize a professional to establish a business or practice in the United States in which the professional will be self-employed." Canadian or Mexican citizens seeking to engage in self-employment in trade or investment activities in this country must seek classification under section 101(a)(15)(E) of the Act.

Paragraph (c) sets in regulation Appendix 1603.D.1 to Annex 1603 of the NAFTA which is a listing of occupations agreed upon by the three signatory countries. Appendix 1603.D.1 replaces Schedule 2 to Annex 1502.1 of the CFTA at 8 CFR 214.6(d)(2)(ii). A baccalaureate or Licenciatura degree is the minimum requirement for these professions unless an alternative credential is otherwise specified. In the case of a Canadian or Mexican citizen whose occupation does not appear on Appendix 1603.D.1 or who does not meet the transparent criteria specified, nothing precludes the filing of a petition for classification under another existing nonimmigrant classification.

A footnote to Appendix 1603.D.1 allows for temporary entry to perform training functions relating to any of the cited occupations or professions, including conducting seminars. However, these training functions must be conducted in the manner of prearranged activities performed for a United States entity and the subject matter to be proffered must be at a professional level. The training function does not allow for the entry of a business person to conduct seminars which do not constitute the performance of prearranged activities for a United States entity.

Paragraph (d) sets forth procedures for the classification of a citizen of Mexico as a TN professional under the NAFTA. Paragraphs (4) and (5) of Annex 1603(D) and of the NAFTA permit the establishment of an annual numerical limit on the number of persons seeking entry to engage in Appendix 1603.D.1 professions in the United States, with consideration given to raising the limit each year thereafter. Appendix 1603.D.4 of Annex 1603 sets the limit for the first year following entry into force of the NAFTA at 5,500 initial petitions for citizens of Mexico seeking TN classification.

Additionally, Annex 1603(D)(5) states that a Part, after establishing a numerical limit, may require the business person subject to the numerical limit to comply with other procedures in place for the temporary entry of professionals. It should be noted that, under Appendix 1604.D.4(3), the provisions of paragraphs (4) and (5) of Annex 1603(D) shall apply no longer than ten years after the date of entry into force of the NAFTA.

Paragraph (d)(1) requires the prospective United States employer of a Mexican citizen seeking classification as a TN to file a petition on Form I–129 with the Northern Service Center. This is the only Service Center designated by Headquarters Service Center Operations to accept Form I–129 filed on behalf of a citizen of Mexico seeking such classification. This limitation on filing will allow for specialization at the Northern Service Center and will improve adjudication efficiency.

Supporting documentation requirements are contained in paragraph (d)(2). Section 341(b)(5) of the NAFTA Implementation Act provides that, while the numerical limit is in place for citizens of Mexico, entry of such persons shall be subject to the attestation requirements of section 212(m) of the Act, in the case of a registered nurse, or the application requirement of section 212(n) of the Act, in the case of all other professionals set out in Appendix 1603.D.1 of Annex 1603 of the NAFTA. Therefore, Form I–129 shall be filed in conjunction with evidence that the employer has filed with the Secretary of Labor either Form ETA 9029 in the case of a registered nurse, or Form ETA 9035 in the case of all other Appendix 1603.D.1 professionals.

Additionally, the employer must submit evidence that the beneficiary meets the minimum education requirements or alternative credentials requirements set forth in Appendix 1603.D.1. The regulation requires that degrees, diplomas, or certificates received by the beneficiary from an educational institution located outside of the United States, Canada, or Mexico must be accompanied by an evaluation by a reliable credentials evaluation service which specializes in such evaluations. Experiential evidence should be in the form of letters from former employers. If the beneficiary was formerly self-employed, business records should be submitted attesting to that self-employment.

Also, the petition must be accompanied by a separate statement from the United States employer specifically stating the Appendix 1603.D.1 profession in which the beneficiary will be engaging and giving a detailed description of the duties to be performed on a regular basis by the beneficiary. The Appendix 1603.D.1 profession is to be specifically set forth so that it may be noted for statistical purposes and to provide for more accurate adjudication of the petition in light of the proposed job duties.

Evidence of appropriate licensure must accompany the petition if the beneficiary will be engaging in an occupation or profession for which the particular state or locality has set forth licensing requirements.

The remainder of paragraph (d) contains Service procedural requirements relating to the approval, validity, denial, revocation and appeal of a petition. A petition classifying a citizen of Mexico as a TN professional may be approved for up to one year. Full appeal rights through the Administrative Appeals Unit are available to the petitioner in the case of a petition denial.

Finally, paragraph (d) sets forth the procedures for maintenance of the annual numerical limitation of 5,500 petition approvals for citizens of Mexico seeking TN classification.

Paragraph (e) sets forth the procedures for the classification of a citizen of Canada as a TN professional under the NAFTA. The requirements of this paragraph are substantially similar to those previously contained in § 214.6 (c) and (d). References to the CFTA have

been replaced with references to the NAFTA and the TC nonimmigrant classification has been replaced by the TN classification.

The documentary requirements at paragraph (e)(3)(ii) have been revised to more clearly state what is required to be included in the documentation provided to the TN applicant by the alien's United States employer or the alien's foreign employer, in the case of a Canadian citizen who is seeking entry in TN status to provide prearranged services to a United States entity. Specifically, the documentation must state the Appendix 1603.D.1 profession in which the applicant will be engaging and a description of his or her professional activities, including a brief summary of the daily job duties to be performed. As with the Mexican TN, educational credentials obtained outside of the United States, Canada, or Mexico shall be accompanied by an evaluation by a qualified credentials evaluator. Also, if state or local licensing requirements are in place for the professional activity in which the Canadian citizen will be engaging, evidence must be provided that those licensing requirements have been met prior to application for admission.

Paragraph (f) sets forth the procedures for admission of Canadian and Mexican citizens in TN classification. The Canadian citizen shall be required to remit the fee prescribed in 8 CFR 103.7 upon admission. That fee has been $50.00 (U.S) since implementation of the CFTA and will not be raised at this time. The applicant will be given a Service fee receipt and a Form I–94 showing admission in the classification TN for the period requested up to one year. The Form I–94 shall bear the legend "multiple entry". (Additional requirements relating to issuance of Form I–94 are contained in § 235.1(f), discussed below.)

Citizens of Mexico seeking admission in TN classification are required to present a valid TN visa issued by a United States consular officer. The maintenance of visa requirements by parties to the Agreement is authorized in Annex 1603(D)(3) of the NAFTA. In addition to the visa requirement, the Mexican citizen shall present at the time of application for initial admission a copy of the employer's statement described in this section at paragraph (d)(2)(iii). Presentation of this statement is required to facilitate the inspection procedure.

An applicant for admission as a TN professional shall be treated as if seeking classification as a nonimmigrant pursuant to section 101(a)(15) of the Act and, therefore, the presumption of immigrant intent applicable through section 214(b) of the Act shall apply to that citizen of Canada or Mexico seeking such classification. At the time of application for entry, the citizen of Canada or Mexico will be subject to inspection to determine the applicability of section 214(b) of the Act to that applicant.

Paragraph (g) provides for the readmission to the United States of Canadian and Mexican citizens in TN status. Readmission procedures for Canadian citizens have not been amended. The citizen of Mexico who is in possession of a valid Form I–94 may be readmitted for the remainder of the time authorized provided that the original intended professional activities and employer(s) have not changed and should retain possession of that original Form I–94. If no longer in possession of a valid Form I–94 (e.g., a citizen of Mexico seeking readmission upon return from a business trip to Europe), the citizen of Mexico may be readmitted upon presentation of a valid TN visa and evidence of prior admission. That evidence of prior admission may include, but is not limited to, a Service fee receipt from a prior entry or an admission stamp in the applicant's passport. Upon readmission, a new I–94 shall be issued bearing the legend "multiple entry".

Paragraph (h) contains the procedures to be followed if the citizen of Mexico or Canada wishes to apply for an extension of his or her stay in TN status. A citizen of Mexico seeking an extension of stay in the United States in TN status shall be applied for on Form I–129 to the Northern Service Center. Documentary requirements include evidence that Department of Labor certification requirements continue to be met by the employer. Provision is included for consular notification should the applicant leave the United States during the pendency of the application. A petition extension and extension of the applicant's stay may be granted for up to one year.

A citizen of Canada may seek an extension of stay through the filing of Form I–129 to the Northern Service Center. No Department of Labor certification requirements apply to a Canadian citizen in TN status who is seeking to extend that status. Provision is made for port of entry notification should the applicant depart the United States during the pendency of the application. An extension may be granted for up to one year.

Additionally, a citizen of Canada is not precluded from departing the United States and applying for admission with documentation from a United States employer or foreign employer, in the case of a Canadian citizen who is seeking to provide prearranged services at a profession level to a United States entity, which specifies that the applicant will be employed in the United States for an additional period of time. The evidentiary requirements set forth in paragraph (e)(3) shall be met by the applicant and the fee prescribed in 8 CFR 103.7 shall be remitted upon admission.

At the present time, there is no specified upper limit on the number of years a citizen of Mexico or Canada may remain in the United States in TN classification, as there is with most of the other nonimmigrant classes contained within section 101(a)(15) of the Act. However, section 214(b) of the Act is applicable to citizens of Canada or Mexico who seek an extension of stay in TN status and applications for extension or readmission must be examined in light of this statutory provision.

Paragraph (i) allows the Canadian or Mexican citizen to change or add employers while in the United States through the filing of a Form I–129 to the Northern Service Center. Also, the Canadian citizen may depart the United States and apply for reentry for the purpose of obtaining additional employment authorization with a new or an additional employer. Documentary requirements are prescribed in paragraph (e)(3)(ii) and the prescribed fee must be remitted upon admission.

Paragraph (j) provides for the admission of spouses and minor children who are accompanying or following to join TN professionals. They are to be accorded admission in TD (Trade Dependent) classification and are required to present a valid, unexpired nonimmigrant visa unless otherwise exempt under 8 CFR 212.1. For purposes of clarification, those persons who are normally exempt from nonimmigrant visa requirements include citizens of Canada and residents (Landed Immigrants) of Canada having a common nationality with Canadian citizens (British Commonwealth citizens).

No fee is required for the admission of dependents in TD status and they are to be issued a Form I–94 bearing the legend "multiple entry". Spouses and minor children are not authorized to accept employment while they are in the United States in TD status. If a TD dependent wishes to be employed, he or she must independently seek change of status to an employment-authorized nonimmigrant classification. Dependents in TD status may attend school in the United States on a full-time basis, as such attendance is deemed to be incidental to their purpose for being in the United States, which is to accompany the TN alien.

Paragraph (k) provides for denial of TN classification of a citizen of Canada or Mexico if there is a labor dispute in progress at the place of current or intended employment. This provision is substantively identical to that which is applicable to the Canadian or Mexican L–1 applicant cited at 8 CFR 214.2(l)(18) and discussed above.

Paragraph (l) provides for automatic conversion from TC to TN classification for Canadian citizen professionals in TC classification as of January 1, 1994, as well as automatic conversion from B–2 to TD classification for the spouses and unmarried minor children of such TC nonimmigrants as of the effective date of the NAFTA Implementation Act. In addition, beginning on January 1, 1994, TC principal aliens and their B–2 spouses and unmarried minor children will be readmitted in TN or TD classification respectively, without being required to submit additional paperwork or payment of the normal application fee for the remainder of the period authorized on their Form I–94. TC or B–2 spouses and minor children seeking to extend their stay beyond this period are required to comply with the normal filing requirements of paragraph (h), including submission of appropriate paperwork and the prescribed application fee. This paragraph also provides that any applications for extension of stay in TC or B–2 classification as the spouse of a TC nonimmigrant which are pending on January 1, 1994 will be treated as if they were for TN or TD classification respectively.

Paragraph (l) specifically makes unavailable these transitional benefits to Canadian professionals who were admitted in TC classification in order to engage in self-employment in a business or practice in this country, and to their B–2 spouses and/or children. Although such self-employment was never specifically addressed in the regulations promulgated by the Service in response to the CFTA, the NAFTA Implementation Act Statement of Administrative Action at page 178 clarifies that, "It should be noted that while there are many similarities between this NAFTA category and the categories relating to professionals set out in INA section 101(a)(15), a determination of admissibility under the NAFTA neither forecloses nor establishes eligibility for entry under such other categories. Further, Section D of Annex 1603 does not authorize a professional to establish a business or practice in the United States in which the professional will be self-employed." Consistent with the intent of the signatories of the CFTA and NAFTA, the interim regulation specifically precludes readmitting Canadian professionals who were previously admitted in TC classification from engaging in self-employment and from extending their stay in TC or TN (or in the case of spouses and/or children, B–2 or TD) nonimmigrant classification. Canadian citizens seeking to engage in trade or investment activities in this country under the NAFTA Implementation Act must do so pursuant to section 101(a)(15)(E) of the Act.

235.1(d)

A new paragraph (d)(8) has been added to provide for the denial of entry in E, L–1, or TN status of any citizen of Canada if the Secretary of Labor has certified to or otherwise informed the Commissioner that a strike or work stoppage of workers is occurring at the place of current or intended employment and the temporary entry of the applicant would affect adversely either settlement of the labor dispute or the employment of any person involved in the dispute. Additionally, the paragraph requires notification in writing to the applicant of the reason(s) for the refusal. Also, a designated representative of the applicant's home country government must be promptly notified in writing of the reasons for the refusal.

Additional instructions will be forthcoming from the Service regarding the appropriate methods and channels for notification of Party governments.

8 CFR 235.1(f)

Paragraph (f)(1) has been amended to include specific requirements regarding the completion of Form I–94 issued to a citizen of Canada or Mexico in TN status. Specifically, item 18 on the reverse of Form I–94 must be completed and the occupation stated must be contained within Appendix 1603.D.1 of Annex 1603 of the NAFTA. This requirement reflects the need to collect and maintain accurate statistics for reporting purposes to both the United States Congress and signatory governments.

Also, the name of the TN nonimmigrant's employer must be endorsed on both the Arrival and Departure portions of Form I–94 in order to comport with the requirements of section 274A of the Act.

8 CFR 274a.12(b) (19) and (20)

Paragraph (b)(19) is amended to include citizens of Mexico and Canada engaged in business activities at a professional level pursuant to Chapter 16 or the NAFTA to the classes of aliens authorized employment with a specific employer incident to status. Paragraph (b)(20) is amended to provide employment authorization to a citizen of Canada or Mexico in TN status in whose behalf an application for extension of stay has been timely filed.

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comment, is based upon the "good cause" exceptions found at 5 U.S.C. 553 (b)(B) and (d)(3). The reasons and the necessity for immediate implementation of this interim rule without prior notice and comment are as follows: The NAFTA Implementation Act was signed by the President on December 8, 1993 and the NAFTA goes into force on January 1, 1994. There is a clear necessity for immediate implementation of this provision so that the admission to the United States of Canadian and Mexican citizen business persons pursuant to Chapter 16 of the NAFTA may be facilitated by this Service on the date of entry into force of the Agreement. Under these circumstances, providing a notice and comment period in advance of publication of this interim rule would have been impracticable and contrary to Congressional intent. It is imperative that this interim rule become effective on January 1, 1994 so that those persons who are entitled to the benefits of the NAFTA Implementation Act may apply accordingly.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This certification is made in light of the fact that the regulation substantially retains current standards for the admission of Canadians formerly provided for under the CFTA, and that, under this regulation, only 5,500 petitions may initially be approved annually in behalf of citizens of Mexico seeking classification as TN professionals. Additionally, it is anticipated that only a limited number of citizens of Mexico will seek classification as treaty traders and investors pursuant to this regulation. For the same reasons, this is not considered a "significant regulatory action" under Executive Order 12866. Further, this rule does not have Federalism implications warranting the

preparation of a Federal Assessment in accordance with Executive Order 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and are cited under 8 CFR 299.5, Display of Control Numbers.

The additional instructions for Form I–129 are printed at the end of this regulation.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.1, paragraph (f)(2) (x) and (xxiii) are revised to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(f) * * *

(2) * * *

(x) Petitions for temporary workers or trainees and fiancees or fiancés of U.S. citizens under §§ 214.2 and 214.6 of this chapter;

* * * * *

(xxiii) Revoking approval of certain petitions, as provided in §§ 214.2 and 214.6 of this chapter;

* * * * *

3. In § 103.7, paragraph (b)(1) is amended by revising the entry "Request", the third time it is listed, to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Request. For classification of a citizen of Canada to be engaged in business activities at a professional level pursuant to section 214(e) of the Act (Chapter 16 of the North American Free Trade Agreement)—$50.00

* * * * *

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

4. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1225, 1226, 1228, 1252; 8 CFR part 2.

5. In § 212.1, paragraph (1) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(l) *Treaty traders and investors.* Notwithstanding any of the provisions of this part, an alien seeking admission as a treaty trader or investor under the provisions of Chapter 16 of the North American Free Trade Agreement (NAFTA) pursuant to section 101(a)(15)(E) of the Act, shall be in possession of a nonimmigrant visa issued by an American consular officer classifying the alien under that section.

* * * * *

PART 214—NONIMMIGRANT CLASSES

6. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2.

7. Section 214.2 is amended by:

a. Revising paragraphs (b)(1) and (b)(4);

b. Adding a new paragraph (e)(3);

c. Revising paragraph (l)(17) heading;

d. Revising paragraph (l)(17)(i); and by

e. Adding a new paragraph (l)(18), to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance status.

* * * * *

(b) *Visitors*—(1) *General.* any B–1 visitor for business or B–2 visitor for pleasure may be admitted for not more than one year and may be granted extensions of temporary stay in increments of not more than six months each, except that alien members of a religious denomination coming temporarily and solely to do missionary work in behalf of a religious denomination may be granted extensions of not more than one year each, provided that such work does not involve the selling of articles or the solicitation or acceptance of donations. Those B–1 and B–2 visitors admitted pursuant to the waiver provided at § 212.1(e) of this chapter may be admitted to and stay on Guam for period not to exceed fifteen days and are not eligible for extensions of stay.

* * * * *

(4) *Admission of aliens pursuant to the North American Fee Trade Agreement (NAFTA).* A citizen of Canada or Mexico seeking temporary entry for purposes set forth in paragraph (b)(4)(i) of this section, who otherwise meets existing requirements under section 101(a)(15)(B) of the Act, including but not limited to requirements regarding the source of remuneration, shall be admitted upon presentation of proof of such citizenship in the case of Canadian applicants, and valid entry documents such as a passport and visa or Mexican Border Crossing Card (Form I–186 or I–586) in the case of Mexican applicants, a description of the purpose of entry, and evidence demonstrating that he or she is engaged in one of the occupations or professions set forth in paragraph (b)(4)(i) of this section. Existing requirements, with respect to Canada, are those requirements which were in effect at the time of entry into force of the CFTA and, with respect to Mexico, are those requirements which are in effect at the time of entry into force of the NAFTA. Additionally, nothing shall preclude the admission of a citizen of Mexico or Canada who meets the requirements of paragraph (b)(4)(ii) of this section.

(i) *Occupations and professions set forth in Appendix 1603.A.1 to Annex 1603 of the NAFTA.*—(A) *Research and design.* Technical scientific and statistical researchers conducting independent research or research for an enterprise located in the territory of another Party.

(B) *Growth, manufacture and production* (1) Harvester owner supervising a harvesting crew admitted under applicable law. (Applies only to harvesting of agricultural crops: Grain, fiber, fruit and vegetables.)

(2) Purchasing and production management personnel conducting commercial transactions for an enterprise located in the territory of another Party.

(C) *Marketing.* (1) Market researchers and analyst conducting independent research or analysis, or research or analysis for an enterprise located in the territory of another Party.

(2) Trade fair and promotional personnel attending a trade convention.

(D) *Sales.* (1) Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of another Party but not delivering goods or providing services.

(2) Buyers purchasing for an enterprise located in the territory of another Party.

(E) *Distribution.* (1) Transportation operators transporting goods or passengers to the United States from the territory of another Party or loading and transporting goods or passengers from the United States to the territory of another Party, with no unloading in the United States, to the territory of another Party. (These operators may make deliveries in the United States if all goods or passengers to be delivered were loaded in the territory of another Party. Furthermore, they may load from locations in the United States if all goods or passengers to be loaded will be delivered in the territory of another Party. Purely domestic service or solicitation, in competition with the United States operators, is not permitted.)

(2) Customs brokers performing brokerage duties associated with the export of goods from the United States to or through Canada.

(F) *After-sales service.* Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to the seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the United States, during the life of the warranty or service agreement. (For the purposes of this provision, the commercial or industrial equipment or machinery, including computer software, must have been manufactured outside the United States.)

(G) *General service.* (1) Professionals engaging in a business activity at a professional level in a profession set out in Appendix 1603.D.1 to Annex 1603 of the NAFTA, but receiving no salary or other remuneration from a United States source (other than an expense allowance or other reimbursement for expenses incidental to the temporary stay) and otherwise satisfying the requirements of Section A to Annex 1063 of the NAFTA.

(2) Management and supervisory personnel engaging in commercial transactions for an enterprise located in the territory of another Party.

(3) Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in the territory of another Party.

(4) Public relations and advertising personnel consulting with business associates, or attending or participating in conventions.

(5) Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in the territory of another Party. (The tour may begin in the United States; but must terminate in foreign territory, and a significant portion of the tour must be conducted in foreign territory. In such a case, an operator may enter the United States with an empty conveyance and a tour guide may enter on his or her own and join the conveyance.)

(6) Tour bus operators entering the United States:

(*i*) With a group of passengers on a bus tour that has begun in, and will return to, the territory of another Party.

(*ii*) To meet a group of passengers on a bus tour that will end, and the predominant portion of which will take place, in the territory of another Party.

(*iii*) With a group of passengers on a bus tour to be unloaded in the United States and returning with no passengers or reloading with the group for transportation to the territory of another Party.

(7) Translators or interpreters performing services as employees of an enterprise located in the territory of another Party.

(ii) Occupations and professions not listed in Appendix 1603.A.1 to Annex 1603 of the NAFTA. Nothing in this paragraph shall preclude a business person engaged in an occupation or profession other than those listed in Appendix 1603.A.1 to Annex 1603 of the NAFTA from temporary entry under section 101(a)(15)(B) of the Act, if such person otherwise meets the existing requirements for admission as prescribed by the Attorney General.

* * * * *

(e) * * *

(3) *Denial of treaty trader or investor status to citizens of Canada or Mexico in the case of certain labor disputes.* A citizen of Canada or Mexico may be denied E treaty trader or investor status as described in section 101(a)(15)(E) of the Act and section B of Annex 1603 of the NAFTA if:

(i) The Secretary of Labor certifies to or otherwise informs the Commissioner that a strike or other labor dispute involving a work stoppage of workers is in progress at the place where the alien is or intends to be employed; and

(ii) Temporary entry of that alien may affect adversely either:

(A) The settlement of any labor dispute that is in progress at the place or intended place of employment, or

(B) The employment of any person who is involved in such dispute.

* * * * *

(l) * * *

(17) *Filing of individual petitions and certifications under blanket petitions for citizens of Canada under the North American Free Trade Agreement (NAFTA).* (i) *Individual petitions.* Except as provided in paragraph (l)(2)(ii) of this section (filing of blanket petitions), a United States or foreign employer seeking to classify a citizen of Canada as an intracompany transferee may file an individual petition in duplicate on Form I–129 in conjunction with an application for admission of the citizen of Canada. Such filing may be made with an immigration officer at a Class A port of entry located on the United States-Canada land border or at a United States pre-clearance/pre-flight station in Canada. The petitioning employer need not appear, but Form I–129 must bear the authorized signature of the petitioner.

* * * * *

(18) *Denial of intracompany transferee status to citizens of Canada or Mexico in the case of certain labor disputes.* (i) If the Secretary of Labor certifies to or otherwise informs the Commissioner that a strike or other labor dispute involving a work stoppage of workers is in progress where the beneficiary is to be employed, and the temporary entry of the beneficiary may affect adversely the settlement of such labor dispute or the employment of any person who is involved in such dispute, a petition to classify a citizen of Mexico or Canada as an L–1 intracompany transferee may be denied. If a petition has already been approved, but the alien has not yet entered the United States, or

has entered the United States but not yet commenced employment, the approval of the petition may be suspended, and an application for admission on the basis of the petition may be denied.

(ii) If there is a strike or other labor dispute involving a work stoppage of workers in progress, but such strike or other labor dispute is not certified under paragraph (l)(18)(i) of this section, or the Service has not otherwise been informed by the Secretary that such a strike or labor dispute is in progress, the Commissioner shall not deny a petition or suspend an approved petition.

(iii) If the alien has already commended employment in the United States under an approved petition and is participating in a strike or other labor dispute involving a work stoppage of workers, whether or not such strike or other labor dispute has been certified by the Department of Labor, the alien shall not be deemed to be failing to maintain his or her status solely on account of past, present, or future participation in a strike or other labor dispute involving a work stoppage of workers, but is subject to the following terms and conditions.

(A) The alien shall remain subject to all applicable provisions of the Immigration and Nationality Act, and regulations promulgated in the same manner as all other L nonimmigrants;

(B) The status and authorized period of stay of such an alien is not modified or extended in any way by virtue of his or her participation in a strike or other labor dispute involving work stoppage of workers; and

(C) Although participation by an L nonimmigrant alien in a strike or other labor dispute involving a work stoppage of workers will not constitute a ground for deportation, any alien who violates his or her status or who remains in the United States after his or her authorized period of stay has expired will be subject to deportation.

* * * * *

8. Section 214.6 is revised to read as follows:

§ 214.6 Canadian and Mexican citizens seeking temporary entry to engage in business activities at a professional level.

(a) *General.* Under section 214(e) of the Act, a citizen of Canada or Mexico who seeks temporary entry as a business person to engage in business activities at a professional level may be admitted to the United States in accordance with the North American Free Trade Agreement (NAFTA).

(b) *Definitions.* As used in this section the terms:

Business activities at a professional level means those undertakings which require that, for successful completion, the individual has at least a baccalaureate degree or appropriate credentials demonstrating status as a professional.

Business person, as defined in the NAFTA, means a citizen of Canada or Mexico who is engaged in the trade of goods, the provision of services, or the conduct of investment activities.

Engage in business activities at a professional level means the performance of prearranged business activities for a United States entity, including an individual. It does not authorize the establishment of a business or practice in the United States in which the professional will be self-employed.

Temporary entry, as defined in the NAFTA, means entry without the intent to establish permanent residence.

(c) *Appendix 1603.D.1 to Annex 1603 of the NAFTA.* Pursuant to the NAFTA, an applicant seeking admission under this section shall demonstrate business activity at a professional level in one of the professions set forth in Appendix 1603.D.1 to Annex 1603. The professions in Appendix 1603.D.1 and the minimum requirements for qualification for each are as follows: [1]

Appendix 1603.D.1 (Annotated)

—Accountant—Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A., or C.M.A.

—Architect—Baccalaureate or Licenciatura Degree; or state/provincial license.[2]

—Computer Systems Analyst—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma [3] or Post Secondary Certificate [4] and three years' experience.

—Disaster relief insurance claims adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)—Baccalaureate or Licenciatura Degree and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims.

—Economist—Baccalaureate or Licenciatura Degree.

—Engineer—Baccalaureate or Licenciatura Degree; or state/provincial license.

—Forester—Baccalaureate or Licenciatura Degree; or state/provincial license.

—Graphic Designer—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years experience.

—Hotel Manager—Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post Secondary Certificate in hotel/restaurant management and three years experience in hotel/restaurant management.

—Industrial Designer—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post Secondary Certificate, and three years experience.

—Interior Designer—Baccalaureate or Licenciatura Degree or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience.

—Land Surveyor—Baccalaureate or Licenciatura Degree or state/provincial/federal license.

—Landscape Architect—Baccalaureate or Licenciatura Degree.

—Lawyer (including Notary in the province of Quebec)—L.L.B., J.D., L.L.L., B.C.L., or Licenciatura degree (five years); or membership in a state/provincial bar.

—Librarian—M.L.S., or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite).

—Management Consultant—Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement.

—Mathematician (including Statistician)—Baccalaureate or Licenciatura Degree.

—Range Manager/Range Conservationist—Baccalaureate or Licenciatura Degree.

—Research Assistant (working in a post-secondary educational institution)—Baccalaureate or Licenciatura Degree.

[1] A business person seeking temporary employment under this Appendix may also perform training functions relating to the profession, including conducting seminars.

[2] The terms "state/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial, or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

[3] "Post Secondary Diploma" means a credential issued, on completion of two or more years of post secondary education, by an accredited academic institution in Canada or the United States.

[4] "Post Secondary Certificate" means a certificate issued, on completion of two or more years of post secondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

—Scientific Technician/Technologist [5]—Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research.

—Social Worker—Baccalaureate or Licenciatura Degree.

—Sylviculturist (including Forestry Specialist)—Baccalaureate or Licenciatura Degree.

—Technical Publications Writer—Baccalaureate or Licenciatura Degree, or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience.

—Urban Planner (including Geographer)—Baccalaureate or Licenciatura Degree.

—Vocational Counselor—Baccalaureate or Licenciatura Degree.

Medical/Allied Professionals

—Dentist—D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental or state/provincial license.

—Dietitian—Baccalaureate or Licenciatura Degree; or state/provincial license.

—Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States) [6]—Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience.

—Nutritionist—Baccalaureate or Licenciatura Degree.

—Occupational Therapist—Baccalaureate or Licenciatura Degree; or state/provincial license.

—Pharmacist—Baccalaureate or Licenciatura Degree; or state/provincial license.

—Physician (teaching or research only)—M.D. Doctor en Medicina; or state/provincial license.

—Physiotherapist/Physical Therapist—Baccalaureate or Licenciatura Degree; or state/provincial license.

—Psychologist—state/provincial license; or Licenciatura Degree.

—Recreational Therapist-Baccalaureate or Licenciatura Degree.

—Registered nurse—state/provincial license or Licenciatura Degree.

—Veterinarian—D.V.M., D.M.V., or Doctor en Veterinaria; or state/provincial license.

—SCIENTIST

—Agriculturist (including Agronomist)—Baccalaureate or Licenciatura Degree.

—Animal Breeder—Baccalaureate or Licenciatura Degree.

—Animal Scientist—Baccalaureate or Licenciatura Degree.

—Apiculturist—Baccalaureate or Licenciatura Degree.

—Astronomer—Baccalaureate or Licenciatura Degree.

—Biochemist—Baccalaureate or Licenciatura Degree.

—Biologist—Baccalaureate or Licenciatura Degree.

—Chemist—Baccalaureate or Licenciatura Degree.

—Dairy Scientist—Baccalaureate or Licenciatura Degree.

—Entomologist—Baccalaureate or Licenciatura Degree.

—Epidemiologist—Baccalaureate or Licenciatura Degree.

—Geneticist—Baccalaureate or Licenciatura Degree.

—Geochemist—Baccalaureate or Licenciatura Degree.

—Geologist—Baccalaureate or Licenciatura Degree.

—Geophysicist (including Oceanographer in Mexico and the United States)—Baccalaureate or Licenciatura Degree.

—Horticulturist—Baccalaureate or Licenciatura Degree.

—Meteorologist—Baccalaureate or Licenciatura Degree.

—Pharmacologist—Baccalaureate or Licenciatura Degree.

—Physicist (including Oceanographer in Canada—Baccalaureate or Licenciatura Degree.

—Plant Breeder—Baccalaureate or Licenciatura Degree.

—Poultry Scientist—Baccalaureate or Licenciatura Degree.

—Soil Scientist—Baccalaureate or Licenciatura Degree.

—Zoologist—Baccalaureate or Licenciatura Degree.

—TEACHER

—College—Baccalaureate or Licenciatura Degree.

—Seminary—Baccalaureate or Licenciatura Degree.

—University—Baccalaureate or Licenciatura Degree.

(d) *Classification of citizens of Mexico as TN professionals under the NAFTA*—(1) *General.* A United States employer seeking to classify a citizen of Mexico as a TN professional temporary employee shall file a petition on Form I–129, Petition for Nonimmigrant Worker, with the Northern Service Center, even in emergent circumstances. The petitioner may submit a legible photocopy of a document in support of the visa petition in lieu of the original document. The original document shall be submitted if requested by the Service.

(2) *Supporting documents.* A petition in behalf of a citizen of Mexico seeking classification as a TN professional shall be accompanied by:

(i) A certification from the Secretary of Labor that the petitioner has filed the appropriate documentation with the Secretary in accordance with section (D)(5)(b) of Annex 1603 of the NAFTA.

(ii) Evidence that the beneficiary meets the minimum education requirements or alternative credentials requirements of Appendix 1603.D.1 of Annex 1603 of the NAFTA as set forth in § 214.6(c). This documentation may consist of licenses, degrees, diplomas, certificates, or evidence of membership in professional organizations. Degrees, diplomas, or certificates received by the beneficiary from an educational institution not located within Mexico, Canada, or the United States must be accompanied by an evaluation by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials. Evidence of experience should consist of letters from former employers or, if formerly self-employed, business records attesting to such self-employment; and

(iii) A statement from the prospective employer in the United States specifically stating the Appendix 1603.D.1 profession in which the beneficiary will be engaging and a full description of the nature of the duties which the beneficiary will be performing. The statement must set forth licensure requirements for the state or locality of intended employment or, if no license is required, the non-existence of such requirements for the professional activity to be engaged in.

(iv) *Licensure for TN classification*—(A) *General.* If the profession requires a state or local license for an individual to fully perform the duties of that profession, the beneficiary for whom TN classification is sought must have that license prior to approval of the petition and evidence of such licensing must accompany the petition.

(B) *Temporary licensure.* If a temporary license is available and the beneficiary would be allowed to perform the duties of the profession without a permanent license, the director shall examine the nature of the duties, the level at which the duties are performed, the degree of supervision received, and any limitations which would be placed upon the beneficiary. If an analysis of the facts demonstrates that the beneficiary, although under supervision, would be fully authorized to perform the duties of the profession, TN classification may be granted.

(C) *Duties without licensure.* In certain professions which generally require licensure, a state may allow an individual to fully practice a profession under the supervision of licensed senior or supervisory personnel in that profession. In such cases, the director shall examine the nature of the duties and the level at which they are to be performed. If the facts demonstrate that the beneficiary, although under

[5] A business person in this category must be seeking temporary entry for work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.

[6] A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment, or prevention of diseases.

supervision, would fully perform the duties of the profession, TN classification may be granted.

(D) *Registered nurses.* The prospective employer must submit evidence that the beneficiary has been granted a permanent state license, a temporary state license or other temporary authorization issued by a State Board of Nursing authorizing the beneficiary to work as a registered or graduate nurse in the state of intended employment in the United States.

(3) *Approval and validity of petition*—(i) *Approval.* The director shall notify the petitioner of the approval of the petition on Form I–797, Notice of Action. The approval notice shall include the beneficiary's name, classification, Appendix 1603.D.1 profession, and the petition's period of validity.

(ii) *Recording the validity of petitions.* Procedures for recording the validity period of petitions are:

(A) If the petition is approved before the date the petitioner indicates that employment will begin, the approved petition and approval notice shall show the actual dates requested by the petitioner as the validity period, not to exceed the limits specified by paragraph (d)(3)(iii) of this section.

(B) If the petition is approved after the date the petitioner indicates employment will begin, the approved petition and approval notice shall show a validity period commencing with the date of approval and ending with the date requested by the petitioner, as long as that date does not exceed the limits specified by paragraph (d)(3)(iii) of this section.

(C) If the period of employment requested by the petitioner exceeds the limit specified in paragraph (d)(3)(iii) of this section, the petition shall be approved only up to the limit specified in that paragraph.

(iii) *Validity.* An approved petition classifying a citizen of Mexico as a TN nonimmigrant shall be valid for a period of up to one year.

(4) *Denial of petition*—(i) *Notice of intent to deny.* When an adverse decision is proposed on the basis of derogatory information of which the petitioner is unaware, the director shall notify the petitioner of the intent to deny the petition and the basis for the denial. The petitioner may inspect and rebut the evidence and will be granted a period of thirty days in which to do so. All relevant rebuttal material will be considered in making a final decision.

(ii) *Notice of denial.* The petitioner shall be notified of the decision, the reasons for the denial, and the right to appeal the denial under part 103 of this chapter.

(5) *Revocation of approval of petition*—(i) *General.* (A) The petitioner shall immediately notify the Service of any changes in the terms and conditions of employment of a beneficiary which may effect eligibility under section 214(e) of the Act or § 214.6. An amended petition should be filed when the petitioner continues to employ the beneficiary. If the petitioner no longer employs the beneficiary, the petitioner shall send a letter explaining the change(s) to the director who approved the petition.

(B) The director may revoke a petition at any time, even after the validity of the petition has expired.

(ii) *Automatic revocation.* The approval of an unexpired petition is automatically revoked if the petitioner goes out of business, files a written withdrawal of the petition, or notifies the Service that the beneficiary is no longer employed by the petitioner.

(iii) *Revocation on notice*—(A) *Grounds for revocation.* The director shall send to the petitioner a notice of intent to revoke the petition in relevant part if he or she finds that:

(*1*) The beneficiary is no longer employed by the petitioner in the capacity specified in the petition;

(*2*) The statement of facts contained in the petition were not true and correct;

(*3*) The petitioner violated the terms or conditions of the approved petition;

(*4*) The petitioner violated requirements of section 214(e) of the Act or § 214.6; or

(*5*) The approval of the petition violated § 214.6 or involved gross error.

(B) *Notice and decision.* The notice of intent to revoke shall contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner may submit evidence in rebuttal within thirty days of the date of the notice. The director shall consider all relevant evidence presented in deciding whether to revoke the petition.

(6) *Appeal of a denial or revocation of a petition*—(i) *Denial.* A denied petition may be appealed under part 103 of this chapter.

(ii) *Revocation.* A petition that has been revoked on notice may be appealed under part 103 of this chapter. Automatic revocations may not be appealed.

(7) *Numerical limit*—(i) *Limit on number of petitions to be approved in behalf of citizens of Mexico.* Beginning on the date of entry into force of the NAFTA, not more than 5,500 citizens of Mexico can be classified as TN nonimmigrants annually.

(ii) *Procedures.* (A) Each citizen of Mexico issued a visa or otherwise provided TN nonimmigrant status under section 214(e) of the Act shall be counted for purposes of the numerical limit. Requests for petition extension or extension of the alien's stay and submissions of amended petitions shall not be counted for purposes of the numerical limit. The spouse and children of principal aliens classified as TD nonimmigrants shall not be counted against the numerical limit.

(B) Numbers will be assigned temporarily to each Mexican citizen in whose behalf a petition for TN classification has been filed. If a petition is denied, the number originally assigned to the petition shall be returned to the system which maintains and assigns numbers.

(C) When an approved petition is not used because the beneficiary does not apply for admission to the United States, the petitioner shall notify the service center director who approved the petition that the number has not been used. The petition shall be revoked pursuant to paragraph (d)(5)(ii) of this section and the unused number shall be returned to the system which maintains and assigns numbers.

(D) If the total annual limit has been reached prior to the end of the year, new petitions and the accompanying fee shall be rejected and returned with a notice stating that numbers are unavailable for Mexican citizen TN nonimmigrants and the date when numbers will again become available.

(e) *Classification of citizens of Canada as TN professionals under the NAFTA*—(1) *General.* Under section 214(e) of the Act, a citizen of Canada who seeks temporary entry as a business person to engage in business activities at a professional level may be admitted to the United States in accordance with the NAFTA.

(2) *Application for admission.* A citizen of Canada seeking admission under this section shall make application for admission with an immigration officer at a United States Class A port of entry, at a United States airport handling international traffic, or at a United States pre-clearance/pre-flight station. No prior petition, labor certification, or prior approval shall be required.

(3) *Evidence.* A visa shall not be required of a Canadian citizen seeking admission as a TN nonimmigrant under section 214(e) of the Act. Upon application for admission at a United States port of entry, an applicant under this section shall present the following:

(i) Proof of Canadian citizenship. Unless travelling from outside the Western hemisphere, no passport shall be required; however, an applicant for admission must establish Canadian citizenship.

(ii) Documentation demonstrating engagement in business activities at a professional level and demonstrating professional qualifications. The applicant must present documentation sufficient to satisfy the immigration officer at the time of application for admission, that the applicant is seeking entry to the United States to engage in business activities for a United States employer(s) or entity(ies) at a professional level, and that the applicant meets the criteria to perform at such a professional level. This documentation may be in the form of a letter from the prospective employer(s) in the United States or from the foreign employer, in the case of a Canadian citizen seeking entry to provide prearranged services to a United States entity, and may be required to be supported by licenses, diplomas, degrees, certificates, or membership in a professional organization. Degrees, diplomas, or certificates received by the applicant from an educational institution not located within Canada, Mexico, or the United States must be accompanied by an evaluation by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials. The documentation shall fully affirm:

(A) The Appendix 1603.D.1 profession of the applicant;

(B) A description of the professional activities, including a brief summary of daily job duties, if appropriate, which the applicant will engage in for the United States employer/entity;

(C) The anticipated length of stay;

(D) The educational qualifications or appropriate credentials which demonstrate that the Canadian citizen has professional level status;

(E) The arrangements for remuneration for services to be rendered; and

(F) If required by state or local law, that the Canadian citizen complies with all applicable laws and/or licensing requirements for the professional activity in which they will be engaged.

(f) *Procedures for admission*—(1) *Canadian citizens.* A Canadian citizen who qualifies for admission under this section shall be provided confirming documentation (Service Form I–94) and shall be admitted under the classification symbol TN for a period not to exceed one year. Form I–94 shall bear the legend "multiple entry". The fee prescribed under § 103.7(b) of this chapter shall be remitted upon admission to the United States pursuant to the terms and conditions of the NAFTA. Upon remittance of the prescribed fee, the Canadian citizen applicant shall be provided a Service receipt (Form G–211, Form G–711, or Form I–797).

(2) *Mexican citizens.* The Mexican citizen beneficiary of an approved Form I–129 granting classification as a TN professional shall be admitted to the United States for the validity period of the approved petition upon presentation of a valid TN visa issued by a United States consular officer and a copy of the United States employer's statement as described in paragraph (d)(2)(iii) of this section. The Mexican citizen shall be provided Form I–94 bearing the legend "multiple entry".

(g) *Readmission*—(1) *Canadian citizens.* A Canadian citizen in this classification may be readmitted to the United States for the remainder of the period authorized on Form I–94, without presentation of the letter or supporting documentation described in paragraph (e)(3) of this section, and without remittance of the prescribed fee, provided that the original intended professional activities and employer(s) have not changed. If the Canadian citizen seeking readmission to the United States is no longer in possession of a valid, unexpired Form I–94, and the period of initial admission has not lapsed, he or she shall present alternate evidence in order to be readmitted in TN status. This alternate evidence may include, but is not limited to, a Service fee receipt for admission as a TN or a previously issued admission stamp as TN in a passport, and a confirming letter from the United States employer(s). A new Form I–94 shall be issued at the time of readmission bearing the legend "multiple entry".

(2) *Mexican citizens.* A Mexican citizen in this classification may be readmitted for the remainder of the period of time authorized on Form I–94 provided that the original intended professional activities and employer(s) have not changed. If the Mexican citizen seeking readmission to the United States is no longer in possession of a valid, unexpired Form I–94, he or she may be readmitted upon presentation of a valid TN visa and evidence of a previous admission. A new Form I–94 shall be issued at the time of readmission bearing the legend "multiple entry".

(h) *Extension of stay*—(1) *Mexican citizen.* The United States employer shall apply for extension of the Mexican citizen's stay in the United States by filing Form I–129 with the Northern Service Center. The applicant must also request a petition extension. The request for extension must be accompanied by either a new or a photocopy of the prior certification on Form ETA 9029, in the case of a registered nurse, or Form ETA 9035, in all other cases, that the petitioner continues to have on file with the Department of Labor for the period of time requested. The dates of extension shall be the same for the petition and the beneficiary's extension of stay. The beneficiary must be physically present in the United States at the time of the filing of the extension of stay. Even though the requests to extend the petition and the alien's stay are combined on the petition, the director shall make a separate determination on each. If the citizen of Mexico is required to leave the United States for business or personal reasons during the pendency of the extension request, the petitioner may request the director to cable notification of the approval of the petition to the consular office abroad where the beneficiary will apply for a visa. An extension of stay may be authorized for up to one year. There is no specific limit on the total period of time a citizen of Mexico may remain in TN status.

(2) *Canadian citizen*—(i) *Filing at the service center.* The United States employer of a Canadian citizen in TN status or United States entity, in the case of a Canadian citizen in TN status who has a foreign employer, may request an extension of stay by filing Form I–129 with the prescribed fee, with the Northern Service Center. The beneficiary must be physically present in the United States at the time of the filing of the extension of stay. If the alien is required to leave the United States for business or personal reasons while the extension request is pending, the petitioner may request the director to cable notification of approval of the application to the port of entry where the Canadian citizen will apply for admission to the United States. An extension of stay may be authorized for up to one year. There is no specific limit on the total period of time a citizen of Canada may remain in TN status.

(ii) *Readmission at the border.* Nothing in paragraph (h)(2)(i) of this section shall preclude a citizen of Canada who has previously been in the United States in TN status from applying for admission for a period of time which extends beyond the date of his or her original term of admission at any United States port of entry. The application for admission shall be supported by a new letter from the United States employer or the foreign employer, in the case of a Canadian citizen who is providing prearranged services to a United States entity, which meets the requirements of paragraph

(e)(3)(ii) of this section. The fee prescribed under § 103.7(b) of this chapter shall be remitted upon admission to the United States pursuant to the terms and conditions of the NAFTA.

(i) *Request for change or addition of United States employer(s)*—(1) *Mexican citizen.* A citizen of Mexico admitted under this paragraph who seeks to change or add a United States employer must have the new employer file a Form I–129 petition with appropriate supporting documentation, including a letter from the new employer describing the services to be performed, the time needed to render such services, and the terms for remuneration for services and evidence of required filing with the Secretary of Labor. Employment with a different or with an additional employer is not authorized prior to Service approval of the petition.

(2) *Canadian citizen*—(i) *Filing at the service center.* A citizen of Canada admitted under this paragraph who seeks to change or add a United States employer during this period of admission must have the new employer file a Form I–129 petition with appropriate supporting documentation, including a letter from the new employer describing the services to be performed, the time needed to render such services, and the terms for remuneration for services. Employment with a different or with an additional employer is not authorized prior to Service approval of the petition.

(ii) *Readmission at the border.* Nothing in paragraph (l)(2)(i) of this section precludes a citizen of Canada from applying for readmission to the United States for the purpose of presenting documentation from a different or additional United States or foreign employer. Such documentation shall meet the requirements prescribed in paragraph (e)(3)(ii) of this section. The fee prescribed under § 103.7(b) of this chapter shall be remitted upon admission to the United States pursuant to the terms and conditions of the NAFTA.

(3) No action shall be required on the part of a Canadian or Mexican citizen who is transferred to another location by the United States employer to perform the same services. Such an acceptable transfer would be to a branch or office of the employer. In the case of a transfer to a separately incorporated subsidiary or affiliate, the requirements of paragraphs (i) (1) and (2) of this section would apply.

(j) *Spouse and unmarried minor children accompanying or following to join.* (1) The spouse of unmarried minor child of a citizen of Canada or Mexico admitted in TN nonimmigrant status shall be required to present a valid, unexpired nonimmigrant TD visa unless otherwise exempt under § 212.1 of this chapter.

(2) The spouse and dependent minor children shall be issued confirming documentation (Form I–94) bearing the legend "multiple entry". There shall be no fee required for admission of the spouse and dependent minor children.

(3) The spouse and dependent minor children shall not accept employment in the United States unless otherwise authorized under the Act.

(k) *Effect of a strike.* If the Secretary of Labor certifies to or otherwise informs the Commissioner that a strike or other labor dispute involving a work stoppage of workers is in progress, and the temporary entry of a citizen of Mexico or Canada in TN nonimmigrant status may affect adversely the settlement of any labor dispute or the employment of any person who is involved in such dispute:

(1) The United States may refuse to issue an immigration document authorizing entry or employment to such alien.

(2) A Form I–129 seeking to classify a citizen of Mexico as a TN nonimmigrant may be denied. If a petition has already been approved, but the alien has not yet entered the United States, or has entered the United States but not yet commenced employment, the approval of the petition may be suspended.

(3) If the alien has already commenced employment in the United States and is participating in a strike or other labor dispute involving a work stoppage of workers, whether or not such strike or other labor dispute has been certified by the Department of Labor, or whether the Service has been otherwise informed that such a strike or labor dispute is in progress, the alien shall not be deemed to be failing to maintain his or her status solely on account of past, present, or future participation in a strike or other labor dispute involving a work stoppage of workers, but is subject to the following terms and conditions:

(i) The alien shall remain subject to all applicable provisions of the Immigration and Nationality Act and regulations promulgated in the same manner as all other TN nonimmigrants;

(ii) The status and authorized period of stay of such an alien is not modified or extended in any way by virtue of his or her participation in a strike or other labor dispute involving a work stoppage of workers; and

(iii) Although participation by a TN nonimmigrant alien in a strike or other labor dispute involving a work stoppage of workers will not constitute a ground for deportation, any alien who violates his or her status or who remains in the United States after his or her authorized period of stay has expired will be subject to deportation.

(4) If there is a strike or other labor dispute involving a work stoppage of workers in progress, but such strike or other labor dispute is not certified under paragraph (k)(1) of this section, or the Service has not otherwise been informed by the Secretary that such a strike or labor dispute is in progress, the Commissioner shall not deny a petition, suspend an approved petition, or deny entry to an applicant for TN status.

(l) *Transition for Canadian Citizen Professionals in TC classification and their B–2 spouses and/or unmarried minor children*—(1) *Canadian citizen professionals in TC Classification*—(i) *General.* Canadian citizen professionals in TC classification as of the effective date of the NAFTA Implementation Act (January 1, 1994) will automatically be deemed to be in valid TN classification. Such persons may be readmitted to the United States in TN classification for the remainder of the period authorized on their Form I–94, without presentation of the letter or supporting documentation described in paragraph (e)(3) of this section, and without remittance of the prescribed fee, provided that the original intended professional activities and employer(s) have not changed. Properly filed applications for extension of stay in TC classification which are pending on January 1, 1994 will be deemed to be, and adjudicated as if they were applications for extension to stay in TN classification.

(ii) *Procedure for Canadian citizens admitted in TC classification in possession of Form I–94 indicating admission in TC classification.* At the time of readmission, such professionals shall be required to surrender their old Form I–94 indicating admission in TC classification. Upon surrender of the old Form I–94, such professional will be issued a new Form I–94 bearing the legend "multiple entry" and indicating that he or she has been readmitted in TN classification.

(iii) *Procedure for Canadian citizen admitted in TC classification who are no longer in possession of Form I–94 indicating admission in TC classification.* If the Canadian citizen seeking readmission to the United States is no longer in possession of an unexpired Form I–94, and the period of initial admission has not lapsed, he or she shall present alternate evidence described in paragraph (g)(1) of this section in order to be readmitted in TN status. A Canadian professional seeking to extend his or her stay beyond the period indicated on the new Form I–94 shall be required to comply with the requirements of paragraph (h)(2) of this section, including remittance of the fee prescribed under § 103.7 of this chapter.

(iv) *Nonapplicability of this section to self-employed professionals in TC nonimmigrant classification.* The provisions in paragraphs (l)(1) (i), (ii), and (iii) of this section shall not apply to professionals in TC nonimmigrant classification who are self-employed in this country on January 1, 1994. Effective January 1, 1994, such professionals are not authorized to engage in self-employment in this country, and may not be admitted in TN or readmitted in TC classification.

(2) *Spouses and/or unmarried minor children of Canadian citizen professionals in TC classification*—(i) *General.* Effective January 1, 1994, the nonimmigrant classification of a spouse and/or unmarried minor child of a Canadian citizen professional in TC classification will automatically be converted from B–2 to TD nonimmigrant classification. Effective January 1, 1994, the spouse and/or unmarried minor child of a Canadian citizen professional whose TC status has been automatically converted to TN, or the spouse and/or unmarried minor child of such professional whose status has been changed to TN pursuant to paragraph (1) of this section, who is seeking admission or readmission to this country, may be readmitted in TD classification for the remainder of the period authorized on their Form I–94, without presentation of the letter or supporting documentation described in paragraph (e)(3) of this section, and without remittance of the prescribed fee, provided that the original intended professional activities and employer(s) of the Canadian citizen professional have not changed. Properly filed applications for extension of stay in B–2 classification as the spouse and/or unmarried minor children of a Canadian citizen professional in TC classification which are pending on January 1, 1994 will be deemed to be, and adjudicated as if they were applications for extension of stay in TD classification.

(ii) *Procedure for spouses and/or unmarried minor children of Canadian citizens admitted in TC classification who are in possession of Form I–94 indicating admission in B–2 classification.* Upon surrender of the Form I–94 indicating that the alien has been admitted as the B–2 spouse or unmarried minor child of a TC alien valid for "multiple entry," such alien shall be issued a new Form I–94 indicating that the alien has been readmitted in TD classification. The new Form I–94 shall bear the legend "multiple entry."

(iii) *Procedure for spouses and/or unmarried minor children of Canadian citizens admitted in TC classification who are no longer in possession of Form I–94 indicating admission in B–2 classification.* If the Canadian citizen seeking readmission to the United States is no longer in possession of an unexpired Form I–94, and the period of initial admission has not lapsed, he or she shall present alternate evidence described in paragraph (g)(1) of this section in order to be readmitted in TN status. Spouses and/or children of Canadian citizen professionals seeking to extend their stay beyond the period indicated on the new Form I–94 shall be required to comply with the requirements of paragraph (h)(2) of this section, including remittance of the fee prescribed under § 103.7 of this chapter.

(iv) *Nonapplicability of this section to spouses and/or unmarried minor children of self-employed professionals admitted in TC nonimmigrant classification.* Paragraphs (l)(2) (i), (ii), and (iii) of this section shall not apply to the spouses and/or unmarried minor children of Canadian citizen professionals in TC nonimmigrant classification who are self-employed in this country on January 1, 1994. Effective January 1, 1994, such persons are not eligible for TD classification.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

9. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, 1252.

10. Section 235.1 is amended by adding a new paragraph (d)(8), and by revising paragraph (f)(1) introductory text, to read as follows:

§ 235.1 Scope of examination.

* * * * *

(d) * * *

(8) Any citizen of Canada or Mexico seeking to enter the United States as a principal alien E–1 or E–2, or as an L–1 or TN, for the purpose of employment at a site where the Secretary of Labor has certified to or otherwise informed the Commissioner that there is a strike or other labor dispute involving a work stoppage of workers in progress, and the temporary entry of that citizen of Canada or Mexico may affect adversely either the settlement of any such labor dispute or the employment of any person who is involved in any such dispute, may be refused entry in the classification sought. The applicant shall be advised in writing of the reason(s) for the refusal. A designated representative of the government of Canada or Mexico shall be promptly notified in writing of the reason(s) for the refusal of entry.

* * * * *

(f) *Arrival/Departure Record, Form I–94*—(1) *Nonimmigrants.* Each nonimmigrant alien except as indicated below, who is admitted to the United States shall be issued a completely executed Form I–94 which must be endorsed to show: date and place of admission, period of admission, and nonimmigrant classification. A nonimmigrant alien who will be making frequent entries into the United States over its land borders may be issued a Form I–94 which is valid for any number of entries during the validity of the form. In the case of a nonimmigrant alien admitted as a TN under the NAFTA, the specific occupation of such alien as set forth in Appendix 1603.D.1 of the NAFTA shall be recorded in item number 18 on the reverse side of the arrival portion of Form I–94, and the name of the employer shall be notated on the reverse side of both the arrival and departure portions of Form I–94. The departure portion Form I–94 shall bear the legend "multiple entry". A Form I–94 is not required by: * * *

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

11. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

12. In § 274a.12, paragraphs (b) (19) and (20) are revised to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(b) * * *

(19) A nonimmigrant pursuant to section 214(e) of the Act. An alien in this status must be engaged in business activities at a professional level in accordance with the provisions of Chapter 16 of the North American Free Trade Agreement (NAFTA); or

(20) A nonimmigrant alien within the class of aliens described in paragraphs (b)(2), (b)(5), (b)(8), (b)(9), (b)(10), (b)(11), (b)(12), (b)(13), (b)(14), (b)(16), and (b)(19) of this section whose status has expired but who has filed a timely application for an extension of such stay pursuant to §§ 214.2 or 214.6 of this chapter. These aliens are authorized to continue employment with the same

employer for a period not to exceed 240 days beginning on the date of the expiration of the authorized period of stay. Such authorization shall be subject to any conditions and limitations noted on the initial authorization. However, if the district director or service center director adjudicates the application prior to the expiration of this 240 day period and denies the application for extension of stay, the employment authorization under this paragraph shall automatically terminate upon notification of the denial decision.

* * * * *

Dated: December 23, 1993.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

Note: This appendix will not appear in the Code of Federal Regulations.

Appendix to the Preamble—Additional Instructions for Form I–129.

U.S. Department of Justice

Immigration and Naturalization Service, OMB No. 1115–0168 Additional Instructions for Form I–129

Temporary Entry Under the North American Free Trade Agreement

The North American Free Trade Agreement (NAFTA) entered into force on January 1, 1994. Chapter 16, *Temporary Entry*, of the Agreement exclusively covers four nonimmigrant classifications:

(1) B–1, Visitor for Business;

(2) E–1/E–2, Treaty Trader and Investor;

(3) L–1, Intracompany Transferee; and

(4) TN, Business Professional.

This form is for an employer to petition for initial classification, change of status, or extension of stay of a Mexican or Canadian citizen as an L–1; for an employer to request an extension of stay or change of status of a Mexican or Canadian citizen to the E–1 or E–2 classification; for the employer to request an extension of stay or change of status of a Canadian citizen to the NAFTA Professional classification (TN) or the change/addition of employers for a Canadian TN; and for an employer to petition for classification of a Mexican citizen as a NAFTA Professional (TN).

Regular instructions for Form I–129 shall be followed to petition for L classification and E–1/E–2 classification. The following additional instructions are provided to file for a TN.

Filing for a Canadian TN

No Form I–129 is required for Canadian citizens applying for admission to the U.S. in TN status. Form I–129 is used by an employer to request an extension of stay for a Canadian to TN, a change of status for a Canadian to TN classification, or the change/addition of employers for a Canadian TN.

On Form I–129, Part 2, Item 1, insert the classification symbol TN–1.

A U.S. employer/entity must file the Form I–129 with the following:

(1) a statement of the activity listed in Appendix 1603.D.1 (see the back of this form) in which the beneficiary will be engaging and a full description of the nature of the duties the beneficiary will be performing, the anticipated length of stay, and the arrangements for remuneration;

(2) evidence that the beneficiary meets the educational and/or alternative credentials for the activity listed in Appendix 1603.D.1;

(3) evidence of Canadian citizenship; and

(4) evidence that all licensure requirements, where applicable to the activity, have been satisfied.

Filing for a Mexican TN

Form I–129 is required for Mexican citizens applying for initial TN classification, extension of TN stay, change/addition of employers and change of classification to TN.

On Form I–129, Part 2, Item 1, insert the classification symbol TN–2.

A U.S. employer must file the petition with the following:

(1) a statement of the activity listed in Appendix 1603.D.1 (see the back of this form) in which the beneficiary will be engaging, a full description of the nature of the duties the beneficiary will be performing, the anticipated length of stay, and the arrangements for remuneration;

(2) evidence that the beneficiary meets the educational and/or alternative credentials for the activity listed in Appendix 1603.D.1;

(3) evidence of Mexican citizenship;

(4) evidence that all licensure requirements where applicable to the activity, have been satisfied; and

(5) a certification from the Secretary of Labor that the petitioner has filed the appropriate labor condition application or labor attestation for the specified activity.

When To File

File Form I–129 as soon as possible, but no more than 4 months before the proposed employment will begin or the extension of stay is required. If you do not submit Form I–129 at least 45 days before the employment will begin, processing and subsequent visa issuance may not be completed before the alien's services are require or previous employment authorization ends.

Where To File

When filing for a Mexican or Canadian TN, Form I–129 shall be filed with the Director of the Northern Service Center. In all other instances, Form I–129 shall be filed with the appropriate Service center per the instructions to Form I–129.

Fee

See general instructions for Form I–129.

Listing of Professional Occupations in Appendix 1603.D.1 of North American Free Trade Agreement

(The minimum educational or alternative credentials requirements for each profession are found at 8 CFR 214.6(c)).

Accountant
Architect
Computer Systems Analyst
Disaster relief insurance claims adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)
Economist
Engineer
Forester
Graphic designer
Hotel manager
Industrial designer
Interior designer
Land surveyor
Landscape architect
Lawyer (including Notary in the province of Quebec)
Librarian
Management consultant
Mathematician (including statistician)
Range manager/Range conservationist
Research assistant (working in a post-secondary educational institution)
Scientific technician/technologist
Social worker
Sylviculturist (including forestry specialist)
Technical publications writer
Urban planner (including geographer)
Vocational counselor

Medical/Allied Professionals

Dentist
Dietitian
Medical laboratory technologist (Canada)/medical technologist (Mexico and the United States)
Nutritionist
Occupational therapist
Pharmacist
Physician (teaching or research only)
Physiotherapist/physical therapist
Psychologist
Recreational therapist
Registered nurse
Veterinarian

SCIENTIST

Agriculturist (agronomist)
Animal breeder
Animal scientist
Apiculturist
Astronomer
Biochemist
Biologist
Chemist
Dairy scientist
Entomologist
Epidemiologist
Geneticist
Geochemist
Geologist
Geophysicist (including oceanographer in Mexico and the United States)
Horticulturist
Meteorologist
Pharmacologist
Physicist (including Oceanographer in Canada)
Plant Breeder
Poultry scientist
Soil scientist
Zoologist

TEACHER

College
Seminary
University

For information regarding qualifications for the positions, additions or subtractions from Appendix 1603.D.1, and related information, you should contact your local Immigration and Naturalization Service office.

[FR Doc. 93–32008 Filed 12–28–93; 11:17 am]

BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AE84

Standards for Protection Against Radiation; NRC Operations Center Telephone Number

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: This final rule amends the NRC's revised standards for protection against radiation to include the telephone number for the NRC Operations Center. The final rule is necessary to correct the inadvertent omission of this telephone number when the revised standards were issued.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2741.

SUPPLEMENTARY INFORMATION: On May 21, 1991 (56 FR 23360), the Nuclear Regulatory Commission (NRC) published its revised standards for protection against radiation (10 CFR 20.1001–20.2401 and the associated appendices). The revised standards for protection against radiation incorporated scientific information and reflected changes in the basic philosophy of radiation protection that had occurred since the promulgation of the original regulations. The revisions conformed the Commission's regulations to the Presidential Radiation Protection Guidance to Federal Agencies for Occupational Exposure and to recommendations of national and international radiation protection organizations. The revised standards for protection against radiation became effective on June 20, 1991. However, NRC licensees were permitted to defer the mandatory implementation of these regulations until January 1, 1993. The deferred implementation date was later extended to January 1, 1994 (August 26, 1992; 57 FR 38586).

However, the May 21, 1991, final rule did not include the telephone number for the NRC Operations Center in the text of the revised standards for protection against radiation. When the superseded standards for protection against radiation are removed from the regulations on January 1, 1994, the phone number will not be contained in the regulatory text of part 20. This final rule will correct this inadvertent omission by inserting the NRC Operations Center telephone number in the text of §§ 20.2201 and 20.2202.

Because these amendments make a minor procedural change that adds a telephone number to an earlier rulemaking action for which public comment was solicited (May 21, 1991; 56 FR 23360), the NRC has determined that good cause exists to dispense with the notice and comment provisions of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(b)(B). For the same reason, the NRC has determined that good cause exists to waive the 30-day deferred effective date provisions of the APA (5 U.S.C. 553(d)).

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0014.

Regulatory Analysis

This final rule is administrative in that it adds an inadvertently omitted telephone number to the text of an existing regulation. These amendments will not have a significant impact. Therefore, the NRC has not prepared a separate regulatory analysis for this final rule. The final regulatory analysis for the May 21, 1991, final rule examined the costs and benefits of the alternatives considered by the Commission in developing the revised standards for protection against radiation and is available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington DC.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provision that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 20.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 is revised to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (2 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. In § 20.2201, paragraph (a)(2)(ii) is revised to read as follows:

§ 20.2201 Reports of theft or loss of licensed material.

(a) * * *

(2) * * *

(ii) All other licensees shall make reports by telephone to the NRC Operations Center (301–951–0550).

* * * * *

3. In § 20.2202, paragraph (d)(2) is revised to read as follows:

§ 20.2202 Notification of incidents.

* * * * *

(d) * * *

(2) All other licensees shall make the reports required by paragraphs (a) and (b) of this section by telephone to the NRC Operations Center (301–951–0550) and by telegram, mailgram, or facsimile to the Administrator of the appropriate NRC Regional Office listed in appendix D to this part.

* * * * *

Dated at Rockville, Maryland, this 22nd day of December 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–31844 Filed 12–29–93; 8:45 am]

BILLING CODE 7590–01–P

---

10 CFR Part 52

RIN 3150–AE42

Combined Licenses; Conforming Amendments; Response to Post-Promulgation Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule: comment response.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is addressing the one comment that was received after issuance of the final rule that amended the regulations concerning combined licenses to incorporate changes required by licensing reform legislation. This notice is necessary to inform the public of the NRC's response to this post-promulgation comment.

DATES: The final rule became effective January 22, 1993. Comments were due by February 22, 1993.

FOR FURTHER INFORMATION CONTACT: Grace H. Kim, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–504–3605.

SUPPLEMENTARY INFORMATION:

Background

In 1992 Congress passed, and the President signed, the Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776). Title XXVIII of that Act amended (in part) the nuclear power plant licensing provisions of the Atomic Energy Act. The new legislation largely codified existing NRC regulations in 10 CFR part 52. It also made several changes in the part 52 licensing process.

Accordingly, on December 23, 1992 (57 FR 60975), the Commission issued a final rule amending part 52 to "incorporate[] all the changes to these provisions that are necessary because of the enactment of licensing reform legislation." The Commission found prior public comment on the new amendments unnecessary because the "changes are limited to incorporating the language of [the Energy Policy Act] into the regulations." *Id.* The Commission invited comment by "any interested member of the public who believes that the Commission has not accurately conformed part 52 to the Energy Policy Act." *Id.*

When the Commission issues a final rule without notice and comment it is required, under 10 CFR 2.804(f), to provide a 30-day "post-promulgation" comment period and to publish, in the **Federal Register**, an evaluation of the comments and any revisions of the rule made as a result of the comments and their evaluation.

Only one comment was received. It was submitted on February 22, 1993, by the Nuclear Management and Resources Council ("NUMARC"). The NUMARC comment, while "agree[ing]" that the part 52 amendments "incorporate the relevant language of title XXVIII of the Energy Policy Act," sought "clarification" of "certain ambiguities" created by the "literal transcription." The NRC is not revising 10 CFR part 52 as a result of the comment and its evaluation.

Analysis of Public Comment

The Commission sees no need to alter the amended part 52; but, pursuant to 10 CFR 2.804(f), offers the following response to the four points made in NUMARC's comment letter.

1. Section 52.99, Inspection During Construction

NUMARC is concerned that the amended language of 10 CFR 52.99, which incorporates section 2801 of title XXVIII of the Energy Policy Act of 1992, will require the Commission itself, rather than the NRC staff, to oversee the ITAAC process (*i.e.*, the inspections, tests, analyses and acceptance criteria required for plant operation under part 52). The statutory language and the amended regulation state that after issuance of a combined license, "the Commission shall ensure that the required inspections, tests and analyses are performed, as well as find, prior to operation of the facility, that the prescribed acceptance criteria are met." The original part 52 specified that the NRC staff would oversee the ITAAC process.

Statutory or regulatory references to the "Commission" are commonly understood to allow the Commission to act through its staff. Here, NUMARC is correct in its understanding that the change in the wording of § 52.99 to incorporate the language of the Energy Policy Act does not alter the role of the NRC staff. The NRC staff will have principal responsibility for overseeing the ITAAC process. Assigning this day-to-day role to the Commissioners themselves would be entirely unworkable. The Commission itself remains responsible under the amended § 52.99, as it was under the original part 52, for the ultimate finding that the acceptance criteria have been met. See 10 CFR 52.103(g).

2. Section 52.103, Operation Under Combined License

NUMARC requested that the Commission amend 10 CFR 52.103 to specifically incorporate 5 U.S.C. 554(a)(3), a section of the Administrative Procedure Act (APA) exempting certain agency decisions (those resting "solely on inspections, tests, or elections") from formal APA procedural requirements. That provision was cited in the original version of part 52.

In revising § 52.103, the Commission essentially tracked the language used by Congress in the Energy Policy Act. Congress did not cross-reference the APA in that Act, and neither does the revised § 52.103. No cross-reference is necessary to invoke the APA, which unquestionably applies to NRC licensing proceedings under part 52. See 42 U.S.C. 2231. Thus, § 52.103's failure to mention the APA's "inspections or tests" exemption does not prevent applying the exemption in appropriate situations.

3. Section 52.97, Issuance of Combined License

NUMARC agrees that the NRC properly interpreted section 2804 of the Energy Policy Act to make the so-called "Sholly" procedure applicable to combined licenses. The "Sholly" approach allows the Commission to make an amendment to a combined license immediately effective (*i.e.*, prior to a hearing) if it makes a finding that there are no significant hazards considerations. The Commission altered the language of 10 CFR 52.97 to reflect this express statutory authority. Because NUMARC's comment embraces § 52.97 as sound law, and suggests no change in it, no further response is necessary.

4. Statement of Considerations on § 52.97

NUMARC expresses reservations about language in the statement of considerations on the revised 10 CFR 52.97 stating that the Commission "will not look with favor upon license amendments to the combined license filed shortly before planned operation that could have the effect of undermining standardization or changing the scope of imminent or pending hearings on conformance issues." 57 FR at 60976. NUMARC agrees that the "Sholly provisions should not * * * be used as a subterfuge for eliminating contested issues in a pending § 52.103 hearing on acceptance criteria performance," but fears that the Commission's "overly broad" language may discourage a licensee from applying for a license amendment to permit "a late-occurring minor noncompliance" with an acceptance criterion. NUMARC indicates that reworking the project to avoid the minor noncompliance may be undesirable "from both a cost and safety standpoint."

The Commission finds the language in the statement of considerations appropriate. It merely reiterates the Commission's longstanding commitment to standardization evident throughout the statement of considerations on the original part 52. See 54 FR 15372 (1989). The language does not disfavor all license amendments, only those that would undermine standardization or change the scope of pending hearings. A license amendment to deal with a "minor noncompliance" likely would not fall in those categories.

List of Subjects in 10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

Dated at Rockville, Maryland, this 22d day of December 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–31768 Filed 12–29–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–102–AD; Amendment 39–8772; AD 93–25–06]

Airworthiness Directives; Boeing Model 767 Series Airplanes Equipped With Over-Wing Escape Slides

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes equipped with over-wing escape slides, that requires modification of the trailing edge panels and the aft flaps. This amendment is prompted by the results of functional tests of over-wing escape slides, which revealed that some slides were damaged when they were deployed across sharp corners on the trailing edge of the wing and the large gaps between the trailing edge panels of the wing. The actions specified by this AD are intended to prevent damage to the over-wing escape slide, which could hinder inflation of the slide to a usable configuration during an emergency evacuation.

DATES: Effective January 31, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 31, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2784; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes equipped with over-wing escape slides was published in the **Federal Register** on August 10, 1993 (58 FR 42513). That action proposed to require modification of the trailing edge panels and the aft flaps.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

The manufacturer states that the proposed rule is unwarranted because, contrary to the statement of unsafe condition in the proposal, in all five instances in which sharp corners caused damage to the over-wing escape slides, none of the escape slides was rendered unusable. From that comment, the FAA infers that the commenter is requesting that the proposal be withdrawn. The FAA does not concur. Although there have been no reported cases of unusable escape slides, the potential for escape slides to deploy into an unusable configuration still exists until the sharp corners on the wing are eliminated. Furthermore, in the event of damage to either the lower or the upper inflation chamber, the effectiveness of the slide would be severely reduced since only the remaining chamber would be capable of full inflation. This AD action addresses that potential unsafe condition.

One commenter requests that the proposed 15-month compliance time to accomplish the modification of the trailing edge panels and the aft flaps be shortened to six months. This commenter suggests that the proposed compliance time may be too long to fly with a potential for damaged over-wing escape slides that may delay or impede passengers during an emergency evacuation. The FAA does not concur with the need for a shorter compliance time. In developing an appropriate compliance time, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the modifications. The proposed compliance time of 15 months was determined to be appropriate in consideration of these factors.

Two commenters request that the 15-month proposed compliance time be extended to coincide with operators'

regularly scheduled maintenance, which ranged from 18 months to 24 months. The FAA does not concur with these commenters' requests to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered the degree of urgency associated with addressing the subject unsafe condition, the availability of required parts, the practical aspect of installing the required modification within a maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety, and the average regular maintenance interval for the majority of the affected operators. In consideration of these items, as well as the reports of damage to slides during functional tests, the FAA has determined that 15 months represents the maximum interval of time allowable wherein the modifications can reasonably be accomplished and an acceptable level of safety can be maintained. However, under the provisions of paragraph (b) of the final rule, operators may apply for an alternative method of compliance or adjustment of the compliance time by presenting data to the FAA to justify such an extension.

One commenter requests clarification as to how the requirements of Airworthiness Directive (AD) 91–15–13, Amendment 39–7077 (56 FR 34019, July 25, 1991) relate to the requirements of this AD. Specifically, AD 91–15–13, which references Boeing Service Bulletin 767–27–0104, requires modification of the inboard edges of the rub strip on the inboard spoilers. This modification is also described in Boeing Service Bulletin 767–57–0043, which is referenced in the proposal. The FAA concurs that clarification is necessary. On April 13, 1992, the FAA issued AD 92–10–01, Amendment 39–8234 (57 FR 19529, May 7, 1992) to supersede AD 91–15–13. Note 1 in paragraph (a) of the final rule has been revised to clearly state that modification of the inboard edges of the rub strip on the inboard spoilers, previously accomplished in accordance with AD 92–10–01, does not have to be repeated to comply with the requirements of this AD.

Since the issuance of the Notice of Proposed Rulemaking (NPRM), the FAA has reviewed and approved Boeing Service Bulletin 767–57–0043, Revision 2, dated September 16, 1993. This revision to the service bulletin merely corrects minor typographical errors contained in Revision 1, dated May 6, 1993, that was referenced in the NPRM. Therefore, paragraph (a) of the final rule has been revised to reference Revision 2 as an additional source of service information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 476 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 166 airplanes of U.S. registry will be affected by this AD, that it will take approximately 40 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $365,200, or $2,200 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–25–06 Boeing: Amendment 39–8772. Docket 93–NM–102–AD.

Applicability: Model 767 series airplanes, equipped with over-wing escape slides, line positions 1 through 476 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the over-wing escape slide, which could hinder inflation of the slide to a usable configuration during an emergency evacuation, accomplish the following:

(a) Within 15 months after the effective date of this AD, modify the trailing edge panels and the aft flaps, in accordance with Boeing Service Bulletin 767–57–0043, Revision 1, dated May 6, 1993; or Revision 2, dated September 16, 1993.

Note 1: Portions of the modification required by this AD (to modify the inboard edges of the rub strip on the inboard spoilers) are required by AD 92–10–01, Amendment 39–8234, which references Boeing Service Bulletin 767–27–0104, Revision 2, dated September 12, 1991. As allowed by the phrase, "unless accomplished previously," if the requirements of that AD have already been accomplished, this AD does not require that those portions of the modification be repeated.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with Boeing Service Bulletin 767–57–0043, Revision 1, dated May 6, 1993; or Boeing Service Bulletin 767–57–0043, Revision 2, dated September 16, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 31, 1994.

Issued in Renton, Washington, on December 13, 1993.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–30805 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 436

Trade Regulation Rule; Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Notice of Commission action to vacate extension effecting stay.

SUMMARY: After reviewing the evidence and comment submitted in response to an Advance Notice of Proposed Rulemaking (ANPR), the Federal Trade Commission has decided not to initiate a rulemaking to amend the earnings claim and preemption provisions of its Franchise Rule (16 CFR part 436). The ANPR was published on February 16, 1989 (54 FR 7041), and the record for public comment was reopened for receipt of additional evidence and comment on September 22, 1989 (54 FR 39000), and again on February 13, 1991 (56 FR 5783).

The Commission has also determined that the extension of time issued on February 16, 1989 (54 FR 7041) which effected a stay of its order published June 15, 1987 (52 FR 22686), requiring franchisors that have chosen to use the Uniform Franchise Offering Circular ("UFOC") to comply with the Franchise Rule to follow the revised UFOC earnings claim requirements by January 1, 1989, is no longer necessary to prevent inconsistent state and federal compliance obligations. Accordingly, the Commission is vacating the stay, and franchisors wishing to use the UFOC to comply with the Franchise Rule must now comply with the UFOC Guidelines as revised by the North American Securities Administrators' Association on November 21, 1986.

DATES: The Commission's action vacating the extension is effective as of December 30, 1993, and applies to any annual revision, amendment to reflect a material change, or quarterly update prepared on or after December 30, 1993.

ADDRESSES: Any questions about Franchise Rule compliance obligations arising from this notice should be addressed to Franchise Rule Staff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Lawrence H. Norton, Assistant Director, Division of Marketing Practices, PC–H–238, Federal Trade Commission, Washington, DC 20580 (202) 326–3128.

SUPPLEMENTARY INFORMATION: On February 16, 1989, the Commission issued an Advance Notice of Proposed Rulemaking ("ANPR") requesting public comment on whether or not it should initiate a rulemaking proceeding to amend the earnings claim and preemption provisions of its Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures ("Franchise Rule") (16 CFR part 436). The Commission extended the initial 60-day comment period for an additional 60 days on April 12, 1989 (54 FR 14662), and granted a request from the International Franchise Association ("IFA") for a subsequent reopening of the record for an additional 60 days on September 22, 1989 (54 FR 39000). After reviewing the 220 submissions received, the Commission was not persuaded that an amendment proceeding on either the earnings claim or preemption issue would be in the public interest, but decided to reopen the record once more to obtain additional evidence not then available

In a notice issued February 13, 1991 (56 FR 5783), the Commission announced a reopening of the record for receipt of further evidence and comment until August 6, 1992, to permit sufficient time for studies to be conducted and submitted on the effect of new streamlined earnings claim requirements of the Uniform Franchise Offering Circular ("UFOC"), a disclosure format franchisors may use in lieu of the Franchise Rule disclosure format to comply with federal and state disclosure requirements. The Commission also requested "the best evidence available" of "the nature and pervasiveness of any inconsistencies in state [registration and disclosure] requirements," and sought to encourage the submission of deficiency letters that would demonstrate any conflicts or inconsistencies by authorizing their inclusion in the record in redacted form to shield the identity of the franchisor, its law firm and the state official who issued the letter.

Ten submissions were received during the reopening, six of which provided new data or evidence. One, a study which included comparative data on the use of earnings claims in disclosures filed in the State of Maryland before and after the streamlined UFOC earnings claim requirements took effect, showed what the authors termed a "modest" three percent increase overall in the availability of pre-sale earnings information to potential franchise purchasers that might be attributed to the revised UFOC earnings disclosure requirements.[1] The reopening produced no other studies or comments relevant to the question of whether the public interest would be served by amendment of the Franchise Rule to provide a comparable simplification of its earnings claim disclosure provisions, as the initial comments had advocated.

Three submissions on the preemption issue during the reopening provided a total of only seven deficiency letters to support the contention of the American Bar Association and others that pervasive conflicts and inconsistencies in state registration and disclosure requirements create a compelling need for amendment of the preemption provision of the Franchise Rule.[2] None of the deficiency letters, nor any of the other evidence and comment submitted prior to or during the reopening, demonstrates that a direct conflict exists in which one state requires a disclosure that another will not permit. To the extent that the submissions demonstrate any inconsistencies among state laws, the laws involved primarily deal with the franchise relationship rather than pre-sale disclosure.

The one conflict of record occurred between federal and state disclosure requirements. It arose when two states did not adopt the revised UFOC earnings claim requirements by January 1, 1991, the date on which franchisors using the UFOC for compliance with the Franchise Rule were required to use only the revised requirements. The two states have since acted to permit the use of the revised earnings claim requirements in their respective jurisdictions, and the conflict is now moot.

[1] W. Lewis & M. Forseth, Earnings Claim Study (1987–1991): A Study of Franchisors Registered in Illinois and Maryland (Final Report, May 11, 1992).

[2] The comment, prepared by the ABA Antitrust Section, was endorsed by the House of Delegates as ABA policy, and by the Governing Committee of the ABA Forum Committee on Franchising. The IFA, a trade association representing some 650 business-format franchisors, advanced similar arguments in a prior submission, but did not submit evidence or comment during the reopening.

VOL 58 ISS 249 DEC 30 1993 UMI

Accordingly, the Commission is vacating the stay issued to permit franchisors to avoid the conflict by continuing to use the original UFOC earnings claim requirements to comply with the Rule. All new franchise disclosures, annual revisions, amendments to reflect a material change and quarterly updates prepared on or after December 30, 1993, must comply with the revised earnings claim requirements in Item 19 of the UFOC Guidelines issued by the North American Securities Administrators' Association on November 21, 1986.

Having reviewed the entire record, the Commission is not persuaded that a rulemaking to amend the earnings claim or preemption provisions of the Franchise Rule would be in the public interest. The available evidence does not indicate that revision of the earnings claim requirements of the Franchise Rule would be reasonably likely to enhance the accessibility of franchise earnings information in the marketplace to a significant extent, and there is no evidence of a direct conflict among state registration and disclosure requirements. Moreover, the very limited response to the Commission's invitation to the industry to develop an evidentiary record of deficiency letters suggests that any inconsistencies in state registration and disclosure requirements are neither so significant nor pervasive as to be reasonably likely to demonstrate a compelling need for preemption.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–31789 Filed 12–29–93; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 436

Trade Regulation Rule; Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Authorization for use of disclosures prepared in compliance with amended Uniform Franchise Offering Circular Guidelines in lieu of disclosures required by the Commission's Franchise Rule.

SUMMARY: The Commission has approved the use, as of January 1, 1994, of disclosures prepared in accordance with amended Uniform Franchise Offering Circular Guidelines adopted by the North American Securities Administrators Association on April 25, 1993, for compliance with the pre-sale disclosure requirements of the Commission's Franchise Rule (16 CFR 436.1(a)–(e)).

DATES: Franchisors may use disclosures prepared in accordance with either the present or amended Uniform Franchise Offering Circular Guidelines as of January 1, 1994. Authorization to prepare disclosures that comply with the present UFOC Guidelines is revoked effective six months to the day after the date on which the last state requiring pre-sale registration of a franchise permits the use of the amended Guidelines. UFOC disclosures required to be prepared, amended, revised or filed on and after the revocation date by the Rule or state law must satisfy the requirements of the UFOC Guidelines as amended by NASAA on April 25, 1993, for use in compliance with the Franchise Rule.

ADDRESSES: Questions about Franchise Rule compliance obligations arising from this notice should be addressed to Franchise Rule Staff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Lawrence H. Norton, Assistant Director, Division of Marketing Practices, PC–H–238, Federal Trade Commission, Washington, DC 20580 (202) 326–3128.

SUPPLEMENTARY INFORMATION: The Commission's trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" ("Franchise Rule" or "Rule") (16 CFR part 436) requires franchisors to provide pre-sale disclosures of material information to prospective franchisees. The form and content of the required disclosures is prescribed by §§ 436.1(a)–(e) of the Rule.

When the Rule was issued, the Commission authorized the use of an alternative disclosure format, known as the Uniform Franchise Offering Circular ("UFOC"), in lieu of the disclosures required by §§ 436.1(a)–(e) of the Rule (43 FR 59614, 59722). The UFOC had been prepared by state franchise law administrators to enable franchisors to use a single document to comply with the differing pre-sale disclosure requirements of the franchise registration and disclosure laws in their jurisdictions.

The Commission's initial approval of the UFOC extended only to disclosures that complied with the UFOC Guidelines as adopted by the Midwest Securities Commissioners Association ("MSCA") on September 5, 1975 (44 FR 49966, 49970). The Commission subsequently granted a petition from the MSCA's successor, the North American Securities Administrators Association (NASAA), for approval of amendments to the UFOC Guidelines that NASAA had adopted on November 27, 1986 (52 FR 22686).

In a request filed July 2, 1993, NASAA now has asked that the Commission approve new amendments to the UFOC Guidelines adopted on April 25, 1993 (Extra Edition, Bus. Fran. Guide (CCH), Rpt. No. 161 (May 25, 1993)). Unlike the limited 1986 revisions, which principally affected the UFOC earnings claim requirements, the new amendments are the product of a comprehensive revision of the UFOC Guidelines. They include significant changes and additions to the present Guidelines, most notably the requirement that UFOC disclosure documents use "plain English."

In issuing the Franchise Rule, the Commission recognized that although the UFOC and the Rule are "substantively similar in content," there are "certain areas in which the UFOC requires more disclosure than the Commission's Rule, and certain areas where the Commission's Rule requires more disclosure than the UFOC." After analyzing the differences between the two disclosure formats, however, the Commission proceeded to approve the present UFOC upon finding that, "viewed as a whole, * * * compliance with the UFOC disclosures results in protection to prospective franchisees equal to or greater than that provided by [the] Rule" (43 FR at 59722).

Having conducted a thorough review and analysis of the new amendments to the UFOC Guidelines, the Commission finds that, viewed as a whole, they provide prospective franchisees with protection equal to or greater than that provided by the Franchise Rule. Accordingly, the Commission is authorizing the use of disclosures prepared in accordance with the UFOC Guidelines, as amended by NASAA on April 25, 1993, in lieu of the disclosures required by Sections 436.1(a)–(e) of the Franchise Rule, as of January 1, 1994. This authorization remains subject to the conditions the Commission previously has articulated for use of the UFOC disclosure format for compliance with the Franchise Rule (43 FR at 59723 n.232; 44 FR at 49970–71).

Section 265 of the General Instructions to the amended UFOC Guidelines provides that the new requirements will take effect "six months after the Federal Trade Commission and each NASAA member whose jurisdiction requires pre-sale registration of a franchise adopts them," but "no late than January 1, 1995." The provision specifies that, thereafter, "all

initial franchise applications, renewals and re-registrations must comply with these Guidelines."

In the interest of uniformity, the Commission is accommodating the implementation timetable provided by the amended UFOC Guidelines by authorizing the use, as of January 1, 1994, of disclosures prepared in accordance with the amended UFOC Guidelines, and revoking its prior authorization for preparation of disclosures in accordance with the present UFOC Guidelines effective six months to the day after the date on which the last state requiring pre-sale registration of a franchise adopts the amended UFOC Guidelines. UFOC disclosures required to be prepared, amended, revised or filed on and after the revocation date by the Rule or state law must satisfy the requirements of the UFOC Guidelines as amended by NASAA on April 25, 1993, for use in compliance with the Franchise Rule.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–31790 Filed 12–29–93; 8:45 am]

BILLING CODE 6750–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–33371; IC–19881]

RIN 3235–AG01

Elimination of Filing Requirements for Preliminary Proxy Materials Under Certain Circumstances

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission ("Commission") has adopted amendments to the proxy and information statement filing requirements. The amendments broaden the exclusion from the preliminary filing requirement to include shareholder action on new compensation plans as well as amendments to existing plans. These amendments codify a prior interpretation regarding amendments to existing plans and extend this position to the submission of new compensation plans for shareholder action. The amendments relieve registrants and the Commission of unnecessary administrative burdens and processing costs associated with the filing and processing of proxy materials currently the subject of selective review procedures, but which are not ordinarily selected for review in preliminary form.

EFFECTIVE DATE: These rules are effective on December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Gregg W. Corso, Paula Dubberly, Brian L. Henry or Thomas D. Twedt, (202) 272–3097, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission has adopted an amendment to Rule 14a–6[1] and Rule 14c–5[2] of the Securities Exchange Act of 1934 ("Exchange Act").[3] These amendments modify the preliminary filing requirements for proxy and information statements.

I. Amendments to Rule 14a–6 and 14c–5

In a companion release to the recently enacted refining amendments to the executive compensation rules, the Commission proposed to codify a prior interpretation that a proxy or information statement is not subject to the preliminary filing requirement because it relates to shareholder action on amendments to an existing employee benefit plan.[4] In addition, the Commission asked whether this exclusion should be extended to shareholder action on new plans.[5]

This proposal was intended to relieve registrants and the Commission of unnecessary administrative burdens and processing costs associated with the filing and processing of proxy materials currently the subject of selective review procedures, but which are not ordinarily selected for review in preliminary form. In light of the support expressed by commenters for these rule changes, the Commission today is adopting the proposed change and extending its scope to include new plans.[6] The amendments revise Rule 14a–6 and Rule 14c–5 specifically to include approval or ratification of compensation plans or amendments to such plans as exclusions from the preliminary filing requirements.

In responding to the Commission's request for comments on extending the exclusion to new plans, many commenters observed that there is no reason to differentiate between shareholder action on an amendment to an existing plan and action on a new plan. The disclosure requirements for both matters under Regulations 14A and 14C are virtually identical.[7] Moreover, the objectives sought by the adoption of a new plan can generally be achieved through amendment of an existing plan.

The amendment adopted today affects only filing requirements; it does not affect disclosure requirements. As under current practice, definitive materials will still be subject to being selected for review. As previously announced, the staff during the 1994 proxy season plans to review the proxy statements of those registrants who were requested last year to make changes in future filings, as well as proxy statements of additional registrants.[8]

II. Cost Benefit Analysis

No specific data were provided in response to the Commission's request regarding the costs and benefits of these amendments. The Commission believes that the benefits to be gained by amending the proxy and information statement filing requirements outweighs the costs, if any, associated with implementing the proposals.

III. Final Regulatory Flexibility Analysis

The Commission has prepared the following Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. 604.

1. The Commission is proposing amendments to Rules 14a-6 and 14c-5 under the Exchange Act to codify an interpretive position and to eliminate the necessity to file a preliminary proxy or information statement when a new compensation plan is submitted for shareholder approval.

2. No comments were received with respect to the Initial Regulatory Flexibility Analysis.

3. A number of significant alternatives to the proposed amendments have been considered. One alternative would be to provide differing or simplified requirements for small businesses that are based on performance rather than design standards. However, the adoption of performance standards

---

[1] 17 CFR 240.14a–6.

[2] 17 CFR 240.14c–5.

[3] 15 U.S.C. 78a *et seq.*

[4] Release No. 34–33232 (November 29, 1993) (58 FR 63017). The interpretive position extending the exclusion to amendments of existing employee benefit plans was articulated in 1991. Release No. 34–28869 (58 FR 7242) at note 244. See also *Thompson Hine and Flory* (avail. March 29, 1991) (affirming that plan amendments do not trigger the preliminary filing requirements of Rule 14a–6).

[5] *Id.*

[6] The Commission received 12 letters of comment, which may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549, File No. S7–31–93.

[7] Item 10, Schedule 14A (17 CFR 240.14a-101).

[8] Release No. 33–7032 (November 29, 1993) (58 FR 63010); see also *Procedures for Early Staff Review of Executive Compensation Disclosure*, SEC News Digest, Issue 93–235 (December 8, 1993).

would not be consistent with the Commission's statutory mandate to require disclosure to investors of material information necessary to make informed investment decisions. The amendments clarify and broaden an interpretation that simplifies reporting requirements for all registrants, including small businesses. Other alternatives would involve the establishment of different compliance or reporting requirements or timetables to take into account the resources available to small businesses and to provide an exemption from coverage of the provisions for small businesses. Since the amendments impose no added burden on small business issuers, different treatment is not warranted.

IV. Effective Date

The amendments to Rules 14a–6 and 14c–5 shall be effective upon publication in the **Federal Register**. This date is less than 30 days after publication in the **Federal Register** in accordance with the Administrative Procedures Act, which allows effectiveness in less than 30 days after publication for, *inter alia*, "a substantive rule which grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1).

V. Statutory Basis

The amendments contained herein are being proposed pursuant to sections 12, 13, 14(a), 15(d) and 23(a) of the Exchange Act.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Amendment

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l1, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 78l/(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. By amending § 240.14a–6 by revising paragraph (a) and the undesignated paragraph preceding the notes to read as follows:

§ 240.14a–6 Filing requirements.

(a) *Preliminary proxy statement.* Five preliminary copies of the proxy statement and form of proxy shall be filed with the Commission at least 10 calendar days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause thereunder. A registrant, however, shall not file with the Commission a preliminary proxy statement, form of proxy or other soliciting material to be furnished to security holders concurrently therewith if the solicitation relates to an annual (or special meeting in lieu of the annual) meeting, or for an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) or a business development company, if the solicitation relates to any meeting of security holders at which the only matters to be acted upon are:

(1) The election of directors;

(2) The election, approval or ratification of accountant(s);

(3) A security holder proposal included pursuant to Rule 14a–8 (§ 240.14a–8 of this chapter);

(4) The approval or ratification of a plan as defined in paragraph (a)(7)(ii) of Item 402 of Regulation S–K (§ 229.402(a)(7)(ii) of this chapter) or amendments to such a plan;

(5) With respect to an investment company registered under the Investment Company Act of 1940 or a business development company, a proposal to continue, without change, any advisory or other contract or agreement that previously has been the subject of a proxy solicitation for which proxy material was filed with the Commission pursuant to this section; and/or

(6) With respect to an open-end investment company registered under the Investment Company Act of 1940, a proposal to increase the number of shares authorized to be issued.

This exclusion from filing preliminary proxy material does not apply if the registrant comments upon or refers to a solicitation in opposition in connection with the meeting in its proxy material.

* * * * *

3. By amending § 240.14c–5 to revise paragraph (a) and the undesignated paragraph preceding the notes to read as follows:

§ 240.14c–5 Filing requirements.

(a) *Preliminary information statement.* Five preliminary copies of the information statement shall be filed with the Commission at least 10 calendar days prior to the date definitive copies of such statement are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor. In computing the 10-day period, the filing date of the preliminary copies is to be counted as the first day and the 11th day is the date on which definitive copies of the information statement may be mailed to security holders. A registrant, however, shall not file with the Commission a preliminary information statement if it relates to an annual (or special meeting in lieu of the annual) meeting, of security holders at which the only matters to be acted upon are:

(1) The election of directors;

(2) The election, approval or ratification of accountant(s);

(3) A security holder proposal identified in the registrant's information statement pursuant to Item 4 of Schedule 14C (§ 240.14c–101); and/or

(4) The approval or ratification of a plan as defined in paragraph (a)(7)(ii) of Item 402 of Regulation S–K (§ 229.402(a)(7)(ii) of this chapter) or amendments to such a plan.

This exclusion from filing a preliminary information statement does not apply if the registrant comments upon or refers to a solicitation in opposition in connection with the meeting in its information statement.

* * * * *

Dated: December 23, 1993.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31819 Filed 12–29–93; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AA89

Wage and Hour Division

29 CFR Part 507

RIN 1215–AA69

Labor Condition Applications and Requirements for Employers Using Aliens on H–1B Visas in Specialty Occupations and as Fashion Models

AGENCIES: Employment and Training Administration, Labor, and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Interim final rule.

SUMMARY: In order to implement procedural requirements applicable to the temporary entry of nonimmigrant professionals into the United States from Mexico pursuant to transition provisions of the North American Free Trade Agreement (NAFTA), the Department of Labor (Department or DOL) is amending its regulations promulgated under the Immigration and Nationality Act (INA). Under the terms of NAFTA, employers will be required to file an attestation, in the case of registered nurses, and a labor condition application, in the case of all other professions set out in Appendix 1603.D.1 of Annex 1603 of NAFTA, supplying the information mandated under INA section 212 ((m) and (n), respectively).

This rule implements the provisions of NAFTA pertaining to the employment of Mexican citizens as professionals other than registered nurses, pursuant to the regulations implementing section 212(n) of the INA. By a separate rule to be published in the **Federal Register**, the regulations promulgated under section 212(m) of the INA, pertaining to facilities using nonimmigrants as registered nurses under H–1A visas, are also being amended to implement these provisions of NAFTA.

EFFECTIVE DATE: Effective on the date the NAFTA enters into force with respect to the United States, which is January 1, 1994, on an exchange of written notifications certifying completion of necessary legal procedures. The Department will publish a document in the **Federal Register** confirming the effective date.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart H, and 29 CFR part 507, subpart H, regarding the labor attestation and labor condition application procedures, contact Patrick Stange, Division of Foreign Labor Certification, U.S. Employment Service, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, NW., room N–4456, Washington, DC 20210. Telephone: (202) 219–5263 (this is not a toll-free number).

On 20 CFR part 655, subpart I, and 29 CFR part 507, subpart I, regarding the enforcement process, contact Solomon Sugarman, Wage and Hour Division, Employment Standards Administration, Department of Labor, 200 Constitution Avenue, NW., room S–3510, Washington, DC 20210. Telephone: (202) 219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This regulation contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act. The information collection requirements contained in the regulations currently in effect under the Department's H–1B program were previously submitted to the Office of Management and Budget (OMB) and assigned OMB Control No. 1205–0310.

II. Background

The North American Free Trade Agreement (NAFTA) has been implemented by the U.S. Congress through legislation. NAFTA Implementation Act, Pub. L. 103–182, 107 Stat. 2057 (December 8, 1993). This legislation prescribes certain procedures for the temporary entry of Mexican professionals as nonimmigrants for employment in the United States. *Ibid.* at section 341(a) and (b).

Under the provisions of Appendix 1603.D.4 of Annex 1603 of the NAFTA, the number of Mexican professionals entering the United States pursuant to Annex 1603, Section D, of the NAFTA is limited to 5,500 annually. This limit may be increased by agreement between Mexico and the United States and will expire 10 years after NAFTA enters into effect, unless the two countries decide to remove the limit earlier. This limit is separate from the 65,000 annual limit on admissions under H–1B visas established by section 214(g)(1)(A) of the INA.

As authorized by Annex 1603, Section D, paragraph 5(b), of the NAFTA and section 341 of the NAFTA Implementation Act, during the period that the transition provisions of Appendix 1603.D.4 of Annex 1603 of the NAFTA are in effect, Mexican professionals will be subject to the attestation requirements of section 212(m) of the INA in the case of a registered nurse, and the labor condition application requirements of section 212(n) of the INA in the case of all other professionals as set out in Appendix 1603.D.1 of Annex 1603 of NAFTA. See 8 U.S.C. 1182(m) and § 1182(n). Mexican professionals' entry into the United States under these provisions of NAFTA neither forecloses nor establishes their eligibility for entry under other similar provisions of the INA.

In order to implement its responsibilities with respect to the admission of Mexican professionals during the transition period provided under the NAFTA, the Department will require health care facilities seeking to use the services of Mexican registered nurses to file H–1A labor attestations, and employers seeking to employ Mexican citizens in other professions set out in Appendix 1603.D.1 to file H–1B labor condition applications, under and pursuant to applicable regulations implementing section 212(m) and section 212(n) of the INA, at 20 CFR part 655, subparts D and H; 29 CFR part 504, subpart D; and 29 CFR part 507, subpart H (as appropriate). Complaints regarding such attestations and labor condition applications will be processed under and pursuant to existing regulations at 20 CFR part 655, subparts E and I; 29 CFR part 504, subpart E; and 29 CFR part 507, subpart I (as appropriate).

This rule amends the applicability section of the regulations promulgated pursuant to section 212(n) of the INA pertaining to employers using nonimmigrants on H–1B visas in specialty occupations and as fashion models, to extend the procedures to Mexican professionals temporarily entering the United States under the transition provisions of the NAFTA.

Executive Order 12866

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866, in that it is not likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

The Department has determined that this regulation will not have a significant economic impact on a substantial number of small entities. The rule is required to implement statutory provisions enacted by the Congress pursuant to the NAFTA, which are largely procedural in nature, or which narrowly extend the scope of the rule to include filing requirements for the temporary entry of Mexican professionals during the transition

period of NAFTA. The Department has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, no regulatory flexibility analysis is required.

Publication as an Interim Final Rule

The Department has determined that the public interest requires the immediate issuance of this interim final rule. Under the terms of the NAFTA and its enacting legislation, the provisions extending the attestation requirement of section 212(m) of the INA (in the case of a registered nurse) and the labor condition application requirement of section 212(n) of the INA (in the case of all other professions set out in Appendix 1603.D.1 of Annex 1603 of NAFTA) to the temporary entry of Mexican professionals during the transition period under NAFTA take effect on the date the Agreement enters into force with respect to the United States (January 1, 1994, upon an exchange of written notifications certifying the completion of necessary legal procedures). Insufficient time existed since the enactment of the implementing provisions for the Department to issue a proposal for comments, review the comments, and promulgate a final rule to be effective when the underlying statutory provisions take effect. Moreover, under the Administrative Procedure Act, procedural amendments to regulations do not require prior public notice and an opportunity for public comment. The changes being made by this rule do not affect the substantive requirements of the underlying laws or rules; nor do they modify or revoke existing rights or obligations, or create new ones. These technical changes merely apply the applicable regulations in accordance with statutory provisions enacted with respect to NAFTA that extend the scope of the rule to include the temporary entry to Mexican professionals during NAFTA's transition period. Therefore, there is good cause to dispense with public comment on this rule under 5 U.S.C. 553(b)(3)(B).

In addition, for these same reasons, it has been determined that good cause exists for waiving the requirements to delay the effective date of these technical amendments under 5 U.S.C. 553(d). It is impracticable and unnecessary to provide for a delayed effective date because the statutory amendments extending the procedural filing requirements of section 212(m) and section 212(n) of the INA under NAFTA are effective upon NAFTA's entry into force.

Catalog of Federal Domestic Assistance Number

This program is not yet listed in the Catalog of Federal Domestic Assistance.

List of Subjects

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Crewmembers, Employment, Enforcement, Fashion models, Forest and forest products, Guam, Health professions, Immigration, Labor Longshore work, Migrant labor, Nurse, Penalties, Registered nurse, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

29 CFR Part 507

Administrative practice and procedures, Aliens, Employment, Enforcement, Fashion models, Immigration, Labor, Penalties, Reporting and recordkeeping requirements, Specialty occupation, Wages, Working conditions.

Text of the Interim Final Joint Rule

The text of the interim final joint rule as adopted by ETA and the Wage and hour Division, ESA, appears below:

In § ____.700, paragraph (c) after the heading, "*Applicability*", is redesignated as new paragraph (c)(1) and a new paragraph (c)(2) is added to read as follows:

§ ____.700 Purpose, procedure, and applicability of subparts H and I.

* * * * *

(c) *Applicability.* (1) * * *

(2) During the period that the provisions of Appendix 1603.D.4 of Annex 1603 of the North American Free Trade Agreement (NAFTA) apply, subparts H and I of this part shall apply to the entry of a nonimmigrant who is a citizen of Mexico under and pursuant to the provisions of section D of Annex 1603 of NAFTA in the case of all professions set out in Appendix 1603.D.1 of Annex 1603 of NAFTA other than registered nurses. In the case of a registered nurse, the provisions of 20 CFR part 655, subparts D and E, and 29 CFR part 504, subparts D and E, shall apply.

Adoption of the Interim Final Joint Rule

Accordingly, part 655 of chapter V of title 20, and part 507 of chapter V of title 29 of the Code of Federal Regulations, are amended as follows:

TITLE 20—EMPLOYEES' BENEFITS

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. The authority citation for 20 CFR part 655 is revised to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H) (i) and (ii), 1182(m) and (n), 1184, 1188, and 1288(c); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); and 8 CFR 214.2(h)(4)(i).

Section 655.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued uder 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 193 Stat. 2099, 2103 (8 U.S.C. 1182 note); and sec. 341 (a) and (b), Pub. L. 103–182, 107 Stat. 2057.

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c); and 29 U.S.C. 49 *et seq.*

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 *et seq.*; sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note); and sec. 341 (a) and (b), Pub. L. 103–182, 107 Stat. 2057.

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

2. Part 655 is amended as set forth in the interim final joint rule above in this document.

TITLE 29—LABOR

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 507—ENFORCEMENT OF H–1B LABOR CONDITION APPLICATIONS

3. The authority citation for 29 CFR part 507 is revised to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184, and 29 U.S.C. 49 *et seq.*; Pub. L. 102–232, 105 stat. 1733, 1748 (8 U.S.C. 1182 note); and sec. 341 (a) and (b), Pub. L. 103–182, 107 Stat. 2057.

4. Part 507 is amended as set forth in the interim final joint rule above in this document.

Signed at Washington, DC, this 27th day of December, 1993.

Doug Ross,

Assistant Secretary for Employment and Training.

John R. Fraser,

Acting Assistant Secretary for Employment Standards.

[FR Doc. 93–32064 Filed 12–29–93; 8:45 am]

BILLING CODE 4510–30–M; 4510–27–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 375

[DoD Directive 5122.5]

Assistant to the Secretary of Defense for Public Affairs; Office Organization and Functions

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule identifies and reflects new organizational and functional arrangements within the Office of the Secretary of Defense.

EFFECTIVE DATE: December 2, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. R. Kennedy, Office of Organizational and Management Planning, 703–697–1142.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 375

Organizations and functions (government agencies).

Accordingly, 32 CFR part 375 is revised to read as follows:

PART 375—ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS

Sec.

375.1 Purpose.
375.2 Applicability.
375.3 Responsibilities and functions.
375.4 Relationships.
375.5 Authorities.

Appendix A to Part 375—Principles of Information

Appendix B to Part 375—Statement of DoD Principles for News Media Coverage of DoD Operations

Authority: 10 U.S.C. 113.

§ 375.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense by 10 U.S.C. 113, this part establishes the position of ATSD(PA), with responsibilities, functions, and authorities of the ATSD(PA) as prescribed in this part.

§ 375.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

§ 375.3 Responsibilities and functions.

The Assistant to the Secretary of Defense (Public Affairs) is the principal staff advisor and assistant to the Secretary and Deputy Secretary of Defense for DoD public information, internal information, the Freedom of Information Act, mandatory declassification review and clearance of DoD information for public release, community relations, information training, and audiovisual matters. In the exercise of this responsibility, the ATSD(PA) shall:

(a) Develop policies, plans, and programs in support of DoD objectives and operations.

(b) Ensure a free flow of news and information to the media, the general public, the internal audiences of the Armed Forces, and other appropriate forums, limited only by national security constraints as authorized by E.O. 12356, 3 CFR, 1982 Comp., p. 166, and statutory mandates. Appendices A and B to this part delineate principles that guide the Department of Defense with respect to media coverage of DoD activities.

(c) Act as the spokesperson and releasing agency for DoD information and audiovisual materials to news media representatives. Evaluate news media requests for DoD support and cooperation and determine appropriate level of DoD participation.

(d) Monitor, evaluate, and develop systems, standards, and procedures for the administration and management of approved policies, plans, and programs.

(e) Issue policy guidance to the DoD Components.

(f) As required, participate with the Comptroller of the Department of Defense in planning, programming, and budgeting activities.

(g) Promote coordination, cooperation, and mutual understanding among DoD Components and with other Federal, State, and local agencies and the civilian community.

(h) Serve on boards, committees, and other groups, and represent the Secretary of Defense outside of the Department of Defense.

(i) Conduct security reviews, consistent with E.O. 12356 and DoD Directives 5230.9[1] and 5400.4,[2] of all material prepared for public release and publication originated by the Department of Defense, including testimony before congressional committees, or by its contractors, DoD employees as individuals, and material submitted by sources outside the Department of Defense for such review.

(j) Review for conflict with established DoD and national security policies or programs, official speeches, news releases, photographs, films, and other information originated within the Department of Defense for public release, or similar material submitted for review by other executive agencies of the U.S. Government.

(k) Oversee the provision of news analysis and news clipping services for the OSD, Chairman of the Joint Chiefs of Staff and the Joint Staff, and the Military Departments' headquarters.

(l) As required, prepare speeches, public statements, congressional testimony, articles for publication, and other materials for public release by selected DoD and White House officials.

(m) Serve as official point of contact for public and media appearances by DoD officials, and conduct advanced planning and coordination, as required, with private, public, and media organizations for such events.

(n) Receive, analyze, and reply to inquiries regarding DoD policies, programs, or activities that are received from the general public either directly or from other Government Agencies. Prepare and provide to the referring office replies to inquiries from the general public that are forwarded from the Congress and the White House.

(o) Evaluate and approve:

(1) Requests for DoD cooperation in programs involving relations with the public consistent with DoD Directive 5410.18[3] and DoD Instruction 5410.19.[4]

(2) Requests by news media representatives or other non-DoD personnel for travel in military carriers for public affairs purposes.

(p) Establish policy for the Department of Defense Freedom of Information Act Program consistent with 5 U.S.C. 552 and DoD Directive 5400.7.[5]

(q) Direct and administer the Freedom of Information Act Program consistent with DoD Directive 5400.7 and DoD Instruction 5400.10,[6] and the access portion of the DoD Privacy Act consistent with DoD Directive 5400.11[7] for the OSD, Chairman of the Joint Chiefs of Staff and the Joint Staff, and other DoD Components as may be assigned.

(r) Direct and administer the Mandatory Declassification Review Program consistent with E.O. 12356 and

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to § 375.3.

[3] See footnote 1 to § 375.3.

[4] See footnote 1 to § 375.3.

[5] See footnote 1 to § 375.3.

[6] See footnote 1 to § 375.3.

[7] See footnote 1 to § 375.3.

Program consistent with E.O. 12356 and DoD Directive 5200.1[9] for the OSD, Chairman of the Joint Chiefs of Staff and the Joint Staff, and other DoD Components as may be assigned.

(s) Provide DoD assistance to non-Government, entertainment-oriented motion picture, television, and video productions consistent with DoD Instruction 5410.16.[9]

(t) Evaluate and coordinate the DoD response to requests for speakers received by the Department of Defense and, as required, assist in scheduling, programming, and drafting speeches for the participation of qualified personnel.

(u) Perform such other functions as the Secretary of Defense may assign.

§ 375.4 Relationships.

(a) In the performance of assigned functions and responsibilities, the ATSD(PA) shall:

(1) Report directly to the Secretary and Deputy Secretary of Defense.

(2) Exercise direction, authority, and control over the American Forces Information Service (AFIS) in accordance with DoD Directive 5122.10.[10]

(3) Coordinate and exchange information with other OSD officials, heads of the DoD Components, and Federal officials having collateral or related functions.

(4) Use existing facilities and services of the Department of Defense and other Federal Agencies to avoid duplication, and achieve maximum efficiency and economy.

(5) Maintain liaison with and provide assistance to the general public, representatives of the news media, and private organizations seeking information relating to the activities of the Department of Defense.

(b) Other OSD officials and heads of the DoD Components shall coordinate with the ATSD(PA) on all matters related to the functions cited in § 375.3.

§ 375.5 Authorities.

The ATSD(PA) is hereby delegated authority to:

(a) Issue DoD Instructions, publications, and one-time directive-type memoranda, consistent with DoD 5025.1–M,[11] which carry out policies approved by the Secretary of Defense in assigned fields of responsibility. Instructions to the Military Departments shall be issued through the Secretaries of those Departments, or their designees. Instructions to Unified and Specified Commands regarding public affairs matters shall be issued directly to the Commanders of the Unified and Specified Commands. Instructions that have operational implications shall be coordinated with the Chairman of the Joint Chiefs of Staff, consistent with DoD Directive 5105.35.[12]

(b) Obtain reports, information, advice, and assistance, consistent with the policies and criteria of DoD Directive 8910.1.[13]

(c) Communicate directly with the DoD Components. The channel of communications with the Unified and Specified Commands regarding public affairs matters shall be between the ATSD(PA) and the Commanders of the Unified and Specified Commands. Communications that have operational implications shall be coordinated with the Chairman of the Joint Chiefs of Staff consistent with DoD Directive 5105.35.

(d) Communicate with other Government Agencies, representatives of the legislative branch, and members of the public.

(e) Establish arrangements for DoD participation in those non-DoD Government programs for which the ATSD(PA) has been assigned primary staff cognizance.

(f) Act as the sole agent at the Seat of Government for the release of official DoD information for dissemination through any form of public information media.

(g) Establish accreditation criteria and serve as the approving and issuing authority for credentials for news gathering media representatives traveling in connection with coverage of official DoD activities.

(h) Approve military participation in public exhibitions, demonstrations, and ceremonies of national or international significance.

(i) In the absence of a known DoD originator of classified information, declassify official information submitted for security review, mandatory declassification review, and in response to Freedom of Information Act actions.

Appendix A to Part 375—Principles of Information

It is the policy of the Department of Defense to make available timely and accurate information so that the public, Congress, and the news media may assess and understand the facts about national security and defense strategy. Requests for information from organizations and private citizens will be answered in a timely manner. In carrying out this policy, the following principles of information will apply:

1. Information will be made fully and readily available, consistent with statutory requirements, unless its release is precluded by current and valid security classification. The provisions of the Freedom of Information Act will be supported in both letter and spirit.

2. A free flow of general and military information will be made available, without censorship or propaganda, to the men and women of the Armed Forces and their dependents.

3. Information will not be classified or otherwise withheld to protect the government from criticism or embarrassment.

4. Information will be withheld only when disclosure would adversely affect national security or threaten the safety or privacy of the men and women of the Armed Forces.

5. The Department's obligation to provide the public with information on its major programs may require detailed public affairs planning and coordination within the Department and with other government agencies. The sole purpose of such activity is to expedite the flow of information to the public; propaganda has no place in Department of Defense public affairs programs.

Appendix B to Part 375—Statement of DoD Principles for News Media Coverage of DoD Operations

1. Open and independent reporting will be the principal means of coverage of U.S. military operations.

2. Pools are not to serve as the standard means of covering U.S. military operations. Pools may sometimes provide the only feasible means of early access to a military operation. Pools should be as large as possible and disbanded at the earliest opportunity—within 24 to 36 hours when possible. The arrival of early-access pools will not cancel the principle of independent coverage for journalists already in the area.

3. Even under conditions of open coverage, pools may be appropriate for specific events, such as those at extremely remote locations or where space is limited.

4. Journalists in a combat zone will be credentialed by the U.S. military and will be required to abide by a clear set of military security ground rules that protect U.S. forces and their operations. Violation of the ground rules can result in suspension of credentials and expulsion from the combat zone of the journalist involved. News organizations will make their best efforts to assign experienced journalists to combat operations and to make them familiar with U.S. military operations.

5. Journalists will be provided access to all major military units. Special operations restrictions may limit access in some cases.

6. Military public affairs officers should act as liaisons but should not interfere with the reporting process.

7. Under conditions of open coverage, field commanders should be instructed to permit journalists to ride on military vehicles and aircraft whenever feasible. The military will be responsible for the transportation of pools.

8. Consistent with its capabilities, the military will supply PAOs with facilities to enable timely, secure, compatible transmission of pool material and make these facilities available whenever possible for filing independent coverage. In cases when government facilities are unavailable, journalists will, as always, file by any other means available. The military will not ban communications systems operated by news organizations, but electromagnetic operational security in battlefield situations may require limited restrictions on the use of such systems.

9. These principles will apply as well to the operations of the standing DoD National Media Pool system.

Dated: December 22, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–31786 Filed 12–29–93; 8:45 am]

BILLING CODE 5000–04–M

[9] See footnote 1 to § 375.3.
[10] See footnote 1 to § 375.3.
[11] See footnote 1 to § 375.3.
[12] See footnote 1 to § 375.3.
[13] See footnote 1 to § 375.3.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 162

[CGD 93–016]

RIN 2115–AE49

Ambrose Channel Navigation Restrictions

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is deleting the inland waterways navigation regulations for Ambrose Channel, Lower New York Bay. The regulation has become outdated and no longer serves a useful safety purpose. In addition, the navigation restrictions have proven to be an administrative burden for the mariner and the Coast Guard.

EFFECTIVE DATE: February 14, 1994.

FOR FURTHER INFORMATION CONTACT: Irene Hoffman, Project Manager, Vessel Traffic Services Division. The telephone number is 202–267–6277.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Irene Hoffman, Project Manager, Vessel Traffic Services Division and Mr. Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Regulatory History

On September 1, 1993, the Coast Guard published a notice of proposed rulemaking entitled "Ambrose Channel Navigation Restrictions" in the **Federal Register** (58 FR 46144). The Coast Guard received two letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

The Ambrose Channel navigation restriction was originally established by an order issued by the United States Army Corps of Engineers on March 28, 1924. As published on September 29, 1977 (42 FR 51758), the Coast Guard assumed responsibility for this navigational restriction.

This navigation regulation restricted the use of Ambrose Channel to certain vessels. The class of vessels prohibited from transiting the channel were those vessels not under sufficient power and control, sailing vessels, and other vessels engaged in towing. However, sailing vessels and other vessels engaged in towing could obtain permission to navigate the channel from Vessel Traffic Service New York (VTSNY).

These navigation restrictions have become outdated due to numerous channel improvements. The Ambrose Channel was widened to 2000 feet, dredged to over 45 feet in depth, and is well marked. It is the main channel and the only practical access to or egress from the Port of New York. It is heavily traveled, but not congested. By removing the navigation restriction for certain vessels in Ambrose Channel, the level of vessel safety is not diminished. In addition, requiring sailing and towing vessels to obtain prior approval and a transit permit from VTSNY for entry and exit has proven to be an administrative burden to the mariner and the Coast Guard.

Discussion of Comments and Changes

This final rule will lift navigation restrictions prohibiting certain vessels from navigation within the channel, as well as removing requirements for sailing and towing vessels to acquire prior transit approval from VTSNY. The Coast Guard believes that eliminating these restrictions will not have an adverse impact on navigation safety. The Coast Guard received two letters in response to the NPRM. These comments supported the removal of the Ambrose Channel, Lower New York Bay navigation restrictions (33 CFR 162.25) but one comment expressed concerns about the level of safety associated with the joint use of Ambrose Channel by ship and barge traffic.

The comment identified the following three additional restrictions which should be considered in place of the existing restrictions:

(1) Limiting the length of the towing hawser allowed in Ambrose Channel to 150 meters (500 feet) or some lesser amount;

(2) Prohibiting sailing vessels, tugs, and tows with a draft of 15 feet or less from transiting Ambrose Channel; and

(3) Amending the boundaries for bunching of tows and adjusting of tow lengths and making up of tows for sea, so as to prohibit such activities north of the Verrazano-Narrows Bridge.

With reference to the first two safety issues addressed above (i.e. length of tow and use of Ambrose Channel for sailing vessels, tugs and tows), the International Regulations for the Prevention of Collisions at Sea, 1972 (72 COLREGS), 33 U.S.C. foll. 1602 and Inland Navigation Rules set out responsibilities and operating guidelines and requirements for vessels. Specifically, COLREGS and Inland Rule 9 set out rules pertaining to the conduct of vessels while operating in or near narrow channels. Rule 9 prohibits sailing vessels and vessels less than 20 meters from impeding the passage of vessels that can safely navigate only within a narrow channel, such as Ambrose Channel. Additionally, 33 CFR 165.05 sets out requirements for the length of tows of seagoing barges within inland waters. As such, implementing regulations which address these two safety issues would be redundant.

In addition, the third safety issue (limits for bunching of tows) has previously been examined by the Coast Guard. 33 CFR 163.20 defines the areas where it is safe to undertake the operation of bunching of tows and where it is required before entry. However, the Coast Guard will reexamine the existing limits for bunching of tows in the New York Harbor area. If it is determined that these boundaries should be modified, a separate rulemaking will be initiated.

Additionally, the Corp of Engineers' noted that by removing this Coast Guard navigation restriction, their authority to regulate the Ambrose Channel under 33 U.S.C. 453 is not diminished.

Regulatory Evaluation

This rule is not a significant regulatory action under Executive Order 12866 is not significant under "Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The removal of the Ambrose Channel navigation regulations will have no foreseeable economic impact.

Small Entities

The final rule reduces the overall number of individuals or entities affected by the existing regulations. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant

economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). It removes the requirement for certain vessels to obtain Coast Guard approval to transit the Ambrose Channel.

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The authority to regulate concerning the navigable waters of the United States is committed to the Coast Guard by statute.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2(c) and (1) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. The deletion of the Ambrose Channel Regulation will not affect the environment or vessel safety. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 162

Navigation (water), Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 162 as follows:

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

1. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 162.25 [Removed]

2. Section 162.25 is removed.

Dated: December 22, 1993.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93–31984 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD01–93–144]

RIN 2115–AA97

Safety Zone; New Years Eve, South Street Seaport Fireworks, East River, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a New Years Eve fireworks program located in the East River. This event is sponsored by South Street Seaport, Inc., and will take place from 11:30 p.m. on Friday, December 31, 1993 until 12:30 a.m. on Saturday, January 1, 1994. A rain date is scheduled from 11:30 p.m. on January 1, 1994, until 12:30 a.m. on January 2, 1994. This safety zone is needed to protect the boating public from the hazards associated with fireworks exploding in the area.

EFFECTIVE DATES: This rule is effective from 11:30 p.m. on December 31, 1993 until 12:30 a.m. on January 1, 1994. A rain date is scheduled from 11:30 p.m. on January 1, 1994, until 12:30 a.m. on January 2, 1994.

FOR FURTHER INFORMATION CONTACT: LT R. Trabocchi, Project Manager, Captain of the Port, New York (212) 668–7933.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LT R. Trabocchi, Project Manager, Captain of the Port, New York and CDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Due to the date this application was received, there was not sufficient time to publish a proposed rule in advance of the event. Publishing a NPRM and delaying the event would be contrary to public interest since the fireworks display is for public viewing.

Background and Purpose

On November 3, 1993, South Street Seaport, Inc. submitted an application to hold a fireworks program in the East River off of South Street Seaport, Manhattan, New York. This regulation establishes a temporary safety zone in the East River between a line drawn along the Brooklyn Bridge and a line drawn from Pier 9, Manhattan to Pier 3, Brooklyn. This safety zone is being established to protect boaters from the hazards associated with fireworks exploding in the area. No vessel will be permitted to enter or move within this safety zone unless authorized to do so by the Coast Guard Captain of the Port, New York.

Regulatory Assessment

This regulation is not considered a significant regulatory action under Executive Order 12866 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). No vessel traffic will be permitted to transit the East River south of the Brooklyn Bridge at any time the safety zone is in effect. Though there is a regular flow of traffic through this area, there is not likely to be a significant impact on business, recreational, or commercial traffic for several reasons. Due to the limited duration of the event, the late hour of the event, the extensive advisories that will be made to the affected maritime community, and that commercial and pleasure craft can take an alternate route via the Hudson and Harlem Rivers, the Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to promote maritime safety and protect the environment, and thus is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulations

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T01–144 is added to read as follows:

§ 165.T01–144 New Years Eve, South Street Seaport Fireworks, East River, New York.

(a) *Location.* This temporary safety zone includes all waters of the East River south of the Brooklyn Bridge and north of a line drawn from Pier 9 Manhattan to Pier 3 Brooklyn.

(b) *Effective period.* This section is effective from 11:30 p.m. on December 31, 1993 until 12:30 a.m. on January 1, 1994. A rain date is scheduled from 11:30 p.m. on January 1, 1994, until 12:30 a.m. on January 2, 1994.

(c) *Regulations.* (1) The general regulations contained in § 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. Coast Guard Auxiliary members may be present to inform vessel operators of this regulation and other applicable laws.

Dated: December 14, 1993.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 93–31986 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD01 93–401]

RIN 165–AA97

Safety Zone Regulation; Boston Inner Harbor, Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Main Ship Channel, Boston Inner Harbor, in the vicinity of the New England Aquarium on New Year's Eve for the First Night 1994 Fireworks Display. The zone is needed to protect the fireworks barge OCEAN 125 and its attending tugs, and persons viewing the display, from the safety hazard associated with the explosives on board the fireworks barge and with the fireworks display. This zone will close the affected portion of the Boston Harbor Main Ship Channel to vessel traffic while this zone is in effect. Entry into the zone is prohibited unless authorized by the Captain of the Port (COTP) Boston.

EFFECTIVE DATES: This regulation becomes effective on December 31, 1993 at 11 p.m. local time when the fireworks barge OCEAN 125 proceeds by tow from Massport Pier 1, East Boston to a location just off the New England Aquarium in approximate position 42°-21'-38"N, 071°-02'-48"W. It terminates on January 1, 1994 at 12:30 a.m. local time or when the tug and barge are safely moored at Massport Pier 1, East Boston, unless terminated sooner by the Captain of the Port Boston.

FOR FURTHER INFORMATION CONTACT: LTJG Paul Gerecke or MSTC Daniel Dugery, USCG Marine Safety Office Boston, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LTJG Paul Gerecke, Vessel and Waterways Management Officer and MSTC Daniel Dugery, Assistant Vessel and Waterways Management Officer for the Captain of the Port Boston, and LCDR Jeffrey Stieb, project attorney, First Coast Guard District Legal Office.

Regulatory History

As authorized by 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation, and good cause exits for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest. The fireworks display is for public viewing and is to celebrate the New Year's holiday.

Background and Purpose

Responding to the request of event organizers as contained in a permit application submitted to the Coast Guard on October 29, 1993, the Captain of the Port (COTP) Boston is implementing this safety zone to protect mariners and the viewing public from the inherent hazards associated with the movement of a barge laden with explosives and with a fireworks display. The specific events requiring this regulation are the movement of the fireworks barge OCEAN 125 and its attending tugs in Boston Harbor between Massport Pier 1, East Boston and the New England Aquarium and the First Night 1994 Fireworks Display itself. The display is scheduled to take place on January 1, 1994, from 12 a.m. to 12:10 a.m. local time in the vicinity of the New England Aquarium in approximate position 42°-21'-38"N, 071°-02'-48"W. The safety zone will extend for two hundred yards in all directions around the fireworks barge OCEAN 125 and its attending tugs while the vessels proceed to and from, and are on site for the fireworks display. The zone will be in effect from 11 p.m. local time December 31, 1993, to 12:30 a.m. local time, January 1, 1994 or when the tug and barge are safely moored at Massport Pier 1, East Boston, unless terminated sooner by the Captain of the Port Boston. Implementation of this zone will close the affected portion of the 40 foot Boston Harbor Main Ship Channel directly off the New England Aquarium pier, to vessel traffic, and entry into the zone is prohibited unless authorized by the COTP Boston. A Coast Guard patrol craft will be on scene to enforce the safety zone. Details of this event will published in the Local Notice to Mariners and in a Safety Marine Information Broadcast.

Regulatory Evaluation

This rule is not a significant regulatory action under Executive Order 12866 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast

Guard expects the economic impact of this rule to be so minimal that a Regulatory Evaluation is unnecessary. Delays to the shipping industry from these regulations, if any, should be minor due to the short duration of the event and extensive advisories that will be made. Commercial vessel traffic and fishing vessels may experience slight delays in departures or arrivals during the display; however, mariners can time their movements just ahead or just after the fireworks display has been completed.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons discussed in the Regulatory Evaluation, the Coast Guard expects the impact of this proposal to be minimal. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded under section 2.B.2.c of Commandant Instruction M16475.1B this proposal is categorically excluded from further environmental documentation. In fact, implementation of this rulemaking should help to reduce the risk of collision or other marine accidents. A Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under "ADDRESSES".

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.549; 49 CFR 1.46

2. A temporary § 165.T01–401 is added to read as follows:

§ 165.T01–401 Safety Zone: Fireworks Display, Boston Main Channel, Boston Inner Harbor, Boston, MA.

(a) *Location.* The following area is a safety zone:

All waters of Boston Harbor within a 200 yard radius around the fireworks barge OCEAN 125 and its attending tugs while these vessels proceed from Massport Pier 1, East Boston, to a location 200 yards off the New England Aquarium in approximate position 42°–21′–38″N, 071°–02′–48″W, during the First Night 1994 Fireworks Display in Boston Harbor, and while returning to Pier 1, East Boston.

(b) *Effective date.* This section becomes effective on December 31, 1993, at 11 p.m. local time or when the fireworks barge OCEAN 125 and its attending tugs depart Massport Pier 1, East Boston. It terminates on January 1, 1994, at 12:30 a.m. local time or when the vessels return and are safely moored at Massport Pier 1, East Boston, unless terminated sooner by the Captain of the Port Boston.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on scene personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard.

(3) The general regulations covering security zones in § 165.33 of this part apply.

Dated: December 17, 1993.

G.W. Abrams,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 93–31985 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP St. Louis Regulation 93–036]

RIN 2115–AA97

Safety Zone; Upper Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Upper Mississippi River. This regulation is needed to control vessel traffic in the regulated area to provide safe working conditions and navigation within the affected area. The regulation will prohibit navigation in the regulated area for the safety of vessel traffic and the protection of life and property associated with bridge span replacement.

EFFECTIVE DATES: This regulation is effective December 17, 1993 and will terminate on January 16, 1994 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Timothy Deal, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are ENS Andrew B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LCDR A. O. Denny, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, the nature of repairs to the Hannibal Railroad Bridge at mile 309.9 Upper Mississippi River leaves insufficient time to publish a notice of proposed rulemaking. The Coast Guard deems it to be in the public's best interest to issue a regulation without waiting for a comment period since the conditions present an immediate hazard.

Background and Purpose

Extensive damage resulting from numerous allisions with vessels has made repairs to the bridge structure necessary. Contractor vessels will be working in the navigation channel and will impede normal traffic flow. As a result of these conditions this regulation is necessary to provide safe working conditions and navigation within the affected area.

Regulatory Evaluation

This regulation is not considered a significant regulatory action under Executive Order 12866 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. To avoid any unnecessary adverse economic impact on businesses which use the river for commercial purposes, Captain of the Port, St. Louis, Missouri will monitor the situation and will authorize entry into the closed area as conditions warrant. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823 for current information.

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this regulation is categorically excluded from further environmental documentation as an action required to protect public safety.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping, Security measures, Waterways.

Temporary Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A temporary § 165.T02–076 is added, to read as follows:

§ 165.T02–076 Safety Zone: Upper Mississippi River.

(a) *Location.* The Upper Mississippi River between mile 308.9 and 310.9 is established as a safety zone.

(b) *Effective dates.* This section becomes effective on December 17, 1993 and will terminate on January 16, 1994.

(c) *Regulations.* The general regulations under § 165.23 of this part which prohibit entry into the described zones without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will notify the maritime community of river conditions affecting the areas covered by this safety zone by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ).

Dated: December 17, 1993.

Scott P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 93–31987 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–4819–4]

Designation of Areas for Air Quality Planning Purposes; Tennessee; Correction of NO_2 Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendment.

SUMMARY: This action corrects a typographical error in the Code of Federal Regulations. On March 3, 1978, the U.S. Environmental Protection Agency published rulemaking setting forth the attainment status of all States in relation to the national ambient air quality standards. (See 43 FR 8962.) The State of Tennessee was classified as "Cannot Be Classified or Better Than National Standards" for nitrogen dioxide (NO_2). At some point in time this designation was erroneously changed to "Does Not Meet Primary standards". This action corrects this typographical error.

EFFECTIVE DATE: This action is effective December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this notice can be obtained by contacting: Richard Schutt, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–2864.

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: December 13, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

Therefore, 40 CFR part 81, subpart C, is amended by making a correcting amendment as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

2. Section 81.343 is amended by revising the attainment status designation table for NO_2 to read as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—NO_2

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Statewide	.....	x

[FR Doc. 93–31857 Filed 12–29–93; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 82

[FRL–4819–7]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: With this action, EPA is establishing baseline production and consumption allowances for chemicals that EPA has added to the list of class I ozone-depleting substances in a **Federal Register** notice signed by the Administrator on November 30, 1993. These substances are methyl bromide

and hydrobromofluorocarbons (HBFCs). EPA is now establishing baseline production and consumption allowances for producers and importers of methyl bromide and HBFCs derived from data submitted to the Agency in response to a section 114 data collection request issued on July 27, 1993. The data collection request required companies to report the amounts of these substances that they produced, imported, exported, transformed or destroyed in 1991.

EFFECTIVE DATE: This rule is effective on January 1, 1994.

ADDRESSES: Public materials relevant to this rulemaking are contained in Air Docket No. A–92–13 at: U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20640. The public docket room is located in room M–1500, Waterside Mall (Ground Floor). Docket No. A–92–13 is the same docket as that used for the rule to add methyl bromide and the HBFCs to the class I list, which was published on December 10, 1993. Materials relevant to the allowances rulemaking have been placed in a new and separate section of Docket No. A–92–13, which is segregated from the sections of the docket containing material relevant to the December 10 listing rule. The data on which the consumption and production allowances promulgated in this allowances rule are based were submitted under a claim of confidentiality. That data is therefore confidential, pending final determination by the Administrator, and, therefore, is not available in the docket for public inspection.

FOR FURTHER INFORMATION CONTACT: Peter Voigt at (202) 233–9185, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, 6205J, 401 M Street SW., Washington DC 20460.

SUPPLEMENTARY INFORMATION:

I. Background
A. Newly Listed Substances
B. Baseline Production and Consumption Allowances
II. Statutory Authority
III. Notice Prior to Effective Date
IV. Summary of Supporting Analyses
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act

I. Background

A. Newly Listed Substances

EPA has added methyl bromide and HBFCs to the list of class I substances under section 602 of the Clean Air Act in a final rule signed by the Administrator of EPA on November 30, 1993, 58 FR 65018 (December 10, 1993). As explained in the listing regulation, under title VI of the Clean Air Act, a newly listed substance is automatically subject to the section 604(a) phaseout schedule unless:

(1) The Administrator accelerates that schedule pursuant to section 606; or

(2) The Administrator determines that the section 604(a) schedule is unattainable and extends that schedule pursuant to section 602(d).

For reasons explained in the final rule, the Agency determined that the section 604(a) schedule is unattainable for methyl bromide and extended that schedule under section 602(d) to a freeze until the termination date. The regulations freeze production and consumption levels of methyl bromide at 1991 levels beginning on January 1, 1994 until January 1, 2001, when production and consumption will be eliminated. For HBFCs, the regulations freeze production and consumption at 1991 baseline levels beginning on January 1, 1994 until January 1, 1996, when production and consumption will be eliminated.

Under EPA's rules, controls on the production and consumption of regulated substances operates through a company-specific allowance system. Companies are prohibited from production and consumption beyond the amount for which they hold unexpended allowances. See 40 CFR 82.4. Section 607 of the Clean Air Act provides that the Administrator, by September 15, 1991, was to promulgate rules providing for the issuance of allowances for the production and consumption of class I and II substances and governing the transfer of such allowances. EPA promulgated rules issuing allowances for then-listed substances on March 6, 1991 (56 FR 9518). Section 607(b) and (c) specify that EPA's rules are to provide for trading of allowances on an ozone depletion weighted basis.

EPA's obligation to issue company-specific allowances is inherent in the allowance and trading scheme under the Act. As explained in the July 27 information collection request (58 FR 40048), the section 604 phaseout provision and the section 607 allowance and trading provision were drafted against the regulatory backdrop of EPA's implementation of the Montreal Protocol under authority existing prior to the Clean Air Act Amendments of 1990 (formerly section 151(b)). The Agency had implemented the Protocol production and consumption limits through company-specific allowances. See 53 FR 30566 (August 12, 1988). Enactment of sections 604 and 607 continued this approach, and the Agency's current regulations comport with it. (See regulation to implement 1992 and later production and consumption limits under section 604 (57 FR 33754, July 30, 1992)). EPA, through recent rulemaking, has adopted the same approach for methyl bromide and the HBFCs in its final listing regulation. EPA must issue company-specific allowances for methyl bromide and the HBFCs in order to implement the production and consumption freeze applicable to these substances. EPA received no comments on the November 9, 1993 allowances proposal.

B. Baseline Production and Consumption Allowances

To establish these allowances, EPA exercised its information collection authority under section 114(a) of the Clean Air Act to require companies to submit information on the amount of methyl bromide and HBFCs that they produced, imported, exported, transformed or destroyed in 1991. 58 FR 40048 (July 27, 1993). EPA has used the information collected to calculate the company-specific production and consumption allowances. On November 9, 1993, EPA proposed baseline production and consumption allowances for methyl bromide and HBFCs (58 FR 59630). EPA received no comments on the November 9 proposal. EPA has taken final action adding methyl bromide and the HBFCs to the class I list of ozone-depleting substances, 58 FR 65018 (December 10, 1993). With this rule, EPA is establishing the company-specific production and consumption allowances for these substances in order to implement the production and consumption limitations beginning January 1, 1994.

A company's production allowances are equal to its domestic production minus the amount that is transformed and destroyed by it or by other companies. Amounts of class I substances that are recycled are also excluded from the calculation of production allowances. For producers that also import, transformation is allocated proportionately between domestic production and imports. Second-party transformation not attributed to a specific producer is allocated proportionately among all producers, based on production share.

Company-specific consumption allowances for each chemical consist of a company's production allowances, as calculated above, plus its imports, minus its exports. Amounts imported for transformation and for destruction are excluded from the import total.

Exports that are not attributable to a specific company are proportionately allocated among all producers based on production share. In addition, imports of used and recycled ozone-depleting substances are excluded from the calculation of allowances.

II. Statutory Authority

EPA is authorized by section 604(c) of the Act to promulgate regulations implementing the phaseout of ozone-depleting substances, 57 FR 33754 (July 30, 1992). Pursuant to section 607, the phaseout is to be implemented through an allowance system. EPA also has broad authority under section 301(a) "to prescribe such regulations as are necessary to carry out [its] functions under this chapter" and broad authority under section 615 to promulgate regulations respecting the control of substances that may reasonably be anticipated to affect the stratosphere.

As explained above, EPA must promulgate company-specific production and consumption allowances in order to implement controls on methyl bromide and the HBFCs under title VI of the Clean Air Act. In addition, such controls are necessary to implement the controls on these substances that will become mandatory under the Montreal Protocol beginning in 1995. The reader is referred to the March 18 notice proposing to add these substances to the class I list for a full discussion of the Protocol Parties' agreement to controls on these substances at their Copenhagen meeting. See 58 FR 15014. Section 614(b) provides that title VI "shall not be construed, interpreted or applied to abrogate the responsibilities or obligations of the United States to implement fully the provisions of the Montreal Protocol."

III. Notice Prior to Effective Date

The effective date of this rule is January 1, 1994. Since title VI controls on production and consumption are implemented on an annual basis, the allowances must be effective January 1, 1994 in order to achieve the environmental benefits associated with controls in the 1994 calendar year.

EPA believes that the time between publication of this final rule and January 1, 1994 is sufficient for industry to comply with the annual production and consumption limits beginning January 1, 1994. EPA believes that the amount of time provided before the rule becomes effective is appropriate for several reasons.

First, EPA explained in its November 9 proposal that it was proposing production and consumption allowances at that time in order that the allowances would be available in time if the Agency were to establish a freeze beginning January 1, 1994. The comment period was to close no earlier than December 9, 1993, making it clear that EPA intended to provide less than 30 days notice of the final allowances prior to January 1, 1994. EPA received no comments on this or any other aspect of the November 9 proposal.

Second, only very small changes to the proposed allowances have been made, based on late receipts of data from companies that transformed methyl bromide in 1991. As a result, the affected companies had reasonably precise information regarding the anticipated level of allowances since the November 9 proposal, and they have been on notice since November 30, 1993, (when the Administrator signed the final rule listing methyl bromide and the HBFCs) that EPA was freezing production beginning January 1, 1994. The allowances contained in the final rule do not reflect substantial changes.

Third, EPA believes that compliance with the annual production controls necessitates less advance notice than other regulations for which compliance is required on a continuous basis or over a shorter period. Compliance with an annual limit on production and consumption is not likely to be violated until a significant part of a given year has elapsed. Steps during the first few days of 1994 that will prove necessary to comply for the entire calendar year should be minimal.

EPA notes that the general requirement under 5 U.S.C. 553(d) (the Administrative Procedure Act), that publication or service of a substantive rule be made not less than 30 days before it becomes effective does not apply here. Section 307(d)(1) of the Clean Air Act specifically applies to regulations under title VI of the Clean Air Act and provides that "[t]he provisions of sections 553 through 557 and section 706 of title 5 shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies." Nowhere does subsection 307(d) expressly provide that section 553(d) of title 5 applies. Even if section 553(d) were to apply, EPA believes that the environmental benefits associated with controls in 1994 and the limited need for advance notice in this situation constitute good cause under section 553(d)(3) of title 5 to provide less than 30 days notice following publication. In any case, EPA has taken steps to provide notice of this final action to the regulated industry as soon as possible upon signature of the rule and prior to publication.

IV. Summary of Supporting Analyses

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51,735 (10/4/94)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to lead to a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that federal agencies examine the impact of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis. Such an analysis is not required if the head of the agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b). The Administrator believes that this regulation will not have a significant impact on a substantial number of small entities and has concluded that a formal regulatory flexibility analyses is unnecessary.

This regulation establishes allowance levels for the production and consumption of the newly listed class I ozone-depleting chemicals. Baseline allowances in and of themselves do not impose any adverse costs on producers or importers. As the administrative mechanism for implementing regulations that are effective on January 1, 1994, the overall regulatory impacts on small business are impacts of the scheme as a whole and have been addressed in that rulemaking. See 58 FR 65018 at 65060 (December 10, 1993).

The Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements governing the addition of newly listed substances to the list of class I ozone-depleting substances and the regulatory changes to section 604 of the Act has been submitted to OMB as required by section 35D of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Comments regarding these requirements have been received and considered in the development of the final rule to implement changes in section 604.

The promulgation of the regulation establishing company-specific allowance levels will not generate additional recordkeeping and reporting requirements. As a result, no information collection request was prepared and submitted to OMB.

List of Subjects in 40 CFR Part 82

Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Imports, Ozone layer, Reporting and recordkeeping requirements, Stratospheric ozone.

Dated: December 22, 1993.

Carol M. Browner,

Administrator.

40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.5 is amended by adding paragraphs (f) and (g) to read as follows:

§ 82.5 Apportionment of baseline production allowances.

* * * * *

(f) For Group VI controlled substances:

Controlled substance	Person	Allowances (kg)
Methyl Bromide.	Great Lakes Chemical Corporation.	19,945,788
	Ethyl Corporation.	8,233,894

(g) For Group VII controlled substances:

HBFC 22B1–1.	Great Lakes Chemical Corporation.	46,211

3. Section 82.6 is amended by adding paragraphs (f) and (g) to read as follows:

§ 82.6 Apportionment of baseline consumption allowances.

* * * * *

(f) For Group VI controlled substances:

Controlled substance	Person	Allowances (kg)
Methyl Bromide.	Great Lakes Chemical Corporation.	15,514,746
	Ethyl Corporation.	6,379,906
	AmeriBrom Inc.	3,524,393
	TriCal Inc	109,225

(g) For Group VII controlled substances:

HBFC 22B1–1.	Great Lakes Chemical Corporation.	40,110

* * * * *

[FR Doc. 93–31834 Filed 12–29–93; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–4819–5]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Mowbray Engineering Company Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of Mowbray Engineering Company Superfund Site in Greenville, Alabama from the National Priorities List (NPL). The NPL is Appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Alabama have determined that the responsible parties have implemented all the appropriate response actions under CERCLA and that no further cleanup by the responsible parties is appropriate. Moreover, EPA and the State of Alabama have determined that the remedial actions conducted at the site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Timothy R. Woolheater, Remedial Project Manager, or Betty L. Winter, Community Relations, at 404–347–2643 in the South Superfund Branch, Waste Management Division, U.S. Environmental Protection Agency (Region IV), 345 Courtland Street, NE., in Atlanta, GA 30365.

ADDRESSES: Comprehensive information on this site is available at the following addresses:

EPA Region IV Public Docket, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Hours: Mon.–Fri. 8:00 a.m.–4:00 p.m.; and

Greenville Public Library, 309 Fort Dale Street, Greenville, Alabama 36037, 205–382–3216.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Mowbray Engineering Company Superfund Site, Greenville, Alabama. A Notice of Intent to Delete for this site was published (58 FR 45082) on August 8, 1993. The closing date for comments on the Notice of Intent to Delete was September 26, 1993. EPA received no comments; and, therefore, no responsiveness summary is necessary. The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at the sites deleted from the NPL when conditions warrant.

Deletion of a site from the NPL does not affect the responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: November 17, 1993.

Dan Guinyard,

Acting Regional Administrator, Environmental Protection Agency—Region 4.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.: p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.: p. 193.

Appendix B [Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site "Mowbray Engineering Company, Greenville, Alabama" and by revising the total number of sites from 1,073 to read 1,072.

[FR Doc. 93–31860 Filed 12–29–93; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7024

[ID–943–4210–06; IDI–08047 01]

Partial Revocation of Public Land Order No. 1770; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects 1,120 acres of public land withdrawn by the Department of Energy for the Idaho National Engineering Laboratory. The land is no longer needed for the purpose for which it was withdrawn. This action will open 1,120 acres to public sale and will permit the disposal of the land to Jefferson County for a multi-county landfill.

EFFECTIVE DATE: January 31, 1994.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 1770, which withdrew public land for the Department of Energy's Idaho National Engineering Laboratory, is hereby revoked insofar as it affects the following described land:

Boise Meridian

T. 6 N., R. 33 E.,
Sec. 14;
Sec. 15, E½ and SW¼.

The area described contains 1,120 acres in Jefferson County.

2. At 9 a.m. on January 31, 1994, the land will immediately become available for sale to Jefferson County pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, for a multi-county landfill.

Dated: December 21, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93–31969 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–66–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80–286; FCC 93–549]

Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: These revised rules adopt an indexed cap upon the Universal Service Fund ("USF"), which is derived from jurisdictional separations expense adjustments allowed under part 36 of the Commission's rules. The rules are changed in order to moderate growth in the USF during the next two years, while permanent changes in the USF mechanisms are under consideration.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Common Carrier Bureau, Accounting and Audits Division, (202) 632–7500.

SUPPLEMENTARY INFORMATION:

I. Introduction

1. On November 16, 1993, the Federal-State Joint Board adopted a recommended decision in CC Docket No. 80–286[1] The *Interim Recommendation*, addressing the issues raised in our *Interim Notice*,[2] concludes that this Commission should adopt rules to moderate growth in the Universal Service Fund ("USF") during a two-year interim period, while a rulemaking proceeding on permanent USF changes is pending. The Joint Board recommended that the interim rules employ an indexed cap approach, whereunder the total USF in a given year would not be allowed to exceed a specified amount, increased by an index factor equal to the increase in total working loops for the previous year. For the reasons discussed in this report and order and in the Joint Board's Interim Recommendation, we adopt the recommendations of the Joint Board and the interim rules set forth below.

II. Background

2. In the Interim Notice, we stated our intention to initiate a reevaluation of the current part 36 rules governing high cost assistance and we referred the issue of possible changes in those rules to the Federal-State Joint Board in this proceeding.[3] At the same time, we proposed interim modifications of the USF assistance mechanisms and requested the Joint Board to prepare a recommended decision regarding those proposals.

3. In the Interim Notice, we observed that growth in the USF since its implementation of 1986 has been pronounced, increasing from $445 million to more than $700 million.[4] We expressed particular concern over the wide fluctuations in the rate of annual USF growth, which has ranged from approximately one percent to more than 19 percent.[5] We stated our desire to hold the USF to a moderate rate of growth while we and the Joint Board are in the process of studying and perhaps revising the current high cost mechanisms. For that reason, we proposed interim measures to moderate USF growth during the pendency of our proceeding to make permanent changes to the USF mechanisms. We indicated that interim rules would remain in effect for a maximum of two years and would not constitute prejudgment of the issues for purposes of the permanent rulemaking.

4. We proposed two primary alternatives for interim measures to moderate USF growth for the next two years. First, we proposed to index the

[1] "Recommended Decision," Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board", FCC 93J–3 (released December 10, 1993) ("Interim Recommendation").

[2] "Notice of Proposed Rulemaking," Amendment of part 36 and Establishment of a Joint Board, 58 FR 48815 (September 20, 1993) ("Interim Notice").

[3] See the Interim Notice, and decisions cited therein, for a brief history of the part 36 high cost assistance measures.

[4] We cited data submitted by the National Exchange Carrier Association ("NECA") in CC Docket No. 93–123 (filed July 21, 1993) indicating that the total level of payments into the USF during 1993 will be approximately $741 million.

[5] Interim Notice at ¶13 and n.16. As we explained, our calculation of the USF annual amounts and growth rates were based upon the data for projected USF payments at full transition.

threshold for receiving USF assistance to the rate of growth in the average cost per loop for non-price cap carriers. We stated our expectation that this method could be effective in moderating USF growth by preventing growth in the fund attributable primarily to a disparity between the growth in costs per loop for price cap and no-price cap carriers. Under the second alternative, maximum growth in the total USF would be indexed to the rate of growth in the total number of working loops in the nation. If the current rules would cause the USF to exceed the indexed cap, we proposed two means of adjusting USF assistance in order to ensure that the USF does not exceed the indexed cap.

5. The first means of implementing the indexed cap would involve adjusting each USF recipient's assistance by the same proportionate amount. The second means of implementation would require adjusting the threshold for receiving assistance in order to produce a total USF at the indexed cap level. We indicated that adjusting the threshold would actually be accomplished by adjusting the nationwide average cost per loop for purposes of determining USF assistance.[6]

6. We expressed our intention to implement interim measures that would not have a significant adverse impact upon the highest-cost carriers most in need of assistance. We requested comment upon the effect that each of the proposed alternatives would have on recipients of high cost assistance. We also invited comment upon the effectiveness of the alternatives in moderating USF growth during the two-year interim period.

7. Comments were filed on October 6, 1993, and reply comments were submitted on October 18, 1993.[7] On November 16, 1993, the Joint Board met in New York City and adopted its recommendations regarding interim measures. The Joint Board recommended that we adopt rules to implement an indexed cap to moderate USF growth, adjusting the threshold for receiving assistance if the current rules would cause the total USF to exceed the indexed cap. The Interim Recommendation was released on December 10, 1993.

[6] See discussion in Interim Notice at ¶¶ 22–25.

[7] A number of late-filed comments and reply comments were submitted in this proceeding and are cited by the Joint Board in its decision. Because these comments essentially concur in comments submitted on a timely basis by other parties, we believe that all parties had adequate opportunity to respond to the arguments presented. We therefore have included the late-filed comments and reply comments in the record of this proceeding.

III. Summary of Joint Board's Interim Recommendation

8. In its Interim Recommendation, the Joint Board found that concern regarding the reasonableness of the overall rate of increase in the USF is well-founded. The Joint Board rejected suggestions that the burden on interstate telecommunications should be evaluated in terms of the USF cost per minute of interstate toll usage, explaining that the loop costs on which USF assistance is based are not generally usage sensitive. In addition, the Joint Board disagreed with some commenters' argument that the Joint Board's determination in 1984 not to recommend a $1 billion cap established that the current size of the USF, and hence the rate of increase to date, is reasonable. The Joint Board explained that reluctance to set an absolute cap on the USF bears little or no relation to the reasonableness of the rate of growth over a particular time period. Further, the Joint Board noted that circumstances, including the transition away from rate of return regulation for the largest local exchange carriers ("LECs"), have changed significantly since implementation of the USF nearly eight years ago.

9. The Joint Board determined that USF growth has been erratic and found unconvincing the explanations tendered by commenters for the wide fluctuations in annual growth. The Joint Board stated its belief that a sudden, large-scale increase in the USF during the pendency of our permanent USF rulemaking would significantly impede efforts to reevaluate the high cost assistance rules and, if necessary, revise them. The Joint Board explained that in the past, changes in jurisdictional separations methodologies frequently have involved lengthy transition periods to ameliorate shifts in jurisdictional cost allocations. If the USF were to increase significantly during the next two years, while a permanent USF rulemaking is in progress, the transition process would be rendered more difficult, particularly if any LECs whose assistance increased pronouncedly during that interim period were to receive less assistance under the new permanent rules. The Joint Board reasoned that some moderate USF growth while the permanent rulemaking is in progress will ensure adequate support for the highest cost LEC study areas while, at the same time, protecting against sudden large increases in the fund that could make retargeting or restructuring of the USF assistance mechanisms more difficult.

10. The Joint Board rejected the indexed threshold proposal, which would involve determining each year's nationwide average cost per loop by indexing the prior year's average cost per loop to the rate of growth in the average cost per loop for all non-price cap carriers. The Joint Board found that the indexed threshold presented no degree of certainty regarding the total USF level and, in addition, had the potential for significant volatility because it excluded price cap carriers, which provide the predominant portion of subscriber loops nationwide, from calculation of the proposed index.

11. The Joint Board recommended, instead, the use of an indexed cap, which affords a greater degree of certainty in the total USF size. The Joint Board determined that indexing growth in the USF to growth in the total number of working loops would produce stable, moderate USF growth during the two-year interim period while still preserving adequate assistance for the recipients most in need of assistance. The Joint Board decided that several alternatives proposed in the comments were not suitable as interim index factors. For example, the proposal to index the size of the USF to growth in interstate toll minutes of use was found to be inconsistent with the fact that USF loop costs are not generally traffic sensitive. In addition, the Joint Board indicated that the proposals of the Florida and Illinois commissions, designed to address undue fluctuations in USF revenues on a study area-specific basis and to reduce possible uneconomic incentives, raised broad issues more appropriately addressed in the long-term, permanent USF rulemaking. The Joint Board therefore did not recommend that the Commission adopt those alternative index factors for the two-year interim period.[8]

12. The Joint Board recommended that the indexed cap should be implemented by adjusting the threshold for receiving assistance to ensure that the total USF does not exceed the indexed cap amount.[9] The Joint Board determined that the differences between 1994 assistance per loop under the current rules and under the recommended alternative would be very small and should have no potential to affect adversely the continued availability of local telephone service at reasonable rates. In contrast, another option under consideration, involving proportionate reduction of all

[8] Interim Recommendation at ¶¶ 44–45.

[9] See discussion of this methodology, *supra* at ¶¶ 4–5 and in the Interim Notice at ¶¶ 22–25.

recipients' assistance levels, was judged inadvisable because it would impose the largest decreases upon the highest cost study areas most in need of assistance. The Joint Board also rejected a proposal to adjust each recipient's assistance by the same dollar amount per loop. The Joint Board explained that such a method would have an unfairly large effect upon large study areas, because large study areas receive a smaller percentage of USF assistance per loop than small study areas at the same cost level.[10]

13. Addressing procedural issues raised in the comments, the Joint Board rejected the argument that interested parties were not afforded adequate opportunity to comment upon the proposed interim measures. The Joint Board noted that numerous comments, many of them lengthy, were submitted by parties representing a wide variety of viewpoints and interests. In addition, the Joint Board explained, the proposed measures would not be permanent and would not prejudge the issues for purposes of the permanent rulemaking.[11] The Joint Board also rejected the argument that limiting USF growth for two years would amount to retroactive ratemaking because the recovery of USF costs has a built-in lag of two years. The Joint Board pointed out that the interim measures would not change the USF rates paid by interstate interexchange carriers during prior periods, nor would USF recipients be precluded from recovering all of their loop costs through current or future rates.[12]

IV. Discussion

14. In its Interim Recommendation, the Joint Board carefully considered the effects of any interim USF changes upon recipients of high cost assistance. Throughout that decision, the Joint Board stated its desire to maintain adequate USF support for high cost LECs, particularly those highest-cost LEC study areas most in need of assistance, during the pendency of the rulemaking on permanent USF changes. We are in full accord with that goal. Universal availability of telephone service at reasonable rates continues to be an important policy for us as well as for the Joint Board.

15. At the same time, as the Joint Board observed, numerous regulatory, technological, and market changes in the telecommunications industry strongly suggest that a fresh look at the goals and effects of the USF high cost assistance mechanisms would serve the public interest.[13] Moreover, the conclusion of the eight-year USF transition period further warrants reevaluation of the existing USF rules.

16. It is unfortunate that some commenters in this proceeding appear to have interpreted the Interim Notice as a sign that we have lessened our commitment to universal service goals, for that is most assuredly not the case. On the contrary, our intention to proceed with a permanent rulemaking on USF support reflects our desire to ensure that our rules provide assistance fairly, effectively, efficiently, and in a manner consistent with technological and competitive advancements within the telecommunications industry. As we undertake this evaluation of our support mechanisms, we cannot foreclose the possibility of revisions that may retarget assistance, resulting in some carriers or subscribers receiving more assistance and others receiving less.

17. We therefore agree with the Joint Board's determination that it would be prudent to implement interim measures to moderate USF growth during the pendency of the permanent USF rulemaking. As the Joint Board aptly observed, past efforts to revise jurisdictional separations procedures have involved lengthy transition periods to ease carriers' adjustment to potential jurisdictional shifts caused by the separations changes. These transition periods have significantly delayed full implementation of new methodologies. Because we shall soon initiate a rulemaking to evaluate the current high cost assistance mechanisms and, perhaps, to revise those procedures, it is sensible to adopt interim rules to prevent large increases in the USF during the pendency of the permanent rulemaking.

18. We believe that these interim measures should reduce difficulties that might otherwise be experienced in implementing new permanent assistance mechanisms on a timely basis. This prophylactic approach is particularly appropriate because, in the past, the USF has manifested an erratic pattern of growth. The Joint Board correctly observed that the comments provided no real basis for assurance that another sudden increase in the USF will not occur within the next two years. Indeed, explanations proffered by commenters for sudden surges of the USF level in the past are notably speculative and unconvincing.[14] We therefore agree with the Joint Board that measures to moderate USF growth would facilitate our ability to revise the USF mechanisms, if necessary, without jeopardizing the continued availability of local telephone service at reasonable rates.

19. We also concur in the Joint Board's finding that the indexed cap represents an effective means of moderating USF growth during the interim period. The Joint Board explained that the indexed cap approach affords a degree of certainty regarding the total level of the USF that is lacking in the proposal to index the threshold for USF assistance to the rate of growth in non-price cap carrier costs per loop. That certainty is important, because ensuring moderate USF growth is the very rationale for adopting interim measures.

20. Using the rate of growth in the total number of loops nationwide as an index factor will ensure a stable, moderate rate of growth during the interim period.[15] Although the adoption of an absolute cap (or "freeze") pending further rulemaking has precedent in this proceeding,[16] we do not believe that a freeze is essential to accomplish our goal of preventing sudden, pronounced increases in the USF during the interim period. Allowing a moderate rate of growth in the USF is sufficient to avoid impedence of the permanent rulemaking, and subsequent implementation of its conclusions. At the same time, allowing some USF growth represents an attempt to accommodate the concerns of commenters who argue that additional funds are needed for carriers that plan to replace facilities in the short-term or that may expand service to additional customers. The rate of growth in total loops is a suitable index factor, not only because it has a demonstrated history of stable, moderate growth, but also because it reflects expansion in the subscriber base of the nationwide network. Using the rate of growth in the total number of loops as the index factor for the USF cap will accomplish our goal of avoiding pronounced USF growth during the two-year interim period while continuing to ensure the availability of basic local telephone service at reasonable rates.

21. Contrary to the contentions of some commenters, the Joint Board's determination, some years ago, not to recommend a cap on the total USF

[10] Interim Recommendation at ¶ 46.

[11] *Id.* at ¶¶ 57–61.

[12] *Id.* at ¶ 63.

[13] See Interim Recommendation at ¶¶ 10–11.

[14] See discussion in the *Interim Recommendations* at ¶ 21 and 25, and citations to the record contained therein.

[15] As we explained in the Interim Notice, data submitted on the public record annually by NECA indicate growth in the total number of loops ranging from two to 3.6 percent from 1984 to 1991, the most recent year for which data are available.

[16] See n.33 in the *Interim Recommendation*.

should not preclude a different conclusion under the present circumstances. As AT&T explained, and the Joint Board reiterated in its Interim Recommendation, regulatory changes such as the freezing of study areas boundaries and the initiation of price cap incentive regulation for the interstate rates of most large LECs bear on the issue of what constitutes a reasonable USF level.[17] Moreover, it is important to recall neither the Joint Board nor this Commission ever determined that $1 billion would constitute a reasonable USF total for a particular point in time. During the first year of the USF transition, the fully phased-in USF amount would have been only $445 million, and only one-eighth of that amount was reflected in interstate rates. Thus, consideration of a USF cap may not have been of primary importance in 1984, prior to the beginning of USF implementation and before there was any basis for evaluating the reasonableness of USF growth.

22. Circumstances have changed considerably since initial consideration of the USF high cost mechanisms. During the past eight years, the USF has grown by approximately 60 percent, with annual rates of growth ranging from one percent to more than 19 percent. In light of our experience with the USF since initial consideration of the issues in 1984, the changed regulatory environment and other circumstances, and our desire to prevent excessive USF growth during the pendency of the permanent USF rulemaking, we believe that the Joint Board's recommendation for an indexed USF cap should be adopted.

23. We also concur in the Joint Board's recommendation that the indexed cap should be implemented by adjusting the threshold for receiving USF assistance. The Joint Board pointed out that the effects of this means of implementation upon recipient carriers during 1994 would be extremely small, and found that it has no potential to diminish the continued availability of local telephone service at reasonable rates.[18] We agree. Changes of this magnitude would have a *de Minimis* effect, and even somewhat larger changes should not cause significant harm. Moreover, if circumstances change, the Joint Board encouraged recipients who would experience a significant adverse impact per loop per month to submit waiver requests, and we support that means of addressing any unforeseeable problems that may occur during the interim period.

24. We agree with and hereby adopt as our own the Joint Board's analysis of the procedural issues, specifically the adequacy of the opportunity for comment and the retroactive ratemaking issue, raised in the comments. We likewise adopt the Joint Board's conclusion that the determinations of the Interim Recommendation and the Interim Order should not prejudge the issues for purposes of the permanent USF rulemaking. Finally, we concur with the Joint Board's position that, should the permanent USF rulemaking conclude sooner than expected, the new rules should replace the interim rules as soon as practicable. In sum, we adopt the recommendations of the Joint Board in its Interim Recommendation, as well as the Joint Board's reasoning in support of those recommendations.

25. We indicated in the Interim Notice our intention to put interim rules into effect on January 1, 1994, explaining that new USF tariffs generally go into effect at the beginning of each year. Because the recommended indexed cap approach which we are adopting requires the calculation of USF totals and index factors on a calendar year basis, there is additional reason to implement the interim rules at the beginning of the year. Accordingly, we find good cause for making the rule amendments effective on less than 30 days notice[19] and shall require that the interim rules become effective on January 1, 1994.

V. Ordering clauses

26. Accordingly, pursuant to sections 1, 4(i), 221(c), and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 221(c), and 410(c), It is hereby ordered, that part 36 of the Commission's rules and regulations, 47 CFR part 36 Subpart F—Universal Service Fund, is amended as shown below, effective January 1, 1994.

[17] Interim Recommendation at ¶ 17–19.

[18] See discussion in the Interim Recommendation at ¶ 52 and in n. 104, citing NECA's projection that for 1994 the approximate maximum difference between USF assistance under the current rules and under the indexed cap approach recommended by the Joint Board should be 16 cents per loop per month. Those calculations were based on a 1993 total that did not include prior period adjustments nor administrative costs. For that reason, and because the derivation of the USF under our part 36 rules does not, strictly speaking, include costs other than current period expense adjustments, we have decided to exclude prior period adjustments and administrative costs from the indexed USF cap. Compare Interim Recommendation at n. 105. We emphasize, however, that we shall carefully monitor any changes in those excluded costs during the interim period, in order to ensure that the purpose underlying adoption of the indexed cap is not undermined.

[19] See 5 U.S.C. 553(d)(3).

List of Subjects in 47 CFR, Part 36

Communications common carriers, Reporting and recordkeeping requirements. Telephone.

Federal Communications Commission,
William F. Caton,
Acting Secretary.

Part 36 of title 47 of the Code of Federal Regulations is amended as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. 151, 154 (i) and (j), 205, 221(c), 403 and 410.

2. Section 36.601 is amended by adding a new paragraph (c) to read as follows:

§ 36.601 General.

* * * * *

(c) During an interim period commencing on January 1, 1994, and terminating on January 1, 1996, the annual amount of the total Universal Service Fund shall not exceed the amount of the total Universal Service Fund for the immediately preceding calendar year, increased by a rate equal to the rate of increase in the total number of working loops during the calendar year preceding the June filing. The total Universal Service Fund shall consist of the Universal Service expense adjustments, including amounts calculated pursuant to §§ 36.612(a) and 36.631. The rate of increase in total working loops shall be based upon the difference between the number of total working loops on December 31 of the year preceding the June filing and the number of total working loops on December 31 of the second year preceding that filing, both calculated pursuant to § 36.611(a)(8).

3. Section 36.622 is amended by revising the first sentence of paragraph (a) and by adding a new paragraph (c) to read as follows:

§ 36.622 National and study area average unseparated loop costs.

(a) National Average Unseparated Loop Cost per Working Loop. Except as provided in paragraph (c) of this section, this is equal to the sum of the Loop Costs for each study area in the country as calculated pursuant to § 36.621(a) divided by the sum of the working loops reported in § 36.611(a)(8) for each study area in the country.* * *

* * * * *

(c) During an interim period commencing on January 1, 1994, and terminating on January 1, 1996, the National Average Unseparated Loop Cost per Working Loop shall be the greater of:

(1) The amount calculated pursuant to the method described in paragraph (a) of this section; or

(2) An amount calculated to produce the maximum total Universal Service Fund allowable pursuant to § 36.601(c).

[FR Doc. 93–31838 Filed 12–29–93; 8:45 am]
BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 525 and 552

[Acquisition Circular AC–93–1]

General Services Administration Acquisition Regulation; Implementation of the Memorandum of Understanding Between the United States of America and the European Economic Community (EC) on Government Procurement and the North American Free Trade Agreement

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary rule.

SUMMARY: This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation to implement the Memorandum of Understanding between the United States and the European Economic Community (EC) on Government Procurement and the North American Free Trade Agreement (NAFTA) as approved by Congress.

DATES: Effective Date: January 1, 1994. This amendment to the GSAR applies to solicitations issued on or after January 1, 1994.

Expiration Date: December 31, 1994.

Comment Date: February 28, 1994.

ADDRESSES: Comments should be submitted to Marjorie Ashby, Office of GSA Acquisition Policy (VP), 18th and F Streets, NW, Room 4006, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Edward J. McAndrew, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

a. The United States has entered into agreements with EC and NAFTA countries which provide, among other things, for offers of EC and NAFTA country end products over certain thresholds without regard to the Buy American Act. In addition, these agreements provide an exemption from the Buy American Act for EC and NAFTA construction materials furnished under construction contracts with an estimated value of $6,500,000 or more. Consequently, no price differential is to be applied to EC and NAFTA country construction materials, nor to offers of EC and NAFTA country end products.

b. The evaluation criteria in GSAR 552.225–75, Buy American Act Notice-Construction Materials, are modified to eliminate the use of the 6 percent evaluation factor where EC and NAFTA country construction materials are proposed for use under such contracts.

c. The provision at 552.225–8 and the clause at 552.225–9 which implement the General Services Administration Board of Contract Appeals (GSBCA) decision in *International Business Machines Corporation*, GSBCA No. 10532–P, May 18, 1990, are revised to reflect the NAFTA Implementation Act's definition of Mexican or Canadian end products as eligible products.

d. Section 525.402 is revised to reflect the change in the threshold for application of the Trade Agreements Act.

B. Determination to Issue a Temporary Regulation

A determination has been made to issue a temporary rule in order to meet the January 1, 1994, effectivity date for implementation of NAFTA. However, pursuant to Public Law 98–577 and FAR 1.501, public comments are solicited and will be considered in formulating a final rule.

C. Executive Order 12866.

This temporary rule was not submitted to the Office of Management and Budget because it is not a significant rule as defined in Executive Order 12866, Regulatory Planning and Review.

D. Regulatory Flexibility Act

The changes do not appear to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et sequentia* because they permit offerors to use EC and NAFTA country end products or construction materials above certain thresholds without application of Buy American Act preference. For this reason, a regulatory flexibility analysis has not been prepared. However, comments from small entities concerning this temporary change will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601 *et sequentia* (Acquisition Circular AC–93–1) in correspondence.

E. Paperwork Reduction Act

The provision at 552.225–75, Buy American Act Notice-Construction Materials, which is being modified by this rule, does contain an information collection requirement. However, the revision does not affect the information collection requirements which have previously been approved by OMB and assigned Control Number 3090–0198.

List of Subjects in 48 CFR Parts 525 and 552

Government procurement.

PARTS 525 AND 552—[AMENDED]

Accordingly, 48 CFR parts 525 and 552 are temporarily amended as follows:

1. The authority citation for 48 CFR parts 525 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 525.203 is revised effective January 1, 1994 through December 31, 1994 to read as follows:

525.203 Evaluation of offers.

(a) The HCA or a designee may authorize the use of a particular foreign construction material when the use of a comparable domestic construction material would unreasonably increase the cost of the contract. The cost of a particular domestic construction material shall be determined to be reasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent. The cost of construction material includes all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

(b) The evaluation process described in paragraph (a) of this section does not apply to:

(1) Excepted materials listed in the solicitation; or

(2) European Community (EC) and North American Free Trade Agreement (NAFTA) country construction materials offered in response to solicitations for construction contracts with an estimated value of $6,500,000 or more.

(c) Offerors proposing to use foreign construction materials (other than EC or NAFTA country construction materials on contracts with an estimated value of $6,500,000 or more) are required to provide adequate information for Government evaluation under paragraph

(a) of this section. Offerors may submit alternate offers for comparable domestic construction materials at stated prices. When foreign construction material (other than EC or NAFTA country construction materials on contracts with an estimated value of $6,500,000 or more) is not authorized under paragraph (a), evaluation of the offer must be based on the stated price, if any, for comparable domestic material. If an offeror proposing to use foreign construction materials (other than EC or NAFTA country construction materials on contracts with an estimated value of $6,500,000 or more) does not furnish data on the cost of comparable domestic construction materials, and the use of foreign construction material is not authorized, such offer must be rejected, unless the contracting officer is able to obtain prices on comparable domestic material which verifies that domestic prices are unreasonable.

(d) The contracting officer shall add 6 percent to the cost of foreign construction materials (other than EC or NAFTA country construction materials on contracts with an estimated value of $6,500,000 or more) authorized for use in accordance with paragraph (a) of this section, to the prices offered, if applicable, for evaluation purposes only.

3. Section 525.205 is revised effective January 1, 1994 through December 31, 1994 to read as follows:

525.205 Solicitation provision and contract clause.

The contracting officer shall insert the provision at 552.225–75, Buy American Act Notice—Construction Materials in solicitations for construction that include the Buy American Act—Construction Materials clause at FAR 52.225–5 and have an estimated value less than $6,500,000. Alternate I shall be used for construction contracts with an estimated value of $6,500,000 or more that include the Buy American Act—Construction Materials Under European Community Agreement and NAFTA clause at FAR 52.225–15.

4. Section 525.402 is amended effective January 1, 1994 through December 31, 1994 by removing "$176,000" from the last sentence of paragraph (a) and substitute "$182,000".

5. Section 552.225–8 is revised effective January 1, 1994 through December 31, 1994 to read as follows:

552.225–8 Trade Agreements Act Certificate.

As prescribed in 525.407(a), insert the following provision:

Trade Agreements Act Certificate (Jan 1994) (Deviation FAR 52.225–8)

(a) The Offeror, by signing this offer, certifies that each end product to be delivered under this contract is a U.S. made end product, a designated country end product, a Caribbean Basin country end product, a Canadian end product or a Mexican end product as defined in the clause entitled "Trade Agreements Act" at 48 CFR 552.225–9.

(b) Offers will be evaluated in accordance with subpart 25.4 of the Federal Acquisition Regulation except that offers of U.S. made end products, designated country end products, Caribbean Basin end products, Canadian end products, or Mexican end products shall be evaluated without the restrictions of the Buy American Act or the Balance of Payments Program.

(End of Provision)

6. Section 552.225–9 is revised effective January 1, 1994 through December 31, 1994 to read as follows:

552.225–9 Trade Agreements Act.

As prescribed in 525.407(a), insert the following clause.

Trade Agreements Act (Jan 1994) (Deviation FAR 52.225–9)

(a) This clause implements the Trade Agreements Act of 1979 (19 U.S.C. 2501–2582) by providing a preference for U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products or Mexican end products over other products.

"Caribbean Basin country end products," as used in this clause, means an article that: (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country (as defined in section 25.401 of the Federal Acquisition Regulation (FAR)), or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; provided that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such. The term excludes products that are excluded from duty free treatment from Caribbean countries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of: (i) Textiles and apparel articles that are subject to textile agreements; (ii) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preference under title V of the Trade Act of 1974; (iii) tuna, prepared or preserved in any manner in airtight containers; (iv) petroleum, or any product derived from petroleum; and (v) watches and watch parts (including cases, bracelets and straps) of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Tariff Schedule of the United States (TSUS) column 2 rates of duty apply.

"Designated country end product," as used in this clause, means an article that: (1) Is wholly the growth, product, or manufacture of the designated country (as defined in section 25.401 of the Federal Acquisition Regulation (FAR)), or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

"Canadian end product," as used in this clause, means an article that: (1) Is wholly the growth, product, or manufacture of Canada, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term includes services (except transportation services) incidental to its supply; provided, that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

"Mexican end product," as used in this clause, means an article that: (1) Is wholly the growth, product, or manufacture of Mexico, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in Mexico into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

"End products," as used in this clause, means those articles, materials, and supplies to be acquired under this contract for public use.

"U.S. made end product," as used in this clause, means an article which: (1) Is wholly the growth, product, or manufacture of the United States, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

"Nondesignated country end products," as used in this clause, means any end product which is not a U.S. made end product, designated country end product, Caribbean Basin Country end product, Canadian end product or Mexican end product.

"United States," as used in this clause, means the United States, its possessions,

Puerto Rico, and any other place which is subject to its jurisdiction, but does not include leased bases or trust territories.

(b) The Contractor agrees to deliver under this contract only U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products or Mexican end products or, if a national interest waiver is granted under section 302 of the Trade Agreements Act of 1979, nondesignated country end products. Only if such waiver is granted may a nondesignated country end product be delivered under this contract(s).

(c) Offers will be evaluated in accordance with the policies and procedures of Part 25 of the FAR except that offers of U.S. made end products, designated country end products, Caribbean Basin end products, Canadian end products or Mexican end products shall be evaluated without the restrictions of the Buy American Act or the Balance of Payments Program.

(End of Clause)

7. Section 552.225–75 is revised effective January 1, 1994 through December 31, 1994 to read as follows:

552.225–75 Buy American Act Notice—construction materials.

As prescribed in 525.205, insert the following provision:

Buy American Act Notice—Construction Materials (Jan 1994)

(a) The Buy American Act (41 U.S.C. 10) generally requires that only domestic construction material be used in performing this contract (See the clause entitled "Buy American Act—Construction Materials"). This requirement does not apply to the excepted construction material or components listed below:

(List Applicable Excepted Materials or Indicate "None.")

(b) Offers based on the use of other foreign construction material may be acceptable for award if the Government determines that—

(1) Comparable domestic construction material in sufficient and reasonably available quantities, of a satisfactory quality, is unavailable; or

(2) Use of comparable domestic construction material is impracticable or would unreasonably increase the cost of this contract.

(c) Any offer based on the use of one or more other foreign construction materials shall include current data, based on a reasonable canvass of suppliers, in the format listed in paragraph (g) below, clearly demonstrating that the cost of each other foreign construction material, plus 6 percent, is less than the cost of each comparable domestic construction material. The cost of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate may be issued).

(d) For evaluation purposes, the Government will add to the offer 6 percent of the cost of other foreign construction material that qualifies for acceptance under paragraph (c) above.

(e) When offering other foreign construction material, offerors may also offer, at stated prices, any available comparable domestic construction material to avoid the possibility that the entire offer will be rejected if the other foreign construction material is not accepted under (c) above. If any other foreign construction material does not qualify for acceptance under paragraph (c) above, the Government will evaluate the offer on the basis of the stated price for comparable domestic construction material, and the Offeror shall be required to furnish such domestic construction material at that price. If the Offeror does not state a price for a comparable domestic construction material, and the other foreign construction material does not qualify for acceptance under paragraph (c) above, the offer will be rejected in sealed bid procurements and may be rejected in negotiated procurements.

(f) If the foregoing procedure results in a tie between a foreign offer as evaluated and a domestic offer, award shall be made on the domestic offer. In such case, offers proposing to use any foreign construction material will be considered to be foreign offers.

(g) For evaluation purposes under paragraph (c) above, the following information and any applicable supporting data based on the canvass of suppliers shall be included in the offer for the use of one or more other foreign construction materials:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS COST COMPARISON

Construction material description	Unit of measure	Quantity	Cost (dollars)*
Item 1:			
Foreign construction material.			
Comparable domestic construction material.			
Item 2:			
Foreign construction material.			
Comparable Domestic construction material.			

*Include all delivery costs to the construction site and any applicable duty.

(End of Provision)

Alternate I (JAN 1994). If Alternate I is used, paragraphs (a) and (f) of the basic clause should be deleted and the following paragraphs (a) and (f) substituted. In addition, two asterisks should be inserted after the phrase "Foreign construction material" each time it appears in the chart in paragraph (g) and the following explanation added at the bottom of the chart "** Do not include EC or NAFTA country construction materials."

(a) The Buy American Act (41 U.S.C. 10) generally requires that only domestic construction material be used in performing this contract. However, the Memorandum of Understanding between the United States of America and the European Community (EC) on Government procurement and the North American Free Trade Agreement (NAFTA) exempt EC and NAFTA country construction material from application of the Buy American Act. (See FAR 52.225–15 "Construction Materials under European Community and NAFTA Agreements"). Therefore, the Contractor shall use only domestic construction material, EC construction materials, or NAFTA country construction materials in the performance of this contract except for other foreign construction materials, if any, listed below. "Other foreign construction material," as used in this provision, means construction material that is not EC or NAFTA country construction material as defined in FAR 52.225–15.

(List Applicable Excepted Materials or Indicate "None.")

(f) If the foregoing procedure results in a tie between an offer that includes other foreign construction material as evaluated and an offer that includes domestic, EC or NAFTA construction material, award shall be made on the offer providing domestic, EC or NAFTA construction material.

Dated: December 22, 1993.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 93–31960 Filed 12–29–93; 8:45 am]

BILLING CODE 6820–61–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1805

[NFS Case No. 941414]

Expedited Implementation of the North American Free Trade Agreement; NASA FAR Supplement Synopsizing Requirements

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Interim rule with request for comments.

SUMMARY: The North American Free Trade Agreement (NAFTA) requires that all procurements covered by it must be synopsized in the Commerce Business Daily. In this rule, NASA is implementing internal regulations concerning synopses of requirements where contract award and performance will take place outside the U.S.

DATES: This interim rule is effective January 1, 1994; comments must be received on or before February 28, 1994.

ADDRESSES: Comments may be submitted to Mr. William T. Childs, NASA Headquarters, Office of Procurement (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: William T. Childs, (202) 358–0454.

SUPPLEMENTARY INFORMATION: The North American Free Trade Agreement (NAFTA) requires that all procurements covered by it must be synopsized in the Commerce Business Daily. This requirement may be impractical for some procurements made in overseas locations. Therefore, the FAR provides that defense agencies may develop internal regulations concerning synopses of requirements where contract award and performance will take place outside the U.S.

NAFTA applies to procurements of supplies and services (with some exceptions, such as R&D). Although there are several different dollar thresholds in NAFTA, it is generally not possible to know at the time of synopsis which threshold applies, or whether a NAFTA-covered firm will propose. Therefore, all actions must be synopsized at the lowest applicable threshold.

Impact

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulation imposes no new burdens on the public under the Paperwork Reduction Act, as implemented at 5 CFR part 1320.

List of Subjects in 48 CFR Part 1805

Government procurement.

Tom Luedtke,

Acting Deputy Associate Administrator for Procurement.

PART 1805—PUBLICIZING CONTRACT ACTIONS

1. The authority citation for 48 CFR part 1805 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In section 1805.202, the existing paragraph is designated as paragraph (a), and a new paragraph (b) is added as follows:

1805.202 Exceptions.

* * * * *

(b) In accordance with FAR 5.202(a)(12), unless another exception applies, contract actions that will be made and performed outside the United States shall be synopsized in the Commerce Business Daily as follows: The contracting officer shall synopsize: (1) All contract actions for supplies or services (other than R&D and construction) with an estimated value above $25,000, and (2) all contract actions for construction with an estimated value above $6,500,000.

[FR Doc. 93–31996 Filed 12–29–93; 8:45 am]

BILLING CODE 7510–01–M

GENERAL SERVICES ADMINISTRATION

Board of Contract Appeals

48 CFR Part 6101

Rules of Procedure of the General Services Administration Board of Contract Appeals

AGENCY: Board of Contract Appeals, General Services Administration.

ACTION: Final rule.

SUMMARY: This document contains final revisions to the rules governing proceedings before the General Services Administration Board of Contract Appeals (Board). It supersedes the current rules of procedure of the Board in their entirety. The Board by majority vote has adopted these revised rules pursuant to its authority contained in section 111 of the Federal Property and Administrative Services Act of 1949 (commonly known as the Brooks Act) and the Contract Disputes Act of 1978. The revised rules will govern bid protest proceedings before the Board pursuant to the Brooks Act and contract appeals pursuant to the Contract Disputes Act of 1978, as well as any applications for costs incurred with regard to such protests and appeals. These revisions will clarify the Board's procedures in certain respects, as well as streamline those procedures to ensure that cases are processed in the most efficient possible manner.

EFFECTIVE DATE: January 3, 1994.

FOR FURTHER INFORMATION CONTACT: Wilbur T. Miller, Chief Counsel, GSA Board of Contract Appeals, (202) 501–0891. Copies of the rules may be obtained from: Office of the Clerk of the Board, (202) 501–0116.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

The General Services Administration certifies that these revisions will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Background

On December 22, 1992, the Board published in the **Federal Register** (57 FR 60783) a notice inviting written comments on proposed revisions to its rules of procedure. This notice announced the Board's intention to revise its existing rules of procedure, 48 CFR part 6101, and explained that the purpose of the proposed revisions was to clarify the Board's procedures in certain respects, as well as to streamline those procedures so as to ensure that cases are processed in the most efficient possible manner. The notice explained how to obtain copies of the proposed rules and invited interested persons to submit comments by February 12, 1993.

The Board received extensive comments from the public and from federal agencies. After consideration of these comments, the Board's members adopted the proposed rules, as revised, by majority vote.

The most significant changes made by the Board's new rules are highlighted in the next section of the preamble. Following that, the preamble summarizes the more significant comments received by the Board during the comment period and indicates how these comments were addressed in preparing the final version of the rules.

Highlights of Significant Changes Contained in the New Rules

The new rules contain several significant refinements of the Board's prior procedures. The definition of "filing" (section 6101.1(b)) has been changed to provide that all materials except a notice of appeal and an application for costs are filed when received by the Office of the Clerk during working hours. Specific rules are provided for the two mentioned exceptions. In addition, a new subparagraph is added to provide guidance for filing of pleadings by facsimile transmission, and the working hours of the Board for filing purposes are specifically noted (section 6101.1(b)(15)); section 6101.38(a) contains related changes specifying the hours of the Clerk.

The rule relating to the computation of time (section 6101.2) has been revised

to provide for situations where the Board is required to close due to inclement weather or other emergency. In addition, changes have been made to the method of calculating short time deadlines. Weekends and holidays under the proposed change would count only when a time deadline is eleven or more days, rather than seven as formerly, and the number of exceptions to this rule has been reduced.

The Board has made several changes in the rule pertaining to the filing of cases (section 6106.5). A category of participation in a case has been added, as the Board may, in its discretion, permit an entity to participate in a special or limited way, such as by filing an amicus curiae brief. Section 6101.5(b)(3)(iii) includes changes governing timeliness of a protest where a protester first protests to the procuring agency. A denial of an agency protest based on an alleged impropriety apparent on the face of the solicitation (or amendment) would give the protester no more than ten working days to protest to the Board, even if more than ten days are available after the agency denial before submission of bids or proposals. This proposed rule alters the practice under the existing rule and case law. Section 6101.5(b)(4) provides that an intervention filed after an amendment to a protest will be timely within four working days of receipt of the amendment, but such intervention may relate only to the newly raised ground of protest added by the amendment. Section 6101.5(d) contains more specificity as to the requirements placed on the contracting officer to give notice of the protest.

With regard to appearances before the Board, the rules have been revised to provide expressly that business entities may be represented only by an attorney or by an appropriate official or employee (section 6101.6(a)). Entities may not be represented by a non-attorney consultant. A motion to withdraw an appearance is now required and the contents of such a motion are stated.

With regard to pleadings, the rules have been revised to provide that in an appeal, a dispositive motion or a motion for a more definite statement may be filed in lieu of the answer only with the permission of the Board (section 6101.7(c)). Protest answers are now due no later than ten working days after the filing of the protest, rather than fifteen calendar days, and the time limits for filing amendments to a protest have been clarified.

The rule governing summary relief motions (section 6101.8(g)) has been substantially revised. Reference to such motions being available only in appeals has been deleted. Parties are advised that a motion for summary relief should be filed only when a party believes that based upon uncontested material facts, it is entitled to relief in whole or in part as a matter of law. Both the moving and opposing parties must file separate documents in addition to their briefs detailing the alleged uncontested facts and material facts which allegedly remain in dispute. The opposing party is cautioned that it may not rest upon the mere allegations or denials of its pleadings; if its response contests facts asserted by the movant, it must set forth specific facts showing that there is a genuine issue of material fact. If the adverse party does not so respond, summary relief, if appropriate, shall be entered against it. For good cause shown, if an opposing party cannot present facts essential to justify its opposition, the Board may defer ruling on the motion to permit affidavits to be obtained or other discovery to be conducted.

The rule governing conferences (section 6101.10) has been revised to provide expressly for the possibility of employment of alternative dispute resolution techniques. The possibilities include appointment of a neutral from within the Board to conduct the alternate proceedings.

The rules governing the Board's small claims and accelerated procedures (sections 6101.13, 6101.14) have been entirely rewritten. The changes are intended to clarify and simplify the rules, not substantively alter the practice in these areas. References to specific deadlines in such cases have been deleted; the new rules state that the Board will establish in each case such procedures as are appropriate for resolution of the case within the applicable time frame.

The Board made several revisions to the rules relating to discovery (sections 6101.15, 6101.16, and 6101.17). Discovery will be available in all cases only to the extent incorporated into a discovery plan that is approved by the Board. Permissive intervenors and other persons granted limited rights of participation may be permitted rights of discovery in accordance with an order of the Board. Time limits for raising objections to discovery requests are established in section 6101.15(f)(2), and a requirement is added that parties attempt to resolve discovery disputes before bringing such disputes to the attention of the Board. The parties must now ask the Board for an order authorizing the taking of depositions in appeals as well as protests (section 6101.16).

Answers in protest cases must be amended within five working days after service, and the rules contain a new requirement that a party that has responded to written interrogatories, requests for admission, or requests for production of documents, upon becoming aware of deficiencies or inaccuracies in its original responses, or upon acquiring additional information or additional relevant documents, shall supplement its responses (section 6101.17(f)).

Sanctions and disciplinary proceedings are governed by an entirely new section 6101.18. (Former section 6101.18, permitting the appointment of hearing examiners in certain cases, has been eliminated.) Parties and their representatives are advised to adhere to the Board's orders and to applicable statutes and regulations providing standards of conduct. Attorneys are advised to adhere to the rules of professional conduct and ethics of the jurisdictions in which they are licensed. Specific sanctions, such as preclusion of issues or evidence or dismissal of a case, are provided for misconduct by a party. The rule also provides for further disciplinary proceedings in appropriate circumstances.

The rule addressing dismissals (section 6101.28) has been completely rewritten. It now specifies that every dismissal will be with prejudice to reinstatement, unless otherwise requested. The rule also shortens the period of time after which a dismissal without prejudice will convert to one with prejudice, unless otherwise provided by the Board.

The new rules contain a number of changes to the rules dealing with Board decisions and reconsideration of those decisions (sections 6101.29, 6101.30, and 6101.32). Section 6101.29(b)(2) now advises the parties that in a protest, the Board ordinarily will, within the forty-five-day period applicable to the original protest, decide all issues, including those raised by amendment or intervention. However, in instances when the decision cannot be rendered within that period, the Board will whenever possible notify the parties prior to the originally-scheduled hearing date, or date for record submission, if it believes that because of a new ground of protest raised by an amendment or by an intervention, the protest might not be decided within the original forty-five-day period.

Section 6101.30 has been substantially rewritten to clarify conditions for making a request for full Board consideration and has been changed to provide for full Board consideration upon majority vote of the

Board's judges. The time limits for and effect of filing a motion for reconsideration have also been clarified. The limits are thirty calendar days in an appeal and seven working days in a protest after the date of receipt by the moving party of the decision or order (section 6101.32(c)). A pending motion for reconsideration does not affect the finality of a decision or suspend its operation.

Section 6101.35 has been rewritten to provide guidelines and time limits for the filing of cost applications. These include the submission of exhibits documenting the claimed costs, signed and verified by appropriate persons. Applications may now be filed with regard to protests as well as appeals, within thirty calendar days after a final disposition (including the running of the period for appeal).

Summary of Comments

The Board received written comments from twenty-seven commentators. Commentators included federal agencies, components of federal agencies, two bar association groups, four attorneys in private practice who have practiced before the Board, and one corporation. Four commentators had only brief, general comments on the rules; the other twenty-three addressed twenty-nine of the forty rules. The Board carefully considered each comment, and many suggestions contained in the comments were adopted. The more significant comments are discussed below in a section-by-section format.

Section 6101.1 (Scope of Rules; Definitions; Construction; Rulings and Orders; Panels; Situs)

At the suggestion of one commentator, the statement that an appeal may be filed by submitting a written notice of appeal to the contracting officer has been deleted from section 6101.1(b)(5). An appeal is to be filed with the Clerk of the Board. At the suggestion of two commentators, a new subparagraph is added to section 6101.1(b)(5) to provide guidance on filing pleadings by facsimile transmission, and section 6101.1(b)(15) now provides the working hours of the Board for filing purposes.

Section 6101.2 (Time: Enlargement; Computation)

All four commentators who addressed this rule suggested that it should clarify the exceptions to the time computation rules and address situations when the Clerk's Office closes early. Section 6101.2(c), relating to the computation of time, has been amended to provide for situations where the Board is required to close due to inclement weather or other emergency. In addition, changes have been made to the method of calculating short time deadlines. Weekends and holidays would count only when a time deadline is eleven or more days, rather than seven as formerly, so as to conform to the Federal Rules of Civil Procedure, and the number of exceptions to this rule has been reduced.

Section 6101.3 (Service of Papers)

At the suggestion of two commentators, the current practice regarding the filing of discovery papers with the Board has been changed. Now, discovery requests and responses are not to be filed with the Board, unless the Board orders otherwise.

Section 6101.4 (Appeal File; Protest File)

Pagination requirements are included in section 6101.4(d). At the suggestion of five commentators, the requirement that the entire file be consecutively paginated has been dropped. Instead, the pages within each exhibit shall be numbered consecutively unless the exhibit already is paginated in a logical manner.

Section 6101.5 (Filing Cases; Time Limits for Filing; Docketing; Notice of Protest by Contracting Officer)

Two commentators suggested that an intervenor should be required to support any additional grounds of protest it might assert in the same manner as a protester. (Indeed, one commentator suggested that protesters be held to a higher standard than that set for intervenors.) Section 6106.5(a)(4) now provides that all new grounds of protest asserted by intervenors must be described in the same manner as those supporting a protest (section 6101.7(b)(2)(v)).

Four commentators supported the change to section 6101.5(b)(3)(iii) governing timeliness of a protest where a protester first protests to the procuring agency. A denial of an agency protest based on an alleged impropriety apparent on the face of the solicitation (or amendment) would give the protester no more than ten working days to protest to the Board, even if more than ten days are available after the agency denial before submission of bids or proposals. This rule alters the practice under the existing rule and case law, to require protesters to pursue matters promptly once they have been raised.

Section 6101.5(b)(4) provides that an intervention filed after an amendment to a protest will be timely within four working days of receipt of the amendment, but such intervention may relate only to the newly raised ground of protest added by the amendment. Two commentators specifically supported this change.

Section 6101.5(d) contains more specificity as to the requirements placed on the contracting officer to give notice of the protest, and shortens from five to three working days the time in which the contracting officer must notify the Board that all interested parties have been notified of the protest. The proposed version of this rule shortened the time period from five days to one day; in response to the concerns of three commentators that their agencies would be hard pressed to comply, the final version specifies three-day notice.

Section 6101.6 (Appearances; Notice of Appearance)

Section 6101.6 has been amended to provide expressly that business entities may be represented only by an attorney or by an appropriate official or employee. Entities may not be represented by a non-attorney consultant. One commentator questioned whether this limitation was consistent with the Board's statutory obligation to provide, to the extent practicable, the informal, expeditious, and inexpensive resolution of disputes. The purpose of section 6101.6 is to provide to corporations and other business entities a parallel privilege of pro se representation. Such a party is not permitted under the rule to retain a non-party, non-attorney representative, such as a consultant, which could be construed as the unauthorized practice of law.

Section 6101.7 (Pleadings)

Section 6106.7(c)(1) has been amended to provide that, in an appeal, a dispositive motion or a motion for a more definite statement may be filed in lieu of the answer only with permission of the Board. The proposed version of this section provided that a dispositive motion or motion for a more definite statement could not be filed in lieu of an answer. Six commentators objected to the change, noting that agency counsel sometimes receive appeals that are subject to summary dismissal, and, in such situations, drafting an answer is a waste of agency resources. The Board is concerned that the filing of dispositive motions in lieu of answers at the last allowable moment slows appeal proceedings. It recognizes, however, that some appeals are proper subjects for dispositive motions. The rule has been revised in response to the comments received.

Pursuant to section 6101.7(c)(2), protest answers are now due no later than ten working days after the filing of the protest, rather than fifteen working days. Three agency counsel objected to the shortening of this time period; however, the Board concluded that the prompt filing of answers is helpful to the development of a case.

Section 6101.7(f)(2) clarifies the time limits for filing amendments to a protest and reflects the suggestions of five commentators that leave of the Board not be required to amend a protest to include an additional ground of protest.

Section 6101.8 (Motions)

Section 6106.8(g), governing summary relief motions, has been substantially revised along lines proposed by five commentators. Reference to such motions being available only in appeals has been deleted. Parties are advised that a motion for summary relief should be filed only when a party believes that based upon uncontested material facts, it is entitled to relief in whole or in part as a matter of law. Both the moving and opposing parties must file separate documents in addition to their briefs detailing the alleged uncontested facts and material facts which allegedly remain in dispute. The opposing party is cautioned that it may not rest upon the mere allegations or denials of its pleadings; if its response contests facts asserted by the movant, it must set forth specific facts showing that there is a genuine issue of material fact. If the adverse party does not so respond, summary relief, if appropriate, shall be entered against it. For good cause shown, if an opposing party cannot present facts essential to justify its opposition, the Board may defer ruling on the motion to permit affidavits to be obtained or other discovery to be conducted.

Section 6101.10 (Conferences; Conference Memorandum; Prehearing Order; Prehearing and Presubmission Briefs)

This section has been amended to provide expressly for the possibility of employment of alternative dispute resolution techniques. At the suggestion of five commentators, the possibilities include appointment of a neutral from within the Board, including the panel chairman, to conduct the alternate proceedings.

Section 6101.15 (General Provisions Governing Discovery)

Under changes to section 6106.15(d), discovery will be available in all cases only to the extent incorporated into a discovery plan that is approved by the Board. One commentator actively supported this change, and none criticized it. Similarly well-received was the new provision that permissive intervenors and other persons granted limited rights of participation may be permitted rights of discovery in accordance with an order of the Board. Time limits for raising objections to discovery requests are established in section 6101.15(f)(2). The proposed rule required objections to discovery requests in appeals to be filed within ten working days. Four commentators requested a longer time period. The rule now provides that such objections must be filed in fifteen calendar days. The limited period is intended to promote identification and resolution of objections sufficiently early that they will not delay responses to discovery requests. Finally, at the suggestion of two commentators, section 6101.15(f)(3) adds a requirement that parties attempt to resolve discovery disputes before bringing such disputes to the attention of the Board.

Section 6101.16 (Depositions)

The parties must now ask the Board for an order authorizing the taking of depositions in appeals as well as protests. One commentator felt this unnecessarily involved the Board in a matter easily resolved by the parties; another commentator supported the change. The Board adopted the change in an effort to focus the parties' attention on the necessity for specific depositions, and to increase control against excessive discovery.

Section 6101.17 (Interrogatories)

Section 6101.17(a) is revised to require answers to interrogatories in protest cases within five working days after service. The Board's current rule requires answers within ten calendar days, and five commentators suggested that the more liberal time period be maintained. The revised rule retains the five-day filing requirement, but provides that the time period established in the rules may be altered by the panel chairman in any case in which a different period is requested.

At the suggestion of two commentators, section 6101.17(f) contains a new requirement that a party that has responded to written interrogatories, requests for admission, or requests for production of documents, upon becoming aware of deficiencies or inaccuracies in its original responses, or upon acquiring additional information or additional relevant documents, shall supplement its responses.

Section 6101.18 (Sanctions and Other Proceedings)

Section 6101.18, permitting the appointment of hearing examiners in certain case, has been eliminated in its entirety. The one comment received on this change was supportive. A new section 6101.18 is added to govern sanctions and disciplinary proceedings. Portions of this rule replace former provisions that appeared in sections 6101.10(d) and 6101.15(g). Parties and their representatives are advised to adhere to the Board's orders and to applicable statutes and regulations providing standards of conduct. In the proposed version of section 6101.18(a), attorneys were to required to follow the American Bar Association's Model Rules of Professional Conduct. In response to the concerns of six commentators, that subsection advises attorneys to the rules of professional conduct and ethics of the jurisdictions in which they are licensed. The rule also states that the Board will also look to voluntary professional guidelines in evaluating an individual's conduct.

Section 6101.28 (Dismissals)

In response to five comments received, section 6101.28 has been completely rewritten. Every commentator suggested that the proposed rule lacked clarity, and one noted that grounds for dismissal should not be mixed with types of dismissals. The current rule specifies that every dismissal will be with prejudice to reinstatement, unless otherwise requested. The rule also shortens the period of time after which a dismissal without prejudice will convert to one with prejudice, unless otherwise provided by the Board.

Section 6101.29 (Decisions)

Section 6101.29(b)(2) now advises the parties that in a protest, the Board ordinarily will, within the forty-five-day period applicable to the original protest, decide all issues, including those raised by amendment or intervention. However, in instances when the decision cannot be rendered within that period, the Board will whenever possible notify the parties prior to the originally-scheduled hearing date, or date for record submission, if it believes that because of a new ground of protest raised by an amendment or by an intervention, the protest might not be decided within the original forty-five-day period. This addition to section 6101.29 was supported by all three commentators commenting on this rule.

Section 6101.30 (Full Board Consideration)

This section has been substantially rewritten to clarify conditions for making a request for full Board consideration. Section 6101.30(a) requires that a request for full Board consideration must be made after the panel to which the case is assigned has issued its decisions on a motion for reconsideration or relief from decision. Two commentators suggested that this entailed too much delay; however, the Board determined that it was useful to an informed consideration of such a request. Section 6101.30(b) has been changed to provide for full Board consideration upon majority vote of the Board's judges. This change was strongly supported by three of the four commentators commenting on this rule.

Section 6101.32 (Reconsideration; Amendment of Decisions; New Hearings)

Section 6101.32(c) clarifies time limits for filing a motion for reconsideration. The limits are thirty calendar days in an appeal and seven working days in a protest after the date of receipt by the moving party of the decision or order. At the suggestion of one commentator, section 6101.32(d) has been added to clarify that a motion pending under this rule does not affect the finality of a decision or suspend its operation.

Section 6101.35 (Award of Costs)

Section 6101.35 has been rewritten to provide guidelines and time limits for the filing of cost applications. These include the submission of exhibits documenting the claimed costs, signed and verified by appropriate persons. Applications may now be filed with regard to protests as well as appeals, within thirty calendar days after a final disposition (including the running of the period for appeal). All three commentators commenting on this rule supported the guidelines and time limits.

List of Subjects in 48 CFR Part 6101

Administrative practice and procedures, Government procurement.

Adoption of Revised Rules

For the reasons set out in the preamble, 48 CFR part 6101 is revised to read as follows:

PART 6101—RULES OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS

Sec.

6101.0 Foreword.
6101.1 Scope of rules; definitions; construction; rulings and orders; panels; situs [Rule 1].
6101.2 Time: Enlargement; computation [Rule 2].
6101.3 Service of papers [Rule 3].
6101.4 The appeal file; protest file [Rule 4].
6101.5 Filing cases; time limits for filing; docketing; notice of protest by contracting officer [Rule 5].
6101.6 Appearances; notice of appearance [Rule 6].
6101.7 Pleading [Rule 7].
6101.8 Motions [Rule 8].
6101.9 Election of hearing or record submission [Rule 9].
6101.10 Conferences; conference memorandum; prehearing order; prehearing and presubmission briefs [Rule 10].
6101.11 Submission on the record without a hearing [Rule 11].
6101.12 Record of Board proceedings [Rule 12].
6101.13 Small claims procedure in appeals [Rule 13].
6101.14 Accelerated procedure in appeals [Rule 14].
6101.15 General provisions governing discovery [Rule 15].
6101.16 Depositions [Rule 16].
6101.17 Interrogatories to parties; requests for admission; requests for production of documents [Rule 17].
6101.18 Sanctions and other proceedings [Rule 18].
6101.19 Hearings: scheduling; notice; unexcused absences; suspension; decision [Rule 19].
6101.20 Subpoenas [Rule 20].
6101.21 Hearing procedures [Rule 21].
6101.22 Admissibility and weight of evidence [Rule 22].
6101.23 Exhibits [Rule 23].
6101.24 Transcripts of proceedings; corrections [Rule 24].
6101.25 Briefs and memoranda of law [Rule 25].
6101.26 Consolidation; separate hearings; separate determination of liability [Rule 26].
6101.27 Stay or suspension of proceedings; dismissals in lieu of stay or suspension [Rule 27].
6101.28 Dismissals [Rule 28].
6101.29 Decisions [Rule 29].
6101.30 Full Board consideration [Rule 30].
6101.31 Clearical mistakes [Rule 31].
6101.32 Reconsideration; amendment of decisions; new hearings [Rule 32].
6101.33 Relief from decision or order [Rule 33].
6101.34 Harmless error [Rule 34].
6101.35 Award of costs [Rule 35].
6101.36 Payment of Board awards [Rule 36].
601.37 Record on review of a Board decision [Rule 37].
601.38 Office of the Clerk of the Board [Rule 38].
601.39 Seal of the Board [Rule 39].
601.40 Forms [Rule 40].

Appendix—Form Nos. 1–5

Form Index
Form 1—Notice of Appeal, GSA Form 2465
Form 2—Notice of Appearance
Form 3—Subpoena, GSA Form 9534
Form 4—Government Certificate of Finality
Form 5—Appellant/Protester/Intervenor/Applicant Certificate of Finality

Authority: 41 U.S.C. 601–613; 40 U.S.C. 759(f)(8).

6101.0 Foreword.

The General Services Administration Board of Contract Appeals was established under the Contract Disputes Act of 1978, 41 U.S.C. 601–613, as an independent tribunal to hear and decide contract disputes between government contractors and the General Services Administration (GSA) and other executive agencies of the United States. The Board also hears and decides protests filed under the Brooks Act, 40 U.S.C. 759(f), which involve procurements subject to that Act, and conducts proceedings as required under other laws. The Board will act in accordance with the rules in this part and applicable standards of conduct so that the integrity, impartiality, and independence of the Board are preserved.

6101.1 Scope of rules; definitions; construction; rulings and orders; panels; situs [Rule 1].

(a) *Scope.* The rules in this part govern proceedings in all cases filed with the Board on or after January 3, 1994, and all further proceedings in cases then pending, except to the extent that in the opinion of the Board, their use in a particular case pending on the effective date would be infeasible or would work an injustice, in which event the former procedure applies. The Board will look to the rules in this part for guidance in conducting other proceedings authorized by law.

(b) *Definitions*—(1) *Appeal; appellant.* The term "appeal" means a contract dispute filed with the Board. The term "appellant" means a party filing an appeal.

(2) *Application; applicant.* The term "application" means a submission to the Board of a request for reimbursement of costs, under the Equal Access to Justice Act, 5 U.S.C. 504, or the Brooks Act, 40 U.S.C. 759(f)(5)(C), pursuant to 6101.35. The term "applicant" means a party filing an application.

(3) *Board judge; judge.* The term "Board judge" or "judge" means a member of the Board.

(4) *Case.* The term "case" means an appeal, protest, petition, or application.

(5) *Filing.* (i) Any document, other than a notice of appeal or an application for costs, is filed when it is received by the Office of the Clerk of the Board during the Board's working hours. A notice of appeal or an application for costs is filed upon the earlier of (A) its receipt by the Office of the Clerk of the Board or (B) if mailed, the date on which it is mailed. A United States Postal Service postmark shall be prima facie evidence that the document with which it is associated was mailed on the date thereof.

(ii) Facsimile transmissions to the Board and the parties are permitted. Parties are expected to submit their facsimile machine numbers with their filings. The Board's facsimile machine number is: (202) 501–0664. The filing of a document by facsimile transmission occurs upon receipt by the Board of the entire printed submission. Parties are specifically cautioned that deadlines for the filing of cases will not be extended merely because the Board's facsimile machine is busy or otherwise unavailable at the time on which the filing is due.

(6) *Interested party.* The term "interested party" means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.

(7) *Intervening agency.* The term "intervening agency" means either (i) the General Services Administration, (ii) the agency for which GSA or another agency is conducting the procurement, or (iii) any other agency, when the agency seeking to intervene has submitted a motion to intervene in a protest in accordance with 6101.5(a)(4)(ii) and the motion has been granted. An intervening agency described in paragraph (b)(7) (i) or (ii) will be accorded the same rights as an intervenor of right; an intervening agency described in paragraph (b)(7)(iii) will be accorded the same rights as a permissive intervenor.

(8) *Intervenor of right.* The term "intervenor of right" means (i) an interested party who files with the Board a notice of intervention in accordance with 6101.5(a)(4)(i) and who has not filed a protest concerning the same procurement with the United States General Accounting Office (GAO), or (ii) in a protest involving a procurement being conducted by an entity other than a Federal agency, the entity conducting the procurement.

(9) *Intervenor, permissive.* The term "permissive intervenor" means any entity that (i) is an interested party and has filed a protest concerning the same procurement at the GAO, has submitted a motion to intervene in a protest in accordance with 6101.5(a)(4)(iii), and whose motion has been granted, or (ii) has been permitted by the Board in its discretion to intervene in a case.

(10) *Party.* The term "party" means an appellant, applicant, petitioner, protester, respondent, intervenor of right, intervening agency, or permissive intervenor.

(11) *Petition; petitioner.* The term "petition" means a request filed under 41 U.S.C. 605(c)(4) that the Board direct a contracting officer to issue a written decision on a claim. The term "petitioner" means a party submitting a petition.

(12) *Protest; protester.* The term "protest" means a written objection by an interested party to a solicitation by a Federal agency for bids or proposals for a proposed contract for the procurement of property or services or a written objection to a proposed award or the award of such a contract. The term "protester" means an interested party who files a protest with the Board and who has not filed a protest with the GAO concerning the same procurement.

(13) *Respondent.* The term "respondent" means the Government agency whose decision, action, or inaction is the subject of an appeal, protest, petition, or application.

(14) *Working day.* The term "working day" means any day other than a Saturday, Sunday, or Federal holiday.

(15) *Working hours.* The Board's working hours are 8 a.m. to 4:30 p.m., Eastern Time, on each working day.

(c) *Construction.* The rules in this part shall be construed to secure the just, speedy, and inexpensive resolution of every case. The Board looks to the Federal Rules of Civil Procedure for guidance in construing those Board rules which are similar to Federal Rules.

(d) *Rulings, orders, and directions.* The Board may apply the rules in this part and make such rulings and issue such orders and directions as are necessary to secure the just, speedy, and inexpensive resolution of every case before the Board. Any ruling, order, or direction that the Board may make or issue pursuant to the rules in this part may be made on the motion or request of any party or on the initiative of the Board. The Board may also amend, alter, or vacate a ruling, order, or direction upon such terms as are just. In making rulings and issuing orders and directions pursuant to the rules in this part, the Board takes into consideration those Federal Rules of Civil Procedure which address matters not specifically covered herein.

(e) *Panels.* Each case will be assigned to a panel consisting of three judges, with one member designated as the panel chairman, in accordance with such procedures as may be established by the Board. The panel chairman is responsible for processing the case, including scheduling and conducting proceedings and hearings. In addition, the panel chairman may, without participation by other panel members, decide an appeal under the small claims procedure (6101.13), suspend procurement authority in a protest (6101.19(d)), rule on nondispositive motions (except for amounts in controversy under 6101.13(a)(2)), and dismiss a case if no party objects (6101.28(c)). All other matters, except for those before the full Board under 6101.30, are decided for the Board by a majority of the panel.

(f) *Situs.* The address of the Office of the Clerk of the Board is: Room 7022, General Services Administration Building, 18th and F Streets, NW., Washington, DC 20405. The Clerk's telephone number is: (202) 501–0116. The Clerk's facsimile machine number is (202) 501–0664.

6101.2 Time: enlargement; computation [Rule 2].

(a) *Time for performing required actions.* All time limitations prescribed in the rules in this part or in any order or direction given by the Board are maximums, and the action required should be accomplished in less time whenever possible.

(b) *Enlarging time.* Upon request of a party for good cause shown, the Board may enlarge any time prescribed by the rules in this part or by an order or direction of the Board. The exceptions are the time limits for filing appeals and protests (6101.5(b)(1) and (3)) and for convening the suspension hearing (6101.19(a)(2)). A written request is required, but in exigent circumstances an oral request may be made and followed by a written request. An enlargement of time may be granted even though the request was filed after the time for taking the required action expired, but the party requesting the enlargement must show good cause for its inability to make the request before that time expired.

(c) *Computing time.* Except as otherwise required by law, in computing a period of time prescribed by the rules in this part or by order of the Board, the day from which the designated period of time begins to run shall not be counted, but the last day of

VOL 58 ISS 249 DEC 30 1993 UMI

the period shall be counted unless that day is (i) a Saturday, a Sunday, or a Federal holiday, or (ii) a day on which the Office of the Clerk of the Board is required to close earlier than 4:30 p.m., or does not open at all, as in the case of inclement weather, in which event the period shall include the next working day. When the period of time prescribed or allowed is less than 11 days, any intervening Saturday, Sunday, or Federal holiday shall not be counted. When the period of time prescribed or allowed is 11 days or more, intervening Saturdays, Sundays, and Federal holidays shall be counted except as otherwise provided. The exceptions are the 10-day period after contract award for filing a protest which requests a suspension hearing (6101.19(a)(2)), the 25-day period for commencement of the hearing on the merits of the protest (6101.19(a)(3)), and the 45-day period for deciding the protest (6101.29(b)). Time for filing any document or copy thereof with the Board expires when the Office of the Clerk of the Board closes on the last day on which such filing may be made.

6101.3 Service of papers [Rule 3].

(a) *On whom service must be made.* When a party sends a document to the Board it must at the same time send a copy to any other party in the manner provided in paragraph (b) of this section. Subpoenas (6101.20) and documents filed *in camera* (6101.12(h)) are exceptions to this requirement. Any papers required to be served on a party (except requests for discovery and responses thereto, unless ordered by the Board to be filed) shall be filed with the Board before service or within a reasonable time thereafter.

(b) *When service must be made*—(1) *Appeals, applications, and petitions.* When a party to an appeal, application, or petition files a document with the Board, it must serve a copy on the other party by mail or some other equally or more expeditious means of transmittal.

(2) *Protests.* When a protest is filed with the Board, the protester must serve a copy on the contracting officer whose decision or action is being protested by means reasonably calculated to effect delivery on the same day the protest is filed with the Board. When a party to a protest files with the Board any other document, it must serve a copy on every other party by means reasonably calculated to effect delivery within 1 day after the document is filed with the Board.

(c) *Proof of service.* Except when service is not required, a party sending a document to the Board must indicate to the Board that a copy has also been sent to every other party. This may be done by certificate of service, by the notation of a photostatic copy (cc:), or by any other means that can reasonably be expected to indicate to the Board that other parties have received a copy.

(d) *Failure to make service.* If a document sent to the Board by a party does not indicate that a copy has been served on every other party, the Board may return the document to the party that submitted it with such directions as it considers appropriate, or the Board may inquire whether a party has received a copy and note on the record the fact of inquiry and the response, and may also direct the party that submitted the document to serve a copy on any other party. In the absence of proof of service a document may be treated by the Board as not properly filed.

6101.4 The appeal file; protest file [Rule 4].

(a) *Submission to the Board by the contracting officer.* Within 30 calendar days from receipt of notice that an appeal has been filed or, in a protest, within 10 working days after its filing, or within such time as the Board may allow, the contracting officer shall file with the Board appeal or protest file exhibits consisting of all documents and other tangible things relevant to the claim or protest and to the contracting officer's decision which has been appealed or protested, including:

(1) The contracting officer's decision, if any, from which the appeal or protest is taken;

(2) The contract, if any, including amendments, specifications, plans, and drawings;

(3) All correspondence between or among the parties that is relevant to the appeal or protest, including the written claim or claims that are the subject of the appeal, and evidence of their certification, if any;

(4) Affidavits or statements of any witnesses on the matter in dispute or under protest and transcripts of any testimony taken before the filing of the notice of appeal or protest;

(5) All documents and other tangible things on which the contracting officer relied in making the decision or in taking the action protested, including a copy of the agency procurement request, the delegation of procurement authority, if any, and any correspondence relating thereto;

(6) The abstract of bids, if any;

(7) In a protest, a copy of the solicitation, protester's bid or proposal, and, if bid opening has occurred and no contract has been awarded, a copy of any bid relevant to the protest;

(8) In a protest of a negotiated procurement when no award has been made, a copy of any offer or proposal being considered for award and which is relevant to the protest (ordinarily, these documents will be submitted under a protective order issued by the Board); and

(9) Any additional existing evidence or information deemed necessary to determine the merits of the appeal or protest.

The contracting officer shall serve a copy of the appeal or protest file on all parties at the same time that the contracting officer files it with the Board, except that (i) the contracting officer need not serve on any party those documents furnished the Board *in camera* pursuant to 6101.12(h) and (ii) the contracting officer shall serve documents submitted under protective order only on those individuals who have been granted access to such documents by the Board. However, the contracting officer must serve on all parties a list identifying the specific documents filed with the Board, giving sufficient details necessary for their recognition. The list must not reveal the number and identity of the offerors whose proposals are filed in *in camera* and should include an identifying statement, e.g., "proposal(s) being considered for award." This list must also be filed with the Board as an exhibit to the appeal or protest file.

(b) *Submission to the Board by any other party.* Within 30 calendar days after filing of the respondent's appeal file exhibits, within 5 working days after receipt of the respondent's protest file exhibits, or within such time as the Board may allow, any other party shall file with the Board for inclusion in the appeal or protest file documents or other tangible things relevant to the appeal or protest that have not been submitted by the contracting officer. Any other party shall serve a copy of its additional exhibits upon the respondent and every other party at the same time as it files them with the Board.

(c) *Submissions on order of the Board.* The Board may, at any time during the pendency of the appeal or protest, require any party to file other documents and tangible things as additional exhibits.

(d) *Organization of the appeal and protest files.* Appeal and protest file exhibits may be originals or true, legible, and complete copies. They shall be arranged in chronological order within each submission, earliest documents first; bound in a looseleaf binder on the left margin except where size or shape makes such binding impracticable; numbered; tabbed; and indexed. The numbering shall be consecutive, in whole arabic numerals (no letters, decimals, or fractions), and continuous from one submission to the next, so that the complete file, after all submissions, will consist of one set of consecutively numbered exhibits. In addition, the pages within each exhibit shall be numbered consecutively unless the exhibit already is paginated in a logical manner. Consecutive pagination of the entire file is not required. The index should include the date and a brief description of each exhibit and shall indicate which exhibits, if any, have been filed with the Board *in camera* or under protective order or otherwise have not been served on every other party.

(e) *Lengthy or bulky documents.* The Board may waive the requirement to furnish other parties copies or duplicates of bulky, lengthy, or outsized documents submitted to the Board as exhibits.

(f) *Use of appeal or protest file as evidence.* All exhibits in the appeal or protest file are part of the record upon which the Board will render its decision, except for those as to which an objection has been sustained. Unless otherwise ordered by the Board, objection to any exhibit may be made at any time before the first witness is sworn or, if the appeal or protest is submitted on the record pursuant to 6101.11, at any time prior to or concurrent with the first record submission. The Board may enlarge the time for such objections and will consider an objection made during a hearing if the ground for objection could not reasonably have been earlier known to the objecting party. If an objection is sustained, the Board will so note in the record.

(g) *When appeal or protest file not required.* Upon motion of a party, the Board may postpone or dispense with the submission of any or all appeal or protest file exhibits.

6101.5 Filing cases; time limits for filing; docketing; notice of protest by contracting officer [Rule 5].

(a) *Filing cases.* Filing of a case occurs as provided 6101.1(b)(5).

(1) *Notice of appeal.* (i) A notice of appeal shall be in writing and should be signed by the appellant or by the appellant's attorney or authorized representative. If the appeal is from a contracting officer's decision, the notice of appeal should describe the decision in enough detail to enable the Board to differentiate that decision from any other; the appellant can satisfy this requirement by attaching to the notice of appeal a copy of the contracting officer's decision. If an appeal is taken from the failure of a contracting officer to issue a decision, the notice of appeal should describe in detail the claim that the contracting officer has failed to decide; the appellant can satisfy this requirement by attaching a copy of the written claim submission to the notice of appeal.

(ii) A written notice in any form, including the one specified in the appendix to this part, is sufficient to initiate an appeal. The notice of appeal should include the following information:

(A) The number and date of the contract;

(B) The name of the agency and the component thereof against which the claim has been asserted;

(C) The name of the contracting officer whose decision or failure to decide is appealed and the date of the decision, if any;

(D) A brief account of the circumstances giving rise to the appeal; and

(E) An estimate of the amount of money in controversy, if any and if known.

(iii) The appellant must send a copy of the notice of appeal to the contracting officer whose decision is appealed or, if there has been no decision, to the contracting officer before whom the appellant's claim is pending.

(2) *Petition.* (i) A petition shall be in writing and should be signed by the petitioner or by the petitioner's attorney or authorized representative. The petition should describe in detail the claim that the contracting officer has failed to decide; the contractor can satisfy this requirement by attaching to the petition a copy of the written claim submission.

(ii) The petition should include the following information:

(A) The number and date of the contract;

(B) The name of the agency and the component thereof against which the claim has been asserted; and

(C) The name of the contracting officer whose decision is sought.

(3) *Protest.* The form for a protest is the pleading prescribed in 6101.7(b)(2), which must be filed with the Board, with a copy to the contracting officer as prescribed in 6101.3(b)(2). A protest may not be filed with the Board by an interested party who has proceeded with a protest of the same procurement at the GAO.

(4) *Intervention.* Intervention as a party in a protest is permitted, as follows:

(i) *Notice of intervention by intervenor of right.* An intervenor of right may intervene in a protest by filing a notice of intervention with the Board and serving copies upon all known parties, including any intervening parties. It shall be the responsibility of the intervenor to contact the Board or the respondent to obtain any information it requires for filing its notice of intervention and for serving it upon other parties. The notice shall set forth the name, address, telephone number, and facsimile machine number of the person signing the notice, the nature of the party's direct economic interest that would be affected by the award of the contract or by failure to award the contract, the party's statement of position regarding each issue of protest, and any other grounds for protest or defenses to the protest. All new grounds must be fully described in accordance with 6101.7(b)(2)(v) and must be timely asserted as provided in paragraph (b)(3) of this section. Receipt of such notice will be acknowledged by the Board, and it shall be the responsibility of the intervenor to contact the Board to ascertain the status of the protest, including the time and place of any hearings or other proceedings.

(ii) *Motion to intervene by intervening agency.* The Board may permit an intervening agency, upon motion timely filed pursuant to paragraph (b)(4) of this section, to intervene in a protest, provided that the intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.

(iii) *Motion to intervene by permissive intervenor.* The Board may permit any entity defined in 6101.1(b)(9), upon motion timely filed pursuant to paragraph (b)(4) of this section, to intervene in a protest. Such entity is eligible to intervene only on the issues already under protest and only if its participation will not unduly delay or prejudice the rights of the original parties. This limited participation may affect the movant's rights of discovery and cross-examination and involvement in any hearing or settlement of the protest. A permissive intervenor will not be permitted to elect a hearing (6101.9). A motion to intervene must include the information described in paragraph (a)(4)(i) of this section, and must be served upon all parties.

(5) *Application.* An application for costs shall meet all requirements specified in 6101.35(c).

(6) *Other participation.* The Board may, in its discretion, permit an entity to participate in a case in a special or limited way, such as filing an *amicus curiae* brief.

(b) *Time limits for filing appeals, petitions, protests, interventions, and applications*—(1) *Appeals.* (i) An appeal from a decision of a contracting officer

VOL 58 ISS 249 DEC 30 1993 UMI

shall be filed no later than 90 calendar days after the date the appellant receives that decision.

(ii) An appeal may be filed with the Board should the contracting officer fail or refuse to issue a timely decision on a claim submitted in writing, properly certified if required.

(2) *Petitions.* A contractor may file with the Board a petition that the Board direct a contracting officer to issue a written decision on a claim.

(3) *Protests.* A protest will be considered by the Board if it includes the information required by 6101.7(b)(2) and is timely filed.

(i) A ground of protest based upon alleged improprieties in any type of solicitation which are apparent before bid opening or the closing time for receipt of initial proposals shall be filed before bid opening or the closing time for receipt of initial proposals. In the case of negotiated procurements, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated therein must be protested no later than the next closing time for receipt of proposals following the incorporation.

(ii) A ground of protest, other than one covered in paragraph (b)(3)(i) of this section, shall be filed no later than 10 working days after the basis for the ground of protest is known or should have been known, whichever is earlier.

(iii) If a party initially files a protest with an agency within the time limits prescribed in paragraphs (b)(3) (i) and (ii) of this section, it may file a protest with the Board raising the same ground(s) not later than 10 working days after formal notification, or actual or constructive knowledge, of initial adverse agency action.

(iv) A protest which is timely under this section but is filed more than 10 calendar days after contract award will not be subject to the procedure in 6101.19 for suspension hearing and decision.

(4) *Intervention.* Any intervenor of right or intervening agency receiving notice of a protest as provided in paragraph (d) of this section may, by intervening within 4 working days after receipt of notice, participate fully as a party to a protest. When such a party intervenes, it may raise at the time it files its notice or motion any new ground concerning the protested procurement, provided that the new ground is timely raised under paragraph (b)(3) of this section and further that the notice or motion complies fully with the pertinent requirements of paragraph (a)(3) of this section. An intervenor of right or an intervening agency may also file a motion to intervene within 4 working days of receipt of an amendment to the protest which raises a new ground. Such intervention shall be limited to the newly raised ground.

(5) *Applications.* An application for costs shall be filed within 30 calendar days of a final disposition in the underlying appeal or protest, as provided in 6101.35(b).

(c) *Notice of docketing.* Notice of appeal, petitions, protests, and applications will be docketed by the Office of the Clerk of the Board, and a written notice of docketing will be sent promptly to all parties.

(d) *Notice of protest by contracting officer.* Within 1 working day after receipt of a copy of the protest, the contracting officer shall give oral or written notice of the protest: to all firms solicited who appear to be affected by the protest, if sealed bids or initial offers or proposals have not been opened; to all bidders or offerors, if no award has been made and bids have been opened or the date for receipt of initial proposals has passed; or, if award has been made, to the contractor and all bidders or offerors. This notice shall be provided to an officer, a managing agent, or the individual who has signed the bid or proposal. If the procuring entity is other than the GSA, notice shall also be given to the Director, Authorizations and Management Reviews Division (KMA) or the GSA official who delegated procurement authority to the entity. If the GSA is procuring on behalf of another agency, notice shall also be given by the contracting officer to the specific office of the agency for which GSA is conducting the procurement, and to the legal office with responsibility for Board protests involving that agency. If only written notice is provided under this paragraph it must be provided by means reasonably calculated to effect delivery within 1 working day after the copy of the protest is received by the contracting officer. If oral notice is given, it shall be confirmed in writing or by telegram or by electronic means on the same date the oral notice is provided. The contracting officer will confirm by written notification to the Board within 3 working days after receipt of the protest whether the requisite notice was provided and list all persons and agencies to whom such notice was given. This submission may be *in camera* or under protective order.

6101.6 Appearances; notice of appearance [Rule 6].

(a) *Appearances before the Board—(1) Appellant; petitioner; protester; applicant; intervenor.* Any appellant, petitioner, protester, applicant, or intervenor may appear before the Board by an attorney at law licensed to practice in a state, commonwealth, or territory of the United States, in the District of Columbia, or in a foreign country. An individual appellant, petitioner, protester, applicant, or intervenor may appear in his own behalf; a corporation, trust, or association may appear by one of its officers or by any other authorized employee; and a partnership may appear by one of its members or by any other authorized employee.

(2) *Respondent; intervening agency.* The respondent and any intervening agency may appear before the Board by an attorney at law licensed to practice in a state, commonwealth, or territory of the United States, in the District of Columbia, or in a foreign country. Alternatively, the respondent may appear by the contracting officer or by the contracting officer's authorized representative.

(b) *Notice of appearance.* Unless a notice of appearance is filed by some other person, the person signing the notice of appeal, petition, protest, application, notice of intervention, or motion to intervene shall be deemed to have appeared on behalf of the appellant, petitioner, protester, or intervenor, and the head of the respondent agency's or the intervening agency's litigation office shall be deemed to have appeared on behalf of the respondent. A notice of appearance in the form specified in the appendix to this part is sufficient.

(c) *Withdrawal of appearance.* Any person who has filed a notice of appearance and who wishes to withdraw from a case must file a motion stating the grounds for withdrawal. Any such motion shall, whenever possible, provide the name, address, telephone number, and facsimile machine number of the person who is proposed to succeed the movant in representing the party.

6101.7 Pleadings [Rule 7].

(a) *Pleadings required and permitted.* Except as the Board may otherwise order, the Board requires the submission of a complaint or a protest and an answer. In appropriate circumstances, the Board may order or permit a reply to an answer.

(b) *Complaint; protest—(1) Complaint.* No later than 30 calendar days after the docketing of the appeal, the appellant shall file with the Board a complaint setting forth its claim or claims in simple, concise, and direct terms. The complaint should set forth the factual basis of the claim or claims, with appropriate reference to the contract provisions, and should state the amount in controversy, or an estimate thereof, if any and if known. No particular form is prescribed for a complaint, and the board may designate the notice of appeal, a claim submission, or any other document as the complaint, either on its own initiative or on request of the appellant.

(2) *Protest.* A protest is commenced by filing it with the Board. The initial filing in a protest shall be in writing and signed by the protester or by the protester's attorney or authorized employee. It shall include:

(i) The name, address, telephone number, and facsimile machine number of the person signing the protest;

(ii) The number and date of the solicitation and the date for submission of sealed bids or initial proposals;

(iii) If a contract has been awarded, the number and date of the contract, and to whom awarded (if known);

(iv) The name and component of the agency or agencies involved, and the name of the contracting officer whose decision the Board is being asked to review;

(v) A simple, concise, and direct statement of the grounds for protest;

(vi) Citations to provisions of statute, regulation, or the delegation of procurement authority that the protester alleges were violated;

(vii) A statement of facts establishing that the protest complies with the timeliness requirements of 6101.5(b)(3); and

(viii) If a hearing is sought to determine whether procurement authority should be suspended, a specific request for such a hearing.

A protest timely filed which does not include the information required by this action will not be considered unless it is timely amended as permitted by paragraph (f)(2)(i) of this section.

(c) *Answer—(1) Appeal answer.* No later than 30 calendar days after the filing of the complaint or of the Board's designation of a complaint, the respondent shall file with the Board an answer setting forth simple, concise, and direct statements of its defenses to the claim or claims asserted in the complaint, as well as any affirmative defenses it chooses to assert. A dispositive motion or a motion for a more definite statement may be filed in lieu of the appeal answer only with the permission of the Board. If no answer is timely filed, the Board may enter a general denial, in which case the respondent may thereafter amend the answer to assert affirmative defenses only by leave of the Board and as otherwise prescribed by paragraph (f)(1) of this section. The Board will inform the parties when it enters a general denial on behalf of the respondent.

(2) *Protest answer.* No later than 10 working days after the filing of the protest, the respondent shall file its answer with the Board setting forth its defenses to the protest, and its findings, actions, and recommendations in the matter. A dispositive motion or a motion for a more definite statement may not be filed in lieu of the protest answer.

(d) *Reply to an answer or response to a notice of intervention or motion to intervene.* If the Board orders or permits a reply to an answer or a response to a notice of intervention or motion to intervene, it shall be filed as directed by the Board.

(e) *Modifications to requirement for pleadings.* If the appellant has elected the small claims procedure provided by 6101.13 or the accelerated procedure provided by 6101.14, the submission of pleadings shall be governed by the applicable rule.

(f) *Amendment of pleadings—(1) Appeals.* Each party to an appeal may amend its pleadings once without leave of the Board at any time before a responsible pleading is filed; if the pleading is one to which no responsive pleading is permitted, such amendment may be made at any time within 20 calendar days after it is served or, in small claims proceedings under 6101.13, within 10 working days after it is served. The Board may permit the parties to amend pleadings further on conditions fair to both parties. If a response to the amended pleading was required by these rules or by an order of the Board, a response to the amended pleading shall be filed no later than 30 calendar days after the filing of the amended pleading or, in small claims proceedings, no later than 15 calendar days after the filing of the amended pleading. 6101.12(e) concerns amendments to pleadings to conform to the evidence.

(2) *Protests* (i) If a timely protest does not include all the information required by paragraph (b)(2) of this section, the Board may, in its discretion, so inform the protester and grant it leave to amend the protest to supply the missing information required by paragraphs (b)(2) (i), (ii), (iii), (iv) and (vi) of this section. A protest may be amended to include an additional ground of protest only if the amendment is filed in writing with the Board and served upon the contracting officer within the time limits of 6101.5(b)(3). Enlargement of time (6101.2(b)) will not be granted to comply with this requirement. As to any other information required in paragraph (b)(2) of this section, the Board will ordinarily grant such additional time for the filing of an amendment to the protest as is reasonable and fair in the circumstances. Except for purposes of determining the timeliness of the initial filing, the filing date of a protest which is amended by leave of the Board shall be the date of the filing of the amendment.

(ii) The notice of intervention or motion to intervene provided for in 6101.5(a)(4) may not be amended after the time limits set in 6101.5(b)(4) for filing such notice or motion.

6101.8 Motions [Rule 8].

(a) *How motions are made.* Motions may be oral or written. A written motion shall indicate the relief sought and, either in the text of the motion or in an accompanying legal memorandum, the grounds therefor. In addition, a motion for summary relief shall comply with the requirements or paragraph (g) of this section. 6101.25 prescribes the form and content of legal memoranda. Oral motions shall be made on the record and in the presence of the other party.

(b) *When motions may be made.* A motion filed in lieu of an answer pursuant to 6101.7(c)(1) shall be filed no later than the date on which the answer is required to be filed or such later date as may be established by the board. Any other dispositive motion shall be made as soon as practicable after the grounds therefor are known, except that all dispositive motions in a protest shall be filed no later than 15 calendar days after the filing of the protest. Any other motion shall be made promptly or as required by these rules.

(c) *Dispositive motions.* The following dispositive motions may properly be made before the Board:

(1) Motions to dismiss for lack of jurisdiction or for failure to sate a claim upon which relief can be granted or for failure to state a valid basis for protest;

(2) Motions to dismiss for failure to prosecute;

(3) Motions for summary relief (analogous to summary judgment);

(4) Motions to dismiss a protest which is frivolous or untimely filed; and

(5) Any other motion to dismiss with prejudice.

(d) *Other motions.* Other motions may be made in good faith and in proper form.

(e) *Jurisdictional questions.* The Board may at any time consider the issue of its jurisdiction to decide a case. When all facts touching upon the Board's jurisdiction are not of record, or in other appropriate circumstances, a decision on a jurisdictional question may be deferred pending a hearing on the

merits or the filing of record submissions.

(f) *Procedure.* Unless otherwise directed by the Board, a party may respond to a written motion other than a motion pursuant to 6101.30, 6101.31, 6101.32, or 6101.33 at any time within 3 working days after the filing of the motion in a protest, and within 20 calendar days after the filing of the motion in any other kind of case. Responses to motions pursuant to 6101.30, 6101.31, 6101.32, or 6101.33 may be made only as permitted or directed by the Board. The Board may permit hearing or oral argument on written motions and may require additional submissions from any of the parties. Procedure on oral motions made at hearing shall be determined as necessary in the course of their consideration.

(g) *Motions for summary relief.* (1) A motion for summary relief should be filed only when a party believes that based upon uncontested material facts, it is entitled to relief in whole or in part as a matter of law. A motion for summary relief should be filed as soon as feasible, to allow the Board to rule on the motion in advance of a scheduled hearing date.

(2) With each motion for summary relief, there shall be served and filed a separate document titled Statement of Uncontested Facts containing in separately numbered paragraphs all of the material facts upon which the moving party bases its motion as to which the moving party contends there is no genuine issue. This statement shall include references to the supporting affidavits or declarations and documents, if any, and to the 6101.4 appeal or protest file exhibits relied upon to support such statement.

(3) An opposing party shall file with its opposition (or cross-motion) a separate document titled Statement of Genuine Issues. This document shall identify, by reference to specific paragraph numbers in the moving party's Statement of Uncontested Facts, those facts as to which the opposing party claims there is a genuine issue necessary to be litigated. An opposing party shall state the precise nature of its disagreement and give its version of the facts, supported by citations to the supporting affidavits and documents, if any, and to the 6101.4 appeal or protest file exhibits relied upon to support the existence of a genuine dispute. An opposing party may also file a Statement of Uncontested Facts as to any relevant matters not covered by the moving party's statement.

(4) When a motion for summary relief is made and supported as provided in this section, an opposing party may not rest upon the mere allegations or denials of its pleadings, but the opposing party's response, by affidavits or as otherwise provided by this section, must set forth specific facts showing that there is a genuine issue of material fact. If the adverse party does not so respond, summary relief, if appropriate, shall be entered against the adverse party. For good cause shown, if an opposing party cannot present facts essential to justify its opposition, the Board may defer ruling on the motion to permit affidavits to be obtained or depositions to be taken or other discovery to be conducted, or may make such other order as is just.

(h) *Effect of pending motion.* Except as this part provides or the Board may order, a pending motion shall not excuse the parties from proceeding with the appeal or protest in accordance with this part and the orders and directions of the Board.

6101.9 Election of hearing or record submission [Rule 9].

Each party shall inform the Board, in writing, whether it elects a hearing or submission of its case on the record pursuant to 6101.11. Such an election may be filed at any time unless a time for filing is prescribed by the Board. A party electing to submit its case on the record pursuant to 6101.11 may also elect to appear at a hearing solely to cross-examine any witness presented by an opposing party, provided that the Board is informed of that party's intention within 10 working days of its receipt of notice of the election of hearing by another party. If a hearing is elected, the election should state where and when the electing party desires the hearing to be held and should explain the reasons for its choices. A hearing will be held if one of the parties elects one. If a party's decision whether to elect a hearing is dependent upon the intentions of another party or parties, it shall consult with such other party or parties before filing its election. If there is to be a hearing, it will be held at a time and place prescribed by the Board after consultation with the party or parties electing the hearing. The record submissions from a party that has elected to submit on the record shall be due as provided in 6101.11.

6101.10 Conferences; conference memorandum; prehearing order; prehearing and presubmission briefs [Rule 10].

(a) *Conferences.* The Board may convene the parties in conference, either by telephone or in person, for any purpose. In protests, a conference will ordinarily be held within 6 working days after the filing of the protest. The conference may be stenographically or electronically recorded, at the discretion of the Board. Matters to be considered and actions to be taking at a conference may include:

(1) Simplifying, clarifying, or severing the issues;

(2) Stipulations, admissions, agreements, and rulings to govern the admissibility of evidence, understanding on matters already of record, or other similar means of avoiding unnecessary proof;

(3) Plans, schedules, and rulings to facilitate discovery;

(4) Limiting the number of witnesses and other means of avoiding cumulative evidence;

(5) Stipulations or agreements disposing of matters in dispute; or

(6) Ways to expedite disposition of the case or to facilitate settlement of the dispute, including, if the parties and the Board agree, the use of alternative dispute resolution techniques, such as mediation, minitrials, and summary hearings.

(b) *Conference memorandum.* The Board may prepare a memorandum of the results of a conference or issue an order reflecting any actions taken, or both. Any memorandum or order so issued shall be placed in the record of the case. A copy of each memorandum will be sent to each party, and each party shall have 5 working days after receipt of the memorandum to object to the memorandum to object to the substance of it.

(c) *Prehearing order.* The Board may issue a prehearing or presubmission order to govern the proceedings in a case.

(d) *Alternative dispute resolution.* If alternative dispute resolution (ADR) is agreed to by the parties and the Board, a "Board Neutral" (either a judge or an attorney employed by the Board) will be appointed by the chairman of the Board or a designee to conduct the agreed upon proceedings. Alternatively, the parties may request that the panel chairman serve as the Board Neutral, in which case, if the ADR is unsuccessful, the panel chairman will retain the case. The panel chairman may suspend proceedings for a short period of time while the parties and the Board attempt to resolve the dispute, but the use of an ADR technique will not toll the relevant statutory time limit for deciding the case. This procedure is not intended to preclude use by the parties of other ADR techniques that do not require direct Board involvement.

(e) *Prehearing or presubmission briefs.* A party may, by leave of the Board, file a prehearing or presubmission brief at any time before

the hearing or upon or before the date on which first record submissions are due.

6101.11 Submission on the record without a hearing [Rule 11].

(a) *Submission on the record.* A party may elect to submit its case on the record without a hearing. A party submitting its case on the record may include in its written record submission or submissions:

(1) Any relevant documents or other tangible things it wishes the Board to admit into evidence;

(2) Affidavits, depositions, and other discovery materials that set forth relevant evidence; and

(3) A brief or memorandum of law.

The Board may require the submission of additional evidence or briefs and may order oral argument in a case submitted on the record.

(b) *Time for submission.* (1) If all parties have elected to submit the case on the record, the Board will issue an order prescribing the time for initial and, if appropriate, reply record submissions.

(2) If at least one party has elected a hearing and any other party has elected to submit its case on the record, any party submitting on the record shall make its initial submission no later than the commencement of the hearing or at an earlier date if the Board so orders, and a further submission in the form of a brief at the time for submission of posthearing briefs. The Board will accept a further record submission in the form of a reply brief if a party that attended the hearing is permitted to submit a reply brief; such a record submission will be due at the same time as the reply brief of the party or parties that attended the hearing. Submission of record submissions in the form of briefs is governed by 6101.25.

(c) *Objections to evidence.* Unless otherwise directed by the Board, objections to evidence (other than the appeal or protest file and supplements thereto) in a record submission may be made within 3 working days after the filing of the submission in a protest, and within 10 working days after the filing of the submission in any other kind of case. Replies to such objections, if any, may be made within 2 working days after the filing of the objection in a protest, and within 10 working days after the filing of the objection in any other kind of case. The Board may rule on such objections in its opinion deciding the merits or otherwise disposing of the case.

6101.12 Record of Board proceedings [Rule 12].

(a) *Composition of the record for decision.* The record upon which any decision of the Board will be rendered consists of:

(1) The notice of appeal, petition, protest, or application;

(2) Appeal or protest file exhibits other than those as to which an objection has been sustained;

(3) Hearing exhibits other than those as to which an objection has been sustained;

(4) Pleadings;

(5) Motions and responses thereto;

(6) Memoranda, orders, rulings, and directions to the parties issued by the Board;

(7) Documents and other tangible things admitted in evidence by the Board;

(8) Written transcripts or electronic recordings of proceedings;

(9) Stipulations and admissions by the parties;

(10) Depositions, or parts thereof, received in evidence;

(11) Written interrogatories and responses received in evidence;

(12) Briefs and memoranda of law; and

(13) Anything else that the Board may designate.

All other papers and documents in a case are part of the administrative record of the proceedings. The administrative record shall include file and hearing exhibits offered but not received in evidence in a case; it may also include correspondence with and among the parties, and depositions, interrogatories, offers of proof contained in the transcript, and other documents that are not part of the record for decision.

(b) *Time for entry into the record.* Except as the Board may otherwise order, nothing other than posthearing briefs will be received into the record after a hearing is completed. In cases submitted on the record without a hearing, nothing will be received into the record after the time for filing of the last record submission. Briefs will be due as provided in 6101.25(b).

(c) *Closing of the record.* Except as the Board may otherwise order, no proof shall be received in evidence after a hearing is completed or, in cases submitted on the record without a hearing, after notice by the Board to the parties that the record is closed and that the case is ready for decision.

(d) *Notice that the case is ready for decision.* The Board will give written notice to the parties when the record is closed and the case is ready for decision.

(e) *Amendments to conform to the evidence.* When issues within the proper scope of a case, but not raised in the pleadings, have been raised without objection or with permission of the Board at a hearing (see 6101.21h)) or in record submissions, they shall be treated in all respects as if they had been raised in the pleadings. The Board may formally amend the pleadings to conform to the proof or may order that the record be deemed to contain pleadings so amended.

(f) *Enlargement of the record.* The Board may at any time require or permit enlargement of the record with additional evidence and briefs. It may reopen the record to receive additional evidence and oral argument at a hearing.

(g) *Inspection of the record of proceedings; release of any paper, document, or tangible thing prohibited.* Except for any part thereof that is subject to a protective order or deemed an *in camera* submission, the record of proceedings in a case shall be made available at the office of the Board during the Board's normal working hours, as soon as practicable given the demands on the Board of processing the subject case and other cases. Except as provided in 6101.23(c) and 6101.37(d), no paper, document, or tangible thing which is part of the record of proceedings in a case may be released from the offices of the Board. Copies may be obtained by any person as provided in 6101.38(d). If such inspection or copying involves more than minimal costs to the Board, reimbursement will be required.

(h) *Protected and in camera submissions.* (1) a party may by motion request that the Board receive and hold materials under conditions that would limit access to them on the ground that such documents are privileged or confidential, or sensitive in some other way. The moving party must state the grounds for such limited access. The Board may also determine on its own initiative to hold materials under such conditions. The manner in which such materials will be held, the persons who shall have access to them, and the conditions (if any) under which such access will be allowed will be specified in an order of the Board. If the materials are held under such an order, they will be part of the record of the case. If the Board denies the motion, the materials may be returned to the moving party. If that party asks, however, that the materials be placed in the administrative record, in camera, for the purpose of possible later review of the Board's denial, the Board will comply with the request.

VOL 58 ISS 249 DEC 30 1993 UMI

VOL 58 ISS 249 DEC 30 1993 UMI

(2) A party may also ask, or the Board may direct, that testimony be received under protective order or in camera. The procedures under paragraph (h)(1) of this section shall be followed with respect to such request or direction.

6101.13 Small claims procedures in appeals [Rule 13].

(a) *Election.* (1) The small claims procedure is available solely at the appellant's election, and only when there is a monetary amount in dispute and that amount is $10,000 or less. Such election shall be made no later than 30 calendar days after the appellant's receipt of the agency answer, unless then panel chairman enlarges the time for good cause shown.

(2) At the request of the Government, or on its own initiative, the Board may determine whether the amount in dispute is greater than $10,000, such that the election is inappropriate. The Government shall raise any objection to the election no later than 10 working days after receipt of a notice of election.

(b) *Decision.* The panel chairman may issue a decision, which may be in summary form, orally or on writing. A decision which is issued orally shall be reduced to writing; however, such a decision takes effect at the time it is rendered, prior to being reduced to writing. A decision shall be final and conclusive and shall not be set aside except in case of fraud. A decision shall have no value as precedent.

(c) *Procedure.* Promptly after receipt of the appellant's election of the small claims procedure, the Broad shall establish a schedule of proceedings that will allow the timely resolution of the appeal. Pleadings, discovery, and other prehearing activities may be restricted or eliminated.

(d) *Time of decision.* Whenever possible, the panel chairman shall resolve an appeal under this procedure within 120 calendar days from the Board's receipt of the election. The time for processing an appeal under this procedure may be extended if the appellant has not adhered to the established schedule. Either party's failure to abide by the Board's schedule may result in the Board drawing evidentiary inferences adverse to the party at fault.

6101.14 Accelerated procedure in appeals [Rule 14].

(a) *Election.* (1) The accelerated procedure is available solely at the appellant's election, and only when there is a monetary amount in dispute and that amount is $50,000 or less. Such election shall be made no later than 30 calendar days after the appellant's receipt of the agency answer, unless the panel chairman enlarges the time for good cause shown.

(2) At the request of the Government, or on its own initiative, the Board may determine whether the amount in dispute is greater than $50,000, such that the election is inappropriate. The Government shall raise any objection to the election no later than 10 working days after receipt of a notice of election.

(b) *Decision.* Each decision shall be rendered by the panel chairman with the concurrence of one of the other judges assigned to the panel; in the event the two judges disagree, the third judge assigned to the panel will participate in the decision.

(c) *Procedure.* Promptly after receipt of the appellant's election of the accelerated procedure, the Board shall establish a schedule of proceedings that will allow for the timely resolution of the appeal. Pleadings may be simplified, and discovery and other prehearing activities may be restricted or eliminated.

(d) *Time of decision.* Whenever possible, the panel chairman shall resolve an appeal under this procedure within 180 calendar days from the Board's receipt of the election. The time for processing an appeal under this procedure may be extended if the appellant has not adhered to the established schedule. Either party's failure to abide by the Board's schedule may result in the Board drawing evidentiary inferences adverse to the party at fault.

6101.15 General provisions governing discovery [Rule 15].

(a) *Discovery methods.* The parties may obtain discovery by one or more of the following methods:

(1) Depositions upon oral examination or written questions;

(2) Written interrogatories;

(3) Requests for production of documents or other tangible things; and

(4) Requests for admission.

(b) *Scope of discovery.* Except as otherwise limited by order of the Board in accordance with this part, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending case, whether it relates to the claim or defense of a party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. It is not a ground for objection that the information sought will be inadmissible if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) *Discovery limits.* The Board may limit the frequency or extent of use of the discovery methods set forth in this section if it determines that:

(1) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;

(2) The party seeking discovery has had ample opportunity by discovery in the case to obtain the information sought; or

(3) The discovery is unduly burdensome and expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake.

(d) *Conduct of discovery.* Parties may engage in discovery only to the extent the Board enters an order which either incorporates an agreed plan and schedule acceptable to the Board or otherwise permits such discovery as the moving party can demonstrate is required for the expeditious, fair, and reasonable resolution of the case and, in a protest, is consistent with the requirements of 6101.19(a)(3). Permissive intervenors and other persons granted limited rights of participation may be permitted rights of discovery in accordance with an order of the Board.

(e) *Discovery conference.* At any time after a case has been filed (ordinarily within 6 working days after the filing of a protest) upon request of a party or on its own initiative, the Board may hold an informal meeting or telephone conference with the parties to identify the issues for discovery purposes; establish a plan and schedule for discovery; set limitations on discovery, if any; and determine such other matters as are necessary for the proper management of discovery. The Board may include in the conference such other matters as it deems appropriate in accordance with 6101.10.

(f) *Discovery objections.* (1) In connection with any discovery procedure, the Board, on motion or on its own initiative, may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(i) That the discovery not be had;

(ii) That the discovery may be had only on specified terms and conditions, including a designation of the time and place, or that the scope of discovery be limited to certain matters;

(iii) That discovery be conducted with no one present except persons designated by the Board;

(iv) That confidential information not be disclosed or that it be disclosed only in a designated way; and

(v) Such other matters as justice may require.

(2) Unless otherwise ordered by the Board, any objection to a discovery request must be filed within 2 working days after receipt in a protest, or within 15 calendar days after receipt in any other kind of case. A party shall fully respond to any discovery request to which it does not file a timely objection. The parties are required to make a good faith effort to resolve objections to discovery requests.

(3) A party receiving an objection to a discovery request, or a party which believes that another party's response to a discovery request is incomplete or entirely absent, may file a motion to compel a response, but such a motion must include a representation that the moving party has tried in good faith, prior to filing the motion, to resolve the matter informally. The motion to compel shall include a copy of each discovery request at issue and the response, if any.

(g) *Failure to make or cooperate in discovery; sanctions.* If a party fails (i) to appear for a deposition, after being served with a proper notice; (ii) to serve answers or objections to interrogatories submitted under 6101.17, after proper service of interrogatories; or (iii) to serve a written response to a request for inspection, production, and copying of any documents and things under 6101.17, the party seeking discovery may move the Board to impose appropriate sanctions under 6101.18.

(h) *Subpoenas.* A party may request the issuance of a subpoena in aid of discovery under the provision of 6101.20.

6101.16 Depositions [Rule 16].

(a) *When depositions may be taken.* Upon request of a party, the Board may order the taking of testimony of any person by deposition upon oral examination or written questions before an officer authorized to administer oaths at the place of examination. Attendance of witnesses may be compelled by subpoena as provided in 6101.20, and the Board may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order may designate the manner of recording, preserving, and filing the deposition and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, a party may, nevertheless, arrange to have a stenographic transcription made at its own expense.

(b) *Depositions: time; place; manner of taking.* The time, place, and manner of taking depositions, including the taking of depositions by telephone, shall be as agreed upon by the parties or, failing such agreement, as ordered by the Board. A deposition taken by telephone is taken at the place where the deponent is to answer questions propounded to him.

(c) *Use of depositions.* At a hearing on the merits or upon a motion or interlocutory proceeding, any part or all of a deposition, so far as admissible and as though the witness were then present and testifying, may be used against a party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition may be used by a party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated to testify on behalf of, a public or private corporation, partnership or association, or governmental agency, which is a party, may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by a party for any purpose in its own behalf if the Board finds that:

(i) The witness is dead;

(ii) The attendance of the witness at the place of hearing cannot be reasonably obtained, unless it appears that the absence of the witness was procured by the party offering the deposition;

(iii) The witness is unable to attend or testify because of illness, infirmity, age, or imprisonment;

(iv) The party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(v) Upon request and notice, exceptional circumstances exist which make it desirable in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the offering party to introduce any other part which in fairness ought to be considered with the part introduced.

(d) *Depositions pending appeal from a decision of the Board.* If an appeal has been taken from a decision of the Board, or before the taking of an appeal if the time therefor has not expired, the Board may allow the taking of depositions of witnesses to perpetuate their testimony for use in the event of further proceedings before the Board. In such case, the party that desires to perpetuate testimony may make a motion before the Board for leave to take the depositions as if the action was pending before the Board. The motion shall show:

(1) The names and addresses of the persons to be examined and the substance of the testimony which the moving party expects to elicit from each; and

(2) The reasons for perpetuating the testimony of the persons named.

If the Board finds that the perpetuation of testimony is proper to avoid a failure or a delay of justice, it may order the depositions to be taken and may make orders of the character provided for in 6101.15 and in this section. Thereupon, the depositions may be taken and used as prescribed in this part for depositions taken in actions pending before the Board. Upon request and for good cause shown, a judge may issue or obtain a subpoena, in accordance with 6101.20, for the purpose of perpetuating testimony by deposition during the pendency of an appeal from a Board decision.

6101.17 Interrogatories to parties; requests for admission; requests for documents [Rule 17].

Upon order from the Board permitting such discovery, a party may serve on another party written interrogatories, requests for admission, and requests for production of documents.

(a) *Written interrogatories.* Written interrogatories shall be answered separately in writing, signed under oath or accompanied by a declaration under penalty of perjury, and answered in a protest, within 5 working days after service, and in any other kind of case, within 30 calendar days after service. Objections shall be filed within the time limits set forth in 6101.15(f)(2). An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory may involve an opinion or contention that relates to fact or the application of law to fact, but the Board may order that such an interrogatory need not be answered until after designated discovery has been completed or until a conference has been held, or some other event has occurred.

(b) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of

VOL 58 ISS 249 DEC 30 1993 UMI

the party upon which the interrogatory has been served or from an examination, audit, or inspection of such business records, including a compilation, abstract, or summary thereof, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries thereof. Such specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.

(c) *Written requests for admission.* A written request for the admission of the truth of any matter, within the proper scope of discovery, that relates to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents, is to be answered in writing and signed in a protest, within 5 working days after service, and in any other kind of case, within 30 calendar days after service. Objections shall be filed within the time limits set forth in 6101.15(f)(2). Otherwise, the matter therein may be deemed to be admitted.

(d) *Written requests for production of documents.* A written request for the production, inspection, and copying of any documents and things shall be answered in a protest, within 5 working days after service, and in any other kind of case, within 30 calendar days after service. Objections shall be filed within the time limits set forth in 6101.15(f)(2).

(e) *Change in time for response.* Upon request of a party, or on its own initiative, the Board may prescribe a period of time other than that specified in this section.

(f) *Responses.* A party that has responded to written interrogatories, requests for admission, or requests for production of documents, upon becoming aware of deficiencies or inaccuracies in its original responses, or upon acquiring additional information or additional documents relevant thereto, shall, as quickly as practicable, and as often as necessary, supplement its responses to the requesting party with correct and sufficient additional information and such additional documents as are necessary to give a complete and accurate response to the request.

6101.18 Sanctions and other proceedings [Rule 18].

(a) *Standards.* All parties and their representatives, attorneys, and any expert/consultant retained by them or their attorneys, must obey directions and orders prescribed by the Board and adhere to standards of conduct applicable to such parties and persons. As to an attorney, the standards include the rules of professional conduct and ethics of the jurisdictions in which an attorney is licensed to practice, to the extent that those rules are relevant to conduct affecting the integrity of the Board, its process, and its proceedings. The Board will also look to voluntary professional guidelines in evaluating an individual's conduct.

(b) *Sanctions affecting cases.* When a party or its representative or attorney or any expert/consultant fails to comply with any direction or order issued by the Board (including an order to provide or permit discovery), or engages in misconduct affecting the Board, its process, or its proceedings, the Board may make such orders as are just, including the following:

(1) Taking the facts pertaining to the matter in dispute to be established for the purpose of the case in accordance with the contention of the party submitting discovery requests;

(2) Forbidding challenge of the accuracy of any evidence;

(3) Refusing to allow the disobedient party to support or oppose designated claims or defenses;

(4) Prohibiting the disobedient party from introducing in evidence designated documents or items of testimony;

(5) Striking pleadings or parts thereof, or staying further proceedings until the order is obeyed;

(6) Dismissing the case or any part thereof;

(7) Enforcing the protective order and disciplining individuals subject to such order for violation thereof, including disqualifying a party's representative, attorney, or expert/consultant from further participation in the case; or

(8) Imposing such other sanctions as the Board deems appropriate.

(c) *Denial of access to protected material for prior violations of protective orders.* The Board may in its discretion deny access to protected material to any person found to have previously violated the Board's protective order.

(d) *Disciplinary proceedings.* (1) In addition to the above procedures, the Board may discipline individual party representatives, attorneys, and experts/consultants for a violation of any board order or direction or standard of conduct applicable to such individual where the violation seriously affects the integrity of the Board's processes or proceedings. Sanctions may be public or private, and may include admonishment, disqualification from a particular matter, referral to an appropriate licensing authority, or such other action as circumstances may warrant.

(2) The Board in its discretion may suspend an individual from appearing before the Board as a party representative, attorney, or expert/consultant if, after affording such individual notice and an opportunity to be heard, a majority of the members of the full Board determines such a sanction is warranted.

6101.19 Hearings: scheduling; notice; unexcused absences; suspension decision [Rule 19].

(a) *Scheduling of hearings*—(1) *In general.* Hearings will be held at the time and place ordered by the Board and will be scheduled at the discretion of the Board. In scheduling hearings, the Board will consider the requirements of the rules in this part, the need for orderly management of the Board's caseload, and the stated desires of the parties as expressed in their elections filed pursuant to 6101.9 or otherwise. The time or place for hearing may be changed by the Board at any time.

(2) *Protest suspension hearing.* If an interested party in a protest filed either before or after contract award requests a hearing for the Board to determine whether to suspend procurement authority pending a decision on the merits of the protest, such hearing shall be held, whenever practicable, so that the determination whether to suspend will be made before bid opening or the closing date for receipt of initial proposals or, if bids have been opened or initial proposals received, before the anticipated award of the contract, and in any event no later than 10 calendar days after the filing of the protest. A request for a suspension hearing will be denied if the protest is filed more than 10 calendar days after contract award.

(3) *Protest hearing on merits.* Any hearing on the merits of a protest will commence no later than 25 working days after the filing of the protest.

(b) *Notice of hearing.* Notice of hearing will be by written order of the Board, except that it may be oral for a suspension hearing held under paragraph (a)(2) of this section. Notice of changes in the hearing schedule will also be by written order when practicable but may be oral in exigent circumstances. Except as the Board may otherwise order, each party that plans to attend the hearing in an appeal shall, within 10 working days of receipt of (1) a written notice of hearing or (2) any notice of a change in hearing schedule stating that an acknowledgment is required, notify the Board in writing that it will attend the hearing. Acknowledgement of a notice of hearing in a protest may be written or oral and shall be given within such time as the notice prescribes.

(c) Unexcused absence from hearing. In the event of the unexcused absence of a party from a hearing, the hearing will proceed, and the absent party will be deemed to have elected to submit its case on the record pursuant to 6101.11.

(d) *Suspension decision.* The Board shall suspend the respondent's procurement authority, or a delegation thereof, pending a decision on the merits of the protest, unless the respondent establishes at hearing that: (1) absent suspension, contract award, if not already made, is likely to occur within 30 calendar days; and (2) urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Board. The decision regarding suspension will be by order of the panel chairman and may be oral, to be reduced to writing as soon as practicable.

6101.20 Subpoenas [Rule 20].

(a) *Voluntary cooperation in lieu of subpoena.* Each party is expected to:

(1) Cooperate by making available witnesses and evidence under its control, when requested by another party, without issuance of a subpoena; and

(2) Secure voluntary attendance of third-party witnesses and production of evidence by third parties, when practicable, without issuance of a subpoena.

(b) *General.* Upon the written request of any party filed with the Office of the Clerk of the Board, or on the initiative of a judge, a subpoena may be issued that commands the person to whom it is directed to:

(1) Attend and give testimony at a deposition in a city or county where that person resides or is employed or transacts business in person or at another location convenient to that person that is specifically determined by the Board;

(2) Attend and give testimony at a hearing; and

(3) Produce the books, papers, documents, and other tangible things designated in the subpoena.

(c) *Request for subpoena.* A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any documentary evidence sought. A request for a subpoena shall be filed at least 5 working days in a protest, or 15 calendar days in any other kind of case, before the testimony of a witness or documentary evidence is to be provided. The Board may, in its discretion, honor requests for subpoenas not made within these time limitations.

(d) *Form; issuance.* (1) Every subpoena shall be in the form specified in the appendix to this part. Unless a party has the approval of a judge to submit a subpoena in blank (in whole or in part), a party shall submit to the judge a completed subpoena (save the "Return on Service" portion). In issuing a subpoena to a requesting party, the judge shall sign the subpoena. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) If the person subpoenaed is located in a foreign country, a letter rogatory or a subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(e) *Service.* (1) The party requesting a subpoena shall arrange for service. Service shall be made as soon as practicable after the subpoena has been issued.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personal delivery of a copy to that person and tender of the fees for one day's attendance and the mileage allowed by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(f) *Proof of service.* The person serving the subpoena shall make proof of service thereof to the Board promptly and in any event before the date on which the person served must respond to the subpoena. Proof of service shall be made by completion and execution and submission to the Board of the "Return on Service" portion of a duplicate copy of the subpoena issued by a judge. If service is made by a person other than a United States marshal or his deputy, that person shall make an affidavit as proof by executing the "Return on Service" in the presence of a notary.

(g) *Motion to quash or to modify.* Upon written motion by the person subpoenaed or by a party, made within 14 calendar days after service, but in any event not later than the time specified in the subpoena for compliance, the Board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown or (2) require the party in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed documentary evidence. Where circumstances require, the Board may act upon such a motion at any time after a copy has been served upon opposing parties.

(h) *Contumacy or refusal to obey a subpoena.* In a case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the Board shall apply to the court through the Attorney General of the United States for an order requiring the person to appear before the Board to give testimony, produce evidence or both. If a person fails to obey such an order, the court may punish that person for contempt of court.

6101.21 Hearing procedures [Rule 21].

(a) *Nature and conduct of hearings.* Except when necessary to maintain the confidentiality of protected material or testimony, or material submitted in camera, all hearings on the merits of cases shall be open to the public and conducted insofar as is convenient in regular hearing rooms. All other acts or proceedings may be done or conducted by the Board either in its offices or at other places.

(b) *Continuances; change of location.* Whenever practicable, a hearing will be conducted in one continuous session or a series of consecutive sessions at a single location. However, the Board may at any time continue the hearing to a future date and may arrange to conduct the hearing in more than one location. The Board may also continue a hearing to permit a party to conduct additional discovery on conditions established by the Board. In exercising its discretion to continue a hearing or to change its location, the Board will give due consideration to the same elements (set forth in 6101.19(a)) that it considers in scheduling hearings.

(c) *Availability of witnesses, documents, and other tangible things.* It is the responsibility of a party desiring to call any witness, or to use any document or other tangible thing as an exhibit in the course of a hearing, to ensure that whoever it wishes to call and whatever it wishes to use is available at hearing.

(d) *Enlargement of the record.* The Board may at any time during the

conduct of a hearing require evidence or argument in addition to that put forth by the parties.

(e) *Examination of witnesses.* Witnesses before the Board will testify under oath or affirmation. A party or the Board may obtain an answer from any witness to any question that is not the subject of an objection that the Board sustains.

(f) *Refusal to be sworn.* If a person called as a witness refuses to be sworn or to affirm before testifying, the Board may direct that witness to do so and, in the event of continued refusal, the Board may permit the taking of testimony without oath or affirmation. Alternatively, the Board may refuse to permit the examination of that witness, in which event it may state for the record the inferences it draws from the witness's refusal to testify under oath or affirmation. Alternatively, the Board may issue a subpoena to compel that witness to testify under oath or affirmation and, in the event of the witness's continued refusal to swear or affirm, may seek enforcement of that subpoena pursuant to 6101.20(h).

(g) *Refusal to answer.* If a witness refuses to answer a question put to him in the course of his testimony, the Board may direct that witness to answer and, in the event of continued refusal, the Board may state for the record the inferences it draws from the refusal to answer. Alternatively, the Board may issue a subpoena to compel that witness to testify and, in the event of the witness's continued refusal to testify, may seek enforcement of that subpoena pursuant to 6101.20(h).

(h) *Issues not raised by pleadings.* If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may nevertheless be admitted by the Board if it is within the proper scope of the case. If such evidence is admitted, the Board may grant the objecting party a continuance to enable it to meet such evidence. If such evidence is admitted, the pleadings may be amended to conform to the evidence, as provided by 6101.12(e).

(i) *Delay by parties.* If the Board determines that the hearing is being unreasonably delayed by the failure of a party to produce evidence, or by the undue prolongation of the presentation of evidence, it may, by written order or by ruling from the bench, prescribe a time or times within which the presentation of evidence must be concluded, establish time limits on the direct or cross-examination of witnesses, and enforce such order or ruling by appropriate sanctions.

6101.22 Admissibility and weight of evidence [Rule 22].

(a) *Admissibility.* Any relevant evidence may be received. The Board may exclude relevant evidence to avoid unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. Hearsay evidence is admissible unless the Board finds it unreliable or untrustworthy.

(b) *Federal Rules of Evidence.* As a general matter, and subject to the other provisions of this section, the Board will base its evidentiary rulings on the Federal Rules of Evidence.

(c) *Weight and credibility.* The Board will determine the weight to be given to evidence and the credibility to be accorded witnesses.

(d) *Submission of evidence in camera.* 6101.12(h) governs submissions *in camera.*

6101.23 Exhibits [Rule 23].

(a) *Marking of exhibits.* (1) Documents and other tangible things offered in evidence by a party will be marked for identification by the Board during the hearing or, if it is convenient for the Board and the parties, before the commencement of the hearing. They will be numbered consecutively as the exhibits of the party offering them.

(2) If a party elects to proceed on the record without a hearing pursuant to 6101.11, documentary evidence submitted by that party will be numbered consecutively by the Board as appeal or protest file exhibits.

(b) *Copies as exhibits.* Except upon objection sustained by the Board for good cause shown, copies of documents may be offered and received into evidence as exhibits, provided they are of equal legibility and quality as the originals, and such copies shall have the same force and effect as if they were the originals. If the Board so directs, a party offering a copy of a document as an exhibit shall have the original available at the hearing for examination by the Board and any other party. When the original of a document has been received into evidence as an exhibit, an accurate copy thereof may be substituted in evidence for the original by leave of the Board at any time.

(c) *Withdrawal of documentary exhibits and other papers.* With the permission of the Board, a party may remove an exhibit during the course of a proceeding. Otherwise, except as provided in 6101.37(d), no withdrawal of any papers in the Board's file is permitted. Inspection of the file at the Board's offices is permitted by 6101.12(g).

(d) *Disposition of physical exhibits.* Any physical (as opposed to documentary) exhibit may be disposed of by the Board at any time more than 90 calendar days after the expiration of the period for appeal from the decision of the Board, unless it has been earlier withdrawn by the party that submitted it.

6101.24 Transcripts of proceedings; corrections [Rule 24].

(a) *Transcripts.* Except as the Board may otherwise order, all hearings of appeals or petitions other than those under the small claims procedure prescribed by 6101.13, and all hearings in connection with protests, will be stenographically or electronically recorded and transcribed. Any other hearing or conference will be recorded or transcribed only by order of the Board. Copies or transcriptions of stenographic or electronic recordings not ordered to be transcribed by the Board will be furnished to the parties or other persons only on conditions prescribed by the Board, which may include the payment of the costs of copying or transcription. Each party is responsible for obtaining its own copy of the transcript if one is prepared.

(b) *Corrections.* Corrections to an official transcript will be made only when they involve errors affecting its substance. The Board may order such corrections on motion or on its own initiative, and only after notice to the parties giving them opportunity to object. Such corrections will ordinarily be made either by hand with pen and ink or by the appending of an errata sheet, but when no other method of correction is practicable the Board may require the reporter to provide substitute or additional pages.

6101.25 Briefs and memoranda of law [Rule 25].

(a) *Form and content of briefs and memoranda of law.* Briefs and memoranda of law shall be typewritten on standard size 8½ by 11-inch paper. Otherwise, no particular form or organization is prescribed. Posthearing briefs should, at a minimum, succinctly set forth (1) the facts of the case with citations to those places in the record where supporting evidence can be found and (2) argument with citations to supporting legal authorities. Memoranda of law should generally adhere as closely as practicable to the form and content of briefs.

(b) *Submission of posthearing briefs.* Except as the Board may otherwise order, posthearing briefs shall be filed in an appeal 30 calendar days after the Board's receipt of the transcript and in a protest 5 working days after the Board's receipt of the transcript; reply briefs in an appeal, if filed, shall be filed 15 calendar days after the parties' receipt of the initial posthearing briefs. The Board will notify the parties of the date of its receipt of the transcript. In the event one party has elected a hearing and any other party has elected to submit its case on the record pursuant to 6101.11, the filing of record submissions in the form of briefs shall be governed by 6101.11.

6101.26 Consolidation; separate hearings; separate determination of liability [Rule 26].

(a) *Consolidation.* When cases involving common questions of law or fact are pending, the Board may:

(1) Order a joint hearing of any or all of the matters at issue in the cases;

(2) Order the cases consolidated; or

(3) Make such other orders concerning the proceedings therein as are intended to avoid unnecessary costs or delay.

(b) *Separate hearings.* The Board may order a separate hearing of any case or cases or of any claims or issues or number of claims or issues therein. The Board may enter appropriate orders or decisions with respect to any claims or issues that are heard separately.

(c) *Separate determinations of liability.* The Board may:

(1) Limit a hearing to those issues of law and fact relating to the right of a party to recover, reserving the determination of the amount of recovery, if any, for other proceedings; and

(2) In its decision of an appeal, irrespective of whether there is evidence in the record concerning the amount of recovery, and whether or not a stipulation or order has been made, reserve determination of the amount of recovery for other proceedings. In any instance in which the Board has reserved its determination of the amount of recovery for other proceedings, its decision on the question of the right to recover shall be final, subject to the provisions of 6101.30 through 6101.33.

6101.27 Stay or suspension of proceedings; dismissals in lieu of stay or suspension [Rule 27].

(a) *Stay of proceedings to obtain contracting officer's decision.* The Board may in its discretion stay proceedings to permit a contracting officer to issue a decision when an appeal has been taken from the contracting officer's alleged failure to render a timely decision.

(b) *Suspension for other cause.* The Board may suspend proceedings in a case for good cause. The order suspending proceedings will prescribe the duration of the suspension or the conditions on which it will expire. The order may also prescribe actions to be taken by the parties during the period of suspension or following its expiration.

(c) *Dismissal in lieu of stay or suspension.* When circumstances beyond the control of the Board prevent the continuation of proceedings in a case, the Board may, in lieu of issuing an order suspending proceedings, dismiss the case without prejudice to reinstatement. Such a dismissal may require reinstatement by a date certain or within a certain period of time after the occurrence of a specified event. If the order of dismissal does not otherwise provide, it will be subject to the provisions of 6101.28(b).

6101.28 Dismissals [Rule 28].

(a) *Generally.* A case may be dismissed by the Board on motion of any party. A case may also be dismissed for reasons cited by the Board in a show cause order to which response has been permitted. Every dismissal shall be with prejudice to reinstatement of the case unless a dismissal without prejudice has been requested by a party or specified in a show cause order.

(b) *Dismissal without prejudice.* When a case has been dismissed without prejudice to its reinstatement and no party has requested, within the period of time specified in this paragraph, that the case be reinstated, the case shall be deemed to have been dismissed with prejudice as of the expiration of 10 working days of the date of dismissal in a protest, 180 calendar days of the date of dismissal in any other kind of case, or such other period as the Board may prescribe.

(c) *Issuance of order.* An order of dismissal shall be issued by the panel of judges to which the case has been assigned if the motion is contested or if the Board is acting consequent to its own show cause order. An order of dismissal may be issued by the panel chairman alone if the motion to dismiss is not contested.

6101.29 Decisions [Rule 29].

(a) *Format; procedure.* Except as provided in 6101.19(d) (protest suspension decision) and 6101.13 (small claims procedure), decisions of the Board will be made in writing upon the record as prescribed in 6101.12. Each of the parties will be furnished a copy of the decision certified by the Office of the Clerk of the Board, and the date of the receipt thereof by each party will be established in the record.

(b) *Timing of protest decisions.* (1) A decision on the merits of a protest will be issued within 45 working days after the filing of the protest, unless the chairman of the Board determines that the specific and unique circumstances of the protest require a longer period. In that event, the Board shall issue a decision within the longer period determined by the chairman of the Board.

(2) In a protest, the Board ordinarily will, within the 45-day period applicable to the original protest, decide all issues, including those raised by amendment or intervention, that are necessary to the resolution of the case. The Board will whenever possible notify the parties prior to the originally scheduled hearing date, or date for record submission, if it believes that because of a new ground of protest raised by an amendment or by an intervention, the protest might not be decided within the original 45-day period.

6101.30 Full Board consideration [Rule 30].

(a) *Requests.* (1) A request for full Board consideration is not favored. Ordinarily, full Board consideration will be ordered only when (i) it is necessary to secure or maintain uniformity of Board decisions, or (ii) the matter to be referred is one of exceptional importance.

(2) A request for full Board consideration may be made by any party at any date on which is both (i) after the panel to which the case is assigned has issued its decision on a motion for reconsideration or relief from decision and (ii) within 10 working days after the date on which that party receives that decision. Any party making a request for full Board consideration shall state concisely in the motion the precise grounds on which the request is based.

(3) The full Board on its own may initiate consideration of a matter (i) at any time while the case is before the Board, (ii) no later than the last date on which any party may file a motion for reconsideration or relief from decision or order, or (iii) if such a motion is filed by a party, within 10 days after a panel has resolved it.

(b) *Consideration.* Promptly after such a request is made, a ballot will be taken among the judges; if a majority of them favors the request, the request will be granted. The result of the vote will promptly be reported by the Board through an order. The concurring or dissenting view of any judge who wishes to express such a view may issue at the time of such order or at any time thereafter.

(c) *Decisions.* If full Board consideration is granted, a vote shall be taken promptly on the pending matter.

VOL 58 ISS 249 DEC 30 1993 UMI

After this vote is taken, the Board shall promptly, by order, issue its determination, which shall include the concurring or dissenting view of any judge who wishes to express such a view.

6101.31 Clerical mistakes [Rule 31].

Clerical mistakes in decisions, orders, or other parts of the record, and errors arising therein through oversight or inadvertence, may be corrected by the Board at any time on its own initiative or upon motion of a party on such terms, if any, as the Board may prescribe. During the pendency of an appeal to another tribunal, such mistakes may be corrected only with leave of the appellate tribunal.

6101.32 Reconsideration; Amendment of Decisions; New Hearings [Rule 32]

(a) *Grounds.* Reconsideration may be granted, a decision or order may be altered or amended, or a new hearing may be granted, for any of the reasons stated in 6101.33(a) and the reasons established by the rules of common law or equity applicable as between private parties in the courts of the United States. Reconsideration, or a new hearing, may be granted on all or any of the issues. Arguments already made and reinterpretations of old evidence are not sufficient grounds for granting reconsideration. On granting a motion for a new hearing, the Board may open the decision if one has been issued, take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions and direct the entry of a new decision.

(b) *Procedure.* Any motion under this rule shall comply with the provisions of 6101.8 and shall set forth:

(1) The reason or reasons why the Board should consider the motion; and

(2) The relief sought and the grounds therefor.

If the Board concludes that the reasons asserted for its consideration of the motion are insufficient, it may deny the motion without considering the relief sought and the grounds asserted therefor. If the Board grants the motion, it will issue an appropriate order which may include directions to the parties for further proceedings.

(c) *Time for filing.* A motion for reconsideration, to alter or amend a decision or order, or for a new hearing shall be filed in an appeal or petition within 30 calendar days and in a protest or application within 7 working days after the date of receipt by the moving party of the decision or order. Not later than 30 calendar days after issuance of a decision or order, the Board may, on its own initiative, order reconsideration or a new hearing or alter or amend a decision or order for any reason that would justify such action on motion of a party.

(d) *Effect of motion.* A motion pending under this section does not affect the finality of a decision or suspend its operation.

6101.33 Relief from decision or order [Rule 33]

(a) *Grounds.* The Board may relieve a party from the operation of a final decision or order for any of the following reasons:

(1) Newly discovered evidence which could not have been earlier discovered, even through due diligence;

(2) Justifiable or excusable mistake, inadvertence, surprise, or neglect;

(3) Fraud, misrepresentation, or other misconduct of an adverse party;

(4) The decision has been satisfied, released, or discharged, or a prior decision upon which it is based has been reversed or otherwise vacated, and it is no longer equitable that the decision should have prospective application;

(5) The decision is void, whether for lack of jurisdiction or otherwise; or

(6) Any other ground justifying relief from the operation of the decision or order.

(b) *Procedure.* Any motion under this section shall comply with the provisions of 6101.8 and 6101.32(b), and will be considered and ruled upon by the Board as provided in 6101.32.

(c) *Time for filing.* Any motion under this section shall be filed as soon as practicable after the discovery of the reasons therefor, but in any event no later than 120 calendar days or, in protests and in appeals under the small claims procedure of 6101.13, no later than 30 calendar days after the date of the moving party's receipt of the decision or order from which relief is sought. In considering the timeliness of a motion filed under this section, the Board may consider when the grounds therefor should reasonably have been known to the moving party.

(d) *Effect of motion.* A motion pending under this section does not affect the finality of a decision or suspend its operation.

6101.34 Harmless error [Rule 34].

No error in the admission or exclusion of evidence, and no error or defect in any ruling, order, or decision of the Board, and no other error in anything done or omitted to be done by the Board will be a ground for granting a new hearing or for vacating, reconsidering, modifying, or otherwise disturbing a decision or order of the Board unless refusal to act upon such error will prejudice a party or work a substantial injustice. At every stage of the proceedings the Board will disregard any error or defect that does not affect the substantial rights of the parties.

6101.35 Award of costs [Rule 35]

(a) *Requests for costs.* An appropriate party in a proceeding before the Board may apply for an award of costs, including if applicable an award of attorney fees, under the Brooks Act, 40 U.S.C. 759(f), the Equal Access to Justice Act, 5 U.S.C. 504, or any other provision that may entitle that party to such an award, subsequent to the Board's decision in the proceeding. For purposes of this section, "decision" includes orders of dismissal resulting from settlement agreements that bring to an end the proceedings before the Board.

(b) *Time for filing.* A party seeking an award may submit an application no later than 30 calendar days after a final disposition in the underlying protest or appeal. In the case of a protest or appeal that is adjudicated, the Board's decision becomes final (for purposes of this section) when it is not appealed to the United States Court of Appeals for the Federal Circuit within the time permitted for appeal or, if the decision is appealed, when the time for petitioning the Supreme Court for certiorari has expired. In the case of a protest or appeal that is resolved as a result of settlement, the Board's disposition becomes final (for purposes of this section) after receipt by the applicant of the order granting or dismissing the protest or appeal.

(c) *Application requirements.* An application for costs shall:

(1) Identify the applicant and the protest or appeal for which costs are sought, and the amount being sought;

(2) Establish that all applicable prerequisites for an award have been satisfied, including a succinct statement of why the applicant is eligible for an award of costs;

(3) Be accompanied by an exhibit fully documenting any fees or expenses being sought, including the cost of any study, analysis, engineering report, test, project, or similar matter. The date and a description of all services rendered or costs incurred shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the particular services performed by specific date, the rate at which each fee has been computed, any expenses for which reimbursement is sought, and the total amount paid or payable by the applicant on account of the sought-after costs. Except for claims for bid or proposal preparation, and in exceptional circumstances, all exhibits supporting applications for protest or appeal fees or expenses sought shall be publicly available. The Board may require the applicant to provide vouchers, receipts, or other substantiation for any costs claimed and/or to submit to an audit by the Government of the claimed costs; and

(4) Be signed by the applicant or an authorized officer, employee, or attorney of the applicant. The application shall also contain or be accompanied by a written verification under oath or affirmation, or declaration under penalty of perjury, that the information provided in the application is true and correct.

(d) *Proceedings.* (1) Within 30 calendar days after receipt by the respondent of an application under this section, the respondent may file an answer. The answer shall explain in detail any objections to the award requested and set out the legal and factual bases supporting the respondent's position.

(2) Further proceedings shall be held only by order of the Board and only when necessary for full and fair resolution of the issues arising from the application. Such proceedings shall be minimized to the extent possible and shall not include relitigation of the case on the merits. A request that the Board order further proceedings under this section shall describe the disputed issues and explain why additional proceedings are necessary to resolve those issues.

(e) *Decision.* Any award ordered by the Board shall be paid pursuant to 6101.36.

6101.36 Payment of Board awards [Rule 36].

(a) *Generally.* When permitted by law, payment of Board awards may be made in accordance with 31 U.S.C. 1304. Awards by the Board pursuant to the Equal Access to Justice Act shall be directly payable by the respondent agency over which the applicant has prevailed in the underlying appeal.

(b) *Conditions for payment.* Before a party may obtain payment of a Board award pursuant to 31 U.S.C. 1304, one of the following must occur:

(1) All parties must, by execution of a Certificate of Finality, waive their rights to relief under 6101.32 and 6101.33 and also their rights to appeal the decision of the Board; or

(2) The time for filing an appeal must expire.

(c) *Procedure for filing of certificates of finality.* Whenever the Board issues a decision or an order awarding a party any amount of money, it will attach to the copy of the decision sent to each party forms such as those illustrated in the appendix to this part. The conditions for payment prescribed in paragraph (b)(1) of this section are satisfied if each of the parties returns a completed and duly executed copy of this form to the Board. When the form is executed on behalf of an appellant or appropriate interested party by an attorney or other representative, proof of signatory authority shall also be furnished. Upon receipt of completed and duly executed Certificates of Finality from the parties, the Board will forward a copy of each such certificate (together with proof of signatory authority, if required) and a certified copy of its decision to the United States General Accounting Office to be certified for payment.

(d) *Procedure in absence of certificate of finality.* When one or more of the parties fails to submit a duly executed Certificate of Finality, but the conditions for payment have been satisfied as provided in paragraph (b)(2) of this section, any party to which an award has been made may file a written request that the Board forward its decision to the United States General Accounting Office for payment. Thereupon, the Board will forward a copy of that request and a certified copy of its decision to the United States General Accounting Office to be certified for payment.

(e) *Stipulated award.* When an appeal is settled, the parties may file with the Board a stipulation setting forth the amount of the award and stating (1) that they will not seek reconsideration of, or relief, from the Board's decision and (2) that they will not appeal the decision. The Board will adopt the parties' stipulation by decision. The Board's decision under this paragraph is an adjudication of the case on the merits.

6101.37 Record on review of a Board Decision [Rule 37].

(a) *Record on review.* When a party has appealed a Board decision to the United States Court of Appeals for the Federal Circuit, the record on review shall consist of the decision sought to be reviewed, the record before the Board as described in 6101.12, and such other material as may be required by the Court of Appeals.

(b) *Notice.* At the same time a party seeking review of a Board decision files a notice of appeal, that party shall provide a copy of the notice to the Board.

(c) *Filing of certified list of record materials.* Promptly after service upon the Board of a copy of the notice of appeal of a Board decision, the Office of the Clerk of the Board shall file with the Clerk of the United States Court of Appeals for the Federal Circuit a certified list of all documents, transcripts of testimony, exhibits, and other materials constituting the record, or a list of such parts thereof as the parties may designate, adequately describing each. The Board will retain the record and transmit any part thereof to the court upon the court's order during the pendency of the appeal.

(d) *Request by attorney of record to review record.* When a case is on appeal, an attorney of record may request permission from the Board to sign out the record on appeal to review and copy, for a reasonable period of time, if the attorney is unable to gain access to the record from another source.

6101.38 Office of the Clerk of the Board [Rule 38].

(a) *Open for the filing of papers.* The Office of the Clerk shall receive all papers submitted for filing, and shall be open for this purpose from 8:00 a.m. to 4:30 p.m., Eastern Time, on each day that is not a Saturday, Sunday, Federal holiday, a day on which the Office is required to close earlier than 4:30 p.m., or a day on which the Office does not open at all, as in the case of inclement weather.

(b) *Decisions and orders.* The Office of the Clerk shall keep in such form and manner as the Board may prescribe a correct copy of each decision or order of the Board subject to review and any other order or decision which the Board may direct to be kept.

(c) *Docket.* The Office of the Clerk shall keep a docket on which shall be entered the title and nature of all cases brought before the Board, the names of the persons filing such cases, the names of the attorneys or other persons appearing for the parties, and a record of all proceedings.

(d) *Copies and certifications of papers.* Upon the request of any person, copies of papers and documents in a case may be provided by the Office of the Clerk. If making such copies involves more than minimal costs to the Board, reimbursement will be required. When required, the Office of the Clerk will certify copies of papers and documents as a true record of the Board. Except as provided in 6101.23(c) and 6101.37(d), the Office of the Clerk will not release original records in its possession to any person.

VOL 58 ISS 249 DE 30 1993 UMI

6101.39 Seal of the Board [Rule 39].

The Seal of the Board shall be a circular boss, the center portion of which shall depict the Seal of the General Services Administration. The outer margin of the seal shall bear the legend "Board of Contract Appeals." The Seal shall be the means of authentication of all records, notices, orders, dismissals, opinions, subpoenas, and certificates issued by the Board.

6101.40 Forms [Rule 40].

The forms contained in the appendix to this part are sufficient under this part and are intended to indicate the simplicity and brevity of statement which this part contemplates. The subpoena form is a required form, and it may not be altered.

Appendix—Form Nos. 1–5

Form Index

Form 1—Notice of Appeal, GSA Form 2465
Form 2—Notice of Appearance
Form 3—Subpoena, GSA Form 9534
Form 4—Government Certificate of Finality
Form 5—Appellant/Protester/Intervenor/Applicant Certificate of Finality

BILLING CODE 6820-RW-M

NOTICE OF APPEAL	DATE	GSBCA APPROVAL NO. 3090-0221

TO: Board of Contract Appeals
General Services Administration
Washington, DC 20405

I/We hereby appeal the final decision of _____ (Name of Contracting Officer), issued _____ (Date).

In connection with a dispute under Contract No. _____. This contract was awarded _____ (Date).

for _____ (Type of commodity, service, or construction)

by _____ (Name of agency and organizational unit), _____ (City and State).

1. DESCRIBE THE NATURE OF THE DISPUTE INVOLVED IN THE FINAL DECISION AND ANY OTHER CIRCUMSTANCES GIVING RISE TO THIS APPEAL:

2. DESCRIBE THE RELIEF WHICH YOU SEEK INCLUDING AN ESTIMATE OF THE AMOUNT OF MONEY IN CONTROVERSY, IF ANY, AND IF KNOWN:

APPELLANT			ATTORNEY FOR APPELLANT		
NAME			NAME		
TITLE			FIRM		
STREET			STREET		
CITY			CITY		
STATE	ZIP CODE	TELEPHONE NUMBER ( )	STATE	ZIP CODE	TELEPHONE NUMBER ( )
APPELLANT'S SIGNATURE			ATTORNEY'S SIGNATURE		

GENERAL SERVICES ADMINISTRATION

GSA FORM 2465 (REV. 6-85)

VOL 58 ISS 249 DEC 30 1993 UMI

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

Form 7

_____ :
_____ : GSBCA _____
_____ :

Contract/Solicitation No.

_____

NOTICE OF APPEARANCE

To: _____
Board Judge
Board of Contract Appeals

Please enter my appearance as counsel for / representative of

_____ in the above captioned case.

_____ _____
(Name) Date

_____ _____
(Title) (Phone)

_____ _____
(Address) (Facsimile)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Appearance was mailed postage paid/delivered this _____ day of _____, 19__, to _____

_____
Signature

Note This format shall not be printed reproduced, or stocked by the Central Office or regional offices and shall be used only as a guide for individual preparation

Board of Contract Appeals

General Services Administration
Washington, DC 20405

SUBPOENA

OMB APPROVAL NO. 3090-0221

_____ : GSBCA _____
_____ :
_____ :

Contract/Solicitation No.

_____

TO: _____
_____
_____

YOU ARE HEREBY COMMANDED to appear at _____ _____
(Room Number) (Building)
_____
(Street Number) (City) (State)

at _____ o'clock ___.M., on the _____ day of _____, 19 ____,

to testify at a (deposition/hearing) in this case; and to bring with you[1] _____
_____
_____
_____

and to stay there until given permission to leave. This subpoena is issued at the request of (Appellant/Petitioner/Protester/Intervenor/Applicant/Respondent).

Your appearance as ordered by this subpoena will entitle you to receive the fees and mileage provided by 28 U.S.C. § 1821 or other applicable law.

_____

[1] *Strike the words "and bring with you" unless the subpoena is to require the production of documents or tangible things, in which case the documents and things should be designated in the blank space provided for that purpose. If testimony by an organization representative or designee is requested, describe with reasonable particularity the matters on which examination is requested.*

GENERAL SERVICES ADMINISTRATION

GSA FORM 9534 (Rev. 11-83)
Prescribed by GCA 2908.1

Upon written request to this Board by you or by a party to this case, which request should be made within 10 days after service but in any event no later than the time specified in the subpoena for attendance, the Board may (i) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (ii) require the party in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books, papers, documents, or tangible things.

_____ (Board Judge)

_____ (Date)

_____ (Representative for Appellant/Petitioner/Protestor/ Intervenor/Applicant)

_____ (Representative for Respondent)

_____ (Address)

_____ (Address)

_____

_____

_____ (Telephone Number)

_____ (Telephone Number)

_____ (Date)

_____ (Date)

RETURN ON SERVICE

Summoned the above-named witness by delivering a copy to h___ and tendering to h___ the fees for one day's attendance and mileage allowed by law, on the _____ day of _____, 19 ____, at _____

Subscribed and sworn to before me, a _____ this _____ day of _____, 19 ____.

_____

NOTE: Affidavit not required if service is made by U.S. Marshall or Deputy. Service may also be made by any other person who is not a party and is not less than 18 years of age. Service shall be made by personally delivering a copy to the person named and tendering the fees for one day's attendance and the mileage allowed by law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

GSA FORM 9534 BACK (Rev. 11-93)

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

Form 4

_____ :
_____ : GSBCA _____
_____ :
Contract/Solicitation No. :
_____ :

GOVERNMENT CERTIFICATE OF FINALITY

A. Date claim(s) filed with the contracting officer:

B. Amount to be paid: $ _____.

C. Agency address (regional office if other than central office):

D. Agency Certification

_____ hereby certifies that:

(1) it has not initiated and will not initiate any proceeding at the Board for the reconsideration of, or relief from, this award;

(2) it has not initiated and will not initiate any appeal of this award to the United States Court of Appeals for the Federal Circuit or to the United States Claims Court (if applicable).

Government Agency

_____
Date

By _____
Signature and Title

Note This format shall not be printed reproduced, or stocked by the Central office or regional offices and shall be used only as a guide for individual preparation

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

Form 5

_____ :
_____ : GSBCA _____
_____ :
Contract/Solicitation No. :
_____ :

APPELLANT/PROTESTER/INTERVENOR/APPLICANT CERTIFICATE OF FINALITY

A. Address to which check should be sent (if check is to be sent to counsel, enclose a power of attorney):

B. Appellant/Protester/Intervenor/Applicant certification

_____ hereby certifies that:

(1) it has not initiated and will not initiate any proceeding at the Board for the reconsideration of, or relief from, this award;

(2) it has not initiated and will not initiate any appeal of this award to the United States Court of Appeals for the Federal Circuit or to the United States Claims Court (if applicable); and

(3) it agrees to accept the amount awarded, plus any interest awarded, in accordance with the Board's decision in this case, in full and final satisfaction of its case.

Appellant/Protester/Intervenor/Applicant

_____ By _____
Date Signature and Title

Note: This format shall not be printed, reproduced, or stocked by the Central office or regional offices and shall be used only as a guide for individual preparation.

BILLING CODE 6820-RW-C

Dated: December 22, 1993.
Stephen M. Daniels,
Chairman.
[FR Doc. 93–31711 Filed 12–29–93; 8:45 am]
BILLING CODE 6820–RW–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 930234–3218; I.D. 121693C]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule, extension of effective date.

SUMMARY: An emergency interim rule is in effect through January 3, 1994, that divides the eastern zone commercial quota for the Gulf migratory group of king mackerel into equal sub-quotas for the Florida east and west coast fisheries. NMFS extends the emergency interim rule because conditions justifying the emergency action remain unchanged. The intended effect is to respond to social and economic emergencies in the commercial fishery for Gulf group king mackerel off the east coast of Florida.

EFFECTIVE DATES: Effective December 30, 1993, the effective dates for the emergency interim rule published at 58 FR 51789 are extended from January 4, 1994, through March 31, 1994.

ADDRESSES: Copies of documents supporting this action may be obtained from Mark F. Godcharles, Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3161.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic resources (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and is implemented through regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Under section 305(c) of the Magnuson Act, NMFS published an emergency interim rule (58 FR 51789, October 5, 1993) that divided the eastern zone commercial quota for the Gulf migratory group of king mackerel into equal sub-quotas for the Florida east and west coast fisheries. The Councils requested extension of the emergency interim rule because conditions justifying the emergency action remain unchanged and will remain unchanged through March 31, 1994. NMFS concurs and extends the emergency interim rule through March 31, 1994, in accordance with section 305(c)(3)(B) of the Magnuson Act.

Details concerning the basis for this action and the classification of the rulemaking are contained in the initial emergency interim rule and are not repeated here.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 21, 1993.
Nancy Foster,
Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.
[FR Doc. 93–31948 Filed 12–29–93; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 675

[Docket No. 921185–3021; I.D. 122293E]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock by the offshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSIA). This action is necessary to prevent exceeding the allowance of the total allowable catch (TAC) of pollock for the offshore component in the BS.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), December 29, 1993, until 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(2), the final 1993 initial specifications for groundfish in the BSAI (58 FR 8703, February 17, 1993), and a subsequent reserve release (58 FR 44136, August 19, 1993), established the allowance of pollock TAC for vessels catching pollock for processing by the offshore component in the BS as 781,625 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the allowance of pollock TAC for the offshore component in the BS soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 778,625 mt, with 3,000 mt to be taken as incidental catch in directed fishing for other species in the BS. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the BS, effective from 12 noon, A.l.t., December 29, 1993, until 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20.

List of Subjects in 50 CFR part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 27, 1993.
Richard H. Schaefer,
Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.
[FR Doc. 93–31947 Filed 12–27–93; 3:07 pm]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 249
Thursday, December 30, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1910, 1924, 1941, 1943, 1945, 1951, 1962, and 1980

RIN 0575–AB45

Loan Assessments and Market Placement

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its direct and guaranteed farm loan regulations to implement changes to the Consolidated Farm and Rural Development Act (CONACT) by the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act), and the Agricultural Credit Improvement Act of 1992 (1992 Act). These amendments are to propose a means of implementing and coordinating "loan assessment," "market placement," and the "graduation of seasoned direct loan borrowers to the loan guarantee program." The intended effect is to improve the success rate of borrowers receiving FmHA assistance and to expedite their transitions to commercial credit.

DATES: Comments must be submitted by February 28, 1994.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations Analysis and Control Branch, USDA, Farmers Home Administration, room 6348–S, 14th Street and Independence Avenue SW., Washington, DC 20250–0700. Written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steven R. Bazzell, Senior Loan Officer, USDA, Farmers Home Administration, Farmer Programs Loan Making Division, room 5424–S, 14th Street and Independence Avenue, SW., Washington, DC 20250–0700, Telephone (202) 720–3889.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this proposed rule in conformance with Executive Order 12866, and we have determined that it is not a "significant regulatory action." Based on information compiled by the Department, we have determined that this proposed rule:

(1) Would have an effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Farm Ownership Loans, Farm Operating Loans, and Emergency Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program." FmHA has determined that this action does not significantly affect the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (E.O.) 12778. FmHA has determined that this action does not unduly burden the Federal Court System since it meets all applicable standards provided in section 2 of the E.O.

Paperwork Reduction Act

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control numbers 0575–0134, 0575–0141, 0575–0085, 0575–0083, 0575–0090, and 0575–0079 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). The revised information collections contained in 0575–0061, 0575–0093, and 0575–0111 will be submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Public reporting for this collection of information is estimated to vary from five minutes to twenty minutes per response, with an average of ten minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The reporting and/or recordkeeping requirements contained in these regulations will not become effective until approved by OMB. Please send written comments to the Office of Information Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, DC 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, FmHA, AG Box 0743, Washington, DC 20250.

Discussion of Proposed Rule

The impetus for this proposed rule was provided by the FACT Act and the 1992 Act. These proposed amendments are intended primarily to implement loan assessment, market placement, and the graduation of seasoned direct loan borrowers to the loan guarantee program. FmHA is also proposing numerous other administrative changes, such as removing many internal supervisory procedures and placing them in a handbook, which will be available to the public. This latter change is part of a long term effort to reduce the volume of administrative items in the Agency's regulations and make the future implementation of legislative requirements easier. The obsolete term "insured" loans is being replaced with "direct" loans wherever it appears in the parts of the Code of Federal Regulations affected by this proposed rule. This is in accordance with the terminology changes required by the Credit Reform Act of 1990. The 1992 Act required that section 14 be promulgated as an interim rule. However, the Act also stipulated that section 14 be coordinated with loan assessment and market placement activities. Since there is an interrelationship between these three activities and an unforeseen timing conflict for implementation (proposed versus interim rule), section 14 has been included with the proposed rules for loan assessment and market placement so that the public can better evaluate the implementation of the programs.

FmHA's farm loan programs mission is to provide temporary financial and supervisory assistance to farmers and ranchers who have realistic chances to achieve and maintain a farming operation, but who are temporarily unable to secure commercial credit at prevailing rates and terms in their local community. FmHA direct loan assistance is presently approved and serviced in FmHA County Offices and provides lower interest rates and longer repayment periods than is normally be found in the private lending sector. FmHA's goal is to assist farmers in becoming financially viable through the combination of its more favorable lending terms, borrower supervision, measuring and monitoring of progress, and training. The 1992 Act imposed a general limit of 15 years (not more than 10 for direct OL loans) on FmHA's direct and guaranteed operating loan assistance to borrowers. Steady financial progress, therefore, is essential in order for borrowers to obtain commercial credit within these time limits.

FmHA guaranteed assistance is provided in conjunction with loans made and serviced by commercial lenders. As a group, FmHA's guaranteed loan borrowers are financially stronger than the direct borrowers, but nonetheless are still perceived as unacceptable credit risks by the lenders without the loss protection afforded by FmHA's loan guarantee. Since guaranteed borrowers exhibit fewer of the financial and management problems that beset direct loan borrowers, fewer supervisory controls and less intensive monitoring are typically needed for guaranteed borrowers. Commercial lenders are responsible for properly servicing the guaranteed borrower's loan with FmHA oversight.

In broad terms, the foregoing describes FmHA's long-standing mission to assist farmers, with the most intensive supervision and assistance dedicated to its direct loan borrowers. Concerns have arisen, however, as to the effectiveness of these efforts to guide borrowers from the direct program through the guaranteed program and on to commercial credit. Senate Report 101–357 (Report) in discussing the FACT Act loan assessment and market placement provisions, cites the need for FmHA to improve analysis, training and supervision of its borrowers to assist them in establishing a financially viable operation. Cited in the Report is a General Accounting Office (GAO) report titled—*Farmers Home Administration, Farm Loan Programs Have Become a Continuous Source of Credit (GAO/RCED–89–3).* This GAO report states that 42 percent of FmHA's borrowers had received assistance for more than 10 years. There are many factors outside the scope of FmHA's control that contribute to this statistic and the Agency's ability to help restore them to financial viability. Such factors include cyclical economic downturns and the financial condition of farmers when they first seek FmHA assistance.

Loan Assessment

Section 1819 of the FACT Act (CONACT section 360) requires FmHA to evaluate the farming plan and financial condition of each farmer or rancher applicant determined eligible by the County Committee. In the evaluation, FmHA will consider: The necessity of assistance, loan amount and rate of interest required by applicants to cover expenses and build an adequate equity base, goals set by applicants, and the prospects for applicants' plans of operation to culminate in a financially viable operation. A semi-annual review of direct loans and a periodic review of guaranteed loans is required. In addition, all delinquent borrowers are required to be assessed under these provisions. Specifically, FmHA must determine the cause of and action necessary to cure the delinquency. FmHA was provided authority to contract for loan assessments with entities eligible to provide "Borrower Training," under Section 1818 of the FACT Act (CONACT section 359). Passage of the 1992 Act subsequently necessitated the coordination of Loan Assessment, Market Placement, and Borrower Training provisions of the FACT Act with the Graduation of Seasoned Direct Borrowers provision of the 1992 Act as discussed below.

With these statutory requirements in mind, FmHA understands that it must upgrade its assessment of each farming operation to achieve, for example: more meaningful credit counseling and overall communication, appropriate numbers of farm visits and inspections, and better utilization of outside professionals such as the Extension Service and farm managers. All applicants and borrowers will be assessed, but if an applicant does not receive FmHA assistance, the supervisory aspects of the loan assessment regulations, such as performing chattel inspections will obviously not be applicable. While FmHA has always analyzed farming operations and provided credit supervision, it is now attempting to provide a more comprehensive assessment process, primarily for direct applicants and borrowers, to better:

(1) Establish the precise financial position of the farming operation,

(2) Determine the management's critical strengths and weaknesses,

(3) Identify the goals of the operator,

(4) Assist FmHA and the farmer to develop a short, intermediate and long-term strategy to make critical financial and management improvements,

(5) Help identify training and educational needs of the operator,

(6) Provide a means to measure progress over time,

(7) Determine appropriate controls and supervision on an individualized basis,

(8) Establish accountability on the part of FmHA and the borrower by providing a well-documented account of strategies and the quality of results achieved,

(9) Improve cooperation and understanding by emphasizing face-to-face communications,

(10) Involvement of applicants and borrowers in the analysis and supervision process, and

(11) Enable borrowers to graduate to commercial credit with FmHA loan

guarantee assistance and ultimately without FmHA assistance.

In the more comprehensive assessment process, professional farm managers will be utilized to the fullest extent based on the complexity of the operation, the expertise of the FmHA County Supervisor, and the amount of funds appropriated by Congress for contracting. The components common to all agricultural operations will be evaluated by the FmHA County Supervisor (and any contracted professional farm managers). Common components include: The real estate and facilities available, the amount and type of financing needed to carry out the operation, conservation measures, personal and business goals of the farm operator, and the farm business organization and key personnel involved in the operation. Specific material weaknesses or obstacles to long-term financial viability will be identified and prioritized from most to least critical. The projected farm plan will be analyzed in light of the strengths and weaknesses identified in the operation. If a plan will not work as developed, the County Supervisor will suggest alternative approaches.

Individualized supervision and training strategies will be developed based on the specific needs identified in the assessment, with the most critical needs addressed first. Ideally, the borrower training requirements (mandated by the FACT Act) would be derived as part of the loan assessment process. However, the borrower training requirements are mandated to be established at the time of certification by the FmHA County Committee, while loan assessment is mandated to occur after the County Committee certification. Therefore, borrower training needs identified by the loan assessment will be recommended, but not required, for the borrower.

At the end of the normal production cycle the progress of the borrower will be measured and the effectiveness of the supervisory strategy reevaluated and revised, as appropriate. On a semi-annual basis, County Supervisors will review the written goals and agreements established as part of the loan assessment process. If problems or major changes with the operation are expected, the borrower and County Supervisor will meet to determine what corrective actions are appropriate. It will be mandatory that a year-end analysis be performed for (1) first time borrowers, (2) borrowers with annual operating loans, (3) borrowers who are currently, or who are anticipated to be, delinquent, and (4) borrowers who are receiving limited resource interest rates. These are the highest risk borrowers who can benefit most from close supervision. A year-end analysis is already required under subpart A of part 1951 of this chapter for limited resource borrowers. Other borrowers will receive a year-end analysis at the discretion of the County Supervisors as determined and documented in their assessments of the borrowers. An example of a borrower who may not need the year-end analysis would include a borrower with a term loan only who has performed as agreed. However, FmHA will obtain an annual balance sheet and projected cash flow so that the borrower can be classified or reclassified in accordance with FmHA Instruction 2006–W. This is needed to implement the provisions of the 1992 Act requiring the Graduation of Seasoned Direct Borrowers to the Loan Guarantee Program. Regulatorily mandated numbers of field visits and inspections will be eliminated, for example. Instead, the number will be determined on an individual basis as part of the loan assessment process. Borrowers require different levels of supervision and monitoring, and this change will allow FmHA to assess each farming operation and apply attention and resources to its customers based on their individual needs. FmHA's requirements regarding 5-year averages for determining production and financial capabilities also will be revised to clarify that historical information is used to establish a baseline against which positive or negative adjustments can be made with proper justification. Greater discretion in this area is expected to yield more accurate determinations. Production records from an operation to be taken over by an applicant will also be considered when deriving the baseline production capabilities. If an applicant or borrower is affected by disasters and an accurate projection cannot be made, county or state averages will continue to be used. However, if applicants or borrowers have never produced yields at the county or state average, their actual yields will be used. FmHA is proposing this change to eliminate assistance to applicants who receive loans by virtue of an unintended regulatory loophole, but who in fact have no reasonable prospects for repaying the loan as set forth in the promissory note(s).

For guaranteed loans, FmHA will add items pertaining to loan assessment to the already required loan narrative submitted by lenders requesting a loan guarantee. Also, to comply with the statutory monitoring provisions of loan assessment, County Supervisors will be required to monitor borrower progress as part of FmHA's routine lender monitoring responsibilities. If a delinquency occurs, FmHA will assist the lender in developing available options. However, FmHA's capacity in this regard will be strictly as a consultant and the lender is under no obligation to follow FmHA advice or suggestions.

FmHA will also remove many administrative provisions from 7 CFR part 1924, subpart B, which is the primary implementing regulation for loan assessment. This is proposed to reduce the volume of FmHA regulations, provide simpler guidance to field staff, and expedite implementation of future regulatory changes.

FmHA proposes to make further administrative changes to give FmHA personnel greater flexibility in carrying out assessment and supervision.

Market Placement

Section 1821 of the FACT Act (CONACT section 362) requires creation of a process whereby direct farm loan borrowers who have reasonable chances to qualify for commercial credit can be placed with commercial lenders using FmHA loan guarantees.

As proposed by FmHA, the loan assessment process will identify the loan amounts, interest rates, and level of supervision needed by applicants and borrowers to carry out their operations. Those applicants and borrowers who meet the requirements of local commercial lenders, taking into consideration the risk mitigating effect of FmHA's loan guarantees, then will be handled under Market Placement procedures (7 CFR, part 1980, subpart B). After a lender has examined a case referred to them by FmHA and agrees to provide the financing with an FmHA guarantee, FmHA will use the assessment data to prepare all the documents needed for the lender and FmHA to consummate the loan and/or line of credit guarantee. FmHA believes this will provide much better service to lenders and farm customers by eliminating paperwork requirements and virtually eliminating waiting periods. FmHA will modify its County Committee certification so that a loan applicant may be determined eligible for FmHA assistance, but receipt of direct loan assistance will be contingent upon the unavailability of financing through the loan guarantee program. At present, the County Committee certification is tied specifically to either the direct or guaranteed program, which requires time-consuming reconsideration by the County Committee whenever an applicant moves between these two

programs. The Market Placement program will also be utilized to implement section 14 of the 1992 Act regarding the Graduation of Seasoned Direct Borrowers to the Loan Guarantee Program as discussed below. Interest assistance will be considered as needed for the borrower to obtain a guaranteed loan as required by section 14 of the 1992 Act (CONACT section 333A) discussed below. No regulation changes are needed to effect this rule.

Graduation of Seasoned Direct Borrowers to the Loan Guarantee Program

CONACT section 333A requires an annual review of direct borrowers within the loan assessment context to determine whether they meet FmHA's definition of "commercial" or "standard." Commercial or standard classified borrowers will, with the borrower's approval, be referred to local "Approved Lenders" by means of a prospectus. FmHA must provide interest assistance in accordance with CONACT section 351 as needed for the borrower to obtain a guaranteed loan. If no offer is made by the approved lender to provide financing, the borrower would continue to be eligible to receive direct loan assistance.

FmHA proposes to implement this provision in subpart F of part 1951 of this chapter by adopting the commercial and standard classification criteria for the graduation of all its direct borrowers, not only those graduating to commercial credit with a loan guarantee. This will avoid a regulatory process for borrower graduation. The classification and reclassification of applicants and borrowers will be accomplished annually in conjunction with the loan assessment process. The proposed rule will also reduce the current process of conducting four quarterly graduation reviews down to one annual review and expand the current definition of graduation to include those borrowers refinancing direct loans via the loan guarantee program.

FmHA also will expand the scope of lenders provided prospectus information from the statute's "certified" and "approved" lenders to include other "eligible" lenders. This expansion is necessary because of the phasing-out of the approved lender program due to the new certified and preferred lender programs, which were created by the 1992 Act. In accordance with the 1992 Act, written permission will be requested from borrowers before prospectus information is provided to lenders. Permission is not needed from new loan applicants for FmHA to approach lenders about the possibility of guaranteed financing, since information provided with a loan application is routinely referred to creditors in order to determine repayment ability and eligibility in accordance with the Privacy Act. For those borrowers who refuse permission to FmHA to provide prospectus information to lenders, FmHA will notify those borrowers when they meet the commercial or standard classification criteria, provide them with any information needed in FmHA's case files, and allow them 60 days within which to formally apply for guaranteed or non-guaranteed commercial credit and respond to FmHA. For good cause, the County Supervisor may extend additional time to the borrower beyond the 60-day period. Cases of borrowers who fail to cooperate with a graduation request will be referred for legal action after written notice to the borrower and a 10-day response period.

An annual reminder letter regarding FmHA's graduation requirement will be sent to operating loan borrowers, which will also notify them of the number of years they are eligible to receive FmHA operating loan assistance. FmHA's Exhibits A, B, and C, which are for internal administrative purposes by FmHA staff will no longer published under 7 CFR, part 1951, subpart F. Subpart F of part 1951 is being published in its entirety as a convenience to aid in reading and understanding how the above-described changes fit into existing procedure. Existing sections have been retitled and other administrative revisions have been made; however, the substantive changes to that subpart affect only farmer programs loans and comments are solicited on these changes only.

Miscellaneous

In addition to the statutorily mandated changes, FmHA is proposing to update its chattel security regulations to reflect the Central Filing System (CFS) authorized by the Food Security Act of 1985 and since adopted in several States. In States with a CFS, filing will be made in accordance with the CFS system and any State Uniform Commercial Code (UCC) system. In States without a CFS, filing will be according to the State system with actual notice given to potential purchasers of farm products. In addition, the list of specific items to be addressed by lenders in the guaranteed loan or line of credit (LOC) agreement will be changed to eliminate restrictions on consolidations, mergers, etc., since this provision is seldom applicable to FmHA farm borrowers. Limits on living expenses, loan purposes, special credit conditions, and collateral requirements, however, will be added as new items to be addressed in the guaranteed loan/LOC agreement. These are more applicable to farm borrowers and are needed to avoid misunderstandings between lenders and FmHA on existing rules. Finally, "current balance sheet" will be defined as one that is less than 90 days old on the date of application. An application for a loan guarantee must include a current balance sheet from all entity members.

List of Subjects

7 CFR Part 1910

Applications, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Marital status discrimination, Sex discrimination.

7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

7 CFR Part 1943

Credit Loan Programs—Agriculture, Recreation and recreation areas, Water Resources.

7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—Agriculture.

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing, Debt restructuring.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1980

Agriculture, Loan programs—Agriculture.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is proposed to be amended as follows:

VOL 58 ISS 249 DEC 30 1993 UMI

PART 1910—GENERAL

1. The authority citation for part 1910 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Receiving and Processing Applications

2. Section 1910.4 is amended by redesignating paragraphs (c) through (k) as (d) through (l), respectively, and adding new paragraphs (b)(25) and (c) to read as follows:

§ 1910.4 Processing applications.

* * * * *

(b) * * *

(25) Completion of the assessment in accordance with § 1924.55 of subpart B of part 1924 of this chapter.

* * * * *

(c) *Notifying applicants that direct loan eligibility for current borrowers is subject to the unavailability of guaranteed financing.* If the County Supervisor assessment, completed in accordance with § 1924.55 of subpart B of part 1924 of this chapter, concludes that guaranteed assistance may be available, with or without interest assistance, a prospectus will be sent to area lenders in accordance with § 1951.262(h) or (i) of subpart F of part 1951 of this chapter, as appropriate. If a lender(s) indicates interest in providing financing with an FmHA loan guarantee, refer to § 1980.113(c) of subpart B of part 1980 of this chapter for handling as a Market Placement application. No direct loan to a current borrower will be approved until the process outlined in this paragraph has been concluded.

* * * * *

3. Section 1910.6 is amended by revising paragraph (a) to read as follows:

§ 1910.6 Notification of applicant.

* * * * *

(a) *Favorable eligibility decision.* If the decision of eligibility is favorable, the County Supervisor will notify the applicant within 5 calendar days of the County Committee determination. For OL, FO, and SW loans, the notification will include the exact dates of the period of eligibility, in accordance with § 1910.4 (h) of this subpart. For Farmer Programs, if the County Supervisor has determined the operation is feasible, the loan will be promptly processed in accordance with the applicable regulations. Care should be exercised that the applicant clearly understands a decision of eligibility does not constitute approval of the loan and that a direct loan cannot be approved until a determination is made through the assessment process (§ 1924.55 of subpart B of part 1924 of this chapter) that guaranteed loan financing is unavailable to the applicant. However, the timeframes set forth in § 1910.4 of this subpart must be adhered to in accomplishing the assessment. In notifying the applicant of a favorable decision on eligibility, the County Supervisor will, when necessary, schedule a meeting with the applicant to proceed with developing the loan docket. When the applicant has been determined eligible for assistance and additional information becomes available that indicates the original eligibility determination may be in error, the County Committee will reconsider the applicant, taking the new information into account. The County Committee will then recertify whether or not the applicant still meets eligibility requirements, by the use of Form FmHA 440–2. Written notification as to the action taken will be sent to the applicant within 5 calendar days of the County Committee determination.

* * * * *

4. Section 1910.7 is amended by revising paragraph (b) to read as follows:

§ 1910.7 Counseling.

* * * * *

(b) *Farm and Home Plan.* When information on the Farm and Home Plan indicates that:

(1) The applicant has insufficient income to repay the requested loan, pay other debts and provide a reasonable standard of living, alternative plans of farm operation will be considered to attempt to overcome the problem. If the application request is from a delinquent borrower for OL assistance, the County Supervisor will consider the borrower for assistance under section 1941.14 of subpart A of part 1941 of this chapter.

(2) The applicant has sufficient income to repay a guaranteed loan, with or without interest assistance, pay other debts, and provide for a reasonable standard of living, the County Supervisor will refer to § 1910.4 (c) of subpart B for guidance.

* * * * *

5. Section 1910.8 is amended by revising paragraph (d) (1) to read as follows:

§ 1910.8 Reaching an understanding.

* * * * *

(d) * * *

(1) Farm business planning.

* * * * *

PART 1924—CONSTRUCTION AND REPAIR

6. The authority citation for part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart B—Management Advice to Individual Borrowers and Applicants

7. Sections 1924.51, 1924.56 through 1924.61, 1924.71 and 1924.73 are revised; § 1924.100 is removed; and §§ 1924.54 and 1924.55 are added to read as follows:

§ 1924.51 General.

This sets forth policies for providing management advice to all Farmer Programs direct loan applicants and borrowers. Farmers Home Administration (FmHA) forms and supervisory handbooks are available in any FmHA County Office.

§ 1924.54 Definitions.

As used in this subpart, the following definitions apply:

Commercial. These are FmHA's highest quality Farmer Programs accounts. The financial condition of the borrowers is strong enough to enable them to absorb the normal adversities of agricultural production and marketing. There is ample security for all loans, there is sufficient cash flow to meet the expenses of the agricultural enterprise and the financial needs of the family, and to service debts. The account is of such quality that commercial lenders would view the loans as a profitable investment. This is the same definition as found in FmHA Instruction 2006–W (copy available in any FmHA County Office).

Farm Assessment and Supervision Reference. This reference communicates FmHA National Office administrative policy and guidance to field staff on conducting assessments, year-end analyses, and general borrower supervision.

Farm business plan. The automated or manual Farm and Home Plan system, which contains an annual, typical (if different than annual plan), and a 5-year budget plan. FmHA may accept other farm business plans if they provide at least the same information as the FmHA system to enable FmHA officials to render a sound credit decision. The annual plan may cover a period of more or less than 12 months.

Farmer Programs loan. Includes Farm Ownership (FO), Soil and Water (SW), Operating (OL), Emergency (EM), Economic Emergency (EE), Recreation (RL), Special Livestock (SL), Economic Opportunity (EO), and Softwood Timber (ST) loans. Also included are Rural Housing loans for farm service buildings (RHF), and Rural Housing (RH) loans where the borrower is also indebted for an FmHA direct farm loan(s) that is not a collection only or judgment account. Non-program loans, which are defined in § 1985.7 of subpart A of part 1965 of this chapter, are excluded.

Individual. The term "individual" is used throughout this subpart to refer to the person(s) receiving FmHA supervision and management advice. If an applicant or borrower applies(ied) to FmHA as an individual applicant, the term "individual" means the operator. In the case of an eligible corporation, cooperative, partnership or joint operation, the term "individual" means the person(s) with the primary responsibility for making management decisions and carrying out the day-to-day physical tasks.

Financially viable operation. A financially viable operation projects that it can generate sufficient income to meet annual operating expenses and debt payments as they become due, meet basic family living expenses to the extent they are not met by dependable non-farm income, provide for the replacement of capital items, and provide for long-term financial progress to enable the operator to obtain commercial credit. Special beginning farmer OL borrowers will be considered financially viable for loan approval purposes if their 10-year farm plan projects an FmHA classification of "commercial."

Prospectus. Consists of a transmittal letter similar to FmHA Guide Letter 1951–F–3 with the "Historical Performance Worksheet" and "Summary of the Year's Business" generated by the Automated Farm and Home Plan system attached. When the applicant is not an existing borrower, the historical performance information (for example, tax returns) submitted with the FmHA application may substitute for the latter two documents. The prospectus is used to determine lender interest in financing or refinancing specific FmHA direct loan applicants and borrowers.

Standard. These loan accounts are fully acceptable by FmHA standards. Loan risk and potential servicing costs are higher than would be acceptable to other lenders, but are adequately secured. Repayment ability is adequate, and there is a high probability that all loans will be repaid as scheduled and in full. This is the same definition as found in FmHA Instruction 2006–W (copy available in any FmHA County Office).

Typical year plan. A projected farm business plan most representative of an operation's normal income, expenses, and capital debt payments.

§ 1924.55 Assessment of the agricultural operation.

Assessments will be completed for direct Farmer Programs loan applicants as required by subpart A of part 1910 of this chapter. Assessments also are required for Farmer Programs borrowers who are requested to graduate under subpart F of part 1951 of this chapter and at the time of their year-end analyses if no assessment has been performed under this section. An assessment is a comprehensive evaluation of the components of an operation, the identification of training and supervisory needs, and the resulting strategy to help the borrower achieve financial viability. Since FmHA is a temporary source of credit, it is important that the time spent with FmHA be used as productively as possible so that the borrower derives the greatest benefit. The assessment is intended to provide a more accurate determination of the kind and amount of FmHA assistance needed by the borrower. The assessment will more thoroughly identify positive and negative trends and conditions in management, earnings, capital position, productivity, and physical assets. Based on the assessment, the County Supervisor will prioritize the needs of the borrowers so that attention can be focused on the most critical areas first. The assessment is the central foundation upon which to build strategies for planning, credit and management counseling, loan controls, analysis, borrower training, and all other needed supervision. The assessment is a baseline, or starting point, against which the effectiveness of FmHA's assistance and the borrower's progress can be measured. Cooperation and communication between FmHA and the borrower is essential, and an assessment will include thorough inspections of the operation and face-to-face meetings with all key individuals. The borrower's actual progress and the effectiveness of FmHA supervision will be evaluated at the year-end analysis. Semi-annual reviews of the assessment will be performed in accordance with paragraph (f) of this section.

(a) *County Supervisor evaluation.* The County Supervisor will evaluate or assess each of the areas described in paragraph (b) of this section. As part of that assessment, the County Supervisor will determine whether the proposed budget is feasible on a direct/guaranteed loan basis, the type and nature of any material financial or production management weaknesses in the operation, and the specific strategy needed, including timeframes, to effect improvements and control risks. Material weaknesses are those that, if ignored, will have a high probability of causing the business to suffer losses that will jeopardize repayment, contribute to losses to the Government, result in practices considered imprudent by the general agricultural and financial community, and/or that hinder graduation and financial viability. If the County Supervisor concludes an applicant for a direct loan, or a borrower for any servicing action, may qualify for guaranteed credit, refer to § 1951.262 (h) of subpart F of part 1951 of this chapter for providing a prospectus to lenders. If a lender(s) expresses interest in providing financing or refinancing, refer to § 1980.113(c) of subpart B of part 1980 of this chapter for handling as a Market Placement application.

(b) *The assessment must take into consideration the following components:*

(1) Type of operation.

(2) Real estate, including facilities.

(i) Location and size.

(ii) Proposed and existing improvements.

(iii) Presence of environmental hazards.

(iv) Conservation practices and measures.

(v) Adequacy and continued availability of real estate.

(vi) External factors, such as urban encroachment and zoning changes.

(3) Chattel property used in the operation.

(4) Farm business organization and key personnel.

(5) Goals.

(6) Historical financial data.

(7) Projected budget.

(8) Planned changes.

(9) Ability to obtain guaranteed credit.

(c) *Supervision and training.* Appropriate supervisory oversight and training recommendations will be developed based on the County Supervisor's evaluation of the strengths and weaknesses of the operation in accordance with paragraphs (a) and (b) of this section and § 1924.59 of this subpart. Borrowers not abiding by the supervisory agreements reached will be notified promptly in writing that noncompliance will be considered by the County Committee on future FmHA loan eligibility determinations.

(d) *Performing the year-end analysis.* A year-end analysis will be completed for all first-time borrowers, borrowers with annual operating loans, borrowers who are currently, or who are anticipated to be, delinquent, and borrowers who are receiving limited

resource interest rates. Other borrowers will receive a year-end analysis at the discretion and judgment of the County Supervisors as determined and documented in their assessments of the borrowers. An example of a borrower who may not need the year-end analysis would include a borrower with a term loan only who has performed as agreed. However, FmHA will obtain an annual balance sheet and projected cash flow so that the borrower can be classified for graduation purposes in accordance with subpart F of part 1951 of this chapter. The year-end analysis should coincide with the borrower's production/marketing cycle and will serve as an opportunity to assess financial performance, goals attainment, the effectiveness of supervision and training. The County Supervisor's prior assessment of the operation should always be reviewed and changes made as appropriate. The County Supervisor will:

(1) Schedule the year-end analysis within the 60-day period after completion of the borrower's production cycle.

(2) With the borrower's Assistance, complete the "actual" columns on the farm business plan and Form FmHA 1962–1, "Agreement for the Use of Proceeds/Release of Chattel Security."

(3) Record financial and production results in the FmHA Automated Farm and Home Plan system, and review projected farm business planning for the next production cycle.

(4) Make a complete entry in the case file running record, or other worksheet, of the key management problems which were identified and discussed and all agreements reached with the borrower. Future supervisory actions will be tracked and monitored on the Management Records System.

(e) *Action to take when year-end analysis is completed.* When the analysis of the production/marketing cycle has been completed and the Farm and Home Plan and Form FmHA 1962–1 are developed for the next production/marketing cycle, the County Supervisor will take the following actions:

(1) *Borrower situation number 1.* Loans requested by eligible borrowers can be approved if the annual plan is feasible and the borrower will be current after all proceeds from the sale of assets are applied to scheduled FmHA and non-FmHA payments. If possible, advances of any loan funds will be scheduled to be available before the beginning of the normal production cycle. If loan funds will not be available to the borrower in time to begin the normal production cycle, release of normal income as set forth in § 1962.17 of subpart A of part 1962 of this chapter will be considered to meet essential family living and operating expenses.

(2) *Borrower situation number 2.* If the next production cycle plan is not feasible but the borrower would be current if the available proceeds were applied on FmHA payments, then a meeting will be held with the borrower within 5 working days of completing the analysis to discuss solutions to the problem. The borrower will be advised of possible options such as, primary loan servicing in accordance with § 1951.908 of subpart S of part 1951 of this chapter, releases of proceeds from the sale of normal income security, and additional loan funds. Requested loans can be approved if the borrower is found eligible and can present a feasible plan under appropriate loan making regulations. Advances of loan funds to eligible borrowers, if available, should be scheduled to be available in time to begin the normal farming season. If loan funds will not be available to the borrower in time to begin the normal production/marketing cycle, release of normal income as set forth in § 1962.17 of subpart A of part 1962 of this chapter will be considered to meet essential family living and farm operating expenses.

(3) *Borrower situation number 3.* If a non-delinquent borrower cannot show a feasible plan without debt writedown in accordance with subpart S of part 1951 of this chapter, release of normal income as set forth in § 1962.17 of subpart A of part 1962 of this chapter will be considered to meet essential family living and operating expenses. If the account later becomes delinquent, the borrower may be eligible for a Distressed Farmer Programs loan in accordance with § 1941.14 of subpart A of part 1941 of this chapter and debt writedown in accordance with § 1951.908 (e)(4) of subpart S of part 1951 of this chapter.

(f) For all borrowers, the assessment described under this section will be reviewed on a semi-annual basis. The County Supervisor will document the case file as to whether the borrower is progressing in accordance with the goals and agreements reached as part of the assessment. The County Supervisor may consult with the borrower in person, by telephone, or by written correspondence. However, a meeting must be scheduled as soon as practicable to determine the corrective options if the borrower is delinquent, the County Supervisor expects the borrower to become delinquent, or significant changes have occurred with the operation.

§ 1924.56 Farm business planning.

The Automated Farm and Home Plan system is the primary tool used by FmHA to evaluate loan feasibility and prospects for achieving financial viability. Other manual or automated business planning systems may be used with the consent of FmHA. County Supervisors should also refer to subpart A of part 1962 of this chapter for further guidance on using Form FmHA 1962–1.

(a) *Responsibility of County Supervisor.* The County Supervisor will refer to subpart A of part 1962 of this chapter regarding chattel security and:

(1) At least 60 days prior to the end of the production cycle, send borrowers with loans secured by chattels a letter similar to exhibit A, attachment 1 of this subpart along with blank Forms FmHA 431–2, "Farm and Home Plan," and FmHA 1962–1. Form FmHA 1962–1 does not expire until final disposition of the listed chattel property has been accomplished, or the remaining chattel property has been transferred to a new Form FmHA 1962–1.

(2) Verify that farm business plans are consistent with the applicable highly erodible land and wetland conservation requirements of exhibit M of subpart G of part 1940 of this chapter.

(b) *Documentation and revision of plans.* Farm business plans will be revised by the County Supervisor when information submitted by the borrower is unrealistic and/or cannot be verified, or when there are changes in the farming operation or in the planned or actual use of loan funds.

(1) When there are major revisions which cannot be easily accommodated on the borrower's farm business plan, a new plan will be completed and attached to the original. When a major revision is made, the plan must be marked, "REVISION I, II or III, etc.," to reflect the latest revision under consideration.

(2) When revisions are made to the farm business plan, a new or revised printout will be provided to the borrower. The County Supervisor will meet with the borrower to discuss, date and sign the revised plan. Each revision must be circled, dated and initialed by the borrower and County Supervisor.

(3) Farm business plans must be based on data that can be supported and verified, and then documented in the case file. Projected income and expenses must be based on the historical performance unless justification exists and the reason for the deviation is documented in the case file. Production will be based on the production trend as supported by the 5-year production history. Consideration may also be given to the influence of FmHA's supervision. The implementation of a proven management technique, such as Integrated Pest Management, or the successful completion of specific training, such as animal husbandry, are examples of where positive adjustments to historical production might be justified.

(i) For existing farmers, the immediately preceding 5-year production and financial history will be obtained.

(ii) For those farmers with less than a 5-year history, the applicant's available production and financial history will be obtained. Actual production records from an operation to be taken over by the farmer may also be considered.

(iii) For those farmers whose historical data is less than 5 years or otherwise insufficiently reliable to provide an accurate estimate, the County Supervisor will utilize other data sources in the order of priority as follows:

(A) Agriculture Stabilization and Conservation Service (ASCS) actual yield records, for that particular farm;

(B) County averages;

(C) State averages;

(D) Extension Service data; or

(E) Other reliable sources of data to develop the projections.

(iv) When an accurate projection cannot be made because the applicant's production history has been affected by a disaster(s) declared by the President or designated by the Secretary of Agriculture, and for those farmers who would have had a qualifying loss from the disaster, as defined in § 1945.154 (a)(31) of subpart D of part 1945 of this chapter, but were not located in a designated/declared disaster area, the following applies:

(A) If the applicant's disaster year(s) yields are less than the County average yields, County average yields will be used for that year(s). If County average yields are not available, State average yields will be used. However, if the applicant's actual yields/production have never equaled the County/State averages, the applicant's actual yields will be used.

(B) To calculate a historical average yield to be used as a base for developing a projected plan of operation, the applicant may exclude the crop year with the lowest actual or County average yield, providing the applicant's yields were affected by disasters during at least 2 of the past 5 years immediately preceding the planned year. Once the yield base has been established, plus or minus adjustments may be made as discussed under paragraph (b)(3) of this section.

(4) Unit prices for all agricultural commodities produced commercially in each State will be established on a statewide basis by all FmHA State Directors each year and published in a State supplement which will be issued annually to coincide with the farm planning season. State Directors may establish regional unit prices for different regions of a State when there are transportation costs or other significant factors that establish a regional difference for unit prices within the State. During development of unit prices, the State Director will consult with adjoining FmHA State Offices and other State and Federal agricultural agencies before establishing the commodity prices. Farmers who have proven accurate records to support a premium price for a commodity and/or contracts with well established markets will be allowed to use those higher prices. In addition, the supplement required in this section for commodity prices will also contain the 5-year history of disaster declarations/designations for all counties in the State, indicating the type of disaster(s) and incidence period(s). The information will be used to determine whether any particular year(s) should be considered as a disaster year for the applicant.

(5) Form FmHA 1962–1 will be revised whenever changes in the borrower's operation occur during the year. It is the borrower's responsibility to notify FmHA of any changes that are necessary. Prior to the disposition of any security, Form FmHA 1962–1 will be marked "Revision" and changes noted by crossing out any original estimates and inserting new estimates immediately above. The borrower and the County Supervisor will initial and date revisions to the Form FmHA 1962–1. Also, if the changes would result in a major change in the operation, a new farm plan must be developed. If the borrower and the County Supervisor cannot agree on a revision, the borrower will be given the opportunity to appeal in accordance with subpart B of part 1900 and § 1962.17 (a)(2) of subpart A of part 1962 of this chapter. The notice to the borrower must identify the items on which the County Supervisor and the borrower cannot agree and must explain why the County Supervisor does not agree with the borrower's planned use of proceeds. While any appeal is pending, FmHA must make releases of normal income security for essential family living and farm operating expenses in accordance with § 1962.17 of subpart A of part 1962 of this chapter. After the appeal is concluded, the County Supervisor and borrower will sign a Form FmHA 1962–1 which complies with the hearing (or any review) officer's decision. If the borrower refuses, the County Supervisor will give the borrower a copy of the form and will explain that it is considered binding by FmHA. Borrowers who do not abide by the form will be handled under § 1962.18 of subpart A of part 1962 of this chapter. If the borrower does not appeal, the County Supervisor will mail the borrower a copy of the completed form along with a cover letter explaining that FmHA considers the planned releases documented in Form FmHA 1962–1 binding.

§ 1924.57 Credit counseling.

The County Supervisor will provide credit counseling to individuals by advising them of productive ways to use credit to increase profitability and achieve business goals.

§ 1924.58 Recordkeeping.

(a) *Purpose.* The type of accounting/bookkeeping system used on the operation must be acceptable to FmHA and documented as part of the assessment under § 1924.55 of this subpart.

(b) *Responsibilities.* (1) The selected recordkeeping system must, as a minimum, provide at least the amount of information needed to complete Forms FmHA 431–2, FmHA 432–1, "Farm Family Record Book," and FmHA 432–2, "Five Year Inventory Record."

(2) Accurate financial records and reporting are the cornerstone to farm business planning. The County Supervisor must counsel the borrower and notify them in writing that noncompliance will result in ineligibility for future FmHA financing. Borrowers who fail to maintain records as agreed will be denied further FmHA loan and loan servicing assistance.

§ 1924.59 Supervision.

The County Supervisor's supervision should be based on the information and evaluation resulting from the assessment of the operation. Such evaluations will be translated into planning strategies, credit and management counseling, loan assistance, analysis, training, and all other appropriate supervision. County Supervisors must tailor strategies on a case-by-case basis using individualized supervision that is based on the defined needs of borrowers. The most efficient use of the County Supervisor and borrower's time and resources will be

VOL 58 ISS 249 DEC 30 1993 UMI

VOL 58 ISS 249 DE 30 1993 UMI

achieved by focusing only on the areas needing improvement.

(a) *Borrower responsibilities.* FmHA cannot carry out its supervised credit objectives effectively unless borrowers cooperate with FmHA. When loans or servicing actions are approved, borrowers will be advised by copy of exhibit C to subpart A of part 1910 of this chapter (available in any FmHA County Office) of responsibilities including the following:

(1) Keeping all written agreements reached with FmHA which includes making payments as scheduled consistent with the farm business plan and Form FmHA 1962–1, and abiding by written supervisory requirements covering such items as recordkeeping, farm inspections, inventories, financial reporting agreements, and implementation of specific farm and financial management practices.

(2) Prompt notification to FmHA of any significant change in the business or family expenses or the development of problem situations.

(3) Prompt submission of all information and records when requested in writing by the FmHA.

(4) Maintenance and protection of the collateral for FmHA loans and prompt reporting to FmHA of any losses or other significant changes in the collateral.

(b) *Farm visits.* Periodic supervisory farm visits and reviews of progress being made are an essential part of an effective supervised credit program. Supervisory visits will be made as deemed necessary by the County Supervisor based on their assessment of the overall operation and past experience with the borrower and thoroughly documented. The County Supervisor will determine the field visit schedule for each borrower in their assessment and record on the Management Records System.

§ 1924.69 Nonfarm enterprises.

This is any business enterprise which supplements farm income by providing goods or services for which there is a need and a reasonably reliable market. The same general policies covered in this subpart for giving management assistance to an applicant or borrower on farm loans will be followed in dealing with an applicant or borrower on nonfarm enterprise loans. The appropriate plans and record book will be used for the nonfarm enterprise. Forms FmHA 431–4, "Business Analysis-Nonagriculture Enterprise," and FmHA 432–10, "Business and Family Record Book," available at most FmHA offices can be used for these purposes. The borrower responsibilities in § 1924.59(a) of this subpart also apply to nonfarm enterprises.

§ 1924.81 State supplements.

State supplements will be issued as necessary to implement this subpart and assist field personnel.

§ 1924.71 Delinquent borrowers.

The Finance Office will send each FmHA County Office a status report (Status Report of Farmer Program Accounts, 540) of Farmer Programs borrower accounts monthly. Farmer Programs accounts that are shown as delinquent will be serviced in accordance with subpart S of part 1951 of this chapter.

§ 1924.73 Follow-up supervisory actions by District Directors and State Office staff.

(a) *Follow-up by the District Directors.* The District Director is responsible for seeing that the County Office staff correctly assesses agricultural operations in accordance with § 1924.55 of this subpart, and develops and adheres to a supervisory plan leading to borrower graduation, with or without FmHA guarantee assistance. The District Director is responsible for assuring that a good supervised credit program is being carried out in an effective and timely manner. The District Director or designee will record in the borrower's case file any visits or borrower consultations made by the District Director or designee. This responsibility requires visits to evaluate a sufficient number of such cases to determine what additional training is needed by the County Supervisor to improve the quality of assessments and supervision described in this subpart. The District Director should continue follow-up actions periodically as needed to obtain the desired results in each County Office area. The State Director will be informed at least annually of the adequacy of the supervised credit program in each County Office through the District Director's "Oversight Visit Report" required by FmHA Instruction 2006–M (available in any FmHA office).

(b) *Follow-up by State Office staff.*

(1) State Directors, or their designees, are responsible for seeing that actions prescribed by this subpart are carried out by the County Supervisors and District Directors.

(2) Program chiefs and specialists should review a representative sample of cases during each visit to a county office to ensure that assessments are being made as required, and that proper supervisory plans are developed, followed, and revised as appropriate to eliminate barriers to financial viability. Any deficiencies found in the County Office review will be reported in writing to the State Director along with recommendations for correction.

(3) On an annual basis, the State Director will review with the District Director the effectiveness of the supervision being provided to borrowers in the Districts. A report of the review will be included in the annual State Evaluation Review (SER) report to the National Office as set forth in FmHA Instruction 2006–M (available in any FmHA office).

8. Exhibit A to subpart B is amended by revising the first paragraph after the closure "County Supervisor" to read as follows:

Exhibit A—Letter to Borrower Regarding Releases of Farm Income to Pay Family Living and Farm Operating Expenses

* * * * *

Periodically, you will be asked to complete Form FmHA 1962–1, "Agreement for the Use of Proceeds/Release of Chattel Security," which will document the agreement between you and FmHA as to how proceeds from the sale of chattel property which serves as security for your FmHA loans will be released to you by FmHA. You will also need to list those buyers to whom you plan to sell your farm products. This plan will give you and FmHA a clear idea of what income you expect from your operation and how those proceeds will be used. The plan will set forth the amount of money required for paying essential family living, farm operating expenses and debt service payments. You and FmHA must agree on how much money will be released from your crop proceeds. Such releases must be in accordance with FmHA regulations.

* * * * *

PART 1941—OPERATING LOANS

9. The authority citation for part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Operating Loan Policies, Procedures and Authorizations

10. Section 1941.19 is amended by adding a new paragraph (f)(6) to read as follows:

§ 1941.19 Security.

* * * * *

(f) * * *

(6) Provisions of § 1962.13 (b) of subpart A of part 1962 of this chapter will be implemented when FmHA has farm products as security.

* * * * *

Subpart B—Closing Loans Secured by Chattels

11. Section 1941.57 is amended by revising paragraph (c)(1) to read as follows:

§ 1941.57 Security instruments.

* * * * *

(c) * * *

(1) Forms FmHA 440–25, "Financing Statement," or FmHA 440A–25, "Financing Statement (Carbon-Interleaved)", and FmHA 440–4, "Security Agreement (Chattels and Crops)," will be used to obtain security interests in chattel property in States which have adopted the Uniform Commercial Code (UCC), unless a State supplement requires the use of other forms.

* * * * *

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

12. The authority citation for part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Direct Farm Ownership Loan Policies, Procedures and Authorizations

13. Section 1943.32 (a) is amended under the list of forms by removing the entry beginning with "1431–1."

Subpart B—Direct Soil and Water Loan Policies, Procedures and Authorizations

§ 1943.82 [Amended]

14. Section 1943.82 (a) is amended under the list of forms by removing the entry beginning with "1431–1."

PART 1945—EMERGENCY

15. The authority citation for part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1980; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Emergency Loan Policies, Procedures and Authorizations

16. Section 1945.163 is amended by removing paragraph (a)(1)(iii), redesignating current paragraph (a)(1)(ii) as (a)(1)(iii), adding new paragraph (a)(1)(ii), and revising paragraph (a)(1)(i), newly redesignated paragraph (a)(1)(iii) and paragraph (a)(1)(iv) to read as follows:

§ 1945.163 Determining qualifying losses, eligibility for EM loan(s) and the maximum amount of each.

* * * * *

(a) * * *

(1) * * *

(i) *The applicant's actual reliable farm records.* If actual yields are not available for all of the 5 crop year(s), the applicant will use a combination of actual records which are available and County or State averages, as specified in paragraph (a)(1)(ii) of this section.

(ii) *The County or State average yields.* These average yields are located in the FmHA State supplement. However, these production figures can be substituted only when an applicant has insufficient records for certain commodities and/or years.

(iii) *The ASCS "established yields."* When this production record source is used, the applicant must obtain the information from ASCS and submit it with the application to FmHA. The disaster year established yield, as provided by ASCS for any given crop, will be used as the yield for those years for which the applicant has no production records to determine the normal year's yields.

(iv) When an applicant's production loss is on new land being developed, or to young perennial crops such as fruits and nuts, which have not reached their mature production potential, the State Director will establish the normal yields to be used.

* * * * *

§ 1945.167 [Amended]

17. Section 1945.167 is amended by removing paragraph (g) and redesignating paragraphs (h) through (k) as (g) through (j), respectively.

18. Section 1945.169 is amended by revising paragraph (n)(4) to read as follows:

§ 1945.169 Security.

* * * * *

(n) * * *

(4) In UCC states, an assignment of income constitutes a security agreement and should be treated accordingly. Also, § 1962.13(b) of subpart A of part 1962 of this chapter will be implemented when FmHA has farm products as security.

PART 1951—SERVICING AND COLLECTIONS

19. The authority citation for part 1951 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart F—Analyzing Credit Needs and Graduation of Borrowers

20. Sections 1951.251 through 1951.255 and 1951.261 through 1951.266 are revised; § 1951.300 is removed; and §§ 1951.260, 1951.267 and 1951.268 are added to read as follows:

§ 1951.251 Purpose.

This subpart prescribes the policies to be followed when analyzing a direct borrower's needs for continued Farmers Home Administration (FmHA) supervision, further credit and graduation. All loan accounts will be reviewed for graduation in accordance with this subpart, with the exception of Guaranteed, Watershed, Resource Conservation and Development, Rural Development Loan Funds, and Rural Rental Housing loans made to build or acquire new units made pursuant to contracts entered into on or after December 15, 1989, and Intermediary Relending Program loans.

§ 1951.252 Definitions.

Commercial. These are FmHA's highest quality Farmer Programs accounts. The financial condition of the borrowers is strong enough to enable them to absorb the normal adversities of agricultural production and marketing. There is ample security for all loans, there is sufficient cash flow to meet the expenses of the agricultural enterprise and the financial needs of the family, and to service debts. The account is of such quality that commercial lenders would view the loans as a profitable investment. This is the same definition as found in FmHA Instruction 2006–W (copy available in any FmHA County Office).

Farmer Programs loans. Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans, and/or Rural Housing loans for farm service buildings (RHF).

Graduation, Farmer Programs. The payment in full of all Farmer Programs (FP) loans or all FP loans of one type (*i.e.*, all loans made for chattel purposes or all loans made for real estate purposes) by refinancing with other credit sources either with or without an FmHA loan guarantee. A loan made for both chattel and real estate purposes, for example an EM loan, will be classified according to how the majority of the loan's funds were expended. Borrowers must continue with their farming operations to be considered as graduated.

Graduation, other programs. The payment in full of a Farmer Programs FmHA direct loans, before maturity, by refinancing with other credit sources. Graduated housing borrowers must continue to hold title to the property. Graduation

does not include credit which is guaranteed by the United States.

Prospectus, Farmer Programs. Consists of a transmittal letter similar to FmHA Guide Letter 1951–F–3 with the attached "Historical Performance Worksheet" and "Summary of the Year's Business" generated by the Automated Farm and Home Plan system (available in any FmHA Office). Any other historical performance analysis and business summary that is acceptable to FmHA may be substituted for the latter two documents. The prospectus is used to determine lender interest in financing or refinancing specific FmHA direct loan applicants and borrowers.

Reasonable rates and terms. Those commercial rates and terms which borrowers are expected to meet when borrowing for similar purposes and similar periods of time. The "similar periods of time" of available commercial loans will be measured against, but need not be the same as, the remaining or original term of the FmHA loan. In the case of Multi-Family Housing (MFH) loans, "reasonable rates and terms" would be considered to mean financing that would allow the units to be offered to eligible tenants at rates consistent with other FmHA multi-family housing.

Servicing official. The District or County Office official responsible for the immediate servicing functions of the borrower.

Standard. These loan accounts are fully acceptable by FmHA standards. Loan risk and potential servicing costs are higher than would be acceptable to other lenders, but are adequately secured. Repayment ability is adequate, and there is a high probability that all loans will be repaid as scheduled and in full. This is the same definition as found in FmHA Instruction 2006–W (copy available in any FmHA County Office).

Trial referral. A program whereby lenders voluntarily participate in reviewing selected financial information supplied by servicing officials on non-Farmer Programs borrowers who have been selected for graduation.

§ 1951.253 Objectives.

(a) The FmHA credit programs will be administered in a manner that will assure they do not supplant or compete with credit available to rural families and groups from other reliable credit sources.

(b) Borrowers must graduate to other credit at reasonable rates and terms when they are able to do so.

(c) If a borrower refuses to graduate, FmHA will liquidate their account under the following conditions:

(1) The borrower has the legal capacity and financial ability to obtain other credit.

(2) Other credit is available from a commercial lender at reasonable rates and terms. In the case of Labor Housing (LH), Rural Rental Housing (RRH), and Rural Cooperative Housing (RCH) Programs, reasonable rates and terms must also permit the borrowers to continue providing housing for low and moderate income persons at rental rates tenants can afford considering the loss of any subsidy which will be cancelled when the FmHA loan is paid in full. The District Director will do a comparative analysis of rents and incomes of tenants living in the FmHA project(s) eligible for graduation and conventionally financed projects of the local area.

(d) The FmHA has the legal ability to enforce borrower graduation. It must be recognized that most, but not all, FmHA notes, security instruments and/or loan agreements contain clauses requiring a borrower to graduate when other credit can be obtained. The clause may say "upon reasonable terms and conditions," "on terms prevailing in the area for loans for similar periods or time and purpose," or "at reasonable rates and terms for loans for similar purposes and periods of time." These three provisions are all construed to mean the borrower agrees to, and FmHA can take, legal action to enforce graduation when FmHA has evidence that commercial credit can be obtained at reasonable rates and terms.

§ 1951.254 Responsibility.

(a) State Directors are responsible for:

(1) Monitoring the review of the graduation process to ensure this subpart is complied with in each State under their jurisdiction.

(2) Meeting with members of the financial community to discuss the FmHA graduation requirements.

(3) The Business and Industry (B&I) Chief is responsible for the graduation review and follow-up on all direct B&I loans.

(b) The District Director, except for B&I loans, is responsible for:

(1) Monitoring the County Office graduation process for compliance with this subpart.

(2) Meeting with local lenders to discuss borrower graduation, underwriting criteria, and to assess general interest in refinancing community program and multiple housing borrowers.

(3) Graduation reviews and follow-up on all community program (except B&I) and multiple housing borrowers.

(4) Follow-up to ensure that County Supervisors are in compliance with this subpart. District Directors will report their findings as set forth in FmHA Instruction 2006–M (available in any FmHA office).

(c) The County Supervisor is responsible for:

(1) Performing graduation reviews and following up on all affected Farmer Programs and Rural Housing accounts.

(2) Meeting with the representatives of the financial community such as insurance and mortgage companies, commercial banks, savings and loan associations, Farm Credit System institutions, and State lender agencies to stay informed of current lending activities, practices, and standards to facilitate borrower graduation.

(d) FmHA may use private contractors to assist in FmHA graduation activities. See FmHA Instruction 2024–A, exhibit D (available in any FmHA office) for contracting program authority guidance.

§ 1951.255 Nondiscrimination.

All loan servicing actions described in this subpart will be conducted without regard to race, color, religion, sex, familial status, national origin, age, or physical or mental handicap.

§ 1951.260 Reaching an understanding with applicants and borrowers.

(a) Prior to loan closing, the FmHA official will thoroughly discuss the graduation requirements, along with those items contained in exhibit C of subpart A of part 1910 of this chapter (available in any FmHA office), if applicable, with the applicant and document the discussion in the running case record or other form provided for this purpose. For Farmer Programs, County Supervisors must discuss FmHA's use of prospectus information to assist in graduation, the contents of FmHA Guide Letter 1951–F–9 (available in any FmHA office), and have the applicant or borrower sign the attachment to Guide Letter 1951–F–9. During the discussion, the applicant will also be informed that:

(1) FmHA loans are a temporary source of credit; and that borrowers are required to refinance their loans when credit is available at prevailing rates and terms.

(2) FmHA expects them to comply with FmHA's graduation requirements, evidenced by the legally binding graduation clauses in the FmHA promissory note, security instrument and/or loan agreement.

(3) Borrowers accounts are periodically reviewed for graduation.

(4) The borrower will be required to provide financial information upon request.

(5) In certain cases, prepayment restrictions and/or other limiting conditions will be considered in the graduation process.

(6) Requests for an additional loan, subordination, or consent to incur additional indebtedness will not normally be approved until an outstanding graduation request is resolved. (See § 1951.265 of this subpart.)

(b) The servicing official will periodically discuss graduation requirements with borrowers during routine field visits, office, and servicing contacts.

§ 1951.261 Survey of lender criteria and policies.

Borrower graduation efforts are more effective if FmHA officials understand the commercial credit environment. During routine lender contacts and meetings, FmHA officials should explain the graduation requirements and solicit lender underwriting criteria, as well as advice and assistance as to how FmHA borrowers can obtain financing at their institution. Information gathered from these contacts will be summarized in narrative form for each FmHA program and placed with the graduation review list in the District or County Office operational file on other credit. (The servicing official, in lieu of writing a narrative for all programs, may use exhibit A of this subpart for Farmer Programs loans and exhibit B of this subpart for Rural Housing loans.) For Community Program borrowers, the State Director will provide Statewide information to the servicing official pursuant to § 1942.2 (a)(2)(i) of subpart A of part 1942 of this chapter to supplement that obtained at the District level. At a minimum, the narrative for each loan program will contain the following:

(1) Lenders' interest in refinancing FmHA borrowers.

(2) Lenders' rates, terms, fees, loan conditions and policies.

(3) The amount of estimated credit available to FmHA borrowers.

(4) Lenders' interest in screening borrowers under the trial referral provisions of § 1951.263 (d) of this subpart.

1951.262 Farmer Programs—graduation of borrowers.

(a) *Annual notice.* All direct Farmer Programs OL borrowers will be sent FmHA Guide Letter 1951–F–8 (available in any FmHA office) on or before October of each year. This letter will remind borrowers of FmHA graduation requirements, and the lifetime OL eligibility limitations, and encourage them to graduate as soon as possible. Information regarding a borrower's OL eligibility status is available through the Finance Office Current/Past Debts Inquiry Screen.

(b) *Create list of prospective lenders.* During routine contacts with local lenders (but at least annually), inquire whether the institutions would be interested in receiving routine prospectus information on FmHA commercial and standard classified borrowers. A list of all lenders will be maintained in the County Office operational file as required under FmHA Instruction 2033–A (available in any FmHA office).

(c) *Graduation review period.* The Finance Office will furnish each County Office, by each January, a loan classification report identifying all direct Farmer Programs borrowers. Graduation reviews should be completed by March 1 of each year.

(d) *Graduation candidates.* Borrowers classified "commercial" or "standard" are considered graduation candidates.

(e) *Perform year-end analysis/assessment.* The borrower must be reviewed as described under § 1924.55 of subpart B of part 1924 of this chapter.

(f) *Screen out obvious borrowers unable to graduate.* If there is an obvious reason(s) that the borrower will be unable to graduate, *e.g.*, example recent bankruptcy, limited resource rate borrower or other extenuating circumstances, the reasons will be documented in the case file and the prospectus *will not* be sent. Borrower Classification Reports must be retained as part of the County Office operational file for graduations.

(g) *Determine borrower eligibility.* If Form FmHA 440–2, "County Committee Certification or Recommendation" has expired, the County Committee will reconsider the applicant's eligibility and execute Form FmHA 440–2. Lenders will be notified in the transmittal letter discussed in paragraph (h) of this section whether an FmHA loan guarantee will be available.

(h) *Send borrower's prospectus to interested lenders.* For those borrowers who do not agree to permit FmHA to distribute their prospectus see paragraph (i) of this section. For borrowers who give FmHA permission on FmHA Guide Letter 1951–F–9 (available in any FmHA office) to send prospectus information to lenders, the following applies:

(1) If the County Supervisor's assessment under § 1924.55 of subpart B of part 1924 of this chapter indicates a borrower would cash flow at commercial interest rates, with or without guaranteed loan interest assistance, the borrower's prospectus will be sent to prospective lenders on the list maintained in the County Office.

(2) The County Supervisor will send the lender(s) a transmittal letter similar to FmHA Guide Letter 1951–F–3 (available in any FmHA office) asking them if they are interested in refinancing the borrower on a guaranteed or non-guaranteed basis. A stamped, self-addressed envelope will be included for the lender(s) to respond.

(i) In cases of a positive lender response(s) to a borrower prospectus:

(A) If the lender indicates a willingness to refinance the borrower without an FmHA guarantee, the borrower will be notified in writing and the lender will be provided with information from the FmHA case file to facilitate the graduation.

(B) If the lender indicates an interest in refinancing the borrower with an FmHA guarantee, refer to Market Placement Applications under § 1980.113 of subpart B of part 1980 of this chapter.

(C) If more than one lender indicates an interest in providing credit, the borrower will select a lender. Refer to § 1951.264 (c) of this subpart for handling borrowers who refuse to cooperate with FmHA graduation requirements following notice of lender interest in refinancing.

(ii) In the case of a negative lender response(s) to a borrower prospectus:

(A) If no lender indicates interest in refinancing the borrower, the graduation review will be concluded for that year.

(B) Note the lender's reason(s) for declining to refinance FmHA in the margin of the borrower classification report. This report is to be retained as part of the County Office operational file for graduations. The borrower's case file must also be documented.

(C) Attempt to determine the obstacle(s) to graduation and reevaluate the supervision and training strategy, performed as part of the assessment process under subpart B of part 1924 of this chapter.

(i) *Borrowers who elect not to permit FmHA to send prospectus information directly to lenders.* (1) Provide each borrower with a copy of their updated prospectus information.

(2) Remind and explain to the borrower that they have refused FmHA permission to contact lenders directly on their behalf. Therefore, the borrower must apply to at least two local lenders who typically finance operations similar to that of the borrower. The borrower must make formal application with each lender and is responsible for any application fees. Letters of denial or

VOL 58 ISS 249 DE 30 1993 UMI

VOL 58 ISS 249 DEC 30 1993 UMI

rejection from lenders without formal application being made cannot be accepted by FmHA.

(3) County Supervisors will allow borrowers 60 days from the date the borrower receives the prospectus information to make application and receive a response from lenders. For good cause, the borrower may be granted a reasonable amount of additional time at the discretion of the County Supervisor. The extension must be justified in the borrower's case file.

(4) If a borrower is unable to graduate, the County Supervisor will verify that a formal application was made. The reason(s) for loan disapproval will be noted in the margin of the Borrower Classification Report, and documented in the borrower's case file. The County Supervisor's supervisory strategy should be reexamined in light of the reasons for lender loan disapproval. The County Supervisor must ensure these deficiencies are factored into the supervisory assistance strategies for that borrower, in accordance with the assessment process under subpart B of part 1924 of this chapter.

(5) All borrowers eligible for commercial credit must graduate. If a borrower refuses to graduate or cooperate with FmHA, their case will be handled in accordance with § 1951.264 (c) of this subpart.

§ 1951.265 Graduation of non-Farmer Programs borrowers.

(a) *The graduation review period.*

(1) Graduation review lists will be prepared as follows:

(i) By October 1 of each year, the Finance Office furnishes the County Office a list of active program borrowers, excluding Farmer Programs borrowers, who are to be considered for graduation.

(A) For single family housing borrowers, the list will contain the names of borrowers who meet the criteria in exhibit C of this subpart (available in any FmHA office). Length of time of the indebtedness will not be a determining factor on single family housing borrowers.

(B) The County Supervisor will, upon receipt of the list, divide RH borrowers identified in paragraph (a)(1)(i)(A) of this section into four groups in such a manner that approximately one-fourth will be reviewed each quarter.

(ii) For Community Programs except for B&I loans which are handled by the B&I Chief, the District Director, using the Rural Community Facilities Tracking System (RCFTS) will generate a list by June 1 of each year, indicating borrowers who have been indebted for at least 5 years.

(iii) By March 1 of each year the State Office will furnish each District Office a list of Multiple Family Housing (MFH) Program borrowers and MFH Program transferees who have assumed loans on new terms and who have been indebted for 15 years in the case of an unsubsidized project and 20 years in the case of a subsidized project. The State Office will compile the list using the Multi-Family Housing Information Status Tracking and Retrieval System (MISTR).

(iv) By October 1 of each year, the County Supervisor, using the Management Records System, will prepare a graduation review list indicating borrowers who have been indebted for at least 6 years under the RL Program.

(A) Borrowers' names with all outstanding loans will appear on the graduation review lists in accordance with the following:

(*1*) Single Family Housing borrowers are first selected for review based on the outstanding loan with the earliest closing date. The graduation review lists compiled in odd-numbered years will include the names of all borrowers whose oldest outstanding loan was closed during odd-numbered calendar years. The same procedure will apply to borrowers whose oldest outstanding loan closed during even-numbered calendar years. Once a borrower has appeared on the graduation review list, the borrower will automatically reappear on the list every 2 years unless screened out by the criteria in exhibit C of this subpart (available in any FmHA office).

(*2*) For Community and Business Programs, graduation review lists will be compiled on the basis of the year in which the initial loan or transfer was closed. The graduation review lists compiled in odd-numbered years will include the names of all borrowers whose loans were closed during odd-numbered calendar years. The same procedure will apply to borrowers whose loans were closed during even-numbered calendar years.

(*3*) If the servicing official or County Committee has knowledge of any other borrower whose financial circumstances have changed sufficiently to warrant consideration, that borrower will also be included in the graduation review.

(B) The servicing official will manage the graduation of borrowers throughout the year to accomplish graduation prior to receiving a new graduation list. The State Director through the issuance of a State supplement will establish program timetables. The National Office will establish reporting requirements to monitor the administration of this subpart.

(2) [Reserved]

(b) *The initial screening.* Upon receipt of the graduation review list, the servicing official will screen the list for borrowers who are clearly unable to graduate. This initial screening will focus upon information immediately available in the borrower's case file and in the operational file on other credit.

(1) The servicing official will not review borrowers who are clearly unable to meet minimum lending criteria.

(2) It will not be necessary to review borrowers with a specified interest rate refinancing ceiling clause in their loan instruments, as long as credit at the specific interest rate is not available from other sources. It will also not be necessary to review borrowers who have notes, security instruments, or loan agreements which do not contain a graduation clause. However, the servicing official will encourage either type of borrower to graduate voluntarily.

(3) A borrower's ability to accept other credit may be limited by factors over which the borrower has little or no control, such as a referendum required by a public body borrower. However, the existence of such factors will not preclude FmHA from requesting a borrower to graduate nor the borrower from making a diligent effort to seek other credit should such a request be made. The prepayment restrictions contained in section 502(c)(1) of title V of the Housing Act of 1949, as amended, for RRH, RCH, and LH loans are factors which must be considered. These prepayment restrictions are found in exhibit A–1 of subpart E of part 1965 of this chapter for LH loans and § 1944.238 of subpart E of part 1944 of this chapter for RRH and RCH loans. Tenant notification requirements and restrictive use provisions, as outlined in § 1965.215 of subpart E of part 1965 of this chapter must also be addressed.

(4) MFH borrowers whose projects have rental assistance (RA) which is being utilized by eligible tenants will not be required to graduate.

(5) The decision reached by the servicing official during the screening process will be briefly documented next to each borrower's name on the graduation review list. If the borrower is eliminated from further review due to an inability to meet established minimum lending criteria and/or policies (see paragraph (b)(1) of this section), specific reasons will be included in the borrower's case file.

(c) *The thorough review.* For borrowers who are not eliminated from the graduation review list by the initial screening, the servicing official will conduct a thorough review of financial information already in the borrower's case file or request additional information. Borrowers, upon request by FmHA, are required to supply such financial information as is necessary to determine whether they are able to graduate to other credit.

(1) For borrowers who are required to submit annual financial statements and for which a copy of the most recent fiscal year's statements are in the borrower's case file, the servicing official will review these statements in accordance with paragraph (c)(4) of this section.

(2) In cases where copies of the most recent year's financial statements are not in the borrower's case file, FmHA Guide Letter 1951–F–1 (available in any FmHA office), or a letter of similar format, will be used by the servicing official to request the borrower to provide such financial statements within 60 days for group type loans and 30 days for individual type loans. At a minimum, the financial statements requested from the borrower will be a balance sheet and a statement of income and expense. Ordinarily, the financial statements will be those normally required of a particular borrower at the end of that borrower's fiscal year. For borrowers who are not requested to furnish audited financial statements, the balance sheet and statement of income and expense may be of the borrower's own format if the borrower's financial situation is accurately reflected. The following FmHA forms may also be used:

(i) Form FmHA 1944–3, "Budget and/or Financial Statement;" and Form FmHA 431–4, "Business Analysis—Nonagricultural Enterprise," as appropriate.

(ii) Community Programs: Form FmHA 442–2, "Statement of Budget, Income and Equity;" and Form FmHA 442–3, "Balance Sheet."

(iii) Multiple Family Housing: Form FmHA 1930–7, "Multiple Family Housing Project Budget," and Form FmHA 1930–8, "Year End Report and Analysis for Fiscal Year Ending _____."

(3) FmHA Guide Letter 1951–F–2 (available in any FmHA office), or letter of similar format, will be used if the borrower fails to respond to the first request.

(4) The servicing official, with the assistance of the County Committee when applicable, will conduct a thorough review of the borrower's financial and repayment position. For loans to individuals this review is based on the financial position of only the borrower, meaning the person indebted to FmHA as evidenced by the signature on the Promissory Note, Mortgage and/or other security instrument, and not of any other household member, not even a spouse, who is not indebted to FmHA. The thorough review will eliminate borrowers on the graduation review list who are unable to meet the established minimum lending criteria and/or policies. Additional factors to be considered during the thorough review will include:

(i) The borrower's present and potential income to meet the rates, terms, loan fees and conditions of other credit (*i.e.*, debt repayment ability.)

(ii) The borrower's liquid and nonessential assets.

(iii) The borrower's equity in real property (including consideration of any subsidy recapture) and personal property.

(iv) The borrower's repayment history.

(v) The impact graduation would have on typical user costs. User costs, rental rates, lease fees, or other charges, when borrowers rely on collection from these sources for debt repayment, should be reasonable for the area served.

(vi) The Federal, State or local statutory constraints, which may limit the borrower's ability to refinance, such as a referendum required of a public body.

(5) Those borrowers who will not be requested to graduate, as a result of the thorough reviews, will be so noted on the graduation review list and handled in the same manner as those borrowers eliminated during the initial screening process. (See paragraph (b)(5) of this section.)

(6) When a borrower has been requested to provide financial information in accordance with FmHA Guide Letter 1951–F–1 (available in any FmHA office), or letter of similar format, and the subsequent review process (including the trial referrals) determines the borrower will not be requested to graduate, the borrower will be informed in writing that no further action will be considered for this year. FmHA Guide Letter 1951–F–7 (available in any FmHA office) may be used for this purpose.

(7) The servicing official, following the thorough review, will prepare Form FmHA 1951–24, "Results of Borrower Graduation Review," listing only borrowers who will be requested to graduate. Separate Forms FmHA 1951–24 will be prepared for Community Program and Multiple Family Housing borrowers. The servicing official will obtain the advice and written concurrence of the State Director prior to making the request for a borrower to graduate.

(d) *Trial referral.* The servicing official, prior to actually requesting a borrower to graduate as described in paragraph (e) of this section, may make a trial referral. This trial referral can be either verbal or written with individual lenders or by group method and could include all or part of those borrowers selected for graduation in accordance with paragraph (c)(7) of this section. Prospectus information will be obtained from the borrower's file and will be submitted to the lender using FmHA Guide Letter 1951–F–4 (available in any FmHA office) for Rural Housing borrowers, or a letter of similar format. Other data may be added if requested by lenders. The non-Farmer Programs' prospectus will contain the borrower's name, address, original loan amount, date of the loan, the interest rate, and the unpaid loan balance. For borrowers selected for a trial referral, a prospectus will be prepared and provided to each lender who chooses to participate, whose lending area would include the borrower's location and whose criteria the borrower appears to meet. Lenders, following receipt and review of a prospectus, will be encouraged to indicate their willingness to contact the borrower and accept an application for further consideration. If one or more lenders express interest in a particular borrower, the borrower will be provided the lenders' names as possible sources of other credit when the servicing official requests the borrower to graduate. If the lenders participating in the trial referral represent the most likely sources of other credit in a given lending area, and if these lenders fail to show interest in a particular borrower, this is evidence that there is no credit available for that particular borrower and no further effort needs to be made to effect graduation at this time. This information will be noted next to the borrower's name on the graduation review list and the name will be removed from Form FmHA 1951–24 by the servicing official. The lender's participation in the trial referral provision of this paragraph will be optional. Normally, the lender's interest will be determined at the time of the servicing official's survey of lender criteria and policies (see § 1951.261 of this subpart). If one or more lenders indicate a willingness to participate, the servicing official should use the trial referral provision if one or more of the following factors exists:

(1) When the servicing official is not sure that local lenders would be interested in a particular borrower due to such factors as low unpaid balance, location of the security within the

VOL 58 ISS 249 DEC 30 1993 UMI

lending area or other factors not made clear at the time of the servicing official's contact with the local lender.

(2) When there is a substantial cost imposed by the lender on the FmHA borrower for filing a loan application.

(3) When the servicing official has reason to believe borrowers will not actively seek, on a voluntary basis, refinancing credit from those lenders believed to be most willing to consider such credit.

(4) When failure to employ this system would make it difficult or time consuming for the servicing official to identify potential willing lenders in the event the borrower refuses to voluntarily contact lenders.

(e) *Requesting the borrower to graduate.* Borrowers who are to be requested to graduate will be listed on Form FmHA 1951–24. In selecting borrowers who will be required to graduate, the servicing official will give full consideration to the financial strength, income capability, and debtor characteristics which appear to meet lender criteria.

(1) FmHA Guide Letter 1951–F–5 (available in any FmHA office), or a letter of similar format, will be used to request the borrower to graduate. The approximate date by which the borrower will provide evidence of the borrower's ability or inability to graduate will be shown in the Management Records System for appropriate follow-up action. That date, determined by the number of days following the date on which the FmHA Guide Letter 1951–F–5 (available in any FmHA office), or letter of similar format, is mailed to the borrower, will be as follows:

(i) 30 days for Rural Housing borrowers.

(ii) 90 days for group type borrowers.

(iii) Additional time may be allowed, for example, when a borrower expects to receive income in the near future for the payment of FmHA account(s) which would substantially reduce the amount required for refinancing, or when a borrower is a public body and must issue bonds to accomplish graduation.

(2) In applying for other credit, FmHA Guide Letter 1951–F–5 (available in any FmHA office), or a letter of similar format, will inform the borrower to seek a loan only in the amount necessary to repay the unpaid balance of the FmHA debt.

(3) If a borrower is unable to graduate the loan in full, written evidence must be furnished to FmHA by the borrower, showing:

(i) the name(s) of other lender(s) contacted.

(ii) the amount of loan requested by the borrower and the amount, if any, offered by the lender(s),

(iii) the rates and terms offered by the lender(s) or the specific reason(s) why other credit is not available, and

(iv) the purpose of the loan request.

(4) The District Director with the advice of the State Director, or the County Supervisor in consultation with the County Committee, when applicable, will consider new information submitted by the borrower or obtained from other reliable sources following a graduation request. The servicing official must verify all information submitted by the borrower or obtained from other sources to determine the information's reliability and reevaluate the borrower's financial circumstances. If the information submitted is not adequate and/or reliable, the servicing official will contact other sources of credit in the area and document the findings in the borrower's case file. The difference in interest rates between FmHA and other lenders will not be sufficient reason for failure to graduate if that other credit is available at rates and terms which the borrower can reasonably be expected to pay. An exception is made where there is an interest rate ceiling imposed by Federal law or contained in the note or mortgage.

(5) The servicing official may offer to meet with the borrower.

(i) If additional information confirms the borrower will be unable to graduate, the servicing official will notify the borrower in writing that the request to graduate has been withdrawn. The specific reasons for withdrawing the request will be recorded on Form FmHA 1951–24, in the borrower's case file and noted briefly on the graduation review list.

(ii) If the additional information confirms the borrower can graduate, the servicing official will inform the borrower using FmHA Guide Letter 1951–F–6 (available in any FmHA office), or letter of similar format, that legal action will be recommended if positive steps to graduate are not taken in 15 days for individual loans and 60 days for group loans. However, a longer period may be granted by the servicing official if conditions warrant such action.

§ 1951.264 Action when borrower fails to cooperate, respond and/or graduate.

(a) When a borrower with other than Farmer Programs loans fails to:

(1) Provide information following receipt of both FmHA Guide Letters 1951–F–1 and 1951–F–2 (available in any FmHA office), or letters of similar format, such borrowers will not be asked to graduate. They are, at that point, in default of their security instruments, which require the borrower to comply with all future regulations not inconsistent with the security instruments. The servicing official will, based on the borrower's failure to supply information in accordance with § 1951.263(e) of this subpart, prepare the required documents recommending legal action and submit them together with the borrower's case file to the official authorized in § 1955.15 of subpart A of part 1955 of this chapter to approve foreclosure of the loan type involved (approval official) with a written report outlining credit sources contacted by FmHA and the borrower, the reasons given by the borrower for failure to graduate, action taken by FmHA to verify the availability of credit, and the borrower's available financial resources along with any other data pertinent to the case. The approval official may, with the concurrence of the Office of the General Counsel (OGC), when appropriate, accelerate the account based on the borrower's failure to perform as required by this subpart and the loan and security instruments. For Single Family Housing loans, written concurrence of the OGC is required before accelerating an account.

(2) Apply for or accept other credit following receipt of both FmHA Guide Letters 1951–F–5 and 1951–F–6 (available in any FmHA office), or letters of similar format, such borrowers will not be given further notice to graduate but at that point are in default under the graduation requirement of their security instruments. The servicing official will prepare the required documents to recommend legal action and submit them to the approval official as outlined in paragraph (a)(1) of this section.

(b) For borrowers with other than Farmer Programs loans, the official authorized to approve foreclosure will review those cases submitted to his or her office and determine what action must be taken on the basis of FmHA notes, security instruments, and/or loan agreements signed by the borrower and the facts and recommendations provided by the servicing official.

(1) If the approval official determines the borrower is unable to graduate, the graduation request may be withdrawn. The approval official will request the servicing official to notify the borrower and withdraw the graduation request in accordance with § 1951.263(e)(5)(i) of this subpart.

(2) If the approval official determines the borrower is able to graduate, foreclosure action will be initiated in accordance with § 1955.15(d)(2)(ii) of subpart A of part 1955 of this chapter. If the borrower's account is accelerated, the borrower will be given the right to appeal the decision in accordance with subpart B of part 1900 of this chapter. The advice of the OGC is required before accelerating the account. For Single Family Housing loans, written concurrence of the OGC is required before accelerating the account.

(c) When a Farmer Programs loan borrower fails to cooperate with FmHA and the commercial lender following notification in writing of a lender's willingness to seriously consider their loan application for refinancing FmHA, the County Supervisor will refer the case to the District Director. If the District Director concurs with the County Supervisor, the District Director will also notify the borrower that failure to cooperate will cause their account to be referred for legal action. If the District Director receives no satisfactory response from the borrower within 10 days of written notification, the case will be forwarded to OGC through the State Office for concurrence.

(1) If the District Director or the OGC do not concur with the County Supervisor's decision to take legal action to liquidate the account, the District Director after consultation with the Farmer Programs staff will return the case to the County Supervisor with appropriate instructions for future loan eligibility and servicing.

(2) If the District Director and OGC concur with the County Supervisor's decision to take legal action to liquidate the account, the case will be returned to the County Supervisor. The County Supervisor should use the appropriate statement on exhibit B–2 to subpart B of part 1900 of this chapter and use it to notify the borrower of FmHA's intent to accelerate the account and to foreclose for failure to graduate or failure to provide requested information. Any appeal will be conducted in accordance with the regulations in subpart B of part 1900 of this chapter. If the borrower does not appeal the notice of intent to accelerate or if the adverse decision is upheld, the County Supervisor will send the case to the District Director for acceleration of the account in accordance with subpart A of part 1955 of this chapter. Exhibit D of subpart A of part 1955 of this chapter (available in any FmHA office) will be completed in accordance with the exhibit to delete the statement regarding deferrals.

(3) If the borrower appeals the County Supervisor's decision to accelerate and liquidate the account and the decision is reversed, the District Director after consultation with the Farmer Programs staff will provide the County Supervisor appropriate instructions on the borrower's eligibility for future FmHA financing and servicing.

§ 1951.265 Application for subsequent loan, subordination, or consent to additional indebtedness from a borrower who has been requested to graduate.

(a) Any borrower who appears to meet the local commercial lending standards, taking into consideration FmHA's loan guarantee program, will not be considered for a subsequent loan, subordination, or consent to additional indebtedness until the borrower's ability or inability to graduate has been confirmed. An exception may be made where the proposed action is needed to alleviate an emergency situation, such as meeting applicable health and/or sanitary standards which require immediate attention.

(b) In situations where the borrower has been requested to graduate and has also been denied a request for a subsequent loan, subordination, or consent to additional indebtedness, appeal rights should be given simultaneously for both issues.

(c) When FmHA's graduation request has been upheld through the appeals process, any request for additional assistance under this section may be denied without further appeal rights.

§ 1951.266 Special requirements for MFH borrowers.

All requirements of subpart E of part 1965 of this chapter must be met prior to graduation and acceptance of the full payment from an MFH borrower. The State Director will provide the National Office with a report as described in §§ 1965.215(e)(1) and 1965.219 of subpart E of part 1965 of this chapter. The original report and documentation for the report will be retained indefinitely in the State Office.

§ 1951.267 Documents for the Office of the General Counsel (OGC) review.

When the State Director requests advice pertaining to a graduation request, the borrower's case file will be sent to the OGC and will include:

(a) Organizational documents;

(b) Debt instruments;

(c) Security instruments, including loan agreements and/or resolutions;

(d) Recent financial data;

(e) The servicing official's survey of lender criteria and policies.

(f) The servicing official's narrative outlining factors considered and specific reasons for making graduation request of the borrower.

(g) Copies of the letter requesting borrower to graduate and all subsequent correspondence between servicing official and borrower relative to the graduation request;

(h) Any other pertinent information, including copies of any Federal, State, or local statutory constraints which may impact on the borrower's ability to refinance.

§ 1951.268 State supplements and guides.

State Directors may supplement this subpart to meet State and local laws, regulations, and practices in accordance with FmHA Instruction 2006–B (available in any FmHA office).

Supart F—[Amended]

20A. Exhibit A of Subpart F is removed and reserved.

PART 1962—PERSONAL PROPERTY

21. The authority citation for part 1962 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Servicing and Liquidation of Chattel Security

22. Section 1962.5 is amended by revising the last sentence of paragraph (c)(3) and adding a new paragraph (e) to read as follows:

§ 1962.5 Security instruments.

* * * * *

(c) * * *

(3) * * * Such additional security agreement usually will be taken at the time of inspections of the security; or

* * * * *

(e) *Filing.* Financing Statements must be filed in all Uniform Commercial Code (UCC) States. In those States where a Central Filing System (CFS) has been adopted and certified by the Packers and Stockyards Administration, FmHA must file under both the UCC (or other applicable State law) and the CFS to protect a security interest in farm products chattel property.

§ 1962.8 [Amended]

23. Section 1962.8 (b) is amended by revising the reference "Form FmHA 427–1," to read "Form FmHA 1927–1."

24. Section 1962.9 is revised as follows:

§ 1962.9 Lien on chattel property as security for a real estate loan.

Form FmHA 440–15, "Security Agreement (Insured Loans to Individuals)," and Form FmHA 440–A25, "Financing Statement (carbon-interleaved)," or Form FmHA 440–25, "Financing Statement," as appropriate, will be used in UCC States. State supplements may provide for use of other forms in Puerto Rico, Guam,

American Samoa and the Northern Mariana Islands.

25. Section 1962.13 is amended by revising the section heading, redesignating the introductory text and paragraphs (a) and (b) as paragraphs (b) introductory text, (b)(1) and (b)(2), respectively; and adding a new paragraph (a) to read as follows:

§ 1962.13 Notification to potential purchasers.

(a) *In States without CFS, the County Supervisor or designee will require all FmHA borrower(s) prior to loan closing or prior to any servicing actions which require taking a lien on farm products, such as crops and livestock, to provide the names and addresses of potential purchasers.* A written notice will be sent by FmHA, certified mail, return receipt requested, to these potential purchasers and will contain the following:

(1) The name(s) and address of the debtor, with signature.

(2) The name(s) and address of the secured party.

(3) The Social Security number or tax ID number of the debtor.

(4) A description of the farm products given as security by the debtor, including the amount of such products where applicable, the crop year, the county in which the products are located, and a reasonable description of the farm products.

(5) Any payment obligation imposed on the potential purchaser buyer by the secured party as a condition for waiver or release of lien. The original or a copy of the written notice also must be sent to the purchaser within one year before the sale of the farm products. The written notice will lapse on either the expiration period of the financing statement or the transmission of a letter signed by the FmHA County Supervisor and showing that the statement has lapsed or the borrower has performed all obligations to the FmHA.

* * * * *

26. Section 1962.16 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 1962.16 Accounting by County Supervisor.

(a) *County Supervisor's responsibility.* The County Supervisor is responsible for maintaining a current record of each borrower's FmHA security and inspecting it as deemed necessary by the County Supervisor in accordance with § 1924.55 of subpart B of part 1924 of this chapter. All inspections will be recorded in the running record of the borrower's file. More frequent inspections should be made for delinquent borrowers or borrowers that have been indebted for less than one full crop year. Whenever an inspection is performed, the County Supervisor will discuss the provisions of §§ 1962.17 and 1962.18 of this subpart with the borrower, and the borrower and County Supervisor will complete and sign Form FmHA 1962–1, in accordance with § 1924.57 of subpart B of part 1924 of this chapter if it has not been previously completed for the year. If a borrower does not plan to dispose of any chattel security, the form should be completed to show this and should be signed. When the County Supervisor has other contacts with the borrower, the County Supervisor should also check for dispositions and acquisitions of security. Changes will be recorded on the form, dated and initialed by the borrower and the County Supervisor. The purpose of all inspections is to:

* * * * *

§ 1962.40 [Amended]

27. Section 1962.40 is amended in paragraph (d) by revising the words "an insured" to read "a direct" in the first sentence, and by revising the word "insured" to read "direct" in the second sentence.

§ 1962.44 [Amended]

28. Section 1962.44 is amended by removing paragraph (a)(4)(i)(B) and redesignating paragraph (a)(4)(i)(C) as (a)(4)(i)(B).

§ 1962.46 [Amended]

29. Section 1962.46 is amended by revising the words "an insured" to read "a direct" in the introductory text of paragraph (c).

§ 1962.47 [Amended]

30. Section 1962.47 is amended by revising the words "an insured" to read "a direct" in paragraph (b)(2)(iv).

31. Exhibit F of subpart A is revised to read as follows:

BILLING CODE 3410-07-M

EXHIBIT F

Position 1

84a

USDA-FmHA
Form FmHA 1962-1
(Rev. 12-93)

AGREEMENT FOR THE USE OF PROCEEDS/RELEASE OF CHATTEL SECURITY

FORM APPROVED
OMB No. 0575-0111

Name _____ Crop Year _____ Page _____ of _____

Date of Security Instrument _____ Beginning Date of this Agreement _____

Property Description

Are any listed items from a previous Form FmHA 1962-1? If so, indicate below with an asterisk (*), and what was the beginning date of that Agreement. _____ (Date)

PLANNED					ACTUAL					
Disposition			Expected Amt. of Proceeds	Use of Proceeds	Disposition			Amt. of Proceeds	Use of Proceeds	Appr'd Yes/No *(initial)*
Quan.	How	Mo.			Quan.	How	Date			

Property Description

PLANNED					ACTUAL					
Disposition			Expected Amt. of Proceeds	Use of Proceeds	Disposition			Amt. of Proceeds	Use of Proceeds	Appr'd Yes/No *(initial)*
Quan.	How	Mo.			Quan.	How	Date			

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0111), Washington, D.C. 20503. Please DO NOT RETURN this form to either of these addresses. Forward to FmHA only.

84b

Property Description

PLANNED

Disposition			Expected Amt. of Proceeds	Use of Proceeds
Quan.	How	Mo.		

ACTUAL

Disposition			Amt. of Proceeds	Use of Proceeds	Appr'd Yes/No (initial)
Quan.	How	Date			

Property Description

PLANNED

Disposition			Expected Amt. of Proceeds	Use of Proceeds
Quan.	How	Mo.		

ACTUAL

Disposition			Amt. of Proceeds	Use of Proceeds	Appr'd Yes/No (initial)
Quan.	How	Date			

Property Description

PLANNED

Disposition			Expected Amt. of Proceeds	Use of Proceeds
Quan.	How	Mo.		

ACTUAL

Disposition			Amt. of Proceeds	Use of Proceeds	Appr'd Yes/No (initial)
Quan.	How	Date			

84c

AGREEMENT FOR THE USE OF PROCEEDS/RELEASE OF CHATTEL SECURITY

In this Agreement the Farmers Home Administration (FmHA) is referred to as *you* and *your*. _____

and _____, the borrower(s), is referred to as *I*, *me*, and *my*. My contact with you will be through the County Supervisor.

In exchange for loans received from the FmHA, I signed Security Agreements with the United States of America. By signing the Security Agreements, I have given you a security interest in all the property described in the Security Agreements. This property has been listed on this form. This property is called collateral. This Form FmHA 1962-1 will expire when all the listed collateral is disposed of, or when any remaining collateral is transferred to a new Form FmHA 1962-1

Do I Have Written Consent To Sell?

I understand that I must obtain written consent before I can sell, exchange, feed to livestock, consume, or in any way dispose of collateral. This Agreement explains how the money or property received from the sale, exchange, or other disposition of collateral may be used. So long as I meet the terms of this Agreement, this Agreement acts as your written consent to dispose of collateral listed on this Agreement. I understand that this Agreement is not intended to restrict my ability to operate my farm or ranch efficiently. It is intended to describe how I will dispose of collateral and to record the sales, exchanges, or other dispositions of collateral.

What Collateral Will Be Sold?

I have listed on this form all collateral that I expect to sell, exchange, feed to livestock, consume, or otherwise dispose of beginning on _____. I understand that you do not expect me to list each animal, bushel, bale or pound of property I plan to dispose of, but that you expect me to list an approximate number.

What is the Projected Date and Price of Sale?

I have listed the approximate date on which I will dispose of collateral. I understand this can be listed by month, quarter, or whatever period best suits my operation. I have also listed the price I expect to receive, and a description of how I plan to use the proceeds. I agree that I will dispose of collateral for its fair market value.

How Do I Project Dates and Prices?

I understand that all dates and figures listed on this form are projections only. You also acknowledge this as part of the Agreement. The figures reflect the crop yields, livestock production numbers, operating expenses, income, and marketing practices that I can reasonably expect, based on my farm records and experience.

The figures are based on my past income, expense, and production levels. You do not require a strict averaging of my past income, expense, and production levels when calculating these projections, and may permit adjustment of those averages to reflect unusually low or high yields, income or expenses that I have had in the past due to circumstances beyond my control. In reaching these figures, you will consider planned changes in my operation.

I understand that the dates and figures used on this form must be consistent with any current Farm and Home Plan or other plan of operation to which you and I have agreed.

When Can Collateral Be Sold to Pay Essential Family Living and Farm Operating Expenses?

You agree to allow me to sell or exchange crops, livestock, and livestock products planned to be marketed in the regular course of business so that I can pay essential family living and farm operating expenses. Essential expenses are those which are basic, crucial, or indispensable.

You also agree to allow me to feed crops to livestock, if the livestock or livestock products are collateral for the FmHA loan(s).

You also agree to alow me to use livestock for food for my family.

What Happens if Someone Else Has a Security Interest in the Collateral I Sell?

I understand that the money from the sale of collateral must always be used to pay anyone who has a security interest that comes before FmHA's security interest.

What Changes Require Your Prior Approval?

I understand that if I want to sell, exchange, or dispose of collateral that is not listed on this form, I must obtain permission from you before I dispose of the collateral.

If I want to dispose of collateral in a way not listed in the "How" section of this form, I must obtain permission from you before disposing of the collateral. For example, if I have listed that all crops will be sold and later decide that some crop is needed for feed, I must obtain permission from you before feeding the crop to the livestock. You must grant permission if this action is necessary to meet essential family living or farm operating needs and if the livestock and livestock products are collateral for the FmHA loan(s).

If I want to use proceeds in a wat not shown on the "Use of Proceeds" section of this form, I must obtain permission from you before the proceeds are used. For example, if I listed that the proceeds from the sale of the crop would be used to pay on my FmHA debt and later find that the money is needed to pay another farm operating expense, I must obtain your permission before that expense is paid. You must grant permission and change the form if the proceeds will be used for essential farm living or operating expenses.

VOL 58 ISS 249 DEC 30 1993 UMI

84d

What Changes Do Not Require Your Prior Approval?

I am not required to obtain your permission before I sell, exchange, or dispose of collateral even if the sale will require a change in the "Quantity", "Month", or "Expected Amount of Proceeds" sections on this form. However, is the sale does result in changes to the "Quantity" section of this Agreement due to higher or lower than expected crop yields or livestock production numbers, I must promptly report this to the County Supervisor. I must also promptly report to the County Supervisor any sale that results in a change to the "Month" or "Expected Amount of Proceeds" section of this form. The County Supervisor will the change this form accordingly.

How Do I Request and Report Changes and How are Changes Made?

I may request and report changes on the form by telephone, letter, or visit to the county FmHA office. A trip to county FmHA office is not always necessary. I understand that when an agreement is reached on a requested change or when I report changes, the County Supervisor must revise the form, initial and date the change, and mark the form "revised". I will also initial the change.

My initials may be obtained by either (1) mailing a copy to me, or (2) asking me to initial the revised form during my next visit to the FmHA office.

If my requested or reported changes would result in a major change in my operation, the County Supervisor may request that I attend a conference. At that conference, the County Supervisor and I will develop a new Farm and Home Plan and revise this form.

What if You and I Do Not Agree?

If you and I disagree on how to complete or make changes on this form, you must send me a letter which describes the items on which we do not agree. The letter must explain why we do not agree. The letter must also tell me how I may appeal your decision.

Until the appeal is decided, you must release any other proceeds on which you and I have agreed.

When my appeal is decided, the County Supervisor will ask me to sign a new Farm and Home Plan and Form FmHA 1962-1, which reflects then decision on the appeal.

If I do not sign the new agreement, the County Supervisor will give me a copy of the forms and tell me that the Government considers this Agreement to be binding. If I violate this Agreement, the Government will take the actions described below in the section entitled "What Happens if I Violate This Agreement?".

What Happens if I Do Not Cooperate?

I understand that if I do not appeal or if I refuse to cooperate in completing this Agreement, the County Supervisor will complete the form, sign it, and send it to me, The County Supervisior must send a letter with the completed form explaining that the Government will consider the form to be binding on me. I understand that if I violate the new agreement, the Government will take the actions described below in the section entitled "What Happens if I Violate This Agreement?".

Who Are the Potential Purchasers of My Farm Products?

This is a list of purchasers who often buy farm products from me. I have included grain elevators, auction barns, and others who I expect might buy from me.

Farm Product	*Potential Purchasers*	*Business Address*

I understand that you realize that I do not always know in advance who will buy my product. If I cannot identify specific, potential purchasers, I have described below how the farm products will be sold. For example, if I sell farm products at a roadside stand, by advertising in the newspaper, or to neighbors, the exact method of sale is described below.

Description and Method for Sale

Can I Sell to Purchasers Not Listed on This Form?

I understand that I may sell collateral to purchasers other than those listed on this form. If I do this, then I must immediately notify the County Supervisor of what has been sold and the name and business address of the purchaser. I do not need your prior approval.

84e

Does FmHA's Name Have to be on the Check I Receive?

Both FmHA and my name must be listed on all checks, drafts, or money orders which I receive for the sale of collateral listed on this form unless all FmHA installments for the period of this Agreement have been paid; this includes all past-due installments.

Checks made in accordance with an assignment agreement do not have to include both names.

What Records Must I Keep?

I must keep records of how I actually dispose of collateral and how I use the proceeds. I must provide these records to the County Supervisor on request and at the end of the period covered by this Agreement.

Has FmHA Released its Security Interest?

You consent to all sales, exchanges, and other dispositions of collateral listed on this form, so long as I meet the terms of this Agreement. You agree to release your security interest as agreed above. You will provide a formal, written release of Form FmHA 462-12, "Statement of Continuation, Partial Release, Assignment, Etc.", of Form FmHA 460-1, "Partial Release", or other appropriate forms approved by your attorneys when I request it.

What Happens if I Violate This Agreement?

If I sell, exchange, or dispose of collateral and use the money in a way not listed in this Agreement without your permission, I will have violated this loan Agreement and the Government's security interest in the collateral will not be released. You will ask me to pay FmHA an amount equal to the value I received for the collateral involved. I understand that if I pay as requested by FmHA or provide enough information to allow the County Supervisor to approve the sale and use of proceeds, this will cure my violation if it is a first offense. I understand that if I do not so cure a first offense, or if I commit a second offense, you may bring legal action against me. I realize that you may start legal procedures to sell all of my other collateral and refer my case for possible criminal action against me. I understand that if I do not pay as requested, FmHA may also request the purchaser of the collateral to pay FmHA.

Who Can See This Agreement?

Unless you are required to do so by law or court order, you will not release this Agreement or information taken from it outside the United States Government to anyone other than me or my representative.

What Happens if my FmHA Loan Accounts are Accelerated?

I understand that your current regulations say that if I receive an Acceleration Notice from you, this Agreement automatically ends and that you will not afterwards release any proceeds from the disposition of collateral. However, by signing this form, I do not give up the right to challenge your regulations in court and may claim in court that I am entitled to the release of proceeds after acceleration.

This signature is tyo acknowledge that I(we) understand this Agreement and will keep to it.

Date _____ _____

(Borrower)

Date _____ _____

(County Supervisor)

BILLING CODE 3410-07-C

PART 1980—GENERAL

32. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart B—Farmer Programs Loans

33. Section 1980.101 is amended by adding paragraphs (c)(1) and (c)(2) and revising paragraph (e)(2) to read as follows:

§ 1980.101 Introduction.

* * * * *

(c) * * *

(1) *Office of the General Counsel (OGC).* In performing administrative functions with respect to Farmer Programs Loans, FmHA may ask for the advice and assistance of OGC on any legal matter. However, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are met. If FmHA officials have questions concerning a lender's performance or compliance regarding these matters, OGC should be consulted.

(2) *Delegation of Authority.* State Directors should delegate to appropriate staff members the duties and responsibilities stipulated in the Administrative sections of this subpart.

* * * * *

(e) * * *

(2) *Contract of Guarantee* (Operating Loans—Line of Credit only). Lenders desiring a guarantee on a "line of credit" will use the method contained in subpart A of this part. Line of credit loans are guaranteed by Form FmHA 1980–27, "Contract of Guarantee (Line of Credit)." Line of credit notes and agreements may not be sold to a holder(s) by the originating lender, but the originating lender may use participating lenders in accordance with § 1980.119 of this subpart. Any amount advanced by the lender in excess of the line of credit ceiling set forth in the contract is not guaranteed by FmHA.

34. Section 1980.108 (a)(1)(i) is revised to read as follows:

§ 1980.108 General provisions.

(a) * * *

(1) * * *

(i) The lender is responsible for seeing that security is obtained and maintained to protect the interests of the lender and FmHA.

* * * * *

35. Section 1980.109 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 1980.109 Promissory notes, line of credit agreements, security instruments, and financing statements.

* * * * *

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. If the financing statement does not already contain the following provisions, they must be inserted to meet FmHA requirements:

* * * * *

36. Section 1980.113 is amended by revising the words "cash flow" in the third sentence in the introductory text of paragraph (a)(7) to read "case file"; revising paragraphs (a)(6), (a)(7)(ii)(B) and (C), (a)(7)(ii)(D)(*1*), and (a)(11)(ii); and adding new paragraphs (a)(12) and (c) to read as follows:

§ 1980.113 Receiving and processing applications.

* * * * *

(a) * * *

(6) Proposed loan agreement or line of credit agreements between the applicant and lender. Loan Agreements or Line of Credit Agreements will address at least the following:

(i) Any improved management or production practices to be implemented.

(ii) Requirements for accounting, recordkeeping and financial reporting.

(iii) Limitations on the purchase or sale of assets.

(iv) Prohibitions against incurring additional debt or cosigning for the liabilities of others.

(v) Limits on family living expenses.

(vi) Insurance requirements and collateral inspections.

(vii) Purposes for which loan or line of credit funds can be used.

(viii) Interest rate; how and when the rate may fluctuate.

(ix) Credit ceiling, special limitations and/or conditions precedent to annual readvancement or continuation of loans/lines of credit.

(x) Limitations on salaries paid to entity members, hired labor, or consultants. Limitations on living expenses and/or cash withdrawals in the case of sole proprietorships, joint operations, and partnerships.

(7) * * *

(ii) * * *

(B) For those farmers with less than a 5-year production/yield history, the applicant's available production history will be utilized.

(C) For those farmers whose actual history is insufficient to provide an accurate estimate, consider the use of ASCS actual records for specific farms, county averages, State averages, Cooperative Extension Service data, or any other reliable sources of information that are acceptable to the lender, applicant and FmHA.

(D) * * *

(*1*) County average yields will be used for the disaster year(s) in developing a historical base yield. If the applicant's disaster year(s) are less than the County average yields, County average yields will be used for that year(s). If County average yields are not available, State average yields will be used. However, if the applicant's actual yields/production have never equaled the County/State averages, the applicant's actual yields will be used. Once the yield base has been established, plus or minus adjustments may be made to reflect recent or proposed changes that will impact expected yields during the projected budget period. All adjustments must be realistic and supportable by an independent, objective and knowledgeable source.

* * * * *

(11) * * *

(ii) A current, personal balance sheet from all members of a cooperative, joint operators of a joint operation, partners of a partnership, or stockholders of a corporation. A current balance sheet means one that is less than 90 days old at the time of application.

* * * * *

(12) A concise narrative summary of the following items:

(i) The agricultural and nonagricultural enterprises comprising the operation, including any proposed to be added or dropped.

(ii) The real estate used in the operation including significant planned and existing improvements, conservation plans in effect, adequacy of facilities, external factors of negative or positive impact.

(iii) Chattel property, including the adequacy of machinery, equipment, and foundation livestock to carry out the existing or proposed operation.

(iv) The farm business organization and key personnel. For example, the legal business structure, roles, functions and backgrounds of key individuals, the accounting and record keeping system, and agreements for transferring or dissolving the business.

(v) Goals. The short- and long-term business goals of the operation.

(vi) Historical financial data. Significant aspects of the operation's historical performance and current condition.

(vii) Planned changes. Changes to overcome negative trends or other aspects of the operation. Consider such items as improved production techniques or management practices.

* * * * *

(c) *Market Placement applications.* This paragraph explains the requirements for market placement applications for lenders that have expressed interest in financing or refinancing specific direct loan applicants described under § 1910.4(c) of subpart A of part 1910 of this chapter, as well as for "commercial" or "standard" borrowers defined under § 1951.262 of subpart F of part 1951 of this chapter. If more than one lender is interested in providing financing, the direct loan applicant or borrower will rank the lenders in order of preference, and FmHA will present the market placement applications in that order. A market placement application should be certified by the County Committee and be ready for immediate acceptance by the lender and approval by FmHA, subject to the terms and conditions of the Request for Obligation of Funds and Conditional Commitment. The items needed for a market placement application are to be packaged by the County Supervisor and consists of the following:

(1) Assessment of items described under § 1924.55 (b) of subpart B to part 1924 of this chapter.

(2) Environmental requirements in accordance with this subpart and subpart G to part 1940 of this chapter.

(3) The following information must be completed on Form FmHA 1980–25, "Farmer Programs Application":

(i) Type of assistance requested.

(ii) Applicant's name, Social Security number, and mailing address.

(iii) Loan applicant certifications.

(iv) Loan amount, loan type(s), interest rate, percent guarantee requested by lender, loan purpose(s), and proposed security. The County Supervisor will have to adjust the budget projections based on interest rates and terms.

(v) Request for Interest Assistance, if needed.

(vi) Lender certifications.

(4) Form FmHA 1940–3, "Request for Obligation of Funds—Guaranteed Loans."

37. Section 1980.114 is amended by removing the introductory text; by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively; by adding a new paragraph (c); and by revising the section heading, newly redesignated paragraph (d) and paragraphs A. and C. of the ADMINISTRATIVE section to read as follows:

§ 1980.114 FmHA evaluation/assessment of applications.

* * * * *

(c) *Upon receipt of a complete application, the County Supervisor must perform an analysis and document the conclusions in the case file. The County Supervisor must address:*

(1) Whether the proposed loan or line of credit is for authorized purposes, and whether the amounts of borrowed capital are appropriate to successfully carry on the agricultural operation.

(2) The operation's capital position; strengths and weaknesses.

(3) The adequacy of repayment and the operation's outlook for securing non-FmHA guaranteed conamercial credit in the future. If a guarantee request cannot be approved because of inadequate repayment, the County Supervisor will assist lenders in determining whether there are practical alternatives that the loan applicant should consider to make the plan acceptable. However, the farm plan remains the responsibility of the lender and its farm borrower. County Supervisors will only act in a consulting capacity.

(4) The adequacy of security and whether values are reasonable in the County Supervisor's judgement. Also, whether the loan terms are consistent with the useful life of the security and FmHA regulations.

(5) The reasonableness of the projected budget in light of the stated goals of the loan applicant.

(d) *Indication of unacceptability.* If the application for a guarantee cannot be approved for reasons that would not be affected by the County Committee certification, the County Supervisor will so inform the lender and the loan applicant in writing within 5 calendar days of the decision. If the County Supervisor concludes that there may be practical alternatives to help achieve a positive cash flow, those alternatives will be provided to the lender and loan applicant. This is in addition to the factual reasons for the adverse decision that must be clearly stated along with notice of the opportunity for an appeal as set out in subpart B of part 1900 of this chapter.

* * * * *

Administrative:

* * * * *

A. Determine if the information submitted is complete. Document in the case file all assumptions, observations, data, and any other factual information used to arrive at conclusions and final decisions regarding the application.

* * * * *

C. Determine if the proposed collateral is adequate, the repayment plan is realistic, the loan agreement is satisfactory, and any significant loan and management controls are needed. These must be based on prudent lending principles, but with consideration to local lending practices. Special requirements that are to be made an approval condition will be discussed with the lender and listed on the Conditional Commitment and the loan/line of credit agreement between the lender and loan applicants.

* * * * *

38. Section 1980.129 is amended by removing the ADMINISTRATIVE section and revising the introductory text to read as follows:

§ 1980.129 Planning and performing development.

The lender is responsible for seeing that any buildings or other improvements or major land development to be paid for with loan funds are properly completed within a reasonable period of time. The lender is responsible for perfecting the required lien in the security, which includes ensuring that the security property is free of any mechanic's, materialmen's or other liens which would affect lien priority. All major construction, major repairs, and major land development must be performed by qualified parties under conditions considered standard and prudent by commercial lenders and their financial regulators. Form FmHA 449–11, "Certificate of Acquisition or Construction" must be completed and submitted to FmHA. In connection with construction, the lender is responsible for:

* * * * *

39. Section 1980.130 ADMINISTRATIVE is amended by revising paragraph C. to read as follows:

§ 1980.130 Loan servicing.

* * * * *

Administrative:

* * * * *

C. The County Supervisor is responsible for monitoring the borrower's activities to ensure the borrower's goal achievement as follows:

1. As part of the County Supervisor's review of case files selected for review under paragraph B of this Administrative Section, progress made in attaining business goals will be discussed with the lender and noted in the FmHA case files.

2. When a loan becomes delinquent, updated financial information will be obtained and analyzed by the lender. The County Supervisor will review both the lender's report and borrower's case file to assist in determining the nature of the delinquency and to suggest a course of action that will eliminate the delinquency and correct the underlying problem(s). However, FmHA's capacity in this regard is one of a consultant and the lender is under no obligation to follow FmHA advice or suggestions in choosing servicing options.

* * * * *

§ 1980.153 [Amended]

40. In § 1980.153, General-Administrative section is removed.

VOL 58 ISS 249 DEC 30 1993 UMI

§ 1980.1751 [Amended]

41. Section 1980.175 is amended in the first sentence of paragraph (b)(1)(i) by revising the reference "§ 1980.106 (b)(21)" to read "§ 1980.106 (b)."

Dated: December 9, 1993.

Bob J. Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 93-31294 Filed 12-29-93; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-ANE-73]

Airworthiness Directives; Hamilton Standard Models 14RF-9 and 14RF-21 Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Hamilton Standard Models 14RF-9 and 14RF-21 propellers. This proposal would require replacing composite propeller blade retaining rings with aluminum retaining rings. This proposal is prompted by a report of failure of the propeller blade composite retaining rings under extreme inflight loading conditions, which resulted in propeller blades exiting the hub. The actions specified by the proposed AD are intended to prevent cracking and failure of propeller blade composite retaining rings, which can result in propeller blade separation.

DATES: Comments must be received by February 28, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-ANE-73, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Hamilton Standard, One Hamilton Road, Windsor Locks, CT 06096-1010. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Francis X. Walsh, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7158, fax (617) 238-7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-ANE-73." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-ANE-73, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

On April 29, 1993, an Embraer EMB-120 commuter aircraft experienced a severe inflight upset during climb-out to a cruise altitude of 20,000 feet. The inflight upset resulted in extreme aircraft maneuvers that greatly exceeded the normal flight envelope. The loads imposed by these maneuvers resulted in the loss of two engine mounts and three Hamilton Standard Model 14RF-9 propeller blades on the left engine of the aircraft. The Federal Aviation Administration (FAA) conducted an investigation and determined that the propeller blades exited the propeller hub after the failure of the propeller blade composite (Rynite) retaining rings due to the extreme loads imposed by these maneuvers. In addition, the FAA has determined that the Hamilton Standard Model 14RF-21 propellers installed on Construcciones Aeronauticas, SA (CASA) CN-235 series aircraft also utilize the propeller blade composite retaining rings, though there have been no reported failures to date on this model. This condition, if not corrected, could result in cracking and failure of propeller blade composite retaining rings, which can result in propeller blade separation.

The FAA has reviewed and approved the technical contents of Hamilton Standard Service Bulletin (SB) No. 14RF-9-61-25, Revision 3, dated December 15, 1991, applicable to Hamilton Standard Model 14RF-9 propellers installed on Embraer EMB-120 series aircraft, and SB No. 14RF-21-61-34, Revision 2, dated June 10, 1993, applicable to CASA CN-235 series aircraft. These SB's describe procedures for replacing propeller blade composite retaining rings with aluminum retaining rings. Earlier revisions of these two SB's differ only by minor editorial and typographical changes and do not impact the technical content of the procedures. Replacement of propeller blade composite retaining rings with aluminum retaining rings accomplished in accordance with previous revisions of Hamilton Standard SB No. 14RF-9-61-25 and SB No. 14RF-21-61-34 constitutes an acceptable alternate means of compliance to the requirements of this AD.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacing propeller blade composite retaining rings with aluminum retaining rings. Due to limited parts availability, a compliance end date of one year after the effective date of this AD has been established to ensure timely compliance without adversely affecting flight safety. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 170 Hamilton Standard Model 14RF-9 propellers installed on Embraer EMB-120 series aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per propeller to accomplish the proposed actions, and that the average labor rate is $55 per work hour.

Required parts would cost approximately $3415 per propeller. The FAA estimates that there are 250 Hamilton Standard Model 14RF-21 propellers installed on Construcciones Aeronauticas, SA (CASA) CN-235 series aircraft worldwide, but currently none are installed on CASA CN-235 series aircraft of U.S. registry. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $589,900.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Hamilton Standard: Docket No. 93-ANE-73. *Applicability:* Hamilton Standard Models 14RF-9 and 14RF-21 propellers, installed on but not limited to Embraer EMB-120 series and Construcciones Aeronauticas, SA (CASA) CN-235 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking and failure of propeller blade composite retaining rings, which can result in propeller blade separation, accomplish the following:

(a) Within one year after the effective date of this AD, accomplish the following:

(1) For Hamilton Standard Model 14RF-9 propellers installed on Embraer EMB-120 series aircraft, replace propeller blade composite (Rynite) retaining rings with aluminum retaining rings in accordance with Hamilton Standard Service Bulletin No. 14RF-9-61-25, Revision 3, dated December 15, 1991.

(2) For Hamilton Standard Model 14RF-21 propellers, installed on CASA CN-235 aircraft, replace propeller blade composite (Rynite) retaining rings with aluminum retaining rings in accordance with Hamilton Standard Service Bulletin No. 14RF-21-61-34, Revision 2, dated June 10, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on December 22, 1993.

Mark Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93-31906 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93-CE-27-AD]

Airworthiness Directives: Luscombe Model 8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede AD 79-25-05, which currently requires repetitively inspecting the existing aluminum vertical stabilizer forward attach fitting for cracks on Luscombe Model 8 series airplanes, and replacing any cracked parts. Steel fittings are now available that would eliminate repeated removal and inspection of the aluminum fitting, which could result in damage to the fasteners holes. The proposed action would require replacing the existing aluminum fitting with a steel vertical stabilizer forward attach fitting. The actions specified by the proposed AD are intended to prevent failure of the vertical stabilizer as a result of a cracked fitting, which could result in loss of control of the airplane.

DATES: Comments must be received on or before March 11, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-CE-27-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service parts that are referenced in the proposed AD may be obtained from the Univair Aircraft Corporation, 2500 Himalya Road, Aurora, Colorado 80001; telephone (303) 375-8882. Information that relates to the proposed AD may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Lirio Liu, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3229 E. Spring Street, Long Beach, California 90806; telephone (310) 988-5229; facsimile (310) 988-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93–CE–27- AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–27–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several reports of Luscombe Model 8 series airplanes having a cracked vertical stabilizer forward attach fitting, part number (P/N) 28444 dr P/N 28453. AD 79–25–05, Amendment 39–3630, currently requires repetitively inspecting the existing aluminum vertical stabilizer forward attach fitting for cracks on these Luscombe Model 8 series airplanes, and replacing any cracked parts.

The initial inspection (dye penetrant) of AD 79–25–05 is the only inspection that requires removal of the attach fitting. The 100-hour repetitive inspection only requires a visual inspection without requiring removal of the attach fitting. In order to consistently detect cracks, the fitting should be removed for each inspection. Repeatedly removing the vertical stabilizer forward attach fitting could result in damage to the fastener holes. FAA policy is that long-term continued operational safety is better assured by design changes to remove the source of the problem, rather than by repetitive inspections.

The Univair Aircraft Corporation has manufactured steel fittings, P/N U28444, under a parts manufacturer approval (PMA).

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that (1) replacing the existing aluminum attach fitting with a steel fitting on Luscombe Model 8 series airplanes will prevent failure of the vertical stabilizer as a result of a cracked fitting; and (2) AD action should be taken to ensure that the aluminum fitting is replaced.

Since an unsafe condition has been identified that is likely to exist or develop in other Luscombe Model 8 series airplanes of the same type design, the proposed AD would supersede AD 79–25–05 with a new AD that would require replacing the existing aluminum vertical stabilizer forward attach fitting, P/N 28444 or P/N 28453, with a steel fitting manufactured by the Univair Aircraft Corporation (P/N U28444) or FAA-approved equivalent part.

The FAA estimates that 2,029 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $121 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,097,689. This figure is based on the assumption that none of the affected airplane operators have accomplished the proposed action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 79–25–05, Amendment 39–3630, and by adding the following new airworthiness directive:

Luscombe: Docket No. 93–CE–27–AD. Supersedes AD 79–25–05, Amendment 39–3630.

Applicability: Model 8 Series airplanes (all serial numbers), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of the vertical stabilizer as a result of a cracked fitting, which could result in loss of control of the airplane, accomplish the following:

(a) Replace the aluminum vertical stabilizer forward attach fitting, part number (P/N) 28444 or P/N 28453, with a welded steel fitting manufactured by the Univair Aircraft Corporation, P/N U28444, or an FAA-approved equivalent part. Accomplish this replacement in accordance with the procedures in Figure 1 of this AD.

Figure 1—Installation Instructions

Tools required: 1/8 box end wrench, 3/8 socket with >6-inch extension (wobble preferred), 7/16 box end wrench and 7/16 socket, long drift or punch, 6 ounce hammer, a 6-inch by 8-inch scrap of .020 or .025 aluminum, a small flashlight, an inspection mirror, a small screwdriver, and pliers. A drill and 90-degree adapter, drill sizes No. 30 and No. 21, a rivet hammer, and appropriate sets will also be needed.

1. If installed, disconnect the battery ground lead or mark the master and navigation light switches so that they will not operate.

2. Locate and disconnect the navigation light wire. This wire is just above the tailwheel, between the rudder and vertical stabilizer. Tape the loose end on the fuselage side so that it does not slip into the tailcone.

3. Count the number of washers, locate the washers on the rudder hinge pins, and record this information to use during re-assembly and rigging.

4. Use a screwdriver to remove both triangular fairings between the vertical and horizontal stabilizer.

5. Remove the rudder control and tailwheel control mounting hardware.

Note 1: This is an opportune time to inspect the rudder horn holes for wear and elongation.

6. Remove the lower rudder hinge pin bolt and nut from the lower rudder hinge.

7. Remove the upper rudder hinge pin bolt and nut from the upper rudder hinge. Have an assistant secure the rudder and use the small screwdriver and gently pry loose the rudder from the hinge pins. The pins and washers may drop out so be prepared to catch them. Remove the rudder and set it aside in a safe place.

8. Loosen the three mounting bolts at the rear vertical stabilizer attach fitting. Using the scrap aluminum to protect the elevator fairings and horizontal rear spar area, drive and pull the top (long) mounting bolt out and set it aside.

9. Move to the front vertical stabilizer fitting and loosen all four of the mounting bolts. Use the screwdriver and pliers to remove them. Note and record the number of shims between the fitting and bulkhead No. 7.

10. Move to the rear fitting of the vertical stabilizer and remove the two lower (short) mounting bolts. The vertical stabilizer should be free of the airplane and ready for the fitting replacement operation.

11. Mounting of the vertical fin to remove the front attachment fitting is best done by supporting the rear spar on the bench or in a vice with ½-inch plywood supporting the skins on each side.

12. Using a small square or piece of cardboard, measure from the center of the first spar side rivet to the centerline of the tubing in the old fitting. Note this dimension since it will be the same when installing the new fitting.

Note 2: Although not required, it is recommended that you accomplish an inspection in the areas of bulkhead Nos. 7 and 8 for cracks using a flashlight and mirror. This may be accomplished by removing the lower rudder hinge bracket and closely inspecting the bulkhead for cracks using your flashlight and mirror. Cracks can occur in the bulkhead No. 8 area from tailwheel shimmy and improperly adjusted rudder cables. When inspecting the bulkhead No. 7 area, pay particular attention to cracks near and around the steel reinforcement horseshoe that is in the top section where the front fin fitting bolts up. Use your flashlight in the tail cavity between bulkhead Nos. 7 and 8. Closely inspect the front horizontal stabilizer bracket for cracks and corrosion. Remount the lower rudder hinge bracket after the inspection is complete.

13. After firmly mounting the fin, center punch the bottom six rivets on both sides of the front spar and the four mounting rivets that are accessible from under the leading edge or behind the rear of the fitting.

14. Remove the side rivets in the spar that pass through the front fitting with a No. 30 drill.

15. Remove the four larger rivets in the spar web utilizing a No. 21 drill. An angle drill attachment is the best tool for this procedure; however, it can be accomplished with a regular drill or small cold chisel on the fitting side.

16. Locate the new fitting in the spar and measure the dimension from the tube centerline to the first rivet hole as noted in step No. 12 during disassembly. Drill two holes, one on each side of the spar/fitting and locate the fitting with a screw or cleco temporarily.

17. Using the temporary mounting, refit the stabilizer to the airplane as a trial and install shims to ensure that there is little or no preload on the rear spar mounting attachment holes. Shimming the fitting with 2024 T3 sheet stock is permitted in order to align the holes and avoid preload on the fittings at the rear spar.

18. When the installation fit is accomplished, remove the fin and locate the remaining mounting holes.

19. Corrosion proof the fitting to the spar attachment area with a dielectric tape, epoxy primer, or other corrosion deterrent.

20. Install rivets on the sides of the spar. One-eighth (1/8)-inch rivets (dimplehead) or AN3–2 bolts with elastic stop nuts in the four rivet holes located in the spar web may be utilized for this procedure.

21. Complete the installation of the vertical fin by accomplishing procedures 1 through 10 in reverse order (10, 9, 8, etc.)

22. Reinstall the fin using enough shims to reduce preload on the fittings and fin side skins. They should not pull or ripple.

23. When rigging the rudder, ensure that TC data sheet limits are met. Rig so that a side load in the lower hinge point does not occur.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office (ACO), 3229 E. Spring Street, Long Beach, California 90806. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Information that relates to this document may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) This amendment supersedes AD 79–25–05, Amendment 39–3630.

Issued in Kansas City, Missouri, on December 22, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–31900 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 175

Receipt of Domestic Interested Party Petition Concerning the Classification of Flat Goods With Outer Surface of Reinforced or Laminated Plastics

AGENCY: Customs Service, Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party concerning the tariff classification of flat goods with outer surface of reinforced or laminated plastics.

Under our prior tariff schedule, the Tariff Schedules of the United States (TSUS), reinforced and laminated plastics were defined so as to include only rigid plastics. However, Customs has held in certain rulings that the tariff provision for reinforced or laminated plastics in the Harmonized Tariff Schedule of the United States (HTSUS) includes articles with outer surface of plastic sheeting backed or combined with textile materials.

Because this interpretation has the effect of enlarging the scope of the provision for reinforced or laminated plastics to encompass non-rigid plastics, certain flat goods formerly dutiable at 20 percent *ad valorem* under the TSUS now enter the U.S. under the provision for reinforced or laminated plastics of the HTSUS, which is dutiable at a rate of 12.1 cents per kilogram + 4.6 percent *ad valorem*. The petitioner challenges Customs interpretation of reinforced or laminated plastics under the HTSUS. This document invites comments regarding the correctness of Customs interpretation and its resulting classification of the flat goods with outer surface of reinforced or laminated plastics.

DATES: Comments must be received on or before February 28, 1994.

ADDRESSES: Comments (preferably in triplicate) may be submitted to the U.S. Customs Service, Office of Regulations and Rulings, Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments may be viewed at the Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carlos Halasz, Commercial Rulings Division, U.S. Customs Service, (202) 482–7050.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), a petition has been filed by a domestic interested party concerning the classification of flat goods with outer surface of reinforced or laminated plastics in subheading 4202.32.1000, HTSUS.

Flat goods is a term used to describe small containers designed to be carried on the person, such as wallets, billfolds, coin purses and spectacle cases. These articles may be composed of reinforced or laminated plastics. Schedule 7, Part

12, Subpart A, Headnote 2, TSUS, provided that flat goods of reinforced or laminated plastics were limited to articles composed of rigid plastic materials.

Under the TSUS, item 706.42 provided for flat goods of reinforced or laminated plastics, dutiable at 5.5 cents/pound + 4.6 percent *ad valorem*. The analog to this provision under the HTSUS is subheading 4202.32.1000, which provides for containers of a kind normally carried in the pocket or in the handbag; with outer surface of plastic sheeting; of reinforced or laminated plastics. Subheading 4202.32.1000 is subject to a Column 1 rate of duty of 12.1 cents/kilogram + 4.6 percent *ad valorem*.

After the HTSUS became effective, Customs initially concluded that the definition of "reinforced or laminated plastics" contained in the TSUS continued to be applicable under the HTSUS. See Headquarters Ruling Letter (HRL) 083261, dated September 14, 1989; HRL 084020, dated June 7, 1989; HRL 083415, dated May 18, 1989. In these decisions, Customs recognized that the term was not defined in the HTSUS. However, Customs determined that the definition of this phrase as set forth in the TSUS represented its common and commercial meaning. Hence, only rigid plastics were classifiable in subheading 4202.32.1000.

However, in HRL 950048, dated March 2, 1992, Customs revisited this issue. In that ruling, Customs observed that the classification of a container under heading 4202, HTSUS, is made with reference to its outer surface. The merchandise which is the subject of this notice are flat goods with outer surface of plastic sheeting.

Articles classified as plastics are subject to Chapter 39, HTSUS. Heading 3921, HTSUS, when read in conjunction with heading 3920, encompasses plastic sheets reinforced, laminated, or similarly combined with other materials. The terms "reinforced" and "laminated" plastic sheeting under these headings describe plastics which are combined or backed with other materials. See also Section XI, note 1(h); Chapter 56, note 3; Chapter 59, note 2. Plastics which are combined or backed with other materials are not restricted to rigid plastics.

As reinforced or laminated plastic sheeting of heading 3921 is not restricted to rigid plastics, Customs concluded that flat goods of reinforced or laminated plastics cannot be limited to rigid plastics. Accordingly, Customs found that the definition of "reinforced or laminated plastics" found in the TSUS was not applicable under the HTSUS. This determination has been affirmed and further explained in subsequent Headquarters rulings. See HRL 953130, dated January 6, 1993; HRL 953128, dated January 6, 1993; HRL 951905, dated January 6, 1993; HRL 950983, dated June 15, 1992; HRL 950567, dated March 2, 1992.

Petitioner contends that the term "reinforced or laminated plastics" has a common and commercial meaning distinct from the reinforced or laminated plastic sheeting described in heading 3921. As the phrase "reinforced and laminated plastics" is not specifically defined in the HTSUS, petitioner states that it must be carried over to the HTSUS. Therefore, the subheading for flat goods with outer surface of plastic sheeting, of reinforced or laminated plastics, is limited to articles which have an outer surface of rigid plastics. Consequently, flat goods with outer surface of non-rigid plastics are properly classified under subheading 4202.32.2000, HTSUS. In support of this proposition, petitioner cites the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100–418, which states that the conversion from the TSUS to the HTSUS was intended to be essentially revenue-neutral.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on this issue. The petition of the domestic interested party, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

Authority: This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21 (a)).

George J. Weise,

Commissioner of Customs.

Approved: December 6, 1993.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 93–31794 Filed 12–29–93; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

26 CFR Part 1

[EE–6–93]

RIN 1545–AR54

Limitation on Annual Compensation for Qualified Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of hearing.

SUMMARY: This document contains proposed amendments to the final regulations relating to the compensation limit for tax-qualified retirement plans under section 401(a)(17) of the Internal Revenue Code of 1986. These regulations reflect changes made by the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, and the Omnibus Budget Reconciliation Act of 1993. These regulations provide guidance necessary to comply with the law and affect sponsors of, and participants in, tax-qualified retirement plans. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by February 28, 1994. Requests to speak (with outlines of oral comments) at a public hearing scheduled for Thursday, March 17, 1994, at 10 a.m. must be received by Thursday, March 3, 1994.

ADDRESSES: Please send submissions to: CC:DOM:CORP:T:R (EE–6–93), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered to: CC:DOM:CORP:T:R (EE–6–93), Internal Revenue Service, room 5228, 1111 Constitution Avenue, NW., Washington, DC 20224. The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the hearing, Carol Savage, Regulations Unit, Assistant Chief Counsel (Corporate), at (202) 622–8452 (not a toll-free number). Concerning the proposed regulations, David Munroe or Marjorie Hoffman at (202) 622–4606 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Proposed regulations under section 401(a)(17) of the Internal Revenue Code (Code) were published in the **Federal Register** May 14, 1990 (55 FR 19947). Written comments were received from the public on the proposed regulations. In addition, a public hearing on the proposed section 401(a)(17) regulations was held September 26, 27, and 28, 1990. After consideration of all of the written comments received and the statements made at the public hearing, the proposed regulations under section 401(a)(17) were adopted as modified by final regulations (TD 8362) published in the **Federal Register** on September 19, 1991, (56 FR 47603). On August 10, 1992, the Internal Revenue Service published in the **Federal Register** (57 FR 35536) regulations proposing to extend the effective date of the final regulations under section 401(a)(17) (and related regulations), generally to plan years beginning on or after January 1, 1994.

Statutory Authority

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 401(a)(17) of the Code. These regulations reflect the enactment of section 401(a)(17) by section 1106 of the Tax Reform Act of 1986 (TRA '86), and subsequent statutory changes made by section 1011(d)(4) of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) and section 13212 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93). These regulations are issued under the authority contained in section 7805 of the Code.

Explanation of Provisions

1. Overview

Section 401(a)(17) of the Code provides an annual compensation limit for each employee under a qualified plan. This limit applies to a plan in two ways. First, a plan may not base contributions or benefits on compensation in excess of the annual limit. Thus, a plan does not satisfy section 401(a)(17) unless it provides that an employee's compensation in excess of the annual limit is not used in determining allocations or accruals for a plan year to which the annual limit applies. Second, the amount of an employee's annual compensation that may be taken into account in applying certain specified nondiscrimination rules under the Code is subject to the annual compensation limit. Thus, for example, an employee's compensation in excess of the annual limit is disregarded in determining the accrual rates for defined benefit plans under those nondiscrimination rules. The annual compensation limit applies separately to each group of plans that is treated as a single plan for purposes of the applicable nondiscrimination requirement.

2. Changes made by OBRA '93

a. Lower Limit

Prior to its amendment by OBRA '93, the annual compensation limit was $200,000 adjusted for cost of living increases ($235,840 for 1993). Section 401(a)(17) was amended by OBRA '93 to reduce the annual compensation limit to $150,000 and to modify the manner in which cost of living adjustments are made to the limit.

b. Annual Adjustment of Compensation Limit

Prior to the effective date of the OBRA '93 changes, the annual compensation limit was increased annually based on the section 415 cost of living adjustment. After the effective date of OBRA '93, the annual compensation limit, as adjusted for changes in the cost of living, is rounded down to the next lowest multiple of $10,000. Thus, the annual compensation limit increases only when the cost of living adjustment would increase the limit by an increment of at least $10,000. As under the September 1991 regulations, any increase in the limit is effective for the plan year, or other 12-month period used to determine compensation, commencing in the calendar year for which the limit is adjusted. In addition, any increase in the annual compensation limit applies only to compensation for the year of the increase and subsequent years that is used in determining an employee's benefit. Thus, the increase does not apply to prior years' compensation.

3. Effective Date and Transition Rules

Section 401(a)(17) is generally effective for plan years beginning on or after January 1, 1989. The changes made by OBRA '93 are generally effective for plan years beginning on or after January 1, 1994. Special statutory effective dates are provided for collectively bargained plans. In addition, OBRA '93 provides a special grandfather rule for certain eligible participants in governmental plans.

These proposed regulations under section 401(a)(17) are generally effective at the same time that the reduced limit under OBRA '93 applies to the plan. However, in the case of plans maintained by tax-exempt organizations, the proposed regulations are effective for plan years beginning on or after January 1, 1996.

a. Fresh-Start Rules

The proposed regulations retain the rule from the September 1991 regulations that benefits accrued or allocations made under a plan for plan years prior to the effective date of section 401(a)(17) are not subject to the annual compensation limit. The proposed regulations similarly provide that the benefits accrued or allocations made under a plan for plan years prior to the effective date of the OBRA '93 changes are not subject to the reduced annual compensation limit. Thus, for example, an employee's benefits accrued prior to the 1994 plan year, that are based on compensation in excess of the $150,000 annual compensation limit under OBRA '93, are not required to be reduced, and these accruals based on excess compensation are not required to be offset against the employee's benefit accruals in subsequent years.

In order to satisfy the requirements of section 401(a)(17), a defined benefit plan must "fresh start" the benefits of all employees with accrued benefits that are based on compensation that exceeded the annual compensation limit. In order to implement the reduced limit under OBRA '93, a defined benefit plan must again "fresh start" the benefits of all employees with accrued benefits that are based on compensation that exceeded the OBRA '93 $150,000 compensation limit. These proposed regulations provide guidance on the implementation of these and other multiple fresh starts.

In addition, these proposed regulations coordinate the regulations with the fresh-start rules of the section 401(a)(4) regulations and provide examples of the application of those rules. For example, the proposed regulations cross-reference the section 401(a)(4) regulations for the definition of an employee's frozen accrued benefit. Thus, an employee's frozen accrued benefit as of the OBRA '93 effective date includes benefits accrued as a result of an amendment made within the TRA '86 remedial amendment period that is recognized under section 401(b) as effective before the OBRA '93 effective date.

b. Application of $150,000 Limit to Accruals or Allocations in Plan Years for Which OBRA '93 is Effective

The proposed regulations provide generally that benefits accruing or allocations made for plan years beginning on or after the OBRA '93 effective date may not take into account compensation for any plan year in excess of the OBRA '93 annual compensation limit applicable to that

plan year. Thus, compensation for any plan year before OBRA '93 applies to the plan that is used to determine benefits accruing in plan years beginning on or after the OBRA '93 effective date is generally limited to $150,000.

c. Governmental Plans

A special effective date is provided in the regulations for governmental plans (within the meaning of section 414(d)) to provide governmental employers with adequate time to amend their plans to comply with section 401(a)(17). Thus, the regulations provide that these governmental plans will automatically satisfy the requirements of section 401(a)(17) for plan years beginning before the later of January 1, 1996, or 90 days after the opening of the first legislative session beginning on or after January 1, 1996, of the governing body with authority to amend the plan, if that body does not meet continuously.

The regulations implement the grandfather rule in OBRA '93 for individuals who first became participants in governmental plans before the first plan year beginning after December 31, 1995 or, if earlier, the first plan year for which the plan is amended to comply with OBRA '93. Under the grandfather rule, the annual compensation limit will not apply for those individuals to the extent that the limit would reduce the amount of compensation taken into account under the plan below the amount that was allowed to be taken into account under the plan as in effect on July 1, 1993. However, in order for this grandfather rule to apply to a plan, the plan must be amended, effective for plan years beginning after December 31, 1995, to incorporate by reference the annual compensation limits of section 401(a)(17) for those participants who are not grandfathered under OBRA '93.

d. Good Faith Compliance Prior to the Regulatory Effective Date

For plan years beginning on or after the date that section 401(a)(17) first applies to a plan, but before these proposed regulations apply to the plan, the plan must be operated in accordance with a reasonable, good faith interpretation of the requirements of section 401(a)(17). Whether compliance is reasonable and in good faith will be determined on the basis of all of the relevant facts and circumstances, including the extent to which the employer has resolved unclear issues in its favor. Reasonable, good faith interpretation will be deemed to exist, however, if a plan is operated in accordance with the 1990 proposed regulations, the September 1991 regulations, or these proposed regulations. However, for plans maintained by tax-exempt organizations, a reasonable, good faith interpretation must reflect the OBRA '93 amendments to section 401(a)(17).

Reliance on These Proposed Regulations

Taxpayers may rely on these proposed regulations for guidance pending issuance of final regulations. If future regulations are more restrictive, such guidance will be applied without retroactive effect.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. Comments must be received by February 28, 1994.

Because the Treasury Department and the IRS expect to issue final regulations on this matter as soon as possible, a public hearing has been scheduled at 10 a.m. on Thursday, March 17, 1994, in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC. Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building before 9:45 a.m.

The rules of § 601.601(a)(3) apply to the public hearing. Persons who desire to present oral comments at the hearing on the proposed regulations, should also submit, not later than March 3, 1994, a request to speak and an outline of the oral comments to be presented at the hearing stating the time they wish to devote to each subject. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be made after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these proposed regulations are David Munroe and Marjorie Hoffman of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 1.401(a)(17)–1 is revised to read as follows:

§ 1.401(a)(17)–1 Limitation on annual compensation.

(a) *Compensation limit requirement*—(1) *In general.* In order to be a qualified plan, a plan must satisfy section 401(a)(17). Section 401(a)(17) provides an annual compensation limit for each employee under a qualified plan. This limit applies to a qualified plan in two ways. First, a plan may not base allocations, in the case of a defined contribution plan, or benefit accruals, in the case of a defined benefit plan, on compensation in excess of the annual compensation limit. Second, the amount of an employee's annual compensation that may be taken into account in applying certain specified nondiscrimination rules under the Internal Revenue Code is subject to the annual compensation limit. These two limitations are set forth in paragraphs (b) and (c) of this section, respectively. Paragraph (d) of this section provides the effective dates of section 401(a)(17), the amendments made by section 13212 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), and this section. Paragraph (e) of this section provides rules for determining post-effective-date accrued benefits under the fresh-start rules.

(2) *Annual compensation limit for plan years beginning before January 1, 1994.* For purposes of this section, for plan years beginning prior to the OBRA '93 effective date, annual compensation limit means $200,000, adjusted as provided by the Commissioner. The amount of the annual compensation limit is adjusted at the same time and in the same manner as under section 415(d). The base period for the annual adjustment is the calendar quarter ending December 31, 1988, and the first adjustment is effective on January 1, 1990. Any increase in the annual compensation limit is effective as of January 1 of a calendar year and applies to any plan year beginning in that calendar year. In any plan year beginning prior to the OBRA '93 effective date, if compensation for any plan year beginning prior to the statutory effective date is used for determining allocations or benefit accruals, or when applying any nondiscrimination rule, then the annual compensation limit for the first plan year beginning on or after the statutory effective date (generally $200,000) must be applied to compensation for that prior plan year.

(3) *Annual compensation limit for plan years beginning on or after January 1, 1994*—(i) *In general.* For purposes of this section, for plan years beginning on or after the OBRA '93 effective date, annual compensation limit means $150,000, adjusted as provided by the Commissioner. The adjusted dollar amount of the annual compensation limit is determined by adjusting the $150,000 amount for changes in the cost of living as provided in paragraph (a)(3)(ii) of this section and rounding this adjusted dollar amount as provided in paragraph (a)(3)(iii) of this section. Any increase in the annual compensation limit is effective as of January 1 of a calendar year and applies to any plan year beginning in that calendar year. For example, if a plan has a plan year beginning July 1, 1994, and ending June 30, 1995, the annual compensation limit in effect on January 1, 1994 ($150,000), applies to the plan for the entire plan year.

(ii) *Cost of living adjustment.* The $150,000 amount is adjusted for changes in the cost of living by the Commissioner at the same time and in the same manner as under section 415(d). The base period for the annual adjustment is the calendar quarter ending December 31, 1993.

(iii) *Rounding of adjusted compensation limit.* After the $150,000, adjusted in accordance with paragraph (a)(3)(ii) of this section, exceeds the annual compensation limit for the prior calendar year by $10,000 or more, the annual compensation limit will be increased by the amount of such excess, rounded down to the next lowest multiple of $10,000.

(b) *Plan limit on compensation*—(1) *General rule.* A plan does not satisfy section 401(a)(17) unless it provides that the compensation taken into account for any employee in determining plan allocations or benefit accruals for any plan year is limited to the annual compensation limit. For purposes of this rule, allocations and benefit accruals under a plan include all benefits provided under the plan, including ancillary benefits.

(2) *Plan-year-by-plan-year requirement.* For purposes of this paragraph (b), the limit in effect for the current plan year applies only to the compensation for that year that is taken into account in determining plan allocations or benefit accruals for the year. The compensation for any prior plan year taken into account in determining an employee's allocations or benefit accruals for the current plan year is subject to the applicable annual compensation limit in effect for that prior year. Thus, increases in the annual compensation limit apply only to compensation taken into account for the plan year in which the increase is effective. In addition, if compensation for any plan year beginning prior to the OBRA '93 effective date is used for determining allocations or benefit accruals in a plan year beginning on or after the OBRA '93 effective date, then the annual compensation limit for that prior year is the annual compensation limit in effect for the first plan year beginning on or after the OBRA '93 effective date (generally $150,000).

(3) *Application of limit to a plan year*—(i) *In general.* For purposes of applying this paragraph (b), the annual compensation limit is applied to the compensation for the plan year on which allocations or benefit accruals are based.

(ii) *Compensation for the plan year.* If a plan determines compensation used in determining allocations or benefit accruals for a plan year based on compensation for the plan year, then the annual compensation limit that applies to the compensation for the plan year is the limit in effect for the calendar year in which the plan year begins. Alternatively, if a plan determines compensation used in determining allocations or benefit accruals for the plan year on the basis of compensation for a 12-consecutive-month period, or periods, ending no later than the last day of the plan year, then the annual compensation limit applies to compensation for each of those periods based on the annual compensation limit in effect for the respective calendar year in which each 12-month period begins.

(iii) *Compensation for a period of less than 12-months*—(A) *Proration required.* If compensation for a period of less than 12 months is used for a plan year, then the otherwise applicable annual compensation limit is reduced in the same proportion as the reduction in the 12-month period. For example, if a defined benefit plan provides that the accrual for each month in a plan year is separately determined based on the compensation for that month and the plan year accrual is the sum of the accruals for all months, then the annual compensation limit for each month is 1/12th of the annual compensation limit for the plan year. In addition, if the period for determining compensation used in calculating an employee's allocation or accrual for a plan year is a short plan year (i.e., shorter than 12 months), the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short plan year, and the denominator of which is 12.

(B) *No proration required for participation for less than a full plan year.* Notwithstanding paragraph (b)(3)(iii)(A) of this section, a plan is not treated as using compensation for less than 12 months for a plan year merely because the plan formula provides that the allocation or accrual for each employee is based on compensation for the portion of the plan year during which the employee is a participant in the plan. In addition, no proration is required merely because an employee is covered under a plan for less than a full plan year, provided that allocations or benefit accruals are otherwise determined using compensation for a period of at least 12 months.

(4) *Limits on multiple employer and multiemployer plans.* For purposes of this paragraph (b), in the case of a plan described in section 413(c) or 414(f) (a plan maintained by more than one employer), the annual compensation limit applies separately with respect to the compensation of an employee from each employer maintaining the plan instead of applying to the employee's the total compensation from all employers maintaining the plan.

(5) *Family aggregation.* [Reserved]

(6) *Examples.* The following examples illustrate the rules in this paragraph (b).

Example 1. Plan X is a defined benefit plan and bases benefits on the average of an employee's high 3 consecutive years' compensation. Section 401(a)(17) applies to

Plan X in 1989. Employee A's high 3 consecutive years' compensation prior to the application of the annual compensation limits is $215,000 (1989), $200,000 (1988), and $185,000 (1987). To satisfy this paragraph (b), Plan X cannot base plan benefits for Employee A in 1989 on compensation in excess of $195,000 (the average of $200,000 (A's 1989 compensation capped by the annual compensation limit), $200,000 (A's 1988 compensation capped by the $200,000 annual compensation limit applicable to all years before 1989), and $185,000 (A's 1987 compensation capped by the $200,000 annual compensation limit applicable to all years before 1989)). For purposes of determining the 1989 accrual, each year (1989, 1988, and 1987), not the average of the 3 years, is subject to the 1989 annual compensation limit of $200,000.

Example 2. Assume the same facts as *Example 1*, except that Employee A's high 3 consecutive years' compensation prior to the application of the limits is $230,000 (1990), $220,000 (1989), and $210,000 (1988). The 1990 annual compensation limit is $209,200. Plan X cannot base plan benefits for Employee A in 1990 on compensation in excess of $203,067 (the average of $209,200 (A's 1990 compensation capped by the 1990 limit), $200,000 (A's 1989 compensation capped by the 1989 limit), and $200,000 (A's 1988 compensation capped by the $200,000 annual compensation limit applicable to all years before 1989)).

Example 3. (a) Plan Y is a defined benefit plan and bases benefits on the average of an employee's high 3 consecutive years' compensation. Section 401(a)(17) applies to Plan Y in 1989. Assume that, for each of the years 1991–94, Employee B's annual compensation under the plan's underlying definition of compensation prior to the application of the annual compensation limits is $300,000. The annual compensation limit is adjusted to $222,220, $228,860, and $235,840 for plan years beginning January 1, 1991, 1992, and 1993, respectively. To satisfy this paragraph (b), Plan Y cannot base Employee B's plan benefits for 1993 on compensation that exceeds $228,973 (the average of $222,220, $228,860, and $235,840).

(b) As of January 1, 1994, Plan Y is amended to provide that benefits will be determined based on compensation of $150,000 (the limit in effect under section 401(a)(17) for plan years beginning on or after the OBRA '93 effective date). To satisfy this paragraph (b) as of the OBRA '93 effective date, Plan Y cannot base plan benefits accrued for Employee B in plan years beginning on or after the OBRA '93 effective date on compensation that exceeds $150,000, including compensation for years prior to the OBRA '93 effective date. Thus, in determining Employee B's benefits for 1994, the compensation for each of the years 1992, 1993, and 1994 that is taken into account under the plan is capped at the annual compensation limit of $150,000 that applies to each of those years.

Example 4. Plan Z is a defined benefit plan that bases benefits on an employee's high consecutive 36 months of compensation ending within the plan year. Employee C's high 36 months are the period September 1989 to August 1992, in which Employee C earned $50,000 in each month. The annual compensation limit is $200,000, $209,200, and $222,220 in 1989, 1990, and 1991, respectively. To satisfy this paragraph (b), Plan Z cannot base Employe C's plan benefits for the 1992 plan year on compensation in excess of $210,473. This amount is determined by applying the applicable annual compensation limit to compensation for each of the three 12-consecutive-month periods. The September 1989 to August 1990 period is capped by the annual compensation limit of $200,000 for 1989; the September 1990 to August 1991 period is capped by the annual compensation limit of $209,200 for 1990; and the September 1991 to August 1992 period is capped by the annual compensation limit of $222,220 for 1991. The average of these capped amounts is the annual compensation limit applicable in determining benefits for the 1992 year.

Example 5. (a) Employer P is a partnership. Employer P maintains Plan M, a profit-sharing plan that provides for an annual allocation of employer contributions of 15 percent of plan year compensation for employees other than self-employed individuals, and 13.0435 percent of plan year compensation for self-employed individuals. In order to satisfy section 401(a)(17), the plan provides that the plan year compensation used in determining the allocation of employer contributions for each employee may not exceed the annual limit in effect for the plan year. The plan year of Plan M is the calendar year. Plan M defines compensation for self-employed individuals (employees within the meaning of section 401(c)(1)) as the self-employed individual's net profit from self-employment attributable to Employer P minus the amount of the self-employed individual's deduction under section 164(f) for one-half of self-employment taxes. Plan M defines compensation for all other employees as wages within the meaning of section 3401(a). Employee D and Employee E are partners of Employer P and thus are self-employed individuals. Neither Employee D nor Employee E owns an interest in any other business. For the 1991 calendar year, Employee D has net profit from self-employment of $150,000, and Employee E has net profit from self-employment of $230,000. The deduction for each employee under section 164(f) for one-half of self-employment taxes is $5,123.

(b) The plan year compensation under the plan formula for Employee D is $144,877 ($150,000 minus $5,123). The allocation of employer contributions under the plan allocation formula for 1991 for Employee D is $18,897 ($144,877 (Employee D's plan year compensation for 1991) multiplied by 13.0435%). The plan year compensation under the plan formula before application of the annual limit under section 401(a)(17) for Employee E is $224,877 ($230,000 minus $5,123). After application of the annual limit, the plan year compensation for the 1991 plan year for Employee E is $222,220 (the annual limit for 1991). Therefore, the allocation of employer contributions under the plan allocation formula for 1991 for Employee E is $28,985 ($222,220 (Employee E's plan year compensation after application of the annual limit for 1991) multiplied by 13.0435%).

Example 6. The facts are the same as in *Example 5*, except that Plan M provides that plan year compensation for self-employed individuals is defined as earned income within the meaning of section 401(c)(2) attributable to Employer P. In addition, Plan M provides for an annual allocation of employer contributions of 15 percent of plan year compensation for all employees in the plan, including self-employed individuals, such as Employees D and E. The net profit from self-employment for Employee D and the net profit from self-employment for Employee E are the same as provided in *Example 5*. However, the earned income of Employee D determined in accordance with section 401(c)(2) is $125,980 ($150,000 minus $5,123 minus $18,897). The earned income of Employee E determined in accordance with section 401(c)(2) is $195,545 ($230,000 minus $5,123 minus $29,332). Therefore, the allocation of employer contributions under the plan allocation formula for 1991 for Employee D is $18,897 ($125,980 (Employee D's plan year compensation for 1991) multiplied by 15%). Employee E's earned income for 1991 does not exceed the 1991 annual limit of $222,220. Therefore, the allocation of employer contributions under the plan allocation formula for 1991 for Employee E is $29,332 ($195,545 (Employee E's plan year compensation for 1991) multiplied by 15%).

(c) *Limit on compensation for nondiscrimination rules*—(1) *General rule.* The annual compensation limit applies for purposes of applying the nondiscrimination rules under sections 401(a)(4), 401(a)(5), 401(l), 401(k)(3), 401(m)(2), 403(b)(12), 404(a)(2) and 410(b)(2). The annual compensation limit also applies in determining whether an alternative method of determining compensation impermissibly discriminates under section 414(s)(3). Thus, for example, the annual compensation limit applies when determining a self-employed individual's total earned income that is used to determine the equivalent alternative compensation amount under § 1.414(s)-1(g)(1). This paragraph (c) provides rules for applying the annual compensation limit for these purposes. For purposes of this paragraph (c), compensation means the compensation used in applying the applicable nondiscrimination rule.

(2) *Plan-year-by-plan-year requirement.* For purposes of this paragraph (c), when applying an applicable nondiscrimination rule for a plan year, the compensation for each plan year taken into account is limited to the applicable annual compensation limit in effect for that year, and an employee's compensation for that plan year in excess of the limit is disregarded. Thus, if the nondiscrimination provision is applied on the basis of compensation determined over a period of more than one year (for example, average annual compensation), the annual compensation limit in effect for each of the plan years that is taken into account in determining the average applies to the respective plan year's compensation. In addition, if compensation for any plan year beginning prior to the OBRA '93 effective date is used when applying any nondiscrimination rule in a plan year beginning on or after the OBRA '93 effective date, then the annual compensation limit for that prior year is the annual compensation limit for the first plan year beginning on or after the OBRA '93 effective date (generally $150,000).

(3) *Plan-by-plan limit.* For purposes of this paragraph (c), the annual compensation limit applies separately to each plan (or group of plans treated as a single plan) of an employer for purposes of the applicable nondiscrimination requirement. For this purpose, the plans included in the testing group taken into account in determining whether the average benefit percentage test of § 1.410(b)–5 is satisfied are generally treated as a single plan.

(4) *Application of limit to a plan year.* The rules provided in paragraph (b)(3) of this section regarding the application of the limit to a plan year apply for purposes of this paragraph (c).

(5) *Limits on multiple employer and multiemployer plans.* The rule provided in paragraph (b)(4) of this section regarding the application of the limit to multiple employer and multiemployer plans applies for purposes of this paragraph (c).

(d) *Effective date*—(1) *Statutory effective date*—(i) *General rule.* Except as otherwise provided in this paragraph (d), section 401(a)(17) applies to a plan as of the first plan year beginning on or after January 1, 1989. For purposes of this section, statutory effective date generally means the first day of the first plan year that section 401(a)(17) is applicable to a plan. In the case of governmental plans, statutory effective date means the first day of the first plan year for which the plan is not deemed to satisfy section 401(a)(17) by reason of paragraph (d)(4) of this section.

(ii) *Exception for collectively bargained plans.* In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before March 1, 1986, section 401(a)(17) applies to allocations and benefit accruals for plan years beginning on or after the earlier of—

(A) January 1, 1991; or

(B) The later of January 1, 1989, or the date on which the last of the collective bargaining agreements terminates (determined without regard to any extension or renegotiation of any agreement occurring after February 28, 1986). For purposes of this paragraph (d)(1)(ii), any extension or renegotiation of a collective bargaining agreement, which extension or renegotiation is ratified after February 28, 1986, is to be disregarded in determining the date on which the agreement terminates.

(2) *OBRA '93 effective date*—(i) *In general.* For purposes of this section, OBRA '93 effective date means the first day of the first plan year beginning on or after January 1, 1994, except as provided in this paragraph (d)(2).

(ii) *Exception for collectively bargained plans.* In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and 1 or more employers ratified before August 10, 1993, OBRA '93 effective date means the first day of the first plan year beginning on or after the earlier of—

(A) The latest of—

(*1*) January 1, 1994;

(*2*) The date on which the last of such collective bargaining agreements terminates (without regard to any extension, amendment, or, modification of such agreements on or after August 10, 1993); or

(*3*) In the case of a plan maintained pursuant to collective bargaining under the Railway Labor Act, the date of execution of an extension or replacement of the last of such collective bargaining agreements in effect on August 10, 1993; or

(B) January 1, 1997.

(3) *Regulatory effective date.* This § 1.401(a)(17)–1 applies to plan years beginning on or after the OBRA '93 effective date. However, in the case of a plan maintained by an organization that is exempt from income taxation under section 501(a), including plans subject to section 403(b)(12)(A)(i) (nonelective plans), this § 1.401(a)(17)–1 applies to plan years beginning on or after January 1, 1996. For plan years beginning before the effective date of these regulations and on or after the statutory effective date, a plan must be operated in accordance with a reasonable, good faith interpretation of section 401(a)(17), taking into account, if applicable, the OBRA '93 reduction to the annual compensation limit under section 401(a)(17).

(4) *Special rules for governmental plans*—(i) *Deemed satisfaction by governmental plans.* In the case of governmental plans described in section 414(d), including plans subject to section 403(b)(12)(A)(i) (nonelective plans), section 401(a)(17) is considered satisfied for plan years beginning before the later of January 1, 1996, or 90 days after the opening of the first legislative session beginning on or after January 1, 1996, of the governing body with authority to amend the plan, if that body does not meet continuously. For purposes of this paragraph (d)(4), the term governing body with authority to amend the plan means the legislature, board, commission, council, or other governing body with authority to amend the plan.

(ii) *Transition rule for governmental plans*—(A) *In general.* In the case of an eligible participant in a governmental plan (within the meaning of section 414(d)), the annual compensation limit under this section shall not apply to the extent that the application of the limitation would reduce the amount of compensation that is allowed to be taken into account under the plan below the amount that was allowed to be taken into account under the plan as in effect on July 1, 1993. Thus, for example, if a plan as in effect on July 1, 1993, determined benefits without any reference to a limit on compensation, then the annual compensation limit in effect under this section will not apply to any eligible participant in any future year.

(B) *Eligible participant.* For purposes of this paragraph (d)(4)(ii), an eligible participant is an individual who first became a participant in the plan prior to the first day of the first plan year beginning after the earlier of—

(*1*) The last day of the plan year by which a plan amendment to reflect the amendments made by section 13212 of OBRA '93 is both adopted and effective; or

(*2*) December 31, 1995.

(C) *Plan must be amended to incorporate limits.* This paragraph (d)(4)(ii) shall not apply to any eligible participant in a plan unless the plan is amended so that the plan incorporates by reference the annual compensation limit under section 401(a)(17), effective with respect to noneligible participants for plan years beginning after December 31, 1995 (or earlier, if the plan amendment so provides).

(5) *Benefits earned prior to effective date*—(i) *In general.* Allocations under a defined contribution plan or benefits accrued under a defined benefit plan for plan years beginning before the statutory effective date are not subject to the annual compensation limit. Allocations under a defined contribution plan or benefits accrued

under a defined benefit plan for plan years beginning on or after the statutory effective date, but before the OBRA '93 effective date are subject to the annual compensation limit under paragraph (a)(2) of this section. However these allocations or accruals are not subject to the OBRA '93 reduction to the annual compensation limit described in paragraph (a)(3) of this section.

(ii) *Allocation for a plan year.* The allocations for a plan year include amounts described in § 1.401(a)(4)–2(c)(ii) or § 1.401(m)–1(f)(6) plus the earnings, expenses, gains, and losses attributable to those amounts.

(iii) *Benefits accrued for years before the effective date.* The benefits accrued for plan years prior to a specified date by any employee are the employee's benefits accrued under the plan, determined as if those benefits had been frozen (as defined in § 1.401(a)(4)–13(c)(3)(i)) as of the day immediately preceding such specified date. Thus, for example, benefits accrued for those plan years generally do not include any benefits accrued under an amendment increasing prior benefits that is adopted after the date on which the employee's benefits under the plan must be treated as frozen.

(e) *Determination of post-effective-date accrued benefits*—(1) *In general.* The plan formula that is used to determine the amount of allocations or benefit accruals for plan years beginning on or after the dates described in paragraph (d)(1) or (2) must comply with section 401(a)(17) as in effect on such date. This paragraph (e) provides rules for applying section 401(a)(17) in the case of section 401(a)(17) employees who accrue additional benefits under a defined benefit plan in a plan year beginning on or after the relevant effective date. Paragraph (e)(2) of this section contains definitions used in applying these rules. Paragraphs (e)(3) and (e)(4) of this section explain the application of the fresh-start rules in § 1.401(a)(4)–13 to the determination of the accrued benefits of section 401(a)(17) employees.

(2) *Definitions.* For purposes of this paragraph (e), the following definitions apply:

(i) *Section 401(a)(17) employee.* An employee is a section 401(a)(17) employee as of a date, on or after the statutory effective date, if the employee's current accrued benefit as of that date is based on compensation for a year prior to the statutory effective date that exceeded the annual compensation limit for the first plan year beginning on or after the statutory effective date. In addition, an employee is a section 401(a)(17) employee as of a date, on or after the OBRA '93 effective date, if the employee's current accrued benefit as of that date is based on compensation for a year prior to the OBRA '93 effective date that exceeded the annual compensation limit for the first plan year beginning on or after the OBRA '93 effective date. For this purpose, a current accrued benefit is not treated as based on compensation that exceeded the relevant annual compensation limit, if a plan makes a fresh start using the formula with wear-away described in § 1.401(a)(4)–13(c)(4)(ii), and the benefit determined for the employee by applying the current formula applied to the employee's total years of service, taking into account the annual compensation limit, exceeds the employee's frozen accrued benefit (or, if applicable, the employee's adjusted accrued benefit) as of the fresh-start date.

(ii) *Section 401(a)(17) fresh-start date.* Section 401(a)(17) fresh-start date means a fresh-start date as defined in § 1.401(a)(4)–12 not earlier than the last day of the last plan year beginning before the statutory effective date, and not later than the last day of the last plan year beginning before the effective date of these regulations.

(iii) *OBRA '93 fresh-start date.* OBRA '93 fresh-start date means the later of the last day of the last plan year beginning before the OBRA '93 effective date and the last day of the last plan year beginning before the effective date of these regulations.

(iv) *Section 401(a)(17) frozen accrued benefit.* Section 401(a)(17) frozen accrued benefit means the accrued benefit for any section 401(a)(17) employee frozen (as defined in § 1.401(a)(4)–13(c)(3)(i)) as of the last day of the last plan year beginning before the statutory effective date.

(v) *OBRA '93 frozen accrued benefit.* OBRA '93 frozen accrued benefit means the accrued benefit for any section 401(a)(17) employee frozen (as defined in § 1.401(a)(4)–13(c)(3)(i)) as of the OBRA '93 fresh-start date.

(3) *Application of fresh-start rules*—(i) *General rule.* In order to satisfy section 401(a)(17), a defined benefit plan must determine the accrued benefit of each section 401(a)(17) employee by applying the fresh-start rules in § 1.401(a)(4)–13(c). The fresh-start rules must be applied using a section 401(a)(17) fresh-start date and using the plan benefit formula, after amendment to comply with section 401(a)(17) and this section, as the formula applicable to benefit accruals in the current plan year. In addition, the fresh-start rules must be applied to determine the accrued benefit of each section 401(a)(17) employee using an OBRA '93 fresh-start date and using the plan benefit formula, after amendment to comply with the reduction in the section 401(a)(17) annual compensation limit described in paragraph (a)(3) of this section, as the formula applicable to benefit accruals in the current plan year.

(ii) *Consistency rules in § 1.401(a)(4)–13(c) and (d)*—(A) *General rule.* In applying the fresh-start rules of § 1.401(a)-13(c) and (d), the group of section 401(a)(17) employees is a fresh-start group. See § 1.401(a)(4)–13(c)(5)(ii)(A). Thus, the consistency rules of those sections govern, unless otherwise provided. For example, if the plan is using a fresh-start date applicable to all employees and is not adjusting frozen accrued benefits under § 1.401(a)(4)–13(d) for employees who are not section 401(a)(17) employees, then the frozen accrued benefits for section 401(a)(17) employees may not be adjusted under § 1.401(a)(4)–13(d) or this paragraph (e).

(B) *Determination of adjusted accrued benefit.* If the fresh-start rules of § 1.401(a)(4)–13(c) and (d) are applied to determine the benefits of all employees after a fresh-start date, the plan will not fail to satisfy the consistency requirement of § 1.401(a)(4)–13(c)(5)(i) merely because the plan makes the adjustment described in § 1.401(a)(4)–13(d) to the frozen accrued benefits of employees who are not section 401(a)(17) employees, but does not make the adjustment to the frozen accrued benefits of section 401(a)(17) employees. In addition, the plan does not fail to satisfy the consistency requirement of § 1.401(a)(4)–13(c)(5)(i) merely because the plan makes the adjustment described in § 1.401(a)(4)–13(d) for section 401(a)(17) employees on the basis of the compensation formula that was used to determine the frozen accrued benefit (as required under paragraph (e)(4)(iii) of this section) but makes the adjustment for employees who are not section 401(a)(17) employees on the basis of any other method provided in § 1.401(a)(4)–13(d)(8).

(4) *Permitted adjustments to frozen accrued benefit of section 401(a)(17) employees*—(i) *General rule.* Except as otherwise provided in paragraphs (e)(4)(ii) and (iii) of this section, the rules in § 1.401(a)(4)–13(c)(3) (permitting certain adjustments to frozen accrued benefits) apply to section 401(a)(17) frozen accrued benefits or OBRA '93 frozen accrued benefits.

(ii) *Optional forms of benefit.* After either the section 401(a)(17) fresh-start date or the OBRA '93 fresh-start date, a plan may be amended either to provide

a new optional form of benefit or to make an optional form of benefit available with respect to the section 401(a)(17) frozen accrued benefit or the OBRA '93 frozen accrued benefit, provided that the optional form of benefit is not subsidized. Whether an optional form is subsidized may be determined using any reasonable actuarial assumptions.

(iii) *Adjusting section 401(a)(17) accrued benefits*—(A) *In general.* If the plan adjusts accrued benefits for employees under the rules of § 1.401(a)(4)–13(d) as of a fresh-start date, the adjusted accrued benefit (within the meaning of section § 1.401(a)(4)–13(d)) for each section 401(a)(17) employee must be determined after the fresh-start date by reference to the plan's compensation formula that was actually used to determine the frozen accrued benefit as of the fresh-start date. For this purpose, the plan's compensation formula incorporates the plan's underlying compensation definition and compensation averaging period. In making the adjustment, the denominator of the adjustment fraction described in § 1.401(a)(4)–13(d)(8)(i) is the employee's compensation as of the fresh-start date using the plan's compensation formula as of that date and, in the case of an OBRA '93 fresh-start date, reflecting the annual compensation limits that applied as of the fresh-start date. The numerator of the adjustment fraction is the employee's updated compensation (i.e., compensation for the current plan year within the meaning of § 1.401(a)(4)–13(d)(8)), determined after applying the annual compensation limits to each year's compensation that is used in the plan's compensation formula as of the fresh-start date. Similarly, in applying the alternative rule in § 1.401(a)(4)–13(d)(8)(v), the updated compensation that is substituted must be determined after applying the annual compensation limits to each year's compensation that is used in the plan's compensation formula. Thus, no adjustment will be permitted unless the updated compensation (determined after applying the annual compensation limit) exceeds the compensation that was used to determine the employee's frozen accrued benefit.

(B) *Multiple fresh starts.* If a plan makes more than one fresh start with respect to a section 401(a)(17) employee, the employee's frozen accrued benefit as of the latest fresh-start date will either be determined by applying the current benefit formula to the employee's total years of service as of that fresh-start date or will consist of the sum of the employee's frozen accrued benefit (or adjusted accrued benefit (as defined in § 1.401(a)(4)–13(d)(8)(i))) as of the previous fresh-start date plus additional frozen accruals since the previous fresh start. If the frozen accrued benefit consists of such a sum, in making the adjustments described in paragraph (e)(4)(iii)(A) of this section, separate adjustments must be made to that previously frozen accrued benefit (or adjusted accrued benefit) and the additional frozen accruals to the extent that the frozen accrued benefit and the additional accruals have been determined using different compensation formulas or different compensation limits (i.e., the section 401(a)(17) limit before and after the reduction in limit described in paragraph (a)(3) of this section). In this case, if the plan is applying the adjustment fraction of § 1.401(a)(4)–13(d)(8)(i), the denominator of the separate adjustment fraction for adjusting each portion of the frozen accrued benefit must reflect the actual compensation formula, and, if applicable, compensation limit, originally used for determining that portion. For example, the frozen accrued benefit of a section 401(a)(17) employee as of the OBRA '93 fresh-start date may be based on the sum of the section 401(a)(17) frozen accrued benefit (determined without any annual compensation limit) plus benefit accruals in the years between the statutory effective date and the OBRA '93 effective date (based on compensation that was subject to the annual compensation limits for those years). In this example, in adjusting the section 401(a)(17) frozen accrued benefit, the denominator of the adjustment fraction does not reflect any annual compensation limit. Similarly, in adjusting the frozen accruals for years between the statutory effective date and the OBRA '93 effective date, the denominator of the adjustment fraction reflects the level of the annual compensation limit in effect for those years.

(5) *Examples.* The following examples illustrate the rules in this paragraph (e).

Example 1. (a) Plan Y is a calendar year defined benefit plan providing an annual benefit for each year of service equal to 2 percent of compensation averaged over an employee's high 3 consecutive calendar years' compensation. Section 401(a)(17) applies to Plan Y in 1989. As of the close of the last plan year beginning before January 1, 1989 (i.e., the 1988 plan year), Employee A, with 5 years of service, had accrued a benefit of $25,000 which equals 10 percent (2 percent multiplied by 5 years of service) of average compensation of $250,000. Effective for plan years after December 31, 1988, Plan Y is amended to provide that in determining an employee's benefit, compensation taken into account is subject to the annual compensation limit under section 401(a)(17), and that, for section 401(a)(17) employees, the employee's accrued benefit is the greater of (i) the employee's benefit under the plan's benefit formula (after the plan formula is amended to comply with section 401(a)(17)) as applied to the employee's total years of service, and (ii) the employee's accrued benefit as of December 31, 1988, determined as though the employee terminated employment on that date without regard to any plan amendments after that date. Employer X decides not to amend Plan Y to provide for the adjustments permitted under § 1.401(a)(4)–13(d) to the accrued benefit of section 401(a)(17) employees as of December 31, 1988.

(b) Under Plan Y, Employee A's accrued benefit at the end of 1989 is $25,000, which is the greater of Employee A's accrued benefit as of the last day of the 1988 plan year ($25,000), and $24,000, which is Employee A's benefit based on the plan's benefit formula applied to Employee A's total years of service ($200,000 multiplied by (2 percent multiplied by 6 years of service)). The formula of Plan Y applicable to section 401(a)(17) employees for calculating their accrued benefits for years after the section 401(a)(17) fresh-start date is the formula in § 1.401(a)–13(c)(4)(ii) (formula with wear-away). The fresh-start formula is applied using a benefit formula that satisfies section 401(a)(17) and this section and is applied using December 31, 1988, as the section 401(a)(17) fresh-start date. Thus, Plan Y, as amended, satisfies paragraph (e)(3)(i) of this section for plan years commencing prior to the OBRA '93 effective date.

Example 2. Assume the same facts as in *Example 1*, except that the plan formula provides that effective January 1, 1989, for section 401(a)(17) employees, an employee's benefit will equal the sum of the employee's accrued benefit as of December 31, 1988 (determined as though the employee terminated employment on that date and without regard to any amendments after that date), and 2 percent of compensation averaged over an employee's high 3 consecutive years' compensation times years of service taking into account only years of service after December 31, 1988. Thus, under Plan Y's formula, Employee A's accrued benefit as of December 31, 1989 is $29,000, which is equal to the sum of $25,000 (Employee A's accrued benefit as of December 31, 1988) plus $4,000 ($200,000 multiplied by (2 percent multiplied by 1 year of service)). The formula of Plan Y applicable to section 401(a)(17) employees for calculating their accrued benefits for years after the section 401(a)(17) fresh-start date is the formula in § 1.401(a)–13(c)(4)(i) (formula without wear-away). The fresh-start formula is applied using a benefit formula for the 1989 plan year that satisfies section 401(a)(17) and this section and is applied using December 31, 1988, as the section 401(a)(17) fresh-start date. Thus, Plan Y, as amended, satisfies paragraph (e)(1) of this section for plan years commencing prior to the OBRA '93 effective date.

Example 3. (a) *Assume the same facts as in Example 1, except that the plus formula provides that effective January 1, 1989, an employee's benefit equals the greater of the plan formulas in Example 1 and Example 2.* The formula of Plan Y applicable to section 401(a)(17) employees for calculating their accrued benefits for years after the section 401(a)(17) fresh-start date is the formula in § 1.401(a)–13(c)(4)(iii) (formula with extended wear-away). The fresh-start formula is applied using a benefit formula for the 1989 plan year that satisfies section 401(a)(17) and this section and is applied using December 31, 1988, as the section 401(a)(17) fresh-start date. Thus, Plan Y, as amended, satisfies paragraph (e)(1) of this section for plan years commencing prior to the OBRA '93 effective date.

(b) Assume that for each of the years 1991–93 Employee A's annual compensation under the plan compensation formula, disregarding the amendment to comply with section 401(a)(17) is $360,000. The annual compensation limit is adjusted to $222,220, $228,860, and $235,840 for plan years beginning January 1, 1991, 1992, and 1993, respectively. The compensation that may be taken into account for plan benefits in 1993 cannot exceed $228,973 (the average of $222,220, $228,860, and $235,840). Therefore, as of December 31, 1993, the benefit determined under the fresh-start formula with wear-away would be $45,795 ($228,973 multiplied by (2 percent multiplied by 10 years of service)). The benefit determined under the fresh-start formula without wear-away would be $47,897, which is equal to $25,000 (Employee A's section 401(a)(17) frozen accrued benefit) plus $22,897 ($228,973 multiplied by (2 percent multiplied by 5 years of service)). Because Employee A's accrued benefit is being determined using the fresh-start formula with extended wear-away, Employee A's accrued benefit as of December 31, 1993, is equal to $47,897, the greater of the two amounts.

Example 4. (a) *Assume the same facts as in Example 3, except that Plan Y satisfies* § 1.401(a)(4)–13 (d)(3) through (d)(7) and that the amendment to Plan Y effective for plan years beginning after December 31, 1988, also provides for adjustments to the section 401(a)(17) frozen accrued benefit in accordance with § 1.401(a)(4)–13(d).

(b) As of December 31, 1993, the numerator of Employee A's compensation fraction is $228,973 (the average of Employee A's annual compensation for 1991, 1992, and 1993, as limited by the respective annual limit for each of those years). The denominator of Employee A's compensation fraction determined in accordance with paragraph (e)(4)(iii) of this section is $250,000 (the average of Employee A's high 3 consecutive calendar year compensation as of December 31, 1988, determined without regard to section 401(a)(17)). Therefore, Employee A's compensation fraction is $228,973/$250,000. Because the compensation adjustment fraction is less than 1, Employee A's section 401(a)(17) frozen accrued benefit is not adjusted. Therefore, Employee A's accrued benefit as of December 31, 1993, would still be $47,897, which is equal to $25,000 (Employee A's section 401(a)(17) frozen accrued benefit) plus $22,897 ($228,973 multiplied by (2 percent multiplied by 5 years of service)).

Example 5. (a) Assume the same facts as in *Example 3*, except that as of January 1, 1994, Plan Y is amended to provide that benefits will be determined based on compensation of $150,000 (the limit in effect under section 401(a)(17) for plan years beginning on or after the OBRA '93 effective date) and that for section 401(a)(17) employees, the employees' accrued benefit will be determined under § 1.401(a)(4)–13(c)(4)(iii) (formula without wear-away) using December 31, 1993 as the OBRA '93 fresh-start date.

(b) Assume that for each of the years 1992–98 Employee A's annual compensation under the plan compensation definition, disregarding the amendment to comply with section 401(a)(17), is $400,000. Assume that the annual compensation limit is first adjusted to $160,000 for plan years beginning on or after January 1, 1997, and is not adjusted for the plan year beginning on or after January 1, 1998. The compensation that may be taken into account for the 1998 plan year cannot exceed $156,667 (the average of $150,000 for 1996, $160,000 for 1997, and $160,000 for 1998).

(c) Therefore, at the end of December 31, 1998, Employee A's accrued benefit is $63,564, which is equal to $47,897 (Employee A's OBRA '93 frozen accrued benefit) plus $15,667 ($156,667 multiplied by (2 percent multiplied by 5 years of service)).

Example 6. (a) Assume the same facts as in *Example 5*, except that, for the fresh-start group (in this case the section 401(a)(17) employees), the amendments to Plan Y provide for adjustments to the section 401(a)(17) frozen accrued benefit and the OBRA '93 frozen accrued benefit in accordance with § 1.401(a)(4)–13(d).

(b) Employee A's frozen accrued benefit as of December 31, 1993, is adjusted as of December 31, 1998, as follows:

(1) Employee A's frozen accrued benefit as of December 31, 1993, is the sum of Employee A's section 401(a)(17) frozen accrued benefit ($25,000) and Employee A's frozen accruals for the years 1989–93 ($22,897).

(2) The numerator of Employee A's adjustment fraction is $156,667 (the average of $150,000, $160,000, and $160,000). The denominator of Employee A's adjustment fraction with respect to Employee A's section 401(a)(17) frozen accrued benefit is $250,000, and the denominator of Employee A's adjustment fraction with respect to the rest of Employee A's frozen accrued benefit is $228,973 (the average of Employee A's annual compensation for 1991, 1992, and 1993, as limited by the respective annual limit for each of those years).

(3) Employee A's section 401(a)(17) frozen accrued benefit as adjusted through December 31, 1998, remains $25,000. The compensation adjustment fraction determined in accordance with paragraph (e)(4)(iii) of this section is less than one ($156,667 divided by $250,000).

(4) Employee A's frozen accruals for the years 1989–93, as adjusted through December 31, 1998, remain $22,897 because the adjustment fraction is less than one ($156,667 divided by $228,973).

(5) Employee A's adjusted accrued benefit as of December 31, 1998, equals $47,897 (the sum of the $25,000 and $22,897 amounts from paragraphs (b)(3) and (b)(4), respectively, of this *Example*).

(c) Employee A's section 401(a)(17) frozen accrued benefit will not be adjusted for compensation increases until the numerator of the fraction used to adjust that frozen accrued benefit exceeds the denominator of $250,000 used in determining those accruals. Similarly, the portion of Employee A's OBRA '93 frozen accrued benefit attributable to the frozen accruals for the years 1989–1993 will not be adjusted for compensation increases until the numerator of the fraction used to adjust those frozen accruals exceeds the denominator of $228,973 used in determining those accruals.

(f) *Additional guidance.* The Commissioner may, in revenue rulings, notices, and other guidance, published in the Internal Revenue Bulletin, provide any additional guidance that may be necessary or appropriate concerning the annual limits on compensation under section 401(a)(17). See § 601.601(d)(2)(ii)(b) of this chapter.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 93–31013 Filed 12–29–93; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 552

RIN 1215–AA82

Application of the Fair Labor Standards Act to Domestic Service

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Department of Labor proposes to revise the regulations governing the application of the Fair Labor Standards Act of 1938 (FLSA) to domestic service employees to clarify that the exemption from minimum wage and overtime compensation for certain employees who provide companionship services, and the exemption from overtime compensation for live-in domestic service employees, apply to employees who are employed by a third-party employer or agency only when the individuals are also employed by the family or household utilizing their services, i.e., a *joint* employment relationship must exist. Other minor updating and technical corrections and revisions are proposed.

DATES: Comments must be received on or before February 28, 1994.

ADDRESSES: Submit written comments to Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. As a convenience to commenters, comments may be transmitted by facsimile ("FAX") machine to (202) 219–5122. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3506, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 219–8412. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This regulation contains no reporting or recordkeeping requirements.

II. Background

The Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U.S.C. 201 *et seq.*), as amended by the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259, 88 Stat. 55) extended with certain exceptions the FLSA's minimum wage, overtime pay, and recordkeeping provisions to domestic service employees. Section 13(a)(15) of the FLSA, among other things, provides an exemption from the minimum wage and overtime pay requirements of the Act for employees engaged in domestic service employment to provide companionship services. Section 13(b)(21) provides an overtime exemption for employees employed in domestic service in a household and who reside in such household. On February 20, 1975, regulations and interpretations implementing the domestic service employment provisions of the FLSA were published in the **Federal Register** (40 FR 7405) at 29 CFR part 552. Subpart A of part 552 defines and delimits the terms "domestic service employment" and "companionship services," among others. Subpart B sets out statements of general policy and interpretation concerning the application of the FLSA to domestic service employees.

Section 552.109 provides interpretations of "third party employment" as it relates to employees providing companionship services, babysitting services, and live-in domestic service employees. It has come to the Department's attention that this section may be susceptible of misinterpretation and should be revised to make it clear that the exemptions are available only to those employees who meet the definition of "domestic service employment" as set forth in § 552.3, which states that "domestic service employment" means "* * * services of a household nature performed by an employee *in or about a private home (permanent or temporary) of the person by whom he or she is employed.*" (Emphasis added.) This definition is based on the legislative history to section 6(f) of the FLSA, which added FLSA minimum wage coverage of domestic service employment as part of the 1974 FLSA Amendments. Report from the Committee on Labor and Public Welfare on S. 2747, Senate Report 93–690, 93rd Cong., 2d Sess. p. 20 (1974). In accordance with the regulatory language and legislative history, the Department has interpreted § 552.109 to permit companions and live-in domestics employed by third-party employers to fall within the section 13(a)(15) and section 13(b)(21) exemptions only where the individuals are also employed by the family or household using their services. In other words, a joint employment relationship must exist. It is proposed to clarify the language in § 552.109 to explicitly reference this requirement.

III. Summary of Rule

The rule proposes to revise § 552.109 to clarify that, in order for the exemptions in FLSA sections 23(a)(15) and 13(b)(21) to apply, employees engaged in providing companionship services and live-in domestic service employees who are employed by a third-party employer or agency must also be employed by the family or household using their services, i.e., a joint employment relationship must exist.

Section 552.100(a)(1) is being revised to delete references to former minimum wage levels that have been overtaken by subsequent statutory increases in the minimum wage since part 552 was last revised. This section will provide that domestic service employees must receive not less than the minimum wage required by section 6 of the FLSA (presently $4.25 an hour) but without referencing a specific rate so that the regulations will not have to be revised in response to statutory amendments to the minimum wage.

Section 552.100(c), which contains an enforcement policy of the Wage-Hour Administrator regarding credits taken by an employer for meals and lodging furnished to a domestic service employee, is being revised to reflect the increase in the statutory minimum wage since 29 CFR part 552 was published in February 1975; and to set forth acceptable credits in a percentage format so as to obviate the need to revise this section of the regulations each time the statutory minimum wage is revised. the statutory minimum wage in February 1975 for domestic service employment was $2.00 per hour and is currently $4.25. It is proposed to increase the acceptable amounts for meals and lodging accordingly.

The following technical corrections are also proposed:

In § 552.101(a)(1), the reference "20 CFR 404.1027(j)" should read "20 CFR 404.1057." This section, as well as a number of others, was redesignated in regulations issued under the Social Security Act. In § 552.105(a), the reference "section 3(s)(4)" of the FLSA should read "section 3(s)(1)(B)." (See the Fair Labor Standards Amendments of 1989, 103 Stat. 938.) The reference in the third sentence of § 552.2(b) should read "Section 7(l) instead of "Section 7(l)" (substituting a lower case letter "l" for the number "1" in the parentheses). In the last sentence of section 552.104(b), two spelling errors are corrected.

Executive Order 12866

The Department believes that this proposed rule is not a "significant regulatory action" within the meaning of Executive Order 12866, in that it is not likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

The Department has determined that this rulemaking will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that

the proposal makes only one revision that is other than a minor or technical correction, and that is a clarification to assure conformity of an interpretative section to the legislative history and the regulatory provisions. The Department has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, no regulatory flexibility analysis is required.

Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 552

Domestic service workers, Employment, Labor, Minimum wages, Overtime pay, Wages.

Accordingly, part 552 of title 29 of the Code of Federal Regulations is proposed to be amended as set forth below.

Signed at Washington, DC on this 21st day of December, 1993.

Maria Echaveste,

Administrator, Wage and Hour Division.

PART 552—APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

1. The authority citation for part 552 is proposed to be revised to read as follows:

Authority: Secs. 13(a)(15) and (13)(b)(21) of the Fair Labor Standards Act, as amended (29 U.S.C. 213(a)(15), (b)(21), 88 Stat. 62; sec. 29(b) of the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259, 88 Stat. 76), unless otherwise noted.

§ 552.2 [Amended]

2. In § 552.2, the reference beginning in the undesignated paragraph after paragraph (b)(2) is revised to read "Section 7(i)" instead of "Section 7(1)" (substituting a lower case letter "l" for the number "1" in the parentheses).

3. In § 552.100, paragraphs (a)(1), (c) and (d) are proposed to be revised to read as follows:

§ 552.100 Application of minimum wage and overtime provisions.

(a)(1) Domestic service employees must receive for employment in any household a minimum wage of not less than that required by section 6(a) of the Fair Labor Standards Act.

* * * * *

(c) For enforcement purposes, the Administrator will accept a credit taken by the employer of up to 37.5 percent of the statutory minimum hourly wage for a breakfast (if furnished), up to 50 percent of the statutory minimum hourly wage for a lunch (if furnished), and up to 62.5 percent of the statutory minimum hourly wage for dinner (if furnished), which meal credits when combined do not in total exceed 150 percent of the statutory minimum hourly wage for any day. Nothing herein shall prevent employers from crediting themselves with the actual cost or fair value of furnishing meals, as determined in accordance with part 531 of this chapter, if such cost of fair value is different from the meal credits specified above: *Provided, however,* That employers keep, maintain and preserve (for a period of 3 years) the records on which they rely to justify such different cost figures.

(d) In the case of lodging furnished to live-in domestic service employees, the Administrator will accept a credit taken by the employer of up to seven and one-half times the statutory minimum hourly wage for each week lodging is furnished. Nothing herein shall prevent employers from crediting themselves with the actual cost or fair value of furnishing lodging, as determined in accordance with part 531 of this chapter, if such cost or fair value is different from the amount specified above, *Provided however,* That employers keep, maintain, and preserve (for a period of 3 years) the records on which they rely to justify such different cost figures. In determining reasonable cost or fair value, the regulations and rulings in 29 CFR part 531 are applicable.

§ 552.101 [Amended]

4. In § 552.101, the parenthetical reference in the first sentence of paragraph (a) is revised to read "(20 CFR 404.1057)".

5. In § 552.104, paragraph (b) is proposed to be revised to read as follows:

§ 552.104 Babysitting services performed on a casual basis.

* * * * *

(b) Employment in babysitting services would usually be a "casual basis", whether performed for one or more employees, if such employment by all such employees does not exceed 20 hours per week in the aggregate. Employment in excess of these hours may still be on a "casual basis" if the excessive hours of employment are without regularity or are for irregular or intermittent periods. Employment in babysitting services shall also be deemed to be on a "casual basis" (regardless of the number of weekly hours worked by the babysitter) in the case of individuals whose vocations are not domestic service who accompany families for a vacation period to take care of the children if the duration of such employment does not exceed 6 weeks.

* * * * *

§ 552.105 [Amended]

6. In § 552.105, the reference in the fourth sentence of paragraph (a) is revised to read "section 3(s)(1)(B) of the Act * * *"

7. In § 552.109 paragraphs (a) and (c) are proposed to be revised to read as follows:

§ 552.109 Third party employment.

(a) Employees who are engaged in providing companionship services, as defined in § 552.6, and who are employed by an employer or agency other than the family or household using their services, are exempt from the Act's minimum wage and overtime pay requirements by virtue of section 13(a)(15), provided that they are also employed by the person in whose home the services are provided, *i.e.*, a joint employment relationship must exist (see 29 CFR part 791). The assignment of such an employee to more than one household or family in the same workweek would not defeat the exemption for that workweek, provided that the services rendered during each assignment come within the definition of companionship services.

(b) * * *

(c) Live-in domestic service employees who are employed by an employer or agency other than the family or household using their services are exempt from the Act's overtime requirements by virtue of section 13(b)(21), provided that they are also employed by the person in whose home the services are provided, *i.e.*, a joint employment relationship must exist. This exemption, however, will not apply where the employee works only temporarily for any one family or household, since that employee would not be "residing" on the premises of such family or household.

[FR Doc. 93–31664 Filed 12–29–93; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AA11

Safety Standards for Underground Coal Mine Ventilation

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed extension of administrative stay with request for comments.

SUMMARY: MSHA is proposing to extend the stay of the effective date of 30 CFR 75.313 and 75.344(a)(1) of the final rule revising safety standards for ventilation of underground coal mines until completion of a rulemaking involving these and other ventilation standards contained in the final rule published in the **Federal Register** on May 15, 1992 (57 FR 20868). The Agency is requesting comments on the proposed stay extension.

DATES: Comments on the proposed stay extension must be submitted on or before February 28, 1994.

It is proposed to extend the stay of §§ 75.313 and 75.344(a)(1) in 30 CFR part 75 until completion of a rulemaking involving these and other ventilation standards. Sections 75.314, 75.315 and 75.345 in 30 CFR part 75 will continue in effect until completion of the rulemaking.

ADDRESSES: Send written comments to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On May 15, 1992, MSHA published a final rule revising its safety standards for ventilation of underground coal mines (57 FR 20868). These standards were to take effect on August 16, 1992. On August 6, 1992, MSHA delayed the effective date of the rule until November 16, 1992, to allow mine operators time to effectively plan and implement necessary changes (57 FR 34683). On November 13, 1992, as a result of discussions with the mining community, MSHA administratively stayed the effective date of §§ 75.313 and 75.344(a)(1) until July 1, 1993 (57 FR 53856). Section 75.313 was stayed to allow MSHA to further evaluate the effect of fan stoppages in certain mines. Section 75.344(a)(1) was stayed to evaluate whether requiring portable compressors to be located in a noncombustible structure or area could create a fire hazard due to overheating. MSHA also recodified the provisions these standards were to replace as §§ 75.314, 75.315 and 75.345. On June 7, 1993, MSHA extended the stay until July 1, 1994 (58 FR 31908). Consistent with the stay extension, the recodified provisions continue in effect until July 1, 1994 (58 FR 33996).

As a result of meetings with the mining public and further review of the ventilation rule, the Agency is initiating a rulemaking to address the issues which prompted the stay. The Agency, therefore, is proposing to extend the stay of §§ 75.313 and 75.344(a)(1) until completion of that rulemaking. Extending the stay until the completion of the rulemaking will avoid further administrative actions and focus the resources of both the public and Government on the substantive issues. Because it is likely that the stay would remain in effect for an extended period of time, the Agency is providing the mining community with an opportunity to comment on the stay extension.

Comments in response to this proposal should be limited to the extension of the stay on §§ 75.313 and 75.344(a)(1). This notice does not affect the indefinite suspension of § 75.321(a) (57 FR 55457). That action was in response to an order of the United States Court of Appeals which stayed § 75.321(a) indefinitely, pending court review. *American Mining Congress* v. *Secretary of Labor*, No. 92–1288, and consolidated cases (D.C. Cir., filed July 8, 1992) (Order of November 16, 1992).

This document is issued under 30 U.S.C. 811.

Dated: December 22, 1993.

Richard L. Brechbiel,

Acting Assistant Secretary, Mine Safety and Health.

[FR Doc. 93–31826 Filed 12–29–93; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 156

[CGD 93–081]

Lightering Zones

AGENCY: Coast Guard, DOT.

ACTION: Petitions for rulemaking and request for comment; extension of comment period.

SUMMARY: In response to a request and in order to permit interested persons an adequate opportunity to prepare comments, the Coast Guard is extending the comment period on whether to designate lightering zones in the Gulf of Mexico.

DATES: Comments must be received on or before February 2, 1994.

ADDRESSES Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 93–081), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of the docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT Lieutenant Commander Walter (Bud) Hunt, Project Manager, Oil Pollution Act (OPA 90) Staff, (G–MS–1), (202) 267–6740. This number is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this Notice are Lieutenant Commander Walter (Bud) Hunt, Project Manager, and Ms. Pamela Pelcovits, Project Counsel, OPA 90 Staff, (G–MS–1).

Background and Discussion

On December 2, 1993, the Coast Guard published in the **Federal Register** a notice of petitions for rulemaking and request for comment regarding whether it should designate lightering zones in the Gulf of Mexico (58 FR 63544). The comment period closes on January 3, 1994. On December 16, 1993, the Coast Guard published a notice of public meeting and scoping meeting to explore further the issues relevant to designating lightering zones (58 FR 65683).

In response to a request and in order to permit interested persons an adequate opportunity to prepare comments, especially in light of the upcoming January 18, 1994 meeting, the Coast Guard is extending the comment period through February 2, 1994.

Dated: December 23, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–31988 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–14–M

VOL 58 ISS 249 DEC 30 1993 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 72 and 73

[FRL–4820–1]

Acid Rain Program; Permits and Allowance System Proposed Regulations; Change in Public Comment Period for the Proposed Revisions to the Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; change in public comment period.

SUMMARY: On November 18, 1993 (58 FR 60649–60968), EPA published proposed regulations revising 40 CFR parts 72 and 73, the Permits and Allowance System rules of the Acid Rain Program. The original comment period was to have ended on January 3, 1994. In response to requests from interested parties, EPA is extending the public comment period until January 19, 1994.

DATES: Comments must be submitted in writing and in duplicate to EPA on or before January 19, 1994.

ADDRESSES: Send comments to EPA Air Docket Section (LE–131), Attention, Docket No. A–93–40, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments received on this proposal will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays, in room M–1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The Acid Rain Hotline at (202) 233–9620 or Karen Kent at (202) 233–9119, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Dated: December 22, 1993.

Brian McLean,

Director, Acid Rain Division.

[FR Doc. 93–31923 Filed 12–29–93; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 58, No. 249

Thursday, December 30, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TMD–93–00–2]

Hearings for Organic Livestock and Livestock Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearings

SUMMARY: In accordance with the Organic Foods Production Act of 1990 AMS announces four public hearings on the production and processing of livestock and livestock products to be sold or labeled as organically produced under the Act. The hearings will provide an opportunity for public dialogue on issues relating to the organic production and processing of livestock and livestock products to be labeled as organic.

DATES:

January 27–28, 1994
February 10, 1994
February 24, 1994
March 22, 1994

ADDRESSES: The first hearings will be held in the Jefferson Auditorium of the South Building, USDA, located at 12th and Independence Avenues, SW, Washington, DC, from 8:30 a.m. to 5 p.m. on Thursday, January 27, and Friday, January 28, 1994. Subsequent hearings will be held at the following locations:

February 10, 1994, Hyatt Regency O'Hare, 9300 West Bryn Mawr Avenue, Rosemont, Illinois 60018, 708–696–1234

February 24, 1994, Hampton Inn, 4685 Quebec Street, Denver, Colorado 80216, 303–388–8100

March 22, 1994, Holiday Inn, 5321 Date Avenue, Sacramento, California 95841, 916–338–5800

All subsequent hearings will be conducted during the hours of 8:30 a.m. to 5 p.m. in the respective locations.

FOR FURTHER INFORMATION CONTACT: Dr. Harold S. Ricker, Staff Director, National Organic Program, room 4006 South Building, USDA, AMS, Transportation and Marketing Division (TMD), P.O. Box 96456, Washington, DC, 20090–6456. Telephone (202) 720–2704.

SUPPLEMENTARY INFORMATION: The purpose of these hearings is to provide additional information to USDA as it develops regulations to guide the implementation of standards for the production and processing of livestock and livestock products that will be sold or labeled as organically produced under the Act.

Background

The Organic Foods Production Act of 1990 as amended (7 U.S.C. 6501–6522) requires the Secretary of Agriculture to develop regulations to guide the implementation of standards for the production and processing of livestock products to be sold or labeled as organically produced. The Secretary also is authorized to hold public hearings on developing additional livestock standards. The Secretary will now hold public hearings to assist in developing the regulations to guide the implementation of standards for livestock and livestock products.

For livestock products to be considered for sale or labeling as organically produced, the animals from which they are derived must be produced according to organic production standards for livestock. Section 6510 provides additional guidance for handlers and processors.

Under the Act, the National Organic Standards Board (NOSB) has been established to advise the Secretary on any aspect of implementing the Act's program. The NOSB has been working to develop recommendations and has identified certain issues needing additional input for the development of recommendations for implementation of livestock standards within the Act's program.

Some of the issues for which USDA seeks public comment are:

1. Section 6506 (b) of the Act (7 U.S.C. 6506(b)) indicates that an organic certification program established under this Act may provide for the certification of an entire farm or handling operation or specific fields of a farm or parts of a handling operation if, among other things, appropriate physical facilities, machinery, and management practices are established to prevent the possibility of a mixing of organic and nonorganic products or a penetration of prohibited chemicals or other substances on the certified area. Public comment is requested on how this should this be applied to organic livestock production, and the processing and handling of livestock products that are to be sold or labeled as organically produced under the Act.

2. Section 6509(d)(1) of the Act (7 U.S.C. 6509(d)(1)) requires that for a farm to be certified under the Act as an organic farm with respect to livestock production on the farm, producers on an organic farm shall not:

(A) Use subtherapeutic doses of antibiotics;

(B) Use synthetic internal parasiticides on a routine basis; or

(C) Administer medication, other than vaccinations, in the absence of illness.

The Act also says that the NOSB shall recommend to the Secretary standards in addition to those in paragraph (d)(1) for the care of livestock to ensure that such livestock is organically produced (7 U.S.C. 6509(d)(2)). USDA seeks public comment on what criteria need to be established to ensure that subtherapeutic doses of antibiotics and routine applications of synthetic internal parasiticides are not applied to livestock that are to be labeled as organically produced under the Act. Public comment is also sought on what constitutes routine use.

3. The Act addresses the acquisition of breeder stock in section 6509(b) (7 U.S.C. 6509(b)), but is silent on the purchase of slaughter stock which could be intended for sale as organic livestock meat products. How should the USDA address this issue?

4. Section 6509(c) (7 U.S.C. 6509(c)) indicates that the livestock organic feeding management system is to utilize certified organically grown feed. USDA seeks public comment on what reasonable exceptions for feed may be made under the Act and its provisions, including the provision that allows reasonable exemptions from the Act's requirements, except those in section 6511 (7 U.S.C. 6511) for Federal and State emergency pest or disease treatment programs that may effect livestock.

5. What management and audit trail records should necessarily be available

to ensure that the integrity of the retail organic livestock product package is properly established at the farm and maintained through the slaughter/processing process?

6. Other issues relating to the implementation of the standards under the Act for the production and processing of organic livestock and livestock products that require specific attention during the development of the standards for the production and processing of livestock and livestock products that will be sold or labeled as organically produced under the Act.

Purpose and Conduct of the Hearings

USDA is requesting that representatives of the public offer comments and suggestions to guide the implementation of standards for the production and processing of organic livestock and livestock products. Interested individuals are encouraged to address areas of concern, including issues that may not be covered in the above background section.

Persons who plan to offer oral testimony at any hearing should notify USDA of their preferred hearing date and the subject(s) to be addressed as soon as possible, but no later than seven (7) days preceding the specific hearing date to be scheduled. Oral testimony should not exceed five (5) minutes. Persons who are not able to notify USDA in advance of their intent to testify at a hearing may register at the hearing location and will be accommodated as time permits.

The hearings will be conducted by an administrative law judge, and testimony will be taken by a stenographic reporter. An examiner panel consisting of one representative each from AMS, the Food Safety Inspection Service, the Animal Plant Health Inspection Service, and the NOSB may be present to ask clarification questions of those providing testimony. Approximately ten (10) additional minutes may be allocated for clarification questions and responses, if needed.

Persons providing evidence at the hearing should make the written testimony available at the hearing. Those persons who are unable to attend the hearing, and those persons who are unable to provide written testimony at the hearing, may submit testimony any time up to fifteen (15) days following the hearings.

Notification and comments should be submitted to Dr. Harold S. Ricker, Staff Director, National Organic Program, room 4006 South Building, USDA, AMS, TMD, P.O. Box 96456, Washington, DC, 20090–6456. Telephone (202) 720–2704.

Authority: 7 U.S.C. 6501–6522.

Dated: December 27, 1993.

Lon Hatamiya,

Administrator.

[FR Doc. 93–31911 Filed 12–29–93; 8:45 am]

BILLING CODE 3410–02–P

Federal Grain Inspection Service

Designation of the Kankakee (IL) Agency, and the States of California and Washington

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: FGIS announces the designation of Kankakee Grain Inspection, Inc. (Kankakee), California Department of Food and Agriculture (California), and Washington Department of Agriculture (Washington) to provide official inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: February 1, 1994.

ADDRESSES: Neil E. Porter, Director, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–720–8262.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the July 30, 1993, **Federal Register** (58 FR 40787), FGIS announced that the designations of Kankakee, California, and Washington end on January 31, 1994, and asked persons interested in providing official services within the specified geographic areas to submit an application for designation. Applications were due by September 1, 1993. Kankakee, California, and Washington, the only applicants, each applied for designation in the entire area currently assigned to them.

FGIS requested comments on the applicants in the September 30, 1993, **Federal Register** (58 FR 51046). Comments were due by October 29, 1993. FGIS received no comments by the deadline. FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and according to section 7(f)(1)(B), determined that Kankakee, California, and Washington are able to provide official services in the geographic areas for which they applied.

Effective February 1, 1994, and ending January 31, 1997, Kankakee, California, and Washington are designated to provide official inspection services in the geographic areas specified in the July 30, 1993, **Federal Register**.

Interested persons may obtain official services by contacting Kankakee at 815–932–2851, California at 916–654–0743, and Washington at 206–753–5066.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: December 16, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93–31357 Filed 12–29–93; 8:45 am]

BILLING CODE 3410–EN–F

Request for Applications from Persons Interested in Designation to Provide Official Services in the Geographic Areas Presently Assigned to the Sioux City (IA) and Tischer (IA) Agencies

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of Sioux City Inspection & Weighing Service Company (Sioux City), and A. V. Tischer and Son, Inc. (Tischer), will end June 30, 1994, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before January 31, 1994.

ADDRESSES: Applications must be submitted to Neil E. Porter, Director, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–720–1015, attention: Neil E. Porter. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–720–8262.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Sioux City, main office located in Sioux City, Iowa, to provide official inspection services, and Tischer, main office located in Fort Dodge, Iowa, to provide official inspection and Class X or Y weighing services under the Act on July 1, 1991.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act. The designations of Sioux City and Tischer end on June 30, 1994. The geographic area presently assigned to Sioux City, in the States of Iowa, Nebraska, and South Dakota, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

In Iowa:

Bounded on the North by the northern Iowa State line from the Big Sioux River east to U.S. Route 59;

Bounded on the East by U.S. Route 59 south to B24; B24 east to the eastern O'Brien County line; the O'Brien County line south; the northern Buena Vista County line east to U.S. Route 71; U.S. Route 71 south to the southern Sac County line;

Bounded on the South by the Sac and Ida County lines; the eastern Monona County line south to State Route 37; State Route 37 west to State Route 175; State Route 175 west to the Missouri River; and

Bounded on the West by the Missouri River north to the Big Sioux River; the Big Sioux River north to the northern Iowa State line.

Cedar, Dakota, Dixon, Pierce (north of U.S. Route 20 and west of U.S. Route 81), and Thurston Counties, Nebraska.

In South Dakota:

Bounded on the North by State Route 44 (U.S. 18) east to State Route 11; State Route 11 south to A54B; A54B east to the Big Sioux River;

Bounded on the East by the Big Sioux River; and

Bounded on the South and West by the Missouri River.

The geographic area presently assigned to Tischer, in the State of Iowa, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by Iowa-Minnesota State line from U.S. Route 71 east to U.S. Route 169;

Bounded on the East by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; U.S. Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 69; U.S. Route 69 south to the northern Hamilton County line; the Hamilton County line west to R38; R38 south to U.S. Route 20; U.S. Route 20 west to the eastern and southern Webster County lines to U.S. Route 169; U.S. Route 169 south to E18; E18 west to the eastern Greene County line; the Greene County line south to U.S. Route 30;

Bounded on the South by U.S. Route 30 west to E53; E53 west to N44; N44 north to U.S. Route 30; U.S. Route 30 west to U.S. Route 71; and

Bounded on the West by U.S. Route 71 north to the Iowa-Minnesota State line.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Co-op Elevator, Boxholm, Boone County (located inside Central Iowa Grain Inspection Service, Inc.'s, area); and Cargill, Inc., Algona, Kossuth County; Big Six Elevator, Burt, Kossuth County; Gold-Eagle, Goldfield, Wright County; and Farmers Co-op Elevator, Holmes, Wright County (located inside D. R. Schaal Agency's area).

Interested persons, including Sioux City and Tischer are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning July 1, 1994, and ending June 30, 1997. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: December 16, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93–31365 Filed 12–29–93; 8:45 am]

BILLING CODE 3410–EN–F

Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Lincoln (NB) and Omaha (NB) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to Lincoln Inspection Service, Inc. (Lincoln), and Omaha Grain Inspection Service, Inc. (Omaha).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by January 31, 1994.

ADDRESSES: Comments must be submitted in writing to Neil E. Porter, Director, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36CPDIR]. ATTMAIL and FTS2000MAIL users may respond to !A36CPDIR. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–720–1015, attention: Neil E. Porter. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–720–8262.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 29, 1993, **Federal Register** (58 FR 58149), FGIS asked persons interested in providing official services in the geographic areas assigned to Lincoln and Omaha to submit an application for designation. Applications were due by December 1, 1993. Lincoln and Omaha, the only applicants, each applied for designation in the entire area currently assigned to them. FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants for designation in the Lincoln and Omaha areas. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

VOL 58 ISS 249 DEC 30 1993 UMI

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: December 16, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93–31364 Filed 12–29–93; 8:45 am]

BILLING CODE 3410–EN–F

Forest Service

Proposed Cottonwood Springs Timber Sale Within the Sheep Gulch Roadless Area, Payette National Forest, Washington County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement for the proposed Cottonwood Springs Timber Sale, Weiser Ranger District, Payette National Forest, Idaho. The proposed sale would construct roads and harvest timber within a portion of the Sheep Gulch Roadless Area that the Payette National Forest Land and Resource Management Plan (1988) allocated to multiple use management.

The agency gives notice of the environmental analysis and decision-making process that is beginning on the proposal so that interested and affected people know how they may participate and contribute to the final decision. The agency invites comments and suggestions on the scope of the analysis, including issues to be addressed during the analysis.

A scoping document explaining the proposed action and analysis process is available from the contacts identified below.

DATES: Comments on the scope of the analysis would be most useful if received by February 14, 1994.

ADDRESSES: Send written comments to John W. Baglien, District Ranger, Weiser Ranger District, Payette National Forest, 275 E. 7th Street, Weiser, ID 83672.

FOR FURTHER INFORMATION CONTACT: John Baglien, District Ranger, or Mike Stayton, EIS Team Leader, phone 208–253–4215.

SUPPLEMENTARY INFORMATION: The USDA Forest Service is proposing to construct 1.8 miles of roads and harvest about 3.0 million board feet of timber from 305 acres of suitable timber lands within the Cottonwood Springs timber sale area. A mix of silvicultural treatments is proposed, including 78 acres of commercial thinning, 23 acres of overstory removal, 19 acres of reserve tree (about 5 trees per acre), 62 acres of shelterwood (about 35 percent crown canopy closure), 96 acres of irregular shelterwood (50–60 percent crown canopy closure). This mix of silvicultural prescriptions seeks to retain suitable habitat for sensitive species within all treatment units where it currently exists, improve forest health (resilience and resistance to insect and disease), and increase dominance of seral ponderosa pine and Douglas-fir.

Helicopter logging is proposed for 162 acres (54 percent of the treatment acreage and 42 percent of the volume). Skyline logging is proposed for 73 acres (24 percent of the acreage and 40 percent of the volume). Tractor logging is proposed on 70 acres (21 percent of the acreage and 18 percent of the volume). The proposed mix of logging systems seeks to maintain the recreation setting and protect leave stands in a cost efficient and cost effective manner.

This sale lies within the Sheep Gulch Roadless Area, Washington County, ID. Several small tributaries of the West Fork of Brownlee Creek (Sheep Gulch, Neil Gulch, Sheep Camp Gulch, Box Gulch and Stickney Gulch), and a portion of Cottonwood Creek are within the proposed sale area. Brownlee Creek and Cottonwood Creek flow into Brownlee Reservoir.

The proposal follows direction in the Payette National Forest Land and Resource Management Plan (Forest Plan). This proposal has evolved from one of the unidentified "small sales" of the Forest Plan. The decision to be made is whether the sale area should be entered at this time for timber harvest and associated activities, and if so, the specific conditions of entry.

The proposal is detailed as Alternative 5 in an environmental assessment (EA) available from the contacts listed above. The results of the EA indicated that an environmental impact statement was needed to address the roadless area issue. Issues identified and addressed within the EA include: (1) The effects of proposed road construction and timber harvest in wildlife (particularly deer and bear, management indicator species—elk, vesper sparrow, Williamson's sapsucker and pileated woodpecker, and sensitive species—flammulated owl, northern goshawk, great gray owl and white-headed woodpecker; and (2) the effects of the proposed road construction and timber harvest on recreation opportunities (particularly the potential loss of the remote "semi-primitive" experience the area currently offers). An additional issue, which precipitated the need for an environmental impact statement, is the effect of the proposal on the Sheep Gulch Roadless Area.

Alternatives considered to date include no action, the proposed action described above, an alternative that emphasizes Forest Plan timber objectives, and alternatives that would build 10.6 miles of roads to allow implementation of the silvicultural prescriptions using only conventional logging systems.

A draft environmental impact statement that will consider the proposed action and a reasonable range of alternatives will be prepared. The draft environmental impact statement is expected to be filed with the Environmental Protection Agency and to be available for public review by April 1994. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers early notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of that proposal so that it is meaningful and alerts an agency to the reviewers position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).*

Also, environmental objections that could have been raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Circut, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when the agency can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final environmental impact statement is scheduled to be completed by July 1994.

The Responsible Official is David F. Alexander, Forest Supervisor, Payette National Forest, McCall, ID 83638.

Dated: December 20, 1993.

David F. Alexander,

Forest Supervisor.

[FR Doc. 93–31962 Filed 12–29–93; 8:45 am]

BILLING CODE 3410–11–M

Title to Forest Lieu Selection Lands

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice sets forth an initial list of base lands, located within national forests, for which the Forest Service has determined that the "forest lieu selection" provisions of the Act of June 4, 1897 (Organic Administration Act), have not been realized. This action is the first step in a five-step procedure set forth by the Act of July 2, 1993, to resolve these situations.

DATES: Requests to have parcels of land added to the initial list pursuant to this notice must be received in writing by July 2, 1994.

ADDRESSES: Submit requests to add omitted base lands in writing to the Director, Lands Staff, USDA Forest Service, P.O. 96090, Washington, DC 20090–6090.

The public and affected parties may inspect requests for additions to the initial list in the Office of the Director, Lands, 4th Floor South, Auditor's Building, 205 14th Street SW., Washington, DC. Those wishing to inspect requests should call ahead [(202) 205–1275] to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Questions about this notice should be addressed to Paul Haarala, Lands Staff, (202) 205–1255.

SUPPLEMENTARY INFORMATION:

Background

Certain provisions of the Act of June 4, 1897 (16 U.S.C. 473–475; the Organic Administration Act), which provided for the management of the forest reserves of the United States, also included a provision known as "forest lieu selection." Under that provision, persons who had patented public land, or a claimant to such land, which fell within a proclaimed forest reserve boundary in the western United States were authorized to convey or relinquish their land or claim to such land ("base land") to the United States and to select an equal acreage of vacant public land open to settlement ("in-lieu land"). The forest reserves were renamed as national forests in 1905.

In 1905, Congress repealed the forest lieu selection authorization, but protected previously made contracts and claims. This protection preserved the rights of those persons who had relinquished their inholdings by providing a deed to the United States, but who had not yet realized or exercised their selection rights under the forest lieu selection provision of the Organic Administration Act. In legislation enacted in 1922 and 1930, Congress provided further opportunity to resolve remaining claims by authorizing reconveyance of the base lands back to the former owners or their heirs or assigns. Consequently, most of the claims for in-lieu land were resolved.

However, Congress because concerned about allegations of abuse of the provisions of the 1930 Act, which by the 1950's was leading to reconveyance of valuable national forest and national park lands. In 1960, legislation was enacted that repealed the 1930 Act and sought to close all unresolved claims under the 1897 Act. The legislation provided for compensating persons who had not received appropriate relief under the prior acts. Section 4 of the 1960 Act provided that any base lands for which payment was made, or any base lands for which payment might have been made, but for which no demand was made, would become a part of appropriate national forest, national park, or other Federal area. However, no payments were made under the 1960 Act, continuing the unresolved title status of some of the base lands.

Thus, most of these base lands with questionable title have continued to be considered part of the national forests, although some have been continuously occupied by private parties since before 1960. Others have been the subject of court decisions, raising further questions about the United States' claim of title.

In the mid-1980's, the Forest Service, pursuant to a request from Congress, compiled a list of grantors and base lands relinquished to the United States under the 1897 Act provision for which selection or other rights were not realized or exercised. This list was submitted to the 98th Congress and was used by it and subsequent Congresses in deliberations on legislation eventually enacted as the Act of July 2, 1993.

The 1993 Act was enacted to provide the final resolution of the status of title question of the remaining base lands. The Act sets forth a 5-step procedure by which the United States will finally resolve the title question by either retaining or by quitclaiming all right, title, and interest in and to the base lands.

Step 1 requires the Secretaries of Agriculture and of the Interior, acting through the Forest Service and the Bureau of Land Management, to compile and publish an initial list of base lands in the **Federal Register**. This initial list will be prepared by the agencies from information in their actual possession. The agencies are not required to make a search of local records when preparing initial lists.

Step 2 will allow persons who assert a particular parcel should be included in the initial list to request the addition. The agencies will revise the initial list by acting on the suggestions received from interested parties. Parcels will be added to the initial list if the agencies determine that selection or other rights under the 1897 Act or supplemental legislation were not realized or exercised.

Step 3 requires the compilation and publication in the **Federal Register** of a list of nationally significant lands. This list will include base lands on the initial list that are determined by the agencies to be of "national significance." Identification of nationally significant lands on this list will cause their removal from the completed initial list. Nationally significant lands are defined by the Act of July 2, 1993, as base lands within conservation units established by law, including units of the National Park System, National Wildlife Refuge System, National Wilderness Preservation, National Wild and Scenic Rivers System, or National Trails Systems; lands within any national recreation area, national forest monument, or national conservation area; lands within any area being studied for possible designation as any such unit or area; or lands within any area designated by Congress for specific management. Lands of national significance also include lands which the Secretaries of Agriculture and of the Interior determine, under their own discretion, should be retained in public

ownership to meet public, resource protection, or administrative needs.

Step 4 requires the preparation and publication in the **Federal Register** of a final list showing those base lands which would be quitclaimed to the listed grantors.

Step 5 requires the agencies to issue documents of disclaimer of interest, confirming the quitclaiming of the U.S. interests. These instruments would be recorded in appropriate county records in the name of the grantors, their heirs, devisees, successors, or assigns, and noted in the agencies own land title records.

Procedure

The procedure the Forest Service will observe in carrying out the provisions of the Act of July 2, 1993, follows:

1. Compile, Publish, and Distribute an Initial List of All Affected Base Lands

This list will be compiled from the agency's own records. Persons claiming an interest in the base lands will have 180 days from the date of publication to suggest base lands to add to the initial list. In addition to publication in the **Federal Register**, Forest Service field offices will send the initial list to all persons or entities, such as the Forest Lieu Selection Committee and title companies, that have indicated a title interest in the base lands, to appropriate Bureau of Land Management State offices, and to appropriate State and county offices.

2. Consider Suggested Additions and Revise the Initial List

The agency will add parcels suggested by interested parties which it determines meet the conditions set forth in the Act—those for which selection or other rights under the 1897 Act, as amended and supplemented, were not realized or exercised. Parcels that do not meet those conditions, or which for other reasons are no longer affected by those conditions, will not be included or will be removed from the initial list.

3. Identify, Compile, Publish, and Distribute a List of Nationally Significant Lands and Other Lands To Be Deleted From the Initial List

Following preparation of the initial list, the agency will identify nationally significant lands which the agency determines should be retained as a part of the National Forest System. This list will be published in the **Federal Register** before or concurrently with the final list of lands described under step 4 below. The list will be distributed to those parties submitting information on the initial list and to those who receive the initial list. Upon publication, all right, title, and interest in these nationally significant lands, subject to valid existing rights, will be vested and confirmed in the United States. The list will be recorded in appropriate county, Forest Service, and BLM records.

Anyone claiming that the identification of nationally significant lands under the Act was a "taking" of property will be allowed a one-year opportunity to file a petition in the United States Claims Court for monetary compensation. Identification of national significant lands does not of itself entitle any party to compensation. The burden is on the claimant to prove a compensable claim.

4. Compile, Publish, and Distribute a Final List of Lands To Be Relinquished by the United States

This list will be published within 24 months after publication of the initial list and will be the result of revisions made to the initial list by additions under step 2 and by deletions of nationally significant lands under step 3.

5. Issue Instruments of Disclaimer of Interest Confirming the Statutory Quitclaim of Lands Included in the Final List

Within 6 months of publication of the final list in the **Federal Register**, the agency will issue documents of disclaimer confirming the quitclaiming of all right, title, and interest in and to these base lands, subject to valid existing rights, to the listed grantors, their heirs, devises, successors, and assigns. The document of disclaimer of interest, confirming the statutory quitclaim of the lands included on the final list, will be recorded in appropriate county, Forest Service, and BLM records.

The acceptance of benefits under Act of July 2, 1993, or the failure to seek the benefits provided under this Act within the time allotted with respect to any base or other lands will be considered a waiver of any claims against the United States with respect to those lands or to any revenues therefrom.

Initial List

Table 1, shown at the end of this notice, presents the initial list of base lands. It has been prepared based on information in the actual possession of the Forest Service as of July 2, 1993, including information submitted to Congress pursuant to the directive contained in Senate Report No 98–578, issued for the Fiscal Year 1985 Interior and Related Agencies Appropriation Act.

The table presents the information grouped by State, by meridian, and by county. The first column identifies the parcel of base land by an agency identifier. The second column lists the names of the individual or entity that relinquished base lands to the United States under the 1897 Act. Columns 4 and 5 list the volume and page of the deed recordation book of the county within which the parcel is located. Columns 6 through 9 show the legal description of the base lands by Township (T), Range (R), section (sec.), and the legal subdivisions of the section. The standard procedure for identifying legal subdivisions has been modified for brevity. For example, the south one-half of the north one-half of a section is SN, the south one-half of the northeast one-quarter of the southwest one-quarter of a section is SNESW, the east one-half of the southeast one-quarter is ESE, and so forth. Column 10 shows the acres associated with the legal description of the base land parcel.

Persons asserting an interest in any base lands that may have been omitted from the initial list are invited to suggest the addition of omitted parcels to the list in order to be considered for relief pursuant to Act of July 2, 1993. Suggestions for additions to the initial list must be received in writing by the agency at the address shown above by July 2, 1994. The request must include the name of the person or entity granting the lands to the United States, the State and county in which the deed is recorded, the volume and page of the deed recordation book, and the legal description of the lands.

The agency will add to the following initial list any such parcels that the agency determines meets the necessary conditions of the Act and remove any parcels that do not meet those conditions or which, for other reasons, are no longer affected by those conditions:

Dated: December 22, 1993.

David G. Unger,

Associate Chief.

BILLING CODE 3410-11-M

TABLE 1
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	DEED BOOK PAGE	LEGAL DESCRIPTION	ACRES
STATE: Arizona		MERIDIAN: Gila and Salt River			
		Apache County			
12	Hartley, Roland	11	252	T.6 N., R.29 E., sec. 1, Lots 1, 2	39
				29, SWSW	40
13	Clark, W.H.	12	76	T.7 N., R.30 E., sec. 29, SWSW	40
				32, NWNW	40
14	Hale, Howard	12	88	T.7 N., R.27 E., sec. 2, ESE	80
		Coconino County			
16	Santa Fe RR	24	000	T.20 N., R.1 E., sec. 13, NWNE	40
17	Santa Fe RR	35	170	T.20 N., R.4 E., sec. 21, Lot 9 (NESE)	40
19	Boyce, C.E.	00	000	T.20 N., R.4 E., sec. 4, SWNE	40
20	Santa Fe RR	40	455	T.20 N., R.5 E., sec. 25, SESW	40
21	Santa Fe RR	40	496	T.20 N., R.5 E., sec. 31, Lot 2 (SWSW) Lot 4 (SWNW)	74
22	Santa Fe RR	35	8	T.20 N., R.6 E., sec. 21, SSE	80
23	Santa Fe RR	40	1	T.20 N., R.7 E., sec. 1, SESE	40
24	Toombs, Oscar	9	445	T.20 N., R.7 E., sec. 26, NENE	40
25	Toombs, Oscar	10	77	T.20 N., R.7 E., sec. 26, NWNE	40
26	Toombs, Oscar	9	466	T.20 N., R.7 E., sec. 34, SENE	40
28	Keys, C.D.	7	611	T.21 N., R.3 E., sec. 6, Lot 5	39
33	Santa Fe RR	34	599	T.21 N., R.6 E., sec. 7, NENE	40
35	Perrin, E.B.	21	339	T.23 N., R.4 E., sec. 7, NWNE	40
36	Santa Fe RR	29	280	T.23 N., R.8 E., sec. 25, NENE	40
37	Santa Fe RR	29	356	T.25 N., R.4 E., sec. 27, NWNW	40
38	Baker, Wm. F.	13	231	T.27 N., R.4 E., sec. 3, SWSE	40
40	Santa Fe RR	39	97	T.29 N., R.2 E., sec. 29, NWNE	40
41	Santa Fe RR	34	366	T.16 N., R.8 E., sec. 11, SE	160
42	Santa Fe RR	34	195	T.18 N., R.6 E., sec 31, Lot 6	36
43	Santa Fe RR	40	56	T.19 N., R.6 E., sec. 7, SWSE	40
44	Santa Fe RR	35	82	T.19 N., R.7 E., sec. 25, SSE	80
48	Pratt, James S.	40	455	T.16 N., R.8 E., sec. 12, NSW	80
50	Santa Fe RR	35	450	T.20 N., R.5 E., sec. 3, SESW	40
51	Santa Fe RR	40	285	T.20 N., R.5 E., sec. 7, NE	160
52	Santa Fe RR	34	384	T.20 N., R.5 E., sec. 13, NENW	40
		Navajo County			
15	Ling, Reams	2	630	T.10 N., R.21 E., sec. 6, Lot 2	40
49	Astec Land & Cattle	1	132	T.11 N., R.18 E., sec. 35, SWSW	40
		Yavapai County			
45	Sullivan, J.W.	50	206	T.14 N., R.3 W., sec. 15, SESE (Tr. 38)	40
46	Santa Fe RR	68	149	T.15 N., R.6 E., sec. 3, Lot 2	32
47	Santa Fe RR	15	567	T.18 N., R.4 E., sec. 27, SE	160
STATE: California		MERIDIAN: Mt. Diablo			
		El Dorado County			
1	Hyde, F.A.	56	25	T.13 N., R.16 E., sec. 36, SWNW (Tr.37)	38
2	Hyde, F.A.	56	49	T.13 N., R.16 E., sec. 36, NENE (Tr.38) NWNE	59
		Fresno County			
8	Collins, Jeremiah	229	237	T.8 S., R.25 E., sec. 14, SENW NENE	80
9	Ockenden, Wm.	258	126	T.10 S., R.25 E., sec. 10, NSE SESE	120
10	Ockenden, Wm.	258	126	T.10 S., R.25 E., sec. 11, SWSW	40
11	Clarke, C.W.	232	165	T.10 S., R.27 E., sec. 36, SWNW	40
12	Collins, Jeremiah	229	237	T.8 S., R.25 E., sec. 15, SENWSW ENENWSW	15
13	Collins, Jeremiah	229	237	T.8 S., R.25 E., sec. 15, SSSENE	10
14	Clarke, C.W.	232	165	T.10 S., R.27 E., sec. 36, NWNW	40
15	Cowden, Thomas J.	228	448	T.9 S., R.29 E., sec. 16, SENW	40
		Kern County			
23	Hyde, F.A.	86	43	T.25 S., R.35 E., sec. 16, NENW	40
24	Dimond, E.	78	59	T.28 S., R.34 E., sec. 16, NENE (Tr. 37)	40
25	Dimond, E.	78	59	T.28 S., R.34 E., sec. 16, ENW (Tr. 38)	80
26	Dimond, E.	78	59	T.28 S., R.34 E., sec. 16, SE (Tr. 39)	160
28	Hyde, F.A.	62	473	T.9 N., R.23 W., sec. 16, NE (Tr.50)	160
29	Hyde, F.A.	62	479	T.9 N., R.23 W., sec. 16, NENW (Tr. 51)	40

TABLE 1 (Continued)
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	DEED BOOK PAGE	LEGAL DESCRIPTION	ACRES
STATE: California		MERIDIAN: Mt. Diablo			
		Los Angeles County			
62	Eddy, John A.	1295	291	T.1 N., R.8 W., sec. 18, SENW	40
63	Cook, E.J.	1458	220	T.1 N., R.9 W., sec. 15, NWSE SSE	120
64	Campbell, John	1519	174	T.3 N., R.8 W., sec. 1, SESW SWSE	80
65	Campbell, John	1507	188	T.3 N., R.8 W., sec. 12, NWNE	40
66	Christey, William	1352	250	T.5 N., R.15 W., sec. 30, Lot 2, NESW	80
67	Eddy, John A.	1304	299	T.5 N., R.16 W., sec. 16, NSE	80
93	Elliott, Thomas	00	000	T.5 N., R.15 W., sec. 30, Lot 3, SWNW	80
		Madera County			
4	Hyde, F.A.	23	63	T.5 S., R.24 E., sec. 16, SESW	40
5	Willingham, C.B.	18	136	T.6 S., R.24 E., sec. 5, NWSE	40
6	Hamilton, H.M.	23	207	T.7 S., R.22 E., sec. 36, SWSE	40
7	Collins, Peter M.	40	268	T.8 S., R.23 E., sec. 18, E/Lot 4	6
		Mono County			
17	Clarke, C.W.	N	156	T.3 N., R.24 E., sec. 16, SE	160
18	Hyde, F.A.	N	348	T.5 N., R.23 E., sec. 36, NS	160
		Tuolumne County			
3	Keil, Hugo D.	42	521	T.6 N., R.18 E., sec. 16, SENW	40
		Tulare County			
16	Collins, Peter M.	94	403	T.17 S., R.34 E., sec. 36, NSE	80
18	Clarke, C.W.	92	423	T.20 S., R.33 E., sec. 16, SWNW	40
19	Hilton, Frank P.	94	472	T.20 S., R.33 E., sec. 8, WSW EESW	120
20	Hyde, F.A.	102	335	T.22 S., R.33 E., sec. 36, NENE	40
21	Hyde, F.A.	85	216	T.23 S., R.33 E., sec. 36, SWSE	40
STATE: California		MERIDIAN: San Bernardino			
		Riverside County			
87	Swezy, Chas E.	135	126	T.4 S., R.2 E., sec. 13, WNE	80
88	Hood, William	184	14	T.4 S., R.2 E., sec. 7, SESW	40
89	Collins, Peter M.	135	282	T.5 S., R.2 E., sec. 5, NSW	80
90	Bemis, John M.	142	70	T.6 S., R.2 E., sec. 19, ENW	80
		Santa Barbara County			
44	Lyman, Richard	67	501	T.7 N., R.29 W., sec. 7, NWNE	40
45	Hyde, F.A.	72	25	T.9 N., R.24 W., sec. 16, SESW	40
46	Forrester, Edward E	80	379	T.9 N., R.29 W., sec. 25, NWSW	40
				26, SESE	40
47	Clarke, C.W.	69	77	T.8 N., R.29 W., sec. 36, N SW	480
48	Clarke, C.W.	69	621	T.8 N., R.28 W., sec. 16, Lot 1	22
49	Hyde, F.A. & Co.	82	618	T.8 N., R.25 W., sec. 16, WNW	80
50	Clarke, C.W.	68	263	T.7 N., R.29 W., sec. 22, NWSE	40
51	Clarke, C.W.	68	264	T.7 N., R.29 W., sec. 22, NENE	40
52	Hyde, F.A.	70	134	T.7 N., R.27 W., sec. 36, ESW SNW	160
53	SB/LA Water Co.	102	1	T.5 N., R.25 W., sec. 19, Lot 2	38
54	SB/LA Water Co.	102	1	T.5 N., R.25 W., sec. 29, NWSW	40
55	Washburn, Jed	101	55	T.5 N., R.27 W., sec. 1, Lot 1	25
56	Pettinger, Hannah	105	160	T.5 N., R.28 W., sec. 7, Lots 5, 6	67
57	Paul, George W.	103	325	T.5 N., R.29 W., sec. 13, WNE	80
59	Holbrook, C.H.	83	451	T.5 N., R.31 W., sec. 14, Lots 15, 16	80
60	Kester, G.W.	119	423	T.5 N., R.31 W., sec. 21, NWSW	40
61	Washburn, Jed L.	101	55	T.6 N., R.28 W., sec. 24, Lots 1, 2	61
61	Washburn, Jed L.	101	55	T.6 N., R.27 W., sec. 13, Lots 7, 8	60
		San Bernardino County			
68	Schneider, Fred	290	380	T.1 N., R.1 W., sec. 8, S/Lot 5 Lot 8	80
69	Cooper, A.W.	284	382	T.1 N., R.6 W., sec. 6, NESE	40
70	Burson, John	293	109	T.1 N., R.7 W., sec. 6, Lot 5	40
71	Hamilton, Hiram M.	305	490	T.2 N., R.2 W., sec. 27, SSE	80
72	Vine, Emory	339	127	T.2 N., R.6 W., sec. 24, SENE	40
73	Goslin, Wm. G.	283	2	T.2 N., R.4 W., sec. 21, NW	160
76	Selway, Robert	283	204	T.2 N., R.7 W., sec. 36, W	320
77	Campbell, John F.	291	252	T.1 S., R.1 W., sec. 18, Lot 1	40
78	Clarke, C.W.	000	000	T.3 N., R.6 W., sec. 36, SWNW	28

TABLE 1 (Continued)
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	DEED BOOK PAGE	LEGAL DESCRIPTION	ACRES
STATE: California		MERIDIAN: San Bernardino			
		San Bernardino County (continued)			
79	Richards, Jarrett	354	55	T.3 N., R.6 W., sec. 4, NWE	80
80	Richards, Jarrett	349	57	T.3 N., R.6 W., sec. 7, SSE	80
81	Richards, Jarrett	349	57	T.3 N., R.6 W., sec. 20, SENE SE	200
82	Richards, Jarrett	349	57	T.3 N., R.6 W., sec. 21, SWSW NSW WNW	200
83	Richards, Jarrett	349	57	T.3 N., R.6 W., sec. 8, SSE	80
84	Richards, Jarrett	349	57	T.3 N., R.6 W., sec. 26, ESW SWSW	99
84	Richards, Jarrett	349	57	T.3 N., R.6 W., sec. 26, ES W SWSW	21
85	Richards, Jarrett	349	96	T.3 N., R.6 W., sec. 26, NWSW	40
95	Hyde, F.A.	72	130	T.11 N., R.30 W., sec. 36, NWNW	40
96	Hyde, F.A.	72	133	T.11 N., R.30 W., sec. 36, NWNW	40
97	Doyle & McGonagle	286	320	T.1 N., R.7 W., sec. 2, ENW	80
		Ventura County			
30	Hyde, F.A.	72	18	T.9 N., R.24 W., sec. 16, ES	160
31	Black, Lewis	86	131	T.8 N., R.21 W., sec. 33, NNW	80
32	Hinckley, Artie M.	90	1	T.8 N., R.21 W., sec. 33, NNE	80
33	Miller, Wm. T.	84	449	T.8 N., R.23 W., sec. 20, NWNE NENW	80
34	Holbrook, C.H.	86	56	T.8 N., R.24 W., sec. 16, NN	160
35	Hyde, F.A.	62	635	T.8 N., R.24 W., sec. 36, WNE NENW	120
37	Goslin, Wm. G.	62	377	T.6 N., R.19 W., sec. 16, NNW	80
38	Hyde, F.A.	62	617	T.5 N., R.19 W., sec. 36, SENW SENE	80
39	Clarke, C.W.	58	535	T.5 N., R.22 W., sec. 16, ENE	80
40	McLeod, Gary	78	143	T.5 N., R.24 W., sec. 15, NSENE	20
41	Rice, Sarah	77	280	T.5 N., R.23 W., sec. 19, SWSE	40
42	Rapp, J.J.	77	344	T.5 N., R.24 W., sec. 23, SNSE	40
				24, SWSW	40
43	Morris, Daisy	90	201	T.4 N., R.24 W., sec. 14, NWSW	40
92	Clarke, C.W.	56	153	T.8 N., R.23 W., sec. 36, NWNW	40
STATE: Colorado		MERIDIAN: 6th Principal			
		Custer County			
17	Locke, James T.	60	95	T.21 S., R.70 W., sec. 5, NESW	40
		Fremont County			
16	Locke, James T.	118	435	T.20 S., R.70 W., sec. 29, SESW	40
		Jefferson County			
2	Holcomb, Eugene	130	10	T.8 S., R.71 W., sec. 32, NSENE NENE NWNE	80
4	Moses, W.E.	63	70	T.8 S., R.72 W., sec. 1, NENE	40
		Park County			
1	Wilson, Alfred	65	10	T.7 S., R.74 W., sec. 8, NENENE	10
3	Sloan, Robert E.	63	342	T.8 S., R.72 W., sec. 31, SESW	40
5	Sloan, Robert E.	63	549	T.8 S., R.73 W., sec. 26, NSE	80
6	Sloan, Robert E.	63	342	T.9 S., R.72 W., sec. 6, Lots 3,4,5	74
7	Holcomb, Oscar E.	65	374	T.9 S., R.74 W., sec. 8, SESE	40
8	Holcomb, Oscar E.	65	378	T.9 S., R.74 W., sec. 31, WNW SWNE SENW	131
9a	Wilson, Alfred C.	65	28	T.10 S., R.73 W., sec. 9, WNENW NSENW NENWNE SWNWNE SWNWNWNE	73
9b	Wilson, Alfred C.	65	28	T.10 S., R.73 W., sec. 9, NNENENW	5
9c	Wilson, Alfred C.	65	29	T.10 S., R.73 W., sec. 9, SENWNE	10
10	Bullock, Jared	65	137	T.11 S., R.73 W., sec. 10, SNW (Tr 39)	80
11	Moses, W.E.	70	51	T.12 S., R.71 W., sec. 32, NENESE	10
12	Moses, W.E.	65	11	T.12 S., R.72 W., sec. 27, SWNE	40
13	Armour, Edwin	335	420	T.13 S., R.68 W., sec. 17, NWNE SENE	80
15	Moses, W.E. LS&R	70	48	T.13 S., R.71 W., sec. 20, SNE SENW NWSE	160
		Teller County			
14	Hedges, Zachary T.	43	175	T.12 S., R.68 W., sec. 7, S/Lot 3	40

TABLE 1 (Continued)
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	PAGE	LEGAL DESCRIPTION	ACRES
STATE: Idaho	MERIDIAN: Boise				
				Bonner County	
2	No. Pacific RR	5	20	T.57 N., R.5 W., sec. 31, SE	160
3	Richardson, Geo. B.	8	51	T.57 N., R.5 W., sec. 35, NSW	80
4	Kohrs, Conrad	5	471	T.58 N., R.3 W., sec. 21, SWSW	40
6	No. Pacific RR	4	126	T.58 N., R.5 W., sec. 35, SE	160
7	No. Pacific RR	4	146	T.58 N., R.5 W., sec. 35, W	320
8	No. Pacific RR	4	144	T.58 N., R.5 W., sec. 29, NSE SESE	120
9	No. Pacific RR	4	118	T.59 N., R.5 W., sec. 35, NESW NWSE SESE	128
10	No. Pacific RR	5	368	T.60 N., R.4 W., sec. 17, Lot 3	24
11	No. Pacific RR	5	368	T.61 N., R.4 W., sec. 21, Lot 2	5
				Boundary County	
12	No. Pacific RR	5	371	T.62 N., R.4 W., sec. 9, Lots 7, 8	53
STATE: New Mexico	MERIDIAN: New Mexico Principal				
				Catron County	
4	Black, Lewis C.	47	516	T.5 S., R.19 W., sec. 5, SENE SWNW	80
5	Black, Lewis C.	47	512	T.5 S., R.19 W., sec. 32, SWNW	40
6	Porter, Henry M.	44	390	T.8 S., R.15 W., sec. 4, SSE SESW 9, NENW	120 40
7	Sherman, Jesse H.	48	178	T.11 S., R.12 W., sec. 29, NWNW	40
13	Moses, W.E.	54	422	T.8 S., R.19 W., sec. 15, NSW	80
14	Coffin, Mary	54	334	T.6 S., R.21 W., sec. 2, SNESE	20
14	Adair, Charles	45	316	T.6 S., R.21 W., sec. 2, SNESE	20
15	Jones, Flemming WA	54	465	T.7 S., R.19 W., sec. 26, ENE	80
				Grant County	
9	G.O.S. Cattle Co.	41	243	T.14 S., R.13 W., sec. 32, SWNW	40
16	Watson, William W.	41	574	T.14 S., R.17 W., sec. 25, SWNE SESE	80
17	Miller, Ellis	47	67	T.10 S., R.15 W., sec. 34, NENE WNE NWSE	160
				Lincoln County	
10	Moses, W.E. LS&R	W	214	T.8 S., R.16 E., sec. 30, SESW	40
11	Jaffa, Joseph	W	147	T.8 S., R.17 E., sec. 13, SSE 24, NNE	80 80
18	Moses, W.E.	W	177	T.8 S., R.14 E., sec. 1, SENW	40
19	Ridgeway, Arnold	W	226	T.7 S., R.12 E., sec. 12, NENE SESE	80
20	Seaberg, Hugo	W	114	T.8 S., R.17 E., sec. 7, SENE	40
				Sierra County	
21	Plemmons, John C.	C	397	T.12 S., R.11 W., sec. 29, SWSW	40
22	Ingles, Thomas & Jane	C	404	T.12 S., R.11 W., sec. 29, SESW	40
				San Miguel County	
1	Moses, W.E.	50	48	T.19 N., R.14 E., sec. 26, NWNW WNENW	60
2	Moses, W.E.	49	522	T.18 N., R.14 E., sec. 21, SENW	40
3	Barker, Squire L.	50	412	T.18 N., R.14 E., sec. 3, NEly 1/2 of the SESE	16
12	Ehrlich, L. & Annie	52	6	T.18 N., R.14 E., sec. 11, SNW ESW	160
STATE: Oregon	MERIDIAN: Willamette				
				Clackamas County	
1	Murphy, John T.	75	168	T.1 S., R.5 E., sec. 36, SW SSE	240
2	Strickland, M.C.	89	218	T.2 S., R.7 E., sec. 10, NW	160
3	Henderson, M.F.	86	18	T.2 S., R.7 E., sec. 8, SENW	40
26	Hyde, F.A.	68	440	T.3 S., R.7 E., sec. 36, Part NNE	63
				Deschutes County	
9	Clarke, C.W.	1	235	T.19 S., R.9 E., sec. 36, SESE	40
10	Clarke, C.W.	11	271	T.22 S., R.9 E., sec. 36, ESE SWSE SENE	160
11	Hyde, F.A.	11	235	T.23 S., R.7 E., sec. 36, SESW	40
12	Hyde, F.A.	12	95	T.23 S., R.9 E., sec. 36, ESE	80
13	Hyde, F.A.	12	95	T.23 S., R.9 E., sec. 36, SENW SW WSE NE	440
24	Clark, C.W.	1	271	T.17 S., R.9 E., sec. 16, SWNE NWSE SESE	120

TABLE 1 (Continued)
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	PAGE	LEGAL DESCRIPTION	ACRES
STATE: Oregon	MERIDIAN: Willamette				
				Hood River County	
23	Hyde, F.A.	B	407	T.1 S., R.8 E., sec. 36, SESE	40
				Jackson County	
14	Hyde, F.A.	37	206	T.32 S., R.4 E., sec. 36, SWE	80
15	Kohrs, Conrad	37	368	T.35 S., R.4 E., sec. 27, NSE	80
16	Kohrs, Conrad	37	368	T.37 S., R.4 E., sec. 31, SWNW	40
17	English, John T.	37	626	T.39 S., R.1 E., sec. 29, SENE	40
18	English, John T.	37	626	T.39 S., R.1 E., sec. 31, ESW	80
				Klamath County	
19	Hyde, F.A.	12	167	T.35 S., R.6 E., sec. 16, SWNW	40
20	Clarke, C.W.	11	296	T.37 S., R.5 E., sec. 36, SWSW	40
21	Hyde, F.A.	11	206	T.37 S., R.6 E., sec. 16, SSE NW NSW SWSW	360
25	Hyde, F.A.	11	235	T.23 S., R.8 E., sec. 16, SWSE	40
25	Hyde, F.A.	11	235	T.27 S., R.6.5 E., sec. 36, S	320
				Lane County	
6	Cal-Ore-Land Co.	56	567	T.20 S., R.1 E., sec. 11, NESE	40
7	Cal-Ore-Land Co.	63	383	T.20 S., R.2 E., sec. 29, ENE	80
8	Goslin, Wm. G.	47	567	T.20 S., R.2 E., sec. 20, NENE	40
22	Cal-Ore-Land Co.	63	40	T.23 S., R.3 E., sec. 21, Lot 3	25
				Lincoln County	
5	Peterson, Christine	67	133	T.10 S., R.5 E., sec. 13, ENE SWNESENW	160
				Wasco County	
4	Drake, Alexander M.	35	139	T.2 S., R.11 E., sec. 12, WSW	80
STATE: South Dakota	MERIDIAN: Black Hills				
				Custer County	
57	Hazeltine, Stillman	2	500	T.2 S., R.6 E., sec. 24, SWSE SESW 26, WNE	80 80
58	Wright, Wilbur F	6	306	T.3 S., R.4 E., sec. 33, NNE SENE NENSE	160
				Lawrence County	
22	Blaine, James E	175	630	T.6 N., R.2 E., sec. 31, Lot 2	40
23	Weare, Henry G.	141	250	T.6 N., R.2 E., sec. 31, Lots 3,4 ESW	160
24	Smith, Frank D	157	427	T.5 N., R.4 E., sec. 10, ENW SNE NESE	200
33	Price-Baker Co	17	524	T.2 N., R.6 E., sec. 7, SNE NSE	160
				Meade County	
25	Christy, William	17	499	T.4 N., R.6 E., sec. 19, Lot 4	35
26	Chaplin, Carle H.	25	162	T.3 N., R.6 E., sec. 6, Lots 5, 6 & 7 7 Lot 1	145
				Pennington County	
27	Rumsey, James D.C.	23	183	T.2 N., R.6 E., sec. 32, SESE	40
28	Rumsey, James D.C.	23	184	T.2 N., R.6 E., sec. 32, NSE NESW	120
29	Rumsey, James D.C.	23	173	T.2 N., R.6 E., sec. 29, ENE	80
30	Rumsey, James D.C.	23	176	T.2 N., R.6 E., sec. 29, SSE	80
31	Rumsey, James D.C.	23	156	T.2 N., R.6 E., sec. 21, SSE	80
32	Rumsey, James D.C.	23	157	T.2 N., R.6 E., sec. 21, NE	160
34	Conley, Hiram F.	16	439	T.1 N., R.6 E., sec. 17, NWSW 18, SWNE NSE	40 120
35	Mathias, J. Howell	16	410	T.1 N., R.6 E., sec. 31, NWSW(Lot 3)	40
36	Rapid Cty Lbr. Co.	16	517	T.1 N., R.6 E., sec. 11, WNW SENW NWSW	160
37	Morse, Corbin	16	238	T.1 N., R.6 E., sec. 35, SWSE SESW	80
38	Christy, William	16	242	T.1 N., R.6 E., sec. 13, SESE 24, ENE NESE	40 120
39	McCaffrey, Frank	16	316	T.1 N., R.4 E., sec. 29, SWSE 32, WNE NWSE	40 120
40	Ransom, Albert F	16	330	T.1 N., R.4 E., sec. 34, NESW SENW SWNE NWSE	160

TABLE 1 (Continued)
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	PAGE	LEGAL DESCRIPTION	ACRES
STATE: Oregon	MERIDIAN: Willamette				
				Wasco County	
1	Drake, Alexander M.	35	139	T.2 S., R.11 E., sec. 12, WSW	80
STATE: South Dakota	MERIDIAN: Black Hills				
				Custer County	
57	Hazeltine, Stillman	2	500	T.2 S., R.6 E., sec. 24, SWSE SESW 26, WNE	80 80
58	Wright, Wilbur F	6	306	T.3 S., R.4 E., sec. 33, NNE SENE NENSE	160
				Lawrence County	
22	Blaine, James E	175	630	T.6 N., R.2 E., sec. 31, Lot 2	40
23	Weare, Henry G.	141	250	T.6 N., R.2 E., sec. 31, Lots 3,4 ESW	160
24	Smith, Frank D	157	427	T.5 N., R.4 E., sec. 10, ENW SNE NESE	200
33	Price-Baker Co	17	524	T.2 N., R.6 E., sec. 7, SNE NSE	160
				Meade County	
25	Christy, William	17	499	T.4 N., R.6 E., sec. 19, Lot 4	35
26	Chaplin, Carle H.	25	162	T.3 N., R.6 E., sec. 6, Lots 5, 6 & 7 7 Lot 1	145
				Pennington County	
27	Rumsey, James D.C.	23	183	T.2 N., R.6 E., sec. 32, SESE	40
28	Rumsey, James D.C.	23	184	T.2 N., R.6 E., sec. 32, NSE NESW	120
29	Rumsey, James D.C.	23	173	T.2 N., R.6 E., sec. 29, ENE	80
30	Rumsey, James D.C.	23	176	T.2 N., R.6 E., sec. 29, SSE	80
31	Rumsey, James D.C.	23	156	T.2 N., R.6 E., sec. 21, SSE	80
32	Rumsey, James D.C.	23	157	T.2 N., R.6 E., sec. 21, NE	160
34	Conley, Hiram F.	16	439	T.1 N., R.6 E., sec. 17, NWSW 18, SWNE NSE	40 120
35	Mathias, J. Howell	16	410	T.1 N., R.6 E., sec. 31, NWSW(Lot 3)	40
36	Rapid Cty Lbr. Co.	16	517	T.1 N., R.6 E., sec. 11, WNW SENW NWSW	160
37	Morse, Corbin	16	238	T.1 N., R.6 E., sec. 35, SWSE SESW	80
38	Christy, William	16	242	T.1 N., R.6 E., sec. 13, SESE 24, ENE NESE	40 120
39	McCaffrey, Frank	16	316	T.1 N., R.4 E., sec. 29, SWSE 32, WNE NWSE	40 120
40	Ransom, Albert F	16	330	T.1 N., R.4 E., sec. 34, NESW SENW SWNE NWSE	160

TABLE 1 (Continued)
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	DEED BOOK PAGE	LEGAL DESCRIPTION	ACRES
STATE: South Dakota	MERIDIAN: Black Hills				
				Pennington County (Continued)	
41	Turner, George	16	303	T.1 N., R.4 E., sec. 33, ESW SWSW	120
42	Turner, George	16	303	T.1 S., R.4 E., sec. 4, Lot 3	40
43	Castle, Willard R.	16	576	T.1 N., R.4 E., sec. 17, SWSW	40
44	Todd, Wm.	16	552	T.1 N., R.4 E., sec. 29, SESE	40
45	Pruett, James P.	J	392	T.1 N., R.1 E., sec. 13, SWSW	40
				14, SESE	40
				24, NWNW	40
46	Simpson, Frank O.	16	364	T.1 S., R.3 E., sec. 25, SWSW	40
				26, SSE SESW	120
47	Hurlburt, Frank	16	432	T.1 S., R.4 E., sec. 9, Lots 3,4 & 5 SESE	120
47	Hurlburt, Frank	16	432	T.1 S., R.4 E., sec. 9, Lot 8	40
48	White, Willison B.	16	342	T.1 S., R.4 E., sec. 14, NE less 15.43 ac.	135
49	Ostle, William	16	307	T.1 S., R.5 E., sec. 33, Lots 3,4, 7, 8 & 9	96
50	Bishop, Albert L.	16	326	T.1 S., R.5 E., sec. 31, Lots 3 & 13 SNE	144
51	Weaver, Lucretia	16	334	T.1 S., R.5 E., sec. 28, Lots 2,4, 8 SWNW SWSW	107
52	White, John	16	310	T.1 S., R.5 E., sec. 19, Lots 4,5 NESW NWSE	147
53	Blight, Ephraim	16	306	T.1 S., R.5 E., sec. 33, SENE	119
				34, Lot 1 NWNW	
54	Tutty, John	23	218	T.2 S., R.5 E., sec. 1, Lot 1	40
55	Boland, Abram C.	23	216	T.2 S., R.6 E., sec. 21, NWSE	40
56	Roy, William	16	453	T.2 S., R.6 E., sec. 8, SESW SWSW	80
59	Rumsey, James D.	23	169	T.2 N., R.6 E., sec. 28, NWSW	40
STATE: Utah	MERIDIAN: Salt Lake				
				Sanpete County	
8	Gray, L.H.	47	356	T.15 S., R.5 E., sec. 35, WNW	80
9	Badger, George T	47	387	T.15 S., R.5 E., sec. 26, WSW	80
10	Ziegler, Charles	47	183	T.15 S., R.5 E., sec. 2, Lots 1, 2,3 & 4 SNE NSE	320
16	Ziegler, Charles	47	175	T.14 S., R.5 E., sec. 36, SESE	40
				Summit County	
1	Tevis, William L	H	319	T.1 S., R.7 E., sec. 32, NW	205
				2, Lot 4	
2	Zeigler, Charles	H	109	T.1 S., R.7 E., sec. 36, NW	160
3	Zeigler, Charles	G	587	T.1 S., R.7 E., sec. 36, NENE	40
4	Richardson, Charles	5	295	T.3 S., R.7 E., sec. 17, NWW	80
				Sevier County	
11	Moses LS&R Co.	27	114	T.24 S., R.2 E., sec. 10, ENE	80
12	Moses LS&R Co.	27	118	T.24 S., R.2 E., sec. 15, NWSE	40
13	Hamilton, Hiram M.	27	90	T.25 S., R.3 E., sec. 32, SENE	40
14	Moses LS&R Co.	26	7	T.11 N., R.2 E., sec. 15, SW	160
15	Moses LS&R Co.	21	532	T.11 N., R.2 E., sec. 22, SW	160
17	Lyman, Richard M.	27	189	T.23 S., R.3 E., sec. 36, NENW	40
				Utah County	
5	Moses, W.E. LS&R Co.	73	3	T.10 S., R.2 E., sec. 16, NE ENW	240
6	Moses, W.E. LS&R Co.	74	6	T.10 S., R.2 E., sec. 2, NESE NSW SWSE	160
7	Moses, W.E. LS&R Co.	74	11	T.10 S., R.2 E., sec. 16, WSW	80
STATE: Washington	MERIDIAN: Willamette				
				Clallam County	
22	Olsen, Carl	58	346	T.29 N., R.3 W., sec. 21, SWSW	40
23	Peters, Wm. A	21	243	T.30 N., R.10 W., sec. 20, SWSE	40
24	Coffin, Mary	57	212	T.30 N., R.11 W., sec. 26, Lot 3 SWNW	79
				Snohomish County	
25	Peavey, Gary	71	278	T.30 N., R.9 E., sec. 22, SWSW	40

TABLE 1 (Continued)
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	DEED BOOK PAGE	LEGAL DESCRIPTION	ACRES
STATE: Wyoming	MERIDIAN: 6th Principal				
				Albany County	
18	Burrows, C.B.	100	48	T.15 N., R.72 W., sec. 1, S	320
19	Burrows, C.B.	101	43	T.15 N., R.71 W., sec. 31, ESW SE	240
20	Burrows, C.B.	100	268	T.15 N., R.71 W., sec. 7, Lot 2	34
21	Burrows, C.B.	101	31	T.15 N., R.71 W., sec. 19, NE ENW	240
				Big Horn County	
17	Collins, Jeremiah	9	639	T.56 N., R.88 W., sec. 30, NENE	40
22	Souter, Charles H.			T.31 N., R.100 W., sec. 34, SESE	40
				Carbon County	
16	Carbon Tbr. Co.	69	302	T.17 N., R.79 W., sec. 3, NWNE NENW	88
				Sublette County	
16	Holmes, Avery T.	7	105	T.38 N., R.110 W., sec. 30, SSE	80

[FR Doc. 93-31899 Filed 12-29-93; 8:45 am]
BILLING CODE 3410-11-C

TABLE 2
INITIAL LIST - FOREST LIEU SELECTION RESOLUTION

PARCEL ID NO.	GRANTOR NAME	DEED BOOK VOL.	DEED BOOK PAGE	LEGAL DESCRIPTION	ACRES
STATE: Arizona	MERIDIAN: Gila and Salt River				
				Apache County	
1	Apache Land & Cattle Co.	3	1	T.17 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.18 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.19 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.20 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.21 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.22 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.23 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.24 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.25 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.26 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640
				4, Lots 1,2,3,4, S2N2, S2	640
				5, Lots 1,2,3,4, S2N2, S2	640
				6, Lots 1,2,3,4, S2N2, S2	640
				7, Lots 1,2,3,4, S2N2, S2	640
				8, Lots 1,2,3,4, S2N2, S2	640
				9, Lots 1,2,3,4, S2N2, S2	640
				10, Lots 1,2,3,4, S2N2, S2	640
				11, Lots 1,2,3,4, S2N2, S2	640
				12, Lots 1,2,3,4, S2N2, S2	640
				13, Lots 1,2,3,4, S2N2, S2	640
				14, Lots 1,2,3,4, S2N2, S2	640
				15, Lots 1,2,3,4, S2N2, S2	640
				16, Lots 1,2,3,4, S2N2, S2	640
				17, Lots 1,2,3,4, S2N2, S2	640
				18, Lots 1,2,3,4, S2N2, S2	640
				19, Lots 1,2,3,4, S2N2, S2	640
				20, Lots 1,2,3,4, S2N2, S2	640
				21, Lots 1,2,3,4, S2N2, S2	640
				22, Lots 1,2,3,4, S2N2, S2	640
				23, Lots 1,2,3,4, S2N2, S2	640
				24, Lots 1,2,3,4, S2N2, S2	640
				25, Lots 1,2,3,4, S2N2, S2	640
				26, Lots 1,2,3,4, S2N2, S2	640
				27, Lots 1,2,3,4, S2N2, S2	640
				28, Lots 1,2,3,4, S2N2, S2	640
				29, Lots 1,2,3,4, S2N2, S2	640
				30, Lots 1,2,3,4, S2N2, S2	640
				31, Lots 1,2,3,4, S2N2, S2	640
				32, Lots 1,2,3,4, S2N2, S2	640
				33, Lots 1,2,3,4, S2N2, S2	640
				34, Lots 1,2,3,4, S2N2, S2	640
				35, Lots 1,2,3,4, S2N2, S2	640
				36, Lots 1,2,3,4, S2N2, S2	640
				T.27 N., R.28 E., sec. 1, Lots 1,2,3,4, S2N2, S2	640
				2, Lots 1,2,3,4, S2N2, S2	640
				3, Lots 1,2,3,4, S2N2, S2	640

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Alabama Advisory Committee to the Commission will meet on Thursday, January 20, 1994, from 6 p.m. until 8 p.m. at the Radisson Hotel, 808 South 20th Street, Birmingham, Alabama 32505. The purpose of the meeting is to discuss and plan for future SAC activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 816–426–5253 (TTY 816–426–5009). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 20, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–31895 Filed 12–29–93; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will be convened at 1:30 p.m. and adjourn at 4 p.m. on Tuesday, January 18, 1994, at the Conference Room, Governor's Office, State Building, Charleston, West Virginia 25305. The purpose of the meeting is to plan activities for fiscal year 1994.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Marcia Pops at 304–292–3017, or John I. Binkley, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 21, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–31896 Filed 12–29–93; 8:45 am]

BILLING CODE 6335–01–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Recreation Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) gives notice, as required by the Federal Advisory Committee Act (5 U.S.C. App. 2), of the times and location of the next meeting of the Recreation Access Advisory Committee.

DATES: The next meeting of the Recreation Access Advisory Committee is scheduled for Friday, January 29, 1994 (9 a.m.–5 p.m.) and Saturday, January 30, 1994 (9 a.m.–5 p.m.).

ADDRESSES: The meeting will be held at 800 North Capitol Street, NW., Washington, DC in the Maritime Commission Hearing Room on the first floor of the building. The accessible entrance is on the H Street side of the building. Building security requires a list of members of the public wishing to attend the meeting. Please call the Access Board in advance and leave your name on voice mail ext. 68.

FOR FURTHER INFORMATION CONTACT: Peggy H. Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 ext. 34 (Voice); (202) 272–5449 (TTY). These are not toll free numbers. This document is available in accessible formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: The Access Board established a Recreation Access Advisory Committee to provide advice on issues related to making recreational facilities and outdoor developed areas readily accessible to and usable by individuals with disabilities. This advice will be used by the Access Board to develop accessibility guidelines under the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968 for newly constructed and altered recreational facilities and outdoor developed areas. The advisory committee is composed of owners and operators of various recreational facilities; persons who design recreational facilities or manufacture related equipment; Federal, State and local government officials responsible for parks and other outdoor developed areas; and individuals with disabilities and organizations representing the interests of such persons.

The Recreation Access Advisory Committee has formed subcommittees to assist in its work. The subcommittees include: Amusement Parks; Golf; Play Area Settings; Recreational Boating and Fishing; Developed Outdoor Recreation Facilities and Areas; and Sports Facilities. Subcommittee meetings will be held during the January 29th and 30th committee meeting and at other scheduled dates. The public is encouraged to attend subcommittee meetings and to provide input in the form of written material. Information about these subcommittees can be obtained from Peggy Greenwell at the address indicated at the beginning of this notice.

This meeting is open to the public and meeting sites will be accessible to individuals with disabilities. Sign language interpreters and assistive listening systems will be available for individuals with hearing impairments.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 93–31929 Filed 12–29–93; 8:45 am]

BILLING CODE 8155–01–M

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, January 11–12, 1994 at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, January 11, 1994

9–12:45 p.m. Ad Hoc Committee on Communications: Workshop on the Effects of the Built Environment on Communications for People Who are Deaf, Hard of Hearing, and Deaf/Blind

2–5 p.m. Briefing on Major Issues for Children's Environments (closed meeting)

Wednesday, January 12, 1994

9–10:30 a.m. Technical Programs Committee

10:45–12:15 p.m. Planning and Budget Committee

1:30–3 p.m. Board Meeting

ADDRESSES: The meetings will be held at: Holiday In Crowne Plaza, Salon B, 775 12th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the Minutes of the November 10, 1993 Board Meeting.
- Executive Director's Report.
- Ad Hoc Committee on Communications Report on Workshop.
- Report on Briefing on Children's Environments (closed).
- Status Report on FY 1992 Research Projects.
- Status Report on FY 1993 Research Projects.
- Changes to Fiscal Year 1994 Projects.
- Proposed Projects for Fiscal Years 1995 and 1996.
- Operating Plan for FY 1994.
- Status Report on FY 1995 Budget.
- Report on Extraordinary Work.
- Complaint Status Report.
- Recreation Access Advisory Committee Status Report.
- Election of Officers.

Some meetings or items may be closed to the public as indicated above. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 93–31930 Filed 12–29–93; 8:45 am]

BILLING CODE 8155–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–805]

Postponement of Final Antidumping Duty Determination: Aramid Fiber Formed of Poly-Phenylene Terephthalamide From the Netherlands

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Katt or Jeffrey Denning, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0498 or (202) 482–4194.

POSTPONEMENT OF FINAL DETERMINATION: On December 9, 1993, (58 FR 65699, December 16, 1993), the Department of Commerce (the Department) issued an affirmative preliminary determination in the antidumping duty investigation of aramid fiber formed of poly-phenylene terephthalamide from the Netherlands.

In accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended, (the Act), on December 17, 1993, the sole respondent in this investigation, Aramide Maatschappij V.O.F. and Akzo Fibers Inc. (collectively Akzo), requested that the Department postpone its final determination in this investigation until 135 days after the date of publication of the preliminary determination. Under section 735(a)(2) of the Act and section 353.20(b) of the Department's regulations (19 CFR 353.20(b)) if, subsequent to an affirmative preliminary determination, the Department receives a request for postponement of the final determination from producers or resellers who account for a significant proportion of exports of the merchandise under investigation, the Department will, absent compelling reasons for denial, grant the request. Accordingly, we are postponing our final determination in this investigation until May 2, 1994.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must now be submitted to the Assistant Secretary for Import Administration no later than March 25, 1994, and rebuttal briefs, no later than March 30, 1994. We have received a request for a hearing by the respondent in this investigation, and therefore under 19 CFR 353.38(f), we will hold a public hearing to allow parties to comment on arguments raised in the case or rebuttal briefs. Tentatively, the hearing will be held on April 1, 1994 at 10 a.m. at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

This notice is published pursuant to section 735(d) of the Act and 19 CFR 353.20(b)(2).

Dated: December 22, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–31950 Filed 12–29–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–614–502]

Brazing Copper Wire and Rod From New Zealand; Intent To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on brazing copper wire and rod from New Zealand.

Domestic interested parties who object to this revocation must submit their comments in writing no later than January 31, 1994.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Norbert Gannon or Barbara Tillman, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1985, the Department of Commerce (the Department) published an antidumping duty order on brazing copper wire and rod from New Zealand (50 FR 49740). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested

parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

Opportunity to Object

No later than January 31, 1994, domestic interested parties, as defined in section 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

No interested parties requested an administrative review in accordance with the Department's notice of opportunity to request administrative review by the end of the anniversary month. If domestic interested parties do not object to the Department's intent to revoke by December 30, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: December 20, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93-31951 Filed 12-29-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-001]

Potassium Permanganate From The People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Department of Commerce

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China. This review covers 15 Chinese producers/exporters and 32 third-country resellers for the period January 1, 1990, through December 31, 1990. The review indicates the existence of dumping margins for all firms.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4474 and (202) 482-3814 respectively.

Background

On January 31, 1984, the Department of Commerce (the Department) published in the **Federal Register** (49 FR 3898) the antidumping duty order on potassium permanganate from the People's Republic of China (PRC). On January 31, 1991, Carus Chemical Company requested that the Department conduct an administrative review for the period January 1, 1990, through December 31, 1990, in accordance with 353.22(a) of the Department's regulations (19 CFR 353.22(a)). On February 19, 1991, we published an notice of initiation (56 FR 6621) of this antidumping duty administrative review. The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. During the review period, potassium permanganate was classifiable under item 2841.60.0010 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers 15 producers/exporters and 32 third-country resellers for the period January 1, 1990, through December 31, 1990.

Analysis

On August 13, 1991, we issued questionnaires to the following PRC exporters/manufacturers:

(1) The China National Chemicals Import and Export Corporation (SINOCHEM)
(2) China Export Bases Development Corp., Guangdong Branch and Qingdao Branch
(3) Guangdong Foreign Trading Development
(4) Guangdong Foreign Economics Development Co., Ltd.
(5) Guangdong Foreign Economic Relations & Trade Consultancy Corporation
(6) Guangxi Import & Export Trading Corporation
(7) Guilin Native Produce & Animal-China Native Produce and Animal By-Products I/E Corporation
(8) Shenzhen Metals Materials Co.
(9) Tongji Chemical Plant
(10) Jinan Huaiyin Chemical General Factory
(11) Tranjin Haiyang Chemical Plant
(12) Changsha Organic Chemical Plant
(13) Beijing Dayu Chemical Plant
(14) Zunyi Chemical Plant (Zunyi)
(15) Chongging Jialing Chemical Plant.

Questionnaires were also issued to the following third-country resellers:

(1) Tin Sing Chemical Engineers, Ltd.
(2) K L & Company
(3) Yue Pak Co., Ltd. (Yue Pak)
(4) Sam Wing International, Ltd.
(5) Far Ocean Trading Co.
(6) Landyet Company, Ltd.
(7) Go Up Company
(8) Hip Fung Trading Company
(9) AEL Asia Express (HK) Ltd.
(10) Anduk Industry Supply Co., Ltd.
(11) Asia Express Company
(12) Asia Express Packages
(13) Chemproha Chemical Distributors Ltd.
(14) Mayer Shipping Ltd.
(15) Newesdean Trading Co. Ltd.
(16) Pan Air & Sea Forwarders (HK) Ltd.
(17) Power Shipping Co.
(18) Progressive Resources Ltd.
(19) Reimer Martens
(20) Santex Import & Export Co.
(21) Seagull Container Line
(22) Continental Freight Forwarders
(23) Devoted Cargo Services (HK) Ltd.
(24) Dynamic Freight Services Ltd.
(25) Far Ocean Trading Co.
(26) He-Ro Chemicals Ltd. (He-Ro)
(27) ICD Group (HK) Ltd. (ICD)
(28) International Merona Ltd.
(29) J.A. Moeller (HK) Ltd.
(30) Kenwa Shipping Co. Ltd.
(31) Sidneyson Ltd.
(32) Vincent Shipping Co.

We also sent a series of questions to the Embassy of the PRC in Washington, DC, requesting information regarding government ownership, control and general involvement in the potassium permanganate industry.

Of the PRC respondents, three made submissions:

(1) SINOCHEM reported that its Shandong branch made two sales to a Hong Kong company without knowledge, at the time of the sale, that the ultimate destination was the United States. Since there was no knowledge that the United States was the ultimate destination, we have not considered these transactions to be U.S. sales by the Shandong branch. However, SINOCHEM's responses to our initial questionnaire and our supplemental questionnaire were deficient as the respondent failed to address entire sections of both.

(2) China Export Bases Development Corp., Qingdao Branch, reported no shipments.

(3) Zunyi Chemical Plant reported four U.S. sales.

Of the third-country reseller respondents, nine made submissions. The following three reported U.S. sales:

(1) Yue pak reported nine U.S. sales
(2) He-Ro reported 19 U.S. sales
(3) ICD reported seven U.S. sales

The following six reported that they made no shipments and/or that they acted as agents only:

(1) Hip Fung Trading Co.
(2) AEL Asia Express HK Ltd.
(3) Mayer Shipping
(4) Pan Air & Sea Forwarder
(5) Santex Import & Export
(6) Vincent Shipping

The Chinese Embassy did not respond to our questions.

The methodology that the Department has determined appropriate to apply to the conduct of this review is that which was in effect at the time of initiation of this review. This review, covering the period January 1, 1990, through December 31, 1990, was initiated on February 19, 1991. At that time, the Department's policy was to apply a single country-wide margin to respondents located in a non-market economy. We set forth this policy in the final results of the antidumping duty administrative review for Iron Construction Castings From the People's Republic of China, 56 FR 16 (January 24, 1991): "Our determination that the PRC is a state-controlled economy in which all entities are presumed to export under the control of the state leads us to question the application of multiple rates, absent a clear showing of legal, financial and economic independence. Thus, we conclude that a single country-wide rate is appropriate for this case."

We have considered the PRC to be a non-market economy for purposes of this review. Therefore, this review was undertaken under the assumption that PRC entities were under the control of the state and that, accordingly, we would establish a single PRC rate unless it was clearly shown that state control did not exist. To this end, the Department contacted the PRC government to obtain detailed information regarding the PRC potassium permanganate industry and the PRC producers of potassium permanganate. However, the PRC government did not respond to our inquiry. The only responsive producer with U.S. sales, Zunyi, states in its response that it is under the control of the Economic Commission of Zunyi City (the Commission) and that the Commission gave "* * * guiding instructions as to the planning of production in terms of value and quantity". Furthermore, Zunyi has acknowledged that it is state-owned. Therefore, Zunyi is presumed to be under the control of the central government and has not established that it is entitled to a rate separate from the PRC country-wide rate for this review. The remaining 14 PRC entities were either non-responsive or made no shipments during the period of review.

Furthermore, we will not base the country-wide rate on a rate calculated only on the basis of the response by Zunyi. Were we to establish a practice of using only one company's response to calculate the country-wide rate, firms under common control would be able to manipulate the review process by limiting responses to one or more better-situated firms. Therefore, due to the lack of a sufficient response from the PRC as a whole, including the government and the producers/exporters, we have preliminarily determined to apply best information available (BIA) to determine margins for all PRC producers and shippers.

Best Information Available for PRC Firms

The Department's policy for determining the appropriate BIA rate for an uncooperative entity is to use as BIA the higher of the highest rate assigned any company in any previous review or in the less-than-fair-value investigation or the highest rate for a responding firm in the current review. Since the PRC potassium permanganate industry as a whole was uncooperative in its response, the Department has selected 128.94 percent, the highest margin from the 1989 period of review, as the country-wide rate in this review. This single country-wide rate will apply to both the named parties in this review and to any unnamed PRC parties.

Third Country Resellers

Yue Pak, He-Ro, and ICD reported U.S. sales during the period of review, and asserted that their third-country sales should be used as foreign market value. However, for the reasons discussed below, these companies do not qualify as intermediate country resellers. Furthermore, no other trading company has attempted to establish on the record that it qualifies as an intermediate country reseller. According to 19 CFR 353.47, a reseller will be considered an intermediate country reseller and foreign market value will be calculated based on sales in that intermediate country if (1) the reseller in an intermediate country purchases the merchandise from the producer; (2) the producer does not know (at time of sale) the country to which the reseller intends to export the merchandise; (3) the merchandise enters commerce of the intermediate country but is not substantially transformed in that country; and (4) merchandise is subsequently exported to the United States.

Each of the three above-mentioned respondents failed to meet at least one of these conditions. First, during the review period, Yue Pak, He-Ro, and ICD purchased all of their merchandise from import/export/trading companies, not producers. Second, it is clear from the questionnaire responses of Yue Pak, He-Ro, and ICD that none of the potassium permanganate destined for the United States entered the commerce of Hong Kong. This merchandise was ordered from the United States specifically for the U.S. market. The responses of Yue Pak, He-Ro, and ICD clearly indicate the following pattern of trade: (1) Hong Kong resellers received orders from their U.S. customers and (2) the resellers then contacted their Chinese suppliers to supply the exact amount required to fill these orders. The Hong Kong resellers also contend that the merchandise entered the commerce of Hong Kong because they were required to pay certain import/export fees. However, it appears that these fees are assessed on any merchandise moving through Hong Kong, whether or not it is classified as an import, export, transhipment or re-export. As a result, the application of the above-mentioned fees cannot be relied upon to determine whether merchandise has entered the commerce of Hong Kong. Therefore, we do not consider any third-country shippers of potassium permanganate from the PRC in this review to be intermediate country resellers. Instead, all will receive the dumping margin associated with their producers, which is the country-wide PRC rate of 128.94 percent.

Preliminary Results of Review

We have preliminarily determined that the margin for all manufacturers/producers/exporters of potassium permanganate from the PRC for the period January 1, 1990, through December 31, 1990, is 128.94 percent.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions concerning all respondents directly to the U.S. Customs Service.

Furthermore, the following deposit requirement will be effective for all

VOL 58 ISS 249 DEC 30 1993 UMI

shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the PRC country-wide firms will be that rate established in the final results of this administrative review, and (2) if a non-PRC exporter has not established on the record, for this administrative review, that it qualifies as an intermediate country reseller under the terms of the statute, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise. In this instance, that rate will be the PRC country-wide rate.

Because any PRC firm must affirmatively show that it is entitled to a separate rate before such a rate can be given and any intermediate country reseller must affirmatively show that it is entitled to such status under the intermediate country reseller provision of the regulations (19 CFR 353.47), any new shippers will also be subject to the PRC country-wide deposit rate until they request review and demonstrate an entitlement to an exception. Therefore, there is no need for an "all others" cash deposit rate for intermediate country resellers. Furthermore, no "all others" rate will be established for the PRC. Because a country-wide rate is applied to all imports of potassium permanganate from the PRC, there is no need for an "all others" cash deposit rate for PRC entities.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Interested parties may request disclosure within five days of the date of publication of this notice, and a hearing within 10 days of the date of publication. Any hearing requested, will be held as early as convenient for parties but not later than 44 days after date of publication, or the first workday thereafter. Case briefs, or other written comments, from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of review, including its results of its analysis of issues raised in any such written comments.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 22, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-31952 Filed 12-29-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-603]

Stainless Steel Hollow Products From Sweden; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Preliminary results of antidumping duty administrative reviews: Stainless steel hollow products from Sweden.

SUMMARY: In response to requests by respondent Sandvik AB, AB Sandvik Steel, and Sandvik Steel Company, the Department of Commerce (Department) has conducted two administrative reviews of the antidumping duty order on stainless steel hollow products from Sweden. These reviews cover one manufacturer/exporter of this merchandise to the United States, and the periods May 22, 1987 through November 30, 1988, and December 1, 1988 through November 30, 1989. The reviews indicate the existence of dumping margins for the respondent during the administrative review periods.

As a result of these reviews, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States prices (USPs) and foreign market values (FMVs). Interested parties are invited to comment on the preliminary results of these reviews.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: David Mason Jr. or Richard Herring, Office of Countervailing Duty Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3337.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 1987, the Department published in the **Federal Register** an antidumping duty order on stainless steel hollow products (SSHP) from Sweden (52 FR 45985), amended on November 5, 1992 (57 FR 52761). On December 5, 1988, Sandvik AB, AB Sandvik Steel, and Sandvik Steel Company (referred to collectively as Sandvik) requested that the Department conduct an administrative review for the period May 22, 1987 through November 30, 1988, in accordance with 19 CFR 353.22(a). On December 19, 1989, Sandvik requested that the Department conduct an administrative review for the period December 1, 1988 through November 30, 1989.

Pursuant to allegations made by AL Tech Specialty Steel Corporation and the United Steelworkers of America, we initiated cost of production (COP) investigations on Sandvik's third country sales of pipes and tubes and redraw hollows on January 31, 1990, and on Sandvik's home market sales of hollow bars on October 9, 1990, for the review period May 22, 1987 through November 30, 1988. The Department is now conducting these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The merchandise covered by these reviews is stainless steel hollow products, including pipes, tubes, hollow bars and blanks of circular cross section, containing over 11.5 percent chromium by weight. This merchandise is currently classified under subheadings 7304.41.00 and 7304.49.00 of the Harmonized Tariff System (HTS). Prior to January 1, 1989, this merchandise was classified under subheadings 610.5130, 610.5202, 610.5229 and 610.5230 of the Tariff Schedules of the United States Annotated (TSUSA). Although the HTS and TSUSA subheadings are provided for convenience and customs purposes, the written description of the scope of these reviews remains dispositive.

Review Periods

The administrative review periods are May 22, 1987 through November 30, 1988 (the first review period) and December 1, 1988 through November 30, 1989 (the second review period).

United States Price

We based USP on both purchase price in accordance with section 772(b) of the Act, and exporter's sales price (ESP) in accordance with section 772(c) of the Act. ESP was used when sales were made to unrelated parties after importation into the United States. Purchase price was used when the subject merchandise was sold to unrelated purchasers in the United States and ESP methodology was not indicated by other circumstances. Purchase price was also used when the subject merchandise was sold to unrelated parties in third countries with the knowledge that the ultimate destination was to customers in the United States.

We calculated purchase price and ESP based on the packed, delivered prices to unrelated customers in the United States. We also calculated purchase price based on the packed, delivered prices to unrelated customers in a third country when the ultimate destination of the merchandise was to the United States. We made deductions from purchase price and ESP, where appropriate, for foreign inland freight, inland insurance, ocean or air freight, marine insurance, brokerage and handling, import duties, repacking, and all U.S. inland freight and insurance, in accordance with section 772(d)(2) of the Act. We also allowed deductions, where appropriate, for rebates and discounts. (The reported unit prices are net of all discounts.) We made further deductions from ESP, where appropriate, for credit expenses, royalties, warranties, advertising, product liability expenses, inventory carrying costs and all other indirect selling expenses incurred in Sweden and the United States, pursuant to section 772(e)(2) of the Act. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

In addition, when FMV was based on home market price, we made adjustments for the value added tax. On October 7, 1993, the United States Court of International Trade (CIT), in *Federal-Mogul Corp. and The Torrington Co. v. United States*, Slip Op. 93-194 (CIT, October 7, 1993), rejected the Department's methodology for calculating an addition to USP under section 772(d)(1)(C) of the Tariff Act to account for taxes that the exporting country would have assessed on the merchandise had it been sold in the home market. The CIT held that the addition to USP under section 772(d)(1)(C) of the Act should be the result of applying the foreign market tax rate to the price of the United States merchandise at the same point in the chain of commerce that the foreign market tax was applied to foreign market sales. *Federal-Mogul*, Slip Op. 93-194 at 12.

The Department has changed its methodology in accordance with the *Federal-Mogul* decision. The Department will add to USP the result of multiplying the foreign market tax rate by the price of the United States merchandise at the same point in the chain of commerce that the foreign market tax was applied to foreign market sales. The Department will also adjust the USP tax adjustment and the amount of tax included in FMV. These adjustments will deduct the portions of the foreign market tax and the USP tax adjustment that are the result of expenses that are included in the foreign market price used to calculate foreign market tax and are included in the United States merchandise price used to calculate the USP tax adjustment and that are later deducted to calculate FMV and USP. These adjustments to the amount of the foreign market tax and the USP tax adjustment are necessary to prevent our new methodology for calculating the USP tax adjustment from creating antidumping duty margins where no margins would exist if no taxes were levied upon foreign market sales.

This margin creation effect is due to the fact that the bases for calculating both the amount of tax included in the price of the foreign market merchandise and the amount of the USP tax adjustment include many expenses that are later deducted when calculating USP and FMV. After these deductions are made, the amount of tax included in FMV and the USP tax adjustment still reflects the amounts of these expenses. Thus, a margin may be created that is not dependent upon a difference between USP and FMV, but is the result of the price of the United States merchandise containing more expenses than the price of the foreign market merchandise. The Department's policy to avoid the margin creation effect is in accordance with the United States Court of Appeals' holding that the application of the USP tax adjustment under section 772(d)(1)(C) of the Act should not create an antidumping duty margin if pre-tax FMV does not exceed USP. *Zenith Electronics Corp. v. United States*, 988 F.2d 1573, 1581 (Fed. Cir. 1993). In addition, the CIT has specifically held that an adjustment should be made to mitigate the impact of expenses that are deducted from FMV and USP upon the USP tax adjustment and the amount of tax included in FMV. *Daewoo Electronics Co., Ltd. v. United States*, 760 F. Supp. 200, 208 (CIT, 1991). However, the mechanics of the Department's adjustments to the USP tax adjustment and the foreign market tax amount as described above are not identical to those suggested in *Daewoo*.

We have not added to USP hypothetical taxes that were not collected by reason of exportation of the merchandise to the United States because such taxes are not included in the price of the such or similar merchandise sold to Germany, the third country market that is the basis of FMV for pipes and tubes and redraw hollows in both administrative reviews. Although consumption taxes were paid on sales to Germany, these were collected by the German government, and not the Swedish government, which is the "country of exportation" in this case. Accordingly, we interpret section 772(d)(1)(C) of the Act as prohibiting us from increasing USP by the amount of taxes added to the price of sales to third countries since these taxes were not collected in the country of exportation.

In addition to the aforementioned deductions, we deducted value added in the United States pursuant to section 772(e)(3) of the Act for ESP transactions involving further manufacture prior to sale in the United States. The value added consists of the production costs incurred in converting an imported redraw hollow into a finished pipe or tube, the expenses incurred in the sale of the finished pipe or tube, and a proportional amount of profit or loss related to the value added. We calculated profit or loss by deducting from the sales price of the finished pipe or tube: (1) The production cost of the redraw hollow, (2) finishing costs in the United States, and (3) all expenses incurred in transporting the redraw hollow into the United States. We then allocated proportionately the total profit or loss to the imported redraw hollow and the finished pipe or tube based on the proportion of the total COP accounted for by the production cost of the redraw hollow and the further U.S. manufacturing cost, respectively. Only the profit or loss attributable to the U.S. value added was deducted.

We have determined that further manufacturing costs included: (1) The costs of manufacture (labor and overhead cost; there is no material cost since the pipe or tube is made from the imported redraw hollow); (2) movement charges; and (3) general expenses, including selling, general and administrative expenses.

Sandvik did not report warranty expenses incurred on U.S. sales. Therefore, we calculated warranty expenses based on the total value of returned defective merchandise and the total cost of reworking defective merchandise incurred by Sandvik's U.S. subsidiary.

VOL 58 ISS 249 DE 30 1993 UMI

Sandvik did not report product liability expenses for U.S. sales for the first review. Therefore, we used the premium liability expenses reported for German sales. This expense in Germany was calculated as a ratio of total liability expense allocated over all of Sandvik's sales in all markets. Therefore, the calculation is also applicable to U.S. sales.

Sandvik reported advertising expenses incurred on end-user sales. Since these advertising expenses were directed at Sandvik's own customers, we have treated these expenses as an indirect selling expense. We treated advertising expenses incurred on distributor sales as a direct expense since the advertising was directed at the distributors' customers.

We have recalculated credit expenses for purchase price sales. Sandvik calculated credit expenses from the date of shipment from its U.S. subsidiary to the customer until the date the customer makes payment on the sale. We recalculated credit expenses to take into account the time from date of shipment from Sweden to the date of payment by the U.S. customer.

Foreign Market Value

In order to determine whether there were sufficient sales of SSHP in the home market to serve as a basis for calculating FMV, we compared the volume of home market sales for each category of such or similar merchandise to the aggregate volume of third country sales for the same such or similar category, in accordance with section 773(a)(1) of the Act. For purposes of these reviews, we have determined that there are three such or similar categories: (1) Pipes and tubes, (2) redraw hollows and (3) hollow bars. Pipes and tubes and redraw hollows were sold in the United States during both review periods, but there were U.S. sales of hollow bars only within the first review period. The volume of home market sales of hollow bars was greater than five percent of the aggregate volume of third country sales of hollow bars. Therefore, we determined that home market sales of hollow bars constituted a viable basis for calculating FMV, in accordance with 19 CFR 353.48. For the other two such or similar categories during each of the review periods, the volume of home market sales within each respective category was less than five percent of the aggregate volume of third country sales. Therefore, FMVs for sales of pipes and tubes and redraw hollows were based on third country sales.

In selecting the appropriate third country market to use for comparison purposes, we first determined which third country markets had "adequate" volumes of sales within the meaning of 19 CFR 353.49(b)(1). We determined that the volume of sales to a third country market was adequate if the sales of such or similar merchandise exceeded or were equal to five percent of the volume sold in the United States. We then examined the most similar merchandise and the volume of sales criteria, 19 CFR 353.49 (b)(1) and (b)(2), respectively. In this case, Germany was the most appropriate selection because it had both the largest volume of sales of pipes and tubes and redraw hollows of any third country market, and the merchandise exported to Germany was more similar to the merchandise exported to the U.S. market than that sold to any other third country market with adequate sales volume. Therefore, for sales of both pipes and tubes and redraw hollows, we based FMV on Sandvik's sales to Germany, to the extent that such sales were not known by Sandvik to be destined for the U.S. market.

In the first review, petitioners alleged that Sandvik sold pipes and tubes and redraw hollows in the German market at prices below their COP. Petitioners further alleged that Sandvik's sales of hollow bar in the home market were also made at prices below their COP. Based on the evidence presented in petitioners' allegations, the Department initiated COP investigations on this merchandise.

We based the COP on the cost data supplied by Sandvik. Sandvik adjusted its cost data to conform with U.S. generally accepted accounting principles (GAAP). While the company's financial statement conforms to U.S. GAAP, its cost records are based on Swedish GAAP. Under Swedish GAAP, production costs must include an imputed interest expense and depreciation must be based on replacement cost. Sandvik adjusted its cost data by replacing imputed interest expenses with actual interest expenses and by substituting depreciation based on replacement costs with historical depreciation costs.

It is the Department's practice to accept cost information provided in accordance with the GAAP of the country subject to review, except in instances where the Department believes that the country's GAAP does not provide for the use or reflection of actual production costs. We have accepted Sandvik's adjustment from Swedish GAAP to U.S. GAAP because we believe that use of imputed interest expenses and depreciation based on replacement costs distorts the actual production costs of the subject merchandise. We have, therefore, used the cost information supplied by Sandvik in its response for this determination since it appears the costs have been calculated in a manner consistent with our methodology.

Since we found that virtually all sales of hollow bar were made at prices above the COP, we based our comparisons for hollow bar on all sales of that product in Sweden. For sales of redraw hollows and pipes and tubes, we found that less than 90 but more than 10 percent of sales, by volume, were made at prices above COP. Therefore, we considered only the above-cost sales as a basis for determining FMV. Furthermore, there was a sufficient number of above-costs sales in Germany so that we could base FMV on German sales rather than constructed value.

In the event we could not find appropriate German sales of pipe and tube or redraw hollows, or Swedish sales of hollow bar for comparison with U.S. sales, we used constructed value as the basis for FMV. And, where constructed value was not available, we used, as best information otherwise available, the rate from the underlying investigation.

We calculated FMVs for pipes and tubes and redraw hollows based on the c.i.f. and delivered prices to unrelated customers in Germany. We made deductions, where appropriate, for inland freight from Sweden to Germany, inland insurance, brokerage and handling, German inland freight to the customer, repacking expenses in Germany, and rebates. We also allowed deductions for discounts. (The reported German prices were net of all discounts.) We also deducted German packing and added U.S. packing to the third country price, in accordance with section 773(a)(1) of the Act.

In addition, for comparisons involving purchase price sales, we adjusted third country prices, where appropriate, for differences in credit expenses, warranties, royalties, advertising, and after-sale warehousing, in accordance with 19 CFR 353.56(a).

For comparisons involving ESP transactions, we made further deductions for credit expenses, warranties, royalties, and advertising. We also deducted indirect selling expenses, including inventory carrying expenses, product liability, and other indirect selling expenses. The deduction for third country indirect selling expenses was capped by the amount of indirect selling expenses incurred in the U.S. market, in accordance with 19 CFR 353.56(b)(2).

For comparisons to both purchase price and ESP sales, we made further adjustments to third country prices to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

We did not include in third country price consumption taxes imposed by the Government of Germany. While the Court of Appeals in *Zenith Electronics Corp.* v. *United States*, 988 F.2d 1573 (CAFC 1993), rejected tax adjustments in home market FMV and required that such adjustments be made to USP—that holding is limited to situations in which the country of exportation (the home market) is the basis for FMV. Moreover, *Zenith* cannot be directing the Department to make an upward USP adjustment for third country consumption taxes because under section 772(d)(1)(C) of the Act, only taxes collected in the "country of exportation" can be adjusted for in the USP. The consumption taxes applied to the third country sales in this case cannot be considered to be taxes imposed in the "country of exportation." (*See* "United States Price" discussion, above). Finally, being statutorily barred from making the USP adjustment, the Department cannot include the taxes in FMV either, because to do so could create a dumping margin even when pre-tax dumping is zero. (See *Federal Mogul*, Slip. Op. 93–194.)

For the above stated reasons, the Department determines that it must exclude consumption taxes from third country FMV. (See Memo regarding Treatment of Third Country Consumption Taxes, dated December 2, 1993.)

We calculated FMV for hollow bar based on ex-mill and delivered prices to unrelated customers in the home market. We made deductions from home market price, where appropriate, for inland freight and inland insurance. We also allowed deductions for discounts. (The reported home market price was net of all discounts.) We also deducted home market packing and added U.S. packing costs, in accordance with section 773(a)(1) of the Act. Further, we adjusted home market prices, where appropriate, for differences in credit expenses, warranties, royalties, and advertising, in accordance with 19 CFR 353.56(a). In addition, we made adjustments, where appropriate, to home market prices to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

For comparisons involving ESP transactions, we made further deductions for credit expenses, warranties, royalties, and advertising. We also deducted indirect selling expenses, including inventory carrying expenses, product liability, and other indirect selling expenses. The deduction for home market indirect selling expenses was capped by the amount of indirect selling expenses incurred in the U.S. market, in accordance with 19 CFR 353.56(b)(2).

In addition, for comparisons involving both purchase price and ESP sales, we included in FMV, the amount of value added tax collected in the home market. We also calculated the amount of the tax that was due solely to the inclusion of price deductions in the original tax base (i.e., the tax rate multiplied by the sum of any adjustments, expenses, charges, and offsets that were deducted from the tax base). This amount was deducted from the amount of value added tax collected in the home market. By making this additional tax adjustment, we avoid distortion that would cause the creation of a dumping margin even when pre-tax dumping is zero.

For ESP sales, we also calculated a re-adjustment of the amount of tax on the U.S. direct selling expenses added to FMV by applying the tax rate to those expenses. This re-adjustment amount was also added to FMV.

Sandvik claimed advertising expenses incurred on end-user sales in both the home market and in Germany. We have treated advertising incurred on end-user sales as an indirect selling expense since these costs are not assumed by Sandvik on behalf of the purchaser. We treated advertising expenses incurred on distributor sales as a direct expense since the advertising was directed at the distributors' customers.

Sandvik claimed a service charge for cutting pipe to length in the home market. We did not make an adjustment for this service claim because the company did not provide us with the necessary information to make the adjustment.

Sandvik claimed that the Department should compare comparable quantities of U.S. and German sales, and if such comparisons are not possible, to make an adjustment for differences in quantity between U.S. and German sales in accordance with 19 CFR 353.55. The German price list divides the product sales into four quantity brackets. Based on this price list, if the quantity purchased increases, the unit price on a per kilogram basis would decrease. Information submitted by Sandvik shows that, in fact, the average price of merchandise decreases as sales fall into higher quantity brackets. Therefore, for the preliminary results of these administrative reviews, we matched sales of comparable quantities, whenever possible.

However, when sales of comparable quantities could not be matched, no adjustment for differences in quantity was made. As the Department indicated in the Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From the Netherlands (53 FR 23431, June 22, 1988), to qualify for an adjustment for differences in quantity, the exporter must demonstrate, using evidence such as a price list or quantity discount schedule, that it gave discounts on a uniform basis and that the discounts were available to substantially all home market (or third country) customers. Although information on the record indicates a general relationship between the average price of a commodity and the quantity bracket of the sale of that commodity, Sandvik's actual prices demonstrate that quantity discounts were not given uniformly to customers within the same quantity bracket. Therefore, no adjustment under 19 CFR 353.55 was made when comparing sales of different quantities.

In both the German and the U.S. markets, Sandvik sells the subject merchandise out of inventory (ex-stock sales), or produces to order and ships directly from the production site to the customer (ex-mill sales). Sandvik argues that, if the Department compares ex-mill sales to ex-stock sales, a circumstance-of-sale adjustment under 19 CFR 353.56 must be made to account for the increased costs of selling products ex-stock. Sandvik claims that such costs include warehousing the merchandise, inventory carrying costs, and cutting pipe to length. To determine the appropriateness of this claim, the Department examined the evidence on the record, but could find no relationship between the prices of identical products of comparable quantity and the fact that they are sold either ex-stock or ex-mill. We have, therefore, denied Sandvik's claim for a circumstance-of-sale adjustment.

Sandvik states that during both review periods an alloy surcharge was imposed on most of its sales in Germany and the United States. This alloy surcharge, which was assessed in addition to the quoted price of the merchandise, was used to offset the fluctuating price of nickel and ferrochrome, two inputs into the production of the subject merchandise. The alloy surcharges were revised monthly, and the surcharge for a

particular sale was determined by the surcharge rate in effect at the time of shipment to the customer. Sandvik argues that the Department should take into account price changes caused by the alloy surcharge by making an adjustment for differences in merchandise under 19 CFR 353.57, even when comparing identical merchandise. In the alternative, Sandvik states that the Department should make a circumstance-of-sale adjustment under 19 CFR 353.56 using the production cost differences supplied with their differences in merchandise claim under 19 CFR 353.57.

Under 19 CFR 353.57, the Department is specifically precluded from making adjustments for differences in the costs of production when comparing merchandise with identical physical characteristics. Furthermore, as the Department stated in Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review, 56 FR 60087, 60089 (November 27, 1991), "[c]ircumstances of sale adjustments are normally only allowed for differences in selling expenses being compared, not differences in raw material costs, and would therefore be inappropriate in this case." For these reasons, we have disallowed Sandvik's claimed adjustment for the alloy surcharge. Finally, we attempted to have the company provide the amount of alloy surcharge levied on each sale so that, if we determined a price adjustment was warranted, we would have the information necessary to make such an adjustment. However, Sandvik stated that it was not possible to break out the alloy surcharge on each sale.

In disallowing this claim, we note that when comparing non-identical merchandise, the Department made an adjustment to home market price to account for differences in the physical characteristics of the merchandise in accordance with 19 CFR 353.57. Furthermore, the comparison of contemporaneous sales should mitigate any perceived distortions between USP and FMV which might be attributable to the alloy surcharge.

Sandvik also made a claim for a level of trade adjustment on sales in Germany under 19 CFR 353.58. We disallowed this claimed adjustment because Sandvik did not demonstrate that it incurred different indirect selling expenses on sales to different levels of trade in the German market. However, as is our established practice, we attempted to compare distributor sales in the United States to distributor sales in Germany and end-user sales in the United States to end-user sales in Germany.

Preliminary Results of Review

As a result of our reviews, we preliminarily determine that the margin for Sandvik for the period May 22, 1987 through November 30, 1988 was 21.28 percent; and that the margin for Sandvik for the period December 1, 1988 through November 30, 1989 was 15.89 percent.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentage stated above. Upon completion of these administrative reviews, the Department will issue appraisement instructions directly to Customs.

Because the Department has already completed and published the final results of the third administrative review (57 FR 21389, May 20, 1992) covering the period December 1, 1989 through November 30, 1990, the dumping margins determined in these reviews will have no impact on cash deposit rates for Sandvik. As provided by section 751(a)(1) of the Act, the Customs Service shall continue to require a cash deposit based on each firm's rate calculated in the most recent administrative review period.

The cash deposit rate for all other manufacturers or exporters will be 20.47 percent. On May 25, 1993, the CIT in *Floral Trade Council* v. *United States*, Slip Op. 93–79, and *Federal-Mogul Corporation* v. *United States*, Slip Op. 93–83, decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the original "all others" rate from the less-than-fair-value (LTFV) investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders for the purposes of establishing cash deposits in all current and future administrative reviews. In proceedings governed by antidumping findings, unless we are able to ascertain the "all others" rate from the Treasury LTFV investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical error or as a result of litigation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty order, the "all others" rate for the purposes of this review will be 20.47 percent, the "all others" rate established in the final notice of LTFV investigation by the Department, as amended (52 FR 45985, December 3, 1987).

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Public Comment

Parties to the proceeding may request disclosure within five days of the date of publication of this notice in the **Federal Register**, and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after publication. The Department will publish a notice of final results of these administrative reviews, including an analysis of issues raised in any written comments.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 353.22(c)(5) of the Department's regulations.

Dated: December 23, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–31953 Filed 12–29–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–054]

Preliminary Results and Partial Termination of Antidumping Duty Administrative Reviews; Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results and partial termination of antidumping duty administrative reviews.

SUMMARY: In response to a request by seven respondents, one unrelated importer, and the petitioner, the Department of Commerce (the Department) has conducted administrative reviews of the antidumping finding on tapered roller bearings, four inches or less in outside diameter, and components thereof, from Japan. The reviews cover 14 manufacturers/exporters of the subject merchandise to the United States generally during the periods April 1, 1979, through July 31, 1980, August 1, 1980, through July 31, 1981, August 1, 1981, through July 31, 1982, August 1, 1982, through July 31, 1983, August 1, 1983, through July 31, 1984, August 1, 1984, through July 31, 1985, and August 1, 1985, through July 31, 1986. We preliminarily applied best information available (BIA) for five of the manufacturers/exporters. In addition, we are terminating the reviews of three firms. The reviews indicate the existence of dumping margins for all periods.

As a result of these reviews, the Department has preliminarily determined to assess antidumping duties equal to the differences between United States price (USP) and foreign market value (FMV).

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips (Koyo), Valerie Turoscy (Toyota, Nachi-Fujikoshi, Niigata Converter, Toyosha, Suzuki, Maekawa, Sumitomo, Mitsubishi), Gabriel Adler (NSK), Lisa Raisner (Yamaha, Nissan, Mazda, MC International), Chip Hayes, or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

We initiated the administrative reviews for the periods 1979–1985 on July 9, 1986 (51 FR 24883), and October 3, 1986 (51 FR 35384), and for the period 1985–1986 on September 16, 1986 (51 FR 32817), based on requests from seven respondents, one unrelated importer, and the petitioner (the Timken Company). We are now conducting these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Reviews

Imports covered by these reviews are tapered roller bearings (TRBs), four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. During the review period such merchandise was classifiable under items 680.3932, 680.3934, and 680.3938 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classified under the Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.30. These TSUSA and HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

These reviews cover TRB sales by Koyo Seiko Company, Ltd. (Koyo), for the periods 1979 through 1986, NSK Ltd. (formerly Nippon Seiko, K.K.) (NSK), for the periods 1980 through 1986, Mitsubishi Corp. (Mitsubishi), for the periods 1980 through 1985, Sumitomo Corporation (Sumitomo) for the periods 1980 through 1986, and Nachi-Fujikoshi, Niigata Converter, Toyosha, Toyota, Yamaha, Suzuki, and Maekawa Bearing Manufacturer (Maekawa) for the period 1985 through 1986. Nachi-Fujikoshi and Niigata Converter claimed no shipments during the 1985–86 period of review (POR). Consequently, for both firms we have used each firm's rate from the last prior period in which they had shipments.

Two firms, Nissan and Mazda, withdrew their review requests. In addition, the petitioner also withdrew its request for these reviews and its request for the review of MC International. Therefore, we are terminating all three reviews. We also received a statement from the petitioner consenting to termination of the review as to resale transactions to Mazda or its subsidiaries through Sumitomo. Because we never received a response to our questionnaire from Sumitomo, we are unable to terminate the Mazda portion of Sumitomo's review. Therefore, these preliminary results include Sumitomo.

United States Price

The Department used exporter's sales price (ESP) for Koyo, NSK, Toyota, and Yamaha, as defined in section 772(c) of the Tariff Act, to calculate USP. ESP was based on the packed, delivered price to unrelated purchasers in the United States. We made adjustments, where applicable, for foreign pre-sale and post-sale inland freight, air freight, ocean freight, marine insurance, export inspection fees, brokerage and handling, U.S. inland freight, U.S. duty, commissions to unrelated parties, U.S. credit, discounts, price protection, technical service expenses, warranties, rebates, packing expenses (which include inventory carrying costs, warehouse transfer expenses, advertising, and other selling expenses). No other adjustments were claimed or allowed.

Foreign Market Value

The Department used the home market price or constructed value (CV), as defined in section 773(a)(2) of the Tariff Act, to calculate FMV.

In general, the Department relies on monthly weighted-average prices in the calculation of FMV. In consideration of the significant volume of home market sales involved in these reviews, we used an average of respondents' home market sales for each review period in accordance with section 777A of the Tariff Act. To determine whether an annual average is representative of the transactions under consideration, we compared in the annual weighted-average home market price for each product with each of the 12 monthly weighted-average prices for that product during each review period. Because the weighted-average prices for each model sold by Koyo, NSK, Toyota, and Yamaha (companies for which we performed dumping calculations) during each review period did not vary meaningfully from the monthly weighted-average prices of sales, we consider the annual weighted-average prices for each review period to be representative of the transactions under consideration. (For further details, see analysis memorandum for each firm). Therefore, we calculated a single FMV for each model sold by Koyo, NSK, Toyota, and Yamaha on an annual weighted-average basis, in accordance with section 777A of the Tariff Act.

When we used home market sales as the basis of comparison, we based FMV on packed, F.O.B., ex-factory, or delivered prices to related purchasers (where an arm's-length relationship was demonstrated) and unrelated purchasers in the home market. We made adjustments, where applicable, for home market pre-sale and post-sale inland freight, credit, discounts, rebates, commissions, warranties, and differences in physical characteristics. For comparison to ESP sales, we adjusted FMV for indirect selling expenses (which include advertising, inventory carrying costs, and other selling expenses) in the home market, limiting the home market indirect selling expense deductions by the amount of indirect selling expenses

VOL 58 ISS 249 DEC 30 1993 UMI

incurred in the United States. We added to FMV packing expenses incurred in Japan for U.S. sales.

Based on petitioner's allegation and a finding by the Department that there was reason to believe or suspect that sales below the cost of production (COP) were occurring in the home market, pursuant to section 773(b) of the Tariff Act, we investigated whether Koyo and NSK sold such or similar merchandise in the home market at prices below COP. We calculated COP as the sum of reported materials, labor, factory overhead, and general expenses, and compared COP to home market prices, net of price adjustments and discounts. We found below-COP sales by Koyo and NSK in each period.

In accordance with section 773(b) of the Tariff Act, in determining whether to disregard home market sales made at prices below COP, we examined whether such sales were made in substantial quantities over an extended period of time, and whether such sales were made at prices which would permit recovery of all costs within a reasonable period of time in the normal course of trade.

When less than 10 percent of the home market sales of a model in a POR were at prices below COP, we did not disregard any sales of that model for that POR. When 10 percent or more, but not more than 90 percent, of the home market sales of a particular model in a POR were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV for that POR, provided that these below-cost market sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time during a POR, we disregarded all home market sales of that model in our calculation of FMV for that POR, in accordance with section 773(a)(2) of the Tariff Act.

To determine whether sales below cost had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for a particular model to the number of months during a POR in which that model was sold. If the model was sold in fewer than three months during a POR, we did not disregard below-cost sales unless there were below-cost sales of that model in each month sold. If a model was sold in three or more months in a POR, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold during each POR. We used CV as the basis for FMV when an insufficient number of home market sales were made at prices above COP.

We calculated CV in accordance with section 773(e) of the Tariff Act. We included the cost of materials, labor, and factory overhead in our calculations. Where the actual selling, general, and administrative expenses (SG&A) were less than the statutory minimum of 10 percent of the cost of manufacture (COM), we calculated SG&A as 10 percent of the COM. Where the actual profits were less than the statutory minimum of eight percent of the cost of manufacture plus SG&A, we calculated profit as eight percent of the sum of COM plus SG&A. We adjusted the CV for selling, credit, and U.S. packing expenses.

Best Information Available

In accordance with section 776(c) of the Tariff Act, we have used BIA in cases where a party refused or was unable to produce information requested in a timely manner and in the form required. The Department generally uses a two-tiered approach in its choice of BIA. For uncooperative respondents (first tier), the Department uses the higher of: (1) The highest rate for any company from the original investigation or prior administrative review or (2) the highest rate found in the current review for any company. For respondents which attempt to cooperate (second tier), the Department uses the higher of: (1) The highest rate ever applicable to the firm for the subject merchandise or (2) the highest calculated rate in the current review for any firm (see Antifriction Bearings (Other than Tapered Roller Bearings) and Parts from France, et al., 58 FR 39729, July 26, 1993). For parties refusing to respond, the first-tier BIA rate we applied in these preliminary results is 39.6 percent, which is the highest of the rates found for any firm in the final results of an administrative review of an earlier period. This rate is the result of a court-ordered redetermination of NSK for the April 1, 1978, through July 1, 1978 period (see *Koyo, et al.*, v. *United States*, Slip. Op. 93–28, March 4, 1993). The second-tier BIA rate for parties attempting to cooperate was applied on a company-specific basis. In addition, where there were limited or small amounts of information missing, we applied partial BIA. Specific instances of our application of partial BIA are as follows:

1. Toyota—a. Purchase price sales were missing date-of-sale information.

b. Certain U.S. models had no identical home market model match and no information by which to identify a most similar model was provided.

In both instances we applied the highest calculated rate in the applicable POR to the U.S. sales, which was Koyo's rate of 63.76 percent.

2. Yamaha failed to provide adequate information by which to identify a most similar home market sale for those U.S. sales that had no identical home market model match. Therefore, for U.S. sales that did not have an identical home market model match we used the highest calculated rate in the applicable POR, which was Koyo's rate of 63.76 percent.

3. Koyo reported it has sample U.S. sales for PORs, but failed to provide any date for those sales. As BIA we used the percentage of home market sample sales reported to impute the amount and value of sample sales in the U.S. market. Following the second-tier approach to BIA, we applied the highest margin rate Koyo has received in any previous review to the imputed value of these sales and incorporated the value and the resulting margin in our weighted-average margin for each POR.

4. NSK—a. Certain identical or most similar home market models had no reported COP information.

b. Certain U.S. models lacked variable COM information for use in calculating difference-in-mechandise adjustments.

c. Certain U.S. models lacked physical criteria by which to identify a model match in the home market.

In all three cases, following the second-tier BIA methodology, we applied the highest margin NSK has received in any previous review to the sales in question.

For more information on these and other BIA applications to the above companies, see the analysis memorandum for each firm.

Preliminary Results of the Reviews

As a result of our comparison of USP to FMV, we preliminarily determine that margins exist for the periods as follows:

Manufacturer/exporter	Percent margin
April 1, 1979 through July 31, 1980:	
Koyo Seiko	37.53
August 1, 1980 through July 31, 1981:	
Koyo Seiko	42.26
NSK Ltd.	26.87
Mitsubishi	39.60
Sumitomo	39.60
August 1, 1981 through July 31, 1982:	
Koyo Seiko	66.06
NSK Ltd.	15.97
Mitsubishi	39.60
Sumitomo	39.60
August 1, 1982 through July 31, 1983:	
Koyo Seiko	17.44
NSK Ltd.	9.53
Mitsubishi	39.60
Sumitomo	39.60
August 1, 1983 through July 31, 1984:	
Koyo Seiko	12.17
NSK Ltd.	15.77
Mitsubishi	39.60
Sumitomo	39.60
August 1, 1984 through July 31, 1985:	
Koyo Seiko	23.64
NSK Ltd.	6.07
Mitsubishi	39.60
Sumitomo	39.60
August 1, 1985 through July 31, 1986:	
Koyo Seiko	63.76
NSK Ltd.	36.88
Nachi-Fujikoshi	*18.70
Niigata Converter	*0.00
Toyota	5.42
Toyosha	39.60
Yamaha	22.49
Suzuki	39.60
Maekawa	39.60
Sumitomo	39.60

*No shipments during the period; rate from the last period in which there were shipments.

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of these administrative reviews including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between the USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided for by section 751(a)(1) of the Tariff Act.

(1) All exports of subject merchandise by firms covered in these reviews will be subject to cash deposit rates as follows:

a. For Koyo, NSK, and Nachi-Fujikoshi, see the final results of the 1991–1992 review issued December 9, 1993,

b. For Toyota, see the final results for the 1986–1987 period (55 FR 38720, September 20, 1990), and

c. For those firms that have not been covered in subsequent reviews, the cash deposit rates will be those rates established in the final results of the 1985–1986 review.

(2) For previously reviewed or investigated companies not listed in this notice and not reviewed in subsequent periods, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the "new shipper" rate established in the first review conducted by the Department in which a "new shipper" rate was established, as discussed below.

On May 25, 1993, the Court of International Trade (CIT) in *Floral Trade Council* v. *United States*, Slip Op. 93–79, and *Federal-Mogul Corporation and the Torrington Company* v. *United States*, Slip Op. 93–83, decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these revisions, it is appropriate to reinstate an "all others" rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders.

In proceedings governed by antidumping findings, unless we are able to ascertain the "all others" rate from the Treasury LTFV investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors as a result of litigation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping finding, and we are unable to ascertain the "all others" rate from the Treasury LTFV investigation, the "all others" rate for the purpose of this review would normally be the "new shipper" rate established in the first notice of final results of administrative review published by the Department (47 FR 25757, June 15, 1982). However, a "new shipper" rate was not established in that notice. Therefore, we are using the "all others" rate of 18.07 percent from Tapered Roller Bearings and Certain Components Thereof from Japan, Final Results of Administrative Review of Antidumping Finding, 49 FR 8976 (March 9, 1984), the first review conducted by the Department in which a "new shipper" rate was established.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c).

Dated: December 23, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–31954 Filed 12–29–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–802]

3.5 Inch Microdisks and Coated Media Thereof From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from one respondent, Hitachi Maxell, Ltd. (HML), the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on 3.5 inch

VOL 58 ISS 249 DEC 30 1993 UMI

microdisks and coated media thereof (microdisks) from Japan. The review covers one manufacturer/exporter of this merchandise to the United States, HML, and the period April 1, 1992, through March 31, 1993.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Thomas F. Futtner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–6312/3814.

SUPPLEMENTARY INFORMATION

Background

On April 30, 1993, the Department published a notice of "Opportunity to Request an Administrative Review" (57 FR 11934) of the antidumping duty order on microdisks from Japan (54 FR 13406, April 3, 1989). On April 30, 1993, one respondent, HML, requested an administrative review. We initiated the review, covering April 1, 1992, through March 31, 1993, on May 27, 1993 (58 FR 30767). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of 3.5 inch microdisks and coated media thereof from Japan, currently classifiable under Harmonized Tariff Schedule (HTS) item number 8523.20.0000. The HTS item number is provided for convenience and for Customs purposes. The written descriptions remain dispositive.

A 3.5 inch microdisk is a tested or untested magnetically coated polyester disk with a steel hub encased in a hard plastic jacket. These microdisks are used to record and store encoded digital computer information for access by a 3.5 inch floppy disk drive. The 3.5 inch microdisk includes single-sided, double-sided, or high-density formats.

Coated media is the flexible recording material used in the finished microdisk. Media consists of a polyester base film to which a coating of magnetically charged particles is bonded. The 3.5 inch microdisk is intended for use specifically in a 3.5 inch floppy disk drive.

The review covers one Japanese manufacturer/exporter of this merchandise to the United States, HML, and the period April 1, 1992, through March 31, 1993.

Such or Similar Comparisons

Pursuant to section 771(16) of the Tariff Act, we established two categories of "such or similar" merchandise: (1) 3.5 inch microdisks and (2) coated media.

In order to determine whether there were sufficient sales of microdisks and coated media in the home market to serve as the basis for calculating foreign market value (FMV), we compared the volume of home market sales within the such or similar category to the volume of third-country sales within each respective such or similar category, in accordance with section 773(a)(1)(B) of the Tariff Act.

HML had sufficient home market sales of 3.5 inch microdisks to serve as a basis for calculating FMV for microdisks.

There were no sales of coated media in the home market or in any third country during the period of review (POR). Therefore, the basis of FMV for coated media sales to the United States is constructed value (CV).

United States Price

We calculated the United States price (USP) based on exporter's sales price (ESP) in accordance with section 772(c) of the Tariff Act.

We calculated ESP based on packed, delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign brokerage and handling, foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. inland freight, U.S. inland insurance, discounts, rebates, credit expenses, advertising, and U.S. brokerage and handling. We also made deductions for commissions and indirect selling expenses, including inventory carrying costs, and indirect selling expenses associated with U.S. sales that were incurred in Japan.

For microdisks manufactured in the United States from Japanese coated media, we deducted from the selling price of the microdisks all value added in the United States, pursuant to section 772(e)(3) of the Tariff Act. The "residual value" constitutes USP for the imported coated media. The added value consists of the cost associated with the production and sale of the complete microdisk, other than the cost associated with the imported media, and a proportional amount of profit or loss related to the added value. Profit or loss was calculated by deducting from the sales price of the microdisk all production and selling cost incurred by the company for the microdisk. The total profit or loss was then allocated proportionately to all components of cost.

In determining the cost incurred to produce the microdisks in the United States, the Department included (1) the cost of manufacture (COM), (2) movement and packing expenses, and (3) administrative expenses, R&D expenses, and interest expenses.

Foreign Market Value

We calculated FMV based on home market sales prices or CV in accordance with section 773 of the Tariff Act.

Microdisks

For comparison to U.S. ESP sales of microdisks we based FMV on packed, delivered prices of identical merchandise in the home market. We made deductions, where appropriate, for brokerage and handling, foreign inland freight, selling expenses, indirect selling expenses, packing, discounts, inventory carrying costs, and imputed credit.

The deduction for indirect selling expenses was capped by the amount of indirect selling expenses incurred in the U.S. market, in accordance with section 353.56(b) of the Department's regulations. We added U.S. packing costs to the FMV in accordance with section 773 of the Tariff Act.

Coated Media

All coated media entered during the POR was further manufactured by Maxell Corporation of America into microdisks. There were no sales of coated media in the home market or in any third country during the POR. Therefore, for coated media sold in the United States for further manufacture, we calculated FMV based on CV, in accordance with sections 773(a)(2) and 773(e) of the Tariff Act. The CV includes the cost of materials and fabrication of the merchandise exported to the United States, plus general expenses, profit, and packing.

We used actual general expenses in accordance with section 773(e)(1)(B)(i) of the Tariff Act, because these expenses exceeded the statutory minimum of 10 percent. For profit, we applied eight percent of the combined cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Tariff Act, because the actual amount was less than the statutory minimum of eight percent. Then we added U.S. packing costs to FMV.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin exists for the period April 1, 1992 through March 31, 1993:

Manufacturer/Producer/Exporter	Margin (Percent)
Hitachi Maxell Ltd.	0.98

Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication of this notice.

Within 10 days of the date of publication of this notice, interested parties to this proceeding may request a disclosure and/or a hearing. The hearing, if requested, will take place not later than 44 days after publication of this notice. Persons interested in attending the hearing should contact the Department for the date and time of the hearing.

The Department will subsequently publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentage stated above. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective upon publication of our final results of review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after that publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters shall be 42.95 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

On March 25, 1993, the Court of International Trade (CIT), in *Floral Trade Council* v. *United States*, Slip Op. 93–79, and *Federal-Mogul Corporation* v. *United States*, Slip Op. 93–83, decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the original "all others" rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in a proceeding governed by an antidumping duty order.

Because this proceeding is governed by an antidumping duty order, the "all others" rate for the purposes of this review will be 42.95 percent, the "all others" rate established in the LTFV investigation (54 FR 13406, April 3, 1989).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act and 19 CFR 353.22.

Dated: Decembe: 23, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–31949 Filed 12–29–93; 8:45 am]

BILLING CODE 3510–DS–M

Annual Listing of Foreign Government Subsidies on Articles of Quota Cheese

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Publication of annual listing of foreign government subsidies on articles of quota cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Karn Goff or Patricia W. Stroup, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–0983 or 482–3691.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA.

Dated: December 23, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross[1] subsidy	Net[2] subsidy
Belgium	European Community (EC) Restitution Payments	39.2¢/lb.	39.2¢/lb.
Canada	Export Assistance on Certain Types of Cheese	26.1¢/lb.	26.1¢/lb.
Denmark	EC Restitution Payments	56.0¢/lb.	56.0¢/lb.
Finland	Export Subsidy	90.1¢/lb.	90.1¢/lb.
France	EC Restitution Payments	57.5¢/lb.	57.5¢/lb.
Germany	EC Restitution Payments	61.3¢/lb.	61.3¢/lb.
Greece	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Ireland	EC Restitution Payments	60.9¢/lb.	60.9¢/lb.
Italy	EC Restitution Payments	85.5¢/lb.	85.5¢/lb.
Luxembourg	EC Restitution Payments	39.2¢/lb.	39.2¢/lb.
Netherlands	EC Restitution Payments	42.1¢/lb.	42.1¢/lb.
Norway	Indirect (Milk) Subsidy	17.1¢/lb.	17.1¢/lb.
	Consumer Subsidy	38.0¢/lb.	38.0¢/lb.
		55.1¢/lb.	55.1¢/lb.
Portugal	EC Restitution Payments	40.0¢/lb.	40.0¢/lb.
Spain	EC Restitution Payments	44.9¢/lb.	44.9¢/lb.
Switzerland	Deficiency Payments	151.2¢/lb.	151.2¢/lb.
U.K.	EC Restitution Payments	40.7¢/lb.	40.7¢/lb.

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 93–31961 Filed 12–29–93; 8:45 am]
BILLING CODE 3510–DS–P

[C–357–052]

Non-Rubber Footwear From Argentina; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on non-rubber footwear from Argentina. Domestic interested parties who object to this revocation must submit their comments in writing not later than 30 days from the publication date of this notice.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Lorenza Olivas, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202)482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1979, the Treasury Department published a countervailing duty order on non-rubber footwear from Argentina (44 FR 3474). The Department of Commerce (the Department) has not received a request to conduct an administrative review of this countervailing duty order for at least four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity To Object

Not later than 30 days after the publication date of this notice, domestic interested parties, as defined in § 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce. Washington, DC 20230.

If no interested parties request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), or if no domestic interested parties object to the Department's intent to revoke pursuant to this notice, we shall conolude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: December 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31955 Filed 12–29–93; 8:45 am]
BILLING CODE 3510–DS–P

[C–580–602]

Certain Stainless Steel Cooking Ware From the Republic of Korea; Intent to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on certain stainless steel cooking ware from the Republic of Korea. Domestic interested parties who object to this revocation must submit their comments in writing not later than 30 days from the publication date of this notice.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or David Mason, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202)482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 20, 1987, the Department of Commerce (the Department) published a countervailing duty order on certain stainless steel cooking ware from the Republic of Korea (52 FR 2140). The Department has not received a request to conduct an administrative review of this countervailing duty order for at least four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by section 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than 30 days after the publication date of this notice, domestic interested parties, as defined in section 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If no interested parties request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), or if no domestic interested parties object to the Department's intent to revoke pursuant to this notice, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: December 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31510 Filed 12–29–93; 8:45 am]
BILLING CODE 3510–DS–P

[C–489–004]

Stainless Steel Wire Rod From Spain; Intent to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce

ACTION: Notice of intent to revoke countervailing duty order

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on stainless steel wire rod from Spain. Domestic interested parties who object to this revocation must submit their comments in writing not later than 30 days from the publication date of this notice.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 1983, the Department of Commerce (the Department) published a countervailing duty order on stainless steel wire rod from Spain (52 FR 52). The Department has not received a request to conduct an administrative review of this countervailing duty order for at least four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity To Object

Not later than 30 days after the publication date of this notice, domestic interested parties, as defined in § 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If no interested parties request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), or if no domestic interested parties object to the Department's intent to revoke pursuant to this notice, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: December 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–31958 Filed 12–29–93; 8:45 am]
BILLING CODE 3510–DS–P

[C–583–804]

Certain Stainless Steel Cooking Ware From Taiwan; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on stainless steel cooking ware from Taiwan. Domestic interested parties who object to this revocation must submit their comments in writing not later than 30 days from the publication date of this notice.

EFFECTIVE DATE: December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Alexander Braier, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 20, 1987, the Department of Commerce (the Department) published a countervailing duty order on stainless steel cooking ware from Taiwan (52 FR 2141). The Department has not received a request to conduct an administrative review of this countervailing duty order for at least four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity To Object

Not later than 30 days after the publication date of this notice, domestic interested parties, as defined in § 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the

Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If no interested parties request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), or if no domestic interested parties object to the Department's intent to revoke pursuant to this notice, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: December 23, 1993.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93-31957 Filed 12-29-93; 8:45 am]

BILLING CODE 3510-DS-P

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Decision of Panel

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of Panel.

SUMMARY: On December 14, 1993, the Binational Panel issued its decision in the review of the Final Affirmative Countervailing Duty Determination on Remand made by the Department of Commerce, International Trade Administration, Import Administration, respecting Pure Magnesium and Alloy Magnesium from Canada, Secretariat File No. USA-92-1904-03. A copy of the complete panel decision is available from the Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the **Federal Register** on December 27, 1989 (54 FR 53165). The Rules were further amended and a consolidated version of the amended Rules was published in the **Federal Register** on June 15, 1992 (57 FR 26698). The panel review in this matter was conducted in accordance with these Rules.

Background

On July 13, 1992, the Department of Commerce published its final determination which concluded that countervailable benefits had been provided by two programs, the Quebec Industrial Development Program (SDI) and an exemption for Norsk Hydro Canada Inc. from payment of water bills. A final countervailing duty of 21.61 percent was calculated. Panel review under Article 1904 of the Agreement was requested on August 10, 1992 by the Government of Quebec.

On August 16, 1993, the Binational Panel remanded the final determination to the Department of Commerce for action not inconsistent with the Panel's decision as follows:

Commerce must reconsider the exercise of its statutory discretion as to whether its disproportionality analysis should be conducted on an enterprise or industry basis, and provide the Panel a cogent explanation why it has exercised its discretion in a given manner; and

Concerning the appropriate allocation period for grants given to Norsk Hydro for the purchase of pollution control equipment, Commerce must consider the IRS tables and the producer records, in a manner that satisfies the standard articulated in the *IPSCO* case of "an allocation period which will accurately reflect the commercial and competitive benefit received by the plaintiffs in this case," and must provide a satisfactory explanation for its reasoning in support of whatever decision it reaches.

The Binational Panel instructed Commerce to provide its determination on remand within 30 days of the panel decision (by September 15, 1993).

Panel Decision

The Panel hereby remanded the following portions of the final determination to the Department of Commerce for further action as follows:

1. That part of Commerce's determination where it conducted the disproportionality analysis on an enterprise-by-enterprise basis rather than by an industry-by-industry basis for reconsideration of the exercise of its statutory discretion as to whether the disproportionality analysis should be conducted on an enterprise or industry basis, and to provide to the Panel a cogent explanation why it has exercised its discretion in a given manner; and

2. That part of Commerce's determination concerning the appropriate allocation period for grants given to Norsk for the purchase of pollution control equipment with directions to consider the IRS tables and the producers records, in a manner that satisfies the standard articulated in the *IPSCO* case of "an allocation period which will accurately reflect the commercial and competitive benefit received by the plaintiffs in this case," and with further directions to provide a satisfactory explanation for its reasoning in support of whatever decision it reaches.

The Panel affirmed Commerce's determination in all other respects. The Panel directed Commerce to provide the results of the remand within thirty (30) days of the date of the decision (by January 13, 1994).

Dated: December 27, 1993.

Caratina L. Alston,

Deputy U.S. Secretary, FTA Binational Secretariat.

[FR Doc. 93-31959 Filed 12-29-93; 8:45 am]

BILLING CODE 3510-GT-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Decision of Panel

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of Panel.

SUMMARY: By a decision dated December 17, 1993, the Binational Panel remanded the final affirmative countervailing duty determination on remand made by the U.S. Department of Commerce, International Trade Administration respecting Certain Softwood Lumber Products from Canada (Secretariat File No. USA-92-1904-01). A copy of the complete panel decision is available from the Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the **Federal Register** on December 27, 1989 (54 FR 53165). The Rules were further amended and a consolidated version of the amended Rules was published in the **Federal Register** on June 15, 1992 (57 FR 26698). The panel review in this matter was conducted in accordance with these Rules.

Background

On May 6, 1993, the Binational Panel reviewing this matter affirmed in part and remanded in part the final affirmative countervailing duty determination issued by the U.S. Department of Commerce ("Commerce") on May 28, 1992. On the remand the Panel ordered that Commerce:

(a) With regard to provincial stumpage programs;

(1) Undertake an express evaluation of weighing of all four factors enunciated in its Proposed Regulations, as well as any other factors relevant to de facto specificity and;

(2) Consider whether or not the provincial programs could and did have a distorting effect on the operation of normal competitive markets before concluding that these governmental policies involve the type of "preferential" pricing that constitutes a countervailable subsidy within the meaning of the Tariff Act, and a review of all the evidence regarding the natural resource market for standing timber in light of the legal principles formulated in the decision;

(b) With regard to log export restrictions (LERs):

(1) Review the record and establish whether the log export restrictions are de jure specific or de facto specific and;

(2) Clarify the meaning of the applicable legal standard for a countervailable subsidy and demonstrate that the standard was met by substantial evidence on the record;

(c) Consider the exclusion request of two Quebec companies, Les Industries Maibec and Materiaux Blanchet; and

(d) Provide further information as to the participation of a former employee of the Coalition for Fair Lumber Imports in the investigation and final determination.

Two of the panelists would have found log exports restrictions not to be countervailable and therefore dissented from the findings of the majority on log export restrictions. In light of their position on this issue, these panelists did not take a position on the following findings concerning certain calculation issues, in which Commerce was directed by the majority of the panel on remand:

(a) To consider whether the areas in British Columbia that Commerce relied upon to calculate the benefit should be expanded;

(b) To recalculate the domestic log prices for the border interior using the log Purchase Price Index;

(c) To determine a species/grade adjustment for logs from the interior of British Columbia supported by substantial evidence on the record;

(d) To expressly consider which of the Margolick-Uhler elasticities assumptions for supply and demand Commerce will adopt for purposes of calculating the equilibrium price factor;

(e) To reconsider the economic adjustment made to export price; and

(f) To either recalculate the export cost adjustment to include the diminished value of the falldown sort or to adopt a within-grade adjustment.

Commerce issued its Determination on Remand on September 17, 1993, in which it affirmed its previous affirmative determinations concerning both stumpage and LERs, and increased the applicable country wide rate from 6.51% to 11.54% ad valorem.

Panel Decision

The Panel's consideration of Commerce's Determination on Remand, in light of the Parties' submissions and the record evidence, led to differing conclusions. The majority of the Panelists concluded as follows

1. Commerce's determination on remand failed to provide a rational basis for its conclusion that provincial stumpage programs are specific, in accordance with the record evidence and existing U.S. law. The Majority remanded this question back to Commerce for a determination that the provincial stumpage programs are not provided to a specific enterprise or industry, or group of enterprises or industries, within the meaning of 19 U.S.C. 1677(5).

2. Commerce's finding that provincial stumpage programs distort the normal competitive markets for softwood lumber was not supported by substantial evidence on the record. The majority remanded this question back to Commerce for a determination that provincial stumpage programs do not distort the normal competitive markets for softwood lumber and therefore are not countervailable.

3. Commerce's determination on remand failed to establish on the record evidence that B.C.'s LERs benefit a specific enterprise or industry or group of enterprises or industries in accordance with U.S. law; both in Commerce's misreliance on its stumpage specificity analysis and on its failure to analyze the range of industries which actually purchase logs. The majority remanded this matter back to Commerce for a finding of non-specificity with respect to log export restrictions.

4. Commerce's determination on remand satisfied the remand instructions set out in the Panel's decision of May 6, 1993 regarding the establishment of a direct and discernible effect between B.C.'s LERs and B.C. log prices. As a result, four of the Panelists affirmed the agency's determination that B.C. LERs confer a benefit which, if specific, would be countervailable.

The Panel also considered Commerce's response for information concerning the participation of Dr. Lange in the *Lumber III* investigation, and concluded that no violation of U.S. due process law was established. The Panel would also, absent the majority finding, have directed that Commerce exclude from its investigation two Québec companies, Les Industries Maibec and Matériaux Blanchet.

Two panelists concurred in the decision of the majority of the Panel with regard to Dr. Lange and the propriety of directing Commerce to exclude Les Industries Maibec and Materiaux Blanchet, the majority's

conclusion that B.C. log export restrictions (LERs) do confer a subsidy to B.C. lumber manufacturers and in particular sections of the majority opinion as addressed in the body of the dissent. The two panelists dissented from the majority's decision with regard to specificity and preferentiality in various Canadian stumpage programs and with regard to specificity in LERs. The dissenters also considered a number of calculation issues which the majority did not reach.

Dated: December 27, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93-31960 Filed 12-29-93; 8:45 am]

BILLING CODE 3510-GT-M

National Institute of Standards and Technology

[Docket No. 931062-3262]

Grant Funds—Materials Science and Engineering Laboratory

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform potential applicants that the Materials Science and Engineering Laboratory, National Institute of Standards and Technology (NIST), is continuing its program for grants and cooperative agreements in the following fields of research: Ceramics, Metallurgy, Polymer Sciences, Neutron Scattering Research and Spectroscopy. Each applicant must submit one signed original and two copies of each proposal along with a Grant Application, (Standard Form 424 REV. 4/88), as referenced under the provisions of OMB Circular A-110 and 15 CFR part 24.

DATES: Applications will be received through September 30, 1994. Applicants should allow up to 120 days processing time.

ADDRESSES: Applications should be submitted to The National Institute of Standards and Technology, Materials Science and Engineering Laboratory, Building 223, room B344, Gaithersburg, Maryland 20899; Attention: Patty Salpino. Each application package should be clearly marked to identify the field of research.

FOR FURTHER INFORMATION CONTACT: Technical inquiries should be directed to the following Program Managers: George Birnbaum—(301) 975-5727 [Office of Intelligent Processing Materials], Mr. Sandy Dapkunas—(301) 975-6119 [Ceramics Division], Bruno Fanconi—(301) 975-6762 [Polymers Division], John Manning—(301) 975-6157 [Metallurgy Division—transformations, phases, microstructure and kinetic processes in metals and their alloys], Leonard Mordfin—(301) 975-6168 [Metallurgy Division—sensors for analytical models for metallurgical processes], Richard Ricker—(301) 975-6023 [Metallurgy Division—degradation of materials in their service environment, John Rush—(301) 976-6220 [Reactor Radiation Division]. Inquiries should be general in nature. Specific inquiries as to a laboratory's needs, the usefulness or merit of any particular project, or other inquiries with the potential to provide any competitive advantage to an applicant are not acceptable.

SUPPLEMENTARY INFORMATION: Academic institutions, non-Federal agencies, independent and industrial laboratories are eligible to apply. As authorized 15 U.S.C. 272 (b)(6) and (c)(16), the Materials Science and Engineering Laboratory conducts a basic and applied research program directly and through grants and cooperative agreements to eligible recipients. Approximately $500,000 will be available to support grants and cooperative agreements under this program. The Materials Science and Engineering Laboratory Grants Program is limited to innovative ideas generated by the proposal writer on what research will be performed and how. Grants awarded under the MSEL program will generally provide financial assistance to the recipient without substantial NIST involvement in the projects. Cooperative agreements awarded for MSEL projects will generally involve a close working relationship between a group of NIST experts and the recipient. However, any financial assistance whether for grants or cooperative agreements, will be provided on a yearly basis.

Catalog of Federal Domestic Assistance No. 11.609 "Measurement and Engineering Research Standards."

Program Objectives

All proposals submitted must be in accordance with the program objectives listed below. The appropriate Program Manager for each field of research may be contacted for clarification of the program objectives.

I. Office of Intelligent Processing of Materials, 851—The primary objective is to measure the far infrared (FIR) and mid-infrared continuum absorption of primarily nonpolar gases and liquids found in the atmospheres of the outer planets, in particular, gaseous and liquid CH_4, and gaseous mixtures of N_2 and CH_4, and to analyze these data.

II. Ceramics Division, 852—The primary objective is to supplement division activities in the area of ceramic processing, tribology, composites, machining, interfacial chemistry, and microstructural analysis.

III. Polymers Division, 854—The primary objective is to support the synthesis of polymers for research purposes, and collaborative research efforts in which the contractor provides mechanical, electrical, optical, transport, or structure data on polymeric materials.

IV. Metallurgy Division, 855—The primary objective is to develop techniques to predict, measure and control transformations, phases, microstructure and kinetic processes in metals and their alloys.

V. Metallurgy Division, 855—The primary objective is to develop new and improved sensors and analytical models for metallurgical processes in order to facilitate the development and adoption of intelligent processing systems for materials.

VI. Metallurgy Division, 855—The primary objective is to develop techniques to predict, measure and control the degradation of materials in their service environment.

VII. Reactor Radiation Division, 856—The primary objective is to develop cold and thermal neutron research approaches and related physics and materials applications.

Proposal Review Process

Proposals will be reviewed by a panel of individuals knowledgeable about the particular scientific area described above that the proposal addresses. Both the technical value of a proposal and the relationship of the work proposed to the needs of the specific NIST program will be taken into consideration.

Evaluation Criteria

The criteria to be used in evaluating the proposal include: Rationality (coherence of approach, relation to scientific/technical issues), Qualifications of Technical Personnel, Resources Availability, and Technical Merit of Contribution. Each of these factors will be given equal weight in the evaluation process.

Selection Procedures

The chief of each division will make the final award selection, taking into account the score received by the applicant and the compatibility of the applicant's proposal with the needs of the particular division that the proposal addresses. Award will not necessarily

be made to the highest-scored applicants.

Paperwork Reduction Act

The Standard Form 424 and Standard Form LLL mentioned in this notice are subject to the requirements of the Paperwork Reduction Act and have been approved by OMB under Control Numbers 0348-0043 and 0348-0046.

Additional Requirements

All primary applicants must submit a completed form CD-511, "Certifications Regarding Debarment, Suspension and other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations must be provided:

1. Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. Anti-Lobbying

Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. Anti-Lobbying Disclosure

Any applicant that has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

5. Lower-Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to NIST. SF-LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

Applicants who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of NIST to cover pre-award costs.

If an application is accepted for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

All for-profit and nonprofit applicants will be subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,

2. A negotiated repayment schedule is established and at least one payment is received, or

3. Other arrangements satisfactory to DoC are made.

Awards under the Materials Science and Engineering Laboratory Research Program shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

The Materials Science and Engineering Grants Program does not directly affect any state or local government. Accordingly, the Department of Commerce has determined that Executive order 12372 is not applicable to the Materials Science and Engineering Grants Program.

Dated: December 20, 1993.

Samuel Kramer,

Associate Director.

[FR Doc. 93-31910 Filed 12-29-93; 8:45 am]

BILLING CODE 3510-13-M

[Docket No. 920601-3194]

RIN 0693-AB09

Revision of Federal Information Processing Standard (FIPS) 46-1 Data Encryption Standard (DES)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce that Federal Information Processing Standard (FIPS) 46-1, Data Encryption Standard, has been revised and that the Data Encryption algorithm specified by the standard has been reaffirmed for five years.

SUMMARY: The Data Encryption Standard, issued as Federal Information Processing Standard 46 on January 15, 1977, specified that a review would be performed by the National Institute of Standards and Technology (NIST) within five years to assess its adequacy. The first review was completed in 1983 and the standard was reaffirmed for Federal Government use (48 FR 41062 dated September 13, 1983). In 1987, NIST announced the second review of the standard (52 FR 7006 dated March 6, 1987), and solicited comments from Government, industry, and the public on the adequacy of the standard to protect computer data. The standard was reaffirmed for Federal government use (52 FR 7006). Following the second reaffirmation, the text of the standard was revised to reflect minor editorial changes, updates to references, addresses, and other non-substantive changes. The revision was issued as FIPS 46-1 in January 1988. On September 11, 1992, NIST announced the third review of the standard (57 FR 41727).

At the next review (1998), the algorithm specified in this standard will be over twenty years old. NIST will consider alternatives which offer a higher level of security. One of these alternatives may be proposed as a replacement standard at the 1998 review.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST

VOL 58 ISS 249 DEC 30 1993 UMI

recommended that the Secretary approve the revision of this standard as FIPS 46–2 and the reaffirmation of algorithm specified by the standard, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard became effective July 1977 and was reaffirmed in 1983, 1988, and 1993. The algorithm specified by the standard has been reaffirmed without change. FIPS 46–2, which revises the implementation of the Data Encryption Algorithm to include software, firmware, hardware, or any combination thereof, becomes effective June 30, 1994. This revised standard may be used in the period before the effective date.

ADDRESSES: Interested parties may purchase copies of FIPS 46–1 from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487–4650.

FOR FURTHER INFORMATION CONTACT: Mr. Miles Smid, Computer Systems Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2938.

Dated: December 23, 1993.

Samuel Kramer,

Associate Director.

Federal Information Processing Standards Publication 46–2

(Date)

Announcing the Data Encryption Standard

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. Name of standard. Data Encryption Standard (DES).

2. Category of standard. Computer Security.

3. Explanation. The Data Encryption Standard (DES) specifies a FIPS approved cryptographic algorithm as required by FIPS 140–1. This publication provides a complete description of a mathematical algorithm for encrypting (enciphering) and decrypting (deciphering) binary coded information. Encrypting data converts it to an unintelligible form called cipher. Decrypting cipher converts the data back to its original form called plaintext. The algorithm described in this standard specifies both enciphering and deciphering operations which are based on a binary number called a key.

A key consists of 64 binary digits ("0"s or "1"s) of which 56 bits are randomly generated and used directly by the algorithm. The other 8 bits, which are not used by the algorithm, are used for error detection. The 8 error detecting bits are set to make the parity of each 8-bit byte of the key odd, i.e., there is an odd number of "1"s in each 8-bit byte[1]. Authorized users of encrypted computer data must have the key that was used to encipher the data in order to decrypt it. The encryption algorithm specified in this standard is commonly known among those using the standard. The unique key chosen for use in a particular application makes the results of encrypting data using the algorithm unique. Selection of a different key causes the cipher that is produced for any given set of inputs to be different. The cyptographic security of the data depends on the security provided for the key used to encipher and decipher the data.

Data can be removed from cipher only by using exactly the same key used to encipher it. Unauthorized recipients of the cipher who know the algorithm but do not have the correct key cannot derive the original data algorithmically. However, anyone who does have the key and the algorithm can easily decipher the cipher and obtain the original data. A standard algorithm based on a secure key thus provides a basis for exchanging encrypted computer data by issuing the key used to encipher it to those authorized to have the data.

Data that is considered sensitive by the responsible authority, data that has a high value, or data that represents a high value should be cryptographically protected if it is vulnerable to unauthorized disclosure or undetected modification during transmission or while in storage. A risk analysis should be performed under the direction of a responsible authority to determine potential threats. The costs of providing cryptographic protection using this standard as well as alternative methods of providing this protection and their respective costs should be projected. A responsible authority then should make a decision, based on these analyses, whether or not to use cryptographic protection and this standard.

4. Approving authority. Secretary of Commerce.

5. Maintenance agency. U.S. Department of Commerce, National Institute of Standards and Technology, Computer Systems Laboratory.

6. Applicability. This standard may be used by Federal departments and agencies when the following conditions apply:

1. An authorized official or manager responsible for data security or the security of any computer system decides that cryptographic protection is required; and

2. The data is not classified according to the National Security Act of 1947, as amended, or the Atomic Energy Act of 1954, as amended.

Federal agencies or departments which use cryptographic devices for protecting data classified according to either of these acts can use those devices for protecting unclassified data in lieu of the standard.

Other FIPS approved cryptographic algorithms may be used in addition to, or in lieu of, this standard when implemented in accordance with FIPS 140–1.

In addition, this standard may be adopted and used by non-Federal Government organizations. Such use is encouraged when it provides the desired security for commercial and private organizations.

7. Applications. Data encryption (cryptography) is utilized in various applications and environments. The specific utilization of encryption and the implementation of the DES will be based on many factors particular to the computer system and its associated components. In general, cryptography is used to protect data while it is being communicated between two points or while it is stored in a medium vulnerable to physical theft.

[1] Sometimes keys are generated in an encrypted form. A random 64-bit number is generated and defined to be the cipher formed by the encryption of a key using a key encrypting key. In this case the parity bits of the encrypted key cannot be set until after the key is decrypted.

Communication security provides protection to data by enciphering it at the transmitting point and deciphering it at the receiving point. File security provides protection to data by enciphering it when it is recorded on a storage medium and deciphering it when it is read back from the storage medium. In the first case, the key must be available at the transmitter and receiver simultaneously during communication. In the second case, the key must be maintained and accessible for the duration of the storage period. FIPS 171 provides approved methods for managing the keys used by the algorithm specified in this standard.

8. Implementations. Cryptographic modules which implement this standard shall conform to the requirements of FIPS 140–1. The algorithm specified in this standard may be implemented in software, firmware, hardware, or any combination thereof. The specific implementation may depend on several factors such as the application, the environment, the technology used, etc. Implementations which may comply with this standard include electronic devices (e.g., VLSI chip packages), micro-processors using Read Only Memory (ROM), Programmable Read Only Memory (PROM), or Electronically Erasable Read Only Memory (EEROM), and mainframe computers using Random Access Memory (RAM). When the algorithm is implemented in software or firmware, the processor on which the algorithm runs must be specified as part of the validation process. Implementations of the algorithm which are tested and validated by NIST will be considered as complying with the standard. Note that FIPS 140–1 places additional requirements on cryptographic modules for Government use. Information about devices that have been validated and procedures for testing and validating equipment for conformance with this standard and FIPS 140–1 are available from the National Institute of Standards and Technology, Computer Systems Laboratory, Gaithersburg, MD 20899.

9. Export control. Cryptographic devices and technical data regarding them are subject to Federal Government export controls as specified in title 22, Code of Federal Regulations, parts 120 through 128. Some exports of cryptographic modules implementing this standard and technical data regarding them must comply with these Federal regulations and be licensed by the U.S. Department of State. Other exports of cryptographic modules implementing this standard and technical data regarding them fall under the licensing authority of the Bureau of Export Administration of the U.S. Department of Commerce. The Department of Commerce is responsible for licensing cryptographic devices used for authentication, access control, proprietary software, automatic teller machines (ATMs), and certain devices used in other equipment and software. For advice concerning which agency has licensing authority for a particular cryptographic device, please contact the respective agencies.

10. Patents. Cryptographic devices implementing this standard may be covered by U.S. and foreign patents issued to the International Business Machines Corporation. However, IBM has granted nonexclusive, royalty-free licenses under the patents to make, use and sell apparatus which complies with the standard. The term, conditions and scope of the licenses are set out in notices published in the May 13, 1975 and August 31, 1976 issues of the Official Gazette of the United States Patent and Trademark Office (934 O.G. 452 and 949 O.G. 1717).

11. Alternate modes of using the DES. FIPS PUB 81, DES Modes of Operation, describes four different modes for using the algorithm described in this standard. These four modes are called the Electronic Codebook (ECB) mode, the Cipher Block Chaining (CBC) mode, the Cipher Feedback (CFB) mode, and the Output Feedback (OFB) mode. ECB is a direct application of the DES algorithm to encrypt and decrypt data; CBC is an enhanced mode of ECB which chains together blocks of cipher text; CFB uses previously generated cipher text as input to the DES to generate pseudorandom outputs which are combined with the plaintext to produce cipher, thereby chaining together the resulting cipher; OFB is identical to CFB except that the previous output of the DES is used as input in OFB while the previous cipher is used as input in CFB. OFB does not chain the cipher.

12. Implementation of this standard. This standard became effective July 1977. It was reaffirmed in 1983, 1988, and 1993. It applies to all Federal agencies, contractors of Federal agencies, or other organizations that process information (using a computer or telecommunications system) on behalf of the Federal Government to accomplish a Federal function. Each Federal agency or department may issue internal directives for the use of this standard by their operating units based on their data security requirement determinations. FIPS 46–2 which revises the implementation of the Data Encryption Algorithm to include software, firmware, hardware, or any combination thereof, is effective June 30, 1994. This revised standard may be used in the interim period before the effective date.

NIST provides technical assistance to Federal agencies in implementing data encryption through the issuance of guidelines and through individual reimbursable projects. The National Security Agency assists Federal departments and agencies in communications security for classified applications and in determining specific security requirements. Instructions and regulations for procuring data processing equipment utilizing this standard are included in the Federal Information Resources Management Regulation (FIRMR) subpart 201–8.111–1.

13. Specifications. Federal Information Processing Standard (FIPS) 46–2, Data Encryption Standard (DES) (affixed).

14. Cross index. a. Federal Information Resources Management Regulations (FIRMR) subpart 201.20.303, Standards, and subpart 201.39.1002, Federal Standards.

b. FIPS PUB 31, Guidelines to ADP Physical Security and Risk Management.

c. FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974.

d. FIPS PUB 65, Guidelines for Automatic Data Processing Risk Analysis.

e. FIPS PUB 73, Guidelines for Security of Computer Applications.

f. FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard.

g. FIPS PUB 81, DES Modes of Operation.

h. FIPS PUB 87, Guidelines for ADP Contingency Planning.

i. FIPS PUB 112, Password Usage.

j. FIPS PUB 113, Computer Data Authentication.

k. FIPS PUB 140–1, Security Requirements for Cryptographic Modules.

l. FIPS PUB 171, Key Management Using ANSI X9.17.

m. Other FIPS and Federal Standards are applicable to the implementation and use of this standard. In particular, the Code for Information Interchange, Its Representations, Subsets, and Extensions (FIPS PUB 1–2) and other related data storage media or data communications standards should be used in conjunction with this standard. A list of currently approved FIPS may be obtained from the National Institute of Standards and Technology, Computer Systems Laboratory, Gaithersburg, MD 20899.

15. Qualifications. The cryptographic algorithm specified in this standard

transforms a 64-bit binary value into a unique 64-bit binary value based on a 56-bit variable. If the complete 64-bit input is used (i.e., none of the input bits should be predetermined from block to block) and if the 56-bit variable is randomly chosen, no technique other than trying all possible keys using known input and output for the DES will guarantee finding the chosen key. As there are over 70,000,000,000,000,000 (seventy quadrillion) possible keys of 56 bits, the feasibility of deriving a particular key in this way is extremely unlikely in typical threat environments. Moreover, if the key is changed frequently, the risk of this event is greatly diminished. However, users should be aware that it is theoretically possible to derive the key in fewer trials (with a correspondingly lower probability of success depending on the number of keys tried) and should be cautioned to change the key as often as practical. Users must change the key and provide it a high level of protection in order to minimize the potential risks of its unauthorized computation or acquisition. The feasibility of computing the correct key may change with advances in technology. A more complete description of the strength of this algorithm against various threats is contained in FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard.

When correctly implemented and properly used, this standard will provide a high level of cryptographic protection to computer data. NIST, supported by the technical assistance of Government agencies responsible for communication security, has determined that the algorithm specified in this standard will provide a high level of protection for a time period beyond the normal life cycle of its associated equipment. The protection provided by this algorithm against potential new threats will be reviewed within 5 years to assess its adequacy (See Special Information Section). In addition, both the standard and possible threats reducing the security provided through the use of this standard will undergo continual review by NIST and other cognizant Federal organizations. The new technology available at that time will be evaluated to determine its impact on the standard. In addition, the awareness of any breakthrough in technology or any mathematical weakness of the algorithm will cause NIST to reevaluate this standard and provide necessary revisions.

At the next review (1998), the algorithm specified in this standard will be over twenty years old. NIST will consider alternatives which offer a higher level of security. One of these alternatives may be proposed as a replacement standard at the 1998 review.

16. Comments. Comments and suggestions regarding this standard and its use are welcomed and should be addressed to the National Institute of Standards and Technology, Attn: Director, Computer Systems Laboratory, Gaithersburg, MD 20899.

17. Waiver procedure. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, United States Code. Waiver shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or

b. Compliance with a standard would cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; Attn: FIPS Waiver Decisions, Technology Building, room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committe on Government Affairs of the Senate and shall be published promptly in the Federal Register.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determinaflon is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any accompanying documents, with such deletions as the agency is authorized and decides to make under 5 United States Code section 552(b), shall be part of the procurement documentation and retained by the agency.

18. Special information. In accordance with the Qualifications Section of this standard, reviews of this standard have been conducted every 5 years since its adoption in 1977. The standard was reaffirmed during each of those reviews. This revision to the text of the standard contains changes which allow software implementations of the algorithm and which permit the use of other FIPS approved cryptographic algorithms.

19. Where to obtain copies of the standard. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 46–2 (FIPS PUB 46–2), and identify the title. When microfiche is desired, this should be specified. Prices are published by NTIS in current catalogs and other issuances. Payment may be made by check, money order, deposit account or charged to a credit card accepted by NTIS.

[FR Doc. 93–31909 Filed 12–29–93; 8:45 am]

BILLING CODE 3510–CN–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of New Export Visa and Certification Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

December 27, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing new visa and certification requirements.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Pursuant to the North America Free Trade Agreement, the existing export visa and certification requirements are being superseded and new requirements are being established for textile and apparel products subject to restrictions or consultation levels which are exported from Mexico on and after January 1, 1994.

The current list of the folklore items, certification stamp and commercial invoice remain unchanged. The visa is changed to replace "Bilateral Textile Agreement" with "North American Free Trade Agreement." A facsimile of the visa and certification stamps are on file at the U.S. Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Avenue, NW, room 3106, Washington, DC.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 58 FR 62645, published on November 29, 1993). Also see 53 FR 32421, published on August 25, 1988.

Interested persons are advised to take all necessary steps to ensure that textile and apparel products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 27, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive cancels and supersedes the directive issued to you on August 22, 1988, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed to you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico for which the Government of the United Mexican States has not issued an appropriate visa.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the provisions of Executive Order 11651 of March 3, 1972, as amended; and pursuant to the North America Free Trade Agreement (NAFTA) between the Governments of the United States, the United Mexican States and Canada, you are directed to prohibit, effective on January 1, 1994, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products subject to restrictions or consultation levels in Categories 219, 313, 314, 315, 317, 338/339/638/639, 340/640, 347/348/647/648, 410, 443, 611, 633 and 643, produced or manufactured in Mexico and exported from Mexico on and after January 1, 1994 for which the Government of the United Mexican States has not issued an appropriate export visa fully described below. NAFTA-originating goods are not subject to restrictions or consultation levels.

A visa must accompany each commercial shipment of the aforementioned textile products. A pre-printed original circular stamped marking in blue ink will appear on the front of the textile export visa/invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit/letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for Mexico is "MX"), followed by the number 0 and a five digit numerical serial number identifying the shipment; e.g., 4MX012345.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The signature of the issuing official and the printed name of the issuing official authorized to issue visas by the Government of the United Mexican States.

4. The correct category(s), merged category(s), quantity(s) and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in Schedule 3.1.2 of Annex 300–B of NAFTA and in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States. Annotated or successor documents shall be reported in the spaces provided within the visa (e.g., "Cat. 340–510 DOZ").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., Categories 340/640 may be visaed as 340/640 or if the shipment consists solely of 340 merchandise, the shipment may be visaed as "Cat. 340," but not as "Cat. 640").

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, printed name of the signer, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

The complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

If the visa is not acceptable then a new visa must be obtained by the exporter from the competent authority of Mexico, or a replacement visa from the SECOFI Office in Washington, DC, and presented to the U.S. Customs Service before any portion of the shipment will be released.

If import quotas are in force, the U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from Mexico has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery or exportation is not accomplished, U.S. Customs shall charge the shipment to the correct category limit whether or not a replacement visa is provided.

Merchandise imported for the personal use of the importer and not for resale, regardless of value; properly marked commercial sample shipments valued at U.S.$250 or less; and goods entered under U.S. Harmonized Tariff Schedule (HTS) numbers 9801.00.25, 9802.00.40, 9802.00.50, 9802.00.90 and 9813.00.65 or successor tariff lines do not require a visa for entry.

As specified in Section 2(3) and Appendix 3.1(B)(11) of Annex 300–B of NAFTA, imports of hand-loomed fabrics of a cottage industry; hand-made cottage industry goods made of such hand-loomed fabrics; and traditional folklore handicraft textile and apparel goods shall require a certification stamped on the invoice by the competent authority of Mexico. A list of the folklore items, which is unchanged, is attached to this letter.

The certification stamp for folklore items remains unchanged. The visa is changed to replace "Bilateral Textile Agreement" with "North American Free Trade Agreement." For the period from January 1 through January 31, 1994, either visa may be used. After January 31, 1994, only the new visa stating ≥North American Free Trade Agreement≥ will be accepted. Facsimiles of the certification stamp and the visas are attached.

The actions taken concerning the Government of the United Mexican States with respect to imports of textile and apparel products in the foregoing categories have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the Foreign Register.

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–31943 Filed 12–29–93; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, applicable form, and applicable OMB control number: Defense FAR Supplement, 227, Patents, Data and Copyrights; OMB Control Number 0704–0240.

Type of request: Extension of a previously approved collection.

Average burden hours/minutes per response: 79 hours and 28 minutes.

Responses per respondent: 1.

Number of respondents: 16,560.

Annual burden hours (including recordkeeping): 2,307,240.

Annual responses: 16,560.

Needs and uses: This request concerns information collection and recordkeeping requirements related to Technical Data, Software, Copyrights, and Contracts.

Affected public: Businesses or other for-profit, Non-profit institutions, and Small businesses or organizations.

Frequency: On Occasion.

Respondents obligation: Required to obtain or retain a benefit.

Desk officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia, 22202–4302.

Dated: December 27, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–31927 Filed 12–29–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the proposed Baltimore Harbor Anchorages and Channels, Baltimore, Maryland Feasibility Study

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Baltimore District U.S. Army Corps of Engineers is investigating the feasibility of widening and/or deepening the Baltimore Harbor anchorages and branch channels. The anchorage area were initially authorized between 1909 and 1945 and were designed to accommodate the types of vessels calling on the Port at that time. In recent years, however, the trend toward using larger, more efficient vessels has taken precedent over using smaller vessels. For this reason, the size of the existing anchorage areas at Baltimore are not sufficient in depth or width. The feasibility study of potential modification actions is being conducted under authority of a U.S. Senate, Committee on Environmental and Public Works resolution adopted June 23, 1988. The non-Federal sponsor for the feasibility phase of the project is the Maryland Port Administration (MPA), a part of the Maryland Department of Transportation.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be addressed to Mr. Wes Matheau, Project Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–PC, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–4399.

SUPPLEMENTARY INFORMATION:

1. The U.S. House of Representatives, Committee on Public Works and Transportation, authorized the Baltimore Harbor Anchorages and Channels study in a resolution adopted on June 23, 1988. The resolution requested the Board of Engineers for Rivers and Harbors to determine if further improvements for navigation, including anchorages and branch channels, are advisable at this time. A reconnaissance study was completed in April 1992 which recommended further study of navigation related improvements and preparation of a feasibility report. The three-year feasibility study was initiated in July 1993.

2. The Port of Baltimore is located on a 32 square mile area of the Patapsco River and its tributaries, approximately 12 miles northwest of the Chesapeake Bay. Total drainage area for the Patapsco River is approximately 547 square miles, with a mean discharge of 675 cubic feet per second. The Patapsco River originates near Westminister, in Carroll County, Maryland, and flows southeasterly for 65 miles to enter the Chesapeake Bay 9 miles south of Forth McHenry. The lower 15 miles of the river are tidal. Navigation for deep draft vessels is limited to the area south of the Hanover Street Bridge, where the width of the river increases abruptly to nearly 1 mile. From this point to the mouth, the width gradually increases to about 4 miles.

3. The port can be reached from the Atlantic Ocean by two distinct shipping routes; from the south through the Virginia Capes and the Chesapeake Bay, or from the east through the Delaware Bay, Delaware River, C&D Canal, and the Chesapeake Bay. The Port sits in the heart of the Baltimore/Washington Common Market and is a three hour drive or less from such metropolitan centers at Washington, DC, Philadelphia and New York City. Baltimore remains the closest east coast port to the Midwest, and serves as the gateway to America's industrial heartland. Baltimore can easily serve east coast markets from Boston, Massachusetts to Charlotte, North Carolina from its central location on the Chesapeake Bay.

4. Since 1824, the Baltimore District of the U.S Army Corps of Engineers (COE) has been actively involved in constructing and maintaining a system of channels to allow large, deep draft commercial shipping vessels to call on the Port of Baltimore. In addition to the shipping channels, a number of anchorage areas have been established within the Port for vessels requiring layover for various reasons. Since the anchorage areas were initially authorized between 1909 and 1945, larger, more efficient vessels have come into use.

5. The larger vessels currently in use are sometimes required to anchor in naturally deep water 25 miles south of the Port of Baltimore when an adequate berthing area is not available at Baltimore. Cost associated with resulting vessel delays totaled approximately $822,000 in 1989. The exiting widths of the branch channels at the Seagirth and Dundalk marine terminals are also inadequate for some of the vessels calling on the Port of Baltimore. This results in an increase in the total time required for pilots to safely navigate during berthing and deberthing operations. Costs associated with these delays totaled $874,000 in 1989. The configuration of the branch channels at the South Locus Point Marine Terminal is inadequate for larger vessels calling on the terminal. Costs associated with delays in maneuvering vessels at the South Locust Point Marine Terminal in 1989 totaled $567,000.

6. Various alternative actions will be considered in the feasibility study, including the "no action" alternative. The alternatives to be considered will include selective anchorage and branch channel widening, deepening, and realignment, and the provision of navigation aids. Based on the findings of the reconnaissance study, the alternatives that will be investigated in the feasibility study include, but are not limited to:

Plan A—Enlarge the anchorages near Seagirt and Dundalk (Anchorages 2 and 3), to approximately 38 feet deep and an area 4,200 feet long by 2,100 feet wide.

Plan B—Same modifications as Plan A, plus improving an adjacent anchorage (Anchorage 4) to approximately 30 or 34 feet deep and an area 1,500 feet long and wide.

Plan C—Deepening and widening a remnant branch channel at South Locust Point.

Plan D—Widening two branch channels at the Seagirt and Dundalk terminals from 350 feet to approximately 500 feet and one from 300 feet to approximately 350 feet, and providing two cutoff angles, one at the intersection of the connecting channel and berths at Dundalk and the other at the intersection of the west Dundalk branch channel and the main shipping channel.

7. The Baltimore District is preparing a DEIS which will describe the impacts of the proposed projects on environmental and cultural resources in the study area and the overall public interest. If applicable, the DEIS will also apply guidelines issued by the Environmental Protection Agency, under authority of Section 404 of the Clean Water Act of 1977 (Pub. L. 95–217). Potential effects of the project on water quality, fish and wildlife resources, recreation, aesthetics, cultural resources and hazardous and toxic contaminants will be investigated. The DEIS will provide an assessment of expected beneficial and adverse impacts associated with moving and containing chemically contaminated sediment from the harbor.

8. The public involvement will include meetings and close coordination with interested private individuals and organizations, as well as concerned Federal, state and local agencies. A public notice requesting comments on the proposed project and DEIS will be provided to appropriate agencies and the public through printed media and mailings. A scoping meeting is not planned at this time. The Baltimore District invites potentially affected Federal, state and local agencies, and other interested organizations and parties to participate in this study. Agencies that are currently involved in the feasibility study and EIS process include, but are not limited to the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Maryland Department of Natural Resources, Maryland Department of the Environment, and the Maryland Port Administration.

9. The DEIS is tentatively scheduled to be available for public review in the spring of 1996.

J. Richard Capka,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 93–31964 Filed 12–29–93; 8:45 am]

BILLING CODE 3710–41–M

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Flood Control Project on the Rio Fajardo in the Municipio of Fajardo, Puerto Rico.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers, is preparing a Detailed Project Report (DPR) for the Rio Fajardo, Fajardo Flood Control Study. A Draft Environmental Impact Statement will be prepared for the project.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft EIS can be answered by Barbara Cintron, (904) 232–1692.

ADDRESS: U.S. Army Corps of Engineers District, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION: The study of flooding on the lower Fajardo River at Fajardo, Puerto Rico, is authorized under Section 205 of the 1945 Flood Control Act, as amended. Prior studies led to publication of a Detailed Project Report in 1981. This Report concluded that several alternative flood control plans were economically justified, but all were more costly than the upper limit for Section 205 (Continuing authorities) studies. Continued economic growth and flooding problems in Fajardo have led to a reassessment of the earlier study's conclusions.

All flood reduction alternatives under study are structural and comprise combinations of earthen levees or floodwalls to protect densely developed areas, with the possible addition of a pilot channel near the river mouth. A total of four reaches of the river levee or floodwall protection for residential communities of the north river bank. They are:

(1) San Pedro Community, located west and north of the town center, where proposed protection would be a straight earthen levee passing through undeveloped pasturelands;

(2) The "Pueblo" segment, extending from highway P.R. #3, near the town center, to the southwest corner of Jerusalen community and passing through abandoned agricultural lands;

(3) The "Santa Isidra" segment, located east of Segment (2) and passing through abandoned sugarcane lands; and

(4) The "Punta Fajardo" segment, extending from a hill east of Valle Puerto Real development to the river mouth.

1. Most of the areas that would be impacted by levee construction are pasturelands or inactive agricultural lands. However, the "Punta Fajardo" segment includes the Ceiba commonwealth forest, a mangrove forest. Ceiba Forest is a significant natural resource; it has been continuously protected under Federal and Commonwealth laws since 1918. It is also a Puerto Rico Planning Board-designated Coastal Zone Natural Reserve, and an "otherwise protected" coastal barrier segment under the 1990 amendments to the Coastal barrier Resources Act. Five alternatives of the river mouth (Punta Fajardo) levee alignment are under study; three of these would impact the Fajardo River estuary and the Ceiba Forest to a greater or lesser degree, while the other two would require greater or lesser removals of residences and businesses in the north bank community. The river mouth itself has been recognized as habitat for the endangered West Indian Manatee and the Ceiba Forest may be habitat for Category 1 candidate species for Federal listing under the Endangered Species Act. Levee alternatives that would not affect the Forest are also under study, but they would require removal of up to 100 residences and 3 commercial structures.

2. In response to preliminary scoping and studies undertaken in accordance with the Fish and Wildlife Coordination Act, the wetlands of the Ceiba forest have been identified as a highly

significant resource. The Commonwealth Department of Natural Resources, co-sponsor of the study, requested minimization of structural impacts on the Ceiba Forest. The U.S. Fish and Wildlife Service strongly urged avoidance of the Forest, described potential impacts of south bank levee alternatives on mangrove and salt flat habitats as "unprecedented," and recommended mitigation ratios of 10:1 or higher, while expressing doubts that sufficient or suitable lands were available near the site for so large a mitigation project.

3. Public involvement to date has been limited to initial scoping of issues, completed in December 1992. Scoping responses indicated the environmental sensitivity of the Punta Fajardo environment. Significant issues identified to date that will be addressed in the EIS include effects on the Commonwealth Forest; effects on Federally listed threatened and endangered species; effects on native and migratory wildlife; effects on estuarine productivity, effects on water quality; effects on upstream habitats, including migratory fish resources; and effects on Maternillo and Masion del Sapo communities, both beneficial and adverse.

4. Coordination with the U.S. Fish and Wildlife Service has begun under section 7 of the U.S. Endangered Species Act and the Fish and Wildlife Coordination Act. Coordination required under applicable Federal and Commonwealth laws and policies will be conducted.

5. A scoping meeting is not scheduled. The Draft EIS will be available to the public in May 1994.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93-31965 Filed 12-29-93; 8:45 am]

BILLING CODE 3710-AJ-M

Construction Productivity Advancement Research (CPAR) Program

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: The purpose of this notice is to inform potential applicants of a program of a cost-shared research, development, demonstration and commercialization and technology transfer (R&D) projects between the U.S. Army Corps of Engineers and the U.S. construction industry. The purpose of the Construction Productivity Advancement Research (CPAR) Program is to assist the U.S. construction industry in enhancing its productivity and competitive position through the development and commercialization of advanced technologies, materials and construction management systems.

DATES: Effective date is January 19, 1994. Proposals will be accepted until April 1, 1994.

ADDRESSES: Proposals for the Fiscal Year 1994 CPAR Program should be submitted to the Corps laboratories identified in the CPAR Guidelines for Participation, dated January 1994. The Guidelines provide information about the CPAR Program and how to participate, and should be read carefully by those wishing to propose a project before contact is made with a Corps laboratory. Copies of the Guidelines may be obtained by writing to: HQUSACE, ATTN: CERD-C, 20 Massachusetts Avenue NW., Washington, DC 20314-1000, or by calling 202-272-0257.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Mathis; HQUSACE, CERD-C; 20 Massachusetts Avenue, NW., Washington, DC 20314-1000, or call (202) 272-1846 or 272-0257.

SUPPLEMENTARY INFORMATION: CPAR is a program consisting of cost-shared R&D projects executed by collaborative partnerships between the Corps, the U.S. construction industry (contractors, equipment and material manufacturers and suppliers, architects, engineers, and financial organizations), public and private foundations, trade and professional organizations, state and local governments, academic institutions and other entities who are interested in enhancing construction productivity and competitiveness. The objective of CPAR is to facilitate research, development and application of advanced technologies through collaborative R&D, field demonstration, licensing agreements, commercialization, technology transfer and other means of reducing technology to practice in the U.S. construction industry.

R&D efforts conducted under CPAR will be based on proposals received from U.S. construction industry entities and others, as noted above, which can be addressed effectively by a partnership between an industry partner and a Corps laboratory, with both performing a mutually defined portion of the required R&D, and which will benefit both the construction industry and the Corps.

Participation in CPAR is open to any U.S. private firm, including corporations, partnerships, limited partnerships and industrial development organizations; public and private foundations; non-profit organizations; units of state and local governments; academic institutions; and others who have an interest in and the resources and capability to address CPAR objectives. Consortia of industry firms and organizations are encouraged, with emphasis on inclusion of construction contractors and other practitioners to ensure the product of each CPAR project is useful and beneficial to the industry.

As provided by law, special consideration will be given to small business firms and consortia involving small business firms. Preference will be given to business units located in the United States that agree to substantially manufacture, market and apply to products in the United States. Consideration will be given to a potential partner that is subject to the control of a foreign company or government if that foreign government permits U.S. agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

The cost of each CPAR project will be shared by the Corps and the construction industry partner. Specific cost-sharing terms will be defined for each proposed project prior to submission of the proposal to Corps Headquarters (HQUSACE) for approval. "In-kind" services and/or use of facilities may be considered in arriving at a cost-sharing agreement. As required by law, not more than fifty (50) percent of the total cost of a CPAR project will be provided by the Corps and not less than five (5) percent of the construction industry partner's share of the cost must be contributed in cash. The Corps and the construction industry partner may each contribute personnel, services, facilities, property, patent licenses (or assignment or options to the patent license) and money. Corps funds for each project will be provided to the Corps laboratory for in-house performance of the laboratory's share of the collaborative R&D. No costs previously incurred by the Corps or the construction industry partner on the subject matter of the CPAR project may be recovered in the cost-sharing agreement.

A CPAR Cooperative Research and Development Agreement (CPAR-CRDA) specific to each project will be negotiated between the Corps and the U.S. construction industry partner. The CPAR-CRDA is defined by law as neither a procurement contract nor an assistance agreement (grant or cooperative agreement). The CPAR-CRDA will contain, in addition to the cost-sharing terms, all other conditions

and responsibilities necessary to complete the project and commercialize/transfer the technology, including rights to inventions. Those considering proposing a CPAR project should review the CPAR-CRDA given in Appendix B of the CPAR Guidelines for Participation before proposing a project to ensure that the proposer can agree to the terms and conditions of the CPAR-CRDA.

It is recognized that the industry partner will do more to push the technology into use in the construction industry if the industry partner is provided a marketable interest in the product of a CPAR project. Therefore, to the extent permitted by law, the Corps will generally grant to the industry partner an option to licenses or assignments for any intellectual property made in whole or in party by a Federal employee under the CPAR-CRDA, retaining a nonexclusive, non-transferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world on behalf of the Government. The Corps may, without further notice to others, agree to negotiate an exclusive license to intellectual property if such action would facilitate commercialization and use of the product. However, to the greatest extent possible and appropriate, licensing and assignments will be on a non-exclusive basis. In appropriate cases, royalties will be negotiated and collected by the Government in exchange for licenses or assignments. The industry partner will retain title to all inventions created by industry partner employees under the CPAR-CRDA and, generally, will grant a non-exclusive, non-transferable, irrevocable, royalty-free license to the Government on such inventions.

CPAR is designed to promote and assist in the advancement of ideas and technology which will have a direct, positive impact on construction productivity and Corps mission accomplishment. The intent of each CPAR project is to produce a discrete, field-demonstrated product ready for use by the U.S. construction industry at the end of the project. CPAR is focused on three major technology areas: planning and design improvement, improved construction site productivity and advanced materials. However, any idea for improving construction productivity will be considered. Ideas that cannot define a direct and demonstrable link to the enhancement of construction productivity will not be accepted into the CPAR Program. Areas of interest include, but are not limited to:

Planning and Design Improvement

- Computer-Aided Planning and Engineering Tools.
- Advanced Site Investigation Technology.
- Knowledge-Based Cost Estimating Systems.
- Computer-Aided Design Systems.
- Total Integrated Design Systems.
- Expert Systems/Artificial Intelligence.
- Materials Selection Systems.
- Advanced Technology Selection Systems.

Improved Construction Site Productivity

- Construction Management Methods.
- Materials Handling.
- Automated Construction/Robotics.
- Expert Systems.
- Marine Construction.
- Advanced Excavating, Tunneling and Other Construction Technologies.
- Cold Weather Construction.
- Automated Inspection and Quality Control.
- Computer-Aided Construction Management Systems.
- Advanced Environmental Compliance Systems.

Advanced Materials

- High-Performance Cementitious Materials.
- Structural Polymers.
- Advanced Ceramics.
- Metal Matrix Composites.
- Advanced Fabrication Systems.
- Coatings.
- Adhesives/Fasteners.
- Geomodifiers/Geotextiles.

Proposal Review Process

Proposals received by the Corps laboratories which meet CPAR criteria may be discussed and further developed, as necessary, by the laboratory and the prospective construction industry partner. The following criteria will be used to evaluate the proposals. The first two evaluation factors are of equal importance and are more significant than the remaining factors, which are listed in descending order of importance:

1. Potential Impact on U.S. Construction Industry Productivity

High—Technological advancement which would have major beneficial impact on current construction industry processes, materials and/or equipment and will have a demonstrable major beneficial impact on construction industry productivity and effectiveness.

Medium—Technological advancement which would improve on and/or demonstrate currently available processes, materials and/or equipment not in widespread construction industry use and which would have a demonstrable beneficial impact on construction industry productivity and effectiveness.

Low—Technological advancement which would upgrade construction industry processes, materials and/or equipment in current use and which would have a limited but beneficial impact on construction industry productivity and effectiveness.

2. Potential Impact on the Corps of Engineers

High—Technological advancement which would be a major improvement in technology and procedures currently used by the Corps or Corps contractors and which would have a demonstrable major beneficial impact on the Corp's ability to carry out its missions.

Medium—Technological advancement which would significantly improve Corps/contractor technology and procedures and which would result in demonstrable benefits for the Corps.

Low—Technological innovation which would upgrade current Corps/contractor standard technology and procedures and which would have a limited but beneficial impact on the Corps.

3. Commercialization and Technology Transfer

High—Plan and concepts stated for broad-scale use and adoption of the product by non-Federal and Federal organizations and the production, marketing and dissemination of the product by the industry partner.

Medium—Plans and concepts stated for some beneficial use and adoption of the product by non-Federal and Federal organizations.

Low—Plans and concepts stated for limited but beneficial use and adoption of the product by non-Federal and Federal organizations.

4. Ease of Adoption

High—Technology provides construction industry productivity and effectiveness improvement with minimal equipment, training, materials and operating costs beyond the cost of current practice.

Medium—Technology provides construction industry productivity and effectiveness improvements, but requires moderate additional equipment, training, materials and operating costs beyond the cost of current practice.

Low—Technology provides construction industry productivity and

effectiveness improvement, but with substantially higher costs for additional equipment, training, materials and operating costs beyond the cost of current practice.

5. Probability of Achieving Projected Productivity and Effectiveness Enhancement

High—Some risk, requires innovative application of current knowledge, high probability of success.

Medium—Moderate risk, concepts exist but are unproven, good probability of success.

Low—High risk, basic concepts must be developed and proven, uncertain probability of success.

6. Project Duration

High—Project, including demonstration of benefits, can be completed in 3 years or less.

Medium—Project, including demonstration of benefits, can be completed in 4 years or less.

Low—Project, including demonstration of benefits, will require more than 4 years to complete.

7. R&D Investment

High—Project will obligate the Corps to invest less than $300,000 per year.

Medium—Project will obligate the Corps to invest between $300,000 and $500,000 per year.

Low—Project will obligate the Corps to invest more than $500,000 per year.

After discussions between the laboratory and the prospective construction industry partner, a CPAR Executive Summary of the proposal will be prepared by the laboratory. The Executive Summary will contain the project objective and approach to be followed in developing the specific end product, all expected costs and cost-sharing arrangements, time needed to complete, expected productivity benefits to the U.S. construction industry and the Corps, and a proposed commercialization and technology transfer plan.

Corps laboratories will submit their recommended Executive Summaries to HQUSACE for consideration under the CPAR Program. The CPAR Executive Summaries will be reviewed and recommendations made by the CPAR Executive Committee in HQUSACE. The CPAR Executive Committee is composed of senior-level HQUSACE managers. The Director of Civil Works, HQUSACE, will act on the recommendations of the CPAR Executive Committee in approving the Fiscal Year 1994 CPAR Program.

All information and data furnished by the prospective construction industry partner will be used for evaluation purposes only and will be safeguarded from unauthorized disclosure in accordance with applicable laws. Protection of information during and after completion of a CPAR project will be defined and agreed to in the CPAR-CRDA. Classified information and data will be handled in accordance with Army regulations.

Additional Requirements

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment. Except where declared by law or approved by the head of agency, no award of Federal funds shall be made to an applicant who is delinquent on a Federal debt until the delinquent account is made current or satisfactory arrangements are made between affected agencies and the debtor. No award will be made to a debarred or suspended firm or organization.

Classification

This document is not a major rule requiring a regulatory analysis under Executive Order 12291 because it will not have an annual impact on the economy of $100 million or more, nor will it result in a major increase in costs or prices for any group, nor have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. It is not a major Federal action requiring an environmental assessment under the National Environment Policy Act. The CPAR Program does not involve the mandatory payment of any matching funds from a State or local government, and does not affect directly any State or local government. Accordingly, the Corps determined that Executive Order 12372 is not applicable to CPAR. This notice does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612. CPAR is being carried out under the authority of Section 7, Water Resources Development Act of 1988 (Pub. L. 100–676) (33 U.S.C. 2313).

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–31963 Filed 12–29–93; 8:45 am]

BILLING CODE 3710–92–M

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of committee: Army Science Board (ASB).

Date of meeting: 18–19 January 1994.

Time of meeting: 1400–1630, 18 January 1994; 0800–1500, 19 January 1994.

Place: U.S. Army Combined Arms Support Command, Combat Service Support Battle Lab, Fort Lee, VA 23801–6000.

Agenda: The ASB's Logistics and Sustainment Issue Group, the Command, Control and Communications Issue Group, and the Battle Lab Ad Hoc Study Group will visit the Combined Arms Support Command and the Combat Service Support Battle Lab on 18–19 January 1994. Discussion will be focused on changing philosophy, mission, functions, budget and technology challenges facing the Army. Additionally, the Groups will receive the Total Distribution Advanced Technology Demonstration and overview briefing. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–31883 Filed 12–29–93; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

[FE Dockets PP–99 and EA–99]

Application for Presidential Permit PP–99 and Electricity Export Authorization EA–99 by Detroit Edison Co.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: Detroit Edison Company (Detroit) has applied for a Presidential Permit in order to construct a new electric transmission facility at the U.S. border with Canada. In addition Detroit has requested authorization to export electric energy to Canada over those facilities.

DATES: Comments, protests or requests to intervene must be submitted on or before January 31, 1994.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE–52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Lise Howe (Program Attorney) 202–586–2900.

SUPPLEMENTARY INFORMATION: The construction, connection, operation, and maintenance of facilities at the international border of the United States for the transmission of electrical energy is prohibited in the absence of a Presidential permit pursuant to Executive Order No. 12038. Exports of electricity from the United States to a foreign country are also regulated and require authorization under section 202(e) of the Federal Power Act.

On October 29, 1993, Detroit filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit and an electricity export authorization. These applications have been docketed as PP–99 and EA–99, respectively.

In Docket No. PP–99, Detroit proposes to construct a new 4,800-volt electrical tie from a pole 200 meters north of a tunnel being constructed beneath the St. Clair River between Port Huron, Michigan, and Sarnia, Ontario, Canada, by Grand Trunk Western Railroad Company, a subsidiary of Canadian National Railroad. Detroit proposes to connect the 4,800-volt tie to a U.S. electrical room located in the tunnel. These facilities would be used to supply power to wall-mounted receptacles, tunnel ventilation fans and drainage pumps located in the U.S., as well as tunnel lighting along the south wall of the tunnel in both the U.S. and Canada. Sarnia Hydro will provide the same services for the Canadian side of the tunnel. An emergency tie cable will be maintained between the U.S. and Canadian electrical rooms to permit continued operation of tunnel services in the event of a disruption of power from either Sarnia Hydro or Detroit. The electrical distribution system within the tunnel has been designed to allow tunnel operations to continue in the event of a power failure at either utility.

According to the filing in Docket EA–99, Detroit does not propose to export electricity for distribution on the Sarnia Hydro system, but rather to provide emergency electrical service on an as needed basis to the Canadian side of the tunnel upon loss of power from Sarnia Hydro. The level of such exports will not exceed the capacity of the tie line.

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with § 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protests also should be filed directly with: Bruce R. Maters, Attorney—Regulatory Affairs, Detroit Edison Legal Department, 2000 Second Avenue, 688 WCB, Detroit, Michigan 48226.

Pursuant to 18 CFR 385.211, protests and comments will be considered by the DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene under 18 CFR 385.214. Section 385.214 requires that a petition to intervene must state, to the extent known, the position taken by the petitioner and the petitioner's interest in sufficient factual detail to demonstrate either that the petitioner has a right to participate because it is a State Commission; that it has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a consumer, customer, competitor, or security holder of a party to the proceeding; or that the petitioner's participation is in the public interest.

A final decision will be made on this application after a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Before a Presidential permit or electricity export authorization may be issued or amended, the environmental impacts of the proposed DOE action must be evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA).

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on December 23, 1993.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–31931 Filed 12–29–93; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP94–85–000]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

December 23, 1993.

Take notice that on December 20, 1993, Colorado Interstate Gas Company (CIG), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective January 20, 1994:

Original Sheet No. 369A
Original Sheet No. 369B

CIG states that the above-referenced tariff sheets are being filed to implement recovery of Buyout-Buydown costs incurred by CIG as a result of the settlement and litigation of producer and supplier claims in conformance with the procedures reflected in the Commission's Order Nos. 528 and 528–A.

CIG states that, pursuant to the provisions of Order Nos. 528 and 528–A, CIG will allocate its Buyout-Buydown costs between its jurisdictional and nonjurisdictional customers, absorb 50 percent of the jurisdictional portion of the Buyout-Buydown costs, and recover 50 percent of such costs through fixed surcharges applicable to its jurisdictional firm sales customers. CIG states that the total and the jurisdictional portion of the Buyout-Buydown costs related to this filing are $6,085,935 and $6,059,936, respectively. Therefore, CIG is proposing to recover $3,029,968 from its affected jurisdictional firm sales customers.

CIG states that copies of the filing were served upon all of its affected firm sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 3, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31877 Filed 12-29-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-34-003]

Colorado Interstate Gas Co., Compliance Filing

December 23, 1993.

Take notice that on December 20, 1993, in compliance with the Commission's order issued December 3, 1993, in Docket No. RP94-35-001 et al., Colorado Interstate Gas Company (CIG) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 14 and First Revised Sheet No. 338. CIG requests that these proposed tariff sheets be made effective on January 1, 1994.

CIG states that copies of this filing have been served on parties to the proceeding, and the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before January 3, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31874 Filed 12-29-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-66-001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 23, 1993.

Take notice that on December 20, 1993, Texas Eastern Transmission Corporation (Texas Eastern) submitted for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, proposed to be effective January 1, 1994:

Sub Eighth Revised Sheet No. 41
Sub Sixth Revised Sheet No. 68

Texas Eastern states that on December 1, 1993 in Docket No. RP94-66, it filed tariff sheets to recover gas supply realignment costs incurred as a consequence of Texas Eastern's implementation of Order No. 636 pursuant to Section 15.2(C) of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1 and in accordance with the Commission's orders issued April 22, 1993 and September 17, 1993 in Docket Nos. RS92-11-000, RS92-11-003, RS92-11-004, RP88-67, et al., (Phase I/Rates) and RP92-234-001 ("Third Quarterly GSR Filing").

Texas Eastern states that on December 20, 1993 in Docket Nos. RP88-67, et al., (Phase II/PCBs), it filed tariff sheets to reflect the resolution of the concerns expressed by Brooklyn Union Gas Company ("Brooklyn Union") in its pleading filed on November 19, 1993 in Docket No. RP88-67-070 and styled as "Protest of Brooklyn Union Gas Company and Request for Partial Summary Rejection" ("December 20 PCB Filing"). Texas Eastern states that in the protest Brooklyn Union argued that Texas Eastern's proposal to include PCB costs in its Rate Schedule PTI rates is improper because some Rate Schedule PTI service is a non-firm replacement service for Rate Schedule SCQ. Brooklyn Union states in footnote 3 on page 3 of the protest that "Brooklyn Union is not claiming that Rate Schedule PTI should be completely exempt from an allocation of PCB costs. Brooklyn Union's position instead is that it should not be allocated any PCB-related costs under Rate Schedule PTI up to the level of its Rate Schedule SCQ annual entitlement * * *." Texas Eastern states that the tariff sheets in the December 20 PCB Filing proposed the exclusion of customers of Rate Schedule SCQ as of May 31, 1993 from PCB-related costs under Rate Schedule PTI up to the level of their Rate Schedule SCQ annual contractual entitlement on November 1, 1991, as provided in the Stipulation and Agreement in Texas Eastern's Docket Nos. RP88-67, et al., (Phase II/PCBs).

Accordingly, Texas Eastern states that it is filing herewith tariff sheets for the purpose of conforming the tariff sheets filed in the Third Quarterly GSR Filing to those tariff sheet modifications proposed in the December 20 PCB Filing. The immediate tariff sheets include the Applicable Shrinkage Adjustment usage surcharge rates filed by Texas Eastern on October 29, 1993 and approved by the Commission to be effective December 1, 1993 in its November 30, 1993 order in Docket Nos. TM94-2-17-000 and TM94-2-17-001. The immediate tariff sheets also include the rates attributable to the approved 1994-1995 Gas Research Institute funding mechanism which were filed by Texas Eastern on November 29, 1993 to be effective January 1, 1993 pursuant to the Commission's orders issued on March 22, 1993 and June 22, 1993 in Docket Nos. RP92-133-000, et al., and Section 15.4 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1.

The proposed effective date of the tariff sheets are January 1, 1994, the effective date of the Third Quarterly GSR Filing. Copies of the filing were served on firm customers of Texas Eastern and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before January 3, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31876 Filed 12-29-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-67-071]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 23, 1993.

Take notice that on December 20, 1993, Texas Eastern Transmission Corporation (Texas Eastern) submitted for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, proposed to be effective January 1, 1993 pursuant to the Commission's orders issued on March 22, 1993 and June 22, 1993 in Docket Nos. RP92-133-000, et al., and Section 15.4 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1.

Sub Sixth Revised Sheet No. 41
Sub Fifth Sixth Revised Sheet No. 68

Texas Eastern states that on October 28, 1993, it filed tariff sheets which reflect the base tariff rates applicable for the period December 1, 1993 through November 30, 1994, pursuant to the terms of the Stipulation and Agreement in Texas Eastern's Docket Nos. RP88-67, et al., (Phase II/PCBs) ("Year 4 PCB Filing").

Texas Eastern states that this filing reflects the resolution of the concerns expressed by Brooklyn Union Gas Company ("Brooklyn Union") in its pleading filed on November 19, 1993 in Docket No. RP88-67-070 and styled as "Protest of Brooklyn Union Gas Company and Request for Partial Summary Rejection". Texas Eastern states that in the protest Brooklyn Union argued that Texas Eastern's proposal to include PCB costs in its Rate Schedule PTI rates is improper because some Rate Schedule PTI service is a non-firm replacement service for Rate Schedule SCQ. Brooklyn Union states in footnote 3 on page 3 of the protest that "Brooklyn Union is not claiming that Rate Schedule PTI should be completely exempt from an allocation of PCB costs. Brooklyn Union's position instead is that it should not be allocated any PCB-related costs under Rate Schedule PTI up to the level of its Rate Schedule SCQ annual entitlement * * *."

Texas Eastern states that on December 16, 1993, it filed with the Commission in the captioned docket a letter indicating that as a result of discussions with representatives of Brooklyn Union and further review of the Stipulation and Agreement, Texas Eastern would file revised Rate Schedule PTI tariff sheets to exempt former SCQ customers from the PCB-related cost component of Rate Schedule PTI.

Accordingly, Texas Eastern states that it is filing herewith tariff sheets for the purpose of excluding customers of Rate Schedule SCQ as of May 31, 1993, from PCB-related costs under Rate Schedule PTI up to the level of their Rate Schedule SCQ annual contractual entitlement on November 1, 1991, as provided in the Stipulation and Agreement in Texas Eastern's Docket Nos. RP88-67, et al., (Phase II/PCBs). The tariff sheets include the Applicable Shrinkage Adjustment usage surcharge rates filed by Texas Eastern on October 29, 1993 and approved by the Commission to be effective December 1, 1993 in its November 30, 1993, order in Docket Nos. TM94-2-17-000 and TM94-2-17-001.

The proposed effective date of the tariff sheets are December 1, 1993, the effective date of the Year 4 PCB Filing. Copies of the filing were served on firm customers of Texas Eastern and interested state commissions. Copies were also served on all parties in Docket Nos. RP88-67, et al., (Phase II/PCBs).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before January 3, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31873 Filed 12-29-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-719-001, et al.]

Texas Eastern Transmission Corp., Texas Gas Transmission Corp.; Site Visit

December 23, 1993.

In the matter of Texas Eastern Transmission Corp., Docket Nos. CP92-719-001, CP92-720-001, and CP93-108-001; Texas Gas Transmission Corp., Docket Nos. CP92-730-001 and CP92-734-001.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission will conduct a site visit with the applicants for the above-named upstream facilities proposed in the Liberty Project. The location of the proposed facilities is in Kentucky, Indiana, Ohio, Pennsylvania and New Jersey. This site visit will take place January 10 through 13, 1994.

Parties to the proceeding may attend. Those planning to attend must provide their own transportation. For further information, call Jeff Gerber, (202) 208-0282.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31872 Filed 12-29-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-60-001]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 23, 1993.

Take notice that on December 21, 1993, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with a proposed effective date of January 1, 1994:

4th Revised Sheet No. 5A.05

Transwestern states that on November 30, 1993 Transwestern filed tariff sheets in which it sought to modify its take-or-pay, buy-out and buy-down mechanism ("Transition Cost Recovery" or "TCR" mechanism) in order to recover certain take-or-pay, buy-out, buy-down, and contract reformation costs. Transwestern states that the above-referenced tariff sheet, which provides currently effective transportation rates for firm shippers under Rate Schedule FTS-2, was inadvertently omitted in the initial filing. Transwestern notes that the only proposed change to this tariff sheet is an increase in the TCR Surcharge C FTS-2 rate from $0.0026 to $0.0035, consistent with changes to TCR rates made in Transwestern's initial filing. All other information on this sheet will stay the same.

Transwestern states that copies of the filing were served on its gas utility customers, interested state commissions, and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before January 3, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-31875 Filed 12-29-93; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4820-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 31, 1994.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain a copy of this ICR, contact Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: The Public Water Supply System Supervision Program. (EPA ICR No:270.30; OMB No:2040–0090) This ICR requests renewal of the existing clearance.

Abstract: Sections 1401 and 1412 of the Safe Drinking Water Act (SDWA) require EPA to establish National Primary Drinking Water regulations to ensure a supply of drinking water which dependably complies with the maximum contaminant levels (MCLs) stipulated in 40 CFR part 141, subpart B.

In order to ensure compliance with these regulations and to protect public health, EPA will impose certain information requirements on State and local officials. Public Water Systems (PWSs) will be required to maintain records of compliance with treatment and monitoring standards. These records will enable them to identify system needs, alter monitoring frequencies, and notify the public when their systems are not in compliance with Federal and State regulations.

States will have to set up and maintain records of PWS data, including the results of drinking water tests and a list of systems out of compliance with standards. The States will use this information for program implementation and oversight purposes. States must also keep records of their actions concerning plans, enforcement, variances and exemptions for each PWS.

The PWS information will also be used by the primacy authority, either an EPA region or an approved State, for monitoring those PWSs trying to achieve compliance and for deciding which systems are likely for remedial or enforcement actions.

Reports are submitted by the States to EPA for oversight of State implementation of the regulations and to determine when to take enforcement action in cases where States have not done so. The State information will be stored in the Federal Reporting Data System (FRDS), where EPA and the States can retrieve it. The FRDS allows for year-to-year analysis of compliance treads at the system, State, and national level, and it will also allow the Agency to determine what policy changes are needed to increase compliance nationally.

In addition to the renewal of the 1990 base ICR, this ICR merges burden and cost estimates from the following final rules that were promulgated after the base was written:

—Phase II Synthetic Organic and Inorganic Chemicals (ICR# 270.24);
—Monitoring for Synthetic Organic Chemicals; MCLGs and MCLs for Aldicarb, Aldicarb Sulfone, Aldicarb Sulfoxide, Pentachlorophenol, and Barium (Phase IIB) (ICR# 270.27);
—Phase V Synthetic Organic and Inorganic Chemicals (ICR# 270.29);
—Lead and Copper (ICR# 270.26)

Burden Statement: Public reporting burden for this collection of information is estimated to average 1 hour per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, completing and reviewing the collection of information, and recordkeeping.

Respondents: Public Water Systems, States.

Estimated No. of Respondents: 200,624.

Estimated No. of Responses per Respondent: 59.

Estimated Total Annual Burden on Respondents: 11,141,565 hours.

Frequency of Collection: Quarterly, annually, triennially and every nine years.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460,
and
Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: December 23, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–31919 Filed 12–29–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4820–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), *this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.*

DATES: Comments must be submitted on or before January 31, 1994.

FOR FURTHER INFORMATION CONTACT: For further information, or to obtain a copy of the ICR, contact Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION

Office of Administration and Resources Management

Title: Invitation for Bids (IFBs) and Requests for Proposals (RFPs) (EPA No. 1038.08; OMB No. 2030–0006).

Abstract: This ICR is an extension of existing information collection activities required under Federal Acquisition Regulations (FAR) for IFBs and RFPs, as promulgated at 48 CFR parts 14 and 15, respectively. The FAR requires vendors seeking to supply or provide services to the Agency to submit information that will be used by EPA contract officers to evaluate their proposal or bid. The information is necessary to ensure that EPA acquisitions are consistent with the FAR and the selection of the vendor is appropriate for the Agency's needs.

Vendors responding to IFBs must provide information that includes: (1) Prices for the supplies or services offered; and (2) a list of contracts, by number, for the same or similar supplies or services that includes the product description, the type of contract awarded, and the agencies for which it was provided. Vendors responding to RFPs must provide: (1) Information on previous supplies or services the vendor has provided to the EPA, (2) cost and pricing data, (3) technical information, and (4) general financial and organizational information. In addition, vendors will submit reports when the Agency announces a need for supplies or services they are capable of providing. There are no recordkeeping requirements for vendors.

The EPA will store this information in the contract file after it has been used for the vendor selection process.

Burden Statement: Public reporting burden for this collection of information is estimated to average 235 hours per response, including time for reviewing instructions, searching existing information sources, and completing and reviewing the collection of information.

Respondents: Businesses or other for-profit organizations, non-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 1615.

Frequency of Collection: On occasion.

Estimated Number of Responses per Respondent: 1.

Estimated Annual Burden on Respondents: 379,520 hours.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington DC 20460,
and
Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20530.

Dated: December 23, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–31928 Filed 12–29–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4820–8]

Proposed Settlement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), notice is hereby given of a proposed consent order in the following cases: *NRDC* versus *U.S. EPA*, No. CV–92–2093 (E.D.N.Y.) and *Sierra Club* versus *U.S. EPA*, No. CV–93–0284 (E.D.N.Y.).

These citizen suits were filed under section 304(a) of the Clean Air Act, 42 U.S.C. 7604, and allege that EPA failed to meet certain mandatory deadlines under section 129 of the Clean Air Act, which relate to EPA's requirement to issue standards of performance for municipal solid waste and medical waste incinerators.

For a period of thirty (30) days followed the date of publication of this notice, the Agency will receive written comments relating to the proposed consent order from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed order if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

A copy of the proposed order has been lodged with the clerk of the United States District court for the Eastern district of New York. Copies are also available from Diane Weeks, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7628. Written comments should be sent to Robert J. Martineau, Jr., at the above address and must be submitted on or before January 31, 1994.

Dated: December 23, 1993.

Jean C. Nelson,

General Counsel.

[FR Doc. 93–31983 Filed 12–29–93; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4707–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 13, 1993 through December 17, 1993 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 10, 1993 (58 FR 18392).

Draft EISs

ERP No. D–AFS–L65213–ID

Rating EC2, Savant Sage Resource Area, Land and Resource Management Plan, Implementation, Idaho Panhandle National Forests, Fernan Ranger District, Bonner and Kootenai Counties, ID.

Summary: EPA expressed environmental concerns regarding the project's impact on water quality and has requested additional information. Also requested was information regarding the air quality, mitigation, threatened and endangered species, road management and postsale activities.

ERP No. D–AFS–L67031–ID

Rating EC2, Black Pine Gold Mine Expansion Project, Implementation, Plan of Operation Approval and Right-of-Way Permits, Sawtooth National Forest, Burley Ranger District, Cassia County, ID.

Summary: EPA had environmental concerns based on the potential impacts to ground water from storm water runoff and mine drainage. EPA requested clarification about the need to complete confirmation testing and modeling for the heap leach vertical expansion before the final EIS is completed.

ERP No. D–FHW–F40338–MI

Rating EC2, New Interchange at M–59/Squirrel Road and the Relocation of the M–59/Adams Road Interchange, Construction, Funding, NPDES and COE Section 404 Permits, Cities of Rochester Hills and Auburn Hills, Oakland County, MI.

Summary: EPA expressed environmental concerns relating to the air quality impact assessment and wetlands compensation. EPA requested that additional information be provided in the Final EIS.

ERP No. D–FTA–L54003–OR

Rating LO, New Eugene Transfer Station, Site Selection and Construction, Funding, McDonald Site or IHOP Site, Lane County, OR.

Summary: EPA had no objections to the proposed action. EPA requested additional information about mitigation effectiveness and about the adequacy of funding for potential clean-up of hazardous substances.

ERP No. D–NPS–L61197–OR

Rating LO, Fort Clatsop National Memorial General Management and Development Concept Plans, Implementation, Astoria, Clatsop County, OR.

Summary: EPA had no objections to the proposed alternative. Cultural and natural resources would be better protected under the proposed alternative than under the no action and minimum action alternatives. Acquisition of land and NPS management of that land would prevent private development and the environmental consequences associated with development. Expansion of the visitor center, maintenance facilities and trail construction are not likely to have significant long-term consequences to vegetation, air quality and water quality.

Final EISs

ERP No. F–AFS–L65188–00

Pacific Yew (Taxus brevifolia) Harvesting Program, Implementation, WA, OR, ID and CA.

Summary: Review of the final EIS has been completed and the project found to be satisfactory.

ERP No. F–BLM–G65055–OK

Oklahoma Comprehensive Land and Resource Management Plan for Oil and Gas Leasing and Development, Coal Tract Leasing, Townsite Disposal and Red River Management, Tulsa District, several counties, OK.

Summary: Review of the final EIS has been completed and the project found to be satisfactory.

ERP No. F-BOP-L81008-WA

King County Federal Detention Center, Site Selection, Operation and Construction, City of Seattle or the City of SeaTac, King County, WA.

Summary: EPA had no objections to the final EIS. The final EIS provides a detailed response to our concerns regarding land acquisition, storm water runoff, the identification of wetlands and the stated exemption from zoning regulations. The final EIS adequately addresses our primary concerns regarding project-related issues.

ERP No. F-MMS-G02002-00

1994 Central and Western Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Sales 147 (March 1994) and 150 (August 1994), Lease Offering, AL, MS, LA and TX.

Summary: EPA had no objections to the proposed project.

Dated: December 27, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93-31941 Filed 12-29-93; 8:45 am]

BILLING CODE 6560-50-P

[ER-FRL-4705-9]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 260-5076 or (202) 260-5075. Weekly receipt of Environmental Impact Statements Filed December 20, 1993 Through December 24, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930457, FINAL EIS, COE, LA, Louisiana

Coastal Wetlands Comprehensive Restoration Plan, Implementation and Funding, several Parishes, LA, Due: January 31, 1994, Contact: Richard Boe (504) 862-1505.

Amended Notices

EIS No. 930415, DRAFT EIS, NRC, LA, Claiborne

Uranium Enrichment Center; Construction and Operation, (NUREG-1482), NPDES Permit and Licensing, Homer, Claiborne Parish, LA, Due: January 10, 1994, Contact: Merri Horn (301) 504-2606. Published FR 11-26-93—Review period extended.

EIS No. 930426, FINAL EIS, FAA, AZ, Phoenix Sky

Harbor International Airport Master Plan Update Improvements, Runway 8L/26R Extension, Funding, City of Phoenix, Maricopa County, AZ, Due: January 10, 1994, Contact: David B. Kessler (310) 297-1534.

Published FR 12-03-93—EIS refiled.

Dated: December 27, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93-31942 Filed 12-29-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4820-3]

Meeting Environmental Statistics Technical Advisory Committee

The Environmental Statistics Technical Advisory Committee will hold a conference call January 20, 1994 from 1 pm to 4 pm Eastern Standard Time. The main topic of the discussion will be a review of the statistical data bases for the National Environmental Goals Project. Any member of the public wishing to address the committee should contact the Executive Secretary (Designated Federal Official), Dr. C. Richard Cothern, telephone 202-260-2734, FAX 202-260-4968 at least a week in advance. Public presentations will be limited to five minutes. Information on how to connect to this call can be obtained from Dr. Cothern. Information concerning the National Environmental Goals Project can be obtained from Dr. Tim Stuart At 202-260-0725.

Dated: December 23, 1993.

Arthur T. Koines,

Deputy Director, Office of Strategic Planning and Environmental Data.

[FR Doc. 93-31921 Filed 12-29-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4820-2]

Gulf of Mexico Program Policy Review Board Meeting

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of meeting of the Policy Review Board of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Policy Review Board will hold a meeting on February 1, 1994 at the Marriott Bayfront Hotel in Corpus Christi, Texas.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Lipka, Acting Director, Gulf of Mexico Program Office, Building 1103, John C. Stennis Space Center, Stennis Space Center, MS 39529-6000, at (601) 688-3726.

SUPPLEMENTARY INFORMATION: A meeting of the Policy Review Board of the Gulf of Mexico Program will be held on February 1, 1994, at the Marriott Bayfront Hotel in Corpus Christi, Texas. The board will meet from 8:30 a.m. to 4:30 p.m. Agenda items will include: FY94 Program Update and Proposed Objectives; Management Committee Report; Business Council for Sustainable Development, Gulf of Mexico Program Presentation on Current & Future Activities/Directions; Citizens Advisory Committee Report; Priority Program Action Items—Management Committee Proposal; 1995 Symposium Steering Committee Proposal; Establishment of 1994 and 1995 Program Goals; and Conversion of State Co-Chairperson.

The meeting is open to the public.

Douglas A. Lipka,

Acting Director, Gulf of Mexico Program.

[FR Doc. 93-31922 Filed 12-27-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4818-7]

Nevada; Adequacy Determination of State Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of Nevada for full program adequacy determination, public hearing and public comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. 6945 (c)(1)(B), requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator hazardous waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C), 42 U.S.C. 6945(c)(1)(C), requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs.

Approved State/Tribe permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

Nevada applied for a determination of adequacy under section 4005 of RCRA. EPA reviewed Nevada's application and made a tentative determination of adequacy for those portions of the State's MSWLF permit program that are adequate to assure compliance with the revised MSWLF Criteria. These portions are described later in this notice. The State has drafted revisions to the remainder of its permit program to assure complete compliance with the revised MSWLF Criteria and gain full program approval. EPA has determined that the Nevada's revised requirements, if fully adopted before EPA makes a final determination and effective on or before the relevant effective dates of the Federal Criteria, would be adequate to ensure compliance with the Federal Criteria.

Although RCRA does not require EPA to hold a public hearing on any determination to approve a State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact given below within 30 days of the date of publication of this notice, the Region will hold a hearing. The Region will notify all persons who express such interest or who submit comments on this notice if it decides to hold the hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person listed in the "CONTACTS" section below. Representatives from the Nevada Division of Environmental Protection will participate in the public hearing on this subject, if one is held.

DATES: All comments on Nevada's application for a determination of adequacy must be received by the close of business on January 31, 1994.

ADDRESSES: Copies of Nevada's application for adequacy determination are available during the hours of 9 a.m. to 5 p.m. at the following addresses for inspection and copying: Nevada Division of Environmental Protection, Solid Waste Branch, Capitol Complex, 333 W. Nye Lane, Carson City, Nevada 89710; or U.S. EPA Region 9 Library, 75 Hawthorne Street, 13th floor, San Francisco, California 94105, telephone 415-744-1510. Written comments should be sent to Rebecca Jamison, Mailcode H-3-1, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. Attn: Ms. Rebecca Jamison, Mailcode H-3-1, telephone (415) 744-2099.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR Part 258). Subtitle D of RCRA, 42 U.S.C. 6941-6949(a), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under Part 258. Section 4005 of RCRA, U.S.C. 6945, also requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To facilitate this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs.

EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. EPA interprets the statutory requirements for States or Tribes to develop "adequate" permit programs to impose several minimum standards. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe must also provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA expects States/Tribes to meet all of the criteria for all elements of a MSWLF program before it gives full approval to a MSWLF program. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements.

B. State of Nevada

On June 24, 1993, Nevada submitted an application for program adequacy determination. EPA Region 9 reviewed Nevada's application and tentatively determined that all portions except those outlined below ensure compliance with the revised Federal Criteria. Nevada needs to revise aspects of its permit program to ensure compliance with the following provisions of the Federal Criteria:

1. Ground water detection monitoring, assessment monitoring, assessment of corrective measures, selection of remedy, and implementation of the corrective action program (40 CFR 258.54, 258.55, 258.56, 258.57, 258.58).
2. Operating criteria, explosive gas control (40 CFR 258.23).
3. Financial assurance applicability (40 CFR 258.70).

Nevada submitted an amended application for program adequacy determination on November 18, 1993. EPA Region 9 reviewed Nevada's amended application and provided comments to the State. Nevada then submitted draft revised requirements to EPA on November 30, 1993. EPA reviewed the draft revised requirements and determined that these requirements would be adequate to ensure compliance with the Federal Criteria.

If the draft permit requirements submitted to EPA on November 30, 1993 are fully adopted before EPA makes a final determination and are effective on or before the relevant effective dates of the Federal Criteria, then EPA proposes to fully approve Nevada's MSWLF program. If all the necessary draft requirements are not adopted with the relevant effective dates or are adopted with altered language that would not clearly assure compliance with the Federal Criteria, then EPA proposes to partially approve Nevada's program. Partial approval would be only for those portions of the State's program that assure compliance with the Federal Criteria.

The State of Nevada has the authority to enforce the requirements of the Revised Federal MSWLF Criteria at all MSWLFs in the State, with the exception of those located on Tribal Lands.

The public may submit written comments on EPA's tentative determination until January 31, 1994. Copies of Nevada's application are available for inspection and copying at the location indicated in the "ADDRESSES" section of this notice. If there is sufficient public interest, the Agency will hold a public hearing on February 14, 1994 at 10 a.m. in the

Capitol Complex, room 217, 123 W. Nye Lane, Carson City, Nevada. For information on how to express interest in a public hearing, see the last paragraph of the "SUMMARY" section.

EPA will consider all public comments on its tentative determination received during the public comment period and during any public hearing held. Issues raised by those comments may be the basis for a determination of inadequacy for Nevada's program. EPA will make a final decision on whether or not to approve Nevada's program and will give notice of it in the Federal Register. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA, 42 U.S.C. 6945(a), provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance with Executive Order 12291:

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act:

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6945.

Dated: December 15, 1993

John Wise,

Acting Regional Administrator.

[FR Doc. 93-31620 Filed 12-29-93; 8:45 am]

BILLING CODE 6560-50-P

[FRL 4619-6]

Proposed Administrative Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act; Gallup's Quarry Superfund Site, Plainfield, CT

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of the twenty-three parties listed below for costs incurred by EPA in conducting response actions at the Gallup's Quarry Superfund Site in Plainfield, Connecticut as of February 23, 1993.

DATES: Comments must be provided on or before January 31, 1994.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts 02203, and should refer to: In the Matter of Gallup's Quarry Superfund Site, Plainfield, CT, U.S. EPA Docket No. I-93-1079.

FOR FURTHER INFORMATION CONTACT: Margery Adams, U.S. Environmental Protection Agency, Office of Regional Counsel, RCU, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 565-3746.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Gallup's Quarry Superfund Site in Plainfield, CT. The settlement was approved by EPA Region I on November 18, 1993, subject to review by the public pursuant to this Notice. The following twenty-three Settling Parties have executed signature pages committing them to participate in the settlement: Acco-Bristol Division/Bristol Babcock Inc.; American Cyanamid Company; Bedoukian Research, Inc.; Better Formed Metals/Illinois Tool Works Inc.; Bryant Electric, Inc.; Connecticut Hard Rubber/CHR Industries, Inc.; Consolidated Controls Corporation; Dorr-Oliver; Energy Research Corporation; Ferro Corporation; Instapak Corporation/Sealed Air Corporation; Kanthal Corporation; King Industries, Inc.; Pitney Bowes, Inc.; Polymer Industries, Inc./Colonial Heights Packaging Inc.; Quality Rolling and Deburring, Inc.; Reichhold Chemical, Inc.; Risdon Manufacturing Company/Risdon Corp.; R.T. Vanderbilt Company, Inc.; Stamford Wall Paper Company, Inc.; Union Carbide Corporation; Warner Packaging; and Waterbury Plating Company.

Under the proposed settlement, the Settling Parties are required to pay $345,000 to the Hazardous Substances Superfund. EPA believes the settlement is fair and in the public interest.

EPA is entering into this agreement under the authority of section 122(h) of CERCLA. Section 122(h) of CERCLA provides EPA with authority to consider, compromise, and settle a claim under section 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. The U.S. Department of Justice approved this settlement in writing on November 1, 1993.

EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

A copy of the proposed administrative settlement may be obtained in person or by mail from Margery Adams, U.S. Environmental Protection Agency, Office of Regional Counsel, JFK Federal Building—RCU, Boston, Massachusetts 02203, (617) 565-3746.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts

(U.S. EPA Docket No. I-93-1079.)

Dated: November 24, 1993.

Patricia L. Meaney,

Acting Regional Administrator.

[FR Doc. 93-31918 Filed 12-29-93; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Associated Int'l. Consultants, Inc. Texas, 13606 Sunswept Way, Houston, TX 77082, Norma Farkas, Sole Proprietor

Districargo Forwarding Inc., 8015 N.W. 29th Street, Miami, FL 33122, Officers: Astrid Flaherty, President, Liliana Campillo, Secretary, Juan Jose Piedrabita, Stockholder

Graebel/Houston Movers, Inc. dba Graebel, Logistics International, 10901 Tanner Rd., Houston, TX 77041, Officers: David W. Graebel, Chairman/Treasurer/CEO/Director; Benjamin D. Graebel, President/COO/Director/Stockholder; G. Lane Ware, Senior V. President/Asst. Secr./Director; A. Robert Kral, Vice President/General Manager

Roy T. Page dba Page, 106 Shamrock Circle, Savannnah, GA 31406, Sole Proprietor

Dated: December 27, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93-31898 Filed 12-29-93; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 93-25]

Cancellation of Tariffs for Failure to Comply with Automated Tariff Filing and Information System (ATFI) Filing Requirements (European Trade); Order to Show Cause

Section 8 of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1707, requires the filing of tariffs with the Federal Maritime Commission ("Commission") by common carriers by water and conferences in the foreign commerce of the United States showing all rates, charges, classifications, rules and practices. Section 8 of the 1984 Act further provides that the Commission may by regulation prescribe the form and manner in which tariffs shall be filed. Section 17 of the 1984 Act, id. app. 1716, authorizes the Commission to prescribe rules and regulations necessary to carry out the 1984 Act.

The Commission instituted Docket No. 90-23, Automated Tariff Filing and Information System ("ATFI"), to establish regulations governing the conversion of tariff filing to an electronic system. Proposed Rules were issued on September 9, 1991 (56 FR 46,044) and Interim Rules were issued on August 12, 1992 (57 FR 36,248). The rules issued in Docket No. 90-23 are codified in 46 CFR part 514. This new part modifies and combines all non-obsolete tariff regulations of 46 CFR parts 515, 550, 580 and 581, and establishes regulations to facilitate and implement the conversion of tariffs to ATFI.[1]

On December 17, 1992, the Commission issued Supplemental Report No. 3 and Notice ("Supplemental Report No. 3") (57 FR 59,999) in Docket No. 92-23. Supplemental Report No. 3 prescribed the schedule by which entities serving specific trades must convert tariff data into ATFI, and defined the geographic areas subject to each ATFI filing time frame ("window"). It also provided that tariffs which are not filed in ATFI by the close of the applicable filing window are subject to cancellation by order of the Commission in a show-cause proceeding, unless temporarily exempted.

In January, 1993, the Commission's Bureau of Tariffs, Certification and Licensing ("BTCL") mailed Information Bulletin No. IB 4-93 to over 4,000 firms. This Bulletin included the schedule of filing windows and a statement regarding cancellation of unconverted tariffs by show-cause order. In May, 1993, the Commission issued Supplemental Report No. 4 in Docket No. 90-23 and again advised the public of the filing schedule and that failure to file in ATFI would subject entities to a proceeding for the cancellation of tariffs. In addition, Supplemental Report No. 4 permitted entities to petition the Commission to postpone ATFI filings for up to 90 days from the currently established date for completion of a filing window.

The second ATFI filing window, covering tariffs in European trade areas, closed on August 27, 1993. Thirteen petitions for temporary exemption from that completion date were filed on behalf of approximately 60 carriers and conferences. All of these petitions have been granted. On October 1, 1993, letters were sent from BTCL to entities that had failed to register for ATFI and that had not petitioned for temporary exemption. These letters again warned of a show-cause proceeding to cancel affected tariffs for failure to comply with ATFI filing requirements. The entities listed in the Attachment to this Order have tariffs with European scope, but have not registered for ATFI, filed a petition for temporary exemption from the completion date of August 27, 1993, or responded to the letter of October 1, 1993.

[1] Section 502(b)(1) of Public Law 102-582 requires all tariffs and essential terms of service contracts to be filed electronically with the Commission. 106 Stat. 4900, 4910-11.

Now therefore, it is ordered That pursuant to section 11 of the 1984 Act, 46 U.S.C. app. 1710, the entities listed in the Attachment to this Order are directed to show cause, within 45 days after the publication of this Order in the Federal Register, why the Commission should not cancel their tariffs or portions of tariffs currently on file with the Commission with European scope for failure to conform to the requirements of section 8 of the 1984 Act, 46 CFR part 514, and Supplemental Reports Nos. 2, 3, and 4 issued in Docket No. 90-23;

It is further ordered, That a copy of this Order be sent by certified mail to the last known address of the entities listed in the Attachment;

It is further ordered, That this Order be published in the Federal Register.

By the Commission.

Joseph C. Polking,

Secretary.

Attachment

Air-Mar Shipping, Inc.
American Contract Freight Line, Ltd.
Arrow-Service
Bangladesh Shipping Corporation
Caramerica S.R.L.
Cargo America Corp.
Cargo Overseas Limited
CMB Transport NV
Combimar & Agemar S.R.L.
Compania Transatlantic Espanola, S.A.
DFDS Chelmer, Inc.
EOL (UK) Ltd.
Euro-Gulf International, Inc.
Harbour-Link International Inc.
Henry Johnson Sons & Co., Ltd.
Hermann Ludwig GMBH & Co.
Intersped Systems Inc.
Irano Misr Shipping Co.
Lane Shipping Company
Maritime Euroship, S.A.
Maritime Consolidators Holland (MCH) B.V.
Maromar Inc.
Mineral Shipping (PTE.) Ltd.
Multimodal Shipping, Ltd.
Nichiro Corp.
Nordisk Transport and Spedition AB
Ralex International Corp.
Rokuchu Marine Corporation
Rotterdam Waterway
Segatrans S.A.
Shenk, David W.
Surinam Navigation Co.
Unsworth International Container Line
Van Ommeren Bulk Shipping BV
Webster Miller Freight Services Ltd.

[FR Doc. 93-31897 Filed 12-29-93; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Change in Solicitation Procedures Under the Small Business Competitiveness Demonstration Program

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice.

SUMMARY: Title VII of the "Business Opportunity Development Act of 1988" (Pub. L. 100–656) established the Small Business Competitiveness Demonstration Program and designated nine (9) agencies, including GSA, to conduct the program over a four (4) year period from January 1, 1989 to December 31, 1992. The Small Business Opportunity Enhancement Act of 1992 (Pub. L. 102–366) extended the demonstration program until September 1996 and made certain changes in the procedures for operation of the demonstration program. The law designated four (4) industry groups for testing whether the competitive capabilities of the specified industry groups will enable them to successfully compete on an unrestricted basis. The four (4) industry groups are: Construction (except dredging); architectural and engineering (A&E) services (including surveying and mapping); refuse systems and related services (limited to trash/garbage collection); and non-nuclear ship repair. Under the program, when a participating agency misses its small business participation goal, restricted competition is reinstituted only for those contracting activities that failed to attain the goal. The small business goal is 40 percent of the total contract dollars awarded for construction, trash/garbage collection services, and non-nuclear ship repair and 35 percent of the total contract dollars awarded for architect-engineer services. This notice announces modifications to GSA's solicitation practices under the demonstration program based on a review of the agency's performance during the period from October 1, 1992 to September 30, 1993. Modifications to solicitation practices are outlined in the Supplementary information section below and apply to solicitations issued on or after January 1, 1994.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

Procurements of construction or trash/garbage collection with an estimated value of $25,000 or less will be reserved for emerging small business concerns in accordance with the procedures outlined in the interim policy directive issued by the Office of Federal Procurement Policy (58 FR 13513, March 11, 1993).

Procurements of construction or trash/garbage collection with an estimated value that exceeds $25,000 by GSA contracting activities will be made in accordance with the following procedures:

Construction Services in Groups 15, 16, and 17

Procurements for all construction services (except solicitations issued by GSA contracting activities in Regions 2, 3, 5, and 9 in SIC 1794) will be conducted on an unrestricted basis.

Procurements for construction services in SIC 1794 issued by GSA contracting activities in Regions 2, 3, 5, and 9 will be set aside for small business when there is a reasonable expectation of obtaining competition for two or more small businesses. If no expectation exists, the procurements will be conducted on an unrestricted basis.

Region 2 encompasses the states of Connecticut, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, New Jersey, New York, Puerto Rico, and Virgin Islands.

Region 3 encompasses the states of Pennsylvania, Delaware, West Virginia, Maryland (except Montgomery and Prince Georges counties) and Virginia (except the city of Alexandria and the counties of Arlington, Fairfax, Loudoun and Prince William).

Region 5 encompasses the states of Illinois, Indiana, Ohio, Michigan, Minnesota, and Wisconsin.

Region 9 encompasses the states of Arizona, California, Hawaii, and Nevada.

Trash/Garbage Collection Services in PSC S205

Procurements for trash/garbage collection services in PSC S205 will be conducted on an unrestricted basis.

Architect-Engineer Services (All PSC Codes Under the Demonstration Program

Procurements for all architect-engineer services (except solicitations issued by contracting activities in GSA Central Office and Regions 2, 3, 4, 6, and 10) shall be conducted on an unrestricted basis.

Procurements for architect-engineer services issued by GSA contracting activities in GSA Central Office and Regions 2, 3, 4, 6, and 10 will be set aside for small business when there is a reasonable expectation of obtaining competition from two or more small businesses. If no expectation exists, the procurement will be conducted on an unrestricted basis.

Central Office is located in Washington, DC. Region 2 encompasses the states of Connecticut, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, New Jersey, New York, Puerto Rico, and Virgin Islands. Region 3 encompasses the states of Pennsylvania, Delaware, West Virginia, Maryland (except Montgomery and Prince Georges counties) and Virginia (except the city of Alexandria and the counties of Arlington, Fairfax, Loudoun and Prince William). Region 4 encompasses the states of Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Mississippi, and Tennessee. Region 6 encompasses the states of Iowa, Kansas, Missouri, and Nebraska. Region 10 encompasses the states of Alaska, Idaho, Oregon, and Washington.

Non-Nuclear Ship Repair

GSA does not procure non-nuclear ship repairs.

Dated: December 20, 1993.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy,

[FR Doc. 93–31886 Filed 12–29–93; 8:45 am]

BILLING CODE 6820–61–M

Intent to Prepare An Environmental Impact Statement For the Suitland Federal Center Master Development Plan, Suitland, MD

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), and the General Services Administration (GSA) guidelines PBS P 1095.4B, GSA announces its intent to prepare an Environmental Impact Statement (EIS) for the Draft Suitland Federal Center (SFC) Master Development Plan. The Suitland Federal Center is a Federally owned site located in the Suitland community of Prince George's County, Maryland, approximately ¾ of a mile southeast of the District of Columbia. The SFC Master Plan area under GSA control consists of 185 acres bounded by Suitland Parkway to the south, Suitland Road to the north, Silver Hill Road to the east, and Washington National and Lincoln Park Memorial Cemeteries to the west. The project area does not include approximately 16 acres of the site's southeast corner GSA is planning to transfer to the Washington Metropolitan Area Transit Authority for construction of the Suitland Metro Rail Station as required by Public Law 103–123, October 28, 1993.

The Suitland Federal Center's suburban office park setting is comprised of approximately 2.5 million gross square feet (GSF) of office space housing an on-site population of more than 7,000 persons. Currently, the site consists of four major office buildings and one record storage building. Other structures at the SFC include a converted historic residence, the Center's heating and refrigeration plant, a water tower, and two small buildings used for record and film storage. Much of the site is surrounded by a perimeter security fence which encloses most of the approximately 4,730 surface parking spaces available to employees and visitors.

GSA's Draft Master Development Plan for the Suitland Federal Center establishes two currently open sites for new development and two sites for redevelopment. The design of the Plan can be classified as a linear office park infill scheme which will consolidate most of the surface parking spaces into several on-grade parking structures. The Plan will ultimately add 1.4 million (GSF) of new Federal office space and over 6,000 employees to the SFC for a total build-out of 3.9 million GSF and a population of almost 14,000 persons.

The National Capital Planning Commission (NCPC) will act as a cooperating agency during preparation of the EIS pursuant to 40 CFR 1501.6.

The EIS will be developed in two phases. Phase I will consist of a scoping process that will identify issues to be addressed in the EIS and provide a review of those issues already identified by the Draft Environmental Assessment (EA) prepared for the SFC Master Development Plan. Potential impacts related to the proposed action and identified by the EA include transportation, stormwater management, and short term impacts during construction. Phase I will also include an economic analysis to determined the feasibility to the government of implementing the proposed Master Development Plan over a ten year period.

Phase II will examine the affected environment, environmental consequences, and mitigation measures of the proposed action. The analysis will be based on at least three different development alternatives including a Master Plan alternative (build-out) as described above and a "no action" alternative. At least one other alternative within this range will be examined based upon recommendations from the scoping process.

During Phase I, a public scoping meeting will be held at 7:30 pm, Monday, January 31, 1994, at Suitland High School, 5200 Silver Hill Road, District Heights, MD. A formal presentation will precede the request for public comments. GSA representatives will be available at this meeting to receive comments from the public regarding issues of concern. The intention of the meeting is *not* to debate the merits of the proposed action. Instead, it is intended that affected Federal, state, and county agencies, as well as interested community groups and individuals identify environmental concerns that should be addressed during the preparation of the EIS. All who wish to speak must either first register by mail or in person at the meeting. Those who register will speak in the order of registration followed by those who did not register. In the interest of available time, each speaker will be asked to limit oral comments to five (5) minutes.

Agencies and the general public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentator believes the EIS should address.

All written statements regarding the EIS scoping process should be received no later than February 10, 1994. Written statements, as well as additional information and/or questions about the scoping process, should be directed towards: Ms. Judith Binder or Mr. Bill Fiander, General Services Administration—National Capital Region, Planning Staff, 7th and D Streets, SW., room #7618, Washington, DC 20407. They also can be reached by telephone at (202) 708–5334.

This Notice of Intent will be published in local newspapers at the beginning of January, 1994. Announcements for the public scoping meeting will also be mailed at this time to interested agencies, groups, and individuals.

Dated: December 14, 1993.

Thurman M. Davis,

Regional Administrator, National Capital Region.

[FR Doc. 93–31967 Filed 12–29–93; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Vessel Sanitation Program (Cruise Ship Industry, etc.); Current Status Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Current Status of the Vessel Sanitation Program and Experience to Date with Program Operations—Public meeting between CDC and the cruise ship industry, private sanitation consultants, and other interested parties.

Time and Date: 9 a.m –12 noon, Wednesday, February 2, 1994.

Place: Miami Port Authority Passenger Terminal No. 12, 1120 Port Boulevard, Miami, Florida 33132.

Status: Open.

Purpose: To discuss current status of the Vessel Sanitation Program and experience to date with program operations.

Matters to be discussed: During the past 7 years, as part of the revised Vessel Sanitation Program, CDC has conducted a series of public meetings with members of the cruise ship industry, private sanitation consultants, and other interested parties. This meeting is a continuation of that series of public meetings.

For a period of 15 days following the meeting, through February 17, 1994, the official record of the meeting will remain open so that additional material or comments may be submitted to be made part of the record of the meeting. The meeting will be open to the public for participation, comment, and observation, limited only by space available

Contact person for more information: Thomas E. O'Toole, Deputy Chief, Special Programs Group (F29), NCEH, CDC, 4770 Buford Highway, NE, Atlanta, Georgia 30341–3724, telephone 404/488–7070.

Dated: December 22, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–31751 Filed 12–29–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92N-0465]

Kun Chae Bae; Denial of Hearing; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under section 306(a)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)(2)) permanently debarring Mr. Kun Chae Bae, 19 Rolling Ridge Rd., Northfield, IL 60093, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Bae was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product; and relating to the regulation of a drug product under the act. Mr. Bae has failed to file with the agency information and analyses sufficient to create a basis for a hearing concerning this action.

EFFECTIVE DATE: December 30, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tamar S. Nordenberg, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-2041.

SUPPLEMENTARY INFORMATION:

I. Background

On December 13, 1990, the United States District Court for the District of Maryland entered judgment against Mr. Kun Chae Bae, former president of My-K Laboratories (My-K), for one count of interstate travel in aid of racketeering, a Federal felony offense under 18 U.S.C. 1952. As a result of this conviction, FDA served Mr. Bae by certified mail on April 6, 1993, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application and offered him an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(A) and (a)(2)(B) of the act, that he was convicted of a felony under Federal law for conduct relating to the development or approval of a drug product and relating to the regulation of a drug product.

The certified letter informed Mr. Bae that his request for a hearing could not rest upon mere allegations or denials but must present specific facts showing that there was a genuine and substantial issue of fact requiring a hearing. The letter also notified Mr. Bae that if it conclusively appeared from the face of the information and factual analyses in his request for a hearing that there was no genuine and substantial issue of fact which precluded the order of debarment, FDA would enter summary judgment against him and deny his request for a hearing.

Mr. Bae filed a written request for a hearing dated May 4, 1993. He filed information on which he relied to justify a hearing in a legal memorandum dated June 3, 1993, and a supplemental legal memorandum dated July 15, 1993. In the memoranda, Mr. Bae contended that the debarment statute is punitive in nature and so its retroactive application to him violates the ex post facto clause of the U.S. Constitution. The Deputy Commissioner for Operations has considered Mr. Bae's argument and concludes that it is unpersuasive and fails to raise a genuine and substantial issue of fact requiring a hearing. The constitutional argument that Mr. Bae offers does not create a basis for a hearing because hearings are not granted on matters of policy or law, but only on genuine and substantial issues of fact (see 21 CFR 12.24(b)(1)). The argument is, in any event, unconvincing, for the reasons discussed below.

II. Mr. Bae's Argument in Support of a Hearing

Mr. Bae argues that the ex post facto clause of the U.S. Constitution prohibits application of section 306(a)(2) of the act to him because this section was not in effect at the time of Mr. Bae's criminal conduct. With the enactment of the Generic Drug Enforcement Act (GDEA) on May 13, 1992, Congress amended the act to include section 306(a)(2), and Mr. Bae was convicted on December 13, 1990.

An ex post facto law is one that reaches back to punish acts that occurred before enactment of the law or that adds a new punishment to one that was in effect when the crime was committed. (*Ex parte Garland*, 4 Wall. 333, 377, 18 L. Ed. 366 (1866); *Collins v. Youngblood*, 110 S. Ct. 2715 (1990).) Mr. Bae's claim that application of the mandatory debarment provisions of the act is prohibited by the ex post facto clause is unpersuasive. Because the intent behind debarment under section 306(a)(2) of the act is remedial rather than punitive, the ex post facto clause is inapplicable.

The congressional intent with respect to actions under section 306(a)(2) of the act is clearly remedial. Congress created the GDEA in response to findings of fraud and corruption in the generic drug industry. Both the language of the GDEA itself and its legislative history reveal that the purpose of the debarment provisions set forth in the GDEA is "* * * to restore and to ensure the integrity of the abbreviated drug application approval process and to protect the public health * * *." (See section 1 of the GDEA.) This is a remedial rather than a punitive goal. (See *Manacchio* v. *Kusserow*, 961 F.2d 1539, 1542 (11th Cir. 1992) (exclusion of physician from participation in medicare programs because of criminal conviction is remedial, not punitive).) Supporting the remedial character of debarment is a statement by Senator Hatch in the Congressional Record of April 10, 1992, at S 5616, "* * * [t]he legislation * * * provides a much-needed remedy for the blatant fraud and corruption uncovered in the generic drug industry * * * during the last 3 years."

The Supreme Court has long held that statutes that deny future privileges to convicted offenders because of their previous criminal activities in order to ensure against corruption in specified areas do not impose penalties for past conduct and, therefore, do not violate the ex post facto law prohibitions. (See, e.g., *Hawker* v. *New York*, 170 U.S. 189, 190 (1898) (physician barred from practicing medicine for a prior felony conviction); *DeVeau* v. *Braisted*, 373 U.S. 154 (1960) (convicted felon's exclusion from employment as officer of waterfront union).)

In DeVeau, the Court upheld a law that prohibited a convicted felon's employment as an officer in a waterfront union. The purpose of the law was to remedy the past corruption and to ensure against future corruption in the waterfront unions. The Court in DeVeau, 363 U.S. at 160, stated:

> The question in each case where unpleasant consequences are brought to bear upon an individual for prior conduct, is whether the legislative aim was to punish that individual for past activity, or whether the restriction of the individual comes about as a relevant incident to a regulation of a present situation, such as the proper qualifications for a profession * * *.

As in *DeVeau*, the legislative purpose of the relevant statute is to ensure that fraud and corruption are eliminated from the drug industry. The restrictions placed on individuals convicted of a felony under Federal law are not intended as punishment but are "incident to a regulation of a present situation" (*DeVeau*, 363 U.S. at 160) and necessary in order to remedy the pastfraud and corruption in the industry.

Due to the potentially serious consequences to the public health of fraud and corruption in the drug industry, the permanent debarment of convicted felons like Mr. Bae is not an excessive means to eliminate fraud from the industry. The legislative history of the GDEA is replete with statements, some cited above, that the act provides a reasonable means of ridding the drug industry of widespread corruption and restoring consumer confidence in generic drugs.

Contrary to Mr. Bae's contention that the breadth of the phrase "in any capacity" in section 306(c)(1)(B) of the act is indicative of a punitive intent, in fact this section is crucial to the realization of the previously discussed remedial ends. The pertinent portion of section 306(c)(1)(B) of the act provides that a debarred individual may not "provid[e] services in any capacity to a person that has an approved or pending drug product application * * *." An attempt at a determination of specifically which positions are closed to debarred persons would cause serious administrative difficulties, including the problem of ascertaining the exact nature of the employee's relationship with the employer and defining what constitutes a sufficient nexus with the regulatory scheme under all circumstances. (See the House Committee on Agriculture's H. Rept. 1546, 87th Cong., 2d sess. 8 (1962), U.S. Code Congressional and Administrative News, 1962, p. 2749, for Congress' explanation of similar expansive language in debarment provision of the Perishable Agricultural Commodities Act, discussed further below.)

The United States Court of Appeals for the District of Columbia Circuit has upheld a comparable provision of the Perishable Agricultural Commodities Act, as amended (PACA) (7 U.S.C. sections 499a-499s), which bars certain persons implicated in wrongdoing under PACA from being employed by any person licensed under PACA, even in positions unrelated to that act's regulatory scheme. (*Siegel* v. *Lyng*, 851 F.2d 412 (D.C. Cir. 1988).) The court stated that the "investigatory difficulty * * * confirms the reasonableness of Congress' amendment barring *any* employment for the proscribed period." (Id. at 416) (Emphasis in original.)

Mr. Bae asserts that the special termination provision of section 306(d)(4)(C) of the act is evidence of a punitive intent. The provision gives FDA authority to limit the period of debarment if the Secretary finds that the individual has provided "substantial assistance in the investigations or prosecutions" of certain offenses which relate to matters under FDA's jurisdiction.

The special termination provision is not evidence of a punitive intent. To the contrary, the provision will advance the remedial objective of ensuring the safety and efficacy of the country's drug supply. The cooperation fostered by this special termination provision will enable FDA to eliminate from the drug industry many actors who are corrupting the industry, endangering the public health, and destroying consumers' confidence in the nation's drug supply. Convictions based on debarred persons' assistance can, of course, form the basis for other debarments if the terms of the act are satisfied, which further serves the act's remedial objectives.

An individual's debarment will not be terminated if FDA finds that the remedial intent of the act will be undermined by such termination. The power to terminate debarment is discretionary with FDA, and the agency is bound by the provision's terms to exercise this authority in a manner consistent with the interest of justice and protection of the integrity of the drug approval process (21 U.S.C. 335a(d)(4)(D)). Mr. Bae does not dispute the fact that he was convicted as alleged by FDA in its proposal to debar him, and he has raised no genuine and substantial issue of fact regarding his conviction. Also, Mr. Bae's legal arguments do not create a basis for a hearing and, in any event, are unpersuasive. Accordingly, the Deputy Commissioner for Operations denies Mr. Bae's request for a hearing.

III. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.20), finds that Mr. Kun Chae Bae has been convicted of a felony under Federal law for conduct (1) relating to the development or approval, including the process for development or approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product under the act (21 U.S.C. 335a(a)(2)(B)). As a result of the foregoing findings, Mr. Kun Chae Bae is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective on December 30, 1993 (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Bae in any capacity, during his period of debarment, will be subject to civil money penalties. If Mr. Bae, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Mr. Bae during his period of debarment.

Any application by Mr. Bae for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 92N-0465 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 1, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-31915 Filed 12-29-93; 8:45 am]

BILLING CODE 4160-01-F

National Institutes of Health

Meeting of Panel

Notice is hereby given that the Forum on Sponsored Research Agreements: Perspectives, Outlook, and Policy Development, convened as an ad hoc group of consultants to the Advisory Committee to the Director, NIH, will meet in public session on January 25 and 26 at the Marriott Hotel in Bethesda, Maryland. The meeting will begin at 8:30 a.m. each day and will end at 8:30 p.m. on January 25 and at 4 p.m. on January 26.

The purpose of the Forum is to provide recommendations that will be used in NIH's development of general principles to guide grantee institutions as they negotiate research-support agreements with prospective industrial sponsors. The Forum Panel members will discuss the following issues: the scope and size of sponsored research agreements; the U.S. manufacturing requirement, preference for U.S. industry, and foreign access; the preference for small business; the utilization and licensing requirements

for inventions made with Federal funding; and research freedom. Case studies will be presented to illustrate important issues of concern under the Bayh-Dole Act. At the conclusion of its work, the Panel will transmit its report to the Advisory Committee to the Director, NIH, for review.

Concerned organizations and individuals are invited to present their views on January 26, from 10 a.m. to 12 p.m. To reserve a 5-minute presentation time, please contact Ms. Peggy Schnoor at (301) 496–1454. Organizations and individuals are also invited to submit written views of any length to the Panel in advance of the meeting. Written materials should be forwarded to Ms. Peggy Schnoor by FAX (301) 402–0280 or by mail to the NIH, Shannon Building, room 218, 9000 Rockville Pike, Bethesda, MD 20892. To assist optimally the work of the Panel, written materials should be received by January 15. Comments and questions related to the proposed Forum meeting also should be addressed to Ms. Peggy Schnoor at (301) 496–1454.

Dated: December 22, 1993.

Harold Varmus,

Director, NIH.

[FR Doc. 93–31868 Filed 12–28–93; 8:45 am]

BILLING CODE 4140–01–M

Health Care Financing Administration

Privacy Act of 1974

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of a matching program—between HCFA and the Wisconsin Bureau of Workers' Compensation—HCFA will receive information from the State concerning work-related injuries and diseases.

SUMMARY: Section 1862(b)(2) of the Social Security Act (42 U.S.C. 1395(b)(2)) prohibits Medicare payment with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made promptly, under a workers' compensation law or plan of the United States or a State.

HCFA has developed a model agreement to be used in negotiating individual agreements with State Workers' Compensation Boards. The agreement will allow HCFA to seek recovery of identified mistaken payments that are the liability of workers' compensation agencies.

The matching report set forth below is in compliance with the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503).

EFFECTIVE DATE: No match will begin sooner than 40 days after the date of publication in the **Federal Register**, and a copy of the model Data Match Agreement will be sent to the Senate Committee on Governmental Affairs, the House Committee on Government Operations, and the Office of Management and Budget (OMB). Any individual matching agreement will remain in effect for 18 months from the date a notice is published in the **Federal Register.**

ADDRESSES: Please address comments to: Richard A. DeMeo, HCFA Privacy Act Officer, Health Care Financing Administration, Office of Budget and Administration, room 2–H–4, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187.

FOR FURTHER INFORMATION CONTACT: Herb Shankroff, Division of Entitlement and Benefit Coordination, Bureau of Program Operations, HCFA, room 367 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187. His telephone number is (410) 966–7171.

SUPPLEMENTARY INFORMATION: One of the priorities of HCFA is to encourage high quality and effective health care while pursuing strategies to contain or moderate health care costs and Medicare program expenditures. As required by the Social Security Act, one approach that HCFA employs to limit Medicare expenditures is the implementation of the Medicare Secondary Payer (MSP) provisions (42 U.S.C. 1395y(b)).

HCFA primarily relies upon providers, physicians, or other suppliers, and beneficiaries themselves, to identify situations where payment should be made by workers' compensation. In addition. Medicare contractors are instructed to identify and investigate claims for which the diagnosis or procedure is suggestive of accidental injury or of work-related illness. Often, however, Medicare contractors are unaware of the availability of workers' compensation and make primary payment by mistake. In these situations, the Medicare contractors must recover the mistaken primary payments to restore them to the Medicare Trust Funds. The identification of MSP situations and the recovery of mistaken Medicare payments frequently entail demonstrating to the other third party payer, such as a worker's compensation agency, its primary liability under 42 U.S.C. 1395y(b).

The purpose of this matching program is to allow HCFA to identify workers' compensation cases that otherwise have gone undetected by the Medicare contractors. HCFA will receive, on a quarterly basis, computer listings of approved workers' compensation cases from the State of Wisconsin. These listings will be matched against the Carrier Medicare Claims Records (System of Records No. 09–70–0501) and the Intermediary Claims Records (System of Records No. 09–70–0503).

After the match, HCFA will further develop the situation and determine whether a mistaken payment of Medicare funds has been made. Such determinations generate demand letters to the identified insurer or payer. If the insurer or payer proves that it did pay primary, in addition to Medicare's mistaken primary payment, the beneficiary or provider is contacted by Medicare with a request for return of the duplicate payment.

At this time, the beneficiary or provider will be provided an opportunity to respond to HCFA's finding that a mistaken payment was made and will be given an explanation of appeal rights. The determination that the beneficiary or provider is responsible to refund Medicare is subject to all the appropriate Medicare review and due process procedures.

In addition, HCFA will add what is known as an auxiliary record indicating those beneficiaries identified as being entitled to workers' compensation. This will prevent future erroneous Medicare payments.

The Privacy Act permits disclosure of information from HCFA's records without a beneficiary's consent if the information issued for purposes that are consistent with the purpose for which the information was collected, such as establishing a beneficiary's claim for Medicare benefits and determining the correct amount of the Medicare payment. The information must also be collected and used in a manner consistent with Privacy Act procedures. Disclosure of information is permitted when the benefit of the use of the information outweighs the effect, or risk of an effect, on the privacy of individuals.

Set forth below is the information required by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503). A copy of this notice will be provided to the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Government Affairs of the Senate, and the Acting Administrator of the Office of Information and Regulatory Affairs in OMB.

Dated: December 20, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Computer Matching Notice

A. Name of Participating Agencies

Health Care Financing Administration (HCFA) and the State of Wisconsin Bureau of Workers' Compensation.

B. Purpose of the Match

The match will allow HCFA to identify claims for which workers' compensation was the primary payer, but Medicare made primary payments by mistake. It will also facilitate HCFA's attempts to seek recovery of identified mistaken Medicare payments that are the primary responsibility of workers' compensation. It will also assist HCFA from making mistaken primary payments on future claims.

C. Authority for the Match

The match is required to enable HCFA to implement more fully section 1862(b)(2) of the Social Security Act (42 U.S.C. 1395(b)(2)).

D. Records to be Matched

- The Wisconsin Workers' Compensation Board will disclose to HCFA records of the identity of individuals who have been approved for workers' compensation reimbursement.
- HCFA will match information from these records against the Carrier Medicare Claims Records, HHS/HCFA/BPO No. 09–70–0501, and the Intermediary Medicare Claims Records, HHS/HCFA/BPO No. 09–70–0503, to identify possible erroneous Medicare payments.

E. Period of the Match

Beginning no sooner then 40 days from the date of this notice and lasting 18 full calendar months from the beginning date.

F. Address of Contact

Herb Shankroff, Division of Entitlement and Benefit Coordination, Bureau of Program Operations, HCFA, Room 367, Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187. His telephone number is (410) 966–7171.

[FR Doc. 93–31901 Filed 12–29–93; 8:45 am]

BILLING CODE 4120–03–M

Privacy Act of 1974; Matching Program

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of a matching program—between HCFA and the Office of Personnel Management (OPM) concerning active, non-postal, Federal civilian employees who have health insurance through their Federal employment.

SUMMARY: Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) provides that Medicare is the secondary payer for certain individuals who have primary health insurance through their employers. Although the majority of the Medicare population is retired, there are a significant number of beneficiaries who have primary health insurance coverage through an employer group health plan (EGHP). Some disabled beneficiaries continue to have primary coverage through the large group health plan (LGHP) of the employer for whom they used to work actively. Also, Medicare is secondary payer to EGHP's for 18 months for beneficiaries who have Medicare solely because of permanent kidney failure. When primary coverage is available through an EGHP or an LGHP, Medicare benefits are available only to make secondary payments for Medicare covered services also covered under that primary coverage, or to cover eligible services not covered under the primary plan.

The Federal Employees Health Benefits Program (FEHB) qualifies as both a EGHP and a LGHP. This means that active Federal employees who are enrolled in a FEHB plan and who are also Medicare beneficiaries must look to their FEHB plan as the primary health insurance payer. In the case of beneficiaries with permanent kidney failure, Medicare is secondary for only 18 months.

HCFA and OPM have developed a computer matching agreement, the purpose of which is to enable HCFA to identify Medicare beneficiaries who are also current Federal employees enrolled in a FEHB plan.

The matching report set forth below is in compliance with the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503).

EFFECTIVE DATE: No match will begin sooner than 40 days after the date of publication in the **Federal Register**, or 40 days after a copy of the Matching Agreement has been sent to the Senate Committee on Governmental Affairs and the House Committee on Government Operations, whichever is later. The Matching Agreement will remain in effect for 18 months.

ADDRESSES: Please address comments to: Richard A. DeMeo, HCFA Privacy Act Officer, Health Care Financing Administration, room 2–H–4, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187.

FOR FURTHER INFORMATION CONTACT: Herb Shankroff, Division of Operational Initiatives, Bureau of Program Operations, HCFA, room 368, Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone (410) 966–7171.

SUPPLEMENTARY INFORMATION: One of the priorities of HCFA is to encourage high quality and effective health care while pursuing strategies to contain or moderate health care costs and Medicare program expenditures. As required by the Social Security Act, one approach that HCFA employs to limit Medicare expenditures is the implementation of the Medicare Secondary Payer (MSP) provisions (42 U.S.C. 1395y(b)).

HCFA primarily relies upon providers, physicians or other suppliers, and beneficiaries themselves, to identify situations where payment should be made by other primary insurers. Often, however, Medicare contractors are unaware of the availability of other primary coverage and make primary payment when Medicare was actually only the secondary payer. In these situations, the Medicare contractors must recover the mistaken primary payments to restore them to the Medicare Trust Funds. The identification of MSP situations and the recovery of mistaken Medicare payments frequently entail demonstrating to the other third party payer, its primary liability under 42 U.S.C. 1395y(b).

The purpose of this matching program is to allow HCFA to identify current, non-postal, Federal civilian employees who are also Medicare beneficiaries and who have primary health insurance coverage through the FEHB. HCFA will receive, on a semi-annual basis, computer listings of current Federal employees enrolled in a FEHB. OPM will provide extracts from the Central Personnel Data File portion of OPM/GOVT–1 General Personnel Records, system published at 55 FR 3938 (February 5, 1990). These listings will be matched against HCFA's Health Insurance Master Record (System of Records No. 09–70–0502).

After the match, HCFA will create an auxiliary record for each affected Medicare beneficiary, indicating the identity of the FEHB in which the

current Federal employee is enrolled. These auxiliary records will prevent Medicare from making incorrect primary payments in the future. Medicare will also determine whether a mistaken payment of Medicare funds has been made. Such determinations generate demand letters to the identified insurer or payer. If the insurer or payer proves that it did pay primary, in addition to Medicare's mistaken primary payment, the beneficiary or provider is contacted by Medicare with a request for return of the duplicate payment. At that time, the beneficiary or provider will be provided an opportunity to respond to HCFA's finding that a mistaken payment was made and will be given an explanation of appeal rights. The determination that the beneficiary or provider is responsible for refunding the Medicare Trust Funds is subject to all the appropriate Medicare review and due process procedures.

The Privacy Act permits disclosure of information from HCFA's records without a beneficiary's prior written consent if the information is used for purposes that are consistent with the purpose for which the information was collected, such as establishing a beneficiary's claim for Medicare benefits and determining the correct amount of the Medicare payment. The information must also be collected and used in a manner consistent with Privacy Act procedures. Disclosure of information is permitted when the benefit of the use of the information outweighs the effect, or risk of an effect, on the privacy of individuals. In this instance, disclosure is authorized under 5 U.S.C. section 552a(b)(3) and under 42 U.S.C. 1395y(b).

Set forth below is the information required by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503). A copy of this notice will be provided to the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Government Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget.

Dated: December 20, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Computer Matching Notice

A. Name of Participating Agencies

Health Care Financing Administration (HCFA) and the Office of Personnel Management (OPM).

B. Purpose of Match

The match will assist HCFA to refrain from making primary payments on future claims in instances when Medicare is only the secondary payer. The match will also assist HCFA in identifying claims for which an FEHB plan was primary payer, but for which Medicare made primary payments by mistake. It will also facilitate HCFA's attempts to identify mistaken Medicare payments that were the primary responsibility of a FEHB plan.

C. Authority for the Match

The match is required to enable HCFA to implement more fully section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)).

D. Records To Be Matched

- OPM will disclose to HCFA records of the identity of individuals who are current Federal employees enrolled in a FEHB plan. These records are contained in OPM/GOVT–1, "General Personnel Records."
- HCFA will match information from these records against the "Health Insurance Master Record," No. 09–70–0502, HHS/HCFA/BPO, to create an auxiliary record where necessary. (Note: the "Health Insurance Master Record" is being replaced by the Medicare Enrollment Data Base (MED) with the same system number.)

E. Period of Match

Beginning no sooner than 40 days from the date of this notice and lasting 18 full calendar months from the beginning date.

F. Address of Contact

Herb Shankroff, Division of Operational Initiatives, Bureau of Program Operation, HCFA, room 368 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187, Telephone (410) 966–7171.

[FR Doc. 93–31902 Filed 12–29–93; 8:45 am]

BILLING CODE 4120–03–M

Office of Consumer Affairs

Hearings on Preserving Privacy in the National Information Infrastructure

AGENCY: U.S. Office of Consumer Affairs, HHS.

ACTION: Notice of open hearing.

SUMMARY: The Privacy Working Group of the Information Infrastructure Task Force (IITF) will hold hearings in January in California and Washington, DC, to obtain advice from individuals and organizations who will be affected by the development and implementation of the National Information Superhighway system: the National Information Infrastructure (NII). The focus of the hearings is on identifying privacy concerns from the particular viewpoint of the participants.

The Privacy Working Group is part of the Information Policy Task Force constituted as part of a larger Task Force on the NII chaired by the Secretary of Commerce.

The hearings will consist of a series of panels on specific areas, e.g., telecommunications, information technology, financial services, law enforcement, research and academic records, and public records. A final panel will consider the development of fair information practices in the NII.

Panelists are expected to give a brief (10–15 minute) presentation covering the following points:

- How does your organization see the development of a NII affecting the way you carry out your business or your organizational responsibilities?
- What are the most critical privacy or security concerns the NII will bring to your issue area?
- What must be built into the NII to accommodate those concerns?
- What activities do you currently have underway to anticipate and deal with those concerns?
- What recommendations do you have for the working group?

Following the presentation, the audience will be invited to ask questions or make comments.

DATES: Hearings will be held in Sacramento, California on January 10 and 11, 1994, from 8:30 a.m. to 5 p.m. In Washington, DC, hearings will be held on January 26 and 27, from 8:30 a.m. to 5:30 p.m..

PLACE: The California hearings will be located in the California Department of Consumer Affairs First Floor Hearing Room, 400 R Street, Sacramento. The hearings in Washington, DC will be held in the Departmental Auditorium of the Department of Commerce, 14th & Constitution Avenue, NW.

FOR FURTHER INFORMATION CONTACT: Pat Faley, U.S. Office of Consumer Affairs, (202) 634–4329.

REGISTRATION: The public is invited to attend, question speakers and to make brief comments. No advance registration, but space may be limited. Participants are expected to make their own arrangements for travel and accommodations. Concise written statements for consideration by the Privacy Working Group should be sent to "Privacy," USOCA, 1620 L Street, NW., Washington, DC 20036, or faxed to (202) 634–4135.

Patricia Faley,

Acting Director, U.S. Office of Consumer Affairs.

[FR Doc. 93–31925 Filed 12–29–93; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3591 FR–3408–N–02 and N–93–3592; FR–3409–N–02]

Announcement of Funding Awards for Supportive Housing for the Elderly and Persons with Disabilities FY 1993

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Annoucement of Funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding award decisions made by the Department as a result of competitions for funding under the following two notices of funding availability: Supportive Housing for the Elderly and Supportive Housing for Persons with Disabilities. This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Robert Ratcliffe, Acting Director, Housing for Elderly and Handicapped People Division, Department of Housing and Urban Development, Room 6116, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2730 or (202) 708–4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purposes of these competitions were to (1) provide assistance to private nonprofit organizations and nonprofit consumer cooperatives to expand the elderly; and (2) provide assistance to private nonprofit organizations to expand the supply of supportive housing for persons with disabilities.

The 1993 awards announced in this Notice were selected for funding in competitions announced in the **Federal Register** notices published on May 5, 1993 at 58 FR 26843 and 26824.

A total of $571,821,000 of capital advances, with $31,104,700 in project rental assistance was awarded to Supportive Housing for the elderly. A total of $141,597,800 of capital advances, with $7,853,000 in project rental assistance was awarded to Supportive Housing for Persons with Disabilities.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names, addresses, and the amount of those awards, as set out at the end of this Notice.

Dated: December 20, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
BOSTON								
Connecticut								
Hartford	017–EE005/CT26–S931–001, Order of Ahepa Nat, 7202 North Shadeland Ave, Indianapolis, IN 46250.	Waterford Town, CT	M		1	54	4,254,700	222,200
Hartford	017–EE006/CT26–S931–002, Lavissiere Associa, 318 Main St, Farmington, CT 06034.	Danbury, CT	M		1	45	3,445,000	181,100
Subsubtotal					2	99	7,699,700	403,300
Massachusetts								
Boston	023–EE021/MA06–S921–001, First Baptist Church, 221 Cabot Street, Beverly, MA 01915.	Beverly, MA	M		1	67	5,259,500	299,900
Boston	023–EE034/MA06–S931–001, Cath Archbishop of Boston, 2121 Commonwealth Avenue, Brighton, MA 02135.	Malden, MA	M		1	75	5,883,900	341,900
Boston	023–EE035/MA06–S931–002, Springfield Hobby, 1475 Roosevelt Avenue, Springfield, MA 01109.	Springfield, MA	M		1	62	4,368,400	282,600
Boston	023–EE036/MA06–S931–003, S. Shore Hsg., 169 Summer Street, Kingston, MA 02364.	Plympton, MA	M		1	40	2,689,100	182,300
Boston	023–EE037/MA06–S931–004, Church of the Holy Spirit, 525 River Street, Mattapan, MA 02126.	Mattapan, MA	M	2	1	45	3,410,200	205,100
Boston	023–EE038/MA06–S931–005, Jamaica Plain Dev, 31 Germania Street, Jamaica Plain, MA 02130.	Jamaica Plain, MA	M		1	45	3,930,300	205,100

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
Subsubtotal					6	334	25,541,400	1,516,900
Maine								
Manchester	024–EE010/ME36–S931–001, Statewide Affordab, 19 Spring Street, Newport, RI 02840.	Boothbay Harbor CE, ME.	NM		1	20	1,257,800	68,400
Subsubtotal					1	20	1,257,800	68,400
New Hampshire								
Manchester	024–EE008/NH36–S931–002, Souther NH Service, PO Box 5040, Manchester, NH 03018.	Nashua, NH	M		1	70	4,166,100	227,300
Manchester	024–EE011/NH36–S931–004, Cap Belknap-Merrim, PO Box 1016—2 Industri, Concord, NH 03302.	Belmont, NH	NM		1	40	2,275,300	136,700
Subsubtotal					2	110	6,441,400	364,000
Rhode Island								
Providence	016–EE006/RI43–S931–003, Jewish Home for the Aged, 99 Hillside Avenue, Providence, RI 02906.	Warwick, RI	M		1	53	4,050,400	215,700
Providence	016–EE007/RI43–S931–004, Federal Housing As, P.O. Box 8171 Garden Cit, Cranston, RI 02920.	Providence, RI	M		1	53	4,050,400	211,700
Subsubtotal					2	106	8,100,800	427,400
Vermont								
Manchester	024–EE007/VT36–S931–001, White River Counci, P.O. Box 158, White River Junction, VT 05001.	White River Junction, VT.	NM		1	14	793,300	46,700
Subsubtotal					1	14	795,300	46,700
Subtotal					14	683	49,836,400	2,826,700
NEW YORK								
New Jersey								
Newark	031–EE015/NJ39–S931–003, New Community Corp., 233 West Market Street, Newark, NJ 07103.	Jersey City, NJ	M	2	1	81	6,371,600	377,100
Newark	035–EE008/NJ39–S931–011, SO N.J. Cncl B'nai, 2201 Route 35, Cherry Hill, NJ 08002.	Evesham Twp, NJ	M		1	75	5,315,800	316,300
Newark	035–EE009/NJ39–S931–012, BCCAP, 718 South Route 130, Burlington, NJ 08016.	Burlington TWP, NJ	M	2	1	72	5,103,800	303,400
Newark	035–EE010/NJ39–S931–013, National Church Re, 2335 North Bank Drive, Columbus, OH 43220.	Haddon TWP, NJ	M		1	58	4,114,400	243,600
Newark	035–EE012/NJ39–S931–015, Test City Child CA, 143 W. Broad Street, Bridgeton, NJ 08302.	Vineland, NJ	M	2	1	125	8,579,000	529,800
Subsubtotal					5	411	29,484,600	1,770,200
New York								
New York	012–EE072/NY36–S931–005 Beth Abraham Hospital, 612 Allerton Ave. Bronx, NY 10467.	Bronx, NY	M		1	66	5,239,300	317,100
New York	012–EE074/NY36–S931–007 Mount Sinai Hosp Geriatric, P.O. Box 1070 1 Gus L LE New York, NY 10029.	New York, NY	M		1	71	5,779,700	341,500
New York	012–EE082/NY36–S931–015, United Help, Inc., Self Help Comm Svc., Inc., 440 Ninth Avenue, New York, NY 10001.	Queens, NY	M		1	66	5,218,600	317,100

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
New York	012–EE087/NY36–S931–020, Progress of People, 191 Joralemon St., Brooklyn, NY 11201.	Queens, NY	M		1	93	7,565,200	448,800
New York	012–EE088/NY36–S931–021, Progress of People, 191 Joralemon St., Brooklyn, NY 11201.	Brooklyn, NY	M		1	100	8,133,300	482,900
New York	012–EE092/NY36–S931–025, Harlem Churches for Community Improvement, 55 W 125th Street, New York, NY 10027.	New York, NY	M	2	1	110	8,944,900	531,700
New York	012–EE093/NY36–S931–026, Metropolitan Jewish Geriatrics, 6323 Seventh Ave., Brooklyn, NY 11220.	Brooklyn, NY	M	7	1	116	9,431,900	561,000
New York	012–EE094/NY36–S931–027, SFDS Development Corp., 135 E. 96 St., New York, NY 10128.	New York, NY	M		1	63	5,130,500	302,400
New York	012–EE095/NY36–S931–028, Metro NY Council on Jewish Poverty, 9 Murray St., New York, NY 10007.	Brooklyn, NY	M	7	1	122	9,918,800	590,200
New York	012–EE100/NY36–S931–033, Wartburg Lutheran, 50 Sheffield Ave., Brooklyn, NY 11207.	Pawling, NY	M		1	76	5,911,300	365,900
Buffalo	014–EE043/NY06–S931–002, NCSC. 1331 F St., NW Washington, DC 20004.	Bath, NY	NM		1	40	2,407,600	143,600
Buffalo	014–EE047/NY06–S931–006, Capital District Y, 1492 Central Avenue, Albany, NY 12205.	Schenectady, NY	M		1	50	3,212,500	185,000
Buffalo	014–EE052/NY06–S931–011, Delta Development, 525 Washington Street, Buffalo, NY 14203.	Batavia, NY	NM		1	40	2,559,900	144,400
Buffalo	014–EE054/NY06–S931–013, People Inc., 1219 North Forest Road, Williamsville, NY 14221.	Blasdell, NY	M		1	50	3,345,200	181,400
Buffalo	014–EE057/NY06–S931–016, Catholic Charities, 240 East Onondaga Street, Syracuse, NY 13202.	Gates, NY	M		1	56	3,706,900	203,500
Buffalo	014–EE059/NY06–S931–018, United Church Home, 170 East Center Street, Marion, OH 43302.	Fredonia, NY	M		1	40	2,420,600	143,600
Subsubtotal					16	1159	88,926,200	5,260,100
Subtotal					21	1570	118,410,800	7,030,300
PHILADELPHIA								
District of Columbia								
Washington	000–EE015/DC39–S931–002, Natl Council on Ag; 2731 Ontario Rd. NW., Washington, DC 20009.	Washington, DC	M	4	1	40	2,651,100	144,800
Washington	000–EE019/DC39–S931–005, NBC Hsg Bd., Inc., 383 Washington Street, Newark, OH 43055.	Washington, DC	M	2	1	55	2,996,800	159,300
Subsubtotal					2	95	5,647,900	304,100
Maryland								
Baltimore	052–EE004/MD06–S931–002, The Associated, 101 West Mount Royal Ave., Baltimore, MD 21201.	Pikesville,	M		1	64	52,226,500	265,300

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
Baltimore	052–EE005/MD06–S931–003, Presbyterian Homes, 1217 Slate Hill Road, Camp Hill, PA 17011.	Baltimore, MD	M		1	40	2,488,800	135,900
Subsubtotal					2	124	7,715,300	421,200
Pennsylvania								
Pittsburgh	033–EE029/PA28–S931–001, SRS-St Joseph-NWPA, 5031 West Ridge Road, Erie, PA 16506.	Erie, PA	M		1	44	2,618,700	136,100
Pittsburgh	033–EE030/PA28–S931–002, Natl Bap Conv Hsg, 383 Washington St., Newark, OH 43055.	Erie, PA	M	2	1	55	3,288,200	170,900
Pittsburgh	033–EE032/PA28–S931–004, NCSC, 1331 F Street, NW, Washington, DC 20004.	Pittsburgh, PA	M		1	47	2,810,100	145,600
Pittsburgh	033–EE033/PA28–S931–005, Alpha Haghith Care, 12 Sylvan Hgts Dr., New Castle, PA 16101.	Neshannock, PA	NM		1	40	2,380,600	126,600
Philadelphia	034–EE015/PA26–S931–002, Supreme C.B. Found, 1514 Fitzwater Street, Philadelphia, PA 19142.	Philadelphia, PA	M	2	1	107	8,407,700	4,500,200
Philadelphia	034–EE018/PA26–S931–005, Friends Rehabilita, 1221 Fairmount Avenue, Philadelphia, PA 19123.	Philadelphia, PA	M		1	87	691,200	369,500
Philadelphia	034–EE020/PA26–S931–007, Philadelphia Presb, One Aldwyn Center, P.O. B, Villanova, PA 19085.	Philadelphia, PA	M		1	117	9,318,900	492,600
Subsubtotal					7	497	35,783,400	1,891,500
Virginia								
Richmond	051–EE021/VA36–S931–005, Virginia Mountain, 930 Cambria Street, N.E., Christiansburg, VA 24073.	Kilmarnock, VA	NM		1	40	2,042,600	118,500
Richmond	051–EE022/VA36–S931–006, United Order of TE, 1620 Church Street Norfolk, VA 23540.	Norfolk, VA	M	2	1	40	2,137,100	121,500
Richmond	051–EE023/VA36–S931–007, VA United Methodis, 308 Hanover Street, Fredericksburg, VA 22401.	Spotssylvania County, VA.	NM		1	40	2,148,700	118,500
Subsubtotal					3	120	6,328,400	358,500
West Virginia								
Charleston	045–EE002/WV15–S931–001, United Church Home, 170 East Center Street, Marion, OH 43302.	Moundsville, WV	M		1	41	2,330,600	130,800
Subsubtotal					1	41	2,330,600	130,800
Subtotal					15	877	57,805,600	3,106,100
ATLANTA								
Alabama								
Birmingham	062–EE015/AL09–S931–002, Baptist Hospitals Foundation of Birmingham, Post Office Box 830605, Birmingham, AL 35283.	Oxford, AL	M		1	43	1,963,000	117,000
Birmingham	062–EE016/AL09–S931–003, Bay Minette Rotary Club, 703 D Olive Street, Bay Minette, AL 36507.	Bay Minette, AL	M		1	50	2,434,000	133,300

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
Birmingham	062–EE017/AL09–S931–004, Federation of Southern Cooperatives, Post Office Box 95, Epes, AL 35460.	EUtaw, AL	NM	2	1	30	1,317,900	81,600
Subsubtotal					3	123	5,714,900	331,900
Florida								
Jacksonville	066–EE017/FL29–S931–017, Jewish Fed of Greater Ft. Lauderdale, 8358 West Park Blvd., Ft Lauderdale, FL 33315.	Sunrise, FL	M		1	77	4,400,400	220,800
Jacksonville	066–EE019/FL29–S931–003, Codec, Inc, 300 SW 12th Ave, Miami, FL 33130.	Dade County, FL	M	4	1	100	5,693,200	283,900
Jacksonville	066–EE022/FL29–S931–016, Deedco, 141 NE Third Ave., Bayside Miami, FL 33132.	Homestead, FL	M	2	1	78	4,443,400	220,800
Jacksonville	066–EE023/FL29–S931–017, Ahepa National Housing Corp, 10333 N. Meridian St, Indianapolis, IN 46290.	West Palm Beach, FL	M		1	98	5,600,600	281,000
Jacksonville	067–EE023/FL29–S931–010, Diocese of Orlando, 421 E Robinson St, Orlando, FL 32802.	Volusia County, FL	M		1	70	3,607,900	174,800
Jacksonville	067–EE036/FL29–S931–018, Osceola County Council on Aging, 1099 Shady Lane, Kissimmee, FL 32744.	Kissimmee, FL	M		1	50	2,586,900	126,600
Jacksonville	067–EE037/FL29–S931–020, National Church Residences, 2335 North Bank Drive, Columbus, OH 43220.	Palmetto, FL	M		1	72	3,614,100	179,800
Subsubtotal					7	545	29,946,500	1,487,700
Georgia								
Atlanta	061–EE013/GA06–S931–002, Hamilton Medical Center, 1200 Memorial Drive, Dalton, GA 30722.	Dalton, GA	NM		1	48	2,327,200	132,600
Atlanta	061–EE014/GA06–S931–003, United Church Homes, 170 East Center Street, Marion, OH 43302.	Rome, GA	NM		1	40	1,950,300	107,800
Atlanta	061–EE015/GA06–S931–004, United Church Homes, 170 East Center Street, Marion, OH 43302.	Winder, GA	M		1	40	1,950,300	107,800
Atlanta	061–EE018/GA06–S931–007, Catholic HSG Initiatives & Cath Social Serv, 680 West Peachtree Street, Atlanta, GA 30308.	Fulton County, GA	M		1	48	2,327,200	129,900
Subsubtotal					4	176	8,555,000	478,100
Kentucky								
Louisville	083–EE025/KY36–S931–004, Florence United Methodist Church, 2113 Main Street, Florence, KY 41042.	Florence, KY	M		1	40	2,299,400	114,300
Louisville	083–EE027/KY36–S931–006, Pennyrile Housing Corporation, 300 Hammond Drive, Hopkinsville, KY 42240.	Smithland, KY	NM		1	12	608,900	35,100
Louisville	083–EE031/KY36–S931–010, Mercy Health System, 2335 Grandview Avenue, Cincinnati, OH 45206.	Louisville, KY	M		1	50	2,634,500	146,600
Subsubtotal					3	102	5,542,800	296,000

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
MISSISSIPPI								
Jackson	065–EE008/MS26–S931–001, Catholic Diocese of Biloxi, 120 Reynoir Street, Biloxi, MS 39530.	Harrison County, MS	M		1	40	2,094,200	108,600
Jackson	065–EE009/MS26–S931–002, United Church Homes, 170 East Center Street, Marion, OH 43302.	Horn Lake, MS	M		1	41	1,837,800	111,400
Subsubtotal					2	81	3,932,000	220,000
NORTH CAROLINA								
Greensboro	053–EE029/NC19–S931–005, Johnston Co. Council of Aging, Inc., PO Box 2235, Smithfield, NC 27577.	Pine Level, NC	NM		1	37	2,277,100	108,500
Greensboro	053–EE030/NC19–S931–006, St. Josephs of the Pines, Inc., 590 Central Drive, Southern Pine, NC 28387.	Aberdeen, NC	NM		1	24	1,396,200	70,400
Greensboro	053–EE032/NC19–S931–008, John H. Wellons Foundation, PO Box 1254, Dunn, NC 28335.	Greenville, NC	NM		1	40	2,326,500	1,175,300
Greensboro	053–EE033/NC19–S931–009, Laodicea United Church of Christ, 2004 Rock Quarry Rd, Raleigh, NC 27610.	Fayetteville, NC	M	2	1	47	2,892,600	137,900
Subsubtotal					4	148	8,892,400	434100
PUERTO RICO								
Caribbean	056–EE011/RQ46–S931–003, Primera Iglesia Bautista De Ponce, PO Box 1306, Ponce, PR 00733.	Ponce Municipio, PR	M	4	1	67	3,828,900	182,300
Subsubtotal					1	67	3,828,900	182,300
SOUTH CAROLINA								
Columbia	054–EE009/SC16–S931–004, John H. Wellons Foundation, Post Office Box 1254, Dunn, NC 28335.	Myrtle Beach, SC	NM		1	41	2,190,600	111,600
Columbia	054–EE010/SC16–S931–005, Volunteers of America, 3939 North Causeway Boulevard, Metairie, LA 70002.	Charleston, SC	M		1	62	3,156,500	166,000
Subsubtotal					2	103	5,347,100	277,600
TENNESSEE								
Nashville	081–EE014/TN40–S931–005, Catholic Diocese of Memphis TN, 85 N. Cleveland, Memphis, TN 38104.	Camden, TN	NM		1	40	1,999,100	107,800
Nashville	086–EE004/TN43–S931–001, Christian Towers of Gallatin Inc., 136 E. Franklin St., Gallatin, TN 37066.	Gallatin, TN	M		1	55	2,688,700	140,200
Knoxville	087–EE012/TN37–S931–004, Douglas Cherokee Economic Authority, PO Box 1218, Morristown, TN 37816.	Sevierville, TN	M		1	55	2,605,000	145,800
Subsubtotal					3	150	7,292,800	393,800
Subtotal					29	1,495	79,052,400	4,101,500
CHICAGO								
ILLINOIS								
Chicago	071–EE039/IL06–S931–001, Chinese American, 310 West 24th Place, Chicago, IL 60616.	Chicago, IL	M	5	1	91	5,261,200	301,400

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
Chicago	071–EE0042/IL06–S931–004, Lutheran Soc. Svc., 1001 E. Touhy Ave., Des Plaines, IL 60018.	Chicago, IL						
Chicago	071–EE043/IL06–S931–005, Catholic Charities, NW Cor Stewart Av64th, Chicago, IL 60800.	Chicago, IL	M		1	82	5,643,800	271,200
Chicago	071–EE044/IL06–S931–006, Catholic Charities, 1571 W. Ogden Ave, LaGrange Park, IL 60525.	Chicago, IL	M		1	120	8,252,300	398,500
Chicago	071–EE047/IL06–S931–009, Franciscan Ministr, P.O. Box 667, Wheaton, IL 60189.	Chicago, IL	M		1	60	4,118,700	200,900
Chicago	071–EE056/IL06–S931–018, New Pisgah Mission, 8130 South Racine St., Chicago, IL 60620.	Chicago, IL	M	2	1	61	4,202,200	200,900
Subsubtotal					6	473	32,099,600	1,567,100
INDIANA								
Indianapolis	073–EE029/IN36–S931–006, UCR, 170 East Center Street, Marion, OH 43302.	Indianapolis, IN	M		1	50	2,377,300	153,000
Indianapolis	073–EE032/IN36–S931–009, Garden Court, Inc., 400 West Washington Street, Plymouth, IN 46563.	Plymouth, IN	NM		1	41	1,951,200	124,900
Indianapolis	073–EE034/IN36–S931–011, Ahepa National HSG, 10333 N Meridian, Indianapolis, IN 46290.	Merrillville, IN	M		1	50	2,367,100	156,100
Subsubtotal					3	141	6,695,600	43,400
MICHIGAN								
Detroit	044–EE016/MI28–S931–003, National Church Re, 2335 Northbank Drive, Columbus, OH 43220.	Canton Township, MI	M		1	56	3,478,300	192,600
Detroit	044–EE017/MI28–S931–004, Evangelical Homes, P.O. Box 351015, Detroit, MI 48235.	Detroit, MI	M		1	65	4,123,900	224,100
Detroit	044–EE018/MI28–S931–005, St. Joseph Mercy H, 34605 Twelve Mile Road, Farmington Hills, MI 48331.	White Lake-Seven H, MI	M		1	40	2,543,000	136,600
Detroit	044–EE019/MI28–S931–006, Presbyterian Villa, 25300 West Six Mile Road, Redford, MI 48240.	Clinton Township, MI	M		1	56	3,554,800	192,600
Subsubtotal					4	217	13,700,000	745,900
MINNESOTA								
Minn/St Paul	092–EE013/MN46–S931–001, Ebenezer Society, 2722 Park Avenue, Minneapolis, MN 55407.	Burnsville, MN	M		1	42	2,712,300	139,300
Minn/St Paul	092–EE014/MN46–S931–002, St. Benedicts Ctr, 1810 Mn Blvd SE, St Cloud, MN 56304.	St. Cloud, MN	M		1	40	2,447,900	132,500
Minn/St Paul	092–EE016/MN46–S931–004, Good Shepherd Luth, 1115 No. 4th Avenue, Sauk Rapids, MN 55379.	Sauk Rapids, MN	M		1	42	2,556,400	142,700
Subsubtotal					3	124	7,716,600	414,500
OHIO								
Cleveland	042–EE027/OH12–S931–002, Natl Council of Se, 1331 F Street, N.W., Washington, DC 20004.	Canton, OH	M		1	67	3,954,900	231,100

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
Cleveland	042–EE031/OH12–S931–006; Volunteers of America, 3939 North Causeway Blvd, Metairie, LA 70002.	Fremont, OH	NM		1	21	1,124,000	70,100
Cleveland	042–EE034/OH12–S931–009, Our Lady of Angels, 3644 Rocky River Drive, Cleveland, OH 44111.	Cleveland, OH	M		1	41	2,564,900	143,600
Cleveland	042–EE040/OH12–S931–015, Eta Tau Lambda Cha, 695 Dunbar Drive, Akron, OH 44311.	Wooster, OH	NM	2	1	40	2,131,100	136,600
Cleveland	042–EE042/OH12–S931–017, Eta, Tau Lambda Cha, 695 Dunbar Drive, Akron, OH 44311.	Stow, OH	M	2	1	40	2,274,100	136,600
Cleveland	042–EE044/OH12–S931–019, Claymont Jaycees I, 1000 Claymont Drive, Uhrichsville, OH 44683.	Uhrichsville, OH	M		1	20	1,071,000	66,600
Columbus	043–EE023/OH16–S931–001, Washington Sq. HSG, 383 Washington Street, Newark, OH 43055.	Pataskala, OH	M		1	42	2,199,200	130,300
Columbus	043–EE024/OH16–S931–002, Washington Sq. HSG, 383 Washington Street, Newark, OH 43055.	Utica, OH	M	2	1	40	2,094,400	124,100
Columbus	043–EE025/OH16–S931–003, Luth. Soc. Ser. of, 57 East Main Street, Columbus, OH 43215.	Delaware, OH	M		1	44	2,455,000	136,500
Cincinnati	046–EE011/OH10–S931–003, Mercy Health Sys, 2335 Grandview Avenue, Cincinnati, OH 45206.	Silverton, OH	M		1	50	2,835,800	154,000
Cincinnati	046–EE012/OH10–S931–004, Warren Co. Comm. S, 570 N. State Route 741, Lebanon, OH 45036.	Waynesville, OH	M		1	40	2,258,900	125,700
Cincinnati	046–EE015/OH10–S931–007, Sycamore Sr. Adult, 4131 Cooper Road, Cincinnati, OH 45242.	Cincinnati, OH	M		1	44	2,484,800	138,300
Subsubtotal					12	489	27,458,100	1,593,500
WISCONSIN								
Milwaukee	075–EE014/WI39–S931–002, Calvary HSG Dev, 1555 W. Chambers St, Milwaukee, WI 53206.	Milwaukee, WI	M	2	1	40	2,448,200	127,400
Milwaukee	075–EE017/WI39–S931–005, Independent Living, 4375 Yellowstone Drive, Madison, WI 53719.	Fitchburg, WI	M		1	42	2,541,000	130,600
Milwaukee	075–EE019/WI39–S931–007, St Mary's Nursing, 3516 W Center Street, Milwaukee, WI 53210.	Milwaukee, WI	M		1	60	3,672,300	191,100
Subsubtotal					3	142	8,661,500	449,100
Subtotal					31	1,586	96,241,400	5,204,100
Fort Worth								
ARKANSAS								
Little Rock	082–EE041/AR37–S931–005, AAA of Southeast Arkansas, P.O. Box 8569, Pine Bluff, AR 71611.	Crossett, OH	NM		1	20	866,200	50,200

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
Little Rock	082–EE045/AR37–S931–009, White River Area Agency on Aging, P.O. Box 2637, Batesville, AR 72503.	Quitman, AR	NM		1	16	692,900	40,200
Little Rock	082–EE046/AR37–S931–010, AAA of Northwest Akansas, P.O. Box 1795, Harrison, AR 72601.	Berryville, AR	NM		1	20	856,200	50,200
Subsubtotal					4	112	485,500	278,700
Louisiana								
New Orleans	064–EE18/LA48–5931–001, VOA Inc., 3939 N. Causeway Blvd., Metairie, LA 70002.	Welsh, LA	NM		1	20	907,700	57,900
New Orleans	064–EE024/LA48–5931–007, Diocese of Lafayette, 1408 Carmel Avenue, Lafayette, LA 70501.	Jeanerette, LA	NM		1	20	927,300	57,800
New Orleans	064–EE025/LA48–5931–008, Archidocese of New Orleans, 7887 Wolmsley Blvd., New Orleans, LA 70118.	Meraux, LA	M		1	66	211,100	190,800
Subsubtotal					3	106	5,100	306,500
Oklahoma								
Oklahoma City	117–EE009/OK56–5931–004, Associated Catholic Charities, 425 NW 7th, Oklahoma City, OK 73102.	Oklahoma City, OK	M		1	40	934,200	105,300
Oklahoma City	118–EE008/OK56–5931–003, Senior Citizens Comm., 201 N. Rowe, Pryor, OK 74361.	Pryor, OK	NM		1	24	1,000	66,900
Subsubtotal					2	64	3,051,200	17,200
Texas								
Forth Worth	112–EE007/TX5931–001, Plano Community Home Sponsor, 1608–1612 Avenue L, Plano, TX 75074.	Plano, TX	M		1	61	3,146,500	176,000
Fort Worth	112–EE009/TX16–5931–006, Lamar Co Human Resources Council, 625 Washington Street, Paris, TX 75460.	Paris, TX	NM		1	50	2,434,000	143,700
Fort Worth	113–EE005/TX16–5931–003, Salvation Army, 1425 Northeast Expressway, Atlanta, GA 30329.	Waco, TX	M		1	76	3,143,300	219,900
Houston	114–EE019/TX24–5931–003, Metro YMCA of Beaumont, 934 Calder Avenue, Beaumont, TX 7704.	Beaumont, TX	M		1	40	1,805,400	115,500
Houston	114–EE020/TX24–5931–004, NCR, 2335 North Bank Drive, Columbus, OH 43220.	Houston, TX	M		1	62	3,218,900	180,500
San Antonio	115–EE021/TX59–5931–004, Amigos Del Valle, Inc., 1116 N. Conway Ave., Mission, TX 78572.	Brownsville, TX	M	4	1	57	2,614,500	153,900
San Antonio	115–EE025/TX59–5931–008, Rotary Club of Del Rio, P.O. Box 215, Del Rio, TX 78840.	Del Rio, TX	NM		1	41	1,325,100	100,700
Subsubtotal					7	387	18,358,700	1,101,200
Subtotal					16	669	31,131,500	1,855,600
Kansas City								
Iowa								
Des Moines	074–EE009/IA5931–001, Ahepa National Housing, 10333 N. Meridian Drive, Indianapolis, IN 46290.	Akeny, IA	M		1	53	2,724,200	151,000
Subsubtotal					1	53	2,724,200	151,000

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
Kansas								
Kansas City ...	102–EE009/KS16–S931–001, Natl Hispanic Council on Aging, 2713 Ontario Road NW, Washington, DC 20009.	Barden City, KS	NM	4	1	40	1,732,400	109,400
Subsubtotal	.....	.....		.....	1	40	1,732,400	1,094,400
Missouri								
Kansas City ...	084–EE008/MO16–S931–001, Lifelink Corporation, 331 South York ROad, Bensenville, IL 60106.	Kansas City, MO	M	.....	1	44	2,425,200	140,100
Kansas City ...	084–EE010/MO16–S931–003, Catholic Charities, 1112 Broadway, Kansas City, MO 64105.	Kansas City, MO	M	.....	1	46	2,535,500	146,500
Kansas City ...	084–EE011/MO16–S931–004, West Central Mo Community Action Agency, P.O. Box 125, Appleton City, MO 64724.	Kansas City, MO	M	.....	1	40	2,107,300	127,400
St. Louis	5–EE018/MO36–S931–003, Lutheran Altenheim Society of MO, 1265 McLaren Avenue, St. Louis, MO 63147.	St. Louis, MO	M	2	1	75	4,514,400	251,600
Subsubtotal	.....	.....		.....	4	205	11,582,400	665,600
Nebraska								
Omaha	103–EE007/NE26–S931–001, Salvation Army, An Illinois Corp., 10 West Algonquin Road, Des Plaines, IL 60016.	Omaha, NE	M	.....	1	46	2,418,500	137,700
Subsubtotal	.....	.....		.....	1	46	2,418,500	137,700
Subtotal	.....	.....		.....	7	346	18,457,500	1,063,700
Denver								
Colorado								
Denver	101–EE006/CO99–S931–003, VOA, 3939 N. Causeway Blvd, Metairie, LA 70002.	Montrose, CO	NM	.....	1	41	2,224,100	124,100
Denver	101–EE008/CO99–S931–005, The Salvation Army, 30840 Hawthorne Blvd, Rancho Palos Verde, CA 90274.	Broomfield, CO	M	.....	1	85	4,541,400	260,500
Subsubtotal	.....	.....		.....	2	126	6,765,500	384,600
Utah								
Denver	105–EE004/UT99–S931–001, Utah NP HSG, 285 West North Temple, Salt Lake City, UT 84103.	Salt Lake City, UT	M	.....	1	65	3,297,000	174,100
Subsubtotal	.....	.....		.....	1	65	3,297,000	174,100
Subtotal	.....	.....		.....	3	191	10,062,500	558,700
San Francisco								
Arizona								
Phoenix	123–EE021/AZ20–S931–005, Chicanos Por La Causa, 1112 East Buckeye Road, Phoenix, AZ 85034.	Tucson, AZ	M	4	1	58	2,755,600	163,500
Phoenix	123–EE024/AZ20–S931–008, Holy Cross Hospital, Inc., 1171 West Target Range Road, Nogales, AZ 85621.	Nogales, AZ	NM	4	1	40	1,797,000	111,900
Subsubtotal	.....	.....		.....	2	98	4,552,600	275,400
California								
San Francisco	121–EE029/CA39–S931–003, Del Norte Senior Center, Inc., 810 H Street, Crescent City, CA 95531.	Crescent City, CA	NM	.....	1	40	2,615,000	156,000

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
San Francisco	121–EE031/CA39–S931–005, Mission Housing Development Corporation, 474 Valencia Street, Suite 202, San Francisco, CA 94103.	San Francisco, CA	M	4	1	50	3,809,300	200,000
San Francisco	121–EE032/CA39–S931–006, Satellite SR Homes/Pre-School Coord, Council, 360–22nd Street, Suite 700, Oakland, CA 94612.	Pittsburg, CA	M	.....	1	79	5,903,900	312,000
San Francisco	121–EE038/CA39–S931–012, Bridge Housing Corporation, 82 Second Street, Suite 200, San Francisco, CA 94105.	Vallejo, CA	M	.....	1	120	8,496,200	476,000
San Francisco	121–EE040/CA39–S931–014, Mercy Housing, Inc., 1601 Milwaukee Street, 5th Floor, Denver, CO 80206.	San Francisco, CA	M	.....	1	66	5,237,500	260,000
Los Angeles ..	122–EE034/CA16–S931–001, Telacu, 5400 E. Olympic Blvd., Los Angeles, CA 90022.	El Monte, CA	M	4	1	70	5,183,900	220,800
Los Angeles ..	122–EE035/CA16–S931–002, Telacu, 5400 E. Olympic Blvd. Los Angeles, CA 90022.	Pasadena, CA	M	4	1	70	5,183,900	220,800
Los Angeles ..	122–EE037/CA16–S931–004, Cooperative Services, Inc., 25900 Greenfield, Suite 326, Oak Park, MI 48238.	Palm Springs, CA	M	.....	1	60	4,086,400	188,800
Los Angeles ..	122–EE038/CA16–S931–005, Family Services Assn. of W. Riverside County, 3634 Elizabeth Street, Riverside, CA 92506.	Riverside, CA	M	.....	1	54	3,850,000	169,600
Los Angeles ..	122–EE040/CA16–S931–007, First United Methodist Ch of Santa Monica, 1008–11th St, Santa Monica, CA 90403.	Santa Monica, CA	M	.....	1	70	5,199,900	220,800
Los Angeles ..	122–EE041/CA16–S931–008, San Ysidro Urban Council, 1188 Beyer Way, Suite 101, San Diego, CA 92154.	San Diego, CA	M	4	1	70	5,128,700	220,800
Los Angeles ..	122–EE043/CA16–S931–010, Mt. Moriah Baptist Church of Los Angeles, 4269 S. Figueroe, Los Angeles, CA 90037.	Los Angeles, CA	M	2	1	41	3,052,300	128,000
Los Angeles ..	122–EE044/CA16–S931–011, Jewish Federation Council of Greater LA, 6505 Wilshire Blvd., Los Angeles, CA 90048.	Los Angeles, CA	M	.....	1	70	5,199,900	220,800
Los Angeles ..	122–EE045/CA16–S931–012, Jewish Federation Council of Greater LA, 6505 Wilshire Blvd., Los Angeles, CA 90048.	Santa Monica, CA	M	.....	1	66	4,903,700	208,000
Los Angeles ..	122–EE046/CA16–S931–013, Volunteers of America, Inc., 3939 North Causeway Boulevard, Metairie, LA 70002.	Santa Monica, CA	M	.....	1	40	2,978,200	124,800
Los Angeles ..	122–EE050/CA16–S931–017, Broadway Towers, Inc., 1800 Century Blvd. N.E., Suite 1260, Atlanta, GA 30345.	Los Angeles, CA	M	.....	1	70	5,199,900	220,800
Sacramento ...	136–EE007/CA30–S931–002, Volunteers of America, Inc., 3939 N. Causeway Blvd., Suite 400, Metairie, LA 70002.	Roseville, CA	M	.....	1	79	4,991,900	234,000
Subtotal	.....	.....		.....	17	1,115	81,220,600	378,2000

SECTION 202 PROGRAM FOR THE ELDERLY (TO ACCOMPANY HUD 93–99)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Capital advance amount	Rental assistance contract authority
Hawaii								
Honolulu	140–EE005/HI10–S931–001, Kale Maheolu Elima, 200 Hina Ave., Kahului, HI 96732–9998.	Khului, HI	NM	5	1	40	4,654,200	140,000
Subsubtotal					1	40	4,654,200	140,000
Nevada								
San Francisco	121–EE045/NV39–S931–001, Volunteers of America, Inc., 3939 North Causeway Boulevard, Metairie, LA 70002.	Las Vegas, NV	M		1	75	3,764,300	243,400
Subsubtotal					1	75	3,764,300	243,400
Subtotal					21	1,328	94,191,700	4,440,800
Seattle								
Idaho								
Portland	124–EE005/ID16–S931–001, National Benevolent Assn., 11780 Borman Drive, Suite 200, St. Louis, MO 63146.	Burley, ID	NM		1	40	2,104,300	118,200
Portland	124–EE006/ID16–S931–002, Grand Lodge of Idaho, 920 Grant, Caldwell, ID 83605.	Caldwell, ID	NM		1	40	2,104,300	115,200
Subsubtotal					2	80	4,208,600	233,400
Oregon								
Portland	126–EE011/OR16–S931–001, Union Labor Retire, 1625 SE Lafayette Street, Portland, OR 97202.	Portland, OR	M		1	56	3,078,700	170,100
Portland	126–EE013/OR16–S931–003, Rogue Valley Manor, 1200 Mira Mar, Medford, OR 97504.	Klamath Falls, OR	NM		1	40	2,245,300	121,500
Subtotal					2	96	5,324,000	291,600
Washington								
Seattle	127–EE009/WA19–S931–001, The Salvation Army, 30840 Hawthorne Blvd., Rancho Palos Verde, CA 90274.	Puyallup, WA	M		1	41	2,597,000	132,400
Seattle	171–EE001/WA19–S931–003, Cathedral of St. John the Evangelist, E. 245 13th Avenue, Spokane, WA 99202.	Spokane, WA	M		1	41	2,186,500	129,800
Seattle	171–EE002/WA19–S931–004, Blue Mountain Action Council, 34 Boyer Avenue, Walla Walla, WA 99362.	Walla Walla, WA	NM		1	10	530,000	32,000
Seattle	171–EE007/WA19–S931–009, Catholic Charities, West 1023 Riverside, Spokane, WA 99210.	Clarkston, WA	NM		1	30	1,601,100	95,000
Subsubtotal					4	122	6,914,600	389,200
Subtotal					8	298	16,447,200	914,200
Total					165	9,043	571,821,000	31,104,700

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Boston Massachusetts									
Boston	023–HD031/MA06–Q931–001, Minute Man ARC, 747 Main Street, Concord, MA 01742.	Concord, MA	M		1	20	WDD	825,900	91,200

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Boston	023–HD032/MA06–Q931–002, Mental Health Programs, 28 Travis Street, Boston, MA 02134.	Roxbury, MA	M		1	12	WPD	821,200	54,700
Boston	023–HD034/MA06–Q931–004, E. Middlesex ARC, 603 Main Street, Melrose, MA 02176.	Reading, MA	M		1	12	WDD	446,100	54,700
Boston	023–HD035/MA06–Q931–005, ARC, E. Militia Hts., P.O. Box, Needham, MA 02192.	Needham, MA	M		1	10	WDD	680,800	45,600
Boston	023–HD036/MA06–Q931–006, MH & Retardation Svcs, Inc., One Parker Street, Lawrence, MA 01840.	Lawrence, MA	M		1	11	CMI	765,000	45,600
Boston	023–HD039/MA06–Q931–009, S. Shore Housing Development, 169 Summer Street, Kingston, MA 02364.	Taunton, MA	NM		1	6	CMI	436,600	27,400
Boston	023–HD040/MA06–Q931–010, Central Middlesex ARC, 17 Everberg Road, Woburn, MA 01801.	Reading, MA	M		1	3	WDD	298,600	13,700
Boston	023–HD041/MA06–Q931–011, MHA of Springfield, 146 Chestnut Street, Springfield, MA 01103.	Chicopee, MA	M		1	3	WDD	233,800	13,700
Boston	023–HD042/MA06–Q931–012, MHA of Springfield, 146 Chestnut Street, Springfield, MA 01103.	Springfield, MA	M		1	2	CMI	167,600	9,200
Boston	023–HD043/MA06–Q931–013, MHA of Springfield, 146 Chestnut Street, Springfield, MA 01103.	Springfield, MA	M		1	3	CMI	218,100	13,700
Boston	023–HD044/MA06–Q931–014, MHA of Springfield, 146 Chestnut Street, Springfield, MA 01103.	Wilbraham Town, MA.	M		1	4	WDD	296,100	18,300
Boston	023–HD045/MA06–Q931–015, MHA of Greater Lowell, 99 Church Street, Lowell, MA 01858.	Lowell, MA	M		1	11	CMI	862,900	45,600
Subsubtotal					12	97		6,052,700	433,400
Maine									
Manchester	024–HD004/ME36–Q931–001, Wash Co. ARC, P.O. Box 88, Machias, ME 04654.	Eastport, ME	NM		1	6	WDD	286,600	20,600
Manchester	024–HD005/ME36–Q931–002, Shoreline Comm. MHC, 18 Pleasant Street, Brunswick, ME 04011.	Brunswick Center, ME.	NM		1	6	CMI	369,000	20,500
Manchester	024–HD006/ME36–Q931–003, Tri-County MHC, 106 Campus Avenue, Lewiston, ME 04240.	Lewiston, ME	M		1	15	CMI	891,100	47,900
Manchester	024–HD008/ME36–Q931–004, Crotched Mountain FDN, 1 Verney Drive, Greenfield, NH 03047.	Portland, ME	M		1	16	WPD	976,000	54,700
Subsubtotal					4	43		2,522,700	143,700

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Rhode Island									
Providence	016–HD002/RI43–Q931–001, UCP, 500 Prospect Street, Pawtucket, RI 02860.	Johnston, RI	M		1	11	WPD	867,000	57,000
Providence	016–HD003/RI43–Q931–002, Good News Housing, 1043 Broad Street, Providence, RI 02905.	Providence, RI	M		1	3	CMI	264,200	12,300
Subsubtotal					2	14		1,131,200	69,300
Vermont									
Manchester	024–HD007/VT36–Q931–001, Howard Center, 300 Flynn Avenue, Burlington, VT 05401.	Burlington, VT	M		1	5	WDD	246,500	16,700
Subsubtotal					1	5		246,500	16,700
Subtotal					19	159		9,953,100	663,100
New York									
New Jersey									
Newark	031–HD015/NJ39–Q931–004, ARC/Morris County Chapter New Jersey Inc., P.O. Box 123, Morris Plains, NJ 07950.	Parsippany-Troyhills, NJ.	M		1	6	WDD	386,300	28,300
Newark	031–HD016/NJ39–Q931–005, Spectrum For Living, 210 Riverdale Road, Riverdale, NJ 07675.	Haworth, NJ	M		1	6	WDD	386,300	28,300
Newark	031D017/NJ39–Q931–006, Spectrum For Living, 210 Riverdale Road, River Vale, NJ 07675.	Maywood, NJ	M		1	6	WDD	386,300	28,300
Newark	031D018/NJ39–Q931–007, Collaborative Supp., 30 Broad Street, Freehold, NJ 07728.	Union Beach, NJ.	M		1	3	CMI	313,200	14,200
Newark	031D019/NJ39–Q931–008, Aim For Success, Inc., 1130 McBride Avenue, West Paterson, NJ.	Paterson, NJ	M		1	3	CMI	313,200	14,200
Newark	031–HD020/NJ39–Q931–009, South Brunswick Citizen, P.O. Box 600, Kingston, NJ 08528.	South Brunswick Twp, NJ.	M		1	11	WDD	902,000	47,200
Newark	031–HD022/NJ39–Q931–011, Arcmonmouth Unit, 1158 Wayside Road, Tinton Falls, NJ 07712.	Farmingdale, NJ	M		1	4	WDD	344,500	18,900
Newark	035–HD014/NJ39–Q931–016, Community Options, 5 Third Street, Bordenton, NJ 08550.	West Windsor Twp, NJ.	M		1	4	WDD	325,800	17,100
Newark	035–HD015/NJ39–Q931–017, Collaborative Supp, 30 Broad Street, Freehold, NJ 07728.	Northfield, NJ	M		1	3	CMI	284,600	12,900
Newark	035–HD016/NJ39–Q931–018, Mercer Alliance, 404 Market Street, Trenton, NJ 08648.	West Windsor Twp, NJ.	M		1	3	CMI	284,600	12,900
Newark	035–HD017/NJ39–Q931–019, CTR Innovative Fam, 2482 Pennington Road, Trenten, NJ 08638.	Princeton, NJ	M		1	4	WDD	312,800	17,100
Subsubtotal					11	53		4,239,600	239,400

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
New York									
New York	012–HD016/NY36–Q931–001, Crystal Run Village, RD2 Box 98, Middletown, NY 10940.	Bethel, NY	NM		1	8	WDD	403,500	39,100
New York	012–HD017/NY36–Q931–002, New York Society for the Deaf, 817 Broadway, New York, NY 10003.	Bronx, NY	M		1	21	WPD	1,883,600	97,600
New York	012–HD018/NY36–Q931–003, New York Society for the Deaf, 817 Broadway, New York, NY 10003.	Bronx, NY	M		1	25	WPD	2,225,700	117,100
Buffalo	014–HD009/NY06–Q931–001, NYS ARC, INC–GEN, 64 Walnut St, Batavia, NY 14021.	Elba Town, NY	NM		1	6	WDD	306,800	22,300
Buffalo	014–HD011/NY06–Q931–003, Urban League of RO, 265 N. Clinton Ave, Rochester, NY 14605.	Brighton, NY	M	2	1	24	WDD	775,700	88,800
Buffalo	014–HD012/NY06–Q931–004, UCP of WNY Inc, 7 Community Drive, Buffalo, NY 14225.	Williamsville, NY	M		1	17	WDD	902,700	63,000
Subsubtotal					6	101		6,498,000	427,900
Subtotal					17	154		10,737,600	667,300
Philadelphia									
Delaware									
Philadelphia	032–HD004/DE26–Q931–001, Alliance Mentally, 2500 W. 4th Street, Wilmington, DE 19805.	Wilmington, DE	M		1	18	CMI	1,416,300	65,000
Philadelphia	032–HD005/DE26–Q931–002, The ARC of Delaware, 240 N. James St., Wilmington, DE 19804.	Bridgeville, DE	M		1	15	WDD	836,400	54,200
Subsubtotal					2	33		2,252,700	119,200
Maryland									
Washington	000–HD016/MD39–Q931–001, UND Cerebral palsy, 1522 K Street, N.W., Washington, DC 20005.	Silver Spring, MD.	M		1	2	WDD	132,500	7,300
Washington	000–HD017/MD39–Q931–002, Vesta Inc., 2340 University Blvd, EA, Adelphi, MD 20783.	Hillcrest heights, MD.	M		1	21	CMI	1,704,600	76,000
Washington	000–HD020/MD39–Q931–003, Hughes United Meth, 10700 Georgia Ave, Wheaton, Md 20902.	Wheaton, MD	M		1	24	WDD	1,590,800	83,300
Baltimore	052–HD006/MD06–Q931–001, Way Station, Inc., P.O. Box 3826, Frederick, MD 20701.	Frederick, MD	M		1	12	CMI	914,400	40,800
Baltimore	052–HD007/MD06–Q931–002, Community Living I, 431 Carrollton Drive, Frederick, MD 21701.	Frederick, MD	M		1	12	WDD	947,300	40,800
Baltimore	052–HD008/MD06–Q931–003, Baltimore Mental Health, 201 East Baltimore Street Baltimore, MD 21202.	Baltimore, MD	M		1	18	CMI	1,098,000	61,200
Subsubtotal					6	89		6,387,400	309,400

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Pennsylvania									
Pittsburgh ...	033–HD013/PA26–Q931–001, H.A.N.D.S., 139 East 12th Street, Erie, PA 16501.	Meadville, PA ...	NM	.....	1	14	CMI	796,300	44,300
Pittsburgh ...	033–HD016/PA26–Q931–004, Skills of Cntrl PA, 805 Chestnut, St, Altoona, PA 16601.	Altoona, PA	M	.....	1	9	WDD	558,800	28,500
Pittsburgh ...	033–HD017/PA26–Q931–005, Human Services Ctr, P.O. Box 310, New Castle, PA 16103.	Pulaski Twp, PA	NM	.....	1	8	WDD	295,900	25,400
Pittsburgh ...	033–HD018/PA26–Q931–006, Erie Independence, 2222 Filmore Avenue, Ere, PA 16506.	Erie, PA	M	.....	1	11	WPH	625,700	34,900
Philadelphia	034–HD020/PA26Q931–002, Brian's House, Inc, 1300 South Concord Road, West Chester, PA 19382.	Downingtown, PA.	M	.....	1	3	WDD	263,800	12,800
Philadelphia	034–HD024/PA26–Q931–006, Ken Crest Centers, One Plymouth Meeting, Plymouth Meeting, PA 19462.	Limerick Twp, PA.	M	.....	1	8	WDD	564,600	34,000
Philadelphia	034–HD026/PA26–Q931–008, Resources for HUMA, 4101 Kelly Drive, Philadelphia, PA 19129.	Abington, PA	M	.....	1	3	WDD	263,800	12,800
Subsubtotal.	.....	.....		.....	7	56		3,368,900	192,700
Virginia									
Richmond ...	051–HD011/VA36–Q931–001, Assoc for Retarded, 51 Battle Road, Hampton, VA 23666.	Newport News, VA.	M	.....	1	5	WDD	231,800	15,200
Richmond ...	051–HD012/VA36–Q931–002, Richmond Residenti, 2926 W. Marshall Street, Richmond, VA 23240.	Richmond, VA ..	M	.....	1	5	CMI	220,700	15,200
Richmond ...	051–HD013/VA36–Q931–003, Chesterfield Alter, P.O. Box 281, Chesterfield, VA 23832.	Chesterfield County, VA.	M	.....	1	3	WDD	203,300	9,200
Richmond ...	051–HD014/VA36–Q931–004, Southside Communit, P.O. Box 488 424 Hamilto, South Boston, VA 24592.	South Boston, VA.	NM	.....	1	15	CMI	797,500	45,600
Richmond ...	051–HD015/VA36–Q931–005, Chesterfield Alter, PO Box 281, Chesterfield, VA 23236.	Richmond, VA ..	M	.....	1	4	WDD	217,600	12,200
Richmond ...	051–HD016/VA36–Q931–006, Chesterfield Alter, P.O. Box 281, Chesterfield, VA 23832.	Richmond, VA ..	M	.....	1	4	WDD	217,600	12,200
Subsubtotal.	.....	.....		.....	6	36		1,688,500	109,600
West Virginia									
Charleston ..	045–HD008/WV15–Q931–001, Northwood Health S, 111 Nineteenth Street, Wheeling, WV 26003.	Wheeling, WV ..	M	.....	1	8	CMI	276,000	26,200
Charleston ..	045–HD009/WV15–Q931–002, Western Dist. Guid, 2121 Seventh Street, Parkersburg, WV 26101.	Parkersburg, WV.	M	.....	1	16	CMI	827,400	52,900

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Charleston ..	045–HD010/WV15–Q931–003, Human Resource Dev, 1644 Mileground, Morgantown, WV 26505.	Morgantown, WV.	NM	.....	1	36	WPD	2,020,700	114,500
Charleston ..	045–HD011/WV15–Q931–004, Prester Center For, 3375 Route 60 East, Huntington, WV 25705.	West Hamlin, WV.	NM	.....	1	6	CMI	235,900	19,700
Subsubtotal.	.....	.....		.....	4	66		3,360,000	213,300
Subtotal ...	.....	.....		.....	25	280		17,257,500	944,200
Atlanta									
Alabama									
Birmingham	062–HD021/AL09–Q931–001, Sw Al Fnd for Mental Health/Mental Retard, 328 West Clairborne Stre, Monroeville, AL 36461.	East Brewton, AL.	NM	.....	1	20	CMI	883,600	51,700
Birmingham	062–HD022/AL09–Q931–002, UCP of Greater Birmingham/UCP Assn Inc., 2430 11th Avenue, North, Birmingham, AL 35234.	Homewood, AL	M	.....	1	7	WDD	384,100	19,100
Subsubtotal.	.....	.....		.....	2	27		1,267,700	70,800
Florida									
Jacksonville	066–HD014/FL29–Q931–002, Stein Gerontological Institute, 5200 NE 2nd Ave., Miami, FL 33137.	Miami, FL	M	.....	1	5	WPD	246,500	14,400
Jacksonville	067–HD011/FL29–Q931–003, Harbor Behavioral Health Care, P.O. Box 428, New Port Richey, FL 34656.	New Port Richey, FL.	M	.....	1	3	CMI	165,400	7,600
Jacksonville	067–HD012/FL29–Q931–004, Harbor Behavioral Health Care, P.O. Box 428, New Port Richey, FL 34656.	Port Richey, FL	M	.....	1	16	CMI	805,600	40,600
Jacksonville	067–HD013/FL29–Q931–005, Harbor Behavioral Health Care, PO Box 428, New Port Richey, FL 34656.	New Port Richey, FL.	M	.....	1	4	CMI	203,900	10,200
Jacksonville	067–HD014/FL29–Q931–006, Boley, Inc., 1236 9th St. N., St. Petersburg, FL 33705.	Pinellas County, FL.	M	.....	1	15	CMI	727,200	38,000
Jacksonville	067–HD015/FL29–Q931–007, Boley, Inc., 1236 9th St. N., St. Petersburg, FL 33705.	Pinellas Park, FL.	M	.....	1	24	CMI	1,217,300	60,800
Subsubtotal.	.....	.....		.....	6	67		3,365,900	171,600
Georgia									
Atlanta	061–HD018/GA06–Q931–002, GA Rehab Institute, 1355 Independence Drive, Augusta, GA 30901.	Augusta, GA	M	.....	1	9	WPD	519,200	24,900
Atlanta	061–HD019/GA06–Q931–003, GA Rehab Institute, 1355 Independence Dr, Augusta, GA 30901.	Augusta, GA	M	.....	1	6	WPD	287,000	13,900
Atlanta	061–HD021/GA06–Q931–005, Southwest Ga Easter Seal Society, 1906 Palmyra Road, Albany, GA 31701.	Unadilla, GA	NM	2	1	10	WDD	478,300	22,100

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Atlanta	061–HD022/GA06–Q931–006, Uniontowns Vols for Handicap/Aldersgate HMS, P.O. Box 593, Blairsville, GA 30512.	Blairsville, GA	NM		1	5	WDD	239,100	11,100
Atlanta	061–HD023/GA06–Q931–007, Resources For Retarded Adults Inc., 1200 Old Ellis Road, Roswell, GA 30076.	Union City, GA	M		1	15	WDD	717,500	33,200
Atlanta	061–HD024/GA06–Q931–008, Dekalb MR Auxiliary Inc., 2660 Osborne Road NE, Atlanta, GA 30319.	Stone Mountain, GA.	M		1	4	WDD	191,300	11,100
Subtotal					6	49		2,432,400	116,300
Kentucky									
Louisville	083–HD027/KY36–Q931–001, Pathways Inc., P.O. Box 790 Ashland, KY 41105.	Ashland, KY	M		1	4	WDD	227,200	11,700
Louisville	083–HD028/KY36–Q931–002, Pathways Inc., P.O. Box 790 Ashland, KY 41105.	Morehead, KY	NM		1	4	WDD	227,200	11,700
Louisville	083–HD029/KY36–Q931–003, The Cain Center For The Disabled Inc., 735 East Chestnut Street, Louisville, KY 40202.	Louisville, KY	M		1	24	WPD	1,714,600	70,300
Louisville	083–HD030/KY36–Q931–004, Cedar Lake Lodge Inc., P.O. Box 269, LaGrange, KY 40031.	Louisville, KY	M		1	5	WDD	218,900	11,700
Subtotal					4	37		2,387,900	105,400
North Carolina									
Greensboro	053–HD064/NC19–Q931–001, United Methodist Agency for Retarded/West. NC, 1040 E. Woodlawn Road, Charlotte, NC 28209.	Gastonia, NC	M		1	7	WDD	280,300	17,600
Greensboro	053–HD065/NC19–Q931–002, ARC NC Inc. & ARC/HDS Inc., PO Box 29594, Greensboro, NC 27429.	Madison, NC	M		1	7	WDD	267,900	17,600
Greensboro	053–HD066/NC19–Q931–003, ARC NC Inc. & ARC/HDS Inc., PO Box 29594, Greensboro, NC 27429.	Sanford, NC	NM		1	7	WDD	283,400	17,600
Greensboro	053–HD067/NC19–Q931–004, ARC NC Inc. & ARC/HDS Inc., PO BOX 29594 Greensboro, NC 27429.	Albemarle, NC	NM		1	7	WDD	280,300	17,600
Greensboro	053–HD068/NC19–Q931–005, Mental Health Association In NC Inc., 3820 Bland Road, Raleigh, NC 27609.	Goldsboro, NC	NM		1	7	CMI	253,600	17,600
Greensboro	053–HD069/NC19–Q931–006, Mental Health Association In NC Inc., 3820 Bland Road, Raleigh, NC 27609.	Asheboro, NC	M		1	7	CMI	253,600	17,600
Greensboro	053–HD070/NC19–Q931–007, AIDS Serv AG of Orange Co. & Inter-Faith Coun, PO Box 16574, Chapel Hill, NC 27514.	Carrboro, NC	M		1	7	WPD	283,400	17,600

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Greensboro	053–HD071/NC19–Q931–008, Mental Health Association In NC Inc., 3820 Bland Rd., Raleigh, NC 27609.	Albemarle, NC	NM		1	11	CMI	639,900	32,300
Greensboro	053–HD072/NC19–Q931–009, Mental Health Association In NC Inc., 3820 Bland Rd., Raleigh, NC 27609.	Wadesboro, NC	NM		1	7	CMI	265,400	17,600
Greensboro	053–HD073/NC19–Q931–010, Mental Health Association In NC Inc., 3820 Bland Road, Raleigh, NC 27609.	Charlotte, NC	M		1	7	CMI	265,400	17,600
Greensboro	053–HD074/NC19–Q931–011, Mental Health Association In NC Inc., 3820 Bland Road, Raleigh, NC 27609.	Fayetteville, NC	M		1	11	CMI	647,000	32,300
Greensboro	053–HD075/NC19–Q931–012, Mental Health Association In NC Inc., 3820 Bland Road, Raleigh, NC 27609.	Gastonia, NC	M		1	11	CMI	639,900	32,300
Greensboro	053–HD076/NC19–Q931–013, ARC NC Inc. & ARC/HDS Inc., PO Box 29594, Greensboro, NC 27429.	Eden, NC	NM		1	7	WDD	267,900	17,600
Subtotal					13	103		4,528,000	272,900
South Carolina									
Columbia	054–HD038/SC16–Q931–001, Mental Health Association In Aiken Co., Post Office Box 1074, Aiken, SC 29802.	Aiken, SC	M		1	20	CMI	1,001,900	54,400
Columbia	054–HD039/SC16–Q931–002, Pee Dee Housing Development Corporation, Post Office Box 7121, Florence, SC 29502.	Florence County, SC.	M		1	12	CMI	597,200	32,700
Columbia	054–HD040/SC16–Q931–003, Orangeburg Association For Retarded Citizens, Post Office Box 1812, Orangeburg, SC 29115.	Holly Hill, SC	NM		1	12	WDD	820,800	32,700
Columbia	054–HD042/SC16–Q931–005, Laurens Co. Association For Retarded Citizens, Post Office Box 735, Laurens, SC 29360.	Laurens, SC	NM		1	9	WDD	597,200	32,700
Columbia	054–HD043/SC16–Q931–006, Sumter Co. Mental Retardation Board Inc., Post Office Box 2847, Sumter, SC 29151.	Sumter, SC	NM		1	9	WDD	615,600	24,500
Columbia	054–HD044/SC16–Q931–007, Greenville Assoc for the Retarded, Post Office Box 17007, Greenville, SC 29606.	Greenville County, SC.	M		1	9	WDD	619,500	24,500
Columbia	054–HD045/SC16–Q931–008, Tri-development Center of Aiken County Inc, Post Office Box 888, Aiken, SC 29802.	Aiken County, SC.	M		1	4	WDD	206,500	8,200

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Columbia	054–HD048/SC16–Q931–009, Friendship Center, 1135 Carter Street, Columbia, SC 29204.	Cayce, SC	M		1	20	CMI	995,400	54,400
Columbia	054–HD047/SC16–Q931–010, Friendship Center, 1135 Carter Street, Columbia, SC 29204.	Richland County, SC.	M		1	15	CMI	796,300	43,600
Columbia	054–HD048/SC16–Q931–011, Berkeley Citizens Inc, Post Office Drawer 429, Moncks Corner, SC 29461.	Moncks Corner, SC.	M		1	8	WDD	425,100	16,400
Columbia	054–HD050/SC16–Q931–013, Hope Services Inc, Post Office Box 31729, Charleston, SC 29417.	Charleston County, SC.	M		1	4	WPD	209,000	8,200
Columbia	054–HD052/SC16–Q931–015, The Junior Welfare League Inc, Post Office Box 10820, Rock Hill, SC 29731.	York County, SC.	M		1	12	WDD	605,000	32,700
Columbia	054–HD053/SC16–Q931–016, The Charles Lea Center for Rehab & Spec Educ, 195 Burdette Street, Spartanburg, SC 29307.	Spartanburg County, SC.	M		1	4	WPD	206,500	8,200
Columbia	054–HD054/SC16–Q931–017, The Charles Lea Center for Rehab & Spec Educ, 195 Burdette Street, Spartanburg, SC 29307.	Spartanburg, SC	M		1	12	WDD	619,500	24,500
Subtotal					14	154		8,315,500	397,700
Tennessee									
Nashville	081–HD010/TN40–Q931–001, Northwest Counseling, P.O. Box 530, Martin, TN 38237.	Dyersburg, TN	NM		1	21	CMI	997,700	55,300
Nashville	085–HD002/TN43–Q931–002, Cumberland Mental Health Service Inc, PO Box 657–1404 Winter D, Lebanon, TN 37087.	Lebanon, TN	M		1	2	CMI	102,600	5,200
Knoxville	087–HD011/TN37–Q931–001, Emory Valley Center Inc, 715 Emory Valley Rd, Oak Ridge, TN 37830.	Oak Ridge, TN	M		1	7	WDD	237,700	16,200
Knoxville	087–HD012/TN37–Q931–002, Overlook Ctr Inc, 3001 Lake Brook Blvd, Knoxville, TN 37909.	Knoxville, TN	M		1	8	CMI	377,500	21,600
Knoxville	087–HD013/TN37–Q931–003, Overlook Ctr Inc, 3001 Lake Brook Blvd, Knoxville, TN 37909.	Maryville, TN	M		1	6	CMI	283,100	16,200
Knoxville	087–HD014/TN37–Q931–004, The Aim Center Inc, 1903 McCallie Ave, Chattanooga, TN 37404.	Chattanooga, TN.	M		1	8	CMI	385,200	21,600
Knoxville	087–HD015/TN37–Q931–005, Orange Grove Ctr Inc, PO Box 3249, Chattanooga, TN 37404.	Chattanooga, TN.	M		1	18	WDD	509,100	43,200
Knoxville	087–HD016/TN37–Q931–006, Orange Grove Ctr Inc, PO Box 3249, Chattanooga, TN 37404.	Chattanooga, TN.	M		1	10	WDD	437,300	21,600

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Subsubtotal					8	80		3,330,200	200,900
Subtotal					53	517		25,727,600	1,335,600
Chicago									
Illinois									
Chicago	071–HD032/IL06–Q931–008, Franciscan Ministries, P.O. Box 667, Wheaton, IL 60189.	Wheaton, IL	M		1	12	WPD	841,400	40,200
Chicago	072–HD027/IL06–Q931–003, Brown County Mental Health Center, 111 West Washington St., Mount Sterling, IL 62353.	Mount Sterling, IL.	NM		1	16	CMI	894,600	53,600
Chicago	072–HD028/IL06–Q931–004, Futures Unlimited, 210 E. Torrance Ave., Pontiac, IL 61764.	Pontiac, IL	NM		1	18	CMI	1,018,100	53,600
Chicago	072–HD030/IL06–Q931–006, Brown County Mental Health Center, 111 West Washington St., Mount Sterling, IL 62353.	Mount Sterling, IL.	NM		1	16	CMI	894,600	53,600
Subtotal					4	62		3,648,700	201,000
Indiana									
Indianapolis	073–HD022/IN36–Q931–007, Quinco Consulting, 2075 Lincoln Park Drive, Columbus, IN 47201.	Seymour, IN	NM		1	21	CMI	950,200	62,400
Indianapolis	073–HD023/IN36–Q931–008, Otis R Bowen Center, 850 North Harrison, Warsaw, IN 46580.	Warsaw, IN	NM		1	21	CMI	950,200	62,400
Indianapolis	073–HD025/IN36–Q931–010, Quinco Consulting, 2075 Lincoln Park Drive, Columbus, IN 47201.	Columbus, IN	NM		1	9	CMI	160,900	24,900
Indianapolis	073–HD026/IN36–0931–011, Tri-City Mental Health, 3903 Indianapolis Blvd, East Chicago, IN 46312.	East Chicago, IN.	M		1	6	CMI	336,500	18,700
Indianapolis	073–HD027/IN36–Q931–012, Quinco Consulting, 2075 Lincoln Park Drive, Columbus, IN 47201.	North Vernon, IN.	NM		1	9	CMI	160,900	24,900
Subsubtotal			M		5	66		2,558,700	193,300
Michigan									
Detroit	044–HD005/MI28–Q931–001, Springhill Housing, 4200 Charms Court, Milford, MI 48042.	Washington TWP, MI.	M		1	6	WDD	290,000	21,100
Subsubtotal			M		1	6		290,000	21,100
Minnesota									
Minn/St Paul	092–HD013/MN46–Q931–002, Accessible Space, 2550 University Avenue W, St Paul, MN 55114.	Stillwater, MN	M		1	24	WPD	1,583,600	81,600
Minn/St Paul	092–HD016/MN46–Q930–005, National Handicap, 4556 Lake Drive, Robbinsdale, MN 55422.	New Brighton, MN.	M		1	25	WPD	1,703,300	81,600
Minn/St Paul	092–HD017/MN46–Q931–006, Comm. Involvement, 1845 Stingson Blvd NE, Minneapolis, MN 55418.	Minneapolis, MN	M		1	22	CMI	1,681,800	74,800

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Minn/St Paul	092–HD019/MN46–Q931–008, Zumbro Valley, 2116 Campus Drive SE, Rochester, MN 55904.	Rochester, MN .	M		1	12	CMI	690,400	40,800
Subsubtotal.			M		4	83		5,659,100	278,800
Ohio									
Cleveland ...	042–HD020/OH12–Q931–001, Mansfield-Richland, 452 Annadale Avenue, Mansfield, OH 44905.	Madison, OH	M	2	1	24	WPD	1,272,100	84,100
Cleveland ...	042–HD021/OH12–931–002, Stark County Comm Mental Health, 500 Cleveland Avenue, Canton, OH 44702.	Alliance, OH	M		1	16	CMI	904,900	52,600
Cleveland ...	042–HD022/OH12–Q931–003, Society Handicapped, 4263 Paradise Road, Seville, OH 44273.	Medina, OH	M		1	4	WDD	241,000	14,100
Cleveland ...	042–HD023/OH12–Q931–004, Jewish Community, 1750 Euclid Avenue, Cleveland, OH 44115.	Cleveland Heights, OH.	M		1	6	CMI	272,700	21,100
Cleveland ...	042–HD024/OH12–Q931–005, Jewish Community, 1750 Euclid Avenue, Cleveland, OH 44115.	Shaker Heights, OH.	M		1	6	CMI	272,700	21,100
Cleveland ...	042–HD026/OH12–Q931–007, Mahoning Co, 527 N. Meridan Road, Youngstown, OH 44509.	Youngstown OH	M		1	16	CMI	879,100	52,600
Cleveland ...	042–HD027/OH12–Q931–008, Mahoning Co Chemical Dependency, 527 N. Meridan Road, Youngstown, OH 44509.	Youngstown, OH.	M		1	13	WPD	796,600	63,100
Cleveland ...	042–HD029/OH12–Q931–010, Burdman Group Inc, 278 Broadway, Youngstown, OH 44504.	Warren, OH	M		1	19	CMI	1,043,900	63,100
Cleveland ...	042–HD030/OH12–Q931–011, Claymont Jaycees, Inc., 1000 Claymont Drive, Uhrichsville, OH 44683.	Uhrichsville, OH	NM		1	24	WPD	1,272,100	80,600
Cincinnati	046–HD011/OH10–Q931–001, Wilmington Mthly Mtg., 66 North Mulberry Street, Wilmington, OH 45177.	Wilmington, OH	NM		1	22	CMI	1,187,400	69,200
Subsubtotal.					10	50		8,142,500	521,600
Wisconsin									
Milwaukee ..	075–HD018/WI39–Q931–002, Goodwill Industries, 6055 North 91 Street, Milwaukee, WI 53225.	Milwaukee, WI ..	M		1	12	WDD	774,300	38,300
Milwaukee ..	075–HD019/WI39–Q931–003, Eternal Life Church of God in Christ, 200 W Concordia Ave, Milwaukee, WI 53212.	Milwaukee, WI ..	M	2	1	20	WPD	1,218,200	63,700
Milwaukee ..	075–HD020/WI39–Q931–004, Goodwill Industries, 6055 North 91 Street, Milwaukee, WI 53225	Saukville, WI	M		1	12	WPD	730,000	38,300

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Milwaukee ..	075–HD021/WI39–Q931–005, AIDS Resource Ctr of NW Side Comm. Devel., 315 West Court Street, Milwaukee, WI 53212.	Milwaukee, WI ..	M		1	6	WPD	541,800	19,200
Milwaukee ..	075–HD022/WI39–Q931–006, ARC Housing, Inc., 1126 South 70 Street, West Allis, WI 53214.	Milwaukee, WI ..	M		1	8	WDD	516,200	25,500
Subsubtotal.					5	58		3,780,500	185,000
Fort Worth									
Arkansas									
Little Rock ..	082–HD013/AR37–Q931–001, Garland Co Assn for Retarded Children, P.O. Box 2440, Hot Springs, AR 71914.	Hot Springs, AR	NM		1	20	WPD	866,200	50,200
Little Rock ..	082–HD014/AR37–Q931–002, Texarkana Resources for the Disabled, P.O. Box 19, Texarkana, AR 75504.	Texarkana, AR .	M		1	6	WDD	313,900	15,100
Little Rock ..	082–HD016/AR37–Q931–004, Pathfinder Schools, P.O. Box 647, Jacksonville, AR 72076.	Jacksonville, AR	M		1	17	WDD	745,100	40,200
Little Rock ..	082–HD017/AR37–Q931–005, Birch Tree Communities, P.O. Box 1589, Benton, AR 72015.	Malvern, AR	NM		1	20	CMI	866,200	50,200
Subsubtotal.					4	63		2,791,400	155,700
Louisiana									
New Orleans	064–HD021/LA18–Q931–001, Diocese of Lafayette, 1401 Carmel Ave., Lafayette, LA 70501.	Lafayette, LA	M		1	20	WPD	917,900	57,800
New Orleans	064–HD022/LA18–Q931–002, Natl Baptist Hsg Board, 383 Washington Street, Newark, OH 43055.	New Orleans, LA.	M		1	24	WPD	1,124,700	69,400
Subsubtotal.					2	44		2,042,600	127,200
New Mexico									
Fort Worth ..	116–HD003/NM15–Q931–001, SW New Mex. Svcs to Hndcap Children & Adults, 907 Pope St., Silver City, NM 88061.	Silver City, NM .	NM		1	5	WPH	256,900	11,500
Subsubtotal.					1	5		256,900	11,500
Oklahoma									
Oklahoma City.	117–HD005/OK56–Q931–002, Carter Cty Assn for Retarded Persons, 1103 Lake Murray Drive, Ardmore, OK 73401.	Ardmore, OK	NM		1	12	WDD	554,600	32,400
Oklahoma City.	117–HD006/OK56–Q931–003, Caddo Cnty Shelter, 102 E. Broadway, Anadarko, OK 73005.	Anadarko, OK ..	NM		1	4	WDD	184,800	10,800
Oklahoma City.	118–HD003/OK55–Q931–001, Alliance for Mentally Ill of Wash. Co., P.O. Box 3614, Bartlesville, OK 74006.	Bartlesville, OK .	NM		1	20	CMI	930,800	52,900
Subsubtotal.					3	36		1,670,200	96,100

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93-100)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Texas									
Fort Worth ..	112-HD004/TX16-Q931-001, Sabine Valley Center, P.O. Box 21, Longview, TX 75606.	Longview, TX ...	M	.....	1	7	CMI	221,100	17,600
San Antonio	115-HD008/TX59-Q931-001, Mission Rd. Development Center, 8706 Mission Road, San Antonio, TX 78216.	San Antonio, TX	M	.....	1	16	WDD	700,000	43,200
San Antonio	115-HD009/TS59-Q931-002, Accessible Space, Inc., 2550 University Avenue, St. Paul, MN 55114.	Austin, TX	M	.....	1	24	WPD	1,161,600	64,800
San Antonio	115-HD010/TX59-Q931-003, Community Agency for Self Help, 223 West Zavala, Crystal City, TX 78839.	Crystal City, TX	NM	4	1	24	CMI	1,151,900	64,800
San Antonio	115-HD011/TX59-Q931-004, Guadalupe County Mhmr, 1104 Jefferson Ave., Seguin, TX 78155.	Seguin, TX	M	.....	1	24	CMI	1,242,000	64,800
San Antonio	115-HD012/TX59-Q931-005, Inman Christian Center, 1214 Colima, San Antonio, TX 78207.	San Antonio, TX	M	.....	1	24	WPD	1,132,500	64,800
Subsubtotal.	.....	.....		.....	6	119		5,609,100	320,000
Subtotal ...	.....	.....		.....	16	267		12,370,200	710,500
Kansas City									
Iowa									
Des Moines	074-HD008/IA05-Q931-002, Metro Area Housing, 93 9th Ave, SE., Cedar Rapids, IA 52401.	Cedar Rapids, IA.	M	.....	1	16	CMI	43,500	22,800
Des Moines	074-HD010/IA05-Q931-004, Muscatine Welfare Association, 415 E. 4th Street, Muscatine, IA 52761.	Muscatine, IA ...	NM	.....	1	10	WDD	472,500	28,500
Subsubtotal.	.....	.....		.....	2	26		908,000	51,300
Kansas									
Kansas City	102-HD014/KS16-Q931-001, Area Mental Health, 1111 E. Spruce, Garden City, KS 67846.	Dodge City, KS	NM	.....	1	10	CMI	450,900	28,100
Subsubtotal.	.....	.....		.....	1	10		450,900	28,100
Missouri									
Kansas City	084-HD012/MO16-Q931-001, Lafayette County Enterprises, 109 West 19th St., Higginsville, MO 64037.	Higginsville, MO	NM	.....	1	16	WDD	760,100	51,000
Kansas City	084-HD013/MO16-Q931-002, Chariton Co. Sheltered Workshop, Inc., Route 1, Keytesville, MO 65261.	Keytesville, MO	NM	.....	1	12	WDD	601,100	38,300
Kansas City	084-HD014/MO16-Q931-003, Save Inc., P.O. Box 45301, Kansas City, MO 64111.	Kansas City, MO.	M	.....	1	28	WPD	1,501,400	85,900
St. Louis	085-HD005/MO36-Q931-002, Catholic Charities, 4532 Lindell Blvd., St. Louis, MO 63108.	St. Louis, MO ...	M	.....	1	8	CMI	275,600	26,900

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93-100)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Subsubtotal.	.....	.....		.....	4	64		3,138,200	202,100
Nebraska									
Omaha	103-HD004/NE26-Q931-001, Bethphage Mission, 11128 John Galt Blvd., Omaha, NE 68137.	Papillion, NE	M	.....	1	16	WDD	910,500	45,900
Omaha	103-HD005/NE26-Q931-002, Community Alliance, 3860 Leavenworth Street, Omaha, NE 68105.	Omaha, NE	M	.....	1	16	CMI	470,000	45,900
Omaha	103-HD006/NE26-Q931-003, Improved Living, Inc. P.O. Box 116, Norfolk, NE 68701.	Columbus, NE ..	NM	.....	1	8	CMI	464,600	23,000
Omaha	103-HD008/NE26-Q931-005, Liberty Center Services, Inc., 112 South Birch, Norfolk, NE 68701.	Norfolk, NE	NM	.....	1	16	CMI	790,300	45,900
Subsubtotal.	.....	.....		.....	4	56		2,635,400	160,700
Subtotal ...	.....	.....		.....	11	156		7,132,500	442,200
Denver									
Colorado									
Denver	101-HD006/CO99-Q931-002, Las Animas County Rehabilitation, 1205 Congress Drive, Trinidan, CO 81082.	Walsenburg, CO	NM	.....	1	4	WDD	222,600	12,500
Subsubtotal.	.....	.....		.....	1	4		222,600	12,500
Montana									
Denver	093-HD004/MT99-Q931-001, Accessible Space, Inc., 2550 University Avenue, St. Paul, MN 55114.	Great Falls, MT	M	.....	1	24	WPD	1,201,400	68,900
Subsubtotal.	.....	.....		.....	1	24		1,201,400	68,900
Utah									
Denver	105-HD002/UT99-Q931-002, Valley Mental Health, 5965 So. 9th East, Salt Lake City, UT 84121.	Salt Lake City, UT.	M	.....	1	20	CMI	979,600	51,700
Subsubtotal.	.....	.....		.....	1	20		979,600	51,700
Wyoming									
Denver	109-HD003/WY99-Q931-001, Magic City, P.O. Box 925, Cheyenne, WY 82003.	Cheyenne, WY .	M	.....	1	5	WDD	201,600	15,600
Subsubtotal.	.....	.....		.....	1	5		201,600	15,600
Subtotal ...	.....	.....		.....	4	53		2,605,200	148,700
San Francisco									
Arizona									
Phoenix	123-HD008/AZ20-Q931-001, Pact for Life, 801 West Congress Street, Tucson, AZ 85745.	Tucson, AZ	M	.....	1	25	WPD	1,268,800	68,900
Phoenix	123-HD009/AZ20-Q931-002, Mercy Housing, Inc., 550 W. Thomas Rd., #C224, Phoenix, AZ 85013.	Phoenix, AZ	M	.....	1	25	CMI	1,422,000	71,700
Subsubtotal.	.....	.....		.....	2	50		2,690,800	140,600

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
California									
San Francisco.	121–HD013/CA39–Q931–001, Housing for Independent People, 25 East Hedding Street, San Jose, CA 95112.	Fremont, CA	M		1	20	CMI	1,597,300	76,000
San Francisco.	121–HD015/CA39–Q931–003, Tenants and Owners Development Corporation, 230 Fourth Street, San Francieco, CA 94103.	San Francisco, CA.	M	2	1	24	WPD	2,368,500	97,700
San Francisco.	121–HD016/CA39–Q931–003, Resources for Community Development, 2131 University Avenue, Suite 422, Berkeley, CA 94702.	Oakland, CA	M		1	13	WPD	1,050,200	48,000
San Francisco.	121–HD017/CA39–Q931–005, Therapon/Ecumenical Assoc. for Housing, 7 Mt. Lassen, Suite D110, San Rafael, CA 94963.	San Rafael, CA	M		1	13	WDD	626,300	24,500
Los Angeles	122–HD031/CA16–Q931–002, House of Triumph/ASI, 1381 S. Highland Ave. Fullerton, CA 92632.	Fullerton, CA	M		1	25	WPD	1,915,400	76,800
Los Angeles	122–HD034/CA16–Q931–005, Downstown, Inc., P.O. Box 128, San Marcos, CA 92079.	Vista, CA	M		1	8	WDD	682,800	32,400
Los Angeles	122–HD035/CA16–Q931–006, Project Headway, 17037 Ventura Blvd., Encino, CA 91316.	Northridge, CA	M		1	6	WPH	351,100	16,200
Los Angeles	122–HD036/CA16–Q931–007, Downstown, Inc., 910 San Marcos Blvd., San Marcos, Ca 92069.	San Marcos, CA	M		1	8	WDD	682,800	32,400
Los Angeles	123–HD037/CA16–Q931–008, TLC for the Blind, 7937 Lindley Avenue, Reseda, CA 91335.	Los Angeles, CA.	M		1	12	WDD	702,200	32,400
Los Angeles	122–HD038/CA16–Q931–009, Valley Village, 17317 Roscoe Blvd., Northridge, CA 91325.	Los Angeles, CA.	M		1	12	WDD	692,200	32,100
Los Angeles	122–HD040/CA16–Q931–011, Home/Coastal Development Services, 5901 Green Valley Circle, Culver City, CA 90230.	Culver City, CA	M		1	8	WDD	341,400	12,800
Los Angeles	122–HD041/CA16–Q931–012, TLC For The Blind, 7937 Lindley Avenue, Reseda, CA 91335.	Los Angeles, CA.	M		1	12	WDD	702,200	32,400
Los Angeles	122–HD044/CA16–Q931–015, ED. Resource and Svcs Center, Inc., 10101 Jefferson Blvd., Culver City, CA 90232.	Culver City, CA	M		1	6	WDD	351,100	16,200
Los Angeles	122–HD045/CA16–Q931–016, Little Tokyo, 112 N. San Pedro, #109, Los Angeles, CA 90012.	Monterey Park, CA.	M	5	1	8	WDD	378,100	21,600

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued
[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Los Angeles	122–HD046/CA16–Q931–017, Project New Hope/Episcopal Church of LA, 1220 West 4th Street, Los Angeles, CA 90017.	Santa Monica, CA.	M		1	25	WPD	1,969,300	76,800
Los Angeles	122–HD047/CA16–Q931–018, Project New Hope/Episcopal Church of LA, 1220 West 4th Street, Los Angeles, CA 90017.	Los Angeles, CA.	M		1	15	WPD	1,212,700	76,800
Sacramento	136–HD004/CA30–Q931–001, N. Valley Catholic Soc. Svcs., 1733 Oregon Street, Redding, CA 96001.	Redding, CA	M		1	17	WDD	1,093,300	58,400
Subsubtotal.					17	232		16,716,900	763,500
Hawaii									
Honolulu	140–HD002/HI10–Q931–001, The House, 4510 Sierra Drive, Honolulu, HI 96816–2408.	Kaimuki, HI	NM		1	7	CMI	552,800	24,500
Honolulu	140–HD003/HI10–Q931–002, The House, 4510 Sierra Drive, Honolulu HI 96816–2408.	Hilo, HI	NM		1	8	CMI	567,800	28,000
Honolulu	140–HD005/HI10–Q931–004, Steadfast Housing Development Corporation, 677 Ala Moana Blvd., Suite 507, Honolulu, HI 96813–5413.	South Kona, HI	NM	5	1	5	CMI	502,900	17,500
Honolulu	140–HD007/HI10–Q931–006, Steadfast Housing Development Corporation, 677 Ala Moana Blvd., Suite 507, Honolulu, HI 96813–5413.	Honolulu, HI	M	5	1	5	CMI	502,900	17,500
Subsubtotal.					4	25		2,126,400	87,500
Nevada									
San Francisco.	121–HD010/NV39–Q931–001, Accessible Space, Inc., 2550 University Avenue West, St. Paul, MN 55114.	Carson City, NV	NM		1	24	WPD	1,250,200	79,000
Subsubtotal.					1	24		1,250,200	79,000
Subtotal					24	331		22,786,300	1,700,600
Seattle									
Alaska									
Anchorage	176–HD004/AK06–Q931–001, Asets, Inc., 2330 Mikols St, Anchorage, AK 99508.	Anchorage, AK			1	9	WPD	1,071,100	46,500
Subsubtotal.					1	9		1,071,100	46,500
Idaho									
Portland	124–HD001/ID16–Q931–001, Accessible Space, Inc., 2550 University Avenue W, St. Paul, MN 55114.	Boise, ID	M		1	24	WPD	1,131,800	70,900
Subsubtotal.					1	24		1,131,800	70,900

VOL 58 ISS 249 DE 30 1993 UMI

SECTION 811 PROGRAM FOR PERSONS WITH DISABILITIES (TO ACCOMPANY HUD 93–100)—Continued

[Fiscal Year 1993 Selections]

Office	FHA and project rental assistance contract (PRAC) numbers, sponsor name and address	Location	Metro or non-metro	Minority code	Number of projects	Units	Tenant type	Capital advance amount	Rental assistance contract authority
Oregon									
Portland	126–HD006/OR16–Q931–001, Options for Southern Oregon, Inc., 1215 SW 'G' Street, Grants Pass, OR 97526.	Grants Pass, OR.	NM		1	12	CMI	548,400	33,400
Portland	126–HD007/OR16–Q931–002, Mental Health Services, 710 SW Second Avenue, Portland, OR 97204.	Portland, OR	M		1	24	CMI	1,359,300	69,900
Portland	126–HD008/OR16–Q931–003, ARC of Lane County, 45 West Broadway, Eugene, OR 97401.	Eugene, OR	M		1	10	WDD	662,700	30,400
Portland	126–HD009/OR16–Q931–004, Ecumenical Ministries, 0245 SW Bancroft Street, Portland, OR 97201.	Portland, OR	M		1	12	CMI	722,100	33,400
Portland	126–HD010/OR16–Q931–005, Specialized Housing, Inc, 5319 SW Westgate Drive, Portland, OR 97221.	Coos Bay, OR	NM		1	22	CMI	1,000,000	63,800
Subsubtotal.					5	80		4,292,500	230,900
Washington									
Seattle	127–HD006/WA19–Q931–001, Central WA, Comprehensive Mental Health Svcs, 321 E Yakima Ave, Yakima, WA 98901.	Sunnyside, WA	M		1	12	CMI	698,100	38,000
Seattle	127–HD007/WA19–Q931–002, Counterpoint Community Mental Health Svcs, 7416 212th St SW, Edmonds, WA 98026.	Lynnwood, WA	M		1	11	CMI	706,200	35,600
Seattle	127–HD008/WA19–Q931–003, UCP Assn of King/Snohomish Counties, 4409 Interlake Ave N, Seattle, WA 98103.	Bellevue, Redmond, WA.	M		1	9	WDD	554,700	29,100
Seattle	171–HD003/WA19–Q931–004, Inland Empire Residential Resources, 111 Cataldo, Spokane, WA 99201.	Spokane, WA	M		1	6	WDD	493,900	19,000
Subsubtotal.					4	38		2,452,900	121,700
Subtotal					11	151		8,948,300	470,000
Total					209	2493		141,597,800	7,853,000

[FR Doc. 93–31652 Filed 12–29–93; 8:45 am]

BILLING CODE 4210–27–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1917; FR–3350–N–64]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact Mark Johnston, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD:

(1) Its intention to make the property available for use to assist the homeless,

(2) Its intention to declare the property excess to the agency's needs; or

(3) A statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Air Force: John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 696–5569; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; (These are not toll-free numbers).

Dated: December 23, 1993.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 12/30/93

Suitable/Available Properties

Buildings (by State)

Florida

9 Industrial Storage Bldgs.
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340003
Status: Excess
Base closure
Number of Units: 9
Comment: 792 to 23415 sq. ft., 1 story, needs rehab, scheduled to be vacant 3/31/94

17 Administrative Bldgs.
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340004
Status: Excess
Base closure
Number of Units: 17
Comment: 960 to 25653 sq. ft., 1–3 story, needs rehab, scheduled to be vacant 3/31/94

13 Dormitories
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340005
Status: Excess
Base closure
Number of Units: 13
Comment: 13426 to 26034 sq. ft., 2–3 story, needs rehab, scheduled to be vacant 3/31/94

9 Miscellaneous Bldgs.
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340006
Status: Excess
Base closure
Number of Units: 9
Comment: 1344 to 93202 sq. ft., 1–2 story, needs rehab, scheduled to be vacant 3/31/94, includes dining hall, stores, child care center, dental clinic, classroom.

8 Recreational Facilities
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340007
Status: Excess
Base closure
Number of Units: 8
Comment: 384 to 27953 sq. ft., 1–2 story, needs rehab, scheduled to be vacant 3/31/94, includes bathhouse, gymnasium, bowling center, officers club, golf club house.

6 Warehouses
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340008
Status: Excess
Base closure
Number of Units: 6
Comment: 3600 to 90683 sq. ft., 1 story, needs rehab, scheduled to be vacant 3/31/94

New Jersey

Sandy Hook Light
Middletown Co: Monmouth NJ 07732–
Location: Adjacent to Gateway National Recreation Area
Landholding Agency: DOT
Property Number: 879340001
Status: Unutilized
Comment: Brick 29' base diameter lighthouse, historic structure, needs major rehab

Land (by State)

Florida

Land
Homestead Air Force Base
Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340001
Status: Excess
Base Closure
Number of Units: 1
Comment: 843 acres, scheduled to be vacant 3/31/94

Unsuitable Properties

Buildings (by State)

Florida

1600 Family Housing Units
Homestead Air Force Base

Miami Co: Dade FL 33218–0001
Landholding Agency: Air Force-BC
Property Number: 199340002
Status: Excess
Base closure
Number of Units: 1600
Reason: Other
Comment: Extensive Deterioration
[FR Doc. 93–31837 Filed 12–29–93; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–250–4210–01 24 1a]

Publication of Initial List of Base Land Parcels Relinquished to the United States Pursuant to the Act of June 4, 1897

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In compliance with the Act of July 2, 1993, Public Law 103–48, this notice publishes the initial list of base land parcels that were relinquished, or were purported to be relinquished, to the United States of America pursuant to the Act of June 4, 1897 (as amended), and for which selection or other rights under that Act or supplemental legislation were not realized or exercised. This has resulted in situations where the ownership of the land is uncertain.

Public Law 103–48 sets forth the procedures by which these situations can be resolved. This notice is the first step in the procedure. It sets forth an initial list of base lands, located on public lands, for which the Bureau of Land Management has determined selection or other rights have not been realized or exercised. Persons asserting an interest in any base lands omitted from this initial list are invited to suggest addition of omitted parcels to the list in order to be considered for relief pursuant to this Act.

DATES: Request to add parcels to this list or other comments must be received by June 28, 1994.

ADDRESSES: Requests for addition of parcels or other comments must be addressed to the Director (260), Bureau of Land Management, United States Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Brenda Zenan in the BLM Washington Office (260), (202) 452–7787, Bill Bliesner, BLM Oregon State Office, (503) 280–7157, John Beck, BLM California State Office, (916) 978–4820, or Bill Ireland, BLM Idaho State Office, (208) 384–3162.

SUPPLEMENTARY INFORMATION: The request, to have lands added to the final list, must include the name of the person or entity granting the lands to the United States, the legal description of the lands, State and county where recorded, and the volume and page of the deed recordation book.

The Initial List has been prepared based on information in the actual possession of the Bureau of Land Management as of July 2, 1993, including information submitted to Congress pursuant to the directive contained in Senate Report No. 98–578, issued for the Fiscal Year 1985 Interior and Related Agencies Appropriation Act.

The list presents the information grouped by State, by meridian, and by county. The first column identifies the parcel of base land by an agency identifier. The second column lists the names of the individual or entity that relinquished base lands to the United States under the 1897 Act. The third column shows the legal description of the base lands by Township (T), Range (R), section (sec.), and the legal subdivisions of the section.

INITIAL LIST

Parcel No.	Grantor name	Legal description
	Bonner County, Idaho (Boise Meridian)	
1	Conrad Kohrs	T. 58 N., R. 3 W., Sec. 13, NE¼NE¼.
2	Conrad Kohrs	T. 58 N., R. 3 W., Sec. 15, NE¼NW¼.
3	N. Pacific R.R. Co	T. 59 N., R. 4 W., Sec. 1, Lots 1 & 2, NW¼, NE¼SE¼ and S½SE¼.
4	N. Pacific R.R. Co	T. 59 N., R. 4 W., Sec. 15, NE¼NE¼, W½NW¼ and SE¼NW¼.
9	N. Pacific R.R. Co	T. 63 N., R. 4 W., Sec. 11, NW¼NE¼.
10	W.J. Carney	T. 63 N., R. 4 W., Sec. 27, SW¼NW¼.
	Boundary County, Idaho (Boise Meridian)	
5	N. Pacific R.R. Co	T. 62 N., R. 3 W., Sec. 13, S½NW¼.
6	N. Pacific R.R. Co	T. 63 N., R. 3 W., Sec. 17, N½.
7	N. Pacific R.R. Co	T. 63 N., R. 3 W., Sec. 19, W½NW¼ and SE¼.
8	N. Pacific R.R. Co	T. 63 N., R. 3 W., Sec. 31, NW¼.
	El Paso County, Colorado (6th. Principal Meridian)	
11	W.E. Moses	T. 11 S., R. 67 W., Sec. 5, N. ¾ of NW¼NW¼.
	Douglas County, Colorado (6th. Principal Meridian)	
11A	Donald McIntosh	T. 9 S., R. 68 W., Sec. 2, SW¼SW¼; Sec. 3, E½SE¼; Sec. 10, NE¼NE¼.
	Custer County, South Dakota (Black Hills Meridian)	
15	Lewis Benedict	T. 3 S., R. 6 E., Sec. 31, SE¼NW¼.
16	V. Valienthine	T. 3 S., R. 6 E., Sec. 32, NW¼NE¼.
	Lincoln County, New Mexico (New Mexico Principal Meridian)	
17	W.E. Moses LS&R Co	T. 8 S., R. 15 E., Sec. 27, NW¼SW¼.
18	Jefferson D. Thomas	T. 7 S., R. 14 E., Sec. 17, E½SW¼.

INITIAL LIST—Continued

Parcel No.	Grantor name	Legal description
18A	Jesse H. Sherman	T. 10 S., R. 10 E., Sec. 29, S½NE¼.
	Catron County, New Mexico (New Mexico Principal Meridian)	
18B	Henry N. Porter	T. 9 S., R. 13 W., Sec. 26, SW¼SE¼.
	Coconino County, Arizona (Gila and Salt River Meridian)	
18C	Aztec Land & Cattle	T. 18 N., R. 11 E., Sec. 11, N½SW¼.
	Fresno County, California (Mt. Diablo Meridian)	
19	Walter N. Bush	T. 11 S., R. 30 E., Sec. 16, SW¼SE¼; Sec. 36, NW¼SW¼.
	Tulare County, California (Mt. Diablo Meridian)	
20	F.A. Hyde	T. 14 S., R. 32 E., Sec. 36, NW¼NE¼.
21	Jacob H. Cook	T. 22 S., R. 30 E., Sec. 31, Lot 4 (Tr. 37).
22	E.O. Miller	T. 23 S., R. 30 E., Sec. 16, SW¼NW¼.
	Kern County, California (Mt. Diablo Meridian)	
23	Frank S. Fugitt	T. 26 S., R. 33 E., Sec. 11, N½S½SW¼.
24	Hiram M. Harriman	T. 26 S., R. 33 E., Sec. 29, Part of E½NW¼.
26	C.E. Glover	T. 27 S., R. 37 E., Sec. 36, SW¼ and W½SE¼.
28	Marcus Hart	T. 28 S., R. 35 E., Sec. 16, S½SW¼.
	Mono County, California (Mt. Diablo Meridian)	
29	J.C. Irwin	T. 5 S., R. 30 E., Sec. 25, NW¼SE¼.
	Inyo County, California (Mt. Diablo Meridian)	
30	A.W. Foster	T. 21 S., R. 37 E., Sec. 16, S½NE¼.
	Santa Barbara County, California (San Bernardino Meridian)	
31	John D. Ackerman	T. 11 N., R. 28 W., Sec. 31, Lots 1 and 2.
	Los Angeles County, California (San Bernardino Meridian)	
32	J.D. Stoddard	T. 8 N., R. 18 W., Sec. 20, SE¼.
33	E.M. Durant	T. 7 N., R. 14 W., Sec. 5, W½ of Lot 2 and SW¼NE¼.
34	E.M. Durant	T. 7 N., R. 15 W., Sec. 5, SW¼NW¼.
35	E.M. Durant	T. 7 N., R. 15 W., Sec. 3, S½NW¼.
36	H.A. Cowen	T. 7 N., R. 15 W., Sec. 5, NE¼NE¼.
37	Alfred A. Vickery	T. 5 N., R. 10 W., Sec. 36, All.
38	William G. Goslin	T. 5 N., R. 12 W., Sec. 30, Lot 1 and S½ of Lot 2.
39	C.A. Johnson	T. 5 N., R. 13 W., Sec. 20, N½SW¼.
40	Cora Graybill	T. 5 N., R. 13 W., Sec. 22, NE¼SE¼.
41	John Woods	T. 5 N., R. 13 W., Sec. 22, SE¼SE¼.
42	Isaac Liebes	T. 5 N., R. 15 W., Sec. 36, SW¼.
43	Gabino Cornichio	T. 4 N., R. 13 W., Sec. 7, N½SE¼SE¼ and NE¼SW¼SE¼.
44	W.C. Burgstrom	T. 4 N., R. 15 W., Sec. 30, Lots 1 and 2.
45	E.M. Durant	T. 4 N., R. 16 W., Sec. 11, Lots 1, 2, and 3.
46	Charles Overlook	T. 4 N., R. 16 W., Sec. 12, NE¼NE¼ and NW¼SW¼.
47	E.M. Durant	T. 4 N., R. 16 W., Sec. 25, Lots, 1, 2, 3, and 4.
48	Alice M. Hall	T. 4 N., R. 17 W., Sec. 16, NW¼.
49	Big Blackfoot Milling	T. 4 N., R. 10 W., Sec. 2, Lot 2 of NW¼.
50	L.A. Grimminger	T. 4 N., R. 15 W., Sec. 6, NW¼SE¼ and SW¼SW¼.
51	J. Furniwell	T. 4 N., R. 15 W., Sec. 19, Lot 1.
52	John F. Campbell	T. 4 N., R. 15 W., Sec. 19, W½SE¼NE¼, N½SW¼NE¼ and N½NE¼.
53	Wm. Erwin	T. 4 N., R. 15 W., Sec. 20, N½S½SE¼.
54	Lewis A. Black	T. 4 N., R. 15 W., Sec. 31, SE¼NW¼.
	San Diego County, California (San Bernardino Meridian)	
57	Lewis A. Black	T. 9 S., R. 2 E., Sec. 15, Lot 3.

INITIAL LIST—Continued

Parcel No.	Grantor name	Legal description
	Snohomish County, Washington (Willamette Meridian)	
60	Gary Peavey	T. 32 N., R. 8 E., Sec. 2, E½SW¼.
61	Stephen A. Thayer	T. 32 N., R. 9 E., Sec. 9, N½SE¼.
62	Stephen A. Thayer	T. 32 N., R. 9 E., Sec. 10, N½SW¼.
63	A.J. Hazeltine	T. 32 N., R. 9 E., Sec. 8, SE¼SE¼.
64	A.J. Hazeltine	T. 32 N., R. 9 E., Sec. 9, SW¼SW¼, NE¼SW¼ and SE¼SW¼.
65	Stephen A. Thayer	T. 30 N., R. 8 E., Sec. 7, W½NE¼.
	Lewis County, Washington (Willamette Meridian)	
66	Marion Edwards	T. 12 N., R. 7 E., Sec. 15, Lot 6.
67	N. Pacific R.R. Co	T. 12 N., R. 7 E., Sec. 13, Lot 2.
68	N. Pacific R.R. Co	T. 12 N., R. 7 E., Sec. 7, SE¼SE¼, Sec. 19, Lot 1.
69	N. Pacific R.R. Co	T. 12 N., R. 8 E., Sec. 1, Lot 1.
70	N. Pacific R.R. Co	T. 12 N., R. 8 E., Sec. 11, Lot 5.
71	N. Pacific R.R. Co	T. 12 N., R. 8 E., Sec. 17, Lot 12.
	Mason County, Washington (Willamette Meridian)	
72	Jacob Lockbaum	T. 21 N., R. 5 W., Sec. 34, E½SW¼.
73	Charles Borgeson	T. 21 N., R. 5 W., Sec. 34, SE¼.
74	Harold Waltz	T. 21 N., R. 6 W., Sec. 33, S½SW¼.
75	F. Stabenfeldt	T. 21 N., R. 5 W., Sec. 32, SE¼SW¼.
	Clallam County, Washington (Willamette Meridian)	
76	James Kerr	T. 28 N., R. 13 W., Sec. 7, Lot 7.
77	Gideon McDonald	T. 28 N., R. 13 W., Sec. 17, SE¼NE¼.
78	Mary Goffin	T. 28 N., R. 14 W., Sec. 24, Lot 1.
79	W.J. Williams	T. 28 N., R. 14 W., Sec. 8, SE¼SE¼.
80	Virgil E. Rice	T. 28 N., R. 14 W., Sec. 34, E½NE¼.
81	Fred Pape	T. 28 N., R. 14 W., Sec. 15, Lots 4 & 5.
82	Carl E. Clemens	T. 28 N., R. 14 W., Sec. 15, Lot 3.
83	Carl E. Clemens	T. 28 N., R. 14 W., Sec. 10, Lot 6.
84	Carl E. Clemens	T. 28 N., R. 14 W., Sec. 10, Lot 4, NW¼SW¼ and SW¼SE¼.
85	Herbert Upper	T. 28 N., R. 14 W., Sec. 30, NW¼SE¼.
86	Charles Cobb	T. 28 N., R. 14 W., Sec. 20, SE¼NE¼; Sec. 21, SW¼NW¼.
87	Carl Clemens	T. 28 N., R. 14 W., Sec. 10, Lot 5.
88	W.A. Clark	T. 28 N., R. 15 W., Sec. 13, S½SW¼.
89	W.A. Clark	T. 28 N., R. 15 W., Sec. 14, W½NE¼ and S½SW¼.
90	W.A. Clark	T. 28 N., R. 15 W., Sec. 24, N½NE¼, SE¼NE¼ and NE¼SE¼.
91	W.A. Clark	T. 29 N., R. 4 W., Sec. 12, SW¼SE¼ and SE¼SW¼; Sec. 13, NW¼NE¼ and NE¼NW¼.
92	Herbert Upper	T. 29 N., R. 3 W., Sec. 7, W½SE¼ and SE¼SE¼.
93	Jacob Kintz	T. 30 N., R. 12 W., Sec. 22, NW¼NW¼.
94	Jacob Kintz	T. 30 N., R. 12 W., Sec. 21, E½NE¼.
95	Jeramiah Collins	T. 30 N., R. 13 W., Sec. 25, Lot 4.
96	Jeramiah Collins	T. 30 N., R. 13 W., Sec. 26, SE¼NE¼.
97	Virgil Rice	T. 30 N., R. 14 W., Sec. 5, SE¼SE¼; Sec. 8, E½NE¼.
98	Virgil Rice	T. 30 N., R. 14 W., Sec. 9, Lot 4.
99	William Caldwell	T. 31 N., R. 15 W., Sec. 35, SW¼NE¼.
99A	Gideon McDonald	T. 28 N., R. 15 E., Sec. 14, NW¼SE¼.
	Yakima County, Washington (Willamette Meridian)	
100	N. Pacific R.R. Co	T. 12 N., R. 14 E., Sec. 5, All.

The procedures the Bureau of Land Management will observe in carrying out the provisions of Public Law 103–48 are as follows:

1. *Compile, publish, and distribute an initial list of all affected base lands.* This list was compiled from the agency's own records. Persons claiming an interest in the base lands will have 180 days from the date of publication to suggest base lands to add to the initial list. In addition to publication in the **Federal Register**, Bureau of Land Management field offices will send the initial list to all persons or entities, such as the Forest Lieu Selection Committee, that have indicated a title interest in the base lands, to appropriate Forest Service Offices, and to appropriate State and county offices.

2. *Consider suggested additions and revise the initial list.* The agency will add parcels suggested by interested parties which it determines meet the conditions set forth in the Act—those for which selection or other rights under the 1897 Act, as amended and supplemented, were not realized or exercised. Parcels that do not meet those conditions or which for other reasons

3. *Identify, compile, publish, and distribute a list of nationally significant lands and other lands to be deleted from the initial list.* Following preparation of the initial list, the agency will identify nationally significant lands which the agency determines should be retained as public lands. This list will be published in the **Federal Register** before or concurrently with the final list of lands described under step 4 below. The list will be distributed to those parties submitting information on the initial list and to those who received the initial list. Upon publication, all right, title, and interest in these nationally significant lands, subject to valid existing rights, will be vested and confirmed in the United States. The list will be recorded in appropriate county and Bureau of Land Management records.

Anyone claiming that the identification of nationally significant lands under the Act was a "taking" of property will be allowed a one-year opportunity to file a petition in the United States Claims Court for monetary compensation. Identification of nationally significant lands does not of itself entitle any party to compensation. The burden is on the claimant to prove a compensable claim.

4. *Compile, publish and distribute a final list of lands to be relinquished by the United States.* The final list will be published in the **Federal Register** within 24 months after publication of this notice and will be the result of revisions made to the initial list by additions under step 2, and by deletions of nationally significant lands under step 3.

5. *Issue instruments of disclaimer of interest confirming the statutory quitclaim of lands included in the final list.* Within six months of publication of the final list in the **Federal Register**, the agency will issue documents of disclaimer confirming the quitclaiming of all right, title, and interest in and to these base lands, subject to valid existing rights, to the listed grantors, their heirs, devisees, successors, and assigns. The document of disclaimer of interest, confirming the statutory quitclaim of the lands included on the final list, will be recorded in appropriate county and Bureau of Land Management records.

The acceptance of benefits under Public Law 103–48 or the failure to seek the benefits provided under this Act within the time allotted with respect to any base or other lands will be considered a waiver of any claims against the United States with respect to those and or to any revenues therefrom.

Dated: December 14, 1993.

Michael J. Penfold

Assistant Director for Lands and Renewable Resources.

[FR Doc. 93–31140 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–84–P

[CA–065–04–4350–08]

Restrictions on Collecting Reptiles and Amphibians Within the Desert Tortoise Natural Area, Kern County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Restrictions on collecting reptiles and amphibians within the Desert Tortoise Natural Area, Kern County, California.

SUMMARY: Notice is hereby given that the Bureau of Land Management is placing restrictions on the collection of reptiles and amphibians within the boundaries of the Desert Tortoise Natural Area (DTNA), Kern County, California. The authorities for this action area 43 CFR 8200.0–1, 8223.0–1, 8223.0–5, 8223.0–6, 8223.1, part 8364, and part 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Sikes Act of 1974, and 43 CFR Public Land Order 5694. The area affected by these actions is the DTNA. The DTNA Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan of 1980.

EFFECTIVE DATE: March 1, 1994.

ADDRESSES: Send inquiries to Area Manager, Ridgecrest Resource Area, 300 S. Richmond Rd., Ridgecrest, California, 93555. The DTNA Management Plan with public comments will be available at the above address from 7:30 a.m. to 4 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT: Robert Parker, Bureau of Land Management, Ridgecrest Resource Area, 300 S. Richmond Rd., Ridgecrest, California, 93555, 619–375–7125.

SUPPLEMENTARY INFORMATION: Individuals will not be allowed to collect reptiles or amphibians within the boundaries of the DTNA. The boundaries of the DTNA are easily identified by the woven wire fence and signs. The Management Plan, signed by BLM and California Department of Fish and Game (CDGF) states that the collection of these animals is prohibited. The plan allows for collection of reptiles and amphibians as part of approved, permitted research.

Any person who violates or fails to comply with these regulations as governed by 43 CFR parts 8364 and 8365, may be subject to prosecution pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000 or imprisonment for not longer than 12 months, or both.

Dated: December 21, 1993.

Henri Bisson,

District Manager.

[FR Doc. 93–31970 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–40–M

Book Cliffs Resource Area, UT; Environmental Assessment

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of Intent to Prepare an Environmental Assessment.

SUMMARY: This notice is intended to inform the public of an intent to prepare an amendment to the Book Cliffs Resource Area Management Plan. An Environmental Assessment (EA) will be prepared that addresses future management of lands to be acquired by the Bureau of Land Management within the Book Cliffs area of the Vernal District and to invite public participation in this process. Public comment will be solicited throughout the EA development process.

SUPPLEMENTARY INFORMATION: An Environmental Assessment (EA) will be prepared that addresses future management of lands to be acquired by the Bureau of Land Management within the Book Cliffs Resource Management Plan (RMP). The planned acquisitions would be consistent with and would implement existing RMP decisions. The land acquisition was made possible through a cooperatively developed program known as the Book Cliffs Conservation Initiative (Initiative). The Initiative involves a partnership between the Utah Division of Wildlife Resources (UDWR), The Nature Conservancy (TNC), the Rocky Mountain Elk Foundation (RMEF), and the Bureau of Land Management (BLM). The Initiative's objective is to create a balanced approach to the management of the unique natural resources within the upper portion of the East Tavaputs Plateau, hereinafter referred to as the Book Cliffs, in southeastern Uintah County, Utah. The portion of the Book Cliffs within the area covered by the Initiative lies between the Uintah-Ouray Indian Reservation trust lands to the west and the Utah-Colorado state line to the east. Within this area, there are several private ranches that have been

acquired by TNC or RMEF with the intent of vesting the title to either the State of Utah or the United States. These previously privately held ranch properties are completely surrounded by land in public ownership. This Environmental Assessment (EA) will be developed by the BLM in concert with the UDWR, other State and Federal agencies, Uintah County, local government entities, and the general public.

General planning issues to be addressed are: management of the lands to be acquired by BLM, the type of public access to those lands, and the allocation of forage on associated public land grazing allotments.

This EA will be prepared under 43 CFR part 1610 to meet the requirements of section 202 of the Federal Land Policy and Management Act and section 102 of the National Environmental Policy Act. This revision is necessary to update and expand the decisions in the existing land use plan. Decisions generated during this planning process will supersede affected land use planning decisions presented in the 1985 Book Cliffs Resource Management Plan.

Public participation is being sought at this time to ensure the EA addresses all issues, problems, and concerns from those interested in the management of lands within the Initiative area. The development of the EA is a public process and the public is invited to assist in the identification of issues and the scope of the EA. Public meetings will be held to discuss planning issues. The date, time, and location of these scoping meetings will be announced at a later date in local newspapers. Additional public participation will be encouraged throughout this process.

Formal public participation will again be requested for review of the draft EA in 1994. Notice of availability of this document will be published at the appropriate time.

The EA will be prepared by an interdisciplinary team which includes specialists in range vegetation (including threatened and endangered plants), recreation, and wildlife/fisheries (including threatened and endangered animals). Other disciplines may be represented as necessary.

FOR FURTHER INFORMATION CONTACT: Paul Andrews, Book Cliffs Resource Area Manager, Vernal District, 170 South 500 East, Vernal, Utah 84078. Vernal District office hours are from 7:45 a.m. to 4:30 p.m. Monday through Friday, except holidays, telephone (801) 789–1362 or 781–4400.

Dated: December 20, 1993.

David E. Little,

District Manager.

[FR Doc. 93–31971 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–DQ–M

[ID–943–04–4210–04; IDI–28152]

Exchange and Order Providing for Opening of Public Land; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange and opening order.

SUMMARY: The United States has issued an exchange conveyance document to Envirosafe Services of Idaho, Inc., of Boise, Idaho, under section 206 of the Federal Land Policy and Management Act. In addition to providing official public notice of the exchange, this document contains an order which opens land received by the United States to the public land, mining, and mineral leasing laws.

EFFECTIVE DATE: January 31, 1994.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, (208) 384–3163.

1. In an exchange made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described land has been conveyed from the United States:

Boise Meridian

T. 4 S., R. 2 E.,
Sec. 19, lots 1 to 4, inclusive, E½NE¼, W½E½NW¼, E½SW¼, and SE¼.
Comprising 502.68 acres of public lands.

2. In exchange for this land, the following described land was conveyed to the United States:

Boise Meridian

T. 5 S., R. 3 E.,
Sec. 14, lot 8;
Sec. 15, lots 6 and 9;
Sec. 22, lot 3;
Sec. 23, lot 2.
Comprising 118.16 acres of private land.

The purpose of the exchange was to acquire non-Federal land which has high public values for big game, upland bird, waterfowl, and other non-game and riparian habitat and recreation. The public interest was well served through completion of the exchange. The values of the Federal and private lands involved in the exchange were $100,000 and $189,000, respectively. Envirosafe Services waived any equalization payment to compensate for the difference in land values.

3. At 9 a.m. on January 31, 1994, the reconveyed private land described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on January 31, 1994, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9 a.m. on January 31, 1994, the reconveyed private land described in paragraph 2 will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in paragraph 2 under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: December 20, 1993.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 93–31894 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–GG–M

[AZ–020–04–5410–11–A114; AZA–28310]

Receipt of Conveyance of Mineral Interest Application

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of minerals segregation.

SUMMARY: The private lands described in this notice aggregating approximately 800 acres, are segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine their suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act on October 21, 1976.

The mineral interest will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Vivian Reid, Land Law Examiner, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027 (602) 780–8090. Serial Number AZA–28310.

Gila and Salt River Base and Meridian, Maricopa County, Arizona

T. 12 N., R. 5 W.,
Sec. 33, NE¼;
Sec. 34, All.

Minerals Reservation—All Minerals

Upon publication of this Nptice of Segregation in the Federal Register as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate upon: issuance of a patent or deed of such mineral interest; upon final rejection of the application; or two years from the date of application, September 16, 1993, whichever occurs first.

Dated: December 23, 1993.

David J. Miller,

Acting District Manager.

[FR Doc. 93–31972 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–32–M

[CO–942–04–4730–02]

Colorado: Filing of Plats of Survey

December 15, 1993.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado effective 10 a.m., December 15, 1993.

The plat (in two sheets), representing the dependent resurvey of the south half of the line between sections 16 and 17, certain tract lines, and Mineral Survey No. 6304, Fisherman Lode, and the metes-and-bounds surveys in sections 16 and 21, T. 8 S., R. 86 W., Sixth Principal Meridian, Colorado, Group No. 989, was accepted November 24, 1993.

The supplemental plat creating new lot 1 in the NE¼ section 28, T. 16 S., R. 69 W., Sixth Principal Meridian, Colorado, was accepted October 8, 1993.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Darryl A. Wilson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 93–31884 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–JB–M

[NV–930–4210–06; N–57186]

Partial Cancellation of Withdrawal Application; Nevada

December 20, 1993.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management, has canceled in part its withdrawal application for a National Wild Horse and Burro Center. The land being eliminated from the application will be opened to the public land laws, including the mining laws.

EFFECTIVE DATE: The land being eliminated from the application will be open to entry at 10 a.m. on January 31, 1994.

FOR FURTHER INFORMATION CONTACT: Mike Phillips, Bureau of Land Management, Carson City District, 702–885–6115.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal was published in the Federal Register (58 FR 40154) on July 27, 1993, which segregated the 8,344.22 acres in the application from settlement, sale, location or entry under the general land laws, including the mining laws, subject to valid existing rights. The Bureau of Land Management has determined that only the following described 640 acres will be needed for the National Wild Horse and Burro Center facilities:

Mount Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 1, S½;
Sec. 12, N½.

The application is hereby canceled as to the following land:

Mount Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 1, lots 1–4, S½N½;
Sec. 2, lots 1–4, S½, S½N½;
Sec. 12, S½;
Sec. 13.
T. 22 N., R. 19 E.,
Sec. 36.
T. 21 N., R. 20 E.,
Sec. 5, lots 1–4, S½, S½N½;
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1–4, E½, E½W½;
Secs. 8 and 17;
Sec. 18, lots 1–4, E½, E½W½.
T. 22 N., R. 20 E.,
Sec. 31, lots 1–4, E½, E½W½;
Sec. 32.

At 10 a.m. on January 31, 1994, the land eliminated from the proposed withdrawal will become open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 31, 1994, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on January 31, 1994, the land eliminated from the proposed withdrawal will also be open to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 93–31888 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–HC–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32400]

The Garden City, Gulf and Northern Railroad Co. and The Atchison, Topeka And Santa Fe Railway Co.—Corporate Family Exemption

The Garden City, Gulf and Northern Railroad Company (GCGN) and The Atchison, Topeka and Santa Fe Railway Company (ATSF) have filed a notice of exemption under 49 CFR 1180.2(d)(3) with respect to a proposed change in the corporate family. GCGN, a wholly owned subsidiary of ATSF, is inactive and does not conduct rail operations. It will be dissolved under Section 17–6804 of Chapter 17 of the Kansas Statutes Annotated, and the

approximately 3,468 feet of active rail line that it owns, between milepost 156.48 and milepost 157.14 in Garden City, KS, will be transferred to ATSF for continued operation. The transaction is to be consummated on or after December 22, 1993.[1]

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The purpose of the transaction is to eliminate unnecessary corporate structure and reduce barriers to business activities. ATSF will continue to operate the track after GCGN is dissolved.

To ensure that all employees who may be affected by the transaction are given the protection afforded under 49 U.S.C. 10505(g)(2) and 49 U.S.C. 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the exemption's effectiveness. Pleadings must be filed with the Commission and served on: Jeffrey T. Williams, The Atchison, Topeka and Santa Fe Railway Company, 1700 East Golf Road, Schaumburg, IL 60173–5860.

Decided: December 22, 1993.

By the Commission, Richard B. Felder, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–31933 Filed 12–29–93; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–167 (Sub-No. 1132X)]

Consolidated Rail Corp.—Abandonment Exemption—In Washington County, PA and Brooke County, WV

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon 9± miles of railroad of its Weirton Secondary rail line from approximately milepost 26.7± near Burgettstown, PA, to approximately milepost 35.7± near Colliers, WV.

Conrail has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic has been rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) that the requirements at 49 CFR 1105.7 (service of environmental report on agencies); 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer); 49 CFR 1105.11 (transmittal letter); 49 CFR 1105.12 (newspaper publication); and 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 29, 1994, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by January 10, 1994. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 19, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Robert S. Natalini, Associate General Counsel, Consolidated Rail Corporation, Two Commerce Square, 2001 Market Street, P.O. Box 41416, Philadelphia, PA 19101–1416.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Conrail has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by January 4, 1994. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: December 23, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary

[FR Doc. 93–31932 Filed 12–29–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 20, 1993, a proposed Second Consent Decree in *United States* v. *Martech USA, Inc.*, Civil Action No. A91–290 (D. Alaska), was lodged with the United States District Court for the District of Alaska. This Consent Decree resolves the United States' allegations in this action against Martech USA, Inc. ("Martech") regarding violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and the Environmental Protection Agency's National Emission Standard for Asbestos ("the Asbestos NESHAP"), 40 CFR part 61, subpart M. The Decree requires, inter alia, that Martech:

(1) Pay a civil penalty to the United States in the amount of $85,000 plus the interest accruing thereon from September 15, 1993;

(2) Provide to Region 10 of the Environmental Protection Agency, in addition to that Region ordinarily required to be notified under 40 CFR part 61, subpart M, a notice of its intent to conduct renovation and/or demolition operations involving asbestos;

(3) Provide to EPA, within forty-five days of the conclusion of each such operation, post-project certification that the operation was conducted in accordance with the Asbestos NESHAP and that all asbestos-containing waste materials therefrom have been disposed of properly; and

(4) Dismiss with prejudice its remaining counterclaim against the United States.

The Department of Justice will receive comments relating to the proposed Consent Decrees for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Martech USA, Inc.*, D.J. No. 90–5–2–1–1550.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Alaska, room 253, Federal Building and U.S. Courthouse, 222 West Seventh Avenue, Anchorage, Alaska 99513–7567; the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (Tel: 202–624–0892). A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $4.00 (25 cents per page reproduction cost) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 93–31892 Filed 12–29–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Tempcon Corp. et al*, Civil Action No. 91–Civ. 3531, was lodged on December 16, 1993 with the United States District Court for the Southern District of New York. Under the terms of the proposed consent decree, Defendants Tempcon Corp., Hillburg Par Corp., Edward Cimmino, and John Wright will reimburse the United States $125,000 to resolve the United States' claims under the CERCLA, 42 U.S.C. 9601 et seq., for response costs incurred in responding to the release of hazardous substances at the Village of Suffern Well Field Site in Ramapo, New York.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Tempcon Corp. et al*, DOJ Ref. #90–11–2–316.

The proposed consent decree may be examined at the Office of the United States Attorney for the Southern District of New York, 100 Church Street, New York, New York; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–31893 Filed 12–29–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant To The National Cooperative Research and Production Act of 1993—Semiconductor Research Corporation

Notice is hereby given that, on November 19, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Semiconductor Research Corporation ("SRC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Matrix Integrated Systems, Inc., Richmond, CA has become an affiliate member. The following company has been deleted from SRC membership: Los Alamos National Laboratories:

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SRC intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, SRC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on January 30, 1985 (52 FR 4281).

The last notification was filed with the Department on June 24, 1993. A notice was published in the Federal Register pursuant to section 6(b) of the Act on July 28, 1993 (58 FR 40448).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 93–31891 Filed 12–29–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Gas-Fueled Railway Research Program Feasibility and Infrastructure Study

Notice is hereby given that, on October 28, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Burlington Northern Railroad, Fort Worth, TX; Institute of Gas Technology, Chicago, IL; Southern California Regional Rail Authority, Los Angeles, CA; and Southern Pacific Transportation Company, Monterey Park, CA have become members of the group research project.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the members intend to file additional written notification disclosing all changes in membership.

---

[1] The exemption effective date is recomputed from December 15, 1993, the date that supplemental information completing the notice filing requirements was received.

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

The Brooke-Hancock-Jefferson Metropolitan Planning Commission (BHJ) filed comments opposing "any quick decision" authorizing the abandonment without consideration of "some major consequences." We do not normally consider comments prior to the publication of the notice. Here, BHJ can file a petition to stay and/or a petition to reopen or revoke on or before the dates specified in this notice. BHJ should clearly set out the relief it seeks and any supporting arguments for such relief.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

On January 4, 1993 SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on January 25, 1993, 58 FR 6015.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 93-31890 Filed 12-29-93; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; North American Agreement on Labor Cooperation; Establishment of National Administrative Office

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of establishment and request for comments.

SUMMARY: The Secretary of Labor announces the establishment, within the Bureau of International Labor Affairs (ILAB), of the National Administrative Office (NAO) required to satisfy the terms of the North American Agreement on Labor Cooperation (NAALC) signed by the governments of the United States of America, Canada, and the United Mexican States. The NAALC specifies that a NAO be established by each Party. The address for the U.S. NAO will be: Department of Labor, 200 Constitution Avenue, NW., room C-4322, Washington, DC 20210. The effective date for the establishment of the U.S. NAO is January 1, 1994.

The U.S. NAO will have the following responsibilities: on labor law matters in the United States, to consult with Canada and Mexico (and specified trinational bodies) and assist them in collecting information on U.S. compliance with the obligations under the NAALC to effectively enforce domestic labor law; and on labor law matters in Canada and Mexico, to conduct reviews on whether Canada and Mexico are enforcing their labor law, and to consult with the Canadian and Mexican NAOs on such issues. The U.S. NAO will develop further procedural guidelines by April 1, 1994. Written suggestions and comments are requested.

DATES: Written comments and suggestions on procedural guidelines should be submitted to the U.S. NAO by February 15, 1994.

ADDRESSES: Send comments to the Secretary of the National Administrative Office, Bureau of International Labor Affairs, Department of Labor, 200 Constitution Avenue, NW., room C-4322, Washington, DC 20210. Telephone: (202) 501-6653, Fax (202) 501-6615.

FOR FURTHER INFORMATION CONTACT: Andrew Samet, Associate Deputy Under Secretary, Bureau of International Labor Affairs, Department of Labor, 200 Constitution Avenue, NW., room S-2235, Washington, DC 20210. Telephone: (202) 219-6043 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background and Overview

The North American Agreement on Labor Cooperation (NAALC) was signed by the Presidents of the United States of America and of the United Mexican States, and the Prime Minister of Canada at Mexico City, Washington, and Ottawa on September 8, 9, 12, and 14, 1993. Section 101(b)(2) of Public Law 103-182, the North American Free Trade Agreement Implementation Act, states that the North American Free Trade Agreement (NAFTA) does not enter into force with respect to Canada or Mexico until "the Government of such country exchanges notes with the United States providing for the entry into force of the * * * North American Agreement on Labor Cooperation for that country and the United States." Article 15.1 of the NAALC requires that each Party "shall establish a National Administrative Office (NAO) at the federal government level and notify * * * the other Parties of its location."

Article 16 of the NAALC requires the U.S. NAO to perform several functions: to serve as a U.S. point of contact with respect to the NAALC for other U.S. government agencies, for the NAOs of Canada and Mexico, and for the Secretariat of the Commission for Labor Cooperation established by the NAALC; to provide publicly available information about U.S. labor law matters upon request from the trinational Secretariat of the Commission for Labor Cooperation established by Articles 12-14 of the NAALC, the Canadian or Mexican NAO, or an ad hoc, trinational Evaluation Committee of Experts (ECE) formed under Articles 23-26 of the NAALC to analyze labor law matters; and to provide for the submission and receipt, and periodically publish a list, of public communications on labor law matters in Canada and Mexico and the review of such matters by the United States.

Article 21 of the NAALC outlines procedures for NAOs to consult with one another about labor law in the NAFTA countries, its administration, or labor market conditions. In such consultations, the NAOs must promptly provide to other NAOs publicly available data or information, including:

(a) Descriptions of laws, regulations, procedures, policies or practices;

(b) Proposed changes to such procedures, policies or practices; and

(c) Such clarifications and explanations related to such matters, as may assist the consulting NAOs to better understand and respond to the issues raised.

The attached notice establishes an open and transparent process for providing oversight of Canadian and Mexican compliance with the obligations of the NAALC. It provides for public submissions to the U.S. NAO on labor law matters in Canada or Mexico. Within 60 days of receipt of a submission, the NAO will initiate a review of the matter or advise the submitting party that a review is not appropriate. The NAO may also initiate a review on its own initiative on labor law matters.

At the conclusion of each review, the NAO will publish a report. The NAO will also publish an annual list of public submissions.

The Notice of Establishment is set forth below.

Signed at Washington, DC., on December 22, 1993.

Robert B. Reich,

Secretary of Labor.

(a) Establishment.—

(1) There is established, within the Bureau of International Labor Affairs (ILAB) of the Department of Labor, a U.S. National Administrative Office (NAO) as required by the North American Agreement on Labor Cooperation between the Government of the United States of America, the Government of Canada, and the Government of the United Mexican States.

(2) The U.S. NAO shall be established effective January 1, 1994.

(3) The Secretary of Labor shall designate the Secretary of the NAO.

(b) Definitions.—For the purposes of this notice:

(1) The term "Agreement" means the North American Agreement on Labor Cooperation between the Government of the United States of America, the Government of Canada, and the Government of the United Mexican States signed at Mexico City, Washington, and Ottawa on September 8, 9, 12, and 14, 1993.

(2) The term "Office" means the National Administrative Office of the United States as established by this notice.

(3) The term "Secretariat" means the Secretariat of the Commission for Labor Cooperation established by Article 12 of the Agreement.

(4) The term "Council" means the Council of the Commission for Labor Cooperation established by Article 9 of the Agreement.

(5) The term "Evaluation Committee of Experts" means an Evaluation Committee of Experts established under Article 23 of the Agreement.

(6) The term "Party" means a Party to the Agreement.

(7) The phrase "publicly available information" means information as defined in Article 49 of the Agreement.

(c) Functions of the National Administrative Office.—

(1) The Office shall serve as a point of contact with and otherwise provide assistance to agencies of the United States Government, the NAOs of the other Parties, the Secretariat, and the Council.

(2) On matters within the scope of the Agreement, the Office shall promptly provide publicly available information requested by the Secretariat for reports and studies under Article 14 (1) and (2) of the Agreement, by NAOs of the other Parties, or by an Evaluation Committee of Experts.

(3) The Office shall accept public submissions on labor law matters arising in the territories of the other Parties. The Office shall develop procedures for and administer the submissions process.

(4) The Office may, at the discretion of the NAO Secretary, initiate a review of any matter covered by the Agreement.

(5) The Office shall publish periodic and special reports, as provided in section (g) of this notice.

(6) The Office may request consultations with the NAO of another Party in relation to that Party's labor law, its administration of the law, or labor market conditions in its territory, under Article 21 of the Agreement, shall respond to requests for consultations made under Article 21, and may participate in consultations of other NAOs under Article 21.

(7) The Office may consult periodically with appropriate agencies of the U.S. government.

(8) The Office shall provide assistance to the Secretary of Labor on all matters concerning the Agreement.

(d) Public Submissions.—

(1) The Office shall provide for the receipt of public submissions on labor law matters arising in the territories of Canada or Mexico.

(2) The submission should clearly identify the person or organization making the submission, state with specificity the matters that the person or organization requests the Office to address, and include information reasonably available to the person or organization supporting the request.

(3) The Office shall determine whether it should initiate a review of the matters raised by the submission. Within 60 days of receipt of a submission, the office shall advise the person or organization in writing that it has begun a review or that review is not appropriate.

(e) Reviews.—

(1) In deciding whether a submission warrants initiation of a review by the Office, the Office may consider such factors as it deems appropriate.

(2) When it initiates a review, the Office shall publish a notice to that effect in the Federal Register.

(3) When conducting a review, the Office shall make all reasonable efforts to obtain appropriate information concerning the labor law matters of another Party, and shall provide means for the public to provide appropriate information including, where appropriate, public hearings.

(4) At the conclusion of a review, the Office shall issue a public report.

(5) If, after consultations under Article 21 of the Agreement, the NAO Secretary determines that a Party has failed to comply with its obligations under Part Two of the Agreement, the NAO Secretary shall recommend that the Secretary of Labor request consultations at the ministerial level under Article 22 of the Agreement.

(6) If, following ministerial consultations under Article 22 of the Agreement, the NAO Secretary determines that the matter has not been satisfactorily resolved and is within the scope of Article 23 of the Agreement, the office shall recommend that the Secretary of Labor request that an Evaluation Committee of Experts be established under Article 23.

(7) Following presentation of a final Evaluation Committee of Experts report under Article 26(1) of the Agreement, the NAO Secretary shall provide recommendations to the Secretary of Labor regarding pursuit of dispute resolution under Part Five of the Agreement.

(f) Consideration of NAO Recommendations.—

(1) In deciding whether to request consultations at the ministerial level under Article 22 of the Agreement, the establishment of an Evaluation Committee of Experts under Article 23 of the Agreement, or the establishment of a dispute settlement panel under Part Five of the Agreement, the Secretary of Labor shall give due consideration to the recommendations of the NAO Secretary.

(2) In deciding which cooperative activities should be promoted by the Council under Article 11 of the Agreement, the Secretary of Labor shall give due consideration to the recommendations of the NAO Secretary.

(g) Periodic and Special Reports.—

(1) The Office shall publish, periodically, a list of public submissions on labor law matters, including a summary of the disposition of those submissions.

(2) The Office shall obtain the lists of submissions and public communications on labor law matters published by the NAOs of the other Parties, and make those lists available in the United States.

(3) The Office may publish special reports on any topic under its purview on its own initiate, or upon request from the Secretary of Labor.

(h) Development of Procedural Guidelines.—

(1) The Office shall develop procedural guidelines for submission and processing of requests for review by April 1, 1994.

[FR Doc. 93-31627 Filed 12-29-93; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93-97]

NASA Advisory Council (NAC), Space Science Advisory Committee, Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC, Space Science Advisory Committee, Solar System Exploration Subcommittee.

DATES: January 11-12, 1994, 8:30 a.m. to 5:30 p.m., January 13, 1994, 8 a.m. to 5:30 p.m., and January 14, 1994, 8 a.m. to noon.

ADDRESSES: Capitol Park Suites, Conference Center, 800 Fourth Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. John Appleby, Code SLB, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-0788.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public on Friday, January 14, 1994, from 8 a.m. to 9 a.m. in accordance with 5 U.S.C.

552(c)(6), to allow for discussion on qualifications of individuals being considered for membership to the Subcommittee. The remainder of the meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Strategic Planning

—Workshop Approach and Subgroup Process

—Science Working Group Status Reports

—Technology Issues for Strategic Planning

—Strategic Planning Working Group Report

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: December 23, 1993.

Danalee Green,

Chief, Management Controls Office, National Aeronautics and Space Administration.

[FR Doc. 93–31912 Filed 12–29–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Permit Issued Under the Antarctic Conservation Act of 1978

December 27, 1993.

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan, Permit Office, Office of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On August 30, 1993 a notice in the **Federal Register** of permit applications received. Permit for taking, import into USA–Port of entry, was issued to David G. Ainley on December 22, 1993.

Thomas F. Forhan,

Permit Officer, Office of Polar Programs.

[FR Doc. 93–31924 Filed 12–29–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454, STN 50–455, STN 50–456, STN 50–457, 50–373, 50–374, 50–295, and 50–304]

Commonwealth Edison Co., Byron Station, Unit Nos. 1 and 2, et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–37 and NPF–66, NPF–72 and NPF–77, NPF–11 and NPF–18, and DPR–39 and DPR–48, issued to the Commonwealth Edison Company (the licensee), for operation of Byron Station, Units 1 and 2, Braidwood Station, Units 1 and 2, LaSalle County Station, Units 1 and 2, and Zion Station, Units 1 and 2, respectively.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the limitations on radioactive materials released in liquid and gaseous effluents and revise 10 CFR part 20 references to recognize the new section numbers. Specifically, the changes would revise the limitations on concentrations of radioactive material released in liquid effluents, revise the limitations on the dose rate resulting from radioactive material released in gaseous effluents, and would reflect the relocation of the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. These changes are in response to the licensee's application for amendments dated November 10, 1993.

The Need for the Proposed Action

The proposed action is needed in order to retain operational flexibility consistent with 10 CFR part 50, appendix I, concurrent with the implementation of the revised 10 CFR part 20.

Environmental Impacts of the Proposed Action

The proposed revision, in regards to the actual release rates as referenced in the Technical Specifications (TS) as a dose rate to the maximally exposed member of the public, will not increase the types or amounts of effluents that may be released offsite, nor increase individual or cumulative occupational radiation exposures. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments.

With regard to potential nonradiological impacts, the proposed changes do not affect nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed amendments to the TS, any alternative to the amendments will have either no significantly different environmental impact or will have greater environmental impact. The principal alternative would be to deny the requested amendments. This would not reduce environmental impacts as a result of plant operation.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of the Byron Station, Units 1 and 2, dated April 1982, Braidwood Station, Units 1 and 2, dated June 1984, LaSalle County Station, Units 1 and 2, dated November 1978, and Zion Station, Units 1 and 2, dated December 1972.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated November 10, 1993, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and, for Byron, at the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481; for LaSalle, the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348; for Zion, the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 23rd day of December 1993.

For the Nuclear Regulatory Commission.

James E. Dyer,

Director, Project Directorate III–2, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–31904 Filed 12–29–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 149 to Facility Operating License No. DPR–72 issued to Florida Power Corporation (the licensee), which revised the Technical Specifications for operation of Crystal River, Unit No. 3, located in Citrus County, Florida. The amendment is effective as of the date of issuance.

The amendment, requested by the licensee by letter of August 25, 1989, replaces the current Technical Specifications (TS) with a set of TS based on the new Babcock & Wilcox Standard Technical Specifications (STS), NUREG–1430. The adoption of the STS is part of an industry-wide initiative to standardize and improve TS.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on November 8, 1989 (54 FR 46998). No request for hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment (58 FR 64987).

For further details with respect to the action see (1) the application for amendment dated August 25, 1989, (2) Amendment No. 149 to License No. DPR–72, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the local public document room located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Dated at Rockville, Maryland this 22nd day of December 1993.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II.

[FR Doc. 93–31905 Filed 12–29–93; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1994, shall be at the rate of 30 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1994, 33.7 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 66.3 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: December 20, 1993.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93–31889 Filed 12–29–93; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33383; File No. SR–BSE–93–23]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change Relating to Net Capital and Equity Requirements

December 23, 1993.

I. Introduction

On December 2, 1993, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's Net Capital Requirements. On December 9, 1993, the BSE submitted to the Commission Amendment No. 1 to the proposed rule change.[3] On December 13, 1993, the BSE submitted to the Commission Amendment No. 2 to the proposed rule change.[4]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE's proposed rule change permanently amends chapter XXII, section 2 of the BSE Rules of the Board of Governors to increase the specialist net capital requirements, which the Commission previously approved on a six-month pilot basis,[5] and to create an Early Warning Alert Notification Program for BSE specialist firms that will expire on April 1, 1994.[6]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] See letter from Karen A. Aluise, Assistant Vice President, BSE, to Sandra Sciole, Special Counsel, Commission, dated December 3, 1993. Amendment No. 1 requested permanent approval of the capital portion of File No. SR–BSE–93–7, which was approved by the Commission on a six-month temporary basis. See Securities Exchange Act Release No. 32569 (July 1, 1993), 58 FR 36716 (July 8, 1993). On December 23, 1993, the BSE submitted a letter clarifying that the request in Amendment No. 1 to permanently approve the BSE's net capital requirements should be considered part of the instant filing (BSE–93–23).

[4] See letter from Karen A. Aluise, Assistant Vice President, BSE, to Sandra Sciole, Special Counsel, Commission, dated December 10, 1993. Amendment No. 2 clarified delivery time periods in Section 2(c)(3).

[5] See Securities Exchange Act Release No. 32569, *supra* note 3.

[6] Currently, all of the specialists at the BSE are exempt from the Commission's net capital rule, as codified in Section 15c3–1 under the Act. As a result, the Commission's early warning notification procedures, as codified in Section 17a–11 under the

Continued

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose.* The purpose of the proposed rule change is to amend the capital provision of the net capital and equity requirements in chapter XXII, section 2(c) of the BSE Rules to adopt an early warning alert program for specialist firms that are assigned to the Exchange as their Examining Authority.[7] The proposed rule change establishes a notification procedure when, among other things, net capital reaches 120% of minimum net capital. This alert mechanism will be used by the Exchange to determine a member's net capital in comparison to the minimum capital required. While it is the member's responsibility to report to the Exchange whenever it fails to maintain the capital levels or financial responsibility requirements set forth by the Exchange, procedurally, the Exchange will notify the specialist firm and, the specialist must immediately deliver written notice to the Exchange verifying its capital position in writing, and stating what it is doing to alleviate the alert status.[8] In this regard, Chapter XXII, Section 2(c)(3) would be adopted as follows:

Early Warning Alert Notification

Section 2(c)(3) All specialists assigned to the Exchange as their Examining Authority shall be required to compute net capital and must immediately deliver written notice to the Exchange, identifying what action is being taken to alleviate the alert status, whenever one of the following occurs:

(i) Net capital falls below required minimum levels;

(ii) Net capital falls below 120% of its minimum requirement; or

(iii) Specialist fails to comply with the following financial responsibility requirements:

(A) Fails to make and keep current books and records;

(B) Discovers or is notified by an independent accountant of the existence of any material inadequacy; or

(C) When the Exchange learns that the specialist has failed to file a notice under this section.

Note: Where a specialist is assigned to another Examining Authority, that specialist shall be required to comply with the provisions as set forth by its assigned Examining Authority of SEC Rule 15c3-1 and the reporting requirements set forth under SEC Rule 17a-11. Whenever the Exchange provides a specialist with an early warning alert notice, such specialist must respond by verifying the alert in writing. If a specialist fails to respond to the early warning alert sent by the Exchange, it shall be considered a valid alert and the specialist shall be notified by the Exchange that it must comply with the provisions of this rule as set forth above.

The BSE also proposes to permanently adopt the amendments temporarily approved in the net capital section of File No. SR-BSE-93-7.[9] The BSE proposal permanently amends chapter XXII, section 2(c) of the BSE Rules of the Board of Governors to increase the specialist net capital requirement from $35,000 to $100,000. The BSE also proposes to amend section 2(c)(2) to increase the haircut for net capital purposes to 15% on both long and short security positions.[10] In this regard, chapter XXII, section 2(c) would be permanently amended to provide:

Section 2(c) A member or member organization registered as a specialist doing business on the floor of the Exchange, whose business may include floor brokerage for other professionals and who does not carry any customer accounts, shall at all times maintain a minimum net capital, as defined by SEC Rule 15c3-1, equal to the greater of (a) $100,000 or (b) the value of 200 shares of each security in which such specialist is the dealer, marked-to-market at not less than the minimum margin of 25% of the market value.

Section 2(c)(2) All remaining securities haircuts for Net Capital purposes shall be as follows: (i) Specialists who do not have any public customers and who do not have an active trading account, (as defined by the SEC), shall be haircut 15% on both long and short security positions prior to the required computation.

(b) *Statutory Basis.* The statutory basis for the proposed rule change is section 6(b)(5) of the Act, in that the capital and equity requirements of the Exchange are designed to protect investors and the public interest by ensuring that Exchange members doing business on the floor have adequate funds to cover losses that they might incur in the everyday transaction of business.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-93-23 and should be submitted by January 20, 1994.

Act, generally are not applicable to them. Effective April 1, 1994, all Exchange specialists will become subject to the Commission's net capital rule. See Securities Exchange Act Release No. 32737 (August 11, 1993), 58 FR 43555 (August 17, 1993). As a result, such specialists will be required to comply generally with the provisions of the Commission's early warning notification procedures. The BSE's early warning alert program is intended as an interim program that will remain effective until April 1, 1994, at which time BSE specialists must fully comply with the Commission's early warning notification procedures. Telephone Conversation between Kenneth J. Marden, Assistant Vice President, Market Surveillance and Compliance, BSE, and Louis A. Randazzo, Attorney, Commission, on December 9, 1993.

[7] The early warning alert program is codified in chapter XXII, section 2(c)(3).

[8] As noted above, on April 1, 1994, all Exchange specialists must fully comply with the Commission's early warning notification provisions as codified in 17 CFR 240.17a-11. See *supra* note 7. Those BSE specialists currently subject to the Commission's net capital requirements must continue to comply with the Commission's early warning notification provisions.

[9] See Securities Exchange Act Release No. 32569, *supra* note 1.

[10] A "haircut" is a reduction when computing net capital.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The BSE, through these amendments to its net capital and equity rules, is increasing the financial responsibility of its specialists by:

(1) Increasing minimum net capital requirements and increasing the haircuts in the net capital computation; and

(2) Adopting an early warning notification procedure when net capital reaches, among other things, 120% of minimum net capital.[11]

The Commission finds that the BSE's amendments to its net capital and equity requirements for specialists are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of sections 6(b)(5) and 11(b) of the Act.[12] The Commission believes that the BSE's proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with section 11(b) of the Act, and Rule 11b-1 thereunder,[13] which allow securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets. The proposal is consistent with the Rule 11b-1(a)(2)(i) requirement that the rules of a national securities exchange which permit a member to register as a specialist and to act as a dealer include, among other things, adequate minimum capital requirements in view of the markets for securities on such exchange.

The rules of the BSE, in addition to the rules set forth under the Act, impose certain obligations upon specialists, including, but not limited to, the maintenance of fair and orderly markets.[14] Specialists play a crucial role in providing stability, liquidity, and continuity to the trading of stocks on the Exchange. Generally, specialists are under an affirmative obligation to trade for their own accounts to minimize order imbalances and contribute to continuity and depth in their specialty stocks.[15] Conversely, pursuant to their negative obligations, specialists are precluded from trading for their own accounts unless such dealing is necessary for the maintenance of a fair and orderly market. To ensure that specialists fulfill these obligations, it is important that they maintain an adequate amount of capital and equity.

The importance of specialists' net capital and equity as it relates to the quality of Exchange markets was highlighted during the October 1987 Market Break. In the Division of Market Regulation's ("Division") report on the 1987 Market Break, the Division reviewed, among other things, specialists' ability to maintain fair and orderly markets and minimum capital requirements imposed by the exchanges. In this respect, the Division stated its concern that the minimum capital requirements imposed by the exchanges on specialists did not reflect the actual capital needed to ensure the maintenance of fair and orderly markets in different types of securities.[16] Accordingly, Division staff recommended a number of changes to the exchanges' capital rules.

The Division believes that the BSE amendment is a positive step toward procuring stronger capital foundations for specialists on its floor. Specifically, the Commission believes that permanently increasing specialist net capital requirements to $100,000 should help to ensure that BSE specialists have greater access to the capital necessary for the maintenance of fair and orderly markets in their registered securities. By assuring that specialists have capital sufficient to perform their market making responsibilities, the proposal should provide additional protection for the Exchange, member organizations, and public investors.

The Commission believes that the BSE's early warning provision is consistent with section 6(b)(5) of the Act, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Specifically, the immediate notice requirement gives the Exchange adequate early warning of potential financial problems. Furthermore, after receiving notice of a potential net capital deficiency, the Exchange will be able to increase its surveillance of a specialist experiencing difficulty and to obtain any additional information necessary to assess and monitor the specialist's financial condition.

The Commission finds good cause for accelerated approval of the proposed rule change prior to the thirtieth day after publication of notice of filing thereof. This will permit the increased net capital requirements to continue uninterrupted on a permanent basis. Furthermore, the Commission finds that accelerated approval of proposal is necessary in order for the BSE to be able to effectuate its new net capital and equity requirements in a timely manner upon approval. Moreover, the BSE's proposed increase in specialist net capital requirements are identical to amendments that were published in the **Federal Register** for the full comment period and no comments were received.[17]

It is therefore ordered, Pursuant to section 19(b)(2) and Rule 19d-1(c)(2) under the Act,[18] the above-mentioned proposed rule change (SR-BSE-93-23) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31938 Filed 12-29-93; 8:45 am]

BILLING CODE 8010-01-M

---

[11] As noted above, pursuant to the early warning procedures, specialists are required to compute net capital and immediately deliver written notice to the Exchange in certain enumerated circumstances. See section 2(c)(3) of the BSE Rules of the Board. In addition, the Commission notes that effective April 1, 1994, Exchange specialists must comply with the Commission's early warning notification provisions as codified in Section 17a-11 under the Act. See *supra* note 6.

[12] 15 U.S.C. 78f(b)(5) and 78k(b) (1988).

[13] 17 CFR 240.11b-1 (1992).

[14] See generally chapter XV of the BSE Rules of the Board of Governors. See also Rule 11b-1 under the Act.

[15] See *supra* note 14.

[16] See Division of Market Regulation, The October 1987 Market Break, February 1988, at 4-66 to 4-67. See also Market Analysis of October 13 and 16, 1989, A Report by the Division of Market Regulation, U.S. Securities and Exchange Commission, December 1990, at 4, 16 and 33.

[17] See Securities Exchange Act Release No. 32333 (May 19, 1993), 58 FR 30079 (May 25, 1993).

[18] 15 U.S.C. 78s(b)(2) (1988) and 17 CFR 240.19d-1(c)(2) (1991).

[19] 17 CFR 200.30-3(a)(12) (1991).

[Release No. 34-33381; File No. SR-CHX-93-34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. To Waive Exchange Transaction Fees on Trades in the Chicago Stock Basket

December 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 21, 1993, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to waive, through March 31, 1994, Exchange transaction fees for the Chicago Stock Basket ("CXM"). This would extend a waiver currently in effect through December 31, 1993.[1] The text of the proposed rule change is underlined:

(c) Transaction Fee Schedule Round Lots/Mixed Lots
45 cents per 100 shares
$100 maximum per trade
Odd Lots
35 cents per trade
$400 maximum monthly fee

The above fees shall not apply to transactions in the Chicago Basket ("CXM") through (December 31, 1993) *March 31, 1994.*

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed change is to extend the waiver of certain Exchange fees for trades in the CXM, through March 31, 1994.

2. Statutory Basis

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable fees and other charges among members using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance on the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–93–34 and should be submitted by January 20, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31936 Filed 12–29–93; 8:45am]

BILLING CODE 8010–01–M

[1] See, Securities Exchange Act Release No. 33056 (October 15, 1993), 58 FR 54387 (October 21, 1993) (File No. SR–CHX–93–34).

[Release No. 34–33369; File No. SR–CHX–93–32]

Self Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. to Give Registered Market Makers a Credit Against Their Dues for Trading the Chicago Stock Basket

December 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 6, 1993, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to give registered Market Makers in the Chicago Stock Basket ("CXM") a credit against their dues for trading the CXM through January 31, 1994.[1] The text of the proposed rule change is italicized:

Membership Dues and Fees

Member Dues (all members)—$3,200 per annum, payable monthly in equal installments.

Through January 31, 1994, registered Market Makers in the CXM will be given a credit towards their monthly installment of their dues at the rate of $1 for each contract of CXM that they trade. The maximum credit given to any registered Market Maker in the CXM pursuant to the preceding sentence shall be $15 per day up to a maximum of $266 per month.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of

[1] According to the CHX, the credit will apply only to CXM trades for a registered Market Maker's proprietary market making account. Telephone conversation between David T. Rusoff, Foley & Lardner, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on December 14, 1993.

For further discussion of the market structure for trading the CXM and, in particular, of the role of registered Market Makers, see Securities Exchange Act Release No. 33053 (October 13, 1993), 58 FR 54610 (October 22, 1993) (File No. SR–CHX–93–16).

and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis For, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to encourage more trading and participation in the CXM product by registered Market Makers.

2. Statutory Basis

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable fees and other charges among members using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–93–32 and should be submitted by January 20, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31937 Filed 12–29–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33370; File No. SR–CBOE–93–57]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Listing and Trading Options on the Global Telecommunications Index

December 22, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1993, the Chicago Board Options Exchange ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

As provided in Exchange Rule 24.2, "Designation of the Index,"[1] the CBOE proposes to list for trading options on the Global Telecommunications Index ("Index"). The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style[2] index options on the Global Telecommunications Index. According to the Exchange, the Index represents a segment of the U.S. equity market that is not currently represented in the U.S. derivative markets. Therefore, the Exchange believes, options on the Index will provide investors with a low-cost means to achieve diversification or to tilt a portfolio toward or away from the global telecommunications industry. The Exchange believes that the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. The Exchange further believes that options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed global telecommunications industry funds, as well as a means of hedging the risks of investing in the global telecommunications industry.

Index Design

The Index is based on twenty U.S. and foreign companies that are representative of the global telecommunications industry,[3] all of

[1] Exchange Rule 24.2 provides, in part, that the Commission must approve a particular index upon which options are traded.

[2] European-style options can only be exercised during a specified period before the options expire.

[3] The component securities of the Index are: Alcatel Alsthom Compangie Generale d'Electricite (ADR); Atlantic Tele-Network, Inc.; BCE, Inc.; Bell Atlantic Corp.; BellSouth Corp.; British Telecommunications PLC (ADR); Comsat Corp.; Compania De Telefonos De Chile (ADR); Cable and Wireless PLC (ADR); DSC Communications Corp.; ECI Telecom Ltd.; L.M. Ericsson Telephone Co.

Continued

VOL 58 ISS 249 DE 30 1993 UMI

which trade domestically as either stocks or American Depositary Receipts ("ADRs").[4] Fourteen of the component securities currently trade on the New York Stock Exchange, Inc., one currently trades on the American Stock Exchange, Inc., and five are National Market System securities traded through the facilities of the National Association of Securities Dealers, Inc. Automated Quotation System.

As of November 24, 1993, the securities comprising the Index ranged in market capitalization from a low of $144.21 million (Atlantic Tele-Network, Inc.) to a high of $73.61 billion (AT&T). The median capitalization as of that date was $8.1 billion. The component accounting for the largest percentage of the total weighting of the Index on that date was Compania De Telefonos De Chile (9.08%), while the smallest was Atlantic Tele-Network, Inc. (1.27%).

Calculation

The Index is price-weighted and reflects changes in the prices of the component stocks relative to the base date of January 2, 1992. The Index value is calculated by summing the prices of the component securities and then dividing by a divisor that yielded an index value of 100.00 as of that date.

The Index will be calculated on a real-time basis using last-sale prices by CBOE or its designee and will be disseminated every 15 seconds by the Exchange. If a component stock is not currently being traded, the most recent price at which the stock traded will be used in the Index calculation.

Maintenance

The Index will be maintained by the Exchange. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor changes include, but are not limited to, spin-offs, certain rights issuances, and mergers and acquisitions.

The Exchange states that the Index will be reviewed on approximately a monthly basis by the CBOE staff. The Exchange may change the composition of the Index at any time or from time to time to reflect the changes in the global telecommunications industry. If a company in the Index is no longer representative of the global telecommunications industry, the Exchange represents that the component security will be removed from the Index. If it otherwise becomes necessary to remove a stock from the Index (generally due to a takeover or merger), every effort will be made to add a component security that is representative of the global telecommunications industry. In such circumstances, CBOE will take into account the capitalization, liquidity, volatility, and name recognition of the proposed replacement stock.

The Exchange will most likely maintain twenty stocks in the Index at all times. Absent prior approval by the Commission, the Exchange will not increase to more than 26 or fewer than 14 the number of component securities in the Index.

Long-Term Index Options

In addition to Index options on the full-value of the Index, the Exchange also proposes to list long-term Index option series ("LEAPS") as provided in CBOE Rule 24.9, and reduced-value Index LEAPS for which the underlying value would be computed at one-tenth (1/10th) of the value of the Index. The current and closing index value of any such reduced-value Index LEAPS will, after such initial computation, be rounded to the nearest one-hundredth. Other than the reduced value, all other specifications and calculations for the reduced-value Index LEAPS will remain the same.

Exercise and Settlement

Index options will have European-style exercise and will be "A.M.-settled index options" within the meaning of the rules in Chapter XXIV of the Exchange's rules.[5] The CBOE proposes to amend Rule 24.9 to refer specifically to Global Telecommunications Index options. The Exchange states that the proposed Index options would expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in an expiring series will be the second business day (ordinarily a Thursday) preceding the expiration date.

Exchange Rules Applicable

Except as modified in the proposed amendment, the Rules in Chapter XXIV of the Exchange's Rules will be applicable to Index options. Index option contracts based on the Global Telecommunications Index will be subject to the position limit requirements of Rule 24.4. For purposes of position and exercise limits Index LEAPS will be aggregated with Index options on a one for one basis. Under the proposal, ten reduced-value Index LEAPS contracts will equal one full-value Index option or Index LEAPS for purposes of aggregating positions. The Exchange represents that it has the necessary systems capacity to support Index options.

The Exchange believes that the proposed rule change is consistent with section 6 of the Act, in general, and furthers the objectives of section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-93-57 and should be submitted by January 20, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31882 Filed 12-29-93; 8:45 am]

BILLING CODE 8010-01-M

(ADR); Hong Kong Telecommunications, Ltd. (ADR); International CableTel, Inc.; Telecom Corp. of New Zealand Ltd. (ADR); Philippine Long Distance Telephone Co.; American Telephone and Telegraph Co.; Telefonica De Espana S.A. (ADR); Telefonos De Mexico S.A. De C.V. (ADR); and Vodafone Group PLC (ADR).

[4] An American Depositary Receipt is a negotiable receipt which is issued by a depositary, generally a bank, representing shares of a foreign issuer that have been deposited and are held, on behalf of holders of the ADRs, at a custodian bank in the foreign issuer's home country.

[5] Under CBOE Rule 24.9, A.M.-settled index options are settled based on an index value derived from opening prices on the last day of trading prior to expiration.

[6] 17 CFR 200.30-3(a)(12) (1993).

[Release No. 34-33377; File No. SR-NASD-93-16]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Partially Approving Proposed Rule Change Relating to the Small Order Execution System on Pilot Basis

December 23, 1993.

I. Introduction

On March 23, 1993, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder.[2] The proposal[3] would amend the rules of the NASD's Small Order Execution System ("SOES") to provide for the following modifications: (1) A reduction in the maximum size order eligible for SOES execution from 1,000 shares to 500 shares; (2) a reduction in the minimum exposure limit for "unpreferenced" SOES orders from five times the maximum order size to two times the maximum order size, and the elimination of exposure limits for "preferenced" orders;[4] (3) an automated function for updating market maker quotations when the market maker's exposure limit has been exhausted (market makers using this update function may establish an exposure limit equal to the maximum order size for that security); and (4) the prohibition of short sale transactions through SOES.

Notice of the proposed rule change appeared in the **Federal Register** on April 21, 1993.[5] The Commission received 649 letters commenting on the proposal, 137 in support and 512 in opposition.[6] On May 13, 1993, the NASD submitted the results of an NASD study on the extent and effect of active SOES trading on the market quality of the NASD's Automated Quotation System ("Nasdaq"). The Commission published the NASD's study for comment in the **Federal Register** on May 21, 1993.[7] The Commission received 7 comments on the NASD's study. The NASD responded to the comments on July 12, 1993.[8] For the reasons discussed below, the Commission is approving the proposal, as amended,[9] until January 6, 1995.

II. Summary

The instant rule is only the most recent chapter in the debate that has erupted over the last several years over the appropriate usage of SOES. Often this debate has been characterized as a feud between the market-making firms that in many ways form the backbone of the NASD and the active SOES traders who have taken advantage of opportunities to exploit what were perceived as relatively minor, but potentially profitable, imperfections in market structure. Although the Commission's authority and responsibility to review proposed changes in the rules of self regulatory organizations rests on broader principles, all of which are discussed *infra*, the fundamental question at issue here is whether, having adopted a mandatory automated trading system in order to facilitate the prompt efficient execution of relatively small transactions for retail market participants, the NASD may permissibly modify that system in an effort to limit its use to those types of trading strategies it was initially designed to facilitate. The contrary position is that, having mandated such a system in the first place, the NASD must make it available without regard to the manner in which the system is being used.

The NASD's initial attempts to restrict access to the system revolved around denying access to those with the status

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1993).

[3] The NASD has filed four amendments to the proposed rule change with the Commission. Amendment No. 1, filed on April 8, 1993, supplements the statement of statutory basis for the rule change. Amendment No. 2, filed on April 13, 1993, clarifies the market makers electing to use the proposed auto-update function may establish an exposure limit equal to the maximum order size for that security. Amendment No. 3, filed on May 13, 1993, provides the results of a study by the NASD's Department of Economic Research. Amendment No. 4, filed on November 29, 1993, requests that the Commission approve the rule change for a pilot period of one year.

[4] SOES orders are executed in rotation against those market makers at the inside bid or ask. In addition, orders may be entered in SOES and routed to a particular market maker with which the order entry firm has an order routing arrangement. This type of order entry is referred to as "preferencing." Preferenced orders are executed with the designated market maker at the inside bid or ask even if the market maker's quotation is not at the inside market.

[5] Securities Exchange Act Release No. 32143 (April 14, 1993), 58 FR 21484.

[6] A Summary of Comments is contained in appendix A. The Appendix is available for inspection in the Commission's Public Reference Room. A list of comment letters received in connection with publication of the rule change is also available for inspection in the Public Reference Room. In addition, the Commission has receive 409 comment letters in an unrelated filing that also raise objections to the instant rule change. See Securities Exchange Act Release No. 33307 (December 9, 1993), 58 FR 65746 (December 16, 1993) (approving File No. SR-NASD-93-59). The Commission has considered these comments as part of the record.

[7] Securities Exchange Act Release No. 32313 (May 17, 1993), 58 FR 29647 (publication of Amendment No. 3).

[8] See letter from Richard Ketchum, Executive Vice President and Chief Operating Officer, NASD, to Selwyn Notelovitz, Branch Chief, Over-the-Counter Regulation, SEC (July 12, 1993) ("NASD letter"). The Commission received two letters asserting that the NASD's letter responding to comments contains additional issues and information not included in the original rule filing, and therefore, should be published to provide public notice and an opportunity for public comment. See letters to Jonathan G. Katz, Secretary, SEC, from Harvey L. Pitt, Fried, Frank, Harris, Shriver & Jacobson, Counsel for Dina Securities (July 21, 1993); Mark D. Sheftz, President, All-Tech Investment Group, Inc. (July 30, 1993); Harvey L. Pitt, Fried, Frank, Harris, Shriver & Jacobson, Counsel for Dina Securities (December 20, 1993). The Commission does not believe it is necessary to publish the NASD's letter for notice and comment. The instructions to Form 19b-4 under the Exchange Act expressly contemplate correspondence prepared by the Self-Regulatory Organization ("SRO") concerning a proposed rule change after the rule change is filed but before the Commission takes final action on it. 17 CFR 249.819. Although such letters are filed with the Commission and retained for public inspection, the filing of such letters does not trigger a publication requirement pursuant to Section 19(b)(1) and Rule 19b-4 thereunder, except in those circumstances in which the letter amounts to an amendment of the rule change. The Commission has concluded that the NASD's letter responds to issues raised by commenters, and therefore does not constitute an amendment of the proposed rule change. In any event, the Commission has considered these two letters as part of the record.

[9] Initially, the NASD had proposed adoption of a 15-second delay between SOES executions for locked and crossed markets. Subsequently, however, the NASD requested that the Commission defer consideration of that element of the proposal pending the completion of necessary system modifications. See letter from Robert E. Aber, Vice President and General Counsel, NASD, to Selwyn Notelovitz, Branch Chief, SEC (July 27, 1993). Consequently, this order does not address the proposed delay for locked and crossed markets.

VOL 58 ISS 249 DE 30 1993 UMI

of "professional traders." Although those efforts were approved by the Commission, and the United States Court of Appeals for the District of Columbia in *Timpinaro, et al.* v. *SEC*,[10] determined that those rules were based on a "sound theory of market behavior," the court remanded the rules for reconsideration in light of the views expressed by the court in that decision. At that time, apparently in significant measure because the rules did not prove effective in limiting the use of SOES, the NASD chose to withdraw those rules and to proceed with the rules presently under review. While the previous rules attempted to define a kind of trading account that could not utilize SOES, the new rules attempt instead to limit the categories of transactions that may be affected through SOES, thereby effectively limiting the usage of SOES by those who use it in a manner seen by the NASD as inconsistent with the intended use of SOES.[11]

Ultimately, the question whether the proposed rule change is permissible may be seen to depend upon the resolution of two subsidiary issues. First, whether certain types of SOES utilization which are claimed to be abusive, do indeed threaten the efficient functioning of the Nasdaq market. Second, if such a threat is fairly perceived, whether the response to that threat reflected in the proposed rules is a rational and measured response. Judge Ginsburg questioned in *Timpinaro* whether it would be possible to determine those issues in a case of this sort through the utilization of significant empirical data and analyses. The Commission is satisfied, however, after reviewing proposed analyses of that nature, and after considering the views of its own economic staff, as reflected in this order, that such statistical or economic reviews as have been made are inconclusive and that there is no reasonable likelihood that additional studies would prove beneficial. In short, the difficulty is that there is no meaningful way to separate cause (or causes) from effect. Increased volatility and wider spreads between market makers' bid and asked prices, which are necessarily less efficient than more narrow spreads, do coincide with greater trading activity through SOES. It cannot be determined, however, whether increased volatility and wider spreads are in response to more active SOES trading, whether SOES trading is attracted by increased volatility and wider spreads, or whether both are caused by outside forces.

In these circumstances, while the Commission's analysis, discussed *infra*, includes all the elements that the courts have determined to be appropriate in proceedings of this nature, the Commission is ultimately required to rely on its own experience and expertise in according weights to the arguments made by the proponents and opponents of the proposed rules, all of whom have expressed their views to the Commission at great length. Having undertaken that analysis, the Commission concludes that the proposed rules meet the standards imposed by the Act, and is therefore approving the proposed rule changes for the one year pilot program requested by the NASD.

III. Background

The NASD designed and implemented SOES in 1984 to provide an efficient facility for order entry firms to execute retail customer orders of limited size in Nasdaq securities.[12] SOES offers an alternative for these firms to the traditional telephone contact and negotiation with market makers by providing automatic execution of customer orders against Nasdaq market makers at the best available market price. SOES confirms the trade to the market maker and the order entry firm and then automatically reports the trade data to the clearing corporation on their behalf for post-trade clearance and settlement. SOES reduces paperwork for both firms and limits and need for telephone contact, which is especially useful in active markets.

During the October 1987 market break, however, the Nasdaq market experienced significant operational problems, in part because of the failure of SOES to process the increased order flow.[13] During the market break, sharp downward volatility and record volume resulted in delayed transaction reports and a large number of locked and crossed markets. The unusual market conditions created a situation in which it was not possible for market makers to ensure that their quotes, against which trades were continuing to be executed in SOES, accurately reflected the rapidly changing market. Because participation in SOES at that time was voluntary, a majority of market makers responded by withdrawing from SOES.[14] Trades that normally would have been handled through SOES then had to be executed by contacting market makers by telephone. This necessarily increased the already extraordinary workload of market makers, and contributed to a large number of unfilled orders, as well as complaints that market makers were not accessible.

In response to those problems, the NASD adopted a number of rules to facilitate the execution of retail customer orders in SOES and to ensure market maker participation in the system ("1988 modifications").[15] The NASD made participation in SOES mandatory for all market makers in Nasdaq National Market System ("Nasdaq NMS") securities, increased the penalty imposed on market makers withdrawing from Nasdaq—and consequently from SOES—from 2 to 20 days, and established a SOES minimum exposure limit[16] for market makers of five times the maximum order size.[17] By raising the cost to market makers of withdrawing from SOES, and increasing the minimum level of market maker participation in SOES, these changes were intended, among other things, to ensure that order entry firms could obtain executions for their customers in volatile markets.

The 1988 modifications, however, changed the dynamic and economics of trading in Nasdaq, particularly by facilitating intra-day trading activity through SOES. The 1988 modifications made it possible for customers in direct contact with a registered representative at a SOES order entry firm[18] to use the automatic execution capability of SOES for trading based on the direction of intra-day price movements. As a result of the 1988 modifications, market makers are required to accept multiple trades at the same price and cannot respond to the trading activity of these customers by withdrawing from SOES.

This activity places increased pressure on market makers. For example, in reacting to an earnings report, as a practical matter, all market makers in a security cannot update their quotations simultaneously. Customers monitoring market quotations closely at SOES order entry firms can use SOES to obtain instantaneous executions from market makers that have not yet been able to update their quotations. Absent SOES, following the first such execution, a market maker would have a reasonable opportunity to update its quotations and, consistent with its Firm Quote Rule obligations,[19] could decline to trade at its displayed quotations while in the process of updating. With SOES, however, market makers may be subject to multiple executions before they are able to update their markets and even if they are already in the process of updating.

Subsequently in 1988, the NASD filed a series of rule changes in response to concerns that intra-day trading activity through SOES increases the cost of market making, and thereby jeopardizes liquidity in Nasdaq securities.[20] In approving each of these rule filings, the Commission recognized that the system was not intended to serve as a facility for active intra-day trading, and that to preserve the benefits of SOES for public investors, it is necessary to limit use of the system by active traders. These changes included attempts to prohibit so-called "professional trading accounts" from using SOES ("1988 Rules").[21] The 1988 Rules, however, proved ineffective. Therefore, in 1991, the NASD proposed and the Commission approved additional rules intended to restrict professional trading account access to SOES ("1991 Rules").[22] Following Commission approval, the 1991 Rules were challenged in the United States Court of Appeals for the District of Columbia Circuit, and were subsequently remanded for further consideration.[23]

Although the 1991 Rules remained in effect while the litigation was pending, active intra-day trading through SOES has increased[24] as customers at a growing number of order entry firms are engaging in intra-day trading strategies through SOES. The activities of these customers have resulted in a pattern of trading in which concentrated numbers of orders are generated in a short period of time after price movements or market maker quotation updates in a security.

According to the NASD, until recently, the trading activity of these makers that had not yet been able to update their quotations in response to price moves. As their numbers have increased, however, these customers also are attempting to catch what they perceive to be emerging price trends, executing concentrated numbers of orders through SOES against the majority of market makers at the inside quote in a particular security after as little as one quote update.

By way of example, customers monitoring the market in a particular security may notice that one by one, the market makers at the inside offer are raising their quotations. Hoping to take advantage of what appears to be a developing price trend,[25] these customers use SOES to execute buy orders instantaneously against those market makers who have not yet raised their quotations. Nonetheless, in response to successive 1,000-share executions from multiple customers, the remaining market makers raise their quotations as well. Minutes later, as the price trend stalls or reverses, these customers liquidate their positions by selling the securities at the new, higher market price.

In addition, these customers are positioning themselves between market makers and customers with larger orders, which may result in inferior prices for the larger orders. For example, the broker for a customer with a 10,000-share sell order telephones the first of five market makers at the inside bid, who executes 2,000 shares of that order, reports the trade, and updates his or her quotation. Public customers monitoring the market, and speculating that this trade is part of a larger order, react to the quotation update and trade report, executing SOES transactions against the remaining four market makers at the inside bid. The four market makers then update their quotations in response to these SOES executions. By the time the customer's broker has reached one of the market makers to execute the remaining 8,000 shares, the inside quotation has changed and the customer receives an inferior execution for the balance of its order.[26]

As discussed below, the NASD believes, and the Commission is persuaded, that the ability of such intra-day traders to place trades through SOES imposes increased risks and costs on market makers and jeopardizes market quality. Furthermore, the Commission is persuaded that these costs outweigh any marginal increases in liquidity and pricing efficiency attributable to such trading. In light of these costs, and in light of the ineffectiveness of previous

---

[10] 2 F.3d 453 (DC Cir. 1993).

[11] Because of the information advantage industry professionals enjoy over public customers, SOES has always excluded non-public customers, a term that refers to NASD members and other industry professionals who have direct access to SOES. See NASD Manual, SOES Rules, Secs. (a)(12), (c)(3)(C)–(D), (CCH ¶¶ 2451, 2460; NASD NTM 88–61 (included in File No. SR-NASD–88–37).

[12] See Securities Exchange Act Release No. 21433 (October 29, 1984), 49 FR 44042 (November 1, 1984).

[13] See division of Market Regulation, The October 1987 Market Break 9–3 to 9–15 (February 1988) ("1987 Market Break Report").

[14] As described more fully in the Division's October 1987 Report, the number of market making positions declined more than 83 percent between October 19 and October 22, 1987. *Id.* at 9–14.

[15] See Securities Exchange Act Release No. 25791 (June 9, 1988), 53 FR 22594 (June 16, 1988).

[16] The exposure limit is the number of shares a market maker is willing to buy or sell in SOES. Market makers establish exposure limits for each security in which they make a market. The minimum exposure limit is the minimum number of shares a market maker must buy or sell in SOES. Once a market maker's exposure limit is exhausted, the market maker is suspended from SOES and provided a 5-minute grace period within which to update its market and reestablish its exposure limit. Incoming orders are executed against the remaining market makers in the SOES rotation. Market makers that fail to update their quotations within the grace period are withdrawn from the issue on an unexcused basis and must wait 20 days before reentering the issue. NASD Manual, SOES Rules, Sec. (c)(2)(F) (CCH) ¶ 2460.

[17] See Securities Exchange Act Release No. 25791. The SOES maximum order size for Nasdaq NMS securities is 200, 500, or 1,000 shares, depending upon trading characteristics of the particular security. NASD Manual, Sched. D to the By-Laws, Part VI, Sec. (2)(a)(CCH) ¶ 1819. All Nasdaq Small-Cap securities are subject to a SOES maximum order size of 500 shares.

[18] An NASD member registered as a SOES Order Entry Firm may enter orders of limited size for execution against SOES market makers. NASD Manual, SOES Rules, Sec. (a)(6) (CCH) ¶2451.

[19] 17 CFR 240.11Ac1–1(c)(2).

[20] See Securities Exchange Act Release No. 26045 (August 31, 1988), 53 FR 34856 (September 8, 1988) (notice of filing and immediate effectiveness of rule change prohibiting member firms from breaking up larger orders for execution in SOES); Securities Exchange Act Release No. 26173 (October 12, 1988), 53 FR 40809 (October 18, 1988) (accelerated approval of six-month system change permitting market makers to lower their SOES minimum exposure limit for a security from five times the maximum order size to the maximum order size).

[21] Professional trading accounts were defined to include any account in which five or more "day trades"—that is, offsetting SOES trades in the same security for generally the same size during the trading day—have been executed through SOES during any trading day or where a professional trading pattern in SOES is exhibited. "Professional trading pattern" was defined as (1) the existence of a pattern or practice of executing day trades; (2) the execution of a high volume of day trades in relation to the total transactions in the account; or (3) the execution of a high volume of day trades in relation to the amount and value of securities held in the account. Securities Exchange Act Release No. 26361 (December 15, 1988), 53 FR 51605 (December 22, 1988).

[22] See Securities Exchange Act Release No. 29809 (October 10, 1991), 56 FR 52092 (October 17, 1991); Securities Exchange Act Release No. 29810 (October 10, 1991), 56 FR 52098 (October 17, 1991). In these rules, the NASD expanded its definition of "professional trading account" to include four additional factors that demonstrate a pattern of professional trading: (1) Excessive frequency of intra-day trading; (2) excessive frequency of shortselling; (3) existence of discretion; and (4) direct or physical access to SOES execution capability or data services such as Nasdaq Level II or National Quotation Data Service ("NQDS") that provide a real-time display of all market maker quotes in Nasdaq. The NASD also expanded the definition of "day trade" to situations in which only one side of the offsetting trades is executed through SOES; established a 15-second update period between unpreferenced SOES executions; and permitted market makers to specify the firms from which they would consent to receive preferenced orders. See *supra* note 4.

[23] *Timpinaro, et al.* v. *SEC*, 2 F.3d 453 (D.C. Cir. 1993).

[24] See Securities Exchange Act Release No. 32143 at 14.

[25] The availability of 1,000-share guaranteed executions facilitates intra-day trading because even the smallest price move can be profitable—that is, offsetting 1,000-share trades captuing an 1/8th per share nets $125, less commissions.

[26] Intra-day traders who reacted to the initial transaction report and quote update continue to monitor the market, and liquidate their positions when the price trend stalls or reverses. Of course, if the intra-day traders have guessed incorrectly that the 2,000-share trade was part of a larger order, the market will have reacted in response to incorrect trading estimates.

VOL 58 ISS 249 DE 30 1993 UMI

modifications to SOES, the Commission agrees that responsive measures are appropriate.

The Commission has considered the proposed rule against the framework of the *Timpinaro* decision. In sanctioning the differential treatment of preferenced and unpreferenced orders and by leaving in place that part of the 1991 Rules restricting professional trading accounts from using SOES ("professional trading account rules"), the Court of Appeals implicitly affirmed the NASD's right to distinguish among investors and limit access to its systems for certain trading practices if such distinctions and limitations are consistent with the Act. Indeed, Section 15A itself contemplates the imposition of such limitations as long as the limitations are procedurally fair and are otherwise consistent with the Act.

Nevertheless, the court remanded, without vacating, the professional trading account rules, largely because of the lack of empirical data in the administrative record buttressing the Commission's views.[27] The court's opinion, however, did not seek to displace the Commission's discretion to determine—in light of its organizational considerations, and consistent with its statutory mandate—what procedures will insure the sufficiency of the information underlying its findings.[28] In the context of the *Timpinaro* decision, as construed above, we have examined the current rule proposal on its record.[29]

[27] See *Timpinaro*, 2 F.3d at 467–59.

[28] *Vermont Yankee Nuclear Power Corp.* v. *National Resources Defense Council, Inc.*, 435 U.S. 519 (1978); *Bradford Nat'l Clearing Corp.* v. *SEC*, 590 F.2d 1085, 1103 (DC Cir. 1978) (the deference accorded agency decisions "increases and becomes less qualified when . . . the agency's decision partakes of 'prediction[s] based upon pure legislative judgment.'" (citations omitted)); *Clement* v. *SEC*, 674 F.2d 641, 647 (7th Cir. 1982). *Cf. NASD* v. *SEC*, 801 F.2d 1415, 1422 (DC Cir. 1986) (Commission need not "cite record evidence for the self-evidence proposition" that the emergence of competition to the NASD's query function meant that market makers did not need to rely solely on the NASD's query function). We do not read the court's decision as requiring the Commission to employ specified additional procedures in reviewing rule proposals from self-regulatory organizations. Rather, the court directed the Commission on remand to "explain or cure its failure to produce data." *Timpinaro*, 2 F.3d at 460.

[29] We do not read the court's opinion in *Timpinaro* to imply that there was a significant failure in the evidence on which the Commission's approval of the 1991 Rules were based. The court suggested that regression analyses may provide one means of curing the insufficiency, but, as the DC Circuit noted in *Occidental Petroleum Corp.* v. *SEC*, "it is the result reached not the method employed which is controlling." 873 F.2d 325, 347 (DC Cir. 1989), citing *Federal Power Commission* v. *Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944). The court's decision to remand the professional trading account rules without vacating therefore indicates that the court viewed the record supporting the 1991 Orders as not seriously deficient and viewed the professional trading account rules as "altogether sound at the core." *ICORE, Inc.* v. *FCC*, 985 F.2d 1075, 1081 (DC Cir. 1993).

IV. Description of the Proposed Rule Change

The proposal effects four changes to SOES:

(1) SOES Maximum Order Size

The rule change reduces the maximum size order eligible for SOES execution from 1,000 shares to 500 shares for the highest tier of Nasdaq NMS securities. Market makers must continue to display a size of 1,000 shares in their quotations for these securities, and to be firm for a minimum of 1,000 shares at their published quotations, for any negotiated transaction through SelectNet[30] or over the telephone.[31] Thus, the rule change will not affect a market maker's displayed size and firm quotation obligations.

(2) SOES Minimum Exposure Limit

The rule change reduces a market maker's SOES minimum exposure limit from five times the maximum order size to two times the maximum order size. In addition, the rule change restricts a market maker's exposure limit to unpreferenced orders so that preferenced orders will no longer count toward depletion of the minimum exposure limit.

(3) Automated Quotation Updates

The rule change authorizes the NASD to provide an automated quotation update function for market makers using SOES, at their election, on an issue-by-issue basis. Currently, when a market maker depletes its exposure limit in SOES, the market maker's quotation is closed to SOES executions until the market maker updates its quote and reestablishes its exposure limit. The proposed automated update function would update a market maker's quotation in any Nasdaq security when its exposure limit has been exhausted, and would reestablish the original quotation size and exposure limit, thereby preventing closed quotations. Under the rule change, market makers can set the fractional interval of the quotation update for each security. Market makers electing to use the automated update feature will be able to set their exposure limit at the maximum order size for that security—that is, 500 shares for the highest tier of Nasdaq NMS securities.[32]

(4) Short Sales Through SOES

The rule change prohibits the execution of short sales through SOES. Order entry firm customers seeking to execute short sales can do so only through SelectNet or over the telephone.

V. Discussion

Under Section 19(b) of the Act, the Commission must approve a proposed NASD rule change if it finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that govern the NASD.[33] No other finding is required.[34] In evaluating a given proposal, the Commission must examine the record before it and all relevant factors and necessary information.[35]

Section 15A of the Act addresses with some specificity the requirements applicable to NASD rules, and those are the standards against which the Commission must measure the NASD proposal.[36] As discussed below, the Commission has evaluated the costs and benefits of the proposed modifications in light of the objectives of Section 15A.

[30] SelectNet is an electronic subsystem of Nasdaq that allows order entry firms and market makers to communicate orders and negotiate transactions through their Nasdaq terminals without having to use the telephone. Securities Exchange Act Release No. 28636 (November 21, 1990), 55 FR 49732 (November 30, 1990).

[31] See NASD Manual, Sched. D to the By-Laws, Part VI, Section 2(a)–(b) (CCH ¶1019). Currently, market makers must display minimum size in their quotations equivalent to the SOES maximum order size, which is 1,000 shares for the highest tier of Nasdaq NMS issues. In light of the reduction in the SOES maximum order size, the rule change amends Schedule D to provide that the minimum display size for the highest tier of Nasdaq NMS issues will be 1,000 shares.

[32] The NASD will monitor the number of market makers using the automated update function on a real-time basis. In addition, the NASD has stated that it will add a feature in 1994 that provides the ability to shut down the automated update function if market conditions warrant. Letter from Beth E. Weimer, Associate General Counsel, NASD, to Selwyn Notelovitz, Branch Chief, SEC (August 11, 1993) ("NASD Automated Update Letter").

[33] 15 U.S.C. 78s(b).

[34] The Commission's statutory role is limited to evaluating the rules as proposed against the statutory standards, and does not require the SRO to prove its proposal is the less burdensome solution to a problem.

[35] In the Securities Acts Amendments of 1975 ("1975 Amendments"), Congress directed the Commission to use its authority under the Act, including its authority to approve SRO rule changes, to foster the establishment of a national market system and promote the goals of economically efficient securities transactions, fair competition, and best execution. Congress granted the Commission "broad, discretionary powers" and "maximum flexibility" to develop a national market system and to carry out these objectives. Furthermore, Congress gave the Commission "the power to classify markets, firms, and securities in any manner it deems necessary or appropriate in the public interest or for the protection of investors and to facilitate the development of subsystems within the national market system." S. Rep. No. 75, 94th Cong., 1st. Sess., at 7 (1975).

[36] See 15 U.S.C. 78o–3.

Because the benefits for market quality of restricting SOES usage outweigh any potential decrease in pricing efficiency, the Commission concludes that the net effect of the proposal is to remove impediments to the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that the proposed rule changes are designed to produce accurate quotations, consistent with Sections 15A(b)(6)[37] and 15A(b)(11)[38] of the Act. In addition, the Commission concludes that the benefits of the proposal in terms of preserving market quality and preserving the operational efficiencies of SOES for the processing of small size retail orders outweigh any potential burden on competition or costs to customers or broker-dealers affected adversely by the proposal. Thus, the Commission concludes that the proposal is consistent with Section 15A(b)(9) of the Act in that it does not impose a burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.[39]

The proposal also is consistent with the injunction in Section 15A(b)(6) that NASD rules not be designed to permit unfair discrimination between customers, brokers, or dealers. In fact, the proposal considered today would not draw distinctions between customers based on their status as traders—in contrast to the professional trading account rules—and generally provides that customers will have equal access to SOES. The proposal continues to treat preferenced orders differently, recognizing the freedom of market makers and order-entry firms to vary rights and obligations, on an arm's-length basis, in ways that do not unfairly disadvantage other customers.

The Commission also concludes that the proposal advances the objectives of Section 11A of the Act.[40] Section 11a provides that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure economically efficient execution of securities transactions, fair competition among market participants, and the practicality of brokers executing orders in the best market. The Commission concludes that the proposal furthers these objectives by preserving the operational efficiencies of SOES for the processing of small orders from retail investors.

A. The Analytical Framework

Reports from market participants about the manner in which SOES is being used for active intra-day trading strategies are largely undisputed. Market makers, order entry firms, and customers commenting on the proposal all relate that public customers engaged in active intra-day trading strategies are using SOES to execute one or both sides of offsetting trades. These customers monitor trade prices and quotations on computer screens, and cumulatively generate successive 1,000-share SOES executions in response to price movements or quotation updates.[41]

These executions follow the trend of price movements, and typically are reversed shortly thereafter through SOES or SelectNet. The NASD states, and commenters do not dispute, that this pattern of trading can result in virtually simultaneous executions against multiple market makers at the inside quote, and can occur repeatedly throughout the trading day in hundreds of Nasdaq securities.[42] These customers can account for virtually all trading in certain securities occurring through SOES for short periods of time and even for the whole trading day.

The NASD and commenters supporting the proposed modifications to SOES argue that active trading through SOES subjects market makers to increased risks and costs, and is having a detrimental effect on the Nasdaq market. Specifically, they argue that concentrated activity in SOES that follows the trend of price movements exacerbates volatility in quotations and transactions prices. They believe that this activity makes it difficult for market makers to execute larger orders and maintain orderly markets. Further, they argue that the use of SOES for active intra-day trading strategies is inconsistent with the design of the system as an execution facility for small retail orders. As a result, active intra-day trading through SOES imposes additional costs on market makers, which are reflected in wider spreads and a loss of liquidity for individual and institutional investor orders.

In contrast, the customers who use SOES to effect these intra-day trading strategies maintain that they are merely reacting to publicly available information, buying undervalued securities and selling overvalued securities, which causes prices to reflect all available information and adjust more rapidly to new information. These customers argue that their trading activity forces market makers to monitor the market more closely and update their quotations more quickly, which further contributes to pricing efficiency. These customers also contend that their trading activity contributes to market liquidity and depth.

Given these arguments, the threshold issue before the Commission is the effect of concentrated intra-day SOES activity on the market. Accordingly, in evaluating the rule change, the Commission must evaluate the asserted costs and benefits to market quality associated with active trading through SOES.

In evaluating the effects of active trading through SOES, the Commission would prefer, as Judge Ginsburg urged in *Timpinaro*, to have been able to rely upon appropriate empirical analyses prepared by the NASD, other proponents of the rule changes, opponents of the rule changes, or the Commission's staff. Unfortunately, that preference has not been, and apparently under the circumstances cannot fairly be, satisfied. The NASD submitted a study prepared by its Department of Economic Research regarding the effect of trading by SAT firm customers on Nasdaq market quality.[43] Through

[37] Section 15A(b)(6) authorizes the NASD to adopt rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Furthermore, the rules of the NASD must not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[38] Section 15A(b)(11) authorizes the NASD to adopt rules relating to quotations. Such rules must be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.

[39] S.Rep. at 13–14. In weighing the competitive effects of an SRO rule filing, the Commission must balance any perceived anti-competitive effects against other statutory objectives. The statute does not require the NASD to achieve its objective by selecting the least anti-competitive alternative. See *infra* notes 86–87 and accompanying text.

[40] See 15 U.S.C. 78k–1.

[41] Various data provided by the NASD demonstrate the extent to which customers at a growing number of SOES order entry firms—classified by the NASD as SOES active trading firms ("SAT firms")—are using SOES for intra-day trading strategies, generating concentrated numbers of 1,000-share orders over short periods of time. By way of example: During February 1993, aggregate SAT firm SOES volume accounted for over 80% of total SOES share volume; of the 50 Nasdaq share volume leaders for February 1993, 27 experienced SAT firm SOES volume exceeding 70% of total SOES volume; average SAT firm customer trade size on SOES: 995 shares; and average non-SAT firm customer trade size on SOES: 366 shares. Securities Exchange Act Release No. 32313 at 1–2. See also Securities Exchange Act Release No. 32143 at 9–11 for examples of concentrated numbers of SOES executions within short time periods.

[42] See Securities Exchange Act Release No. 32143 at 8, 11.

[43] See Securities Exchange Act Release No. 32313.

regression analyses, the NASD demonstrates a significant correlation between concentrated SAT firm activity and wider spreads, as well as significant increases in bid price and execution price volatility. In response, several commenters challenged the NASD's interpretation of its results, and asserted that the NASD's study does not establish that SAT firm trading causes a deterioration in market quality.

One commenter submitted an alternative methodology for determining the market effect of SOES activity by active customers.[44] The commenter proposed a cross-sectional regression that estimates the determinants of spreads in Nasdaq stocks, including the amount and type of trading by customers other than active SOES customers. The proposed methodology would also include an examination of spreads before and after the 1988 modifications to SOES that required market maker participation in SOES for all Nasdaq NMS securities.

The Commission concludes, however, that the analyses in the NASD study do not establish that SAT firm trading produces wider spreads, greater volatility, or diminished liquidity. The study finds a positive correlation between SAT firm volume and increased spreads and volatility. The Commission recognizes, however, that a positive correlation does not necessarily imply causation. It is not possible to determine whether increased volatility leads to SAT firm trading or SAT firm trading results in additional volatility. As a statistical matter, and particularly after considering the analysis of its staff economists, as reflected in this Order, the Commission does not believe that it is possible to differentiate between the effects on spreads and volatility attributable to active SOES trading and the effects attributable to other factors, such as stock-specific news or volatility. Therefore, the Commission is unable to make a clear statistical inference as to the effects of SAT firm customers on spreads.

The proposed alternative methodology contains the same basic flaw inherent in the NASD's analyses—namely, that the direction of causality is unclear. Unrelated increases in stock-specific, industry-specific, or market-wide volatility may produce wider spreads, and these changes in volatility may coincide with more active trading by customers engaging in intra-day trading strategies, possibly accompanied by reduction in trading volume by other retail customers and risk-averse individuals. Active SOES customers watch the market on Nasdaq Level II terminals, trying to identify price trends. Therefore, one would expect to see an increase in SAT firm activity in connection with significant price movement in the market.

Accordingly, the Commission is unable to conclude that either the NASD's study or the proposed alternative methodology provides a basis for discerning the effects of active intra-day SOES trading on spreads, volatility, or liquidity. The Commission is of the view that additional study of the existing data at best can determine only the overall effect of SOES on spreads, volatility and liquidity, and that the effects attributable to active intra-day trading through SOES cannot be disentangled independently.[45] In any event, the Commission is of the opinion that it has a sufficient basis for approving the rules despite the absence of statistically dispositive results.

In view of the lack of conclusive statistical analysis,[46] the Commission is mindful of its mandate from Congress in adopting the 1975 Amendments. In adopting the 1975 Amendments, Congress contemplated that "in the exercise of its quasi-legislative functions, the Commission's action may be based upon policy considerations and administrative expertise which cannot be reduced to specific evidentiary facts."[47] Thus, the Commission has reviewed the evidence provided by the NASD and commenters, and has exercised its administrative expertise in evaluating the economic theory and logical consequences of such trading activity in an automated environment. The Commission also has considered the comments of the NASD and market participants including SOES order entry firms and their customers, Nasdaq market makers, and trade associations representing broker-dealers, securities traders, and institutional investors. Moreover, the Commission is approving the proposal for a limited time, and will monitor its effects with a view to assessing whether the modifications produce the expected effects.

B. Costs and Benefits of Active Intra-day Trading through SOES

SOES originally was designed to process efficiently the trades of retail investors—trades that, because of their small size and the relatively low information they convey—should not have a significant effect on market prices. Market makers' quotations reflect information they glean from the volume and composition of trading activity. Market makers were willing to provide automatic execution of low-volume retail orders because of the low risks and costs[48] associated with these orders. In contrast, successive executions from intra-day traders which follow the trend of price movements can impose significant costs on market makers; because of the automatic execution capability of SOES, market makers do not have sufficient opportunity to react to market moves and the concentrated bursts of trading activity of intra-day traders and adjust their prices accordingly.

Unlike an automated transaction system such as SelectNet, SOES does not allow market makers to interact with orders. When an order is received over the telephone or through SelectNet, the market maker affirmatively accepts that offer, and then has an opportunity to update its quotations. On SOES, market makers automatically receive multiple executions every 15 seconds. As a result, market makers do not have the same opportunity to react, and are subject to increased risks and costs.

The Commission believes that it is appropriate to restrict trading practices through SOES that impose excessive risks and costs on market makers and jeopardize market quality, and which do not provide significant contributions to liquidity or pricing efficiency. Although SOES accounts for a fraction of total Nasdaq share volume, SOES handles a proportionally larger percentage of orders.[49] By reducing paperwork and eliminating the need for telephone contact for these orders, SOES allowed market makers to devote more time to professional trading in the negotiated market. Increasingly, however, SOES is costing market makers more in terms of surveillance and capital, which disadvantages the retail investors for whom the system originally was designed.

The Commission's conclusions reflect its studies of the 1987 and 1989 market breaks. The Commission has found that mandatory SOES participation provides critical liquidity in situations of severe market stress.[50] The Commission believes that it is more important to ensure that investors seeking to establish or liquidate an investory position have ready access to a liquid Nasdaq market and SOES than to protect the ability of customers to use SOES for intra-day trading strategies.[51]

1. Active Intra-day Trading through SOES Undermines Market Quality

The Commission believes that there are increased costs associated with active intra-day trading activity through SOES[52] that undermine Nasdaq market quality. The Commission believes that these include increased inventory holding costs[53] and information costs,[54] which can be expected to produce wider spreads. The Commission's analysis reflects the market reality that market makers demand a competitive return on capital. To the extent that they can pass on their costs, market makers raise prices to compensate for the increased costs of doing business. Market makers raise prices by widening spreads, which results in marginally higher prices for all customers. These higher prices can be expected to reduce market liquidity even further. Assuming a competitive market, market makers may abandon marginal market making activity if they are unable to generate sufficient volume at wider spreads.[55]

In addition, comment letters from market makers and trade associations report that active intra-day trading through SOES adversely affects the ability of market makers to execute larger orders.[56] As described above, contemporaneous execution reports and quotation updates can signal larger orders coming to market. Speculating that initial trades are part of a larger order being executed in portions by the market makers at the inside quote, and that the larger order may move the market, intra-day traders react by executing multiple SOES transactions against the market makers at the inside quote. If the market moves in response to these SOES executions, the customer with the large order will receive inferior prices for the balance of its order.[57]

Active intra-day trading activity through SOES can also contribute to instability in the market. Waves of 1,000-share executions on the same side of the market have the potential to aggravate price swings. Nearly simultaneous executions of 1,000-share lots that follow the price trend can draw available supply (or demand) at the inside offer (or bid) and attract the attention of other traders to the stock which further exaggerates price swings. The availability of guaranteed execution in size encourages this trading activity.

In addition, these waves of executions can make it difficult to maintain orderly markets. Given the increased volatility associated with these waves of intra-day trading activity, market makers are subject to increased risks that concentrated waves of orders will cause the market to move away. As a result, individual market makers may be unwilling to narrow the current spread and commit additional capital to the market by raising the bid of lowering the offer.[58] When market makers commit

---

[44] See letter from Morris Mendelson, Professor Emeritus of Finance, The Wharton School of the University of Pennsylvania, to Jonathan G. Katz, Secretary, SEC, at Exhibit D (May 10, 1993).

[45] The effects of active intra-day trading on market quality might be discerned, for example, by excluding those traders from SOES at random periodic intervals. Such an approach would be impractical.

[46] Where, as here, the Commission has determined that a specific procedure, such as statistical analysis, may not provide meaningful assistance in making the determinations it is required to make under the statute, the agency must, nonetheless, "produce, by whatever means the agency chooses, a record that does meet the * * * level of performance" required under applicable statutory and judicial standards. *Occidental Petroleum Corp.* v. *SEC*, 873 F.2d 325, 338 (DC Cir. 1989).

[47] S. Rep at 37.

[48] See *infra* notes 52–54 and accompanying text.

[49] See, *e.g.*, 1987 Market Break Report at 9–14, n.43.

[50] As noted above, market maker participation in SOES was made mandatory in1988 in response to problems that occurred in Nasdaq during the 1987 market break. The Commission found that during the 1989 market break, SOES was able to handle the increased retail order flow, and the Nasdaq market operated much more effectively than in 1987. See Division of Market Regulation, Market Analysis of October 13 and 16, 1989 130 (May 1990); 1987 Market Break Report at 9–12 to 9–15, 9–24 to 9–26.

[51] In this regard, the Commission believes that the reduction in maximum order size in conjunction with the reduction in the minimum exposure limit for unprofessional orders would not significantly affect the liquidity for Nasdaq securities during times of market stress. As noted, market makers using the automated update function will not be subject to closed quotes during the 5-minute grace period that ordinarily would follow exhaustion of their exposure limits. Moreover, the other modifications effected by this rule change—*e.g.*, the absence of short sales through SOES—should, on balance, facilitate access for retail investors to SOES during periods of market stress.

[52] The Commission believes that intra-day trading activity executed through SOES increases the costs of making markets, based on evidence from general academic research on spreads and volatility, as well as evidence inferred from business practices. Not all customers present the same costs to market makers, and in some markets the terms offered to different types of customers differ significantly. Studies of market maker spreads consistently identify the "adverse selection" cost presented by customers as one of the factors affecting spreads. See, *e.g.*, Stoll, Inferring the Components of the Bid-Ask Spread: Theory and Empirical Tests, 44 J. Fin. 115 (1989); Jaffe & Winkler, Optimal Speculation Against an Efficient Market, 31 J. Fin. 49 (1976); Bagehot, The Only Game in Town, 27 Fin. Analysts J. 12 (1971). The term "adverse selection" in this context refers to the likelihood that the market maker will trade with a party who possesses information not possessed by the market maker, and on whose trades the market maker may consequently lose money. Intra-day traders commenting on the rule change relate that the information on which they are basing their trading decisions is primarily the sequence of trading prices and quotations. Much of their profit comes from exploiting momentary differentials in quotations among market makers. In contrast, the trading of ordinary retail investors is not aimed at exploiting such temporary differentials. Thus, on average, ordinary retail trades through SOES present lower costs to market makers. If intra-day traders place their orders over the telephone, on average more time passes between when the market has moved away from a market maker's quote and when the order is placed. Consequently, the quote is more likely to have been updated, and the market maker is less likely to lose money on the trade.

[53] The role of the dealer in financial markets is to provide immediacy for customer orders by standing ready to trade for his or her own account. The price that dealers charge for this service is the bid-asked spread, which is a function of the dealer's costs. Benston & Hagerman, Determinants of Bid-Asked Spreads in the OTC Market, J. Fin. Econ. 353, 354 (1974). Principal among the dealer's costs are inventory holding costs and information costs. Stoll, The Supply of Dealer Services in Securities Markets, 33 J. Fin. 1133, 1133–52 (1978); Stoll, The Pricing of Securities Dealers Services: An Empirical Study of NASDAQ Stocks, 33 J. Fin. 1153, 1153–79 (1978). Inventory holding costs arise when the dealer accommodates customer demands for immediacy and takes a position that is inconsistent with the risk-return preferences of his or her optimal portfolio. The inventory cost component of the bid-asked spread compensates the dealer for the price risk and opportunity cost of holding securities. Customers who follow intra-day price trends and trade virtually instantly through SOES increase the price risk of holding securities by monitoring market makers more closely than other market participants and executing against them on SOES when they fail to update their quotations virtually simultaneously with market moves.

[54] The presence in SOES of active traders with access to electronic news and quotation services increases the likelihood that market makers are dealing with information traders. Intra-day traders are "information traders" not because their "information" reflects superior analysis of issuer fundamentals, but because they are faster in reacting to new information in the market-whether it be price movements or news-than other customers. In equilibrium, the volume and sequence of trading eventually reveals the presence of informed traders. In the short term, however, market makers are unable to distinguish traders with better or more current information from uninformed traders. The information cost component of the bid-asked spread protects the market maker against possible losses from dealing with information traders—i.e., adverse selection costs. See Stoll, Supply of Dealer Services, at 1144. Because of the automatic execution capability of SOES, market makers may not have an adequate opportunity to react to market moves and adjust their price before being subject to multiple executions. Accordingly, market makers can be expected to widen their spreads to compensate for the increased risk of receiving multiple automatic executions from information traders through SOES.

[55] Securities Exchange Act Release No. 26361, Concurring Opinion of Commissioners Grundfest and Fleischman.

[56] See letter to Jonathan G. Katz Secretary, SEC, from David L. Kahn, Crowell Weedon and Co. (June 18, 1993); George R. Moering, et. al., J.J.B. Hilliard, W.L. Lyons, Inc., at 1-2 (June 16, 1993); Robert Paymar, President, Summit Investment Corp., at 1 (May 25, 1993); Allen Wilson, trading Department, Sutro & Co., at 1–2 (June 9, 1993); Arthur J. Pacheco, Chairman, Institutional Committee, Securities Traders Association, at 2 (May 17, 1993).

[57] Of course, if the intra-day traders have guessed wrong and there are no additional orders, the market will have moved in response to incorrect speculation. See supra note 26 and accompanying text.

[58] Individual market makers see only a fraction of the entire order flow, and quote markets based on incomplete information of trading interest. Furthermore, Nasdaq markets cannot be closed in response to order imbalances; market makers must

Continued

VOL 58 ISS 249 DE 30 1993 UMI

VOL 58 ISS 249 DEC 30 1993 UMI

less capital and quote less competitive markets, prices can be expected to deteriorate more rapidly. Accordingly, the Commission believes that it is appropriate for the NASD to take measured steps to redress the economic incentives for frequent intra-day trading inherent in SOES to prevent SOES activity from having a negative effect on market prices and volatility.

2. Active Intra-day Trading Through SOES Does Not Contribute Off-Setting Benefits to Market Quality

The Commission does not believe that intra-day trading strategies through SOES contribute significantly to market efficiency in the sense of causing prices to reflect information more accurately. By their own admission, intra-day SOES traders follow the trend of price movements, trading primarily on the basis of execution reports and quotation updates, rather than on the basis of fundamental information or superior analysis.[59] Thus, their trades, which generally are reversed shortly thereafter, do not convey new fundamental information to the market. Where trading activity is an attempt to profit from temporary price disparities among market makers as a result of non-simultaneous quotation updates, information conveyed by such trading concerns the relative efficiency of different market makers, rather than information concerning the underlying value of the security.[60] Indeed, when executing against those market makers that have not yet been able to update their quotations in response to a market move, intra-day SOES traders trade at non-equilibrium prices,[61] which conveys inaccurate information to the market about the level of prices.

The Commission recognizes that intra-day traders who monitor the market may cause prices to reflect changes in economic conditions more quickly. Nevertheless, the Commission believes that limitations on the ability of intra-day traders to receive instantaneous execution of their orders through SOES would not significantly reduce the incentives for market makers to incorporate all economically relevant information quickly. Market makers have an incentive to maintain accurate quotes because market maker quotations must be firm pursuant to the Commission's firm Quote Rule.[62] In addition, various broker-dealers operate their own internal small order execution systems that execute orders based on the inside quotations in Nasdaq.[63] These broker-dealers have an economic incentive to ensure that quotes of an aberrant market maker are not stale.

In addition, the Commission disagrees with commenters who suggest that intra-day trading activity necessarily contributes liquidity and depth to the market. The liquidity contribution of the increased volume from active intra-day trading may be illusory, at best.[64] For example, active traders closing out sales effected minutes before often make no contribution to market liquidity other than to offset the liquidity they demanded in acquiring their short position. In any event, to the extent that these trades may contribute to liquidity, their liquidity contribution does not depend on whether they occur through SOES, as opposed to through SelectNet or over the telephone.

C. Analysis of the Proposed Modifications

The Commission has evaluated each of the proposed modifications to SOES, and concludes that each of the modifications reduces the adverse effects of active trading through SOES and better enables market makers to manage risk while maintaining continuous participation in SOES. In addition, the Commission does not believe that any of the modifications will have a significant negative effect on market quality. To the extent that any of the modifications may result in a potential loss of liquidity for small investor orders, the Commission believes that these reductions are marginal and are outweighed by the benefits of preserving market maker participation in SOES and increasing the quality of executions for public and institutional orders as a result of the modifications.

1. Decrease in the SOES Maximum Order Size

The Commission concludes that the benefits to the market in terms of limiting active trading through SOES outweigh any limited decrease in liquidity for small retail orders as a result of reducing the SOES maximum order size. The Commission believes that reducing the maximum size order eligible for execution through SOES from 1,000 to 500 shares reduces the economic incentives for intra-day trading strategies through SOES, and reduces the exposure of market makers to such activity. In addition, the Commission believes that the reduction in maximum order size will have little effect on the retail investors for whom SOES was primarily intended. in fact, the Commission believes that the modifications actually may enhance liquidity for small orders during active markets by reducing market makers' exposure to intra-day trading strategies through SOES and encouraging market makers to quote more competitive markets and commit more capital of the market.[65]

---

continue to quote 1,000-share markets and risk their capital. The uncertainty of establishing equilibrium prices in fast markets means that market makers will trade in smaller size. See, e.g., 1987 Market Break Report at 9–1.

[59] See, *e.g.* letters to Jonathan G. Katz, Secretary, SEC, from Mark D. Shefts, President, All-Tech Investment Group, Inc., at 10, 12, 15 (May 11, 1993); Harvey L. Pitt, Fried, Frank, Harris, Shriver & Jacobson, Counsel for Dina Securities, Inc., at 4 (August 6, 1993) ("Dina August letter"); Behar, Bypassing the Brokers, at 42–43.

[60] It is only because they seek to exploit fleeting changes in prices that these traders require instantaneous execution of their orders. Generally, profiting from fundamental information does not require instantaneous executions and intra-day, round-trip trading, or even the ability to trade through SOES at all. Were they trading on the basis of superior analysis, these traders could still profit by trading through SelectNet or over the telephone.

[61] That is, these trades occur at prices that no longer reflect the market for the security because the market makers subject to these SOES executions have not yet had an opportunity to update their quotations.

[62] See 17 CFR 240.11Ac1–1(c).

[63] Broker-dealers operating proprietary order execution systems are subject to best execution requirements and must execute internalized orders at the inside market, even if that quotation is out of line with the rest of the market. See NASD Manual, Rules of Fair Practice, Art. III, Sec. 1, Interpretation of the Board of Governors, Transactions in the OTC Market, (CCH) ¶2151.03.

[64] An increase in market activity does not necessarily produce an increase in market liquidity. For example, it may be generally assumed that higher transaction volume reduces a market maker's inventory carrying costs, thereby reducing spreads and increasing a market maker's willingness to accommodate large trades. Tinic, The Economics of Liquidity Services, 86 Q. J. Econ. 77, 93 (1972); Demsetz, The Cost of Transacting, 82 Q. J. Econ. 33, 50 (1968). Nevertheless, the liquidity gains attributable to increased volume are contingent on an even distribution of transaction volume—in other words, nearly equivalent numbers of buy and sell orders. Tinic, Liquidity Services at 80–81. Concentrated volume that follows the trend of price movements would not be expected to produce the liquidity gains normally associated with increased transaction volume.

[65] The Commission recognizes that its approval of the reduction in maximum order size represents a shift from previous Commission statements that a 1,000-share SOES maximum order size is necessary to ensure liquidity for small retail orders during periods of market volatility. See Securities Exchange Act Release No. 25791. These statements were made in connection with enhancements to SOES after the market break of 1987. Since that time, however, the Commission has gained experience with respect to the effects of active intra-day trading through SOES. Furthermore, the Commission's statements that a 1,000-share maximum order size is necessary to ensure liquidity for small retail orders during periods of market stress did not anticipate subsequent enhancements to Nasdaq. Since the Commission's statements, the NASD has proposed, and the Commission has approved, additional safeguards to ensure liquidity in times of market stress. These enhancements included the introduction of SelectNet, which reduces reliance on the telephone and provides for the efficient negotiation of orders, including orders that exceed the SOES maximum order size. In addition, in 1990 the Commission approved a rule change that established a minimum quotation size in Nasdaq of 1,000 shares for the highest tier of Nasdaq NMS securities. The Commission believes that in light of these enhancements, a reduction in the maximum order size would not have a substantial negative effect on market liquidity during times of market stress and actually may improve liquidity.

Some commenters objecting to a reduction in the maximum order size argue that because the Firm Quote Rule requires market makers to be firm for orders up to their published size—that is, 1,000 shares or more for the highest tier of Nasdaq NMS securities—the Rule should be interpreted to require that market makers be firm for orders of the same size that are received through SOES. The Commission believes that a reduction in the SOES maximum order size is consistent with the size requirement of the Commission's Firm Quote Rule.[66] The Firm Quote Rule requires market makers to honor orders in amounts up to their displayed quote sizes; however, nothing in the Firm Quote Rule imposes specific quote sizes on market makers. In the Nasdaq market, existing NASD rules impose varying quotation size requirements upon market makers based upon the characteristics of the trading medium.[67] Thus, the rules permit a market maker to trade in different sizes over the telephone than through SOES.[68] For example, a market maker may offer 2,000 shares of a security at its quoted price for execution over the telephone or SelectNet, but under NASD rules, need only execute 1,000 shares at its quoted price in SOES.[69]

The Commission's Firm Quote Rule requires only that the market maker honor its quote in amounts up to the market maker's obligated size; it does not dictate the means by which customers are entitled to receive such executions.[70] The reduction in maximum order size is consistent with the Firm Quote Rule because market makers remain obligated to honor orders greater than 500 shares over the telephone or SelectNet.

In this regard, the Commission acknowledges the comments from public customers regarding the difficulty of reaching market makers on the telephone and the problem of market makers refusing to trade at their quotations.[71] The Commission takes these allegations seriously, especially given that short sales and orders larger than 500 shares now may receive executions only through SelectNet or over the telephone. The Commission expects rigorous NASD enforcement of market makers' firm quote obligations,[72] and in its oversight capacity, will scrutinize the NASD's enforcement of these obligations, and its investigation of backing away complaints.

2. Reduction in the SOES Minimum Exposure Limit

The Commission believes that the reduction in the minimum exposure limit provides market makers with a better opportunity to react to market movements.[73] Currently, market makers can be subject to as many as five 1,000-share executions through SOES. Although the system allows market makers 15 seconds between orders to reassess their markets, market makers still may not be able to react in time to avoid subsequent executions at their prices. Thus, a market maker willing to commit to only 1,000 shares at its prices may be subject to multiple 1,000-share executions at those prices before it has an opportunity to react. Reducing the minimum exposure limit will reduce the exposure of market makers to multiple executions through SOES.

In addition, the Commission believes that eliminating exposure limits for preferenced orders may reduce the potential for market makers to deplete their exposure limits and enhance the opportunity for customers to receive expeditious executions of their orders in SOES. Preferenced orders should never again trigger the closed quote and five-minute grace period that follows depletion of a market maker's exposure limit, and to the extent of preferenced orders, should serve to increase liquidity. Therefore, the Commission believes that on balance, the modifications will have a negligible effect on liquidity for SOES orders.[74]

Allowing market makers to lower the minimum exposure limit for unpreferenced orders from five to two times the maximum order size, and eliminating exposure limits for preferenced orders, does not represent unfair discrimination. Under a preferencing arrangement, the broker-dealer presumably agrees not to take advantage of the market maker when it is showing an untimely inside quotation, in return for which the market maker waives its exposure limit.[75] "It would be peculiar indeed to force upon the market maker and its customer the broker-dealer, both investment professionals," an exposure limit "neither party wants."[76] The Commission believes that it is not unfair for a market maker to waive the protection of its exposure limit for certain customers. In this sense, it is no different from situations in which a firm negotiates individual exposure limits on its trading desk in deciding how much

---

[66] See 17 CFR 240.11Ac1–1(c)(2).

[67] NASD Manual, Sched. D to the By-Laws, Part VI, Sec. 2(b), (CCH) ¶ 1819. Indeed, historically, NASD rules provided for different quote sizes for SOES than for telephone execution. Prior to adoption of the 1988 display size requirement of 1,000 shares for the highest tier of Nasdaq NMS stocks, all Nasdaq securities were subject to a display size requirement of only 100 shares. At the same time, market makers were subject to executions of SOES orders of up to 1,000 shares.

[68] See NASD Manual, Sched. D to the By-Laws, Part VI, Sec. 2(a) (CCH) ¶ 1819.

[69] It is worth noting that the same situation arises with respect to automated execution systems on the regional exchanges. For example, on the Philadelphia Stock Exchange, specialists often post quotes that exceed the maximum size order eligible for execution through PACE, its automated execution system. See Securities Exchange Act Release No. 26988 (June 23, 1989), 54 FR 26141 (July 5, 1989) (maximum size order eligible for execution through Philadelphia Automated Communication and Execution System is 599 shares). Similarly, specialists on the American Stock Exchange often quote sizes that exceed the maximum size order eligible for execution through Auto-Ex, an automated system which executes customer market and marketable limit orders of up to 599 shares during periods of extremely high order flow. See Securities Exchange Act Release No. 32393 (June 1, 1993), 58 FR 32159 (June 8, 1993).

[70] The Commission believes that in connection with a system like SOES which provides automatic execution of orders, it is appropriate to limit the size of orders eligible for execution. See 17 CFR 240.11Ac1–1(d). Larger orders entail increased risks and costs for market makers. See Easley & O'Hara, Adverse Selection and Large Trade Volume: Implications for Market Efficiency, 27, J. Fin. & Quant. Analysis 185, 186–205 (1992) (the larger the order size, the more likely it is that the market maker is trading with an informed trader, which raises the risks of taking a position). It is economically rational that these orders should receive a form of execution that provides market makers a better opportunity to react.

[71] See letters to Jonathan G. Katz, Secretary, SEC, from Kelly Jordan (received June 10, 1993); John M. Contento (May 11, 1993).

[72] Commission and NASD rules require market makers to honor their quotations. 17 CFR 240.11Ac1–1(c)(2); NASD Manual, Sched. D to the By-Laws, Part VI, Sec. 2(b), (CCH) ¶ 1819. Further, NASD rules provide for disciplinary procedures and sanctions for violations. NASD Manual, Rules of Fair Practice, Art. V, Sec. 1, (CCH) ¶ 2304.

[73] Ordinarily, a market maker would have a reasonable opportunity to update its quotations following an execution, and consistent with its obligations under the Commission's Firm Quote Rule, may decline to trade at its published quotations while it is in the process of updating. With SOES, market makers are subject to multiple executions and may not have sufficient time to update their quotations following an execution before receiving subsequent executions through SOES.

[74] Again, the Commission recognizes that the reduction in the minimum exposure limit is inconsistent with its statements in approving previous modifications to SOES. In approving the 1988 Rules and 1991 Rules, the Commission noted its reluctance to lowering the minimum exposure limit, "which affects the liquidity of the entire OTC market." Securities Exchange Act Release No. 29809 at 23; Securities Exchange Act Release No. 26361 at 15–16. For the reasons discussed above, the Commission believes that additional modifications are now required to reduce the adverse effects of such trading activity in the Nasdaq market.

[75] *Cf. Timpinaro*, 2 F.3d at 457.

[76] *Timpinaro*, 2 F.3d at 457.

capital it is willing to commit to larger orders.

3. Automated Quotation Updates

The Commission believes that the proposed automated quotation update function enhances the ability of market makers to react to automatic executions through SOES, with little effect on market liquidity.[77] Under the Commission's Firm Quote Rule, market makers are entitled to update their quotations following an execution and prior to accepting a second order at their published quotes.[78] Many firms have developed proprietary software to automate this function internally.[79] In many respects, the NASD's proposal expands the availability of new technology to all market makers at lower costs.[80] Furthermore, the Commission believes that the automated update function will enable market makers to respond more quickly to market moves, thereby increasing pricing efficiency.

Commenters opposing the rule change believe that the automated quotation update function in conjunction with the reduction in the minimum exposure limit to only 500 shares for market makers using the update function will result in more frequent quotation updates.[81] These commenters argue that as a result, volatility will increase during periods of active trading. The Commission recognizes that use of the update function in active markets may result in more frequent quotation updates, but believes that the update function merely enables market makers to respond more quickly to price movements resulting from SOES order flow, and should increase pricing efficiency. Accordingly, introduction of the automated update function should not adversely affect market quality.[82]

Furthermore, the Commission believes that on balance, the automated update function will not reduce liquidity for SOES orders. As described above, market makers electing to use the update function may lower their exposure limit to the maximum order size for that security. Because market makers using the update function will not be subject to closed quotes on SOES following depletion of their exposure limits, the automated update function reduces the potential for a 5-minute interruption in pricing that occurs when market makers have exhausted their exposure limits. In addition, the Commission believes that the automated update function will help ensure that quotations progress in a continuous, orderly manner during periods of market stress.

4. Prohibition Against Selling Short Through SOES

The Commission recognizes that as a general matter, short sellers benefit the market in terms of increased price efficiency.[83] Nevertheless, the Commission believes that prohibiting selling short through SOES is a means reasonably designed to reduce the costs to market makers and investors that result from active intra-day trading activity through SOES. Given the costs of intra-day trading through SOES,[84] and the availability of other means to execute short sales (over the telephone or through SelectNet), the Commission believes that any burden on short sellers is outweighed by the benefits of potentially narrower spreads and enhanced liquidity in Nasdaq securities. Indeed, evidence submitted by the NASD tends to show that short sales among typical retail investors are infrequent and rarely executed through SOES.[85] It follows that the preponderance of short sales executed through SOES represent the trades of intra-day traders reacting to price movements. Accordingly, the Commission believes that prohibiting the execution of short sales through SOES is an effective means of limiting intra-day trading through SOES, with little concomitant effect on retail investors.

D. The Proposed Modifications Do Not Impose Unnecessary or Inappropriate Burdens on Competition

Although the Commission believes that the modifications are appropriate to preserve market maker participation in SOES and a liquid Nasdaq market, the Commission still must assess the effects of the rule change on competition. In enacting section 15A(b)(9) of the Act, Congress obligated the Commission to "balance the perceived anti-competitive effect of the regulatory policy or decision at issue against the purposes of the Exchange Act that would be advanced thereby and the costs of doing so."[86] Although the Commission is sensitive to avoiding unnecessary competitive burdens, the statute does not require the NASD to achieve its objective in the least anti-competitive manner.[87] Rather, the statute requires a Commission determination that any anti-competitive effects are necessary or appropriate to achieve the objectives of the Act. The Commission has scrutinized the potential anti-competitive effects of the rule change, and has determined that the rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that it is appropriate to exclude from SOES discernable trading practices that impose excessive risks and costs on market makers and jeopardize market quality. Different kinds of customers present different costs to market makers.[88] Market makers are willing to guarantee execution for retail investors' orders in light of the relatively low potential risks associated with such order flow.[89] The Commission believes that establishing different minimum exposure limits for unpreferenced and preferenced order flow is appropriate because unpreferenced order flow includes the trades of active traders.[90]

Furthermore, the Commission does not believe that active customers will be at a competitive disadvantage because they cannot obtain automatic execution of short sales and orders over 500 shares.[91] The Commission notes that this limitation applies to all market participants rather than specifically limiting a class of investors.[92] Moreover, short sales and orders over 500 shares continue to be eligible for negotiated execution through SelectNet or over the telephone. Therefore, the Commission believes that any discrimination or anti-competitive effects are outweighed by the benefits of narrower spreads and a more liquid market for Nasdaq securities.[93] Accordingly, the Commission believes that any discrimination or anti-competitive effect is appropriate in light of the increase in Nasdaq market quality.

VI. Conclusion

The Commission, in the exercise of the authority delegated to it by Congress, and in light of its experience regulating securities markets and market participants, has determined that the instant modifications to SOES further objectives of investor protection and fair and orderly markets, and that these goals, on balance, outweigh any marginal effects on liquidity for small retail orders, and any anti-competitive effects on order entry firms and their customers. The Commission concludes that the ability of active traders to place trades through a system designed for retail investors can impair market efficiency and jeopardize the level of market making capital devoted to Nasdaq issues. The Commission believes that the rule change is an appropriate response to active trading through SOES, and that the modifications will reduce the effects of concentrated intra-day SOES activity on the market. The Commission concludes that the rule change strikes a balance between the need to preserve the efficiency and integrity of the market with the need for customer access to immediate executions through SOES.

The Commission believes that the instant rule change is a reasonable effort by the NASD to address the liquidity effects of active intra-day trading activity through SOES. The proposal will be effective for one year,[94] by which time the Commission expects it will revisit many of the issues considered today. Any further action the NASD seeks with respect to SOES—extension of these modifications upon expiration, or introduction of other changes—will require an independent consideration under Section 19 of the Act.[95] In that regard, the Commission expects the NASD to monitor the quality of its markets and assess the effects of these changes on market quality for Nasdaq securities. If feasible, the NASD should provide a quantitative and statistical assessment of the effects of the modifications on market quality.

---

[77] In comparison, the Commission has allowed regional exchange specialists to use automated quotation update systems—commonly referred to as "Autoquote" systems—that permit specialists on the regional exchanges to track the quotations of the primary exchanges and to disseminate quotations automatically in response to changes in the quotations of the primary market, even where no transaction has occurred in the regional market. See generally, Securities Exchange Act Release No. 17583 (February 27, 1981), 46 FR 15713 (March 9, 1981).

[78] The Firm Quote Rule requires market makers to execute orders at prices at least as favorable as their quoted prices. The Rule also allows market makers a reasonable period of time to update their quotations following an execution: allows market makers to reject an order if they are in the process of updating their quotations; and provides for a size limitation on liability at a given quote. 17 CFR 240.11Ac1–1(c)(2). See also, Securities Exchange Act Release No. 14415 (January 26, 1978), 43 FR 4342 (February 1, 1978). The Commission believes that the proposed automated update function is consistent with the Firm Quote Rule: the update function allows market makers the opportunity to update their quotations after executions on SOES, and protects market makers from multiple executions before they can update.

[79] See Securities Exchange Act Release No. 32432 (June 8, 1993), 58 FR 33127 (June 15, 1993).

[80] The Commission believes that the automated quotation update function is consistent with the NASD's "autoquote" policy. This policy prohibits systems that effect automatic quotation updates or track inside quotations in Nasdaq because of the potential effect of the additional quotation traffic on Nasdaq system capacity. Securities Exchange Act Release No. 32432. The policy, however, provides an exception for the automated update of a market maker's quotation in response to an execution by that market maker. The NASD has asserted that the limited quotation traffic attributable to individual market maker quotation updates following an execution will not overload Nasdaq system capacity. NASD Automated Update letter at 2.

[81] See, e.g., letters to Jonathan G. Katz, Secretary, SEC, from Douglas P. Ralston, President, Sheerman, Ralston Inc., at 4 (May 10, 1993); Dina August letter at 15.

[82] In connection with its approval of the instant rule change, the Commission is requiring the NASD to provide an interim report on the effects of the automated quotation update function six months after the pilot is implemented. In this regard, the Commission expects the NASD to monitor market makers' use of the automated update function and provide the Commission with data as to the number of market makers using the update function in each security, and the exposure limits and update intervals market makers have selected for purposes of the update function.

[83] See Securities Exchange Act Release No. 20278 (June 7, 1991), 56 FR 27280 (June 13, 1991). Efficient markets require that prices fully reflect all buy and sell interest, including that of market participants who believe that a stock is overvalued. Shortsellers contribute to pricing efficiency because their trades assure that their perceptions of the issuer are reflected in its stock price.

[84] As described above [see *supra* notes 48–50, 52–54, and accompanying text], intra-day SOES traders subject market makers to increased costs by monitoring the market more closely than other market participants and executing against them through SOES when they fail to update their quotations virtually simultaneously with market moves. SOES is a special form of access to the market that market makers can afford to offer only for orders that pose less risks and costs. Market makers are willing to provide automatic execution of small investor orders because of the low risks and costs associated with such orders. In other words, access to SOES is a form of non-price discount that market makers offer for execution of less expensive orders. *Cf. Timpinaro*, 2 F.3d at 457 ("Non-price discounts are an everyday feature of business; not only is there nothing inherently 'unfair' about them, they have the same pro-competitive effect as a price discount."). See also Ginsburg, Non-Price Competition, 38 Antitrust Bull. 83 (1993). Given that most short sales through SOES are attributable to intra-day traders, the Commission believes that it is fair and economically rational to limit the exposure of market makers to shortselling through SOES.

[85] See Securities Exchange Act Release No. 32143 at 17; NASD July letter at 13.

[86] S.Rep. No. 75, 94th Cong., 1st. Sess., at 13 (1975). The drafters formulated the Commission's duty in this respect variously as the "explicit obligation to balance, against other regulatory criteria and considerations, the competitive implications of self-regulatory and Commission action," and the "responsibility * * * to balance the perceived anti-competitive effects of the regulatory policy or decision at issue against the purposes of the Exchange Act that would be advanced thereby and the costs of doing so," and the weighing of "the need for and effectiveness of regulatory actions in achieving the purposes [of the Exchange Act] * * * against any detrimental impact on competition." *Id.* at 13–14. See also *Bradford National Clearing Corp. and Bradford Securities Processing Services, Inc.* v. *SEC*, 590 F.2d 1085, 1105 (DC Cir. 1978).

[87] *Bradford*, 590 F.2d at 1105.

[88] See Securities Exchange Act Release No. 26381, Concurring Opinion of Commissioners Grundfest and Fleischman.

[89] Many securities exchanges with automated execution systems limit trading that is inconsistent with the purpose of those systems as facilities for executing retail orders. These exchanges include the Philadelphia Stock Exchange (options and equities), American Stock Exchange (options), Chicago Stock Exchange, Cincinnati Stock Exchange, Boston Stock Exchange, Pacific Stock Exchange (options and equities), and the Chicago Board Options Exchange ("CBOE"). See, *e.g.*, Securities Exchange Act Release No. 26068 (Philadelphia Automated Communication and Execution System: automated execution of agency orders—*i.e.*, public customer orders not for account of broker-dealer or any account in which broker-dealer has direct or indirect interest—of up to 599 shares); Securities Exchange Act Release No. 28411 (September 6, 1990), 55 FR 37784 (September 13, 1990) (CBOE's Retail Automatic Execution System ("RAES"), limited to public customer orders).

In addition, various proprietary trading systems ("PTSs") exclude investors who do not meet specified criteria of creditworthiness because the proprietary nature of the systems exposes them to a greater risk of default by their customers. Two PTSs make additional distinctions: AZX, Inc. (formerly Wunsch Auction Systems, Inc.) is limited to participants trading for their own accounts, thus excluding customers who rely on a broker to effect their trades; Institutional Networks Corp. (Instinet) permits institutional traders to limit their market activity to other institutions, thereby excluding customers represented by broker-dealers from their negotiations.

[90] This market segmentation is an example of efficient price discrimination, and is similar to the segregation of wholesale and retail customers that results in different brokerage commissions schedules for retail and institutional clients.

[91] In addition, the Commission does not believe that the modifications deprive SAT firm customers of best execution of their orders. Best execution refers to the duty of a broker-dealer to execute customer orders so that the customers' total cost or proceeds are the most favorable under the circumstances. Securities Exchange Act Release No. 30920 (July 14, 1992), 57 FR 32587, 32595 (July 22, 1992) (Market 2000 concept release). The Act speaks of best execution in terms of assuring economically efficient execution of securities transactions and the practicality of brokers executing investor orders in the best market, but does not guarantee maximum speed of execution. See 15 U.S.C. 78k–1. Moreover, best execution does not require that every system, regardless of the purpose for which the system was designed, be made available for the execution of an order. If access to SOES is unavailable for execution of an order because of the system's design limitations with respect to dealer negotiation, order size, or trading practices, orders executed elsewhere, even if less speedy, still may be consistent with best execution.

[92] See also text accompanying *supra* notes 75–76. Commenters argue that the rule change discriminates among broker-dealers by prohibiting order entry firms from using SOES to execute customer short sales, while permitting market makers to sell short through SOES for their own accounts. See letter from Junius W. Peake, Monfort Executive Professor of Finance, University of Northern Colorado, to Jonathan G. Katz, Secretary, SEC, at 7; Dina August letter at 17. This argument is based on a misperception of existing SOES rules. NASD rules prohibit market makers from using SOES for proprietary orders. NASD Manual, SOES Rules, Secs. (a)(12), (c)(3)(C)–(D), (CCH) ¶¶ 2451, 2460. When market makers execute SOES buy orders, they are merely responding to orders they have received; they are not using SOES to effect portfolio preferences and accumulate a short position.

[93] Indeed, the Commission believes that the proposed rule change may actually enhance competition because it facilitates the ability of broker-dealers to make markets in more securities. Such market making competition is itself an important goal of the Act because it increases liquidity and promotes competition among broker-dealers.

[94] See Amendment No. 4.

[95] Although the modifications should significantly limit active trading on SOES, the NASD has indicated that it may seek additional rul changes to limit such trading further. The Commission will evaluate the need for further modifications in light of experience gained with respect to the current modifications.

The NASD should consider whether additional criteria for evaluating the effectiveness of the modifications are appropriate, and should include in its assessment of the modifications all factors that it deems relevant in evaluating the effects of the modifications. If an assessment is not feasible, the NASD should provide a reasoned explanation supporting that determination.

Accordingly, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, sections 15A(b)(6), 15A(b)(9), and 15A(b)(11). In addition, the Commission finds that the rule change is consistent with the Congressional objectives for the equity markets, set out in Section 11A, of achieving more efficient and effective market operations, fair competition among brokers and dealers, and the economically efficient execution of investor orders in the best market.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the instant rule change SR–NASD–93–16 be, and hereby is, approved in part on a one-year pilot basis, effective January 7, 1994.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31934 Filed 12–29–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33372; File No. SR–NYSE–93–40]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc. Relating To Amendments To Exchange Rule 95 To Add New Intra-Day Trading Provisions.

December 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 28, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rules change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendments to Rule 95 would require a Floor broker who acquires a position for a customer, while representing orders at the minimum variation for that customer, to obtain a new liquidating order, entered subsequent to the acquisition of the position, prior to liquidating that position that day on the Exchange.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed amendments to Rule 95 is to provide that in instances where a Floor broker acquires a position for an account during a particular trading session while representing at the same time, on behalf of that account, market or limit orders at the minimum variation on both sides of the market, the broker may liquidate or cover the position established during that trading session only pursuant to a new order.[2] The new liquidating order must be time-recorded both upstairs and upon receipt of the trading Floor.

For the purposes of this rule, an account would be deemed to be any account in which the same person or persons was directly or indirectly interested. The rule would also require a Floor broker representing an order to liquidate or cover a position for an account, established during the same trading session at a time that the broker represented orders at the minimum variation on both sides of the market for such account, to execute that liquidating or covering order before executing any other order on the same side of the market for the same account.[3] This requirement would apply unless such other order was liquidating or covering a position carried over from a prior trading session,[4] or was liquidating or covering a position acquired during that same trading session and was entered subsequent to the acquisition of the position.[5]

The amendments to Rule 95 are intended to address trading situations where a Floor broker, representing at the same time buy and sell orders at the minimum variation for the same customer, may be perceived as having somewhat of an advantage over other market participants in that he or she may be able to trade for the same customer without leaving the crowd. By requiring entry of a new order to liquidate as described above, the amendments can be expected to minimize any such perceived advantage by those engaging in this trading strategy.

New Paragraph 95.20 includes examples of how the provisions would operate. New Paragraph 95.30 includes examples of the types of orders that may, and may not be, entered when a member is representing buy and sell orders for the same customer at the same time.[6]

---

[1] In addition to addressing intra-day trading, the Exchange also has proposed to codify its existing policy on how NYSE Rule 95, which prohibits Floor members from effecting discretionary transactions, applies to brokers. See *infra*, note 6.

[2] The Commission notes that the NYSE proposal would apply only when a Floor broker simultaneously represents market or limit orders for the same customer on both sides of a minimum variation market. The proposed amendments to Rule 95 would not affect the handling of system orders or of orders represented by a broker when the spread is more than the minimum variation.

Once the broker acquires a position on behalf of that customer, proposed Rule 95(c) would impose certain restrictions on how the broker could liquidate or cover that position *during the same trading session*. Specifically, the broker would be required to obtain a "new" liquidating order (*i.e.*, one entered subsequent to the acquisition of the contra-side position).

[3] Proposed Rule 95(d) would, as a general matter, require that a liquidating order entered pursuant to proposed Rule 95(c) be executed before any other order for that customer on the same side of the market as the liquidating order.

[4] The NYSE proposal would permit a broker to execute certain orders although the contra-side position continued to exist. Specifically, proposed Paragraph 95.10 would create an exception for orders to liquidate or cover a position (1) carried over from a previous trading session, (2) assumed as part of a strategy relating to bona fide arbitrage or (3) assumed in reliance on the exemption for block petitioners.

[5] The NYSE has clarified that a broker who acquires multiple positions and enters multiple liquidating orders would not be required to execute a subsequent liquidating order before a pre-existing one. Telephone conversation between Brian McNamara, Managing Director, Market Surveillance, NYSE, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on November 19, 1993.

[6] The NYSE has indicated that Paragraph 95.30 would apply to all brokers, not just those engaged in intra-day trading. According to the Exchange, this paragraph would codify an existing policy by providing examples of what types of orders a broker could handle simultaneously, without violating Rule 95's prohibition on Floor members effecting discretionary transactions. Telephone conversation between Brian McNamara, Managing Director, Market Surveillance, NYSE, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on November 19, 1993.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the purposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–40 and should be submitted by January 20, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31939 Filed 12–29–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33369; File No. SR–NYSE–93–30]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Measure of Specialist Capital Utilization Pilot Program

December 22, 1993.

On June 29, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt an additional measure of specialist performance. The Exchange requested that the Commission approve this proposed rule change on a one-year pilot basis.

The proposed rule change was published for comment in Securities Exchange Act Release No. 34–32751 (August 16, 1993), 58 FR 44716 (August 24, 1993). No comments were received on the proposal. This order approves the proposed rule change on a one-year pilot basis.

II. Description of the Proposal

The NYSE proposes to implement, for a one-year pilot period, a measure of specialist performance dealing with specialist utilization of capital for market-making. This measure of performance focuses on a specialist unit's use of its own capital in relation to the total dollar value of trading activity in the unit's stocks. Ratings based on a unit's capital utilization would be given to the Exchange's Allocation Committee as one of the objective measures it considers when allocating equity securities to NYSE specialist units under its Allocation Policy.[3] The specialist unit also would be given capital utilization percentages for each stock they trade to be used for internal management purposes.

Two different capital utilization measures would be derived for each stock traded by a specialist unit. The first percentage would be calculated by dividing the average daily dollar value of the unit's stabilizing purchases and sales in a stock by that stock's average daily total dollar value of shares traded. The second percentage would be calculated by dividing the average daily dollar value of the unit's stabilizing plus reliquifying transactions[4] by the stock's average daily total dollar value of shares traded. These two measures would be calculated for two different trading periods: (1) Base or non-volatile periods and periods when there is a change of one percent or more in the S&P 500 Stock Price Index,[5] and (2) base of non-volatile periods and the past ten percent most volatile days.[6] Thus, four capital utilization measures[7] would be calculated for each of the two trading periods for a total of eight different capital utilization percentages for each stock traded by a specialist unit. These

---

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] The Commission recently approved revisions to the NYSE's Allocation Policy. Securities Exchange Act Release No. 34–33121 (October 29, 1993), 58 FR 59085 (November 5, 1993) (file no. SR–NYSE–92–15). The revised Allocation Policy specifies that the Committee will base its allocation decisions on the Specialist Performance Evaluation Questionnaire ("SPEQ"), objective performance measures, and the Committee's expert professional judgment. The revised Allocation Policy states explicitly that its objective measures of performance include, among other things, a specialist's TTV rate, stabilization rate, and such other measures as may be adopted.

[4] A reliquifying transaction is one in which the specialist reduces a position in a specialty stock by selling part of a long position on a zero-minus tick, or purchasing to cover part of a short position on a zero-plus tick.

[5] The base or non-volatile period includes the total average daily dollar value for the trading days within the twelve month period excluding those days during which there was a change of 1% or more in the S&P 500 Price Index. The volatile period includes the total average daily dollar value for the trading days within the twelve month period during which there was a change of 1% or more in the S&P 500 Price Index.

[6] The base or non-volatile period includes the total average daily dollar value for the days within the twelve month trading period that were not among the 10% most volatile. The volatile period includes the average daily dollar value for the days within the twelve month period that were the 10% most volatile.

[7] The four measures are (1) stabilizing trades during non-volatile periods, (2) stabilizing plus reliquifying trades during non-volatile periods, (3) stabilizing trades during volatile periods, and (4) stabilizing plus reliquifying trades during volatile periods.

figures would be provided to the specialist units on a monthly basis for the prior twelve months.[9]

To compare a specialist's unit's capital utilization to other units, stocks would be separated into three broad groupings: (1) Stocks included in the top 200 stocks in the S&P 500 Stock Index and other Exchange-listed stocks that are at least as active, (2) the remainder of the S&P 500 and any stocks among the 500 most active stocks traded on the Exchange, and (3) all other stocks traded on the Exchange.[9] Each of the eight capital utilization percentages would be calculated for the aggregate of all the stocks a specialist unit trades in each of the three groupings of stocks.[10] A specialist unit, therefore, would receive eight utilization percentages for each of the three groupings of stocks.

The specialists units; capital utilization percentages for each grouping of stocks would be used to separate the units into tiers. Within each grouping of stocks, a Floor-wide mean capital utilization percentage would be calculated. A unit would be in Tier 1 if its capital utilization percentage is more than 1.1 standard deviations above the mean, Tier 2 if its percentage is within 1.1 standard deviations above or below the mean, and Tier 3 it its percentage is more than 1.1 standard deviations below the mean. Thus, a specialist unit would receive eight tier ratings for each of three groupings of stocks, for a total of 24 tier ratings.[11]

The Allocation Committee would receive a specialist unit's 8 tier ratings for each of the three groupings of stock as one of the objective performance measures considered under the Exchange's Allocation Policy. The Exchange would place specialist units into the tiers alphabetically to avoid providing the Allocation Committee with a ranking of the units based upon percentages that, in some instances, could be statistically insignificant. The Allocation Committee would receive specialist capital utilization information on a "rolling" twelve-month basis.

The Exchange proposed that this new measure of specialist performance be implemented on a one-year pilot basis. During this period, the Market Performance Committee would receive quarterly reports on this initiative, with a view toward their recommending such enhancements or modifications as may seem appropriate based on actual experience with this measure.[12] Any modification or enhancements would be filed with the Commission, and would be implemented only with the Commission's approval.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.[13] Section 6(b)(5) requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Further, the Commission finds that the proposal is consistent with section 11(b) of the Act [14] and Rule 11b–1 thereunder,[15] which allow exchanges to maintain fair and orderly markets. For the reasons set forth below, the Commission believes that the consideration of specialist capital utilization by the Allocation Committee should enhance the Exchange's allocation process, encourage improved specialist performance and, thereby, protect investors and the public interest.

Specialists play a crucial role in providing stability, liquidity, and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities. To ensure that specialists fulfill these obligations, it is important that the Exchange prescribe stock allocation procedures and policies that provide specialists with an initiative to strive for optimal performance. The Commission fully supports and encourages the NYSE's effort to develop an objective measure of specialist capital utilization to encourage improved specialist performance and market quality.

The Commission believes that the proposed specialist capital utilization tier ratings should provide the NYSE Allocation Committee with an objective measure of specialist performance that will refine the Exchange's allocation process and, thereby, encourage improved specialist performance. The NYSE's Allocation Policy emphasizes that the most significant allocation criterion is specialist performance. In the Commission's view, performance based stock allocations not only help to ensure that stocks are allocated to specialists who will make the best markets, but will provide an incentive for specialists to improve their performance or maintain superior performance.

The Commission believes that objective indications of performance should play an important role in allocation decisions. Specifically, the Commission believes that objective performance measures can identify poor market-making performance. In the Commission's view, performance based stock allocations not only help to ensure that stocks are allocated to specialists who will make the best market, but will provide an incentive for specialists to improve their performance or maintain superior performance.

The Commission believes that capital utilization is a relevant measure of specialist performance because it indicates the extent to which a specialist unit commits capital to and participates in the market for its securities. The Commission also believes that, in general, active specialist participation contributes to liquidity in the market for securities.

The Commission believes that the NYSE's proposal to require that capital utilization performance data be presented to the Allocation Committee in three tiers, with units listed alphabetically in each comparable group, should enable units with similar capital utilization percentages to compete effectively with units with comparable scores. The NYSE argues that the units comprising each tier would have capital utilization percentages which are not, from a statistical perspective, significantly different from the other units' scores in that tier. The Commission believes that the presentation of the results in three tiers should provide the Allocation Committee with appropriate groupings of specialist units for its use in allocation decisions under its Allocation Policy. This may help to ensure that all specialists have a fair opportunity to compete for allocations.

Finally, the Commission believes that it is appropriate for the NYSE to implement the specialist unit capital utilization measure on a one-year pilot basis. The one-year period will provide the Exchange and the Commission with an opportunity to study the effects of the use of the measure on the NYSE's allocation process. During the pilot period, the Commission expects the NYSE to monitor carefully the effects of the revised policy and report its findings to the Commission. Specifically, the Commission requests that the NYSE report, in addition to the report requirements requested for the Allocation Policy pilot program[16] the capital utilization data as presented to the Allocation Committee in three tiers.[17] The Commission requests that the NYSE submit its report on these matters by August 1, 1994. Any requests to modify this pilot, to extend its effectiveness or to seek permanent approval of the pilot procedures also should be submitted to the Commission by August 1, 1994.

IV. Conclusion

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change (SR–NYSE–93–30) is approved for a one year period ending December 31, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31881 Filed 12–29–93; 8:45 am]

BILLING CODE 8010–01–M

[9] The Exchange will also indicate to the specialist units whether their stocks are high, mid-range, or low beta stocks. A stock would be a low beta if its beta is below 0.5, a mid-range beta stock if its beta is 0.5 to 1.5, and a high beta stock if its beta is above 1.5.

[10] These three groups do not include the following: foreign stocks, preferred stocks, warrants, when issued stocks, IPOs (for the first 30 days), closed-end funds, stocks selling $5 and under, and stocks with less than 2,000 shares average daily trading volume.

[11] For example, if a specialist unit trades three stocks included in the first grouping, the capital utilization percentages would be calculated by adding the unit's average daily dollar value of its stabilizing purchases and sales for all three stocks and dividing the total by the sum of the average daily total dollar value of shares traded for those three stocks.

[12] A particular specialist unit may not necessarily trade stocks in all three groupings, in which case a unit would receive 8 tier ratings if it only traded stocks in one groupings and 16 tier ratings if it only traded stocks in two of the three groupings.

[12] The specialist capital utilization measure is not being added as a basis for initiating a Performance Improvement Action under NYSE Rule 103A(b).

[13] 15 U.S.C. 78f(b)(5) (1988).

[14] 15 U.S.C. 78k(b), (1988).

[15] 17 CFR 240.11b–1 (1993).

[16] The Commission requested that the Exchange report on the following matters: (1) The number of allocations reviewed by the Committee and the number of applicants for each allocation; (2) SPEQ performance data as presented to the Allocation Committee in four tiers, with the addition of each specialist's individual rank and range of ranks; (3) results of objective performance measures for each allocation applicant; (4) a description of factors used by the Committee in exercising its professional judgment in each allocation decision (e.g., disciplinary action); and (5) the Committee's allocation decisions. Securities Exchange Act Release No. 34–33121 (October 29, 1993) 58 FR 59085 (November 5, 1993) (File no. SR–NYSE–92–45).

[17] The Commission notes that this request for information is not exclusive and that the NYSE should add any additional data and analysis to the report in order to assess the effectiveness of the capital utilization measure.

[18] 15 U.S.C. 78s(b)(2) (1988).

[19] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1).

("Act"),[1] notice is hereby given that on December 14, 1993, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

italics indicate additions

[brackets] indicate deletions

[Release No. 34–33382; File No. SR–PTC–93–06]

December 21, 1993

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Participants Trust Company Relating to a Modification of PTC's Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

PARTICIPANTS TRUST COMPANY SCHEDULE OF FEES

Modified Fees (effective January 1, 1994)

Service	Fee
Account Maintenance, Full Service Participant:	
First Six Business Accounts	$[5,000] *4,000*/month
Each Additional Account	$250/account/month
Book-Entry Delivery/Receipt (includes all DK's and FTX Transactions)	$[5.15] *4.00* each
Funds Movement (End-of-Day)	$[4.50] *4.00* each
Position Maintenance/P & I Disbursement**	$[1.65] *1.50*/security/month
Deposits:	
Manual	$[6.15] *5.00*/cert.*
Automated Bulk (200–1000 pools)	$4.00/cert.*
Automated Bulk (more than 1000 pools)	$3.00/cert.*
Repo Movements	$[5.15] *4.00* each

New Fees—(effective upon availability of new services)

Service	Fee
Position Maintenance/P & I Disbursement on Serial Notes	*$.50/unit/month*[2]
CLF Movements *	*$.50 per position/$50.00 maximum*

* Plus GNMA transfer fee, $10.00 per pool.

** Reflects the change in name of the service that was formerly titled "P&I Disbursement."

[2] In the original filing made by PTC, this fee is stated as $.50/*unit*/pool. In a December 13, 1993 letter, PTC clarified that this was a typographical error and instead the figure should be stated as $.50/unit/month. Letter from Carol A. Jameson, Assistant Counsel, PTC to Francois Mazur, Staff Attorney, Commission (December 13, 1993).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule change is to modify PTC's fees for five of its services (i.e., Account Maintenance, Book-Entry Delivery and Receipt of Securities and Funds, Repo Movements, Position Maintenance/P&I Disbursements, and Deposits) and to establish fees for two new service enhancements that PTC expects to offer to Participants in the near future (i.e., processing GNMA serial notes and substitution of individual collateral items in a collateral loan facility, or "CLF", transaction). The modified fees will be effective January 1, 1994. The fees for the new service enhancements will be introduced when the new services are available to Participants, which is expected to occur in the first half of 1994. PTC believes that the amounts of the fees are appropriate based on PTC's projected earnings and expenses and its program to reduce rebates to Participants to the level required to cover the variability in transaction volume.

(b) Since the proposed rule change relates to the equitable allocation of dues, fees, and other charges among Participants, it is consistent with the requirement of section 17A(b)(3)(D) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from Participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder because it establishes or changes a due, fee, or other charge of the Self-Regulatory organization. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. section 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to SR–PTC–93–06 and should be submitted by January 20, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31940 Filed 12–29–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 19982; 812–8580]

The Calvert Fund, et al.; Notice of Application

December 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Calvert Fund, Calvert Social Investment Fund, Calvert-Ariel Growth Fund, Calvert World Values Fund, Inc., Calvert Tax-Free Reserves, Calvert Municipal Fund, Inc., Calvert Cash Reserves, First Variable Rate Fund (collectively, the "Funds"), Calvert Asset Management Company, Inc. ("CAM"), Calvert Securities Corporation ("CSC"), and Ariel Capital Management, Inc. ("ACM").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for conditional exemptions from sections 2(a)(32), 2(a)(35), 16(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Funds to issue an unlimited number of classes of securities representing interests in the same portfolio of securities, and to assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares, and, under certain circumstances, to waive the CDSC.

FILING DATE: The application was filed on August 30, 1993, and amended on November 16, 1993. In a letter dated December 23, 1993, applicants' counsel stated that an additional amendment will be filed, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 17, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants (except ACM), 4550 Montgomery Avenue, Suite 1000N, Bethesda, Maryland 20814; ACM, 307 North Michigan Avenue, suite 1020, Chicago, Illinois 60601.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 272–3030, or Robert A. Robertson, Branch Chief, (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are open-end management investment companies registered under the Act. CAM is the investment adviser to all the Funds, except Calvert-Ariel Growth Fund, for which it serves as investment manager. ACM is the investment adviser to Calvert-Ariel Growth Fund. CSC is the distributor of the Funds. CAM and CSC are indirect, wholly-owned subsidiaries of the Acacia Mutual Life Insurance Company.

2. Applicants seek the requested relief on behalf of the Funds and all other open-end management investment companies to be established in the future (a) whose investment adviser is CAM or a person controlling, controlled or under common control with CAM (each, an "Adviser"), or whose principal underwriter is CSC or a person controlling, controlled or under common control with CSC (each, a "Distributor"), and (b) that hold themselves out to investors as being related to the investment companies listed as applicants for purposes of investment and investor services (all such registered investment companies when referring to the entire registered investment company and not its individual portfolio or series are referred to as "Company" or "Companies," and when referring to the individual portfolio or series of a Company, are referred to as Fund or Funds).

3. Applicants propose to establish a multiple class distribution system in which each Fund would be able to offer a variety of classes (the "Alternative Purchase Plans"). The Funds would be able to select among distribution options mixing different loads, asset-based sales charges, service fees, and transfer agency fees for each participating Fund. Each option would represent a different class of shares. Each class of shares offered by a Fund will represent interests in the same portfolio of investments of that Fund, and the only differences among the classes of the same Fund will be as set forth in condition 1 below. All classes, whether existing, proposed or to be created in the future, will comply with the sales charge limitations of article III, section 26(d) of the NASD's Rules of Fair Practice. Applicants reserve the right to modify the characteristics of the classes initially contemplated and to add other distribution options to the array using different combinations of the above characteristics.

4. Three of the six classes initially contemplated by the non-money market ("Variable NAV") Funds would require payment of a front-end sales load. The first class, the "Existing Front-End Load Option," now offered by the Funds, would continue to require payment of a moderate front-end load, to impose moderate rule 12b–1 fees, and to charge no CDSC. The second class, the "Higher Front-End Load Option," would charge a high front-end load, but no CDSC and may impose very low rule 12b–1 fees. The third class, the "Low Front-End Load/CDSC Option," would charge a low front-end load, a low CDSC, and very low rule 12b–1 fees.

5. The fourth and fifth classes initially contemplated, the Variable NAV Fund options, would not carry front-end loads but would impose other distribution charges. The fourth class, the straight "CDSC Option," would charge a moderate to high CDSC and moderate to high rule 12b–1 fee, without any front-end load. The fifth class, the "Pay-As-You-Go Option," would charge no front-end load, but would impose relatively high rule 12b–1 fees and may impose a CDSC on shares redeemed within a specified period, generally one to two years, after purchase.

6. A sixth class, the "Institutional Option," would impose no front-end load or CDSC but may impose very low rule 12b–1 fees and would be offered only to institutional investors, which would consist of the following five categories of investors: (a) Unaffiliated benefit plans; (b) tax-exempt retirement plans of Adviser and its affiliates; (c) banks and insurance companies purchasing for their own account; (d) investment companies not affiliated with Adviser; and (e) endowment funds of non-profit organizations. The unaffiliated benefit plans in category (a) will have several common features. Among these features are total assets in excess of $10 million or such other amounts as the Funds may establish, a separate trustee for the plan who is vested with investment discretion as to plan assets, certain limitations on the ability of plan beneficiaries to access their plan investments without incurring adverse tax consequences, and such other characteristics as the Funds may establish. Applicants will exclude self-directed plans from this category.

7. The applicants that are money market funds ("Money Market Funds") also may offer different classes. The existing shares of each Money Market Fund, "Class A Option" shares, will charge no front-end load, may impose low rule 12b–1 fees, and may choose to assess a CDSC only on redemptions of those shares that may have been purchased by exchange from a Variable NAV Fund sold pursuant to full waiver of the front-end sales charge. The Money Market Funds also initially contemplate the creation of a new class, "Class B Option" shares, to provide a money market fund alternative into which Variable NAV Fund CDSC Option shares may exchange. The Class B Option shares will charge no front-end load, currently plan to impose no rule 12b–1 fees, and would assess a CDSC on certain redemptions of shares acquired by exchange from a Variable NAV Fund CDSC Option.

8. Several characteristics substantially distinguish the direct types of ownership interests of individuals in the Institutional Option shares as compared to the other options. While individuals purchasing shares are direct owners of such securities and normally possess investment and voting power with respect thereto, an entity purchasing Institutional Option shares would be the direct owner of such shares. Except for self-directed retirement plans affiliated with Adviser, the trustee of the plan, or the institutional manager or trustee, would possess the investment and voting power regarding the Fund shares.

9. Applicants contemplate that each of the proposed classes of a Fund will be exchangeable for: (a) The same class of another Fund and/or, (b) a class of another Fund that has a similar characteristic pricing structure and/or rule 12b–1 fees, and (c) for shares of certain money market funds sponsored by Adviser. Money Market Fund shares may be exchangeable for shares of any of the available classes in the Funds. If Money Market Fund shares are purchased pursuant to an exchange privilege, however, they will thereafter only be exchangeable for the class of shares involved in the original exchange into the Money Market Fund shares. All exchanges that are made at other than relative net asset value will be made in accordance with rule 11a–3.

10. Shares of one or more classes ("Higher 12b–1 Option" classes) may convert automatically after a period of time (one to eight years or more after purchase) to shares of another class without the imposition of any additional sales charge, and thereafter be subject to the lower rule 12b–1 fee, if any, applicable to that other class (the "Lower 12b–1 Option" class). Higher 12b–1 Option shares in a shareholder's Fund account that were purchased through the reinvestment of dividends and other distributions paid in respect of Higher 12b–1 Option shares will be considered to be held in a separate sub-account. Each time any Higher 12b–1 Option shares in the shareholder's Fund account convert to a Lower 12b–1 Option class, a *pro rata* portion of the Higher 12b–1 Option shares then in the sub-account also will convert to shares of the Lower 12b–1 Option class.

11. The net asset value of all outstanding shares of all classes would be computed separately for each class of shares by first allocating gross income and expenses (other than rule 12b–1 fees, the transfer agency fees of each class, and other expenses properly attributable to a particular class) to each class of shares based on the net assets attributable to each class at the beginning of the day and then by separately recording the differing rule 12b–1 fees, the transfer agency fees of each class, and any other expenses properly attributable to the class. The net asset value attributable to each share of each class would then be calculated by dividing the net assets calculated for each class by the number of shares outstanding in that class.

12. For Funds that offer classes with a CDSC Option, the CDSC typically ranges from 1% to 5% (but may be higher or lower) on shares redeemed in the first year of purchase. The CDSC is typically reduced at a rate of 1% per annum over the applicable CDSC period, so that redemptions after that period will not be subject to any CDSC. Under the proposed Alternative Purchase Plans, the amount of and time period over which a CDSC is imposed may vary within a given CDSC Option class. The CDSC will not be imposed on redemptions of those CDSC Option shares that were purchased more than a specified period (the "CDSC Period") prior to the redemption or on CDSC Option shares derived from reinvestment of dividends or other distributions, including capital gains. Furthermore, no CDSC will be imposed on an amount that represents an increase in the value of the CDSC option shares resulting from capital appreciation above the amount paid for those shares purchased during the CDSC period.

13. Applicants request authority to waive the CDSC on redemptions: (a) Made within one year following the death or disability, as defined in section 72(m)(7) of the Internal Revenue Code of 1986, as amended (the "Code") of a shareholder holding CDSC Option classes; (b) in connection with a lump-sum or other distribution from a retirement plan qualified under section 401(a) of the Code after termination of employment, required distributions in the case of an individual retirement account or section 403(b) custodial account after the shareholder attains age 70½, the return of an excess contribution pursuant to sections 408(d)(4) or (5) of the Code, the return of excess deferral amounts pursuant to section 401(k)(8) or 402(g)(2) of the Code, the return of aggregate contributions pursuant to section 401(m)(6) of the Code, or from the death or disability of the shareholder/employee (see sections 72(t)(2)(A)(ii) and 72(t)(2)(A)(iii) of the Code) ("Retirement Plans"); (c) by trust accounts made within one year following the death or disability of the beneficiary or grantor, trustee or other fiduciary; (d) by profit-sharing or stock bonus plans upon "hardship" of the employee, as determined by the plan administrator and as defined in the Code; (e) pursuant to a qualified domestic affairs order, as defined in section 414(p) of the Code; (f) by any Retirement Plan whose accounts are held directly with the Funds' transfer agent and for which the transfer agent does individual account record keeping and by benefit plans sponsored by CSC or its subsidiaries of shares acquired with amounts used to repay a loan from such plans and on which a CDSC previously was imposed; (g) of shares purchased with dividends or distribution earned in other Funds; (h) made under the Funds' "Systematic Check Redemptions" program as described in the prospectus for shareholders with accounts of at least $10,000 who request regular monthly or quarterly redemptions checks for a fixed amount; and (i) that are involuntary pursuant to the Funds' policy on minimum account balances.

Applicant's Legal Analysis

1. Applicants request an exemptive order under section 6(c) of the Act to the extent the proposed issuance of the Alternative Purchase Plans might be deemed: (a) to result in a "senior security" within the meaning of section 18(g) of the Act and thus be prohibited by section 18(f)(1) of the Act, and (b) to violate the equal voting provisions of section 18(i) of the Act.

2. The Alternative Purchase Plans do not create the potential for the abuses that section 18 was designed to redress. They do not involve borrowings and do not adversely affect the Funds' existing assets or reserves, and they will not increase the speculative character of the Funds' shares. The classes of securities that were present in the capital structures that prompted the SEC to recommend the adoption of section 18 (funded debt, preference stocks, and convertible securities) are not present in applicants' proposal. In addition, the allocation of expenses and voting rights relating to the rule 12b–1 plans is equitable and would not discriminate against any group of shareholders. Although investors purchasing some classes of share would pay lower rule 12b–1 fees than would others, each class of shares will have exclusive voting rights on matters affecting its rule 12b–1 plan.

3. Applicants also request an exemption under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder to the extent necessary to permit the Funds to assess a CDSC on certain redemptions of Alternative Purchase Plans shares, and to waive, reduce, or defer the CDSC in certain instances. Applicants submit that the proposed CDSC arrangement is fair, consistent with the policy and provisions of the Act, and is in the best interests of the Funds' shareholders. The CDSC Option classes would permit shareholders to have the advantage of greater investment dollars working for them from the time of their purchase of such share than if a sales load of conventional size were imposed at the time of the purchase.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

A. Multi-Class System

1. Each class of shares will represent interests in the same portfolio of investments of a Fund, and will be identical in all respects, except as set forth below. The only differences among the classes of the same Fund will relate solely to (a) the impact of (1) the disproportionate rule 12b–1 fees, (2) Class Expenses which are limited to (i) transfer agent fees identified by the transfer agent as being attributable to a specific class of shares; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and

proxies to current shareholders; (iii) blue sky registration fees incurred by a class of shares; (iv) SEC registration fees incurred by a class of shares; (v) the expense of administrative personnel and services as required to support the shareholders of a specific class; (vi) litigation or other legal expense or audit or other accounting expense relating solely to one class of shares; and (vii) directors'/trustees' fees incurred as a result of issues relating to one class of shares; and (3) any other expense subsequently identified that properly should be allocated to one or more classes which shall be approved by the Commission pursuant to an amended order; (b) that the class will vote separately regarding the rule 12b–1 Plan, if any, adopted by each class of each Fund, except as set forth in condition 14 below; (c) the difference in exchange privileges of the shares; (d) the designation of each class of shares of each Fund; and (e) the difference in conversion features of the classes of shares.

2. The directors/trustees of the Companies, including a majority of the independent directors/trustees, will approve the creation and issuance of any new classes of shares in their respective Funds. The minutes of the meetings of the directors/trustees of each of the participating Funds regarding the deliberations of the directors/trustees with respect to the approvals necessary to add or change a class of shares will reflect in detail the reasons for the directors'/trustees' determination that offering any of the proposed Alternative Purchase Plans is in the best interest of the Funds and their respective shareholders.

3. On an ongoing basis, the directors/trustees of the Companies, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Fund for the existence of any material conflicts among the interests of the various classes of shares offered by each Fund. The directors/trustees, including a majority of the independent directors/trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Adviser and Distributor will be responsible for reporting any potential or existing conflicts to the directors/trustees. If a conflict arises, Adviser and Distributor, at their own cost, will remedy such conflict, up to and including establishing a new registered management investment company.

4. The directors/trustees of the Funds with rule 12b–1 plans will receive quarterly statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify the rule 12b–1 fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors/trustees to justify Rule 12b–1 Fees charged to shareholders of that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors/trustees in the exercise of their fiduciary duties.

5. Dividends paid by a Fund regarding its various classes of shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day and will be in the same amount, except that rule 12b–1 fee payments relating to each respective class of shares will be borne exclusively by that class and except that any Class Expenses attributable solely to one class will be borne exclusively by that class.

6. The methodology and procedures for calculating the net asset value and dividends and distributions of multiple classes and the proper allocation of expenses among them has been reviewed by an expert (the "Independent Examiner"), who has rendered a report to the applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Independent Examiner, or an appropriate substitute Independent Examiner, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Independent Examiner shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Independent Examiner with respect to such reports, following request by a Fund (which each Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to a Fund for such workpapers by a senior member of the SEC's Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Independent Examiner is a "Report on Policies and Procedures Placed in Operation" and the ongoing reports will be "Reports on Policies and Procedures Placed in Operation and Tests of Operating Effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

7. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of expenses among the various classes of shares, and this representation has been concurred with by the Independent Examiner in the initial report referred to in condition 6 above and will be concurred with by the Independent Examiner, or an appropriate substitute Independent Examiner, on an ongoing basis at least annually in the ongoing reports referred to in condition 6 above. Applicants will take immediate corrective action if this representation is not concurred in by the Independent Examiner or an appropriate substitute Independent Examiner.

8. The prospectus of each Fund will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different levels of compensation with respect to one particular class of shares over another in the Fund.

9. Distributor will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. The compliance standards will require all investors eligible to purchase Institutional Option shares of a Fund offering such shares to invest in the Institutional Option shares rather than other Option shares. Applicants will require all persons selling shares of the Funds to conform to such standards.

10. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors/trustees of the Funds with respect to the Alternative Purchase Plans will be set forth in guidelines which will be furnished to the directors/trustees.

11. Each of the Funds will disclose, in each of its prospectuses, the respective expenses, performance data, distribution arrangements, services, fees, initial sales loads, deferred sales loads, conversion features, and exchange privileges applicable to each class of shares offered through such

prospectus. Shares of options other than the Institutional Option (which is offered only to certain specified categories of institutional investors described above) will be offered and sold through a single prospectus. Institutional Option shares of a Fund will be offered solely pursuant to a separate prospectus and the prospectus for the options other than the Institutional Option of that Fund will disclose the existence of the Institutional Option shares of the Funds and will identify the entities eligible to purchase such shares. The prospectus for the Institutional Option will disclose the existence of the Fund's other options. Each Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data ("Financial Highlights"), however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to other than Institutional Option shares, it also will disclose the respective expenses and/or performance data applicable to each such option. Advertising materials reflecting the expenses or performance data for Institutional Option shares will be available only to institutional investors eligible to invest in Institutional Option shares. The information provided by applicants for publication in any newspaper, or similar listing of the Funds' net asset values and public offering prices will present each class of shares separately.

12. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to rule 12b-1 Plans in reliance on the exemptive order.

13. Any class of shares with a conversion feature ("Purchase Class") will convert into another class ("Target Class") of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee or other charge. After conversion, the converted Shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

14. If a Fund implements any amendment to a rule 12b-1 plan (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b-1 shareholder services plan) that would increase materially the amount that may be borne by a Target Class under the plan, then Purchase Class shares will stop converting into shares of such Target Class, unless Purchase Class shareholders, voting separately as a class, approve the amendment. The directors/trustees shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to Target Class shares as they existed prior to implementation of the amendment, no later than the date such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the directors/trustees to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class") of shares, identical to existing Purchase Class shares in all material respects except that the New Purchase Class will convert into the New Target Class. The New Target Class and New Purchase Class may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors/trustees reasonably believe will not be subject to federal taxation. In accordance with condition 3, any additional cost associated with the creation, exchange, or conversion of the New Target Class or New Purchase Class shares shall be borne solely by Adviser and Distributor. Purchase Class shares sold after the implementation of the amendment may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class plan and the relationship of such plan to the Purchase Class are disclosed in an effective registration statement.

15. The initial determination of the class expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of directors/trustees of the Companies including a majority of the directors/trustees who are not interested persons of the Companies. Any person authorized to direct the allocation and disposition of monies paid or payable by the Funds to meet class expenses shall provide to the board of directors/trustees and the directors/trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

B. The CDSC

Applicants will comply with the provisions of proposed rule 6c-10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-31935 Filed 12-28-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19680; 812-8584]

The OFFITBANK Investment Fund, Inc., et al.; Application

December 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The OFFITBANK Investment Fund, Inc. (the "Fund"); The Senior Securities Fund, L.P. (the "Partnership"); OFFITBANK Senior Fund, Inc. (the "General Partner"); and OFFITBANK (the "Adviser").

RELEVANT ACT SECTIONS: Order requested under section 17(b) granting an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants seek an order to permit a transfer of shares of common stock of OFFITBANK High Yield Fund ("OHYF"), a portfolio of the Fund, for portfolio securities of the Partnership.

FILING DATE: The application was filed on September 20, 1993, and amended on November 15, 1993 and December 20, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 17, 1994, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 520 Madison Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Felicia H. Kung, Senior Attorney, at (202) 504-2803, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Partnership is a limited partnership organized under the laws of the State of Delaware. The Partnership is not registered under the Act in reliance on section 3(c)(1) of the Act, and the Partnership interests have not been registered under the Securities Act of 1933 in reliance on section 4(2) thereof. The General Partner is the sole general partner of the partnership and is a wholly owned subsidiary of the Adviser. The General Partner has maintained an investment in the Partnership equal to not less than $500,000 or 1% of the net assets of the Partnership and is allocated net income, gains, and losses of the Partnership in proportion to its investment.

2. The Fund, a newly organized Maryland corporation, is registered as an open-end management investment company. A notification of registration under the Act on Form N-8A was filed on behalf of the Fund on September 20, 1993. On October 8, 1993, the Fund filed a registration statement under the Act and the Securities Act of 1933 on Form N-1A. The Fund will be a no-load fund. Initially, it will offer three series of shares, including OFFITBANK Emerging Markets Fund ("OEMF"), OFFITBANK Investment Grade Global Bond Fund ("OIGGBF"), and OHYF. Applicants request exemptive relief solely with respect to OHYF because it is the only investment portfolio of the Fund that will participate in the proposed transfer of shares of common stock for portfolio securities of a corresponding limited partnership.

3. The Adviser, a New York State chartered trust company, acts as investment adviser to the Partnership and will act as investment adviser to OHYF. OHYF has been designed as a successor investment vehicle to the Partnership, and has the same investment objectives as the Partnership, i.e., the generation of high current income and capital appreciation. After completion of the proposed transaction, the former portfolio manager of the Partnership, who also will be the portfolio manager of OHYF, intends for the foreseeable future to manage the assets of OHYF in substantially the same manner as he previously had managed the Partnership, except as may be necessary or desirable.

(a) In order to qualify as a regulated investment company under the Internal Revenue Code of 1986, as amended,

(b) In order to comply with investment restrictions adopted by OHYF in accordance with the requirements of the Act or securities laws of states where OHYF Shares will be offered, or

(c) In light of changed market conditions.

4. Applicants propose that the General Partner will liquidate and dissolve the Partnership (the "Liquidation"). The Partnership's assets will be distributed to the limited partners and the General Partner in accordance with the respective final balances of their capital accounts as of the closing date of the transaction. The limited partners will receive their distributive shares of the Partnership's assets in cash if they have not elected to participate in the proposed transfer of the limited partners' distributive share of the Partnership's assets to OHYF in exchange for OHYF shares (the "Transfer"), or in OHYF Shares if they elect to participate in the Transfer (such limited partners, "Transferring Limited Partners"). The General Partner will not participate in the Transfer with respect to its own distributive share in the Partnership and will receive cash in the Liquidation.

5. To the extent that the limited partners elect to participate in the Transfer, subject to the conditions described in this notice and the application, the General Partner will transfer to OHYF all or a portion of the Transferring Limited Partners' distributive share of the Partnership's assets, consisting of portfolio securities, cash and cash equivalents (the "Transferred Assets") in exchange for OHYF Shares. The General Partner will then distribute the OHYF Shares to the Transferring Limited Partners. The number of OHYF Shares to be transferred to the Transferring Limited Partners will be based on the value of the Transferred Assets as of the close of business on the day before the closing date of the transaction ("Determination Date"). Transferred Assets, other than cash, cash equivalents, and over-the-counter fixed income securities not quoted in the NASDAQ System ("OTC Securities"), will be valued on the Determination Date at their independent "current market price," defined in rule 17a-7 of the Act. Transferred Assets that are OTC Securities will be valued on the Determination Date at their bid price because such bid prices are the basis upon which the OTC Securities currently are valued by the Partnership and will be valued by OHYF after the Transfer. Transferred Assets will not include portfolio securities if, in the Adviser's opinion, the acquisition of the securities would result in a violation of OHYF's investment objectives, policies or restrictions.

6. In connection with the Liquidation, the limited partners will be provided with an Information Statement containing a detailed description of the transaction and its effects, the Fund, and each limited partner's option in the Liquidation to participate in the Transfer or receive cash. The Information Statement will include a discussion of the tax consequences of the transaction and the reasons that the transaction has been proposed. The Information Statement will be delivered to each limited partner, along with a copy of the Fund's prospectus, after the prospectus has been declared effective.

7. Following the Transfer, the Transferring Limited Partners will constitute all of the holders of OHYF shares, except for OHYF shares representing seed capital contributed to the Fund by the Fund's distributor pursuant to section 14(a) of the Act. The Liquidation and Transfer will be effected immediately prior to the public offering of OHYF shares. The OHYF Shares will be issued at an offering price equal to net asset value.

8. The Partnership will discharge all of its known liabilities and obligations on or prior to the Determination Date. If determined to be appropriate by the General Partner, the Partnership will establish a reserve for unknown and contingent liabilities and obligations. To the extent a reserve is established and not fully utilized by the closing date, then any funds remaining in such reserve will be distributed to the limited partners on a *pro rata* basis in the Liquidation. After Liquidation, the Partnership will be terminated in accordance with the Partnership's Limited Partnership Agreement and Delaware law.

9. The Adviser, either directly or through the General Partner, will pay all the expenses of the Liquidation and Transfer, and the initial organizational expenses of the Fund Other than those

expenses to be paid by the Adviser or the General Partner, applicants do not expect any additional expenses to be incurred in connection with the transaction. No brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid.

10. The Transfer will not be effected unless and until each of the following has occurred:

(a) The Fund's Registration Statement has been declared effective;

(b) The Commission has issued an order relating to the application;

(c) The Fund has received an opinion of counsel that the Transfer will have the following tax consequences to the Transferring Limited Partners, OHYF and the Partnership:

(i) No gain or loss will be realized by the Transferring Limited Partners or the Partnership upon the Liquidation and the distribution of OHYF Shares to the Transferring Limited Partners in liquidation of their Partnership interests;

(ii) No gain or loss will be recognized by the Partnership upon the Transfer;

(iii) No gain or loss will be recognized by OHYF upon the Transfer;

(iv) The basis to OHYF of each Partnership portfolio security obtained in the Transfer will be the same as the basis of the security held by the Partnership immediately prior to the Transfer;

(v) The basis of OHYF Shares transferred to each Transferring Limited Partner will be equal to such Transferring Limited Partner's basis in his interest in the Partnership;

(vi) The holding period of the portfolio securities transferred to OHYF will be the same as the holding period of the securities in the hands of the Partnership immediately prior to the Transfer; and

(vii) The holding period of OHYF Shares received in the Liquidation by each Transferring Limited Partner will include the period during which the portfolio securities transferred were held by the Partnership; and

(d) The Fund's Board of Directors has approved the Transfer.

11. The General Partner has considered the desirability of the transaction from the point of view of the Partnership, and the General Partner has concluded that: (a) The transaction is in the best interests of the Partnership and the limited partners, and (b) the Transfer will not dilute the financial interests of the Transferring Limited Partners when their Partnership interests are converted to OHYF Shares.

12. Not later than the date on which the Fund's registration statement is declared effective, the Fund's Board of Directors, a majority of which are non-interested persons of the Fund, will consider the desirability of the Transfer from the point of view of both OHYF and the Partnership prior to commencing the transaction. The Transfer will not be offered as an option to the limited partners unless a majority of the Board of Directors of the Fund, including a majority of the non-interested members of such Board, conclude that:

(a) The Transfer is in the best interests of OHYF, the Partnership, and the limited partners;

(b) The Transfer will not dilute the financial interests of OHYF's sole shareholder or of the Transferring Limited Partners when they receive OHYF Shares in the Liquidation; and

(c) The terms of the Transfer have been designed to meet the criteria contained in section 17(b) of the Act, i.e., that the Transfer be reasonable and fair, not involve overreaching, and be consistent with the policies of OHYF.

Applicants' Legal Analysis

1. Applicants seek an exemption from the provisions of section 17(a) to the extent necessary to permit the Transfer. Section 17(a), in pertinent part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, from selling to or purchasing from such investment company any security or other property. Applicants state that under section 2(a)(3) of the Act the Partnership, the Adviser and the General Partner are affiliated persons of the Fund, or affiliated persons of an affiliated person of the Fund. Thus, unless the requested relief is granted, the proposed Transfer may be deemed to be prohibited under section 17(a) if the Transfer is viewed either as principal transactions (a) between the Fund and the partners of the Partnership or (b) between the Fund and the Partnership.

2. Section 17(b) provides that the Commission may exempt any person from the provisions of section 17(a) if evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned,

(b) The proposed transaction is consistent with the policy of each registered investment company concerned, and

(c) The proposed transaction is consistent with the general purposes of the Act.

3. Applicants contend that, because the investment objectives and policies of OHYF and the Partnership are substantially identical, it is consistent with the OHYF's policies to acquire securities that the Adviser has purchased previously on the basis of substantially similar objectives and policies. Further, the Transfer would provide OHYF with the opportunity to purchase the portfolio securities of the Partnership at the current market price and with lower transaction costs than would be possible if OHYF purchased such securities in the open market. In addition, applicants assert that combining the Partnership and OHYF, rather than operating two separate entities, will be more convenient administratively and will create certain economies of scale.

4. Applicants state that the proposed Transfer does not give rise to the abuses that section 17(a) was designed to prevent. Applicants assert that a primary purpose underlying section 17(a) was to prevent a person with a pecuniary interest as a seller of securities from using his position with a registered investment company to benefit himself to the detriment of the company's shareholders. Applicants state that OHYF will not have commenced operations prior to the Transfer and will have no assets to dissipate or shareholders to dilute. After the Transfer, Transferring Limited Partners will hold substantially the same assets as OHYF shareholders as they previously had held as limited partners. In this sense, applicants assert that the Transfer can be viewed as a change in the form in which assets are held, rather than as a disposition giving rise to section 17(a) concerns.

5. Applicants assert that the terms of the Transfer are reasonable and fair to OHYF, the Transferring Limited Partners, and future shareholders of OHYF, and do not involve overreaching on the part of any applicant.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–31880 Filed 12–29–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1921]

B&M International Bridge at Brownsville Texas: Expansion

AGENCY: Department of State.

ACTION: Notice of receipt of application to expand an international bridge.

SUMMARY: The Department of State is announcing the receipt of an application to expand the existing B&M International Bridge at Brownsville, Texas, from the bridge owner, the Brownsville and Matamoros Bridge Company of Brownsville, Texas. Authorization for construction of the existing bridge was provided by Act of Congress May 20, 1908, 35 Stat. 166–69, as amended 35 Stat. 576.

ADDRESSES: Copies of the Design Studies Update submitted by the Brownsville and Matamoros Bridge Company on June 30, 1993 may be obtained from Stephen R. Gibson, Coordinator, U.S.–Mexico Border Affairs, Office of Mexican Affairs, room 4258, Department of State, Washington, DC 20520 (Telephone 202–647–8529).

SUPPLEMENTARY INFORMATION: The Department of State has determined that the proposed expansion of the B&M Bridge falls within the terms of the original authorization by Act of Congress, and that a Presidential Permit is therefore not required by the International Bridge Act of 1972, (33 U.S.C. 535 *et seq.*) and E.O. 11423, 33 FR 11741 (1968) as amended by E.O. 12847, 58 FR 96 (1993). However, the Design Studies Update will be reviewed by concerned Federal and State agencies. Interested persons may submit their views regarding the application in writing by January 31, 1994 to the Coordinator for U.S.–Mexico Border Affairs at the above address.

Dated: December 16, 1993.

Stephen R. Gibson,

Coordinator, U.S.–Mexico Border Affairs, Office of Mexican Affairs.

[FR Doc. 93–31973 Filed 12–29–93; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice 1920]

Progreso/Nuevo Progreso International Bridge at Progreso, Texas: Replacement

AGENCY: Department of State.

ACTION: Notice of receipt of application to replace an international bridge.

SUMMARY: The Department of State is announcing the receipt of a proposal to replace the existing Progreso/Nuevo Progreso International Bridge at Progreso, Texas from the bridge owner, the B & P Bridge Company of Weslaco, Texas. Authorization for construction of the existing bridge was provided by Act of Congress May 1, 1928, 45 Stat. 471.

ADDRESSES: Copies of the proposal submitted by the B & P Bridge Company on August 10, 1993 may be obtained from Stephen R. Gibson, Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs, room 4258, Department of State, Washington, DC 20520 (Telephone 202–647–8529).

SUPPLEMENTARY INFORMATION: The Department of State has determined that the proposed replacement of the Progreso Bridge falls within the terms of the original authorization by Act of Congress, and that a Presidential Permit is therefore not required by the International Bridge Act of 1972, (33 U.S.C. 535 *et seq.*) and E.O. 11423, 33 FR 11741 (1968) as amended by E.O. 12847, 58 FR 96 (1993). However, the B & P Bridge Company's proposal will be reviewed by concerned Federal and State agencies. Interested persons may submit their views regarding the proposal in writing by January 31, 1994, to the Coordinator for U.S.-Mexico Border Affairs at the above address.

Dated: December 16, 1993.

Stephen R. Gibson,

Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs.

[FR Doc. 93–31974 Filed 12–29–93; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice 1926]

Determination Under Section 498B(c) of The Foreign Assistance Act of 1961, As Amended

Pursuant to section 498B(c) of the Foreign Assistance Act of 1961, as amended (the "Act"), and section 2(c) of Executive Order 12884, I hereby determine that the following enterprise funds should be established and supported under chapter 11 of part I of the Act:

(1) The Russian-American Enterprise Fund;

(2) The Fund for Large Enterprise Restructuring; and

(3) The Central Asia Regional Enterprise Fund.

This determination shall be published in the **Federal Register.**

Dated: December 10, 1993.

Thomas W. Simons, Jr.,

Coordinator of U.S. Assistance to the New Independent States.

[FR Doc. 93–31975 Filed 12–29–93; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 93–087]

Suspension of the National Environmental Policy Act (NEPA) Process for Proposed Housing Project, Haiku Valley, Kaneohe, Oahu, HI

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The proposed development of 144 units of housing in the Haiku Valley, Kaneohe, Hawaii is being held in abeyance due to uncertainties about future availability of additional housing. The NEPA process, including preparation of the Draft Environmental Impact Statement (DEIS), is suspended immediately. The need for construction of additional Coast Guard owned housing units will be reevaluated.

FOR FURTHER INFORMATION CONTACT: U.S. Coast Guard, Mr. Bill Grannis, Civil Engineering Unit, Prince Kalanianole Federal Building, 300 Ala Moana Blvd., Honolulu, HI 96850–4982 (808) 541–3103. Office hours are between 8 a.m. and 3 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Notice of Intent to prepare the DEIS was published in the **Federal Register** on Tuesday, December 8, 1992. The decision to suspend the NEPA process was made so the Coast Guard's need for development of additional units of housing (beyond those currently approved) could be reevaluated due to changing circumstances. The NEPA process will not be resumed without publishing a Notice of Intent in the **Federal Register** and notifying those who have participated in the process to date.

Dated: December 22, 1993.

W.E. Kozak,

Captain, U.S. Coast Guard, Chief, Civil Engineering Division.

[FR Doc. 93–31989 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

[Docket No. 93–75; Notice 2]

Determination That Nonconforming 1993 BMW 850i Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1993 BMW

850i passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1993 BMW 850i passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1993 BMW 850i), and they are capable of being readily modified to conform to the standards.

DATE: The determination is effective December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to determine whether 1993 BMW 850i passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on October 26, 1993 (58 FR 57668) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #55 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1993 BMW 850i not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1993 BMW 850i originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 21, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–31990 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–76; Notice 2]

Determination That Nonconforming 1992 Mercedes-Benz 300SL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1992 Mercedes-Benz 300SL passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1992 Mercedes-Benz 300SL passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1992 Mercedes-Benz 300SL), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective December 30, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to determine whether 1992 Mercedes-Benz 300SL passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on October 26, 1993 (58 FR 57667) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. The model identification number that the notice provided for the 1992 Mercedes-Benz 300 SL was "Model ID 129.006." That number was in error, and should properly have read "Model ID 129.061."

No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 54 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1992 Mercedes-Benz 300SL (Model ID 129.061) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Mercedes-Benz 300 SL originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3) (A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 21, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–31991 Filed 12–29–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–89; Notice 1]

Receipt of Petition for Determination That Nonconforming 1992 Mercedes-Benz 500SL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1992 Mercedes-Benz 500SL passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1992 Mercedes-Benz 500SL that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) It is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is January 31, 1994.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Liphardt & Associates, Inc. of Ronkonkoma, New York ("Liphardt") (Registered Importer R–92–004) has petitioned NHTSA to determine whether 1992 Mercedes-Benz 500SL (Model ID 129.066) passenger cars are eligible for importation into the United States. The vehicle which Liphardt believes is substantially similar is the 1992 Mercedes-Benz 500SL that Daimler Benz A.G. manufactured for importation into and sale in the United States, and certified as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it carefully compared the non-U.S.-certified 500SL to its U.S.-certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Liphardt submitted information with its petition intended to demonstrate that the non-U.S.-certified 500SL, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1992 model 500SL is identical to the U.S.-certified 1992 model 500SL with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 111 *Rearview Mirrors,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components;* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 214 *Side Door Strength,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the non-U.S.-certified 1992 model 500SL is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 114 *Theft Protection:* Installation of a buzzer relay and warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* Installation of a buzzer relay and a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a vin reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of an ignition switch-actuated seat belt warning lamp; (b) installation of a knee bolster and mounting hardware to augment the passive restraint system. The petitioner claims that the vehicle comes equipped with air bags and Type 2 seat belts that comply with the standard.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S.-certified 1992 model 500SL must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 21, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-31992 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-90; Notice 1]

Receipt of Petition for Determination That Nonconforming 1993 BMW 730i Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1993 BMW 730i passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1993 BMW 730i that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is January 31, 1994.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Champagne Imports Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer R-90-009) has petitioned NHTSA to determine whether 1993 BMW 730i passenger cars that were originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicle that Champagne believes is substantially similar is the 1993 BMW 740i, which was manufactured for importation into and sale in the United States and certified by its manufacturer, Bayerische Motoren-Werke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it has carefully compared the 1993 BMW 730i to the 1993 BMW 740i, and found the two vehicles to be substantially similar with respect to most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the 1993 model 730i, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1993 model 740i that was offered for sale in the United States, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the 1993 model 730i is identical to the certified 1993 model 740i with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the 1993 BMW 730i is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporates sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger side rearview mirror, which is convex but lacks the required warning statement.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer microswitch in the steering lock electrical circuit, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer. The petitioner states that the 1993 model 730i is equipped with an automatic restraint system consisting of a driver side air bag, knee bolster, and control unit, which have part numbers that are identical to those found on the U.S. certified 1993 model 740i.

Standard No. 214 *Side Door Strength:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions canister.

Additionally, the petitioner states that the bumpers on the 1993 model 730i must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: January 31, 1994.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 23, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-31993 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-91; Notice 1]

Receipt of Petition for Determination That Nonconforming 1988 Saab 9000 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1988 Saab 9000 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1988 Saab 9000 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is January 31, 1994.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(C)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

J.K. Motors, Inc. of Kingsville, Maryland (J.K.) (Registered Importer R-90-006) has petitioned NHTSA to determine whether 1988 Saab 9000 passenger cars are eligible for

importation into the United States. The vehicle which J.K. believes is substantially similar is the 1988 Saab 9000 that Saab Automobile, A.B. manufactured for importation into and sale in the United States, and certified as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it carefully compared the non-U.S.-certified 1988 Saab 9000 to its U.S.-certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1988 Saab 9000, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S.-certified 1988 Saab 9000 is identical to the U.S.-certified 1988 Saab 9000 with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 206 *Door Locks and Door Retention Components*, 205 *Glazing Materials*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the non-U.S.-certified 1988 Saab 9000 is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger side rearview mirror, which is convex but lacks the required warning statement.

Standard No. 114 *Theft Protection:* Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* Installation of an audible seat belt warning system.

Standard No. 214 *Side Door Strength:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S.-certified 1988 Saab 9000 must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 23, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-31994 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-02; Notice 1]

Receipt of Petition for Determination That Nonconforming 1977 BMW R100S Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1977 BMW R100S motorcycles are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a determination that a 1977 BMW R100S motorcycle that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is January 31, 1994.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer R-90-007) has petitioned NHTSA to determine whether 1977 BMW R100S motorcycles are eligible for importation into the United States. The vehicle that G&K believes is substantially similar is the 1977 BMW R100S that was manufactured for importation into and sale in the United States and that was certified by its manufacturer, Beyerische Motoren-Werke A.G., as complying with all applicable Federal motor vehicle safety standards.

The petitioner stated that it examined the non-U.S. certified 1977 BMW R100S, and determined that it is substantially similar to its U.S. certified counterpart. Based on this examination, the petitioner contends that the non-U.S. certified 1977 BMW R100S, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the two models are identical with respect to compliance with Standards Nos. 106 *Brake Hoses*, 108 *Lamps, Reflective Devices and Associated Equipment*, 111 *Rearview Mirrors*, 115 *Vehicle Identification Number*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, 122 *Motorcycle Brake Systems*, and 205 *Glazing Materials*.

Petitioner also contends that the non-U.S. certified 1977 BMW R100S is capable of being readily modified to meet the following standards in the manner indicated:

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars:* By adding an appropriate tire information label.

Standard No. 123 *Motorcycles Controls and Displays:* By recalibrating the speedometer/odometer from kilometers to miles per hour.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: January 31, 1994.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 21, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-31995 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Competent Authority Ruling

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Competent authority notice.

SUMMARY: The U.S. Hazardous Materials Regulations (HMR; 49 CFR 171-180) authorize the transportation of hazardous materials in accordance with the International Maritime Dangerous Goods Code (IMDG Code) when a portion of the journey is by vessel. This notice advises the public of an IMDG Code container packing certificate requirement which becomes effective worldwide on January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Lt. Commander Phillip Olenik, Telephone (202) 267-1577, Hazardous Materials Branch, G-MTH-1, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001.

SUPPLEMENTARY INFORMATION: The Associate Administrator for Hazardous Materials Safety, RSPA, is designated as United States Competent Authority (49 CFR 171.8) for matters related to approvals subject to the provisions of the International Maritime Organization (IMO) International Maritime Dangerous Goods Code (IMDG Code) and the International Civil Aviation Organization (ICAO) Technical Instructions on the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). Section 171.12 of the HMR authorizes shipments of hazardous materials to be packaged, marked, classed, labeled, placarded, described, stowed and segregated, and certified in accordance with the provisions of the IMDG Code in place of certain corresponding requirements in the HMR, provided a portion of the transportation is by vessel. As mandated under the International Convention on Safety of Life at Sea (SOLAS), as amended effective January 1, 1994, when hazardous materials (called dangerous goods in the IMDG Code) are packed into a freight container or road transport vehicle for transportation by vessel, those responsible for packing the unit must provide a certificate or declaration to the water carrier attesting that:

(1) The container was clean, dry and fit to receive the goods;

(2) For consignments involving goods of Class 1, other than Division 1.4, the container is structurally serviceable in accordance with IMDG Code criteria;

(3) No incompatible goods have been packed into the container;

(4) All packages have been externally inspected for damage, and only sound packages have been loaded;

(5) All packages have been properly packed and secured;

(6) When dangerous goods are transported in bulk packagings, the cargo has been distributed in the container;

(7) The container and packages are properly marked, labeled and placarded;

(8) When solid carbon dioxide (dry ice) is used for cooling purposes, the container is externally marked or labeled in a conspicuous place at the door end, with the words: "DANGEROUS CO_2—GAS (DRY ICE) INSIDE, VENTILATE THOROUGHLY BEFORE ENTERING"; and

(9) The required dangerous goods declaration has been received for each dangerous goods consignment packed in the container. The above items may be certified either in a separate document or in a signed statement provided on the dangerous goods shipping document.

The freight container packing certification requirement was adopted several years ago under Amendment 24 to the IMDG Code and becomes effective worldwide on January 1, 1994, as mandated under the SOLAS Convention. Persons who offer hazardous materials for transportation (including freight forwarders and non vessel operating common carriers) or transport hazardous materials by vessel may not be fully aware of this requirement. This notice serves to remind such offerors and transporters that, as of January 1, 1994, all freight container shipments of dangerous goods that are, or will become subject to, the IMDG Code must comply with the container packing certification requirement.

Issued in Washington, DC on December 23, 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93-31977 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-60-P

[Notice No. 93-23]

International Standards on the Transport of Dangerous Goods: Request for Comments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Request for comments.

SUMMARY: The RSPA Associate Administrator for Hazardous Materials Safety, on behalf of the Department of State, represents the United States at meetings of the United Nations (UN) Committee of Experts on the Transport of Dangerous Goods (the UN Committee) in Geneva, Switzerland. The UN Committee is responsible for the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), which form the basis for the International Civil Aviation Organization (ICAO) Technical Instructions on the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), and the International Maritime Organization (IMO) International Maritime Dangerous Goods Code (IMDG Code). The UN Committee is currently considering amendments to its criteria for classifying toxic substances. RSPA is requesting comments on potential amendments to these classification criteria to assist in developing a U.S. position at the ninth session of the UN Sub-Committee, which will be held July 4–15, 1994.

DATES: Comments are requested on or before February 28, 1994.

ADDRESSES: Address comments to the Dockets Unit (DHM-30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001. Comments should identify the notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Public dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m. Monday through Friday, except for legal Federal holidays.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator for Hazardous Materials Safety, telephone (202) 366-0656, or Beth Romo, Office of Hazardous Materials Standards, telephone (202) 366-4488, RSPA, Department of Transportation, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: Efforts are now underway in a number of international fora to develop internationally harmonized multiregulatory classification criteria for hazardous materials. Most recently, the recommendation to develop an internationally harmonized classification system was expressed in paragraph 19.28 of Chapter 19 of Agenda 21 (entitled Environmentally Sound Management of Toxic Chemicals Including Prevention of Illegal International Traffic in Toxic and Dangerous Products) of the UN Conference on the Environment and Development (UNCED). It states that "Governments, through the cooperation of relevant international organizations and industry, where appropriate, should launch a project with a view to establishing and elaborating a harmonized classification and compatible labelling system for chemicals for use in all UN official languages including adequate pictograms." UNCED acknowledged the existence of a "comprehensive schemo" elaborated by the United Nations for purposes of safe transport of dangerous goods and called for the UN Committee to involve itself in the harmonization process. In follow-up resolutions issued by the UN Economic and Social Council, the parent body of the UN Committee, all subsidiary bodies were requested to give appropriate attention to UNCED Agenda 21.

Improved harmonization of classification criteria will minimize the amount of testing of substances which may be subject to a variety of regulatory requirements (e.g., environmental, consumer protection, workplace safety and transport) in the various countries where substances are produced, used, or transported. Improved harmonization would ensure that the level of risk posed by substances will be communicated consistently in all regulations. The existing classification criteria used by various regulatory authorities are being considered in the development of the internationally harmonized multiregulatory criteria.

Several working group meetings of the Organization for Economic Cooperation and Development (OECD) have been held to develop criteria for an internationally harmonized classification system. These meetings were hosted by various OECD member countries. Draft harmonized criteria for acute oral toxicity, dermal toxicity, inhalation toxicity for gases and vapors, and inhalation toxicity for dusts and mists have been developed.

The proposed OECD criteria establish cutoff values to define ranges of toxicity. These toxicity ranges are referred to as OECD classes. The OECD classes are similar to packing groups used in transport regulations to subdivide toxic substances on the basis of degree of danger. The degrees of danger of OECD Classes 1, 2 and 3 generally correspond to the degrees of danger of Packing Groups I, II and III, as defined in the UN Recommendations and the HMR. In both the OECD and the UN systems, substances posing the greatest hazard are in the lowest numbered group. While the draft OECD criteria contain a number of toxicity cutoff values which coincide with the cutoff values used in the UN Recommendations to define the three danger levels for toxic substances, there are differences. In response to the OECD proposals, the UN Committee is currently considering whether the existing criteria in the UN Recommendations should be adjusted to coincide with the proposed OECD Clearing House criteria or whether the existing UN criteria should be retained.

To facilitate discussion at meetings of the UN Sub-Committee, RSPA prepared a document which identifies issues related to the toxicity criteria. This document, which is identified as ST/SG/AC.10/C.3/R.467, is available from RSPA's Dockets Unit (see **ADDRESSES** above). This document will provide a basis for discussion of these issues at the next session of the UN Sub-Committee.

The purpose of this notice is to solicit public comment on these issues in order for RSPA to formulate a U.S. position for the ninth session of the UN Sub-Committee. Only issues which RSPA considers to be significant are discussed in this notice.

Acute Oral Toxicity

The acute oral toxicity LD_{50} (lethal dose for 50 percent of a test population expressed in milligrams of substance per kilogram of body weight) cutoff values for OECD Classes 1, 2, and 3 are: Class 1—5 mg/kg, Class 2—50 mg/kg and Class 3—200 or 500 mg/kg. The values defining the two highest levels of acute toxicity coincide with the values used to define UN Packing Groups I and II.

Selection of the criteria of OECD Class 3, which would be considered to correspond to the UN Packing Group III level, has proven to be an important issue. Some participants in the OECD discussions advocate a level of 200 mg/kg, while others advocate using a value of 500 mg/kg. International transport regulations and the HMR currently use LD_{50} toxicity levels of 200 mg/kg for solids and 500 mg/kg for liquids. While noting the two different values contained in the transport criteria, the majority of participants at the OECD meetings favored a single toxicity value for liquids and solids.

At the eighth session of the UN Sub-Committee, the European chemical industry organization, CEFIC, advocated using a value of 200 mg/kg for Packing Group III. CEFIC noted that this value is already being used for purposes of consumer protection and worker protection in Europe. CEFIC also expressed the opinion that there was no clear justification for having two different cutoff values for this level of acute oral toxicity, particularly when the same approach was not taken in criteria for other routes of toxicity. The Hazardous Materials Advisory Council (HMAC), in a letter to the RSPA Associate Administrator for Hazardous Materials Safety, also advocated adopting the 200 mg/kg value to define the Packing Group III level of toxicity. HMAC expressed the opinion that the 200 mg/kg value was a more appropriate level in the case of transport requirements.

In relation to acute oral toxicity, RSPA invites comments on whether the U.S. representative should support:

(1) adoption of 200 mg/kg for liquids and solids;

(2) adoption of 500 mg/kg for liquids and solids; or

(3) retention of the existing levels of 200 mg/kg for solids and 500 mg/kg for liquids.

Dermal Toxicity

The dermal toxicity LD_{50} cutoff values for OECD Classes 1, 2 and 3 are: Class 1—40 or 50 mg/kg, Class 2—200 mg/kg and Class 3—1000 mg/kg. The latter two values coincide with the values used to define UN Packing Groups II and III.

The 40 mg/kg alternative in OECD Class 1 coincides with the Packing Group I level in transport regulations. The 50 mg/kg alternative is used in European consumer and workplace safety regulations. Because these two possible values are relatively close together, RSPA does not believe that adoption of the 50 mg/kg value would significantly affect substances subject to the transport requirements.

In relation to dermal toxicity, RSPA invites comments on whether the U.S. representative should support:

(1) Retention of the existing criterion of 40 mg/l for Packing Group I, or

(2) Adoption of the alternative criterion of 50 mg/l for Packing Group I.

Inhalation Toxicity Criteria for Gases and Vapors.

The gas and vapor inhalation toxicity LC_{50} (lethal concentration for 50 percent of a test population when exposed for one hour expressed in parts per million) cutoff values for OECD Classes 1, 2 and 3 are: Class 1—250 ppm, Class 2—1000 ppm and Class 3—5000 ppm.

The OECD Class 3 cutoff value corresponds with the cutoff value of 5000 ppm for UN Packing Group III liquids and the UN criteria for toxic gases (The UN Recommendations do not subdivide toxic gases into packing groups.). The other two OECD classes do not coincide with UN Packing Group I and II values of 1000 ppm and 3000 ppm for liquids. Commenters also should note that the HMR subdivide substances that are toxic by inhalation differently than the UN Recommendations. In the HMR, toxic substances are subdivided into four zones. The cutoff value for Zone A is 200 ppm, which closely corresponds to the criterion for OECD Class 1. Zone B corresponds with OECD Class 2. The HMR and the UN Recommendations both take vapor pressure into account in classifying substances which are toxic by inhalation, while the OECD criteria do not take vapor pressure into account.

In relation to the inhalation toxicity cutoff values, RSPA invites comments on whether the U.S. representative should support:

(1) Adoption of the OECD proposed criterion of 250 ppm in the case of Packing Group I toxic liquids; and

(2) Adoption of the OECD proposed criterion of 3000 ppm in the case of Packing Group II toxic liquids; or

(3) Retention of the existing criteria of 1000 and 3000 ppm for Packing Groups I and II toxic liquids.

Comments Also Are Invited On

(4) Whether 200 ppm would be more appropriate than 250 ppm in defining Packing Group I; and

(5) Whether vapor pressure should continue to be used as part of the inhalation toxicity criteria.

Inhalation by Dusts and Mists.

The dusts and mists inhalation toxicity LC_{50} (lethal concentration for 50 percent of a test population when exposed for one hour, expressed in mg/l) cutoff values for OECD Classes 1, 2 and 3 are Class 1—0.5 mg/l, Class 2—1.0 or 2.0 mg/l and Class 3—4.0 or 10.0 mg/l.

The proposed OECD dusts and mists inhalation toxicity criteria for Classes 2 and 3 each includes two alternatives. In each case, the transport criterion (2.0 mg/l and 10.0 mg/l) is included as one of the alternatives. The other alternative values (1.0 mg/l and 4.0 mg/l) are used in European regulations for worker and consumer protection. The OECD Class 1 cutoff value corresponds with the transport criteria for Packing Group I.

RSPA is aware of concerns that the UN inhalation toxicity criteria for dusts and mists are too restrictive. It has been argued that in some instances it is difficult to determine whether mortalities are the result of the physical effects of dust coating the lungs of the test specimens or due to actual toxic effects. A second concern brought to RSPA's attention is that dust and mist inhalation toxicity is not relevant to most dangerous goods in the transport environment. Items such as aerosols may be an exception.

In relation to inhalation toxicity to dusts and mists cutoff values, RSPA invites comments on whether the U.S. representative should support:

(1) Retention of the existing criterion for Packing Group II of 2 mg/l or adoption of the alternatively proposed value of 1.0 mg/l;

(2) Retention of the existing criterion for Packing Group III of 10 mg/l or adoption of the alternatively proposed value of 4.0 mg/l. RSPA also invites comment on:

(3) The extent to which substances which are toxic by inhalation of dusts and mists should be subject to transport regulations.

In responding to this notice, commenters should provide information on the potential safety and cost impacts

of each recommended action. Noting the purpose of developing internationally harmonized criteria, RSPA invites commenters familiar with other non-transport related regulatory systems to express their views regarding how decisions by the UN Committee might affect the successful development of internationally harmonized criteria.

Issued in Washington, DC on December 27, 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93-31980 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-60-P

Availability of Draft Report Entitled "Identification of Factors for Selecting Modes and Routes for Shipping High-Level Radioactive Waste and Spent Nuclear Fuel"

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of opportunity for public review of draft report; request for comments.

SUMMARY: This notice invites public review and comment on a draft report prepared to meet the requirements of Section 15 of the Hazardous Materials Transportation Uniform Safety Act (49 App U.S.C. 1813(c)) of 1990, concerning mode and route selection criteria to be used for shipments of high-level radioactive waste and spent nuclear fuel. After review of the public comments, a final report will be prepared.

DATES: Comments must be submitted 60 days after publication of this notice.

ADDRESSES: Written comments should be submitted to the Dockets Unit (DHM-30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the title of the report and should be submitted in five copies. Persons wishing to receive confirmation of the receipt of the comments should include a self addressed stamped postcard. The Dockets Unit is located in room 8425 of the Nassif Building 400 7th Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Joseph S. Nalevanko, (202) 366-4484, Office of Hazardous Materials Planning and Analysis, 400 Seventh Street SW., Washington, DC 20590, or Paul Zebe (617) 494-3271, Volpe National Transportation Systems Center, Kendall Square, Cambridge, Massachusetts 02142. The Draft Report will be available for review at the Dockets Unit between the hours of 8:30 am and 5 pm, Monday through Friday, except holidays. A limited number of copies are also available by contacting the individuals listed above.

SUPPLEMENTARY INFORMATION: Section 15(c) of the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA) directs the Secretary of Transportation to "* * * undertake a study to determine which factors, if any, should be taken into consideration by shippers and carriers in order to select routes and modes which, in combination, would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. Such a study shall include notice and opportunity for public comment and shall include assessing the degree to which various factors, including population densities, types and conditions of modal infrastructures (such as highways, railbeds, and waterways), quantities of high-level radioactive waste and spent nuclear fuel, emergency response capabilities, exposure and other risk factors, terrain considerations, continuity of routes, available alternative routes, and environmental impact factors, affect the overall public safety of such shipments."

The transport of high-level radioactive waste and spent nuclear fuel necessarily involves the selection of a mode (e.g., rail, highway, waterway), or combination of modes and routes to be used to transport the material. These modal selections and routing decisions by carriers and shippers may have a significant impact on the overall public safety associated with the transportation of such materials. For this reason, there is considerable interest in Congress and elsewhere on the factors or criteria, if any, that could be used by shippers and carriers in the selection of modes and routes that may be used to enhance public safety.

The Volpe National Transportation Systems Center is supporting the RSPA's Office of Hazardous Materials Safety in conducting this study. The Volpe Center has contracted with Battelle Memorial Institute to perform the necessary analyses and data gathering. The Draft Report now available for public review and comments is organized as follows:

(1) Introduction.

(2) Overview of mode and route selection practices.

(3) Identification of candidate mode and route factors.

(4) Qualitative evaluation of candidate factors and selection of primary mode and route factors.

(5) Identification of primary mode and route factors by modeling risk of transporting radioactive materials.

(6) Case study and statistical analysis of primary factors, and

(7) Overall assessment of primary mode/route selection factors.

Issued in Washington, DC on December 27 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93-31978 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 23, 1993

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington DC 20220.

Special Request: In an effort to make the IRS form described below available to filers who need to collect this information in a timely manner, the Department of the Treasury is requesting Office of Management and Budget (OMB) review and approval by January 28, 1994. All comments must be received by close of business January 21, 1994.

Internal Revenue Service

OMB Number: New
Form Number: IRS Form 1099-C
Type of Review: New collection
Title: Cancellation of Debt
Description: Form 1099-C is used for reporting cancelled debt, as required by section 6050P of the Internal Revenue Code. It is used to verify that debtors are correctly reporting their income.
Respondents: Businesses or other for-profit. Federal agencies or employees. Non-profit institutions
Estimated Number of Respondents: 1,000,000
Estimated Burden Hours Per Respondent: 10 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 850,000 hours
Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-31913 Filed 12-29-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

December 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington DC 20220.

Departmental Offices/Economic Policy/ Office of Debt Management

OMB Number: 1505-0016
Form Number: Treasury International Capital Form BQ-1
Type of Review: Extension
Title: Part 1—Reporting Bank's Own Claims, and Selected Claims of Broker or Dealer on Foreigners; Part 2—Domestic Customers' Claims on Foreigners Held by Reporting Bank, Broker or Dealer, Denominated in Dollars
Description: This report is required by law (22 USC 95a, 22 USC 286f and 3103). It is designed to gather timely and reliable information on international capital movements, including data on dollar claims of banks, other depository institutions, brokers and dealers, and of their domestic customers *vis-a-vis* foreigners.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 900
Estimated Burden Hours Per Response: 4 hours
Frequency of Response: Quarterly
Estimated Total Reporting Burden: 12,800 hours
OMB Number: 1505-0018
Form Number: Treasury International Capital Form BL-2 and Treasury International Capital Form BL-2(SA)
Type of Review: Extension
Title: Custody Liabilities of Reporting Banks, Brokers and Dealers to Foreigners, Denominated in Dollars
Description: This report is required by law (22 USC 95a, 286f and 3103) for timely and accurate information on U.S. international capital movements, including data on the custody liabilities of banks, other depository institutions, brokers and dealers *vis-a-vis* foreigners, denominated in dollars
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 115
Estimated Burden Hours Per Response: 5 hours
Frequency of Response: Monthly, Semi-annually
Estimated Total Reporting Burden: 6,900 hours
OMB Number: 1505-0020
Form Number: Treasury International Capital Form BQ-2
Type of Review: Extension
Title: Part 1—Liabilities to, and Claims on, Foreigners of Reporting Bank, Broker or Dealer; Part 2—Domestic Customers' Claims on Foreigners Held by Reporting Bank, Broker or Dealer, Denominated in Foreign Currencies
Description: This report is required by law (22 U.S.C. 95a, 22 USC 286f and 3103). It is designed to gather timely and reliable information on international capital movements, including data on liabilities and claims, denominated in foreign currencies, of banks, other depository institutions, brokers and dealers, and of their domestic customers *vis-a-vis* foreigners.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 290
Estimated Burden Hours Per Response: 4 hours
Frequency of Response: Quarterly
Estimated Total Reporting Burden: 4,640 hours
Clearance Officer: Lois K. Holland, (202) 622-1563, Departmental Offices, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington DC 20220
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-31914 Filed 12-29-93; 8:45 am]

BILLING CODE 4810-25-P

UNITED STATES ENRICHMENT CORPORATION

Conflict of Interests Policy

AGENCY: United States Enrichment Corporation.

ACTION: Notice of final policy.

SUMMARY: On November 4, 1993 (58 FR 58896), the United States Enrichment Corporation (Corporation) published an interim policy to implement the Corporation's statutory conflict of interests requirements, found at 42 U.S.C. 2297b-3(j). The period for public comment extended through December 6, 1993. The Corporation received no comments with regard to the interim policy. The interim policy is adopted by the Corporation, without change, as published below.

EFFECTIVE DATE: August 16, 1993.

FOR FURTHER INFORMATION CONTACT: Robert J. Meore, General Counsel, United States Enrichment Corporation, Two Democracy Center, 6903 Rockledge Drive, Bethesda, MD 20817 or telephone (301) 564-3200.

SUPPLEMENTARY INFORMATION:

Background

The United States Enrichment Corporation, an agency and instrumentality of the United States, was established by the Energy Policy Act of 1992 (Act), Public Law 102-486, 106 Stat. 2923, as a wholly-owned government corporation among other things, the Corporation was established as the Government's exclusive agent for the marketing and sale of enriched uranium and uranium enrichment and related services. The Corporation's customers include private domestic and foreign entities as well as the Department of Energy.

Purpose

The Act provides that directors, officers and other management-level employees of the Corporation may not have a "financial interest" in customers, contractors, or competitors of the Corporation as well as certain other businesses. See 42 U.S.C. 2297b-3(j). This policy also addresses divestiture of financial interests that directors, officers and other management-level employees of the Corporation are prohibited from acquiring or holding.

List of Subjects

Conflicts of interests, Ethical conduct.

Issued in Washington, DC, December 20, 1993.

William H. Timbers, Jr.,
Transition Manager.

United States Enrichment Corporation Conflict of Interests Policy

I General

All employees of the United States Enrichment Corporation (Corporation) are subject to the regulations of the U.S. Office of Government Ethics that specify the Standards of Ethical Conduct for Employees of the Executive Branch, see 5 CFR part 2635. Subpart D of part 2635 (Sections 2635.401 to 2635.403) of these regulations provides for the disqualification of employees in handling certain matters in which the employee has a direct or imputed financial interest including the necessity in certain cases for employees to divest or not acquire certain financial interests. Section 2635.403 of these regulations covering prohibited financial interests notes that, in addition to the restrictions contained in that regulation, agency employees may be prohibited by other statutes from holding certain financial interests. The Corporations' enabling statute contains such restrictions with regard to Corporation Directors and Supervisory Employees (as these terms are defined in section II of this policy).

II. Definitions

For the purposes of this policy:

(a) *Customer, contractor, or competitor of the Corporation or any business that may be adversely affected by the success of the Corporation.* The Corporation's Procurement Manager shall maintain a current list of all customers, contractors, or competitors of the Corporation and any business that may be adversely affected by the success of the Corporation. The Corporation's Designated Agency Ethics Official shall periodically distribute such list to all Directors and Supervisory Employees. The term "contractor" in the preceding sentence means any entity which has a services contract for over $25,000 with the Corporation or which has a contract for over $50,000 with the Corporation to supply commercially offered supplies or equipment.

(b) *Directors* means persons appointed by the President with the advice and consent of the Senate pursuant to Section 1304(b) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2297b–3(b)).

(c) *Financial Interests.* (1) Financial Interests include both direct and indirect financial interests. A direct financial interest means the ownership or part ownership of stocks, bonds, debentures, warrants, partnership interests, or other debt or equity holdings in an entity (or in an affiliate of such entity) and includes serving as an employee, officer, director, trustee, or partner of an entity (or an affiliate of such entity), whether or not compensated for such service. The term "affiliate" in the preceding sentence refers to any individual, corporation or other organization or enterprise that controls or is controlled by such entity. An indirect financial interest includes:

(A) The holding of certain pension rights and other financial relationships that are equivalent to a direct financial interest in an entity (or in an affiliate of such entity);

(B) The Financial Interests of the employee's spouse or minor child in an entity (or in an affiliate of such entity); and

(C) The right to purchase or acquire any direct financial interest, such as a stock option or commodity future, in an entity (or in an affiliate of such entity).

(2) Financial Interests do not include:

(A) Interests in mutual funds or regulated investment companies the portfolios of which are widely diversified, and similarly constituted, commercially fungible entities;

(B) Any pension plan which holds no more than an insubstantial percentage of its assets in the form of direct financial interests in a customer, contractor, or competitor of the Corporation or any business that may be adversely affected by the success of the Corporation;

(C) Life insurance investments;

(D) State and municipal bonds;

(E) U.S. savings bonds and bank, credit union or loan association savings certificates; and

(F) Such other interests as the Corporation's Designated Agency Ethics Official may determine are not Financial Interests as defined by Section II(c)(1) of this policy by virtue, for example, of their remote or inconsequential relationship to a customer, contractor, or competitor of the Corporation or any business that may be adversely affected by the success of the Corporation.

(d) *Supervisory Employees* means Corporation officers and other management-level employees. The Corporate Vice President for Human Resources will publish annually a list of Corporation officers and other management-level employees.

III. Prohibition

Any Director or Supervisory Employee shall not acquire or hold any Financial Interests in a customer, contractor, or competitor of the Corporation or any business that may be adversely affected by the success of the Corporation.

IV. Divestiture

(a) *Reasonable period to divest.* In the event that a Director or Supervisory Employee holds a Financial Interest prohibited under Section III of this policy (whether by gift or bequest or because of an addition to the list provided for in section II(a) of this policy or otherwise), such Director or Supervisory Employee shall be given a reasonable period of time, considering the nature of his or her particular duties and the nature and marketability of such Financial Interest, within which to sell or to divest himself or herself of such Financial Interest. As long as such Director or Supervisory Employee continues to hold a prohibited Financial Interest, he or she shall disqualify himself or herself from participating in any matter which is related to or which may be affected by such Financial Interest. Except in cases of unusual hardship, as determined by the Corporation, a reasonable period of time shall not exceed 90 days from

(1) The date of the Director's appointment or the Supervisory Employee's hire or promotion; or

(2) The date on which the Director or Supervisory Employee first came to hold a Financial Interest prohibited under Section III of this policy, whether by gift or bequest or because of an addition to the list provided for in Section II(a) of this policy or otherwise.

(b) *Eligibility for special tax treatment.* Any Director or Supervisory Employee required to sell or divest himself or herself of a Financial Interest prohibited by Section III of this policy may be eligible to defer the tax consequences of such sale or divestiture pursuant to 5 CFR part 2634, subpart J.

[FR Doc. 93–31976 Filed 12–29–93; 8:45 am]
BILLING CODE 6270–01–M

UNITED STATES INFORMATION AGENCY

College and University Partnerships Program for the Russian Federation (CUPP)

AGENCY: United States Information Agency.

ACTION: Notice—Request for proposals.

SUMMARY: The Bureau of Educational and Cultural Affairs of the United States Information Agency announces a program of support for institutional partnerships between universities and colleges in the United States and the Russian Federation. The purpose of this college and university partnerships program is to foster curriculum development and teaching methodologies, and to modernize the administrative structure at institutions of higher education in the Russian Federation.

DATES: Deadline for proposals: Proposals must be received at the Academy for Educational Development by 5 p.m. Washington, DC time on March 25, 1994. Proposals received by the Academy after this deadline will not be eligible for consideration. Faxed documents will not be accepted, nor will documents postmarked on March 25, 1994 but received at a later date. It is the responsibility of grant applicants to ensure that their proposal is received by the above deadline. Grants should begin no later than September 1, 1994.

ADDRESS: Three originals, containing tabs A–U (see "Application Checklist" in program guidelines packet), and 10 copies, containing tabs A–D of the proposal are to be submitted by the deadline to: USIA College and University Partnerships Program for the Russian Federation, c/o The Academy for Educational Development, 1875 Connecticut Ave., NW., Washington, DC 20006–1202.

FOR FURTHER INFORMATION CONTACT: For general information and requests for application packets, which include all necessary forms and guidelines for preparing budgets, contact Mr. Chris Dwyer or Ms. Deborah Trent at (202) 619–5289, or write to the following address: Specialized Programs Units (E/ASU), Attention: USIA/College and University Partnerships Program for the Russian Federation, Office of Academic Programs, Rm. 349, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

SUPPLEMENTARY INFORMATION:

Overview

The College and University Partnerships Program for the Russian Federation is authorized and funded under the Foreign Appropriations Bill of 1994, also known as the Russian Assistance Act. USIA administers annual university affiliations programs under the authority of the Mutual Educational and Cultural Exchange Act of 1961, P.L. 87–256 (Fulbright-Hays Act). With the above funding, USIA will support institutional relationships with the Russian Federation through grants for a period of two (2) years beginning with the 1994–95 academic year (approximately September 1, 1994).

The College and University Partnerships Program is separate from USIA's University Affiliations Program and the University Development Program in Business Management, announced annually in this publication. However, the Agency strives to achieve institutional and geographic diversity across all three university linkage programs. Institutions planning to submit proposals for more than one competition should note that USIA will not fund the same project activities under two different grants.

The College and University Partnerships Program is limited to the following specific academic disciplines: (1) Law; (2) business/economics; (3) education/continuing education/educational reform; (4) government/public policy/public administration; (5) communications/journalism. Proposals should focus on reform in one of these eligible disciplines.

Proposals must involve the development of new academic programs or the building and/or restructuring of an existing program. Participating institutions must exchange faculty and/or staff members for teaching/lecturing and consulting for periods of not less than one month. Each year at least one U.S. participant should be in residence at the foreign partner institution for one semester to serve in a coordinating role. Other activities which serve the purpose of this program include: team teaching; visits by faculty to update their academic and professional skills, observe teaching techniques and strengthen their subject area expertise; expansion of library holdings; textbook development; development of audio-visual instructional materials; development of electronic mail communications; distance learning; the translation or reprinting of U.S. texts and other materials; and community outreach in conjunction with curriculum development. Institutional partners may include *graduate-level or PhD* students in the exchange.

Proposals will be accepted to establish new institutional linkages or to allow for innovation and strengthening of existing partnerships. Feasibility studies to plan linkages will not be considered.

The competition is limited to the Russian Federation. USIA will strive to achieve broad institutional and geographic diversity across the U.S. and the Russian Federation in awarding the grants. USIA will provide up to $300,000 for each proposal selected for funding over a two-year period. Subject to the availability of funds, USIA will award up to 6 grants to U.S. community colleges and up to 14 grants to other U.S. institutions (as defined under "Eligibility") proposing partnerships with institutions in the Russian Federation. Participating institutions, both U.S. and Russian, must maintain their faculty and staff on salary and benefits (with the sole exception of personnel assigned overseas for three or more consecutive months; see "Allowable Costs").

U.S. institutions are responsible for the submission of proposals and must collaborate with their foreign partners in planning and preparing proposals. U.S. and foreign partner institutions are encouraged to consult about the proposed project with U.S. Information Service (USIS) offices in Moscow, St. Petersburg or Vladivostok.

Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this administrative burden, to USIA Clearance Officer, M/ADD, Room 624, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503. (Information collection involved in this program has been cleared by OMB Approval Number 3116–0179, expiration date 12/31/95.)

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Guidelines

Eligibility

In the U.S., participation in the program is open to two-year and four-year colleges and universities, including community colleges and graduate schools. Consortia of universities and/or community colleges, individually or as systems, are also eligible. The Agency encourages proposals from eligible Historically Black Colleges and Universities and other institutions in the U.S. with at least 25% minority (Native American or Native Alaskan; Asian-American or Pacific Islander; African-American (or Black, non-hispanic); and Hispanic) student enrollment.

Participating U.S. institutions must be accredited by one of the following regional accrediting bodies: Middle States Association of Colleges and Schools; New England Association of

Schools and Colleges, Inc.; North Central Association of Colleges and Schools; Northwest Association of Schools and Colleges; Southern Association of Colleges and Schools; or Western Association of Schools and Colleges. Institutions recognized only by national or state institutional accrediting bodies are not eligible. U.S. universities and colleges applying under this program may collaborate with U.S. scholarly, professional, or international educational associations, foundations and organizations.

Overseas, participation is limited to recognized degree-granting institutions of higher education and internationally recognized or highly regarded independent research institutes. Proposals from a consortium may be submitted by a member institution with authority to represent the consortium.

Participants representing U.S. institutions and traveling under USIA grant support must be U.S. citizens. Participants representing foreign institutions must be citizens, nationals, or permanent residents of the Russian Federation. All foreign participants and programs must be in compliance with J–1 visa regulations and the proposal must make reference to this requirement.

Proposed Budget

A comprehensive line item budget must be submitted with the proposal by the deadline. Funds requested from the Agency must not exceed $300,000. Grants awarded to institutions with less than four years of experience in conducting international exchange programs will be limited to $60,000. Specific guidelines for budget preparation are available in the application packet.

Cost-sharing is encouraged. Cost-sharing may be in the form of allowable direct or indirect costs. The recipient must maintain written records to support all allowable costs which are claimed as being its contribution to cost participation, as well as cost to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A110, Attachment E—Cost sharing and matching should be described in the proposal. In the event the Recipient does not provide the minimum amount of cost-sharing as stipulated in the Recipient's budget, the Agency's contribution will be reduced in proportion to the Recipients' contribution.

The recipient's proposal shall include the cost of an audit that:

1. complies with the requirements of OMB Circular No. A–133, *Audits of Institutions of Higher Education and Other Nonprofit Institutions;*
2. complies with the requirements of American Institute of Certified Public Accountants (AICPA) Statement of Position (SOP) No. 92–9; and
3. includes review by the recipient's independent auditor of a recipient-prepared supplemental schedule of indirect cost rate computation, if such a rate is being proposed.

The audit costs shall be identified separately for:

1. preparation of basic financial statements and other accounting services; and
2. preparation of the supplemental reports and schedules required by OMB Circular No. A–133, AICPA SOP 92–9, and the review of the supplemental schedule of indirect cost rate computation.

Allowable Costs

—Travel: international and domestic (via American flag carriers). May include one planning trip with one participant per institution.
—Per diem and maintenance, including: lodging, meals and incidental expenses.
—Salaries and benefits for faculty assigned overseas for three or more consecutive months, not to exceed 20 percent of the total amount requested from USIA. USIA strongly encourages cost-sharing in this category and requires that salaries and benefits of all other faculty and staff participating in the project be maintained.
—Membership in U.S. professional associations and fees for attendance at professional conferences in the U.S. for foreign participants.
—Educational materials, including, but not limited to: the translation and publication of instructional materials, collections to be placed in foreign partner institution libraries, and other equipment as needed. These costs may not exceed 25% of the total requested grant amount.
—Medical insurance for foreign participants during U.S. visits. Medical insurance is mandatory for all participants in J–1 visa exchange programs.
—Student exchanges: travel, per diem/maintenance, memberships and conferences (foreign students only), educational materials, medical insurance, and other project costs for *graduate level or above* student exchanges. Exchanges may include a maximum of four foreign students and two U.S. students per year.
—Other project costs, limited to: interpreters, which may include graduate or PhD students; out-of-house administrative support in Russia; office supplies; and communications expenses (*i.e.*, telephone, facsimile, postage and delivery). The above costs may not exceed 10% of the total amount requested from USIA.

Note: Indirect costs are *NOT* allowable costs under the College and University Partnerships Program.

Subject to the availability of funds, USIA will award up to 8 grants to community colleges, and up to 14 grants to other institutions (as defined under "Eligibility") proposing partnerships with institutions in the Russian Federation.

Preference will be given to proposals which: (1) Designate partner institutions located outside Moscow and St. Petersburg; or (2) demonstrate evidence of previous relations with the proposed foreign partner institution(s); or (3) designate foreign partners in cities where USIS Moscow is developing American Centers. American Centers, which house substantial libraries and provide educational advising services, will open in Yekaterinburg, Tomsk, and Rostov-on-the-Don during Fiscal Year 1994.

Application Requirements

Proposals must be submitted by the deadline and must conform to the eligibility requirements and academic fields identified in this announcement. The proposal package must include three originals, containing tabs A–U (see "Application Checklist" in the guidelines packet), and 10 copies containing tabs A–D, as well as all required documentation. Proposals must be presented as follows:

1. *A proposal cover sheet* (in addition to the Bureau cover sheet) with names of institutions, project directors, their addresses, telephone and fax numbers, and academic field(s) of proposal. A sample cover sheet format is included in the application packet.

2. *An executive summary* (abstract) of proposed project, not to exceed two double-spaced pages.

3. *A narrative*, not to exceed 20 double-spaced pages, including descriptions of institutions and participating academic departments or schools; a detailed description of the proposed partnership program, including names and qualifications of designated project directors; a statement of need for the proposed program; a detailed description of proposed activities, including who will travel, when, and where (a timetable is recommended); anticipated benefits to participating institutions; and a plan for institutional evaluation of the project.

4. *A comprehensive line item budget* outlining specific expenditures and anticipated funding sources. Detailed information concerning eligible and ineligible items and required budget format is available in the application packet. The proposed budget must conform with the allowable costs described in this document and the guidelines found in the application packet. Budget items requiring additional explanation should be contained in a brief budget narrative.

5. *Documentation of institutional support* for the proposed linkage, including signed letters of endorsement from the president, chancellor, or director of the U.S. and foreign institutions, making specific reference to the College and University Partnerships Program and committing the institutions to maintaining exchange participants on salary and benefits during the exchange. A general letter of support or an agreement between the participating institutions without reference to the CUPP and maintenance of salaries and benefits will not fulfill this requirement. This document must be received with the rest of the proposal at AED by 5 p.m. Washington, DC time on March 25, 1994. A sample letter of endorsement and commitment is included in the application packet.

6. *Brief academic resumes*, not to exceed two single-spaced pages, of participating faculty/staff from all involved institutions. Resumes must clearly indicate: level of relevant language skills; relevant overseas experience; knowledge of prospective partner country; and relevant scholarly and non-scholarly travel, publications, and research activities.

Note: All pages in excess of the two-page limit will be discarded.

Review Process

The College and University Partnerships Program review process will be comprised of technical, academic, and Agency reviews. Proposals will be deemed technically eligible only if they adhere to the guidelines established herein and in the application packet. Technically eligible proposals will be forwarded to ad hoc panels of area and subject specialists who will weigh their academic merit, potential for fostering curriculum reform and development, and feasibility. Proposals recommended for funding by the ad hoc academic panels will be reviewed for relevance to Agency goals and the objectives of the Russian Assistance Act of 1994 by the Office of Academic Programs, the Office of European Affairs, USIS offices and the budget and contracts offices. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Academic Review Criteria

Proposals are reviewed by independent academic peer panels with geographic and disciplinary expertise which make recommendations to the Agency based on the following criteria:

1. Academic merit of the proposal, as reflected by a clear statement of program goals and means to accomplish the goals, and detailed description of project with statement on how the proposed project will be implemented and evaluated.

2. Probable impact of the proposed partnership in achieving the goal of reforming educational administration and curricula at the foreign partner institution.

3. If the proposal entails support for an established, active linkage, evidence that College and University Partnerships Program funding would significantly enhance the exchange relationship.

4. Evidence that theme(s) of proposed project fit(s) field(s) stated in this announcement.

5. Feasibility of the program plan as it relates to the stated goals and selected topics and activities.

6. Quality of scholarly and professional credentials/experience of participants in relation to the goals of the proposed exchange plan, including language proficiency.

7. Appropriateness of length of exchange visits, given project goals.

8. Evidence of strong institutional commitment by participating institutions, demonstrated in part by cost-sharing and letters of institutional support.

9. Evidence of mutual advancement of cultural and political understanding through development of individual and institutional ties.

10. Evidence from U.S. institutions of prior experience in the region and previous relations with proposed foreign partner institution(s).

Agency Review Criteria

Academic review panels will recommend proposals to USIA for further review. Agency review will be based on:

1. Academic quality, reflected in academic review commentary and recommendations.

2. Promise of long-term impact in achieving Agency/legislative objectives.

3. Feasibility of program plan.

4. USIA overseas post assessments of need and feasibility.

5. Cost-effectiveness.

6. Geographic and institutional diversity within the Russian Federation. Preference will be given to proposals which: 1) designate partner institutions located outside Moscow and St. Petersburg; or 2) demonstrate evidence of previous relations with the proposed foreign partner institution(s); or 3) designate foreign partners in cities where USIS Moscow is developing American Centers. American Centers, which house substantial libraries and provide educational advising services, will open in Yekaterinburg, Tomsk, and Rostov-on-the-Don during Fiscal Year 1994.

7. Geographic and institutional diversity among U.S. partner institutions.

Notice

The terms and conditions published in the this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 15, 1994. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: December 23, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–31944 Filed 12–29–93; 8:45 am]
BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 249
Thursday, December 30, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: January 11, 1994, 2:00 P.M. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

STATUS: Part of the Meeting will be open to the public and part of the Meeting will be closed.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Votes.
2. Report to the Commission—Office of Inspector General.
3. Proposed Reorganization of Commission Field Offices.

Closed Session

1. Litigation Authorization: General Counsel Recommendations.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663-7100 (voice) and (202) 663-4077 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663-4070.

This Notice Issued December 27, 1993.

Frances M. Hart,
Executive Officer, Executive Secretariat.
[FR Doc. 93-32007 Filed 12-27-93; 4:14 pm]
BILLING CODE 6750-06-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, January 5, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 28, 1993.

Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 93-32087 Filed 12-28-93; 3:58 pm]
BILLING CODE 6210-01-P

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on January 8, 1994. The meeting will commence at 9:00 a.m.

PLACE: The Legal Services Corporation, 750 First Street, N.E., The Board Room, Washington, D.C. 20002, (202) 336-8800.

STATUS OF MEETING: *Open*, except that a portion of the meeting may be closed pursuant to a vote of a majority of the Board of Directors to hold an executive session. At the closed session, in accordance with the aforementioned vote, the Board will consider and vote on approval of the draft minutes of the executive session held on December 6, 1993. The Board will hear, consider and act on the report of the General Counsel on litigation to which the Corporation is or may become a party. Further, the Board will consult with the Inspector General on internal personnel, operational and investigative matters. The Board will also consult with the President on internal personnel and operational matters. Finally, the Board will deliberate regarding internal personnel and operational matters. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(2)(5), (6), (7), and (10), and the corresponding regulations of the Legal Services Corporation [45 C.F.R. Section 1622.5(a), (d), (e), (f), and (h)].[2] The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, N.E., Washington, D.C., 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of December 6, 1993 Meeting.
3. Chairman's and Members' Reports.
4. Consider and Act on Operations and Regulations Committee Report.
   a. Consider and Act on Proposed Revisions to Section 1001.15 of the Corporation's Regulations.
5. Consider and Act on Provision for the Delivery of Legal Services Committee Report.
6. Consider and Act on Audit and Appropriations Committee Report.
   a. Consider and Act on Proposed Management and Administration Line of the Fiscal Year 1994 Consolidated Operating Budget.
   b. Consider and Act on Fiscal Year 1995 Budget Justification for the Corporation
7. Consider and Act on Presidential Search Committee Report.
8. President's Report.
9. Inspector General's Report.

CLOSED SESSION:

10. Approval of Minutes of Executive Session Held on December 6, 1993.
11. Consultation by Board with the President on Internal Personnel and Operational Matters.
12. Consider and Act on Internal Personnel and Operational Matters.
13. Consultation by Board with the Inspector General on Internal Personnel, Operational and Investigative Matters.
14. Consider and Act on the General Counsel's Report on Pending Litigation to which the Corporation is, or May Become, a Party.
    a. Consider and Act on Proposed Resolution Ratifying, Heretofore, All Actions Taken By the Prior Board on Non-Renewal of the Employment Contract of the Prior Inspector General.

OPEN SESSION: (Resumed)

15. Consider and Act on Other Business.
16. Scheduling of 1994 Board and Committee Meetings.

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 336-8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

[2] As to the Board's consideration and approval of the draft minutes of the executive session(s) held on the above-noted date(s), the closing is authorized as noted in the Federal Register notice(s) corresponding to that/those Board meeting(s).

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336-8800.

Date Issued: December 28, 1993.

Patricia D. Batie,
Corporate Secretary.
[FR Doc. 93-32088 Filed 12-28-93; 3:55 pm]
BILLING CODE 7505-01-M

VOL
58

ISS
249

DE
30

1993

UMI

federal register

Thursday
December 30, 1993

Part II

Department of the Treasury

Customs Service

19 CFR Part 10, et al.
North American Free Trade Agreement; Interim Rule

VOL 58 ISS 249 DEC 30 1993 UMI

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 12, 24, 123, 134, 162, 174, 177, 178, 181 and 191

[T.D. 94–1]

RIN 1515–AB33

North American Free Trade Agreement

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document amends the Customs Regulations on an interim basis to implement the preferential tariff treatment and other Customs-related provisions of the North American Free Trade Area Agreement entered into by the United States, Canada and Mexico.

DATES: Interim rule effective January 1, 1994; comments must be received on or before March 30, 1994.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Maria Reba, Office of International Affairs (202–927–1488).

Audit Aspects: William Inch, Office of Regulatory Audit (202-927–1100).

Legal Aspects: Myles Harmon, Office of Regulations and Rulings (202–482–7000).

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1992, the United States, Canada and Mexico (the "Parties") entered into an agreement, the North American Free Trade Agreement (NAFTA). The stated objectives of the NAFTA are to: Eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties; promote conditions of fair competition in the free trade area; increase substantially investment opportunities in the territories of the Parties; provide adequate and effective protection and enforcement of intellectual property rights in each Party's territory; create effective procedures for the implementation and application of the NAFTA, for its joint administration and for the resolution of disputes; and establish a framework for further trilateral, regional and multilateral cooperation to expand and enhance the benefits of the NAFTA.

The provisions of the NAFTA were adopted by the United States with the enactment of the North American Free Trade Agreement Implementation Act (the "Act"), Public Law 103–182, 107 Stat. 2057.

The principal role of the U.S. Customs Service is to administer the provisions of the NAFTA and the Act which relate to the importation of goods into the United States from Canada and Mexico. Those Customs-related NAFTA provisions which require implementation through regulation include certain tariff and non-tariff provisions within Chapter Three (National Treatment and Market Access for Goods) and the provisions of Chapter Four (Rules of Origin) and Chapter Five (Customs Procedures).

The tariff-related provisions within NAFTA Chapter Three which require regulatory action by Customs are Article 303 (Restriction on Drawback and Duty Deferral Programs), Article 305 (Temporary Admission of Goods), Article 306 (Duty-Free Entry of Certain Commercial Samples and Printed Advertising Materials) and Article 307 (Goods Re-Entered after Repair or Alteration). The non-tariff provisions of Chapter Three requiring Customs regulatory action are Article 310 (Customs User Fees), Article 311 (Country of Origin Marking) and Annex 300–B (Textile and Apparel Goods).

Chapter Four of the NAFTA sets forth the rules for determining whether an imported good qualifies as an originating good of the United States, Canada or Mexico (NAFTA country) and, as such, is therefore eligible for preferential tariff (duty-free or reduced duty) treatment as provided for under Article 302(2) and Annex 302.2 of the NAFTA. Under Article 401 within that Chapter, originating goods may be grouped in two broad categories: (1) Goods which are wholly obtained or produced entirely in one or more NAFTA countries; and (2) goods which are produced entirely in one or more NAFTA countries exclusively from materials that originate in those countries, or goods which are produced entirely in those countries and which satisfy the specific rules of origin in NAFTA Annex 401 (change in tariff classification requirement and/or regional value-content requirement). Article 402 sets forth the methods for calculating the regional value content of a good and the rules for determining the value of materials used in the production of a good. Article 403 sets forth special rules for calculating the regional value content in the case of automotive goods. Article 404 provides for accumulation of production by two or more producers. Article 405 provides a de minimis criterion. The remaining Articles within Chapter Four consist of additional sub- rules, applicable to the originating good concept, involving fungible materials, packaging materials, packing materials, transshipment, and non-qualifying operations. The basic rules of origin in Chapter Four of the NAFTA, as well as the specific rules of origin in Annex 401 of the NAFTA, are set forth in General Note 12, Harmonized Tariff Schedule of the United States (HTSUS).

Chapter Five sets forth the procedural and other customs requirements which apply under the NAFTA, in particular with regard to claims for preferential tariff treatment. Articles 501–506 of this Chapter provide for use of a Certificate of Origin for purposes of certifying that an exported good qualifies as an originating good under the Chapter Four origin rules, set forth the rights and obligations of importers regarding imported goods and of exporters and producers regarding exported goods, and set forth the rights and obligations of the customs administration of the importing country when conducting a verification of the origin of a good and when denying a claim for preferential tariff treatment. Article 507 sets forth confidentiality principles regarding business information collected pursuant to Chapter Five. Article 508 requires each Party to maintain penalties for violations of its laws and regulations relating to Chapter Five. Article 509 sets forth rules for the issuance and application of advance rulings by the customs administration of the importing country regarding whether a good meets the country of origin marking requirements of Article 311 or the origin rules of Chapter Four or other NAFTA requirements that apply to certain goods at the time of importation. Article 510 extends to exporters and producers of goods substantially the same rights of review and appeal accorded to importers regarding advance rulings or marking determinations of origin or country of origin determinations for purposes of preferential tariff treatment. Article 511 requires the Parties to establish, and implement through their respective laws or regulations, Uniform Regulations regarding the interpretation, application and administration of Chapter Four, Chapter Five and any other matter as agreed by the Parties. Finally, Articles 512 and 513 set forth procedures for cooperation between the Parties regarding the implementation and administration of the customs-related aspects of the NAFTA.

Pursuant to Article 511 of the NAFTA, representatives of the Parties engaged in a series of trilateral discussions for the purpose of formulating uniform regulatory texts or principles in respect of Chapters Four and Five and in respect of certain provisions within Chapter Three. As regards Chapter Three, agreement was reached on certain principles to be applied for purposes of implementing the drawback provisions of Article 303. With regard to the remaining Chapter Three provisions, including the country of origin marking provisions of Article 311 and its companion Annex 311 (which provide for the establishment of "Marking Rules" for purposes of determining whether a good constitutes, and thus may be marked as, a good of a Party and which set forth disciplines on the methods and procedures for the country of origin marking of goods), those provisions are to be implemented by each Party independently and as appropriate within each Party's statutory and regulatory structure. As concerns Chapter Four, the Parties agreed to implement substantively verbatim texts of interim regulations covering all of the provisions of that Chapter. Finally, in recognition of the different existing customs legal and procedural requirements in the three countries, in the case of Chapter Five the Parties agreed to use a standards approach whereby agreement was reached on certain minimum principles to be reflected in each Party's regulations, with each Party being left free to implement those principles, and any other requirements not inconsistent therewith, in accordance with the needs of the Party's particular statutory and regulatory framework.

In order to provide transparency and facilitate their use, the majority of the NAFTA implementing regulations set forth in this document have been included within one new Part 181. However, in those cases in which NAFTA implementation is more appropriate in the context of an existing regulatory provision, the NAFTA regulatory text has been incorporated in an existing Part within the Customs Regulations. In addition, this document sets forth a number of cross-references and other consequential changes to existing regulatory provisions to clarify the relationship between those existing provisions and the new NAFTA implementing regulations. The regulatory changes are discussed below in the order in which they appear in this document.

Discussion of Amendments

Part 10

Section 10.8 is amended by adding a new paragraph (a) to reflect the inclusion of provisions implementing NAFTA Article 307 (goods re-entered after repair or alteration) in new Part 181 and by redesignating former paragraphs (a)-(l) as (b)-(m). Consequential amendments are also made to §§ 10.36a, 10.66 and 10.67.

Section 10.31(f) is amended by adding a sentence at the end to reflect the provision in NAFTA Article 305(2)(d) that, as regards the goods described in the added sentence, no bond or other security shall be required in the case of goods originating in Canada or Mexico. The other provisions of NAFTA Article 305 (temporary admission of goods) are already reflected in existing temporary importation bond or other provisions contained in Part 10 of the Customs Regulations and in Chapter 98 of the HTSUS.

Part 12

Part 12 is amended by adding a new § 12.132 to clarify the relationship between present § 12.130(f) (which requires submission of a country of origin declaration for textiles and textile products) and Annex 300–B of the NAFTA (textile and apparel goods).

Part 24

Section 24.22, which was published as a final rule in T.D. 93–85 on October 21, 1993 (58 FR 54271), is amended to reflect changes to section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) effected by section 521 of the Act. The changes involve, for fiscal years 1994 through 1997 (in effect, from January 1, 1994 through September 30, 1997), (1) an increase in the commercial passenger arrival fee from $5 to $6.50 and (2) suspension of the exemption from the commercial passenger arrival fee in the case of persons whose journey involves certain specified locations outside the United States.

Section 24.23(c)(3) is revised (1) to remove the references to the staged reduction of user fees for processing merchandise in the case of goods originating in Canada as provided for in the United States-Canada Free Trade Agreement (CFTA) since the final staged reduction (to zero) takes effect on January 1, 1994, and (2) to reflect the user fee provisions of Article 310 and Annex 310.1 of the NAFTA as regards goods originating in Canada. The revised text makes no specific reference to goods originating in Mexico because, under Annex 310.1 of the NAFTA, existing U.S. merchandise processing fees will continue to apply, even in the case of originating goods which qualify to be marked as goods of Mexico pursuant to NAFTA Annex 311, until June 30, 1999. The last sentence of revised § 24.23(c)(3) is intended to clarify the application of the fees for processing merchandise in cases where goods originating in Canada are entered with goods that are not so originating: the fees will be applied only to the nonoriginating goods.

It should be noted that, as a result of the conclusion of the CFTA staged reductions and the revision of § 24.23(c)(3) as set forth in this document, with effect from January 1, 1994, Customs will no longer require use of a formula for purposes of applying the staged reductions to the surcharge and specific fees of § 24.23 where a shipment covers both originating and nonoriginating goods. As in the case of the ad valorem fee under § 24.23, the surcharge and specific fees will be applied in their entirety but only to the nonoriginating portion of the shipment.

Part 123

A sentence is added at the end of § 123.0 (scope) to refer to the new part 181 NAFTA regulations regarding the treatment of goods from Canada or Mexico.

Part 134

Eight sections within Part 134 are amended to reflect the provisions of NAFTA Article 311 and Annex 311, as implemented by section 207 of the Act, and two other sections in part 134 are amended for cross-reference or editorial purposes. NAFTA Annex 311: (1) Provides for the promulgation of Marking Rules used for determining whether a good is a good of a NAFTA country (the Marking Rules are not set forth or otherwise substantively dealt with in this document); and (2) sets forth general marking principles pertaining to the methods and procedures relating to the country of origin marking of such goods. The specific amendments are described below.

Section 134.0 (scope) is amended by adding a sentence to refer to subpart J of new part 181 which sets forth the review and appeal rights of exporters and producers regarding adverse marking decisions provided under NAFTA Article 510, as implemented by section 207 of the Act.

In § 134.1, two definitions ("Country of origin" and "Ultimate purchaser") are amended by adding text to reflect provisions of NAFTA Annex 311, and four definitions ("Good of a NAFTA country," "NAFTA," "NAFTA country," and "NAFTA Marking Rules") are added to clarify NAFTA references. Four other paragraphs are amended by adding text that implements NAFTA provisions.

Sections 134.22, 134.23, and 134.24 are generally amended by adding references and text concerning general marking provisions applicable to usual containers which are goods of NAFTA countries. In § 134.22, a new paragraph (d) is added to define when a good of a NAFTA country constitutes a "usual container" and to specify that such a good is not required to be marked with its country of origin, and former paragraph (d) is redesignated paragraph (e) and amended by adding text to refer to additional circumstances (set forth in § 134.32) in which the containers of excepted NAFTA goods are not required to be marked.

In § 134.32, paragraph (h) is amended by adding a "reasonable knowledge" standard in the case of NAFTA goods, and two new NAFTA marking exceptions are added relating to (1) original works of art (paragraph p) and (2) goods classifiable under HTSUS subheading 6904.10 or HTSUS heading 8541 or 8542 (paragraph q).

Section 134.35 is amended by adding a new paragraph (b) to indicate that the NAFTA Marking Rules will be used to determine when a good of a NAFTA country which is to be further processed in the United States is excepted from country of origin marking requirements.

Section 134.43 is amended to except NAFTA goods from some special marking requirements (pertaining to Native American-style jewelry and arts and crafts) and to allow for any reasonable method of marking the goods of another NAFTA country.

Section 134.45(a) is amended by adding a new paragraph (2) which permits a good of a NAFTA country to be marked with the name of the country of origin in English, French, or Spanish; however, any other required information is required to be printed in English.

Finally, in § 134.44(a), an editorial change is made which relates to acceptable methods of marking certain goods.

Part 162

Section 162.0 (scope) is amended by the addition of a cross-reference to new part 181 regarding additional records maintenance and examination provisions applicable to U.S. importers, exporters and producers.

Part 174

A cross-reference sentence has been added at the end of § 174.0 (scope) to draw the reader's attention to the inclusion in the new NAFTA regulations of provisions regarding administrative review and appeal of adverse marking decisions (see the discussion of subpart J of new part 181 below).

Section 174.12, which concerns who may file a protest, is amended by the addition of a new paragraph (a)(5) to give effect to Article 510 of the NAFTA, as implemented by section 208 of the Act through an amendment to the protest provisions of 19 U.S.C. 1514, regarding the right of an exporter or producer, who completed and signed a Certificate of Origin for an originating good, to obtain administrative review of a determination of origin pertaining to that good.

Section 174.15, regarding consolidation of protests, is amended by designating the former text as paragraph (a) and adding new text as paragraph (b) to reflect the fact that, under the NAFTA as implemented by the Act, persons who are not directly involved in a U.S. import transaction (that is, Canadian and Mexican exporters and producers) have protest rights as do U.S. importers as regards NAFTA origin determinations. In recognition of the fact that exporters, producers and importers may have different financial interests and business confidentiality concerns, paragraph (b) is intended to strike a balance between the participatory principle of Article 510 of the NAFTA and the business confidentiality principle contained in Article 507 of the NAFTA (see subpart K of new part 181).

Section 174.29 is amended by the addition of a sentence to provide that, if a protest by an exporter or producer is allowed in whole or in part and excess monies are found to have been collected on the import transaction, a refund will be payable to the party (in most cases, the importer of record) who paid the monies even if such party did not file an appropriate and timely protest.

Part 177

Exception language, regarding NAFTA advance rulings which are covered by new part 181, is added to § 177.0 (scope) and in the first sentence of § 177.1(c). See the discussion of subpart I of part 181 below as regards the relationship between NAFTA advance rulings and rulings under part 177.

Part 178

The list contained in § 178.2 is amended to conform to the redesignation of § 10.8(e) as § 10.8(f) reflected in the Part 10 changes discussed above.

Part 181

Section 181.0

Section 181.0 outlines the scope of new part 181 and includes cross-references to other parts of the regulations where certain NAFTA implementing regulations have been included as set forth in this document. This section also clarifies that, except where the context otherwise requires, the requirements contained in part 181 are in addition to general administrative and enforcement provisions set forth elsewhere in the Customs Regulations. Thus, for example, the specific merchandise entry requirements contained in part 181 are in addition to the basic entry requirements contained in parts 141–143 of the regulations.

Subpart A—General Provisions

Section 181.1 sets forth definitions of common terms used in multiple contexts or places within part 181. Although the majority of the definitions in this section are based on definitions contained in Articles 201, 318 and 514 of the NAFTA or in section 2 of the Act, other definitions have also been included to clarify the application of the regulatory texts. Additional definitions which apply in a more limited part 181 context are set forth elsewhere with the substantive provisions to which they relate.

Subpart B—Export Requirements

Section 181.11 implements NAFTA Articles 501(1) and (3) and 504(1) which concern use of a Certificate of Origin for purposes of certifying that an exported good is an originating good and thus entitled to preferential tariff treatment under the NAFTA. This section also implements NAFTA Article 504(1)(b) which requires an exporter or producer to promptly provide written notification of errors in a Certificate to any person to whom the Certificate was given.

Section 181.12(a) concerns the maintenance of records by a U.S. exporter or producer who executes a Certificate of Origin, as required by NAFTA Article 505(a) and by 19 U.S.C. 1508(b) as amended by section 205(a) of the Act. Section 181.12(b) concerns the availability of those records both to U.S. Customs and to the Canadian or Mexican customs administration (in the latter case for purposes of an origin verification under NAFTA Article 506—see the discussion of subpart G below).

Section 181.13 concerns measures applied for a failure of a U.S. exporter or producer to comply with a requirement of part 181 and is based on NAFTA Article 504(2)(b).

Subpart C—Import Requirements

Section 181.21 sets forth the procedure for claiming NAFTA tariff benefits at the time of importation and, as provided in NAFTA Articles 502(1)(a) and (d), requires a U.S. importer to file a declaration, and to correct a declaration that contains incorrect information, in connection with the claim. Section 181.21 also implements NAFTA Article 502(1)(b) by requiring that the declaration that the goods are NAFTA originating goods be based on a Certificate of Origin which is in the possession of the importer.

Section 181.22 implements NAFTA Articles 501(2) and (5), 502(1)(c), 503 and 505(b) which concern the obligations of an importer regarding the submission of a Certificate of Origin to Customs and the maintenance of the Certificate and other relevant records regarding the imported good. Included in § 181.22 is a provision that a Certificate of Origin may be used either for a single importation or for multiple importations of identical goods.

Section 181.23, which is based on NAFTA Article 502(2)(a), authorizes the denial of NAFTA tariff benefits if the importer fails to comply with the requirements of part 181.

Subpart D—Post-Importation Duty Refund Claims

Sections 181.31 through 181.33 implement NAFTA Article 502(3) and section 206 of the Act, which allow an importer, who did not claim NAFTA tariff benefits on a qualifying good at the time of importation, to apply for a refund of any excess duties at any time within one year after the date of importation. Such a claim may be made even if liquidation of the entry would otherwise be considered final under other provisions of law.

Subpart E—Restrictions on Drawback and Duty Deferral Programs

This subpart sets forth the specific rules and procedures under NAFTA Article 303, as implemented by section 203 of the Act, regarding restrictions on drawback and duty-deferral programs (NAFTA drawback). The procedures apply to goods imported into the United States and then subsequently exported to Canada on or after January 1, 1996, or to Mexico, on or after January 1, 2001, with a claim for preferential tariff treatment pursuant to the NAFTA. The provisions of the NAFTA and the Act implemented by this subpart operate principally to limit the amount of drawback, waiver or reduction of duties so as to avoid double duty-free or reduced-duty treatment on goods or materials that originally came from a non-NAFTA country (that is, on both the good or material when imported into the United States from a non-NAFTA country and on that good or material, or other good or material incorporating that good or material, when exported to Canada or Mexico under the NAFTA).

Section 181.41 clarifies the applicability of the subpart. It sets forth the effective date of the regulatory provisions and states that the provisions of the subpart are in addition to the general requirements and procedures contained in parts 10, 19, 144, 146 and 191 of the Customs Regulations.

Section 181.42 specifies the duties and fees that are not subject to drawback under this subpart.

Section 181.43 outlines the general circumstances under which goods are eligible for drawback under the subpart.

Section 181.44 sets forth the limitation on the payment of drawback as provided for in NAFTA Article 303: upon presentation of a drawback claim, drawback of duties previously paid upon importation of a good into the United States may be granted on the lower amount of (1) the total duties paid or owed on the good in the United States, or (2) the total amount of duties paid on the exported good upon subsequent importation into Canada or Mexico. The section also sets forth the operation of this rule with regard to specific types of drawback provided for in 19 U.S.C. 1313.

Section 181.45 outlines the circumstances in which full drawback may be granted without regard to the limitation on drawback set forth in § 181.44.

Section 181.46 specifies the time and place for filing a drawback claim under the subpart.

Section 181.47 sets forth the requirements for proper completion of a drawback claim including, for each type of drawback, the documentary materials (including proof of exportation and evidence of payment of duties in Canada or Mexico) that must be submitted with the claim.

Section 181.48 identifies the persons entitled to receive drawback.

Section 181.49 provides that, with respect to manufacturing drawback claims, the persons required to keep records under this subpart or under § 191.5 shall retain such records for at least three years after the payment of the drawback claim.

Section 181.50 sets forth the procedures for payment and liquidation of drawback claims and provides that (1) liquidation of the drawback claim becomes final only when liquidation of the U.S. import entry has become final and, except for goods entitled to full drawback under § 181.45, when liquidation of the Canadian or Mexican entry has become final and (2) if accelerated drawback procedures are used, the person who received the accelerated drawback payment must make repayment if the claim is adversely affected by subsequent administrative or court action.

Section 181.51 requires a certification from the person entitled to receive drawback to ensure that there is no double payment of a drawback claim.

Section 181.52 provides for reliquidation of a drawback claim, and refund to Customs of any amount of drawback paid in excess of that allowed under § 181.44, if, after drawback has been granted under this subpart, the Canadian or Mexican customs administration refunds duties pursuant to NAFTA Article 502(3) (post-importation duty refund claims) or under any other circumstance.

Section 181.53 implements the NAFTA Article 303 provisions as regards duty-deferral programs. Accordingly, this section (1) provides for the collection of duty on a good imported into the United States pursuant to a duty-deferral program (any measure which postpones duty payment, such as bonded warehouse, foreign trade zone, and temporary importation bond provisions) when the good is withdrawn from the duty-deferral program and exported to Canada or Mexico, and (2) provides for the waiver or reduction of such duties in an amount that does not exceed the lesser of either the total duty required to be paid under this section or the total amount of customs duties subsequently paid to Canada or Mexico (provided that proof of exportation and of the payment of duties in Canada or Mexico is submitted within 60 days after the date of exportation). The section also sets forth recordkeeping requirements and provides for reliquidation of a claim granted under the section, and consequent refund of any amount waived or reduced in excess of that allowed under the section if the Canadian or Mexican customs administration grants a subsequent claim for NAFTA preferential tariff treatment.

Section 181.54 provides that allowance of a claim submitted under

this subpart shall be subject to such verification as the district director may deem necessary.

Subpart F—Commercial Samples, Printed Advertising Materials, and Goods Returned After Repair or Alteration

Section 181.61 outlines the applicability of the subpart.

Section 181.62 implements the provisions of NAFTA Article 306 concerning duty-free entry of commercial samples of negligible value. Paragraph (c) of the section includes specific standards for the mutilation of textile samples valued over US$1 and is based on the standards which Customs has administratively applied for purposes of the U.S. textile import program and for purposes of classification in subheading 9811.00.60 of the HTSUS.

Section 181.63 implements NAFTA Article 306 as regards printed advertising materials.

Section 181.64 implements NAFTA Article 307 and Annex 307.1 regarding duty treatment on goods re-entered after repair or alteration in Canada or Mexico. The documentary requirements in paragraph (c) are based on simplified documentation proposals for § 10.8 of the Customs Regulations which were published in the Federal Register on January 15, 1993 (58 FR 4615).

Subpart G—Origin Verifications and Determinations

Sections 181.71 through 181.76 implement the provisions of NAFTA Article 506 which concerns the conduct of verifications to determine whether imported goods are originating goods entitled to NAFTA preferential duty treatment and the issuance and application of origin determinations resulting from such verifications. This subpart also governs the conduct of verifications directed to producers of materials that are used in the production of a good for which NAFTA preferential duty treatment is claimed.

Section 181.71 provides that where a timely claim for NAFTA tariff treatment is made based on an acceptable Certificate of Origin, any denial of preferential tariff treatment must be made on the basis of an origin verification conducted under this subpart.

Section 181.72 implements the provisions of NAFTA Article 506(1)(c) by providing that, in addition to verification visits and questionnaires which are specifically authorized by Articles 506(1)(a) and (b), verifications may be also be conducted by letter. In addition, this section provides that any other verification method may be used that results in information from a Canadian or Mexican exporter or producer and that any such information must be in writing and signed by the exporter or producer if it is to be used as the basis for an adverse origin decision.

Section 181.72 also specifies the procedures under which verification letters and questionnaires are to be transmitted. It further provides that, in the case of a failure to respond to an initial verification letter, a follow-up letter will be sent (for purposes of renewing the request for information) which may also provide notice that, in the event of a non-response, preferential tariff treatment will be denied. The follow up letter must be sent by certified or registered mail or by such other method that produces a confirmation of receipt if a request for such procedure has been made by the customs administration of the Party from which the good was exported.

Section 181.73 implements NAFTA Articles 506(2) and (3) by setting forth the procedures for notification of a verification visit.

Section 181.74 sets forth procedures for the conduct of a verification visit. Included in those procedures is the right of the person visited to have observers present during the verification.

Section 181.75 implements NAFTA Article 506(9) by providing for the issuance of a written determination of origin based on an analysis of the results of the origin verification. This section also prescribes the information required to be included in the written determination and includes special content and issuance requirements in the case of a negative origin determination, including a statement of the right of the exporter or producer to submit a response to the determination within a specified period of time before the determination will take effect.

Section 181.76 sets forth the provisions governing the effective date of a determination of origin issued under § 181.75. In the case of a negative origin determination, the effective date depends on the method by which the origin determination is sent.

Section 181.76 also implements NAFTA Articles 506(10), (11) and (12) by setting forth special effective date rules where a negative origin determination by Customs is based on the tariff classification or value of materials used in the production of the good which differs from that which was applied to the materials by Canada or Mexico. Such a determination will only become effective when notification is given to the importer and to the exporter or producer who signed the Certificate of Origin pertaining to the good for which preferential tariff treatment was sought. Where that classification or value was the subject of a ruling by, or consistent treatment accorded by, the Canadian or Mexican customs administration, Customs will not apply its determination to importations made prior to the determination if advised of this difference within the period allowed for submitting a response to the determination. In addition, pursuant to § 181.76(e) the effective date of the determination is to be further postponed for a period of up to 90 days if the importer or the exporter or producer demonstrates to the satisfaction of Customs that it relied in good faith to its detriment on the ruling or consistent treatment applied by Canada or Mexico.

Subpart H—Penalties

Section 181.81(a) concerns the general application of penalties to NAFTA transactions and is based on NAFTA Article 508(1). Section 181.81(b) concerns a false certification by an exporter or producer and is based on NAFTA Article 504(2)(a) as implemented by section 205(b) of the Act.

Section 181.82(a) reflects NAFTA Articles 502(2)(b) and 504(3), as implemented by section 205(b) of the Act, with regard to exceptions to the application of penalties (1) in the case of an importer who makes a corrected declaration (as required under NAFTA Article 502(1)(d)—see § 181.21(b)) if the correction is done voluntarily and (2) in the case of an exporter or producer who provides notice of an incorrect Certificate of Origin (as required under NAFTA Article 504(1)(b)—see § 181.11(d)) if the notice is provided voluntarily. Section 181.82(b), which sets forth standards for determining whether the correction or notice is effected "voluntarily", is based on the standards applied for prior disclosures under 19 U.S.C. 1592 as set forth in § 162.74 of the Customs Regulations.

Subpart I—Advance Ruling Procedures

This subpart implements the advance ruling provisions of NAFTA Article 509 and the review provisions regarding advance rulings of NAFTA Article 510. Section 181.91 sets forth the rules regarding the applicability of the subpart and provides, in particular, that U.S. importers and Canadian and Mexican exporters and producers must use the provisions of this subpart (and thus may not use the provisions of part 177) when seeking a ruling on a subject matter specified in § 181.92(b)(6) (that is, any subject matter specified in or

authorized under Article 509(1)). The remaining sections of this subpart generally follow the provisions of part 177, except where variances are required to conform to the NAFTA and to the standards agreed by the three countries during the trilateral discussions mentioned above. The principal provisions of these sections, including the differences with part 177, are indicated below.

In addition to the issuance of rulings to exporters and producers of goods which are imported into the United States, § 181.92(b)(5) also authorizes the issuance of certain advance rulings to Canadian or Mexican producers of materials which themselves are not imported into the United States but are incorporated into goods which are imported into the United States.

Section 181.92(b)(6) implements NAFTA Article 509(1) by enumerating the issues which may be the subject of a NAFTA advance ruling.

Section 181.93 governs the content and submission of requests for advance rulings to Customs. Rulings covering certain subject matters may be submitted only to the Office of Regulations and Rulings at Customs Headquarters. Other matters may be presented either to Customs Headquarters or to the Area Director of Customs, New York Seaport. The information which must accompany the request depends on the subject matter of the ruling request.

Section 181.94 provides that where a ruling request does not comply with the provisions of the subpart, the requester shall be so notified and shall be given a specified period of time (at least 30 calendar days) to bring the request into compliance. If such information is not provided within that period, Customs will close the matter and advise the applicant of that fact.

Sections 181.95, 181.96 and 181.97 cover oral discussion of issues, changes in the status of the transaction and withdrawal of ruling requests. These sections mirror the corresponding provisions of part 177 with respect to these matters.

Section 181.98 provides that Customs may decline to issue a ruling when the matter which is the subject of the ruling involves an issue that is administratively pending with Customs or is the subject of a judicial proceeding.

Section 181.99 implements NAFTA Article 509, and reflects a standard agreed by the three countries, by providing that Customs will issue a ruling under this subpart within 120 days of receipt of all necessary information.

Subpart J—Review and Appeal of Adverse Marking Decisions

This subpart implements Article 510 of the NAFTA and section 207 of the Act regarding the review and appeal of NAFTA marking determinations. Specifically, it sets forth the circumstances and procedures under which NAFTA exporters and producers of merchandise may obtain information about, and administrative and judicial review of, an adverse marking decision.

Section 181.111 sets forth the applicability of subpart J as described above.

Section 181.112 defines the terms "adverse marking decision", "exporter" of merchandise and "producer" of merchandise for purposes of the subpart. An adverse marking decision means a decision made by the district director which an exporter or producer of merchandise believes to be contrary to the provisions of NAFTA Annex 311 and which may be protested by the importer. In order to be considered an exporter of merchandise under the subpart, such person must be located in Canada or Mexico and must maintain certain records relating to the adverse marking decision. A producer of merchandise is a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles such merchandise in Canada or Mexico.

Section 181.113 sets forth a procedure for exporters and producers to request from Customs a written statement regarding the basis of an adverse marking decision.

Section 181.114 sets forth a 30-day period for Customs to respond to a request under § 181.113 and specifies what information Customs shall provide to the exporters and producers.

Section 181.115 sets forth the circumstances in which an exporter or producer can intervene in an importer's protest regarding an adverse marking decision and the procedures for doing so.

Section 181.116 sets forth the circumstances and procedures under which an exporter or producer can file with Customs a petition for reconsideration of an adverse marking decision. It also sets forth the petitioner's right to commence a civil action in the Court of International Trade to contest the denial of a petition.

Subpart K—Confidentiality of Business Information

Section 181.121 reflects the principle of maintenance of confidentiality of business information set forth in NAFTA Article 507(1).

Section 181.122 reflects the NAFTA Article 507(2) exception to nondisclosure in the case of disclosures to governmental authorities for administrative and enforcement purposes.

Subpart L—Rules of Origin

Section 181.131 provides that the implementing regulations regarding the rules of origin provisions of HTSUS General Note 12 and NAFTA Chapter Four are contained in the Appendix to part 181.

Appendix—Rules of Origin Regulations

The Rules of Origin Regulations are set forth as an Appendix to part 181. The text is as trilaterally negotiated, except for editorial modifications, necessary and appropriate for the U.S. regulatory context.

The Appendix consists of a Title (Section 1), Parts I to VI, and Schedules I to XII. Sections 2 through 17 of Parts I through VI constitute the basic provisions for the interpretation and the application of the rules of origin of Chapter Four of the Agreement. Schedules I through XII constitute specific provisions that are necessary supplements to the basic provisions in Parts I through VI.

The first-level subdivisions of the Parts and Schedules are referred to as "sections" and are identified by Arabic numerals without parentheses. Each section is, for the most part, subdivided into "subsections" which are identified by Arabic numerals enclosed within parentheses. As necessary, a subsection may be further subdivided into "paragraphs," identified by a lowercase alphabetical symbol enclosed within parentheses; a paragraph may be subdivided into "subparagraphs," identified by a lowercase Roman numeral enclosed within parentheses paragraphs; and each subparagraph may be subdivided into "clauses," identified by uppercase alphabetical symbols enclosed within parentheses.

Parts I to VI and Schedules I to XII are both subdivided into sections. However, the numbering of the sections are sequential from Part I through Part VI, from one to seventeen whereas the numbering of the sections in the schedules are sequential within each schedule. When Sections 2 through 17 are cited in the Schedules, they are cited as "section 'x' of this Appendix." When the sections of a schedule are cited in Parts I to VI or in other schedules, they are cited as "section 'x' of Schedule 'y' "

For purposes of citing to provisions of the Appendix, the citation takes its designation from the first subdivision in the citation. For example, a reference to subsection (4) of section 7 will read "section 7(4)." Any reference to a

VOL 58 ISS 249 DEC 30 1993 UMI

subsection (or any other subdivision of a section) without a corresponding reference to the section is taken to refer to a subsection (or other subdivision) within the section that the citation is made. This is done to reduce the number of text changes in the Appendix from the trilateral document.

Definitions

Section 2 sets forth terms that are defined for purposes of the Appendix. Section 8 sets forth additional terms that are defined specifically for application of the rules of origin to automotive goods. Section 3 sets forth the methodology for currency conversion if necessary to determine the value of goods or materials.

General Rules of Origin

Section 4 sets forth the basic rules of origin established in Chapter Four of the Agreement. The provisions of section 4 apply both to the determination of the status of an imported good as an originating good for purposes of preferential tariff treatment and to the determination of the status of a material as an originating material used in a good which is subject to a determination under this Appendix.

Section 4(1) lists those goods which are originating goods because they are wholly obtained or produced in one or more of the NAFTA countries. Section 4(3) provides that goods, produced entirely in the NAFTA countries from originating materials, are originating goods.

For most other goods, section 4(2)(a) through (c) sets forth the basic rules of origin for goods which are produced with any non-originating material content. Essential to these rules in section 4(2) are the specific rules of General Note 12(t), HTSUS, which are incorporated by reference in Schedule I of the Appendix. Under paragraph (a) of Section 4(2), a good will qualify as an originating good only if all non-originating materials used in the production of the good undergo the applicable change in tariff classification, set forth in General Note 12(t), as a result of processing performed entirely in the NAFTA countries. For certain cases as specified by the rules in General Note 12(t), the provision in section 4(2)(b) requires that a regional value content requirement must be satisfied in addition to a change in tariff classification, and, for other cases as specified by the rules in General Note 12(t), the provision in section 4(2)(c) requires that only a regional value content requirement must be satisfied. In all cases, the good must also satisfy other requirements of the Appendix.

Under the remaining general rules of origin, set forth in sections 4(4)(a) and (b), a good may qualify as an originating good under a regional value content requirement if the non-originating materials fail to change tariff classification because they were imported together in an unassembled condition and were classified at that time under GRI 2(a), HTSUS, as the assembled good, or because they are classified as parts in the same subheading as the good in which they are used and that subheading specifically provides for both the good and parts of the good. These rules do not apply to goods provided for in Chapters 61 through 63.

De Minimis

Section 5 sets forth *de minimis* rules for goods which may be considered to qualify as originating goods even though they fail to qualify as originating goods under the rules in section 4. There are three separate *de minimis* rules.

Subject to the exceptions in section 5(3), sections 5(1) and (2) provide for the situation in which not all non-originating materials undergo a required change in tariff classification. Under this *de minimis* rule, if the value of all such non-originating materials is not more than 7 percent of the transaction value of the good, or, if applicable, the total cost of the good, the good may be considered to be an originating good, provided that it otherwise satisfies any applicable regional value content requirement and the other requirements of the Appendix.

Section 5(5) provides for the situation in which a good, which is subject to an applicable regional value content requirement, is considered to be an originating good without satisfying the regional value content requirement if the value of all non-originating materials is not more than 7 percent of the transaction value of the good, or, if applicable, the total cost of the good.

Sections 5(6) and (7) provide for the situation in which certain fibers or yarns used in the production of a component of a textile good do not undergo a required change in tariff classification. Under this *de minimis* rule, the textile good is considered to be an originating good if the total weight of the non-originating fibers or yarns is not more than 7 percent of the total weight of the component.

Regional Value Content (RVC)

Section 6 sets forth the basic rules which apply for purposes of determining whether an imported good, other than an automotive good of sections 9 or 10, satisfies a minimum regional value content (RVC) requirement. With certain exceptions, there is an option to choose either of two methods for calculating the regional value content: The Transaction Value Method (TVM) and the Net Cost Method (NCM). Both methods require a determination of the Value of Non-Originating Materials (VNM) used in the production of the good for which the RVC calculation is required.

Transaction Value Method (TVM)

As provided in section 6(2), the RVC calculated under the TVM is based on a formula in which the VNM used to produce a good be subtracted from the "transaction value" (TV), the remainder of which is then divided by the TV to obtain the RVC for the good. In this case, the TV is the value determined in accordance with the provisions of Schedule II of the Appendix with respect to the transaction in which the producer sells the good. The TV is subject to certain adjustments. The calculation of the VNM for the TVM is addressed in subsections (4), (5) and (10) of section 6.

Subsections (7), (8) and (9) of section 6 set forth the procedure by which a producer may choose to change from the TVM to the NCM for calculation of the RVC of a good if, during a verification of origin by a customs administration, it is determined that the TV must be adjust or is unacceptable. Schedule III of the Appendix sets forth the criteria under which a TV is unacceptable. A producer, however, does not lose any rights of review and appeal of the customs administration's determination if the producer chooses to recalculate under the NCM.

Net Cost Method (NCM)

As provided in section 6(3), the RVC calculated under the NCM is based on a formula in which the VNM used to produce a good be subtracted from the NC incurred by the producer, the remainder of which is divided by the NC to obtain the RVC for the good. NC is calculated by subtracting certain excluded costs from the total cost incurred in the production of the good. Section 6(12) sets forth the criteria for determining the total cost. Sections 6(13) and 6(14) set forth the criteria for determining the value of excluded costs.

Section 6(15) provides a producer with the option to average, over a certain period, the NC and the VNM for purposes of calculating the RVC for goods produced during that period. If estimated costs are used in the calculation, section 6(18) places certain obligations on the producer to perform a year-end analysis and to inform certain persons if the analysis results in a conclusion that the goods do not satisfy the RVC as claimed.

Materials

Section 7, together with Schedule VIII of the Appendix, sets forth the basic rules regarding the valuation of materials, the treatment of materials with regard to the change in tariff requirement, and the regional value content requirement. Sections 9 and 10 set forth specific rules that apply only to certain automotive goods.

Valuation of Materials

Generally, under section 7(1), the value of a material is (1) the customs value for the material if the producer imports the material, (2) the transaction value, as determined under Schedule VIII of the Appendix, with regard to the transaction in which the producer acquires the material, or (3) other value as determined under Schedule VIII of the Appendix if there is no transaction value or the transaction value is unacceptable. Certain costs, identified in section 7(1)(c) through (f) must be added to the value if not already included.

There are different provisions in the Appendix for determining the value of materials that are non-originating materials used in the production of certain automotive goods in sections 9 and 10. Furthermore, the values of indirect materials, packing materials, and intermediate materials are determined under different provisions in the Appendix.

Intermediate Materials

Section 7(4) through (6) provides a producer with an option to designate a self-produced material as an "intermediate material" and thereby use the total cost of the intermediate material as the value of that material for purposes of the regional value content of the good into which the intermediate material is incorporated. This will allow a producer to use the total cost of the intermediate material as an "originating" cost if the material qualifies as an originating material under the Appendix.

This option does not apply with respect to certain automotive goods of Sections 9 and 10 because special rules for those goods require the "tracing" of the value of certain non-originating materials regardless of the degree of further processing or incorporation into another material. Furthermore, under a proviso in Section 7(4), no self-produced material subject to a regional value content requirement may be designated as an intermediate material if it contains a self-produced submaterial that was subject to a regional value content requirement and that was designated as an intermediate material.

Sections 7(7) through (9) provide for the situation in which, during a verification of origin of a good, an intermediate material is determined to be non-originating. A producer has the option to rescind that designation and redesignate another self-produced material within 30 days of notification after notification of the customs administration's determination. This can be done only once, but the producer retains any rights to review and appeal of the determination.

Indirect Materials; Packaging Materials; Packing Materials; Accessories and Spare Parts

Sections 7(10) through (13) and Section 7(14) provide for the treatment of certain materials that are either considered to be "originating materials" or are disregarded with respect to their actual origin for purpose of the change in tariff classification requirement of the Appendix. These sections also set forth the different treatment of these materials for purposes of the regional value content requirement of the Appendix. These sections also provide for determining the value of these materials.

Fungible Materials; Fungible and Commingled Goods

Section 7(14) provides for the determination of the origin of materials when fungible non-originating and originating materials are used in the production of a good, and for the determination of the origin of goods which are commingled, fungible originating and non-originating goods. The inventory management methods for these purposes are set forth in Schedule X of the Appendix.

Automotive Goods

Light-duty automotive goods and heavy-duty automotive goods, as defined in Section 2 and Section 8, are subject to a regional value content requirement, under the net cost method, in addition to a change in tariff requirement. However, these goods are subject to special rules for determining the value of non-originating materials in the RVC calculation. Section 9 provides the rules for tracing the value of non-originating materials incorporated into light-duty automotive goods. Section 10 provides the rules for determining the value of non-originating materials incorporated into heavy-duty automotive goods.

Light-Duty Automotive Goods

The tracing rule for light-duty automotive goods provides that the VNM for the calculation of the RVC for these goods shall be the total of the value of all non-originating materials that are imported from a non-NAFTA territory and are listed in Schedule IV (defined as "traced material"), if the traced materials are ultimately incorporated into the good. A traced material is always considered a non-originating material for purposes of the value of non-originating materials at any stage of assembly up to the final production of a light-duty vehicle.

Generally, the value of a traced material is the value determined at the time it is received by the first person who takes title in a NAFTA country. However, section 9(2) sets forth in detail the specific situations and conditions under which the value of these traced materials will be accepted. If the producer of the good is also the importer of the traced material, the customs value, plus certain costs identified in Section 9(4), is the value for the VNM. If the producer is not the importer, then various alternatives are presented for determining the value of a traced material.

Heavy-Duty Automotive Goods

The rules for determining the value of non-originating materials in heavy-duty automotive goods require that the value of all non-originating materials listed on Schedule V (defined as "listed material") be included in VNM of the regional value content calculation for any good at any stage of assembly if those listed materials are eventually incorporated into an engine, transmission and engine or transmission assembly for use as original equipment in a heavy-duty vehicle, and ultimately into a heavy-duty vehicle. The rules also require that any other material that is non-originating used by the producer be included in the VNM of the regional value content calculation.

Generally, the value of these materials is the transaction value with respect to the material, as determined in section 10(2). However, section 10(1) sets forth in detail the specific situations and conditions under which the customs value may be used as the transaction value, and under which a transaction value with respect to these materials or, in certain circumstances, the submaterials used in making the materials, will be accepted.

Option To Average RVC

Section 11 provides that, concerning motor vehicles, a producer has the

VOL 58 ISS 249 DEC 30 1993 UMI

option to average over its fiscal year the net cost and the value of non-originating materials in order to calculate the regional value content for a designated category of motor vehicles. This choice must be made timely and may not be rescinded. The categories are set forth in section 11(5).

Section 12 provides that, concerning automotive parts, a producer has the option to average the net cost and the value of non-originating materials in order to calculate the regional value content for designated categories of automotive parts. The categories are set forth in section 12(4) and the averaging periods are set forth in section 12(6).

Special Regional Value Content Requirements; New or Refit Plant

Section 13(1) sets forth the scheduled increases in the regional value content percentage for different automotive goods. Sections 13(2), 13(4) and 13(7) set forth a special 50 percent regional value content level, the averaging periods and the categories of motor vehicles, if a producer chooses to average, for the initial production of motor vehicles at new or refit plants.

Accumulation of Production

Section 14 sets forth the rules by which a producer of a good may choose to accumulate the production of producer of a material that is used in the good. The effect of accumulation is to treat the production processes of both producers as the production of a single producer for the purpose of determining whether the final good qualifies as an originating good under the rules of origin of the appendix.

Information Unavailable for Verification of Origin or Value of a Material or Good

Section 15 provides that, in the event a producer of a good or a material, "for reasons beyond the control" of that producer, is unable to produce the information necessary for the verification of the originating status or value of a good or material during a verification of origin of a good, the Customs Service is required to take certain factors into consideration before making a final determination.

Transshipment

Section 16 sets forth the rule that with certain exceptions, an originating good loses its originating status and is treated as a non-originating good if, subsequent to the production in a NAFTA country that qualifies the good as originating, the good undergoes production in a territory outside that of a NAFTA country. The good is considered to be entirely non-originating.

Non-Qualifying Operations

Section 17 sets forth the basic rule that a good is not an originating good by reason of mere dilution with a substance that does not materially alter the characteristics of the good or by any other production method or pricing practice that the object of which is to circumvent the rules of origin of the Appendix.

Schedule II

Schedule II sets forth the manner in which the regional value content of a good is to be determined under the transaction value method (Article 402.2). Pursuant to section 2 of the Schedule, transaction value is determined on a F.O.B. basis and is defined as the price actually paid or payable for the good, determined in accordance with section 3, and adjusted in accordance with section 4. The price actually paid or payable is defined as "the total payment made or to be made by the buyer to or for the benefit of the seller." However, this does not include certain costs or charges provided the latter are distinguished from the price actually paid or payable, e.g., duties and taxes paid in the country in which the buyer is located in respect of the goods, and dividends.

Additions to the price actually paid or payable are made for the value of "assists," as well as for commissions, packaging materials, royalties and proceeds. The additions are determined with respect to amounts recorded on the books of the producer.

Schedule III

Schedule III addresses the circumstances under which transaction value of a good does not exist or is unacceptable (Article 402.5). For example, transaction value does not exist where a good is not the subject of a sale or where there is a condition or consideration for which a value cannot be determined.

The principal situation in which transaction value is unacceptable is where the producer and buyer are related persons. The mere fact that they are related does not render transaction value unacceptable, however. Should a customs administration consider that the relationship influences the price it shall communicate those grounds to the producer and afford the latter an opportunity to respond. There are several methods for validating related party sales. However, if the producer is unable to demonstrate that the relationship did not influence the price actually paid or payable, the use of transaction value is precluded.

Schedule VII

Schedule VII provides methods to reasonably allocate costs to a good that are included total costs pursuant to sections 5(8), 6(11), 7(6), 7(12)(b)(ii) and 10(1(a)(i) of the Appendix, section 4(7) of Schedule II and section 5(7) of Schedule VIII.

Schedule VIII

In contrast with Schedule II which concerns the value of a good, Schedule VIII deals with the value of a *material* used in the production of a good (Article 402.9). The determination of the value of a material is a necessary component of all regional value content calculations. The principal method of determining the value of a material for origin purposes is transaction value. Where there is no transaction value or transaction value is unacceptable, the value of a material is to be based upon the methods set forth in sections 6–11 of Schedule VIII. The methods are derived from Articles 2 through 7 of the Customs Valuation Code and are to be applied sequentially in the following order: the transaction value of identical materials; the transaction value of similar materials; "deductive" value; "computed" value; and the "fallback" method.

Schedule IX

Schedule IX provides methods to determine the value of non-originating materials under the transaction value method, where non-originating materials that are the same as another in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance, are used in the production of a good.

Schedule X

Schedule X provides the inventory management methods which may be used to determine whether a good is an originating good where originating and non-originating fungible materials are used in the production of a good, or where originating and non- originating fungible goods are commingled and exported in the same form.

Schedule XI

Schedule XI provides the methods for determining whether interest costs incurred by a producer are more than 700 basis points above the yield on debt obligations of comparable maturities issued by the federal government of the country in which the producer is located for purposes of calculating non-allowable interest costs.

Schedule XII

Schedule XII provides the references to the publications that constitute the understanding of the recognized consensus or substantial authoritative support in the territory of each NAFTA country for purposes of the Generally Accepted Accounting Principles in each NAFTA country.

Part 191

A cross-reference is added to § 191.0 (scope) as regards the additional NAFTA drawback provisions contained in new part 181.

Comments

Before adopting these interim regulations as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements

Pursuant to the provisions of 5 U.S.C. 553(a), public notice is inapplicable to these interim regulations because they are within the foreign affairs function of the United States. A failure to have regulations in place, setting forth the procedures implementing the preferential tariff treatment and related provisions of the North American Free Trade Agreement, on the date the North American Free Trade Agreement Implementation Act is effective, January 1, 1994, would provoke undesirable international consequences. In addition, because these regulations establish procedures which the public needs to know in order to claim the benefit of a tariff preference under the North American Free Trade Agreement Implementation Act, it is determined pursuant to 5 U.S.C. 553(b)(B), that notice and public procedures are impracticable, unnecessary, and contrary to the public interest. Furthermore, for the above reasons, it is determined that good cause exists under the provisions of 5 U.S.C. 553(d)(1) and (d)(3) for dispensing with a delayed effective date.

Executive Order 12866

Because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1515–0205. The use of the Certificate of Origin on Customs Form 434, as provided for in § 181.11 of these regulations, has been separately reviewed and approved by the Office of Management and Budget under control number 1515–0204.

The collections of information in these regulations are in §§ 12.132, 181.11, 181.22, 181.32, 181.47, 181.53, 181.64, 181.72, 181.82, 181.93, 181.94, 181.95, 181.96, 181.102, 181.113, 181.115 and 181.116 and in the Appendix to part 181. This information is required in connection with claims for preferential tariff treatment and for the purpose of the exercise of other rights under the NAFTA and the Act and will be used by the U.S. Customs Service to determine eligibility for a tariff preference or other rights or benefits under the NAFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

Estimated total annual reporting and/or recordkeeping burden: 27,468 hours.

Estimated average annual burden per respondent/recordkeeper: 6.31 hours.

Estimated number of respondents and/or recordkeepers: 4,350.

Estimated annual frequency of responses: 12.30.

Comments concerning the collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, DC 20229.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 12

Canada, Customs duties and inspection, Marking, Mexico, Reporting and recordkeeping requirements, Textiles and textile products, Trade agreements.

19 CFR Part 24

Accounting, Canada, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

19 CFR Part 123

Canada, Customs duties and inspection, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 134

Canada, Country of origin, Customs duties and inspection, Labeling, Marking, Mexico, Packaging and containers, Trade agreements.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 174

Administrative practice and procedure, Customs duties and inspection, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 177

Administrative practice and procedure, Courts, Judicial proceedings, Rulings, Trade agreements.

VOL 58 ISS 249 DEC 30 1993 UMI

VOL 58 ISS 249 DEC 30 1993 UMI

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

19 CFR Part 181

Administrative practice and procedure, Canada, Customs duties and inspection, Exports, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements (North American Free-Trade Agreement).

19 CFR Part 191

Canada, Commerce, Customs duties and inspection, Drawback, Mexico, Reporting and recordkeeping requirements, Trade agreements.

Amendments to the Regulations

Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for part 10 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

2. Section 10.8 is amended by redesignating paragraphs (a) through (l) as (b) through (m) and adding a new paragraph (a) to read as follows:

§ 10.8 Articles exported for repairs or alterations.

(a) This section applies to all articles returned to the United States after having been exported for repairs or alterations other than such articles which are returned from Canada or Mexico (see § 181.64 of this chapter).

* * * * *

3. In § 10.31, paragraph (f) is amended by adding a sentence at the end to read as follows:

§ 10.31 Entry; bond.

* * * * *

(f) * * * In addition, notwithstanding any other provision of this paragraph, in the case of professional equipment necessary for carrying out the business activity, trade or profession of a business person, equipment for the press or for sound or television broadcasting, cinematographic equipment, articles imported for sports purposes and articles intended for display or demonstration, if brought into the United States by a resident of Canada or Mexico and entered under Chapter 98, Subchapter XIII, HTSUS, no bond or other security shall be required if the entered article is a good originating in Canada or Mexico within the meaning of General Note 12, HTSUS.

* * * * *

4. In § 10.36a, the first sentence of paragraph (a) is amended by removing the words "(as defined in paragraph (a) of § 10.8)" and adding, in their place, the words "(as defined in §§ 10.8 and 181.64 of this chapter)".

§ 10.66 [Amended]

5. In § 10.66, paragraph (c)(1)(iii) is amended by removing the reference "§§ 10.8(d), (f), (g), and (h)" and adding, in its place, the reference "§§ 10.8(e), (g), (h), and (i)".

§ 10.67 [Amended]

6. In § 10.67, paragraph (c) is amended by removing the reference "§ 10.8(d), (f), (g), and (h)" and adding, in its place, the reference "§ 10.8(e), (g), (h), and (i)".

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for Part 12 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

2. Section 12.132 is added to read as follows:

§ 12.132 Textile and apparel goods under the North American Free Trade Agreement.

The provisions of § 12.130(f) of this part regarding submission of a country of origin declaration shall apply to all textile and apparel goods which are subject to the provisions of Annex 300–B of the North American Free Trade Agreement (NAFTA). Although a separate country of origin declaration shall not be required for such goods for NAFTA purposes, the following additional requirements shall apply for purposes of this section:

(a) All commercial importations of textile and apparel goods shall be accompanied by the appropriate declaration;

(b) A declaration by each U.S., Canadian, and/or Mexican manufacturer or producer of the goods, and, if there are multiple manufacturers or producers, a separate declaration by each manufacturer or producer shall be furnished by the importer. Packaging operations shall not be considered manufacture or production for purposes of this paragraph; and

(c) If the district director is unable to determine the country of origin of the goods because the information contained in a declaration is incomplete, the shipment to which that declaration pertains shall not be entitled to preferential tariff treatment or any other benefit under the NAFTA for which it would otherwise be eligible.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority citation for Part 24 is revised to read as follows:

AUTHORITY: 5 U.S.C. 301, 19 U.S.C. 58a-58c, 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States), 1624, 31 U.S.C. 9701, unless otherwise noted.

* * * * *

2. Section 24.22 is amended by revising paragraph (g)(1) and the introductory text of paragraph (g)(2)(i)(A) to read as follows:

§ 24.22 Fees for certain services.

* * * * *

(g) *Fee for arrival of passengers aboard commercial vessels and commercial aircraft*—(1) *Fee.* Except as provided in paragraph (g)(2) of this section, a fee of $6.50 during the period from January 1, 1994 through September 30, 1997, and a fee of $5 after such period, shall be collected and remitted to Customs for services provided in connection with the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the customs territory of the United States.

(2) * * *

(i)(A) Except during the period from January 1, 1994 through September 30, 1997, persons whose journey:

* * * * *

3. Section 24.23 is amended by revising paragraph (c)(3) to read as follows:

§ 24.23 Fees for processing merchandise.

* * * * *

(c) * * *

(3) The ad valorem, surcharge, and specific fees provided for under paragraphs (b)(1) and (b)(2)(i) of this section shall not apply either to goods originating in Canada within the meaning of General Note 9, HTSUS, or to goods originating in Canada within the meaning of General Note 12, HTSUS, where such goods qualify to be marked as goods of Canada pursuant to Annex 311 of the North American Free Trade Agreement and without regard to whether the goods are marked. Where originating goods as described in the preceding sentence are entered or released with other goods that are not originating goods, the ad valorem, surcharge, and specific fees shall apply only to those goods which are not originating goods.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States), 1624.

* * * * *

2. Section 123.0 is amended by adding a sentence at the end to read as follows:

§ 123.0 Scope.

* * * Regulations pertaining to the treatment of goods from Canada or Mexico under the North American Free Trade Agreement are contained in part 181 of this chapter.

PART 134—COUNTRY OF ORIGIN MARKING

1. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS)), 1304, 1624.

2. Section 134.0 is amended by adding a sentence at the end to read as follows:

§ 134.0 Scope.

* * * Provisions regarding the review and appeal rights of exporters and producers resulting from adverse North American Free Trade Agreement marking decisions are contained in subpart J of part 181 of this chapter.

3. In § 134.1:

a. Paragraph (b) is amended by removing the period at the end of the second sentence and adding, in its place, the words "; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.";

b. The introductory text to paragraph (d) is amended by removing the period at the end of the first sentence and adding, in its place, the words "; however, for a good of a NAFTA country, the "ultimate purchaser" is the last person in the United States who purchases the good in the form in which it was imported.";

c. Paragraph (d)(1) is amended by removing the period at the end and adding, in its place, the words ", or for a good of a NAFTA country, a process which results in one of the changes prescribed in the NAFTA Marking Rules as effecting a change in the article's country of origin.";

d. Paragraph (d)(2) is amended by adding a second sentence;

e. Paragraph (d)(4) is amended by removing the period at the end of the sentence and adding the words ", unless the good is a good of a NAFTA country. In that case, the purchaser of the gift is the ultimate purchaser."; and

f. New paragraphs (g), (h), (i) and (j) are added to read as follows:

§ 134.1 Definitions.

* * * * *

(d) * * *

(2) * * * With respect to a good of a NAFTA country, if the manufacturing process does not result in one of the changes prescribed in the NAFTA Marking Rules as effecting a change in the article's country of origin, the consumer who purchases the article after processing will be regarded as the ultimate purchaser.

* * * * *

(g) *Good of a NAFTA country.* A "good of a NAFTA country" is an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules.

(h) *NAFTA.* "NAFTA" means the North American Free Trade Agreement entered into by the United States, Canada and Mexico on August 13, 1992.

(i) *NAFTA country.* "NAFTA country" means the territory of the United States, Canada or Mexico, as defined in Annex 201.1 of the NAFTA.

(j) *NAFTA Marking Rules.* The "NAFTA Marking Rules" are the rules promulgated for purposes of determining whether a good is a good of a NAFTA country.

4. In § 134.22:

a. Paragraph (b) is amended by removing the period at the end and adding, in its place, the words "; however, no marking is required for any good of a NAFTA country which is a usual container."; and

b. Paragraph (d) is redesignated paragraph (e) and, newly designated paragraph (e)(1) is amended by removing the period at the end of the sentence and adding, in its place, the words "or they are containers of a good of a NAFTA country within the exceptions set forth in paragraph (e), (f), (g), (h), (i), (p) or (q) of § 134.32."

c. A new paragraph (d) is added to read as follows:

§ 134.22 General rules for marking of containers or holders.

* * * * *

(d) *Usual containers*—(1) *"Usual container" defined.* For purposes of this subpart, a usual container means the container in which a good will ordinarily reach its ultimate purchaser. Containers which are not included in the price of the goods with which they are sold, or which impart the essential character to the whole, or which have significant uses, or lasting value independent of the contents, will generally not be regarded as usual containers. However, the fact that a container is sturdy and capable of repeated use with its contents does not preclude it from being considered a usual container so long as it is the type of container in which its contents are ordinarily sold. A usual container may be any type of container, including one which is specially shaped or fitted to contain a specific good or set of goods such as a camera case or an eyeglass case, or packing, storage and transportation materials.

(2) *A good of a NAFTA country which is a usual container.* A good of a NAFTA country which is a usual container, whether or not disposable and whether or not imported empty or filled, is not required to be marked with its own country of origin. If imported empty, the importer must be able to provide satisfactory evidence to Customs at the time of importation that it will be used only as a usual container (that it is to be filled with goods after importation and that such container is of a type in which these goods ordinarily reach the ultimate purchaser).

* * * * *

§ 134.23 [Amended]

5. In § 134.23, paragraph (a) is amended by removing the word "Containers" at the beginning of the first sentence and adding, in its place, the words "Except for goods of a NAFTA country which are usual containers, containers".

§ 134.24 [Amended]

6. In § 134.24:

a. Paragraph (c)(1) is amended by adding the words "or usual containers which are goods of a NAFTA country" after the word "holders" wherever it appears in the first sentence;

b. Paragraph (c)(2) is amended by adding the words "or the usual containers which are goods of a NAFTA country" after the word "holders" in the first sentence; and

c. Paragraph (d)(1) is amended by removing the period at the end and adding, in its place, the words "; however, such marking is not required if the contents are excepted from marking requirements under paragraph (f), (g), or (h) of § 134.32 or, in the case of a good of a NAFTA country, under paragraph (e), (f), (g), (h), (i), (p) or (q) of that section."

7. In § 134.32: Paragraph (h) is amended by adding the words ", or in the case of a good of a NAFTA country, must reasonably know," after the word

"know"; paragraph (n) is amended by removing the word "and" after the semicolon; paragraph (o) is amended by replacing the period at the end with a semicolon; and paragraphs (p) and (q) are added to read as follows:

§ 134.32 General exceptions to marking requirements.

* * * * *

(p) Goods of a NAFTA country which are original works of art; and

(q) Goods of a NAFTA country which are provided for in subheading 6904.10 or heading 8541 or 8542 of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).

8. Section 134.35 is amended by designating the existing text as paragraph (a) and by adding a heading to newly designated paragraph (a) and adding a new paragraph (b) to read as follows:

§ 134.35 Articles substantially changed by manufacture.

(a) *Articles other than goods of a NAFTA country.*

* * * * *

(b) *Goods of a NAFTA country.* A good of a NAFTA country which is to be processed in the United States in a manner that would result in the good becoming a good of the United States under the NAFTA Marking Rules is excepted from marking. Unless the good is processed by the importer or on its behalf, the outermost container of the good shall be marked in accord with this part.

§ 134.43 [Amended]

9. In § 134.43:

a. Paragraph (a) is amended by removing the word "Articles" at the beginning of the first sentence and adding, in its place, the words "Except for goods of a NAFTA country, articles" and by adding at the end of the paragraph the following sentence: "Goods of a NAFTA country shall be marked by any reasonable method which is legible, conspicuous and permanent as otherwise provided in this part."; and

b. Paragraphs (c)(3) and (d)(3) are amended by adding the words "or in the case of a good of a NAFTA country," after the word "section,".

§ 134.44 [Amended]

10. In § 134.44, paragraph (a) is amended by removing the words "classifiable under an item specified" and adding, in their place, the word "described".

11. Section 134.45 is amended by revising paragraph (a) to read as follows:

§ 134.45 Approved markings of country name.

(a) *Language.* (1) Except as otherwise provided in paragraph (a)(2) of this section, the markings required by this part shall include the full English name of the country of origin, unless another marking to indicate the English name of the country of origin is specifically authorized by the Commissioner of Customs. Notice of acceptable markings other than the full English name of the country of origin shall be published in the **Federal Register** and the Customs Bulletin.

(2) A good of a NAFTA country may be marked with the name of the country of origin in English, French or Spanish.

* * * * *

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. The authority citation for part 162 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

* * * * *

2. Section 162.0 is amended by adding a sentence at the end to read as follows:

§ 162.0 Scope.

* * * Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters and producers under the North American Free Trade Agreement are contained in part 181 of this chapter.

PART 174—PROTESTS

1. The authority citation for part 174 is revised to read as follows:

Authority: 19 U.S.C. 66, 1514, 1515, 1624.

2. Section 174.0 is amended by adding a sentence at the end to read as follows:

§ 174.0 Scope.

* * * Provisions applicable to Canadian and Mexican exporters and producers regarding administrative review and appeal of adverse marking decisions under the North American Free Trade Agreement are contained in part 181 of this chapter.

3. In § 174.12:

a. The word "or" at the end of paragraph (a)(4) is removed;

b. Paragraph (a)(5) is redesignated (a)(6);

c. Newly designated paragraph (a)(6) is amended by removing the words "paragraphs (a) (1) through (4)" and adding, in their place, the words "paragraphs (a) (1) through (5)"; and

d. A new paragraph (a)(5) is added to read as follows:

§ 174.12 Filing of protests.

(a) * * *

(5) With respect to a determination of origin under subpart G of part 181 of this chapter, any exporter or producer of the merchandise subject to that determination, if the exporter or producer completed and signed a Certificate of Origin covering the merchandise as provided for in § 181.11(a) of this chapter; or

* * * * *

4. Section 174.15 is revised to read as follows:

§ 174.15 Consolidation of protests filed by different parties.

(a) *General.* Subject to paragraph (b) of this section, separate protests relating to one category of merchandise covered by an entry shall be considered as a single protest whether filed as a single protest or filed as separate protests relating to the same category by one or more parties in interest or an authorized agent.

(b) *NAFTA transactions.* The following rules shall apply to a consolidation of multiple protests concerning a determination of origin under subpart G of part 181 of this chapter if one of the protests is filed by or on behalf of an exporter or producer described in § 174.12(a)(5) of this part:

(1) If consolidation under paragraph (a) of this section is pursuant to specific written requests for consolidation received from all interested parties who filed protests under this part, those interested parties shall be deemed to have waived their rights to confidentiality as regards business information within the meaning of § 181.121 of this chapter. In such cases, a separate notice of the decision will be issued to each interested party under this part but without regard to whether the notice reflects confidential business information obtained from one but not all of those interested parties.

(2) If consolidation under paragraph (a) of this section is done by the district director in the absence of specific written requests for consolidation from all interested parties who filed protests under this part, no waiver of confidentiality by those interested parties shall be deemed to have taken place. In such cases, a separate notice of the decision will be issued to each interested party and each such notice shall adhere to the principle of confidentiality set forth in § 181.121 of this chapter.

§ 174.29 [Amended]

5. Section 174.29 is amended by adding after the second sentence the following new sentence: "If a protest of an exporter or producer under § 174.12(a)(5) of this part is allowed in whole or in part, any monies found to have been collected in excess shall be refunded to the party who paid the monies even if such party did not file an appropriate and timely protest under this part."

PART 177—ADMINISTRATIVE RULINGS

1. The general authority citation for part 177 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States), 1624, unless otherwise noted.

* * * * *

§ 177.0 [Amended]

2. Section 177.0, first sentence, is amended by adding at the end the words ", other than advance rulings under Article 509 of the North American Free Trade Agreement (see subpart I of part 181 of this chapter)".

§ 177.1 [Amended]

3. Section 177.1(c), first sentence, is amended by removing the words "A ruling may be requested" and adding, in their place, the words "Except as otherwise provided in subpart I of part 181 of this chapter, a ruling may be requested under this part".

178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

§ 178.2 [Amended]

2. In § 178.2, the column headed "19 CFR Section" is amended by removing the reference "§ 10.8(e)" and adding, in its place, the reference "§ 10.8(f)".

1. Part 181 is added to read as follows:

PART 181—NORTH AMERICAN FREE TRADE AGREEMENT

Sec.

181.0 Scope.

Subpart A—General Provisions

181.1 Definitions.

Subpart B—Export Requirements

181.11 Certificate of Origin.
181.12 Maintenance and availability of records.
181.13 Failure to comply with requirements.

Subpart C—Import Requirements

181.21 Filing of claim for preferential tariff treatment upon importation.
181.22 Maintenance of records and submission of Certificate by importer.
181.23 Effect of noncompliance.

Subpart D—Post-Importation Duty Refund Claims

181.31 Right to make post-importation claim and refund duties.
181.32 Filing procedures.
181.33 Customs processing procedures.

Subpart E—Restrictions on Drawback and Duty-Deferral Programs

181.41 Applicability.
181.42 Duties and fees not subject to drawback.
181.43 Eligible goods subject to drawback.
181.44 Calculation of drawback.
181.45 Goods eligible for full drawback.
181.46 Time and place of filing drawback claim.
181.47 Completion of claim for drawback.
181.48 Person entitled to receive drawback.
181.49 Retention of records.
181.50 Payment and liquidation of drawback claims.
181.51 Prevention of improper payment of claims.
181.52 Subsequent claims for preferential tariff treatment.
181.53 Waiver or reduction of duty under duty-deferral programs.
181.54 Verification of claim for drawback, waiver or reduction of duties.

Subpart F—Commercial Samples, Printed Advertising Materials, and Goods Returned After Repair or Alteration

181.61 Applicability.
181.62 Commercial samples of negligible value.
181.63 Printed advertising materials.
181.64 Goods re-entered after repair or alteration in Canada or Mexico.

Subpart G—Origin Verifications and Determinations

181.71 Denial of preferential tariff treatment dependent on origin verification and determination.
181.72 Verification scope and method.
181.73 Notification of verification visit.
181.74 Verification visit procedures.
181.75 Issuance of origin determination.
181.76 Application of origin determinations.

Subpart H—Penalties

181.81 Applicability to NAFTA transactions.
181.82 Exceptions to application of penalties.

Subpart I—Advance Ruling Procedures

181.91 Applicability.
181.92 Definitions and general NAFTA advance ruling practice.
181.93 Submission of advance ruling requests.
181.94 Nonconforming requests for advance rulings.
181.95 Oral discussion of issues.
181.96 Change in status of transaction.
181.97 Withdrawal of NAFTA advance ruling requests.
181.98 Situations in which no NAFTA advance ruling may be issued.
181.99 Issuance of NAFTA advance rulings or other advice.
181.100 Effect of NAFTA advance ruling letters; modification and revocation.
181.101 Publication of decisions.
181.102 Administrative and judicial review of advance rulings.

Subpart J—Review and Appeal of Adverse Marking Decisions

181.111 Applicability.
181.112 Definitions.
181.113 Request for Basis of Adverse Marking Decision.
181.114 Customs response to request.
181.115 Intervention in importer's protest.
181.116 Petition regarding adverse marking decision.

Subpart K—Confidentiality of Business Information

181.121 Maintenance of confidentiality.
181.122 Disclosure to government authorities.

Subpart L—Rules of Origin

181.131 Rules of origin.

Appendix—Rules of Origin Regulations

Authority: 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States), 1624; Pub. L. 103–182, 107 Stat. 2057.

§ 181.0 Scope.

This part implements the duty preference and related Customs provisions applicable to imported goods under the North American Free Trade Agreement (the NAFTA) entered into on August 13, 1992, and under the North American Free Trade Agreement Implementation Act (107 Stat. 2057)(the Act). Except as otherwise specified in this part, the procedures and other requirements set forth in this part are in addition to the Customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the NAFTA and the Act are contained in parts 10, 12, 24, 134 and 174 of this chapter.

Subpart A—General Provisions

§ 181.1 Definitions.

As used in this part, the following terms shall have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular subpart, section or other portion of this part:

(a) *Canada.* "Canada", when used in a geographical rather than governmental context, means the territory of Canada as defined in Annex 201.1 of the NAFTA.

(b) *Commercial importation.* "Commercial importation" means the importation of a good into the United States, Canada or Mexico for the purpose of sale, or any commercial, industrial or other like use.

(c) *Customs administration.* "Customs administration" means the competent authority that is responsible under the law of the United States, Canada or Mexico for the administration of its customs laws and regulations.

(d) *Customs duty.* "Customs duty" means any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, other than any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of the General Agreement on Tariffs and Trade, or any equivalent provision of a successor agreement to which the United States, Canada and Mexico are party, in respect of like, directly competitive or substitutable goods of the United States, Canada or Mexico, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to the domestic law of the United States, Canada or Mexico and that is not applied inconsistently with Chapter Nineteen of the NAFTA;

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered;

(4) Premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels; and

(5) Fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to the provisions of Chapter Seven of the NAFTA.

(e) *Determination of origin.* "Determination of origin" means a determination as to whether a good qualifies as a good originating in the United States, Canada and/or Mexico under the rules set forth in General Note 12, HTSUS, and in the appendix to this part.

(f) *Exporter.* "Exporter" means an exporter located, and required under this part to maintain records regarding exportations of a good, in the United States, Canada or Mexico.

(g) *Generally Accepted Accounting Principles.* "Generally Accepted Accounting Principles" means the recognized consensus or substantial authoritative support in the United States, Canada or Mexico with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. Generally Accepted Accounting Principles under this definition may encompass broad guidelines of general application as well as detailed standards, practices and procedures.

(h) *HTSUS.* "HTSUS" means the Harmonized Tariff Schedule of the United States.

(i) *Importer.* "Importer" means an importer located, and required under this part to maintain records regarding importations of a good, in the United States, Canada or Mexico.

(j) *Intermediate material.* "Intermediate material" means an "intermediate material" as defined in the appendix to this part.

(k) *Marking Rules.* "Marking Rules" means the "NAFTA Marking Rules" as defined in § 134.1(j) of this chapter.

(l) *Measure.* "Measure" means any law, regulation, procedure, requirement or practice.

(m) *Mexico.* "Mexico", when used in a geographical rather than governmental context, means the territory of Mexico as defined in Annex 201.1 of the NAFTA.

(n) *NAFTA.* "NAFTA" means the North American Free Trade Agreement approved by the Congress under section 101(a) of the North American Free Trade Agreement Implementation Act (107 Stat. 2057).

(o) *NAFTA drawback.* "NAFTA drawback" means any drawback, waiver or reduction of U.S. customs duty provided for in subpart E of this part.

(p) *Net cost of a good.* "Net cost of a good" means the "net cost of a good" as defined in the appendix to this part.

(q) *Originating.* "Originating", when used with regard to a good or a material, means a good or material which qualifies as originating in the United States, Canada and/or Mexico under the rules set forth in General Note 12, HTSUS, and in the appendix to this part.

(r) *Person.* "Person" means a natural person or an enterprise.

(s) *Preferential tariff treatment.* "Preferential tariff treatment" means the duty rate applicable to an originating good or to a good to which Appendix 6.B. to Annex 300–B of the NAFTA applies.

(t) *Producer.* "Producer" means a "producer" as defined in the appendix to this part.

(u) *Production.* "Production" means "production" as defined in the appendix to this part.

(v) *Transaction value.* "Transaction value" means "transaction value" as defined in the appendix to this part.

(w) *United States.* "United States", when used in a geographical rather than governmental context, means the territory of the United States as defined in Annex 201.1 of the NAFTA.

(x) *Used.* "Used" means "used" as defined in the appendix to this part.

(y) *Value.* "Value" means the value of a good or material for purposes of calculating customs duties or for purposes of applying the provisions of the appendix to this part.

Subpart B—Export Requirements

§ 181.11 Certificate of Origin.

(a) *General.* A Certificate of Origin shall be used to certify that a good being exported either from the United States into Canada or Mexico or from Canada or Mexico into the United States qualifies as an originating good for purposes of preferential tariff treatment under the NAFTA.

(b) *Preparation of Certificate in the United States.* An exporter in the United States who completes and signs a Certificate of Origin for the purpose set forth in paragraph (a) of this section shall use Customs Form 434 or such other medium or format as approved by the Canadian or Mexican customs administration for that purpose. Where the U.S. exporter is not the producer of the good, that exporter may complete and sign a Certificate on the basis of:

(1) Its knowledge of whether the good qualifies as an originating good;

(2) Its reasonable reliance on the producer's written representation that the good qualifies as an originating good; or

(3) A completed and signed Certificate for the good voluntarily provided to the exporter by the producer.

(c) *Submission of Certificate to Customs.* An exporter in the United States, and a producer in the United States who has voluntarily provided a copy of a Certificate of Origin to that exporter pursuant to paragraph (b)(3) of this section, shall provide a copy of the Certificate to Customs upon request.

(d) *Notification of errors in Certificate.* An exporter or producer in the United States who has completed and signed a Certificate of Origin, and who has reason to believe that the Certificate contains information that is not correct, shall within 30 calendar days notify in writing all persons to whom the Certificate was given by the exporter or producer of any change that could affect the accuracy or validity of the Certificate.

§ 181.12 Maintenance and availability of records.

(a) *Maintenance of records.* An exporter or producer in the United States who completes and signs a Certificate of Origin shall maintain in the United States, for five years after the date on which the Certificate was signed, all records relating to the origin of a good for which preferential tariff treatment may be claimed in Canada or Mexico, including records associated with:

(1) The purchase of, cost of, value of, and payment for, the good that is exported from the United States;

(2) The purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from the United States; and

(3) The production of the good in the form in which the good is exported from the United States. Such records shall be maintained in accordance with the Generally Accepted Accounting Principles applied in the United States and may be maintained in hard-copy form, on microfilm or microfiche or in automated record storage devices (for example, magnetic discs and tapes) if associated computer programs are available to facilitate retrieval of the data in a usable form.

(b) *Availability of records*—(1) *To Customs.* For purposes of determining compliance with the provisions of this part, the records required to be maintained under this section shall be made available for examination and inspection by the district director or other appropriate Customs officer in the same manner as provided in § 162.1d of this chapter in the case of U.S. importer records.

(2) *To the Canadian or Mexican customs administration.* If a U.S. exporter or producer receives notification of, and consents to, an origin verification visit by the Canadian or Mexican customs administration under Article 506 of the NAFTA (see § 181.74(e) of this part), such consent shall constitute agreement by the U.S. exporter or producer to make available to an officer of that customs administration all records required to be maintained under this section and to provide facilities for the inspection thereof. If, during the course of an origin verification of a U.S. producer, the Canadian or Mexican customs administration finds that the U.S. producer has failed to maintain its records in accordance with the Generally Accepted Accounting Principles applied in the United States, that customs administration will so inform the U.S. producer in writing and will give the U.S. producer 60 calendar days to conform the records to those Principles. If a U.S. exporter or producer fails to maintain records or make records available to the Canadian or Mexican customs administration in accordance with the provisions of this section, or if a U.S. producer fails to conform its records to Generally Accepted Accounting Principles as provided in this paragraph, the Canadian or Mexican customs administration may deny preferential tariff treatment to the good that is the subject of the verification visit.

§ 181.13 Failure to comply with requirements.

The district director may apply such measures as the circumstances may warrant where an exporter or a producer in the United States fails to comply with any requirement of this part.

Subpart C—Import Requirements

§ 181.21 Filing of claim for preferential tariff treatment upon importation.

(a) *Declaration.* In connection with a claim for preferential tariff treatment for a good under the NAFTA, the U.S. importer shall make a written declaration that the good qualifies for such treatment. The written declaration may be made by including on the entry summary, or equivalent documentation, the symbol "CA" for a good of Canada, or the symbol "MX" for a good of Mexico, as a prefix to the subheading of the HTSUS under which each qualifying good is classified. Except as otherwise provided in § 181.22 of this part and except in the case of a good to which Appendix 6.B. to Annex 300–B of the NAFTA applies (see, however, § 12.132 of this chapter), the declaration shall be based on a complete and properly executed Certificate of Origin which is in the possession of the importer and which covers the good being imported.

(b) *Corrected declaration.* If, after making the declaration required under paragraph (a) of this section or under § 181.32(b)(2) of this part, the U.S. importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct, the importer shall within 30 calendar days make a corrected declaration and pay any duties that may be due. A corrected declaration shall be effected by submission of a letter or other written statement to the Customs office where the original declaration was filed.

§ 181.22 Maintenance of records and submission of Certificate by importer.

(a) *Maintenance of Records.* Each importer claiming preferential tariff treatment for a good imported into the United States shall maintain in the United States, for five years after the date of importation of the good, all documentation relating to the importation of the good. Such documentation shall include a copy of the Certificate of Origin and any other relevant records as specified in § 162.1a(a) of this chapter.

(b) *Submission of Certificate.* An importer who claims preferential tariff treatment on a good under § 181.21 of this part shall provide, at the request of the district director, a copy of each Certificate of Origin pertaining to the good which is in the possession of the importer. A Certificate of Origin submitted to Customs under this paragraph or under § 181.32(b)(3) of this part:

(1) Shall be on Customs Form 434, including privately-printed copies thereof, or on such other form as approved by the Canadian or Mexican customs administration, or, as an alternative to Customs Form 434 or such other approved form, in an approved computerized format or such other medium or format as is approved by the Office of Trade Operations, U.S. Customs Service, Washington, DC 20229. An alternative format must contain the same information and certification set forth on Customs Form 434;

(2) Shall be signed by the exporter or producer or the authorized agent of the exporter or producer;

(3) Shall be completed either in the English language or in the language of the country from which the good is exported. If the Certificate is completed in a language other than English, the importer shall also provide to the district director, upon request, a written English translation thereof;

(4) Shall be accepted by Customs for four years after the date on which the Certificate was signed by the exporter or producer; and

(5) May be applicable to:

(i) A single importation of a good into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(ii) Multiple importations of identical goods into the United States that occur within a specified period, not exceeding 12 months, set out therein by the exporter or producer.

(c) *Acceptance of Certificate.* A Certificate of Origin shall be accepted by the district director as valid for the purpose set forth in § 181.11(a) of this part, provided that the Certificate is completed, signed and dated in

VOL 58 ISS 249 DEC 30 1993 UMI

accordance with the requirements of paragraph (b) of this section. If the district director determines that a Certificate is illegible or defective or has not been completed in accordance with paragraph (b) of this section, the importer shall be given a period of not less than five working days to submit a corrected Certificate. Acceptance of a Certificate will result in the granting of preferential tariff treatment to the imported good unless, in connection with an origin verification initiated under subpart G of this part or based on a pattern of conduct within the meaning of § 181.76(b) of this part, the district director determines that the imported good does not qualify as an originating good or should not be accorded such treatment for any other reason as specifically provided for elsewhere in this part. A Certificate shall not be accepted in connection with subsequent importations during a period referred to in paragraph (b)(5)(ii) of this section if, based on an origin verification under subpart G of this part, the district director determined that a previously imported identical good covered by the Certificate did not qualify as an originating good.

(d) *Certificate Not Required.* Provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements of this part, a Certificate of Origin shall not be required for:

(1) An importation of a good for which the district director has waived the requirement for a Certificate of Origin because the district director is otherwise satisfied that the good qualifies for preferential tariff treatment under the NAFTA;

(2) A non-commercial importation of a good; or

(3) A commercial importation of a good whose value does not exceed US$2,500, provided that, unless waived by the district director, the producer, exporter, importer or authorized agent includes on, or attaches to, the invoice or other document accompanying the shipment the following signed statement:

I hereby certify that the good covered by this shipment qualifies as an originating good for purposes of preferential tariff treatment under the NAFTA.

Check One:
( ) Producer
( ) Exporter
( ) Importer
( ) Agent

Name

Title

Address

Signature and Date

If the district director determines that the importation is part of a series of importations undertaken or arranged to avoid a certification requirement, the district director shall require for that importation that the importer have in his possession a valid Certificate of Origin to support the claim for preferential tariff treatment. For purposes of this paragraph, a "series of importations" means two or more entries covering goods arriving on the same day from the same exporter and consigned to the same person.

§ 181.23 Effect of noncompliance.

If the importer fails to comply with any requirement under this part, including submission of a Certificate of Origin under § 181.22(b) or submission of a corrected Certificate under § 181.22(c), the district director may deny preferential tariff treatment to the imported good.

Subpart D—Post-Importation Duty Refund Claims

§ 181.31 Right to make post-importation claim and refund duties.

Notwithstanding any other available remedy, including the right to amend an entry so long as liquidation of the entry has not become final, where a good would have qualified as an originating good when it was imported into the United States but no claim for preferential tariff treatment on that originating good was made at that time under § 181.21(a) of this part, the importer of that good may file a claim for a refund of any excess duties at any time within one year after the date of importation of the good in accordance with the procedures set forth in § 181.32 of this part. Customs may refund any excess duties by liquidation or reliquidation of the entry covering the good in accordance with § 181.33(c) of this part.

§ 181.32 Filing procedures.

(a) *Place of filing.* A post-importation claim for a refund under § 181.31 of this part shall be filed with the district director of the district in which the entry covering the good was filed.

(b) *Contents of claim.* A post-importation claim for a refund shall be filed by presentation of the following:

(1) A written declaration stating that the good qualified as an originating good at the time of importation and setting forth the number and date of the entry covering the good;

(2) Subject to § 181.22(d) of this part, a copy of each Certificate of Origin (see § 181.11 of this part) pertaining to the good;

(3) A written statement indicating whether or not the importer of the good provided a copy of the entry summary or equivalent documentation to any other person. If such documentation was so provided, the statement shall identify each recipient by name, Customs identification number and address and shall specify the date on which the documentation was provided.

(4) A written statement indicating whether or not the importer of the good is aware of any claim for refund, waiver or reduction of duties relating to the good within the meaning of Article 303 of the NAFTA (see subpart E of this part). If the importer is aware of any such claim, the statement shall identify each claim by number and date and shall identify the person who made the claim by name, Customs identification number and address; and

(5) A written statement indicating whether or not any person has filed a protest or a petition or request for reliquidation relating to the good under any provision of law, and if any such protest or petition or request for reliquidation has been filed, the statement shall identify the protest, petition or request by number and date.

§ 181.33 Customs processing procedures.

(a) *Status determination.* After receipt of a post-importation claim under § 181.32 of this part, the district director shall determine whether the entry covering the good has been liquidated and, if liquidation has taken place, whether the liquidation has become final.

(b) *Pending protest, petition or request for reliquidation or judicial review.* If the district director determines that any protest or any petition or request for reliquidation relating to the good has not been finally decided, the district director shall suspend action on the claim filed under this subpart until the decision on the protest, petition or request becomes final. If a summons involving the tariff classification or dutiability of the good is filed in the Court of International Trade, the district director shall suspend action on the claim filed under this subpart until judicial review has been completed.

(c) *Allowance of claim—(1) Unliquidated entry.* If the district director determines that a claim for a refund filed under this subpart should be allowed and the entry covering the good has not been liquidated, the district director shall take into account the claim for refund under this subpart in connection with the liquidation of the entry.

(2) *Liquidated entry.* If the district director determines that a claim for a refund filed under this subpart should be allowed and the entry covering the good has been liquidated, whether or not the liquidation has become final, the entry must be reliquidated in order to effect a refund of duties pursuant to this subpart. If the entry is otherwise to be reliquidated based on administrative review of a protest or petition for reliquidation or as a result of judicial review, the district director shall reliquidate the entry taking into account the claim for refund under this subpart.

(3) *Information to be provided to Canada or Mexico.* If any information is provided to Customs pursuant to § 181.32(b)(4) or (5) of this part, that information, together with notice of the allowance of the claim and the amount of duty refunded pursuant to this subpart, shall be provided by the district director to the customs administration of the country from which the good was exported.

(d) *Denial of claim—(1) General.* The district director may deny a claim for a refund filed under this subpart if the claim was not filed timely, if the importer has not complied with the requirements of this subpart, if the Certificate of Origin submitted under § 181.32(b)(3) of this part cannot be accepted as valid (see § 181.22(c) of this part), or if, following initiation of an origin verification under § 181.72(a) of this part, the district director determines either that the imported good did not qualify as an originating good at the time of importation or that a basis exists upon which preferential tariff treatment may be denied or withheld under § 181.72(d), § 181.74(c) or § 181.76(b) of this part.

(2) *Unliquidated entry.* If the district director determines that a claim for a refund filed under this subpart should be denied and the entry covering the good has not been liquidated, the district director shall deny the claim in connection with the liquidation of the entry, and written notice of the denial and the reason therefor shall be given to the importer and, in the case of a denial on the merits, to any person who completed and signed a Certificate of Origin relating to the good.

(3) *Liquidated entry.* If the district director determines that a claim for a refund filed under this subpart should be denied and the entry covering the good has been liquidated, whether or not the liquidation has become final, the claim may be denied without

reliquidation of the entry. If the entry is otherwise to be reliquidated based on administrative review of a protest or petition for reliquidation or as a result of judicial review, such reliquidation may include denial of the claim filed under this subpart. In either case, the district director shall give written notice of the denial and the reason therefor to the importer and, in the case of a denial on the merits, to any person who completed and signed a Certificate of Origin relating to the good.

Subpart E—Restrictions on Drawback and Duty-Deferral Programs

§ 181.41 Applicability.

This subpart sets forth the previsions applicable to drawback claims and duty-deferral programs under Article 303 of the NAFTA. Except in the case of § 181.42(d), the provisions of this subpart apply to goods which are imported into the United States and then subsequently exported from the United States to Canada on or after January 1, 1996, or to Mexico on or after January 1, 2001, and on which a claim for preferential tariff treatment pursuant to the NAFTA is made in Canada or Mexico. The requirements and procedures set forth in this subpart for NAFTA drawback are in addition to the general definitions, requirements and procedures for all drawback claims set forth in part 191 of this chapter, unless otherwise specifically provided in this subpart. Also, the requirements and procedures set forth in this subpart for NAFTA duty-deferral programs are in addition to the requirements and procedures for manipulation, manufacturing and smelting and refining warehouses contained in part 19 and part 144 of this chapter, for foreign trade zones under part 146 of this chapter, and for temporary importations under bond contained in part 10 of this chapter.

§ 181.42 Duties and fees not subject to drawback.

The following duties or fees which may be applicable to a good entered for consumption in the Customs territory of the United States are not subject to drawback under this subpart:

(a) Antidumping and countervailing duties;

(b) A premium offered or collected on a good with respect to quantitative import restrictions, tariff rate quotas or tariff preference levels;

(c) Fees applied under section 22 of the U.S. Agricultural Adjustment Act; and,

(d) Customs duties paid or owed under substitution drawback. There shall be no payment of such drawback under 19 U.S.C. 1313(j)(2) on goods exported to Canada or Mexico on or after January 1, 1994.

§ 181.43 Eligible goods subject to drawback.

Except as otherwise provided in this subpart, drawback is authorized for an imported good that is entered for consumption and is:

(a) Subsequently exported to Canada or Mexico (see 19 U.S.C. 1313(j)(1));

(b) Used as a material in the production of another good that is subsequently exported to Canada or Mexico (see 19 U.S.C. 1313(a)); or

(c) Substituted by a good of the same kind and quality as defined in § 181.44(c) of this subpart and used as a material in the production of another good that is subsequently exported to Canada or Mexico (see 19 U.S.C. 1313(b)).

§ 181.44 Calculation of drawback.

(a) *General.* Except in the case of goods specified in § 181.45 of this part, drawback of the duties previously paid upon importation of a good into the United States may be granted by the United States, upon presentation of a NAFTA drawback claim under this subpart, on the lower amount of:

(1) The total duties paid or owed on the good in the United States; or

(2) The total amount of duties paid on the exported good upon subsequent importation into Canada or Mexico.

(b) *Direct identification manufacturing drawback under 19 U.S.C. 1313(a).* Upon presentation of the NAFTA drawback claim under 19 U.S.C. 1313(a), in which the amount of drawback payable is based on the lesser amount of the customs duties paid on the good either to the United States or to Canada or Mexico, the amount of drawback refunded shall not exceed 99 percent of the duty paid on such imported merchandise into the United States.

Example 1. Upon the importation of Product X to the United States from Japan, Company A paid $2.00 in duties. Company A manufactured the imported Product X into Product Y, and subsequently exported it to Mexico. Mexico assessed $1.00 in duties upon importation of Product Y. Upon presenting a drawback claim in the United States, in accordance with 19 U.S.C. 1313(a), Company A would be entitled to a refund of 99 percent of the $2.00, or $1.98. The $2.00 paid by Company A (less 1 percent) on the importation of Product X into the United States is a lesser amount of duties than the total amount of customs duties paid to Mexico ($1.00) on Product Y.

Example 2. Upon the importation of Product X into the United States from Hong Kong, Company A entered Product X and

paid $5.00 in duties. Company A manufactured Product X into Product Y, sold it to Company B in Mexico and subsequently exported it to Mexico. Company A reserved its right to drawback. Upon Product Y's importation, Company B was assessed a free rate of duty. Company A's claim for drawback will be denied because Company A is entitled to zero drawback for the reason that, as between the duty paid in the United States and the duty paid in Mexico, the duty in Mexico was zero.

(c) *Substitution manufacturing drawback under 19 U.S.C. 1313(b).* Upon presentation of a NAFTA drawback claim under 19 U.S.C. 1313(b), on which the amount of drawback payable is based on the lesser amount of the customs duties paid on the good either to the United States or to Canada or Mexico, the amount of drawback is the same as that which would have been allowed had the substituted merchandise used in manufacture been itself imported. For purposes of drawback under this subpart, the term "same kind and quality" used in section 1313(b) (see § 191.2(m) of this chapter) shall be read as synonymous with the term "identical or similar good" used in Article 303 of the NAFTA.

Example 1. Upon importation of Product X from Japan to the United States, Company A paid $5.00 in duties. Company A substituted a same kind and quality domestic Product X for the Japanese Product X in its production of Product Y under its 19 U.S.C. 1313(b) drawback contract. Company A sold Product Y to Company B which subsequently exported it to Canada. On the importation of Product Y by Company B, Company B paid the equivalent of US$2.00 in duties assessed by Revenue Canada and waived its right to drawback to Company A. Company A is entitled to obtain drawback under 19 U.S.C. 1313(b) in the United States in the amount of $1.98 (or 99 percent of the US$2.00 equivalent Company B paid in duty to Canada) since that $2.00 was the lesser of the total amount of customs duties paid on the product to either Canada or the United States.

Example 2. Same facts as above example, but Company B paid the equivalent of US$5.00 to Revenue Canada. Company A is entitled to obtain $4.95 in drawback (a refund of 99 percent of $5.00 paid to the United States). Since the same amount of duty was assessed by each country, drawback is allowable because the drawback paid does not exceed the lesser amount paid.

(d) *Meats cured with imported salt.* Meats, whether packed or smoked, which have been cured with imported salt may be eligible for drawback in aggregate amounts of not less than $100 in duties paid on the imported salt upon exportation of the meats to Canada or Mexico (see 19 U.S.C. 1313(f)).

Example. Company Z produced Virginia smoked ham on its Smithfield, Virginia farm, using 4,000 pounds of imported salt in curing the meat. The salt was imported from an HTSUS Column 2 country, with a duty of $200. Upon exportation of the hams to Mexico, Company Z pays $250.00 in duties to Mexico. Company Z is entitled to drawback of the full 100 percent of the $200.00 in duties it paid on the importation of the salt into the United States because that $200.00 is a lesser amount than the total amount of customs duties paid to Mexico on the exported meat.

(e) *Jet aircraft engines.* A foreign-built jet aircraft engine that has been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, may be eligible for drawback of duties paid on the imported merchandise in aggregate amounts of not less than $100 upon exportation of the engine to Canada or Mexico (19 U.S.C. 1313(h)).

Example. A Swedish-made jet aircraft engine is repaired in the United States using imported parts from Korea on which $160.00 in duties have been paid by Company W. The engine is subsequently exported to Canada by Company W and Company W pays the equivalent of US$280.00 in duties to Canada. Upon showing the country in which the engine was manufactured and a description of the processing performed thereon in the United States on Customs Form 7575–A, appropriately modified, Company W is entitled to the full refund of the duties paid to the United States since that $160.00 was a lesser amount than the duties paid on the engine to Canada.

§ 181.45 Goods eligible for full drawback.

(a) *Goods originating in Canada or Mexico.* A Canadian or Mexican originating good that is dutiable and is imported into the United States:

(1) If subsequently exported to Canada or Mexico,

(2) If used as a material in the production of another good that is subsequently exported to Canada or Mexico, or

(3) If substituted by a good of the same kind and quality and used as a material in the production of another good that is subsequently exported to Canada or Mexico, is eligible for drawback without regard to the limitation on drawback set forth in § 181.44 of this part.

Example. Company A imports a dutiable (3 percent rate) Canadian originating good. During Company A's manufacturing process, Company A substitutes a German good of the same kind and quality (on which duty was paid at a 2.5 percent rate) in the production of another good that is subsequently exported to Canada. Company A may designate the dutiable Canadian entry and claim full drawback (99 percent) on the 3 percent duty paid under 19 U.S.C. 1313(b). (Note: NAFTA originating goods will continue to receive full drawback as they cross NAFTA borders for successive stages of production until NAFTA tariffs are fully phased out.)

(b) *Claims under 19 U.S.C. 1313(j)(1) for goods in same condition.* A good imported into the United States and subsequently exported to Canada or Mexico in the same condition is eligible for drawback under 19 U.S.C. 1313(j)(1) without regard to the limitation on drawback set forth in § 181.44 of this part.

Example. X imports a desk into the United States from England and pays $25.00 in duty. X immediately exports the desk to Z in Mexico and Z pays $10.00 in Mexican duties. X can obtain a refund of 99 percent of the $25.00 paid upon importation of the desk into the United States.

(1) *Same condition defined.* For purposes of this subpart, a reference to a good in the "same condition" includes a good that has been subjected to any of the following operations provided that no such operation materially alters the characteristics of the good:

(i) Mere dilution with water or another substance;

(ii) Cleaning, including removal of rust, grease, paint or other coatings;

(iii) Application of preservative, including lubricants, protective encapsulation, or preservation paint;

(iv) Trimming, filing, slitting or cutting;

(v) Putting up in measured doses, or packing, repacking, packaging or repackaging; or

(vi) Testing, marking, labelling, sorting or grading.

(2) *Commingling of fungible goods—*

(i) *General.* Commingling of completely fungible goods in inventory, such as parts, is permissible (see § 191.141(e) of this chapter) but one must identify entries for designation for same condition drawback; the origin of the goods shall be determined on the basis of the inventory methods set forth in the appendix to this part.

(ii) *Exception.* Agricultural goods imported from Mexico may not be commingled with fungible agricultural goods in the United States for purposes of same condition drawback under this subpart.

(c) *Goods not conforming to sample or specifications or shipped without consent of consignee under 19 U.S.C. 1313(c).* An imported good exported to Canada or Mexico by reason of failure of the good to conform to sample or specification or by reason of shipment of the good without the consent of the consignee is eligible for drawback under 19 U.S.C. 1313(c) without regard to the limitation on drawback set forth in § 181.44 of this part. Such a good must be returned to Customs custody for exportation under Customs supervision within three years after the release from Customs custody.

Example. X orders, after seeing a sample in the ABC Company's catalog, a certain quantity of 2-by-4 lumber from ABC Company located in Hondures. ABC Company, having run out of the specific lumber, ships instead a different kind of lumber. X rejects the lumber because it did not conform to the sample and is asked to send it to a customer of ABC in Canada. X exports it within 90 days of its release from Customs custody. X may recover 99 percent of the $500 duties it paid to U.S. Customs upon the exportation of the lumber, or $495.00.

(d) *Certain goods exported to Canada.* Goods identified in Annex 303.6 of the NAFTA and in sections 203(a) (7) and (8) of the North American Free Trade Implementation Act, if exported to Canada, are eligible for drawback without regard to the limitation on drawback set forth in § 181.44 of this part.

§ 181.46 Time and place of filing drawback claim.

(a) *Time of filing.* A drawback claim under this subpart shall be filed or applied for, as applicable, within 3 years after the date of exportation of the goods on which drawback is claimed. No extension will be granted unless it is established that a Customs officer was responsible for the untimely filing. Drawback shall be allowed only if the completed good is exported within 5 years after importation of the merchandise identified or designated to support the claim. A good subject to a claim for same condition drawback must be exported before the close of the 3-year period beginning on the date of importation of the good into the United States.

(b) *Place of filing.* A drawback claim must be filed in the region(s) where the manufacturing drawback contract is on file, whether a general rate or specific rate, but exportation need not occur from the same region. Generally, for same condition drawback, the claim would be filed with Customs in the port where the examination would take place (see § 191.141(b)(3) (ii) and (iii) of this chapter). Customs must be notified at least 5 days in advance of the intended date of exportation in order to have the opportunity to examine the goods.

§ 181.47 Completion of claim for drawback.

(a) *General.* A claim for drawback shall be granted, upon the submission of appropriate documentation to substantiate compliance with the drawback laws and regulations of the United States, evidence of exportation to Canada or Mexico, and satisfactory evidence of the payment of duties to Canada or Mexico. Unless otherwise provided in this subpart, the documentation, filing procedures, time and place requirements and other applicable procedures required to determine whether a good qualifies for drawback shall be in accordance with the existing provisions of part 191 of this chapter. Claims inappropriately filed or otherwise not completed within the 3-year period specified in § 181.46 of this part shall be considered abandoned.

(b) *Complete drawback claim—*(1) *General.* A complete drawback claim under this subpart shall consist of the filing of the appropriate completed drawback entry form, proof of exportation (a copy of the Canadian or Mexican customs entry showing the amount of duty paid to Canada or Mexico) and its supporting documents, certificate(s) of delivery, when necessary, or certificate(s) of manufacture and delivery, and a certification from the Canadian or Mexican importer as to the amount of duties paid.

(2) *Specific claims.* The following documentation, for the drawback claims specified below, must be submitted to Customs in order for a drawback claim to be processed under this subpart. Missing documentation or incorrect or incomplete information on required customs forms or supporting documentation will result in an incomplete drawback claim.

(i) *Manufacturing drawback claim.* The following shall be submitted in connection with a claim for direct identification manufacturing drawback or substitution manufacturing drawback:

(A) A completed Customs Form 331, to establish the manufacture of goods made with imported merchandise and, if applicable, the identity of substituted domestic, duty-paid or duty-free merchandise, and including the tariff classification number of the imported merchandise;

(B) Customs Form 7501 and copies of commercial invoices and the import entry number;

(C) Exporter's summary procedure, if applicable. The exporter's summary procedure must be amended for purposes of this subpart to include the Canadian or Mexican customs entry number and the amount of duty paid to Canada or Mexico;

(D) Proof of exportation and satisfactory evidence of the payment of duties in Canada or Mexico, as provided in paragraph (c) of this section;

(E) Waiver of right to drawback. If the person exporting to Canada or Mexico was not the importer or the manufacturer, written waivers executed by the importer or manufacturer and by any intervening person to whom the good was transferred shall be submitted in order for the claim to be considered complete; and

(F) An affidavit of the party claiming drawback stating that no other drawback claim has been made on the designated goods, that such party has not provided an exporter's Certificate of Origin pertaining to the exported goods to another party except as stated on the drawback claim, and that the party agrees to notify Customs if he subsequently provides such an exporter's Certificate of Origin to any person.

(ii) *Same condition drawback claim under 19 U.S.C. 1313(j)(1).* The following shall be submitted in connection with a drawback claim covering a good in the same condition:

(A) A completed Customs Form 7539. In addition, the tariff classification number of the imported goods shall be recorded on the form;

(B) Customs Form 7501 and copies of commercial invoices. The form must show the entry number, date of entry, port of importation, date of importation, importing carrier, and importer of record or ultimate consignee name and Customs or taxpayer identification number. Explicit line item information shall be clearly noted on the Customs Form 7501 and commercial invoices so that the subject goods are easily discernible;

(C) Customs Form 7505, if applicable, to trace the movement of the imported goods after importation;

(D) The certificate of delivery portion of Customs Form 331, if applicable, for purposes of tracing the transfer of ownership of the imported goods from the importer to the claimant. This is required if the drawback claimant is not the original importer of the merchandise which is the subject of a same condition claim;

(E) Customs Form 7512, if applicable. This is required for merchandise which is examined in one region but exported through border points outside of that region. Such goods must travel in bond from the location where they were examined to the point of the border crossing (exportation). If examination is waived, in-bond transportation is not required;

(F) Notification of intent to export or waiver of prior notice;

(G) Proof of exportation. Either a certified Customs Form 7511 or an uncertified Customs Form 7511

supported by documentary evidence of exportation to Canada or Mexico such as a bill of lading, air waybill, freight waybill, export ocean bill of lading, Canadian customs manifest, cargo manifest, or certified copies thereof, issued by the exporting carrier and signed in ink. Supporting documentary evidence shall establish fully the time and fact of exportation, the identity of the exporter, and the identity and location of the ultimate consignee of the exported goods;

(H) Waiver of right to drawback. If the party exporting to Canada or Mexico was not the importer, a written waiver from the importer and from each intermediate person to whom the goods were transferred shall be required in order for the claim to be considered complete; and

(I) An affidavit of the party claiming drawback stating that no other drawback claim has been made on the designated goods.

(iii) *Nonconforming or improperly shipped goods drawback claim.* The following shall be submitted in the case of goods not conforming to sample or specifications or shipped without the consent of the consignee and subject to a drawback claim under 19 U.S.C. 1313(c):

(A) Customs Form 7539C, completed and submitted at the time the goods are returned to Customs custody;

(B) Customs Form 7501 and copies of commercial invoices which establish the fact of importation, the receipt of the imported goods and the identity of the party to whom drawback is payable (see § 181.48(c) of this part);

(C) Documentary evidence to support the claim that the goods did not conform to sample or specifications or were shipped without the consent of the consignee. In the case of nonconforming goods, such documentation may include a copy of a purchase order and any related documents such as a specification sheet, catalogue or advertising brochure from the supplier, the basis for which the order was placed, and copy of a letter or telex or credit memo from the supplier indicating acceptance of the returned merchandise. This documentation is necessary to establish that the goods are, in fact, being returned to the party from which they were procured or that they are being sent to the supplier's other customer directly;

(D) Customs Form 7512, if applicable; and

(E) Proof of exportation, as provided in paragraph (b)(2)(ii)(G) of this section.

(iv) *Meats cured with imported salt.* The provisions of paragraph (b)(2)(i) of this section relating to direct identification manufacturing drawback shall apply to claims for drawback on meats cured with imported salt filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart, and the forms referred to in that paragraph shall be modified to show that the claim is being made for refund of duties paid on salt used in curing meats.

(v) *Jet aircraft engines.* The provisions of paragraph (b)(2)(i) of this section relating to direct identification manufacturing drawback shall apply to claims for drawback on foreign-built jet aircraft engines repaired or reconditioned in the United States filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart and the provisions of subpart L of part 191 of this chapter.

(c) *Proof of exportation and evidence of duties paid in Canada or Mexico.* For purposes of this subpart, proof of exportation and satisfactory evidence of payment of duties in Canada or Mexico shall consist of one of the following types of documentation, provided that, for purposes of evidence of duties paid, such documentation includes the import entry number, the date of importation, the tariff classification number, the rate of duty and the amount of duties paid:

(1) In the case of Canada, the Canadian entry document, referred to as the Canada Customs Invoice or B–3, presented with either the K–84 Statement or the Detailed Coding Statement. A Canadian customs document that is not accompanied by a valid receipt is not adequate proof of exportation and payment of duty in Canada;

(2) In the case of Mexico, the Mexican entry document (the "pedimento");

(3) The final customs duty determination of Canada or Mexico, or a copy thereof, respecting the relevant entry; or

(4) An affidavit, from the person claiming drawback, which is based on information received from the importer of the good in Canada or Mexico.

§ 181.46 Person entitled to receive drawback.

(a) *Manufacturing drawback.* The person named as exporter on the notice of exportation or on the bill of lading, air waybill, freight waybill, Canadian or Mexican customs manifest, cargo manifest, or certified copies of these documents, shall be considered the exporter and entitled to manufacturing drawback, unless the manufacturer or producer shall reserve the right to claim drawback. The manufacturer or producer who reserves this right may claim drawback, and he shall receive payment upon production of satisfactory evidence that the reservation was made with the knowledge and consent of the exporter. Drawback also may be granted to the agent of the manufacturer, producer, or exporter, or to the person the manufacturer, producer, exporter, or agent directs in writing to receive the drawback of duties.

(b) *Nonconforming or improperly shipped goods drawback.* Only the importer of record or the actual owner of the merchandise or its agent may claim drawback under 19 U.S.C. 1313(c).

(c) *Same condition drawback.* The importer of record on the consumption entry is entitled to claim same condition drawback under 19 U.S.C. 1313(j)(1) unless he has in writing waived his right to claim drawback.

§ 181.49 Retention of records.

All records required to be kept by the exporter, importer, manufacturer or producer under this subpart with respect to manufacturing drawback claims, and all records kept by others which complement the records of the importer, exporter, manufacturer or producer (see § 191.5 of this chapter) shall be retained for at least three years after payment of such claims.

§ 181.50 Payment and liquidation of drawback claims.

(a) *General.* When the drawback claim has been fully completed by the filing of all required documents, and exportation of the articles has been established and the amount of duties paid to Canada or Mexico has been established, the entry will be liquidated to determine the proper amount of drawback due either in accordance with the limitation on drawback set forth in § 181.44 of this part or in accordance with the regular drawback calculation. The liquidation procedures of subpart G of part 191 of this chapter shall control for purposes of this subpart.

(b) *Liquidation final.* The liquidation of a drawback claim shall not become final until the liquidation of the import entry has become final either by operation of law (see 19 U.S.C. 1504) or by filing with Customs a written waiver of the right to protest under 19 U.S.C. 1514 and, except in the case of goods covered by § 181.45 of this part, until the liquidation of the Canadian or Mexican customs entry has become final.

(c) *Accelerated payment.* Accelerated drawback payment procedures shall apply as set forth in § 191.72 of this

chapter. However, a person who receives drawback of duties under this procedure shall repay the duties paid if a NAFTA drawback claim is adversely affected thereafter by administrative or court action.

§ 181.51 Prevention of improper payment of claims.

(a) *Double payment of claim.* The person entitled to drawback shall certify to Customs that he has not earlier received payment on the same import entry for the same designation of goods. If, notwithstanding such a certification, such an earlier payment was in fact made to the claimant, the claimant shall be required to repay any amount paid on the second claim.

(b) *Preparation of Certificate of Origin.* The drawback claimant shall, within 30 days after the filing of the drawback claim under this subpart, submit to Customs a written statement as to whether he has prepared, or has knowledge that another person has prepared, a Certificate of Origin provided for under § 181.11(a) of this part and pertaining to the goods which are covered by the claim. If, following such 30-day period, the claimant prepares, or otherwise learns of the existence of, any such Certificate of Origin, the claimant shall, within 30 calendar days thereafter, disclose that fact to Customs.

§ 181.52 Subsequent claims for preferential tariff treatment.

If a claim for a refund of duties is allowed by the Canadian or Mexican customs administration under Article 502(3) of the NAFTA (post-importation claim) or under any other circumstance after drawback has been granted under this subpart, the appropriate Customs officer shall reliquidate the drawback claim and obtain a refund of the amount paid in drawback in excess of the amount permitted to be paid under § 181.44 of this part.

§ 181.53 Waiver or reduction of duty under duty-deferral programs.

(a) *General—(1) Duty-deferral program defined.* For purposes of this section, a "duty-deferral program" means a measure which postpones duty payment upon arrival of a good in the United States, including a measure governing manipulation warehouses, manufacturing warehouses, smelting and refining warehouses, foreign trade zones, or temporary importations under bond under Chapter 98, HTSUS, until withdrawn or removed for exportation to Canada or Mexico.

(2) *Treatment as withdrawn for consumption.* Where a good imported into the United States pursuant to a duty-deferral program is subsequently exported to Canada or Mexico or is used as a material in the production of another good that is subsequently exported to Canada or Mexico, the exported good shall be treated, for purposes of this section, as if it had been entered or withdrawn for domestic consumption and thus subject to duty.

(3) *Adjustment to duties paid.* Customs shall waive or reduce the duties paid or owed under paragraph (a)(2) of this section by the person who exports the good to Canada or Mexico in accordance with paragraphs (b) through (f) of this section, provided that proof of exportation and satisfactory evidence of duties paid in Canada or Mexico (see § 181.47(c) of this part) are submitted within 60 days of the date of exportation.

(b) *Manipulation in warehouse.* Where a good subject to NAFTA drawback under this subpart is withdrawn from a bonded warehouse (19 U.S.C. 1562) after manipulation for exportation to Canada or Mexico, duty shall be assessed on the good in its condition and quantity, and at its weight, at the time of such withdrawal from the warehouse and with such additions to, or deductions from, the final appraised value as may be necessary by reason of its change in condition. Such duty shall be paid no later than 60 days after the date of exportation except that, upon presentation of proof of exportation and satisfactory evidence of the amount of any customs duties paid to Canada or Mexico on the exported good, the duty shall be waived or reduced in an amount that does not exceed the lesser of either the total amount of duty payable on the good under this section or the total amount of customs duties paid to Canada or Mexico.

Example. Company B imports toys in bulk and makes a warehouse entry into a Class 8 warehouse, whereupon Company B repackages the toys for retail sale. Upon withdrawal of the goods from the warehouse, $200 in U.S. duty is assessed. Company B exports this merchandise to Mexico and pays $300 in duties. Thirty days after exportation from the United States, Company B submits to Customs proof of exportation and a copy of the Mexican consumption entry ("pedimento") as evidence of the payment of $300 to Mexico. Customs will waive the collection of the $200 assessment since $200 is a lesser amount than the total amount of duties paid to Mexico.

(c) *Bonded manufacturing warehouse.* Where a good is manufactured in a bonded warehouse (19 U.S.C. 1311) with imported materials and is then withdrawn for exportation to Canada or Mexico, duty shall be assessed on the materials in their condition and quantity, and at their weight, at the time of their importation into the United States. Such duty shall be paid no later than 60 days after the date of exportation except that, upon presentation of proof of exportation and satisfactory evidence of the amount of any customs duties paid to Canada or Mexico on the exported good, the duty shall be waived or reduced in an amount that does not exceed the lesser of either the total amount of duty payable on the materials under this section or the total amount of customs duties paid to Canada or Mexico.

Example. Company N imports tea into the United States and makes a Class 6 warehouse entry. Company N manufactures sweetened ice tea mix by combining the imported tea with refined cane sugar and other flavorings and packaging it in retail size canisters. Upon withdrawal of the ice tea mix from the warehouse for immediate exportation to Canada, U.S. duty is assessed on the basis of the unmanufactured tea in the amount of $900. Company N, however, does not pay the duties at this time. Canada assesses the equivalent of US$800 on the exported ice tea mix. Company N submits to Customs both proof of exportation to Canada and a Canadian K–84 Statement showing payment of $800 in duties to Canada. Company N will only be required to pay $100 in U.S. duties out of the original $900 bill.

(d) *Bonded smelting or refining warehouse.* For any qualifying imported metal-bearing materials (19 U.S.C. 1312), duty shall be assessed on the imported materials and the charges against the bond canceled no later than 60 days after the date of exportation of the treated materials to Canada or Mexico either from the bonded smelting or refining warehouse or from such other customs bonded warehouse after the transfer of the same quantity of material from a bonded smelting or refining warehouse. However, upon presentation of proof of exportation and satisfactory evidence of the amount of any customs duties paid to Canada or Mexico on the exported treated materials, the duty on the imported materials shall be waived or reduced in an amount that does not exceed the lesser of either the total amount of duty payable on the imported materials under this section or the total amount of customs duties paid to Canada or Mexico.

Example. Company Z imports 47 million pounds of electrolytic zinc which is entered into a bonded smelting and refining warehouse (Class 7) for processing. Thereafter, Company Z withdraws the merchandise and pays $90,000 in U.S. duty on the dutiable quantity of metal contained in the imported metal- bearing materials and Customs cancels the bond charges. Two

weeks later, Company Z secures a buyer, Company B, in Canada and exports the merchandise. Upon importation of the processed zinc to Canada, the equivalent of US$50,000 in duties are assessed against Company B. Company Z would like to claim a NAFTA refund under this section. Company Z must secure from Company B the necessary Canadian documentation to prove exportation and show that $50,000 was paid to Revenue Canada in order for Company Z to obtain a refund of that amount from Customs.

(e) *Foreign trade zone.* For a good that is manufactured or otherwise changed in condition in a foreign trade zone (19 U.S.C. 81c(a)) and then exported from the zone to Canada or Mexico, the duty assessed, as calculated under paragraph (e)(1) or (e)(2) of this section, shall be paid no later than 60 days after the date of exportation of the good to Canada or Mexico except that, upon presentation of proof of exportation and satisfactory evidence of the amount of any customs duties paid to Canada or Mexico on the exported good, the duty shall be waived or reduced in an amount that does not exceed the lesser of either the total amount of duty payable on the good under this section or the total amount of customs duties paid to Canada or Mexico.

(1) *Nonprivileged foreign status.* In the case of a nonprivileged foreign status good, duty is assessed on the good in its condition and quantity, and at its weight, at the time of its exportation from the zone to Canada or Mexico.

Example. CMG imports $1,000,000 worth of auto parts from Korea and admits them into Foreign-Trade Subzone number 00, claiming nonprivileged foreign status. (If the auto parts had been regularly entered they would have been dutiable at 4 percent, or $40,000.) CMG manufactures subcompact automobiles. Automobiles are dutiable at 2.5 percent ($25,000) if entered for consumption in the United States. CMG withdraws the automobiles from the zone and sells them to XYZ who ships them to Mexico. XYZ enters the automobiles in Mexico, pays $20,000 in duty, and does not claim NAFTA preferential tariff treatment. Before the expiration of 60 days from exportation, CMG submits the required documentation showing exportation and payment of duty in Mexico and pays $5,000 in duty to Customs representing the difference between the $25,000 which would have been paid if the automobiles had been entered for consumption from the zone and the $20,000 paid to Mexico by XYZ.

(2) *Privileged foreign status.* In the case of a privileged foreign status good, duty is assessed on the good in its condition and quantity, and at its weight, at the time of its admission to the zone.

Example. O&G, Inc. admits Kuwaiti crude petroleum into its zone and requests, one month later, privileged foreign status on the crude before refining the crude into motor gasoline and kerosene. Upon entry of the refined goods from the zone by O&G, Inc., U.S. duty is assessed on the imported crude petroleum in the amount of $700 rather than on the refined goods (which would been assessed $1,200). O&G, Inc. then ships the refined goods to Canada. D&O is the consignee in Canada and pays the Canadian customs duty assessment of the equivalent of US$1,500 on the goods. D&O claims NAFTA preferential tariff treatment in Canada. O&G, Inc. potentially is entitled to a duty remission of the full $700 assessed in the United States. However, if D&O's NAFTA claim is approved and results in a refund of duty by Canada, O&G, Inc.'s actual duty remission or refund will be reduced by that amount of refund received by D&O in excess of $800.

(f) *Temporary importation under bond.* Where a good, regardless of its origin, was imported temporarily free of duty for repair, alteration or processing (subheading 9813.00.05, HTSUS) and is subsequently exported to Canada or Mexico, duty shall be assessed on the good on the basis of its condition at the time of its importation into the United States. Such duty shall be paid no later than 60 days after the date of exportation except that, upon presentation of proof of exportation and satisfactory evidence of the amount of any customs duties paid to Canada or Mexico on the exported good, the duty shall be waived or reduced in an amount that does not exceed the lesser of the total amount of duty payable on the good under this section or the total amount of customs duties paid to Canada or Mexico.

Example. Company A imports glassware under subheading 9813.00.05, HTSUS. The glassware is from France and would be dutiable under a regular consumption entry at $6,000. Company A alters the glassware by etching hotel logos on the glassware. Two weeks later, Company A sells the glassware to Company B, a Mexican company, and ships the glassware to Mexico. Company B enters the glassware and is assessed duties in the amount of $6,200 and claims NAFTA preferential tariff treatment. Company B provides a copy of the Mexican landing certificate to Company A showing that $6,200 was assessed but not yet paid to Mexico, and Customs sends a bill to Company A for the $6,000 in U.S. duty which Company A pays. If Mexico ultimately denies Company B's NAFTA claim and the Mexican duty payment becomes final, Company A, upon submission to Customs of evidence of the finality of the collection of $6,200 by Mexico, is entitled to a refund of the full $6,000 in U.S. duty.

(g) *Recordkeeping requirements.* If a person intends to claim a waiver or reduction of duty on goods under this section, that person shall maintain records concerning the value of all involved goods or materials at the time of their importation into the United States and concerning the value of the goods at the time of their exportation to Canada or Mexico. Failure to maintain adequate records will result in denial of the claim for waiver or reduction of duty.

(h) *Failure to timely provide evidence of duties paid or owed to Canada or Mexico.* If the person who exports the goods to Canada or Mexico fails to provide satisfactory evidence of duties paid or owed to Canada or Mexico within the 60-day period specified in this section, that person will be liable for payment of the full duties assessed under this section and without any waiver or reduction thereof.

(i) *Subsequent claims for preferential tariff treatment.* If a claim for a refund of duties is allowed by the Canadian or Mexican customs administration under Article 502(3) of the NAFTA or under any other circumstance after duties have been waived or reduced under this section, Customs shall reliquidate the NAFTA drawback claim and obtain a refund of the amount waived or reduced in excess of the amount permitted to be waived or reduced under this section.

§ 181.54 Verification of claim for drawback, waiver or reduction of duties.

The allowance of a claim for drawback, waiver or reduction of duties submitted under this subpart shall be subject to such verification, including verification with the Canadian or Mexican customs administration of any documentation obtained in Canada or Mexico and submitted in connection with the claim, as Customs may deem necessary.

Subpart F—Commercial Samples, Printed Advertising Materials, and Goods Returned After Repair or Alteration

§ 181.61 Applicability.

This subpart sets forth the rules which apply for purposes of duty-free entry of commercial samples of negligible value and printed advertising materials imported from Canada or Mexico, as provided for in Article 306 of the NAFTA, and for purposes of the re-entry of goods after repair or alteration in Canada or Mexico, as provided for in Article 307 of the NAFTA.

§ 181.62 Commercial samples of negligible value.

(a) *General.* Commercial samples of negligible value imported from Canada or Mexico may qualify for duty-free entry under subheading 9811.00.60, HTSUS. For purposes of this section, "commercial samples of negligible value" means commercial samples which have a value, individually or in the aggregate as shipped, of not more than US$1, or the equivalent amount in the currency of Canada or Mexico, or which are so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or for use except as commercial samples.

(b) *Qualification for duty-free entry.* Commercial samples of negligible value imported from Canada or Mexico will qualify for duty-free entry under subheading 9811.00.60, HTSUS, only if:

(1) The samples are imported solely for the purpose of soliciting orders for foreign goods;

(2) If valued over US$1, the samples are properly marked, torn, perforated or otherwise treated prior to arrival in the United States so that they are unsuitable for sale or for use except as commercial samples; and

(3) In the case of textiles and textile products valued over US$1, the samples meet the additional requirements set forth in paragraph (c) of this section.

(c) *Textile samples.* Textile commercial samples of negligible value imported from Canada or Mexico which qualify for duty-free entry under subheading 9811.00.60, HTSUS, are not subject to visa requirements or quota restraint levels. However, textile commercial samples valued over US$1 shall qualify for such duty-free entry only if the additional requirements set forth in paragraphs (c)(1) and (c)(2) of this section are met.

(1) *Statement on invoice or mail declaration.* The invoice, or the mail declaration in the case of a mail shipment, accompanying imported textile commercial samples shall contain the statement "MUTILATED SAMPLES—9811.00.60". If the invoice or mail declaration does not contain the required statement, or if the merchandise has not been properly marked, torn, perforated or otherwise treated prior to importation so as to be unsuitable for sale or for use other than as a sample as provided in paragraph (c)(2) of this section, the shipment will not qualify for duty-free entry under subheading 9811.00.60, HTSUS, and, if the samples are not goods originating in Canada or Mexico within the meaning of General Note 12, HTSUS, shall be denied entry unless a proper visa, visa waiver or exempt certification is presented. If a proper visa, visa waiver or exempt certification is presented, the merchandise may be entered under the appropriate tariff provision in HTSUS Chapters 1 through 97.

(2) *Standards for mutilation of textile samples.* Provided that the other requirements set forth in this section are met, compliance with the mutilation standards set forth in this paragraph shall be considered sufficient to qualify the imported samples for duty-free entry under subheading 9811.00.60, HTSUS. Variances from the specific mutilation standards set forth in this paragraph, such as in regard to the size or location of the cut, hole or marking, may be allowed at the discretion of the appropriate Customs officer at the port of entry only if the variance from the mutilation standard renders the article unsuitable for sale or for use except as a commercial sample. For purposes of this paragraph, an "indelible" marking is one that is incapable of being erased or obliterated.

(i) *Wearing apparel*—(A) *Cutting or tearing.* A section may be cut or torn from the main body of the garment. This cut shall be visible on the outside of the garment and may not be on a seam or border. The cut or tear shall be a minimum of 2 inches in length, unless a shorter cut or tear is required by the size of the garment.

(B) *Marking.* The garment may be marked with the word "SAMPLE" in indelible ink or paint. The size of the word "SAMPLE" shall be at least one inch in height and not less than 2 inches in length unless a smaller marking is required by the size of the garment. The word "SAMPLE" shall be placed in a prominent area of the garment which will be visible when worn and shall be in contrasting color to the garment.

(C) *Punching or cutting.* A hole or section, measuring at least 1 inch in diameter, may be punched or cut into the outside of the garment. The hole or section shall be punched or cut in a prominent area of the garment and in a location where it cannot be covered by a patch or emblem.

(ii) *Fabrics in continuous lengths or rolls*—(A) *Fabric not over 2 yards in length.* Fabric not exceeding 2 yards in length either may be marked with the word "SAMPLE" in indelible ink or paint on the face or front of the fabric and in contrasting color to the fabric or may be perforated with the word "SAMPLE" at intervals of one-half yard for the entire length of the fabric. In either case, the word "SAMPLE" shall be at least 1 inch in height and not less than 5 inches in length and shall be placed at a perpendicular angle across the fabric.

(B) *Fabric over 2 yards in length.* Fabric exceeding 2 yards in length, even if mutilated in accordance with paragraph (c)(2)(ii)(A) of this section, shall not be considered commercial samples eligible for duty-free entry under this section.

(iii) *Fabric swatches*—(A) *Cutting.* A section or hole, not less than 1 inch in diameter, may be cut in the main body of a fabric swatch.

(B) *Marking.* A fabric swatch may be marked with the word "SAMPLE" in indelible ink or paint in contrasting color to the swatch. The word "SAMPLE" shall be at least 1 inch in height and at least 2 inches in length.

(C) *Mutilation not required.* Fabric swatches 8 inches square or smaller need not be cut, marked or otherwise mutilated unless, in their condition as imported, they are suitable for use other than as a commercial sample.

(iv) *Footwear*—(A) *Drilling.* A hole at least one-quarter inch in diameter may be drilled in the sole of each article of footwear.

(B) *Marking or labeling.* Each article of footwear either may be marked with the word "SAMPLE" in indelible ink or paint in contrasting color to the footwear or may have a permanently attached label which reads "SAMPLE". The marking or label shall be placed on a readily visible part of the footwear.

(v) *Other articles.* For other textile articles, such as furnishings or luggage, a section or hole may be cut, punched or torn from the article or the word "SAMPLE" may be marked on the article in indelible ink or paint in contrasting color to the article. The hole, cut or marking shall appear on the outer surface of the article in a location which is visible when the article is in use and shall be of sufficient size to ensure, to the satisfaction of the appropriate Customs officer, that the article is unsuitable for sale or for use except as a commercial sample.

§ 181.63 Printed advertising materials.

Printed advertising materials imported from Canada or Mexico qualify for duty-free entry. For purposes of this section, "printed advertising materials" means those goods classified in Chapter 49, HTSUS, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials and posters, which are used to promote, publicize, or advertise a good or service, are essentially intended to advertise a good or service, and are supplied free of charge.

§ 181.64 Goods re-entered after repair or alteration in Canada or Mexico.

(a) *General.* This section sets forth the rules which apply for purposes of obtaining duty-free or reduced-duty treatment on goods returned after repair or alteration in Canada or Mexico as provided for in subheadings 9802.00.40 and 9802.00.50, HTSUS. Goods returned

VOL 58 ISS 249 DE 30 1993 UMI

after having been repaired or altered in Mexico, whether or not pursuant to a warranty, and goods returned after having been repaired or altered in Canada pursuant to a warranty, are eligible for duty-free treatment, provided that the requirements of this section are met. Goods returned after having been repaired or altered in Canada other than pursuant to a warranty are subject to duty upon the value of the repairs or alterations using the applicable duty rate under the United States-Canada Free-Trade Agreement (see § 10.301 of this chapter), provided that the requirements of this section are met. For purposes of this section, "repairs or alterations" means restoration, addition, renovation, redyeing, cleaning, resterilizing, or other treatment which does not destroy the essential characteristics of, or create a new or commercially different good from, the good exported from the United States.

Example. Glass mugs produced in the United States are exported to Canada for etching and tempering operations, after which they are returned to the United States for sale. The foreign operations exceed the scope of an alteration because they are manufacturing processes which create commercially different products with distinct new characteristics.

(b) *Goods not eligible for duty-free or reduced-duty treatment after repair or alteration.* The duty-free or reduced-duty treatment referred to in paragraph (a) of this section shall not apply to goods which, in their condition as exported from the United States to Canada or Mexico, are incomplete for their intended use and for which the processing operation performed in Canada or Mexico constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

Example. Unflanged metal wheel rims are exported to Canada for a flanging operation to strengthen them so as to conform to U.S. Army specifications for wheel rims; although the goods when exported from the United States are dedicated for use in the making of wheel rims, they cannot be used for that purpose until flanged. The flanging operation does not constitute a repair or alteration because that operation is necessary for the completion of the wheel rims.

(c) *Documentation—(1) Declarations required.* Except as otherwise provided in this section, the following declarations shall be filed in connection with the entry of goods which are returned from Canada or Mexico after having been exported for repairs or alterations and which are claimed to be duty free or subject to duty only on the value of the repairs or alterations performed abroad:

(i) A declaration from the person who performed such repairs or alterations, in substantially the following form:

I/We, _____, declare that the goods herein specified are the goods which, in the condition in which they were exported from the United States, were received by me (us) on _____, 19_____, from _____ (name and address of owner or exporter in the United States); that they were received by me (us) for the sole purpose of being repaired or altered; that only the repairs or alterations described below were performed by me (us); that such repairs or alterations were (were not) performed pursuant to a warranty; that the full cost or (when no charge is made) value of such repairs or alterations is correctly stated below; and that no substitution whatever has been made to replace any of the goods originally received by me (us) from the owner or exporter thereof mentioned above.

Marks and numbers	Description of goods and of repairs or alterations	Full cost or (when no charge is made) value of repairs or alterations (see Subchapter II, Chapter 98, HTSUS)	Total value of goods after repairs or alterations

Date

Address

Signature

Capacity

(ii) A declaration by the owner, importer, consignee, or agent having knowledge of the pertinent facts in substantially the following form:

I, _____, declare that the (above) (attached) declaration by the person who performed the repairs or alterations abroad is true and correct to the best of my knowledge and belief; that the goods were not previously imported in bond or admitted into a foreign trade zone or imported in similar status; that such goods were exported from the United States for repairs or alterations from _____ (port) on _____, 19_____; and that the goods entered in their repaired or altered condition are the same goods that were exported on the above date and that are identified in the (above) (attached) declaration.

Date

Address

Signature

Capacity

(2) *Additional documentation.* The district director may require such additional documentation as is deemed necessary to prove actual exportation of the goods from the United States for repairs or alterations, such as a foreign customs entry, a foreign customs invoice, a foreign landing certificate, bill of lading, or airway bill.

(3) *Waiver of declarations.* If the district director concerned is satisfied, because of the nature of the goods or production of other evidence, that the goods are imported under circumstances meeting the requirements of this section, he may waive submission of the declarations provided for in paragraph (c)(1) of this section.

(4) *Deposit of estimated duties.* For goods returned after having been repaired or altered in Canada other than pursuant to a warranty, the district director shall require a deposit of estimated duties based upon the full cost or value of the repairs or alterations. The cost or value of the repairs or alterations performed in Canada other than pursuant to a warranty, which is to be set forth in the invoice and entry papers as the basis for the assessment of duty for such goods, shall be limited to the cost or value of the repairs or alterations actually performed in Canada, which shall include all domestic and foreign articles furnished for the repairs or alterations but shall not include any of the expenses incurred in the United States whether by way of engineering costs, preparation of plans or specifications, furnishing of tools or equipment for doing the repairs or alterations in Canada, or otherwise.

Subpart G—Origin Verifications and Determinations

§ 181.71 Denial of preferential tariff treatment dependent on origin verification and determination.

Except where a Certificate of Origin either is not submitted when requested under § 181.22(b) of this part or is not acceptable and a corrected Certificate is not submitted or accepted as provided in § 181.22(c) of this part, and except in the case of a pattern of conduct provided for in § 181.76(b) of this part, Customs shall deny or withhold preferential tariff treatment on an imported good, or shall deny a post-importation claim for a refund filed under subpart D of this part, only after initiation of an origin verification under § 181.72(a) of this part which results in a determination that the imported good does not qualify as an originating good or should not be accorded such treatment for any other reason as specifically provided for elsewhere in this part.

§ 181.72 Verification scope and method.

(a) *General.* Subject to paragraph (e) of this section, Customs may initiate a verification in order to determine whether a good imported into the United States qualifies as an originating good for purposes of preferential tariff treatment under the NAFTA as stated on the Certificate of Origin pertaining to the good. Such a verification:

(1) May also involve a verification of the origin of a material that is used in the production of a good that is the subject of a verification under this section; and

(2) Shall be conducted only by means of one or more of the following:

(i) A verification letter which requests information from a Canadian or Mexican exporter or producer, including a Canadian or Mexican producer of a material, and which identifies the good or material that is the subject of the verification. The verification letter may be sent:

(A) By certified or registered mail, or by any other method that produces a confirmation of receipt by the exporter or producer; or

(B) By any other method, regardless of whether it produces proof of receipt by the exporter or producer;

(ii) A written questionnaire sent to an exporter or a producer, including a producer of a material, in Canada or Mexico. The questionnaire may be sent:

(A) By certified or registered mail, or by any other method that produces a confirmation of receipt by the exporter or producer; or

(B) By any other method, regardless of whether it produces proof of receipt by the exporter or producer;

(iii) Visits to the premises of an exporter or a producer, including a producer of a material, in Canada or Mexico to review the types of records referred to in § 181.12 of this part and observe the facilities used in the production of the good or material; and

(iv) Any other method which results in information from a Canadian or Mexican exporter or producer, including a Canadian or Mexican producer of a material, that is relevant to the origin determination. The information so obtained may form a basis for a negative determination regarding a good (see § 181.75(b) of this part) only if the information is in writing and is signed by the exporter or producer. In connection with an origin verification initiated under this paragraph, Customs may verify the applicable rate of duty applied to an originating good in accordance with Annex 302.2 of the NAFTA and may determine whether a good is a qualifying good for purposes of Annex 703.2 of the NAFTA.

(b) *Applicable accounting principles.* Any verification of a regional value-content requirement undertaken pursuant to paragraph (a) of this section shall be conducted in accordance with the Generally Accepted Accounting Principles applied in the country from which the good was exported to the United States.

(c) *Inquiries to importer not precluded.* Nothing in paragraph (a) of this section shall preclude Customs from directing inquiries or requests to a U.S. importer for documents or other information regarding the imported good. If such an inquiry or request involves requesting the importer to obtain and provide written information from the exporter or producer of the good or from the producer of a material that is used in the production of the good, such information shall be requested by the importer and provided to the importer by the exporter or producer only on a voluntary basis, and a failure or refusal on the part of the importer to obtain and provide such information shall not be considered a failure of the exporter or producer to provide the information and shall not constitute a ground for denying preferential tariff treatment on the good.

(d) *Failure to respond to letter or questionnaire—(1) Nonresponse to initial letter or questionnaire.* If the exporter or producer, including a producer of a material, fails to respond to a verification letter or questionnaire sent under paragraph (a)(2)(i) or (a)(2)(ii) of this section within 30 calendar days from the date on which the letter or questionnaire was sent, or such longer period as may be specified in the letter or questionnaire, Customs shall send a follow-up verification letter or questionnaire to that exporter or producer. The follow-up letter or questionnaire:

(i) Except where the verification letter or questionnaire only involved the origin of a material used in the production of a good and was sent to the producer of the material, may include the written determination referred to in § 181.75 of this part, provided that the information specified in paragraph (b) of that section is also included; and

(ii) Shall be sent:

(A) By certified or registered mail, or by any other method that produces a confirmation of receipt by the exporter or producer, if so requested by the customs administration of Canada or Mexico from which the good was exported; or

(B) By any method, if no request under paragraph (d)(1)(ii)(A) has been made by the Canadian or Mexican customs administration.

(2) *Nonresponse to follow-up letter or questionnaire—(i) Producer of a material.* If a producer of a material fails to respond to a follow-up verification letter or questionnaire sent under paragraph (d)(1) of this section, Customs may consider the material to be non-originating for purposes of determining whether the good to which that material relates is an originating good.

(ii) *Exporter or producer of a good.* If the exporter or producer of a good fails to respond to a follow-up verification letter or questionnaire sent under paragraph (d)(1) of this section, Customs may deny preferential tariff treatment on the good as follows:

(A) If the follow-up letter or questionnaire included a written determination as provided for in paragraph (d)(1)(i) of this section and the exporter or producer fails to respond to the follow-up letter or questionnaire within 30 calendar days or such longer period as specified therein:

(*1*) From the date on which the follow-up letter or questionnaire and written determination were received by the exporter or producer, if sent pursuant to paragraph (d)(1)(ii)(A) of this section; or

(*2*) From the date on which the follow-up letter or questionnaire and written determination were either received by the exporter or producer or sent by Customs, if sent in accordance with paragraph (d)(1)(ii)(B) of this section; or

(B) Provided that the procedures set forth in §§ 181.75 and 181.76 of this part are followed, if the follow-up letter or questionnaire does not include a written determination as provided for in paragraph (d)(1)(i) of this section and the exporter or producer fails to respond to the follow-up letter or questionnaire within 30 calendar days or such longer

period as specified in the letter or questionnaire:

(1) From the date on which the follow-up letter or questionnaire was received by the exporter or producer, if sent pursuant to paragraph (d)(1)(ii)(A) of this section; or

(2) From the date on which the follow-up letter or questionnaire was either received by the exporter or producer or sent by Customs, if sent in accordance with paragraph (d)(1)(ii)(B) of this section.

(e) *Calculation of regional value content under net cost method*—(1) *General.* Where a Canadian or Mexican producer of a good elects to calculate the regional value content of a good under the net cost method as set forth in General Note 12, HTSUS, and in the appendix to this part, Customs may not, during the time period over which that net cost is calculated, conduct a verification under § 181.72(a) of this part with respect to the regional value content of that good.

(2) *Cost submission for motor vehicles.* Where, pursuant to General Note 12, HTSUS, and the appendix to this part, a Canadian or Mexican producer of a light duty vehicle or heavy duty vehicle, as defined in the appendix to this part, elects to average its regional value content calculation over its fiscal year, Customs may request, in writing, that the producer provide a cost submission reflecting the actual costs incurred in the production of the category of motor vehicles for which the election was made. Such a written request shall constitute a verification letter under paragraph (a)(2)(i) of this section, and the requested cost submission shall be submitted to Customs within 180 calendar days after the close of the producer's fiscal year or within 60 days from the date on which the request was made, whichever is later.

§ 181.73 Notification of verification visit.

(a) *Written notification required.* Prior to conducting a verification visit, including a follow-up to an earlier visit, in Canada or Mexico pursuant to § 181.72(a)(2)(iii) of this part, Customs shall give written notification of the intention to conduct the visit. Such notification shall be delivered:

(1) By certified or registered mail, or by any other method that produces a confirmation of receipt, to the address of the Canadian or Mexican exporter or producer whose premises are to be visited;

(2) To the customs administration of the country in which the visit is to occur; and

(3) If requested by the country in which the visit is to occur, to the embassy of that country located in the United States.

(b) *Contents of notification.* The notification referred to in paragraph (a) of this section shall include:

(1) The identity of the Customs office and officer issuing the notification;

(2) The name of the Canadian or Mexican exporter or producer of the good, or producer of the material, whose premises are to be visited;

(3) The date and place of the proposed verification visit;

(4) The object and scope of the proposed verification visit, including specific reference to the good or material that is the subject of the verification;

(5) The names and titles of the Customs officers performing the proposed verification visit;

(6) The legal authority for the proposed verification visit; and

(7) A request that the Canadian or Mexican exporter or producer of the good, or producer of the material, provide its written consent for the proposed verification visit.

§ 181.74 Verification visit procedures.

(a) *Written consent required.* Prior to conducting a verification visit in Canada or Mexico pursuant to § 181.72(a)(2)(iii) of this part, Customs shall obtain the written consent of the Canadian or Mexican exporter or producer of the good or producer of the material whose premises are to be visited.

(b) *Written consent procedures.* The written consent provided for in paragraph (a) of this section shall be delivered by certified or registered mail, or by any other method that generates a reliable receipt, to the Customs officer who gave the notification provided for in § 181.73 of this part.

(c) *Failure to provide written consent or to cooperate or to maintain records.* Except as otherwise provided in paragraph (d) of this section, where a Canadian or Mexican exporter or producer of a good, or a Canadian or Mexican producer of a material, has not given its written consent to a proposed verification visit within 30 calendar days of receipt of notification pursuant to § 181.73 of this part, Customs may deny preferential tariff treatment to that good, or for purposes of determining whether a good is an originating good may consider as non-originating that material, that would have been the subject of the visit, provided that, as regards the good, notice of intent to deny such treatment is given to that exporter or producer of the good and to the U.S. importer thereof prior to taking such action. A failure on the part of the Canadian or Mexican exporter or producer of a good, or on the part of the Canadian or Mexican producer of a material, to maintain records or provide access to such records or otherwise cooperate during the verification visit shall mean that the verification visit never took place and may be treated by Customs in the same manner as a failure to give written consent to a verification visit. However, in the case of a Canadian or Mexican producer of a good who is found during a verification visit to have not maintained records in accordance with the Generally Accepted Accounting Principles applied in the producer's country, Customs may deny preferential tariff treatment on the good based solely on a failure to so maintain those records only if the producer does not conform the records to those Principles within 60 calendar days after Customs informs the producer in writing of that failure.

(d) *Postponement of visit in Canada or Mexico.* Following receipt of the notification provided for in § 181.73 of this part, the Canadian or Mexican customs administration may, within 15 calendar days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 calendar days from the date of such receipt by providing written notice of the postponement to the Customs officer who issued the notification of the verification visit, unless a longer period is requested and agreed to by Customs. Such a postponement shall not constitute a failure to provide written consent within the meaning of paragraph (c) of this section and shall not otherwise by itself constitute a valid basis upon which Customs may:

(1) Consider a material that is used in the production of a good to be a non-originating material; or

(2) Deny preferential tariff treatment to a good.

(e) *Verification visits within the United States.*—(1) *Notification and consent procedure.* When the Canadian or Mexican customs administration intends to conduct a verification visit in the United States, notification of such intent will be given, and consent will be required, as provided for under Article 506 of the NAFTA. For purposes of the required notification to Customs, such notification shall be sent to Project North Star Coordination Center, P.O. Box 400, Buffalo, New York 14225–0400.

(2) *Postponement of visit.* Following receipt of notification from the Canadian or Mexican customs administration of its intention to conduct a verification visit in the United States, Customs may, within 15 calendar days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 calendar days from the date of such receipt by providing written notice of the postponement to the Canadian or Mexican customs administration.

(3) *Designation of observers.* A U.S. exporter or producer, including a producer of a material, whose good or material is the subject of a verification visit by the Canadian or Mexican customs administration shall be allowed to designate two observers to be present during the visit, subject to the following conditions:

(i) The U.S. exporter or producer shall not be required to designate observers;

(ii) There shall be no restriction on the class of persons that may be designated as observers by the U.S. exporter or producer;

(iii) The observers to be present are designated in the written consent to the proposed visit or subsequent thereto;

(iv) The observers do not participate in the verification visit in a manner other than as passive observers;

(v) The presence of observers shall in no way affect the right to have legal counsel or other advisors present during the visit;

(vi) There shall be no obligation on the part of the United States government or on the part of the Canadian or Mexican government to designate observers from its staff, even when the U.S. exporter or producer fails to, or specifically declines to, designate observers; and

(vii) The failure of the U.S. exporter or producer to designate observers shall not result in the postponement of the visit.

§ 181.75 Issuance of origin determination.

(a) *General.* Except in the case of a pattern of conduct within the meaning of § 181.76(b) of this part, following receipt and analysis of the results of an origin verification initiated under § 181.72(a) of this part in regard to a good imported into the United States and prior to denying preferential tariff treatment on the import transaction which gave rise to the origin verification, Customs shall provide the exporter or producer whose good is the subject of the verification with a written determination of whether the good qualifies as an originating good. Subject to paragraph (b) of this section, the written origin determination shall be sent within 60 calendar days after conclusion of the origin verification process, unless circumstances require additional time, and shall set forth:

(1) A description of the good that was the subject of the verification together with the identifying numbers and dates of the export and import documents pertaining to the good;

(2) Subject to the provisions of § 181.131 of this part, a statement setting forth the findings of fact made in connection with the verification and upon which the determination is based; and

(3) With specific reference to the rules applicable to originating goods as set forth in General Note 12, HTSUS, and in the appendix to this part, the legal basis for the determination.

(b) *Negative origin determinations.* If Customs determines, as a result of an origin verification initiated under § 181.72(a) of this part, that the good which is the subject of the verification does not qualify as an originating good, the written determination required under paragraph (a) of this section:

(1) Shall be sent by certified or registered mail, or by any other method that produces a confirmation of receipt by the exporter or producer, if so requested by the customs administration of Canada or Mexico from which the good was exported; and

(2) Shall, in addition to the information specified in paragraph (a) of this section, set forth the following:

(i) A notice of intent to deny preferential tariff treatment on the good which is the subject of the determination;

(ii) The specific date after which preferential tariff treatment will be denied, as established in accordance with § 181.76(a)(1) of this part;

(iii) The period, established in accordance with § 181.76(a)(1) of this part, during which the exporter or producer of the good may provide written comments or additional information regarding the determination; and

(iv) A statement advising the exporter or producer of the right to file a protest under 19 U.S.C. 1514 and part 174 of this chapter within 90 days after notice of liquidation is provided pursuant to part 159 of this chapter.

§ 181.76 Application of origin determinations.

(a) *General.* Except as otherwise provided in this paragraph or elsewhere in this section, an origin determination shall become effective upon issuance of the determination under § 181.75 of this part. In the case of a negative origin determination issued under § 181.75(b) of this part:

(1) The date on which preferential tariff treatment may be denied shall be no earlier than 30 calendar days from the date on which:

(i) Receipt of the written determination by the exporter or producer is confirmed, if a request under § 181.75(b)(1) of this part has been made; or

(ii) The written determination is sent by Customs, if no request under § 181.75(b)(1) of this part has been made; and

(2) Before denying preferential tariff treatment, Customs shall take into account any comments or additional information provided by the exporter or producer during the period established in accordance with paragraph (a)(1) of this section.

(b) *Cases involving a pattern of conduct.* Where multiple origin verifications initiated under § 181.72(a) of this part indicate a pattern of conduct by an exporter or producer involving false or unsupported representations on Certificates of Origin that a good imported into the United States qualifies as an originating good, Customs may withhold preferential tariff treatment on identical goods exported or produced by such person until that person establishes compliance with the rules applicable to originating goods as set forth in General Note 12, HTSUS, and in this part. For purposes of this paragraph, a "pattern of conduct" means repeated instances of false or unsupported representations by an exporter or producer as established by Customs on the basis of not fewer than two origin verifications of two or more importations of the good that result in the issuance of not fewer than two written determinations issued to that exporter or producer pursuant to § 181.75 of this part which conclude, as a finding of fact, that Certificates of Origin completed and signed by that exporter or producer with respect to identical goods contain false or unsupported representations.

(c) *Differing determinations.* Where Customs determines, either as a result of an origin verification initiated under § 181.72(a) of this part or under any other circumstance, that a certain good imported into the United States does not qualify as an originating good based on a tariff classification or a value applied in the United States to one or more materials used in the production of the good, including a material used in the production of another material that is used in the production of the good, which differs from the tariff classification or value applied to the materials by the country from which the good was exported, the Customs determination shall not become effective until Customs provides written

VOL
58
ISS
249
DE
30
1993
UMI

notification thereof both to the U.S. importer of the good and to the person who completed and signed the Certificate of Origin upon which the claim for preferential tariff treatment for the good was based.

(d) *Applicability of a determination to prior importations.* Customs shall not apply a determination made under paragraph (c) of this section to an importation made before the effective date of the determination if, prior to notification of the determination, the customs administration of the country from which the good was exported either issued an advance ruling under Article 509 of the NAFTA or any other binding ruling on the tariff classification or on the value of such materials, or gave consistent treatment to the entry of the materials under the tariff classification or value at issue, on which a person is entitled to rely. For purposes of this paragraph, the person who received notification of the determination shall demonstrate to the satisfaction of Customs, in writing within 30 calendar days of receipt of the notification, that the conditions set forth herein have been met. For purposes of this paragraph:

(1) A "ruling" on which a person is entitled to rely in the case of Canada must be issued pursuant to section 43.1(1) of the Customs Act (Advance Rulings) or in accordance with Departmental Memorandum 11–11–1 (National Customs Rulings) and in the case of Mexico must be issued pursuant to Article 34 of the Codigo Fiscal de la Federacion and pursuant to Article 30 of the Ley Aduanera or the applicable provision of Mexican law related to advance rulings under Article 509 of the NAFTA; and

(2) "Consistent treatment" means the established application by the Canadian or Mexican customs administration that can be substantiated by the continued acceptance by the customs administration of the tariff classification or value of identical materials on importations of the materials into Canada or Mexico by the same importer over a period of not less than two years immediately prior to the date of signature of the Certificate of Origin for the good that is the subject of the determination referred to in paragraph (c) of this section, provided that with regard to those importations:

(i) The tariff classification or value of the materials was not the subject of a verification, review or appeal by that customs administration on the date of the determination under paragraph (c) of this section; and

(ii) The materials had not been accorded a different tariff classification or value by one or more district, regional or local offices of that customs administration on the date of the determination under paragraph (c) of this section.

(e) *Detrimental reliance.* If Customs denies preferential tariff treatment to a good pursuant to a determination made under paragraph (c) of this section, Customs shall postpone the effective date of the denial for a period not exceeding 90 calendar days where the U.S. importer of the good, or the person who completed and signed the Certificate of Origin upon which the claim for preferential tariff treatment for the good was based, demonstrates to the satisfaction of Customs that it has relied in good faith to its detriment on the tariff classification or value applied to such materials by the customs administration of the country from which the good was exported.

Subpart H—Penalties

§ 181.81 Applicability to NAFTA transactions.

(a) *General.* Except as otherwise provided in § 181.82 of this part, all criminal, civil or administrative penalties which may be imposed on U.S. importers, exporters and producers for violations of the Customs and related laws and regulations shall also apply to U.S. importers, exporters and producers for violations of the laws and regulations relating to the NAFTA.

(b) *False certification by U.S. exporter or producer.* Except as otherwise provided in § 181.82 of this part, a false certification by an exporter or a producer in the United States that a good to be exported to Canada or Mexico qualifies as an originating good shall have the same legal consequences as would apply to an importer in the United States for a contravention of the U.S. Customs laws and regulations regarding the making of a false statement or representation.

§ 181.82 Exceptions to application of penalties.

(a) *General.* A U.S. importer who makes a corrected declaration under § 181.21(b) of this part shall not be subject to civil or administrative penalties for having made an incorrect declaration, provided that the corrected declaration was voluntarily made. In addition, civil or administrative penalties provided for under the U.S. Customs laws and regulations shall not be imposed on an exporter or producer in the United States who voluntarily provides written notification pursuant to § 181.11(d) of this part with respect to the making of an incorrect certification.

(b) *"Voluntarily" defined.*

(1) *General.* For purposes of paragraph (a) of this section, the making of a corrected declaration or the providing of written notification of an incorrect certification will be deemed to have been done voluntarily if:

(i) Done before the commencement of a formal investigation;

(ii) Done before any of the events specified in § 162.74(g) of this chapter have occurred;

(iii) Done within 30 calendar days after either the U.S. importer with respect to a declaration that an imported good qualified as an originating good, or the U.S. exporter or producer with respect to a certification pertaining to a good exported to Canada or Mexico, had reason to believe that the declaration or certification was not correct;

(iv) Accompanied by a written statement setting forth the information specified in paragraph (b)(3) of this section; and

(v) In the case of a corrected declaration, accompanied or followed by a tender of any actual loss of duties in accordance with paragraph (b)(5) of this section.

(2) *Cases involving fraud.* Notwithstanding paragraph (b)(1) of this section, a person who acted by means of fraud in making an incorrect declaration or certification may not make a voluntary correction thereof. For purposes of this paragraph, the term "fraud" shall have the meaning set forth in paragraph (B)(3) of appendix B to part 171 of this chapter.

(3) *Written statement.* For purposes of paragraph (a) of this section, each corrected declaration or notification of an incorrect certification shall be accompanied by a written statement which:

(i) Identifies the class or kind of good to which the incorrect declaration or certification relates;

(ii) Identifies each import or export transaction affected by the incorrect declaration or certification with reference to each port of importation or exportation and the approximate date of each importation or exportation. A U.S. producer who provides written notification that certain information in a Certificate of Origin is incorrect and who is unable to identify the specific export transactions under this paragraph shall provide as much information concerning those transactions as the producer, by the exercise of good faith and due diligence, is able to obtain;

(iii) Specifies the nature of the incorrect statements or omissions regarding the declaration or certification; and

(iv) Sets forth, to the best of the person's knowledge, the true and accurate information or data which should have been covered by or provided in the declaration or certification, and states that the person will provide any additional information or data which is unknown at the time of making the corrected declaration or certification within 30 calendar days or within any extension of that 30-day period as Customs may permit in order for the person to obtain the information or data.

(4) *Substantial compliance.* For purposes of this section, a person shall be deemed to have voluntarily corrected a declaration or certification even though that person provides corrected information in a manner which does not conform to the requirements of the written statement specified in paragraph (b)(3) of this section, provided that:

(i) Customs is satisfied that the information was provided before the commencement of a formal investigation; and

(ii) The information provided includes, orally or in writing, substantially the same information as that specified in paragraph (b)(3) of this section.

(5) *Tender of actual loss of duties.* A U.S. importer who makes a corrected declaration shall tender any actual loss of duties at the time of making the corrected declaration, or within 30 calendar days thereafter, or within any extension of that 30-day period as Customs may allow in order for the importer to obtain the information or data necessary to calculate the duties owed.

(6) *Applicability of prior disclosure provisions.* A person who fails to meet the requirements of this section and who otherwise qualifies for prior disclosure treatment under 19 U.S.C. 1592(c)(4) and the regulations issued thereunder shall not be denied prior disclosure treatment merely because the disclosure is not deemed to have been made voluntarily under this section.

Subpart I—Advance Ruling Procedures

§ 181.91 Applicability.

This subpart sets forth the rules which govern the issuance and application of advance rulings under Article 509 of the NAFTA and the procedures which apply for purposes of review of advance rulings under Article 510 of the NAFTA. Importers in the United States and exporters and producers located in Canada or Mexico may request and obtain an advance ruling on a NAFTA transaction only in accordance with the provisions of this subpart whenever the requested ruling involves a subject matter specified in § 181.92(b)(6) of this part. Accordingly, the provisions of this subpart shall apply in lieu of the administrative ruling provisions contained in subpart A of part 177 of this chapter except where the request for a ruling involves a subject matter not specified in § 181.92(b)(6).

§ 181.92 Definitions and general NAFTA advance ruling practice.

(a) *Definitions.* For purposes of this subpart:

(1) An "advance ruling" is a written statement issued by the Headquarters Office, the New York Seaport Area Office or by such other office as designated by the Commissioner of Customs that interprets and applies the provisions of NAFTA to a specific set of facts involving any subject matter specified in § 181.92(b)(6) of this part. An "advance ruling letter" is an advance ruling issued in response to a written request and set forth in a letter addressed to the person making the request or his designee. A "published advance ruling" is an advance ruling which has been published in full text in the Customs Bulletin.

(2) An "authorized agent" is a person expressly authorized by a principal to act on his or her behalf. An advance ruling requested by an attorney or other person acting as an agent must include a statement describing the authority under which the request is made. With the exception of attorneys whose authority to represent is known, any person appearing before Customs as an agent in connection with an advance ruling request may be required to present evidence of his or her authority to represent the principal. The foregoing requirements will not apply to an individual representing his or her full-time employer or to a bona-fide officer, director or other qualified representative of a corporation, association, or organized group.

(3) The term "Headquarters Office," means the Office of Regulations and Rulings at Headquarters, United States Customs Service, Washington, DC.

(4) An "information letter" is a written statement issued by the Headquarters Office, the New York Seaport Area Office or by such other office as designated by the Commissioner of Customs that does no more than call attention to a well-established interpretation of principles under the NAFTA, without applying it to a specific set of facts. If Customs believes that general information may be of some benefit to the person making the request, an information letter may be issued in response to a request for an advance ruling when:

(i) The request suggests that general information, rather than an advance ruling, is actually being sought;

(ii) The request is incomplete or otherwise fails to meet the requirements set forth in this subpart; or

(iii) The requested advance ruling cannot be issued for any other reason.

(5) A "NAFTA transaction" is an act or activity to which the NAFTA provisions apply. A "prospective" NAFTA transaction is one that is merely contemplated or is currently being undertaken but has not resulted in any arrival or in the filing of any entry or entry summary or other document or in any other act so as to bring the transaction, or any part of it, under the jurisdiction of any Customs office. A "current" NAFTA transaction is one which is presently under consideration by a field office (port, district, or region) of Customs. A "completed" NAFTA transaction is one which has been acted upon by a Customs field office and with respect to which that office has issued a determination which is final in nature, but is (or was) subject to appeal, petition, protest or other review as provided in the applicable Customs laws and regulations. An "ongoing" NAFTA transaction is a series of identical, recurring transactions, consisting of current and completed transactions where future transactions are contemplated.

(6) The term "New York Seaport Area Office," means the National Import Specialist Division, Office of the Area Director, New York Seaport, United States Customs Service, New York, New York.

(b) *General Advance Ruling Practice.* An advance ruling may be requested under the provisions of this subpart with respect to prospective, current and ongoing NAFTA transactions. An advance ruling will be based on the facts and circumstances presented by the requester.

(1) *Prospective NAFTA transactions.* It is in the interest of the sound administration of the NAFTA that persons engaging in any transaction affected by NAFTA fully understand the consequences of that transaction prior to its consummation. For this reason, Customs will give full and careful consideration to written requests from importers in the United States and exporters or producers in Canada or Mexico for advance rulings or information setting forth, with respect to a specifically described transaction, a

VOL 58 ISS 249 DEC 30 1993 UMI

definitive interpretation of applicable law or other appropriate information.

(2) *Current or ongoing NAFTA transactions.* A question arising in connection with a NAFTA transaction already before a Customs field office by reason of arrival, entry or otherwise will be resolved by that office in accordance with the principles and precedents previously announced by the Headquarters Office. If such a question cannot be resolved on the basis of clearly established rules set forth in the NAFTA or the regulations thereunder, or in applicable Treasury Decisions, rulings, opinions, or court decisions published in the Customs Bulletin, that field office may, if it believes it appropriate, forward the question to the Headquarters Office for consideration.

(3) *Completed NAFTA transactions.* A question arising in connection with an entry of merchandise which has been liquidated, or in connection with any other completed NAFTA transaction, may not be the subject of an advance ruling request under this subpart.

(4) *Oral advice.* Customs will not issue an advance ruling in response to an oral request. Oral opinions or advice of Customs personnel are not binding on Customs. However, oral inquiries may be made to Customs offices regarding existing advance rulings, the scope of such advance rulings, the types of transactions with respect to which Customs will issue advance rulings, the scope of the advance rulings which may be issued, or the procedures to be followed in submitting advance ruling requests, as prescribed in this subpart.

(5) *Who may request an advance ruling.* An advance ruling may be requested by any of the following persons having a direct and demonstrable interest in the question or questions presented in the advance ruling request, or by the authorized agent of any such person:

(i) An importer in the United States;

(ii) An exporter or a producer of a good in Canada or Mexico; or

(iii) A Canadian or Mexican producer of a material that is used in the production of a good imported into the United States, but only with regard to that material and only in regard to a matter described in paragraphs (b)(6) (i) through (v) and (vii) of this section.

For purposes of this paragraph, a "person" includes an individual, corporation, partnership, association, or other entity or group.

(6) *Subject matter of advance rulings.* Customs shall issue advance rulings under this subpart concerning the following:

(i) Whether materials imported from a country other than the United States, Canada or Mexico and used in the production of a good undergo an applicable change in tariff classification set forth in General Note 12, HTSUS, as a result of production occurring entirely in the United States, Canada and/or Mexico;

(ii) Whether a good satisfies a regional value-content requirement under the transaction value method or under the net cost method as provided for in General Note 12, HTSUS, and in this part;

(iii) For purposes of determining whether a good satisfies a regional value-content requirement under General Note 12, HTSUS, and under this part, the appropriate basis or method for value to be applied by an exporter or a producer in Canada or Mexico, in accordance with the principles set forth in the appendix to this part, for calculating the transaction value of the good or of the materials used in the production of the good;

(iv) For purposes of determining whether a good satisfies a regional value-content requirement under General Note 12, HTSUS, and under this part, the appropriate basis or method for reasonably allocating costs, in accordance with the allocation methods set forth in the appendix to this part, for calculating the net cost of the good or the value of an intermediate material;

(v) Whether a good qualifies as an originating good under General Note 12, HTSUS, and under the appendix to this part;

(vi) Whether a good that re-enters the United States after having been exported from the United States to Canada or Mexico for repair or alteration qualifies for duty-free treatment in accordance with § 181.64 of this part;

(vii) Whether the proposed or actual marking of a good satisfies country of origin marking requirements under part 134 of this chapter and under the Marking Rules;

(viii) Whether an originating good qualifies as a good of Canada or Mexico under Annex 300–B, Annex 302.2 and Chapter Seven of the NAFTA; and

(ix) Whether a good is a qualifying good under Chapter Seven of the NAFTA.

§ 181.93 Submission of advance ruling requests.

(a) *Form.* A request for an advance ruling should be written in the English language and in the form of a letter. For any subject matter specified in § 181.92(b)(6) (i), (v), (vi), (vii), (viii) or (ix) of this part, the request may be directed either to the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, DC 20229, or to the Area Director of Customs, New York Seaport, 6 World Trade Center, New York, NY 10048. For any subject matter specified in § 181.92(b)(6) (ii), (iii) or (iv) of this part, the request must be directed to the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, DC 20229.

(b) *Content*—(1) *General.* Each request for an advance ruling must contain a complete statement of all relevant facts relating to the NAFTA transaction. Such facts include: The names, addresses, and other identifying information of all interested parties (if known); the name of the port or place at which any good involved in the transaction will be imported or which will otherwise have jurisdiction with respect to the act or activity described in the transaction; and a description of the transaction itself, appropriate in detail to the subject matter of the requested advance ruling.

(2) *Description of transaction*—(i) *General.* The prospective Customs transaction to which the advance ruling request relates must be described in sufficient detail to permit proper application of the relevant NAFTA provisions.

(ii) *Tariff change rulings.* If the transaction involves the importation of a good or material for which a ruling is requested as to whether a change in tariff classification has occurred, the request must contain a complete description of the good or material, a complete description of all materials used in the production of the good or material, and a complete description of all processing operations employed in the production of the good or material. In addition, the request should set forth: the principal or chief use of the good or material in the United States and the commercial, common, or technical designation of the good or material; if the good or material is composed of two or more substances, the relative quantity (by both weight and by volume) and value of each substance; any applicable special invoicing requirements set forth in part 141 of this chapter (if known); and any other information which may assist in determining the appropriate tariff classification of the good or material. The advance ruling request should also note, whenever germane, the purchase price of the good or material, and its approximate selling price in the United States. Each individual request for an advance ruling must be limited to five merchandise items, all of which must be of the same class or kind. Only NAFTA tariff change rulings will be issued under this subpart. Tariff classification rulings which do not involve the application of the NAFTA shall be issued under part 177 of this chapter.

(iii) *NAFTA rulings on regional value content.* NAFTA advance ruling requests, if involving the issue of whether a good satisfies a regional value content requirement under the transaction value method or under the net cost method as provided for in General Note 12, HTSUS, and in this part, must identify the method for which eligibility is sought. Where transaction value is the method identified, the information must be sufficient to calculate the transaction value of the good, adjusted to an F.O.B. basis; to calculate the value of all non-originating materials used by the producer in the production of the good in accordance with the provisions of this part; and for any other circumstance to make any determination relevant to the application of the regional value content requirement to the good. With regard to the net cost method, the information must include all costs relevant to determining the total cost of the good as defined in the appendix to this part; all such costs which must be subtracted from the total cost of the good as provided in the appendix to this part; the value of all materials as determined under the appendix to this part; the basis for any allocation of costs under the appendix to this part; and any other information relevant to determining the appropriate value of any cost under this part.

(3) *Samples.* Each request for an advance ruling should be accompanied by photographs, drawings, or other pictorial representations of the good and, whenever possible, by a sample of the good unless a precise description of the good is not essential to the advance ruling requested. Any good consisting of materials in chemical or physical combination for which a laboratory analysis has been prepared by or for the manufacturer should include a copy of that analysis, flow charts, CA number, and related information. A sample submitted in connection with a request for an advance ruling becomes a part of the Customs file in the matter and will be retained until the advance ruling is issued or the advance ruling request is otherwise disposed of. A sample should only be submitted with the understanding that all or a part of it may be damaged or consumed in the course of examination, testing, analysis, or other actions undertaken in connection with the advance ruling request.

(4) *Related documents.* If the question or questions presented in the advance ruling request directly relate to matters set forth in any invoice, contract, agreement, or other document, a copy of the document must be submitted with the request. (Original documents should not be submitted inasmuch as any documents or exhibits furnished with the advance ruling request become a part of the Customs file in the matter and cannot be returned.) The relevant facts reflected in any documents submitted, and an explanation of their bearing on the question or questions presented, must be expressly set forth in the advance ruling request.

(5) *Prior or current transactions.* Each request for an advance ruling must state whether, to the knowledge of the person submitting the request, the same transaction, or one identical to it, has ever been considered, or is currently being considered by any Customs office or whether, to the knowledge of the person submitting the request, the issues involved have ever been considered, or are currently being considered, by the United States Court of International Trade, the United States Court of Appeals for the Federal Circuit, or any court of appeal therefrom. Where the transaction described in the advance ruling request is but one of a series of similar and related transactions, that fact must also be stated. If a prospective transaction becomes a current transaction, the office processing the ruling request shall be so notified.

(6) *Statement of position.* If the request for an advance ruling asks that a particular determination or conclusion be reached in the advance ruling letter, a statement must be included in the request setting forth the basis for that determination or conclusion, together with a citation of all relevant supporting authority.

(7) *Privileged or confidential information.* Information which is claimed to constitute trade secrets or privileged or confidential commercial or financial information regarding the business transactions of private parties the disclosure of which would cause substantial harm to the competitive position of the person making the request (or of another interested party) must be identified clearly, and the reasons such information should not be disclosed, including, where applicable, the reasons the disclosure of the information would prejudice the competitive position of the person making the request (or of another interested party), must be set forth. An advance ruling will not be issued until all trade secret, privilege or confidentiality issues are resolved (see § 181.96(a)(3) of this part).

(c) *Signing; instruction as to reply.* The request for an advance ruling must be signed by a person authorized to make the request, as described in § 181.92(b)(5) of this part. An advance ruling requested by a principal or authorized agent may direct that the advance ruling letter be addressed to the other.

(d) *Requests for immediate consideration.* Customs will normally process requests for advance rulings in the order they are received and as expeditiously as possible, as specified in § 181.98 of this part. However, a request that a particular matter be given consideration ahead of its regular order, if made in writing at the time the request is submitted, or subsequent thereto, and showing a clear need for such treatment, will be given consideration as the particular circumstances warrant and permit. Requests for special consideration made by telegram or electronic transmission will be treated in the same manner as requests made by letter, but advance rulings will not be issued by telegram or electronic transmission. A telegram or electronic transmission must be followed up with a signed original within 14 calendar days of the submission of the telegram or electronic transmission. In no event can any assurance be given that a particular request for an advance ruling will be acted upon by the time requested.

§ 181.94 Nonconforming requests for advance rulings.

A person submitting a request for an advance ruling that does not comply with all of the provisions of this subpart will be so notified in writing, and the requirements that have not been met will be pointed out. Such person will be given a period of thirty (30) calendar days from the date of the notice (or such longer period as the notice may provide) to supply any additional information that is requested or otherwise conform the advance ruling request to the requirements referred to in the notice. The Customs file with respect to advance ruling requests which are not brought into compliance with the provisions of this subpart within the period of time allowed will be administratively closed and the request removed from active consideration. A request for an advance ruling that is removed from active consideration by reason of failure to comply with the provisions of this subpart may be treated as withdrawn. A failure to comply with the provisions of this subpart will result in the rejection of the advance ruling request with the notice specifying the deficiencies.

§ 181.95 Oral discussion of issues.

(a) *General.* A person submitting a request for an advance ruling and

desiring an opportunity to orally discuss the issue or issues involved should indicate that desire in writing at the time the advance ruling request is filed. Such a discussion will only be scheduled when, in the opinion of the Customs personnel by whom the advance ruling request is under consideration, a conference will be helpful in deciding the issue or issues involved or when a determination or conclusion contrary to that advocated in the advance ruling request is contemplated. Conferences are scheduled for the purpose of affording the parties an opportunity to freely and openly discuss the matters set forth in the advance ruling request. Accordingly, the parties will not be bound by any argument or position advocated or agreed to, expressly or by implication, during the conference unless either party subsequently agrees to be so bound in writing. The conference will not conclude with the issuance of an advance ruling letter.

(b) *Time, place and number of conferences.* If a request for a conference is granted, the person making the request will be notified of the time and place of the conference. No more than one conference with respect to the matters set forth in an advance ruling request will be scheduled, unless, in the opinion of the Customs personnel by whom the advance ruling request is under consideration, additional conferences are necessary.

(c) *Representation.* A person whose request for a conference has been granted may be accompanied at that conference by counsel or other representatives, or may designate such persons to attend the conference in his or her place.

(d) *Additional information presented at conferences.* It will be the responsibility of the person submitting the request for an advance ruling to provide for inclusion in the Customs file in the matter a written record setting forth any and all additional information, documents, and exhibits introduced during the conference to the extent that person considers such material relevant to the consideration of the advance ruling request. Such information, documents and exhibits shall be given consideration only if received by Customs within 30 calendar days following the conference.

§ 181.96 Change in status of transaction.

Each person submitting a request for an advance ruling in connection with a NAFTA transaction must immediately advise Customs in writing of any change in the status of that transaction upon becoming aware of the change. In particular, Customs must be advised when any transaction described in the advance ruling request as prospective becomes current and under the jurisdiction of a Customs field office. In addition, any person engaged in a NAFTA transaction coming under the jurisdiction of a Customs field office who has previously requested a NAFTA advance ruling with respect to that transaction must advise the field office of that fact.

§ 181.97 Withdrawal of NAFTA advance ruling requests.

Any request for an advance ruling may be withdrawn by the person submitting it at any time before the issuance of an advance ruling letter or any other final disposition of the request. All correspondence, documents, and exhibits submitted in connection with the request will be retained in the Customs file and will not be returned. In addition, the Headquarters Office may forward, to Customs field offices which have or may have jurisdiction over the transaction to which the advance ruling request relates, its views in regard to the transaction or the issues involved therein, as well as appropriate information derived from materials in the Customs file.

§ 181.98 Situations in which no NAFTA advance ruling may be issued.

(a) *General.* No advance ruling letter will be issued in response to a request therefor which fails to comply with the provisions of this subpart. No advance ruling letter will be issued in regard to a completed transaction.

(b) *Pending matters.* Where a request for an advance ruling involves an issue that is under review in connection with an origin verification under subpart G of this part or that is the subject of an administrative review procedure provided for in subpart J of this part or in part 174 of this chapter, Customs may decline to issue the requested advance ruling. In addition, no NAFTA advance ruling letter will be issued with respect to any issue which is pending before the United States Court of International Trade, the United States Court of Appeals for the Federal Circuit, or any court of appeal therefrom. Litigation before any other court will not preclude the issuance of an advance ruling letter, provided neither Customs nor any of its officers or agents is named as a defendant.

§ 181.99 Issuance of NAFTA advance rulings or other advice.

(a) *NAFTA advance ruling letters.*

(1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, Customs will, within 120 calendar days of receipt of a request, including any required information supplemental thereto, issue an advance ruling letter in the English language setting forth the position of Customs and the reasons therefor with respect to a specifically described Customs transaction whenever a request for such an advance ruling is submitted in accordance with the provisions of this subpart and it is in the sound administration of the NAFTA provisions to do so. Otherwise, a request for an advance ruling will be answered by an information letter or, in those situations in which general information is likely to be of little or no value, by a letter stating that no advance ruling can be issued. In the course of evaluating the advance ruling request Customs may solicit supplemental information from the person requesting the advance ruling. The submission of supplemental information will extend the time for response. The time for response will also be extended if it is necessary to obtain information from other government agencies or in the form of a laboratory analysis.

(2) *Submission of NAFTA advance ruling letters to field offices.* Any importer engaging in a NAFTA transaction with respect to which an advance ruling letter has been issued under this subpart either must ensure that a copy of the advance ruling letter is attached to the documents filed with the appropriate Customs office in connection with that transaction or must otherwise indicate with the information filed for that transaction that an advance ruling has been received. Any person receiving an advance ruling stating Customs determination must set forth such determination in the documents or information filed in connection with any subsequent entry of that merchandise; failure to do so may result in a rejection of the entry and the imposition of such penalties as may be appropriate. An advance ruling received after the filing of such documents or information must immediately be brought to the attention of the appropriate Customs field office.

(3) *Disclosure of NAFTA advance ruling letters.* No part of the advance ruling letter, including names, addresses, or information relating to the business transactions of private parties, shall be deemed to constitute privileged or confidential commercial or financial information or trade secrets exempt from disclosure pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), and part 103 of this chapter, or shall be deemed to be

subject to the confidentiality principle set forth in § 181.121 of this part, unless, as provided in § 181.93(b)(7) of this part, the information claimed to be exempt from disclosure is clearly identified and a valid basis for nondisclosure is set forth. Before the issuance of the advance ruling letter, the person submitting the advance ruling request will be notified of any decision adverse to his request for nondisclosure and will, upon written request to Customs within 10 working days of the date of notification, be permitted to withdraw the advance ruling request. If in the opinion of Customs an impasse exists on the issue of confidentiality and the person who submitted the advance ruling request does not withdraw the request, Customs will decline to issue the advance ruling. All advance ruling letters issued by Customs will be available, upon written request, for inspection and copying by any person (with any portions determined to be exempt from disclosure deleted).

(4) *Penalties for misrepresented or omitted material facts or for noncompliance.* If Customs determines that an issued advance ruling was based on incorrect information, the person to whom the advance ruling was issued may be subject to appropriate penalties unless that person demonstrates that he used reasonable care and acted in good faith in presenting the facts and circumstances on which the advance ruling was based. In addition, Customs may apply such measures as the circumstances may warrant in a case where a person to whom an advance ruling was issued has failed to act in accordance with the terms and conditions of the advance ruling.

(b) *Other NAFTA advice and guidance.* The Headquarters Office may on its own initiative from time to time issue other external advice and guidance with respect to issues or transactions arising under the NAFTA which come to its attention. Such NAFTA advice and guidance, which represent the official position of Customs and which are likely to be of widespread interest and application, are published in the Customs Bulletin, as described in § 181.101 of this part. Nothing in this subpart shall preclude Customs from issuing advice and guidance to its field offices concerning the application of the NAFTA.

§ 181.100 Effect of NAFTA advance ruling letters; modification and revocation.

(a) *Effect of NAFTA advance ruling letters*—(1) *General.* An advance ruling letter issued by Customs under the provisions of this subpart represents the official position of Customs with respect to the particular transaction or issue described therein and is binding on all Customs personnel in accordance with the provisions of this subpart until modified or revoked. In the absence of a change of practice or other modification or revocation which affects the principle of the advance ruling set forth in the advance ruling letter, that principle may be cited as authority in the disposition of transactions involving the same circumstances. An advance ruling letter is generally effective on the date it is issued or such later date as may be specified in the advance ruling and, commencing on its effective date, may be applied to entries for consumption and warehouse withdrawals for consumption which are unliquidated, or to other transactions with respect to which Customs has not taken final action on that date. See, however, paragraph (b) of this section (ruling letters which modify previous advance ruling letters) and § 181.101 of this part (advance ruling letters published in the Customs Bulletin).

(2) *Application of NAFTA rulings to transactions*—(i) *General.* Each NAFTA ruling letter is issued on the assumption that all of the information furnished in connection with the ruling request and incorporated in the ruling letter, either directly, by reference, or by implication, is accurate and complete in every material respect. The application of an advance ruling letter by a Customs field office to the transaction to which it is purported to relate is subject to the verification of the facts incorporated in the advance ruling letter, a comparison of the transaction described therein to the actual transaction, and the satisfaction of any conditions on which the advance ruling was based, and if the facts are materially different or a condition has not been satisfied, the treatment specified in the advance ruling will not be applied to the actual transaction. If, in the opinion of any Customs field office by whom the transaction is under consideration or review, the advance ruling letter should be modified or revoked, the findings and recommendations of that office will be forwarded to the Headquarters Office for consideration, prior to any final disposition with respect to the transaction by that office. If the transaction described in the NAFTA advance ruling letter and the actual transaction are the same, and any and all conditions set forth in the advance ruling letter have been satisfied, the advance ruling will be applied to the transaction.

(ii) *Tariff change rulings.* Each advance ruling letter concerning whether a change in tariff classification has occurred will be applied only with respect to transactions involving either articles which are identical to the sample submitted with the advance ruling request and reflect the same processing or articles which conform to the description set forth in the advance ruling letter.

(iii) *Regional value content rulings.* Each advance ruling letter concerning the application of a regional content requirement will be applied only with respect to transactions involving the same merchandise and identical facts.

(3) *Reliance on NAFTA advance rulings by others.* An advance ruling letter is subject to modification or revocation without notice to any person other than the person to whom the letter was addressed. Accordingly, no other person may rely on the advance ruling letter or assume that the principles of that advance ruling will be applied in connection with any transaction other than the one described in the letter. However, any person eligible to request an advance ruling under § 181.92(b)(5) of this part may request information as to whether a previously-issued advance ruling letter has been modified or revoked by writing the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, DC 20229, and either enclosing a copy of the advance ruling letter or furnishing other information sufficient to permit the advance ruling letter in question to be identified.

(b) *Modification or revocation of NAFTA advance ruling letters*—(1) *General.* Any NAFTA advance ruling letter may be modified or revoked:

(i) If the ruling letter reflects or is based on an error:

(A) Of fact;

(B) In the tariff classification of a good or material that is the subject of the ruling;

(C) In the application of a regional value-content requirement under General Note 12, HTSUS, and under this part;

(D) In the application of the rules for determining whether a good qualifies as a good of Canada or Mexico under Annex 300–B, Annex 302.2 or Chapter Seven of the NAFTA;

(E) In the application of the rules for determining whether a good is a qualifying good under Chapter Seven of the NAFTA; or

(F) In the application of the rules for determining whether a good qualifies for duty-free treatment under § 181.64 of this part when the good re-enters the United States after having been exported to Canada or Mexico for repair or alteration;

VOL 58 ISS 249 DEC 30 1993 UMI

(ii) If the ruling letter is not in accordance with an interpretation agreed on by the United States, Canada and Mexico regarding Chapter Three or Chapter Four of the NAFTA;

(iii) If there is a change in the material facts or circumstances on which the ruling is based;

(iv) To conform to a modification of Chapter Three, Four, Five or Seven of the NAFTA, or of the Marking Rules, or of the regulations set forth in this part; or

(v) To conform to a judicial decision or change in domestic law.

A modification or revocation of a NAFTA advance ruling letter shall be effected by Customs Headquarters by giving written notice to the person to whom the advance ruling letter was addressed.

(2) *Application of modification or revocation of NAFTA advance ruling letters.* The modification or revocation of a NAFTA advance ruling letter will not be applied to entries or warehouse withdrawals for consumption which were made prior to the effective date of such modification or revocation, except where the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.

(3) *Effective dates.* Generally, a NAFTA letter modifying or revoking an earlier advance ruling will be effective on the date it is issued. However, Customs may, upon request or on its own initiative, delay the effective date of such a modification or revocation for a period of up to 90 calendar days from the date of issuance. Such a delay may be granted at the request of the party to whom the ruling letter was issued, provided such party can demonstrate to the satisfaction of Customs that it reasonably relied on the earlier advance ruling to its detriment. The evidence of reasonable reliance must cover the period from the date of the letter modifying or revoking the advance ruling back to the date of that advance ruling and must list all transactions claimed to be covered by the modified or revoked advance ruling by entry number (or other Customs assigned number), the quantity and value of merchandise covered by each such transaction (where applicable), the ports of entry, and the dates of final action by Customs. The evidence of reliance must include contracts, purchase orders, or other materials tending to establish that future transactions were arranged based on the earlier advance ruling. The request for delay must specifically identify the prior ruling on which reliance is claimed. All persons requesting a delay will be issued a separate letter setting forth the period, if any, of the delay to be provided. In appropriate circumstances, Customs may decide to make its decision, with respect to a delay, applicable to all persons, irrespective of demonstrated reliance; in this event, a notice announcing the delay will be published in the Customs Bulletin and individual ruling letters will not be issued.

§ 181.101 Publication of decisions.

Within 90 days after issuing any precedential decision relating to any NAFTA transaction, Customs shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. Disclosure is governed by 31 CFR part 1, part 103 of this chapter, and § 181.99(a)(3) of this part.

§ 181.102 Administrative and judicial review of advance rulings.

(a) *Administrative review.* Any person who received an advance ruling issued under this subpart, or an authorized agent of such person, may request administrative review, at Customs Headquarters, of that advance ruling, including any modification or revocation thereof, by letter addressed to the Director, Office of Regulations and Rulings, U.S. Customs Service, Washington, DC 20229. Such request shall be filed within 30 calendar days after issuance of the advance ruling and shall set forth the following information:

(1) The name and address of the person seeking review and the name and address of his authorized agent if the request is signed by such an agent;

(2) The Customs identification number or employer identification number in the case of a U.S. importer and authorized agent thereof, the employer number or importer/exporter number assigned by Revenue Canada in the case of a Canadian exporter or producer and authorized agent thereof, and the federal taxpayer registry number (RFC) in the case of a Mexican exporter or producer and authorized agent thereof;

(3) The number and date of the advance ruling at issue;

(4) The numbers and dates of any involved entries for consumption or warehouse withdrawals for consumption;

(5) The nature of, and justification for, the objection to the advance ruling set forth distinctly and specifically with respect to each aspect of the advance ruling for which administrative review is sought; and

(6) Whether an oral discussion of the issues, as provided in § 181.95 of this part, is desired.

Customs will normally issue a written decision within 120 days of receipt of the request for administrative review submitted under this paragraph. However, Customs will, upon a reasonable showing of business necessity, issue a written decision within 60 days of receipt of the request for administrative review. For purposes of this paragraph, the date of receipt of the request for administrative review shall be the date on which all information necessary to process the request, including any information provided after submission of the request in connection with a conference, is filed with Customs.

(b) *Judicial review.* Any person whose claims with regard to a request for administrative review of an advance ruling have been denied in whole or in part under this section may seek judicial review by filing a civil action in the United States Court of International Trade in accordance with 28 U.S.C. 2632 within 180 days after the date of mailing of notice of the denial.

Subpart J—Review and Appeal of Adverse Marking Decisions

§ 181.111 Applicability.

This subpart sets forth the circumstances and procedures under which exporters and producers of merchandise imported into the United States may obtain information about, and administrative and judicial review of, an adverse marking decision, as provided for in Article 510 of the NAFTA. This subpart does not apply to the review of advance rulings issued under Article 509 of the NAFTA (see subpart I of this part) or to the review of determinations that a good is not an originating good under General Note 12, HTSUS, and the appendix to this part (see part 174 of this chapter).

§ 181.112 Definitions.

For purposes of this subpart, the following words and phrases have the meanings indicated: (a) "Adverse marking decision" means a decision made by the district director which an exporter or producer of merchandise believes to be contrary to the provisions of Annex 311 of the NAFTA and which may be protested by the importer pursuant to section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and part 174 of this chapter. Notification of an adverse marking decision is generally given to an importer in the form of a Customs Form 4647 (Notice to Mark and/or Notice to Redeliver) and/or by

assessing marking duties on improperly marked merchandise. Examples of adverse marking decisions include determinations by the district director that: an imported article is not a good of a NAFTA country, as determined under the Marking Rules, and that it therefore cannot be marked "Canada" or "Mexico"; that a good of a NAFTA country is not marked in a manner which is sufficiently permanent; and that a good of a NAFTA country does not qualify for an exception from marking specified in Annex 311 of the NAFTA. Adverse marking decisions do not include: Decisions issued in response to requests for advance rulings under subpart I of this part or for internal advice under part 177 of this chapter; decisions on protests under part 174 of this chapter; and determinations that an article does not qualify as an originating good under General Note 12, HTSUS, and the appendix to this part.

(b) An "exporter" of merchandise is an exporter located in Canada or Mexico who must maintain records in that country relating to the transaction to which the adverse marking decision relates. The records must be sufficient to enable Customs to evaluate the merits of the exporter's claim(s) regarding the adverse marking decision.

(c) A "producer" of merchandise is a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles such merchandise in Canada or Mexico.

§ 181.113 Request for Basis of Adverse Marking Decision.

(a) *Request; form and filing.* The exporter or producer of the merchandise which is the subject of an adverse marking decision may request a statement concerning the basis for the decision by filing a typewritten request, in English, with the district director who issued the decision. The request should be on letterhead paper in the form of a letter and clearly designated as a "Request for Basis of Adverse Marking Decision" and shall be signed by the exporter, producer or his authorized agent. The provisions of § 174.3 of this chapter shall apply for purposes of signature by a person other than the principal.

(b) *Content.* The Request for Basis of Adverse Marking Decision letter shall set forth the following information:

(1) The name and address of the exporter or producer of the merchandise and the name and address of any authorized agent filing the request on behalf of such principal;

(2) A statement that the inquirer is the exporter or producer of the merchandise that was the subject of the adverse marking decision;

(3) In the case of a Canadian exporter or producer, the employer number assigned by Revenue Canada, Customs and Excise; in the case of a Mexican exporter or producer, the Federal taxpayer registry number (RFC); and the Customs identification number of an authorized agent filing the request on behalf of such principal;

(4) The number and date of each entry involved in the request;

(5) A specific description of the merchandise which is the subject of the adverse marking decision; and

(6) A complete statement of all relevant facts relating to the adverse marking decision and the transaction to which it relates, including the date of the decision.

§ 181.114 Customs response to request.

(a) *Time for response.* The district director will issue a written response to the requestor within 30 days of receipt of a request containing the information specified in § 181.113 of this part. If the request is incomplete, such that the transaction in question cannot be identified, the district director will notify the requestor in writing within 30 days of receipt of the request regarding what information is needed.

(b) *Content.* The response by the district director shall include the following:

(1) A statement concerning the basis for the adverse marking decision;

(2) A copy of the relevant Customs Form 4647 (Notice to Mark and/or Notice to Redeliver), if one was issued to the importer and is available. If the basis for the adverse marking decision is indicated on the Customs Form 4647, no statement under paragraph (b)(1) of this section is required;

(3) A statement as to whether the importer has filed a protest regarding the adverse marking decision and, if so, where the protest was filed and the protest number; and

(4) A statement concerning the exporter's or producer's right to either intervene in the importer's protest as provided in § 181.115 of this part or file a petition as provided in § 181.116 of this part.

§ 181.115 Intervention in importer's protest.

(a) *Conditional right to intervene.* An exporter or producer of merchandise does not have an independent right to protest an adverse marking decision. However, if an importer protests the adverse marking decision in accordance with § 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and part 174 of this chapter, the exporter or producer of the merchandise which is the subject of the adverse marking decision may intervene in the importer's protest. Such intervention shall not affect any time limits applicable to the protest or delay action on the protest.

(b) *Form and filing of intervention.* In order to intervene in an importer's protest, as provided for in paragraph (a) of this section, the exporter or producer of the merchandise shall file, in triplicate, a typewritten statement of intervention, in English, with the district director or port director with whom the protest was filed. The statement should be on letterhead paper in the form of a letter and should be clearly designated "NAFTA Exporter or Producer Intervention in Protest". The statement shall be signed by the exporter, producer or his authorized agent. The provisions of § 174.3 of this chapter shall apply for purposes of signature by a person other than the principal.

(c) *Content.* The NAFTA Exporter or Producer Intervention in Protest letter shall include the following:

(1) The name and address of the exporter or producer of the merchandise and the name and address of any authorized agent filing the request on behalf of such principal;

(2) In the case of a Canadian exporter or producer, the employer number assigned by Revenue Canada, Customs and Excise; in the case of a Mexican exporter or producer, the Federal taxpayer registry number (RFC); and the Customs identification number of an authorized agent filing the request on behalf of such principal;

(3) The number and date of each entry involved in the adverse marking decision;

(4) A specific description of the merchandise which is the subject of the adverse marking decision;

(5) A complete statement of all relevant facts relating to the adverse marking decision and the transaction to which it relates, including the date of the decision;

(6) A detailed statement of position regarding why the exporter or producer believes the adverse marking decision is contrary to the provisions of Annex 311 of the NAFTA;

(7) A statement as to whether a Request for Basis of Adverse Marking Decision was filed under § 181.113 of this part, and if so, the date of such Request and of any Customs response thereto issued under § 181.114 of this part. Copies of the Request and the Customs response shall be submitted, if available;

(8) The number assigned to the importer's protest;

(9) A statement that the intervenor is the exporter or producer of the merchandise that was the subject of the adverse marking decision being protested by the importer and, if the intervenor is the exporter, a statement that it maintains sufficient records to enable Customs to evaluate the merits of its claim(s) regarding the adverse marking decision; and

(10) If the intervenor prefers that the principle of confidentiality set forth in § 181.121 of this part be applied to the information submitted under this section, a statement to that effect. If no such statement is included in the letter, the intervention and information submitted in connection therewith shall be subject to the same treatment as that provided in the case of requests by all interested parties for consolidation of protests as set forth in § 174.15(b)(1) of this chapter.

(d) *Effect of Intervention.* The rights of the intervenor under this section are subordinate to the importer's protest rights. Accordingly, intervention by an exporter or producer of merchandise will not affect the procedures under part 174 of this chapter, and the importer's elections concerning accelerated disposition and application for further review of the protest will govern how the protest is handled and how the intervention is considered. If the importer withdraws or settles the protest, the exporter or producer has no right to continue the intervention action.

(e) *Action by district director.* If final administrative action has already been taken with respect to the importer's protest at the time the intervention is filed, the district director shall so advise the exporter or producer and, if the importer has filed a civil action in the Court of International Trade as a result of a denial of the protest, the district director shall advise the exporter or producer of that filing and of the exporter's or producer's right to intervene in such judicial proceeding. If final administrative action has not been taken on the protest, the district director shall forward the intervention letter to the Customs office which has the importer's protest under review for consideration in connection with the protest.

(f) *Final disposition.* The intervenor shall be notified in writing of the final disposition of the protest. If the protest is denied in whole or in part, the intervenor shall be furnished a copy of the notice given to the importer under § 174.29.

§ 181.116 Petition regarding adverse marking decision.

(a) *Right to petition.* If the importer does not protest an adverse marking decision in accordance with § 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and part 174 of this chapter, the exporter or producer of the merchandise which was the subject of the adverse marking decision may file a petition with Customs requesting reconsideration of the decision. The petition may not be filed until after the importer's time to protest the adverse marking decision has expired (see § 174.12(e) of this chapter for the time limits for filing protests). If the importer filed a protest upon which final administrative action has been taken, the exporter or producer may file a petition under this section, provided that the exporter or producer was not given notice of the pending protest pursuant to § 181.114 of this part. If the importer filed a protest on which final administrative action has not been taken and notice of the pending protest was not provided to the exporter or producer under § 181.114 of this part, a petition filed under this section shall be treated by the district director as an intervention under § 181.115 of this part.

(b) *Form and filing of petition.* A petition under this section shall be typewritten, in English, and shall be filed, in triplicate, with the district director who issued the adverse marking decision. The petition under this subpart should be on letterhead paper in the form of a letter, clearly designated as a "Petition for NAFTA Review of Adverse Marking Decision" and shall be signed by the exporter, producer or his authorized agent. The provisions of § 174.3 of this chapter shall apply for purposes of signature by a person other than the principal.

(c) *Content.* The Petition for NAFTA Review of Adverse Marking Decision letter shall contain all the information specified § 181.115 of this part, except for the protest number. It shall also include a statement that petitioner was not notified by Customs in writing of a pending protest.

(d) *Review of petition*—(1) *Review by district director.* Within 60 days of the date of receipt of the petition, the district director shall determine if the petition is to be granted or denied, in whole or in part. If, after reviewing the petition, the district director agrees with all of the petitioner's claims and determines that the initial adverse marking decision was not correct, a written notice granting the petition shall be issued to the petitioner. A description of the merchandise, a brief summary of the issue(s) and the district director's findings shall be forwarded to the Director, Commercial Rulings Division, Customs Headquarters, for publication in the Customs Bulletin. If, after reviewing the petition, the district director determines that the initial adverse marking decision was correct in its entirety, a written notice shall be issued to the petitioner advising that the matter has been forwarded to the Director, Commercial Rulings Division, Customs Headquarters, for further review and decision. All relevant background information, including available samples, a description of the adverse marking decision and the reasons for the decision, and the district director's recommendation shall be furnished to Headquarters.

(2) *Review by Headquarters.* Within 120 days of the date the petition and background information are received at Customs Headquarters, the Director, Commercial Rulings Division, shall determine if the petition is to be granted or denied, in whole or in part, and the petitioner shall be notified in writing of the determination. If the petition is granted in whole or in part, a description of the merchandise, a brief summary of the issue(s) and the director's findings will be published in the Customs Bulletin.

(3) *Effect of granting the petition.* The decision on the petition, if contrary to the initial adverse marking decision, will be implemented with respect to merchandise entered or withdrawn from warehouse for consumption after 30 days from the date on which the notice of determination is published in the Customs Bulletin.

(f) *Pending litigation.* No decision on a petition will be issued under this section with respect to any issue which is pending before the United States Court of International Trade, the United States Court of Appeals for the Federal Circuit, or any court of appeal therefrom. Litigation before any other court will not preclude the issuance of a decision on a petition under this section, provided neither Customs nor any of its officers or agents is named as a defendant.

(g) *Judicial review of denial of petition.*

Any person whose petition under this section has been denied, in whole or in part, may contest the denial by filing a civil action in the United States Court of International Trade within 30 days after the date of mailing of the notice of denial.

Subpart K—Confidentiality of Business Information

§ 181.121 Maintenance of confidentiality.

The district director or other Customs officer who has possession of confidential business information collected pursuant to this part shall, in accordance with part 103 of this chapter, maintain its confidentiality and protect it from any disclosure that could prejudice the competitive position of the persons providing the information.

§ 181.122 Disclosure to government authorities.

Nothing in § 181.121 of this part shall preclude the disclosure of confidential business information to governmental authorities in the United States responsible for the administration and enforcement of determinations of origin and of customs and revenue matters.

Subpart L—Rules of Origin

§ 181.131 Rules of origin.

The regulations implementing the rules of origin provisions of General Note 12, HTSUS, and Chapter Four of the NAFTA are contained in the appendix to this part.

Appendix—Rules of Origin Regulations

SECTION 1. CITATION

This Appendix may be cited as the *NAFTA Rules of Origin Regulations.*

PART I

SECTION 2. DEFINITIONS AND INTERPRETATION

Definitions

(1) For purposes of this Appendix,

"accessories, spare parts or tools that are delivered with a good and form part of the good's standard accessories, spare parts or tools" means goods that are delivered with a good, whether or not they are physically affixed to that good, and that are used for the transport, protection, maintenance or cleaning of the good, for instruction in the assembly, repair or use of that good, or as replacements for consumable or interchangeable parts of that good;

"adjusted to an F.O.B. basis" means, with respect to a good, adjusted by

(a) deducting

(i) the costs of transporting the good after it is shipped from the point of direct shipment,

(ii) the costs of unloading, loading, handling and insurance that are associated with that transportation, and

(iii) the cost of packing materials and containers,

where those costs are included in the transaction value of the good, and

(b) adding

(i) the costs of transporting the good from the place of production to the point of direct shipment,

(ii) the costs of loading, unloading, handling and insurance that are associated with that transportation, and

(iii) the costs of loading the good for shipment at the point of direct shipment,

where those costs are not included in the transaction value of the good;

"Agreement" means the *North American Free Trade Agreement;*

"applicable change in tariff classification" means, with respect to a non-originating material used in the production of a good, a change in tariff classification specified in a rule set out in Schedule I for the tariff provision under which the good is classified;

"automotive component" means a good that is referred to in column I of an item of Schedule V;

"automotive component assembly" means a good, other than a heavy-duty vehicle, that incorporates an automotive component;

"costs incurred in packing" means, with respect to a good or material, the value of the packing materials and containers in which the good or material is packed for shipment and the labor costs incurred in packing it for shipment, but does not include the costs of preparing and packaging it for retail sale;

"customs value" means

(a) in the case of Canada, value for duty as defined in the *Customs Act*, except that for purposes of determining that value the references in section 55 of that Act to "in accordance with the regulations made under the *Currency Act*" shall be read as a reference to "in accordance with subsection 3(1) of these Regulations",

(b) in the case of Mexico, the *valor en aduana* as determined in accordance with the *Ley Aduanera*, converted, in the event such value is not expressed in Mexican currency, to Mexican currency at the rate of exchange determined in accordance with subsection 3(1) of these Regulations, and

(c) in the case of the United States, the value of imported merchandise as determined by the Customs Service in accordance with section 402 of the *Tariff Act of 1930*, converted, in the event such value is not expressed in United States currency, to United States currency at the rate of exchange determined in accordance with subsection 3(1) of these Regulations.

"days" means calendar days, and includes weekends and holidays;

"direct labor costs" means costs, including fringe benefits, that are associated with employees who are directly involved in the production of a good;

"direct material costs" means the value of materials, other than indirect materials and packing materials and containers, that are used in the production of a good;

"direct overhead" means costs, other than direct material costs and direct labor costs, that are directly associated with the production of a good;

"enterprise" means any entity constituted or organized under applicable laws, whether or not for profit and whether privately owned or governmentally owned, including any corporation, trust, partnership, sole proprietorship, joint venture or other association;

"excluded costs" means sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs;

"fungible goods" means goods that are interchangeable for commercial purposes and the properties of which are essentially identical;
"fungible materials" means materials that are interchangeable for commercial purposes and the properties of which are essentially identical;
"Harmonized System" means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes and Chapter Notes, as set out in
(a) in the case of Canada, the *Customs Tariff*,
(b) in the case of Mexico, the *Tarifa de la Ley del Impuesto General de Importación*, and
(c) in the case of the United States, the *Harmonized Tariff Schedule of the United States*;
"heavy-duty vehicle" means a motor vehicle provided for in any of heading 8701, tariff items 8702.10.30 and 8702.10.30 (vehicles for the transport of 16 or more persons), subheadings 8704.10, 8704.22, 8704.23, 8704.32 and 8704.90 and heading 8705 and 8706;
"identical goods" means, with respect to a good, goods that
(a) are the same in all respects as that good, including physical characteristics, quality and reputation but excluding minor differences in appearance,
(b) were produced in the same country as that good, and
(c) were produced
(i) by the producer of that good, or
(ii) by another producer, where no goods that satisfy the requirements of paragraphs (a) and (b) were produced by the producer of that good;
"identical materials" means, with respect to a material, materials that
(a) are the same as that material in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance,
(b) were produced in the same country as that material, and
(c) were produced
(i) by the producer of that material, or
(ii) by another producer, where no materials that satisfy the requirements of paragraphs (a) and (b) were produced by the producer of that material;
"incorporated" means, with respect to the production of a good, a material that is physically incorporated into that good, and includes a material that is physically incorporated into another material before that material or any subsequently produced material is used in the production of the good;
"indirect material" means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, and includes
(a) fuel and energy,
(b) tools, dies and molds,
(c) spare parts and materials used in the maintenance of equipment and buildings,
(d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings,
(e) gloves, glasses, footwear, clothing, safety equipment and supplies,
(f) equipment, devices and supplies used for testing or inspecting the other goods,
(g) catalysts and solvents, and
(h) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be part of that production;
"interest costs" means all costs paid or payable by a person to whom credit is, or is to be advanced, for the advancement of credit or the obligation to advance credit;
"intermediate material" means a self-produced material that is used in the production of a good and is designated as an intermediate material under section 7(4);
"light-duty automotive good" means a light-duty vehicle or a good of a tariff provision listed in Schedule IV that is subject to a regional value-content requirement and is for use as original equipment in the production of a light-duty vehicle;
"light-duty vehicle" means a motor vehicle provided for in any of tariff items 8702.10.60 and 8702.10.60 (vehicles for the transport of 15 or fewer persons) and subheadings 8703.21 through 8703.90, 8704.21 and 8704.31;
"listed material" means a good that is referred to in column II of an item of Schedule V;
"location of the producer" means,
(a) where the warehouse or other receiving station at which a producer receives materials for use by the producer in the production of a good is located within a radius of 75 km (46.60 miles) from the place at which the producer produces the good, the location of that warehouse or other receiving station, and
(b) in any other case, the place at which the producer produces the good in which a material is to be used;
"material" means a good that is used in the production of another good, and includes a part or ingredient;
"motor vehicle assembler" means a producer of motor vehicles and any related person with whom, or joint venture in which, the producer participates with respect to the production of motor vehicles;
"month" means a calendar month;
"NAFTA country" means a Party to the Agreement;
"national" means a natural person who is a citizen or permanent resident of a NAFTA country, and includes
(a) with respect to Mexico, a national or citizen according to Articles 30 and 34, respectively, of the Mexican Constitution, and
(b) with respect to the United States, a "national of the United States" as defined in the *Immigration and Nationality Act* on the date of entry into force of the Agreement;
"net cost method" means the method of calculating the regional value content of a good that is set out in section 6(3);

"non-allowable interest costs" means interest costs incurred by a producer on the producer's debt obligations that are more than 700 basis points above the yield on debt obligations of comparable maturities issued by the federal government of the country in which the producer is located;
"non-originating good" means a good that does not qualify as originating under this Appendix;
"non-originating material" means a material that does not qualify as originating under this Appendix;
"original equipment" means a material that is incorporated into a motor vehicle before the first transfer of title or consignment of the motor vehicle to a person who is not a motor vehicle assembler, and that is
(a) a good of a tariff provision listed in Schedule IV, or
(b) an automotive component assembly, automotive component, sub-component or listed material;
"originating good" means a good that qualifies as originating under this Appendix;
"originating material" means a material that qualifies as originating under this Appendix;
"other costs," with respect to total cost, means all costs that are not product costs or period costs;
"packaging materials and containers" means materials and containers in which a good is packaged for retail sale;
"packing materials and containers" means materials and containers that are used to protect a good during transportation, but does not include packaging materials and containers;
"payments" means, with respect to royalties and sales promotion, marketing and after-sales service costs, the costs expensed on the books of a producer, whether or not an actual payment is made;
"period costs" means costs, other than product costs, that are expensed in the period in which they are incurred;
"person" means a natural person or an enterprise;
"person of a NAFTA country" means a national, or an enterprise constituted or organized under the laws of a NAFTA country;
"point of direct shipment" means the location from which a producer of a good normally ships that good to the buyer of the good;
"producer" means a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles a good;
"product costs" means costs that are associated with the production of a good, and includes the value of materials, direct labor costs and direct overhead;
"production" means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good;
"related person" means a person related to another person on the basis that
(a) they are officers or directors of one another's businesses,
(b) they are legally recognized partners in business,
(c) they are employer and employee,
(d) any person directly or indirectly owns, controls or holds 25 percent or more of the outstanding voting stock or shares of each of them,
(e) one of them directly or indirectly controls the other,
(f) both of them are directly or indirectly controlled by a third person, or
(g) they are members of the same family (members of the same family are natural or adopted children, brothers, sisters, parents, grandparents, or spouses);
"reusable scrap or by-product" means waste and spoilage that is generated by the producer of a good and that is used in the production of a good or sold by that producer;
"right to use," for purposes of the definition of royalties, includes the right to sell or distribute a good;
"royalties" means payments of any kind, including payments under technical assistance agreements or similar agreements, made as consideration for the use of, or right to use, any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula or process, excluding those payments under technical assistance agreements or similar agreements that can be related to specific services such as
(a) personnel training, without regard to where performed, and
(b) if performed in the territory of one or more of the NAFTA countries, engineering, tooling, die-setting, software design and similar computer services, or other services;
"sales promotion, marketing and after-sales service costs" means the following costs related to sales promotion, marketing and after-sales service:
(a) sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;
(b) sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;
(c) salaries and wages, sales commissions, bonuses, benefits (for example, medical, insurance, pension), travelling and living expenses, membership and profesional fees, for sales promotion, marketing and after-sales service personnel;
(d) recruiting and training of sales promotion, marketing and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;
(e) product liability insurance;
(f) office supplies for sales promotion, marketing and after-sales service of goods, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;
(g) telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;
(h) rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centers;

(i) property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centers, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer; and
(j) payments by the producer to other persons for warranty repairs;
"self-produced material" means a material that is produced by the producer of a good and used in the production of that good;
"shipping and packing costs" means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale;
"similar goods" means, with respect to a good, goods that
(a) although not alike in all respects to that good, have similar characteristics and component materials, that enable the goods to perform the same functions and to be commercially interchangeable with that good,
(b) were produced in the same country as that good, and
(c) were produced
(i) by the producer of that good, or
(ii) by another producer, where no goods that satisfy the requirements of paragraphs (a) and (b) were produced by the producer of that good;
"similar materials" means, with respect to a material, materials that
(a) although not alike in all respects to that material, have similar characteristics and component materials, that enable the materials to perform the same functions and to be commercially interchangeable with that material,
(b) were produced in the same country as that material, and
(c) were produced
(i) by the producer of that material, or
(ii) by another producer, where no materials that satisfy the requirements of paragraphs (a) and (b) were produced by the producer of that material;
"subject to a regional value-content requirement" means, with respect to a good, that the provisions of this Appendix that are applied to determine whether the good is an originating good include a regional value-content requirement;
"sub-component" means a good that comprises a listed material and one or more other materials or listed materials;
"tariff provision" means a heading, subheading or tariff item;
"territory" means, with respect to
(a) Canada, the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic law, Canada may exercise rights with respect to the seabed and subsoil and their natural resources,
(b) Mexico,
(i) the states of the Federation and the Federal District,
(ii) the islands, including the reefs and keys, in adjacent seas,
(iii) the islands of Guadalupe and Revillagigedo situated in the Pacific Ocean,
(iv) the continental shelf and the submarine shelf of such islands, keys and reefs,
(v) the waters of the territorial seas, in accordance with international law, and its interior maritime waters,
(vi) the space located above the national territory, in accordance with international law, and
(vii) any areas beyond the territorial seas of Mexico within which, in accordance with international law, including the *United Nations Convention on the Law of the Sea*, and its domestic law, Mexico may exercise rights with respect to the seabed and subsoil and their natural resources, and
(c) the United States,
(i) the customs territory of the United States, which includes the 50 states, the District of Columbia and Puerto Rico,
(ii) the foreign trade zones located in the United States and Puerto Rico, and
(iii) any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources;
"total cost" means the total of all product costs, period costs and other costs incurred in the territory of one or more of the NAFTA countries;
"transaction value method" means the method of calculating the regional value content of a good that is set out in subsection 6(2);
"used" means used or consumed in the production of a good;
"verification of origin" means a verification of origin of goods under
(a) in the case of Canada, paragraph 42.1(1)(a) or subsection 42.2(2) of the *Customs Act*,
(b) in the case of Mexico, Article 506 of the Agreement, and
(c) in the case of the United States, section 509 of the *Tariff Act of 1930, as amended*.

Interpretation: "similar"

(2) For purposes of the definitions of "similar goods" and "similar materials," the quality of the goods or materials, their reputation and the existence of a trademark are among the factors to be considered for purposes of determining whether goods or materials are similar.

Interpretation: terms used to refer to HTSUS; use of term "books"

(3 For purposes of this Appendix,
(a) "chapter," unless otherwise indicated, refers to a chapter of the Harmonized System;
(b) "heading" refers to any four-digit number, or the first four digits of any number, set out in the column "Heading/Subheading" in the Harmonized System;

(c) "subheading" refers to any six-digit number, or the first six digits of any number, set out in the column "Heading/Subheading" in the Harmonized System;
(d) "tariff item" refers to any eight-digit number set out in the column "Heading/Subheading" in the Harmonized System;
(e) any reference to a tariff item in Chapter Four of the Agreement or this Appendix that includes letters shall be reflected as the appropriate eight-digit number in the Harmonized System as implemented in each NAFTA country; and
(f) "books" refers to,
(i) with respect to the books of a person who is located in a NAFTA country,
(A) books and other documents that support the recording of revenues, expenses, costs, assets and liabilities and that are maintained in accordance with Generally Accepted Accounting Principles set out in the publications listed in Schedule VI with respect to the territory of the NAFTA country in which the person is located, and
(B) financial statements, including note disclosures, that are prepared in accordance with Generally Accepted Accounting Principles set out in the publications listed in Schedule VI with respect to the territory of the NAFTA country in which the person is located, and
(ii) with respect to the books of a person who is located outside the territories of the NAFTA countries,
(A) books and other documents that support the recording of revenues, expenses, costs, assets and liabilities and that are maintained in accordance with generally accepted accounting principles applied in that location or, where there are no such principles, in accordance with the International Accounting Standards, and
(B) financial statements, including note disclosures, that are prepared in accordance with generally accepted accounting principles applied in that location or, where there are no such principles, in accordance with the International Accounting Standards.

Use of Examples to illustrate the application of a provision

(4) Where an example, referred to as an "Example," is set out in this Appendix, the example is for purposes of illustrating the application of a provision, and where there is any inconsistency between the example and the provision, the provision prevails to the extent of the inconsistency.
(5) Except as otherwise provided, references in this Appendix to domestic laws of the NAFTA countries apply to those laws as they may be amended or superseded.

SECTION 3. CURRENCY CONVERSION

(1) Where the value of a good or a material is expressed in a currency other than the currency of the country in which the producer of the good is located, that value shall be converted to the currency of the country in which that producer is located on the basis of
(a) in the case of the sale of that good or the purchase of that material, the rate of exchange used by the producer for purposes of recording that sale or purchase, as the case may be, and
(b) in the case of a material that is acquired by the producer other than by a purchase,
(i) where the producer used a rate of exchange for purposes of recording another transaction in that other currency that occurred within 30 days of the date on which the producer acquired the material, that rate, and
(ii) in any other case,
(A) with respect to a producer located in Canada, the rate of exchange referred to in section 5 of the *Currency Exchange for Customs Valuation Regulations* for the date on which the material was shipped directly to the producer,
(B) with respect to a producer located in Mexico, the rate of exchange published by the *Banco de Mexico* in the *Diario Oficial de la Federacion*, under the title *"TIPO de cambio para solventar obligaciones denominadas en moneda extranjera pagaderas en la Republica Mexicana"*, for the date on which the material was shipped directly to the producer, and
(C) with respect to a producer located in the United States, the rate of exchange referred to in 31 U.S.C. 5151 for the date on which the material was shipped directly to the producer.
(2) Where a producer of a good has a statement referred to in section 9, 10 or 14 that includes information in a currency other than the currency of the country in which that producer is located, the currency shall be converted to the currency of the country in which the producer is located on the basis of
(a) if the material was purchased by the producer in the same currency as the currency in which the information in the statement is provided, the rate of exchange used by the producer for purposes of recording the purchase,
(b) if the material was purchased by the producer in a currency other than the currency in which the information in the statement is provided,
(i) where the producer used a rate of exchange for purposes of recording a transaction in that other currency that occurred within 30 days of the date on which the producer acquired the material, that rate, and
(ii) in any other case,
(A) with respect to a producer located in Canada, the rate of exchange referred to in section 5 of the *Currency Exchange for Customs Valuation Regulations* for the date on which the material was shipped directly to the producer,
(B) with respect to a producer located in Mexico, the rate of exchange published by the *Banco de Mexico in the Diario Oficial de la Federacion*, under the title *"TIPO de cambio para solventar obligaciones denominadas en moneda extranjera pagaderas en la Republica Mexicana"*, for the date on which the material was shipped directly to the producer, and
(C) with respect to a producer located in the United States, the rate of exchange referred to in 31 U.S.C. 5151 for the date on which the material was shipped directly to the producer; and
(c) if the material was acquired by the producer other than by a purchase,

(i) where the producer used a rate of exchange for purposes of recording a transaction in that other currency that occurred within 30 days of the date on which the producer acquired the material, that rate, and
(ii) in any other case,
(A) with respect to a producer located in Canada, the rate of exchange referred to in section 5 of the *Currency Exchange for Customs Valuation Regulations* for the date on which the material was shipped directly to the producer,
(B) with respect to a producer located in Mexico, the rate of exchange published by the *Banco de Mexico* in the *Diario Oficial de la Federacion*, under the title *"TIPO de cambio para solventar obligaciones denominadas en moneda extranjera pagaderas en la Republica Mexicana"*, for the date on which the material was shipped directly to the producer, and
(C) with respect to a producer located in the United States, the rate of exchange referred to in 31 U.S.C. 5151 for the date on which the material was shipped directly to the producer.

PART II
SECTION 4. ORIGINATING GOODS
Identification of goods which are "wholly obtained or produced"

(1) A good originates in the territory of a NAFTA country where the good is
(a) a mineral good extracted in the territory of one or more of the NAFTA countries;
(b) a vegetable or other good harvested in the territory of one or more of the NAFTA countries;
(c) a live animal born and raised in the territory of one or more of the NAFTA countries;
(d) a good obtained from hunting, trapping or fishing in the territory of one or more of the NAFTA countries;
(e) fish, shellfish or other marine life taken from the sea by a vessel registered or recorded with a NAFTA country and flying its flag;
(f) a good produced on board a factory ship from a good referred to in paragraph (e), where the factory ship is registered or recorded with the same NAFTA country as the vessel that took that good and flies that country's flag;
(g) a good taken by a NAFTA country or a person of a NAFTA country from or beneath the seabed outside the territorial waters of that country, where a NAFTA country has the right to exploit that seabed;
(h) a good taken from outer space, where the good is obtained by a NAFTA country or a person of a NAFTA country and is not processed outside the territories of the NAFTA countries;
(i) waste and scrap derived from
(i) production in the territory of one or more of the NAFTA countries, or
(ii) used goods collected in the territory of one or more of the NAFTA countries, where those goods are fit only for the recovery of raw materials; or
(j) a good produced in the territory of one or more of the NAFTA countries exclusively from a good referred to in any of paragraphs (a) through (i), or from the derivatives of such a good, at any stage of production.

Goods made from non-originating materials: change in tariff classification requirement; regional value-content requirement

(2) A good originates in the territory of a NAFTA country where
(a) each of the non-originating materials used in the production of the good undergoes the applicable change in tariff classification as a result of production that occurs entirely in the territory of one or more of the NAFTA countries, where the applicable rule in Schedule I for the tariff provision under which the good is classified specifies only a change in tariff classification, and the good satisfies all other applicable requirements of this Appendix;
(b) each of the non-originating materials used in the production of the good undergoes the applicable change in tariff classification as a result of production that occurs entirely in the territory of one or more of the NAFTA countries and the good satisfies the applicable regional value-content requirement, where the applicable rule in Schedule I for the tariff provision under which the good is classified specifies both a change in tariff classification and a regional value-content requirement, and the good satisfies all other applicable requirements of this Appendix; or
(c) the good satisfies the applicable regional value-content requirement, where the applicable rule in Schedule I for the tariff provision under which the good is classified specifies only a regional value-content requirement, and the good satisfies all other applicable requirements of this Appendix.

Goods made exclusively from originating materials

(3) A good originates in the territory of a NAFTA country where the good is produced entirely in the territory of one or more of the NAFTA countries exclusively from originating materials.

Exceptions to the change in tariff classification requirement

(4) A good originates in the territory of a NAFTA country where
(a) except in the case of a good provided for in any of Chapters 61 through 63,
(i) the good is produced entirely in the territory of one or more of the NAFTA countries,
(ii) one or more of the non-originating materials used in the production of the good do not undergo an applicable change in tariff classification because the materials were imported together, whether or not with originating materials, into the territory of a NAFTA country as an unassembled or disassembled good, and were classified as an assembled good pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System,
(iii) the regional value content of the good, calculated in accordance with section 6, is not less than 60 percent where the transaction value method is used, or is not less than 50 percent where the net cost method is used, and
(iv) the good satisfies all other applicable requirements of this Appendix, including any applicable, higher regional value-content requirement provided for in section 13 or Schedule I; or
(b) except in the case of a good provided for in any of Chapters 61 through 63,
(i) the good is produced entirely in the territory of one or more of the NAFTA countries,

(ii) one or more of the non-originating materials used in the production of the good do not undergo an applicable change in tariff classification because
(A) those materials are provided for under the Harmonized System as parts of the good, and
(B) the heading for the good provides for both the good and its parts and is not further subdivided into subheadings, or the subheading for the good provides for both the good and its parts,
(iii) the non-originating materials that do not undergo a change in tariff classification in the circumstances described in subparagraph (ii) and the good are not both classified as parts of goods under the heading or subheading referred to in subparagraph (ii)(B),
(iv) each of the non-originating materials that is used in the production of the good and is not referred to in subparagraph (iii) undergoes an applicable change in tariff classification or satisfies any other applicable requirement set out in Schedule I,
(v) the regional value content of the good, calculated in accordance with section 6, is not less than 60 percent where the transaction value method is used, or is not less than 50 percent where the net cost method is used, and
(vi) the good satisfies all other applicable requirements of this Appendix, including any applicable, higher regional value-content requirement provided for in section 13 or Schedule I.

Interpretation: heading or subheading which provides for both a good and parts of the good

(5) For purposes of subsection (4)(b),
(a) the determination of whether a heading or subheading provides for a good and its parts shall be made on the basis of the nomenclature of the heading or subheading and the relevant Section or Chapter Notes, in accordance with the General Rules for the Interpretation of the Harmonized System; and
(b) where, in accordance with the Harmonized System, a heading includes parts of goods by application of a Section Note or Chapter Note of the Harmonized System and the subheadings under that heading do not include a subheading designated "Parts", a subheading designated "Other" under that heading shall be considered to cover only the goods and parts of the goods that are themselves classified under that subheading.

(6) For purposes of subsection (2), where Schedule I sets out two or more alternative rules for the tariff provision under which a good is classified, if the good satisfies the requirements of one of those rules, it need not satisfy the requirements of another of the rules in order to qualify as an originating good.

Special rule for certain goods

(7) A good originates in the territory of a NAFTA country if the good is referred to in Section B of Table 308.1.1 of Annex 308.1 to Chapter Three of the Agreement and is imported from the territory of a NAFTA country at a time when the NAFTA countries' most-favored-nation rate of duty for that good is in accordance with paragraph 1 of Section A of that Annex.

SECTION 5. DE MINIMIS
De minimis rule for non-originating materials that do not undergo a required tariff change

(1) Except as otherwise provided in subsection (4), a good shall be considered to originate in the territory of a NAFTA country where the value of all non-originating materials that are used in the production of the good and that do not undergo an applicable change in tariff classification as a result of production occurring entirely in the territory of one or more of the NAFTA countries is not more than seven percent
(a) of the transaction value of the good determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis, or
(b) of the total cost of the good, where there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of that Schedule,
provided that,
(c) if, under the rule in which the applicable change in tariff classification is specified, the good is also subject to a regional value-content requirement, the value of those non-originating materials shall be taken into account in calculating the regional value content of the good in accordance with the method set out for that good, and
(d) the good satisfies all other applicable requirements of this Appendix.

(2) For purposes of subsection (1), where
(a) Schedule I sets out two or more alternative rules for the tariff provision under which the good is classified, and
(b) the good, in accordance with subsection (1), is considered to originate under one of those rules,
the good is not required to satisfy the requirements specified in any alternative rule referred to in paragraph (a).

(3) For purposes of subsection (1), in the case of a good that is provided for in heading 2402, the percentage shall be nine percent instead of seven percent.

Exceptions

(4) Subsections (1) and (2) do not apply to
(a) a non-originating material provided for in Chapter 4 or tariff items 1901.90.31, 1901.90.41 and 1901.90.81 (dairy preparations containing over 10 percent by weight of milk solids) that is used in the production of a good provided for in Chapter 4;
(b) a non-originating material provided for in Chapter 4 or tariff items 1901.90.31, 1901.90.41 and 1901.90.81 (dairy preparations containing over 10 percent by weight of milk solids) that is used in the production of a good provided for in any of tariff items 1901.10.10 (infant preparations containing over 10 percent by weight of milk solids), 1901.20.10 (mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale), 1901.90.31, 1901.90.41 and 1901.90.81 (dairy preparations containing over 10 percent by weight of milk solids), heading 2105 and tariff items 2106.90.05, 2106.90.13, 2106.90.41, 2106.90.51 and 2106.90.61 (preparations containing over 10 percent by weight of milk solids), 2202.90.10 and 2202.90.20 (beverages containing milk) and 2309.90.31 (animal feeds containing over 10 percent by weight of milk solids);

(c) a non-originating material provided for in any of heading 0805 and subheadings 2009.11 through 2009.30 that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.30 and tariff items 2106.90.16 and 2106.90.17 (concentrated fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins) and 2202.90.30, 2202.90.35 and 2202.90.36 (fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins);
(d) a non-originating material provided for in Chapter 9 that is used in the production of a good provided for in tariff item 2101.10.21 (instant coffee, not flavored);
(e) a non-originating material provided for in Chapter 15 that is used in the production of a good provided for in any of headings 1501 through 1508, 1512, 1514 and 1515;
(f) a non-originating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703;
(g) a non-originating material provided for in Chapter 17 or heading 1805 that is used in the production of a good provided for in subheading 1806.10;
(h) a non-originating material provided for in any of headings 2203 through 2208 that is used in the production of a good provided for in any of headings 2207 through 2208;
(i) a non-originating material that is used in the production of a good provided for in any of tariff item 7321.11.30 (gas stove or range), subheadings 8415.10, 8415.81 through 8415.83, 8418.10 through 8418.21, 8418.29 through 8418.40, 8421.12, 8422.11, 8450.11 through 8450.20 and 8451.21 through 8451.29, Mexican tariff item 8479.82.03 (trash compactors) or Canadian or U.S. tariff item 8479.89.55 (trash compactors), and tariff item 8516.60.40 (electric stove or range);
(j) a printed circuit assembly that is a non-originating material used in the production of a good, where the applicable change in tariff classification for the good places restrictions on the use of that non-originating material, such as by prohibiting, or limiting the quantity of, that non-originating material;
(k) a non-originating material that is a single juice ingredient provided for in heading 2009 that is used in the production of a good provided for in any of subheading 2009.90 and tariff items 2106.90.18 (concentrated mixtures of fruit or vegetable juice, fortified with minerals or vitamins) and 2202.90.37 (mixtures of fruit or vegetable juices, fortified with minerals or vitamins);
(l) a non-originating material that is used in the production of a good provided for in any of Chapters 1 through 27, unless the non-originating material is of a different subheading than the good for which origin is being determined under this section; or
(m) a non-originating material that is used in the production of a good provided for in any of Chapters 50 through 63.

De minimis rule for regional value-content requirement

(5) A good that is subject to a regional value-content requirement shall be considered to originate in the territory of a NAFTA country and shall not be required to satisfy that requirement where
(a) the value of all non-originating materials used in the production of the good is not more than seven percent
(i) of the transaction value of the good determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis, or
(ii) of the total cost of the good, where there is no transaction value for the good under section 2(1) of Schedule III or the transaction value of the good is unacceptable under section 2(2) of that Schedule; and
(b) the good satisfies all other applicable requirements of this Appendix.

De minimis rule for textile goods

(6) A good provided for in any of Chapters 50 to 63, that does not originate in the territory of a NAFTA country because certain fibers or yarns that are used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification as a result of production occurring entirely in the territory of one or more of the NAFTA countries, shall be considered to originate in the territory of a NAFTA country if
(a) the total weight of all those fibers or yarns is not more than seven percent of the total weight of that component, and
(b) the good satisfies all other applicable requirements of this Appendix.
(7) For purposes of subsection (6),
(a) the component of a good that determines the tariff classification of that good shall be identified in accordance with the first of the following General Rules for the Interpretation of the Harmonized System under which the identification can be determined, namely, Rule 3(b), Rule 3(c) and Rule 4; and
(b) where the component of the good that determines the tariff classification of the good is a blend of two or more yarns or fibers, all yarns and fibers used in the production of the component shall be taken into account in determining the weight of fibers and yarns in that component.

Calculation of "total cost" for de minimis rules: choice of methods

(8) For purposes of subsection (1)(b) and subsection (5)(a)(ii), the total cost of a good shall be, at the choice of the producer of the good,
(a) the total cost incurred with respect to all goods produced by the producer, calculated on the basis of the costs that are recorded on the books of the producer, that can be reasonably allocated to that good in accordance with Schedule VII; or
(b) the aggregate of each cost, calculated on the basis of the costs that are recorded on the books of the producer, that forms part of the total cost incurred with respect to that good that can be reasonably allocated to that good in accordance with Schedule VII.

Examples illustrating de minimis rules

(9) Each of the following examples is an "Example" as referred to in section 2(4).

Example 1: section 5(1)

Producer A, located in a NAFTA country, uses originating materials and non-originating materials in the production of copper anodes provided for in heading 7402. The rule set out in Schedule I for heading 7402 specifies a change in tariff classification from any other chapter. There is no applicable regional value-content requirement for this heading. Therefore, in order for the copper anode to qualify as an originating good under the rule set out in Schedule I, Producer A may not use in the production of the copper anode any non-originating material provided for in Chapter 74.

All of the materials used in the production of the copper anode are originating materials, with the exception of a small amount of copper scrap provided for in heading 7404, that is in the same chapter as the copper anode. Under section 5(1), if the value of the non-originating copper scrap does not exceed seven percent of the transaction value of the copper anode or the total cost of the copper anode, whichever is applicable, the copper anode would be considered an originating good.

Example 2: section 5(2)

Producer A, located in a NAFTA country, uses originating materials and non-originating materials in the production of ceiling fans provided for in subheading 8414.51. There are two alternative rules set out in Schedule I for subheading 8414.51, one of which specifies a change in tariff classification from any other heading. The other rule specifies both a change in tariff classification from the subheading under which parts of the ceiling fans are classified and a regional value-content requirement. Therefore, in order for the ceiling fan to qualify as an originating good under the first of the alternative rules, all of the materials that are classified under the subheading for parts of ceiling fans and used in the production of the completed ceiling fan must be originating materials.

In this case, all of the non-originating materials used in the production of the ceiling fan satisfy the change in tariff classification set out in the rule that specifies a change in tariff classification from any other heading, with the exception of one non-originating material that is classified under the subheading for parts of ceiling fans. Under section 5(1), if the value of the non-originating material that does not satisfy the change in tariff classification specified in the first rule does not exceed seven percent of the transaction value of the ceiling fan or the total cost of the ceiling fan, whichever is applicable, the ceiling fan would be considered an originating good. Therefore, under section 5(2), the ceiling fan would not be required to satisfy the alternative rule that specifies both a change in tariff classification and a regional value-content requirement.

Example 3: section 5(2)

Producer A, located in a NAFTA country, uses originating materials and non-originating materials in the production of plastic bags provided for in subheading 3923.29. The rule set out in Schedule I for subheading 3923.29 specifies both a change in tariff classification from any other heading, except from subheadings 3920.20 or 3920.71, under which certain plastic materials are classified, and a regional value-content requirement. Therefore, with respect to that part of the rule that specifies a change in tariff classification, in order for the plastic bag to qualify as an originating good, any plastic materials that are classified under subheading 3920.20 or 3920.71 and that are used in the production of the plastic bag must be originating materials.

In this case, all of the non-originating materials used in the production of the plastic bag satisfy the specified change in tariff classification, with the exception of a small amount of plastic materials classified under subheading 3920.71. Section 5(1) provides that the plastic bag can be considered an originating good if the value of the non-originating plastic materials that do not satisfy the specified change in tariff classification does not exceed seven percent of the transaction value of the plastic bag or the total cost of the plastic bag, whichever is applicable. In this case, the value of those non-originating materials that do not satisfy the specified change in tariff classification does not exceed the seven percent limit.

However, the rule set out in Schedule I for subheading 3923.29 specifies both a change in tariff classification and a regional value-content requirement. Therefore, under section 5(1)(c), in order to be considered an originating good, the plastic bag must also, except as otherwise provided in section 5(5), satisfy the regional value-content requirement specified in that rule. As provided in section 5(1)(c), the value of the non-originating materials that do not satisfy the specified change in tariff classification, together with the value of all other non-originating materials used in the production of the plastic bag, will be taken into account in calculating the regional value content of the plastic bag.

Example 4: section 5(5)

Producer A, located in a NAFTA country, primarily uses originating materials in the production of shoes provided for in heading 6405. The rule set out in Schedule I for heading 6405 specifies both a change in tariff classification from any subheading other than subheadings 6401.10 through 6406.10 and a regional value-content requirement.

With the exception of a small amount of materials provided for in Chapter 39, all of the materials used in the production of the shoes are originating materials.

Under section 5(5), if the value of all of the non-originating materials used in the production of the shoes does not exceed seven percent of the transaction value of the shoes or the total cost of the shoes, whichever is applicable, the shoes are not required to satisfy the regional value-content requirement specified in the rule set out in Schedule I in order to be considered originating goods.

Example 5: section 5(5)

Producer A, located in a NAFTA country, produces barbers' chairs provided for in subheading 9402.10. The rule set out in Schedule I for goods provided for in heading 9402 specifies a change in tariff classification from any other chapter. All of the materials used in the production of these chairs are originating materials, with the exception of a small quantity of non-originating materials that are classified as parts of barbers' chairs. These parts undergo no change in tariff classification because subheading 9402.10 provides for both barbers' chairs and their parts.

VOL 58 ISS 249 DEC 30 1993 UMI

Although Producer A's barbers' chairs do not qualify as originating goods under the rule set out in Schedule I, section 4(4)(b) provides, among other things, that, where there is no change in tariff classification from the non-originating materials to the goods because the subheading under which the goods are classified provides for both the goods and their parts, the goods shall qualify as originating goods if they satisfy a specified regional value-content requirement.

However, under section 5(5), if the value of the non-originating materials does not exceed seven percent of the transaction value of the barbers' chairs or the total cost of the barbers' chairs, whichever is applicable, the barbers' chairs will be considered originating goods and are not required to satisfy the regional value-content requirement set out in section 4(4)(b)(v).

Example 6: sections 5(6) and (7)

Producer A, located in a NAFTA country, produces women's dresses provided for in subheading 6204.41 from fine wool fabric of heading 5112. This fine wool fabric, also produced by Producer A, is the component of the dress that determines its tariff classification under subheading 6204.41.

The rule set out in Schedule I for subheading 6204.41, under which the dress is classified, specifies both a change in tariff classification from any other chapter, except from those headings and chapters under which certain yarns and fabrics, including combed wool yarn and wool fabric, are classified, and a requirement that the good be cut and sewn or otherwise assembled in the territory of one or more of the NAFTA countries.

Therefore, with respect to that part of the rule that specifies a change in tariff classification, in order for the dress to qualify as an originating good, the combed wool yarn and the fine wool fabric made therefrom that are used by Producer A in the production of the dress must be originating materials.

At one point Producer A uses a small quantity of non-originating combed wool yarn in the production of the fine wool fabric. Under section 5(6), if the total weight of the non-originating combed wool yarn does not exceed seven percent of the total weight of all the yarn used in the production of the component of the dress that determines its tariff classification, that is the wool fabric, the dress would be considered an originating good.

PART III
SECTION 6. REGIONAL VALUE CONTENT

(1) Except as otherwise provided in subsection (6), the regional value content of a good shall be calculated, at the choice of the exporter or producer of the good, on the basis of either the transaction value method or the net cost method.

Transaction Value Method

(2) The transaction value method for calculating the regional value content of a good is as follows:

$$RVC = \frac{TV - VNM}{TV} \times 100$$

where

RVC is the regional value content of the good, expressed as a percentage;
TV is the transaction value of the good, determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis; and
VNM is the value of non-originating materials used by the producer in the production of the good, determined in accordance with section 7.

Net Cost Method

(3) The net cost method for calculating the regional value content of a good is as follows:

$$RCV = \frac{NC - VNM}{NC} \times 100$$

where

RVC is the regional value content of the good, expressed as a percentage;
NC is the net cost of the good, calculated in accordance with subsection (11); and
VNM is the value of non-originating materials used by the producer in the production of the good, determined, except as otherwise provided in sections 9 and 10, in accordance with section 7.

VNM does not include value of non-originating materials used in originating material

(4) Except as otherwise provided in section 9 and section 10(1)(d), for purposes of calculating the regional value content of a good under subsection (2) or (3), the value of non-originating materials used by a producer in the production of the good shall not include

(a) the value of any non-originating materials used by another producer in the production of originating materials that are subsequently acquired and used by the producer of the good in the production of that good; or
(b) the value of any non-originating materials used by the producer in the production of a self-produced material that is an originating material and is designated as an intermediate material.

(5) For purposes of subsection (4),

(a) in the case of any self-produced material that is not designated as an intermediate material, only the value of any non-originating materials used in the production of the self-produced material shall be included in the value of non-originating materials used in the production of the good; and
(b) where a self-produced material that is designated as an intermediate material and is an originating material is used by the producer of the good with non-originating materials (whether or not those non-originating materials are produced by that producer) in the production of the good, the value of those non-originating materials shall be included in the value of non-originating materials.

Net Cost Method required in certain circumstances

(6) The regional value content of a good shall be calculated only on the basis of the net cost method where

(a) there is no transaction value for the good under section 2(1) of Schedule III;
(b) the transaction value of the good is unacceptable under section 2(2) of Schedule III;
(c) the good is sold by the producer to a related person and the volume, by units of quantity, of sales by that producer of identical goods or similar goods, or any combination thereof, to related persons during the six month period immediately preceding the month in which the goods are sold exceeds 85 percent of the producer's total sales of identical goods or similar goods, or any combination thereof, during that period;
(d) the good is
  (i) a motor vehicle provided for in any of headings 8701 and 8702, subheadings 8703.21 through 8703.90 and headings 8704, 8705 and 8706,
  (ii) a good provided for in a tariff provision listed in Schedule IV or an automotive component assembly, automotive component, sub-component or listed material, and is for use in a motor vehicle referred to in subparagraph (i), either as original equipment or as an after-market part,
  (iii) a good provided for in any of subheadings 6401.10 through 6406.10, or
  (iv) a good provided for in tariff item 8469.10.40 (word processing machines);
(e) the exporter or producer chooses to accumulate with respect to the good in accordance with section 14; or
(f) the good is an intermediate material and is subject to a regional value-content requirement.

Option to change from TVM to NCM for calculation of regional value content

(7) If the exporter or producer of a good calculates the regional value content of the good on the basis of the transaction value method and the customs administration of a NAFTA country subsequently notifies that exporter or producer in writing, during the course of a verification of origin, that

(a) the transaction value of the good, as determined by the exporter or producer, is required to be adjusted under section 4 of Schedule II or is unacceptable under section 2(2) of Schedule III, there is no transaction value for the good under section 2(1) of Schedule III or the transaction value method may not be used because of the application of subsection (6)(c), or
(b) the value of any non-originating material used in the production of the good, as determined by the exporter or producer, is required to be adjusted under section 5 of Schedule VIII or is unacceptable under section 2(3) of Schedule VIII, or there is no transaction value for the material under section 2(2) of Schedule VIII or the transaction value method may not be used to calculate the regional value content of the material because of the application of subsection (6)(c),

the exporter or producer may choose that the regional value content of the good be calculated on the basis of the net cost method, in which case the calculation must be made within 60 days after the producer receives the notification, or such longer period as that customs administration specifies.

Change from NCM to TVM not permitted

(8) If the exporter or producer of a good chooses that the regional value content of the good be calculated on the basis of the net cost method and the customs administration of a NAFTA country subsequently notifies that exporter or producer in writing, during the course of a verification of origin, that the good does not satisfy the applicable regional value-content requirement, the exporter or producer of the good may not recalculate the regional value content on the basis of the transaction value method.

(9) Nothing in subsection (7) shall be construed as preventing any review and appeal under Article 510 of the Agreement, as implemented in each NAFTA country, of an adjustment to or a rejection of

(a) the transaction value of the good; or
(b) the value of any material used in the production of the good.

Application of Schedule IX for determining value of "identical" non-originating materials under TVM

(10) For purposes of the transaction value method, where non-originating materials that are the same as one another in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance, are used in the production of a good, the value of those non-originating materials may, at the choice of the producer of the good, be determined in accordance with one of the methods set out in Schedule IX.

Options for calculating the net cost of a good

(11) For purposes of subsection (3), the net cost of a good may be calculated, at the choice of the producer of the good, by

(a) calculating the total cost incurred with respect to all goods produced by that producer, subtracting any excluded costs that are included in that total cost, and reasonably allocating, in accordance with Schedule VII, the remainder to the good;

(b) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating, in accordance with Schedule VII, that total cost to the good, and subtracting any excluded costs that are included in the amount allocated to that good; or
(c) reasonably allocating, in accordance with Schedule VII, each cost that forms part of the total cost incurred with respect to the good so that the aggregate of those costs does not include any excluded costs.

Calculation of total cost

(12) For purposes of subsection (11),
(a) total cost consists of all product costs, period costs and other costs that are recorded, except as otherwise provided in paragraphs (b)(i) and (ii), on the books of the producer without regard to the location of the persons to whom payments with respect to those costs are made;
(b) in calculating total cost,
(i) the value of materials, other than intermediate materials, indirect materials and packing materials and containers, shall be the value determined in accordance with section 7(1),
(ii) the value of intermediate materials shall be determined in accordance with section 7(9),
(iii) the value of indirect materials and the value of packing materials and containers shall be the costs that are recorded on the books of the producer for those materials, and
(iv) product costs, period costs and other costs, other than costs referred to in subparagraphs (i) through (iii), shall be the costs thereof that are recorded on the books of the producer for those costs;
(c) total cost does not include profits that are earned by the producer of the good, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes;
(d) gains related to currency conversion that are related to the production of the goods shall be deducted from total cost, and losses related to currency conversion that are related to the production of the goods shall be included in total cost; and
(e) the value of materials with respect to which production is accumulated under section 14 shall be determined in accordance with that section.

Calculation of net cost; excluded costs

(13) For purposes of calculating net cost under subsection (11),
(a) excluded costs shall be the excluded costs that are recorded on the books of the producer of the good;
(b) excluded costs that are included in the value of a material that is used in the production of the good shall not be subtracted from or otherwise excluded from the total cost; and
(c) excluded costs do not include any amount paid for research and development services performed in the territory of a NAFTA country.

Non-allowable interest; determination under Schedule XI

(14) For purposes of calculating non-allowable interest costs, the determination of whether interest costs incurred by a producer are more than 700 basis points above the yield on debt obligations of comparable maturities issued by the federal government of the country in which the producer is located shall be made in accordance with Schedule XI.

Use of "averaging" over a period to calculate RVC under NCM; period cannot be changed

(15) For purposes of the net cost method, except where a producer chooses to calculate the regional value content of a good under section 11(1), (3) or (6), 12(1) or 13(4), the regional value content of the good may, where the producer of the goods chooses to do so, be calculated by
(a) calculating the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer of the good with respect to the good and identical goods or similar goods, or any combination thereof, produced in a single plant by the producer over
(i) a month,
(ii) any three month or six month period that falls within the producer's fiscal year, or
(iii) the producer's fiscal year; and
(b) using the sums referred to in paragraph (a) as the net cost and the value of non-originating materials, respectively.
(16) The calculation made under subsection (15) shall apply with respect to all units of the good produced during the period chosen by the producer under subsection (15)(a).
(17) A choice made under subsection (15) may not be rescinded or modified with respect to the goods or the period with respect to which the choice is made.

Obligation to perform self-analysis and give notification of changed circumstance if RVC calculated on basis of estimated costs

(18) Except as otherwise provided in sections 11(10), 12(7) and 13(10), where the producer of a good has calculated the regional value content of the good under the net cost method on the basis of estimated costs, including standard costs, budgeted forecasts or other similar estimating procedures, before or during the period chosen in subsection (14)(a), the producer shall conduct an analysis at the end of the producer's fiscal year of the actual costs incurred over the period with respect to the production of the good and, if the good does not satisfy the regional value-content requirement on the basis of the actual costs during that period, immediately inform any person to whom the producer has provided a Certificate of Origin for the good, or a written statement that the good is an originating good, that the good is a non-originating good.

Option to treat any material as non-originating

(19) For purposes of calculating the regional value content of a good, the producer of that good may choose to treat any material used in the production of that good as a non-originating material.

Examples of Calculation of RVC under TVM and NCM

(20) Each of the following examples is an "Example" as referred to in section 2(4).

Example 1: example of point of direct shipment (with respect to adjusted to an F.O.B. basis)

A producer has only one factory, at which the producer manufactures finished office chairs. Because the factory is located close to transportation facilities, all units of the finished good are stored in a factory warehouse 200 meters from the end of the production line. Goods are shipped worldwide from this warehouse. The point of direct shipment is the warehouse.

Example 2: examples of point of direct shipment (with respect to adjusted to an F.O.B. basis)

A producer has six factories, all located within the territory of one of the NAFTA countries, at which the producer produces garden tools of various types. These tools are shipped worldwide, and orders usually consist of bulk orders of various types of tools. Because different tools are manufactured at different factories, the producer decided to consolidate storage and shipping facilities and ships all finished products to a large warehouse located near the seaport, from which all orders are shipped. The distance from the factories to the warehouse varies from 3 km to 130 km. The point of direct shipment for each of the goods is the warehouse.

Example 3: examples of point of direct shipment (with respect to adjusted to an F.O.B. basis)

A producer has only one factory, located near the center of one of the NAFTA countries, at which the producer manufactures finished office chairs. The office chairs are shipped from that factory to three warehouses leased by the producer, one on the west coast, one near the factory and one on the east coast. The office chairs are shipped to buyers from these warehouses, the shipping location depending on the shipping distance from the buyer. Buyers closest to the west coast warehouse are normally supplied by the west coast warehouse, buyers closest to the east coast are normally supplied by the warehouse located on the east coast and buyers closest to the warehouse near the factory are normally supplied by that warehouse. In this case, the point of direct shipment is the location of the warehouse from which the office chairs are normally shipped to customers in the location in which the buyer is located.

Example 4: section 6(3), net cost method

A producer located in NAFTA country A sells Good A that is subject to a regional value-content requirement to a buyer located in NAFTA country B. The producer of Good A chooses that the regional value content of that good be calculated using the net cost method. All applicable requirements of this Appendix, other than the regional value-content requirement, have been met. The applicable regional value-content requirement is 50 percent.

In order to calculate the regional value-content of Good A, the producer first calculates the net cost of Good A. Under section 6(11)(a), the net cost is the total cost of Good A (the aggregate of the product costs, period costs and other costs) per unit, minus the excluded costs (the aggregate of the sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs) per unit. The producer uses the following figures to calculate the net cost:

Product costs:	
Value of originating materials	$30.00
Value of non-originating materials	40.00
Other product costs	20.00
Period costs	10.00
Other costs	0.00
Total cost of Good A, per unit	$100.00
Excluded costs:	
Sales promotion, marketing and after-sales service cost	$5.00
Royalties	2.50
Shipping and packing costs	3.00
Non-allowable interest costs	1.50
Total excluded costs	12.00

The net cost is the total cost of Good A, per unit, minus the excluded costs.

Total cost of Good A, per unit:	$100.00
Excluded costs	−12.00
Net cost of Good A, per unit	$88.00

The value for net cost ($88) and the value of non-originating materials ($40) are needed in order to calculate the regional value content. The producer calculates the regional value content of Good A under the net cost method in the following manner:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{88 - 40}{88} \times 100$$

$$= 54.5\%$$

Therefore, under the net cost method, Good A qualifies as an originating good, with a regional value-content of 54.5 percent.

Example 5: section 6(6)(c), net cost method required for certain sales to related persons

On January 15, 1994, a producer located in NAFTA country A sells 1,000 units of Good A to a related person, located in NAFTA country B. During the six month period beginning on July 1, 1993 and ending on December 31, 1993, the producer sold 90,000 units of identical goods and similar goods to related persons from various countries, including that buyer. The producer's total sales of those identical goods and similar goods to all persons from all countries during that six month period were 100,000 units.

The total quantity of identical goods and similar goods sold by the producer to related persons during that six month period was 90 percent of the producer's total sales of those identical goods and similar goods to all persons. Under section 6(6)(c), the producer must use the net cost method to calculate the regional value content of Good A sold in January 1994, because the 85 percent limit was exceeded.

Example 6: section 6(11)(a)

A producer in a NAFTA country produces Good A and Good B during the producer's fiscal year.

The producer uses the following figures, which are recorded on the producer's books and represent all of the costs incurred with respect to both Good A and Good B, to calculate the net cost of those goods:

Product costs:	
Value of originating materials	$2,000
Value of non-originating materials	1,000
Other product costs	2,400
Period costs: (including $1,200 in excluded costs)	3,200
Other costs	400
Total cost of Good A and Good B	$9,000

The net cost is the total cost of Good A and Good B, minus the excluded costs incurred with respect to those goods.

Total cost of Good A and Good B	$9,000
Excluded costs	−1,200
Net cost of Good A and Good B	$7,800

The net cost must then be reasonably allocated, in accordance with Schedule VII, to Good A and Good B.

Example 7: section 6(11)(b)

A producer located in a NAFTA country produces Good A and Good B during the producer's fiscal year. In order to calculate the regional value content of Good A and Good B, the producer uses the following figures that are recorded on the producer's books and incurred with respect to those goods:

Product costs:	
Value of originating materials	$2,000
Value of non-originating materials	1,000
Other product costs	2,400
Period costs: (including $1,200 in excluded costs)	3,200
Other costs	400
Total cost of Good A and Good B	$9,000

Under section 6(11)(b), the total cost of Good A and Good B is then reasonably allocated, in accordance with Schedule VII, to those goods. The costs are allocated in the following manner:

	Allocated to Good A	Allocated to Good B
Total cost ($9,000 for both Good A and Good B)	$5,220	$3,780

The excluded costs ($1,200) that are included in total cost allocated to Good A and Good B, in accordance with Schedule VII, are subtracted from that amount.

		Excluded Cost Allocated to Good A	Excluded Cost Allocated to Good B
Total Excluded costs:			
Sales promotion, marketing and after-sale service costs	500	290	210
Royalties	200	116	84
Shipping and packing costs	500	290	210
Net cost (total cost minus excluded costs)		$4,524	$3,276

The net cost of Good A is thus $4,524, and the net cost of Good B is $3,276.

Example 8: section 6(11)(c)

A producer located in a NAFTA country produces Good C and Good D. The following costs are recorded on the producer's books for the months of January, February and March, and each cost that forms part of the total cost are reasonably allocated, in accordance with Schedule VII, to Good C and Good D.

	Total cost: Good C and Good D (in thousands of dollars)	Allocated to Good C (in thousands of dollars)	Allocated to Good D (in thousands of dollars)
Product costs:			
Value of originating materials	100	0	100
Value of non-originating materials	900	800	100
Other product costs	500	300	200
Period costs (including $420 in excluded costs)	5,679	3,036	2,643
Minus Excluded Costs	420	300	120
Other costs	0	0	0
Total cost (aggregate of product costs, period costs and other costs)	6,759	3,836	2,923

Example 9: section 6(12)(a)

Producer A, located in a NAFTA country, produces Good A that is subject to a regional value-content requirement. The producer chooses that the regional value content of that good be calculated using the net cost method. Producer A buys Material X from Producer B, located in a NAFTA country. Material X is a non-originating material and is used in the production of Good A. Producer A provides Producer B, at no charge, with tools to be used in the production of Material X. The cost of the tools that is recorded on the books of Producer A has been expensed in the current year. Pursuant to section 5(1)(b)(ii) of Schedule VIII, the value of the tools is included in the value of Material X. Therefore, the cost of the tools that is recorded on the books of Producer A and that has been expensed in the current year cannot be included as a separate cost in the net cost of Good A because it has already been included in the value of Material X.

Example 10: section 6(12)(d)

Producer A, located in a NAFTA country, produces Good A that is subject to a regional value-content requirement. The producer chooses that the regional value content of that good be calculated using the net cost method and averages the calculation over the producer's fiscal year under section 6(15). Producer A determines that during that fiscal year Producer A incurred a gain on foreign currency conversion of $10,000 and a loss on foreign currency conversion of $8,000, resulting in a net gain of $2,000. Producer A also determines that $7,000 of the gain on foreign currency conversion and $6,000 of the loss on foreign currency conversion is related to the purchase of non-originating materials used in the production of Good A, and $3,000 of the gain on foreign currency conversion and $2,000 of the loss on foreign currency conversion is not related to the production of Good A. The producer determines that the total cost of Good A is $45,000 before deducting the $1,000 net gain on foreign currency conversion related to the production of Good A. The total cost of Good A is therefore $44,000. That $1,000 net gain is not included in the value of non-originating materials under section 7(1).

Example 11: section 6(12)(d)

Given the same facts as in example 10, except that Producer A determines that $6,000 of the gain on foreign currency conversion and $7,000 of the loss on foreign currency conversion is related to the purchase of non-originating materials used in the production of Good A. The total cost of Good A is $45,000, which includes the $1,000 net loss on foreign currency conversion related to the production of Good A. That $1,000 net loss is not included in the value of non-originating materials under section 7(1).

PART IV

SECTION 7. MATERIALS

Valuation of materials used in the production of a good other than certain automotive goods

(1) Except as otherwise provided for non-originating materials used in the production of a good referred to in section 9(1) or 10(1), and except in the case of indirect materials, intermediate materials, packing materials and containers and self-produced packaging materials and containers, for purposes of calculating the regional value content of a good, the value of a material that is used in the production of the good shall be

(a) except as otherwise provided in subsection (2), where the material is imported by the producer of the good into the territory of the NAFTA country in which the good is produced, the customs value of the material with respect to that importation, or

(b) where the material is acquired by the producer of the good from another person located in the territory of the NAFTA country in which the good is produced

(i) the transaction value, determined in accordance with section 2(1) of Schedule VIII, with respect to the transaction in which the producer acquired the material, or

(ii) the value determined in accordance with sections 6 through 11 of Schedule VIII, where, with respect to the transaction in which the producer acquired the material, there is no transaction value under section 2(2) of that Schedule or the transaction value is unacceptable under section 2(3) of that Schedule,

and shall include the following costs if they are not included under paragraph (a) or (b):

(c) the costs of freight, insurance and packing and all other costs incurred in transporting the material to the location of the producer,

(d) duties and taxes paid or payable with respect to the material in the territory of one or more of the NAFTA countries, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable,

(e) customs brokerage fees, including the cost of in-house customs brokerage services, incurred with respect to the material in the territory of one or more of the NAFTA countries, and

(f) the cost of waste and spoilage resulting from the use of the material in the production of the good, minus the value of any reusable scrap or by-product.

Customs administration may use Schedule VIII if customs value not correctly determined

(2) For purposes of subsection (1)(a), where the customs administration of the NAFTA country into which the good is imported determines during the course of a verification of origin of the good that the customs value of the material referred to in that paragraph was not correctly determined, it may, for purposes of determining whether the good is an originating good, require that the value of that material be determined in accordance with Schedule VIII with respect to the importation of that material and, where the costs referred to in subsections (1)(c) through (f) are not included in that value, that those costs be added to that value.

Costs recorded on books

(3) For purposes of subsection (1), the costs referred to in subsections (1)(c) through (f) shall be the costs referred to in those paragraphs that are recorded on the books of the producer of the good.

Designation of self-produced material as an intermediate material; limitation on designations; designation is optional

(4) Except for purposes of determining the value of non-originating materials used in the production of a light-duty automotive good and except in the case of an automotive component assembly, automotive component or sub-component for use as original equipment in the production of a heavy-duty vehicle, for purposes of calculating the regional value content of a good the producer of the good may designate as an intermediate material any self-produced material that is used in the production of the good, provided that where an intermediate material is subject to a regional value-content requirement, no other self-produced material that is subject to a regional value-content requirement and is incorporated into that intermediate material is also designated by the producer as an intermediate material.

(5) For purposes of subsection (4),

(a) in order to qualify as an originating material, a self-produced material that is designated as an intermediate material must qualify as an originating material under these Regulations;

(b) the designation of a self-produced material as an intermediate material shall be made solely at the choice of the producer of that self-produced material; and

(c) except as otherwise provided in section 14(3), the proviso set out in subsection (4) does not apply with respect to an intermediate material used by another producer in the production of a material that is subsequently acquired and used in the production of a good by the producer referred to in subsection (4).

Valuation of an intermediate material

(6) The value of an intermediate material shall be, at the choice of the producer of the good,

(a) the total cost incurred with respect to all goods produced by the producer, calculated on the basis of the costs that are recorded on the books of the producer, that can be reasonably allocated to that intermediate material in accordance with Schedule VII; or

(b) the aggregate of each cost, calculated on the basis of the costs that are recorded on the books of the producer, that forms part of the total cost incurred with respect to that intermediate material that can be reasonably allocated to that intermediate material in accordance with Schedule VII.

Rescission of a designation during course of verification; option to designate another intermediate material

(7) Where a producer of a good designates a self-produced material as an intermediate material under subsection (4) and the customs administration of a NAFTA country into which the good is imported determines during a verification of origin of the good that the intermediate material is a non-originating material and notifies the producer of this in writing before the written determination of whether the good qualifies as an originating good, the producer may rescind the designation, and the regional value content of the good shall be calculated as though the self-produced material were not so designated.

(8) A producer of a good who rescinds a designation under subsection (7)

(a) shall retain any rights of review and appeal under Article 510 of the Agreement, as implemented in each NAFTA country, with respect to the determination of the origin of the intermediate material as though the producer did not rescind the designation; and

(b) may, not later than 30 days after the customs administration referred to in subsection (7) notifies the producer in writing that the self-produced material referred to in paragraph (a) is a non-originating material, designate as an intermediate material another self-produced material that is incorporated into the good, subject to the proviso set out in subsection (4).

(9) Where a producer of a good designates another self-produced material as an intermediate material under subsection (8)(b) and the customs administration referred to in subsection (7) determines during the verification of origin of the good that that self-produced material is a non-originating material,

(a) the producer may rescind the designation, and the regional value content of the good shall be calculated as though the self-produced material were not so designated;

(b) the producer shall retain any rights of review and appeal under Article 510 of the Agreement, as implemented in each NAFTA country, with respect to the determination of the origin of the intermediate material as though the producer did not rescind the designation; and

(c) the producer may not designate another self-produced material that is incorporated into the good as an intermediate material.

Indirect Materials; deemed originating; value as recorded on books of producer

(10) For purposes of determining whether a good is an originating good, an indirect material that is used in the production of the good

(a) shall be considered to be an originating material, regardless of where that indirect material is produced; and

(b) if the good is subject to a regional value-content requirement, for purposes of calculating the net cost under the net cost method, the value of the indirect material shall be the costs of that material that are recorded on the books of the producer of the good.

Packaging Materials and Containers; deemed to be originating for tariff change rules

(11) Packaging materials and containers, if classified under the Harmonized System with the good that is packaged therein, shall be disregarded for purposes of

(a) determining whether all of the non-originating materials used in the production of the good undergo an applicable change in tariff classification; and

(b) determining under section 5(1) the value of non-originating materials that do not undergo an applicable change in tariff classification.

Actual originating status considered for RVC requirement; valuation of packaging

(12) Where packaging materials and containers are classified under the Harmonized System with the good that is packaged therein and that good is subject to a regional value-content requirement,

(a) the value of those packaging materials and containers shall be taken into account as originating materials or non-originating materials, as the case may be, for purposes of calculating the regional value content of the good; and

(b) except as otherwise provided in sections 4 (6) and (7) of Schedule II, the value of those packaging materials and containers shall be

(i) where the packaging materials and containers are acquired by the producer of the good from another person, their value as determined in accordance with subsection (1), or

(ii) where the packaging materials and containers are produced by the producer of the good, at the choice of the producer,

(A) the total cost incurred with respect to all goods produced by the producer of the good, calculated on the basis of the costs that are recorded on the books of the producer, that can be reasonably allocated to those packaging materials and containers in accordance with Schedule VII, or

(B) the aggregate of each cost, calculated on the basis of the costs that are recorded on the books of the producer, that forms part of the total cost incurred with respect to those packaging materials and containers that can be reasonably allocated to those packaging materials in accordance with Schedule VII.

Packing materials and containers; disregarded for tariff change rule and for RVC requirement; value as recorded on books

(13) For purposes of determining whether a good is an originating good, packing materials and containers in which the good is packed

(a) shall be disregarded for purposes of determining whether

(i) the non-originating materials used in the production of the good undergo an applicable change in tariff classification, and

(ii) the good satisfies a regional value-content requirement; and

(b) if the good is subject to a regional value-content requirement, the value of the packing materials and containers shall be the costs thereof that are recorded on the books of the producer of the good.

Fungible materials; fungible commingled goods; inventory management methods for determining whether originating

(14) For purposes of determining whether a good is an originating good,

(a) where originating materials and non-originating materials that are fungible materials are used in the production of the good, the determination of whether the materials are originating materials may, at the choice of the producer of the good or the person from whom the producer acquired the materials, be made on the basis of any of the applicable inventory management methods set out in Schedule X; and

(b) where originating goods and non-originating goods that are fungible goods are physically combined or mixed in inventory and prior to exportation do not undergo production or any other operation in the territory of the NAFTA country in which they were physically combined or mixed in inventory, other than unloading, reloading or any other operation necessary to preserve the goods in good condition or to transport the goods for exportation to the territory of another NAFTA country, the determination of whether the good is an originating good may, at the choice of the exporter of the good or the person from whom the exporter acquired the good, be made on the basis of any of the applicable inventory management methods set out in Schedule X.

Accessories, spare parts and tools; deemed originating for tariff change rule; actual origin applicable for RVC requirement

(15) Accessories, spare parts or tools that are delivered with a good and form part of the good's standard accessories, spare parts or tools, are originating materials if the good is an originating good, and shall be disregarded for purposes of determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification or determining under section 5(1) the value of non-originating materials that do not undergo an applicable change in tariff classification, provided that

(a) the accessories, spare parts or tools are not invoiced separately from the good; and

(b) the quantities and value of the accessories, spare parts or tools are customary for the good, within the industry that produces the good.

(16) Where a good is subject to a regional value-content requirement, the value of accessories, spare parts and tools that are delivered with that good and form part of the good's standard accessories, spare parts or tools shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the good.

Examples illustrating the provisions on materials

(17) Each of the following examples is an "Example" as referred to in section 2(4).

Example 1: section 7(5), Value of Intermediate Materials

VOL 58 ISS 249 DE 30 1993 UMI

A producer located in a NAFTA country produces Good B, which is subject to a regional value-content requirement under section 4(2)(b). The producer also produces Material A, which is used in the production of Good B. Both originating materials and non-originating materials are used in the production of Material A. Material A is subject to a change in tariff classification requirement under section 4(2)(a). The costs to produce Material A are the following:

Product costs:	
Value of originating materials	$1.00
Value of non-originating materials	7.50
Other product costs	1.50
Period costs (including $0.30 in royalties)	0.50
Other costs:	0.10
Total cost of Material A:	$10.60

The producer designates Material A as an intermediate material and determines that, because all of the non-originating materials that are used in the production of Material A undergo an applicable change in tariff classification set out in Schedule I, Material A would, under paragraph 4(2)(a) qualify as an originating material. The cost of the non-originating materials used in the production of Material A is therefore not included in the value of non-originating materials that are used in the production of Good B for the purpose of determining the regional value content of Good B. Because Material A has been designated as an intermediate material, the total cost of Material A, which is $10.60, is treated as the cost of originating materials for the purpose of calculating the regional value content of Good B. The total cost of Good B is determined in accordance with the following figures:

Product costs:	
Value of originating materials	
—intermediate materials	$10.60
—other materials	3.00
Value of non-originating materials	5.50
Other product costs	6.50
Period costs	2.50
Other costs	0.10
Total cost Good of B	$28.20

Example 2: section 7(5), Effects of the Designation of Self-produced Materials on Net Cost

The ability to designate intermediate materials helps to put the vertically integrated producer who is self-producing materials that are used in the production of a good on par with a producer who is purchasing materials and valuing those materials in accordance with subsection 7(1). The following situations demonstrate how this is achieved:

Situation 1:

A producer located in a NAFTA country produces Good B, which is subject to a regional value-content requirement of 50 percent under the net cost method. Good B satisfies all other applicable requirements of these Regulations. The producer purchases Material A, which is used in the production of Good B, from a supplier located in a NAFTA country. The value of Material A determined in accordance with subsection 7(1) is $11.00. Material A is an originating material. All other materials used in the production of Good B are non-originating materials. The net cost of Good B is determined as follows:

Product costs:	
Value of originating materials (Material A)	$11.00
Value of non-originating materials	5.50
Other product costs	6.50
Period costs: (including $0.20 in excluded costs)	0.50
Other costs	0.10
Total cost of Good B	$23.60
Excluded costs: (included in period costs)	0.20
Net cost of Good B	$23.40

The regional value content of Good B is calculated as follows:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$23.40 - \$5.50}{\$23.40} \times 100$$

$$= 76.5\%$$

The regional value content of Good B is 76.5 percent, and Good B, therefore, qualifies as an originating good.

Situation 2

A producer located in a NAFTA country produces Good B, which is subject to a regional value-content requirement of 50 percent under the net cost method. Good B satisfies all other applicable requirements of these Regulations. The producer self-produces Material A which is used in the production of Good B. The costs to produce Material A are the following:

Product costs:	
Value of originating materials	$1.00
Value of non-originating materials	7.50
Other product costs	1.50
Period costs: (including $0.20 in excluded costs)	0.50

Other costs	0.10
Total cost of Material A	$10.60

Additional costs to produce Good B are the following:

Product costs:	
Value of originating materials	$0.00
Value of non-originating materials	5.50
Other product costs	6.50
Period costs: (including $0.20 in excluded costs)	0.50
Other costs	0.10
Total additional costs	$12.60

The producer does not designate Material A as an intermediate material under subsection 7(4). The net cost of Good B is calculated as follows:

	Costs of Material A (not designated as an intermediate material	Additional Costs to Produce Good B	Total
Product costs:			
Value of originating materials	$1.00	$0.00	$1.00
Value of non-originating materials	7.50	5.50	13.00
Other product costs	1.50	6.50	8.00
Period costs (including $0.20 in excluded costs)	0.50	0.50	1.00
Other costs	0.10	0.10	0.20
Total cost of Good B	$10.60	$12.60	$23.20
Excluded costs (in period costs)	0.20	0.20	0.40
Net cost of Good B (total cost minus excluded costs)			$22.80

The regional value content of Good B is calculated as follows:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$22.80 - \$13.00}{\$22.80} \times 100$$

$$= 42.9\%$$

The regional value content of Good B is 42.9 percent, and Good B, therefore, does not qualify as an originating good.

Situation 3

A producer located in a NAFTA country produces Good B, which is subject to a regional value-content requirement of 50 percent under the net cost method. Good B satisfies all other applicable requirements of these Regulations. The producer self-produces Material A, which is used in the production of Good B. The costs to produce Material A are the following:

Product costs:	
Value of originating materials	$1.00
Value of non-originating materials	7.50
Other product costs	1.50
Period costs: (including $0.20 in excluded costs)	0.50
Other costs	0.10
Total cost of Material A	$10.60

Additional costs to produce Good B are the following:

Product costs:	
Value of originating materials	$0.00
Value of non-originating materials	5.50
Other product costs	6.50
Period costs: (including $0.20 in excluded costs)	0.50
Other costs	0.10
Total additional costs:	$12.60

The producer designates Material A as an intermediate material under subsection 7(4). Material A qualifies as an originating material under paragraph 4(2)(a). Therefore, the value of non-originating materials used in the production of Material A is not included in the value of non-originating materials for the purposes of calculating the regional value content of Good B. The net cost of Good B is calculated as follows:

	Costs of Material A (designated as an intermediate material)	Additional Costs to Produce Good B	Total
Product costs:			
Value of originating materials	$10.60	$0.00	$10.60
Value of non-originating materials	.....	5.50	5.50
Other product costs	.....	6.50	6.50
Period costs (including $0.20 in excluded costs)	.....	0.50	0.50
Other costs	.....	0.10	0.10
Total cost of Good B	$10.60	$12.60	$23.20
Excluded costs (in period costs)	.....	.20	0.20
Net cost of Good B (total cost minus excluded costs)	.....	.....	$23.00

The regional value content of Good B is calculated as follows:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$23.00 - \$5.50}{\$23.00} \times 100$$

$$= 76.1\%$$

The regional value content of Good B is 76.1 percent, and Good B, therefore, qualifies as an originating good.

Example 3: Originating Materials Acquired from a Producer Who Produced Them Using Intermediate Materials

Producer A, located in NAFTA country A, produces switches. In order for the switches to qualify as originating goods, Producer A designates subassemblies of the switches as intermediate materials. The subassemblies are subject to a regional value-content requirement. They satisfy that requirement, and qualify as originating materials. The switches are also subject to a regional value-content requirement, and, with the subassemblies designated as intermediate materials, are determined to have a regional value content of 65 percent.

Producer A sells the switches to Producer B, located in NAFTA country B, who uses them to produce switch assemblies that are used in the production of Good B. The switch assemblies are subject to a regional value-content requirement. Producers A and B are not accumulating their production within the meaning of section 14. Producer B is therefore able, under section 7(4), to designate the switch assemblies as intermediate materials.

If Producers A and B were accumulating their production within the meaning of section 14, Producer B would be unable to designate the switch assemblies as intermediate materials, because the production of both producers would be considered to be the production of one producer.

Example 4: Single Producer and Successive Designations of Materials Subject to a Regional Value-Content Requirement as Intermediate Materials

Producer A, located in NAFTA country, produces Material X and uses Material X in the production of Good B. Material X qualifies as an originating material because it satisfies the appticable regional value-content requirement. Producer A designates Material A as an intermediate material.

Producer A uses Material X in the production of Material Y, which is also used in the production of Good B. Material Y is also subject to a regional value-content requirement. Under the proviso set out in section 7(4), Producer A cannot designate Material Y as an intermediate material, even if Material Y satisfies the applicable regional value-content requirement, because Material X was already designated by Producer A as an intermediate material.

Example 5: Single Producer and Multiple Designations of Materials as Intermediate Materials

Producer X, who is located in NAFTA country X, uses non-originating materials in the production of self-produced materials A, B, and C. None of the self-produced materials are used in the production of any of the other self-produced materials.

Producer X uses the self-produced materials in the production of Good O, which is exported to NAFTA country Y. Materials A, B and C qualify as originating materials because they satisfy the applicable regional value-content requirements.

Because none of the self-produced materials are used in the production of any of the other self-produced materials, then even though each self-produced material is subject to a regional value-content requirement, Producer X may, under section 7(4), designate all of the self-produced materials as intermediate materials. The proviso set out in section 7(4) only applies where self-produced materials are used in the production of other self-produced materials and both are subject to a regional value-content requirement.

Example 6: section 7(15)

The following are examples of accessories, spare parts or tools that are delivered with a good and form part of the good's standard accessories, spare parts or tools:

(a) consumables that must be replaced at regular intervals, such as dust collectors for an air-conditioning system,
(b) a carrying case for equipment,
(c) a dust cover for a machine,
(d) an operational manual for a vehicle,
(e) brackets to attach equipment to a wall,
(f) a bicycle tool kit or a car jack,
(g) a set of wrenches to change the bit on a chuck,
(h) a brush or other tool to clean out a machine, and
(i) electrical cords and power bars for use with electronic goods.

PART V
AUTOMOTIVE GOODS
SECTION 8. DEFINITIONS AND INTERPRETATION

For purposes of this Part,

"after-market parts" means goods that are not for use as original equipment in the production of light-duty vehicles or heavy-duty vehicles and that are

(a) goods provided for in a tariff provision listed in Schedule IV, or
(b) automotive component assemblies, automotive components, sub-components or listed materials;

"class of motor vehicles" means any one of the following categories of motor vehicles:

(a) motor vehicles provided for in any of subheading 8701.20, tariff items 8702.10.30 and 8702.90.30 (vehicles for the transport of 16 or more persons), subheadings 8704.10, 8704.22, 8704.23, 8704.32 and 8704.90 and headings 8705 and 8706,
(b) motor vehicles provided for in any of subheadings 8701.10 and 8701.30 through 8701.90,
(c) motor vehicles provided for in any of tariff items 8702.10.60 and 8702.90.60 (vehicles for the transport of 15 or fewer persons) and subheadings 8704.21 and 8704.31, and
(d) motor vehicles provided for in any of subheadings 8703.21 through 8703.90;

"complete motor vehicle assembly process" means the production of a motor vehicle from separate constituent parts, which parts include the following:

(a) a structural frame or unibody,
(b) body panels,
(c) an engine, a transmission and a drive train,
(d) brake components,
(e) steering and suspension components,
(f) seating and internal trim,
(g) bumpers and external trim,
(h) wheels, and
(i) electrical and lighting components;

"first prototype" means the first motor vehicle that

(a) is produced using tooling and processes intended for the production of motor vehicles to be offered for sale, and
(b) follows the complete motor vehicle assembly process in a manner not specifically designed for testing purposes;

"floor pan of a motor vehicle" means a component, comprising a single part or two or more parts joined together, with or without additional stiffening members, that forms the base of a motor vehicle, beginning at the firewall or bulkhead of the motor vehicle and ending

(a) where there is a luggage floor panel in the motor vehicle, at the place where that luggage floor panel begins, and
(b) where there is no luggage floor panel in the motor vehicle, at the place where the passenger compartment of the motor vehicle ends;

"heavy-duty automotive good" means a heavy-duty vehicle or a heavy-duty component;

"heavy-duty component" means an automotive component or automotive component assembly that is for use as original equipment in the production of a heavy-duty vehicle;

"marque" means a trade name used by a marketing division of a motor vehicle assembler that is separate from any other marketing division of that motor vehicle assembler;

"model line" means a group of motor vehicles having the same platform or model name;

"model name" means the word, group of words, letter, number or similar designation assigned to a motor vehicle by a marketing division of a motor vehicle assembler

(a) to differentiate the motor vehicle from other motor vehicles that use the same platform design,
(b) to associate the motor vehicle with other motor vehicles that use different platform designs, or
(c) to denote a platform design;

"new building" means a new construction to house a complete motor vehicle assembly process, where that construction includes the pouring or construction of a new foundation and floor, the erection of a new frame and roof, and the installation of new plumbing and electrical and other utilities;

"plant" means a building, or buildings in close proximity but not necessarily contiguous, machinery, apparatus and fixtures that are under the control of a producer and are used in the production of any of the following:

(a) light-duty vehicles and heavy-duty vehicles,
(b) goods of a tariff provision listed in Schedule IV, and
(c) automotive component assemblies, automotive components, sub-components and listed materials;

"platform" means the primary load-bearing structural assembly of a motor vehicle that determines the basic size of the motor vehicle, and is the structural base that supports the driveline and links the suspension components of the motor vehicle for various types of frames, such as the body-on-frame or space-frame, and monocoques;

"received in the territory of a NAFTA country" means, with respect to section 9(2), the location at which a traced material arrives in the territory of a NAFTA country and is documented for any customs purpose, which, in the case of a traced material imported into

(a) Canada,
(i) where the traced material is imported on a vessel, as defined in section 2 of the *Reporting of Imported Goods Regulations*, is the location at which the traced material is last unloaded from the vessel and reported, under section 12 of the *Customs Act*, to a customs office, including reported for transportation under bond by a conveyance other than that vessel, and

(ii) in any other case, is the location at which the traced material is reported, under section 12 of the *Customs Act*, to a customs office, including reported for transportation under bond,

(b) Mexico,

(i) where the traced material is imported on a vessel, the location at which the traced material is last unloaded from a vessel and reported for any customs purpose, and

(ii) in any other case, the location at which the traced material is reported for any customs purpose, and

(c) the United States, is the location at which the traced material is entered for any customs purpose, including entered for consumption, entered for warehouse or entered for transportation under bond, or admitted into a foreign trade zone;

"refit" means a closure of a plant for a period of at least three consecutive months that is for purposes of plant conversion or retooling;

"size category", with respect to a light-duty vehicle, means that the total of the interior volume for passengers and the interior volume for luggage is

(a) 85 cubic feet (2.38 m^3) or less,

(b) more than 85 cubic feet (2.38 m^3) but less than 100 cubic feet (2.80 m^3),

(c) 100 cubic feet (2.80 m^3) or more but not more than 110 cubic feet (3.08 m^3),

(d) more than 110 cubic feet (3.08 m^3) but less than 120 cubic feet (3.36 m^3), or

(e) 120 cubic feet (3.36 m^3) or more;

"traced material" means a material, produced outside the territories of the NAFTA countries, that is imported from outside the territories of the NAFTA countries and is, when imported, of a tariff provision listed in Schedule IV;

"underbody" means the floor pan of a motor vehicle.

SECTION 9. LIGHT-DUTY AUTOMOTIVE GOODS

VNM determined by tracing of certain non-originating materials

(1) For purposes of calculating the regional value content of a light-duty automotive good under the net cost method, the value of non-originating materials used by the producer in the production of the good shall be the sum of the values of the non-originating materials that are traced materials and are incorporated into the good.

Valuation of traced materials for VNM in the RVC

(2) Except as otherwise provided in subsections (3) and (6) through (8), the value of each of the traced materials that is incorporated into a good shall be

(a) where the producer imports the traced material from outside the territories of the NAFTA countries and has or takes title to it at the time of importation, the sum of

(i) the customs value of the traced material,

(ii) where not included in that customs value, any freight, insurance, packing and other costs that were incurred in transporting the traced material to the first place at which it was received in the territory of a NAFTA country, and

(iii) where not included in that customs value, the costs referred to in subsection (4);

(b) where the producer imports the traced material from outside the territories of the NAFTA countries and does not have or take title to it at the time of importation, the sum of

(i) the customs value of the traced material,

(ii) where not included in that customs value, any freight, insurance, packing and other costs that were incurred in transporting the traced material to the place at which it was when the producer takes title in the territory of a NAFTA country, and

(iii) where not included in that customs value, the costs referred to in subsection (4);

(c) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and that person has or takes title to the material at the time of importation, if the producer has a statement that

(i) is signed by the person from whom the producer acquired the traced material, whether in the form in which it was imported into the territory of a NAFTA country or incorporated into another material, and

(ii) states

(A) the customs value of the traced material,

(B) where not included in that customs value, any freight, insurance, packing and other costs that were incurred in transporting the traced material to the first place at which it was received in the territory of a NAFTA country, and

(C) where not included in that customs value, the costs referred to in subsection (4),

the sum of the customs value of the traced material, the freight, insurance, packing and other costs referred to in subparagraph (ii)(B) and the costs referred to in subparagraph (ii)(C);

(d) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and that person does not have or take title to the material at the time of importation, if the producer has a statement that

(i) is signed by the person from whom the producer acquired the traced material, whether in the form in which it was imported into the territory of a NAFTA country or incorporated into another material, and

(ii) states

(A) the customs value of the traced material,

(B) where not included in that customs value, any freight, insurance, packing and other costs that were incurred in transporting the traced material to the place at which it was located when the first person in the territory of a NAFTA country takes title, and

(C) where not included in that customs value, the costs referred to in subsection (4),

the sum of the customs value of the traced material, the freight, insurance, packing and other costs referred to in subparagraph (ii)(B) and the costs referred to in subparagraph (ii)(C);

(e) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and the producer acquires the traced material or a material that incorporates the traced material from a person in the territory of a NAFTA country who has title to it, if the producer has a statement that

(i) is signed by the person from whom the producer acquired the traced material or the material that incorporates it, and

(ii) states the value of the traced material or a material that incorporates the traced material, determined in accordance with subsection (5), with respect to a transaction that occurs after the customs value of the traced material was determined,

the value of the traced material or the material that incorporates the traced material, determined in accordance with subsection (5), with respect to the transaction referred to in that statement;

(f) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries, and the producer acquires a material that incorporates that traced material and the acquired material was produced in the territory of a NAFTA country and is subject to a regional value-content requirement, if the producer has a statement that

(i) is signed by the person from whom the producer acquired that material, and

(ii) states that the acquired material is an originating material but does not state any value with respect to the traced material,

an amount equal to VM × (1 − RVCR)

where

VM is the value of the acquired material, determined in accordance with subsection (2), with respect to the transaction in which the producer acquired that material, and

RVCR is the regional value-content requirement for the acquired material, expressed as a decimal;

(g) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and the producer acquires a material that

(i) incorporates that traced material,

(ii) was produced in the territory of a NAFTA country, and

(iii) with respect to which an amount was determined in accordance with paragraph (f),

if the producer of the good has a statement signed by the person from whom the producer acquired that material that states that amount, the amount as determined in accordance with paragraph (f); and

(h) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and the producer does not have a statement described in any of paragraphs (c) through (g), the value of the traced material or any material that incorporates it, determined in accordance with subsection (5) with respect to the transaction in which the producer acquires the traced material or any material that incorporates it.

Customs administration may use Schedule VIII if customs value is not correctly determined

(3) For purposes of subsections (2) (a) through (d), where the customs administration of the NAFTA country into the territory of which the good is imported determines during the course of a verification of origin of the good that the customs value of the traced material referred to in those paragraphs was not correctly determined, it may, for purposes of determining whether the good is an originating good, require that the value of the material be determined in accordance with Schedule VIII with respect to the importation for which that customs value was determined and, where the costs referred to in subsection (4) are not included in that value, that those costs be added to that value.

Additional costs included in traced value if not already included in value

(4) The costs referred to in subsections (2) (a) through (d) and subsection (3) are the following:

(a) duties and taxes paid or payable with respect to the material in the territory of one or more of the NAFTA countries, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable; and

(b) customs brokerage fees, including the cost of in-house customs brokerage services, incurred with respect to the material in the territory of one or more of the NAFTA countries.

Value of traced material determined under Schedule VIII if value is not customs value

(5) For purposes of subsections (2)(e), (f) and (h) and subsections (6) and (7), the value of a material

(a) shall be the transaction value of the material, determined in accordance with section 2(1) of Schedule VIII with respect to the transaction referred to in that paragraph or subsection, or

(b) shall be determined in accordance with sections 6 through 11 of Schedule VIII, where, with respect to the transaction referred to in that paragraph or subsection, there is no transaction value for the material under section 2(2) of that Schedule, or the transaction value of the material is unacceptable under section 2(3) of that Schedule, and, where not included under paragraph (a) or (b), shall include taxes, other than duties paid on an importation of a material from a NAFTA country, paid or payable with respect to the material in the territory of one or more of the NAFTA countries, other than taxes that are waived, refunded, refundable or otherwise recoverable, including credit against tax paid or payable.

(6) Where it is determined, during the course of a verification of origin of a light-duty automotive good with respect to which the producer of that good has a statement referred to in subsection (2)(f), that the acquired material referred to in that statement is not an originating material, the value of the acquired material shall, for purposes of subsection (2), be determined in accordance with subsection (5) with respect to the transaction in which that producer acquired it.

VOL 58 ISS 249 DE 30 1993 UMI

Effect on value of traced material if value on a statement cannot be verified

(7) Where any person who has information with respect to a statement referred to in any of subsections (2)(c) through (h) does not allow a customs administration to verify that information during a verification of origin, the value of the material with respect to which that person did not allow the customs administration to verify the information may be determined by that customs administration in accordance with subsection (5) with respect to the transaction in which that person sells, or otherwise transfers to another person, that material or a material that incorporates that material.

Use of value of VNM as determined under section 12(3) for traced material incorporated into another material

(8) Where a traced material is incorporated into a material produced in the territory of a NAFTA country and that material is incorporated into a light-duty automotive good, the statement referred to in subsection (2)(c), (d), or (e) may state the value of non-originating materials, determined in accordance with section 12(3), with respect to the material that incorporates the traced material.

Interpretations and clarifications for provisions applicable to tracing rules for light-duty automotive goods

(9) For purposes of this section,

(a) where a producer, in accordance with section 7(4), designates as an intermediate material any self-produced material used in the production of a light-duty automotive good,

(i) the designation applies solely to the calculation of the net cost of that good, and

(ii) the value of a traced material that is incorporated into that good shall be determined as though the designation had not been made;

(b) the value of a material not listed in Schedule IV, when imported from outside the territories of the NAFTA countries,

(i) shall not be included in the value of non-originating materials that are used in the production of a light-duty automotive good, and

(ii) shall be included in calculating the net cost of a light-duty automotive good that incorporates that material;

(c) except as otherwise provided in section 12(6), this section does not apply with respect to after-market parts;

(d) the costs referred to in subsections (2)(a)(ii) and (b)(ii), subsections (2)(c)(ii)(B) and (d)(ii)(B) and subsections (4) and (5) shall be the costs referred to in those paragraphs that are recorded on the books of the producer of the light-duty automotive good; and

(e) for purposes of calculating the regional value content of a light-duty automotive good, the producer of that good may choose to treat any material used in the production of that good as a non-originating material, and the value of that material shall be determined in accordance with subsection (5) with respect to the transaction in which the producer acquired it.

Examples of application of tracing for light-duty automotive goods

(10) Each of the following examples is an "Example" as referred to in section 2(4).

Example 1

Nuts and bolts provided for in heading 7318 are imported from outside the territories of the NAFTA countries and are used in the territory of a NAFTA country in the production of a light-duty automotive good referred to in section 9(1). Heading 7318 is not listed in Schedule IV so the nuts and bolts are not traced materials.

Because the nuts and bolts are not traced materials the value, under section 9(1), of the nuts and bolts is not included in the value of non-originating materials used in the light-duty automotive good even though the nuts and bolts are imported from outside the territories of the NAFTA countries.

The value, under section 9(9)(b), of the nuts and bolts is included in the net cost of the light-duty automotive good for the purposes of calculating, under section 9(7), regional value content of the motor vehicle.

Example 2:

A rear view mirror provided for in subheading 7009.10 is imported from outside the territories of the NAFTA countries and is used in the territory of a NAFTA country as original equipment in the production of a light-duty vehicle.

Subheading 7009.10 is listed in Schedule IV. The rear view mirror is a traced material. For purposes of calculating, under section 9(1), regional value content of the light-duty vehicle, the value of the mirror is included in the value of non-originating materials in accordance with sections 9(2) through (9).

Example 3:

Glass provided for in heading 7005 is imported from outside the territories of the NAFTA countries and is used in the territory of NAFTA country A in the production of a rear view mirror. The rear view mirror is a non-originating good because it fails to satisfy the applicable change in tariff classification.

That rear view mirror is exported to NAFTA country B where it is used as original equipment in the production of a light-duty vehicle. Even though the rear view mirror is a non-originating material and is provided for in a tariff item listed in Schedule IV, it is not a traced material because it was not imported from outside the territories of the NAFTA countries.

For purposes of calculating, under section 9(1), the regional value content of a light-duty vehicle in which the rear view mirror is incorporated, the value of the rear view mirror, under section 9(1), is not included in the value of non-originating materials used in the production of the light-duty vehicle.

Even though the glass provided for in heading 7005 that was used in the production of the rear view mirror and incorporated into the light-duty vehicle was imported from outside the territories of the NAFTA countries, the glass is not a traced material because heading 7005 is not listed in Schedule IV. For purposes of calculating, under section 9(1), the regional value content of the light-duty vehicle that incorporates the glass, the value of the glass is not included in the value of non-originating materials used in the production of the light-duty vehicle. The value of the rear view mirror would be included in the net cost of the light-duty vehicle, but the value of the imported glass would not be separately included in the value of non-originating materials of the light-duty vehicle.

Example 4:

An electric motor provided for in subheading 8501.10 is imported from outside the territories of the NAFTA countries and is used in the territory of a NAFTA country in the production of a seat frame provided for in subheading 9401.90. The seat frame, with the electric motor attached, is sold to a producer of seats provided for in subheading 9401.20. The seat producer sells the seat to a producer of light-duty vehicles. The seat is to be used as original equipment in the production of that light-duty vehicle.

Subheadings 8501.10 and 9401.20 are listed in Schedule IV; subheading 9401.90 is not. The electric motor is a traced material; the seat is not a traced material because it was not imported from outside the territories of the NAFTA countries.

The seat is a light-duty automotive good referred to in section 9(1). For purposes of calculating, under section 9(1), the regional value content of the seat, the value of traced materials incorporated into it is included in the value of non-originating materials used in the production of the seat. The value of the electric motor is included in that value. (However, the value of the motor would not be included separately in the net cost of the seat because the value of the motor is included as part of the cost of the seat frame.)

For purposes of calculating, under section 9(1), the regional value content of the light-duty vehicle, the value of the electric motor is included in the value of non-originating materials used in the production of the light-duty vehicle, even if the seat is an originating material.

Example 5:

Cast blocks, cast heads and connecting rod assemblies provided for in heading 8409 are imported from outside the territories of the NAFTA countries by an engine producer, who has title to them at the time of importation, and are used by the producer in the territory of NAFTA country A in the production of an engine provided for in heading 8407. After the regional value content of the engine is calculated, the engine is an originating good. It is not a traced material because it was not imported from outside the territories of the NAFTA countries. The engine is exported to NAFTA country B, to be used as original equipment by a producer of light-duty vehicles.

For purposes of calculating, under section 9(1), the regional value content of the light-duty vehicle that incorporates the engine, because heading 8409 is listed in Schedule IV and because the cast blocks, cast heads and connecting rod assemblies were imported into the territory of a NAFTA country and are incorporated into the light-duty vehicle, the value of those materials, which are traced materials, is included in the value of non-originating materials used in the production of the light-duty vehicle, even though the engine is an originating material.

The producer of the light-duty vehicle did not import the traced materials. However, because that producer has a statement referred to in section 9(2)(c) and that statement states the value of non-originating materials of the traced materials in accordance with section 12(2), the producer of the light-duty vehicle may, in accordance with section 9(8), use that value as the value of non-originating materials of the light-duty vehicle with respect to that engine.

Example 6:

Aluminum ingots provided for in subheading 7601.10 and piston assemblies provided for in heading 8409 are imported from outside the territories of the NAFTA countries by an engine producer and are used by that producer in the territory of NAFTA country A in the production of an engine provided for in heading 8407. The aluminum ingots are used by the producer to produce an engine block; the piston assembly is then incorporated into the engine block and the producer designates, in accordance with section 7(4), a short block provided for in heading 8409 as an intermediate material. The engine that incorporates the short block is exported to NAFTA country B and used as original equipment in the production of a light-duty vehicle. The piston assemblies provided for in heading 8409 are traced materials; neither the engine nor the short block are traced materials because they were not imported from outside the territories of the NAFTA countries.

For purposes of calculating, under section 9(1), the regional value content of the engine, the value of the piston assemblies is included, under section 9(9)(a)(ii), in the value of non-originating materials, even if the intermediate material is an originating material. However, the value of the aluminum ingots is not included in the value of non-originating materials because subheading 7601.10 is not listed in Schedule IV. The value of the aluminum ingots does not need to be included separately in the net cost of the engine because that value is included in the value of the intermediate material, and the total cost of the intermediate material is included in the net cost of the engine.

For purposes of calculating, under section 9(1), the regional value content of the light-duty vehicle that incorporates the engine (and the piston assemblies), the value of the piston assemblies incorporated into that light-duty vehicle is included in the value of non-originating materials of the light-duty vehicle.

Example 7:

An engine provided for in heading 8407 is imported from outside the territories of the NAFTA countries. The producer of the engine, located in the country from which the engine is imported, used in the production of the engine a piston assembly provided for in heading 8409 that was produced in a NAFTA country and is an originating good. The engine is used in the territory of a NAFTA country as original equipment in the production of a light-duty vehicle. The engine is a traced material.

For purposes of calculating, under section 9(1), the regional value content of a light-duty vehicle that incorporates that engine, the value of the engine is included in the value of non-originating materials of that light-duty vehicle. The value of the piston assembly which was, before its exportation to outside the territories of the NAFTA countries, an originating good, shall not be deducted from the value of non-originating materials used in the production of the light-duty vehicle. Under section 18 (transshipment), the piston assembly is no longer considered to be an originating good because it was used in the production of a good outside the territories of the NAFTA countries.

Example 8:

A wholesaler, located in City A in the territory of a NAFTA country, imports from outside the territories of the NAFTA countries rubber hoses provided for in heading 4009, which is listed in Schedule IV. The wholesaler takes title to the goods at the wholesaler's place of business in City A. The customs value of the imported goods is $500. All freight, taxes and duties associated with the good to the wholesaler's place of business total $100; the cost of the freight, included in that $100, from the place where it was received in the territory of a NAFTA country to the location of the wholesaler's place of business in City A is $25. The wholesaler sells the rubber hoses for $650 to a producer of light-duty vehicles who uses the goods in the territory of a NAFTA country as original equipment in the production of a light-duty vehicle. The light-duty vehicle producer pays $50 to have the goods shipped from the location of the wholesaler's place of business in City A to the location at which the light-duty vehicle is produced.

The rubber hoses are traced materials and they are incorporated into a light-duty automotive good. For purposes of calculating, under section 9(1), the regional value content of the light-duty vehicle,

(1) if the wholesaler takes title to the goods before the first place at which they were received in the territory of a NAFTA country, then the value of non-originating materials, where the light-duty vehicle producer has a statement referred to in section 9(2)(c), would not include the cost of freight from the place where they were received in the territory of a NAFTA country to the location of the wholesaler's place of business: in this situation, the value of non-originating materials would be $575;

(2) if the producer has a statement referred to in section 9(2)(d) that states the customs value of the traced material and, where not included in that price, the cost of taxes, duties, fees and transporting the goods to the place where title is taken, the light-duty vehicle producer may use those values as the value of non-originating materials with respect to the goods: in this situation, the value of non-originating materials would be $600; or

(3) if the wholesaler is unwilling to provide the light-duty vehicle producer with such a statement, the value of non-originating materials with respect to the traced materials will be the value of the materials with respect to the transaction in which the producer acquired them, as provided for in section 9(2)(h), in this instance $650; the costs of transporting the goods from the location of the wholesaler's place of business to the location of the producer will be included in the net cost of the goods, but not in the value of non-originating materials.

Example 9:

A wholesaler, located in City A in the territory of a NAFTA country, imports from outside the territories of the NAFTA countries rubber hose provided for in heading 4009, which is listed in Schedule IV. The wholesaler sells the good to a producer located in the territory of the NAFTA country who uses the hose to produce a power steering hose assembly, also provided for in heading 4009. The power steering hose assembly is then sold to a producer of light-duty vehicles who uses that good in the production of a light-duty vehicle. The rubber hose is a traced material; the power steering hose assembly is not a traced material because it was not imported from outside the territories of the NAFTA countries.

The wholesaler who imported the rubber hose from outside the territories of the NAFTA countries has title to it at the time of importation. The customs value of the good is $3, including freight and insurance and all other costs incurred in transporting the good to the first place at which it was received in the territory of the NAFTA country. Duties and fees and all other costs referred to in section 9(4), paid by the wholesaler with respect to the good, total an additional $1. The wholesaler sells the good to the producer of the power steering hose assemblies for $5, not including freight to the location of that producer. The power steering hose producer pays $2 to have the good delivered to the location of production. The value of the power steering hose assembly sold to the light-duty vehicle producer is $10, including freight for delivery of the goods to the location of the light-duty vehicle producer.

For purposes of calculating, under section 9(1), the regional value content of the light-duty vehicle:

(1) if the motor vehicle producer has a statement referred to in section 9(2)(c) from the producer of the power steering hose assembly that states the customs value of the imported rubber hose incorporated in the power steering hose assembly, and the value of the duties, fees and other costs referred to in section 9(4), the producer may use those values as the value of non-originating materials with respect to that traced good: in this situation, that value would be the customs value of $3 and the cost of duties and fees of $1, provided that the wholesaler has provided the producer of the power steering hose assembly with the information regarding the customs value of the imported good and the other costs;

(2) if the light-duty vehicle producer has a statement from the producer of the power steering hose assembly that states the value of the imported hose, with respect to the transaction in which the power steering hose assembly producer acquires the imported hose from the wholesaler, the light-duty vehicle producer may include that value as the value of non-originating materials, in accordance with section 9(2)(e): in this situation, that value is $5; and the $2 cost of transporting the good from the location of the wholesaler to the location of the producer, because that cost is separately identified, would not be included in the value of non-originating materials of the light-duty vehicle;

(3) if the light-duty vehicle producer has a statement referred to in section 9(2)(f) signed by the producer of the power steering hose assembly, the light-duty vehicle producer may use the formula set out in section 9(2)(f)(ii) to calculate the value of non-originating materials with respect to that acquired material: in this situation, assuming the regional value-content requirement were 50 percent, the value of non-originating materials would be $5; and because the cost of transportation from the location of the producer of the power steering hose assembly to the location of the light-duty vehicle producer is included in the purchase price and not separately identified, it may not be deducted from the purchase price, because the formula referred to in section 9(2)(f)(ii) does not allow for the deduction of transportation costs that would otherwise not be non-originating; or

(4) if the light-duty vehicle producer does not have a statement referred to in any of sections 9(2)(c) through (g) from the producer of the power steering hose assembly, the light-duty vehicle producer includes in the value of non-originating materials of the vehicles the value, determined in accordance with section 9(2)(h), of the power steering hose assembly: in this situation, that amount would be $10, the cost to the producer of acquiring that material.

Example 10:

A producer of light-duty vehicles located in City C in the territory of a NAFTA country imports from outside the territories of the NAFTA countries rubber hose provided for in heading 4009, which is listed in Schedule IV, and uses that good as original equipment in the production of a light-duty vehicle.

The rubber hose arrives at City A in the NAFTA country, but the producer of the light-duty vehicle does not have title to the good; it is transported under bond to City B, and on its arrival in City B, the producer of the light-duty vehicle takes title to it and the good is received in the territory of a NAFTA country. The good is then transported to the location of the light-duty vehicle producer in City C.

The customs value of the imported good is $4, the transportation and other costs referred to in subparagraph 9(2)(b)(ii) to City A are $3 and to City B are $2, and the cost of duties, taxes and other fees referred to in section 9(4) is $1. The cost of transporting the good from City B to the location of the producer in City C is $1. The rubber hose is traced material.

For purposes of calculating, under section 9(1), the regional value content of the light-duty vehicle, the value, under section 9(2)(b), of non-originating materials of that vehicle is the customs value of the traced material and, where not included in that value, the cost of taxes, duties, fees and the cost of transporting the traced material to the place where title is taken. In this situation, the value of non-originating materials would be the customs value of the traced material, $4, the cost of duties taxes and other fees, $1, the cost of transporting the material to City A, $3, and the cost of transporting that material from City A to City B, $2, for a total of $10. The $1 cost of transporting the good from City B to the location of the producer in City C would not be included in the value of non-originating materials of the light-duty vehicle because a person of a NAFTA country has taken title to the traced material.

Example 11:

A radiator provided for in subheading 8708.91 is imported from outside the territories of the NAFTA countries by a producer of light-duty vehicles and is used in the territory of a NAFTA country as original equipment in the production of a light-duty vehicle.

The radiator is transported by ship from outside the territories of the NAFTA countries and arrives in the territory of the NAFTA country at City A. The radiator is not, however, unloaded at City A and although the radiator is physically present in the territory of the NAFTA country, it has not been received in the territory of a NAFTA country.

The ship sails in territorial waters from City A to City B and the radiator is unloaded there. The light-duty vehicle producer files, from City C in the same country, the entry for the radiator; the radiator enters the territory of the NAFTA country at City B.

Subheading 8708.91 is listed in Schedule IV. The radiator is a traced material.

For purposes of calculating, under section 9(1), the regional value content of the light-duty vehicle, the value of the radiator is included in the value of non-originating materials of the light-duty vehicle. The costs of any freight, insurance, packing and other costs incurred in transporting the radiator to City B are included in the value of non-originating materials of the light-duty vehicle, including the cost of transporting the radiator from City A to City B. The costs of any freight, insurance, packing and other costs that were incurred in transporting the radiator from City B to the location of the producer are not included in the value of non-originating materials of the light-duty vehicle.

SECTION 10. HEAVY-DUTY AUTOMOTIVE GOODS

Determining VNM for the calculation of the RVC for heavy-duty automotive goods

(1) Except as otherwise provided in subsections (3) through (8) and section 12(4), for purposes of calculating the regional value content of a heavy-duty automotive good under the net cost method, the value of non-originating materials used by the producer of the good in the production of the good shall be the sum of

(a) for each listed material that is a non-originating material, is a self-produced material and is used by the producer in the production of the good, at the choice of the producer, either

(i) the total cost that can be reasonably allocated to that listed material in accordance with Schedule VII, or

(ii) the sum of

(A) the customs value of each non-originating material imported by the producer and used in the production of the listed material, and, where not included in that customs value, the costs referred to in subsections (2) (c) through (f), and

(B) the value of each non-originating material that is not imported by the producer of the listed material and is used in the production of the listed material, determined in accordance with subsection (2) with respect to the transaction in which the producer of the listed material acquired it;

(b) for each listed material that is a non-originating material, is produced in the territory of a NAFTA country and is acquired and used by the producer in the production of the good, at the choice of the producer, either

(i) the value of that non-originating listed material, determined in accordance with subsection (2), with respect to the transaction in which the producer acquired the listed material, or

(ii) where the producer of the good has a statement described in clause (A) or (B) with respect to each material that is a non-originating material used in the production of that listed material, the sum of

(A) the customs value of each non-originating material imported by the producer of the listed material and used in the production of that listed material, and, where not included in that customs value, the costs referred to in subsections (2) (c) through (f), if the producer of the good has a statement signed by the producer of the listed material that states the customs value of that non-originating material and the costs referred to in subsections (2) (c) through (f) that the producer of the listed material incurred with respect to the non-originating material, and

(B) the value of each non-originating material that is not imported by the producer of the listed material, and is acquired and used in the production of the listed material, determined in accordance with subsection (2) with respect to the transaction in which the producer of the listed material acquired that non-originating material, if the producer of the good has a statement signed by the producer of the listed material that states the value of the acquired material, determined in accordance with subsection (2) with respect to the transaction in which the producer of the listed material acquired the non-originating material;

(c) for each listed material, automotive component assembly, automotive component or sub-component that is imported from outside the territories of the NAFTA countries, and is used by the producer in the production of the good,

(i) where it is imported by the producer, the customs value of that non-originating listed material, automotive component assembly, automotive component or sub-component, and, where not included in that customs value, the costs referred to in subsections (2) (c) through (f), and

(ii) where it is not imported by the producer, the value of that non-originating listed material, automotive component assembly, automotive component or sub-component, determined in accordance with subsection (2) with respect to the transaction in which the producer acquired it;

(d) for each automotive component assembly, automotive component or sub-component that is an originating material and is acquired and used by the producer in the production of the good, at the choice of the producer,

(i) the sum of

(A) the value of each non-originating listed material used in the production of the originating material, determined under paragraphs (a) and (b),

(B) the value of each non-originating material incorporated into the originating material, determined under paragraph (c),

(C) the value of each non-originating listed material used in the production of a material referred to in paragraph (e) that is used in the production of the originating material, determined under paragraphs (a) and (b), and

(D) where the value of a non-originating listed material referred to in clause (C), and used in the production of a non-originating automotive component assembly, automotive component or sub-component that is used in the production of the originating material, is not included under clause (C), the value of that automotive component assembly, automotive component or sub-component, determined under paragraph (e)(ii),

if the producer has a statement, signed by the person from whom the originating material was acquired, that states the sum of the values, as determined by the producer of the originating material under paragraphs (a), (b), (c) and (e) of each non-originating material referred to in any of clauses (A) through (D) that is incorporated into that originating material;

(ii) an amount equal to the number resulting from applying the following formula:

$$VM \times (1 - RVCR)$$

where

VM is the value of the acquired material, determined in accordance with subsection (2), with respect to the transaction in which the producer of the good acquired that material; and

RVCR is the regional value-content requirement for the acquired material, expressed as a decimal,

if the material is subject to a regional value-content requirement and the producer has a statement, signed by the person from whom the producer acquired that material, that states that the acquired material is an originating material but does not state the value of non-originating materials with respect to that acquired material; or

(iii) the value of that automotive component assembly, automotive component or sub-component determined in accordance with subsection (2) with respect to the transaction in which the producer acquired the material;

(e) for each automotive component assembly, automotive component or sub-component that is a non-originating material produced in the territory of a NAFTA country and that is acquired by the producer and used by the producer in the production of the good, at the choice of the producer, either

(i) the sum of the values of the non-originating materials incorporated into that non-originating material that is acquired by the producer, determined under paragraphs (a), (b), (c), (d) and (f), if the producer has a statement, signed by the person from whom the non-originating material was acquired, that states the sum of the values of the non-originating materials incorporated into that non-originating material, determined by the producer of the non-originating material in accordance with paragraphs (a), (b), (c), (d) and (f), or

(ii) the value of that non-originating automotive component assembly, automotive component or sub-component, determined in accordance with subsection (2) with respect to the transaction in which the producer acquired the material; and

(f) for each non-originating material that is not referred to in paragraph (a), (b), (c) or (e) and that is used by the producer in the production of the good,

(i) where it is imported by the producer, the customs value of that non-originating material, and, where not included in that customs value, the costs referred to in subsections (2) (c) through (f), and

(ii) where it is not imported by the producer, the value of that non-originating material, determined in accordance with subsection (2) with respect to the transaction in which the producer acquired the material.

Application of Schedule VIII to determine VNM; additional costs to be included

(2) For purposes of subsection (1)(a)(ii)(B), subsection (1)(b)(i), subsection (1)(b)(ii)(B), subsections (1)(c)(ii), (1)(d) (ii) and (iii), (1)(e)(ii) and subsection (1)(f)(ii), the value of a material

(a) shall be the transaction value of the material, determined in accordance with section 2(1) of Schedule VIII with respect to the transaction referred to in that clause, subparagraph or paragraph, or

(b) where, with respect to the transaction referred to in that clause, subparagraph, or paragraph, there is no transaction value for the material under section 2(2) of Schedule VIII or the transaction value of the material is unacceptable under section 2(3) of that Schedule, shall be determined in accordance with sections 6 through 11 of that Schedule,

and shall include the following costs where they are not included under paragraph (a) or (b):

(c) the costs of freight, insurance and packing, and all other costs incurred in transporting the material to the location of the producer,

(d) duties and taxes paid or payable with respect to the material in the territory of one or more of the NAFTA countries, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable;

(e) customs brokerage fees, including the cost of in-house customs brokerage and customs clearance services, incurred with respect to the material in the territory of one or more of the NAFTA countries, and

(f) the cost of waste and spoilage resulting from the use of the material in the production of the good, minus the value of any reusable scrap or by-product.

Customs administration determines customs value to be incorrect

(3) For purposes of subsections (1)(a)(ii)(A) and (b)(ii)(A) and subsections (1)(c)(i) and (1)(f)(i), where the customs administration of the NAFTA country into the territory of which the good is imported determines, during the course of a verification of origin of the good, that the customs value of an imported material referred to in those clauses was not correctly determined, it may, for the purposes of determining whether the good is an originating good, require that the value of the material be determined in accordance with Schedule VIII with respect to the importation for which that customs value was determined and, where the costs referred to in subsections (2) (c) through (f) are not included in that value, that those costs be added to the value of the material.

Option to use section 9 tracing rules in certain circumstances

(4) For purposes of calculating the regional value content of a heavy-duty component, where

(a) a heavy-duty component is produced in the same plant as an automotive component assembly or automotive component that is of the same heading or subheading as that heavy-duty component and is for use as original equipment in a light-duty vehicle, and

(b) it is not reasonable for the producer to know which of the production will constitute a heavy-duty component for use in heavy-duty vehicle,

the value of the non-originating materials used in the production of the heavy-duty component in that plant may, at the choice of the producer, be determined in the manner set out in section 9.

(5) For purposes of calculating the regional value content of a heavy-duty vehicle, where a producer of such a vehicle acquires, for use by that producer in the production of the vehicle, a heavy-duty component with respect to which the value of non-originating materials has been determined in accordance with subsection (4), the value of the non-originating materials used by the producer with respect to that heavy-duty component is the value of non-originating materials determined under that subsection.

(6) Where it is determined, during the course of a verification of origin of a heavy-duty automotive good with respect to which the producer of that good has a statement referred to in subsection (1)(d)(ii) that the acquired material referred to in that statement is not an originating material, the value of the acquired material shall, for purposes of subsection (1), be determined in accordance with subsection (2) with respect to the transaction in which that producer acquired it.

Effect on value of traced material if value on a statement cannot be verified

(7) Where any person who has information with respect to a statement referred to in subsection (1)(b)(ii), (d)(i) or (e)(i) does not allow a customs administration to verify that information during a verification of origin, the value of any material with respect to which that person did not allow the customs administration to verify the information may be determined by that customs administration in accordance with subsection (2) with respect to the transaction in which that person sells, or otherwise transfers to another person, that material or a material that incorporates that material.

Use of value of VNM as determined under section 12(3) for traced material incorporated into another material

(8) Where a heavy-duty component, sub-component or listed material is incorporated into a material produced in the territory of a NAFTA country and that material is incorporated into a heavy-duty automotive good, the statement referred to in subsection (1)(b)(ii), (d)(i) or (e)(i) may state the value of non-originating materials, determined in accordance with section 12(3), with respect to the material that incorporates the heavy-duty component, sub-component or listed material.

Interpretations and clarifications for provisions applicable to rules for determining VNM for heavy-duty automotive goods

(9) For purposes of this section,

(a) for purposes of calculating the regional value content of a heavy-duty automotive good, sub-component or listed material, a producer of such a good may, in accordance with section 7(4), designate as an intermediate material any self-produced material, other than a heavy-duty component or sub-component, that is used in the production of that good;

(b) except as otherwise provided in section 12(6), this section does not apply with respect to after-market parts;

(c) this section does not apply to a sub-component for purposes of calculating its regional value content before it is incorporated into a heavy-duty automotive good; and

(d) for purposes of calculating the regional value content of a heavy-duty automotive good, the producer of that good may choose to treat any material used in the production of that good as a non-originating material, and the value of that material shall be determined in accordance with subsection (2) with respect to the transaction in which the producer acquired it.

Examples of application of rules for determining VNM for heavy-duty automotive goods

(10) Each of the following examples is an "Example" as referred to in section 2(4).

Example 1:

A listed material is imported from outside the territories of the NAFTA countries.

A cast head, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country in the production of an engine that will be used as original equipment in the production of a heavy-duty vehicle. No other non-originating materials are used in the production of the engine. The cast head is a listed material; the engine is an automotive component.

Situation 1: Use of the listed material in an automotive component

For purposes of calculating the regional value content of the engine, the value of listed materials imported from outside the territories of the NAFTA countries is included in the value of non-originating materials used in the production of the engine. Because the cast head was produced outside the territories of the NAFTA countries, its value, under section 10(1)(c), is included in the value of non-originating materials used in the production of the engine.

Situation 2: Use of an originating automotive component incorporating the listed material

The engine is an originating material acquired by the producer of the heavy-duty vehicle. For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates that engine (and incorporates the cast head), the value of non-originating materials used in the production of the heavy-duty vehicle is determined under section 10(1)(d) with respect to that engine. The producer may choose to include in the value of non-originating materials of the heavy-duty vehicle

(a) the value, determined under section 10(1)(d)(i), of the non-originating materials that are incorporated into the engine, which is the value, determined under sections 10(1) (a) through (c) and paragraph (e)(ii), of the non-originating materials;

(b) the value, determined under section 10(1)(d)(ii), which is an amount equal to the amount determined under section 10(1)(d)(iii) multiplied by the regional value-content requirement, expressed as a decimal, for the engine; or

(c) the value, determined under section 10(1)(d)(iii), of the engine.

The heavy-duty vehicle producer may only choose the first option if that producer has a statement, referred to in section 10(1)(d)(i), from the person from whom the engine was acquired. In this situation, the value, determined under section 10(1)(c), of the cast head, is included in the value of non-originating materials of the heavy-duty vehicle, with respect to the engine that is used in the production of the heavy-duty vehicle.

The heavy-duty vehicle producer may only choose the second option if that producer has a statement, referred to in section 10(1)(d)(ii), from the person from whom the engine was acquired. In this situation, because of the application of the equation, the value of the cast head will be included in the amount determined under section 10(1)(d)(ii) and is, consequently, included in the value of non-originating materials of the heavy-duty vehicle.

Situation 3: Use of a non-originating automotive component incorporating the listed material

The engine is a non-originating material acquired by the producer of the heavy-duty vehicle. For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates that engine (and incorporates the cast head), the value of non-originating materials used in the production of the heavy-duty vehicle is determined under section 10(1)(e) with respect to that engine. The producer of the heavy-duty vehicle may choose to include in the value of non-originating materials either

(a) the value, as determined under section 10(1)(e)(i), of the non-originating materials that are incorporated into the engine, which is the value of the non-originating materials as determined under sections 10(1) (a) through (d) and (f), or

(b) the value of the engine, determined under section 10(1)(e)(ii).

VOL 58 ISS 249 DEC 30 1993 UMI

The heavy-duty vehicle producer may only choose the first option if that producer has a statement, referred to in section 10(1)(e)(i), from the person from whom the engine was acquired. In this situation, the value of the cast head, as determined under section 10(1)(c), is included in the value of non-originating materials used in the production of the heavy-duty vehicle, with respect to the engine that is used in the production of the heavy-duty vehicle.

Example 2:

A material is imported from outside the territories of the NAFTA countries.

A rocker arm assembly, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country in the production of an engine that will be used as original equipment in the production of a heavy-duty vehicle. No other non-originating materials are used in the production of the engine. The rocker arm assembly is neither a listed material nor a sub-component; the engine is an automotive component.

Situation 1: Use of the material in an automotive component

For purposes of calculating the regional value content of the engine, the value of non-originating materials that are not listed materials is included in the value of non-originating materials used in the production of the engine. Because the rocker arm assembly was produced outside the territories of the NAFTA countries, it is a non-originating material and its value, under section 10(1)(f), is included in the value of non-originating materials used in the production of the engine.

Situation 2: Use of an originating automotive component incorporating the material

The engine is an originating material acquired by the producer of the heavy-duty vehicle. For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates that engine (and incorporates the rocker arm assembly), the value of non-originating materials used in the production of the heavy-duty vehicle is determined under section 10(1)(d) with respect to that engine. The producer may choose to include in the value of non-originating materials of the heavy-duty vehicle

(a) the value, determined under section 10(1)(d)(i), of the non-originating materials that are incorporated into the engine, which is the value, determined under sections 10(1) (a) through (c) and paragraph (e)(ii), of the non-originating materials;

(b) the value, determined under section 10(1)(d)(ii), which is an amount equal to the amount determined under section 10(1)(d)(iii) multiplied by the regional value-content requirement, expressed as a decimal, for the engine; or

(c) the value, determined under section 10(1)(d)(iii), of the engine.

The heavy-duty vehicle producer may only choose the first option if that producer has a statement, referred to in section 10(1)(d)(i), from the person from whom the engine was acquired. In this situation, the value of the rocker arm assembly, as determined under section 10(1)(f), is not included in the value of non-originating materials of the heavy-duty vehicle, with respect to the engine that is used in the production of the heavy-duty vehicle.

The heavy-duty vehicle producer may only choose the second option if that producer has a statement, referred to in section 10(1)(d)(ii), from the person from whom the engine was acquired. In this situation, because of the application of the equation, the value of the rocker arm assembly will be included in the amount determined under section 10(1)(d)(ii) and will, consequently, be included in the value of non-originating materials used in the production of the heavy-duty vehicle.

Situation 3: Use of a non-originating automotive component incorporating the material

The engine is a non-originating material acquired by the producer of the heavy-duty vehicle. For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates that engine (and incorporates the rocker arm assembly), the value of non-originating materials used in the production of the heavy-duty vehicle is determined under section 10(1)(e) with respect to that engine. The producer of the heavy-duty vehicle may choose to include in the value of non-originating materials either

(a) the value, as determined under section 10(1)(e)(i), of the non-originating materials that are incorporated into the engine, which is the value of the non-originating materials as determined under sections 10(1)(a) through (d) and (f), or

(b) the value of the engine, determined under section 10(1)(e)(ii).

The heavy-duty vehicle producer may only choose the first option if that producer has a statement, referred to in section 10(1)(e)(i), from the person from whom the engine was acquired. In this situation, the value of the rocker arm assembly, as determined under section 10(1)(f), is included in the value of non-originating materials used in the production of the heavy-duty vehicle, with respect to the engine that is used in the production of the heavy-duty vehicle.

Situation 4: Use of the material in a self-produced automotive component

If the engine is a self-produced material rather than an acquired material, the heavy-duty vehicle producer is using the rocker arm assembly in the production of the heavy-duty vehicle rather than in the production of the engine, because, under section 7(4), the engine cannot be designated as an intermediate material. For purposes of calculating the regional value content of the heavy-duty vehicle, the value, under section 10(1)(f), of the rocker arm assembly is included in the value of non-originating materials used in the production of the heavy-duty vehicle.

Example 3:

An automotive component is imported from outside the territories of the NAFTA countries.

A transmission, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country as original equipment in the production of a heavy-duty vehicle. The transmission is an automotive component.

Situation: Use of the automotive component

For purposes of calculating the regional value content of the heavy-duty vehicle in which the transmission is used, the value of the transmission is included in the value of the non-originating materials under section 10(1)(c), regardless of whether the producer imported the transmission or acquired it from someone else in the territory of a NAFTA country.

Example 4:

An automotive component is imported from outside the territories of the NAFTA countries.

A transmission, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and combined with an engine to produce an engine-transmission assembly that will be used as original equipment in the production of a heavy-duty vehicle. The transmission is an automotive component; the engine-transmission assembly is an automotive component assembly.

Situation: Use of the automotive component assembly

The automotive component assembly is acquired by a producer who uses it in the production of a heavy-duty vehicle. If the automotive component assembly that incorporates the imported transmission is an originating material, its value is determined, at the choice of the producer, under any of sections 10(1)(d) (i), (ii) or (iii). (See example 1 for more detailed explanations of these provisions.) If the automotive component assembly that incorporates the imported transmission is a non-originating material, its value is determined, at the choice of the producer, under sections 10(1)(e) (i) or (ii). (See example 1 for more detailed explanations of these provisions.)

Regardless of whether the automotive component assembly is an originating material or a non-originating material, the value of the automotive component that was imported from outside the territories of the NAFTA countries is included in the value of non-originating materials used in the production of the heavy-duty vehicle. The transmission is a non-originating material, and, for purposes of calculating the regional value content of an automotive component assembly or heavy-duty vehicle that incorporates that transmission, the value of the transmission is included in the value of non-originating materials used in the production of the automotive component assembly or heavy-duty vehicle that incorporates it.

Example 5:

A material is imported from outside the territories of the NAFTA countries.

An aluminum ingot, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country in the production of cast block that will be used in an engine that will be used as original equipment in the production of a heavy-duty vehicle. The aluminum ingot is not a listed material; the cast block is a listed material; the engine is an automotive component.

Situation 1: Use of the material in an intermediate material that is a listed material

The engine producer designates the cast block as an intermediate material under section 7(4). For purposes of determining the origin of that cast block, because the aluminum ingot is classified under a different heading than the cast block, the cast block satisfies the applicable change in tariff classification and is an originating material.

Situation 2: Use of the listed material incorporating the material

For purposes of calculating the regional value content of the engine that incorporates that cast block (and thus incorporates the aluminum ingot), the value of non-originating materials is determined under section 10(1). Because none of sections 10(1) (a) through (f) require that a listed material that is an originating material be included in the value of non-originating materials used in the production of a good, the value of the cast block is not included in the value of non-originating materials used in the production of the engine or in the value of non-originating materials used in the production of an automotive component assembly or heavy-duty vehicle that incorporates the engine.

Because section 10(1)(d) does not refer to a listed material that is an originating material, the value of the non-originating aluminum ingot used in the production of the originating cast block is not included in the value of non-originating materials used in the production of any good or material that incorporates the originating cast block.

VOL 58 ISS 249 DEC 30 1993 UMI

Example 6:

A non-originating listed material is used to produce a sub-component that is used to produce another sub-component.

A crankshaft, produced in the territory of NAFTA country A from a forging imported from outside the territories of the NAFTA countries, is a non-originating material. The crankshaft is sold to another producer, located in the same country, who uses it to produce an originating block assembly. That block assembly is sold to another producer, also located in the same country, who uses it to produce a finished block. The finished block is sold to a producer of engines, who is located in NAFTA country B, for use in the production of a heavy-duty vehicle. The crankshaft is a listed material; the block assembly is a sub-component, as is the finished block.

Situation 1: Calculating the regional value content of the finished block

A sub-component is not a heavy-duty automotive good. As referred to in section 10(9)(c), for purposes of calculating the regional value content of the sub-component before it is incorporated into a heavy-duty automotive good, such as when the sub-component is exported from the territory of one NAFTA country to the territory of another NAFTA country, the value of non-originating materials of the sub-component includes only the value of non-originating materials used in the production of that sub-component. Because the block assembly is an originating material, its value is not included in the value of non-originating materials of the finished block, nor is the value of the non-originating crankshaft included in the value of non-originating materials used in the production of the finished block because the crankshaft was used in the production of the block assembly and was not used in the production of the finished block.

Situation 2: Calculating the regional value content of the component that incorporates the finished block

For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates a sub-component, the value of non-originating materials used in the production of the sub-component is determined under section 10(1)(d) or (e) with respect to that sub-component. In this situation, the value, under section 10(1)(b), of the non-originating crankshaft is included in the value of non-originating materials used in the production of the engine. (See examples 1 and 2 for more detailed explanations of sections 10(1)(d) and (e).)

Example 7:

A non-listed material is imported from outside the territories of the NAFTA countries and is used in the production of another non-listed material.

A bumper part, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and is used in the production of a bumper. The bumper is used in the territory of a NAFTA country as original equipment in the production of a heavy-duty vehicle. Neither a bumper part nor a bumper is a listed material, sub-component, automotive component or automotive component assembly.

Situation 1: The non-listed material is an originating material

The bumper is an originating material. For purposes of calculating the regional value content of the heavy-duty vehicle, neither the value of the imported bumper part nor the value of the bumper is included in the value of the non-originating materials.

Situation 2: The non-listed material is a non-originating material

The bumper is a non-originating material. For purposes of calculating the regional value content of the heavy-duty vehicle, the value of non-originating materials used in the production of the heavy-duty vehicle is determined under section 10(1)(f) with respect to the bumper. In this situation, the value of the imported bumper is included in the value of non-originating materials of the heavy-duty vehicle. Because a bumper is not a listed material, the producer of the heavy-duty vehicle does not have the option, under section 10(1)(b)(ii), to include only the value of the imported bumper part in the value of non-originating materials used in the production of the heavy-duty vehicle.

Example 8:

Situation: Transhipment of a listed material

A producer, located in the territory of a NAFTA country, produces, in that country, a cast head that is an originating good. The producer exports the cast head to outside the territories of the NAFTA territories, where valves, springs, valve lifters, a camshaft and gears are added to it to create a cast head assembly. An engine producer, located in the territory of a NAFTA country, imports the cast head assembly into that country and uses it in the production of an engine that will be used as original equipment in the production of a heavy-duty vehicle. A cast head is a listed material; a cast head assembly is a sub-component.

For purposes of calculating the regional value content of the engine, the value of the imported cast head assembly is included in the value of non-originating materials under section 10(1)(c). The value of the cast head cannot be deducted from the value determined under section 10(1)(c). Although the cast head was once an originating good, under section 18 when further production was performed with respect to the cast head outside the territories of the NAFTA countries, it was no longer an originating good.

Example 9:

A material is imported from outside the territories of the NAFTA countries and a heavy-duty vehicle producer self-produces a non-originating listed material.

A material, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country in the production of a water pump that will be used as original equipment by the same producer in the production of a heavy-duty vehicle. Although the producer, under section 7(4), designates the water pump as an intermediate material it is a non-originating material because it fails to satisfy the regional value-content requirement. A water pump is a listed material.

For purposes of calculating the regional value content of the heavy-duty vehicle, the value of non-originating materials includes, at the choice of the producer, either the total cost, determined under section 10(1)(a)(i), of the water pump or the value, determined under section 10(1)(a)(ii)(A), of the material imported from outside the territories of the NAFTA countries.

Example 10:

Situation: A material is acquired and used to produce a non-originating listed material

A material, produced outside the territories of the NAFTA countries, is acquired in the territory of a NAFTA country and used in that country in the production of a water pump that will be used as original equipment in the production of a heavy-duty vehicle. The producer of the water pump and the producer of the heavy-duty vehicle are separate, unrelated producers, located in the same country. A water pump is a listed material. The water pump is a non-originating material because it fails to satisfy the regional value-content requirement.

For purposes of calculating the regional value content of the heavy-duty vehicle, the value of non-originating materials includes, at the choice of the producer, either the value, determined under section 10(1)(b)(i) of the water pump, or, if the producer has a statement referred to in section 10(1)(b)(ii), the value on that statement, which is, in this situation, the value, determined under clause 10(1)(b)(ii)(B), of the material imported from outside the territories of the NAFTA countries.

If the statement states the value of non-originating materials of the listed material in accordance with section 12(3), the producer of the heavy-duty vehicle may, under section 10(8), use that value, under section 10(1)(b)(ii), as the value of non-originating materials used in the production of the heavy-duty vehicle with respect to that water pump.

SECTION 11. MOTOR VEHICLE AVERAGING

NC and VNM for motor vehicles may be averaged over producer's fiscal year

(1) For purposes of calculating the regional value content of light-duty vehicles or heavy-duty vehicles, the producer of those motor vehicles may choose that

(a) the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer be calculated over the producer's fiscal year with respect to the motor vehicles that are in any one of the categories set out in subsection (5) that is chosen by the producer; and

(b) the sums referred to in paragraph (a) be used in the calculation referred to in section 6(3) as the net cost and the value of non-originating materials, respectively.

Information required when producer chooses to average for motor vehicles

(2) A choice made under subsection (1) shall

(a) state the category chosen by the producer, and

(i) where the category referred to in subsection (5)(a) is chosen, state the model line, model name, class of motor vehicle and tariff classification of the motor vehicles in that category, and the location of the plant at which the motor vehicles are produced,

(ii) where the category referred to in subsection (5)(b) is chosen, state the model name, class of motor vehicle and tariff classification of the motor vehicles in that category, and the location of the plant at which the motor vehicles are produced, and

(iii) where the category referred to in subsection (5)(c) is chosen, state the model line, model name, class of motor vehicle and tariff classification of the motor vehicles in that category, and the locations of the plants at which the motor vehicles are produced;

(b) state the basis of the calculation described in subsection (9);

(c) state the producer's name and address;

(d) state the period with respect to which the choice is made, including the starting and ending dates;

(e) state the estimated regional value content of motor vehicles in the category on the basis stated under paragraph (b);

(f) be dated and signed by an authorized officer of the producer; and

(g) be filed with the customs administration of each NAFTA country to which vehicles in that category are to be exported during the period covered by the choice, at least 10 days before the first day of the producer's fiscal year, or such shorter period as that customs administration may accept.

Averaging period

(3) Where the fiscal year of a producer begins after the date of the entry into force of the Agreement but before one year after that date, the producer may choose that the calculation of regional value content referred to in subsection (1) be made under that subsection over the period beginning on the date of the entry into force of the Agreement and ending at the end of that fiscal year, in which case the choice shall be filed with the customs administration of each NAFTA country to which vehicles are to be exported during the period covered by the choice not later than 10 days after the entry into force of the Agreement, or such longer period as that customs administration may accept.

(4) Where the fiscal year of a producer begins on the date of the entry into force of the Agreement, the producer may make the choice referred to in subsection (1) not later than 10 days after the entry into force of the Agreement, or such longer period as the customs administration referred to in subsection (2)(g) may accept.

Categories of motor vehicles for averaging

(5) The categories referred to in subsection (1) are the following:

(a) the same model line of motor vehicles in the same class of motor vehicles produced in the same plant in the territory of a NAFTA country;

(b) the same class of motor vehicles produced in the same plant in the territory of a NAFTA country; and

(c) the same model line of motor vehicles produced in the territory of a NAFTA country.

(6) Where applicable, a producer may choose that the calculation of the regional value content of motor vehicles referred to in Schedule V.1 be made in accordance with that schedule.

Timely filing of choice to average

(7) Subject to section 5(4) of Schedule V.1, the choice referred to in subsection (6) shall be filed with the customs administration of the NAFTA country to which vehicles referred to in that schedule are to be exported, at least 10 days before the first day of the producer's fiscal year with respect to which that choice is to apply or such shorter period as the customs administration may accept.

Choice to average cannot be rescinded

(8) A choice filed for the period referred to in subsection (1) or (3) may not be

(a) rescinded; or

(b) modified with respect to the category or basis of calculation.

(9) For purposes of this section, where a producer files a choice under subsection (1), (3) or (4), including a choice referred to in section 13(9), the net cost incurred and the values of non-originating materials used by the producer, with respect to

(a) all motor vehicles that fall within the category chosen by the producer and that are produced during the fiscal year or, in the case of a choice filed under subsection (3), during the period with respect to which the choice is made, or

VOL 58 ISS 249 DEC 30 1993 UMI

(b) those motor vehicles to be exported to the territory of one or more of the NAFTA countries that fall within the category chosen by the producer and that are produced during the fiscal year or, in the case of a choice filed under subsection (3), during the period with respect to which the choice is made,

shall be included in the calculation of the regional value content under any of the categories set out in subsection (5).

Year-end analysis required if averaging based on estimated costs; obligation to notify of change in status

(10) Where the producer of a motor vehicle has calculated the regional value content of the motor vehicle on the basis of estimated costs, including standard costs, budgeted forecasts or other similar estimating procedures, before or during the producer's fiscal year, the producer shall conduct an analysis at the end of the producer's fiscal year of the actual costs incurred over the period with respect to the production of the motor vehicle, and, if the motor vehicle does not satisfy the regional value content requirement on the basis of the actual costs, immediately inform any person to whom the producer has provided a Certificate of Origin for the motor vehicle, or a written statement that the motor vehicle is an originating good, that the motor vehicle is a non-originating good.

SECTION 12. AUTOMOTIVE PARTS AVERAGING

NC and VNM for automotive parts may be averaged to determine RVC of parts

(1) The regional value content of any or all goods that are of the same tariff provision listed in Schedule IV, or any or all goods that are automotive component assemblies, automotive components, sub-components or listed materials, and are produced in the same plant, may, where the producer of those goods elects to do so, be calculated by

(a) calculating the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer of the goods over the period set out in subsection (5) that is chosen by the producer with respect to any or all of those goods in any one of the categories set out in subsection (4) that is chosen by the producer; and

(b) using the sums referred to in paragraph (a) in the calculation referred to in section 6(3) as the net cost and the value of non-originating materials, respectively.

(2) The calculation of the regional value content made under subsection (1) shall apply with respect to each unit of the goods in the category set out in subsection (4) that is chosen by the producer and produced during the period chosen by the producer under subsection (5).

VNM for each unit in a category of goods for which averaging used

(3) The value of non-originating materials of each unit of the goods

(a) in the category set out in subsection (4) chosen by the producer, and

(b) produced during the period chosen by the producer under subsection (5),

shall be the sum of the values of non-originating materials referred to in subsection (1)(a) divided by the number of units of the goods in that category and produced during that period.

Categories of automotive parts for averaging

(4) The categories referred to in subsection (1)(a) are the following:

(a) original equipment for use in the production of lightduty vehicles;

(b) original equipment for use in the production of heavy-duty vehicles;

(c) after-market parts;

(d) any combination of goods referred to in paragraphs (a) through (c);

(e) goods that are in a category set out in any of paragraphs (a) through (d) and are sold to one or more motor vehicle producers; and

(f) goods that are in a category set out in any of paragraphs (a) through (e) and are exported to the territory of one or more of the NAFTA countries.

Periods for averaging RVC for automotive parts

(5) The period referred to in subsection (1)(a) is,

(a) with respect to goods referred to in subsection (4)(a), (b) or (d), or subsection (4)(e) or (f) where the goods in that category are in a category referred to in subsection (4)(a) or (b), any month, any consecutive three month period or the fiscal year of the motor vehicle producer to whom those goods are sold; and

(b) with respect to goods referred to in subsection (4)(c), or subsection (4)(e) or (f) where the goods in that category are in a category referred to in subsection (4)(c), any month, any consecutive three month period, the fiscal year of that producer or the fiscal year of the motor vehicle producer to whom those goods are sold.

Applicable method for averaging under different categories

(6) Where a producer chooses that the regional value content of goods be calculated in accordance with subsection (1) and the goods are in any of the categories set out in subsections (4)(d) through (f), the value of non-originating materials

(a) shall be determined in the manner set out in section 9, where any of those goods are light-duty automotive goods;

(b) shall be determined in the manner set out in section 10, where any of those goods are heavy-duty automotive goods but none of the goods are light-duty automotive goods; and

(c) shall be determined in the manner set out in section 7, where none of those goods are light-duty automotive goods or heavy-duty automotive goods.

Year-end analysis required if averaging based on estimated costs; obligation to notify of change in status

(7) Where the producer of a good has calculated the regional value content of the good on the basis of estimated costs, including standard costs, budgeted forecasts or other similar estimating procedures, before or during the period chosen under subsection (1), the producer shall conduct an analysis, at the end of the producer's fiscal year following the end of that period, of the actual costs incurred over the period with respect to the production of the good and, if the good does not satisfy the regional value content requirement on the basis of the actual costs during that period, immediately inform any person to whom the producer has provided a Certificate of Origin for the good, or a written statement that the good is an originating good, that the good is a non-originating good.

SECTION 13. SPECIAL REGIONAL VALUE-CONTENT REQUIREMENTS

Changes in regional value content level for automotive goods

(1) Notwithstanding the regional value-content requirement set out in Schedule I, and except as otherwise provided in subsection (2), the regional value-content requirement for a good referred to in paragraph (a) or (b) is as follows:

(a) for the fiscal year of a producer that begins on the day closest to January 1, 1998 and for the three following fiscal years of that producer, not less than 56 percent, and for the fiscal year of a producer that begins on the day closest to January 1, 2002 and thereafter, not less than 62.5 percent, in the case of

(i) a light-duty vehicle, and

(ii) a good provided for in any of headings 8407 and 8408 and subheading 8708.40, that is for use in a light-duty vehicle; and

(b) for the fiscal year of a producer that begins on the day closest to January 1, 1998 and for the three following fiscal years of that producer, not less than 55 percent, and for the fiscal year of a producer that begins on the day closest to January 1, 2002 and thereafter, not less than 60 percent, in the case of

(i) a heavy-duty vehicle,

(ii) a good provided for in any of headings 8407 and 8408 and subheading 8708.40 that is for use in a heavy-duty vehicle, and

(iii) except in the case of a good referred to in paragraph (a)(ii) or provided for in any of subheadings 8482.10 through 8482.80, 8483.20 and 8483.30, a good of a tariff provision listed in Schedule IV that is subject to a regional value-content requirement and is for use in a light-duty vehicle or a heavy-duty vehicle.

Regional value content level for motor vehicles produced in a new plant or in a retrofit plant

(2) Notwithstanding the regional value-content requirement set out in Schedule I, the regional value-content requirement for a light-duty vehicle or a heavy-duty vehicle that is produced in a plant is as follows:

(a) not less than 50 percent for five years after the date on which the first prototype of the motor vehicle is produced in the plant by a motor vehicle assembler, if

(i) the motor vehicle is of a class, marque or, except in the case of a heavy-duty vehicle, size category and type of underbody, that was not previously produced by the motor vehicle assembler in the territory of any of the NAFTA countries,

(ii) the plant consists of, or includes, a new building in which the motor vehicle is assembled, and

(iii) the value of machinery that was never previously used for production, and that is used in the new building or buildings for the purposes of the complete motor vehicle assembly process with respect to that motor vehicle, is at least 90 percent of the value of all machinery used for purposes of that process; and

(b) not less than 50 percent for two years after the date on which the first prototype of the motor vehicle is produced in the plant by a motor vehicle assembler following a refit of that plant, if the motor vehicle is of a class, marque or, except in the case of a heavy-duty vehicle, size category and type of underbody, that was not assembled by the motor vehicle assembler in the plant before the refit.

Value of machinery in a new plant

(3) For purposes of subsection (2)(a)(iii), the value of machinery shall be

(a) where the machinery was acquired by the producer of the motor vehicle from another person, the cost of that machinery that is recorded on the books of the producer;

(b) where the machinery was used previously by the producer of the motor vehicle in the production of another good, the cost of the machinery that is recorded on the books of the producer minus accumulated depreciation of that machinery that is recorded on those books; and

(c) where the machinery was produced by the producer of the good, the total cost incurred with respect to that machinery, calculated on the basis of the costs that are recorded on the books of the producer.

Averaging period for calculation of RVC for vehicles of new plant or refit plant

(4) For purposes of calculating the regional value content of a motor vehicle referred to in subsection (2) that is in any one of the categories set out in subsection (7) that is chosen by the producer, the producer may file with the customs administration of the NAFTA country into the territory of which vehicles in that category are to be imported an election to calculate the regional value content of such vehicles by

(a) calculating the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer with respect to all of such motor vehicles in the category chosen over

(i) the period beginning on the day on which the first prototype of the motor vehicle is produced and ending on the last day of the producer's first fiscal year that begins after the beginning of the period,

(ii) a fiscal year of the producer that starts after the period referred to in subparagraph (i) and ends on or before the end of the period referred to in subsection (2) (a) or (b), or

(iii) the period beginning on the first day of the producer's fiscal year that begins before the end of the period referred to in subsection (2) (a) or (b) and ending at the end of that period, and

(b) using the sums referred to in paragraph (a) in the calculation referred to in section 6(3) as the net cost and the value of non-originating materials, respectively.

Information required on document filed when choosing to average; timely filing

(5) A choice made under subsection (4) shall

(a) state the category chosen by the producer and

(i) where the category referred to in subsection (7)(a) is chosen, the model name, model line, class of motor vehicle and tariff classification of the motor vehicles in that category, and the location of the plant at which the motor vehicles are produced, and

(ii) where the category referred to in subsection (7)(b) is chosen, state the model name, class of motor vehicle and tariff classification of the motor vehicles in that category, and the plant location at which the motor vehicles are produced;

(b) state the basis of the calculation described in subsection (8);

(c) state the producer's name and address;

(d) state the period with respect to which the choice is made, including the starting and ending dates;

(e) state the estimated regional value content of motor vehicles in the category on the basis stated under paragraph (b);

(f) state whether the choice is with respect to a motor vehicle referred to in subsection (2) (a) or (b);

(g) be dated and signed by an authorized officer of the producer; and

(h) be filed with the customs administration of each NAFTA country to which vehicles in that category are to be exported during the period covered by the choice, at least 10 days before the first day of the producer's fiscal year, or such shorter period as that customs administration may accept.

No rescission or modification permitted

(6) A choice filed for the period referred to in subsection (4) may not be

(a) rescinded; or

(b) modified with respect to the category or basis of calculation.

Categories of motor vehicles for averaging

(7) The categories referred to in subsection (4) are the following:

(a) the same model line of motor vehicles in the same class of motor vehicles produced in the same plant in the territory of a NAFTA country; and

(b) the same class of motor vehicles produced in the same plant in the territory of a NAFTA country.

(8) For purposes of subsection (4), the net cost incurred and the values of non-originating materials used by the producer, with respect to

(a) all motor vehicles that fall within the category chosen by the producer and that are produced during the period with respect to which the choice is made, or

(b) those motor vehicles to be exported to the territory of one or more of the NAFTA countries that fall within the category chosen by the producer and that are produced during the period with respect to which the choice is made,

shall be included in the calculation of the regional value content under any of the categories set out in subsection (7).

Period for averaging RVC of motor vehicles of new or refit plant

(9) Where the period referred to in subsection (4) ends on a day other than the last day of the producer's fiscal year, the producer may, for purposes of section 11, make the choice referred to in that section with respect to

(a) the period beginning on the day following the end of that period and ending on the last day of that fiscal year; or

(b) the period beginning on the day following the end of that period and ending on the last day of the following full fiscal year.

Year-end analysis required if averaging based on estimated costs; obligation to notify of change in status

(10) Where the producer of a motor vehicle has calculated the regional value content of the motor vehicle on the basis of estimated costs, including standard costs, budgeted forecasts or other similar estimating procedures, before or during the producer's fiscal year, the producer shall conduct an analysis at the end of the producer's fiscal year of the actual costs incurred over the period with respect to the production of the motor vehicle, and, if the motor vehicle does not satisfy the regional value content requirement on the basis of the actual costs, immediately inform any person to whom the producer has provided a Certificate of Origin for the motor vehicle, or a written statement that the motor vehicle is an originating good, that the motor vehicle is a non-originating good.

PART VI
GENERAL PROVISIONS
SECTION 14. ACCUMULATION

Option to determine origin of good by accumulating the production of a material with production of the good in which the material is used

(1) Subject to subsections (2) and (4), for purposes of determining whether a good is an originating good, an exporter or producer of a good may choose to accumulate the production, by one or more producers in the territory of one or more of the NAFTA countries, of materials that are incorporated into that good so that the production of the materials shall be considered to have been performed by that exporter or producer.

Statement required; information as to net cost and value of non-originating materials from production of material if accumulating for regional value content requirement

(2) Where a good is subject to a regional value-content requirement and an exporter or producer of the good has a statement signed by a producer of a material that is used in the production of the good that

(a) states the net cost incurred and the value of non-originating materials used by the producer of the material in the production of that material,

(i) the net cost incurred by the producer of the good with respect to the material shall be the net cost incurred by the producer of the material plus, where not included in the net cost incurred by the producer of the material, the costs referred to in sections 7(1) (c) through (e), and

(ii) the value of non-originating materials used by the producer of the good with respect to the material shall be the value of non-originating materials used by the producer of the material; or

(b) states any amount, other than an amount that includes any of the value of non-originating materials, that is part of the net cost incurred by the producer of the material in the production of that material,

(i) the net cost incurred by the producer of the good with respect to the material shall be the value of the material, determined in accordance with section 7(1), and

(ii) the value of non-originating materials used by the producer of the good with respect to the material shall be the value of the material, determined in accordance with section 7(1), minus the amount stated in the statement.

Accumulated production considered to be production of a single producer

(3) For purposes of section 7(4), where a producer of the good chooses to accumulate the production of materials under subsection (1), that production shall be considered to be the production of the producer of the good.

(4) For purposes of this section,

(a) in order to accumulate the production of a material,

(i) where the good is subject to a regional value-content requirement, the producer of the good must have a statement described in subsection (2) that is signed by the producer of the material, and

(ii) where an applicable change in tariff classification is applied to determine whether the good is an originating good, the producer of the good must have a statement signed by the producer of the material that states the tariff classification of all non-originating materials used by that producer in the production of that material and that the production of the material took place entirely in the territory of one or more of the NAFTA countries; and

(b) a producer of a good who chooses to accumulate is not required to accumulate the production of all materials that are incorporated into the good.

Examples of accumulation of production

(5) Each of the following examples is an "Example" as referred to in section 2(4).

Example 1: section 14(1)

Producer A, located in NAFTA country A, imports unfinished bearing rings provided for in subheading 8482.99 into NAFTA country A from a non-NAFTA territory. Producer A further processes the unfinished bearing rings into finished bearing rings, which are of the same subheading. The finished bearing rings of Producer A do not satisfy an applicable change in tariff classification and therefore do not qualify as originating goods. The net cost of the finished bearing rings (per unit) is calculated as follows:

Product costs:	
Value of originating materials	$0.15
Value of non-originating materials	0.75
Other product costs	0.35
Period costs: (including $0.05 in excluded costs)	0.15
Other costs:	0.05
Total cost of the finished bearing rings, per unit	$1.45
Excluded costs: (included in period costs)	0.05
Net cost of the finished bearing rings, per unit	$1.40

Producer A sells the finished bearing rings to Producer B who is located in NAFTA country A for $1.50 each. Producer B further processes them into bearings, and intends to export the bearings to NAFTA country B. Although the bearings satisfy the applicable change in tariff classification, the bearings are subject to a regional value-content requirement.

Situation A:

Producer B does not choose to accumulate costs incurred by Producer A with respect to the bearing rings used in the production of the bearings. The net cost of the bearings (per unit) is calculated as follows:

Product costs:	
Value of originating materials	$0.45
Value of non-originating materials (value, per unit, of the bearing rings purchased from Producer A)	1.50
Other product costs	0.75
Period costs: (including $0.05 in excluded costs)	0.15
Other costs	0.05
Total cost of the bearings, per unit	$2.90
Excluded costs: (included in period costs)	0.05
Net cost of the bearings, per unit	$2.85

Under the net cost method, the regional value content of the bearings is

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$2.85 - \$1.50}{\$2.85} \times 100$$

$$= 47.4\%$$

Therefore, the bearings are non-originating goods.

Situation B:

Producer B chooses to accumulate costs incurred by Producer A with respect to the bearing rings used in the production of the bearings. Producer A provides a statement described in section 14(2)(a) to Producer B. The net cost of the bearings (per unit) is calculated as follows:

Product costs:	
Value of originating materials ($0.45 + $0.15)	$0.60
Value of non-originating materials (value, per unit, of the unfinished bearing rings imported by Producer A)	0.75
Other product costs ($0.75 + $0.35)	1.10
Period costs: (($0.15 + $0.15), including $0.10 in excluded costs)	0.30
Other costs: ($0.05 + $0.05)	0.10
Total cost of the bearings, per unit	$2.85
Excluded costs: (included in period costs)	0.10
Net cost of the bearings, per unit	$2.75

Under the net cost method, the regional value content of the bearings is

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$2.75 - \$0.75}{\$2.75} \times 100$$

$$= 72.7\%$$

Therefore, the bearings are originating goods.

Situation C:

Producer B chooses to accumulate costs incurred by Producer A with respect to the bearing rings used in the production of the bearings. Producer A provides to Producer B a statement described in section 14(2)(b) that specifies an amount equal to the net cost minus the value of non-originating materials used to produce the finished bearing rings ($1.40 − $0.75=.65). The net cost of the bearings (per unit) is calculated as follows:

Product costs:	
Value of originating materials ($0.45 + $0.65)	$1.10
Value of non-originating materials ($1.50 − $0.65)	0.85
Other product costs	0.75
Period costs: (including $0.05 in excluded costs)	0.15
Other costs	0.05
Total cost of the bearings, per unit	$2.90
Excluded costs: (included in period costs)	0.05
Net cost of the bearings, per unit	$2.85

Under the net cost method, the regional value content of the bearings is

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$2.85 - \$0.85}{\$2.85} \times 100$$

$$= 70.2\%$$

Therefore, the bearings are originating goods.

Situation D:

Producer B chooses to accumulate costs incurred by Producer A with respect to the bearing rings used in the production of the bearings. Producer A provides to Producer B a statement described in section 14(2)(b) that specifies an amount equal to the value of other product costs used in the production of the finished bearing rings ($0.35). The net cost of the bearings (per unit) is calculated as follows:

Product costs:	
Value of originating materials	$0.45
Value of non-originating materials ($1.50 − $0.35)	1.15
Other product costs ($0.75 + $0.35)	1.10
Period costs: (including $0.05 in excluded costs)	0.15
Other costs	0.05
Total cost of the bearings, per unit	$2.90
Excluded costs: (included in period costs)	0.05
Net cost of the bearings, per unit	$2.85

Under the net cost method, the regional value content of the bearings is

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$2.85 - \$1.15}{\$2.85} \times 100$$

$$= 59.7\%$$

Therefore, the bearings are originating goods.

Example 2: section 14(1)

Producer A, located in NAFTA country A, imports non-originating cotton, carded or combed, provided for in heading 5203 for use in the production of cotton yarn provided for in heading 5205. Because the change from cotton, carded or combed, to cotton yarn is a change within the same chapter, the cotton does not satisfy the applicable change in tariff classification for heading 5205, which is a change from any other chapter, with certain exceptions. Therefore, the cotton yarn that Producer A produces from non-originating cotton is a non-originating good.

Producer A then sells the non-originating cotton yarn to Producer B, also located in NAFTA country A, who uses the cotton yarn in the production of woven fabric of cotton provided for in heading 5208. The change from non-originating cotton yarn to woven fabric of cotton is insufficient to satisfy the applicable change in tariff classification for heading 5208, which is a change from any heading outside headings 5208 through 5212, except from certain headings, under which various yarns, including cotton yarn provided for in heading 5205, are classified. Therefore, the woven fabric of cotton that Producer B produces from non-originating cotton yarn produced by Producer A is a non-originating good.

However, under section 14(1), if Producer B chooses to accumulate the production of Producer A, the production of Producer A would be considered to have been performed by Producer B. The rule for heading 5208, under which the cotton fabric is classified, does not exclude a change from heading 5203, under which carded or combed cotton is classified. Therefore, under section 15(1), the change from carded or combed cotton provided for in heading 5203 to the woven fabric of cotton provided for in heading 5208 would satisfy the applicable change of tariff classification for heading 5208. The woven fabric of cotton would be considered as an originating good.

Producer B, in order to choose to accumulate Producer A's production, must have a statement described in section 14(4)(a)(ii).

SECTION 15. INABILITY TO PROVIDE SUFFICIENT INFORMATION

Supplier of material unable to provide information; beyond control of supplier; procedure to be followed by Customs

(1) Where, during a verification of origin of a good, the person from whom a producer of the good acquired a material used in the production of that good is unable to provide the customs administration that is conducting the verification with sufficient information to substantiate that the material is an originating material or that the value of the material declared for purpose of calculating the regional value content of the good is accurate, and the inability of that person to provide the information is due to reasons beyond the control of that person, the customs administration shall, before making a determination as to the origin or value of the material, consider the following:

(a) whether the customs administration of the NAFTA country into the territory of which the good was imported issued an advance ruling under Article 509 of the Agreement, as implemented in each NAFTA country, with respect to that material that concluded that the material is an originating material or that the value of the material declared for purposes of calculating the regional value content of the good is accurate;

(b) whether an independent auditor has confirmed the accuracy of

(i) any signed statement referred to in this Appendix with respect to the material,

(ii) the information that was used by the person from whom the producer acquired the material to substantiate whether the material is an originating material, or

(iii) the information submitted by the producer of the material with an application for an advance ruling where, on the basis of that information, the customs administration concluded that the material is an originating material or that the value declared for the purpose of calculating the regional value content of the good is accurate;

(c) whether the customs administration has, before the start of the origin verification of the good, conducted a verification of origin of identical materials or similar materials produced by the producer of the material and determined that

(i) the identical materials or similar materials are originating materials, or

(ii) any signed statement referred to in this Appendix with respect to those identical materials or similar materials is accurate;

(d) whether the producer of the good has exercised due diligence to ensure that any signed statement that is referred to in this Appendix with respect to the material and that was provided by the person from whom the producer acquired the material is accurate;

(e) where the customs administration has access only to partial records of the person from whom the producer acquired the material, whether the records provide sufficient evidence to substantiate that the material is an originating material or that the value of the material declared for purposes of calculating the regional value content of the good is accurate;

(f) whether the customs administration can obtain, subject to Article 507 of the Agreement, as implemented in each NAFTA country, by means other than those referred to in paragraphs (a) through (e), relevant information regarding the determination of the origin or value of the material from the customs administration of the NAFTA country in the territory of which the person from whom the producer acquired the material was located; and

VOL 58 ISS 249 DE 30 1993 UMI

(g) whether the producer of the good, the person from whom the producer acquired the material or a representative of that person or producer agrees to bear the expenses incurred in providing the customs administration with the assistance that it may require for determining the origin or value of the material.

"Reasons beyond control" of supplier

(2) For purposes of subsection (1), "reasons beyond the control" of the person from whom the producer of the good acquired the material includes

(a) the bankruptcy of the person from whom the producer acquired the material or any other financial distress situation or business reorganization that resulted in that person or a related person having lost control of the records containing the information that substantiate that the material is an originating material or the value of the material declared for the purpose of calculating the regional value content of the good;

(b) any other reason that results in partial or complete loss of records of that producer that the producer could not reasonably have been expected to foresee, including loss of records due to fire, flooding or other natural cause.

Exporter or producer of good unable to provide information; reasons beyond control of exporter or producer; procedure to be followed by Customs

(3) Where, during a verification of origin of a good, the exporter or producer of the good is unable to provide the customs administration conducting the verification with sufficient information to substantiate that the good is an originating good, and the inability of that person to provide the information is due to reasons beyond the control of that person, the customs administration shall, before making a determination as to the origin of the good, consider the following factors:

(a) whether the customs administration of the NAFTA country into the territory of which the good was imported issued an advance ruling under Article 509 of the Agreement, as implemented in each NAFTA country, with respect to that good that concluded that the good is an originating good;

(b) whether an independent auditor has confirmed the accuracy of an origin statement with respect to the good;

(c) whether the customs administration has, before the start of the origin verification of the good, conducted a verification of origin of identical goods or similar goods produced by the producer of the good and determined that the identical goods or similar goods are originating goods;

(d) where the customs administration has access only to partial records of the exporter or producer of the good, whether the records provide sufficient evidence to substantiate that the good is an originating good;

(e) whether the customs administration can obtain, subject to Article 507 of the Agreement, as implemented in each NAFTA country, by means other than those referred to in paragraphs (a) through (d), relevant information regarding the determination of the origin of the good from the customs administration of the NAFTA country in the territory of which the exporter or producer of the good was located; or

(f) whether the exporter or producer of the good or a representative of that person agrees to bear the expenses incurred in providing the customs administration with the assistance that it may require for determining the origin or value of the good.

"Reasons beyond control"

(4) For purposes of subsection (3), "reasons beyond the control" of the exporter or producer of the good includes

(a) the bankruptcy of the exporter or producer or any other financial distress situation or business reorganization that resulted in that person or a related person having lost control of the records containing the information that substantiate that the good is an originating good;

(b) any other reason that results in partial or complete loss of records of that exporter or producer that that person could not reasonably have been expected to foresee, including loss of records due to fire, flooding or other natural cause.

SECTION 16. TRANSSHIPMENT

Effect of subsequent processing outside the territory of a NAFTA country; loss of originating good status

(1) A good is not an originating good by reason of having undergone production occurring entirely in the territory of one or more of the NAFTA countries that would enable the good to qualify as an originating good if, subsequent to that production, the good undergoes further production or any other operation outside the territories of the NAFTA countries, other than unloading, reloading or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a NAFTA country.

Transshipped good considered entirely non-originating

(2) A good that is a non-originating good by application of subsection (1) is considered to be entirely non-originating for purposes of this Appendix.

Exceptions for certain goods

(3) Subsection (1) does not apply with respect to a good provided for in any of subheadings 8541.10 through 8541.60 and 8542.11 through 8542.80 where any further production or other operation that that good undergoes outside the territories of the NAFTA countries does not result in a change in the tariff classification of the good to a subheading outside subheadings 8541.10 through 8542.90.

SECTION 17. NON-QUALIFYING OPERATIONS

Mere dilution; production or pricing practice to circumvent the provisions of this Appendix

17. A good is not an originating good merely by reason of

(a) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(b) any production or pricing practice with respect to which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent this Appendix.

SCHEDULE I

Schedule I shall be the text of Annex 401 to the Agreement.

SCHEDULE II
VALUE OF GOODS

SECTION 1. Definitions.

For purposes of this Schedule, unless otherwise stated:

"buyer" refers to a person who purchases a good from the producer;

"buying commissions" means fees paid by a buyer to that buyer's agent for the agent's services in representing the buyer in the purchase of a good;

"producer" refers to the producer of the good being valued.

SECTION 2.

For purposes of Article 402(2) of the Agreement, as implemented by section 6(2) of this Appendix, the transaction value of a good shall be the price actually paid or payable for the good, determined in accordance with section 3 and adjusted in accordance with section 4.

SECTION 3.

(1) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the producer. The payment need not necessarily take the form of a transfer of money; it may be made by letters of credit or negotiable instruments. The payment may be made directly or indirectly to the producer. For an illustration of this, the settlement by the buyer, whether in whole or in part, of a debt owed by the producer is an indirect payment.

(2) Activities undertaken by the buyer on the buyer's own account, other than those for which an adjustment is provided in section 4, shall not be considered to be an indirect payment, even though the activities might be regarded as being for the benefit of the producer. For an illustration of this, the buyer, by agreement with the producer, undertakes activities relating to the marketing of the good. The costs of such activities shall not be added to the price actually paid or payable.

(3) The transaction value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable:

(a) charges for construction, erection, assembly, maintenance or technical assistance related to the good undertaken after the good has been sold to the buyer; or

(b) duties and taxes paid in the country in which the buyer is located with respect to the good.

(4) The flow of dividends or other payments from the buyer to the producer that do not relate to the purchase of the good are not part of the transaction value.

SECTION 4.

(1) In determining the transaction value of a good, the following shall be added to the price actually paid or payable:

(a) to the extent that they are incurred by the buyer, or by a related person on behalf of the buyer, with respect to the good being valued and are not included in the price actually paid or payable

(i) commissions and brokerage fees, except buying commissions,

(ii) the costs of transporting the good to the producer's point of direct shipment and the costs of loading, unloading, handling and insurance that are associated with that transportation, and

(iii) where the packaging materials and containers in which the good is packaged for retail sale are classified with the good under the Harmonized System, the value of the packaging materials and containers;

(b) the value, reasonably allocated in accordance with subsection (12), of the following elements where they are supplied directly or indirectly to the producer by the buyer, free of charge or at reduced cost for use in connection with the production and sale of the good, to the extent that the value is not included in the price actually paid or payable:

(i) a material, other than an indirect material, used in the production of the good,

(ii) tools, dies, molds and similar indirect materials used in the production of the good,

(iii) an indirect material, other than those referred to in subparagraph (ii) or in paragraphs (c), (e) or (f) of the definition "indirect material" set out in Article 415 of the Agreement, as implemented by section 2(1) of this Appendix, used in the production of the good, and

(iv) engineering, development, artwork, design work, and plans and sketches necessary for the production of the good, regardless of where performed;

(c) the royalties related to the good, other than charges with respect to the right to reproduce the good in the territory of one or more of the NAFTA countries, that the buyer must pay directly or indirectly as a condition of sale of the good, to the extent that such royalties are not included in the price actually paid or payable; and

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the good that accrues directly or indirectly to the producer.

(2) The additions referred to in subsection (1) shall be made to the price actually paid or payable under this section only on the basis of objective and quantifiable data.

(3) Where objective and quantifiable data do not exist with regard to the additions required to be made to the price actually paid or payable under subsection (1), the transaction value cannot be determined under section 2.

(4) No additions shall be made to the price actually paid or payable for the purpose of determining the transaction value except as provided in this section.

(5) The amounts to be added under subsections (1)(a) (i) and (ii) shall be

(a) those amounts that are recorded on the books of the buyer, or

(b) where those amounts are costs incurred by a related person on behalf of the buyer and are not recorded on the books of the buyer, those amounts that are recorded on the books of that related person.

(6) The value of the packaging materials and containers referred to in subsection (1)(a)(iii) and the value of the elements referred to in subsection (1)(b)(i) shall be

VOL 58 ISS 249 DEC 30 1993 UMI

(a) where the packaging materials and containers or the elements are imported from outside the territory of the NAFTA country in which the producer is located, the customs value of the packaging materials and containers or the elements,

(b) where the buyer, or a related person on behalf of the buyer, purchases the packaging materials and containers or the elements from an unrelated person in the territory of the NAFTA country in which the producer is located, the price actually paid or payable for the packaging materials and containers or the elements,

(c) where the buyer, or a related person on behalf of the buyer, acquires the packaging materials and containers or the elements from an unrelated person in the territory of the NAFTA country in which the producer is located other than through a purchase, the value of the consideration related to the acquisition of the packaging materials and containers or the elements, based on the cost of the consideration that is recorded on the books of the buyer or the related person, or

(d) where the packaging materials and containers or the elements are produced by the buyer, or by a related person, in the territory of the NAFTA country in which the producer is located, the total cost of the packaging materials and containers or the elements, determined in accordance with subsection (7),

and shall include the following costs that are recorded on the books of the buyer or the related person supplying the packaging materials and containers or the elements on behalf of the buyer, to the extent that such costs are not included under paragraph (a) through (d):

(e) the costs of freight, insurance, packing, and all other costs incurred in transporting the packaging materials and containers or the elements to the location of the producer,

(f) duties and taxes paid or payable with respect to the packaging materials and containers or the elements, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable,

(g) customs brokerage fees, including the cost of in-house customs brokerage services, incurred with respect to the packaging materials and containers or the elements, and

(h) the cost of waste and spoilage resulting from the use of the packaging materials and containers or the elements in the production of the material, less the value of renewable scrap or by-product.

(7) For purposes of subsection (6)(d), the total cost of the packaging materials and containers referred to in subsection (1)(a)(iii) or the elements referred to in subsection (1)(b)(i) shall be

(a) where the packaging materials and containers or the elements are produced by the buyer, at the choice of the buyer,

(i) the total cost incurred with respect to all goods produced by the buyer, calculated on the basis of the costs that are recorded on the books of the buyer, that can be reasonably allocated to the packaging materials and containers or the elements in accordance with Schedule VII, or

(ii) the aggregate of each cost incurred by the buyer that forms part of the total cost incurred with respect to the packaging materials and containers or the elements, calculated on the basis of the costs that are recorded on the books of the buyer, that can be reasonably allocated to the packaging materials and containers or the elements in accordance with Schedule VII; and

(b) where the packaging materials and containers or the elements are produced by a person who is related to the buyer, at the choice of the buyer,

(i) the total cost incurred with respect to all goods produced by that related person, calculated on the basis of the costs that are recorded on the books of that person, that can be reasonably allocated to the packaging materials and containers or the elements in accordance with Schedule VII, or

(ii) the aggregate of each cost incurred by that related person that forms part of the total cost incurred with respect to the packaging materials and containers or the elements, calculated on the basis of the costs that are recorded on the books of that person, that can be reasonably allocated to the packaging materials and containers or the elements in accordance with Schedule VII.

(8) Except as provided in subsections (10) and (11), the value of the elements referred to in subsections (1)(b) (ii) through (iv) shall be

(a) the cost of those elements that is recorded on the books of the buyer, or

(b) where such elements are provided by another person on behalf of the buyer and the cost is not recorded on the books of the buyer, the cost of those elements that is recorded on the books of that other person.

(9) Where the elements referred to in subsections (1)(b) (ii) through (iv) were previously used by or on behalf of the buyer, the value of the elements shall be adjusted downward to reflect that use.

(10) Where the elements referred to in subsections (1)(b) (ii) and (iii) were leased by the buyer or a person related to the buyer, the value of the elements shall be the cost of the lease as recorded on the books of the buyer or that related person.

(11) No addition shall be made to the price actually paid or payable for the elements referred to in subsection (1)(b)(iv) that are available in the public domain, other than the cost of obtaining copies of them.

(12) The producer shall choose the method of allocating to the good the value of the elements referred to in subsections (1)(b) (ii) through (iv), provided that the value is reasonably allocated to the good in a manner appropriate to the circumstances. The methods the producer may choose to allocate the value include allocating the value over the number of units produced up to the time of the first shipment or allocating the value over the entire anticipated production where contracts or firm commitments exist for that production. For an illustration of this, a buyer provides the producer with a mould to be used in the production of the good and contracts with the producer to buy 10,000 units of that good. By the time the first shipment of 1,000 units arrives, the producer has already produced 4,000 units. In these circumstances, the producer may choose to allocate the value of the mould over 4,000 units or 10,000 units but shall not choose to allocate the value of the elements to the first shipment of 1,000 units. The producer may choose to allocate the entire value of the elements to a single shipment of a good only where that single shipment comprises all of the units of the good acquired by the buyer under the contract or commitment for that number of units of the good between the producer and the buyer.

(13) The addition for the royalties referred to in subsection (1)(c) shall be the payment for the royalties that is recorded on the books of the buyer, or where the payment for the royalties is recorded on the books of another person, the payment for the royalties that is recorded on the books of that other person.

(14) The value of the proceeds referred to in subsection (1)(d) shall be the amount that is recorded for such proceeds on the books of the buyer or the producer.

SCHEDULE III
UNACCEPTABLE TRANSACTION VALUE

SECTION 1. Definitions.

For purposes of this Schedule, unless otherwise stated

"buyer" refers to a person who purchases a good from the producer;

"customs administration" refers to the customs administration of the NAFTA country into whose territory the good being valued is imported; and

"producer" refers to the producer of the good being valued.

SECTION 2.

(1) There is no transaction value for a good where the good is not the subject of a sale.

(2) The transaction value of a good is unacceptable where

(a) there are restrictions on the disposition or use of the good by the buyer, other than restrictions that

(i) are imposed or required by law or by the public authorities in the territory of the NAFTA country in which the buyer is located,

(ii) limit the geographical area in which the good may be resold, or

(iii) do not substantially affect the value of the good;

(b) the sale or price actually paid or payable is subject to a condition or consideration for which a value cannot be determined with respect to the good;

(c) part of the proceeds of any subsequent resale, disposal or use of the good by the buyer will accrue directly or indirectly to the producer, and an appropriate addition to the price actually paid or payable cannot be made in accordance with section 4(1)(d) of Schedule II; or

(d) except as provided in section 3, the producer and the buyer are related persons and the relationship between them influenced the price actually paid or payable for the good.

(3) The conditions or considerations referred to in subsection (2)(b) include the following circumstances:

(a) the producer establishes the price actually paid or payable for the good on condition that the buyer will also buy other goods in specified quantities;

(b) the price actually paid or payable for the good is dependent on the price or prices at which the buyer sells other goods to the producer of the good; and

(c) the price actually paid or payable is established on the basis of a form of payment extraneous to the good, such as where the good is a semi-finished good that has been provided by the producer to the buyer on condition that the producer will receive a specified quantity of the finished good from the buyer.

(4) For purposes of subsection (2)(b), conditions or considerations relating to the production or marketing of the good shall not render the transaction value unacceptable, such as where the buyer undertakes on the buyer's own account, even though by agreement with the producer, activities relating to the marketing of the good.

(5) Where objective and quantifiable data do not exist with regard to the additions required to be made to the price actually paid or payable under section 4(1) of Schedule II, the transaction value cannot be determined under the provisions of section 2 of that Schedule. For an illustration of this, a royalty is paid on the basis of the price actually paid or payable in a sale of a liter of a particular good that was purchased by the kilogram and made up into a solution. If the royalty is based partially on the purchased good and partially on other factors that have nothing to do with that good, such as when the purchased good is mixed with other ingredients and is no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the producer and the buyer, it would be inappropriate to add the royalty and the transaction value of the good could not be determined. However, if the amount of the royalty is based only on the purchased good and can be readily quantified, an addition to the price actually paid or payable can be made and the transaction value can be determined.

SECTION 3.

(1) In determining whether the transaction value is unacceptable under section 2(2)(d), the fact that the producer and the buyer are related persons shall not in itself be grounds for the customs administration to render the transaction value unacceptable. In such cases, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship between the producer and the buyer did not influence the price actually paid or payable. Where the customs administration has reasonable grounds for considering that the relationship between the producer and the buyer influenced the price, the customs administration shall communicate the grounds to the producer, and that producer shall be given a reasonable opportunity to respond to the grounds communicated by the customs administration. If that producer so requests, the customs administration shall communicate in writing the grounds on which it considers that the relationship between the producer and the buyer influenced the price actually paid or payable.

(2) Subsection (1) provides that, where the producer and the buyer are related persons, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the value provided that the relationship between the producer and the buyer did not influence the price actually paid or payable. It is not intended under subsection (1) that there should be an examination of the circumstances in all cases where the producer and the buyer are related persons. Such an examination will only be required where the customs administration has doubts that the price actually paid or payable is acceptable because of the relationship between the producer and the buyer. Where the customs administration does not have doubts that the price actually paid or payable is acceptable, it shall accept that price without requesting further information. For an illustration of this, the customs administration may have previously examined the relationship between the producer and the buyer, or it may already have detailed information concerning the relationship between the producer and the buyer, and may already be satisfied from that examination or information that the relationship between them did not influence the price actually paid or payable.

(3) In applying subsection (1), where the producer and the buyer are related persons and the customs administration has doubts that the transaction value is acceptable without further inquiry, the customs administration shall give the producer an opportunity to supply such further information as may be necessary to enable it to examine the circumstances surrounding the sale. In such a case, the customs administration shall examine the relevant aspects of the sale, including the way in which the producer and the buyer organize their commercial relations and the way in which the price actually paid or payable for the good being valued was arrived at, in order to determine whether the relationship between the producer and the buyer influenced that price actually paid or payable. Where it can be shown that the producer and the buyer buy from and sell to each other as if they were not related persons, the price actually paid or payable shall be considered as not having been influenced by the relationship between them. For an illustration of this, if the price actually paid or payable for the good had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way in which the producer settles prices for sales to unrelated buyers, the price actually paid or payable shall be considered as not having been influenced by the relationship between the buyer and the producer. As another illustration, where it is shown that the price actually paid or payable for the good is adequate to ensure recovery of the total cost of producing the good plus a profit that is representative of the producer's overall profit realized over a representative period of time, such as on an annual basis, in sales of goods of the same class or kind, the price actually paid or payable shall be considered as not having been influenced by the relationship between the producer and the buyer.

(4) In a sale between a producer and a buyer who are related persons, the transaction value shall be accepted and determined in accordance with section 2 of Schedule II wherever the producer demonstrates that the transaction value of the good in that sale closely approximates a test value referred to in subsection (5).

(5) The value to be used as a test value shall be the transaction value of identical goods or similar goods sold at or about the same time as the good being valued is sold to an unrelated buyer who is located in the territory of the NAFTA country in which the buyer is located.

(6) In applying a test value referred to in subsection (4), due account shall be taken of demonstrated differences in commercial levels, quantity levels, the value of the elements specified in section 4(1)(b) of Schedule II and the costs incurred by the producer in sales to unrelated buyers that are not incurred by the producer in sales to a related person.

(7) The application of the test value referred to in subsection (4) shall be used at the initiative of the producer and shall be used only for comparison purposes to determine whether the transaction value of the good is acceptable. The test value shall not be used as the transaction value of that good.

(8) Subsection (4) provides an opportunity for the producer to demonstrate that the transaction value closely approximates a test value previously accepted by the customs administration, and is therefore acceptable under subsections (1) and (4). Where the application of a test value under subsection (4) demonstrates that the transaction value of the good being valued is acceptable, the customs administration shall not examine the question of influence in regard to the relationship between the producer and the buyer under subsection (1). Where the customs administration already has sufficient information available, without further inquiries, that the transaction value closely approximates a test value referred to in subsection (4), the producer is not required to apply a test value to demonstrate that the transaction value is acceptable under that subsection.

(9) A number of factors must be taken into consideration for the purpose of determining whether the transaction value of the identical goods or similar goods closely approximates the transaction value of the good being valued. These factors include the nature of the good, the nature of the industry itself, the season in which the good is sold, and whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply an acceptable standardized difference such as a fixed amount or fixed percentage difference in each case. For an illustration of this, a small difference in value in a case involving one type of good could be unacceptable, while a large difference in a case involving another type of good might be acceptable for the purposes of determining whether the transaction value closely approximates a test value set out in subsection (4).

SCHEDULE IV
LIST OF TARIFF PROVISIONS FOR THE PURPOSES OF SECTION 9 OF THE APPENDIX

4009
4010.10
4011
4016.93.10
4016.99.30 and 4016.99.55
7007.11 and 7007.21
7009.10
8301.20
8407.31
8407.32

8407.33
8407.34.05, 8407.34.15 and 8407.34.25
8407.34.35, 8407.34.45 and 8407.34.55
8408.20
8409
8413.30
8414.59.30
8414.80.05
8415.81 through 8415.83
8421.39.40
8481.20, 8481.30 and 8481.80
8482.10 through 8482.80
8483.10 through 8483.40
8483.50
8501.10
8501.20
8501.31
8501.32.45
8507.20.40, 8507.30.40, 8507.40.40 and 8507.80.40
8511.30
8511.40
8511.50
8512.20
8512.40
8519.91
8527.21
8527.29
8536.50
8536.90
8537.10.30
8539.10
8539.21
8544.30
8706
8707
8708.10.30
8708.21
8708.29.20
8708.29.10
8708.29.15
8708.39
8708.40
8708.50
8708.60
8708.70.05, 8708.70.25 and 8708.70.45
8708.80
8708.91
8708.92
8708.93.15 and 8708.93.60
8708.94
8708.99.03, 8708.99.27 and 8708.99.55
8708.99.06, 8708.99.31 and 8708.99.58
8708.99.09, 8708.99.34 and 8708.99.61
8708.99.12, 8708.99.37 and 8708.99.64
8708.99.15, 8708.99.40 and 8708.99.67
8708.99.18, 8708.99.43 and 8708.99.70
8708.99.21, 8708.99.46 and 8708.99.73
8708.99.24, 8708.99.49 and 8708.99.80
9031.80
9032.89
9401.20

SCHEDULE V

LIST OF AUTOMOTIVE COMPONENTS AND MATERIALS FOR THE PURPOSES OF SECTION 10 OF THE APPENDIX

Item	COLUMN I AUTOMOTIVE COMPONENTS	COLUMN II LISTED MATERIALS
1.	Engines provided for in heading 8407 or 8408	cast blocks, cast heads, fuel nozzles, fuel injector pumps, glow plugs, turbochargers, superchargers, electronic engine controls, intake manifolds, exhaust manifolds, intake valves, exhaust valves, crankshafts, camshafts, alternators, starters, air cleaner assemblies, pistons, connecting rods and assemblies made therefrom, rotor assemblies for rotary engines, flywheels (for manual transmissions), flexplates (for automatic transmissions), oil pans, oil pumps, pressure regulators, water pumps, crankshaft gears, camshaft gears, radiator assemblies, charge-air coolers.
2.	Gear boxes (transmissions) provided for in subheading 8708.40.	(a) for manual transmissions: transmission cases and clutch housings; clutches; internal shifting mechanisms; gear sets, synchronizers and shafts; and (b) for torque convertor type transmissions: transmission cases and convertor housings; torque convertor assemblies; gear sets and clutches; electronic transmission controls.

SCHEDULE VI
REGIONAL VALUE-CONTENT CALCULATION FOR CAMI

SECTION 1. Definitions.

In this Schedule,

"closed" means, with respect to a plant, a closure

(a) for purposes of re-tooling for a change in model line, or

(b) as a result of any event or circumstance (other than the imposition of antidumping duties or countervailing duties, or an interruption of operations resulting from a labor strike, lock-out, labor dispute, picketing or boycott of or by employees of CAMI Automotive, Inc. or General Motors of Canada Limited) that CAMI Automotive, Inc. or General Motors of Canada Limited could not reasonably have been expected to avert by corrective action or by exercise of due care and diligence, including a shortage of materials, failure of utilities, or inability to obtain or a delay in obtaining raw materials, parts, fuel or utilities;

"GM" means General Motors of Canada Limited, General Motors Corporation, General Motors de Mexico, S.A de C.V., and any subsidiary directly or indirectly owned by any of them, or by any combination thereof;

"producer" means CAMI Automotive, Inc.

SECTION 2.

For purposes of section 11 of this Appendix, for purposes of determining the regional value content, in a fiscal year, of a motor vehicle of a class of motor vehicles or a model line produced by the producer in the territory of Canada and imported into the territory of the United States, the producer may elect to calculate the regional value content by

(a) calculating

(i) the sum of

(A) the net cost incurred by the producer, during that fiscal year, in the production in the territory of Canada of motor vehicles of a category referred to in section 3 that is chosen by the producer, and

(B) the net cost incurred by General Motors of Canada Limited, during the fiscal year that corresponds most closely to the producer's fiscal year, in the production in the territory of Canada of a corresponding class of motor vehicles or model line, and

(ii) the sum of

(A) the value, determined in accordance with section 9 of this Appendix for light-duty vehicles and section 10 of this Appendix for heavy-duty vehicles, of the non-originating materials that are used by the producer, during that fiscal year, in the production in the territory of Canada of motor vehicles of a category referred to in section 2.1 that is chosen by the producer, and

(B) the value, determined in accordance with section 9 of this Appendix for light-duty vehicles and section 10 of this Appendix for heavy-duty vehicles, of the non-originating materials that are used by General Motors of Canada Limited, during the fiscal year that corresponds most closely to the producer's fiscal year, in the production in the territory of Canada of a corresponding class of motor vehicles or model line, and

(b) using the sums referred to in paragraphs (a)(i) and (ii) as the net cost and the value of non-originating materials, respectively, in the calculation referred to in section 6(3) of this Appendix,

provided that

(c) at the beginning of the producer's fiscal year, General Motors of Canada Limited owns 50 percent or more of the voting common stock of the producer, and

(d) GM acquires 75 percent or more by unit of quantity of the class of motor vehicles or model line, as the case may be, that the producer produced in the territory of Canada in the producer's fiscal year for sale in the territory of one or more of the NAFTA countries.

SECTION 3.

The categories referred to in clauses 2(a)(i)(A) and (ii)(A) are the following:

(a) the class of motor vehicles that the producer produced in the territory of Canada in the producer's fiscal year for sale in the territory of one or more of the NAFTA countries; and

(b) the model line that the producer produced in the territory of Canada in the producer's fiscal year for sale in the territory of one or more of the NAFTA countries.

SECTION 4.

Where GM does not satisfy the requirement set out in section 2(d), the producer may choose that the regional value content be calculated in accordance with section 2 only for those motor vehicles that are acquired by GM for distribution under the GEO marque or another GM marque..

SECTION 5.

(1) The producer may choose that the calculation referred to in section 2 be made over a period of two fiscal years where

(a) any plant operated by the producer or by General Motors of Canada Limited is closed for more than two consecutive months; and

(b) the motor vehicles of a category referred to in section 2.1, with respect to which the producer chooses that the regional value content be calculated in accordance with section 2, are produced in that plant.

(2) Subject to subsection (3), the period of two fiscal years referred to in subsection (1) corresponds to the fiscal year in which the plant is closed and, at the choice of the producer, the preceding or the subsequent fiscal year.

(3) Where the plant is closed for a period that spans two fiscal years, the calculation referred to in section 2 may be made only over those two fiscal years.

(4) Where the producer has chosen that the regional value content be calculated over two fiscal years under this section, the choice referred to in section 11(6) of this Appendix shall be filed not later than 10 days after the end of the period during which the plant is closed, or at such later time as the customs administration may accept.

SECTION 6.

For purposes of this Schedule, a motor vehicle producer shall be deemed to be GM where, as a result of an amalgamation, reorganization, division or similar transaction, that motor vehicle producer

(a) acquires all or substantially all of the assets used by GM, and

(b) directly or indirectly controls, or is controlled by, GM, or both that motor vehicle producer and any GM are controlled by the same person.

SCHEDULE VII
REASONABLE ALLOCATION OF COSTS

SECTION 1. Definitions.

For purposes of this Schedule,

"costs" means any costs that are included in total cost and that need to be allocated pursuant to sections 5(8), 6(11) and 7(6) and sections 7(12)(b)(ii) and 10(1)(a)(i) of this Appendix, section 4(7) of Schedule II and section 5(7) of Schedule VIII;

"discontinued operations" means a segment of a producer's business that has been discontinued;

"indirect overhead" means period costs and other costs;

"internal management purpose" means any purpose relating to tax reporting, financial reporting, financial planning, decision-making, pricing, cost recovery, cost control management or performance measurement; and

"overhead" means costs, other than direct material costs and direct labor costs.

SECTION 2. Interpretation.

(1) In this Schedule, reference to "producer" shall, for purposes of section 4(7) of Schedule II, be read as a reference to "buyer".

(2) In this Schedule, reference to "good" shall,

(a) for purposes of section 6(14) of this Appendix, be read as a reference to "identical goods or similar goods, or any combination thereof";

(b) for purposes of section 7(6) of this Appendix, be read as a reference to "intermediate material";

(c) for purposes of section 7(12)(b)(ii) of this Appendix, be read as a reference to "packaging materials and containers";

(d) for purposes of section 11 of this Appendix, be read as a reference to "category of vehicles that is chosen pursuant to section 11(1) of this Appendix";

(e) for purposes of section 12 of this Appendix, be read as a reference to "category of goods chosen pursuant to section 12(1) of this Appendix";

(f) for purposes of section 13(4) of this Appendix, be read as a reference to "category of vehicles chosen pursuant to section 13(4) of this Appendix";

(g) for purposes of section 4(7) of Schedule II, be read as a reference to "packaging materials and containers or the elements"; and

(h) for purposes of section 5(7) of Schedule VIII, be read as a reference to "elements".

Methods to Reasonably Allocate Costs

SECTION 3.

(1) Where a producer of a good is using, for an internal management purpose, a cost allocation method to allocate to the good direct material costs, or part thereof, and that method reasonably reflects the direct material used in the production of the good based on the criterion of benefit, cause or ability to bear, that method shall be used to reasonably allocate the costs to the good.

(2) Where a producer of a good is using, for an internal management purpose, a cost allocation method to allocate to the good direct labor costs, or part thereof, and that method reasonably reflects the direct labor used in the production of the good based on the criterion of benefit, cause or ability to bear, that method shall be used to reasonably allocate the costs to the good.

VOL 58 ISS 249 DE 30 1993 UMI

(3) Where a producer of a good is using, for an internal management purpose, a cost allocation method to allocate to the good overhead, or part thereof, and that method is based on the criterion of benefit, cause or ability to bear, that method shall be used to reasonably allocate the costs to the good.

SECTION 4.

Where costs are not reasonably allocated to a good under section 3, those costs are reasonably allocated to the good if they are allocated,

(a) with respect to direct material costs, on the basis of any method that reasonably reflects the direct material used in the production of the good based on the criterion of benefit, cause or ability to bear;

(b) with respect to direct labor costs, on the basis of any method that reasonably reflects the direct labor used in the production of the good based on the criterion of benefit, cause or ability to bear; and

(c) with respect to overhead, on the basis of any of the following methods:

(i) the method set out in Addendum A, Addendum B or Addendum C,

(ii) a method based on a combination of the methods set out in Addenda A and B or Addenda A and C, and

(iii) a cost allocation method based on the criterion of benefit, cause or ability to bear.

SECTION 5.

Any cost allocation method referred to in section 3 or 4 that is used by a producer for the purposes of this Appendix shall be used throughout the producer's fiscal year.

Costs Not Reasonably Allocated

SECTION 6.

The allocation to a good of any of the following is considered not to be reasonably allocated to the good:

(a) costs of a service provided by a producer of a good to another person where the service is not related to the good;

(b) gains or losses resulting from the disposition of a discontinued operation;

(c) costs relating to the cumulative effect of accounting changes; and

(d) gains or losses resulting from the sale of a capital asset of the producer.

SECTION 7.

Any costs allocated under section 3 on the basis of a cost allocation method that is used for an internal management purpose that is solely for the purpose of qualifying a good as an originating good are considered not to be reasonably allocated.

ADDENDUM A
COST RATIO METHOD

Calculation of Cost Ratio

For the overhead to be allocated, the producer may choose one or more allocation bases that reflect a relationship between the overhead and the good based on the criterion of benefit, cause or ability to bear.

With respect to each allocation base that is chosen by the producer for allocating overhead, a cost ratio is calculated for each good produced by the producer in accordance with the following formula:

$$CR = \frac{AB}{TAB}$$

where

CR is the cost ratio with respect to the good;
AB is the allocation base for the good; and
TAB is the total allocation base for all the goods produced by the producer.

Allocation to a Good of Costs Included in Overhead

The costs with respect to which an allocation base is chosen are allocated to a good in accordance with the following formula:

$$CAG = CA \times CR$$

where

CAG is the costs allocated to the good;
CA is the costs to be allocated; and
CR is the cost ratio with respect to the good.

Excluded Costs

Under section 6(11)(b) of this Appendix, where excluded costs are included in costs to be allocated to a good, the cost ratio used to allocate that cost to the good is used to determine the amount of excluded costs to be subtracted from the costs allocated to the good.

Allocation Bases for Costs

The following is a non-exhaustive list of allocation bases that may be used by the producer to calculate cost ratios:
Direct Labor Hours
Direct Labor Costs
Units Produced
Machine-hours
Sales Dollars or Pesos
Floor Space

"Examples"

The following examples illustrate the application of the cost ratio method to costs included in overhead.

Example 1: Direct Labor Hours

A producer who produces Good A and Good B may allocate overhead on the basis of direct labor hours spent to produce Good A and Good B. A total of 8,000 direct labor hours have been spent to produce Good A and Good B: 5,000 hours with respect to Good A and 3,000 hours with respect to Good B. The amount of overhead to be allocated is $6,000,000.

Calculation of the Ratios:
Good A: 5,000 hours/8,000 hours = .625
Good B: 3,000 hours/8,000 hours = .375
Allocation of overhead to Good A and Good B:
Good A: $6,000,000 × .625 = $3,750,000
Good B: $6,000,000 × .375 = $2,250,000

Example 2: Direct Labor Costs

A producer who produces Good A and Good B may allocate overhead on the basis of direct labor costs incurred in the production of Good A and Good B. The total direct labor costs incurred in the production of Good A and Good B is $60,000: $50,000 with respect to Good A and $10,000 with respect to Good B. The amount of overhead to be allocated is $6,000,000.

Calculation of the Ratios:
Good A: $50,000/$60,000 = .833
Good B: $10,000/$60,000 = .167
Allocation of Overhead to Good A and Good B:
Good A: $6,000,000 × .833 = $4,998,000
Good B: $6,000,000 × .167 = $1,002,000

Example 3: Units Produced

A producer of Good A and Good B may allocate overhead on the basis of units produced. The total units of Good A and Good B produced is 150,000: 100,000 units of Good A and 50,000 units of Good B. The amount of overhead to be allocated is $6,000,000.

Calculation of the Ratios:
Good A: 100,000 units/150,000 units = .667
Good B: 50,000 units/150,000 units = .333
Allocation of Overhead to Good A and Good B:
Good A: $6,000,000 × .667 = $4,002,000
Good B: $6,000,000 × .333 = $1,998,000

Example 4: Machine-hours

A producer who produces Good A and Good B may allocate machine-related overhead on the basis of machine-hours utilized in the production of Good A and Good B. The total machine-hours utilized for the production of Good A and Good B is 3,000 hours: 1,200 hours with respect to Good A and 1,800 hours with respect to Good B. The amount of machine-related overhead to be allocated is $6,000,000.

Calculation of the Ratios:
Good A: 1,200 machine-hours/3,000 machine-hours = .40
Good B: 1,800 machine-hours/3,000 machine-hours = .60
Allocation of Machine-Related Overhead to Good A and Good B:
Good A: $6,000,000 × .40 = $2,400,000
Good B: $6,000,000 × .60 = $3,600,000

Example 5: Sales Dollars or Pesos

A producer who produces Good A and Good B may allocate overhead on the basis of sales dollars. The producer sold 2,000 units of Good A at $4,000 and 200 units of Good B at $3,000. The amount of overhead to be allocated is $6,000,000.

Total Sales Dollars for Good A and Good B:
Good A: $4,000 × 2,000 = $8,000,000
Good B: $3,000 × 200 = $600,000
Total Sales Dollars: $8,000,000 + $600,000 = $8,600,000
Calculation of the Ratios:
Good A: $8,000,000/$8,600,000 = .93
Good B: $600,000/$8,600,000 = .07
Allocation of Overhead to Good A and Good B:
Good A: $6,000,000 × .93 = $5,580,000
Good B: $6,000,000 × .07 = $420,000

Example 6: Floor Space

A producer who produces Good A and Good B may allocate overhead relating to utilities (heat, water and electricity) on the basis of floor space used in the production and storage of Good A and Good B. The total floor space used in the production and storage of Good A and Good B is 100,000 square feet: 40,000 square feet with respect to Good A and 60,000 square feet with respect to Good B. The amount of overhead to be allocated is $6,000,000.

Calculation of the Ratios:
Good A: 40,000 square feet/100,000 square feet = .40
Good B: 60,000 square feet/100,000 square feet = .60
Allocation of Overhead (Utilities) to Good A and Good B:
Good A: $6,000,000 × .40 = $2,400,000
Good B: $6,000,000 × .60 = $3,600,000

ADDENDUM B
DIRECT LABOR AND DIRECT MATERIAL RATIO METHOD

Calculation of Direct Labor and Direct Material Ratio

For each good produced by the producer, a direct labor and direct material ratio is calculated in accordance with the following formula:

$$DLDMR = \frac{DLC + DMC}{TDLC + TDMC}$$

where

DLDMR is the direct labor and direct material ratio for the good;
DLC is the direct labor costs of the good;
DMC is the direct material costs of the good;

TDLC is the total direct labor costs of all goods produced by the producer; and
TDMC is the total direct material costs of all goods produced by the producer.

Allocation of Overhead to a Good

Overhead is allocated to a good in accordance with the following formula:

OAG = O × DLDMR

where
OAG is the overhead allocated to the good;
O is the overhead to be allocated; and
DLDMR is the direct labor and direct material ratio for the good.

Excluded Costs

Under section 6(11)(b) of this Appendix, where excluded costs are included in overhead to be allocated to a good, the direct labor and direct material ratio used to allocate overhead to the good is used to determine the amount of excluded costs to be subtracted from the overhead allocated to the good.

"Examples"

Example 1:

The following example illustrates the application of the direct labor and direct material ratio method used by a producer of a good to allocate overhead where the producer chooses to calculate the net cost of the good in accordance with section 6(11)(a) of this Appendix.

A producer produces Good A and Good B. Overhead (O) minus excluded costs (EC) is $30 and the other relevant costs are set out in the following table:

	Good A	Good B	Total
Direct labor costs (DLC)	$5	$5	$10
Direct material costs (DMC)	10	5	15
Totals	$15	$10	$25

Overhead Allocated to Good A
OAG (Good A)=O ($30) × ΔAMP ($15/$25)
OAG (Good A)=$18.00
Overhead Allocated to Good B
OAG (Good B)=O ($30) × ΔAMP ($10/$25)
OAG (Good B)=$12.00

Example 2:

The following example illustrates the application of the direct labor and direct material ratio method used by a producer of a good to allocate overhead where the producer chooses to calculate the net cost of the good in accordance with section 6(11)(b) of this Appendix and where excluded costs are included in overhead.

A producer produces Good A and Good B. Overhead (O) is $50 (including excluded costs (EC) of $20). The other relevant costs are set out in the table of Example 1.

Overhead Allocated to Good A
OAG (Good A)=[O ($50) × DLDMR ($15/$25)] − [EC ($20) × DLDMR ($15/$25)]
OAG (Good A)=$18.00
Overhead Allocated to Good B
OAG (Good B)=[O ($50) × DLDMR ($10/$25)] − [EC ($20) × DLDMR ($10/$25)]
OAG (Good B)=$12.00

ADDENDUM C
DIRECT COST RATIO METHOD

Direct Overhead

Direct overhead is allocated to a good on the basis of a method based on the criterion of benefit, cause or ability to bear.

Indirect Overhead

Indirect overhead is allocated on the basis of a direct cost ratio.

Calculation of Direct Cost Ratio

For each good produced by the producer, a direct cost ratio is calculated in accordance with the following formula:

$$DCR = \frac{DLC + DMC + DO}{TDLC + TDMC + TDO}$$

where
DCR is the direct cost ratio for the good;
DLC is the direct labor costs of the good;
DMC is the direct material costs of the good;
DO is the direct overhead of the good;
TDLC is the total direct labor costs of all goods produced by the producer;
TDMC is the total direct material costs of all goods produced by the producer; and
TDO is the total direct overhead of all goods produced by the producer;

Allocation of Indirect Overhead to a Good

Indirect overhead is allocated to a good in accordance with the following formula:

IOAG = IO × DCR

where
IOAG is the indirect overhead allocated to the good;
IO is the indirect overhead of all goods produced by the producer; and
DCR is the direct cost ratio of the good.

Excluded Costs

Under section 6(11)(b) of this Appendix, where excluded costs are included in
(a) direct overhead to be allocated to a good, those excluded costs are subtracted from the direct overhead allocated to the good; and
(b) indirect overhead to be allocated to a good, the direct cost ratio used to allocate indirect overhead to the good is used to determine the amount of excluded costs to be subtracted from the indirect overhead allocated to the good.

"Examples"

Example 1:

The following example illustrates the application of the direct cost ratio method used by a producer of a good to allocate indirect overhead where the producer chooses to calculate the net cost of the good in accordance with section 6(11)(a) of this Appendix.

A producer produces Good A and Good B. Indirect overhead (IO) minus excluded costs (EC) is $30. The other relevant costs are set out in the following table:

	Good A	Good B	Total
Direct labor costs (DLC)	$5	$5	$10
Direct material costs (DMC)	10	5	15
Direct overhead (DO)	8	2	10
Totals	$23	$12	$35

Indirect Overhead Allocated to Good A
IOAG (Good A) = IO ($30) × DCR ($23/$35)
IOAG (Good A) = $19.71
Indirect Overhead Allocated to Good B
IOAG (Good B) = IO ($30) × DCR ($12/$35)
IOAG (Good B) = $10.29

Example 2:

The following example illustrates the application of the direct cost ratio method used by a producer of a good to allocate indirect overhead where the producer has chosen to calculate the net cost of the good in accordance with section 6(11)(b) of this Appendix and where excluded costs are included in indirect overhead.

A producer produces Good A and Good B. The indirect overhead (IO) is $50 (including excluded costs (EC) of $20). The other relevant costs are set out in the table to Example 1.

Indirect Overhead Allocated to Good A
IOAG (Good A) = [IO ($50) × DCR ($23/$35)] −[EC ($20) × DCR ($23/$35)]
IOAG (Good A) = $19.72
Indirect Overhead Allocated to Good B
IOAG (Good B) = [IO ($50) × DCR ($12/$35)] − [EC ($20) × DCR ($12/$35)]
IOAG (Good B) = $10.28

SCHEDULE VIII
VALUE OF MATERIALS

SECTION 1. Definitions.

For purposes of this Schedule, unless otherwise stated,
"buying commissions" means fees paid by a producer to that producer's agent for the agent's services in representing the producer in the purchase of a material;
"customs administration" refers to the customs administration of the NAFTA country into whose territory the good, in the production of which the material being valued is used, is imported;
"materials of the same class or kind" means, with respect to materials being valued, materials that are within a group or range of materials that
(a) is produced by a particular industry or industry sector, and
(b) includes identical materials or similar materials;
"producer" refers to the producer who used the material in the production of a good that is subject to a regional value content requirement;
"seller" refers to a person who sells the material being valued to the producer.

SECTION 2.

(1) Except as provided under subsections (2) and (3), the transaction value of a material under Article 402(9)(a) of the Agreement, as implemented by section 7(1)(b) and sections 9(5) and 10(2) of this Appendix, shall be the price actually paid or payable for the material determined in accordance with section 4 and adjusted in accordance with section 5.
(2) There is no transaction value for a material where the material is not the subject of a sale.
(3) The transaction value of a material is unacceptable where
(a) there are restrictions on the disposition or use of the material by the producer, other than restrictions that
(i) are imposed or required by law or by the public authorities in the territory of the NAFTA country in which the producer of the good or the seller of the material is located,
(ii) limit the geographical area in which the material may be used, or
(iii) do not substantially affect the value of the material;

VOL 58 ISS 249 DE 30 1993 UMI

(b) the sale or price actually paid or payable is subject to a condition or consideration for which a value cannot be determined with respect to the material;

(c) part of the proceeds of any subsequent disposal or use of the material by the producer will accrue directly or indirectly to the seller, and an appropriate addition to the price actually paid or payable cannot be made in accordance with section 5(1)(d); and

(d) except as provided in section 3, the producer and the seller are related persons and the relationship between them influenced the price actually paid or payable for the material.

(4) The conditions or considerations referred to in subsection (3)(b) include the following circumstances:

(a) the seller establishes the price actually paid or payable for the material on condition that the producer will also buy other materials or goods in specified quantities;

(b) the price actually paid or payable for the material is dependent on the price or prices at which the producer sells other materials or goods to the seller of the material; and

(c) the price actually paid or payable is established on the basis of a form of payment extraneous to the material, such as where the material is a semi-finished material that has been provided by the seller to the producer on condition that the seller will receive a specified quantity of the finished material from the producer.

(5) For purposes of subsection (3)(b), conditions or considerations relating to the use of the material shall not render the transaction value unacceptable, such as where the producer undertakes on the producer's own account, even though by agreement with the seller, activities relating to the warranty of the material used in the production of a good.

(6) Where objective and quantifiable data do not exist with regard to the additions required to be made to the price actually paid or payable under section 5(1), the transaction value cannot be determined under the provisions of section 2(1). For an illustration of this, a royalty is paid on the basis of the price actually paid or payable in a sale of a liter of a particular good that is produced by using a material that was purchased by the kilogram and made up into a solution. If the royalty is based partially on the purchased material and partially on other factors that have nothing to do with that material, such as when the purchased material is mixed with other ingredients and is no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the seller and the producer, it would be inappropriate to add the royalty and the transaction value of the material could not be determined. However, if the amount of the royalty is based only on the purchased material and can be readily quantified, an addition to the price actually paid or payable can be made and the transaction value can be determined.

SECTION 3.

(1) In determining whether the transaction value is unacceptable under section 2(3)(d), the fact that the seller and the producer are related persons shall not in itself be grounds for the customs administration to render the transaction value unacceptable. In such cases, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship between the seller and the producer did not influence the price actually paid or payable. Where the customs administration has reasonable grounds for considering that the relationship between the seller and the producer influenced the price, the customs administration shall communicate the grounds to the producer, and that producer shall be given a reasonable opportunity to respond to the grounds communicated by the customs administration. If that producer so requests, the customs administration shall communicate in writing the grounds on which it considers that the relationship between the seller and the producer influenced the price actually paid or payable.

(2) Subsection (1) provides that, where the seller and the producer are related persons, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the value provided that the relationship between the seller and the producer did not influence the price actually paid or payable. It is not intended under subsection (1) that there should be an examination of the circumstances in all cases where the seller and the producer are related persons. Such an examination will only be required where the customs administration has doubts that the price actually paid or payable is acceptable because of the relationship between the seller and the producer. Where the customs administration does not have doubts that the price actually paid or payable is acceptable, it shall accept that price without requesting further information. For an illustration of this, the customs administration may have previously examined the relationship between the seller and the producer, or it may already have detailed information concerning the relationship between the seller and the producer, and may already be satisfied from that examination or information that the relationship between them did not influence the price actually paid or payable.

(3) In applying subsection (1), where the seller and the producer are related persons and the customs administration has doubts that the transaction value is acceptable without further inquiry, the customs administration shall give the producer an opportunity to supply such further information as may be necessary to enable it to examine the circumstances surrounding the sale. In such a case, the customs administration shall examine the relevant aspects of the sale, including the way in which the seller and the producer organize their commercial relations and the way in which the price actually paid or payable by that producer for the material being valued was arrived at, in order to determine whether the relationship between the seller and the producer influenced that price actually paid or payable. Where it can be shown that the seller and the producer buy from and sell to each other as if they were not related persons, the price actually paid or payable shall be considered as not having been influenced by the relationship between them. For an illustration of this, if the price actually paid or payable for the material had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way in which the seller settles prices for sales to unrelated buyers, the price actually paid or payable shall be considered as not having been influenced by the relationship between the producer and the seller. For another illustration of this, where it is shown that the price actually paid or payable for the material is adequate to ensure recovery of the total cost of producing the material plus a profit that is representative of the seller's overall profit realized over a representative period of time, such as on an annual basis, in sales of materials of the same class or kind, the price actually paid or payable shall be considered as not having been influenced by the relationship between the seller and the producer.

(4) In a sale between a seller and a producer who are related persons, the transaction value shall be accepted and determined in accordance with section 2(1), wherever the seller or the producer demonstrates that the transaction value of the material in that sale closely approximates one of the following test values that occurs at or about the same time as the sale and is chosen by the seller or the producer:

(a) the transaction value in sales to unrelated buyers of identical materials or similar materials, as determined in accordance with section 2(1);

(b) the value of identical materials or similar materials, as determined in accordance with section 9; or

(c) the value of identical materials or similar materials, as determined in accordance with section 10.

(5) In applying a test value referred to in subsection (4), due account shall be taken of demonstrated differences in commercial levels, quantity levels, the value of the elements specified in section 5(1)(b) and the costs incurred by the seller in sales to unrelated buyers that are not incurred by the seller in sales by the seller to a related person.

(6) The application of a test value referred to in subsection (4) shall be used at the initiative of the seller, or at the initiative of the producer with the consent of the seller, and shall be used only for comparison purposes to determine whether the transaction value of the material is acceptable. The test value shall not be used as the transaction value of that material.

(7) Subsection (4) provides an opportunity for the seller or the producer to demonstrate that the transaction value closely approximates a test value previously accepted by the customs administration of the NAFTA country in which the producer is located, and is therefore acceptable under subsection (1). Where the application of a test value under subsection (4) demonstrates that the transaction value of the material being valued is acceptable, the customs administration shall not examine the question of influence in regard to the relationship between the seller and the producer under subsection (1). Where the customs administration already has sufficient information available, without further inquiries, that the transaction value closely approximates one of the test values determined under subsection (4), the seller or the producer is not required to apply a test value to demonstrate that the transaction value is acceptable under that subsection.

(8) A number of factors must be taken into consideration for the purpose of determining whether the transaction value of the identical materials or similar materials closely approximates the transaction value of the material being valued. These factors include the nature of the material, the nature of the industry itself, the season in which the material is sold, and whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply an acceptable standardized difference such as a fixed amount or fixed percentage difference in each case. For an illustration of this, a small difference in value in a case involving one type of material could be unacceptable, while a large difference in a case involving another type of material might be acceptable for the purposes of determining whether the transaction value closely approximates a test value set out in subsection (4).

SECTION 4.

(1) The price actually paid or payable is the total payment made or to be made by the producer to or for the benefit of the seller of the material. The payment need not necessarily take the form of a transfer of money: it may be made by letters of credit or negotiable instruments. Payment may be made directly or indirectly to the seller. For an illustration of this, the settlement by the producer, whether in whole or in part, of a debt owed by the seller, is an indirect payment.

(2) Activities undertaken by the producer on the producer's own account, other than those for which an adjustment is provided in section 5, shall not be considered to be an indirect payment, even though the activities might be regarded as being for the benefit of the seller.

(3) The transaction value shall not include charges for construction, erection, assembly, maintenance or technical assistance related to the use of the material by the producer, provided that they are distinguished from the price actually paid or payable.

(4) The flow of dividends or other payments from the producer to the seller that do not relate to the purchase of the material are not part of the transaction value.

SECTION 5.

(1) In determining the transaction value of the material, the following shall be added to the price actually paid or payable:

(a) to the extent that they are incurred by the producer with respect to the material being valued and are not included in the price actually paid or payable,

(i) commissions and brokerage fees, except buying commissions, and

(ii) the costs of containers which, for customs purposes, are classified with the material under the Harmonized System;

(b) the value, reasonably allocated in accordance with subsection (12), of the following elements where they are supplied directly or indirectly to the seller by the producer free of charge or at reduced cost for use in connection with the production and sale of the material, to the extent that the value is not included in the price actually paid or payable:

(i) a material, other than an indirect material, used in the production of the material being valued,

(ii) tools, dies, molds and similar indirect materials used in the production of the material being valued,

(iii) an indirect material, other than those referred to in subparagraph (ii) or in paragraphs (c), (e) or (f) of the definition "indirect material" set out in Article 415 of the Agreement, as implemented by section 2(1) of this Appendix, used in the production of the material being valued, and

(iv) engineering, development, artwork, design work, and plans and sketches performed outside the territory of the NAFTA country in which the producer is located that are necessary for the production of the material being valued;

(c) the royalties related to the material, other than charges with respect to the right to reproduce the material in the territory of the NAFTA country in which the producer is located that the producer must pay directly or indirectly as a condition of sale of the material, to the extent that such royalties are not included in the price actually paid or payable; and

VOL 58 ISS 249 DEC 30 1993 UMI

(d) the value of any part of the proceeds of any subsequent disposal or use of the material that accrues directly or indirectly to the seller.

(2) The additions referred to in subsection (1) shall be made to the price actually paid or payable under this section only on the basis of objective and quantifiable data.

(3) Where objective and quantifiable data do not exist with regard to the additions required to be made to the price actually paid or payable under subsection (1), the transaction value cannot be determined under section 2(1).

(4) No additions shall be made to the price actually paid or payable for the purpose of determining the transaction value except as provided in this section.

(5) The amounts to be added under subsection (1)(a) shall be those amounts that are recorded on the books of the producer.

(6) The value of the elements referred to in subsection (1)(b)(i) shall be

(a) where the elements are imported from outside the territory of the NAFTA country in which the seller is located, the customs value of the elements;

(b) where the producer, or a related person on behalf of the producer, purchases the elements from an unrelated person in the territory of the NAFTA country in which the seller is located, the price actually paid or payable for the elements;

(c) where the producer, or a related person on behalf of the producer, acquires the elements from an unrelated person in the territory of the NAFTA country in which the seller is located other than through a purchase, the value of the consideration related to the acquisition of the elements, based on the cost of the consideration that is recorded on the books of the producer or the related person; or

(d) where the elements are produced by the producer, or by a related person, in the territory of the NAFTA country in which the seller is located, the total cost of the elements, determined in accordance with subsection (7), and shall include the following costs, that are recorded on the books of the producer or the related person supplying the elements on behalf of the producer, to the extent that such costs are not included under paragraph (a) through (d):

(e) the costs of freight, insurance, packing, and all other costs incurred in transporting the elements to the location of the seller,

(f) duties and taxes paid or payable with respect to the elements, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable,

(g) customs brokerage fees, including the cost of in-house customs brokerage services, incurred with respect to the elements, and

(h) the cost of waste and spoilage resulting from the use of the elements in the production of the material, minus the value of renewable scrap or by-product.

(7) For the purposes of subsection (6)(d), the total cost of the elements referred to in subsection (1)(b)(i) shall be

(a) where the elements are produced by the producer, at the choice of the producer,

(i) the total cost incurred with respect to all goods produced by the producer, calculated on the basis of the costs that are recorded on the books of the producer, that can be reasonably allocated to the elements in accordance with Schedule VII, or

(ii) the aggregate of each cost incurred by the producer that forms part of the total cost incurred with respect to the elements, calculated on the basis of the costs that are recorded on the books of the producer, that can be reasonably allocated to the elements in accordance with Schedule VII; and

(b) where the elements are produced by a person who is related to the producer, at the choice of the producer,

(i) the total cost incurred with respect to all goods produced by that related person, calculated on the basis of the costs that are recorded on the books of that person, that can be reasonably allocated to the elements in accordance with Schedule VII, or

(ii) the aggregate of each cost incurred by that related person that forms part of the total cost incurred with respect to the elements, calculated on the basis of the costs that are recorded on the books of that person, that can be reasonably allocated to the elements in accordance with Schedule VII.

(8) Except as provided in subsections (10) and (11), the value of the elements referred to in subsections (1)(b)(ii) through (iv) shall be

(a) the cost of those elements that is recorded on the books of the producer, or

(b) where such elements are provided by another person on behalf of the producer and the cost is not recorded on the books of the producer, the cost of those elements that is recorded on the books of that other person.

(9) Where the elements referred to in subsections (1)(b)(ii) through (iv) were previously used by or on behalf of the producer, the value of the elements shall be adjusted downward to reflect that use.

(10) Where the elements referred to in subsections (1)(b)(ii) and (iii) were leased by the producer or a person related to the producer, the value of the elements shall be the cost of the lease that is recorded on the books of the producer or that related person.

(11) No addition shall be made to the price actually paid or payable for the elements referred to in subsection (1)(b)(iv) that are available in the public domain, other than the cost of obtaining copies of them.

(12) The producer shall choose the method of allocating to the material the value of the elements referred to in subsections (1)(b)(ii) through (iv), provided that the value is reasonably allocated to the material in a manner appropriate to the circumstances. The methods the producer may choose to allocate the value include allocating the value over the number of units produced up to the time of the first shipment or allocating the value over the entire anticipated production where contracts or firm commitments exist for that production. For an illustration of this, a producer provides the seller with a mould to be used in the production of the material and contracts with the seller to buy 10,000 units of that material. By the time the first shipment of 1,000 units arrives, the seller has already produced 4,000 units. In these circumstances, the producer may choose to allocate the value of the mould over 4,000 units or 10,000 units but shall not choose to allocate the value of the elements to the first shipment of 1,000 units. The producer may choose to allocate the entire value of the elements to a single shipment of material only where that single shipment comprises all of the units of the material acquired by the producer under the contract or commitment for that number of units of the material between the seller and the producer.

(13) The addition for the royalties referred to in subsection (1)(c) shall be the payment for the royalties that is recorded on the books of the producer, or where the payment for the royalties is recorded on the books of another person, the payment for the royalties that is recorded on the books of that other person.

(14) The value of the proceeds referred to in subsection (1)(d) shall be the amount that is recorded for such proceeds on the books of the producer or the seller.

SECTION 6.

(1) If there is no transaction value under section 2(2) or the transaction value is unacceptable under section 2(3), the value of the material, referred to Article 402(9)(b) of the Agreement, as implemented by section 7(1)(b)(ii) of Part III of this Appendix, shall be the transaction value of identical materials sold, at or about the same time as the material being valued was shipped to the producer, to a buyer located in the same country as the producer.

(2) In applying this section, the transaction value of identical materials in a sale at the same commercial level and in substantially the same quantity of materials as the material being valued shall be used to determine the value of the material. Where no such sale is found, the transaction value of identical materials sold at a different commercial level or in different quantities, adjusted to take into account the differences attributable to the commercial level or quantity, shall be used, provided that such adjustments can be made on the basis of evidence that clearly establishes that the adjustment is reasonable and accurate, whether the adjustment leads to an increase or a decrease in the value.

(3) A condition for adjustment under subsection (2) because of different commercial levels or different quantities is that such adjustment be made only on the basis of evidence that clearly establishes that an adjustment is reasonable and accurate. For an illustration of this, a bona fide price list contains prices for different quantities. If the material being valued consists of a shipment of 10 units and the only identical materials for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's bona fide price list and using the price applicable to a sale of 10 units. This does not require that sales had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a value under this section is not appropriate.

(4) If more than one transaction value of identical materials is found, the lowest such value shall be used to determine the value of the material under this section.

SECTION 7.

(1) If there is no transaction value under section 2(2) or the transaction value is unacceptable under section 2(3), and the value of the material cannot be determined under section 6, the value of the material, referred to in Article 402(9)(b) of the Agreement, as implemented by section 7(1)(b)(ii) of Part III of this Appendix, shall be the transaction value of similar materials sold, at or about the same time as the material being valued was shipped to the producer, to a buyer located in the same country as the producer.

(2) In applying this section, the transaction value of similar materials in a sale at the same commercial level and in substantially the same quantity of materials as the material being valued shall be used to determine the value of the material. Where no such sale is found, the transaction value of similar materials sold at a different commercial level or in different quantities, adjusted to take into account the differences attributable to the commercial level or quantity, shall be used, provided that such adjustments can be made on the basis of evidence that clearly establishes that the adjustment is reasonable and accurate, whether the adjustment leads to an increase or a decrease in the value.

(3) A condition for adjustment under subsection (2) because of different commercial levels or different quantities is that such adjustment be made only on the basis of evidence that clearly establishes that an adjustment is reasonable and accurate. For an illustration of this, a bona fide price list contains prices for different quantities. If the material being valued consists of a shipment of 10 units and the only similar materials for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's bona fide price list and using the price applicable to a sale of 10 units. This does not require that sales had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a value under this section is not appropriate.

(4) If more than one transaction value of similar materials is found, the lowest such value shall be used to determine the value of the material under this section.

SECTION 8.

If there is no transaction value under section 2(2) or the transaction value is unacceptable under section 2(3), and the value of the material cannot be determined under section 6 or 7, the value of the material, referred to in Article 402(9)(b) of the Agreement, as implemented by section 7(1)(b)(ii) of Part III of this Appendix, shall be determined under section 9 or, when the value cannot be determined under that section, under section 10 except that, at the request of the producer, the order of application of section 9 and 10 shall be reversed.

SECTION 9.

(1) Under this section, if identical materials or similar materials are sold in the territory of the NAFTA country in which the producer is located, in the same condition as the material was in when received by the producer, the value of the material, referred to in Article 402(9)(b) of the Agreement, as implemented by section 7(1)(b)(ii) of Part III of this Appendix, shall be based on the unit price at which those identical materials or similar materials are sold, in the greatest aggregate quantity, at or about the same time as the material being valued is received by the producer, to persons located in that territory who are not related to the seller, subject to deductions for the following:

(a) either the amount of commissions usually earned or the amount generally reflected for profit and general expenses, in connection with sales, in the territory of that NAFTA country, of materials of the same class or kind as the material being valued; and

(b) taxes, if included in the unit price, payable in the territory of that NAFTA country, which are either waived, refunded or recoverable by way of credit against taxes actually paid or payable.

(2) If neither identical materials nor similar materials are sold at or about the same time the material being valued is received by the producer, the value shall, subject to the deductions provided for under subsection (1), be based on the unit price at which identical materials or similar materials are sold in the territory of the NAFTA country in which the producer is located, in the same condition as the material was in when received by the producer, at the earliest date within 90 days after the date the material being valued was received by the producer.

(3) The expression "unit price at which identical materials or similar materials are sold, in the greatest aggregate quantity" in subsection (1) means the price at which the greatest number of units is sold in sales between unrelated persons. For an illustration of this, materials are sold from a price list which grants favorable unit prices for purchases made in larger quantities.

Sale Quantity	Unit Price	Number of Sales	Total Quantity Sold at Each Price
1–10 units	100	10 sales of 5 units	65
		5 sales of 3 units	
11–25 units	95	5 sales of 11 units	55
Over 25 units	90	1 sale of 30 units	80
		1 sale of 50 units	

The greatest number of units sold at a particular price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

As another illustration of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this illustration, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

(4) Any sale to a person who supplies, directly or indirectly, free of charge or at reduced cost for use in connection with the production of the material, any of the elements specified in section 5(1)(b), shall not be taken into account in establishing the unit price for the purposes of this section.

(5) The amount generally reflected for profit and general expenses referred to in subsection (1)(a) shall be taken as a whole. The figure for the purposes of deducting an amount for profit and general expenses shall be determined on the basis of information supplied by or on behalf of the producer unless the figures provided by the producer are inconsistent with those usually reflected in sales, in the country in which the producer is located, of materials of the same class or kind as the material being valued. Where the figures provided by the producer are inconsistent with those figures, the amount for profit and general expenses shall be based on relevant information other than that supplied by or on behalf of the producer.

(6) For the purposes of this section, general expenses are the direct and indirect costs of marketing the material in question.

(7) In determining either the commissions usually earned or the amount generally reflected for profit and general expenses under this section, the question as to whether certain materials are materials of the same class or kind as the material being valued shall be determined on a case-by-case basis with reference to the circumstances involved. Sales in the country in which the producer is located of the narrowest group or range of materials of the same class or kind as the material being valued, for which the necessary information can be provided, shall be examined. For the purposes of this section, "materials of the same class or kind" includes materials imported from the same country as the material being valued as well as materials imported from other countries or acquired within the territory of the NAFTA country in which the producer is located.

(8) For the purposes of subsection (2), the earliest date shall be the date by which sales of identical materials or similar materials are made, in sufficient quantity to establish the unit price, to other persons in the territory of the NAFTA country in which the producer is located.

SECTION 10.

(1) Under this section, the value of a material, referred to in Article 402(9)(b) of the Agreement, as implemented by section 7(1)(b)(ii) of Part III of this Appendix, shall be the sum of

(a) the cost or value of the materials used in the production of the material being valued, as determined on the basis of the costs that are recorded on the books of the producer of the material,

(b) the cost of producing the material being valued, as determined on the basis of the costs that are recorded on the books of the producer of the material, and

(c) an amount for profit and general expenses equal to that usually reflected in sales, in the territory of the NAFTA country in which the producer is located, by producers of materials of the same class or kind as the material being valued in the country in which the material is produced,

and shall include, to the extent they are not already included under paragraph (a) or (b) and where the elements are supplied directly or indirectly to the producer of the material being valued by the producer free of charge or at a reduced cost for use in the production of that material,

(d) the value of elements referred to in section 5(1)(b)(i), determined in accordance with section 5(6), and

(e) the value of elements referred to in section 5(1)(b)(ii) through (iv), determined in accordance with section 5(8) and reasonably allocated to the material in accordance with section 5(12).

(2) For purposes of subsections (1) (a) and (b), where the costs recorded on the books of the producer of the material relate to the production of other goods and materials as well as to the production of the material being valued, the costs referred to in subsections (1) (a) and (b) with respect to the material being valued shall be those costs recorded on the books of the producer of the material that can be reasonably allocated to that material in accordance with Schedule VII.

(3) The amount for profit and general expenses referred to in subsection (1)(c) shall be determined on the basis of information supplied by or on behalf of the producer of the material being valued unless the profit and general expenses figures that are supplied with that information are inconsistent with those usually reflected in sales by producers of materials of the same class or kind as the material being valued in the country in which the material is produced. The information supplied shall be prepared in a manner consistent with generally accepted accounting principles of the country in which the material being valued is produced. Where the material is produced in the territory of a NAFTA country, the information shall be prepared in accordance with the generally accepted accounting principles set out in the authorities listed for that NAFTA country in Schedule VI.

(4) For purposes of subsection (1)(c) and subsection (3), general expenses means the direct and indirect costs of producing and selling the material that are not included under subsections (1) (a) and (b).

(5) For purposes of subsection (3), the amount for profit and general expenses shall be taken as a whole. Where, in the information supplied by or on behalf of the producer of a material, the profit figure is low and the general expenses figure is high, the profit and general expense figures taken together may nevertheless be consistent with those usually reflected in sales of materials of the same class or kind as the material being valued. Where the producer of a material can demonstrate that it is taking a nil or low profit on its sales of the material because of particular commercial circumstances, its actual profit and general expense figures shall be taken into account, provided that the producer of the material has valid commercial reasons to justify them and its pricing policy reflects usual pricing policies in the branch of industry concerned. For an illustration of this, such a situation might occur where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where the producers sell the material to complement a range of materials and goods being produced in the country in which the material is sold and accept a low profit to maintain competitiveness. A further illustration is where a material was being launched and the producer accepted a nil or low profit to offset high general expenses associated with the launch.

(6) Where the figures for the profit and general expenses supplied by or on behalf of the producer of the material are not consistent with those usually reflected in sales of materials of the same class or kind as the material being valued that are made by other producers in the country in which that material is sold, the amount for profit and general expenses may be based on relevant information other than that supplied by or on behalf of the producer of the material.

(7) Where a customs administration uses information other than that supplied by or on behalf of the producer of the material for the purposes of determining the value of a material under this section, the customs administration shall communicate to the producer, if that producer so requests, the source of such information, the data used and the calculations based upon such data, subject to the provisions on confidentiality under Article 507 of the Agreement, as implemented in each NAFTA country.

(8) Whether certain materials are of the same class or kind as the material being valued shall be determined on a case-by-case basis with reference to the circumstances involved. For purposes of determining the amount for profit and general expenses usually reflected under the provisions of this section, sales of the narrowest group or range of materials of the same class or kind, which includes the material being valued, for which the necessary information can be provided, shall be examined. For the purposes of this section, the materials of the same class or kind must be from the same country as the material being valued.

SECTION 11.

(1) Where there is no transaction value under section 2(2) or the transaction value is unacceptable under section 2(3), and the value of the materials cannot be determined under sections 6 through 10, the value of the material, referred to in Article 402(9)(b) of the Agreement, as implemented by section 7(1)(b)(ii) of Part III of this Appendix, shall be determined under this section using reasonable means consistent with the principles and general provisions of this Schedule and on the basis of data available in the country in which the producer is located.

(2) The value of the material determined under this section shall not be determined on the basis of

(a) a valuation system which provides for the acceptance of the higher of two alternative values;

(b) a cost of production other than the value determined in accordance with section 10;

(c) minimum values;

(d) arbitrary or fictitious values;

(e) where the material is produced in the territory of the NAFTA country in which the producer is located, the price of the material for export from that territory; or

(f) where the material is imported, the price of the material for export to a country other than to the territory of the NAFTA country in which the producer is located.

(3) To the greatest extent possible, the value of the material determined under this section shall be based on the methods of valuation set out in sections 2 through 10, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of this section. For an illustration of this, under section 6, the requirement that the identical materials should be sold at or about the same time as the time the material being valued is shipped to the producer could be flexibly interpreted. Similarly, identical materials produced in a country other than the country in which the material is produced could be the basis for determining the value of the material, or the value of identical materials already determined under section 9 could be used. For another illustration, under section 7, the requirement that the similar materials should be sold at or about the same time as the material being valued are shipped to the producer could be flexibly interpreted. Likewise, similar materials produced in a country other than the country in which the material is produced could be the basis for determining the value of the material, or the value of similar materials already determined under the provisions of section 9 could be used. For a further illustration, under section 9, the ninety days requirement could be administered flexibly.

SCHEDULE IX

METHODS FOR DETERMINING THE VALUE OF NON-ORIGINATING MATERIALS THAT ARE IDENTICAL MATERIALS AND THAT ARE USED IN THE PRODUCTION OF A GOOD UNDER THE TRANSACTION VALUE METHOD

Definitions and Interpretation

SECTION 1. Definitions.

For purposes of this Schedule,

"FIFO method" means the method by which the value of non-originating materials first received in materials inventory, determined in accordance with section 7 of this Appendix, is considered to be the value of non-originating materials used in the production of the good first shipped to the buyer of the good;

"identical materials" means, with respect to a material, materials that are the same as that material in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance;

"LIFO method" means the method by which the value of non-originating materials last received in materials inventory, determined in accordance with section 7 of this Appendix, is considered to be the value of non-originating materials used in the production of the good first shipped to the buyer of the good;

"materials inventory" means, with respect to a single plant of the producer of a good, an inventory of non-originating materials that are identical materials and that are used in the production of the good; and

"rolling average method" means the method by which the value of non-originating materials used in the production of a good that is shipped to the buyer of the good is based on the average value, calculated in accordance with section 4, of the non-originating materials in materials inventory.

General

SECTION 2.

The methods for determining the value of non-originating materials that are identical materials and that are referred to in section 6(10) of this Appendix are the following:

(a) FIFO method;
(b) LIFO method; and
(c) rolling average method.

SECTION 3.

(1) Where a producer of a good chooses, with respect to non-originating materials that are identical materials, any of the methods referred to in section 2, the producer may not use another of those methods with respect to any other non-originating materials that are identical materials and that are used in the production of that good or in the production of any other good with respect to which the transaction value method has been chosen.

(2) Where a producer of a good produces the good in more than one plant, the method chosen by the producer shall be used with respect to all plants of the producer in which the good is produced.

(3) The method chosen by the producer to determine the value of non-originating materials may be chosen at any time during the producer's fiscal year and may not be changed during that fiscal year.

Average Value for Rolling Average Method

SECTION 4.

(1) The average value of non-originating materials that are identical materials and that are used in the production of a good that is shipped to the buyer of the good is calculated by dividing

(a) the total value of non-originating materials that are identical materials in materials inventory prior to the shipment of the good, determined in accordance with section 7 of this Appendix,

by

(b) the total units of those non-originating materials in materials inventory prior to the shipment of the good.

(2) The average value calculated under subsection (1) is applied to the remaining units of non-originating materials in materials inventory.

ADDENDUM

"EXAMPLES" ILLUSTRATING THE APPLICATION OF THE METHODS FOR DETERMINING THE VALUE OF NON-ORIGINATING MATERIALS THAT ARE IDENTICAL MATERIALS AND THAT ARE USED IN THE PRODUCTION OF A GOOD UNDER THE TRANSACTION VALUE METHOD

The following "examples" are based on the figures set out in the table below and on the following assumptions:

(a) Materials A are non-originating materials that are identical materials that are used in the production of Good A;
(b) one unit of Materials A is used to produce one unit of Good A;
(c) all other materials used in the production of Good A are originating materials;

(d) Good A is subject to a regional value-content requirement and the producer has chosen the transaction value method; and
(e) Good A is produced in a single plant.

Date (M/D/Y)	Materials inventory (Receipts of materials A)		Sales (Shipments of good A)
	Quantity (Units)	Unit Cost*	Quantity (Units)
01/01/94	200	1.05	
01/03/94	1,000	1.00	
01/05/94	1,000	1.10	
01/08/94			500
01/09/94			500
01/10/94	1,000	1.05	
01/14/94			1,500
01/16/94	2,000	1.10	
01/18/94			1,500

*Unit cost is determined in accordance with section 7 of this Appendix.

Example 1: FIFO method

By applying the FIFO method:

(1) the 200 units of Materials A received on 01/01/94 and valued at $1.05 per unit and 300 units of the 1,000 units of Material A received on 01/03/94 and valued at $1.00 per unit are considered to have been used in the production of the 500 units of Good A shipped on 01/08/94; therefore, the value of the non-originating materials used in the production of those goods is considered to be $510 [(200 unit × $1.05)+($300 units × $1.00)];

(2) 500 units of the remaining 700 units of Materials A received on 01/03/94 and valued at $1.00 per unit are considered to have been used in the production of the 500 units of Good A shipped on 01/09/94; therefore, the value of the non-originating materials used in the production of those goods is considered to be $500 (500 units × $1.00);

(3) the remaining 200 units of the 1,000 of Materials A received on 01/03/94 and valued at $1.00 per unit, the 1,000 units of Materials A received on 01/05/94 and valued at $1.10 per unit, and 300 units of the 1,000 Materials A received on 01/10/94 and valued at $1.05 per unit are considered to have been used in the production of the 1,500 units of Good A shipped on 01/14/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $1,615 [(200 units × $1.00) + (1,000 units × $1.10)+(300 units × $1.05)]; and

(4) the remaining 700 units of the 1,000 units of Materials A received on 01/10/94 and valued at $1.05 per unit and 800 units of the 2,000 units of Materials A received on 01/16/94 and valued at $1.10 per unit are considered to have been used in the production of the 1,500 units of Good A shipped on 01/18/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $1,615 [(700 × $1.05) + (800 × $1.10)].

Example 2: LIFO method

By applying the LIFO method:

(1) 500 units of the 1,000 units of Materials A received on 01/05/94 and valued at $1.10 per unit are considered to have been used in the production of the 500 units of Good A shipped on 01/08/94; therefore, the value of the non-originating materials used in the production of those goods is considered to be $550 (500 units × $1.10);

(2) the remaining 500 units of the 1,000 units of Materials A received on 01/05/94 and valued at $1.10 per unit are considered to have been used in the production of the 500 units of Good A shipped on 01/09/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $550 (500 unit × $1.10);

(3) the 1,000 units of Materials A received on 01/10/94 and valued at $1.05 per unit and 500 units of the 1,000 units of Material A received on 01/03/94 and valued at $1.00 per unit are considered to have been used in the production of the 1,500 units of Good A shipped on 01/14/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $1,550 [(1,000 units × $1.05) + (500 units × $1.00)]; and

(4) 1,500 units of the 2,000 units of Materials A received on 01/16/94 and valued at $1.10 per unit are considerbd to have been used in the production of the 1,500 units of Good A shipped on 01/18/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $1,650 (1,500 units × $1.10).

Example 3: Rolling average method

The following table identifies the average value of non-originating Materials A as determined under the rolling average method. For purposes of this example, a new average value of non-originating Materials A is calculated after each receipt.

	Materials inventory			
	Date (M/D/Y)	Quantity (Units)	Unit Cost*	Total Value
Beginning Inventory	1/1/94	200	$1.05	$210
Receipt	1/3/94	*1,000*	*1.00*	*1,000*
AVERAGE VALUE		1,200	1.008	1,210
Receipt	1/5/94	*1,000*	*1.10*	*1,100*
AVERAGE VALUE		2,200	1.05	2,310
Shipment	1/8/94	*500*	*1.05*	*525*
AVERAGE VALUE		1,700	1.05	1,785
Shipment	1/9/94	*500*	*1.05*	*525*

	Materials inventory			
	Date (M/D/Y)	Quantity (Units)	Unit Cost*	Total Value
AVERAGE VALUE		1,200	1.05	1,260
Receipt	1/16/94	*2,000*	*1.10*	*2,200*
AVERAGE VALUE		3,200	1.08	3,460

* unit cost is determined in accordance with section 7 of this Appendix.

By applying the rolling average method:
(1) the value of non-originating materials used in the production of the 500 units of Good A shipped on 01/08/94 is considered to be $525 (500 units × $1.05); and
(2) the value of non-originating materials used in the production of the 500 units of Good A shipped on 01/09/94 is considered to be $525 (500 units × $1.05).

SCHEDULE X
INVENTORY MANAGEMENT METHODS

PART I
FUNGIBLE MATERIALS

Definitions and Interpretation

SECTION 1. Definitions.

For purposes of this Part,

"average method" means the method by which the origin of fungible materials withdrawn from materials inventory is based on the ratio, calculated under section 5, of originating materials and non-originating materials in materials inventory;

"FIFO method" means the method by which the origin of fungible materials first received in materials inventory is considered to be the origin of fungible materials first withdrawn from materials inventory;

"LIFO method" means the method by which the origin of fungible materials last received in materials inventory is considered to be the origin of fungible materials first withdrawn from materials inventory;

"materials inventory" means,

(a) with respect to a producer of a good, an inventory of fungible materials that are used in the production of the good, and

(b) with respect to a person from whom the producer of the good acquired those fungible materials, an inventory from which fungible materials are sold or otherwise transferred to the producer of the good;

"opening inventory" means the materials inventory at the time an inventory management method is chosen;

"origin identifier" means any mark that identifies fungible materials as originating materials or non-originating materials.

General

SECTION 2.

The inventory management methods for determining whether fungible materials referred to in section 7(14)(a) of this Appendix are originating materials are the following:

(a) specific identification method;
(b) FIFO method;
(c) LIFO method; and
(d) average method.

SECTION 3.

Where a producer of a good or a person from whom the producer acquired the materials that are used in the production of the good chooses an inventory management method referred to in section 2, that method shall be used from the time the choice is made until the end of the fiscal year of the producer or person.

Specific Identification Method

SECTION 4.

(1) Except as otherwise provided under subsection (2), where the producer or person referred to in section 3 chooses the specific identification method, the producer or person shall physically segregate, in materials inventory, originating materials that are fungible materials from non-originating materials that are fungible materials.

(2) Where originating materials or non-originating materials that are fungible materials are marked with an origin identifier, the producer or person need not physically segregate those materials under subsection (1) if the origin identifier remains visible throughout the production of the good.

Average Method

SECTION 5.

Where the producer or person referred to in section 3 chooses the average method, the origin of fungible materials withdrawn from materials inventory is determined on the basis of the ratio of originating materials and non-originating materials in materials inventory that is calculated under sections 6 through 8.

SECTION 6.

(1) Except as otherwise provided in sections 7 and 8, the ratio is calculated with respect to a month or three-month period, at the choice of the producer or person, by dividing

(a) the sum of

(i) the total units of originating materials or non-originating materials that are fungible materials and that were in materials inventory at the beginning of the preceding one-month or three-month period, and

(ii) the total units of originating materials or non-originating materials that are fungible materials and that were received in materials inventory during that preceding one-month or three-month period,

by

(b) the sum of

(i) the total units of originating materials and non-originating materials that are fungible materials and that were in materials inventory at the beginning of the preceding one-month or three-month period, and

(ii) the total units of originating materials and non-originating materials that are fungible materials and that were received in materials inventory during that preceding one-month or three-month period.

(2) The ratio calculated with respect to a preceding month or three-month period under subsection (1) is applied to the fungible materials remaining in materials inventory at the end of the preceding month or three-month period.

SECTION 7.

(1) Where the good is subject to a regional value-content requirement and the regional value content is calculated under the net cost method and the producer or person chooses to average over a period under sections 6(15), 11(1), (3) or (6), 12(1) or 13(4) of this Appendix, the ratio is calculated with respect to that period by dividing

(a) the sum of

(i) the total units of originating materials or non-originating materials that are fungible materials and that were in materials inventory at the beginning of the period, and

(ii) the total units of originating materials or non-originating materials that are fungible materials and that were received in materials inventory during that period,

by

(b) the sum of

(i) the total units of originating materials and non-originating materials that are fungible materials and that were in materials inventory at the beginning of the period, and

(ii) the total units of originating materials and non-originating materials that are fungible materials and that were received in materials inventory during that period.

(2) The ratio calculated with respect to a period under subsection (1) is applied to the fungible materials remaining in materials inventory at the end of the period.

SECTION 8.

(1) Where the good is subject to a regional value-content requirement and the regional value content of that good is calculated under the transaction value method or the net cost method, the ratio is calculated with respect to each shipment of the good by dividing

(a) the total units of originating materials or non-originating materials that are fungible materials and that were in materials inventory prior to the shipment,

by

(b) the total units of originating materials and non-originating materials that are fungible materials and that were in materials inventory prior to the shipment.

(2) The ratio calculated with respect to a shipment of a good under subsection (1) is applied to the fungible materials remaining in materials inventory after the shipment.

Manner of Dealing with Opening Inventory

SECTION 9.

(1) Except as otherwise provided under subsections (2) and (3), where the producer or person referred to in section 3 has fungible materials in opening inventory, the origin of those fungible materials is determined by

(a) identifying, in the books of the producer or person, the latest receipts of fungible materials that add up to the amount of fungible materials in opening inventory;

(b) determining the origin of the fungible materials that make up those receipts; and

(c) considering the origin of those fungible materials to be the origin of the fungible materials in opening inventory.

(2) Where the producer or person chooses the specific identification method and has, in opening inventory, originating materials or non-originating materials that are fungible materials and that are marked with an origin identifier, the origin of those fungible materials is determined on the basis of the origin identifier.

(3) The producer or person may consider all fungible materials in opening inventory to be non-originating materials.

PART II
FUNGIBLE GOODS

Definitions and Interpretation

SECTION 10. Definitions.

For purposes of this Part,

"average method" means the method by which the origin of fungible goods withdrawn from finished goods inventory is based on the ratio, calculated under section 12, of originating goods and non-originating goods in finished goods inventory;

"FIFO method" means the method by which the origin of fungible goods first received in finished goods inventory is considered to be the origin of fungible goods first withdrawn from finished goods inventory;

"finished goods inventory" means an inventory from which fungible goods are sold or otherwise transferred to another person;

"LIFO method" means the method by which the origin of fungible goods last received in finished goods inventory is considered to be the origin of fungible goods first withdrawn from finished goods inventory;

"opening inventory" means the finished goods inventory at the time an inventory management method is chosen; and

"origin identifier" means any mark that identifies fungible goods as originating goods or non-originating goods.

"origin identifier" means any mark that identifies fungible goods as originating goods or non-originating goods.

General

SECTION 11.

The inventory management methods for determining whether fungible goods referred to in section 7(14)(b) of this Appendix are originating goods are the following:

(a) specific identification method;
(b) FIFO method;
(c) LIFO method; and
(d) average method.

SECTION 12.

Where an exporter of a good or a person from whom the exporter acquired the good chooses an inventory management method referred to in section 11, that method shall be used from the time the choice is made until the end of the fiscal year of the exporter or person.

Specific Identification Method

SECTION 13.

(1) Except as provided under subsection (2), where the exporter or person referred to in section 12 chooses the specific identification method, the exporter or person shall physically segregate, in finished goods inventory, originating goods that are fungible goods from non-originating goods that are fungible goods.

(2) Where originating goods or non-originating goods that are fungible goods are marked with an origin identifier, the exporter or person need not physically segregate those goods under subsection (1) if the origin identifier is visible on the fungible goods.

Average Method

SECTION 14.

(1) Where the exporter or person referred to in section 12 chooses the average method, the origin of fungible goods withdrawn from finished goods inventory during a month or three-month period, at the choice of the exporter or person, is determined on the basis of the ratio of originating goods and non-originating goods in finished goods inventory for the preceding one-month or three-month period that is calculated by dividing

(a) the sum of

(i) the total units of originating goods or non-originating goods that are fungible goods and that were in finished goods inventory at the beginning of the preceding one-month or three-month period, and

(ii) the total units of originating goods or non-originating goods that are fungible goods and that were received in finished goods inventory during that preceding one-month or three-month period,

by

(b) the sum of

(i) the total units of originating goods and non-originating goods that are fungible goods and that were in finished goods inventory at the beginning of the preceding one-month or three-month period, and

(ii) the total units of originating goods and non-originating goods that are fungible goods and that were received in finished goods inventory during that preceding one-month or three-month period.

(2) The calculated with respect to a preceding month or three-month period under subsection (1) is applied to the fungible goods remaining in finished goods inventory at the end of the preceding month or three-month period.

Manner of Dealing with Opening Inventory

SECTION 15.

(1) Except as otherwise provided under subsections (2) and (3), where the exporter or person referred to in section 12 has fungible goods in opening inventory, the origin of those fungible goods is determined by

(a) identifying, in the books of the exporter or person, the latest receipts of fungible goods that add up to the amount of fungible goods in opening inventory;

(b) determining the origin of the fungible goods that make up those receipts; and

(c) considering the origin of those fungible goods to be the origin of the fungible goods in opening inventory.

(2) Where the exporter or person chooses the specific identification method and has, in opening inventory, originating goods or non-originating goods that are fungible goods and that are marked with an origin identifier, the origin of those fungible goods is determined on the basis of the origin identifier.

(3) The exporter or person may consider all fungible goods in opening inventory to be non-originating goods.

ADDENDUM A

"EXAMPLES" ILLUSTRATING THE APPLICATION OF THE INVENTORY MANAGEMENT METHODS TO DETERMINE THE ORIGIN OF FUNGIBLE MATERIALS

The following "examples" are based on the figures set out in the table below and on the following assumptions:

(a) originating Material A and non-originating Material A that are fungible materials are used in the production of Good A;

(b) one unit of Material A is used to produce one unit of Good A;

(c) Material A is only used in the production of Good A;

(d) all other materials used in the production of Good A are originating materials; and

(e) the producer of Good A exports all shipments of Good A to the territory of a NAFTA country.

Date (M/D/Y)	Materials inventory sales (Receipts of material A)		Sales (Shipments of good A)
	Quality (Units)	Unit Cost*	Quantity (Units)
12/18/93	100 (O[1])	1.00	
12/27/93	100 (N[2])	1.10	
01/01/94	200 (OI[3])		
01/01/94	1,000 (O)	1.00	
01/05/94	1,000 (N)	1.10	
01/10/94			100
01/10/94	1,000 (O)	1.05	
01/15/94			700
01/15/94	2,000 (N)	1.10	
01/20/94			1,000
01/23/94			900

* unit cost is determined in accordance with section 7 of this Appendix.
[1] "O" denotes originating materials.
[2] "N" denotes non-originating materials.
[3] "OI" denotes opening inventory.

Example 1: FIFO method

Good A is subject to a regional value-content requirement. Producer A is using the transaction value method to determine the regional value content of Good A.

By applying the FIFO method:

(1) the 100 units of originating Material A in opening inventory that were received in materials inventory on 12/18/93 are considered to have been used in the production of the 100 units of Good A shipped on 01/10/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $0;

(2) the 100 units of non-originating Material A in opening inventory that were received in materials inventory on 12/27/93 and 600 units of the 1,000 units of originating Material A that were received in materials inventory on 01/01/94 are considered to have been used in the production of the 700 units of Good A shipped on 01/15/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $110 (100 units×$1.10);

(3) the remaining 400 units of the 1,000 units of originating Material A that were received in materials inventory on 01/01/94 and 600 units of the 1,000 units of non-originating Material A that were received in materials inventory on 01/05/94 are considered to have been used in the production of the 1,000 units of Good A shipped on 01/20/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $660 (600 units×$1.10); and

(4) the remaining 400 units of the 1,000 units of non-originating Material A that were received in materials inventory on 01/05/94 and 500 units of the 1,000 units of originating Material A that were received in materials inventory on 01/10/94 are considered to have been used in the production of the 900 units of Good A shipped on 01/23/94; therefore, the value of non-originating materials used in the production of the these goods is considered to be $440 (400 units×$1.10).

Example 2: LIFO method

Good A is subject to a change in tariff classification requirement and the non-originating Material A used in the production of Good A does not undergo the applicable change in tariff classification. Therefore, where originating Material A is used in the production of Good A, Good A is an originating good and, where non-originating Material A is used in the production of Good A, Good A is a non-originating good.

By applying the LIFO method:

(1) 100 units of the 1,000 units of non-originating Material A that were received in materials inventory on 01/05/94 are considered to have been used in the production of the 100 units of Good A shipped on 01/10/94;

(2) 700 units of the 1,000 units of originating Material A that were received in materials inventory on 01/10/94 are considered to have been used in the production of the 700 units of Good A shipped on 01/15/94;

(3) 1,000 units of the 2,000 units of non-originating Material A that were received in materials inventory on 01/16/94 are considered to have been used in the production of the 1,000 units of Good A shipped on 01/20/94; and

(4) 900 units of the remaining 1,000 units of non-originating Material A that were received in materials inventory on 01/16/94 are considered to have been used in the production of the 900 units of Good A shipped on 01/23/94.

Example 3: Average method

Good A is subject to an applicable regional value-content requirement. Producer A is using the transaction value method to determine the regional value content of Good A. Producer A determines the average value of non-originating Material A and the ratio of originating Material A to total value of originating Material A and non-originating Material A in the following table.

QUANTITY (UNITS)	DATE (M/D/Y)	MATERIALS INVENTORY						SALES (SHIPMENTS OF GOOD A)
		(RECEIPTS OF MATERIAL A)			(NON-ORIGINATING MATERIAL)			
		QUANTITY (UNITS)	TOTAL VALUE	UNIT COST*	QUANTITY (UNITS)	TOTAL VALUE	RATIO	QUANTITY (UNITS)
RECEIPT	12/18/93	100 (O[1])	100	1.00				
RECEIPT	12/27/93	100 (N[2])	110	1.10	100	110.00		

QUANTITY (UNITS)	DATE (M/D/Y)	MATERIALS INVENTORY (RECEIPTS OF MATERIAL A) QUANTITY (UNITS)	TOTAL VALUE	UNIT COST*	(NON-ORIGINATING MATERIAL) QUANTITY (UNITS)	TOTAL VALUE	RATIO	SALES (SHIPMENTS OF GOOD A) QUANTITY (UNITS)
NEW AVERAGE INV. VALUE.		200 (OI[3])	210	1.05	100	105.00	0.50	
RECEIPT	01/01/94	1,000 (O)	1,000	1.00				
NEW AVERAGE INV. VALUE.		1,200	1,210	1.01	100	101.00	0.08	
RECEIPT	01/05/94	1,000 (N)	1,100	1.10	1,000	1,100.00		
NEW AVERAGE INV. VALUE.		2,200	2,310	1.05	1,100	1,155.00	0.50	
SHIPMENT	01/10/94	(100)	(105)	1.05	(50)	(52.50)		100
RECEIPT	01/10/94	1,000 (O)	1,050	1.05				
NEW AVERAGE INV. VALUE.		3,100	3,255	1.05	1,050	1,102.50	0.34	
SHIPMENT	01/15/94	(700)	(735)	1.05	(238)	(249.90)		700
RECEIPT	01/16/94	2,000 (N)	2,200	1.10	2,000	2,000.00		
NEW AVERAGE INV. VALUE.		4,400	4,720	1.07	2,816	3,013.20	0.64	
SHIPMENT	01/20/94	(1,000)	(1,070)	1.07	(640)	(648.80)		1,000
SHIPMENT	01/23/94	(900)	(963)	1.07	(576)	(616.32)		900
NEW AVERAGE INV. VALUE.		2,500	2,687	1.07	1,600	1,712.00	0.64	

*Unit cost is determined in accordance with section 7 of this Appendix.
[1] "O" denotes originating materials.
[2] "N" denotes non-originating materials.
[3] "OI" denotes opening inventory.

By applying the average method:
(1) before the shipment of the 100 units of Material A on 01/10/94, the ratio of units of originating Material A to total units of Material A in materials inventory was .50 (1,100 units/2,200 units) and the ratio of units of non-originating Material A to total units of Material A in materials inventory was .50 (1,100 units/2,200 units); based on those ratios, 50 units (100 units × .50) of originating Material A and 50 units (100 units × .50) of non-originating Material A are considered to have been used in the production of the 100 units of Good A shipped on 01/10/94; therefore, the value of non-originating Material A used in the production of those goods is considered to be $52.50 [100 units × $1.05(average unit value) × .50]; the ratios are applied to the units of Material A remaining in materials inventory after the shipment: 1,050 units (2,100 units × .50) are considered to be originating materials and 1,050 units (2,100 units × .50) are considered to be non-originating materials;
(2) before the shipment of the 700 units of Good A on 01/15/94, the ratio of units of originating Material A to total units of Material A in materials inventory was 66% (2,050 units/3,100 units) and the ratio of units of non-originating Material A to total units of Material A in materials inventory was 34% (1,050 units/3,100 units); based on those ratios, 462 units (700 units × .66) of originating Material A and 238 units (700 units × .34) of non-originating Material A are considered to have been used in the production of the 700 units of Good A shipped on 01/15/94; therefore, the value of non-originating Material A used in the production of those goods is considered to be $249.90 [700 units × $1.05(average unit value) × 34%]; the ratios are applied to the units of Material A remaining in materials inventory after the shipment: 1,584 units (2,400 units × .66) are considered to be originating materials and 816 units (2,400 units × .34) are considered to be non-originating materials;
(3) before the shipment of the 1,000 units of Material A on 01/20/94, the ratio of units of originating Material A to total units of Material A in materials inventory was 36% (1,584 units/4,400 units) and the ratio of units of non-originating Material A to total units of Material A in materials inventory was 64% (2,816 units/4,400 units); based on those ratios, 360 units (1,000 units × .36) of originating Material A and 640 units (1,000 units × .64) of non-originating Material A are considered to have been used in the production of the 1,000 units of Good A shipped on 01/20/94; therefore, the value of non-originating Material A used in the production of those goods is considered to be $684.80 [1,000 units × $1.07 (average unit value) × 64%]; those ratios are applied to the units of Material A remaining in materials inventory after the shipment: 1,224 units (3,400 units × .36) are considered to be originating materials and 2,176 units (3,400 units × .64) are considered to be non-originating materials;
(4) before the shipment of the 900 units of Good A on 01/23/94, the ratio of units of originating Material A to total units of Material A in materials inventory was 36% (1,224 units/3,400 units) and the ratio of units of non-originating Material A to total units of Material A in materials inventory was 64% (2,176 units/3,400 units,; based on those ratios, 324 units (900 units × .36) of originating Material A and 576 units (900 units × .64) of non-originating Material A are considered to have been used in the production of the 900 units of Good A shipped on 01/23/94; therefore, the value of non-originating Material A used in the production of those goods is considered to be $616.32 [900 units × $1.07 (average unit value) × 64%]; those ratios are applied to the units of Material A remaining in materials inventory after the shipment: 900 units (2,500 units × .36) are considered to be originating materials and 1,600 units (2,500 units × .64) are considered to be non-originating materials.

Example 4: Average method

Good A is subject to an applicable regional value-content requirement. Producer A is using the net cost method and is averaging over a period of one month under section 6(15)(a) of this Appendix to determine the regional value content of Good A. By applying the average method:

the ratio of units of originating Material A to total units of Material A in materials inventory for January 1994 is 40.4% (2,100 units/5,200 units);
based on that ratio, 1,091 units (2,700 units × .404) of originating Material A and 1,609 units (2,700 units − 1,091 units) of non-originating Material A are considered to have been used in the production of the 2,700 units of Good A shipped in January 1994; therefore, the value of non-originating materials used in the production of those goods is considered to be $0.64 per unit [$5,560 (total value of Material A in materials inventory)/ $5,200 (units of Material A in materials inventory) = $1.07 (average unit value) × (1 − .404)] or $1,728 ($0.64 × 2,700 units); and that ratio is applied to the units of Good A remaining in finished goods inventory on January 31, 1994: 1,010 units (2,500 units × .404) are considered to be originating goods and 1,490 units (2,500 units − 1,010 units) are considered to be non-originating goods.

ADDENDUM B
"EXAMPLES" ILLUSTRATING THE APPLICATION OF THE INVENTORY MANAGEMENT METHODS TO DETERMINE THE ORIGIN OF FUNGIBLE GOODS

The following "examples" are based on the figures set out in the table below and on the assumption that Exporter A acquires originating Good A and non-originating Good A that are fungible goods and physically combines or mixes Good A before exporting those goods to the buyer of those goods.

DATE (M/D/Y)	FINISHED GOODS INVENTORY (RECEIPTS OF GOOD A) QUANTITY (UNITS)	SALES (SHIPMENTS OF GOOD A) QUANTITY (UNITS)
12/18/93	100 (OI[1])	
12/27/93	100 (N[2])	
01/01/94	200 (OI[3])	
01/01/94	1,000 (O)	
01/05/94	1,000 (N)	
01/10/94		100
01/10/94	1,000 (O)	
01/15/94		700
01/16/94	2,000 (N)	
01/20/94		1,000
01/23/94		900

[1] "O" denotes originating goods.
[2] "N" denotes non-originating goods.
[3] "OI" denotes opening inventory.

Example 1: FIFO method

By applying the FIFO method:
(1) the 100 units of originating Good A in opening inventory that were received in finished goods inventory on 12/18/93 are considered to be the 100 units of Good A shipped on 01/10/94;
(2) the 100 units of non-originating Good A in opening inventory that were received in finished goods inventory on 12/27/93 and 600 units of the 1,000 units of originating Good A that were received in finished goods inventory on 01/01/94 are considered to be the 700 units of Good A shipped on 01/15/94;
(3) the remaining 400 units of the 1,000 units of originating Good A that were received in finished goods inventory on 01/01/94 and 600 units of the 1,000 units of non-originating Good A that were received in finished goods inventory on 01/05/94 are considered to be the 1,000 units of Good A shipped on 01/20/94; and
(4) the remaining 400 units of the 1,000 units of non-originating Good A that were received in finished goods inventory on 01/05/94 and 500 units of the 2,000 units of originating Good A that were received in finished goods inventory on 01/10/94 are considered to be the 900 units of Good A shipped on 01/23/94.

Example 2: LIFO method

By applying the LIFO method:
(1) 100 units of the 1,000 units of non-originating Good A that were received in finished goods inventory on 01/05/94 are considered to be the 100 units of Good A shipped on 01/10/94;
(2) 700 units of the 1,000 units of originating Good A that were received in finished goods inventory on 01/10/94 are considered to be the 700 units of Good A shipped on 01/15/94;
(3) 1,000 units of the 2,000 units of non-originating Good A that were received in finished goods inventory on 01/16/94 are considered to be the 1,000 units of Good A shipped on 01/20/94; and
(4) 900 units of the remaining 1,000 units of non-originating Good A that were received in finished goods inventory on 01/16/94 are considered to be the 900 units of Good A shipped on 01/23/94.

Example 3: Average method

Exporter A chooses to determine the origin of Good A on a monthly basis. Exporter A exported 3,000 units of Good A during the month of February 1994. The origin of the units of Good A exported during that month is determined on the basis of the preceding month, that is January 1994.

By applying the average method:
the ratio of originating goods to all goods in finished goods inventory for the month of January 1994 is 40.4% (2,100 units/5,200 units);
based on that ratio, 1,212 units (3,000 units × .404) of Good A shipped in January 1994 are considered to be originating goods and 1,788 units (3,000 units − 1,212 units) of Good A are considered to be non-originating goods;
and

that ratio is applied to the units of Good A remaining in finished goods inventory on January 31, 1994: 1,010 units (2,500 units × .404) are considered to be originating goods and 1,490 units (2,500 units – 1,010 units) are considered to be non-originating goods.

SCHEDULE XI
METHOD FOR CALCULATING NON-ALLOWABLE INTEREST COSTS
Definitions and Interpretation

SECTION 1. Definitions.

For purposes of this Schedule,

"fixed-rate contract" means a loan contract, instalment purchase contract or other financing agreement in which the interest rate remains constant throughout the life of the contract or agreement;

"linear interpolation" means, with respect to the yield on federal government debt obligations, the application of the following mathematical formula:

$$A + [((B-A) \times (E-D)) / (C-D)]$$

where

A is the yield on federal government debt obligations that are nearest in maturity but of shorter maturity than the weighted average principal maturity of the payment schedule under the fixed-rate contract or variable-rate contract to which they are being compared,

B is the yield on federal government debt obligations that are nearest in maturity but of greater maturity than the weighted average principal maturity of that payment schedule,

C is the maturity of federal government debt obligations that are nearest in maturity but of greater maturity than the weighted average principal maturity of that payment schedule,

D is the maturity of federal government debt obligations that are nearest in maturity but of shorter maturity than the weighted average principal maturity of that payment schedule, and

E is the weighted average principal maturity of that payment schedule; "payment schedule" means the schedule of payments, whether on a weekly, bi-weekly, monthly, yearly or other basis, of principal and interest, or any combination thereof, made by a producer to a lender in accordance with the terms of a fixed-rate contract or variable-rate contract;

"variable-rate contract" means a loan contract, instalment purchase contract or other financing agreement in which the interest rate is adjusted at intervals during the life of the contract or agreement in accordance with its terms;

"weighted average principal maturity" means, with respect to fixed-rate contracts and variable-rate contracts, the numbers of years, or portion thereof, that is equal to the number obtained by

(a) dividing the sum of the weighted principal payments,

(i) in the case of a fixed-rate contract, by the original amount of the loan, and

(ii) in the case of a variable-rate contract, by the principal balance at the beginning of the interest rate period for which the weighted principal payments were calculated; and

(b) rounding the amount determined under paragraph (a) to the nearest single decimal place and, where that amount is the midpoint between two such numbers, to the greater of those two numbers;

"weighted principal payment" means,

(a) with respect to fixed-rate contracts, the amount determined by multiplying each principal payment under the contract by the number of years, or portion thereof, between the date the producer entered into the contract and the date of that principal payment, and

(b) with respect to variable-rate contracts

(i) the amount determined by multiplying each principal payment made during the current interest rate period by the number of years, or portion thereof, between the beginning of that interest rate period and the date of that payment, and

(ii) the amount equal to the outstanding principal owing, but not necessarily due, at the end of the current interest rate period, multiplied by the number of years, or portion thereof, between the beginning and the end of that interest rate period;

"yield on federal government debt obligations" means

(a) in the case of a producer located in Canada, the yield for federal government debt obligations set out in the Bank of Canada's *Weekly Financial Statistics*

(i) where the interest rate is adjusted at intervals of less than one year, under the title "Treasury Bills", and

(ii) in any other case, under the title "Selected Government of Canada benchmark bond yields", for the week that the producer entered into the contract or the week of the most recent interest rate adjustment date, if any, under the contract,

(b) in the case of a producer located in Mexico, the yield for federal government debt obligations set out in *La Seccion de Indicadores Monetarios, Financieros, y de Finanzas Publicas, de los Indicadores Economicos,* published by the Banco de Mexico under the title *"Certificados de la Tesoreria de la Federacion"* for the week that the producer entered into the contract or the week of the most recent interest rate adjustment date, if any, under the contract, and

(c) in the case of a producer located in the United States, the yield for federal government debt obligations set out in the Federal Reserve statistical release (H.15) *Selected Interest Rates*

(i) where the interest rate is adjusted at intervals of less than one year, under the title "U.S. government securities, Treasury bills, Secondary market", and

(ii) in any other case, under the title "U.S. Government Securities, Treasury constant maturities",

for the week that the producer entered into the contract or the week of the most recent interest rate adjustment date, if any, under the contract.

General

SECTION 2.

For purposes of calculating non-allowable interest costs

(a) with respect to a fixed-rate contract, the interest rate under that contract shall be compared with the yield on federal government debt obligations that have maturities of the same length as the weighted average principal maturity of the payment schedule under the contract (that yield determined by linear interpolation, where necessary);

(b) with respect to a variable-rate contract

(i) in which the interest rate is adjusted at intervals of less than or equal to one year, the interest rate under that contract shall be compared with the yield on federal government debt obligations that have maturities closest in length to the interest rate adjustment period of the contract, and

(ii) in which the interest rate is adjusted at intervals of greater than one year, the interest rate under the contract shall be compared with the yield on federal government debt obligations that have maturities of the same length as the weighted average principal maturity of the payment schedule under the contract (that yield determined by linear interpolation, where necessary); and

(c) with respect to a fixed-rate or variable-rate contract in which the weighted average principal maturity of the payment schedule under the contract is greater than the maturities offered on federal government debt obligations, the interest rate under the contract shall be compared to the yield on federal government debt obligations that have maturities closest in length to the weighted average principal maturity of the payment schedule under the contract.

ADDENDUM
"EXAMPLE" ILLUSTRATING THE APPLICATION OF THE METHOD FOR CALCULATING NON-ALLOWABLE INTEREST COSTS IN THE CASE OF A FIXED-RATE CONTRACT

The following example is based on the figures set out in the table below and on the following assumptions:

(a) a producer in a NAFTA country borrows $1,000,000 from a person of the same NAFTA country under a fixed-rate contract;

(b) under the terms of the contract, the loan is payable in 10 years with interest paid at the rate of 6 percent per year on the declining principal balance;

(c) the payment schedule calculated by the lender based on the terms of the contract requires the producer to make annual payments of principal and interest of $135,867.36 over the life of the contract;

(d) there are no federal government debt obligations that have maturities equal to the 6 year weighted average principal maturity of the contract; and

(e) the federal government debt obligations that are nearest in maturity to the weighted average principal maturity of the contract are of 5 and 7 year maturities, and the yields on them are 4.7 percent and 5.0 percent, respectively.

Years of Loan	Principal Balance [1]	Interest Payment [2]	Principal Payment [3]	Payment Schedule	Weighted Principal Payment [4]
1	$924,132.04	$60,000.00	$75,867.96	$135,867.96	$75,867.96
2	843,712.00	55,447.92	80,420.04	135,867.96	160,840.08
3	758,466.76	50,622.72	85,245.24	135,867.96	255,735.72
4	668,106.81	45,508.01	90,359.95	135,867.96	361,439.82
5	572,325.26	40,086.41	95,781.55	135,867.96	478,907.76
6	470,795.81	34,339.52	101,528.44	135,867.96	609,170.67
7	363,176.66	28,247.81	107,620.15	135,867.96	753,341.06
8	249,099.30	21,790.60	114,077.36	135,867.96	912,618.88
9	128,177.30	14,945.96	120,922.00	135,867.96	1,088,298.02
10	(0.00)	7,690.66	128,177.32	135,867.96	1,281,773.22
					$5,977,993.19

[1] the principal balance represents the loan balance at the end of each full year the loan is in effect and is calculated by subtracting the current year's principal payment from the prior year's ending loan balance.

[2] interest payments are calculated by multiplying the prior year's ending loan balance by the contract interest rate of 6 percent.

[3] principal payments are calculated by subtracting the current year's interest payments from the annual payment schedule amount.

[4] the weighted principal payment is determined by, for each year of the loan, multiplying that year's principal payment by the number of years the loan had been in effect at the end of that year.

[5] the weighted average principal maturity of the contract is calculated by dividing the sum of the weighted principal payments by the original loan amount and rounding the amount determined to the nearest decimal place

Weighted Average Principal Maturity

$5,977,993.19/$1,000,000=5.977993 or 6 years [5]

By applying the above method,

(1) the weighted average principal maturity of the payment schedule under the 6 percent contract is 6 years;

(2) the yields on the closest maturities for comparable federal government debt obligations of 5 years and 7 years are 4.7 percent and 5.0 percent, respectively; therefore, using linear interpolation, the yield on a federal government debt obligation that has a maturity equal to the weighted average principal maturity of the contract is 4.85 percent. This number is calculated as follows:

$$4.7+[((5.0-4.7)\times(6-5))/(7-5)]$$
$$= 4.7+0.15$$
$$= 4.85\%;$$ and

(3) the producer's contract interest rate of 6 percent is within 700 basis points of the 4.85 percent yield on the comparable federal government debt obligation; therefore, none of the producer's interest costs are considered to be non-allowable interest costs for purposes of the definition "non-allowable interest costs".

"EXAMPLE" ILLUSTRATING THE APPLICATION OF THE METHOD FOR CALCULATING NON-ALLOWABLE INTEREST COSTS IN THE CASE OF A VARIABLE-RATE CONTRACT

The following example is based on the figures set out in the tables below and on the following assumptions:
(a) a producer in a NAFTA country borrows $1,000,000 from a person of the same NAFTA country under a variable-rate contract;
(b) under the terms of the contract, the loan is payable in 10 years with interest paid at the rate of 6 percent per year for the first two years and 8 percent per year for the next two years on the principal balance, with rates adjusted each two years after that;
(c) the payment schedule calculated by the lender based on the terms of the contract requires the producer to make annual payments of principal and interest of $135,867.96 for the first two years of the loan, and of $146,818.34 for the next two years of the loan;
(d) there are no federal government debt obligations that have maturities equal to the 1.9 year weighted average principal maturity of the first two years of the contract;
(e) there are no federal government debt obligations that have maturities equal to the 1.9 year weighted average principal maturity of the third and fourth years of the contract; and
(f) the federal government debt obligations that are nearest in maturity to the weighted average principal maturity of the contract are 1 and 2 year maturities, and the yields on them are 3.0 percent and 3.5 percent respectively.

Beginning of Year	Principal Balance	Interest Rate (%)	Interest Payment	Principal Payment	Payment Schedule	Weighted Principal Payment
1	$1,000,000.00	6.00	$60,000.00	$75,867.96	$135,867.96	$75,867.96
2		6.00	55,447.92	80,420.04	135,867.96	1,848,264.08
	924,132.04					$1,924,132.04

Weighted Average Principal Maturity
$1,924,132.04/$1,000,000=1.92413204 or 1.9 years
By applying the above method:
(1) the weighted average principal maturity of the payment schedule of the first two years of the contract is 1.9 years;
(2) the yield on the closest maturities of federal government debt obligations of 1 year and 2 years are 3.0 and 3.5 percent, respectively; therefore, using linear interpolation, the yield on a federal government debt obligation that has a maturity equal to the weighted average principal maturity of the payment schedule of the first two years of the contract is 3.45 percent. This amount is calculated as follows:
3.0+[((3.5−3.0)×(1.9−1.0)) / (2.0−1.0)]
= 3.0+0.45
= 3.45%; and
(3) the producer's contract rate of 6 percent for the first two years of the loan is within 700 basis points of the 3.45 percent yield on federal government debt obligations that have maturities equal to the 1.9 year weighted average principal maturity of the payment schedule of the first two years of the producer's loan contract; therefore, none of the producer's interest costs are considered to be non-allowable interest costs for purposes of the definition "non-allowable interest costs".

Beginning of Year	Principal Balance	Interest Rate (%)	Interest Payment	Principal Payment	Payment Schedule	Weighted Principal Payment
1	$1,000,000.00	6.00	$60,000.00	$75,867.96	$135,867.96	
2	924,132.04	6.00	55,447.92	80,420.04	135,867.96	
3	843,712.01	8.00	67,496.96	79,321.38	146,818.34	$79,321.38
4	764,390.62	8.00	61,151.25	85,667.09	146,818.34	1,528,781.24
						$1,608,102.62

Weighted Average Principal Maturity
$1,608,102.62 / $843,712.01 = 1.905985 or 1.9 years
By applying the above method:
(1) the weighted average principal maturity of the payment schedule under the first two years of the contract is 1.9 years;
(2) the federal government debt obligations that are nearest in maturities to the weighted average principal maturity of the contract are 1 and 2 year maturities, and the yields on them are 3.0 and 3.5 percent, respectively; therefore, using linear interpolation, the yield on a federal government debt obligation that has a maturity equal to the weighted average principal maturity of the payment schedule of the first two years of the contract is 3.45 percent. This amount is calculated as follows:
3.0 + [((3.5−3.0) x (1.9−1.0)) / (2.0−1.0)]
= 3.0 + 0.45

= 3.45%
(3) the producer's contract interest rate, for the third and fourth years of the loan, of 8 percent is within 700 basis points of the 3.45 percent yield on federal government debt obligations that have maturities equal to the 1.9 year weighted average principal maturity of the payment schedule under the third and fourth years of the producer's loan contract; therefore, none of the producer's interest costs are considered to be non-allowable interest costs for purposes of the definition "non-allowable interest costs".

SCHEDULE XII
GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

SECTION 1.
Generally Accepted Accounting Principles means the recognized consensus or substantial authoritative support in the territory of a NAFTA country with respect to the recording of revenues, expenses, costs, assets and liabilities, disclosure of information and preparation of financial statements. These standards may be broad guidelines of general application as well as detailed standards, practices and procedures.
SECTION 2.
For purposes of Generally Accepted Accounting Principles, the recognized consensus or authoritative support are referred to or set out in the following publications:
(a) with respect to the territory of Canada, *The Canadian Institute of Chartered Accountants Handbook*, as updated from time to time;
(b) with respect to the territory of Mexico, *Los Principios de Contabilidad Generalmente Aceptados*, issued by the *Instituto Mexicano de Contadores Públicos A.C. (IMCP)*, including the *boletines complementarios*, as updated from time to time; and
(c) with respect to the territory of the United States,
(i) the following publications of the American Institute of Certified Public Accountants (AICPA), as updated from time to time:
(A) *AICPA Professional Standards*,
(B) *Committee on Accounting Procedure Accounting Research Bulletins*,
(C) *Accounting Principles Board Opinions and Statements*,
(D) *APB Accounting and Auditing Guides*,
(E) *AICPA Statements of Position, and*
(F) *AICPA Issues Papers and Practice Bulletins*,
(ii) the following publications of the Financial Accounting Standards Board (FASB), as updated from time to time:
(A) *FASB Accounting Standards and Interpretations*,
(B) *FASB Technical Bulletins, and*
(C) *FASB Concepts Statements.*

PART 191—DRAWBACK

1. The general authority citation for part 191 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States), 1313, 1624.

* * * * * * *

2. Section 191.0 is amended by adding a sentence at the end to read as follows:

§ 191.0 Scope.

* * * Additional drawback provisions relating to the North American Free Trade Agreement are contained in subpart E of part 181 of this chapter.

George J. Weise,
Commissioner of Customs.

Approved: December 16, 1993.
John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 93-31322 Filed 12-29-93; 8:45 am]
BILLING CODE 4820-02-P

VOL
58
ISS
249
DE
30
1993
UMI

federal register

Thursday
December 30, 1993

Part III

Environmental Protection Agency

40 CFR Part 82
Protection of Stratospheric Ozone; Labeling Supplemental Proposal; Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-4618-4]

Protection of Stratospheric Ozone; Labeling Supplemental Proposal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend EPA's existing labeling regulations by adding an exemption from the regulations where destruction of controlled substances takes place, adding an exemption for spare parts that are used in repair, making revisions to clarify the labeling of waste, and making several other minor clarifying revisions. EPA is proposing these revisions in response to numerous comments, in order to recognize and alleviate the burden placed on specific parties whose activities contribute no additional emissions of ozone-depleting substances.

DATES: Written comments on this proposed rule must be received on or before January 31, 1994, unless a public hearing is requested. In the case where a public hearing is requested, the public hearing will be scheduled at 9 a.m. on January 14, 1994. Comments must then be received on or before 30 days following the public hearing. Any party requesting a public hearing must notify EPA by 5 p.m. Eastern Standard Time on January 7, 1994. All requests for and inquiries regarding a public hearing should be directed to Sue Stendebach at 202/233–9117.

ADDRESSES: Comments on this proposed rulemaking should be submitted (in duplicate if possible) to: Public Docket No. A–91–60, room M–1500 (LE–131), Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket may be inspected from 8:30 a.m. until 12 noon, and from 1:30 p.m. to 3 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials. A hearing, if requested, will be held at the EPA auditorium, 401 M Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sue Stendebach, Regulatory Development and Operations Section, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, 6205–J, 401 M Street, SW., Washington, DC 20460. 202/233–9117.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction
II. Destruction Exemption from the Labeling Requirements
A. Background on Destruction Policies
1. Background on Montreal Protocol's Destruction Policy
2. Fourth Meeting of the Parties to the Montreal Protocol
B. Phaseout Regulations
C. Proposed Accelerated Phaseout Destruction Provisions
D. Proposed Destruction Provision in the Final Labeling Rule
E. Requirements of RCRA and the Proposed Hazardous Organic Neshaps (HON)
1. Resource Conservation and Recovery Act (RCRA) Standards
2. Proposed Hazardous Organic NESHAP (HON) Regulations
F. Proposed Amendments to the Final Labeling Regulations—Products Exempt from Labeling Requirements Where Manufacturers Use Protocol-approved Destruction Technologies
III. Labeling Requirements of Containers of Waste
A. Current Requirements for Containers of Controlled Substance Waste and Wastes Containing Trace Amounts of Controlled Substances
B. Today's Proposal Regarding Labeling Requirements of Containers of Regulated Waste
IV. Labeling Requirements for Spare Parts to be Used Solely for Repair
V. Clarification of the Meaning of Products "Manufactured With"
VI. Exemption for Trace Quantities
VII. Labeling Requirements of Containers of 55 Gallons and Smaller Containing Controlled Substances
VIII. Definition of Importer
IX. Certification Requirements for Reduced Use Exemption
X. Imports and Products Introduced In Bond at the U.S./Mexico Border
XI. Incidental Uses of Controlled Substances
XII. Request for Comments Regarding Plasma Etching
XIII. Additional Information
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act

I. Introduction

In a final rule published on February 11, 1993 (58 FR 8136), EPA promulgated regulations to implement section 611 of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (CAA). The regulations mandate that, effective May 15, 1993, labels are required on containers of class I and class II substances and products containing or manufactured with class I substances. The rule also calls for labels on all products containing or manufactured with class I or class II substances, beginning on January 1, 2015.

The regulations provide an exemption for manufacturers that have achieved a reduction in the total use of CFC–113 and/or methyl chloroform (MCF) for products manufactured using those substances as solvents by 95 percent as compared to their 1990 use levels. This provision is based on a 1991 United Nations Environment Programme report, Solvents, Coatings and Adhesives. EPA provided the exemption in order to compensate for the lack of technically and economically viable substitutes for an estimated 5 percent of the uses of CFC–113 and MCF in the solvent sector In addition, this provision recognizes the early efforts by those companies to attain a near elimination of such substances, and to provide an incentive for other companies to strive towards the same goal.

The final regulations exempt products manufactured using class I substances on an intermittent basis, and not as a direct part of the manufacturing process of the product, such as that employed in spot cleaning textiles during the manufacturing process. The rule explains that such intermittent contact use of controlled substances was found to be incidental "contact." The final rule also explains that intermittent "contact" uses, though they may involve a brief initial physical contact between the ozone-depleting "controlled substance" and the product, occur infrequently, typically as part of an upkeep process, and that the controlled substance does not come into contact with every product. In other situations, where the controlled substance has contact on an intermittent basis only with the surface area of manufacturing equipment, and although there may be an initial contact with the first few products themselves, the controlled substance will not contact every product manufactured thereafter. Labeling is therefore not required in either of the above cases.

The placement of the warning statement is explained in terms of its conspicuousness and legibility, as well as ready availability to the actual person responsible for the purchase at the time of purchase, or at the time of product delivery. The provision for product delivery was added to the rule for products purchased through the mail, by telephone, and where the consumer does not view the product at the time of purchase. Other options for placement discussed are the display panel area of a product, alternative labeling such as hang tags, and supplemental printed materials, all to be available to the consumer at the time of purchase.

Products made for export are exempt from the final regulations because such products primarily affect foreign commerce and because the label on such a product will not be viewed by any consumer until after it has left the jurisdiction of the Agency. Moreover, such products would be put at a competitive disadvantage in the world marketplace with the same products manufactured in countries where there are no similar labeling requirements.

In contrast, imports are covered under the labeling requirements. The regulations require importers to ensure that a product is properly labeled at the site of U.S. Customs clearance. The importer must have a "reasonable belief" that the imports are properly labeled or are not subject to the labeling requirements. Two options discussed in the preamble to the final rule for demonstrating reasonable belief are to investigate at least one step back into the manufacturing process of the import, or to draft a contractual agreement with the importer's supplier abroad, indicating that the import is/is not manufactured with, or containing, controlled substances.

The final regulations exempt research and development (R&D) activities from the labeling requirements, since the products being developed are not being introduced into interstate commerce. However, products that have completed the R&D process and are then manufactured must be labeled when they are introduced into interstate commerce.

Manufacturers were required to label their products containing or manufactured with class I substances, and containers containing class I or class II substances, beginning on May 15, 1993.

II. Destruction Exemption From the Labeling Requirements

A. Background on Destruction Policies

1. Background on Montreal Protocol's Destruction Policy

The Montreal Protocol, to which over 125 nations are now Parties, requires that each nation that is a Party to it control the production and consumption of substances that deplete the ozone layer. Under the existing Protocol, "production" of controlled substances is defined as "the amount of controlled substances produced, minus the amount destroyed by technologies to be approved by the Parties." At the second meeting of the Parties to the Protocol (the Parties) in London, a technical advisory committee was established to examine the existing destruction technologies, devise criteria by which to approve technologies, and evaluate environmental concerns associated with the technologies. Until the Fourth Meeting of the Parties, no destruction technology had been approved by the Parties.

2. Fourth Meeting of the Parties to the Montreal Protocol

At the Fourth Meeting of the Parties to the Montreal Protocol, which took place from November 23–25, 1992, in Copenhagen, the Parties approved five destruction technologies to be used for destroying controlled substances. The technologies are: liquid injection incineration, reactor cracking, gaseous/fume oxidation, rotary kiln incinerators, and cement kilns. The Parties also agreed that additional acceleration of the phaseout of controlled substances would result in the need for a greater global destruction program for these substances. With the approval of the five technologies, the Parties noted that the technologies could attain a destruction efficiency of 99.99 percent with proper controls and operating techniques; however, they did not require a specific efficiency. The Parties encouraged a "Code of Good Housekeeping Procedures," set forth in the United Nations Environmental Programme (UNEP) Report entitled Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies, to minimize losses to the environment through control systems and standards for operating such systems. Finally, the Parties agreed to report the quantities of ozone-depleting substances destroyed annually to the Protocol.

Liquid injection incinerators are typically single-chamber units with waste burners. They may also include liquid injection stages of a multiple-chamber incinerator. These incinerators are used to destroy wastes with a low ash content and can be used to destroy sludge, slurry, vapor, or combustible liquid. Liquid wastes are burned in suspension after being injected through burners and atomized to fine droplets.

A reactor cracking process uses a cylindrical graphite, water-cooled reactor and an oxygen-hydrogen burner system. Since 1963, this process has treated waste gases resulting from the production of chlorofluorocarbons (CFCs). The gases are converted to hydrofluoric acid, hydrochloric acid, carbon dioxide, chlorine, and water. The two acids are usable in-house and/or marketable, and the chlorine is scrubbed, leaving only water vapor, oxygen, and carbon dioxide as waste gases.

Gaseous/fume oxidation destroys waste vapor streams, most often volatile organic compounds. A combustion temperature of around 1100 degrees centigrade is needed to destroy most ozone-depleting compounds. Acid gas scrubbers are required for incineration of halogenated waste vapors, such as those from controlled substances. Fume incinerators can be direct flame incinerators, consisting of the combustion chamber and a burner, or recuperative fume incinerators that use heat exchangers to preheat the waste vapor feed stream or the combustion air. Fume incinerators are usually found in chemical process or manufacturing plants.

Rotary kiln incinerators can handle a wide variety of both solid and liquid wastes. Rotary kiln incinerators typically have at least two combustion chambers, the afterburner ensuring that complete combustion of exhaust gases takes place. Liquid wastes can be fed either into the rotary kiln area or directly into the afterburner chamber. If fed into the afterburner chamber, the liquid is atomized in the burner or combustion zone.

Cement kilns, under proper operation, can destroy most organic chemical wastes. Tests have been conducted using CFC–113, with a destruction efficiency of greater than 99.99 percent demonstrated. Destruction of ozone-depleting substances in cement kilns appears beneficial; however, each unit must be reviewed on a case-by-case basis to determine its appropriateness for this use.

With the approval of these five destruction technologies, Parties to the Protocol can subtract from the definition of production that amount of controlled substance(s) that is destroyed by these means, under certain conditions discussed in the proposed accelerated phaseout rule that was published on March 18, 1993 (57 FR 33754).

B. Phaseout Regulations

On July 30, 1992, the EPA published final regulations implementing section 604 of the Clean Air Act (57 FR 33753), which established the phaseout schedule for class I and class II substances set forth in the Clean Air Act. Destruction was also addressed in the regulations in terms of those class I substances that are coincidental and unavoidable by-products (CUBPs) of a manufacturing process. Associated with this exemption is a set of reporting requirements. Companies are required to document the amount of "CUBPs" produced and destroyed in a manner consistent with the requirements of the Resource Conservation and Recovery Act (RCRA) or other applicable rules. These destruction technologies are also required to meet the Maximum Available Control Technology (MACT)

standards for efficiency. For purposes of Title VI of the Act, EPA stated that companies that destroy CUBPs of carbon tetrachloride using technologies that achieve a 99.99 percent destruction efficiency may obtain an exemption from production allowances. Based on a report submitted by a company destroying CUBPs, the Administrator would evaluate the merits of the document and decide whether to grant an exemption for that company's annual production and consumption allowances.

The phaseout regulations reported that further data was necessary on destruction technologies in order to exempt more than CUBPs from the phaseout allowance system. Since the Parties approved the five destruction technologies in November 1992, EPA has proposed regulations accelerating the phaseout of controlled substances (58 FR 15013, March 18, 1993). That proposal also contained proposed regulations concerning destruction.

C. Proposed Accelerated Phaseout Destruction Provisions

The proposed accelerated phaseout regulations, published on March 18, 1993, would implement the United States' acceleration of the phaseout of class I substances, consistent with the recent adjustments to the Protocol agreed upon last November by the Parties in Copenhagen; accelerate the phaseout of certain class II substances; list and phase out hydrobromofluorocarbons (HBFCs); list and phase out methyl bromide; and responded to petitions received by the Agency from environmental and industry groups.

In addition, in that NPRM EPA proposed revising the definition of production such that controlled substances that are to be destroyed are eliminated from the definition of production and credit is allowed for destruction of controlled substances similar to credit received for the transformation of such chemicals. The destruction of such substances must employ any one of the five technologies identified above that are approved by the Parties. Due to the proposed credit for destruction, EPA proposed eliminating the now unnecessary CUBP provision, since all such destruction would be credited.

The proposal defines "destruction" in terms of technologies approved for destruction by the Parties that result in expiration of the chemical without any commercially useful end product being produced. The Agency proposed this definition in order to distinguish destruction from transformation, which requires that the resulting end product serve a commercial purpose. The proposal indicated that to be eligible for the destruction exemption, the controlled substances must be destroyed by one of the five destruction technologies approved by the Parties.

As explained more fully in the March 18, 1993 proposal, EPA believes that, while it is not required to follow the approach of the Protocol Parties regarding destruction, it has the authority to do so.

D. Proposed Destruction Provision in the Final Labeling Rule

The preamble to the final labeling regulations (58 FR 8136, February 11, 1993) requested comment on a destruction exemption from the labeling requirements based on the proposed accelerated phaseout rule, which was being drafted at the time. The Agency requested comment on whether it could and should provide an exemption from the labeling requirements for the use of controlled substances that are subsequently destroyed using one of the above-mentioned approved technologies with procedures that are consistent with the Resource Conservation and Recovery Act (RCRA) and the United Nations Environmental Programme (UNEP) Report entitled Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies. The Agency received and has reviewed several comments on the possibility of a destruction exemption provision for the labeling rule. Those comments supported the inclusion of a destruction exemption, similar to that given for transformation. The commenters reasoned that the destruction exemption was justified because destruction of ozone-depleting substances prevents emissions of those substances into the atmosphere.

E. Related Requirements of RCRA and the Proposed Hazardous Organic Neshaps (HON)

In addition to the requirements of Title VI of the Clean Air Act as amended, certain controlled substances are also regulated, under certain circumstances, by the Resource Conservation and Recovery Act (RCRA, 42 USC 6901 et seq.) and would be regulated under the proposed Hazardous Organic NESHAPs (HON, 57 FR 62608). The RCRA regulations would cover those controlled substances that are considered to be hazardous constituents in the waste stream (eg., carbon tetrachloride bound for incineration). The proposed HON addresses air emissions of hazardous air pollutants, a category into which carbon tetrachloride, methyl chloroform, and methyl bromide fall. The following discussion outlines the coordination among the RCRA and proposed HON regulations and the proposed destruction exemption provision of the labeling regulations.

1. Resource Conservation and Recovery Act (RCRA) Standards

The RCRA regulations currently require that industries that incinerate waste covered by the regulations must meet "at stacks" destruction efficiency (DE) standards of 99.99 percent. The proposed accelerated phaseout regulations would grant full credit for the destruction of controlled substances when they are destroyed in compliance with RCRA regulations 40 CFR 343(a) and 40 CFR 266.104. The proposed accelerated phaseout rule indicated that the Agency will grant 100 percent production allowances for companies that achieve 99.99 percent efficiency in the destruction of class I substances instead of only 99.99 percent in allowances, because, otherwise, a company would never be able to obtain credit for the full amount of the chemical used, and would eventually be unable to obtain sufficient volumes to operate.

The only substances that are covered under both RCRA as "hazardous constituents" and under Title VI of the Clean Air Act as controlled substances are methyl chloroform (MCF) and carbon tetrachloride (CTC). The remaining controlled substances are regulated under RCRA only when they are blended with hazardous wastes, such as when used solvents are incinerated. The incineration technologies approved by the Parties have been shown to be capable of achieving the 99.99 percent DE required by RCRA; however, the Parties do not specifically require that each of the technologies achieve such an efficiency. The Parties supported the recommendations of the Ad-Hoc Technical Committee on Destruction Technologies to require Code of Good Housekeeping procedures to be applied throughout a destruction facility.

2. Proposed Hazardous Organic NESHAP (HON) Regulations

Under some situations controlled substances are not covered by RCRA regulations, but may be covered by the HON regulations to be promulgated under section 112 of the Clean Air Act. The Agency published a proposed HON rule on December 31, 1992 (57 FR 62608), proposing that companies be required to control air emissions occurring in chemical manufacturing processes. The HON regulates approximately 400 manufacturing processes associated with the Synthetic Organic Manufacturing Industry (SOCMI), as well as 7 non-SOCMI source categories. Section 112 of the Clean Air Act contains lists of 189 hazardous air pollutants (HAPS) of which a portion are known to be emitted by the above-mentioned industries. Of those listed under section 112, the only substances controlled under Title VI of the CAA are methyl chloroform (MCF), carbon tetrachloride (CCL4) and methyl bromide (proposed to be listed as a class I substance in the accelerated phaseout rule). The HON covers five kinds of emission points within such facilities where these substances are emitted, including process vents, wastewater streams, transfer operations, storage tanks, and equipment leaks. The Agency proposed that each emissions source would require a "reference control technology" with specific applicability criteria, such as a 98 percent control efficiency for incinerators on process vents. The HON would establish performance standards for operating the control technologies, as well as criteria for the design of the control equipment. The Agency proposed that when organic HAPS are released through process vent sources, companies may route these emissions to a gaseous/fume oxidation incinerator for destruction. The Agency has proposed that such incinerators may operate with a destruction efficiency of 98 percent.

In the proposal for the accelerated phaseout, the Agency proposed that when regulations promulgated under section 112 of the Clean Air Act apply to the destruction of a controlled substance, and RCRA regulations do not apply, and the 98 percent destruction efficiency is achieved by incinerators to which emissions of controlled substances are routed, the Agency would grant the full allotment of allowances to replace chemicals that are destroyed under the conditions of the HON. In situations where section 112 regulations apply, but an achieved destruction efficiency is less than what the HON proposes, the Agency proposed to issue allowances only for the portion actually destroyed.

F. Proposed Amendments to the Final Labeling Regulations—Products Exempt from Labeling Requirements Where Manufacturers Use Protocol approved Destruction Technologies

The ultimate goal of Title VI of the CAA is to minimize depletion of stratospheric ozone. A destruction exemption, which would recognize, and provide an incentive for, the elimination of emissions of controlled substances through the use of approved destruction technologies, is therefore consistent with the goals of Title VI. This exemption is one method of reducing risks of ozone depletion. The current labeling regulations provide an exemption from the labeling requirements if a controlled substance used to manufacture a product is transformed, such that the controlled substance no longer poses a threat to the ozone layer; similarly, the same result comes about if a controlled substance used in the manufacture of a product is destroyed. The controlled substance is not emitted in either case and no environmental harm occurs through exempting such products from labeling.

EPA today is proposing that for any products manufactured with a class I or class II substance, if that substance is destroyed according to any applicable legal or regulatory requirements, using one of the five technologies approved by the Parties to the Protocol, the product would be exempt from the labeling requirements. The intent of today's proposal is to provide a destruction exemption parallel to the destruction provision in the accelerated phaseout proposal. If the destruction provision in the final accelerated phaseout differs substantially from that which is proposed, EPA will need to revisit the destruction exemption proposed today in order to maintain consistency between the rules.

For purposes of today's proposed destruction exemption from the labeling requirements, the Agency proposes that only where a substance is destroyed to a DE of 98 percent or greater, using one of the five approved destruction technologies, will the labeling exemption apply. This differs from the approach used in the accelerated phaseout proposal, under which producers of controlled substances are granted credit for that percentage of the controlled substance actually destroyed (if destroyed at a DE of less than 98 percent). This approach is not being used in the labeling context because, while under the proposed accelerated phaseout it is possible to grant credit for that portion actually destroyed, under the labeling rule a label is either placed on a product or it is not. Therefore, the Agency needs to determine a threshold at which labeling is exempted. It is consistent then, for EPA to provide a labeling exemption only for those products manufactured with controlled substances that are "completely" destroyed. A new definition of "completely destroy," which means to destroy to 98 percent or greater destruction efficiency, will be included in the labeling rule through today's proposed amendment.

Furthermore, where the destruction of a controlled substance is regulated under RCRA, the regulated party must achieve a destruction efficiency of 99.99 percent, destroying any controlled substances using one of the five approved technologies and complying with applicable RCRA regulations as they relate to destruction of ozone-depleting substances, in order to qualify for the exemption from labeling. If the destruction of a controlled substance not regulated under RCRA but is regulated under the HON, the regulated party must achieve a destruction efficiency of 98 percent, as well as meet any other applicable standards imposed by the HON that relate to destruction of ozone-depleting substances, destroying any controlled substances using one of the five approved technologies, in order to qualify for the exemption from labeling. If the final HON requires a destruction efficiency of greater than 98 percent, EPA will need to revisit the minimum destruction efficiency of 98 percent in today's proposed rule, in order to provide consistency with the regulation of hazardous air pollutants.

The Agency is aware that state air quality permit laws may establish efficiency standards for emissions of controlled substances where no Federal regulations exist to cover them. In addition, state laws may be more stringent than comparable Federal regulations. In either case, the Agency expects companies that are regulated under such state laws governing the control of emissions of controlled substances in industrial processes, to be in full compliance in order to qualify for the destruction exemption.

Those companies that are not covered by either RCRA regulations or the HON, and are not otherwise covered by state or local laws more stringent than the comparable Federal regulations, must follow the Code of Good Housekeeping Practices, as described in the UNEP Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies, as well as the whole of Chapter 5 of that report, in addition to meeting the 98 percent DE, using one of the five approved destruction technologies.

The Agency requests comment on its proposal to require companies that are neither regulated by RCRA nor the HON to adhere to the performance standards of the UNEP report of the Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies, while meeting a destruction efficiency of 98 percent or greater, in order to obtain an exemption from the labeling requirements.

VOL 58 ISS 249 DEC 30 1993 UMI

VOL 58 ISS 249 DEC 30 1993 UMI

The regulatory language of this rulemaking requires that parties taking advantage of this destruction exemption must be in compliance with regulations and requirements applicable to such destruction.

The UNEP Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies recommends that atmospheric releases of controlled substances shall be monitored at all facilities with air emission discharges. For controlled substances, this report recommends that flow meters or continuously recording weighing equipment for individual containers should be used. At a minimum, containers should be weighed "full" and "empty" to establish quantities destroyed.

While there are no recordkeeping requirements specifically associated with the destruction exemption from labeling, EPA proposed in the accelerated phaseout regulations (58 FR 15013), companies relying on the destruction provisions of that rule must maintain records of destruction. For those companies, these same records will be consulted in inspecting eligibility for the destruction exemption from labeling. For manufacturers that do not receive production or consumption allowances, records required under other relevant regulations that determine the amount destroyed, the destruction efficiency, and the performance standards of operation must be made available to EPA upon request. EPA requests comment on its requirement that records maintained under the phaseout regulations, as well as those maintained under other applicable regulations be made available to the Agency in determining eligibility for the labeling exemption. The Agency also requests comment as to the adequacy of these recordkeeping requirements for purposes of this proposal. Comments on the possibility that a facility taking advantage of this destruction exemption may not be covered by RCRA regulations, the HON, or the accelerated phaseout of ozone-depleting substances rule are also requested.

EPA also requests comment generally on the destruction exemption from the labeling requirements. EPA will reopen the comment period if the final accelerated phaseout rule changes materially from the proposal relative to destruction.

III. Labeling Requirements of Containers of Waste

A. Current Requirements for Containers of Controlled Substance Waste and Wastes Containing Trace Amounts of Controlled Substances

EPA indicated in the final labeling regulations that a person handling containers of waste that contain class I or class II substances destined for incineration would benefit from the specific chemical information in the warning statement when handling. Though the label does not specifically address handling practices of such substances, it would inform technicians handling the containers of chemicals and would encourage them to dispose of them or recycle them correctly. In addition, containers of waste can be introduced into interstate commerce and must then be labeled as "containing" a controlled substance.

Under its current rule, EPA also requires that containers of such waste materials destined to be recycled or reclaimed bear the warning statement to ensure that the technician of a reclamation facility is aware of the substances contained in order to exercise proper caution. Reclaimed substances are also resold by the reclaimer, and thus are to be labeled upon their introduction into interstate commerce.

The Agency did not require that empty containers that once contained a controlled substance and are subsequently recycled and incorporated into another product bear a label. EPA also permits the removal of a label on a container that no longer contains a controlled substance. If such a container is subsequently charged with a class I or class II substance, a label would be required. Also, the final rule excluded containers, such as trucks, railroad cars, or crates, used to transport a "product containing" or "container containing" from the labeling requirements, because only the immediate container holding the controlled substance must be labeled.

B. Today's Proposal Regarding Labeling Requirements of Containers of Regulated Waste

Since the publication of the final regulations, EPA has received new information from the regulated community regarding the labeling requirements for containers of waste. The Agency required labeling of waste in the final rule because it believed that the labeling information is important to waste handlers and recycling and reclamation facilities. In addition, by requiring waste to be labeled, EPA attempted to encourage industry to minimize the amount of controlled substances in the waste stream and ultimately in the upper stratosphere. For this reason, the preamble to the current rule states that all amounts, including trace quantities of controlled substances in waste, trigger the labeling requirements. The regulated community has commented to EPA, addressing both the final rule and applicability determinations prepared by EPA on labeling of waste.

After reviewing many of the comments urging EPA to reconsider its policy on the labeling of waste, EPA agrees that a revision is necessary to its current position on labeling waste containing controlled substances, in order to better facilitate industry's compliance with the regulations. Written comments on the Agency's treatment of waste and the relevant applicability determinations are available in the Air Docket A–91–60. These comments are summarized below.

Numerous commenters stated that waste clearly does not fall under the definition of "product containing," as promulgated in the final labeling rule; therefore, commenters concluded that waste cannot be required to be labeled as such. EPA agrees. Containers of waste cannot be defined as products, because they are not manufactured from raw or recycled materials in order to perform a specific task, nor does waste encounter a point of sale to an ultimate consumer.

Others commented that a container of waste does not fit the definition of "container containing" in the regulations. For example, commenters expressed concern that in the current rule, a container, such as a bulk waste receptacle that holds a used "product containing" (i.e., an aerosol or scrap material), might require labeling. However, EPA believes that the controlled substance remaining in the product contained in the receptacle no longer serves a function, nor is it required to be transferred to another container in order to realize its intended use, as would normally be the case for "containers containing." EPA agrees that a container carrying a "product containing" which is ultimately disposed of or incinerated, such as a can of adhesive or foam scrap, does not fall within the definition of "container containing."

EPA also believes that containers of class I or class II waste do not fall under the definition of "container containing," in that the waste is not "intended to be transferred to another container, vessel or piece of equipment in order to realize its intended use." EPA's intention in including "intended use" in its definition was to target items to be consumed, thus giving consumers information on which to base a purchase decision. Waste is neither purchased nor "used" and thus, does not fall into the category of items to be consumed. In order to make this clear, EPA is proposing a definition of "waste," for purposes of this rule, that includes items or substances discarded with the intent that they will serve no further useful purpose. The term discarded can include being deposited in a landfill, being destroyed in an incinerator or chemical process, or undergoing some other type of final waste handling. Consequently, waste that is going to be discarded would not be required to be labeled under this proposal.

EPA does believe, however, that containers of used or contaminated controlled substances, such as some refrigerants, methyl chloroform, carbon tetrachloride, other CFCs and HCFCs, and blends of controlled substances that are bound for recycling or reclamation do fall under the definition of "container containing." These substances will be transferred to realize their "intended use" and will later be used by consumers. Consequently, these containers trigger labeling and are not proposed to be exempt from such requirements under this amendment. Such quantities are easily identifiable and are often recycled or reclaimed for manufacture or use in new products which would in turn require the mandated warning statement. Therefore, EPA believes that the mandated warning statement is warranted on containers of contaminated (or used) controlled substances and blends of controlled substances when they are introduced into interstate commerce for purposes of recycling or reclamation.

Furthermore, the Agency believes that there is not a significant environmental benefit associated with labeling wastes of controlled substances. The final labeling rule lays out requirements that will affect consumers' decisions, and thus, manufacturers' production decisions upstream. A label applied to the product(s) manufactured with or containing a controlled substance will provide such information to the consumer. Duplicating efforts by labeling the waste from a product that no longer serves its useful purpose has no influence on purchasing or consumer decisions, since waste is neither purchased nor used. Since waste is not a consumer item, a waste handler, whose business it is to handle all types of unwanted materials, would not be dissuaded from accepting a certain waste because of its effect on the ozone layer.

Because of the demand for and the high cost of controlled substances, EPA further believes that those using controlled substances will recycle or reclaim rather than to discard them. Regulations promulgated pursuant to sections 608 and 609 of the Clean Air Act require recovery and recycling of refrigerants; efficient management of other uses of controlled substances would preclude discarding as a prudent option. In cases where these substances cannot be reused, recycled, or reclaimed, they are most often destroyed rather than deposited in a landfill or disposed in some other manner that would allow emissions of the substance. As hazardous wastes, carbon tetrachloride, methyl chloroform, and methyl bromide cannot be placed in a landfill. Additionally, no non-containerized liquid wastes can be placed in landfills.

The section 608 regulation mentioned above specifically addresses disposal of appliances containing refrigerants; compliance will be monitored via a variety of provisions in section 608. The proposed accelerated phaseout rule refers to the use of destruction technologies approved by the Parties to the Montreal Protocol in granting an exemption to the allowance program for production and consumption. Today's proposed amendment specifies that those persons using a controlled substance in their manufacturing process, but then destroying that substance using one of the five approved technologies, are exempt from labeling the product manufactured with the destroyed controlled substance. In both proposed rules, the actual disposal or destruction would not be regulated.

While it could be argued that requiring the labeling of waste provides valuable information about the contents of a waste to the handler, other regulations provide for similar information to be conveyed. For example, any waste considered to be hazardous (which includes carbon tetrachloride, methyl chloroform, and methyl bromide) must have its contents reported on the manifest required to accompany the waste under the Resource Conservation and Recovery Act (RCRA). Furthermore, EPA believes that the intent of the section 611 labeling provisions is to provide consumers with information upon which to make purchasing decisions, rather than to inform persons of contents for purposes of handling a substance, product or waste.

In summary, the Agency recognizes that waste should not be defined as a product under these regulations, nor should containers of waste be regarded as containers containing controlled substances. Consequently, EPA proposes to add a new § 82.106(b)(3), which provides exemptions from the labeling requirements, to include, "Waste containing controlled substances bound for discard." EPA emphasizes, however, that containers of used or contaminated controlled substances or of blends of these controlled substances that enter into interstate commerce and that are bound for recycling or reclamation are not proposed to be exempted, and thus would continue to require labeling. In order to provide clarity, EPA also proposes a definition of "waste" for purposes of this rulemaking, which would mean, "items or substances that are discarded with the intent that such items or substances will serve no further useful purpose." EPA requests comment on its proposal to exempt waste from the labeling requirements.

IV. Labeling Requirements for Spare Parts To Be Used Solely for Repair

Section 82.116 of the current labeling regulations exempts manufacturers who incorporate another product, manufactured with a class I substance and purchased from another manufacturer or supplier, from having to pass through the label from the incorporated product to the final product. Section 82.118 goes on to state, however, that distributors, wholesalers, and retailers of labeled products are required to pass through the labeling information. The current labeling requirements provide an exemption from labeling when repairs are made using components manufactured with a controlled substance or using a controlled substance in the repair itself. In an applicability determination made following the promulgation of the final rule, EPA clarified that the repair provision of the rule allows the repair of a product using a component manufactured with an ODS or using an ODS in the repair of the product without triggering labeling.

Subsequent to promulgation, the Agency has received new information regarding spare parts that are intended for repair purposes only. Evidently, many companies have up to several million spare parts in inventory that are purchased from vendors, and then sold piecemeal to persons who repair the original product. Due to the pass-through exemption for persons incorporating a product manufactured with a controlled substance that was purchased from a supplier, and due to the applicability determination

regarding repairs, the repair person would not be required to label the repaired product. To require companies that order spare parts in bulk from suppliers to pass through labeling information with each order—perhaps containing several hundred individual spare parts from numerous bulk shipments—is exceedingly burdensome to those companies purchasing and selling the spare parts. Typically, the bulk shipment will be labeled on a shipping crate or an invoice to indicate that the parts within that shipment were manufactured with a controlled substance. The company ordering the spare parts breaks down the shipment into bins, currently necessitating a label or labeling information to be generated for each individual part contained in that shipment. In most cases, a repair person purchases hundreds of various individual spare parts at a time from the company, making the pass-through of any labeling information extremely cumbersome and time-consuming.

Many of the original manufacturers of these spare parts are foreign manufacturers, exacerbating the burden of tracking the use of controlled substances in the manufacture of each spare part in inventory. Developing and maintaining inventories of these spare parts is extremely costly, often many times more costly than the sale price of the spare parts themselves.

EPA's decision not to require manufacturers incorporating products manufactured with controlled substances to comply with the labeling pass-through requirement was based in part on the overwhelming tracking burden imposed in determining which components were actually made using a controlled substance. A similar situation exists for those purchasing spare parts for repair purposes. Many distributors stock hundreds of thousands of spare parts to be sold to repair persons. The burden of tracking each part that is to then be sold to a person using that part for repair—which is exempted from the labeling requirements—becomes overwhelming and is without environmental benefit.

Furthermore, the repair person has specific requirements for a spare part that will work with the existing product to be repaired; consumer discretion on his or her part based on the use of an ODS is unlikely. Because the repair person is not required to pass through any labeling information in the repair of the product, requiring the labeling of spare parts themselves serves no environmental benefit. Additionally, numerous companies that stock spare parts for the repair of their products have themselves totally stopped using controlled substances and are currently encouraging suppliers to use safe alternatives in manufacturing spare parts that they purchase.

In light of the information above, EPA is today proposing that purchasers of spare parts manufactured with a controlled substance and purchased from a vendor for the sole purpose of repair, or distributed for purposes of repair only, not be required to pass through the labeling information. EPA wishes to emphasize that this exemption to the pass-through requirement does not apply to products containing a controlled substance or containers of controlled substances, nor does it apply to spare parts used to manufacture products. Manufacturers of spare parts made with controlled substances are still required to apply the appropriate labels. Moreover, importers and distributors moving the labeled shipments as packaged by the manufacturer must still pass through the labeling information.

EPA requests comments on its proposal to exempt from the label pass-through requirement those spare parts that are to be used for repair purposes.

V. Clarification of the Meaning of Products "Manufactured With"

The final rule discusses the applicability of the labeling requirements for products manufactured with controlled substances. Some confusion over when labeling is required for such products has emerged since the publication of the final rule. The following discussion should clarify such labeling questions.

In reviewing whether a product must be labeled, one must examine from two perspectives. Is labeling required because it is a product "containing" a controlled substance? If not, is labeling then required because it is a product "manufactured with" a controlled substance?

The final rule states that a controlled substance that is inadvertently produced or remaining as a residue from a chemical reaction, leaving trace quantities of that substance in the final product, does not trigger the labeling requirements. However, there may be cases where a product is exempt from being labeled a product "containing" (in this case as a result of trace quantities), but where a product may still require labeling because it is considered to be "manufactured with" that controlled substance.

The introduction of carbon tetrachloride as an explosion suppressant in the manufacture of certain chemicals serves as an example. The carbon tetrachloride is introduced, then withdrawn from the chemical product. Trace quantities of the carbon tetrachloride remain in the chemical; however, such quantities serve no useful purpose in the final product. As a result, the product is exempt from being labeled as a product containing carbon tetrachloride. However, because the carbon tetrachloride is introduced into the chemical product directly in the manufacturing process, actually having physical contact with the product, the product would need to be labeled as "manufactured with" carbon tetrachloride, unless other exemptions apply.

In order to be consistent with this view, EPA is proposing to revise the definition of "manufactured with". The final regulations currently state that a product is manufactured with a controlled substance if the manufacturer used a controlled substance directly in the product's manufacture, "but the product itself does not contain a controlled substance at the point of introduction into interstate commerce." To further clarify that trace quantities may actually be contained in a product manufactured with a controlled substance, EPA proposes to revise the definition of "manufactured with," to state that a product "does not contain more than trace quantities of the controlled substance * * *." Comment on this proposed revision is requested.

VI. Exemption for Trace Quantities

While the final labeling rule discussed the applicability of the labeling requirements for products containing trace quantities of controlled substances, some confusion over when labeling is required for such products has also arisen since the publication of the final rule.

The regulatory text in § 82.106, referring to the warning statement requirements, lists certain exemptions from these requirements. The first of these addresses "Products in which trace quantities of a controlled substance remain as a residue or impurity * * *." A trace quantity remaining in a product can only be contained within a chemical product; therefore, it is logical that this exemption specifically applies to products "containing" rather than products "manufactured with." Products that are manufactured using a controlled substance, but that contain only trace quantities of the substance, are not required to be labeled as a "product containing"; however, they are required to be labeled as a "product manufactured with." To clarify this point, EPA proposes to amend § 82.106(b)(1), which provides exemptions from the labeling requirements, to read: "Products containing trace quantities of a controlled substance remaining as a residue or impurity due to a chemical reaction, and where the controlled substance serves no useful purpose in or for the product itself." However, if such a product was manufactured using the controlled substance, such product is required to be labeled as a "product manufactured with" the controlled substances.

There has also been some confusion as to whether a container containing a trace amount of a controlled substance must be labeled. EPA understands that to determine whether a container contains a trace amount of a controlled substance, where such a determination falls outside of normal procedures, may be difficult and costly. For example, a container of a non-controlled substance that may hold a trace amount of a controlled substance as an impurity of the manufacturing process would be subject to labeling under current labeling requirements. As a product, however, that same container would be exempt from the labeling requirements. In many cases, expensive testing must be conducted to determine if a trace quantity of the controlled substance is in fact contained in the container. Requiring the labeling of containers containing trace quantities of a controlled substance is inconsistent with the trace quantities exemption of the current labeling rule and with the intent of the Agency to require labeling of "containers of" controlled substances.

Consequently, EPA is today proposing to revise its regulations to make clear that containers containing trace quantities of controlled substances do not have to be labeled. EPA proposes to add a new § 82.106(b)(2) stating that containers containing trace quantities of a controlled substance, which remain as a residue or impurity, are exempt from the labeling requirements, and requests relevant comment.

VII. Labeling Requirements of Containers of 55 Gallons and Smaller Containing Controlled Substances

The final labeling regulations indicate that the use of supplemental printed material may be used to label containers of controlled substances that are larger than 55 gallon drums, as long as the information is viewed at the time of purchase or time of delivery, provided the purchase is not considered complete until delivery is accepted. EPA reasoned that such information, rather than the containers themselves, is usually viewed by the recipient of such containers. The regulations also indicated that the warning statement must be placed directly on containers of controlled substances that are smaller than 55 gallon drums.

Today, EPA proposes that supplemental printed material may also be used to convey the warning statement for containers that are 55 gallons and smaller. Since the publication of the regulations, numerous commenters have indicated that bulk shipments of 55 gallon drum containers are often documented in various printed materials, such as the RCRA Manifest or a Land Disposal Restriction Form which companies are required to develop under the RCRA Land Disposal Restrictions Program. Such a form tracks waste codes that EPA developed specifically for that program. EPA agrees that shipments of containers of 55 gallons or smaller containing bulk quantities of controlled substances or waste containers of controlled substances may be labeled on supplemental printed material as an alternative to the direct labeling of individual containers, as long as the warning statement is clearly legible and conspicuous in such materials and the materials accompany the containers or are available to the consumer/waste recipient at the time of purchase. Consequently, EPA is revising § 82.108(c) of its labeling regulation to strike "larger than a 55 gallon drum" from the provision allowing alternative placement of the warning statement on containers of controlled substances. EPA requests comment on its proposal to allow alternative placement of warning statements on 55 gallon or smaller containers.

VIII. Definition of Importer

For purposes of section 611, EPA today clarifies that importers of "products manufactured with controlled substances" are included in the definition of "importer." While the intent of the section 611 regulations was to cover imports of products manufactured with class I substances, the current definition does not explicitly include such a phrase. This came about as an oversight in transferring the definition from the phaseout regulations, where imports of containers and products containing controlled substances are regulated. Section 611 clearly mandates that "products manufactured with controlled substances" be labeled before they are introduced into interstate commerce. Therefore, for purposes of the labeling requirements and consistency with the statute, the definition of "importer" under section 611 is amended to include the phrase "products manufactured with."

IX. Certification Requirements for Reduced Use Exemption

In § 82.122, EPA stated that companies that reduced their use of CFC–113 and/or methyl chloroform (MCF) by 95 percent or greater over their 1990 usage level could certify the reduction in writing to EPA and be exempt from the labeling requirements. In addition to other requirements for inclusion in the written certification, the regulations require that persons certifying to EPA must state that they will not exceed 5 percent of their 1990 use following the certification; however, the statement conveyed was numerically and grammatically incorrect. It reads: "Persons certifying must also include a statement that indicates that their future annual use will not at no time exceed 95 percent of their 1990 usage" (p.8169).

EPA proposes to correct this section of the regulations to state that a company must certify to EPA that its future use will not exceed 5 percent of its 1990 usage without notifying the Agency. Such notification would immediately result in labeling of the company's products. This subpart (§ 82.122 (a)(4)) would thus read: "Persons certifying must also include a statement that indicates their future annual use will at no time exceed 5 percent of their 1990 usage."

X. Imports and Products Introduced In Bond at the U.S./Mexico Border

The final labeling regulations state that products or containers introduced "in bond" at the Mexico border are not considered to be "imports." However, the preamble states that such products or containers are being introduced into U.S. interstate commerce and are therefore subject to the labeling requirements.

Today, EPA proposes that all products and containers subject to the labeling requirements that are made or charged in Mexico and subsequently brought into the U.S. must be labeled at the border where they are being introduced into U.S. interstate commerce. In order to facilitate enforcement of this rule, the Agency only requires that warning labels be placed on regulated products and containers at the border by persons introducing them into U.S. interstate commerce, rather than at the manufacturing facility in Mexico. However, the importer may contract with the Mexican manufacturer to provide the applicable warning statement prior to shipping.

VOL 58 ISS 249 DE 30 1993 UMI

This change supersedes EPA's reference to products or containers admitted in bond in the final labeling rule, since for purposes of the labeling requirements, the regulated products and containers are in fact being treated as "imports." This change makes the definition of import in today's proposal somewhat different from that in the current phaseout regulations. For purposes of the phaseout regulations, it is appropriate to exempt such products of U.S. origin that are brought back into the U.S. from Mexico in bond from the definition of import because allowances have already been expended and additional consumption allowances should not be required to bring these products back into the U.S.

However, it is appropriate and consistent with the intent of section 611 to require labeling of these imported goods, since labeling is to occur regardless of whether the product is distributed domestically or imported. The Agency therefore proposes to strike from the definition of "import" in § 82.104(j) of the labeling regulation the exemption for bringing controlled substances, containers of, or products manufactured with, controlled substances into the U.S. from Mexico where such substance, container or product was admitted into Mexico in bond and is of U.S. origin.

In addition, EPA notes that the preamble to the final labeling rule contained an inaccuracy in describing an arrangement regarding products brought from Mexico into the United States inbond. The preamble stated that, "Under the Maquiladora Agreement, the United States and Mexico established a free-trade zone along a segment of the U.S./Mexico border." There is no formal agreement as such between the two countries in this regard; rather, an arrangement exists, primarily under Mexican law, whereby controlled substances crossing the border from the U.S. into Mexico "inbond" (under a bond ensuring that the substance will remain in Mexico only temporarily) will be returned to the U.S., without being subject to Mexican import tariffs. Similarly, the preamble to the final rule states that "products are permitted to be transported across [the Maquiladora] zone without any U.S. Customs restrictions being imposed." This statement is misleading in that U.S. Customs does assist EPA in monitoring compliance with and enforcing U.S. environmental laws that generally apply without distinction to Maquiladora products. The preamble to the final rule should therefore be read to reflect these corrections. EPA requests comments on these corrections.

XI. Incidental Uses of Controlled Substances

In the final regulations, the definition of "manufactured with" excludes the use of a controlled substance "[W]here the manufacturing equipment has had physical contact with a controlled substance in an intermittent manner, not as a routine part of the direct manufacturing process* * *" (See p.8165). The preamble gave as an example the occasional cleaning of an ink plate, where direct contact occurs only between the controlled substance and the manufacturing equipment, not between the controlled substance and the product itself (other than the first one or two products going through the equipment following equipment maintenance). However, the preamble, in addressing this point, specifically noted that this exclusion should also apply in the case of a controlled substance having intermittent contact with the product itself, such as a textile where direct contact occurs through spot cleaning of some individual textiles, but where direct contact is not a normal or usual occurrence in the manufacture of the product.

The Agency intended for the regulatory text to reflect the full discussion in the preamble to the final rule. Therefore, EPA today also proposes to except in the regulatory text intermittent uses of controlled substances which may involve an initial contact with the product itself, as well as with the equipment. Thus the exception shall read: "[W]here the manufacturing equipment or product has had physical contact with a controlled substance in an intermittent manner, not as a routine part of the direct manufacturing process* * *" EPA requests any comments in this regard.

XII. Request for Comments Regarding Plasma Etching

In the preamble of the final labeling rule, EPA states that "plasma etching is considered a process that entails transformation, and thus products manufactured using plasma etching need not be labeled, unless they are otherwise subject to the regulations." Since publication of the final rule, EPA has heard from one plasma etcher who has discovered that the plasma etching process may not necessarily transform all but trace quantities of controlled substances used in the process. At times, it is estimated that as much as 40 percent may not be transformed. Therefore, plasma etching in general may not fall under the definition of "transformation" in the final labeling rule.

Consequently, EPA requests comments on the whether plasma etching can be considered generally to constitute transformation under the final labeling rule definition, which states, "to use and entirely consume a class I or class II substance, except for trace quantities, by changing it into one or more substances not subject to this subpart in the manufacturing process of a product or chemical."

XIII. Additional Information

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1994), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not "significant" under the terms of Executive Order 12866; however, OMB requested the opportunity to review the proposal. The Agency prepared an analysis to assess the impact of the final labeling regulations promulgated on February 11, 1993 (see Regulatory Impact Analysis of the Rule Requiring Labeling of Products Containing or Manufactured With Ozone Depleting Substances, January 1993) which is available for review in the docket for the final labeling rule. This supplemental proposal does not impose any additional burdens as defined by E.O. 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The Agency prepared a regulatory flexibility analysis, as part of the overall regulatory impact analysis (see p.40 of Regulatory Impact Analysis of the Rule Requiring Labeling of Products Containing or Manufactured With Ozone Depleting Substances, January 1993) for the February 11, 1993, regulations that these proposed regulations supplement. No additional RFA need be prepared for this proposal because the details of this amendment did not alter the original analysis.

C. Paperwork Reduction Act

An information collection request was prepared by EPA (ICR No. 2060–0259) for the February 11, 1993, final rule. The contents of this amendment do not alter that analysis. A copy of the ICR may be obtained by writing to the Information Policy Branch (PM–223), U.S. EPA, 401 M Street, SW., Washington, DC 20460 or by calling (202) 260–2740.

List of Subjects for 40 CFR Part 82

Environmental protection, Air pollution control, Chemicals, Chlorofluorocarbons, Destruction, Exports, Imports, Interstate commerce, Pass-through requirement, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: December 17, 1993.

Carol Browner,

Administrator.

Title 40, Code of Federal Regulations, part 82, is proposed to be amended to read as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7601; 42 U.S.C. 7671–7671(q).

2. Subpart E, 40 CFR 82.100–82.124, is revised to read as follows:

Subpart E—The Labeling of Products Using Ozone-Depleting Substances

Sec.

82.100 Purpose.
82.102 Applicability.
82.104 Definitions.
82.106 Warning statement requirements.
82.108 Placement of warning statement.
82.110 Form of label bearing warning statement.
82.112 Removal of label bearing warning statement.
82.114 Compliance by manufacturers and importers with requirements for labeling of containers of controlled substances, or products containing controlled substances.
82.116 Compliance by manufacturers or importers incorporating products manufactured with controlled substances.
82.118 Compliance by wholesalers, distributors and retailers.
82.120 Petitions.
82.122 Certification, recordkeeping, and notice requirements.
82.124 Prohibitions.

§ 82.100 Purpose.

The purpose of this subpart is to require warning statements on containers of, and products containing or manufactured with, certain ozone-depleting substances, pursuant to section 611 of the Clean Air Act, as amended.

§ 82.102 Applicability.

(a) In the case of substances designated as class I or class II substances as of February 11, 1993, the effective date of the requirements in this paragraph is May 15, 1993. In the case of any substance designated as a class I or class II substance after February 11, 1993, the effective date of the requirements in this paragraph of this section is either one year after the effective date of such designation or the date provided in the rulemaking designating such substance as a class I or class II substance, whichever comes first. On the effective date indicated in this paragraph, the requirements of this subpart shall apply to the following containers and products except as exempted under paragraph (c) of this section:

(1) All containers in which a class I or class II substance is stored or transported.

(2) All products containing a class I substance.

(3) All products directly manufactured with a process that uses a class I substance, unless otherwise exempted by this subpart or, unless the Administrator determines for a particular product that there are no substitute products or manufacturing processes for such product that do not rely on the use of a class I substance, that reduce overall risk to human health and the environment, and that are currently or potentially available. If the Administrator makes such a determination for a particular product, then the requirements of this subpart are effective for such product no later than January 1, 2015.

(b) Effective January 1, 2015 in any case, or one year after any determination between May 15, 1993 and January 1, 2015, by the Administrator for a particular product that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, the requirements of this subpart shall apply to the following:

(1) All products containing a class II substance.

(2) All products manufactured with a process that uses a class II substance.

(c) The requirements of this subpart shall not apply to products manufactured prior to May 15, 1993, provided that the manufacturer submits documentation to EPA upon request showing that the product was manufactured prior to that date.

§ 82.104 Definitions.

(a) *Class I substance* means any substance designated as class I in 40 CFR part 82, appendix A to subpart A, including chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform and any other substance so designated by the Agency at a later date.

(b) *Class II substance* means any substance designated as class II in 40 CFR part 82, appendix A to subpart A, including hydrochlorofluorocarbons and any other substance so designated by the Agency at a later date.

(c) *Completely destroy* means to cause the expiration of a controlled substance by one of the five destruction processes approved by the Parties at a demonstrable destruction efficiency of 98 percent or more or a greater destruction efficiency if required under other applicable state and federal regulations.

(d) *Consumer* means a commercial or non-commercial purchaser of a product or container that has been introduced into interstate commerce.

(e) *Container* means the immediate vessel in which a controlled substance is stored or transported.

(f) *Container containing* means a container that physically holds a controlled substance within its structure that is intended to be transferred to another container, vessel or piece of equipment in order to realize its intended use.

(g) *Controlled substance* means a class I or class II ozone-depleting substance.

(h) *Destruction* means the expiration of a controlled substance that does not result in a commercially useful end product using one of the following controlled processes:

(1) Liquid injection incineration;
(2) Reactor cracking;
(3) Gaseous/fume oxidation;
(4) Rotary kiln incineration; or
(5) Cement kiln.

in a manner that complies at a minimum with the "Code of Good Housekeeping" of Chapter 5.5 of the UNEP report entitled, Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies, as well as the whole of Chapter 5 from that report, or with more stringent requirements as applicable.

(i) *Distributor* means a person to whom a product is delivered or sold for purposes of subsequent resale, delivery or export.

(j) *Export* means the transport of virgin, used, or recycled class I or class II substances or products manufactured with or containing class I or class II substances from inside the United States or its territories to persons outside the United States or its territories, excluding United States military bases and ships for on-board use.

(k) *Exporter* means the person who contracts to sell class I or class II substances or products manufactured with or containing class I or class II substances for export or transfers such substances or products to his affiliate in another country.

(l) *Import* means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the United States whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States, with the exception of temporary off-loading of products manufactured with or containers containing class I or class II substances from a ship are used for servicing of that ship.

(m) *Importer* means any person who imports a controlled substance, a product containing a controlled substance, a product manufactured with a controlled substance, or any other chemical substance (including a chemical substance shipped as part of a mixture or article), into the United States. "Importer" includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes, as appropriate:

(1) The consignee;
(2) The importer of record listed on U.S. Customs Service forms for the import;
(3) The actual owner if an actual owner's declaration and superseding bond has been filed; or
(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred.

(n) *Interstate commerce* means the distribution or transportation of any product between one state, territory, possession or the District of Columbia, and another state, territory, possession or the District of Columbia, or the sale, use or manufacture of any product in more than one state, territory, possession or District of Columbia. The entry points for which a product is introduced into interstate commerce are the release of a product from the facility in which the product was manufactured, the entry into a warehouse from which the domestic manufacturer releases the product for sale or distribution, and at the site of United States Customs clearance.

(o) *Manufactured with a controlled substance* means that the manufacturer of the product itself used a controlled substance directly in the product's manufacturing, but the product itself does not contain more than trace quantities of the controlled substance at the point of introduction into interstate commerce. The following situations are excluded from the meaning of the phrase "manufactured with" a controlled substance:

(1) Where a product has not had physical contact with the controlled substance; or
(2) Where the manufacturing equipment or the product has had physical contact with a controlled substance in an intermittent manner, not as a routine part of the direct manufacturing process;
(3) Where the controlled substance has been transformed, except for trace quantities; or
(4) Where the controlled substance has been completely destroyed.

(p) *Potentially available* means that adequate information exists to make a determination that the substitute is technologically feasible, environmentally acceptable and economically viable.

(q) *Principal display panel (PDP)* means the entire portion of the surface of a product, container or its outer packaging that is most likely to be displayed, shown, presented, or examined under customary conditions of retail sale. The area of the PDP is not limited to the portion of the surface covered with existing labeling; rather it includes the entire surface, excluding flanges, shoulders, handles, or necks.

(r) *Product* means an item or category of items manufactured from raw or recycled materials, or other products, which is used to perform a function or task.

(s) *Product containing* means a product including, but not limited to, containers, vessels, or pieces of equipment, that physically holds a controlled substance at the point of sale to the ultimate consumer which remains within the product.

(t) *Promotional printed material* means any informational or advertising material (including, but not limited to, written advertisements, brochures, circulars, desk references and fact sheets) that is prepared by the manufacturer for display or promotion concerning a product or container, and that does not accompany the product to the consumer.

(u) *Retailer* means a person to whom a product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to consumers who buy such product for purposes other than resale.

(v) *Spare parts* means those parts that are supplied by a manufacturer to another manufacturer, distributor, or retailer, for purposes of replacing similar parts with such parts in the repair of a product.

(w) *Supplemental printed material* means any informational material (including, but not limited to, package inserts, fact sheets, invoices, material safety data sheets, procurement and specification sheets, or other material) which accompanies a product or container to the consumer at the time of purchase.

(x) *Transform* means to use and entirely consume a class I or class II substance, except for trace quantities, by changing it into one or more substances not subject to this subpart in the manufacturing process of a product or chemical.

(y) *Type size* means the actual height of the printed image of each capital letter as it appears on a label.

(z) *Ultimate consumer* means the first commercial or non-commercial purchaser of a container or product that is not intended for re-introduction into interstate commerce as a final product or as part of another product.

(aa) *Warning label* means the warning statement required by section 611 of the Act. The term warning statement shall be synonymous with warning label for purposes of this subpart.

(bb) *Waste* means, for purposes of this subpart, items or substances that are discarded with the intent that such items or substances will serve no further useful purpose.

(cc) *Wholesaler* means a person to whom a product is delivered or sold, if such delivery or sale is for purposes of sale or distribution to retailers who buy such product for purposes of resale.

§ 82.105 Warning statement requirements.

(a) *Required warning statements.* Unless otherwise exempted by this subpart, each container or product identified in § 82.102(a) or (b) shall bear the following warning statement, meeting the requirements of this subpart for placement and form:

WARNING: Contains [or Manufactured with, if applicable] [*insert name of substance*], a substance which harms public health and environment by destroying ozone in the upper atmosphere.

(b) *Exemptions from warning label requirement.* The following products need not bear a warning label:

(1) Products containing trace quantities of a controlled substance remaining as a residue or impurity due to a chemical reaction, and where the controlled substance serves no useful purpose in or for the product itself. However, if such product was manufactured using the controlled substance, the product is required to be labeled as a "product manufactured with" the controlled substance, unless otherwise exempted.

(2) Containers containing a controlled substance in which trace quantities of that controlled substance remain as a residue or impurity.

(3) Waste containing controlled substances or blends of controlled substances bound for discard.

(4) Products manufactured using methyl chloroform or CFC–113 by persons who can demonstrate and certify a 95% reduction in overall usage from their 1990 calendar year usage of methyl chloroform or CFC–113 as solvents during a twelve (12) month period ending within sixty (60) days of such certification or during the most recently completed calendar year. In calculating such reduction, persons may subtract from quantities used those quantities for which they possess accessible data that establishes the amount of methyl chloroform or CFC–113 transformed. Such subtraction must be performed for both the applicable twelve month period and the 1990 calendar year. If at any time future usage exceeds the 95% reduction, all products manufactured with methyl chloroform or CFC–113 as solvents by that person must be labeled immediately. No person may qualify for this exemption after May 15, 1994.

(5) Products intended only for export outside of the United States shall not be considered "products introduced into interstate commerce" provided such products are clearly designated as intended for export only.

(6) Products that are otherwise not subject to the requirements of this subpart that are being repaired, using a process that uses a controlled substance.

(7) Products, processes, or substitute chemicals undergoing research and development, by which a controlled substance is used. Such products must be labeled when they are introduced into interstate commerce.

(c) *Interference with other required labeling information.* The warning statement shall not interfere with, detract from, or mar any labeling information required on the labeling by federal or state law.

§ 82.106 Placement of warning statement.

The warning statement shall be placed so as to satisfy the requirement of the Act that the warning statement be "clearly legible and conspicuous." The warning statement is clearly legible and conspicuous if it appears with such prominence and conspicuousness as to render it likely to be read and understood by consumers under normal conditions of purchase. Such placement includes, but is not limited to, the following:

(a) *Display panel placement.* For any affected product or container that has a display panel that is normally viewed by the purchaser at the time of the purchase, the warning statement described in § 82.106 may appear on any such display panel of the affected product or container such that it is "clearly legible and conspicuous" at the time of the purchase. If the warning statement appears on the principal display panel or outer packaging of any such affected product or container, the warning statement shall qualify as "clearly legible and conspicuous," as long as the label also fulfills all other requirements of this subpart and is not obscured by any outer packaging, as required by paragraph (b) of this section. The warning statement need not appear on such display panel if either:

(1) The warning statement appears on the outer packaging of the product or container, consistent with paragraph (b) of this section, and is clearly legible and conspicuous; or

(2) The warning statement is placed in a manner consistent with paragraph (c) of this section.

(b) *Outer packaging.* If the product or container is normally packaged, wrapped, or otherwise covered when viewed by the purchaser at the time of the purchase the warning statement described in § 82.106 shall appear on any outer packaging, wrapping or other covering used in the retail display of the product or container, such that the warning statement is clearly legible and conspicuous at the time of the purchase. If the outer packaging has a display panel that is normally viewed by the purchaser at the time of the purchase, the warning statement shall appear on such display panel. If the warning statement so appears on such product's or container's outer packaging, it need not appear on the surface of the product or container, as long as the statement also fulfills all other requirements of this subpart. The warning statement need not appear on such outer packaging if either:

(1) The warning statement appears on the surface of the product or container, consistent with paragraph (a) of this section, and is clearly legible and conspicuous through any outer packaging, wrapping or other covering used in display; or

(2) The warning statement is placed in a manner consistent with paragraph (c) of this section.

(c) *Alternative placement.* The warning statement may be placed on a hang tag, tape, card, sticker, invoice, bill of lading, supplemental printed material, or similar overlabeling that is securely attached to the container, product, outer packaging or display case, or accompanies the product containing or manufactured with a controlled substance or a container containing class I or class II substances through its sale to the consumer or ultimate consumer. For prescription medical products that have been found to be essential for patient health by the Food and Drug Administration, the warning statement may be placed in supplemental printed material intended to be read by the prescribing physician, as long as the following statement is placed on the product, its packaging, or supplemental printed material intended to be read by the patient: "This product contains [insert name of substance], a substance which harms the environment by depleting ozone in the upper atmosphere.", In any case, the warning statement must be clearly legible and conspicuous at the time of the purchase.

(d) *Products not viewed by the purchaser at the time of purchase.* Where the purchaser of a product cannot view a product, its packaging or alternative labeling such that the warning statement is clearly legible and conspicuous at the time of purchase, as specified under paragraph (a), (b), or (c) of this section, the warning statement may be placed in the following manner:

(1) Where promotional printed material is prepared for display or distribution, the warning statement may be placed on such promotional printed material such that it is clearly legible and conspicuous at the time of purchase; or

VOL 58 ISS 249 DEC 30 1993 UMI

(2) The warning statement may be placed on the product, on its outer packaging, or on alternative labeling, consistent with paragraph (a), (b), or (c) of this section, such that the warning statement is clearly legible and conspicuous at the time of product delivery, if the product may be returned by the purchaser at or after the time of delivery or if the purchase is not complete until the time of delivery (e.g., products delivered C.O.D.).

§ 82.110 Form of label bearing warning statement.

(a) *Conspicuousness and contrast.* (1) The warning statement shall appear in conspicuous and legible type by typography, layout, and color with other printed matter on the label.

(2) The warning statement shall appear in sharp contrast to any background upon which it appears. Examples of combinations of colors which may not satisfy the proposed requirement for sharp contrast are: black letters on a dark blue or dark green background, dark red letters on a light red background, light red letters on a reflective silver background, and white letters on a light gray or tan background.

(b) *Name of substance.* The name of the class I or class II substance to be inserted into the warning statement shall be the standard chemical name of the substance as listed in 40 CFR part 82, appendix A to subpart A, except that:

(1) The acronym "CFC" may be substituted for "chlorofluorocarbon."

(2) The acronym "HCFC" may be substituted for "hydrochlorofluorocarbon."

(3) The term "1,1,1-trichloroethane" may be substituted for "methyl chloroform."

(c) *Combined statement for multiple class I substances.* If a container containing or a product contains or is manufactured with, more than one class I or class II substance, the warning statement may include the names of all of the substances in a single warning statement, provided that the combined statement clearly distinguishes which substances the container or product contains and which were used in the manufacturing process.

(d) *Format.* (1) The warning statement shall be blocked within a square or rectangular area, with or without a border.

(2) The warning statement shall appear in lines that are parallel to the surrounding text on the product's PDP, display panel, supplemental printed material or promotional printed material.

(e) *Type style.* The ratio of the height of a capital letter to its width shall be such that the height of the letter is no more than 3 times its width; the signal word "WARNING" shall appear in all capital letters.

(f) *Type size.* The warning statement shall appear at least as large as the type sizes prescribed by this paragraph. The type size refers to the height of the capital letters. A larger type size materially enhances the legibility of the statement and is desirable.

(1) *Display panel or outer packaging.* Minimum type size requirements for the warning statement are given in Table 1 and are based upon the area of the display panel of the product or container. Where the statement is on the outer packaging, as well as the display panel area, the statement shall appear in the same minimum type size as on the display panel.

TABLE 1

Area of Display Panel (sq. in.)	0–2	>2–5	>5–10	>10–15	>15–30	>30
*Type size (in.)**						
Signal word	3/64	1/16	3/32	7/64	1/8	5/32
Statement	3/64	3/64	1/16	3/32	3/32	7/64

> Means greater than.
* Minimum height of printed image of letters.

(2) *Alternative placement.* The minimum type size for the warning statement on any alternative placement which meets the requirements of § 82.108(c) is 3/32 inches for the signal word and 1/16 of an inch for the statement.

(3) *Promotional printed material.* The minimum type size for the warning statement on promotional printed material is 3/32 inches for the signal word and 1/16 of an inch for the statement, or the type size of any surrounding text, whichever is larger.

§ 82.112 Removal of label bearing warning statement.

(a) *Prohibition on removal.* Except as described in paragraph (b) or (c) of this section, any warning statement that accompanies a product or container introduced into interstate commerce, as required by this subpart, must remain with the product or container and any product incorporating such product or container, up to and including the point of sale to the ultimate consumer.

(b) *Incorporation of warning statement by subsequent manufacturers.* A manufacturer of a product that incorporates a product that is accompanied by a label bearing the warning statement may remove such label from the incorporated product if the information on such label is incorporated into a warning statement accompanying the manufacturer's product, or if, pursuant to paragraph (c) of this section, the manufacturer of the product is not required to pass through the information contained on or incorporated in the product's label.

(c) *Manufacturers that incorporate products manufactured with controlled substances.* A manufacturer that incorporates into its own product a component product that: (1) Was purchased from another manufacturer, (2) was manufactured with a process that uses a controlled substance(s), but (3) does not contain such substance(s), may remove such label from the incorporated product and need not apply a warning statement to its own product, if the manufacturer does not use a controlled substance in its own manufacturing process. A manufacturer that uses controlled substances in its own manufacturing process, and is otherwise subject to the regulations of this subpart, must label pursuant to § 82.106, but need not include information regarding the incorporated product on the required label.

(d) *Manufacturers, distributors, wholesalers, retailers that sell spare parts manufactured with controlled substances solely for repair.* Manufacturers, distributors, wholesalers, and retailers that purchase spare parts manufactured with a class I substance from another manufacturer or supplier, and sell such spare parts for the sole purpose of repair, are not required to pass through an applicable warning label if such products are removed from the original packaging provided by the manufacturer from whom the products are purchased. Manufacturers of the spare parts manufactured with controlled substances must still label their products; furthermore, manufacturers, importers, and distributors of such products must pass through the labeling information as long as products remain assembled and packaged in the manner assembled and packaged by the original manufacturer. This exemption shall not apply if a spare part is later used for manufacture and/or for purposes other than repair.

§ 82.114 Compliance by manufacturers and importers with requirements for labeling of containers of controlled substances, or products containing controlled substances.

(a) *Compliance by manufacturers and importers with requirements for labeling of containers of controlled substances, or products containing controlled substances.* Each manufacturer of a product incorporating another product or container containing a controlled substance, to which § 82.102 (a)(1), or, (a)(2) or (b)(1) applies, that is purchased or obtained from another manufacturer or supplier, is required to pass through and incorporate the labeling information that accompanies such incorporated product in a warning statement accompanying the manufacturer's finished product. Each importer of a product, or container containing a controlled substance, to which § 82.102 (a)(1), (a)(2), or (b)(1) applies, including a component product or container incorporated into the product, that is purchased from a foreign manufacturer or supplier, is required to apply a label, or to ensure that a label has been properly applied, at the site of U.S. Customs clearance.

(b) *Reliance on reasonable belief.* The manufacturer or importer of a product that incorporates another product containing from another manufacturer or supplier may rely on the labeling information (or lack thereof) that it receives with the product, and is not required to independently investigate whether the requirements of this subpart are applicable to such purchased product or container, as long as the manufacturer reasonably believes that the supplier or foreign manufacturer is reliably and accurately complying with the requirements of this subpart.

(c) *Contractual obligations.* A manufacturer's or importer's contractual relationship with its supplier under which the supplier is required to accurately label, consistent with the requirements of this subpart, any products containing a controlled substance or containers of a controlled substance that are supplied to the manufacturer or importer, is evidence of reasonable belief.

§ 82.116 Compliance by manufacturers or importers incorporating products manufactured with controlled substances.

(a) *Compliance by manufacturers or importers incorporating products manufactured with controlled substances, or importing products manufactured with oontrolled substances.* Each manufacturer or importer of a product incorporating another product to which § 82.102 (a)(3), or, (b)(2) applies, that is purchased from another manufacturer or supplier, is not required to pass through and incorporate the labeling information that accompanies such incorporated product in a warning statement accompanying the manufacturer's or importer's finished product. Importers of products to which § 82.102 (a)(3) or (b)(2) applies are required to apply a label, or to ensure that a label has been properly applied at the site of U.S. Customs clearance.

(b) *Reliance on reasonable belief.* The importer of a product purchased or obtained from a foreign manufacturer or supplier, which product may have been manufactured with a controlled substance, may rely on the information that it receives with the purchased product, and is not required to independently investigate whether the requirements of this subpart are applicable to the purchased or obtained product, as long as the importer reasonably believes that there was no use of controlled substances by the final manufacturer of the product being imported.

(c) *Contractual obligations.* An importer's contractual relationship with its supplier under which the supplier is required to accurately label, consistent with the requirements of this subpart, any products manufactured with a controlled substance that are supplied to the importer, or to certify to the importer whether a product was or was not manufactured with a controlled substance is evidence of reasonable belief.

§ 82.118 Compliance by wholesalers, distributors and retailers.

(a) *Requirement of compliance by wholesalers, distributors and retailers.* All wholesalers, distributors and retailers of products or containers to which this subpart applies are required to pass through the labeling information that accompanies the product, except those purchasing from other manufacturers or suppliers spare parts manufactured with controlled substances and selling those parts for the demonstrable sole purpose of repair.

(b) *Reliance on reasonable belief.* The wholesaler, distributor or retailer of a product may rely on the labeling information that it receives with the product or container, and is not required to independently investigate whether the requirements of this subpart are applicable to the product or container, as long as the wholesaler, distributor or retailer reasonably believes that the supplier of the product or container is reliably and accurately complying with the requirements of this subpart.

(c) *Contractual obligations.* A wholesaler, distributor or retailer's contractual relationship with its supplier under which the supplier is required to accurately label, consistent with the requirements of this subpart, any products manufactured with a controlled substance that are supplied to the wholesaler, distributor or retailer is evidence of reasonable belief.

§ 82.120 Petitions.

(a) *Requirements for procedure and timing.* Persons seeking to apply the requirements of this regulation to a product containing a class II substance or a product manufactured with a class I or a class II substance which is not otherwise subject to the requirements, or to temporarily exempt a product manufactured with a class I substance, based on a showing of a lack of currently or potentially available alternatives, from the requirements of this regulation may submit petitions to: Labeling Program Manager, Stratospheric Protection Division, Office of Atmospheric Programs, U.S. Environmental Protection Agency, 6202–J, 401 M Street, SW., Washington, DC 20460. Such persons must label their products while such petitions are under review by the Agency.

(b) *Requirement for adequate data.* Any petition submitted under paragraph (a) of this section shall be accompanied by adequate data, as defined in § 82.120(c). If adequate data are not included by the petitioner, the Agency may return the petition and request specific additional information.

(c) *Adequate data.* A petition shall be considered by the Agency to be supported by adequate data if it includes all of the following:

(1) A part clearly labeled "Section I.A." which contains the petitioner's full name, company or organization name, address and telephone number, the product that is the subject of the petition, and, in the case of a petition to temporarily exempt a product manufactured with a class I substance

from the labeling requirement, the manufacturer or manufacturers of that product.

(2) For petitions to temporarily exempt a product manufactured with a class I substance only, a part clearly labeled "Section I.A.T." which states the length of time for which an exemption is requested.

(3) A part clearly labeled "Section I.B." which includes the following statement, signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information.

(4) A part clearly labeled "Section I.C." which fully explains the basis for the petitioner's request that EPA add the labeling requirements to or remove them from the product which is the subject of the petition, based specifically upon the technical facility or laboratory tests, literature, or economic analysis described in paragraphs C(5), (6) and (7).

(5) A part clearly labeled "Section II.A." which fully describes any technical facility or laboratory tests used to support the petitioner's claim.

(6) A part clearly labeled "Section II.B." which fully explains any values taken from literature or estimated on the basis of known information that are used to support the petitioner's claim.

(7) A part clearly labeled "Section II.C." which fully explains any economic analysis used to support the petitioner's claim.

(d) *Criteria for evaluating petitions.* Adequate data in support of any petition to the Agency to add a product to the labeling requirement or temporarily remove a product from the labeling requirement will be evaluated based upon a showing of sufficient quality and scope by the petitioner of whether there are or are not substitute products or manufacturing processes for such product:

(1) That do not rely on the use of such class I or class II substance;

(2) That reduce the overall risk to human health and the environment; and

(3) That are currently or potentially available.

(e) *Procedure for acceptance or denial of petition.* (1) If a petition submitted under this section contains adequate data, as defined under paragraph (c) of this section, the Agency shall within 180 days after receiving the complete petition either accept the petition or deny the petition.

(2) If the Agency makes a decision to accept a petition to apply the requirements of this regulation to a product containing or manufactured with a class II substance, the Agency will notify the petitioner and publish a proposed rule in the **Federal Register** to apply the labeling requirements to the product.

(3) If the Agency makes a decision to deny a petition to apply the requirements of this regulation to a product containing or manufactured with a class II substance, the Agency will notify the petitioner and publish an explanation of the petition denial in the **Federal Register**.

(4) If the Agency makes a decision to accept a petition to temporarily exempt a product manufactured with a class I substance from the requirements of this regulation, the Agency will notify the petitioner and publish a proposed rule in the **Federal Register** to temporarily exempt the product from the labeling requirements. Upon notification by the Agency, such manufacturer may immediately cease its labeling process for such exempted products.

(5) If the Agency makes a decision to deny a petition to temporarily exempt a product manufactured with a class I substance from the requirements of this regulation, the Agency will notify the petitioner and may, in appropriate circumstances, publish an explanation of the petition denial in the **Federal Register**.

§ 82.122 Certification, recordkeeping, and notice requirements.

(a) *Certification.* (1) Persons claiming the exemption provided in § 82.106(b)(2) must submit a written certification to the following address: Labeling Program Manager, Stratospheric Protection Division, Office of Atmospheric Programs, 6202–J, 401 M Street, SW., Washington, DC 20460.

(2) The certification must contain the following information:

(i) The exact location of documents verifying calendar year 1990 usage and the 95% reduced usage during a twelve month period;

(ii) A description of the records maintained at that location;

(iii) A description of the type of system used to track usage;

(iv) An indication of which 12 month period reflects the 95% reduced usage, and;

(v) Name, address, and telephone number of a contact person.

(3) Persons who submit certifications postmarked on or before May 15, 1993, need not place warning labels on their products manufactured using CFC–113 or methyl chloroform as a solvent. Persons who submit certifications postmarked after May 15, 1993, must label their products manufactured using CFC–113 or methyl chloroform as a solvent for 14 days following such submittal of the certification.

(4) Persons certifying must also include a statement that indicates that their future annual use will not at no time exceed 95% of their 1990 usage.

(5) Certifications must be signed by the owner or a responsible corporate officer.

(6) If the Administrator determines that a person's certification is incomplete or that information supporting the exemption is inadequate, then products manufactured using CFC–113 or methyl chloroform as a solvent by such person must be labeled pursuant to § 82.106(a).

(b) *Recordkeeping.* Persons claiming the exemption under § 82.106(b)(2) must retain supporting documentation at one of their facilities.

(c) *Notice Requirements.* Persons who claim an exemption under § 82.106(b)(2) must submit a notice to the address in paragraph (a)(1) of this section within 30 days of the end of any 12 month period in which their usage of CFC–113 or methyl chloroform used as a solvent exceeds the 95% reduction from calendar year 1990.

§ 82.124 Prohibitions.

(a) *Warning statement*—(1) *Absence or presence of warning statement.* (i) Effective May 15, 1993, except as indicated in paragraph (a)(5) of this section, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.106(a) of this subpart, unless such labeling is not required under §§ 82.102(c), 82.106(b), 82.112 (c) or (d), 82.116(a), 82.118(a), or temporarily exempted pursuant to § 82.120.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Administrator determines for a particular product manufactured with or containing a class II substance that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.108 of this subpart, unless such labeling is not required under §§ 82.106(b), 82.112 (c) or (d), 82.116(a) or 82.118(a).

(2) *Placement of warning statement.* (i) On May 15, 1993, except as indicated in paragraph (a)(5) of this section, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.108 of this subpart, unless such labeling is not required under §§ 82.102(c), 82.106(b), 82.112 (c) or (d), 82.116(a), 82.118(a), or temporarily exempted pursuant to § 82.120.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Administrator determines for a particular product manufactured with or containing a class II substance that there are substitute products or manufacturing processes for such product that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.108 of this subpart, unless such labeling is not required under §§ 82.106(b), 82.112 (c) or (d), 82.116(a) or 82.118(a).

(3) *Form of label bearing warning statement.* (i) Effective May 15, 1993, except as indicated in paragraph (a)(5) of this section, no container or product identified in § 82.102(a) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.110 of this subpart, unless such labeling is not required pursuant to §§ 82.102(c), 82.106(b), 82.112 (c) or (d), 82.116(a), 82.118(a), or temporarily exempted pursuant to § 82.120.

(ii) On January 1, 2015, or any time between May 15, 1993 and January 1, 2015 that the Agency determines for a particular product manufactured with or containing a class II substance, that there are substitute products or manufacturing processes that do not rely on the use of a class I or class II substance, that reduce the overall risk to human health and the environment, and that are currently or potentially available, no product identified in § 82.102(b) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of § 82.110 of this subpart, unless such labeling is not required pursuant to §§ 82.106(b), 82.112 (c) or (d), 82.116(a), or 82.118(a).

(4) On or after May 15, 1993, no person may modify, remove or interfere with any warning statement required by this subpart, except as described in § 82.112 of this subpart.

(5) In the case of any substance designated as a class I or class II substance after February 11, 1993, the prohibitions in paragraphs (a)(1)(i), (a)(2)(i), and (a)(3)(i) of this section shall be effective one year after the effective date of designation of such substance as a class I or class II substance or effective on the date provided in the rulemaking designating such substance as a class I or class II substance, whichever comes first.

[FR Doc. 93–31859 Filed 12–29–93; 8:45 am]
BILLING CODE 6560–50–P

VOL
58
ISS
249
DE
30
1993
UMI

federal register

Thursday
December 30, 1993

Part IV

Department of the Interior

Bureau of Indian Affairs

Notice to Rank Juvenile Detention Facilities Construction and PONI Study Applications

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice to Rank Juvenile Detention Facilities Construction and PONI Study Applications

AGENCY: Bureau of Indian Affairs, Interior; Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice is published to inform all American Indian tribes that the Department of the Interior, Office of Construction Management and the Bureau of Indian Affairs (BIA) Facilities Management & Construction Center and Division of Law Enforcement will complete the top 20 projects listed on two **Federal Register** Notices ranking applications for juvenile detention construction and Planning of New Institutions (PONI) studies. A new ranking process to govern the selection of all other applications for constructing new law enforcement facilities will be published. The BIA is proposing to add a new part 296 to title 25 of the Code of Federal Regulations to govern the priority ranking process for law enforcement facilities construction for funding consideration. The new rule provides an opportunity for Indian tribes and tribal organizations to apply for construction projects for adult or juvenile detention facilities, adult or juvenile holding facilities, police administration and operations facilities, and adult or juvenile residential facilities on the Bureau facilities inventory, whether owned or not owned by the Federal government that are operated and/or funded by the BIA. Tribes interested in new facilities will be subject to these regulations upon publication.

FOR FURTHER INFORMATION CONTACT: Warren LeBeau, BIA, Division of Law Enforcement, 1849 C Street, NW., MS 1308 MIB, Washington, DC 20240, (202) 208–5786.

SUPPLEMENTARY INFORMATION: The **Federal Register** Notice published on July 12, 1988, Ranking of Applications for Juvenile Detention Facilities for Indian Youth, No. 26320, ranked 46 applications for renovation and/or construction of juvenile detention facilities pursuant to Public Law 99–570, the Anti-Drug Act of 1986. A similar **Federal Register** Notice published on June 7, 1989, Ranking of Applicants for Planning of New Institutions, No. 24428, ranked 31 applications for ranking Planning of New Institutions (PONI) requests for renovation and/or construction of adult and/or juvenile detention facilities. This list became known as the "generic list." Based on these two notices, the BIA plans to finish the top ten projects on each notice.

Due to the length of time that has passed since the publication of the two **Federal Register** Notices and the independent progression of the top ranked projects, the BIA wanted to inform all tribes exactly what projects would be completed and which would be subject to the new regulations. This list addresses the work that has accumulated since 1989, and assures that all tribes which have received funding to initiate their projects will be considered top priority. The Cheyenne River Sioux Tribe's project was completed in FY 1993. The Ute Mountain Ute Tribe and the Mississippi Band of Choctaw Indians are ranked in the top ten of the two earlier lists. Therefore this ranking reflects 17 tribes with 19 projects to be completed before additional tribes can be placed on a new list for new detention centers. The order of projects are as follows:

1. Oglala Sioux Tribe
2. Navajo Nation—Tuba City
3. Navajo Nation—Chinle
4. Sac and Fox Nation of Oklahoma
5. Ute Mountain Ute Tribe
6. Gila River Indian Community
7. Salt River Pima/Maricopa Indian Community
8. Colville Confederated Tribes
9. Navajo Nation—Crownpoint
10. Navajo Nation—Kayenta
11. Navajo Nation—Shiprock
12. Mississippi Band of Choctaw Indians
13. Tohono O'odham Nation
14. Confederated Tribes of the Umatilla Indians
15. Eight Northern Pueblos
16. San Carlos Apache Tribe
17. Three Affiliated Tribes of Fort Berthold

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 93–31885 Filed 12–29–93; 8:45 am]

BILLING CODE 4310–02–P

federal register

Thursday
December 30, 1993

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 2, et al.
Federal Acquisition Regulation; Electronic Contracting; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 5, 8, 12, 13, 14, 15, 16, 49, 52, and 53

[FAR Case 91–104]

Federal Acquisition Regulation; Electronic Contracting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation to remove any barriers to the use of Electronic Data Interchange (EDI) in Government contracting.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 28, 1994, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405.

Please cite FAR case 91–104 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott at (202) 501–0168 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule will clarify that electronic data interchange may be used, if authorized by the contracting officer, to accomplish any contracting action. Electronic data interchange (EDI) is the electronic transfer of formatted information between computers. The proposed rule incorporates a General Accounting Office Advisory Opinion (B–238449) which confirms that EDI transactions can create legally binding contractual obligations in accordance with 31 U.S.C. 1051.

B. Regulatory Flexibility Act

The proposed rule is expected to have a positive impact on small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it will encourage much broader use of EDI in Government contracting. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR parts will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 91–104), in correspondence.

This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 4, 5, 8, 12, 13, 14, 15, 16, 49, 52, and 53

Government procurement.

Dated: December 21, 1993.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 2, 4, 5, 8, 12, 13, 14, 15, 16, 49, 52, and 53 be amended as set forth below:

1. The authority citation for 48 CFR parts 2, 4, 5, 8, 12, 13, 14, 15, 16, 49, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Section 2.101 is amended by adding, in alphabetical order, the definitions "In writing or written" and "Signature" to read as follows:

2.101 Definitions.

* * * * *

In writing or *written* means any worded or numbered expression which can be read, reproduced, and later communicated.

* * * * *

Signature means the discrete, verifiable symbol of an individual which, when affixed to a document with the knowledge and consent of the individual, is legally binding.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

3. Section 4.101 is revised to read as follows:

4.101 Contracting officer's signature.

Only contracting officers shall sign contracts on behalf of the United States. The contracting officer's name and official title shall be typed, stamped, or printed on the contract. The contracting officer normally signs the contract after it has been signed by the contractor. The contracting officer shall ensure that the signer(s) have authority to bind the contractor (see specific requirements in 4.102 of this subpart.

4.201 [Amended]

4. Section 4.201 is amended in paragraph (a) by removing the parenthetical "(see 4.101(b))."; in paragraph (b)(1) by removing the parenthetical "(stamped "DUPLICATE ORIGINAL," see 4.101(b))"; and in paragraph (d) by revising the parenthetical to read "(see 30.601(b))".

5 and 6. Subpart 4.3, consisting of sections 4.300 and 4.301, is added to read as follows:

Subpart 4.3—Electronic Data Interchange

4.300 Definitions.

Electronic data interchange (EDI) is the electronic transfer of formatted information between computers.

4.301 Policy.

(a) EDI is authorized for any action governed by the FAR, unless specifically prohibited by agencies. The use of terms commonly associated with paper transactions (e.g., "copy", "document", "page", "printed", and "stamped") shall not be interpreted to restrict the use of EDI.

(b) Before using EDI in solicitations or contract awards, agencies shall ensure that—

(1) Its intended use will meet the requirements of the FAR or will be supplemented by other media (e.g., paper, microfilm, magnetic disk, etc.) for the purpose of meeting the requirements;

(2) The EDI system provides security features commensurate with the sensitivity of the information being transferred for all levels of protection (secret, confidential, proprietary data, source selection information, etc.). The information shall be protected to the same extent the paper equivalent is required to be protected;

(3) The reliability and availability of the EDI system are commensurate with the risks associated with system failure, and that, if necessary, backup systems are in place;

(4) The rights and responsibilities of all parties involved in the EDI process are clearly defined and agreed upon; and

(5) EDI actions are accomplished in accordance with applicable Federal Information Processing Standards.

7. Section 4.802 is amended by adding paragraph (f) to read as follows:

4.802 Contract files.

* * * * *

(f) Agencies may retain contract files in any medium (paper, electronic, microfilm, etc.) or any combination of media, as long as the requirements of this subpart are satisfied.

PART 5—PUBLICIZING CONTRACT ACTIONS

8. Section 5.207 is amended by adding paragraph (c)(2)(xvi) to read as follows:

5.207 Preparation and transmittal of synopses.

* * * * *

(c) * * *

(2) * * *

(xvi) If the solicitation will be made available to interested parties through electronic data interchange, provide any information necessary to obtain and respond to the solicitation electronically.

* * * * *

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.404–1 [Amended]

9. Section 8.404–1 is amended in the first sentence of paragraph (a) by adding "facsimile, or electronic data interchange," after the word "mailgram,".

10. Section 8.405–2 is amended by revising the first sentence of the introductory paragraph to read as follows:

8.405–2 Order placement.

Ordering offices may use Optional Form 347, an agency-prescribed form, or an electronic data interchange transaction format to order items from schedules and shall place orders directly with the contractor within the limitations specified in each schedule.

* * *

* * * * *

PART 12—CONTRACT DELIVERY OR PERFORMANCE

11. Section 12.103 is amended by adding a sentence to the end of paragraph (e) to read as follows:

12.103 Supplies or services.

* * * * *

(e) * * * If the contract or notice of award is to be transmitted electronically, as provided in subpart 4.3, no days shall be added to the offered delivery data for purposes of evaluation.

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

12. Section 13.204 is amended by revising paragraph (e)(1) to read as follows:

13.204 Purchases under Blanket Purchase Agreements.

* * * * *

(e) * * *

(1) Purchases under BPA's generally should be made orally or via electronic data interchange. When purchases are accomplished orally, written communications may be used to ensure that the Government and the vendor agree concerning the transaction.

* * * * *

13.501 [Amended]

13. Section 13.501 is amended in paragraph (g) by removing the last sentence.

14. Section 13.502 is amended by revising the first sentence of paragraph (c) to read as follows:

13.502 Unpriced purchase orders.

* * * * *

(c) Unpriced purchase orders shall be issued in writing. * * *

15. Section 13.506 is revised to read as follows:

13.506 Unsigned electronic purchase orders.

(a) An unsigned electronic purchase order (EPO) may be issued when the following conditions are present:

(1) Its use is more advantageous to the Government than any other small purchase technique;

(2) It is acceptable to the supplier;

(3) It is approved by the contracting officer;

(4) It does not require written acceptance by the supplier; and

(5) The purchasing office retains all contract administration functions.

(b) When an unsigned EPO is used—

(1) Appropriate clauses shall be incorporated by reference;

(2) Administrative information that is not needed by the supplier shall be placed only on copies intended for internal distribution;

(3) The same distribution shall be made of the unsigned EPO as is made of signed purchase orders; and

(4) No purchase order form is required.

(c) An unsigned EPO may be unpriced if it meets the conditions in 13.502.

PART 14—SEALED BIDDING

14.202–1 [Amended]

16. Section 14.202–1 is amended in paragraph (b)(6) by removing the word "mailing" and inserting "transmittal" in its place.

17. Section 14.203–1 is revised to read as follows:

14.203–1 Transmittal to prospective bidders.

Invitations for bids or presolicitation notices shall be transmitted as specified in 14.205, and shall be provided to others in accordance with 5.102. When a contracting office is located in the United States, any solicitation sent to a prospective bidder located at a foreign address shall be sent by electronic data interchange or international air mail if security classification permits.

14.205–1 [Amended]

18. Section 14.205–1 is amended in the first sentence of paragraph (c) by removing the word "mailed" and inserting "transmitted" in its place.

19. Section 14.303 is amended by revising the first and second sentences of paragraph (a) to read as follows:

14.303 Modification or withdrawal of bids.

(a) Bids may be modified or withdrawn by any method authorized in the solicitation, if notice is received in the office designated in the solicitation not later than the exact time set for opening of bids. Unless proscribed by agency regulations, a telegraphic modification or withdrawal of a bid received in such office by telephone from the receiving telegraph office shall be considered. * * *

* * * * *

20. Section 14.304–1 is amended by revising paragraph (a)(2) to read as follows:

14.304–1 General.

* * * * *

(a) * * *

(2) It was transmitted by any method authorized in the solicitation, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

* * * * *

21. Section 14.401 is amended by revising the second sentence of paragraph (a) to read as follows:

14.401 Receipt and safeguarding of bids.

(a) * * * Except as provided in paragraph (b) of this section, the bids shall be opened or viewed, and shall remain in a locked bid box, a safe, or in a secured, restricted-access electronic bid box. * * *

* * * * *

22. Section 14.402–3 is amended by revising paragraph (a)(1) to read as follows:

14.402–3 Postponement of openings.

(a) * * *

(1) The contracting officer has reason to believe that the bids of an important segment of bidders have been delayed for causes beyond their control and without their fault or negligence (e.g., flood, fire, accident, weather conditions, strikes, or Government equipment blackout or malfunction when bids are due); or

* * * * *

23. Section 14.406–2 is amended in the first sentence of paragraph (b) by removing the word "Correction" and inserting "For other than electronic data interchange (EDI) transmitted bids, correction" in its place; and by adding paragraph (c) to read as follows:

14.406–2 Apparent clerical mistakes.

* * * * *

(c) Correction of EDI bids shall be effected by including in the electronic solicitation file the original bid, the verification request, and the bid verification.

PART 15—CONTRACTING BY NEGOTIATION

24. Section 15.410 is amended by removing the first and second sentences of paragraph (b) and adding, in their place, three new sentences to read as follows:

15.410 Amendment of solicitations before closing date.

* * * * *

(b) The contracting officer shall determine if the closing date needs to be changed when amending a solicitation. If the time available before closing is insufficient, prospective offerors or quoters shall be notified by electronic data interchange, telegram, or telephone of an extension of the closing date. Telephonic and telegraphic notices shall be confirmed in the written amendment to the solicitation. * * *

* * * * *

PART 16—TYPES OF CONTRACTS

25. Section 16.506 is amended by revising paragraph (c) to read as follows:

16.506 Ordering.

* * * * *

(c) Orders may be placed via electronic data interchange (EDI) transactions when permitted under the contract.

* * * * *

PART 49—TERMINATION OF CONTRACTS

26. Section 49.102 is amended in the introductory text of paragraph (a) by adding a new third sentence to read as follows:

49.102 Notice of termination.

(a) * * * When the notice is transmitted via electronic data interchange, the notice shall request notification of receipt by electronic means. * * *

* * * * *

27. Section 49.109–7 is amended in paragraph (b) by adding the words "or via EDI" after the parenthetical phrase "(return receipt requested)" and a sentence at the end of the paragraph to read as follows:

49.109–7 Settlement by determination.

* * * * *

(b) * * * If the notice is transmitted via EDI, the notice shall request notification of receipt by electronic means.

* * * * *

28. Section 49.601–2 is amended by revising the third sentence of the introductory paragraph to read as follows.

49.601–2 Letter notice.

* * * This notice shall be sent by certified mail, return receipt requested, or by electronic data interchange, with notification of receipt to be transmitted electronically. * * *

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

29. Section 52.212–1 is amended in the heading of the clause by revising the date, by adding in paragraph (b) a new sentence following the fourth sentence, and removing "(R 7–104.92(b) 1974 APR)", "(R 1–1.316–5)", and "(R 1–1.316–4(c))" following "(End of clause)" to read as follows:

52.212–1 Time of delivery.

* * * * *

Time of Delivery (Date)

* * * * *

(b) * * * If the contract or notice of award is to be transmitted electronically, no days will be added to the offered delivery date.

* * *

* * * * *

30. Section 52.212–2 is amended in the heading of the clause by revising the date, by adding in paragraph (b) a new sentence following the fourth sentence, and removing "(R 7–104.92(c) 1974 APR)", "(R 1–1.316–5(c))" and "(R 1–1.316–4(c))" following "(End of clause)" to read as follows:

52.212–2 Desired and required time of delivery.

* * * * *

Desired and Required Time of Delivery (Date)

* * * * *

(b) * * * If the contract or notice of award is to be transmitted electronically, no days will be added to the offered delivery date.

* * *

* * * * *

31. Section 52.214–5 is amended in the heading of the provision by revising the date and adding paragraph (d) to read as follows:

52.214–5 Submission of bids.

* * * * *

Submission of Bids (Date)

* * * * *

(d) Bids, modifications, and withdrawals transmitted via electronic data interchange will not be considered unless authorized in the solicitation.

32. Section 52.214–7 is amended by revising the date of the provision and paragraph (a)(2), removing the last sentence of paragraph (g) and inserting two sentences in its place, and adding paragraph (h) to read as follows:

52.214–7 Late submissions, modifications, and withdrawals of bids.

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (Date)

(a) * * *

(2) Was transmitted by a method authorized in the solicitation, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

* * * * *

(g) * * * If the solicitation authorizes transmission via electronic data interchange (EDI), bids may be withdrawn by electronic notice received at any time before the exact time set for receipt of bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs either a receipt for the bid or, for EDI transactions, the Government's acknowledgement that the bid has been withdrawn.

(h) If electronic transmission of bids is authorized in the solicitation, paragraphs (a)(1), (a)(3), (c), and (e) of this provision do not apply to such bids.

33. Section 52.214–23 is amended in the heading of the provision by revising the date, paragraphs (a)(2) and (c), and adding paragraph (g) to read as follows:

52.214–23 Late submissions, modifications, and withdrawals of technical proposals under two-step sealed bidding.

* * * * *

Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Date)

(a) * * *

(2) Was transmitted by a method authorized in the solicitation, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation;

* * * * *

(c) Technical proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before the exact time set for receipt of bids under step two. If the solicitation authorizes facsimile bids, technical proposals may be withdrawn via facsimile received at any time before the exact time set for receipt of bids under step two, subject to the conditions specified in the provision entitled "Facsimile Bids." If the solicitation authorizes transmission via electronic data interchange (EDI), technical proposals may be withdrawn by electronic notice received at any time before the exact time set for receipt of bids under step two. Technical proposals may be withdrawn in person by the submitter or the submitter's authorized representative if, before the exact time set for receipt of bids in step two, the identity of the person requesting withdrawal is established and that person signs either a receipt for the technical proposal or, for EDI transactions, the Government's acknowledgement that the technical proposal has been withdrawn.

* * * * *

(g) If electronic transmission of technical proposals is authorized in the solicitation, paragraphs (a)(1), (a)(3), (b), (d), and (f) of this provision do not apply to such technical proposals.

34. Section 52.214–32 is amended in the heading of the provision by revising the date, and by revising paragraphs (a) and (e) to read as follows:

52.214–32 Late submissions, modifications, and withdrawals of bids (overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (Overseas) (Date)

(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it was transmitted by a method authorized in the solicitation, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

* * * * *

(e) Bids may be withdrawn by written notice or telegram (including mailgram) received at any time before the exact time set for receipt of bids. If the solicitation authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision entitled "Facsimile Bids." If the solicitation authorizes transmission via electronic data interchange (EDI), bids may be withdrawn by electronic notice received at any time before the exact time set for receipt of bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs either a receipt for the bid or, for EDI transactions, the Government's acknowledgment that the bid has been withdrawn.

35. Section 52.214–33 is amended in the heading of the provision by revising the date and paragraphs (a)(1) and (c) to read as follows:

52.214–33 Late submissions, modifications, and withdrawals of technical proposals under two-step sealed bidding (overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Overseas) (Date)

(a) * * *

(1) Was transmitted by a method authorized in the solicitation, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

* * * * *

(c) Technical proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before the exact time set for receipt of bids under step two. If the solicitation authorizes facsimile bids, technical proposals may be withdrawn via facsimile received at any time before the exact time set for receipt of bids under step two, subject to the conditions specified in the provision entitled "Facsimile Bids." If the solicitation authorizes transmission via electronic data interchange (EDI), technical proposals may be withdrawn by electronic notice received at any time before the exact time set for receipt of bids under step two. Technical proposals may be withdrawn in person by the submitter or the submitter's authorized representative if, before the exact time set for receipt of bids in step two, the identity of the person requesting withdrawal is established and that person signs either a receipt for the technical proposal or, for EDI transactions, the Government's acknowledgment that the technical proposal has been withdrawn.

* * * * *

36. Section 52.215–9 is amended in the provision heading by revising the date, redesignating paragraph (d) as (e), and adding a new paragraph (d) to read as follows:

52.215–9 Submission of Offers.

* * * * *

Submission of Offers (Date)

* * * * *

(d) Electronic data interchange transmitted offers, modifications, and withdrawals will not be considered unless authorized in the solicitation.

* * * * *

37. Section 52.215–10 is amended in the heading of the provision by revising the date, by revising paragraphs (a)(2) and (h), and adding paragraph (i) to read as follows:

52.215–10 Late Submissions, Modifications, and Withdrawals of Proposals.

* * * * *

Late Submissions, Modifications, and Withdrawals of Proposals (Date)

* * * * *

(a) * * *

(2) Was transmitted by a method authorized in the solicitation, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation;

* * * * *

(h) Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision entitled "Facsimile Proposals." If the solicitation authorizes transmission via electronic data interchange (EDI), proposals may be withdrawn by electronic notice received at any time before award. Proposals may be withdrawn in person by an offeror or an authorized representative if, before award, the representative's identity is made known and the representative signs either a receipt for the proposal or, for EDI transactions, the Government's acknowledgment that the proposal has been withdrawn.

(i) If electronic transmission of proposals is authorized in the solicitation, paragraphs (a)(1), (a)(3), (d), and (f) of this provision do not apply to such proposals.

38. Section 52.215–36 is amended in the heading of the provision by revising the date and paragraphs (a)(1) and (f) to read as follows:

52.215–36 Late Submissions, Modifications, and Withdrawals of Proposals (Overseas).

* * * * *

VOL
58
ISS
2
4
9
DE
30
1993
UMI

Late Submissions, Modifications, and Withdrawals of Proposals (Overseas) (Date)

(a) * * *

(1) Was transmitted by a method authorized in the solicitation, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

* * * * *

(f) Proposals may be withdrawn by written notice or telegram (including mailgram) received at any time before award. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile at any time before award, subject to the conditions specified in the provision entitled "Facsimile Proposals." If the solicitation authorizes transmission via electronic data interchange (EDI), proposals may be withdrawn by electronic notice received at any time before award. Proposals may be withdrawn in person by an offeror or an authorized representative if, before award, the representative's identity is made known and the representative signs either a receipt for the proposal or, for EDI transactions, the Government's acknowledgment that the proposal has been withdrawn.

PART 53—FORMS

39. Section 53.105 is amended by adding paragraph (c) to read as follows:

53.105 Computer generation.

* * * * *

(c) Transactions accomplished by electronic data interchange involve the transmission of data using standard transaction sets. When necessary to reduce electronic transactions to FAR prescribed standard or optional form paper equivalents, agencies may computer-generate any standard or optional form in accordance with paragraph (a) of this section.

[FR Doc. 93–31594 Filed 12–29–93; 8:45 am]

BILLING CODE 6820–34–M

federal register

Thursday
December 30, 1993

Part VI

Department of Education

34 CFR Part 668
Student Assistance General Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of revised effective date; final regulations.

SUMMARY: In the **Federal Register** of July 23, 1993, the Secretary amended the Student Assistance General Provisions regulations, 34 CFR part 668, by adding paragraphs (c) and (d) to § 668.8 and by adding § 668.9. (58 FR 39618–39623). The Secretary added these provisions to eliminate an abusive practice under the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (title IV, HEA programs). The Secretary is delaying the effective date of these amendments to July 1, 1994 as a result of a statutory change to the Higher Education Act of 1965, as amended (HEA).

EFFECTIVE DATE: July 1, 1994. Sections 668.8 (c) and (d) and 668.9 take effect for award years that begin on or after July 1, 1994 and, for the Federal Family Education Loan (FFEL) programs, for periods of enrollment beginning on or after July 1, 1994.

Under the Federal Pell Grant Program, if a student enrolls in a payment period that is scheduled to begin before July 1, 1994 and end on or after July 1, 1994, and the student's institution places that payment period in the 1994–95 award year under 34 CFR 690.64, the institution must calculate the student's Federal Pell Grant for that payment period using §§ 668.8 (c) and (d) and 668.9.

With respect to the FFEL programs, loan amounts for loan applications certified for periods of enrollment beginning on or after July 1, 1994 must be calculated using §§ 668.8 (c) and (d) and 668.9.

When §§ 668.8 (c) and (d) and 668.9 become effective, these provisions will govern the determination of program eligibility and calculation of the amount of title IV, HEA program assistance that may be awarded to any student enrolled in an eligible program for award years beginning with award year 1994–95.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Allen, U.S. Department of Education, 400 Maryland Avenue, SW., room 4318, Regional Office Building 3, Washington, DC 20202. Telephone (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 6 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: When the regulatory amendments were published in the **Federal Register** of July 23, 1993, they became effective 45 days after that date, on September 7, 1993. However, the Secretary indicated that those provisions would not apply for approximately six months, i.e. until January 1, 1994, with regard to educational programs that institutions offered to students prior to September 7, 1993.

On July 23, 1993, as a result of changes made to the Higher Education Act of 1965, as amended (HEA), by the Higher Education Amendments of 1992, Pub. L. 102–325, the Secretary believed that section 482(c) of the HEA, which describes the effective date of regulations governing programs authorized under title IV of the HEA, did not apply to those regulatory amendments. However, section 482(c) was recently amended by the Higher Education Technical Amendments of 1993, Public Law 103–208. As a result, section 482(c) explicitly provides for the first time that the provisions of section 482(c) apply to part G of title IV of the HEA. Accordingly, the Secretary believes that under amended section 482(c), §§ 668.8 (c) and (d) and 668.9 become effective on July 1, 1994, and therefore, the Secretary delays the effective date of these provisions to July 1, 1994. (The other regulatory changes made in the July 23, 1993 **Federal Register** publication were merely technical clarifying changes that qualify as "interpretative rules" not subject to section 482(c) of the HEA.)

Waiver of Rulemaking

Because the Secretary is delaying the effective date of these provisions as a result of a statutory requirement, the Secretary finds, in accordance with 5 U.S.C. 553(b)(B), that the solicitation of public comment on this change in the effective date would be impracticable and contrary to the public interest.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Stafford Loan Program; 84.032 Federal PLUS Program; 84.032 Federal Supplemental Loans for Students Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.069 State Student Incentive Grant Program; 84.268 Federal Direct Student Loan Program; and 84.272 National Early Intervention Scholarship and Partnership Program. Catalog of Federal Domestic Assistance Number for the Presidential Access Scholarship Program has not been assigned.)

Dated: December 23, 1993.

Richard W. Riley,

Secretary of Education.

[FR Doc. 93–31823 Filed 12–29–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
December 30, 1993

Part VII

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Safety Standards for Explosives at Metal and Nonmetal Mines; Final Rule

VOL 58 ISS 249 DE 30 1993 UMI

VOL 58 ISS 249 DEC 30 1993 UMI

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

RIN 1219–AA17

Safety Standards for Explosives at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule revises and clarifies the stayed provisions of the Mine Safety and Health Administration's (MSHA) safety standards for explosives at metal and nonmetal mines which were promulgated on January 18, 1991, (56 FR 2070). The final rule defines "barrier," "blast site," "magazine," and "storage facility," and addresses the storage of packaged blasting agents; the location of explosive material storage facilities; vehicles transporting explosive material; primer protection; loading and blasting; double trunklines in nonelectric initiation systems; excessive temperatures; and burning explosive material. For the convenience of the reader, MSHA has published the full text of the explosives standards for metal and nonmetal mines in this document.

EFFECTIVE DATE: This document is effective December 30, 1993, except for each amendatory instruction 4 of parts 56 and 57 which is effective January 31, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The final rule contains no information collection paperwork requirements subject to the Paperwork Reduction Act of 1980.

II. Rulemaking Background

On January 18, 1991, MSHA published a final rule in the **Federal Register** (56 FR 2070) revising its safety standards for explosives at metal and nonmetal mines. The regulation set safety measures to address explosive hazards that may be present when persons use or work near explosive material at metal and nonmetal mines. For instance, the regulation prohibited certain actions to avoid premature detonations. It also specified correct procedures to be followed when working with explosive material. These standards were scheduled to take effect on March 19, 1991. However, on March 7, 1991, after further review of information received regarding several provisions of the final rule, MSHA extended the effective date until May 20, 1991 (56 FR 9626).

On April 10, 1991, MSHA stayed until further notice the effective date of several provisions of the final rule and reopened the rulemaking record (56 FR 14470). The stayed provisions were: The definition of the term "blast site" in §§ 56/57.6000; the first sentence of paragraph (b) of §§ 56/57.6130 on explosive material storage facilities; paragraph (a)(1) of §§ 56/57.6131 on location of explosive material storage facilities and appendix I to Subpart E—MSHA Tables of Distances; paragraph (b) of §§ 56/57.6306 on loading and blasting; and paragraph (a) of §§ 56/57.6501 on nonelectric initiation systems. The Agency received numerous comments from the industry requesting that the final rule be reconsidered. Based on these comments, on May 17, 1991, MSHA stayed the effective date of the final rule until July 16, 1991 (56 FR 22825).

On July 15, 1991, the Agency extended the stay of the effective date of the final rule until September 13, 1991 (56 FR 32091). This extension of the effective date did not affect the April 10, 1991 stay.

In order to conduct supplemental rulemaking on the issues raised in the provisions stayed on April 10, 1991, as well as in other provisions of the rule listed below, the Agency issued a one-year, partial administrative stay of the final rule on September 12, 1991 (56 FR 46500). Included within this one-year administrative stay were those provisions stayed on April 10, 1991, (56 FR 14470) and the following provisions in 30 CFR parts 56 and 57: §§ 56/57.6202(a)(1) on vehicles; §§ 56/57.6304 (b) on primer protection; §§ 56/57.6306 (a), and (c) through (g) on loading and blasting; §§ 56/57.6902 (b) on excessive temperatures; and §§ 56/57.6903 on burning explosive material. The remaining standards of the January 18, 1991, final rule became effective on November 1, 1991.

The one-year administrative stay was scheduled to expire on October 1, 1992, however on September 24, 1992, (57 FR 44256), MSHA extended the administrative stay until July 1, 1993. The final standards under the stay were re-proposed for public comment on October 16, 1992 (57 FR 47524). A public hearing was held on April 15, 1993 (58 FR 14492) in Washington, DC. The rulemaking record closed on May 7, 1993. Thereafter, the Agency determined that an additional extension of the partial administrative stay was necessary in order to re-examine the rulemaking record, and all testimony submitted at the public hearing. Accordingly, on June 7, 1993 (58 FR 31908), MSHA extended the administrative stay until December 31, 1993.

These final eight standards for explosives at metal and nonmetal mines in this final rule are based on full consideration of the entire rulemaking record regarding these issues, including materials discussed or relied upon in the January 1991 final regulation, as well as the October 16, 1992 proposal, the public hearing record, and all written comments and exhibits received.

To serve the interests of the mining community, MSHA has republished the full text of subpart E of 30 CFR parts 56 and 57 as they will read January 31, 1994.

III. Discussion and Summary of the Final Rule

A. General Discussion

Historically, hazards associated with the storage, transportation, and use of explosive materials have been a leading cause of serious injuries and fatalities in metal and nonmetal mines. Precautions to safeguard against these hazards are an essential part of any effective mine safety program. The final rule provisions found in 30 CFR parts 56 and 57, subpart E, in effect since November 1, 1991, focus upon hazards associated with using or working near explosive materials at metal and nonmetal mines. The supplemental standards in this final rule clarify and more fully address the recognized precautions and procedures necessary to avert the hazards common to handling explosive materials. Upon the promulgation of this final rule, the mining community will have a unified set of safety regulations for the storage, transport, and use of explosive material at metal and nonmetal mines.

B. Deletions

As mentioned in the September 12, 1991, (56 FR 46500) revision and republication of the final rule, several then existing regulations were reinstated to respond to the hazards left unaddressed by the stayed final rule provisions. These reinstated provisions were scheduled to expire on December 31, 1993 (58 FR 31908) but now will expire on January 31, 1994. The following provisions found in 30 CFR parts 56 and 57 will be removed on the effective date of this final rule: §§ 56/57.6140 on location of magazines; §§ 56/57.6220 on maintenance and operation of transport vehicles; §§ 56/57.6320 on blasthole charging; §§ 56/57.6330 on protection of personnel at blast site; §§ 56/57.6331 on burning charges; § 57.6375 on loading and blast site restrictions; and § 57.6382 on blasting in shafts or winzes.

This final rule deletes the definition of "magazine" in existing §§ 56/57.2 and replaces it with a new definition within subpart E. In addition, the MSHA Tables of Distances in appendix I to subpart E are also deleted from the final rule. MSHA has cross referenced the Table of Distances for Storage of Explosive Materials, and the Table of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents found in the Bureau of Alcohol, Tobacco, and Firearms (BATF) storage regulations in subpart K of 27 CFR §§ 55.218 and 55.220. MSHA will continue to enforce these tables on behalf of the BATF in accordance with the guidelines contained in the BATF/MSHA Interagency Agreement, published on April 15, 1980 (45 FR 25564). So that both mine operators and miners are fully aware of these requirements, MSHA will make the tables available at any MSHA Metal and Nonmetal Safety and Health district office. A copy of these tables will be mailed out with this final rule.

This final rule also removes paragraph (a) of §§ 56/57.6501 on the use of double trunklines or loop systems for nonelectric initiation systems. The remaining paragraphs in §§ 56/57.6501 are redesignated to reflect the removal of paragraph (a).

C. Section-by-Section Analysis

The following section-by-section analysis explains the final rule and its effect on existing standards. The standards in part 56 apply to all surface metal and nonmetal mines; those in part 57 apply to underground and surface areas of underground metal and nonmetal mines.

"Definitions"

Sections 56/57.6000 Definitions

"Blast site." The term, "blast site," describes the area where safety precautions must be taken during the loading of blastholes. In contrast to the "blast area," the "blast site" is considerably smaller in size. The intention underlying the "blast site" concept is the protection of miners engaged in blasthole loading and miners engaged in other non-blasting activities close to the loading process.

As published in the 1991 regulation and stayed on April 10, 1991, the "blast site" definition in §§ 56/57.6000 was:

> The area where explosive material is handled during loading, including the perimeter formed by the blastholes and 50 feet (15.2 meters) in all directions from loaded holes. The 50-foot (15.2-meter) requirement also applies in all directions along the full depth of the hole.

In § 57.6000 of the 1991 regulation, the "blast site" definition for underground areas included the additional sentence:

> In underground mines, 15 feet (4.6 meters) of solid rib or pillar can be substituted for the 50-foot (15.2-meter) distance.

MSHA's surface and underground "blast site" definition was modeled after the consensus industry definition of "blast site" published by the Institute of Makers of Explosives (IME) in its Safety Library Publication No. 12, "Glossary of Commercial Explosives Industry Terms," January 1985.

Many commenters objected to the Agency's "blast site" definition in the 1991 regulation stating that the application of the 50-foot distance (15.2-meter) requirement of the blast site definition to §§ 56/57.6306(b), loading and blasting, was too restrictive and would have eliminated currently accepted mining methods, such as vertical crater retreat mining (VCR). VCR mining is a horizontal, flat-back variation of sublevel stoping using spherical crater charges to break the ore. Blasting is carried out at the base of vertical holes, making horizontal cuts and advancing upward. (Mitchell, S.T., 1981, "Vertical Crater Retreat Stoping as applied at the Homestake Mine." Design and Operation of Caving and Sublevel Stoping Mines, Chapter 44, D.R. Stewart, ed., SME–AIME, New York, pp. 609–626).

Another objection was that the application of the definition would severely affect the mining cycle in some mines by precluding necessary activities such as surveying, gas checks, and reopening plugged holes, from occurring at the blast site. Other commenters objected to the 50-foot (15.2-meter) requirement claiming that it was unnecessary and unreasonable in that it provided no additional level of safety for miners.

Some commenters indicated that they saw no need for a provision which would prohibit mucking operations even if loaded holes were close by. Other commenters indicated that the solid pillar alternative for underground mines did not provide enough flexibility, urging instead the use of broken rock or rubble.

On November 1, 1991, MSHA issued a program policy letter (No. P91–IV–1), to notify the mining community of its intention to define "blast site" consistent with the mining industry's traditional understanding of the term. "Blast site" was defined to mean "the area where explosive materials are being loaded, including the area where loading is completed or partially completed."

The current definition, however, does not fully address the hazard resulting from the unintended excursion onto the blast site by a mine vehicle engaged in activities other than loading and blasting. Nor does the current definition provide any safety buffer or zone between the "area where explosive materials are being loaded" and, for example, the area where mucking and other activities occur Accordingly, on October 16, 1992, (57 FR 47524) the Agency proposed a new definition of "blast site" based upon the best available evidence.

In acknowledgment that some mines could not feasibly comply with the 50-foot (15.2-meter) blast site requirement because of the mine configuration, the 1992 proposal provided an alternative method of compliance that permitted a minimum distance of 30 feet (9.1 meters) instead of the 50-foot (15.2-meter) requirement if the perimeter of loaded holes was demarcated with a berm or barrier. MSHA intended the berm or barrier to serve primarily to warn miners working or passing by the blast site. In defining the term "berm," the Agency referenced §§ 56/57.9000 of subpart H—Loading, Hauling, and Dumping. There, the term "berm" is defined as "a pile or mound of material along an elevated roadway capable of moderating or limiting the force of a vehicle in order to impede the vehicle's passage over the bank of the roadway." In the preamble to the 1992 proposal, the Agency defined the term "barrier" as a material object or objects that separates, keeps apart, or demarcates (Webster's New International Dictionary, 3rd ed., 1966).

As indicated above, the 50-foot (15.2-meter) distance requirement is derived from the definition of "blast site" stated in the January 1985, IME Safety Library Publication No. 12, "Glossary of Commercial Explosives Industry Terms." IME, the principal trade association for the commercial explosives industry, provides technical information and recommendations concerning explosive materials. Its members both make and use explosive materials. Often the mine operator will contract with an explosive manufacturer to purchase both explosives and

VOL 58 ISS 249 DEC 30 1993 UMI

contractor services to handle the blasting operations. Because IME's wealth of knowledge of the use and handling of explosives, MSHA has based both its 1991 regulation and its 1992 proposal on the "blast site" concept found in IME's 1985 and 1991 literature.

Commenters overwhelmingly suggested the deletion of the term "berm" from the proposed "blast site" definition to avoid confusion with the term "berm" found in subpart H of parts 56 and 57. These commenters pointed out that because the intent of the Agency was to demarcate the blast site and not to impede vehicular traffic in the regular manner that "berms" are used on haulage roads, the term "barrier" should be defined in the final rule to permit the use of movable warning objects.

MSHA agrees and has deleted the term "berm" from the final rule. The final rule does clarify what is required to demarcate a blast site by defining the term "barrier" as "a material object, or objects that separates, keeps apart, or demarcates in a conspicuous manner such as cones, a warning sign, or tape."

Some commenters requested that the Agency clarify that unloaded blastholes are not part of the blast site. MSHA does not intend for unloaded blastholes to be a part of the blast site unless they are within the 50-foot (15.2-meter) or 30-foot (9.1-meter) perimeter established by the requirement.

Some commenters suggested that an alternative to the 50-foot (15.2-meter) requirement for underground mines (§ 57.6000) be considered by the Agency to accommodate alternative mining methods, such as the block-caving system (BCS), used at some mines. Specifically, these commenters stated that the application of the 50-foot (15.2-meter) requirement in the blast site definition to §§ 56/57.6306(b), loading and blasting, would reduce productivity and increase operating costs by eliminating access to production blocks.

BCS is a method of caving in which a thick block of ore is partly cut off from surrounding blocks by a series of drifts, one above the other, or by boundary shrinkage stopes. The ore block is then undercut by removing a slice of ore or a series of slices separated by small pillars underneath it. The isolated, unsupported block of ore breaks and caves under its own weight. The broken ore is drawn off from below, and as the caved mass moves downward, due to continued drawing of broken ore from below, it is broken further by pressure and attrition. The overlying capping caves and follows the broken ore downward. (Thrush, Paul W. A Dictionary of Mining, Minerals, and Related Terms, First Edition, U.S. Government Printing Office, Washington, D.C., 1968, pp. 114).

In response to these commenters' concerns, the final rule allows the use of at least 6 feet (1.8 meters) of solid rib or pillar, including concrete reinforcement of at least 10 inches (254 millimeters), with overall dimensions of not less than 6 feet (1.8 meters), in underground mines using a block-caving or similar system.

MSHA believes that the final rule in all cases will provide miners with adequate health and safety protection against the hazards arising from their presence near blast sites. Moreover, the mining cycle will continue uninterrupted because the 6-foot (1.8-meter) alternative distance requirement should not affect access to mine production blocks. All the distance requirements of the final rule assure that neither miners nor their vehicles will interfere or unintentionally make contact with the explosive materials used at the blast site. Also, the final rule minimizes the possibility of injury to miners from a premature detonation and should reduce the likelihood that miners' activities such as drilling or mucking could cause a premature detonation.

"Magazine." The 1991 regulation did not include a definition for the term "magazine." Under existing §§ 56/57.2, magazine is "a facility for the storage of explosives, blasting agents, or detonators." Because some commenters expressed confusion with respect to the use and meaning of the terms "magazine" and "storage facility" in the 1991 regulation, MSHA clarified the meaning of the term in its November 1, 1991, program policy letter (No. P91–IV–1). In that letter, "magazine" was defined as "a Bureau of Alcohol, Tobacco, and Firearms (BATF) Type 1 or Type 2 storage facility."

It appeared to some commenters that MSHA used "magazine" and "storage facility" synonymously, and they questioned how these terms differed. Several commenters stated that the magazine requirements of §§ 56/57.6132 prohibited the use of BATF Type 4 storage facilities, citing paragraph (a)(3) of the standard which requires magazines to be bullet-resistant. Because BATF Type 4 storage facilities are not required to be bullet-resistant, commenters believed that MSHA's use of "magazine" in the 1991 regulation departed from the BATF definition. This was not MSHA's intent.

In response to these commenters' concerns, MSHA is defining the term "magazine" in §§ 56/57.6000 consistent with the 1992 proposed rule as "a bullet-resistant, theft-resistant, fire-resistant, weather-resistant, ventilated facility for the storage of explosives and detonators (BATF Type 1 or Type 2 facility)." The proposed definition was substantively the same as MSHA's policy letter definition but replaced the references to BATF Type 1 and 2 storage facilities with the BATF Type 1 and 2 construction criteria.

BATF defines "magazine" in 27 CFR 55.11 as "[a]ny building or structure, other than an explosives manufacturing building, used for storage of explosive materials." In 27 CFR 55.207 and 55.208, BATF lists the construction requirements for Type 1 and Type 2 magazines, respectively. BATF provisions specify that these two types of facilities must be "bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and ventilated."

Sections 56/57.6132 of MSHA's 1991 regulation list the construction criteria required for all magazines. Sections 56/57.6132 require a magazine to be structurally sound, noncombustible or the exterior covered with fire resistant material, bullet-resistant, made of non-sparking material on the inside, ventilated to control dampness and excessive heating, posted with appropriate Department of Transportation (DOT) placards or other appropriate warning signs. In addition, magazines are required to be kept clean and dry, unlighted or lighted by devices that are specifically designed for use in magazines and that do not create a fire or explosion hazard, unheated or heated only with devices that do not create a fire or explosion hazard, locked when unattended, and used exclusively for the storage of explosive material except for essential non-sparking equipment used for the operation of the magazine. Metal magazines have additional specific construction requirements. Also, all magazines must have electrical switches and outlets located on the outside of the magazine.

The term "magazine" appears in existing §§ 56/57.6100, separation of stored explosive material; §§ 56/57.6130, explosive material storage facilities; and §§ 56/57.6132, magazine requirements. Throughout these sections, MSHA's intent is to distinguish the circumstances under which a magazine and storage facility are used. For example, paragraph (a) of §§ 56/57.6130 requires that detonators and explosives, not blasting agents, be stored in magazines; while paragraph (b) states that blasting agents may be stored either "in a magazine or other facility" but "[f]acilities other than magazines used to store blasting agents shall contain only blasting agents." As used, "magazine" refers to a type of storage facility for highly sensitive explosive materials such as explosives and detonators which are subject to sympathetic detonation. Because blasting agents are not as highly sensitive as detonators and explosives, blasting agents need not be stored in a magazine or a facility that meets the construction criteria of §§ 56/57.6132. Accordingly, a "magazine" is a structure that has additional and more rigorous construction requirements than a "storage facility" in general.

In summary, MSHA's definition of the term "magazine" is consistent with BATF regulations. In fact, the Agency's definition of "magazine" is modeled after BATF's definition except that it explicitly lists within the definition the construction criteria required for magazines used for the storage of explosive materials.

"Storage facility." "Storage facility" was not previously defined by MSHA but the Agency considered that it was commonly understood in the mining community. As previously stated commenters generally found MSHA's use of "storage facility" in the 1991 regulation confusing. In response, MSHA defined "storage facility" in a policy letter (No. P91–IV–1), dated November 1, 1991, to mean "a BATF Type 4 or Type 5 storage facility." In order to clarify those provisions which addressed the storage of explosive materials, the Agency defined 'storage facility' in §§ 56/57.6000 of the 1992 proposal, to mean "the entire class of structures used to store explosive materials. A 'storage facility' used to store blasting agents corresponds to a BATF Type 4 or 5 storage facility."

A few commenters objected to the use of the term "storage facility." These commenters found the use of the term "storage facility" confusing in that it precluded the storage of non-mass detonating detonators as permitted by 27 CFR part 55, subpart K of the BATF regulations. They suggested deleting the term "storage facility" to be consistent with BATF regulations.

MSHA has considered all written comments submitted and all testimony presented on the proposed definition. The Agency's final rule retains the definition of "storage facility" because it is necessary to clarify the use of this term in other existing explosives standards. MSHA's final rule conforms to BATF's construction criteria and as such, the definitions found in this final rule are consistent with BATF regulations. The final standard does not prohibit the use of BATF Type 4 facilities and does not require that such facilities be bullet-resistant.

As stated above, BATF does not have a definition for the term "storage facility" and currently uses the term "magazine" to describe the entire class of structures used to store explosive materials. As a result, the terms "storage facility" and "magazine" are used by BATF synonymously. However, BATF's regulations require that all explosives be stored in a magazine, the type of magazine being determined by the characteristics of the stored product (27 CFR 55.203). For example, BATF Type 1 facilities are permanent magazines used for the storage of high explosives; BATF Type 2 facilities are mobile and portable indoor and outdoor magazines used for the storage of high explosives; BATF Type 4 facilities are magazines used for the storage of low explosives, blasting agents and non-mass detonating detonators; BATF Type 5 facilities are magazines used for the storage of blasting agents. The BATF provisions specify that Type 1 and Type 2 magazines must be "bullet-resistant, fire-resistant, theft-resistant, and ventilated" (27 CFR 55.207). MSHA's final rule uses the same criteria. However, in the final rule MSHA uses the term "magazine" to correspond to BATF's use of Type 1 and Type 2 facilities, while it uses the term "storage facility" to correspond to BATF's use of Type 4 and Type 5 facilities. MSHA's final rule does not require BATF Type 4 storage facilities to be bullet-resistant. The only storage facilities that need to be bullet-resistant are magazines (BATF Type 1 and 2 facilities) used for the storage of highly sensitive explosive material such as explosives and detonators which are subject to sympathetic detonation. However, MSHA's definition of "magazine" does not prevent the use of magazines to store the full range of explosive materials.

Several existing explosives standards apply to storage facilities in general, for example, §§ 56/57.6101 on areas around explosive material storage facilities, §§ 56/57.6131(a)(2) on location of explosive material storage facilities, and §§ 56/57.6800 on maintenance of storage facilities. As used in these standards, "storage facility" refers to both magazines and other structures used to store explosive material. In contrast, §§ 56/57.6130(c) addresses particularly those storage facilities used to store bulk blasting agents and no other kind of explosive material.

In summary, MSHA believes that the definition of "storage facility" as clarified by this final rule, provides mine operators and miners with objective criteria, consistent with BATF, relative to storage requirements for the entire range of explosive materials. Further, MSHA believes that this definition is based on experience in the mining community and is therefore necessary to improve health and safety of miners.

"Storage-Surface and Underground"

Sections 56/57.6130 Explosive Material Storage Facilities

Sections 56/57.6130 address the storage requirements for all types of explosive material, including blasting agents. The 1991 regulation, as well as the 1992 proposal evolved from the former §§ 56/57.6001 which required detonators and explosives other than blasting agents to be stored in magazines. Only the first sentence of paragraph (b) of the 1991 regulation was stayed.

Paragraph (b) specified the storage facility requirements for packaged blasting agents. Among other provisions, it required that the magazines or storage facilities for packaged blasting agents be ventilated. This new ventilation requirement was based on data indicating that the possibility of dampness and excessive heat build-up in unventilated facilities create a hazard, thus increasing the likelihood of product deterioration and combustible atmospheres. The supporting data are found in: (1) United States Bureau of Mines, "Evaluation of Surface Storage Facilities for Explosives, Blasting Agents, and Other Explosive Materials," "§ 5.5 Flammable Atmospheres in AN-FO Drop Trailers," page 52 (June 1, 1983); and (2) United States Bureau of Alcohol, Tobacco, and Firearms, "ATF—Explosives Law and Regulations," page 14 (June 1990) (Defining "explosive materials" expansively to include all items listed in chapter 27, § 55.23 of the "Code of Federal Regulations"). "Ventilation" is discussed on page 39 of the BATF publication which states: "Ventilation is to be provided to prevent dampness and heating of stored explosive materials."

Most commenters objected to the ventilation requirement of the 1991 regulation stating that it would require ventilation of mobile storage facilities such as drop trailers. These commenters noted that drop trailers are not ventilated when built and that BATF and DOT do not require and more importantly do not allow ventilation of mobile transport vehicles. Additionally, these commenters stated that requiring ventilation of drop trailers could damage the integrity of the storage vehicles.

The preamble to the 1991 regulation indicates that paragraph (b) applies to drop trailers when used to store packaged blasting agents. Typically, drop trailers are used both to transport and to store explosive material, and the explosive material distributors often allow the purchaser/operator to use the distributor's drop trailer as a temporary storage facility. Once the trailer is empty, the distributor removes it from mine property.

Some drop trailers, however, become permanent storage facilities. When this happens, it is MSHA's experience that the stored explosive material is not always used in the order in which it is stored, for example, stored longest used first. The result is that some of the blasting agents functionally deteriorate before being used. Product deterioration, in turn, may result in misfires which pose the hazard of unintended detonation when the unexploded blasting agents are subjected to impacts during the mucking or crushing process. The 1991 regulation, however, made no distinction between drop trailers used as permanent storage facilities and those used as temporary storage facilities. The ventilation requirement was to apply to both types of drop trailers.

The 1992 proposal retained the 1991 regulation language but exempted from paragraph (b) appropriately licensed, road-worthy vehicles used both to transport and to store blasting agents. Any former mobile vehicle which was not licensed by the appropriate authorities as road-worthy, however, remained subject to the requirements of paragraph (b). Under the proposal, the appropriate licensing entity may be Federal, State, or local and the license must be a current one. MSHA's proposed rule recognized that the hazards to be guarded against were more likely to arise where drop trailers were used as permanent storage facilities. The regulation also reflected commenters' concerns regarding the problems of ventilating mobile vehicles owned by the distributor and used at the mine site for temporary storage. In addition, the 1992 proposed rule reflected the Agency's lack of definitive data supporting the need to ventilate such trailers.

Commenters supported MSHA's proposed standard, and the final rule retains the ventilation requirement of paragraph (b). The final rule will not reduce the protection provided to miners because the nature of the hazards encountered in transit and storage differ. During transit, there is little opportunity for excessive heat build-up and product deterioration because increased air circulation cools the moving vehicle. Ventilation of mobile drop trailers may pose a potential hazard because sparks and other sources of fire encountered on the open road could enter into the cargo space and thereby detonate the explosive material.

In contrast, the opportunity for heat build-up and product deterioration are much greater in a permanent storage facility which is unventilated. Accordingly, this final rule requires ventilation for all permanent storage facilities used to store packaged blasting agents to adequately protect miners. This requirement is consistent with BATF regulations.

Sections 56/57.6131 Location of Explosive Material Storage Facilities

Sections 56/57.6131(a)(1) of the 1991 regulation addressed the placement of explosive material storage facilities and magazines on mine property. This standard was derived from former §§ 56/57.6020, "Magazine requirements," which was a comprehensive standard regarding construction, location, and housekeeping criteria for surface magazines. Paragraph (a) of former §§ 56/57.6020, reinstated and renumbered as §§ 56/57.6140, "Magazine location," provides that "[m]agazines shall be located in accordance with the current American Table of Distances for storage of explosives." This provision, however, does not govern the distances between explosive material storage facilities and occupied buildings on mine property; rather, it governs the distances between explosive material storage facilities and structures, roads, and inhabited buildings off mine property.

In the 1991 regulation, MSHA intended to enhance safety for miners on mine property by requiring operators to comply with MSHA-created tables of separation distances which would have applied on mine property. Stayed §§ 56/57.6131(a)(1) specified that explosive material storage facilities to be located in accordance with the distances and markers specified in the MSHA tables. These tables incorporated the pertinent parts of the IME "American Table of Distances" (ATD), February 1986, and the National Fire Protection Association's "Recommended Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents (NFPA 495–1990, appendix B). Currently, MSHA enforces the ATD on behalf of BATF under the BATF/MSHA Interagency Agreement.

The 1991 rule also included performance language which would allow storage facilities without sufficient area at the mine site to comply with appendix I to be located so that the forces generated by a storage facility explosion would not create a hazard to occupants in mine buildings or to physical structures on mine property such as dams or electric substations. The only change MSHA made to the ATD and NFPA tables' separation distances was in the categories of structures and equipment that were to be located away from explosive storage facilities.

The Agency received many comments objecting to MSHA's application of the separation distances to structures on mine property as opposed to its intended application to structures off of mine property. Many commenters objected, stating that MSHA failed to gather necessary technical data to support the selected distances or the cited hazards (for example, dangers associated with explosions near mine openings, electrical substations, dams, ventilation fans). Other commenters believed that compliance with the new MSHA tables would force placement of storage facilities for explosive materials unnecessarily and even dangerously close to non-mine structures and roads. Moreover, a significant portion of the metal and nonmetal industry, with its diversified methods of mining could not feasibly comply with the regulation. Also, these commenters remarked that relocation costs would be wholly out of proportion to any incremental benefit to safety.

IME, the originator of the ATD, specifically objected to MSHA's application of the ATD because the organization never intended nor conducted any tests for usage of the distances with respect to occupied structures on mine property. Another criticism of the stayed provision was that for the first time MSHA would enforce distance requirements on mine property, whereas before MSHA only cited violations of the separation distances on behalf of BATF, and then only with respect to structures, roads, and inhabited buildings off mine property. Commenters further stated that MSHA's version of the ATD would cause confusion and, thereby, diminish miner safety.

Upon careful consideration of the safety and hazard data, operators' compliance costs, and issues of feasibility and enforcement, MSHA proposed to delete the requirement of §§ 56/57.6131(a)(1) in its 1992 proposal. The safety and hazard data collected over the last twenty years indicate that there have been few unplanned detonations of magazines or explosive material storage facilities and even fewer such detonations that have resulted in injury or death to miners. MSHA requested that commenters submit any supporting data for retaining the tables in the new final rule. However, the Agency received no comments in response to this request.

The majority of commenters supported MSHA's proposed deletion of paragraph (a)(1) of §§ 56/57.6131; however, one commenter suggested that MSHA retain its tables of distances or in the alternative provide guidance as to what BATF regulations it intended to enforce.

MSHA's technical personnel recently visited a number of mining operations in order to gather more information pertaining to compliance problems of the industry with regard to this regulation. MSHA concurs with commenters' views that application of the separation distances to occupied buildings and structures on mine property would cause a number of operators to go to considerable expense to relocate explosive material storage facilities within the mine site when the Agency cannot demonstrate supporting data or appreciable benefit at this time. Therefore, MSHA's final rule deletes the MSHA-created table of distances and revises paragraph (a)(1) of §§ 56/57.6131. Revised paragraph (a)(1) of §§ 56/57.6131 of this final rule requires operators to locate certain facilities on mine property in a manner so that the forces generated by a storage facility explosion would not create a hazard to occupants in mine buildings and would not damage dams or electric substations. In addition, existing paragraph (a)(2) requires operators to locate these facilities at a sufficient distance from powerlines so that the powerlines, if damaged, would not contact the storage facility. This last requirement provides assurance that energized powerlines, when severed by an accident or a storm, will not cause a fire at the storage facility or introduce an electrical current which could cause detonation of its contents. MSHA appreciates that this standard uses performance language and each facility will have to be evaluated on a case-by-case basis. Examples of factors which the Agency contemplates considering are the types and quantity of explosive materials, the period of time which explosives are stored in the storage facility, and the space restrictions of the particular mine site.

Operators should note that MSHA will continue to enforce the ATD on behalf of BATF in accordance with the guidelines contained in the BATF/MSHA Interagency Agreement, published on April 15, 1980 (45 FR 25564) with respect to objects and people located or travelling off mine property. MSHA has cross referenced the BATF's regulations in this final rule solely for the purpose of informing operators of the BATF's requirements with regard to storage facilities. So that both mine operators and miners are fully aware of these requirements, MSHA will make the tables available at any MSHA Metal and Nonmetal Safety and Health district office. A copy of these tables will be mailed out with this final rule.

Paragraph (b) of §§ 56/57.6131, currently in effect, provides notice that operators should be aware of the BATF regulations in title 27 CFR part 55 which are applicable to explosive material storage facilities. This paragraph addresses inadvertent damage to a magazine and detonation of its explosive material content caused by flyrock from a blast or by electrical sources generated from severed powerlines. The requirement that storage facilities be located outside of the blast area is a new provision to address accidents, fatalities and injuries that have occurred in recent years from flyrock.

"Transportation"

Sections 56/57.6202 Vehicles

MSHA stayed §§ 56/57.6202(a)(1) of the 1991 regulation. However, the rest of the standard which addresses the hazard of an unplanned detonation of explosive material during transport on mine property became effective on November 1, 1991. Paragraph (a)(1) focuses on the structural integrity of the cargo space and the overall maintenance of the vehicle. Explosive material being transported on mine property may detonate as a result of vehicle fires, vehicle accidents, or vehicle construction with inappropriate materials.

Many operators convert older, less reliable mine vehicles into explosive material transport vehicles thereby increasing the hazard of an unplanned detonation of explosive material during transport. To address this hazard, stayed paragraph (a)(1) of the 1991 regulation required that vehicles transporting explosive material be "structurally sound and well-maintained." Some commenters found the terms "structurally sound" and "well-maintained" vague and requested that MSHA clarify its intent.

In response to these commenters' concerns, MSHA proposed to revise this provision by adding the requirement that vehicles carrying explosive materials be maintained in good condition. The proposed provision also referred the operator to the mandatory performance criteria of subpart M—Machinery and Equipment, §§ 56/57.1400 *et seq.* Subpart M addresses the maintenance requirements for all self-propelled mobile equipment.

Commenters supported the language of the proposed standard. However, one commenter stated that the preamble discussion of the term "good condition" was too restrictive. This commenter stated that operators should have the flexibility to maintain the vehicles in a condition that provides safety to miners. It was this commenter's opinion that requiring compliance with Federal, State, and local licensing requirements could greatly inhibit the operator's ability to provide a safe mine-worthy vehicle because of the disparity of laws from state to state. The Agency believes that such disparity does not exist in regard to the basic safety requirements set by states.

The final rule is identical to the proposal. The phrase "good condition" is derived from former §§ 56/57.6046, which was reinstated and renumbered as §§ 56/57.6220, which required that vehicles containing explosives or detonators be maintained in good condition and operated at a safe speed in accordance with all safe operating practices. MSHA intends the term "good condition" to mean that the vehicle is road-worthy which means that it would pass the licensing requirements of Federal, State, and local authorities for over-the-road use. It also must be repaired and maintained in accordance with the requirements of subpart M of §§ 56/57.1400 so as to be free of any hazards that may pose a danger to miners. With this clarification in the final rule's preamble, the Agency believes that it has eliminated any confusion.

"Use"

Sections 56/57.6304 Primer Protection

MSHA stayed paragraph (b) of §§ 56/57.6304 which prohibits the dropping of cartridges of explosive materials exceeding 4 inches (100 millimeters) in diameter directly on a primer unless the blasthole was filled with or under water. The hazard addressed is that associated with the practice of dropping large cartridges of explosives or blasting agents directly onto primers, causing impact accidents or misfires as the result of the separation of the primer components. The language of the 1991 regulation contradicted the preamble because it permitted cartridges of 4 inches (100 millimeters) in diameter to be dropped, whereas the preamble

VOL 58 ISS 249 DEC 30 1993 UMI

correctly reflected MSHA's intent that cartridges 4 inches (100 millimeters) and larger not be dropped. The 1992 proposal corrected the oversight to reflect MSHA's long standing position that cartridges with diameters of 4 inches (100 millimeters) or larger pose an unreasonable risk of unplanned detonation when dropped directly onto primers.

Additionally, the 1992 proposal clarified that the drop loading of slit packages or slit bags of prill or water gel on the primer would be permitted because the Agency did not have any evidence to suggest that this industry practice was unsafe. MSHA specifically requested comments and any information regarding this practice.

In response, many commenters requested that MSHA insert the qualifier "rigid" before "cartridges" to identify the type of cartridges that cannot be dropped on the primer in order to protect the primer from impact. Other commenters recommended that MSHA allow the practice of drop loading slit packages or slit bags of prill or water gel or emulsions on the primer where the blasthole is filled with or under water since these types of cartridges are not considered rigid. Finally, some commenters requested that MSHA modify the standard to replace the term "filled with or under water" with "sufficient depth of water" because the depth of water needed to protect the primer may vary depending upon the dimensions of the blasthole.

MSHA agrees with the commenters and has revised the final standard to reflect these concerns by adding the term "rigid" to clarify what type of cartridges are not allowed to be dropped on the primer. Additionally, the standard has been amended to replace the phrase "filled with or under water" with "sufficient depth of water." The Agency acknowledges that the depth of water needed to protect the primer would vary depending upon the parameters of the particular blasthole. These changes do not diminish miner safety because they only clarify the language of the 1991 regulation and the Agency's intent.

MSHA received numerous comments on the practice of drop loading slit packages or slit bags of prill or water gel directly on the primer. Commenters agreed with MSHA's proposed standard as written and suggested that the Agency amend the standard to add the requirement that slit packages of prill, water gel or emulsions are considered non-rigid and, as such, may be dropped on the primer. The final standard allows the drop loading of such materials because the Agency does not have any evidence that this industry practice involves a hazard of detonating the primer.

Sections 56/57.6306 Loading and Blasting

This standard is a consolidation of several former and new provisions, and addresses the precautions to be taken during the loading and blasting process. As discussed in this preamble under the definition of "blast site," commenters found the application of the "blast site" definition to paragraph (b) of the 1991 regulation too restrictive. Thus, MSHA stayed the entire standard pending this rulemaking.

The final rule replaces standards which were renumbered and reinstated by MSHA to address loading and blasting hazards until promulgation of this final rule. Former §§ 56/57.6094 on blasthole charging were renumbered as §§ 56/57.6320; former §§ 56/57.6160 on protection of personnel at blast site were renumbered as §§ 56/57.6330; former § 57.6175 on loading and blast site restrictions was renumbered as § 57.6375; and former § 57.6182 on blasting in shafts or winzes was renumbered as § 57.6382.

Each paragraph of §§ 56/57.6306 of the 1991 regulation addressed different hazards encountered in the entire loading and blasting cycle. After re-examining each provision, the Agency determined that the provisions which warranted revision were paragraphs (b) on activity restrictions during loading and blasting; (c) on the period of time allowed to begin and end the loading process; and (e) on the period of time allowed between the end of loading and the start of blasting. MSHA did not find a basis for revising the substance of paragraph (a) on vehicle excursions onto explosive material; (d) on the removal of personnel from the blast area; (f) on barring entry to the blast area; and (g) on post-blast inspections. For clarity, however, MSHA did make non-substantive word deletions or editorial revisions to paragraphs (a), (d), (f) and (g). MSHA specifically requested comments on all the proposed changes.

Consistent with the 1992 proposal, MSHA is deleting the term "otherwise" from paragraph (a) for clarity and conciseness. Paragraph (a) ensures proper treatment of explosive material and initiating systems. Explosive material can be prematurely detonated if struck by moving vehicles or contacted by electrically-powered equipment. Commenters endorsed this proposed change.

The Agency proposed to revise paragraph (b) in response to considerable objections from the mining industry about the prohibition of activities at the blast site. MSHA proposed to delete the term "occasional," which appeared in the 1991 regulation before the term "haulage," and to continue to permit haulage activity near the base a highwall being loaded if no other haulage access existed and has done so in this final rule. Haulage under this condition is occasional. MSHA's proposal also added a statement to permit surveying, stemming, and reopening of holes at the blast site if reasonable care is exercised. MSHA expressly authorized these activities because they are closely related to the loading and blasting process and restricting them from the blast site would be unreasonable. The final rule allows these activities at the blast site. Thus, where necessary, operators could perform haulage, stemming, reopening of holes, and surveying activities at the blast site so long as they undertake precautions to minimize the risk of coming into contact with explosive material.

MSHA specifically requested comments on additional non-blasting activities that could be safely undertaken at the blast site. In response, commenters wanted MSHA to allow sampling as an activity that may be safely performed within the blast site. Commenters also requested that MSHA clarify the sentence "haulage activity is permitted near the base of the highwall provided no other haulage access exists." These commenters were concerned that in instances where the only access road is located within the blast site, production would come to a complete halt pending completion of the loading and blasting process.

Some commenters requested that the Agency clarify what MSHA considered to be "near the base of the highwall." The term "near" is considered by the Agency to be anything closer than the 50-foot (15.2-meter) requirement found in the definition of "blast site" in §§ 56/57.6000. Additionally, if the blast site consists of the alternative 30 feet (4.6 meters), the blast site must be demarcated with a barrier to inform workers and miners of the danger of approaching the blast site.

After careful consideration of all comments and testimony received, MSHA is amending paragraph (b) to include sampling of geology as an activity that may be performed safely within the blast site. The Agency believes that sampling of geology does not pose a hazard because vehicles used for this purpose are not driven through the blast site. Thus, safety is not compromised by permitting this particular activity to take place within the blast site. Currently, MSHA does not have any evidence suggesting that such industry practice is unsafe.

Numerous comments were received on paragraph (c) of the 1991 regulation which required that loading be a continuous operation with certain exceptions to avoid the hazard of prolonged sleeping of explosive material. This provision on blasthole charging was an outgrowth of former §§ 56/57.6094, reinstated and renumbered as §§ 56/57.6320 pending promulgation of this final regulation. The former standards required blasting to occur within 72 hours of loading the hole unless prior approval from MSHA was obtained.

Commenters, however, objected to the 1991 requirement that loading be "continuous except for emergency situations, shift changes, and up to two consecutive idle shifts." These commenters suggested this provision be replaced with a 72-hour requirement similar to that of the old regulation. Commenters stated that the two-shift limitation was both too restrictive and vague, suggesting that a "shift" varied in duration at each mine site. Furthermore, the two-shift limitation did not take into consideration the occurrence of atmospheric conditions such as lightning or weather inversions as well as other uncontrollable occurrences that necessitate a delay in the loading process.

In the 1992 proposal, MSHA proposed to replace the two-shift limitation with the former 72-hour rule thus allowing a period of 72 hours to begin and end the loading process which had to be continuous. The proposal also addressed circumstances beyond the operator's control such as unfavorable weather conditions, large equipment failure, or other emergency situations that might necessitate an interruption in the loading process. If an interruption in the loading process would exceed the 72-hour period, the proposal required that operators notify the appropriate MSHA District Office of the nature and cause of the delay.

Although some commenters agreed with the standard as proposed, others found the 72-hour requirement arbitrary and suggested its deletion. Specifically, these commenters stated that because the Agency already required that loading be continuous, there was no need for the 72-hour requirement. Moreover, they questioned whether the Agency had any supporting data to demonstrate that the notification requirement would enhance safety. The Agency has found the commenters position persuasive and has not included the 72-hour notification requirement in the final rule. This change does not lessen safety because paragraph (c) of the final rule continues to require that the loading process be continuous, thus avoiding misfires and other hazards associated with the deterioration of explosives stemming from their placement in boreholes for an extended period of time.

The final rule also does not include the term "emergency" as proposed to clarify that only circumstances beyond the operator's control justify an interruption in the loading process. For example, normal time lapses for shift changes are not beyond the operator's control and therefore, are not to be considered as a justification for interruption of the loading process.

Proposed paragraph (d) addresses when persons must leave the blast area for their safety. This paragraph was not intended to prevent persons from performing activities necessary in the connection of the surface blasting circuits. The Agency proposed no substantive changes to paragraph (d) of the 1991 regulation. However, in the 1992 proposal, MSHA did suggest replacing the term "hook-up" with the term "connection" to clarify the standard. Commenters supported the proposed changes and they are made in the final rule.

Paragraph (e) of the 1991 regulation addresses the need to initiate blasts "without undue delay." In contrast to the hazard addressed in paragraph (c), this provision applied to the time period between the end of loading and the start of blasting. Once all the circuits have been connected, conditions at the blast site reach their maximum potential to cause injury or death if a partial detonation occurs. MSHA's intent, as discussed in the preamble of the 1991 regulation, was to have the loaded circuits connected and fired as soon as practicable.

Commenters found paragraph (e) to be too restrictive and vague. For example, some commenters stated that the phrase "undue delay" provided little guidance as to the time allowable and suggested that the phrase would result in uneven enforcement. Other commenters found the provision unresponsive to the occurrence of unanticipated conditions which necessitate interruption and delay.

MSHA's 1992 proposed rule clarified the meaning of "undue delay" to respond to commenters' concerns. The proposal would have required that operators notify the appropriate MSHA District Office if the delay between the completion of the connection of circuits and the start of blasting would exceed 72 hours. The proposed addition provided that circumstances beyond the operator's control such as unfavorable weather conditions, large equipment failure, or other emergency situations might warrant an interruption in firing the blasts. This notice exception was intended to apply to those circumstances over which the operator had no control and which the operator had not caused in the first instance. MSHA intended that such notice be the result of good faith efforts of the operator who attempted to adhere to the 72-hour requirement but for the reasons cited could not commence firing the blasts.

The majority of commenters supported the standard as proposed. However, a few commenters requested the deletion of the 72-hour notification requirement of paragraph (e) because they were confused by the 72-hour notification requirement of paragraph (c). Proposed paragraph (e) would have required that operators notify the appropriate MSHA District Office if the delay between the end of loading and the start of blasting would exceed 72 hours. At the April 15, 1993 public hearing, MSHA stated that notification is required only in those instances when for some unforeseeable circumstance the firing of the blast would take place more than 72 hours after the connection of the circuits. The Agency explained that this requirement is necessary because once all the circuits have been connected, conditions at the blast site reach their maximum potential to cause injury or death if a partial detonation occurs. After the Agency's intent was made clear at the public hearing, commenters supported the 72-hour notification requirement as proposed. Accordingly, paragraph (e) of the final rule is identical to the proposal with an additional clarification. The final rule deletes the term "emergency" from the paragraph to clarify that only circumstances beyond the operator's control may justify a delay in the firing of the blast.

MSHA proposed no changes for paragraphs (f) and (g) and the final rule requires that operators institute specific safety measures immediately prior to and after the blasting process. Paragraph (f) requires ample warning, clear escape routes from the blast area, and all access to the blast area to be protected against entry. The standard provides that access to the blast area be guarded by persons, or barricaded. Numerous accidents have occurred from the failure to clear or guard the blast area. Paragraph (g) requires post-blast examinations to minimize hazards to persons who will perform subsequent work in the area. It should be noted, however, that in the

VOL 58 ISS 249 DE 30 1993 UMI

1992 proposal, paragraph (g) was edited for clarity. Accordingly, paragraphs (f) and (g) of the final rule are the same as the proposal.

"Nonelectric Blasting-Surface and Underground"

Sections 56/57.6501 Nonelectric Initiation Systems

Under the 1991 regulation, this section consolidated several former provisions which addressed misfire hazards encountered in nonelectric initiating systems. The only portion of §§ 56/57.6501 stayed was paragraph (a), a new requirement. Paragraph (a) was derived from the double trunkline or loop system requirement of former §§ 56/57.6163, concerning detonating cord blasting, and §§ 56/57.6164, concerning trunklines. The double trunkline or loop system is a procedure or system to reduce the potential for cut-offs and resultant misfires.

In the 1991 regulation, MSHA required a double trunkline or loop system to be used with newer types of nonelectric initiation systems, such as shock tube, to ensure multiple initiation paths, so that a cut-off of one lead would not disable the blasting sequence. MSHA believed that the components of several nonelectric initiating systems then on the market had a tendency to fragment and interrupt blasting.

Many commenters submitted responses and data opposing this new requirement stating that MSHA could not substantiate the double trunkline or loop system requirement. One commenter asserted that paragraph (a) substantially increased the exposure of miners to the hazards associated with being present on a loaded blast site due to the time required to hook-up the system. Other commenters stated that such systems would be prohibitively costly and, therefore, were not economically feasible.

After staying paragraph (a) of the 1991 regulation, MSHA carefully reviewed all comments and data received. As a result, the Agency proposed to delete paragraph (a) in the 1992 proposal. The Agency found no persuasive statistical data to support the double trunkline or loop system requirement when using shock tube, and therefore, mandated its use only under existing paragraph (c)(2) which requires a double trunkline or loop system when using detonating cord in multiple row blasting.

Some commenters agreed with the Agency's proposed deletion of paragraph (a) and stated that its deletion would not diminish miner safety. Other commenters suggested the retention of paragraph (a) stating that the double trunkline or loop system is a more reliable system.

MSHA's final rule deletes paragraph (a) as proposed and redesignates the remaining paragraphs of §§ 56/57.6501. Although failure rates of complex shot layouts can be reduced through arrangements such as the double trunkline system, the Agency has no persuasive statistical data to substantiate its need. Therefore, the final rule deletes this requirement as proposed.

"General Requirements"

Sections 56/57.6902 Excessive Temperatures

Hot holes are boreholes with temperatures higher than ambient temperatures. When explosives are loaded into these hot boreholes unplanned detonations may occur due to the elevated temperatures in the hot boreholes (usually exceeding 120 to 130 °C), concentration of sulfides, availability of air, moisture, and bacteria.

Sections 56/57.6902 of the 1991 regulation address the placement of explosive materials inside hot holes where heat could cause premature detonation. Paragraph (b) specifically requires the use of "special precautions" when blasting sulfide ores. In response to commenters' requests for clarification of the phrase "special precautions," MSHA stayed paragraph (b) of the 1991 regulation.

MSHA clarified its intent regarding the meaning of "special precautions" in its 1992 proposal. Proposed paragraph (b) specified three special precautions that must be undertaken prior to the placement of explosive material inside sulfide-bearing boreholes. The first precaution listed required that the temperature of the blasthole be measured before the introduction of explosive material. MSHA believes that it is a safe and reasonable practice to measure the temperature of any hole suspected of being hot before loading because extreme temperatures inside the hole may set off detonators and explosives placed inside.

The second precaution of proposed paragraph (b) required that once the holes were loaded, initiation of the blast had to proceed within 12 hours after the last hole had been loaded. In blasting sulfide ores, limiting the time explosive material sits in hot holes after loading and before blasting minimizes the risks of premature detonation.

The third proposed precaution required the operator to take any other precautions as deemed necessary to prevent the hazard of premature detonation. These other "special precautions" for use when blasting sulfide ores may include one or more of the following: Using ANFO or other ammonium nitrate-based explosive products containing inhibitors; using plastic hole liners or bagged explosive material; when stemming, using material that is other than drill cuttings; avoiding loading some hot holes entirely if feasible; eliminating the use of a detonator in the hole and priming the detonating cord with a booster; and loading holes in suspected hot areas last and firing promptly. The Agency encourages and expects operators to use as many safety procedures and special precautions as warranted.

The majority of commenters suggested that MSHA clarify the language used in paragraph (b) to reflect the Agency's intent that the stemming activity referred to in proposed paragraph (b) did not apply to any blasthole that used stemming. In addition, other commenters requested that the "special precautions" list found in the preamble to the 1992 proposal also be included in the standard. Finally, a commenter requested that the Agency change the 12-hour requirement in proposed paragraph (b)(2) to 24 hours stating that 24 hours is a safe period for the detonation of suspected reactive blastholes.

Paragraph (b) of the final rule is promulgated as proposed with some editorial changes made for clarity and conciseness. After carefully reviewing all comments and testimony submitted, the Agency determined that the addition of a "special precautions" list in the standard itself is not appropriate. MSHA believes that including the list in the regulation may limit other types of special precautions that could be necessary to prevent the hazard of premature detonation. Additionally, the Agency believes that changing the 12-hour requirement of paragraph (b)(2) to 24 hours would diminish the safety of miners because it increases the time that explosives are left inside the hot holes. This, in turn, may result in premature detonations which are extremely hazardous.

The presence of pyrite and of other sulfides in sulfide-bearing boreholes can cause problems during the loading process because of the relative ease with which most of these sulfides weather and oxidize at ambient conditions, in the presence of air and moisture. When a combination of sulfide minerals that includes pyrite is present, many reactions take place. Most of these reactions are highly exothermic; meaning that they are formed with the evolution of heat. Because of the poor thermal conductivity of the associated strata, when the resultant heat is dissipated, the strata heat up. The increased temperatures pose a blasting hazard. When explosives are loaded into hot boreholes they can deteriorate if left in place for an extended time before they are set off. Unplanned explosions and detonations are the undesirable end results. Moreover, if the amount of pyrite present in the borehole is relatively high and it oxidizes at a fast rate, the mine operator should be aware that an unplanned detonation might occur if the time from loading to firing is sufficient for temperatures in the borehole to rise above 120 to 130 °C.

For the reasons stated above the final rule retains proposed paragraph (b). Because of the hazards associated with premature detonations, the Agency encourages mine operators to use detonators that are more resistant to heat whenever possible.

Sections 56/57.6903 Burning Explosive Material

Sections 56/57.6903 address actions to be taken with burning explosives at the blast site both on the surface and underground. The standard was stayed on September 12, 1991, in response to concerns that the standard would unnecessarily prohibit fighting fires in combustible ore body mines. The provision was derived from former §§ 56/57.6161, which were reinstated and renumbered as §§ 56/57.6331, "burning charges." Those standards prohibit persons from remaining in the area where explosive material was suspected of burning. An incomplete detonation in a blasthole can lead to the slow burning of explosives in that hole. IME recommended and MSHA agreed, as stated in the preamble of the 1991 regulation, that these locations should not be approached for at least one hour after the burning has stopped. In the case of fire in situations involving a quantity of explosive materials, such as a haulage or bulk-loading vehicle, evacuation to one-half mile in all directions was recommended by IME (1990 Emergency Response Guidebook, Department of Transportation, P5800.4—Guide 46).

The comments received on this provision reflected a general approval of MSHA's treatment of the hazards associated with burning explosives at the blast site. Some commenters, however, remarked that any burning or suspected burning subsequent to a blast at mines with combustible ore bodies is more likely to be burning ore bodies rather than burning explosive material. Commenters stated that if such burning were left unattended, the result would be uncontrollable fire and mine ore body loss. These commenters requested that the standard expressly allow necessary personnel to remain to fight fires where combustible ore bodies are involved. In an attempt to address this particular situation, the preamble of the 1991 regulation stated that a request for a petition for modification was the best avenue to address the unique situation of fires in mines with combustible ore bodies. The 1991 regulation did not permit any exception to the evacuation requirement.

After the publication of the 1991 regulation, the Agency received numerous comments requesting that the Agency reconsider its position. These commenters stated that a petition for modification would not be as efficient a method to address the special circumstance of fires in combustible ore bodies because of the imminent risk of losing the whole mine if a fire were to occur. In response to these commenters, MSHA proposed in the 1992 proposal an exception to the personnel evacuation requirement. However, upon further review of additional comments submitted, MSHA has concluded that the proposed personnel evacuation requirement has no current application as there are no active oil shale mines.

Accordingly, the final standard retains the language of the 1991 regulation. In the event that oil shale mining is resumed, the Agency will address this unique situation on a case-by-case basis through the petition for modification process. The Agency believes that by retaining the language of the 1991 regulation and addressing the unique situation of oil shale mines through the petition for modification process, the safety of miners is not compromised and the needs of the industry are met.

IV. Executive Order 12866 and the Regulatory Flexibility Act

In accordance with Executive Order 12866 and the Regulatory Flexibility Act, this combined Regulatory Impact Analysis (RIA) and Regulatory Flexibility Analysis indicates that the final rule will not result in major cost increases nor have an effect of $100 million or more on the economy. Also, a substantial number of small mines are not affected significantly.

MSHA has found that this final rule reduces the cost of compliance without diminishing miner safety. The primary reason for and benefit of these changes to the existing standards is to clarify compliance responsibilities, to provide some alternative compliance options, and to increase compliance.

MSHA has determined that this final rule eliminates the compliance cost projected for §§ 56/57.6501 because it eliminates the specific requirement that double trunklines or loop systems be used in specified nonelectric initiation systems. The final rule is performance-oriented and allows the operator to determine the appropriateness of using such systems. In addition, the revision of §§ 56/57.6130 allows certain types of trailers used for the temporary storage of explosive material to remain unvented, which will result in some minimal cost savings. MSHA calculates that the changes in these two standards reduces the projected annual compliance cost of the 1991 regulation by about $290,000, which is due to the change in §§ 56/57.6501.

The change to the definition of "blast site," provides an alternative method of compliance. This also clarifies the intent of existing §§ 56/57.6306 as to the activities allowed to be performed within the blast site. In general, the addition of definitions for "magazine," and "storage facilities, as well as the addition of specific clarifying language in §§ 56/57.6131, §§ 56/57.6202, §§ 56/57.6304, §§ 56/57.6306, §§ 56/57.6902 and §§ 56/57.6903, will not change significantly the typical compliance costs of these provisions, and does not reduce miner safety in comparison with the existing rule. Increased flexibility and clarity, however, can reduce costs by allowing the mine operator to use the most cost-effective method of compliance. For example, more flexibility in the types of activities allowed within the blast site and an alternative for defining the perimeter of the blast site, potentially can save compliance costs especially at small mines where the mining cycle may have fewer options for alternate activities. These cost savings will be small and limited to certain specific mines.

List of Subjects in 30 CFR Parts 56 and 57

Explosives, Metal and nonmetal mining, Mine safety and health.

Dated: December 22, 1993.

Richard L. Brechbiel,

Acting Assistant Secretary for Mine Safety and Health.

Parts 56 and 57, subchapter N, chapter I, title 30 of the Code of Federal Regulations is amended as follows:

PART 56—[AMENDED]

1. The authority citation for part 56 is revised to read as follows:

Authority: 30 U.S.C. 811, 956, 961.

2. The expiration date published in the **Federal Register** of June 7, 1993 (58 FR 31908), for §§ 56.6140, 56.6220, 56.6320, 56.6330, and 56.6331 is extended to January 31, 1994.

3. The delay of effectiveness published in the **Federal Register** of June 7, 1993 (58 FR 31908), for the definition of "blast site" in § 56.6000, the first sentence in § 56.6130(b), and §§ 56.6131(a)(1), 56.6202(a)(1), 56.6304(b), 56.6306, 56.6501(a), 56.6902(b), 56.6903 and appendix I to subpart E, is delayed until January 31, 1994.

4. Effective January 31, 1994, subpart E of part 56 is revised to read as follows:

Subpart E—Explosives

Sec.
56.6000 Definitions.

Storage

56.6100 Separation of stored explosive material.
56.6101 Areas around explosive material storage facilities.
56.6102 Explosive material storage practices.
56.6130 Explosive material storage facilities.
56.6131 Location of explosive material storage facilities.
56.6132 Magazine requirements.
56.6133 Powder chests.

Transportation

56.6200 Delivery to storage or blast site areas.
56.6201 Separation of transported explosive material.
56.6202 Vehicles.
56.6203 Locomotives.
56.6204 Hoists.
56.6205 Conveying explosives by hand.

Use

56.6300 Control of blasting operations.
56.6301 Blasthole obstruction check.
56.6302 Explosive material protection.
56.6303 Initiation preparation.
56.6304 Primer protection.
56.6305 Unused explosive material.
56.6306 Loading and blasting.
56.6307 Drill stem loading.
56.6308 Initiation systems.
56.6309 Fuel oil requirements for ANFO.
56.6310 Misfire waiting period.
56.6311 Handling of misfires.
56.6312 Secondary blasting.
56.6313 Blast site security.

Electric Blasting

56.6400 Compatibility of electric detonators.
56.6401 Shunting.
56.6402 Deenergized circuits near detonators.
56.6403 Branch circuits.
56.6404 Separation of blasting circuits from power source.
56.6405 Firing devices.
56.6406 Duration of current flow.
56.6407 Circuit testing.

Sec.
Nonelectric Blasting

56.6500 Damaged initiating material.
56.6501 Nonelectric initiation systems.
56.6502 Safety fuse.

Extraneous Electricity

56.6600 Loading practices.
56.6601 Grounding.
56.6602 Static electricity dissipation during loading.
56.6603 Air gap.
56.6604 Precautions during storms.
56.6605 Isolation of blasting circuits.

Equipment/Tools

56.6700 Nonsparking tools.
56.6701 Tamping and loading pole requirements.

Maintenance

56.6800 Storage facilities.
56.6801 Vehicle repair.
56.6802 Bulk delivery vehicles.
56.6803 Blasting lines.

General Requirements

56.6900 Damaged or deteriorated explosive material.
56.6901 Black powder.
56.6902 Excessive temperatures.
56.6903 Burning explosive material.
56.6904 Smoking and open flames.

Subpart E—Explosives

§ 56.6000 Definitions.

The following definitions apply in this subpart.

Attended. Presence of an individual or continuous monitoring to prevent unauthorized entry or access.

Barrier. A "material object, or objects that separates, keeps apart, or demarcates in a conspicuous manner such as cones, a warning sign, or tape."

Blast area. The area in which concussion (shock wave), flying material, or gases from an explosion may cause injury to persons. In determining the blast area, the following factors shall be considered:

(1) Geology or material to be blasted.

(2) Blast pattern.

(3) Burden, depth, diameter, and angle of the holes.

(4) Blasting experience of the mine.

(5) Delay system, powder factor, and pounds per delay.

(6) Type and amount of explosive material.

(7) Type and amount of stemming.

Blast site. The area where explosive material is handled during loading, including the perimeter formed by the loaded blastholes and 50 feet (15.2 meters) in all directions from loaded holes. A minimum distance of 30 feet (9.1 meters) may replace the 50-foot (15.2-meter) requirement if the perimeter of loaded holes is demarcated with a barrier. The 50-foot (15.2-meter) and alternative 30-foot (9.1-meter) requirements also apply in all directions along the full depth of the hole.

Blasting agent. Any substance classified as a blasting agent by the Department of Transportation in 49 CFR 173.114a(a). This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Detonating cord. A flexible cord containing a center core of high explosives which may be used to initiate other explosives.

Detonator. Any device containing a detonating charge used to initiate an explosive. These devices include electric or nonelectric instantaneous or delay blasting caps and delay connectors. The term "detonator" does not include detonating cord. Detonators may be either "Class A" detonators or "Class C" detonators, as classified by the Department of Transportation in 49 CFR 173.53, and 173.100. This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Emulsion. An explosive material containing substantial amounts of oxidizers dissolved in water droplets, surrounded by an immiscible fuel.

Explosive. Any substance classified as an explosive by the Department of Transportation in 49 CFR 173.53, 173.88, and 173.100. This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Explosive material. Explosives, blasting agents, and detonators.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Igniter cord. A fuse that burns progressively along its length with an external flame at the zone of burning, used for lighting a series of safety fuses in a desired sequence.

Laminated partition. A partition composed of the following material and minimum nominal dimensions: ½-inch-thick plywood, ½-inch-thick gypsum wallboard, ⅛-inch-thick low carbon steel, and ¼ inch thick plywood, bonded together in that order. Other combinations of material may be used, such as plywood, wood, or gypsum wallboard as insulators, and steel or wood as structural elements, provided that the partition is equivalent to a laminated partition for both insulation and structural purposes as determined by appropriate testing. The Institute of Makers of Explosives (IME) 22 container or compartment, described in IME Safety Library Publication 22 (Jan. 1985), meets the criteria of a laminated partition. This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Loading. Placing explosive material either in a blasthole or against the material to be blasted.

Magazine. A bullet-resistant, theft-resistant, fire-resistant, weather-resistant, ventilated facility for the storage of explosives and detonators (BATF Type 1 or Type 2 facility).

Misfire. The complete or partial failure of explosive material to detonate as planned. The term also is used to describe the explosive material itself that has failed to detonate.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a rating of at least 2–A:10–B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Primer. A unit, package, or cartridge of explosives which contains a detonator and is used to initiate other explosives or blasting agents.

Safety switch. A switch that provides shunt protection in blasting circuits between the blast site and the switch used to connect a power source to the blasting circuit.

Slurry. An explosive material containing substantial portions of a liquid, oxidizers, and fuel, plus a thickener.

Storage facility. The entire class of structures used to store explosive materials. A "storage facility" used to store blasting agents corresponds to a BATF Type 4 or 5 storage facility.

Water gel. An explosive material containing substantial portions of water, oxidizers, and fuel, plus a cross-linking agent.

Storage

§ 56.6100 Separation of stored explosive material.

(a) Detonators shall not be stored in the same magazine with other explosive material.

(b) When stored in the same magazine, blasting agents shall be separated from explosives, safety fuse, and detonating cord to prevent contamination.

§ 56.6101 Areas around explosive material storage facilities.

(a) Areas surrounding storage facilities for explosive material shall be clear of rubbish, brush, dry grass, and trees for 25 feet in all directions, except that live trees 10 feet or taller need not be removed.

(b) Other combustibles shall not be stored or allowed to accumulate within 50 feet of explosive material. Combustible liquids shall be stored in a manner that ensures drainage will occur away from the explosive material storage facility in case of tank rupture.

§ 56.6102 Explosive material storage practices.

(a) Explosive material shall be—

(1) Stored in a manner to facilitate use of oldest stocks first;

(2) Stored according to brand and grade in such a manner as to facilitate identification; and

(3) Stacked in a stable manner but not more than 8 feet high.

(b) Explosives and detonators shall be stored in closed nonconductive containers except that nonelectric detonating devices may be stored on nonconductive racks provided the case-insert instructions and the date-plant-shift code are maintained with the product.

§ 56.6130 Explosive material storage facilities.

(a) Detonators and explosives shall be stored in magazines.

(b) Packaged blasting agents shall be stored in a magazine or other facility which is ventilated to prevent dampness and excessive heating, weather-resistant, and locked or attended. Drop trailers do not have to be ventilated if they are currently licensed by the Federal, State, or local authorities for over-the-road use. Facilities other than magazines used to store blasting agents shall contain only blasting agents.

(c) Bulk blasting agents shall be stored in weather-resistant bins or tanks which are locked, attended, or otherwise inaccessible to unauthorized entry.

(d) Facilities, bins or tanks shall be posted with the appropriate United States Department of Transportation placards or other appropriate warning signs that indicate the contents and are visible from each approach.

§ 56.6131 Location of explosive material storage facilities.

(a) Storage facilities for any explosive material shall be—

(1) Located so that the forces generated by a storage facility explosion will not create a hazard to occupants in mine buildings and will not damage dams or electric substations; and

(2) Detached structures located outside the blast area and a sufficient distance from powerlines so that the powerlines, if damaged, would not contact the magazines.

(b) Operators should also be aware of regulations affecting storage facilities in 27 CFR part 55, in particular, §§ 55.218 and 55.220. This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

§ 56.6132 Magazine requirements.

(a) Magazines shall be—

(1) Structurally sound;

(2) Noncombustible or the exterior covered with fire-resistant material;

(3) Bullet resistant;

(4) Made of nonsparking material on the inside;

(5) Ventilated to control dampness and excessive heating within the magazine;

(6) Posted with the appropriate United States Department of Transportation placards or other appropriate warning signs that indicate the contents and are visible from each approach, so located that a bullet passing through any of the signs will not strike the magazine;

(7) Kept clean and dry inside;

(8) Unlighted or lighted by devices that are specifically designed for use in magazines and which do not create a fire or explosion hazard;

(9) Unheated or heated only with devices that do not create a fire or explosion hazard;

(10) Locked when unattended; and

(11) Used exclusively for the storage of explosive material except for essential nonsparking equipment used for the operation of the magazine.

(b) Metal magazines shall be equipped with electrical bonding connections between all conductive portions so the entire structure is at the same electrical potential. Suitable electrical bonding methods include welding, riveting, or the use of securely tightened bolts where individual metal portions are joined. Conductive portions of nonmetal magazines shall be grounded.

(c) Electrical switches and outlets shall be located on the outside of the magazine.

§ 56.6133 Powder chests.

(a) Powder chests (day boxes) shall be—

(1) Structurally sound, weather-resistant, equipped with a lid or cover, and with only nonsparking material on the inside;

(2) Posted with the appropriate United States Department of Transportation placards or other appropriate warning signs that indicate the contents and are visible from each approach;

(3) Located out of the blast area once loading has been completed;

(4) Locked or attended when containing explosive material; and

(5) Emptied at the end of each shift with the contents returned to a magazine or other storage facility, or attended.

(b) Detonators shall be kept in separate chests from explosives or

VOL 58 ISS 249 DEC 30 1993 UMI

blasting agents, except if separated by 4 inches of hardwood, laminated partition, or equivalent.

Transportation

§ 56.6200 Delivery to storage or blast site areas.

Explosive material shall be transported without undue delay to the storage area or blast site.

§ 56.6201 Separation of transported explosive material.

Detonators shall not be transported on the same vehicle or conveyance with other explosives except as follows:

(a) Detonators in quantities of more than 1000 may be transported in a vehicle or conveyance with explosives or blasting agents provided the detonators are—

(1) Maintained in the original packaging as shipped from the manufacturer; and

(2) Separated from the explosives or blasting agents by 4 inches of hardwood, laminated partition, or equivalent. The hardwood, laminated partition, or the equivalent shall be fastened to the vehicle or conveyance.

(b) Detonators in quantities of 1000 or fewer may be transported with explosives or blasting agents provided the detonators are—

(1) Kept in closed containers; and

(2) Separated from the explosives or blasting agents by 4 inches of hardwood, laminated partition, or equivalent. The hardwood, laminated partition, or equivalent shall be fastened to the vehicle or conveyance.

§ 56.6202 Vehicles.

(a) Vehicles containing explosive material shall be—

(1) Maintained in good condition and shall comply with the requirements of subpart M of this part;

(2) Equipped with sides and enclosures higher than the explosive material being transported or have the explosive material secured to a nonconductive pallet;

(3) Equipped with a cargo space that shall contain the explosive material (passenger areas shall not be considered cargo space);

(4) Equipped with at least two multipurpose dry-chemical fire extinguishers or one such extinguisher and an automatic fire suppression system;

(5) Posted with warning signs that indicate the contents and are visible from each approach;

(6) Occupied only by persons necessary for handling the explosive material;

(7) Attended or the cargo compartment locked, except when parked at the blast site and loading is in progress; and

(8) Secured while parked by having—

(i) The brakes set;

(ii) The wheels chocked if movement could occur; and

(iii) The engine shut off unless powering a device being used in the loading operation.

(b) Vehicles containing explosives shall have—

(1) No sparking material exposed in the cargo space; and

(2) Only properly secured nonsparking equipment in the cargo space with the explosives.

(c) Vehicles used for dispensing bulk explosive material shall—

(1) Have no zinc or copper exposed in the cargo space; and

(2) Provide any enclosed screw-type conveyors with protection against internal pressure and frictional heat.

§ 56.6203 Locomotives.

Explosive material shall not be transported on a locomotive. When explosive material is hauled by trolley locomotive, covered, electrically insulated cars shall be used.

§ 56.6204 Hoists.

(a) Before explosive material is transported in hoist conveyances, the hoist operator shall be notified.

(b) Explosive material transported in hoist conveyances shall be placed within a container which prevents shifting of the cargo that could cause detonation of the container by impact or by sparks. The manufacturer's container may be used if secured to a nonconductive pallet. When explosives are transported, they shall be secured so as not to contact any sparking material.

(c) No explosive material shall be transported during a mantrip.

§ 56.6205 Conveying explosives by hand.

Closed, nonconductive containers shall be used to carry explosives and detonators to and from blast sites. Separate containers shall be used for explosives and detonators.

Use

§ 56.6300 Control of blasting operations.

(a) Only persons trained and experienced in the handling and use of explosive material shall direct blasting operations and related activities.

(b) Trainees and inexperienced persons shall work only in the immediate presence of persons trained and experienced in the handling and use of explosive material.

§ 56.6301 Blasthole obstruction check.

Before loading, blastholes shall be checked and, wherever possible, cleared of obstructions.

§ 56.6302 Explosive material protection.

(a) Explosives and blasting agents shall be kept separated from detonators until loading begins.

(b) Explosive material shall be protected from impact and temperatures in excess of 150 °F when taken to the blast site.

§ 56.6303 Initiation preparation.

(a) Primers shall be made up only at the time of use and as close to the blast site as conditions allow.

(b) Primers shall be prepared with the detonator contained securely and completely within the explosive or contained securely and appropriately for its design in the tunnel or cap well.

(c) When using detonating cord to initiate another explosive, a connection shall be prepared with the detonating cord threaded through, attached securely to, or otherwise in contact with the explosive.

§ 56.6304 Primer protection.

(a) Tamping shall not be done directly on a primer.

(b) Rigid cartridges of explosives or blasting agents that are 4 inches (100 millimeters) in diameter or larger shall not be dropped on the primer except where the blasthole contains sufficient depth of water to protect the primer from impact. Slit packages of prill, water gel, or emulsions are not considered rigid cartridges and may be drop loaded.

§ 56.6305 Unused explosive material.

Unused explosive material shall be moved to a protected location as soon as practical after loading operations are completed.

§ 56.6306 Loading and blasting.

(a) Vehicles and equipment shall not be driven over explosive material or initiating systems in a manner which could contact the material or system, or create other hazards.

(b) Once loading begins, the only activities permitted within the blast site shall be those activities directly related to the blasting operation and the activities of surveying, stemming, sampling of geology, and reopening of holes provided that reasonable care is exercised. Haulage activity is permitted near the base of the highwall being loaded provided no other haulage access exists.

(c) Loading shall be continuous except where adverse circumstances such as unfavorable atmospheric conditions, large equipment failure, or circumstances beyond the operator's control necessitate an interruption in loading.

(d) In electric blasting prior to connecting to the power source and in nonelectric blasting prior to attaching an initiating device, all persons shall leave the blast area except persons in a blasting shelter or other location that protects them from concussion (shock wave), flying material, and gases.

(e) When loading is completed and circuits are connected, the blasts shall be fired without undue delay unless adverse circumstances such as unfavorable atmospheric conditions, large equipment failure, or circumstances beyond the operator's control necessitate delay. If the time between the connection of circuits and the firing of the blast will exceed 72 hours, the operator shall notify the appropriate MSHA District Office before the 72 hours has elapsed.

(f) Before firing a blast—

(1) Ample warning shall be given to allow all persons to be evacuated;

(2) Clear exit routes shall be provided for persons firing the round; and

(3) All access routes to the blast area shall be guarded or barricaded to prevent the passage of persons or vehicles.

(g) No work shall resume in the blast area until a post-blast examination addressing potential blast-related hazards has been conducted by a person with the ability and experience to perform the examination.

§ 56.6307 Drill stem loading.

Explosive material shall not be loaded into blastholes with drill stem equipment or other devices that could be extracted while containing explosive material. The use of loading hose, collar sleeves, or collar pipes is permitted.

§ 56.6308 Initiation systems.

Initiation systems shall be used in accordance with the manufacturer's instructions.

§ 56.6309 Fuel oil requirements for ANFO.

(a) Liquid hydrocarbon fuels with flash points lower than that of No. 2 diesel oil (125° F) shall not be used to prepare ammonium nitrate-fuel oil, except that diesel fuels with flash points no lower than 100° F may be used at ambient air temperatures below 45° F.

(b) Waste oil, including crankcase oil, shall not be used to prepare ammonium nitrate-fuel oil.

§ 56.6310 Misfire waiting period.

When a misfire is suspected, persons shall not enter the blast area—

(a) For 30 minutes if safety fuse and blasting caps are used; or

(b) For 15 minutes if any other type detonators are used.

§ 56.6311 Handling of misfires.

(a) Faces and muck piles shall be examined for misfires after each blasting operation.

(b) Only work necessary to remove a misfire and protect the safety of miners engaged in the removal shall be permitted in the affected area until the misfire is disposed of in a safe manner.

(c) When a misfire cannot be disposed of safely, each approach to the area affected by the misfire shall be posted with a warning sign at a conspicuous location to prohibit entry, and the condition shall be reported immediately to mine management.

(d) Misfires occurring during the shift shall be reported to mine management not later than the end of the shift.

§ 56.6312 Secondary blasting.

Secondary blasts fired at the same time in the same work area shall be initiated from one source.

§ 56.6313 Blast site security.

Areas in which loading is suspended or loaded holes are awaiting firing shall be attended, barricaded and posted, or flagged against unauthorized entry.

Electric Blasting

§ 56.6400 Compatibility of electric detonators.

All electric detonators to be fired in a round shall be from the same manufacturer and shall have similar electrical firing characteristics.

§ 56.6401 Shunting.

Except during testing—

(a) Electric detonators shall be kept shunted until connected to the blasting line or wired into a blasting round;

(b) Wired rounds shall be kept shunted until connected to the blasting line; and

(c) Blasting lines shall be kept shunted until immediately before blasting.

§ 56.6402 Deenergized circuits near detonators.

Electrical distribution circuits within 50 feet of electric detonators at the blast site shall be deenergized. Such circuits need not be deenergized between 25 to 50 feet of the electric detonators if stray current tests, conducted as frequently as necessary, indicate a maximum stray current of less than 0.05 amperes through a 1-ohm resistor as measured at the blast site.

§ 56.6403 Branch circuits.

(a) If electric blasting includes the use of branch circuits, each branch shall be equipped with a safety switch or equivalent method to isolate the circuits to be used.

(b) At least one safety switch or equivalent method of protection shall be located outside the blast area and shall be in the open position until persons are withdrawn.

§ 56.6404 Separation of blasting circuits from power source.

(a) Switches used to connect the power source to a blasting circuit shall be locked in the open position except when closed to fire the blast.

(b) Lead wires shall not be connected to the blasting switch until the shot is ready to be fired.

§ 56.6405 Firing devices.

(a) Power sources shall be capable of delivering sufficient current to energize all electric detonators to be fired with the type of circuits used. Storage or dry cell batteries are not permitted as power sources.

(b) Blasting machines shall be tested, repaired, and maintained in accordance with manufacturer's instructions.

(c) Only the blaster shall have the key or other control to an electrical firing device.

§ 56.6406 Duration of current flow.

If any part of a blast is connected in parallel and is to be initiated from powerlines or lighting circuits, the time of current flow shall be limited to a maximum of 25 milliseconds. This can be accomplished by incorporating an arcing control device in the blasting circuit or by interrupting the circuit with an explosive device attached to one or both lead lines and initiated by a 25-millisecond delay electric detonator.

§ 56.6407 Circuit testing.

A blasting galvanometer or other instrument designed for testing blasting circuits shall be used to test the following:

(a) Continuity of each electric detonator in the blasthole prior to stemming and connection to the blasting line.

(b) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line.

(c) Continuity of blasting lines prior to the connection of electric detonator series.

(d) Total blasting circuit resistance prior to connection to the power source.

VOL 58 ISS 249 DEC 30 1993 UMI

Nonelectric Blasting

§ 56.6500 Damaged initiating material.

A visual check of the completed circuit shall be made to ensure that the components are properly aligned and connected. Safety fuse, igniter cord, detonating cord, shock or gas tubing, and similar material which is kinked, bent sharply, or damaged shall not be used.

§ 56.6501 Nonelectric initiation systems.

(a) When the nonelectric initiation system uses shock tube—

(1) Connections with other initiation devices shall be secured in a manner which provides for uninterrupted propagation;

(2) Factory-made units shall be used as assembled and shall not be cut except that a single splice is permitted on the lead-in trunkline during dry conditions; and

(3) Connections between blastholes shall not be made until immediately prior to clearing the blast site when surface delay detonators are used.

(b) When the nonelectric initiation system uses detonating cord—

(1) The line of detonating cord extending out of a blasthole shall be cut from the supply spool immediately after the attached explosive is correctly positioned in the hole;

(2) In multiple row blasts, the trunkline layout shall be designed so that the detonation can reach each blasthole from at least two directions;

(3) Connections shall be tight and kept at right angles to the trunkline;

(4) Detonators shall be attached securely to the side of the detonating cord and pointed in the direction in which detonation is to proceed;

(5) Connections between blastholes shall not be made until immediately prior to clearing the blast site when surface delay detonators are used; and

(6) Lead-in lines shall be manually unreeled if connected to the trunklines at the blast site.

(c) When the nonelectric initiation system uses gas tube, continuity of the circuit shall be tested prior to blasting.

§ 56.6502 Safety fuse.

(a) The burning rate of each spool of safety fuse to be used shall be measured, posted in locations which will be conspicuous to safety fuse users, and brought to the attention of all persons involved with the blasting operation.

(b) When firing with safety fuse ignited individually using handheld lighters, the safety fuse shall be of lengths which provide at least the minimum burning time for a particular size round, as specified in the following table.

TABLE E–1—SAFETY FUSE—MINIMUM BURNING TIME

Number of holes in a round	Minimum burning time
1	2 minutes.[1]
2–5	2 minutes 40 seconds.
6–10	3 minutes 20 seconds.
11–15	5 minutes.

[1] For example, at least a 36-inch length of 40-second-per-foot safety fuse or at least a 48-inch length of 30-second-per-foot safety fuse would have to be used to allow sufficient time to evacuate the area.

(c) Where flyrock might damage exposed safety fuse, the blast shall be timed so that all safety fuses are burning within the blastholes before any blasthole detonates.

(d) Fuse shall be cut and capped in dry locations.

(e) Blasting caps shall be crimped to fuse only with implements designed for that purpose.

(f) Safety fuse shall be ignited only after the primer and the explosive material are securely in place.

(g) Safety fuse shall be ignited only with devices designed for that purpose. Carbide lights, liquefied petroleum gas torches, and cigarette lighters shall not be used to light safety fuse.

(h) At least two persons shall be present when lighting safety fuse, and no one shall light more than 15 individual fuses. If more than 15 holes per person are to be fired, electric initiation systems, igniter cord and connectors, or other nonelectric initiation systems shall be used.

Extraneous Electricity

§ 56.6600 Loading practices.

If extraneous electricity is suspected in an area where electric detonators are used, loading shall be suspended until tests determine that stray current does not exceed 0.05 amperes through a 1-ohm resister when measured at the location of the electric detonators. If greater levels of extraneous electricity are found, the source shall be determined and no loading shall take place until the condition is corrected.

§ 56.6601 Grounding.

Electric blasting circuits, including powerline sources when used, shall not be grounded.

§ 56.6602 Static electricity dissipation during loading.

When explosive material is loaded pneumatically or dropped into a blasthole in a manner that could generate static electricity—

(a) An evaluation of the potential static electricity hazard shall be made and any hazard shall be eliminated before loading begins;

(b) The loading hose shall be of a semiconductive type, have a total of not more than 2 megohms of resistance over its entire length and not less than 1000 ohms of resistance per foot;

(c) Wire-countered hoses shall not be used;

(d) Conductive parts of the loading equipment shall be bonded and grounded and grounds shall not be made to other potential sources of extraneous electricity; and

(e) Plastic tubes shall not be used as hole liners if the hole contains an electric detonator.

§ 56.6603 Air gap.

At least a 15-foot air gap shall be provided between the blasting circuit and the electric power source.

§ 56.6604 Precautions during storms.

During the approach and progress of an electrical storm, blasting operations shall be suspended and persons withdrawn from the blast area or to a safe location.

§ 56.6605 Isolation of blasting circuits.

Lead wires and blasting lines shall be isolated and insulated from power conductors, pipelines, and railroad tracks, and shall be protected from sources of stray or static electricity. Blasting circuits shall be protected from any contact between firing lines and overhead powerlines which could result from the force of a blast.

Equipment/Tools

§ 56.6700 Nonsparking tools.

Only nonsparking tools shall be used to open containers of explosive material or to punch holes in explosive cartridges.

§ 56.6701 Tamping and loading pole requirements.

Tamping and loading poles shall be of wood or other nonconductive, nonsparking material. Couplings for poles shall be nonsparking.

Maintenance

§ 56.6800 Storage facilities.

When repair work which could produce a spark or flame is to be performed on a storage facility—

(a) The explosive material shall be moved to another facility, or moved at least 50 feet from the repair activity and monitored; and

(b) The facility shall be cleaned to prevent accidental detonation.

§ 56.6801 Vehicle repair.

Vehicles containing explosive material and oxidizers shall not be taken into a repair garage or shop.

§ 56.6802 Bulk delivery vehicles.

No welding or cutting shall be performed on a bulk delivery vehicle until the vehicle has been washed down and all explosive material has been removed. Before welding or cutting on a hollow shaft, the shaft shall be thoroughly cleaned inside and out and vented with a minimum ½-inch diameter opening to allow for sufficient ventilation.

§ 56.6803 Blasting lines.

Permanent blasting lines shall be properly supported. All blasting lines shall be insulated and kept in good repair.

General Requirements

§ 56.6900 Damaged or deteriorated explosive material.

Damaged or deteriorated explosive material shall be disposed of in a safe manner in accordance with the instructions of the manufacturer.

§ 56.6901 Black powder.

(a) Black powder shall be used for blasting only when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(b) Containers of black powder shall be—

(1) Nonsparking;

(2) Kept in a totally enclosed cargo space while being transported by a vehicle;

(3) Securely closed at all times when—

(i) Within 50 feet of any magazine or open flame,

(ii) Within any building in which a fuel-fired or exposed-element electric heater is operating, or

(iii) In an area where electrical or incandescent-particle sparks could result in powder ignition; and

(4) Open only when the powder is being transferred to a blasthole or another container and only in locations not listed in paragraph (b)(3) of this section.

(c) Black powder shall be transferred from containers only by pouring.

(d) Spills shall be cleaned up promptly with nonsparking equipment. Contaminated powder shall be put into a container of water and shall be disposed of promptly after the granules have disintegrated, or the spill area shall be flushed promptly with water until the granules have disintegrated completely.

(e) Misfires shall be disposed of by washing the stemming and powder charge from the blasthole, and removing and disposing of the initiator in accordance with the requirement for damaged explosives.

(f) Holes shall not be reloaded for at least 12 hours when the blastholes have failed to break as planned.

§ 56.6902 Excessive temperatures.

(a) Where heat could cause premature detonation, explosive material shall not be loaded into hot areas, such as kilns or sprung holes.

(b) When blasting sulfide ores where hot holes occur that may react with explosive material in blastholes, operators shall—

(1) Measure an appropriate number of blasthole temperatures in order to assess the specific mine conditions prior to the introduction of explosive material;

(2) Limit the time between the completion of loading and the initiation of the blast to no more than 12 hours; and

(3) Take other special precautions to address the specific conditions at the mine to prevent premature detonation.

§ 56.6903 Buring explosive material.

If explosive material is suspected of burning at the blast site, persons shall be evacuated from the endangered area and shall not return for at least one hour after the burning or suspected burning has stopped.

§ 56.6904 Smoking and open flames.

Smoking and use of open flames shall not be permitted within 50 feet of explosive material except when separated by permanent noncombustible barriers. This standard does not apply to devices designed to ignite safety fuse or to heating devices which do not create a fire or explosion hazard.

PART 57—[AMENDED]

1. The authority citation for part 57 is revised to read as follows:

Authority: 30 U.S.C. 811, 956, 961.

2. The expiration date published in the **Federal Register** of June 7, 1993 (58 FR 31908), for §§ 57.6140, 57.6220, 57.6320, 57.6330, 57.6331, 57.6375, and 57.6382 is extended to January 31, 1994.

3. The delay of effectiveness published in the **Federal Register** of June 7, 1993 (58 FR 31908), for the definition of "blast site" in § 57.6000, the first sentence in § 57.6130(b), and §§ 57.6131(a)(1), 57.6202(a)(1), 57.6304(b), 57.6306, 57.6501(a), 57.6902(b), 57.6903 and appendix I to subpart E, is delayed until January 31, 1994.

4. Effective January 31, 1994, subpart E of part 57 is revised to read as follows

Subpart E—Explosives

Sec.
57.6000 Definitions.

Storage—Surface and Underground

57.6100 Separation of stored explosive material.
57.6101 Area around explosive material storage facilities.
57.6102 Explosive material storage practices.

Storage—Surface Only

57.6130 Explosive material storage facilities.
57.6131 Location of explosive material storage facilities.
57.6132 Magazine requirements.
57.6133 Powder chests.

Storage—Underground Only

57.6160 Main facilities.
57.6161 Auxiliary facilities.

Transportation—Surface and Underground

57.6200 Delivery to storage or blast site areas.
57.6201 Separation of transported explosive material.
57.6202 Vehicles.
57.6203 Locomotives.
57.6204 Hoists.
57.6205 Conveying explosives by hand.

Use—Surface and Underground

57.6300 Control of blasting operations.
57.6301 Blasthole obstruction check.
57.6302 Explosive material protection.
57.6303 Initiation preparation.
57.6304 Primer protection.
57.6305 Unused explosive material.
57.6306 Loading and blasting.
57.6307 Drill stem loading.
57.6308 Initiation systems.
57.6309 Fuel oil requirements for ANFO.
57.6310 Misfire waiting period.
57.6311 Handling of misfires.
57.6312 Secondary blasting.
57.6313 Blast site security.

Electric Blasting—Surface and Underground

57.6400 Compatibility of electric detonators.
57.6401 Shunting.
57.6402 Deenergized circuits near detonators.
57.6403 Branch circuits.
57.6404 Separation of blasting circuits from power source.
57.6405 Firing devices.
57.6406 Duration of current flow.
57.6407 Circuit testing.

Nonelectric Blasting—Surface and Underground

57.6500 Damaged initiating material.
57.6501 Nonelectric initiation systems.
57.6502 Safety fuse.

Extraneous Electricity—Surface and Underground

57.6600 Loading practices.
57.6601 Grounding.

Sec
57.6602 Static electricity dissipation during loading.
57.6603 Air gap.
57.6604 Precautions during storms.
57.6605 Isolation of blasting circuits.

Equipment/Tools—Surface and Underground

57.6700 Nonsparking tools.
57.6701 Tamping and loading pole requirements.

Maintenance—Surface and Underground

57.6800 Storage facilities.
57.6801 Vehicle repair.
57.6802 Bulk delivery vehicles.
57.6803 Blasting lines.

General Requirements—Surface and Underground

57.6900 Damaged or deteriorated explosive material.
57.6901 Black powder.
57.6902 Excessive temperatures.
57.6903 Burning explosive material.
57.6904 Smoking and open flames.

General Requirements—Underground Only

57.6960 Mixing of explosive material.

Subpart E—Explosives

§57.6000 Definitions.

The following definitions apply in this subpart.

Attended. Presence of an individual or continuous monitoring to prevent unauthorized entry or access. In addition, areas containing explosive material at underground areas of a mine can be considered attended when all access to the underground areas of the mine is secured from unauthorized entry. Vertical shafts shall be considered secure. Inclined shafts or adits shall be considered secure when locked at the surface.

Barrier. A "material object, or objects that separates, keeps apart, or demarcates in a conspicuous manner such as cones, a warning sign, or tape."

Blast area. The area in which concussion (shock wave), flying material, or gases from an explosion may cause injury to persons. In determining the blast area, the following factors shall be considered:

(1) Geology or material to be blasted.
(2) Blast pattern.
(3) Burden, depth, diameter, and angle of the holes.
(4) Blasting experience of the mine.
(5) Delay system, powder factor, and pounds per delay.
(6) Type and amount of explosive material.
(7) Type and amount of stemming.

Blast site. The area where explosive material is handled during loading, including the perimeter formed by the loaded blastholes and 50 feet (15.2 meters) in all directions from loaded holes. A minimum distance of 30 feet (9.1 meters) may replace the 50-foot (15.2-meter) requirement if the perimeter of loaded holes is demarcated with a barrier. The 50-foot (15.2-meter) and alternative 30-foot (9.1-meter) requirements also apply in all directions along the full depth of the hole. In underground mines, at least 15 feet (4.6 meters) of solid rib, pillar, or broken rock can be substituted for the 50-foot (15.2-meter) distance. In underground mines utilizing a block-caving system or similar system, at least 6 feet (1.8 meters) of solid rib or pillar, including concrete reinforcement of at least 10 inches (254 millimeters), with overall dimensions of not less than 6 feet (1.8 meters), may be substituted for the 50-foot (15.2-meter) distance requirement.

Blasting agent. Any substance classified as a blasting agent by the Department of Transportation in 49 CFR 173.114a(a). This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Detonating cord. A flexible cord containing a center core of high explosives which may be used to initiate other explosives.

Detonator. Any device containing a detonating charge used to initiate an explosive. These devices include electric or nonelectric instantaneous or delay blasting caps, and delay connectors. The term "detonator" does not include detonating cord. Detonators may be either "Class A" detonators or "Class C" detonators, as classified by the Department of Transportation in 49 FR 173.53, and 173.100. This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Emulsion. An explosive material containing substantial amounts of oxidizers dissolved in water droplets, surrounded by an immiscible fuel.

Explosive. Any substance classified as an explosive by the Department of Transportation in 49 CFR 173.53, 173.88, and 173.100. This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Explosive material. Explosives, blasting agents, and detonators.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Igniter cord. A fuse that burns progressively along its length with an external flame at the zone of burning, used for lighting a series of safety fuses in a desired sequence.

Laminated partition. A partition composed of the following material and minimum nominal dimensions: ½-inch-thick plywood, ½-inch-thick gypsum wallboard, ⅛-inch-thick low carbon steel, and ¼-inch-thick plywood, bonded together in that order. Other combinations of materials may be used, such as plywood, wood or gypsum wallboard as insulators, and steel or wood as structural elements, provided that the partition is equivalent to a laminated partition for both insulation and structural purposes as determined by appropriate testing. The Institute of Makers of Explosives (IME) 22 container or compartment, described in IME Safety Library Publication 22 (Jan. 1985), meets the criteria of a laminated partition. This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

Loading. Placing explosive material either in a blasthole or against the material to be blasted.

Magazine. A bullet-resistant, theft-resistant, fire-resistant, weather-resistant, ventilated facility for the storage of explosives and detonators (BATF Type 1 or Type 2 facility).

Misfire. The complete or partial failure of explosive material to detonate as planned. The term also is used to describe the explosive material itself that has failed to detonate.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a rating of at least 2–A:10–B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Primer. A unit, package, or cartridge or explosives which contains a detonator and is used to initiate other explosives or blasting agents.

Safety switch. A switch that provides shunt protection in blasting circuits between the blast site and the switch used to connect a power source to the blasting circuit.

Slurry. An explosive material containing substantial portions of a liquid, oxidizers, and fuel, plus a thickener.

Storage facility. The entire class of structures used to store explosive materials. A "storage facility" used to store blasting agents corresponds to a BATF Type 4 or 5 storage facility.

Water gel. An explosive material containing substantial portions of water, oxidizers, and fuel, plus a cross-linking agent.

Storage—Surface and Underground

§57.6100 Separation of stored explosive material.

(a) Detonators shall not be stored in the same magazine with other explosive material.

(b) When stored in the same magazine blasting agents shall be separated from explosives, safety fuse, and detonating cord to prevent contamination.

§57.6101 Areas around explosive material storage facilities.

(a) Areas surrounding storage facilities for explosive material shall be clear of rubbish, brush, dry grass, and trees for 25 feet in all directions, except that live trees 10 feet or taller need not be removed.

(b) Other combustibles shall not be stored or allowed to accumulate within 50 feet of explosive material. Combustible liquids shall be stored in a manner that ensures drainage will occur away from the explosive material storage facility in case of tank rupture.

§57.6102 Explosive material storage practices.

(a) Explosive material shall be—

(1) Stored in a manner to facilitate use of oldest stocks first;

(2) Stored according to brand and grade in such a manner as to facilitate identification; and

(3) Stacked in a stable manner but not more than 8 feet high.

(b) Explosives and detonators shall be stored in closed nonconductive containers except that nonelectric detonating devices may be stored on nonconductive racks provided the case-insert instructions and the date-plant-shift code are maintained with the product.

Storage—Surface Only

§57.6130 Explosive material storage facilities.

(a) Detonators and explosives shall be stored in magazines.

(b) Packaged blasting agents shall be stored in a magazine or other facility which is ventilated to prevent dampness and excessive heating, weather-resistant, and locked or attended. Drop trailers that are currently licensed by the Federal, State, or local authorities for over-the-road use do not have to be ventilated. Facilities other than magazines used to store blasting agents shall contain only blasting agents.

(c) Bulk blasting agents shall be stored in weather-resistant bins or tanks which are locked, attended, or otherwise inaccessible to unauthorized entry.

(d) Facilities, bins or tanks shall be posted with the appropriate United States Department of Transportation placards or other appropriate warning signs that indicate the contents and are visible from each approach.

§57.6131 Location of explosive material storage facilities.

(a) Storage facilities for any explosive material shall be—

(1) Located so that the forces generated by a storage facility explosion will not create a hazard to occupants in mine buildings and will not damage dams or electric substations; and

(2) Detached structures located outside the blast area and a sufficient distance from powerlines so that the powerlines, if damaged, would not contact the magazines.

(b) Operators should also be aware of regulations affecting storage facilities in 27 CFR part 55, in particular, §§ 55.218 and 55.220. This document is available at any MSHA Metal and Nonmetal Safety and Health district office.

§57.6132 Magazine requirements.

(a) Magazines shall be—

(1) Structurally sound;

(2) Noncombustible or the exterior covered with fire-resistant material;

(3) Bullet resistant;

(4) Made of nonsparking material on the inside;

(5) Ventilated to control dampness and excessive heating within the magazine;

(6) Posted with the appropriate United States Department of Transportation placards or other appropriate warning signs that indicate the contents and are visible from each approach, so located that a bullet passing through any of the signs will not strike the magazine;

(7) Kept clean and dry inside;

(8) Unlighted or lighted by devices that are specifically designed for use in magazines and which do not create a fire or explosion hazard;

(9) Unheated or heated only with devices that do not create a fire or explosion hazard;

(10) Locked when unattended; and

(11) Used exclusively for the storage of explosive material except for essential nonsparking equipment used for the operation of the magazine.

(b) Metal magazines shall be equipped with electrical bonding connections between all conductive portions so the entire structure is at the same electrical potential. Suitable electrical bonding methods include welding, riveting, or the use of securely tightened bolts where individual metal portions are joined. Conductive portions of nonmetal magazines shall be grounded.

(c) Electrical switches and outlets shall be located on the outside of the magazine.

§57.6133 Powder chests.

(a) Powder chests (day boxes) shall be—

(1) Structurally sound, weather-resistant, equipped with a lid or cover, and with only nonsparking material on the inside;

(2) Posted with the appropriate United States Department of Transportation placards or other appropriate warning signs that indicate the contents and are visible from each approach;

(3) Located out of the blast area once loading has been completed;

(4) Locked or attended when containing explosive material; and

(5) Emptied at the end of each shift with the contents returned to a magazine or other storage facility, or attended.

(b) Detonators shall be kept in separate chests from explosives or blasting agents, except if separated by 4-inches of hardwood, laminated partition, or equivalent.

Storage—Underground Only

§57.6160 Main facilities.

(a) Main facilities used to store explosive material underground shall be located—

(1) In stable or supported ground;

(2) So that a fire or explosion in the storage facilities will not prevent escape from the mine, or cause detonation of the contents of another storage facility;

(3) Out of the line of blasts, and protected from vehicular traffic, except that accessing the facility;

(4) At least 200 feet from work places or shafts;

(5) At least 50 feet from electric substations;

(6) A safe distance from trolley wires; and

(7) At least 25 feet from detonator storage facilities.

(b) Main facilities used to store explosive material underground shall be—

(1) Posted with warning signs that indicate the contents and are visible from any approach;

(2) Used exclusively for the storage of explosive material and necessary equipment associated with explosive material storage and delivery;

(i) Portions of the facility used for the storage of explosives shall only contain nonsparking material or equipment.

(ii) The blasting agent portion of the facility may be used for the storage of other necessary equipment.

(3) Kept clean, suitably dry, and orderly;

(4) Provided with unobstructed ventilation openings;

(5) Kept securely locked unless all access to the mine is either locked or attended; and

(6) Unlighted or lighted only with devices that do not create a fire or explosion hazard and which are specifically designed for use in magazines.

VOL 58 ISS 249 DE 30 1993 UMI

(c) Electrical switches and outlets shall be located outside the facility.

§ 57.6161 Auxiliary facilities.

(a) Auxiliary facilities used to store explosive material near work places shall be wooden, box-type containers equipped with covers or doors, or facilities constructed or mined-out to provide equivalent impact resistance and confinement.

(b) The auxiliary facilities shall be—

(1) Constructed of nonsparking material on the inside when used for the storage of explosives;

(2) Kept clean, suitably dry, and orderly;

(3) Kept in repair;

(4) Located out of the line of blasts so they will not be subjected to damaging shock or flyrock;

(5) Identified with warning signs or coded to indicate the contents with markings visible from any approach;

(6) Located at least 15 feet from all haulageways and electrical equipment, or placed entirely within a mined-out recess in the rib used exclusively for explosive material;

(7) Filled with no more than a one-week supply of explosive material;

(8) Separated by at least 25 feet from other facilities used to store detonators; and

(9) Kept securely locked unless all access to the mine is either locked or attended.

Transportation—Surface and Underground

§ 57.6200 Delivery to storage or blast site areas.

Explosive material shall be transported without undue delay to the storage area or blast site.

§ 57.6201 Separation of transported explosive material.

Detonators shall not be transported on the same vehicle or conveyance with other explosives except as follows:

(a) Detonators in quantities of more than 1000 may be transported in a vehicle or conveyance with explosives or blasting agents provided the detonators are—

(1) Maintained in the original packaging as shipped from the manufacturer; and

(2) Separated from the explosives or blasting agents by 4 inches of hardwood, laminated partition, or equivalent. The hardwood, laminated partition, or equivalent shall be fastened to the vehicle or conveyance.

(b) Detonators in quantities of 1000 or fewer may be transported with explosives or blasting agents provided the detonators are—

(1) Kept in closed containers; and

(2) Separated from the explosives or blasting agents by 4-inches of hardwood, laminated partition, or equivalent. The hardwood, laminated partition, or the equivalent shall be fastened to the vehicle or conveyance.

§ 57.6202 Vehicles.

(a) Vehicles containing explosive material shall be—

(1) Maintained in good condition and shall comply with the requirements of subpart M of this part;

(2) Equipped with sides and enclosures higher than the explosive material being transported or have the explosive material secured to a nonconductive pallet;

(3) Equipped with a cargo space that shall contain the explosive material (passenger areas shall not be considered cargo space);

(4) Equipped with at least two multipurpose dry-chemical fire extinguishers or one such extinguisher and an automatic fire suppression system;

(5) Posted with warning signs that indicate the contents and are visible from each approach;

(6) Occupied only by persons necessary for handling the explosive material;

(7) Attended or the cargo compartment locked at surface areas of underground mines, except when parked at the blast site and loading is in progress; and

(8) Secured while parked by having—

(i) The brakes set;

(ii) The wheels chocked if movement could occur; and

(iii) The engine shut off unless powering a device being used in the loading operation.

(b) Vehicles containing explosives shall have—

(1) No sparking material exposed in the cargo space; and

(2) Only properly secured nonsparking equipment in the cargo space with the explosives.

(c) Vehicles used for dispensing bulk explosive material shall—

(1) Have no zinc or copper exposed in the cargo space; and

(2) Provide any enclosed screw-type conveyors with protection against internal pressure and frictional heat.

§ 57.6203 Locomotives.

Explosive material shall not be transported on a locomotive. When explosive material is hauled by trolley locomotive, covered, electrically insulated cars shall be used.

§ 57.6204 Hoists.

(a) Before explosive material is transported in hoist conveyances—

(1) The hoist operator shall be notified; and

(2) Hoisting in adjacent shaft compartments, except for empty conveyances or counterweights, shall be stopped until transportation of the explosive material is completed.

(b) Explosive material transported in hoist conveyances shall be placed within a container which prevents shifting of the cargo that could cause detonation of the container by impact or by sparks. The manufacturer's container may be used if secured to a nonconductive pallet. When explosives are transported, they shall be secured so as not to contact any sparking material.

(c) No explosive material shall be transported during a mantrip.

§ 57.6205 Conveying explosives by hand.

Closed, nonconductive containers shall be used to carry explosives and detonators to and from blast sites. Separate containers shall be used for explosives and detonators.

Use—Surface and Underground

§ 57.6300 Control of blasting operations.

(a) Only persons trained and experienced in the handling and use of explosive material shall direct blasting operations and related activities.

(b) Trainees and inexperienced persons shall work only in the immediate presence of persons trained and experienced in the handling and use of explosive material.

§ 57.6301 Blasthole obstruction check.

Before loading, blastholes shall be checked and, wherever possible, cleared of obstructions.

§ 57.6302 Explosive material protection.

(a) Explosives and blasting agents shall be kept separated from detonators until loading begins.

(b) Explosive material shall be protected from impact and temperatures in excess of 150° F when taken to the blast site.

§ 57.6303 Initiation preparation.

(a) Primers shall be made up only at the time of use and as close to the blast site as conditions allow.

(b) Primers shall be prepared with the detonator contained securely and completely within the explosive or contained securely and appropriately for its design in the tunnel or cap well.

(c) When using detonating cord to initiate another explosive, a connection shall be prepared with the detonating cord threaded through, attached

securely to, or otherwise in contact with the explosive.

§ 57.6304 Primer protection.

(a) Tamping shall not be done directly on a primer.

(b) Rigid cartridges of explosives or blasting agents that are 4 inches (100 millimeters) in diameter or larger shall not be dropped on the primer except where the blasthole contains sufficient depth of water to protect the primer from impact. Slit packages of prill, water gel, or emulsions are not considered rigid cartridges and may be drop loaded.

§ 57.6305 Unused explosive material.

Unused explosive material shall be moved to a protected location as soon as practical after loading operations are completed.

§ 57.6306 Loading and blasting.

(a) Vehicles and equipment shall not be driven over explosive material or initiating systems in a manner which could contact the material or system, or create other hazards.

(b) Once loading begins, the only activities permitted within the blast site shall be those activities directly related to the blasting operation and the activities of surveying, stemming, sampling of geology, and reopening of holes provided that reasonable care is exercised. Haulage activity is permitted near the base of the highwall being loaded provided no other haulage access exists.

(c) Loading shall be continuous except where adverse circumstances such as unfavorable atmospheric conditions, large equipment failure, or circumstances beyond the operator's control necessitate an interruption in loading.

(d) In electric blasting prior to connecting to the power source and in nonelectric blasting prior to attaching an initiating device, all persons shall leave the blast area except persons in a blasting shelter or other location that protects them from concussion (shock wave), flying material, and gases.

(e) When loading is completed and circuits are connected, the blasts shall be fired without undue delay unless adverse circumstances such as unfavorable atmospheric conditions, large equipment failure, or circumstances beyond the operator's control necessitate delay. If the time between the connection of circuits and the firing of the blast will exceed 72 hours, the operator shall notify the appropriate MSHA District Office before the 72 hours has elapsed.

(f) Before firing a blast—

(1) Ample warning shall be given to allow all persons to be evacuated;

(2) Clear exit routes shall be provided for persons firing the round; and

(3) All access routes to the blast area shall be guarded or barricaded to prevent the passage of persons or vehicles.

(g) No work shall resume in the blast area until a post-blast examination addressing potential blast-related hazards has been conducted by a person with the ability and experience to perform the examination.

§ 57.6307 Drill stem loading.

Explosive material shall not be loaded into blastholes with drill stem equipment or other devices that could be extracted while containing explosive material. The use of loading hose, collar sleeves, or collar pipes is permitted.

§ 57.6308 Initiation systems.

Initiation systems shall be used in accordance with the manufacturer's instructions.

§ 57.6309 Fuel oil requirement for ANFO.

(a) Liquid hydrocarbon fuels with flash points lower than that of No. 2 diesel oil (125° F) shall not be used to prepare ammonium nitrate-fuel oil, except that diesel fuels with flash points no lower than 100° F may be used at ambient air temperatures below 45° F.

(b) Waste oil, including crankcase oil, shall not be used to prepare ammonium nitrate-fuel oil.

§ 57.6310 Misfire waiting period.

When a misfire is suspected, persons shall not enter the blast area—

(a) For 30 minutes if safety fuse and blasting caps are used; or

(b) For 15 minutes if any other type detonators are used.

§ 57.6311 Handling of misfires.

(a) Faces and muck piles shall be examined for misfires after each blasting operation.

(b) Only work necessary to remove a misfire and protect the safety of miners engaged in the removal shall be permitted in the affected area until the misfire is disposed of in a safe manner.

(c) When a misfire cannot be disposed of safely, each approach to the area affected by the misfire shall be posted with a warning sign at a conspicuous location to prohibit entry, and the condition shall be reported immediately to mine management.

(d) Misfires occurring during the shift shall be reported to mine management not later than the end of the shift.

§ 57.6312 Secondary blasting.

Secondary blasts fired at the same time in the same work area shall be initiated from one source.

§ 57.6313 Blast site security.

Areas in which loading is suspended or loaded holes are awaiting firing shall be attended, barricaded and posted, or flagged against unauthorized entry.

Electric Blasting—Surface and Underground

§ 57.6400 Compatibility of electric detonators.

All electric detonators to be fired in a round shall be from the same manufacturer and shall have similar electrical firing characteristics.

§ 57.6401 Shunting.

Except during testing—

(a) Electric detonators shall be kept shunted until connected to the blasting line or wired into a blasting round;

(b) Wired rounds shall be kept shunted until connected to the blasting line; and

(c) Blasting lines shall be kept shunted until immediately before blasting.

§ 57.6402 Deenergized circuits near detonators.

Electrical distribution circuits within 50 feet of electric detonators at the blast site shall be deenergized. Such circuits need not be deenergized between 25 to 50 feet of the electric detonators if stray current tests, conducted as frequently as necessary, indicate a maximum stray current of less than 0.05 amperes through a 1-ohm resistor as measured at the blast site.

§ 57.6403 Branch circuits.

(a) If electric blasting includes the use of branch circuits, each branch shall be equipped with a safety switch or equivalent method to isolate the circuits to be used.

(b) At least one safety switch or equivalent method of protection shall be located outside the blast area and shall be in the open position until persons are withdrawn.

§ 57.6404 Separation of blasting circuits from power source.

(a) Switches used to connect the power source to a blasting circuit shall be locked in the open position except when closed to fire the blast.

(b) Lead wires shall not be connected to the blasting switch until the shot is ready to be fired.

§ 57.6405 Firing devices.

(a) Power sources shall be capable of delivering sufficient current to energize

all electric detonators to be fired with the type of circuits used. Storage or dry cell batteries are not permitted as power sources.

(b) Blasting machines shall be tested, repaired, and maintained in accordance with manufacturer's instructions.

(c) Only the blaster shall have the key or other control to an electrical firing device.

§ 57.6406 Duration of current flow.

If any part of a blast is connected in parallel and is to be initiated from powerlines or lighting circuits, the time of current flow shall be limited to a maximum of 25 milliseconds. This can be accomplished by incorporating an arcing control device in the blasting circuit or by interrupting the circuit with an explosive device attached to one or both lead lines and initiated by a 25-millisecond delay electric detonator.

§ 57.6407 Circuit testing.

A blasting galvanometer or other instrument designed for testing blasting circuits shall be used to test the following:

(a) In surface operations—

(1) Continuity of each electric detonator in the blasthole prior to stemming and connection to the blasting line;

(2) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line;

(3) Continuity of blasting lines prior to the connection of electric detonator series; and

(4) Total blasting circuit resistance prior to connection to the power source.

(b) In underground operations—

(1) Continuity of each electric detonator series; and

(2) Continuity of blasting lines prior to the connection of electric detonators.

Nonelectric Blasting—Surface and Underground

§ 57.6500 Damaged initiating material.

A visual check of the completed circuit shall be made to ensure that the components are properly aligned and connected. Safety fuse, igniter cord, detonating cord, shock or gas tubing, and similar material which is kinked, bent sharply, or damaged shall not be used.

§ 57.6501 Nonelectric initiation systems.

(a) When the nonelectric initiation system uses shock tube—

(1) Connections with other initiation devices shall be secured in a manner which provides for uninterrupted propagation;

(2) Factory-made units shall be used as assembled and shall not be cut except that a single splice is permitted on the lead-in trunkline during dry conditions; and

(3) Connections between blastholes shall not be made until immediately prior to clearing the blast site when surface delay detonators are used.

(b) When the nonelectric initiation system uses detonating cord—

(1) The line of detonating cord extending out of a blasthole shall be cut from the supply spool immediately after the attached explosive is correctly positioned in the hole;

(2) In multiple row blasts, the trunkline layout shall be designed so that the detonation can reach each blasthole from at least two directions;

(3) Connections shall be tight and kept at right angles to the trunkline;

(4) Detonators shall be attached securely to the side of the detonating cord and pointed in the direction in which detonation is to proceed;

(5) Connections between blastholes shall not be made until immediately prior to clearing the blast site when surface delay detonators are used; and

(6) Lead-in lines shall be manually unreeled if connected to the trunklines at the blast site.

(c) When nonelectric initiation systems use gas tube, continuity of the circuit shall be tested prior to blasting.

§ 57.6502 Safety fuse.

(a) The burning rate of each spool of safety fuse to be used shall be measured, posted in locations which will be conspicuous to safety fuse users, and brought to the attention of all persons involved with the blasting operation.

(b) When firing with safety fuse ignited individually using handheld lighters, the safety fuse shall be of lengths which provide at least the minimum burning time for a particular size round, as specified in the following table.

TABLE E–1—SAFETY FUSE—MINIMUM BURNING TIME

Number of holes in a round	Minimum burning time
1	[1] 2 minutes.
2–5	2 minutes 40 seconds.
6–10	3 minutes 20 seconds.
11–15	5 minutes.

[1] For example, at least a 36-inch length of 40-second-per-foot safety fuse or at least a 48-inch length of 30-second-per-foot safety fuse would have to be used to allow sufficient time to evacuate the area.

(c) Where flyrock might damage exposed safety fuse, the blast shall be timed so that all safety fuses are burning within the blastholes before any blasthole detonates.

(d) Fuse shall be cut and capped in dry locations.

(e) Blasting caps shall be crimped to fuse only with implements designed for that purpose.

(f) Safety fuse shall be ignited only after the primer and the explosive material are securely in place.

(g) Safety fuse shall be ignited only with devices designed for that purpose. Carbide lights, liquefied petroleum gas torches, and cigarette lighters shall not be used to light safety fuse.

(h) At least two persons shall be present when lighting safety fuse, and no one shall light more than 15 individual fuses. If more than 15 holes per person are to be fired, electric initiation systems, igniter cord and connectors, or other nonelectric initiation systems shall be used.

Extraneous Electricity—Surface and Underground

§ 57.6600 Loading practices.

If extraneous electricity is suspected in an area where electric detonators are used, loading shall be suspended until tests determine that stray current does not exceed 0.05 amperes through a 1-ohm resister when measured at the location of the electric detonators. If greater levels of extraneous electricity are found, the source shall be determined and no loading shall take place until the condition is corrected.

§ 57.6601 Grounding.

Electric blasting circuits, including powerline sources when used, shall not be grounded.

§ 57.6602 Static electricity dissipation during loading.

When explosive material is loaded pneumatically or dropped into a blasthole in a manner that could generate static electricity—

(a) An evaluation of the potential static electricity hazard shall be made and any hazard shall be eliminated before loading begins;

(b) The loading hose shall be of a semiconductive type, have a total of not more than 2 megohms of resistance over its entire length and not less than 1000 ohms of resistance per foot;

(c) Wire-countered hoses shall not be used;

(d) Conductive parts of the loading equipment shall be bonded and grounded and grounds shall not be made to other potential sources of extraneous electricity; and

(e) Plastic tubes shall not be used as hole liners if the hole contains an electric detonator.

§ 57.6603 Air gap.

At least a 15-foot air gap shall be provided between the blasting circuit and the electric power source.

§ 57.6604 Precautions during storms.

During the approach and progress of an electrical storm—

(a) Surface blasting operations shall be suspended and persons withdrawn from the blast area or to a safe location.

(b) Underground electrical blasting operations that are capable of being initiated by lightning shall be suspended and all persons withdrawn from the blast area or to a safe location.

§ 57.6605 Isolation of blasting circuits.

Lead wires and blasting lines shall be isolated and insulated from power conductors, pipelines, and railroad tracks, and shall be protected from sources of stray or static electricity. Blasting circuits shall be protected from any contact between firing lines and overhead powerlines which could result from the force of a blast.

Equipment/Tools—Surface and Underground

§ 57.6700 Nonsparking tools.

Only nonsparking tools shall be used to open containers of explosive material or to punch holes in explosive cartridges.

§ 57.6701 Tamping and loading pole requirements.

Tamping and loading poles shall be of wood or other nonconductive, nonsparking material. Couplings for poles shall be nonsparking.

Maintenance—Surface and Underground

§ 57.6800 Storage facilities.

When repair work which could produce a spark or flame is to be performed on a storage facility—

(a) The explosive material shall be moved to another facility, or moved at least 50 feet from the repair activity and monitored; and

(b) The facility shall be cleaned to prevent accidental detonation.

§ 57.6801 Vehicle repair.

Vehicles containing explosive material and oxidizers shall not be taken into a repair garage or shop.

§ 57.6802 Bulk delivery vehicles.

No welding or cutting shall be performed on a bulk delivery vehicle until the vehicle has been washed down and all explosive material has been removed. Before welding or cutting on a hollow shaft, the shaft shall be thoroughly cleaned inside and out and vented with a minimum ½-inch diameter opening to allow for sufficient ventilation.

§ 57.6803 Blasting lines.

Permanent blasting lines shall be properly supported. All blasting lines shall be insulated and kept in good repair.

General Requirements—Surface and Underground

§ 57.6900 Damaged or deteriorated explosive material.

Damaged or deteriorated explosive material shall be disposed of in a safe manner in accordance with the instructions of the manufacturer.

§ 57.6901 Black powder.

(a) Black powder shall be used for blasting only when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(b) Containers of black powder shall be—

(1) Nonsparking;

(2) Kept in a totally enclosed cargo space while being transported by a vehicle;

(3) Securely closed at all times when—

(i) Within 50 feet of any magazine or open flame,

(ii) Within any building in which a fuel-fired or exposed-element electric heater is operating; or

(iii) In an area where electrical or incandescent-particle sparks could result in powder ignition; and

(4) Open only when the powder is being transferred to a blasthole or another container and only in locations not listed in paragraph (b)(3) of this section.

(c) Black powder shall be transferred from containers only by pouring.

(d) Spills shall be cleaned up promptly with nonsparking equipment. Contaminated powder shall be put into a container of water and shall be disposed of promptly after the granules have disintegrated, or the spill area shall be flushed promptly with water until the granules have disintegrated completely.

(e) Misfires shall be disposed of by washing the stemming and powder charge from the blasthole, and removing and disposing of the initiator in accordance with the requirement for damaged explosives.

(f) Holes shall not be reloaded for at least 12 hours when the blastholes have failed to break as planned.

§ 57.6902 Excessive temperatures.

(a) Where heat could cause premature detonation, explosive material shall not be loaded into hot areas, such as kilns or sprung holes.

(b) When blasting sulfide ores where hot holes occur that may react with explosive material in blastholes, operators shall—

(1) Measure an appropriate number of blasthole temperatures in order to assess the specific mine conditions prior to the introduction of explosive material;

(2) Limit the time between the completion of loading and the initiation of the blast to no more than 12 hours; and

(3) Take other special precautions to address the specific conditions at the mine to prevent premature detonation.

§ 57.6903 Burning explosive material.

If explosive material is suspected of burning at the blast site, persons shall be evacuated from the endangered area and shall not return for at least one hour after the burning or suspected burning has stopped.

§ 57.6904 Smoking and open flames.

Smoking and use of open flames shall not be permitted within 50 feet of explosive material except when separated by permanent noncombustible barriers. This standard does not apply to devices designed to ignite safety fuse or to heating devices which do not create a fire or explosion hazard.

General Requirements—Underground Only

§ 57.6960 Mixing of explosive material.

(a) The mixing of ingredients to produce explosive material shall not be conducted underground unless prior approval of the MSHA district manager is obtained. In granting or withholding approval, the district manager shall consider the potential hazards created by—

(1) The location of the stored material and the storage practices used;

(2) The transportation and use of the explosive material;

(3) The nature of the explosive material, including its sensitivity;

(4) Any other factor deemed relevant to the safety of miners potentially exposed to the hazards associated with the mixing of the bulk explosive material underground.

(b) Storage facilities for the ingredients to be mixed shall provide drainage away from the facilities for leaks and spills.

[FR Doc. 93–31825 Filed 12–29–93; 8:45 am]
BILLING CODE 4510–43–P

VOL
58
ISS
249
DE
30
1993
UMI

federal register

Thursday
December 30, 1993

Part VIII

Department of Transportation

Federal Aviation Administration

14 CFR Parts 125 and 135
Training and Checking in Ground Icing Conditions; Proposed Advisory Circular on Training, Testing, and Checking; Interim Final Rule and Notice

VOL 58 ISS 249 DE 30 1993 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 125 and 135

[Docket No. 27459; Amendment No. 125–18, 135–46]

RIN 2120–AF09

Training and Checking in Ground Icing Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule requires part 125 certificate holders to provide pilot testing on conducting operations in ground icing conditions, part 135 certificate holders to provide pilot training on conducting operations in ground icing conditions, and part 125 and 135 certificate holders to check airplanes for contamination (i.e., frost, ice, or snow) prior to takeoff when ground icing conditions exist. This rule is necessary because accident statistics and experience indicate the importance of effectively determining whether the airplane's wings and control surfaces are free of all frost, ice, or snow prior to beginning a takeoff. The rule is intended to provide an added level of safety to flight operations in ground icing conditions under parts 125 and 135.

DATES: This interim final rule is effective January 31, 1994. Additional comments must be received not later than April 15, 1994.

ADDRESSES: Comments on this interim final rule should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 27459, 800 Independence Ave., SW., Washington, DC 20591. Comments delivered must be marked Docket No. 27459. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Larry Youngblut, Flight Standards Service, Regulations Branch, AFS–240, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8096.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1993, the FAA published proposed requirements for ground deicing procedures for parts 125 and 135 certificate holders (58 FR 49164). Under the proposal and this interim final rule, when ground icing conditions exist, parts 125 and 135 certificate holders are required to check their airplanes for contamination prior to beginning takeoff. In addition, under the proposed and final revisions to part 125, certificate holders are required to provide pilot testing on ground deicing/anti-icing procedures, and under proposed and final revisions to part 135, certificate holders are required to provide pilot training on ground deicing/anti-icing procedures.

The FAA proposed the requirements in response to part 135 accidents that have been caused by pilots beginning takeoff with contamination adhering to critical airplane surfaces. Regulations covering procedures for ground icing conditions under parts 121, 125, and 135 have for many years relied on the basic "clean aircraft" concept, i.e., that no person may take off an airplane when frost, ice, or snow is adhering to the wings, control surfaces, or propellers of the airplane (§§ 121.629, 125.221, 135.227). Under these regulations, ultimate responsibility for determining that the airplane is free of contamination in icing conditions and thus complies with the "clean aircraft" concept rests with the pilot-in-command (PIC). Both the FAA and industry have developed guidance and recommended procedures to assist the PIC in making that determination.

In 1992, due to a number of ground icing related accidents that had occurred in part 121 operations and in response to industry-wide recommendations to improve the safety of operations during ground icing conditions, the FAA amended the part 121 regulations (57 FR 44924, September 29, 1992). The amended regulations retain the "clean aircraft" concept and in addition, require part 121 certificate holders to establish and comply with an FAA-approved ground deicing/anti-icing program.

At the time of the part 121 rulemaking, the FAA did not include parts 125 and 135 because of time constraints associated with that rulemaking and the need for further FAA review to determine the appropriateness of applying a similar rule to other types of operations.

Since that time, the FAA has reviewed the accident history for part 125 and 135 operations, conferred with industry representatives, and studied the recommendations from the National Transportation Safety Board (NTSB) and the General Accounting Office (GAO). Based on this review, the FAA today adopts interim final rules for part 125 and 135 certificate holders that are designed to achieve the same results as the recent part 121 regulations on ground deicing/anti-icing procedures.

This rule is based partly on the different types of aircraft operated under part 135 and the differences between how part 135 certificate holders operate as compared to part 121 certificate holders. It also reflects part 135 accident data which indicates pilots may lack full awareness of the dangers associated with takeoff with contamination adhering to the airplane's critical surfaces. In this rule the FAA is revising part 135 pilot training requirements to include training on the hazards associated with operating in ground icing conditions.

A part 135 operator that does not expect to authorize takeoffs in ground icing conditions is not required to incur the cost of training its pilots on operating aircraft in ground icing conditions. However, no certificate holder may authorize a takeoff and no pilot may take off unless the pilot has completed the training required in § 135.341 and described in § 135.345 for operating in ground icing conditions.

In addition to revised training, the rule also requires that whenever frost, ice, or snow may reasonably be expected to adhere to the airplane, the certificate holder must complete an approved pretakeoff contamination check within 5 minutes of beginning takeoff, comply with an approved alternative procedure (e.g., when technology permits, having approved ice detectors or sensors installed on the airplane's wings and control surfaces), or comply with the part 121 deicing/anti-icing rule.

Operations conducted under part 125 are also included in this rule. Part 125 covers passenger carrying and cargo carrying operations involving airplanes with a seating configuration of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more, when common carriage is not involved. Although the FAA's review of accident history does not reveal any ground icing accidents or incidents during part 125 operations, the types of airplanes flown are similar to those used in parts 121 and 135, the same airports are used and the same weather conditions are encountered. Thus, operations conducted under part 125 are equally susceptible to the hazards associated with operating during ground icing conditions.

While most part 125 operators use the same type airplanes as those used in part 121 operations, the size and scope of part 125 operations are more similar to the size and scope of most part 135 operations. For example, the number of aircraft used, the number of employees, and the extent of direct crew involvement for part 125 operations are more similar to part 135 operations than to part 121 operations. For this reason, the FAA is issuing rules for part 125 certificate holders that are comparable to those being required for part 135 certificate holders.

Unlike part 135, which contains pilot training requirements, part 125 contains pilot testing requirements. Therefore, under the rule, pilots operating under part 125 are required to be tested on the subject areas relating to ground icing conditions and procedures similar to those contained in the part 135 training requirements. Like their part 135 counterparts, part 125 certificate holders are also required to complete a pretakeoff contamination check within 5 minutes prior to beginning takeoff anytime conditions are such that frost, ice, or snow may reasonably be expected to adhere to the airplane. Alternatively, the certificate holder may comply with the part 121 deicing/anti-icing rule or with an approved alternative procedure, such as, when technology permits, having approved ice detectors or sensors installed on the airplane's wings and control surfaces.

This rule does not require part 125 and 135 certificate holders that do not anticipate operating during ground icing conditions to train or test their pilots or develop pretakeoff contamination check procedures. However, if pilots of a certificate holder that chooses not to train or develop deicing procedures encounter ground icing conditions, they will not be able to take off until such conditions no longer exist. Thus, the FAA is providing flexibility for certificate holders so they may determine to what extent this amended rule affects their operations.

The present provisions in parts 125 and 135 allowing takeoff with polished frost on the aircraft are retained. In addition, the amendments to parts 125 and 135 do not change the FAA's policy of permitting takeoff with small amounts of frost on the underwings in the area of fuel tanks of certain airplanes when authorized by the Administrator. The FAA has authorized takeoffs with small amounts of frost near the fuel tanks when this frost is caused by cold soaked fuel and when this frost is within aircraft manufacturer established limits that have been approved by FAA aircraft certification offices and these limits are stated in aircraft maintenance or aircraft flight manuals.

Helicopter operations conducted under part 135 have not been included in this rule because helicopter design characteristics and operations differ in many ways from airplane operations under part 135. However, the "clean aircraft" concept in § 135.227(a) continues to apply to helicopters. The FAA will continue to review whether additional deicing rulemaking is required for helicopters.

Discussion of Comments

General

More than 70 comments were received. Eighty percent of these were from part 135 certificate holders and most of these commenters objected to all or parts of the proposed rule. Comments were also received from associations representing part 135 air carriers, pilots, as well as other organizations dedicated to aviation safety. These associations and organizations, although generally supporting the intent of this rulemaking, also objected to various parts of the proposed rule. The FAA has carefully considered all of the comments received. A full discussion of comments and FAA responses follows.

Additional Comment Period

Several commenters object to the 15-day comment period and many more object to the rush to place this rule in effect for the 1993–1994 winter season. Several suggest that the FAA issue this rule as an interim final rule with time for additional comment as was done for the part 121 rule last year.

FAA Response

While the comment period was shorter than normally provided, the interest of aviation safety requires accelerated rulemaking to assure adequate ground deicing/anti-icing rules for this winter. In response to the comments received, the FAA agrees that it is in the public interest to make this an interim final rule, as proposed, and to provide an additional comment period to obtain further comments on the rule this winter. All comments received before April 15, 1994, will be carefully considered. If warranted, the FAA will make changes to the rule.

Applicability

The proposed and interim final rule apply to certificate holders operating airplanes under parts 125 and 135 in ground icing conditions.

One helicopter operator states that there is no justification for training its personnel on operations in ground icing conditions since helicopters are prohibited from operating in falling or blowing snow or in icing conditions. One commenter states that part 125 operators should be grouped with part 121 operators rather than with part 135 operators. Two persons operating single-engine airplanes, VFR only, questioned the applicability of the proposed rule to their operations. One stated his understanding that the rule would not apply to his business since he does not fly in icing conditions.

The Air Line Pilots Association (ALPA), while generally supporting the proposed rule, states that the proposal fosters "perpetuation of two levels of safety for scheduled air carrier operations." ALPA states that it has a policy goal of one level of safety for the traveling public and that this goal means "that aircraft having 10 seats or more being operated as a scheduled commuter air carrier should be held to the same safety standards required of scheduled part 121 air carriers." ALPA addresses and to some extent disputes each of the factors cited by the FAA (airplane size and design, pilots more personally involved in flight details, faster turn around time, shorter delays) for differentiating between part 135 and part 121 operations. ALPA concludes that "the option to choose § 121.629 requirements for part 135 scheduled commuter air carriers should be changed to a requirement."

The Aviation Consumer Action Project (ACAP) states that it "joins the NTSB, the GAO, the Dryden Commission and the Flight Safety Foundation in advocating one standard of safety for all scheduled air carriers."

FAA Response

The proposed and interim final rule language of §§ 135.227(b) and 135.345(b)(6)(iv) applies to airplane operations. Thus, no new requirements apply to helicopters. Persons who do not operate airplanes in potential ground icing conditions are not affected by this rule. This rule does not address inflight icing conditions.

In regard to ALPA's and ACAP's comments, the FAA believes that this rule provides an equivalent level of safety to the traveling public. Sections 121.629, 125.221, and 135.227 all embody the clean aircraft concept. The differences within these rules are the methods involved in assuring compliance. The FAA's goal in this rulemaking is twofold. First, as in part 121, pilots will be made fully aware, through training, of the dangers involved in beginning takeoff with contamination adhering to the airplane. Second, as in the amended § 121.629, pilots will be required to accomplish one or more checks (pretakeoff and/or pretakeoff contamination) prior to beginning takeoff. Requiring that a pretakeoff contamination check be completed within 5 minutes prior to beginning a takeoff is intended to provide an equivalent level of safety to

§ 121.629. The FAA has fully considered ALPA's comments on the FAA's rationale for differentiating between part 135 and part 121 operations and for proposing different rules for the different types of certificate holders. The FAA believes, for the reasons stated in the preamble to the NPRM and in this rulemaking that significant differences exist, and these differences justify a different means of achieving the same clean aircraft concept that has been required under both parts for many years.

As explained above, part 125 certificate holders have been grouped with part 135 operators in this rulemaking because their operations are more similar to part 135 operations in size and scope than to part 121 operations.

Justification

Virtually all of the adverse comments received question the FAA's justification for the rule. One commenter states that, since there have been no accidents attributed to ground icing by part 125 certificate holders, "that rate will be difficult to reduce."

Most commenters state that the 14 ground-icing related accidents involving airplanes operating under part 135 during the period 1984–1992 do not justify the rule. These commenters point out that in almost all of these accidents it is likely that the operator was in violation of the present requirements. These commenters state that what is needed is compliance with existing rules, not new rules. Also, a large number of commenters state that in most of the cited accidents poor judgment was involved and as one commenter states, "no amount of rule-making or training will improve the judgment or common sense qualities of these types of individuals."

FAA Response

The FAA recognizes that no amount of rulemaking will ensure 100% compliance with the clean aircraft concept; however, the FAA believes that the training and testing required under this rule will create an increased awareness among part 125 and part 135 pilots that will assist and improve pilots' judgment and decision-making skills.

As is stated in the proposed rule preamble, a common thread throughout the accidents and incidents cited was the pilots' apparent lack of awareness of the potential hazard from even small amounts of frost, ice, or snow on an airplane's wings and control surfaces. Thus, the FAA has determined there is sufficient evidence to justify additional training or testing and pretakeoff checking procedures to ensure that the clean aircraft concept is met prior to a pilot beginning takeoff during ground icing conditions. Specifically part 125 pilot testing and part 135 pilot training must address the elements set forth in §§ 125.287(a)(9) and 135.345(b)(6)(iv). Pretakeoff checking procedures are set forth in §§ 125.221(b) and 135.227(b).

Operating Limitations—General

Proposed and final §§ 125.221(a) and 135.227(a), which require a "clean aircraft" in order to take off, contain the same requirements and exception as contained in current §§ 125.221(a) and 135.227(a).

One commenter states that a light coating of frost adhering to a helicopter rotor blade should not pose a threat to the safe operation of the aircraft. The commenter believes that it should be up to the pilot to determine when an accumulation of frost should be removed. The commenter states that no person should attempt to operate a helicopter if ice or snow is adhering to the blades.

Proposed and final §§ 125.221(b) and 135.227(b) are new and require that during ground icing conditions an aircraft may not take off unless the pilot has completed all applicable training as required by §§ 125.287(a)(9) or 135.341 (described in § 135.345) and unless other specified requirements are met. One commenter states that the reference in part 135 should be to § 135.345 (which specifies the required training for operating airplanes during ground icing conditions in paragraph (b)(6)(iv)) rather than to § 135.341.

FAA Response

Prohibiting a pilot from taking off if frost is adhering to a rotor blade has been the rule in part 135 for many years. No change was proposed to this requirement and hence the requirement is not subject to change in the interim final rule.

Proposed § 135.227(b) references § 135.341 because that section specifically requires part 135 certificate holders, other than those that use only one pilot in their operations, to establish and maintain an approved pilot training program. This training is described further in § 135.345.

Underwing Frost

Proposed §§ 125.221(a)(2) and 135.227(a)(2) would allow takeoffs to be made with frost under the wing in the area of the fuel tanks if authorized by the Administrator.

One commenter states that since "no hazard exists from underwing frost in the area of fuel tanks, the requirement for FAA approval should be deleted."

FAA Response

The proposed language in §§ 125.221(a)(2) and 135.227(a)(2) provides a regulatory mechanism for allowing takeoffs with small amounts of unpolished frost in the area of the fuel tanks. Technically, under the existing FAR takeoffs with any amount of unpolished frost are prohibited. Therefore, the reference in the rule to "FAA approval" is retained.

Pretakeoff Contamination Check

Proposed §§ 125.221(b)(1) and 135.227(b)(1) would require a pretakeoff contamination check to ensure that the wings and control surfaces are free of frost, ice, or snow. This check would have to be completed within 5 minutes prior to takeoff.

A number of commenters object to the pretakeoff contamination check contained in new § 135.227(b)(1). The most serious concern of these commenters is the requirement that the check must be completed within 5 minutes prior to takeoff. Commenters state that the 5-minute limitation is unrealistically short and that it would disrupt most operations. The Regional Airline Association (RAA) states that the proposed rule would require this check within 5 minutes of takeoff *"regardless of the elapsed time since being deiced, the type of fluid used, or holdover time* unless the operator complies with the entire part 121 rule or is able to install and use approved ice detectors or sensors." (emphasis in original). RAA states that this proposed rule "is more restrictive than the part 121 rule and is inconsistent with the proposed requirement that pilots must be trained in the use of holdover times for fluids being used." RAA recommends that the FAA in the final rule recognize that takeoff within recognized holdover times would be an acceptable alternative to the pretakeoff contamination check.

The National Air Transportation Association (NATA) states that the 5 minute limit for a contamination check is unnecessary and, perhaps, dangerous. NATA suggests that pilots, "in an effort to get their 'wheels in the well' in less than 5 minutes, may be tempted or even feel compelled to cut corners, to hasten through or abbreviate check lists, etc."

Several commenters point out that the description of the pretakeoff contamination check should read "within 5 minutes prior to beginning takeoff" as it does in part 121 rather than "within 5 minutes prior to takeoff" as proposed. The Aviation Consumer Action Project (ACAP) expresses concern over whether the pretakeoff contamination check can be adequately conducted from inside the airplane. ACAP states that *"it is impossible for pilots to confidently identify the presence or absence of contamination due to ground icing without leaving the cockpit."* (emphasis in original). ACAP cites the November 1992 GAO recommendations in support of its position and urges the FAA to require tactile examination of critical surfaces as part of the approved pretakeoff contamination check for parts 125 and 135.

FAA Response

The FAA agrees with the commenter and to be consistent with the language used in § 121.629(c)(4), the word "beginning" has been inserted into the pretakeoff contamination check definition and the rule language has been changed accordingly. The requirement for a pretakeoff contamination check to be completed within 5 minutes prior to beginning takeoff should not be a burden for most part 125 and 135 certificate holders since, as a practical matter, some type of check must be made to ensure compliance with the clean aircraft concept requirements of the present rules. An approved pretakeoff contamination check is a check to make sure that the wings and control surfaces are free of frost, ice, or snow. The proposed and interim final rule language does not specify the details of this check or how many or what surfaces are to be checked, but leaves the airplane type specific details to be developed by the certificate holder to be submitted to the FAA for approval. This approval is the responsibility of the certificate holder's principal operations inspector (POI). Thus, this check could be the same procedure as presently conducted to assure compliance with the existing rules. Depending on the aircraft design, particularly for aircraft involved in part 135 operations, this check can often be made from inside the airplane.

The FAA believes that the proposed and adopted § 135.227(b)(1) is not more restrictive than the part 121 rule even though this new rule always requires a pretakeoff contamination check be completed within 5 minutes prior to beginning takeoff. A part 135 certificate holder that operates pursuant to § 135.227(b)(1) does not have to comply with several requirements applicable to part 121 certificate holders. Part 121 certificate holders, as part of their approved program, must: (1) Develop a management plan defining personnel responsibilities; (2) train all personnel associated with the ground deicing/anti-icing process; (3) use holdover timetables; and (4) complete pretakeoff check procedures. Despite not applying these requirements to part 135 certificate holders, the FAA believes that an equivalent level of safety is maintained by requiring part 135 certificate holders to always complete a pretakeoff contamination check within 5 minutes prior to beginning takeoff. In any event, § 135.227(b)(3) allows part 135 certificate holders, that find it more advantageous to their operations, to comply with § 121.629(c) in lieu of always accomplishing a pretakeoff contamination check.

The FAA does not believe completing a pretakeoff contamination check 5 minutes prior to beginning takeoff would encourage pilots to "cut corners or hasten through or abbreviate check lists" because the pretakeoff contamination check would be one of the last checks initiated prior to takeoff.

The FAA does not agree with the ACAP assertion that it is impossible for a pilot to complete the required pretakeoff contamination check without leaving the cockpit. The rule, as proposed and as issued, requires this check to be "established by the certificate holder and approved by the Administrator for the specific airplane type * * *" In approving pretakeoff contamination check procedures for different airplane types, the FAA will consider the effects of each airplane's design on the crew's ability to ensure that the clean aircraft concept is met.

Approved Alternative Procedures

Sections 125.221(b)(2) and 135.227(b)(2) allow certificate holders to use an approved alternative procedure (to the pretakeoff contamination check) to ensure that their airplanes are free of frost, ice, or snow.

One commenter questions the availability of guidelines for use by inspectors in the field in implementing such alternative procedures. This commenter says that the only existing guidelines are in § 121.629 and asks if the FAA would accept an alternative procedure that does not meet part 121 requirements. Finally, this commenter says that the technology to detect surface frost, ice, or snow on an aircraft on the ground does not exist. The use of such equipment as part of an alternative procedure, as suggested by the FAA, would therefore not be a viable alternative.

FAA Response

The option to use an approved alternative procedure was included to permit certificate holders to develop alternative check procedures, such as industry development of new technologies. The FAA believes that certificate holders should take the initiative to develop such alternative procedures and submit them to the FAA for approval. Any such alternative procedures must be specifically designed for the type of aircraft and the type of operations in which they would be used. Contrary to the commenter's assertion, § 121.629 does not contain guidance for approval of an alternative procedure. Advisory Circular (AC) 135–XX, which appears in today's issue of the **Federal Register**, provides both guidance and coordination procedures to POI's for evaluating alternative procedures.

Compliance with Part 121 Deicing/Anti-icing Program

Sections 125.221(b)(3) and 135.227(b)(3) allow certificate holders to use an approved deicing/anti-icing program that complies with § 121.629(c) as an alternative means to comply with this rule.

Two commenters point out that there is a difference between part 135 scheduled air carriers and part 135 on-demand air carriers and that the proposed rule can only apply to the former. One of these commenters says that on-demand carriers could not implement this type of program because of the vast number of airports served and the lack of company trained personnel other than pilots.

One of the above commenters also says that training and testing previously completed in voluntary compliance with the part 121 rule and the proposed advisory circular on ground deicing and anti-icing should be accepted as evidence of compliance with § 135.227(b)(3). This commenter says that the final rule or supporting advisory circular should contain language to ensure that field inspectors are aware that they do not have to retrain and retest to comply with the new rule.

One commenter says that the proposed rule's cross reference to § 121.629(c) does not take into account that part 135 operators do not maintain part 121 documents. This commenter says that this part 121 material should be contained in the part 135 proposed rule.

FAA Response

The FAA agrees that a deicing/anti-icing program that complies with § 121.629(c) would not be selected by most part 135 on-demand air carriers. It would probably be more efficient for

VOL 58 ISS 249 DEC 30 1993 UMI

VOL 58 ISS 249 DEC 30 1993 UMI

most of these carriers to comply with the training and pretakeoff contamination check requirements of new § 135.227(b)(1).

Any training voluntarily completed and documented under the part 121 rule would be viewed as satisfying the part 135 deicing/anti-icing pilot training requirements provided the training covered the elements included in this rule and if the training was specific to the aircraft and operations being conducted under part 135. Part 135 certificate holders can obtain the part 121 rule and associated advisory circular by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

Initial, Transition, and Upgrade Ground Training

Proposed § 135.345 would require initial, transition, and upgrade ground training for pilots in the knowledge and procedures necessary for operating airplanes during ground icing conditions. (Similarly § 125.287 would require initial and recurrent testing for pilots on such knowledge and procedures.)

Many part 135 certificate holders commented on the proposed training requirements. Most of these commenters say that the proposed training is unnecessary because their training programs already cover frost, ice, and snow removal in accordance with existing part 135 requirements (§ 135.227). Several commenters say that such training is included in their curricula for cold weather operations. One commenter addresses deicing in the "preflight check" portion of its training manual. This commenter also points out that deicing is addressed in FAA Advisory Circular 91–13C, "Removal of Frost, Ice & Snow", as well as in pilot training for a private pilot's license and the private pilot and commercial pilot written tests.

A number of commenters say that it would be cumbersome, time consuming, and costly to create a separate training section on ground deicing. Other commenters say that the proposed rule is not justified considering the low accident rate involving part 135 airplanes where ground icing was the probable cause.

One commenter says that most part 135 operators fly into different type air fields, each with its own deicing procedures, and that it would be impractical to create a training manual to cover all the possible deicing situations.

One commenter says that if "hands on" training with glycol/water solutions becomes required, the result will be a significant environmental impact and much higher costs to the operator.

A number of commenters provide suggestions or alternative ways in which they argue the FAA should require training in ground icing conditions. One commenter says that training for pilots to recognize snow or ice, or its effects, should be covered under pilot certification rules in part 61. Another commenter says that training must be comprehensive to ensure improved pilot technique in icing conditions. A third commenter points out the need for additional training and testing covering the effect of contamination on airfoils and its relationship to aircraft performance for those seeking commercial pilot certification (parts 61 and 91).

Another commenter requests that the FAA develop and publish an Advisory Circular to provide suggested methods to comply with proposed § 135.345, particularly in terms of the 1 hour initial training requirement (during the first year after the effective date of the rule).

FAA Response

The FAA recognizes that most training programs under part 135 already address operations in ground icing conditions. The intent of this rule is to ensure that all pilots being trained under part 135 acquire knowledge and skills in all of the specific topics listed in § 135.345(b)(6)(iv). Certificate holders who already cover all of these topics can obtain approval by showing those parts of their training program to their POI's. Certificate holders who do not currently cover all of these topics will need to add whatever material is missing to their training programs. A separate training section on deicing is not necessary.

The FAA disagrees with commenters who suggest that training on ground icing characteristics should be exclusively covered under part 61 pilot certification rules or part 91 general operating rules. It is only under the part 135 training programs or part 125 testing programs that pilots can learn not only the characteristics of airplane surface contamination, but also the procedures for dealing with such contamination in their particular work environment. Much of the information learned under §§ 125.287(a)(9) and 135.345(b)(6)(iv) will be tailored to the operations of each certificate holder.

FAA developed advisory material is discussed under the implementation section of this preamble.

Recurrent Training

Section 135.351 requires recurrent training for pilots on the subjects required for initial ground training on icing conditions, as appropriate, as well as emergency training.

One commenter says that the changes proposed for § 135.227 and § 135.345 are proposed for airplanes, yet the change proposed for § 135.351 applies to all aircraft.

FAA Response

The language added to § 135.351(b)(2) in both the proposed and interim final rule references §§ 135.341 and 135.345 so that the limitation to airplanes in these sections applies.

Implementation

The NPRM, published on September 21, 1993, allowed a 15-day comment period and proposed an effective date for all part 125 and 135 certificate holders of November 1, 1993. The preamble states that a certificate holder who intends to operate in ground icing conditions on or after that date would have to amend its approved training or testing program, initially train or test its pilots, develop procedures for accomplishing pretakeoff contamination checks for each type airplane, and have the FAA approve these procedures.

The preamble also states that the FAA is aware that requiring all pilots to be fully trained or tested by the effective date could be financially and logistically impractical for some certificate holders. Therefore, if training or testing cannot be completed as part of a certificate holder's established initial training or testing program by the effective date, the FAA announced that it would allow certificate holders to submit training or testing materials for approval by the certificate holder's POI. For this first year, the FAA has determined that approved pilot bulletins or other written take-home training materials (e.g., self-graded quizzes or video tapes) will be sufficient for initial pilot training or testing. If pilots complete these approved materials, the FAA would consider initial training/testing provisions of this rule satisfied. The certificate holder could then integrate these materials into its established training or testing program.

A number of comments were received on implementation. All comments state that the implementation date is unrealistic. One commenter states that the implementation time should be at least as long as that allowed for part 121 and another that the date for completion of pilot training programs should not be sooner than 90 days after issuance of FAA guidance material. Another commenter requests there be a phase-in allowed, beginning with those operations most likely to encounter

ground icing conditions. Several commenters need clarification on what must be accomplished by the implementation date.

Some commenters believe that the FAA cannot approve the programs in such a short time. In connection with FAA approval, one commenter asks what the consequences will be for certificate holders who after complying with the provisions of the new rule do not receive the required Operations Specifications and training program approval from the FAA by the deadline. This commenter would like an FAA policy statement specifying the options available to air charter operators who find themselves not in compliance through no fault of their own. The same commenter asks if an FAA approved annotation in a certificate holder's Operations Specifications to not attempt a takeoff when ground icing or falling snow conditions exist would meet the provisions of the proposed rule. One commenter says that, in its opinion, an amendment to the Aircraft Flight Log, and a new form would have to be developed, approved, and reproduced to show compliance with the pretakeoff contamination check. The time frame for such approval is approximately 90 days.

One commenter points out that FSDO offices are not fully staffed and that it would be difficult for POIs to review and approve these training programs in the time frame outlined in the notice (especially considering the proposed requirement that POIs review and approve pretakeoff contamination check procedures under proposed § 135.227(b)(1)).

One commenter recommends that the final preamble specifically allow for the use of take-home brochures, video tapes, self-grading quizzes or other types of review material as the part 121 interim final rule preamble allowed. Another commenter says that, because of the FAA imposed time line, the FAA should allow initial training and testing material to be distributed to flight crewmembers concurrent with the FAA approval process.

Two commenters mention that the guidance material promised by the FAA has not been issued and that complying with the rule will be difficult without FAA guidance.

FAA Response

The FAA's intent in this action was to have the rule implemented by the winter of this year. The FAA recognized that this would be a short implementation period, but believed that most part 125 and 135 certificate holders operating in ground icing conditions already have some type of procedures for ensuring compliance with the clean aircraft concept while operating during ground icing conditions (in compliance with §§ 125.221 and 135.227) and provide pilot training on these procedures. Therefore, to comply with this interim final rule, a certificate holder must have the training or testing program approved by the FAA, initially train or test its pilots, develop procedures for accomplishing pretakeoff contamination checks for each type airplane, and have these procedures approved by the FAA. If a certificate holder only provides minimal training on procedures for ground icing conditions now, the time frame does impose a greater burden. The FAA has developed a draft advisory circular, AC 135–XX, which when final will provide an outline of the material that the FAA would find acceptable to be included within a certificate holder's training program or testing procedure. The draft AC is published in this issue of the **Federal Register**.

After POI approval and completion of the approved materials by the certificate holder's pilots, the certificate holder will have satisfied the initial training/testing provisions of this rule. As mentioned previously, these materials may be take-home materials, video tapes, self-grading quizzes, or other materials. In effect, this allows a certificate holder to quickly provide initial training to its pilots and provides additional time for the certificate holder to amend its established training program.

The FAA does not believe that a phase-in of ground operating deicing procedures would accomplish the intent of the rule; however, if a certificate holder does not conduct operations with certain airplanes in ground icing conditions, procedures and training for these airplanes are not required by this rule.

The FAA has decided to make the rule effective on January 31, 1994. This will provide approximately the same time allowed after publication of the part 121 rule.

The FAA intends to move quickly to review and approve or deny the pretakeoff contamination check procedures and training or testing materials. The FAA has conducted training sessions for POIs and has provided POIs with guidance materials to facilitate their review.

Discussion of Cost Comments

Actual Operational Costs

One commenter states that the cost figures contained in the NPRM Regulatory Evaluation includes only training costs. Moreover, the commenter states that the actual operational costs need to be analyzed as well, prior to a fair benefit-cost determination. Another commenter states that the most important cost element has been ignored—the cost of purchasing, maintaining, and operating the deicing equipment.

FAA Response

Part 135 operators are not expected to incur significant operational costs. Of the three types of potential operational cost components (training and related functions, deicing fluids, and deicing equipment), only training is expected to impose significant incremental costs. Since deicing equipment is already in place at all major and medium size hub airports, it is unlikely that additional deicing equipment will be required by part 135 operators at these airports. Even though the deicing rule for part 121 had little, if any, impact on small airports, deicing equipment is already being used at these airports. During icing conditions, parts 125 and 135 aircraft operators at all airports (regardless of size) in the U.S. are required by §§ 125.221(b) and 135.227(b) of the FAR to utilize the FAA's "Clean Aircraft Concept," i.e., no aircraft is permitted to take off unless it is free of contamination (i.e., ice, snow, frost, etc.). Because of enhanced safety awareness as a result of the additional testing and training required by this rule, the FAA expects some increase in the use of deicing equipment. However, the need for additional deicing equipment is expected to be insignificant.

The FAA has not included any delay costs in this regulatory evaluation that might be incurred as a result of increased deicing. The FAA believes that delays for part 135 aircraft operations would not be significant for several reasons. First, part 135 operations, because of their flexible runway requirements and quick turnaround times, often do not experience the same delays associated with larger part 121 operations. Also, many part 135 and part 125 operations take place at small airports that do not experience large numbers of simultaneous arrivals and departures associated with the larger air carrier's hub and spoke operations.

The FAA invited comments associated with delay costs for the interim part 121 rule and none were received. However, the FAA invites part 135 and part 125 certificate holders to comment on any delay costs associated with this interim final rule.

VOL 58 ISS 249 DEC 30 1993 UMI

Reduction in Services

One commenter states that the unnecessary requirements of this proposed rule and similar types of programs drive up costs for operators in an already floundering industry. In addition, this commenter contends that higher costs will ultimately reduce the services his company can offer to the flying public.

This commenter also asserts that station and vender auditing will increase dramatically for certain operators. Furthermore, the commenter notes that many of the industry's single-engine 135 operators will require deicing equipment at stations where they previously needed none, or at least require regular auditing of vendors. Currently, these vendors are seldom used, if ever. Additional deicing equipment purchase expenses for these operations will mount astronomically, according to this commenter.

FAA Response

A review of the accident history, as discussed in the background section of the NPRM, indicates this rule is necessary. While the commenter believes that station and vendor auditing will increase, the commenter failed to provide any data for the agency to evaluate nor has the commenter disproved the FAA's original assessment of costs and benefits associated with this rule. The comment regarding the need for additional deicing equipment has been discussed previously.

Loss of Revenue Days

One commenter notes that besides the added cost of the additional training, there will be a loss of revenue on days they are unable to fly due to this rule being implemented too close to the winter season.

FAA Response

The FAA disagrees with this commenter. The loss in revenues on days an air carrier is unable to fly during icing conditions would not be attributed to this rule. Currently, no air carrier can take off from a U.S. airport (regardless of size) unless it is free of contamination, as required by §§ 125.221(b) and 135.227(b) of the FAR. More on this issue and related matters is discussed in detail under "The Implementation" section of this document.

Number of Operators Impacted

This commenter states that the FAA's estimate that 70 percent of the part 135 unscheduled operators are potentially impacted by the proposed rule is not realistic, i.e., this 70 percent estimate should be higher. This commenter also mentions that Docket No. 27459 is unjustified based on potential costs and benefits.

FAA Response

The FAA disagrees with this commenter. As explained in the full regulatory evaluation, an estimated 70 percent of part 135 unscheduled aircraft operators are expected to be impacted by the rule. This assessment is stated as an assumption based on data received from the FAA's Office of Flight Standards, Management Information Section, in Oklahoma City, Oklahoma. The data represent the total number of active parts 125 and 135 certificate holders by city, state, name of operator, number of employees, type of aircraft, and number of seats. Based on this information, the FAA was able to estimate the number of air taxi certificate holders in warm climates who would not be impacted by this proposed rule, since such certificate holders would rarely encounter ground icing conditions. More descriptive information on the derivation of the 70 percent estimate is contained in the full evaluation of this rule.

Lost Revenue and Reduced Aircraft Operations

Several commenters contend that as the result of the proposed rule, additional research will have to be conducted for operations in and out of airports that are not certified for part 121 operations. Furthermore, these commenters state that, in most instances, they have found that smaller airports servicing part 135 on-demand operators do not have deicing equipment readily available that will be required to comply with the proposed rule. Without such equipment at small airports, on-demand operator services could be reduced according to these commenters. In conclusion, these commenters point out that the proposed rule could result in considerable loss in revenue and discontinued operations by some operators.

FAA Response

As stated in the NPRM, the FAA intends to issue an interim final rule. Therefore, the FAA would continue to accept comments from all impacted parties on costs that are not adequately reflected in its regulatory evaluation, especially with regard to the purchase of additional deicing equipment and deicing fluid by operators for use at small airports. As the result of the FAA's current "Clean Aircraft Concept", the FAA believes the demand for additional deicing equipment at small airports will be insignificant, and little if any reduction in on-demand service will occur.

Accurate Cost Estimation

According to several commenters, the cost estimates of the proposed rule cannot be calculated accurately. They contend that additional information is required to make this determination. Such information should contain answers to these questions: what is the availability of deicing equipment at smaller, non-hub airports complying with the NPRM?, how much deicing equipment is available at each destination/departure airport?, will additional equipment be required to complete the pre-takeoff contamination checks?, etc.

FAA Response

The FAA has estimated costs of this rule based on the best available data. These commenters, while disagreeing with the FAA cost estimates, did not provide any additional data. Therefore, the FAA retains its original cost estimates. However, as stated in the NPRM, the FAA is issuing an interim final rule. Therefore, the FAA will continue to accept comments from all impacted parties on costs that are not adequately reflected in its regulatory evaluation, especially with regard to the purchase of additional deicing equipment and deicing fluid by operators.

Modification of Training/Testing Program Costs

One operator asserts that the FAA economic impact of the proposed rule is misstated. According to this commenter, modification of the manuals will take 8 hours for each operator plus at least 8 hours of FAA review time. Coupled with the revision of all manuals for the industry's pilots and training, this commenter estimates the cost burden to his company to be $3,000 rather than $1,350 as estimated by the FAA.

FAA Response

The FAA disagrees with this commenter. Using 8 hours, the FAA was unable to derive the commenter's cost estimate of $3,000 for the modification of its manuals. This problem is due to the fact that the commenter fails to provide specific details of how the cost estimate was derived. In the full regulatory evaluation, the FAA provides detailed means on how it derived its cost estimates of $1,350 to $2,700 for the modification of manuals (and other materials) by operators. Without a similar illustration or explanation, the FAA is unable to evaluate the merits of this commenter's remarks. Therefore, the FAA retains its original cost estimates.

Environmental Analysis

This rule is a federal action that is subject to the National Environmental Policy Act (NEPA). Under applicable guidelines of the President's Council on Environmental Quality and agency procedures implementing NEPA, the FAA normally prepares an environmental assessment (EA) to determine the need for an environmental impact statement (EIS) or whether a finding of no significant impact (FONSI) would be appropriate. (40 CFR 1501.3; FAA Order 1050.1D appendix 7. par 4 (a)). In the NPRM the FAA requested comments on the following:

(1) Whether the proposed rule will increase the use of deicing fluid,

(2) The impact, if any, of using these deicing fluids on taxiways "just prior to takeoff," and

(3) Containment methods currently used that can be adapted to other locations on an airport.

Two commenters state that the proposed rule will lead to increased use of deicing fluids. One commenter believes that the rule will cause excessive and unnecessary use of deicing fluids that will result in disposal problems and increased expense. Another commenter questions FAA's belief that "the rule will not promote significant additional use of deicing fluids" when the use of these fluids is the only method discussed in planned training and testing operations.

FAA Response

An EA that supports a FONSI is included in the docket for this rulemaking. The EA discusses in detail the potential effect of this rule and addresses in general terms the issues raised by the comments summarized above. The following discussion addresses these issues.

With respect to the potential for significantly increased use of deicing fluids, this is unlikely because no changes in deicing/anti-icing operations are required under the proposed rule, and therefore little, if any incremental increase in impact is anticipated due to implementation of the proposed rule. Training on fluids is only required for part 125 and part 135 certificate holders that presently use or plan to use deicing fluids. Training focuses on increased training and awareness for the use of these fluids that will result in more effective use and application of the deicing fluids currently being used.

With respect to increased disposal problems, the characteristics of glycols which are the active component of deicing/anti-icing fluids (e.g., low toxicity, low ecotoxicology, low volatility, high biodegradability) lead to minor environmental and public health impacts. Mitigation measures for air (release reporting under CERCLA) and water quality (storm water discharge NPDES permits) will reduce the possible minor impacts even further, producing no significant impacts overall. And finally, the baseline environment of airports are already affected by ongoing airport operations, including current deicing/anti-icing programs.

Paperwork Reduction Act

Information collection requirements in these amendments to parts 125 and 135 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The OMB control number is 2120–0578.

Regulatory Evaluation Summary

The FAA has determined that this final rule is not a "significant rulemaking action", as defined by Executive Order 12866 (Regulatory Planning and Review). The anticipated costs and benefits associated with this final rule are summarized below. (A detailed discussion of costs and benefits is contained in the full evaluation in the docket for this final rule).

Costs

The FAA estimates that the total compliance cost of this final rule will be $8.1 million over the next 10 years, in 1992 dollars. On a discounted basis (using a 7 percent rate of interest), the total potential cost is $6.7 million. This estimate is based on costs to comply with three requirements: (1) Initial Training/Testing of Pilots, (2) Recurrent Training/Testing of Pilots, and (3) Modification of the Training/Testing Program. The cost of each of these components is discussed below.

Initial Training/Testing of Pilots

The FAA assumes that all pilots under part 125 will receive initial testing and pilots under part 135 will receive initial training of 1 hour during the first year after this rule becomes effective. Training and testing will be for pilots-in-command (PICs) and pilots second-in-command (SICs). Costs for these pilots are based on their hourly wage rates of $62 and $33, respectively. The cost of initial training and testing was derived based on the total number of PICs and SICs that are expected to be trained multiplied by their respective hourly wages.

Based on aircraft data obtained from the FAA Flight Standards Service Office, Information Management Section, there are an estimated 7,950 active fixed-wing aircraft operating under parts 125 and 135 that will be affected by the rule. However, many of these aircraft operate in climates that do not experience icing conditions; therefore, FAA estimates that about 7,950 (approximately 70 percent) will be affected by this rule. In order to estimate the total number of pilots that will be trained, the number of affected airplanes was multiplied by four pilots (two active and two reserve); this is approximately 29,300 pilots. Multiplying the number of pilots trained by their average hourly wage rate of $48 results in initial training/testing costs of $1.4 million (or $1.3 million, discounted).

Recurrent Training/Testing of Pilots

The recurrent training/testing required annually for each pilot will start in the second year of the 10-year time frame of the rule. The FAA estimates that the training will take approximately 15 minutes and cost $12 ($48 per hour x .25) per pilot. This cost estimate multiplied by the total number of pilots (29,300) results in estimated annual recurrent training costs of $350,000. Over the next 10 years, this cost will be $3.2 million (or $2.2 million, discounted).

Modification of Training/Testing Program

While the FAA cannot precisely estimate to what extent operators will incur costs as the result of modifying their respective training/testing programs, this evaluation assumes that some additional costs will be incurred. To calculate these costs, the FAA estimated that this rule will affect 97 scheduled part 135 operators, 2,043 unscheduled part 135 operators, and 26 part 125 operators. The one-time cost estimate of $2,700 (scheduled part 135 operators) and $1,350 (part 125 and unscheduled part 135 operators) for training/testing program modifications multiplied by the total number of operators amounts to $3.1 million (or $2.9 million, discounted). The FAA solicits comments prior to April 15, 1994 from the aviation community, particularly operators under parts 125 and 135, regarding the actual training costs and total compliance costs that are incurred.

VOL 58 ISS 249 DE 30 1993 UMI

Benefits

This final rule will generate potential safety benefits of $14.2 million (or $10.0 million, discounted) over the next 10 years, in 1992 dollars. These benefits will be the reduction in fatalities, serious injuries, and property loss from accidents involving ice contamination for airplane operations under parts 125 and 135.

To estimate the potential benefits associated with this rule, the FAA examined all of the part 135 icing accidents that have occurred from 1984 to 1992. A similar effort was employed for part 125 operations; however, there were no icing accidents or incidents involving part 125 operators. Even though there were no relevant part 125 ground icing accidents during the period examined, the FAA believes that there will be some part 125 future benefits from accidents avoided. Between 1984 and 1992, there were 14 accidents with 7 fatalities, 2 serious injuries, and 8 minor injuries. These accidents were examined closely to answer the following questions:

- To what extent will this rule have prevented the accident from occurring?
- What other factors (other than ice on the airframe) contributed to the accident?
- If there were other factors, how much did these factors contribute to the accident?

The analytical approach employed to quantify the potential safety benefits focuses on the increased safety awareness resulting from this additional training and testing and the improved checking procedures. Under this rule, a pilot will most likely perform a visual pretakeoff contamination check prior to departure. Alternatively, certificate holder's may have FAA approved ice detectors or sensors installed on the airplane's critical surfaces, or may comply with the part 121 deicing/anti-icing interim rule.

The FAA recognizes that there are many uncertainties when dealing with winter storms, human error, etc, and that even under this rule, it is possible that an accident may occur. Some of the 14 known accidents identified in this evaluation may have occurred even in the absence of icing conditions. Consequently, for purposes of this evaluation, the FAA is claiming as benefits generated by this rule, only 60 percent of the casualty losses from those 14 accidents. This estimate is based on the FAA's knowledge of ice contamination, similar issues related to part 121 operations, and review of those part 135 accidents involving icing conditions. The FAA realizes that there is still some uncertainty in the 60 percent effectiveness rate. Therefore, the FAA continues to solicit comments from the aviation community on the likelihood of this rule preventing these types of accidents.

To estimate the potential benefits of this rule, the FAA calculated the average annual number of accidents/incidents over the 9-year period. There were 14 accidents/incidents over the 9-year period averaging 1.6 (14/9) per year. Similarly, the average annual number of fatalities and serious injuries were .8 (7/9) and .2 (2/9), respectively. In order to provide the public and government officials with a benchmark comparison of the expected safety benefits of rulemaking actions with estimated costs in dollars, the FAA currently uses a minimum value of $2.5 million to statistically represent a human fatality avoided and $640,000 for each serious injury. These values are applied to the .8 annual fatalities and .2 annual serious injuries over the next 10 years. After including the average annual replacement value of the airplanes involved in these accidents/incidents, which is estimated to be approximately $280,000, the total benefits will be $23.7 million. Assuming that this rule is approximately 60 percent effective, the potential benefits will be $14.2 million, or $10.0 million discounted.

Conclusion to Cost/Benefit Analysis

This rule is expected to impose total costs estimated at $6.7 million (discounted) compared to total potential safety benefits estimated at $10.0 million (discounted). Therefore, the FAA has determined that this rule is cost-beneficial.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires government agencies to determine whether rules that would have "a significant economic impact on a substantial number of small entities" and, in cases where they would, to conduct a Regulatory Flexibility Analysis.

According to FAA Order 2100.14A: Regulatory Flexibility and Guidance, a substantial number of small entities is defined as a number which is not less than eleven and which is more than one-third of the small entities subject to a proposed or existing rule. A significant economic impact on a small entity is an annualized net compliance cost which, when adjusted for inflation, equals or exceeds the significant cost threshold for the entity type under review.

The entities that will be affected by this rule are small operators that own, but not necessarily operate, nine or fewer aircraft. The FAA estimates that there are 26 operators under part 125, with an average of about two aircraft owned per operator. The FAA also estimates that there are 2,140 part 135 operators (97 scheduled and 2,043 unscheduled). On average, the unscheduled operators own fewer than four aircraft each. The scheduled operators own, on average, slightly more than 14 aircraft. Multiplying the $7.7 million cost of this rule by a capital recovery factor of .14278 (10 years, 7%), results in an annualized cost estimate of $1.1 million. This estimate of $1.1 million was subsequently divided by the total number of operators (2,166) and resulted in an estimated annual cost impact of about $500 per operator. This annualized cost estimate is less than the annualized threshold cost of $4,600 (1992 dollars). Therefore, this rule will not impose a significant economic impact on a substantial number of small aircraft operators.

International Trade Impact Statement

This rule will have no impact on the competitive posture of either U.S. carriers doing business in foreign countries or foreign carriers doing business in the United States. This assessment is based on the fact that this rule will impact operators engaged in U.S. domestic operations. These operators do not compete with operators engaged in similar activities in the United States.

Federalism Implications

The regulations herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The rule has been reviewed by the Office of Management and Budget under Executive Order 12866. This regulation is considered significant under DOT Regulatory Policies and Procedures for Simplification, Analysis, and Review of Regulations. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A final regulatory evaluation of the regulation, including a Final Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

14 CFR Part 125

Air carriers, Air transportation, Aviation safety, Safety.

14 CFR Part 135

Air carriers, Air taxi, Air transportation, Aviation safety, Safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 125 and 135 of the Federal Aviation Regulations (14 CFR parts 125 and 135) as follows:

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

1. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 1354, 1421 through 1430 and 1502; 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983).

2. Section 125.221 is amended by revising paragraph (a), by redesignating paragraphs (b) through (d) as paragraphs (c) through (e), respectively, and by adding a new paragraph (b) to read as follows:

§ 125.221 Icing conditions: Operating limitations.

(a) No pilot may take off an airplane that has frost, ice, or snow adhering to any propeller, windshield, wing, stabilizing or control surface, to a powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system, except under the follow conditions:

(1) Takeoffs may be made with frost adhering to the wings, or stabilizing or control surfaces, if the frost has been polished to make it smooth.

(2) Takeoffs may be made with frost under the wing in the area of the fuel tanks if authorized by the Administrator.

(b) No certificate holder may authorize an airplane to take off and no pilot may take off an airplane any time conditions are such that frost, ice, or snow may reasonably be expected to adhere to the airplane unless the pilot has completed the testing required under § 125.287(a)(9) and unless one of the following requirements is met:

(1) A pretakeoff contamination check, that has been established by the certificate holder and approved by the Administrator for the specific airplane type, has been completed within 5 minutes prior to beginning takeoff. A pretakeoff contamination check is a check to make sure the wings and control surfaces are free of frost, ice, or snow.

(2) The certificate holder has an approved alternative procedure and under that procedure the airplane is determined to be free of frost, ice, or snow.

(3) The certificate holder has an approved deicing/anti-icing program that complies with § 121.629(c) of this chapter and the takeoff complies with that program.

* * * * *

3. Section 125.287 is amended by removing "and" at the end of paragraph (a)(7), removing the period at the end of paragraph (a)(8) and adding a semicolon in its place, and adding a new paragraph (a)(9) to read as follows:

§ 125.287 Initial and recurrent pilot testing requirements.

(a) * * *

(9) Knowledge and procedures for operating during ground icing conditions, (i.e., any time conditions are such that frost, ice, or snow may reasonably be expected to adhere to the airplane), if the certificate holder expects to authorize takeoffs in ground icing conditions, including:

(i) The use of holdover times when using deicing/anti-icing fluids.

(ii) Airplane deicing/anti-icing procedures, including inspection and check procedures and responsibilities.

(iii) Communications.

(iv) Airplane surface contamination (i.e., adherence of frost, ice, or snow) and critical area identification, and knowledge of how contamination adversely affects airplane performance and flight characteristics.

(v) Types and characteristics of deicing/anti-icing fluids, if used by the certificate holder.

(vi) Cold weather preflight inspection procedures.

(vii) Techniques for recognizing contamination on the airplane.

* * * * *

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

4. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

5. Section 135.227 is amended by revising paragraph (a), by redesignating paragraphs (b) through (e) as paragraphs (c) through (f), respectively, and by adding a new paragraph (b) to read as follows:

§ 135.227 Icing conditions: Operating limitations.

(a) No pilot may take off an aircraft that has frost, ice, or snow adhering to any rotor blade, propeller, windshield, wing, stabilizing or control surface, to a powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system, except under the following conditions:

(1) Takeoffs may be made with frost adhering to the wings, or stabilizing or control surfaces, if the frost has been polished to make it smooth.

(2) Takeoffs may be made with frost under the wing in the area of the fuel tanks if authorized by the Administrator.

(b) No certificate holder may authorize an airplane to take off and no pilot may take off an airplane any time conditions are such that frost, ice, or snow may reasonably be expected to adhere to the airplane unless the pilot has completed all applicable training as required by § 135.341 and unless one of the following requirements is met:

(1) A pretakeoff contamination check, that has been established by the certificate holder and approved by the Administrator for the specific airplane type, has been completed within 5 minutes prior to beginning takeoff. A pretakeoff contamination check is a check to make sure the wings and control surfaces are free of frost, ice, or snow.

(2) The certificate holder has an approved alternative procedure and under that procedure the airplane is determined to be free of frost, ice, or snow.

(3) The certificate holder has an approved deicing/anti-icing program that complies with § 121.629(c) of this chapter and the takeoff complies with that program.

* * * * *

6. Section 135.345 is amended by republishing the introductory text of paragraph (b), revising the introductory text of paragraph (b)(6), removing "and" at the end of paragraph (b)(6)(ii), adding "and" at the end of paragraph (b)(6)(iii),

and adding a new paragraph (b)(6)(iv) to read as follows:

§ 135.345 Pilots: Initial, transition, and upgrade ground training.

* * * * *

(b) For each aircraft type—

* * * * *

(6) Knowledge and procedures for—

* * * * *

(iv) Operating airplanes during ground icing conditions, (i.e., any time conditions are such that frost, ice, or snow may reasonably be expected to adhere to the airplane), if the certificate holder expects to authorize takeoffs in ground icing conditions, including:

(A) The use of holdover times when using deicing/anti-icing fluids;

(B) Airplane deicing/anti-icing procedures, including inspection and check procedures and responsibilities;

(C) Communications;

(D) Airplane surface contamination (i.e., adherence of frost, ice, or snow) and critical area identification, and knowledge of how contamination adversely affects airplane performance and flight characteristics;

(E) Types and characteristics of deicing/anti-icing fluids, if used by the certificate holder;

(F) Cold weather preflight inspection procedures;

(G) Techniques for recognizing contamination on the airplane;

* * * * *

7. Section 135.351(b)(2) is revised to read as follows:

§ 135.351 Recurrent training.

* * * * *

(b) * * *

(2) Instruction as necessary in the subjects required for initial ground training by this subpart, as appropriate, including low-altitude windshear training and training on operating during ground icing conditions, as prescribed in § 135.341 and described in § 135.345, and emergency training.

* * * * *

Issued in Washington, DC, on December 27, 1993.

David R. Hinson,

Administrator.

[FR Doc. 93-31945 Filed 12-27-93; 3:51 pm]

BILLING CODE 4910-13-P

Notices

Federal Register

Vol. 58, No. 249

Thursday, December 30, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC No. 135-XX]

Proposed Advisory Circular on Ground Deicing and Anti-Icing Training, Testing, and Checking

AGENCY: Federal Aviation Administration, DOT.

ACTION: Request for comments on proposed advisory circular.

SUMMARY: Proposed advisory circular (AC) 135-xx, Ground Deicing and Anti-Icing Training, Testing, and Checking, provides guidance about ground deicing and anti-icing that should be incorporated in an air carrier's approved training program. This AC provides guidance about one method of complying with the requirements of revised Federal Aviation Regulation (FAR) § 135.227.

DATES: Comments must be received on or before February 28, 1999.

ADDRESSES: Written comments are invited on all aspects of the proposed AC. Commenters must identify file number AC 135-xx, Ground Deicing and Anti-Icing Training and Checking. Send all comments on the proposed AC to the following location: Federal Aviation Administration, Flight Standards Service, Commuter/Air Taxi Branch (Attention: AFS250), 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT:

David Metzbower, Flight Standards Service, Commuter/Air Taxi Branch, AFS250, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-3762 (8 a.m. to 4:30 p.m. EST).

SUPPLEMENTARY INFORMATION: The guidance in this AC provides one method, but not the only method, of complying with the requirements of revised FAR § 135.227. This guidance material supplements the interim final rule, FAR § 135.227, which is being published in this issue. Due to the critical safety nature of this proposed AC, it is published in its entirety in order to allow commenters expedient access to the document.

Issued in Washington, DC on December 23, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

[FR Doc. 93-31946 Filed 12-29-93; 8:45 am]

BILLING CODE 4910-13-P

Ground Deicing and Anti-icing Training and Checking (AFS-250; 135-XX)

1. *Purpose.* This advisory circular (AC) provides one means, but not the only means, of complying with Federal Aviation Regulations (FAR) §§ 135.227, 135.345, and 135.351 (referred to as the FAR part 135 ground deicing rule). This AC provides guidance about FAR §§ 135.227, 135.345, and 135.351. Specifically, the guidance in this AC concerns:

a. Ground deicing and anti-icing training requirements that must be incorporated into an approved training program for certain air carriers;

b. Ground deicing and anti-icing guidance for those air carriers that are not required to have an approved training program; and

c. The pretakeoff contamination aircraft check required of all FAR part 135 air carriers except those that develop an approved alternative procedure or comply with the FAR part 121 ground deicing rule contained in FAR § 121.629(c).

2. *Related FAR sections. a. Part 135, Subpart A—general.* Sections 135.23 and 135.25.

b. Part 135, Subpart B—flight operations. Sections 135.77, 135.79 and 135.81.

c. Part 135, Subpart D—VFR/IFR operating limitations and weather requirements. Section 135.227.

d. Part 135, Subpart E—flight crewmember requirements. Section 135.244.

e. Part 135, Subpart H—training. Sections 135.323, 135.325, 135.327, 135.329, 135.339, 135.341, 135.343, 135.345, 135.347, and 135.351.

f. Special Federal Aviation Regulation (SFAR) no. 58. Advanced Qualification Program.

3. *Related reading material.* The following material should be useful in developing material, instructions, and procedures for incorporation in the certificate holder's training programs and operations manual:

a. AC 20-117, Hazards Following Ground Deicing and Ground Operations in Conditions Conducive to Aircraft Icing.

b. Federal Aviation Administration (FAA) publication, Winter Operations Guidance for Air Carriers and Other Adverse Weather Topics.

c. AC 120-58, Pilot Guide for Large Aircraft Ground Deicing.

d. AC 120-XX Pilot Guide for Ground Deicing of Air Taxi and Commercial Aircraft.

e. AC 135-XX, Ground Deicing and Anti-Icing Training and Checking.

f. Society of Automotive Engineers (SAE):

(1) AMS 1424, Deicing/Anti-Icing Fluid, Aircraft, Newtonian—SAE Type I.

(2) AMS 1428, Fluid, Aircraft Deicing/Anti-Icing, Non-Newtonian, Pseudo-Plastic, SAE Type II.

(3) ARP 4737, Aircraft Deicing/Anti-Icing Methods with Fluids, for Large Transport Aircraft.

g. International Standards Organization (ISO) publications:

(1) ISO 11075, Aerospace—Aircraft de-icing/anti-icing newtonian fluids ISO type I.

(2) ISO 11076, Aerospace—Aircraft de-icing/anti-icing methods with fluids.

(3) ISO 11077, Aerospace—De-icing/anti-icing self propelled vehicles—Functional requirements.

(4) ISO 11078, Aerospace—Aircraft de-icing/anti-icing non-newtonian fluids ISO type II.

4. *Background.* a. The "clean aircraft" concept. The current regulations in FAR parts 121 and 135 rely on the "clean aircraft" concept; i.e., that no person may takeoff an airplane when frost, ice, or snow is adhering to the wings, control surfaces, or propellers of the airplane (FAR §§ 121.629 and 135.227). The rationale behind this concept is that the presence of even minute amounts of frost, ice, or snow (referred to as "contamination") on particular airplane surfaces can cause a potentially dangerous degradation of airplane performance and unexpected changes in

airplane flight characteristics. Under current regulations, ultimate responsibility for determining whether the airplane is free of contamination and complies with the "clean aircraft" concept rests with the pilot-in-command (PIC). Both the FAA and industry have developed guidance and recommended procedures that are designed to help the PIC in making that determination. These procedures include monitoring weather conditions and temperature changes, visual checks, and using deicing/anti-icing fluids. When conditions conducive to the formation of frost, ice, or snow on airplane surfaces exist at the time of takeoff, those surfaces must be checked for contamination in accordance with FAR § 135.227. When contaminants are adhering to airplane surfaces, those contaminants, except as specifically provided, must be removed before takeoff. Because of the wide variations in airplane design and performance characteristics, methods for removing contamination for airplanes operated under FAR parts 121 and 135 vary greatly. Deicing of airplanes may be accomplished:

(1) By applying heated water followed by undiluted glycol-based fluid;

(2) By applying a heated water/glycol solution;

(3) By mechanically brushing the snow or ice off; or

(4) By placing the airplane in a hangar until the frost, ice, or snow melts.

Note: Currently, anti-icing (the treatment of the airplane with undiluted glycol-based fluid to prevent frost, ice, or snow from adhering to aircraft surfaces) is not commonly used in FAR part 135 operations.

b. Accidents related to icing. National Transportation Safety Board (NTSB) records reveal that 14 ground icing-related accidents and incidents involving airplanes operating under FAR part 135 occurred during the period of 1984–1992. While most of these accidents/incidents involved FAR part 135 non-scheduled cargo operations, three involved either non-scheduled or scheduled passenger carrying operations. Four of the accidents resulted in a total of seven fatalities. The NTSB identified other probable causes in some of these accidents/incidents, but in all 14 cases the NTSB identified the existence of frost, ice, or snow on the wings or other critical surfaces of the airplane as a probable cause. A common thread throughout these accidents/incidents was the pilots' apparent lack of awareness of the potential hazard from even small amounts of frost, ice, or snow on an airplane's wings and control surfaces. For instance, one pilot lost his life in an accident involving a non-scheduled cargo operation in Morrisonville, New York, on March 19, 1984. Prior to the accident, after identifying the presence of ice accumulation on the leading edges and upper wing surfaces, the pilot declined the use of a hangar to warm the airplane and instead attempted to remove the ice from the leading edges by hand. In another accident in Vienna, Missouri, on March 3, 1988, a pilot of a night cargo operation and another person lost their lives after taking off in known icing conditions. Before the flight, a line serviceman noticed ice on the aircraft's wings and suggested its removal, but the pilot declined.

5. *Definitions.* The terms used in this AC are not defined in FAR part 1, but are defined herein for better understanding of this material as follows:

a. Deicing. A procedure by which frost, ice, or snow is removed from the aircraft in order to provide clean surfaces.

b. Anti-icing. A precautionary procedure that provides protection against the formation of frost or ice and accumulation of snow on treated surfaces of the aircraft for a limited period of time.

c. Deicing/anti-icing. A combination of the two procedures above. It can be performed in one or two steps.

(1) One-step deicing/anti-icing is carried out with an anti-icing fluid. The fluid used to deice the aircraft remains on aircraft surfaces to provide limited anti-ice capability.

(2) Two-step deicing/anti-icing consists of two distinct steps. The first step (deicing) is followed by the second step (anti-icing) as a separate fluid application. Anti-icing fluid is applied to protect the relevant surfaces, thus providing maximum possible anti-ice capability (holdover time).

d. Holdover time. The estimated time the application of deicing or anti-icing fluid will prevent the formation of frost or ice and the accumulation of snow on the treated surfaces of an aircraft. Holdover time begins when the final application of deicing/anti-icing fluid commences, and it expires when the deicing/anti-icing fluid applied to the aircraft loses its effectiveness as described in the appropriate holdover timetable.

e. Pretakeoff contamination check. A pretakeoff contamination check is a check to make sure the wings and control surfaces are free of frost, ice, or snow. Section 135.227 of the FAR requires that a pretakeoff contamination check be completed within 5 minutes prior to beginning takeoff. Under FAR part 135, depending upon the type of aircraft, it may be accomplished from within or outside the aircraft and may be visual or tactile or a combination, as long as the check is adequate to ensure the absence of contamination. The certificate holder's FAA principal operations inspector (POI) must approve the pretakeoff contamination check procedures for each specific type of aircraft operated by the certificate holder. Also, the pretakeoff contamination check is referenced or described within the certificate holder's operations specifications.

6. *Overview of the FAR part 135 ground deicing rule.* The FAA and the aviation community rely almost exclusively on the PIC's judgment for ensuring the clean aircraft concept. The FAA believes that pilot education is the paramount element to combating the threat of icing. After reassessing its policy and reviewing accident statistics, the FAA still believes that pilot education is a major element in combating these types of accidents, but it must be supplemented by aircraft checks for contamination. To ensure the implementation of the clean aircraft concept, the FAR part 135 ground deicing rule requires education through additional training, and an aircraft check for contamination of the wings and control surfaces prior to beginning takeoff. All part 135 certificate holders whose aircraft expect to takeoff in ground icing conditions must complete a pretakeoff contamination check. The part 135 ground deicing rule allows an operator to develop an approved alternative method of checking the aircraft for contamination such as deice sensors. Additionally, part 135 certificate holders may choose to check the aircraft for contamination by complying with the FAR part 121 deicing rule.

7. *Applicability of the part 135 ground deicing rule. a. General.* The FAR part 135 ground deicing rule requires that a certificate holder who has a required, approved training program to incorporate deicing/anti-icing pilot training and pretakeoff contamination check procedures or an approved alternative to the pretakeoff contamination check (alternative aircraft check) into that approved training program. The procedures for a pretakeoff contamination check or the alternative aircraft check should also be in the certificate holder's operations manual and referenced in its operations specifications. The part 135 ground deicing rule does not apply to part 91 operations conducted by a part 135 operator.

b. Certificate holder who does not operate in ground icing conditions. The FAR part 135 ground deicing rule does not apply to a certificate holder who does not operate during ground icing conditions. That certificate holder is not required to train its pilots or develop pretakeoff contamination check procedures. However, that operator's aircraft cannot takeoff under a part 135 operation until ground icing conditions cannot reasonably be expected to exist.

c. FAR part 135 certificate holder who complies with the FAR part 121 ground deicing rule. If approved, a part 135 operator can comply with the FAR part 121 ground deicing rule. However, the operator must comply with the entire FAR part 121 ground deicing rule and not just with selected provisions.

d. Certificate holders who use only one pilot in their operations. Certificate holders who use only one pilot in their operations (single pilot operations) are not required to comply with the manual and approved training program requirements in FAR § 135.21, Manual requirements, and 135.341, Pilot and flight attendant crewmember training programs. Therefore, single pilot operations are not required to have an approved pilot training program nor the additional training required by the FAR part 135 ground deicing rule. However, single pilot operations must comply with all the operational requirements (i.e., pretakeoff contamination check or an approved alternative to the pretakeoff contamination check described in its operations specifications) of the FAR part 135 ground deicing rule. The pilots of these types of operators will need to demonstrate the knowledge required to operate in ground icing conditions during initial and recurrent flight checks. Thus, the information contained in this AC is also applicable to certificate holders who use only one pilot in their operations.

e. Helicopter operations. Helicopters generally do not operate in icing conditions. The FAA's review of icing-related accidents and incidents did not reveal any accident history for helicopter operations that suggest additional training or a special inspection requirement would be necessary. Therefore, helicopter operations conducted under FAR part 135 are excluded from the additional training and aircraft checking requirements of the FAR part 135 ground deicing rule. However, the "clean aircraft" concept still applies to helicopters.

8. *Miscellaneous. a. 1993 winter season.* Because of the short lead time for implementing the FAR part 135 ground deicing rule, the FAA will allow maximum flexibility in providing the required training for the 1993 winter season. Initial training can be accomplished through the issuance of bulletins, manual revisions, self-grading quizzes, or other review materials. Receipt of training documents by the operator's pilots will satisfy the training requirement for the 1993 winter season. Formal training will be accomplished in the next recurrent training cycle.

b. Associated deicing/anti-icing personnel. The ground deicing rule in FAR part 135 requires additional training for pilots only. If the certificate holder uses additional employees to accomplish deice procedures the FAA anticipate approving such procedures in circumstances in which those additional employees are also be trained in accordance with the certificate holder's training program and manual procedures.

c. Credit for previous training. (1) Part 135. The FAA recognizes that many part 135 training programs contain training on operations in ground icing conditions. A separate training section on deicing in the operator's approved training program is not necessary. Under the part 135 ground deice rule, credit for previous appropriate training given by the operator to its pilots will be granted. Certificate holders can obtain approval by showing those appropriate parts of their current part 135 training program to their POI's along with any appropriate documentation. Certificate holders who do not cover all of the topics required by the part 135 ground deice rule will need to add those topics to their approved training program.

(2) Part 121. Training completed and documented under the part 121 ground deice rule will be accepted and credited, as appropriate, toward training required under the part 135 ground deice rule. To obtain credit for training completed under the part 121 ground deice rule, the training must be appropriate including specific aircraft type and cover the elements required by the Part 135 ground deice rule.

9. *Operational requirement of the FAR part 135 ground deicing rule. a. Pretakeoff contamination check.* Except for those FAR part 135 certificate holders who voluntarily choose to comply with the FAR part 121 ground deicing rule or those that develop an approved alternative procedure, each applicable air carrier who operates under FAR part 135 must develop approved procedures for a pretakeoff contamination check of the aircraft. As previously stated, the part 135 ground deice rule does not apply to a certificate holder who does not operate in ground icing conditions. In accordance with FAR § 135.227, the certificate holder's POI must approve the pretakeoff contamination check procedures for each specific type of aircraft operated by the certificate holder. Except for single pilot operations, the procedures for a pretakeoff contamination check should be contained in the certificate holder's approved training program, operations manual, and referenced within the certificate holder's operations specifications. FAR Part 135 single pilot operations will have the pretakeoff contamination procedures described in its operations specifications.

b. Alternative procedure to the pretakeoff contamination check. The Administrator may approve a certificate holder's alternative procedure which ensures that wings and control surfaces are free of frost, ice, or snow, instead of a pretakeoff contamination check. An alternative procedure may include procedures, techniques, or equipment (such as wing icing sensors) to establish that wings and control surfaces are not contaminated. These procedures, techniques, or equipment must be approved by the Administrator and detailed in the operator's training program (if applicable), operations manual (if applicable), and referenced in its operations specifications.

c. Part 135 certificate holder who complies with the FAR part 121 ground deicing rule. The FAR part 135 ground deicing rule allows a certificate holder to comply with FAR § 121.629(c) program requirements. Guidance for development of a FAR part 121 program is contained in AC 121–XX.

10. Training requirements in certificate holder's approved training program. For certificate holders who are required to have an approved training program and who anticipates takeoffs in ground icing conditions, that training program must include pilot ground training in those subjects relating to deicing and anti-icing operations as required by FAR § 135.345 for initial, transition, and upgrade training and FAR § 135.351 for recurrent training. These training requirements must include procedures for operating airplanes during ground icing conditions. That training must include at least the following elements (a more detailed discussion of each of these elements follows):

a. Procedures for the use of holdover timetables when using deicing/anti-icing fluids.

b. Aircraft deicing/anti-icing procedures, including inspection and check procedures and responsibilities.

c. Communications procedures.

d. Airplane surface contamination

(i.e., adherence of frost snow, ice, or snow) and critical area identification, and how contamination adversely affects airplane performance and flight characteristics.

e. Types and characteristics of deicing/anti-icing fluids, if used by the certificate holder.

f. Cold weather preflight inspection procedures.

g. Techniques for recognizing contamination on the airplane.

11. *Procedures for the use of holdover timetables when using deicing/anti-icing fluids.* a. *Use of holdover timetables.* Holdover times are only an estimate of the time deicing/anti-icing fluid prevents the formation of frost or ice and the accumulation of snow on the treated surfaces of an aircraft. A holdover time begins when the final application of deicing/anti-icing fluid commences and expires when the deicing/anti-icing fluid applied to the aircraft loses its effectiveness as described in the appropriate holdover timetable. The effectiveness of deicing/anti-icing fluids are based on a number of variables; e.g., temperature, moisture content of the precipitation, wind or aircraft skin temperature. The operational use of holdover timetables is not mandatory for FAR part 135 operations unless the operator elects to comply and the FAA approves its compliance with the FAR part 121 ground deicing rule requirements. Holdover timetables provide information on the effectiveness of deicing/anti-icing fluids and should be used for departure planning and coordination purposes in conjunction with pretakeoff contamination check procedures. Operations manuals should contain detailed procedures for conducting the pretakeoff contamination check. Procedures for using holdover timetables in the operator's manual are required for those operators who are authorized to comply with the part 121 ground deice rule and are recommended for other part 135 operators who conduct takeoff operations in ground icing conditions.

b. Development of holdover timetables. Holdover timetables have been developed by the SAE and the ISO. Each certificate holder may develop their own holdover timetables for use by its personnel, but the timetables must be supported by data acceptable to the Administrator; currently, the SAE/ISO holdover timetables are considered by the FAA to be the only acceptable data for use by FAR part 121 certificate holders. This policy will also apply to FAR part 135 certificate holders. (See Appendix A, Tables 1 and 2). Further guidance regarding holdover timetables is contained in AC 20–117, Hazards Following Ground Deicing and Ground Operations in Conditions Conducive to Aircraft Icing; AC 120–58, Pilot Guide for Large Aircraft Ground Deicing; SAE ARP 4737, Aircraft Deicing/Anti-Icing Methods for Large Transport Aircraft; AC 120–XX, Pilot Guide for Small Aircraft Ground Deicing; and ISO 11076, Aerospace—Aircraft Deicing/Anti-Icing Methods with Fluids.

12. *Aircraft deicing/anti-icing procedures, including inspection and check procedures and responsibilities.* Deicing and anti-icing procedures must be specific to each aircraft type in accordance with FAR § 135.345. Those aircraft-specific procedures should include instructions and checking guidelines for use by their pilots, and if appropriate and authorized, other personnel to determine whether or not aircraft surfaces are free of contaminants. Those aircraft-specific instructions and guidelines should also be in the certificate holder's operations manual, and described their operations specifications.

a. Deicing/anti-icing procedures. Deicing/anti-icing procedures should include, as applicable to each certificate holder:

(1) Methods of deicing (e.g., warm hangar, deicing fluid).

(2) Safety requirements during fluid application.

(3) Aircraft-specific considerations.

(4) Location-specific procedures.

(5) Post deicing/anti-icing checks.

(6) Contractor Deicing. Many certificate holders will utilize contract services, such as aircraft servicing vendors, fixed base operators, or other air carriers to perform deicing/anti-icing. The certificate holder's training program should include the PIC's responsibilities for supervising a contractor who provides deicing/anti-icing services.

b. Deicing/anti-icing checking procedures and responsibilities. The certificate holder's training program must have pilot training on aircraft-specific surface contamination checking to include the following:

(1) Pilot preflight inspection/cold weather preflight inspection procedures. This is the normal walk-around preflight inspection conducted by a pilot. This inspection should be used to note any aircraft surface contamination and direct any required deicing/anti-icing operation.

(2) Pretakeoff contamination check. An aircraft check completed within 5 minutes prior to beginning takeoff to make sure the wings and control surfaces are free of contamination. Each carrier must define the content of the pretakeoff contamination check. The check may be conducted from inside or outside the aircraft, depending upon such factors as atmospheric conditions, lighting conditions, aircraft type and ability of the crew to see the relevant aircraft surfaces.

(3) Certificate holders should consider the following guidelines for obtaining approval to conduct the pretakeoff contamination checks from inside the aircraft.

(i) Can some of the surfaces be seen to adequately determine whether or not the wings and control surfaces are free of contaminants? This determination should consider the aircraft type, the method of conducting the check—that is, from the cockpit or cabin; lighting; and atmospheric conditions.

(ii) Does the certificate holder have procedures to recognize, and has the pilot been properly trained to recognize changes in weather conditions to allow the PIC to ascertain whether or not the wings and control surfaces could reasonably be expected to remain free of contaminates?

c. Alternative procedure. The Administrator may approve a certificate holder's alternative procedure, which ensures that wings and control surfaces are free of frost, ice, or snow, instead of a pretakeoff contamination check. An alternative procedure may include procedures, techniques, or equipment (such as wing icing sensors) to establish that wings and control surfaces are not contaminated. Any alternative procedure must be approved by the certificate holder's POI through the manager of the Air Transportation Division and after approval, detailed in the operator's training program (if applicable), operations manual (if applicable), and referenced in its operations specifications.

d. PIC responsibility. Operator developed guidance and procedures should contain a discussion regarding the PIC's responsibility to make the decision on whether or not to takeoff.

e. Aircraft surfaces. The aircraft surfaces, which should be clear of contaminants before takeoff, should be described in the aircraft manufacturers' maintenance manual or other manufacturer-developed documents, such as service or operations bulletins.

(1) Certificate holders should list in their approved training programs and operations manual (which are referenced in the operations specifications) for each type of aircraft used in their operations, the surfaces which should be checked on pilot-conducted preflight inspections and pretakeoff contamination checks.

(2) Generally, the following aircraft surfaces should be clear of contaminants, if the aircraft manufacturer's information is not available:

(i) Propeller, windshield, wing, empennage, stabilizing, and control surfaces.

(ii) Powerplant installation(s) including associated surfaces and systems such as engine inlets and fuel vents.

(iii) Airspeed, altimeter, rate of climb, and flight attitude instrument including associated surfaces or systems such as pitot heads, static ports, and instrument sensor pickup points.

13. *Communications.* a. The PIC should have the following information when deicing/anti-icing with fluids is accomplished:

(1) Fluid type (for example, Type I or Type II).

(2) Fluid/water mix ratio.

(3) Start time of final fluid application/beginning of holdover time.

(4) Verification that the aircraft is free of contamination.

b. ATC coordination.

c. Means for obtaining most current weather information.

14. *Airplane surface contamination.* a. Certificate holders should include training which ensures that the pilots understand the following:

(1) Freezing Precipitation. Snow, sleet, freezing rain, drizzle, or hail which adheres to aircraft surfaces.

(2) Frost, including hoarfrost, is a crystallized deposit, formed from water vapor on surfaces which are at or below 0°C (32°F).

(3) Freezing Fog. Clouds of supercooled water droplets that form a deposit of ice on objects in cold weather conditions.

(4) Snow. Precipitation in the form of small ice crystals or flakes which may accumulate on or adhere to aircraft surfaces.

(5) Freezing Rain. Water condensed from atmospheric vapor falling to earth in supercooled drops, forming ice on objects.

(6) Rain or High Humidity (on Cold-Soaked Wing). Water forming ice or frost on the wing surface when the temperature of the aircraft wing surface is at or below 0°C (32°F). Some aircraft may be susceptible to the formation of frost or ice on wing surfaces when the wing surfaces are cold-soaked and the aircraft is exposed to conditions of high humidity, rain, drizzle, or fog at ambient temperatures above freezing.

(7) Underwing Frost. Takeoff with frost under the wing in the area of the fuel tanks (caused by cold-soaked fuel) within limits established by the aircraft manufacturer, authorized by FAA aircraft certification offices, and stated in aircraft maintenance and flight manuals may be permitted.

b. Effects of frost, ice, snow, and slush on aircraft performance, stability, and control. The certificate holder should obtain this information from the manufacturer of each type of aircraft it uses in its operations and should ensure that its pilots are trained in the following effects of contamination on aircraft performance.

(1) Increased drag/weight.

(2) Tendency for rapid pitch-up during rotation or wing roll off.

(3) Loss of lift.

(4) Stall occurs at lower-than-normal angle of attack.

(5) Buffet or stall occurs before activation of stall warning.

(6) Decreased effectiveness of flight controls.

15. *Types and characteristics of deicing/anti-icing fluids.* (a) Certificate holders should refer to the following SAE publications for additional information on specific deicing and anti-icing methods and procedures and on fluid characteristics and capabilities: AMS 1424, Deicing/Anti-Icing Fluid, Aircraft, Newtonian—SAE Type I; AMS 1428, Fluid, Aircraft Deicing/Anti-Icing, Non-Newtonian, Pseudo-Plastic, SAE Type II; and ARP 4737, Aircraft Deicing/Anti-Icing Methods with Fluids, for Large Transport Aircraft; and the following ISO documents: ISO 11075, Aerospace—Aircraft de-icing/anti-icing newtonian fluids ISO type I; ISO 11076, Aerospace—Aircraft de-icing/anti-icing methods with fluids; ISO 11077, Aerospace—de-icing/anti-icing self propelled vehicles—Functional requirements; ISO 11078, Aerospace—Aircraft de-icing/anti-icing non-newtonian fluids ISO type II.

(b) If the certificate holder intends to use deicing/anti-icing fluids for ground deicing, the types and characteristics of deicing/anti-icing fluids should be included in the certificate holder's training program and operations manual. Deicing and anti-icing fluids with differing characteristics and capabilities exist; they may undergo improvements, and new types of fluids may be developed. Certificate holders should ensure that their pilots are knowledgeable about the characteristics of each type of fluid used.

Certificate holders should ensure that the following subjects are discussed, as applicable:

(1) Deicing fluids.

(i) Heated water.

(ii) Newtonian fluid (SAE/ISO Type I) (see Caution).

(iii) Mixtures of water and SAE/ISO Type I fluid.

(iv) Mixtures of water and SAE/ISO Type II fluid.

Note: Deicing fluid should be applied heated to assure maximum efficiency.

b. Anti-icing fluids:

(i) Newtonian fluid (SAE/ISO Type I) (see CAUTION).

(ii) Mixtures of water and SAE/ISO Type I fluid.

(iii) Non-Newtonian fluid (SAE/ISO Type II).

(iv) Mixtures of water and SAE/ISO Type II fluid.

Note: SAE/ISO Type II anti-icing fluid is normally applied cold on clean aircraft surfaces, but may be applied heated. Cold SAE/ISO Type II fluid normally provides longer anti-icing protection. SAE/ISO Type I anti-icing fluid should be applied heated.

c. Fluid Characteristics.

(1) Type I Fluids.

(i) Unthickened.

(ii) Limited holdover time.

(iii) Applied to form thin liquid film on wing.

(2) Type II Fluids.

(i) Thickened.

(ii) Longer holdover times in comparison to those of Type I fluids.

(iii) Application results in a thick liquid film (a gel-like consistency) on wing.

(iv) Wind flow over the wing (shear) causes the fluid to progressively flow off the wing during takeoff.

(3) Deicing/Anti-Icing Fluids Handling/Performance Implications. The type fluid used and how completely the fluid flows off the wing during takeoff determines the effects of the following handling/performance factors. The aircraft manufacturer may also provide performance information regarding the use of the different deicing/anti-icing fluids.

(i) Increased rotation speeds/increased field length.

(ii) Increased control (elevator) pressures on takeoff.

(iii) Increased stall speeds/reduced stall margins.

(iv) Lift loss at climbout/increased pitch attitude.

(v) Increased drag during acceleration/increased field length.

(vi) Increased drag during climb.

16. *Cold weather preflight inspection procedures.* a. Pilot preflight inspection/cold weather preflight inspection procedures. This is the normal walk-around preflight inspection conducted by a pilot. This inspection should be used to note any aircraft surface contamination and initiate any required deicing/anti-icing operations.

b. A thorough preflight inspection is

more important in temperature extremes because those temperature extremes may affect the aircraft or its performance. At extremely low temperatures, the urge to hurry the preflight of the aircraft is natural, particularly when the aircraft is outside and adverse weather conditions exists, which make the preflight physically uncomfortable for the pilots. This is the very time to perform the most thorough preflight inspection.

c. Aircraft areas that require special attention during a preflight during cold weather operations depend on the aircraft design and should be identified in the certificate holder's training program. The preflight should include all items recommended by the aircraft manufacturer. A preflight should include items appropriate to the specific aircraft type. Generally, those items may include:

(1) Wing leading edges, upper and lower surfaces.

(2) Vertical and horizontal stabilizing devices, leading edges, upper surfaces, lower surfaces, and side panels.

(3) Lift/drag devices such as trailing edge flaps.

(4) Spoilers and speed brakes.

(5) All control surfaces and control balance bays.

(6) Propellers.

(7) Engine inlets, particle separators, and screens.

(8) Windshields and other windows necessary for visibility.

(9) Antennas.

(10) Fuselage.

(11) Exposed instrumentation devices such as angle-of-attack vanes, pitot-static pressure probes, and static ports.

(12) Fuel tank and fuel cap vents.

(13) Cooling and auxiliary power unit (APU) air intakes, and exhausts.

(14) Landing gear.

d. Blowing Snow. If an aircraft is exposed to blowing snow, special attention should be given to openings in the aircraft where snow can enter, freeze, and obstruct normal operations. The following openings should be free of snow and ice before flight:

(1) Pitot tubes and static system sensing ports.

(2) Wheel wells.

(3) Heater intakes.

(4) Engine air intakes and carburetor intakes.

(5) Elevator and rudder controls.

(6) Fuel vents.

17. *Techniques for recognizing contamination on the airplane.* a. Certificate holders should have aircraft-specific techniques for the use of their pilots (and other personnel, if applicable) to recognize contamination on aircraft surfaces and indications of loss of effectiveness of fluids.

b. Some indications for loss of effectiveness of deicing/anti-icing fluid or contamination on aircraft surfaces include:

(1) Progressive surface freezing or snow accumulation.

(2) Random snow accumulation.

(3) Dulling of surface reflectivity (loss of gloss) caused by the gradual deterioration of the fluid to slush.

(4) Fluid characteristics and indications that the fluid is losing its effectiveness obtained from the deicing/anti-icing fluid manufacturers.

[FR Doc. 93-31946 Filed 12-27-93; 3:51 pm]

BILLING CODE 4910-13-M

federal register

Thursday
December 30, 1993

Part IX

Environmental Protection Agency

40 CFR Part 82
Protection of Stratospheric Ozone; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–4819–8]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule establishes regulations that implement the statutory ban on nonessential products containing or manufactured with class II ozone-depleting substances under section 610(d) of the Clean Air Act, as amended. This final rule was developed by EPA in order to clarify definitions and provide exemptions, as authorized under section 610(d). The substances affected by this rulemaking are certain products made with hydrochlorofluorocarbons (HCFCs). This action will facilitate implementation of the ban, with a statutory effective date of January 1, 1994, and provide guidance and exceptions to the ban that are authorized by the statute.

EFFECTIVE DATE: This final rule is effective January 1, 1994. For additional information concerning the effective date see section VI in Supplementary Information.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. A–93–20, in room M–1500, Waterside Mall (Ground Floor), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Dockets may be inspected from 8:30 a.m. until 12 noon, and from 1:30 p.m. until 3 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Cynthia Newberg, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460. (202) 233–9729. The Stratospheric Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Background
II. Notice of Proposed Rulemaking
A. Medical Products
B. Aerosol Products and Pressurized Dispensers Containing Class II Substances
1. Definition of Aerosol Products and Pressurized Dispensers
2. Proposed Exemptions
C. Foam Products Containing or Manufactured with Class II Substances
1. Insulating Foam Products
2. Foam Used to Meet Federal Motor Vehicle Safety Standards
D. Temporary Exemptions
E. Ban On Sale and Distribution in Interstate Commerce
F. Scope of Interstate Commerce
G. Resale of Used Products
H. Imports and Exports
I. The Use of Affected Products Purchased Before the Effective Date of the Ban
J. Verification and Public Notice Requirements for Cleaning Fluids for Non-Commercial Electronic and Photographic Equipment
III. Summary of Major Public Comments
IV. Response to Comments
A. Aerosol Products and Pressurized Dispensers
1. Products Using Class II Substances As Replacements For Class I Substances That Include Methyl Chloroform, Carbon Tetrachloride or Halons
a. Wasp and Hornet Sprays
b. Hydraulic Brake Cleaners
c. Portable Fire Extinguishers
2. Products Requiring Both Class I and Class II Exemptions
a. Aircraft Pesticides
b. Dusters
c. Tire Inflators/tire sealer
3. Aerosol Products and Pressurized Dispensers Exempted By The Class I Ban
a. Lubricants for pharmaceutical and tablet manufacture
b. Solvent uses in lubricants, coatings and cleaning fluids for electrical or electronic equipment
c. Solvent uses in lubricants, coatings or cleaning fluids used for aircraft maintenance
d. Solvent uses in mold release agents
e. Solvent uses in spinnerette lubricant/cleaning sprays
f. Document Preservation Sprays
B. Foams
1. Definition of "Plastic Foam Product"
2. Definition of "insulating products"
a. Closed Cell Rigid Polyurethane Foam
i. Foam Used As Flotation Foam
ii. Taxidermy
iii. Aerosol Polyurethane Foam
b. Closed Cell Rigid Polystyrene Boardstock Foam
c. Closed Cell Rigid Polystyrene Sheet Foam
d. Closed Cell Polyethylene Foam
i. Backer Rods
ii. Pipe Wrap
iii. Aerosol Polyurethane Foam
e. Inomer Foam
f. Polyvinyl Chloride
3. Foam Needed To Meet Motor Vehicle Safety Standards
4. Use Of a Class II Substance As A Startup Gas in Foam Production
C. Temporary Exemptions
1. Existing Inventories
2. Products Requiring Federal Approvals
D. Interstate Commerce
E. Verification and Public Notice Requirements for Cleaning Fluids for Non-Commercial Electronic and Photographic Equipment
V. Summary of Changes From Proposal
VI. Effective Dates
VII. Summary of Supporting Analyses
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
VIII. Judicial Review
IX. References

I. Background

The Class II Nonessential Products Ban proposal, published on September 27, 1993 (58 FR 50464), contains a detailed background of the issues relating to the proposed ban. That background section includes information on the ozone depletion problem, the 1978 aerosol ban, the Montreal Protocol, the excise tax on certain ozone-depleting substances, the Clean Air Act as amended in 1990 (the Act), the proposed accelerated phaseout of ozone-depleting substances, and the labeling rule. Rather than repeat this background discussion, EPA refers readers of this final rule to 58 FR 50464 for such background.

II. Notice of Proposed Rulemaking

On September 27, 1993, EPA published a notice of proposed rulemaking (NPRM) (58 FR 50463) addressing issues related to the statutory prohibition against the sale or distribution, or offer for sale or distribution in interstate commerce of nonessential products containing or manufactured with a class II substance, imposed by section 610(d) of the Act.

During the development of that NPRM, EPA met with representatives from various industries and environmental organizations. The Agency also conducted two advisory meetings held in the EPA auditorium, on February 19, 1993, and March 29, 1993, in order to allow the public to review draft background documents on products containing or manufactured with class II substances and to offer comments and technical expertise on the development of the NPRM. Minutes of these meetings and copies of the background documents are contained in Docket A–93–20. The Agency used these forums as appropriate venues for hearing the concerns of various stakeholders potentially affected by the class II ban.

Title VI of the Act divides ozone-depleting chemicals into two distinct classes. Class I is comprised of chlorofluorocarbons (CFCs), halons, carbon tetrachloride and methyl chloroform, Methyl Bromide and hydrobromofluorocarbons. Class II is comprised of hydrochlorofluorocarbons (HCFCs). (See listing notice January 22, 1991; 56 FR 2420.) Section 610(b) of the Act, as amended, requires EPA to promulgate regulations banning nonessential products releasing class I substances. EPA published its final rule for the Class I Nonessential Products Ban on January 15, 1993 (58 FR 4768).

In the September 27 NPRM, EPA proposed regulations to implement the statutory prohibition imposed by section 610(d) on the sale or distribution in interstate commerce of specified class II products. Since many aspects of the proposed regulations were similar in structure to the section 610(b) final rule banning class I substances published on January 15, 1993, EPA proposed to revise the regulations promulgated under 40 CFR part 82 subpart C to incorporate the class II ban.

Section 610(d)(1) states that after January 1, 1994, "it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce—(A) any aerosol product or other pressurized dispenser which contains a class II substance; or (B) any plastic foam product which contains, or is manufactured with, a class II substance." Section 610(d)(2) authorizes EPA to grant certain exceptions and section 610(d)(3) creates exclusions from the class II ban in certain circumstances.

Section 610(d)(2) authorizes the Administrator to grant exceptions from the class II ban for aerosols and other pressurized dispensers where "the use of the aerosol product or pressurized dispenser is determined by the Administrator to be essential as a result of flammability or worker safety concerns," and where "the only available alternative to use of a class II substance is use of a class I substance which legally could be substituted for such class II substance."

Section 610(d)(3) states that the ban of class II substances in plastic foam products shall not apply to "foam insulation products" or "an integral skin, rigid, or semi-rigid foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards where no adequate substitute substance (other than a class I or class II substance) is practicable for effectively meeting such standards."

EPA believes that, unlike the class I ban, the class II ban is self-executing.[1] Section 610(d) bans the sale of the specified class II products by its own terms, without any reference to required EPA regulations. Consequently, EPA concluded that it was not required to promulgate regulations within one year of enactment under section 610(a) to implement the class II ban. EPA believes that the statutory text clearly establishes this obligation only with respect to regulations under section 610(b) to implement the class I ban.[2] EPA issued proposed regulations and is today issuing final regulations implementing the class II ban in order to better define the products banned under section 610(d) and to grant authorized exceptions under section 610(d)(2). Section 301(a) of the Act gives EPA the authority to promulgate such regulations as are necessary to carry out its functions under the Act. EPA believes that it is necessary within the meaning of section 301 to promulgate regulations more clearly defining the products subject to the class II ban and granting exceptions to the ban under section 610(d)(2). The following sections discuss the NPRM in more detail.

A. Medical Products

Section 610(e) states that "nothing in this section shall apply to any medical devices as defined in section 601(8)." Section 601(8) defines "medical device" as "any device (as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)), diagnostic product, drug (as defined in the Federal Food, Drug, and Cosmetic Act), and drug delivery system—(A) if such device, product, drug, or drug delivery system utilizes a class I or class II substance for which no safe and effective alternative has been developed, and where necessary, approved by the Commissioner of the Food and Drug Administration; and (B) if such device, product, drug, or drug delivery system, has, after notice and opportunity for public comment, been approved and determined to be essential by the Commissioner in consultation with the Administrator."

EPA proposed exempting medical devices that the FDA considers essential by exempting all devices listed under 21 CFR section 2.125(e).

B. Aerosol Products and Pressurized Dispensers Containing Class II Substances

1. Definition of Aerosol Products and Pressurized Dispensers

Section 610(d) bans the sale of all aerosol products and pressurized dispensers containing class II substances not specifically excepted by the EPA under section 610(d)(2). Consistent with the class I ban, EPA proposed that the phrase "aerosol product or other pressurized dispenser" should not be interpreted as applying to pressurized containers ("bulk containers") used to distribute materials for use into other products because these materials generally are self-pressurized when so contained.[3]

The final rulemaking for the Class I Nonessential Products Ban clarified EPA's interpretation of this language (58 FR 4790). EPA believes that the phrase "aerosol product or other pressurized dispenser" was meant to include non-aerosol products such as CFC–12 dusters and freeze sprays. However, the Agency does not believe that the term "other pressurized dispenser" applies to pressurized containment vessels such as small containers of motor vehicle refrigerant or containment vessels for recycled, recovered, or reclaimed refrigerant. Under EPA's interpretation, the phrase "aerosol products or pressurized dispenser" does not include bulk pressurized containers which are used solely for the transportation or storage of controlled substances to be later integrated into a use system. As described in 40 CFR 82.3(i) and the December 10, 1993 final rule implementing section 606 and related provisions of sections 603, 607, and 616 of the Act (58 FR 65018), a "controlled substance means any substance listed in appendix A of appendix B to [subpart A] whether existing alone or in a mixture, but excluding any such substance or mixture that is in a manufactured product other than a container used for the transportation or storage of the substance or mixture" (58 FR 65063). A bulk container, also described in 40 CFR 82.3(i), means a container in which "a listed substance or mixture must first be transferred from [and transferred] to another container, vessel, or piece of equipment in order to

[1] The Congressional Record statement by Representative Ralph Hall (D-Texas) regarding the Congressional intent of the legislation as passed states "any failure of the Administrator to promulgate regulations as required by this title, or any court order delaying the effective date of such regulations, shall not alter the effective dates of the statutory requirements and prohibitions that are set forth in this title" (October 26, 1990, 136 Congressional Record H12907). Thus, EPA clearly stated in the NPRM that the Agency has no authority to alter the effective date of the statutory ban.

[2] Although the legislative history of section 610 is unclear on this point, the Senate Statement of Managers specifically states that the section 608 ban on the venting of refrigerants, which like the class II ban is an outright prohibition, is self-executing and will take effect on the stated date even if that date is in advance of EPA regulations implementing the ban. EPA believes that this analysis applies similarly to the class II ban. See 136 Congressional Record S16948, October 27, 1990.

[3] As explained in the class I ban, such an interpretation would have had a devastating and unintended impact on the air-conditioning and refrigeration industry

realize [the controlled substance's] intended use" (58 FR 65063). EPA distinguishes between manufactured products and bulk containers, where manufactured products are subject to the ban and bulk containers are not.

2. Proposed Exemptions

The products that EPA proposed to exempt are actually product categories rather than particular products manufactured and marketed by individual companies, relying upon the definition of "product" developed in the Class I Nonessential Products Ban rulemaking. EPA reiterated its belief that in section 610 of the statute, Congress applied this term to any type or category of merchandise or commodity offered for sale, as well as any use of an ozone-depleting substance in the manufacture or packaging of any such merchandise or commodity. Consequently, when granting exceptions today, EPA is taking action with regard to entire product categories rather than individual products in this rulemaking. (EPA recognized that in the case of certain niche markets, there may be only one individual product that falls within a particular category; in such a case, EPA could consider an exception for that specific product.)

EPA carefully considered requests for exceptions and exemptions received prior to the publication of the NPRM in order to determine which foam or aerosol products may meet the criteria for exceptions and exemptions set out in the statute. EPA stated in the NPRM that there was legal authority to consider exempting any of the eleven products that received class I exemptions, as well as any product that was using an HCFC to replace methyl chloroform, carbon tetrachloride or halons. EPA put forth a list of proposed exemptions, asked for additional information concerning several products for which the Agency could not adequately determine if an exemption was authorized and discussed several possible revisions to the class I ban that would result in creating the potential for additional exemptions.

EPA proposed to exempt the following aerosol products:

- Medical devices listed in 21 CFR 2.125(e);
- Lubricants, coatings or cleaning fluids for electrical or electronic equipment, which contain class II substances for solvent purposes, but which contain no other class II substances;
- Lubricants, coatings or cleaning fluids used for aircraft maintenance, which contain class II substances for solvent purposes but which contain no other class II substances;
- Mold release agents used in the production of plastic and elastomeric materials, which contain class II substances for solvent purposes but which contain no other class II substances; and
- Spinnerette lubricants/cleaning sprays used in the production of synthetic fibers, which contain class II substances for solvent purposes but which contain no other class II substances.

Based on the restriction regarding the sale and distribution of certain cleaning fluids containing class I substances to commercial purchasers, EPA also proposed exempting sales or distribution to commercial purchasers of any aerosol or pressurized dispenser cleaning fluid for electronic and photographic equipment which contains a class II substance.

EPA requested additional comment to determine if exemptions were warranted based on worker safety or flammability concerns regarding the use of a substitute for class II substances in the products listed below, as well as comment on current and potential uses of class II substances in the following products:

- Lubricants for pharmaceutical and tablet manufacture;
- Gauze bandage adhesives and adhesive removers;
- Topical anesthetic and vapocoolant products;
- Plasma etching;
- Solvent uses in document preservation sprays;
- Solvent uses in red pepper bear repellent sprays.

In order to grant an exception to the class II ban, the only available alternative to the use of the class II substance must be a legal use of a class I substance and the Agency must determine that the aerosol product or pressurized dispenser is essential as a result of flammability or worker safety concerns. Consequently, EPA was generally limited to considering products that were exempted under the class I ban or products that use HCFCs as substitutes for methyl chloroform, carbon tetrachloride or halons. EPA discussed in the NPRM that the class II exemptions are integrally linked to the Class I Nonessential Products Ban. EPA believes that the class I ban and the Act gave ample notice to the public through the class I rulemaking process that future exemptions from the class II ban would not be available. The NPRM notes, however, that there are a number of products that do not use class I substances, but do use class II substances. Some of the manufacturers of these products may not have commented on the need for a class I exemption, because they were not aware of the connection between the two bans (e.g. that class II exemptions could only be obtained where class I use was legal). As stated above, without a legal class I use, the Agency does not have authority under section 610(d) to grant exemptions under the class II ban. EPA proposed considering the need to revise the class I ban to provide exemptions for several products brought to the Agency's attention prior to the issuance of the NPRM. For the most part, these were products that no longer used class I substances and therefore did not submit comments to EPA during that rulemaking. Therefore, since these products were not sufficiently considered in the earlier rulemaking, these products could not meet the statutory requirement regarding the only legal substitute being the use of a class I substance. The Agency requested comment on the need to revisit the Class I Nonessential Products Ban through this rulemaking with respect to any product for which there is no substitute for the class II use other than the use of a class I substance, where that use would no longer be legal. EPA specifically discussed two products:

- pesticides used in aircraft; and
- antispatter products used by welders.

In addition, EPA discussed the possibility of considering other factors not specified in the Act, such as economic feasibility or availability of the alternatives. EPA stated, however, that it did not believe it had such authority, but requested comment regarding the economic feasibility and availability of alternatives relative to dusters and safety sprays and whether EPA could consider these factors.

Finally, the Agency discussed granting exemptions based on the legal use of methyl chloroform, carbon tetrachloride and halons. The NPRM specifically mentioned two products. The first product was a pesticide, used to kill wasps and hornets nesting near high-voltage power lines, that may require an exception based on the solvent use of HCFC–141b in a new formulation, replacing the current formulation that uses methyl chloroform. The second product described in the NPRM is a parts cleaner for hydraulic and electronic parts in aircraft, automotive and marine maintenance. EPA requested comment on worker safety or flammability concerns regarding the manufacturing and use of these products, as well as comment on current and potential uses of class II substances in both products. In addition, EPA requested comment on whether the only available alternative to the use of a class II substance in the wasp and hornet pesticide and the hydraulic parts cleaner is the use of a class I substance.

EPA was unaware of any other products for which manufacturers, distributors or retailers are substituting or planning to substitute class II substances, where the only legal substitute for the class II substance is the use of a class I substance; however, EPA requested comment on the need to grant additional exceptions based on worker safety or flammability concerns for products containing or manufactured with class II substances where the only alternative is the legal use of a class I substance.

C. Foam Products Containing Or Manufactured With Class II Substances

Section 610(d) prohibits the sale, distribution, or offer of sale or distribution in interstate commerce of all plastic foam products which contain, or are manufactured with, class II substances, and which are not specifically excluded from the ban under section 610(d)(3), as of January 1, 1994. Certain types of plastic foam products, specifically foam insulation products and integral skin, rigid, or semi-rigid foams necessary to meet the Federal Motor Vehicle Safety Standards, are excluded from the ban by the statute. However, in this rulemaking, EPA has determined which plastic foam products qualify as "foam insulation products," and whether adequate substitutes for certain HCFC-blown foams are practicable for effectively meeting the Federal Motor Vehicle Safety Standards.

The NPRM states that for the purposes of this rulemaking, EPA interprets the term "plastic foam product" to mean any product (as defined in 40 CFR 82.62) composed in whole or in part of material that can be described as "foam plastic" or "plastic foam." EPA interprets "foam plastic" or "plastic foam" to mean a type of plastic such as polyurethane or polystyrene which has been produced using blowing agents to create bubbles or "cells" in the material's structure.

The foam plastics manufacturing industries, the markets their products serve, and their uses of CFCs and HCFCs are extremely varied. CFC–11, CFC–12, CFC–113, CFC–114, HCFC–22, HCFC–141b, and HCFC–142b have all been used to some extent as blowing agents in the manufacture of plastic foam products, which include building and appliance insulation, cushioning foams, packaging materials, flotation devices and shoe soles.

1. Insulating Foam Products

There are two basic types of foam produced with halocarbons: thermosetting foams and thermoplastic foams. In the production of thermosetting foams, a blowing agent is mixed with chemicals which react to form the plastic foam product. With thermoplastic foams, the blowing agent is injected into a molten plastic resin which hardens upon cooling.

The NPRM discusses an important distinction between foam plastics where the cells are closed, trapping the blowing agent inside, and those with open cells which release the blowing agent during the manufacturing process. The gas trapped in closed cell foams can, if it possesses a low thermal conductivity, provide significant thermal insulation. All of the foam products used as thermal insulation are closed cell foams. Open cell foams are not good thermal insulators.

CFCs had been commonly used as blowing agents in the manufacturing process of many foam products because they have suitable boiling points and vapor pressures, low toxicity, very low thermal conductivity, are non-flammable, non-reactive, and, until the imposition of the excise tax on ozone-depleting substances, they had been very cost-effective. Among the many commonly used substitutes for CFCs in foam production are HCFCs, CO_2, hydrocarbons and methylene chloride. In addition, HFCs and fluorinated ethers may offer long-term substitutes for plastic foam production.

Section 610(d)(3) states that the ban on plastic foam products containing or manufactured with HCFCs shall not apply to "foam insulation products." EPA identified two possible interpretations of this phrase. "Foam insulation products" could be interpreted to mean products containing foam that are used for insulating some object. This phrase could also mean products containing "insulating foam."

In addition, the NPRM considered different possible interpretations of the word "insulation." The largest use of plastic foams produced with CFCs and HCFCs is in products that provide thermal insulation for buildings, equipment, and a host of different objects, but comments received during the development of the NPRM suggested that the word "insulation" could also conceivably refer to a product or material that protects or "insulates" some object from other phenomena, such as noise, shock, or electromagnetic radiation. Several commenters have suggested to EPA that the word "insulation" should be interpreted to mean a product or material that protects some object from physical impacts or vibration. EPA examined each of these options in preparing the proposed rulemaking.

The NPRM states that EPA believes that the word "insulation" should be interpreted to mean thermal insulation exclusively. The primary uses of plastic foam products consist of thermal insulation, cushioning, and packaging applications.

Because the statutory language is ambiguous, EPA has the authority to reach a reasonable interpretation in developing a definition of foam insulation. (See *Chevron* v. *NRDC*, 467 U.S. 837 (1984)). Reviewing the provisions of section 610 as a whole, EPA proposed that the exemption in section 610(d)(3)(A) should apply only to thermal insulation products. In section 610(d)(3), Congress provided two statutory exemptions, one for foam insulation and one for certain types of motor vehicle safety foam under specified circumstances. Under a broad interpretation of foam insulation including all insulating uses, such as physical shock or impact insulation, motor vehicle safety foams would be included in the definition of foam insulation, since motor vehicle safety foams serve to insulate vehicle occupants from crash impact. Therefore, the second exemption provided by Congress would be entirely unnecessary if the first exemption were broad enough to include the products covered by the second exemption. Furthermore, it would not be necessary for Congress to limit motor vehicle safety foams to specific circumstances where substitutes were unavailable. A broad interpretation of the definition of foam insulation would exempt motor vehicle safety foams from the class II ban even where substitutes were easily available, contrary to the explicit provisions of the second exemption. EPA concluded that since a broad interpretation of insulating foam would render the second exemption superfluous, the better reading of the statute would limit the first exemption to thermal insulation foams. See the NPRM for a full discussion of this issue (58 FR 50481).

For the purposes of this rule, EPA proposed defining "foam insulation product" as any product containing the following materials:

(1) Closed cell rigid polyurethane foam,

(2) Closed cell rigid polystyrene boardstock foam, and

(3) Closed cell rigid phenolic foam.

VOL 58 ISS 249 DEC 30 1993 UMI

In addition, EPA proposed to define pipe insulation (also referred to as "pipe wrap") made out of closed cell rigid polyethylene foam as a foam insulation product. As explained in the NPRM, EPA concluded that all of these products were thermal foam insulation products and that no other products were thermal foam insulation products (58 FR 50481).

2. Foam Used To Meet Federal Motor Vehicle Safety Standards

Section 610(d)(3) states that the ban on class II substances in plastic foam products shall not apply to any "foam insulation product" or "an integral skin, rigid, or semi-rigid foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards where no adequate substitute substance (other than a class I or class II substance) is practicable for effectively meeting such Standards."

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 authorized the National Highway Traffic Safety Administration (NHTSA) to promulgate Federal Motor Vehicle Safety Standards, which have subsequently been published in 49 CFR part 571. The Federal Motor Vehicle Safety Standards are, for the most part, performance standards. The use of particular materials is generally not specified in the standards in 49 CFR part 571 affected by this rulemaking. Consequently, to the best of the EPA's knowledge, no HCFC-blown foams are specifically required by the NHTSA regulations. However, since the enactment of the laws requiring these standards beginning in the late 1960s, the motor vehicle manufacturing industry has relied almost exclusively on foams to meet the part 571 impact protection standards (the only exception EPA is aware of consists of leather-wrapped steering wheels and leather-covered dash boards, and the Agency understands that even these products have foam underneath).

After conducting its own research and consulting with officials at the NHTSA and industry sources, EPA proposed applying the statutory ban on the sale, distribution, or offer of sale or distribution in interstate commerce to all foam components used in motor vehicles except those made out of integral skin foam and those which qualify as foam insulation products as defined in § 82.62(h) effective January 1, 1994. Based on the Agency's understanding of when substitutes to HCFC use in integral skin foam used to meet Federal Motor Vehicle Safety Standards would be available, EPA proposed exempting integral skin foam made with HCFCs used to meet Federal Motor Vehicle Safety Standards under the provisions of section 610(d)(3)(B) from the class II ban on plastic foam products only until January 1, 1996. At that time, the exemption for HCFC-blown integral skin foam will "sunset." In addition, EPA proposed to permanently exempt from the class II ban existing inventories of integral skin products needed to meet the Federal Motor Vehicle Safety Standards manufactured prior to January 1, 1996.

EPA indicated that the Agency will revisit the sunset provision for this exemption at a future date if the Agency receives a request from the public for extending the exemption based on the unavailability of substitutes.

D. Temporary Exemptions

EPA proposed certain limited exemptions from the statutory ban on class II substances. Administrative creation of exemptions from statutory requirements are authorized only in limited circumstances, outlined in *Alabama Power Co., et al.* v. *Costle, et al.*, 636 F. 2d 323 (D.C. Cir 1979). Agencies can create such exemptions only where necessary based on administrative feasibility or the de minimis nature of the exemption. EPA proposed providing a "grandfather" exemption for existing inventories, based on the de minimis rationale, as well as a temporary exemption for products requiring federal approval for reformulation, based on administrative feasibility.

EPA proposed exempting existing inventories of products otherwise subject to the class II ban based on the de minimis environmental impact of such an exemption. Many of the products covered by the class II ban, particularly many of the foam products, release class II substances either during manufacture or disposal, rather than during use. Thus, banning the sale of existing inventories of such products would have a de minimis environmental impact. While there are also cases where the class II substance is released in the use of the product, especially with the aerosol products, EPA stated its conclusion in the NPRM that emissions to the environment from these products, once manufactured, will be little or no different from the releases from these products if removed from commerce and subsequently disposed of.

The proposed exemption would cover all products placed into initial inventory by December 27, 1993, the date ninety days after publication of the NPRM. EPA believes that this is adequate time for manufacturers to alter manufacturing processes to exclude class II substances. Under the proposal, to continue selling products after January 1, 1994, the manufacturer or distributor must be able to show, upon request by EPA, that the product was in fact manufactured, and thus placed into initial inventory by December 27, 1993. Shipping forms, lot numbers, manufacturer date stamps or codes, invoices, or the like, may be used to identify the date the product was placed into initial inventory. EPA believes these types of records are normally kept by manufacturers and distributors of products affected by this rulemaking and that no additional recordkeeping will be required by this rule.

In addition, EPA proposed exempting from the class II ban those products requiring federal approval prior to reformulation, provided that manufacturers of such products have made a request of the appropriate federal agency for such federal approval prior to January 1, 1994. *Alabama Power* authorizes creation of administrative exemptions where necessary, based on administrative feasibility.

EPA proposed allowing manufacturers that require federal approval for reformulations of a product or approval of a specific substitute product to continue to sell or distribute, or offer for sale or distribution in interstate commerce, their existing formulations until ninety days after receiving all appropriate federal agency approvals, providing the request for approval from the appropriate federal agency had been submitted by January 1, 1994. EPA proposed allowing manufacturers that are ultimately denied federal approval for reformulations of a product or approval of a specific substitute product to continue to sell or distribute, or offer for sale or distribution in interstate commerce, their existing formulations until thirty days after receiving notice of denial from the federal agency. EPA felt this shorter period was appropriate since in this case, manufacturers need merely cease using class II substances rather than altering manufacturing processes to accommodate the new formulation or substitute. Consistent with the temporary exemption for products placed in initial inventory prior to December 27, 1993, products put into initial inventory by the manufacturer, before thirty days after receipt of denial or ninety days after receiving an approval by the appropriate federal agency, would be grandfathered. To continue selling after January 1, 1994, the manufacturer or distributor would be required to show, upon request, that the pertinent federal approvals were applied for prior to January 1, 1994 and that the product was in fact manufactured by ninety days following the receipt of all appropriate federal approvals or thirty days following denial.

E. Ban on Sale or Distribution in Interstate Commerce

EPA proposed that the term "interstate commerce" in section 610(d) refer to the product's entire distribution chain up to and including the point of sale to the ultimate consumer. Under section 610, the statute prohibits all sale, distribution, or offer of sale or distribution in interstate commerce after the January 1, 1994 effective date. As such, all sales and distribution of banned products, including retail sales, would be prohibited as of January 1, 1994, as required by the Act, unless otherwise specified.

F. Scope of Interstate Commerce

EPA's interpretation of interstate commerce does not cover the sale, distribution, or offer of sale or distribution, of nonessential products within the boundaries of a single state. Thus, EPA believes that the Act does not ban the sale, distribution, or offer of sale or distribution of a product otherwise affected by this rulemaking that is completely manufactured, distributed, and sold without ever crossing state lines. However, the Agency stated in the NPRM that to avoid coverage by this proposed rulemaking, an affected party must provide adequate documentation that not only was the product manufactured, distributed, and/or sold exclusively within a particular state, but also that all of the raw materials, components, equipment, and labor that went into manufacturing, distributing, selling, and/or offering to sell or distribute such a product originated within that state as well. The sale of the affected product includes every sale up to and including the sale to the ultimate consumer, and all these sales must take place without ever crossing a state line for the product to be considered not part of interstate commerce.

G. Resale of Used Products

EPA proposed an interpretation of sale, distribution, or offer of sale or distribution in interstate commerce which does not cover the resale of used products. Resale of used products means a sale, by a person after a period of use other than demonstration use. The Agency recognizes that more than one consumer often derives utility from owning and using certain durable goods affected by this rulemaking, such as automobiles and boats. Restricting the resale of such used durable goods would provide little, if any, environmental benefit. Because restricting the resale of such used durable goods would impose significant economic hardship on a great many consumers without providing any associated environmental benefits, EPA does not believe that Congress intended to ban their resale. Consequently, while EPA's interpretation of "interstate commerce" is such that interstate commerce includes the entire chain of sale and distribution from the manufacturer of a new product to its ultimate consumer, the Agency recognized in the NPRM that in the case of durable consumer goods such as boats and motor vehicles, resale of the product to additional consumers may occur after the original sale of the new product to the ultimate consumer after some period of use by the original ultimate consumer. In such cases, EPA proposed to not consider the resale of these banned products to constitute sale, distribution, or offer of sale or distribution, of a new product in interstate commerce for the purposes of this rulemaking.

H. Imports and Exports

The NPRM states that EPA believes that both the import of any product for sale or distribution within the United States, or the sale or distribution of any product intended for ultimate export from the United States, are acts of interstate commerce within the meaning of section 610 and would, accordingly, be affected by this regulation. The import or export of products affected by today's rulemaking would be subject to the same restrictions as the sale, distribution, or offer of sale or distribution of these products in the United States. EPA did not by these provisions intend to extend its authority to regulate foreign commerce. The class II ban applies only to interstate commerce and EPA intended in the NPRM to regulate imports and exports only while they were in interstate commerce. EPA did not intend to regulate the foreign commerce aspects of imports and exports. EPA intended only that the manufacture of products for ultimate export and the distribution of imported products be subject to these rules to the extent they fell within interstate commerce as defined in section II.F., above.

I. The Use of Affected Products Purchased Before the Effective Date of the Ban

The NPRM discusses EPA's confirmation in the final class I ban rulemaking that nonessential products purchased before the effective date of the ban may still be used, and that the Agency is not regulating the use of nonessential products, merely their sale and distribution as authorized by the statutory language (58 FR 4782). Consistent with that rulemaking, the class II ban proposal states that EPA is not regulating the use of affected products, only the sale and distribution of affected products in interstate commerce.

J. Verification and Public Notice Requirements for Cleaning Fluids for Non-Commercial Electronic and Photographic Equipment

Section 610(b)(2) required EPA to ban the sale of chlorofluorocarbon-containing cleaning fluids for electronic and photographic equipment to non-commercial users. EPA estimates that non-commercial sales of such fluids represent a small fraction of the total use of these products. Nevertheless, the statute specifically required EPA to ban the sale of these products containing CFCs for non-commercial use. Consequently, EPA proposed, and the final rule included, a ban on the sale, distribution, or offer of sale or distribution of these products to non-commercial users. As a result of this statutory mandate, there is no remaining chlorofluorocarbon which legally could be substituted for class II substances in non-commercial cleaning fluids for electronic and photographic equipment.

EPA stated in the class II ban NPRM that aerosol cleaning fluids for electronic and photographic equipment sold to commercial users are often used at work benches in industrial situations. Flammability is a concern in such environments. In addition, these cleaning fluids may be used on electronic or electrical equipment that must be serviced while electrical current is turned on. Therefore, the Agency believes flammability is a concern associated with the use of aerosol cleaning fluids for electronic and photographic equipment. Accordingly, EPA proposed providing an exemption for the sale of aerosol cleaning fluids for electronic and photographic equipment containing class II substances to commercial users.

In the class I ban, EPA required sellers and distributors to post signs stating that sale, distribution, or offer of sale or distribution, in interstate commerce of these products to non-commercial users is prohibited and that purchasers of these products must provide verification that they are commercial users. In addition, sellers and distributors were required to verify that purchasers of

VOL 58 ISS 249 DEC 30 1993 UMI

these products are commercial users. Purchasers could fulfill this requirement by presenting any number of existing documents generally issued to commercial entities as a condition for conducting business. Sellers and distributors would have to have a reasonable basis for believing that the information presented by the purchaser is accurate and thus that the purchaser is in fact a commercial user. These documents could include a federal employer identification number, a state tax exemption number, a local business license number and a government contract number. EPA believes that these requirements impose the least burden while still meeting the statutory requirement to prevent non-commercial users from purchasing CFC-containing cleaning fluids.

EPA stated in the NPRM that the statutory language in section 610(d) compels the Agency to adopt similar verification provisions with regard to cleaning fluids containing class II substances. Consequently, the Agency proposed verification and public notice requirements similar to those in the class I ban final rule. Included in the proposal was an option allowing the sellers and distributors to use one sign to provide the proper notification.

III. Summary of Major Public Comments

A public hearing on the proposed rule was held on October 12, 1993. Nine groups presented oral comments on the NPRM. A transcript of the hearing is contained in Docket A–93–20.

EPA received a total of 91 written comments on the proposed rule during the forty-five day public comment period, and these comments are also contained in Docket A–20–93. Many commenters expressed support for EPA's definition of "insulating products" while a few commenters suggested EPA modify the definition. Many comments requested that EPA re-examine the use of HCFC–22 in aerosols, specifically in mold release agents, document preservation sprays and spinnerette lubricant/cleaning sprays. A number of commenters requested that EPA consider providing an exemption for the solvent and propellant uses of class II substances in document preservation sprays. Several commenters put forth requests to exempt class II substances in certain circumstances based on worker safety and flammability concerns, where the only legal alternatives are halons. Finally, a few commenters discussed the benefits of EPA's proposed grandfathering provisions.

IV. Response to Comments

EPA received several comments indicating that there were errors in the published version of the regulatory text. EPA has reviewed and updated that text.

A. Aerosol Products and Pressurized Dispensers

EPA received one comment indicating that the Agency should clarify the definition of "other pressurized dispenser." The commenter was particularly concerned with how the Agency would treat a container used solely to transport class II substances. In the class I ban final rules and in the class II ban NPRM, EPA discussed bulk containers used to transport class I and class II substances, including small containers of CFC–12 used in the automotive industry. EPA would like to clarify that these are bulk containers, used solely to transport the controlled substance, and are not considered to be pressurized dispensers for the purposes of section 610.

Product which may contain only a class I or class II substance or mixture of class I and class II substances and other substances, are subject to the bans promulgated under section 610. Products are different from bulk containers in that to perform its function, products are directly applied from the container in which they are sold. Furthermore, products to be added into a system, such as an air conditioner, that contain a class I or class II substance, but that do not function as part of the use system (e.g. some function other than cooling in an air-conditioner) are considered products, not bulk containers. One example of this is a leak repair product that is transferred into an air-conditioning system under pressure provided by a refrigerant. The primary function of the product is to repair a leak rather than to charge the system with refrigerant. Another example is a duster, whose inherent function is to remove dust through forced air. The controlled substance is used as pressure to force the air from the container. A bulk refrigerant, on the other hand, is transferred under its own pressure and provides refrigerant qualities to the system to which it is transferred. Furthermore, in the final regulations implementing section 606, published on December 10, 1993, EPA clearly delineates between manufactured products and bulk containers used to transport substances.

EPA received one comment from a manufacturer that employs an alternative technology in the production of various aerosol products and pressurized dispensers. This commenter stated that a patent-pending process is available that allows the manufacturing of formulations without ozone-depleting substances. The commenter indicated that this technology is being widely used and considered in many fields and provides a safe nonflammable alternative to class I and class II substances. EPA applauds the efforts of this commenter to develop a technology that does not contribute to stratospheric ozone depletion. As the phaseout dates for class I and class II substances approaches EPA is pleased to learn that alternatives will be available. However, the commenter did not provide enough information to allow EPA to judge where this new technology can effectively replace the need for EPA to provide specific exceptions or exemptions to the statutory ban. Therefore, EPA cannot consider this technology as an alternative sufficient to allow the Agency to alter any of the exemptions in this final rulemaking.

EPA received comments concerning the relationship between the class I and class II bans and the Significant New Alternatives Program (SNAP) being promulgated under section 612 of the Act. The SNAP final rule will provide industries with lists of "acceptable" and "unacceptable" alternatives for use as substitutes for ozone-depleting substances. In addition, the use of acceptable alternatives may be subject to other restrictions promulgated under Title VI, as well as other federal, state, and local requirements.

EPA received several comments describing the positive and negative aspects of various alternatives that could be used or considered in different applications. Many commenters described factors that should be considered where a given alternative is considered. EPA has reviewed this information.

1. Products Using Class II Substances As Replacements For Class I Substances That Include Methyl Chloroform, Carbon Tetrachloride or Halons

EPA has authority to consider granting exceptions for products containing one or more class II substances, where the only available alternative for the class II substance(s) is legally available class I substances and the use of the class II substance is essential based on flammability or worker safety concerns. This section discusses cases where the only alternative within class I may be methyl chloroform, carbon tetrachloride or halons. Although EPA was not aware of any situations justifying these exemptions, EPA indicated in the NPRM that a manufacturer, distributor, or retailer of a product containing one or more class II substances could request, through the public comment process, an exception from EPA, citing methyl chloroform, carbon tetrachloride or halons as the only legal alternative(s). EPA stated in the NPRM that the Agency would consider such requests received during the comment period, but may require significant proof that such claims were not attempts to circumvent the intent of the ban. Moreover, EPA would consider the similarity of the class I substances and the corresponding class II alternatives to ensure the substances have parallel uses.

a. *Wasp and hornet sprays.* Just prior to issuing the NPRM, EPA learned of a product, a pesticide used to kill wasps and hornets nesting near high-voltage power lines, that may require an exception based on the solvent use of HCFC–141b in a new formulation, replacing the current formulation that uses methyl chloroform. EPA did not have enough information to determine what if any substitutes, other than methyl chloroform, exist, and whether or not worker safety or flammability concerns affect the use of alternatives in these products. Furthermore, EPA did not have confirmation that an application for formulations using HCFC–141b had been submitted under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) for these HCFC formulations. Therefore, the Agency did not propose to exempt the use of class II substances in wasp and hornet sprays used near high-voltage power lines. However, EPA requested comment on worker safety or flammability concerns regarding the manufacturing or use of these products, as well as comment on current and potential uses of class II substances in these products. In addition, EPA requested comment on whether the only available alternative to the use of a class II substance in wasp and hornet pesticides used near high-voltage power lines is the use of a class I substance.

EPA received two comments addressing this issue. One comment, from the manufacturer of wasp and hornets sprays, stated that many electric utility employees use wasp and hornet sprays while on ladders to work on high-tension power equipment. Sometimes these employees are fifty feet or more above ground. Solvent alternatives to class I and class II substances in these insecticides are flammable. Therefore, without using a class I or class II substance as the solvent, the utility worker would either be unable to destroy the wasps or hornets, or would be forced to spray a flammable product near a potentially charged line. Recently, an application for registration under FIFRA for a wasp and hornet spray formulation including HCFC–141b was submitted to EPA. EPA agrees with the concerns raised by this commenter. The class I ban exempted methyl chloroform. Therefore, manufacturers could continue to use methyl chloroform until methyl chloroform is no longer available. Based on this information, EPA believes it is appropriate, and in this action is providing an exemption for the sale and distribution of products using HCFC–141b as a solvent to replace methyl chloroform in wasp and hornet sprays used by private and public utility employees near high-tension power lines. EPA is further requiring that the seller of a wasp and hornet spray containing an HCFC as a solvent provide notification of the requirements to ensure that the exempted wasp and hornet spray is sold either to an organization that employs personnel who work near high-tension power lines and requires use of an HCFC-pesticide, or that the seller is selling the product only for eventual resale to such an organization. This notification will take the form of written notification of the requirements prior to any sale that occurs after January 1, 1994, by including this information on sales brochures, order forms, invoices and the like. The seller must notify the purchaser that "it is a violation of federal law to sell or distribute wasp and hornet sprays containing hydrochlorofluorocarbons as solvents to anyone, *except* for use near high-tension power lines where no other alternative except a class I substance is available. The penalty for violating this prohibition can be up to $25,000 per unit sold." EPA understands that at least one major manufacturer intends to label this product to accurately reflect this requirement. The Agency would like to clarify that this exemption is only for the sale and distribution of the product used near high-tension power lines; other consumer wasp and hornet sprays, including those used near electrical lines and cables, as well as other pesticides, are in no way affected by this exemption.

A second commenter suggested that EPA provide an exemption for HCFC–22 used as a propellant in wasp and hornet sprays because HCFC–22 is non-flammable and non-conductive. In the NPRM, EPA only discussed an exemption based on the use of methyl chloroform. EPA believes that while the solvent properties of methyl chloroform are similar to HCFC–141b, EPA does not believe this situation is true for HCFC–22. HCFC–22 is generally considered to be a propellant, while methyl chloroform is considered a solvent. Therefore, EPA does not believe that HCFC–22 in this product would be considered a substitute for methyl chloroform. It is possible that the commenter was making this request for an exemption based on the propellant uses of a different class I substance, such as CFC–12; however, the commenter did not provide such information, nor did the commenter demonstrate that the legal use of a class I substance is the only alternative for the use of HCFC–22 for this product. EPA believes there are adequate propellant substitutes available for use in wasp and hornet sprays. Therefore, EPA is not providing an exemption for the use of HCFC–22 in this product.

b. *Hydraulic Brake Cleaners.* EPA requested comments on the need to provide an exemption for the solvent uses of hydraulic brake cleaners. While the NPRM proposed an exemption for the solvent uses of class II substances in lubricants, coatings, or cleaning fluids used to clean electrical and electronic equipment, and for lubricants, coatings or cleaning fluids used to maintain aircraft, EPA did not propose an exemption for all hydraulic equipment. EPA received several comments concerning this issue. One commenter stated that it favored an exemption for hydraulic parts cleaning products for aircraft maintenance. EPA would like to clarify that the proposed exemption for the solvent uses of class II substances in aircraft maintenance was in no way limited to non-hydraulic applications, but applied to all aircraft maintenance cleaning including hydraulic applications.

A second commenter requested that EPA include marine and automotive cleaning as well as aircraft cleaning. The commenter manufactured a product using methyl chloroform. The commenter's new formulation includes a class II substance. The commenter stated that automotive cleaning applications, particularly in the area of brake cleaning, require a nonflammable product because the work is often performed in close proximity to high-temperature exhaust systems. The commenter states that nonflammable, safe solvents are necessary where there is an extremely high heat potential and the environment is enclosed. Potentially the products could be used near open flames and electrical equipment. While EPA agrees that a safe working environment is essential, EPA does not

VOL 58 ISS 249 DEC 30 1993 UMI

agree that an exemption for the solvent uses of class II substances is necessary for these products. The automotive maintenance industry employs a variety of flammable products and therefore, routinely provides an appropriate working environment for the use of these products. Moreover, there are many flammable brake cleaners regularly used by both professionals and do-it-yourselfers. In addition, nonflammable products that do not contain class II substances are available. These products may contain perchloroethylene and may therefore require particular worker safety conditions. However, EPA believes that these products represent adequate substitutes already accepted by the marketplace. Based on this information, EPA does not believe that the worker safety or flammability concerns raised by this commenter justify the requested exemption. Therefore, this final action will not provide an exemption for hydraulic brake cleaners, other than those used for aircraft maintenance as proposed.

c. *Portable fire extinguishers.* While in the NPRM, EPA discussed the legal authority to consider exemptions where the only available alternative for the class II substance(s) is halons, EPA did not propose any such exemptions. Prior to the issuance of the NPRM, EPA did not receive any comments regarding the substitution of HCFCs for halons as it relates to this rulemaking. During EPA's public meeting held to discuss the upcoming ban with affected stakeholders on March 29, 1993, EPA discussed the definition of the terms "aerosol products" and "pressurized dispensers" as well as the requirements under secfion 610(d). While representatives of the fire equipment manufacturing industry and chemical suppliers to that industry were present at this meeting, no information regarding the use of HCFCs as halon replacements or the potential need for exemptions was brought to the Agency's attention. Therefore, EPA did not propose any exemptions for halon replacements. However, during the public comment period, EPA received several comments requesting exemptions for HCFCs used as halon replacements.

In the Significant New Alternatives Program (SNAP) NPRM (58 FR 28093) being promulgated under section 612 of the Act, EPA discusses fire extinguishing streaming agents and total flooding agents. Halocarbons represent only a portion of the agents available for fire protection, and in fact appear to be a decreasing portion as more and more users are choosing to install "alternative" systems. However, a number of HCFCs have been suggested as halon replacements, including HCFC–22, HCFC–123 and HCFC–124 for both streaming and total flooding applications. Commenters claimed that there are particular situations where the only legal alternative would be the use of either a halon or a class II substance.

Two comments regarding the treatment of halon replacements indicated that the Agency should not consider any fire extinguishing equipment under the class II ban rulemaking. Another commenter suggested that EPA should add an exemption under this rule for "all pressurized fire extinguishers and fire extinguishing systems containing class II substances." This commenter also further stated that EPA treated fire extinguishing systems separately during the class I rulemaking and that the Agency should therefore take a consistent approach. EPA disagrees with both of these commenters. Fire extinguishing equipment was not treated separately or exempted under the class I ban rulemaking, but rather halons were not included in the class I ban. Portable fire extinguishers using CFCs were in fact banned.

Another commenter, also referring to the class I rulemaking, notes that in the final rule EPA defines chlorofluorocarbons to include Class I, Group I and III substances, but not Group II substances (halons). Therefore, while CFC-fire extinguishing equipment was banned, halon-fire extinguishing equipment was exempted. Furthermore, the commenter reviewed the preamble discussion for the proposed SNAP rule, published in the **Federal Register** on May 12, 1993 (58 FR 28093), suggesting that EPA consider a method to provide a consistent and complementary approach under this rule. The commenter also stated that it had expended substantial effort and resources in the search for, and development of, an environmentally acceptable halon replacement. A prohibition on the general use of class II substances as halon replacements in fire protection applications could result in deeming this commenter's efforts as useless. EPA agrees that halons were not included in the class I ban. EPA only banned the use of CFCs in aerosol products or pressurized dispensers. EPA further agrees that an outright prohibition on the use of class II substances could have an adverse economic impact on this industry; however, EPA does not have authority under section 610 to consider economic impacts. EPA may exempt products based only on flammability and worker safety concerns where a legal class I alternative exists, which would be the case with halon replacements, as they were not covered in the class I ban. Cases such as these are discussed below.

A third commenter stated that EPA is incorrect in its interpretation of section 610(d). Referring to the requirements under the 1978 ban on aerosol propellants and under other sections of Title VI, the commenter states that "the ban on CFC and HCFC use in aerosol products was clearly intended to cover its use as an aerosol propellant." The commenter further stated that "although HCFCs used as fire protection agents would in most cases be used in 'pressurized dispensers,' the HCFC is not the propellant, but is instead the active ingredient * * *" (the commenter does not believe) that section 610(d) was intended to cover the use of HCFCs as active ingredients in essential products such as fire protection equipment or extinguishers." EPA disagrees with this commenter. Congress in no way restricted consideration under this rulemaking to only the use of class II substances as propellants. Rather, Congress banned all class II uses of aerosols and pressurized dispensers unless qualifying for an exclusion. Moreover, the authority for all Title VI rulemakings is wholly separate in mandate and intent from the 1978 aerosol propellant ban.

A fourth commenter states that all fire extinguishers are pressurized to some extent, but that the Agency should consider categorizing them as equivalent to bulk containers. This commenter believes that the NPRM is in conflict with the SNAP NPRM and that banning the use of HCFCs in fire extinguishers would cause great economic hardship. EPA recognizes the need to consider decisions made under the SNAP rulemaking; however, SNAP determinations in no way restrict EPA authority under section 610. EPA believes that all portable fire extinguishers are pressurized dispensers, since pressure is necessary to propel the fire extinguishant and such extinguishant is dispensed directly from the fire extinguisher via a self-contained apparatus. Moreover, fire extinguishers are products, not bulk containers transporting chemicals.

EPA would like to clarify that all aerosol products and pressurized dispensers, regardless of their use, are encompassed under the statutory language that appears in section 610(d). Moreover, the use of all HCFCs, whether as propellants, solvents, or active ingredients are covered by the self-executing statutory ban. Congress in no way limited the types of products to be banned or the types of uses for HCFCs to be banned. Furthermore, while EPA had authority to consider which products would be banned under the rulemaking for the class I ban, the Act clearly bans aerosol products and pressurized dispensers containing HCFCs. Therefore, if EPA had not chosen to promulgate regulations at this time, on January 1, 1994, all aerosol products and pressurized dispensers, including fire extinguishing equipment, would have been automatically banned regardless of any SNAP determinations. While EPA does attempt to coordinate decisions made under various rulemakings, regulations promulgated under section 612 only determine which replacements are acceptable; however, the use of class II substances in aerosols and pressurized dispensers regardless of the application are still subject to the section 610(d) ban. This situation was discussed in various parts of the SNAP NPRM.

Nevertheless, it has come to EPA's attention that the situation may not have been thoroughly reviewed in the Class II Nonessential Products Ban NPRM as it relates to halon alternatives. EPA realizes that some extinguishants may be appropriate in certain environments on certain types of fires, whereas others would be appropriate in different situations. There may be cases where an HCFC is the only appropriate alternative to halons given the circumstances of the environment and fire potential.

EPA has authority under section 610(d)(2) to grant exemptions for the use of HCFCs where the only alternative is the use of a class I substance, which includes halons. As stated above, the equipment using streaming agents is consistent with the definition of an "aerosol product" or "pressurized dispenser" and therefore subject to this rulemaking. However, EPA recognizes that total flooding agents contained in total fire suppression systems used to extinguish fires are different from a portable device used to extinguish fires. These total flooding systems differ from an aerosol product or pressurized dispenser in that total flooding systems are "systems" that are completely installed and can be triggered to be automatically activated during an emergency situation. The extinguishant is incorporated into the system from bulk containers. Such systems thus do not constitute a pressurized dispenser or aerosol product within the meaning of section 610. Portable fire extinguishers, on the other hand, do constitute a pressurized dispenser, as they provide the product and dispensing apparatus in a self-contained portable unit. With this distinction, EPA believes that flooding systems and fixed automatic extinguishing systems are not included within the scope of the class II ban.

EPA discusses the Halon 1211 substitutes and alternatives for streaming applications in the SNAP NPRM. Halocarbon substitutes on the SNAP Proposed Acceptable list include class I agents (HBFC–22B1, CFC blends), class II agents (HCFC–22, HCFC–123, and HCFC–124) and perfluorocarbons (PFCs). Alternative technologies on the Proposed Acceptable list include dry chemical, carbon dioxide, water, and foam. Technical constraints restricts the applicability of several substitutes and alternatives in specific applications. In addition, due to environmental or health concerns, SNAP places further use restrictions on some of the substitute agents, such as restricting their use to non-residential applications only. Finally, other regulatory constraints limit the potential use of certain alternatives, as discussed below.

Regulatory restrictions being promulgated under section 612 may limit the availability of certain "acceptable" alternatives to the use of halons. For example, the SNAP NPRM includes several use restrictions based on various health and environmental concerns. Some restrictions are in keeping with the Climate Change Action Plan released by the President in October 1993, which directs EPA to use section 612 to control emissions of global warming gases.

Other regulatory constraints not fully discussed in the SNAP NPRM limit the situations in which certain "acceptable" alternatives may be considered. At least one alternative deemed "acceptable" under the SNAP NPRM uses CFCs in an application that was clearly banned in the class I rulemaking. The use of CFCs in portable fire extinguishers was banned in the class I final rulemaking and therefore, while the SNAP NPRM proposes that CFCs are acceptable alternatives, it is not legal to sell or distribute or offer for sale or distribution aerosol products or pressurized dispensers containing CFCs after January 17, 1994, unless specifically exempted by the class I ban rulemaking. CFCs in this application were not exempted under the class I ban.

HCFCs could potentially be used in portable fire extinguishing equipment for both the residential and commercial markets; however, in residential applications, EPA has determined that there are alternatives available that can be used effectively to suppress any fire that may occur. In commercial and industrial applications, there are situations in which portable fire extinguishers containing HCFCs meet the criteria for granting an exemption as set forth in section 610(d)—the use of the product is deemed essential as a result of flammability or worker safety concerns and the only alternative is the use of a class I substance that can be legally substituted. Therefore, EPA believes that in many applications, the only alternative to the use of a class II substance may be the use of a class I substance that can be legally substituted in fire extinguishing equipment. The reasons why other substitutes may not be suitable are discussed below.

Non-halocarbon alternatives to Halon 1211 are already in widespread use in selected commercial applications because of their effectiveness, and due to the current regulatory climate, their use has been increasingly adopted wherever possible. However, unlike Halon 1211, which is gaseous, these non-halocarbon alternatives are not "clean agents" and may cause secondary damage to the property being protected. In addition, in many commercial or industrial applications the types of fires that may occur, the confined environments in which the fires may exist, and the kinds of equipment or chemicals that may be involved will limit the effectiveness of many alternatives in commercial and industrial use. Therefore, the only alternative to the use of a class II substance in these situations may be the legal use of a class I substance (halons).

One alternative, CO_2, is adopted most frequently because it is the only non-halocarbon clean agent and in many applications, it will not cause any secondary damage. There are, however, several limitations that restrict its use. When used in confined spaces, CO_2 poses a significant risk of asphyxiation to occupants and thus, may only be used where sufficient ventilation exists. CO_2 requires six times the weight and storage volume of Halon 1211, and thus is not suitable where weight and storage constraints are a factor. In addition, there is some controversy about whether CO_2 contributes to thermal shock of electric components. Furthermore, CO_2 may not be used on Class A fires.

Water and foam are both very effective agents, but cannot be used on Class C electrical fires since they contribute to electrical shock hazards. In addition, they may cause significant secondary damage and thus are not suitable because the extinguishant can otherwise irreparably damage that which it is intended to protect.

Multi-purpose dry chemical is effective on Class A, B, and C fires, but like water and foam, can cause considerable secondary damage to certain equipment and could result in

VOL 58 ISS 249 DE 30 1993 UMI

greater health and environmental damage. For example, if the multi-purpose dry chemical damaged a critical component on a marine vessel or aircraft, it could threaten the safety of the crew and passengers.

Use of water, foam or CO_2 on hot metals is limited, as uneven cooling may lead to warping of costly components.

EPA does not believe a suitable alternative extinguishant would include a substance that would damage beyond repair the item the extinguishant is employed to protect. Therefore, EPA believes that to provide adequate fire protection in some circumstances, HCFCs may be the only available alternative to halons that can provide sufficient protection without creating a human hazard or irreparable damage from the original threat of flammability. Such cases might include, but are not limited to the following:

- Certain industrial settings, e.g. chemical/refinery processing;
- Certain electric utility facilities, e.g. nuclear power stations;
- Libraries and museums;
- aviation and marine vehicles;
- commercial settings containing types of high value electronic equipment.

For applications like these, halons or HCFCs may be the only suitable fire extinguishant to suppress a fire in progress without further damaging the equipment requiring protection and without creating a human hazard. The suitability of the agent implies that an agent is commercially available, that a fire will be extinguished quickly, and will result in minimum degradation of the products being protected from the fire. Some HCFCs, because of their chemical composition, may tend to suppress fires and reduce explosions in a shorter time and with smaller amounts of agent than do other alternatives, including some HFCs. The smaller amount of agents needed result in smaller amounts of acid gases, thus reducing risks to human health and safety. In light of this, EPA would consider a class II fire extinguishant as suitable in those cases where other alternatives are not commercially available and/or the chemical composition of the other alterative cannot be shown by accepted fire protection standards to be efficient in extinguishing fires in the relevant situations/applications. The selection of agents usually requires input from a fire protection professional who can assess the situation and the potential use of alternatives to class I and class II substances. EPA wishes to clarify that commercial availability in this of an alternative in this context does not consider the relative cost of that alternative or the convenience associated with its purchase.

The high cost associated with the use of class I and class II substances will likely influence the decision-making process whenever other alternatives are suitable and legal. EPA is aware that an industry infrastructure exists that can aid a commercial or industrial user in appropriate risk assessment and determinations of appropriate fire extinguishants. Furthermore, state and local fire codes in many cases require that the purchasers of fire protection equipment comply with widely accepted industry practices. The National Fire Protection Association (NFPA) has developed many standards that the industry regularly relies upon, as well as guidance on compatibility of certain extinguishants with certain types of potential fires and environments.

Class II substances may be the only available alternative for use in water vessels and in both non-commercial and commercial aircraft. Circumstances that involve the potential use of an extinguishant in a confined environment, where even limited damage to equipment may leave the water vessel or aircraft inoperable, may limit the feasibility of alternatives to class I and class II substances.

In light of the above discussion, EPA will exempt from the class II ban HCFC fire extinguishant alternatives for applications where HCFCs are the only suitable alternative to halon use other than alternatives that are subject to other regulatory constraints that effectively limit their legal use, including the final SNAP regulations, once promulgated. This includes situations where a clean agent is necessary to avoid irreparable damage to an area or the equipment being protected in that area or where other alternatives can cause a hazard to persons in the area. Prior to promulgation of the final SNAP rule under section 612, which is anticipated by February 15, 1994, those HCFC fire extinguishant alternatives found acceptable under the proposed SNAP regulations will be exempted from the class II ban, where a determination can be made consistent with industry fire extinguishant standards that there are no other acceptable alternatives for commercial and industrial use that can be substituted for halons.

EPA is requiring that distributors as defined in § 82.62(d) of portable fire extinguishers must verify that the purchasers of HCFC portable fire extinguishers are commercial entities as defined in § 82.62(b) or that the purchaser is the owner of a water vessel or non-commercial aircraft and that distributors make a good faith effort to ensure that the HCFC portable fire extinguisher is being purchased for use in a commercial or industrial establishment, or for use in a water vessel (as defined in 33 CFR part 177) or aircraft. In order to meet this requirement, EPA is requiring that the seller provide written notification of the requirements of this rule to the purchaser. This notification will take the form of a sign clearly posted where the portable fire extinguishers are displayed for sale. In cases where the purchaser does not physically come into contact with product at the point of sale, EPA requires that the seller provide prior written notification of the restrictions concerning the sale of HCFC portable fire extinguishers on sales brochures, order forms, invoices and the like. EPA reviewed the standards developed by NFPA and has based this requirement on those standards.

The seller must indicate to the purchaser that "it is a violation of federal law to sell portable fire extinguishers containing hydrochlorofluorocarbons to anyone, *except* for use in applications where necessary to extinguish fire efficiently without irreparably damaging the equipment or area being protected or where the use of other alternatives can cause a hazard to persons in the area. The penalty for violating this prohibition can be up to $25,000 per unit sold. Individuals purchasing such products must present proof of their commercial status in accordance with 40 CFR 82.66(a) or of ownership of a marine vessel or boat as defined in accordance with 40 CFR 82.62(j), or of ownership of a noncommercial aircraft in accordance with 40 CFR 82.66(k)."

EPA would like to clarify that the servicing of existing portable fire extinguishers is in no way affected by the class II ban. If after a discharge, a portable fire extinguisher is serviced and recharged, where ownership of the recharged product remains the same (e.g. not sold or distributed in interstate commerce), the servicing procedure, including recharging, is not affected by the class II ban.

2. Products Requiring Both Class I and Class II Exemptions

EPA realizes that the class II ban exemptions are integrally linked to the Class I Nonessential Products Ban. EPA believes the class I ban and the Act gave sufficient notice to the public, and through the class I rulemaking process, addressed all of the comments received by the Agency. EPA realizes that there are a number of products that do not use class I substances, but do use class II substances for which no other substitutes are workable and worker safety or flammability concerns exist. Some of the manufacturers of these products may not have commented on the need for a class I exemption, because they were not aware of the connection between the two bans (e.g. that class II exemptions could only be obtained where class I use was legal). Without a legal class I use, the Agency does not have authority under section 610(d) to grant exemptions under the class II ban. EPA proposed considering revisions to the class I ban to provide exemptions, such that appropriate class II exemptions could be granted for several products brought to the Agency's attention prior to the issuance of the NPRM. The Agency requested comment on the need to revisit the Class I Nonessential Products Ban through this rulemaking with respect to any other product for which there is no substitute for class II use other than a class I use which is no longer legal.

a. *Aircraft pesticides.* EPA specifically requested comment on the need to revise the class I ban to provide an exception for aircraft pesticides, with the intent that the class I substances would not actually be used. The class I exception would merely provide the basis upon which to grant a class II exception, where no other acceptable alternatives are available. In addition, EPA requested comment on worker safety or flammability concerns regarding the use of substitutes for class II substances that may be used or considered for use in aircraft pesticides.

EPA received comment from the Department of Defense (DOD), one of the primary users of aircraft pesticides. DOD stated that a nonflammable product is required in three areas: for the disinsection of aircraft for potential vectors of disease; for the treatment of pests aboard naval vessels, particularly submarines; and for the airlifting of pesticides to military forces deployed in specific regions. The military uses a formula with two percent d-phenothrin and requested a temporary exception for the continued manufacturing and sale of the present formulations until suitable substitutes are available. EPA agrees with DOD, that in many situations a nonflammable pesticide is essential and should be available for particular uses. EPA's determination regarding the aircraft pesticide product used by DOD is discussed below. EPA understands that DOD would be able to use the same product in all the situations discussed in their comments.

Comments were also submitted by the Air Transport Association Of America (ATA), representing many air carriers. The ATA stated that to the best of their knowledge they knew of only one producer of an aerosol insecticide that meets legal requirements for safe disinfection of aircraft during flights. Airlines operating internationally are legally required to abide by the Convention on International Civil Aviation to which the United States is a party, and the standards of the International Civil Aviation Organization. In conformance with recommended practices of the World Health Organization, aircraft insecticides must be effectively dispersed throughout all aircraft compartments after the aircraft has been closed for departure from the takeoff location. ATA stated that currently the only available product that meets all the requirements its members must adhere to contains either a class I or class II substance. ATA is aware of a new product that will be available shortly. Therefore, ATA requested that EPA consider a temporary exemption for this product.

EPA also received comment from a manufacturer who believes that a solvent recently developed that contains class II substances would be appropriate for use in aircraft pesticides. This product would represent a new pesticide, requiring registration under FIFRA. To the extent of EPA's knowledge, this formulation has not been submitted for review in accordance with FIFRA.

EPA received comments from two aircraft pesticide manufacturers. The first commenter stated that overseas flights have always used fogging insecticides to destroy pests while the plane is in the air. The commenter stated that there are no alternatives to the use of a class II substance in these products other than the use of a class I substance; therefore, EPA should revise the class I ban to provide the legal authority to consider an exemption for the use of HCFCs in this product, and then simultaneously provide an exemption under the class II ban.

EPA received a comment from a different manufacturer, the manufacturer that originally raised this issue with EPA. This manufacturer stated that they did not obtain a class I exemption because they were in the process of converting to the use of HCFCs. The manufacturer unsuccessfully tested several possible HFC formulations. At that point the manufacturer approached EPA and requested an exemption under the class II ban based on the need to manufacture a product that could meet the pressure standards put forth by the Department of Transportation (DOT) and still meet the flammability requirements put forth by DOD. However, the manufacturer states that recent findings lead the manufacturer to believe that a possible substitute that contains no ozone-depleting substances has been located. This product will include an element that will decrease the pressure of the HFC–134a, thus meeting DOT's standards. In order to register the product under FIFRA, the manufacturer will need to complete toxicological studies. Tests of this nature often take long periods of time. This manufacturer notes that they are aware of another product being used in Australia for aircraft disinfection; however, that product is not registered under FIFRA and would therefore need to complete the same toxicological testing to be approved for use in the United States.

EPA is pleased to learn that while this manufacturer was pursuing a potential exemption, the manufacturer continued to also investigate moving entirely away from class I and class II substances. In light of the manufacturer's determination that an alternative might exist, EPA cannot provide an outright exemption for the use of class II substances in aircraft pesticides. EPA recognized in the NPRM that products that require federal approval prior to using a new reformulation are often subjected to a lengthy review process. EPA proposed and is today exempting from the class II ban those products requiring federal approval prior to reformulation, provided that manufacturers of such products have made a request of the appropriate federal agency for such federal approval prior to January 1, 1994. EPA understands that at least one manufacturer will make the appropriate request prior to that date. The time frames associated with federal approval processes represent the amount of time necessary for the federal agency to conduct a responsible review of the formulations and determine the acceptability of the formulation under applicable statutes and regulations. The federal agencies cannot expedite their internal processing procedures simply because a formulation would otherwise be subject to a ban without compromising the integrity of their own program reviews.

To the best of EPA's knowledge, there is only one manufacturer that has a product available for use as an airline pesticide today, and that particular product contains a class I substance. EPA believes that a replacement product containing class II substances will be

VOL 58 ISS 249 DE 30 1993 UMI

available shortly, following federal approval, followed by a replacement that contains no ozone-depleting substances. Therefore, EPA is establishing a temporary exemption for aircraft pesticides releasing class I substances to expire upon federal approvals of any substitute product. EPA would like to clarify that if the substitute contains HCFCs, and if an application for an alternative formulation is filed by January 1, 1994, the use of class II substances will be exempt from the ban in accordance with § 82.65(b) and (c). Therefore, until the review process is complete, all aircraft insecticides that have applied for appropriate federal approvals will be able to legally use class II substances in their formulations under § 82.65(b). This exemption will expire after an alternative aircraft pesticide that does not contain class I or class II substances becomes available.

b. *Dusters.* Prior to issuing the NPRM, EPA was contacted by manufacturers concerned about the availability and economic feasibility of using substitutes to class II products. In particular, manufacturers of dusters and safety sprays had commented on the possible need for a class I exception based on the unavailability and the high cost of alternatives. EPA requested comment on the need to revise the Class I Nonessential Products Ban to provide a potential exception for these products. In addition, EPA requested comment on worker safety or flammability concerns regarding the use of substitutes for class II substances that may be used or considered for use in dusters and safety sprays. Two commenters stated that problems regarding the supply and availability of substitutes for class I substances were corrected earlier this year. These commenters were among those that raised the original concerns with EPA. In addition, one commenter noted that as a result of the need to reduce the levels of ozone depletion, the manufacturer began utilizing flammable propellants in 1989. The commenter believes that in certain duster and noise horn applications, flammable propellants are acceptable to the consumers. According to the commenter, these flammable products do not pose an extreme safety hazard. At the same time, non-flammable products are also available, albeit at a higher price. EPA received one comment suggesting that the only available substitutes to class I or class II dusters are hydrocarbons. The commenter believes that EPA should provide an exemption based on the increased risks associated with flammability. EPA disagrees with this commenter based on the information supplied by the other commenters, as outlined above.

EPA is not exempting dusters or safety sprays using class II substances in this final rule. The first two commenters clearly state that both flammable and nonflammable alternatives are currently available. EPA agrees with these commenters, recognizing that alternatives include HFC–134a and HFC–152a. Therefore, EPA agrees that there is no need to revise the class I ban with regard to dusters and safety sprays to facilitate continued class II use. EPA further notes that numerous other consumer products are flammable; however, the potential of an accident often can be greatly minimized by taking prescribed precautions. Moreover, EPA wishes to clarify that taking economic factors into account in its exemption determinations is not consistent with the statutory language in section 610(d).

c. *Tire Inflators/tire sealer.* EPA received comments from the manufacturer of tire inflator/sealer products. The commenter stated that it is within EPA's discretion to reopen the review period for consideration of additional "essential use" exemption applications for products containing or manufactured with class I ozone-depleting substances. The commenter stated that the alternatives to the use of a class I or class II substance for this product are either hydrocarbons or HFCs. The commenter further stated that the hydrocarbons are flammable and are volatile organic compounds that are precursors to formation of tropospheric ozone. The commenter stated that additional federal controls on hydrocarbons in consumer products potentially include use prohibitions in the future. The commenter noted that SNAP lists HCFCs as proposed "acceptable" alternatives in the regulations to be promulgated under section 612. In addition, the commenter believes that HFC–134a and HFC–152a are currently in short supply and are significantly more costly than HCFCs.

EPA does not believe that this commenter demonstrated a compelling need for EPA to revise the class I ban. As the commenter points out, alternatives are available. Several tire inflators and sealants are being sold today that contain hydrocarbons. Used as advised, precautions can be and are currently taken to prevent accidents. While future regulations may limit the availability of hydrocarbons, EPA cannot base its decisions today on what may happen in the future. Moreover, both HFC substitutes and not-in-kind substitutes (e.g. changing the tire) represent other alternatives to tire inflator/tire sealer products. Consideration of market conditions, including cost of substitutes, is not within EPA's discretion under section 610(d). Regulations promulgated under section 612 merely identify which substances are "acceptable" or "unacceptable" alternatives; they do not speak to the ban mandated under section 610(d) and cannot alter its effectiveness. The use of particular substances in the manufacture of aerosol or pressurized dispensers is still clearly subject to the class II ban. As noted above, taking the cost-effectiveness of substitutes into account is not consistent with the statutory language in section 610(d). Therefore, this final action will not include a reopening of the class I ban to consider the need to provide exemptions for tire inflator/tire sealer products. EPA will consider reopening the class I ban in the future should new regulations limit all available alternatives to class I or class II use.

The same commenter referred to an exemption under section 610 as an "essential use" exemption. EPA would like to clarify the distinction between exemptions under the nonessential products bans and essential use exemptions. Exemptions granted under the class II ban are for continued sale and distribution of products ozone-depleting substances that are currently produced and imported in the United States. These domestic regulations only impact the manufacturers, distributors, retailers and users of aerosol products, pressurized dispensers and foam products sold in the United States. On the other hand, under the Montreal Protocol process, member countries can put forth nominations for essential use exemptions that would allow for continued production of ozone-depleting substances after the production phaseout to be used in an application for which there are no suitable substitutes. The Parties receive and review these applications individually and may decide to grant particular exemption requests. If the Parties agree that a particular application is essential, additional production of an ozone-depleting substance will be authorized for that particular application after the phaseout has taken effect. The Parties will review essential uses on a yearly basis to evaluate if the essential use exemptions are still appropriate. EPA understands that this same commenter submitted a request for an essential use exemption, but that the commenter subsequently withdrew the application, since the commenter's apparent intention was to receive an exemption under the class I ban rather than the Montreal Protocol.

3. Aerosol Products and Pressurized Dispensers Exempted By The Class I Ban

The following eleven products were exempted from the class I ban:

- Medical devices listed in 21 CFR 2.125(e)
- Lubricants for pharmaceutical and tablet manufacture
- Gauze bandage adhesives and adhesive removers
- Topical anesthetic and vapocoolant products
- Solvent uses in lubricants, coatings or cleaning fluids for electrical or electronic equipment
- Solvent uses in lubricants, coatings or cleaning fluids used for aircraft maintenance
- Solvent uses in mold release agents
- Solvent uses in spinnerette lubricant/cleaning sprays
- Plasma etching
- Solvent uses in document preservation sprays
- Solvent uses in red pepper bear repellent sprays

Because of the differing mandates in, and statutory constraints of, section 610(a)(b) and (c) and section 610(d), EPA did not propose exemptions for all of these products in the NPRM for the class II ban; however, in all cases EPA requested comment on the need for and appropriateness of potential exemptions for these uses. Comments received by the Agency are discussed below.

a. *Lubricants for pharmaceutical and tablet manufacture.* EPA received one comment regarding a lubricant used in pharmaceutical manufacturing. This commenter stated that HCFC–141b has replaced CFC–113 as the lubricant carrier for the manufacture of hypodermic needles. The commenter notes that an exemption for HCFC–141b is consistent with the intent of section 610(d) to allow the use of HCFCs in medical devices, although in this particular application the exemption would be for the manufacturing process, not the product. The commenter indicates its belief that while such an exemption is not consistent with the statutory language, it may be consistent with Congressional intent. EPA agrees that the use of class II substances in the manufacturing of hypodermic needles is not consistent with the statutory language regarding the exemption for medical devices. However, EPA believes that under the class I ban's exemption for lubricants for pharmaceutical and tablet manufacture, EPA has authority to consider exemptions under the class II ban for hypodermic needle production, where the class II substances are used to replace CFC–113 as the only legally available alternative, and where there is a clear demonstration of flammability or worker safety concerns. However, in the absence of a demonstration of worker safety or flammability concerns in the production of hypodermic needles, which the commenter did not submit, the fact that the only legal alternative to the use of the class II substance is a class I substance, by itself, is not enough to allow EPA to include an exemption for the use of lubricant carriers for the manufacture of hypodermic needles in the final rule. EPA may reconsider an exemption for this use at a later date if presented with appropriate documentation.

b. *Solvent uses in lubricants, coatings and cleaning fluids for electrical or electronic equipment.* EPA proposed exempting the solvent uses of class II substances in lubricants, coatings, and cleaning fluids for electrical or electronic equipment. EPA received several comments favoring such an exemption. One commenter stated that the cleaners are often sprayed to ensure that the electrical contacts are free of dirt and other contaminants. In addition, one commenter stated that the only available substitutes contain hydrocarbons that pose increased risks associated with using a flammable product on electronic or electric equipment. The commenter claims that chemicals used in these cleaners must be nonflammable, nonconductive, nontoxic, odorless, quick-drying and effective, because the individuals using them are in very close proximity to the cleaner spray. Another commenter stated that in both these applications and in applications associated with aircraft maintenance discussed below, the products are used in "clean-in-place" situations, often near energized circuits, welding or soldering equipment, hot motors, engines or other hot surfaces.

EPA believes that the use of a product near a hot motor does not necessarily constitute a flammability concern; however, in cases where the product is used in close proximity to ignition sources, and where the user cannot provide adequate safety precautions, a nonflammable product is essential. Therefore, EPA agrees with these commenters. This final action adopts the proposed exemption for the solvent uses of a class II substance in lubricants, coatings and cleaning fluids for electrical or electronic equipment.

c. *Solvent uses in lubricants, coatings or cleaning fluids used for aircraft maintenance.* EPA received comments concerning the uses of class II substances in lubricants, coatings or cleaning fluids used for aircraft maintenance. One commenter stated that the only known substitute for the use of a class I or class II substance was a hydrocarbon. A second commenter stated that while the amount of class II compounds used in aircraft maintenance activities is low, until environmentally preferable alternatives become available, the use of class II compounds is necessary. The commenter stated that the concerns over worker safety and flammability raised in the NPRM are valid. The materials are often used inside the aircraft, which acts as a confined space. It is often difficult to ventilate these spaces, making the toxicity and flammability of the materials used particularly critical. As stated above, one commenter that provides products for both aircraft maintenance and electronic or electrical equipment cleaning noted that the products must often be used in "clean-in-place" situations. Several comments indicated that the physical characteristics of HCFC–141b are similar to CFC–113, exempted under the class I ban. EPA agrees with the concerns raised by many commenters. There are worker safety and flammability concerns that render the legal use of a class I substance as the only alternative to the solvent uses of HCFCs. Therefore, this final rulemaking will provide an exemption for the solvent uses of class II substances in lubricants, coatings, or cleaning fluids used in aircraft maintenance.

One commenter stated that aircraft maintenance should include all aircraft uses of the class II substances in aerosol lubricants, coatings and cleaning fluids because the same materials are used in manufacturing, flight tests, and in-service maintenance. EPA agrees that the exemption for the solvent uses of class II substances in lubricants, coating or cleaning fluids used for aircraft maintenance covers the use of these products during manufacturing, flight tests, and in-service maintenance.

d. *Solvent uses in mold release agents.* EPA received many comments regarding the uses of class II substances in mold release agents. All of these commenters supported EPA's proposed exemption for the solvent uses of class II substances in mold release agents. One commenter asked that EPA clarify that the use of HCFC–22 and HCFC–141b in the NPRM were merely examples of potential formulations for mold release agents. EPA agrees with this commenter. The Background Document on Aerosol Products and Pressurized Dispensers Containing Class

VOL 58 ISS 249 DEC 30 1993 UMI

II Substances and other information contained in the Air Docket for this rulemaking (A–93–20) provides additional information concerning various formulations of mold release agents.

Several of the comments stated that HCFC–22 was the solvent in their formulation or that since HCFC–22 has some solvent characteristics, it should be exempted. Among the characteristics categorized as "solvent" by the commenters were: compatibility with co-solvents; nonflammability, fast evaporation rate, low boiling points, and good carrier capacity. One commenter stated that in order to use dimethyl ether (DME) as a propellant in mold release agents, the DME must be in solution to avoid collection of DME vapor that could collect and ignite. Several commenters indicated that they use DME to lower the amount of ozone-depleting substances needed in their mold release agents. One commenter stated that HCFC–22 dissolves the solvent or similar lubricant and suppresses the flammability of the mold release agent. Additionally, commenters stated that the use of HFC–134a or other like substances requires that the mold release agent be shaken routinely before use. If the user neglects to shake the product, the DME vapor could collect and ignite.

EPA has considered these comments very carefully and disagrees with many of the commenters. The Agency has previously stated on several occasions, including in the NPRM for this rulemaking, that HCFC–22 is generally used as a propellant in aerosol products and pressurized dispensers. "Carriers" and "dissolvers" are not necessarily characteristics of solvents. Since many solvents are flammable, nonflammability is not necessarily a characteristic of solvents. HCFC–22's quick evaporation rate leads EPA to question whether the HCFC–22 ever directly reacts with the molds. While mold release agents are often used at high temperatures, without an ignition source, the temperatures are not sufficiently high for DME to become combustible. EPA is aware of flammable and water-based mold release agents that are currently available that do not contain ozone-depleting substances. While HFC–134a may not be appropriate in combination with DME, EPA believes it is an adequate substitute for other formulations. However, EPA believes that the HCFC–22 and DME formulations may represent the only compatible formulation for particular molds.

In response to the claim that HCFC–22 may act as a solvent, EPA believes it should nevertheless be categorized as a propellant wherever it serves that purpose as well. In the final regulations promulgating the 1978 aerosol propellant ban, FDA stated in a decision to regulate the use of an ozone-depleting substance in a particular case, that "the propellants have other functions, but many propellants have dual function. As previously explained in the final rule to require a warning statement, if all propellants with dual functions were excluded, many products might be excluded, or might claim to be excluded * * *. Thus, this products [sic] is subject to the regulation because of the propellant use of the chlorofluorocarbon" (43 FR 11313). Based on this earlier ruling, EPA believes that it is appropriate to treat solvent/propellants as propellants under this rule because EPA concludes that substitutes are available. Where HCFC–22 is used as a propellant, its use generally is banned under the final rule. Furthermore, EPA does not believe that the commenters have demonstrated when HCFC–22 in mold release agents is acting solely as a solvent; could this demonstration be made, such use would be permitted under the exemption for solvent use where substitutes are not available. Therefore, HCFC–22 will in most case be banned as a propellant under this final rulemaking.

However, after careful consideration, EPA believes there are many cases where the use of HCFC–22 as a propellant may be essential based on worker safety or flammability concerns where there are no legal substitutes. EPA believes that some commenters did sufficiently demonstrate that while there are many different formulations for mold release agents, there are cases where the use of HCFC–22 is essential based on worker safety or flammability concerns. While EPA is limited to considering an exemption only where the sole substitute is the legal use of a class I substance, EPA did propose to revise the class I ban as necessary where a particular product may not have been sufficiently considered in that rulemaking.

EPA believes that solvent uses of class I substances were sufficiently considered; however, propellant functions in this product may not have been sufficiently considered. There are a wide variety of molds that require differing formulations of mold release agents in order to be compatible. In the case of mold release agents, EPA believes there are cases where the only substitute to HCFC–22 is CFC–12 due to worker safety and flammability concerns. Therefore, through this final action, EPA will revise the class I ban to provide the legal authority to consider a class II propellant exemption for mold release agents using HCFC–22 as a CFC–12 substitute, and will simultaneously provide such an exemption under the class II ban. EPA believes that the industry will choose to continue using class II substances instead of class I substances, realizing that the revision to the class I ban was solely performed to provide the required authority for a class II exemption and the pending phaseout date for CFCs. The final § 86.66(d)(2)(vii) of the class I ban is revised to read:

> * * * mold release agents used in the production of plastic and elastomeric materials, which contain CFC–11 or CFC–113 as a solvent, but which contain no other CFCs, and/or mold release agents that contain CFC–12 as a propellant, but which contain no other CFCs.

Based on this action, EPA will simultaneously exempt under the class II ban the use of HCFC–22 as a propellant in mold release agents where evidence of good faith efforts to secure alternatives indicates that, other than CFC–12, there are no technically feasible alternatives; and the solvent uses of HCFCs in mold release agents, where a solvent/propellant is to be considered a propellant. EPA would like to clarify that suitable alternatives include use of other mold release agent formulations. The suitability of mold release alternatives in this context does not consider the relative cost of that alternative or the convenience associated with its purchase.

EPA will further require that the seller of HCFC mold release agents provide notification to the purchaser concerning this restriction on sale of HCFCs where no other alternative is available. This notification will take the form of a sign clearly posted where the HCFC mold release agents are displayed for sale or written notification of the requirements if the purchaser does not physically come in contact with a display at the point of sale. Written notification will be provided prior to the sale occurring by including the information on sales brochures, order forms, invoices and the like. The seller must indicate to the purchaser that "it is a violation of federal law to sell mold release agents containing hydrochlorofluorocarbons as propellants to anyone, except for use in applications where no other alternative except a class I substance is available. The penalty for violating this prohibition can be up to $25,000 per unit sold."

e. *Solvent uses in spinnerette lubricant/cleaning sprays.* EPA received six comments regarding spinnerette lubricant/cleaning sprays. One commenter stated that EPA should interpret 610(d)(2)(B) which states that EPA should provide an exemption where "the only available alternative to use of a class II substance is use of a class I substance which legally could be substituted for such class II substance" to mean that EPA should not allow an exception for a class II substance in any situation where "an alternative other than a class I substance was available." Therefore, the commenter believes that EPA should grant an exemption for all propellants in spinnerette lubricant/cleaning sprays because, other than the use of a class I substance (that could not be legally substituted), there are no alternatives to the use of a class II substance. EPA strongly disagrees with this commenter. EPA discussed in the NPRM that the two bans are integrally linked. In order to have an exemption to the class I ban, the only alternative must be the legal use of a class I substance. When the Clean Act Amendments were developed, clearly class II substances were viewed as merely interim substitutes for CFCs and would be available for a limited time after production of the class I substances ceased. Therefore, Congress appropriately limited the use of class II substances to situations where EPA already determined the use of a class I substance was essential, and where substitutes for ozone depleting substances were still unavailable. Therefore, EPA does not agree with the commenter's legal interpretation of section 610(d)(2)(B).

However, commenters stated that there are no available substitutes for all class II substances other than a class I substance in these uses. These commenters believe that there are class II substances that will be legally substituted for CFC–114 as a solvent; however, the commenters are concerned about class II propellants. Some commenters stated that EPA should exempt the solvents and propellants used as spinnerette lubricant/cleaning sprays, including HCFC–22, HCFC–142b, and HCFC–141b, noting that the worker safety and flammability concerns EPA discussed in the NPRM make it essential that a nonflammable formulation be used. One commenter believes that to meet worker safety and fire protection standards, the use of class I or class II substances is necessary for both propellants and solvents. All the commenters believe that sufficient alternatives to the propellant uses of class II substances, other than class I substances, have not yet been developed.

EPA agrees that spinnerette lubricants/clear ing sprays require a safe formulation. EPA is concerned that since these products are used by employees to wipe the spinnerette faces whenever a spinning machine is started or whenever a position breaks during operation, there are serious worker safety concerns. EPA believes that consistent with the mold release agents situation described above, EPA has sufficient reason to, through this final action, revise the class I ban with respect to propellants and simultaneously revise the class II proposed ban. Again, EPA believes that the industry will recognize the need to continue using class II substances instead of class I substances, realizing that the revision to the class I ban was solely performed to provide authority to consider an exemption to the class II ban and the pending phaseout date for CFCs. Therefore, EPA is revising § 82.66(d)(2)(viii) of the class I ban to read:

> Spinnerette lubricant/cleaning sprays used in the production of synthetic fibers, which contain CFC–114 as a solvent, but which contain no other CFCs, and/or spinnerette lubricant/cleaning sprays which contain CFC–12 as a propellant, but which contain no other CFCs.

Based on this action, EPA will simultaneously exempt the propellant uses of HCFC–22 and HCFC–142b, in addition to the solvent uses of class II substances in spinnerette lubricants/cleaning fluids under the final class II ban.

f. *Document preservation sprays.* EPA received thirteen comments concerning document preservation sprays. Most of the comments simply asked for an exemption based on the need to continue using the formulation that they currently purchase or sell. EPA received a series of comments from the one manufacturer of such sprays stating various reasons why EPA should provide an exemption for the use of HCFC–22 and HCFC–141b in their product. The manufacturer produces both aerosol and non-aerosol products. The manufacturer distinguishes between mass deacidification and deacidification by small institutions preserving a few documents per year. However, the manufacturer believes that the various potential not-in-kind substitutes are not always economically feasible or appropriate for very fragile papers. Originally documents were dipped into liquid solutions or the solutions were brushed onto the documents. These methods have various deficiencies relating to the need to ensure an even coat of the preserving chemicals. The manufacturer provided information concerning attempts to use propellants other than class I or class II substances. Nitrogen has successfully been used in larger containers; however, due to worker safety concerns involving improperly closed cylinders, these formulations do not represent a solution in all cases. DME's solvent properties caused the product to be too powerful, damaging what it was to preserve. Hydrocarbons alone or together with ether were evaluated but were found to be unsuccessful. The manufacturer further states that the HCFC–22 acts as both solvent and propellant in the aerosol product. The HCFC–22 is needed to lessen the solvent strength of HCFC–141b. Without HCFC–22, HCFC–141b would damage the document instead of preserving it. The manufacturer also provided EPA with information about the various alternatives used or considered both domestically and abroad. In every case, the manufacturer believes that either the product will damage the paper, will not create an adequate deacidification solution, or is not workable in every situation.

EPA reviewed these comments and other information gathered during this rulemaking. EPA believes that in almost every case, the not-in-kind substitutes are workable alternatives to the use of HCFC–141b and HCFC–22 in aerosol containers and pressurized dispensers. The manufacturer who provided extensive comments on the need for an exemption from the class II ban indicated that their own not-in-kind substitute was an appropriate alternative in many cases. Moveover, the manufacturer indicated that the not-in-kind alternative provided the added quality of strengthening the documents. However, as the manufacturer indicated, there are some situations in which their own substitute will not be effective. EPA considered the alternative products used both domestically and abroad. One alternative, involving a reaction of ammonia and ethylene oxide to form ethanolamine, uses di- and triethanolamine which are known to form a reaction product that is carcinogenic. Another alternative uses magnesium butyltriglycolate dissolved in either toluene or CFC–113. According to the submitted comments, initial results indicate that formulation may deface the documents and may have an unpleasant odor. EPA is aware of another potential substitute that contains perfluorocarbons (PFCs). The use of PFCs may be subject to restricts based on global warming potential and long atmospheric lifetimes under regulations promulgated under section 612. Moreover, the comments the

Agency has received indicate that the PFC-based product may not be appropriate for treating thick books, books with coated or dense paper, or tightly bound books.

EPA believes that in almost every case, either a not-in-kind substitute or a substitute formulation can be successfully used for preserving documents. However, EPA does not believe that all of the alternative formulations have been successfully tested to determine the degree of worker safety or flammability concerns. Therefore, EPA agrees that for treating thick books, books with coated or dense paper, and tightly bound documents, an exemption for propellant uses under the class II ban is required.

Based on worker safety and flammability concerns associated with the use of alternatives, and since the only alternative is the legal use of CFC–113, EPA will provide a solvent exemption for HCFC–141b. Furthermore, HCFC–22 is being used predominately as a propellant in document preservation. While it may also have some limited solvent capabilities in this product, as discussed above, solvents/propellants will be considered propellants under this rulemaking. Therefore, EPA will revise the class I ban and will today provide simultaneous exemptions under the class II ban for propellant uses in treating thick books, books with coated or dense paper, and tightly bound documents. § 82.66(d)(2)(x) of the class I ban will be revised to read:

• • • document preservation sprays which contain CFC–113 as a solvent, but which contain no other CFCs; and document preservation sprays which contain CFC–12 as a propellant, but which contain no other CFCs, and which are used solely on thick books, books with coated or dense paper and tightly bound documents.

EPA will provide a simultaneous exemption under the class II ban for HCFC–22 used as a propellant in document preservation sprays used solely to preserve thick books, books with coated or denser paper and tightly bound documents.

B. Foams

1. Definition of "Plastic Foam Product"

One commenter questioned EPA's definition of a "plastic foam product." EPA stated in the NPRM that the Agency interprets the term "plastic foam product" to mean any product composed in whole or in part of material that can be described as "foam plastic" or "plastic foam." The commenter believes that within the meaning of section 610(d) a plastic foam product should apply only to products such as cups, containers, and packaging where the product is wholly or primarily constructed of plastic foam or derives its essential purpose or functionality from the foam. The commenter bases this interpretation on the criteria for nonessentiality put forth in section 610(b). The commenter further believes that Congress did not explicitly require EPA to consider the essentiality of the product as it relates to section 610(d) because that language appears in section 610(b). EPA strongly disagrees with this commenter. Clearly Congress intended to ban products that are not wholly or primarily constructed of plastic foam or derive purpose or functionality from the foam itself. If Congress intended to only include the products suggested by the commenter, section 610(d)(3)(B) would not be necessary. Certainly an automobile does not derive purpose or functionality from the foam within the vehicle. Congress would not need to provide an exemption for foam needed to meet automobile safety standards if only products that were wholly or primarily constructed of plastic foam were to be banned. Moreover, Congress banned these products in their own terms, without requiring EPA to promulgate regulations. Therefore, since this ban does not require action on the part of the Agency, Congress could not foresee an explicit need for this final rulemaking; thus, it cannot be assumed that the standards put forth in section 610(b) (that require EPA to promulgate regulations) would apply to this self-executing ban. The section 610(b) criteria apply to EPA identification of additional nonessential products. They do not apply to EPA interpretation of the products Congress identified as nonessential in section 610(d).

EPA received one comment stating that an agency must construe the statute in a way that is consistent with the underlying purpose of the statute. (See *Batterton* v. *Francis*, 432 U.S., 416, 425 (1977), and *Gelman* v. *Federal Election Commission*, 432 F.2d 939, 943 (D.C. Cir. 1980)). The commenter further stated that Congress did not intend for Section 610(d) to cause manufacturers to switch to CFCs as a foam blowing agent. EPA agrees with this commenter and believes that where the use of HCFCs are banned, alternative blowing agents exist, alternative products that can perform the same function exist, or the product is not essential for the functioning of society. EPA has exempted HCFC use from the ban wherever a legal use of a CFC is the only available alternative.

2. Definition of "insulating products"

EPA requested comments on both its proposed definition of "insulating products" and potential alternative definitions. The majority of the commenters supported EPA's proposal to define "a foam insulation production as any product that is made with closed cell rigid polyurethane foam, closed cell rigid polystyrene boardstock foam, and closed cell rigid phenolic foam; and in addition, pipe insulation made out of closed cell rigid polyethylene foam. One commenter stated that the 1989 UNEP Technical Options Committee issued a report that identified two broad categories—foam that has significant thermal insulating properties and foam that does not. The report concludes that the three types of foams that have significant thermal insulating properties are closed cell rigid polyurethane foam, closed cell rigid polystyrene foam and closed cell rigid phenolic foam. As EPA stated in the NPRM, EPA based its decision on how to define which products were insulation products on work completed by the same UNEP Committee. The commenter further stated that there are compelling policy reasons for using a definition based on foam type rather than on perceived end-use. The commenter believes that under an all end-use approach, EPA may need to evaluate thousands of individual products containing foam produced with HCFCs to determine whether the foam in those products was serving an insulating function. EPA agrees that if the Agency were to require a review of every end-use, such a process would be both time-consuming and burdensome for both the Agency and industry.

One commenter suggested that EPA should expand its proposed exemption for existing inventories to become the basis for exempting all flotation foam or other uses of exempted products. The commenter believes that the de minimis standard in the *Alabama Power* decision should be applied to all types of non-insulating applications of closed cell rigid polyurethane, polystyrene, and phenolic foam. The commenter noted that in the NPRM, EPA identifies flotation foam as the largest non-insulating application of closed cell polyurethane and that the impact of using HCFCs in all the non-insulating applications of polyurethane would be insignificant. EPA agrees that the use of insulating foam products for non-insulating applications will have an overall insignificant impact on stratospheric ozone when considering all the domestic and international actions being taken in their entirety. However, EPA does not believe that this commenter has sufficiently demonstrated how the acknowledged continued use of an insulating foam product in non-insulating applications is consistent with the de minimis standard within the meaning of the *Alabama Power* decision. EPA believes that the statute clearly bans the sale and distribution of foam that does not meet the criteria for the two statutory exemptions; however, the statute does not regulate the use of such exempted products.

A few commenters stated that they use closed cell rigid polyurethane foam, at least in part, to protect against noise and vibration. EPA stated in the NPRM that Webster's Dictionary defines to *insulate* as "to separate from conducting bodies by means of nonconductors so as to prevent transfer of electricity, heat, or sound." EPA suggested that this could be the basis for an alternative definition of insulating foam. However, since these comments expressed support for the proposed definition, EPA does not believe that these commenters were indicating that EPA should consider promulgating an alternative definition.

Many commenters stated that EPA's proposed definition would be less burdensome for industry to comply with and for the Agency to enforce, than any alternative definition. Several commenters were particularly concerned with the increased burden an end-use approach would create. A few commenters were not convinced that they would be able to identify which products were banned and which were exempted if a total end-use approach was included in the final rule. EPA agrees with these commenters. The Agency recognizes the need to consider the ability of industry to recognize which products are subject to the ban.

One commenter stated that EPA's proposed definition gives the Agency the discretion to add other products or categories where it can be sufficiently demonstrated that the foam product is used principally for foam insulation purposes. EPA agrees with this commenter. Several commenters suggested that EPA consider specific products or categories. EPA received several comments asking the Agency to broaden its definition to include other products or types of foam and a few comments asking EPA to consider a more narrow approach to exclude products. These comments are discussed in detail below.

a. *Closed cell rigid polyurethane foam.* EPA received many comments regarding the inclusion or exclusion of non-insulating applications under EPA's proposed definition. Many of these comments relate to the use of a closed cell rigid polyurethane foam in various applications. The comments will be discussed according to the foam's non-insulating application.

i. Foam used as flotation foam. The largest non-insulating application of closed cell polyurethane foam is as marine foam used in the manufacture of certain types of boats. The U.S. Coast Guard estimates that there are approximately 3,000 small volume boat builders, who produce anywhere from less than ten boats to several hundred boats annually, representing twenty-five percent of the recreational boats manufactured in the United States annually. The U.S. Coast Guard believes that to date, only a few of the small volume builders have experimented with non-CFC/non-HCFC blowing systems.

EPA received twenty-three comments that directly address the current uses of closed cell polyurethane foam in marine flotation applications, especially for boats that are under twenty feet in length. Several comments referred to U.S. Coast Guard regulations that require minimum flotation standards for all boats under twenty feet in length and to standards put forth by the American Boat and Yacht Council. A few comments requested that EPA specifically consider the need for HCFC foams in order to meet the U.S. Coast Guard standards. While EPA believes it is important for the manufacturers of boats under twenty feet to provide adequate flotation by meeting the U.S. Coast Guard standards, EPA cannot provide an exemption for flotation foam based on those regulations. EPA's only authority is to exempt insulating foams, and EPA has concluded that flotation foam is not thermal insulation foam within the meaning of section 610(d)(3).

U.S. Coast Guard regulations (33 CFR 183.101, subpart F) require that boats less than 26 feet in length meet certain flotation standards. While many small boat manufacturers currently use CFC- or HCFC-blown foam as both structural and flotation material in the manufacture of their products to comply with these regulations, these U.S. Coast Guard standards are performance-based and do not specify the use of any particular product. Such a broad exemption for all flotation foams would in no way be consistent with the statutory language in section 610(d). The statute specifically states that EPA will exempt certain foam products "utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards where no adequate substitute substance (other than a class I or class II substance) is practicable for effectively meeting such Standards." EPA believes that if Congress intended for the Agency to also consider U.S. Coast Guard standards, language to that effect would have been written into the statute. Furthermore, while the EPA is providing a temporary exemption for products requiring federal approvals before reformulating a product, EPA does not believe there are any U.S. Coast Guard regulations that require a manufacturer to receive approval to use a new formulation prior to use.

EPA received one comment from a foam manufacturer who indicated that many manufacturers believed that foam used for flotation purposes would be considered nonessential for purposes of the class II ban. The commenter further stated that during the last several years the manufacturer has been developing suitable alternatives. The manufacturer stated that such products have been developed and would add only approximately $10 to the price of the boat. The commenter encouraged EPA to take a position that would foster the use of this new technology, constrained only by the time needed by the commenter to prove the product's suitability to the marine flotation industry. The manufacturer suggested an approach similar to the sunset provision provided for certain foam products needed to meet automotive safety standards. EPA applauds the efforts of this manufacturer. EPA's research indicates that there are currently boats on the market today that do not use HCFCs in their foam blowing process. However, EPA is not given authority under the statute to consider any time-based exemptions except in the case of foam needed to meet Federal Motor Vehicle Safety Standards where EPA may determine when other substitutes will be available to meet safety standards. With respect to foam, EPA has no authority to create exemptions based on the availability of substitutes in other areas. The statute exempts all foam insulation without any clarifications; however, the statute exempts foam needed to meet Federal Motor Vehicle Safety Standards where no adequate substitute is practicable. Once substitutes are available to meet those standards, HCFCs are no longer required. Similar language is not contained in the exemption for foam insulation. Therefore, while the Agency agrees with the need to encourage industry to move away from HCFCs, EPA does not believe it can regulate such a move without revising its definition of what is an "insulating product." The Agency does not believe

VOL 58 ISS 249 DEC 30 1993 UMI

this to be appropriate under the statutory language.

Several comments referred to polyurethane foam's ability to provide structural integrity, to provide sound insulation, to provide cushioning for fuel tanks, to insulate against cold water temperatures, and other functions the foam can perform for watercraft. One commenter additionally stated that in cases where the boat may be a year-round home, not exempting its use in boats, while exempting the use of closed cell rigid polyurethane used for thermal insulation in a traditional house, would be arbitrary. EPA believes that the boating industry does not primarily choose to use closed cell rigid polyurethane foam for its thermal capabilities; however, EPA agrees that it would be arbitrary to not allow its use as a thermal insulator in a structure that may act as a year-round home. EPA states in the NPRM that the Agency does not believe it has authority to regulate the actual use of a product that was exempted from the ban based on its characterization as a thermal insulating foam (in the case of closed cell rigid polyurethane foam), even in individual cases where the Agency believes that the product may not primarily be used for the thermal insulating qualities upon which EPA based the exemption.

A number of manufacturers reported dissatisfaction with non-CFC and non-HCFC blowing agents. One commenter stated that while HFC–134a has passed the U.S. Coast Guard's testing requirements, the industry has had difficulty with water absorption, rendering questions about the integrity of HFC–134a blown foam. In one case, the foam absorbed one pound of water per cubic foot. HFC–152a is gaseous at room temperature and is flammable. One comment stated that the use of HFC–152a would require special equipment, temperature-controlled storage and new safety precautions. The commenter further stated that HFC–152a would not be cost-effective. Several commenters discussed water-blown foams, stating that many questions concerning its performance were still outstanding. One commenter discussed the possible use of hydrocarbons such as cyclohexane and pentane, raising issues about safety and storage of flammable blowing agents, and the need to provide specialized employee training and supervision.

EPA understands that some boat manufacturers are hesitant about switching to alternative blowing agents. However, EPA believes that while many alternatives may require additional management controls, workable solutions to the use of ozone-depleting chemicals do exist. Furthermore, one of the most promising alternatives, the use of HFC–134a and water in combination, was specifically omitted by commenters. EPA does recognize that flotation foam serves as an important safety feature for many small watercraft and also that the use of closed cell polyurethane foam serves as a structural element. While EPA does not believe that the manufacturers of these boats are primarily choosing to use closed cell rigid polyurethane in order to provide thermal insulation, under this final action, manufacturers of boats will be able to continue using HCFCs in closed cell rigid polyurethane used for the manufacturing of their products, because the final rule exempts all closed cell rigid polyurethane under the definition of thermal insulating foam regardless of the ultimate use of such thermal insulating foams.

EPA received one comment stating the boats manufactured with HCFCs should not be required to be labeled. EPA wishes to clarify that at this time, the Agency has not promulgated regulations requiring products containing HCFCs to be labeled. However, the Administrator has the authority to promulgate such regulations in the future, under section 611 of the Act.

ii. Taxidermy. EPA received seven comments concerning the uses of polyurethane foam in the production of mannikin forms. Most of the commenters stated that the only proven alternative blowing agent, cyclohexane, would increase workplace health hazards significantly. One commenter stated that allowing the continued use of an HCFC-blown foam by taxidermists is inconsistent with the intent of Congress in developing this statute. While EPA agrees that the use of HCFC-blown foam by taxidermists would otherwise be nonessential within the meaning of section 610(d), and despite the fact that EPA believes that with the proper precautions, alternative blowing agents can be used safely, the foam used falls within one of the three UNEP categories of thermal insulating foam and is thus exempted under this final rule. Section 610(d)(3)(A) specifically exempts thermal insulation products, regardless of how those products are ultimately used. EPA does not believe it has the ability to practically regulate the use of all exempted products.

iii. Aerosol polyurethane foam. EPA received one comment requesting an exemption for aerosol polyurethane foam, also known as one compound foam. EPA has previously discussed that, in the final class I ban, aerosol polyurethane foam is a closed-cell rigid polyurethane product. Aerosol polyurethane is used by builders and do-it-yourselfers in a variety of applications. These include draft-proofing around pipes, cable runs, doors and windows; sealing doors and window frames; and joining together insulating panels, roofing boards, and pipe insulation. EPA stated that aerosol polyurethane foam would be treated as a foam and not as an aerosol product. Therefore, aerosol polyurethane foam products are included in the definition of foam insulation and exempted from the ban.

b. *Closed cell rigid polystyrene boardstock foam.* EPA received two comments regarding the use of closed cell rigid polystyrene boardstock foams. One commenter stated that while they have made a long and diligent search for an environmentally acceptable substitute for the uses of polystyrene for a non-insulating application, they have not yet been successful. The commenter stated that as soon as an alternative has been located, closed cell rigid polystyrene boardstock foam will no longer be used in their application. As stated above, EPA cannot practically regulate the use of an exempted product; however, EPA is pleased to learn that legal users of HCFC-blown foam will continue to investigate alternatives to non-insulating uses.

EPA received a second comment requesting that EPA clarify a possible inconsistency between the UNEP documents and the NPRM. EPA does not believe such an inconsistency exists. Both the Agency and UNEP documents discuss various types of foam products by category and often according to use. The UNEP documents reflect a similar structure. EPA believes that the rule and the accompanying Background Documents properly identify the types of foam exempted under the ban.

c. *Closed cell rigid polystyrene sheet foam.* EPA received three comments regarding closed cell rigid polystyrene sheet foam. The commenter stated that closed cell rigid extruded polystyrene sheet foam should be added to EPA's definition for insulating products based on its uses at certain thicknesses. A second commenter stated that their products are used as an underlayment when putting new siding on an existing home or other structure, as insulation and waterproofing protection for perimeter concrete and masonry walls, and as an underlayment when resurfacing flat roofs. The commenter noted that these products have an "R value" (rated resistance to heat flow used as a measure of insulating capacity) and suggested that EPA should exempt closed cell polystyrene sheet foam in fanfold form with a facing material. EPA disagrees with these commenters. Extruded polystyrene foam sheet is primarily manufactured for food service and food packaging products. Traditionally, halocarbons have been attractive blowing agents for these products; however, hydrocarbon blowing agents and HFCs are among the alternatives. Many manufacturers, particularly those in the food service industry, have made great strides to eliminate their use of halocarbon blowing agents. Furthermore, the R value cited by two manufacturers ranges from 1.0 to 1.5. EPA does not believe that a product with those low R values can provide meaningful thermal insulating qualities. EPA believes that in general, these products are used to provide moisture resistance and a smooth surface, not as thermal insulation product. Therefore these products are not consistent with EPA's definition of an insulating foam product. Consequently, this final action will not expand the definition of a foam insulation product to include closed cell rigid polystyrene sheet foam or closed cell polystyrene sheet foam. § §

d. *Closed cell polyethylene foam.* EPA received six comments concerning polyethylene foam products. These comments dealt specifically with two different polyethylene foam products: backer rods and pipe wrap. Each product is discussed individually.

i. Backer rods. Two commenters believe that EPA should expand its definition of foam insulating products to include backer rods made with polyethylene foam because the backer rods have "significant" thermal insulating properties. One commenter stated that the use of hydrocarbon blowing agents instead of HCFCs presents unreasonable risks to human health. Commenters disagreed with the Agency's proposal to exclude backer rods from the definition of insulating foam products. One commenter stated that the statutory language and legislative history support a broader definition that would "indisputably" include backer rods. The commenter further believes that under the proposed definition of foam insulation products, backer rods should be exempt from the ban because of their thermal insulating capabilities. The commenter believes that the Agency's failure to propose including backer rods is not consistent with either the 1991 UNEP Flexible and Rigid Foams Technical Options Report, produced under the auspices of the United Nations Environmental Programme (UNEP) or the Background Document on Foam Products Made with Class II Substances, drafted as a background document to accompany this rulemaking. EPA reviewed these documents to confirm the commenter's statements. EPA would like to clarify that the 1991 UNEP Flexible and Rigid Foams Technical Options Report clearly categorizes polyethylene foam as "rigid packaging foam." The chart on p. 6 of the May 1993 Background Document on Foam Products Made with Class II Substances, listing principal foam types and applications, does not list thermal insulation as an application for closed cell polyethylene foam. Furthermore, on p. 21, the Background Document states that polyethylene foam is "used primarily for packaging." The Background Document does state that in some applications, thermal insulation is among the desirable properties; however, the Background Document indicates that these applications are either in addition to the primary packaging functions (e.g. packaging military equipment such as missiles) or in pipe wrap (as discussed below).

One commenter stated that excluding polyethylene backer rods conflicts with the Internal Revenue Service (IRS) regulations. According to the commenter, IRS regulations specifically identify backer rods a type of rigid foam insulation. As EPA stated in the NPRM, the IRS defined "rigid foam" as any closed cell polymeric foam (whether or not rigid) in which chlorofluorocarbons are used to fill voids within the polymer. The IRS definition of foam insulation is markedly different from the one proposed by EPA, in part because they were written with different statutory mandates and different implementation goals in mind. The IRS definition does indicate that Congress intended to single out foam products on the basis of their thermal insulation properties, in establishing the excise tax.[4] However, EPA's mandate calls for the Agency to exempt only "foam insulation products." Many non-insulating products contain some incidental insulating characteristics, but could not be considered foam insulation products. EPA firmly believes this is the case with polyethylene backer rods. The information submitted to EPA indicates that at best, backer rods still have low R values. Moreover, the primary function of backer rods used in the construction of buildings is to provide moisture protection.

[4] If this commenter intended for EPA to adopt the IRS definition in its entirety, for this rulemaking, EPA wishes to point out that the IRS definition of rigid foam insulation only considers foam blown with CFCs and would result in no exemption for any foam insulation product containing HCFCs unless they contained CFCs as well.

One commenter stated that no effective substitutes for polyethylene foam backer rods are available for use in expansion joints. The commenter further believes that there are no blowing agents that can be effectively used to produce the backer rods and provide thermal capability. A second commenter stated that at considerable expense, they converted their manufacturing extrusion processes to non-HCFC alternatives. The commenter commended EPA for not including backer rods in the proposed definition. The commenter stated that backer rods are not used by the construction industry as thermal insulators. The function of backer rods is to fill the void in wall joints and seams for the application of sealants. Furthermore, the commenter does not believe it is necessary to use ozone-depleting substances to manufacture backer rods. According to this commenter, the backer rods manufactured with hydrocarbon blowing agents (e.g. isobutane) are currently sold and used throughout the United States and the world. As discussed above, EPA believes the thermal capability is a secondary function for backer rods and is pleased to know that alternative blowing agents are successfully being used. Therefore, this final action will not broaden the definition of a foam insulation product to include backer rods.

ii. Pipe wrap. EPA received three comments concerning polyethylene pipe wrap. One commenter, a polyethylene manufacturer, stated that at considerable expense, the manufacturer converted its extrusion processes to non-HCFC alternatives. The commenter strongly disagreed with the proposed inclusion of closed cell polyethylene pipe wrap within the definition of foam insulation product. The commenter believes that including pipe wrap in the proposed definition may result in adverse environmental impacts. Furthermore, the commenter believes that EPA should rely on the research of the UNEP. UNEP does not include any polyethylene products in the categories described as thermal insulators. The commenter stated that they manufacture a comparable product without the use of ozone-depleting substances. The commenter stated that arguments that HCFCs used as blowing agents allow for a better thermal insulating material are incorrect. The commenter has been using hydrocarbons to meet the "toughest thermal insulation specifications." In addition, the commenter stated that after a period of time the blowing agents are replaced by air in the finished

VOL 58 ISS 249 DEC 30 1993 UMI

products. EPA applauds these efforts to move away from HCFC use in thermal insulating uses. However, section 610(d) clearly exempts all foam insulating products, and thus EPA must provide exemptions for all products that clearly meet the definition of thermal foam insulation products.

One commenter raised concerns about the ability to use hydrocarbons safely. The commenter referred to the proposed SNAP regulations being promulgated under Section 612. The commenter points out that EPA states in the SNAP NPRM that the use of hydrocarbons have possible dangers. "Conversion to using hydrocarbons may entail significant capital investments in order to ensure worker safety fire hazards" (58 FR 28123). EPA would like to clarify that the SNAP NPRM does propose hydrocarbon blowing agents as an acceptable alternative for all polyolefin foams. In many industrial processes various safety precautions are necessary. One commenter stated that arguments surrounding the inability to use hydrocarbon blowing agents safely are groundless. The commenter stated that assuming reasonable safety precautions are undertaken, hydrocarbons can easily be used safely. EPA agrees that, if reasonable and adequate safety precautions are taken, hydrocarbons can be used safely in the production of polyolefin foam products.

Two commenters are concerned about EPA's approach in the case of pipe wrap. Both commenters believe the Agency should consider all polyethylene products together, one indicating that they all should be banned, the other believing they all should be exempted. Concerns about enforcement were raised. EPA chose to take a category-based approach in the other three exempted sectors, because an overwhelming majority of products produced with those types of foams are primarily used for insulation. That approach was also consistent with UNEP. In the NPRM, EPA raised serious concerns about how to enforce an end-use definition that would require the review of a tremendous number of products. Furthermore, the Agency felt that using an approach consistent with UNEP was most likely the intent of Congress. However, EPA proposed to add one additional product based on what the Agency believed were convincing reasons to consider a slight variation to the UNEP approach. EPA does not believe any other polyethylene product is used primarily for its thermal capability. In fact, EPA believes in all other cases, any thermal capability is incidental. The particular shape of pipe wrap, which increases its R value, and its primary insulating use, added to EPA's belief that it should be considered an insulating product. Moreover, from an enforcement perspective, adding one end-use product did not create a burden equal to that created by the potential of a total end-use regulatory regime.

One commenter was concerned about including only pipe wrap because manufacturers of various polyethylene end-use products, including pipe wrap, may be forced to convert to alternative blowing agents regardless of the inclusion of pipe wrap in EPA's definition. EPA believes that conversions away from ozone-depleting blowing agents is consistent with the intent of Title VI in its entirety. Regardless of this rulemaking, manufacturers will need to convert in the near-term to alternatives.

One commenter stated that some of the shapes they manufacture are cylindrical in design and are perfectly suitable for use as pipe wrap while other shapes clearly are not. The commenter raised concerns about judging what can be sold and what cannot. EPA understands these concerns. Accordingly, EPA will modify the NPRM's language in this final rulemaking to read: "* * * closed cell rigid polyethylene foam when such foam is suitable in shape, thickness and design to be used in a product that provides thermal insulation around pipes used in heating, plumbing, refrigeration, or industrial process systems." For the purposes of this rulemaking, suitability in this instance, refers to the size, shape, and thickness of the polyethylene products. Products that are cylindrical and hollow in shape, sized properly for use with pipes, and with a thickness appropriate for insulating pipes will be exempt. EPA hopes that manufacturers will make good faith efforts to ensure that the products manufactured with class II substances will be used in the exempted application. However, as stated above, under section 610 the Agency cannot practically regulate how all insulating products are used.

e. *Inomer foam.* EPA received one comment from the manufacturer of inomer foam. The commenter indicated that this type of foam is a member of the polyolefin family. The commenter manufacturers inomer foam with an integral skin to fabricate "insulating safety related products." The commenter stated that manufactured products include pipe insulation, rigid flotation foam for buoys, foam flotation collars, skier safety products, wiper seals for storage tanks, and seating surfaces for ski resort lift seats. The commenter stated that hydrocarbons had been considered only to a limited extent due to concerns raised by the manufacturer's insurance carrier. The commenter asked EPA to provide an exemption for inomer foam whether or not the foam is used for insulating purposes. The polyolefin foam family includes polyethylene and polypropylene. EPA understands that inomer foam is an enhanced form of polyethylene foam that includes zinc metallic ions to provide additional structural integrity, bonding, and durability. Since inomer foam is actually an enhanced form of polyethylene, inomer pipe insulation will be considered foam insulation product within the meaning of section 610(d)(3)(A); however, no other foam products manufactured with inomer foam will be considered insulating products. Under the final rules, all inomer foam that is suitable for use as pipe wrap will be exempt from the class II ban.

f. *Polyvinyl chloride.* EPA received one comment concerning the use of class II substances in the production of extruded polyvinyl chloride (PVC) foam. The commenter stated that PVC foam is used for gasket and sealant products, available in a variety of shapes and sizes, used in refrigeration, construction, automotive and other applications "where thermal insulating and low moisture absorption properties are essential." The commenter further stated that alternative blowing agents are actively being investigated and have been successful for at least half of this manufacturer's products. The commenter requested that PVC foam be considered an insulating foam product by this final action. EPA does not believe PVC foam is used primarily as thermal insulation. Whatever thermal characteristics PVC products may contain, EPA believes these are incidental. The class I ban briefly discusses PVC foam (58 FR 4778), stating that although both PVC foam and expanded polystyrene foam "could be considered flexible and packaging foams, EPA did not propose banning products made with expanded polystyrene foam or polyvinyl chloride foam in the NPRM for the class I ban because the 1991 UNEP report indicates that CFCs were never used in the production of either expanded polystyrene or polyvinyl chloride." EPA did reserve the right to revise the class I ban to specifically ban either expanded polystyrene or polyvinyl chloride if EPA learned CFCs were being used in the manufacturing of those products. EPA does not believe PVC foam is used as thermal insulation. Therefore, EPA is not revising the definition of a foam insulating product under this final rulemaking to include products produced with PVC foam.

3. Foam Needed To Meet Motor Vehicle Safety Standards

EPA received three comments concerning the proposed provision to allow the use of class II substances in the production of integral skin foam used to meet Federal Motor Vehicle Safety Standards, sunsetting on January 1, 1996. One commenter agreed that EPA has authority to sunset the exemption for integral skin foam products needed to meet Federal Motor Vehicle Safety Standards; however, the commenter did not believe that EPA should sunset the exemption at this time. The commenter stated that the non-HCFC products have not yet completed safety testing and factories are not yet retooled for using the alternatives. EPA discussed in the NPRM that the January 1, 1996 sunset date was chosen based on information that alternatives will most likely be able to complete safety testing and become available before that date. If the Agency receives sufficient information indicating that by January 1, 1996, alternatives will not be available, EPA will consider revising that date. At this time, EPA believes that alternatives will be available by January 1, 1996. However, the Administrator may reconsider the date for sunsetting this provision at a later date.

One commenter stated that EPA does not have authority to provide a sunset provision under the exemption. The commenter further stated that since each model year is planned in advance, eliminating the exemption in 1996 will deprive manufacturers of the time needed to find adequate substitutes. EPA disagrees with this commenter. The statute only calls for an exception to the ban "where no adequate substitute substances (other than a class I or class II substance) are practicable for effectively meeting such Standards." The statutory language obligates EPA to consider integral skin, rigid, or semi-rigid foam. EPA determined that at this time, rigid and semi-rigid foam products do not require an exception; only integral skin requires an exception. Furthermore, the statute clearly states that the exception should only apply "where no adequate substitute substances" can meet the standards. As noted in the NPRM, water-blown foam will be available shortly, and HFC–134a will be available soon thereafter. Therefore, EPA believes that once these alternatives are available, there will be no need for a continuing exception because integral skin products manufactured with class II substances will no longer meet the statute's criteria under section 610(d)(3)(B), since alternatives will be effectively able to meet the safety standards.

One commenter stated that integral skin foams present long-term storage problems. According to this commenter, many automobile manufacturers are employing a just-in-time inventory system. Storage of integral skin foam presents certain difficulties. If HCFCs will not be available to produce integral skin foam replacement parts, the manufacturers may make life-time buys of particular products. The commenter believes that changing the production processes to compensate for different shrinkage rates for foams blown with alternatives could be costly and provide little environmental benefit because only a limited number of replacement parts will be sold. EPA disagrees with this commenter. Where the Agency can reasonably reduce the use of ozone-depleting substances, EPA is providing an environmental benefit. Moreover, the statute states that EPA will provide an exception "where no adequate substitute substance (other than a class I or class II substance) is practicable for effectively meeting such Standards." As EPA discussed in the NPRM, the Federal Motor Vehicle Safety Standards are, for the most part, performance standards. The use of particular materials is generally not specified in the standards in 49 CFR part 571 affected by this rulemaking. EPA stated in the NPRM that industry sources had indicated that alternative blowing agents, including water-blown foam and HFC–134a blown foam, will be available to meet the performance standards shortly. This commenter did not disagree with the future ability of the alternatives to meet the safety standards. Once alternatives are available, integral skin products will no longer meet the statutory criteria to receive an exception under section 610(d)(3)(B). Manufacturers would be able to use the alternative blowing agents to manufacture replacement parts rather than make life-time buys of integral skin products. Therefore, EPA is not revising the provision to exempt integral skin products needed to meet Federal Motor Vehicle Safety Standards to include replacement parts produced after January 1, 1996. Replacement parts placed into initial inventory before January 1, 1996 are exempt under the terms of the final rules (see § 82.65(a)). EPA will consider revisiting the sunset provision for this exception at a future date if the Agency receives a request from the public for extending the exception and if subsequent investigation by EPA determines that adequate substitutes will not be available by the January 1, 1996 date. The Agency will consider extending the exception for an additional period of time as appropriate, if necessary to allow development of adequate substitutes.

A second commenter requested that EPA broaden the provision for integral skin applications to include all instrument panels, armrest, and bolsters in all motorized vehicles. The commenter stated that integral skin purchasers seek long-term product stability. The commenter believes that Congress did not intend to selectively protect the operators and passengers of motor vehicles and not include the operators of trucks, boats, motorized wheelchairs and agricultural tractors; and suggests that Congress intended the definition of "safety" to include all motorized modes of transportation. EPA disagrees with this commenter. If Congress intended for the Agency to consider other transportation safety standards, Congress could have easily stated that EPA should consider all safety standards promulgated by the Department of Transportation. However, Congress referred specifically to "motor vehicle safety" and thereby to a set of regulations that have been promulgated under Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966. Section 103 authorized the National Highway Traffic Safety Administration (NHTSA) to promulgate Federal Motor Vehicle Safety Standards, which have subsequently been published in 49 CFR part 571, and which are specifically mentioned in section 610(d)(3)(B). Consequently, EPA proposed and in this final action is applying the statutory ban on the sale, distribution, or offer of sale or distribution in interstate commerce to all foam components used in motor vehicles, except those made out of integral skin foam and those which qualify as foam insulation products as defined in § 82.62(h), effective January 1, 1994. EPA is exempting integral skin foam made with HCFCs used to meet the appropriate Federal Motor Vehicle Safety Standards promulgated under 49 CFR part 571, under the provisions of section 610(d)(3)(B) from the class II ban on plastic foam products until January 1, 1996. At that time, the exception for HCFC-blown integral skin foam will "sunset." In addition, EPA is exempting existing inventories of integral skin motor vehicle safety products

VOL 58 ISS 249 DEC 30 1993 UMI

manufactured and placed into initial inventory prior to January 1, 1996.

4. Use Of a Class II Substance As A Startup Gas in Foam Production

EPA received one comment concerning the use of class II substances as a startup gas in the production of extruded polyethylene foams. The commenter indicated that potential nonflammable blowing agents are not suitable for the manufacturing of extruded polyethylene foam. The commenter stated that the use of flammable blowing agents during startup conditions presents many difficulties. The foam lines are not at stable operating conditions and friction generates static electricity. The commenter stated that EPA should consider providing an exception for the incidental uses of class II substances as a startup blowing agent where the foam product is pelletized to eliminate most of the class II substance. The commenter urged EPA to allow for the reuse of the startup foam (blown with class II substances) to encourage recycling, because the amount of the class II substance in an end product would likely be de minimis. Section 610(d) relates only to the sale and distribution of products in interstate commerce. Section 610(d) does not regulate the use of blowing agents as startup gases. However, the statute does clearly regulate the potential sale and distribution of the products that are produced with the startup gas used during the startup process. The Agency understands that generally startup gas is not intended to be incorporated into the finished product; however, when a startup gas is no longer being used, it is not immediately eliminated from the stream of production. There may be instances where both an insignificant amount of the startup gas and the blowing agent actually appear in the same end product. Under that scenario, EPA agrees that the class II substance in the startup gas should be viewed as de minimis in nature and products produced with it are not covered by this final action. Therefore, polyethylene products that are not manufactured with class II substances, where class II substances are used solely as startup gases, and therefore may contain incidental amounts of class II substances are not subject to the ban.

C. Temporary Exemptions

1. Existing Inventories

EPA received several comments regarding EPA's proposal to grandfather existing inventories. One commenter stated that there is a proven technology for the destruction of all the products containing or manufactured with a class II substance—incineration. Incineration units can be used to safely destroy products that will be banned under section 610(d). The commenter stated that there are three facilities that utilize high temperature incineration to reduce all HCFCs to carbon dioxide, water, and halogenated salts. The commenter further stated that trial data for HCFC–22 indicates a rate greater than 99.99 percent for the destruction removal efficiency. In addition, the commenter believes that there are sufficient facilities to handle the demand to destroy all existing inventories being grandfathered by this action. EPA applauds the efforts of this commenter; however, EPA is concerned about the lack of wide availability of such facilities. EPA does not have enough information to determine if there are any other organizations that can provide such a service and whether sufficient incineration capacity exists in wide enough distribution throughout the country to allow incineration of all existing inventories otherwise covered by the class II ban. Furthermore, EPA has no means for ensuring that existing inventories would be sent to appropriate incineration facilities. Manufacturers could use another method for destroying existing inventories that would result in the release of HCFCs directly to the atmosphere. Moreover, EPA's proposed exemptions were based on the de minimis rationale for existing inventories. EPA believes that a review of the amounts of ozone-depleting substances allowed to be emitted based on the NPRM is still de minimis and thus, that the exemption is still warranted.

EPA received comment concerning an extension of the date for placing grandfathered products into initial inventory. One commenter believes that EPA should exempt products placed into initial inventories one hundred and eighty days after the date of publication of the final rule. Another comment suggested that the Agency change the date that products need to be placed into initial inventory from December 27, 1993, to December 31, 1993. The commenter believes that for the ease of compliance and enforcement, consistency with the federal-approval exemption, and conformance with the statute, EPA should switch the date. EPA would like to clarify that the exemption for inventories was based on a de minimis rationale; on the other hand, the federal-approval exemption was based on the ability of the federal entities to perform sufficient reviews by January 1, 1994. Ninety days between the date of publication and this exemption's effective date was based on research involving the length of time needed to convert facilities. Modifying that date by four days provides no significant additional environmental impacts. Since grandfathering is not called for by the statute, strict conformance is not an issue. EPA agrees that December 31, 1993, provides a more reasonable date for the manufacturers' compliance and provides an added benefit from an enforcement perspective. EPA had no way of knowing on which day the NPRM would be published and therefore could not predict the exact effective date of this exemption. In light of the proximity of the grandfathering date and the effective date of the ban, EPA believes it is reasonable to revise the exemption to grandfather all products placed into initial inventory by the manufacturers by December 31, 1993.

One commenter stated that EPA should exempt all products placed into inventories before March 27, 1994. The commenter lists the following reasons: legal authority under the *Alabama Power* decision; failure would cause economic hardship for certain manufacturers and distributors; these products would still meet the de minimis test; and it would not cause an adverse effect on stratospheric ozone. A second commenter stated that an extension should be considered because some products require more than ninety days to complete manufacturing. EPA agrees that not every product affected by this ban can be manufactured during the ninety-day time-frame; however, EPA disagrees with these commenters' concerns regarding extensions for the grandfathering provision. EPA believes that the *Alabama Power* decision does provide authority to grandfather certain existing inventories. However, EPA does not believe that within the meaning of section 610(d) there is any basis for considering exempting inventories created beyond the effective date of the self-executing ban. The Agency believes that such an exemption would only encourage additional production of nonessential products. The emissions of HCFCs would not be considered de minimis in nature because the additionally manufactured products would contribute increased emissions to the stratospheric ozone problem. The crux of EPA's reasoning for providing any exemption for existing inventories was that emissions from products already in existence were de minimis. EPA is aware that during the ninety

days provided in the NPRM for alterations of manufacturing processes, some manufacturers may have continued to produce nonessential products that would otherwise have been banned and that will now be exempted; however, that was not the intention of the exemption. The exemption was designed to allow manufacturers the time necessary to convert their facilities from the time they became aware that their products would likely be banned. A further extension would solely allow for continued manufacturing which clearly contradicts Congressional intent. Furthermore, with a self-effectuating statutory ban date of January 1, 1994, EPA believes it cannot legally provide grandfathering for banned products manufactured beyond that date.

One commenter stated that they faced many hurdles regarding their ability to replace HCFCs in replacement parts for their products. The commenter cited difficulties with storing large inventories of certain products, particularly integral skin products for use in meeting automobile safety standards. The commenter requested that EPA allow the sale of replacement parts used to meet these safety standards and made with HCFCs on a permanent basis because the rule should only apply to new products. EPA disagrees with this commenter. Nothing in the statutory language indicates that section 610(d) should not apply to replacement parts which in and of themselves are new products. The statute clearly states that the ban applies to aerosol products, pressurized dispensers, and foam products manufactured with, or containing a class II substance. The sale of a replacement part into interstate commerce is equivalent to the sale of any other product. A replacement part is a product and is sold as a new product when introduced into interstate commerce. The exemptions that EPA has offered for existing inventories, including the exemption for integral skin foams used to meet motor vehicle safety standards, are aimed at protecting the distributor and retailer. If EPA had not included the exemptions, integral skin products manufactured with or containing a class II substance not yet sold to the ultimate consumer (e.g. the user of the end product) would be banned from further sale and distribution in interstate commerce on January 1, 1996, regardless of where that product was in the chain of distribution, even where the product had been placed into initial inventory prior to January 1, 1996.

If manufacturers are concerned about their ability to convert the manufacturing of all components and replacement parts that will be banned after January 1, 1996, the manufacturer may choose to make a lifetime buy of the replacement parts prior to January 1, 1996. Replacement parts and components placed into initial inventory prior to January 1, 1996 will not be subject to the ban.

In many cases producers that have already reformulated their production processes to comply with the class II ban may have inventory either at their facilities or still in the distribution chain. The Food Service and Packaging Institute estimates that the capital expenditures to retrofit equipment have cost their industry more than $10 million. This figure reportedly does not portray the disruption to the product lines and manpower that occurred during the conversion. These manufacturers fully supported EPA's grandfathering provision because it would alleviate the additional burden of recalling stock already sold by the manufacturers and destroying these products.

EPA received one comment from a manufacturer of food service disposable products indicating that, to comply with the class II ban, the manufacturer spent more that $3 million to retrofit their facilities. The conversion away from HCFCs has already been completed. However, the comment points out that hundreds of cases of products that were produced with HCFCs are still awaiting sale in the manufacturer's warehouses, and may still be on the shelves of their customers. This commenter described the grandfather provision as crucial due to the nature of their business.

One commenter, a manufacturer of dusters and noise horns, stated that more than 85 percent of their product line was produced with CFC–12 as recently as 1989. The commenter described their conversion as both "painful" and "costly," yet recognizes the benefits to society. In 1988, the manufacturer used 1,250,000 pounds of class I substances. In 1992, the same manufacturer had reduced the ODP-weighted use of class I and class II substances to 57,000 pounds. This amount will be further reduced for 1993 to approximately 25,000 to 30,000 pounds. Reductions were necessary, in meeting the February 16, 1993, ban on the sale and distribution of products releasing CFCs specifically referred to in the statute and meeting the January 17, 1994, effective date for products EPA found meet the criteria for nonessentiality. The commenter agrees with EPA's determination to treat existing inventory as de minimis. The commenter categorizes EPA's decision as a "very fair method to help business make a smooth transition." The commenter further states that the ninety days to convert was not impossible given that supplies of alternatives were available and that, regardless of the grandfathering provision, manufacturers would need to convert by year's end. EPA agrees with many of the points raised by this commenter.

One commenter, who agrees with EPA's proposed grandfathering provision, requests clarification of the term "initial inventory." The commenter provides an example where the producer of the foam product may not be the same entity as the final producer of the product to be sold. The commenter questions which inventory represents the initial inventory, and suggests that initial inventory should, for foam products, mean the inventory of the manufacturer of the foam itself. EPA agrees that the term initial inventory may require clarification. In this final action EPA clarifies that the term "initial inventory," with regard to the temporary exemptions listed in § 82.65, means that the original product has completed all of its manufacturing processes and is ready for sale by that manufacturer (e.g. the foam is manufactured). That product may be subsequently incorporated into another product by a different manufacturer after purchase. This would not affect the applicability of the exemption.

To continuing selling products after January 1, 1994, the manufacturer or distributor must be able to show, upon request by EPA, that the product was in fact manufactured, and thus placed into initial inventory prior to December 31, 1993. EPA identified shipping forms, lot numbers, manufacturer date stamps or codes, invoices, or the like as records that are normally kept by manufacturers and distributors. The Agency believes this type of information is routinely maintained for several years.

2. Products Requiring Federal Approvals

EPA received three comments regarding the temporary exemptions for products requiring federal approval prior to selling a reformulated product. One commenter states that the proposed thirty-day period for manufacturers to continue to manufacture banned products after being denied federal approval should be reconsidered. The commenter states that thirty days is inconsistent with the ninety days allowed for those that did receive approval to reformulate. Additionally, the commenter believes that the

VOL 58 ISS 249 DEC 30 1993 UMI

manufacturers may not have submitted every possible alternative originally or may have subsequently devised a new potential reformulation. The commenter proposes that the ban should not apply to a manufacturer whose reformulation request is denied, so long as the manufacturer submits another reformulation request within ninety days of receipt of the notice of denial. If the subsequent reformulation is approved, the commenter suggests that the manufacturer should continue to be grandfathered for ninety days after receipt of the approval. If the second request is denied, then so long as another request is submitted, in good faith, within ninety days, again grandfathering should continue. The commenter suggests that the Agency may wish to place a restriction by either limiting the number of submissions by a single company or by limiting the total amount of time that a product can be exempted without having received federal approval. EPA received a second comment indicating that the Agency should allow one hundred and eighty days for products that are denied a federal approval for reformulations to allow the manufacturer to locate a new formulation and reapply for approval to the appropriate federal agency.

EPA believes that in many cases after receiving denial for a reformulation, the manufacturer may be forced to shut down that product line. The time needed to shut down a product line is significantly less than the time required to retool to manufacture the products using an alternative formulation. Therefore, EPA proposed only thirty days for manufacturers that were denied approval for a reformulation. EPA agrees that thirty days may be insufficient, but believes that forty-five days is sufficient time for manufacturers to cease using class II substances, once denial of application for reformulation has been received. Further, EPA agrees that if a manufacturer devises a new formulation, a method for submitting that formulation should be available to that manufacturer. Therefore, in this final rule, EPA is providing a continued temporary exemption if the manufacturer submits a viable new reformulation to the same federal agency within forty-five days of receiving a denial. For the purposes of Section 610(d) only, a viable application means that the application is complete, accurate and has been filed with the appropriate federal agency. If after forty-five days no application has been submitted, the manufacturer can no longer manufacture a banned product. EPA believes forty-five days gives the manufacturer adequate time in which to re-submit an application or phase out a product. EPA disagrees with establishing a limit on the total amount of time a product can be exempted. The time frames associated with federal review processes represent the amount of time necessary for the federal agency to conduct a responsible review of the formulations and determine the acceptability of the formulation under applicable statutes and regulations. The federal agencies cannot expedite their internal processing procedures simply because a formulation would otherwise be subject to the class II ban without compromising the integrity of their own program reviews. In addition, EPA does not believe it is appropriate to limit severely the number of submissions that can be made, if those submissions are made in good faith and represent newly devised formulations; however, EPA believes that without some type of constraint, some manufacturers may perceive this exemption as a way to continually circumvent the ban. Therefore, EPA will review each re-submittal for completeness and accuracy, in conjunction with the appropriate federal entities. These applications must be made in good faith and must represent formulations that could not have been submitted earlier. If the application is deemed to be nonviable, the manufacturer will have forty-five days in which to cease manufacturing the product with a class II substance after being informed that the application is nonviable. EPA will therefore allow forty-five days for a manufacturer to either shutdown or reapply to the same federal agency.

One commenter suggested that the term "federal approval" should also include approval by non-governmental bodies, such as laboratories, if accepted under applicable regulations as meeting federal approval requirements. The commenter further suggested that EPA consider the approval of finished products that incorporate approved products if the finished product cannot be reformulated without federal approval of a particular component. The commenter demonstrated the need to consider such situations with life vests requiring approval by the U.S. Coast Guard. EPA agrees with this commenter with respect to both issues. If the appropriate applications were submitted prior to January 1, 1994, manufacturers that require the approval of both the finished product and a particular component will be grandfathered by this final action until such time as they receive approval or denial. In addition, if the manufacturer can demonstrate that approval by a non-government entity is required under a federal statute or a federal regulation, EPA will consider that situation as equivalent to direct review by the federal agency and use of a class II substance will be grandfathered until ninety days after receipt of approval or forty-five days after denial.

D. Interstate Commerce

EPA received a comment supporting the Agency's proposed definition of interstate commerce. The commenter particularly agreed with the EPA's proposed exclusion for the resale of used products.

EPA received three comments regarding the treatment of products produced solely for export. Two commenters stated that EPA should consider the interpretation the Agency adopted in the regulations promulgated under section 611 (the labeling rule). One commenter referred to the following discussion in the preamble to the final labeling rule: "Section 611 applies to products that are 'introduced into interstate commerce,' but makes no reference to foreign commerce. The Clean Air Act does not define 'interstate commerce.' However, EPA believes that section 611's use of interstate commerce does not include 'foreign commerce' * * * EPA recognizes the competitive disadvantage that U.S. manufacturers would have in the foreign marketplace as a result of having to label" (58 FR 8136, 8154). The commenter further states that there is no Congressional direction to include exports and that including exports could put companies at a competitive disadvantage.

EPA would like to clarify that the statutory language in section 610 and section 611 is markedly different. EPA agrees that Congress did not intend for EPA to require products never *introduced* into interstate commerce to be labeled. Section 610 encompasses all sales and offers for distribution in interstate commerce until the final sale to the ultimate consumer. EPA proposed a definition of interstate commerce and the treatment of exports and imports for the class II ban, consistent with the definition used in the class I ban. This includes products ultimately destined for export if sold in interstate commerce prior to export, and imports if sold in interstate commerce after import. If a manufacturer could demonstrate that their product is manufactured entirely within the borders of one state, that the raw materials and components and labor used to manufacture the product also originate within the same state, and if that product does not enter interstate commerce in any way (e.g. the shipping port is within the same state), EPA would agree that product would not be considered part of interstate commerce and could thus be sold for export.

There are strong policy reasons for the different interpretations of sections 610 and 611. Ozone depletion is a global concern. The United States is a leader among the parties to the Montreal Protocol. Imposing the labeling rule on exports would make little sense however, in that foreign citizens would often be unable to read the English labels, thus rendering them ineffective; and labels would not serve their intended purpose of distinguishing between products containing and those not containing ozone-depleting substances, since foreign-made products containing such substances would not be labeled. To allow U.S. companies to effectively "dump" goods banned in the United States (for purposes of global environmental protection) in foreign countries would defeat the purposes of, and undermine the spirit of, the Montreal Protocol.

EPA received one comment concerning EPA's legal authority to regulate exports. The commenter indicated that EPA could not regulate exports because EPA was not listed in Department of Commerce (DOC) regulations, listing agencies authorized to regulate exports. EPA wishes to clarify that EPA did not in the proposal intend to regulate the foreign commerce aspect of products destined for ultimate export. As explained above, in this final rule, EPA is only regulating the sales in interstate commerce of products that may eventually be exported. If products are not sold in interstate commerce, this rule will have no effect on export of such products. Thus, DOC regulations governing the foreign commerce aspects of exports sales have no reference to this rulemaking. The regulation cited by the commenter, 15 CFR 770.10, is entitled "Exports which are not controlled by the office of export licensing." EPA confirmed with the DOC that this regulation does not in any way limit any agency's independent authority to regulate sales in interstate commerce of products that may ultimately be exported. Further, EPA notes that the listing in § 770.10 is not complete, and that where an agency is authorized by another statute to regulate foreign commerce, it may do so, notwithstanding § 770.10. Although EPA is not in the case of section 610 claiming authority to regulate foreign commerce, EPA is authorized under other statutes such as the Toxic Substances Control Act and the Resource Conservation and Recovery Act to regulate foreign commerce.

EPA received one comment stating that since the statute only authorizes EPA to regulate intrastate commerce, EPA cannot require the seller of products in intrastate commerce to provide proof that the products are not part of intra state commerce. EPA believes that few products will actually meet the definition of intrastate commerce; however, in cases where clearly a particular product is sold within intrastate commerce, the sale and distribution of that product will not be subject to this rule. Because EPA believes that so few products could meet the definition of interstate commerce, EPA believes that where it is appropriate within the scope of this rulemaking to question whether a person selling or distributing a particular product is falsely asserting that the product is exempt based on intrastate commerce, the Agency is justified in requiring verification of the product's status. Therefore, EPA believes it has authority to request verification where the Agency questions the status of a product that a person claims is exempt based on intrastate commerce.

EPA received one comment stating that a retailer may not be aware of when the product was manufactured and, therefore, should not be held liable for any prior sales. The commenter further stated that "interstate commerce" is tied to each event in the chain of sales. Only where a sale crosses a state line should that sale be subject to the ban. EPA disagrees with this commenter. EPA's interpretation of interstate commerce does not include products that were manufactured, distributed, and/or sold exclusively within a particular state, nor products where the components, equipment, and labor that went into manufacturing, distributing, selling, and/or offering to sell or distribute such a product originated within that state as well. Furthermore, the sale of the product includes every sale up to and including the sale to the ultimate consumer, and to be considered not part of interstate commerce all of those sales must take place without ever crossing a state line. If any phase of manufacture occurs in interstate commerce the product is considered "in" interstate commerce at any stage in its production. Therefore, the sale and distribution of banned products in interstate commerce is not legal, even when the one particular sale takes place within the same state, unless the product is sold entirely in intrastate commerce as described above.

E. Verification and Public Notice Requirements for Cleaning Fluids for Non-Commercial Electronic and Photographic Equipment

EPA received several comments asking for clarification regarding the exemption for lubricants, coatings, or cleaning fluids using a class II substance for solvent purposes and the requirement to sell aerosol cleaning fluids for electronic and photographic equipment to only commercial users. Many commenters found these two requirements to be either confusing or contradictory.

Section 610(b)(2) required EPA to ban the sale of chlorofluorocarbon-containing cleaning fluids for electronic and photographic equipment to non-commercial users. Consequently, EPA, in the class I ban, included a ban on the sale, distribution, or offer of sale or distribution of chlorofluorocarbon-containing cleaning fluids for electronic and photographic equipment to non-commercial users. As a result, there is no remaining chlorofluorocarbon which legally could be substituted for a class II substance in non-commercial cleaning fluids for electronic and photographic equipment.

The class II ban restricts the sale of aerosol products and pressurized dispensers; therefore, cleaning fluids in a non-pressurized dispenser are not subject to the ban. However, in order to continue selling aerosol cleaning fluids that contain a class II substance, for electronic and photographic equipment where flammability or worker safety justifies an exemption, the only alternative must be the legal use of a class I substance. For aerosol cleaning fluids used to clean electronic and photographic equipment sold to commercial users, such a legal use does exist, and EPA proposed an exemption under the class II ban, only for commercial uses. The class I ban and statute requires that these cleaning fluids be restricted to commercial users only; therefore, a verification requirement is necessary to ensure these products are not sold for non-commercial uses.

V. Summary of Changes From Proposal

This final action promulgates regulations under section 610. Several additional exemptions have been provided under the class II ban and revisions have been made to the class I ban.

Under § 82.65(c), EPA has changed the length of time a product can be manufactured after being denied federal approval from 30 days to 45 days. EPA also added a provision to allow for the

VOL 58 ISS 249 DEC 30 1993 UMI

submission of new applications to the same federal agency, within forty-five days of denial.

Under §§ 82.66(d)(2)(vii), 82.66(d)(2)(viii) and 82.66(d)(2)(x), EPA has added exceptions for the use of CFC–12 as a propellant in various uses.

Under §§ 82.70(a)(2)(iv) and 82.70(a)(2)(v), EPA has added an exemption for propellant uses of certain class II substances.

EPA has added § 82.70(a)(2)(vi), an exception from the class II ban for document preservation sprays containing HCFC–141b and HCFC–22 used under specific circumstances.

EPA has added § 82.70(a)(2)(vii), an exception from the class II ban for commercial portable fire extinguishers containing class II substances as fire extinguishants where no alternative other than halons are available.

VI. Effective Dates

This final rule makes it unlawful to sell, distribute, or offer to sell or distribute, in interstate commerce, the products identified as nonessential in 40 CFR 82.70(a), 40 CFR 82.70(b) and 40 CFR 82.70(c) effective January 1, 1994. In addition, this final rule bans the sale, distribution, or offer of sale or distribution, in interstate commerce, of the products identified as nonessential in 40 CFR 82.70(c)(ii) effective January 1, 1996.

EPA has authority under 5 U.S.C. 553(d)(1)(iii) to expedite the effective date of a rulemaking. While generally EPA must provide thirty days notice, in cases involving a substantive rule which grants or recognizes an exemption or relieves a restriction and "as otherwise provided by the agency for good cause found and, published with the rule," an agency may accelerate the effective date of a rule. Without accelerating the effective date of this rule, the statutory ban will become effective on, January 1, 1994, inadvertently banning products that meet the statutory criteria for exemptions and that will only be exempted after this rule is effective. Since this rule grants and recognizes an exemption, EPA believes that there is good cause to accelerate the effective date of this rule to coincide with the effective statutory date of the ban on class II products. Therefore, the effective date for this rulemaking will be January 1, 1994. EPA would like to clarify that while the class II ban is effective January 1, 1994, this action does not revise the effective dates contained in the class I ban. The ban on the sale, distribution, or offer of sale or distribution, in interstate commerce of the products specifically mentioned in § 82.66 (a) and (b) was effective on February 16, 1993. The ban on the sale or distribution of products identified in § 82.66 (c) and (d) is effective on January 17, 1994.

VII. Summary of Supporting Analyses

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1994), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review under the executive order OMB and EPA have agreed with this determination.

EPA has prepared two background documents (see references Background Document on Foam Products Made With Class II Substances and Background Document on Aerosol Products and Pressurized Dispensers Containing Class II Substances in Docket A–93–20) which include a qualitative study of the economic impact of this regulation for each product identified as nonessential and prohibited from sale or distribution.

Most foam is produced by large businesses. This is due to high market entry barriers, including the need for large capital investments. However, the class II ban affects all the groups involved in the sale and distribution of the foam products; therefore, other entities besides the producers, including small retail or distribution businesses, are involved. In many cases, foam represents one component of a finished product that is produced by a small business. In addition, the finished products are often sold by small retail business operations. EPA has researched the numbers and types of firms that manufacture and sell foam products affected by the class II ban, and the potential economic impact the class II ban may have on these entities.

EPA believes that the class II ban will have no economic impact for the manufacturers of open cell rigid polyurethane foam, because EPA is not aware of any manufacturers of this product that currently use HCFCs. The class II ban is likely to have minimal impact on the manufacturers of flexible molded foam since information indicates that most have moved directly from CFCs to methylene chloride and water formulations. Most of the production of semi-rigid integral skin foam relies on the use of halocarbon blowing agents. However, the exemption for foams used to meet automotive safety standards will significantly alleviate the impact the ban will have on these products. Most other types of polyurethane foams are made with HCFCs. Information indicates that approximately 85 to 90 percent of extruded polystyrene sheet foam does not rely on HCFCs. Companies that were still using HCFCs are required to switch blowing agents; thus, these companies are affected by the ban. EPA does not believe the ban will have any impact on polyethylene bead foam, since information available to EPA indicates the manufacturers of this product have already switched to hydrocarbons. EPA is aware of at least six extruded polyethylene manufacturers that have converted to hydrocarbons; however, as discussed earlier, some of the other producers of extruded polyethylene foam, not used solely as pipe wrap, will be significantly affected. EPA believes the ban will have no impact on expanded polypropylene bead manufacturers since these manufacturers have converted to hydrocarbons. However, the sole American producer of extruded polypropylene may incur significant costs. Further details concerning the results of this research appear in the Background Document on Foam Products Made With Class II Substances.

Many manufacturers of aerosol products could be characterized as small businesses. EPA believes that few companies that primarily manufacture aerosol products have more than 100 employees. However, several facilities are actually part of larger companies that produce a range of other products. In both cases, the entire product line produced by the manufacturers may not consist of products containing class II substances. Distributors and retailers may vary considerably in size and product line. EPA has researched the numbers and types of firms that manufacture and sell aerosol products and pressurized dispensers affected by the class II ban, and the potential economic impact the class II ban may have on these entities.

EPA has examined a number of aerosol products affected by the class II ban. This research included both products that could meet the narrow criteria for receiving exceptions established by Congress in section 610(d), and those that do not meet the criteria. Much of the information collected by EPA is qualitative and anecdotal in nature but is sufficiently conclusive for the Agency to be able to obtain a reasonable picture of the overall impact. Examples of these findings are discussed below.

EPA is aware of formulations for document preservation sprays that do not use class I or class II substances. However, at least one major manufacturer has tested and is now using class II substances as both propellants and solvents. Therefore, while EPA is providing an exemption for certain propellant and solvent uses in this product, the class II ban in limited circumstances will affect this product. Many pesticide products using class II substances will be affected by the class II ban. However, the impacts will be reduced because of the provision allowing manufacturers that require federal approval for reformulation for a product or approval of a specific substitute product to continue to sell or distribute, or offer for sale or distribution in interstate commerce, their existing formulations until ninety days after receiving all appropriate federal agency approvals or forty-five days after denial. The provision will also provide relief for other products requiring approval prior to reformulation. Manufacturers of dusters and freezants that have continued to use HCFC formulations will be affected by the class II ban; however, companies that have already moved to alternatives such as carbon dioxide or HFCs will not be affected. Many manufacturers of defensive sprays also will be significantly affected by the class II ban. Further details concerning the results of this research appear in the Background Document on Aerosol Products and Pressurized Dispensers Containing Class II Substances.

EPA has considered the benefits that can be attributed to the class II ban. In order to calculate the benefits, EPA considered the total annual consumption of HCFCs in products that will be banned. EPA estimates that the annual HCFC consumption in foam products that will be banned is approximately 27.31 million pounds. The annual HCFC consumption in aerosol products that will be banned is approximately 11.8 million pounds. EPA attributes all of the avoided emissions and corresponding benefits to the class II ban. EPA believes that if the self-executing ban was not included in the Clean Air Act Amendments, the current amount of HCFCs used in the foam and aerosol sectors would have been greater. Furthermore, without the ban, these annual emissions actually would continue to increase, especially during the next several years and following the phaseout of class I substances. These increases would have leveled off and only begun to decrease as the phaseout dates for HCFCs approached (2003–2030). EPA estimates the benefits for this rule range between $148 million and $604 million when using a 2 percent discount rate, and between $107 million and $438 million when using a 7 percent discount rate.

EPA requested comment on the overall benefits of the class II ban and the costs the class II ban will have on affected businesses. In particular, EPA requested comment on the size and diversity of the companies affected by the ban, the potential costs associated with the class II ban, and the impact the class II ban will have on small entities. In addition, EPA requested comment on the cost and benefits associated with the proposed regulations. Specifically, EPA requested comment on the offsetting beneficial effects that the proposed exceptions, grandfathering of existing inventories, and grandfathering for products waiting for required federal approvals, will have on affected businesses. EPA did not receive comments regarding the overall impacts of the ban; however, EPA did receive comments concerning the grandfathering provisions and the costs associated with retrofitting facilities to meet the ban. The Food Service and Packaging Institute estimated that their members spent more that $10 million on capital costs to retrofit existing equipment. This number does not include the costs of disrupting normal operations while these retrofits occurred. One member alone spent more than $3 million to complete their capital costs for retrofits. This member believes that the cost of recalling and destroying products that were already produced with class II substances prior to the member's conversions, would cost a significantly larger sum, while producing no added environmental benefits. Several other commenters that have already completed converting to non HCFC-formations, such as one producer of dusters and noise horns, indicated that the grandfathering provisions represent a fair method to help businesses make a smooth transition. This manufacturer further stated that the key costs of the ban involve the short time frames for facilities' conversions and the need to change the art work that appears on the aerosol cans, converting the packaging to handle the properties of all the new substitutes, and educating the customers. This commenter believes that their organization spent $500,000 to meet both the class I and class II bans. An additional $200,000 was also incurred due to the tax on CFC.

The statutory ban is self-executing. If EPA did not promulgate regulations to create exemptions, the ban would impose significantly higher costs. Furthermore, without the temporary exemptions for existing inventories and products requiring federal approval prior to reformulation, the statutory ban would impose significantly higher costs on the distributors and retailers of banned products. The rule creates exemptions and clarifies the exceptions provided by the statute, therefore lessening the burden of the self-executing ban imposed by the statute.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

EPA believes that any impact that this regulation will have on certain small entities is unavoidable given the straightforward nature of the statutory provision this regulation implements. An examination of the impacts on small entities was discussed in the background documents accompanying the NPRM and has since been updated to include information supplied by comments. Revised versions of the background documents are contained in the docket. The background document assesses the impact this regulation may have on small entities and provides examples of such impacts. In general, the impact of the ban is overall minimal; and in particular, the impact of this rule, according to the information

VOL 58 ISS 249 DEC 30 1993 UMI

supplied by commenters, will serve to relieve some of the burden the self-executing ban places on certain products.

C. Paperwork Reduction Act

Any information collection requirements in a rule must be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Because no informational collection requirements were proposed and none are being required by today's action, EPA has determined that the Paperwork Reduction Act does not apply to this rulemaking and no Information Collection Request document has been prepared.

VIII. Judicial Review

Under Section 307(b)(1) of the Act, EPA finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within sixty days of publication of this action in the **Federal Register**. Under section 307(b)(2), the requirements of this rule may not be challenged later in judicial proceedings brought to enforce those requirements.

IX. References

United Nations Environment Programme. Report of the Aerosol Products, Sterilants, Miscellaneous Uses and Carbon Tetrachloride Technical Options Committee (December 1991).

United Nations Environment Programme. Report of the Fourth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (November 25, 1992).

United Nations Environment Programme. Scientific Assessment of Ozone Depletion: 1991 (December 17, 1991).

United Nations Environment Programme. Solvents, Coatings and Adhesives: Technical Options Committee Report (December 1991).

United Nations Environment Programme. Third Meetings of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer: UNEP/OzL.Pro.3/L.4/Add.4 (Nairobi, 19–21 June, 1991).

United Nations Environment Programme. 1991 UNEP Flexible and Rigid Foams Technical Options Report (December 20, 1991).

United States Environmental Protection Agency. Alternative Formulations to Reduce CFC Use in U.S. Exempted and Excluded Aerosol Products (November 1989).

United States Environmental Protection Agency. Background Document on Aerosol and Pressurized Dispenser Products Containing Class II Substances (March 1993).

United States Environmental Protection Agency. Background Document on Identification of Nonessential Products that Release Class I Substances (November 1992).

United States Environmental Protection Agency. Essential Use Determination—Revised: Support Document Fully Halogenated Chlorofluoroalkanes (March 17, 1978).

United States Environmental Protection Agency. Handbook for Reducing and Eliminating Chlorofluorocarbons in Flexible Polyurethane Foams (April 1991).

United States Environmental Protection Agency. Manual of Practices to Reduce and Eliminate CFC–113 Use in the Electronics Industry (March, 1990).

United States Environmental Protection Agency. Response to Comments for Proposed Rule on Nonessential Products Made with Class I Substances (October 30, 1992).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Interstate commerce, Nonessential products, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: December 22, 1993.

Carol M. Browner,

Administrator.

Title 40, Code of Federal Regulations, part 82, is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Subpart C is revised to read as follows:

Subpart C—Ban on Nonessential Products Containing Class I Substances and Ban on Nonessential Products Containing or Manufactured With Class II Substances

Sec.

82.60 Purpose.
82.62 Definitions.
82.64 Prohibitions.
82.65 Temporary exemptions.
82.66 Nonessential Class I Products and Exceptions.
82.68 Verification and Public Notice Requirements.
82.70 Nonessential Class II Products and Exceptions.

§ 82.60 Purpose.

The purpose of this subpart is to implement the requirements of sections 608 and 610 of the Clean Air Act as amended in 1990 on emission reductions and nonessential products.

§ 82.62 Definitions.

For purposes of this subpart:

(a) *Chlorofluorocarbon* means any substance listed as Class I group I or Class I group III in 40 CFR part 82, appendix A to subpart A.

(b) *Commercial,* when used to describe the purchaser of a product, means a person that uses the product in the purchaser's business or sells it to another person and has one of the following identification numbers:

(1) A federal employer identification number;

(2) A state sales tax exemption number;

(3) A local business license number; or

(4) A government contract number.

(c) *Consumer,* when used to describe a person taking action with regard to a product, means the ultimate purchaser, recipient or user of a product.

(d) *Distributor,* when used to describe a person taking action with regard to a product means:

(1) The seller of a product to a consumer or another distributor; or

(2) A person who sells or distributes that product in interstate commerce for export from the United States.

(e) *Product* means an item or category of items manufactured from raw or recycled materials which is used to perform a function or task.

(f) *Release* means to emit into the environment during the manufacture, use, storage or disposal of a product.

(g) *Class II Substance* means any substance designated as class II in 40 CFR part 82, appendix B to subpart A.

(h) *Foam Insulation Product,* when used to describe a product containing or consisting of plastic foam, means a product containing or consisting of the following types of foam:

(1) Closed cell rigid polyurethane foam;

(2) Closed cell rigid polystyrene boardstock foam;

(3) Closed cell rigid phenolic foam; and

(4) Closed cell rigid polyethylene foam when such foam is suitable in shape, thickness and design to be used as a product that provides thermal insulation around pipes used in heating, plumbing, refrigeration, or industrial process systems.

(i) *Hydrochlorofluorocarbon* means any substance listed as class II in 40 CFR part 82, appendix B to subpart A.

(j) *Owner of a boat or marine vessel* means any person who possesses a title, registration or other documentation that indicates that the person presenting this documentation is in possession of a marine vessel as defined in 33 CFR part 177.

(k) *Owner of a noncommercial aircraft* means any person who possesses a title, registration or other documentation that indicates that the person presenting this documentation is in possession of a noncommercial aircraft.

§ 82.64 Prohibitions.

(a) Effective February 16, 1993, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products identified as being nonessential in § 82.66(a).

(b) Effective February 16, 1993, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products specified in § 82.66(b) to a person who does not provide proof of being a commercial purchaser, as defined under § 82.62.

(c) Effective January 17, 1994, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products identified as being nonessential in § 82.66(c) or § 82.66(d).

(d) Except as permitted under § 82.65, effective January 1, 1994, no person may sell or distribute, or offer for sale or distribution, in interstate commerce any product identified as being nonessential in § 82.70(a) or § 82.70(c).

(e) Except as permitted under § 82.65, effective January 1, 1994, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products specified in § 82.70(b) to a person who does not provide proof of being a commercial purchaser, as defined under § 82.62.

(f) Except as permitted under § 82.65(d), effective January 1, 1996, no person may sell or distribute, or offer for sale or distribution, in interstate commerce any product identified as being nonessential in § 82.70(c)(ii).

(g) It is a violation of this subpart to sell or distribute, or offer for sale or distribution, products effected by the provisions of § 82.68 if the seller knew or should have known that the purchaser was purchasing the product for a prohibited application.

§ 82.65 Temporary exemptions.

(a) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory by December 31, 1993.

(b) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory within the date 90 days after the effective date of any federal approvals required for product reformulation, where application for the required approval was timely and properly submitted to the approving federal agency prior to January 1, 1994.

(c)(1) Any person may sell or distribute or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory within 45 days after the receipt of denial by any federal agency of an application for reformulation where initial application for the required approval was timely and properly submitted to the approving federal agency prior to January 1, 1994.

(2) If, within 45 days of receipt of a denial of an application for reformulation, a person submits a new viable application for federal approval of a reformulation, that person may continue to sell and distribute, or offer to sell and distribute until 45 days of denial of that application.

(d) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any integral skin foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards, which are manufactured and placed into initial inventory prior to January 1, 1996.

(e) Any person selling or distributing, or offering to sell or distribute, any product specified in this section after January 1, 1994, or January 1, 1996 for subparagraph (d), must retain proof that such product was manufactured and placed into initial inventory before the relevant date specified in this section. Such proof may take the form of shipping forms, lot numbers, manufacturer date stamps, invoices or equivalent business records.

(f) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, any aircraft pesticide containing class I until an alternative aircraft pesticide containing class II is available in interstate commerce.

§ 82.66 Nonessential Class I Products and Exceptions.

The following products which release a Class I substance (as defined in 40 CFR part 82, appendix A to subpart A) are identified as being nonessential, and subject to the prohibitions specified under § 82.64—

(a) Any plastic party streamer or noise horn which is propelled by a chlorofluorocarbon, including but not limited to—

(1) String confetti;

(2) Marine safety horns;

(3) Sporting event horns;

(4) Personal safety horns;

(5) Wall-mounted alarms used in factories or other work areas; and

(6) Intruder alarms used in homes or cars.

(b) Any cleaning fluid for electronic and photographic equipment which contains a chlorofluorocarbon:

(1) Including but not limited to liquid packaging, solvent wipes, solvent sprays, and gas sprays; and

(2) Except for those sold or distributed to a commercial purchaser.

(c) Any plastic flexible or packaging foam product which is manufactured with or contains a chlorofluorocarbon;

(1) Including but not limited to:

(i) Open cell polyurethane flexible slabstock foam;

(ii) Open cell polyurethane flexible molded foam;

(iii) Open cell rigid polyurethane poured foam;

(iv) Closed cell extruded polystyrene sheet foam;

(v) Closed cell polyethylene foam; and

(vi) Closed cell polypropylene foam.

(2) Except—flexible or packaging foam used in coaxial cable

(d) Any aerosol product or other pressurized dispenser, other than those banned in § 82.64(a) or § 82.64(b), which contains a chlorofluorocarbon,

(1) Including but not limited to household, industrial, automotive and pesticide uses,

(2) Except—

(i) Medical devices listed in 21 CFR 2.125(e);

(ii) Lubricants for pharmaceutical and tablet manufacture;

(iii) Gauze bandage adhesives and adhesive removers;

(iv) Topical anesthetic and vapocoolant products;

(v) Lubricants, coatings or cleaning fluids for electrical or electronic equipment, which contain CFC–11, CFC–12, or CFC–113 for solvent purposes, but which contain no other CFCs;

(vi) Lubricants, coatings or cleaning fluids used for aircraft maintenance, which contain CFC–11 or CFC–113 as a solvent, but which contain no other CFCs;

(vii) Mold release agents used in the production of plastic and elastomeric materials, which contain CFC–11 or

CFC–113 as a solvent, but which contain no other CFCs, and/or mold release agents that contain CFC–12 as a propellant, but which contain no other CFCs;

(viii) Spinnerette lubricant/cleaning sprays used in the production of synthetic fibers, which contain CFC–114 as a solvent, but which contain no other CFCs, and/or spinnerette lubricant/cleaning sprays which contain CFC–12 as a propellant, but which contain no other CFCs;

(ix) Containers of CFCs used as halogen ion sources in plasma etching;

(x) Document preservation sprays which contain CFC–113 as a solvent, but which contain no other CFCs, and/or document preservation sprays which contain CFC–12 as a propellant, but which contain no other CFCs, and which are used solely on thick books, books with coated or dense paper and tightly bound documents; and

(xi) Red pepper bear repellent sprays which contain CFC–113 as a solvent, but which contain no other CFCs.

§ 82.68 Verification and public notice requirements.

(a) Effective February 16, 1993, any person who sells or distributes any cleaning fluid for electronic and photographic equipment which contains a chlorofluorocarbon must verify that the purchaser is a commercial entity as defined in § 82.62. In order to verify that the purchaser is a commercial entity, the person who sells or distributes this product must request documentation that proves the purchaser's commercial status by containing one or more of the commercial identification numbers specified in § 82.62 (b). The seller or distributor must have a reasonable basis for believing that the information presented by the purchaser is accurate.

(b) Effective February 16, 1993, any person who sells or distributes any cleaning fluid for electronic and photographic equipment which contains a chlorofluorocarbon must prominently display a sign where sales of such product occur which states:

It is a violation of federal law to sell, distribute, or offer to sell or distribute, any chlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment to anyone who is not a commercial user of this product. The penalty for violating this prohibition can be up to $25,000 per sale. Individuals purchasing such products must present proof of their commercial status in accordance with § 82.68(a).

(c) Effective January 1, 1994, any person who sells or distributes any aerosol or pressurized dispenser of cleaning fluid for electronic and photographic equipment which contains a class II substance must verify that the purchaser is a commercial entity as defined in § 82.62(b). In order to verify that the purchaser is a commercial entity, the person who sells or distributes this product must request documentation that proves the purchaser's commercial status by containing one or more of the commercial identification numbers specified in § 82.62(b).

(d) Effective January 1, 1994, any person who sells or distributes any aerosol or other pressurized dispenser of cleaning fluid for electronic and photographic equipment which contains a class II substance must prominently display a sign where sales of such product occur which states:

It is a violation of federal law to sell, distribute, or offer to sell or distribute, any aerosol hydrochlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment to anyone who is not a commercial user of this product. The penalty for violating this prohibition can be up to $25,000 per unit sold. Individuals purchasing such products must present proof of their commercial status in accordance with § 82.68(c).

(e) Effective January 1, 1994, in order to satisfy the requirements under § 82.68 (b) and (d), any person who sells or distributes cleaning fluids for electronic and photographic equipment which contain a class I substance and those aerosol or pressurized dispensers of cleaning fluids which contain a class II substance, may prominently display one sign where sales of such products occur which states:

It is a violation of federal law to sell, distribute, or offer to sell or distribute, any chlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment or aerosol hydrochlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment to anyone who is not a commercial user of this product. The penalty for violating this prohibition can be up to $25,000 per unit sold. Individuals purchasing such products must present proof of their commercial status in accordance with 40 CFR 82.68(a) or 82.68(c).

(f) Effective January 1, 1994, any person who sells or distributes any portable fire extinguisher containing a class II substance must prominently display a sign where sales of such products occur; or in cases where the purchaser does not physically come in contact with the point of sale, written notification must be given. This notification must state: "It is a violation of federal law to sell portable fire extinguishers containing hydrochlorofluorocarbons to anyone, *except* for use in applications where necessary to extinguish fire efficiently without irreparably damaging the equipment or area being protected or where the use of other alternatives can cause a hazard to persons in the area. The penalty for violating this prohibition can be up to $25,000 per unit sold. Individuals purchasing such products must present proof of their commercial status in accordance with 40 CFR 82.68(a), or of ownership of a marine vessel or boat in accordance with 40 CFR 82.62(j), or of ownership of a noncommercial aircraft in accordance with 40 CFR 82.62(k)." Written notification may by placed on sales brochures, order forms, invoices and the like.

(g) Effective January 1, 1994, any person who sells or distributes any portable fire extinguisher which contains a class II substance must verify that the purchaser is a commercial entity as defined in § 82.62(b) or is the owner of a marine vessel or boat in accordance with § 82.62(j) or the owner of a noncommercial aircraft in accordance with § 82.62(k). In order to verify that the purchaser is a commercial entity, the person who sells or distributes this product must be presented with documentation that proves the purchaser's commercial status by containing one or more of the commercial identification numbers specified in § 82.62(b). In order to verify that the purchaser is the owner of a marine vessel or boat, the person who sells or distributes this product must be presented with documentation specified in § 82.62(j) that proves the purchaser's status as the owner of a marine vessel or boat. In order to verify that the purchaser is in ownership of a noncommercial aircraft, the person who sells or distributes this product must be presented with documentation specified in § 82.62(k) that proves the purchaser's status as the owner of a noncommercial aircraft by containing one or more of the identification information specified in § 82.62(k). The seller or distributor must have a reasonable basis for believing that the information presented by the purchaser is accurate.

(h) Effective January 1, 1994, any person who sells or distributes any mold release agents containing a class II substance as a propellant must provide written notification to the purchaser prior to the sale that "It is a violation of federal law to sell mold release agents containing hydrochlorofluorocarbons as propellants to anyone, except for use in applications where no other alternative except a class I substance is available. The penalty for violating this prohibition can be up to $25,000 per unit sold." Written notification may be placed on sales brochures, order forms, invoices and the like.

(i) Effective January 1, 1994, any person who sells or distributes any wasp and hornet spray containing a class II substance must provide written notification to the purchaser prior to the sale that "it is a violation of federal law to sell or distribute wasp and hornet sprays containing hydrochlorofluorocarbons as solvents to anyone, *except* for use near high-tension power lines where no other alternative except a class I substance is available. The penalty for violating this prohibition can be up to $25,000 per unit sold." Written notification may be placed on sales brochures, order forms, invoices and the like.

§ 82.70 Nonessential Class II products and exceptions.

The following products which release a class II substance (as designated as class II in 40 CFR part 82, appendix B to subpart A) are identified as being nonessential and the sale or distribution of such products is prohibited under § 82.64(d), (e), or (f)—

(a) Any aerosol product or other pressurized dispenser which contains a class II substance:

(1) Including but not limited to household, industrial, automotive and pesticide uses;

(2) Except—

(i) Medical devices listed in 21 CFR 2.125(e);

(ii) Lubricants, coatings or cleaning fluids for electrical or electronic equipment, which contain class II substances for solvent purposes, but which contain no other class II substances;

(iii) Lubricants, coatings or cleaning fluids used for aircraft maintenance, which contain class II substances for solvent purposes but which contain no other class II substances;

(iv) Mold release agents used in the production of plastic and elastomeric materials, which contain class II substances for solvent purposes but which contain no other class II substances, and/or mold release agents that contain HCFC–22 as a propellant where evidence of good faith efforts to secure alternatives indicates that, other than a class I substance, there are no suitable alternatives;

(v) Spinnerette lubricants/cleaning sprays used in the production of synthetic fibers, which contain class II substances for solvent purposes and/or contain class II substances for propellant purposes;

(vi) Document preservation sprays which contain HCFC–141b as a solvent, but which contain no other class II substance; and/or which contain HCFC–22 as a propellant, but which contain no other class II substance and which are used solely on thick books, books with coated, dense or paper and tightly bound documents;

(vii) Portable fire extinguishing equipment sold to commercial users, owners of marine vessels or boats, and owners of noncommercial aircraft that contains a class II substance as a fire extinguishant where evidence of good faith efforts to secure alternatives indicate that, other than a class I substance, there are no suitable alternatives; and

(viii) Wasp and hornet sprays for use near high-tension power lines that contain a class II substance for solvent purposes only, but which contain no other class II substances.

(b) Any aerosol or pressurized dispenser cleaning fluid for electronic and photographic equipment which contains a class II substance, except for those sold or distributed to a commercial purchaser.

(c) Any plastic foam product which contains, or is manufactured with, a class II substance,

(1) Including but not limited to household, industrial, automotive and pesticide uses,

(2) Except—

(i) Any foam insulation product, as defined in § 82.62(h); and

(ii) Integral skin foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards until January 1, 1996, after which date such products are identified as nonessential and may only be sold or distributed or offered for sale or distribution in interstate commerce in accordance with § 82.65(d).

[FR Doc. 93–31981 Filed 12–29–93; 8:45 am]
BILLING CODE 6560–50–P

VOL
58
ISS
249
DE
30
1993
UMI

federal register

Thursday
December 30, 1993

Part X

Environmental Protection Agency

40 CFR Part 82
Protection of Stratospheric Ozone; Final Rule

VOL 58 ISS 249 DEC 30 1993 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–4619–9]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rulemaking.

SUMMARY: In this document EPA is promulgating regulations to amend the Class I Nonessential Products Ban published in the **Federal Register** of January 15, 1993, and promulgated under section 610(b) of the Clean Air Act, as amended. This action is being undertaken by EPA in order to exempt certain replacement parts that were placed into initial inventory prior to April 16, 1992. The substances affected by this proposed rulemaking include chlorofluorocarbons (CFCs). This action will provide relief for manufacturers, distributors, and retailers of replacement parts that were previously designed and manufactured for specific product models and that are no longer being produced.

EFFECTIVE DATE: This action will become effective on February 28, 1994 unless EPA is notified by January 31, 1994 that any person wishes to submit adverse comment. Should EPA receive such notice, EPA will publish one subsequent notice in the **Federal Register** to withdraw this final action and another notice proposing this action and requesting comments.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. A–91–39, Waterside Mall (Ground Floor) Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500. Dockets may be inspected from 8:30 a.m. until 12 noon, and from 1:30 p.m. until 3 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials. Those wishing to notify EPA of their intent to submit adverse comments on this rule should contact Cynthia Newberg, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Cynthia Newberg, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460. (202) 233–9729. The Stratospheric Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. Class I Nonessential Products Ban
II. Today's Revisions to the Class I Nonessential Products Ban
III. Effective Dates
IV. Summary of Supporting Analysis
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
V. Judicial Review
VI. References

I. Class I Nonessential Products Ban

Title VI of the Clean Air Act as amended in 1990 (the Act), divides ozone-depleting chemicals into two distinct classes. Class I is comprised of chlorofluorocarbons (CFCs), halons, carbon tetrachloride and methyl chloroform. Class II is comprised of hydrochlorofluorocarbons (HCFCs). (See listing notice January 22, 1991; 56 FR 2420.) Section 610(b) requires EPA to promulgate regulations that "identify nonessential products that release class I substances into the environment (including any release occurring during manufacture, use, storage, or disposal) and prohibit any person from selling or distributing any such product, or offering any such product for sale or distribution, in interstate commerce." The statute requires that at a minimum, EPA must ban the sale and distribution of CFC-propelled plastic party streamers and noise horns, and restrict the sale and distribution of CFC-containing cleaning fluids for electronic and photographic equipment to commercial users. Final regulations implementing the Class I Nonessential Products Ban were published in the **Federal Register** on January 15, 1993 (58 FR 4768).

In developing regulations to implement the class I ban under section 610 (a), (b) and (c), EPA took into consideration the statutory prohibition required by section 610(d) on products containing or manufactured with class II substances. Section 610(d) provides for a self-executing ban of certain products made with class II substances that becomes effective on January 1, 1994. Section 610(d) bans the sale or distribution, or offer for sale or distribution, in interstate commerce of "any aerosol product or other pressurized dispenser which contains a class II substance;" and "any plastic foam product which contains, or is manufactured with, a class II substance." Section 610(d) provides limited criteria for granting exemptions to the Class II Nonessential Products Ban. The Notice Of Proposed Rulemaking (NPRM) implementing the class II ban was published in the **Federal Register** on September 27, 1993 (58 FR 50463).

During the development of the class I ban, EPA was concerned about the potential of creating an environmentally adverse incentive through implementation of the statutory ban on use of class II substances in certain products on January 1, 1994, while permitting the use of the more harmful class I substances in the same products. Thus, the statutory prohibition in section 610(d) provided direction in choosing products on which to focus under section 610(b). Therefore, EPA considered those products for which the use of HCFCs would be eliminated in determining which products to identify as nonessential under the class I ban.

Products Subject To The Class I Ban

In § 82.66 of the final regulations implementing the class I ban, EPA banned the following products which release a class I substance that are identified as being nonessential:

- Any plastic party streamer or noise horn which is propelled by a chlorofluorocarbon, including but not limited to—
  - —String confetti;
  - —Marine safety horns;
  - —Sporting event horns;
  - —Personal safety horns;
  - —Wall-mounted alarms used in factories or other work areas; and
  - —Intruder alarms used in homes or cars.

EPA also restricted the sale of any cleaning fluid for electronic and photographic equipment which contains a chlorofluorocarbon, except for those sold or distributed to a commercial purchaser.

These products were specifically identified as nonessential in section 610(b) of the Act putting manufacturers on notice of the upcoming ban. Therefore, the effective date for the implementation of the ban on the sale and distribution of the products listed above was February 16, 1993, thirty days after publication of the final class I ban.

In addition to these products, the final rule identifies and bans the following nonessential products based on EPA's review of various criteria specified in the Act:

- Any plastic flexible or packaging foam product which is manufactured with or contains a chlorofluorocarbon (except flexible or packaging foam used in coaxial cable,) including but not limited to:
  - —Open cell polyurethane flexible slabstock foam;
  - —Open cell polyurethane flexible molded foam;
  - —Open cell rigid polyurethane poured foam;
  - —Closed cell extruded polystyrene sheet foam;
  - —Closed cell polyethylene foam; and
  - —Closed cell polypropylene foam.
- Any aerosol product or other pressurized dispenser, which contains a chlorofluorocarbon, including but not limited to, household, industrial, automotive and pesticide uses, except—
  - —Medical devices listed in 21 CFR 2.125(e);
  - —Lubricants for pharmaceutical and tablet manufacture;
  - —Gauze bandage adhesives and adhesive removers;
  - —Topical anesthetic and vapocoolant products;
  - —Lubricants, coatings or cleaning fluids for electrical or electronic equipment, which contain CFC–11, CFC–12, or CFC–113 for solvent purposes, but which contain no other CFCs;
  - —Lubricants, coatings or cleaning fluids used for aircraft maintenance, which contain CFC–11 or CFC–113, but which contain no other CFCs;
  - —Mold release agents used in the production of plastic and elastomeric materials, which contain CFC–11 or CFC–113, but which contain no other CFCs;
  - —Spinnerette lubricant/cleaning sprays used in the production of synthetic fibers, which contain CFC–114, but which contain no other CFCs;
  - —Containers of CFCs used as halogen ion sources in plasma etching;
  - —Document preservation sprays which contain CFC–113, but which contain no other CFCs; and
  - —Red pepper bear repellent sprays which contain CFC–113, but which contain no other CFCs.

While EPA based its determination of nonessential products in addition to those specified in the statute on a consideration of section 610 in its entirety, EPA understands that many producers, distributors, and retailers may not have been able to foresee that their products would be considered under the class I ban until the publication of the NPRM on January 16, 1992. Therefore, the effective date for banning these products did not coincide with the effective date for banning products specifically referred to in section 610(b). These additional products can no longer be sold or distributed or offered for sale or distribution in interstate commerce after January 17, 1994, one year from the publication of the final rule.

II. Today's Revisions to the Class I Nonessential Products Ban

The class I ban provided one year for manufacturers, distributors and retailers to eliminate inventories of nonessential products not specifically listed in the statute. EPA generally believes that sufficient time was provided under that rulemaking for manufacturers to alter production and for retailers to liquidate any remaining stocks of prohibited products. The Agency believes that the effect of the rulemaking was quite clear after the publication of the NPRM on January 16, 1992. The NPRM provided notice to the producers, distributors, and retailers of aerosol and foam products that such products would be covered by the class I ban. In general, EPA believes that this period of time constitutes adequate notice for affected businesses. However, the Agency has been contacted by manufacturers and suppliers concerned with the treatment of existing inventories of replacement parts with long shelf lives made for specific makes or models of products. These are primarily cases where the environmental damage resulting from use of a class I substance in a product occurred during production of the products and the products were produced prior to the publication of the proposal for the class I ban.

Prior to the publication of the NPRM on January 16, 1992, manufacturers may not have known that future regulations would affect their existing inventories. Furthermore, in cases where the products were produced prior to the signing of the Clean Air Act Amendments in November of 1990, manufacturers may not have been able to predict what if any regulations affecting their inventories were imminent. However, in most cases, EPA believes that adequate time was provided in the class I ban rulemaking to allow for the elimination of most existing inventories prior to the established effective dates. The manufacturers of plastic party streamers and noise horns were on notice of the upcoming ban since the Clean Air Act Amendments were signed. The manufacturers of aerosol and foam products were on notice since the publication of the NPRM on January 16, 1992. However, EPA recently has learned of a few specific cases, where, because of very long shelf lives, no set length of time would be practical for the depletion of the existing inventories. EPA has reviewed numerous inquires about existing inventories. In the situation of certain replacement parts, as described below, EPA believes that authority to provide relief does exist and that the relief is appropriate.

There are particular types of replacement parts that were manufactured and are currently stored solely for use in specific product models. Inventories often remain in existence for more than ten years. Manufacturers that produced replacement parts designed solely for a specific product model often manufactured the part at the same time the original product was manufactured, and had the replacement parts placed into inventory at that time, for use in the future. This situation generally occurs where product models change rapidly or drastically and it would not be practical to produce replacement parts at a later date.

For example, the American Automobile Manufacturers Association and the Association of International Automobile Manufacturers estimate that automobile manufacturers have well over one million separate part numbers and a significantly larger number of replacement parts in inventory. Often replacement parts are only fully compatible with one model. Many of the replacement parts used in automobiles have long shelf lives and are retained in inventory for many years. Routinely, during production of a vehicle, the manufacturer will order a "lifetime buy" of particular parts needed to service the vehicle line during the expected life of the model. For example, an automobile manufacturer may have authorized the production of surplus car seats during the production of a particular car model to allow for a lifetime supply of seats designed for that specific car model. The manufacturer created a lifetime supply of these seats to be used to replace seats damaged after the car had been purchased by the ultimate consumer.

Since those parts were produced to meet the specifications of a particular model, it may not be possible to manufacture new substitute parts at this time. The suppliers of the equipment needed to produce the part may no longer exist. If the equipment does still exist, it may have been greatly reconfigured. Even in cases where the supplier still exists and has the properly configured equipment to produce a new replacement part without CFCs, the cost of redesigning and producing the new replacement part to replace those in existing inventories may be prohibitively expensive. Therefore, the class I ban may have the unintended effect of causing specific products to be scrapped before the end of their useful lifetime due to the unavailability of replacements. This situation may be

especially pronounced with replacement parts for automobiles and other durable goods that by their very nature have long product lifetimes.

In some cases, particularly for replacement parts that were originally placed in inventory prior to the signing of the Clean Air Act Amendments, the manufacturers may not have initially determined whether each replacement part was manufactured with, or contains, CFCs. In addition, the manufacturer may not have initially determined if each replacement part was stored in packaging material that was manufactured with, or contains, CFCs.

EPA believes that there are a limited number of replacement parts placed in inventories prior to April 16, 1992 that are still in use today that fit this description. Furthermore, the types of parts and packaging material described above tend to be made with open cell foam products. In these cases, the environmental damage resulting from use of class I substances in such products would have occurred during the original production of the foam. Therefore, there would be no additional environmental benefit associated with the disuse of the replacement parts already in inventory.

Administrative creation of exemptions from statutory requirements are authorized in only limited circumstances, as outlined in *Alabama Power Co., et al.* v. *Costle, et al.*, 636 F. 2d 323 (D.C. Cir 1979). Agencies can create such exemptions only where necessary, based on administrative feasibility or the de minimis nature of the exemption. Through this rule, EPA is granting limited exemptions from the class I ban based on the de minimis nature of emissions resulting from use of replacement products produced and already placed in initial inventory prior to April 16, 1992, the date 90 days after publication of the NPRM for the original class I ban. The exemption EPA is authorizing is limited to existing inventories where the original product and the replacement parts are no longer manufactured today, the replacement parts were expressly manufactured for that specific product make or model, and is based on the de minimis rationale.

EPA believes that the vast majority of replacement parts with long shelf lives that will be exempted by this action are parts that either contain an open cell foam component or are stored in open cell foam packaging material. As to this majority of affected products, the environmental damage associated with the class I substance in the product has already occurred at the time of manufacture. While there may also be a few closed cell products that meet the narrow definition of exempt products under this rule, emissions to the environment from use of these products, once manufactured, will be little or no different from the releases of class I substances from these products if removed from commerce and subsequently disposed of. Thus, where such replacement parts already exist, subjecting products to the ban will have a de minimis environmental impact. Due to these circumstances, EPA believes it is appropriate to allow such products to be used for their intended purpose prior to disposal.

EPA wishes to clarify that this exemption does not apply to all product components. Specifically, this exemption would not apply to those products that are fully compatible with a full range of products. For example, a reusable pressurized dispenser may be designed to be removed from one container and affixed to another container. In addition, in the aftermarket for automotive parts, there are parts designed to be compatible with a full range of motor vehicles. These products would not be consistent with the intended meaning of the exemption for replacement parts outlined above.

This final action allows for continued sale of any replacement part meeting the criteria of this narrow exemption to be sold and distributed or offered for sale or distribution in interstate commerce after January 17, 1994. "Placed into initial inventory" within the meaning of this exemption means that the product has completed all manufacturing processes, is in all aspects ready for sale, and has been placed into the manufacturer's inventory.

April 16, 1992, the date prior to which products must have been placed into initial inventory to qualify for the exemption, represents ninety days after the class I NPRM was published in the **Federal Register**, allowing time for manufacturers to revise manufacturing processes to exclude class I substances. EPA believes that the publication of the January 16, 1992 NPRM provided sufficient notice of the Agency's intentions with respect to class I substances that manufacturers should have moved swiftly to alter their manufacturing processes. Therefore, any replacement parts that release class I substances into the environment during manufacture, use, storage, or disposal which are placed into initial inventory after April 16, 1992 are subject to the class I ban and cannot be sold or distributed, or offered for sale or distribution in interstate commerce after January 17, 1994.

To continue selling affected products after January 17, 1994, the manufacturer or distributor must be able to show that the product was manufactured and placed into initial inventory by April 16, 1992. Routine business records, such as shipping forms, lot numbers, manufacturer date stamps or codes, invoices, or the like, may be used to identify the date the product was placed into initial inventory. EPA believes these types of records are normally kept by manufacturers and distributors of products affected by today's action and that this final rule will not require the preparation of any additional records.

III. Effective Dates

This direct-final rulemaking will be effective February 28, 1994 unless EPA receives notice indicating that any person wishes to submit adverse comment. Should EPA receive such notice, EPA will withdraw this final action and propose such action with a request for public comment.

IV. Summary of Supporting Analysis

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined by OMB and EPA that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

EPA believes that any impact that this amendment will have on the regulated community will serve only to provide relief from otherwise applicable regulations, and will therefore limit the negative economic impact associated with the regulations previously promulgated under section 610. An examination of the impacts on small entities was discussed in the final class I ban (58 FR 4797). That final rule assessed the impact the ban may have on small entities and provided examples of such impacts. In general, such impacts were found to be minimal. I certify that this amendment to the class I ban will not have any additional negative economic impacts on any small entities.

C. Paperwork Reduction Act

Any information collection requirements in a rule must be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Because no informational collection requirements were implemented in the final class I regulations and none are being required by this amendment, EPA has determined that the Paperwork Reduction Act does not apply to this rulemaking and no Information Collection Request document has been prepared.

V. Judicial Review

Under section 307(b)(1) of the Act, EPA finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within sixty days of publication of this action in the **Federal Register**. Under section 307(b)(2), the requirements of this rule may not be challenged later in judicial proceedings bought to enforce those requirements.

VI. References

United Nations Environment Programme. Report of the Aerosol Products, Sterilants, Miscellaneous Uses and Carbon Tetrachloride Technical Options Committee (December 1991).

United Nations Environment Programme. Report of the Fourth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (November 25, 1992).

United Nations Environment Programme. Scientific Assessment of Ozone Depletion: 1991 (December 17, 1991).

United Nations Environment Programme. Solvents, Coatings and Adhesives: Technical Options Committee Report (December, 1991).

United Nations Environment Programme. Third Meetings of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer: UNEP/OzL.Pro.3/L.4/Add.4 (Nairobi, 19–21 June, 1991).

United Nations Environment Programme. 1991 UNEP Flexible and Rigid Foams Technical Options Report (December 20, 1991).

United States Environmental Protection Agency. Alternative Formulations to Reduce CFC Use in U.S. Exempted and Excluded Aerosol Products (November 1989).

United States Environmental Protection Agency. Background Document on Aerosol and Pressurized Dispenser Products Containing Class II Substances (March 1993).

United States Environmental Protection Agency. Background Document on Identification of Nonessential Products that Release Class I Substances (November 1992).

United States Environmental Protection Agency. Essential Use Determination—Revised: Support Document Fully Halogenated Chlorofluoroalkanes (March 17, 1978).

United States Environmental Protection Agency. Handbook for Reducing and Eliminating Chlorofluorocarbons in Flexible Polyurethane Foams (April 1991).

United States Environmental Protection Agency. Manual of Practices to Reduce and Eliminate CFC–113 Use in the Electronics Industry (March, 1990).

United States Environmental Protection Agency. Response to Comments for Proposed Rule on Nonessential Products Made with Class I Substances (October 30, 1992).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Interstate commerce, Nonessential products, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: December 22, 1993.

Carol M. Browner,

Administrator.

Title 40, Code of Federal Regulations, part 82, is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Subpart C is revised to read as follows:

Subpart C—Ban on Nonessential Products Containing Class I Substances and Ban on Nonessential Products Containing or Manufactured with Class II Substances

Sec.

82.60 Purpose.
82.62 Definitions.
82.64 Prohibitions.
82.65 Temporary exemptions.
82.66 Nonessential Class I products and exceptions.
82.68 Verification and public notice requirements.
82.70 Nonessential Class II products and exceptions.

Subpart C—Ban on Nonessential Products Containing Class I Substances and Ban on Nonessential Products Containing or Manufactured with Class II Substances

§ 82.60 Purpose.

The purpose of this subpart is to implement the requirements of sections 608 and 610 of the Clean Air Act as amended in 1990 on emission reductions and nonessential products.

§ 82.62 Definitions.

For purposes of this subpart:

(a) *Chlorofluorocarbon* means any substance listed as Class I group I or Class I group III in 40 CFR part 82, appendix A to subpart A.

(b) *Commercial*, when used to describe the purchaser of a product, means a person that uses the product in the purchaser's business or sells it to another person and has one of the following identification numbers:

(1) A federal employer identification number;

(2) A state sales tax exemption number;

(3) A local business license number; or

(4) A government contract number.

(c) *Consumer*, when used to describe a person taking action with regard to a product, means the ultimate purchaser, recipient or user of a product.

(d) *Distributor*, when used to describe a person taking action with regard to a product means:

(1) The seller of a product to a consumer or another distributor; or

(2) A person who sells or distributes that product in interstate commerce for export from the United States.

(e) *Product* means an item or category of items manufactured from raw or recycled materials which is used to perform a function or task.

(f) *Release* means to emit into the environment during the manufacture, use, storage or disposal of a product.

(g) *Class II Substance* means any substance designated as class II in 40 CFR part 82, appendix B to subpart A.

(h) *Foam Insulation Product*, when used to describe a product containing or consisting of plastic foam, means a product containing or consisting of the following types of foam:

(1) Closed cell rigid polyurethane foam;

(2) Closed cell rigid polystyrene boardstock foam;

(3) Closed cell rigid phenolic foam; and

(4) Closed cell rigid polyethylene foam when such foam is suitable in shape, thickness and design to be used as a product that provides thermal insulation around pipes used in heating, plumbing, refrigeration, or industrial process systems.

(i) *Hydrochlorofluorocarbon* means any substance listed as class II in 40 CFR part 82, appendix B to subpart A.

(j) *Owner of a boat or marine vessel* means any person who possesses a title, registration or other documentation that indicates that the person presenting this documentation is in possession of a marine vessel as defined in 33 CFR part 177.

(k) *Owner of a noncommercial aircraft* means any person who possesses a title, registration or other documentation that indicates that the person presenting this documentation is in possession of a noncommercial aircraft.

§ 82.64 Prohibitions.

(a) Effective February 16, 1993, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products identified as being nonessential in § 82.66(a).

(b) Effective February 16, 1993, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products specified in § 82.66(b) to a person who does not provide proof of being a commercial purchaser, as defined under § 82.62.

(c) Effective January 17, 1994, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products identified as being nonessential in § 82.66(c) or § 82.66(d) except as permitted under § 82.65(g).

(d) Except as permitted under § 82.65, effective January 1, 1994, no person may sell or distribute, or offer for sale or distribution, in interstate commerce any product identified as being nonessential in § 82.70(a) or § 82.70(c).

(e) Except as permitted under § 82.65, effective January 1, 1994, no person may sell or distribute, or offer to sell or distribute, in interstate commerce any of the products specified in § 82.70(b) to a person who does not provide proof of being a commercial purchaser, as defined under § 82.62.

(f) Except as permitted under § 82.65(d), effective January 1, 1996, no person may sell or distribute, or offer for sale or distribution, in interstate commerce any product identified as being nonessential in § 82.70(c)(ii).

(g) It is a violation of this subpart to sell or distribute, or offer for sale or distribution, products effected by the provisions of § 82.68 if the seller knew or should have known that the purchaser was purchasing the product for a prohibited application.

§ 82.65 Temporary exemptions.

(a) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory by December 31, 1993.

(b) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory within the date 90 days after the effective date of any federal approvals required for product reformulation, where application for the required approval was timely and properly submitted to the approving federal agency prior to January 1, 1994.

(c)(1) Any person may sell or distribute or offer to sell or distribute, in interstate commerce, at any time, any products specified as nonessential in § 82.70 which are manufactured and placed into initial inventory within 45 days after the receipt of denial by any federal agency of an application for reformulation where initial application for the required approval was timely and properly submitted to the approving federal agency prior to January 1, 1994.

(2) If, within 45 days of receipt of a denial of an application for reformulation, a person submits a new viable application for federal approval of a reformulation, that person may continue to sell and distribute, or offer to sell and distribute until 45 days of denial of that application.

(d) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any integral skin foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards, which are manufactured and placed into initial inventory prior to January 1, 1996.

(e) Any person selling or distributing, or offering to sell or distribute, any product specified in this section after January 1, 1994, or January 1, 1996 for paragraph (d) of this section, or after January 17, 1994 for any product specified in paragraph (g) of this section, must retain proof that such product was manufactured and placed into initial inventory before the relevant date specified in this section. Such proof may take the form of shipping forms, lot numbers, manufacturer date stamps, invoices or equivalent business records.

(f) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, any aircraft pesticide containing class I until an alternative aircraft pesticide containing class II is available in interstate commerce.

(g) Any person may sell or distribute, or offer to sell or distribute, in interstate commerce, at any time, any replacement part that was manufactured with, or contains a class I substance or was packaged in material that was manufactured with or contains a class I substance only if:

(1) The replacement part was manufactured for use in a single model of a product; and

(2) The replacement part and product model are no longer manufactured; and

(3) The replacement part was placed into initial inventory prior to April 16, 1992.

§ 82.66 Nonessential Class I products and exceptions.

The following products which release a Class I substance (as defined in 40 CFR part 82, appendix A to subpart A) are identified as being nonessential, and subject to the prohibitions specified under § 82.64—

(a) Any plastic party streamer or noise horn which is propelled by a chlorofluorocarbon, including but not limited to—

(1) String confetti;

(2) Marine safety horns;

(3) Sporting event horns;

(4) Personal safety horns;

(5) Wall-mounted alarms used in factories or other work areas; and

(6) Intruder alarms used in homes or cars.

(b) Any cleaning fluid for electronic and photographic equipment which contains a chlorofluorocarbon:

(1) Including but not limited to liquid packaging, solvent wipes, solvent sprays, and gas sprays; and

(2) Except for those sold or distributed to a commercial purchaser.

(c) Any plastic flexible or packaging foam product which is manufactured with or contains a chlorofluorocarbon;

(1) Including but not limited to:

(i) Open cell polyurethane flexible slabstock foam;

(ii) Open cell polyurethane flexible molded foam;

(iii) Open cell rigid polyurethane poured foam;

(iv) Closed cell extruded polystyrene sheet foam;

(v) Closed cell polyethylene foam; and

(vi) Closed cell polypropylene foam.

(2) Except—flexible or packaging foam used in coaxial cable.

(d) Any aerosol product or other pressurized dispenser, other than those banned in § 82.64(a) or § 82.64(b), which contains a chlorofluorocarbon,

(1) Including but not limited to household, industrial, automotive and pesticide uses,

(2) Except—

(i) Medical devices listed in 21 CFR 2.125(e);

(ii) Lubricants for pharmaceutical and tablet manufacture;

(iii) Gauze bandage adhesives and adhesive removers;

(iv) Topical anesthetic and vapocoolant products;

(v) Lubricants, coatings or cleaning fluids for electrical or electronic equipment, which contain CFC–11, CFC–12, or CFC–113 for solvent purposes, but which contain no other CFCs;

(vi) Lubricants, coatings or cleaning fluids used for aircraft maintenance, which contain CFC–11 or CFC–113 as a solvent, but which contain no other CFCs;

(vii) Mold release agents used in the production of plastic and elastomeric materials, which contain CFC–11 or CFC–113 as a solvent, but which contain no other CFCs, and/or mold release agents that contain CFC–12 as a propellant, but which contain no other CFCs;

(viii) Spinnerette lubricant/cleaning sprays used in the production of synthetic fibers, which contain CFC–114 as a solvent, but which contain no other CFCs, and/or spinnerette lubricant/cleaning sprays which contain CFC–12 as a propellant, but which contain no other CFCs;

(ix) Containers of CFCs used as halogen ion sources in plasma etching;

(x) Document preservation sprays which contain CFC–113 as a solvent, but which contain no other CFCs, and/or document preservation sprays which contain CFC–12 as a propellant, but which contain no other CFCs, and which are used solely on thick books, books with coated or dense paper and tightly bound documents; and

(xi) Red pepper bear repellent sprays which contain CFC–113 as a solvent, but which contain no other CFCs.

§ 82.68 Verification and public notice requirements.

(a) Effective February 16, 1993, any person who sells or distributes any cleaning fluid for electronic and photographic equipment which contains a chlorofluorocarbon must verify that the purchaser is a commercial entity as defined in § 82.62. In order to verify that the purchaser is a commercial entity, the person who sells or distributes this product must request documentation that proves the purchaser's commercial status by containing one or more of the commercial identification numbers specified in § 82.62(b). The seller or distributor must have a reasonable basis for believing that the information presented by the purchaser is accurate.

(b) Effective February 16, 1993, any person who sells or distributes any cleaning fluid for electronic and photographic equipment which contains a chlorofluorocarbon must prominently display a sign where sales of such product occur which states: "It is a violation of federal law to sell, distribute, or offer to sell or distribute, any chlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment to anyone who is not a commercial user of this product. The penalty for violating this prohibition can be up to $25,000 per sale. Individuals purchasing such products must present proof of their commercial status in accordance with § 82.68(a)."

(c) Effective January 1, 1994, any person who sells or distributes any aerosol or pressurized dispenser of cleaning fluid for electronic and photographic equipment which contains a class II substance must verify that the purchaser is a commercial entity as defined in § 82.62(b). In order to verify that the purchaser is a commercial entity, the person who sells or distributes this product must request documentation that proves the purchaser's commercial status by containing one or more of the commercial identification numbers specified in § 82.62(b).

(d) Effective January 1, 1994, any person who sells or distributes any aerosol or other pressurized dispenser of cleaning fluid for electronic and photographic equipment which contains a class II substance must prominently display a sign where sales of such product occur which states: "It is a violation of federal law to sell, distribute, or offer to sell or distribute, any aerosol hydrochlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment to anyone who is not a commercial user of this product. The penalty for violating this prohibition can be up to $25,000 per unit sold. Individuals purchasing such products must present proof of their commercial status in accordance with § 82.68(c)."

(e) Effective January 1, 1994, in order to satisfy the requirements under § 82.68 (b) and (d), any person who sells or distributes cleaning fluids for electronic and photographic equipment which contain a class I substance and those aerosol or pressurized dispensers of cleaning fluids which contain a class II substance, may prominently display one sign where sales of such products occur which states: "It is a violation of federal law to sell, distribute, or offer to sell or distribute, any chlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment or aerosol hydrochlorofluorocarbon-containing cleaning fluid for electronic and photographic equipment to anyone who is not a commercial user of this product. The penalty for violating this prohibition can be up to $25,000 per unit sold. Individuals purchasing such products must present proof of their commercial status in accordance with 40 CFR 82.68(a) or 82.68(c)."

(f) Effective January 1, 1994, any person who sells or distributes any portable fire extinguisher containing a class II substance must prominently display a sign where sales of such products occur; or in cases where the purchaser does not physically come in contact with the point of sale, written notification must be given. This notification must state: "It is a violation of federal law to sell portable fire extinguishers containing hydrochlorofluorocarbons to anyone, *except* for use in applications where necessary to extinguish fire efficiently without irreparably damaging the equipment or area being protected or where the use of other alternatives can cause a hazard to persons in the area. The penalty for violating this prohibition can be up to $25,000 per unit sold. Individuals purchasing such products must present proof of their commercial status in accordance with 40 CFR 82.68(a), or of ownership of a marine vessel or boat in accordance with 40 CFR 82.62(j), or of ownership of a noncommercial aircraft in accordance with 40 CFR 82.62(k)." Written

notification may be placed on sales brochures, order forms, invoices and the like.

(g) Effective January 1, 1994, any person who sells or distributes any portable fire extinguisher which contains a class II substance must verify that the purchaser is a commercial entity as defined in § 82.62(b) or is the owner of a marine vessel or boat in accordance with § 82.62(j) or the owner of a noncommercial aircraft in accordance with § 82.62(k). In order to verify that the purchaser is a commercial entity, the person who sells or distributes this product must be presented with documentation that proves the purchaser's commercial status by containing one or more of the commercial identification numbers specified in § 82.62(b). In order to verify that the purchaser is the owner of a marine vessel or boat, the person who sells or distributes this product must be presented with documentation specified in § 82.62(j) that proves the purchaser's status as the owner of a marine vessel or boat. In order to verify that the purchaser is in ownership of a noncommercial aircraft, the person who sells or distributes this product must be presented with documentation specified in § 82.62(k) that proves the purchaser's status as the owner of a noncommercial aircraft by containing one or more of the identification information specified in § 82.62(k). The seller or distributor must have a reasonable basis for believing that the information presented by the purchaser is accurate.

(h) Effective January 1, 1994, any person who sells or distributes any mold release agents containing a class II substance as a propellant must provide written notification to the purchaser prior to the sale that "It is a violation of federal law to sell mold release agents containing hydrochlorofluorocarbons as propellants to anyone, except for use in applications where no other alternative except a class I substance is available. The penalty for violating this prohibition can be up to $25,000 per unit sold." Written notification may be placed on sales brochures, order forms, invoices and the like.

(i) Effective January 1, 1994, any person who sells or distributes any wasp and hornet spray containing a class II substance must provide written notification to the purchaser prior to the sale that "it is a violation of federal law to sell or distribute wasp and hornet sprays containing hydrochlorofluorocarbons as solvents to anyone, except for use near high-tension power lines where no other alternative except a class I substance is available. The penalty for violating this prohibition can be up to $25,000 per unit sold." Written notification may be placed on sales brochures, order forms, invoices and the like.

§ 82.70 Nonessential Class II products and exceptions.

The following products which release a class II substance (as designated as class II in 40 CFR part 82, appendix B to subpart A) are identified as being nonessential and the sale or distribution of such products is prohibited under § 82.64(d), (e), or (f)—

(a) Any aerosol product or other pressurized dispenser which contains a class II substance:

(1) Including but not limited to household, industrial, automotive and pesticide uses;

(2) Except—

(i) Medical devices listed in 21 CFR 2.125(e);

(ii) Lubricants, coatings or cleaning fluids for electrical or electronic equipment, which contain class II substances for solvent purposes, but which contain no other class II substances;

(iii) Lubricants, coatings or cleaning fluids used for aircraft maintenance, which contain class II substances for solvent purposes but which contain no other class II substances;

(iv) Mold release agents used in the production of plastic and elastomeric materials, which contain class II substances for solvent purposes but which contain no other class II substances, and/or mold release agents that contain HCFC–22 as a propellant where evidence of good faith efforts to secure alternatives indicates that, other than a class I substance, there are no suitable alternatives;

(v) Spinnerette lubricants/cleaning sprays used in the production of synthetic fibers, which contain class II substances for solvent purposes and/or contain class II substances for propellant purposes;

(vi) Document preservation sprays which contain HCFC–141b as a solvent, but which contain no other class II substance; and/or which contain HCFC–22 as a propellant, but which contain no other class II substance and which are used solely on thick books, books with coated, dense or paper and tightly bound documents;

(vii) Portable fire extinguishing equipment sold to commercial users, owners of marine vessels or boats, and owners of noncommercial aircraft that contains a class II substance as a fire extinguishant where evidence of good faith efforts to secure alternatives indicate that, other than a class I substance, there are no suitable alternatives; and

(viii) Wasp and hornet sprays for use near high-tension power lines that contain a class II substance for solvent purposes only, but which contain no other class II substances.

(b) Any aerosol or pressurized dispenser cleaning fluid for electronic and photographic equipment which contains a class II substance, except for those sold or distributed to a commercial purchaser.

(c) Any plastic foam product which contains, or is manufactured with, a class II substance,

(1) Including but not limited to household, industrial, automotive and pesticide uses,

(2) Except—

(i) Any foam insulation product, as defined in § 82.62(h); and

(ii) Integral skin foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards until January 1, 1996, after which date such products are identified as nonessential and may only be sold or distributed or offered for sale or distribution in interstate commerce in accordance with § 82.65(d).

[FR Doc. 93–31962 Filed 12–29–93; 8:45 am]
BILLING CODE 6560–50–P

federal register

Thursday
December 30, 1993

Part XI

The President

Executive Order 12889—Implementation of the North American Free Trade Agreement

VOL
58
ISS
249
DE
30
1993
UMI

Federal Register
Vol. 58, No. 249
Thursday, December 30, 1993

Presidential Documents

Title 3—

The President

Executive Order 12889 of December 27, 1993

Implementation of the North American Free Trade Agreement

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the North American Free Trade Agreement Implementation Act (Public Law 103–182, 107 Stat. 2057) (the NAFTA Implementation Act) and section 302 of title 3, United States Code, and in order to implement the North American Free Trade Agreement (NAFTA), it is hereby ordered:

Section 1. *Establishment of United States Section of the NAFTA Secretariat.* Pursuant to section 105(a) of the NAFTA Implementation Act, a United States section of the NAFTA Secretariat shall be established within the Department of Commerce and shall carry out the functions set out in that section.

Sec. 2. *Acceptance by the President of Panel and Committee Decisions.* Pursuant to subparagraph 516A(g)(7)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. 1516a(g)(7)(B), in the event that the provisions of that subparagraph take effect, I accept, as a whole, all decisions of binational panels and extraordinary challenge committees.

Sec. 3. *Implementation of Safeguard Provisions for Textile and Apparel Goods.* Pursuant to section 201 of the NAFTA Implementation Act, the Committee for the Implementation of Textile Agreements (the Committee) shall take such action as necessary to implement the bilateral safeguard provisions (tariff actions) set out in section 4 of Annex 300–B of the NAFTA. The United States Customs Service shall take such actions to carry out those safeguard provisions as directed by the Secretary of the Treasury, upon the advice and recommendation of the Chairman of the Committee.

Sec. 4. *Publication of Proposed Rules regarding Technical Regulations and Sanitary and Phytosanitary Measures.* (a) In accordance with Articles 718 and 909 of the NAFTA, each agency subject to the provisions of the Administrative Procedure Act, as amended (5 U.S.C. 551 *et seq.*), shall, in applying section 553 of title 5, United States Code, with respect to any proposed Federal technical regulation or any Federal sanitary or phytosanitary measure of general application, other than a regulation issued pursuant to section 104(a) of the NAFTA Implementation Act, publish or serve notice of such regulation or measure not less than 75 days before the comment due date, except:

(1) in the case of a technical regulation relating to perishable goods, in which case the agency shall, to the greatest extent practicable, publish or serve notice at least 30 days prior to adoption of such regulation;
(2) in the case of a technical regulation, where the United States considers it necessary to address an urgent problem relating to safety or to protection of human, animal or plant life or health, the environment or consumers; or
(3) in the case of a sanitary or phytosanitary measure, where the United States considers it necessary to address an urgent problem relating to sanitary or phytosanitary protection.

(b) For purposes of this section, the term "sanitary or phytosanitary measure" shall be defined in accordance with section 463 of the Trade Agreements

Act of 1979, and "technical regulation" shall be defined in accordance with section 473 of the Trade Agreements Act of 1979.

(c) This section supersedes section 1 of Executive Order No. 12662 of December 31, 1988.

Sec. 5. *Government Procurement Procedures.* (a) Waiver.

(1) With respect to eligible products (as defined in section 381(c) of the NAFTA Implementation Act) of Canada and Mexico, and suppliers of such products, the application of any law, regulation, procedure, or practice regarding Federal Government procurement that would, if applied to such products or suppliers, result in treatment less favorable than the most favorable treatment accorded:

(A) to United States products and services and suppliers of such products and services; or
(B) to eligible products of either Mexico or Canada, shall be waived.

(2) This waiver shall be applied by all executive agencies listed in Annexes 1 and 2 of this Executive order in consultation with, and when deemed necessary at the direction of, the United States Trade Representative (Trade Representative).

(b) The Secretary of Defense, or his designee, in consultation with the Trade Representative, shall be responsible for determinations under Article 1018(1), pursuant to Annex 1001.1b-1(A)(4), of the NAFTA. The Secretary of Defense, or his designee, and the Trade Representative shall establish procedures for this purpose.

(c) The executive agencies listed in Annex 2 are directed to procure eligible products in compliance with the procedural provisions of Chapter 10 of the NAFTA.

(d) The Trade Representative shall be responsible for calculating and adjusting the threshold as required by Article 1001(1)(c) of the NAFTA.

(e) This order shall apply only to solicitations issued on or after the date of entry into force of the NAFTA for the United States.

(f) Although regulatory implementation of this order must await revisions to the Federal Acquisitions Regulation (FAR), it is expected that agencies listed in Annexes 1 and 2 of this order will take all appropriate actions in the interim to implement those aspects of the order that are not dependent upon regulatory revision.

(g) Pursuant to section 25 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 421(a)), the Federal Acquisition Regulatory Council shall ensure that the policies established herein are incorporated in the FAR within 30 days from the date this order is issued.

Sec. 6. *Government Use of Patented Technology.* (a) Each agency shall, within 30 days from the date this order is issued, modify or adopt procedures to ensure compliance with Article 1709(10) of the NAFTA regarding notice when patented technology is used by or for the Federal Government without a license from the owner, except that the requirement of Article 1709(10)(b) regarding reasonable efforts to obtain advance authorization from the patent owner:

(1) is hereby waived for an invention used or manufactured by or for the Federal Government, except that the patent owner must be notified whenever the agency or its contractor, without making a patent search, knows or has demonstrable reasonable grounds to know that an invention described in and covered by a valid United States patent is or will be used or manufactured without a license; and
(2) is waived whenever a national emergency or other circumstances of extreme urgency exists, except that the patent owner must be notified as soon as it is reasonably practicable to do so.

(b) Agencies shall treat the term "remuneration" as used in Articles 1709(10)(h) and (j) and 1715 of the NAFTA as equivalent to "reasonable and entire compensation" as used in section 1498 of title 28, United States Code.

(c) In addition to the general provisions of section 7 of this order regarding enforceable rights, nothing in this order is intended to suggest that the giving of notice to a patent owner under Article 1709(10) of the NAFTA constitutes an admission that the Federal Government has infringed a valid privately-owned patent.

Sec. 7. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Sec. 8. *Effective Date.* This order shall take effect upon the date of entry into force of the NAFTA for the United States.

William J. Clinton

THE WHITE HOUSE,
December 27, 1993.

Billing code 3195-01-P

Annex 1

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
United States Agency for International Development
General Services Administration
National Aeronautics and Space Administration
Department of Veterans Affairs
Environmental Protection Agency
United States Information Agency
National Science Foundation
Panama Canal Commission
Executive Office of the President
Farm Credit Administration
National Credit Union Administration
Merit Systems Protection Board
ACTION Agency

United States Arms Control and Disarmament Agency
Office of Thrift Supervision
Federal Housing Finance Board
National Labor Relations Board
National Mediation Board
Railroad Retirement Board
American Battle Monuments Commission
Federal Communications Commission
Federal Trade Commission
Interstate Commerce Commission
Securities and Exchange Commission
Office of Personnel Management
United States International Trade Commission
Export-Import Bank of the United States
Federal Mediation and Conciliation Service
Selective Service System
Smithsonian Institution
Federal Deposit Insurance Corporation
Consumer Product Safety Commission
Equal Employment Opportunity Commission
Federal Maritime Commission
National Transportation Safety Board
Nuclear Regulatory Commission
Overseas Private Investment Corporation
Administrative Conference of the United States
Board for International Broadcasting
Commission on Civil Rights
Commodity Futures Trading Commission
Peace Corps
National Archives and Records Administration

Annex 2

The Power Marketing Administrations of the Department of Energy
Tennessee Valley Authority
St. Lawrence Seaway Development Corporation

[FR Doc. 93-32093
Filed 12-29-93; 11:43 am]
Billing code 3190-01-P

VOL 58 ISS 249 DE 30 1993 UMI

Reader Aids

Federal Register
Vol. 58, No. 249
Thursday, December 30, 1993

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, and Federal Register finding aids.	202-275-1538, or 275-0920

FEDERAL REGISTER PAGES AND DATES, DECEMBER

63277-63518	1
63519-63884	2
63885-64100	3
64101-64364	6
64365-64454	7
64455-64668	8
64669-64870	9
64871-65098	10
65099-65276	13
65277-65526	14
65527-65656	15
65657-65864	16
65865-66246	17
66247-67302	20
66303-67624	21
67625-68014	22
68015-68290	23
68291-68504	27
68505-68714	28
68715-69168	29
69169-69684	30

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

11	64871

3 CFR

Proclamations:	
6320 (See USTR notice of Dec. 14)	65424
6352 (See USTR notice of Dec. 14)	65424
5365 (See Proc. 6641)	66867
6515 (See Proc. 6641)	66867
6030 (See Proc. 6641)	66867
5923 (Superseded in part by Proc. 6641)	66867
6630	63277
6631	63279
6632	63883
6633	64363
6634	64667
6635	65279
6636	65525
6637	65527
6638	65529
6639	65865
6640	65867
6641	66867, 68191
6642	67625
6643	68288
Executive Orders:	
3406 (Revoked in part by PLO 7020)	64166
12163 (See EO 12884)	64099
12473 (See EO 12888)	69153
12484 (See EO 12888)	69153
12543 (See notice of December 2)	64361
12544 (See notice of December 2)	64361
12586 (See EO 12888)	69153
12662 (Superseded in part by EO 12889)	69681
12708 (See EO 12888)	69153
12748 (Amended by 12883)	63281
12767 (See EO 12888)	69153
12826 (Superseded in part by EO 12886)	68709
12829 (Amended by EO 12885)	65863
12865 (See DOT final rule of Dec. 10)	64904
12878 (Amended by EO 12887)	68713
12883	63281
12884	64099
12885	65863
12886	68709
12887	68713
12888	69153
12889	69681
Administrative Orders:	
Memorandums:	
December 1, 1993	64097
December 15, 1993	67263, 68191
Presidential Determinations:	
No. 94-4 of November 19, 1993	63519
No. 94-5 of December 3, 1993	65277
No. 94-6 of December 6, 1993	65099
Notices:	
December 2, 1993	64361

5 CFR

52	64365
293	65531
351	65531
430	65531
432	65531
451	65531
511	65531
530	65531
531	65531, 69169
532	68715, 68716
536	65531
540	65531
575	65531
591	65531
595	65531
771	65531
831	64366, 65243
2600	69176
2636	69176
2637	69176
2638	69176
Ch. XI	68505

7 CFR

1	64353
54	64669
68	68015
75	64101
301	64102, 67627
319	69176
330	66247
400	64872, 67303
401	64873, 67730
430	66249
443	67744
905	65538
920	65101

VOL 58 ISS 249 DEC 30 1993 UMI

944 69182
955 64103
980 69186
981 64105
987 64103
989 ..... 64106, 64107
997 64109
998 67304
999 69186
1001 63283
1002 63283
1004 63283
1005 63283
1007 63283
1011 63283
1030 63283
1033 63283
1036 63283
1040 63283
1044 63283
1046 63283
1049 63283
1065 63283
1068 63283
1075 64110
1079 63283
1093 63283
1094 63283
1096 63283
1097 63283
1098 63283
1099 63283
1106 63283
1108 63283
1124 63283
1126 63283
1131 63283
1135 63283
1136 63283
1220 64670
1421 68016
1427 65102
1464 66017
1610 66250
1703 67306
1710 66260
1714 66260
1735 66250
1737 66250
1744 66250
1751 66250
1753 66250
1910 ..... 68717, 69190
1924 69190
1941 69190
1943 69190
1945 69190
1946 65871
1951 ..... 64455, 69190
1955 68722
1980 ..... 65871, 68717, 69190
3416 65648

Proposed Rules:

271 64172
301 66304
319 ..... 66304, 66305
321 66305
704 66308
723 67376
810 65939
930 68065
981 64175
985 67378
1001 67380
1002 67380
1004 67380
1005 67380
1006 67380
1007 ..... 65135, 67380
1011 67380
1012 67380
1013 67380
1030 67380
1032 67380
1033 67380
1036 67380
1040 ..... 64176, 67380
1044 67380
1046 67380
1049 67380
1050 67380
1064 67380
1065 67380
1068 67380
1075 67380
1076 67380
1079 67380
1093 67380
1094 67380
1096 67380
1099 67380
1106 67380
1108 67380
1124 67380
1126 67380
1131 ..... 67380, 67703
1134 67380
1135 67380
1137 67380
1138 67380
1139 67380
1250 65939
1410 66308
1525 65941
1735 68780
1910 69374
1924 69374
1941 69374
1943 69374
1945 69374
1951 69374
1962 69374
1980 69374

8 CFR

103 69205
212 69205
214 69205
235 69205
264 68024
274a 69205

Proposed Rules:

210a 64695

9 CFR

78 68505
85 68506
92 68508
94 ..... 65103, 66247
130 67647
156 67647
317 66075
318 ..... 63521, 65254
381 65254
401 65254

Proposed Rules:

2 68559
51 68561
71 67708
92 67709

10 CFR

1 64110
2 67657
19 67657
20 ..... 64110, 67657, 69219
30 ..... 64110, 67657, 68726
31 67657
32 67657
34 67657
35 67657
36 67657
39 67657
40 ..... 64110, 67657, 68726
50 ..... 67657, 68726
52 69220
61 67657
70 ..... 64110, 67657, 68726
72 ..... 67657, 68726
73 64110
780 68732
835 ..... 65458, 67441

Proposed Rules:

430 67710
710 64509

11 CFR

Proposed Rules:

100 64190
102 65559
113 64190

12 CFR

7 68464
24 68464
201 68509
202 ..... 65657, 68735
204 64112
208 68735
225 68735
265 65539
303 64455
332 64458
333 64460
360 67662
362 64462
611 67644
613 67644
614 ..... 67644, 67665
620 67664
621 67664
627 67644

Proposed Rules:

3 68065
25 67466
208 68563
210 68566
211 65560
225 68563
228 67466
230 ..... 64190, 65293
325 68781
330 64521
345 67466
510 64695
563e 67466
611 ..... 64442, 68069
618 68069
620 68069

13 CFR

121 65261
123 64672

14 CFR

39 ..... 63523, 63524, 64112, 64114, 64487, 64874, 64875, 64877, 65104, 65115, 65282, 65283, 65862, 65888, 65890, 65984, 65895, 66268, 66270, 66271, 66273, 66274, 66276, 67306, 67307, 67310, 67311, 67665, 67667, 68025, 68026, 68028, 68291, 69221
71 ..... 63293, 63885, 63886, 64116, 64117, 64444, 64488, 64879, 64880, 64880, 65897, 65900, 67668, 67669, 67770, 67771, 68740
73 69126
95 65901
97 ..... 65904, 65905, 68515, 68516
121 ..... 68194, 68198
125 69620
135 69620
158 64118

Proposed Rules:

25 ..... 64700, 67716
31 64450
33 ..... 63902, 68784
39 ..... 63305, 63307, 64198, 64199, 64200, 64386, 64705, 64707, 64708, 65567, 65569, 65943, 67381, 67723, 68570, 68572, 68575, 68786, 68787, 68789, 69298, 69299
71 ..... 63308, 63309, 63903, 63904, 63905, 63906, 64387, 64525, 64710, 65945, 65946, 65947, 65948, 65949, 65950, 67725, 67726, 67727, 67728, 67909, 68328, 68329, 68577
73 63908
91 65950

15 CFR

770 ..... 65540, 68740
771 64674
772 65540
773 68740
778 68029
785 68740
788 65540
799 64674
943 65664
946 64066

Proposed Rules:

303 65294
935 65686
936 65686
942 65686
944 65686
946 64202

16 CFR

226 64881
229 68292
232 68292
436 ..... 69223, 69224
1000 64119
1210 67671

Proposed Rules:

307 63488
309 64914
1303 63311

17 CFR

1 68518
200 ..... 64120, 68520
204 64369
230 ..... 65541, 67312

239 65541
240 ..... 67729, 69225, 69225
270 ..... 64353, 67729
274 67729

Proposed Rules:

Ch. II 68578
190 68580
200 67729
210 68585
229 67729
230 ..... 68074, 68585
239 ..... 67729, 68074, 68585
240 67729
270 ..... 67729, 68074, 68585
274 ..... 67729, 68074, 68585

18 CFR

141 65542

Proposed Rules:

Ch. 1 66309
141 63312
341 66310
352 66310
388 63312

19 CFR

4 ..... 67312, 68520
10 ..... 68741, 69460
12 69460
24 ..... 68520, 69460
122 68520
123 ..... 67312, 68520, 69460
134 ..... 68520, 69460
162 69460
174 69460
175 68743
177 69460
178 69460
181 69460
191 69460
201 64120

Proposed Rules:

151 65135
142 65135
175 69301
210 64711

20 CFR

10 68031
404 ..... 64121, 64882, 64883, 64886, 64890, 65243
416 ..... 63887, 63888, 64883, 64892, 64893
626 69098
638 69098
655 69226
702 68031

Proposed Rules:

404 ..... 64207, 67574
416 64207

21 CFR

5 64489
16 65514
100 64123
176 65284
177 65546
178 ..... 64894, 67318
310 65452
358 65452
510 63890
520 65664
522 65285
558 63890
900 ..... 67558, 67565
1220 64137
1270 65514

Proposed Rules:

1 67444
5 65139
25 65139
100 64208
101 68791
170 65139
171 65139
174 65139
179 64526
201 67444
501 67444
701 67444
801 67444
812 64209
813 64209
820 64353

22 CFR

41 68526
89 65118

Proposed Rules:

42 68791

23 CFR

500 ..... 63442, 64374
625 64895
626 ..... 63422, 64374
655 65084

Proposed Rules:

420 67510
511 67510
657 65830
658 65677

24 CFR

200 67671
219 64138
246 64032
266 64032
905 64141
970 64141

Proposed Rules:

300 64713
310 64713
390 64713
500 64066
570 68795
888 68615

25 CFR

262 65246

26 CFR

1 ..... 64897, 67676, 67684, 67689, 68033, 68294, 68295, 68297, 68300, 68301, 68747, 68751, 68753
31 68033
47 68304
48 68304
602 ..... 68033, 68297, 68300, 68301, 68753, 68747, 68751, 68753

Proposed Rules:

1 ..... 66310, 67744, 68091, 68330, 68334, 68335, 68336, 68337, 68796, 68799, 69302
47 68338
48 68338
301 ..... 63541, 68092
602 ..... 68336, 68337

27 CFR

9 65123

Proposed Rules:

4 65296

28 CFR

2 65547
513 68765
544 ..... 65850, 65851

Proposed Rules:

2 ..... 65571, 65572

29 CFR

402 67594
507 69226
2619 ..... 65548, 66277
2621 65551
2676 65548

Proposed Rules:

552 69310
2520 68339
2530 68339

30 CFR

50 63528
56 69596
57 69596
70 63528
71 63528
90 63528
207 64899
208 64899
210 64899
216 64899
218 64899
219 64899
220 64899
228 64899
229 64899
243 64899
925 64142
931 65907
936 64374
938 64151

Proposed Rules:

75 69312
253 66320
700 63316
701 63316
705 63316
706 63316
715 63316
716 63316
785 63316
825 63316
870 63316
880 68494
906 64210
914 ..... 64212, 65679
934 ..... 64528, 68617
944 64529
950 65681

31 CFR

129 68528
317 63529
500 68529
590 64904

32 CFR

95 63293
375 69229
706 64678

Proposed Rules:

2 63542
116 65956

33 CFR

1 65665
3 67909
66 64153
80 65667
100 66279
110 ..... 65140, 65285
117 65668
155 67998
162 69231
165 ..... 65669, 66279, 68305, 68306, 68307, 68308, 69232, 69233, 69234
334 ..... 64363, 69232

Proposed Rules:

117 ..... 66321, 66322, 66323, 67745, 68093
156 ..... 63544, 65683, 69313
157 ..... 65296, 65683
165 65684
166 65686
167 65686
402 68618

34 CFR

648 65838
668 69594

Proposed Rules:

76 65856
99 65298
298 65856
366 67383
647 63870
Ch. VI 68619

36 CFR

Proposed Rules:

6 65141
292 65300
1220 64915

37 CFR

Ch. III 67690
1 ..... 64154, 64155
2 64154
5 64155
10 ..... 64154, 64155
304 63294

38 CFR

2 67691
21 ..... 63529, 67691, 68766

Proposed Rules:

3 65958

39 CFR

Proposed Rules:

111 ..... 64918, 65959, 67747

40 CFR

35 63876
52 ..... 64155, 64157, 64158, 64161, 64678, 65286, 65930, 65933, 65934, 66280, 66282, 66283, 66285, 66286, 67324, 67326, 67330, 68036
60 64158
63 66287
75 67692
79 65552
80 65552
81 ..... 64161, 64490, 67334, 68031, 69235
82 ..... 65018, 69235, 69638, 69672
85 65552
86 ..... 66288, 68532
88 64679

93.....67441
122.....67966
123.....67966
124.....67966
144.....63690
146.....63690
180.....63294, 64492, 64493, 64495, 64496, 65554
191.....66396
228.....64497
300.....63531, 69238
372.....63496, 63500
501.....67966
712.....68310, 68317
716.....68311, 68317
721.....63500

Proposed Rules:
51.....65573
52.....63316, 63545, 63547, 63549, 64530, 65307, 65309, 65573, 65686, 65688, 65691, 65959, 66324, 66326, 66334, 67383, 67748, 67754, 68094
60.....65573
61.....65573
63.....65768, 66078, 66336, 68804
64.....65573
68.....65311
71.....68804
72.....69314
73.....69314
80.....64213, 68343
81.....66334, 68094
82.....69568
141.....65622, 68826
143.....65622
180.....64536, 64538, 67758, 68621, 68827
258.....68353
261.....67389
300.....63551, 64539
430.....66078

41 CFR
Ch. 301.....67950
101-38.....65288
101-39.....63631, 65288

Proposed Rules:
201-3.....64389
201-4.....64389
201-9.....64389
201-11.....64389
201-18.....64389
201-20.....64389
201-21.....64389
201-22.....64389
201-23.....64389
201-24.....64389
201-39.....64389

42 CFR
57.....66297
60.....67348
405.....63626
412.....67350
413.....67350
414.....63626
417.....68366
434.....65126
491.....63533

Proposed Rules:
57.....63909
410.....68829
413.....65130
417.....68829
435.....65312
436.....65312
440.....65312
447.....65312, 68629

43 CFR

Public Land Orders:
7012.....64498
7013.....64165
7014.....64498
7015.....64499
7016.....64499
7017.....64692
7018.....64692
7019.....64693
7020.....64166, 68462
7021.....65130
7022.....65936
7023.....66299
7024.....69239

Proposed Rules:
230.....65692
406.....65693
419.....65693
423.....65694
426.....64277
Group 3400.....64919

44 CFR
64.....63699, 67692
65.....69039, 68041, 68043, 68044
67.....68046, 68049

Proposed Rules:
67.....68101, 68105

45 CFR
400.....64499
607.....68769
608.....68772
1355.....67912, 67939
1356.....67912, 67939
1357.....67912
1602.....65291

Proposed Rules:
1370.....64920

46 CFR
1.....65130
16.....68164, 68274
67.....65130, 65243
232.....64796
585.....64909

Proposed Rules:
12.....64278
16.....64278
592.....68841

47 CFR
0.....68053
1.....66299, 68540
2.....68053
25.....68053
36.....69239
63.....64167
64.....65669
69.....65669
73.....63295, 63296, 63536, 65132, 65133, 65671, 65672, 65873, 66300
76.....64168, 67694, 68322, 68541, 68542
80.....68061
87.....67695, 68061
94.....68061
97.....64384

Proposed Rules:
3.....68373
15.....64541
63.....64280
68.....65153
73.....63318, 63319, 63320, 63321, 63553, 65155, 68843
76.....64541, 68844

48 CFR
232.....64353
501.....64693
509.....64693
525.....69243
552.....64693, 69243
1805.....69245
1834.....68687
1870.....68687
2801.....68774
2802.....68774
2806.....68774
2807.....68774
6101.....69246
9903.....65556

Proposed Rules:
2.....69588
4.....69588
5.....69588
8.....69588
9.....63494
12.....69588
13.....69588
14.....69588
15.....64824, 69588
16.....69588
49.....69588
52.....63492, 63494, 64826
53.....69588
904.....63553
917.....63553
936.....63553
939.....63556
943.....63553
49.....69588
52.....69588
53.....69588
952.....63553
970.....63553

49 CFR
7.....65824
10.....67696
171.....66302
199.....68194, 68258
217.....68194, 68232
218.....68194, 68232
390.....67370
391.....68194, 68220
392.....67370
541.....63296
544.....63296
571.....63302, 64168, 65673
614.....63442, 64374

Proposed Rules:
192.....68382
391.....65634
396.....64923
571.....63321, 65156, 67909, 68846
583.....63327
659.....64856
1105.....68383
1121.....68383
1152.....68383
1181.....65695
1182.....65695
1186.....65695
1188.....65695
1312.....64717, 68108

50 CFR
17.....65088, 68323, 68476, 68480
20.....65656
24.....68542
216.....63536, 65133
226.....68543
625.....65134, 65936, 68555
641.....68325
642.....68327, 69273
649.....68555
661.....68063
663.....64169
672.....65556
675.....65292, 65556, 69273
676.....68556
685.....67699

Proposed Rules:
17.....63326, 63560, 64281, 64829, 64927, 65097, 65325, 65696, 68383, 68623
20.....63488
36.....68012
21.....63488
215.....64285, 68848
216.....64285, 68848
222.....64285, 68848
227.....65981, 68108
285.....67761
301.....67762
611.....64798
625.....64393
630.....67761, 68109
638.....65327
641.....68385
650.....63329
672.....64798, 68848
675.....65574, 68386, 68848
678.....67761

LIST OF PUBLIC LAWS

Note: The list of Public Laws for the first session of the 103d Congress has been completed and will resume when bills are enacted into law during the second session of the 103d Congress, which convenes on January 25, 1994.

A cumulative list of Public Laws for the first session of the 103d Congress will be published in Part IV of the Federal Register on January 3, 1994.

Last List December 23, 1993

VOL
58
ISS
2
4
9
DE
30
1993
UMI

Printed on recycled paper

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

code of federal regulations

LSA

List of CFR Sections Affected

September 1993

Save this issue for Titles 42–50 (Annual)

United States Government Printing Office
SUPERINTENDENT OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

**********3-DIGIT 481
A FR UMISE346U NOV 93 R
UMI SERIALS ACQUISITIONS
300 N ZEEB RD
PO BOX 1346
ANN ARBOR MI 48106

code of federal regulations

LSA

List of CFR Sections Affected

September 1993

Save this issue for Titles 42–50 (Annual)

Title 1–16
Changes January 4, 1993
through September 30, 1993

Title 17–27
Changes April 1, 1993
through September 30, 1993

Title 28–41
Changes July 1, 1993
through September 30, 1993

Title 42–50
Changes October 1, 1992
through September 30, 1993

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

Boldface page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (i.e. 58 FR for 1993) and the page number. Example: 24727 cite as 57 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Table I—Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from Table I as a result of documents published in the Federal Register since January 1, 1993.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Laurice Clark and Ken Payne. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Martha L. Girard, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–019–00001–1)	$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101).	(869–019–00002–0)	17.00	[1] Jan. 1, 1993
4	(869–019–00003–8)	5.50	Jan. 1, 1993
5 Parts:			
1–699	(869–019–00004–6)	21.00	Jan. 1, 1993
700–1199	(869–019–00005–4)	17.00	Jan. 1, 1993
1200–End, 6 (6 Reserved)	(869–019–00006–2)	21.00	Jan. 1, 1993
7 Parts:			
0–26	(869–019–00007–1)	20.00	Jan. 1, 1993
27–45	(869–019–00008–9)	13.00	Jan. 1, 1993
46–51	(869–019–00009–7)	20.00	Jan. 1, 1993
52	(869–019–00010–1)	28.00	Jan. 1, 1993
53–209	(869–019–00011–9)	21.00	Jan. 1, 1993
210–299	(869–019–00012–7)	30.00	Jan. 1, 1993
300–399	(869–019–00013–5)	15.00	Jan. 1, 1993
400–699	(869–019–00014–3)	17.00	Jan. 1, 1993
700–899	(869–019–00015–1)	21.00	Jan. 1, 1993
900–999	(869–019–00016–0)	33.00	Jan. 1, 1993
1000–1059	(869–019–00017–8)	20.00	Jan. 1, 1993
1060–1119	(869–019–00018–6)	13.00	Jan. 1, 1993
1120–1199	(869–019–00019–4)	11.00	Jan. 1, 1993
1200–1499	(869–019–00020–8)	27.00	Jan. 1, 1993
1500–1899	(869–019–00021–6)	17.00	Jan. 1, 1993
1900–1939	(869–019–00022–4)	13.00	Jan. 1, 1993
1940–1949	(869–019–00023–2)	27.00	Jan. 1, 1993
1950–1999	(869–019–00024–1)	32.00	Jan. 1, 1993
2000–End	(869–019–00025–9)	12.00	Jan. 1, 1993
8	(869–019–00026–7)	20.00	Jan. 1, 1993
9 Parts:			
1–199	(869–019–00027–5)	27.00	Jan. 1, 1993
200–End	(869–019–00028–3)	21.00	Jan. 1, 1993
10 Parts:			
0–50	(869–019–00029–1)	29.00	Jan. 1, 1993
51–199	(869–019–00030–5)	27.00	Jan. 1, 1993
200–399	(869–019–00031–3)	15.00	Jan. 1, 1993
400–499	(869–019–00032–1)	20.00	Jan. 1, 1993
500–End	(869–019–00033–0)	33.00	Jan. 1, 1993
11	(869–019–00034–8)	13.00	Jan. 1, 1993
12 Parts:			
1–199	(869–019–00035–6)	11.00	Jan. 1, 1993
200–219	(869–019–00036–4)	15.00	Jan. 1, 1993
220–299	(869–019–00037–2)	26.00	Jan. 1, 1993
300–499	(869–019–00038–1)	21.00	Jan. 1, 1993
500–599	(869–019–00039–9)	19.00	Jan. 1, 1993
600–End	(869–019–00040–2)	28.00	Jan. 1, 1993
13	(869–019–00041–1)	28.00	Jan. 1, 1993
14 Parts:			
1–59	(869–019–00042–9)	29.00	Jan. 1, 1993
60–139	(869–019–00043–7)	26.00	Jan. 1, 1993
140–199	(869–019–00044–5)	12.00	Jan. 1, 1993

Footnotes at end of table.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
200-1199	(869-019-00045-3)	22.00	Jan. 1, 1993
1200-End	(869-019-00046-1)	16.00	Jan. 1, 1993
15 Parts:			
0-299	(869-019-00047-0)	14.00	Jan. 1, 1993
300-799	(869-019-00048-8)	25.00	Jan. 1, 1993
800-End	(869-019-00049-6)	19.00	Jan. 1, 1993
16 Parts:			
0-149	(869-019-00050-0)	7.00	Jan. 1, 1993
150-999	(869-019-00051-8)	17.00	Jan. 1, 1993
1000-End	(869-019-00052-6)	24.00	Jan. 1, 1993
17 Parts:			
1-199	(869-019-00054-2)	18.00	Apr. 1, 1993
200-239	(869-019-00055-1)	23.00	Apr. 1, 1993
240-End	(869-019-00056-9)	30.00	Apr. 1, 1993
18 Parts:			
1-149	(869-019-00057-7)	16.00	Apr. 1, 1993
150-279	(869-019-00058-5)	19.00	Apr. 1, 1993
280-399	(869-019-00059-3)	15.00	Apr. 1, 1993
400-End	(869-019-00060-7)	10.00	Apr. 1, 1993
19 Parts:			
1-199	(869-019-00061-5)	35.00	Apr. 1, 1993
200-End	(869-017-00062-1)	9.50	Apr. 1, 1992
20 Parts:			
1-399	(869-019-00063-1)	23.00	Apr. 1, 1993
400-499	(869-019-00064-0)	31.00	Apr. 1, 1993
500-End	(869-019-00065-8)	30.00	Apr. 1, 1993
21 Parts:			
1-99	(869-017-00066-3)	13.00	Apr. 1, 1992
100-169	(869-019-00067-4)	21.00	Apr. 1, 1993
170-199	(869-019-00068-2)	20.00	Apr. 1, 1993
200-299	(869-019-00069-1)	6.00	Apr. 1, 1993
300-499	(869-019-00070-4)	34.00	Apr. 1, 1993
500-599	(869-019-00071-2)	21.00	Apr. 1, 1993
600-799	(869-019-00072-1)	8.00	Apr. 1, 1993
800-1299	(869-019-00073-9)	22.00	Apr. 1, 1993
1300-End	(869-019-00074-7)	12.00	Apr. 1, 1993
22 Parts:			
1-299	(869-019-00075-5)	30.00	Apr. 1, 1993
300-End	(869-019-00076-3)	22.00	Apr. 1, 1993
23	(869-019-00077-1)	21.00	Apr. 1, 1993
24 Parts:			
0-199	(869-019-00078-0)	38.00	Apr. 1, 1993
200-499	(869-019-00079-8)	36.00	Apr. 1, 1993
500-699	(869-019-00080-1)	17.00	Apr. 1, 1993
700-1699	(869-019-00081-0)	39.00	Apr. 1, 1993
1700-End	(869-019-00082-8)	15.00	Apr. 1, 1993
25	(869-019-00083-6)	31.00	Apr. 1, 1993
26 Parts:			
§§ 1.0-1-1.60	(869-019-00084-4)	21.00	Apr. 1, 1993
§§ 1.61-1.169	(869-019-00085-2)	37.00	Apr. 1, 1993
§§ 1.170-1.300	(869-017-00086-8)	19.00	Apr. 1, 1992
§§ 1.301-1.400	(869-017-00087-6)	17.00	Apr. 1, 1992
§§ 1.401-1.440	(869-019-00088-7)	31.00	Apr. 1, 1993

Footnotes at end of table.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
§§ 1.401-1.500	(869-017-00088-4)	38.00	Apr. 1, 1992
§§ 1.501-1.640	(869-019-00090-9)	30.00	Apr. 1, 1993
§§ 1.641-1.850	(869-017-00091-7)	24.00	Apr. 1, 1993
§§ 1.851-1.907	(869-017-00091-4)	23.00	Apr. 1, 1992
§§ 1.908-1.1000	(869-019-00093-3)	26.00	Apr. 1, 1993
§§ 1.1001-1.1400	(869-017-00094-1)	22.00	Apr. 1,1993
§§ 1.1401-End	(867-019-00095-0)	31.00	Apr. 1, 1993
2-29	(869-019-00096-8)	23.00	Apr. 1, 1993
30-39	(869-019-00097-6)	18.00	Apr. 1, 1993
40-49	(869-019-00098-4)	13.00	Apr. 1, 1993
50-299	(869-019-00099-2)	13.00	Apr. 1, 1993
300-499	(869-019-00100-0)	23.00	Apr. 1, 1993
500-599	(869-019-00101-8)	6.00	[5] Apr. 1, 1990
600-End	(869-019-00102-6)	8.00	Apr. 1, 1993
27 Parts:			
1-199	(869-019-00103-4)	37.00	Apr. 1, 1993
200-End	(869-017-00103-1)	11.00	Apr. 1, 1992
28 Parts:			
0-42	(869-019-00105-1)	27.00	July 1, 1993
29 Parts:			
0-99	(869-019-00107-7)	21.00	July 1, 1993
100-499	(869-019-00108-5)	9.50	July 1, 1993
500-899	(869-019-00109-3)	36.00	July 1, 1993
900-1899	(869-019-00110-7)	17.00	July 1, 1993
1900-1910 (§§ 1901.1 to 1910.999)	(869-017-00109-1)	29.00	July 1, 1992
1910 (§§ 1910.1000 to end)	(869-017-00110-4)	16.00	July 1, 1992
1911-1925	(869-017-00111-2)	9.00	[6] July 1, 1989
1926	(869-017-00112-1)	14.00	July 1, 1992
1927-End	(869-017-00113-9)	30.00	July 1, 1992
30 Parts:			
1-199	(869-019-00116-6)	27.00	July 1, 1993
200-699	(869-019-00117-4)	20.00	July 1, 1993
700-End	(869-019-00118-2)	27.00	July 1, 1993
31 Parts:			
0-199	(869-019-00119-1)	18.00	July 1, 1993
200-End	(869-017-00118-0)	25.00	July 1, 1992
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-190	(869-019-00121-2)	30.00	July 1, 1993
191-399	(869-019-00122-1)	35.00	July 1, 1993
400-629	(869-019-00123-9)	26.00	July 1, 1993
630-699	(869-019-00124-7)	14.00	July 1, 1993
700-799	(869-017-00123-6)	20.00	July 1, 1992
800-End	(869-019-00126-3)	22.00	July 1, 1993
33 Parts:			
1-124	(869-017-00125-2)	18.00	July 1, 1992
125-199	(869-017-00126-1)	18.00	July 1, 1992
200-End	(869-019-00129-8)	24.00	July 1, 1993
34 Parts:			
1-299	(869-017-00128-7)	27.00	July 1, 1992

Footnotes at end of table.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300–399	(869–019–00131–0)	20.00	July 1, 1993
400–End	(869–017–00130–9)	32.00	July 1, 1992
35	(867–019–00133–6)	12.00	July 1, 1993
36 Parts:			
1–199	(869–017–00132–5)	15.00	July 1, 1992
200–End	(869–017–00133–3)	32.00	July 1, 1992
37	(869–019–00136–1)	20.00	July 1, 1993
38 Parts:			
0–17	(869–019–00137–9)	30.00	July 1, 1993
18–End	(869–019–00138–7)	30.00	July 1, 1993
39	(869–019–00139–5)	17.00	July 1, 1993
40 Parts:			
1–51	(869–017–00138–4)	31.00	July 1, 1992
52	(869–017–00139–2)	33.00	July 1, 1992
53–60	(869–017–00140–6)	36.00	July 1, 1992
61–80	(869–017–00141–4)	16.00	July 1, 1992
81–85	(869–017–00142–2)	17.00	July 1, 1992
86–99	(869–017–00143–1)	33.00	July 1, 1992
100–149	(869–017–00144–9)	34.00	July 1, 1992
150–189	(869–017–00145–7)	21.00	July 1, 1992
190–259	(869–017–00146–5)	16.00	July 1, 1992
260–299	(869–017–00147–3)	36.00	July 1, 1992
300–399	(869–017–00148–1)	15.00	July 1, 1992
400–424	(869–017–00149–0)	26.00	July 1, 1992
425–699	(869–017–00150–3)	26.00	July 1, 1992
700–789	(869–017–00151–1)	23.00	July 1, 1992
790–End	(869–017–00152–0)	25.00	July 1, 1992
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved).		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–019–00156–5)	10.00	July 1, 1993
101	(869–019–00157–3)	30.00	July 1, 1993
102–200	(869–019–00158–1)	11.00	July 1, 1993
201–End	(869–019–00159–0)	12.00	July 1, 1993
42 Parts:			
1–399	(869–017–00157–1)	23.00	Oct. 1, 1992
400–429	(869–017–00158–9)	23.00	Oct. 1, 1992
430–End	(869–017–00159–7)	31.00	Oct. 1, 1992
43 Parts:			
1–999	(869–017–00160–1)	22.00	Oct. 1, 1992
1000–3999	(869–017–00161–9)	30.00	Oct. 1, 1992
4000–End	(869–017–00162–7)	13.00	Oct. 1, 1992
44	(869–017–00163–5)	26.00	Oct. 1, 1992

Footnotes at end of table.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
45 Parts:			
1–199	(869–017–00164–3)	20.00	Oct. 1, 1992
200–499	(869–017–00165–1)	14.00	Oct. 1, 1992
500–1199	(869–017–00166–0)	30.00	Oct. 1, 1992
1200–End	(869–017–00167–8)	20.00	Oct. 1, 1992
46 Parts:			
1–40	(869–017–00168–6)	17.00	Oct. 1, 1992
41–69	(869–017–00169–4)	16.00	Oct. 1, 1992
70–89	(869–017–00170–8)	8.00	Oct. 1, 1992
90–139	(869–017–00171–6)	14.00	Oct. 1, 1992
140–155	(869–017–00172–4)	12.00	Oct. 1, 1992
156–165	(869–017–00173–2)	14.00	Oct. 1, 1992
166–199	(869–017–00174–1)	17.00	Oct. 1, 1992
200–499	(869–017–00175–9)	22.00	Oct. 1, 1992
500–End	(869–017–00176–7)	14.00	Oct. 1, 1992
47 Parts:			
0–19	(869–017–00177–5)	22.00	Oct. 1, 1992
20–39	(869–017–00178–3)	22.00	Oct. 1, 1992
40–69	(869–017–00179–1)	10.00	Oct. 1, 1992
70–79	(869–017–00180–5)	21.00	Oct. 1, 1992
80–End	(869–017–00181–3)	24.00	Oct. 1, 1992
48 Chapters:			
1 (Parts 1–51)	(869–017–00182–1)	34.00	Oct. 1, 1992
1 (Parts 52–99)	(869–017–00183–0)	22.00	Oct. 1, 1992
2 (Parts 201–251)	(869–017–00184–8)	15.00	Oct. 1, 1992
2 (Parts 252–299)	(869–017–00185–6)	12.00	Oct. 1, 1992
3–6	(869–017–00186–4)	22.00	Oct. 1, 1992
7–14	(869–017–00187–2)	30.00	Oct. 1, 1992
15–28	(869–017–00188–1)	26.00	Oct. 1, 1992
29–End	(869–017–00189–9)	16.00	Oct. 1, 1992
49 Parts:			
1–99	(869–017–00190–2)	22.00	Oct. 1, 1992
100–177	(869–017–00191–1)	27.00	Oct. 1, 1992
178–199	(869–017–00192–9)	19.00	Oct. 1, 1992
200–399	(869–017–00193–7)	27.00	Oct. 1, 1992
400–999	(869–017–00194–5)	31.00	Oct. 1, 1992
1000–1199	(869–017–00195–3)	19.00	Oct. 1, 1992
1200–End	(869–017–00196–1)	21.00	Oct. 1, 1992
50 Parts:			
1–199	(869–017–00197–0)	23.00	Oct. 1, 1992
200–599	(869–017–00198–8)	20.00	Oct. 1, 1992
600–End	(869–017–00199–6)	20.00	Oct. 1, 1992
CFR Index and Finding Aids	(869–019–00053–4)	36.00	Jan. 1, 1993
Complete 1993 CFR set		775.00	1993
Complete 1992 CFR set		620.00	1992
Microfiche CFR Edition:			
Complete set (one-time mailing).		185.00	1989
Complete set (one-time mailing).		188.00	1990
Subscription (mailed as issued)		188.00	1991
Subscription (mailed as issued)		188.00	1992

Footnotes at end of table.

BEST COPY AVAILABLE

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
Individual copies		2.00	1992

[1]Because title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR parts 1—189 contains a note only for parts 1—39 inclusive. For the full text of the Defense Acquisition Regulations in parts 1—39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR chapters 1—100 contains a note only for chapters 1 to 49 inclusive. For the full text of procurement regulations in chapters 1 to 49, consult the three CFR volumes issued as of July 1, 1984 containing those chapters.

[4]No amendments to this volume were promulgated during the period January 1, 1987 through December 31, 1992. The CFR volume issued as of January 1, 1987 should be retained.

[5]No amendments to this volume were promulgated during the period April 1, 1990 through March 30, 1993. The CFR volume issued as of April 1, 1990 should be retained.

[6]No amendments to this volume were promulgated during the period July 1, 1989 through June 30, 1992. The CFR volume issue as of July 1, 1989 should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*		*Revision Date*
Federal Register:			
Yearly subscription (with FR Index and LSA)	415.00		
Yearly subscription (without FR Index and LSA)	375.00		
Individual copies	4.50		daily
Federal Register Document Drafting Handbook	5.50		1991
Guide to Record Retention Requirements in the Code of Federal Regulations	15.00		Jan. 1, 1992
List of Sections Affected, 1949-1963	Out of print		1966
List of CFR Sections Affected, 1964-1972			
(Titles 1 through 27) Vol. I	Out of print		1980
(Titles 28 through 50) Vol. II	Out of print		1980
List of CFR Sections Affected, 1973-1985			
(Titles 1 through 16) Vol. I	27.00		1990
(Titles 17 through 27) Vol. II	25.00		1990
(Titles 28 through 41) Vol. III	28.00		1990
(Titles 42 through 50) Vol. IV	25.00		1990
LSA (List of CFR Sections Affected):			
Yearly subscription	21.00		
Individual copies	1.50		monthly
Federal Register Index:			
Yearly subscription	19.00		
Individual copies	1.50		monthly
CFR Index and Finding Aids	36.00		annual

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 1—GENERAL PROVISIONS

Chapter III—Administrative Conference of the Federal Register (Parts 300—399)

		Page
305.79–7	Correctly designated	4295
305.93–1	Added	45409
305.93–2	Added	45410
305.93–3	Added	45412

Title 1—*Proposed Rules:*

305	1637555

TITLE 3—THE PRESIDENT

Proclamations

6179	Modified by Proc. 6544 19547
6449	*See* Proc. 6577 36301
6455	Modified by Proc. 6544 19547
6491	Revoked by Proc. 6534 13189
6515	Modified by Proc. 6544 19547
	See Proc. 6579 36839
6517	Modified by Proc. 6544 19547
	See Proc. 6575 34855
6519	207
6520	467
6521	469
6522	3195
6523	3197
6524	4293
6525	5917
6526	6187
6527	7477
6528	8691
6529	10937
6530	11361
6531	11951
6532	13185
6533	13187
6534	13189
6535	15411
6536	15413
6537	15751
6538	15753
6539	16609
6540	17773
6541	19315
6542	19317
6543	19319
6544	19547
	See Proc. 6575 34855
6545	21093

	Page
6546	21341
6547	25537
6548	25539
6549	25541
6550	26219
6551	26221
6552	26223
6553	26499
6554	26501
6555	26503
6556	26505
6557	26909
6558	27649
6559	27917
6560	27919
6561	28915
6562	29519
6563	29775
6564	29949
6565	30935
6566	31325
6567	31893
6568	31895
6569	31897
6570	32041
6571	32267
6572	33185
6573	33753
6574	34209
6575	34855
	Corrected 36516
6576	36117
6577	36301
6578	36585
6579	36839
6580	38659
6581	40031
6582	40717
6583	41169
6584	41621
6585	43239
6586	44433
6587	47199
6588	47981
6589	48585
6590	48589
6591	48589
6592	48771
6593	49173
6594	49901
6595	49903
6596	50243
6597	50245

TITLE 3

Executive Orders — Page

Jan. 4, 1901 Revoked in part by PLO 6964....19212, 27060
July 2, 1910 Revoked in part by PLO 6961....18018
Modified by PLO 6981....32856
Revoked in part by PLO 6983....33772
See PLO 6987....33999
October 9, 1917 Revoked in part by PLO 6985....33773
December 12, 1917 Revoked in part by PLO 6995....48458
2859 Amended by EO 12832....5905
4257 Revoked in part by PLO 6992....42246
Revoked in part by PLO 6996....48458
6277 Revoked in part by PLO 6975....31475
6546 Revoked by PLO 6989...38083, 48545
10485 *See* EO 12847....29511
10530 *See* EO 12847....29511
10865 Amended by EO 12829....3479
10909 *See* EO 12829....3479
11382 *See* EO 12829....3479
11423 Amended by EO 12847....29511
11858 Amended by EO 12860....47201
12154 Amended by EO 12833....5907
Amended by EO 12841....13529
12193 *See* EO 12840....13401
12295 *See* EO 12840....13401
12333 *See* EO 12829....3479
12334 Revoked by EO 12863....48441
12351 *See* EO 12840....13401
12356 *See* EO 12829....3479
12409 *See* EO 12840....13401
12463 *See* EO 12840....13401
12506 *See* EO 12840....13401
12537 Revoked by EO 12863....48441
12554 *See* EO 12840....13401
12587 *See* EO 12840....13401
12629 *See* EO 12840....13401
12670 *See* EO 12840....13401
12706 *See* EO 12840....13401
12722 Continued by Notice of July 20, 1993....39111
12724 Continued by Notice of July 20, 1993....39111
12737 Revoked by EO 12852....35841
12753 *See* EO 12840....13401
12775 Revoked in part by EO 12853....35843
12779 Revoked in part by EO 12853....35843
12791 Superseded by EO 12840....13401
12792 Amended by EO 12827....211
12800 Revoked by EO 12836....7045
12808 *See* EO 12831....5253
See EO 12846....25771
Continued by Notice of May 25, 1993....30693
12810 Revoked in part by EO 12831....5253
See EO 12846....25771
See Notice of May 25, 1993....30693
12818 Revoked by EO 12836....7045
12827....211
12828....2965
12829....3479
12830....4061
12831....5253
See EO 12846....25771
See Notice of May 25, 1993....30693
12832....5905
12833....5907
See EO 12841....13529
12834....5911
12835....6189
12836....7045
12837....8205
12838....8207
12839....8515
12840....13401
12841....13529
12842....17081
12843....21881
12844....21885
12845....21887
12846....25771
See Notice of May 25, 1993....30693
12847....29511
12848....29517
12849....30931
12850....31327
12851....33181
12852....35841
Amended by EO 12855....39107
12853....35843
12854....36587
12855....39107
12856....41981
12857....42181
12858....42185
12859....44101
12860....47201
12861....48255
12862....48257
12863....48441

Administrative Orders

Memorandums:

June 25, 1991 Superseded by EO 12851....33181
Sept. 25, 1992 *See* Memorandum of May 6, 1993....27647
Dec. 30, 1992....3195, 3485
Jan. 15, 1993....6339
Jan. 22, 1993....6439
Jan. 29, 1993....8201
Feb. 3, 1993....8303
Mar. 4, 1993....14303
May 6, 1993....27647
June 23, 1993....34519
June 25, 1993....34861
July 19, 1993....39109

Notices:

May 25, 1993....30693
July 20, 1993....39111

Permits:

May 17, 1993....29513

Presidential Determinations:

No. 92-22 of Apr. 22, 1992 *See* Presidential Determination No. 93-16 of Mar. 20, 1993....16345
No. 92-29 of June 2, 1992 Continued by Presidential Determination No. 93-23 of May 23, 1993....31329
No. 92-39 of Aug. 17, 1992 Amended by Presidential Determination No. 93-34 of Aug. 19, 1993....45779
No. 92-45 of Aug. 28, 1992 Continued by Presidential Determination No. 93-38 of Sept. 13, 1993....51209
No. 93-7 of Jan. 5, 1993....4059
No. 93-8 of Jan. 6, 1993....5241
No. 93-9 of Jan. 6, 1993....5243
No. 93-10 of Jan. 6, 1993....5245
No. 93-11 of Jan. 6, 1993....5247
No. 93-12 of Jan. 6, 1993....5249
No. 93-13 of Jan. 6, 1993....5251
No. 93-14 of Jan. 19, 1993....6341
No. 93-15 of Feb. 27, 1993....13183
No. 93-16 of Mar. 20, 1993....16345
No. 93-17 of Mar. 30, 1993....19193
No. 93-18 of Mar. 31, 1993....19033
No. 93-19 of Apr. 15, 1993....21889

Page

No. 93-20 of May 3, 1993....28757
No. 93-21 of May 12, 1993....31461
No. 93-22 of May 19, 1993....31463
No. 93-23 of May 28, 1993....31329
See EO 12850....31327
No. 93-24 of May 31, 1993....32269
No. 93-25 of June 2, 1993....33005
No. 93-26 of June 3, 1993....33007
No. 93-27 of June 24 1993....49175
No. 93-28 of June 25, 1993....37631
No. 93-29 of June 29, 1993....35357
No. 93-30 of July 2, 1993....43785
No. 93-31 of July 14, 1993....40307
No. 93-32 of July 19, 1993....40309
No. 93-33 of Aug. 19, 1993....45777
No. 93-34 of Aug. 19, 1993....45779
No. 93-35 of Aug. 30, 1993....48259
No. 93-36 of Aug. 30, 1993....48261
No. 93-37 of Sept. 2, 1993....48263
No. 93-38 of Sept. 13, 1993....51209

TITLE 4—ACCOUNTS

Title 4—*Proposed Rules:*

27....25785
28....25785

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

230.201—230.202 (Subpart B) Removed....36119
250 Authority citation revised....36119
250.101—250.103 (Subpart A) Revised....36119
294.102 Amended; interim....32043
294.104 (c) revised; interim....32043
294.107 (b) table revised; interim....32044
294.108 (f) revised; interim....32044
294.109 Revised; interim....32044
294.401 Table revised; interim....32046
297 Technical correction....16446
307 Authority citation revised....12145
307.101 Revised; interim....12145
Regulation at 58 FR 12145 confirmed....44743
307.102 Revised; interim....12146

TITLE 5 Chapter I—Con. Page
Regulation at 58 FR 12146 confirmed....44743
307.103 Revised; interim....12146
Regulation at 58 FR 12146 confirmed....44743
330 Authority citation revised....18141
330.901—330.903 (Subpart I) Added; interim....18141
335 Authority citation revised....18142
335.105 Added; interim....18142
351 Authority citation revised....32047
351.608 Revised....5563
351.801—351.806 (Subpart H) Revised; interim....32047
351.803 Heading and (a) revised....5564
430.405 (g) corrected....6056
432.102 Regulation at 57 FR 20042 confirmed; (f)(6) revised....13192
432.108 Regulation at 57 FR 20041 confirmed; (a)(2) and (b)(1)(ii) revised....13192
530 Authority citation revised....50249
530.202 Amended....50249
530.203 (b) through (e) revised; (f) and (g) removed....50249
530.204 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added....50249
530.206 Removed....50249
531 Authority citation revised....3200, 33498
531.101 Amended....33498
531.202 (b) reinstated; CFR correction....29777
531.301 Amended; interim....3200
Amended....33499
531.302 (a) revised....33499
531.304 (a)(3) and (f)(5) revised; interim....3201
(g) revised....33499
532 Regulations at 57 FR 61770 and 61771 confirmed....38263
532.229 (b)(1) revised; (b)(5) and (6) added....15415
532.231 (c)(2) revised....15415
532.233 (e) revised....15415
532.241 (a)(1) amended....32273
532.247 (c), (g)(1), (2), (3) and (h) amended....32274
532.251 (a)(3) amended....32274
532.255 Heading, (a) and (e) revised; (b) introductory text, (c) and (d) amended....13194
532.259 Revised....13194
532.279 (b) amended....32274
532.201—532.283 (Subpart B) Appendix D amended....12146, 13194, 33499
Appendix C amended....32274
Appendix D amended; interim....33500
Appendixes B and D amended; interim....45414
532.403 (c) amended....32274
532.501—532.506 (Subpart E) Appendix A amended....32274
532.509 Amended; interim....3201
550.103 (t) added; interim....3201
550.104 (b)(3) revised; interim....3201
550.105 (b)(3) revised; interim....3201
550.106 (e)(2) revised; interim....3201
550.107 Introductory text revised; interim....3201
550.202 Amended....41625
550.203 (a), (b) and (c) revised; (e) added....41625
550.204 (c)(3) revised....41625
550.205 (b) revised....41625
550.405 Regulation at 57 FR 40070 confirmed....33501
550.708 (d) revised....33499
550.901—550.907 (Subpart I) Heading revised....32050
Appendix A amended....32050
Appendixes A and A-1 amended....32276
572 Authority citation revised....13192
572.102 (a)(4) revised; interim....3201
572.202 (a)(4) revised; interim....3201
575 Authority citation revised....3201
575.201 Corrected; CFR correction....29777
575.205 (b) revised; interim....3201
575.302 (a)(4) revised; interim....3201
575.306 (b) revised....50249
575.307 (a) revised....50250
581 Authority citation revised....35846

Page
581.103 (a)(10), (20), (21), (22) and (23)(v) revised; (a)(24) through (28) added....35846
581.104 Regulation at 56 FR 36724 corrected; (f) revised....35846
581.202 (a) and (c) revised....35846
581.306 (c) revised....35846
581 Appendix A revised....35846
591.204 (b)(2) revised....32278
591.201—591.211 (Subpart B) Appendix A amended....32278
Appendix A revised....33506
591.304 (a)(1) and (b)(2) amended....32278
591.301—591.310 (Subpart C) Appendix A Table amended....32278
630 Authority citation revised....39602
630.1201—630.1211 (Subpart L) Added; interim....39602
752.201 Regulation at 57 FR 20043 confirmed; (b)(5) revised....13192
752.301 Regulation at 57 FR 20043 confirmed and amended....13192
752.401 Regulation at 57 FR 20043 confirmed; (c) and (d) revised....13192
831.501 Revised....49179
831.502 (f) removed; (g) redesignated as (f); new (f)(5) removed....48266
Removed; new 831.502 redesignated from 831.503....49179
831.503 Redesignated as 831.502; new 831.503 redesignated from 831.504; (b)(3)(ii) revised....49179
831.504 Redesignated as 831.503....49179
831.602 (a) amended....43493
831.615 (d)(1) amended....43493
831.616 Revised....32052
831.627 Amended....43493
831.801—831.805 (Subpart H) Removed....48266
831.1201—831.1213 (Subpart L) Revised....49179
837 Added....48266
838.103 Amended....3202
838.101—838.103 (Subpart A) Appendix A amended....3202
838.135 (a) amended....3202
838.237 (b)(4) amended....43493
838.422 (a)(2) amended....43493
838.701 (a) amended....43493
838.722 (c)(1)(ii) and (2)(iii) amended....43493
838.732 (a) and (b) amended....43493
838.734 Amended....43493
838.806 (c)(1) amended....3202
838.911 (d) amended....43493
838.912 (b)(2) amended....43493
838.921 (b)(2) amended....43493
838.931 Amended....43493
838.932 (a) amended....43493
838.1012 (b)(4) amended....43493
841.408 (a) revised....43493
841.506 (b), (d) and (e) removed; (c) redesignated as (b)....48273
841.507 (b) revised....43493
842.104 (a) removed; (b) through (g) redesignated as (a) through (f)....48273
842.402 Amended....43493
843.301—843.313 (Subpart C) Appendix B revised....43493
843.410 Revised....32052
844.403 Removed; new 844.403 redesignated from 844.404....48273
844.404 Redesignated as 844.403; new 844.404 redesignated from 844.405; (e) removed; (f) redesignated as (e)....48273
844.405 Redesignated as 844.404....48273
846.204 (b) redesignated as (b)(1); (b)(2) added; interim....47822
846.305 Removed; new 846.305 redesignated from 846.306....48273
846.306 Redesignated as 846.305....48273
870.203 (d) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.204 (g)(1) and (2) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.401 (a), (b) and (f)(1) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.1002 Regulation at 57 FR 43132 confirmed....18143

TITLE 5 Chapter I—Con. Page
870.1004 Regulation at 57 FR 43132 confirmed....18143
870.1006 Regulation at 57 FR 43132 confirmed....18143
871.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
871.205 (g)(1) and (2) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
871.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
872.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
872.205 (d)(1) and (2) amended; interim....11954
(a)(2) and (4) amended; (a)(2)(i), (ii), (iii), (4)(i), (ii) and (iii) added....45415
Regulation at 58 FR 11954 confirmed....47823
872.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
873.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
873.205 (e)(1) and (2) amended; interim....11954
(a) revised....45415
Regulation at 58 FR 11954 confirmed....47823
873.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
890 Regulation at 57 FR 10609 comment period extended....4569
Technical correction....48946
890.109 Revised; interim....47824
890.301 Regulation at 57 FR 43133 confirmed....33009
(ee) added; interim....47824
890.304 (a)(1) through (6) redesignated as (a)(1)(i) through (vi); introductory text redesignated in part as (a)(1) introductory text; (a)(2) added; interim....47825
890.306 Regulation at 57 FR 43133 confirmed....33009
(o) added; interim....47825
890.502 (h) added; interim....39607
890.904 Revised....38663
890.1202 Regulation at 57 FR 43132 confirmed....18143
890.1203 Regulation at 57 FR 43132 confirmed....18143
890.1204 Regulation at 57 FR 43132 confirmed....18143
890.1207 Regulation at 57 FR 43132 confirmed....18143
970 Added....28759

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201 Authority citation corrected....31234
Heading corrected....31234
1201.4 (i) and (l) amended....36345
1201 Appendix II revised....28917
1209.8 (d) amended....36345

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1700)

1633 Authority citation revised....31332
1633.1—1633.57 (Subpart A) Amended....31332
1633.1 Removed....31332
1633.2 Removed....31332
1633.3 Removed....31332
1633.5 Removed....31332
1633.6 Removed....31332
1633.7 Removed....31332
1633.8 Removed....31332
1633.9 Removed....31332
1633.10 Removed....31332
1633.20 Removed....31332
1633.21 Removed....31332
1633.30 Removed....31332
1633.31 Removed....31332
1633.32 Removed....31332
1633.33 Removed....31332
1633.34 Removed....31332
1633.35 Removed....31332
1633.36 Removed....31332
1633.37 Removed....31332
1633.38 (a), (c)(1), (3), (4) and (5)(ii) removed; (b) redesignated as (a) and amended; (c)(2), (5) heading and (5)(i) redesignated as (b)(2), (3) heading and text; (e) redesignated as (c); new (b) added....31332
1633.39 Removed....31332
1633.40 Removed....31332
1633.41 Removed....31332
1633.42 Removed....31332
1633.43 Removed....31332
1633.44 Removed....31332
1633.45 Removed....31332
1633.46 Removed....31332
1633.47 Removed....31332
1633.48 Removed....31332
1633.49 Removed....31332
1633.50 Removed....31332
1633.51 Removed....31332
1633.52 Removed....31332
1633.53 Removed....31332
1633.54 Removed....31332
1633.55 Removed....31332
1633.56 Removed....31332
1633.70 Removed....31332
1633.71 Removed....31332
1633.72 Removed....31332
1633.73 Removed....31332
1633.74 Removed....31332
1633.75 Removed....31332
1633.76 Removed....31332
1633.77 Removed....31332
1633.78 Removed....31332
1633.79 Removed....31332
1633.80 Removed....31332
1633.81 Removed....31332
1633.82 Removed....31332
1633.83 Removed....31332
1633.200—1633.236 (Subpart B) Removed....31332
1633.250—1633.257 (Subpart C) Undesignated center headings removed....31332
1633.250 Removed....31332
1633.251 Removed....31332
1633.252 (a), (c), (f) and (g) removed; (b), (d) and (e) redesignated as (a), (b) and (c)....31332
1633.253 Removed....31332
1633.254 Removed....31332
1633.255 Removed....31332
1633.256 Removed....31332
1633.257 Removed....31332
1650 Authority citation revised....45381
1650.2 Amended....45381
1650.4 Heading revised....45381
1650.5 Revised....45381

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2411—2472)

Chapter XIV Appendix A revised....13695

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2634.203 (c)(1) revised; interim....38912
2634.601 (a) revised; interim....38912
2634.704 (f) added; interim....38912
2634.903 (a) revised; (b)(2)(ii) amended; (b)(2)(iii) added; interim....38912
2641 Appendix B amended....33755

Chapter XXII—Federal Deposit Insurance Corporation (Part 3202)

Established; interim....39627

Chapter XXVI—Department of Defense (Part 3601)

Chapter XXVI Established....47622

Chapter XXXIII—Overseas Private Investment Corporation (Part 4301)

Chapter XXXIII Established; interim....33320

Chapter XL—Interstate Commerce Commission (Part 5001)

Chapter XL Established....41990

Chapter XLVI—Postal Rate Commission (Part 5601)

Chapter XLVI Established; interim....42840

Chapter XLVII—Federal Trade Commission (Part 5701)

Chapter XLVII Established; interim....30695

Title 5—*Proposed Rules:*

317....11988
351....44778

TITLE 5 Proposed Rules—Con. Page

410 ..... 3508, 8912
412 11988
531 46064
591 ..... 26694, 45556
970 7052
2634 46096
3101 (Chapter XXI) 41193

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.142 (a)(2) reinstated; CFR correction 30696
2.17 (g)(3) and (4) added 42841
2.23 Heading revised; (a)(5) added 35359
2.25 (b)(2)(iv) and (5)(x) added 11955
(b)(24) added 11956
2.27 (a)(11) revised 4569
2.30 (a)(34) removed 35359
2.32 Added 26679
2.55 Heading and (a)(5) revised; (a)(6) added 42841
2.70 (a)(15) added 35359
2.74 (a)(1) revised 11956
2.74a Added 11956
2.75 (a)(2)(v) and (6)(xiv) added 11955
(a)(2)(i), (6)(i), (ii), (vi), (ix) and (x) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii) and (iii), (a)(6)(iii), (iv) and (v) redesignated as (a)(6)(i), (ii) and (iii), (a)(6)(vii) and (viii) redesignated as (a)(6)(iv) and (v) and (a)(6)(xi), (xii) and (xiii) redesignated as (a)(6)(vi), (vii) and (viii) 11957
2.84 (a)(6) revised 4570
2.85 (a)(7) revised 4570
2.108 (a)(6) removed 35359
16.4 Revised 18143
16.5 Revised 18143

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

28.2 (o) removed; (p) through (v) redesignated as (o) through (u); new (j) and (n) revised 41993
28.9 Revised 41993
28.122 Amended 41993
28.136—28.151 Removed 41993
28.175—28.184 (Subpart B) Heading revised 41993
28.175 Revised 41993
28.184 Removed 41993
28.201—28.208 Removed 41993
28.215—28.222 Removed 41993
28.301—28.307 Authority citation revised 41993
28.909 (b) removed; (c) and (d) redesignated as (b) and (c); new (b) revised 41993
28.910 (a) introductory text and (1) through (4) revised; (a)(5) removed 41993
28.911 (a) amended 41993
29.1 (e) revised 21343
29.500 Heading revised; (b) and (c) amended 42413
52 Authority citation revised 42413
52.2 Amended 42413
52.42 Amended 11186
52.47 Removed 42413
52.50 Amended 11186
52.51 (c)(1), (2), (d)(1) and (2) amended 11186
52.441—52.453 (Subpart) Revised 4296
52.449 (c)(1)(iii) corrected 7607
52.454 Removed 4302
52.455 Removed 4302
52.456 Removed 4302
54.27 (a) and (b) amended 48592
55 Authority citation revised 42413
55.20 (b) amended; (d) removed 42413
55.510 (d) amended 42413
55.550 Removed 42413
58.44 Removed 42413
58.101 (c) amended 42413
58.126 (e)(5)(ii) removed; (e)(5)(iii) redesignated as (e)(5)(ii) 42413
58.132 Revised 26912
58.133 (b)(1), (2), (6) and (c) revised 26912
58.136 Revised 26913
58.137 Revised 26913
58.138 Revised 26913
58.139 Revised 26913
58.140 Revised 26913

Page

58.148 (e), (f) and (g) added 26913
59 Authority citation revised 42413
59.580 (b) and (d) amended 42413
61.2 (n) amended 42413
61.6 Amended 42413
61.8 Amended 42413
61.10—61.24 Removed 42413
61.24 Correctly designated 45946
61.44 Removed 42413
61.45 Removed 42413
61.46 Removed 42413
61.101 Introductory text amended 42413
61.104 Heading revised; text amended 42413
70 Authority citation revised 42413
70.72 Heading revised; text amended 42413
70.73 Removed 42413
80 Revised; interim 29098
90—159 (Subchapter E) Added 42414
110 Added 19022
180 (Subchapter H) Removed 42413

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.2 Amended 42487
210.4 (a) and (b)(1) heading amended; (b)(3) and (4) added 42487
210.6 Amended 42487
210.7 (a), (c) introductory text, (1), (1)(i), (ii), (iv) and (v) amended; (d) added 42487
210.8 (c) and (d) amended 42487
210.9 (b)(19) amended; (c) added 42488
210.10 Heading revised; (b) amended; (j) added 42488
210.23 (a) amended 42489
226.20 (a)(3) and (c)(3) redesignated as (a)(4) and (c)(4); (a), (2) introductory text, new (a)(4)(iii), (c)(1) table, (2) introductory text, table, new (4) introductory text and table amended; new (a)(3) and new (c)(3) added; (c)(2) undesignated center heading removed; (p) revised 37650
235.4 (a) amended 42489
240 Authority citation revised 39120
240.1 (c) and (f) revised 39120
240.3 (b) amended 39120
240.4 Heading revised; (a) amended 39120
240.6 Amended 39120
245.2 (f) amended 42489
246 Authority citation revised 37634, 47022
246.1 Amended 11506
246.2 Amended 11506
Amended; interim 47022
246.4 (a)(8), (9) and (11)(ii) revised; (a)(11)(iii) and (iv) amended; (a)(11)(v) added 11506
246.7 (a) amended; (n) added 11506
246.11 (a)(3) added; (b)(1) revised 11507
246.14 (c)(1) introductory text amended; (c)(9) added 11507
246.16 (c)(2)(ii) introductory text revised 37635
(r) added; interim 47022
246.28 OMB numbers 11507
250 Authority citation revised 39120
250.3 Amended 39120
250.13 (a), (g) and (k) revised 39120
250.23 (a) revised 39122
250.30 (b)(1) amended 39122
250.48 (b)(1) and (c) revised 39122
250.49 Heading and (b)(1) revised 39123
271 Authority citation revised 215
272 Authority citation revised 215
272.1 Regulation at 56 FR 12845 confirmed 215
273 Authority citation revised 215
273.1 Regulation at 56 FR 12845 confirmed 215
273.2 Regulation at 56 FR 12845 confirmed 215
273.9 Regulation at 56 FR 12845 confirmed 215
273.11 Regulation at 56 FR 12845 confirmed 215
274 Authority citation revised 215
275 Authority citation revised 215

TITLE 7 Chapter II—Con. Page
276 Authority citation revised....215
277 Authority citation revised....215
278 Authority citation revised....215
279 Authority citation revised....215
280 Authority citation revised....215
281 Authority citation revised....215
282 Authority citation revised....215
284 Authority citation revised....215
285 Authority citation revised....215

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

Chapter III Policy statement....47206
301 Regulation at 58 FR 217 confirmed....28336
301.13-1 Amended....7958
301.38-2 (b) corrected....8820
301.45—301.45-12 (Subpart) Revised....39423
301.50 (a) and (b) designation removed; interim....6347
301.50-1 Amended; interim....6347
301.50-2 (a) revised; interim....28335
301.50-3 (c) amended; interim....6348, 28335, 34682
301.50-4 (b)(1)(ii) amended; interim....28335
301.50-5 (a)(1)(ii) and (iii) amended; (a)(1)(iv) added; interim....6348
(a)(1)(iii), (iv) and (2)(ii) amended; (a)(1)(v) and (2)(iii) added; interim....28335
(a)(1)(iii) revised; OMB number; interim....34683
301.50-6 OMB number....34683
301.50-7 OMB number....34683
301.50-8 OMB number....34683
301.50-10 Introductory text designated as (a); new (b) added; interim....6348
(a) revised; (b) amended; interim....28335
301.52 (a) amended; interim....36592
(b)(10)(i) amended; (b)(10)(ii) redesignated as (b)(10)(iii); new (b)(10) (ii) added....39418
301.52-2a Amended; interim....36592
301.64 (a) amended; interim....219
Regulation at 58 FR 219 confirmed....28336
301.64-3 (c) amended; interim....219
Regulation at 58 FR 219 confirmed....28336
301.78-3 (c) amended; interim....6345, 39124, 42491, 49188
301.80 (b)(17) through (21) redesignated as (b)(18) through (22); new (b)(17) added; interim....216
Regulation at 58 FR 216 confirmed....36590
301.80-2a Amended; interim....216, 217
Corrected....11099
Regulations at 58 FR 216 and 217 confirmed....36590
301.93—301.93-10 (Subpart) Added; interim....8521
301.93-1 Corrected....29028
301.93-2 (a) corrected....29028
301.93-3 (c) revised; interim....36590
301.93-10 (a)(1)(i) corrected....29028
318.13-3 (c) and (d) redesignated as (d) and (e); new (c) added....7959
318.13-4 (c) revised....7959
318.13-6 Revised....7959
318.13-8 Amended....7959
318.13-10 (f)(1) amended; (f)(2) introductory text revised; (f)(3) added....7959
318.13-16 Heading and text amended....7959
Corrected....40190
318.13-17 Added....7959
(c), (f) and (i)(1) corrected....40190
318.58-1 Amended....7961
318.58-3 (b) and (c) redesignated as (c) and (d); new (b) added....7961
318.58-4 Heading and introductory text revised; (c) added....7962
318.58-7 Amended....7962
318.58-8 Amended....7962
318.58-10 (f)(1) amended; (f)(2) introductory text revised; (f)(3) added....7962
318.58-12 Revised....7962

Page
Correctly designated....40190
318.58-16 Heading revised; text amended....7964
319.24 (a) and (b) amended; (d) added....44745
319.37—319.37-14 (Subpart) Authority citation revised....38267
319.37-1 Amended; eff. 7-16-94....38267
319.37-7 (a) amended; (c) and (d) redesignated as (d) and (e); new (c), (f) and (g) added; new (d) introductory text, (1) and (6) revised; eff. 7-16-94....38267
(c)(4) and (f)(3) corrected....41124
319.40-1—319.40-8 (Subpart) Added; interim....8530
319.41-1 Footnote 2 amended; (c) added....44745
319.56a (a)(7) revised; (a)(12) amended....43497
319.56-2 (a) amended....43497
319.56-2t Introductory text revised; table amended....43497
319.56-2x (a) table amended....43498
319.56-2aa Added....11364
319.56-2bb Added....40037
321.2 Amended; interim....11958
321.9 (b), (c) and (d) revised; interim....11958
340.0 (a) revised....17056
340.1 Amended....17056
340.2 (b)(1)(i) and (2)(i) amended....17056
340.3 Redesignated as 340.4; new 340.3 added....17056
340.4 Redesignated as 340.5; new 340.4 redesignated from 340.3....17056
(a), (b), (c) introductory text, (1), (2), (e), (f) introductory text, (7), (8), (9), (10), (11)(ii), (g), (h)(1), (2), (3) and Footnote 6 amended....17058
340.5 Redesignated as 340.7; new 340.5 redesignated from 340.4....17056
(a), (b), (c)(1), (2), (3) introductory text, (i) and (ii) amended....17059
340.6 Redesignated as 340.8....17056
Added....17057
340.7 Redesignated as 340.9; new 340.7 redesignated from 340.5....17056
(b) amended....17059
340.8 Redesignated from 340.6....17056
340.9 Redesignated from 340.7....17056
354.1 (a)(1) introductory text and (iii) amended....32434
354.2 Table amended....220
354.3 (e)(2) introductory text, (iv) and (g)(5)(iii) revised....14307
(g)(4) revised....38270
354.4 (a)(3) Footnote 2 redesignated as Footnote 5....38271

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.37—400.38 (Subpart D) Heading revised....17943
400.38 Amended....17943
400.47 (a) revised; (d) and (e) removed; (f) through (i) redesignated as (d) through (g)....17945
400.49 Revised....17945
400.50 Added....17945
400.66 (b) table revised....13531
400.250 Revised; interim....36593
400.251 (a) and (b) amended; interim....36593
400.252 Nomenclature change; (a) and (b) amended; interim....36593
400.402 (e) and (k) revised; interim....47204
400.406 Revised; interim....47204
401 Extension of sales closing date....21241
401.101 Amended; interim....33508
401.103 Amended; interim....33508
401.105 Amended; interim....33508
401.106 Amended; interim....33508
401.111 Amended; eff. 11-30-93....3205
401.113 Amended; eff. 11-30-93....3207
401.117 Amended; eff. 11-30-93....3209
401.120 (a) and (b) revised; interim....33507
401.133 Amended; interim....33508
406.7 Amended; interim....35508, 46074
415.7 Amended; interim....33509

TITLE 7 Chapter IV—Con. Page

422 Exclusion of certified seed potato option....1

422.7 Amended; interim....33508

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture (Parts 700—799)

702 Authority citation revised....11785

702.2 (a)(6) amended; (a)(11) through (28) redesignated as (a)(12) through (29); new (a)(11) added....11785

702.5 (a) and (b) revised; (c) and (d) added....11785

702.9 (e) through (i) redesignated as (f) through (j); new (f) and (h) revised....11785

702.13 (a) and (c)(3) revised; last (c) redesignated as (d)....11786

702.18 (d) revised....11786

723 Authority citation revised....11960

723.111 Added....11962

723.112 Added....36859

723.113 Added....36857

723.114 Added....36857

723.115 Added....36857

723.116 Added....36857

723.117 Added....36857

723.118 Added....36857

723.216 (i)(4) revised....11960

729.214 (c) added....11964

781.2 (b) revised....48274

Chapter VIII—Federal Grain Inspection Service, Department of Agriculture (Parts 800—899)

800.71 (a) Schedule A revised....3214
Regulation at 58 FR 3214 postponed; interim....5255
(a) Schedule A revised; interim....49422

800.88 (d) revised....3212

800.96 (c)(2) revised....3212

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

Page

905 Budget of expenses....33756, 43241
Authority citation revised....43242

905.306 (a) Table I amended; interim....31466
Regulation at 58 FR 31466 confirmed....40720

906 Budget of expenses....37635

907 Budget of expenses....33012

907.10 Amended....7965

907.17 Revised....7965

907.18 Revised....7965

907.20 (a) revised....7965

907.21 Revised....7965

907.22 (a) introductory text, (c), (d), (e) and (i) revised....7965

907.23 Revised....7966

907.24 Revised....7966

907.26 Revised....7966

907.27 Revised....7966

907.31 Revised....7966
Suspended in part....33188

907.34 Removed....7966

907.41 (d) removed....7966

907.50 (a) amended....7966

907.51 (a) and (c) revised....7966

907.52 Amended....7966

907.53 (b), (c), (f), (g) and (h) revised; (i) removed....7966

907.54 Revised....7967

907.55 Revised....7967

907.56 Revised....7967

907.59 Amended....7967

907.60 Amended....7967

907.61 Amended....7967

907.61a Amended....7967

907.64 Revised....7968

907.67 Amended....7968

907.70 Introductory text amended....7968

907.71 Revised....7968

907.73 Undesignated center heading and section removed....7968

907.83 (c)(1) revised; (c)(3) added; (d) and (e) removed; (f) redesignated as (d)....7968

907.100 (g) revised; (h) amended....33188

Page

907.101 Amended....33188

907.103 Removed....7968

907.106 Undesignated center heading and section removed....7968

907.109 Removed....7968

907.118 Removed....7968

907.173 Undesignated center heading and section removed....7968

908 Budget of expenses....33012

908.11 Amended....7968

908.18 Revised....7968

908.19 Revised....7968

908.20 (a) revised....7968

908.21 Revised....7968

908.22 (a) introductory text, (c), (d), (e) and (i) revised....7969

908.23 Revised....7969

908.24 Revised....7969

908.26 Revised....7969

908.27 Revised....7970

908.31 Revised....7970
Suspended in part....33188

908.34 Removed....7970

908.41 (d) removed....7970

908.50 (a) amended....7970

908.51 (a) and (c) revised....7970

908.52 Amended....7970

908.53 (b), (c), (f), (g) and (h) revised; (i) removed....7970

908.54 Revised....7970

908.55 Revised....7971

908.56 Revised....7971

908.59 Amended....7971

908.60 Amended....7971

908.61 Amended....7971

908.61a Amended....7971

908.64 Revised....7971

908.67 Amended....7971

908.70 Introductory text amended....7971

908.71 Revised....7971

908.73 Undesignated center heading and section removed....7971

908.83 (c)(1) revised; (c)(3) added; (d) and (e) removed; (f) redesignated as (d)....7971

908.100 (g) revised; (h) amended....33189

908.101 Amended....33189

908.103 Removed....7972

908.106 Undesignated center heading and section removed....7972

908.109 Removed....7972

908.118 Removed....7972

908.173 Undesignated center heading and section removed....7972

910 Budget of expenses....38271, 50507

911 Budget of expenses....8534, 33757, 42187

915 Budget of expenses....8534, 33757, 42187
Authority citation revised....46760

915.306 (a)(7) added; interim....7973
Regulation at 58 FR 7973 confirmed....34684

915.332 (a)(2) Table I revised; interim....34686
Regulation at 58 FR 34686 confirmed....46760

916 Budget of expenses....33883, 45231

916.356 (a)(2), (3) and (5) through (8) introductory texts revised; (a)(9) removed; interim....8536
Regulation at 58 FR 8536 confirmed; (a)(5) through (8) redesignated as (a)(6) through (9); (a)(2) introductory text, (4) introductory text and new (6) through (9) revised; new (a)(5) added....29101

917 Budget of expenses....33883, 45231

917.459 (a)(4) introductory text and (5) introductory text revised; interim....32592
Regulation at 58 FR 32592 confirmed....43500

918 Suspended; eff. 3-1-93 through 2-28-95....8210

920 Regulation at 57 FR 62158 confirmed....28337
(a)(4) revised; (a)(5) removed....43245
Budget of expenses....45232
Authority citation revised....45234

920.112 Revised....28339

920.122 Regulation at 57 FR 62158 confirmed....28337

920.302 (b)(1) corrected....3069

920.303 Added....43246

921 Suspended....220

922 Budget of expenses....38272, 50507

923 Budget of expenses....38272, 50507

923.322 (a)(2) removed; (a)(3) redesignated as (a)(2); new (a)(2) and (c) revised; interim....30698

TITLE 7 Chapter IX—Con. Page

Regulation at 58 FR 30696 confirmed....43248
924 Budget of expenses... 38272, 50507
925 Budget of expenses..... 8893, 34688
Authority citation revised....44104
925.304 (a) amended; interim....21536
Regulation at 58 FR 21536 confirmed....44104
926 Budget of expenses... 33013, 43241
Authority citation revised....43242
927 Regulation at 57 FR 54903 confirmed....8538
Budget of expenses....42491
927.122 (a) amended....34691
927.123 Added....34691
927.125 (b) and (c) revised; (d) amended....34691
928 Referendum order....4302, 43065
Budget of expenses....33759
929 Budget of expenses....42493
931 Budget of expenses....40720
932 Budget of expenses...8539, 33014, 45234
Authority citation revised...45235, 48594
932.153 Revised; interim....48594
932.159 Added....28340
944 Authority citation revised....44105
944.106 Revised....39430
(a) table corrected....41124
944.401 (b)(12) revised; (c) amended; interim....48596
944.503 (a) amended; interim....21537
Regulation at 58 FR 21537 confirmed....44105
945 Budget of expenses....38274
Authority citation revised....44606
945.83 (d) suspended in part; eff. 9-23-93 through 7-31-98....44606
945.341 Regulation at 57 FR 62167 confirmed....33014
946 Budget of expenses... 32594, 47027
Authority citation revised...45417, 47027
946.336 (a)(2)(i), (iii), (iv), (c) introductory text, (1) and (2) revised; interim....33017
Regulation at 58 FR 33017 confirmed....45417
947 Budget of expenses... 33760, 47027
Authority citation revised...46761, 47027
947.340 (e) amended; interim....33019

Page

Regulation at 58 FR 33019 confirmed....46761
948 Budget of expenses...33020, 33762, 47027
Authority citation revised....47027
948.150 (a) revised; interim....8541
Regulation at 58 FR 8541 confirmed....34692
953 Budget of expenses... 34692, 47027
Authority citation revised....47027
955 Budget of expenses....47024
958 Budget of expenses... 32595, 47027
Authority citation revised....47027
959 Budget of expenses... 28767, 50507
966 Budget of expenses....4572
967 Marketing percentages....38276
Budget of expenses....38277
979 Budget of expenses...4574, 28768, 50510
981 Budget of expenses....37636
Authority citation revised....43503
981.441 (c)(5)(iv), (5)(v) and (vi) added....33023
Revised; interim....43503
981.472 (a) revised; (b) removed; interim....34696
981.473 (b), (d) and (f) removed; (c) and (e) redesignated as (b) and (c); (a) and new (b) revised; new (d) added; interim....34696
981.474 (a) revised; (b) and (c) removed; (d) and (e) redesignated as (b) and (c); interim....34696
982 Regulation at 57 FR 62172 confirmed....28772
Budget of expenses....32596, 47028
Authority citation revised....47027
984 Budget of expenses....4572
985 Marketing percentages....28340
Budget of expenses....32598, 43241
Authority citation revised....43242
987 Budget of expenses....37638
987.112a Regulation at 57 FR 61779 confirmed....13697
989 Budget of expenses....4572
Marketing percentages...32600, 47029
Authority citation revised....48275
989.221 Revised; interim....48275
993 Technical correction....32003
Budget of expenses....40721
993.150 (g)(1)(i), (ii) and (iii) revised....13698

Page

997 Authority citation revised....34844
997.30 (d) revised; interim....34844
998 Budget of expenses... 32601, 43065
998.100 Heading revised; interim....34847
998.200 Heading, (d), (h)(2) and (4) revised; interim....34847
998.300 Heading and (l) revised; (p) redesignated as (p)(1); (p)(2) added; interim....34848
999.200 Regulation at 57 FR 56245 confirmed....33322

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1001 Marketing percentages....5255
1001.17 Revised....27775
1001.18 Revised....27775
1001.22 Added....27775
1001.40 (b) and (c) revised....27775
1001.42 Amended; (d)(2)(vi) and (vii) revised....27776
1001.43 (g) added....27776
1001.44 (a)(5) amended; (a)(6) and (7)(i) revised....27776
1001.45 (b) revised....27777
1001.53 (h)(1) revised....27777
1001.60 (d), (f) and (g) revised; (h) and (i) added....27777
1001.61 (c) redesignated as (d); (a) and new (d) revised; new (c) and (e) added....27777
1001.62 (c) and (d) suspended; eff. through 11-30-93....17947
1002 Determination....50511
1002.15 Revised....27778
1002.18 Revised....27778
1002.20 Added....27778
1002.22 (e) added....27778
1002.40 Revised....27778
1002.41 (c) and (d) revised....27778
1002.44 (a) introductory text and (d) introductory text revised; (a)(1) amended....27779
1002.45 (a)(6) amended; (a)(7) and (8)(i) revised....27779
1002.60 (d)(2) revised; (d)(3), (4) and (e) redesignated as (d)(5), (6) and (f); new (d)(3), new (4) and new (e) added....27779

Page

1002.61 (d) and (e) suspended; eff. through 11-30-93....17947
(g) and (h) revised....27780
1002.74 (a)(1) and (2) amended; (a)(3) added....27780
1002.85 Amended....27780
1004 Marketing percentages....5255
1004.7 (a) suspended in part through 2-28-94....45418
1004.15 Revised....27780
1004.16 Revised....27780
1004.22 Added....27780
1004.40 (b) and (c) revised....27780
1004.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27781
1004.43 (e) added....27781
1004.44 (a)(6) amended; (a)(7) and (8)(i) revised....27781
1004.45 (c) revised....27782
1004.60 (f) and (h) revised; (l), (m) and (n) added....27782
1004.74 (a)(2)(iii) removed; (a)(2)(iv) and (v) redesignated as (a)(2)(iii) and (iv)....27782
1004.76 (b)(3) and (5) revised; (c) added....27782
1004.85 (a) revised....27783
1005.15 Revised....27783
1005.16 Revised....27783
1005.19 Added....27783
1005.40 Revised....27783
1005.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27784
1005.43 (d) added....27784
1005.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27784
1005.45 (b) revised....27784
1005.53 (b)(1) introductory text revised....27785
1005.60 (d) and (f) revised; (g), (h) and (i) added....27785
1005.76 (a)(3) and (5) revised; (c) added....27785
1005.85 (c) revised....27785
1006.15 Revised....27786
1006.16 Revised....27786
1006.21 Added....27786
1006.40 Revised....27786
1006.42 Revised....27787
1006.43 (a) revised; (c) and (d) added....27788
1006.44 Revised....27788

TITLE 7 Chapter X—Con. Page

1006.45 (a) amended; (b) revised....27790
1006.50 (c) added....27790
1006.60 Revised....27790
1006.76 (b)(3) and (5) revised; (c) added....27791
1006.85 (b) revised....27791
1007.13 (b)(4) and (5) suspended in part....40724
1007.15 Revised....27791
1007.16 Revised....27791
1007.21 Added....27791
1007.32 (a) suspended; eff. 8-1-93 through 8-31-93....43068
1007.40 Revised....27792
1007.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27792
1007.43 (d) added....27792
1007.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27793
1007.45 (b) revised....27793
1007.60 (d), (f) and (g) revised; (h) and (i) added....27793
1007.61 (a) introductory text in part and (b) suspended; eff. 8-1-93 through 8-31-93....43068
1007.76 (a)(3) and (5) revised; (c) added....27793
1007.85 (b) revised....27794
1011.13 (e)(3) amended; eff. through 7-31-93....17948
1011.15 Revised....27794
1011.16 Revised....27794
1011.19 Added....27794
1011.40 Revised....27794
1011.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27795
1011.43 (d) added....27795
1011.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27795
1011.45 (b) revised....27796
1011.52 (b)(1) introductory text revised....27796
1011.60 (d), (f) and (g) revised; (h) and (i) added....27796
1011.76 (a)(3) and (5) revised; (c) added....27796
1011.85 (c) revised....27797
1012.15 Revised....27797
1012.16 Revised....27797
1012.20 Added....27797
1012.40 Revised....27797
1012.42 Revised....27798
1012.43 (a) revised; (c) and (d) added....27799
1012.44 Revised....27799
1012.45 (a) amended; (b) revised....27801
1012.50 (c) added....27801
1012.60 Revised....27801
1012.76 (b)(3) and (5) revised; (c) added....27802
1012.85 (b) revised....27802
1013.15 Revised....27802
1013.16 Revised....27803
1013.20 Added....27803
1013.40 Revised....27803
1013.42 Revised....27803
1013.43 (c) and (d) added....27805
1013.44 Revised....27805
1013.45 (a) amended; (b) revised....27807
1013.50 (c) revised....27807
1013.60 Revised....27807
1013.76 (b)(3) and (5) revised; (c) added....27808
1013.85 (a)(2) revised....27808
1030.7 (b)(6)(v) temporary suspended through 1-31-94....40038
(b) introductory text amended; effective in part to 9-30-93....48954
1030.15 Revised....27808
1030.16 Revised....27808
1030.21 Added....27808
1030.40 Revised....27808
1030.42 (a) amended; (d)(2)(vi) and (vii) revised....27809
1030.43 (d) added....27809
1030.44 (a)(2)(iii) added; (a)(5) amended; (a)(8)(i)(a) and (b) redesignated as (a)(8)(i)(A) and (B); (a)(6), (7)(i), new (8)(i)(B) and (9) revised....27809
1030.45 (b) revised....27810
1030.52 (c)(1) and (5) revised....27810
1030.60 (d) and (f) revised; (g) and (h) amended; (i), (j) and (k) added....27810
1030.76 (a)(3) and (5) revised; (c) added....27810
1030.85 (b) revised....27811
1032.15 Revised....27811
1032.16 Revised....27811

Page

1032.19 Added....27811
1032.40 Revised....27811
1032.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27812
1032.43 (d) added....27812
1032.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27812
1032.45 (b) revised....27813
1032.60 (d), (f) and (g) revised; (h) and (i) added....27813
1032.76 (a)(3) and (5) revised; (c) added....27813
1032.85 (b) revised....27814
1033 Undesignated center headings removed....27823
1033.1 Undesignated center heading added....27823
1033.2 Redesignated from 1033.6....27814
Undesignated center heading added....27823
1033.3 Redesignated from 1033.8 and amended....27814
1033.4 Redesignated from 1033.9....27814
1033.5 Redesignated as 1033.19; new 1033.5 redesignated from 1033.10....27814
1033.6 Redesignated as 1033.2; new 1033.6 redesignated from 1033.11....27814
1033.7 Redesignated as 1033.15....27814
Redesignated from 1033.12; introductory text and (b) introductory text amended; (d) added....27815
(b) introductory text revised; (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; (c) introductory text and (2) amended....43505
1033.8 Redesignated as 1033.3; new 1033.8 redesignated from 1033.13....27814
1033.9 Redesignated as 1033.4; new 1033.9 redesignated from 1033.16; (b), (e) and (f) amended....27814
1033.10 Redesignated as 1033.5; new 1033.10 redesignated from 1033.17....27814
1033.11 Redesignated as 1033.6....27814
1033.12 Redesignated as 1033.7; new 1033.12 redesignated from 1033.14; (a)(2), (3) and (b)(2) amended....27815
1033.13 Redesignated as 1033.8; new 1033.13 redesignated from 1033.15 and amended....27814
(e)(2), (3) and (f) revised....43506
1033.14 Redesignated as 1033.12; new 1033.14 redesignated from 1033.18; (b) amended....27815
1033.15 Redesignated as 1033.13; new 1033.15 redesignated from 1033.7 and revised....27814
1033.16 Redesignated as 1033.9....27814
Added....27815
1033.17 Redesignated as 1033.10....27814
Redesignated from 1033.20....27815
1033.18 Redesignated as 1033.14....27815
1033.19 Removed; new 1033.19 redesignated from 1033.5....27814
1033.20 Redesignated as 1033.17; new 1033.20 redesignated from 1033.21; introductory text amended....27815
1033.21 Redesignated as 1033.20; new 1033.21 added....27815
1033.27 Removed....27815
1033.30 (a)(1)(iv), (2), (b)(1) introductory text and (2) amended....27815
Undesignated center heading added....27823
(a)(1)(i), (3)(ii), (4) and (b) revised....43506
1033.31 Redesignated as 1033.32; new 1033.31 redesignated from 1033.32; (b) amended....27815
(a)(2) and (c) revised; (b) amended....43506
1033.32 Redesignated as 1033.31; new 1033.32 redesignated from 1033.31; (c)(4), (d)(3), (e)(4) and (g) amended....27815
(e)(2), (4), (5) and (f) revised....43506

TITLE 7 Chapter X—Con. Page

1033.40 Removed; new 1033.40 redesignated from 1033.41 and revised....27815
Undesignated center heading added....27823
1033.41 Redesignated as 1033.40....27815
Redesignated from 1033.42 and revised....27816
(c) amended....43506
1033.42 Redesignated as 1033.41; new 1033.42 redesignated from 1033.43 and revised....27816
1033.43 Redesignated as 1033.42....27816
Redesignated from 1033.45 and revised....27818
(d) revised....43507
1033.44 Added....27818
1033.45 Redesignated as 1033.43....27818
Added....27820
1033.46 Removed....27820
1033.50 Removed; new 1033.50 redesignated from 1033.51; introductory text, (b) introductory text, (1) and (2) amended....27820
Undesignated center heading added....27823
Heading and introductory text revised; (d), (e) and (f) added....43507
1033.51 Redesignated as 1033.50; new 1033.51 added....27820
1033.51a Removed....27821
1033.52 Redesignated from 1033.53; (a) introductory text and (1) amended; (b) revised....27821
1033.53 Redesignated as 1033.52; new 1033.53 added....27821
Revised....43507
1033.56 Removed....27821
1033.57 Redesignated as 1033.76....27822
1033.60—1033.61 Undesignated center heading revised....43507
1033.60 Revised....27821, 43507
Undesignated center heading added....27823
1033.61 (f)(2) amended....27822
Revised....43508
1033.62 Added....43508
1033.63 Added....43508
1033.64 Added....43508
1033.65 Added....43508
1033.66 Added....43509
1033.70 (c) removed; (a) revised; (b) added....27822
Undesignated center heading added....27823
(b) revised....43509
1033.71 (a), (b) introductory text and (1) amended; (c) redesignated as (d); new (c) added; (d) introductory text revised....27822
(b) introductory text and (1) revised....43509
1033.72 (b)(2) and (e)(2) amended....27822
(b) introductory text and (d)(2) revised....43509
1033.74 Revised....27822
1033.75 Redesignated as 1033.86....27822
1033.76 Redesignated as 1033.85....27822
Redesignated from 1033.57; heading, (b)(3) and (5) revised; introductory text, (a)(1)(i) and (ii) amended; (c) added....27823
1033.85 Redesignated from 1033.76; heading and (c) revised; (a), (b) and (d)(2) amended....27822
Undesignated center heading added....27823
1033.86 Redesignated from 1033.75; heading revised....27822
(a) revised....43509
1036.7 (d) introductory text and (2) amended....40725
(b) revised....43509
1036.13 (a)(3) and (b) amended; (e), (f) and (h) revised; (g) removed....43509
1036.15 Revised....27823
1036.16 Revised....27823
1036.21 Added....27823
1036.30 (a)(1)(i), (3)(ii), (4) and (b) revised....43510
1036.31 (a)(2) and (b)(3) revised....43510
1036.32 (c)(2) and (d) revised....43510
1036.40 Revised....27823
1036.41 Revised....27824

Page

(c) amended....43510
1036.42 (a)(1) amended; (c)(3)(iv) revised....27825
1036.43 Revised....27825
1036.44 (a)(1), (2), (3)(i), (5), (6), (7)(i) and (8) through (15) revised; (a)(7)(iv) and (c) amended; (a)(16) removed....27825
1036.45 (b) revised....27827
1036.50 Heading and introductory text revised; (d), (e) and (f) added....43510
1036.53 Revised....43511
1036.60—1036.62 Undesignated center heading revised....43511
1036.60 (d), (e) and (f) revised; (g) and (h) added....27827
Revised....43511
1036.61 Revised....43512
1036.62 Revised....43512
1036.63 Added....43512
1036.64 Added....43512
1036.65 Added....43512
1036.66 Added....43512
1036.71 (b) introductory text, (1) and (c) revised....43512
1036.72 Revised....43513
1036.73 (a)(2) introductory text, (b)(2), (d)(2) and (3) revised....43513
1036.76 (b)(3) and (5) revised; (c) added....27827
1036.85 (a) revised....27828
Introductory text amended....43513
1036.86 (a) amended....43513
1040.15 Revised....27828
1040.16 Revised....27838
1040.19 Added....27838
1040.40 Revised....27838
1040.41 (a)(2) revised....27839
1040.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27829
1040.43 (e) added....27839
1040.44 (a)(12)(i)(a) and (b) redesignated as (a)(12)(i)(A) and (B); (a)(2), (5), (6), (7)(i) through (iv), (8)(ii), (9), (11), (12)(i)(B) and (ii) revised; (a)(7)(v), (8)(i) and (12)(i) introductory text amended; (a)(12)(iii) and (iv) added....27839
1040.45 (b) revised....27831
1040.60 (d), (f), (g) and (h) revised; (i) added....27831

Page

1040.76 (a)(3) and (5) revised; (c) added....27831
1040.85 (b) revised....27832
1044.6 Revised....27832
1044.18 Added....27832
1044.20 Added....27832
1044.21 Added....27832
1044.22 (i)(1)(iii) and (l) revised; (i)(3) added....27832
1044.40 Removed; new 1044.40 redesignated from 1044.41 and revised....27833
1044.41 Redesignated as 1044.40; new 1044.41 redesignated from 1044.42 and revised....27833
1044.42 Redesignated as 1044.41....27833
Redesignated from 1044.43 and revised....27834
1044.43 Redesignated as 1044.42....27834
Redesignated from 1044.45....27835
1044.44 Redesignated from 1044.46 and revised....27835
1044.45 Redesignated as 1044.43....27835
1044.46 Redesignated as 1044.44....27835
1044.50 Removed; new 1044.50 redesignated from 1044.51; introductory text amended....27837
1044.51 Redesignated as 1044.50; new 1044.51 added....27837
1044.60 (a), (b), (c) introductory text, (1) and (2) amended....27838
1044.63 Amended....27838
1044.71 Revised....27838
1046.15 Revised....27838
1046.16 Revised....27838
1046.19 Added....27838
1046.40 Revised....27838
1046.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27839
1046.43 (d) added....27839
1046.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27839
1046.45 (b) revised....27840
1046.60 (d), (f) and (g) revised; (h) and (i) added....27840

TITLE 7 Chapter X—Con. Page

1046.76 (a)(3) and (5) revised; (c) added 27840
1046.85 (b) revised 27840
1049.3 Revised 43513
1049.6 Revised 43513
1049.7 (a) and (b) revised; (c) redesignated as (d); new (c) added 43513
1049.13 Revised 43514
1049.15 Revised 27841
1049.16 Revised 27841
1049.19 Added 27841
1049.30 (a)(1), (6) and (c) revised 43514
1049.31 (a)(3) and (4) revised 43515
1049.32 (a) and (b) designation removed; amended 43515
1049.40 Revised 27841
1049.41 (c) amended 43515
1049.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27842
1049.43 (d) added 27842
1049.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27842
1049.45 (b) revised 27842
1049.50 Heading, introductory text and (a) revised; (d), (e) and (f) added 43515
1049.52 (a) and (b) revised 43515
1049.53 Revised 43515
1049.60—1049.62 Undesignated center heading revised 43515
1049.60 (d) and (f) revised; (g), (h) and (i) added 27842
Revised 43516
1049.61 Revised 43516
1049.62 Revised 43517
1049.63 Added 43517
1049.64 Added 43517
1049.65 Added 43517
1049.66 Added 43517
1049.71 (a)(1) and (2) revised 43517
1049.73 (a)(2) amended; (c)(2)(ii) and (d)(2) revised 43517
1049.75 Revised 43518
1049.76 (a)(3) and (5) revised; (c) added 27843
1049.78 Revised 43518
1049.85 (b) revised 27843
1049.86 (a) amended 43518
1050.15 Revised 27843
1050.16 Revised 27843
1050.19 Added 27844
1050.40 Revised 27844
1050.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27844
1050.43 (d) added 27845
1050.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27845
1050.45 (b) revised 27845
1050.60 (d), (f) and (g) revised; (h) and (i) added 27845
1050.76 (a)(3) and (5) revised; (c) added 27846
1050.85 (b) revised 27846
1064.15 Revised 27846
1064.16 Revised 27846
1064.19 Added 27846
1064.40 Revised 27846
1064.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27847
1064.43 (d) added 27847
1064.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27847
1064.45 (b) revised 27848
1064.60 (d) and (f) revised; (g), (h) and (i) added 27848
1064.76 (a)(3) and (5) revised; (c) added 27848
1064.85 (b) revised 27849
1065.15 Revised 27849
1065.16 Revised 27849
1065.19 Added 27849
1065.40 Revised 27849
1065.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27850
1065.43 (d) added 27850
1065.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27850
1065.45 (b) revised 27850
1065.52 (d)(1) revised 27851
1065.60 (d) and (f) revised; (g), (h) and (i) added 27851
1065.76 (a)(3) and (5) revised; (c) added 27851
1065.85 (b) revised 27851
1068.15 Revised 27852
1068.16 Revised 27852

Page

1068.19 Added 27852
1068.40 Revised 27852
1068.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27853
1068.43 (e) added 27853
1068.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27853
1068.45 (b) revised 27853
1068.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added 27853
1068.76 (a)(3) and (5) revised; (c) added 27854
1068.85 (d) revised 27854
1075 Determination 50511
1075.1—1075.23 Undesignated center heading removed; new undesignated center heading added 27865
1075.2 Redesignated from 1075.6 27855
Undesignated center heading removed; new undesignated center heading added 27865
1075.3 Redesignated from 1075.20 and amended 27855
1075.5 Redesignated as 1075.18; new 1075.5 redesignated from 1075.9 27855
1075.6 Redesignated as 1075.2; new 1075.6 redesignated from 1075.10 and amended 27855
1075.7 Removed; new 1075.7 redesignated from 1075.12; (c) added 27855
1075.8 Redesignated as 1075.12; new 1075.8 redesignated from 1075.13 27855
1075.9 Redesignated as 1075.5; new 1075.9 redesignated from 1075.14 27855
1075.10 Redesignated as 1075.6; new 1075.10 redesignated from 1075.15 27855
1075.11 Removed 27855
1075.12 Redesignated as 1075.7; new 1075.12 redesignated from 1075.8 and revised 27855
1075.13 Redesignated as 1075.8; new 1075.13 redesignated from 1075.17 and revised 27855
1075.14 Redesignated as 1075.9; new 1075.14 redesignated from 1075.19 and revised 27855
1075.15 Redesignated as 1075.10; new 1075.15 redesignated from 1075.18 and revised 27855
1075.16 Revised 27855
1075.17 Redesignated as 1075.13; new 1075.17 redesignated from 1075.23 27855
1075.18 Redesignated as 1075.15; new 1075.18 redesignated from 1075.5 27855
1075.19 Redesignated as 1075.14 27855
Added 27856
1075.20 Redesignated as 1075.3 27855
Added 27856
1075.22 Removed 27855
1075.23 Redesignated as 1075.17 27855
1075.27 Removed 27855
1075.30—1075.31 Undesignated center heading removed 27865
1075.30 Revised 27856
Undesignated center heading added 27865
1075.31 Heading revised; (a) removed; (b) redesignated as (a) and amended; new (b) added 27856
1075.32 Added 27856
1075.40—1075.46 Undesignated center heading removed 27865
1075.40 Removed; new 1075.40 redesignated from 1075.41 and revised 27857
Undesignated center heading added 27865
1075.41 Redesignated as 1075.40; new 1075.41 redesignated from 1075.42 and revised 27857
1075.42 Redesignated as 1075.41 27857
Redesignated from 1075.44 and revised 27858
1075.43 Redesignated from 1075.45 and revised 27859
1075.44 Redesignated as 1075.42 27858

341-245 O - 93 - 2 (12)

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

Redesignated from 1075.46 and revised....27859
1075.45 Redesignated as 1075.43....27859
Added....27861
1075.46 Redesignated as 1075.44....27859
1075.50—1075.54 Undesignated center heading removed....27865
1075.50 Removed; new 1075.50 redesignated from 1075.51; introductory text amended; (b) revised; (c) added....27861
Undesignated center heading added....27865
1075.51 Redesignated as 1075.50....27861
Added....27862
1075.52 Redesignated from 1075.53 and revised....27862
1075.53 Redesignated as 1075.52; new 1075.53 added....27862
1075.60—1075.62 Undesignated center heading removed....27865
1075.60 Removed; new 1075.60 redesignated from 1075.70....27862
Revised....27863
Undesignated center heading added....27865
1075.61 Removed; new 1075.61 redesignated from 1075.72 and revised....27863
1075.62 Redesignated as 1075.76; new 1075.62 added....27863
1075.70—1075.72 Undesignated center heading removed....27865
1075.70 Redesignated as 1075.60....27862
Redesignated from 1075.83 and revised....27863
Undesignated center heading added....27865
1075.71 Removed; new 1075.71 redesignated from 1075.84....27863
Revised....27864
1075.72 Redesignated as 1075.61....27863
Redesignated from 1075.85 and revised....27864
1075.73 Redesignated from 1075.80; heading revised; (a) and (b) amended....27864
1075.74 Redesignated from 1075.81....27864
1075.75 Redesignated from 1075.82; heading revised; (a) and (b) amended....27864
1075.76 Redesignated from 1075.62....27863
Added....27864
1075.77 Added....27865
1075.80—1075.88 Undesignated center heading removed....27865
1075.80 Redesignated as 1075.73....27864
1075.81 Redesignated as 1075.74....27864
1075.82 Redesignated as 1075.75....27864
1075.83 Redesignated as 1075.70....27863
1075.84 Redesignated as 1075.71....27863
1075.85 Redesignated as 1075.72....27864
Redesignated from 1075.88 and revised; undesignated center heading added....27865
1075.86 Removed....27865
1075.87 Removed....27865
1075.88 Redesignated as 1075.85....27865
1076.15 Revised....27865
1076.16 Revised....27865
1076.19 Added....27866
1076.40 Revised....27866
1076.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27866
1076.43 (d) added....27867
1076.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27867
1076.45 (b) revised....27867
1076.52 (b)(1) revised....27867
1076.60 (d) and (f) revised; (g), (h) and (i) added....27867
1076.76 (a)(3) and (5) revised; (c) added....27868
1076.85 (b) revised....27868
1079.15 Revised....27868
1079.16 Revised....27868
1079.19 Added....27868
1079.40 Revised....27868
1079.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27869
1079.43 (d) added....27869

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

Page

1079.44 (a)(2), (5), (6), (7)(i) and (9) revised; (a)(7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27869
1079.45 (b) revised....27870
1079.52 (d)(1) revised....27870
1079.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27870
1079.76 (a)(3) and (5) revised; (c) added....27870
1079.85 (d) revised....27871
1093.15 Revised....27871
1093.16 Revised....27871
1093.19 Added....27871
1093.40 Revised....27871
1093.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27872
1093.43 (d) added....27872
1093.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27872
1093.45 (b) revised....27873
1093.52 (b)(1) introductory text revised....27873
1093.60 (d), (f) and (g) revised; (h) and (i) added....27873
1093.76 (a)(3) and (5) revised; (c) added....27873
1093.85 (c) revised....27874
1094.15 Revised....27874
1094.16 Revised....27874
1094.19 Added....27874
1094.40 Revised....27874
1094.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27875
1094.43 (d) added....27875
1094.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27875
1094.45 (b) revised....27876
1094.52 (b)(1) introductory text revised....27876
1094.60 (d), (f) and (h) revised; (g) amended; (i) and (j) added....27876
1094.76 (a)(3) and (5) revised; (c) added....27876
1094.85 (c) revised....27877
1096.15 Revised....27877
1096.16 Revised....27877
1096.19 Added....27877
1096.40 Revised....27877
1096.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27878
1096.43 (d) added....27878
1096.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27878
1096.45 (b) revised....27878
1096.52 (b)(1) revised....27878
1096.60 (d), (f) and (g) revised; (h) and (i) added....27879
1096.76 (a)(3) and (5) revised; (c) added....27879
1096.85 (a) revised....27879
1097.2—1097.95 Reinstated....6679
Removed....35361
1098.2—1098.94 Removed....35362
1098.61 (a) in part and (b) suspended....40727
1099 Referendum order....35362
1099.2—1099.86 Reinstated....6691
1099.15 Revised....43519
1099.16 Revised....43519
1099.19 Added....43519
1099.40 Revised....43519
1099.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....43520
1099.43 (d) added....43520
1099.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) and (11) introductory text amended....43520
1099.45 (b) revised....43521
1099.60 (d), (f) and (g) revised; (h) and (i) added....43521
1099.76 (a)(3) and (5) revised; (c) added....43521
1099.85 (b) revised....43522
1106.6 Suspended in part....8896
1106.7 (b)(1) and (2) suspended in part....8896
1106.13 (d)(1) temporarily suspended through 8-31-93....14308
1106.15 Revised....27879
1106.16 Revised....27880
1106.19 Added....27880
1106.40 Revised....27880
1106.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27880
1106.43 (d) added....27881
1106.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i),

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

(ii) introductory text and (11) introductory text amended....27881
1106.45 (b) revised....27881
1106.52 (b)(1) revised....27881
1106.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27881
1106.76 (a)(3) and (5) revised; (c) added....27882
1106.85 (c) revised....27882
1108.15 Revised....27882
1108.16 Revised....27882
1108.19 Added....27883
1108.32 (b)(1)(ii) amended....36861
1108.40 Revised....27883
1108.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27883
1108.43 (d) added....27884
1108.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27884
1108.45 (b) revised....27884
1108.52 (b)(1) revised....27884
1108.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27884
1108.61 Heading and (a) amended; (b) removed....36861
1108.73 (a)(2) amended; (c)(2)(ii) removed....36861
1108.75 (a) amended....36861
1108.76 (a)(3) and (5) revised; (c) added....27885
1108.85 (c) revised....27885
1108.90 Removed....36861
1108.91 Removed....36861
1108.92 Removed....36861
1108.93 Removed....36861
1108.94 Removed....36861
1108.95 Removed....36861
1108.96 Removed....36861
1124 Marketing percentages....5255
1124.15 Revised....27885
1124.16 Revised....27885
1124.20 Added....27885
1124.40 (a), (b) and (c) revised....27886
1124.42 (a)(1) amended; (d)(2)(vi) and (vii) revised; (e) removed....27886
1124.43 (f) added....27886
1124.44 (a)(6) amended; (a)(7), (8)(i) and (10) revised....27887
1124.45 (b) revised....27887
1124.52 (d)(1) revised....27887
1124.60 (d) and (f) revised; (g) redesignated as (j); new (g), (h) and (i) added....27887
1124.76 (b)(3) and (4) revised; (c) added....27887
1124.85 (b) revised....27888
1126.7 (d) introductory text and (e) introductory text suspended in part through 7-1-95....40729
1126.13 (e)(1), (2) and (3) suspended in part through 7-1-95....40729
1126.15 Revised....27888
1126.16 Revised....27888
1126.21 Added....27888
1126.40 Revised....27888
1126.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27889
1126.43 (d) added....27889
1126.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27889
1126.45 (b) revised....27890
1126.52 (b)(1) introductory text revised....27890
1126.60 (d) and (f) revised; (g) and (h) amended; (i), (j) and (k) added....27890
1126.76 (a)(3) and (5) revised; (c) added....27890
1126.85 (c) revised....27891
1131.15 Revised....27891
1131.16 Revised....27891
1131.19 Added....27891
1131.40 Revised....27891
1131.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27892
1131.43 (d) added....27892
1131.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27892
1131.45 (b) revised....27892
1131.60 (d) and (f) revised; (g), (h) and (i) added....27893
1131.76 (a)(3) and (5) revised; (c) added....27893
1131.85 (a)(2) revised....27893
1134.15 Revised....27893

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

Page

1134.16 Revised....27894
1134.20 Added....27894
1134.40 Revised....27894
1134.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27895
1134.43 (d) added....27895
1134.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27895
1134.45 (b) revised....27895
1134.60 (d), (f) and (g) revised; (h) and (i) added....27895
1134.76 (a)(3) and (5) revised; (c) added....27896
1134.85 (b) revised....27896
1135.15 Revised....27896
1135.16 Revised....27896
1135.20 Added....27896
1135.40 Revised....27897
1135.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27897
1135.43 (d) added....27897
1135.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27898
1135.45 (b) revised....27898
1135.60 (d) and (f) revised; (g), (h) and (i) added....27898
1135.76 (a)(3) and (5) revised; (c) added....27898
1135.85 (b) revised....27899
1137.7 (b) suspended in part through 2-94....40730
1137.12 (a)(1) suspended in part through 8-94....40730
1137.15 Revised....27899
1137.16 Revised....27899
1137.20 Added....27899
1137.40 Revised....27899
1137.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27900
1137.43 (d) added....27900
1137.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27900
1137.45 (b) revised....27901
1137.60 (d), (f) and (g) revised; (h) and (i) added....27901
1137.76 (a)(3) and (5) revised; (c) added....27901

Page

1137.85 (b) revised....27902
1138.15 Revised....27902
1138.16 Revised....27902
1138.21 Added....27902
1138.40 Revised....27902
1138.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27903
1138.43 (d) added....27903
1138.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27903
1138.45 (b) revised....27903
1138.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27904
1138.76 (a)(3) and (5) revised; (c) added....27904
1138.85 (c) revised....27904
1139.10 (b)(1)(ii) revised....32435
1139.13 (d)(1) and (2) revised....32435
1139.15 Revised....27904
1139.16 Revised....27905
1139.21 Added....27905
1139.40 Revised....27905
1139.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27905
1139.43 (d) added....27906
1139.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27906
1139.45 (b) revised....27906
1139.50 (d), (e) and (f) revised....32436
1139.53 Revised....32436
1139.60 (e) and (g) revised; (j), (k) and (l) added....27906
1139.61 (a) amended....27907
1139.71 (a) introductory text revised; (c) added....32436
1139.72 Revised....32436
1139.74 (c) introductory text and (e) revised....32436
1139.75 (a) revised....32436
1139.76 (a)(1)(iii) and (v) revised; (c) added....27907
1139.85 (b) revised....27907
1160 Added....46763

TITLE 7

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

Page
1207.510 (b)(1), (2), (3) and (c) revised.....3359
1209.1—1209.77 (Subpart A) Added.....3449
1209.200—1209.280 (Subpart B) Added; interim.....8197
1210.401 (f) amended.....3355
1210.403 (h) revised.....3355
1210.404 Removed.....3356
1210.517 (a)(3) through (11) redesignated as (a)(4) through (12); new (a)(3) added; new (a)(9) and new (10) revised.....3356
1210.540 Revised (OMB number).....3356
1211 Authority citation revised.....41024
1211.51 (g) suspended through 10-31-93; interim.....41024
1211.251 (h) introductory text revised.....3362
1211.300—1211.310 (Subpart D) Added; interim.....38280
1212.251 (l) introductory text revised.....3366
1220 Authority citation revised.....32437
1220.312 (d) revised; interim.....40732
1220.315 Removed; interim.....40732
1220.400—1220.402 (Subpart C) Added; interim.....32438
Regulation at 58 FR 32438 confirmed.....47984
1230.110 Revised.....47205
1250.519 Added.....34697
1260.141 (a) revised.....12999

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1410.13 (a) removed; (b), (c) and (d) redesignated as (a), (b) and (c).....4064
1410.103 (d)(2), (3), (4) and (f)(2) revised.....4064
1410.108 Introductory text and (b) amended.....4064
1410.110 (d) revised.....4064
1413.11 (b)(4)(iii) added.....12331
1413.54 (a)(2) and (d) revised.....4305
(b), (c)(1) and (e) revised.....12331
(a)(5)(ii) and (d)(3)(ii) revised; (a)(5)(iii) and (d)(3)(iii) added.....12333
(a)(4)(ii) and (d)(3) revised; (a)(4)(iii) added.....15417
(a)(3)(ii) and (d)(3)(iv) revised; (a)(3)(iii) and (d)(3)(v) added.....15756
(d)(3)(iii) correctly designated.....18304
1413.104 (a)(8) and (b) revised.....12333
1413.109 (d) revised.....12333
1421 Authority citation revised.....14498
1421.1 (c)(1) revised.....38664
1421.4 (i) revised; interim.....14498
1421.5 (b)(1), (2)(i), (ii), (4)(ii), (c)(2) introductory text, (i), (d)(2), (f) and (i) revised; (e)(3) added; interim.....14499
1421.6 (c) revised; (e) added; interim.....45040
1421.7 (c)(2) through (6), (9) and (10) revised.....4306
(c)(8)(iii) added.....33886
1421.8 (a) and (c) revised; interim.....14499
1421.12 (d) revised; interim.....14500
1421.13 Removed; interim.....14500
1421.14 (b) revised; interim.....14500
1421.15 Revised; interim.....14500
1421.16 Revised; interim.....14500
1421.17 (a)(2) introductory text, (3) introductory text, (b)(1), (c) introductory text, (1), (e) and (f) revised; (g), (h) and (i) removed; interim.....14502
1421.18 (b)(2), (5), (7)(i), (9)(iv), (10), (12)(ii), (iv)(D), (v) introductory text, (13)(iii), (iv)(D)(3), (v) introductory text, (vi), (vii), (14)(iii), (v) introductory text, (vi), (15)(ii)(E), (F) and (G) revised; (b)(13)(viii), (14)(iv)(F), (G), (H) and (15)(ii)(D)(5) added; interim.....14502
1421.19 (a) revised; interim.....14503

Page
1421.20 (a) introductory text, (b) and (c)(1)(ii) revised; interim.....14503
(b) revised.....38665
1421.22 (d) added; interim.....14503
1421.25 (a)(1) introductory text and (ii)(A) revised; (d) removed; (e) and (f) redesignated as (d) and (e); interim.....14504
(d) redesignated as (f); (e) removed; new (d) and (e) added.....38665
1421.27 (a)(2)(ii) revised; (a)(2)(iii) added.....33886
1421.29 (b)(3) redesignated as (b)(4); new (b)(3), (h) and (i) added; (f) revised; interim.....14504
1421.203 Revised; interim.....14504, 45040
1421.210 (b)(5)(iv) revised; interim.....14504
1421.214 Revised; interim.....14505
1421.217 (c) revised.....38510
1421.740 Correctly designated.....28446
1427.3 Regulation at 57 FR 40594 confirmed.....15262
1427.4 Regulation at 57 FR 40595 confirmed.....15262
1427.5 Regulation at 57 FR 40595 confirmed.....15262
1427.6 Regulation at 57 FR 40595 confirmed.....15262
1427.7 Regulation at 57 FR 40595 confirmed.....15262
1427.8 (a)(2)(ii) revised; (a)(2)(iii) added.....12333
(a)(1)(ii) revised; (a)(1)(iii) added.....15756
1427.9 Regulation at 57 FR 40595 confirmed.....15262
1427.11 Regulation at 57 FR 40595 confirmed.....15262
1427.12 Regulation at 57 FR 40596 confirmed.....15262
1427.15 Regulation at 57 FR 40596 confirmed.....15262
1427.17 Regulation at 57 FR 40596 confirmed.....15262
1427.18 Regulation at 57 FR 40596 confirmed.....15262
1427.19 Regulation at 57 FR 40596 confirmed.....15262
1427.23 Regulation at 57 FR 40596 confirmed.....15262
1427.25 (f)(1) revised; interim.....41994
1427.107 (d)(3) revised; (e) and (f) redesignated as (f) and (g); new (e) added; interim.....42843
1427.109 (c)(3) and (e) revised; interim.....42843
1427.167 Regulation at 57 FR 40597 confirmed.....15262
1427.168 Regulation at 57 FR 40597 confirmed.....15262
1427.175 Regulation at 57 FR 40597 confirmed.....15262
1434.3 (a), (f) and (g) revised; interim.....14505
1434.4 (a), (b)(1) introductory text, (2) introductory text, (2)(i) and (f) revised; interim.....14505
1434.5 Removed; interim.....14505
1434.6 Heading and (a) revised; interim.....14505
1434.7 (b) and (c) revised; interim.....14505
1434.9 (a)(1) and (2)(i) revised; interim.....14506
1434.10 (a) and (e) revised; interim.....14506
1434.15 (c) revised; interim.....14506
1434.16 (a)(1) revised; interim.....14506
1434.19 Removed; interim.....14506
1434.22 (a), (b) introductory text, (e) and (f) revised; (g) removed; interim.....14506
1434.23 Revised; interim.....14507
1434.24 Heading, (a)(3), (d) and (e)(2) revised; interim.....14508
1434.25 (a)(2)(i) revised; (f) removed; (g) and (h) redesignated as (f) and (g); interim.....14508
1434.26 (b)(3) redesignated as (b)(4); new (b)(3) added; (e) removed; (f) redesignated as (e) and revised; interim.....14508
1434.27 (c) revised; interim.....14508
1434.32 (b) amended; interim.....14508
1435.500—1435.529 (Subpart) Added; interim.....36124
1435.530 Added; interim.....41995
1446.303 (g)(5) amended; interim.....41626
1464 Authority citation revised.....11962
1464.12 Redesignated as 1464.24; new 1464.12 added.....11962

TITLE 7 Chapter XIV—Con. Page

1464.13 Added....36863
1464.14 Added....36863
1464.15 Added....36863
1464.16 Added....36863
1464.17 Added....36863
1464.18 Added....36863
1464.19 Added....36859
1464.24 Redesignated from 1464.12....11962
1477 Authority citation revised....9108
1477.3 Amended....9108
1477.4 Revised....9109
1477.5 (a)(3) and (4)(ii) amended; (a)(5) added....9109
1477.7 (b) and (d) revised; (e) and (f) added....9109
1477.8 Revised....9109
1477.9 (a)(1) revised....9109
1477.10 (d)(2) and (e) revised....9110
1477.12 (c) revised....9110
1477.20 Redesignated as 1477.21; new 1477.20 added....19768
1477.21 Redesignated from 1.477.20....19768
1478 Authority citation revised....9110
1478.1 (a) revised....9110
1478.3 (b) amended....9110
1478.4 Revised....9111
1478.5 Revised....9111
1478.6 Revised....9111
1478.8 (d) and (e) revised....9111
1478.9 Revised....9112
1493 Authority citation revised....11789
1493.200—1493.340 (Subpart C) Added; interim....11789
1493.210 Corrected....13684
1493.220 Correctly designated....15901, 21218

Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1540.40—1540.45 (Subpart C) Added; interim....16104

Chapter XVI—Rural Telephone Bank, Department of Agriculture (Parts 1600—1699)

1627 Added; interim....18144

Chapter XVII—Rural Electrification Administration, Department of Agriculture (Parts 1700—1799)

Page

1703 Authority citation revised....11512
Extension of application deadline....13195
1703 (Subpart C) Heading added....21639
1703.100—1703.140 (Subpart D) Added....11512
1703.300—1703.313 (Subpart E) Added....21639
1728.97 (b) amended....41396
1728.201 Added....41396
1728.202 Added....41396
1755 Authority citation revised....29328, 29338
1755.97 Table amended...29328, 29338, 30938, 41408
1755.98 Heading and text revised....41408
1755.390 Added....29338
Appendix A corrected....32749
1755.522 Added....30938
Appendix D corrected....36252
1755.890 Added....29328
1786.25—1786.49 (Subpart B) Heading revised; interim....51008
1786.150—1786.199 (Subpart F) Added; interim....51008
1786.200—1786.210 (Subpart G) Added; interim....51008
1792 Added....32440

Chapter XVIII—Farmers Home Administration, Department of Agriculture (Parts 1800—2099)

1809 Removed; interim....44750
1822.261 Amended....224
1823.401 Amended....224
1823.401—1823.418 (Subpart N) Exhibit A amended; interim....44752
1900.51—1900.100 (Subpart B) Exhibit D revised....4065
1900.151—1900.156 (Subpart D) Added....224
1901.2 Amended....226
1901.204 (a)(20) revised; (a)(24) and (25) added....5565
(a)(20) correctly designated....12632

Page

Regulation at 58 FR 5565 confirmed....42639
1901.1 Introductory text amended....44263
1910 Authority citation revised....48283
1910.3 (a)(7) added....226
(a)(3) and (4)(ii) amended....44263
1910.4 Introductory text amended....226
(i) and (k) amended....44263
(b)(19), (c) and (f) amended; (g) revised; interim....44746
(i) amended; interim....44747
(b)(24) added; (g)(1) and (h) revised; interim....48283
1910.6 (a) revised; (b)(1) amended; interim....44747
1921.9 (f)(2)(iv)(A), (vi)(C), (viii)(A), (C), (G), (H), (xi)(E)(5), (xiii)(G), (xiv)(B)(5), (6) and (g)(2)(iv)(A) introductory text revised; (f)(2)(ix)(B) through (G) and (f)(2)(xii)(F)(*1*), (*2*) and (*3*) redesignated as (f)(2)(ix)(C) through (H) and (f)(2)(F)(xii)(*2*), (*3*) and (*4*); (f)(2)(viii)(I), (ix)(B), new (f)(2)(xii)(F)(*1*), (xiii)(E)(5), (*6*) and (*7*) added; (f)(2)(xiv)(B)(*7*) through (*12*) removed; interim....14499
1922.201—1922.250 (Subpart E) Added; interim....44750
1924 Authority citation revised....48283
1924.1—1924.50 (Subpart A) Exhibit I amended....38922
1924.4 Amended....26680
1924.56 (b)(3) added; interim....48283
1924.57 (d)(1)(iv) amended....26680
1924.60 (a)(4) through (11) redesignated as (a)(5) through (12); (a) introductory text revised; new (a)(4) added; interim....48283
1927.52 Amended....34868
1927.54 (c) introductory text amended....34868
1927.55 (c) and (d)(4) amended....34868
1927.56 (b) amended....34868
1927.58 (g) and (h)(3) amended....34868

Page

1927.59 (a)(1) introductory text amended....34868
1930 Authority citation revised....40868
1930.101—1930.150 (Subpart C) Revised....40868
Exhibit B amended....38922
Exhibit E amended....38923
Exhibit C amended....44263
1940 551—1940.600 (Subpart L) Exhibit B revised; interim....38950
1940.590 (i) added....5565
Regulation at 58 FR 5565 confirmed....42639
1941 Authority citation revised....48283
1941.1 Amended....226
Amended; interim....48282
1941.4 Amended; interim....48283
1941.14 (b) amended; interim....48284
1941.15 Added; interim....48284
1941.17 (a) through (d) redesignated as (b) through (e); new (a) and (f) added; interim....48286
1941.25 (a)(3) redesignated as (a)(5) and revised; new (a)(3) and (4) added....26680
(a) introductory text amended; interim....44752
(a)(3) and (5)(iii) removed; (a)(4) and (5) redesignated as (a)(3) and (4); interim....48286
1941.29 Heading, (b) introductory text, (1), (2), (c) introductory text and (3) amended; interim....44747
1941.30 Revised; interim....44747
Amended; interim....48286
1941.33 (a) amended; interim....48282
1941.1—1941.50 (Subpart A) Exhibit A amended; interim....44752, 44753
1941.51 Amended; interim....48282
1941.54 (b)(2) revised; (b)(3) amended; interim....48286
1941.84 (a) and (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and (g) revised....26680
1941.88 (c) amended....26680
1941.92 Amended....26681
1942.1 (a) amended....226

TITLE 7 Chapter XVIII—Con. Page

1942.17 (q)(4)(i)(B)(*1*), (ii) introductory text and (B) heading and introductory text amended; (q)(4)(i)(A)(*2*)(*iii*) and (ii)(A) heading revised....30102
1942.101 Amended....226
1942.301 Amended....226
1942.351 (a) amended....226
1942.402 (a) amended....226
1942.451 Amended....227
1942.501 (a) amended....227
1943 Authority citation revised....48287
1943.1—1943.50 (Subpart A) Heading amended; interim....48282
1943.1 Amended....227
Amended; interim....48282
1943.4 Amended....26681
Amended; interim....48287
1943.14 Added; interim....48287
1943.16 (a)(4) added; interim....48288
1943.17 (a)(1) amended; interim....48282
(a)(4) and (5) added; interim....48288
1943.24 (d)(1) and (2) revised....26681
1943.25 (c)(1) introductory text revised....26681
(c)(2) amended; interim....44752
1943.28 (a) amended; interim....48288
1943.29 (d) amended; interim....44747
Heading, (b)(1) and (2) amended; interim....48282
(a) and (b) introductory text amended; interim....48288
1943.30 Revised; interim....44747
Amended; interim....48288
1943.32 (a) amended; interim....44752
1943.38 (g)(3)(ii) revised; (g)(3)(iii) amended; interim....48288
1943.51—1943.100 (Subpart B) Heading amended; interim....48282
1943.51 Amended....227
Amended; interim....48282
1943.54 Amended....15072, 26681
Amended; interim....48288
1943.57 Added....15072
1943.62 (a)(3) through (7) redesignated as (a)(4) through (8) and (b)(4) through (9) redesignated as (b)(5) through (10); (a)(1), new (a)(8), (b)(3) and new (b)(9) amended; new (a)(3), new (b)(4), (11) and (12) added; new (a)(7) and new (b)(8) revised....15072
1943.66 Revised....15073
1943.67 (a), (b) and (c) redesignated as (c), (d) and (e); new (e) amended; new (a) and new (b) added....15074
1943.68 (c) revised....15074
1943.73 (d), (f)(1) and (2) amended; (f)(2)(iii) and (4) removed....15074
1943.74 (d)(1) and (2) revised....26681
1943.75 (c)(1) introductory text revised....26681
(c)(2) amended; interim....44752
(c)(4)(iii) amended; interim....48289
1943.79 (c)(1) revised....15074
Heading, (a), (c) introductory text, (1) and (d) amended; interim....44748
(d) amended; interim....48289
1943.80 Revised; interim....44748, 48289
1943.82 (a) amended; interim....44748, 44752
1943.88 (g)(3)(ii) revised; (g)(3)(iii) amended; interim....48289
1944 Authority citation revised....227
1944.1 Amended....227
1944.3 (b)(9) and (14) revised....48301
1944.17 (a) introductory text revised....48301
1944.24 (c)(2) amended; interim....44752
1944.30 (a) amended; interim....44752
1944.37 (f) and (g) amended....227
1944.39 Revised....227
1944.151 Amended....227
1944.153 Amended....40951
1944.157 (a)(7)(iii) amended; interim....44753
1944.158 (n) added....38923
1944.164 (n) heading and (o) amended; (p) revised....38923
1944.169 (i) heading and (2) revised....40951
(a)(1)(i) amended; interim....44752
1944.170 Introductory text added....40951
1944.171 (d) table amended....38923
1944.176 (d)(3) removed; (d)(4), (5) and (6) redesignated as (d)(3), (4) and (5); (d)(2) revised....38923
1944.151—1944.200 (Subpart D) Exhibit B amended....40951
1944.201 Amended....227
1944.205 Amended...38924, 40951, 44263
1944.211 (a)(10)(ii) introductory text and (B) revised; (a)(11), (12) and (13) redesignated as (a)(12), (13) and (14); new (a)(11) added....38924
(a)(6)(iv) revised....40952
(a)(4) amended....44263
1944.212 Heading revised; (q) added....38924
1944.213 (b)(1) amended; (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) added....38924
(c)(5) through (11) redesignated as (c)(6) through (12); (b) and new (c)(11) revised; new (c)(5) and (f) added....44263
1944.215 (b)(2), (c)(5)(ii), (h)(1) and (r)(3) amended; (d), (j), (n) introductory text and (r)(2) revised; (n)(3) added....38924
(b)(5), (6), (7) and (c)(5)(ii) amended....40953
(n) introductory text, (r)(2), (4) and (7) revised....44265
1944.222 (k) heading and (2) revised....40953
(a) and (h) amended....44265
1944.224 (a)(2)(i) amended....38925
(a) introductory text, (1), (2) introductory text, (i), (iii), (vi), (4), (5) introductory text, (iii), (iv), (7), (8), (b) introductory text, (1)(iv), (2), (7), (c)(2) and (5) amended....40953
1944.231 Revised....44265
1944.232 Revised....44272
1944.235 (a)(1) amended....38925
(h) heading, introductory text, (1), (2) and (3) amended....40954
(c)(1)(iv) amended....44272
1944.236 (b)(5) removed; (b)(6) redesignated as (b)(5) and revised; new (b)(6) and (7) added....38925
1944.237 (a) and (e) revised; (f) and (g) added....38925
(c)(1), (2) and (d)(2) revised....44273
1944.238 Amended....38925
1944.239 (c) introductory text revised; (d) added....40954
1944.201—1944.250 (Subpart E) Exhibit A-11 added....38925
Exhibits A, A-6 and E amended....40954
Exhibit A-10 revised....44273
1944.250 Amended....44273
1944.251—1944.300 (Subpart F) Technical correction....14509
1944.258 OMB number....14510
1944.266 OMB number....14510
1944.284 OMB number....14510
1944.286 OMB number....14510
1944.401 Amended....227
1944.451 Amended....228
1944.463 (d)(2) amended; interim....44752
1944.475 Added; interim....5565
Regulation at 58 FR 5565 confirmed....42639
1944.451—1944.500 (Subpart J) Exhibit D added; interim....5565
Exhibit D corrected....12632
Regulation at 58 FR 5565 confirmed and amended....42639
1944.501 Amended....228
1944.552 (a) revised....40954
1944.553 (h) added....38925
(e) revised....40954
1944.554 (b) revised....40954
1944.651—1944.700 (Subpart N) Revised....21894
Regulation at 58 FR 21894 effective date delayed to 9-1-93....30102
1944.651 (a) amended....228
1945 Authority citation revised....48289
1945.6 (c)(3)(iii)(B) amended....26681
1945.101 (a) amended....228
1945.111 (b) amended; interim....44752
1945.120 (b)(5)(ii)(A) amended; interim....44752
1945.151 (a) amended....228
(a) amended; interim....48282
1945.154 (a)(1) through (36) designations and (b)(1) through (14) designations removed; (a) amended....26681
(a) amended; interim....48289
1945.161 (a)(1) amended; interim....48290

TITLE 7 Chapter XVIII—Con. Page

1945.163 (a)(2)(ii), (v) and (viii) amended....26682
1945.169 (n)(1)(iii) amended; interim....44753
(c)(2) revised; (c)(3) amended; interim....49290
1945.175 (c)(1) revised....26682
(c)(1) amended; interim....44752
(c)(2) introductory text amended; interim....44753
1945.180 Amended; interim....48290
1945.182 (a) amended; interim....48290
1945.189 (a)(1)(i) and (ii) added; (a)(2)(i) amended....26682
1948.51 Amended....228
1948.101 (a) amended....228
1951 Authority citation revised....15418, 40954
1951.25 Heading and (a) revised; (b)(3) amended....15074
1951.201 Revised; interim....5566
Regulation at 58 FR 5566 confirmed....42639
1951.251 Amended....38925
1951.252 (d) amended....38925
1951.261 (d)(3) revised; (d)(4) redesignated as (d)(5); new (d)(4) added; (e)(2)(iii) and (5) amended....38925
1951.264 Revised....38926
1951.506 (a)(1), (2) and (5)(v) revised; (a)(3), (5)(i), (ii), (iii) and (c) amended; (a)(7) added....40954
1951.507 (e) revised....40955
1951.510 (c)(2) introductory text amended; (c)(3) redesignated as (c)(4); (c)(1) and new (4) revised; new (c)(3) added....40955
1951.512 Amended....40955
1951.517 (a) amended; (b)(3)(ii) and (4) revised....40955
1951.501—1951.550 (Subpart K) Exhibit B amended....40956
1951.651 Revised....38926
1951.652 (g) amended....38926
1951.653 Revised....38926
1951.654 (e) added....38926
1951.656 (e) amended....38926
1951.658 (a) introductory text revised....38926
1951.661 (a)(1)(i) amended....38926
1951.668 (c) added....38926

Page

1951.901 Amended....228
1951.909 (e)(4)(iv) through (viii) and (h)(v) through (x) redesignated as (e)(4)(vii) through (xi) and (h)(4)(ix) through (xiv); (e)(4)(ii), (iii) and (h)(4)(iv) revised; new (e)(4)(iv), new (v), new (vi) and new (h)(4)(v) through (viii) added; interim....30104
(f)(1) introductory text amended; interim....44752
(i)(3)(iii) and (4)(ii) amended; interim....44753
1951.910 (a)(1) amended; interim....44753
1951.911 (a)(6)(ii) and (7)(ii) amended; interim....44752
(a)(7)(ii) amended; interim....44753
1951.916 Revised....4066
Existing text designated as (a); new (a) heading and (b) added; interim....15418
1951.901—1951.950 (Subpart S) Exhibit A amended; interim....30105
Exhibit J-1 amended; interim....30106
1951 Exhibit F amended; interim....44753
1955 Authority citation revised....48290
1955.10 (h)(6) amended....38926
(e) introductory text amended; interim....44752
1955.15 (f)(2) through (6) redesignated as (f)(3) through (7); (d)(2) introductory text, (iv)(D), (3)(ii)(C), new (f)(6) and new (7) introductory text amended; (d)(2)(v) and new (f)(2) added....38927
1955.18 (e)(2)(ii) amended; (l) added....38927
1955.1—1955.50 Exhibits G and G-1 amended; interim....44752
1955.66 (h)(2) amended; interim....44752
1955.103 Amended; interim....44752, 48290
1955.107 (c) amended; interim....44752
1955.113 Introductory text amended....38927

Page

1955.114 (a)(3)(ii) amended; (b) revised....38927
(c) introductory text revised....38949
1955.115 (b) amended....38928
1955.117 (b) amended....38928
1955.118 (b)(7) amended....38928
1955.122 (a) through (f) redesignated as (b) through (g); new (a) added; new (b) revised; interim....48290
1955.146 (c) and (d) redesignated as (d) and (e); new (c) added....38928
1956.51 Revised....21344
1956.54 Amended....21344
1956.57 (b) and (h) heading revised; (c) and (g)(1)(i) amended; (k) removed; (l) redesignated as (k)....21344
1956.58 Removed....21345
1956.66 (a)(2) and (b) introductory text amended; (b)(1) introductory text and (b)(2) removed; (b)(1)(i), (ii) and (iii) redesignated as (b)(1), (2) and (3); (a) introductory text and new (b)(3) revised; (c) added....21345
1956.71 Added....21345
1956.84 Added....21345
1956.85 (b)(1) amended....21345
1956.86 Added....21345
1956.96 Revised....21345
1956.97 Redesignated from 1956.98; (a) and (c) amended; (d) added....21346
1956.98 Redesignated as 1956.97....21346
1956.101 Revised; interim....5566
Regulation at 58 FR 5566 confirmed....42639
1956.137 (d)(5) amended....21346
1956.145 Introductory text, (b) and (c) amended....21346
1956.146 Added....21346
1962.16 (a) amended....46075
1962.17 (a)(1) introductory text, (3), (b)(1), (2)(i) and (vii) revised; (a)(2), (b)(2)(ii) and (iii) amended....46075
1962.47 (b)(2)(i) amended; (c) and (d) redesignated as (d) and (e); new (c) added....21346
1965.11 (c)(2)(ii)(A) amended....38928
1965.12 (a)(6) amended....26682
(d) and (f) amended; interim....44752

Page

(d) and (g) amended; interim....44753
1965.13 (d) introductory text amended; interim....44752
1965.25 (d)(1) amended; interim....44752
1965.26 (a)(2) amended; interim....44752
1965.27 (g)(5) and (h)(1) introductory text amended; interim....44752
1965.55 (a)(7) amended....38928
1965.61 (e)(2) introductory text and (iv) amended....40956
1965.65 (c)(11) through (15), (d)(7), (f)(13) and (14) redesignated as (c)(12) through (16), (d)(8), (f)(14) and (15); new (c)(11), new (d)(7) and new (f)(13) added; (c)(10) introductory text, new (c)(12), new (d)(8) and (f)(12) amended; (b)(3), (4), (c)(1), (3), (5), (f)(4) introductory text, (7) introductory text and (8) revised....38928
(b)(11) amended....40956
1965.68 (c)(3) amended; (c)(7) revised; (c)(8) redesignated as (c)(9); new (c)(8) added....38930
1965.70 (a) and (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3) added; (d)(8) revised....38930
1965.77 (d)(2)(iii) amended....38930
1965.89 (c) introductory text, (1) and (d) amended....38930
1965.90 Revised....38930
1965.92 Amended....38930
1965.100 Amended....38930
1965.51—1965.100 (Subpart B) Exhibits A, B, C, E, E-1, E-2, E-3 and E-4 removed....38930
1965.126 (c)(2) revised....4067
1965.201—1965.250 (Subpart E) Added....38931
1965.204 (b) amended....40956
1965.214 (f)(2) amended....40956
1980 Authority citation revised....48291
1980.6 (a) and (b) amended; interim....34306
(a) amended; interim....48291
1980.11 Amended; interim....34307

TITLE 7 Chapter XVIII—Con. Page

1980.13 (b) introductory text, (2), (4) and (c) revised; interim....34307
1980.20 (a) introductory text amended; interim....34307
1980.21 (a) revised; interim....48291
1980.22 (a) revised; interim....48291
1980.46 (a)(1) and (2) introductory text revised; interim....34307
1980.60 (a) introductory text revised; interim....34307
1980.61 (a), (b)(1), (3), (4) and (d) revised; interim....34308
1980.62 Revised; interim....34308
1980.63 (a) revised; interim....34308
1980.64 (a) revised; interim....34308
1980.65 Revised; interim....34308
1980.66 Revised; interim....34308
1980.83 (a) revised; interim....34308
1980.84 (b)(4) revised; interim....34308
1980.1—1980.100 (Subpart A) Appendix E revised; interim....34309
Appendix F revised; interim....34312, 48292
1980.101 (a) amended....228
(a) revised; interim....34329
1980.106 (b)(1) and (17) introductory text revised; (b)(17)(iii) amended; interim....34329
(b) amended; interim....48296
1980.108 (b)(4) added; (d) introductory text revised; (d)(2) introductory text removed; (d)(2)(i) and (ii) redesignated as (d)(2) and (3)....15074
(b)(2), (d) heading, (1), (2) introductory text, (i) and (ii) amended; interim....48282
(a)(2)(i) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii) and (iii); new (a)(2)(i) revised; (b)(1) amended; (e) added; interim....48296
1980.109 (a)(2)(ii) amended; (a)(2)(iv) removed; (a)(2)(iii) revised; interim....48297
1980.113 Revised; interim....34329
1980.114 Introductory text revised; undesignated text amended; interim....34331
Introductory text amended; interim....44748
Amended; interim....48297
1980.115 Revised; interim....34331
Introductory text, (a) and (b) revised; interim....44748
Introductory text revised; interim....48297
1980.116 Revised; interim....34332
Amended; interim....44748
1980.117 Introductory text removed; (a) through (d) added; undesignated text amended; interim....34332
Amended; interim....44748
1980.118 (d) added; (b) and (c) revised; undesignated text amended; interim....34332
Corrected....40190
1980.119 Added; interim....34332
1980.122 Amended; interim....34334
1980.123 (b), (c), (h) and undesignated text amended; interim....34334
1980.124 (a)(1) revised; interim....48297
1980.125 (c)(4) and (d)(4) revised; interim....34334
1980.130 Revised; interim....34334
1980.131 Added; interim....34335
1980.136 Revised; interim....34335
1980.139 Revised; interim....34335
1980.144 (a) introductory text and (d) revised; undesignated text amended; interim....34335
1980.145 (a) and (b) revised; undesignated text amended; interim....34336
1980.146 Revised; interim....34336
1980.147 Revised; interim....48297
1980.175 (b) introductory text and (f)(2) revised; interim....34338
(c)(1)(iv), (d)(1) and (h)(2) amended; interim....48282
(b)(2)(iv)(A) and (e)(2) amended; (d)(1) through (5) redesignated as (d)(2) through (6); new (d)(1) and (7) added; (e)(1) revised; interim....48297
1980.176 Added; interim....48298
1980.180 (c)(1)(iv), (d)(4) and (5) added; interim....48299
1980.185 (b)(1)(iii) through (vii) redesignated as (b)(1)(iv) through (viii), (b)(2)(iv) through (ix) redesignated as (b)(2)(v) through (x) and (d)(1), (2) and (3) redesignated as (d)(2), (3) and (4); (b)(1)(i), new (viii), (2)(iii) and new (ix) amended; new (b)(1)(iii), new (b)(2)(iv), (xi), (xii) and new (d)(1) added; new (b)(1)(vii), new (2)(viii) and (c) revised....15074
(b) introductory text revised; interim....34338
(b)(1)(i) and (2)(iii) amended; interim....48299
1980.190 Added; interim....34339
1980.101—1980.200 (Subpart B) Exhibit A amended; interim....34341
Exhibit D amended; interim....34342
Exhibit E amended; interim....44748
Exhibit C revised; interim....44753
Exhibits A and E amended; interim....48300
1980.201 (a) amended....229
1980.207 Introductory text revised....229
1980.246 (c)(5)(i) amended; interim....44752
1980.301 (a) amended....229
1980.401 (a) amended....229
1980.441 Undesignated text removed....40039
1980.442 Introductory text revised; undesignated text added....40039
1980.498 (l)(4) amended; (m)(5)(iv) removed; interim....34342
(m)(5) introductory text, (6) introductory text and (8) heading revised; (m)(8)(iii) added....38952
(a) revised; interim....41172
(l)(4) and (m)(5)(iii) amended; (m)(3)(i) revised; interim....48300
1980.501 (a) amended....229
1980.601 Amended....229
1980.601—1980.700 (Subpart G) Appendix G revised; interim....34316
1980.801 (a) amended....229
1980.901 (a) amended....229
2003.1—2003.50 (Subpart A) Exhibit A amended; interim....5566
Regulation at 58 FR 5566 confirmed....42639

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3015.77 Removed....41412
3051 Added....41412

Chapter XXXIV—Cooperative State Research Service, Department of Agriculture (Parts 3400—3499)

3401 Revised....21852

Chapter XLII—Rural Development Administration, Department of Agriculture (Part 4284)

Chapter XLII Established; interim....5566
Regulation at 58 FR 5566 confirmed....42639
4284 Added....5566
4284.413 (b), (d) introductory text and (6) amended....42639
Exhibit A corrected....12632
4284.421 (b)(6) added....42639
4284.441 (b) introductory text revised....42639
4284.443 Amended....42639
4284.401—4284.500 (Subpart E) Exhibit A amended....42640

Title 7—*Proposed Rules:*

28 32454
29 ....3233, 13130
52 ....3816, 7296, 13130, 29985, 47071
54 32616
55 ....13130, 37872, 38602
56 ....3234, 37872, 38602
58 ....13130, 34933, 34937
59 ....3234, 13130, 37872, 38602
61 13130
68 ....3511, 14174, 45295, 49248
70 ....13130, 37872, 38602
75 32617
90—159 13130
180 13130
246 40755
250 29985

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 7 Proposed Rules—Con. Page

252 29985
275 ..... 5188, 7296
283 ..... 5188, 7296
300 ..... 11383, 42504
301 21113
319 ...11383, 32456, 42504, 44779, 47074
330 38308
354 260
400 37874
457 32458
723 3869
735 43298
781 3871
792 33029
800 41439
801 42257
907 8912
908 8912
920 ..... 33035, 34940
926 40756
932 8558
944 40758
945 ..... 33037, 42696
958 ..... 3234, 34944
966 44780
981 43565
1001 ..... 10993, 12634, 29133, 33347
1002 ..... 10993, 12634, 29133, 33347
1004 ...12634, 29133, 33347, 34725, 42881, 43572
1005 ..... 12634, 29133, 33347
1006 12634
1007 ...12634, 29133, 33038, 33347, 34946, 47653
1011 ..... 12634, 29133, 33347
1012 12634
1013 12634
1030 ...12634, 29133, 32464, 33347, 42258
1032 12634
1033 ..... 12634, 29133, 33347
1036 ..... 12634, 29133, 33039, 33347
1040 ..... 6447, 12634, 29133, 33347
1044 ..... 12634, 29133, 33347
1046 ..... 12634, 29133, 33347, 50526
1049 ..... 12634, 29133, 33347
1050 12634
1064 12634
1065 ..... 12634, 29133, 33347
1068 ..... 12634, 29133, 33347
1075 12634
1076 12634
1079 ..... 12634, 29133, 33347
1093 ..... 12634, 29133, 33347, 47653
1094 ..... 12634, 29133, 33347, 47653
1096 ..... 12634, 29133, 33347, 47653
1097 ..... 12634, 25576, 29133, 33347
1098 ...12634, 14344, 25577, 29133, 33347, 34230
1099 ..... 12634, 25577, 29133, 33347
1106 ..... 8559, 12634, 29133, 33347
1108 ..... 12634, 29133, 33347, 47653
1124 ..... 12634, 29133, 33347
1126 ..... 12634, 29133, 32465, 33347
1131 ..... 12634, 29133, 33347
1134 12634
1135 ..... 12634, 29133, 33347
1137 ..... 12634, 32467
1138 ..... 12634, 29133, 33347, 45295
1139 ..... 7996, 12634
1150 25785
1160 ..... 21512, 25900, 46877
1205 32066
1211 41203
1220 26933
1230 32468
1405 46886
1413 ..... 17807, 41641, 46886
1421 ..... 12338, 38311
1435 16126
1446 ..... 3514, 42882
1468 37876
1710 ..... 21661, 44288, 48800
1717 12552
1735 21661
1753 29363
1755 ..... 29363, 46097, 46110
1773 49442
1785 18043
1786 ..... 18043, 48465
1788 25786
1944 ..... 507, 48330
1956 4095
1980 46889
3515 11910

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

3.41 Added 38953
100.4 (d) amended 471, 3487
(c)(3) amended 38045
101.6 Redesignated as 204.11 42849
103.1 (f)(2)(xxxv) revised 42850

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

Page

(f)(2)(xxxvi) and (xxxvii) amended; (f)(2)(xxxviii) and (xxxix) added; interim 44608
Regulation at 57 FR 33861 confirmed 50836
103.7 (b)(1) amended; Form N-400 revised; interim 30699
(b)(2) amended 31148
103.8 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added 31148
103.10 (a)(2) amended 31148
(a)(1), (b)(1), (c)(2), (d)(1) and (e) revised; (c)(1) and (d)(2) amended; (b) and (f) removed 31149
103.11 Added 31149
103.20 (a) and (b) introductory text amended 31149
103.21 (a) and (b)(2) revised; (b)(3) removed; new (f) added 31149
103.22 (a) revised 31149
103.23 (a) revised 31149
(b) amended 31150
103.24 Amended 31150
103.25 (a) and (b) amended 31150
103.26 Amended 31150
103.27 Amended 31150
103.28 (a) revised; (b) through (f) amended 31150
103.30 (a) amended 31150
103.33 Amended 31150
103.35 Amended 31150
103.36 Amended 31150
204.1 (g)(1)(vii) revised; eff. 9-20-24 48776
204.6 (e) amended; interim 44608
(j) introductory text revised; (j)(4)(iii) and (m) added; interim 44609
204.9 Regulation at 57 FR 33861 confirmed; (a)(2) revised; (c)(3) removed; (c)(4) redesignated as (c)(3) 50836
204.10 Added; interim 30701
204.11 Redesignated from 101.6 42849
Revised 42850
205 Authority citation revised 42850
205.1 (a)(10) and (c)(4) removed; (c)(5) and (d) redesignated as (c)(5) and (e); introductory text, (a)(5), (6), (7), (b)(5), (6), (c) heading, (3) and new (4) amended; (d) added 42850
205.2 (a) and (b) amended 42851
208 Authority citation revised 12148
Regulation at 58 FR 12146 effective date corrected to 4-2-93 14145
208.7 (c) introductory text amended 12148
209 Authority citation revised 12148
Regulation at 58 FR 12146 effective date corrected to 4-2-93 14145
209.2 (c) amended 12149
211.1 (b)(1), (4) and (c) amended; (b)(3) revised; eff. 9-20-94 48778
211.3 Nomenclature change; eff. 9-20-94 48778
211.5 (a) and (b) amended; eff. 9-20-94 48778
212.1 (f)(3) amended 4891
(e)(3) amended; interim; effective through 7-15-94 38046
(f)(3) amended; interim 43438
214.2 (a)(10) corrected; CFR correction 49905
217 Authority citation revised 40581
217.5 (a) amended; interim 40581
223 Authority citation revised 48778
223.1 Amended; eff. 9-20-94 48778
223a Authority citation revised 48778
223a.4 Amended; eff. 9-20-94 48778
235.9 (b)(1) amended; eff. 9-20-94 48778
245.1 (a), (b)(4)(ii), (5) and (6) amended; (d)(3) added 42851
245.2 (a) amended; interim 35838
245.8 Regulation at 57 FR 33862 confirmed; (c) amended; (d) and (e) redesignated as (e) and (f); new (d) added 50836
245.9 Added; interim 35838
245a.2 (k)(4) amended; interim 45236
251.1 (c)(1) and (3) amended; eff. 9-20-94 48779
252 Authority citation revised 48779

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 8 Chapter I—Con. Page

252.1 (b)(1) amended; eff. 9-20-94....48779
264.1 (b) amended; (c)(2) removed; (c)(3) redesignated as (c)(2)....48779
264.2 Heading, (c)(1)(i) and (2)(i) revised; (c)(1)(vii) and (2)(ix) amended....48779
264.5 Added....48779
274a Regulation at 58 FR 12146 effective date corrected to 4-2-93....14145
274a.2 (b)(1)(v)(A)(5) revised; eff. 9-20-94....48780
274a.12 (a)(1) amended; eff. 9-20-94....48780
274a.13 (a) revised....12149
292.5 (b) amended; interim....49911
299.1 Amended; eff. 9-20-94....48780
299.5 Table amended; interim (OMB numbers)....49911
310.3 Revised; interim....49911
312.2 (b)(1) introductory text revised; (b)(1)(ii) amended; interim....49912
312.3 (a) revised; interim....49912
312.4 Amended; interim....49912
312.5 (a) revised; (b) amended; interim....49912
313 Heading revised; interim....49912
313.1 Amended; interim....49912
316 Authority citation revised....49912
316.2 (b) revised; interim....49912
316.4 (a)(2) amended; eff. 9-20-94....48780
316.5 (c) heading, (1)(i) introductory text and (3) revised; (c)(1)(ii) amended; interim....49912
316.10 (b)(1)(i) and (ii) revised; interim....49913
322.2 (a)(4)(i) and (b)(1)(iv) revised; interim....49913
329.2 (a)(4) amended; (a)(5) removed; (a)(6) redesignated as (a)(5); interim....49913
329.5 (c) amended; (d) and (e) revised; (g), (h) and (i) added....45420
334.2 (a) amended; eff. 9-20-94....48780
334.3 Removed; interim....49913
334.4 Revised; interim....49913
334.11 Revised; interim....49913
335.2 (a) and (c) introductory text revised; (c)(1) and (d) amended; interim....49913
335.3 (b) amended; interim....49914
335.5 Amended; interim....49914
335.6 Added; interim....49914
335.7 Added; interim....49914
335.9 (b) revised; interim....49914
336.2 (b) amended; (c) added; interim....49914
337.2 (a) revised; (b) amended; (c) added; interim....49915
337.3 Revised; interim....49915
337.7 Revised; interim....49915
337.8 Revised; interim....49915
337.10 Added; interim....49916
338.1 Revised; interim....49916
339.1 Revised; interim....49916
339.2 (a) revised; (d) added; interim....49916
343b.3 Nomenclature change; interim....49917
499.1 Amended; interim....49917

Title 8—*Proposed Rules:*

204 31000
208 38312
211 31000
223 31000
223a 31000
235 ....6056, 31000
236 38312
242 38312
251 31000
252 31000
264 31000
274a 31000
299 31000
316 31000
334 31000

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

Chapter I Policy statement....47206
1 Authority citation revised....39129
1.1 Amended....39129
2 Authority citation revised....39129
2.35 (e) amended....39129
2.38 (k)(4) added....39129

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

Page

2.75 (a)(4) amended....39129
(a)(4) corrected....45041
2.133 Added....39129
50.1 Amended....34698
50.14 (e) revised....34699
51.3 Amended; CFR correction....47984
77.1 Amended; interim....34700
78.1 Amended....48445
78.41 (a) and (b) amended; interim....4361
Regulation at 58 FR 4361 confirmed....36593
78.43 Amended; interim....11365, 28343
Regulation at 58 FR 11365 confirmed....34700
Regulation at 58 FR 28343 confirmed....43069
91.14 (a)(10)(i) and (13) removed; (a)(10)(ii) and (14) through (17) redesignated as (a)(10)(i) and (13) through (16); new (a)(10)(i)(A) amended; new (a)(16)(ii)(A) removed; new (a)(16)(ii)(B) redesignated as (a)(16)(ii)(A) and revised; new (a)(16)(iv) introductory text and (A) added....37640
92 Authority citation revised....38957, 45237
92.102 (a) amended....37642
92.106 (d)(2) revised....38957
92.203 (d) amended....37642
92.303 (c) amended....45237
92.306 (a) introductory text and (1) amended....45238
92.323 Heading revised; (a) and (b) amended....45238
92.324 Heading revised; text amended....45238
92.326 Amended....45238
92.403 (e) amended....38283
92.418 Heading and (a) amended; (a) heading revised; (b)(2)(ii)(C) redesignated as (b)(2)(ii)(D); new (b)(2)(ii)(C) added....37641
92.503 (e) amended....38283
94.1 (a)(2) amended....11367
(a)(2) and (d)(1) amended....28344
(a)(2) revised; (d)(1) amended....36596
94.9 (a) amended....11367
94.10 (a) amended....11367
94.11 (a) amended....11367, 28344
(a) amended....36596
94.12 (a) amended....11367
Regulation at 58 FR 11367 withdrawn....13698
(a) amended....36596
94.13 Introductory text amended....11367
Regulation at 58 FR 11367 withdrawn....13698
Regulation at 57 FR 62177 confirmed....36594
Introductory text amended....36596
94.18 (a) revised; interim....4308
Regulation at 58 FR 4308 confirmed....36594
94.19 Added....50251
96 Authority citation revised....47030
96.2 Redesignated as 96.3; new 96.2 added; interim....47031
96.3 Redesignated as 96.4; new 96.3 redesignated from 96.2; interim....47031
96.4 Redesignated as 96.5; new 96.4 redesignated from 96.3 and amended; interim....47031
96.5 Redesignated as 96.6; new 96.5 redesignated from 96.4; interim....47031
96.6 Redesignated as 96.7; new 96.6 redesignated from 96.5; interim....47031
96.7 Redesignated as 96.8; new 96.7 redesignated from 96.6; interim....47031
96.8 Redesignated as 96.9; new 96.8 redesignated from 96.7; interim....47031
96.9 Redesignated as 96.10; new 96.9 redesignated from 96.8; interim....47031
96.10 Redesignated as 96.11; new 96.10 redesignated from 96.9; (c)(1) amended; interim....47031
96.11 Redesignated as 96.12; new 96.11 redesignated from 96.10; interim....47031
96.12 Redesignated as 96.13; new 96.12 redesignated from 96.11 and amended; interim....47031
96.13 Redesignated as 96.14; new 96.13 redesignated from 96.12; interim....47031

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 9 Chapter I—Con. Page

96.14 Redesignated as 96.15; new 96.14 redesignated from 96.13; interim 47031
96.15 Redesignated as 96.16; new 96.15 redesignated from 96.14; interim 47031
96.16 Redesignated from 96.15; interim 47031
97.1 (a) introductory text and (3) amended 32434
97.2 Table amended 28345
98.31 Amended 37643
98.33 (a) and (b) redesignated as (d) and (e); heading and new (d) revised; new (a), (b) and (c) added 37643
98.34 (a)(1) amended 37644
98.35 Heading revised; (a) amended; (c) and (d) added 37644
98.36 Revised 37644
98.37 Removed 37644
98.38 Removed 37644
98.39 Removed 37644
113.46 (b)(2) revised 50252
124 Added 11369
124.23 (b) corrected 29028
130 Authority citation revised 38957
130.1 Amended 38957
130.2 (a) amended 38958
130.3 (a) amended 38958
130.4 Revised 38958
130.5 (a) revised 38958
130.6 (a) and (b)(1) amended 38958
130.7 (a) introductory text revised 38958
130.14 Added 38958
130.15 Added 38958
130.16 Added 38959
130.17 Added 38959
130.18 Added 38960
130.50 (a)(1) and (2) revised; (a)(3) and (4) amended; (a)(5) and (6) added 38960
130.51 (a) and (c) revised; (b)(1) and (2) amended; (b)(3) and (4) added 38960
161.3 (f) corrected 8820

Chapter III—Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300—399)

Page

317.1—317.24 designated as Subpart A; eff. 7-6-94 664
317.2 (f)(1)(vi) added 38048
(f)(1)(vi)(B) corrected 40468
(j)(3) amended 42189
(l) added; interim 43489
317.5 (b)(12) and (13) amended; (b)(14) added 43489
317.300—317.400 (Subpart B) Added; eff. 7-6-94 664
317.309 (b), (f)(1), (g)(1) and (h)(5) corrected 43788
(g)(1) amended; interim 47627
317.312 (b) Table 2 corrected 43788
(b) Tables 1 and 2 amended; interim 47627
317.313 (i) and (p) corrected 43788
(a) and (q)(3) revised; interim 47627
317.345 (a)(1) amended; interim 47627
317.354 Corrected 43788
317.356 (a) corrected 43788
317.360 Corrected 43788
317.361 Corrected 43788
317.362 (a) corrected 43788
(c)(1) amended; interim 47627
317.380 (c) corrected 43788
(e) and (f) added; interim 47627
317.400 (a)(1)(iii) and (d) added; interim 47627
318.7 (c)(4) table amended 4070, 42189, 45239, 45242, 45243
318.23 Added 41151
320 Technical correction 43787
320.1 (b)(8) added; eff. 7-6-94 675
(b)(7) added 41152
381.118 (a) revised 38049
381.125 Existing text designated as (a); (b) added; interim 43489
381.134 (b)(12) and (13) amended; (b)(14) added 43489
381.147 (f)(4) table amended 4070, 42190
381.175 (b)(5) added; eff. 7-6-94 675
381.400—381.500 (Subpart Y) Added; eff. 7-6-94 675

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

Page

381.409 (b), (f)(1), (g)(1) and (h)(5) corrected 43788
(g)(1) amended; interim 47628
381.412 (b) Table 2 corrected 43789
(b) Tables 1 and 2 amended; interim 47628
381.413 (i) and (p) corrected 43789
(a) and (q)(3) revised; interim 47628
381.445 (a)(1) amended; interim 47628
381.454 Corrected 43789
381.456 (a) corrected 43789
381.460 Corrected 43789
381.461 Corrected 43789
381.462 Corrected 43789
(c)(1) amended; interim 47628
381.480 (c) corrected 43789
(e) and (f) added; interim 47628
381.500 (a)(1)(iii) and (d) added; interim 47628
391.2 Revised 33323
391.3 Revised 33323
391.4 Revised 33323

Title 9—*Proposed Rules:*

3 39458
77 43086
78 ..... 4360, 37665, 39458, 47222, 50290
82 ..... 41048, 46569, 50527
85 37666
91 ..... 262, 37667, 43301
92 ..... 4361, 4362, 15292, 37878, 41204, 41643, 47084, 48003, 50527
94 ..... 264, 14174, 15901, 17642, 36624, 38308, 38314, 38316, 41643, 47834, 50527
95 37669
98 ..... 266, 36625
112 25786
113 ..... 12187, 15301, 21114, 37670, 39462, 39467, 47222
130 ..... 15292, 39163
145 44782
147 44782
156 39163
309 45296
310 45296
313 47673
317 ..... 688, 8560, 19781, 45296
318 ..... 269, 44236
381 ..... 688, 8560, 33040, 38090, 44236
391 ..... 14177, 44236

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

Page

0 Authority citation revised 29951
0.735-1 Removed 3825
0.735-2 Removed 3825
0.735-3 Revised 3825
Removed 29951
0.735-4 Removed 3825
0.735-5 Removed 3825
0.735-6 Removed 3825
0.735-8 Revised 3825
0.735-20 Removed 3825
0.735-21 (d) revised 3826
Revised 29951
0.735-22 Removed 29952
0.735-23 Revised 3826
Removed 29952
0.735-24 Removed 3826
0.735-25 Removed 3826
0.735-26 Revised 3826
Removed 29952
0.735-27 Removed 3826
0.735-28 Removed 3826
0.735-28a Removed 3826
0.735-30 (Subpart C) Removed 3826
0.735-40 (e), (g) and (h) removed; (f) redesignated as new (e) 3826
0.735-41 Removed 3826
0.735-42 Removed 3826
0.735-43 Removed 3826
0.735-44 Removed 3826
0.735-45 Removed 3826
0.735-46 Removed 3826
0.735-47 Removed 3826
0.735-48 Removed 3826
0.735-49 Removed 3826
0.735-49a Removed 3826
0.735-50—0.735-55 (Subpart E) Removed 3826
0 Annex A removed 29952
2 Authority citation revised 44611
Authority citation corrected 50635
2.8 (b) revised 14309
2 Appendix C amended 14309, 14310, 17322
Appendix B removed 44611
9.35 (a)(1) and (2) revised 38666
11.15 (e)(1) revised 44435
19.2 Amended 7736
19.3 Amended 7736

TITLE 10 Chapter I—Con. Page

20 Technical correction 11290
20.2 Amended 7736
20.3 (a)(9) amended 7736
20.203 (c)(6) and (7) removed 7736
20.1002 Amended 7736
20.1003 Amended 7736
20.1603 Removed 7736
20.2109 Removed 7736
25 Appendix A revised 44436
26.1 Revised 31469
26.2 Revised 31469
26.3 Amended 31469
26.10 Introductory text and (a) revised 31469
26.24 Heading, (a)(2) and (b) revised 31469
26.27 (a), (b)(2) and (3) revised 31470
26.73 (d) revised 31470
26 Appendix A Amended 31470
30.4 Amended 7736
30.5 Amended 7736
30.6 (a) introductory text and (b)(1) introductory text amended 7736
30.8 (b) revised 39633
30.11 (a) amended 7736
30.13 Amended 7736
30.14 (a) and (c) amended 7736
30.15 (a) introductory text amended 7736
30.16 Amended 7736
30.18 (a) amended 7736
30.19 (a) amended 7736
30.20 (a) amended 7736
30.31 Amended 7736
30.33 (a)(4) amended 7736
30.34 (a) through (d) and (e) introductory text amended 7736
(i)(1) revised 39132
30.35 (g)(3) redesignated as (g)(4); new (g)(3) added 39633
30.36 (c)(2)(iii)(D) redesignated as (c)(2)(iii)(E); new (c)(2)(iii)(D) added; (c)(3) revised 39633
30.39 Amended 7736
30.51 (a) introductory text, (b), (c)(1) and (2) amended 7736
30.53 Introductory text amended 7736
35.200 (c)(1) revised 39132
35.300 (b)(1) revised 39132
36 Added 7728
40.5 (b)(1) amended 7736
40.8 (b) revised 39633
40.36 (f)(3) redesignated as (f)(4); new (f)(3) added 39633
40.42 (c)(2)(iii)(D) redesignated as (c)(2)(iii)(E); new (c)(2)(iii)(D) added; (c)(3) revised 39634
50 Authority citation revised 21911
Policy statement 39132
50.8 (b) revised 21912
50.54 (a)(3) introductory text revised 45244
50.65 (a)(3) revised; eff. 7-10-96 33996
50.120 Added 21912
(b)(1) corrected 39092
51.22 (c)(3), (10) and (14) amended 7737
51.60 (a) amended 7737
51.66 (a) amended 7737
51.68 Amended 7737
52.8 (b) revised 21912
52.78 Added 21912
52.113 (b) revised 21912
54.37 (b) revised 45244
61.2 Amended 33891
61.7 (a)(1) revised 33891
61.8 Revised 33891
61.12 (j) revised 33891
61.80 (i)(1) revised 33891
70.5 (b)(1) introductory text amended 7737
70.8 (b) revised 39634
70.20a (b) amended 7737
(d)(3) revised 31471
70.25 (g)(3) redesignated as (g)(4); new (g)(3) added 39634
70.30 Heading revised; (d)(3) redesignated as (d)(4); new (d)(3) added 39635
70.38 (c)(2)(iii)(D) and (E) redesignated as (c)(2)(iii)(E) and (F); new (c)(2)(iii)(D) added; (c)(3) revised 39634
72.54 (b)(4) redesignated as (b)(6); new (b)(4) added; (e)(2) revised 39635
72.214 Amended 17967
73.6 Introductory text revised 31471
73.40 Revised 13700
73.46 (d)(15) added 29522
(b)(4), (7) and (i) revised 45784

Page

Regulation at 58 FR 45785 corrected; effective date corrected to 2-28-94 48424
73.60 Heading revised; (f) added 13700
73 Appendix H revised 45785
74.81 (d) added 29522
110 Authority citation revised 13001
110.1 (a), (b)(1), (2) and (3) revised; (b)(4) added 13001
110.2 Amended 13002
110.4 Revised 13002
110.5 Amended 13002
110.6 (b) amended 13002
110.7 Amended 13002
110.8 Revised 13002
110.9a (e) removed 13003
110.10 (b) amended 13003
110.19 Added 13003
110.20—110.29 (Subpart C) Heading revised 13003
110.20 Heading, (a), (b) and (e) revised; (f) added 13003
110.21 Heading revised 13003
110.22 Heading revised 13003
110.23 Heading revised 13003
110.24 Heading revised 13003
110.25 Heading and (b) revised 13003
110.26 Heading and (a) revised 13003
110.27 Heading and (c) revised 13003
110.28 Revised 13003
110.29 Revised 13003
110.30—110.31 (Subpart D) Removed 13004
110.30 Transferred to Subpart C and revised 13003
110.31 Transferred to Subpart C; heading revised 13003
110.40—110.45 (Subpart E) Redesignated as Subpart D 13004
110.40 (a), (b)(3) and (4) revised 13004
110.41 (a) introductory text, (3) and (5) revised 13004
110.42 Footnote 3 redesignated as Footnote 2 and revised 13004
110.43 Revised 13004
110.50—110.53 (Subpart F) Redesignated as Subpart E 13004
110.50 (b)(3) amended 13004
110.60—110.67 (Subpart G) Redesignated as Subpart F 13004
110.67 (a) corrected 11886
110.70—110.73 (Subpart H) Redesignated as Subpart G 13004
110.70 (c) amended 13004
110.80—110.91 (Subpart I) Redesignated as Subpart H 13004
110.100—110.113 (Subpart J) Redesignated as Subpart I 13004
110.120—110.126 (Subpart K) Redesignated as Subpart J 13004
110.130—110.135 (Subpart L) Redesignated as Subpart K 13004
110 Appendix A amended 13004
Appendixes B, D and E amended; Appendix F added 13005
140.11 (a)(4) revised 42852
170 Authority citation revised 38690
170.2 (a) amended 7737
170.3 Amended 38690
170.20 Revised 38690
170.21 Introductory text revised; table amended 38690
170.31 Revised 38691
Corrected 45553
171 Authority citation revised 38694
171.5 Amended 38695
171.8 Added 38695
171.11 (a), (b) and (d) revised 38695
171.15 (a), (b)(3), (c)(2), (d) and (e) revised 38695
171.16 (c) introductory text, (4), (d) and (e) revised 38696
(e) corrected 45553
171.19 (b) and (c) revised 38701

Chapter II—Department of Energy (Parts 200—699)

440 Authority citation revised 12525
440.1 Revised 12525
440.3 Amended 12525
440.10 (e) amended 12529
440.11 (a) introductory text, (b), (c) introductory text, (d) and (e) amended 12529
440.12 (a) and (c) introductory text amended 12529
440.13 (a)(2) and (c) revised; (d), (e) and (f) added 12525

TITLE 10 Chapter II—Con.

Page
(a) introductory text and (b) amended....12529
440.14 (b) revised....12526
440.15 (e) added....12526
440.16 (b), (d), (f) and (g) revised; (h) and (i) added....12526
440.17 (a) introductory text amended....12529
440.18 Revised....12526
440.19 (a)(2) amended....12527
440.20 (b) amended....12529
440.21 Revised....12527
440.22 Revised....12528
440.23 (a), (c) and (d) amended....12529
440.24 Revised....12529
440.26 Removed....12529
440.27 Removed....12529
440.28 Removed....12529
440.29 Removed....12529
440.30 (a), (b), (d), (f) and (i) amended....12529
440 Appendix A revised....12529
455 Revised....9438

Chapter III—Department of Energy (Parts 700—999)

766 Added; interim....41162
810.3 Amended....39638
810.4 Existing text designated as (a) and (b); new (a) revised....39638
810.5 Amended....39638
810.7 (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added....39639
810.8 (a) and (c)(5) revised; (c)(6) added....39639
810.10 (a) amended....39639
810.13 (d) introductory text, (f) and (g) revised; (d)(4) added....39639
810.16 Revised....39639
820 Added....43692
860 Revised....47985

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1046 Revised....45791

Chapter XVII—Defense Nuclear Facilities Safety Board (Parts 1700—1799)

Page
1703 FOIA fee schedule adjustment....21241
1706.3 (b) corrected....13684
1706.5 (a) introductory text, (3) and (b)(1)(ii) corrected....13684
1706.6 (a)(2) corrected....13684
1706.7 (c)(1) corrected....13684
1706.9 (c)(2) corrected....13684
1706.10 Corrected....13684

Title 10—*Proposed Rules:*

0—199 (Ch. I) ...6196, 11389, 28523, 42032
2 ....31478, 34726, 44620, 48004, 50858
12 41061
19 33042
20 ...4363, 8560, 11389, 14178, 18049, 19784, 25578, 26257, 27953, 29998, 33570, 39173, 42882, 44620, 47676
21 27953
26 15810
30 ...3515, 4099, 6730, 26938, 33042, 33396
31 27953
32 33396
34 27953
35 ....26938, 27953, 33396, 44466
40 ....3515, 4099, 6098, 6730, 33042
50 ...271, 3515, 6730, 7757, 12339, 15303, 16377, 18167, 28523, 33042, 34539, 34947, 37884
52 ....271, 16377
54 28523
55 29366
60 ....12342, 33042, 36902
61 ....25578, 27953, 33042
70 ....3515, 4099, 6730, 33042
72 ...3515, 4099, 5301, 6098, 6730, 19786, 29795, 31478, 33042, 45463, 47222, 48004
73 21456
74 6098
75 6098
100 ....271, 4946, 16377
110 14344
150 ....6098, 9552, 33042
170 ...21116, 21662, 28801, 29454, 39174

Page
171 ...21116, 21662, 28801, 29454, 39174, 50859
430 ....44538, 47326, 48800
765 42450
766 ....41164, 43573, 49445
810 ....13427, 15441
834 16268

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100.8 (b)(4)(iv) revised (effective date pending)....45774
102.2 (a)(3) added (effective date pending)....42173
110.2 (a) redesignated as (a)(1); (a)(2) added (effective date pending)....42173
110.3 (c) heading revised; (c)(6) removed; (d) added....3476
Regulation at 58 FR 3476 effective date delayed to 7-1-93....14310
Regulation at 58 FR 3476 eff. 7-1-93....17968
114.1 (e) revised (effective date pending)....45775
114.7 (k) added (effective date pending)....45775
201 Hearing....6875, 14510

Title 11—*Proposed Rules:*

4 36764
5 36764
7 36764
8 51132
100 45463
102 ....12189, 36764
104 ....4110, 14530
107 43046
110 12189
111 36764
113 45463
114 43046
9008 43046

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Authority citation revised....27443
Page
1.8 (b) removed; (c) redesignated as (b)....27443
3 Appendix A amended....16486
5.33 Regulation at 57 FR 49642 comment period extended....6441
5.51 Revised....27451
7.3020 Removed....46535
7.3025 Removed....46535
7.7490 Revised....4073
31 Authority citation revised....27454
31.1 Revised....27454
34 Temporary exceptions....42640
34.61—46.62 (Subpart D) Appendix A amended....4460
34.81—34.87 (Subpart E) Added....46535

Chapter II—Federal Reserve System (Parts 200—299)

201 Heading revised....50512
202 Heading revised....50512
203 Exemption termination....1
MSA designations....6601, 50513
Heading revised....50512
203.5 Revised....13405
203 Appendix A amended....13405
204 Heading revised....50512
205 Heading revised....50512
206 Heading revised....50512
207 OTC margin stock list...6602, 25543, 39640
Heading revised....50512
208 Authority citation revised....7979, 47208
Heading revised....50512
208.20 Added....47208
208 Appendix C corrected....4460
Appendix A amended....7979
Appendixes A and B amended....7980
Regulation at 57 FR 62179 confirmed....28492
209 Heading revised....50512
210 Heading revised....50512
211 Authority citation revised....47209
Heading revised....50512
211.2 (t) revised....6358
211.8 Added....47209
211.20 Redesignated from 211.21; (b)(3) through (8) revised; (b)(9) and (c) added....6358

TITLE 12 Chapter II—Con. Page

211.21 Redesignated as 211.20; new 211.21 redesignated from 211.22 and revised....6358
211.22 Redesignated as 211.21....6358
Redesignated from 211.23....6359
211.23 Redesignated as 211.22; new 211.23 redesignated from 211.24; (a) through (h) redesignated as (b) through (i); new (a) added....6359
211.24 Redesignated as 211.23; new 211.24 redesignated from 211.25 and revised....6359
(f) added....47209
211.25 Redesignated as 211.24; new 211.25 redesignated from 211.26 and revised....6359
211.26 Redesignated as 211.25; new 211.26 redesignated from 211.27 and revised....6359
211.27 Redesignated as 211.26; new 211.27 redesignated from 211.28 and revised....6359
211.28 Redesignated as 211.27; new 211.28 redesignated from 211.29 and revised....6359
211.29 Redesignated as 211.28....6359
Added....6362
211.31 (b)(4) amended....46076
211.41 (b) amended....46076
211.42 (a) amended....46076
212 Heading revised....50512
213 Heading revised....50512
214 Heading revised....50512
215 Authority citation revised....26508
Heading revised....50512
215.4 (d)(3) added....26508
(d)(2) introductory text amended; interim....28494
216 Heading revised....50512
217 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
Heading revised....50512
217.1 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.4 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.6 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.101 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.201 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.301 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.302 Regulation at 57 43336 effective date delayed to 6-21-93....15076
217.601 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.602 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.603 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
218 Heading revised....50512
219 Heading revised....50512
220 OTC margin stock list....25543, 39640
Heading revised....50512
221 OTC margin stock list....25543, 39640
Heading revised....50512
224 OTC margin stock list....25543, 39640
Heading revised....50512
225 Authority citation revised....4074, 7980, 47209
Temporary exceptions....42640
Heading revised....50512
225.2 (k) revised....473
(k) and (l) revised....4074
225.4 (g) added....47209
225.11 (f) revised....6362
225.12 (f) revised....6362
225.13 (a) and (b)(2) revised....474
225.31 (d)(2)(ii) revised....474
225.63 (a) amended....15077
225 Appendix B revised....474
Appendix A amended....7980
Appendixes A and D amended....7981
Regulation at 57 FR 62180 confirmed....28492
226 Authority citation revised....17084
Heading revised....50512
226.15 (e) revised....40583
226.16 Footnotes 36a and 36b redesignated as Footnotes 36b and 36c....40583
226.23 (e) revised....40583
226 Supplement I amended....17084, 17085
227 Heading revised....50512
228 Heading revised....50512
229 Heading revised....50512
229.2 (cc) amended....2
229 Appendixes A, B-2 and E amended....2
Appendix E amended....3
230.2 (a) amended....15081
230.4 (c)(1) amended....15081
230.5 (a)(2)(ii) revised....15081
230.8 (e) revised....15081
230 Appendix A amended....15082
245 Heading revised....50512
262 Authority citation revised....47986
262.3 (b)(1)(i)(D) removed; (b)(1)(i)(E) and (F) redesignated as (b)(1)(i)(D) and (E); (b)(2) amended; (b)(3) added; (j) introductory text revised....47986
263 Authority citation revised....6363
263.51 (c) revised....6363
264b.3 (c) and (d) correctly revised; CFR correction....38702
265 Authority citation revised....26509
265.5 (c)(3) added....26509
265.6 (b)(2) revised; (f) added....6363
(c)(5) removed....26509
265.7 (d)(8) revised....6363
(c)(5) removed; (c)(6) redesignated as (c)(5)....26509
265.11 (d)(11) added....6363
268 Revised; interim....9518

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303 Heading and authority citation revised....8216
303.2 (a) concluding text amended....8216
303.3 (a) amended....8216
303.5 Heading revised; (e) added....8217
303.7 (f) heading revised; (f)(1)(iii) amended; (f)(1)(ix) added....8217
303.8 (i) added....8217
303.9 (h) and (m)(5) revised....8218
303.10 (c)(5) and (6) revised; (c)(7) added....8219
323 Temporary exceptions....42640
325 Authority citation revised....12151
325.1 Revised....8219
325.2 (t) and (v) amended....6368
(h)(1) and (t) amended....8219
325.3 (c)(3) revised....8219
325.5 (f) revised....6369
(b) amended....8219
325.1—325.6 (Subpart A) Appendixes A and B amended....8219
Appendix A amended....12151
325 Appendixes A and B amended....6369
327 (d) through (h) redesignated as (e) through (i); (c), new (e)(1) introductory text, (1)(i) introductory text, (A), (B)(2) introductory text, (B)(2)(ii), (e)(1)(ii) heading and introductory text, (2) and new (g) revised; new (d) added; new (h) amended....34364
327.3 (d)(1)(B)(1) corrected....3069
(e)(1)(i)(B)(1), (C) and (i) amended....34365
327.4 (c)(1) introductory text revised....34365
327.5 (a)(1)(i) revised....34365
327.7 (a)(1)(ii)(A) corrected....3069
327.13 (d) revised....31159
(c)(2) amended....34365
327.23 (d)(2) amended....34365
329.3 Removed....27922
330 Authority citation revised....29963
330.1 (j) revised....29963
330.2 Revised....29963
330.10 (b) introductory text amended; (a) and (b)(2) revised....29963
330.12 Revised....29964
(c)(2)(i)(C) and (e) corrected....40688
330.13 Revised....29964
330.15 Revised....29965
330.16 Revised....29965
336 Authority citation revised....39628

TITLE 12 Chapter III—Con. Page

336.24—336.28 (Subpart D) Removed; interim....39628
353 Revised....28774
360 Authority citation revised....43070
360.2 (f) added; interim....43070
360.3 Added; interim....43070
363 Added....31335
365 Appendix A corrected....4460

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

506 Technical correction....11186
506.1 (b) table amended (OMB numbers)....4311, 44114, 45427
509 Technical correction....11186
509.104 (b) and (f) revised; (g) redesignated as (i); new (g) and (h) added....4311
516 Authority citation revised....4312
Technical correction....11186
516.1 (c) introductory text amended....4312
516.2 (d)(1) amended....44114
517 Added....33324
528 Authority citation revised....4312
Technical correction....11186
528.1 (d) through (g) removed....4312
528.6 Revised....4312
541 Authority citation revised....4312
Technical correction....11186
541.9 Removed....4312
541.12 Removed....4312
541.24 Removed....4312
543 Authority citation revised....4312
Technical correction....11186
543.1 (a) amended....4312
545 Technical correction....11186
545.12 (b) revised....4312
545.21 Removed....4312
545.34 (b) and (c) amended....4312
545.36 (d) amended....4312
545.41 (a) revised....4312
545.75 (b)(5) removed....4312
545.79 Removed....4312
545.93 Removed....4312
545.123 Removed....4312
552 Authority citation revised....4312
Technical correction....11186
552.6-1 (b) amended....4312
552.7 Removed....4312
552.8 (b) removed....4312
556 Authority citation revised....4312
Technical correction....11186
556.7 Removed....4312
558 Revised....4312
Technical correction....11186
559 Removed....4313
Technical correction....11186
561 Authority citation revised....4313
Technical correction....11186
561.5 Removed....4313
561.16 (b) through (e) and (g) removed; (f) redesignated as (b)....4313
561.17 Removed....4313
561.22 Removed....4313
561.46 Removed....4313
563 Technical correction....11186
563.7 (d) removed; (e) redesignated as (d)....4313
563.24 Removed....4313
563.27 (a), (b) designation, heading, (1) designation and (2) removed....4313
563.29 Removed....4313
563.32 Removed....4313
563.33 (b) removed....4313
563.34 Removed....4313
563.45 Removed....4313
563.48 (e) amended....4313
563.49 Added; eff. 4-19-93 through 4-19-95....14513
563.50 (a), (b), (d), (e) and (g)(2) introductory text revised....15084
563.51 (f)(1)(vi) redesignated as (f)(1)(vii); new (f)(1)(vi) and new (f)(1)(vii)(G) added; new (f)(1)(vii)(E) amended; (e), (f)(1)(vii) introductory text and new (f)(1)(vii)(F) revised....15084
563.50—563.52 Appendix A removed....15085
563.90 Removed....4313
563.93 (b)(6)(i) and (d)(3)(ii) amended....4313
563.99 (d) removed....4314
563.90—563.101 (Subpart D) Appendix A corrected....4460
563.131 Removed....4314
563.132 (a)(1)(ii) revised....4314
563.170 (c)(10) added; interim....28348
563.176 (b) removed; (c) through (f) redesignated as (b) through (e)....45813
563.192 Removed....4314
563b Technical correction....11186
563b.3 (l)(4)(vi) added....4314
563e Authority citation revised....4314
Technical correction....11186
563e.6 Amended....4314
564 Temporary exceptions....42640
567 Authority citation revised....4314
Technical correction....11186
567.1 (i)(2) amended....15086
567.2 (a)(1)(i) revised....45813
567.5 (c)(4) added....45813
567.6 Heading revised; (a)(1)(iv)(Q) amended; (a)(1)(iv)(R) and (S) added; (a)(1)(v) removed....476
(a)(1)(iv)(S) amended; (a)(1)(iv)(T) added....15086
(a)(1)(iv)(O) removed; (a)(1)(ii)(H), (iii)(C) and (iv)(N) revised; eff. 7-1-94....45813
567.7 Added....45813
567.20 Removed....4314
571 Authority citation revised....4314
Technical correction....11186
571.1 Removed....4314
571.3 Removed....4314
571.10 Removed....4314
571.16 Removed....4314
571.17 Removed....4314
571.25 Removed....4314
571.26 Removed....4314
574 Authority citation revised....45427
574.9 Added....45427
575 Added....44114
579—580 (Subchapter E) Removed....4314
579 Technical correction....11186
580 Technical correction....11186

Chapter VI—Farm Credit Administration (Parts 600—699)

601 Revised (effective date pending)....5919
Regulation at 58 FR 5919 effective 3-3-93....12333
607 Added (effective date pending)....10942
Regulation at 58 FR 10942 eff. 3-25-93....16104
611.400 Regulation at 57 FR 43393 eff.1-29-93....6604
611.515 (b)(6)(ii)(E) amended (effective date pending)....48790
611.1122 (e)(6)(iii) amended; (e)(9) revised (effective date pending)....48790
611.1130 (b)(4)(iii) amended (effective date pending)....48790
611.1155 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1156 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1157 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1160 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1168 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1170 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1175 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1180 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1182 (c) amended (effective date pending)....48790
611.1197 (b)(6)(ii)(E) amended (effective date pending)....48790
611.1225 (t)(2) amended (effective date pending)....48790
611.1240 (c) amended (effective date pending)....48790
612.2000—612.2110 (Subpart A) Regulation at 57 FR 43394 eff. 1-29-93....6605
612.2130—612.2270 (Subpart B) Regulation at 57 FR 43394 eff. 1-29-93....6605
612.2150 Regulation at 57 FR 43395 eff. 1-29-93....6605
613 Authority citation revised....48790
613.3045 (c)(3)(i) amended (effective date pending)....48790
613.4130 (a) amended (effective date pending)....48791

TITLE 12 Chapter VI—Con. Page

614.4240—614.4267 (Subpart F) Regulation at 57 FR 54695 eff. 3-1-93 ... 11792
614.4250 (a)(1) amended (effective date pending) ... 11372
614.4255 (a) revised; (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; new (c) amended (effective date pending) ... 11372
614.4325 (g) removed; (h) redesignated as (g) (effective date pending) ... 40321
614.4350—614.4380 (Subpart J) Revised (effective date pending) ... 40321
614.4440 Regulation at 57 FR 54699 eff. 3-1-93 ... 11792
614.4443 Regulation at 57 FR 54699 eff. 3-1-93 ... 11792
614.4470 (c) amended (effective date pending) ... 40324
614.4512 (c)(2) and (e)(1) amended (effective date pending) ... 48791
614.4514 (d) amended (effective date pending) ... 48791
614.4516 (b)(2) amended (effective date pending) ... 48791
614.4517 (a)(5) amended (effective date pending) ... 48791
614.4520 (a) amended (effective date pending) ... 48791
614.4522 (a)(1) heading revised; (b), (c) introductory text, (3), (4), (d) introductory text and (e) amended (effective date pending) ... 48791
614.4710 Introductory text, (a)(2), (3) and (b)(1) amended (effective date pending) ... 40324
615.5216 Regulation at 57 FR 46487 eff. 2-23-93 ... 10945
618 Authority citation revised ... 10944
618.8230 Removed (effective date pending) ... 10944
Regulation at 58 FR 10944 eff. 3-25-93 ... 16105
620 Authority citation revised ... 27923
620.1 (i) amended (effective date pending) ... 48791
620.2 (b)(3) revised; (effective date pending) ... 27923
Regulation at 58 FR 27923 eff. 6-17-93 ... 33189
(b)(1) amended (effective date pending) ... 48791
620.5 (f)(1)(i)(F) and (g)(1)(iv)(A) revised; (l) and (m)(1) amended (effective date pending) ... 48791
620.10 (e)(3) and (e) concluding text revised (effective date pending) ... 27923
Regulation at 58 FR 27923 eff. 6-17-93 ... 33189
(e)(1) amended (effective date pending) ... 48791
620.21 (f) amended (effective date pending) ... 48791
620.40 (Subpart F) Revised (effective date pending) ... 48791
621 Revised (effective date pending) ... 48786
625 Regulation at 57 FR 60109 eff. 2-23-93 ... 10945
627 Regulation at 57 FR 46482 eff. 2-23-93 ... 10945
627.2710 Regulation at 57 FR 46487 eff. 2-23-93 ... 10945
627.2785 (c) amended (effective date pending) ... 48791

Chapter VII—National Credit Union Administration (Parts 700—799)

700.1 (i)(2) through (6), (15) and (16) introductory text revised; (i)(7) introductory text amended ... 40042
701 Authority citation revised ... 6077, 50445
701.12 (b), (c) and (e) revised ... 39433
701.21 (c)(7)(ii)(C) amended ... 6077
(c)(5) amended; (h)(1)(i)(C) and (5) revised ... 40043
701.32 (b)(1) and (d) revised ... 21645
701.35 (c) revised; eff. 1-1-95 ... 50445
703 Technical correction ... 16763
703.5 Introductory text, (g) and (j) revised ... 34870
(g)(1)(ii)(A), (2) and (j)(2) corrected ... 41419
705 Revised ... 21646
707 Added; eff. 1-1-95 ... 50445
710 Revised ... 35365
711.2 (h)(1) revised; (l) amended; (o) added ... 39435
711.4 (a)(5), (6) and (c) amended; (c) existing text redesignated as (c)(1); (a)(7), (8) and (c)(2) added ... 39435
711.5 Amended ... 39435
722 Temporary exceptions ... 42640
722.3 (a)(1) and (d) revised ... 40043
740 Authority citation revised ... 50461
740.2 Amended ... 50461
741.13 (a) revised ... 5571
748.1 (c) revised ... 17492
790 Revised ... 45431
791.18 (c) revised ... 17493
796 Removed ... 6605

Chapter IX—Federal Housing Finance Board (Parts 900—999)

902 Added ... 19195
904 Heading revised; authority citation and text added ... 19198
906 Heading revised; authority citation and text added ... 19202
909 Added ... 19205
931 Authority citation revised ... 43542
Technical correction ... 47181
931.7 Removed ... 43542
931.8 Removed ... 43542
931.9 Removed ... 43542
931.22 Removed ... 43542
932 Authority citation revised ... 3490, 31901
Technical correction ... 47181
932.2 Removed ... 43542
932.4 Removed ... 43542
932.5 Removed ... 43542
932.6 Removed ... 43542
932.7 Removed ... 43542
932.13 (c) amended; interim ... 3490
(c) amended ... 31901
932.14 (d) amended; interim ... 3490
(d) revised ... 31901
932.18 (f)(1) and (3) introductory text revised; interim ... 3490
(f)(1) and (3) introductory text revised ... 31901
932.21 (d)(2), (g)(1) and (3) revised; interim ... 3490
(d)(2), (g)(1) and (3) revised ... 31901
933 Revised ... 43542
933.2 OMB number ... 50837
933.5 OMB number ... 50837
933.7 (d) corrected ... 47181
933.9 OMB number ... 50837
933.12 OMB number ... 50837
933.13 OMB number ... 50837
933.14 (b)(2) corrected ... 47181
933.18 OMB number ... 50837
935 Revised ... 29469
Authority citation revised ... 29477
Technical correction ... 40190
935.1 Amended; interim ... 29477
935.20 Revised; interim ... 29477
935.22 Added; interim ... 29477
940 Removed ... 29474
Technical correction ... 40190
960.9 Revised; interim ... 17972

Chapter XVI—Resolution Trust Corporation (Parts 1600—1699)

1605 Authority citation revised ... 8222
1605.1 Removed ... 8222
1605.2 (f), (g), (l), (n), (s) through (v), (x), (y), (cc) and (dd) removed ... 8222
1605.3 Removed ... 8222
1605.4 Removed ... 8222
1605.5 Removed ... 8222
1605.6 Removed ... 8222
1605.7—1605.14 (Subpart B) Heading revised ... 8222
1605.7 Removed ... 8222
1605.8 Removed ... 8222
1605.9 Removed ... 8222
1605.10 Removed ... 8222
1605.11 Removed ... 8222
1605.12 Removed ... 8222
1605.13 Removed ... 8222
1605.14 Removed ... 8222
1605.15 Removed ... 8222
1605.16 Removed ... 8222
1605.16a (d) Footnote 4 redesignated as Footnote 2 ... 8222
1605.23 (c) and (g) removed ... 8222
1605.27 Removed ... 8222
1605.28 Removed ... 8222
1605.29 Removed ... 8222
1605.30—1605.33 (Subpart E) Heading revised ... 8222
1605.30 Removed ... 8222
1605.31 Removed ... 8222
1605.32 Removed ... 8222
1605.33 Removed ... 8222
1605.34—1605.43 (Subpart F) Heading revised ... 8222
1605.34 Removed ... 8222
1605.35 Removed ... 8222

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 12 Chapter XVI—Con. Page

1605.36 Removed....8222
1605.37 Removed....8222
1605.38 Removed....8222
1605.39 Removed....8222
1605.40 Removed....8222
1605.41 Removed....8222
1605.42 Removed....8222
1605.43 Removed....8222
1616 Revised....476
1626 Added....34871
1627 Added; interim....18144
Technical correction....21627

Title 12—*Proposed Rules:*

3....43822, 48206
5....4600
7....26695, 38474
16....4600
24....38474
25....44138
27....27484
34....26695, 31878
201....45851
203....31
205....8714
208....3235, 8007, 48206
211....513, 3235
215....47400
219....46024
225....3235, 8007, 31878
228....44138
230....271
231....29149
300—399 (Ch. III)....6903, 16798
303....26259, 33050, 48979
323....31878
325....26701, 48206
327....17533
332....6448
333....6450
337....26705
345....44138
346....11922
353....3237
362....6452, 25953
545....31878
563....31878, 38730
563e....44138
564....31878
600—699 (Ch. VI)....34003
611....15099, 32071, 39684
612....44139
613....32071
614....32071, 38091
615....34004
620....3872, 32071, 47836
621....32071
627....32071
700....21953
701....11801, 17808, 21953, 40470, 42698
703....5664
704....30719, 33783
707....11801
711....12910
722....21953
740....11801
741....30719, 33783
748....5663
900....8563, 13565
931....50867
935....49446
936....46569, 48946

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

101.3-2 Amended....2967, 19321, 44437
102.26 (c) revised....14148
102.27 Redesignated as 102.28; new 102.27 added....14146
102.28 Redesignated as 102.29; new 102.28 redesignated from 102.27....14146
102.29 Redesignated as 102.30; new 102.29 redesignated from 102.28....14146
102.30 Redesignated as 102.31; new 102.30 redesignated from 102.29....14146
(a) revised....14148
102.31 Redesignated as 102.32; new 102.31 redesignated from 102.30....14146
102.32 Redesignated as 102.33; new 102.32 redesignated from 102.31....14146
102.33 Redesignated as 102.34; new 102.33 redesignated from 102.32....14146
(a) amended....14148
102.34 Redesignated as 102.35; new 102.34 redesignated from 102.33....14146
(c) amended....14148

Page

102.35 Redesignated as 102.36; new 102.35 redesignated from 102.34....14146
102.36 Redesignated as 102.37; new 102.36 redesignated from 102.35....14146
(a) revised....14148
102.37 Redesignated from 102.36....14146
107 Authority citation revised....47032
107.1002 (e) revised....47032
107 Appendix I amended....47032, 47033
108.4 (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added....15757
108.503-2 (d) and (e) added....45246
108.503-3 (c) revised....45246
108.503-5 (d)(2) amended....15757
108.507—108.507-5 Undesignated center heading and sections added....45246
120.102 Revised....45248
120.102-12 Added....45248
120.104-2 (b) revised....49423
120.403-2 Revised....49424
120.403-5 Revised....49424
121 Waiver....7479, 9112, 9113, 11372, 29346
Authority citation revised....25929
121.601 Table amended; Footnote 21 added; interim....4077
Table amended....25929
121.802 (a)(1) amended; (a)(2) revised....12335
121.910 (a) revised....25930
121.911 (a) revised....47371
121.2101—121.2106 Undesignated center heading and sections added....48956
122.7-3 (b) and (c) revised....49424
122.8-4 (d) revised....49424
122.61-10 (a) amended; (b) revised....49424
122.62 Added....45078
122.62-1 Added....45078
122.62-2 Added....45079
122.62-3 Added....45079
122.62-4 Added....45079
123 Authority citation revised....32055
123.9 (c) revised....32055
123.24 Heading revised; (g)(1) and (2) amended....32055
123.41 (h) revised....32055

Title 13—*Proposed Rules:*

Page

107....41852, 41882
120....29152
121....9131, 40603, 44620, 44793, 45300, 46573, 47181, 48981
122....45078
123....45855

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11.101 (b) table amended....18138
13 Authority citation revised....50241
13.202 Amended....50241
13.203 (c) revised....50241
21 Special FAA conditions....5571, 8222, 19553, 28496, 38702, 38703
23 Special FAA conditions....8222, 28496
23.23 Revised....42156
23.25 (a)(2)(i) revised....42156
23.33 (d)(2) revised....42156
23.45 (b) and (d) revised; (e) removed; (f) redesignated as (e); new (e)(2) and (5) introductory text amended....42156
23.49 (b) introductory text revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added....38639
23.53 (a), (b)(1)(ii) and (2) revised....42156
23.65 (a) revised....42156
23.67 (b)(1) and (2) revised....38639
23.141 Revised....42156
23.143 (a)(4) amended; (c) table revised....42156
23.145 Revised....42157
23.147 Revised....42157
23.149 (d) amended; (a), (b) and (c) revised....42157
23.153 Revised....42157
23.155 (b) revised....42158
23.157 (a)(2) and (c)(2) amended; (b) revised....42158
23.175 (a)(3) and (d)(3) revised....42158
23.177 (a)(1), (2) and (3) revised....42158

TITLE 14 Chapter I—Con. Page

23.179 Removed....42158
23.181 (c) and (d) added....42158
23.201 (c), (d)(2), (f)(4) and (5) revised....42159
23.203 (b) introductory text, (4), (5), (c)(1), (4) and (5) revised....42159
23.205 (b)(1) and (6) revised....42159
23.207 (c) revised; (d) added....42159
23.233 (a) and (b) revised; (d) added....42159
23.235 Revised....42159
23.251 Revised....42159
23.253 (a) and (b) introductory text revised....42160
23.305 (b) revised....42160
23.321 (c) added....42160
23.361 (a) introductory text, (2) and (c) introductory text revised....42160
23.369 Heading revised....42160
23.371 Heading and introductory text revised....42160
23.397 (b) amended....42160
23.415 (c) added....42160
23.473 (f) revised....42160
23.479 (b) and (c) revised....42160
23.485 (d) added....42160
23.521 (b) and (c) revised....42160
23.523 Added....42160
23.525 Added....42161
23.527 Added....42161
23.529 Added....42161
23.531 Added....42161
23.533 Added....42161
23.535 Added....42162
23.537 Added....42163
23.562 (b) introductory text amended; (d) redesignated as (e); new (d) added....38639
23.571 Introductory text amended; (c) added....42163
23.572 (a) amended; (a)(3) added....42163
23.573 Added....42163
23.613 (b) and (c) revised; (d) and (e) added....42163
23.615 Removed....42164
23.621 (c)(1) and (d) introductory text revised; (e) added....42164
23.629 (d)(1) revised; (g) and (h) added....42164
23.655 (a) revised....42164
23.672 Added....42164
23.679 Revised....42164
23.729 (f)(1) and (2) revised....42164
23.731 (a) removed; (b) and (c) redesignated as (a) and (b)....42165
23.733 (a) revised....42165
23.737 Revised....42165
23.751 (a) revised....42165
23.753 Revised....42165
23.755 (a) introductory text amended....42165
23.773 Revised....42165
23.775 (f) and (g) added....42165
23.851 Revised....42165
23.865 Revised....42165
23.901 (b), (d) and (e) revised; (f) added....18970
23.903 (d)(1) and (e)(2) revised....18970
23.904 Added....18970
23.905 (e) through (h) added....18970
23.909 Heading and (a) introductory text revised; (b) and (c) amended; (d) and (e) added....18970
23.925 (b) and (c) redesignated as (c) and (d); new (b) added....18971
23.933 Revised....18971
23.934 Added....18971
23.937 Existing text designated as (a); (b) added....18971
23.943 Amended....18971
23.951 (a) revised....18971
23.953 (b)(1) amended....18971
23.955 (a) introductory text and (2) amended; (a)(3), (4), (c)(3) and (f)(3) added; (c) introductory text, (1), (d)(2), (e) and (f)(2) revised....18971
23.957 Existing text designated as (a); (b) added....18972
23.961 Revised....18972
Corrected....27060
23.963 (f) removed....18972
23.965 (b) revised....18972
23.967 (d) revised....18972
23.971 Revised....18972
(a) corrected....27060
23.973 (c) amended; (e) and (f) added....18972
23.975 (a)(5) amended....18973
23.977 (d) amended....18973
23.991 (c) amended....18973
23.993 (d) amended....18973
23.997 (d) amended....18973

Page

23.999 (b)(3) removed; (b)(2) revised....18973
23.1001 (f) amended....18973
23.1011 (a) through (d) redesignated as (b) through (e); new (a) added....18973
23.1013 (g) amended....18973
23.1019 (a)(2), (3) and (5) amended....18973
23.1021 (a) and (b) revised; (c) added....18973
23.1027 (b) and (c) amended; (a) revised....18973
23.1041 Revised....18973
23.1047 (b)(2) amended....18973
23.1061 (a)(3) redesignated as (a)(4); new (a)(4) and (a) concluding text amended; (a)(2) revised; new (a)(3) added....18973
23.1091 Heading and (c)(2) revised; (a) and (c)(1) amended; (b)(4) and (5) added....18973
Heading and (c)(2) corrected....27060
23.1093 (a) heading, (3) introductory text and (c) amended; (a)(4), (5) and (b)(1) revised; (a)(6) added....18973
23.1101 Heading, introductory text and (a) revised....18974
23.1103 (c) through (f) added....18974
23.1107 Added....18974
23.1121 Introductory text and (i) added; (c) revised....18974
23.1123 Heading, (a), (b) and (c) amended....18974
23.1142 Added....18974
23.1143 (g) added....18974
23.1145 (a) amended....18974
23.1147 (a) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (1)(i) and (ii); introductory text and (b) redesignated as new (a) introductory text and (2); new (b) added....18974
23.1181 Added....18975
23.1189 (a) introductory text amended; (a)(5) revised....18975
23.1191 (a), (b) and (f)(1) amended; (d) removed; (h)(6) added....18975
(f)(1) corrected....27060
23.1193 (b) revised....18975
23.1195 Introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (b) added....18975
23.1203 (e) amended; (a) revised....18975
23.1303 (c) revised....18975
23.1305 Revised....18975
(d)(1) corrected....27060
23.1307 (a) amended; (c) added....18976
23.1322 (e) added....18976
23.1329 (b) through (g) redesignated as (c) through (h); new (b) added....18976
23.1331 Revised....18976
23.1337 (a)(1), (3) and (b)(5) amended....18976
23.1351 (c) revised; (g) added....18976
23.1357 (a)(1) and (e) revised....18976
23.1361 (a) and (b) revised....18977
23.1365 (c) added....18977
23.1385 (b) revised; (c) amended; (d) removed; (e) redesignated as (d)....18977
23.1387 (a) amended....18977
23.1389 (b) introductory text and (3) amended....18977
23.1391 Heading and table amended....18977
23.1393 Heading amended....18977
23.1395 Heading amended....18977
23.1419 Revised....18977
23.1431 Revised....18977
23.1435 (c) revised....18977
23.1441 (a) and (d) revised; (e) added....18978
23.1443 Revised....18978
23.1445 Added....18978
23.1447 (e) revised....18978
23.1507 Revised....42165
23.1521 (a) revised....42165
23.1522 Added....42166
23.1525 Revised....42166
23.1527 Revised....42166
23.1549 Heading, introductory text and (d) revised....42166
23.1557 (c) revised; (f) removed....42166
23.1563 (a) revised....42166
23.1581 (f) added....42166
23.1583 Introductory text and (m) added; (a)(2) and (h) revised....42166
23.1585 (a) and (c) revised; (b) added....42166

TITLE 14 Chapter I—Con. Page

23.1587 Introductory text added; (a), (b) and (c) revised....42167
23.1589 (a) revised....42167
23 Appendix H added....18979
Appendix D amended; Appendix H added....42167
25 Special FAA conditions...5571, 12538, 16486, 19553, 33327, 36345, 36348, 36350, 36352, 46536, 47628
Authority citation revised....11781
25.733 (e) added....11781
25.811 (e)(3) removed; (e)(2) introductory text revised....45229
25.1411 (a)(2) removed; (a)(1) redesignated as (a) and revised....45229
25.1423 Revised....45229
25 Appendix J amended....45229
29 Special FAA conditions...38702, 38703
33 Special FAA conditions...6876, 39643
33.28 Added....29095
35 Special FAA conditions...3215, 15262
39.13 ...5, 7, 481, 484, 3492, 4892, 5257, 5258, 5261, 5262, 5575, 5578—5580, 5922, 5923, 5925, 6078, 6080—6082, 6084—6086, 6192, 6370, 6704, 6706, 6708, 6877, 6878, 6879, 6881, 6882, 7185, 7480, 7482, 7484, 7738, 7862, 7864, 7982, 7983, 8225, 9114—9117, 11187, 11189, 11191, 11524, 11525, 12153, 12155, 12157, 13407, 13701, 13702, 14312, 14514, 14516, 15758, 15759, 15761, 16106, 16108, 16110, 16111, 16115, 16117, 16119, 16348, 16764, 16766, 16769, 16771, 18338, 18339, 18341—18343, 19050, 19324, 19326, 19328, 19330, 19573, 19769, 21243, 21247, 21347, 21913, 21915, 21917, 21920, 21922, 21923, 21925, 25548—25550, 25552, 25553, 26056, 26058—26060, 26062, 26064, 26683, 26915, 27455, 27457, 27458, 27651, 27924, 27926, 27928, 27930, 28918—28920, 29103, 29348, 29967, 30107, 31160, 31161, 31342, 31648, 31649, 31651, 31903, 31906, 32056, 32279, 32281, 32602, 32604, 32607, 32609, 32836, 32838, 33893—33895, 33897, 33901—33904, 33906, 33907, 34522, 34366, 34881, 35862, 36130, 36132, 36864, 36866, 38284, 38286, 38511, 38512, 38514, 38517, 39140, 39436, 39438, 39440, 39441, 39442, 39646, 39648, 40325, 40327, 40585, 40733, 40735, 41420, 41422, 42191, 42193, 42194, 42197, 42198, 41173, 41175, 41176, 41178, 41180, 42642, 43549, 43552, 43553, 43790, 44438, 44440, 44442, 45042, 45044, 45045, 45829, 45832, 45834, 46078, 46766—46768, 46770, 46771, 46773, 47034—47038, 47210, 47825, 47827, 47828, 47829, 47987, 49918, 50253, 50838, 50840, 50842, 50844
Corrected...17972, 21538, 34366, 46772
Technical correction....48946
61 Authority citation revised....40566
61.56 Revised....40566
71 Technical correction....11886
71.1 ...3216, 3217, 3218, 4315, 6371, 6884—6887, 7485, 7744, 8897, 11373, 11374, 12136, 13007, 13704, 13705, 14517, 15254, 15265, 15762, 15763, 16488, 16489, 16611, 17323, 17494, 17495, 18344, 18345, 19209, 19574, 19575, 31653, 33908, 33909, 36597, 41181, 43071, 44126, 44274, 45047, 45048, 45049, 45050, 45051, 46540, 47040—47046, 47372—47376, 47830, 47632, 47634, 47635, 48300, 48302, 48727, 48792, 49425, 50254, 50255, 50514, 50515, 51010
Corrected...4314, 7179, 8693, 12157, 19152, 21538
Regulation at 57 FR 57662 corrected....6709
Regulation at 57 FR 39015 corrected....8897
Revised; eff. 4-1-93 to 9-15-93....12136

Page

Introductory text revised....12137
Revised....36298
71.5 Amended....36299
71.6 Removed....12136
71.9 Revised; eff. 4-1-93 to 9-15-93....12136
71.31 Amended....36299
71.33 (c) added....12137
71.41 Amended....36299
71.51 Amended....36299
71.61 Amended....36299
71.71 (a), (d) and (e) revised; (f) added....12137
(c) revised....15259
(b) through (f) amended....36299
(a) introductory text revised....44126
71.77 Removed....12137
71.79 Amended....36299
71.901 (a) amended....36299
73.19 (a) and (c) amended....42001
73.25 ...27653, 29523, 39649, 39650, 45051
73.29 ....6885, 38288
73.31 ....21250, 26225
73.38 38287
73.41 39651
73.51....45052
73.52 39651
73.54 18346
73.57 17324
73.66 39651
73.67 17324
91 SFAR No. 64 added....31641
Technical correction....33189
SFAR No. 66 added....45221
SFAR No. 62 amended....48528
91.117 (b) revised....32839
(a) and (b) amended....43554
91.129 (e) introductory text, (1), (2) and (3) revised....48793
91.130 (a) revised....40736
Technical correction....42643
91.215 (a) revised....34618
93 Policy statement....230, 21095
93.81—93.83 (Subpart F) Removed....12137
93.151 Introductory text and (b) revised....32839
93.181—93.191 (Subpart P) Removed....12137
93.221 (e)(1) and (2) revised; (e)(3), (5) and (8) removed; (e)(4), (6) and (7) redesignated as (e)(3), (4) and (5); new (e)(3) amended....39616
93 Appendix B removed....39616
95 .....6887, 16490, 30108, 34701, 45053
97 34705
97.21—97.35 ...3219, 3221, 4894, 4896, 6710, 6713, 7486, 7747, 10946, 10948, 15266, 15267, 15269, 15271, 17325, 17326, 26226, 26228, 27654, 27655, 28497, 28499, 30977, 30978, 32841, 32842, 34706, 38289, 38519, 40328, 40330, 44275, 44276, 45057, 45058, 47047, 47049, 48959, 48960
97.113 Revised....43072
108 Comment disposition....36802
121 Special FAA conditions....34515
121.291 (a) revised....45230
121.305 (j) introductory text revised....12158
121.417 (c)(1)(i), (d) and (f) revised; (c)(1)(ii) redesignated as (c)(1)(iii); new (c)(1)(ii) added....46504
121 Appendix D amended....45230
125 Special FAA conditions....34515
127 Authority citation revised....34515
Special FAA conditions....34515
129 Authority citation revised....34515
Special FAA conditions....34515
135 Authority citation revised....34515
Special FAA conditions....34515
137.43 (a) revised....32840
170 Authority citation revised....42817
170.21—170.25 (Subpart C) Added....42817

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings (Parts 200—399)

302.1760 (a) and (b) amended....34882

Chapter III—Office of Commercial Space Transportation, Department of Transportation (Parts 400—499)

413 Authority citation revised....3827
413.5 (d) removed....3827
415 Authority citation revised....3827

TITLE 14 Chapter III—Con. Page

415.4 Removed....3827
415.9 (e) removed....3827

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1203b.107 (a)(3) and (c)(1) revised....5263
1203b.108 (d)(2) revised....5263
1204.400—1204.403 (Subpart 4) Revised....43554
1215 Appendix A revised....50516

Title 14—*Proposed Rules:*

1—199 (Ch. I) ...5947, 8244, 8719, 11391, 16798, 19634, 21274, 26709, 27953, 33783, 36626, 42698, 46585, 47405, 47678
21 ...3239, 5666, 5669, 7197, 13216, 15730, 26710, 36738
23 ....10994, 32034, 38028, 40389
25 ...12563, 13216, 26710, 36116, 36738, 38642, 44291
27 5666
29 ....3239, 4566, 5669, 35411
33 26262
39 ...275, 278, 515, 3873, 4366, 4367, 4600, 5671, 5947, 5949, 6198, 6740, 6742, 6743, 6745, 6746, 6906, 7196, 7494, 7495, 7759, 8719, 8721, 8723, 8914, 8916, 9131, 9133, 9552, 11996, 11997, 11999, 12002, 12004, 12190, 12192, 12194, 12195, 12347, 12349, 13430, 13710, 13711, 13713, 14181, 14182, 14184, 14185, 14187, 14189, 15305, 15309, 15114, 15116, 15441, 15444, 15445, 15448, 15450, 15813, 16137, 16377, 16505, 16507, 18051, 18053, 18347, 19068, 19069, 19071, 19073, 19634, 19635, 19787, 19788, 21546, 21692, 21955, 21957, 21959, 25579, 25954, 25956, 26074, 26076, 26264, 27217, 27954, 27955, 27957, 28525-28527, 28529, 28801, 28936, 28938, 28939, 29800, 29802, 29998, 30000, 30001, 30003, 30721, 30722, 30725, 31003, 31347, 31348, 31350, 31352, 31354, 31356, 31481, 31681, 31916, 31917, 31920, 31922, 32469, 32471, 32877, 33574, 33576, 33783, 33920, 34009, 34382, 34383, 34950, 34952, 34955, 34957, 34959, 35413, 35899, 35900, 35902, 35904, 35905, 36627, 38321, 38540, 38731, 38732, 38984, 38985, 39474, 39475, 39476, 39478, 39688, 39689, 39691, 40077, 40078, 40079, 40083, 40389, 40391, 41066, 41210, 41441, 41442, 41444, 41645, 42032, 42034, 42259, 42261, 42262, 42361, 42513, 42699, 42700, 42702, 42705, 43301, 43303, 43304, 43306, 44149, 44150, 44466, 44468, 44621, 44795, 45858, 45859, 45861, 45863, 46135, 46136, 46137, 46139, 46914, 46916, 46917, 47085, 47405, 47407, 47409, 47224, 47225, 47227, 47678, 47837, 47839, 48009, 48010, 48616, 48617, 48983, 48984, 48986, 48987, 48989, 49943, 49944, 49946, 50868, 50869, 50871
61 ....7197, 9514, 48748
63 7197
65 7197
71 ...34, 3241, 3242, 3875, 4946, 5301, 5303, 6375, 6911, 8244, 8724, 8725, 9134, 11553, 11801—11803, 12197, 12566, 12567, 13715, 14190, 15117, 15118, 16508, 16914, 17541, 17543, 18054, 18055, 18349, 18350, 19214, 19637, 21122, 21123, 21411, 26265—26269, 27680, 28941, 29370, 31483—31486, 32313, 33053, 33054, 33878, 36157, 36158, 36628, 38322, 38734, 39479, 39693, 39694, 40077, 40078, 40079, 40083, 41211, 41212, 42037, 42038, 42623, 43412, 43573, 43575, 43576, 43826, 43912, 44469, 45079, 46586, 47087, 47411, 47413, 47680, 48331, 49450, 49451, 50873
73 ....18351, 33223, 38323, 41214
91 ....32244, 36738
93 ....7950, 11554
119 32248
121 ...7197, 8917, 16584, 17024, 21336, 32248, 33316, 36116, 36738
125 ....17024, 32248, 49164
127 32248
129 8917
135 ...7197, 17024, 32248, 36116, 36738, 49164
142 9514
221 ....287, 12350
234 4370
241 35
255 41068
266 16806
300 ....516, 7040
382 47681
389 ....287, 12350
399 7053
1272 36159

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce (Parts 0—29)

19 Added; interim....39653

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

30 Authority citation revised....41423
30.20 (a) amended; (b) and (c) redesignated as (c) and (d); new (b) added....41423
30.21 (a) and (b) revised....41424
30.22 (a) revised....41424
30.24 (a) introductory text and (1) revised....41425
50.5 Revised....4078
122.62 (a) revised....41425
122.74 (a) and (c)(2) revised....41425
122.76 Revised....41426
122.79 (b) revised; (b)(2) undesignated text removed....41426

Chapter III—International Trade Administration, Department of Commerce) (Parts 300—399)

303.10 (c) removed; (d) redesignated as (c)....21348
303.14 (b)(4) and (d)(2) removed; (d)(3) redesignated as (d)(2); (b)(2), (d)(1), new (d)(2) and (e) amended....21348

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

Page

770 Supplement No. 1 amended....47053
770.2 Amended....3222
770.4 Revised....3222
770.11 (a)(2)(i)(A) amended....36354
771 Authority citation revised....488
771.3 Revised....47052
771.4 (b) introductory text amended; (b)(2) added....47050
771.7 Added....488
771.14 (d)(3) amended....47050
771.16 (b) revised....47050
771.23 (b) amended....486
771.28 Added....47054
772.4 (b)(2)(iv)(A), (i)(1) introductory text and (6) amended; (i)(1)(i) revised....36354
773.3 (a)(1)(ii), (d)(3)(iii)(D) and (e)(1)(ix)(I) amended....486
773.7 (c)(2) heading, text, (d)(1) introductory text, (2)(i), (ii) heading, introductory text, (A), (C), (3) introductory text, (h)(1)(i) Footnote 2, (ii), (i) heading, introductory text, (1), (2), (4), (6), (k) introductory text and concluding text amended....486
773.8 (a)(2) introductory text and (c)(1) amended....487
774.2 (a)(1) amended....47054
774.5 (a) amended....486
775 Authority citation revised....25554
775.1 (b) table amended...25554, 47054
775.2 (e)(6) amended....36355
(b)(1) amended....47054
775.3 (b) revised....25554
(h)(3) revised....36355
775.6 (d) added....36355
(c)(2) removed; (c)(3) and (4) redesignated as (c)(2) and (3) and revised; (d) added....47052
775.7 (d) redesignated as (e); new (d) added....36355
775.8 (d) redesignated as (e); new (d) added....36355
Heading, (a) and (b)(2) revised; (d) amended....47054

TITLE 15 Chapter VII—Con. Page

775.10 (b) through (g) redesignated as (c) through (h); new (b) added....36355
Introductory text, (a), (b)(2) heading, introductory text, (c), (e), (f)(1) introductory text, (f)(2)(i) introductory text, (ii)(A) and (g)(1) introductory text amended....47054
775 Supplement No. 1 amended....25554, 47054
776.8 (b)(1)(ii) and (iii) amended....486
776.9 (b)(1)(iii) introductory text and (3)(iii) introductory text amended....33510
776.10 (a)(1) amended....486
(b) through (g) redesignated as (c) through (h); new (b) added....36355
776.11 (f)(6)(i)(D) and (ii)(A) revised....47055
777 Authority citation revised....488
777.1 (c)(3) amended....36355
777.2 (e) amended....36355
777.4 (d)(1) introductory text, (h) and (i)(2) introductory text amended....36355
777.6 (d) amended....36355
(d)(3)(ii) amended....47051
777.7 Revised....489
(d) amended....36355
778.9 (a) revised....47051
779.4 (f)(1)(i), (iii), (2)(i) and (iii) amended....486
(f)(1)(i) revised....47055
779.5 (e)(1)(vii) amended....486
(e)(2) amended....487
(a)(3) amended....47055
779.8 (b)(4) amended....47051
785.1 (a) revised....47055
785.2 (a)(4) amended....36355
(a)(1) and (c) amended....47055
785.4 (f) removed; (g) redesignated as (f)....487
(d)(1)(vi), (viii) and (ix) amended....33510
785.6 (b) revised....47052
785.7 (c) amended....33510
(b) amended....36355
786.1 (a), (c)(1), (2) introductory text, (i) and (iii) amended; (b)(1) Footnote 1, (2)(i) and (c)(3) revised....3222

Page

786.3 (f)(1), (i)(1), (2), (p)(1)(i) and (ii) revised; (i)(3), (j)(1), (p)(1) introductory text, (r)(1), (3), (4), (6) and (7) amended....3223
786.7 (c)(1) introductory text, (e)(1) introductory text and (1)(i) amended; (e)(1)(ii) and (iii) revised....35510
786 Supplement No. 1 amended....3223
787.14 (a)(1) and (2) amended....36355
787.15 (c)(2)(ii) amended....36355
788.20 (c)(1)(i) amended....36355
790.1 (h)(3) amended....36355
799 Authority citation revised....21926, 27932
799.1 Regulations at 57 FR 61259 corrected....6574
Supplement No. 1, Category 1 amended (ECCN 1B71E)....21926
Supplement No. 1, Category 1 amended (ECCN 1C65E)....21927
Supplement No. 1, Category 5 amended (ECCN 5A02A); interim....27932
Regulation at 57 FR 61259 corrected....32003
(h) added....33510
Supplement No. 1, Category 9 amended (ECCN 9A92F and 9A93F)....33510
Supplement No. 1, Category 7 amended (ECCN 7A05A, 7A25B, 7A94F)....34212
Supplement No. 1, Category 5 amended (ECCN 5A20B)....47051
Supplement No. 1, Category 9 amended (ECCN 9A18A)....47051
Supplement No. 1, Category 9 amended (ECCN 9A04A)....47323
Supplement No. 1, Category 5 amended (ECCN 5A02A)....48304
Supplement No. 1, Category 5 added (ECCN 5A91F)....48305

Chapter VIII—Bureau of Economic Analysis, Department of Commerce (Parts 800—899)

806.15 (h)(1) and (2) amended....38290

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

Page

921 Revised....38215
944 Petition denied....15271

Title 15—*Proposed Rules:*

7....40087
285....40087
286....39486
295....41069, 46919
303....4947
500....41215
806....12912, 38324
900—999 (Ch. IX)....4601
935....44634
936....44634
942....44634
944....44634
946....18316
1180....27681
1200....5672, 8564

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

4.1 (c) revised....40737
4.9 (a)(2) revised....15764
4.11 (g) added....15764
4.13 (m) revised....7047
5 Authority citation revised....15764
5.1—5.2 (Subpart A) Revised....15764
5.10 (Subpart B) Revised....15765
5.21—5.26 (Subpart C) Removed....15765
5.31—5.42 (Subpart D) Removed....15765
5.51 Revised....15765
305 Authority citation revised....5926, 15086
Energy efficiency ranges....26684
305.9 (a) revised....5926
305 Appendixes A1, A2 and B amended....3224
Appendix C amended....15086
306.0 Redesignated as 306.1; new 306.0 added....41372
306.1 Redesignated as 306.2; new 306.1 redesignated from 306.0....41372

Page

Revised....41373
306.2 Redesignated as 306.3; new 306.2 redesignated from 306.1....41372
Revised....41373
306.3 Redesignated as 306.4; new 306.3 redesignated from 306.2....41372
306.4 Redesignated as 306.5; new 306.4 redesignated from 306.3....41372
Revised....41373
306.5 Redesignated as 306.6; new 306.5 redesignated from 306.4....41372
Revised....41373
306.6 Redesignated as 306.7; new 306.6 redesignated from 306.5....41372
Revised....41373
306.7 Redesignated as 306.8; new 306.7 redesignated from 306.6....41372
Revised....41374
306.8 Redesignated as 306.9; new 306.8 redesignated from 306.7....41372
Revised....41374
306.9 Redesignated as 306.10; new 306.9 redesignated from 306.8....41372
Revised....41374
306.10 Redesignated as 306.11; new 306.10 redesignated from 306.9....41372
Revised....41374
306.11 Redesignated as 306.12; new 306.11 redesignated from 306.10....41372
Revised....41374
306.12 Redesignated from 306.11....41372
Revised....41375
308 Added....42400
435 Revised; eff. 3-1-94....49121

Chapter II—Consumer Product Safety Commission (Parts 1000—1750)

1030 Authority citation revised....12335
1030.101—1030.104 (Subpart A) Removed....12335
1030.201 (Subpart B) Removed....12335

CHANGES JANUARY 4, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 16 Chapter II—Con. Page

1030.301—1030.304 (Subpart C) Removed 12335
1030.401 Removed 12335
1030.403 Removed 12335
1030.407 Removed 12335
1030.409 Removed 12335
1030.410 Removed 12335
1030.501—1030.502 (Subpart E) Removed 12335
1030.601—1030.611 (Subpart F) Removed 12335
1030.701—1030.705 (Subpart G) Removed 12335
1030.801 (Subpart H) Removed 12335
1030.901 (Subpart I) Removed 12335
1030.1001—1030.1002 (Subpart J) Removed 12335
1030.1101—1030.1109 (Subpart K) Removed 12335
1030.1201—1030.1218 (Subpart L) Removed 12335
1030 Appendixes A through F removed 12335
1116.2 (b) revised 16121
1145.16 Added 37556
1210 Added 37584
1500 Authority citation revised 40334
1505 Authority citation revised 40335
1505.1 (a)(1) amended; (a)(2) added 40335
1615 Stay of enforcement 4078
1616 Stay of enforcement 4078
1700.14 (a)(21) added 38964

Title 16—*Proposed Rules:*

0—999 (Ch. I) 11554
18 ..... 16139, 29153
244 35414
305 ..... 7852, 12818, 18056, 26715
306 ..... 16464, 25582
307 ..... 4875, 10997
308 13370
400 25703
404 21124
410 21125
412 35907
418 21125
500 43726
1000—1799 (Ch. II) 8013, 8016, 8020, 8023
1204 15815
1210 8565
1500 34385
1615 4111
1616 4111

CHANGES APRIL 1, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

Page

1 Authority citation revised 19589
Technical correction 22020, 42361
1.3 (x) revised 19589
1.10 (j)(2)(ii) revised 19589
1.31 (b) and (c) revised; (d) added 27464
(b)(2) revised 27467
1.35 (b) amended 27465
(a-1)(2), (3) and (4) revised 31166
(e)(1) revised 40348
1.37 (a) revised 28501
1.41 (a)(4), (f)(2), (3) and (g) revised; (a)(8) and (f)(4) through (9) added 26237
(d) heading and (1) introductory text revised 37653
1.41c Added 26239
1.55 (a) and (b) revised; (c) and (d) redesignated as (e) and (f); new (c) and new (d) added 17503
1.62 Revised 19589
1.63 (a)(4) and (6) redesignated as (a)(6) and (7); new (a)(4) added; (a)(2), (5), new (6), (b) introductory text and (c) through (f) revised 37653
1.64 Added 37654
1.65 Added 17504
1.66 Added 19589
(b)(1)(ii) correctly designated 21776
1.67 Added 37655
1 Appendix B amended 42645
3 Authority citation revised 19590
3.1 Authority citation removed 19590
3.2 Authority citation removed 19590
3.4 (a) revised; authority citation removed 19590
3.10 Authority citation removed 19590
3.11 Revised 19591
3.12 Authority citation removed 19590
(d)(1)(iv) and (i)(1)(iv) revised 19592
3.13 Authority citation removed 19590
3.14 Authority citation removed 19590
3.15 Authority citation removed 19590
3.16 Authority citation removed 19590
3.17 Authority citation removed 19590
3.18 Authority citation removed 19590
3.20 Authority citation removed 19590
3.21 Authority citation removed 19590
(b)(2) revised 19592
3.22 Authority citation removed 19590
3.30 Authority citation removed 19590
3.31 Authority citation removed 19590
(a) amended; (b) and (d) revised 19593
3.32 Authority citation removed 19590
3.33 Authority citation removed 19590
(a) introductory text, (e) and (f) introductory text revised; (b) introductory text amended 19592
3.34 Added 19593
(d)(2) corrected 21776
3.40—3.47 (Subpart B) Authority citation removed 19590
3.40 Heading, introductory text and (c) revised 19594
3.41 (a) revised 19594
(a) corrected 21776
3.42 (a)(2), (4), (5), (6) and (b) revised; (a)(7) and (8) added 19594
3.43 (b)(1) and (2) revised 19594
3.46 (a) revised 19595
3.47 (b)(2) revised 19595
3.50—3.63 (Subpart C) Authority citation removed 19590
3.55 (e)(1) revised 19595
3.56 Added 19595
3.60 (b)(2)(i) introductory text, (A), (C), (ii)(C) and (f)(3) revised; (l) added 19596
3.61 Heading and (a) revised 19597

CHANGES APRIL 1, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 17 Chapter I—Con. Page

3.64 (a)(2) and (d) revised....19597
3.70 (Subpart D) Authority citation removed....19590
3.75 (Subpart E) Authority citation removed....19590
3 Appendix A authority citation removed....19590
Appendix A amended....19597
4.5 (a)(4), (b)(4) and (c) introductory text revised; (a)(4)(iv) added....43793
5 Fee schedule....19769
10.1 (a) revised....19597
17.00 (b) revised....33330
17.01 (b)(6) revised....33330
18.01 (a) revised....33330
18.04 (a)(5) revised....33330
30 Technical correction....22020
30.6 (a) revised....17505
30 Appendix C amended....19210
33 Technical correction....22020
33.4 (b)(9) removed....30703
33.7 (a) revised....17505
145.6 (b) revised....19597
150 Authority citation revised....17981
150.1 (f) through (i) added; interim....17981
150.2 Revised; interim....17982
150.3 (a)(2) removed; (a)(3) revised; interim....17982
155.5 Added....40348
156 Added....31171
180 Technical correction....22020
180.3 (b)(2) revised....17505
190 Technical correction....22020
190.06 (b) and (d)(1) revised....17505
190.10 (c)(1) revised....17505

Chapter II—Securities and Exchange Commission (Parts 200—399)

[EDITORIAL NOTE: The revision date for the 1993 edition of title 17, chapters II through the end, was delayed until June 1, 1993. The 1993 revision will include amendments promulgated during the period of April 1, 1992, through June 1, 1993. For amendments promulgated during that period, see the May 1993 LSA.]

200.30-6 (d)(1) removed; (d)(2) and (3) redesignated as (d)(1) and (2)....45839
204 Added....38520
211 Staff Accounting Bulletin No. 92 added....32843
Regulation at 58 FR 32843 corrected....34842
239.15A Form N-1A amended....49922
239.17a Form N-3 amended....49922
239.40 Form F-10 amended....35368
240 Phase-in period extended....36866
240.15c2-6 Redesignated as 240.15g-9....37417
240.15c3-1 (b)(1) and (c)(2)(x)(A) introductory text revised; (c)(2)(vi)(N) added....43559
240.15c3-1d (c)(5)(i) introductory text amended....37657
240.15g-2 Revised....37417
240.15g-9 Redesignated from 240.15c2-6; (a) introductory text, (2)(i), (ii), (b) introductory text, (2) and (3)(ii) amended; (c) and (d) revised....37417
240.15g-100 Amended....37417
240.17a-5 (c)(2)(iii) revised; (h)(2) amended....37657
(a)(5) added; (d)(1)(i) and (l)(1) revised....45839
(m) revised....45840
240.17a-11 Revised....37657
249.240f Form 40-F amended....35368
260.4d-9 (a) introductory text, (2) and (3) amended; (b) removed; (a) introductory text, (1), (2) and (3) redesignated as introductory text, (a), (b) and (c); (d) added....33190
260.10a-5 (a) amended; (b) and (c) removed; (d) redesignated as (b)....33191
270 Authority citation revised....49427
270.2a3-1 Added....45838
270.2a19-2 Added....45838
270.10f-3 (h) revised....49921
270.12d3-1 Revised....49427
270.17a-7 (e)(2) revised....49921
270.17e-1 (b) revised....49921
270.17f-4 (b), (c)(3) and (d)(5) revised....49922
270.22c-1 (b)(1) revised; (d) added....49922
274.11A Form N-1A amended....49922
274.11b Form N-3 amended....49922

CHANGES APRIL 1, 1993 THROUGH SEPTEMBER 30, 1993

Title 17—*Proposed Rules:* Page

1 ....26270, 28365, 43087, 44470
4 32314
12 ....17369, 44623
140 37745
150 18057
200 50291
228 42882
229 42882
230 50291
239 50291
240 ...37445, 38092, 42882, 44310, 49452
270 ....38095, 50291
274 50291

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

2 Authority citation revised...38527, 38969
Authority citation reinstated....47636
2.1b Revised....38292
2.20 Added....38969
2.21 Added....41632
2.61 Amended....38527
Introductory text reinstated....47636
101 Authority citation revised....18004
Amended (OMB numbers pending)....18004—18006
Amended....42495
154.28 Introductory text revised....25556
157 Technical correction....47636
157.14 (a)(10) revised....38527
201 Authority citation revised....18006
Amended (OMB numbers pending)....18006, 18007
260 Order....26915
Authority citation revised....38527
Technical correction....47636
260.7 Removed....38527
260.7a Removed....38527
260.12 Removed....38527
271 Order....19607, 38528
Technical correction....21509
284 Technical correction....47636
284.262 (b) revised....38528
306 Authority citation revised....41372
365 Authority citation revised....21255
Technical correction....25900
365.3 (a)(1)(i), (ii) and (2)(ii) revised; (a)(1)(iii) added....21255
381.302 (a) amended....26523
381.303 (a) amended....26523
381.304 (a) amended....26523
381.305 (a) amended....26523
381.402 Amended....26523
381.403 Amended....26523
381.404 Amended....26523
381.505 (a) amended....26523
381.601 Amended....26523
385 Authority citation revised....38528
Technical correction....47636
385.2011 (a)(6) and (7) removed....38528

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1316 Amended....25930

Title 18—*Proposed Rules:*

1—399 (Ch. I) 18185, 19215
2 48994
4 48991
6 48991
8 48991
9 48991
11 48991
12 48991
16 48991
20 48991
24 48991
25 48991
32 48991
33 48991
34 48991
35 ....36172, 48991
36 41074
41 48991
45 48991
46 48991
141 ....17544, 19876, 30005, 40606
284 ...19365, 25583, 27691, 27959, 32473, 37447, 41647, 48332
341 37671
342 37671
343 37671

TITLE 18 Proposed Rules—Con. Page
344 37671
345 37671
347 37671
352 37671
360 37671
361 37671
375 ..... 35415, 37671, 40606
385 40606
401 18352
1301 17553

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4.0 (c) amended 50256
4.7a (c)(1) amended 44130
4.14 (c)(2) amended 39655
(d)(1)(v), (2)(iii), (iv) and (e) amended; (f) revised 44128
(b)(1) amended 44130
4.30 (e) amended 44130
4.39 (b) amended 44130
4.80 (h) redesignated as (i); new (h) added 50257
4.84 (c) revised 41425
10.3 (c)(3) amended 44130
10.41 (d) amended 44130
10.53 (d) amended 44130
10.59 (f) amended 18147
(c) and (f) amended 44130
10.71 (e) amended; (f) removed 44130
10.84 (a)(1) and (2) amended 44130
10.102 (b)(2) amended 34523
10.301 Amended 44130
12 Authority citation amended 19349, 44130
12.40 (h) amended 44130
12.104g (b) table amended 29349, 49430
12.130 (c) redesignated as (c)(1); new (c) designation, heading and (2) added; interim 19349
(c) heading, (1) and (2) corrected 21334
Regulation at 58 FR 19349 corrected 29454
18 Authority citation revised 38500
18.9 Heading revised; (e) added 38500
19.1 Regulation at 57 FR 47410 effective date corrected 29349
19.2 Regulation at 57 FR 47410 effective date corrected 29349
19.3 Regulation at 57 FR 47410 effective date corrected 29349
19.5 Regulation at 57 FR 47410 effective date corrected 29349
19.6 Regulation at 57 FR 47410 effective date corrected 29349
19.11 Regulation at 57 FR 47410 effective date corrected 29349
19.12 Regulation at 57 FR 47410 effective date corrected 29349
19.35 Regulation at 57 FR 47410 effective date corrected 29349
19.36 Regulation at 57 FR 47410 effective date corrected 29349
19.37 Regulation at 57 FR 47410 effective date corrected 29349
19.38 Regulation at 57 FR 47410 effective date corrected 29349
19.39 Regulation at 57 FR 47410 effective date corrected 29349
24 Authority citation amended 30983
Authority citation revised 34367
24.5 (f) added 34367
24.24 (h) heading and (1) heading revised; (h)(1), (2) and (3) amended 30983
101 Technical correction 27336
Authority citation revised 41634, 49923
101.3 (b) amended 21350, 21351, 25933, 41634
(b) table amended 49923
101.4 (c) amended 21351, 40353
113.62 (k)(4) added 30984
113.63 Regulation at 57 FR 47410 effective date corrected 29349
113.64 (a) amended 30984
122 Technical correction 27336
Authority citation revised 44130
122.1 (h)(1) amended 44130
122.15 (b) table amended 25933, 49923

122.24 (b) amended 44444
122.62 (a) revised 41425
122.74 (a) and (c)(2) revised 41425
122.76a Revised 41426
122.79 (b) revised 41426
128 Authority citation revised 44130
128.11 (b)(4) amended 44130
141 Authority citation revised 44130
141.81 Amended 44130
141.82 (e) removed 44130
141.83 (b) removed 44130
141.91 Introductory text amended 44130
141.92 (a) amended 44130
141.113 (a)(5) and (g) amended 44130
142.13 (a)(2) amended 30984
142.25 (a)(2) amended 30984
144.37 Regulation at 57 FR 47410 effective date corrected 29349
148 Authority citation revised 35863, 44130
148.87 (b) table amended 35863, 35864
(b) table corrected 38167
148.105 (b)(3) amended 44130
148.113 (a) amended 44131
148.115 (a)(2) introductory text amended 44131
151.64 Revised 37854
151.70 Amended 37854
151.71 (a) and (b) revised 37854
151.72 Removed 37854
151.73 (a) and (b) amended 37854
151.75 Amended 37854
152.2 Amended 44131
162.1d (b) introductory text amended 44131
177 Final determination 21538
178.2 Table amended (OMB numbers) 34368

Title 19—*Proposed Rules:*

7 40095
10 40095
12 37884
24 37884
101 28803
122 ..... 19366, 28803
133 ..... 37884, 44476
148 40095
151 31487
152 31487
174 50300
175 ..... 30726, 47413
178 37884
201 ..... 19638, 49452
207 19638

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

209.13 Revised 45250
209.15 Added 45250
211.2 (b)(9) revised; (b)(13) added 45251
211.4 Revised 45251
211.8 Revised 45251
211.9 Amended 45251
211.10 Revised 45251
211.11 Revised 45251
211.13 Redesignated as 211.14; new 211.13 added 45251
211.14 Redesignated as 211.15; new 211.14 redesignated from 211.13 and revised 45251
211.15 Redesignated from 211.14 45251
325.4 (c) revised; (d) amended 45841
345 Authority citation revised 45251
345.4 Revised 45251
360 Removed 48597
366 Heading revised 31343
366.7 Removed 31343

Chapter III—Social Security Administration, Department of Health and Human Services (Parts 400—499)

404.1501—404.1599 (Subpart P) Authority citation revised 44445
Appendix 1 amended 31907, 36051, 36052, 36056, 36134, 44445
416 Technical corrections 49431, 49432
416.902 Amended 47577
416.903 (f) added 47577
416.913 (c)(3) added; (e)(2) and (3) revised 47577
416.916 Revised 47577
416.924 Revised; effective to 9-9-97 47577
416.924a Revised; effective to 9-9-97 47578

TITLE 20 Chapter III—Con. Page
416.924b Revised; effective to 9–9–97....47580
416.924c Revised; effective to 9–9–97....47581
416.924d Revised; effective to 9–9–97....47582
416.924e Revised; effective to 9–9–97....47584
416.926a (b)(3), (c) and (d) revised; effective to 9–9–97....47586
416.928 (a) revised....47586
416.933 Revised....36063
416.994a (b)(5), (f)(1) and (2) amended; (d)(2) revised; effective to 9–9–97....47586
416.1015 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added....47587
416.1600—416.1618 (Subpart P) Authority citation revised....41182
416.1619 Added....41182

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

614.1 Regulation at 57 FR 59799 confirmed....43783
614.2 Regulation at 57 FR 59799 confirmed....43783
614.3 Regulations at 57 FR 59799 and 59800 confirmed....43783
614.4 Regulation at 57 FR 59800 confirmed....43783
614.27 Regulation at 57 FR 59800 confirmed....43783
626 Regulation at 57 FR 62025 effective dated revised; interim....31472
627 Regulation at 57 FR 62030 effective date revised; interim....31472
627.900 Revised; interim....31472
627.902 (i) and (j) removed; (h) amended; interim....31472
627.904 (g) revised; (m), (n) and (o) added; interim....31472
627.906 (a) amended; interim....31473
628 Regulation at 57 FR 62052 effective date revised; interim....31472
629 Regulation at 57 FR 62061 effective date revised; interim....31472
630 Regulation at 57 FR 62061 effective date revised; interim....31472
631 Regulation at 57 FR 62062 effective date revised; interim....31472
637 Regulation at 57 FR 62072 effective date revised; interim....31472

Title 20—*Proposed Rules:*

228 51024
237 51024
336 43577
416 ....26383, 42514, 49249
626 33000
638 33000
656 26077

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

Chapter I Technical correction....17085
Meetings....48597
1 Technical correction....19876
1.1 (c) amended; eff. 5–8–94....17085
1.24 Regulation at 58 FR 2174 effective date corrected to 5–8–94....17328
5 Technical correction....17096
Authority citation revised....17106
Clarification....44033
5.10 (a)(18) introductory text revised....17095
(a)(35) added....17106
5.20 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added....17095
5.22 (c) amended....17095
5.29 Added....17106
5.31 (d) introductory text and (2) revised....41634
5.34 Added....39142
5.35 (c) redesignated as (d); new (d) introductory text revised; new (c) and (d)(4) added....42496
5.39 Added....18348

Page
5.61 Regulation at 58 FR 2410 effective date corrected to 5–8–94....17341
5.80 (a)(1)(i) amended; (d) redesignated as (f); (c) introductory text, (1)(i), (ii), (iii) and new (f) introductory text revised; (c)(1)(iv), new (d) and (e) added....17094
5.99 Added....34213
5.100 Revised....17091
5.115 Amended....17093
10 Authority citation revised....49190
10.50 (c)(1) revised; (c)(20) and (21) added....49190
12.50 (a) and (c) amended....17096
14 Authority citation revised....41635
14.100 (c)(1)(ii) amended....17096
(d)(4) added....41635
20 Technical correction....17096, 17097
20.108 (d) added....48794
(c) revised....48796
73 Technical correction....36134
73.3106 Revised....17507
Regulation at 58 FR 17507 effective date confirmed....41182
73.3121 Regulation at 58 FR 9541 effective date confirmed....41024
73.3127 (a), (b)(1) and (2) revised....17510
Regulation at 58 FR 3227 confirmed....33909
Regulation at 58 FR 17510 effective date confirmed....41183
74.101 (b) revised....17511
Regulation at 58 FR 17511 effective date confirmed....41183
74.1109 (b) amended....17098
74.2101 (a) revised....17511
Regulation at 58 FR 17511 effective date confirmed....41183
74.3206 (c)(1)(iv) and (v) amended; (c)(1)(vi) added....21542
Regulation at 58 FR 21542 effective date confirmed....45841
100 Technical correction....17096
100.2 (d), (f), (g) and (h) introductory text corrected....17097
100.100 (Subpart F) Added....27933
101 Technical correction....17085, 17096, 17099, 17100, 17101, 17102, 17343, 19876
Clarification....44033
101.2 (b) and (f) revised; eff. 5–8–94....44030

Page
101.6 Regulation at 58 FR 2850 effective date corrected to 5–8–93....17103
101.9 (b)(5)(iv) and (b)(7) amended; eff. 5–8–94....17086
Regulation at 58 FR 2478 effective date corrected to 5–8–94....17097
(c)(8)(iv) amended....17104
Regulation at 58 FR 2175 effective date corrected to 5–8–94....17328
(c)(1)(i)(A), (6)(iii), (7)(ii), (8)(i), (ii) introductory text, (B), (d)(8), (9)(i), (ii) and (iii) corrected....17328
(d)(12) sample label correctly revised....17329
(e) introductory text corrected; (e)(5) sample label correctly revised....17330
(f)(2)(ii), (iv), (g)(8), (9), (h)(3)(iv), (j)(4) and (13)(ii)(A) corrected; (j)(13)(ii)(A) sample label correctly revised....17331
(b) revised; eff. 5–8–94....44048
(a) introductory text and (d) amended; (c)(1)(i), (2), (8)(vi), (d)(1)(ii)(D), (iii), (7), (11), (e)(5) sample label, (f)(4), (5), (j)(1)(i), (2)(i), (ii), (iii), (j)(3)(v), (4), (5)(ii), (10), (13)(i), (ii)(A), (B), (C), (14) and (15)(iii) revised; (j)(2)(iv) redesignated as (j)(2)(v); (d)(13), (14) and new (j)(2)(iv) added; eff. 5–8–94....44076
101.10 Regulation at 58 FR 2410 effective date corrected in part to 5–8–94 and 5–8–95....17341
101.12 (a)(4) and (b) Table 1 corrected....17086
(b) Table 2 correctly added....17087
(h)(11)(i) corrected....17091
Revised; eff. 5–8–94....44051
101.13 Regulation at 58 FR 2410 effective date corrected in part to 5–8–94 and 5–8–95....17341
(i)(1), (2), (3), (j)(2)(i), (m)(1)(ii), (p)(1) and (q)(5)(i) corrected; effective

TITLE 21 Chapter I—Con. Page
in part to 5-8-94 and 5-8-95....17342
(b)(4) added; (d)(2), (f), (g) introductory text, (1), (i)(2), (j)(1)(ii)(B), (l)(1)(ii) introductory text, (m)(1)(ii) introductory text and (q)(2) revised; (h)(1) amended; eff. 5-8-94....44030
101.14 (d)(2)(vii) (A) and (B) corrected....17097
(e)(6) revised....44038
101.25 Regulation at 58 FR 2413 effective date corrected to 5-8-94....17341
101.30 (e)(2) and (l) revised; (h)(1) table amended....44063
(m) added....49192
101.54—101.69 (Subpart D) Regulation at 58 FR 2413 effective date corrected to 5-8-94....17341
101.54 (a), (b)(1), (e)(1)(i), (iii)(A) and (2)(i) corrected; eff. 5-8-94....17342
101.56 (a) introductory text, (3), (d)(2) and (g) corrected; eff. 5-8-94....17342
101.60 (b)(2)(i), (ii) and (iii) redesignated as (b)(2)(i)(A), (B) and (b)(2)(ii); (b)(2) introductory text, new (b)(2)(i)(B), (4)(ii)(A), (5)(ii)(A), (c)(4)(ii)(A) and (5)(ii)(A) corrected; eff. 5-8-94....17342
(a) introductory text, (b)(1)(i) and (c)(1)(i) revised; (b)(2)(i)(B) amended; eff. 5-8-94....44031
101.61 (a), (b)(2), (3), (4) (5), (6)(ii)(A) and (7)(ii)(A) corrected; eff. 5-8-94....17342
(a) introductory text and (b)(1)(i) revised; (b)(2)(i)(B) and (b)(4)(i)(B) amended; eff. 5-8-94....44032
101.62 (b)(2), (3), (4)(ii)(A), (5)(ii)(A), (6)(ii), (c) introductory text, (4) introductory text, (ii)(A), (5)(ii)(A) and (d)(1)(ii) corrected; eff. 5-8-94....17342
(d)(2)(ii)(B), (d)(4) introductory text and (4)(i) corrected; eff. 5-8-94....17343
(b)(1)(i), (c)(1)(i), (d)(1)(i)(A), (ii)(A), (2)(ii)(A), (iv) introductory text, (A), (4)(i) introductory text, (ii) introductory text, (e)(1) and (2) revised; (b)(2)(i)(B), (1)(i) introductory text, (ii) introductory text and (2)(ii) introductory text amended; eff. 5-8-94....44032
101.65 (b) and (c)(3) corrected; eff. 5-8-94....17343
101.69 (m)(1), (n)(1) and (o)(1) corrected; eff. 5-8-94....17343
(m)(1), (n)(1) and (o)(1) amended; (m)(1)(E), (n)(1)(C) and (o)(1)(C) added; eff. 5-8-94....44033
101.70 (f) corrected....17097
101.71 (b) correctly designated....17100
101.72 (c)(2)(ii)(C) corrected....17101
101.73 Heading and Tables 1 and 2 corrected; eff. 5-8-94....17343
Table 2 corrected; eff. 5-8-94....17344, 17345, 17346
101.74 (b)(3) corrected; eff. 5-8-93....17100
101.95 (Subpart F) Regulation at 58 FR 2426 effective date corrected to 5-8-94....17341
101.100—101.108 (Subpart G) Regulation at 58 FR 2426 effective date corrected to 5-8-94....17341
101.100 Regulation at 58 FR 2189 effective date corrected to 5-8-94....17328
101 Regulation at 58 FR 2188 effective date corrected to 5-8-94....17328
Appendix B corrected....17332, 17333
102 Technical correction....17103
102.33 (c) corrected....17103
(g) redesignated as (g)(1); (g)(2) added; eff. 5-8-94....44063
104 Technical correction....17104
105 Technical correction....17096, 17104
Clarification....44033
130 Technical correction....17096, 17103, 17105

Page
Clarification....44033
131 Technical correction....17105
133.108 (d) introductory text corrected....17105
135 Technical correction....17103, 17105
136 Technical correction....17103
137 Technical correction....17103
139 Technical correction....17103
145 Technical correction....17103
146 Technical correction....17103
150 Technical correction....17103
152 Technical correction....17103
155.190 (a)(6) revised; eff. 5-8-93....17103
155.191 (a)(3)(iv) corrected....17104
156 Technical correction....17103
158 Technical correction....17103
160 Technical correction....17103
161 Technical correction....17103
163 Technical correction....17103
Revised....29529
164 Technical correction....17103
166 Technical correction....17103
166.110 (a) introductory text amended; (b)(4) revised....21649
168 Technical correction....17103, 17105
169 Technical correction....17103
172 Authority citation revised....48598
172.490 (a) amended....17098
172.804 (c)(10) and (d) revised....19771
(c)(5)(ii) and (6) revised; (c)(8), (11) and (12) removed....21097
(d) revised....21098
(c)(23) added....21099
(c)(18) revised....48598
172.892 (d) table amended....21100
175 Authority citation revised....39655
175.105 (c)(5) table amended....21256, 21257, 39856
176.170 (a)(5) table amended....21103
177 Authority citation revised....48599
177.1060 (e) amended....17098
177.1395 (b)(4) table amended....32610
177.1500 (a)(13) revised; (b) table amended....32610
177.1520 (c) table amended....17098
(d)(3)(ii) introductory text revised; (d)(3)(ii)(e) through (i) added....21258
177.2910 Introductory text revised; (a)(3) added....48599
178 Authority citation revised....37855
178.1010 (b)(41) corrected....17099
178.2010 (b) table amended....17515, 37855
178.3297 (e) table amended....17514
178.3400 (c) table amended....26687
178.3770 (a)(2), (3), (b)(2), (3), (d)(2) and (3) amended....17512
178.3910 (b)(2) table amended....17513
184.1685 (a)(4) added....27202
Technical correction....30220
186.1551 (a) amended....17099
189.220 (a) amended....17099
201 Authority citation revised....45201
201.319 Added....45201
206 Added; eff. 9-13-95....47958
207.25 (c) added; eff. 9-13-95....47959
207.37 (a)(1)(xi) added; eff. 9-13-95....47959
210.3 (b)(22) added; eff. 8-3-94....41353
211 Technical correction....19876
211.122 (f) revised; (g) redesignated as (h); new (g) added; eff. 8-3-94....41353
211.125 (c) revised; eff. 8-3-94....41354
211.130 (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; eff. 8-3-94....41354
291.501 Revised; interim....38709
291.505 (d)(1)(i)(C), (iii)(B)(1), (C), (3)(i), (13)(i) and (f)(2)(viii) amended; (d)(6)(ii) removed; (k) redesignated as (l); (b)(2)(v), (vi)(D), (c)(4)(i), (ii), (d)(1)(ii), (iv), (6) heading, (6)(i) heading, (h)(1) and new (l) revised; (d)(1)(iii)(B)(6), (4)(v) and new (k) added....38709
310 Authority citation revised....46745
310.201 (a)(29) removed; eff. 9-23-94....49898
310.530 Added....47610
310.536 Added....46754

TITLE 21 Chapter I—Con. Page

310.538 Added....47605
310.544 Added....31241
310.545 (a)(8) and (18) text redesignated as (a)(8)(i) and (18)(i); new (a)(8)(i) heading, (10)(v), (vi), (vii), (18)(i) heading, (ii), (iii), (vi), (22)(ii), (23), (24), (25) and (d)(11) added; (d) introductory text and (1) revised....27641
(a)(19) removed....31241
(a)(22)(iii) and (d)(12) added; (d) introductory text revised....46745
(a)(26), (d)(13) and (14) added; (d) introductory text revised; eff. 9-2-94....46748
(a)(13) removed....46754
(a)(11) removed....47605
(a)(22)(iv) and (d)(15) added; (d) introductory text revised; eff. 9-23-94....49898
312.57 (c) revised....25926
314 Authority citation revised....47351
314.50 Introductory text and (h)(2) revised; (d)(1)(ii) redesignated as (d)(1)(ii)(*a*); (d)(1)(ii)(*b*), (c), (d)(1)(v), (h)(3) and (4) added....47351
314.54 (a)(1)(i) revised; (a)(2) amended; (a)(4) added....47351
314.60 (c) added....47352
314.70 (a) revised....47352
(b)(2)(xi), (xii) and (d)(9) added; eff. 9-13-95....47959
314.71 (b) revised....47352
314.94 Introductory text amended; (a)(9)(i) and (d)(4) revised; (d)(5) added....47352
314.96 (b) redesignated as (c); new (b) added....47352
314.125 (b)(17) revised....25926
314.127 (b) revised....25927
314.150 (b)(9) revised....25927
314.440 (a)(1) and (2) amended; (a)(4) added....47352
320.31 (c) revised; (d) added; (e) and (f) removed....25927
320.38 Revised....25927
320.63 Revised....25928
330.3 Added; eff. 9-13-95....47959
331.30 (d) introductory text revised; (h) added; eff. 8-26-94....45208

Page

333.201—333.280 (Subpart C) Added; eff. 9-23-94....49898
430.4 (a)(64) added....26652
(a)(65) added....26656
(a)(66) added....26659
(a)(67) added....26663
(a)(68) added....26666
430.5 (a)(99) and (b)(101) added....26652
(a)(100) and (b)(102) added....26656
(a)(101) and (b)(103) added....26659
(a)(102) and (b)(104) added....26663
(a)(103) and (b)(105) added....26666
430.6 (b)(101) added....26653
(b)(102) added....26656
(b)(103) added....26659
(b)(104) added....26663
(b)(105) added....26666
436.215 (b) table amended; (c)(13) added....26653
(b) table amended; (c)(14) added....26656
(b) table amended....26659
(c)(15) added....26660
(b) table amended; (c)(16) added....26666
436.368 Added....26660
441.220 Redesignated as 441.220b....26669
Added....26670
441.220a Added....26670
441.220b Redesignated from 441.220....26669
442.80 Added....26660
442.180 Added....26661
442.180a Added....26661
442.180b Added....26662
443 Added....26667
444.380e Added....26671
450.30 Added....26664
450.230 Added....26665
452.50 Added....26653
452.60 Added....26657
452.150 Added....26654
452.160 Added....26658
510 Authority citation revised....44611
510.515 Introductory text, (b)(7)(i) and (c) table amended; (b)(7)(i)(c) removed....30119
510.600 (c)(1) table and (2) table amended....26523, 30118, 36135, 37855, 38971, 44611, 47056, 47377

Page

514 Authority citation revised....51011
514.210 Removed....51011
520.88d Heading corrected....18304
520.240 Removed....41025
520.580 (b)(1) amended....41025
520.1448a (a)(2) amended....26523
520.1485 Added....38972
520.1629 (a), (b), (c) heading, (1), (2) and (3) redesignated as (a)(1), (2), (3) heading, (i), (ii) and (iii); new (b) added....39443
520.1660d (a) and (b) revised; (e)(1)(iii), (iv), (v) and (2) added....42854
(a)(5) added; (b)(3) revised; (e)(1)(ii)(A)(*3*), (B)(*3*) and (C)(*3*) amended....43794
520.1720c (b) amended....29777
520.1806 (b) amended....44611
520.1840 (c)(3) amended....26523
520.1870 (c)(1)(i) revised....42853
520.2041 (b) amended....44611
520.2042 (b) amended....44611
520.2158a (d)(1) and (2) revised; (d)(3) removed....47211
520.2345d (e)(1)(iii)(A), (B), (C), (3)(iv)(A), (B) and (C) revised....33331
520.2613 Added....36135
522.90b (d)(2)(ii) correctly designated....18304
522.820 Revised....43795
522.1002 Redesignated from 522.1822 and revised....47377
522.1822 Redesignated as 522.1002....47377
522.1870 (c)(1)(ii) revised....42853
522.2220 (a)(2) revised....38972
524.1044g Added....38973
524.2101 (c) amended....41025
529.1186 (b) amended....17346
556.230 (a) and (b) revised....43795
556.500 (e) added....42855
556.610 Revised....47211
558 Technical correction....17348
558.4 (d) table amended....30119
558.15 (g)(1) table and (g)(2) table amended....17515
(g)(1) table amended....30119
(g)(2) table amended....30120
558.55 (d)(2) table amended....30120
558.58 (d)(1) table amended....30120
558.95 (b)(1)(xi)(*b*) and (xiii)(*b*) amended....47056
558.258 (c)(3)(iv)(C) amended....47973

Page

558.274 (c)(1) table amended....30120
558.311 (b)(4) and (6) revised; (e) redesignated as (e)(4); new (e)(3) added....43560
(e)(2)(i) table amended....47973
558.355 (d)(7)(vi) added....17516
558.460 (c)(1) table amended; (c)(2)(vii) and (viii) removed; (c)(2)(ix) and (x) redesignated as (c)(2)(vii) and (viii)....30120
558.550 (a) amended....47056
573.920 Regulation at 52 FR 10888, 52 FR 21001 and 54 FR 14215 stayed....47973
579.22 (b) table revised....18148
630.13 (b)(4) amended....19609
804 Opportunity for comment....46514
Added....46519
807 Opportunity for comment....46514
Authority citation revised....46522
Heading revised....46522
807.3 (d)(2) and (g) revised; (e)(3) and (4) amended; (e)(5) added....46522
807.20 (a)(4) revised; (c) and (d) added....46522
807.21 Revised....46522
807.22 (a) and (c) revised....46522
807.25 (b) revised....46523
807.65 (e) revised; (g) removed....46523
821 Opportunity for comment....43442
Revised....43447
Authority citation revised....43455
Regulations at 58 FR 43447 and 43455 comment period extended....48599
821.20 (b)(1) table and (c) table amended....43455
874.4490 Revised....29534
890.3450 Removed....29535
1020 Authority citation revised....26396
1020.30 Revised; effective in part 5-3-94....26396
1020.31 Revised; effective in part 5-3-94....26401
(c)(2) corrected....31067
1020.32 Revised; effective in part 5-3-94....26404

TITLE 21

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

Page

1301 Technical correction.....31907
1301.22 (b)(6) revised.....31175
1301.24 (b) and (c) introductory text revised.....31175
1304 Technical correction.....31907
1304.02 (f) through (i) redesignated as (g) through (j); new (f) added.....31175
1304.03 (e) through (g) redesignated as (f) through (h); new (e) added; new (h) revised.....31175
1308.11 Regulation at 57 FR 18824 effective date extended to 11-1-93.....25934
(b)(4) revised.....43796
Regulation at 57 FR 43401 effective date extended to 3-21-94.....44611
1308.12 (c)(11) through (25) redesignated as (c)(12) through (26); new (c)(11) added.....43796
1308.24 (i) table revised.....17107
1308.34 Table amended; interim.....34708
Regulation at 58 FR 16772 confirmed.....34709
Regulation at 58 FR 34708 confirmed.....49924

Chapter III—Office of National Drug Control Policy (Parts 1400—1499)

1403 Appendix A corrected.....26185

Title 21—*Proposed Rules:*

1—1299 (Ch. I) ...33690, 34389, 40393, 43579, 45080
1 29716
17 .....30680, 40103
100 .....17171, 29716
101 ...17171, 18057, 29557, 29716, 33055, 33700, 33715, 33731, 40104, 40190, 44091
102 .....17171, 29557
103 .....34010, 41612
104 29716
109 33871
129 34010
135 17172
161 .....17171, 29557
165 34010
166 .....43580, 50301
182 27959
184 .....27959, 34010
189 .....33860, 40759
207 46587
211 47088
314 47088
330 17553
331 49826
334 46589
336 45216
338 45217
350 38541
352 28194
357 26886
358 17554
514 47088
606 34962
610 34962
700 .....28194, 47611
701 47611
740 28194
870 .....36290, 46919
876 .....25902, 35416
882 45865
1020 26407
1040 27495
1301 31180
1306 49453
1308 .....25788, 25790, 44311
1313 .....42894, 49455

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised.....40586
41.2 (i) amended; interim.....40586
(i) amended; interim.....43439
42.2 Regulation at 56 FR 49680 confirmed.....48447
42.11 Regulation at 56 FR 49680 confirmed.....48447
42.12 Regulation at 56 FR 49681 confirmed.....48447
42.21—42.23 (Subpart C) Regulation at 56 FR 49676 confirmed.....48447
42.31—42.33 (Subpart D) Regulation at 56 FR 49676 confirmed.....48447

Page

42.32 Regulations at 56 FR 51172 and 55077 confirmed.....48446
42.41 Regulation at 56 FR 49682 confirmed.....48447
42.42 Regulation at 56 FR 49682 confirmed.....48447
42.43 Regulation at 56 FR 49682 confirmed.....48447
42.51—42.55 (Subpart F) Regulation at 56 FR 51174 confirmed.....48446
42.62 Regulation at 56 FR 49682 confirmed.....48447
42.63 Regulation at 56 FR 49682 confirmed.....48447
42.65 Regulation at 56 FR 49682 confirmed.....48447
42.67 Regulation at 56 FR 49682 confirmed.....48447
42.73 Regulation at 56 FR 49682 confirmed.....48447
42.74 Regulation at 56 FR 49682 confirmed.....48447
42.83 Regulation at 56 FR 49682 confirmed.....48447
120 Revised.....39283
121 Revised.....39287
121.1 Amended.....47638
122 Revised.....39298
123 Revised.....39299
124 Revised.....39305
125 Revised.....39310
126 Revised.....39312
126.1 (a) revised.....35865
127 Revised.....39316
128 Revised.....39320
130 Revised.....39323

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

201.11 (b)(4) revised.....48797

Chapter III—Peace Corps (Parts 300—399)

308.14 Introductory text revised; (d) added.....39657

Chapter V—United States Information Agency (Parts 500—599)

514.20 Heading and (j)(1) corrected.....48448
514.22 (d)(1)(iv) corrected.....48448
514.27 (b)(2) and (e)(1) corrected.....48448
514.44 (a)(1)(iii) correctly designated.....18305
(a)(2) and (f)(4)(iv) corrected.....48448

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

705 Revised; interim.....33320

Title 22—*Proposed Rules:*

41 .....40024, 49456
308 31181
502 42896

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

140 Authority citation revised.....39143
140.201—140.207 (Subpart B) Revised.....39143
625 Authority citation revised.....38298
625.4 (a)(2) revised.....25939
(a)(1) revised.....25943
625.5 (a)(13) added.....38298
625 Appendix A amended.....25943
635 Authority citation revised.....38975
635.410 (b)(1) through (4) and (c)(1)(ii) revised.....38975
635.417 (a) introductory text revised.....38975

Chapter II—National Highway Traffic Safety Administration, Department of Transportation (Parts 1200—1299)

1200 (Subchapter A) Added.....41033
1204.4 Supplements A through I removed.....41037
1205.4 (c) and (e) removed; (d) redesignated as (c); introductory text, (a) and new (c) revised.....41037

TITLE 23 Chapter II—Con.

Page
1215 Added....44759

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1309.4 (a)(2) removed; (a)(3) redesignated as (a)(2); (a) introductory text and (a)(1) revised....21655
1309.5 (a)(3)(ii) redesignated as (a)(3)(iv); (a)(3)(i) revised; new (a)(3)(ii) and (iii) added....21655
1313 Regulation at 57 FR 29011 confirmed....21655
1313.1 Amended....21655
1313.3 (d) revised; (i) redesignated as 1313.6(e)(3); (j) through (m) redesignated as (i) through (l)....21655
1313.4 (a)(2) and (b) removed; (a)(3) redesignated as (a)(2) and (c) redesignated as (b); (a) introductory text, (a)(1) and new (b) revised....21655
1313.5 (d)(2) and (4) removed; (a)(3)(ii) redesignated as (a)(3)(iv), (c)(2)(i) through (iv) redesignated as (c)(2)(i)(A) through (D), (c)(2) introductory text redesignated as (c)(2)(i) introductory text, new (c)(2)(i)(D) redesignated in part as (c)(2)(ii) and (d)(3) and (5) redesignated as (d)(2) and (3); introductory text, (a)(1)(vi), (3)(i) and new (d)(2) revised; (a) heading, (1) introductory text, (2)(i), (ii), (iii), new (3)(iv), (b)(1) and (c)(3) amended; new (a)(3)(ii), (iii) and (f) added....21656
1313.6 (b)(2) redesignated as (b)(2)(i); (a)(1), (b)(1), new (2)(i), (c)(1), (2)(ii), (d)(1), (2)(ii), (iii), (3)(i), (ii) and (f)(1) amended; (b)(2)(ii) and (c)(2)(iii) added; (e)(3) redesignated from 1313.3(i)....21657
1313.7 Revised....21657
1313.8 Revised....21657

Title 23—*Proposed Rules:*

657....19367
658....19367
710....38987
712....38987
713....38987
720....38987

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

91.19 Partial waiver....49156
91.44 Partial waiver....49156
25.9 (k) revised....47379
27 Authority citation revised....34884
27.1 Amended....34884
27.3 Amended....34884
27.5 (a) amended....34884
27.20 (a), (b)(1), (c)(1) and (3) revised; (c)(5) added....34884
50 Authority citation revised....41336
50.1 (c) revised....41336
50.17 Introductory text and (a) revised....41336
50.19 Corrected....17164
Introductory text revised; (i) added....41337
50.20 (a) revised....41337
50.21 (b) removed; (a) introductory text, (1) and (2) redesignated as introductory text, (a) and (b)....41337
50.22 Removed....41337
50.36 Removed....41337
50.43 Removed....41337
58.1 Revised; interim....34139
58.2 Revised; interim....34139
58.4 Revised; interim....34140
58.5 Heading, introductory text, (c) and (i) revised; (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); interim....34140
58.6 Added; interim....34140
58.10 Amended; interim....34141
58.13 Revised; interim....34141
58.14 Amended; interim....34141
58.15 (a) revised; interim....34141

Page
58.18 (Subpart C) Heading and text revised; interim....34141
58.22 Amended; interim....34141
58.23 Revised; interim....34141
58.31 Revised; interim....34141
58.32 (a) amended; interim....34141
58.35 (a)(1) introductory text and (b) amended; (a)(2), (4) introductory text and (c) revised; (a)(7), (8) and (d) added; interim....34142
58.52 Amended; interim....34142
58.66 Amended; interim....34142
58.71 Revised; interim....34142
58.77 (a) revised; (b) amended; interim....34142
86 Authority citation revised....47058
86.15 Amended....47058
86.20 (f) removed; (g) and (l) redesignated as (f) and (g)....47058
86.25 (f) removed; (g) and (h) redesignated as (f) and (g)....47058
86 Appendix A amended....47058, 47059
Appendix B revised....47059
92.2 Amended; interim....34142
92.50 (f) added; interim....34143
92.51 Removed; interim....34143
92.52 Revised; interim....34143
92.61 (b)(2), (4), (5), (c)(2) and (5) revised; interim....34143
92.62 (a) and (b) revised; interim....34143
92.63 Revised; interim....34144
92.101 (c) revised; interim....34144
92.102 (b)(2) revised; (c) added; interim....34144
92.103 (b) introductory text revised; interim....34144
92.107 (b) revised; interim....34144
92.150 (c)(2) and (3) removed; (c)(4) through (9) redesignated as (c)(2) through (7); (b)(5), (6) and new (c)(2) revised; interim....34144
92.152 Revised; interim....34144
92.203 Revised; interim....34145
92.205 (a)(1) and (2) revised; interim....34145
92.206 (e) and (f) revised; (g) added; interim....34145
92.208 Removed; interim....34145
92.209 Removed; interim....34145
92.210 Revised; interim....34145
92.211 (b) revised; interim....34145
92.218 (a) revised; (c) redesignated as (d); new (c) added; interim....34145
92.220 (a)(3) revised; (a)(6) added; interim....34146
92.221 Revised; interim....34146
92.222 Revised; interim....34146
92.252 (a)(5) amended; interim....34146
92.253 (c) revised; interim....34147
92.254 (a)(1)(i), (ii), (4), (b) introductory text and (1) revised; interim....34147
92.300 Revised; interim....34147
92.302 (a)(2), (b)(1)(iv), (d), (e) and (f) revised; (a)(3), (b)(1)(v), (c)(6) and (7) added; interim....34148
92.350 (a)(4) revised; interim....34148
92.400 (a)(4) and (5) revised; (a)(6) added; interim....34148
92.500 (a) amended; (d)(2) revised; interim....34149
92.504 (c) introductory text revised; (d) redesignated as (e); new (d) added; interim....34149
92.508 (a)(1)(ii) revised; (a)(2)(iii) and (iv) removed; (a)(2)(v), (vii) and (vii) redesignated as (a)(2)(iii), (iv) and (v); new (a)(4)(iv) and (v) added; interim....34149
92.600 Revised; interim....34149
92.610 Revised; interim....34149
92.611 (a)(1) revised; interim....34150
92.612 (a)(4) and (e) revised; interim....34150
92.613 (a) revised; (i) added; interim....34150
92.614 (a)(1)(ii), (2) introductory text and (c) revised; (a)(5) amended; (e) added; interim....34150
92.615 (a)(1)(i), (ii), (4), (b) introductory text and (1) revised; (c) added; interim....34151
92.616 Added; interim....34151
92.620 Revised; interim....34152
92.621 Revised; interim....34152
92.642 (b)(1) revised; interim....34152
0—99 (Subtitle A) Appendix C removed....36526

TITLE 24

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

Page

200 Authority citation revised....41337
200.300 Revised....41000
200.310 Introductory text revised....41000
200.415 Revised....41000
200.507 Revised....41001
200.610 Amended....41337
200.615 (a) revised....41337
200.620 (a) and (b) amended....41337
200.630 Revised....41337
200.635 Amended....41337
200.640 Revised....41337
200.926(7) (a)(1) revised....41337
200.926d (c)(1)(ii) revised; (c)(4)(iv) added....41337
200.946 Added; interim....34503
201 Authority citation revised....41001
High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
201.10 (b)(1), (2), (c), (d)(1) and (2) amended; (e) revised....41001
201.60—201.63 (Subpart G) Added....47379
203 Authority citation revised....35370, 41338
High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
203.12 Revised....41338
(a)(2) corrected....45553
203.15 Revised....41001
203.18 (a), (e), (f)(2), (4) and (g) revised; (f)(5), (6) and (h) added....41001
203.18b (a) and (b) revised....41002
203.32 (b) and (c) introductory text revised....42647
203.41 Added....42648
203.43c (a) and (g) revised....41002
203.44 (g) revised....41003
203.45 (c) revised....41003
203.47 (e) revised....41003
203.50 (f)(1) revised....41003
203.259a (b) and (c) revised....41003
203.270 (c) amended....41003
203.284 Introductory text added; (a) and (b) revised....41003
203.285 Added....41004
203.289 Introductory text added; (a) and (b) revised....41003
203.378 (c)(3) revised....32057
203.390 (b) revised....35370
203.510 Added....42649
203.512 Added....42649
204.1 Revised....41004
204.3 Revised....41339
204.260 Revised....41004
207 Authority citation revised....34215
207.4 (f)(3) revised; (g) added....43074
207.36 (a) revised; interim....34215
213 Authority citation revised....34215
213.7 (k)(3) revised; (n) added....43075
213.44 (a) revised; interim....34215
213.520 (b) revised....42650
213.527 Added....42650
215 Technical correction....21658
220 Authority citation revised....34216
220.30 (d)(2) revised; (d)(5) and (6) added....41005
220.507 (f) added....43075
220.580 Introductory text and (a) revised; interim....34216
221 Authority citation revised....34216
221.20 (c)(2) revised; (c)(5) and (6) added....41005
221.514 (e)(3) revised; (f) added....43076
221.563 (a) revised; interim....34216
222.3 Revised....41005
222.4 (c) revised....41005
226.4 Revised....41005
226.5 (c) revised....41005
231.7 Revised....43076
232 Authority citation revised....34216
232.31a Revised....43077
232.94 Introductory text and (a) revised; interim....34216
232.600 Introductory text and (a) revised....34216
234 High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
234.48 Revised....41007
234.14 Revised....41005
234.27 Revised....41006

Page

234.55 (b) and (c) introductory text revised....42650
234.66 Added....42650
234.531 Revised....43077
236 Technical correction....21658
236.10 (e) revised; interim....37813
236.60 Revised; interim....37813
236.901 Revised; interim....37813
240.5 (b) revised....41007
241 Authority citation revised....34217
241.85 (a)(1) revised; interim....34217
241.600 (a)(1) revised; interim....34217
241.1060 Revised; interim....37814
241.1067 Revised; interim....37814
241.1068 Added; interim....37814
241.1085 (a)(1) revised; interim....34217
242 Authority citation revised....34217
242.91 Introductory text and (a) revised; interim....34217
242.95 Revised....43078
244 Authority citation revised....34217
244.38 Revised....43079
244.182 Introductory text and (a) revised; interim....34217
248.5 (d) redesignated as (f); new (d) and (e) added; interim....37814
248.101 Amended; interim....37814
248.135 (c) and (f) amended; interim....37814
248.141 (b) redesignated as (e); new (b), (c) and (d) added; interim....37815
248.145 (a) introductory text and (9)(i) revised; interim....37815
248.153 (a)(1) revised; (d) and (e) redesignated as (e) and (f); new (d) added; interim....37815
248.157 (m)(4), (5), (6) and (n) revised; interim....37816
248.173 (e)(2)(i) through (vi) redesignated as (e)(2)(ii) through (vii); new (e)(2)(i) and (g)(5) added; (s) revised; interim....37816
248.175 (b) revised; interim....37816
248.201 Amended; interim....37816
248.211 (b) revised; interim....37816
248.213 (a) amended; interim....37816
248.217 Revised; interim....37817
248.401—248.420 (Subpart E) Added; interim....37817
280 Authority citation revised....38532
280.305 Revised....38532
290 Revised....43712

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

572 Added....36526

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs (Parts 700—799)

791 Authority citation revised....41428
791.403 (b)(1)(ii) revised; interim....41428

Chapter VIII—Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

812 Authority citation revised....39659
812.1 (a)(2) revised....39659
812.3 Revised....39659
812.4 Revised....39659
813 Technical correction....21658
886 Authority citation revised....43720
886.133 Added....43721
886.301 Revised....43722
886.302 Amended....43722
886.304 (b) amended....43722
886.307 Amended....43722
886.309 (g) amended....43722
886.310 Revised....43722
886.311 Revised....43722
886.318 (d) added (OMB number)....43722
886.321 (c)(1) amended....43722

TITLE 24 Chapter VIII—Con. Page

886.329 (d) amended....43722
886.330 (a) revised; (c) amended....43722
886.331 (a)(1) revised....43722
886.332 (c)(2) amended....43722
886.333 (d)(2) revised....43723
886.338 Added....43723
889.105 Amended; interim....26838
889.205 Revised; interim....26838
889.235 (a) and (d) revised; interim....26838
889.245 (a)(3)(ii) amended; interim....26839
889.250 Existing text designated as (a); heading and (b) added; interim....26839
889.265 (d) revised; interim....26839
889.270 Revised; interim....26839
889.300 Revised; interim....26841
889.305 (a) introductory text, (a)(1) and (d) amended; interim....26842
889.310 (a) introductory text, (1), (2), (3), (b)(1), (ii), (2), (3)(1) and (ii) amended; interim....26842
889.800—889.805 (Subpart H) Added; interim....26842
890.100 (b) revised; interim....26818
890.105 Amended; interim....26818
890.205 Revised; interim....26818
890.235 (a) and (d) revised; interim....26818
890.245 (d)(i) and (ii) redesignated as (d)(1) and (2); new (d)(2) amended; interim....26819
890.260 (d) revised; interim....26819
890.265 Revised; interim....26819
890.300 Revised; interim....26822
890.305 Nomenclature change; interim....26823
890.310 Nomenclature change; interim....26823

Subtitle IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

905 Technical correction....21658
Authority citation revised....30883
Regulation at 58 FR 30883 comfirmed....30908
905.102 Amended....17164
905.301 (d) and (e)(4) revised....39659
905.340 Revised....19350
905.3001—905.3030 (Subpart R) Added; interim....30883
912 Authority citation revised....39659
912.1 (a)(2) revised....39660
912.3 Revised....39660
912.4 Revised....39660
913 Technical correction....21658
960 Authority citation revised....39660
960.409 (e) revised....39660
962 Added; interim....30889
Regulation at 58 FR 30889 confirmed....30908
984 Added; interim....30896
Regulation at 58 FR 30896 confirmed....30908

Subtitle XX—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3699)

3500 Appendixes C and D correctly added....17165

Title 24—*Proposed Rules:*

16....37598
92....26048
125....17172
200....26212, 41445, 48556
202....37885
204....48556
206....48556
207....35724
213....35724
219....34506
220....35724
221....35724
232....35724
234....35724
241....35724
244....35724
267....48556
290....21960
291....42707
570....43764
576....17764
585....49830
594....32210
880....35416, 44968

Page

881....35416, 44968
882....44968
883....35416, 44968
884....35416, 44968
885....44968
886....21960, 35416, 44968
888....27062, 36175
889....44968
904....44968
905....32006, 44968
906....44968
909....27964
960....32006, 44968
968....29728
3280....19536, 32316
3282....19536, 32316
3500....28478, 36176

TITLE 25—INDIANS

Chapter III—National Indian Gaming Commission (Parts 500—599)

517 Added....44448

Title 25—*Proposed Rules:*

518....18353, 27967

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended...18149, 19060, 33515, 33764, 34885, 42306
Technical correction....29028
Heading revised....33764
1.46-3 (e)(3)(iii) removed....25557
1.47-1 (e)(4) removed....25557
1.48-1 (e) and (o) removed....25557
1.48-7 Removed....25557
1.48-8 Removed....25557
1.56(g)-1 (a)(5)(ii)(B) amended....42207
1.103-8 (a)(5) revised....33515
(a)(5)(i) corrected....44452
1.103-13 Removed....33515
1.103-13T Removed....33515
1.103-14 Removed....33515
1.103-15 Removed....33515
1.103-15AT Technical correction....44452
1.103-18 Removed....33515
1.112-1 Revised....47640
1.147(b)-1 Added....33515
1.148-0 Revised....33515
1.148-1 Revised....33517
(b) and (c)(4)(i)(B)(*2*) corrected....44452
1.148-2 Revised....33520
(e)(4)(i) corrected; (e)(4)(iv) added....44452
1.148-3 Revised....33522
(h)(4) corrected....44452
1.148-4 Revised....33524
(d), (g), (h)(4)(ii)(B) and (C) corrected....44452
1.148-5 Revised....33529
(c)(3)(i)(A), (E) introductory text and (*2*) corrected....44452
1.148-6 Revised....33532
(b)(2)(i)(B)(*1*), (d)(3)(ii)(A)(*1*) and (*4*) corrected....44452
1.148-7 Revised....33535
(f)(2) and (k)(1)(i) corrected....44452
1.148-8 Revised....33540
1.148-9 Revised....33541
(c)(2)(i), (ii)(A) and (h)(1)(iv) corrected....44453
1.148-10 Revised....33544
(c)(2)(vi) and (viii) corrected....44453
1.148-11 Revised....33547
(c)(2) and (e) corrected....44453
1.148-12T Removed....33548
1.148-13T Removed....33548
1.149(b)-1 Added....33548
1.149(b)(3)-1T Removed....33548
1.149(d)-1 Revised....33548
(d)(1) corrected....44453
1.149(g)-1 Added....33549
1.150-0 Correctly removed....44453
1.150-1 Revised....33549
(b) and (c)(1)(i) corrected....44453
1.150-2 Added....33551
(g)(1) corrected....44453
1.167(j)-1 Removed....25557
1.167(j)-2 Removed....25557
1.167(j)-3 Removed....25557
1.167(j)-4 Removed....25557
1.167(j)-5 Removed....25557
1.167(j)-6 Removed....25557
1.167(j)-7 Removed....25557
1.167(k)-1 Removed....25557
1.167(k)-2 Removed....25557
1.167(k)-3 Removed....25557
1.167(k)-4 Removed....25557
1.185-1 Removed....25557
1.185-2 Removed....25557

TITLE 26 Chapter I—Con. Page

1.185–3 Removed 25557
1.191–1 Removed 25557
1.191–2 Removed 25557
1.191–3 Removed 25557
1.213–2 Removed 25557
1.250–1 Removed 25557
1.263(a)–1 (b) amended 42207
1.263A–0 Added 42207
1.263A–1 Added 42209
1.263A–1T (a)(4) amended 42198
1.263A–2 Added 42219
1.263A–3 Added 42224
(a)(1), (2)(iii)(B), (b)(1) and (2) corrected 47784
1.263A–4 Heading added 42233
1.263A–5 Heading added 42233
1.263A–6 Heading added 42233
1.280F–1T (b) table, (c)(1) and (3) amended; authority citation removed 19060
1.280F–5T (a), (f)(1) and (g) introductory text amended 19060
1.280F–7 Redesignated from 1.280F–7T; heading amended 19060
1.280F–7T Redesignated as 1.280F–7 19060
1.301–1 (n) removed 25557
1.305–1 Removed 25557
Corrected 26524
1.311–1 Removed 25557
1.311–2 Removed 25557
1.333–1 Removed 25557
1.333–2 Removed 25557
1.333–3 Removed 25557
1.333–4 Removed 25557
1.333–5 Removed 25557
1.333–6 Removed 25557
1.334–1 (c) removed 25557
1.334–2 Removed 25557
1.336–1 Removed 25557
1.337–1 Removed 25557
1.337–2 Removed 25557
1.337–3 Removed 25557
1.337–4 Removed 25557
1.337–5 Removed 25557
1.337–6 Removed 25557
1.358–5 Removed 25557
1.382–0 Removed 25557
1.382–1A Removed 25557
1.382–2A Removed 25557
1.382–3A Removed 25557
1.382–4A Removed 25557
1.401–4 Heading and (d) revised 46778
1.401(a)–4 Amended; heading revised 46778
1.401(a)(4)–0 Revised 46778
1.401(a)(4)–1 Revised 46780
1.401(a)(4)–2 Revised 46781
1.401(a)(4)–3 Revised 46785
1.401(a)(4)–4 Revised 46796
1.401(a)(4)–5 Revised 46800
1.401(a)(4)–6 Revised 46802
1.401(a)(4)–7 Revised 46804
1.401(a)(4)–8 Revised; (c)(2)(iv) added 46807
1.401(a)(4)–9 Revised 46810
1.401(a)(4)–10 Revised 46812
1.401(a)(4)–11 Revised 46813
1.401(a)(4)–12 Revised 46820
1.401(a)(4)–13 Heading and (a) through (e) revised 46823
1.401(a)(5)–1 (e)(7) removed; (e)(8) redesignated as (e)(7); (h) added 46830
1.401(a)(26)–1 (b)(4) revised 46838
1.401(a)(26)–9 (b)(1) revised 46838
1.401(k)–1 Regulation at 58 FR 14151 effective date corrected to 8–15–91 18448
1.401(l)–0 Amended 46830
1.401(l)–1 (a)(1) and (3) amended; (c)(22) through (33) redesignated as (c)(23), (24), (25) and (27) through (35); (b), (c)(2), (6), (9), (17)(i), (19), (21) and new (35) revised; new (c)(22) and (26) added 46831
1.401(l)–2 (a)(1) amended 46832
1.401(l)–3 (b)(4)(iii)(E), (5), (c)(2)(vi), (d)(8)(iii) introductory text, (g) and (h) revised; (c)(2)(ix) and (d)(8)(iii)(D) added; (e)(4) removed; (e)(5) and (6) redesignated as (e)(4) and (5); (a)(1), (b)(4)(iii)(C), (c)(2)(i), (ii), (iii), (3) *Example 2*, (e)(1), new (e)(4)(i), (ii) and new (5) *Example 6* amended 46832
1.401(l)–5 (b)(5), (c)(1)(i), (ii), (iii) and (3) revised; (c)(4) redesignated as (c)(5); (b)(8)(v), (c)(1)(v), (vi), new (4) and (5) *Example 5* added; (b)(8)(iii)(A), (c)(2) and new (5) amended 46833

Page

1.401(l)–6 Revised 46835
1.410(b)–0 Amended 46838
1.410(b)–1 Heading revised 46839
1.410(b)–2 Heading, (c)(2) and (f) revised; (d) and (e) amended 46839
1.410(b)–3 (a)(1), (2)(ii), (iii) and (iv) revised; (a)(2)(v) removed 46839
1.410(b)–5 (d) and (e) revised 46840
1.410(b)–6 (a)(1) and (2) amended; (b)(1), (2), (d)(2) and (g) revised; (i) added 46842
1.410(b)–7 (d)(5) and (e)(1) amended 46843
1.410(b)–9 Amended 46843
1.410(b)–10 Revised 46844
1.411(d)–4 Amended 46828
1.414(s)–1 (b)(2) existing text designated as (b)(2)(i); (f) through (i) redesignated as (g) through (j); (a)(3), (b)(3), (c)(4)(i), (d)(3)(v) and new (g)(1)(i) amended; (b)(2)(i) heading, (ii), (d)(3)(iii)(C), (vi), new (f) and new (g)(1)(iii) added; (c)(5), (d)(2)(i), (ii), (3)(ii), (iii)(A), (e), new (h) and new (j) revised 47063
1.424–1 Removed 25557
1.424–2 Removed 25557
1.446–1 (c)(1)(ii)(A) amended 42233
1.453C–0T Removed 25557
1.453C–1T Removed 25557
1.453C–2T Removed 25557
1.453C–3T Removed 25557
1.453C–4T Removed 25557
1.453C–5T Removed 25557
1.453C–6T Removed 25557
1.453C–7T Removed 25557
1.453C–8T Removed 25557
1.453C–9T Removed 25557
1.453C–10T Removed 25557
1.461–1 (a)(2)(i) amended 42233
1.469–1T (e)(5) amended 29536, 45059
1.469–2 (d)(2)(xii) amended 29536
1.471–3 (b) and (c) amended 42233
1.471–4 (a) revised; (b) heading, (c) heading and (d) added 42233
1.471–5 Amended 42234
1.471–8 (a) amended 42234
1.471–11 (a) amended 42234
1.482–1 Correctly redesignated as 1.482–1A 17775
1.482–1A Correctly redesignated from 1.482–1 17775
1.482–1T (c)(3)(iii) and (d)(3)(i)(B) *Example* (2) corrected 17776
(c)(2)(iv), (d)(i)(ii)(A), (2)(i)(A) and (e)(3)(iii)(B) corrected 28446
1.482–2 (d) and (e) correctly redesignated as 1.482–2A(d) and (e); remaining text redesignated as 1.482–2T 17775
1.482–2A (d) and (e) correctly designated from 1.482–2(d) and (e) 17775
1.482–2T Correctly redesignated from 1.482–2 17775
(a), (b) and (c) corrected 17776
1.482–3T (c)(4)(ii) *Example* 10 corrected 17776
(c)(4) *Examples* 6, 8 and 11 corrected 28446
1.482–4T (e)(3)(i) and (iii) corrected 17776
1.482–5T (d)(1) corrected 28446
1.482–7T Correctly added 17776
Revised 28921
1.534–4 Removed 25557
1.593–9 Removed 25557
1.597–8 Redesignated from 1.597–8T; heading amended 18149
1.597–8T Redesignated as 1.597–8 18149
1.613–3 (a) designation and (b) through (i) removed 25557
1.807 Authority citation amended 25557
1.809–10T Added 47061
1.852–12 Added 43798
(b)(1) corrected 49352
1.856–9 Removed 25557
1.857–11 Added 43798
1.884–1 (d)(2)(vii) corrected 17166
1.897–4 Removed 25557
1.911–7 (a)(2)(i)(B) and (C) amended; (a)(2)(i)(D) added 34885
1.1101–1 Undesignated center heading and text removed 25557
1.1101–2 Removed 25557
1.1101–3 Removed 25557
1.1101–4 Removed 25557
1.1102–1 Removed 25557
1.1102–2 Removed 25557

TITLE 26 Chapter I—Con. Page

1.1102-3 Removed....25557
1.1256(h)-1T Removed....25557
1.1256(h)-2T Removed....25557
1.1256(h)-3T Removed....25557
1.1502-7 Removed....25557
1.1502-13 (c)(2) amended....42234
1.1502-25 Removed....25557
1.1561-1A Removed....25557
1.1561-2A Removed....25557
1.1561-3A Removed....25557
1.6045-3T Removed....25557
1.6050I-1 (b) and (e)(1) revised....33764
1.6050I-1T Removed....33764
5 Authority citation revised....25557
5.852-1 Removed....25557
5.857-1 Removed....25557
5c Authority citation revised....25557
5c.305-1 Correctly removed....26524
5c.1256-1 Removed....25558
Correctly removed....26524
5c.1256-2 Removed....25558
Correctly removed....26524
5c.1256-3 Removed....25558
Correctly removed....26524
6a Authority citation revised....33553
6a.103A-2 (i)(3)(v) added....33553
12 Authority citation revised....25558
12.5 Removed....25558
54 Authority citation revised....25558
54.6071-1T Removed....25558
301 Authority citation amended....17519
Technical correction....31344
301.7605-1 (b) and (c) redesignated as (h) and (i); (a), (b) through (g) and (j) added....17519
301.7605-1T Removed....17520
301.7701(b)-2 (d) introductory text redesignated as (d)(1) introductory text and heading added; (d)(1)(i) through (x) correctly designated; (d)(1) concluding text designated as (d)(2) and amended....17516
301.7701-2 (a)(4) and (b)(1) amended....28502
301.9100-1 (b) revised....34886
602 Technical correction....28446
602.101 (c) table amended (OMB numbers)....25558, 33553, 33784, 42234

Title 26—*Proposed Rules:*

Page

1 ...17557, 21412, 21417, 21426, 21548, 21692, 25587, 25703, 27219, 27250, 27498, 27503, 29028, 29560, 30727, 32317, 32473, 33060, 33986, 34842, 34970, 42263, 43827, 43828, 45080, 47013, 47089, 47090, 48801
31 ....28366, 28371, 28374, 35419, 44628
48 ....45081, 48801
52 ....21963, 25791
301 ....18185, 21550, 29560
601 48802
602 ....27503, 29028, 32473

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4.40 (b) heading added....40354
4.50 (a) amended....40354
5.23 (a)(3)(ii) compliance date delayed to 8-28-95....45252
5.32 (c) amended....40354
7.10 Amended....40354
7.22 (b)(3) revised; interim....21231
(b)(7) added....44132
7.26 Suspended; heading revised; interim....21231
7.28 (b) revised; interim....21231
7.29 (f) and (g) revised; interim....21232
7.54 (c) revised; interim....21232
7.71 (Subpart H) Added; interim....21232
9.74 (c) introductory text amended....40354
9.101 (c) introductory text amended....40354
9.133 Added....35876
9.134 Added....35884
9.136 (c) introductory text amended....40354
9.143 Added....28350
9.145 Added....28352
19 Authority citation revised....40354
19.203 (b)(1) amended....40354
19.204 (b)(1) amended....40354
22.37 (a) amended; (d) and (e) added....19061

Page

24.65 (b) introductory text amended....19063
24.75 (f) amended....19064, 40354
24.136 (d) amended....19064
24.137 (a) amended....40354
24.140 (b)(3) amended....19064
24.146 (a) and (b) amended....19064
24.148 Table revised....19064
24.176 (b) revised....19064
24.197 Amended....19064
24.237 Amended....19064
24.268 Amended....19064
24.273 (a) revised....19064
(a)(1) and (2) corrected....48424
24.275 (a)(2) revised; (3) amended....19064
24.292 (b) amended....19065
24.293 (b) amended....19065
24.294 (b) amended....19065
24.295 (b) amended....19065
(a) amended....40354
24.300 (b) amended; (g) revised....19065
24.303 (d) revised....19065
24.313 Introductory text amended....19065
24.316 Amended....19065
24.317 Amended....19065
25.11 Amended....40357
25.152 (b)(2) amended....40357
25.156 Revised....40357
25.158 Revised....40357
25.186 (d) amended....40357
25.192 (c) amended....40357
25.195 Amended....40357
25.196 (c) amended....40357
25.276 (b) amended....40357
25.286 (a) and authority citation amended....40357
25.296 (b) introductory text, (1), (2) and authority citation revised....40358
25.297 Revised....40358
47.52 (a) revised....47831
53.62 (b)(3) amended....40354
53.93 (b) amended....40354
53.133 (a)(2)(ii) amended....40354
178 Authority citation revised....40355
178.11 Amended....40589
178.89 Added....40589
178.151 Added....40590
194.11 Amended....40355
194.134 Amended....40355
194.291 Amended....40355
194.292 Amended....40355
252.148 Amended....40358
259.219 Amended....40355

Title 27—*Proposed Rules:*

4 ....35908, 42517, 44629
5 ....35908, 42517, 44629, 46141
7 ...21126, 21130, 21233, 38542, 38543, 42517
9 ....44152, 49949

341-245 O - 93 - 4 (12)

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

Chapter I Statement of activities.....Page 39444
0.103a Added.....35371
5 Authority citation revised.....37418
5.2 Revised.....37418
5.3 Amended.....37419
5.5 Added.....37419
5.205 (d) added.....37419
5.601 Revised.....37420
5.1101 Added.....37420
14 Appendix amended.....36867
16.82 Added.....41038
23 Revised.....48452
55.1 Amended.....35372
55.6 Revised.....35372
55.7 (b) amended.....35373
55.13 (b) amended.....35373
55.17 Amended.....35373
55.20 (c) amended.....35373
55 Appendix revised.....35373
Appendix corrected.....36516

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

503.2 (a) revised; (c) removed; (b)(1) through (8) redesignated as (b)(3) through (10) and (d) redesignated as (c); new (b)(1), (2) and (d) added.....44428
503.3 (b)(3) through (6) redesignated as (b)(4) through (7); new (b)(3) added.....44428
503.4 (b)(1) and (c)(2) removed; (b)(2) through (5) and (c)(3), (4) and (5) redesignated as (b)(1) through (4) and (c)(2), (3) and (4).....44428
503.5 Introductory text revised; (a)(1) and (2) redesignated as (a)(2) and (3); new (a)(1) added.....44428
503.7 (b)(3) removed; (b)(1) and (2) redesignated as (b)(2) and (3); new (b)(1) added.....44428
524.20—524.25 (Subpart C) Revised.....50808
527 Authority citation added.....47976
527.10 (Subpart B) Authority citation removed.....47976
527.20 (Subpart C) Authority citation removed.....47976
527.30—527.37 (Subpart D) Authority citation removed.....47976
527.40—527.46 (Subpart E) Authority citation removed.....47976
527.41 Introductory text revised.....47976
527.42 Redesignated as 527.43; new 527.42 redesignated from 527.46.....47976
527.43 Redesignated as 527.44; new 527.43 redesignated from 527.42.....47976
527.44 Redesignated as 527.45; new 527.44 redesignated from 527.43; (c), (d) introductory text, (1), (2), (e), (g) and (h)(2) amended.....47976
(g) amended.....47977
527.45 Redesignated as 527.46; new 527.45 redesignated from 527.44.....47976
527.46 Redesignated as 527.42; new 527.46 redesignated from 527.45.....47976
(b) and (c)(3) revised.....47977
527.50—527.54 (Subpart F) Authority citation removed.....47976
540 Authority citation revised.....39095
540.40 Amended.....39095
540.50 (b)(1) amended; (c) revised.....39095
540.51 (b)(1) revised; (b)(4), (g)(2) and (4) amended.....39095
541.13 Tables 3 and 4 amended.....39095

Title 28—*Proposed Rules:*

36.....37052
58.....48472
77.....39976
301.....39098
540.....39096
545.....39096

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

Page

4 Administrative variance..... 49192

Chapter IV—National Labor Relations Board (Parts 100—199)

102 Authority citation revised..... 42235
102.117 (m), (n) and (o) added..... 42235

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

697.1 (a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised..... 43561
697.3 Revised..... 43562
825 Regulation at 58 FR 31812 comment period extended..... 45433

Chapter XII—Federal Mediation and Conciliation Service (Parts 1400—1499)

1400.735-12 (a)(2) correctly revised..... 35377

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.1000 Table Z-3 correctly revised..... 40191
1915 Authority citation revised..... 35574
1915.5 Amended..... 35514
1915.12 (a)(3) and (b)(3) revised..... 35514
1915.99 Redesignated as 1915.1200..... 35514
1915.1000—1915.1450 (Subpart Z) revised..... 35514
1915.1200 Redesignated from 1915.99..... 35514
1926.1147 Appendix D corrected..... 40468

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

Page

2606 Authority citation revised..... 35383
2606.1 (a), (b)(1), (5) through (8) amended; (b)(10) and (11) removed; (b)(3), (9) and (c) revised; eff. 8-2-93..... 35383
(b)(3)(i) and (9) corrected..... 37991
2606.2 Amended; eff. 8-2-93..... 35384
2606.3 Amended; eff. 8-2-93..... 35384
2606.4 Existing text designated as (a); new (a) heading and (b) added..... 44740
(b)(1) corrected..... 48600
2606.7 Amended; eff. 8-2-93..... 35384
2606.9 (b) amended; eff. 8-2-93..... 35384
2606.22 Amended; eff. 8-2-93..... 35384
2606.34 Amended; eff. 8-2-93..... 35384
2606.36 (a) amended; eff. 8-2-93..... 35384
2606.51 Amended; eff. 8-2-93..... 35384
2610 Appendixes A and B amended..... 38050
2612 Authority citation revised..... 35384
Heading revised; eff. 8-2-93..... 35384
2612.1 (a) revised; (b) amended; eff. 8-2-93..... 35384
2612.2 Amended; eff. 8-2-93..... 35384
2612.3 Revised; eff. 8-2-93..... 35384
2615.1 (a) revised; (b) amended; eff. 8-2-93..... 35385
2615.2 Redesignated in part as 2615.14(c)(2) and amended; eff. 8-2-93..... 35385
2615.3 (b)(2), (4), (c)(2), (5) amended; (6) revised; eff. 8-2-93..... 35385
(e) amended; eff. 8-2-93..... 35386
2615.5 Amended; eff. 8-2-93..... 35386
2615.12 (a) amended; eff. 8-2-93..... 35386
2615.14 (a) and (b) introductory text amended; (b)(3) added; (c) existing text designated in part as (c)(1) and (c)(2); (b)(2) and (c)(2) revised; eff. 8-2-93..... 36386
2615.15 (a) amended; eff. 8-2-93..... 35386

Page

2615.16 (a) and (b) amended; eff. 8-2-93..... 35386
2615.18 (d) amended; (f) heading revised; eff. 8-2-93..... 35386
2615.21 (a) introductory text and (1) amended; eff. 8-2-93..... 35386
2615.22 (a) introductory text and (c) amended; eff. 8-2-93..... 35386
2615.23 Heading amended, (a) and (e) heading revised; eff. 8-2-93..... 35386
2616.4 (c) amended; eff. 8-2-93..... 35387
2617 Authority citation revised..... 44740
2617.3 (b)(2) amended..... 44740
2617.25 (a) introductory text amended; (a)(1) and (2) added..... 44740
(a)(2)(i) corrected..... 48600
2617.28 (f)(4) added..... 44740
(f)(4)(i) corrected..... 48600
2619 Authority citation revised..... 50815
2619.3 (a) amended..... 50815
2619.25 (b)(2) amended..... 50815
2619.41 Revised..... 50815
2619.42 Redesignated as 2619.43; new 2619.42 added..... 50815
2619.43 Removed; new 2619.43 redesignated from 2619.42..... 50815
2619.49 Added..... 50816
2619 Appendix B amended...38051, 48305, 50824
Appendix A amended..... 50820, 50821
Appendix C amended..... 50825
2622 Authority citation revised..... 35387
Heading revised; eff. 8-2-93..... 35387
2622.1 Revised; eff. 8-2-93..... 35387
2622.2 Amended; eff. 8-2-93..... 35387
Corrected..... 37991
2622.3 Revised; eff. 8-2-93..... 35388
2622.4 Heading, (a), (b) and (c) revised; (d) amended; eff. 8-2-93..... 35388
2622.5 (a), (b) and (c) amended; eff. 8-2-93..... 35389
2622.6 Revised; eff. 8-2-93..... 35389
(a) and (c) corrected..... 37991
2622.7 Heading, (a) and (b) revised; (d) removed; eff. 8-2-93..... 35389
(c) amended; eff. 8-2-93..... 35390

Page

2622.8 Heading and (a) through (d) revised; (e) amended; eff. 8-2-93..... 35390
2622.9 Heading, (a) and (b) amended; eff. 8-2-93..... 35390
(c) amended; (d) revised; eff. 8-2-93..... 35391
2622.10 (a) introductory text and (b) amended; eff. 8-2-93..... 35391
2622 Appendix A amended..... 38050
2623 Authority citation revised..... 35391
Heading revised; eff. 8-2-93..... 35391
2623.1 Revised; eff. 8-2-93..... 35391
2623.2 Amended; eff. 8-2-93..... 35391
2623.5 (b), (c), (d) and (f) heading amended; (e) and (f)(1) removed; (f) and (g) redesignated as (e) and (f); (a) and new (f) *Examples* (1), (2) and (3) revised; eff. 8-2-93..... 35392
(e) correctly designated; (f) *Example* 3 corrected..... 37991
2623.6 (a) through (d) amended; (e) *Examples* (1), (2) and (3) revised; eff. 8-2-93..... 35393
2623.7 Heading, (a), (b), (c), (d) introductory text and (1) amended; (e) *Examples* (1) and (2) revised; eff. 8-2-93..... 35394
2623.8 Removed; eff. 8-2-93..... 35394
2623.11 (a), (b) and (c) amended; eff. 8-2-93..... 35395
2623.12 (a)(1) and (3) amended; eff. 8-2-93..... 35395
2644 Appendix A amended..... 38052
2676.13 (a) and (b)(2) revised..... 50825
2676.14 Removed; new 2676.14 redesignated from 2676.16..... 50826
2676.15 (c) table amended...38053, 43080, 48306
Removed..... 50826
2676.16 Redesignated as 2676.14..... 50826
2676 Appendixes A, B and C added..... 50826

Title 29—*Proposed Rules:*

402 49672
403 49672
1605 49456
1910..... 47690
1915..... 47690

Title 29

Page
1917.....47690
1918.....47690
1926.....47690
1928.....47690

TITLE 30—MINERAL RESOURCES

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

202 Policy statement.....37420
206 Policy statement.....37420
216 Authority citation revised.....45254
216.2 Revised.....45254
216.6 Amended.....45254
216.20 Revised.....45254
216.50 (a) removed; (b) through (e) redesignated as (a) through (d); new (a) revised; new (d)(3) amended.....45254
216.51 Revised.....45254
216.54 Revised.....45255
216.55 Revised.....45255
216.56 Revised.....45255
216.58 Revised.....45255
218 Authority citation revised.....45438
218.41 Added.....45438
250.0 (r), (t) and (v) removed; (s), (u), (w), (x) and (y) redesignated as (r) through (v); (o), (p), (q) and new (r) through (u) revised.....49926
250.18 (d) introductory text revised; (d)(4) through (8) added.....44764
(d)(1), (2) and (3) revised; (d)(4) and (5) added.....49927
250.51 (a)(3) amended.....49927
250.64 (a) and (f) introductory text revised.....49927
250.65 (a), (b) and (c) amended.....49928
250.66 (b) and (e) amended.....49928
250.83 (a) and (b) amended; (c) revised; (d) added.....49928
250.85 (a) amended.....49928
250.103 (d) revised; (a), (b) introductory text, (c) introductory text and (d) amended.....49928
250.105 (a) amended.....49928
250.111 Introductory text amended.....49928
250.114 (b) amended.....49928
250.121 (h)(1) amended.....49928
250.172 (a)(1), (b)(2), (3), (5) and (6) revised; (a)(2), (3), (6), (7) and (8) amended; (a)(9), (b)(8) and (9) added.....49928
250.260 (b)(3) amended.....49928
250.272 (a) and (c) introductory text amended.....49928
250.273 (a), (b) and (c) amended.....49928
250.274 (b) amended.....49928
250.282 (a), (b) and (c) (1) and (2) amended.....49928
256 Authority citation revised.....45261
Heading revised.....45261
256.0—256.12 (Subpart A) Heading revised.....45261
256.0 Revised.....45261
256.58 Heading, (a), (c) and (e) revised; (f) redesignated as (h); new (f) and (g) added.....45261
256.59 Revised.....45262
256.61 Revised.....45262
256.62 (e) revised.....45262

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

718 Removed.....41937
720 Removed.....41937
735.21 (a)(6) revised.....41938
904.20 Revised.....38534
904.25 Added.....38534
904.26 Added.....38534
613.15 (o) added.....46856
913.16 (l), (m), (n), (p), (q) and (r) removed; (s), (t) and (u) added.....46857
913.25 (e) added.....48962
914.15 (uu) added.....41042
(vv) added.....43259
(ww) added.....46860
(xx) added.....48966
914.16 (i) through (m) removed.....41042
(n) through (aa) added.....43260
(bb), (cc) and (dd) added.....46861
(g) removed.....48967

Page
916.15 (n) correctly designated.....45439
917.15 (rr) added.....42011
917.16 Heading revised; (j) and (k) added.....42011
920.15 (x) added.....36138
934.25 (d) added.....50258
935.15 (ooo) added.....43263
(ppp) added.....46864
938.15 (z) added.....36141
944.15 (w) added.....48611
944.16 (a) through (d) added.....48611
946.15 (gg) added.....49931
950.15 (o) added.....44455
950.16 (o) removed.....44455

Title 30—*Proposed Rules*

216.....43582
218.....43582, 43583, 43585, 50301
253.....44797
701.....44630, 45303, 49457, 50174
773.....44630, 45303, 49457
774.....45303, 49457
778.....44630, 45303, 49457
784.....44630, 50174
800.....47598
817.....50174
840.....43594, 48312
842.....43594, 48312
843.....43594, 45303, 48312, 49457
870.....45736
901.....40104
904.....44477
906.....38949, 45467
913.....38543, 47237, 48333
914.....38545, 41669, 48996
915.....38991
916.....37447, 50302
917.....48333
920.....48998
926.....44479, 45303
934.....37449
935.....36177, 36178, 48333
936.....42900
943.....42901, 43308
944.....40608, 45305
948.....42903, 46676
950.....44480

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

Page
103.11 Regulation at 58 FR 13546 effective date delayed to 3-1-94.....45263
103.22 Regulation at 58 FR 13547 effective date delayed to 3-1-94.....45263
103.28 Regulation at 58 FR 13547 effective date delayed to 3-1-94.....45263
103.36 Regulation at 58 FR 13548 effective date delayed to 3-1-94.....45263
103.54 Regulation at 58 FR 13549 effective date delayed to 3-1-94.....45263

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

203 Revised; eff. 8-2-93.....35396

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

500 Authority citation revised.....47644
500.508 (f) revised.....47644
500.603 Added.....47644
515 Authority citation revised.....45060, 47644
515.418 Added.....45060
515.508 (f) added.....47645
515.563 (b) amended.....45060
515.569 (b) and (c) amended.....45060
515.603 Added.....47645
515.901 Amended.....45061
550 Authority citation revised.....47645
550.511 (g) revised.....47645
550.603 Added.....47645
575 Authority citation revised.....47645
575.503 (h) revised.....47646
575.606 Added.....47646
580 Authority citation revised.....40044, 47646

TITLE 31 Chapter V—Con. Page

580.503 (h) revised 47646
580.518 Added 46541
580.603 Revised 47646
580 Appendix A added 40044
Appendix A amended 46541
585 Authority citation revised 35828, 47646
585.201 (b) redesignated as (c); new (b) added 35828
585.215 Added 35829
585.216 Added 35829
585.217 Added 35829
585.218 Added 35829
585.301 (a) revised; (c) and (d) amended; (e) added 35829
585.418 Added 35829
585.419 Added 35829
585.503 (a) revised 47646
585.509 Heading and (a) revised; (b) and (d)(2)(ii) amended 35829
585.524 Added 35829
585.603 Revised 47647
585.901 Added (OMB numbers) 35830

Title 31—*Proposed Rules:*

1 ..... 43312, 44481
103 ..... 46014, 46021
206 41902
209 41449

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (1—399)

40 Revised; interim 47624
156 Revised 42855
199.2 (b) amended; eff. 9-29-93 35405
199.4 (a)(12) heading, (12)(i), (ii)(A) and (b)(6) introductory text amended; (b)(10), (f)(2)(v) and (3)(iv) added; eff. 9-29-93 35405
199.6 (b)(4)(x) heading, (A)(*1*) introductory text, (*2*) introductory text, (*i*), (*ii*), (*vi*), (*3*) introductory text, (B) introductory text, (*2*) revised; (b)(4)(xii) added; eff. 9-29-93 35407
199.7 (b)(3)(iv)(B)(*5*) revised; eff. 9-29-93 35408
199.14 (a)(2)(ix) added; eff. 9-29-93 35408
341 Redesignated from 369 39368
342 Added 48307
354 Redesignated as 385 39360
Added 39369
355 Redesignated as 386 39360
Added 39368
356 Redesignated as 364 39360
Added 39366
357 Redesignated as 387 39360
Added 39365
358 Redesignated as 393 39360
Added 39364
359 Redesignated as 398 39360
Added 39363
360 Redesignated as 399 39360
Added 39361
361 Redesignated as 377 39360
Added 39361
364 Removed; new 364 redesignated from 356 and amended 39360
369 Redesignated as 341 and revised 39368
371 Added 48308
377 Redesignated from 361 and amended 39360
385 Removed; new 385 redesignated from 354 and amended 39360
385.6 Amended 39360
385.7 (m), (p) and (q) amended 39360
386 Removed; new 386 redesignated from 355 and amended 39360
387 Removed; new 387 redesignated from 357 and amended 39360
Added 48308
387.5 (c) amended 39360
393 Redesignated from 358 and amended 39360
393.1 Amended 39360
393.3 Amended 39360
393.4 Introductory text, (a) through (d) and (g) amended 39360
393.5 Introductory text, (b), (c) and (g) amended 39360
393.6 (a) introductory text, (2), (b)(1) and (2) amended 39360
393.7 (a) through (d) amended 39360

Page

393 Appendix amended 39360
398 Redesignated from 359 and amended 39360
399 Redesignated from 360 and amended 39360

Chapter V—Department of the Army (Parts 400—699)

505.1 (d)(1), (2), (g) introductory text, (1) through (20) and (h) revised 51012
505.3 (b)(10)(i) through (iv) and (11)(i) through (iv) revised 51013
619 Revised 44405

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Table Five amended 36868
Tables One and Three amended 44133
Table Three amended 44134, 44456
Table Four amended 50259
Tables Four and Five amended 50260

Title 32—*Proposed Rules:*

199 ..... 47692, 48473
246 41671
296 41679
400—699 (Ch. V) 42518
501 37770
552 ..... 37774, 40611
855 49951

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

100 Temporary regulations list 46078
100.35T01-76 Added (temporary) 40359
100.35-T0209 Added (temporary) 39144
100.35-T0216 Added (temporary) 38301
100.35-T0220 Added (temporary) 38300
100.35-T0558 Added (temporary) 41429
100.35-T0772 Added (temporary) 38299
100.35-T0774 Added (temporary) 38298
100.91 Table 1 revised 40738
100.103 Implementation (temporary) 36355
100.105 (b)(2) and (c) revised (temporary) 50261
100.109 Removed 38302
100.501 Implementation (temporary) 38054
100.502 Implementation (temporary) 38053
100.504 Implementation (temporary) 38053
100.505 Revised 38302
100.508 Implementation (temporary) 38053
100.1105 Implementation (temporary) 50261
110.86 Added; interim 40740
110.186 Added 36356
110.710 Added 38055
117 Temporary drawbridge operation regulations 38056, 39145, 42856, 47067, 47068
117.43 Added 46081
117.272 Added 39146
117.287 (d)(3) removed 36357
117.301 Removed 36357
117.317 (j) removed; (k) redesignated as (j) 36357
117.321 Removed 36357
117.501 (c) revised 43264
117.723 Revised 39148
117.739 (a)(5) added; (a)(3), (4) and (e) revised 39149
117.745 Revised 40591
117.793 Revised 42859
117.839 Removed 39146
117.899 Revised 44613
117.1047 (e) removed 44613
117 Appendix A amended 39149, 42859
154.310 (a)(22) added 39662
154.500 (e) and (f) revised 39662
155.750 (a)(11) added 39662
156 Authority citation revised 48436
156.200 Revised 48436
156.205 (b) amended 48436
156.210 (a)(3) redesignated as (a)(4); new (a)(3) and (c) added 48436

TITLE 33 Chapter I—Con. Page

156.215 (a)(3) revised....48437
161.580 Revised; interim....46082
164.13 (e) suspended....36141
165 Temporary regulations list....46078
165.112 Added....47991
165.T062 Added (temporary)....46083
165.T01-019 Removed....39151
165.T01-020 Added (temporary)....36869
165.T01-034 Added (temporary)....47992
165.T01-057 Added (temporary)....36598
165.T01-63 Added (temporary)....40745
165.T01-85 Added (temporary)....40743
165.T01-87 Added (temporary)....39151
165.T01-93 Added (temporary)....40742
165.T01-109 Added (temporary)....47988
165.T01-119 Added (temporary)....47989
165.T05-063 Added (temporary)....47990
165.T0248 Added (temporary)....39152
165.T0253 Added (temporary)....38303
165.T0254 Added (temporary)....39664
165.T0255 Added (temporary)....40360
165.T0257 Added (temporary)....44615
165.T02-60 Added (temporary)....40741
165.T0261 Added (temporary)....44615
165.T0262 Added (temporary)....43265
(b) revised (temporary)....48968
165.T0263 Added (temporary)....46084
165.T0264 Added (temporary)....40361
165.T0787 Added (temporary)....47069
165.T0976 Added (temporary)....36358
165.T0982 Added (temporary)....40363
165.T1105 Added (temporary)....39663
165.T1106 Added (temporary)....40362
165.T1148 Added (temporary)....48967
165.730 Revised....38057
175.1 (e) added....41607
175.3 Revised....41607
175.5 Added....41608
175.11 Revised....41608
175.15 Revised; effective in part 5-1-95....41608
175.17 Revised....41608
181.703 (c) added....41608

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

323.2 (d) revised; (e) and (f) amended....45035
(d)(3)(iii) corrected....48424
323.3 (c) added....45036
328 Technical correction....48424
328.3 (a)(8) added....45036
334.1 Added....37607
334.2 Added....37607
334.3 Added....37607
334.4 Added....37608
334.5 Added....37608
334.80 Heading revised....37608
334.260 Heading revised....37608
334.275 Added....47788
334.400 Heading revised....37608
334.500 Heading revised....37609
334.540 Heading revised....37609
334.560 Heading revised....37609
334.938 (a) corrected....42237
334.980 Regulation at 58 FR 21226 confirmed....42238
334.1320 Regulation at 58 FR 26046 confirmed....42237

Title 33—*Proposed Rules:*

100 ....41449, 47099
110 ....38100, 38101
117 ....36629, 38102, 44155
130 38993
131 38993
132 38993
137 38993
162 ....42913, 46144
165 50303
166 44634
167 44634
334 ....37889, 47786

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

5b.11 Revised....44424
12 Regulation at 57 FR 60394 eff. 2-1-93....36870
21 Revised (effective date pending)....47192
74.3 Regulation at 57 FR 30335 eff. 9-18-92....36870
74.47 Regulation at 57 FR 30335 eff. 9-18-92....36870
74.73 Regulation at 57 FR 30335 eff. 9-18-92....36870
74.74 Regulation at 57 FR 30335 eff. 9-18-92....36870
74.75 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.76 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.91 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.93 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.94 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.96 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.144 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.171 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.172 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.173 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.174 Regulation at 57 FR 30336 eff. 9-18-92....36870
74.175 Regulation at 57 FR 30336 eff. 9-18-92....36870
74 Regulation at 57 FR 30336 eff. 9-18-92....36870
75.1 Regulation at 57 FR 30336 eff. 9-18-92....36870
75.3 Regulation at 57 FR 30336 eff. 9-18-92....36870
75.4 Regulation at 57 FR 30336 eff. 9-18-92....36870
75.60—75.62 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.60 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.61 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.62 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.105 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.107 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.108 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.110 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.111 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.113 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.114 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.115 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.116 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.118 Regulation at 57 FR 30337 eff. 9-18-92....36870
75.130—75.134 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.130 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.131 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.132 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.133 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.134 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.150—75.154 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.150 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.151 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.152 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.153 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.154 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.155 Regulation at 57 FR 30338 eff. 9-18-92....36870
75.160 Regulation at 57 FR 30338 eff. 9-18-92....36870

TITLE 34 Subtitle A—Con.

Page
75.200 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.216 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.218 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.233 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.234 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.235 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.253 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.261 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.262 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.510 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.518 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.534 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.560 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.563 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.580—75.581 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.580 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.581 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.590 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.608 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.616 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.617 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.621 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.622 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.625—75.626 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.625 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.626 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.681 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.684 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.690 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.707 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.720 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.740 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.750—75.755 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.750 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.751 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.752 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.753 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.754 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.755 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.3 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.102 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.125 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.136 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.305 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.401 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.560 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.580—76.581 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.580 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.581 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.591 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.600 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.670 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
76.681 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.684 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870

Page
76.690 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.707 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.720 Regulation at 57 FR 30341 effective date confirmed ... 36870
76.740 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.770 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.771 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.772 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.780—76.783 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.780 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.781 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.782 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.783 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.901 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
77.1 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
81.2 Amended ... 43473
81.11 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
81.12 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
81.14 (a) revised ... 43473
81.18 (a) revised ... 43473
81.20 Redesignated as 81.30; new 81.20 added ... 43473
81.21 Redesignated as 81.31 ... 43473
81.22 Redesignated as 81.32 ... 43473
81.23 Redesignated as 81.33 ... 43473
81.24 Redesignated as 81.34 ... 43473
81.25 Redesignated as 81.35 ... 43473
81.26 Redesignated as 81.36 ... 43473
81.27 Redesignated as 81.37 ... 43473
81.28 Redesignated as 81.38 ... 43473
81.29 Redesignated as 81.39 ... 43473
81.30 Redesignated as 81.40; new 81.30 redesignated from 81.20; (a) amended ... 43473
81.31 Redesignated as 81.41; new 81.31 redesignated from 81.21; (a) and (c) amended ... 43473
81.32 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
Page
Redesignated as 81.42; new 81.32 redesignated from 81.22 ... 43473
81.33 Redesignated as 81.43; new 81.33 redesignated from 81.23 ... 43473
81.34 Redesignated as 81.44; new 81.34 redesignated from 81.24; (a) amended ... 43473
81.35 Redesignated as 81.45; new 81.35 redesignated from 81.25; (a) and (c) amended ... 43473
81.36 Redesignated from 81.26 ... 43473
81.37 Redesignated from 81.27; (b) amended ... 43473
(a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added ... 43474
Corrected ... 51013
81.38 Redesignated from 81.28; (b) and (c) amended ... 43473
81.39 Redesignated from 81.29; (a) amended ... 43473
81.40 Redesignated from 81.30 and amended ... 43473
81.41 Redesignated from 81.31 ... 43473
(c) revised ... 43474
81.42 Redesignated from 81.32 ... 43473
Revised ... 43474
81.43 Redesignated from 81.33 ... 43473
Revised ... 43474
81.44 Redesignated from 81.34 ... 43473
(b) revised ... 43474
81.45 Redesignated from 81.35; (b)(1), (2) and (d) amended ... 43473
86.405 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
99.5 Regulation at 58 FR 3188 eff. 2-25-93 ... 36871
99.6 Regulation at 58 FR 3188 eff. 2-25-93 ... 36871
99.30 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.31 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.60 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.63 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871

TITLE 34 Subtitle A—Con. Page

99.64 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.65 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.67 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871

Chapter I—Office for Civil Rights, Department of Education (Parts 100—199)

110 Added ... 40197

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200.6 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.20 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.31 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.34 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.35 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.36 Regulation at 58 FR 11921 eff. 4-28-93 ... 36871
201.52 Regulation at 57 FR 24752 effective date confirmed ... 36870
201.54 Regulation at 57 FR 24752 eff. 7-29-92 ... 36870
206.1 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.3 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.4 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.5 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.10 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.11 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.20 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
208 Regulation at 57 FR 21710 eff. 7-29-93 ... 36869
208.11 Regulation at 57 FR 21710 eff. 7-29-92 ... 36869
208.21 Regulation at 57 FR 21720 eff. 7-29-92 ... 36869

Page

208.22 Regulation at 57 FR 21710 eff. 7-29-92 ... 36869
208.24 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.25 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.26 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.31 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.32 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
212 Regulation at 57 FR 558 eff. 8-3-92 ... 36870
218.3 Regulation at 57 FR 56794 eff. 1-29-93 ... 36870
218.4 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.5 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.6 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.7 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.8 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.9 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.10 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.11 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
221.81 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
221.82 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
218.83 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
222.69 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
230.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
230.5 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
230.30 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.1 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.3 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871

Page

232.2 Revised (effective date pending) ... 46757
232.4 (a) and (b) redesignated as (b) and (c); new (a) added; OMB number (effective date pending) ... 46757
235.5 (c) and (d) amended; (e) added (effective date pending) ... 46757
236 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.1 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.2 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.3 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.5 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.6 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.7 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.8 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.9 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.10 Regulation at 58 FR 13177 and 13178 eff. 4-28-93 ... 36871
236.30 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.31 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.40 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.41 Regulation at 58 FR 13178 eff. 4-28-93 ... 36871
237 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
237.7 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
238 Regulation at 58 FR 13178 eff. 4-28-93 ... 36871
263.2 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
263.9 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
280.2 Regulation at 57 FR 61508 eff. 2-25-93 ... 36871
280.4 Regulation at 57 FR 61508 eff. 2-25-93 ... 36871
280.20 Regulation at 57 FR 61509 eff. 2-25-93 ... 36871

Page

280.31 Regulation at 57 FR 61509 eff. 2-25-93 ... 36871
280.32 Regulation at 57 FR 61510 eff. 2-25-93 ... 36871
282 Regulation at 58 FR 5176 eff. 3-5-93 ... 36871

Chapter III—Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

300 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.17 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.18 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.110 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.111 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.121 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.122 2Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.123 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.125 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.126 6Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.127 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.128 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.129 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.130 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.131 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.132 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.133 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.134 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.136 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.138 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.139 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 34 Chapter III—Con. Page

300.140 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.141 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.144 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.146 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.148 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.149 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.152 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.153 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.180 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.192 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.220 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.222 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.223 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.224 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.225 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.226 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.227 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.230 Regulation at 57 FR 37654 eff. 10-3-92; regulation at 44798 eff. 11-13-92 ... 36870
300.231 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.235 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.238 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.240 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.280 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.281 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.284 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.341 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.343 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.345 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.346 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.349 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.380 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.381 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.382 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.383 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.402 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.482 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.483 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.486 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.487 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.505 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.510 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.512 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.532 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.533 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.543 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.561 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.562 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.563 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.565 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.569 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.570 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.571 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.572 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.574 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

Page

300.575 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.586 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
300.587 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
300.589 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.600 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.653 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.660 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.661 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.662 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.670–300.672 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
300.670 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.671 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.672 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.750 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.751 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.754 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
301.1 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.3 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.6 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.10 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.30 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
303 Revised (effective date pending) ... 40959
303.124 Regulation at 57 FR 37654 eff. 10-3-92 ... 36870
305.10 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.11 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.12 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.30 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.31 Regulation at 58 FR 9463 eff. 4-28-93 ... 36871
305.40 Regulation at 58 FR 9463 eff. 4-28-93 ... 36871
307.4 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.2 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.3 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.5 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.22 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.30—309.33 (Subpart D) Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.30 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.33 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.34 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
315.4 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
316 Regulation at 57 FR 62096 eff. 2-25-93 ... 36871
318 Regulation at 57 FR 62099 eff. 2-25-93 ... 36871
318.2 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.10 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.11 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.20 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.22 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.25 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
319 Regulation at 57 FR 62106 eff. 2-25-93 ... 36871
324 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
324.10 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
324.30 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
346.3 Revised (effective date pending) ... 49419
347.3 (a) and (c) revised (effective date pending) ... 49419
354.1 Amended (effective date pending) ... 49419

TITLE 34 Chapter III—Con.

Page

354.10 (b)(1) through (5) amended (effective date pending)..... 49419
355.1 Amended (effective date pending)..... 49419
355.10 (c) amended (effective date pending)..... 49419
356.1 Amended (effective date pending)..... 49419
356.2 Regulation at 57 FR 30343 eff. 9-18-92..... 36870
(b) amended (effective date pending)..... 49419
356.3 Regulation at 57 FR 30343 eff. 9-18-92..... 36870
(c)(2) amended (effective date pending)..... 49419
356.11 Revised (effective date pending)..... 49419
357.32 (a)(3) added (effective date pending)..... 49419
358 Authority citation revised..... 49419
358.1 Authority citation revised (effective date pending)..... 49419
358.10 (a) amended; authority citation revised (effective date pending)..... 49419
358.30 Authority citation revised (effective date pending)..... 49420
358.31 (a)(3) and authority citation revised (effective date pending)..... 49420
358.32 Authority citation revised (effective date pending)..... 49420
358.33 Authority citation revised (effective date pending)..... 49420
358.34 Authority citation revised (effective date pending)..... 49420
359 Authority citation revised..... 49420
359.1 Authority citation revised (effective date pending)..... 49420
359.2 Revised (effective date pending)..... 49420
359.3 Authority citation revised (effective date pending)..... 49420
359.4 Authority citation revised (effective date pending)..... 49420
359.10 Authority citation revised (effective date pending)..... 49420
359.11 (f) redesignated as (g); new (f) added; authority citation revised (effective date pending)..... 49420
359.30 Authority citation revised (effective date pending)..... 49420
359.31 (c)(4)(iii), (d)(5)(iii) and authority citation revised (effective date pending)..... 49420
359.32 Authority citation revised (effective date pending)..... 49420
360.31 (a)(2), (b)(1) and (d)(3) revised (effective date pending)..... 49420
361.1 Regulation at 57 FR 28440 eff. 8-8-92..... 36870
361.41 Regulation at 57 FR 28440 eff. 8-8-92..... 36870
361.43 Regulation at 57 FR 28441 eff. 8-8-92..... 36870
361.170 Regulation at 57 FR 56797 eff. 11-30-92..... 36870
361.171 Regulation at 57 FR 56797 eff. 11-30-92..... 36870
363 Regulation at 57 FR 28437 eff. 8-8-92..... 36870
376 Regulation at 57 FR 28441 eff. 8-8-92..... 36870
376.1 Regulation at 57 FR 28441 eff. 8-8-92..... 36870
376.3 Regulation at 57 FR 28441 eff. 8-8-92..... 36870
376.4 Regulation at 57 FR 28441 eff. 8-8-92..... 36870
377 Added (effective date pending)..... 40709
378 Revised (effective date pending)..... 35764
380.5 Regulation at 57 FR 28441 eff. 8-8-92..... 36870
380.9 Regulation at 57 FR 28441 eff. 8-8-92..... 36870
380.20 Regulation at 57 FR 28442 eff. 8-8-92..... 36870
381 Added (effective date pending)..... 43022

Chapter IV—Office of Vocational and Adult Education, Department of Education (Parts 400—499)

Page

400 Regulation at 57 FR 36724 eff. 9-28-92..... 36870
401 Regulation at 57 FR 36730 eff. 9-28-92..... 36870
402 Regulation at 57 FR 36733 eff. 9-28-92..... 36870
403 Regulation at 57 FR 36735 eff. 9-28-92..... 36870
405 Regulation at 57 FR 36761 eff. 9-28-92..... 36870
406 Regulation at 57 FR 36763 eff. 9-28-92..... 36870
407 Regulation at 57 FR 36765 eff. 9-28-92..... 36870
408 Regulation at 57 FR 36767 eff. 9-28-92..... 36870
409 Regulation at 57 FR 36771 and 36724 eff. 9-28-92..... 36870
410 Regulation at 57 FR 36773 eff. 9-28-92..... 36870
411 Regulation at 57 FR 36776 eff. 9-28-92..... 36870
412 Regulation at 57 FR 36778 eff. 9-28-92..... 36870
413 Regulation at 57 FR 36780 eff. 9-28-92..... 36870
414 Regulation at 57 FR 36782 eff. 9-28-92..... 36870
415 Regulation at 57 FR 36784 eff. 9-28-92..... 36870
416 Regulation at 57 FR 36786 eff. 9-28-92..... 36870
417 Regulation at 57 FR 36788 eff. 9-28-92..... 36870
418 Regulation at 57 FR 36791 eff. 9-28-92..... 36870
419 Regulation at 57 FR 36794 eff. 9-28-92..... 36870
421 Regulation at 57 FR 36796 eff. 9-28-92..... 36870
422 Regulation at 57 FR 36797 eff. 9-28-92..... 36870
423 Regulation at 57 FR 36799 eff. 9-28-92..... 36870
424 Regulation at 57 FR 36801 eff. 9-28-92..... 36870
425 Regulation at 57 FR 24091 eff. 7-29-92; regulation at 57 FR 36808 eff. 9-28-92..... 36870
426 Regulation at 57 FR 24091 eff. 7-29-92; regulation at 57 FR 36805 eff. 9-28-92..... 36870
427 Regulation at 57 FR 36810 eff. 9-28-92..... 36870
428 Regulation at 57 FR 36812 eff. 9-28-92..... 36870
431 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
432 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
433 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
434 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
435 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
436 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
437 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
438 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
441 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
460 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
460.2 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
460.3 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
460.4 Regulation at 57 FR 24092 eff. 7-29-92..... 36870
461 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
462 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
462.50 Regulation at 57 FR 24100 eff. 7-29-92..... 36870
463 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
464 Regulation at 57 FR 24100 eff. 7-29-92..... 36870
471 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
472 Regulation at 57 FR 24091 eff. 7-29-92..... 36870
472.20 Regulation at 57 FR 24102 eff. 7-29-92..... 36870
472.30 Regulation at 57 FR 24102 eff. 7-29-92..... 36870
473 Regulation at 57 FR 24102 eff. 7-29-92..... 36870
474 Regulation at 57 FR 24091 eff. 7-29-92..... 36870

TITLE 34 Chapter IV—Con.

Page

475 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
476 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
477 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
489 Regulation at 57 FR 24105 eff. 7-29-92 ... 36870
490 Regulation at 57 FR 24107 eff. 7-29-92 ... 36870
491 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870

Chapter V—Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599)

555 Regulation at 57 FR 53195 eff. 12-21-92 ... 36870
562.2 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
562.3 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
581.591 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

600.2 Amended (effective date pending) ... 39620
600.5 Regulation at 57 FR 57309 eff. 1-29-93 ... 36870
600.6 Regulation at 57 FR 57309 eff. 1-29-93 ... 36870
600.9 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.30 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.31 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.40 Regulation at 58 FR 13342 eff. 4-28-93 ... 36871
600.41 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
Regulation at 58 FR 13342 eff. 4-28-93 ... 36871
608 Revised (effective date pending) ... 38713
609 Revised (effective date pending) ... 38717
610 Added (effective date pending) ... 50167

Page

612.2 Regulation at 58 FR 27140 eff. 6-20-93 ... 36871
614 Revised (effective date pending) ... 42627
617.1—617.8 (Subchapter A) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
617.11—617.29 (Subchapter B) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
617.51—617.67 (Subchapter D) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
624 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
625 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
626 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
627 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
628.1 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.2 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.3 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.4 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.5 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.6 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.10 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.20 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.30 Regulation at 49 FR 28520 eff. 9-14-84; regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.31 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.32 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.40 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.41 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.42 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.43 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.44 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871

Page

628.45 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.46 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.47 Regulation at 58 FR 11164 eff. 4-28-93 ... 36871
628.48 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
630.2 Regulation at 58 FR 27144 eff. 6-20-93 ... 36871
630.4 Regulation at 58 FR 27145 eff. 6-20-93 ... 36871
630.5 Regulation at 58 FR 27145 eff. 6-20-93 ... 36871
630.11 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
Regulation at 58 FR 27145 eff. 6-20-93 ... 36871
630.22 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
630.23 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
631 Revised (effective date pending) ... 42653
632 Revised (effective date pending) ... 42656
633 Revised (effective date pending) ... 42658
634 Revised (effective date pending) ... 42659
635 Revised (effective date pending) ... 42660
636 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
Added (effective date pending) ... 42663
637.1 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.3 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.4 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.12 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.14 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.32 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
639.1 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.2 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.3 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.4 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870

Page

639.10 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.11 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.30 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.31 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.40 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
645 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
649 Revised (effective date pending) ... 42860
Technical correction ... 47069
653 Revised (effective date pending) ... 42827
653.2 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
653.3 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
654 Revised (effective date pending) ... 42669
654.2 Regulation at 57 FR 30344 eff. 9-18-92 ... 36870
654.4 Regulation at 57 FR 30344 eff. 9-18-92 ... 36870
664.14 Regulation at 57 FR 28976 eff. 9-18-92 ... 36870
668.2 Regulation at 58 FR 13343 eff. 4-28-93 ... 36871
668.8 (a) introductory text and (2)(i) revised; (c) and (d) added; pending and effective in part 1-1-94 ... 39620
668.9 Added; pending and effective in part 1-1-94 ... 39620
668.12 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
668.15 Regulation at 58 FR 13343 eff. 4-28-93 ... 36871
668.56 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.57 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.58 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.59 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.61 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.81 Regulation at 58 FR 13344 eff. 4-28-93 ... 36871
668.83 Regulation at 58 FR 13344 eff. 4-28-93 ... 36871

TITLE 34 Chapter VI—Con. Page

668.84 Regulation at 57 FR 47753 and 47754 eff. 12-3-92....36870
668.85 Regulation at 57 FR 47753 and 47754 eff. 12-3-92; regulation at 57 FR 60034 eff. 1-31-93....36870
668.86 Regulation at 57 FR 47753 and 47754 eff. 12-3-92....36870
668.87 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.88 Regulation at 57 FR 47753 and 47754 eff. 12-3-92; regulation at 57 FR 60034 eff. 1-31-93....36870
668.89 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.90 Regulation at 57 FR 47753 eff. 12-3-92; regulation at 57 FR 60034 eff. 1-31-93....36870
668.91 Regulation at 58 FR 13345 eff. 4-28-93....36871
668.92 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.94 Regulation at 58 FR 13345 eff. 4-28-93....36871
668.95 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.98 Regulation at 57 FR 60034 eff. 1-31-93....36870
668.114 Regulation at 57 FR 47753 and 47754 eff. 12-3-92....36870
668.115 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.116 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.117 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.118 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.119 Regulation at 57 FR 47753 eff. 12-3-92; regulation at 57 FR 60035 eff. 1-31-93....36870
668.120 Regulation at 57 FR 47753 eff. 12-3-92....36870
Regulation at 57 FR 60035 eff. 1-31-93....36870
668.121 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.124 Regulation at 57 FR 60035 eff. 1-31-93....36870

Page

668.130—668.139 (Subpart I) Regulation at 58 FR 3184 eff. 2-25-93....36871
671 Regulation at 57 FR 24955 eff. 7-29-92....36870
674 Regulation at 57 FR 60706 eff. 2-4-93....36871
674.1 Regulation at 57 FR 32344 eff. 9-18-92....36870
674.2 Regulation at 57 FR 32344 eff. 9-18-92....36870
674.8 Regulation at 57 FR 32344 eff. 9-18-92....36870
674.18 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.19 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.31 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.32 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.33 Regulation at 57 FR 32345 eff. 9-18-92....36870
Regulation at 57 FR 60706 eff. 2-4-93....36871
674.34 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.35 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.36 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.38 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.42 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.43 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.45 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.47 Regulation at 57 FR 32346 eff. 9-18-92....36870
Regulation at 57 FR 60706 eff. 2-4-93....36871
674.49 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.50 Regulation at 57 FR 32347 eff. 9-18-92....36870
Regulation at 57 FR 60707 eff. 2-4-93....36871
674.52 Regulation at 57 FR 32347 eff. 9-18-92....36870
674.57 Regulation at 57 FR 32347 eff. 9-18-92....36870

Page

674 Regulation at 57 FR 32347, 32349, 32351 and 32354 eff. 9-18-92....36870
675 Regulation at 57 FR 60707 eff. 2-4-93....36871
675.2 Regulation at 57 FR 32356 eff. 9-18-92....36870
Regulation at 57 FR 60707 eff. 2-4-93....36871
675.16 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.18 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.21 Regulation at 57 FR 60707 eff. 2-4-93....36871
675.22 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.23 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.26 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.28 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.34 Regulation at 57 FR 32357 eff. 9-18-92....36870
676 Regulation at 57 FR 60707 eff. 2-4-93....36871
676.2 Regulation at 57 FR 32357 eff. 9-18-92....36870
676.3 Regulation at 57 FR 32357 eff. 9-18-92....36870
676.14 Regulation at 57 FR 60707 eff. 2-4-93....36871
676.16 Regulation at 57 FR 32357 eff. 9-18-92....36870
676.18 Regulation at 57 FR 32357 eff. 9-18-92....36870
682 Regulation at 57 FR 60323 eff. 2-1-93....36870
682.600 Regulation at 58 FR 3177 eff. 2-25-93....36871
685 Added (effective date pending)....36094
690.31 Regulation at 57 FR 28569 eff. 8-9-92....36870
690.32 Regulation at 57 FR 28569 eff. 8-9-92....36870
690.72 Regulation at 50 FR 10710 eff. 4-29-85....36871
690.83 Regulation at 57 FR 28569 eff. 8-9-92....36870
698 Added (effective date pending)....43266
698.2 OMB number pending....43267
698.11 OMB number pending....43267
698.21 OMB number pending....43268

Page

698.22 OMB number pending....43268
698.24 OMB number pending....43269
698.30 OMB number pending....43269

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

755.20 Regulation at 57 FR 53200 eff. 12-21-92....36870
755.21 Regulation at 57 FR 53201 eff. 12-21-92....36870
755.22 Regulation at 57 FR 53200 eff. 12-21-92....36870
757.10 Regulation at 57 FR 53201 eff. 12-21-92....36870
757.11 Regulation at 57 FR 53201 eff. 12-21-92....36870
757.12 Regulation at 57 FR 53201 eff. 12-21-92....36870
758.10—758.11 (Subpart B) Regulation at 57 FR 53201 eff. 12-21-92....36870
762.2 Regulation at 57 FR 30344 eff. 9-18-92....36870
762.4 Regulation at 57 FR 30344 eff. 9-18-92....36870
769 Regulation at 57 FR 49265 eff. 12-14-92....36870
770.4 Regulation at 58 FR 11167 eff. 4-28-93....36871
776 Revised; OMB numbers (effective date pending)....45210
777.1 (a)(3) amended; (b) revised; (c) redesignated as (d); new (c) added (effective date pending)....40247
777.3 (a) revised (effective date pending)....40247
777.4 (b) amended (effective date pending)....40247
777.10 Revised (effective date pending)....40247
778 Heading revised....40247
778.1 Heading, introductory text and (a) amended (effective date pending)....40247
778.2 (b) introductory text corrected (effective date pending)....40247
778.3 Revised (effective date pending)....40247
778.5 Heading revised (effective date pending)....40247

TITLE 34 Chapter VII—Con. Page

778.6 Introductory text and (a) revised (effective date pending)....40247
778.22 (a) introductory text and (e) introductory text amended (effective date pending)....40248
779 Authority citation revised....40248
779.1 Revised (effective date pending)....40248
779.2 Revised (effective date pending)....40248
779.3 Authority citation revised (effective date pending)....40248
779.4 (b)(2), (6) and authority citation revised (effective date pending)....40248
779.5 Authority citation revised (effective date pending)....40248
779.6 Redesignated as 779.7; new 779.6 added (effective date pending)....40248
779.7 Redesignated as 779.8; new 779.7 from 779.6; (a) and authority citation revised (effective date pending)....40248
779.8 Redesignated as 779.9; new 779.8 redesignated from 779.7; (b) amended; authority citation revised (effective date pending)....40248
779.9 Redesignated from 779.8; authority citation revised (effective date pending)....40248
779.10 Authority citation revised (effective date pending)....40248
779.20 Authority citation revised (effective date pending)....40248
779.21 Authority citation revised (effective date pending)....40248
(b) revised (effective date pending)....40249

Title 34—Proposed Rules:

76....44736
80....44736
99....42836
361....38482, 44638

Page
600—699 (Ch. VI)....43608
607....48478
631....38504
632....38504
633....38504
634....38504
635....38504
650....37890
692....36110

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

51 Technical correction....36598

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1191 Authority citation revised....38211
Appendix redesignated as Appendix A and amended....38211

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1222.20 (b)(1) revised....49194
1230.1 Revised....49194
1230.3 Revised....49194
1230.4 Amended....49195
1230.7 Added....49195
1230.10—1230.16 (Subpart B) Redesignated as Subpart C....49195
1230.12 (d)(1)(i) and (2) revised....49195
1230.14 (a) and (b) revised; (c), (d)(1)(i) and (2) amended....49195
1230.16 Revised....49196
1230.20—1230.26 (Subpart C) Redesignated as Subpart D....49195
1230.20 Revised....49196
1230.22 (a)(6) removed; (a)(7) and (8) redesignated as (a)(6) and (7); (a)(1), (4)(i), (5) and new (a)(7) revised....49196
1230.24 (a) revised....49196
1230.26 (a) revised....49196

Page
1230.50—1230.52 (Subpart D) Redesignated as Subpart E....49195

Title 36—Proposed Rules:

7....48336
222....43202, 48808
242....40393, 46678
1191....37052
1253....49251

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.17 (h) revised....38723
Corrected....45841
1.19 (a)(3) revised....38723
1.20 (i) revised....44280
1.71 (d) revised....38723
1.84 Revised....38723
(b)(1)(ii) corrected....45841
(g)(3) and (h)(2) corrected....45842
1.88 Removed....38726
1.123 Revised....38726
1.137 Revised....44280
1.152 Revised....38726
1.155 (b), (c) and (d) revised; (e) and (f) added....44280
1.165 Revised....38726
1.316 (b), (c) and (d) revised; (e) and (f) added....44281
1.317 Revised....44281
1.378 (a), (b), (c) and (e) revised....44282
1.601 (q) added....49434
1.637 (a) revised....49434
1.639 (c) revised; (d) through (g) added....49434
1.655 (a) revised....49434

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201.17 Regulation at 57 FR 3296 effective date extended to 1-1-95....40363
(k) revised; eff. 1-1-95....45263

Title 37—Proposed Rules:

1....39704
2....39102
10....38994

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

Page
2.6 (e)(3) revised....39152
(e)(1) revised....40746
3.203 (c) amended....37857
(c) corrected....42623
3.205 (a) introductory text and (1) revised....37857
3.309 (d)(1) amended....41636
3.343 Corrected....46865
3.353 (d) revised; authority citation added....37856
(d) revised....37856
3.655 (c)(1) corrected....46865
4.16 (a) corrected....39664
14 Authority citation revised....39153
14.602 (a) introductory text, (4) and (b)(2) revised....40746
14.619 (b) revised....39153
21.4025 (a)(2) revised; authority citation added....46867
21.4263 (g) introductory text, (1), (2) and (3) redesignated as (g)(1) through (4); new (g)(1), (4) introductory text, (ii), (h)(1), (3)(i), (ii), (4)(i) introductory text and (i) introductory text revised; (h)(4)(iii) and authority citation added; interim....49198
21.5058 (b) and authority citation revised....38058
(b) corrected....40468
21.5064 (b)(1), (2)(i) and (2) authority citation revised; (b)(1) authority citation added....38058
21.5232 Revised....46866
21.5820 (b) introductory text, (1)(ii)(A), (B), (C), (2)(ii)(A), (B) and (C) revised....50845
21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised....50845
21.6005 (b) amended; (b) authority citation revised....41637
21.6042 (a) introductory text, (1), (b) and (d) amended; (a) through (d) authority citations revised; (e) added....41637
21.6503 (a) amended; (a) authority citation revised....41637

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 38 Chapter I—Con. Page

21.6523 (a) amended; (a) authority citation and (b) revised....41637
21.7142 (c) added....46867
21.7614 Revised....50846
36.4201—36.4287 Authority citation revised....37858
36.4202 Amended....37858
36.4204 (a)(7) amended; (b), (c) and (e) redesignated as (d), (e) and (g); new (g) amended; new (b), (c) and (f) added; OMB number....37858
36.4205 (a), (b)(1), (2), (3) and (f)(1) amended....37859
36.4206 (d)(1), (2)(i) and (ii) amended....37859
36.4209 (b)(2) amended....37859
36.4222 Revised....37859
36.4223 (a)(1) and (2) revised....37860
36.4224 (b) amended....37860
36.4232 (a)(2) through (5) redesignated as (a)(3), (4), (5) and (7); new (a)(5) and (b) amended; new (a)(2) and (6) added; (d)(1) revised; (e)(5) removed....37860
36.4234 (a), (b) and (c) amended....37860
36.4235 (a) amended....37860
36.4253 (b)(9) and (c)(2) amended....37860
36.4276 (c) added....37860
36.4283 (f)(4) added; (g) introductory text revised....37860
36.4284 (e) added....37861
47 Added....48455

Title 38—*Proposed Rules:*

1 39706
3 ....38103, 38104, 38106, 46919, 48483, 50528
14 39174
17 44313
20 47100
21 ....38106, 39488, 41325, 50873
36 ....49251, 49253, 50875

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

111 Regulation at 58 FR 13552 confirmed....42012

Page
233.3 Revised....36599

Chapter III—Postal Rate Commission (Parts 3000—3099)

3000 Authority citation revised....42874
3000.735-101—3000.735-104 (Subpart A) Revised....42874
3000.735-201—3000.735-205 (Subpart B) Removed....42874
3000.735-301—3000.735-316 (Subpart C) Removed....42874
3000.735-401—3000.735-405 (Subpart D) Removed....42874
3000.735-501—3000.735-502 (Subpart E) Redesignated as Subpart B....42874
3001.5 (g) and (h) amended....38976
3001.6 (a), (b) and (c) amended....38976
3001.7 (a)(1)(i), (ii), (iii), (b)(2), (3), (c)(1) and (d)(1) amended....38976
3001.9 (a) amended....38976
3001.10 (a) amended....38976
3001.11 (a) and (e) amended....38976
3001.12 (e) and (g) amended....38976
3001.13 Amended....38976
3001.17 (c)(3) and (4) amended....38976
3001.19 Amended....38976
3001.20 (b), (c) and (e) amended....38976
3001.20a Introductory text and (a) amended....38976
3001.20b (b) amended....38976
3001.21 (b) amended....38976
3001.23 (b) and (d) amended....38976
3001.24 (b), (d)(1) through (11) and (e) amended....38976
3001.25 (c) and (e) amended....38976
3001.26 (a) and (c) amended....38976
3001.27 (c) amended....38976
3001.31 (b), (d) and (k)(3)(iv) amended....38976
3001.31a (b) and (c) amended....38976
3001.33 (e) and (h) amended....38976
3001.36 Amended....38976
3001.39 (a) amended....38976
3001.42 (c)(2) amended....38976
3001.42a Amended....38976
3001.43 (e)(4) introductory text, (i), (f)(1), (g)(3), (5) and (6) amended....38976

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

Page
3001.54 (h)(5)(v)(*a*) and (p)(2) amended; (l) redesignated as (l)(1); (l)(2) added....38976
(o)(2)(i), (3), (p)(2) and (r) amended....38977
3001.55 Amended....38977
3001.57 Heading amended....38977
3001.57c Heading amended....38977
3001.63 Amended....38977
3001.64 (c)(1) and (2) amended....38977
3001.65 Amended....38977
3001.75 Amended....38977
3001.83 (e) amended....38976
(a) amended....38977
3001.101 Amended....38977
3001.102 (a)(1), (d) introductory text and (4) amended....38977
3001.110 Amended....38977
3001.111 (b) amended....38977
3001.114 (a) amended....38977
3001.115 (a) amended....38976
Heading revised....38977
3001.116 Amended....38977

Title 39—*Proposed Rules:*

39 38321
71 38322
73 38323
111 49402
265 48808

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

9.1 Table amended (OMB numbers)....40054, 49376
51 Authority citation revised....38821
51.46 (b) revised; (c) removed....38821
51.63 (a) amended....38821
51.112 (a) amended; (a)(1) and (2) added....38821
51.117 (c)(1), (2) and (3) amended....38822
51.150 (e) amended....38822
51.160 (f)(1) and (2) added....38822
51.166 (l)(1) and (2) revised....38822
51 Appendix W added....38822
52 Authority citation revised....38883
State implementation plan determinations....41430, 42671, 50516
Authority delegation notice....43798

Page
52.21 (l)(1) revised; (l)(2) amended....38883
52.50 (c)(61) added....45440
(c)(56) and (57) added....50266
52.70 (c)(17) added....43085
52.220 (c)(182)(i)(B)(*5*), (183)(i)(A)(*9*), (F) and (185)(i)(B)(*4*) added....37423
(c)(183)(i)(A)(*11*), (C)(*4*) and (*6*) added....45442
(c)(179)(i)(C), (182)(i)(B)(*3*), (i)(C) and (183)(i)(E)(*2*) added....45443
(c)(182)(i)(A)(*2*) added....45445
(c)(182)(i)(A)(*3*) and (185)(i)(B)(*5*) added....45447
(c)(183)(i)(A)(*6*) added....47832
(c)(184)(i)(B)(*3*) added....50851
52.320 (c)(59) added....50270
52.329 (a)(3) removed....50271
52.346 Added....49435
52.420 (c)(45) added....40066
52.422 Existing text redesignated as (a); (b) added....50848
52.520 (c)(76) added....37660
52.670 (c)(26) and (27) added....39447
52.679 Revised....39448
52.681 Revised....39450
52.683 Revised....39450
52.720 (c)(96) added....45450
(c)(7) added....47382
(c)(98) added....48314
52.744 Added....45451
52.770 (c)(88) added....43083
52.798 Added....46544
52.820 (c)(58) added....50268
52.970 (c)(59) added....38060
52.1070 (c)(93) through (96) added....40062
52.1073 (f) added....50848
52.1120 (c)(98) added....48317
52.1167 Table amended....48318
52.1174 Regulation at 58 FR 34227 withdrawn....44456
52.1320 (c)(84) added....45452
52.1420 (c)(40) added....45454
52.1620 (c)(50) added....47385
52.1670 (c)(84) added....40058
(c)(85) added....40064
(c)(86) added....50852
52.1679 Table amended....40065
52.1770 (c)(66) added....47396
52.1870 (c)(83) added....47214
52.1879 (e) removed....47214
52.1881 (b)(23) revised....46869

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 40 Chapter I—Con. Page

52.1882 (l) added 46871
52.1920 (c)(43) added 38062
52.1970 (c)(96) added 47387
(c)(100) added 50850
52.1977 Revised 47387
52.1987 Revised 47391
52.1988 (b) revised 47391
52.2020 (c)(84) added 50518
52.2170 (c)(14) added 37425
52.2183 Added 37426
52.2220 (c)(111) added 50273
52.2270 (c)(76) added 45456
52.2420 (c)(98) added 45459
52.2423 (j) added 50848
52.2470 (c)(39) added 37427
(c)(41) added 40057
(c)(40) added 40060
52.2479 Revised 27427
52.2560 Added 48312
52.2570 (c)(69) added 43082
55.14 (e)(3)(ii)(E), (F) and (H) revised 44617
55.15 Regulation at 58 FR 14159 effective date corrected to 9–4–92 47398
55 Appendix A amended 44617
60 Authority citation revised 40591
60.17 (a)(5) and (38) amended 45962
60.700—60.708 (Subpart RRR) Added (OMB number pending) 45962
60.735 (b) and (c)(2) amended 40591
(c)(3) amended 40592
63.320—63.325 (Subpart M) Added 49376
69 Authority citation revised 43043
69.11 (a) and (b) added 43043
72.2 Corrected 40746, 40747
72.8 (c)(2)(ii) corrected 40747
72.41 (e)(3)(iii) and (iv) corrected 40747
72.74 (b)(1)(iii) corrected 40747
72.91 (a) introductory text and (3)(iii) corrected 40747
72.92 (c)(2)(v)(C) corrected 40747
73 Notice of procedure 48318
73.10 (a) Table 1 corrected 40747
73.30 (a) corrected 40747
73.31 (c)(1) introductory text corrected 40747
73.32 (a)(1) corrected 40747
73.72 Technical correction 40747
73.80 (b) corrected 40747
73.81 (b)(4) corrected 40747
73.82 Heading corrected 40747

Page

75.1 (b) existing text redesignated as (b)(1) and (2); new (b)(2) corrected 40747
75.5 (b) corrected 40747
75.6 (a)(4) corrected 40747
75.7 Corrected 40747
75.11 (c) introductory text corrected 40747
75.15 (a) introductory text, (2) and (b)(1) corrected 40747
75.16 (e) corrected 40747
75.17 (a)(2)(iii)(a) correctly redesignated as (a)(2)(iii)(A) 40747
(a)(2)(iii)(B) and (b)(2) corrected 40748
75.20 (b)(3), (c) introductory text, (9)(i) introductory text, (B) and (d) corrected; (c)(5)(iv) correctly added 40748
75.31 (b)(2), (c)(2) and (3) corrected 40748
75.32 (b) corrected 40748
75.34 (b)(1) corrected 40748
75.41 (a)(9)(i), (ii), (b)(1)(i), (2)(i), (iv)(A), (C), (v)(A), (B), (c)(1)(i), (ii) and (2)(i) corrected 40748
75.48 (a)(3) corrected 40748
75.50 (b) introductory text, (6), (c)(1)(iii), (iv), (vi), (2)(iii), (iv), (v), (vii), (3)(ii), (iii), (iv) Table 3, (d) introductory text, (3) through (9), (e)(1)(iii), (iv), (v), (vii), (viii), (2)(ii), (iv) and (v) corrected 40749
75.51 (b)(1)(vii) correctly redesignated as (b)(1)(viii); (a)(1)(iii) through (vi), (viii), (2)(i), (iii), (b) introductory text, new (b)(1)(viii), (ix), (c)(1)(ii), (vi), (d)(1)(ii), (iv) corrected; 40749
75.52 (a)(5)(iv)(G) and (H) correctly redesignated as (a)(5)(v) and (vi) 40749
75.53 (a) introductory text, (c)(2) introductory text and (4)(vi) corrected 40749
(c)(8) and (9) corrected; (c)(10), (i), (ii), (A) and (B) correctly redesignated as (d), (1), (2), (i) and (ii) 40750
75 Appendixes A, B and C corrected 40750

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

Page

Appendixes C through H corrected 40751
Appendix H corrected 40752
80 Petition for exemption 48968
80.27 (a)(2) table amended 46511
81.324 Revised 50277
81.333 Table amended 50853
81.334 Table revised 47396
81.338 Table amended 49932
81.343 Table revised 50274
82.21 Added 40054
82.154 (g) and (h) amended 36516
85 Public workshop 36871
110 Technical correction 48424
110.1 Amended 45036
112 Technical correction 48424
112.2 (k) amended 45037
116 Technical correction 48424
116.3 Amended 45037
117 Technical correction 48424
117.1 Amended 45037
122 Technical correction 48424
122.2 Amended 45037
131.36 (d)(14)(ii) amended 36142
141.30 (e)(3) and (4) added; (e) amended 41345
165 Policy statement 43994
180.138 Removed 46088
180.271 Removed 44283
180.281 Removed 47216
180.319 Table amended 39154, 46088
180.335 Removed 39154
180.356 (a) designation and (b) removed; table amended 36361
180.362 Heading revised; (b) table amended 48321
180.364 (a) table amended; (d) added 36359
180.407 (b) introductory text and (c) introductory text amended 42675
180.414 (e) added 44767
180.434 Table amended 42673
180.450 (a) table amended 46087
180.1001 (d) table amended 37862, 38978, 40364, 44766, 50854
180.1029 Amended 47215
180.1058 Revised 47215
180.1121 Added 44283
180.1123 Added 51015
180.4725 Added; effective to 3–1–95 48322
185.350 Removed 37867
Reinstated 48458
185.3500 (a)(3) added 36359
185.3950 Removed 37867

Page

Reinstated 48458
185.5750 Removed 46088
185.5900 Removed 37867
Reinstated 48458
185.6300 Amended 37867, 48458
186.500 Removed 41432
186.3550 Revised 48321
186.3375 Table corrected 37867
228.12 (b)(94) added 35887
Heading revised; (a)(3) amended; (b)(92) added 42502
(a)(3) amended; (b)(93) added 46547
230 Technical correction 48424
230.3 (s) amended 45037
232 Technical correction 48424
232.2 Amended 45037
260.11 (a) amended 38883, 46049
260.22 (d)(1)(i) revised 46049
261 Determination 42466
261.22 (a)(1) and (2) revised 46049
261.24 (a) revised 46049
261 Appendix IX amended 40070, 42254
Appendixes II and III revised 46049
Appendix X removed 46050
264.190 (a) amended 46050
264.314 (c) revised 46050
265.190 (a) amended 46050
265.314 (d) revised 46050
266 Authority citation revised 38883
266.104 (e)(3) revised 38883
266.106 (h) revised 38883
266 Appendix X removed 38883
268.7 (a) revised 46050
268.40 (a) revised 46050
268.41 (a) introductory text revised 46050
268 Appendixes I and IX revised 46051
270.6 (a) revised 46051
270.19 (c)(1)(iii) amended; (c)(1)(iv) revised 46051
270.62 (b)(2)(i)(C) amended; (b)(2)(i)(D) revised 46051
270.66 (c)(2)(i) amended; (c)(2)(ii) revised 46051
271 State hazardous waste management program authorizations 47216, 49932, 50854
272.2500 Removed 49200
272.2501 Revised 49200
272 Appendix A amended 49200

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

TITLE 40 Chapter I—Con. Page

261 State underground storage tank program authorizations....47217
291.505 (d)(1)(i)(C), (iii)(B)(*1*), (C), (3)(i), (13)(i) and (f)(2)(viii) amended; (d)(6)(ii) removed; (k) redesignated as (l); (b)(2)(v), (vi)(D), (c)(4)(i), (ii), (d)(1)(ii), (iv), (6) heading, (6)(i) heading, (h)(1) and new (l) revised; (d)(1)(iii)(B)(*6*), (4)(v) and new (k) added....38709
300 Appendix B amended....46087
300.440 Added....49125
401 Technical correction....48424
401.11 (l) amended....45038
414.25 Revised....36892
414.26 Revised....36892
414.35 Revised....36892
414.36 Revised....36892
414.45 Revised....36892
414.46 Revised....36892
414.55 Revised....36892
414.56 Revised....36892
414.65 Revised....36892
414.66 Revised....36892
414.75 Revised....36892
414.76 Revised....36892
414.85 Revised....36892
414.86 Revised....36892
414.91 (b) amended....36892
414.101 (b) amended....36893
414.110—414.111 (Subpart K) Added....36893
455 Authority citation revised....50689
455.10 (f) added....50689
455.11 Added....50689
455.20 (a) revised; (d) and (e) added....50689
455.21 (d) and (e) added....50689
455.23 Added....50689
455.24 Added....50690
455.25 Added....50690
455.26 Added....50690
455.27 Added....50690
455.33 Heading added....50690
455.34 Heading added....50690
455.35 Heading added....50690
455.36 Heading added....50690
455.37 Heading added....50690
455.50 (Subpart D) Added....50690
455 Tables 1 through 7 added....50691

Page

707.65 (a)(2) and (c) revised....40242
707.70 (a) revised....40242
712.30 (x) table amended....47648
716.20 (b)(2) revised; (d) table amended....47649
716.120 (a) table and (d) table amended....42678
721.6820 Removed....45842
799.5050 Added....40291

Title 40—*Proposed Rules:*

1—799 (Ch. I) ...37450, 37991, 38546, 42518, 42711, 44799, 47414, 48012
35 40106
52 ...36905, 37450, 37453, 38108, 38326, 39717, 40107, 40759, 41218, 41451, 42914, 43609, 44799, 44802, 45469, 45471, 45473, 45474, 45874, 47101, 47103, 47414, 47415, 47239, 47840, 47701, 47705, 47707, 48339, 48344, 48811, 48812, 48999, 49001, 49254, 49258, 49458, 49463, 49464, 49952, 49954, 49956, 50304, 50307, 50311, 50530, 50884, 50886, 51028
55 48619
60 42760
61 42760
63 ....37778, 42760, 43028, 45081, 45476
72 50088
73 ....44482, 50088
74 50088
75 50088
78 ....44482, 50088
80 45307
81 ...36908, 37453, 38108, 38331, 43609, 44639, 44641, 49001, 49467, 49956
82 ....38735, 50464
88 ....35420, 42266
122 ....42266, 47845
123 ....42266, 46145, 47417, 47845
131 ....42266, 47845
132 ....42266, 47845
148 48092
152 42711
180 ...36366, 37893, 40394, 40395, 41452, 43828, 43830, 44990, 46147, 46149, 49263, 49264, 49265, 49267, 50888, 51031
186 ....36366, 39180
228 43090

CHANGES JULY 1, 1993 THROUGH SEPTEMBER 30, 1993

Page

258 40568
260 ....46052, 48092
261 ....36367, 48092
268 48092
271 48092
280 43770
300 ...37693, 42519, 42916, 44804, 45082, 50893
372 ....36180, 46596, 47709
721 ...40397, 45871, 46921, 48346—48348, 49269, 49271, 50695, 50896
745 46921

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101-18 Authority citation revised....40592
101-18.000—101-18.001 (Subpart 101-18.0) Added....40592
101-18.100—101-18.106 (Subpart 101-18.1) Revised....40592

Page

101-26.107 Revised....41637
101-40.202 Revised....48972
101-40.203-1 Revised....48972
101-41 Temporary reg. G-57 added....39664
101-41.203-1 (a) revised....39665
101-41.203-2 Revised....39665
101-44.207 (a)(18.1) revised....39666
101-49.001-5 Introductory text revised....46089

Chapter 105—General Services Administration (Parts 105-1—105-999)

105-71 Added....43270

Chapter 128—Department of Justice (Parts 128-1—129-99)

128.8000—128.8010 (Subpart 128-1.8) Added....42876

Title 41—*Proposed Rules:*

101-25 39720
105-57 46596
201-20 49005
201-39 49005

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

Page

50.201—50.210 (Subpart B) Appendix amended 33343
52a Revised 61006
57.203 (a) amended; OMB number 45734
57.208 OMB number 45734
57.210 OMB number 45734
57.213a OMB number 45734
57.215 (a)(3) amended; OMB number 45734
57.216 Amended 45734
57.303 (a) amended; OMB number 45735
57.308 OMB number 45735
57.310 (a)(1)(iii) footnote and (b)(2)(i) amended; OMB number 45735
57.313 OMB number 45735
57.314 Amended 45735
57.315 OMB number 45735
57.316 Amended 45735
57.501—57.514 (Subpart F) Authority citation revised 45735
57.502 Amended 45735
57.503 Amended 45735
57.505 (b) amended 45735
57.507 (c) amended 45735
57.508 (b) amended; (c) revised 45735
57.509 (a) revised; OMB number 45735
57.510 OMB number 45735
57.512 OMB number 45735
57.513 Amended 45736
57.601—57.613 (Subpart G) Removed 45736
57.701—57.712 (Subpart H) Authority citation revised 45736
57.701 Revised 45736
Corrected 53815
57.702 Amended 45736
57.703 Revised 45736
57.704 (c)(4) removed; (c)(1) amended; (a) revised 45736
57.705 (b) revised; OMB number 45736
57.706 (a)(2) amended; (a)(4) and (5) revised 45736
57.707 (a)(1) amended; (a)(2), (3) and (c) revised 45736
57.709 (a) and (c) amended; (b) revised 45736
57.710 Amended 45736
57.711 Amended 45737
57.801—57.803 (Subpart I) Authority citation revised 45737
57.802 Amended 45737
57.803 (b), (d), (e), (g) and (h) amended; (a)(2) revised 45737
57.901—57.913 (Subpart J) Removed 45737
57.1001—57.1014 (Subpart K) Removed 45737
57.1101—57.1112 (Subpart L) Authority citation revised 45737
57.1101 Introductory text revised 45737
57.1102 Amended 45737
57.1103 Revised 45737
57.1104 (a) revised 45737
57.1106 (a) amended 45737
57.1107 (a)(1) amended; (a)(2), (3), (4) and (b) revised 45737
57.1109 (b) and (c) amended 45738
57.1110 Amended 45738
57.1111 Revised 45738
57.1112 OMB number 45738
57.1201—57.1212 (Subpart M) Removed 45738
57.1301—57.1314 (Subpart N) Removed 45738
57.1401—57.1415 (Subpart O) Removed 45738
57.1601—57.1610 (Subpart Q) Authority citation revised 45738
57.1601 Revised 45738
57.1602 Amended 45738
57.1603 (a) and (b) amended; (c) added 45738
57.1604 (b)(3)(iii)(C), (4)(iii)(C) and (d)(5)(ii) amended; (b)(3)(i) revised; OMB number 45738
57.1606 (d) removed; (b) and (c) revised 45739
57.1607 (c) added 45739
57.1608 Amended 45739
57.1609 OMB number 45739
57.1701—57.1710 (Subpart R) Authority citation revised 45739
57.1701 Introductory text amended 45739
57.1702 Amended 45739

NOTE: Boldface page numbers indicate 1992 changes.

341-245 O - 93 - 5 (12)

TITLE 42 Chapter I—Con. Page
57.1703 Revised....45739
57.1704 (d) through (g) amended; OMB number....45739
57.1706 (a) amended; (b) and (c) revised; (d) removed....45739
57.1707 (c) added....45740
57.1708 Amended....45740
57.1709 OMB number....45740
57.1802 Amended....45740
57.1803 (a) Footnote 1 removed....45740
57.1805 (a)(2) revised....45740
57.1807 (a) and (b) amended....45740
57.1809 Footnote amended....45740
57.2101—57.2114 (Subpart V) Heading revised....45740
57.2102 Amended....45740
57.2103 Footnote 1 removed....45740
57.2107 (b) amended....45740
57.2108 Amended....45740
57.2109 OMB number....45741
57.2401 Revised....45740
57.2402 (b), (j) and (o) amended....45741
(f) corrected....53815
57.2403 (a)(1) revised....45741
57.2404 (a) Footnote 1 removed; (c)(8) removed....45741
57.2406 (a)(2)(i) amended....45741
57.2408 (b) amended....45741
57.2409 Amended....45741
57.2401—57.2410 (Subpart Y) Appendix amended....45741
57.2502 Amended....45741
57.2503 (b)(1) amended....45741
57.2504 Amended; (a) revised....45741
57.2508 (b) amended....45741
57.2509 Amended....45742
57.2601 Revised....45742
57.2602 Amended....45742
57.2603 Revised....45742
57.2604 (a)(3) and (b) amended....45742
57.2607 (c) amended....45742
57.2610 (b), (d) and (h) amended; OMB number....45742
57.2613 (a)(1), (2) and (c) amended; OMB number....45742
57.2615 OMB number....45742
57.2616 Amended....45742
57.2801—57.2810 (Subpart CC) Heading and authority citation revised....45742
57.2801 Amended....45742
57.2802 Amended....45742
57.2803 (a) revised; OMB number....45743
57.2804 (a)(2) and (b)(2) amended; (a)(1) revised; OMB number....45743
57.2805 (a) amended....45743
57.2806 (b) and (c)(1) amended....45743
57.2808 Amended....45743
57.2809 OMB number....45743
57.2902 Amended....45743
57.2904 (a)(1) revised; (b)(1)(i) amended....45743
57.2908 Amended....45743
57.3001—57.3011 (Subpart EE) Authority citation revised....45743
57.3001 Amended....45743
57.3002 Amended....45743
57.3003 Revised....45743
57.3004 OMB number....45744
57.3005 (a)(1) and (4) amended....45744
57.3006 (a) and (b) amended; (c) revised; (d) removed....45744
57.3007 (b) amended; OMB number....45744
57.3008 (c) added....45744
57.3009 Amended....45744
57.3010 OMB number....45744
57.3101 Introductory text amended....45744
57.3102 Amended....45744
57.3103 Revised....45744
57.3105 (a)(8) amended....45744
57.3107 (a) amended; (b) revised....45744
57.3109 (c) amended....45745
57.3110 Heading revised; text amended....45745
57.3201—57.3202 (Subpart GG) Authority citation revised....45745
57.3201 Revised....45745
57.3401—57.3413 (Subpart II) Removed....45745
57.3501—57.3510 (Subpart JJ) Removed....45745
57.3902 Amended....45745
57.3906 (a) amended; (b) and (c) revised; (d) removed....45745
57.3907 (c) added....45745
57.3908 Heading revised; introductory text added; amended....45745
57.4001—57.4010 (Subpart OO) Authority citation revised....45745

NOTE: Boldface page numbers indicate 1992 changes.

Page
57.4001 Amended....45746
57.4002 Amended....45746
57.4003 Amended; Footnote 1 removed....45746
57.4005 (a) introductory text amended....45746
57.4007 (c) amended....45746
57.4008 Amended....45746
57.4009 OMB number....45746
57.4102 Amended....45746
57.4103 Footnote 1 removed; OMB number....45746
57.4104 Amended....45746
57.4105 (i) amended....45746
57.4107 (a) amended....45746
57.4111 Amended....45746
57.4113 (c) amended....45746
57.4114 Amended....45746
59.2 Suspended in part....7463
59.5 Regulations at 53 FR 2944 and 53 FR 2946 suspended....7463
59.7 Suspended....7463
59.8 Suspended....7463
59.9 Suspended....7463
59.10 Suspended....7463
62.25 (a) amended....56996
110.101—110.103 (Subpart A) Appendix A nomenclature change....30123

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

400.200 Amended....55912
400.202 Amended....30666
400.310 Revised (OMB numbers)....56997
401.601 (b) and (c) revised....56998
405.374 (c) revised....56998
405.501—405.580 (Subpart E) Authority citation revised....57688
405.501 (f) added....57688
405.502 (a)(3) revised....55912
405.504 (a)(3)(i) introductory text and (iii) revised; (d) added....55912
405.514 Removed....57688
405.701—405.750 (Subpart G) Authority citation revised....56504
405.705 (c) and (d) revised; (e) and (f) added....56504
406.24 Redesignated as 406.34....58717
406.30 Redesignated as 406.50....58717
406.31 Redesignated as 406.52....58717
406.32 Transferred to Subpart C; (c) amended....58717
406.34 Redesignated from 406.24; (a)(1) and (b)(1) amended....58717
406.38 Transferred to Subpart C....58717
406.50 Redesignated from 406.30....58717
406.52 Redesignated from 406.31....58717
409.5 Amended....30666
409.10—409.19 (Subpart B) Heading revised....30666
409.10 (a)(3) amended; (a) introductory text and (b) revised....30666
409.11 (b)(1)(ii) and (3) introductory text amended; (b) heading, (1)(iii) and (3)(ii) revised....30666
409.12 (b) amended....30666
Heading and (a) revised....30667
409.13 (a) introductory text, (1), (2), (3) and (b) amended....30666
409.14 (a) introductory text, (1), (2), (b) introductory text, (1) and (2) amended....30666
409.15 Introductory text amended....30666
409.16 Introductory text, (a), (b) and (c) amended....30666
409.20 (a) introductory text revised; (c)(3) added....30667
409.27 Revised....30667
409.30 Introductory text, (a)(2), (b)(1) and (2) amended....30666
(a)(1) revised....30667
409.31 (b)(2)(i) and (ii) amended....30666
409.60 (a) and (b)(1) revised....30667
409.61 (a)(2) and (c) amended....30666
(a) heading, (3) heading and (b) heading revised; (a)(1)(i) and (b) amended....30667
409.64 (a)(2)(ii) amended....30667
409.65 (a)(1), (3), (4), (d)(1), (2), (e)(1), (2) introductory text, (i) and (ii) amended....30666

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 42 Chapter IV—Con.

(d)(3) revised 30667
409.66 (b) and (c)(2) amended 30666
409.68 Heading, (a) introductory text, (1) through (4), (b)(2) and (c) amended 30666
409.80 (a)(1) and (2) amended 30666
409.82 (c) amended 30666
(a)(1) revised 30667
409.83 (c)(1) amended 30666
(a)(1) revised 30667
409.87 (a)(3) amended 30666
(b)(1) amended 30667
410 Authority citation revised 57688
Authority citation revised 30667
410.2 Amended 30668
410.3 (a)(1) revised 30668
410.10 (c) and (d) amended 30668
410.28 Heading, (a) introductory text, (i), (2) and (4) amended 30668
410.32 (b)(1) amended 30668
410.36 (a), (b) and (c) redesignated as (a)(1), (2) and (3); undesignated introductory text redesignated as new (a); (b) added 57688
410.38 (b) amended; (c) revised; (d), (e), (f) and (g) added 57688
(b) revised 30668
410.40 (a) amended; (b)(3) introductory text revised 30668
410.60 (b) and (d) revised 30668
410.62 (b) and(c) revised 30668
410.150 (a)(2) revised; (b)(12) added 30668
410.152 (a) heading and (2) introductory text revised; (k) added 30668
410.155 (b) amended 30668
410.161 (b)(2) amended 30668
411.15 (m) revised 30669
412 Authority citation revised 30669
412.1 (a) corrected 46510
(a) amended 46337
412.2 (e) corrected 46510
(b)(2)(i) revised; (f)(8) amended 46337
412.25 (a)(1) revised; (d) added 46337
412.62 (c)(2) amended 46337
412.63 (c)(2)(i), (g) introductory text, (j) introductory text and (k) introductory text amended; (n), (o) and (p) redesignated as (q), (r) and (s); new (n), (o) and (p) added; (l), (m) and new (s)(2) revised 46337
412.70 Amended 46338
412.73 (c)(1) amended; (c)(9) revised; (c)(10), (11) and (12) added 46338
412.75 (d) amended 46338
412.90 (j) added 30669
412.96 (g)(2) amended 46338
412.98 (b) amended 46338
412.102 Revised 46338
412.105 (g)(1)(ii), (iii) and (2)(v) revised 46338
412.108 (a)(1) and (2) amended; (c) revised 46339
412.109 Added 30669
412.115 (c) added 47787
(b) amended 46339
412.230 (e)(2)(ii)(B) revised 46339
412.232 (b) and (d)(2)(ii)(B) revised 46339
412.234 (b) revised 46339
412.302 (c)(1)(v) correctly revised 46510
412.308 (b) revised 46339
412.320 (b)(2) revised 46339
412.336 (d) added 46340
413 Authority citation revised 30670, 46340
413.1 (a)(1)(i) amended 30670
413.13 (c)(2)(iv) added 30670
413.40 Revised 46340
413.70 Added 30670
413.86 (e)(3) revised; (b), (g)(1) and (h)(2) amended 46343
413.114 Heading revised; (b) amended 30671
413.130 (b)(4) introductory text amended 17528
413.134 (b)(8), (f)(4), (h)(3) introductory text and (3)(i) amended 17528
414 Authority citation revised 57688
414.200 Added 57689
414.202 Added 57689
414.210 Added 57689
414.220 Added 57689
414.222 Added 57690
414.224 (a) revised 34919
414.226 Added 57690
414.228 Added 57691
414.229 Added 57691
414.230 (f) revised 57111
414.232 Added 57692
414.330 Added 54187
417 Authority citation revised 38067
Nomenclature change 38083
417.1 Amended 38067
417.101—417.109 (Subpart B) Heading revised 38068
417.101 Amended 38077
417.102 (a) and (b) amended 38082
(a) and (b) amended 38083
417.103 (a)(3)(ii)(C), (c)(2), (e)(1), (2) and (3) amended 38082
(a)(1), (3), (b) introductory text, (d) and (e) introductory text amended 38083
417.104 (a)(4), (b)(1), (2)(i), (4)(ii) and (c)(2) amended 38082
(a) introductory text, (b)(1), (2), (4), (c)(1), (d) and (e) introductory text amended 38083
417.105 (a) and (b) amended 38082
(b) amended 38083
417.106 Revised 38068
417.107 Removed 38068
417.108 Redesignated as 417.168 38068
417.109 Redesignated as 417.169 38068
417.120—417.126 (Subpart C) Added 38068
417.140 Revised 38070
417.141 Revised 38070
417.142 Revised 38070
417.143 (b)(2) and (g) amended 38077
417.144 (a) through (e) amended 38077
417.150 Amended 38077
417.151 Amended 38077
417.152 Amended 38077
417.153 Amended 38077
417.154 Amended 38077
417.155 (a) through (e) and (g) amended 38077
417.156 Introductory text, (a), (b) and (c) amended 38083
417.157 Amended 38077
417.158 Amended 38082
Amended 38083
417.159 Amended 38078
417.160—417.166 (Subpart F) Heading revised 38071
417.160 Revised 38071
417.161 Revised 38071
417.162 Revised 38071
417.163 Amended 38078
417.164 Heading, (a), (b) and (c) amended 38078
417.165 Amended 38078
417.168 Redesignated from 417.108 38068
Revised 38071
417.169 Redesignated from 417.109 38068
Revised 38072
417.400 (b) amended 38078
417.401 Amended 38072
417.402 Revised 38072
417.404 Amended 38078
417.406 Heading, (a)(2), (3) and (b)(2) amended 38078
417.407 Heading, (a), (b) and (c) amended 38078
417.408 Amended 38078
417.410 Amended 38078
417.412 (b) amended 38082
417.413 (a), (b) heading, (1) through (4), (c), (d)(1) through (7), (e)(1) and (2) amended 38082
417.414 Amended 38078
417.416 (a), (c), (d)(1), (2), (e)(1) and (2) amended 38082
417.418 Revised 38072
(b) amended 38078
417.420 Amended 38078
417.422 Heading, (a), (b) and (c) amended 38078
417.424 Amended 38078
417.426 (a), (b) and (c) amended 38078
417.428 (a) introductory text, (1), (4), (b) introductory text, (1), (2), (3), (5) and (c) amended 38082
417.430 (a)(1), (2), (b) introductory text, (3), (4)(i), (ii), (6) introductory text, (i), (ii), (7) and (8) amended 38082
417.432 (a), (b), (c) and (e) amended 38082
417.434 Amended 38082
417.436 Revised 38072
417.440 Amended 38079
417.442 Heading, (a), (b) introductory text and (2) amended 38082
417.444 Revised 38073

NOTE: Boldface page numbers indicate 1992 changes.

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 42 Chapter IV—Con. Page

417.448 Amended ... 38079
417.450 (a), (b) and (c) amended ... 38079
417.452 Amended ... 38079
417.454 (a) and (b) amended ... 38082
417.456 Amended ... 38079
417.458 Introductory text, (a), (b) and (c) amended ... 38082
417.460 Revised ... 38073
417.470 (a) and (b) introductory text amended ... 38079
417.472 Amended ... 38079
417.474 (b) amended ... 38082
417.478 Introductory text, (c) and (d) amended ... 38079
(c) amended ... 38082
417.480 Heading, introductory text, (b)(1) and (7) amended ... 38082
417.481 Heading and introductory text amended ... 38082
417.482 Introductory text, (b), (c), (e), (f)(1) and (2) amended ... 38082
417.484 (a) introductory text, (1), (3) and (b) amended ... 38082
417.486 Introductory text amended ... 38082
417.488 Introductory text amended ... 38082
417.490 Amended ... 38082
417.492 Amended ... 38079
417.494 Amended ... 38079
(a)(1), (2), (3), (b)(1)(i) through (iv), (2), (3), (4), (c) introductory text, (1), (2) and (3) amended ... 38082
417.520 Amended ... 38079
417.521 (c)(1) and (2) amended ... 38082
417.522 Amended ... 38079
417.523 Amended ... 38079
417.524 Heading, (a) and (b) amended ... 38082
417.526 Amended ... 38080
417.528 Amended ... 38080
417.530 Amended ... 38080
417.531 (a), (b) introductory text and (1) amended ... 38082
417.532 (a)(1), (2), (3), (4), (b) heading, (3), (c) introductory text, (2), (e) heading, introductory text, (1), (f), (g) and (h) amended ... 38082
417.533 Introductory text and (a) amended ... 38082
417.534 (a) and (b) amended ... 38082
417.536 Amended ... 38080
417.538 (a) through (d) amended ... 38082
417.540 Heading, (a) and (b) amended ... 38082
417.544 Heading and (a) amended ... 38082
417.546 (a), (b)(1) and (2) amended ... 38082
417.548 Amended ... 38080
417.550 Amended ... 38080
417.552 (a) amended ... 38082
417.554 Amended ... 38082
417.556 Heading and (a) through (d) amended ... 38082
417.558 Heading, (a), (b) heading, (1) and (2) amended ... 38082
417.560 (a) introductory text, (b), (c), (d) introductory text, (1) and (2) amended ... 38082
417.562 (a), (b)(3), (c) introductory text and (d) amended ... 38082
417.564 (a), (b) introductory text, (1) and (2) amended ... 38082
417.566 (b)(1) and (2) amended ... 38082
417.568 (a)(1), (b)(1), (c), (d) and (e) amended ... 38082
417.570 (a)(1), (b), (c) introductory text, (3) and (d) amended ... 38082
417.572 (a), (b) introductory text, (2), (c)(1) and (2) amended ... 38082
417.574 (a) and (b) amended ... 38082
417.576 (a), (b)(1), (2)(i), (ii), (3), (c)(1), (2), (d)(1) through (4), (e)(1), (2) and (3) amended ... 38082
417.580 (a) and (b) amended ... 38080
417.582 Amended ... 38080
417.584 Heading, introductory text, (a), (b)(2) and (d) amended ... 38082
417.585 (a), (b) introductory text, (1) and (c) amended ... 38082
417.586 Heading, (a) heading, (1), (2), (3), (b)(1), (c) heading, (1), (d), (e) introductory text, (1) and (2) amended ... 38083
417.588 (b), (c)(1), (2) and (3) amended ... 38083

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Page

417.590 Revised ... 38075
417.592 Amended ... 38080
417.594 Amended ... 38080
417.596 (a), (b), (c)(1), (2), (3) and (d)(2) amended ... 38083
417.597 Revised ... 38075
417.598 Amended ... 38080
417.600 Amended ... 38080
417.602 Amended ... 38080
417.604 Amended ... 38080
417.606 Revised ... 38076
417.608 (a) amended ... 38083
417.610 (b) amended ... 38083
417.616 (a)(1), (c)(1) and (2) amended ... 38083
417.618 Amended ... 38083
417.620 (b) introductory text, (1) and (2) amended ... 38083
417.622 (a) amended ... 38083
417.632 (c) amended ... 38083
417.634 Amended ... 38083
417.636 (a) and (b) amended ... 38083
417.638 Amended ... 38083
417.640 Amended ... 38080
417.642 Amended ... 38080
417.644 (a), (b)(2) and (c) amended ... 38083
417.656 (a) amended ... 38083
417.660 (b) and (c) amended ... 38083
417.662 (a) amended ... 38083
417.664 (a) and (b)(2) amended ... 38083
417.670 (c) revised ... 38081
417.800 (b)(1)(iii) and (c)(1) amended ... 38081
417.801 (a)(2), (b)(2) and (d)(1)(iii) amended ... 38081
417.802 (a) amended ... 38081
417.806 (a) amended ... 38081
417.810 (c)(2) amended ... 38081
417.910 Revised ... 38076
417.911 Revised ... 38076
417.912 Amended ... 38081
417.913 Amended ... 38081
417.915 (a) amended ... 38083
(c) amended ... 38083
417.917 Introductory text amended ... 38081
417.918 (a) amended ... 38081
417.919 (a) and (b) amended ... 38083
417.920 Revised ... 38076
417.921 Amended ... 38081
417.922 Amended ... 38081
417.923 (a), (b), (d) introductory text, (e), (f)(1) and (4) amended ... 38081
417.924 (a)(1), (2), (3), (b)(1), (3) and (4) amended ... 38081
417.925 Heading revised; (a) introductory text, (1) and (b) amended ... 38081
417.926 (a) and (c) amended ... 38082
417.930 Revised ... 38077
417.931 Removed ... 38077
(a) introductory text and (b) amended ... 38082
417.932 Heading revised; (a) and (b) amended ... 38082
417.933 Heading revised ... 38082
417.934 Amended ... 38083
417.935 Heading revised; introductory text amended ... 38082
417.936 Amended ... 38082
417.937 (a), (b) and (c) amended ... 38082
424.15 Added ... 30671
424.20 Introductory text amended ... 30671
431.200 Revised ... 56505
431.201 Amended ... 56505
431.202 (a) revised ... 56505
431.206 (c) revised ... 46505
(c)(2) corrected ... 25784
431.210 Introductory text and (a) revised ... 56505
431.213 (e) and (f) revised; (g) and (h) added ... 56505
(h) corrected ... 25784
431.241 Revised ... 56505
431.242 (a)(2) revised ... 56506
431.246 Revised ... 56506
431.250 (f)(2) and (3) revised; (f)(4) added ... 56506
431.621 Added ... 56506
(c)(4) corrected ... 25784
433 Authority citation revised ... 55138, 56506
Authority citation revised ... 43180
433.8—433.15 (Subpart A) Heading revised; interim ... 55138
433.15 (b)(9) added ... 56506
433.32 Transferred to Subpart A; interim ... 55138
433.33 Redesignated as 433.53 ... 55139
Corrected ... 6095
433.34 Transferred to Subpart A; interim ... 55138
433.35 Transferred to Subpart A; interim ... 55138

NOTE: Boldface page numbers indicate 1993 changes.

TITLE 42 Chapter IV—Con. Page
433.36 Transferred to Subpart A; interim....55138
433.37 Transferred to Subpart A; interim....55138
433.38 Transferred to Subpart A; interim....55138
433.40 Transferred to Subpart A; interim....55138
433.45 Redesignated as 433.51....6095
433.50—433.74 (Subpart B) Revised; interim....55138
433.50 Redesignated as 433.45; (b)(2) amended....6095
433.53 Redesignated from 433.33; heading revised....55139
Corrected....6095
433.56 (a)(9) redesignated as (a)(19); new (a)(9) through (18) added; (a)(8) and new (19) revised....43180
433.58 Corrected....6095
(d)(2) and (g)(2) revised....43180
433.60 (b)(2) corrected....6095
433.66 (b)(2) revised....43180
433.67 (b) revised....43180
433.68 (f)(3)(ii) corrected....6095
(c)(3), (d) introductory text, (e)(1), (2), (f)(3)(i) and (ii) revised....43180
(e)(1)(i)(C)(*iii*), (iii)(B)(*8*)(*iv*), (f)(3)(i) and (ii) corrected....44536
(e)(1)(iii) and (iv) correctly designated....51130
433.72 (c) revised....43182
(c)(1) and (2) corrected....44536
433.145 (a) revised....4907
433.147 (a) revised....4907
435 Technical correction....39092
Regulations at 58 FR 4927 through 4933 effective date corrected....50635
435.1—435.10 (Subpart A) Heading revised....4925
Regulation at 58 FR 4925 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4925 effective date delayed to 2-18-94....44457
435.1 Removed....4925
Regulation at 58 FR 4925 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4925 effective date delayed to 2-18-94....44457
435.4 Amended....4925
Regulation at 58 FR 4925 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4925 effective date delayed to 2-18-94....44457
435.113 Revised....4926
Regulation at 58 FR 4926 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4926 effective date delayed to 2-18-94....44457
435.116 Heading revised; eff.10-18-93....48614
435.119 Redesignated as 435.145; new 935.119 and undesignated center heading added; eff. 10-18-93....48614
435.121 Revised....4926
Regulation at 58 FR 4926 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4926 effective date delayed to 2-18-94....44457
435.145 Redesignated from 435.119; eff. 10-18-93....48614
435.201 Revised....4927
Regulation at 58 FR 4927 effective date delayed to 8-18-93....9120
Correctly revised....26185
Regulation at 58 FR 4927 effective date delayed to 2-18-94....44457
435.210 Revised....4927
Regulation at 58 FR 4927 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4927 effective date delayed to 2-18-94....44457
435.211 Revised....4927
Regulation at 58 FR 4927 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4927 effective date delayed to 2-18-94....44457

NOTE: Boldface page numbers indicate 1992 changes.

Page
435.220 Heading and (a) revised....4927
Regulation at 58 FR 4927 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4927 effective date delayed to 2-18-94....44457
435.222 Heading, (a) and (b)(3) revised....4927
Regulation at 58 FR 4927 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4927 effective date delayed to 2-18-94....44457
435.223 (a) revised....4927
Regulation at 58 FR 4927 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4927 effective date delayed to 2-18-94....44457
435.230 Redesignated as 435.232; new 435.230 added....4928
Regulation at 58 FR 4928 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4928 effective date delayed to 2-18-94....44457
435.231 Redesignated as 435.236....4928
Regulation at 58 FR 4928 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4928 effective date delayed to 2-18-94....44457
435.232 Redesignated from 435.230; (a) introductory text and (b)(3) revised; (a)(9) added....4928
Regulation at 58 FR 4928 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4928 effective date delayed to 2-18-94....44457
435.234 Added....4928
Regulation at 58 FR 4928 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4928 effective date delayed to 2-18-94....44457
435.236 Redesignated from 435.231....4928
Regulation at 58 FR 4928 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4928 effective date delayed to 2-18-94....44457
435.301 (a) and (b)(2)(ii) revised....4929
Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.308 (a) and (b)(3) revised....4929
Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.310 Revised....4929
Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.330 Revised....4929
Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.408 (b)(13) corrected....4907
435.510 (a) amended....4929
Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.520 Revised....4929
Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.522 Added....4929

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 42 Chapter IV—Con. Page

Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.600 Revised....4929
Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.601 Added....4929
Regulation at 58 FR 4929 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4929 effective date delayed to 2-18-94....44457
435.602 Revised....4930
Regulation at 58 FR 4930 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4930 effective date delayed to 2-18-94....44457
435.603 Redesignated as 435.608....4931
Regulation at 58 FR 4931 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4931 effective date delayed to 2-18-94....44457
435.604 (a) revised....4907
Redesignated as 435.610; new 435.604 added....4931
Regulation at 58 FR 4931 effective date delayed in part to 8-18-93 and 10-19-93....9120
Regulation at 58 FR 4931 effective date delayed to 4-19-94....44457
435.606 Added....4931
Regulation at 58 FR 4931 effective date delayed to 10-19-93....9120
Regulation at 58 FR 4931 effective date delayed to 4-19-94....44457
435.608 Redesignated from 435.603....4931
Regulation at 58 FR 4931 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4931 effective date delayed to 2-18-94....44457
435.610 Redesignated from 435.604....4931
Regulation at 58 FR 4931 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4931 effective date delayed to 2-18-94....44457
435.622 Redesignated from 435.722; (a) revised....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.631 Redesignated from 435.731 and revised....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.640 Redesignated from 435.740....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.700—435.740 (Subpart H) Heading revised....4931
Regulation at 58 FR 4931 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4931 effective date delayed to 2-18-94....44457
435.700 Revised....4931
Regulation at 58 FR 4931 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4931 effective date delayed to 2-18-94....44457

Page

435.711—435.712 Undesignated center heading and sections removed....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.721—435.724 Undesignated center heading removed....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.721 Removed....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.722 Redesignated as 435.622....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.723 Removed....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.724 Removed....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.725 Heading revised; (c)(2)(iii) and (3)(iii) amended....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.726 Amended....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.731 Undesignated center heading removed; redesignated as 435.631....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.732 Removed....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.733 Heading revised; (c)(2)(ii) and (3)(iii) amended....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Correctly designated....26185
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.734 Removed....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.735 (c)(3)(iii) amended....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457
435.740 Undesignated center heading removed; redesignated as 435.640....4932
Regulation at 58 FR 4932 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4932 effective date delayed to 2-18-94....44457

TITLE 42 Chapter IV—Con.

Page

435.800—435.852 (Subpart I) Heading revised....4932
Regulation at 58 FR 4932 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4932 effective date delayed to 2–18–94....44457
435.800 Revised....4932
Regulation at 58 FR 4932 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4932 effective date delayed to 2–18–94....44457
435.811—435.814 Undesignated center heading revised....4932
Regulation at 58 FR 4932 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4932 effective date delayed to 2–18–94....44457
435.811 Revised....4932
Regulation at 58 FR 4932 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4932 effective date delayed to 2–18–94....44457
435.812 Removed....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.814 Revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.821—435.823 Undesignated center heading and sections removed....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.831 (a) revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.832 Heading, (c)(2)(iii) and (c)(3)(iii)(B) revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.840—435.843 Undesignated center heading revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.840 Revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.841 Removed....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.843 Revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.845 Revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.850 Removed....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.851 Removed....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.852 Removed....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.945 (h) removed....46097
435.1005 Revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
435.1007 Revised....4933
Regulation at 58 FR 4933 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4933 effective date delayed to 2–18–94....44457
436 Technical correction....39029
Regulation at 58 FR 4934 through 4938 effective date corrected....50635
436.3 Amended....4934
Regulation at 58 FR 4934 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4934 effective date delayed to 2–18–94....44457
436.111 Revised....4934
Regulation at 58 FR 4934 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4934 effective date delayed to 2–18–94....44457
436.120 Heading revised; eff. 10–18–93....48614
436.121 Added; eff. 10–18–93....48614
436.201 Revised....4934
Regulation at 58 FR 4934 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4934 effective date delayed to 2–18–94....44457
436.210—436.211 Undesignated center heading and sections revised....4935
Regulation at 58 FR 4935 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4935 effective date delayed to 2–18–94....44457
436.211 Revised....4935
Regulation at 58 FR 4935 effective date delayed to 2–18–94....44457
436.212 (a) revised....4935
Regulation at 58 FR 4935 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4935 effective date delayed to 2–18–94....44457
436.220—436.224 Undesignated center heading removed....4935
Regulation at 58 FR 4935 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4935 effective date delayed to 2–18–94....44457
436.220 Heading and (a) revised....4935
Regulation at 58 FR 4935 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4935 effective date delayed to 2–18–94....44457
436.222 Heading, (a) and (b)(3) revised....4935
Regulation at 58 FR 4935 effective date delayed to 8–18–93....9120
Regulation at 58 FR 4935 effective date delayed to 2–18–94....44457
436.301 (a) and (b)(2)(ii) revised....4935
Regulation at 58 FR 4935 effective date delayed to 8–18–93....9120

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 42 Chapter IV—Con. Page

Regulation at 58 FR 4935 effective date delayed to 2-18-94....44457
436.308 (a) and (b)(3) revised....4935
Regulation at 58 FR 4935 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4935 effective date delayed to 2-18-94....44457
436.310 Revised....4936
Regulation at 58 FR 4936 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4936 effective date delayed to 2-18-94....44457
436.408 (b)(13) corrected....4908
436.510 Amended....4936
Regulation at 58 FR 4936 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4936 effective date delayed to 2-18-94....44457
436.520 Revised....4936
Regulation at 58 FR 4936 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4936 effective date delayed to 2-18-94....44457
436.522 Added....4936
Regulation at 58 FR 4936 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4936 effective date delayed to 2-18-94....44457
436.600 Revised....4936
Regulation at 58 FR 4936 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4936 effective date delayed to 2-18-94....44457
436.601 Added....4936
Regulation at 58 FR 4936 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4936 effective date delayed to 2-18-94....44457
436.602 Revised....4936
Regulation at 58 FR 4936 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4936 effective date delayed to 2-18-94....44457
436.603 Redesignated as 436.608....4937
Regulation at 58 FR 4937 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4937 effective date delayed to 2-18-94....44457
436.604 (a) revised....4908
Redesignated as 436.610; new 436.604 added....4937
Regulation at 58 FR 4937 effective date delayed in part to 8-18-93 and 10-19-93....9120
Regulation at 58 FR 4937 effective date delayed to 4-19-94....44457
436.606 Added....4937
Regulation at 58 FR 4937 effective date delayed in part to 8-18-93 and 10-19-93....9120
Regulation at 58 FR 4937 effective date delayed to 4-19-94....44457
436.608 Redesignated from 436.603....4937
Redesignation at 58 FR 4937 effective date delayed to 8-18-93....9120
Redesignation at 58 FR 4937 effective date delayed to 2-18-94....44457
436.610 Redesignated from 436.604....4937
Redesignation at 58 FR 4937 effective date delayed to 8-18-93....9120
Redesignation at 58 FR 4937 effective date delayed to 2-18-94....44457
436.700—436.711 (Subpart H) Heading and sections removed....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457

NOTE: Boldface page numbers indicate 1992 changes.

Page

436.811—436.814 Undesignated center heading revised....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.811 Revised....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.812 Removed....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.814 Revised....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.821 Undesignated center heading and section removed....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.832 Heading revised; (c)(2)(ii) and (iii)(A) amended....4838
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.840—436.843 Undesignated center heading revised....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.840 Revised....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.841 Removed....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.843 Revised....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.845 (a), (c) and (d) revised....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.850—436.852 Undesignated center heading and sections removed....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.850 Removed....4938
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.851 Removed....4938
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
436.852 Removed....4938
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
440 Regulation at 58 FR 4938 and 4939 effective date corrected....50635
440.170 (g) added....30671
440.220 (a)(2) revised....4938

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 42 Chapter IV—Con. Page

Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
440.250 (h) revised....4938
Regulation at 58 FR 4938 effective date delayed to 8-18-93....9120
Regulation at 58 FR 4938 effective date delayed to 2-18-94....44457
441.13 Heading and (b) revised....54709
442.105 (a) amended....54712
447.255 (a) corrected....46431
447.272 (c) revised; interim....55143
447.296—447.299 (Subpart E) Added; interim....55143
447.297 (d)(1) corrected....6095
(b) through (e) revised....43182
447.298 (a) through (e) revised; (g) removed....43182
447.300—447.371 (Subpart D) Redesignated as Subpart F....6095
456.1 (a)(3) and (b)(8) added; Table 1 amended; interim....49408
456.700—456.725 (Subpart K) Added; interim....49408
466 Authority citation revised....47787
466.78 (b)(2) revised; (c) and (d) added....47787
483 Authority citation revised....56506
483.10 (c)(8) revised....53587
483.100—483.138 (Subpart C) Added....56507
483.102 (a) and (b)(2) corrected....25784
483.106 (d) introductory text and (e)(3) corrected....25784
483.110 (a) corrected....25784
483.128 (i)(3) corrected....25784
483.130 (d)(3) and (f) corrected....25784
483.136 (c)(2) introductory text corrected....25784
483.200—483.206 (Subpart E) Added....56514
483.204 (b) corrected....25784
485 Authority citation revised....30671

485.601—485.645 (Subpart F) Added....30671
485.610 (a)(3) corrected....49935
485.635 (a)(2) corrected....49935
488.1 Added....30676
489.2 (b)(7) added....30676
489.20 (d) and (e) revised....30677
493 Authority citation revised....5220
493.2 Amended....5220
Corrected....48323
493.3 (a)(2) amended....5221
493.10 (c) amended....5221
493.15 (c) introductory text amended; (c)(7) and (8) revised; (c)(9) added; (d)(1) and (2) designation removed....5221
493.16 Added....5221
493.17 (a)(1), (2), (3), (5), (6) and (c)(4) revised....5222
493.20 (b) and (c) revised....5222
(b) corrected....39155
493.25 (c) amended....5222
493.35 (b) revised; (d) introductory text and (1) amended....5222
(b) and (c) revised....5224
493.37 (b)(1) and (g) amended....5222
493.43—493.51 (Subpart C) Heading revised....5222
493.43 Heading, (b) and (c) revised....5222
(c)(2) corrected....39155
493.45 (a) and (b)(2) revised....5223
(a)(1) amended....39155
493.47 Added....5223
493.49 (a), (b) and (e)(2) revised....5223
493.51 (a)(5) amended....5224
493.53 Added....5224
Heading and (a) corrected....39155
493.55 Correctly designated; (b)(1) corrected....39155
493.61 (c)(3) amended....5224
493.511 (h) revised....5224
493.521 (j) revised....5224
493.602 Added....5212
Revised....5224
493.606 Added....5212
493.610 Added....5212
(a) revised....5224
493.614 Added....5212
(c) revised....5225
493.618 Added....5212

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Page

Introductory text and (b) revised....5225
493.622 Added....5212
(a) and (b) revised....5225
493.626 Added....5212
(a) revised....5225
493.629 Redesignated from 493.630 and revised....5225
493.630 Added....5212
Redesignated as 493.629; new 493.630 added....5225
493.631 Added....5212
Revised....5226
493.632 Added....5212
Revised....5226
493.633 Added....5212
Revised....5226
493.634 Added....5212
(b) revised....5227
493.638 Revised....5227
493.639 (b) revised....5227
493.643 (a) and (d) revised....5227
493.646 (a) revised....5228
(a) corrected....39155
493.649 (b) introductory text revised....5228
493.801 (a)(2)(ii) and (b)(4) revised....5228
493.807 Revised....5228
493.855 (c) revised....5228
493.901 (b)(3) amended....5228
493.903 (b) amended....5228
493.911 (b)(2) and (c)(6) amended....5228
493.913 (c)(1) revised....5228
493.915 (c)(5) revised....5228
493.923 (b)(2) revised....5229
493.927 (b) amended....5229
493.933 (b) and (c)(2) revised....5229
493.937 (c)(2) amended....5229
493.945 (b)(3)(ii)(C) through (G) amended....5229
493.1103 (a) revised....5229
493.1105 Introductory text revised....5229
493.1107 Introductory text revised....5229
493.1109 Introductory text revised....5229
493.1201 Revised....5230
493.1202 (b) and (c) revised....5230
493.1203 Revised....5230
493.1204 (b) revised....5230
493.1205 (b) amended....5230
493.1213 (b) revised....5230
493.1215 (a) and (b) revised....5231

Page
(a)(1)(ii) corrected....39155
493.1217 Revised....5231
493.1218 (a) and (b) revised....5232
493.1223 Revised....5232
493.1251 Added....5232
493.1253 (a) and (b) redesignated as (b) and (a); new (b) and (c) revised....5232
493.1257 (a)(5), (b)(1), (2) and (d)(3) revised....5232
(b)(2), (c)(1), (3) and (d)(2) corrected....39155
493.1265 (b)(1), (2) and (c) amended....5233
493.1271 Revised....5233
493.1405 (b)(2) through (6) revised....5233
493.1406 Added....5233
493.1411 (b)(2) and (4) revised....5234
493.1417 (b) revised....5234
493.1423 (b)(4)(i) amended....5234
493.1443 (b)(2) and (5) revised; (b)(6) added....5234
493.1449 (c)(2)(i), (d)(2)(i), (e)(2)(i), (f)(2)(i), (g)(2)(i), (h)(2)(i), (i)(2)(i), (j)(2)(i), (l)(3), (m), (n)(2)(i), (o)(1)(i), (p)(1)(i) and (q)(2)(i) revised....5234
493.1451 (b)(4) amended....5234
493.1455 (a) and (b) revised....5235
493.1461 (c)(1) and (d)(2) revised....5235
(c)(3) correctly revised....39155
493.1462 Added....39155
493.1463 (a) revised; (c) added....5234
493.1489 (b)(1), (4)(i) and (5) revised....5236
(b)(3) correctly revised....39155
493.1491 Added....39155
493.1495 (b)(7) revised; (c) added....5236
493.1701 Amended....5236
493.1709 Revised....5236
493.1715 Revised....5236
493.1721 Revised....5236
493.1775 (a) revised....5236
493.1776 Added....5236
(b)(1) corrected....39156
493.1777 Heading and (a) revised....5237
493.1780 Heading, (a), (b) and (e) revised....5237

NOTE: Boldface page numbers indicate 1993 changes.

TITLE 42 Chapter IV—Con. Page

(e)(4) corrected....39156
493.1806 (d) amended....5237
493.1814 (b)(3) revised....5237
493.1834 (b) and (f)(2)(iii) revised....5237
493.1836 (c)(2) and (3) revised....5237
493.2001 (e) revised....5237
498.2 Amended....30677

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

1001 Authority citation revised....52729
Authority citation revised....40753
1001.1 Existing text designated as (a); (b) added....5618
1001.952 (k)(1)(iii) revised; (l) and (m) added; interim....52729
Regulation at 57 FR 52729 comment period extended; interim....2989
1001.1301 (a)(3) amended....40753
1005.4 (c)(1) revised....5618
1005.7 (e)(1) revised....5618

Title 42—*Proposed Rules:*

51a....38995
59....7464, 34024
63....42039
65....50897
100....49055
400—499 (Ch. IV)....47587
405....37994, 43832
412....30222, 34742
413....30222, 34742, 43832
414....37994, 43832
417....46119, 59024
....8568, 38170, 46925
421....57125
424....43832
431....46362
....43832
433....49272
434....59024
....8568
435....56294, 57403
....42041
436....56294
....42041
440....46362
441....42041
442....46362
447....43832
456....61614
482....34977
483....61614
488....46362
489....46362
498....46362
1001....49008
1003....59024
....8568

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

Subtitle A Policy statement and advisory guidelines....52730
2 Appendix B amended....48973
4.21 (a) in part, (b) and (c) redesignated as (b), (c) and (d); new (c) revised....4942
20 Authority citation revised....32447
20.735-1 (a)(8) through (11) revised....32447
20.735-6 Removed; new 20.735-6 redesignated from 20.735-8....32447
20.735-7 Removed; new 20.735-7 redesignated from 20.735-9....32447
20.735-8 (d)(2)(ii) and (3)(ii) amended; redesignated as 20.735-6; new 20.735-8 redesignated from 20.735-12....32447
20.735-9 Redesignated as 20.735-7; new 20.735-9 redesignated from 20.735-14....32447
20.735-10 Removed; new 20.735-10 redesignated from 20.735-17; (d), (e) and (f) removed; (g) through (q) redesignated as (d) through (n); (a)(3)(ii) revised; (k) amended....32447
20.735-11 Removed....32447
20.735-12 (c)(3) amended; redesignated as 20.735-8....32447
20.735-13 Removed....32447
20.735-14 Redesignated as 20.735-9....32447
20.735-15 Removed....32447

NOTE: Boldface page numbers indicate 1992 changes.

Page

20.735-16 Removed....32447
20.735-17 Redesignated as 20.735-10....32447
20.735-20 (b), (c) and (d) revised....32447
20.735-21 Removed; new 20.735-21 redesignated from 20.735-22 and revised....32447
20.735-22 Redesignated as 20.735-21; new 20.735-22 redesignated from 20.735-23....32447
Revised....32448
20.735-23 Redesignated as 20.735-22; new 20.735-23 redesignated from 20.735-24....32447
20.735-24 Redesignated as 20.735-23; new 20.735-24 redesignated from 20.735-26....32447
20.735-25 Redesignated from 20.735-27....32447
20.735-26 Redesignated as 20.735-24; new 20.735-26 redesignated from 20.735-28....32447
20.735-27 Redesignated as 20.735-25; new 20.735-27 redesignated from 20.735-29....32447
20.735-28 Redesignated as 20.735-26....32447
20.735-29 Redesignated as 20.735-27....32447
20.735-30—20.735-37 (Subpart D) Removed....32448
20.735-40 (b)(3), (d)(2) and (3) revised....32449
20.735-41 Redesignated from 20.735-43....32448
(b)(1) and (2) revised....32449
20.735-42 Removed....32448
20.735-43 Redesignated as 20.735-41....32448
20.735-50—20.735.53 (Subpart F) Removed....32449
20.735-60—20.735.62 (Subpart G) Removed....32449
20.735-70 (Subpart H) Removed....32449
20 Appendixes A-1 through A-6, B and C removed....32449

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

3120.2-1 Revised....40754
3160 Authority citation revised....47361
3164.1 (b) table revised; eff. 10-8-93....47361
3730 Authority citation added....38196
3730.0-1 Revised....38196
3730.0-3 Revised....38196
3730.0-9 Added....38196
3734.1 (a) and (c) revised; (d) removed....38196
3820 Authority citation added....38196
3821.0-3 Added....38196
3821.2 Revised....38197
3821.3 Revised....38197
3830 Authority citation revised....38197
3833.0-1—3833.5 (Subpart 3833) Heading revised; introductory note removed....38197
3833.0-1 (c) and (d) redesignated as (d) and (e); new (c) added; new (e) amended....38197
3833.0-3 (a) revised; (b) amended; (e) and (f) added....38197
3833.0-5 (a), (g), (m) and (o) revised; (p) amended; (t) through (w) added....38197
3833.0-9 Added....38198
3833.1-1 (a) amended....38198
3833.1-2 (a) amended....38198
3833.1-3 Revised....38198
3833.1-4 Revised....38198
3833.1-5 Added....38199
3833.1-6 Added....38199
(a)(4)(ii) correctly revised....41184
3833.1-7 Added....38200
(c) corrected....41325
3833.2-1 (a) amended; (e) revised....38201
3833.2-2 Introductory text amended....38201
3833.2-3 Heading revised; (d) and (e) added....38201
3833.3 (a)(3) added....38201
3833.4 Heading and (a) revised; (b) amended....38201
3833.5 (b) revised; (d) amended....38201
3850 Authority citation revised....38202
3850.0-1 Added....38202
3850.0-9 Added....38202
3851.1 Revised....38202
3851.1-1 Removed....38202
3851.3 (b) revised; (c) added....38202

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 43 Chapter II—Con. Page
3851.4 Heading and introductory text revised....38202
3851.5 Revised....38202
5400.0-5 Amended....62235
5461.2 Introductory text removed; (a) revised....62235
5473.4 (d) removed; (e) redesignated as (d)....62235
8360.0-5 (e) added....61243
8365.1-3 Existing text designated as (a); (b) added....61243

Public Land Orders

5 Revoked by PLO 6982....32857
203 Revoked by PLO 6954....61326
725 Revoked in part by PLO 6974....31655
1127 Revoked in part by PLO 6970....25948
1507 Revoked by 6972....26252
1567 Revoked in part by PLO 6948....45324
2051 Revoked in part by PLO 6984....33773
3436 Revoked by 6972....26252
4522 Regulation at 57 FR 28637 corrected....53191
5245 Revoked by PLO 6969....26917
5721 Revoked by PLO 6946....45322
6391 Amended by PLO 6968....26251
6570 Corrected by PLO 6968....26251
6934 Regulation at 57 FR 28637 corrected....53191
6944....45321
6946....45322
6948....45324
6949....45576
6950....45725
6951....47410
6952....53587
Corrected by PLO 6962....18163
6953....4081
6954....61326
6955....3229
6956....6719
6957....7867
6958....11968
6959....14323
6960....16628
Corrected by PLO 6980....33025
6961....18018
6962....18163
6963....19212
6964....19212
Regulation at 58 FR 19212 corrected....27060
6965....19612
6966....25947
6967....25948
6968....26251
6969....26917
6970....25948
6971....26251
6972....26252
6973....25949
6974....31655
6975....31475
6976....31475
6977....31655
6978....31656
6979....31656
6980....33025
6981....32856
6982....32857
6983....33772
Regulation at 58 FR 33772 corrected....38602
6984....33773
6985....33773
6986....35408
6987....33999
6988....35409
6989....38083
Corrected....48545
6990....42245
Corrected....44536
6991....42245
6992....42246
6993....43800
6994....43801
6995 Eff. 10-18-93....48458
6996....48458
6997....50518

Title 43—*Proposed Rules:*

2....4635
4....43208, 48814
10....31122
11....39328, 45877
12....42918
426....47437, 53678
1780....43208, 48814
2720....50536
3400....5697, 18362
3730....12878
3820....12878
3830....12878
3850....12878

NOTE: Boldface page numbers indicate 1992 changes.

Page
4100....43208, 48814
5450....47241
5460....47847
5510....47847
8360....46151
9230....47847
9260....47847

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

2 Authority citation revised....45061
2.23 Revised....45061
2.68 Revised....45061
3 Removed....47218
11 Authority citation revised....54714
11.30 Revised....54714
11.32 Nomenclature change....54714
11.34 Heading, (a) introductory text, (a)(1) introductory text and (c) revised....54714
11.41 (c) added....54715
11.42 (a) amended....54715
11.43 (a) amended; (f) added....54715
11.44 (a) amended....54715
11.45 (a) and (d) amended; (g) added....54715
11.48 (a) and (d) amended; (g) revised....54715
11.50 (c) amended....54715
11.51 Heading revised; (c) amended....54715
11.52 (c) amended....54715
11.60 Nomenclature change....54715
11.61 Added....54715
11.62 Added....54716
11.63 Added....54716
11.64 Added....54716
11.65 Added....54717
64.6 Table amended...47267, 47269, 49143, 49144, 54512, 54514, 54934, 60487
Table amended...502, 4083, 4085, 6097, 9121, 11195, 11969, 14160, 16501, 19613, 19615, 25568, 29978, 29980, 30993, 33556, 33557, 33559, 39667, 39669, 39671, 43802, 45003
65.4 Table amended...47788, 47789, 54906, 54907, 59904, 59905
Table amended...8550, 8553, 11541, 11543, 14324, 19617, 19619, 30124, 38304, 43805, 51016, 51017
Table amended; interim...8552, 15092, 19617, 29122; 32858, 32860, 38306, 43804
67 Flood elevation determinations....47791, 54309, 59306
Flood elevation determinations...8550, 11544, 14326, 19621, 29123, 30126, 32861, 38084, 43807, 51018
81.1 (b)(1) revised....52593
(b)(1) revised; interim....34920
206 Authority citation revised....47996
206.202 (d) revised; eff. 10-14-93....47996
206.221 (e)(6) revised; eff. 10-14-93....47994
206.228 (a)(4) added; eff. 10-14-93....47996
353 Authority citation revised....47997
Appendix A revised....47997
354 Added; interim....35771

Title 44—*Proposed Rules:*

67....47825, 54347, 59329, 59946
...8568, 11556, 14350, 19641, 29168, 30133, 31929, 32749, 32881, 38333, 43847, 51032
351....41154

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services, General Administration (Parts 1—199)

96 Authority citation revised....17070
96.46 Revised; interim....17070
96.120—96.137 (Subpart L) Revised; interim....17070
96.122 (f)(3)(vii) corrected....21218

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

205 Authority citation revised....46804
205.40 Revised....46804

NOTE: Boldface page numbers indicate 1993 changes.

TITLE 45 Chapter II—Con. Page

(b)(6) corrected....52826
205.41 Added....46805
(d)(3)(iv) and (v) corrected....52826
205.42 Revised....46807
(b)(1)(ii), (e)(1)(ii), (f)(1), (i)(4) and (5) corrected....52826
205.43 Revised....46810
(b)(2), (4), (e)(4)(ii)(B) and (5) *Example* corrected....52827
205.44 Removed....46811
205.50 (a)(1)(i)(A) revised; (a)(1)(i)(G) added; interim....49220
205.56 (b) republished....53859
205.58 (a) and (b)(4) republished....53860
233.20 (d) revised....54519
(a)(3)(xviii) revised; interim....49220
233.90 (a)(2) introductory text revised; interim....49220
250 Authority citation revised....47002
250.81 (a) revised....47002

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program) Administration for Children and Families, Department of Health and Human Services (Parts 300—399)

301.1 Amended....41437
302.32 (f)(2)(i), (ii) and (iii) revised....54519
302.70 (a)(10) revised; eff. 10-13-93....61581
302.85 Revised....47002
303.7 (b)(6) and (c)(7)(v) added; (c)(8) amended; eff. 10-13-93....61581
303.8 (c) through (f) added; eff. 10-13-93....61581
(c)(5) corrected....7040
303.21 (a)(1), (2) and (3) amended; (a)(4) added....41437
303.72 (a)(3)(i) revised; (k) removed....41437
304.20 (c) amended....47002
304.23 (k) added....54525
307 Authority citation revised....47002
307.0 Revised....47002
307.1 Revised....47002
307.5 Added....47003
307.10 Revised....47003
307.15 Heading, (a) and (b) revised....47004
307.20 Heading amended....47005
307.25 Revised....47005
307.30 Heading, (a) and (b) revised....47005
307.35 (a) revised....47005
307.40 Heading and (a)(1) revised....47005

Chapter IV—Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services (Parts 400—499)

400.2 Amended....11794, 16779, 46090
Regulation at 58 FR 11794 withdrawn....16777
Regulation at 58 FR 16779 effective date delayed to 8-1-93....29981
Regulation at 58 FR 16777 withdrawn....40754
400.60 (b) amended...11794, 16779, 46090
Regulation at 58 FR 11794 withdrawn....16777
Regulation at 58 FR 16779 effective date delayed to 8-1-93....29981
Regulation at 58 FR 16779 withdrawn....40754
400.100 (b) amended...11794, 16779, 46090
Regulation at 58 FR 11794 withdrawn....16777
Regulation at 58 FR 16779 effective date delayed to 8-1-93....29981
Regulation at 58 FR 16779 withdrawn....40754
400.203 (b) amended...11794, 16779, 46090
Regulation at 58 FR 11794 withdrawn....16777
Regulation at 58 FR 16779 effective date delayed to 8-1-93....29981
Regulation at 58 FR 16779 withdrawn....40754
400.204 (b) amended...11794, 16779, 46090
Regulation at 58 FR 11794 withdrawn....16777
Regulation at 58 FR 16779 effective date delayed to 8-1-93....29981
Regulation at 58 FR 16779 withdrawn....40754
400.209 (b) amended...11794, 16779, 46090
Regulation at 58 FR 11794 withdrawn....16777
Regulation at 58 FR 16779 effective date delayed to 8-1-93....29981
Regulation at 58 FR 16779 withdrawn....40754
402.31 (b)(2) amended....31913
402.43 (a) and (b) amended....31913
402.51 (e)(1) amended; (e)(4) revised....31913

Chapter VI—National Science Foundation (Parts 600—699)

670.50—670.72 (Subpart K) Redesignated as Part 672....34718
671 Added....34719
672 Redesignated from 670.50—670.72 (Subpart K)....34718
Authority citation added....34719

Chapter VII—Commission on Civil Rights (Parts 700—799)

708 Added....4351

Chapter VIII—Office of Personnel Management (Parts 800—899)

801 Appendix A amended....29791

Chapter XII—ACTION (Parts 1200—1299)

1224.1-19 Added....45326

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1301.32 OMB number....26918
1303 Revised....59264
1303.10 Revised (OMB number pending)....59264
1303.23 (OMB number pending)....59264
1303.24 Corrected (OMB numbers)....13019
1304 Authority citation revised....5518
Nomenclature change....5518
1304.1-2 (a), (c) and (i) revised....5518
1304.3-3 (b) introductory text revised....5518
1304 Appendix A removed....58092
1305 Revised....46725
Authority citation revised....5518
1305.2 (a) revised....5518
1306 Added....58902
1308 Added....5501

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1611 Appendix A revised....12336
1612 Authority citation revised....21405
1612.2 Revised; eff. 10-2-93....21405
1612.3 (a) amended; (b), (e) and (f) revised; eff. 10-2-93....21405
1612.6 (a) revised; eff. 10-2-93....21405
1612.13 (b) and (d) revised; (e) and (f) added; eff. 10-2-93....21405
1626.4 (a) introductory text and (1) revised....6608

Title 45—*Proposed Rules:*

57a....42270
96....45156
233....56294
301....47417
305....47417
400....49439
....39181
607....46597
608....46600
1180....48622
1207....46602, 48424
1208....46602, 48424
1602....36910
1607....6611
1609....6612
1610....21434
1611....21434
2500....60779
2501....60779
2502....60779
2503....60779
2504....60779
2505....60779
2506....60779

NOTE: Boldface page numbers indicate 1992 changes.

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

Page

4.06-50 (b) revised....31107
10 Authority citation revised....15237
10.103 Amended....15237
10.109 Added....15237
(c)(4) correctly designated....15901
10.110 Added....15237
10.111 Added....15237
10.112 Added....15238
10.205 (a) revised....15238
10.207 (a) revised....15238
10.209 (a) revised....15238
10.217 (a) revised....15238
10.219 Existing text redesignated as (a); (b) and (c) added....15238
12 Authority citation revised....15238
12.01-6 Added....15238
12.01-7 Amended....15239
12.02-18 Added....15239
12.02-23 (b) and (c) revised....15239
15 Authority citation revised....13361
15.720 Regulation at 55 FR 1212 confirmed....25
15.812 (a) introductory text revised; (f) added....13361
16.105 Amended....31107
16.210 Revised....31107
16.220 (b)(1) and (2) revised....31107
16.350 Revised....31107
16.360 (a) revised....31107
16.370 (a) and (b) revised....31107
25.26-1—25.26-60 (Subpart 25.26) Revised....13367
25.26-5 (b)(3) and (c) corrected....27658
25.26-20 (a)(2) and (b)(3) corrected....27658
25.26-50 (a) corrected....27658
30.01-5 Regulation at 57 FR 36246 comment period reopened....60402
32.60-1—32.60-45 (Subpart 32.60) Regulation at 57 FR 36246 comment period reopened....60402
32.95-1 (Subpart 32.95) Regulation at 57 FR 36246 comment period reopened....60402
35.20-45 Introductory text revised....27633

Page

35.30-20 (c)(1), (2) and (d) revised....48324
(d) corrected....56406
35.40-20 Revised....48324
69.5 (a)(4) amended....59938
69.11 (a)(2)(vi) added; (d) revised....59938
69.15 (a) revised....59938
69.119 (c) amended....59938
69.169 Heading revised....59938
69.205 Revised....59938
70.05-30 Regulation at 57 FR 36246 comment period reopened....60402
77.30-1 Revised....48324
77.30-5 (a) and (b) revised....48324
77.30-10 (a) table and (b) revised....48325
77.30-90 Revised....48324
77.35-1 Revised....48325
77.35-5 (b) revised....48325
77.35-10 (a) revised....48325
77.35-90 Revised....48325
90.05-35 Regulation at 57 FR 36246 comment period reopened....60402
96.30-1—96.30-90 (Subpart 96.30) Revised....48325
96.30-5 (a) corrected....56406
96.35-1 Revised....48325
96.35-5 (b) revised....48325
96.35-10 (a) revised....48325
96.35-90 Revised....48326
108.497 (a) and (d)(1) revised....48326
108.703 (a) revised....48326
154a Removed....60728
159.001-9 (b) amended (OMB numbers); eff. 11-16-93....29492
160.001-1 (a)(1) amended; eff. 11-16-93....29493
160.001-2 (a) and (j) revised; (j) table removed; eff. 11-16-93....29493
160.002-3 Introductory text added; (i) revised; eff. 11-16-93....29493
160.005-3 Introductory text added; (i) revised; eff. 11-16-93....29493
160.011-1—160.011-6 (Subpart 160-011) Removed....48326
160.047-3 (a) and (h) revised; eff. 11-16-93....29493
160.048-3 (a) and (g) revised; eff. 11-16-93....29493

NOTE: Boldface page numbers indicate 1992 changes.

Page

160.048-6 (c) added....41608
160.049-3 (a) and (e) revised; eff. 11-16-93....29493
160.049-6 (c) added....41608
160.050-3 (a) and (e) revised; eff. 11-16-93....29493
160.050-6 (c) added....41608
160.052-3 (a) and (f) revised; eff. 11-16-93....29493
160.053-3 (a) revised; (d) added; eff. 11-16-93....29493
160.055-3 (a) and (d) revised; eff. 11-16-93....29493
160.060-3 (a) and (f) revised; eff. 11-16-93....29494
160.064-3 (c) amended; eff. 11-16-93....29494
160.064-4 (c) added....41609
160.077-11 (a)(3), (4) and (e) revised; eff. 11-16-93....29494
160.176-8 (a)(1) and (d) revised; eff. 11-16-93....29494
164.019-1—164.019-17 (Subpart 164.019) Added; eff. 11-16-93....29494
164.019-7 (e) introductory text correctly added....32416
164.019-13 (b) corrected....32416
164.023-1—164.023-15 (Subpart 164.023) Added; eff. 11-16-93....29497
167.45-60 Revised....48326
169.717 (a) revised....48326
170 Hearing....36601
170.210 Regulation at 57 FR 41812 effective date pending....58406
171.080 (e) regulation at 57 FR 41826 suspended to 2-23-94....45264
Regulation at 58 FR 45264 corrected....47784
172.060 Regulation at 57 FR 36246 comment period reopened....60402
174.005 (g), (h) and (i) added....17320
174.350-174.360 (Subpart J) Added....17320
195.30-1—195.30-90 (Subpart 195.30) Revised....48327
195.35-1 Revised....48327
195.35-5 (b) revised....48327
195.35-10 (a) revised....48327
195.35-90 Revised....48327

NOTE: Boldface page numbers indicate 1992 changes.

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

Page

204.7 Revised....29351
204.8 Revised....29351
237 Removed....60728
250 Removed....60728
252 Authority citation revised....17348
252.30 (a) amended....17349
252.32 (a) heading, (b) heading, introductory text, (4) heading and (c) introductory text revised; (a), (b)(3) and (4) table amended....17349
252.40 Existing text designated as (a); (b) added....17349
262 Removed....60728
278 Removed....60728
279 Removed....60728
292 Removed....60728
294 Removed....60728
310 Authority citation revised....60728
310.13—310.32 (Subpart B) Removed....60728
315 Revised....44285
316 Removed....60728
318 Removed....60728
319 Removed....60728
320 Removed....60728
321 Removed....60728
322 Removed....60728
323 Removed....60728
331 Removed....44285
333 Removed....60728
334 Removed....60728
340 Revised....29352

Chapter IV—Federal Maritime Commission (Parts 500—599)

502 Authority citation revised....27210, 38649
502.1 Amended....38649
502.12 Added....27210
502.28 Removed....27210
502.56 Added....38649
502.61 (d) added....38649
502.64 Heading revised; (d) added....27210
502.70 (b) amended....27210
502.71 Revised....27210

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 46 Chapter IV—Con. Page

502.91 (a) and (b) redesignated as (b) and (c); new (a) and (d) added....38649
502.93 Removed....27210
502.94 (c) added....38649
502.112 (a) and (b) amended; (c) added....27210
502.113 Revised....27210
502.119 (b) amended....27211
502.147 (a) amended....38650
502.203 (a)(1) amended....27211
502.227 (b)(2) revised....27211
502.254 (f) revised....27211
502.261 (a) amended....27211
502.262 Revised....27211
502.601—502.605 (Subpart W) Redesignated from Part 505 and revised....27211
502.991 (Subpart W) Redesignated as Subpart X....26211
505 Redesignated as 502.601—502.605 (Subpart W)....27211
510.15 Amended....27213
510.16 (a)(5) and (b) amended....27213
514 Authority citation revised....46322
514.2 Amended....46323
Amended....27
514.3 (b)(4) revised....28790
514.7 (a), (b), (f) introductory text, (1), (2)(i), (g)(2)(i), (h)(1)(i), (j)(1)(i), (ii), (2) introductory text, (i), (3)(i), (ii) introductory text, (4) and (k) revised....46322
(f)(4), (l)(1) and (2) amended....27
(f)(3) and (h)(1)(iii) revised....28
(d) revised....5622
514.8 (n)(1)(iii)(G)(3) removed....46324
(d)(3) introductory text and (n)(1)(iii)(G) revised....28
514.9 (a)(5) revised....28
(b)(13) revised....28790
514.10 (d)(1)(i)(B) removed; (d)(1)(i)(C), (D) and (E) redesignated as (d)(1)(i)(B), (C) and (D); (d)(1)(iii) revised....28
514.12 (a)(1)(v) and (vi) removed; (c) added....28
(a)(1) introductory text revised....30715
514.15 (b)(1)(iii)(A) and (2)(i) revised....28
(b)(24) introductory text, (i) and (ii) revised....5622
(b)(32) removed....28790
514.17 (a)(1) amended; (d)(2) and (3) revised....46324
(a)(1) and (d) revised....28
514.18 (b) and (c)(3) introductory text amended....46324
(c)(1) amended....30
514.20 (c)(2) revised....30715
514.21 Introductory text revised....30
(g) and (j) revised; (l) and (m) added....30715
525 Removed....10984
530 Suspended....10984
540.5 (d) introductory text, (4), (5), (6) and (e) introductory text revised....62480
540.30—540.91 (Subpart C) Heading revised....27213
540.30 Removed....27213
540.31 Removed....27213
540.32 Removed....27213
540.33 Removed....27213
540.34 Removed....27213
540.35 Removed....27213
540.36 Removed....27213
540.30—540.91 (Subpart C) Appendixes A and B removed....27213
552.2 (e) revised....13417
560.309 Added....5630
560.601 Introductory text amended....5630
571.2 Added....7194
572.311 Added....5631
572.502 (a)(4) and (5) revised....54531
572.602 (a) revised....5631
572.801—572.802 (Subpart H) Added....54531
580 Authority citation revised....5622
580.1 (d) revised....28790
580.5 (d)(24) introductory text, (i) and (ii) revised....5622
581 Authority citation revised....5623
581.3 (a) introductory text, (1)(i), (2)(iv)(A), (B) and (3)(i) revised....46324
(e) revised....5623

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Page

581.4 (a)(1)(i) and (b)(1)(iii) revised; (b)(2)(iii)(A) amended....46324
581.6 (a), (b)(1) and (2) revised....46324
(b)(1) corrected....49020
581.8 (a)(1), (b) introductory text, (c)(1), (2) introductory text and (d) revised....46325
581.9 Revised....46325
583 Authority citation and heading revised....5623
583.2 Revised....5623
583.3 Revised....5623
583.4 Revised....5623
583.5 (a) and (b) revised; (e) added....5624
583.6 (a) revised....5625
583 Appendix B added....5625
Appendix C added....5626
Appendix D added....5627
586 Authority citation revised....54316, 54322
586.4 Added....54316
(e) revised....44287
Removed....50523
586.5 Added; (b) through (e) eff. 6-1-94....54322
(b)(2) revised; (b)(4)(iii) added; eff. 6-1-94....7989
604.9 (b)(8) added....36899

Title 46—*Proposed Rules:*

1—199 (Ch. I)....54191
10....48572
12....48572
15....48554
....36914, 40468
16....59752, 59778
28....48670, 57129, 60158
....630, 29502
30....29890
31....15740
32....15740
35....45647
40....29890
67....12352
78....52748
97....52748
98....29890
147....29890
150....29890
151....29890
153....29890
171....36374

NOTE: Boldface page numbers indicate 1992 changes.

Page

197....46126
200—299 (Ch. II)....54191
252....53083
300—399 (Ch. III)....54191
315....9135
502....7199, 16641, 28379, 42273
505....7199
510....7199
514....47589, 49665, 56539
....4137, 7501
525....47025
530....47025
540....47830
....7199
552....48770
560....49667
572....47600, 49667
580....47589, 56539
581....47589, 47600, 49665, 56539
583....47589, 56539

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

Chapter I Memorandum opinion and order....14161
0.61 (j) through (n) added....29752
Regulation at 58 FR 29752 effective date delayed to 10-1-93....33560
Regulation at 58 FR 29752 and 33560 effective date corrected to 9-1-93....41042
Regulation at 58 FR 29752 and 33560 effective date pending....43816
0.111 (b) through (l) redesignated as (d) through (n); new (b) and new (c) added; introductory text, (a) and new (d) revised....13020
0.131 (h) and (i) added....9124
(j) added....13020
(k) added....30717
0.311 (a)(1) revised....13020
0.314 (a), (d), (f), (p), (q), (r), (v) and (w) removed....13020
0.331 (a)(1) revised; (c) added....13020
(d) added....30717
0.401 (a)(3)(i) and (b)(1) revised....13020
0.406 (b) introductory text amended....13021

TITLE 47 Chapter I—Con. Page

0.408 (b) table amended (OMB numbers)....45747
(c) table amended (OMB numbers)....45748
0.453 (l) revised....13021
Introductory text, (d), (g) and (l) revised....19772
0.455 (d) removed....13021
(a)(11) and (12) added....29752
Regulation at 58 FR 29752 effective date delayed to 10-1-93....33560
Regulation at 58 FR 29752 and 33560 effective date corrected to 9-1-93....41042
Regulation at 58 FR 29752 and 33560 effective date pending....43816
0.484 Revised....13021
0.485 Revised....9124
0.486 Added....30717
0.561 (f) and (g) added....11549
1 Reconsideration petition....14328, 37867
Authority citation revised....27473
Policy statements....44767
1.4 (g) introductory text revised....17529
1.19 Added....44893
1.49 (a) amended....44893
1.61 (a), (b), (c) and (f) revised....13021
(j) through (n) added....29752
1.65 (c) revised....47412
Regulation at 57 FR 47412 effective date corrected to 1-14-93....49218
1.80 (d) introductory text revised....47006
(f)(2) amended....48333
(a) introductory text, (3), (4), concluding text, (c)(1) and (h) revised....6896
(d) amended....27473
1.83 (b) revised....13021
1.85 Amended....13021
1.420 (g) Note 1 added; (h) note redesignated as Note 2....38535
1.720 (i) added....25572
1.724 (e) added....25572
1.726 Revised....25572
1.727 (e) revised; (f) added....25572
1.729 (a) and (d) revised; (c) amended; (e) added....25572
1.730 (c) revised; (d) added....25572
1.731 Redesignated as 1.732; new 1.731 added....25573
1.732 Redesignated as 1.733; new 1.732 redesignated from 1.731; (a) amended; (b) redesignated as (g); (b) through (f) added....25573
1.733 Redesignated as 1.734; new 1.733 redesignated from 1.732; (a)(5) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added....25573
1.734 Redesignated as 1.735; new 1.734 redesignated from 1.733....25573
1.735 Redesignated from 1.734....25573
(b) revised....25574
1.773 (a)(1)(i) and (2) introductory text amended; (a)(2)(i), (ii) and (iii) redesignated as (a)(2)(ii), (iii) and (iv), (b)(1)(i) through (iv) redesignated as (b)(1)(ii) through (v) and (c) redesignated as (b)(3); (a)(2)(i), (4) and (b)(1)(i) added; (a)(1) introductory text, new (2)(ii), (iii), (iv), new (b)(1)(ii) through (v), (b)(2) and new (3) revised....17529
1.785 (a) revised; eff. 10-4-93....36143
1.793 Removed; eff. 10-4-93....36143
1.794 Removed; eff. 10-4-93....36143
1.815 (c) added....42249
1.901 Revised....13021
1.912 (a) revised....30717
1.913 (a) revised; (e) added....21406
1.1103 Table amended....9129
1.1104 Table amended....19772
1.1105 Table amended....9129, 19773
1.2002 (c) revised....8701
1.2003 Amended....48333
2.106 Table amended....49021, 50133
Table amended....11796, 16361, 27949, 34921, 42684
Footnotes 723B, 726C, 726D, 730B, 730C and US315 added; Footnote 726 removed; Footnotes 724, 726A and 726B revised....34923
Footnotes 700A, 700B and US330 added....42685

NOTE: Boldface page numbers indicate 1992 changes.

Page

Table amended; eff. 12-20-93....49222
2.948 (b)(8) revised....37430
(b)(2) amended....44893
2.975 (a)(8) added....25575
(a)(5) amended....44893
2.1033 (b)(12) added....25575
(b)(7) amended....44893
5 Reconsideration petition....14328
13 Revised....9124
13.7 (c)(2) correctly revised....12632
15.31 (a) revised....37430
15.37 (b) amended; (f) added....25575
15.119 (a) amended....44893
15.121 Added....25575
(a) corrected....29454
15.205 (a) revised....33774
17.11 (h) table amended....25746, 25763
18.205 (b)(2) revised....44894
21 Authority citation revised....42249
21.6 (b) and (c) revised....19774
21.13 (b) amended....19774
(b)(1) revised....44894
21.15 (a) revised....11797
21.20 (b)(5) revised....11797
21.23 (a) and (b) revised....11797
(c)(1)(vii), (2)(v) and (d)(1) revised....44894
21.28 (f) added....11797
21.29 (f) added....11797
21.31 (e)(3) and (4) revised....11797
21.33 Revised....11798
21.39 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added....11798
21.41 (b)(3), (c)(2)(i), (ii) and (iii) revised....44894
21.42 (c)(5)(i) and (ii) revised....44894
21.50 Added....49021
Revised; eff. 10-4-93....46549
21.100 (c) revised; (d)(2)(xi) and (xii) added; eff. 12-20-93....49224
21.107 (b) revised; eff. 12-20-93....49224
21.108 (c) table revised; eff. 12-20-93....49225
(e) introductory text and (1) heading revised; eff. 12-20-93....49226
21.113 (b) introductory text, (1)(i) through (iv), (c)(3)(iii) and (iv) revised....44894
21.120 (e) added; eff. 12-20-93....49226
21.122 (a) revised; eff. 12-20-93....49226
21.303 (a), (b), (c) and (d)(1) revised....19774
21.307 (g) added....42249
21.502 Revised; eff. 12-20-93....49226
21.503 Revised; eff. 12-20-93....49227
21.504 (c)(1) and (2) revised....44894
21.506 Revised; eff. 12-20-93....49227
21.507 Removed; eff. 12-20-93....49227
21.701 (a) Footnote 2 and (b) revised....44895
(a) and (d) revised; (e), (f) and (g) redesignated as (i), (j) and (k); new (e) through (h) and (l) added; eff. 12-20-93....49227
21.710 Revised; eff. 12-20-93....49232
21.901 (d)(2) removed; (f) revised....11798
(d)(1)(i) through (vii)(C) corrected; CFR correction....13709
(c) introductory text and (d)(5) revised....44895
21.902 (c) introductory text, (1) and (2) revised....11798
(c)(1)(i), (2)(i), (ii), (4), (5), (d)(1), (2), (3), (i)(1), (ii), (j)(1) and (2) revised....44895
21.904 (c) introductory text revised....44896
21.906 (c) revised....44896
21.912 (a), (b), (c) and Notes 1 and 2 revised; (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f); new (f) amended....42018
(e)(1) and (2) correctly added....45064
21.913 (g) revised....11798
(d), (g) introductory text, (3) and (5) amended....44896
21.915 Added....11799
21.920 Added....42249
22 Technical correction....27213, 34228
22.2 Amended....44896
22.6 (d)(1) and (3) amended; (d)(3)(iv) revised....44896
22.13 (b)(1) revised....44896
22.15 (b)(1)(i), (ii)(A), (B), (iii), (i)(2) and (j)(8)(iv) revised....44896
22.23 (c)(2) amended....44897
22.28 (a) revised....53446
22.29 (a) introductory text revised....53447

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 47 Chapter I—Con. Page

22.33 (c)(1) and (2) revised....44897
22.43 (d)(1)(iii), (4)(iii) Notes A, B and C amended....44897
22.50 Added....49021
Revised; eff. 10-4-93....46549
22.100 (e)(1) revised....44897
22.113 (b)(1)(i) through (iv) revised....44897
22.115 Revised....44897
22.117 (b)(3) and (c) introductory text amended....44898
22.501 (a)(5)(i), (iii), (e), (f)(1)(i), (ii), (g)(3)(i), (j)(3), (6), (7) and (k)(5)(iv) amended; (j)(4), (5)(i), (ii), (k)(1), (2), (j)(7)(i) Tables B, C, D and F revised; (j)(7)(i) Table G removed; (j)(7)(i) Tables I and J added....44898
(e) revised; eff. 12-20-93....49233
22.502 (a) and (c) tables amended; (b) revised....44900
22.503 (a), (b) and (d) tables revised; (c) amended....44901
22.504 (b) Figures 1 through 4 removed; (b)(1), (2) table and (c) revised....44901
22.505 (a)(1) and (c)(1) amended; (a)(2) and (b) tables revised....44901
22.506 (f)(1) revised....44902
22.521 (b) amended....44902
22.525 (b) and (e) amended....44902
22.601 (a)(2)(i), (iv) and (3) revised; (g)(3) amended....44902
22.902 (b)(4) introductory text, (i), (ii) introductory text and (B)(3) revised....53447
(d)(1) amended....44902
22.903 (a), (d)(1) and (3)(i) through (iv) revised; (e) added....53447
(a)(3), (d)(2) and (e) revised; (a)(5) and (f) added....11800
(a)(1), (2), (3) and (5) revised....44902
22.905 Revised....44902
22.913 (a)(1) amended....44903
22.920 (c) introductory text revised....53448
22.922 Heading revised; (b) added....53448
(a) revised....54859
22.923 (a)(1), (b)(1), (5) and (6) amended....44903
22.924 (a)(3) added....53448
(a)(1) revised; (b)(2) amended....44903
22.925 Introductory text revised....53448
(b) revised....44903
22.927 Added....53448
22.928 Added....53448
22.929 Added....53449
22.930 (h) revised....44903
22.941 (a)(2) amended; (a)(1) and (d)(2) revised; (a)(3) removed....21929
22.942 Revised (effective date pending)....21929
22.1001 (a) Table A, (b) Table B and (c) Table C amended; (d)(2)(i), (ii), (4), (5), (6) and (7) Tables D and E revised....44903
22.1002 Amended....44904
22.1109 Amended; (a) and (b) revised....44904
23.20 (d) introductory text amended; (d)(1)(i) through (iv) revised....44904
23.40 Revised....44904
24.103 (d)(2) corrected....53295
25 Authority citation revised....13419, 42249
25.132 Added....13419
25.202 (g) added....13419
25.203 (b) and (c)(5) revised; (e) removed; (f), (g) and (h) redesignated as (e), (f) and (g)....13419
(e)(2)(i) through (iv) and (g)(3)(i) through (iv) revised....44904
25.204 (d) and (e) added....13420
25.209 (a) through (d) revised; (g) added....13420
25.210 Added....13420
25.211 Added....13421
25.212 Added....13421
25.256 Added....13421
25.271—25.277 (Subpart D) Added....13421
25.601 (Subpart I) Added....42249
32 Order....50287
34 Removed; eff. 10-4-93....36143
35 Removed; eff. 10-4-93....36143
36.2 (a)(3) and (b)(3)(iii) revised....44905
36.153 (a)(1)(i)(A), (B), (ii)(C), (2)(i)(B) and (b)(1) revised....44905
36.156 Revised....44905

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Page

36.157 (a)(1) revised....44905
36 Appendix amended....44905
43.21 (a) and (d) revised; eff. 10-4-93....36143
43.51 (a) introductory text revised....44459
(a) introductory text corrected....48323
61 Memorandum opinion and order....62481
Technical correction....5936
Memorandum opinion and order....8908, 21407, 42251
Authority citation revised....44460
61.3 (e) revised....36147
61.20—61.50 Undesignated center heading added....44460
61.20 Added....44460
61.20—61.21 Undesignated center heading added....44460
61.21 Added....44460
61.22—61.23 Undesignated center heading and sections added....44460
61.22 (b) corrected....48323
61.32 Undesignated center heading removed....44460
61.33 (d), (e) and (f) redesignated as (e), (f) and (g); new (d) added....17530
(a) amended....44906
61.38 (b)(3) and (4) added....54330
(a) revised....36147
(b)(4) revised; eff. 11-16-93....48762
61.39 (a) and (b) revised; (d) and (e) added....36147
61.42 (e)(1)(iii) revised; (e)(1)(iv) and (v) added....54718
(e)(1)(vi) added....7868
(b)(2) and (c)(12) revised; (c)(13) redesignated as (c)(17); new (c)(13), (14), (15) and (16) added....29552
(c)(10) removed....31914
(e)(1)(vi) amended; (e)(1)(vii) added....36145
Regulation at 58 FR 36145 effective date suspended....42254
61.45 (d)(2) revised....36148
61.47 (h) redesignated as (h)(1); (h)(2) added....54331
(e) redesignated as (e)(1); (e)(2) and (3) added....54719
(i) added....7868
(h)(3) added; eff. 11-16-93....48762
61.48 (g) and (h) added....54719
61.49 (h) introductory text revised; (i), (j) and (k) added....54331
(g)(2) and (h) introductory text revised....17167
(h) corrected....38536
(k) revised; eff. 11-16-93....48762
61.50 Added (effective date pending)....60737
Revised....36148
61.52 (a) revised....44906
61.58 (e) added....36149
63.01 (k)(6) and (r) added....57965
(o) revised; eff. 11-22-93....44461
(j)(4) revised....44906
63.03 (a)(5), (6) and (d) revised; eff. 11-22-93....44461
(b)(6), (e)(2) and (3) revised....44906
63.04 (b) amended; (c)(2) and (3) revised....44906
63.10 Redesignated as 63.15; new 63.10 added....57966
63.11 Added....57967
63.12 Added....57967
63.13 Added....57967
63.14 Added....57968
63.15 Redesignated from 63.10....57966
63.53 Amended....44906
63.56 (b)(2) and (d)(1) revised; (c) amended....44906
63.64 (a)(1) revised....44907
63.70 (a)(4) introductory text amended....44907
63.90 (a) introductory text, (b) and (c) amended....44907
63.500 (k)(3) revised....44907
64 Authority citation revised....48335, 54331
Memorandum opinion and order....62481
Technical correction....5936
Memorandum opinion and order....11195, 21408
Reconsideration petition....14329
Authority citation revised....44773
64.604 (a)(2) and (c)(4)(ii) revised....12176
(c)(4)(iii) added....39673
64.709 Removed....44773
64.710 Removed....44773
64.711 (a) revised....17169
Removed; eff. 11-1-93....44773
64.712 Removed....44773
64.713 Removed....44773
64.714 Removed....44773

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 47 Chapter I—Con. Page

64.715 Removed....44773
64.716 Removed....44773
64.1001 (g) revised....4354
64.1200 (Subpart L) Added....48335
(e)(2)(iii) corrected....53293
64.1201 Added....36145
Regulation at 58 FR 36145 effective date suspended....42254
64.1401—64.1402 (Subpart N) Added....54331
64.1401 (c) introductory text revised; eff. 11-16-93....48754
(d), (e) and (f) redesignated as (f), (g) and (h) and (b) and (c) redesignated as (c) and (d); new (b) and (e) added; new (c) introductory text, (1), (2) new (d) introductory text, new (f), new (g)(1), (2) and new (h) revised; eff. 11-16-93....48762
64.1501—64.1515 (Subpart O) Added; effective in part 11-1-93....44773
65 Memorandum opinion and order....62481
Technical correction....5936
65.700 (d) added....36149
65.702 (b) amended....54332
(b) amended....54719
(b) amended; eff.11-16-93....48763
68 Authority citation revised....48336
68.3 (a) and (b)(2) amended....44907
68.112 (b)(1), (3) and (5) suspended....26692
68.200 (f) and (h)(2) amended; (h)(1) revised....44907
68.213 (c) amended....44907
68.215 (a)(2) and (d)(2) amended....44907
68.302 (b) and (c)(1) revised....44907
68.304 (h) Note 5 amended....44907
68.318 (c)(2) revised; (c)(3) added....48336
68.500 Introductory text, (e)(1), (3) through (9), (f)(1), (3) through (9), (g) and (h) revised; Figures (a)(2)(i), (ii), (3)(i), (4)(i), (5)(i), (b)(2)(i), (3)(i), (c)(2)(i), (ii), (3)(i), (4)(i), (5)(i), (d)(2)(i), (3)(i), (e)(1) through (4), (f)(1), (2), (3), (g)(1), (2), (h), (i)(2)(i), (ii), (3)(i), (4)(i), (5)(i) and (j)(2)(i) amended....44907
69 Order....54998
Memorandum opinion and order....62481
Memorandum opinion and order....8908, 11195, 29791
Technical correction....5936
Order....9550
Policy statement....16628
69.1 (c) revised....54719
(c) revised....41189
69.2 (nn) through (ss) added....54719
(oo) and (ss) revised; (tt) and (uu) added....41189
69.3 (a) and (e) amended; (i) introductory text, (1) and (3) revised; (j) added....36149
69.4 (b) introductory text revised; (e) and (f) added....54332
(b) revised....54719
(b)(8) revised; (b)(9) added....30995
69.108 Added....54720
Revised....41189
(a)(1) and (2) revised....44950
(c) revised....45267
69.110 Added....54720
(d) revised; (e) added....41190
(b)(1) and (2) amended....41191, 44950
(e) revised; (f), (g) and (h) added; eff. 11-16-93....48763
69.111 Revised....54720
(c) through (f) redesignated as (e) through (h); (b), new (e), (g) and (h) revised; new (c) and (d) added....41190
(b) amended....44950
(i), (j) and (k) added; eff. 11-16-93....48764
69.112 Revised....54720
(e) redesignated as (f); (b), (c), (d) and new (f) revised; new (e) added....41190
(b)(1) and (2) amended....44950
(f) redesignated as (i); (e) revised; new (f), (g) and (h) added; eff. 11-16-93....48764
69.113 (a) revised....54721
69.118 Revised....54721
Revised....7868
69.121 Added....54332
(a) introductory text and (1) revised; eff. 11-16-93....48764
69.122 Added....54332
69.123 Added....54333

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Page

Heading, (a) and (c) revised; (d) redesignated as (e); new (d) added; eff. 11-16-93....48764
69.124 Added....54721
(a)(1) and (2) redesignated as (b)(1) and (2); (c) removed; (a) amended; new (b)(1) revised....41190
(b)(2) amended....41191
(b)(1) revised....45267
69.125 Added....54721
(b) revised....41191
(b) amended....44950
69.126 Added....54721
69.127 Added....54722
69.128 Added....36145
Regulation at 58 FR 36145 effective date suspended....42254
69.210 Removed....54722
69.301 (a) revised....54722
69.305 (b) revised....54722
(b) revised....30995
69.306 (a), (b), (c) and (e) revised....54722
(c) revised....30995
69.307 Revised....54722
Revised....30995
(b) redesignated as (c); new (b) added....36145
Regulation at 58 FR 36145 effective date suspended....42254
73 Regulation at 57 FR 44338 eff. 9-25-92....47007
Waiver....53449
Policy decision....53588
Petition denied....40365
Authority citation revised....42249
Order reconsideration....45842
Report and order....48323
73.30 Revised....27949
73.99 (f)(7) revised....27950
73.182 (k)(4) and (q) table revised....27950
73.202 (b) table amended
45577—45579, 46812—46814, 47006, 47007, 49147, 49148, 53860, 53861, 54533, 54935, 54936, 55468, 55469, 56385, 56386, 56514, 56515, 56860, 56999, 57000, 57348, 57717, 60737, 62483
(b) table amended....4355, 4943, 4944, 5300, 6193, 7194, 7195, 7869, 8233—8235, 11196, 11197, 12902, 12903, 13424, 15288, 15289, 15290, 15439, 15440, 16502, 16503, 16779, 16780, 16781, 17349, 17786, 17787, 19359, 21106, 21107, 21259, 25950, 26070, 26252, 26525, 26526, 26919, 27214, 27473, 27474, 29792, 31178, 31657, 31658, 32306, 32449, 33917, 33918, 34000, 34538, 35410, 37431, 38087, 38088, 40365, 40366, 41045, 41046, 41047, 41638, 42020, 42503, 42688, 46090
(b) table amended; eff. 10-7-93....45267, 45268
(b) table amended; eff. 10-12-93....46090, 46551
(b) table amended; eff. 10-22-93....48325, 48326
(b) table amended; eff. 10-25-93....48614
(b) table amended; eff. 11-8-93....50288
73.203 (b) revised; note added....38535
73.208 (a) note added....38537
73.215 (e) amended....46325
73.232 Amended....48333
73.295 (a) amended....48333
73.310 (a)(2) amended....48333
73.312 (b) revised....44950
73.313 (d) amended....48333
73.316 (c)(2) amended....44950
73.319 (a)(1) amended....48333
73.501 (a) table amended....44950
73.606 (b) table amended....56516
(b) table amended...12903, 26525, 42878
73.644 (b)(1) amended....48333
73.659 Revised....28932
73.660 (a) and (b) removed; (c) redesignated as (b); new (b) introductory text revised; new (a) added....28932
73.661 Revised (effective date pending)....28932
Regulation at 58 FR 28932 effective date confirmed....45842
73.662 (b), (c), (e) and (j) removed; (d) and (f) through (i) redesignated as (b) through (f); new (g) added....28932
73.681 Amended....44951
73.682 (a)(21)(iv) and (22)(i) revised....29982
73.685 (f)(5) amended....44951
73.699 Figure 17 revised....29983
73.1010 (a)(4) revised; (a)(7) added....48333

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 47 Chapter I—Con. Page
73.1125 (a) amended ... 48333
73.1225 (b) amended; (d)(3)(iii) revised ... 48333
73.1620 (g) amended ... 48333
73.1820 (b)(8) revised ... 44951
73.2080 (d) amended ... 42249
73.3500 Amended ... 48333
73.3526 (a)(11) revised ... 28932
73.3573 (a)(1) revised; Notes 1 and 2 redesignated as Notes 2 and 3; new Note 1 added ... 38535
73.3999 Revised ... 5937
74 Policy decision ... 53588
Authority citation revised ... 42250
74.432 (k) revised ... 19775
74.433 (c) revised ... 19775
74.452 (c) revised ... 19775
74.532 (f) revised ... 19775
74.537 (c) revised ... 19775
74.551 (b) revised ... 19775
74.602 (a) Footnotes US219 and US222 revised ... 34378
74.632 (g) revised ... 19774
74.633 (b) revised ... 19775
74.651 (b) revised ... 19776
74.735 (c)(4) amended ... 44951
74.832 (i) revised ... 19776
74.833 (c) revised ... 19776
74.902 (f) revised ... 44951
74.903 (b)(1)(ii), (2) and (3) revised ... 44951
74.931 (a) redesignated as (a)(1); (a)(2) added ... 34378
(h) and (j) amended ... 44951
74.935 (c) introductory text amended ... 44951
74.937 (a) amended ... 44951
74.985 (g) revised ... 11799
(d), (g) introductory text and (5) amended ... 44951
74.990 (a) amended ... 44951
74.996 Added ... 42250
74.1204 (g) and (j) revised ... 42025
74.1205 Introductory text added; (d) revised ... 42025
74.1231 (f) revised ... 42026
74.1232 (d) and (e) amended; (e) note added ... 42026
74.1235 (i) note added; (j) revised ... 42026
74.1237 (d) revised ... 42026
76 Authority citation revised ... 7993, 17357, 19626, 19627, 21109, 27670, 29753, 33561, 42250
Memorandum opinion and order ... 11972
Authority citation suspended; new authority citation added; effective to 8-3-93 ... 17531
Technical correction ... 19626, 36604
Petition denied ... 21929, 29553, 32452
Clarification ... 32449
Interim report ... 38088
76.5 (kk) added ... 61010
(ll) and (mm) added ... 11971
(b) revised; (nn), (oo) and (pp) added ... 17357
(gg) removed ... 29753
Regulation at 58 FR 29753 effective date delayed to 10-1-93 ... 33560
Regulation at 58 FR 29753 and 33560 effective date corrected to 9-1-93 ... 41042
Regulation at 58 FR 29753 and 33560 effective date pending ... 43816
(e) and (jj) amended ... 44951
76.7 Revised ... 17358
76.10 Removed ... 29753
Regulation at 58 FR 29753 effective date delayed to 10-1-93 ... 33560
Regulation at 58 FR 29753 and 33560 effective date corrected to 9-1-93 ... 41042
Regulation at 58 FR 29753 and 33560 effective date pending ... 43816
76.33 Removed ... 29753
Regulation at 58 FR 29753 effective date delayed to 10-1-93 ... 33560
Regulation at 58 FR 29753 and 33560 effective date corrected to 9-1-93 ... 41042
76.51 Amended; note added ... 17359
(b)(55) revised ... 30995
76.55 Added ... 17359
(b)(1) and (d)(4) amended ... 44951
76.56 Added ... 17360
(b)(6) removed ... 39161
(b)(7) added ... 40368
76.57 Added ... 17361
(e) added ... 40368
76.58 Added ... 17361
76.59 Added ... 17361
76.60 Revised ... 17362
76.61 Added ... 17362
76.62 Revised ... 17362
76.63 Removed ... 17363

NOTE: Boldface page numbers indicate 1992 changes.

Page
76.64 Added ... 17363
76.66 Removed ... 17363
76.71 (a) revised ... 42250
76.77 (d) added ... 42250
76.92 (g) added ... 17364
(d), (e) and (f) note revised ... 44951
76.300 (a) revised ... 17364
76.302 Added ... 17364
76.305 (a) amended ... 7993
76.309 Added ... 21109
Waiver ... 41042
76.501—76.502 (Subpart J) Heading revised ... 42019
76.501 Revised ... 27677
(d) and (e) added ... 42019
(e)(1) correctly revised ... 50856
76.502 Added; effective in part 11-4-93 ... 42019
(i)(1) corrected ... 45064
76.601 (c)(1), (2) and (4) revised; note added ... 61010
76.605 (a)(3), (4) introductory text, (5), (6), (10), (11), (12) and Note (2) revised; Notes (4), (5) and (6) added ... 61010
(a)(3) revised ... 44952
76.607 Revised ... 61011
76.609 (h)(2) revised ... 61011
(h)(5) revised ... 44952
76.611 (a)(1) revised ... 44952
76.701 (Subpart L) Added ... 7993
76.702 Added ... 19626
76.801—76.802 (Subpart M) Added ... 11971
76.900—76.985 (Subpart N) Added ... 29753
Regulation at 58 FR 29753 effective date delayed to 10-1-93 ... 33560
Regulation at 58 FR 29753 and 33560 effective date corrected to 9-1-93 ... 41042
Regulation at 58 FR 29753 and 33560 effective date pending ... 43816
76.900 Added; eff. 10-6-93 ... 19627
Regulation at 58 FR 19627 withdrawn ... 29753
Regulation at 58 FR 19627, 29753 and 33560 effective date corrected to 9-1-93 ... 41042
Regulation at 58 FR 29753 and 33560 effective date pending ... 43816
76.911 (c)(3) revised ... 46735
76.922 (d)(2)(vi) revised ... 46735
76.930 Comment period extended to 11-15-93 ... 41042
76.931 Revised ... 46735
76.932 Waiver ... 41042
76.942 (c)(1) amended ... 46736
76.945 Regulation at 58 FR 29753 effective date delayed to 10-1-93 ... 33560
(a) comment period extended to 11-15-93 ... 41042
76.951 (b)(4)(i) amended ... 46736
76.953 (a) revised ... 46736
76.956 (d) comment period extended to 11-15-93 ... 41042
76.964 Waiver ... 41042
76.1000—76.1090 (Subpart O) Heading added; effective to 8-3-93 ... 17531
Heading revised ... 27670
76.1000 Added ... 27670
76.1001 Added ... 27671
76.1002 Added ... 27671
76.1003 Added ... 27673
76.1090 Added; effective to 8-3-93 ... 17531
Regulation at 58 FR 17531 revised in part and effective date extended to 11-15-93; (a) revised ... 33560
78.11 (e) amended ... 44952
78.18 (i)(2) revised ... 44952
78.19 (d)(1)(i) through (iv) revised ... 44952
78.33 (c)(12) revised ... 44952
80 Technical correction ... 57000
Temporary waiver ... 29983
80.5 Amended ... 16504
80.15 (e)(1) introductory text revised ... 33344
80.148 Introductory text revised ... 16504
80.205 (a) table amended ... 33344
80.207 (d) table amended ... 33344
80.209 (a) table amended ... 33344
80.257 (j) revised ... 44952
80.261 (l) revised ... 44952
80.269 (b)(9) revised ... 44952
80.309 Amended ... 61012
80.361 (b) revised ... 16504
80.371 (c) table amended ... 44953
80.373 (f) second Footnote 14 and Footnote 15 redesignated as Footnotes 15 and 16 ... 16504

NOTE: Boldface page numbers indicate 1993 changes.

TITLE 47 Chapter I—Con. Page
(b)(6) and (f) table amended; (g) introductory text revised ... 44953
80.375 (c)(2) revised ... 44953
80.379 (b)(5)(i) and (7) revised ... 44953
80.383 (a) table amended; (b)(5) and Footnote 2 added; (b)(3) and (4) revised ... 16504
80.759 (b) and (c) revised ... 44953
80.808 (a)(8) revised ... 44953
80.828 Amended ... 44953
80.829 (f) revised ... 44953
80.865 Revised ... 44953
80.875 (b) revised ... 44953
80.915 (b) revised ... 44953
80.917 (c) revised ... 44953
80.933 (a) revised ... 44954
80.1001 (a) revised ... 61012
(c) revised ... 44954
80.1011 Revised ... 61012
80.1013 Revised ... 61012
80.1015 (b) revised ... 44954
80.1057 Introductory text added ... 33344
80.1179 (a) revised ... 44954
80.1181 (a)(1) revised ... 44954
87.5 Amended ... 45749
Regulation at 57 FR 45749 effective date corrected to 1-4-93 ... 45946
87.51 Added ... 45749
Regulation at 57 FR 45749 effective date corrected to 1-4-93 ... 45946
87.131 Table amended ... 45749
Regulation at 57 FR 45749 effective date corrected to 1-4-93 ... 45946
87.133 (a)(7) table amended ... 45749
(a) table amended ... 30127
Regulation at 57 FR 45749 effective date corrected to 1-4-93 ... 45946
87.137 (a) table amended ... 45749
(a) table amended ... 30127
Regulation at 57 FR 45749 effective date corrected to 1-4-93 ... 45946
87.139 (i) introductory text added ... 45749
(h) introductory text revised ... 30127
Regulation at 57 FR 45749 effective date corrected to 1-4-93 ... 45946
87.141 (j) added ... 45749
Regulation at 57 FR 45749 effective date corrected to 1-4-93 ... 45946
87.145 (b) revised; (e) added ... 45750
(d)(4) added ... 30127
Regulation at 57 FR 45750 effective date corrected to 1-4-93 ... 45946
87.147 (d)(3) revised ... 45750
Heading and (d) introductory text revised; (a) and (b) amended; (e) added ... 30127
Regulation at 57 FR 45750 effective date corrected to 1-4-93 ... 45946
87.171 Amended ... 45750
Regulation at 57 FR 45750 effective date corrected to 1-4-93 ... 45946
87.173 (b) table amended; (c) revised; (d) added ... 45750
(b) table amended ... 30127
Regulation at 57 FR 45750 effective date corrected to 1-4-93 ... 45946
87.185 (b) and (c) revised; (d) added ... 45750
Regulation at 57 FR 45750 effective date corrected to 1-4-93 ... 45946
87.187 (p) through (aa) redesignated as (q) through (bb); new (p) added ... 45750
(m) through (bb) redesignated as (n) through (cc); new (m) added ... 30127
(l)(1), (z) and (aa) revised ... 44954
Regulation at 57 FR 45750 effective date corrected to 1-4-93 ... 45946
87.189 (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; (a), new (c) and (d) revised ... 45750
Regulation at 57 FR 45750 effective date corrected to 1-4-93 ... 45946
87.195 (a) amended ... 30128
87.199 Added ... 30128
87.263 (a)(3) revised ... 44954
87.303 (b) table amended ... 44954
87.305 (a)(1) amended ... 44954
90 Technical correction ... 47793
Clarification ... 48191

NOTE: Boldface page numbers indicate 1992 changes.

Page
Petition for stay denied ... 53293
Temporary regulation ... 17787
Order ... 21110
90.5 (b) revised ... 21407
90.7 Amended ... 44954
90.19 (f)(7) revised ... 44955
90.21 (b) table amended; (c)(19) added ... 30129
90.23 (c)(14) revised ... 44955
90.27 Added ... 12178
90.38 (a)(4) redesignated as (a)(5); new (a)(4) added ... 45751
90.53 (a) and (b) revised ... 12180
90.55 Introductory text, (a) table and (b) table amended ... 12181
90.59 Amended ... 31476
90.63 (c) table amended ... 60133
(d)(27) added ... 60134
(c) table corrected ... 376
(c) corrected ... 38537
90.65 (b) table amended; (c)(43) added ... 60134
(b) corrected ... 38537
(c)(37), (38) and (40) revised ... 44955
90.67 (c)(34) amended ... 30129
(c)(28), (31) and (33) revised ... 44955
90.69 Heading, (a) introductory text, (a)(1) introductory text and (b) introductory text amended ... 31476
(a)(2) revised ... 31477
90.71 (c)(2) amended ... 31476
90.73 (d)(7) amended ... 30129
(d)(10) amended ... 31476
(d)(3), (29), (30) and (33) revised ... 44955
90.75 (b) table amended; (c)(45) added ... 60134
(b) corrected ... 38537
(c)(10) revised ... 40369
(c)(3) and (27) revised ... 44955
90.79 (c) table amended; (d)(28) added ... 60134
(d)(4) amended ... 30129
(d)(21) and (22) revised ... 44956
90.81 (d)(4) revised ... 44956
90.91 (b) table amended ... 60134
(c)(21) added ... 60135
(c)(2) amended ... 30129
90.93 (c)(10) revised ... 44956
90.103 (c)(26) and (27) revised ... 44956
90.125 Revised ... 21407
90.127 (c) revised; (e) added ... 48739
90.135 (a)(5) revised; (a)(8) removed ... 48739
90.137 (a)(2) revised ... 44956
90.159 (a) revised ... 44956
90.175 (g) added ... 48739
(f)(3) revised ... 60135
(a) revised ... 44957
90.176 (a) and (b) revised; (c) redesignated as (d); new (c) added ... 12181
90.179 (e) removed; (f) and (g) redesignated as (e) and (f) ... 48739
90.235 (l) revised ... 30996
90.239 (c)(3)(ii) revised ... 44957
90.241 (a)(4) revised ... 44957
90.250 (d) revised ... 44957
90.257 (b) introductory text revised; (b)(1) amended ... 60135
(b) introductory text revised; (b)(1) amended ... 30129
90.261 (e) revised ... 33212
90.271 (a)(1) revised ... 44957
90.273 (b) amended ... 31476
(c) introductory text and (d) revised ... 44957
90.279 (a) revised ... 44957
90.307 (d) revised ... 44957
90.309 (a)(2) through (5) and Tables A through E revised ... 44958
90.311 (a) table amended ... 12181
90.315 (a), (d) Table 1, (e) Table 2 and (f) through (i) revised ... 44959
90.423 (a)(1), (c)(1) and (2) revised ... 44960
90.425 (d)(9) added ... 39451
(a)(4)(ii) revised ... 44960
90.463 (f) revised ... 44960
90.477 (d)(3) revised ... 44961
90.483 (b)(1)(ii), (2)(i), (ii), (c) and (d) revised ... 44961
90.494 (a) Footnote 1 amended ... 40369
(f) revised ... 44962
90.555 (b) amended ... 55146
(a) table and (b) table amended ... 12181
(a) table amended ... 31476
(b) table amended ... 44962
90.609 (d)(4) revised ... 44962
90.615 (a) amended ... 31477
(b)(2)(ii) revised ... 44962
90.617 (b) amended ... 31476

NOTE: Boldface page numbers indicate 1993 changes.

TITLE 47 Chapter I—Con. Page

(d) introductory text revised; Table 4C amended....44962
90.619 (a) introductory text, (2) introductory text, (3) introductory text, (4) introductory text and (5) introductory text revised; (a)(3) Table 2, (a)(4) Table 3 and (a)(5) Table 4 redesignated as (a)(3) Table 2A, (a)(4) Table 3A and (a)(5) Table 4A and amended; (a)(3) Table 2B, (a)(4) Table 3B and (a)(5) Table 4B added....55146
(b)(6) revised....44963
(a)(3) and (b)(7)(iii) amended....31476
90.621 (b)(2)(i) and (c) revised....44963
90.623 (c) introductory text and (d) amended....44963
90.627 (b) introductory text amended....44963
90.629 Revised....34379
90.631 (f) revised....12177
Regulation at 58 FR 12177 suspended in part....31345
(b) revised....34380
90.635 Tables 2, 3 and 4 revised....44963
90.647 (b) revised; (c) added....12177
90.657 Revised....44964
90.713 (a)(1) and (6) revised; eff. 10-5-93....36363
90.715 (a) introductory text amended; (c) added....55148
90.719 Revised....12182
90.725 (h) text revised; eff. 10-5-93....36363
90.729 (c) amended....44964
90.731 Revised....30996
94.3 Amended....44964
94.15 (g)(1) and (2) revised....44965
94.17 (a)(1) revised....29793
94.29 Revised....21407
94.45 (a)(10) revised; eff. 12-20-93....49233
94.59 Added....49022
Revised; eff. 10-4-93....46550
94.61 (b) revised; eff. 12-20-93....49233
94.63 (d)(4)(i) revised....44965
(a) revised; eff. 12-20-93....49234
94.65 (a)(1) revised....25951
(a)(1)(v) revised....44965
(g) and (i) revised; (h) and (j) through (m) redesignated as (i) and (m) through (p); new (h), (j) and (k) added; eff. 12-20-93....49234
(m)(8) revised; (q) and (r) added; eff. 12-20-93....49239
94.71 (b) revised; eff. 12-20-93....49240
94.73 Revised; eff. 12-20-93....49240
94.75 (b) revised; eff. 12-20-93....49241
94.77 Introductory text and (a) heading revised; eff. 12-20-93....49242
94.79 Revised; eff. 12-20-93....49242
94.81 (c) added; eff. 12-20-93....49242
94.90 (f) revised....44965
94.94 Revised; eff. 12-20-93....49242
95 Reconsideration petition....48459
95.87 Revised....21407
95.813 (a)(3) revised; (a)(4) added....25952
95.815 (e) revised....25952
97 Ruling....48459
97.17 (b) and (f) revised; (g) added....30717
97.19 (a) and (b) revised....30718
97.29 Added....30718
97.113 (f) correctly added....47219
97.507 (c) revised; (d) removed; (e) redesignated as (d)....29126
97.511 Revised....29126
97.513 Removed....29127
97.521 (c) revised....29127
97.527 (a) revised; (c) removed; (d) through (g) redesignated as (c) through (f)....29127
99 Added....42685
100 Authority citation revised....42251
100.51 (e) added....42251

Chapter III—National Telecommunications and Information Administration, Department of Commerce (Parts 300—399)

300 Revised....44136

Title 47—*Proposed Rules:*

0—199 (Ch. I) ...53907, 53462, 54744, 58436, 60501, 62543

NOTE: Boldface page numbers indicate 1992 changes.

Page

...3522, 4139, 5319, 6471, 6937, 7062, 8248, 8927, 8928, 12915, 13041, 14367, 15120, 15461, 31182, 31688, 36630
1 ....54034, 60781
...3929, 6376, 6937, 8731, 14369, 19393, 39721, 43091
2 ...48353, 48775, 48776, 54034, 54204, 57049, 57438, 57717
...4974, 6381, 6769, 8731, 14532, 17180, 19644, 31183, 34404, 39721
13 47027
15 54204
....6769, 7205, 31183
18 59040
19 34405
21 ....48353, 48776
....6376, 12202, 42047
22 ....48353, 48776
....25962, 31183
25 ....13432, 13433, 14532
32 ....14535, 16163, 49276
36 ....54088, 58767
....48815
43 ....530, 7764, 42922
61 ....54205, 54888, 58767, 61591
...13435, 17813, 26087, 31936, 33061, 37804, 44157
63 ....46366, 57717
....6381
64 ....54088, 58767, 62544
...9137, 12204, 13435, 14371, 21434, 46123
65 ....4637, 16163
68 14375
69 ....54205, 54542, 54888, 58767, 61591
....4637, 11203, 12204, 13435
73 ...45601, 46132, 46367, 46368, 46369, 46529, 47027, 47028, 48494, 49055—49058, 49160, 49161, 49162, 53678, 53679, 53874, 54543, 54544, 55218, 55591, 55592, 58540, 58894, 57051, 57409, 57411, 58789, 59930, 60782, 60783, 61037, 61591, 62545
...3002, 3004, 3929, 4139, 4392, 4393, 4974, 5320, 5322, 5323, 6201, 6677, 7874, 7875, 8248, 11204, 11205, 11206, 12916, 12921, 13435, 13436, 13437, 15321, 15461, 15462, 16518, 16643, 16644, 16809, 17816, 17817, 17818, 19216, 19394, 19395, 19396, 21137, 25592, 25993, 25594, 25794, 26088, 26089, 26528, 26947, 27286, 27606,

Page

31183, 31184, 31686, 31687, 31688, 32339, 32340, 32503, 32504, 33922, 33923, 34025, 34026, 34555, 34556, 34755, 35420, 35421, 36184, 36374, 36375, 36376, 37696, 38111, 38547, 38548, 39493, 39494, 39722, 40398—40402, 41680, 41681, 42520, 42521, 42522, 42713, 42714, 42715, 42923, 44483, 44484, 45311, 45877, 46152, 46605, 48349, 48819, 49278, 50313
74 53679
.... 12011, 25794, 26728, 33923, 42522
76 ...54207, 54209, 54544, 56298, 59331, 60501, 61038, 62282
...48, 328, 3005, 3523, 3929, 7205, 7875, 12917, 12921, 29763, 34980, 39184, 39185, 40762, 42047, 42275, 43853, 45084, 45312, 46737
80 57717
..... 6381, 17568, 17180, 29174, 31185
87 ....17568, 31185, 34404, 39722
88 54034
....8731, 39721
89 31183
90 ....47601, 49058, 53462, 54034, 57717
...6381, 8731, 12205, 15131, 17568, 17819, 19396, 21276, 33062, 38549, 39721
94 ....48353, 48776, 54034
....8731, 17568, 39721
97 59950
....17180, 17375
100 3929

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Federal Acquisition Circular (FAC) 90-16....60570
4.602 (d) revised....60572
4.603 Removed....60572
4.805 Introductory text revised; table amended....60573
5.206 Revised....60574
7.103 (l) added....60574
7.300 Revised....60575
7.302 (d) revised....60575

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 48 Chapter 1—Con. Page

7.303 (b)(1) amended; (b)(3) added 60575
7.304 (b)(1) and (c)(1) amended 60575
7.306 (a)(1)(i), (ii), (iii), (v), (2), (4), (b) introductory text, (1)(ii), (2)(ii) and (3) amended 60575
7.307 (a) revised 60575
8.002 (f) revised 60576
9.404 (d) revised 60577
13.000 Amended 60577
13.101 Amended 60577
13.103 (c) added 60577
14.201-6 (x) and (y) amended; interim 31141
15.106-2 (a) revised; (b) amended 60578
15.407 (l) and (m) amended; interim 31141
15.804-2 (a)(1)(ii) amended; (a)(1)(iii) and (iv) revised; (a)(2), (3) and (4) redesignated as (a)(3), (4) and (5); new (a)(2) added 60579
17.203 (h) amended; interim 31141
19.001 Amended 60580
19.102 (f)(1) amended; (f)(5) revised 60580
19.202-1 (e)(2)(ii) amended 60581
22.501—22.507 (Subpart 22.5) Added; interim 55470
Removed 12140
22.1101 Amended 60582
22.1103 Revised 60582
22.1500—22.1509 (Subpart 22.15) Removed 12140
25.4 Heading revised; interim 31141
25.108 (d)(1) amended 60583
25.109 Heading and (d) revised; (e), (f) and (g) added; interim 31141
25.202 (a)(3) amended; (b) removed; (c) redesignated as (b) 60583
(c) added; interim 31141
25.205 Revised; interim 31141
25.400 Revised; interim 31141
25.401 Amended 48471
Amended; interim 31142
25.402 (a)(4) and (5) redesignated as (a)(5) and (6); new (a)(4) added; (c) amended; interim 31142
25.403 (e), (h) and (l) revised; interim 31142
25.406 Introductory text removed; interim 31142
25.407 Redesignated as 25.408; new 25.407 added; interim 31142
25.408 Redesignated from 25.407; interim 31142
25.1000—25.1003 (Subpart 25.10) Added; interim 31142
30.602-2 Corrected 47373
31 Technical correction 3850
31.205-6 (g)(2)(i)(D) amended 60584
33.104 Revised 60585
36.101 (a) revised; interim 55471
(a) amended 12140
37.110 (f) removed 60584
42.1404-1 (b) revised 60587
45.105 (b) revised 60588
45.106 (d) amended; (e) revised 60588
45.301 Amended 60589
45.302-3 (a) revised; (b) amended 60588
(c) amended 60589
45.307-2 (a) amended 60588
45.506 Revised 60588
45.606-1 (b) revised 60590
51.106 (b) amended 60590
52.204-4 Removed 60572
52.207-1 Amended 60575
52.207-2 Amended 60575
52.214-34 Introductory text amended; interim 31143
52.214-35 Introductory text amended; interim 31143
52.215-1 Amended 60578
52.215-2 Amended 60578
52.222-5 Added; interim 55471
Removed 12140
52.222-18 Removed 12140
52.222-45 Removed 60582
52.222-46 Amended 60582
52.225-8 Introductory text amended; interim 31143
52.225-9 Introductory text amended; interim 31143
52.225-15 Added; interim 31143
52.225-16 Added; interim 31144
52.225-17 Added; interim 31144
52.225-18 Added; interim 31144
52.225-19 Added; interim 31144
52.230-2 Corrected 45878
52.237-8 Removed 60584
52.242-11 Amended 60587

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Page

52.245-18 Amended 60589
53.236-2 (b) and (c) revised 60591

Chapter 2—Department of Defense (Parts 200—299)

201 Technical correction 32416
Authority citation amended 37868
201.603-2 Revised; interim 28463
202 Technical correction 45422
Authority citation amended 37868
203 Authority citation amended 37868
204 Technical correction 45422
Authority citation amended 37868
204.670-2 (c) redesignated as (d); new (c) added 53598
204.7202-1 (c)(1), (4) and (5) amended 53598
204.7203 (d) amended 53598
204.7204-1 (a)(4) and (b) amended 53598
205 Authority citation amended 37868
206 Technical correction 32416
Authority citation amended 37868
206.302-1 (a)(2)(i) introductory text revised; interim 28463
206.302-5 (b) added 53598
(c)(ii) revised; (c)(iii) added; interim 28463
207 Technical correction 32416
Authority citation amended 37868
207.105 (b)(17)(A) revised; (b)(17)(B) redesignated as (b)(17)(C); (b)(2)(v) and new (b)(17)(B) added; interim 28463
(b)(15) added 32061
208 Technical correction 45422
Authority citation amended 37868
209 Technical correction 32416
Authority citation amended 37868
209.101 Added; interim 28464
209.104-1 Revised; interim 28464
209.104-70 Revised; interim 28464
209.106-2 (a)(iii) added; interim 28464
209.406-2 Added; interim 28464
209.406-4 Added; interim 28464
210 Technical correction 45422
Authority citation amended 37868
210.002-71 Added 32062
211 Authority citation amended 37868
212 Authority citation amended 37868
213 Authority citation amended 37868
213.000 Added 53599
213.101 (Subpart 213.1) Added 53599
214 Technical correction 45422
Authority citation amended 37868
214.503-1 (a)(4) removed 53599
215 Technical correction 45422
Authority citation amended 37868
Technical correction 18448, 32416
215.605 (a) revised; (b) added; interim 28465
215.804-3 (i)(iii) introductory text amended 53599
215.804-8 (a) removed 53599
215.870 Removed 32062
215.870-1 Removed 32062
215.870-2 Removed 32062
215.870-3 Removed 32062
215.870-4 Removed 32062
215.870-5 Removed 32062
215.870-6 (a) amended 53599
Removed 32062
215.975 (b) amended 53599
215.7000—215.7006 (Subpart 215.70) Removed 53599
Reinstated 55472
Removed 16782
216 Technical correction 45422
Authority citation amended 37868
217 Technical correction 32416
Authority citation amended 37868
217.102-3 Added 53599
217.103-1 (a)(iii) revised 53599
(a)(iii) revised; interim 28465
219 Technical correction 45422
Authority citation amended 37868
219.502-1 Revised; interim 28465
219.502-2 Revised; interim 28465
219.602-1 Revised; interim 28465
219.602-70 Added; interim 28465
219.702 (a)(i)(A)(*1*) revised; interim 28465
(a)(i)(A)(*1*) correctly designated 32416
219.703 (a) introductory text revised; interim 28465
219.705-2 Revised; interim 28465
219.808-1 (b)(i) revised; interim 28465
219.1005 (a) revised; interim 28466
219.1006 Revised; interim 28466
219.7100 Amended; interim 47275

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 48 Chapter 2—Con. Page

219.7102 (b) and (d) revised; interim....47275
Introductory text amended; interim....28466
219.7103-1 (a) revised; interim....47275
219.7104 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (d) revised; interim....47276
219.7106 (a)(1)(ii) amended; (c) redesignated as (d); new (c) added; interim....28466
219.7107 Added; interim....47276
222 Technical correction....32416
Authority citation amended....37868
222.1308 Added; interim....28466
222.7100—222.7102 (Subpart 222.71) added; interim....52593
223 Technical correction....45402
Technical correction....32416
Authority citation amended....37868
223.7000 Added; interim....28466
223.7002 (a) introductory text amended; (b) introductory text revised....53599
(a)(1) revised; interim....28466
223.7100—223.7103 (Subpart 223.71) Added; interim....28466
224 Authority citation amended....37868
225 Technical correction....45402
Authority citation amended....37868
225.9 Removed; interim....28467
225.702 (1) revised; interim....28467
225.770-1 Revised; interim....28467
225.770-2 Revised....53599
225.770-3 Revised....53599
225.770-4 Revised....53599
225.770-5 Added....53599
225.872-1 (b) amended....53599
225.873 Added....53599
225.873-1 Added....53599
225.873-2 Added....53599
225.873-3 Added....53600
225.7002-2 (e) and (f) revised; interim....28467
225.7002-4 (a) and (c) introductory text revised; interim....28467
225.7003-2 Revised; interim....28467
225.7005 Removed; interim....28467
225.7014-1 Revised; interim....28467
225.7014-2 Revised; interim....28467
225.7014-3 Revised; interim....28467
225.7015-1 Revised; interim....28467
225.7015-3 Revised; interim....28467
225.7017-1 Revised; interim....28468
225.7017-2 Revised; interim....28468
225.7017-4 (a) and (b) revised....53600
225.7018 Added; interim....28468
225.7018-1 Added; interim....28468
225.7018-2 Added; interim....28468
225.7018-3 Added; interim....28468
225.7019 Added; interim....28468
225.7019-1 Added; interim....28468
225.7019-2 Added; interim....28468
225.7019-3 Added; interim....28468
(a)(2) corrected....32416
225.7019-4 Added; interim....28468
225.7102 (e) removed; (f) redesignated as (e); interim....28468
225.7103 (e)(2) and (f) amended; (g) and (h) removed; interim....28468
225.7104 Revised; interim....28468
225.7200—225.7203 (Subpart 225.72) Revised; interim....28469
225.7303-2 (c) introductory text revised....53600
226 Technical correction....45402
Authority citation amended....37868
227 Technical correction....45402
Technical correction....32416
Authority citation amended....37868
227.304-1 Amended....53600
227.403-70 (b)(1) revised....53600
227.405-79 (b)(1) introductory text amended; interim....28469
228 Technical correction....45402
Technical correction....32416
Authority citation amended....37868
228.102-1 Introductory text and (4) revised; interim....28469
229 Authority citation amended....37868
230 Authority citation amended....37868
231 Technical correction....45402
Technical correction....32416
Authority citation amended....37868
231.205-6 Added....53600
(g)(2)(i) amended; interim....28469
231.205-18 (c)(1)(iii)(*I*) redesignated as (c)(1)(i)(C)(*1*); (c)(2) added....53600
231.205-22 Added; interim....28469
231.7000—231.7002-6 (Subpart 231.70) Revised; interim....28469
232 Technical correction....45402
Authority citation amended....37868

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Page
Authority citation revised....46092
232.702—232.705-70 (Subpart 232.7) Added; interim....46092
233 Technical correction....32416
Authority citation amended....37868
233.211 Removed; interim....28470
233.7000 Revised; interim....28470
234 Authority citation amended....37868
235 Authority citation amended....37868
235.006 (b)(i)(C)(*1*)(*iii*) revised; interim....28471
(b)(i)(C)(*1*)(*iii*) correctly designated....32416
235.015-71 (i)(2) amended....53601
235.017 (a)(2) amended....53601
Revised; interim....28471
236 Technical correction....45402
Authority citation amended....37868
237 Technical correction....45402
Technical correction....32416
Authority citation amended....37868
237.171 Added; interim....28471
237.171-1 Added; interim....28471
237.171-2 Added; interim....28471
237.270 Revised; interim....28471
239 Technical correction....45402
Authority citation amended....37868
239.7501-2 Revised; interim....28471
Correctly designated....32416
241 Authority citation amended....37868
242 Technical correction....45402
Authority citation amended....37868
242.205 (1)(iii) revised....53601
242.302 (a)(9) added; (a)(11) removed....53601
242.771 Added....53601
242.771-1 Added....53601
242.771-2 Added....53601
242.771-3 Added....53601
242.1005—242.1008 (Subpart 242.10) Removed....53601
243 Authority citation amended....37868
244 Authority citation amended....37868
245 Technical correction....45402
Authority citation amended....37868
245.7308 (a) amended....53601
246 Authority citation amended....37868
247 Authority citation amended....37868
248 Authority citation amended....37868
249 Authority citation amended....37868
Authority citation revised....43286
249.7003 Added; interim....43286
250 Authority citation amended....37868
251 Authority citation amended....37868
252 Technical correction....45402
Technical correction....18448
Authority citation amended....37868
Authority citation revised....43286, 46092
252.203-7001 Amended; interim....28471
252.209-7001 Amended; interim....28471
252.209-7002 Added; interim....28471
252.215-7003 Removed....32062
252.215-7004 Removed....53601
Reinstated....55472
Removed....16782
252.219-7003 Amended; interim....28472
252.219-7007 Amended; interim....28472
Corrected....32416
252.219-7008 Added; interim....47276
252.219-7009 Added; interim....28472
252.222-7001 Added; interim....52594
Amended; interim....28472
252.223-7005 Revised....53601
(e) correctly added....40388
252.223-7006 Added; interim....28472
252.225-7016 Added; interim....28473
252.225-7025 Revised; interim....28473
252.225-7026 Revised; interim....28474
252.225-7030 Revised....53601
252.225-7032 Added....53602
252.225-7033 Added; interim....28474
252.227-7013 Amended; interim....28474
252.231-7001 Revised; interim....28474
252.232-7005 (b) revised....53602
252.232-7007 Added; interim....46093
252.233-7000 Amended....28475
252.237-7020 Added; interim....28475
252.237-7021 Added; interim....28475
252.249-7002 Added; interim....43287
253 Technical correction....45402

NOTE: Boldface page numbers indicate 1993 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 48 Chapter 2—Con. Page

Technical correction 32416
Authority citation amended 37868
253.204-71 (a)(3) added 53602
253.303-2139 Removed; interim 28475
Chapter 2 Appendixes F and G amended 53602
Appendix B amended; interim 28475
Appendixes A through G amended 37868

Chapter 5—General Services Administration (Parts 500—599)

501.603-70 (h)(1)(iv)(K) revised 61583
501.670-4 (a)(3) revised 61583
502.101 Amended 61583
504.201 Revised 61583
504.803 (a)(23) revised 61584
508.304-5 Revised 61584
508.371 Removed 61584
509.406 (b)(6) through (9) redesignated as (b)(7) through (10); new (b)(6) added 26920
509.407-3 (b)(5) and (6) redesignated as (b)(6) and (7) and revised; new (b)(5) added 26920
(b)(7)(iii) corrected 29254
510.011 (j) added 61584
515.406-1 (a) revised 61584
515.414-70 (b) revised 61584
517.200 Added 59939
517.201 Removed 59939
517.202 Added 59939
517.203 Added 59939
517.204 Revised 59939
517.207 Revised 59939
517.208 Revised 59939
522.1006 Revised 47398
530.201-5 Revised 61584
530.470 (Subpart 530.4) Added 61584
533.104 (c) revised 61584
552.217-71 Added 59939
552.222-43 Corrected; CFR correction 8235
Removed 47399
552.270-10 Corrected 52826
552.270-28 Corrected 52826
552.270-37 Corrected 52826
570.203 (a)(8)(vii) table and (9) corrected 52826
570.303 Corrected 52826
570.702-30 Heading corrected 52826

Chapter 7—Department of Veterans Affairs (Parts 700—799)

Page

701.7 Added 8702
701.105 (a) amended (OMB numbers) 8702
701.601 (b)(4) amended 8702
706.302-5 Revised 8702
706.302-71 (a)(1) revised 8702
709.507-2 Added 42255
716.306 Added 8702
719.272 Revised 8702
726.000 Revised 8702
726.104 Revised 8702
726.301 Heading revised 42255
726.302 Added 42255
733.7006 (d) removed; (e) through (h) redesignated as (d) through (g) 8703
737.206 (c)(3) amended; (c)(4) added 42255
737.270 Revised 42255
752.209-71 Added 42255
752.226-3 Added 42255
752.7009 Amended 8703

Chapter 8—Department of Veterans Affairs (Parts 800—899)

801 Authority citation revised 31915
801.602-70 (a)(4)(viii) amended 31915
803 Authority citation revised 58718
803.104 Removed 58718
803.7000—803.7002 (Subpart 803.70) Added 58718
814 Authority citation revised 48974
814.203-1 (a) designation and (b) removed 48974
833 Authority citation revised 48974
833.1 Nomenclature change 48974
833.106 Revised 48974
836 Authority citation revised 48974
836.302 Removed 48974
836.513 (Subpart 836.5) Added 48974
852 Authority citation revised 58718
852.203-71 Added 58718
852.208-70 Removed 48974
852.214-73 Revised 48974
852.233-2 Removed 48974
852.236-87 Revised 48974

Chapter 9—Department of Energy (Parts 900—999)

904.601 (c) amended 34364
904.601-70 (b) introductory text, (2) and (3)(ii) amended 36364
905.403 Amended 32307
905.403-70 Introductory text amended 32307
906.303-1(a) amended 36365
909.104-1 Regulation at 57 FR 32675 confirmed 48471
913.505-1 Heading and (a)(2) revised 36365
913.507 Added; interim 57639
Corrected 39679
915.504 (b)(6)(i) amended 32307
915.971-4 (f) amended 36365
915.971-5 (b) introductory text amended 36365
916.206 Removed 36365
916.206-3 Removed 36365
917.708 (b) removed 36365
922.103-5 Added 36151
922.473 (b) amended 36365
922.803 (d) amended 36365
922.804-2 (b)(3) amended 36365
922.7001 (c)(3), (e), (f)(1) and (h) amended 36365
922.7100—922.7101 (Subpart 922.71) Added; interim 57639
922.7101 Corrected 39679
923.570—923.570-3 (Subpart 923.5) Regulation at 57 FR 32676 confirmed 48471
925 Authority citation revised 8910
925.7000—925.7004 (Subpart 925.70) Added; interim 8910
Regulation at 58 FR 8910 confirmed 42688
933.170 (a) amended 32307
935.016-4 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f); new (f) revised 37870
935.016-5 Introductory text, (a), (b) introductory text and (c) introductory text amended; (a)(3), (b)(5) and (c)(1) revised; (b)(6) added 37870
935.016-6 (a) amended; (c) revised 37870
935.016-7 (a)(1), (2) and (4) revised; (d) concluding text, (f), (i)(2) and (j) amended; (i)(3) removed 37870
935.016-8 (c)(4) revised, (c) concluding text removed 37870
937.7010—937.7040 (Subpart 937.70) Added 36151
942.1004 Amended 32307
952 Authority citation revised 8910
952.219 Removed 36365
952.219-9 Removed 36365
952.222-70 Added; interim 57639
Corrected 39679
952.225-70 Added; interim 8911
Regulation at 58 FR 8911 confirmed 42688
952.237-70 Added 36152
Corrected 43287
952.250-70 Introductory text amended 32307
970.31 Heading amended 32308
970.72 Added 34926
970.1509-7 (a) and (c) amended 32308
970.1901 (a) amended 36365
970.2201 (b)(5)(ii) revised 36152
970.2270 (b)(2) introductory text amended 36365
970.2271 (b)(1), (2)(iv) and (3) amended 36365
970.2274-1—970.2274-2 (Subpart 970.2274) Added; interim 57639
970.2274-2 Corrected 39679
970.2305 Regulation at 57 FR 32676 confirmed 48471
970.2305-1 Regulation at 57 FR 32676 confirmed 48471
970.2305-2 Regulation at 57 FR 32676 confirmed 48471
970.2305-3 Regulation at 57 FR 32676 confirmed 48471
970.2305-4 Regulation at 57 FR 32676 confirmed 48471
970.2305-5 Regulation at 57 FR 32677 confirmed 48471
970.3102-2 (l)(2) amended 36365
970.5204-15 (b)(2) and (c) amended 32308
970.5204-20 Amended 36365
970.5204-55 (c) amended 32308

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 48 Chapter 9—Con. Page

970.5204-57 Regulation at 57 FR 32677 confirmed....48471
970.5204-58 Regulation at 57 FR 32677 confirmed....48471
970.5204-59 Added; interim....57640
970.5204-60 Added....34925
(a) corrected....43287
970.5204-63 Added....36152
Corrected....43287
970.5704-59 Corrected....39679
970.7103 (c)(3) amended....32308
970.7104-11 Heading revised....36365
970.7104-12 (f) amended....32308
(g) removed....36365
970.7104-39 Amended....32308

Chapter 15—Environmental Protection Agency (Parts 1500—1599)

1515.407 (a)(2) revised....45844, 45486
1552.215-73 Amended....45844, 45486
1552.215-74 Amended....45846

Chapter 16—Office of Personnel Management Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)

1602.170-9 Regulation at 57 FR 14359 confirmed....54001
1605—1609 Designated as Subchapter B....54001
1609 Regulation at 57 FR 14359 confirmed....54001
1632.170 Regulation at 57 FR 14360 confirmed....54001
1632.171 Regulation at 57 FR 14360 confirmed....54001
1632.172 Regulation at 57 FR 14360 confirmed....54001
1652.216-71 Regulation at 57 FR 14360 confirmed....54001
1652.232-70 Regulation at 57 FR 14360 confirmed....54001
1652.232-71 Regulation at 57 FR 14360 confirmed....54001

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

Chapter 18 Nomenclature change....51136
1801.104-370 (e) and (f) amended....58719
(f) amended....51136
1801.105 (a) revised (OMB numbers)....51136
1801.370 (a)(1)(ii) and (b) amended....58719
(a)(1)(ii) revised....51136
(a)(2)(i), (5) and (6) amended; (b) revised....51137
1801.603-2 (d)(2) amended....51137
1801.620-3 (b) revised....51137
1803.705 (b) amended....51137
1803-7001 (b) amended....51137
1804.170 (b) amended....58719
1804.202 (a) amended....58719
1804.470-1 Revised....51019
1804.470-2 Revised....51019
1804.470-3 Revised....51019
1804.470-4 Revised....51019
1804.603 Removed....51137
1804.671-4 (ss) revised....58719
(n) table amended....51137
1804.671-6 (d) revised....58719
1804.671-7 Introductory text amended....58719
1804.677-1 (c) revised; interim....60737
1804.677-4 (b) revised; interim....60737
1804.677-6 (n)(2), (4) and (q) revised; interim....60738
1804.7005 Amended....51137
1804.7102-4 (a) table amended....51137
1804.7103-2 Table amended....51137
1804.7202 Heading amended....51137
1804.7203 (b) amended....51137
1805.202 Revised....58719
1805.207 (a) table amended....51137
1805.303-71 (b)(1) introductory text amended....51137
1806.203 Added....58719
1807.103 (a)(1)(ii) (C) through (G) redesignated as (a)(1)(ii)(D) through (H); (a)(1)(i)(B) redesignated as new (a)(1)(ii)(C); (b)(1)(ii)(B) (*3*) through (*7*) redesignated as (b)(1)(ii)(B)(*4*) through (*8*); (b)(1)(ii)(A)(*2*) redesignated as new (b)(1)(ii)(B)(*3*); new (a)(1)(i)(B) and new (b)(1)(ii)(A)(*2*) added....58719
(a)(1) revised....48975
(b)(1)(i)(A)(*2*) removed; (b)(1)(i)(A)(*3*) and (*4*) redesignated as (b)(1)(i)(A)(*2*) and (*3*) and (b)(1)(i)(B)(*3*) through (*7*) redesignated as (b)(1)(i)(B)(*4*) through (*8*); new (b)(1)(B)(*3*) added....51137
(b)(1)(i)(A)(*3*) and (*4*) amended....51138
1807.7102 (b)(2) (iii) through (vii) redesignated as (b)(2)(iv) through (viii); (b)(1)(ii) redesignated as new (b)(2)(iii); new (b)(1)(ii) added....58719
(b)(1)(iv) amended....51138
1807.7104 (b) heading amended....51138
1807.7105 (b)(1) amended....51138
1807.7106 (b) and (c) amended....51138
1808.002-71 (c) amended....51138
1808.307-71 Amended....51138
1808.802—1808.870 (Subpart 1808.8) Revised; interim....47219
1809.105 Added....58720
1809.105-1 Added....58720
1809.408 Added....51138
1809.506 Redesignated from 1809.507; (a) and (b) amended....58720
1809.507 Redesignated as 1809.506....58720
Redesignated from 1809.508; heading revised....51138
1809.507-2 Redesignated from 1809.508-2....51138
1809.508 Redesignated as 1809.507....51138
1809.508-2 Amended....58720
Redesignated as 1809.507-2....51138
1812.103 Added....51138
1812.104 Amended....51138
1813.7104 (c) and (d) revised....51138
1814.407 Added....51138
1814.407-1 Added....51138
1815.413-2 Revised....51139
1815.507 Removed....58720
1815.805-5 Revised....51140
1815.1002 Added....51141
1817.7002-2 Amended....58720
1817.7002-3 Amended....58720
1819.705-4 (b) revised....42878
1819.708-70 Heading revised; existing text designated as (a); (b) added....51141
1827.406 (b)(1)(v) revised....58720
1827.409 (i) added....58720
1828.106-1 Revised....58720
1828.202 (Subpart 1828.2) Added....58720
1831.205-70 Amended....58720
1832.402-1 Amended....51141
1832.402-2 Added....4086
1832.906 Added....48615
1832.7001—1832.7008 (Subpart 1832.70) Added....4086
1833.211 Revised; interim....44462
1833.211-70 Revised; interim....44462
1833.214 Redesignated as 1833.215....58720
1835.003-70 Amended....58720
1835.070 (a) amended....58720
1836.304 Added....51141
1837.110 Revised....44463
1837.170 Revised....44463
1837.7000—1837.7001-4 (Subpart 1837.70) Added....58720
1839.7000—1839.7007 (Subpart 1839.70) Revised....58721
1842.172 Revised....51141
1842.174 (b) introductory text amended....51141
1842.202-70 (a)(6)(iii) amended....58725
(a)(3) introductory text and (d) amended....51141
1842.1203 (a) amended....51141
1843.205-70 (a) amended....51141
1845.106-70 (e) introductory text amended....51141
1845.302-1 (a) revised....58725
1845.302-73 Added....58725
1845.405 (b) and (c) introductory text amended....51141
1845.407 (a) introductory text amended....51141
1845.608-6 Amended....51141
1845.7101-1 (e) introductory text amended....51141
1845.7203 Amended....51141
1845.7205 (f)(1) and (i) amended....51141
1845.7213 (c)(1) introductory text amended....51141
1849.110 Heading revised....58725
1851.102 (b) amended....51141
1852.107-70 Removed....51142
1852.204-70 Heading and (c) amended....58725
1852.204-76 Revised....51019
1852.204-77 Revised....51020
1852.204-78 Revised....51020

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 48 Chapter 18—Con. Page

1852.208–81 Revised; interim..... 47220
1852.215–76 Heading amended..... 51142
1852.219–73 Amended..... 51142
1852.219–75 Added..... 51142
1852.223–70 Amended; (a) revised..... 51142
1852.232–83 Added..... 4088
1852.232–84 Added..... 4088
1852.235–70 Revised..... 58725
1852.237–71 Added..... 44463
1852.243–70 Amended..... 51142
1852.252–70 Removed..... 51142
1853.204–70 Heading revised..... 58726
Heading revised; (f) through (o) redesignated as (g) through (p); new (f) added..... 51020
(i) amended..... 51142
1870.303 Appendix I amended..... 58726

Chapter 20—Nuclear Regulatory Commission (Parts 2000—2099)

Chapter 20 Revised..... 61157
2001.602–3 (c) corrected..... 8449
2009.570–2 Corrected..... 8449
2012.104–70 (b)(1) amended..... 26253
2015.407–70 Revised..... 26253
2015.604 (b) corrected..... 8449
2015.605 Corrected..... 8450
2015.611 Corrected..... 8450
2015.670 Revised..... 26254
2017.204 (b) amended..... 47221
2027—2033 (Subchapter E) Correctly designated..... 12988
2030.201–5 Revised..... 26254
2052 Corrected..... 8450
2052.204–70 (d) revised..... 47221
2052.212–72 Amended..... 26254
2052.215–73 Redesignated as 2052.215–74; new 2052.215–73 added..... 26254
2052.215–74 Redesignated as 2052.215–75; new 2052.215–74 redesignated from 2052.215–73..... 26254
2052.215–75 Redesignated as 2052.215–76; new 2052.215–75 redesignated from 2052.215–74..... 26254
2052.215–76 Redesignated as 2052.215–77; new 2052.215–76 redesignated from 2052.215–75..... 26254

Page

2052.215–77 Redesignated as 2052.215–78; new 2052.215–77 redesignated from 2052.215–76; (d)(1) amended..... 26254
2052.215–78 Redesignated as 2052.215–79; new 2052.215–78 redesignated from 2052.215–77 and revised..... 26254
2052.215–79 Redesignated as 2052.215–80; new 2052.215–79 redesignated from 2052.215–78..... 26254
2052.215–80 Redesignated as 2052.215–81; new 2052.215–80 redesignated from 2052.215–79..... 26254
2052.215–81 Redesignated as 2052.215–83; new 2052.215–81 redesignated from 2052.215–80..... 26254
2052.215–82 Redesignated as 2052.215–84; new 2052.215–82 added..... 26254
2052.215–83 Redesignated as 2052.215–85; new 2052.215–83 redesignated from 2052.215–81 and revised..... 26254
2052.215–84 Redesignated as 2052. 215–86; new 2052.215–84 redesignated from 2052.215–82..... 26254
2052.216–74 (b)(2) corrected..... 8450
2052.231–70 Corrected..... 8450

Chapter 21—Office of Personnel Management, Federal Employees Group Life Insurance Federal Acquisition Regulation (Parts 2100—2199)

Chapter 21 Established..... 40371

Chapter 24—Department of Housing and Urban Affairs (Parts 2400—2499)

2401 Authority citation revised..... 59787
2401.104–2 Heading and (b)(2) revised; eff. 10–25–93..... 49437
2401.601–70 Revised..... 59787
2401.601–71 Revised..... 59787
2401.601–72 Removed; new 2401.602–72 redesignated from 2401.601–73 and revised..... 59787
2401.601–73 Redesignated as 2401.601–72; new 2401.601–73 redesignated from 2401.601–74 and revised..... 59787
2401.601–74 Redesignated as 2401.601–73..... 59787
2401.603–2 (c) revised..... 59787
2401.603–3 (b) amended..... 59787
2402 Authority citation revised..... 59787
2402.101 Amended..... 59787
Amended; eff. 10–25–93..... 49437
2403 Authority citation revised..... 59788
2403.303–70 (Subpart 2403.3) Heading amended..... 59788
2403.670 Added..... 59788
2405 Authority citation revised..... 59788
2405.301 (Subpart 2405.3) Added..... 59788
2406 Authority citation revised..... 59788
2406.304–70 Removed; new 2406.304–70 redesignated from 2406.304–71..... 59788
2406.304–71 Redesignated as 2406.304–70; new 2406.304–71 redesignated from 2406.304–72; (d) revised..... 59788
2406.304–72 Redesignated as 2406.304–71..... 59788
2409 Authority citation revised..... 59788
2409.501 Removed..... 59788
2409.502 Amended..... 59788
2409.503 Added..... 59788
2409.504 Introductory text revised..... 59788
2413 Authority citation revised..... 59788
2413.505–2 (b) revised..... 59788
(a) removed; (b) redesignated as (a); eff. 10–25–93..... 49437
2414 Authority citation revised..... 59788
2414.406–3 Revised..... 59788
2414.406–4 Revised; eff. 10–25–93..... 49437
2414.407–70 Correctly designated; eff. 10–25–93..... 49437
2415 Authority citation revised..... 59788
2415.407 (a) revised..... 59788

Page

(b) removed; eff. 10–25–93..... 49437
2415.604 Revised..... 59789
(b) amended; eff. 10–25–93..... 49437
2415.608 (a) revised..... 59789
2415.611 Removed..... 59789
2415.611–70 Removed..... 59789
2415.612 Redesignated from 2415.613 and revised..... 59787
2415.612–70 Redesignated from 2415.613–70 and revised..... 59789
2415.613 Redesignated as 2415.612; new 2415.613 added..... 59789
2415.613–70 Redesignated as 2415.612–70; new 2415.613–70 added..... 59789
2415.613–71 Removed; new 2415.613–71 added..... 59789
2415.613–72 Added..... 59789
2416 Authority citation revised..... 59790
2416.504 Revised..... 59790
2419 Authority citation revised..... 59790
2419.201–70 Removed; eff. 10–25–93..... 49437
2419.708 (Subpart 2419.7) Added..... 59790
2425 Added..... 59790
2425.402 Added..... 59790
2426 Authority citation added..... 59790
2426.201 Nomenclature change..... 59790
2428 Authority citation revised..... 59790
2428.203 Redesignated as 2428.204..... 59790
2428.203–70 Redesignated as 2428.204–70..... 59790
2428.204 Redesignated from 2428.203..... 59790
2428.204–70 Redesignated from 2428.203–70..... 59790
2432 Authority citation revised..... 59790
2432.402 Revised..... 59790
2432.906 (Subpart 2432.9) Added..... 59790
2433 Authority citation revised..... 59790
2433.103 Revised..... 59790
2433.103–70 Removed; new 2433.103–70 redesignated from 2433.103–71..... 59790

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 48 Chapter 24—Con. Page
2433.103-71 Redesignated as 2433.103-70 59790
2433.104 (f) redesignated as (g) 59790
2433.104-70 Removed 59790
2436 Authority citation revised 59790
2436.602-2 (a) amended 59790
(3) added 59791
2436.602-4 Revised 59791
2436.602-5 Amended 59791
2437 Authority citation revised 59791
2437.110 (g) and (h) added 59791
2437.205 (Subpart 2437.2) Heading revised; (b)(6) amended 59791
2446 Authority citation amended 59791
2446.710 (Subpart 2446.7) Added 59791
2452 Authority citation revised 59791
2452.203-70 Added 59791
2452.203-71 Added (OMB number) 59791
2452.215-70 (b) amended (OMB number) 59791
Corrected; eff. 10-25-93 49437
2452.215-71 Removed 59792
2452.216-75 Introductory text revised 59792
2452.219-70 Added 59792
2452.237-73 Alternate I amended; eff. 10-25-93 49437
2452.237-76 Added (OMB number) 59793
2452.237-77 Added 59793

Chapter 34—Department of Education (Parts 3401—3499)

3402 Authority citation revised 32614
3402.101 Removed 32614
3409 Authority citation revised 32614
3409.403 Removed 32614
3410 Added (effective date pending) 30088
Regulation at 58 FR 30088 eff. 7-21-93 51021

Title 48—*Proposed Rules:*

48 59274
200—299 (Ch. 2) 54035

NOTE: Boldface page numbers indicate 1992 changes.

Page
207 51033
209 54035
..... 49958
215 27242
219 ..... 56895, 60503
225 ..... 47243, 48484, 48485
237 51033
242 ..... 49958, 49960
252 ..... 56895, 60503
..... 47243, 48484, 48485, 49958, 51033
253 49958
503 42715
509 26948
515 ..... 32085, 42715
538 54036
..... 32085, 32890
552 54036
..... 32890, 42715
814 31937
833 31937
836 31937
852 31937
909 38340
917 36918
952 38340
970 ..... 4141, 38340
1200—1299 (Ch. 12) 54191
1512 46007
1516 46007
1552 46007
1601 34769
1602 34769
1609 34769
1615 34769
1632 34769
1642 34769
1646 34769
1652 34769
1805 43854
1815 47244
1816 ..... 53681, 54210
..... 19398
1823 37697
1831 47244
1837 47602
1839 43854
1852 47602
..... 37697, 43854, 47244
3410 56416
5300—5399 (Ch. 53) 6771
5415 45759
5452 45759
6101 60783
9903 ..... 47438, 60503
..... 18363

Page
9904 6103
9905 60503

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1 Authority citation revised 6898
1.22 (a) revised 6897
1.23 (l) revised; (p) and (q) added 6897
1.26 (a)(7), (8) and (9) revised 6897
(a)(8) redesignated as (a)(9); new (a)(8) added 6897
1.45 (a)(3) amended, (15) and (16) added 6898
(a)(17) added 6899
1.46 (m) revised 6194
(xx) added 12543
1.48 (jj) added 62484
(jj) added 502
(jj) revised 6194
1.49 (ii) added 62484
(ii) revised 6194
1.53 (k) redesignated as (k)(1); new (k)(2) added 62484
(l) added 5631
(k) revised 6194
(l) corrected 16914
1.56 (k) removed 5632
1.59 (c)(6) amended 6898
1.68 (c) added 18018
9 Revised 6724
24.2 (g)(2)(x) and (t) revised 26072
24.101 (a)(5) added 26072
24.304 Introductory text, (a) introductory text, (3), (8) and (10) revised; (a)(13) and (b)(3) removed; (b)(4) and (5) redesignated as (b)(3) and (4) 26072
24.602 Revised 26072
24.603 (d) revised 26072
37 Appendix A amended 38206
41 Added 32871
71.7 (a) revised 48339
81 Removed 60728
89 Authority citation revised 6898
89.5 Introductory text amended 6898
99 Authority citation revised 7995
99.735-1—99.735-5 (Subpart A) Removed 7995
99.735-7—99.735-25 (Subpart B) Removed 7995
99.735-31—99.735-45 (Subpart C) Removed 7995
99.735-51—99.735-61 (Subpart D) Removed 7995
99.735-71—99.735.77 (Subpart E) Removed 7995
99.735-80 Added 7995
99 Appendixes B, C and D removed; Appendix E amended 7995

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

101 (Subchapter A) Removed 60728
Heading added 33304
106—110 (Subchapter B) Heading transferred to 130.1 through 130.33; new Subchapter A heading added 33304
106 Authority citation revised 33304
Transferred to Subchapter A 33304
Meeting 33918
106 Appendix A amended 33304
107 Interpretation 48739
Filing requirements 10985
Authority citation revised 33304
Transferred to Subchapter A 33304
Meeting 33918
107.315 (c) revised; (d) added 45453
107.331 (d) amended 50500
107.502 (f)(2) amended; interim 46873
107.601 (e) revised 12545
107.616 (b) amended 12545
107.620 (a)(1) amended; (a)(2) removed; (a)(3) redesignated as (a)(2) 12545
110 Transferred to Subchapter A 33304
Meeting 33918
130.1—130.33 (Subchapter B) Heading transferred from 106.110 and revised 33304
Meeting 33918
171 Interpretation 48739
Authority citation revised 6870, 33305
Filing requirements 10985
Meeting 33918

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 49 Chapter I—Con. Page

Policy statement....47650
171.1 (a)(3)(iv) added....52934
(a)(3)(v) added....6870
Regulation at 58 FR 6870 comment period extended....21260
(a)(3)(v) removed....33305
171.2 (c) and (d)(3) amended....33305
171.4 Added....52934
171.5 Added....6870
Regulation at 58 FR 6870 comment period extended....21260
Removed....33305
171.7 (a)(3) table amended; interim....60739
Amended....50230
171.8 Amended....45453, 52935, 59309
Corrected....47513
Amended....6870, 33305, 50230, 50500
Regulation at 58 FR 6870 comment period extended....21260
171.11 (d)(13) added....52935
(d)(14) added....6870
Regulation at 58 FR 6870 comment period extended....21260
(d)(14) removed....33305
171.12 (b)(7) revised....45453
Regulation at 58 FR 6870 comment period extended....21260
(b)(17) added....6870
(b)(17) removed....33305
171.12a Regulation at 58 FR 6871 comment period extended....21260
(b) introductory text revised....45453
(b)(15) added....52935
(b)(16) added....6871
(b)(16) removed....33305
171.14 (b)(2) revised; (b)(3), (4) and (5) redesignated as (b)(4), (5) and (6); new (b)(3) added....45443
Heading, (a), (b) introductory text and (c)(2) introductory text revised....45455
(b)(2) corrected....47412
(b)(3) removed; (b)(5) and (6) redesignated as (b)(6) and (7); new (b)(5) added....12183
171.15 Regulation at 58 FR 6871 comment period extended....21260
(a)(4) redesignated as (a)(5); new (a)(4) added....52935
Note revised....6871, 33305
172 Interpretation....48739
Authority citation revised....6871, 33305, 50501
Meeting....33918
Policy statement....47650
172.101 Table amended....45454—45457, 59309, 59310
Appendix amended....45458
Table corrected....47513
Table amended; Appendix redesignated as Appendix A and amended; Appendix B added....52935
Table corrected; Appendix A correctly designated....54141
Table amended....3348, 33305, 50232, 50235, 50493, 50501
Table corrected....8821
(c)(12)(i) revised; (c)(12)(ii) amended....50231
172.102 (c)(1), (3) and (7)(ii) amended....45458
(c)(7)(ii) corrected....47513
(c)(5) amended....52938
(c)(3) amended....59310
(c)(1), (2), (3) and (7)(ii) amended....50235
172.200 (b) introductory text amended....52938
172.202 (d) amended....52938
172.203 (m)(1) amended....45458
(c)(1)(i) amended; (l) added....52938
(g)(3) amended....3348
(o) added....6871
Regulation at 58 FR 6871 comment period extended....21260
(o) removed....33305
172.312 (a)(2) amended....45458
172.313 (a) correctly revised....46624
172.322 Added....52938
172.324 (a)(1) amended....52939
172.325 Revised....3348
172.330 (a) amended....45458
172.400a (a)(1) introductory text amended....50501
172.401 (a) introductory text revised; (d) added....50501
172.405 (a) introductory text amended....45458
172.422 (a) revised....45458
172.504 (c) introductory text, (f)(1) and (4) revised; (f)(9) and (10) added....45460
(f)(9) amended....59310
172.505 (a) revised....45460
172.510 (c) amended; (e) revised....45460
172.519 (b)(3) amended....45460
172.526 (a)(4) amended....45460
172.560 (b) revised....45460
172.704 (a)(1), (2), (c)(1)(i) and (ii) revised....5851
173 Interpretation....48739
Authority citation revised....6871
Meeting....33918
Policy statement....47650
173.2 Amended....45460
173.7 (b) revised....50501
173.12 (d)(1) and (2) amended; (d)(3) added....52939
173.22 (a)(4) amended....45460
(a)(2)(iv) amended....33305
173.23 (c) amended....45460
173.24a (c)(1)(iii) amended....45460
173.28 (e) added....45460
173.29 (b)(3) amended....52939
173.31 (c) Table I amended....45460
(b)(4) added....50501
173.32 (a)(1), (3), (5) and (c) amended....45460
(e)(5) added....50501
173.32c (r) added....45460
(f) amended....45461
173.33 (c)(1)(iii), (5) and (e) amended....45461
173.34 (e) table amended; (e)(15)(i) revised; (e)(18) added....50501
(d)(3) revised....50235
173.54 (l) added....50236
173.62 (c) table amended....50502
(b) table amended....50236
173.63 (a) introductory text amended; (b) removed....50236
173.115 (b)(1) amended....45461
(a) amended....50236
173.120 (b)(1) and (2) amended....45461
173.124 (a)(3)(ii) revised....45461
(a)(1)(ii)(A) amended....33305
173.133 (a)(2)(ii) Figure 1 revised....45461
(a)(1) table and (2)(i) table amended....45463
173.140 Revised....45463
(b) revised....52939
(b) revised....6871, 33305
Regulation at 58 FR 6871 comment period extended....21260
173.150 (a), (f) introductory text and (3)(vii) amended....45463
(c), (f)(2), (3) and (4) amended....52940
(f)(3)(viii) and (4) introductory text revised....6871, 33305
Regulation at 58 FR 6871 comment period extended....21260
173.151 (c) amended....52940
173.152 (c) amended....52940
173.153 (c)(3) amended....52940
173.154 (d) revised....45463
(c) and (d) amended....52940
173.155 (c) amended....52940
(d) added....6871
Regulation at 58 FR 6871 comment period extended....21260
(d) removed....33305
173.156 (b) amended....45463
173.159 (b)(3) through (6) added; (c) introductory text revised....45463
(d)(1) and (2) redesignated as (d)(3)(i) and (ii); (d) introductory text revised; new (d)(1), (2) and (3) introductory text added....50502
173.163 Amended....50236
173.185 (l) added....50502
(a), (g)(1), (i) introductory text and (j)(1) revised; (m) added....50236
173.193 (d) amended....45463
173.211 (c) amended....45463
173.225 (e)(2) amended; (e)(3) introductory text, (i), (ii), (iii), (v) and (iv) redesignated as (e)(3)(i) introductory text, (A), (B), (C), (ii) and (4)....45463
173.226 (b) introductory text, (4)(i)(A), (B), (ii)(B) and (5) amended; (b)(4)(i)(C), (D), (ii)(C) and (D) added....50236
173.227 (b) introductory text amended....45463
(b)(3)(i)(D), (ii)(C), (4) and (c) amended....50236
173.244 Heading revised....45463
173.247 Revised....3349
173.302 (a)(5)(iii) amended; (h) revised....45463
173.304 (g) revised....45463
(a)(2) table amended; (h) added....50502

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

NOTE: Boldface page numbers indicate 1993 changes.

TITLE 49 Chapter I—Con. Page

173.306 (a)(3)(i) and (b)(1) introductory text amended; (h)(3) revised....50236
(c) removed....50503
173.309 Added....50503
173.314 (c) introductory text revised....45463
(c) table amended....45464, 47513
(g)(4) added....50503
(c) table amended....50236
173.315 (a) table, (d) and (i)(12) amended....45464
(a) table amended....50237
173.318 (g) introductory text amended....50503
173.323 (b)(5) amended....50237
173.336 Heading and introductory text revised....45464
173.421 (b)(1)(i) and (2)(i) amended....52940
173.423 Table 7 amended....50503
173.425 (b)(8) amended....52940
174 Interpretation....48739
Authority citation revised...6871, 33305
Meeting....33918
Policy statement....47650
174.25 (a)(2) table amended....45464
(b)(5) added....52940
(b)(1)(i) amended; (b)(6) added....6871
Regulation at 58 FR 6871 comment period extended....21260
(b)(6) removed....33305
174.55 (c) amended....45464
174.61 (c) amended....45464
174.81 (f) table revised; (d) table and (e)(5) amended....45464
(d) table amended....59310
(d) table amended; (e)(3) revised....50237
174.82 (a) amended....45464
174.83 (b) revised; (c) redesignated as (f); new (c), (d) and (e) added....50237
174.85 (b) amended....45464
175 Interpretation....48739
175.10 (a)(16) amended; (a)(23) and (24) added....50493
(a)(7), (12) introductory text, (12)(v), (19) and (20) revised; (a)(12)(ii) amended; (a)(12)(vi) and (25) added....50504
175.25 Heading and (a) introductory text revised....50505
175.26 Added....50505
175.78 (a) introductory text revised....50505
175.700 (b) amended....50505
175.701 (b)(1) amended; (b)(2) revised; (b)(3) added....50494
175.702 (b)(2)(i) revised....50494
176 Interpretation....48739
Meeting....33918
176.70 Added....42940
(a) amended....6872, 33306
Regulation at 58 FR 6872 comment period extended....21260
176.83 (c)(2)(i)(A) and (B) amended....45465
176.600 (d) amended....45465
177 Authority citation revised....45465
Interpretation....48739
177.33 (c)(4) and (d)(1) amended....12905
177.804 Revised....50505
177.805 (a) designation removed....45465
177.806 (b) revised....50505
177.816 (a) and (4) amended; (c) revised; (d) added....5852
177.848 (f) table revised; (d) table and (e)(5) amended....45465
(f) table corrected....47513
(d) table amended....59310
(d) table amended; (e)(3) revised....50237
177 Appendix B corrected....47513
178 Meeting....33918
178.33-2 (b) amended....50237
178.33a-2 (b) amended....50237
178.251-2 (a) revised....50505
178.270-5 (a), (c) and (d) amended....45465
178.320 Amended....33306
178.337-1 (b) amended....45465
178.337-6 (a) amended....12905
178.337-11 (a)(4)(i)(B) amended....45465
178.337-18 (a) amended....33306
178.345-2 (a)(2) amended....45465
178.345-11 (a) and (b)(1)(iii) amended; (b)(2) and (c) revised....45465
178.345-15 (a) amended....33306
178.507 (a) amended....45465
178.601 (h) amended....45465
178.603 (a) introductory text and table amended....45465
178.606 (c)(1) and (d) amended....45465
178 Appendix B amended....45466
179 Policy statement....47650
179.100-7 (c) redesignated as (d); new (c) added....50237
179.100-10 (c) added....50238
179.101-1 (a) amended....45466
179.200 (b)(4) removed....45466
180 Meeting....33918
180.3 (a), (b)(3) and (5) amended....33306
180.405 (g)(2) amended....45466
(b) and (c)(1) table amended....12905
180.407 (d)(2)(vii) removed; (d)(2)(viii) amended....45466
180.409 (b) introductory text revised....45466
180.413 (b)(2)(v) revised....45466
(d)(1)(i), (ii) and (iii) amended....12905
(a)(1) and (2) amended....33306
180.415 (b) and (c) amended....45466
180.417 (a)(3) amended....12905
192.7 (b) revised....14521
192.11 (a) amended....14521
192.55 (e) amended....14521
192.63 (a) introductory text and (1) revised....14521
192.65 (a) revised....14521
192.113 Amended....14521
192.147 (a) and (c) amended....14521
192.153 (a) and (b) introductory text revised....14521
(b) corrected....45268
192.163 (e) revised....14521
192.177 (b)(1) amended....14521
192.279 Amended....14521
192.281 (b)(2) and (d)(1) amended....14521
192.283 (a)(1)(i), (ii) and (b)(1) revised....14521
192.736 Added; eff. 10-18-93....48464
192 Appendix A revised....14521
Appendix B amended....14522
Appendix A corrected....45268, 45269
193.2005 (c) amended....14522
193.2013 (b) revised....14522
193.2067 (b)(1) amended....14522
193.2073 (b) amended....14522
193.2109 (c) amended....14522
193.2113 (b) amended....14522
193.2123 (a) amended....14522
193.2127 (a), (d) and (e) amended....14522
193.2141 Revised....14522
193.2147 Amended....14522
193.2149 (c) amended....14522
193.2213 Amended....14522
193.2229 (b)(3) amended....14522
193.2307 (b) revised....14522
193.2315 (d) amended....14522
193.2319 (b) revised....14522
193.2321 (b) and (d) amended....14522
193.2327 (a) revised....14522
193.2427 (d) amended....14522
193.2433 (a)(2) revised....14522
193.2805 (a)(2) revised....14522
193.2811 Amended....14522
193.2813 Amended....14522
193.2817 (b) introductory text amended....14522
193.2819 (a), (d) and (f) amended....14522
193.2821 (b) amended....14522
193 Appendix A revised....14523
194 Added; interim....253
195.3 (b) and (c) revised....14523
195.106 (e) amended....14524
195.110 (a) amended....14524
195.118 (a) amended....14524
198.11—198.13 (Subpart B) Added....10988

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

214.103 Regulation at 57 FR 45326 effective date delayed to 11-24-92....45326
214.105 Regulation at 57 FR 45326 effective date delayed to 11-24-92....45326
218 Nomenclature change....43292
Appendix B redesignated as Appendix C; Appendix A and new Appendix C amended; new Appendix B added....43293
218.5 Revised....43292
218.22 Added....43293
218.51 (b)(3) revised; eff. 11-5-93....36613
218.61 (c) revised; eff. 11-5-93....36613
228 Authority citation revised....18165
228 Appendix A amended....18165
229 Authority citation revised....6902, 36613
229.4 (b) revised; eff. 11-5-93....36613

NOTE: Boldface page numbers indicate 1992 changes.

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 49 Chapter II—Con. Page
229.5 (g) through (m) redesignated as (h) through (o); new (g) and (i) added; eff. 11-5-93....36613
229.25 (e) added; eff. 11-5-93....36614
229.133 Added; interim....6902
229.135 Added; effective 11-5-93....36614
Technical correction....40468
229 Appendix B amended; eff. 11-5-93....36615
240.5 (a) revised; interim....19002
240.7 Amended; interim....19002
240.13 (a) revised; interim....19003
240.117 (d), (e) and (h) revised; (i) added; interim....19003
240.215 (j) added; interim....19003
240.217 (b) revised; interim....19003
240.223 (a)(7) revised; interim....19003
240.229 (a) revised; (f) added; interim....19003
240.305 Heading, (a) and (c) revised; interim....19004
240.307 Revised; interim....19004
240.401 (a) revised; interim....19005
255 Removed....52734
268 Removed....52735

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

350 Appendix C amended....33776
Appendix C amended; interim....40600
355 Appendix A amended....33776
383.51 (c)(3) removed....53295
385.5 (f) revised....33776
385.7 (f) revised....33776
390.3 (f)(2) revised....33776
390.5 Introductory text revised; section amended....6729
Amended....33777
390.15 Added....6729
390.27 Table amended....44464
391 Waivers....40690
391.85 Amended....33777
391.89 Revised....33777
391.113 (a) revised....33777
394 Removed....6729
395.1 (i)(1) revised....33777
395.8 (f) revised....33777

Chapter IV—Coast Guard, Department of Transportation (Parts 400—499)

Page
Chapter IV Policy statement....6446

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

501.3 (a)(3) heading amended....12545
501.4 (b) amended....12545
501.5 (a) and (b) amended....12545
501.7 Introductory text amended....12545
501.8 (b) heading and text amended....12545
523 Authority citation revised....18029
523.5 (b)(2)(iv) and (v) revised....18029
525 Authority citation revised....18029
525.7 (e)(4) revised....18029
527 Removed....60728
533 Authority citation revised....18029
533.4 (b)(2) amended....18029
533.5 (a) Table III revised....18029
537 Authority citation revised....18029
537.7 (c)(4)(iii) and (iv) revised....18029
541 Appendixes A, A-I and A-II revised....3852
Appendix A amended....44775
552 Petition denied....17787
564 Added....3860
571 Petition denied....47007
Petition denied....19628, 31658
571.100 Removed....60728
571.104 Amended....13023
571.105 Amended; eff. 10-20-93....47800
Amended; interim....45461
571.108 Regulation at 56 FR 16021 effective 10-1-92....45328
Amended; eff. 12-1-93....58413
Amended....3506, 3861, 12185, 12186
Figures 23-4 and 23-5 revised....3854
Regulation at 57 FR 58413 effective date corrected to 3-2-93 and amended....11975

NOTE: Boldface page numbers indicate 1992 changes.

Page
Table IV amended....13024
571.109 Amended....41639
571.111 Amended; eff. 12-2-93....57015
571.118 Amended....16785
571.120 Amended....13426
571.121 Amended; eff. 10-20-94....47800
Amended....36618
Amended; interim....45461
571.203 Amended....26527
571.205 Corrected....58150
571.208 Amended....11978
Amended; eff. 3-1-94....46563
571.211 Amended....4583
571.213 Corrected....45422
Amended; eff. 10-13-93...19779, 19780
Corrected....25900
Amended....36154
571.214 Amended; eff. 9-1-94....14169
571.216 Amended....5633
571.217 Amended; eff. 5-2-94...49423, 57020
Regulations at 57 FR 49423 and 57020 effective date extended to 5-2-94....45065
571.222 Amended; eff. 1-17-94....4593, 46876
571.301 Amended....5638
572.31 (a)(1) revised....47010
572.90—572.91 (Subpart K) Added....3232
582 Authority citation revised....12550
582.3 (b)(1) revised....12550
582.4 Revised....12550
582.5 Revised....12550
585.1 Revised; eff. 3-1-94....46566
585.2 Revised; eff. 3-1-94....46566
585.3 Revised; eff. 3-1-94....46566
585.5 Revised; eff. 3-1-94....46566
585.6 Revised; eff. 3-1-94....46568
590 Removed....60728
591.6 (g)(1) amended; (g)(2) redesignated as (g)(3); new (g)(2) added....12908
591.7 (c) amended; (e) added....12908
Technical correction....32615
591.10 Added....12908
591 Appendix C added....12908
592.6 (i) revised....30997
594.6 (a) introductory text and (i) revised; (b), (d) and (h) amended....51023
594.7 (c) amended....51023
594.8 (b) and (c) amended....51023
Page
594.9 (c) revised....51023

Chapter VI—Federal Transit Administration (Parts 600—699)

603 Removed....60728
623 Removed....60728
630 Revised....4888
635 Removed....60728
665 Regulation at 57 FR 33397 comment period extended; interim....2989
Meeting....11549
665.3 (d) revised; interim....46815
(d) revised; interim....10990
670 Removed....60728
671 Added; interim....42693
675 Temporary regulations....42695
Technical correction....42758

Chapter VIII—National Transportation Safety Board (Parts 800—999)

821 Authority citation revised....11380
821.1 Amended; interim....11380
Regulation at 58 FR 11380 comment period extended in part to 5-5-93....17531
821.2 Revised; interim....11380
Regulation at 58 FR 11380 comment period extended in part to 5-5-93....17531
821.30 Revised; interim....11381
Regulation at 58 FR 11381 comment period extended in part to 5-5-93....17531
821.64 Revised; interim....11381
Regulation at 58 FR 11381 comment period extended in part to 5-5-93....17531
826 Authority citation revised....11381
826.2 Revised; interim....11381
Regulation at 58 FR 11381 comment period extended in part to 5-5-93....17531
826.3 (a) revised; interim....11381
Regulation at 58 FR 11381 comment period extended in part to 5-5-93....17531
826.6 (b) revised....21544
826.7 Revised....21545

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 49

Chapter X—Interstate Commerce Commission (Parts 1000—1399)

Page
1000.735–11—1000.735–31 (Subpart B) Removed....41991
1000.736–1—1000.736–5 (Subpart C) Removed....41991
1000.737–1—1000.737–11 (Subpart D) Removed....41991
1002 Regulation at 58 FR 7748 stayed....17788
1002.1 (b) revised; (f)(6) table amended....53296
(f)(11) revised....7748
(b), (c), (e)(1) and (f)(6) table revised....43294
1002.2 (f) revised....53296
(f) table corrected....54894
(a) and (b) revised; (g) added....7749
(f) revised....43294
1004 Technical correction....16124
1004.3 Removed....11550
1007.12 (c) added....15291
1011 Revised....29357
1017 Regulation at 58 FR 7748 stayed....17788
1017.1 (e) added....7749
1018 Added....7749
Regulation at 58 FR 7748 stayed....17788
1018.20 (a)(5) corrected....11099
1018.50 Corrected....11099
1019 Added....42027
1023 Revised....28933
1023.32 Regulation at 57 FR 43152 stayed....45751
(e) and (f) amended....49149
Regulation at 57 FR 43152 withdrawn....26693
1023.33 Regulation at 57 FR 43152 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.34 Regulation at 57 FR 43152 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.35 Regulation at 57 FR 43152 stayed....45751
Revised....49149
Regulation at 57 FR 43152 withdrawn....26693
1023.36 Regulations at 57 FR 43152 and 43153 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.37 Regulations at 57 FR 43152 and 43153 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.38 Regulation at 57 FR 43152 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.39 Regulation at 57 FR 43152 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.40 Regulation at 57 FR 43153 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.41 Regulation at 57 FR 43153 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.42 Regulation at 57 FR 43153 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1023.101 Regulation at 57 FR 43153 stayed....45751
Regulation at 57 FR 43152 withdrawn....26693
1033 Revised....53451
1033.1 (a)(3) and (b)(1) revised....61585
(b)(1) revised....27679
1037 Authority citation revised....54334
1037.2 Revised....54334
1039 Authority citation revised....27951, 43818
1039.11 (a) amended....4356, 27951
(a) table amended....43818
1039.14 (c)(3) amended....53451
(c)(3) correctly designated....54641
1102.2 (e) amended....42027
1105.3 Amended....44619
1105.7 (b)(1) amended....44619
1105.11 Appendix amended....44619
1105.12 Appendix amended....44619
1141 Revised....19359
1145 Authority citation revised....27951
1145.9 Added....27951
Revised....39680
1162.7 Removed....28935
1162.8 Removed....28935
1171 Heading revised....29361
1171.3 (c) revised....29361
1171.5 Revised....29361
1180 Authority citation revised....57112
1180.4 (c)(6)(iii) revised....29362
1180.20 (Subpart B) Revised....57112
(c) amended....61585
1312 Regulation at 58 FR 7748 stayed....17788
1312.4 (b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added....7756
(b)(2)(ii)(D) corrected....11099
1313 Regulation at 58 FR 7748 stayed....17788
1313.7 (a)(6) existing text amended; (a)(6)(i) through (iv) added....7756
1314 Regulation at 58 FR 7748 stayed....17788
1314.4 (a) existing text amended; (a)(1) through (4) added....7756
1321 Removed....40601
1321.1 Amended....54189
1321.5 Introductory text amended....54189

Title 49—*Proposed Rules:*

1—99 (Subtitle A) 54191
10 49446
23 58288
....12207
27 47681
37 ....54210, 54210
....6471, 37052
40 59409
....7197, 7506
41 4393
100—199 (Ch. I) 54191
106 29698
107 29698
108 29698
110 29698
121 29698
171 ...12207, 27257, 29698, 36920, 37612, 38111
172 ....12207, 37612
173 ...12207, 12316, 29698, 37612, 48485
174 ....27257, 37612, 48485
177 37612
178 ....12316, 29698
179 37612
180 ....12316, 29698, 48485
190 ....53085, 54745
191 53085
192 ....53085, 54745
....21524, 33064
193 ....53089, 54745
195 ....54745, 56304
....12213
199 ....59712, 59720, 59778
....7197
200—299 (Ch.II) 54191
207 33593
209 33595
213 54038
....338, 4975, 8928
217 ....47603, 58436, 59608
....7197
218 48494
219 ....59588, 59605, 59608, 59778
....7197
220 ....47603, 58436
232 62546
234 53684
....4400
300—399 (Ch. III) 53089, 54191, 60784
350 59516
....7197
382 ....59516, 59536, 59547, 59778
....7197
383 59516
....4638, 4640, 7197, 33874
384 34344
390 ....4640, 37895
391 ....48011, 59778, 59539
....4640, 7197
392 59516
....6937, 7197, 37900
393 ....37900, 44485, 48624
395 59516
....6937, 7197
397 33418
400—499 (Ch.IV) 54191
500—599 (Ch. V) 54191, 54351, 61869
523 61377
525 61377
526 29378
531 48777
....6939, 41228
533 61377
537 61377
541 36376
542 38999
543 35422
544 21277
552 45759
....41077, 50314
554 50314
555 33091

NOTE: Boldface page numbers indicate 1992 changes.

NOTE: Boldface page numbers indicate 1993 changes.

TITLE 49 Proposed Rules—Con. Page

571 ...45760, 49162, 49444, 54354, 54958, 58437, 58444, 59041, 59043
...4644, 4649, 5323, 5699, 7206, 7506, 11003, 11009, 11562, 12921, 13042, 13243, 13437, 15132, 15463, 19792, 21436, 21553, 27514, 27517, 28847, 30134, 30746, 32504, 32630, 38346, 41078, 42924, 45312, 45476, 46928, 46938, 47426, 47427, 48350, 50732, 51034
572 ...48779, 58444
...7506, 48350
573 ...50314
575 ...54962, 54963
576 ...50314
577 ...50314
579 ...40402
585 ...59043
594 ...41681
600—699 (Ch. VI) ...54191
...15816
604 ...48924
611 ...6948
613 ...12064, 12084
614 ...12096
653 ...59660, 59778
...7197
654 ...59646
...7197
826 ...60785, 61967
1002 ...42276
1007 ...531
1023 ...5951
1035 ...34775, 39723, 43092
1039 ...45602, 48354
...6104, 8030, 18072
1056 ...6912, 12573
1057 ...53463, 61870
1145 ...48354
1152 ...53907, 59951
1160 ...48628
1162 ...5951, 48628
1166 ...48628
1180 ...6612
1201 ...53907, 59951
1312 ...35, 14198, 19795, 31490, 32340, 41684, 42276, 42277, 44318, 47104
1314 ...19795, 31490

NOTE: Boldface page numbers indicate 1992 changes.

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

Page

17.11 (h) table amended...45337, 54726, 59243, 59256
(h) table amended...4358, 5642, 5657, 5946, 12863, 12874, 14271, 14339, 16757, 25746, 25763, 27480, 34931, 40538, 41391, 43819, 46033, 49880, 49887
(h) table amended; eff. 10-25-93...49873, 49879, 49937
17.12 (h) table amended...46339, 46344, 48747
(h) table amended...8242, 11552, 18035, 18041, 25746, 25754, 25758, 32311, 33565, 35890, 37442, 40547, 40551, 41383, 41391, 49244, 49247
Regulation at 58 FR 40538 effective date corrected to 8-27-93...44734
Amended; interim...48799
(h) table amended; eff. 10-25-93...49879
17.42 (c)(1)(i)(A) amended; eff. 10-25-93...49873
17.84 (h) added...5657
17.95 (a) amended...46034
17.96 (a) amended...49247
17.102 Amended; eff. 5-17-93 through 9-14-93...31662
17.108 (a)(3) and map revised; (a)(4), (5) and (6) added; eff. 11-15-92 through 3-15-93...5645
(c) and illustration added; eff. 5-17-93 through 9-14-93...31662
20 Authority citation revised...15098, 50703
Frameworks...44576, 50188
20.20 Added...15098
20.101 Seasonal hunting adjustments...45394
20.102 Seasonal hunting adjustments...45394
20.103 Seasonal hunting adjustments...45395
20.104 Seasonal hunting adjustments...45398, 50704
20.105 Corrected...53416

Page

Seasonal hunting adjustments...45400, 50705
20.106 Seasonal hunting adjustments...45402, 50720
20.107 Seasonal hunting adjustments...50721
20.109 Seasonal hunting adjustments...45403, 50721
Corrected...50211
20.110 Seasonal hunting adjustments...46060, 50214
32 Revised...5064
32.7 Amended...29073, 29084
32.8 Table amended...42880
32.20 Amended...29073
32.22 Amended...29073
32.23 Amended...29073
32.24 Amended...29073, 29084
32.27 Amended...29074
32.32 Amended...29074
32.33 Amended...29074
32.34 Amended...29084
32.37 Amended...29074
32.38 Amended...29075
32.39 Amended...29075
32.40 Amended...29075
32.42 Amended...29075, 29085
32.43 Amended...29085
32.45 Amended...29075
32.49 Amended...29075
32.51 Amended...29076
32.52 Amended...29076, 29085
32.53 Amended...29085
32.56 Amended...29076
32.57 Amended...29076
32.60 Amended...29076, 29085
32.62 Amended...29085
32.63 Amended...29076
32.65 Amended...29076
32.66 Amended...29077, 29085
32.67 Amended...29077
32.69 Amended...29077
33 Removed...5700
85 Added; interim...36620
85.20 (a)(1) OMB number pending...36621
100 Subpart D amended...17778
Authority citation revised...31258
100.25—100.27 (Subpart D) Revised; eff. 7-1-93 through 6-30-94...31258
100.25 (m)(1) table and (13) table corrected; (m)(17)(ii)(C), (18)(ii)(B), (19)(ii)(D) and (25)(ii)(B) correctly revised...54509

NOTE: Boldface page numbers indicate 1993 changes.

Page

(m)(4) table amended...54703
100.26 (e)(4)(xx) added; effective 4-5-93 through 6-30-93...31176

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

204.1 (b) table amended (OMB numbers)...21943
(b) table amended; interim...33567
215 Final harvest standards...42027
216 Finding of conformance...42030
216.3 Amended; interim...29130
216.15 (d) added...17791
(e) added...45074
216.24 (e)(5)(i) introductory text and (vi) through (xv) revised; (e)(5)(xvi) added...54335
(a)(2), (b)(1)(ii), (c)(4)(i)(B), (ii) and (d)(2)(i)(A) revised; (d)(2)(x) added; interim...29130
217 Temporary regulations...46815, 53603, 54533, 60135
Temporary regulations...4088, 17364, 28790
217.12 Regulation at 57 FR 40867 confirmed and amended...57353
Amended; interim; eff. 2-10-93 through 4-10-93...8556
Amended; interim...48799
222 Temporary regulations...46815, 53603, 54533, 60135
Temporary regulations...4088
222.23 (a) amended...26921
226.12 Added...45278
226.21 (Subpart C) Added...33218
226 Tables 1 and 2 and Figures 1 through 4 added...45278
227 Temporary regulations...45906, 46815, 47276, 52735, 53603, 54533, 57968, 60135
Temporary regulations...4088, 5643, 17364, 19631, 28790, 28793, 33219, 33220, 38538, 43820
227.12 (b)(6) added...16371
227.71 (a) and (b) revised...57354
227.72 (e) revised...57354
(e)(2)(ii)(A)(5) and (6) removed; (e)(2)(ii)(A)(7) redesignated as (e)(2)(ii)(A)(5)...2990

TITLE 50 Chapter II—Con. Page

(e)(2)(iii) and (4)(iii)(D) added; interim eff. 2-10-93 through 4-10-93....8556
(e)(4)(ii)(A) existing text redesignated as (e)(4)(ii)(A)(*1*); (e)(4)(ii)(A)(*1*) heading, (A)(*2*) and (D) added; (e)(4)(iii) introductory text revised....28796
Figure 9a added....28797
Figure 9b added....28798
(e)(2)(iii) and (4)(iii)(D) added....48799
(e)(3)(i) and (ii) revised; interim....48977
228.11 Revised; eff. 2-12-93 through 12-31-97....4093
228.12 Revised....4093
228.13 (b) and (c) revised; eff. 2-12-93 through 12-31-97....4093
228.14 (b) and (c) introductory text revised; eff. 2-12-93 through 12-31-97....4093
282.2 Amended; interim....33567
282.3 Revised; interim....33567
282.5 (a) revised; interim....33567
282.6 Revised; interim....33567
282.8 Revised; interim....33568
282.9 (a)(6) revised; (a)(16) added; interim....33568
282.14 (a)(2) revised; interim....33568
282.15 Revised; interim....33568
285 Temporary regulations...45579, 47412, 59310
Temporary regulations...26921, 45074, 48464, 49437, 50523
Harvest quotas...32872, 36154, 44777
285.2 Amended....45289
285.3 Introductory text, (f) and (h) revised; (i) through (p) added....45289
285.7 Added....45290
285.8 Added....45290
285.9 Added....45290
285.21 (a), (b), (c), (e), (g), (h) and (l) revised; (m) added....45290
285.22 Introductory text and (a) through (e) revised; (i) added....45291
285.23 (c)(1), (2) and (d) revised; (f) removed....45292
285.24 (d)(2) and (3) redesignated as (d)(3) and (4); new (d)(4) revised; new (d)(2) added....45292
285.25 (c) revised....45292
285.26 Table amended....45292
285.28 (b) and (j) revised....45293
285.29 (a), (b) and (d) revised....45293
285.30 (c)(2) revised....45293
285.31 (a)(1), (2) and (5) amended; (a)(10), (16), (26), (30) and (31) revised; (a)(32) removed; (a)(33) through (38) redesignated as (a)(32) through (37)....45293
285.50 Revised....45293

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

301 Revised....17795
380.20 Revised....39454
380.23 Revised....39454
380.24 Revised....39455
380.26 Revised....39456
380.27 Revised....39456

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

601.32 Revised....29554
603.1 Revised....47801
603.2 Amended....47801
603.3 Amended....47801
603.5 Revised....47801
603.6 (a) introductory text amended....47801
603.7 Nomenclature change....47801
605.24 (a)(3)(i) amended....50288
611 Specifications....2991, 33778
Apportionment....8712
Technical correction...16446, 17642, 21218, 38167
Fishery management measures....16787
611.2 Amended....48566
611.1—611.16 (Subpart A) Appendixes A and D amended....48566
Appendix C amended....49439
611.20 (c) amended....48566
611.60 (a) revised; (d) amended....21943

NOTE: Boldface page numbers indicate 1992 changes.

Page

611.61 Heading, (a), (b)(1), (2) introductory text, (c)(3) and (e) revised; (d) removed....21944
611.81 Heading, (a), (b), (c), (j)(2), (3) and (4) introductory text revised; (h)(4) removed; (j)(9) added....48566
(j)(5)(i), (ii), (iv), (6)(ii) and (iv) amended....48567
(a) corrected....53966
(d) revised....14171
(i) and (k) removed; (j) redesignated as (i); new (i)(1) removed; new (i)(2) through (9) redesignated as (i)(1) through (8); new (i) heading, (i)(3)(i), (ii) and (5) introductory text revised; (b), (i)(1), (2), (3)(iv), (6)(i), (ii) and (7) amended....49441
625 Revised....57369
Specifications....5658
Harvest quota...8557, 21261, 27215, 27215, 41191
625.4 (b)(1)(ii) corrected....11381
625.5 (b)(1) corrected....11381
625.6 (a)(2), (b) and (c) revised; eff. 1-1-94....35894
625.8 (a)(8) suspended; (a)(12) added; interim; effective to 3-9-93....58151
Regulation at 57 FR 58151 effective date extended through 4-30-93....13560
(c)(2) through (10) redesignated as (c)(4) through (12); (a)(3), (7) and new (c)(6) revised; (c)(2) and (3) added....40074
625.20 (d)(1) suspended; (d)(3) added; interim; effective to 8-5-93....27215
(d)(3) table corrected....31234
Regulation at 58 FR 27215 effective date extended through 11-3-93....39680
(a)(8) and (9) redesignated as (9) and (10); new (a)(8) and (b)(8) added....40074
(f) added; effective through 11-24-93....45076
(d)(1) revised; (d)(3) added; eff. 10-25-93....49940
625.24 (b)(1) suspended; (b)(3) added; interim; effective to 3-9-93....58151
Regulation at 57 FR 58151 effective date extended through 4-30-93....13560
(a), (b)(1) and (e) revised....40074
625.25 (d) revised; eff. 10-25-93....49940
625.27 (e)(2) corrected....11381
630 Temporary regulations...32311, 37443, 42880
630.24 (b)(1)(i) and (ii) revised; interim....33569
638.25 Revised....29555
640.1 Revised....56518
640.2 Amended....56518
Amended....38979
640.4 Revised....56518
640.6 Revised....56519
640.7 Revised....56520
(g) amended; (l) and (p) through (s) revised....38979
640.20—640.24 (Subpart B) Revised....56520
640.20 (b) revised....38980
640.22 (a)(2) amended....38980
640.23 (a)(3) revised (temporary)....58154
(a) revised; (b) through (g) redesignated as (c) through (h); new (b) added; new (d) through (h) amended....38980
641 Temporary regulations....29556
641.4 (m) and (n) added; interim; effective through 3-30-93....62239
(m) and (n) added; interim; effective through 6-28-93....13561
(m) and (n) added; effective through 12-31-94....33027
641.7 (u) added; interim; effective through 3-30-93....62237
(v) and (w) added; interim; effective through 3-30-93....62239
(u) and (v) added; interim; effective through 6-28-93....13561
(u) and (v) added; effective through 12-31-94....33027
641.21 (d) added; interim; effective through 3-30-93....62239
(d) added; interim; effective through 6-28-93....13561
(d) added; effective through 12-31-94....33027
641.25 (a) revised....16372
641.26 Revised....29555

NOTE: Boldface page numbers indicate 1993 changes.

TITLE 50 Chapter VI—Con. Page

641.30 Added; interim; effective to 3-30-93 ... 62237
(b) suspended; (c) added; interim; effective to 3-30-93 ... 62239
642 Temporary regulations ... 47998
Temporary regulations ... 4093, 11198, 16785
Fishery management measures ... 4599
642.1 (a) amended ... 58153
642.2 Amended ... 58153
642.4 (a)(1)(i), (ii) and (b)(2)(vi) revised; (b)(3) amended ... 58153
642.5 (a) introductory text, (3) and (b) introductory text amended; (e) and (f) revised ... 58154
642.6 (a) introductory text revised ... 58154
642.7 Revised ... 58154
(a) corrected ... 3330
(u) added; interim ... 10991
642.20—642.30 (Subpart B) Revised ... 58154
642.21 (b) corrected ... 3330
642.24 (a)(1)(iv) revised ... 45847
642.25 (b)(2) amended ... 45847
642.26 (a) amended; (b) introductory text revised ... 29555
642.27 (b) amended ... 29555
(a)(2)(ii) introductory text, (iii) and (b) revised ... 45847
642.28 Amended ... 29555
642.31 Added; interim ... 10991
642 Appendix A redesignated in part as Part 642 Figures 1 and 2; remaining text removed ... 58157
646 Temporary regulations ... 56522
Technical correction ... 38813
646.2 Amended; interim ... 11981
Regulation at 58 FR 11981 confirmed ... 36156
646.4 (a)(1)(i), (iv), (b)(2)(vi) introductory text, (A), (C) and (e) amended ... 11984
(b)(3) amended ... 21112
(c)(3) amended ... 35896
(i) amended ... 41438
646.6 (b) introductory text and (d) through (g) amended ... 11984
646.7 (a) and (z) amended; (aa), (bb) and (cc) revised ... 11981
Regulation at 58 FR 11981 confirmed ... 36156
(o), (w), (gg) and (ii) amended ... 41438
646.22 (c) and (g)(1)(iii) revised ... 11981
(g)(1)(i)(A) revised ... 21112
Regulation at 58 FR 11981 confirmed ... 36156
646.23 (a)(2) revised; (c)(2) introductory text amended ... 11982
Regulation at 58 FR 11982 confirmed ... 36156
646.26 (b) amended ... 11982
(a)(22) through (29) added; (c)(1) introductory text revised; (c)(4) amended ... 35896
Regulation at 58 FR 11982 confirmed ... 36156
646 Figure 3 revised ... 11983
Regulation at 58 FR 11982 confirmed ... 36156
649.21 (d)(1)(iii) revised ... 34001
650 Temporary regulations ... 4944
Technical correction ... 7040
651.2 Amended; interim; effective through 9-7-93 ... 32064
651.7 (a)(3), (4) and (5) added; interim; effective through 9-7-93 ... 32064
651.20 (e)(2) revised ... 48473
(g) added; interim; effective through 9-7-93 ... 32064
(e)(2) redesignated as (e)(2)(i); (b)(4) and (e)(2)(ii) added; interim ... 49941
651.21 (a)(2) suspended; (a)(5) added; interim; effective through 9-7-93 ... 32064
(a)(2) reinstated; (a)(5) removed; interim; effective to 9-6-93 ... 33345
651.22 (e)(2)(i) table amended ... 33028
651.28 Added; interim; effective through 9-7-93 ... 32064
652 Temporary regulations ... 55148
Harvest quotas ... 11198
652.8 (c)(19) revised; (c)(20) redesignated as (c)(23); new (c)(20), (21) and (22) added ... 14342
652.9 (a) revised; (b) and (c) redesignated as (e) and (f); new (b), new (c) and (d) added ... 14342

NOTE: Boldface page numbers indicate 1992 changes.

Page

655 Specifications ... 54189
Specifications ... 38980
657 Correctly designated ... 41325
658 Temporary regulations ... 35897
658.22 Existing text designated as (a); new (b) added ... 17170
658.25 (b)(2), (3) and (4) introductory text revised ... 29556
661 Temporary regulations ... 45751
Appendix amended; interim; effective to 5-31-93 ... 26932
Appendix amended; effective to 8-4-93 ... 31679
Inseason adjustments ... 39161, 48001, 50524
Regulation at 58 FR 31679 effective through 11-2-93 ... 42030
Temporary regulations ... 43562, 44778, 46093
662 Harvest quotas ... 48191
Harvest quotas ... 38726, 45847
663 Reassessment ... 45987
Restrictions ... 46097, 49425
Restrictions ... 31345, 46094, 47651
Temporary regulations ... 47413, 57377
Specifications ... 2991
Fishery management measures ... 21949
663.2 Amended; effective to 12-31-93 ... 21272
Regulation at 58 FR 21273 effective date corrected to 4-15-93 ... 31179
663.7 (q), (r), (t) and (u) added; eff. 1-1-94; (s) and (v) added ... 54006
(n) and (o) added ... 21263
663.23 (b)(3) and (c)(1)(i)(H) revised; (c)(1)(i)(I) added ... 11985
(b)(2) revised ... 16631
(b)(3) revised ... 21263
(b)(4) added; effective to 12-31-93 ... 21272
(b)(4)(i) and (v) suspended; (b)(4)(vi) and (vii) added; interim; effective to 8-9-93 ... 27482
Regulation at 58 FR 21273 effective date corrected to 4-15-93 through 12-31-93 ... 31179
663.30—663.43 (Subpart C) Added ... 54006
663.33 (f)(1)(i) corrected ... 16125
663.35 (a)(3) corrected ... 3330
(a)(4) introductory text, (i) and (c)(3)(i) amended; (a)(4)(i)(A) and (B) removed ... 16125
663.36 (a)(2) corrected ... 3330
(a)(4) amended ... 16125
663.41 (a)(2) introductory text and (i) amended; (a)(2)(ii) revised ... 49942
663 Appendix amended ... 54012
Appendix amended ... 21264
671 Added; interim ... 57115
Removed ... 36901
Added; interim ... 38729
671.2 Corrected ... 60029
671.20 Corrected ... 60029
672 Temporary regulations ... 45580, 45988, 46516, 47277, 47572, 47910, 52594, 52737
Prohibition of retention ... 46344, 46816, 48568, 56960
Technical correction ... 49653
Fishery management measures ... 61586
Temporary regulations ... 504, 11985, 11986, 13214, 16372, 16373, 16797, 17806, 21545, 29564, 30130, 31679, 31680, 32064, 33345, 34002, 34380, 34723, 35897, 37660, 37870, 37871, 39457, 40602, 41438, 41640, 42255, 42694, 42758, 44287, 46095
Fishery management measures ... 16787
Technical corrections ... 21218, 32003, 38167, 44889
Specifications ... 33778
Prohibition of retention ... 34723, 39456, 40075, 40601, 41191, 42256, 42503
Figures 2 and 3 removed; Figure 4 redesignated as Figure 2 ... 39683
672.2 Amended ... 61340
Amended ... 39682, 45850
Corrected ... 43412
672.7 (g) revised ... 55149
(h)(1) and (2) revised ... 61340
(k) added ... 28521
(l) added ... 28800
(m) added ... 39683
672.20 (a)(2)(v)(C) removed; (a)(2)(v)(A) and (B) revised ... 61340
(c)(1)(i)(A) and (ii)(A) amended ... 16787

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 50 Chapter VI—Con. Page

(e)(5) added....45850
672.23 (a) revised; (f) added....16787
(c) revised....28521
672.24 (d)(3) and (4) removed....504
(f) added....5661
(e)(2) revised....13563
(d)(1) introductory text and (2) introductory text revised; (d)(3) and (4) added....39683
674.5 Removed; CFR correction....12336
675 Temporary regulations...46511, 53452, 58726
Technical correction....49653
Apportionment....53035, 58158
Prohibition of retention....57377
Recordkeeping and reporting requirements....57692
Temporary regulations...504, 5662, 9129, 11199, 11381, 11986, 14173, 15291, 16374, 17366, 17367, 19213, 21951, 25952, 26072, 27216, 28522, 29362, 29564, 29793, 30130, 32615, 34380, 34381, 34724, 34932, 35897, 42031, 42695, 42758, 43297, 44465, 45076, 47221, 47833, 50289, 50857
Apportionment...8712, 14172, 15291, 44136, 50856
Prohibition of retention...8713, 39162
Recordkeeping and reporting requirements....12336
Technical correction...13826, 16446, 32003, 45377
675.2 Amended....54942, 61341
Amended...14527, 37662, 37663, 39683
Corrected....41325
675.5 (c)(2)(i) revised....39683
675.7 (j) and (k) redesignated as (k) and (l); new (j) added....54942
(h) revised....55149
(i) revised....61341
(m) added....28800
(n) added....39683
675.20 (a)(3)(i), (ii) and (iii) revised; (a)(7)(i) and (ii) amended; (e)(2)(iv) added....54942
(a)(2)(iii) introductory text revised....61341
(a)(2)(ii) revised....30998
(j)(1) amended; (j)(4) revised....37662
(a)(2)(ii), (iii), (3)(ii), (iii) and (8) amended....37663
Corrected....41325
(c)(5) added....45850
675.21 (c)(2)(ii) corrected....49750
(b)(3)(iii) corrected....21627
(b)(4) removed; (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; (a), (b) heading, (1), new (2), (3)(ii), (iii), (c)(1), (2) and (d) revised....14527
675.22 (g) revised....54942, 61341
(g) corrected....14172
(a) amended....37663
Corrected....41325
675.23 (a) revised; (e) added....30998
675.24 (g) added....5662
(f)(1)(ii) revised....13563
Heading, (c)(1)(i), (ii), (d)(1), (2) and (f)(1) introductory text revised; introductory text removed....37663
675.26 (b)(4) and (d)(3)(i)(A)(*1*) corrected....49750
675.27 Added....54943
(b)(1)(iii) corrected....7040
(a)(2) amended; (b)(3)(ii)(C), (d)(5)(iv)(E) and (g) revised....32876
(b)(1)(ii) and (c)(1) amended....37663
Corrected....41325
675 Figure 1 removed; Figures 2 through 5 redesignated as Figures 1 through 4; new Figure 1 revised....37663
Figures 4 and 5 removed....39683
678 Added....21944
Temporary regulations...27482, 40076
Harvest quotas....40075
678.4 (j) corrected....27336
678.7 (w) effective to 6-30-93....21947
678.28 Effective to 6-30-93....21948
681 Harvest quotas....21409
682.21 (a)(5) added....26256
683 Technical correction....29454
683.2 Amended....26256
683.6 (f) revised....26256
683.25 (a)(5) removed; (a)(6) and (7) redesignated as (a)(5) and (6)....26256
685 Technical correction....17642
685.1 (a) and (b) revised....48567
685.2 Amended....45991, 48568
Table corrected....53966
685.4 (a), (b)(7), (8) and (c)(9) amended....48568

NOTE: Boldface page numbers indicate 1992 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

Page

685.5 (t) revised....45991
(a), (b), (d) through (g), (n), (o) and (r) amended....48568
685.8 (a) amended....48568
685.9 (a) amended....48568
685.12 Revised....14171
Technical correction....17642
685.13 Amended....48568
685.15 (a), (c)(1) and (2) amended....48568
685.22 Revised....48568
685.23 Amended....48568
685.24 Redesignated as 685.26; new 685.24 added....45992
685.25 (a)(2), (3) and (4) amended....48568
685.26 Redesignated from 685.24....45992

Title 50—*Proposed Rules:*

1—199 (Ch. I) 16644
15 42926
17 ...45761, 45762, 46007, 46528, 46940, 47028, 47832, 48495, 49671, 53309, 54545, 54546, 54547, 54747, 55219, 56541, 56549, 58770, 58774, 58779, 59053, 59061, 59951, 59970, 60159, 60160, 60161
...339, 4144, 4145, 4400, 4401, 4975, 5341, 5701, 6578, 8032, 8249, 8250, 11579, 11821, 12013, 12353, 12573, 12854, 12864, 13045, 13244, 13732, 14169, 14199, 14537, 14541, 15828, 15901, 16164, 16758, 17376, 18073, 19216, 19220, 19401, 19402, 19795, 25594, 25595, 26949, 27260, 27699, 27986, 28381, 28543, 28849, 29176, 29805, 32632, 33148, 33606, 34231, 34556, 36184, 36379, 36387, 36924, 37699, 38549, 38552, 38553, 38736, 39495, 40109, 41684, 41688, 41690, 41696, 41700, 41231, 41237, 42717, 43856, 43857, 43860, 44643, 45748, 45085, 46940, 47428, 47851, 48012, 48351, 49279, 49467, 49960, 51035, 51144
18 62283
20 ...19008, 30138, 31244, 33158, 35332, 37828, 43192, 44590
21 31247
23 53090
....38112

Page

24 ....36925, 39003
32 ....55686, 58108, 58930, 62289
....48732, 49382
100 ....14350, 40393, 46678
215 32892
216 47606
....16519, 17569, 31186
217....30007
218 47606
....16519
222 ....47606, 60162
...16519, 31688, 34779, 47710, 48326, 49352
226 ....52750, 57051, 57981
...7206, 17181, 21218, 29186, 34238, 38553, 41454
227 53312
...3108, 30007, 31490, 31688, 33605, 38554, 46944, 47710, 48326, 49352
228 33425
259 54356
285 ...21967, 32894, 33793, 34981, 46153
301 9138
602 21967
611 ....47040, 57718, 57982
....6574, 26090
625 ....55220, 61389
...12017, 15463, 16519, 18365, 27987, 28386, 30140, 33243, 44318, 47245
630 ....21967, 34981, 46153
640 32639
641 57129
.... 12019, 15132, 19152, 29805, 48502
642 ....36632, 40613, 47428
646 ....13732, 31005
649 58781
650 49675
....42522, 46606
651 ....46840, 49676, 58173
....26091
652 ....48589, 54215
....31938
655 60786
658 ....54965, 58175
659 ....37456, 40614
663 ....49060, 53313, 54552, 56897
.... 126, 4146, 7525, 14543, 14549
669 58782
....34982, 39186
672 ...46133, 47321, 49676, 57130, 57726, 57982, 59072, 61870

NOTE: Boldface page numbers indicate 1993 changes.

CHANGES OCTOBER 1, 1992 THROUGH SEPTEMBER 30, 1993

TITLE 50 Title 50—Con.

	Page
	...532, 6574, 6677, 17193, 17196, 17821, 29381, 29564, 40617, 44643
675	...45602, 46133, 46139, 48426, 49676, 54045, 57130, 57718, 57726, 59072, 60788, 61870
676	...17196, 17200, 17821, 19087, 21695, 29381, 29564, 40617, 44643, 45878
	...49676, 57130, 61870
678	...21967, 46153
683	...54560
685	...47040

Additions to Table I, September 1993

This table lists the sections of the U.S. Code, U.S. Statutes at Large, Public Laws, and Presidential documents which are being added to Table I as a result of authority citations carried in the **Federal Register** during January through September 1993. Recent legislation is carried by public law number.

Table I is in the CFR Index and Finding Aids revised as of January 1, 1993. Additions during 1992 are in the December 1992 LSA (List of CFR Sections Affected).

In order to determine the **Federal Register** page number of a parallel CFR citation, consult this LSA and the appropriate Annual Issue of the LSA for that CFR title.

U.S. Code:	CFR
2 U.S.C.	
179	36 Part 704
3 U.S.C.	
301	31 Parts 550, 580, 585
5 U.S.C.	
533	29 Part 1910
552	12 Part 904
	21 Part 291
	25 Part 515, 517
	48 Part 435
552a	12 Part 909
	29 Part 102
552b	12 Part 906
553	49 Parts 1018, 1023
556	46 Part 502
561—569	46 Part 502
571—596	46 Part 502
571 note	29 Part 18
653	29 Part 1926
1101 note	5 Part 250
1302	5 Part 250
1422b	12 Part 904
3301—3302	5 Part 250
3329	5 Part 335
5514	17 Part 204
	22 Part 309
	45 Part 708
6387	5 Part 630
7301	5 Parts 3202, 4301, 5001, 5601, 5701
	13 Part 330
	16 Part 5
	22 Part 705
	32 Part 40
7351	5 Part 3601
	18 Part 3c
7353	5 Part 3c, 3601
	18 Part 3c
8337	5 Part 837
8344	5 Part 837
8347	5 Part 837
8433	5 Part 1650
8455	5 Part 837
8456	5 Part 837

5 U.S.C.—Con.	CFR
8461	5 Part 837
8468	5 Part 837
8709	48 Parts 2105, 2106, 2114, 2116, 2122
8716	48 Parts 2101, 2102, 2103, 2109, 2110, 2115, 2116, 2124, 2128, 2129, 2131, 2132, 2133, 2137, 2143, 2144, 2146, 2149, 2152
8433	5 Part 1650
5 U.S.C. Appendix	
App	5 Parts 3202, 3601, 4301, 5701, 5001, 5601
	16 Part 5
	18 Part 3c
7 U.S.C.	
2	17 Part 35
6	17 Parts 3, 35
6a	17 Part 3
6b	17 Parts 3, 156
6c	17 Part 35
6g—6i	17 Part 3
6j	17 Part 156
6l	17 Part 3
6o	17 Part 3
6p	17 Part 1
7a	17 Part 156
12	17 Part 3
12a	17 Parts 35, 156
135 et seq	40 Part 9
136	9 Part 92
136a	7 Part 110
	9 Part 92
136i-1	7 Part 110
138	7 Parts 99, 100
450	7 Part 110, 319
511m	7 Part 92
511r	7 Part 92
901 et seq	7 Part 1786, 1792
950 et seq	7 Part 1703
1314b	7 Part 723
1314b-1	7 Part 723
1444f-1	7 Part 1421
1445	7 Part 723

7 U.S.C.—Con.	CFR
1621—1627	7 Parts 94, 95
1622	7 Parts 90, 91, 93, 96, 98, 99, 100, 101
1624	7 Parts 90, 91, 93, 96, 98, 99, 100, 101, 110
1989	7 Part 4284
2011—2032	7 Parts 271—282, 284, 285
2131—2159	9 Parts 1, 2
2321	7 Part 97
2326	7 Part 97
2352	7 Part 97
2353	7 Part 97
2356	7 Part 97
2371	7 Part 97
2402b	7 Part 97
2403	7 Part 97
2426	7 Part 97
2427	7 Part 97
2501	7 Part 97
5622 note	7 Part 1493
6401—6417	7 Part 1160
8 U.S.C.	
1153 note	22 Part 41
1187	22 Part 41
10 U.S.C.	
113	32 Parts 341, 356, 357, 358, 359, 360, 361, 371
131 et seq	32 Parts 377, 385, 387
131	32 Parts 364, 387
133	32 Part 393
134	32 Part 354
134a	32 Part 355
136	32 Parts 356—360
191—193	32 Parts 371, 398, 399
191	32 Part 371
301	32 Parts 342, 386
7430	15 Part 799
12 U.S.C.	
1 et seq	12 Part 1
265	31 Part 203
321	12 Part 262
391	31 Part 203
814	12 Part 208
1141j	46 Part 502
1422b	12 Part 902
1424	12 Part 933
1426	12 Part 935
1429	12 Part 935
1430	12 Part 933
1430b	12 Part 935
1431	12 Part 935
1438	12 Part 902
1441	12 Part 1626
1441a	12 Part 1627
1442	12 Part 933
1462	12 Part 558, 575
1462a	12 Part 575
1463	12 Part 575

12 U.S.C.—Con.	CFR
1464	12 Part 563
1467a	12 Parts 558, 575
1715	24 Part 207
1715u	24 Part 203
1786	12 Part 710
1787	12 Part 710
1798	12 Part 701
1818	12 Parts 208, 211, 330
1819	5 Part 3202; 12 Parts 330, 336
1820	12 Part 330
1821	12 Part 1627
1822	12 Part 902
1828	12 Part 262, 575
1831e	12 Part 303
1831i	12 Part 574
1831m	12 Part 363
1831o	12 Parts 208, 303
1833	12 Parts 517, 902
1842	12 Part 262
1919	12 Part 325
2250	12 Part 607
2252	12 Part 607
2810 et seq	12 Part 528
3025	12 Part 607
3701—3717	24 Part 27
4311	12 Parts 707, 740
14 U.S.C.	
633	46 Parts 10, 12
15 U.S.C.	
46	5 Part 5701
57a	48 Part 435
77f	17 Part 232
77g	17 Part 232
77h	17 Parts 201, 232
77j	17 Part 232
77s	17 Part 232
77iii	17 Part 229
77sss	17 Part 232
77ttt	17 Part 201
78	17 Part 210
78c	17 Parts 229, 232
78i	17 Part 229
78j	17 Part 229
78l	12 Part 232
78m	17 Parts 210, 232
78n	17 Part 232
78o	17 Part 232
78w	17 Part 232
78ll	17 Parts 200, 210, 228, 229, 232, 269; 21 Part 201
79	18 Part 365
79j	17 Part 210
79t	17 Part 232
80a-8	17 Part 232
80a-23	17 Part 270
80a-29	17 Part 232

15 U.S.C.—Con.	CFR
80a-30	17 Part 232
80a-37	17 Part 232
80a-37a	17 Part 210
205b	48 Part 3410
631—650	14 Part 1204
687b	13 Part 107
687c	13 Part 107
687m	13 Part 107
717—717w	18 Part 385
717g	18 Part 3c
781	17 Part 201
1392	49 Part 564
1401	49 Part 564
1403	49 Part 564
1407	49 Part 564
2001	40 Part 9
2003	40 Part 9
2005	40 Part 9
2056	16 Part 1210
2058	16 Part 1210
2079	16 Parts 1210, 1500, 1505
2601—2671	40 Part 9
3717	12 Part 701
5701 et seq	16 Part 308
16 U.S.C.	
251—255	43 Part 3820
447	43 Part 3820
450z	43 Part 3820
460y	43 Part 3820
482a	43 Part 3820
742 a—d	50 Part 20
742 e—j	50 Part 20
791a—825r	18 Parts 2, 385
792—825r	18 Part 2
792—825y	18 Part 2
825	18 Part 3c
1005	7 Part 4284
1801 et seq	50 Parts 671, 678
2401 et seq	45 Part 672
2405	45 Part 671
2601—2605	18 Part 385
2601—2645	18 Part 385
4711	33 Part 151
17 U.S.C.	
803	37 Part 311
1007	37 Part 311
18 U.S.C.	
208	34 Part 73
1791	28 Part 540
3559	10 Part 860
3571	10 Part 860
4001	28 Part 26
4002	28 Part 26
19 U.S.C.	
1	19 Part 101
58	19 Part 101
66	19 Part 118
1498	19 Part 148
1499	19 Part 118

19 U.S.C.—Con.	CFR
1623	19 Part 118
1624	19 Part 118
3203	7 Part 1540
20 U.S.C.	
1001 et seq	34 Part 610
1029	34 Part 779
1047	34 Part 779
1065	34 Part 628
1066	34 Part 608
1068	34 Part 608
1069d	34 Part 608
1069f	34 Part 608
1082	34 Part 600
1087a et seq	34 Part 685
1104—1104k	34 Part 653
1121—1130b	34 Part 655
1132d—1132d-3	34 Part 614
1132g—1132g-3	34 Part 614
1133—1133c	34 Part 631
1133a	34 Part 632
1133b	34 Part 632
1133c	34 Parts 633, 634, 635
1134	34 Part 649
1134d—1134g	34 Part 649
1135—1135a-2	34 Part 630
1135a—11	34 Part 630
1136—1136h	34 Part 636
1137—1137a	34 Part 630
1145h	34 Part 698
1681	29 Part 34
3202	34 Parts 231, 238
3203	34 Parts 231, 238
3214	34 Part 230
21 U.S.C.	
114a	9 Parts 92, 130
136	9 Parts 92, 96
136a	9 Parts 92, 96; 27 Part 319
263c—263n	21 Part 10
321	21 Parts 206, 310
331	21 Part 206
331j	40 Parts 9, 21 Part 206
337	21 Part 100
341	21 Part 177
346a	40 Part 9
348	40 Part 9
351	21 Part 351
352	21 Parts 206, 804
353	21 Part 310
355	21 Part 206
356	21 Part 310
357	21 Parts 206, 443
360	21 Part 804
360c—360f	21 Part 310
360i	21 Part 804
360j	21 Part 804
371	21 Parts 177, 206, 804
374	21 Parts 310, 314, 804

21 U.S.C.—Con.	CFR
375	21 Part 310
379e	21 Parts 172, 175, 177, 178, 201, 310, 510, 514
394	21 Part 10
853a	46 Part 502
1031—1056	7 Part 94
22 U.S.C.	
287c	31 Parts 550, 585, 580
612 note	28 Part 5
827c	31 Part 550
2503	22 Part 309
2658	22 Part 126
2752	22 Parts 120, 121, 122, 123, 124, 125, 126, 127, 128
2780	22 Part 128
2791	22 Parts 126, 127, 128
2797	22 Parts 120, 121, 124, 126, 128
6001—6010	31 Part 515
23 U.S.C.	
106	23 Part 140
109	23 Part 140
120 note	49 Part 671
130	23 Part 140
153	23 Part 1215
402	23 Part 1200
409	49 Part 9
25 U.S.C.	
81	25 Parts 531, 533, 535, 537, 539
461—479	43 Part 3820
2101 et seq	43 Part 3160
2705	25 Parts 573, 575
2706	25 Parts 501, 519, 522, 523, 524, 531, 533, 535, 537, 539, 556, 558, 571, 573, 575, 577
2710	25 Parts 501, 522, 523, 524, 531, 533, 535, 537, 539, 556, 558, 571
2711	25 Parts 531, 533, 535, 537, 539
2712	25 Parts 522, 523, 524, 556, 558
2713	25 Parts 573, 575, 577
2715	25 Parts 571, 573, 575, 577
2716	25 Part 571
26 U.S.C.	
148	26 Part 1
149	26 Part 1
267	26 Part 1
482	26 Part 1
1043	5 Part 3202
6065	26 Part 1
28 U.S.C.	
509	28 Parts 5, 26
510	28 Parts 5, 26
29 U.S.C.	
653	29 Part 1928
762	34 Part 359
777	34 Part 378
794	29 Part 34
797a	34 Part 377
794e	34 Part 381
1341	29 Part 2623
1501	29 Part 34
1551	29 Part 34
1573	29 Part 34
1574	29 Part 34
1575	29 Part 34
1576	29 Part 34
1577	29 Part 34
1578	29 Part 34
1579	29 Part 34
2654	29 Part 825
2672	49 Part 1
30 U.S.C.	
22 et seq	43 Part 3820
28	43 Part 3850
181 et seq	43 Part 3160
621—625	43 Part 3730
1201 et seq	30 Parts 718, 720
31 U.S.C.	
902	10 Part 170
3102 et seq	31 Part 356
3701	49 Part 1018
3711	49 Part 1
3711 et seq	49 Part 1018
3716	30 Parts 216, 218
3717	12 Part 701
3720A	15 Part 19 22 Part 309 30 Parts 216, 218
3809	12 Part 1626
6505	23 Part 635
9701	8 Parts 208, 209 9 Part 92 40 Part 9 46 Parts 10, 12
33 U.S.C.	
1231	49 Part 194
1251 et seq	40 Parts 9, 435, 503
1311	40 Part 9
1313d	40 Part 9
1314	40 Parts 9, 435
1316	40 Part 435
1317	40 Part 435
1318	40 Part 435
1321	30 Part 254 33 Parts 20, 150 40 Part 9 49 Parts 106, 171, 172, 174, 194
1326	40 Part 9
1330	40 Part 9
1344	40 Part 9
1345	40 Parts 9, 503
1361	40 Parts 9, 435
2735	33 Parts 154, 155
35 U.S.C.	
156	9 Part 124
38 U.S.C.	
501	38 Part 47, 501 48 Part 801, 814, 833, 836

38 U.S.C.—Con.	CFR
510	38 Part 14
4214	5 Part 307
5901—5905	38 Part 14
39 U.S.C.	
3603	39 Part 3000
3606	5 Part 5601
40 U.S.C.	
322	49 Part 1
486	41 Parts 101-18, 105-71 48 Parts 2101, 2102, 2103, 2104, 2105, 2106, 2109, 2110, 2114, 2115, 2116, 2122, 2124, 2128, 2129, 2131, 2132, 2133, 2137, 2143, 2144, 2146, 2149, 2152
41 U.S.C.	
421	48 Parts 201—217, 219, 222—237, 239, 241—253
42 U.S.C.	
216	21 Part 310
241	21 Part 310 40 Part 9
242	21 Part 310
242b	40 Part 9
243	40 Part 9
246	40 Part 9
262	21 Part 206, 310
263b	21 Part 14
263b—263n	21 Part 310
300aa-1 note	21 Part 5
300aa-25	21 Part 5
300aa-27	21 Part 5
300aa-28	21 Part 5
300e—300e-17	42 Part 417
300f	40 Part 9
300g	40 Part 9
300g-1	40 Part 9
300g-2	40 Part 9
300g-3	40 Part 9
300g-4	40 Part 9
300g-5	40 Part 9
300g-6	40 Part 9
300j-1	40 Part 9
300j-2	40 Part 9
300j-3	40 Part 9
300j-4	40 Part 9
300j-9	40 Part 9
300y-11	21 Part 291
612c note	7 Part 240
1320a-3	42 Part 485
1395i-4	42 Part 412
1395cc	42 Part 1001
1396	42 Part 433
1437	24 Part 770
1437u	24 Parts 905, 962, 984
1441	24 Part 770
1473f	24 Parts 962, 984
1733	43 Part 3160
1751	7 Parts 240, 250
1857 et seq	40 Part 9
1981	12 Part 701
2000d et seq	29 Part 34
2111	10 Part 36
2112	10 Part 36
2139	10 Part 110
2201	10 Parts 36, 171, 766, 820
2214 note	10 Part 171
2232	10 Parts 36, 50
2233	10 Parts 36, 50
2234	10 Part 50
2236	10 Parts 36, 50
2238	10 Part 50
2239	10 Part 50
2243	10 Part 110
2282	10 Parts 36, 820
2297g—2297—l	10 Part 766
2473b	14 Part 1204
3535	24 Parts 572, 582, 583, 770, 962, 984, 200, 203
3537	24 Part 86
3601—3619	24 Parts 812, 912
3608	24 Part 770
3782	28 Part 23
3789g	28 Part 23
4332	43 Part 3820
4853	29 Part 1926
5301	24 Part 770
5841	10 Part 36
5842	10 Part 36
5846	10 Part 36
6101 et seq	34 Part 110
6106	29 Part 34
6861 et seq	10 Part 440
6901—6992k	40 Part 9
7191	10 Part 820
7211—7218	18 Part 3c
7401—7671q	40 Parts 9, 81
7401—7601	40 Part 60
7401	40 Part 9
7410	40 Parts 51, 88
7412	40 Part 9
7414	40 Part 9
7416	40 Part 9
7418	40 Part 88
7475	40 Part 51
7502	40 Part 51
7503	40 Part 51
7542	40 Part 9
7549	40 Part 86
7554	40 Part 85
7582—7584	40 Part 88
7588	40 Part 88
7601	40 Parts 9, 51, 78
7620	40 Part 51
7651 et seq	40 Parts 72, 75, 78
7651—7651o	18 Parts 101, 201
7651k	40 Part 75
7651k note	40 Part 75

42 U.S.C.—Con.	CFR
7651j	40 Part 77
7671—7671q	40 Part 9
7701 et seq	7 Part 1792 49 Part 41
8101 et seq	12 Part 932
9601—9617	40 Part 9
9601 et seq	40 Parts 305, 307
9609	33 Part 20
9615	40 Part 2
9801 et seq	45 Parts 1304, 1305, 1308
10226	10 Part 50
11023	40 Parts 9, 372
11048	40 Parts 9, 372
11389	24 Part 583
11403 note	24 Part 582
12101 et seq	12 Part 517
12891	24 Part 572
13524	48 Parts 925, 952
42 U.S.C.	
262	21 Part 206
43 U.S.C.	
1701 et seq	43 Part 3730
1733	43 Part 3160
6508	43 Part 3160
44 U.S.C.	
3501 et seq	25 Part 503
45 U.S.C.	
41—42	49 Part 9
46 U.S.C.	
2103	33 Part 164 46 Part 12
2110	46 Part 12
3703 note	33 Part 164
3715	33 Part 155
8502	33 Part 164
12106	19 Part 4 46 Part 15
46 U.S.C. App.	
1721	46 Parts 580, 581, 583
817d	46 Part 502
817e	46 Part 502
47 U.S.C.	
151	47 Parts 61, 76
152—154	47 Part 76
154	47 Part 99
201—205	47 Part 61
301	47 Part 76
302	47 Parts 76, 99
303	47 Parts 76, 99
332	47 Part 99
334	47 Part 73
403	47 Part 61
503	47 Part 1
531	47 Part 76
532	47 Part 76
533	47 Part 76
535	47 Part 76
542	47 Part 76
548	47 Part 76

47 U.S.C.—Con.	CFR
552	47 Part 76
554	47 Parts 21, 25, 74, 76, 100
901 et seq	47 Part 300
48 U.S.C.	
364a—364c	43 Part 3820
49 U.S.C.	
322	49 Parts 9, 41
504	49 Part 9
1522	14 Part 129
1623	19 Part 122
10301	5 Part 5001
10306	5 Part 5001
10321	5 Part 5001 49 Parts 1018, 1019, 1023
11505	49 Part 1039
49 U.S.C. App.	
655	49 Part 228
1344	14 Part 25
1354	14 Part 25
1355	14 Part 25
1343	14 Part 170
1346	14 Part 170
1348	14 Part 170
1354	14 Part 170
1355	14 Part 170
1401	14 Part 170
1421	14 Parts 25, 170
1422—1430	14 Part 170
1423	14 Part 25
1424	14 Part 25
1425	14 Part 25
1428	14 Part 25
1429	14 Part 25
1472	14 Part 170
1502	14 Part 170
1514	31 Part 585
1522	14 Part 170
1901 et seq	49 Part 821
1921 et seq	49 Part 821
1971	49 Part 821
10505	49 Part 1145
50 U.S.C.	
781	32 Part 156
1601 et seq	31 Part 585
1601—1651	31 Parts 550, 575, 580, 585
1701 et seq	31 Part 585
1701—1706	31 Parts 550, 575, 580, 585
50 U.S.C. App.	
1—44	31 Part 500
2251 note	44 Part 354
U.S. Statutes at Large:	
49 Stat.	
1817	43 Part 3820
50 Stat.	
1827	43 Part 3820

	CFR
62 Stat.	
162	43 Part 3820
72 Stat.	
1114	38 Part 14
1238	38 Part 14
84 Stat.	
7	Part 97
88 Stat.	
271	7 Part 702
89 Stat.	
871	16 Part 305
92 Stat.	
3258	16 Part 305
94 Stat.	
780	44 Part 354
96 Stat.	
2136	23 Part 635
98 Stat.	
55	23 Part 635
494	44 Part 354
1153	15 Part 19
101 Stat.	
103	16 Part 305
132	23 Part 635
1568	12 Part 620
1656	12 Part 620
102 Stat.	
671	16 Part 305
104 Stat.	
1380	14 Part 1204
4978	2 Part 416
105 Stat.	
1701	7 Parts 1477, 1478
1914	23 Parts 625, 635
106 Stat.	
117	7 Parts 1477, 1478
252	49 Part 671
1374	43 Parts 3730, 3830, 3850
1378—1379	43 Parts 3730, 3830, 3850
1460	47 Part 76
1553	49 Part 671
1571	44 Part 354
1875	45 Part 1612
2724	5 Part 1650
2776	13 Part 121 16 Part 305
3133	13 Part 121
4237	37 Part 201
107 Stat.	
40	15 Part 799
312	7 Part 1786
Public Laws:	
89-508	49 Part 89
97-449	14 Parts 127, 135
98-167	49 Part 89
98-181	12 Part 225

Public Laws—Con.	CFR
98-369	49 Part 89
99-335	5 Part 837
101-73	12 Part 701
101-194	43 Part 20
102-365	49 Part 228
102-378	5 Part 531
102-484	5 Part 330
102-533	49 Part 229
102-587	50 Part 85
103-3	5 Part 630
103-10	15 Part 775
Presidential Documents:	
Executive Orders:	
10577	5 Part 250
11222	5 Part 1633
11609	45 Part 708
11735	40 Part 9
12002	15 Part 799
12058	15 Part 799
12072	41 Part 101-18
12107	45 Part 708
12214	15 Part 799
12333	32 Part 386
12549	5 Part 970
12580	40 Parts 305, 307
12583	31 Part 580
12656	46 Part 340
12657	44 Part 354
12673	44 Part 2
12674	5 Parts 1633, 3202, 3601, 4301, 5001, 5601, 5701 12 Part 336 39 Part 3000
12699	7 Part 1792 49 Part 41
12731	5 Parts 1633, 3202, 3601, 4301, 5001, 5601, 5701 12 Parts 336, 1605 16 Parts 5, 1030 18 Part 3c 34 Part 73 39 Part 3000 43 Part 20 49 Part 99
12735	15 Part 799
12777	33 Parts 150, 154, 155, 156 49 Part 194
12778	29 Part 18
12808	31 Part 585
12810	31 Part 585
12817	31 Part 575
12828	5 Part 351
12831	31 Part 585
12846	31 Part 585
12853	31 Part 580
12854	31 Part 515

Removals from Table I, September 1993

This table lists the sections of the U.S. Code, U.S. Statutes at Large, Public Laws, and Presidential documents which are being removed from Table I as a result of documents published in the **Federal Register** during January through September 1993.

Table I is in the CFR Index and Finding Aids revised as of January 1, 1993. Removals during 1992 are in the December 1992 LSA (List of CFR Sections Affected).

In order to determine the **Federal Register** page number of a parallel CFR citation, consult this LSA and the appropriate Annual Issue of the LSA for that CFR title.

U.S. Code:	CFR
2 U.S.C.	
178	36 Part 704
3 U.S.C.	
301	32 Part 40
5 U.S.C.	
552	32 Part 138
	44 Part 2
	46 Part 505
553	46 Parts 505, 525
	49 Part 1321
1302	5 Part 752
3301—3302	5 Part 752
7513	5 Part 752
5 U.S.C. Appendix	
App	44 Part 3
4	5 Part 1633
	34 Part 73
5	34 Part 73
201—212	20 Part 360
7 U.S.C.	
4	17 Part 3
4a	17 Part 3
8	17 Part 3
9	17 Part 3
9a	17 Part 3
13c	17 Part 3
16a	17 Part 3
144f-1	7 Part 1421
608c	7 Part 953
1308	7 Part 1464
1431e	7 Part 250
1989	7 Part 1944
2011—2031	7 Parts 271—282, 284, 285
2131—2157	9 Parts 1, 2
2326	7 Part 180
2352—2353	7 Part 180
2356	7 Part 180
2371	7 Part 180
2402—2403	7 Part 180
2426—2427	7 Part 180
2501	7 Part 180
4201 note	7 Part 1980
8 U.S.C.	
1101	22 Part 41
10 U.S.C.	
131	32 Part 356
131 et seq	32 Parts 354, 357, 361, 364
133	32 Parts 244, 358, 369, 371, 372a, 390a
134	32 Part 385
136	32 Parts 386, 387
191—193	32 Parts 359, 360
301	32 Part 355
371—378	32 Part 213
511	32 Part 92
651	32 Part 50
672	32 Part 92
2102	32 Part 92
2202	32 Parts 201, 236, 246
	48 Parts 201—217, 219, 222—237, 239, 241—253
2301—2314	32 Parts 592—606, 608, 612, 616
2576	32 Part 201
2809	32 Part 80
3012	32 Parts 592—606, 608, 612, 616
8012	32 Parts 954, 988
11 U.S.C.	
1-151326	32 Part 92
12 U.S.C.	
36	12 Part 208
241	17 Part 239
1141	46 Part 502
1431	12 Part 940
1462	12 Parts 579, 580
1462a	12 Parts 579, 580
1463	12 Parts 579, 580
1464	12 Parts 579, 580, 933, 940
1467	12 Parts 579, 580
1691	12 Part 933
1691a	12 Part 933
1701q	24 Part 290
1710	24 Part 203
1715	24 Parts 203
1715b	24 Part 207

12 U.S.C.—Con.	CFR
1715m	32 Part 77
1730d	31 Part 103
1735f-12	24 Part 207
1798	12 Part 701
1814	123 Part 208
1819	12 Part 325
1828	12 Part 225
1831	12 Part 303
1831i	12 Part 225
1831o	12 Part 263
1843	12 Part 225
2801	12 Parts 579, 580
3105	12 Part 208
3310	12 Parts 208, 225
3331—3351	12 Parts 208, 225
3535	24 Part 200
3711	24 Part 27
3717	24 Part 27
3906—3909	12 Part 208
3907	12 Part 225
3909	12 Part 225
15 U.S.C.	
77a et seq	17 Part 239
77nn	17 Part 229
78b	12 Part 208
78l	12 Part 208
78o-4	12 Part 208
78q	12 Part 208
78q-1	12 Part 208
78w	12 Part 208
78ll	17 Part 240
80a-37	17 Part 210
637	14 Part 1204
1601 et seq	12 Part 701
1691	12 Part 940
2001	49 Part 523
16 U.S.C.	
791a—825r	18 Part 2
18 U.S.C.	
201—209	34 Part 73
201 note	43 Part 20
207	10 Part 0
	20 Part 360
	43 Part 20
19 U.S.C.	
58	19 Part 101
20 U.S.C.	
1047	34 Part 779
1051—1069c	34 Part 624
1057—1059	34 Part 625
1060—1063	34 Part 626
1064—1069c	34 Part 627
1065a	34 Part 628
1066—1069c	34 Parts 625, 626
1111—1111h	34 Part 653
1121—1127	34 Part 655
1133	34 Parts 633, 634, 635
1133—1133a	34 Part 632
1133—1133b	34 Part 631
1133b	34 Parts 633, 634, 635
1134—1134b	34 Part 648
1134d	34 Part 649
1134f	34 Part 649
1135 et seq	34 Part 630
4644	34 Part 230
21 U.S.C.	
352	21 Part 1020
376	21 Parts 175, 172, 177, 201, 514
22 U.S.C.	
661—672	31 Part 254
25 U.S.C.	
2102 et seq	43 Part 3160
28 U.S.C.	
535	34 Part 73
29 U.S.C.	
777a	34 Part 359
30 U.S.C.	
183 et seq	43 Part 3160
1201	30 Parts 718, 720
31 U.S.C.	
738a	31 Part 349
754	31 Part 349
754a	31 Part 349
1601 et seq	12 Part 701
3717	12 Part 701
9701	40 Part 86
	42 Part 417
33 U.S.C	
1223	33 Part 164
1251 et seq	40 Part 435
1321	49 Parts 171, 172
38 U.S.C.	
210	48 Part 801, 814, 833, 836
501	38 Parts 21, 14
2014	5 Part 307
5902—5905	38 Part 14
40 U.S.C.	
304c	41 Part 101-18
333	29 Part 1910
471	41 Part 101-18
490	41 Part 101-18
490b	32 Part 80
531—535	41 Part 101-18
601—615	41 Part 101-18
42 U.S.C.	
1396r	42 Part 433
1437c	24 Parts 905
1437d	24 Parts 905
1437aa—1437cc	24 Part 913
1437ee	24 Part 913
1452b	24 Part 290
1861	12 Part 701
2021b et seq	10 Part 2
2201w	10 Part 171
2232—2239	10 Part 50
2243	10 Part 2
2928h	45 Part 1304

42 U.S.C.—Con.	CFR
3535	24 Part 203
3537b	24 Part 86
3544	24 Part 200
3601—3619	12 Part 940
3701 et seq.	28 Part 23
4106	12 Part 933
4201—4244	41 Part 101-18
5015	28 Part 527
5039	28 Part 527
6508	43 Part 3160
6851 et seq.	10 Part 440
7101—7352	18 Part 346
7401	40 Parts 9, 60
7411	40 Part 60
7412	40 Part 9
7414	40 Parts 9, 60
7416	40 Parts 9, 60
7601	40 Parts 9, 60
7651k	40 Part 75
7671—7671q	40 Part 9
9831 et seq.	45 Part 1305
11013	40 Part 372
11028	40 Part 372
45 U.S.C.	
358	20 Part 345
46 U.S.C.	
816	46 Part 525
1114	46 Part 315
1242	46 Part 315
46 U.S.C. App.	
831	46 Part 505
841a	46 Part 505
1709	46 Parts 505, 525
1710	46 Part 505
1712	46 Part 505
1716	46 Parts 505, 525
1722	46 Parts 580, 581, 583
8105	46 Parts 10, 12, 15
10104	46 Part 12
47 U.S.C.	
151	47 Part 64
151—154	47 Part 76
154	47 Parts 34, 35
201—205	47 Part 64
203	47 Part 61
214	47 Part 64
219	47 Parts 34, 35
220	47 Parts 34, 35, 64
301—303	47 Part 76
301	47 Part 74
303	47 Parts 25, 34, 35
307	47 Parts 34, 35, 74
531	47 Part 76
533	47 Part 76
535	47 Part 76
543	47 Part 76
552	47 Part 76
49 U.S.C.	
1—27	18 Part 346

49 U.S.C.—Con.	CFR
490 note	41 Part 101-18
504	49 Part 394
1343	14 Part 170
1344	14 Part 25
1346	14 Part 170
1348	14 Part 170
1354	14 Parts 25, 170
1355	14 Parts 25, 170
1401	14 Part 170
1421	14 Parts 25, 170
1421 et seq.	49 Part 821
1422—1430	14 Part 170
1423	14 Part 25
1424	14 Part 25
1425	14 Part 25
1428	14 Part 25
1429	14 Part 25
1430	14 Part 25
1472	14 Part 170
1502	14 Part 170
1522	14 Part 170
1657	49 Parts 9, 523, 533, 537
1751	7 Part 246
1901 et seq.	49 Part 821
3102	49 Part 394
10101	49 Part 1321
10102	49 Part 1321
10321	49 Part 1321
10521	49 Part 1321
10701	49 Part 1321
10702	49 Part 1321
10704	49 Part 1321
10708	49 Part 1039
10741	49 Part 1321
10743	49 Part 1321
10761	49 Parts 1039, 1321
10762	49 Parts 1039, 1321
10764	49 Part 1321
10921	49 Part 1321
10923	49 Part 1321
11105	49 Part 1039
11149	49 Part 1321
11505	49 Part 1039
11901	49 Part 1321
11903	49 Part 1321
11904	49 Part 1321
11906	49 Part 1321
11902	49 Part 1039
11903	49 Part 1039
11904	49 Part 1039
49 U.S.C. App.	
1655	49 Part 228
1815	49 Part 171
2505	49 Part 394
50 U.S.C.	
781 et seq.	32 Part 156
1601 et seq.	31 Part 585

50 U.S.C.—Con.	CFR
1701 et seq.	31 Parts 550, 575, 580, 585
50 U.S.C. App.	
5	31 Part 500
456	32 Part 50
1751—1806 note	31 Part 253
1971—1971q note	31 Part 290
U.S. Statutes at Large:	
45 Stat.	
254	31 Part 251
84 Stat.	
1880	28 Part 23
1894	41 Part 101-18
87 Stat.	
197	28 Part 23
88 Stat.	
1109	28 Part 23
90 Stat.	
1346	28 Part 23
2407	28 Part 23
91 Stat.	
1048	28 Part 23
92 Stat.	
629	30 Part 256
1021	45 Part 1612
93 Stat.	
416	45 Part 1612
1167	28 Part 23
94 Stat.	
3166	45 Part 1612
96 Stat.	
22	45 Part 1612
1235	12 Part 211
1874	45 Part 1612
97 Stat.	
1071	45 Part 1612
99 Stat.	
1185	45 Part 1612
101 Stat.	
1330	29 Part 2622

104 Stat.	CFR
1462	5 Part 530
1466	5 Part 530
2399	40 Part 60
Public laws:	
87-651	32 Part 40
95-217	40 Part 435
95-619	16 Part 305
99-500	7 Part 240
100-12	16 Part 305
100-233	12 Part 620
100-342	49 Part 228
100-357	16 Part 305
101-162	13 Part 107
101-574	13 Part 107
101-624	7 Parts 1477, 1478
102-229	7 Parts 1477, 1478
102-533	49 Part 229
Presidential Documents:	
Executive Orders:	
10487	31 Part 290
11063	12 Part 940
11222	12 Part 796
	16 Part 1030
	18 Part 3c
	20 Part 360
	22 Part 705
	32 Part 40
	34 Part 73
	39 Part 3000
	44 Part 3
	49 Part 99
11490	46 Part 340
11512	41 Part 101-18
11514	24 Part 50
11570	39 Part 3000
11735	33 Parts 154, 155, 156
12009	18 Parts 101, 201, 346
12565	12 Part 336
12333	32 Part 355
12800	29 Part 470

1992

57 FR Page	
45261-45558	Oct. 1
45559-45707	2
45709-45972	5
45973-46078	6
46079-46294	7
46295-46476	8
46477-46746	9
46747-46948	13
46949-47252	14
47253-47398	15
47399-47554	16
47555-47754	19
47755-47974	20
47975-48160	21
48161-48304	22
48305-48434	23
48435-48556	26
48557-48710	27
48711-48928	28
48929-49130	29
49131-49372	30
49373-49630	Nov. 2
49631-52576	3
52577-52718	4
52719-53014	5
43014-53210	6
53211-43430	9
53431-53536	10
53537-53846	12
53537-53846	13
53981-54164	16
54165-54284	17
54285-54484	18
54485-54678	19
54677-54894	20
54895-55042	23
55043-55436	24
55437-56230	25
56231-56432	27
56433-56802	30
56803-56962	Dec. 1
56963-57093	2
57095-57320	3
57321-57644	4
57645-57873	7
57875-58119	8
58121-58397	9
58399-58696	10
58697-58960	11
58691-59274	14
59275-59800	15
59801-59894	16
59895-60071	17
60073-60448	18
60449-60713	21
60715-60973	22
60975-61248	23
61249-61556	24
61557-61758	28
61759-62144	29
62145-62465	30
62467-62919	31

1993

58 FR Page	
1-211	Jan. 4
213-465	5
467-2964	6
2965-3192	7
3193-3483	8
3485-3823	11
3825-4057	12
4059-4294	13
4295-4568	14
4569-4890	15
4891-5252	19
5253-5560	21
5561-5917	22
5919-6074	25
6075-6186	26
6187-6341	27
6343-6439	28
6441-6600	29
6601-6678	Feb. 1
6679-6874	2
6875-7041	3
7043-7184	4
7185-7475	5
7477-7713	8
7715-7860	9
7861-7951	10
7953-8199	11
8201-8515	12
8517-8689	16
8691-8892	17
8893-9106	18
9107-9516	19
9517-10935	22
10937-11184	23
11185-11359	24
11361-11495	25
11497-11781	26
11783-11950	Mar. 1
11951-12144	2
12145-12328	3
12329-12536	4
12537-12900	5
12901-12996	8
12997-13188	9
13189-13400	10
13401-13528	11
13529-13694	12
13695-14144	15
14145-14302	16
14303-14493	17
14495-15070	18

15071-15259	19
15261-15414	22
15415-15749	23
15751-16101	24
16103-16343	25
16345-16479	26
16481-16610	29
16611-16762	30
16763-17080	31
17081-17320	Apr. 1
17321-17490	2
17491-17772	5
17773-17942	6
17943-18138	7
18139-18336	8
18337-19032	9
19033-19192	12
19193-19320	13
19321-19546	14
19547-19766	15
19767-21092	16
21093-21240	19
21241-21342	20
21343-21534	21
21535-21636	22
21637-21888	23
21889-25536	26
25537-25772	27
25773-25928	28
25929-26054	29
26055-26244	30
26225-26498	May 3
26499-26678	4
26679-26910	5
26911-27196	6
27197-27442	7
27443-27650	10
27651-27920	11
27921-28332	12
28333-28490	13
28491-28756	14
28757-28914	17
28915-29096	18
29097-29326	19
29327-29520	20
29521-29776	21
29777-29948	24
29949-30100	25
30101-30694	26
30695-30934	27
30935-31145	28
31147-31329	June 1
31331-31460	2
31461-31646	3
31647-31892	4
31893-32040	7
32041-32268	8
32269-32431	9
32433-32589	10
32591-32834	11
32835-33003	14
33005-33183	15
33185-33317	16
33319-33496	17
33497-33751	18
33753-33881	21
33883-33992	22
33993-34210	23
34211-34355	24
34357-34518	25
34519-34679	28
34681-34862	29
34863-35356	30
35357-35839	Jul 1
35841-36116	2
36117-36299	6
36301-36587	7
36589-36852	8
36853-37411	9
37413-37629	12
37631-37845	13
37847-38043	14
38045-38262	15
38263-38507	16
38509-38659	19
38661-38910	20
38911-39111	21
39113-39416	22
39417-39623	23
39625-40030	26
40031-40305	27
40307-40579	28
40581-40716	29
40717-41022	30
41023-41169	Aug 2
41171-41418	3
41419-41619	4
41621-41980	5
41981-42186	6
42187-42482	9
42483-42636	10
42637-42837	11
42839-43063	12
43065-43237	13
43239-43489	16
43491-43783	17
43785-44100	18
44101-44254	19
44255-44433	20
44435-44603	23
44605-44742	24
44743-45038	25
45039-45230	26
45231-45408	27
45409-45775	30
45776-46072	31
46073-46527	Sept. 1
46529-46757	2

46759–47013	3	48775–48952	20
47015–47197	7	48953–49174	21
47199–47370	8	49175–49420	22
47371–47618	9	49421–49899	23
47619–47820	10	49901–50241	24
47983–48258	14	50243–50505	27
48259–48443	15	50507–50830	28
48445–48589	16	50831–51006	29
48591–48774	17	51007–51209	30

○

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

code of federal regulations

LSA

List of CFR Sections Affected

October 1993

United States Government Printing Office
SUPERINTENDENT OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

**********3-DIGIT 481
A FR UMISE346U NOV 93 R
UMI SERIALS ACQUISITIONS
300 N ZEEB RD
PO BOX 1346
ANN ARBOR MI 48106

code of federal regulations

LSA

List of CFR Sections Affected

October 1993

Title 1–16
Changes January 4, 1993
through October 29, 1993

Title 17–27
Changes April 1, 1993
through October 29, 1993

Title 28–41
Changes July 1, 1993
through October 29, 1993

Title 42–50
Changes October 1, 1993
through October 29, 1993

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1-16—as of Jan. 1
17-27—as of April 1
28-41—as of July 1
42-50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

Boldface page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (i.e. 58 FR for 1993) and the page number. Example: 24727 cite as 57 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1-16; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Table I—Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from Table I as a result of documents published in the Federal Register since January 1, 1993.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Laurice Clark, Ken Payne and Rob Sheehan. INQUIRIES, telephone 202-523-5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Martha L. Girard, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-019-00001-1)	$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101).	(869-019-00002-0)	17.00	[1] Jan. 1, 1993
4	(869-019-00003-8)	5.50	Jan. 1, 1993
5 Parts:			
1-699	(869-019-00004-6)	21.00	Jan. 1, 1993
700-1199	(869-019-00005-4)	17.00	Jan. 1, 1993
1200-End, 6 (6 Reserved)	(869-019-00006-2)	21.00	Jan. 1, 1993
7 Parts:			
0-26	(869-019-00007-1)	20.00	Jan. 1, 1993
27-45	(869-019-00008-9)	13.00	Jan. 1, 1993
46-51	(869-019-00009-7)	20.00	Jan. 1, 1993
52	(869-019-00010-1)	28.00	Jan. 1, 1993
53-209	(869-019-00011-9)	21.00	Jan. 1, 1993
210-299	(869-019-00012-7)	30.00	Jan. 1, 1993
300-399	(869-019-00013-5)	15.00	Jan. 1, 1993
400-699	(869-019-00014-3)	17.00	Jan. 1, 1993
700-899	(869-019-00015-1)	21.00	Jan. 1, 1993
900-999	(869-019-00016-0)	33.00	Jan. 1, 1993
1000-1059	(869-019-00017-8)	20.00	Jan. 1, 1993
1060-1119	(869-019-00018-6)	13.00	Jan. 1, 1993
1120-1199	(869-019-00019-4)	11.00	Jan. 1, 1993
1200-1499	(869-019-00020-8)	27.00	Jan. 1, 1993
1500-1899	(869-019-00021-6)	17.00	Jan. 1, 1993
1900-1939	(869-019-00022-4)	13.00	Jan. 1, 1993
1940-1949	(869-019-00023-2)	27.00	Jan. 1, 1993
1950-1999	(869-019-00024-1)	32.00	Jan. 1, 1993
2000-End	(869-019-00025-9)	12.00	Jan. 1, 1993
8	(869-019-00026-7)	20.00	Jan. 1, 1993
9 Parts:			
1-199	(869-019-00027-5)	27.00	Jan. 1, 1993
200-End	(869-019-00028-3)	21.00	Jan. 1, 1993
10 Parts:			
0-50	(869-019-00029-1)	29.00	Jan. 1, 1993
51-199	(869-019-00030-5)	27.00	Jan. 1, 1993
200-399	(869-019-00031-3)	15.00	Jan. 1, 1993
400-499	(869-019-00032-1)	20.00	Jan. 1, 1993
500-End	(869-019-00033-0)	33.00	Jan. 1, 1993
11	(869-019-00034-8)	13.00	Jan. 1, 1993
12 Parts:			
1-199	(869-019-00035-6)	11.00	Jan. 1, 1993
200-219	(869-019-00036-4)	15.00	Jan. 1, 1993
220-299	(869-019-00037-2)	26.00	Jan. 1, 1993
300-499	(869-019-00038-1)	21.00	Jan. 1, 1993
500-599	(869-019-00039-9)	19.00	Jan. 1, 1993
600-End	(869-019-00040-2)	28.00	Jan. 1, 1993
13	(869-019-00041-1)	28.00	Jan. 1, 1993
14 Parts:			
1-59	(869-019-00042-9)	29.00	Jan. 1, 1993
60-139	(869-019-00043-7)	26.00	Jan. 1, 1993
140-199	(869-019-00044-5)	12.00	Jan. 1, 1993

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
200-1199	(869-019-00045-3)	22.00	Jan. 1, 1993
1200-End	(869-019-00046-1)	16.00	Jan. 1, 1993
15 Parts:			
0-299	(869-019-00047-0)	14.00	Jan. 1, 1993
300-799	(869-019-00048-8)	25.00	Jan. 1, 1993
800-End	(869-019-00049-6)	19.00	Jan. 1, 1993
16 Parts:			
0-149	(869-019-00050-0)	7.00	Jan. 1, 1993
150-999	(869-019-00051-8)	17.00	Jan. 1, 1993
1000-End	(869-019-00052-6)	24.00	Jan. 1, 1993
17 Parts:			
1-199	(869-019-00054-2)	18.00	Apr. 1, 1993
200-239	(869-019-00055-1)	23.00	Apr. 1, 1993
240-End	(869-019-00056-9)	30.00	Apr. 1, 1993
18 Parts:			
1-149	(869-019-00057-7)	16.00	Apr. 1, 1993
150-279	(869-019-00058-5)	19.00	Apr. 1, 1993
280-399	(869-019-00059-3)	15.00	Apr. 1, 1993
400-End	(869-019-00060-7)	10.00	Apr. 1, 1993
19 Parts:			
1-199	(869-019-00061-5)	35.00	Apr. 1, 1993
200-End	(869-017-00062-1)	9.50	Apr. 1, 1992
20 Parts:			
1-399	(869-019-00063-1)	23.00	Apr. 1, 1993
400-499	(869-019-00064-0)	31.00	Apr. 1, 1993
500-End	(869-019-00065-8)	30.00	Apr. 1, 1993
21 Parts:			
1-99	(869-017-00066-3)	13.00	Apr. 1, 1992
100-169	(869-019-00067-4)	21.00	Apr. 1, 1993
170-199	(869-019-00068-2)	20.00	Apr. 1, 1993
200-299	(869-019-00069-1)	6.00	Apr. 1, 1993
300-499	(869-019-00070-4)	34.00	Apr. 1, 1993
500-599	(869-019-00071-2)	21.00	Apr. 1, 1993
600-799	(869-019-00072-1)	8.00	Apr. 1, 1993
800-1299	(869-019-00073-9)	22.00	Apr. 1, 1993
1300-End	(869-019-00074-7)	12.00	Apr. 1, 1993
22 Parts:			
1-299	(869-019-00075-5)	30.00	Apr. 1, 1993
300-End	(869-019-00076-3)	22.00	Apr. 1, 1993
23	(869-019-00077-1)	21.00	Apr. 1, 1993
24 Parts:			
0-199	(869-019-00078-0)	38.00	Apr. 1, 1993
200-499	(869-019-00079-8)	36.00	Apr. 1, 1993
500-699	(869-019-00080-1)	17.00	Apr. 1, 1993
700-1699	(869-019-00081-0)	39.00	Apr. 1, 1993
1700-End	(869-019-00082-8)	15.00	Apr. 1, 1993
25	(869-019-00083-6)	31.00	Apr. 1, 1993
26 Parts:			
§§ 1.0-1-1.60	(869-019-00084-4)	21.00	Apr. 1, 1993
§§ 1.61-1.169	(869-019-00085-2)	37.00	Apr. 1, 1993
§§ 1.170-1.300	(869-017-00086-8)	19.00	Apr. 1, 1992
§§ 1.301-1.400	(869-017-00087-6)	17.00	Apr. 1, 1992
§§ 1.401-1.440	(869-019-00088-7)	31.00	Apr. 1, 1993

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
§§ 1.401-1.500	(869-017-00088-4)	38.00	Apr. 1, 1992
§§ 1.501-1.640	(869-019-00090-9)	30.00	Apr. 1, 1993
§§ 1.641-1.850	(869-017-00091-7)	24.00	Apr. 1, 1993
§§ 1.851-1.907	(869-017-00091-4)	23.00	Apr. 1, 1992
§§ 1.908-1.1000	(869-019-00093-3)	26.00	Apr. 1, 1993
§§ 1.1001-1.1400	(869-017-00094-1)	22.00	Apr. 1,1993
§§ 1.1401-End	(867-019-00095-0)	31.00	Apr. 1, 1993
2-29	(869-019-00096-8)	23.00	Apr. 1, 1993
30-39	(869-019-00097-6)	18.00	Apr. 1, 1993
40-49	(869-019-00098-4)	13.00	Apr. 1, 1993
50-299	(869-019-00099-2)	13.00	Apr. 1, 1993
300-499	(869-019-00100-0)	23.00	Apr. 1, 1993
500-599	(869-019-00101-8)	6.00	[5] Apr. 1, 1990
600-End	(869-019-00102-6)	8.00	Apr. 1, 1993
27 Parts:			
1-199	(869-019-00103-4)	37.00	Apr. 1, 1993
200-End	(869-017-00103-1)	11.00	Apr. 1, 1992
28 Parts:			
0-42	(869-019-00105-1)	27.00	July 1, 1993
29 Parts:			
0-99	(869-019-00107-7)	21.00	July 1, 1993
100-499	(869-019-00108-5)	9.50	July 1, 1993
500-899	(869-019-00109-3)	36.00	July 1, 1993
900-1899	(869-019-00110-7)	17.00	July 1, 1993
1900-1910 (§§ 1901.1 to 1910.999).	(869-017-00109-1)	29.00	July 1, 1992
1910 (§§ 1910.1000 to end)	(869-017-00110-4)	16.00	July 1, 1992
1911-1925	(869-017-00111-2)	9.00	[6] July 1, 1989
1926	(869-017-00112-1)	14.00	July 1, 1992
1927-End	(869-017-00113-9)	30.00	July 1, 1992
30 Parts:			
1-199	(869-019-00116-6)	27.00	July 1, 1993
200-699	(869-019-00117-4)	20.00	July 1, 1993
700-End	(869-019-00118-2)	27.00	July 1, 1993
31 Parts:			
0-199	(869-019-00119-1)	18.00	July 1, 1993
200-End	(869-017-00118-0)	25.00	July 1, 1992
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-190	(869-019-00121-2)	30.00	July 1, 1993
191-399	(869-019-00122-1)	35.00	July 1, 1993
400-629	(869-019-00123-9)	26.00	July 1, 1993
630-699	(869-019-00124-7)	14.00	July 1, 1993
700-799	(869-017-00123-6)	20.00	July 1, 1992
800-End	(869-019-00126-3)	22.00	July 1, 1993
33 Parts:			
1-124	(869-017-00125-2)	18.00	July 1, 1992
125-199	(869-017-00126-1)	18.00	July 1, 1992
200-End	(869-019-00129-8)	24.00	July 1, 1993
34 Parts:			
1-299	(869-017-00128-7)	27.00	July 1, 1992

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300–399	(869–019–00131–0)	20.00	July 1, 1993
400–End	(869–017–00130–9)	32.00	July 1, 1992
35	(867–019–00133–6)	12.00	July 1, 1993
36 Parts:			
1–199	(869–017–00132–5)	15.00	July 1, 1992
200–End	(869–017–00133–3)	32.00	July 1, 1992
37	(869–019–00136–1)	20.00	July 1, 1993
38 Parts:			
0–17	(869–019–00137–9)	30.00	July 1, 1993
18–End	(869–019–00138–7)	30.00	July 1, 1993
39	(869–019–00139–5)	17.00	July 1, 1993
40 Parts:			
1–51	(869–017–00138–4)	31.00	July 1, 1992
52	(869–017–00139–2)	33.00	July 1, 1992
53–60	(869–017–00140–6)	36.00	July 1, 1992
61–80	(869–017–00141–4)	16.00	July 1, 1992
81–85	(869–017–00142–2)	17.00	July 1, 1992
86–99	(869–017–00143–1)	33.00	July 1, 1992
100–149	(869–017–00144–9)	34.00	July 1, 1992
150–189	(869–017–00145–7)	21.00	July 1, 1992
190–259	(869–017–00146–5)	16.00	July 1, 1992
260–299	(869–017–00147–3)	36.00	July 1, 1992
300–399	(869–017–00148–1)	15.00	July 1, 1992
400–424	(869–017–00149–0)	26.00	July 1, 1992
425–699	(869–017–00150–3)	26.00	July 1, 1992
700–789	(869–017–00151–1)	23.00	July 1, 1992
790–End	(869–017–00152–0)	25.00	July 1, 1992
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved).		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–019–00156–5)	10.00	July 1, 1993
101	(869–019–00157–3)	30.00	July 1, 1993
102–200	(869–019–00158–1)	11.00	July 1, 1993
201–End	(869–019–00159–0)	12.00	July 1, 1993
42 Parts:			
1–399	(869–017–00157–1)	23.00	Oct. 1, 1992
400–429	(869–017–00158–9)	23.00	Oct. 1, 1992
430–End	(869–017–00159–7)	31.00	Oct. 1, 1992
43 Parts:			
1–999	(869–017–00160–1)	22.00	Oct. 1, 1992
1000–3999	(869–017–00161–9)	30.00	Oct. 1, 1992
4000–End	(869–017–00162–7)	13.00	Oct. 1, 1992
44	(869–017–00163–5)	26.00	Oct. 1, 1992

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
45 Parts:			
1–199	(869–017–00164–3)	20.00	Oct. 1, 1992
200–499	(869–017–00165–1)	14.00	Oct. 1, 1992
500–1199	(869–017–00166–0)	30.00	Oct. 1, 1992
1200–End	(869–017–00167–8)	20.00	Oct. 1, 1992
46 Parts:			
1–40	(869–017–00168–6)	17.00	Oct. 1, 1992
41–69	(869–017–00169–4)	16.00	Oct. 1, 1992
70–89	(869–017–00170–8)	8.00	Oct. 1, 1992
90–139	(869–017–00171–6)	14.00	Oct. 1, 1992
140–155	(869–017–00172–4)	12.00	Oct. 1, 1992
156–165	(869–017–00173–2)	14.00	Oct. 1, 1992
166–199	(869–017–00174–1)	17.00	Oct. 1, 1992
200–499	(869–017–00175–9)	22.00	Oct. 1, 1992
500–End	(869–017–00176–7)	14.00	Oct. 1, 1992
47 Parts:			
0–19	(869–017–00177–5)	22.00	Oct. 1, 1992
20–39	(869–017–00178–3)	22.00	Oct. 1, 1992
40–69	(869–017–00179–1)	10.00	Oct. 1, 1992
70–79	(869–017–00180–5)	21.00	Oct. 1, 1992
80–End	(869–017–00181–3)	24.00	Oct. 1, 1992
48 Chapters:			
1 (Parts 1–51)	(869–017–00182–1)	34.00	Oct. 1, 1992
1 (Parts 52–99)	(869–017–00183–0)	22.00	Oct. 1, 1992
2 (Parts 201–251)	(869–017–00184–8)	15.00	Oct. 1, 1992
2 (Parts 252–299)	(869–017–00185–6)	12.00	Oct. 1, 1992
3–6	(869–017–00186–4)	22.00	Oct. 1, 1992
7–14	(869–017–00187–2)	30.00	Oct. 1, 1992
15–28	(869–017–00188–1)	26.00	Oct. 1, 1992
29–End	(869–017–00189–9)	16.00	Oct. 1, 1992
49 Parts:			
1–99	(869–017–00190–2)	22.00	Oct. 1, 1992
100–177	(869–017–00191–1)	27.00	Oct. 1, 1992
178–199	(869–017–00192–9)	19.00	Oct. 1, 1992
200–399	(869–017–00193–7)	27.00	Oct. 1, 1992
400–999	(869–017–00194–5)	31.00	Oct. 1, 1992
1000–1199	(869–017–00195–3)	19.00	Oct. 1, 1992
1200–End	(869–017–00196–1)	21.00	Oct. 1, 1992
50 Parts:			
1–199	(869–017–00197–0)	23.00	Oct. 1, 1992
200–599	(869–017–00198–8)	20.00	Oct. 1, 1992
600–End	(869–017–00199–6)	20.00	Oct. 1, 1992
CFR Index and Finding Aids	(869–019–00053–4)	36.00	Jan. 1, 1993
Complete 1993 CFR set		775.00	1993
Complete 1992 CFR set		620.00	1992
Microfiche CFR Edition:			
Complete set (one-time mailing).		185.00	1989
Complete set (one-time mailing).		188.00	1990
Subscription (mailed as issued)		188.00	1991
Subscription (mailed as issued)		188.00	1992

Footnotes at end of table.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
Individual copies		2.00	1992

[1]Because title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR parts 1—189 contains a note only for parts 1—39 inclusive. For the full text of the Defense Acquisition Regulations in parts 1—39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR chapters 1—100 contains a note only for chapters 1 to 49 inclusive. For the full text of procurement regulations in chapters 1 to 49, consult the three CFR volumes issued as of July 1, 1984 containing those chapters.

[4]No amendments to this volume were promulgated during the period January 1, 1987 through December 31, 1992. The CFR volume issued as of January 1, 1987 should be retained.

[5]No amendments to this volume were promulgated during the period April 1, 1990 through March 30, 1993. The CFR volume issued as of April 1, 1990 should be retained.

[6]No amendments to this volume were promulgated during the period July 1, 1989 through June 30, 1992. The CFR volume issue as of July 1, 1989 should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*		*Revision Date*
Federal Register:			
Yearly subscription (with FR Index and LSA)	415.00		
Yearly subscription (without FR Index and LSA)	375.00		
Individual copies	4.50		daily
Federal Register Document Drafting Handbook	5.50		1991
Guide to Record Retention Requirements in the Code of Federal Regulations	15.00		Jan. 1, 1992
List of Sections Affected, 1949-1963	Out of print		1966
List of CFR Sections Affected, 1964-1972			
(Titles 1 through 27) Vol. I	Out of print		1980
(Titles 28 through 50) Vol. II	Out of print		1980
List of CFR Sections Affected, 1973-1985			
(Titles 1 through 16) Vol. I	27.00		1990
(Titles 17 through 27) Vol. II	25.00		1990
(Titles 28 through 41) Vol. III	28.00		1990
(Titles 42 through 50) Vol. IV	25.00		1990
LSA (List of CFR Sections Affected):			
Yearly subscription	21.00		
Individual copies	1.50		monthly
Federal Register Index:			
Yearly subscription	19.00		
Individual copies	1.50		monthly
CFR Index and Finding Aids	36.00		annual

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 1—GENERAL PROVISIONS

Chapter III—Administrative Conference of the United States (Parts 300—399)

Page

305 Removed in part; note added.....54271
305.79-7 Correctly designated.....4295
305.93-1 Added.....45409
305.93-2 Added.....45410
305.93-3 Added.....45412
310 Removed in part; note added.....54271

Title 1—*Proposed Rules:*

305.....16375

TITLE 3—THE PRESIDENT

Chapter I—Executive Office of the President (Parts 100—199)

Proclamations

6179 Modified by Proc. 6544.....19547
6449 *See* Proc. 6577.....36301
6455 Modified by Proc. 6544.....19547
6491 Revoked by Proc. 6534.....13189
6515 Modified by Proc. 6544.....19547
See Proc. 6579.....36839
6517 Modified by Proc. 6544.....19547
See Proc. 6575.....34855
6519.....207
6520.....467
6521.....469
6522.....3195
6523.....3197
6524.....4293
6525.....5917
6526.....6187
6527.....7477
6528.....8691
6529.....10937
6530.....11361
6531.....11951
6532.....13185
6533.....13187
6534.....13189
6535.....15411
6536.....15413
6537.....15751
6538.....15753
6539.....16609
6540.....17773
6541.....19315
6542.....19317
6543.....19319
6544.....19547
See Proc. 6575.....34855
6545.....21093
6546.....21341
6547.....25537
6548.....25539
6549.....25541
6550.....26219
6551.....26221
6552.....26223
6553.....26499
6554.....26501
6555.....26503
6556.....26505
6557.....26909
6558.....27649
6559.....27917
6560.....27919
6561.....28915
6562.....29519
6563.....29775
6564.....29949
6565.....30935
6566.....31325
6567.....31893
6568.....31895
6569.....31897
6570.....32041
6571.....32267
6572.....33185
6573.....33753
6574.....34209
6575.....34855
Corrected.....36516
6576.....36117
6577.....36301
6578.....36585
6579.....36839
6580.....38659
6581.....40031
6582.....40717
6583.....41169
6584.....41621
6585.....43239
6586.....44433
6587.....47199
6588.....47981
6589.....48585
6590.....48587
6591.....48589
6592.....48771

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 3 Proclamations—Con. Page

6593.....49173
6594.....49901
6595.....49903
6596.....50243
6597.....50245
6598.....51559
6599.....51561
6600.....51721
6601.....51723
6602.....52205
6603.....52387
6604.....52389
6605.....52627
6606.....52875
6607.....53097
6608.....53099
6609.....53101
6610.....53103
6611.....53831
6612.....53833
6613.....54025
6614.....54027
6615.....54269
6616.....54909
6617.....57535
6618.....57715

Executive Orders

Jan. 4, 1901 Revoked in part by PLO 6964.....19212, 27060
July 2, 1910 Revoked in part by PLO 6961.....18018
Modified by PLO 6981.....32856
Revoked in part by PLO 6983.....33772
See PLO 6987.....33999
July 9, 1910 Revoked in part by PLO 7004.....53429
Oct. 9, 1917 Revoked in part by PLO 6985.....33773
Dec. 12, 1917 Revoked in part by PLO 6995.....48458
2859 Amended by EO 12832.....5905
3053 Revoked in part by PLO 7004.....53429
3406 Revoked in part by PLO 7001.....52683
4257 Revoked in part by PLO 6992.....42246
Revoked in part by PLO 6996.....48458
5327 Revoked in part by PLO 7002.....52684
6277 Revoked in part by PLO 6975.....31475
6546 Revoked by PLO 6989...6989, 38083
10485 *See* EO 12847.....29511
10530 *See* EO 12847.....29511
10865 Amended by EO 12829.....3479
10909 *See* EO 12829.....3479
11145 Continued by EO 12869.....51751
11183 Continued by EO 12869.....51751
11287 Continued by EO 12869.....51751
11382 *See* EO 12829.....3479
11423 Amended by EO 12847.....29511
11776 Continued by EO 12869.....51751
11858 Amended by EO 12860.....47201
12002 *See* E0 12867.....51747
12131 Continued by EO 12869.....51751
12154 Amended by EO 12833.....5907
Amended by EO 12841.....13529
12193 *See* EO 12840.....13401
12196 Continued by 12869.....51751
12214 *See* EO 12867.....51747
12216 Continued by EO 12869.....51751
12291 Revoked by EO 12866.....51735
12295 *See* EO 12840.....13401
12333 *See* EO 12829.....3479
12334 Revoked by EO 12863.....48441
12345 Continued by EO 12869.....51751
12351 *See* EO 12840.....13401
12356 *See* EO 12829.....3479
12367 Continued by EO 12869.....51751
12382 Continued by EO 12869.....51751
12409 *See* EO 12840.....13401
12463 *See* EO 12840.....13401
12498 Revoked by EO 12866.....51735
12506 *See* EO 12840.....13401
12537 Revoked by EO 12863.....48441
12554 *See* EO 12840.....13401
12580 *See* Memorandum of Aug. 19, 1993.....52397
12587 *See* EO 12840.....13401
12629 *See* EO 12840.....13401
12670 *See* EO 12840.....13401
12675 Revoked in part by EO 12869.....51751
12687 Revoked by EO 12869.....51751
12696 Revoked by EO 12869.....51751
12700 Reestablished by EO 12869.....51751
12706 *See* EO 12840.....13401
12720 Revoked by EO 12869.....51751
12722 Continued by Notice of July 20, 1993.....39111
12724 Continued by Notice of July 20, 1993.....39111
12730 Revoked by EO 12867.....51747
See EO 12868.....51749

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

Page

12735 *See* EO 12867.....51747
See EO 12868.....51749
12737 Revoked by EO 12852.....35841
12741 *See* EO 12869.....51751
12753 *See* EO 12840.....13401
12756 *See* EO 12869.....51751
12774 Superseded by EO 12869.....51751
12775 Revoked in part by EO 12853.....35843
See Notice of Sept. 30, 1993.....51563
See EO 12872.....54029
12779 Revoked in part by EO 12853.....35843
See Notice of Sept. 30, 1993.....51563
See EO 12872.....54029
12780 Revoked by EO 12873.....54911
12783 *See* EO 12869.....51751
12785 *See* EO 12869.....51751
12791 Superseded by EO 12840.....13401
12792 Amended by EO 12827.....211
Revoked by EO 12869.....51751
12800 Revoked by EO 12836.....7045
12808 *See* EO 12831.....5253
See EO 12846.....25771
Continued by Notice of May 25, 1993.....30693
12810 Revoked in part by EO 12831.....5253
See EO 12846.....25771
See Notice of May 25, 1993.....30693
12813 Revoked by EO 12869.....51751
12815 *See* EO 12869.....51751
12818 Revoked by EO 12836.....7045
12827.....211
12828.....2965
12829.....3479
12830.....4061
12831.....5253
See EO 12846.....25771
See Notice of May 25, 1993.....30693
12832.....5905
12833.....5907
See EO 12841.....13529
12834.....5911
12835.....6189
12836.....7045
12837.....8205
12838.....8207
12839.....8515
12840.....13401
12841.....13529
12842.....17081
12843.....21881
12844.....21885
12845.....21887
12846.....25771
See Notice of May 25, 1983.....30693
12847.....29511
12848.....29517
12849.....30931
12850.....31327
12851.....33181
12852.....35841
Amended by EO 12855.....39107
12853.....35843
See Notice of Sept. 30, 1993.....51563
See EO 12872.....54029
12854.....36587
12855.....39107
12856.....41981
12857.....42181
12858.....42185
12859.....44101
12860.....47201
12861.....48255
12862.....48257
12863.....48441
12864.....48773
12865.....51005
12866.....51735
See Memorandum of Sept. 30, 1993.....52391
Supplemented by EO 12875.....58093
12867.....51747
12868.....51749
12870.....51753
12871.....52201
12872.....54029
12873.....54911
12874.....54921
12875.....58093

Administrative Orders

Memorandums:

June 25, 1991 Superseded by EO 12851.....33181
Sept. 25, 1992 *See* Memorandum of May 6, 1993.....27647
Dec. 30, 1992.....3195, 3485
Jan. 15, 1993.....6339
Jan. 22, 1993.....6439
Jan. 29, 1993.....8201
Feb. 3, 1993.....8303
Mar. 4, 1993.....14303
May 6, 1993.....27647
June 23, 1993.....34519
June 25, 1993.....34861
July 19, 1993.....39109
Aug. 11, 1993.....50831, 50833
Aug. 19, 1993.....52397

TITLE 3 Administrative Orders—Con.

Page
Sept. 11, 1993....48583
Sept. 30, 1993....52391
Oct. 1, 1993....52393
Oct. 26, 1993....58095

Notices:

May 25, 1993....30693
July 20, 1993....39111
Sept. 25, 1993 *See*EO 12868....51749
Sept. 30, 1993....51563

Permits:

May 17, 1993....29513

Presidential Determinations:

No. 92-22 of Apr. 22, 1992 *See* Presidential Determination No. 93-16 of Mar. 20, 1993....16345
No. 92-29 of June 2, 1992 Continued by Presidential Determination No. 93-23 of May 28, 1993....31329
No. 92-39 of Aug. 17, 1992 Amended by Presidential Determination No. 93-34 of Aug. 19, 1993....45779
No. 93-7 of Jan. 5, 1993....4059
No. 93-8 of Jan. 6, 1993....5241
No. 93-9 of Jan. 6, 1993....5243
No. 93-10 of Jan. 6, 1993....5245
No. 93-11 of Jan. 6, 1993....5247
No. 93-12 of Jan. 6, 1993....5249
No. 93-13 of Jan. 6, 1993....5251
No. 93-14 of Jan. 19, 1993....6341
No. 93-15 of Feb. 27, 1993....13183
No. 93-16 of Mar. 20, 1993....16345
No. 93-17 of Mar. 30, 1993....19193
No. 93-18 of Mar. 31, 1993....19033
No. 93-19 of Apr. 15, 1993....21889
No. 93-20 of May 3, 1993....28757
No. 93-21 of May 12, 1993....31461
No. 93-22 of May 19, 1993....31463
No. 93-23 of May 28, 1993....31329
See EO 12850....31327
No. 93-24 of May 31, 1993....32269
No. 93-25 of June 2, 1993....33005
No. 93-26 of June 3, 1993....33007
No. 93-27 of June 24, 1993....49175
No. 93-28 of June 25, 1993....37631
No. 93-29 of June 29, 1993....35357
No. 93-30 of July 2, 1993....43785
No. 93-31 of July 14, 1993....40307
No. 93-32 of July 19, 1993....40309
No. 93-33 of Aug. 19, 1993....45777
No. 93-34 of Aug. 19, 1993....45779
No. 93-35 of Aug. 30, 1993....48259
No. 93-36 of Aug. 30, 1993....48261
No. 93-37 of Sept. 2, 1993....48263
No. 93-38 of Sept. 13, 1993....51209
No. 93-39 of Sept. 17, 1993....51973
No. 93-40 of Sept. 28, 1993....51975
No. 93-41 of Sept. 29, 1993....51977
No. 93-42 of Sept. 30, 1993....52629
No. 93-43 of Sept. 30, 1993....52207
No. 93-44 of Sept. 30, 1993....52209
No. 93-45 of Sept. 30, 1993....52211
No. 94-1 of Oct. 1, 1993....52213

TITLE 4—ACCOUNTS

Title 4—*Proposed Rules:*

27....25785
28....25785

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

230.201—230.202 (Subpart B) Removed....36119
250 Authority citation revised....36119
250.101—250.103 (Subpart A) Revised....36119
294.102 Amended; interim....32043
Regulation at 58 FR 32043 confirmed....52877
294.104 (c) revised; interim....32043
Regulation at 58 FR 32043 confirmed....52877
294.107 (b) table revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.108 (f) revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.109 Revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.401 Table revised; interim....32046
Regulation at 58 FR 32046 confirmed....52877
297 Technical correction....16446
307 Authority citation revised....12145
307.101 Revised; interim....12145
Regulation at 58 FR 12145 confirmed....44743

Page
307.102 Revised; interim....12146
Regulation at 58 FR 12146 confirmed....44743
307.103 Revised; interim....12146
Regulation at 58 FR 12146 confirmed....44743
330 Authority citation revised....18141
330.901—330.903 (Subpart I) Added; interim....18141
335 Authority citation revised....18142
335.105 Added; interim....18142
351 Authority citation revised....32047
351.608 Revised....5563
351.801—351.806 (Subpart H) Revised; interim....32047
351.803 Heading and (a) revised....5564
430.405 (g) corrected....6056
432.102 Regulation at 57 FR 20042 confirmed; (f)(6) revised....13192
432.108 Regulation at 57 FR 20041 confirmed; (a)(2) and (b)(1)(ii) revised....13192
530 Authority citation revised....50249
530.202 Amended....50249
530.203 (b) through (e) revised; (f) and (g) removed....50249
530.204 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added....50249
530.206 Removed....50249
531 Authority citation revised....3200, 33498
531.101 Amended....33498
531.202 (b) reinstated; CFR correction....29777
531.301 Amended; interim....3200
Amended....33499
531.302 (a) revised....33499
531.304 (a)(3) and (f)(5) revised; interim....3201
(g) revised....33499
532 Regulations at 57 FR 61770 and 61771 confirmed....38263
532.229 (b)(1) revised; (b)(5) and (6) added....15415
532.231 (c)(2) revised....15415
532.233 (e) revised....15415
532.241 (a)(1) amended....32273
532.247 (c), (g)(1), (2), (3) and (h) amended....32274
532.251 (a)(3) amended....32274
532.255 Heading, (a) and (e) revised; (b) introductory text, (c) and (d) amended....13194
532.259 Revised....13194
532.279 (b) amended....32274
532.201—532.283 (Subpart B) Appendix D amended....12146, 13194, 33499
Appendix C amended....32274
Appendix D amended; interim....33500
Appendixes B and D amended; interim....45414
Regulation at 58 FR 33500 confirmed....51211
532.403 (c) amended....32274
532.509 Amended; interim....3201
532.501—532.513 (Subpart E) Appendix A amended....32274
550.103 (t) added; interim....3201
550.105 (b)(3) revised; interim....3201
550.106 (e)(2) revised; interim....3201
550.107 Introductory text revised; interim....3201
550.202 Amended....41625
550.203 (a), (b) and (c) revised; (e) added....41625
550.204 (c)(3) revised....41625
550.205 (b) revised....41625
550.405 Regulation at 57 FR 40070 confirmed....33501
550.708 (d) revised....33499
550.901—550.907 (Subpart I) Heading revised....32050
550.901—550.907 (Subpart I) Appendix A amended....32050
Appendixes A and A-1 amended....32276
575 Authority citation revised....3201
575.102 (a)(4) revised; interim....3201
575.201 Corrected; CFR correction....29777
575.202 (a)(4) revised; interim....3201
575.205 (b) revised; interim....3201
575.302 (a)(4) revised; interim....3201
575.306 (b) revised....50249
575.307 (a) revised....50250
581 Authority citation revised....35846
581.103 (a)(10), (20), (21), (22) and (23)(v) revised; (a)(24) through (28) added....35846
581.104 Regulation at 56 FR 36724 corrected; (f) revised....35846
581.202 (a) and (c) revised....35846
581.306 (c) revised....35846
581 Appendix A revised....35846
591.204 (b)(2) revised....32278

TITLE 5 Chapter I—Con. Page

591.201—591.211 (Subpart B) Appendix A amended ... 32278
Appendix A revised ... 33506
591.304 (a)(1) and (b)(2) amended ... 32278
591.301—591.310 (Subpart C) Appendix A amended ... 32278
591.401—591.406 (Subpart D) Added; interim ... 51566
630 Authority citation revised ... 39602
630.1201—630.1211 (Subpart L) Added; interim ... 39602
752 Authority citation revised ... 13192
752.201 Regulation at 57 FR 20043 confirmed; (b)(5) revised ... 13192
752.301 Regulation at 57 FR 20043 confirmed and amended ... 13192
752.401 Regulation at 57 FR 20043 confirmed; (c) and (d) revised ... 13192
831 Authority citation revised ... 52880
831.105 (h) and (j) amended; interim ... 52880
831.112 (c) amended; interim ... 52880
831.501 Revised ... 49179
831.502 (f) removed; (g) redesignated as (f); new (f)(5) removed ... 48266
Removed; new 831.502 redesignated from 831.503 ... 49179
831.503 Redesignated as 831.502; new 831.503 redesignated from 831.504; (b)(3)(ii) revised ... 49179
831.504 Redesignated as 831.503 ... 49179
831.601 (b) amended; interim ... 52880
Undesignated center heading added; interim ... 52882
831.602 (a) amended ... 43493
831.603 Amended; interim ... 52880
831.604 (a)(1), (b), (c) and (d)(1)(ii) amended; interim ... 52880
Redesignated as 831.611; interim ... 52882
831.605 (b), (e) and (f)(1)(ii) amended; interim ... 52880
Redesignated as 831.612; interim ... 52882
831.606 (a), (c)(1) through (4), (5)(iii), (h)(1), (k)(1), (2)(i) and (ii) amended; interim ... 52880
Redesignated as 831.613; interim ... 52882
831.607 (a) amended; interim ... 52880
Redesignated as 831.614; interim ... 52882
831.608 Redesignated as 831.618; interim ... 52882
831.609 Redesignated as 831.621; interim ... 52882
831.610 Redesignated as 831.619; interim ... 52882
831.611 (a), (b)(1), (2), (3), (5) and (7) amended; interim ... 52881
Redesignated as 831.622; new 831.611 redesignated from 831.604; undesignated centerheading added; interim ... 52882
831.612 (b)(1), (2)(ii), (3)(i), (ii) and (e)(1)(ii) amended; interim ... 52881
Redesignated as 831.632; new 831.612 redesignated from 831.605; interim ... 52882
831.613 (b)(2)(i)(A), (B), (ii)(A), (B), (4)(ii), (c)(1) and (2) amended; interim ... 52881
Redesignated as 831.631; new 831.613 redesignated from 831.606; interim ... 52882
831.614 (a) and (c)(3) amended; interim ... 52881
Redesignated as 831.641; new 831.614 redesignated from 831.607; interim ... 52882
831.615 (d)(1) amended ... 43493
Redesignated as 831.671; interim ... 52882
831.616 Revised ... 32052
Redesignated as 831.672; new 831.616 redesignated from 831.626; interim ... 52882
831.617 Redesignated as 831.673; interim ... 52882
831.618 Redesignated as 831.642; new 831.618 redesignated from 831.608; interim ... 52882
831.619 (b) amended; interim ... 52881
Redesignated as 831.643; new 831.619 redesignated from 831.610; interim ... 52882
831.620 (b)(2)(i) amended; interim ... 52881
Redesignated as 831.651; interim ... 52882

Page

831.621 (e)(3), (f)(2) and (i) amended; interim ... 52881
Redesignated as 831.682; new 831.621 redesignated from 831.609; undesignated centerheading added; interim ... 52882
831.622 (a)(1)(iv), (2)(iii) and (c) amended; interim ... 52881
Redesignated as 831.683; new 831.622 redesignated from 831.611; interim ... 52882
831.623 (c)(3) amended; interim ... 52001
Redesignated as 831.684; interim ... 52882
831.624 (a) through (e) amended; interim ... 52881
(a) redesignated as 831.661; (b), (c) and (d) redesignated as 831.665(a), (b) and (c); (e) removed; interim ... 52882
831.625 Redesignated as 831.644; interim ... 52882
831.626 (a), (b) and (c) amended; interim ... 52001
Redesignated as 831.616; interim ... 52002
831.627 Amended ... 43493
Redesignated as 831.681; interim ... 52882
831.628 (a), (b)(2), (3)(i), (5) and (c) amended; interim ... 52001
Redesignated as 831.685; interim ... 52882
831.629 Amended; interim ... 52881
Redesignated as 831.662; interim ... 52882
831.630 (a), (b) and (c) amended; interim ... 52881
Redesignated as 831.645; interim ... 52882
831.631 Redesignated from 831.613; undesignated center heading added; interim ... 52882
831.632 Redesignated as 831.612; interim ... 52882
831.641 Redesignated from 831.614; undesignated center heading added; interim ... 52882
831.642 Redesignated from 831.618; interim ... 52882
831.643 Redesignated from 831.619; interim ... 52882
831.644 Redesignated from 831.625; interim ... 52882
831.645 Redesignated from 831.630; interim ... 52882
831.651 Redesignated from 831.620; undesignated center heading added; interim ... 52882
831.661 Redesignated from 831.624(a); undesignated center heading added; heading revised; interim ... 52882
831.662 Redesignated from 831.629; heading revised; interim ... 52882
831.663 Added; interim ... 52882
831.664 Added; interim ... 52883
831.665 Heading added; (a), (b) and (c) redesignated from 831.624(a), (b) and (c); interim ... 52882
831.671 Redesignated from 831.615; undesignated center heading added; interim ... 52882
831.672 Redesignated from 831.616; interim ... 52882
831.673 Redesignated from 831.617; interim ... 52882
831.681 Redesignated from 831.627; undesignated center heading added; interim ... 52882
831.682 Redesignated from 831.621; interim ... 52882
831.683 Redesignated from 831.622; interim ... 52882
831.684 Redesignated from 831.623; interim ... 52882
831.685 Redesignated from 831.628; interim ... 52882
831.701 (d) amended; interim ... 52881
831.801—831.805 (Subpart H) Removed ... 48266
831.1201—831.1213 (Subpart L) Revised ... 49179
831.2203 (c), (f) and (g) amended; interim ... 52882
837 Added ... 48266
838.103 Amended ... 3202
838.101—838.103 (Subpart A) Appendix A amended ... 3202
838.135 (a) amended ... 3202
838.237 (b)(4) amended ... 43493
838.422 (a)(2) amended ... 43493
838.701 (a) amended ... 43493
838.711 (a) amended; interim ... 52882
838.722 (c)(1)(ii) and (2)(iii) amended ... 43493
838.732 (a) and (b) amended ... 43493

TITLE 5 Chapter I—Con. Page

838.733 (a)(2) amended; interim....52882
838.734 Amended....43493
838.806 (c)(1) amended....3202
838.911 (d) amended....43493
838.912 (b)(2) amended....43493
838.921 (b)(2) amended....43493
(a) and (b)(1) amended; interim....52882
838.922 (a) amended; interim....52882
838.931 Amended....43493
838.932 (a) amended....43493
838.1006 (c)(3) and (d)(3) amended; interim....52882
838.1012 (b)(4) amended....43493
838.1016 (a) amended; interim....52882
841.408 (a) revised....43493
841.506 (b), (d) and (e) removed; (c) redesignated as (b)....48273
841.507 (b) revised....43493
842.104 (a) removed; (b) through (g) redesignated as (a) through (f)....48273
842.402 Amended....43493
842.602 Amended; interim....52883
842.615 Heading, (b) and (c) revised; (d) added; interim....52883
843.301—843.313 (Subpart C) Appendix B revised....43493
843.410 Revised....32052
844.403 Removed; new 844.403 redesignated from 844.404....48273
844.404 Redesignated as 844.403; new 844.404 redesignated from 844.405; (e) removed; (f) redesignated as (e)....48273
844.405 Redesignated as 844.404....48273
846.204 (b) redesignated as (b)(1); (b)(2) added; interim....47822
846.305 Removed; new 846.305 redesignated from 846.306....48273
846.306 Redesignated as 846.305....48273
870.203 (d) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.204 (g)(1) and (2) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.401 (a), (b) and (f)(1) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.1002 Regulation at 57 FR 43132 confirmed....18143
870.1004 Regulation at 57 FR 43132 confirmed....18143
870.1006 Regulation at 57 FR 43132 confirmed....18143
871.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
871.205 (g)(1) and (2) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
871.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
872.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
872.205 (d)(1) and (2) amended; interim....11954
(a)(2) and (4) amended; (a)(2)(i), (ii), (iii), (4)(i), (ii) and (iii) added....45415
Regulation at 58 FR 11954 confirmed....47823
872.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
873.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
873.205 (e)(1) and (2) amended; interim....11954
(a) revised....45415
Regulation at 58 FR 11954 confirmed....47823
873.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
890 Regulation at 57 FR 10609 comment period extended....4569
Technical correction....48946
890.109 Revised; interim....47824
890.301 Regulation at 57 FR 43133 confirmed....33009
(ee) added; interim....47824
890.304 (a)(1) through (6) redesignated as (a)(1)(i) through (vi); introductory text redesignated in part as (a)(1) introductory text; (a)(2) added; interim....47825

Page

890.306 Regulation at 57 FR 43133 confirmed....33009
(o) added; interim....47825
890.502 (h) added; interim....39607
890.803 (a)(3)(ii) and (iii) amended; interim....52882
890.805 (a)(2)(i) and (ii) amended; interim....52882
890.904 Revised....38663
890.1202 Regulation at 57 FR 43132 confirmed....18143
890.1203 Regulation at 57 FR 43132 confirmed....18143
890.1204 Regulation at 57 FR 43132 confirmed....18143
890.1207 Regulation at 57 FR 43132 confirmed....18143
970 Added....28759

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201 Authority citation corrected....31234
Heading corrected....31234
1201.4 (i) and (l) amended....36345
1201 Appendix II revised....28917
1209.8 (d) amended....36345

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1633 Authority citation revised....31332
1633.1—1633.83 (Subpart A) Undesignated center headings removed....31332
1633.1 Removed....31332
1633.2 Removed....31332
1633.3 Removed....31332
1633.5 Removed....31332
1633.6 Removed....31332
1633.7 Removed....31332
1633.8 Removed....31332
1633.9 Removed....31332
1633.10 Removed....31332
1633.20 Removed....31332
1633.21 Removed....31332
1633.30 Removed....31332
1633.31 Removed....31332
1633.32 Removed....31332
1633.33 Removed....31332
1633.34 Removed....31332
1633.35 Removed....31332
1633.36 Removed....31332

Page

1633.37 Revised....31332
1633.38 (a), (c)(1), (3), (4) and (5)(ii) removed; (b) redesignated as (a) and amended; (c)(2), (5) heading and (5)(i) redesignated as (b)(2), (3) heading and text; (e) redesignated as (c); new (b) added....31332
1633.39 Removed....31332
1633.40 Removed....31332
1633.41 Removed....31332
1633.42 Removed....31332
1633.43 Removed....31332
1633.44 Removed....31332
1633.45 Removed....31332
1633.46 Removed....31332
1633.47 Removed....31332
1633.48 Removed....31332
1633.49 Removed....31332
1633.50 Removed....31332
1633.51 Removed....31332
1633.52 Removed....31332
1633.53 Removed....31332
1633.54 Removed....31332
1633.55 Removed....31332
1633.56 Removed....31332
1633.70 Removed....31332
1633.71 Removed....31332
1633.72 Removed....31332
1633.73 Removed....31332
1633.74 Removed....31332
1633.75 Removed....31332
1633.76 Removed....31332
1633.77 Removed....31332
1633.78 Removed....31332
1633.79 Removed....31332
1633.80 Removed....31332
1633.81 Removed....31332
1633.82 Removed....31332
1633.83 Removed....31332
1633.200—1633.236 (Subpart B) Removed....31332
1633.250—1633.257 (Subpart C) Undesignated center headings removed....31332
1633.250 Removed....31332
1633.251 Removed....31332
1633.252 (a), (c), (f) and (g) removed; (b), (d) and (e) redesignated as (a), (b) and (c)....31332
1633.253 Removed....31332
1633.254 Removed....31332
1633.255 Removed....31332
1633.256 Removed....31332

TITLE 5 Chapter VI—Con. Page

1633.257 Removed....31332
1636 Added....57696
1636.170 (c) revised....57697
1650 Authority citation revised....45381
1650.2 Amended....45381
1650.4 Heading revised....45381
1650.5 Revised....45381

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

Chapter XIV Appendix A revised....13695
2429.24 (a) revised....53105
2471.2 Revised....53105
2471.4 Revised....53105
2472.5 Revised....53105

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2634.203 (c)(1) revised; interim....38912
2634.601 (a) revised; interim....38912
2634.704 (f) added; interim....38912
2634.903 (a) revised; (b)(2)(ii) amended; (b)(2)(iii) added; interim....38912
2641 Appendix B amended....33755

Chapter XXII—Federal Deposit Insurance Corporation (Part 3202)

Chapter XXII Established; interim....39627

Chapter XXVI— Department of Defense (Part 3601)

Chapter XXVI Established; interim....47622

Chapter XXXIII—Overseas Private Investment Corporation (Part 4301)

Chapter XXXIII Established; interim....33320

Chapter XL—Interstate Commerce Commission (Part 5001)

Chapter XL Established....41990

Chapter XLI—Commodity Futures Trading Commission (Part 5101)

Page

Chapter XLI Established....52638

Chapter XLVI—Postal Rate Commission (Part 5601)

Chapter XLVI Established; interim....42840

Chapter XLVII—Federal Trade Commission (Part 5701)

Chapter XLVII Established; interim....30695

Title 5—*Proposed Rules:*

317....11988
351....44778
410....3508, 8912
412....11988
531....46064
591....26694, 45556
970....7052
2502....51255
2504....51256
2634....46096
3101 (Ch. XXI)....41193

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.142 (a)(2) reinstated; CFR correction....30696
2.17 (g)(3) and (4) added....42841
2.23 Heading revised; (a)(5) added....35359
2.25 (b)(2)(iv) and (5)(x) added....11955
(b)(24) added....11956
2.27 (a)(11) revised....4569
2.30 (a)(34) removed....35359
Heading revised; (a)(34) added....51211
2.32 Added....26679
2.55 Heading and (a)(5) revised; (a)(6) added....42841
2.70 (a)(15) added....35359
2.74 (a)(1) revised....11956
2.74a Added....11956
2.75 (a)(2)(v) and (6)(xiv) added....11955

Page

(a)(2)(i), (6)(i), (ii), (vi), (ix) and (x) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii) and (iii), (a)(6)(iii), (iv) and (v) redesignated as (a)(6)(i), (ii) and (iii), (a)(6)(vii) and (viii) redesignated as (a)(6)(iv) and (v), and (a)(6)(xi), (xii) and (xiii) redesignated as (a)(6)(vi), (vii) and (viii)....11957
2.84 (a)(6) revised....4570
2.85 (a)(7) revised....4570
2.106 Heading revised; (a)(64) added....51211
2.108 (a)(6) removed....35359
15e Added....57697
15e.170 (c) revised....57697
16.4 Revised....18143
16.5 Revised....18143

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

28.2 (o) removed; (p) through (v) redesignated as (o) through (u); new (j) and (n) revised....41993
28.9 Revised....41993
28.122 Amended....41993
28.136—28.151 Removed....41993
28.175—28.184 (Subpart B) Heading revised....41993
28.175 Revised....41993
28.184 Removed....41993
28.201—28.208 Removed....41993
28.215—28.222 Removed....41993
28.301—28.307 Authority citation revised....41993
28.909 (b) removed; (c) and (d) redesignated as (b) and (c); new (b) revised....41993
28.910 (a) introductory text and (1) through (4) revised; (a)(5) removed....41993
28.911 (a) amended....41993
29.1 (e) revised....21343
29.500 Heading revised; (b) and (c) amended....42413
52 Authority citation revised....42413
52.2 Amended....42413
52.42 Amended....11186
52.47 Removed....42413
52.50 Amended....11186

Page

52.51 (c)(1), (2), (d)(1) and (2) amended....11186
52.441—52.453 (Subpart) Revised....4296
52.449 (c)(1)(iii) corrected....7607
52.454 Removed....4302
52.455 Removed....4302
52.456 Removed....4302
54.27 (a) and (b) amended....48592
55 Authority citation revised....42413, 57538
55.20 (b) amended; (d) removed....42413
55.510 (d) amended....42413
(b), (c) and (d) revised....57538
55.550 Removed....42413
55.560 (a)(3) revised....57538
56 Authority citation revised....57538
56.46 (b) and (c) revised....57538
56.47 Revised....57538
56.52 (a)(4) revised....57538
56.54 (a)(2) revised....57539
58.44 Removed....42413
58.101 (c) amended....42413
58.126 (e)(5)(ii) removed; (e)(5)(iii) redesignated as (e)(5)(ii)....42413
58.132 Revised....26912
58.133 (b)(1), (2), (6) and (c) revised....26912
58.136 Revised....26913
58.137 Revised....26913
58.138 Revised....26913
58.139 Revised....26913
58.140 Revised....26913
58.148 (e), (f) and (g) added....26913
59 Authority citation revised....42413, 57539
59.126 Revised....57539
59.128 (a) revised....57539
59.370 (b) revised....57539
59.580 (b) and (d) amended....42413
61.2 (n) amended....42413
61.6 Amended....42413
61.8 Amended....42413
61.10—61.24 Removed....42413
61.24 Correctly designated....45946
61.44 Removed....42413
61.45 Removed....42413
61.46 Removed....42413
61.101 Introductory text amended....42413
61.104 Heading revised; text amended....42413

TITLE 7 Chapter I—Con. Page

70 Authority citation revised...42413, 57539
70.71 (b) and (c) revised...57539
70.72 Heading revised; text amended...42413
Revised...57539
70.73 Removed...42413
70.76 (a)(2) revised...57539
70.77 (a)(4) and (5) revised...57539
77.1 Regulation at 58 FR 34700 confirmed...57962
80 Revised; interim...29098
90—159 (Subchapter E) Added...42414
110 Added...19022
180 (Subchapter H) Removed...42413

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.2 Amended...42487
210.4 (a) and (b)(1) heading amended; (b)(3) and (4) added...42487
210.6 Amended...42487
210.7 (a), (c) introductory text, (1), (1)(i), (ii), (iv) and (v) amended; (d) added...42487
210.8 (c) and (d) amended...42487
210.9 (b)(19) amended; (c) added...42488
210.10 Heading revised; (b) amended; (j) added...42488
210.23 (a) amended...42489
226.20 (a)(3) and (c)(3) redesignated as (a)(4) and (c)(4); (a), (c)(1) table, (2) introductory text and table, new (4) introductory text and table amended; new (a)(3) and new (c)(3) added; (c)(2) undesignated center heading removed; (p) revised...37850
235.4 (a) amended...42489
240 Authority citation revised...39120
240.1 (c) and (f) revised...39120
240.3 (b) amended...39120
240.4 Heading revised; (a) amended...39120
240.6 Amended...39120
245.2 (f) amended...42489
246 Authority citation revised...37634, 47022, 51568
246.1 Amended...11506
246.2 Amended...11506
Amended; interim...47022

Page

246.4 (a)(8), (9) and (11)(ii) revised; (a)(11)(iii) and (iv) amended; (a)(11)(v) added...11506
246.7 (a) amended; (n) added...11506
246.11 (a)(3) added; (b)(1) revised...11507
246.14 (c)(1) introductory text amended; (c)(9) added...11507
246.16 (c)(2)(ii) introductory text revised...37635, 51568
(r) added; interim...47022
246.28 OMB numbers...11507
250 Authority citation revised...39120
250.3 Amended...39120
250.13 (a), (g) and (k) revised...39120
250.23 (a) revised...39122
250.30 (b)(1) amended...39122
250.48 (b)(1) and (c) revised...39122
250.49 Heading and (b)(1) revised...39123
271 Authority citation revised...215
272 Authority citation revised...215
272.1 Regulation at 56 FR 12845 confirmed...215
273 Authority citation revised...215
273.1 Regulation at 56 FR 12845 confirmed...215
273.2 Regulation at 56 FR 12845 confirmed...215
273.9 Regulation at 56 FR 12845 confirmed...215
273.11 Regulation at 56 FR 12845 confirmed...215
274 Authority citation revised...215
275 Authority citation revised...215
276 Authority citation revised...215
277 Authority citation revised...215
278 Authority citation revised...215
279 Authority citation revised...215
280 Authority citation revised...215
281 Authority citation revised...215
282 Authority citation revised...215
284 Authority citation revised...215
285 Authority citation revised...215

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

Chapter III Policy statement...47206
300.1 (a) revised...52400
301 Regulation at 58 FR 217 confirmed...28336
301.13-1 Amended...7958
301.38-2 (b) corrected...8820

Page

301.45—301.45-12 (Subpart) Revised...39423
301.50 (a) and (b) designation removed; interim...6347
301.50-1 Amended; interim...6347
301.50-2 (a) revised; interim...28335
301.50-3 (c) amended; interim...6348, 28335, 34682
301.50-4 (b)(1)(ii) amended; interim...28335
301.50-5 (a)(1)(ii) and (iii) amended; (a)(1)(iv) added; interim...6348
(a)(1)(iii), (iv) and (2)(ii) amended; (a)(1)(v) and (2)(iii) added; interim...28335
(a)(1)(iii) revised; OMB number; interim...34683
301.50-6 OMB number...34683
301.50-7 OMB number...34683
301.50-8 OMB number...34683
301.50-10 Introductory text designated as (a); new (b) added; interim...6348
(a) revised; (b) amended; interim...28335
301.52 (a) amended; interim...36592
(b)(10)(i) amended; (b)(10)(ii) redesignated as (b)(10)(iii); new (b)(10)(ii) added...39418
301.52-2a Amended; interim...36592
301.64 (a) amended; interim...219
Regulation at 58 FR 219 confirmed...28336
301.64-3 (c) amended; interim...219
Regulation at 58 FR 219 confirmed...28336
301.78-3 (c) amended; interim...6345, 39124, 42491, 49188, 53108, 53109
301.80 (b)(17) through (21) redesignated as (b)(18) through (22); new (b)(17) added; interim...216
Regulation at 58 FR 216 confirmed...36590
301.80-2a Amended; interim...216, 217, 51950
Corrected...11099
Regulations at 58 FR 216 and 217 confirmed...36590
301.81—301.81-10 (Subpart) Appendix amended...57954
301.93—301.93-10 (Subpart) Added; interim...8521
301.93-1 Corrected...29028

Page

301.93-2 (a) corrected...29028
301.93-3 (c) revised; interim...36590, 57952
Regulation at 58 FR 36590 confirmed...51982
301.93-10 (a)(1)(i) corrected...29028
318.13-3 (c) and (d) redesignated as (d) and (e); new (c) added...7959
318.13-4 (c) revised...7959
Regulation at 57 FR 31307 confirmed...57955
318.13-4g Regulation at 57 FR 31307 confirmed...57955
318.13-6 Revised...7959
318.13-8 Amended...7959
318.13-10 (f)(1) amended; (f)(2) introductory text revised; (f)(3) added...7959
318.13-16 Heading and text amended...7959
Corrected...40190
318.13-17 Added...7959
(c), (f) and (i)(1) corrected...40190
318.58-1 Amended...7961
318.58-3 (b) and (c) redesignated as (c) and (d); new (b) added...7961
318.58-4 Heading and introductory text revised; (c) added...7962
318.58-7 Amended...7962
318.58-8 Amended...7962
318.58-10 (f)(1) amended; (f)(2) introductory text revised; (f)(3) added...7962
318.58-12 Revised...7962
Correctly designated...40190
318.58-16 Heading revised; text amended...7964
319.24 (a) and (b) amended; (d) added...44745
319.37—319.37-14 (Subpart) Authority citation revised...38267
319.37-1 Amended; eff. 7-16-94...38267
319.37-7 (a) amended; (c) and (d) redesignated as (d) and (e); new (c), (f) and (g) added; new (d) introductory text, (1) and (6) revised; eff. 7-16-94...38267
(c)(4) and (f)(3) corrected...41124
319.40-1—319.40-8 (Subpart) Added; interim...8530
319.41-1 Footnote 2 amended; (c) added...44745

TITLE 7 Chapter III—Con. Page
319.56-2 (a) amended....43497
319.56-2t Introductory text revised; table amended....43497
319.56-2x (a) table amended....43498
319.56-2aa Added....11364
319.56-2bb Added....40037
319.56a (a)(7) revised; (a)(12) amended....43497
321.2 Amended; interim....11958
321.9 (b), (c) and (d) revised; interim....11958
340.0 (a) revised....17056
340.1 Amended....17056
340.2 (b)(1)(i) and (2)(i) amended....17056
340.3 Redesignated as 340.4; new 340.3 added....17056
340.4 Redesignated as 340.5; new 340.4 redesignated from 340.3....17056
(a), (b), (c) introductory text, (1), (2), (e), (f) introductory text, (7), (8), (9), (10), (11)(ii), (g), (h)(1), (2), (3) and Footnote 6 amended....17058
340.5 Redesignated as 340.7; new 340.5 redesignated from 340.4....17056
(a), (b), (c)(1), (2), (3) introductory text, (i) and (ii) amended....17059
340.6 Redesignated as 340.8....17056
Added....17057
340.7 Redesignated as 340.9; new 340.7 redesignated from 340.5....17056
(b) amended....17059
340.8 Redesignated from 340.6....17056
340.9 Redesignated from 340.7....17056
354.1 (a)(1) introductory text and (iii) amended....32434
354.2 Table amended....220
354.3 (e)(2) introductory text, (iv) and (g)(5)(iii) revised....14307
(g)(4) revised....38270
354.4 (a)(3) Footnote 2 redesignated as Footnote 5....38271

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.37—400.38 (Subpart D) Heading revised....17943
400.38 Amended....17943
400.40—400.42 (Subpart E) Removed....53110
400.47 (a) revised; (d) and (e) removed; (f) through (i) redesignated as (d) through (g)....17945
400.49 Revised....17945
400.50 Added....17945
400.66 (b) table revised....13531
400.250 Revised; interim....36593
400.251 (a) and (b) amended; interim....36593
400.252 Nomenclature change; (a) and (b) amended; interim....36593
400.402 (e) and (k) revised; interim....47204
400.406 Revised; interim....47204
400.451—400.500 (Subpart R) Added....53110
401 Extension of sales closing date....21241, 53393
401.101 Amended; interim....33508
401.103 Amended; interim....33508
401.105 Amended; interim....33508
401.106 Amended; interim....33508
401.111 Amended; eff. 11-30-93....3205
401.113 Amended; eff. 11-30-93....3207
401.117 Amended; eff. 11-30-93....3209
401.120 (a) and (b) revised; interim....33507
401.133 Amended; interim....33508
406.7 Amended; interim....33508, 46074
415.7 Amended; interim....33509
422 Exclusion of certified seed potato option....1
422.7 Amended; interim....33508

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture (Parts 700—799)

702 Authority citation revised....11785
702.2 (a)(6) amended; (a)(11) through (28) redesignated as (a)(12) through (29); new (a)(11) added....11785
702.5 (a) and (b) revised; (c) and (d) added....11785
702.9 (e) through (i) redesignated as (f) through (j); new (f) and (h) revised....11785
702.13 (a) and (c)(3) revised; last (c) redesignated as (d)....11786
702.18 (d) revised....11786
723 Authority citation revised....11960
723.111 Added....11962
723.112 Added....36859
723.113 Added....36857
723.114 Added....36857
723.115 Added....36857
723.116 Added....36857
723.117 Added....36857
723.118 Added....36857
723.216 (i)(4) revised....11960
729.214 (c) added....11964
729.316 (a) revised....57718
781.2 (b) revised....48274

Chapter VIII—Federal Grain Inspection Service, Department of Agriculture (Parts 800—899)

800.71 (a) Schedule A revised....3214
Regulation at 58 FR 3214 postponed; interim....5255
(a) Schedule A revised; interim....49422
800.88 (d) revised....3212
800.96 (c)(2) revised....3212

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905 Budget of expenses....33756, 43241
Authority citation revised....43242
905.306 (a) Table I amended; interim....31466
Regulation at 58 FR 31466 confirmed....40720
906 Budget of expenses....37635, 53112
Authority citation revised....52401, 53112
906.365 (a)(5) revised; interim....52401
(c) removed; (a)(4) revised; interim....54926
907 Budget of expenses....33012, 57955
Authority citation revised....53114
907.10 Amended....7965
907.13 Suspended....53115
907.14 Suspended....53115
907.17 Revised....7965
907.18 Revised....7965
907.20 (a) revised....7965
907.21 Revised....7965
907.22 (a) introductory text, (c), (d), (e) and (i) revised....7965
907.23 Revised....7966
907.24 Revised....7966
907.26 Revised....7966
907.27 Revised....7966
907.31 Revised....7966
Suspended in part....33188
907.34 Removed....7966
907.41 (d) removed....7966
907.50 (a) amended....7966
(a)(3) suspended....53115
907.51 (a) and (c) revised....7966
Heading and (b) introductory text suspended in part; (a), (c) and (d) suspended....53115
907.52 Amended....7966
Suspended....53116
907.53 (b), (c), (f), (g) and (h) revised; (i) removed....7966
(a), (e), (f) and (h) suspended in part....53116
907.54 Revised....7967
Suspended....53116
907.55 Revised....7967
Suspended....53116
907.56 Revised....7967
Suspended....53116
907.57 Suspended....53116
907.59 Amended....7967
Suspended....53116
907.60 Amended....7967
Suspended....53116
907.61 Amended....7967
Suspended....53116
907.61a Amended....7967
Suspended....53116
907.62 Suspended in part....53116
907.64 Revised....7968
Suspended in part....53116
907.65 Suspended in part....53116
907.67 Amended....7968
907.70 Introductory text amended....7968
907.71 Revised....7968
907.73 Undesignated center heading and section removed....7968
907.80 Suspended in part....53116
907.83 (c)(1) revised; (c)(3) added; (d) and (e) removed; (f) redesignated as (d)....7968
907.100 (g) revised; (h) amended....33188
907.101 Amended....33188
907.103 Removed....7968

TITLE 7 Chapter IX—Con. Page
907.106 Undesignated center heading and section removed....7968
907.108 (a) and (c) suspended in part; (d) and (e) suspended....53116
907.109 Removed....7968
907.110 Suspended....53116
907.111 Suspended....53116
907.113 Suspended....53116
907.114 Suspended....53116
907.116 Suspended....53116
907.117 Suspended....53116
907.118 Removed....7968
907.120 (e) suspended in part....53116
907.131 (b)(1) amended; (b)(3)(v), (4) and (c) removed; (b)(3)(vi), (vii) and (d) redesignated as (b)(3)(v), (vi) and (c); interim....53114
(a) suspended in part....53116
907.133 (a) and (c) suspended in part....53116
907.141 (a) amended; interim....53114
907.173 Undesignated center heading and section removed....7968
908 Budget of expenses....33012, 57955
Authority citation revised....53114
908.11 Amended....7968
908.14 Suspended....53116
908.15 Suspended....53116
908.18 Revised....7968
908.19 Revised....7968
908.20 (a) revised....7968
908.21 Revised....7968
908.22 (a) introductory text, (c), (d), (e) and (i) revised....7969
908.23 Revised....7969
908.24 Revised....7969
908.26 Revised....7969
908.27 Revised....7970
908.31 Revised....7970
Suspended in part....33188
908.34 Removed....7970
908.41 (d) removed....7970
908.50 (a) amended....7970
(a)(3) suspended....53116
908.51 (a) and (c) revised....7970
Heading and (b) introductory text suspended in part; (a), (c) and (d) suspended....53116
908.52 Amended....7970
Suspended....53116
908.53 (b), (c), (f), (g) and (h) revised; (i) removed....7970
(a), (e), (f) and (h) suspended in part....53116
908.54 Revised....7970
Suspended....53117
908.55 Revised....7971
Suspended....53117
908.56 Revised....7971
Suspended....53117
908.57 Suspended....53117
908.59 Amended....7971
Suspended....53117
908.60 Amended....7971
Suspended....53117
908.61 Amended....7971
Suspended....53117
908.61a Amended....7971
Suspended....53117
908.62 Suspended in part....53117
908.64 Revised....7971
Suspended in part....53117
908.65 Suspended in part....53117
908.67 Amended....7971
908.70 Introductory text amended....7971
908.71 Revised....7971
908.73 Undesignated center heading and section removed....7971
908.80 Suspended in part....53117
908.83 (c)(1) revised; (c)(3) added; (d) and (e) removed; (f) redesignated as (d)....7971
908.100 (g) revised; (h) amended....33189
908.101 Amended....33189
908.103 Removed....7972
908.106 Undesignated center heading and section removed....7972
908.108 (a) and (b) suspended in part; (c) and (d) suspended....53117
908.109 Removed....7972
908.110 Suspended....53117
908.111 Suspended....53117
908.113 Suspended....53117
908.114 Suspended....53117
908.116 Suspended....53117
908.117 Suspended....53117
908.118 Removed....7972
908.120 (e) suspended in part....53117
908.131 (b)(1) amended; (b)(3)(v), (4) and (c) removed; (b)(3)(vi), (vii) and (d) redesignated as (b)(3)(v), (vi) and (c); interim....53114

Page
(a) suspended in part....53117
908.133 (a), (b) and (c) suspended in part....53117
908.141 (a) amended; interim....53114
908.173 Undesignated center heading and section removed....7972
910 Budget of expenses....38271, 50507
Authority citation revised....52402
910.180 (d)(3) amended; interim....52402
911 Budget of expenses...8534, 33757, 42187, 54928
Authority citation revised....54928
915 Budget of expenses...8534, 33757, 42187, 54928
Authority citation revised...46760, 54928
915.306 (a)(7) added; interim....7973
Regulation at 58 FR 7973 confirmed....34684
915.332 (a)(2) Table I revised; interim....34686
Regulation at 58 FR 34686 confirmed....46760
916 Budget of expenses....33883, 45231
916.356 (a)(2), (3) and (5) through (8) introductory texts revised, (a)(9) removed; interim....8536
Regulation at 58 FR 8536 confirmed; (a)(5) through (8) redesignated as (a)(6) through (9); (a)(2) introductory text, (4) introductory text and new (6) through (9) revised; new (a)(5) added....29101
917 Budget of expenses....33883, 45231
917.459 (a)(4) introductory text and (5) introductory text revised; interim....32592
Regulation at 58 FR 32592 confirmed....43500
918 Suspended; eff. 3-1-93 through 2-28-95....8210
920 (a)(4) revised; (a)(5) removed....43245
Budget of expenses....45232
Authority citation revised....45234
920.112 Revised....28339
920.122 Regulation at 57 FR 62158 confirmed....28337
920.302 (b)(1) corrected....3069
920.303 Added....43246
921 Suspended....220
922 Budget of expenses....38272, 50507
923 Budget of expenses....38272, 50507
923.322 (a)(2) removed; (a)(3) redesignated as (a)(2); new (a)(2) and (c) revised; interim....30698
Regulation at 58 FR 30696 confirmed....43248
924 Budget of expenses....38272, 50507
925 Budget of expenses....8893, 34688
Authority citation revised....44104
925.304 (a) amended; interim....21536
Regulation at 58 FR 21536 confirmed....44104
926 Budget of expenses....33013, 43241
Authority citation revised....43242
927 Regulation at 57 FR 54903 confirmed....8538
Budget of expenses....42491, 54928
Authority citation revised....54928
927.122 (a) amended....34691
927.123 Added....34691
927.125 (b) and (c) revised; (d) amended....34691
928 Referendum order....4302, 43065
Budget of expenses....33759, 53118
Authority citation revised....53118
929 Budget of expenses....42493, 54928
Authority citation revised....54928
931 Budget of expenses....40720, 53120
Authority citation revised....53120
932 Budget of expenses...8539, 33014, 45234
Authority citation revised...45235, 48594
932.153 Revised; interim....48594
932.159 Added....28340
944 Authority citation revised....44105
944.106 Revised....39430
(a) table corrected....41124
944.401 (b)(12) revised; (c) amended; interim....48596
944.503 (a) amended; interim....21537
Regulation at 58 FR 21537 confirmed....44105
945 Budget of expenses....38274, 57957
Authority citation revised...44606, 57959
945.83 (d) suspended in part; eff. 9-23-93 through 7-31-98....44606
945.341 Regulation at 57 FR 62167 confirmed....33014
946 Budget of expenses....32594, 47027
Authority citation revised...45417, 47027

TITLE 7 Chapter IX—Con. Page

946.336 (a)(2)(i), (iii), (iv), (c) introductory text, (1) and (2) revised; interim....33017
Regulation at 58 FR 33017 confirmed....45417
947 Budget of expenses....33760, 47027
Authority citation revised...46761, 47027
947.340 (e) amended; interim....33019
Regulation 58 FR 33019 confirmed....46761
948 Budget of expenses...33020, 33762, 47027
Authority citation revised....47027
948.150 (a) revised; interim....8541
Regulation at 58 FR 8541 confirmed....34692
953 Budget of expenses....34692, 47027
Authority citation revised....47027
955 Budget of expenses....47024
958 Budget of expenses....32595, 47027
Authority citation revised....47027
959 Budget of expenses....28767, 50507
966 Budget of expenses....4572, 57719
966.323 Introductory text revised; (a)(2)(i), (ii), (3)(i), (b), (c) introductory text and (d)(2) amended....57719
967 Limitation of handling...38276, 52402
Budget of expenses....38277
Authority citation revised....52403
979 Budget of expenses...4574, 28768, 50510
981 Budget of expenses....37636, 57957
Authority citation revised...43503, 57959
981.441 (c)(5)(iv), (v) and (vi) added....33023
Revised; interim....43503
981.472 (a) revised; (b) removed; interim....34696
981.473 (b), (d) and (f) removed; (c) and (e) redesignated as (b) and (c); (a) and new (b) revised; new (d) added; interim....34696
981.474 (a) revised; (b) and (c) removed; (d) and (e) redesignated as (b) and (c); interim....34696
982 Regulation at 57 FR 62172 confirmed....28772
Budget of expenses....32596, 47028
Authority citation revised....47027
984 Budget of expenses....4572, 57959
Authority citation revised....57961
985 Marketing percentages....28340
Budget of expenses....32598, 43241
Authority citation revised....43242
987 Budget of expenses....37638
987.112a Regulation at 57 FR 61779 confirmed....13697
989 Marketing percentages....47029
Budget of expenses....4572, 32600
Authority citation revised....48275
989.221 Revised; interim....48275
993 Technical correction....32003
Budget of expenses....40721, 57957
Authority citation revised....57959
993.150 (g)(1)(i), (ii) and (iii) revised....13698
997 Authority citation revised....34864
997.30 (d) revised; interim....34864
998 Budget of expenses....32601, 43065
998.100 Heading revised; interim....34867
998.200 Heading, (d), (h)(2) and (4) revised; interim....34867
998.300 Heading and (l) revised; (p) redesignated as (p)(1); (p)(2) added; interim....34868
999.200 Regulation at 57 FR 56245 confirmed....33322

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1001 Marketing percentages....5255
1001.17 Revised....27775
1001.18 Revised....27775
1001.22 Added....27775
1001.40 (b) and (c) revised....27775
1001.42 Amended; (d)(2)(vi) and (vii) revised....27776
1001.43 (g) added....27776
1001.44 (a)(5) amended; (a)(6) and (7)(i) revised....27776
1001.45 (b) revised....27777
1001.53 (h)(1) revised....27777
1001.60 (d), (f) and (g) revised; (h) and (i) added....27777
1001.61 (c) redesignated as (d); (a) and new (d) revised; new (c) and (e) added....27777
1001.62 (c) and (d) suspended; eff. through 11-30-93....17947
1002 Determination....50511

Page

1002.15 Revised....27778
1002.18 Revised....27778
1002.20 Added....27778
1002.22 (e) added....27778
1002.40 Revised....27778
1002.41 (c) and (d) revised....27778
1002.44 (a) introductory text and (d) introductory text revised; (a)(1) amended....27779
1002.45 (a)(6) amended; (a)(7) and (8)(i) revised....27779
1002.60 (d)(2) revised; (d)(3), (4) and (e) redesignated as (d)(5), (6) and (f); new (d)(3), new (4) and new (e) added....27779
1002.61 (d) and (e) suspended; eff. through 11-30-93....17947
(g) and (h) revised....27780
1002.74 (a)(1) and (2) amended; (a)(3) added....27780
1002.102 Revised....51983
1002.140 (a) and (b) revised....51983
1002.141 Heading, (a), (b), (d), (e) and (f) revised....51983
1002.143 (a)(5) revised....51983
1002.160 Revised....51984
1002.180 Revised....51984
1002.220 (b) and (c) revised....51984
1002.230 Revised....51984
1002.231 Revised....51984
1002.232 (b) revised....51984
1002.233 Revised....51984
1002.234 Added....51985
1002.241 (a) revised....51985
1002.243 Heading and (b) revised....51985
1002.245 Revised....51985
1002.246 Revised....51985
1002.247 Heading revised; (c)(1) and (2) amended....51985
1002.260 Heading, introductory text and (a) introductory text revised....51986
1004 Marketing percentages....5255
1004.7 (a) suspended in part through 2-28-94....45418
(e) suspended in part through 2-28-94....52406
1004.12 (d)(2) suspended in part through 2-28-94....52405
1004.15 Revised....27780
1004.16 Revised....27780
1004.22 Added....27780
1004.40 (b) and (c) revised....27780
1004.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27781
1004.43 (e) added....27781
1004.44 (a)(6) amended; (a)(7) and (8)(i) revised....27781
1004.45 (c) revised....27782
1004.60 (f) and (h) revised; (l), (m) and (n) added....27782
1004.74 (a)(2)(iii) removed; (a)(2)(iv) and (v) redesignated as (a)(2)(iii) and (iv)....27782
1004.76 (b)(3) and (5) revised; (c) added....27782
1004.85 (a) revised....27783
1005.15 Revised....27783
1005.16 Revised....27783
1005.19 Added....27783
1005.40 Revised....27783
1005.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27784
1005.43 (d) added....27784
1005.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) amended....27784
1005.45 (b) revised....27784
1005.53 (b)(1) introductory text revised....27785
1005.60 (d) and (f) revised; (g), (h) and (i) added....27785
1005.76 (a)(3) and (5) revised; (c) added....27785
1005.85 (c) revised....27785
1006.15 Revised....27786
1006.16 Revised....27786
1006.21 Added....27786
1006.40 Revised....27786
1006.42 Revised....27787
1006.43 (a) revised; (c) and (d) added....27788
1006.44 Revised....27788
1006.45 (a) ameded; (b) revised....27790
1006.50 (c) added....27790
1006.60 Revised....27790
1006.76 (b)(3) and (5) revised; (c) added....27791
1006.85 (b) revised....27791
1007.13 (b)(4) and (5) suspended in part....40724
1007.15 Revised....27791
1007.16 Revised....27791
1007.21 Added....27791
1007.32 (a) suspended; eff. 8-1-93 through 8-31-93....43068
1007.40 Revised....27792

TITLE 7 Chapter X—Con. Page

1007.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27792
1007.43 (d) added....27792
1007.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27793
1007.45 (b) revised....27793
1007.60 (d), (f) and (g) revised; (h) and (i) added....27793
1007.61 (a) introductory text in part and (b) suspended; eff. 8-1-93 through 8-31-93....43068
1007.76 (a)(3) and (5) revised; (c) added....27793
1007.85 (b) revised....27794
1011.13 (e)(3) amended; eff. through 7-31-93....17948
1011.15 Revised....27794
1011.16 Revised....27794
1011.19 Added....27794
1011.40 Revised....27794
1011.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27795
1011.43 (d) added....27795
1011.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27795
1011.45 (b) revised....27796
1011.52 (b)(1) introductory text revised....27796
1011.60 (d),(f) and (g) revised; (h) and (i) added....27796
1011.76 (a)(3) and (5) revised; (c) added....27796
1011.85 (c) revised....27797
1012.15 Revised....27797
1012.16 Revised....27797
1012.20 Added....27797
1012.40 Revised....27797
1012.42 Revised....27798
1012.43 (a) revised; (c) and (d) added....27799
1012.44 Revised....27799
1012.45 (a) amended; (b) revised....27801
1012.50 (c) added....27801
1012.60 Revised....27801
1012.76 (b)(3) and (5) revised; (c) added....27802
1012.85 (b) revised....27802
1013.15 Revised....27802

Page

1013.16 Revised....27803
1013.20 Added....27803
1013.40 Revised....27803
1013.42 Revised....27803
1013.43 (c) and (d) added....27805
1013.44 Revised....27805
1013.45 (a) amended; (b) revised....27807
1013.50 (c) revised....27807
1013.60 Revised....27807
1013.76 (b)(3) and (5) revised; (c) added....27808
1013.85 (a)(2) revised....27808
1030.7 (b)(6)(v) temporarily suspended through 1-31-94....40038
(b) introductory text amended; effective in part to 9-30-93....48954
1030.15 Revised....27808
1030.16 Revised....27808
1030.21 Added....27808
1030.40 Revised....27808
1030.42 (a) amended; (d)(2)(vi) and (vii) revised....27809
1030.43 (d) added....27809
1030.44 (a)(2)(iii) added; (a)(5) amended; (a)(8)(i)(*a*) and (*b*) redesignated as (a)(8)(i)(A) and (B); (a)(6), (7)(i), new (8)(i)(B) and (9) revised....27809
1030.45 (b) revised....27810
1030.52 (c)(1) and (5) revised....27810
1030.60 (d) and (f) revised; (g) and (h) amended; (i), (j) and (k) added....27810
1030.76 (a)(3) and (5) revised; (c) added....27810
1030.85 (b) revised....27811
1032.15 Revised....27811
1032.16 Revised....27811
1032.19 Added....27811
1032.40 Revised....27811
1032.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27812
1032.43 (d) added....27812
1032.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27812
1032.45 (b) revised....27813
1032.60 (d), (f) and (g) revised; (h) and (i) added....27813
1032.76 (a)(3) and (5) revised; (c) added....27813

Page

1032.85 (b) revised....27814
1033 Undesignated center heading removed....27823
1033.1 Undesignated center heading added....27823
1033.2 Redesignated from 1033.6....27814
Undesignated center heading added....27823
1033.3 Redesignated from 1003.8 and amended....27814
1033.4 Redesignated from 1033.9....27814
1033.5 Redesignated as 1033.19; new 1033.5 redesignated from 1033.10....27814
1033.6 Redesignated as 1033.2; new 1033.6 redesignated from 1033.11....27814
1033.7 Redesignated as 1033.15....27814
Redesignated from 1033.12; introductory text and (b) introductory text amended; (d) added....27815
(b) introductory text revised; (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; (c) introductory text and (2) amended....43505
1033.8 Redesignated as 1033.3; new 1033.8 redesignated from 1033.13....27814
1033.9 Redesignated as 1033.4; new 1033.9 redesignated from 1033.16; (b), (e) and (f) amended....27814
1033.10 Redesignated as 1033.5; new 1033.10 redesignated from 1033.17....27814
1033.11 Redesignated as 1033.6....27814
1033.12 Redesignated as 1033.7; new 1033.12 redesignated from 1033.14; (a)(2), (3) and (b)(2) amended....27815
1033.13 Redesignated as 1033.8; new 1033.13 redesignated from 1033.15 and amended....27814
(e)(2), (3) and (f) revised....43506
1033.14 Redesignated as 1033.12; new 1033.14 redesignated from 1033.18; (b) amended....27815
1033.15 Redesignated as 1033.13; new 1033.15 redesignated from 1033.7 and revised....27814
1033.16 Redesignated as 1033.9....27814
Added....27815

Page

1033.17 Redesignated as 1033.10....27814
Redesignated from 1033.20....27815
1033.18 Redesignated as 1033.14....27815
1033.19 Removed; new 1033.19 redesignated from 1033.5....27814
1033.20 Redesignated as 1033.17; new 1033.20 redesignated from 1033.21; introductory text amended....27815
1033.21 Redesignated as 1033.20; new 1033.21 added....27815
1033.27 Removed....27815
1033.30 (a)(1)(iv), (2), (b)(1) introductory text and (2) amended....27815
Undesignated center heading added....27823
(a)(1)(i), (3)(ii), (4) and (b) revised....43506
1033.31 Redesignated as 1033.32; new 1033.31 redesignated from former 1033.32; (b) amended....27815
(a)(2) and (c) revised; (b) amended....43506
1033.32 Redesignated as 1033.31; new 1033.32 redesignated from former 1033.31; (c)(4), (d)(3), (e)(4) and (g) amended....27815
(e)(2), (4), (5) and (f) revised....43506
1033.40 Removed; new 1033.40 redesignated from 1033.41 and revised....27815
Undesignated center heading added....27823
1033.41 Redesignated as 1033.40....27815
Redesignated from 1033.42 and revised....27816
(c) amended....43506
1033.42 Redesignated as 1033.41; new 1033.42 redesignated from 1033.43 and revised....27816
1033.43 Redesignated as 1033.42....27816
Redesignated from 1033.45 and revised....27818
(d) revised....43507
1033.44 Added....27818
1033.45 Redesignated as 1033.43....27818
Added....27820

150-258 O - 93 - 2 (PO 1)

TITLE 7 Chapter X—Con. Page

1033.46 Removed....27820
1033.50 Removed; new 1033.50 redesignated from 1033.51; introductory text, (b) introductory text, (1) and (2) amended....27820
Undesignated center heading added....27823
Heading and introductory text revised; (d), (e) and (f) added....43507
1033.51 Redesignated as 1033.50; new 1033.51 added....27820
1033.51a Removed....27821
1033.52 Redesignated from 1033.53; (a) introductory text and (1) amended; (b) revised....27821
1033.53 Redesignated as 1033.52; new 1033.53 added....27821
Revised....43507
1033.56 Removed....27821
1033.57 Redesignated as 1033.76....27822
1033.60—1033.61 Undesignated center heading revised....43507
1033.60 Revised....27821, 43507
Undesignated center heading added....27823
1033.61 (f)(2) amended....27822
Revised....43508
1033.62 Added....43508
1033.63 Added....43508
1033.64 Added....43508
1033.65 Added....43508
1033.66 Added....43509
1033.70 (c) removed; (a) revised; (b) added....27822
Undesignated center heading added....27823
(b) revised....43509
1033.71 (a), (b) introductory text and (1) amended; (c) redesignated as (d); new (c) added; (d) introductory text revised....27822
(b) introductory text and (1) revised....43509
1033.72 (b)(2) and (e)(2) amended....27822
(b) introductory text and (d)(2) revised....43509
1033.74 Revised....27822
1033.75 Redesignated as 1033.86....27822
1033.76 Redesignated as 1033.85....27822
Redesignated from 1033.57; heading, (b)(3) and (5) revised; introductory text, (a)(1)(i) and (ii) amended; (c) added....27823
1033.85 Redesignated from 1033.76; heading and (c) revised; (a), (b) and (d)(2) amended....27822
Undesignated center heading added....27823
1033.86 Redesignated from 1033.75; heading revised....27822
(a) revised....43509
1036.7 (d) introductory text and (2) amended....40725
(b) revised....43509
1036.13 (a)(3) and (b) amended; (e), (f) and (h) revised; (g) removed....43509
1036.15 Revised....27823
1036.16 Revised....27823
1036.21 Added....27823
1036.30 (a)(1)(i), (3)(ii), (4) and (b) revised....43510
1036.31 (a)(2) and (b)(3) revised....43510
1036.32 (c)(2) and (d) revised....43510
1036.40 Revised....27823
1036.41 Revised....27824
(c) amended....43510
1036.42 (a)(1) amended; (c)(3)(iv) revised....27825
1036.43 Revised....27825
1036.44 (a)(1), (2), (3)(i), (5), (6), (7)(i) and (8) through (15) revised; (a)(7)(iv) and (c) amended; (a)(16) removed....27825
1036.45 (b) revised....27827
1036.50 Heading and introductory text revised; (d), (e) and (f) added....43510
1036.53 Revised....43511
1036.60—1036.62 Undesignated center heading revised....43511
1036.60 (d), (e) and (f) revised; (g) and (h) added....27827
Revised....43511
1036.61 Revised....43512
1036.62 Revised....43512
1036.63 Added....43512
1036.64 Added....43512
1036.65 Added....43512

Page

1036.66 Added....43512
1036.71 (b) introductory text, (1) and (c) revised....43512
1036.72 Revised....43513
1036.73 (a)(2) introductory text, (b)(2), (d)(2) and (3) revised....43513
1036.76 (b)(3) and (5) revised; (c) added....27827
1036.85 (a) revised....27828
Introductory text amended....43513
1036.86 (a) amended....43513
1040.15 Revised....27828
1040.16 Revised....27828
1040.19 Added....27828
1040.40 Revised....27828
1040.41 (a)(2) revised....27829
1040.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27829
1040.43 (c) added....27829
1040.44 (a)(12)(i)(a) and (b) redesignated as (a)(12)(i)(A) and (B); (a)(2), (5), (6), (7)(i) through (iv), (8)(ii), (9), (11), (12)(i)(B) and (ii) revised; (a)(7)(v), (8)(i) and (12)(i) introductory text amended; (a)(12)(iii) and (iv) added....27829
1040.45 (b) revised....27831
1040.60 (d), (f), (g) and (h) revised; (i) added....27831
1040.76 (a)(3) and (5) revised; (c) added....27831
1040.85 (b) revised....27832
1044.6 Revised....27832
1044.18 Added....27832
1044.20 Added....27832
1044.21 Added....27832
1044.22 (i)(1)(iii) and (l) revised; (i)(3) added....27832
1044.40 Removed; new 1044.40 redesignated from 1044.41 and revised....27833
1044.41 Redesignated as 1044.40; new 1044.41 redesignated from 1044.42 and revised....27833
1044.42 Redesignated as 1044.41....27833
Redesignated from 1044.43 and revised....27834
1044.43 Redesignated as 1044.42....27834
Redesignated from 1044.45....27835
1044.44 Redesignated from 1044.46 and revised....27835
1044.45 Redesignated as 1044.43....27835
1044.46 Redesignated as 1044.44....27835
1044.50 Removed; new 1044.50 redesignated from 1044.51; introductory text amended....27837
1044.51 Redesignated as 1044.50; new 1044.51 added....27837
1044.60 (a), (b), (c) introductory text, (1) and (2) amended....27838
1044.63 Amended....27838
1044.71 Revised....27838
1046.15 Revised....27838
1046.16 Revised....27838
1046.19 Added....27838
1046.40 Revised....27838
1046.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27839
1046.43 (d) added....27839
1046.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27839
1046.45 (b) revised....27840
1046.60 (d), (f) and (g) revised; (h) and (i) added....27840
1046.76 (a)(3) and (5) revised; (c) added....27840
1046.85 (b) revised....27840
1049.3 Revised....43513
1049.6 Revised....43513
1049.7 (a) and (b) revised; (c) redesignated as (d); new (c) added....43513
1049.13 Revised....43514
1049.15 Revised....27841
1049.16 Revised....27841
1049.19 Added....27841
1049.30 (a)(1), (6) and (c) revised....43514
1049.31 (a)(3) and (4) revised....43515
1049.32 (a) and (b) designation removed; amended....43515
1049.40 Revised....27841
1049.41 (c) amended....43515
1049.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27842
1049.43 (d) added....27842
1049.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27842

TITLE 7 Chapter X—Con. Page

1049.45 (b) revised....27842
1049.50 Heading, introductory text and (a) revised; (d), (e) and (f) added....43515
1049.52 (a) and (b) revised....43515
1049.53 Revised....43515
1049.60—1049.62 Undesignated center heading revised....43515
1049.60 (d) and (f) revised; (g), (h) and (i) added....27842
Revised....43516
1049.61 Revised....43516
1049.62 Revised....43517
1049.63 Added....43517
1049.64 Added....43517
1049.65 Added....43517
1049.66 Added....43517
1049.71 (a)(1) and (2) revised....43517
1049.73 (a)(2) amended; (c)(2)(ii) and (d)(2) revised....43517
1049.75 Revised....43518
1049.76 (a)(3) and (5) revised; (c) added....27843
1049.78 Revised....43518
1049.85 (b) revised....27843
1049.86 (a) amended....43518
1050.15 Revised....27843
1050.16 Revised....27843
1050.19 Added....27844
1050.40 Revised....27844
1050.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27844
1050.43 (d) added....27845
1050.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27845
1050.45 (b) revised....27845
1050.60 (d), (f) and (g) revised; (h) and (i) added....27845
1050.76 (a)(3) and (5) revised; (c) added....27846
1050.85 (b) revised....27846
1064.15 Revised....27846
1064.16 Revised....27846
1064.19 Added....27846
1064.40 Revised....27846
1064.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27847
1064.43 (d) added....27847
1064.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27847

Page

1064.45 (b) revised....27848
1064.60 (d) and (f) revised; (g), (h) and (i) added....27848
1064.76 (a)(3) and (5) revised; (c) added....27848
1064.85 (b) revised....27849
1065.15 Revised....27849
1065.16 Revised....27849
1065.19 Added....27849
1065.40 Revised....27849
1065.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27850
1065.43 (d) added....27850
1065.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27850
1065.45 (b) revised....27850
1065.52 (d)(1) revised....27851
1065.60 (d) and (f) revised; (g), (h) and (i) added....27851
1065.76 (a)(3) and (5) revised; (c) added....27851
1065.85 (b) revised....27851
1068.15 Revised....27852
1068.16 Revised....27852
1068.19 Added....27852
1068.40 Revised....27852
1068.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27853
1068.43 (e) added....27853
1068.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27853
1068.45 (b) revised....27853
1068.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27853
1068.76 (a)(3) and (5) revised; (c) added....27854
1068.85 (d) revised....27854
1075 Determination....50511
1075.1—1075.23 Undesignated center heading removed; new undesignated center heading added....27865
1075.2 Redesignated from 1075.6....27855
Undesignated center heading removed; new undesignated center heading added....27865

Page

1075.3 Redesignated from 1075.20 and amended....27855
1075.5 Redesignated as 1075.18; new 1075.5 redesignated from 1075.9....27855
1075.6 Redesignated as 1075.2; new 1075.6 redesignated from 1075.10 and amended....27855
1075.7 Removed; new 1075.7 redesignated from 1075.12; (c) added....27855
1075.8 Redesignated as 1075.12; new 1075.8 redesignated from 1075.13....27855
1075.9 Redesignated as 1075.5; new 1075.9 redesignated from 1075.14....27855
1075.10 Redesignated as 1075.6; new 1075.10 redesignated from 1075.15....27855
1075.11 Removed....27855
1075.12 Redesignated as 1075.7; new 1075.12 redesignated from 1075.8 and revised....27855
1075.13 Redesignated as 1075.8; new 1075.13 redesignated from 1075.17 and revised....27855
1075.14 Redesignated as 1075.9; new 1075.14 redesignated from 1075.19 and revised....27855
1075.15 Redesignated as 1075.10; new 1075.15 redesignated from 1075.18 and revised....27855
1075.16 Revised....27855
1075.17 Redesignated as 1075.13; new 1075.17 redesignated from 1075.23....27855
1075.18 Redesignated as 1075.15; new 1075.18 redesignated from 1075.5....27855
1075.19 Redesignated as 1075.14....27855
Added....27856
1075.20 Redesignated as 1075.3....27855
Added....27856
1075.22 Removed....27855
1075.23 Redesignated as 1075.17....27855
1075.27 Removed....27855
1075.30—1075.31 Undesignated center heading removed....27865
1075.30 Revised....27856
Undesignated center heading added....27865
1075.31 Heading revised; (a) removed; (b) redesignated as (a) and amended; new (b) added....27856
1075.32 Added....27856
1075.40—1075.46 Undesignated center heading removed....27865
1075.40 Removed; new 1075.40 redesignated from 1075.41 and revised....27857
Undesignated center heading added....27865
1075.41 Redesignated as 1075.40; new 1075.41 redesignated from 1075.42 and revised....27857
1075.42 Redesignated as 1075.41....27857
Redesignated from 1075.44 and revised....27858
1075.43 Redesignated from 1075.45 and revised....27859
1075.44 Redesignated as 1075.42....27858
Redesignated from 1075.46 and revised....27859
1075.45 Redesignated as 1075.43....27859
Added....27861
1075.46 Redesignated as 1075.44....27859
1075.50—1075.54 Undesignated center heading removed....27865
1075.50 Removed; new 1075.50 redesignated from 1075.51; introductory text amended; (b) revised; (c) added....27861
Undesignated center heading added....27865
1075.51 Redesignated as 1075.50....27861
Added....27862
1075.52 Redesignated from 1075.53 and revised....27862
1075.53 Redesignated as 1075.52; new 1075.53 added....27862
1075.60 Removed; new 1075.60 redesignated from 1075.70....27862
Revised....27863
Undesignated center heading added....27865
1075.61 Removed; new 1075.61 redesignated from 1075.72 and revised....27863
1075.62 Redesignated as 1075.76; new 1075.62 added....27863
1075.70—1075.72 Undesignated center heading removed....27865

TITLE 7 Chapter X—Con. Page

1075.70 Redesignated as 1075.60....27862
Redesignated from 1075.83 and revised....27863
Undesignated center heading added....27865
1075.71 Removed; new 1075.71 redesignated from 1075.84....27863
Revised....27864
1075.72 Redesignated as 1075.61....27863
Redesignated from 1075.85 and revised....27864
1075.73 Redesignated from 1075.80; heading revised; (a) and (b) amended....27864
1075.74 Redesignated from 1075.81....27864
1075.75 Redesignated from 1075.82; heading revised; (a) and (b) amended....27864
1075.76 Redesignated from 1075.62....27863
Added....27864
1075.77 Added....27865
1075.80—1075.88 Undesignated center heading removed....27865
1075.80 Redesignated as 1075.73....27864
1075.81 Redesignated as 1075.74....27864
1075.82 Redesignated as 1075.75....27864
1075.83 Redesignated as 1075.70....27863
1075.84 Redesignated as 1075.71....27863
1075.85 Redesignated as 1075.72....27864
Redesignated from 1075.88 and revised; undesignated center heading added....27865
1075.86 Removed....27865
1075.87 Removed....27865
1075.88 Redesignated as 1075.85....27865
1076.15 Revised....27865
1076.16 Revised....27865
1076.19 Added....27866
1076.40 Revised....27866
1076.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27866
1076.43 (d) added....27867
1076.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27867
1076.45 (b) revised....27867
1076.52 (b)(1) revised....27867
1076.60 (d) and (f) revised; (g), (h) and (i) added....27867
1076.76 (a)(3) and (5) revised; (c) added....27868
1076.85 (b) revised....27868
1079.15 Revised....27868
1079.16 Revised....27868
1079.19 Added....27868
1079.40 Revised....27868
1079.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27869
1079.43 (d) added....27869
1079.44 (a)(2), (5), (6), (7)(i) and (9) revised; (a)(7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27869
1079.45 (b) revised....27870
1079.52 (d)(1) revised....27870
1079.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27870
1079.76 (a)(3) and (5) revised; (c) added....27870
1079.85 (d) revised....27871
1093.15 Revised....27871
1093.16 Revised....27871
1093.19 Added....27871
1093.40 Revised....27871
1093.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27872
1093.43 (d) added....27872
1093.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27872
1093.45 (b) revised....27873
1093.52 (b)(1) introductory text revised....27873
1093.60 (d), (f) and (g) revised; (h) and (i) added....27873
1093.76 (a)(3) and (5) revised; (c) added....27873
1093.85 (c) revised....27874
1094.15 Revised....27874
1094.16 Revised....27874
1094.19 Added....27874
1094.40 Revised....27874

Page

1094.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27875
1094.43 (d) added....27875
1094.44 (a)(2),(6),(7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27875
1094.45 (b) revised....27876
1094.52 (b)(1) introductory text revised....27876
1094.60 (d), (f) and (h) revised; (g) amended; (i) and (j) added....27876
1094.76 (a)(3) and (5) revised; (c) added....27876
1094.85 (c) revised....27877
1096.15 Revised....27877
1096.16 Revised....27877
1096.19 Added....27877
1096.40 Revised....27877
1096.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27878
1096.43 (d) added....27878
1096.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27878
1096.45 (b) revised....27878
1096.52 (b)(1) revised....27878
1096.60 (d), (f) and (g) revised; (h) and (i) added....27879
1096.76 (a)(3) and (5) revised; (c) added....27879
1096.85 (a) revised....27879
1097.2—1097.95 Reinstated....6679
Removed....35361
1098.2—1098.94 Removed; eff. 7-31-93....35362
1098.61 (a) suspended in part and (b) suspended through 7-30-93....40727
1099 Referendum order....35362
1099.2—1099.86 Reinstated....6691
1099.15 Revised....43519
1099.16 Revised....43519
1099.19 Added....43519
1099.40 Revised....43519
1099.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....43520
1099.43 (d) added....43520
1099.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) and (11) introductory text amended....43520
1099.45 (b) revised....43521
1099.60 (d), (f) and (g) revised; (h) and (i) added....43521
1099.76 (a)(3) and (5) revised; (c) added....43521
1099.85 (b) revised....43522
1106.6 Suspended in part....8896
1106.7 (b)(1) and (2) suspended in part....8896
1106.13 (d)(1) suspended through 8-31-93....14308
1106.15 Revised....27879
1106.16 Revised....27880
1106.19 Added....27880
1106.40 Revised....27880
1106.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27881
1106.43 (d) added....27881
1106.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27881
1106.45 (b) revised....27881
1106.52 (b)(1) revised....27881
1106.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27881
1106.76 (a)(3) and (5) revised; (c) added....27882
1106.85 (c) revised....27882
1108.15 Revised....27882
1108.16 Revised....27882
1108.19 Added....27883
1108.32 (b)(1)(ii) amended....36861
1108.40 Revised....27883
1108.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27883
1108.43 (d) added....27884
1108.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27884
1108.45 (b) revised....27884
1108.52 (b)(1) revised....27884
1108.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27884
1108.61 Heading and (a) amended; (b) removed....36861
1108.73 (a)(2) amended; (c)(2)(ii) removed....36861
1108.75 (a) amended....36861

TITLE 7 Chapter X—Con. Page

1108.76 (a)(3) and (5) revised; (c) added 27885
1108.85 (c) revised 27885
1108.90 Removed 36861
1108.91 Removed 36861
1108.92 Removed 36861
1108.93 Removed 36861
1108.94 Removed 36861
1108.95 Removed 36861
1108.96 Removed 36861
1124 Marketing percentages 5255
1124.15 Revised 27885
1124.16 Revised 27885
1124.20 Added 27885
1124.40 (a), (b) and (c) revised 27886
1124.42 (a)(1) amended; (d)(2)(vi) and (vii) revised; (e) removed 27886
1124.43 (f) added 27886
1124.44 (a)(6) amended; (a)(7), (8)(i) and (10) revised 27887
1124.45 (b) revised 27887
1124.52 (d)(1) revised 27887
1124.60 (d) and (f) revised; (g) redesignated as (j); new (g), (h) and (i) added 27887
1124.76 (b)(3) and (4) revised; (c) added 27887
1124.85 (b) revised 27888
1126.7 (d) introductory text and (e) introductory text suspended in part through 7-1-95 40729
1126.13 (e)(1), (2) and (3) suspended in part through 7-1-95 40729
1126.15 Revised 27888
1126.16 Revised 27888
1126.21 Added 27888
1126.40 Revised 27888
1126.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27889
1126.43 (d) added 27889
1126.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27889
1126.45 (b) revised 27890
1126.52 (b)(1) introductory text revised 27890
1126.60 (d) and (f) revised; (g) and (h) amended; (i), (j) and (k) added 27890

Page

1126.76 (a)(3) and (5) revised; (c) added 27890
1126.85 (c) revised 27891
1131.15 Revised 27891
1131.16 Revised 27891
1131.19 Added 27891
1131.40 Revised 27891
1131.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27892
1131.43 (d) added 27892
1131.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27892
1131.45 (b) revised 27892
1131.60 (d) and (f) revised; (g), (h) and (i) added 27893
1131.76 (a)(3) and (5) revised; (c) added 27893
1131.85 (a)(2) revised 27893
1134.15 Revised 27893
1134.16 Revised 27894
1134.20 Added 27894
1134.40 Revised 27894
1134.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27895
1134.43 (d) added 27895
1134.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27895
1134.45 (b) revised 27895
1134.60 (d), (f) and (g) revised; (h) and (i) added 27895
1134.76 (a)(3) and (5) revised; (c) added 27896
1134.85 (b) revised 27896
1135.15 Revised 27896
1135.16 Revised 27896
1135.20 Added 27896
1135.40 Revised 27897
1135.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27897
1135.43 (d) added 27897
1135.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27898
1135.45 (b) revised 27898
1135.60 (d) and (f) revised; (g), (h) and (i) added 27898

Page

1135.76 (a)(3) and (5) revised; (c) added 27898
1135.85 (b) revised 27899
1137.7 (b) suspended in part through 2-94 40730
1137.12 (a)(1) suspended in part through 8-94 40730
1137.15 Revised 27899
1137.16 Revised 27899
1137.20 Added 27899
1137.40 Revised 27899
1137.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27900
1137.43 (d) added 27900
1137.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27900
1137.45 (b) revised 27901
1137.60 (d), (f) and (g) revised; (h) and (i) added 27901
1137.76 (a)(3) and (5) revised; (c) added 27901
1137.85 (b) revised 27902
1138.7 (a)(1) and (c) suspended in part; effective through 9-30-95 57962
1138.13 (d)(1), (2) and (5) suspended; effective through 9-30-95 57962
1138.15 Revised 27902
1138.16 Revised 27902
1138.21 Added 27902
1138.40 Revised 27902
1138.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27903
1138.43 (d) added 27903
1138.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27903
1138.45 (b) revised 27903
1138.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added 27904
1138.76 (a)(3) and (5) revised; (c) added 27904
1138.85 (c) revised 27904
1139.10 (b)(1)(ii) revised 43235
1139.13 (d)(1) and (2) revised 32435
1139.15 Revised 27904
1139.16 Revised 27905
1139.21 Added 27905
1139.40 Revised 27905

Page

1139.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27905
1139.43 (d) added 27906
1139.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27906
1139.45 (b) revised 27906
1139.50 (d), (e) and (f) revised 32436
1139.53 Revised 32436
1139.60 (e) and (g) revised; (j), (k) and (l) added 27906
1139.61 (a) amended 27907
1139.71 (a) introductory text revised; (c) added 32436
1139.72 Revised 32436
1139.74 (c) introductory text and (e) revised 32436
1139.75 (a) revised 32436
1139.76 (a)(1)(iii) and (v) revised; (c) added 27907
1139.85 (b) revised 27907
1160 Added 46763

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1205 Technical correction 58231
1205.510 (b)(2) and (3) revised 52216
1207.510 (b)(1), (2), (3) and (c) revised 3359
1209.1—1209.77 (Subpart A) Added 3449
1209.200—1209.280 (Subpart B) Added; interim 8197
1210.401 (f) amended 3355
1210.403 (h) revised 3355
1210.404 Removed 3356
1210.517 (a)(3) through (11) redesignated as (a)(4) through (12); new (a)(3) added; new (a)(9) and new (10) revised 3356
1210.540 Revised (OMB number) 3356
1211 Authority citation revised 41024
1211.51 (g) suspended through 10-31-93; interim 41024
1211.251 (h) introductory text revised 3362

TITLE 7 Chapter XI—Con. Page

1211.300—1211.310 (Subpart D) Added; interim....38280
Regulation at 58 FR 38280 confirmed....51570
1212.251 (l) introductory text revised....3366
1220 Authority citation revised....32437
1220.312 (d) revised; interim....40732
1220.315 Removed; interim....40732
1220.400—1220.402 (Subpart C) Added; interim....32438
Regulation at 58 FR 32438 confirmed....47984
1230.110 Revised....17205
1250.519 Added....34697
1260.141 (a) revised....12999

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1410.13 (a) removed; (b), (c) and (d) redesignated as (a), (b) and (c)....4064
1410.103 (d)(2), (3), (4) and (f)(2) revised....4064
1410.108 Introductory text and (b) amended....4064
1410.110 (d) revised....4064
1413.11 (b)(4)(iii) added....12331
1413.54 (a)(2) and (d) revised....4305
(b), (c)(1) and (e) revised....12331
(a)(5)(ii) and (d)(3)(ii) revised; (a)(5)(iii) and (d)(3)(iii) added....12333
(a)(4)(ii) and (d)(3) revised; (a)(4)(iii) added....15417
(a)(3)(ii) and (d)(3)(iv) revised; (a)(3)(iii) and (d)(3)(v) added....15756
(d)(3)(iii) correctly designated....18304
1413.61 Heading revised; (b)(4) added; interim....57722
1413.79 (b)(4) added; interim....57722
1413.104 (a)(8) and (b) revised....12333
1413.109 (d) revised....12333
1421 Authority citation revised....14498
1421.1 (c)(1) revised....38664
1421.4 (i) revised; interim....14498
1421.5 (b)(1), (2)(i), (ii), (4)(ii), (c)(2) introductory text, (i), (d)(2), (f) and (i) revised; (e)(3) added; interim....14499

Page

1421.6 (c) revised; (e) added; interim....45040
(a)(1) revised....57724
1421.7 (c)(2) through (6), (9) and (10) revised....4306
(c)(8)(iii) added....33886
1421.8 (a) and (c) revised; interim....14499
1421.12 (d) revised; interim....14500
(c) revised....57724
1421.13 Removed; interim....14500
1421.14 (b) revised; interim....14500
1421.15 Revised; interim....14500
1421.16 Revised; interim....14500
1421.17 (a)(2) introductory text, (3) introductory text, (b)(1), (c) introductory text, (1), (e) and (f) revised; (g), (h) and (i) removed; interim....14502
1421.18 (b)(2), (5), (7)(i), (9)(iv), (10), (12)(ii), (iv)(D), (v) introductory text, (13)(iii), (iv)(D)(3), (v) introductory text, (vi), (vii), (14)(iii), (v) introductory text, (vi) and (15)(ii)(E) through (G) revised; (b)(13)(viii), (14)(iv)(F) through (H) and (15)(ii)(D)(5) added; interim....14502
1421.19 (a) revised; interim....14503
1421.20 (a) introductory text, (b) and (c)(1)(ii) revised; interim....14503
(b) revised....38665
1421.22 (d) added; interim....14503
1421.25 (a)(1) introductory text and (ii)(A) revised; (d) removed; (e) and (f) redesignated as (d) and (e); interim....14504
(d) redesignated as (f); (e) removed; new (d) and (e) added....38665
(b) and (c) revised....57724
1421.27 (a)(2)(ii) revised; (a)(2)(iii) added....33886
1421.29 (b)(3) redesignated as (b)(4); new (b)(3), (h) and (i) added; (f) revised; interim....14504
1421.203 Revised; interim....14504, 45040
1421.210 (b)(5)(iv) revised; interim....14504
1421.214 Revised; interim....14505

Page

1421.217 (c) revised....38510
1421.740 Correctly designated....20446
1427.1 (b)(2)(i), (ii) and (iii) revised; (b)(2)(iv) added; interim....51988
1427.3 Regulation at 57 FR 40594 confirmed....15262
Amended....51988
1427.4 Regulation at 57 FR 40595 confirmed....15262
1427.5 (a), (b)(1)(iii) introductory text, (A), (v)(A), (2)(iii), (iv)(A), (c)(2)(iii)(D), (3) and (d) revised; (b)(1)(iii)(D) added....51988
Regulation at 57 FR 40595 confirmed....15262
1427.6 Regulation at 57 FR 40595 confirmed....15262
(a)(3) and (c) revised....51989
1427.7 Regulation at 57 FR 40595 confirmed....15262
(a) introductory text and (b) introductory text revised....51989
1427.8 (a)(2)(ii) revised; (a)(2)(iii) added....12333
(a)(1)(ii) revised; (a)(1)(iii) added....15756
(d) revised....51989
1427.9 Regulation at 57 FR 40595 confirmed....15262
(e) removed; (f) redesignated as (e); (a), (b), (c) and new (e) revised....51989
1427.11 Regulation at 57 FR 40595 confirmed....15262
(f)(2) and (g)(3) revised....51989
1427.12 Regulation at 57 FR 40596 confirmed....15262
Revised....51989
1427.13 (a), (b) and (c) revised....51989
1427.14 Revised....51990
1427.15 Regulation at 57 FR 40596 confirmed....15262
Revised....51990
1427.17 Regulation at 57 FR 40596 confirmed....15262
Revised....51990
1427.18 Regulation at 57 FR 40596 confirmed....15262
(a)(1)(iv) amended; (a)(1)(v) redesignated as (a)(1)(vi); new (a)(1)(v) and (e) through (i) added; (a)(2) and (d) revised....51990

Page

1427.19 Regulation at 57 FR 40596 confirmed....15262
(b) introductory text revised....51991
1427.23 Regulation at 57 FR 40596 confirmed....15262
(b)(3) revised....51991
1427.25 (f)(1) revised; interim....41994
Regulation at 58 FR 41994 confirmed....57725
1427.107 (d)(3) revised; (e) and (f) redesignated as (f) and (g); new (e) added; interim....42843
Regulation at 58 FR 42843 confirmed....57725
1427.109 (c)(3) and (e) revised; interim....42843
Regulation at 58 FR 42843 confirmed....57725
1427.160 (c) and (d) revised....51991
1427.163 (b) revised....51991
1427.165 (b) revised....51992
1427.167 Regulation at 57 FR 40597 confirmed....15262
1427.168 Regulation at 57 FR 40597 confirmed....15262
Revised....51992
1427.172 (b)(3), (4) introductory text, (i) and (ii) revised....51992
1427.175 Regulation at 57 FR 40597 confirmed....15262
Added....51992
1434.3 (a), (f) and (g) revised; interim....14505
1434.4 (a), (b)(1) introductory text, (2) introductory text, (2)(i) and (f) revised; interim....14505
1434.5 Removed; interim....14505
1434.6 Heading and (a) revised; interim....14505
1434.7 (b) and (c) revised; interim....14505
1434.9 (a)(1) and (2)(i) revised; interim....14506
1434.10 (a) and (e) revised; interim....14506
1434.15 (c) revised; interim....14506
1434.16 (a)(1) revised; interim....14506
1434.19 Removed; interim....14506
1434.22 (a), (b) introductory text, (e) and (f) revised; (g) removed; interim....14506
1434.23 Revised; interim....14507
1434.24 Heading, (a)(3), (d) and (e)(2) revised; interim....14508

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 7 Chapter XIV—Con. Page

1434.25 (a)(2)(i) revised; (f) removed; (g) and (h) redesignated as (f) and (g); interim....14508
1434.26 (b)(3) redesignated as (b)(4); new (b)(3) added; (e) removed; (f) redesignated as (e) and revised; interim....14508
1434.27 (c) revised; interim....14508
1434.32 (b) amended; interim....14508
1435.500—1435.529 (Subpart) Added; interim....36124
1435.530 Added; interim....41995
1446.303 (g)(5) amended; interim....41626
1464 Authority citation revised....11962
1464.12 Redesignated as 1464.24; new 1464.12 added....11962
1464.13 Added....36863
1464.14 Added....36863
1464.15 Added....36863
1464.16 Added....36863
1464.17 Added....36863
1464.18 Added....36863
1464.19 Added....36859
1464.24 Redesignated from 1464.12....11962
1474 Removed....57724
1477 Authority citation revised....9108, 51758
1477.1 Revised....51758
1477.3 Amended....9108, 51758
1477.4 Revised....9109
(b) revised; (c) and (d) added....51759
1477.5 (a)(3) and (4)(ii) amended; (a)(5) added....9109
(a)(4)(ii), (b)(4) and (g)(4) revised; (b)(5), (g)(7) and (8) added....51759
1477.7 (b) and (d) revised; (e) and (f) added....9109
(b)(5) through (9) added....51759
1477.8 Revised....9109
Existing text designated as (a); (b) added....51760
1477.9 (a)(1) revised....9109, 51760
1477.10 (d)(2) and (e) revised....9110
(c), (d)(2) and (e) revised....51760
1477.12 (c) revised....9110
1477.20 Redesignated as 1477.21; new 1477.20 added....19768
Heading revised....51760
1477.21 Redesignated from 1477.20....19768
Redesignated as 1477.25; new 1477.21 added....51760
1477.22 Added....51761
1477.25 Redesignated from 1477.21....51760
1478 Authority citation revised....9110, 51761
1478.1 (a) revised....9110
1478.3 (b) amended....9110, 51761
1478.4 Revised....9111, 51761
1478.5 Revised....9111
(a) revised; (d) added....51761
1478.6 Revised....9111
1478.8 (d) and (e) revised....9111
(b) and (d) revised....51762
1478.9 Revised....9112
(a) and (b) revised....51762
1493 Authority citation revised....11789
1493.200—1493.340 (Subpart C) Added; interim....11789
1493.210 Corrected....13684
1493.220 Correctly designated....15901, 21218

Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1540.40—1540.45 (Subpart C) Added; interim....16104

Chapter XVII—Rural Electrification Administration, Department of Agriculture (Parts 1700—1799)

1703 Authority citation revised....11512
Extension of application deadline....13195
1703 (Subpart C) Heading added....21639
1703.100—1703.140 (Subpart D) Added....11512
1703.300—1703.313 (Subpart E) Added....21639
1717.850—1717.859 (Subpart R) Added....53843
1717.900—1717.903 (Subpart S) Added....53851
1728.97 (b) amended....41396
1728.201 Added....41396
1728.202 Added....41396
1744 Authority citation revised....52641

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

Page

1744.200—1744.210 (Subpart E) Added....52642
1755 Authority citation revised....29328, 29338
1755.97 Table amended....29328, 29338, 30938, 41408
1755.98 Heading and text revised....41408
1755.390 Added....29338
Appendix A corrected....32749
1755.522 Added....30938
Appendix D corrected....36252
1755.890 Added....29328
1786.25—1786.49 (Subpart B) Heading revised; interim....51008
1786.150—1786.199 (Subpart F) Added; interim....51008
1786.200—1786.210 (Subpart G) Added; interim....51008
1792 Added....32440

Chapter XVIII—Farmers Home Administration, Department of Agriculture (Parts 1800—2099)

1809 Removed; interim....44750
1822.261 Amended....224
1823.401 Amended....224
1823.401—1823.418 (Subpart N) Exhibit A amended; interim....44752
1900.51 (b) amended....52646
1900.55 (a)(13) removed; (a)(14) through (18) redesignated as (a)(13) through (17)....52646
1900.51—1900.100 (Subpart B) Exhibit D revised....4065
Exhibit C amended....52646
1900.151—1900.156 (Subpart D) Added....224
1901.2 Amended....226
1901.204 (a)(20) revised; (a)(24) and (25) added....5565
(a)(20) correctly designated....12632
Regulation at 58 FR 5565 confirmed....42639
1910 Authority citation revised....48283
1910.1 Introductory text amended....44263, 52646
1910.3 (a)(7) added....226
(a)(3) and (4)(ii) amended....44263
1910.4 Introductory text amended....226
(i) and (k) amended....44263

Page

(b)(19), (c) and (f) amended; (g) revised; interim....44746
(i) amended; interim....44747
(b)(24) added; (g)(1) and (h) revised; interim....48283
1910.6 (a) revised; (b)(1) amended; interim....44747
1921.9 (f)(2)(iv)(A), (vi)(C), (viii)(A), (C), (G), (H), (xi)(E)(*5*), (xiii)(G), (xiv)(B)(*5*), (*6*) and (g)(2)(iv)(A) introductory text revised; (f)(2)(ix)(B) through (G) and (f)(2)(xii)(F)(*1*), (*2*) and (*3*) redesignated as (f)(2)(ix)(C) through (H) and (f)(2)(F)(xii)(*2*), (*3*) and (*4*); (f)(2)(viii)(I), (ix)(B), new (f)(2)(xii)(F)(*1*) and (xiii)(E)(*5*), (*6*) and (*7*) added; (f)(2)(xiv)(B)(*7*) through (*12*) removed; interim....14499
1922.201—1922.250 (Subpart E) Added; interim....44750
1924 Authority citation revised....48283
1924.4 Amended....26680
1924.1—1924.50 (Subpart A) Exhibit I amended....38922
1924.56 (b)(3) added; interim....48283
1924.57 (d)(1)(iv) amended....26680
1924.60 (a)(4) through (11) redesignated as (a)(5) through (12); (a) introductory text revised; new (a)(4) added; interim....48283
1927.52 Amended....34868
1927.54 (c) introductory text amended....34868
1927.55 (c) and (d)(4) amended....34868
1927.56 (b) amended....34868
1927.58 (g) and (h)(3) amended....34868
1927.59 (a)(1) introductory text amended....34868
1930 Authority citation revised....40868
1930.101—1939.150 (Subpart C) Revised....40868
1930.101—1930.150 (Subpart C) Exhibit B amended....38922
Exhibit E amended....38923
Exhibit C amended....44263

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 7 Chapter XVIII—Con. Page

1940.585 (b) revised....54485
1940.586 (b) revised....54485
1940.587 (b) revised....54486
1940.588 (b) revised....54486
1940.589 (b) revised....54486
1940.590 (i) added....5565
Regulation at 58 FR 5565 confirmed....42639
1940.591 (b) revised....54486
1940.551—1940.600 (Subpart L) Exhibit B revised; interim....38950
1941 Authority citation revised....48283
1941.1 Amended....226
Amended; interim....48282
1941.4 Amended; interim....48283
1941.14 (b) amended; interim....48284
1941.15 Added; interim....48284
1941.17 (a) through (d) redesignated as (b) through (e); new (a) and (f) added; interim....48286
1941.25 (a)(3) redesignated as (a)(5) and revised; new (a)(3) and (4) added....26680
(a) introductory text amended; interim....44752
(a)(3) and (5)(iii) removed; (a)(4) and (5) redesignated as (a)(3) and (4); interim....48286
1941.29 Heading, (b) introductory text, (1), (2), (c) introductory text and (3) amended; interim....44747
1941.30 Revised; interim....44747
Amended; interim....48286
1941.33 (a) amended; interim....48282
1941.1—1941.50 (Subpart A) Exhibit A amended; interim....44752, 44753
1941.51 Amended; interim....48282
1941.54 (b)(2) revised; (b)(3) amended; interim....48286
1941.84 (a) and (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and (g) revised....26680
1941.88 (c) amended....26680
1941.92 Amended....26681
1942.1 (a) amended....226
1942.17 (q)(4)(i)(B)(*1*), (ii) introductory text and (B) heading and introductory text amended; (q)(4)(i)(A)(*2*)(*iii*) and (ii)(A) heading revised....30102
1942.101 Amended....226
1942.301 Amended....226
1942.351 (a) amended....226
1942.402 (a) amended....226
1942.451 Amended....227
1942.501 (a) amended....227
1943 Authority citation revised....48287
1943.1 Amended....227
1943.1—1943.50 (Subpart A) Heading amended; interim....48282
1943.1 Amended; interim....48282
1943.4 Amended....26681
Amended; interim....48287
1943.14 Added; interim....48287
1943.16 (a)(4) added; interim....48288
1943.17 (a)(1) amended; interim....48282
(a)(4) and (5) added; interim....48288
1943.24 (d)(1) and (2) revised....26681
1943.25 (c)(1) introductory text revised....26681
(c)(2) amended; interim....44752
1943.28 (a) amended; interim....48288
1943.29 (d) amended; interim....44747
Heading, (b)(1) and (2) amended; interim....48282
(a) and (b) introductory text amended; interim....48288
1943.30 Revised; interim....44747
Amended; interim....48288
1943.32 (a) amended; interim....44752
1943.38 (g)(3)(ii) revised; (g)(3)(iii) amended; interim....48288
1943.51 Amended....227
1943.51—1943.100 (Subpart B) Heading amended; interim....48282
1943.51 Amended; interim....48282
1943.54 Amended....15072, 26681
Amended; interim....48288
1943.57 Added....15072
1943.62 (a)(3) through (7) resdesignated as (a)(4) through (8) and (b)(4) through (9) redesignated as (b)(5) through (10); (a)(1), new (a)(8), (b)(3) and new (b)(9) amended; new (a)(3), new (b)(4), (11), and (12) added; new (a)(7) and new (b)(8) revised....15072
1943.66 Revised....15073
1943.67 (a), (b), and (c) redesignated as (c), (d), and (e); new (e) amended; new (a) and new (b) added....15074
1943.68 (c) revised....15074
1943.73 (d), (f)(1) and (2) amended; (f)(2)(iii) and (4) removed....15074
1943.74 (d)(1) and (2) revised....26681
1943.75 (c)(1) introductory text revised....26681
(c)(2) amended; interim....44752
(c)(4)(iii) amended; interim....48289
1943.79 (c)(1) revised....15074
Heading, (a), (c) introductory text, (1) and (d) amended; interim....44748
(d) amended; interim....48289
1943.80 Revised; interim....44748, 48289
1943.82 (a) amended; interim....44752, 47478
1943.88 (g)(3)(ii) revised; (g)(3)(iii) amended; interim....48289
1944 Authority citation revised....227
1944.1 Amended....227
1944.3 (b)(9) and (14) revised....48301
1944.17 (a) introductory text revised....48301
1944.24 (c)(2) amended; interim....44752
1944.30 (a) amended; interim....44752
1944.37 (f) and (g) amended....227
1944.39 Revised....227
1944.151 Amended....227
1944.153 Amended....40951
1944.157 (a)(7)(iii) amended; interim....44753
1944.158 (n) added....38923
1944.164 (n) heading and (o) amended; (p) revised....38923
1944.169 (i) heading and (2) revised....40951
(a)(1)(i) amended; interim....44752
1944.170 Introductory text added....40951
1944.171 (d) table amended....38923
1944.176 (d)(3) removed; (d)(4), (5) and (6) redesignated as (d)(3), (4) and (5); (d)(2) revised....38923
1944.151—1944.200 (Subpart D) Exhibit B amended....40951
1944.201 Amended....227
1944.205 Amended...38924, 40951, 44263
1944.211 (a)(10)(ii) introductory text and (B) revised; (a)(11), (12) and (13) redesignated as (a)(12), (13) and (14); new (a)(11) added....38924
(a)(6)(iv) revised....40952
(a)(4) amended....44263
1944.212 Heading revised; (q) added....38924
1944.213 (b)(1) amended; (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) added....38924
(c)(5) through (11) redesignated as (c)(6) through (12); (b) and new (c)(11) revised; new (c)(5) and (f) added....44263
1944.215 (b)(2), (c)(5)(ii), (h)(1) and (r)(3) amended; (d), (j), (n) introductory text and (r)(2) revised; (n)(3) added....38924
(b)(5), (6), (7) and (c)(5)(ii) amended....40953
(n) introductory text, (r)(2), (4), and (7) revised....44265
1944.222 (k) heading and (2) revised....40953
(a) and (h) amended....44265
1944.224 (a)(2)(i) amended....38925
(a) introductory text, (1), (2) introductory text, (i), (iii), (vi), (4), (5) introductory text, (iii), (iv), (7), (8), (b) introductory text, (1)(iv), (2), (7), (c)(2) and (5) amended....40953
1944.231 Revised....44265
1944.232 Revised....44272
1944.235 (a)(1) amended....38925
(h) heading, introductory text, (1), (2) and (3) amended....40954
(c)(1)(iv) amended....44272
1944.236 (b)(5) removed; (b)(6) redesignated as (b)(5) and revised; new (b)(6) and (7) added....38925
1944.237 (a) and (e) revised; (f) and (g) added....38925
(c)(1), (2) and (d)(2) revised....44273
1944.238 Amended....38925
1944.239 (c) introductory text revised; (d) added....40954
1944.250 Amended....44273

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 7 Chapter XVIII—Con. Page

1944.201—1944.250 (Subpart E) Exhibit A-11 added.....38925
Exhibits A, A-6 and E amended.....40954
Exhibit A-10 revised.....44273
1944.251—1944.300 (Subpart F) Technical correction.....14509
1944.258 (a) corrected.....14509
OMB number.....14510
1944.264 Correctly designated.....14509
1944.266 Correctly designated.....14509
OMB number.....14510
1944.268 Correctly designated.....14509
1944.284 OMB number.....14510
1944.286 OMB number.....14510
1944.401 Amended.....227
1944.451 Amended.....228
1944.463 (d)(2) amended; interim.....44752
1944.475 Added.....5565
Regulation at 58 FR 5565 confirmed.....42639
1944.451—1944.500 (Subpart J) Exhibit D added.....5565
Exhibit D corrected.....12632
Regulation at 58 FR confirmed and amended.....42639
1944.501 Amended.....228
1944.552 (a) revised.....40954
1944.553 (h) added.....38925
(e) revised.....40954
1944.554 (b) revised.....40954
1944.651—1944.700 (Subpart N) Revised.....21894
1944.651 (a) amended.....228
Regulation at 58 FR 21894 effective date delayed to 9-1-93.....30102
1945 Authority citation revised.....48289
1945.6 (c)(3)(iii)(B) amended.....26681
1945.101 (a) amended.....228
1945.111 (b) amended; interim.....44752
1945.120 (b)(5)(ii)(A) amended; interim.....44752
1945.151 (a) amended.....228
(a) amended; interim.....48282
1945.154 (a)(1) through (36) designations and (b)(1) through (14) designations removed; (a) amended.....26681
(a) amended; interim.....48289
1945.161 (a)(1) amended; interim.....48290
1945.163 (a)(2)(ii), (v) and (viii) amended.....26682
1945.169 (n)(1)(iii) amended; interim.....44753
(c)(2) revised; (c)(3) amended; interim.....49290
1945.175 (c)(1) revised.....26682
(c)(1) amended; interim.....44752
(c)(2) introductory text amended; interim.....44753
1945.180 Amended; interim.....48290
1945.182 (a) amended; interim.....48290
1945.189 (a)(1)(i) and (ii) added; (a)(2)(i) amended.....26682
1948.51 Amended.....228
1948.101 (a) amended.....228
1951 Authority citation revised.....15418, 40954
1951.8 (a) amended.....52646
1951.25 Heading and (a) revised; (b)(3) amended.....15074
1951.201 Revised.....5566
Regulation at 58 FR 5566 confirmed.....42639
1951.251 Amended.....38925
1951.252 (d) amended.....38925
1951.261 (d)(3) revised; (d)(4) redesignated as (d)(5); new (d)(4) added; (e)(2)(iii) and (5) amended.....38925
1951.264 Revised.....38926
1951.301 Amended.....52646
1951.314 (a)(6) revised; (a)(10) added.....52646
1951.451—1951.500 (Subpart J) Added.....52646
1951.506 (a)(1), (2) and (5)(v) revised; (a)(3), (5)(i), (ii), (iii) and (c) amended; (a)(7) added.....40954
1951.507 (e) revised.....40955
1951.510 (c)(2) introductory text amended; (c)(3) redesignated as (c)(4); (c)(1) and new (4) revised; new (c)(3) added.....40955
1951.512 Amended.....40955
1951.517 (a) amended; (b)(3)(ii) and (4) revised.....40955
1951.501—1951.550 (Subpart K) Exhibit B amended.....40956
1951.608 (e)(1)(i)(B) and (iii) amended.....52651
1951.612 (a)(1)(i) and (ii) amended; (a)(1)(iv) introductory text removed; (a)(1)(iv)(A) through (D) redesignated as (a)(1)(iii)(A) through (D); (a)(1)(iii) introductory text, new (A) and new (D) revised.....52651
1951.618 (a)(1)(ii) and (8)(i)(B) removed; (a)(1)(iii) and (8)(i)(C) redesignated as (a)(1)(ii) and (8)(i)(B); (b) introductory text amended.....52651
1951.651 Revised.....38926
1951.652 (g) amended.....38926
1951.653 Revised.....38926
1951.654 (e) added.....38926
1951.656 (e) amended.....38926
1951.658 (a) introductory text revised.....38926
1951.661 (a)(1)(i) amended.....38926
1951.668 (c) added.....38926
1951.901 Amended.....228
1951.909 (e)(4)(iv) through (viii) and (h)(v) through (x) redesignated as (e)(4)(vii) through (xi) and (h)(4)(ix) through (xiv); (e)(4)(ii), (iii) and (h)(4)(iv) revised; new (e)(4)(iv), new (v), new (vi) and new (h)(4)(v) through (viii) added; interim.....30104
(f)(1) introductory text amended; interim.....44752
(i)(3)(iii) and (4)(ii) amended; interim.....44753
1951.910 (a)(1) amended; interim.....44753
1951.911 (a)(6)(ii) and (7)(ii) amended; interim.....44752
(a)(7)(ii) amended; interim.....44753
(a)(7)(iii), (iv), (b)(9), (10) and (c) revised.....52651
1951.916 Revised.....4006
Existing text designated as (a); new (a) heading and (b) added; interim.....15418
1951.901—1951.950 (Subpart S) Exhibit A amended; interim.....30105
Exhibit J-1 amended; interim.....30106
1951 Exhibit F amended.....44753
1955 Authority citation revised.....48290
1955.2 Amended.....52652
1955.10 (h)(6) amended.....38926
(e) introductory text amended; interim.....44752
1955.15 (f)(2) through (6) redesignated as (f)(3) through (7); (d)(2) introductory text, (iv)(D), (3)(ii)(C), new (f)(6), and new (7) introductory text amended; (d)(2)(v) and new (f)(2) added.....38927
1955.18 (e)(2)(ii) amended; (l) added.....38927
1955.1—1955.50 (Subpart A) Exhibit G and G-1 amended; interim.....44752
1955.66 (h)(2) amended; interim.....44752
1955.101 Amended.....52652
1955.102 Amended.....52652
1955.103 Amended; interim.....44752, 48290
1955.107 (c) amended; interim.....44752
1955.108 (a) revised.....52652
1955.109 (a), (c), (h) and (i) revised; (b) amended.....52652
1955.113 Introductory text amended.....38927
1955.114 (a)(3)(ii) amended; (b) revised.....38927
(c) introductory text revised.....38949
(a)(5) amended.....52652
1955.115 (b) amended.....38928
(a) introductory text revised.....52652
1955.117 (b) amended.....38928
1955.118 (b)(7) amended.....38928
Heading, (a), (b) introductory text, (2) through (6), (8)(iii) and (10) revised.....52653
1955.119 Introductory text and (d) introductory text revised.....52653
1955.120 Amended.....52653
1955.122 (a) through (f) redesignated as (b) through (g); new (a) added; new (b) revised; interim.....48290
1955.123 (a) and (b) revised.....52653
1955.146 (c) and (d) redesignated as (d) and (e); new (c) added.....38928
1956.51 Revised.....21344
1956.54 Amended.....21344
1956.57 (b) and (h) heading revised; (c) and (g)(1)(i) amended; (k) removed; (l) redesignated as (k).....21344
1956.58 Removed.....21345

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 7 Chapter XVIII—Con. Page

1956.66 (a)(2) and (b) introductory text amended; (b)(1) introductory text and (b)(2) removed; (b)(1)(i), (ii) and (iii) redesignated as (b)(1), (2) and (3); (a) introductory text and new (b)(3) revised; (c) added 21345
1956.71 Added 21345
1956.84 Added 21345
1956.85 (b)(1) amended 21345
1956.86 Added 21345
1956.96 Revised 21345
1956.97 Redesignated from 1956.98; (a) and (c) amended; (d) added 21346
1956.98 Redesignated as 1956.97 21346
1956.101 Revised; interim 5566
Regulation at 58 FR 5566 confirmed 42639
1956.137 (d)(5) amended 21346
1956.145 Introductory text, (b) and (c) amended 21346
1956.146 Added 21346
1962.1 Amended 52654
1962.16 (a) amended 46075
1962.17 (a)(1) introductory text, (3), (b)(1), (2)(i) and (vii) revised; (a)(2), (b)(2)(ii) and (iii) amended 46075
1962.34 (b)(3) revised; (d) amended; (e)(2) removed; (e)(3) redesignated as (e)(2) 52654
1962.47 (b)(2)(i) amended; (c) and (d) redesignated as (d) and (e); new (c) added 21346
1965.1 Revised 52654
1965.2 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added 52654
1965.11 (c)(2)(ii)(A) amended 38928
1965.12 (a)(6) amended 26682
(d) and (f) amended; interim 44752
(d) and (g) amended; interim 44753
Introductory text and (g) amended 52654
1965.13 (d) introductory text amended; interim 44752
Introductory text amended 52654
1965.17 (c) removed; (d) redesignated as (c) 52654
1965.25 (d)(1) amended; interim 44752
1965.26 (a)(2) amended; interim 44752
(e)(4)(i) heading and (ii) removed; (e)(4)(i)(A), (B) and (C) redesignated as (e)(4)(i), (ii) and (iii); new (e)(4)(iii) amended 52654
1965.27 (g)(5) and (h)(1) introductory text amended; interim 44752
Introductory text and (c)(1)(ii) amended; (c)(1)(iii)(C), (d), (f), (g)(4) and (6)(i) revised 52654
1965.31 (c) amended 52655
1965.34 Removed 52655
1965.55 (a)(7) amended 38928
1965.61 (e)(2) introductory text and (iv) amended 40956
1965.65 (c)(11) through (15), (d)(7), (f)(13) and (14) redesignated as (c)(12) through (16), (d)(8), (f)(14) and (15); new (c)(11), new (d)(7) and new (f)(13) added; (c)(10) introductory text, new (c)(12), new (d)(8) and (f)(12) amended; (b)(3), (4), (c)(1), (3), (5), (f)(4) introductory text, (7) introductory text and (8) revised 38928
(b)(11) amended 40956
1965.68 (c)(3) amended; (c)(7) revised; (c)(8) redesignated as (c)(9); new (c)(8) added 38930
1965.70 (a) and (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3) added; (d)(8) revised 38930
1965.77 (d)(2)(iii) amended 38930
1965.89 (c) introductory text, (1) and (d) amended 38930
1965.90 Revised 38930
1965.92 Amended 38930
1965.100 Amended 38930
1965.51—1965.100 (Subpart B) Exhibits A, B, C, E, E-1, E-2, E-3 and E-4 removed 38930
1965.101 Amended 52655
1965.104 (c)(2) revised 52655
1965.105 Introductory text amended; (c) removed; (d) and (e) redesignated as (c) and (d) 52655

Page

1965.125 (a)(2)(iv) revised; (a)(2)(v) added 52655
1965.126 (c)(2) revised 4067
Introductory text, (b)(3) and (d) revised; (b)(1) introductory text and (4)(ii) introductory text amended 52655
1965.201—1965.250 (Subpart E) Added 38931
1965.204 (b) amended 40956
1965.214 (f)(2) amended 40956
1980 Authority citation revised 48291
1980.6 (a) and (b) amended; interim 34306
(a) amended; interim 48291
1980.11 Amended; interim 34307
1980.13 (b) introductory text, (2), (4) and (c) revised; interim 34307
1980.20 (a) introductory text amended; interim 34307
1980.21 (a) revised; interim 48291
1980.22 (a) revised; interim 48291
1980.46 (a)(1) and (2) introductory text revised; interim 34307
1980.60 (a) introductory text revised; interim 34307
1980.61 (a), (b)(1), (3), (4) and (d) revised; interim 34308
1980.62 Revised; interim 34308
1980.63 (a) revised; interim 34308
1980.64 (a) revised; interim 34308
1980.65 Revised; interim 34308
1980.66 Revised; interim 34308
1980.83 (a) revised; interim 34308
1980.84 (b)(4) revised; interim 34308
1980.1—1980.100 (Subpart A) Appendix E revised; interim 34309
Appendix F revised; interim 34312, 48292
1980.101 (a) amended 228
(a) revised; interim 34329
1980.106 (b)(1) and (17) introductory text revised; (b)(17)(iii) amended; interim 34329
(b) amended; interim 48296
1980.108 (b)(4) added; (d) introductory text revised; (d)(2) introductory text removed; (d)(2)(i) and (ii) redesignated as (d)(2) and (3) 15074
(b)(2), (d) heading, (1), (2) introductory text, (i) and (ii) amended; interim 48282
(a)(2)(i) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii) and (iii); new (a)(2)(i) revised; (b)(1) amended; (e) added; interim 48296
1980.109 (a)(2)(ii) amended; (a)(2)(iv) removed; (a)(2)(iii) revised; interim 48297
1980.113 Revised; interim 34329
1980.114 Introductory text revised; undesignated text amended; interim 34331
Introductory text amended; interim 44748
Amended; interim 48297
1980.115 Revised; interim 34331
Introductory text, (a) and (b) revised; interim 44748
Introductory text revised; interim 48297
1980.116 Revised; interim 34332
Amended; interim 44748
1980.117 Introductory text removed; (a) through (d) added; undesignated text amended; interim 34332
Amended; interim 44748
1980.118 (b) and (c) revised; (d) added; undesignated text amended; interim 34332
Corrected 40190
1980.119 Added; interim 34332
1980.122 Amended; interim 34334
1980.123 (b), (c), (h) and undesignated text amended; interim 34334
1980.124 (a)(1) revised; interim 48297
1980.125 (c)(4) and (d)(4) revised; interim 34334
1980.130 Revised; interim 34334
1980.131 Added; interim 34335
1980.136 Revised; interim 34335
1980.139 Revised; interim 34335
1980.144 (a) introductory text and (d) revised; undesignated text amended; interim 34335
1980.145 (a) and (b) revised; undesignated text amended; interim 34336
1980.146 Revised; interim 34336
1980.147 Revised; interim 48297

TITLE 7 Chapter XVIII—Con. Page

1980.175 (b) introductory text and (f)(2) revised; interim....34338
(c)(1)(iv), (d)(1) and (h)(2) amended; interim....48282
(b)(2)(iv)(A) and (e)(2) amended; (d)(1) through (5) redesignated as (d)(2) through (6); new (d)(1) and (7) added; (e)(1) revised; interim....48297
1980.176 Added; interim....48298
1980.180 (c)(1)(iv), (d)(4) and (5) added; interim....48299
1980.185 (b)(1)(iii) through (vii) redesignated as (b)(1)(iv) through (viii), (b)(2)(iv) through (ix) redesignated as (b)(2)(v) through (x) and (d)(1), (2) and (3) redesignated as (d)(2), (3) and (4); (b)(1)(i), new (viii), (2)(iii) and new (ix) amended; new (b)(1)(iii), new (b)(2)(iv), (xi), (xii) and new (d)(1) added; new (b)(1)(vii), new (2)(viii) and (c) revised....15074
(b) introductory text revised; interim....34338
(b)(1)(i) and (2)(iii) amended; interim....48299
1980.190 Added; interim....34339
1980.101—1980.200 (Subpart B) Exhibit A amended; interim....34341
Exhibit D amended; interim....34342
Exhibit E amended; interim....44748
Exhibit C revised; interim....44753
Exhibits A and E amended; interim....48300
1980.201 (a) amended....229
1980.207 Introductory text revised....229
1980.246 (c)(5)(i) amended; interim....44752
1980.301 (a) amended....229
1980.401 (a) amended....229
1980.441 Undesignated text removed....40039
1980.442 Introductory text revised; undesignated text added....40039
1980.498 (l)(4) amended; (m)(5)(iv) removed; interim....34342
(m)(5) introductory text, (6) introductory text and (8) heading revised; (m)(8)(iii) added....38952
(a) revised; interim....41172
(l)(4) and (m)(5)(iii) amended; (m)(3)(i) revised; interim....48300
1980.501 (a) amended....229
1980.601 Amended....229
1980.601—1980.700 (Subpart G) Appendix G revised; interim....34316
1980.801 (a) amended....229
1980.901 (a) amended....229
2003.1—2003.50 (Subpart A) Exhibit A amended....5566
Regulation at 58 FR 5566 confirmed....42639

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3015.77 Removed....41412
3051 Added....41412

Chapter XXXIV—Cooperative State Research Service, Department of Agriculture (Parts 3400—3499)

3401 Revised....21852

Chapter XLII—Rural Development Administration, Department of Agriculture (Part 4284)

Chapter XLII Established; interim....5566
Regulation at 58 FR 5566 confirmed....42639
4284.401—4284.500 (Subpart E) Added....5566
4284.413 (b), (d) introductory text and (6) amended....42639
4284.421 (b)(6) added....42639
4284.441 (b) introductory text revised....42639
4284.443 Amended....42639
4284.401—4284.500 (Subpart E) Exhibit A corrected....12632
Exhibit A amended....42640

Title 7—*Proposed Rules:*

28....32454
29....3233, 13130

Page

52....3816, 7296, 13130, 29985, 47071
54....32616
55....13130, 37872, 38602
56....3234, 37872, 38602
58....13130, 34933, 34937, 57567
59....3234, 13130, 37872, 38602
61....13130
68....3511, 14174, 45295, 49248
70....13130, 37872, 38602
75....32617
90—159....13130
180....13130
246....40755
250....29985
252....29985
275....5188, 7296
283....5188, 7296
300....11383, 42504
301....21113
319...11383, 32456, 42504, 44779, 47074, 57909
330....38308
354....260
400....37874, 53150
457....32458
723....3869
735....43298
781....3871
792....33029
800....41439
801....42257
907....8912
908....8912
920....33035, 34940
926....40756
932....8558
944....40758
945....33037, 42696
956....58105
958....3234, 34944
966....44780
981....43565
1001...10993, 12634, 29133, 33347, 58112
1002...10993, 12634, 29133, 33347, 58112
1004...12634, 29133, 33347, 34725, 42881, 43572, 58112
1005...12634, 29133, 33347, 57970, 58112
1006....12634
1007...12634, 29133, 33038, 33347, 34946, 47653, 53436, 57970, 58112
1011...12634, 29133, 33347, 57970, 58112
1012....12634
1013....12634
1030...12634, 29133, 32464, 33347, 42258, 58112

Page

1032....12634
1033....12634, 29133, 33347, 58112
1036...12634, 29133, 33039, 33347, 58112
1040....6447, 12634, 29133, 33347, 58112
1044....12634, 29133, 33347, 58112
1046...12634, 29133, 33347, 50526, 58112
1049....12634, 29133, 33347, 58112
1050....12634
1064....12634
1065....12634, 29133, 33347, 58112
1068....12634, 29133, 33347, 58112
1075....12634
1076....12634
1079....12634, 29133, 33347, 58112
1093...12634, 29133, 33347, 47653, 53436, 58112
1094...12634, 29133, 33347, 47653, 53436, 58112
1096...12634, 29133, 33347, 47653, 53436, 54530, 58112
1097...12634, 25576, 29133, 33347, 58112
1098...12634, 14344, 25577, 29133, 33347, 34230, 58112
1099...12634, 25577, 29133, 33347, 53436, 58112
1106...8559, 12634, 29133, 33347, 53438, 58112
1108...12634, 29133, 33347, 47653, 53436, 58112
1124...12634, 29133, 33347, 53439, 58112
1126...12634, 29133, 32465, 33347, 58112
1131....12634, 29133, 33347, 58112
1134....12634
1135...12634, 29133, 33347, 53439, 58112
1137....32467
1138...12634, 29133, 33347, 45295, 58112
1139....7996, 12634
1150....25785
1160....21512, 25900, 46877
1205....32066
1211....41203
1220....26933
1230....32468
1405....46886
1413...17807, 41641, 46886, 51934, 52686, 52928
1421....12338, 38311
1435....16126
1446....3514, 42882
1468....37876
1703....52688
1710....21661, 44288, 48800
1717....12552
1735....21661
1753....29363

TITLE 7 *Proposed Rules:* **—Con.** Page
1755 ..... 29363, 46097, 46110
1773 49442
1785 18043
1786 ..... 18043, 48465
1788 25786
1944 ..... 507, 48330
1955 53891
1956 4095
1965 53891
1980 46889
3408 53153
3515 11910

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

3.41 Added 38953
100.4 (d) amended 471, 3487
(c)(3) amended 38045
101.6 Redesignated as 204.11 42849
103.1 (f)(2)(xxxv) revised 42850
(f)(2)(xxxvi) and (xxxvii) amended; (f)(2)(xxxviii) and (xxxix) added; interim 44608
Regulation at 57 FR 33861 confirmed 50836
103.7 (b)(1) amended; Form N-400 revised; interim 30699
(b)(2) amended 31148
103.8 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added 31148
103.10 (a)(2) amended 31148
(a)(1), (b)(1), (c)(2), (d)(1) and (e) revised; (c)(1) and (d)(2) amended; (b) and (f) removed 31149
103.11 Added 31149
103.20 (a) and (b) introductory text amended 31149
103.21 (a) and (b)(2) revised; (b)(3) removed; (f) added 31149
103.22 (a) revised 31149
103.23 (a) revised 31149
(b) amended 31150
103.24 Amended 31150
103.25 (a) and (b) amended 31150
103.26 Amended 31150
103.27 Amended 31150
103.28 (a) revised; (b) through (f) amended 31150
103.30 (a) amended 31150
103.33 Amended 31150
103.35 Amended 31150
103.36 Amended 31150
204.1 (g)(1)(vii) revised; eff. 9-20-94 48778
204.6 (e) amended; interim 44608
(j) introductory text revised; (j)(4)(iii) and (m) added; interim 44609
204.9 Regulation at 57 FR 33861 confirmed; (a)(2) revised; (c)(3) removed; (c)(4) redesignated as (c)(3) 50836
204.10 Added; interim 30701
204.11 Redesignated from 101.6 42849
Revised 42850
205 Authority citation revised 42850
205.1 (a)(10) and (c)(4) removed; (c)(5) and (d) redesignated as (c)(5) and (e); introductory text, (a)(5), (6), (7), (b)(5), (6), (c) heading, (3) and new (4) amended; (d) added 42850
205.2 (a) and (b) amended 42851
208 Authority citation revised 12148
Regulation at 58 FR 12146 effective date corrected to 4-2-93 14145
208.7 (c) introductory text amended 12148
209 Authority citation revised 12148
Regulation at 58 FR 12146 effective date corrected to 4-2-93 14145
209.2 (c) amended 12149
211.1 (b)(1), (4) and (c) amended; (b)(3) revised; eff. 9-20-94 48778
211.3 Nomenclature change; eff. 9-20-94 48778
211.5 (a) and (b) amended; eff. 9-20-94 48778
212.1 (f)(3) amended 4891
(e)(3) amended; interim; effective through 7-15-94 38046
(f)(3) amended; interim 43438
214 Authority citation revised 58097
214.2 (a)(10) corrected; CFR correction 49905
(f)(6)(i)(C) and (m)(9)(ii) revised 58097
214.3 (b), (c) and (d) revised 58098
217 Authority citation revised 40581

Page
217.5 (a) amended; interim 40581
223 Authority citation revised 48778
223.1 Amended; eff. 9-20-94 48778
223a Authority citation revised 48778
223a.4 Amended; eff. 9-20-94 48778
235.9 (b)(1) amended; eff. 9-20-94 48778
245.1 (a), (b)(4)(ii), (5) and (6) amended; (d)(3) added 42851
245.2 (a) amended; interim 35838
245.8 Regulation at 57 FR 33862 confirmed; (c) amended; (d) and (e) redesignated as (e) and (f); new (d) added 50836
245.9 Added; interim 35838
245a.2 (k)(4) amended; interim 45236
251.1 (c)(1) and (3) amended; eff. 9-20-94 48779
252 Authority citation revised 48779
252.1 (b)(1) amended; eff. 9-20-94 48779
264.1 (b) amended; (c)(2) removed; (c)(3) redesignated as (c)(2) 48779
264.2 Heading, (c)(1)(i) and (2)(i) revised; (c)(1)(vii) and (2)(ix) amended 48779
264.5 Added 48779
274a Regulation at 58 FR 12146 effective date corrected to 4-2-93 14145
274a.2 (b)(1)(v)(A)(5) revised; eff. 9-20-94 48780
274a.12 (a)(1) amended; eff. 9-20-94 48780
274a.13 (a) revised 12149
292.5 (b) amended; interim 49911
299.1 Amended; eff. 9-20-94 48780
299.5 Table amended; interim (OMB numbers) 49911
310.3 Revised; interim 49911
312.2 (b)(1) introductory text revised; (b)(1)(ii) amended; interim 49912
312.3 (a) revised; interim 49912
312.4 Amended; interim 49912
312.5 (a) revised; (b) amended; interim 49912
313 Heading revised; interim 49912
313.1 Amended; interim 49912
316 Authority citation revised 49912
316.2 (b) revised; interim 49912
316.4 (a)(2) amended; eff. 9-20-94 48780
316.5 (c) heading, (1)(i) introductory text and (3) revised; (c)(1)(ii) amended; interim 49913
316.10 (b)(1)(i) and (ii) revised; interim 49913
322.2 (a)(4)(i) and (b)(1)(iv) revised; interim 49913
329.2 (a)(4) amended; (a)(5) removed; (a)(6) redesignated as (a)(5); interim 49913
329.5 (c) amended; (d) and (e) revised; (g), (h) and (i) added 45420
334.2 (a) amended; eff. 9-20-94 48780
334.3 Removed; interim 49913
334.4 Revised; interim 49913
334.11 Revised; interim 49913
335.2 (a) and (c) introductory text revised; (c)(1) and (d) amended; interim 49913
335.3 (b) amended; interim 49914
335.5 Amended; interim 49914
335.6 Added; interim 49914
335.7 Added; interim 49914
335.9 (b) revised; interim 49914
336.2 (b) amended; (c) added; interim 49914
337.2 (a) revised; (b) amended; (c) added; interim 49915
337.3 Revised; interim 49915
337.7 Revised; interim 49915
337.8 Revised; interim 49915
337.10 Added; interim 49916
338.1 Revised; interim 49916
339.1 Revised; interim 49916
339.2 (a) revised; (d) added; interim 49916
343b.3 Amended; interim 49917
499.1 Amended; interim 49917

Title 8—*Proposed Rules:*

204 31000
208 38312
211 31000
223 31000
223a 31000
235 ..... 6056, 31000
236 38312
242 38312
251 31000
252 31000
264 31000
274a 31000
299 31000

TITLE 8 *Proposed Rules:*—Con. Page

316.....31000
334.....31000

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

Chapter I Policy statement.....47206
1 Authority citation revised.....39129
1.1 Amended.....39129
2 Authority citation revised.....39129
2.35 (e) amended.....39129
2.38 (k)(4) added.....39129
2.75 (a)(4) amended.....39129
(a)(4) corrected.....45041
2.133 Added.....39129
50.1 Amended.....34698
50.14 (e) revised.....34699
51.3 Amended; CFR correction.....47984
77.1 Amended; interim.....34700
78.1 Amended.....48445
78.41 (a) and (b) amended; interim.....4361
Regulation at 58 FR 4361 confirmed.....36593
78.43 Amended; interim.....11365, 28343
Regulation at 58 FR 11365 confirmed.....34700
Regulation at 58 FR 28343 confirmed.....43069
91.14 (a)(10)(i) and (13) removed; (a)(10)(ii) and (14) through (17) redesignated as (a)(10)(i) and (13) through (16); new (a)(10)(i)(A) amended; new (a)(16)(ii)(A) removed; new (a)(16)(ii)(B) redesignated as (a)(16)(ii)(A) and revised; new (a)(16)(iv) and (A) added.....37640
(a)(5)(i) introductory text revised; (a)(10) through (16) redesignated as (a)(11) through (17); new (a)(10) added.....58099
92 Authority citation revised...38957, 45237
92.102 (a) amended.....37642
92.106 (d)(2) revised.....38957
92.203 (d) amended.....37642
92.303 (c) amended.....45237
92.308 (a) introductory text and (1) amended.....45238
92.323 Heading revised; (a) and (b) amended.....45238
92.324 Heading revised; text amended.....45238
92.326 Amended.....45238
92.403 (e) amended.....38283
92.418 Heading and (a) amended; (a) heading revised; (b)(2)(ii)(C) redesignated as (b)(2)(ii)(D); new (b)(2)(ii)(C) added.....37641
92.503 (e) amended.....38283
94.1.....57971
(a)(2) amended.....11367
(a)(2) and (d)(1) amended.....28344
(a)(2) revised; (d)(1) amended.....36596
94.9 (a) amended.....11367
94.10 (a) amended.....11367
94.11 (a) amended.....11367, 28344
(a) amended.....36596
94.12 (a) amended.....11367
Regulation at 58 FR 11367 withdrawn.....13698
(a) amended.....36596
94.13 Introductory text amended.....11367
Regulation at 58 FR 11367 withdrawn.....13698
Regulation at 57 FR 62177 confirmed.....36594
Introductory text amended.....36596
94.18 (a) revised; interim.....4308
Regulation at 58 FR 4308 confirmed.....36594
94.19 Added.....50251
96 Authority citation revised.....47030
96.2 Redesignated as 96.3; new 96.2 added; interim.....47031
96.3 Redesignated as 96.4; new 96.3 redesignated from 96.2; interim.....47031
96.4 Redesignated as 96.5; new 96.4 redesignated from 96.3 and amended; interim.....47031
96.5 Redesignated as 96.6; new 96.5 redesignated from 96.4; interim.....47031
96.6 Redesignated as 96.7; new 96.6 redesignated from 96.5; interim.....47031

Page

96.7 Redesignated as 96.8; new 96.7 redesignated from 96.6; interim.....47031
96.8 Redesignated as 96.9; new 96.8 redesignated from 96.7; interim.....47031
96.9 Redesignated as 96.10; new 96.9 redesignated from 96.8; interim.....47031
96.10 Redesignated as 96.11; new 96.10 redesignated from 96.9; (c)(1) amended; interim.....47031
96.11 Redesignated as 96.12; new 96.11 redesignated from 96.10; interim.....47031
96.12 Redesignated as 96.13; new 96.12 redesignated from 96.11 and amended; interim.....47031
96.13 Redesignated as 96.14; new 96.13 redesignated from 96.12; interim.....47031
96.14 Redesignated as 96.15; new 96.14 redesignated from 96.13; interim.....47031
96.15 Redesignated as 96.16; new 96.15 redesignated from 96.14; interim.....47031
96.16 Redesignated from 96.15; interim.....47031
97.1 (a) introductory text and (3) amended.....32434
97.2 Table amended.....28345
98.31 Amended.....37643
98.33 (a) and (b) redesignated as (d) and (e); heading and new (d) revised; new (a), (b) and (c) added.....37643
98.34 (a)(1) amended.....37644
98.35 Heading revised; (a) amended; (c) and (d) added.....37644
98.36 Revised.....37644
98.37 Removed.....37644
98.38 Removed.....37644
98.39 Removed.....37644
113.46 (b)(2) revised.....50252
124 Added.....11369
124.23 (b) corrected.....29028
130 Authority citation revised.....38957
130.1 Amended.....38957
130.2 (a) amended.....38958
130.3 (a) amended.....38958
130.4 Revised.....38958
130.5 (a) revised.....38958
130.6 (a) and (b)(1) amended.....38958
130.7 (a) introductory text revised.....38958
130.14 Added.....38958
130.15 Added.....38958
130.16 Added.....38959
130.17 Added.....38959
130.18 Added.....38960
130.50 (a)(1) and (2) revised; (a)(3) and (4) amended; (a)(5) and (6) added.....38960
130.51 (a) and (c) revised; (b)(1) and (2) amended; (b)(3) and (4) added.....38960
161.3 (f) corrected.....8820

Chapter II—Packers and Stockyards Administration, Department of Agriculture (Parts 200—299)

201.56 (b), (c) and (d) revised; (e) removed.....52886
201.64 Removed.....52886
201.66 Removed.....52886
201.72-1 Removed.....52886
201.78-1 Removed.....52886
201.106-1 Removed.....52886
201.106-2 Removed.....52886
203.14 Revised.....52886

Chapter III—Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300—399)

317.1—317.24 Designated as Subpart A; eff. 7-6-94.....664
317.2 (f)(1)(vi) added.....38048
(f)(1)(vi)(B) corrected.....40468
(j)(3) amended.....42189
(l) added; interim.....43489
(l) revised.....52872
317.5 (b)(12) and (13) amended; (b)(14) added.....43489
317.300—317.400 (Subpart B) Added; eff. 7-6-94.....664
317.309 (b), (f)(1), (g)(1) and (h)(5) corrected.....43788
(g)(1) amended; interim.....47627
317.312 (b) Table 2 corrected.....43788
(b) tables 1 and 2 amended; interim.....47627
317.313 (i) and (p) corrected.....43788
(a) and (q)(3) revised; interim.....47627

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 9 Chapter III—Con. Page

317.345 (a)(1) amended; interim....47627
317.354 Corrected....43788
317.356 (a) corrected....43788
317.360 Corrected....43788
317.361 Corrected....43788
317.362 (a) corrected....43788
(c)(1) amended; interim....47627
317.380 (c) corrected....43788
(e) and (f) added; interim....47627
317.400 (a)(1)(iii) and (d) added; interim....47627
318.7 (c)(4) table amended...4070, 42189, 45239, 45242, 45243
318.23 Added....41151
320 Technical correction....43787
320.1 (b)(8) added; eff. 7-6-94....675
(b)(7) added....41152
381.118 (a) revised....38049
381.125 Existing text designated as (a); (b) added; interim....43489
(b) revised....52872
381.134 (b)(12) and (13) amended; (b)(14) added....43489
381.147 (f)(4) table amended....4070
(f)(4) amended....42190
381.175 (b)(5) added; eff. 7-6-94....675
381.400—381.500 (Subpart Y) Added; eff. 7-6-94....675
381.409 (b), (f)(1), (g)(1) and (h)(5) corrected....43788
(g)(1) amended; interim....47628
381.412 (b) Table 2 corrected....43789
(b) tables 1 and 2 amended....47628
381.413 (i) and (p) corrected....43789
(a) and (q)(3) revised; interim....47628
381.445 (a)(1) amended; interim....47628
381.454 Corrected....43789
381.456 (a) corrected....43789
381.460 Corrected....43789
381.461 Corrected....43789
381.462 Corrected....43789
(c)(1) amended; interim....47628
381.480 (c) corrected....43789
(e) and (f) added; interim....47628
381.500 (a)(1)(iii) and (d) added; interim....47628
391.2 Revised....33323
391.3 Revised....33323
391.4 Revised....33323

Title 9—*Proposed Rules:*

Page

3....39458
77....43086
78....4360, 37665, 39458, 47222, 50290
82....41048, 46569, 50527, 52240
85....37666
91....262, 37667, 43301
92...4361, 4362, 15292, 37878, 41204, 41643, 47084, 48003, 50527
94...264, 14174, 15901, 17642, 36624, 38308, 38314, 38316, 41643, 47834, 50527, 57971
95....37669
98....266, 36625, 55026
112....25786
113...12187, 15301, 21114, 37670, 39462, 39467, 47222
130....15292, 39163
145....44782
147....44782
156....39163
301....54012
309....45296
310....45296
312....54012
313....47673
317....688, 8560, 19781, 45296, 51581
318....269, 44236, 51581
322....54012
350....54012
362....54012
381...688, 8560, 33040, 38090, 44236, 54012
391....14177, 44236, 54012

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

0 Authority citation revised....29951
0.735-1 Removed....3825
0.735-2 Removed....3825
0.735-3 Revised....3825
Removed....29951
0.735-4 Removed....3825
0.735-5 Removed....3825
0.735-6 Removed....3825
0.735-8 Revised....3825
0.735-20 Removed....3825
0.735-21 (d) revised....3826
Revised....29951
0.735-22 Removed....29952
0.735-23 Revised....3826

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

Page

Removed....29952
0.735-24 Removed....3826
0.735-25 Removed....3826
0.735-26 Revised....3826
Removed....29952
0.735-27 Removed....3826
0.735-28 Removed....3826
0.735-28a Removed....3826
0.735-30 (Subpart C) Removed....3826
0.735-40 (e), (g) and (h) removed; (f) redesignated as new (e)....3826
0.735-41 Removed....3826
0.735-42 Removed....3826
0.735-43 Removed....3826
0.735-44 Removed....3826
0.735-45 Removed....3826
0.735-46 Removed....3826
0.735-47 Removed....3826
0.735-48 Removed....3826
0.735-49 Removed....3826
0.735-49a Removed....3826
0.735-50—0.735-55 (Subpart E) Removed....3826
0 Annex A removed....29952
2 Authority citation revised....44611
Authority citation corrected....50635
2.8 (b) revised....14309
2 Appendix C amended...14309, 14310, 17422
Appendix B removed....44611
9.35 (a)(1) and (2) revised....38666
11.15 (e)(1) revised....44435
19 Authority citation revised....52408
19.2 Amended....7736
19.3 Amended....7736
19.11 (c) revised....52408
Regulation at 58 FR 52408 effective date corrected to 11-8-93....54646
20 Technical correction....11290
20.2 Amended....7736
20.3 (a)(9) amended....7736
20.203 (c)(6) and (7) removed....7736
20.1002 Amended....7736
20.1003 Amended....7736
20.1603 Removed....7736
20.2109 Removed....7736
25 Appendix A revised....44436
26.1 Revised....31469
26.2 Revised....31469
26.3 Amended....31469
26.10 Introductory text and (a) revised....31469
26.24 Heading, (a)(2) and (b) revised....31469

Page

26.27 (a), (b)(2) and (3) revised....31470
26.73 (d) revised....31470
26 Appendix A amended....31470
30 Authority citation revised....52408
30.4 Amended....7736
30.5 Amended....7736
30.6 (a) introductory text and (b)(1) introductory text amended....7736
30.7 Revised....52408
Regulation at 58 FR 52409 effective date corrected to 11-8-93....54646
30.8 (b) revised....39633
30.11 (a) amended....7736
30.13 Amended....7736
30.14 (a) and (c) amended....7736
30.15 (a) introductory text amended....7736
30.16 Amended....7736
30.18 (a) amended....7736
30.19 (a) amended....7736
30.20 (a) amended....7736
30.31 Amended....7736
30.33 (a)(4) amended....7736
30.34 (a) through (d) and (e) introductory text amended....7736
(i)(1) revised....39132
30.35 (g)(3) redesignated as (g)(4); new (g)(3) added....39633
30.36 (c)(2)(iii)(D) redesignated as (c)(2)(iii)(E); new (c)(2)(iii)(D) added; (c)(3) revised....39633
30.39 Amended....7736
30.51 (a) introductory text, (b), (c)(1) and (2) amended....7736
30.53 Introductory text amended....7736
35.200 (c)(1) revised....39132
35.300 (b)(1) revised....39132
36 Added....7728
40 Authority citation revised....52409
40.5 (b)(1) amended....7736
40.7 Revised....52409
Regulation at 58 FR 52409 effective date corrected to 11-8-93....54646
40.8 (b) revised....39633
40.36 (f)(3) redesignated as (f)(4); new (f)(3) added....39633
40.42 (c)(2)(iii)(D) redesignated as (c)(2)(iii)(E); new (c)(2)(iii)(D) added; (c)(3) revised....39634

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 10 Chapter I—Con. Page

50 Authority citation revised...21911, 52410
Policy statement...39132
50.7 Revised...52410
Regulation at 58 FR 52410 effective date corrected to 11-8-93...54646
50.8 (b) revised...21912
50.54 (a)(3) introductory text revised...45244
50.65 (a)(3) revised; eff. 7-10-96...33996
50.120 Added...21912
(b)(1) corrected...39092
51.22 (c)(3), (10) and (14) amended...7737
51.60 (a) amended...7737
51.66 (a) amended...7737
51.68 Amended...7737
52.8 (b) revised...21912
52.78 Added...21912
52.113 (b) revised...21912
54.37 (b) revised...45244
60 Authority citation revised...52411
60.9 Revised...52411
Regulation at 58 FR 52411 effective date corrected to 11-8-93...54646
61 Authority citation revised...52412
61.2 Amended...33891
61.7 (a)(1) revised...33891
61.8 Revised...33891
61.9 Revised...52412
Regulation at 58 FR 52412 effective date corrected to 11-8-93...54646
61.12 (j) revised...33891
61.80 (i)(1) revised...33891
70 Authority citation revised...52412
70.5 (b)(1) introductory text amended...7737
70.7 Revised...52413
Regulation at 58 FR 52413 effective date corrected to 11-8-93...54646
70.8 (b) revised...39634
70.20a (b) amended...7737
(d)(3) revised...31471
70.25 (g)(3) redesignated as (g)(4); new (g)(3) added...39634
70.38 (c)(2)(iii)(D) and (E) redesignated as (c)(2)(iii)(E) and (F); new (c)(2)(iii)(D) added; (c)(3) revised...39634
72 Authority citation revised...52413
72.10 Revised...52414
Regulation at 58 FR 52414 effective date corrected to 11-8-93...54646
72.30 Heading revised; (d)(3) redesignated as (d)(4); new (d)(3) added...39635
72.54 (b)(4) redesignated as (b)(6); new (b)(4) added; (e)(2) revised...39635
72.214 Amended...17967, 51770
73.6 Introductory text revised...31471
73.40 Revised...13700
73.46 (d)(15) added...29522
(b)(4), (7) and (i) revised...45784
73.46 Regulation at 58 FR 45785 corrected; effective date corrected to 2-28-94...48424
73.60 Heading revised; (f) added...13700
73 Appendix H revised...45785
74.81 (d) added...29522
110 Authority citation revised...13001, 57963
110.1 (a), (b)(1), (2) and (3) revised; (b)(4) added...13001
110.2 Amended...13002, 57963
110.4 Revised...13002
110.5 Amended...13002
110.6 (b) amended...13002
110.7 Amended...13002
110.8 Revised...13002
110.9a (e) removed...13003
110.10 (b) amended...13003
110.19 Added...13003
110.20—110.29 (Subpart C) Heading revised...13003
110.20 Heading, (a), (b), and (e) revised; (f) added...13003
110.21 Heading revised...13003
110.22 Heading revised...13003
110.23 Heading revised...13003
110.24 Heading revised...13003
110.25 Heading and (b) revised...13003
110.26 Heading and (a) revised...13003
110.27 Heading and (c) revised...13003
110.28 Revised...13003
110.29 Revised...13003
110.30—110.31 (Subpart D) Removed...13004
110.30 Transferred to Subpart C and revised...13003
110.31 Transferred to Subpart C; heading revised...13003
110.40—110.45 (Subpart E) Redesignated as Subpart D...13004

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

Page

110.40 (a), (b)(3) and (4) revised...13004
110.41 (a) introductory text, (3) and (5) revised...13004
110.42 Footnote 3 redesignated as Footnote 2 and revised...13004
(a)(9) added...57964
110.43 Revised...13004
110.50—110.53 (Subpart F) Redesignated as Subpart E...13004
110.50 (b)(3) amended...13004
110.60—110.67 (Subpart G) Redesignated as Subpart F...13004
110.67 (a) corrected...11886
110.70—110.73 (Subpart H) Redesignated as Subpart G...13004
110.70 (c) amended...13004
110.80—110.91 (Subpart I) Redesignated as Subpart H...13004
110.100—110.113 (Subpart J) Redesignated as Subpart I...13004
110.120—110.126 (Subpart K) Redesignated as Subpart J...13004
110.130—110.135 (Subpart L) Redesignated as Subpart K...13004
110 Appendix A amended...13004
Appendixes B, D and E amended; Appendix F added...13005
140.11 (a)(4) revised...42852
150 Authority citation revised...52414
150.20 (b) introductory text revised...52414
Regulation at 58 FR 52414 effective date corrected to 11-8-93...54646
170 Authority citation revised...38690
170.2 (a) amended...7737
170.3 Amended...38690
170.20 Revised...38690
170.21 Introductory text revised; table amended...38690
170.31 Revised...38691
Corrected...45553
171 Authority citation revised...38694
171.5 Amended...38695
171.8 Added...38695
171.11 (a), (b) and (d) revised...38695
171.15 (a), (b)(3), (c)(2), (d) and (e) revised...38695
171.16 (c) introductory text, (4), (d) and (e) revised...38696
(e) corrected...45553
171.19 (b) and (c) revised...38701

Chapter II—Department of Energy (Parts 200—699)

Page

440 Authority citation revised...12525
440.1 Revised...12525
440.3 Amended...12525
440.10 (e) amended...12529
440.11 (a) introductory text, (b), (c) introductory text, (d) and (e) amended...12529
440.12 (a) and (c) introductory text amended...12529
440.13 (a)(2) and (c) revised; (d), (e) and (f) added...12525
(a) introductory text and (b) amended...12529
440.14 (b) revised...12526
440.15 (e) added...12526
440.16 (b), (d), (f) and (g) revised; (h) and (i) added...12526
440.17 (a) introductory text amended...12529
440.18 Revised...12526
440.19 (a)(2) amended...12527
440.20 (b) amended...12529
440.21 Revised...12527
440.22 Revised...12528
440.23 (a), (c) and (d) amended...12529
440.24 Revised...12529
440.26 Removed...12529
440.27 Removed...12529
440.28 Removed...12529
440.29 Removed...12529
440.30 (a), (b), (d), (f) and (i) amended...12529
440 Appendix A revised...12529
455 Revised...9438

Chapter III—Department of Energy (Parts 700—999)

766 Added; interim...41162
810.3 Amended...39638
810.4 Existing text redesignated as (a) and (b); new (a) revised...39638
810.5 Amended...39638
810.7 (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added...39639
810.8 (a) and (c)(5) revised; (c)(6) added...39639
810.10 (a) amended...39639

TITLE 10 Chapter III—Con. Page

810.13 (d) introductory text, (f) and (g) revised; (d)(4) added....39639
810.16 Revised....39639
820 Added....43692
860 Revised....47985

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1046 Revised....45791

Chapter XVII—Defense Nuclear Facilities Safety Board (Parts 1700—1799)

1703 FOIA fee schedule adjustment....21241
1706.3 (b) corrected....13684
1706.5 (a) introductory text, (3) and (b)(1)(ii) corrected....13684
1706.6 (a)(2) corrected....13684
1706.7 (c)(1) corrected....13684
1706.9 (c)(2) corrected....13684
1706.10 Corrected....13684

Title 10—*Proposed Rules:*

0—199 (Ch. I)...6196, 11389, 28523, 42032
2....31478, 34726, 44620, 48004, 50858
12....41061
19....33042
20...4363, 8560, 11389, 14178, 18049, 19784, 25578, 26257, 27953, 29998, 33570, 39173, 42882, 44620, 47676, 54071, 54531
21....27953, 53159, 54531
26....15810
30...3515, 4099, 6730, 26938, 33042, 33396, 54531
31....27953, 54531
32....33396, 53670, 54531
34....27953
35....26938, 27953, 33396, 44466, 54531
40...3515, 4099, 6098, 6730, 33042, 54531
50...271, 3515, 6730, 7757, 12339, 15303, 16377, 18167, 28523, 33042, 34539, 34947, 37884
52....271, 16377
54....28523
55....29366
60....12342, 33042, 36902
61....25578, 27953, 33042, 54531
70....3515, 4099, 6730, 33042
72...3515, 4099, 5301, 6098, 6730, 19786, 29795, 31478, 33042, 45463, 47222, 48004
73....21456, 52035
74....6098
75....6098
100....271, 4946, 16377
110....14344
150....6098, 9552, 33042
170....21116, 21662, 28801, 29454, 39174
171...21116, 21662, 28801, 29454, 39174, 50859
430....44538, 47326, 48800
602....53671
765....42450
766....41164, 43573, 49445
810....13427, 15441
834....16268

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100.8 (b)(4)(iv) revised (effective date pending)....45774
102.2 (a)(3) added (effective date pending)....42173
104.7 (b) revised (effective date pending)....57729
110.2 (a) redesignated as (a)(1); (a)(2) added (effective date pending)....42173
110.3 (c) heading revised; (c)(6) removed; (d) added....3476
Regulation at 58 FR 3476 effective date delayed to 7-1-93....14310
Regulation at 58 FR 3476 eff. 7-1-93....17968
114.1 (e) revised (effective date pending)....45775
114.7 (k) added (effective date pending)....45775
201 Hearing....6875, 14510

Title 11—*Proposed Rules:*

4....36764
5....36764
7....36764
8....51132
100....45463, 52040
102....12189, 36764
104....4110, 14530

Page

107....43046, 52700
110....12189
111....36764
113....45463, 52040
114....43046, 52700
9008....43046, 52700

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Authority citation revised....27443
1.8 (b) removed; (c) redesignated as (b)....27443
3 Appendix A amended....16486
5.33 Regulation at 57 FR 49642 comment period extended....6441
5.51 Revised....27451
7.3020 Removed....46535
7.3025 Removed....46535
7.7490 Revised....4073
31 Authority citation revised....27454
31.1 Revised....27454
34 Temporary exceptions....42640
34.61—46.62 (Subpart D) Appendix A amended....4460
34.81—34.87 (Subpart E) Added....46535

Chapter II—Federal Reserve System (Parts 200—299)

201 Heading revised....50512
202 Heading revised....50512
203 Exemption termination....1
MSA designations....6601, 50513
Heading revised....50512
203.5 Revised....13405
203 Appendix A amended....13405
204 Heading revised....50512
205 Heading revised....50512
206 Heading revised....50512
207 OTC margin stock list...6602, 25543, 39040, 54929
Heading revised....50512
208 Authority citation revised...7979, 47206
Heading revised....50512
208.20 Added....47208
208 Regulation at 57 FR 62179 confirmed....28492
Appendix C corrected....4460
Appendix A amended....7979
Appendixes A and B amended....7980
209 Heading revised....50512
210 Heading revised....50512
211 Authority citation revised....47209
Heading revised....50512
211.2 (t) revised....6358
211.8 Added....47209
211.20 Redesignated from 211.21; (b)(3) through (8) revised; (b)(9) and (c) added....6358
211.21 Redesignated as 211.20; new 211.21 redesignated from 211.22 and revised....6358
211.22 Redesignated as 211.21....6358
Redesignated from 211.23....6359
211.23 Redesignated as 211.22; new 211.23 redesignated from 211.24; (a) through (h) redesignated as (b) through (i); new (a) added....6359
211.24 Redesignated as 211.23; new 211.24 redesignated from 211.25 and revised....6359
(f) added....47209
211.25 Redesignated as 211.24; new 211.25 redesignated from 211.26 and revised....6359
211.26 Redesignated as 211.25; new 211.26 redesignated from 211.27 and revised....6359
211.27 Redesignated as 211.26; new 211.27 redesignated from 211.28 and revised....6359
211.28 Redesignated as 211.27; new 211.28 redesignated from 211.29 and revised....6359
211.29 Redesignated as 211.28....6359
Added....6362
211.31 (b)(4) amended....46076
211.41 (b) amended....46076
211.42 (a) amended....46076
212 Heading revised....50512
213 Heading revised....50512
214 Heading revised....50512
215 Authority citation revised....26508
Heading revised....50512
215.4 (d)(3) added....26508
(d)(2) introductory text amended; interim....28494
216 Heading revised....50512
217 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
Heading revised....50512

TITLE 12 Chapter II—Con. Page

217.1 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.4 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.6 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.101 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.201 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.301 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.302 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.601 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.602 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.603 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
218 Heading revised....50512
219 Heading revised....50512
220 OTC margin stock list...25543, 39640, 54929
Heading revised....50512
221 OTC margin stock list...25543, 39640, 54929
Heading revised....50512
224 OTC margin stock list...25543, 39640, 54929
Heading revised....50512
225 Authority citation revised...4074, 7980, 47209
Temporary exceptions....42640
Heading revised....50512
225.2 (k) revised....473
(k) and (l) revised....4074
225.4 (g) added....47209
225.11 (f) revised....6362
225.12 (f) revised....6362
225.13 (a) and (b)(2) revised....474
225.31 (d)(2)(ii) revised....474
225.63 (a) amended....15077
225 Appendix B revised....474
Appendix A amended....7980
Appendix A and D amended....7981
Appendix A regulation at 57 FR 62180 confirmed....28492
226 Authority citation revised....17084
Heading revised....50512
226.15 (e) revised....40583
226.16 Footnotes 36a and 36b redesignated as Footnotes 36b and 36c....40583
226.23 (e) revised....40583
226 Supplement I amended...17084, 17085
227 Heading revised....50512
228 Heading revised....50512
229 Heading revised....50512
229.2 (cc) amended....2
229 Appendixes A, B-2 and E amended....2
Appendix E amended....3
230.2 (a) amended....15081
230.4 (c)(1) amended....15081
230.5 (a)(2)(ii) revised....15081
230.8 (e) revised....15081
230 Appendix A amended....15082
245 Heading revised....50512
262 Authority citation revised....47986
262.3 (b)(1)(i)(D) removed; (b)(1)(i)(E) and (F) redesignated as (b)(1)(i)(D) and (E); (b)(2) amended; (b)(3) added; (j) introductory text revised....47986
263 Authority citation revised....6363
263.51 (c) revised....6363
264b Authority citation revised....57730
264b.3 (c) and (d) correctly revised; CFR correction....38702
(a) amended....57730
265 Authority citation revised....26509
265.5 (c)(3) added....26509
265.6 (b)(2) revised; (f) added....6363
(c)(5) removed....26509
(g) added....53394
265.7 (d)(8) revised....6363
(c)(5) removed; (c)(6) redesignated as (c)(5)....26509
265.11 (d)(11) added....6363
268 Revised; interim....9518

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303 Authority citation revised....8216

Page

Heading revised....8216
303.2 (a) amended....8216
303.3 (a) amended....8216
303.5 Heading revised; (e) added....8217
303.7 (f) heading revised; (f)(1)(iii) amended; (f)(1)(ix) added....8217
303.8 (i) added....8217
303.9 (h) and (m)(5) revised....8218
303.10 (c)(5) and (6) revised; (c)(7) added....8219
323 Temporary exceptions....42640
325 Authority citation revised....12151
325.1 Revised....8219
325.2 (t) and (v) amended....6368
(h)(1) and (t) amended....8219
325.3 (c)(3) revised....8219
325.5 (f) revised....6369
(b) amended....8219
325.1—325.6 (Subpart A) Appendixes A and B amended....8219
Appendix A amended....12151
325 Appendixes A and B amended....4309
327 (d) through (h) redesignated as (e) through (i); (c), new (e)(1) introductory text, (1)(i) introductory text, (A), (B)(2) introductory text, (2)(ii), (e)(1)(ii) heading and introductory text, (2) and new (g) revised; new (d) added; new (h) amended....34364
327.3 (d)(1)(B)(*1*) corrected....3069
(e)(1)(i)(B)(*1*), (C) and (i) amended....34365
327.4 (c)(1) introductory text revised....34365
327.5 (a)(1)(i) revised....34365
327.7 (a)(1)(ii)(A) corrected....3069
327.13 (d) revised....31159
(c)(2) amended....34365
327.23 (d)(2) amended....34365
329.3 Removed....27922
330 Authority citation revised....29963
330.1 (j) revised....29963
330.2 Revised....29963
330.10 (b) introductory text amended; (a) and (b)(2) revised....29963
330.12 Revised....29964
(c)(2)(i)(C) and (e) corrected....40688
330.13 Revised....29964
330.15 Revised....29965
330.16 Revised....29965
336 Authority citation revised....39628
336.24—336.28 (Subpart. D) Removed; interim....39628
337.6 (a)(1), (9) and (10) removed; (a)(2) and (3) redesignated as (a)(1) and (2); new (a)(3) added....54935
353 Revised....28774
360 Authority citation revised....43070
360.2 (f) added....43070
360.3 Added....43070
363 Added....31335
365 Appendix A corrected....4460

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

506 Technical correction....11186
506.1 (b) table amended (OMB number)....4311, 44114, 45427
509 Technical correction....11186
509.104 (b) and (f) revised; (g) redesignated as (i); new (g) and (h) added....4311
516 Authority citation revised....4312
Technical correction....11186
516.1 (c) introductory text amended....4312
516.2 (d)(1) amended....44114
517 Added....33324
528 Authority citation revised....4312
Technical correction....11186
528.1 (d) through (g) removed....4312
528.6 Revised....4312
541 Authority citation revised....4312
Technical correction....11186
541.9 Removed....4312
541.12 Removed....4312
541.24 Removed....4312
543 Authority citation revised....4312
Technical correction....11186
543.1 (a) amended....4312
545 Technical correction....11186
545.12 (b) revised....4312
545.21 Removed....4312
545.34 (b) and (c) amended....4312
545.36 (d) amended....4312
545.41 (a) revised....4312
545.75 (b)(5) removed....4312
545.79 Removed....4312
545.93 Removed....4312
545.123 Removed....4312
552 Authority citation revised....4312
Technical correction....11186

150-258 O - 93 - 3 (PO 1)

TITLE 12 Chapter V—Con. Page

552.6-1 (b) amended....4312
552.7 Removed....4312
552.8 (b) removed....4312
556 Authority citation revised....4312
Technical correction....11186
556.7 Removed....4312
558 Revised....4312
Technical correction....11186
559 Removed....4313
Technical correction....11186
561 Authority citation revised....4313
Technical correction....11186
561.5 Removed....4313
561.16 (b) through (e) and (g) removed; (f) redesignated as (b)....4313
561.17 Removed....4313
561.22 Removed....4313
561.46 Removed....4313
563 Technical correction....11186
563.7 (d) removed; (e) redesignated as (d)....4313
563.24 Removed....4313
563.27 (a), (b) designation, heading, (1) designation and (2) removed....4313
563.29 Removed....4313
563.32 Removed....4313
563.33 (b) removed....4313
563.34 Removed....4313
563.45 Removed....4313
563.48 (e) amended....4313
563.49 Added; eff. 4-19-93 through 4-19-95....14513
563.50 (a), (b), (d), (e), and (g)(2) introductory text revised....15084
563.51 (f)(1)(vi) redesignated as (f)(1)(vii); new (f)(1)(vi) and new (f)(1)(vii)(G) added; new (f)(1)(vii)(E) amended; (e), (f)(1)(vii) introductory text and new (f)(1)(vii)(F) revised....15084
563.50—563.52 Appendix A removed....15085
563.90 Removed....4313
563.93 (b)(6)(i) and (d)(3)(ii) amended....4313
563.99 (d) removed....4314
563.90—563.101 (Subpart D) Appendix A corrected....4460
563.131 Removed....4314
563.132 (a)(1)(ii) revised....4314
563.170 (c)(10) added; interim....28348
563.176 (b) removed; (c) through (f) redesignated as (b) through (e)....45813
563.192 Removed....4314
563b Technical correction....11186
563b.3 (i)(4)(vi) added....4314
563e Authority citation revised....4314
Technical correction....11186
563e.6 Amended....4314
564 Temporary exceptions....42640
567 Authority citation revised....4314
Technical correction....11186
567.1 (i)(2) amended....15086
567.2 (a)(1)(i) revised....45813
567.5 (c)(4) added....45813
567.6 Heading revised; (a)(1)(iv)(Q) amended; (a)(1)(iv)(R) and (S) added; (a)(1)(v) removed....476
(a)(1)(iv)(S) amended; (a)(1)(iv)(T) added....15086
(a)(1)(iv)(O) removed; (a)(1)(ii)(H), (iii)(C) and (iv)(N) revised; eff. 7-1-94....45813
567.7 Added....45813
567.20 Removed....4314
571 Authority citation revised....4314
Technical correction....11186
571.1 Removed....4314
571.3 Removed....4314
571.10 Removed....4314
571.16 Removed....4314
571.17 Removed....4314
571.25 Removed....4314
571.26 Removed....4314
574 Authority citation revised....45427
574.9 Added....45427
(a)(5)(i)(B) corrected....52140
575 Added....44114
579—580 (Subchapter E) Removed....4314
579 Technical correction....11186
580 Technical correction....11186

Chapter VI—Farm Credit Administration (Parts 600—699)

601 Revised (effective date pending)....5919
Regulation at 58 FR 5919 effective 3-3-93....12333
607 Added (effective date pending)....10942

Page

Regulation at 58 FR 10942 eff. 3-25-93....16104
611.400 Regulation at 57 FR 43393 eff.1-29-93....6604
611.515 (b)(6)(ii)(E) amended (effective date pending)....48790
611.1122 (e)(6)(iii) amended; (e)(9) revised (effective date pending)....48790
611.1130 (b)(4)(iii) amended (effective date pending)....48790
611.1155 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1156 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1157 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1160 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1168 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1170 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1175 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1180 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1182 (c) amended (effective date pending)....48790
611.1197 (b)(6)(ii)(E) amended (effective date pending)....48790
611.1225 (t)(2) amended (effective date pending)....48790
611.1240 (c) amended (effective date pending)....48790
612.2000—612.2110 (Subpart A) Regulation at 57 FR 43394 eff. 1-29-93....6605
612.2130—612.2270 (Subpart B) Regulation at 57 FR 43394 eff. 1-29-93....6605
612.2150 Regulation at 57 FR 43395 eff. 1-29-93....6605
613 Authority citation revised....48790
613.3045 (c)(3)(i) amended (effective date pending)....48790
614.4130 (a) amended (effective date pending)....48791
614.4240—614.4267 (Subpart F) Regulation at 57 FR 54695 eff. 3-1-93....11792
614.4250 (a)(1) amended (effective date pending)....11372
614.4255 (a) revised; (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; new (c) amended (effective date pending)....11372
614.4325 (g) removed; (h) redesignated as (g) (effective date pending)....40321
614.4350—614.4360 (Subpart J) Revised (effective date pending)....40321
614.4440 Regulation at 57 FR 54699 eff. 3-1-93....11792
614.4443 Regulation at 57 FR 54699 eff. 3-1-93....11792
614.4470 (c) amended (effective date pending)....40324
614.4512 (c)(2) and (e)(1) amended (effective date pending)....48791
614.4514 (d) amended (effective date pending)....48791
614.4516 (b)(2) amended (effective date pending)....48791
614.4517 (a)(5) amended (effective date pending)....48791
614.4520 (a) amended (effective date pending)....48791
614.4522 (a)(1) heading revised; (b), (c) introductory text, (3), (4), (d) introductory text and (e) amended (effective date pending)....48791
614.4710 Introductory text, (a)(2), (3) and (b)(1) amended (effective date pending)....40324
615.5216 Regulation at 57 FR 46487 eff. 2-23-93....10945
618 Authority citation revised....10944
618.8230 Removed (effective date pending)....10944
Regulation at 58 FR 10944 eff. 3-25-93....16105
618.8320 (b)(10) redesignated as (b)(10)(i); (b)(10)(ii) added (effective date pending)....51994
620 Authority citation revised....27923
620.1 (i) amended (effective date pending)....48791
620.2 (b)(3) revised (effective date pending)....27923
Regulation at 58 FR 27923 eff. 6-17-93....33189
(b)(1) amended (effective date pending)....48791
620.5 (f)(1)(i)(F) and (g)(1)(iv)(A) revised; (l) and

TITLE 12 Chapter VI—Con. Page

(m)(1) amended (effective date pending)....48791
620.10 (e)(3) and concluding text revised (effective date pending)....27923
Regulation at 58 FR 27923 eff. 6-17-93....33189
(e)(1) amended (effective date pending)....48791
620.21 (f) amended (effective date pending)....48791
620.40 (Subpart F) Revised (effective date pending)....48791
621 Revised (effective date pending)....48786
621.20 (b)(3) corrected (effective date pending)....52888
625 Regulation at 57 FR 60109 eff. 2-23-93....10945
627 Regulation at 57 FR 46482 eff. 2-23-93....10945
627.2710 Regulation at 57 FR 46487 eff. 2-23-93....10945
627.2785 (c) amended (effective date pending)....48791

Chapter VII—National Credit Union Administration (Parts 700—799)

700.1 (i)(2) through (6), (15) and (16) introductory text revised; (i)(7) introductory text amended....40042
701 Authority citation revised....6077, 50445
701.12 (b), (c) and (e) revised....39433
701.21 (c)(7)(ii)(C) amended....6077
(c)(5) amended; (h)(1)(i)(C) and (5) revised....40043
701.32 (b)(1) and (d) revised....21645
701.35 (c) revised; eff. 1-1-95....50445
703 Technical correction....16763
703.5 Introductory text, (g) and (j) revised....34870
(g)(1)(ii)(A), (2) and (j)(2) corrected....41419
704.17 Added....57541
705 Revised....21646
707 Added; eff. 1-1-95....50445
710 Revised....35365
711.2 (h)(1) revised; (l) amended; (o) added....39435
711.4 (a)(5), (6) and (c) amended; (c) existing text redesignated as (c)(1); (a)(7), (8) and (c)(2) added....39435
711.5 Amended....39435
722 Temporary exceptions....42640
722.3 (a)(1) and (d) revised....40043
740 Authority citation revised....50461
740.2 Amended....50461
741.1 Revised....57542
741.13 (a) revised....5571
748.1 (c) revised....17492
790 Revised....45431
791.18 (c) revised....17493
796 Removed....6605

Chapter IX—Federal Housing Finance Board (Parts 900—999)

902 Added....19195
904 Heading revised; authority citation and text added....19198
906 Heading revised; authority citation and text added....19202
909 Added....19205
931 Authority citation revised....43542
Technical correction....47181, 53023
931.7 Removed....43542
931.8 Removed....43542
931.9 Removed....43542
931.22 Removed....43542
932 Authority citation revised....3490, 31901
Technical correction....47181, 53023
932.2 Removed....43542
932.4 Removed....43542
932.5 Removed....43542
932.6 Removed....43542
932.7 Removed....43542
932.13 (c) amended; interim....3490
(c) amended....31901
932.14 (d) amended; interim....3490
(d) revised....31901
932.18 (f)(1) and (3) introductory text revised; interim....3490, 31901
932.21 (d)(2), (g)(1) and (3) revised; interim....3490
(d)(2), (g)(1) and (3) revised....31901
933 Revised....43542
Technical correction....52808
933.1 (n) corrected....53023
933.2 OMB number....50837
933.5 OMB number....50837
933.7 (d) corrected....47181
933.9 OMB number....50837
(b)(1) corrected....53023, 58231
933.12 OMB number....50837
933.13 OMB number....50837

Page

933.14 (b)(2) corrected....47181
933.16 (b) corrected....53023
933.18 OMB number....50837
(c) corrected....53023
935 Revised....29469
Authority citation revised....29477
Technical correction....40190
935.1 Amended; interim....29477
935.20 Revised; interim....29477
935.22 Added; interim....29477
940 Removed....29474
Technical correction....40190
960.9 Revised; interim....17972

Chapter XVI—Resolution Trust Corporation (Parts 1600—1699)

1605 Authority citation revised....8222
1605.1 Removed....8222
1605.2 (f), (g), (l), (n), (s) through (v), (x), (y), (cc) and (dd) removed....8222
1605.3 Removed....8222
1605.4 Removed....8222
1605.5 Removed....8222
1605.6 Removed....8222
1605.7—1605.14 (Subpart B) Heading revised....8222
1605.7 Removed....8222
1605.8 Removed....8222
1605.9 Removed....8222
1605.10 Removed....8222
1605.11 Removed....8222
1605.12 Removed....8222
1605.13 Removed....8222
1605.14 Removed....8222
1605.15 Removed....8222
1605.16 Removed....8222
1605.16a (d) Footnote 4 redesignated as Footnote 2....8222
1605.23 (c) and (g) removed....8222
1605.27 Removed....8222
1605.28 Removed....8222
1605.29 Removed....8222
1605.30—1605.33 (Subpart E) Heading revised....8222
1605.30 Removed....8222
1605.31 Removed....8222
1605.32 Removed....8222
1605.33 Removed....8222
1605.34—1605.43 (Subpart F) Heading revised....8222
1605.34 Removed....8222
1605.35 Removed....8222
1605.36 Removed....8222
1605.37 Removed....8222
1605.38 Removed....8222
1605.39 Removed....8222
1605.40 Removed....8222
1605.41 Removed....8222
1605.42 Removed....8222
1605.43 Removed....8222
1616 Revised....476
1626 Added....34871
1627 Added; interim....18144
Technical correction....21627

Title 12—*Proposed Rules:*

3....43822, 48206, 52808
5....4600
7....26695, 38474
16....4600
24....38474
25....44138
27....27484
34....26695, 31878
201....45851
203....31
205....8714
208....3235, 8007, 48206, 52808
211....513, 3235
215....47400
219....46024
225....3235, 8007, 31878
228....44138
230....271
231....29149
300—399 (Ch. III)....6903, 16798
303....26259, 33050, 48979
323....31878
325....26701, 48206, 52808
327....17533
332....6448
333....6450
337....26705
345....44138
346....11922
353....3237
360....55027
362....6452, 25953
545....31878
563....31878, 38730
563e....44138
564....31878
600—699 (Ch. VI)....34003
608....58137
611....15099, 32071, 39684
612....44139
613....32071

TITLE 12 *Proposed Rules:*—Con. Page

614.....32071, 38091
615.....34004, 52701
620.....3872, 32071, 47836
621.....32071
627.....32071
650.....53161
700.....21953
701.....11801, 17808, 21953, 40470, 42698
703.....5664
704.....30719, 33783
707.....11801
711.....12910
722.....21953
740.....11801
741.....30719, 33783
748.....5663
900.....8563, 13565
931.....50867
935.....49446
936.....46569, 48946
1102.....55029

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

101.3-2 Amended.....2967, 19321, 44437
Regulation at 58 FR 44437 corrected.....53120
102.26 (c) revised.....14148
102.27 Redesignated as 102.28; new 102.27 added.....14146
102.28 Redesignated as 102.29; new 102.28 redesignated from 102.27.....14146
102.29 Redesignated as 102.30; new 102.29 redesignated from 102.28.....14146
102.30 Redesignated as 102.31; new 102.30 redesignated from 102.29.....14146
(a) revised.....14148
102.31 Redesignated as 102.32; new 102.31 redesignated from 102.30.....14146
102.32 Redesignated as 102.33; new 102.32 redesignated from 102.31.....14146
102.33 Redesignated as 102.34; new 102.33 redesignated from 102.32.....14146
(a) amended.....14148
102.34 Redesignated as 102.35; new 102.34 redesignated from 102.33.....14146
(c) amended.....14148
102.35 Redesignated as 102.36; new 102.35 redesignated from 102.34.....14146
102.36 Redesignated as 102.37; new 102.36 redesignated from 102.35.....14146
(a) revised.....14148
102.37 Redesignated from 102.36.....14146
107 Authority citation revised.....47032
107.1002 (e) revised.....47032
107 Appendix I amended...47032, 47033
108.4 (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added.....15757
108.503-2 (d) and (e) added.....45246
108.503-3 (c) revised.....45246
108.503-5 (d)(2) amended.....15757
108.507—108.507-5 Undesignated center heading and sections added.....45246
120.102 Revised.....45248
120.102-12 Added.....45248
120.104-2 (b) revised.....49423
120.403-2 Revised.....49424
120.403-5 Revised.....49424
121 Waiver...7479, 9112, 9113, 11372, 29346
Authority citation revised.....25929
121.601 Table amended; Footnote 21 added; interim.....4077
Table amended.....25929, 52415
121.802 (a)(1) amended; (a)(2) revised.....12335
121.910 (a) revised.....25930
121.911 (a) revised.....47371
121.2101—121.2106 Undesignated center heading and sections added.....48956
122.7-3 (b) and (c) revised.....49424
122.8-4 (d) revised.....49424
122.61-10 (a) amended; (b) revised.....49424
123 Authority citation revised.....32055
123.9 (c) revised.....32055
123.24 Heading revised; (g)(1) and (2) amended.....32055
123.41 (h) revised.....32055

Title 13—*Proposed Rules:* Page

107.....41852, 41882, 57568
120.....29152
121...9131, 40603, 44620, 44793, 45300, 46573, 47181, 48981, 52452, 52929
122.....45078
123.....45855

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11.101 (b) table amended.....18138
13 Authority citation revised.....50241
13.202 Amended.....50241
13.203 (c) revised.....50241
21 Special FAA conditions...5571, 8222, 19553, 28496, 35702, 35703
23 Special FAA conditions...8222, 28496
23.23 Revised.....42156
23.25 (a)(2)(i) revised.....42156
23.33 (d)(2) revised.....42156
23.45 (b) and (d) revised; (e) removed; (f) redesignated as (e); new (e)(2) and (5) introductory text amended.....42156
23.49 (b) introductory text revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added.....38639
23.53 (a), (b)(1)(ii) and (2) revised.....42156
23.65 (a) revised.....42156
23.67 (b)(1) and (2) revised.....38639
23.141 Revised.....42156
23.143 (a)(4) amended; (c) table revised.....42156
23.145 Revised.....42157
(b)(1) and (3) corrected.....51970
23.147 Revised.....42157
23.149 (d) amended; (a), (b) and (c) revised.....42157
(a) corrected.....51970
23.153 Revised.....42157
23.155 (b) revised.....42158
23.157 (a)(2) and (c)(2) amended; (b) revised.....42158
23.175 (a)(3) and (d)(3) revised.....42158
23.177 (a)(1), (2) and (3) revised.....42158
23.179 Removed.....42158
23.181 (c) and (d) added.....42158
23.201 (c), (d)(2), (f)(4) and (5) revised.....42159
(c) corrected.....51970
23.203 (b) introductory text, (4), (5), (c)(1), (4) and (5) revised.....42159
23.205 (b)(1) and (6) revised.....42159
23.207 (c) revised; (d) added.....42159
23.233 (a) and (b) revised; (d) added.....42159
23.235 Revised.....42159
23.251 Revised.....42159
23.253 (a) and (b) introductory text revised.....42160
23.305 (b) revised.....42160
23.321 (c) added.....42160
23.361 (a) introductory text, (2) and (c) introductory text revised.....42160
23.369 Heading revised.....42160
23.371 Heading and introductory text revised.....42160
23.397 (b) amended.....42160
23.415 (c) added.....42160
23.473 (f) revised.....42160
23.479 (b) and (c) revised.....42160
23.485 (d) added.....42160
23.521 (b) and (c) revised.....42160
23.523 Added.....42160
23.525 Added.....42161
(b) corrected.....51970
23.527 Added.....42161
(b)(4), (6) and (c) corrected.....51970
23.529 Added.....42161
23.531 Added.....42161
23.533 Added.....42161
(b)(1), (2), (c)(1) and (2) corrected.....51970
23.535 Added.....42162
(d) corrected.....51970
23.537 Added.....42163
23.562 (b) introductory text amended; (d) redesignated as (e); new (d) added.....38639
23.571 Introductory text amended; (c) added.....42163
23.572 (a) amended; (a)(3) added.....42163
23.573 Added.....42163
(a)(2) and (6) corrected.....51970

TITLE 14 Chapter I—Con. Page
23.613 (b) and (c) revised; (d) and (e) added..... 42163
23.615 Removed..... 42164
23.621 (c)(1) and (d) introductory text revised; (e) added..... 42164
23.629 (d)(1) revised; (g) and (h) added..... 42164
(g) corrected..... 51970
23.655 (a) revised..... 42164
23.672 Added..... 42164
23.679 Revised..... 42164
23.729 (f)(1) and (2) revised..... 42164
23.731 (a) removed; (b) and (c) redesignated as (a) and (b)..... 42165
23.733 (a) revised..... 42165
23.737 Revised..... 42165
23.751 (a) revised..... 42165
23.753 Revised..... 42165
23.755 (a) introductory text amended..... 42165
23.773 Revised..... 42165
23.775 (f) and (g) added..... 42165
(f) corrected..... 51970
23.851 Revised..... 42165
23.865 Revised..... 42165
23.901 (b), (d) and (e) revised; (f) added..... 18970
23.903 (d)(1) and (e)(2) revised..... 18970
23.904 Added..... 18970
23.905 (e) through (h) added..... 18970
23.909 Heading and (a) introductory text revised; (b) and (c) amended; (d) and (e) added..... 18970
23.925 (b) and (c) redesignated as (c) and (d); new (b) added..... 18971
23.933 Revised..... 18971
23.934 Added..... 18971
23.937 Existing text designated as (a); (b) added..... 18971
23.943 Amended..... 18971
23.951 (a) revised..... 18971
23.953 (b)(1) amended..... 18971
23.955 (a) introductory text and (2) amended; (a)(3), (4), (c)(3) and (f)(3) added; (c) introductory text, (1), (d)(2), (e) and (f)(2) revised..... 18971
23.957 Existing text designated as (a); (b) added..... 18972
23.961 Revised..... 18972
Corrected..... 27060
23.963 (f) removed..... 18972
23.965 (b) revised..... 18972
23.967 (d) revised..... 18972
23.971 Revised..... 18972
(a) corrected..... 27060
23.973 (c) amended; (e) and (f) added..... 18972
23.975 (a)(5) amended..... 18973
23.977 (d) amended..... 18973
23.991 (c) amended..... 18973
23.993 (d) amended..... 18973
23.997 (d) amended..... 18973
23.999 (b)(3) removed; (b)(2) revised..... 18973
23.1001 (f) amended..... 18973
23.1011 (a) through (d) redesignated as (b) through (e); new (a) added..... 18973
23.1013 (g) amended..... 18973
23.1019 (a)(2), (3) and (5) amended..... 18973
23.1021 (a) and (b) revised; (c) added..... 18973
23.1027 (b) and (c) amended; (a) revised..... 18973
23.1041 Revised..... 18973
23.1047 (b)(2) amended..... 18973
23.1061 (a)(3) redesignated as (a)(4); new (a)(4) and (a) concluding text amended; (a)(2) revised; new (a)(3) added..... 18973
23.1091 Heading and (c)(2) revised; (a) and (c)(1) amended; (b)(4) and (5) added..... 18973
Heading and (c)(2) corrected..... 27060
23.1093 (a) heading, (3) introductory text and (c) amended; (a)(4), (5) and (b)(1) revised; (a)(6) added..... 18973
23.1101 Heading, introductory text and (a) revised..... 18974
23.1103 (c) through (f) added..... 18974
23.1107 Added..... 18974
23.1121 Introductory text and (i) added; (c) revised..... 18974
23.1123 Heading, (a), (b) and (c) amended..... 18974
23.1142 Added..... 18974
23.1143 (g) added..... 18974
23.1145 (a) amended..... 18974
23.1147 (a) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (1)(i) and (ii); introductory text and (b) redesignated as new (a) introductory text and (2); new (b) added..... 18974
23.1181 Added..... 18975
23.1189 (a) introductory text amended; (a)(5) revised..... 18975
23.1191 (a), (b) and (f)(1) amended; (d) removed; (h)(6) added..... 18975
(f)(1) corrected..... 27060
23.1193 (b) revised..... 18975
23.1195 Introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (b) added..... 18975
23.1203 (e) amended; (a) revised..... 18975
23.1303 (c) revised..... 18975
23.1305 Revised..... 18975
(d)(1) corrected..... 27060
23.1307 (a) amended; (c) added..... 18976
23.1322 (e) added..... 18976
23.1329 (b) through (g) redesignated as (c) through (h); new (b) added..... 18976
23.1331 Revised..... 18976
23.1337 (a)(1), (3) and (b)(5) amended..... 18976
23.1351 (c) revised; (g) added..... 18976
23.1357 (a)(1) and (e) revised..... 18976
23.1361 (a) and (b) revised..... 18977
23.1365 (c) added..... 18977
23.1385 (b) revised; (c) amended; (d) removed; (e) redesignated as (d)..... 18977
23.1387 (a) amended..... 18977
23.1389 (b) introductory text and (3) amended..... 18977
23.1391 Heading and table amended..... 18977
23.1393 Heading amended..... 18977
23.1395 Heading amended..... 18977
23.1419 Revised..... 18977
23.1431 Revised..... 18977
23.1435 (c) revised..... 18977
23.1441 (a) and (d) revised; (e) added..... 18978
23.1443 Revised..... 18978
23.1445 Added..... 18978
23.1447 (e) revised..... 18978
23.1507 Revised..... 42165
23.1521 (a) revised..... 42165
23.1522 Added..... 42166
Corrected..... 51970
23.1525 Revised..... 42166
23.1527 Revised..... 42166
23.1549 Heading, introductory text and (d) revised..... 42166
23.1557 (c) revised; (f) removed..... 42166
23.1563 (a) revised..... 42166
23.1581 (f) added..... 42166
23.1583 Introductory text and (m) added; (a)(2) and (h) revised..... 42166
23.1585 (a) and (c) revised; (b) added..... 42166
23.1587 Introductory text added; (a), (b) and (c) revised..... 42167
(c)(1) corrected..... 51970
23.1589 (a) revised..... 42167
23 Appendix H added..... 18979
Appendix D amended; Appendix H added..... 42167
Appendix I correctly designated..... 51970
25 Special FAA conditions...5571, 12538, 16486, 19553, 33327, 36345, 36348, 36350, 36352, 46536, 47628
Authority citation revised..... 11781
25.733 (e) added..... 11781
25.811 (e)(3) removed; (e)(2) introductory text revised..... 45229
25.1411 (a)(2) removed; (a)(1) redesignated as (a) and revised..... 45229
25.1423 Revised..... 45229
25 Appendix J amended..... 45229
29 Special FAA conditions...38702, 38703, 57542
33 Special FAA conditions...6876, 39643
33.28 Added..... 29095
35 Special FAA conditions...3215, 15262
39.13...5, 7, 481, 484, 3492, 4892, 5257, 5258, 5261, 5262, 5575, 5578-5580, 5922, 5923, 5925, 6078, 6080-6082, 6084-6086, 6192, 6370, 6704, 6706, 6708, 6877, 6878, 6879, 6881, 6882, 7185, 7480, 7482, 7484, 7738, 7862, 7864, 7982, 7983, 8225, 9114-9117, 11187, 11189, 11191, 11524, 11525, 12153, 12155, 12157, 13407, 13701, 13702, 14312, 14514, 14516, 15758, 15759, 15761, 16106, 16108, 16110, 16111, 16115, 16117, 16119,

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 14 Chapter I—Con. Page

16348, 16764, 16766, 16769, 16771, 18338, 18339, 18341, 18342, 18343, 19050, 19324, 19326, 19328, 19330, 19573, 19769, 21243, 21247, 21347, 21913, 21915, 21917, 21920, 21922, 21923, 21925, 25548, 25549, 25550, 25552, 25553, 26056, 26058, 26059, 26060, 26062, 26064, 26683, 26915, 27455, 27457, 27458, 27651, 27924, 27926, 27928, 27930, 28918, 28919, 28920, 29103, 29348, 29967, 30107, 31160, 31161, 31342, 31347, 31348, 31350, 31352, 31354, 31356, 31648, 31649, 31651, 31903, 31906, 32056, 32279, 32281, 32602, 32604, 32607, 32609, 32836, 32838, 33893, 33894, 33895, 33897, 33901, 33902, 33903, 33904, 33906, 33907, 34366, 34522, 34881, 35862, 36130, 36132, 36864, 36866, 38284, 38286, 38511, 38512, 38514, 38517, 39140, 39436, 39438, 39440, 39441, 39442, 39646, 39648, 40325, 40327, 40585, 40733, 40735, 41173, 41175, 41176, 41178, 41180, 41420, 41422, 42191, 42193, 42194, 42197, 42198, 42642, 43549, 43552, 43553, 43790, 44438, 44440, 44442, 45042, 45044, 45045, 45829, 45832, 45834, 46078, 46766, 46767, 46768, 46770, 46771, 46773, 47034, 47035, 47036, 47037, 47038, 47210, 47825, 47827, 47828, 47829, 47987, 49918, 50253, 50838, 50840, 50842, 50844, 51213, 51216, 51771, 51772, 52890, 53121, 53635, 53637, 53853, 53854, 53856, 53858, 54031, 54033, 54034, 54936, 54938, 54940, 54943, 54945, 54946, 54948, 54951, 57544, 57545, 57546, 57548

Corrected...17972, 21538, 34366, 46772, 52220

Technical correction....48946

61 Authority citation revised....40566

61.56 Revised....40566

71 Technical correction...11886, 52140, 52808

Technical correction....11886

71.1...3216, 3217, 3218, 4315, 6371, 6884, 6885, 6886, 6887, 7485, 7744, 8897, 11373, 11373, 11374, 12136, 13007, 13704, 13705, 14517, 15254, 15265, 15762, 15763, 16488, 16489, 16611, 17323, 17494, 17495, 18344, 18345, 19209, 19574, 19575, 31653, 33908, 33909, 36597, 41181, 43071, 44126, 44274, 45047, 45048, 45049, 45050, 45051, 46540, 47040, 47041, 47042, 47043, 47044, 47045, 47046, 47372, 47373, 47374, 47375, 47376, 47632, 47634, 47635, 47830, 48302, 48727, 48792, 49425, 50254, 50255, 50514, 50515, 51010, 51774, 54952

Corrected...4314, 7179, 8693, 12157, 19152, 21538

Regulation at 57 FR 57662 corrected....6709

Regulation at 57 FR 39015 corrected....8897

Revised; eff. 4-1-93 to 9-15-93....12136

Introductory text revised....12137

Revised....36298

Eff. 1-6-94...53122, 53123, 53124, 53394, 53395, 53396, 53859, 54953, 54954, 57964n

71.5 Amended....36299

71.6 Removed....12136

71.9 Revised; eff. 4-1-93 to 9-15-93....12136

71.31 Amended....36299

71.33 (c) added....12137

71.41 Amended....36299

71.51 Amended....36299

71.61 Amended....36299

71.71 (a), (d) and (e) revised; (f) added....12137

(c) revised....15259

(b) through (f) amended....36299

(a) introductory text revised....44126

71.77 Removed....12137

71.79 Amended....36299

71.901 (a) amended....36299

73.19 (a) and (c) amended....42001

73.25...27653, 29523, 39649, 39650, 45052

73.29....6885, 38288

73.31....21250, 26225

73.38 Eff. 1-6-94....54487

73.38....38287, 52891

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

Page

73.41....39651

73.51....45052

73.52....39651

73.54....18346

73.57....17324

73.66....39651

73.67....17324

91 SFAR No. 64 added....31641

Technical correction....33189, 52140

SFAR No. 66 added....45221

SFAR No. 62 amended....48728

Corrected....57549

91.117 (b) revised....32839

(a) and (b) amended....43554

91.129 (e) introductory text, (1), (2) and (3) revised....48793

91.130 (a) revised....40736

Technical correction....42643

91.155 (c) revised....51968

91.157 Revised....51968

91 Appendix D amended....51968

93 Policy statement....230, 21095

93.81—93.83 (Subpart F) Removed....12137

93.151 Introductory text and (b) revised....32839

93.181—93.191 (Subpart P) Removed....12137

93.221 (e)(1) and (2) revised; (e)(3), (5) and (8) removed; (e)(4), (6) and (7) redesignated as (e)(3), (4) and (5); new (e)(3) amended....39616

93 Appendix B removed....39616

95...6887, 16490, 30108, 34701, 45053, 53600

97....34705

97.21—97.35...3219, 3221, 4894, 4896, 6710, 6713, 7486, 7747, 10946, 10948, 15266, 15267, 15269, 15271, 17325, 17326, 26226, 26228, 27654, 27655, 28497, 28499, 30977, 30978, 32841, 32842, 34706, 38289, 38519, 40328, 40330, 44275, 44276, 45057, 45058, 47047, 47049, 48959, 48960, 51775, 51777, 53864, 54488

97.113 Revised....43072

108 Comment disposition....36802

121 Special FAA conditions....34515

121.291 (a) revised....45230

121.305 (j) introductory text revised....12158

121.417 (c)(1)(i), (d) and (f) revised; (c)(1)(ii) redesignated as (c)(1)(iii); new (c)(1)(ii) added....46504

121 Appendix D amended....45230

125 Special FAA conditions....34515

127 Authority citation revised....34515

Special FAA conditions....34515

129 Special FAA conditions....34515

Authority citation revised....34515

135 Authority citation revised....34515

Special FAA conditions....34515

137.43 (a) revised....32840

170 Authority citation revised....42817

170.21—170.25 (Subpart C) Added....42817

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

302.1760 (a) and (b) amended....34882

Chapter III—Office of Commercial Space Transportation, Department of Transportation (Parts 400—499)

413 Authority citation revised....3827

413.5 (d) removed....3827

415 Authority citation revised....3827

415.4 Removed....3827

415.9 (e) removed....3827

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1203b.107 (a)(3) and (c)(1) revised....5263

1203b.108 (d)(2) revised....5263

1204.400—1204.403 (Subpart 4) Revised....43554

1215 Appendix A revised....50516

1260 Revised....53640

Title 14—*Proposed Rules:*

1—199 (Ch. I)...5947, 8244, 8719, 11391, 16798, 19634, 21274, 26709, 27953, 33783, 36626, 36738, 42698, 46585, 47405, 47678, 57754

21...3239, 5666, 5669, 7197, 13216, 15730, 26710

23....10994, 32034, 38028, 40389, 52702

25...12563, 13216, 26710, 36116, 36738, 38642, 44291

TITLE 14 *Proposed Rules:*—Con. Page

27.....5666
29.....3239, 4566, 5669, 35411
33.....26262, 57754, 57756, 57758, 57760
39...275, 278, 515, 3873, 4366, 4367, 4600, 5671, 5947, 5949, 6198, 6740, 6742, 6743, 6745, 6746, 6906, 7196, 7494, 7495, 7759, 8719, 8721, 8723, 8914, 8916, 9131, 9133, 9552, 11996, 11997, 11999, 12002, 12004, 12190, 12192, 12194, 12195, 12347, 12349, 13430, 13710, 13711, 13713, 14181, 14182, 14184, 14185, 14187, 14189, 15305, 15309, 15114, 15116, 15441, 15444, 15445, 15448, 15450, 15813, 16137, 16377, 16505, 16507, 18051, 18053, 18347, 19068, 19069, 19071, 19073, 19634, 19635, 19787, 19788, 21546, 21692, 21955, 21957, 21959, 25579, 25954, 25956, 26074, 26076, 26264, 27217, 27954, 27955, 27957, 28525, 28526, 28527, 28529, 28801, 28936, 28938, 28939, 29800, 29802, 29998, 30000, 30001, 30003, 30721, 30722, 30725, 31003, 31347, 31348, 31350, 31352, 31354, 31356, 31481, 31681, 31916, 31917, 31920, 31922, 32469, 32471, 32877, 33574, 33576, 33783, 33920, 34009, 34382, 34383, 34950, 34952, 34955, 34957, 34959, 35413, 35899, 35900, 35902, 35904, 35905, 36627, 38321, 38540, 38731, 38732, 38984, 38985, 39474, 39475, 39476, 39478, 39688, 39689, 39691, 40077, 40078, 40079, 40083, 40389, 40391, 41066, 41210, 41441, 41442, 41444, 41645, 42032, 42034, 42259, 42261, 42262, 42361, 42513, 42699, 42700, 42702, 42705, 43301, 43303, 43304, 43306, 44149, 44150, 44466, 44468, 44621, 44795, 45858, 45859, 45861, 45863, 46135, 46136, 46137, 46139, 46914, 46916, 46917, 47085, 47224, 47225, 47227, 47405, 47407, 47409, 47678, 47837, 47839, 48009, 48010, 48616, 48617, 48983, 48984, 48986, 48987, 48989, 49943, 49944, 49946, 50868, 50869, 50871, 51583, 51585, 51587, 51589, 51793, 52041, 52240, 52243, 52714, 52717, 52929, 52931, 52932, 53457, 53678, 53893, 54072, 54310, 54312, 55031, 57568
61.....7197, 9514, 48748
63.....7197
65.....7197
71...34, 3241, 3242, 3875, 4946, 5301, 5303, 6375, 6911, 8244, 8724, 8725, 9134, 11553, 11801—11803, 12197, 12566, 12567, 13715, 14190, 15117, 15118, 16508, 16914, 17541, 17543, 18054, 18055, 18349, 18350, 19214, 19637, 21122, 21123, 21411, 26265, 26266, 26267, 26268, 26269, 27680, 28941, 29370, 31483, 31484, 31485, 31486, 32313, 33053, 33054, 33878, 36157, 36158, 36628, 38322, 38734, 39479, 39693, 39694, 40077, 40078, 40079, 40083, 41211, 41212, 41214, 42037, 42038, 42623, 43412, 43573, 43575, 43576, 43826, 44469, 45079, 46586, 47087, 47411, 47413, 47680, 48331, 49450, 49451, 50873, 51256, 51257, 53164, 53166, 53167, 53459, 54073, 55116, 57570, 57571
73.....18351, 33223, 38323, 41214, 54531
91.....32244, 36738, 51938
93.....7950, 11554
119.....32248
121...7197, 8917, 16584, 17024, 21336, 32248, 33316, 36116, 36738, 51938, 51944, 54478
125.....17024, 32248, 49164, 51938
127.....32248, 54478
129.....8917, 51944
135...7197, 17024, 32248, 36116, 36738, 49164, 51938, 51944, 54478
142.....9514
145.....54478
221.....287, 12350
234.....4370
241.....35
255.....41068
266.....16806
300.....516, 7040
382.....47681

Page

389.....287, 12350
399.....7053
1272.....36159

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce (Parts 0—29)

19 Added; interim.....39653

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

30 Authority citation revised.....41423
30.20 (a) amended; (b) and (c) redesignated as (c) and (d); new (b) added.....41423
30.21 (a) and (b) revised.....41424
30.22 (a) revised.....41424
30.24 (a) introductory text and (1) revised.....41425
50.5 Revised.....4078
122.62 (a) revised.....41425
122.74 (a) and (c)(2) revised.....41425
122.76 Revised.....41426
122.79 (b) revised; (b)(2) undesignated text removed.....41426

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

303.10 (c) removed; (d) redesignated as (c).....21348
303.14 (b)(4) and (d)(2) removed; (d)(3) redesignated as (d)(2); (b)(2), (d)(1), new (d)(2) and (e) amended.....21348

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

770.2 Amended.....3222
770.4 Revised.....3222
770.10 (a) revised; interim.....57551
770.11 (a)(2)(i)(A) amended.....36354
770 Supplement No. 1 amended.....47053
Supplement No. 2 removed; interim.....57551
771 Authority citation revised.....488
771.3 Revised.....47052
771.4 (b) introductory text amended; (b)(2) added.....47050
771.7 Added.....488
771.14 (d)(3) amended.....47050
771.16 (b) revised.....47050
771.23 (b) amended.....486
771.28 Added.....47054
772.4 (b)(2)(iv)(A), (i)(1) introductory text and (6) amended; (i)(1)(i) revised.....36354
773.3 (a)(1)(ii), (d)(3)(iii)(D) and (e)(1)(ix)(I) amended.....486
773.7 (c)(2) heading, text, (d)(1) introductory text, (2)(i), (ii) heading, introductory text, (A), (C), (3) introductory text, (h)(1)(i) Footnote 2, (ii), (i) heading, introductory text, (1), (2), (4), (6), (k) introductory text and concluding text amended.....486
773.8 (a)(2) introductory text and (c)(1) amended.....487
773 Supplement No. 1 amended.....52169
774.2 (a)(1) amended.....47054
774.5 (a) amended.....486
775 Authority citation revised.....25554
775.1 (b) table amended.....25554, 47054
775.2 (e)(6) amended.....36355
(b)(1) amended.....47054
775.3 (b) revised.....25554
(h)(3) revised.....36355
775.6 (d) added.....36355
(c)(2) removed; (c)(3) and (4) redesignated as (c)(2) and (3) and revised; (d) added.....47052
775.7 (d) redesignated as (e); new (d) added.....36355
775.8 (d) redesignated as (e); new (d) added.....36355
Heading, (a) and (b)(2) revised; (d) amended.....47054
775.10 (b) through (g) redesignated as (c) through (h); new (b) added.....36355
Introductory text, (a), (b)(2) heading, introductory text, (c), (e), (f)(1) introductory text, (f)(2)(i) introductory text, (ii)(A), and (g)(1) introductory text amended.....47054
775 Supplement No. 1 amended.....25554, 47054

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

TITLE 15 Chapter VII—Con. Page

776.8 (b)(1)(ii) and (iii) amended....486
776.9 (b)(1)(iii) introductory text and (3)(iii) introductory text amended....33510
776.10 (a)(1) amended....486
776.11 (f)(6)(i)(D) and (ii)(A) revised....47055
776.16 Heading revised; (b) added; interim....57551
777 Authority citation revised....488
777.1 (c)(3) amended....36355
777.2 (e) amended....36355
777.4 (d)(1) introductory text, (h) and (i)(2) introductory text amended....36355
777.6 (d) amended....36355
(d)(3)(ii) amended....47051
777.7 Revised....489
(d) amended....36355
778 Authority citation revised....52167
778.9 (a) revised....47051
778 Supplement No. 4 amended; interim....52167
779.4 (f)(1)(i), (iii), (2)(i) and (iii) amended....486
(f)(1)(i) revised....47055
779.5 (e)(1)(vii) amended....486
(e)(2) amended....487
(a)(3) amended....47055
779.8 (b)(4) amended....47051
785.1 (a) revised....47055
785.2 (a)(4) amended....36355
(a)(1) and (c) amended....47055
785.4 (f) removed; (g) redesignated as (f)....487
(d)(1)(vi), (viii) and (ix) amended....33510
785.6 (b) revised....47052
785.7 (c) amended....33510
(b) amended....36355
786.1 (a), (c)(1), (2) introductory text, (i) and (iii) amended; (b)(1) Footnote 1, (2)(i) and (c)(3) revised....3222
786.3 (f)(1), (i)(1), (2), (p)(1)(i) and (ii) revised; (i)(3), (j)(1), (p)(1) introductory text, (r)(1), (3), (4), (6) and (7) amended....3223
786.7 (c)(1) introductory text, (e)(1) introductory text and (i) amended; (e)(1)(ii) and (iii) revised....33510

Page

786 Supplement No. 1 amended....3223
787.14 (a)(1) and (2) amended....36355
787.15 (c)(2)(ii) amended....36355
788.20 (c)(1)(i) amended....36355
790.1 (h)(3) amended....36355
790.8 Added; interim....57552
799 Authority citation revised....21926, 27932
799.1 Regulation at 57 FR 61259 corrected....6574, 32003
(h) added....33510
Supplement No. 1, Category 1 amended (ECCN 1B71E)....21926
Supplement No. 1, Category 1 amended (ECCN 1C65E)....21927
Supplement No. 1, Category 5 amended; interim (ECCN 5A02A)....27932
Supplement No. 1, Category 9 amended (ECCN 9A92F and 9A93F)....33510
Supplement No. 1, Category 7 amended; (ECCN 7A05A, 7A25B, 7A94F)....34212
Supplement No. 1, Category 5 amended (ECCN 5A20B)....47051
Supplement No. 1, Category 9 amended (ECCN 9A18A)....47051
Supplement No. 1, Category 9 amended (ECCN 9A04A)....47323
Supplement No. 1, Category 5 amended (ECCN 5A02A)....48304
Supplement No. 1, Category 5 amended....48304
Supplement No. 1, Category 5 amended (ECCN 5A91F)....48305
Supplement No. 1, Category 4 amended; interim (ECCN 4A01A, 4A02A)....52167
Supplement No. 1, Category 4 amended; interim (ECCN 4A03A)....52168
Supplement No. 1, Category 1 amended (ECCN 1E96G)....52171
Supplement No. 1, Category 2 amended (ECCN 2E96G)....52171
Supplement No. 1, Category 3 amended (ECCN 3A01A and 3A02A)....52171
Supplement No. 1, Category 3 amended (ECCN 3B01A)....52174
Supplement No. 1, Category 3 amended (ECCN 3C02A and 3E01A)....52175

CHANGES JANUARY 4, 1993 THROUGH OCTOBER 29, 1993

Page

Supplement No. 1, Category 4 amended (ECCN 4A01A and 4A03A)....52176
Supplement No. 1, Category 4 amended (ECCN 4E96G)....52177
Supplement No. 1, Category 5 amended (ECCN 5A01A, 5A02A)....52179
Supplement No. 1, Category 5 amended (ECCN 5A03A, 5A04A, 5A05A)....52180
Supplement No. 1, Category 5 amended (ECNN 5A06A, 5B01A, 5B02A, 5C01A and 5E02A)....52181
Supplement No. 1, Category 6 amended (ECCN 6A01A, 6A02A)....52185
Supplement No. 1, Category 5 amended (ECCN 5A11A)....52185
Supplement No. 1, Category 6 amended (ECCN 6A04A, 6A05A, 6A07A, 6A08A)....52188
Supplement No. 1, Category 6 amended (ECCN 6B04A, 6C02A, 6C04A, 6E03A)....52189
Supplement No. 1, Category 6 amended (ECCN 6E96G)....52190
Supplement No. 1, Category 7 amended (ECCN 7E94F)....52191
Supplement No. 1, Category 8 amended (ECCN 8E96G)....52191
Supplement No. 1, Category 9 amended (ECCN 9E96G)....52192
Supplement No. 3 amended....52192
Supplement No. 1, Category 6 amended; interim (ECCN 6A02A, 6A03A, 6E01A, 6E02A)....57552
Supplement No. 1, Category 7 amended; interim (ECCN 7A23B, 7D01A, 7E01A, 7E02A)....57552
Supplement No. 1, Category 6 amended; interim (ECCN 6D01A, 6D21B)....57553
Supplement No. 1, Category 7 amended; interim (ECCN 7A03A, 7E21B)....57553
799.2 Supplement No. 1 amended; interim....57553

Chapter VIII—Bureau of Economic Analysis, Department of Commerce (Parts 800—899)

Page

806.15 (h)(1) and (2) amended....38290
(i) amended....53125

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

921 Revised....38215
940 Added (effective date pending)....53877
944 Petition denied....15271

Title 15—*Proposed Rules:*

7....40087
285....40087
286....39486
295....41069, 46919
303....4947
500....41215
700—799 (Ch. VII)....54074
806....12912, 38324
900—999 (Ch. IX)....4601
935....44634
936....44634
942....44634
944....44634
946....18316
1180....27681
1200....5672, 8564

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

4.1 (c) revised....40737
4.9 (a)(2) revised....15764
4.11 (g) added....15764
4.13 (m) revised....7047
5 Authority citation revised....15764
5.1—5.2 (Subpart A) Revised....15764
5.10 (Subpart B) Revised....15765
5.21—5.26 (Subpart C) Removed....15765
5.31—5.42 (Subpart D) Removed....15765
5.51 Revised....15765

TITLE 16 Chapter I—Con. Page

305 Authority citation revised...5926, 15086, 54963
Energy efficiency ranges.....26684
Heading revised.....54963
305.1 Heading, (a), (b) and (d) revised.....54963
305.2 (r) through (v) added.....54963
305.3 (k) through (n) added.....54963
305.4 (a)(1), (2), (b)(4), (d), (e) introductory text, (2) and (3) revised.....54964
305.5 Revised.....54964
305.8 (a) and (b) revised.....54965
305.9 (a) revised.....5926
305.11 (a) heading revised; (e) added.....54965
305.13 (a) revised.....54966
305.14 (a) introductory text revised; (d) added.....54966
305.15 (b) revised.....54966
305 Appendixes A1, A2 and B amended.....3224
Appendix C amended.....15086
306 Heading revised.....41732
Authority citation revised.....41732
306.0 Redesignated as 306.1; new 306.0 added.....41372
306.1 Redesignated as 306.2; new 306.1 redesignated from 306.0.....41372
Revised.....41373
306.2 Redesignated as 306.3; new 306.2 redesignated from 306.1.....41372
Revised.....41373
306.3 Redesignated as 306.4; new 306.3 redesignated from 306.2.....41372
306.4 Redesignated as 306.5; new 306.4 redesignated from 306.3.....41372
Revised.....41373
306.5 Redesignated as 306.6; new 306.5 redesignated from 306.4.....41372
Revised.....41373
306.6 Redesignated as 306.7; new 306.6 redesignated from 306.5.....41372
Revised.....41373
306.7 Redesignated as 306.8; new 306.7 redesignated from 306.6.....41372
Revised.....41374
306.8 Redesignated as 306.9; new 306.8 redesignated from 306.7.....41372
Revised.....41374
306.9 Redesignated as 306.10; new 306.9 redesignated from 306.8.....41372
Revised.....41374
306.10 Redesignated as 306.11; new 306.10 redesignated from 306.9.....41372
Revised.....41374
306.11 Redesignated from 306.12; new 306.11 redesignated from 306.10.....41372
Revised.....41374
306.12 Redesignated from 306.11.....41372
Revised.....41375
307.12 (b) amended.....4874
308 Added.....42400
435 Revised; eff. 3-1-94.....49121

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1030 Authority citation revised.....12335
1030.101—1030.104 (Subpart A) Removed.....12335
1030.201 (Subpart B) Removed.....12335
1030.301—1030.304 (Subpart C) Removed.....12335
1030.401 Removed.....12335
1030.403 Removed.....12335
1030.407 Removed.....12335
1030.409 Removed.....12335
1030.410 Removed.....12335
1030.501—1030.502 (Subpart E) Removed.....12335
1030.601—1030.611 (Subpart F) Removed.....12335
1030.701—1030.705 (Subpart G) Removed.....12335
1030.801 (Subpart H) Removed.....12335
1030.901 (Subpart I) Removed.....12335
1030.1001—1030.1002 (Subpart J) Removed.....12335
1030.1101—1030.1109 (Subpart K) Removed.....12335
1030.1201—1030.1218 (Subpart L) Removed.....12335
1030 Appendixes A through F removed.....12335

Page

1116.2 (b) revised.....16121
1145.16 Added.....37556
1210 Added.....37584
1500 Authority citation revised.....40334
1505 Authority citation revised.....40335
1505.1 (a)(1) amended; (a)(2) added.....40335
1615 Stay of enforcement.....4078
1616 Stay of enforcement.....4078
1700.14 (a)(21) added.....38964

Title 16—*Proposed Rules:*

0—999 (Ch. I).....11554
18.....16139, 29153
244.....35414

Page

305.....7852, 12818, 18056, 26715
306.....16464, 25582
307.....4875, 10997
308.....13370
400.....25703
404.....21124
410.....21125
412.....35907
418.....21125
500.....43726
1000—1799 (Ch. II)...8013, 8016, 8020, 8023
1204.....15815
1210.....8565
1500.....34385
1615.....4111
1616.....4111

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

Page

1 Authority citation revised....19589
Technical correction....22020, 42361
1.3 (x) revised....19589
1.10 (j)(2)(ii) revised....19589
1.31 (b) and (c) revised; (d) added....27464
(b)(2) revised....27467
1.35 (b) amended....27465
(a-1), (2), (3) and (4) revised....31166
(e)(1) revised....40348
1.37 (a) revised....28501
1.41 (a)(4), (f)(2), (3) and (g) revised; (a)(8) and (f)(4) through (9) added....26237
(d) heading and (1) introductory text revised....37653
1.41c Added....26239
1.55 (a) and (b) revised; (c) and (d) redesignated as (e) and (f); new (c) and new (d) added....17503
1.59 Revised....54973
1.62 Revised....19589
1.63 (a)(4) and (6) redesignated as (a)(6) and (7); new (a)(4) added; (a)(2), (5), new (6), (b) introductory text and (c) through (f) revised....37653
1.64 Added....37654
1.65 Added....17504
1.66 Added....19589
(b)(1)(ii) correctly designated....21776
1.67 Added....37655
1 Appendix B amended....42645
3 Authority citation revised....19590
3.1 Authority citation removed....19590
3.2 Authority citation removed....19590
3.4 (a) revised; authority citation removed....19590
3.10 Authority citation removed....19590
3.11 Revised....19591
3.12 Authority citation removed....19590
(d)(1)(iv) and (i)(1)(iv) revised....19592
3.13 Authority citation removed....19590
3.14 Authority citation removed....19590
3.15 Authority citation removed....19590
3.16 Authority citation removed....19590
3.17 Authority citation removed....19590
3.18 Authority citation removed....19590
3.20 Authority citation removed....19590
3.21 Authority citation removed....19590
(b)(2) revised....19592
3.22 Authority citation removed....19590
3.30 Authority citation removed....19590
3.31 Authority citation removed....19590
(a) amended; (b) and (d) revised....19593
3.32 Authority citation removed....19590
3.33 Authority citation removed....19590
(a) introductory text, (e) and (f) introductory text revised; (b) introductory text amended....19592
3.34 Added....19593
(d)(2) corrected....21776
3.40—3.47 (Subpart B) Authority citation removed....19590
3.40 Heading, introductory text and (c) revised....19594
3.41 (a) revised....19594
(a) corrected....21776
3.42 (a)(2), (4), (5), (6) and (b) revised; (a)(7) and (8) added....19594
3.43 (b)(1) and (2) revised....19594
3.46 (a) revised....19595
3.47 (b)(2) revised....19595
3.50—3.64 (Subpart C) Authority citation removed....19590
3.55 (e)(1) revised....19595
3.56 Added....19595
3.60 (b)(2)(i) introductory text, (A), (C), (ii)(C) and (f)(3) revised; (l) added....19596
3.61 Heading and (a) revised....19597
3.64 (a)(2) and (d) revised....19597

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 17 Chapter I—Con. Page

3.70 (Subpart D) Authority citation removed....19590
3.75 (Subpart E) Authority citation removed....19590
3 Appendix A amended....19590, 19597
4.5 (a)(4), (b)(4) and (c) introductory text revised; (a)(4)(iv) added....43793
5 Fee schedule....19769
10.1 (a) revised....19597
17.00 (b) revised....33330
17.01 (b)(6) revised....33330
18.01 (a) revised....33330
18.04 (a)(5) revised....33330
30 Technical correction....22020
30.6 (a) revised....17505
30 Appendix C amended....19210
33 Technical correction....22020
33.4 (b)(9) removed....30703
33.7 (a) revised....17505
140.735-1—140.735-16 (Subpart C) Authority citation revised....52657
140.735-1 Revised....52657
140.735-2 Removed; new 140.735-2 redesignated from 140.735-4 and revised....52657
140.735-3 Removed....52657
Redesignated from 140.735-5 and revised....52658
140.735-4 Redesignated as 140.735-2....52657
Redesignated from 140.735-8A....52658
140.735-5 Redesignated as 140.735-3; new 140.735-5 redesignated from 140.735-9 and revised....52658
140.735-6 Removed; new 140.735-6 redesignated from 140.735-10 and revised....52658
140.735-7 Removed....52658
Redesignated from 140.735-12 and revised....52659
140.735-8 Removed....52658
Redesignated from 140.735-16 and revised....52660
140.735-8A Redesignated as 140.735-4....52658
140.735-9 Redesignated as 140.735-5....52658
140.735-10 Redesignated as 140.735-6....52658
140.735-11 Removed....52659
140.735-12 Redesignated as 140.735-7....52659
140.735-13 Removed....52660
140.735-14 Removed....52660
140.735-15 Removed....52660
140.735-16 Redesignated as 140.735-8....52660
145.6 (b) revised....19597
150 Authority citation revised....17981
150.1 (f) through (l) added; interim....17981
150.2 Revised; interim....17982
150.3 (a)(2) removed; (a)(3) revised; interim....17982
155.5 Added....40348
156 Added....31171
180 Technical correction....22020
180.3 (b)(2) revised....17505
190 Technical correction....22020
190.06 (b) and (d)(1) revised....17505
190.10 (c)(1) revised....17505

Chapter II—Securities and Exchange Commission (Parts 200—399)

[EDITORIAL NOTE: The revision date for the 1993 edition of title 17, chapters II through the end, was delayed until June 1, 1993. The 1993 revision will include amendments promulgated during the period of April 1, 1992, through June 1, 1993. For amendments promulgated during that period, see the May 1993 LSA.]

200.15 Added....52418
200.30-1 (f)(14) and (15) added....52418
200.30-3 (a)(53) and (54) added....52419
(a)(55) added; eff. 6-1-95....52902
200.30-4 (a)(7) revised; (a)(9) added....52419
200.30-5 (c) amended....52419
200.30-6 (d)(1) removed; (d)(2) and (3) redesignated as (d)(1) and (2)....45839
200.30-14 (j) added....52419
200.30-17 Added....52419
203 Authority citation revised....52419
203.2 Revised....52419
204 Added....38520
211 Staff Accounting Bulletin No. 92 added....32843
Regulation at 58 FR 32843 corrected....34842
239.15A Form N-1A amended....49922
239.17a Form N-3 amended....49922
239.40 Form F-10 amended....35368
240 Phase-in period extended....36866

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

Page

240.3a51-1 (d) introductory text revised....58101
240.15c2-6 Redesignated as 240.15g-9....37417
240.15c3-1 (b)(1) and (c)(2)(x)(A) introductory text revised; (c)(2)(vi)(N) added....43559
240.15c3-1d (c)(5)(i) introductory text amended....37657
240.15c6-1 Added; eff. 6-1-95....52903
240.15g-2 Revised....37417
240.15g-9 Redesignated from 240.15c2-6; (a) introductory text, (2)(i), (ii), (b) introductory text, (2), and (3)(ii) amended; (c) and (d) revised....37417
240.15g-100 Amended....37417
240.17a-5 (c)(2)(iii) revised; (h)(2) amended....37657
(a)(5) added; (d)(1)(i) and (l)(1) revised....45839
(m) revised....45840
240.17a-11 Revised....37657
240.24c-1 Added....52419
249.240f Form 40-F amended....35368
250.53 Added....51504
250.54 Added....51505
250.57 Added....51505
259.5s Form U5S amended....51505
259.207 Added; Form U-57 added....51506
259.402 Form U-3A-2 amended....51506
259.405 Added; Form U-33-S added....51507
260.4d-9 (a) introductory text, (2) and (3) amended; (b) removed; (a) introductory text, (1), (2) and (3) redesignated as introductory text, (a), (b) and (c); (d) added....33190
260.10a-5 (a) amended; (b) and (c) removed; (d) redesignated as (b)....33191
270 Authority citation amended....49427
270.2a3-1 Added....45838
270.2a19-2 Added....45838
270.10f-3 (h) revised....49921
270.12d3-1 Revised....49427
270.17a-7 (e)(2) revised....49921
270.17e-1 (b) revised....49921
270.17f-4 (b), (c)(3) and (d)(5) revised....49922
270.22c-1 (b)(1) revised; (d) added....49922
274.11A Form N-1A amended....49922
274.11b Form N-3 amended....49922

Title 17—*Proposed Rules:*

1....26270, 28365, 43087, 44470
4....32314
12....17369, 44623
140....37745
150....18057
200....50291
228....42882
229....42882
230....50291
239....50291
240...37445, 38092, 42882, 44310, 49452, 52934
250....51508
270....38095, 50291
274....50291

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

2 Authority citation revised...38527, 38969
Authority citation reinstated....47636
2.1b Revised....38292
2.20 Added....38969
2.21 Added....41632
2.55 Heading revised; (b)(4)(ii) amended....57735
2.61 Amended....38527
Introductory text reinstated....47636
11 Appendix A revised....54035
35 Authority citation revised....51221
Order....51777
35.28 Added....51221
36 Added (OMB number pending)....57737
38 Order....51777
101 Amended (OMB numbers pending)....18004, 18005, 18006
Authority citation revised....18004
Amended....42495
141 Authority citation revised....52436
141.51 Revised (OMB number pending)....52436

TITLE 18 Chapter I—Con. Page

141.300 Added (OMB number pending)....52436
154.28 Introductory text revised....25556
157 Technical correction....47636
157.14 (a)(10) revised....38527
201 Authority citation revised....18006
Amended (OMB numbers pending)....18006, 18007
260 Order....26915
Authority citation revised....38527
Technical correction....47636
260.7 Removed....38527
260.7a Removed....38527
260.12 Removed....38527
271 Order....19607, 38528
Technical correction....21509
284 Technical correction....47636
284.262 (b) revised....38528
284.303 Revised....52663
284.304 Removed....52663
284.305 Removed....52663
292 Order....51777
293 Order....51777
306 Authority citation revised....41372
346 Rehearing denied....53654
365 Authority citation revised....21255
Technical correction....25900
365.3 (a)(1)(i), (ii) and (2)(ii) revised; (a)(1)(iii) added....21255
375.314 (f)(1) revised....51223
381 Rehearing denied....53654
381.302 (a) amended....26523
381.303 (a) amended....26523
381.304 (a) amended....26523
381.305 (a) amended....26523
381.402 Amended....26523
381.403 Amended....26523
381.404 Amended....26523
381.505 (a) amended....26523
381.601 Amended....26523
382 Order....51777
385 Authority citation revised....38528
Technical correction....47636
385.2011 (a)(6) and (7) removed....38528

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.2 (c)(1) revised; (d)(2) amended....53656
1316 Added....25930

Title 18—*Proposed Rules:*

1—399 (Ch. I)....18185, 19215

Page

2....48994
4....48991
6....48991
8....48991
9....48991
11....48991
12....48991
16....48991
20....48991
24....48991
25....48991
32....48991
33....48991
34....48991
35....36172, 48991, 51259
36....41074
41....48991
45....48991
46....48991
141....17544, 19876, 30005, 40606
284....19365, 25583, 27691, 27959, 32473, 37447, 41647, 48332, 53895
341....37671
342....37671
343....37671
344....37671
345....37671
347....37671
352....37671
360....37671
361....37671
375....35415, 37671, 40606
385....40606
401....18352
1301....17553, 57972

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4.0 (c) amended....50256
4.7a (c)(1) amended....44130
4.14 (c)(2) amended....39655
(d)(1)(v), (2)(iii), (iv), and (e) amended; (f) revised....44128
(b)(1) amended....44130
4.30 (e) amended....44130
4.39 (b) amended....44130
4.80 (h) redesignated as (i); new (h) added....50257
4.84 (c) revised....41425
4.98 (i) revised....54282
10.3 (c)(3) amended....44130

Page

10.41 (d) amended....44130
10.53 (d) amended....44130
10.59 (f) amended....18147
(c) and (f) amended....44130
10.71 (e) amended; (f) removed....44130
10.84 (a)(1) and (2) amended....44130
10.102 (b)(2) amended....34523
10.301 Amended....44130
12 Authority citation amended....19349, 44130
12.40 (h) amended....44130
12.104g (b) table amended....29349, 49430
12.130 (c) redesignated as (c)(1); new (c) designation, heading and (2) added; interim....19349
(c) heading, (1) and (2) corrected....21334
Regulation at 58 FR 19349 corrected....29454
18 Authority citation revised....38500
18.9 Heading revised; (e) added....38500
19.1 Regulation at 57 FR 47410 effective date corrected....29349
19.2 Regulation at 57 FR 47410 effective date corrected....29349
19.3 Regulation at 57 FR 47410 effective date corrected....29349
19.5 Removal at 57 FR 47410 effective date corrected....29349
19.6 Regulation at 57 FR 47410 effective date corrected....29349
19.11 Regulation at 57 FR 47410 effective date corrected....29349
19.12 Regulation at 57 FR 47410 effective date corrected....29349
19.35 Regulation at 57 FR 47410 effective date corrected....29349
19.36 Regulation at 57 FR 47410 effective date corrected....29349
19.37 Regulation at 57 FR 47410 effective date corrected....29349
19.38 Regulation at 57 FR 47410 effective date corrected....29349
19.39 Regulation at 57 FR 47410 effective date corrected....29349
24 Authority citation amended....30983, 54282
Authority citation revised....34367
24.5 (f) added....34367
24.22 Revised....54282
24.24 (h) heading and (1) heading revised; (h)(1), (2) and (3) amended....30983
101 Technical correction....27336

Page

Authority citation revised....41634, 49923
101.3 (b) amended....21350, 21351, 25933, 41634
(b) table amended....49923
101.4 (c) amended....21351, 40353
111 Authority citation amended....54286
111.96 (c) revised....54286
113.62 (k)(4) added....30984
113.63 Regulation at 57 FR 47410 effective date corrected....29349
113.64 (a) amended....30984
122 Technical correction....27336
Authority citation revised....44130
122.1 (h)(1) amended....44130
122.15 (b) amended....25933
(b) table amended....49923
122.24 (b) amended....44444
122.29 Revised....54286
122.62 (a) revised....41425
122.74 (a) and (c)(2) revised....41425
122.76a Revised....41426
122.79 (b) revised....41426
123.0 Amended....54286
123.1a Removed....54286
128 Authority citation revised....44130
128.11 (b)(4) amended....44130
133 Authority citation revised....57740
133.43 (c)(1) and (4) revised....57740
141 Authority citation revised....44130
141.81 Amended....44130
141.82 (e) removed....44130
141.83 (b) removed....44130
141.91 Introductory text amended....44130
141.92 (a) amended....44130
141.113 (a)(5) and (g) amended....44130
142.13 (a)(2) amended....30984
142.25 (a)(2) amended....30984
144.37 Regulation at 57 FR 47410 effective date corrected....29349
145.0 Amended....54286
145.1a Removed....54286
148 Authority citation revised....35863, 44130
148.87 (b) table amended....35863, 35864
(b) table corrected....38167
148.105 (b)(3) amended....44130
148.113 (a) amended....44131
148.115 (a)(2) introductory text amended....44131
151.64 Revised....37854

TITLE 19 Chapter I—Con. Page

151.70 Amended....37854
151.71 (a) and (b) revised....37854
151.72 Removed....37854
151.73 (a) and (b) amended....37854
151.75 Amended....37854
152.2 Amended....44131
162.1d (b) introductory text amended....44131
177 Final determination....21538
178.2 Table amended (OMB numbers)....34368, 54286

Title 19—*Proposed Rules:*

7....40095, 52246
10....40095, 52246
12....37884
24....37884
101....28803
122....19366, 28803
133....37884, 44476
148....40095, 52246
151....31487
152....31487
174....50300
175....30726, 47413
178....37884
201....19638, 49452
207....19638

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

209.13 Revised....45250
209.15 Added....45250
211.2 (b)(9) revised; (b)(13) added....45251
211.4 Revised....45251
211.8 Revised....45251
211.9 Amended....45251
211.10 Revised....45251
211.11 Revised....45251
211.13 Redesignated as 211.14; new 211.13 added....45251
211.14 Redesignated as 211.15; new 211.14 redesignated from 211.13 and revised....45251
211.15 Redesignated from 211.14....45251
229 Added....53397
325.4 (c) revised; (d) amended....45841
345 Authority citation revised....45251
345.4 Revised....45251
360 Removed....48597
366 Heading revised....31343
366.7 Removed....31343

Chapter III—Social Security Administration, Department of Health and Human Services (Parts 400—499)

404.1501—404.1599 (Subpart P) Authority citation revised....44445
404.1501—404.1599 (Subpart P) Appendix 1 amended....31907, 36051, 36052, 36056, 36134, 44445, 52359
416 Technical correction....49431, 49432
416.340 (d)(2) revised....52912
416.345 (e)(2) revised....52912
416.533 Amended....52912
416.536 Revised....52912
416.537 (b)(2) revised....52912
416.538 Revised....52912
416.542 Heading and (b) revised; (c) added....52913
416.543 Revised....52913
416.902 Amended....47577
416.903 (f) added....47577
416.913 (c)(3) added; (e)(2) and (3) revised....47577
416.916 Revised....47577
416.924 Revised; effective to 9-9-97....47577
416.924a Revised; effective to 9-9-97....47578
416.924b Revised; effective to 9-9-97....47580
416.924c Revised; effective to 9-9-97....47581
416.924d Revised; effective to 9-9-97....47582
416.924e Revised; effective to 9-9-97....47584
416.926a (b)(3), (c) and (d) revised; effective to 9-9-97....47586
(d)(3) and (12) revised....52367
416.928 (a) revised....47586
416.933 Revised....36063
416.994a (b)(5), (f)(1) and (2) amended; (d)(2) revised; effective to 9-9-97....47586
416.1015 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added....47587
416.1402 (k) and (l) amended; (m) added....52913
416.1457 (c)(4) revised....52913
416.1471 (b) revised....52914

Page

416.1600—416.1618 (Subpart P) Authority citation revised....41182
416.1619 Added....41182
422.601—422.607 (Subpart G) Added....52916

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

614.1 Regulation at 57 FR 59799 confirmed....43783
614.2 Regulation at 57 FR 59799 confirmed....43783
614.3 Regulations at 57 FR 59799 and 59800 confirmed....43783
614.4 Regulation at 57 FR 59800 confirmed....43783
614.27 Regulation at 57 FR 59800 confirmed....43783
626 Regulation at 57 FR 62025 effective date revised; interim....31472
627 Regulation at 57 FR 62030 effective date revised; interim....31472
627.900 Revised; interim....31472
627.902 (i) and (j) removed; (h) amended; interim....31472
627.904 (g) revised; (m), (n) and (o) added; interim....31472
627.906 (a) amended; interim....31473
628 Regulation at 57 FR 62052 effective date revised; interim....31472
629 Regulation at 57 FR 62061 effective date revised; interim....31472
630 Regulation at 57 FR 62061 effective date revised; interim....31472
631 Regulation at 57 FR 62062 effective date revised; interim....31472
637 Regulation at 57 FR 62072 effective date revised; interim....31472

Title 20—*Proposed Rules:*

228....51024
237....51024
336....41577
404....54532
416....26383, 42514, 49249, 52458, 52464, 52943, 54532
626....33000
638....33000
655....52152
656....26077 00000.000

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

Chapter I Technical correction....17085
Meetings....48597
1 Technical correction....19876
1.1 (c) amended; eff. 5-8-94....17085
1.24 Regulation at 58 FR 2174 effective date corrected to 5-8-94....17328
5 Technical correction....17096
Authority citation revised....17106
Clarification....44033
5.10 (a)(18) introductory text revised....17095
(a)(35) added....17106
5.20 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added....17095
5.22 (c) amended....17095
5.29 Added....17106
5.31 (d) introductory text and (2) revised....41634
5.34 Added....39142
5.35 (c) redesignated as (d); new (d) introductory text revised; new (c) and (d)(4) added....42496
5.39 Added....18346
5.61 Regulation at 58 FR 2410 effective date corrected to 5-8-94....17341
5.80 (a)(1)(i) amended; (d) redesignated as (f); (c) introductory text, (1)(i), (ii), (iii) and new (f) introductory text revised; (c)(1)(iv), new (d) and (e) added....17094
5.99 Added....34213
5.100 Revised....17091
5.115 Amended....17093
10 Authority citation revised....49190
10.50 (c)(1) revised; (c)(20) and (21) added....49190
12.50 (a) and (c) amended....17096
14 Authority citation revised....41635
14.100 (c)(1)(ii) amended....17096

TITLE 21 Chapter I—Con. Page

(d)(4) added 41635
20 Technical correction 17096, 17097
20.108 (d) added 48794
(c) revised 48796
73 Technical correction 36134
73.3106 Revised 17507
Regulation at 58 FR 17507 effective date confirmed 41182
73.3121 Regulation at 58 FR 9541 effective date confirmed 41024
73.3127 (a), (b)(1) and (2) revised 17510
Regulation at 58 FR 3227 confirmed 33909
Regulation at 58 FR 17510 effective date confirmed 41183
74.101 (b) revised 17511
Regulation at 58 FR 17511 effective date confirmed 41183
74.1109 (b) amended 17098
74.2101 (a) revised 17511
Regulation at 58 FR 17511 effective date confirmed 41183
74.3206 (c)(1)(iv) and (v) amended; (c)(1)(vi) added 21542
Regulation at 58 FR 21542 effective date confirmed 45841
100 Technical correction 17096
100.2 (d), (f), (g) and (h) introductory text corrected 17097
100.100 (Subpart F) Added 27933
101 Technical correction 17085, 17096, 17099, 17100, 17101, 17102, 17343, 19876
Clarification 44033
101.2 (b) and (f) revised; eff. 5-8-94 44030
101.6 Removal at 58 FR 2850 effective date corrected to 5-8-93 17103
101.9 (b)(5)(iv) and (b)(7) amended; eff. 5-8-94 17086
Regulation at 58 FR 2478 effective date corrected to 5-8-94 17097
(c)(8)(iv) amended 17104
Regulation at 58 FR 2175 effective date corrected to 5-8-94 17328
(c)(1)(i)(A), (6)(iii), (7)(ii), (8)(i), (ii) introductory text, (B), (d)(8), (9)(i), (ii) and (iii) corrected 17328
(d)(12) sample label correctly revised 17329
(e) introductory text corrected; (e)(5) sample label correctly revised 17330
(f)(2)(ii), (iv), (g)(8), (9), (h)(3)(iv), (j)(4) and (13)(ii)(A) corrected; (j)(13)(ii)(A) sample label correctly revised 17331
(b) revised; eff. 5-8-94 44048
(a) introductory text and (d) amended; (c)(1)(i), (2), (8)(vi), (d)(1)(ii)(D), (iii), (7), (11), (e)(5) sample label, (f)(4), (5), (j)(1)(i), (2)(i), (ii), (iii), (j)(3)(v), (4), (5)(ii), (10), (13)(i), (ii)(A), (B), (C), (14) and (15)(iii) revised; (j)(2)(iv) redesignated as (j)(2)(v); (d)(13), (14) and new (j)(2)(iv) added; eff. 5-8-94 44076
101.10 Regulation at 58 FR 2410 effective date corrected in part to 5-8-94 and 5-8-95 17341
101.12 (a)(4) and (b) Table 1 corrected 17086
(b) Table 2 correctly added 17087
(h)(11)(i) corrected 17091
Revised; eff. 5-8-94 44051
101.13 Regulation at 58 FR 2410 effective date corrected in part to 5-8-94 and 5-8-95 17341
(i)(1), (2), (3), (j)(2)(i), (m)(1)(ii), (p)(1) and (q)(5)(i) corrected; effective in part 5-8-94 and 5-8-95 17342
(b)(4) added; (d)(2), (f), (g) introductory text, (1), (i)(2), (j)(1)(ii)(B), (l)(1)(ii) introductory text, (m)(1)(ii) introductory text and (q)(2) revised; (h)(1) amended; eff. 5-8-94 44030
101.14 (d)(2)(vii)(A) and (B) corrected 17097
(e)(6) revised 44038
101.25 Regulation at 58 FR 2413 effective date corrected to 5-8-94 17341
101.30 (e)(2) and (l) revised; (h)(1) table amended 44063
(m) added 49192

Page

101.54—101.69 (Subpart D) Regulation at 58 FR 2413 effective date corrected to 5-8-94 17341
101.54 (a), (b)(1), (e)(1)(i), (iii)(A) and (2)(i) corrected 17342
101.56 (a) introductory text, (3), (d)(2) and (g) corrected 17342
101.60 (b)(2)(i), (ii) and (iii) redesignated as (b)(2)(i)(A), (B) and (b)(2)(ii); (b)(2) introductory text, new (b)(2)(i)(B), (4)(ii)(A), (5)(ii)(A), (c)(4)(ii)(A) and (5)(ii)(A) corrected; eff. 5-8-94 17342
(a) introductory text, (b)(1)(i) and (c)(1)(i) revised; (b)(2)(i)(B) amended; eff. 5-8-94 44031
101.61 (a), (b)(2), (3), (4), (5), (6)(ii)(A) and (7)(ii)(A) corrected 17342
(a) introductory text and (b)(1)(i) revised; (b)(2)(i)(B) and (b)(4)(i)(B) amended; eff. 5-8-94 44032
101.62 (b)(2), (3), (4)(ii)(A), (5)(ii)(A), (6)(ii), (c) introductory text, (4) introductory text, (ii)(A), (5)(ii)(A) and (d)(1)(ii) corrected 17342
(d)(2)(ii)(B), (d)(4) introductory text and (4)(i) corrected 17343
(b)(1)(i), (c)(1)(i), (d)(1)(i)(A), (ii)(A), (2)(ii)(A), (iv) introductory text, (A), (4)(i) introductory text, (ii) introductory text, (e)(1) and (2) revised; (b)(2)(i)(B), (1)(i) introductory text, (ii) introductory text and (2)(ii) introductory text amended; eff. 5-8-94 44032
101.65 (b) and (c)(3) corrected 17343
101.68 (m)(1), (n)(1) and (o)(1) corrected 17343
(m)(1), (n)(1) and (o)(1) amended; (m)(1)(E), (n)(1)(C) and (o)(1)(C) added; eff. 5-8-94 44033
101.70 (f) corrected 17097
101.71 (b) correctly designated 17100
101.72 (c)(2)(ii)(C) corrected 17101
101.73 Heading and Tables 1 and 2 corrected 17343
Table 2 corrected 17344, 17345, 17346
101.74 (b)(3) corrected 17100
101.95 (Subpart F) Regulation at 58 FR 2426 effective date corrected to 5-8-94 17341
101.100—101.108 (Subpart G) Regulation at 58 FR 2426 effective date corrected to 5-8-94 17341
101.100 Regulation at 58 FR 2189 effective date corrected to 5-8-94 17328
101 Regulation at 58 FR 2188 effective date corrected to 5-8-94 17328
Appendix B corrected 17332, 17333
102 Technical correction 17103
102.33 (c) corrected 17103
(g) redesignated as (g)(1); (g)(2) added; eff. 5-8-94 44063
104 Technical correction 17104
105 Technical correction 17096, 17104
Clarification 44033
130 Technical correction 17096, 17103, 17105
Clarification 44033
131 Technical correction 17105
133.108 (d) introductory text corrected 17105
135 Technical correction 17103, 17105
136 Technical correction 17103
137 Technical correction 17103
139 Technical correction 17103
145 Technical correction 17103
146 Technical correction 17103
150 Technical correction 17103
152 Technical correction 17103
155.190 (a)(6) revised; eff. 5-8-94 17103
155.191 (a)(3)(iv) corrected 17104
156 Technical correction 17103
158 Technical correction 17103
160 Technical correction 17103
161 Technical correction 17103
163 Technical correction 17103
Revised 29529
164 Technical correction 17103
166 Technical correction 17103
166.110 (a) introductory text amended; (b)(4) revised 21649
168 Technical correction 17103, 17105
169 Technical correction 17103
172 Authority citation revised 48598, 52221

TITLE 21 Chapter I—Con. Page

172.120 (b)(1) table amended.....52222
172.490 (a) amended.....17098
172.804 (c)(10) and (d) revised.....19771
(c)(5)(ii) and (6) revised; (c)(8), (11) and (12) removed.....21097
(d) revised.....21098
(c)(23) added.....21099
(c)(18) revised.....48598
172.892 (d) table amended.....21100
175 Authority citation revised.....39655
175.105 (c)(5) table amended...21256, 21257, 39656
176 Authority citation revised.....51996
176.170 (a)(5) table amended...21103, 51996
177 Authority citation revised.....48599
177.1060 (e) amended.....17098
177.1395 (b)(4) table amended.....32610
177.1500 (a)(13) revised; (b) table amended.....32610
177.1520 (c) table amended.....17098
(d)(3)(ii) introductory text revised; (d)(3)(ii)(*e*) through (*i*) added.....21258
177.2910 Introductory text revised; (a)(3) added.....48599
178 Authority citation revised.....37855
178.1010 (b)(41) corrected.....17099
(b)(43) added; (c)(19) amended.....57555
178.2010 (b) table amended...17515, 37855
178.3130 (b) table amended.....57556
178.3297 (e) table amended.....17514
178.3400 (c) table amended.....26687
178.3770 (a)(2), (3), (b)(2), (3), (d)(2) and (3) amended.....17512
178.3910 (b)(2) table amended.....17513
184.1685 (a)(4) added.....27202
Technical correction.....30220
186.1551 (a) amended.....17099
189.220 (a) amended.....17099
201 Authority citation revised.....45201
201.319 Added.....45201
206 Added; eff. 9-13-95.....47958
207.25 (c) added; eff. 9-13-95.....47959
207.37 (a)(1)(xi) added; eff. 9-13-95.....47959
210.3 (b)(22) added; eff. 8-3-94.....41353
211 Technical correction.....19876
211.122 (f) revised; (g) redesignated as (h); new (g) added; eff. 8-3-94.....41353
211.125 (c) revised; eff. 8-3-94.....41354
211.130 (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; eff. 8-3-94.....41354
291.501 Revised; interim.....38709
291.505 (d)(1)(i)(C), (iii)(B)(*1*), (C), (3)(i), (13)(i) and (f)(2)(viii) amended; (d)(6)(ii) removed; (k) redesignated as (l); (b)(2)(v), (vi)(D), (c)(4)(i), (ii), (d)(1)(ii), (iv), (6) heading, (6)(i) heading, (h)(1) and new (l) revised; (d)(1)(iii)(B)(*6*), (4)(v) and new (k) added 38709
310 Authority citation revised...46745, 54462
310.201 (a)(29) removed; eff. 9-23-94.....49898
310.530 Added.....47610
310.536 Added.....46754
310.538 Added.....47605
310.544 Added.....31241
310.545 (a)(8) and (18) text redesignated as (a)(8)(i) and (18)(i); new (a)(8)(i) heading, (10)(v), (vi) and (vii), (18)(i) heading, (ii), (iii), (vi), (22)(ii), (23), (24), (25) and (d)(11) added; (d) introductory text and (1) revised.....27641
(a)(19) removed.....31241
(a)(22)(iii) and (d)(12) added; (d) introductory text revised.....46745
(a)(26), (d)(13) and (14) added; (d) introductory text revised; eff. 9-2-94.....46748
(a)(13) removed.....46754
(a)(11) removed.....47605
(a)(22)(iv) and (d)(15) added; (d) introductory text revised; eff. 9-23-94.....49898
(a)(8)(iii) and (d)(21) added; (d) introductory text revised; eff. 4-21-94.....54455
(a)(18)(ii) amended; (d)(11) revised; (d)(22) added; eff. 10-21-94.....54462
312.57 (c) revised.....25926
314 Authority citation revised.....47351
314.50 Introductory text and (h)(2) revised; (d)(1)(ii) redesignated as (d)(1)(ii)(*a*); (d)(1)(ii)(*b*), (c), (d)(1)(v), (h)(3) and (4) added.....47351
314.54 (a)(1)(i) revised; (a)(2) amended; (a)(4) added.....47351
314.60 (c) added.....47352
314.70 (a) revised.....47352
(b)(2)(xi), (xii) and (d)(9) added; eff. 9-13-95.....47959
314.71 (b) revised.....47352
314.94 Introductory text amended; (a)(9)(i) and (d)(4) revised; (d)(5) added.....47352
314.96 (b) redesignated as (c); new (b) added.....47352
314.125 (b)(17) revised.....25926
314.127 (b) revised.....35927
314.150 (b)(9) revised.....25927
314.440 (a)(1) and (2) amended; (a)(4) added.....47352
320.31 (c) revised; (d) added; (e) and (f) removed.....25927
320.38 Revised.....25927
320.63 Revised.....25928
330.3 Added; eff. 9-13-95.....47959
331.30 (d) introductory text revised; (h) added; eff. 8-26-94.....45208
333.201—333.280 (Subpart C) Added; eff. 9-23-94.....79898
341.74 (c)(4)(v) and (vi) added; eff. 10-20-94.....54236
341.76 (c)(4) revised; eff. 10-20-94.....54242
347 Added; eff. 10-21-94.....54462
430.4 (a)(64) added.....26652
(a)(65) added.....26656
(a)(66) added.....26659
(a)(67) added.....26663
(a)(68) added.....26666
430.5 (a)(99) and (b)(101) added.....26652
(a)(100) and (b)(102) added.....26656
(a)(101) and (b)(103) added.....26659
(a)(102) and (b)(104) added.....26663
(a)(103) and (b)(105) added.....26666
430.6 (b)(101) added.....26653
(b)(102) added.....26656
(b)(103) added.....26659
(b)(104) added.....26663
(b)(105) added.....26666
436.215 (b) table amended; (c)(13) added.....26653
(b) table amended; (c)(14) added.....26656
(b) table amended.....26659
(c)(15) amended.....26660
(b) table amended; (c)(16) added.....26666
436.368 Added.....26660
441.220 Redesignated as 441.220b.....26669
Added.....26670
441.220a Added.....26670
441.220b Redesignated from 441.220.....26669
442.80 Added.....26660
442.180 Added.....26661
442.180a Added.....26661
442.180b Added.....26662
443 Added.....26667
444.380e Added.....26671
450.30 Added.....26664
450.230 Added.....26665
452.50 Added.....26653
452.60 Added.....26657
452.150 Added.....26654
452.160 Added.....26658
510 Authority citation revised.....44611
510.515 Introductory text, (b)(7)(i) and (c) table amended; (b)(7)(i)(*c*) removed.....30119
510.600 (c)(1) table and (2) table amended...26523, 30118, 36135, 37855, 38971, 44611, 47056, 47377
514 Authority citation revised.....51011
514.210 Removed.....51011
520.88d Heading corrected.....18304
520.240 Removed.....41025
520.580 (b)(1) amended.....41025
520.1448a (a)(2) amended.....26523
520.1485 Added.....38972
520.1629 (a), (b), (c) heading, (1), (2) and (3) redesignated as (a)(1), (2), (3) heading, (i), (ii) and (iii); ; new (b) added.....39443
520.1660d (a) and (b) revised; (e)(1)(iii), (iv), (v) and (2) added.....42854
(a)(5) added; (b)(3) revised; (e)(1)(ii)(A)(*3*), (B)(*3*) and (C)(*3*) amended.....43794
520.1720c (b) amended.....29777
520.1806 (b) amended.....44611
520.1840 (c)(3) amended.....26523
520.1870 (c)(1)(i) revised.....42853
520.2041 (b) amended.....44611
520.2042 (b) amended.....44611

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 21 Chapter I—Con. Page

520.2158a (d)(1) and (2) revised; (d)(3) removed 47211
520.2345d (e)(1)(iii)(A), (B), (C), (3)(iv)(A), (B) and (C) revised 33331
520.2613 Added 36135
522.90b (d)(2)(ii) correctly designated 18304
522.820 Revised 43795
522.1002 Redesignated from 522.1822 and revised 47377
522.1079 (c)(2) and (3) revised 52222
522.1822 Redesignated as 522.1002 47377
522.1870 (c)(1)(ii) revised 42853
522.2100 (c), (d) and (e) added 57556
522.2220 (a)(2) revised 38972
524.1044g Added 38973
524.2101 (c) amended 41025
529.1186 (b) amended 17346
556.230 (a) and (b) revised 43795
556.500 (e) added 42855
556.610 Revised 47211
558 Technical correction 17348
558.4 (d) table amended 30119
558.15 (g)(1) table and (2) table amended 17515
(g)(1) table amended 30119
(g)(2) table amended 30120
558.55 (d)(2) table amended 30120
558.58 (d)(1) table amended 30120
558.95 (b)(1)(xi)(*b*) and (xii)(*b*) amended 47056
(a)(1) revised; (b)(4) redesignated as (b)(5); new (b)(4) added 54287
558.258 (c)(3)(iv)(C) amended 47973
558.274 (c)(1) table amended 30120
558.311 (b)(4) and (6) revised; (e)(3) redesignated as (e)(4); new (e)(3) added 43560
(e)(2)(i) table amended 47973
558.355 (d)(7)(vi) added 17516
(b)(13) revised 53883
558.460 (c)(1) table amended; (c)(2)(vii) and (viii) removed; (c)(2)(ix) and (x) redesignated as (c)(2)(vii) and (viii) 30120
558.550 (a) amended 47056
573.920 Regulations at 52 FR 10888, 21001, and 54 FR 14215 stayed 47973
579.22 (b) table revised 18148
630.13 (b)(4) amended 19609
804 Opportunity for comment 46514
Added 46519
807 Opportunity for comment 46514
Heading and authority citation revised 46522
807.3 (d)(2) and (g) revised; (e)(3) and (4) amended; (e)(5) added 46522
807.20 (a)(4) revised; (c) and (d) added 46522
807.21 Revised 46522
807.22 (a) and (c) revised 46522
807.25 (b) revised 46523
807.65 (e) revised; (g) removed 46523
821 Opportunity for comment 43442
Revised 43447
Authority citation revised 43455
Regulation at 58 FR 43447 and 43455 comment period extended 48599
Technical correction 52440
821.20 (b)(1) table and (c) table amended 43455
864.5680 (b) revised; (c) removed 51571
874.4490 Revised 29534
878 Authority citation revised 57558
878.5030 Added 57558
890.3450 Removed 29535
1020 Authority citation revised 26396
1020.30 Revised; effective in part 5-3-94 26396
1020.31 Revised; effective in part 5-3-94 26401
(c)(2) corrected 31067
1020.32 Revised; effective in part 5-3-94 26404

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1301 Technical correction 31907
1301.22 (b)(6) revised 31175
1301.24 (b) and (c) introductory text revised 31175
1304 Technical correction 31907
1304.02 (f) through (i) redesignated as (g) through (j); new (f) added 31175
1304.03 (e) through (g) redesignated as (f) through (h); new (e) added; new (h) revised 31175

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

Page

1308.11 Regulation at 57 FR 18824 effective date extended to 11-1-93 25934
(b)(4) revised 43796
Regulation at 57 FR 43401 effective date extended to 3-21-94 44611
(g)(3) removed; (f)(3), (4), (5), (g)(4) and (5) redesignated as (f)(4), (5), (6), (g)(3) and (4); new (f)(3) added 53406
1308.12 (c)(11) through (25) redesignated as (c)(12) through (26); new (c)(11) added 43796
1308.24 (i) table revised 17107
1308.34 Table amended; interim 34708
Regulation at 58 FR 16772 confirmed 34709
Regulation at 58 FR 34708 confirmed 49924

Chapter III—Office of National Drug Control Policy (Parts 1400—1499)

1403 Appendix A corrected 26185

Title 21—*Proposed Rules:*

1—1299 (Ch. 1) 33690, 34389, 40393, 43579, 45080
1 29716
5 52719
17 ..... 30680, 40103
25 52719
100 ..... 17171, 29716
101 ..... 17171, 18057, 29557, 29716, 33055, 33700, 33715, 33731, 40104, 40190, 44091, 53254, 53296, 54539
102 ..... 17171, 29557
103 ..... 34010, 41612, 52042
104 29716
109 33871
129 34010
135 17172
136 53305
137 53305
139 53305
161 ..... 17171, 29557
165 34010
166 ..... 43580, 50301
170 52719
171 52719
172 53312
174 52719
182 27959
184 ..... 27959, 34010
189 ..... 33860, 40759
201 ..... 54224, 54228
207 46587
211 47088
314 47088
328 54466
330 17553
331 49826
334 46589
336 45216
338 45217
350 38541
352 ..... 28194, 53460
357 26886
358 17554
514 47088
606 34962
610 34962
700 ..... 28194, 47611, 53460
701 47611
740 ..... 28194, 53460
812 ..... 52142, 52144, 53245
813 52142
814 52729
870 ..... 36290, 46919
876 ..... 25902, 35416
882 45865
1020 26407
1040 27495
1301 ..... 31180, 52246
1304 53680
1306 49453
1308 ..... 25788, 25790, 44311
1311 52246
1313 ..... 42894, 49455

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised 40586
41.2 (l) amended; interim 40586
(i) amended; interim 43439
42.2 Regulation at 56 FR 49680 confirmed 48447
42.11 Regulation at 56 FR 49680 confirmed 48447
42.12 Regulation at 56 FR 49681 confirmed 48447
42.21—42.23 (Subpart C) Regulation at 56 FR 49676 confirmed 48447

TITLE 22 Chapter I—Con. Page

42.31—42.33 (Subpart D) Regulation at 56 FR 49676 confirmed....48447
42.32 Regulations at 56 FR 51172 and 55077 confirmed....48446
42.41 Regulation at 56 FR 49682 confirmed....48447
42.42 Regulation at 56 FR 49682 confirmed....48447
42.43 Regulation at 56 FR 49682 confirmed....48447
42.51—42.55 (Subpart F) Regulation at 56 FR 51174 confirmed....48446
42.62 Regulation at 56 FR 49682 confirmed....48447
42.63 Regulation at 56 FR 49682 confirmed....48447
42.65 Regulation at 56 FR 49682 confirmed....48447
42.67 Regulation at 56 FR 49682 confirmed....48447
42.73 Regulation at 56 FR 49682 confirmed....48447
42.74 Regulation at 56 FR 49682 confirmed....48447
42.83 Regulation at 56 FR 49682 confirmed....48447
120 Revised....39283
121 Revised....39287
121.1 Amended....47638
122 Revised....39298
123 Revised....39299
124 Revised....39305
125 Revised....39310
126 Revised....39312
126.1 (a) revised....35865
127 Revised....39316
128 Revised....39320
130 Revised....39323

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

201.11 (b)(4) revised....48797

Chapter III—Peace Corps (Parts 300—399)

308.14 Introductory text revised; (d) added....39657

Chapter V—United States Information Agency (Parts 500—599)

Page

514.20 Heading and (j)(1) corrected....48448
514.22 (d)(1)(iv) corrected....48448
514.27 (b)(2) and (e)(1) corrected....48448
514.44 (a)(1)(iii) correctly designated....18305
(a)(2) and (f)(4)(iv) corrected....48448

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

705 Revised; interim....33320

Chapter XVII—United States Institute of Peace (Part 1701)

Chapter XVII Established....57697
1701.101 Revised....57697
1701.170 (c) revised....57697

Title 22—*Proposed Rules:*

41....40024, 49456
171....57974
308....31181
502....42896

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

140 Authority citation revised....39143
140.201—140.207 (Subpart B) Revised....39143
450 Revised....58064
625 Authority citation revised....38298
625.4 (a)(2) revised....25939
(a)(1) revised....25943
625.5 (a)(13) added....38298
625 Appendix A amended....25943
635 Authority citation revised....38975
635.410 (b)(1) through (4) and (c)(1)(ii) revised....38975
635.417 (a) introductory text revised....38975
650.305 Regulation at 57 FR 53281 confirmed....52666

Page

659 Removed....54819

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1200 (Subchapter A) Added....41033
1204.4 Supplements A through I removed....41037
1205.4 (c) and (e) removed; (d) redesignated as (c); introductory text, (a) and new (c) revised....41037
1215 Added....44759
1260 Added....54820

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1309.4 (a)(2) removed; (a)(3) redesignated as (a)(2); (a) introductory text and (a)(1) revised....21655
1309.5 (a)(3)(ii) redesignated as (a)(3)(iv); (a)(3)(i) revised; new (a)(3)(ii) and (iii) added....21655
1313 Regulation at 57 FR 29011 confirmed....21655
1313.1 Amended....21655
1313.3 (d) revised; (i) redesignated as 1313.6(e)(3); (j) through (m) redesignated as (i) through (l)....21655
1313.4 (a)(2) and (b) removed; (a)(3) redesignated as (a)(2) and (c) redesignated as (b); (a) introductory text, (a)(1) and new (b) revised....21655
1313.5 (d)(2) and (4) removed; (a)(3)(ii) redesignated as (a)(3)(iv), (c)(2)(i) through (iv) redesignated (c)(2)(i)(A) through (D), (c)(2) introductory text redesignated as (c)(2)(i) introductory text, new (c)(2)(i)(D) redesignated in part as (c)(2)(ii) and (d)(3) and (5) redesignated as (d)(2) and (3); introductory text, (a)(1)(vi), (3)(i) and new (d)(2) revised; (a) heading, (1) introductory text, (2)(i), (ii), (iii), new (3)(iv), (b)(1) and (c)(3) amended; new (a)(3)(ii), (iii) and (f) added....21656
1313.6 (b)(2) redesignated as (b)(2)(i); (a)(1), (b)(1), new (2)(i), (c)(1), (2)(ii), (d)(1), (2)(ii), (iii), (3)(i), (ii) and (f)(1) amended; (b)(2)(ii) and (c)(2)(iii) added; (e)(3) redesignated from 1313.3(i)....21657
1313.7 Revised....21657
1313.8 Revised....21657

Page

Title 23—*Proposed Rules:*

657....19367
658....19367
660....51794, 55033
710....38987
712....38987
713....38987
720....38987
1260....54832

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

25.9 (x) revised....47379
27 Authority citation revised....34884
27.1 Amended....34884
27.3 Amended....34884
27.5 (a) amended....34884
27.20 (a), (b)(1), (c)(1) and (3) revised; (c)(5) added....34884
50 Authority citation revised....41336
50.1 (c) revised....41336
50.17 Introductory text and (a) revised....41336
50.19 Corrected....17164
Introductory text revised; (i) added....41337
50.20 (a) revised....41337
50.21 (b) removed; (a) introductory text, (1) and (2) redesignated as introductory text, (a) and (b)....41337
50.22 Removed....41337

150-258 O - 93 - 4 (PO 1)

TITLE 24 Subtitle A—Con. Page

50.36 Removed....41337
50.43 Removed....41337
58.1 Revised; interim....34139
58.2 Revised; interim....34139
58.4 Revised; interim....34140
58.5 Heading, introductory text, (c) and (i) revised; (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); interim....34140
58.6 Added; interim....34140
58.10 Amended; interim....34141
58.13 Revised; interim....34141
58.14 Amended; interim....34141
58.15 (a) revised; interim....34141
58.18 (Subpart C) Heading and text revised; interim....34141
58.22 Amended; interim....34141
58.23 Revised; interim....34141
58.31 Revised; interim....34141
58.32 (a) amended; interim....34141
58.35 (a)(1) introductory text and (b) amended; (a)(2), (4) introductory text and (c) revised; (a)(7), (8) and (d) added; interim....34141
58.52 Amended; interim....34142
58.66 Amended; interim....34142
58.71 Revised; interim....34142
58.77 (a) revised; (b) amended; interim....34142
86 Authority citation revised....47058
86.15 Amended....47058
86.20 (f) removed; (g) and (l) redesignated as (f) and (g)....47058
86.25 (f) removed; (g) and (h) redesignated as (f) and (g)....47058
86 Appendix A amended....47058, 47059
Appendix B revised....47059
91.19 Partial waiver....49156
91.44 Partial waiver....49156
92.2 Amended; interim....34142
92.50 (f) added; interim....34143
92.51 Removed; interim....34143
92.52 Revised; interim....34143
92.61 (b)(2), (4), (5), (c)(2) and (5) revised; interim....34143
92.62 (a) and (b) revised; interim....34143
92.63 Revised; interim....34144
92.101 (c) revised; interim....34144
92.102 (b)(2) revised; (c) added; interim....34144
92.103 (b) introductory text revised; interim....34144

Page

92.107 (b) revised; interim....34144
92.150 (c)(2) and (3) removed; (c)(4) through (9) redesignated as (c)(2) through (7); (b)(5), (6) and new (c)(2) revised; interim....34144
92.152 Revised; interim....34144
92.203 Revised; interim....34145
92.205 (a)(1) and (2) revised; interim....34145
92.206 (e) and (f) revised; (g) added; interim....34145
92.208 Removed; interim....34145
92.209 Removed; interim....34145
92.210 Revised; interim....34145
92.211 (b) revised; interim....34145
92.218 (a) revised; (c) redesignated as (d); new (c) added; interim....34145
92.220 (a)(3) revised; (a)(6) added; interim....34146
92.221 Revised; interim....34146
92.222 Revised; interim....34146
92.252 (a)(5) amended; interim....34146
92.253 (c) revised; interim....34147
92.254 (a)(1)(i), (ii), (4), (b) introductory text and (1) revised; interim....34147
92.300 Revised; interim....34147
92.302 (a)(2), (b)(1)(iv), (d), (e) and (f) revised; (a)(3), (b)(1)(v), (c)(6) and (7) added; interim....34148
92.350 (a)(4) revised; interim....34148
92.400 (a)(4) and (5) revised; (a)(6) added; interim....34148
92.500 (a) amended; (d)(2) revised; interim....34149
92.504 (c) introductory text revised; (d) redesignated as (e); new (d) added; interim....34149
92.508 (a)(1)(ii) revised; (a)(2)(iii) and (iv) removed; (a)(2)(v), (vi) and (vii) redesignated as (a)(2)(iii), (iv) and (v); new (a)(4)(iv) and (v) added; interim....34149
92.600 Revised; interim....34149
92.610 Revised; interim....34149
92.611 (a)(1) revised; interim....34150
92.612 (a)(4) and (e) revised; interim....34150
92.613 (a) revised; (i) added; interim....34150

Page

92.614 (a)(1)(ii), (2) introductory text and (c) revised; (a)(5) amended; (e) added; interim....34150
92.615 (a)(1)(i), (ii), (4), (b) introductory text and (1) revised; (c) added; interim....34151
92.616 Added; interim....34151
92.620 Revised; interim....34152
92.621 Revised; interim....34152
92.642 (b)(1) revised; interim....34152
0—99 (Subtitle A) Appendix C removed....36526

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200 Authority citation revised....41337
200.300 Revised....41000
200.310 Introductory text revised....41000
200.415 Revised....41000
200.507 Revised....41001
200.610 Amended....41337
200.615 (a) revised....41337
200.620 (a) and (b) amended....41337
200.630 Revised....41337
200.635 Amended....41337
200.640 Revised....41337
200.926 (a)(1) revised....41337
200.926d (c)(1)(ii) revised; (c)(4)(iv) added....41337
200.946 Added; interim....34503
201 Authority citation revised....41001
High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
201.10 (b)(1), (2), (c), (d)(1) and (2) amended; (e) revised....41001
201.60—201.63 (Subpart G) Added....47379
203 Authority citation revised....35370, 41338
High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
203.12 Revised....41338
(a)(2) corrected....45553
203.15 Revised....41001
203.18 (a), (e), (f)(2), (4) and (g) revised; (f)(5), (6) and (h) added....41001

Page

203.18b (a) and (b) revised....41002
203.32 (b) and (c) introductory text revised....42647
203.41 Added....42648
203.43c (a) and (g) revised....41002
203.44 (g) revised....41003
203.45 (c) revised....41003
203.47 (e) revised....41003
203.50 (f)(1) revised....41003
203.259a (b) and (c) revised....41003
203.270 (c) amended....41003
203.284 Introductory text added; (a) and (b) revised....41003
203.285 Added....41004
203.289 Introductory text added; (a) and (b) revised....32057
203.378 (c)(3) revised....32057
203.390 (b) revised....35370
203.510 Added....42649
203.512 Added....42649
203.670 (b)(3) revised; interim....54246
203.671 (d) added; interim....54246
203.675 (b)(4) amended; interim....54246
203.676 Amended; interim....54246
204.1 Revised....41004
204.3 Revised....41339
204.260 Revised....41004
207 Authority citation revised....34215
207.4 (f)(3) revised; (g) added....43074
207.32 (a)(3) removed; interim; effective to 10-26-94....57560
207.36 (a) revised; interim....34215
213 Authority citation revised....34215
213.7 (k)(3) revised; (n) added....43075
213.44 (a) revised; interim....34215
213.45 (d)(1)(iii) removed; interim; effective to 10-26-94....57560
213.520 (b) revised....42650
213.527 Added....42650
215 Technical correction....21658
220 Authority citation revised....34216
220.30 (d)(2) revised; (d)(5) and (6) added....41005
220.507 (f) added....43075
220.580 Introductory text and (a) revised; interim....34216
221 Authority citation revised....34216
221.20 (c)(2) revised; (c)(5) and (6) added....41005
221.514 (e)(3) revised; (f) added....43076
221.560 (a)(1)(iii) removed; interim; effective to 10-26-94....57560
221.563 (a) revised; interim....34216

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 24 Chapter II—Con. Page

222.3 Revised....41005
222.4 (c) revised....41005
226.4 Revised....41005
226.5 (c) revised....41005
231.7 Revised....43076
232 Authority citation revised....34216
232.31a Revised....43077
232.94 Introductory text and (a) revised; interim....34216
232.600 Introductory text and (a) revised....34216
234 High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
234.14 Revised....41005
234.27 Revised....41006
234.48 Revised....41007
234.55 (b) and (c) introductory text revised....42650
234.66 Added....42650
234.531 Revised....43077
236 Technical correction....21658
236.10 (e) revised; interim....37813
236.40 (b)(1)(iii) removed; interim; effective to 10-26-94....57560
236.60 Revised; interim....37813
236.901 Revised; interim....37813
240.5 (b) revised....41007
241 Authority citation revised....34217
241.85 (a)(1) revised; interim....34217
241.600 (a)(1) revised; interim....34217
241.1060 Revised; interim....37814
241.1067 Revised; interim....37814
241.1068 Added; interim....37814
241.1085 (a)(1) revised; interim....34217
242 Authority citation revised....34217
242.91 Introductory text and (a) revised; interim....34217
242.95 Revised....43078
244 Authority citation revised....34217
244.38 Revised....43079
244.182 Introductory text and (a) revised; interim....34217
248.5 (d) redesignated as (f); new (d) and (e) added; interim....37814
248.101 Amended; interim....37814
248.135 (c) and (f) amended; interim....37814
248.141 (b) redesignated as (e); new (b), (c) and (d) added; interim....37815
248.145 (a) introductory text and (9)(i) revised; interim....37815

Page

248.153 (a)(1) revised; (d) and (e) redesignated as (e) and (f); new (d) added; interim....37815
248.157 (m)(4), (5), (6) and (n) revised; interim....37816
248.173 (e)(2)(i) through (vi) redesignated as (e)(2)(ii) through (vii); new (e)(2)(i) and (g)(5) added; (s) revised; interim....37816
248.175 (b) revised; interim....37816
248.201 Amended; interim....37816
248.211 (b) revised; interim....37816
248.213 (a) amended; interim....37816
248.217 Revised; interim....37817
248.401—248.420 (Subpart E) Added; interim....37817
280 Authority citation revised....38532
280.305 Revised....38532
290 Revised....43712
291 Authority citation revised....54247
291.1 (a) revised; interim....54247
291.5 Amended; interim....54247
291.100 (a)(5), (c) and (d) revised; interim....54247
291.105 (a) and (b)(1)(i) revised; (c) amended; interim....54247
291.110 (a) and (b)(1) revised; (g) added; interim....54248
291.130 (b)(2) revised; (b)(3) added; interim....54248
291.135 (c)(1)(v) redesignated as (c)(1)(vi); new (c)(1)(v) and (d) added; (c)(2) revised; interim....54248

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

511 Authority citation revised....52567
511.76 (h)(1) and (2) revised....52567
511.77 (d) revised....52567
572 Added....36526

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

Page

791 Authority citation revised....41428
791.403 (b)(1)(ii) revised; interim....41428

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

812 Authority citation revised....39659
812.1 (a)(2) revised....39659
812.3 Revised....39659
812.4 Revised....39659
813 Technical correction....21658
886 Authority citation revised....43720
886.133 Added....43721
886.301 Revised....43722
886.302 Amended....43722
886.304 (b) amended....43722
886.307 Amended....43722
886.309 (g) amended....43722
886.310 Revised....43722
886.311 Revised....43722
886.318 (d) added (OMB number)....43722
886.321 (c)(1) amended....43722
886.329 (d) amended....43722
886.330 (a) revised; (c) amended....43722
886.331 (a)(1) revised....43722
886.332 (c)(2) amended....43722
886.333 (d)(2) revised....43723
886.338 Added....43723
888 Fair market rent schedules....51415
Corrected....57965
889.105 Amended; interim....26838
889.205 Revised; interim....26838
889.235 (a) and (d) revised; interim....26838
889.245 (a)(3)(ii) amended; interim....26839

Page

889.250 Existing text designated as (a); heading and (b) added; interim....26839
889.265 (d) revised; interim....26839
889.270 Revised; interim....26839
889.300 Revised; interim....26841
889.305 (a) introductory text, (1) and (d) amended; interim....26842
889.310 (a) introductory text, (1), (2), (3), (b)(1), (ii), (2), (3)(i) and (ii) amended; interim....26842
889.800—889.805 (Subpart H) Added; interim....26842
890.100 (b) revised; interim....26818
890.105 Amended; interim....26818
890.205 Revised; interim....26818
890.235 (a) and (d) revised; interim....26818
890.245 (d)(i) and (ii) redesignated as (d)(1) and (2); new (d)(2) amended; interim....26819
890.260 (d) revised; interim....26819
890.265 Revised; interim....26819
890.300 Revised; interim....26822
890.305 Nomenclature change; interim....26823
890.310 Nomenclature change; interim....26823

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

905 Technical correction....21658
Authority citation revised....30883
Regulation at 58 FR 30883 confirmed....30908
905.102 Amended....17164
905.190 Added....51956
905.301 (d) and (e)(4) revised....39659
905.340 Revised....19350
905.3001—905.3030 (Subpart R) Added; interim....30883
912 Authority citation revised....39659
912.1 (a)(2) revised....39660
912.3 Revised....39660
912.4 Revised....39660
913 Technical correction....21658
960 Authority citation revised....39660
960.409 (e) revised....39660
962 Added; interim....30889

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 24 Chapter IX—Con. Page

Regulation at 58 FR 30889 confirmed....30908
965.201—965.205 (Subpart B) Added....51957
984 Added; interim....30896
Regulation at 58 FR 30896 confirmed....30908

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3699)

3280 Notice of availability....54484
Authority citation revised; section authority citations removed....55002
3280.1 Revised....55002
3280.2 Amended....55002
3280.3 Revised....55002
3280.4 (a) and (b) revised....55002
3280.5 Revised....55003
3280.8 Redesignated as 3280.11; new 3280.8 added....55003
3280.9 Added....55003
3280.10 Added....55003
3280.11 Redesignated from 3280.8; (c) revised....55003
3280.103 Revised....55003
3280.109 Removed; new 3280.109 redesignated from 3280.110....55004
3280.110 Redesignated as 3280.109; new 3280.110 redesignated from 3280.111....55004
3280.111 Redesignated as 3280.110; new 3280.111 redesignated from 3280.112....55004
3280.112 Redesignated as 3280.111; new 3280.112 redesignated from 3280.113....55004
3280.113 Redesignated as 3280.112; new 3280.113 redesignated from 3280.114....55004
3280.114 Redesignated as 3280.113....55004
3280.202 Revised....55004
3280.203 (a) and (b)(4) revised....55005
3280.208 (c) and (d) revised....55005
3280.302 Revised....55005
3280.303 (g) revised....55005
3280.304 (b)(1) revised....55006
3280.305 (g)(3) and (4) redesignated as (g)(4) and (5); (b)(4) and new (g)(3) added; (d), (f)(2), (g)(2) and (i)(1)(i) revised....55006
3280.306 (a) introductory text revised....55007
3280.309 (b) revised....55007
3280.401 (b) revised....55007
3280.402 (c)(1)(i) Figure A-1 revised....55007
3280.403 (d)(2) and (e)(1) revised....55009
3280.405 (c)(1) and (2) revised....55009
3280.406 (b) introductory text revised....55009
3280.504 Heading and (a) revised; (c) added....55009
3280.506 Revised....55009
3280.508 Revised....55011
3280.510 (b) revised; (c) added....55011
3280.511 (a)(1), (b) and (c) revised....55012
3280.602 Amended....55012
3280.603 (a)(5) revised....55012
3280.604 Revised....55013
3280.606 (b)(1)(iii) revised....55014
3280.607 (b)(2), (i), (ii), (iv), (v), (4)(i) and (c)(1) revised; (c)(5) and (6) added....55014
3280.609 (b)(5), (6), (d)(1)(i) and (e)(3) revised; (b)(7) and (8) added....55014
3280.610 (c)(5), (d)(1) and (e)(1)(iii) revised....55015
3280.611 (d)(5) revised....55015
3280.612 (b)(3) revised....55015
3280.702 Amended....55015
3280.703 Revised....55015
3280.704 (b)(2) introductory text and (b)(5)(i) revised....55016
3280.705 (b)(1), (3), (c), (d), (k) introductory text, (l)(1), (2) introductory text, (ii) and (3) revised; (h) table and (k) amended....55016
3280.706 (b)(1), (3) and (4) revised....55017
3280.707 (d)(2) introductory text revised....55017
3280.708 (b)(3) and (c)(1) revised....55018
3280.709 (e)(6) revised....55018
3280.710 (b)(1) revised; (g) removed....55018
3280.713 Revised....55018
3280.714 (a) revised....55018

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

Page

3280.715 (b)(4) and (e)(1) revised....55019
3280.801 (a), (b), (c) and (e) revised....55019
3280.803 (k)(1), (3) introductory text, (ii) and (iii) revised; (l) removed....55019
3280.804 (a), (g)(1)(ii), (i) and (j) revised; (k) and (l) added....55019
3280.805 (a)(1), (2) and (3)(ii) through (v) revised....55020
3280.806 (a)(2), (b), (d)(2), (7) and (8) revised....55020
3280.807 (c) and (e) revised; (g) removed....55020
3280.808 (a) and (m) revised; (q), (r) and (s) added....55020
3280.809 (b)(1) and (2) revised....55020
3280.810 Revised....55020
3280.811 (a) introductory text, (1), (5) introductory text, (6), (b) introductory text and (1) through (5)(iv) revised....55021
3280.813 (a) revised....55021
3280.815 (b) revised....55021
3500 Appendixes C and D correctly added....17165

Title 24—*Proposed Rules:*

0—99 (Subtitle A)....52560
16....37598
92....26048, 52560
125....17172
135....52534
200....26212, 41445, 48556
202....37885
204....48556
206....48556
207....35724
213....35724
215....53461
219....34506, 52560
220....35724
221....35724, 53461
232....35724
234....35724
236....53461
241....35724
244....35724
267....48556
290....21960
291....42707
570....43764, 52560
572....52560
574....52560
576....17764, 52560
583....52560
585....49830
594....32210
700....52560
880....35416, 44968, 53461
881....35416, 44968, 53461
882....44968, 53461
883....35416, 44968, 53461
884....35416, 44968, 53461
885....44968, 53461
886....21960, 35416, 44968, 53461
888....27062, 36175
889....44968, 52560, 53461
890....52560, 53461
904....44968
905....32006, 44968, 51261, 52560, 53461
906....44968
909....27964
960....32006, 44968, 53461
961....52560
963....52560
968....29728
990....51261
3280....19536, 32316
3282....19536, 32316
3500....28478, 36176

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11 Revised....54411
11.301 Redesignated as 12.100....54411
11.302 Redesignated as 12.101....54411
11.303 Redesignated as 12.102....54411
11.304 Redesignated as 12.103....54411
11.305 Redesignated as 12.104....54411
11.306 Redesignated as 12.105....54411
12 Amended; heading and authority citation added....54431
12.100 Redesignated from 11.301....54411
12.101 Redesignated from 11.302....54411
12.102 Redesignated from 11.303....54411
12.103 Redesignated from 11.304....54411
12.104 Redesignated from 11.305....54411

TITLE 25 Chapter I—Con. Page

12.105 Redesignated from 11.306.....54411

Chapter III—National Indian Gaming Commission (Parts 500—599)

517 Added.....44448

Title 25—*Proposed Rules:*

294.....53026
518.....18353, 27967

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended...18149, 19060, 33515, 33764, 34885, 42206, 54039
Technical correction.....29028
Heading revised.....33764
Public hearing.....58102
1.....48801
1.6 Revised.....54501
1.46-3 (e)(3)(iii) removed.....25557
1.47-1 (e)(4) removed.....25557
1.48-1 (e) and (o) removed.....25557
1.48-7 Removed.....25557
1.48-8 Removed.....25557
1.56(g)-1 (a)(5)(ii)(B) amended.....42207
1.61-14 (b)(7) added.....53127
1.103-8 (a)(5) revised.....33515
(a)(5)(i) corrected.....44452
1.103-13 Removed.....33515
1.103-13T Removed.....33515
1.103-14 Removed.....33515
1.103-15 Removed.....33515
1.103-15AT Technical correction.....44452
1.103-18 Removed.....33515
1.112-1 Revised.....47640
1.147(b)-1 Added.....33515
1.148-0 Revised.....33515
1.148-1 Revised.....33517
(b) and (c)(4)(i)(B)(*2*).....44452
1.148-2 Revised.....33520
(e)(4)(i) corrected; (e)(4)(iv) added.....44452
1.148-3 Revised.....33522
(h)(4) corrected.....44452
1.148-4 Revised.....33524
(d), (g), (h)(4)(ii)(B) and (C) corrected.....44452

Page

1.148-5 Revised.....33529
(c)(3)(i)(A), (E) introductory text and (*2*) corrected.....44452
(c)(2)(vi) and (viii) corrected.....44453
1.148-6 Revised.....33532
(b)(2)(i)(B)(*1*), (d)(3)(ii)(A)(*1*) and (*4*) corrected.....44452
1.148-7 Revised.....33535
(f)(2) and (k)(1)(i) corrected.....44452
1.148-8 Revised.....33540
1.148-9 Revised.....33541
(c)(2)(i), (ii)(A) and (h)(1)(iv) corrected.....44453
1.148-10 Revised.....33544
(c)(2)(vi) and (viii) corrected.....44453
1.148-11 Revised.....33547
(c)(2) and (e) corrected.....44453
1.148-12T Removed.....33548
1.148-13T Removed.....33548
1.149(b)-1 Added.....33548
1.149(d)-1 Revised.....33548
(d)(1) corrected.....44453
1.149(b)(3)-1T Removed.....33548
1.149(g)-1 Added.....33549
1.150-0 Correctly removed.....44453
1.150-1 Revised.....33549
(b) and (c)(1)(i) corrected.....44453
1.150-2 Added.....33551
(g)(1) corrected.....44453
1.162-1 (b)(8) added.....53128
1.166-2 (d)(3)(iii)(D), (E) and (iv)(C)(*2*) revised.....53658
1.166-2T Removed.....53658
1.167(j)-1 Removed.....25557
1.167(j)-2 Removed.....25557
1.167(j)-3 Removed.....25557
1.167(j)-4 Removed.....25557
1.167(j)-5 Removed.....25557
1.167(j)-6 Removed.....25557
1.167(j)-7 Removed.....25557
1.167(k)-1 Removed.....25557
1.167(k)-2 Removed.....25557
1.167(k)-3 Removed.....25557
1.167(k)-4 Removed.....25557
1.185-1 Removed.....25557
1.185-2 Removed.....25557
1.185-3 Removed.....25557
1.191-1 Removed.....25557
1.191-2 Removed.....25557
1.191-3 Removed.....25557
1.213-2 Removed.....25557
1.250-1 Removed.....25557
1.263(a)-1 (b) amended.....42207
1.263A-0 Added.....42207
1.263A-1 Added.....42209

Page

1.263A-1T (a)(4) amended.....42218
1.263A-2 Added.....42219
1.263A-3 Added.....42224
(a)(1), (2)(iii)(B), (b)(1) and (2) corrected.....47784
1.263A-4 Heading added.....42233
1.263A-5 Heading added.....42233
1.263A-6 Heading added.....42233
1.280F-1T (b) table, (c)(1) and (3) amended; authority citation removed.....19060
1.280F-5T (a), (f)(1) and (g) introductory text amended.....19060
1.280F-7 Redesignated from 1.280F-7T; heading amended.....19060
1.280F-7T Redesignated as 1.280F-7.....19060
1.301-1 (n) removed.....25557
1.305-1 Removed.....25557
Corrected.....26524
1.311-1 Removed.....25557
1.311-2 Removed.....25557
1.333-1 Removed.....25557
1.333-2 Removed.....25557
1.333-3 Removed.....25557
1.333-4 Removed.....25557
1.333-5 Removed.....25557
1.333-6 Removed.....25557
1.334-1 (c) removed.....25557
1.334-2 Removed.....25557
1.336-1 Removed.....25557
1.337-1 Removed.....25557
1.337-2 Removed.....25557
1.337-3 Removed.....25557
1.337-4 Removed.....25557
1.337-5 Removed.....25557
1.337-6 Removed.....25557
1.358-5 Removed.....25557
1.382-0 Removed.....25557
1.382-1 Amended.....51573
1.382-1A Removed.....25557
1.382-2A Removed.....25557
1.382-2T (j)(2)(iii)(B)(*1*), (D)(*1*) and (F)(*1*) amended.....51573
1.382-3 (j) added.....51573
1.382-3A Removed.....25557
1.382-4A Removed.....25557
1.401-4 Heading and (d) revised.....46778
1.401(a)-4 Amended; heading revised.....46778
1.401(k)-1 Regulation at 58 FR 14151 effective date corrected to 8-15-91.....18448
1.401(l)-0 Amended.....46830

Page

1.401(l)-1 (a)(1) and (3) amended; (c)(22) through (33) redesignated as (c)(23) through (25) and (27) through (35); (b), (c)(2), (6), (9), (17)(i), (19), (21) and new (35) revised; new (c)(22) and (26) added.....46831
1.401(l)-2 (a)(1) amended.....46832
1.401(l)-3 (b)(4)(iii)(E), (5), (c)(2)(vi), (d)(8)(iii) introductory text, (g) and (h) revised; (c)(2)(ix) and (d)(8)(iii)(D) added; (e)(4) removed; (e)(5) and (6) redesignated as (e)(4) and (5); (a)(1), (b)(4)(iii)(C), (c)(2)(i), (ii), (iii), (3) *Example 2*, (e)(1), new (e)(4)(i), (ii) and new (e)(5) *Example 6* amended.....46832
1.401(l)-5 (b)(5), (c)(1)(i), (ii), (iii) and (3) revised; (c)(4) redesignated as (c)(5); (b)(8)(v), (c)(1)(v), (vi), new (4) and (5) *Example 5* added; (b)(8)(iii)(A), (c)(2) and new (5) amended.....46833
1.401(l)-6 Revised.....46835
1.401(a)(26)-1 (b)(4) revised.....46838
1.401(a)(26)-9 (b)(1) revised.....46838
1.401(a)(4)-0 Revised.....46778
1.401(a)(4)-1 Revised.....46780
1.401(a)(4)-2 Revised.....46781
1.401(a)(4)-3 Revised.....46785
1.401(a)(4)-4 Revised.....46796
1.401(a)(4)-5 Revised.....46800
1.401(a)(4)-6 Revised.....46802
1.401(a)(4)-7 Revised.....46804
1.401(a)(4)-8 Revised; (c)(2)(iv) added.....46807
1.401(a)(4)-9 Revised.....46810
1.401(a)(4)-10 Revised.....46812
1.401(a)(4)-11 Revised.....46813
1.401(a)(4)-12 Revised.....46820
1.401(a)(4)-13 Heading and (a) through (e) revised.....46823
1.401(a)(5)-1 (e)(7) removed; (e)(8) redesignated as (e)(9); (h) added.....46830
1.410(b)-0 Amended.....46838
1.410(b)-1 Heading revised.....46839
1.410(b)-2 Heading, (c)(2) and (f) revised; (d) and (e) amended.....46839

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 26 Chapter I—Con. Page

1.410(b)-3 (a)(1), (2)(ii), (iii) and (iv) revised; (a)(2)(v) removed....46839
1.410(b)-5 (d) and (e) revised....46840
1.410(b)-6 (a)(1) and (2) amended; (b)(1), (2), (d)(2) and (g) revised; (i) added....46842
1.410(b)-7 (d)(5) and (e)(1) amended....46843
1.410(b)-9 Amended....46843
1.410(b)-10 Revised....46844
1.411(d)-4 Amended....46828
1.412(c)(1)-3 Added....54491
1.414(s)-1 (b)(2) existing text designated as (b)(2)(i); (f) through (i) redesignated as (g) through (j); (a)(3), (b)(3), (c)(4)(i), (d)(3)(v) and new (g)(1)(i) amended; (b)(2)(i) heading, (ii), (d)(3)(iii)(C), (vi), new (f) and new (g)(1)(iii) added; (c)(5), (d)(2)(i), (ii), (3)(ii), (iii)(A), (e), new (h) and new (j) revised....47063
1.424-1 Removed....25557
1.424-2 Removed....25557
1.446-1 (c)(1)(ii)(A) amended....42233
1.446-3 Added....53128
1.451-1 (f) added....53135
1.453C-0T Removed....25557
1.453C-1T Removed....25557
1.453C-2T Removed....25557
1.453C-3T Removed....25557
1.453C-4T Removed....25557
1.453C-5T Removed....25557
1.453C-6T Removed....25557
1.453C-7T Removed....25557
1.453C-8T Removed....25557
1.453C-9T Removed....25557
1.453C-10T Removed....25557
1.461-1 (a)(2)(i) amended....42233
1.461-4 (f) added....53135
1.469-1T (e)(5) amended....29536, 45059
1.469-2 (d)(2)(xii) amended....29536
1.471-3 (b) and (c) amended....42233
1.471-4 (a) revised; (b) heading, (c) heading, and (d) added....42233
1.471-5 Amended....42234
1.471-8 (a) amended....42234
1.471-11 (a) amended....42234
1.482-1 Correctly redesignated as 1.482-1A....17775
1.482-1A Correctly redesignated from 1.482-1....17775

Page

1.482-1T (c)(3)(iii) and (d)(3)(i)(B) *Example* (2) corrected....17776
(c)(2)(iv), (d)(1)(ii)(A), (2)(i)(A) and (e)(3)(iii)(B) corrected....28446
1.482-2 (d) and (e) correctly redesignated as 1.482-2A (d) and (e); remaining text redesignated as 1.482-2T....17775
1.482-2A (d) and (e) correctly designated from 1.482-2 (d) and (e)....17775
1.482-2T Correctly redesignated from 1.482-2....17775
(a), (b) and (c) corrected....17776
1.482-3T (c)(4)(ii) *Example* 10 corrected....17776
(c)(4) *Examples* 6, 8 and 11 corrected....28446
1.482-4T (e)(3)(i) and (iii) corrected....17776
1.482-5T (d)(1) corrected....28446
1.482-7T Correctly added....17776
Revised....28921
1.534-4 Removed....25557
1.593-9 Removed....25557
1.597-8 Redesignated from 1.597-8T; heading amended....18149
1.597-8T Redesignated as 1.597-8....18149
1.613-3 (a) designation and (b) through (i) removed....25557
1.807 Authority citation amended....25557
1.809-10T Added....47061
1.852-12 Added....43798
(b)(1) corrected....49352
1.856-9 Removed....25557
1.857-11 Added....43798
1.884-1 (d)(2)(vii) corrected....17166
1.897-4 Removed....25557
1.911-7 (a)(2)(i)(B) and (C) amended; (a)(2)(i)(D) added....34885
1.988-2 (h) added....53135
1.1092(d)-1 Added....53135
1.1101-1 Undesignated center heading and text removed....25557
1.1101-2 Removed....25557
1.1101-3 Removed....25557
1.1101-4 Removed....25557
1.1102-1 Removed....25557
1.1102-2 Removed....25557
1.1102-3 Removed....25557

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

Page

1.1221-2T Added....54039
1.1233-2T Added....54041
1.1234-4T Added....54041
1.1256(h)-1T Removed....25557
1.1256(h)-2T Removed....25557
1.1256(h)-3T Removed....25557
1.1502-7 Removed....25557
1.1502-13 (c)(2) amended....42234
1.1502-25 Removed....25557
1.1561-1A Removed....25557
1.1561-2A Removed....25557
1.1561-3A Removed....25557
1.6045-3T Removed....25557
1.6050I-1 (b) and (e)(1) revised....33764
1.6050I-1T Removed....33764
5 Authority citation revised....25557
5.852-1 Removed....25557
5.857-1 Removed....25557
5c Authority citation revised....25557
5c.305-1 Correctly removed....26524
5c.1256-1 Removed....25558
Correctly removed....26524
5c.1256-2 Removed....25558
Correctly removed....26524
5c.1256-3 Removed....25558
Correctly removed....26524
6a Authority citation revised....33553
6a.103A-2 (i)(3)(v) added....33553
12 Authority citation revised....25558
12.5 Removed....25558
54 Authority citation revised....25558
54.6071-1T Removed....25558
301 Authority citation amended....17519
Technical correction....31344
301.7605-1 (b) and (c) redesignated as (h) and (i); (a), (b) through (g) and (j) added....17519
301.7605-1T Removed....17520
301.7701-2 (a)(4) and (b)(1) amended....28502
301.7701(b)-2 (d) introductory text redesignated as (d)(1) introductory text and heading added; (d)(1)(i) through (x) correctly designated; (d)(1) concluding text redesignated as (d)(2) and amended....17516
301.9100-1 (b) revised....34886
602 Technical correction....28446
602.101 (c) table amended (OMB numbers)....25558, 33553, 33764, 42234, 51576, 54041

Title 26—*Proposed Rules:*

Page

1....47013, 47089, 47090, 53168, 53682, 54075, 54077, 58145
31....28366, 28371, 28374, 35419, 44628
48....45081, 48801
52....21963, 25791
301....18185, 21550, 29560
601....48802
602....27503, 29028, 32473, 54077

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4.40 (b) heading added....40354
4.50 (a) amended....40354
5.23 (a)(3)(ii) compliance date delayed to 8-28-95....45252
5.32 (c) amended....40354
7.10 Amended....40354
7.22 (b)(3) revised; interim....21231
(b)(7) added....44132
7.26 Suspended; heading revised; interim....21231
7.28 (b) revised; interim....21231
7.29 (f) and (g) revised; interim....21232
7.54 (c) revised; interim....21232
7.71 (Subpart H) Added; interim....21232
9.74 (c) introductory text amended....40354
9.101 (c) introductory text amended....40354
9.133 Added....35876
9.134 Added....35884
9.136 (c) introductory text amended....40354
9.143 Added....28350
9.145 Added....28352
19 Authority citation revised....40354
19.203 (b)(1) amended....40354
19.204 (b)(1) amended....40354
22.37 (a) amended; (d) and (e) added....19061
24.65 (b) introductory text amended....19063
24.75 (f) amended....19064, 40354
24.136 (d) amended....19064
24.137 (a) amended....40354

CHANGES APRIL 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 27 Chapter I—Con. Page

24.140 (b)(3) amended....19064
24.146 (a) and (b) amended....19064
24.148 Table revised....19064
24.176 (b) revised....19064
24.182 (a) and (b) revised....52230
24.197 Amended....19064
24.237 Amended....19064
24.246 Table amended....52231
24.248 Table amended....52232
24.257 (a)(4) revised....52232
24.268 Amended....19064
24.273 (a) revised....19064
(a)(1) and (2) corrected....48424
24.275 (a)(2) revised; (3) amended....19064
24.292 (b) amended....19065
24.293 (b) amended....19065
24.294 (b) amended....19065
24.295 (b) amended....19065
(a) amended....40354
24.300 (b) amended; (g) revised....19065
24.303 (d) revised....19065
24.313 Introductory text amended....19065
24.316 Amended....19065
24.317 Amended....19065
25.11 Amended....40357
25.152 (b)(2) amended....40357
25.156 Revised....40357
25.158 Revised....40357
25.186 (d) amended....40357
25.192 (c) amended....40357
25.195 Amended....40357
25.196 (c) amended....40357
25.276 (b) amended....40357
25.286 (a) and authority citation amended....40357
25.296 (b) introductory text, (1), (2) and authority citation revised....40358
25.297 Revised....40358
47.52 (a) revised....47831
53.62 (b)(3) amended....40354
53.93 (b) amended....40354
53.133 (a)(2)(ii) amended....40354
178 Authority citation revised....40355
178.11 Amended....40589
178.89 Added....40589
178.151 Added....40590
194.11 Amended....40355
194.134 Amended....40355
194.291 Amended....40355
194.292 Amended....40355
252.148 Amended....40358
259.219 Amended....40355

Title 27—*Proposed Rules:*

4....35908, 42517, 44629, 57763
5...35908, 42517, 44629, 46141, 53682, 57763
7...21126, 21130, 21233, 38542, 38543, 42517, 57763
9....44152, 49949, 57764

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

Page

Chapter I Statement of activities....39444
0.103a Added....35371
1 Revised....53658
2.56 (d) amended; (h) added....51780
5 Authority citation revised....37418
5.2 Revised....37418
5.3 Amended....37419
5.5 Added....37419
5.205 (d) added....37419
5.601 Revised....37420
5.1101 Added....37420
11 Authority citation revised....51223
11.10—11.12 (Subpart C) Revised....51223
14 Appendix amended....36867
16.82 Added....41038
23 Revised....48452
51.24 (b) amended....51225
55.1 Amended....35372
55.6 Revised....35372
55.7 (b) amended....35373
55.13 (b) amended....35373
55.17 Amended....35373
55.20 (c) amended....35373
55 Appendix revised....35373
Appendix corrected....36516

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

503.2 (a) revised; (c) removed; (b)(1) through (8) redesignated as (b)(3) through (10) and (d) redesignated as (c); new (b)(1), (2) and (d) added....44428
503.3 (b)(3) through (6) redesignated as (b)(4) through (7); new (b)(3) added....44428
503.4 (b)(1) and (c)(2) removed; (b)(2) through (5) and (c)(3), (4) and (5) redesignated as (b)(1) through (4) and (c)(2), (3) and (4)....44428
503.5 Introductory text revised; (a)(1) and (2) redesignated as (a)(2) and (3); new (a)(1) added....44428
503.7 (b)(3) removed; (b)(1) and (2) redesignated as (b)(2) and (3); new (b)(1) added....44428
524.20—524.25 (Subpart C) Revised....50808
527 Authority citation added; subpart authority citations removed....47976
527.41 Introductory text revised....47976
527.42 Redesignated as 527.43; new 527.42 redesignated from 527.46....47976
527.43 Redesignated as 527.44; new 527.43 redesignated from 527.42....47976
527.44 Redesignated as 527.45; new 527.44 redesignated from 527.43; (c), (d) introductory text, (1), (2), (e), (g) and (h)(2) amended....47976
(g) amended....47977
527.45 Redesignated as 527.46; new 527.45 redesignated from 527.44....47976
527.46 Redesignated as 527.42; new 527.46 redesignated from 527.45....47976
(b) and (c)(3) revised....47977
540 Authority citation revised....39095
540.40 Amended....39095
540.50 (b)(1) amended; (c) revised....39095
540.51 (b)(1) revised; (b)(4), (g)(2) and (4) amended....39095
541.13 Tables 3 and 4 amended....39095
542.10 Amended....58246
542.11 (a) introductory text revised....58246
542.13 (a), (b) and (c) amended....58246
542.14 Amended....58246
542.15 Amended....58246
544.10 (Subpart L) Removed....58247
551.11 (b) revised....58248
551.14 (c) revised....58248
570.10—570.24 (Subpart B) Removed....58248

Title 28—*Proposed Rules:*

36....37052
58....48472
77....39976

TITLE 28 *Proposed Rules:* **—Con.** Page
301.....39098
540.....39096
545.....39096

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

4 Administrative variance.....49192
18 Authority citation revised.....38500
18.9 Heading revised; (e) added.....38500

Chapter I—National Labor Relations Board (Parts 100—199)

102 Authority citation revised.....42235
102.117 (m), (n), and (o) added.....42235

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

697.1 (a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised.....43561
697.3 Revised.....43562
825 Regulation at 58 FR 31812 comment period extended.....45433

Chapter XII—Federal Mediation and Conciliation Service (Parts 1400—1499)

1400.735-12 (a)(2) correctly revised.....35377

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.1000 Table Z-3 correctly revised.....40191
1915 Authority citation revised.....35514
1915.5 Amended.....35514
1915.12 (a)(3) and (b)(3) revised.....35514
1915.99 Redesignated as 1915.1200.....35514
1915.1000—1915.1450 (Subpart Z) Revised.....35514
1915.1200 Redesignated from 1915.99.....35514
1926.1147 Appendix D corrected.....40468

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

2606 Authority citation revised.....35383
2606.1 (a), (b)(1) and (5) through (8) amended; (b)(10) and (11) removed; (b)(3), (9) and (c) revised; eff. 8-2-93.....35383
(b)(3)(i) and (9) corrected.....37991
2606.2 Amended; eff. 8-2-93.....35384
2606.3 Amended; eff. 8-2-93.....35384
2606.4 Existing text designated as (a); new (a) heading and (b) added.....44740
(b)(1) corrected.....48600
2606.7 Amended; eff. 8-2-93.....35384
2606.9 (b) amended; eff. 8-2-93.....35384
2606.22 Amended; eff. 8-2-93.....35384
2606.34 Amended; eff. 8-2-93.....35384
2606.36 (a) amended; eff. 8-2-93.....35384
2606.51 Amended; eff. 8-2-93.....35384
2610 Appendixes A and B amended.....38050, 53407
2612 Heading revised; eff. 8-2-93.....35384
Authority citation revised.....35384
2612.1 (a) revised; (b) amended; eff. 8-2-93.....35384
2612.2 Amended; eff. 8-2-93.....35384
2612.3 Revised; eff. 8-2-93.....35384
2615.1 (a) revised; (b) amended; eff. 8-2-93.....35385
2615.2 Redesignated in part as 2615.14(c)(2); amended; eff. 8-2-93.....35385
2615.3 (b)(2), (4), (c)(2) and (5) amended; (6) revised; eff. 8-2-93.....35385
(e) amended; eff. 8-2-93.....35386
2615.5 Amended; eff. 8-2-93.....35386
2615.12 (a) amended; eff. 8-2-93.....35386
2615.14 (a) and (b) introductory text amended; (b)(3) added; (c) existing text designated in part as (c)(1) and (c)(2); (b)(2) and new (c)(2) revised; eff. 8-2-93.....35386

Page
2615.15 (a) amended; eff. 8-2-93.....35386
2615.16 (a) and (b) amended; eff. 8-2-93.....35386
2615.18 (d) amended; (f) heading revised; eff. 8-2-93.....35386
2615.21 (a) introductory text and (1) amended; eff. 8-2-93.....35386
2615.22 (a) introductory text and (c) amended; eff. 8-2-93.....35386
2615.23 Heading amended; (a) and (c) heading revised; eff. 8-2-93.....35386
2616.4 (c) amended; eff. 8-2-93.....35387
2617 Authority citation revised.....44740
2617.3 (b)(2) amended.....44740
2617.25 (a) introductory text amended; (a)(1) and (2) added.....44740
(a)(2)(i) corrected.....48600
2617.28 (f)(4) added.....44740
(f)(4)(i) corrected.....48600
2619 Authority citation revised.....50815
2619.3 (a) amended.....50815
2619.25 (b)(2) amended.....50815
2619.41 Revised.....50815
2619.42 Redesignated as 2619.43; new 2619.42 added.....50815
2619.43 Removed; new 2619.43 redesignated from 2619.....50815
2619.49 Added.....50816
2619 Appendix B amended...38051, 48305, 50824, 53409
Appendix A amended.....50820, 50821
Appendix C amended.....50825
2622 Heading revised; eff. 8-2-93.....35387
Appendix A amended.....53407
2622.1 Revised; eff. 8-2-93.....35387
2622.2 Amended; eff. 8-2-93.....35387
Corrected.....37991
2622.3 Revised; eff. 8-2-93.....35388
2622.4 Heading, (b) and (c) revised; (d) amended; eff. 8-2-93.....35388
2622.5 (a), (b) and (c) amended; eff. 8-2-93.....35389
2622.6 Revised; eff. 8-2-93.....35389
(a) and (c) corrected.....37991
2622.7 Heading, (a) and (b) revised; (d) removed; eff. 8-2-93.....35389
(c) amended; eff. 8-2-93.....35390
2622.8 Heading and (a) through (d) revised; (e) amended; eff. 8-2-93.....35390
2622.9 Heading, (a) and (b) amended; eff. 8-2-93.....35390
(c) amended; (d) revised; eff. 8-2-1993.....35391
2622.10 (a) introductory text and (b) amended; eff. 8-2-93.....35391
2622 Appendix A amended.....38050
2623 Authority citation revised.....35391
Heading revised; eff. 8-2-93.....35391
2623.1 Revised; eff. 8-2-93.....35391
2623.2 Amended; eff. 8-2-93.....35391
2623.5 (b), (c), (d) and (f) heading amended; (e) and (f)(1) removed; (f) and (g) redesignated as (e) and (f); (a) and new (f) *Examples* (1), (2) and (3) revised; eff. 8-2-93.....35392
(e) correctly designated; (f) *Example* 3 corrected.....37991
2623.6 (a) through (d) amended; (e) *Examples* (1), (2) and (3) revised; eff. 8-2-93.....35393
2623.7 Heading, (a), (b), (c), (d) introductory text and (1) amended; (e) *Examples* (1) and (2) revised; eff. 8-2-93.....35394
2623.8 Removed; eff. 8-2-93.....35394
2623.11 (a), (b) and (c) amended; eff. 8-2-93.....35395
2623.12 (a)(1) and (3) amended; eff. 8-2-93.....35395
2644 Appendix A amended...38052, 53411
2676.13 (a) and (b)(2) revised.....50825
2676.14 Removed; new 2676.14 redesignated from 2676.16.....50826
2676.15 (c) table amended...38053, 43080, 48306
Removed.....50826
2676.16 Redesignated as 2676.14.....50826
2676 Appendixes A, B and C added.....50826
Appendix B amended.....53409

Title 29—*Proposed Rules:*

102.....57572
402.....49672

TITLE 29 *Proposed Rules:*—Con. Page
403.....49672
507.....52152
1605.....49456
1609.....51266
1910.....47690
1915.....47690
1917.....47690
1918.....47690
1926.....47690
1928.....47690
2530.....54444

TITLE 30—MINERAL RESOURCES

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

202 Policy statement.....37420
206 Policy statement.....37420
216 Authority citation revised.....45254
216.2 Revised.....45254
216.6 Amended.....45254
216.20 Revised.....45254
216.50 (a) removed; (b) through (e) redesignated as (a) through (d); new (a) revised; new (d)(3) amended.....45254
216.51 Revised.....45254
216.54 Revised.....45255
216.55 Revised.....45255
216.56 Revised.....45255
216.58 Revised.....45255
218 Authority citation revised.....45438
218.41 Added.....45438
250.0 (r), (t) and (v) removed; (s), (u), (w), (x) and (y) redesignated as (r) through (v); (o), (p), (q) and new (r) through (u) revised.....49926
250.18 (d) introductory text revised; (d)(4) through (8) added.....44764
(d)(1), (2) and (3) revised; (d)(4) and (5) added.....49927
250.51 (a)(3) amended.....49927
250.64 (a) and (f) introductory text revised.....49927
250.65 (a), (b) and (c) amended.....49928
250.66 (b) and (e) amended.....49928
250.83 (a) and (b) amended; (c) revised; (d) added.....49928
250.85 (a) amended.....49928
250.103 (a), (b) introductory text and (c) introductory text amended; (d) revised.....49928
250.105 (a) amended.....49928
250.111 Introductory text amended.....49928
250.114 (b) amended.....49928
250.121 (h)(1) amended.....49928
250.172 (a)(1), (b)(2), (3), (5) and (6) revised; (a)(2), (3), (6), (7) and (8) amended; (a)(9), (b)(8) and (9) added.....49928
250.260 (b)(3) amended.....49928
250.272 (a) and (c) introductory text amended.....49928
250.273 (a), (b) and (c) amended.....49928
250.274 (b) amended.....49928
250.282 (a), (b), (c)(1) and (2) amended.....49928
256 Heading revised.....45261
Authority citation revised.....45261
256.0—256.12 (Subpart A) Heading revised.....45261
256.0 Revised.....45261
256.58 Heading, (a), (c) and (e) revised; (f) redesignated as (h); new (f) and (g) added.....45261
256.59 Revised.....45262
256.61 Revised.....45262
256.62 (e) revised.....45262

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

718 Removed.....41937
720 Removed.....41937
735.21 (a)(6) revised.....41938
901.15 (p) added.....54289
904.20 Revised.....38534
904.25 Added.....38534
904.26 Added.....38534
913.15 (o) added.....46856
913.16 (l), (m), (n), (p), (q) and (r) removed; (s), (t) and (u) added.....46857
913.25 (e) added.....48962
914.15 (uu) added.....41042
(vv) added.....43259
(ww) added.....46860
(xx) added.....48966
914.16 (l) through (m) removed.....41042

Page
(n) through (aa) added.....43260
(bb), (cc) and (dd) added.....46861
(g) removed.....48967
916.15 (n) correctly designated.....45439
917.15 (rr) added.....42011
(ss) added.....51227
917.16 Heading revised; (j) and (k) added.....42011
920.15 (x) added.....36138
934.25 (d) added.....50258
935.15 (ooo) added.....43263
(ppp) added.....46864
938.15 (z) added.....36141
944.15 (w) added.....48611
944.16 (a) through (d) added.....48611
946.15 (gg) added.....49931
(ff) amended.....52667
950.15 (o) added.....44455
(p) added.....52237
950.16 (o) removed.....44455
(aa) added.....52237

Title 30—*Proposed Rules:*

216.....43582
218.....43582, 43583, 43588, 50301
230.....53470
250.....52731
253.....44797, 52050
256.....52731
280.....52731
281.....52731
700.....52374
701...44630, 45303, 49457, 50174, 52374, 57766
705.....52374
706.....52374
715.....52374
716.....52374
773.....44630, 45303, 49457
774.....45303, 49457
778.....44630, 45303, 49457
784.....44630, 50174, 57766
785.....52374
800.....47598
817.....50174, 57766
825.....52374
840.....43594, 48332
842.....43594, 48332
843.....43594, 45303, 48332, 49457
870.....45736, 52374
901.....40104, 54313
904.....44477
906.....38989, 45467
913.....38543, 47237, 48333
914.....38545, 41669, 48996
915.....38991
916.....37447, 50302
917.....48333, 57767
920.....48998
925.....53683, 53686
926.....44479, 45303
934.....37449
935.....36177, 36178, 48333
936.....42900
943.....42901, 43308
944.....40608, 45305
948.....42903, 46676
950.....44480, 54540

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

11 Revised.....57560

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103.11 Regulation at 58 FR 13546 effective date delayed to 3-1-94.....45263
103.22 Regulation at 58 FR 13547 effective date delayed to 3-1-94.....45263
103.28 Regulation at 58 FR 13547 effective date delayed to 3-1-94.....45263
103.36 Regulation at 58 FR 13548 effective date delayed to 3-1-94.....45263
103.54 Regulation at 58 FR 13549 effective date delayed to 3-1-94.....45263

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

203 Revised; eff. 8-2-93.....35396

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

500 Authority citation revised.....47644
500.508 (f) revised.....47644
500.603 Added.....47644

TITLE 31 Chapter V—Con. Page

515 Authority citation revised...45060, 47644
515.418 Added....45060
515.508 (f) added....47645
515.563 (b) amended....45060
515.569 (b) and (c) amended....45060
515.603 Added....47645
515.901 Amended....45061
550 Authority citation revised....47645
550.511 (g) revised....47645
550.603 Added....47645
575 Authority citation revised....47645
575.503 (h) revised....47646
575.606 Added....47646
580 Authority citation revised...40044, 47646
580.503 (h) revised....47646
580.518 Added....46541
Removed....54024
580.603 Revised....47646
580 Appendix A added....40044
Appendix A amended....46541
585 Authority citation revised...35828, 47646
585.201 (b) redesignated as (c); new (b) added....35828
585.215 Added....35829
585.216 Added....35829
585.217 Added....35829
585.218 Added....35829
585.301 (a) revised; (c) and (d) amended; (e) added....35829
585.418 Added....35829
585.419 Added....35829
585.503 (a) revised....47646
585.509 Heading and (a) revised; (b) and (d)(2)(ii) amended....35829
585.524 Added....35829
585.603 Revised....47647
585.901 Added (OMB numbers)....35830

Title 31—*Proposed Rules:*

1....43312, 44481
103....46014, 46021, 51269
206....41902
209....41449

TITLE 32—NATIONAL DEFENSE

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

40 Revised; interim....47624
Heading revised....51780
80 Added; interim....51997
86 Added; interim....52010
156 Revised....42855
185 Revised....52667
199 Technical correction....53411
199.2 (b) amended; eff. 9-29-93....35405
(b) amended....51237
199.4 (a)(12) heading, (a)(12)(i), (ii)(A) and (b)(6) introductory text amended; (b)(10), (f)(2)(v) and (3)(iv) added; eff. 9-29-93....35405
(a)(7) and (f)(6)(i) revised; (f)(3)(iii) redesignated as (f)(3)(iii)(A); new (f)(3)(iii)(A) heading and (B) added....51237
199.5 (a)(3) revised....51237
199.6 (b)(4)(x) heading, (A)(*1*) introductory text, (*2*) introductory text, (*i*), (*ii*), (*vi*), (*3*) introductory text, (B) introductory text and (*2*) revised; (b)(4) (xii) added; eff. 9-29-93....35407
(a)(8) revised; (a)(11) and (12) added....51237
199.7 (b)(3)(iv)(B)(5) revised; eff. 9-29-93....35408
(d) introductory text and (1) revised; (d)(2)(i)(D) removed; (d)(2)(i)(E) redesignated as (d)(2)(i)(D); new (d)(2)(i)(E) added....51238
199.14 (a)(2)(ix) added; eff. 9-29-93....35408
(g)(1)(viii) redesignated as (g)(1)(x); (d), (g)(1)(i), (ii)(A), (iii), (iv) and new (g)(1)(x) revised; new (g)(1)(viii) added....51239
341 Redesignated from 369....39368
342 Added....48307
354 Redesignated as 385....39360
Added....39369
355 Redesignated as 386....39360
Added....39368
356 Redesignated as 364....39360
Added....39366
357 Redesignated as 387....39360
Added....39365
358 Redesignated as 393....39360
Added....39364
359 Redesignated as 398....39360
Added....39363

Page

360 Redesignated as 399....39360
Added....39361
361 Redesignated as 377....39360
Added....39361
364 Removed; new 364 redesignated from 356 and amended....39360
369 Redesignated as 341 and revised....39368
371 Added....48308
377 Redesignated from 361 and amended....39360
385 Removed; new 385 redesignated from 354 and amended....39360
385.6 Amended....39360
385.7 (m), (p) and (q) amended....39360
386 Removed; new 386 redesignated from 355 and amended....39360
387 Removed; new 387 redesignated from 357 and amended....39360
387.5 (c) amended....39360
393 Redesignated from 358 and amended....39360
393.1 Amended....39360
393.3 Amended....39360
393.4 Introductory text, (a) through (d) and (g) amended....39360
393.5 Introductory text, (b), (c) and (g) amended....39360
393.6 (a) introductory text, (2), (b)(1) and (2) amended....39360
393.7 (a) through (d) amended....39360
393 Appendix amended....39360
398 Redesignated from 359 and amended....39360
399 Redesignated from 360 and amended....39360

Chapter V—Department of the Army (Parts 400—699)

505.1 (d)(1), (2), (g) introductory text, (1) through (20) and (h) revised....51012
505.3 (b)(10)(i) through (iv) and (11)(i) through (iv) revised....51013
619 Revised....44405

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Tables One and Three amended....44133
Table Five amended...36868, 58102, 58103
Table Three amended....44134, 44456
Table Four amended....50259
Tables Four and Five amended....50260, 51241
725 Regulation at 57 FR 2463 confirmed....53883

Title 32—*Proposed Rules:*

199....47692, 48473
246....41671
296....41679
400—699 (Ch. V)....42518
501....37770
552....37774, 40611
855....49951

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

2 Authority citation revised....51726
2.05-35 Added....51726
3.01-1 (f) amended....51726
3.05-10 (b) revised....51727
3.05-15 (b) revised....51727
3.05-20 (b) revised....51727
3.05-25 Revised....51727
3.05-30 Revised....51727
3.05-35 (b) revised....51727
3.10-10 (b) revised....51728
3.25-05 (b) revised....51728
3.25-10 (b) revised....51728
3.25-15 (b) revised....51728
3.25-20 (b) revised....51728
3.35-10 (b) revised....51729
3.35-15 (b) revised....51729
3.35-20 (b) revised....51729
3.35-25 (b) revised....51729
3.35-30 (b) revised....51729
3.35-35 (b) revised....51729
3.40-10 (b) revised....51729
3.40-15 (b) revised....51730
3.40-17 (b) revised....51730
3.40-20 (b) revised....51730
3.40-30 (b) revised....51730
3.40-35 (b) revised....51730
3.55-10 (b) revised....51731
3.55-15 (b) revised....51731
3.55-20 Revised....51731
3.65-10 (b) revised....51731

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 33 Chapter I—Con. Page

3.65-15 (b) revised 51731
3.70-10 (b) and (c) revised; (d) added 51731
3.70-15 Revised 51731
3.85-10 (b) revised 51732
3.85-15 Revised 51732
3.85-20 (b) revised 51732
100 Temporary regulations list 46078
100.35-T0231 Added (temporary) 52440
100.35-T07-103 Added (temporary) 57742
100.35T01-76 Added (temporary) 40359
100.35-T0209 Added (temporary) 39144
100.35-T0216 Added (temporary) 38301
100.35-T0220 Added (temporary) 38300
100.35-T0558 Added (temporary) 41429
100.35-T0772 Added (temporary) 38298
100.91 Table 1 revised 40738
100.103 Implementation (temporary) 36355
100.105 (b)(2) and (c) revised (temporary) 50261
100.109 Removed 38302
100.501 Implementation (temporary) 38054
100.502 Implementation (temporary) 38053
100.504 Implementation (temporary) 38053
100.505 Revised 38302
100.508 Implementation (temporary) 38053
100.518 Added 57741
100.1105 Implementation (temporary) 50261
(b)(2) amended 51242
110.86 Added; interim 40740
110.186 Added 36356
110.710 Added 38055
117 Temporary drawbridge operation regulations 38056, 39145, 42856, 47067, 47068, 54289
117.43 Revised 46081
117.272 Added 39146
117.287 (d)(3) removed 36357
117.301 Removed 36357
117.317 (j) removed; (k) redesignated as (j) 36357
117.321 Removed 36357
117.501 (c) revised 43264
117.637 Revised 52442
117.723 Revised 39148
117.739 (a)(5) added; (a)(3), (4) and (e) revised 39149
117.745 Revised 40591
117.793 Revised 42859
117.839 Removed 39146
117.899 Revised 44613
117.1047 (e) removed 44613
117 Appendix A amended 39149, 42859
154.310 (a)(22) added 39662
154.500 (e) and (f) revised 39662
155.750 (a)(11) added 39662
156 Authority citation revised 48436
156.200 Revised 48436
156.205 (b) amended 48436
156.210 (a)(3) redesignated as (a)(4); new (a)(3) and (c) added 48436
156.215 (a)(3) revised 48437
161.580 Revised; interim 46082
164.T0257 Added (temporary) 44615
164.T1106 Added (temporary) 40362
164.13 (e) suspended 36141
165 Temporary regulations list 46078
165.T01-019 Removed 39151
165.T01-020 Added (temporary) 36869
165.T01-034 Added (temporary) 47992
165.T01-057 Added (temporary) 36598
165.T01-109 Added (temporary) 47988
165.T01-119 Added (temporary) 47989
165.T01-130 Added (temporary) 51244
165.T01-134 Added (temporary) 53884
165.T01-63 Added (temporary) 40745
165.T01-85 Added (temporary) 40743
165.T01-87 Added (temporary) 39151
165.T01-93 Added (temporary) 40742
165.T02-067 Added (temporary) 51243
165.T0248 Added (temporary) 39152
165.T0254 Added (temporary) 38303, 39664
165.T0264 Added (temporary) 40361
(b) revised (temporary) 48968
165.T02-60 Added (temporary) 40741

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

Page

165.T0263 Added (temporary) 46084
165.T05-063 Added (temporary) 47990
165.T062 Added (temporary) 46083
165.T0787 Added (temporary) 47069
165.T0976 Added (temporary) 36358
165.T0982 Added (temporary) 40363
165.T1105 Added (temporary) 39663
165.T1148 Added (temporary) 48967
165.112 Added 47991
Regulation at 58 FR 47990 effective date corrected to 10-8-93 52442
165.730 Revised 38057
175.1 (e) added 41607
175.3 Revised 41607
175.5 Added 41608
175.11 Revised 41608
175.15 Revised; effective in part 5-1-95 41608
175.17 Revised 41608
(a)(1) introductory text, (e)(1), (g)(1) and (2) correctly revised; (g)(3) correctly added 51576
181 Technical correction 51576
181.703 (c) added 41608

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

323.2 (d) revised; (e) and (f) amended 45035
(d)(3)(iii) corrected 48424
323.3 (c) added 45036
328 Technical correction 48424
328.3 (a)(8) added 45036
334.1 Added 37607
334.2 Added 37607
334.3 Added 37607
334.4 Added 37608
334.5 Added 37608
334.80 Heading revised 37608
334.260 Heading revised 37608
334.275 Added 47788
334.380 Revised 53428
334.390 (b)(1), (2), (4), and (5) revised 53428
334.400 Heading revised 37608
334.500 Heading revised 37609
334.540 Heading revised 37609
334.560 Heading revised 37609
334.905 Added; interim 53427
334.938 (a) corrected 42237
334.980 Regulation at 58 FR 21226 confirmed 42238
334.1320 Regulation at 58 FR 26046 confirmed 42237
334.1340 (c) revised 53427
334.1370 (b)(2) revised 53427
334.1400 (b)(4) revised 53427

Title 33—*Proposed Rules:*

100 ..... 41449, 47099
110 ..... 38100, 38101, 57769
117 ..... 36629, 38102, 44155, 52466, 53896
126 51906
127 51906
130 38993
131 38993
132 38993
137 38993
155 54315
156 54315
157 54870
162 ..... 42913, 46144
165 50303
166 44634
167 44634
187 ..... 51920, 53624
334 ..... 37889, 47786 00000.000

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

5b.11 Revised 44424
12 Regulation at 57 FR 60394 eff. 2-1-93 36870
21 Revised (effective date pending) 47192
74.3 Regulation at 57 FR 30335 eff. 9-18-92 36870
74.47 Regulation at 57 FR 30335 eff. 9-18-92 36870
74.73 Regulation at 57 FR 30335 eff. 9-18-92 36870
74.74 Regulation at 57 FR 30335 eff. 9-18-92 36870
74.75 Regulation at 57 FR 30336 eff. 9-18-92 36870
74.76 Regulation at 57 FR 30336 eff. 9-18-92 36870
74.91 Regulation at 57 FR 30336 eff. 9-18-92 36870

TITLE 34 Subtitle A—Con. Page

74.93 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.94 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.96 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.144 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.171 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.172 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.173 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.174 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.175 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.1 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.3 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.4 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.60—75.62 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.60 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.61 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.62 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.105 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.107 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.108 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.110 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.111 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.113 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.114 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.115 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.116 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.118 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.130—75.134 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.130 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.131 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.132 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.133 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.134 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.150—75.154 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.150 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.151 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.152 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.153 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.154 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.155 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.160 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.200 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.216 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.218 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.233 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.234 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.235 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.253 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.261 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.262 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.510 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.518 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.534 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.560 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870

Page

75.563 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.580—75.581 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.580 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.581 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.590 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.608 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.616 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.617 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.621 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.622 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.625—75.626 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.625 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.626 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.681 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.684 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.690 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.707 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.720 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.740 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.750—75.755 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.750 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.751 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.752 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.753 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.754 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.755 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.3 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.102 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.125 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.136 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.305 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.401 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.560 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.580—76.581 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.580 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.581 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.591 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.600 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.670 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
76.681 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.684 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.690 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.707 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.720 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.740 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.770 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.771 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.772 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.780—76.783 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.780 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.781 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.782 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.783 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.901 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
77.1 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
81.2 Amended ... 43473

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 34 Subtitle A—Con. Page

81.11 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
81.12 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
81.14 (a) revised ... 43473
81.18 (a) revised ... 43473
81.20 Redesignated as 81.30; new 81.20 added ... 43473
81.21 Redesignated as 81.31 ... 43473
81.22 Redesignated as 81.32 ... 43473
81.23 Redesignated as 81.33 ... 43473
81.24 Redesignated as 81.34 ... 43473
81.25 Redesignated as 81.35 ... 43473
81.26 Redesignated as 81.36 ... 43473
81.27 Redesignated as 81.37 ... 43473
81.28 Redesignated as 81.38 ... 43473
81.29 Redesignated as 81.39 ... 43473
81.30 Redesignated as 81.40; new 81.30 redesignated from 81.20; (a) amended ... 43473
81.31 Redesignated as 81.41; new 81.31 redesignated from 81.21; (a) and (c) amended ... 43473
81.32 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
Redesignated as 81.42; new 81.32 redesignated from 81.22 ... 43473
81.33 Redesignated as 81.43; new 81.33 redesignated from 81.23 ... 43473
81.34 Redesignated as 81.44; new 81.34 redesignated from 81.24; (a) amended ... 43473
81.35 Redesignated as 81.45; new 81.35 redesignated from 81.25; (a) and (c) amended ... 43473
81.36 Redesignated from 81.26 ... 43473
81.37 Redesignated from 81.27; (b) amended ... 43473
(a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added ... 43474
Corrected ... 51013
81.38 Redesignated from 81.28; (b) and (c) amended ... 43473
81.39 Redesignated from 81.29; (a) amended ... 43473
81.40 Redesignated from 81.30 and amended ... 43473
81.41 Redesignated from 81.31 ... 43473
(c) revised ... 43474
81.42 Redesignated from 81.32 ... 43473
Revised ... 43474
81.43 Redesignated from 81.33 ... 43473
Revised ... 43474
81.44 Redesignated from 81.34 ... 43473
(b) revised ... 43474
81.45 Redesignated from 81.35; (b)(1), (2) and (d) amended ... 43473
86.405 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
99.5 Regulation at 58 FR 3188 eff. 2-25-93 ... 36871
99.6 Regulation at 58 FR 3188 eff. 2-25-93 ... 36871
99.30 Regulation at 58 FR 3188 eff. 2-25-93 ... 36871
99.31 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.60 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.63 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.64 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.65 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.67 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871

Chapter I—Office for Civil Rights, Department of Education (Parts 100—199)

110 Added ... 40197

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200.6 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.20 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.31 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.34 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.35 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.36 Regulation at 58 FR 11921 eff. 4-28-93 ... 36871
201.52 Regulation at 57 FR 24752 eff. 7-29-9 ... 36870
201.54 Regulation at 57 FR 24752 eff. 7-29-9 ... 36870
206.1 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

Page

206.3 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.4 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.5 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.10 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.11 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.20 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
208 Regulation at 57 FR 21710 eff. 7-29-92 ... 56869
208.11 Regulation at 57 FR 21710 eff. 7-29-92 ... 36869
208.21 Regulation at 57 FR 21710 eff. 7-29-92 ... 36869
208.22 Regulation at 57 FR 21710 eff. 7-29-92 ... 36869
208.24 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.25 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.26 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.31 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.32 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
212 Regulation at 57 FR 558 eff. 7-19-92 ... 36870
218.3 Regulation at 57 FR 56794 eff. 1-29-93 ... 36870
218.4 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.5 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.6 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.7 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.8 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.9 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.10 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.11 Regulation at 57 FR 56794 eff. 1-29-93 ... 36870
218.81 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
218.82 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
218.83 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
222.69 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
230.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
230.5 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
230.30 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.1 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.3 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
232.2 Revised (effective date pending) ... 46757
232.4 (a) and (b) redesignated as (b) and (c); new (a) added; OMB number (effective date pending) ... 46757
232.5 (c) and (d) amended; (e) added (effective date pending) ... 46757
236 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.1 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.2 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.3 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.5 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.6 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.7 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.8 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.9 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.10 Regulation at 58 FR 13177 and 13178 eff. 4-28-93 ... 36871
236.30 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.31 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.40 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871

150-258 O - 93 - 5 (PO 1)

TITLE 34 Chapter II—Con. Page

236.41 Regulation at 58 FR 13178 eff. 4-28-93 ... 36871
237 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
237.7 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
238 Regulation at 58 FR 13178 eff. 4-28-93 ... 36871
263.2 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
263.9 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
280.2 Regulation at 57 FR 61508 eff. 2-25-93 ... 36871
280.4 Regulation at 57 FR 61508 eff. 2-25-93 ... 36871
280.20 Regulation at 57 FR 61509 eff. 2-25-93 ... 36871
280.31 Regulation at 57 FR 61509 eff. 2-25-93 ... 36871
280.32 Regulation at 57 FR 61510 eff. 2-25-93 ... 36871
282 Regulation at 58 FR 5176 eff. 3-5-93 ... 36871

Chapter III—Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

300 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.17 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.18 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.110 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.111 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.121 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.122 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.123 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.125 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.126 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.127 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.128 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.129 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.130 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.131 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.132 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.133 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.134 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.136 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.138 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.139 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.140 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.141 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.144 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.146 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.148 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.149 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.152 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.153 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.180 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.192 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.220 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.222 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.223 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.224 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.225 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.226 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.227 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.230 Regulation at 57 FR 37654 eff. 10-3-92; Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.231 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.235 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.238 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.240 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.280 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.281 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.284 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.341 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.343 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.345 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.346 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.349 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.380 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.381 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.382 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.383 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.402 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.482 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.483 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.486 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.487 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.505 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.510 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.512 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.532 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.533 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.543 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.561 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.562 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.563 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.565 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.569 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.570 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.571 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.572 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.574 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.575 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.586 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.587 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.589 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.600 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.653 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.660 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.661 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.662 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.670—300.672 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
300.670 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.671 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.672 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.750 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.751 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.754 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
301.1 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 34 Chapter III—Con. Page

301.3 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.6 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.10 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.30 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
303 Revised (effective date pending) ... 40959
303.124 Regulation at 57 FR 37654 eff. 10-3-92 ... 36870
305.10 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.11 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.12 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.30 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.31 Regulation at 58 FR 9463 eff. 4-28-93 ... 36871
305.40 Regulation at 58 FR 9463 eff. 4-28-93 ... 36871
307.4 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.2 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.3 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.5 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.22 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.30 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.33 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.34 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
315.4 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
316 Regulation at 57 FR 62096 eff. 2-25-93 ... 36871
318 Regulation at 57 FR 62099 eff. 2-25-93 ... 36871
318.2 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.10 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.11 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.20 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.22 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.25 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
319 Regulation at 57 FR 62106 eff. 2-25-93 ... 36871
324 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
324.10 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
324.30 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
346.3 Revised (effective date pending) ... 49419
347.3 (a) and (c) revised (effective date pending) ... 49419
354.1 Amended (effective date pending) ... 49419
354.10 (b)(1) through (5) amended (effective date pending) ... 49419
355.1 Amended (effective date pending) ... 49419
355.10 (c) amended (effective date pending) ... 49419
356.1 Amended (effective date pending) ... 49419
356.2 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
(b) amended (effective date pending) ... 49419
356.3 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
(c)(2) amended (effective date pending) ... 49419
356.11 Revised (effective date pending) ... 49419
357.32 (a)(3) added (effective date pending) ... 49419
358 Authority citation revised ... 49419
358.1 Authority citation revised (effective date pending) ... 49419
358.10 (a) amended; authority citation revised (effective date pending) ... 49419
358.30 Authority citation revised (effective date pending) ... 49420
358.31 (a)(3) and authority citation revised (effective date pending) ... 49420
358.32 Authority citation revised (effective date pending) ... 49420
358.33 Authority citation revised (effective date pending) ... 49420
358.34 Authority citation revised (effective date pending) ... 49420
359 Authority citation revised ... 49420
359.1 Authority citation revised (effective date pending) ... 49420
359.2 Revised (effective date pending) ... 49420
359.3 Authority citation revised (effective date pending) ... 49420
359.4 Authority citation revised (effective date pending) ... 49420
359.10 Authority citation revised (effective date pending) ... 49420
359.11 (f) redesignated as (g); new (f) added; authority citation revised (effective date pending) ... 49420
359.30 Authority citation revised (effective date pending) ... 49420
359.31 (c)(4)(iii) and authority citation revised (effective date pending) ... 49420
359.32 Authority citation revised (effective date pending) ... 49420
360.31 (a)(2), (b)(1) and (d)(3) revised (effective date pending) ... 49420
361.1 Regulation at 57 FR 28440 eff. 8-8-92 ... 36870
361.41 Regulation at 57 FR 28440 eff. 8-8-92 ... 36870
361.43 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
361.170 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870
361.171 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870
363 Regulation at 57 FR 28437 eff. 8-8-92 ... 36870
376 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.1 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.3 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.4 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
377 Added (effective date pending) ... 40709
378 Revised (effective date pending) ... 35764
380.5 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
380.9 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
380.20 Regulation at 57 FR 28442 eff. 8-8-92 ... 36870
381 Added (effective date pending) ... 43022

Chapter IV—Office of Vocational and Adult Education, Department of Education (Parts 400—499)

400 Regulation at 57 FR 36724 eff. 9-28-92 ... 36870
401 Regulation at 57 FR 36730 eff. 9-28-92 ... 36870
402 Regulation at 57 FR 36733 eff. 9-28-92 ... 36870
403 Regulation at 57 FR 36735 eff. 9-28-92 ... 36870
405 Regulation at 57 FR 36761 eff. 9-28-92 ... 36870
406 Regulation at 57 FR 36763 eff. 9-28-92 ... 36870
407 Regulation at 57 FR 36765 eff. 9-28-92 ... 36870
408 Regulation at 57 FR 36767 eff. 9-28-92 ... 36870
409 Regulation at 57 FR 36771 and 36724 eff. 9-28-92 ... 36870
410 Regulation at 57 FR 36773 eff. 9-28-92 ... 36870
411 Regulation at 57 FR 36776 eff. 9-28-92 ... 36870
412 Regulation at 57 FR 36778 eff. 9-28-92 ... 36870
413 Regulation at 57 FR 36780 eff. 9-28-92 ... 36870
414 Regulation at 57 FR 36782 eff. 9-28-92 ... 36870
415 Regulation at 57 FR 36784 eff. 9-28-92 ... 36870
416 Regulation at 57 FR 36786 eff. 9-28-92 ... 36870
417 Regulation at 57 FR 36788 eff. 9-28-92 ... 36870
418 Regulation at 57 FR 36791 eff. 9-28-92 ... 36870
419 Regulation at 57 FR 36794 eff. 9-28-92 ... 36870
421 Regulation at 57 FR 36796 eff. 9-28-92 ... 36870

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 34 Chapter IV—Con. Page

422 Regulation at 57 FR 36797 eff. 9-28-92.... 36870
423 Regulation at 57 FR 36799 eff. 9-28-92.... 36870
424 Regulation at 57 FR 36801 eff. 9-28-92.... 36870
425 Regulation at 57 FR 24091 eff. 7-29-92; Regulation at 57 FR 36803 eff. 9-28-92.... 36870
426 Regulation at 57 FR 24091 eff. 7-29-92; Regulation at 57 FR 36805.... 36870
427 Regulation at 57 FR 36810 eff.9-28-92.... 36870
428 Regulation at 57 FR 36812 eff.9-28-92.... 36870
431 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
432 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
433 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
434 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
435 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
436 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
437 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
438 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
441 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
460 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
460.2 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
460.3 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
460.4 Regulation at 57 FR 24092 eff. 7-29-92.... 36870
461 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
462 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
462.50 Regulation at 57 FR 24100 eff. 7-29-92.... 36870
463 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
464 Regulation at 57 FR 24100 eff. 7-29-92.... 36870
471 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
472 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
472.20 Regulation at 57 FR 24102 eff. 7-29-92.... 36870
472.30 Regulation at 57 FR 24102 eff. 7-29-92.... 36870
473 Regulation at 57 FR 24102 eff. 7-29-92.... 36870
474 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
475 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
476 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
477 Regulation at 57 FR 24091 eff. 7-29-92.... 36870
489 Regulation at 57 FR 24105 eff. 7-29-92.... 36870
490 Regulation at 57 FR 24107 eff. 7-29-92.... 36870
491 Regulation at 57 FR 24091 eff. 7-29-92.... 36870

Chapter V—Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599)

555 Regulation at 57 FR 53195 eff. 12-21-92.... 36870
562.2 Regulation at 57 FR 30343 eff.9-18-92.... 36870
562.3 Regulation at 57 FR 30343 eff.9-18-92.... 36870
581.591 Regulation at 57 FR 56797 eff. 11-30-92.... 36870

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

600.2 Amended (effective date pending).... 39620
600.5 Regulation at 57 FR 57309 eff. 1-29-93.... 36870
600.6 Regulation at 57 FR 57309 eff. 1-29-93.... 36870
600.9 Regulation at 57 FR 57310 eff. 1-29-93.... 36870
600.30 Regulation at 57 FR 57310 eff. 1-29-93.... 36870
600.31 Regulation at 57 FR 57310 eff. 1-29-93.... 36870
600.40 Regulation at 58 FR 13342 eff. 4-28-93.... 36871

Page

600.41 Regulation at 57 FR 47753 eff. 12-3-92.... 36870
Regulation at 58 FR 13342 eff. 4-28-93.... 36871
608 Revised (effective date pending).... 38713
609 Revised (effective date pending).... 38717
610 Added (effective date pending).... 50167
612.2 Regulation at 58 FR 27140 eff. 6-20-93.... 36871
614 Revised (effective date pending).... 42627
617.1—617.8 (Subchapter A) Regulation at 58 FR 28505 eff. 6-28-93.... 36871
617.11—617.29 (Subchapter B) Regulation at 58 FR 28505 eff. 6-28-93.... 36871
617.51—617.67 (Subchapter D) Regulation at 58 FR 28505 eff. 6-28-93.... 36871
624 Regulation at 58 FR 28505 eff. 6-28-93.... 36871
625 Regulation at 58 FR 28505 eff. 6-28-93.... 36871
626 Regulation at 58 FR 28505 eff. 6-28-93.... 36871
627 Regulation at 58 FR 28505 eff. 6-28-93.... 36871
628.1 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.2 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.3 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.4 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.5 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.6 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.10 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.20 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.30 Regulation at 49 FR 28520 eff. 9-14-84; Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.31 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.32 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.40 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.41 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.42 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.43 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.44 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.45 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.46 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
628.47 Regulation at 58 FR 11164 eff. 4-28-93.... 36871
628.48 Regulation at 58 FR 11163 eff. 4-28-93.... 36871
630.2 Regulation at 58 FR 27144 eff. 6-20-93.... 36871
630.4 Regulation at 58 FR 27145 eff. 6-20-93.... 36871
630.5 Regulation at 58 FR 27145 eff. 6-20-93.... 36871
630.11 Regulation at 57 FR 30343 eff. 9-18-92.... 36870
Regulation at 58 FR 27145 eff. 6-20-93.... 36871
630.22 Regulation at 57 FR 30343 eff. 9-18-92.... 36870
630.23 Regulation at 57 FR 30343 eff. 9-18-92.... 36870
631 Revised (effective date pending).... 42653
632 Revised (effective date pending).... 42656
633 Revised (effective date pending).... 42658
634 Revised (effective date pending).... 42659
635 Revised (effective date pending).... 42660
636 Regulation at 58 FR 28505 eff. 6-28-93.... 36871
Added (effective date pending).... 42663
637.1 Regulation at 57 FR 54302 eff. 11-18-92.... 36870
637.3 Regulation at 57 FR 54302 eff. 11-18-92.... 36870
637.4 Regulation at 57 FR 54302 eff. 11-18-92.... 36870
637.12 Regulation at 57 FR 54302 eff. 11-18-92.... 36870

TITLE 34 Chapter VI—Con. Page
637.14 Regulation at 57 FR 54302 eff. 11-18-92....36870
637.32Regulation at 57 FR 54302 eff. 11-18-92....36870
639.1 Regulation at 57 FR 49650 eff. 12-18-92....36870
639.2 Regulation at 57 FR 49650 eff. 12-18-92....36870
639.3 Regulation at 57 FR 49650 eff. 12-18-92....36870
639.4 Regulation at 57 FR 49650 eff. 12-18-92....36870
639.10 Regulation at 57 FR 49650 eff. 12-18-92....36870
639.11 Regulation at 57 FR 49650 eff. 12-18-92....36870
639.30 Regulation at 57 FR 49650 eff. 12-18-92....36870
639.31 Regulation at 57 FR 49650 eff. 12-18-92....36870
639.40 Regulation at 57 FR 49650 eff. 12-18-92....36870
642 Heading revised (effective date pending)....51519
Authority citation revised....51519
642.1 Revised (effective date pending)....51519
642.2 (b) and authority citation revised (effective date pending)....51519
642.3 (a) and (b) amended; authority citation revised (effective date pending)....51519
642.4 (a) and authority citation revised (effective date pending)....51519
642.5 (b) amended (effective date pending)....51519
642.6 Removed (effective date pending)....51519
642.10 Revised (effective date pending)....51519
642.31 (f)(2) amended; (f)(2)(iii) and authority citation revised (effective date pending)....51519
642.32 (c)(2)(ii) amended (effective date pending)....51520
642.33 Authority citation revised (effective date pending)....51519
642.34 Authority citation revised (effective date pending)....51519
(b) amended and redesignated as (c); (a)(20), (21) and new (b) added (effective date pending)....51520
642.40 Authority citation revised (effective date pending)....51519
642.41 Authority citation revised (effective date pending)....51519
645 Authority citation revised (effective date pending)....51520
645.1 Authority citation revised (effective date pending)....51520
645.2 (c) redesignated as (d); new (c) added; authority citation revised (effective date pending)....51520
645.3 (a)(1)(iv), (v) and authority citation revised; (a)(1)(vi) removed (effective date pending)....51520
645.4 (c) and authority citation revised (effective date pending)....51520
645.5 (a) revised (effective date pending)....51520
645.6 (b) amended; authority citation added (effective date pending)....51520
645.10 (c) and (d) redesignated as (d) and (e); new (c) added; new (d) introductory text, (8), (9) and authority citation revised; (d)(10) added; new (e) amended (effective date pending)....51520
645.11 Authority citation revised (effective date pending)....51520
645.12 Authority citation revised (effective date pending)....51520
(d) amended (effective date pending)....51521
645.13 Authority citation revised (effective date pending)....51520
(b) amended (effective date pending)....51521
645.14 Authority citation revised (effective date pending)....51520

Page
645.30 Authority citation revised (effective date pending)....51520
645.31 Authority citation revised (effective date pending)....51520
(g)(3)(iv) amended (effective date pending)....51521
645.32 Authority citation revised (effective date pending)....51520
645.40 Authority citation revised (effective date pending)....51520
645.41 Authority citation revised (effective date pending)....51520
645.42 Authority citation revised (effective date pending)....51520
645.43 Authority citation revised (effective date pending)....51520
(a) revised (effective date pending)....51521
646 Authority citation revised (effective date pending)....51521
646.1 Revised (effective date pending)....51521
646.2 Amended; authority citation revised (effective date pending)....51521
646.3 (a)(5) removed; (a)(6) redesignated as (a)(5); (a)(4), (d)(3) and authority citation revised (effective date pending)....51521
646.4 (a), (b) and (c) revised (effective date pending)....51521
646.5 Heading, (a) and authority citation revised (effective date pending)....51521
646.6 Heading and authority citation revised; (b) amended (effective date pending)....51522
646.10 Authority citation revised (effective date pending)....51521
Heading and (a)(9) revised; (a)(8) amended; (a)(10) added (effective date pending)....51522
646.20 Authority citation revised (effective date pending)....51521
Amended (effective date pending)....51522
646.30 Authority citation revised (effective date pending)....51521
(b) amended (effective date pending)....51522
646.31 Authority citation revised (effective date pending)....51521
(h)(2)(ii) amended (effective date pending)....51522
646.32 Authority citation revised (effective date pending)....51521
(a)(1) and (c)(2) amended (effective date pending)....51522
646.40 Authority citation revised (effective date pending)....51521
646.41 Authority citation revised (effective date pending)....51521
646.42 Authority citation revised (effective date pending)....51521
(a) revised (effective date pending)....51522
648 Regulation at 58 FR 28505 eff. 6-28-93....36871
649 Revised (effective date pending)....42860
Technical correction....47069
650 Revised....58084
653 Revised (effective date pending)....42827
653.2 Regulation at 57 FR 30343 eff. 9-18-92....36870
653.3 Regulation at 57 FR 30343 eff. 9-18-92....36870
654 Revised (effective date pending)....42669
654.2 Regulation at 57 FR 30344 eff. 9-18-92....36870
654.4 Regulation at 57 FR 30344 eff. 9-18-92....36870
664 Regulation at 57 FR 28976 eff. 9-18-92....36870
664.14 Regulation at 57 FR 28976 eff. 9-18-92....36870
668 Waiver....52195
668.2 Regulation at 58 FR 13343 eff. 4-28-93....36871
668.8 (a) introductory text and (2)(i) revised; (c) and (d)

TITLE 34 Chapter VI—Con. Page

added; pending and effective in part 1-1-94 ... 39620
668.9 Added; pending and effective in part 1-1-94 ... 39620
668.12 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
668.15 Regulation at 58 FR 13343 eff. 4-28-93 ... 36871
668.56 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.57 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.58 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.59 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.61 Regulation at 57 FR 39089 eff. 11-8-92 ... 36870
668.81 Regulation at 58 FR 13344 eff. 4-28-93 ... 36871
668.83 Regulation at 58 FR 13344 eff. 4-28-93 ... 36871
668.84 Regulation at 57 FR 47753 and 47754 eff. 12-3-92 ... 36870
668.85 Regulation at 57 FR 47753 and 47754 eff. 12-3-92; Regulation at 57 fr 60034 eff. 1-31-93 ... 36870
668.86 Regulations at 57 FR 47753 and 47754 eff. 12-3-92 ... 36870
668.87 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.88 Regulation at 57 FR 60034 eff. 1-31-93; Regulation at 57 FR 47753 and 47754 eff. 12-3-92 ... 36870
668.89 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.90 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 60034 eff. 1-31-93 ... 36870
668.91 Regulation at 58 FR 13345 eff. 4-28-93 ... 36871
668.92 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.94 Regulation at 58 FR 13345 eff. 4-28-93 ... 36871
668.95 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.98 Regulation at 57 FR 60034 eff. 1-31-93 ... 36870

Page

668.114 Regulation at 57 FR 47753and 47754 eff. 12-3-92 ... 36870
668.115 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.116 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.117 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.118 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.119 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 60035 eff. 1-31-93 ... 36870
668.120 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 47754 eff. 1-31-93 ... 36870
668.121 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
668.124 Regulation at 57 FR 60035 eff. 1-31-93 ... 36870
668.130—668.139 (Subpart I) Regulation at 58 FR 3184 eff. 2-25-93 ... 36871
671 Regulation at 57 FR 24955 eff. 6-12-92 ... 36870
674 Waiver ... 52195
674.1 Regulation at 57 FR 32344 eff. 9-18-92 ... 36870
674.2 Regulation at 57 FR 32344 eff. 9-18-92 ... 36870
674.8 Regulation at 57 FR 32344 eff. 9-18-92 ... 36870
674.18 Regulation at 57 FR 32345 eff. 9-18-92 ... 36870
674.19 Regulation at 57 FR 32345 eff. 9-18-92 ... 36870
674.31 Regulation at 57 FR 32345 eff. 9-18-92 ... 36870
674.32 Regulation at 57 FR 32345 eff. 9-18-92 ... 36870
674.33 Regulation at 57 FR 32345 eff. 9-18-92 ... 36870
Regulation at 57 FR 60706 eff. 2-4-93 ... 36871
674.34 Regulation at 57 FR 32345 eff. 9-18-92 ... 36870
674.35 Regulation at 57 FR 32345 eff. 9-18-92 ... 36870
674.36 Regulation at 57 FR 32345 eff. 9-18-92 ... 36870
674.38 Regulation at 57 FR 32346 eff. 9-18-92 ... 36870

Page

674.42 Regulation at 57 FR 32346 eff. 9-18-92 ... 36870
674.43 Regulation at 57 FR 32346 eff. 9-18-92 ... 36870
674.45 Regulation at 57 FR 32346 eff. 9-18-92 ... 36870
674.47 Regulation at 57 FR 32346 eff. 9-18-92 ... 36870
Regulation at 57 FR 60706 eff. 2-4-93 ... 36871
674.49 Regulation at 57 FR 32346 eff. 9-18-92 ... 36870
674.50 Regulation at 57 FR 32347 eff. 9-18-92 ... 36870
Regulation at 57 FR 60707 eff. 2-4-93 ... 36871
674.52 Regulation at 57 FR 32347 eff. 9-18-92 ... 36870
674.57 Regulation at 57 FR 32347 eff. 9-18-92 ... 36870
674 Regulations at 57 FR 32347, 32349, 32351 and 32354 eff. 9-18-92 ... 36870
675 Regulation at 57 FR 60707 eff. 2-4-93 ... 36871
675.2 Regulation at 57 FR 32356 eff. 9-18-92 ... 36870
Regulation at 57 FR 60707 eff. 2-4-93 ... 36871
675.16 Regulation at 57 FR 32356 eff. 9-18-92 ... 36870
675.18 Regulation at 57 FR 32356 eff. 9-18-92 ... 36870
675.21 Regulation at 57 FR 60707 eff. 2-4-93 ... 36871
675.22 Regulation at 57 FR 32356 eff. 9-18-92 ... 36870
675.23 Regulation at 57 FR 32356 eff. 9-18-92 ... 36870
675.26 Regulation at 57 FR 32356 eff. 9-18-92 ... 36870
675.28 Regulation at 57 FR 32356 eff. 9-18-92 ... 36870
675.34 Regulation at 57 FR 32357 eff. 9-18-92 ... 36870
676 Regulation at 57 FR 60707 eff. 2-4-93 ... 36871
Waiver ... 52196
676.2 Regulation at 57 FR 32357 eff. 9-18-92 ... 36870
676.3 Regulation at 57 FR 32357 eff. 9-18-92 ... 36870
676.14 Regulation at 57 FR 60707 eff. 2-4-93 ... 36871
676.16 Regulation at 57 FR 32357 eff. 9-18-92 ... 36870

Page

676.18 Regulation at 57 FR 32357 eff. 9-18-92 ... 36870
682 Regulation at 57 FR 60323 eff. 2-1-93 ... 36870
Waiver ... 52196
682.600 Regulation at 58 FR 3177 eff. 2-25-93 ... 36871
685 Added (effective date pending) ... 36094
690 Waiver ... 52195
690.31 Regulation at 57 FR 28569 eff. 8-9-92 ... 36870
690.32 Regulation at 57 FR 28569 eff. 8-9-92 ... 36870
690.72 Regulation at 50 FR 10710 eff. 4-29-85 ... 36871
690.83 Regulation at 57 FR 28569 eff. 8-9-92 ... 36870
698 Added (effective date pending) ... 43266
698.2 OMB number pending ... 43267
698.11 OMB number pending ... 43267
698.21 OMB number pending ... 43268
698.22 OMB number pending ... 43268
698.24 OMB number pending ... 43269
698.30 OMB number pending ... 43269

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

755.20 Regulation at 57 FR 53200 eff. 12-21-92 ... 36870
755.21 Regulation at 57 FR 53201 eff. 12-21-92 ... 36870
755.22 Regulation at 57 FR 53200 eff. 12-21-92 ... 36870
757.10 Regulation at 57 FR 53201 eff. 12-21-92 ... 36870
757.11 Regulation at 57 FR 53201 eff. 12-21-92 ... 36870
757.12 Regulation at 57 FR 53201 eff. 12-21-92 ... 36870
758.10—758.11 (Subpart B) Regulation at 57 FR 53201 eff. 12-21-92 ... 36870
762.2 Regulation at 57 FR 30344 eff. 9-18-92 ... 36870
762.4 Regulation at 57 FR 30344 eff. 9-18-92 ... 36870
769 Regulation at 57 FR 49265 eff. 12-14-92 ... 36870
770.4 Regulation at 58 FR 11167 eff. 4-28-93 ... 36871

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 34 Chapter VII—Con. Page

776 Revised; OMB numbers (effective date pending)..... 45210
777.1 (a)(3) amended; (b) revised; (c) redesignated as (d); new (c) added (effective date pending)..... 40247
777.3 (a) revised (effective date pending)..... 40247
777.4 (b) amended (effective date pending)..... 40247
777.10 Revised (effective date pending)..... 40247
778 Heading revised..... 40247
778.1 Heading, introductory text and (a) amended (effective date pending)..... 40247
778.2 (b) introductory text corrected (effective date pending)..... 40247
778.3 Revised (effective date pending)..... 40247
778.5 Heading revised (effective date pending)..... 40247
778.6 Introductory text and (a) revised (effective date pending)..... 40247
778.22 (a) introductory text and (e) introductory text amended (effective date pending)..... 40248
779 Authority citation revised..... 40248
779.1 Revised (effective date pending)..... 40248
779.2 Revised (effective date pending)..... 40248
779.3 Authority citation revised (effective date pending)..... 40248
779.4 (b)(2), (6) and authority citation revised (effective date pending)..... 40248
779.5 Authority citation revised (effective date pending)..... 40248
779.6 Redesignated as 779.7; new 779.6 added (effective date pending)..... 40248
779.7 Redesignated as 779.8; new 779.7 redesignated from 779.6; (a) and authority citation revised (effective date pending)..... 40248
779.8 Redesignated as 779.9; new 779.8 redesignated from 779.7; (b) amended; authority citation revised (effective date pending)..... 40248

Page

779.9 Redesignated from 779.8; authority citation revised (effective date pending)..... 40248
779.10 Authority citation revised (effective date pending)..... 40248
779.20 Authority citation revised (effective date pending)..... 40248
779.21 Authority citation revised (effective date pending)..... 40248
(b) revised (effective date pending)..... 40249

Chapter XII—National Council on Disability (Part 1200)

Chapter XII Established..... 57698
1200.170 (c) revised..... 57698

Title 34—*Proposed Rules:*

76..... 44736
80..... 44736
99..... 42836
300..... 57938
307..... 57938
315..... 57938
318..... 57938
346..... 57938
350..... 57938
351..... 57938
359..... 57938
361..... 38482, 44638, 57938
363..... 57938
365..... 57938
366..... 57938, 57942
367..... 57938
369..... 57938
370..... 52614
371..... 57938
373..... 57938
374..... 57938
376..... 57938
377..... 57938
378..... 57938
379..... 57938
380..... 57938
385..... 57938
386..... 52606, 57938
387..... 57938
388..... 57938
389..... 57938
600—699 (Ch. VI)..... 43608
607..... 48478

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

Page

631..... 38504
632..... 38504
633..... 38504
634..... 38504
635..... 38504
644..... 57704
650..... 37890
668..... 51712, 54902
692..... 36110

TITLE 35—PANAMA CANAL

Title 35—*Proposed Rules:*

10..... 53897

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

37 Appendix A amended..... 38211
51 Technical correction..... 36598

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1191 Authority citation revised..... 38211
Appendix redesignated as Appendix A and amended..... 38211

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1222.20 (b)(1) revised..... 49194
1230.1 Revised..... 49194
1230.3 Revised..... 49194
1230.4 Amended..... 49195
1230.7 (Subpart B) Added..... 49195
1230.10—1230.16 (Subpart B) Redesignated as Subpart C..... 49195
1230.12 (d)(1)(i) and (2) revised..... 49195
1230.14 (a) and (b) revised; (c), (d)(1)(i) and (2) amended..... 49195
1230.16 Revised..... 49196
1230.20—1230.26 (Subpart C) Redesignated as Subpart D..... 49195
1230.20 Revised..... 49196

Page

1230.22 (a)(6) removed; (a)(7) and (8) redesignated as (a)(6) and (7); (a)(1), (4)(i), (5) and new (a)(7) revised..... 49196
1230.24 (a) revised..... 49196
1230.26 (a) revised..... 49196
1230.50—1230.52 (Subpart D) Redesignated as Subpart E..... 49195

Title 36—*Proposed Rules:*

7..... 48336
222..... 43202, 48808
242..... 40393, 46678
1191..... 37052
1252..... 54540
1253..... 49251
1254..... 54540
1260..... 54540

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.4 Heading revised; (d), (e) and (f) added..... 54501
1.5 (a) revised..... 54501
1.8 Revised..... 54502
1.9 (d) revised..... 54508
1.13 Revised..... 54508
1.14 (b) revised..... 54509
1.17 (h) revised..... 38723
Corrected..... 45841
1.19 (a)(3) revised..... 38723
1.20 (i) revised..... 44280
1.28 (c) revised..... 54509
1.55 (a) revised..... 54509
1.71 (d) revised..... 38723
1.78 (a) revised..... 54509
1.84 Revised..... 38723
(b)(1)(ii) corrected..... 45841
(g)(3) and (h)(2) corrected..... 45842
1.88 Removed..... 38726
1.123 Revised..... 38726
1.136 (a) revised..... 54509
1.137 Revised..... 44280
1.152 Revised..... 38726
1.155 (b), (c) and (d) revised; (e) and (f) added..... 44280
1.165 Revised..... 38726
1.191 (d) revised..... 54510

TITLE 37 Chapter I—Con. Page

1.192 (a), (c) introductory text and (d) revised....54510
1.193 (b) revised....54510
1.194 (b) revised....54510
1.196 (f) revised....54510
1.197 (b) revised....54510
1.304 (a) and (c) revised....54502
1.312 (b) revised....54510
1.316 (b), (c) and (d) revised; (e) and (f) added....44281
1.317 Revised....44281
1.321 Revised....54510
1.352 (a) revised....54511
1.362 (c)(4) and (e) revised; (h) added....54511
1.366 (b) revised....54503
1.378 (a), (b), (c) and (e) revised....44282
1.601 (q) added....49434
1.607 (a)(5)(i) revised....54511
1.637 (a) revised....49434
1.639 (c) revised; (d) through (g) added....49434
1.655 (a) revised....49434
1.741 (a) revised....54503
2.145 (c)(3) and (d)(1) revised....54503
2.165 (a)(1) revised....54503
5.19 (a) revised....54511
10.18 Revised....54503
10.23 (c)(9) revised....54504
10.48 (b) revised....54511

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201.17 Regulation at 57 FR 3296 effective date extended to 1-1-95....40363
(k) revised; eff. 1-1-95....45263

Chapter III—Copyright Royalty Tribunal (Parts 300—399)

301.1 (g) and (h) revised....53825
301.70 Revised....53825
301.71 (d) revised....53826
301.72 (d) revised....53826
311 Added....53826

Title 37—*Proposed Rules:*

1....39704
2....39102
10....38994

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

Page

2.6 (e)(3) revised....39152
(e)(1) revised....40746
3.203 (c) amended....37857
(c) corrected....42623
3.205 (a) introductory text and (1) revised....37857
3.309 (d)(1) amended....41636
3.343 Corrected....46865
3.344 (a) corrected....53660
3.353 (d) revised; authority citation added....37856
3.357 Revised....52018
3.655 (c)(1) corrected....46865
4.16 (a) corrected....39664
4.31 Revised....52018
14 Authority citation revised....39153
14.602 (a) introductory text, (4) and (b)(2) revised....40746
14.619 (b) revised....39153
21.4025 (a)(2) revised; authority citation added....46867
21.4263 (g) introductory text, (1), (2) and (3) redesignated as (g)(1) through (4); new (g)(1), (4) introductory text, (ii), (h)(1), (3)(i), (ii), (4)(i) introductory text and (i) introductory text revised; (h)(4)(iii) and authority citation added; interim....49198
21.5058 (b) and authority citation revised....38058
(b) corrected....40468
21.5064 (b)(1), (2)(i) and (2) authority citation revised; (b)(1) authority citation added....38058
21.5232 Revised....46866
21.5820 (b) introductory text, (1)(ii)(A), (B), (C), (2)(ii)(A), (B) and (C) revised....50845
21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised....50845
21.6005 (b) amended; (b) authority citation revised....41637
21.6042 (a) introductory text, (1), (b) and (d) amended; (a) through (d) authority citations revised; (e) added....41637

Page

21.6503 (a) amended; (a) authority citation revised....41637
21.6523 (a) amended; (a) authority citation and (b) revised....41637
21.7142 Added....46867
21.7520 (b)(14)(i)(G) revised; (b)(34) and authority citation added....51782
21.7532 (f) and authority citation added....51781
21.7550 (a) introductory text revised; (a)(3) and authority citation added....51783
21.7570 Revised....51783
21.7576 (b) introductory text, (e) and authority citation added....51783
21.7614 Revised....50846
21.7635 (b)(1) authority citation, (c) introductory text and (2) authority citation added; (b)(1), (2) introductory text, authority citation, (c)(1) and (2) revised....51783
21.7639 (b)(1)(ii) revised; authority citation added....51781
(b) revised....51783
36.4201—36.4287 Authority citation revised....37858
36.4202 Amended....37858
36.4204 (a)(7) amended; (b), (c) and (e) redesignated as (d), (e) and (g); new (g) amended; new (b), (c) and (f) added; OMB number....37858
36.4205 (a), (b)(1), (2), (3) and (f)(1) amended....37859
36.4206 (d)(1), (2)(i) and (ii) amended....37859
36.4209 (b)(2) amended....37859
36.4222 Revised....37859
36.4223 (a)(1) and (2) revised....37860
36.4224 (b) amended....37860
36.4232 (a)(2) through (5) redesignated as (a)(3), (4), (5) and (7); new (a)(5) and (b) amended; new (a)(2) and (6) added; (d)(1) revised; (e)(5) removed....37860
36.4234 (a), (b) and (c) amended....37860
36.4235 (a) amended....37860
36.4253 (b)(9) and (c)(2) amended....37860
36.4276 (c) added....37860

Page

36.4283 (f)(4) added; (g) introductory text revised....37860
36.4284 (e) added....37861
47 Added....48455

Title 38—*Proposed Rules:*

1....39706
3...38103, 38104, 38106, 46919, 48483, 50528, 51798
14....39174
17....44313, 51799
20....47100
21....38106, 39488, 41325, 50873
36....49251, 49253, 50875

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim....57743
111 Regulation at 58 FR 13552 confirmed....42012
233.3 Revised....36599

Chapter III—Postal Rate Commission (Parts 3000—3099)

3000 Authority citation revised....42874
3000.735-101—3000.735-104 (Subpart A) Revised....42874
3000.735-201—3000.735-205 (Subpart B) Removed....42874
3000.735-301—3000.735-316 (Subpart C) Removed....42874
3000.735-401—3000.735-405 (Subpart D) Removed....42874
3000.735-501—3000.735-502 (Subpart E) Redesignated as Subpart B....42874
3001.5 (g) and (h) amended....38976
3001.6 (a), (b) and (c) amended....38976
3001.7 (a)(1)(i), (ii), (iii), (b)(2), (3), (c)(1) and (d)(1) amended....38976
3001.9 (a) amended....38976
3001.10 (a) amended....38976
3001.11 (a) and (e) amended....38976
3001.12 (e) and (g) amended....38976
3001.13 Amended....38976
3001.17 (c)(3) and (4) amended....38976
3001.19 Amended....38976

TITLE 39 Chapter III—Con. Page
3001.20 (b), (c) and (e) amended....38976
3001.20a Introductory text and (a) amended....38976
3001.20b (b) amended....38976
3001.21 (b) amended....38976
3001.23 (b) and (d) amended....38976
3001.24 (b), (d)(1) through (11) and (e) amended....38976
3001.25 (c) and (e) amended....38976
3001.26 (a) and (c) amended....38976
3001.27 (c) amended....38976
3001.31 (b), (d) and (k)(3)(iv) amended....38976
3001.31a (b) and (c) amended....38976
3001.33 (e) and (h) amended....38976
3001.36 Amended....38976
3001.39 (a) amended....38976
3001.42 (c)(2) amended....38976
3001.42a Amended....38976
3001.43 (e)(4) introductory text, (i), (f)(1), (g)(3), (5) and (6) amended....38976
3001.54 (h)(5)(v)(a) and (p)(2) amended; (l) redesignated as (l)(1); (l)(2) added....38976
(o)(2)(i), (3), (p)(2) and (r) amended....38977
3001.55 Amended....38977
3001.57 Heading amended....38977
3001.57c Heading amended....38977
3001.61—3001.68 (Subpart C) Appendix A amended....54512
3001.63 Amended....38977
3001.64 (c)(1) and (2) amended....38977
3001.65 Amended....38977
3001.75 Amended....38977
3001.83 (e) amended....38976
(a) amended....38977
3001.101 Amended....38977
3001.102 (a)(1), (d) introductory text and (4) amended....38977
3001.110 Amended....38977
3001.111 (b) amended....38977
3001.114 (a) amended....38977
3001.115 (a) amended....38976
Heading revised....38977
3001.116 Amended....38977

Title 39—*Proposed Rules:*

39....38321
71....38322
73....38323
111....49402
265....48808

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

Page
9.1 Table amended (OMB numbers)....40054, 49376, 57911
51 Authority citation revised....38821
51.46 (b) revised; (c) removed....38821
51.63 (a) amended....38821
51.112 (a) amended; (a)(1) and (2) added....38821
51.117 (c)(1), (2) and (3) amended....38822
51.150 (e) amended....38822
51.160 (f)(1) and (2) added....38822
51.166 (l)(1) and (2) revised....38822
51 Appendix W added....38822
52 Authority citation revised....38883
State implementation plan determinations...41430, 42671, 50516, 52237
Authority delegation notice....43798
52.21 (l)(1) revised; (l)(2) amended....38883
52.50 (c)(61) added....45440
(c)(56) and (57) added....50266
52.70 (c)(17) added....43085
52.220 (c)(182)(i)(B)(5), (183)(i)(A)(9), (F), and (185)(i)(B)(4) added....37423
(c)(183)(i)(A)(11), (C)(4) and (6) added....45442
(c)(179)(i)(C), (182)(i)(B)(3), (i)(C) and (183)(i)(E)(2) added....45443
(c)(182)(i)(A)(2) added....45445
(c)(182)(i)(A)(3) and (185)(i)(B)(5) added....45447
(c)(183)(i)(A)(6) added....47832
(c)(184)(i)(B)(3) added....50851
52.320 (c)(59) added....50270
52.329 (a)(3) removed....50271
52.346 Added....49435
52.420 (c)(45) added....40066
52.422 Existing text redesignated as (a); (b) added....50848
52.520 (c)(76) added....37660
52.670 (c)(26) and (27) added....39447
52.679 Revised....39448
52.681 Revised....39450
52.683 Revised....39450
52.720 (c)(96) added....45450
(c)(7) added....47382

Page
(c)(98) added....48314
(c)(95) added....54294
52.744 Added....45451
52.770 (c)(88) added....43083
52.798 Added....46544
52.820 (c)(58) added....50268
52.920 (c)(68) added....54521
52.934 Added....54522
52.970 (c)(59) added....38060
52.1070 (c)(93) through (96) added....40062
52.1073 (f) added....50848
52.1120 (c)(98) added....48317
52.1167 Table amended....48318
52.1174 Regulation at 58 FR 34227 withdrawn....44456
52.1320 (c)(84) added....45452
(c)(82) added....57566
52.1420 (c)(40) added....45454
52.1620 (c)(50) added....47385
52.1670 (c)(84) added....40058
(c)(85) added....40064
(c)(86) added....50852
52.1679 Table amended....40065
52.1770 (c)(66) added....47396
52.1820 (c)(24) added....54043
52.1870 (c)(83) added....47214
(c)(94) added....54516
52.1879 (e) removed....47214
52.1881 (b)(23) revised....46869
52.1882 (l) added....46871
52.1920 (c)(43) added....38062
52.1970 (c)(96) added....47387
(c)(100) added....50850
52.1977 Revised....47387
52.1987 Revised....47391
52.1988 (b) revised....47391
52.2020 (c)(84) added....50518
(c)(87) added....53885
(c)(85) added....57563
52.2170 (c)(14) added....37425
52.2188 Added....37426
52.2220 (c)(111) added....50273
52.2270 (c)(76) added....45456
52.2420 (c)(98) added....45459
52.2423 (j) added....50848
52.2470 (c)(39) added....37427
(c)(41) added....40057
(c)(40) added....40060
52.2479 Revised....37427
52.2560 Added....48312
52.2570 (c)(69) added....43082
55.14 (e)(3)(ii)(E), (F) and (H) revised....44617

Page
55.15 Regulation at 58 FR 14159 effective date corrected to 9-4-92....47398
55 Appendix A amended....44617
60 Authority citation revised....40591
60.17 (a)(6) and (38) amended....45962
60.700—60.708 (Subpart RRR) Added (OMB number pending)....45962
60.735 (b) and (c)(2) amended....40591
(c)(3) amended....40592
61 Clarification....51784
63.300—63.313 (Subpart L) Added....57911
63.320—63.325 (Subpart M) Added....49376
63 Appendix A amended....57924
69 Authority citation revised....43043
69.11 (a) and (b) added....43043
72.2 Corrected....40746, 40747
72.8 (c)(2)(ii) corrected....40747
72.41 (e)(3)(iii) and (iv) corrected....40747
72.74 (b)(1)(iii) corrected....40747
72.91 (a) introductory text and (3)(iii) corrected....40747
72.92 (c)(2)(v)(C) corrected....40747
73 Notice of procedure....48318
73.10 (a) Table 1 corrected....40747
73.30 (a) corrected....40747
73.31 (c)(1) introductory text corrected....40747
73.32 (a)(1) corrected....40747
73.72 Technical correction....40747
73.80 (b) corrected....40747
73.81 (b)(4) corrected....40747
73.82 Heading corrected....40747
75.1 (b) existing text designated as (b)(1) and (2); new (b)(2) corrected....40747
75.5 (b) corrected....40747
75.6 (a)(4) corrected....40747
75.7 Corrected....40747
75.11 (c) introductory text corrected....40747
75.15 (a) introductory text, (2) and (b)(1) corrected....40747
75.16 (e) corrected....40747
75.17 (a)(2)(iii)(a) correctly designated as (a)(2)(iii)(A)....40747
(a)(2)(iii)(B) and (b)(2) corrected....40748
75.20 (b)(3), (c) introductory text, (9)(i) introductory

TITLE 40 Chapter I—Con. Page

text, (B) and (d) corrected; (c)(5)(iv) correctly added..... 40748
75.31 (b)(2), (c)(2) and (3) corrected..... 40748
75.32 (b) corrected..... 40748
75.34 (b)(1) corrected..... 40748
75.41 (a)(9)(i), (ii), (b)(1)(i), (2)(i), (iv)(A), (C), (v)(A), (B), (c)(1)(i), (ii) and (2)(i) corrected..... 40748
75.48 (a)(3) corrected..... 40748
75.50 (b) introductory text, (6), (c)(1)(iii), (iv), (vi), (2)(iii), (iv), (v), (vii), (3)(ii), (iii), (iv) Table 3, (d) introductory text, (3) through (9), (e)(1)(iii), (iv), (v), (vii), (viii), (2)(ii), (iv) and (v) corrected..... 40749
75.51 (b)(1)(vii) correctly designated as (b)(1)(viii); (a)(1)(iii) through (vi), (viii), (2)(i), (iii), (b) introductory text, new (b)(1)(viii), (1)(ix), (c)(1)(ii), (vi), (d)(1)(ii) and (iv) corrected..... 40749
75.52 (a)(5)(iv)(G) and (H) correctly redesignated as (a)(5)(v) and (vi)..... 40749
75.53 (a) introductory text, (c)(2) introductory text and (4)(vi) corrected..... 40749
(c)(8) and (9) corrected; (c)(10), (10)(i), (ii), (A) and (B) correctly redesignated as (d), (d)(1), (2), (i) and (ii)..... 40750
75 Appendixes A, B and C corrected..... 40750
Appendixes C through H corrected..... 40751
Appendix H corrected..... 40752
80 Petition for exemption..... 48968
80.27 (a)(2) table amended..... 46511
81 Attainment status designations..... 53888
81.324 Revised..... 50277
81.327 Table amended..... 53887
81.333 Table amended..... 50853
81.334 Table revised..... 47396
81.338 Table amended..... 49932
81.343 Table revised..... 50274
82.21 Added..... 40054
82.80—82.86 (Subpart D) Added..... 54898
82.154 (g) and (h) amended..... 36516

Page

85 Public workshop..... 36871
110 Technical correction..... 48424
110.1 Amended..... 45036
112 Technical correction..... 48424
112.2 (k) amended..... 45037
116 Technical correction..... 48424
116.3 Amended..... 45037
117 Technical correction..... 48424
117.1 Amended..... 45037
122 Technical correction..... 48424
122.2 Amended..... 45037
131.36 (d)(14)(ii) amended..... 36142
141.30 (e)(3) and (4) added; (e) amended..... 41345
165 Policy statement..... 43994
180.138 Removed..... 46088
180.271 Removed..... 44283
180.281 Removed..... 47216
180.319 Table amended..... 39154, 46088
180.335 Removed..... 39154
180.356 (a) designation and (b) removed; table amended..... 36361
180.362 Heading revised; (b) table amended..... 48321
180.364 (a) table amended; (d) added..... 36359
180.407 (b) introductory text and (c) introductory text amended..... 42675
180.414 (e) added..... 44767
(e) table amended..... 54044
180.431 (a) table amended..... 54297
180.434 Table amended..... 42673
180.450 (a) table amended..... 46087
180.468 Added..... 57967
180.1001 (d) table amended..... 37862, 38978, 40364, 44766, 50854
(c) table, (d) table and (e) table amended..... 54295
180.1029 Amended..... 47215
180.1058 Revised..... 47215
180.1121 Added..... 44283
180.1123 Added..... 51015
180.4725 Added; effective to 3-1-95..... 48322
185.350 Removed..... 37867
Reinstated..... 48458
185.3500 (a)(3) added..... 36359
185.3950 Removed..... 37867
Reinstated..... 48458
185.5750 Removed..... 46088
185.5900 Removed..... 37867
Reinstated..... 48458
185.6300 Amended..... 37867, 48458
186.500 Removed..... 41432

Page

186.3375 Table corrected..... 37867
186.3550 Revised..... 48321
228.12 (b)(94) added..... 35887
Heading revised; (a)(3) amended; (b)(92) added..... 42502
(a)(3) amended; (b)(93) added..... 46547
230 Technical correction..... 48424
230.3 (s) amended..... 45037
232 Technical correction..... 48424
232.2 Amended..... 45037
258 Authority citation revised..... 51546
Technical correction..... 53136
258.1 (d), (e), (f)(1) introductory text, (3) and (j) revised; eff. 10-9-93..... 51546
258.2 Amended; eff. 10-9-93..... 51547
258.50 (c) introductory text revised; (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; eff. 10-9-93..... 51547
258.70—258.74 (Subpart G) Regulation at 56 FR 51016 effective date delayed to 4-9-95..... 51536
258.70 (b) revised; eff. 4-9-95..... 51547
258.74 (a)(5) revised; (b)(1), (c)(1) and (d)(1) amended; eff. 4-9-95..... 51547
260.11 (a) amended..... 38883, 46049
260.22 (d)(1)(i) revised..... 46049
261 Determination..... 42466
261.22 (a)(1) and (2) revised..... 46049
261.24 (a) revised..... 46049
261 Appendix IX amended..... 40070, 41244
Appendixes II and III revised..... 46049
Appendix X removed..... 46050
264.190 (a) amended..... 46050
264.314 (c) revised..... 46050
265.190 (a) amended..... 46050
265.314 (d) revised..... 46050
266 Authority citation revised..... 38883
266.104 (e)(3) revised..... 38883
266.106 (h) revised..... 38883
266 Appendix X removed..... 38883
268.7 (a) revised..... 46050
268.40 (a) revised..... 46050
268.41 (a) introductory text revised..... 46050
268 Appendixes I and IX revised..... 46051
270.6 (a) revised..... 46051
270.19 (c)(1)(iii) amended; (c)(1)(iv) revised..... 46051

Page

270.62 (b)(2)(i)(C) amended; (b)(2)(i)(D) revised..... 46051
270.66 (c)(2)(i) amended; (c)(2)(ii) revised..... 46051
271 State hazardous waste management program authorizations...47216, 49932, 50854, 51244, 54044, 57745
272.201 Added..... 52676
272.1601 Added..... 52678
272.1851 Added..... 52681
272.2500 Removed..... 49200
272.2501 Revised..... 49200
272 Appendix A amended...49200, 52676, 52679, 52682
281 State underground storage tank program authorizations..... 47217
291.505 (d)(1)(i)(C), (iii)(B)(*1*), (C), (3)(i), (13)(i) and (f)(2)(viii) amended; (d)(6)(ii) removed; (k) redesignated as (l); (b)(2)(v), (vi)(D), (c)(4)(i), (ii), (d)(1)(ii), (iv), (6) heading, (6)(i) heading, (h)(1) and new (l) revised; (d)(1)(iii)(B)(*6*), (4)(v) and new (k) added..... 38709
300 Appendix B amended...46087, 52019, 54297
300.440 Added..... 49215
372.65 (a) and (b) amended..... 51786
401 Technical correction..... 48424
401.11 (l) amended..... 45038
414.25 Revised..... 36892
414.26 Revised..... 36892
414.35 Revised..... 36892
414.36 Revised..... 36892
414.45 Revised..... 36892
414.46 Revised..... 36892
414.55 Revised..... 36892
414.56 Revised..... 36892
414.65 Revised..... 36892
414.66 Revised..... 36892
414.75 Revised..... 36892
414.76 Revised..... 36892
414.85 Revised..... 36892
414.86 Revised..... 36892
414.91 (b) amended..... 36892
414.101 (b) amended..... 36893
414.101—414.111 (Subpart K) Added..... 36893
455 Authority citation revised..... 50689
Tables 1 through 7 added..... 50691

TITLE 40 Chapter I—Con. Page

455.10 (f) added....50689
455.11 Added....50689
455.20 (a) revised; (d) and (e) added....50689
455.21 (d) and (e) added....50689
455.23 Added....50689
455.24 Added....50690
455.25 Added....50690
455.26 Added....50690
455.27 Added....50690
455.33 Heading added....50690
455.34 Heading added....50690
455.35 Heading added....50690
455.36 Heading added....50690
455.37 Heading added....50690
455.50 (Subpart D) Added....50690
707.65 (a)(2) and (c) revised....40242
707.70 (a) revised....40242
712.30 (x) table amended....47648
716.20 (b)(2) revised; (d) table amended....47649
716.120 (a) table and (d) table amended....42678
721.285 Added....51702
721.320 Added....51681
721.323 Added....51702
721.470 Added....51681
721.536 Added....51681
721.757 Added....51681
721.1068 Added....51682
721.1372 Added....51682
721.1555 Added....51682
721.1568 Added....51682
721.1728 Added....51682
721.1732 Added....51682
721.1740 Added....51702
721.1920 Added....51683
721.2170 Added....51683
721.2260 Added....51702
721.2270 Added....51683
721.2565 Added....51683
721.2575 Added....51683
721.3367 Added....51684
721.3374 Added....51684
721.3390 Added....51684
721.3435 Added....51684
721.4215 Added....51703
721.4250 Added....51704
721.4490 Added....51685
721.4550 Added....51705
721.4590 Added....51705
721.5075 Added....51685
721.5285 Added....51685
721.5310 Added....51705
721.5330 Added....51685
721.5385 Added....51706
721.5705 Added....51706
721.5910 Added....51686
721.5915 Added....51706
721.5920 Added....51706
721.5990 Added....51707
721.6070 Added....51707
721.6085 Added....51707
721.6090 Added....51686
721.6820 Removed....45842
721.7450 Added....51686
721.7770 Added....51707
721.8082 Added....51686
721.8160 Added....51707
721.8265 Added....51687
721.8290 Added....51687
721.8335 Added....51708
721.8650 Added....51687
721.9510 Added....51687
721.9620 Added....51709
721.9650 Added....51687
721.9665 Added....51709
721.9925 Added....51709
799.5050 Added....40291

Title 40—*Proposed Rules:*

1—799 (Ch. I)...37450, 37991, 38546, 42518, 42711, 44799, 47414, 48012, 53688, 55033
35....40106, 53688
51....54648
52...36905, 37450, 37453, 38108, 38326, 39717, 40107, 40759, 41218, 41451, 42914, 43609, 44799, 44802, 45469, 45471, 45473, 45474, 45874, 47101, 47103, 47239, 47414, 47415, 47701, 47705, 47707, 47840, 48339, 48344, 48811, 48812, 48999, 49001, 49254, 49258, 49458, 49463, 49464, 49952, 49954, 49956, 50304, 50307, 50311, 50530, 50884, 50886, 51028, 51270, 51279, 51591, 51593, 52467, 53693, 54081, 54089, 54648, 57573, 57575
55....48619
60....42760, 54648
61....42760, 54648
63...37778, 42760, 43028, 45081, 45476, 53478, 53900
64....54648
68....54190
72....50088

Page

73....44482, 50088
74....50088
75....50088
78....44482, 50088
80....45307, 54547
81...36908, 37453, 38108, 38331, 43609, 44639, 44641, 49001, 49467, 49956
82....38735, 50464
88....35420, 42266
89....51595
117....54836
122....42266, 47845, 53168
123....42266, 46145, 47417, 47845, 53168
131....42266, 47845, 53168
132....42266, 47845, 53168
148....48092
152....42711
180...36366, 37893, 40394, 40395, 41452, 43828, 43830, 44990, 46147, 46149, 49263, 49264, 49265, 49267, 50888, 51031, 54092, 54094, 54316
185....54094, 54316
186....36366, 39180, 54094, 54316
195....54474
228....43090
258....40568
260....46052, 48092
261....36367, 48092
268....48092
271....48092
280....43770
300...37893, 42519, 42916, 44804, 45082, 50893, 53688, 54702
302....54836
355....54836
372....36180, 46596, 47709
721...40397, 45871, 46921, 48346, 48347, 48348, 49269, 49271, 50895, 50896
745....46921

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101-18 Authority citation revised....40592
101-18.000—101-18.001 (Subpart 101-18.0) Added....40592
101-18.100—101-18.106 (Subpart 101-18.1) Revised....40592
101-16—101-21 (Subchapter D) Appendix amended....52918
101-26.107 Revised....41637
101-37.400—101-37.403 (Subpart 101-37.4) Heading revised....53660
101-37.400 Revised....53660
101-37.401 Revised....53660
101-37.402 Revised....53661
101-37.403 Added....53661
101-37.404 Added....53661
101-37.405 Added....53662
101-37.406 Added....53662
101-37.407 Added....53662
101-37.408 Added....53662
101-40 Authority citation revised....53889
101-40.202 Revised....48972
101-40.203 Heading revised....53889
101-40.203-1 Revised....48972
101-40.205 Revised....53889
101.41 Temporary reg. G-57 added....39664
101-41.203-1 (a) revised....39665
101-41.203-2 Revised....39665
101-44.207 (a)(18.1) revised....39666
101-49.001-5 Introductory text revised....46089

Chapter 105—General Services Administration (Parts 105-1—105-999)

105-71 Added....43270

Chapter 128—Department of Justice (Parts 128-1—128-99)

128.8000—128.8010 (Subpart 128-1.8) Added....42876

Chapter 301—Travel Allowances (Parts 301-1—301-99)

301-1 Authority citation revised....58236
301-1.102 (a) introductory text and (b)(1) revised....58236
301-1.103 (f)(3) amended....58236
301-2.5 (b) revised....58236
301-3.3 Revised....58236
301-4.3 (a)(1) and (2) revised....58240
301-7.11 (e) amended....58241
301-8.2 (a) amended....58241

CHANGES JULY 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 41 Chapter 301—Con. Page

301-8.3 (c)(4) and (5) amended; (c)(6) added 58241
301-10.2 (a)(2)(i) revised 58241
301-10.3 (f) redesignated as (e) 58241
301-11.6 (b)(9) revised 58241
301-15.7 (g) amended 58242
301-16 Added 58242

Chapter 302—Relocation Allowances (Parts 302-1—302-99)

302-1 Authority citation revised 58243
302-1.3 (a) revised 58243
302-1.10 (b) through (g) redesignated as (c) through (h); (a), new (e) introductory text and new (f) amended; new (b) added 58243
302-1.100—302-1.107 (Subpart B) Heading revised 58243
302-1.100 Revised 58243
302-1.101 Introductory text and (a) revised 58243
302-1.102 Amended 58244
302-1.104 Amended 58244
302-1.105 (a) and (c) amended 58244
302-1.106 Amended 58244
302-6.2 (g)(1) and (2) amended 53137
302-11.5 (i) revised 58244

Chapter 304—Payment from a non-Federal source for travel expenses (Parts 304-1—304-99)

304-1.3 (d) revised 58244

Title 41—*Proposed Rules:*

101-25 39720
105-57 46596
201-20 49005
201-39 49005

CHANGES OCTOBER 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

Page

52e Authority citation revised 54298
52e.1 Heading and (a) revised 54298
52e.2 Revised 54298
52e.3 Heading revised 54298
52e.4 Heading revised; (a) and (c) amended 54298
52e.5 Heading revised 54298
(a) and (b) amended 54299
52e.6 Heading and (a) introductory text revised 54298
52e.7 Heading revised 54298
(b) amended 54299
52e.8 Revised 54298
52e.9 Amended 54299

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

403.400—403.410 (Subpart D) Removed 54049
435 Correction at 58 FR 50635 withdrawn 51408
436 Correction at 58 FR 50635 withdrawn 51408
440 Correction at 58 FR 50635 withdrawn 51408

Title 42—*Proposed Rules:*

431 53481
440 ..... 51288, 53481
441 ..... 51288, 53481
447 53481
1003 54096

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

37 Added; eff. 11-1-93 51554

Public Land Orders

2460 Revoked in part by PLO 6998 52238
4522 Revoked in part by PLO 7002 52684
6998 52238
6999 52238
7000 52682
7001 52683
7002 52684
7003 53428
7004 53429
7005 54049
7006 57566

Title 43—*Proposed Rules:*

4700 51297

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

64.6 Table amended 51577, 52019
206.266 (a) revised 55022

Title 44—*Proposed Rules:*

67 51598

TITLE 45—PUBLIC WELFARE

Chapter VI—National Science Foundation (Parts 600—699)

670.50—670.72 (Subpart K) Regulation at 58 FR 34718 correctly redesignated as Part 672; effective date corrected to 8-15-93 54522
671 Regulation at 58 FR 34719 effective date corrected to 8-15-93 54522
672 Regulation at 58 FR 34718 correctly redesignated from 670.50—670.72 (Subpart K); effective date corrected to 8-15-93 54522

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1602 Authority citation revised 52919
1602.2 Revised 52919
1602.4 Revised 52919
1602.5 Revised 52920

CHANGES OCTOBER 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 45 Chapter XVI—Con. Page

1602.6 Added....52920
1602.7 Revised....52920
1602.8 (a), (b)(3), (4), (5), (c) introductory text and (d) revised....52920
1602.9 (a)(2) and (6)(iv) revised....52921
1602.10 Revised....52921
1602.12 Revised....52921
1602.13 Revised....52921

Chapter XXIII—Arctic Research Commission (Part 2301)

Chapter XXIII Established....57698
2301.170 (c) revised....57699

Chapter XXIV—James Madison Memorial Fellowship Foundation (Parts 2400—2499)

2490 Added....57699
2490.170 (c) revised....57699

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

30 Authority citation revised....52602
30.01-5 (e)(2) revised....52602
31 Authority citation revised....52602
31.10-21a Added....52602
32 Authority citation revised....52602
32.59 Added....52602
69 Policy statement....57747
160 Technical correction....51576

Title 46—*Proposed Rules:*

10....51408
12....51408
67....51298
585....52248

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0.408 (b) table amended (OMB numbers)....55023
1.773 (a)(4) and (b)(3) revised....51247
15.31 (a)(6)(iii) note added....51249
15.107 (d) redesignated as (f); new (d) and (e) added....51249
15.109 (e) amended; (g) added....51249
15.207 (b) and (c) redesignated as (c) and (d); new (b) added....51249
64 Memorandum opinion and order....53663
64.1301 (b) revised; (f) added....57750
73.202 (b) table amended....51250, 51578, 51579, 51787, 51788, 53665, 53666, 54523
73.520 Redesignated as 73.672....51250
73.606 (b) table amended....51578
73.614 (b)(1) amended....51250
73.672 Redesignated from 73.520....51250
73.682 Schedule I removed....51250
73.1635 (a)(4) amended....51250
73.3522 (a)(6) amended....51250
73.3545 Amended....51250
73.3555 (a)(1)(ii) and note amended....51250
73.3564 (a)(2) amended....51250
73.3580 (a)(6) amended....51251
73.3594 (a)(2) amended....51251
73 Index amended....51250
74.602 (e) amended....51251
74.637 Table amended....51251
76.62 (a) stayed....53429
76.64 (e) stayed....53429
87.187 (l)(1)(bb) and (cc) correctly designated....52021
90.173 (k) revised....51252
Regulation at 58 FR 51252 effective date corrected to 11-1-93....53245
90.621 (b) introductory text, (1), (2) introductory text, (4) and (6) revised; (b)(3) amended; (b)(7) added; (c) and (d) removed; (e), (f), (g), (i), and (j) redesignated as (c), (d), (e), (f), (g), and (h)....53431
97.21 Revised....53138

Title 47—*Proposed Rules:*

1....53489, 57578
15....51299
22....53169
25....53169
36....52254
73...51603, 51799, 52733, 52734, 52735, 53902
74....52256
76....53696
80....53169
87....53169
90....51299, 53169
95....53169
99....53169

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 5—General Services Administration (Parts 500—599)

501.105 Amended....52443
501.670 Removed....52443
501.670-1 Removed....52443
501.670-2 Removed....52443
501.670-3 Removed....52443
501.670-4 Removed....52443
501.670-5 Removed....52443
501.670-6 Removed....52443
501.704-70 (b)(2) removed....52443
503.104-8 Revised....52443
507.305 Removed....52443
508.307-1 Revised....52443
508.705-72 Removed....52443
509.106-1 Removed....52443
509.405 Removed....52443
511.001 Removed....52443
514.201-72 Removed....52443
514.208 Removed....52443
514.402-1 (i) revised....52443
514.404-1 (b) revised....52443
514.407-2 Removed....52443
515.170 Removed....52443
515.402 Revised....52443
515.403 Removed....52443
515.405-1 Revised....52443
515.414-70 (a) revised....52443
515.506-1 Removed....52443
519.705-5 (d) revised....52444
519.705-6 (a) revised; (c) removed....52444
519.770-1 (b)(2)(i) revised....52444
519.770-3 (a) revised....52444
522.407 Removed....52444
525.10 Removed....52444
528.102-3 Removed....52444
528.106-70 Removed....52444
528.202 Revised....52444
529.401-70 Revised....52444
529.401-71 Removed....52444
532.803 Removed....52444
536.201 Revised....52445
536.203 Revised....52445
536.206 Removed....52445
536.303 Removed....52445
536.303-70 Revised....52445
536.303-71 (g) removed....52445
536.303-72 (c) removed; (d) redesignated as (c)....52445
538.203-71 (c) added....54524
542.302 (c) removed; (d) redesignated as (c)....52445
543.202 Revised....52445
552.207-70 Removed....52445
552.222-82 Removed....52445
552.228-70 Introductory text revised....52446
552.238-74 Added....54524
570.208-1 (c) removed....52446

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1815.611 Added....54299
1815.613-71 (b)(5)(i) revised; (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7)....54299
1816.404 Revised....52446
1816.405 Revised....52449
1828.371 Revised; interim....54050
1828.373 Removed; interim....54051
1833.211 Regulation at 58 FR 44462 confirmed....53138
1833.211-70 Regulation at 58 FR 44462 confirmed....53138
1852.216-76 Revised....52449
1852.216-77 Added....52449
1852.216-83 Amended....52450
1852.216-84 Amended....52450
1852.216-85 Revised....52450
1852.216-88 Added....52450
1852.228-72 Revised; interim....54051
1852.228-76 Revised; interim....54052
1852.228-78 Added; interim....54051
1870.303 Appendix I amended....54300
1871 Added; effective in part to 6-30-97....54300
1871.102 (b) added (effective date pending)....54301

Title 48—*Proposed Rules:*

837....54548
852....54548

CHANGES OCTOBER 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 49—TRANSPORTATION

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

Page

107 Authority citation revised.....51527
Clarification.....53626
107.117 (a) amended.....51257
107.101—107.123 (Subpart B) Appendix B amended.....51257
107.202 (d) amended.....51257
107.315 (c) and (d) amended.....51257
107.327 (a)(1)(iii) amended.....51527
107.606 (d) amended.....51527
171 Authority citation revised.....51527
Clarification.....53626
171.6 (b)(2) table amended.....51527
171.8 Amended.....51528
171.9 (b)(4) amended.....51528
171.15 Authority citation removed.....51528
172 Authority citation revised.....51528
172.101 Table amended.....51528, 51529
Appendixes A and B amended.....51531
172.102 (c)(1), (3) and (5) amended.....51531
172.202 (a)(2) amended.....51531
172.203 (k) introductory text, (3), (4)(iii) and (iv) amended.....51531
172.400a (a)(6) amended.....51531
172.406 (a)(2) and (e)(1) amended.....51531
172.525 (b) amended.....51531
172.526 (b) amended.....51531
172.556 (b) amended.....51531
173 Authority citation revised.....51531
Clarification.....53626
173.2 Table amended.....51531
173.3 (c) introductory text amended.....51531
173.4 (a) introductory text, (2) introductory text and (11) amended.....51531
173.7 (a) introductory text amended.....51532
173.10 (d) and (e) amended.....51532
173.21 (b) and (j) amended.....51532
173.22 (a)(3)(i) amended.....51532
173.24a (b)(4)(i) amended.....51532
173.25 (a) introductory text amended.....51532
173.31 (c)(9) amended.....51532
173.34 (e)(16) introductory text and (v) amended.....51532
173.56 (b)(2) introductory text and (i) amended.....51532
173.57 (a) introductory text amended.....51532
173.62 (b) amended.....51532
173.115 (a) introductory text and (2) amended.....51532
173.124 (b)(2) amended.....51532
173.127 (a) amended.....51532
173.128 (a) introductory text amended.....51532
173.132 (b)(1) amended.....51532
173.133 (b)(1)(ii) amended.....51532
173.136 (a) introductory text amended.....51532
173.151 (b)(2) amended.....51532
173.159 (g)(1) amended.....51532
173.225 (b) table amended.....51532
173.247 (g)(1)(ii) and (iii)(B) amended.....51532
173.301 (g)(5) amended.....51532
173.304 (d)(3)(i) amended.....51532
173.306 (i) introductory text amended.....51532
173.315 (a) table amended.....51532
173.318 (b)(3)(ii) amended.....51532
173.323 (f) amended.....51532
173.417 (b)(2)(ii) Table 5 amended.....51533
173.433 (b)(4) amended.....51533
173 Appendixes B, D and E amended.....51533
174 Authority citation revised.....51533
174.1 Amended.....51533
174.25 (a)(2)(ii) amended.....51533
174.55 (c) amended.....51533
174.82 (a) amended.....51533
174.290 Heading amended.....51533
174.430 Amended.....51533
174.700 (c) table amended.....51533
175 Authority citation revised.....51533
175.320 (a) table and (c) introductory text amended.....51533
176 Authority citation revised.....51533
176.5 (b) introductory text amended.....51533
176.83 (f)(4) amended.....51533
176.100 Amended.....51533
176.118 (b) amended.....51533
176.410 (c)(2) amended.....51533
177 Authority citation revised.....51533
177.825 Revised.....51533

Page

177.834 (j) amended.....51533
177.838 (g) amended.....51533
177.857 (d) amended.....51533
177.858 (b)(1) amended.....51533
178 Authority citation revised.....51533
Clarification.....53626
178.39-9 (a) amended.....51533
178.39-14 (b) amended.....51534
178.46-12 (e) redesignated as (c).....51534
178.53-9 (b) amended.....51534
178.55-20 (a) introductory text amended.....51534
178.56-3 Amended.....51534
178.56-11 (a) amended.....51534
178.60-24 (a) amended.....51534
178.61-8 (c)(2) amended.....51534
178.61-20 (b) amended.....51534
178.270-5 (d) amended.....51534
178.270-11 (d)(1) amended.....51534
178.337-1 (f) amended.....51534
178.337-16 (b)(2) amended.....51534
178.338-10 (c) amended.....51534
178.338-19 (c) amended.....51534
178.345-14 (b)(11) amended.....51534
178.352-2 (a) amended.....51534
178.352-6 (a)(2) amended.....51534
178.362-2 (e)(5) amended.....51534
178.516 (b)(3)(i) introductory text amended.....51534
178.518 (a)(2) amended.....51534
178.600 Amended.....51534
178.603 (a) table amended.....51534
178.605 (d)(1) amended.....51534
179 Authority citation revised.....51534
Amended.....51534
179.101-1 (a) table amended.....51534
179.105-4 (a) introductory text amended.....51534
179.203-1 (a) amended.....51534
180 Authority citation revised.....51534
Clarification.....53626
180.405 (f)(2) introductory text amended.....51534
180.407 (f)(1)(i)(C) amended.....51534
192.723 (b)(1) amended.....54528
(b)(2) revised.....54529

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

555 Authority citation revised.....58104
555.9 (c)(1) revised.....58104
571.108 Amended.....52026
571.111 Regulation at 57 FR 57000 confirmed.....53666
571.208 Amended; eff. 9-1-95.....52926
Figure 5 added; eff. 9-1-95.....52927
571.301 Amended.....51788

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

604.9 (b)(8)(iv) revised.....52685
613 Authority citation added; subpart authority citations removed.....58079
613.100 (Subpart A) Revised.....58079
613.200 (Subpart B) Revised.....58079

Chapter X—Interstate Commerce Commission (Parts 1000—1399)

1002 Regulation at 58 FR 7748 eff. 10-1-93.....52027
1017 Regulation at 58 FR 7748 eff. 10-1-93.....52027
1018 Regulation at 58 FR 7748 eff. 10-1-93.....52027
1039.11 (a) table revised.....53434
1145.9 Existing text redesignated as (a); (a) heading and (b) added.....53667
1312 Regulation at 58 FR 7748 eff. 10-1-93.....52027
1313 Regulation at 58 FR 7748 eff. 10-1-93.....52027
1314 Regulation at 58 FR 7748 eff. 10-1-93.....52027

Title 49—*Proposed Rules:*

23.....52050
37.....52735
172.....52574
173.....52574
179.....52574
390.....51800
552.....57579
571.....54099, 57975
572.....54099
821.....54102
1039.....54317, 54318, 54320, 54321, 54323
1063.....51603, 57978
1105.....51800
1121.....51800
1152.....51800

CHANGES OCTOBER 1, 1993 THROUGH OCTOBER 29, 1993

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

Page

17.11 (h) table amended.....53804, 53807
(h) table amended.....54065
17.12 (h) table amended.....52030
17.84 (c)(1), (4), (5)(iii), (6), (9), (10) and (11) correctly revised; (c)(5)(iv) correctly added; CFR correction.....52031
217.12 Amended.....54067
227.72 (e)(4)(ii) and (iii) redesignated as (e)(4)(iii) and (iv); new (e)(4)(iv) introductory text revised; new (e)(4)(ii) added.....54067
(e)(5) heading and (i) revised....54068
227 Figures 10 and 11 added.....54069

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

227.12 (a)(3) Table 1 amended.....53139
(a)(3) illustration revised.....53141
229 Regulation at 55 FR 21921 effective date extended to 4-1-94.....51789
229.1 (b) amended.....51789
285 Harvest quotas.....53434
Temporary regulations.....53668

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

301 Temporary regulations.....51253
371 Inseason adjustments.....54307

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

605.24 Comment period extended to 11-26-93; interim.....57968
625.20 Regulation at 58 FR 27215 and 39680 terminated; regulation at 58 FR 49940 corrected.....52685
642 Temporary regulations.....51579
642.25 (a)(1)(i) suspended; (a)(1)(iii) added; interim; eff. through 1-3-94.....51791
651 Technical correction.....55116
659 Added.....57751
661 Inseason adjustments.....53143
663 Restrictions.....52031
669 Heading revised.....53146
669.1 Revised.....53146
669.2 Amended.....53146
669.4 Amended.....53148
669.6 (a), (e)(1) introductory text, (2) and (3) amended.....53148
669.7 Revised.....53147
669.20—669.25 (Subpart B) Revised.....53147
672 Inseason adjustments.....51791
Temporary regulations...52032, 53668
Prohibition of retention.....53148
672.20 (i) introductory text and (1) through (5) redesignated as (i)(1) through (6); new (i)(1) and (2) revised; (i)(7) added.....57753
672.24 (e)(1) table and (2) table amended.....53142
675 Temporary regulations...51253, 52033, 52451, 53148, 54529
675.20 (j) introductory text and (1) through (5) redesignated as (j)(1) through (6); new (j)(1), (2) and (5) revised; (j)(7) added.....57753
675.24 (f)(1)(i), (ii), (2)(i) and (ii) tables amended.....53142

Title 50—*Proposed Rules:*

17...51302, 51604, 52058, 52059, 52063, 52740, 53696, 53702, 53904, 54549, 55036
32.....53703
215.....53320
216.....53320
222.....53320, 53703
227.....53703, 57770
228.....53491
622.....53172
625.....53172
628.....53172
641.....52063, 52073, 52474, 55116, 57771
642.....54108

CHANGES OCTOBER 1, 1993 THROUGH OCTOBER 29, 1993

Page

646.....53183
649.....53172
650.....53172
651.....52073, 53172, 57774
652.....53172
655.....53172
661.....57978
672.....57979
675.....53497, 57803, 57979

Additions to Table I, October 1993

This table lists the sections of the U.S. Code, U.S. Statutes at Large, Public Laws, and Presidential documents which are being added to Table I as a result of authority citations carried in the **Federal Register** during January through October 1993. Recent legislation is carried by public law number.

Table I is in the CFR Index and Finding Aids revised as of January 1, 1993. Additions during 1992 are in the December 1992 LSA (List of CFR Sections Affected).

In order to determine the **Federal Register** page number of a parallel CFR citation, consult this LSA and the appropriate Annual Issue of the LSA for that CFR title.

U.S. Code:	CFR
2 U.S.C.	
179	36 Part 704
3 U.S.C.	
301	31 Parts 550, 580, 585
5 U.S.C.	
301	25 Part 11
533	29 Part 1910
551—557	18 Part 36
552	12 Part 904
	21 Part 291
	25 Parts 515, 517
	45 Part 1602
	48 Part 435
552a	12 Part 909
	29 Part 102
552b	12 Part 906
553	49 Parts 1018, 1023
556	46 Part 502
561—569	46 Part 502
571 note	29 Part 18
571—596	46 Part 502
653	29 Part 1926
1101 note	5 Part 250
1302	5 Part 250
1422b	12 Part 904
3301—3302	5 Part 250
3329	5 Part 335
5514	17 Part 204
	22 Part 309
	45 Part 708
5701—5709	41 Part 301-16
6387	5 Part 630
7301...5	Parts 3202, 4301, 5001, 5101, 5601, 5701
	12 Part 336
	16 Part 5
	22 Part 705
	32 Part 40
7351	5 Part 3601
	18 Part 3c
7353	5 Parts 3c, 3601, 5101
	18 Part 3c
8337	5 Part 837
8339	5 Part 831
5 U.S.C.—Con.	CFR
8343a	5 Part 831
8344	5 Part 837
8345	5 Part 831
8347	5 Part 837
8433	5 Part 1650
8455	5 Part 837
8456	5 Part 837
8461	5 Part 837
8468	5 Part 837
8709...48	Parts 2105, 2106, 2114, 2116, 2122
8716...48	Parts 2101—2103, 2109, 2110, 2115, 2116, 2124, 2128, 2129, 2131—2133, 2137, 2143, 2144, 2146, 2149, 2152
8433	5 Part 1650
5 U.S.C. Appendix	
App...5	Parts 3202, 3601, 4301, 5701, 5001, 5101, 5601
	16 Part 5
	18 Part 3c
7 U.S.C.	
2	17 Part 35
4a	5 Part 5101
6	17 Parts 3, 35
6a	17 Part 3
6b	17 Parts 3, 156
6c	17 Part 35
6g—6i	17 Part 3
6j	17 Part 156
6l	17 Part 3
6o	17 Part 3
6p	17 Part 1
7a	17 Part 156
12	17 Part 3
12a	17 Parts 35, 156
13	17 Part 140
135 et seq	40 Part 9
136	9 Part 92
136a	7 Part 110
	9 Part 92
136i-1	7 Part 110
138	7 Parts 99, 100

7 U.S.C.—Con.	CFR
450	7 Part 110, 319
511m	7 Part 92
511r	7 Part 92
901 et seq	7 Part 1786, 1792
950 et seq	7 Part 1703
1314b	7 Part 723
1314b-1	7 Part 723
1444f-1	7 Part 1421
1445	7 Part 723
1621—1627	7 Parts 94, 95
1622	7 Parts 90, 91, 93, 96, 98—101
1624...7	Parts 90, 91, 93, 96, 98—101, 110
1989	7 Part 4284
2032	7 Parts 271—282, 284, 285
2158	9 Parts 1, 2
2159	9 Parts 1, 2
2321	7 Part 97
2326	7 Part 97
2352	7 Part 97
2353	7 Part 97
2356	7 Part 97
2371	7 Part 97
2402b	7 Part 97
2403	7 Part 97
2426	7 Part 97
2427	7 Part 97
2501	7 Part 97
5622 note	7 Part 1493
6401—6417	7 Part 1160
8 U.S.C.	
1153 note	22 Part 41
1187	8 Part 214
	22 Part 41
10 U.S.C.	
113...32	Parts 341, 356, 357, 358—361, 371
131 et seq	32 Parts 377, 385, 387
131	32 Parts 364, 387
133	32 Parts 370, 393
134	32 Part 354
134a	32 Part 355
136	32 Parts 356—360
191—193	32 Parts 371, 398, 399
301	32 Parts 342, 386
1124	19 Part 133
7430	15 Part 799
12 U.S.C.	
1 et seq	12 Part 1
265	31 Part 203
391	31 Part 203
814	12 Part 208
1124	19 Part 133
1141j	46 Part 502
1422b	12 Part 902
1424	12 Part 933
1426	12 Part 935
1429	12 Part 935
1430	12 Part 933
12 U.S.C.—Con.	CFR
1430b	12 Part 935
1431	12 Part 935
1438	12 Part 902
1441	12 Part 1626
1441a	12 Part 1627
1442	12 Part 933
1462	12 Part 558, 575
1462a	12 Part 575
1463	12 Part 575
1464	12 Part 563
1467a	12 Parts 558, 575
1715	24 Parts 207, 291
1715u	24 Part 203
1786	12 Part 710
1787	12 Part 710
1798	12 Part 701
1818	12 Parts 208, 211, 325, 330
1819	5 Part 3202
	12 Parts 330, 336
1820	12 Part 330
1821	12 Part 360, 1627
1828	12 Part 575
1831e	12 Part 303
1831i	12 Part 574
1831m	12 Part 363
1831o	12 Parts 208, 303
1833	12 Parts 517, 902
1833e	12 Part 902
1919	12 Part 325
2250	12 Part 607
2252	12 Part 607
2810 et seq	12 Part 528
3025	12 Part 607
3701—3716	24 Part 27
4311	12 Parts 707, 740
14 U.S.C.	
633	46 Parts 10, 12
15 U.S.C.	
46	5 Part 5701
57a	48 Part 435
77f—77h	17 Part 232
77h	17 Part 201
77j	17 Part 232
77s	17 Part 232
77iii	17 Part 229
77sss	17 Part 232
77ttt	17 Part 201
78	17 Part 210
78c	17 Parts 229, 232
78i	17 Part 229
78j	17 Part 229
78l—78o	12 Part 232
78m	17 Part 210
78w	17 Part 232
78ll...17	Parts 200, 210, 228, 229, 232, 269
	21 Part 201
79	18 Parts 141, 365

15 U.S.C.—Con.	CFR
79j	17 Part 210
79t	17 Part 232
80a–8	17 Part 232
80a–23	17 Part 270
80a–29	17 Part 232
80a–30	17 Part 232
80a–37	17 Part 232
80a–37a	17 Part 210
205b	48 Part 3410
631—650	14 Part 1204
687b	13 Part 107
687c	13 Part 107
687m	13 Part 107
717—717w	18 Part 385
717g	18 Part 3c
781l	17 Part 201
1096	19 Part 133
1392	49 Part 564
1401	49 Part 564
1403	49 Part 564
1407	49 Part 564
2001	40 Part 9
2002	49 Part 523
2003	40 Part 9
2005	40 Part 9
2056	16 Part 1210
2058	16 Part 1210
2079	16 Parts 1210, 1500
2601—2671	40 Part 9
3717	12 Part 701
5701 et seq	16 Part 308
16 U.S.C.	
251—255	43 Part 3820
447	43 Part 3820
450z	43 Part 3820
742 a—d	50 Part 20
742 e—j	50 Part 20
791a—825r	18 Parts 2, 36, 385
792—825r	18 Part 2
792—825y	18 Part 2
825	18 Part 3c
1005	7 Part 4284
1431 et seq	15 Part 940
1801 et seq	50 Parts 659, 671, 678
2401 et seq	45 Part 672
2405	45 Part 671
2601—2605	18 Part 385
2601—2645	18 Part 385
4301—4309	43 Part 37
4711	33 Part 151
17 U.S.C.	
803	37 Part 311
1007	37 Part 311
18 U.S.C.	
208	34 Part 73
1791	28 Part 540
3559	10 Part 860
3571	10 Part 860
4001—4002	28 Part 26

19 U.S.C.	CFR
58	19 Part 101
58c	19 Part 111
66	19 Part 118
1498	19 Part 148
1499	19 Part 118
1526	19 Part 133
1558	19 Part 133
1623	19 Part 133
1623—1624	19 Part 118
3203	7 Part 1540
20 U.S.C.	
241	32 Part 80
241 note	32 Part 80
1001 et seq	34 Part 610
1029	34 Part 779
1065	34 Part 628
1066	34 Part 608
1069d	34 Part 608
1069f	34 Part 608
1070a-11	34 Parts 642, 645, 646
1070a-13	34 Part 645
1070a-14	34 Part 646
1070a-17	34 Part 642
1082	34 Part 600
1087a et seq	34 Part 685
1104—1104k	34 Part 653
1121—1130b	34 Part 655
1132d—1132d-3	34 Part 614
1132g—1132g-3	34 Part 614
1133—1133c	34 Part 631
1133—1133b	34 Part 632
1133c	34 Parts 633—635
1134	34 Part 650
1134k-1	34 Part 650
1135—1135a-2	34 Part 630
1135a—11	34 Part 630
1136—1136h	34 Part 636
1137—1137a	34 Part 630
1400 et seq	32 Part 80
1145h	34 Part 698
1681	29 Part 34
3202—3203	34 Parts 231, 238
3214	34 Part 230
9615	40 Part 2
21 U.S.C.	
114a	9 Parts 92, 130
136	9 Parts 92, 96
136a	9 Parts 92, 96 27 Part 319
263c—263n	21 Part 10
321	21 Parts 206, 310, 347
331	21 Part 206
331j	21 Part 206 40 Parts 9
337	21 Part 100
341	21 Part 177
342	21 Part 172

21 U.S.C.—Con.	CFR
346a	40 Part 9
348	40 Part 9
351	21 Parts 347, 351
352	21 Parts 206, 347, 804
353	21 Part 310, 347
355	21 Part 206, 347
356	21 Part 310
357	21 Parts 206, 443
360	21 Part 347, 804
360c—360f	21 Part 310
360i	21 Part 804
360j	21 Part 804
360l	21 Part 878
371	21 Parts 172, 177, 206, 347, 804
374	21 Parts 314, 804
379	21 Part 176
379e	21 Parts 172, 175, 177, 178, 201, 310, 510, 514
394	21 Part 10
853a	46 Part 502
1031—1056	7 Part 94
22 U.S.C.	
287c	31 Parts 550, 580, 585
612 note	28 Part 5
827c	31 Part 550
2503	22 Part 309
2752	22 Parts 120—128
2780	22 Part 128
2791	22 Parts 126—128
2797	22 Parts 120, 121, 124, 126, 128
6001—6010	31 Part 515
23 U.S.C.	
106	23 Part 140
109	23 Part 140
118	23 Part 1260
120 note	49 Part 671
130	23 Part 140
135	23 Part 450
141	23 Part 1260
153	23 Part 1215
154	23 Part 1260
217	23 Part 450 49 Part 613
315	23 Part 1260
402	23 Part 1200
409	49 Part 9
25 U.S.C.	
2	25 Part 12
9	25 Part 11
13	25 Parts 11, 12
81	25 Parts 531, 533, 535, 537, 539
461—479	43 Part 3820
2101 et seq	43 Part 3160
2705	25 Parts 573, 575
2706	25 Parts 501, 519, 522, 523, 524, 531, 533, 535, 537, 539, 556, 558, 571, 573, 575, 577
2710	25 Parts 501, 522, 523, 524, 531, 533, 535, 537, 539, 556, 558, 571

25 U.S.C.—Con.	CFR
2711	25 Parts 531, 533, 535, 537, 539
2712	25 Parts 522, 523, 524, 556, 558
2713	25 Parts 573, 575, 577
2715	25 Parts 571, 573, 575, 577
2716	25 Part 571
26 U.S.C.	
267	26 Part 1
482	26 Part 1
1043	5 Part 3202
6065	26 Part 1
28 U.S.C.	
509—510	28 Parts 5, 26
2672	49 Part 1
29 U.S.C.	
653	29 Part 1928
762	34 Part 359
794	5 Part 1636 7 Part 15e 22 Part 1701 29 Part 34 45 Part 2301, 2490
796	34 Part 1200
797a	34 Part 377
794e	34 Part 381
1341	29 Part 2623
1501	29 Part 34
1551	29 Part 34
1573—1579	29 Part 34
2654	29 Part 825
2672	49 Part 1
30 U.S.C.	
22 et seq	43 Part 3820
28	43 Part 3850
181 et seq	43 Part 3160
621—625	43 Part 3730
1201 et seq	30 Parts 718, 720
31 U.S.C.	
902	10 Part 170
3102 et seq	31 Part 356
3701	49 Part 1018
3711 et seq	49 Part 1018
3716	30 Parts 216, 218
3717	12 Part 701
3720A	15 Part 19 22 Part 309 30 Parts 216, 218
3809	12 Part 1626
6505	23 Part 635
9701	8 Parts 208, 209 9 Part 92 18 Parts 36, 141 40 Part 9 46 Parts 10, 12
33 U.S.C.	
1231	49 Part 194
1251 et seq	40 Parts 9, 503
1311	40 Parts 9, 435
1313d	40 Part 9

33 U.S.C.—Con.	CFR
1314	40 Parts 9, 435
1316—1318	40 Part 435
1321	30 Part 254
	33 Parts 20, 150
	40 Part 9
	49 Parts 106, 171, 172, 174, 194
1326	40 Part 9
1330	40 Part 9
1344	40 Part 9
1345	40 Parts 9, 503
1361	40 Parts 9, 435
2735	33 Parts 154, 155
35 U.S.C.	
156	9 Part 124
38 U.S.C.	
501	38 Part 47, 501
	48 Part 801, 814, 833, 836
510	38 Part 14
4214	5 Part 307
5901	38 Part 14
39 U.S.C.	
3603	39 Part 3000
3606	5 Part 5601
40 U.S.C.	
322	49 Part 1
486	41 Part 105-71
	48 Parts 2101—2106, 2109, 2110, 2114—2116, 2122, 2124, 2128, 2129, 2131—2133, 2137, 2143, 2144, 2146, 2149, 2152
41 U.S.C.	
421...48 Parts	201—217, 219, 222—237, 239, 241—253
42 U.S.C.	
216	21 Part 310
241	21 Part 310
	40 Part 9
242	21 Part 310
242b	40 Part 9
243	40 Part 9
246	40 Part 9
262	21 Part 206, 310
263b—263n	21 Part 310
285b-1	42 Part 52e
300e—300e-17	42 Part 417
300f	40 Part 9
300g	40 Part 9
300g-1—300g-6	40 Part 9
300j-1—300j-4	40 Part 9
300j-9	40 Part 9
300y-11	21 Part 291
300aa-1 note	21 Part 5
300aa-25	21 Part 5
300aa-27	21 Part 5
300aa-28	21 Part 5
612c note	7 Part 240
1320a-3	42 Part 485
1395i-4	42 Part 412, 485
1396	42 Part 433

42 U.S.C.—Con.	CFR
1437	24 Part 770
1437u	24 Parts 905, 962, 984
1441	24 Part 770
1473f	24 Parts 962, 984
1733	43 Part 3160
1751	7 Parts 240, 250
1857 et seq	40 Part 9
1981	12 Part 701
2000d et seq	29 Part 34
2111	10 Part 36
2112	10 Part 36
2139	10 Part 110
2151 et seq	10 Part 110
2201	10 Parts 36, 766, 820
2214 note	10 Part 171
2232—2233	10 Parts 36, 50
2234	10 Part 50
2236	10 Parts 36, 50
2238	10 Part 50
2239	10 Part 50
2243	10 Part 110
2282	10 Parts 36, 820
2297g—2297g-l	10 Part 766
2473	48 Part 1871
2473b	14 Part 1204
3535...24 Parts	203, 511, 572, 582, 583, 770, 962, 984
3537	24 Part 86
3601—3619	24 Parts 812, 912
3608	24 Part 770
3782	28 Part 23
3789g	28 Part 23
4332	43 Part 3820
4853	29 Part 1926
5301	24 Part 770
5403	24 Part 3280
5841	10 Part 36
5842	10 Part 36
5846	10 Part 36
5851	10 Part 60
6101 et seq	34 Part 110
6106	29 Part 34
6861 et seq	10 Part 440
6901—6992k	40 Part 9
6912	40 Part 258
7101	18 Part 141
7191	10 Part 820
7211—7218	18 Part 3c
7401—7671q	40 Parts 9, 81
7401—7601	40 Part 60
7401	40 Part 9
7410 et seq	23 Part 450
	49 Part 613
7410	40 Parts 51, 88
7412	40 Part 9
7414	40 Part 9
7416	40 Part 9
7418	40 Part 88

42 U.S.C.—Con.	CFR
7475	40 Part 51
7502	40 Part 51
7503	40 Part 51
7542	40 Part 9
7549	40 Part 86
7554	40 Part 85
7582—7584	40 Part 88
7588	40 Part 88
7601	40 Parts 9, 51, 78
7620	40 Part 51
7651 et seq	40 Parts 72, 75, 78
7651—7651o	18 Parts 101, 201
7651k	40 Part 75
7651k note	40 Part 75
7651j	40 Part 77
7671—7671q	40 Part 9
7701 et seq	7 Part 1792
	49 Part 41
8101 et seq	12 Part 932
9601—9617	40 Part 9
9601 et seq	40 Parts 305, 307
9609	33 Part 20
9615	40 Part 2
9801 et seq...45 Parts	1304, 1305, 1308
10226	10 Part 50
11023	40 Parts 9, 372
11048	40 Parts 9, 372
11389	24 Part 583
11403 note	24 Part 582
12101 et seq	12 Part 517
12891	24 Part 572
13041	32 Part 86
13524	48 Parts 925, 952
43 U.S.C.	
1701 et seq	43 Part 3730
1733	43 Part 3160
1740	43 Part 37
6508	43 Part 3160
44 U.S.C.	
3501 et seq	25 Part 503
45 U.S.C.	
41—42	49 Part 9
231	20 Part 229
46 U.S.C.	
2103	33 Part 164
	46 Parts 12, 30, 31, 32
2110	46 Part 12
3703 note	33 Part 164
3715	33 Part 155
8502	33 Part 164
12106	19 Part 4
	46 Part 15
46 U.S.C. App.	
817d—2817e	46 Part 502
1721	46 Parts 580, 581, 583
47 U.S.C.	
151	47 Parts 61, 76
152—154	47 Part 76
154	47 Part 99

47 U.S.C.—Con.	CFR
201—205	47 Part 61
301	47 Part 76
302	47 Parts 76, 99
303	47 Parts 76, 99
332	47 Part 99
334	47 Part 73
403	47 Part 61
503	47 Part 1
531—533	47 Part 76
535	47 Part 76
542	47 Part 76
543	47 Part 76
548	47 Part 76
552	47 Part 76
554	47 Parts 21, 25, 74, 76, 100
901 et seq	47 Part 300
49 U.S.C.	
1—27	18 Part 36
322	49 Parts 9, 41
504	49 Part 9
1522	14 Part 129
1623	19 Part 122
10301	5 Part 5001
10306	5 Part 5001
10321	5 Part 5001
	49 Parts 1018, 1019, 1023
10505	49 Part 1145
11505	49 Part 1039
49 U.S.C. App.	
655	49 Part 228
1343	14 Part 170
1344	14 Part 25
1346	14 Part 170
1348	14 Part 170
1354	14 Parts 25, 170
1355	14 Parts 25, 170
1401	14 Part 170
1421	14 Parts 25, 170
1422—1430	14 Part 170
1423—1425	14 Part 25
1428	14 Part 25
1429	14 Part 25
1472	14 Part 170
1502	14 Part 170
1514	31 Part 585
1522	14 Part 170
1602	23 Part 450
	49 Part 613
1603	49 Part 613
1604	23 Part 450
	44 Part 613
1605	49 Part 613
1607	23 Part 450
	49 Part 613
1607a	23 Part 450
	49 Part 613
1612	49 Part 613
1622	49 Part 613

49 U.S.C. App.—Con.	CFR
1901 et seq.	49 Part 821
1921 et seq.	49 Part 821
1971	49 Part 821
50 U.S.C.	
781	32 Part 156
1601 et seq.	31 Part 585
1601—1651	31 Parts 550, 575, 580, 585
1701 et seq.	31 Part 585
1701—1706	31 Parts 550, 575, 580, 585
2251	32 Part 185
50 U.S.C. App.	
1—44	31 Part 500
2251 note	44 Part 354
U.S. Statutes at Large:	
49 Stat.	
1817	43 Part 3820
50 Stat.	
1827	43 Part 3820
72 Stat.	
1114	38 Part 14
1238	38 Part 14
84 Stat.	
7 Part 97	
88 Stat.	
271	7 Part 702
89 Stat.	
871	16 Part 305
92 Stat.	
3258	16 Part 305
94 Stat.	
780	44 Part 354
96 Stat.	
2136	23 Part 635
98 Stat.	
55	23 Part 635
494	44 Part 354
1153	15 Part 19
101 Stat.	
103	16 Part 305
132	23 Part 635
1568	12 Part 620
1656	12 Part 620
102 Stat.	
671	16 Part 305
104 Stat.	
515	46 Parts 30, 31, 32
1380	14 Part 1204
4978	2 Part 416
105 Stat.	
1701	7 Parts 1477, 1478
1914	23 Parts 625, 635
106 Stat.	
117	7 Parts 1477, 1478
252	49 Part 671
1374	43 Parts 3730, 3830, 3850
1378—1379	43 Parts 3730, 3830, 3850
1460	47 Part 76

106 Stat.—Con.	CFR
1553	49 Part 671
1571	44 Part 354
1875	45 Part 1612
2724	5 Part 1650
2776	13 Part 121
3047	20 Part 422
	16 Part 305
3133	13 Part 121
4237	37 Part 201
107 Stat.	
40	15 Part 799
135	7 Part 1477
241	7 Part 1477
312	7 Part 1786
Public Laws:	
89-508	49 Part 89
97-449	14 Parts 127, 135
98-167	49 Part 89
98-181	12 Part 225
98-369	49 Part 89
99-335	5 Part 837
101-73	12 Part 701
101-194	43 Part 20
101-624	7 Part 1477
102-365	49 Part 228
102-378	5 Part 531
102-484	5 Part 330
102-533	49 Part 229
102-587	50 Part 85
103-3	5 Part 630
103-10	15 Parts 775, 778
103-66	5 Part 831
103-75	7 Part 1478
Presidential Documents:	
Executive Orders:	
10577	5 Part 250
11222	5 Part 1633
11609	41 Part 301-16
	45 Part 708
11735	40 Part 9
12002	15 Part 799
12058	15 Part 799
12072	41 Part 101-18
12107	45 Part 708
12214	15 Part 799
12333	32 Part 386
12549	5 Part 970
12580	40 Parts 305, 307
12583	31 Part 580
12656	46 Part 340
12657	44 Part 354
12673	44 Part 2
12674	5 Parts 1633, 3202, 3601, 4301, 5001, 5101, 5601, 5701
	12 Part 336
	39 Part 3000
12699	7 Part 1792
	49 Part 41

Executive Orders—Con.	CFR
12731	5 Parts 1633, 3202, 3601, 4301, 5001, 5101, 5601, 5701
	12 Parts 336, 1605
	16 Parts 5, 1030
	18 Part 3c
	34 Part 73
	39 Part 3000
	43 Part 20
	49 Part 99
12735	15 Part 799

Executive Orders—Con.	CFR
12777	33 Parts 150, 154, 155, 156
	49 Part 194
12778	29 Part 18
12808	31 Part 585
12810	31 Part 585
12817	31 Part 575
12828	5 Part 351
12831	31 Part 585
12846	31 Part 585
12853	31 Part 580
12854	31 Part 515

Removals from Table I, October 1993

This table lists the sections of the U.S. Code, U.S. Statutes at Large, Public Laws, and Presidential documents which are being removed from Table I as a result of documents published in the **Federal Register** during January through October 1993.

Table I is in the CFR Index and Finding Aids revised as of January 1, 1993. Removals during 1992 are in the December 1992 LSA (List of CFR Sections Affected).

In order to determine the **Federal Register** page number of a parallel CFR citation, consult this LSA and the appropriate Annual Issue of the LSA for that CFR title.

U.S. Code:	CFR
2 U.S.C.	
178	36 Part 704
3 U.S.C.	
301	32 Part 40
5 U.S.C.	
552	32 Part 138
553	16 Part 305
	44 Part 2
	46 Part 505, 525
	49 Part 1321
1302	5 Part 752
3301—3302	5 Part 752
5514	28 Part 11
7513	5 Part 752
8349	5 Part 831
5 U.S.C. Appendix	
App	44 Part 3
4	5 Part 1633
	34 Part 73
5	34 Part 73
201—212	20 Part 360
7 U.S.C.	
4	17 Part 3
4a	17 Part 3
8	17 Part 3
9	17 Part 3
9a	17 Part 3
13c	17 Part 3
16a	17 Part 3
144f-1	7 Part 1421
608c	7 Part 953
1421 note	7 Part 1477
1989	7 Part 1944
2011—2031	7 Parts 271—282, 284, 285
2326	7 Part 180
2352—2353	7 Part 180
2356	7 Part 180
2371	7 Part 180
2402—2403	7 Part 180
2426—2427	7 Part 180
2501	7 Part 180
4201 note	7 Part 1980
8 U.S.C.	
1101	22 Part 41

	CFR
10 U.S.C.	
131	32 Part 356
131 et seq	32 Parts 354, 357, 361, 364
133	32 Parts 244, 358, 369, 371, 372a, 390a
134	32 Part 385
136	32 Parts 386, 387
191—193	32 Parts 359, 360
301	32 Part 355
371—378	32 Part 213
511	32 Part 92
651	32 Part 50
672	32 Part 92
2102	32 Part 92
2202	32 Parts 201, 236, 246
	48 Parts 201—217, 219, 222—237, 239, 241—253
2301—2314	32 Parts 592—606, 608, 612, 616
2576	32 Part 201
2809	32 Part 80
3012	32 Parts 592—606, 608, 612, 616
8012	32 Parts 954, 988
11 U.S.C.	
1-151326	32 Part 92
12 U.S.C.	
36	12 Part 208
241	17 Part 239
1141	46 Part 502
1431	12 Part 940
1462	12 Parts 579, 580
1462a	12 Parts 579, 580
1463	12 Parts 579, 580
1464	12 Parts 579, 580, 933, 940
1467a	12 Parts 579, 580
1691	12 Part 933
1691a	12 Part 933
1701q	24 Part 290
1710	24 Part 203
1715	24 Parts 203
1715b	24 Parts 207, 291
1715m	32 Part 77
1735f-12	24 Part 207
1798	12 Part 701
1814	123 Part 208

12 U.S.C.—Con.	CFR
1819	12 Part 325
1828	12 Part 225
1831	12 Part 303
1831i	12 Part 225
1831o	12 Part 263
1843	12 Part 225
3105	12 Part 208
3310	12 Parts 208, 225
3331—3351	12 Parts 208, 225
3711	24 Part 27
3906—3909	12 Part 208
3907	12 Part 225
3909	12 Part 225
15 U.S.C.	
77a et seq	17 Part 239
77nn	17 Part 229
78b	12 Part 208
78l	12 Part 208
78o-4	12 Part 208
78q	12 Part 208
78q-1	12 Part 208
78w	12 Part 208
78ll	17 Part 240
80a-37	17 Part 210
637	14 Part 1204
714b	7 Part 1474
714c	7 Part 1474
1601 et seq	12 Part 701
1691	12 Part 940
2001	49 Part 523
16 U.S.C.	
717—717w	18 Part 385
791a—825r	18 Part 2
18 U.S.C.	
201—209	34 Part 73
201 note	43 Part 20
207	10 Part 0
	20 Part 360
	43 Part 20
19 U.S.C.	
58	19 Part 101
20 U.S.C.	
1047	34 Part 779
1051—1069c	34 Part 624
1057—1059	34 Part 625
1060—1063	34 Part 626
1064—1069c	34 Part 627
1065a	34 Part 628
1066—1069c	34 Parts 625, 626
1070	34 Part 646
1070d	34 Part 645
1070d-1b	34 Part 646
1070d-1c	34 Part 645
1070d-1d	34 Part 642
1111—1111h	34 Part 653
1121—1127	34 Part 655
1132g—1132g-3	34 Part 614
1133	34 Parts 633—635
1133—1133a	34 Part 632

20 U.S.C.—Con.	CFR
1133—1133b	34 Part 631
1133b	34 Parts 633—635
1134—1134b	34 Part 648
1134d	34 Part 649
1134f	34 Part 649
1135 et seq	34 Part 630
4644	34 Part 230
21 U.S.C.	
352	21 Part 1020
376	21 Parts 175, 176, 201, 514
22 U.S.C.	
661—672	31 Part 254
23 U.S.C.	
118	23 Part 652
135	49 Part 613
141	23 Part 652
154	23 Part 652
315	23 Part 652
25 U.S.C.	
2102 et seq	43 Part 3160
28 U.S.C.	
535	34 Part 73
29 U.S.C.	
777a	34 Part 359
30 U.S.C.	
183 et seq	43 Part 3160
1201	30 Parts 718, 720
31 U.S.C.	
738a	31 Part 349
754	31 Part 349
754b	31 Part 349
3716	28 Part 11
3717	12 Part 701
9701	40 Part 86
	42 Part 417
33 U.S.C	
1223	33 Part 164
1251 et seq	40 Part 435
1321	49 Parts 171, 172
38 U.S.C.	
210	48 Part 801, 814, 833, 836
501	38 Parts 21, 14
2014	5 Part 307
40 U.S.C.	
304c	41 Part 101-18
333	29 Part 1910
471	41 Part 101-18
490	41 Part 101-18
490b	32 Part 80
531—535	41 Part 101-18
601—615	41 Part 101-18
42 U.S.C.	
287c	42 Part 52e
1345hh	42 Part 403
1395ww note	42 Part 403
1396r	42 Part 433
1437c	24 Parts 905
1437d	24 Parts 905

42 U.S.C.—Con.	CFR
1437aa—1437cc	24 Part 913
1437ee	24 Part 913
1452b	24 Part 290
1861	12 Part 701
2000	49 Part 613
2021b et seq	10 Part 2
2152	10 Part 40
2232—2239	10 Part 50
2234	10 Parts 30, 40
2237	10 Parts 30, 40
2243	10 Part 2
2928h	45 Part 1304
3534	24 Part 511
3535	24 Part 203
3537b	24 Part 86
3601—3619	12 Part 940
3701 et seq	28 Part 23
4106	12 Part 933
4201—4244	41 Part 101-18
5401	24 Part 3280
5851	10 Parts 30, 40
6508	43 Part 3160
6851 et seq	10 Part 440
7101—7352	18 Part 346
7401	40 Parts 9, 60
7411	40 Part 60
7412	40 Part 9
7414	40 Parts 9, 60
7416	40 Parts 9, 60
7504	23 Part 450
	49 Part 613
7506	23 Part 450
	49 Part 613
7601	40 Parts 9, 60
7651k	40 Part 75
7671—7671q	40 Part 9
9831 et seq	45 Part 1305
10226	10 Part 50
11013	40 Part 372
11028	40 Part 372
45 U.S.C.	
358	20 Part 345
46 U.S.C.	
1114	46 Part 315
1242	46 Part 315
5115	46 Part 31
8105	46 Part 31
8105	46 Parts 10, 12, 15, 31
46 U.S.C. App.	
816	46 Part 525
831	46 Part 505
841a	46 Part 505
1709	46 Parts 505, 525
1710	46 Part 505
1712	46 Part 505
1716	46 Parts 505, 525
1722	46 Parts 580, 581, 583
10104	46 Part 12

47 U.S.C.	CFR
151	47 Part 64
151—154	47 Part 76
154	47 Parts 34, 35
201—205	47 Part 64
203	47 Part 61
214	47 Part 64
219	47 Parts 34, 35
220	47 Part 64
301—303	47 Part 76
301	47 Part 74
303	47 Parts 25, 34, 35
307	47 Parts 34, 35, 74
49 U.S.C.	
1—27	18 Part 346
504	49 Part 394
1343	14 Part 170
1344	14 Part 25
1346	14 Part 170
1348	14 Part 170
1354—1355	14 Parts 25, 170
1401	14 Part 170
1421	14 Parts 25, 170
1421 et seq	49 Part 821
1422—1430	14 Part 170
1423—1425	14 Part 25
1428—1430	14 Part 25
1472	14 Part 170
1502	14 Part 170
1522	14 Part 170
1602	23 Part 450
	49 Part 613
1603	49 Part 613
1604	23 Part 450
	49 Part 613
1605	49 Part 613
1607	23 Part 450
1607	49 Part 613
1607a	23 Part 450
	49 Part 613
1607a-1	23 Part 450
	49 Part 613
1612	49 Part 613
1657	49 Parts 9, 523, 533, 537
1751	7 Part 246
1806	49 Part 172
1807	49 Part 172
1817	49 Part 172
1901 et seq	49 Part 821
3102	49 Part 394
10101	49 Part 1321
10102	49 Part 1321
10321	49 Part 1321
10521	49 Part 1321
10701	49 Part 1321
10702	49 Part 1321
10704	49 Part 1321
10708	49 Part 1039

49 U.S.C.—Con.	CFR
10741	49 Part 1321
10743	49 Part 1321
10761	49 Parts 1039, 1321
10762	49 Parts 1039, 1321
10764	49 Part 1321
10921	49 Part 1321
10923	49 Part 1321
11105	49 Part 1039
11144	49 Part 1321
11505	49 Part 1039
11901	49 Part 1321
11902—11904	49 Part 1039
11903	49 Part 1321
11904	49 Part 1321
11906	49 Part 1321
49 U.S.C. App.	
1655	49 Part 228
1815	49 Part 171
2505	49 Part 394
50 U.S.C.	
781 et seq	32 Part 156
1601 et seq	31 Part 585
1701 et seq	31 Parts 550, 575, 580, 585
50 U.S.C. App.	
5	31 Part 500
456	32 Part 50
1751—1806 note	31 Part 253
1971—1971q note	31 Part 290
U.S. Statutes at Large:	
45 Stat.	
254	31 Part 251
64 Stat.	
1245—1257	32 Part 185
84 Stat.	
1880	28 Part 23
87 Stat.	
197	28 Part 23
88 Stat.	
1109	28 Part 23
90 Stat.	
1346	28 Part 23
2407	28 Part 23
91 Stat.	
1048	28 Part 23
92 Stat.	
629	30 Part 256
1021	45 Part 1612
93 Stat.	
416	45 Part 1612
1167	28 Part 23

94 Stat.	CFR
3166	45 Part 1612
96 Stat.	
22	45 Part 1612
1235	12 Part 211
1874	45 Part 1612
97 Stat.	
1071	45 Part 1612
99 Stat.	
1185	45 Part 1612
101 Stat.	
1330	29 Part 2622
104 Stat.	
1462	5 Part 530
1466	5 Part 530
2399	40 Part 60
Public laws:	
87-651	32 Part 40
95-619	16 Part 305
99-500	7 Part 240
100-12	16 Part 305
100-233	12 Part 620
100-342	49 Part 228
100-357	16 Part 305
101-162	13 Part 107
101-574	13 Part 107
101-624	7 Parts 1477, 1478
102-229	7 Parts 1477, 1478
102-533	49 Part 229
Presidential Documents:	
Executive Orders:	
10487	31 Part 290
11063	12 Part 940
11222	12 Part 796
	16 Part 1030
	18 Part 3c
	20 Part 360
	22 Part 705
	32 Part 40
	34 Part 73
	39 Part 3000
	44 Part 3
	49 Part 99
11490	46 Part 340
11512	41 Part 101-18
11570	39 Part 3000
11735	33 Parts 154, 155, 156
12009	18 Parts 101, 201, 346
12333	32 Part 355
12565	12 Part 336
12800	29 Part 470

1993

58 FR Page	
1-211	Jan. 4
213-465	5
467-2964	6
2965-3192	7
3193-3483	8
3485-3823	11
3825-4057	12
4059-4294	13
4295-4568	14
4569-4890	15
4891-5252	19
5253-5560	21
5561-5917	22
5919-6074	25
6075-6186	26
6187-6341	27
6343-6439	28
6441-6600	29
6601-6678	Feb. 1
6679-6874	2
6875-7041	3
7043-7184	4
7185-7475	5
7477-7713	8
7715-7860	9
7861-7951	10
7953-8199	11
8201-8515	12
8517-8689	16
8691-8892	17
8893-9106	18
9107-9516	19
9517-10935	22
10937-11184	23
11185-11359	24
11361-11495	25
11497-11781	26
11783-11950	Mar. 1
11951-12144	2
12145-12328	3
12329-12536	4
12537-12900	5
12901-12996	8
12997-13188	9
13189-13400	10
13401-13528	11
13529-13694	12
13695-14144	15
14145-14302	16
14303-14493	17
14495-15070	18
15071-15259	19
15261-15414	22
15415-15749	23
15751-16101	24
16103-16343	25
16345-16479	26
16481-16610	29
16611-16762	30
16763-17080	31
17081-17320	Apr. 1
17321-17490	2
17491-17772	5
17773-17942	6
17943-18138	7
18139-18336	8
18337-19032	9
19033-19192	12
19193-19320	13
19321-19546	14
19547-19766	15
19767-21092	16
21093-21240	19
21241-21342	20
21343-21534	21
21535-21636	22
21637-21888	23
21889-25536	26
25537-25772	27
25773-25928	28
25929-26054	29
26055-26244	30
26225-26498	May 3
26499-26678	4
26679-26910	5
26911-27196	6
27197-27442	7
27443-27650	10
27651-27920	11
27921-28332	12
28333-28490	13
28491-28756	14
28757-28914	17
28915-29096	18
29097-29326	19
29327-29520	20
29521-29776	21
29777-29948	24
29949-30100	25
30101-30694	26
30695-30934	27
30935-31145	28
31147-31329	June 1
31331-31460	2
31461-31646	3
31647-31892	4
31893-32040	7
32041-32268	8
32269-32431	9
32433-32589	10
32591-32834	11
32835-33003	14
33005-33183	15
33185-33317	16
33319-33496	17
33497-33751	18

33753-33881	21
33883-33992	22
33993-34210	23
34211-34355	24
34357-34518	25
34519-34679	28
34681-34862	29
34863-35356	30
35357-35839	Jul 1
35841-36116	2
36117-36299	6
36301-36587	7
36589-36852	8
36853-37411	9
37413-37629	12
37631-37845	13
37847-38043	14
38045-38262	15
38263-38507	16
38509-38659	19
38661-38910	20
38911-39111	21
39113-39416	22
39417-39623	23
39625-40030	26
40031-40305	27
40307-40579	28
40581-40716	29
40717-41022	30
41023-41169	Aug 2
41171-41418	3
41419-41619	4
41621-41980	5
41981-42186	6
42187-42482	9
42483-42636	10
42637-42837	11
42839-43063	12
43065-43237	13
43239-43489	16
43491-43783	17
43785-44100	18
44101-44254	19
44255-44433	20
44435-44603	23
44605-44742	24
44743-45038	25
45039-45230	26
45231-45408	27
45409-45775	30
45776-46072	31
46073-46527	Sept. 1
46529-46757	2
46759-47013	3
47015-47197	7
47199-47370	8
47371-47618	9
47619-47820	10
47983-48258	14
48259-48443	15
48445-48589	16
48591-48774	17
48775-48952	20
48953-49174	21
49175-49420	22
49421-49899	23
49901-50241	24
50243-50505	27
50507-50830	28
50831-51006	29
51007-51209	30
51211-51563	Oct. 1
51565-51755	4
51757-51971	5
51973-52206	6
52207-52395	7
52397-52628	8
52629-52873	12
52875-53096	13
53097-53392	14
53393-53634	15
53635-53831	18
53833-54024	19
54025-54270	20
54271-54484	21
54485-54924	22
54925-57533	25
57535-57716	26
57717-57950	27
58097-58254	28
57951-58096	29

NO

993

MI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

code of federal regulations

LSA

List of CFR Sections Affected

November 1993

RECEIVED
LAW LIBRARY
JAN 18 1994
BRIGHAM YOUNG UNIVERSITY
J. Reuben Clark Law School

JAN 18 1994

LAW LIBRARY

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

**********3-DIGIT 846
A FR BRIGH358B DS 621AF
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY - DOCS
358 JRCB
PROVO UT 84602

NO

1993

UMI

code of federal regulations

AE 2.11 : 993/11

LSA

List of CFR Sections Affected

November 1993

Title 1–16

Changes January 4, 1993
through November 30, 1993

Title 17–27

Changes April 1, 1993
through November 30, 1993

Title 28–24

Changes July 1, 1993
through November 30, 1993

Title 42–50

Changes October 1, 1993
through November 30, 1993

NO

NO

1993

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1-16—as of Jan. 1
17-27—as of April 1
28-41--as of July 1
42-50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

Boldface page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (i.e. 58 FR for 1993) and the page number. Example: 24727 cite as 57 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1-16; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Table I—Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from Table I as a result of documents published in the Federal Register since January 1, 1993.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

UMI

NO

1993

UMI

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Laurice Clark, Ken Payne and Rob Sheehan. INQUIRIES, telephone 202-523-5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Martha L. Girard, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-019-00001-1)	$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101).	(869-019-00002-0)	17.00	[1] Jan. 1, 1993
4	(869-019-00003-8)	5.50	Jan. 1, 1993
5 Parts:			
1-699	(869-019-00004-6)	21.00	Jan. 1, 1993
700-1199	(869-019-00005-4)	17.00	Jan. 1, 1993
1200-End, 6 (6 Reserved)	(869-019-00006-2)	21.00	Jan. 1, 1993
7 Parts:			
0-26	(869-019-00007-1)	20.00	Jan. 1, 1993
27-45	(869-019-00008-9)	13.00	Jan. 1, 1993
46-51	(869-019-00009-7)	20.00	Jan. 1, 1993
52	(869-019-00010-1)	28.00	Jan. 1, 1993
53-209	(869-019-00011-9)	21.00	Jan. 1, 1993
210-299	(869-019-00012-7)	30.00	Jan. 1, 1993
300-399	(869-019-00013-5)	15.00	Jan. 1, 1993
400-699	(869-019-00014-3)	17.00	Jan. 1, 1993
700-899	(869-019-00015-1)	21.00	Jan. 1, 1993
900-999	(869-019-00016-0)	33.00	Jan. 1, 1993
1000-1059	(869-019-00017-8)	20.00	Jan. 1, 1993
1060-1119	(869-019-00018-6)	13.00	Jan. 1, 1993
1120-1199	(869-019-00019-4)	11.00	Jan. 1, 1993
1200-1499	(869-019-00020-8)	27.00	Jan. 1, 1993
1500-1899	(869-019-00021-6)	17.00	Jan. 1, 1993
1900-1939	(869-019-00022-4)	13.00	Jan. 1, 1993
1940-1949	(869-019-00023-2)	27.00	Jan. 1, 1993
1950-1999	(869-019-00024-1)	32.00	Jan. 1, 1993
2000-End	(869-019-00025-9)	12.00	Jan. 1, 1993
8	(869-019-00026-7)	20.00	Jan. 1, 1993
9 Parts:			
1-199	(869-019-00027-5)	27.00	Jan. 1, 1993
200-End	(869-019-00028-3)	21.00	Jan. 1, 1993
10 Parts:			
0-50	(869-019-00029-1)	29.00	Jan. 1, 1993
51-199	(869-019-00030-5)	27.00	Jan. 1, 1993
200-399	(869-019-00031-3)	15.00	Jan. 1, 1993
400-499	(869-019-00032-1)	20.00	Jan. 1, 1993
500-End	(869-019-00033-0)	33.00	Jan. 1, 1993
11	(869-019-00034-8)	13.00	Jan. 1, 1993
12 Parts:			
1-199	(869-019-00035-6)	11.00	Jan. 1, 1993
200-219	(869-019-00036-4)	15.00	Jan. 1, 1993
220-299	(869-019-00037-2)	26.00	Jan. 1, 1993
300-499	(869-019-00038-1)	21.00	Jan. 1, 1993
500-599	(869-019-00039-9)	19.00	Jan. 1, 1993
600-End	(869-019-00040-2)	28.00	Jan. 1, 1993
13	(869-019-00041-1)	28.00	Jan. 1, 1993
14 Parts:			
1-59	(869-019-00042-9)	29.00	Jan. 1, 1993
60-139	(869-019-00043-7)	26.00	Jan. 1, 1993
140-199	(869-019-00044-5)	12.00	Jan. 1, 1993

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
200–1199	(869–019–00045–3)	22.00	Jan. 1, 1993
1200–End	(869–019–00046–1)	16.00	Jan. 1, 1993
15 Parts:			
0–299	(869–019–00047–0)	14.00	Jan. 1, 1993
300–799	(869–019–00048–8)	25.00	Jan. 1, 1993
800–End	(869–019–00049–6)	19.00	Jan. 1, 1993
16 Parts:			
0–149	(869–019–00050–0)	7.00	Jan. 1, 1993
150–999	(869–019–00051–8)	17.00	Jan. 1, 1993
1000–End	(869–019–00052–6)	24.00	Jan. 1, 1993
17 Parts:			
1–199	(869–019–00054–2)	18.00	Apr. 1, 1993
200–239	(869–019–00055–1)	23.00	Apr. 1, 1993
240–End	(869–019–00056–9)	30.00	Apr. 1, 1993
18 Parts:			
1–149	(869–019–00057–7)	16.00	Apr. 1, 1993
150–279	(869–019–00058–5)	19.00	Apr. 1, 1993
280–399	(869–019–00059–3)	15.00	Apr. 1, 1993
400–End	(869–019–00060–7)	10.00	Apr. 1, 1993
19 Parts:			
1–199	(869–019–00061–5)	35.00	Apr. 1, 1993
200–End	(869–019–00062–3)	11.00	Apr. 1, 1993
20 Parts:			
1–399	(869–019–00063–1)	23.00	Apr. 1, 1993
400–499	(869–019–00064–0)	31.00	Apr. 1, 1993
500–End	(869–019–00065–8)	30.00	Apr. 1, 1993
21 Parts:			
1–99	(869–019–00066–6)	13.00	Apr. 1, 1993
100–169	(869–019–00067–4)	21.00	Apr. 1, 1993
170–199	(869–019–00068–2)	20.00	Apr. 1, 1993
200–299	(869–019–00069–1)	6.00	Apr. 1, 1993
300–499	(869–019–00070–4)	34.00	Apr. 1, 1993
500–599	(869–019–00071–2)	21.00	Apr. 1, 1993
600–799	(869–019–00072–1)	8.00	Apr. 1, 1993
800–1299	(869–019–00073–9)	22.00	Apr. 1, 1993
1300–End	(869–019–00074–7)	12.00	Apr. 1, 1993
22 Parts:			
1–299	(869–019–00075–5)	30.00	Apr. 1, 1993
300–End	(869–019–00076–3)	22.00	Apr. 1, 1993
23	(869–019–00077–1)	21.00	Apr. 1, 1993
24 Parts:			
0–199	(869–019–00078–0)	38.00	Apr. 1, 1993
200–499	(869–019–00079–8)	36.00	Apr. 1, 1993
500–699	(869–019–00080–1)	17.00	Apr. 1, 1993
700–1699	(869–019–00081–0)	39.00	Apr. 1, 1993
1700–End	(869–019–00082–8)	15.00	Apr. 1, 1993
25	(869–019–00083–6)	31.00	Apr. 1, 1993
26 Parts:			
§§ 1.0–1–1.60	(869–019–00084–4)	21.00	Apr. 1, 1993
§§ 1.61–1.169	(869–019–00085–2)	37.00	Apr. 1, 1993
§§ 1.170–1.300	(869–017–00086–8)	19.00	Apr. 1, 1992
§§ 1.301–1.400	(869–017–00087–6)	17.00	Apr. 1, 1992
§§ 1.401–1.440	(869–019–00088–7)	31.00	Apr. 1, 1993

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
§§ 1.401–1.500	(869–017–00088–4)	38.00	Apr. 1, 1992
§§ 1.501–1.640	(869–019–00090–9)	30.00	Apr. 1, 1993
§§ 1.641–1.850	(869–017–00091–7)	24.00	Apr. 1, 1993
§§ 1.851–1.907	(869–017–00091–4)	23.00	Apr. 1, 1992
§§ 1.908–1.1000	(869–019–00093–3)	26.00	Apr. 1, 1993
§§ 1.1001–1.1400	(869–017–00094–1)	22.00	Apr. 1,1993
§§ 1.1401–End	(867–019–00095–0)	31.00	Apr. 1, 1993
2–29	(869–019–00096–8)	23.00	Apr. 1, 1993
30–39	(869–019–00097–6)	18.00	Apr. 1, 1993
40–49	(869–019–00098–4)	13.00	Apr. 1, 1993
50–299	(869–019–00099–2)	13.00	Apr. 1, 1993
300–499	(869–019–00100–0)	23.00	Apr. 1, 1993
500–599	(869–019–00101–8)	6.00	[5] Apr. 1, 1990
600–End	(869–019–00102–6)	8.00	Apr. 1, 1993
27 Parts:			
1–199.D(869–019–00103–4)	37.00	Apr. 1, 1993	
200–End	(869–017–00103–1)	11.00	Apr. 1, 1992
28 Parts:			
0–42	(869–019–00105–1)	27.00	July 1, 1993
29 Parts:			
0–99	(869–019–00107–7)	21.00	July 1, 1993
100–499	(869–019–00108–5)	9.50	July 1, 1993
500–899	(869–019–00109–3)	36.00	July 1, 1993
900–1899	(869–019–00110–7)	17.00	July 1, 1993
1900–1910 (§§ 1901.1 to 1910.999).	(869–019–00111–5)	31.00	July 1, 1993
1910 (§§ 1910.1000 to end)	(869–019–00112–3)	21.00	July 1, 1993
1911–1925	(869–019–00113–1)	22.00	July 1, 1993
1926	(869–017–00112–1)	14.00	July 1, 1992
1927–End	(869–017–00113–9)	30.00	July 1, 1992
30 Parts:			
1–199	(869–019–00116–6)	27.00	July 1, 1993
200–699	(869–019–00117–4)	20.00	July 1, 1993
700–End	(869–019–00118–2)	27.00	July 1, 1993
31 Parts:			
0–199	(869–019–00119–1)	18.00	July 1, 1993
200–End	(869–017–00118–0)	25.00	July 1, 1992
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–019–00121–2)	30.00	July 1, 1993
191–399	(869–019–00122–1)	35.00	July 1, 1993
400–629	(869–019–00123–9)	26.00	July 1, 1993
630–699	(869–019–00124–7)	14.00	July 1, 1993
700–799	(869–017–00123–6)	20.00	July 1, 1992
800–End	(869–019–00126–3)	22.00	July 1, 1993
33 Parts:			
1–124	(869–017–00125–2)	18.00	July 1, 1992
125–199	(869–017–00126–1)	18.00	July 1, 1992
200–End	(869–019–00129–8)	24.00	July 1, 1993

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
34 Parts:			
1-299	(869-019-00130-1)	27.00	July 1, 1993
300-399	(869-019-00131-0)	20.00	July 1, 1993
400-End	(869-017-00130-9)	32.00	July 1, 1992
35	(867-019-00133-6)	12.00	July 1, 1993
36 Parts:			
1-199	(869-017-00132-5)	15.00	July 1, 1992
200-End	(869-017-00133-3)	32.00	July 1, 1992
37	(869-019-00136-1)	20.00	July 1, 1993
38 Parts:			
0-17	(869-019-00137-9)	30.00	July 1, 1993
18-End	(869-019-00138-7)	30.00	July 1, 1993
39	(869-019-00139-5)	17.00	July 1, 1993
40 Parts:			
1-51	(869-017-00138-4)	31.00	July 1, 1992
52	(869-017-00139-2)	33.00	July 1, 1992
53-60	(869-017-00140-6)	36.00	July 1, 1992
61-80	(869-017-00141-4)	16.00	July 1, 1992
81-85	(869-017-00142-2)	17.00	July 1, 1992
86-99	(869-017-00143-1)	33.00	July 1, 1992
100-149	(869-017-00144-9)	34.00	July 1, 1992
150-189	(869-017-00145-7)	21.00	July 1, 1992
190-259	(869-019-00149-2)	17.00	July 1, 1993
260-299	(869-017-00147-3)	36.00	July 1, 1992
300-399	(869-017-00148-1)	15.00	July 1, 1992
400-424	(869-017-00149-0)	26.00	July 1, 1992
425-699	(869-017-00150-3)	26.00	July 1, 1992
700-789	(869-017-00151-1)	23.00	July 1, 1992
790-End	(869-017-00152-0)	25.00	July 1, 1992
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved).		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-019-00156-5)	10.00	July 1, 1993
101	(869-019-00157-3)	30.00	July 1, 1993
102-200	(869-019-00158-1)	11.00	July 1, 1993
201-End	(869-019-00159-0)	12.00	July 1, 1993
42 Parts:			
1-399	(869-017-00157-1)	23.00	Oct. 1, 1992
400-429	(869-017-00158-9)	23.00	Oct. 1, 1992
430-End	(869-017-00159-7)	31.00	Oct. 1, 1992
43 Parts:			
1-999	(869-017-00160-1)	22.00	Oct. 1, 1992
1000-3999	(869-017-00161-9)	30.00	Oct. 1, 1992
4000-End	(869-017-00162-7)	13.00	Oct. 1, 1992

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
44	(869-017-00163-5)	26.00	Oct. 1, 1992
45 Parts:			
1-199	(869-017-00164-3)	20.00	Oct. 1, 1992
200-499	(869-017-00165-1)	14.00	Oct. 1, 1992
500-1199	(869-017-00166-0)	30.00	Oct. 1, 1992
1200-End	(869-017-00167-8)	20.00	Oct. 1, 1992
46 Parts:			
1-40	(869-017-00168-6)	17.00	Oct. 1, 1992
41-69	(869-017-00169-4)	16.00	Oct. 1, 1992
70-89	(869-017-00170-8)	8.00	Oct. 1, 1992
90-139	(869-017-00171-6)	14.00	Oct. 1, 1992
140-155	(869-017-00172-4)	12.00	Oct. 1, 1992
156-165	(869-017-00173-2)	14.00	Oct. 1, 1992
166-199	(869-017-00174-1)	17.00	Oct. 1, 1992
200-499	(869-017-00175-9)	22.00	Oct. 1, 1992
500-End	(869-017-00176-7)	14.00	Oct. 1, 1992
47 Parts:			
0-19	(869-017-00177-5)	22.00	Oct. 1, 1992
20-39	(869-017-00178-3)	22.00	Oct. 1, 1992
40-69	(869-017-00179-1)	10.00	Oct. 1, 1992
70-79	(869-017-00180-5)	21.00	Oct. 1, 1992
80-End	(869-017-00181-3)	24.00	Oct. 1, 1992
48 Chapters:			
1 (Parts 1-51)	(869-017-00182-1)	34.00	Oct. 1, 1992
1 (Parts 52-99)	(869-017-00183-0)	22.00	Oct. 1, 1992
2 (Parts 201-251)	(869-017-00184-8)	15.00	Oct. 1, 1992
2 (Parts 252-299)	(869-017-00185-6)	12.00	Oct. 1, 1992
3-6	(869-017-00186-4)	22.00	Oct. 1, 1992
7-14	(869-017-00187-2)	30.00	Oct. 1, 1992
15-28	(869-017-00188-1)	26.00	Oct. 1, 1992
29-End	(869-017-00189-9)	16.00	Oct. 1, 1992
49 Parts:			
1-99	(869-017-00190-2)	22.00	Oct. 1, 1992
100-177	(869-017-00191-1)	27.00	Oct. 1, 1992
178-199	(869-017-00192-9)	19.00	Oct. 1, 1992
200-399	(869-017-00193-7)	27.00	Oct. 1, 1992
400-999	(869-017-00194-5)	31.00	Oct. 1, 1992
1000-1199	(869-017-00195-3)	19.00	Oct. 1, 1992
1200-End	(869-017-00196-1)	21.00	Oct. 1, 1992
50 Parts:			
1-199	(869-017-00197-0)	23.00	Oct. 1, 1992
200-599	(869-017-00198-8)	20.00	Oct. 1, 1992
600-End	(869-017-00199-6)	20.00	Oct. 1, 1992
CFR Index and Finding Aids	(869-019-00053-4)	36.00	Jan. 1, 1993
Complete 1993 CFR set		775.00	1993
Complete 1992 CFR set		620.00	1992
Microfiche CFR Edition:			
Complete set (one-time mailing).		185.00	1989
Complete set (one-time mailing).		188.00	1990
Subscription (mailed as issued)		188.00	1991

Footnotes at end of table.

NO

1993

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
Subscription (mailed as issued)		188.00	1992
Individual copies		2.00	1992

[1]Because title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR parts 1—189 contains a note only for parts 1—39 inclusive. For the full text of the Defense Acquisition Regulations in parts 1—39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR chapters 1—100 contains a note only for chapters 1 to 49 inclusive. For the full text of procurement regulations in chapters 1 to 49, consult the three CFR volumes issued as of July 1, 1984 containing those chapters.

[4]No amendments to this volume were promulgated during the period January 1, 1987 through December 31, 1992. The CFR volume issued as of January 1, 1987 should be retained.

[5]No amendments to this volume were promulgated during the period April 1, 1990 through March 30, 1993. The CFR volume issued as of April 1, 1990 should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*		*Revision Date*
Federal Register:			
Yearly subscription (with FR Index and LSA)	415.00		
Yearly subscription (without FR Index and LSA)	375.00		
Individual copies	4.50		daily
Federal Register Document Drafting Handbook	5.50		1991
Guide to Record Retention Requirements in the Code of Federal Regulations	15.00		Jan. 1, 1992
List of Sections Affected, 1949-1963	Out of print		1966
List of CFR Sections Affected, 1964-1972			
(Titles 1 through 27) Vol. I	Out of print		1980
(Titles 28 through 50) Vol. II	Out of print		1980
List of CFR Sections Affected, 1973-1985			
(Titles 1 through 16) Vol. I	27.00		1990
(Titles 17 through 27) Vol. II	25.00		1990
(Titles 28 through 41) Vol. III	28.00		1990
(Titles 42 through 50) Vol. IV	25.00		1990
LSA (List of CFR Sections Affected):			
Yearly subscription	21.00		
Individual copies	1.50		monthly
Federal Register Index:			
Yearly subscription	19.00		
Individual copies	1.50		monthly
CFR Index and Finding Aids	36.00		annual

UMI

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 1—GENERAL PROVISIONS

Chapter III—Administrative Conference of the United States (Parts 300—399)

Page

303 Authority citation revised.....58935
303.101 Revised.....58935
303.102 Revised.....58935
303.103 Removed.....58935
303.104 Removed.....58935
303.105 Removed.....58935
303.106 Removed.....58935
303.107 Removed.....58935
303.108 Removed.....58935
303.109 Removed.....58935
305 Removed in part; note added.....54271
305.79-7 Correctly designated.....4295
305.93-1 Added.....45409
305.93-2 Added.....45410
305.93-3 Added.....45412
310 Removed in part; note added.....54271

Title 1—*Proposed Rules:*

305.....16375

TITLE 3—THE PRESIDENT

Proclamations

6179 Modified by Proc. 6544.....19547
6449 *See* Proc. 6577.....36301
6455 Modified by Proc. 6544.....19547
6491 Revoked by Proc. 6534.....13189
6515 Modified by Proc. 6544.....19547
See Proc. 6579.....36839
6517 Modified by Proc. 6544.....19547
See Proc. 6575.....34855
6519.....207
6520.....467
6521.....469
6522.....3195
6523.....3197
6524.....4293
6525.....5917
6526.....6187
6527.....7477
6528.....8691
6529.....10937
6530.....11361
6531.....11951
6532.....13185
6533.....13187
6534.....13189
6535.....15411
6536.....15413
6537.....15751
6538.....15753
6539.....16609
6540.....17773
6541.....19315
6542.....19317
6543.....19319
6544.....19547
See Proc. 6575.....34855
6545.....21093
6546.....21341
6547.....25537
6548.....25539
6549.....25541
6550.....26219
6551.....26221
6552.....26223
6553.....26499
6554.....26501
6555.....26503
6556.....26505
6557.....26909
6558.....27649
6559.....27917
6560.....27919
6561.....28915
6562.....29519
6563.....29775
6564.....29949
6565.....30935
6566.....31325
6567.....31893
6568.....31895
6569.....31897
6570.....32041
6571.....32267
6572.....33185
6573.....33753
6574.....34209
6575.....34855
Corrected.....36516
6576.....36117
6577.....36301
6578.....36585
6579.....36839
6580.....38659
6581.....40031
6582.....40717
6583.....41169
6584.....41621
6585.....43239

TITLE 3 Proclamations—Con.

Page
6586....44433
6587....47199
6588....47981
6589....48585
6590....48587
6591....48589
6592....48771
6593....49173
6594....49901
6595....49903
6596....50243
6597....50245
6598....51559
6599....51561
6600....51721
6601....51723
6602....52205
6603....52387
6604....52389
6605....52627
6606....52875
6607....53097
6608....53099
6609....53101
6610....53103
6611....53831
6612....53833
6613....54025
6614....54027
6615....54269
6616....54909
6617....57535
6618....57715
6620....59157
6621....59637
6622....60359
6623....60769
6624....61607
6625....61609
6626....61797
6627....61799
6628....62257
6629....63021

Executive Orders

Jan. 4, 1901 Revoked in part by PLO 6964....19212, 27060
July 2, 1910 Revoked in part by PLO 6961....18018
Modified by PLO 6981....32856
Revoked in part by PLO 6983....33772
See PLO 6987....33999
July 9, 1910 Revoked in part by PLO 7004....53429
Oct. 9, 1917 Revoked in part by PLO 6985....33773
Dec. 12, 1917 Revoked in part by PLO 6995....48458
2859 Amended by EO 12832....5905
3053 Revoked in part by PLO 7004....53429
3406 Revoked in part by PLO 7001....52683
4257 Revoked in part by PLO 6992....42246
Revoked in part by PLO 6996....48458
Revoked in part by PLO 7009....62041
5327 Revoked in part by PLO 7002....52684
6277 Revoked in part by PLO 6975....31475
6546 Revoked by PLO 6989....6989, 38083
10485 *See* EO 12847....29511
10530 *See* EO 12847....29511
10865 Amended by EO 12829....3479
10909 *See* EO 12829....3479
11145 Continued by EO 12869....51751
11183 Continued by EO 12869....51751
11287 Continued by EO 12869....51751
11382 *See* EO 12829....3479
11423 Amended by EO 12847....29511
11776 Continued by EO 12869....51751
11858 Amended by EO 12860....47201
12002 *See* EO 12867....51747
12131 Continued by EO 12869....51751
12154 Amended by EO 12833....5907
Amended by EO 12841....13529
12170 Continued by Notice of Nov. 1, 1993....58639
12193 *See* EO 12840....13401
12196 Continued by 12869....51751
12214 *See* EO 12867....51747
12216 Continued by EO 12869....51751
12291 Revoked by EO 12866....51735
12295 *See* EO 12840....13401
12333 *See* EO 12829....3479
12334 Revoked by EO 12863....48441
12345 Continued by EO 12869....51751
12351 *See* EO 12840....13401
12356 *See* EO 12829....3479
12367 Continued by EO 12869....51751
12382 Continued by EO 12869....51751
12409 *See* EO 12840....13401
12463 *See* EO 12840....13401
12498 Revoked by EO 12866....51735
12506 *See* EO 12840....13401

Page
12537 Revoked by EO 12863....48441
12554 *See* EO 12840....13401
12569 Amended by EO 12877....59159
12580 *See* Memorandum of Aug. 19, 1993....52397
12587 *See* EO 12840....13401
12629 *See* EO 12840....13401
12670 *See* EO 12840....13401
12675 Revoked in part by EO 12869....51751
12677 Revoked by EO 12876....58735
12687 Revoked by EO 12869....51751
12696 Revoked by EO 12869....51751
12700 Reestablished by EO 12869....51751
Revoked by EO 12882....62493
12706 *See* EO 12840....13401
12720 Revoked by EO 12869....51751
12722 Continued by Notice of July 20, 1993....39111
12724 Continued by Notice of July 20, 1993....39111
12730 Revoked by EO 12867....51747
See EO 12868....51749
12735 *See* EO 12867....51747
See EO 12868....51749
Continued by Notice of Nov. 12, 1993....60361
12737 Revoked by EO 12852....35841
12741 *See* EO 12869....51751
12753 *See* EO 12840....13401
12756 *See* EO 12869....51751
12768 Revoked by EO 12882....62493
12774 Superseded by EO 12869....51751
12775 *See* EO 12872....54029
Revoked in part by EO 12853....35843
See Notice of Sept. 30, 1993....51563
12779 *See* EO 12872....54029
Revoked in part by EO 12853....35843
See Notice of Sept. 30, 1993....51563
12780 Revoked by EO 12873....54911
12783 *See* EO 12869....51751
12785 *See* EO 12869....51751
12791 Superseded by EO 12840....13401
12792 Amended by EO 12827....211
Revoked by EO 12869....51751
12800 Revoked by EO 12836....7045
12808 *See* EO 12831....5253
See EO 12846....25771
Continued by Notice of May 25, 1993....30693
12810 Revoked in part by EO 12831....5253
See EO 12846....25771
See Notice of May 25, 1993....30693
12813 Revoked by EO 12869....51751
12815 *See* EO 12869....51751
12818 Revoked by EO 12836....7045
12827....211
12828....2965
12829....3479
12830....4061
12831....5253
See EO 12846....25771
See Notice of May 25, 1993....30693
12832....5905
12833....5907
See EO 12841....13529
12834....5911
12835....6189
12836....7045
12837....8205
12838....8207
12839....8515
12840....13401
12841....13529
12842....17081
12843....21881
12844....21885
12845....21887
12846....25771
See Notice of May 25, 1983....30693
12847....29511
12848....29517
12849....30931
12850....31327
12851....33181
12852....35841
Amended by EO 12855....39107
12853....35843, 51563
12854....36587
12855....39107
12856....41981
12857....42181
12858....42185
12859....44101
12860....47201
12861....48255
12862....48257
12863....48441
12864....48773
12865....51005
12866....51735, 58093
See Memorandum of Sept. 30, 1993....52391
12867....51747
12868....51749
12869 Revoked in part by EO 12882....62493

TITLE 3 Executive Orders—Con. Page
12870....51753
12871....52201
12872....54029
12873....54911
12874....54921
12875....58093
12876....58735
12877....59159
12878....59343
12879....59929
12880....60989
12881....62491
12882....62493

Administrative Orders

Memorandums:

June 25, 1991 Superseded by EO 12851....33181
Sept. 25, 1992 *See* Memorandum of May 6, 1993....27647
Dec. 30, 1992....3195, 3485
Jan. 15, 1993....6339
Jan. 22, 1993....6439
Jan. 29, 1993....8201
Feb. 3, 1993....8303
Mar. 4, 1993....14303
May 6, 1993....27647
June 23, 1993....34519
June 25, 1993....34861
July 19, 1993....39109
Aug. 11, 1993....50831, 50833
Aug. 19, 1993....52397
Sept. 11, 1993....48583
Sept. 30, 1993....52391
Oct. 1, 1993....52393
Oct. 26, 1993....58095

Notices:

May 25, 1993....30693
July 20, 1993....39111
Sept. 25, 1993 *See* EO 12868....51749
Sept. 30, 1993....51563
Nov. 1, 1993....58639

Permits:

May 17, 1993....29513

Presidential Determinations:

No. 92-22 of Apr. 22, 1992 *See* Presidential Determination No. 93-16 of Mar. 20, 1993....16345
No. 92-29 of June 2, 1992 Continued by Presidential Determination No. 93-23 of May 28, 1993....31329
No. 92-39 of Aug. 17, 1992 Amended by Presidential Determination No. 93-34 of Aug. 19, 1993....45779
No. 93-7 of Jan. 5, 1993....4059
No. 93-8 of Jan. 6, 1993....5241
No. 93-9 of Jan. 6, 1993....5243
No. 93-10 of Jan. 6, 1993....5245
No. 93-11 of Jan. 6, 1993....5247
No. 93-12 of Jan. 6, 1993....5249
No. 93-13 of Jan. 6, 1993....5251
No. 93-14 of Jan. 19, 1993....6341
No. 93-15 of Feb. 27, 1993....13183
No. 93-16 of Mar. 20, 1993....16345
No. 93-17 of Mar. 30, 1993....19193
No. 93-18 of Mar. 31, 1993....19033
No. 93-19 of Apr. 15, 1993....21889
No. 93-20 of May 3, 1993....28757
No. 93-21 of May 12, 1993....31461
No. 93-22 of May 19, 1993....31463
No. 93-23 of May 28, 1993....31329
See EO 12850....31327
No. 93-24 of May 31, 1993....32269
No. 93-25 of June 2, 1993....33005
No. 93-26 of June 3, 1993....33007
No. 93-27 of June 24, 1993....49175
No. 93-28 of June 25, 1993....37631
No. 93-29 of June 29, 1993....35357
No. 93-30 of July 2, 1993....43785
No. 93-31 of July 14, 1993....40307
No. 93-32 of July 19, 1993....40309
No. 93-33 of Aug. 19, 1993....45777
No. 93-34 of Aug. 19, 1993....45779
No. 93-35 of Aug. 30, 1993....48259
No. 93-36 of Aug. 30, 1993....48261
No. 93-37 of Sept. 2, 1993....48263
No. 93-38 of Sept. 13, 1993....51209
No. 93-39 of Sept. 17, 1993....51973
No. 93-40 of Sept. 28, 1993....51975
No. 93-41 of Sept. 29, 1993....51977
No. 93-42 of Sept. 30, 1993....52629
No. 93-43 of Sept. 30, 1993....52207
No. 93-44 of Sept. 30, 1993....52209
No. 93-45 of Sept. 30, 1993....52211
No. 94-1 of Oct. 1, 1993....52213
No. 94-3 of Oct. 28, 1993....58637

Chapter I—General Accounting Office (Parts 1—99)

27 Revised....61992
28 Revised....61992

Title 4—*Proposed Rules:*

27....25785

Page
28....25785

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

179 Authority citation revised....60992, 60994
179.101—179.102 Designated as Subpart A; heading added; interim....60994
179.102 Revised; interim....60994
179.201—179.218 (Subpart B) Added; interim....60994
179.301—179.309 (Subpart C) Added; interim....60992
230.201—230.202 (Subpart B) Removed....36119
250 Authority citation revised....36119
250.101—250.103 (Subpart A) Revised....36119
294.102 Amended; interim....32043
Regulation at 58 FR 32043 confirmed....52877
294.104 (c) revised; interim....32043
Regulation at 58 FR 32043 confirmed....52877
294.107 (b) table revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.108 (f) revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.109 Revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.401 Table revised; interim....32046
Regulation at 58 FR 32046 confirmed....52877
297 Technical correction....16446
302.101 (c)(9) removed; (c)(10) and (11) redesignated as (c)(9) and (10)....58260
302.102 (b) introductory text revised....58261
307 Authority citation revised....12145
307.101 Revised; interim....12145
Regulation at 58 FR 12145 confirmed....44743
307.102 Revised; interim....12146
Regulation at 58 FR 12146 confirmed....44743
307.103 Revised; interim....12146
Regulation at 58 FR 12146 confirmed....44743
317.501 (c)(3), (5) and (6) revised....58261
317.901 (c) introductory text revised; (c)(4) and (5) added....58261
330 Authority citation revised....18141
330.901—330.903 (Subpart I) Added; interim....18141
335 Authority citation revised....18142
335.102 (f) introductory text added; (f)(1) revised; (g) removed....59347
335.105 Added; interim....18142
351 Authority citation revised....32047
351.608 Revised....5563
351.801—351.806 (Subpart H) Revised; interim....32047
351.803 Heading and (a) revised....5564
352.311 (b) revised....58261
352.314 Heading revised; (c) added....58261
359.303 (b) revised....58261
430.405 (g) corrected....6056
432.102 Regulation at 57 FR 20042 confirmed; (f)(6) revised....13192
432.108 Regulation at 57 FR 20041 confirmed; (a)(2) and (b)(1)(ii) revised....13192
511.607 (b) introductory text and (3) revised....59348
530 Authority citation revised....50249
530.202 Amended....50249
530.203 (b) through (e) revised; (f) and (g) removed....50249
530.204 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added....50249
530.206 Removed....50249
531 Authority citation revised....3200, 33498
531.101 Amended....33498
531.202 (b) reinstated; CFR correction....29777
531.301 Amended; interim....3200
Amended....33499
531.302 (a) revised....33499
531.304 (a)(3) and (f)(5) revised; interim....3201
(g) revised....33499
532 Regulations at 57 FR 61770 and 61771 confirmed....38263

TITLE 5 Chapter I—Con. Page
532.229 (b)(1) revised; (b)(5) and (6) added....15415
532.231 (c)(2) revised....15415
532.233 (e) revised....15415
532.241 (a)(1) amended....32273
532.247 (c), (g)(1), (2), (3) and (h) amended....32274
532.251 (a)(3) amended....32274
532.255 Heading, (a) and (e) revised; (b) introductory text, (c) and (d) amended....13194
532.259 Revised....13194
532.279 (b) amended....32274
532.201—532.283 (Subpart B) Appendix D amended...12146, 13194, 33499
Appendix C amended....32274
Appendix D amended; interim....33500
Appendixes B and D amended; interim....45414, 59640
Regulation at 58 FR 33500 confirmed....51211
532.403 (c) amended....32274
532.509 Amended; interim....3201
532.501—532.513 (Subpart E) Appendix A amended....32274
534.401 (b) and (e)(2) revised....58261
550.103 (t) added; interim....3201
550.105 (b)(3) revised; interim....3201
550.106 (e)(2) revised; interim....3201
550.107 Introductory text revised; interim....3201
550.202 Amended....41625
550.203 (a), (b) and (c) revised; (e) added....41625
550.204 (c)(3) revised....41625
550.205 (b) revised....41625
550.405 Regulation at 57 FR 40070 confirmed....33501
550.703 Amended....58262
550.708 (d) revised....33499
550.901—550.907 (Subpart I) Heading revised....32050
550.901—550.907 (Subpart I) Appendix A amended....32050
Appendixes A and A-1 amended....32276
575 Authority citation revised....3201
575.102 (a)(4) revised; interim....3201
575.201 Corrected; CFR correction....29777
575.202 (a)(4) revised; interim....3201
575.205 (b) revised; interim....3201
575.302 (a)(4) revised; interim....3201
575.306 (b) revised....50249
575.307 (a) revised....50250
581 Authority citation revised....35846
581.103 (a)(10), (20), (21), (22) and (23)(v) revised; (a)(24) through (28) added....35846
581.104 Regulation at 56 FR 36724 corrected; (f) revised....35846
581.202 (a) and (c) revised....35846
581.306 (c) revised....35846
581 Appendix A revised....35846
591.204 (b)(2) revised....32278
591.201—591.211 (Subpart B) Appendix A amended....32278
Appendix A revised....33506
591.304 (a)(1) and (b)(2) amended....32278
591.301—591.310 (Subpart C) Appendix A amended....32278
591.401—591.406 (Subpart D) Added; interim....51566
610.403 Revised....58262
610.408 Added....58262
630 Authority citation revised....39602
630.1201—630.1211 (Subpart L) Added; interim....39602
752 Authority citation revised....13192
752.201 Regulation at 57 FR 20043 confirmed; (b)(5) revised....13192
752.301 Regulation at 57 FR 20043 confirmed and amended....13192
752.401 Regulation at 57 FR 20043 confirmed; (c) and (d) revised....13192
831 Authority citation revised....52880
831.105 (h) and (j) amended; interim....52880
831.112 (c) amended; interim....52880
831.501 Revised....49179
831.502 (f) removed; (g) redesignated as (f); new (f)(5) removed....48266
Removed; new 831.502 redesignated from 831.503....49179
831.503 Redesignated as 831.502; new 831.503 redesignated from 831.504; (b)(3)(ii) revised....49179
831.504 Redesignated as 831.503....49179
831.601 (b) amended; interim....52880
Undesignated center heading added; interim....52882

Page
831.602 (a) amended....43493
831.603 Amended; interim....52880
831.604 (a)(1), (b), (c) and (d)(1)(ii) amended; interim....52880
Redesignated as 831.611; interim....52882
831.605 (b), (e) and (f)(1)(ii) amended; interim....52880
Redesignated as 831.612; interim....52882
831.606 (a), (c)(1) through (4), (5)(iii), (h)(1), (k)(1), (2)(i) and (ii) amended; interim....52880
Redesignated as 831.613; interim....52882
831.607 (a) amended; interim....52880
Redesignated as 831.614; interim....52882
831.608 Redesignated as 831.618; interim....52882
831.609 Redesignated as 831.621; interim....52882
831.610 Redesignated as 831.619; interim....52882
831.611 (a), (b)(1), (2), (3), (5) and (7) amended; interim....52881
Redesignated as 831.622; new 831.611 redesignated from 831.604; undesignated center heading added; interim....52882
831.612 (b)(1), (2)(ii), (3)(i), (ii) and (e)(1)(ii) amended; interim....52881
Redesignated as 831.632; new 831.612 redesignated from 831.605; interim....52882
831.613 (b)(2)(i)(A), (B), (ii)(A), (B), (4)(ii), (c)(1) and (2) amended; interim....52881
Redesignated as 831.631; new 831.613 redesignated from 831.606; interim....52882
831.614 (a) and (c)(3) amended; interim....52881
Redesignated as 831.641; new 831.614 redesignated from 831.607; interim....52882
831.615 (d)(1) amended....43493
Redesignated as 831.671; interim....52882
831.616 Revised....32052
Redesignated as 831.672; new 831.616 redesignated from 831.626; interim....52882
831.617 Redesignated as 831.673; interim....52882
831.618 Redesignated as 831.642; new 831.618 redesignated from 831.608; interim....52882
831.619 (b) amended; interim....52881
Redesignated as 831.643; new 831.619 redesignated from 831.610; interim....52882
831.620 (b)(2)(i) amended; interim....52881
Redesignated as 831.651; interim....52882
831.621 (e)(3), (f)(2) and (i) amended; interim....52881
Redesignated as 831.682; new 831.621 redesignated from 831.609; undesignated center heading added; interim....52882
831.622 (a)(1)(iv), (2)(iii) and (c) amended; interim....52881
Redesignated as 831.683; new 831.622 redesignated from 831.611; interim....52882
831.623 (c)(3) amended; interim....52881
Redesignated as 831.684; interim....52882
831.624 (a) through (e) amended; interim....52881
(a) redesignated as 831.661; (b), (c) and (d) redesignated as 831.665(a), (b) and (c); (e) removed; interim....52882
831.625 Redesignated as 831.644; interim....52882
831.626 (a), (b) and (c) amended; interim....52881
Redesignated as 831.616; interim....52882
831.627 Amended....43493
Redesignated as 831.681; interim....52882
831.628 (a), (b)(2), (3)(i), (5) and (c) amended; interim....52881
Redesignated as 831.685; interim....52882
831.629 Amended; interim....52881
Redesignated as 831.662; interim....52882
831.630 (a), (b) and (c) amended; interim....52881
Redesignated as 831.645; interim....52882
831.631 Redesignated from 831.613; undesignated center heading added; interim....52882

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 5 Chapter I—Con. Page

831.632 Redesignated as 831.612; interim....52882
831.641 Redesignated from 831.614; undesignated center heading added; interim....52882
831.642 Redesignated from 831.618; interim....52882
831.643 Redesignated from 831.619; interim....52882
831.644 Redesignated from 831.625; interim....52882
831.645 Redesignated from 831.630; interim....52882
831.651 Redesignated from 831.620; undesignated center heading added; interim....52882
831.661 Redesignated from 831.624(a); undesignated center heading added; heading revised; interim....52882
831.662 Redesignated from 831.629; heading revised; interim....52882
831.663 Added; interim....52882
831.664 Added; interim....52883
831.665 Heading added; (a), (b) and (c) redesignated from 831.624(a), (b) and (c); interim....52882
831.671 Redesignated from 831.615; undesignated center heading added; interim....52882
831.672 Redesignated from 831.616; interim....52882
831.673 Redesignated from 831.617; interim....52882
831.681 Redesignated from 831.627; undesignated center heading added; interim....52882
831.682 Redesignated from 831.621; interim....52882
831.683 Redesignated from 831.622; interim....52882
831.684 Redesignated from 831.623; interim....52882
831.685 Redesignated from 831.628; interim....52882
831.701 (d) amended; interim....52881
831.801—831.805 (Subpart H) Removed....48266
831.1201—831.1213 (Subpart L) Revised....49179
831.2203 (c), (f) and (g) amended; interim....52882
837 Added....48266

Page

838.103 Amended....3202
838.101—838.103 (Subpart A) Appendix A amended....3202
838.135 (a) amended....3202
838.237 (b)(4) amended....43493
838.422 (a)(2) amended....43493
838.701 (a) amended....43493
838.711 (a) amended; interim....52882
838.722 (c)(1)(ii) and (2)(iii) amended....43493
838.732 (a) and (b) amended....43493
838.733 (a)(2) amended; interim....52882
838.734 Amended....43493
838.806 (c)(1) amended....3202
838.911 (d) amended....43493
838.912 (b)(2) amended....43493
838.921 (b)(2) amended....43493
(a) and (b)(1) amended; interim....52882
838.922 (a) amended; interim....52882
838.931 Amended....43493
838.932 (a) amended....43493
838.1006 (c)(3) and (d)(3) amended; interim....52882
838.1012 (b)(4) amended....43493
838.1016 (a) amended; interim....52882
841.408 (a) revised....43493
841.506 (b), (d) and (e) removed; (c) redesignated as (b)....48273
841.507 (b) revised....43493
842.104 (a) removed; (b) through (g) redesignated as (a) through (f)....48273
842.402 Amended....43493
842.602 Amended; interim....52883
842.615 Heading, (b) and (c) revised; (d) added; interim....52883
843.301—843.313 (Subpart C) Appendix B revised....43493
843.410 Revised....32052
844.403 Removed; new 844.403 redesignated from 844.404....48273
844.404 Redesignated as 844.403; new 844.404 redesignated from 844.405; (e) removed; (f) redesignated as (e)....48273
844.405 Redesignated as 844.404....48273
846.204 (b) redesignated as (b)(1); (b)(2) added; interim....47822
846.305 Removed; new 846.305 redesignated from 846.306....48273

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

846.306 Redesignated as 846.305....48273
870.203 (d) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.204 (g)(1) and (2) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.401 (a), (b) and (f)(1) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
870.1002 Regulation at 57 FR 43132 confirmed....18143
870.1004 Regulation at 57 FR 43132 confirmed....18143
870.1006 Regulation at 57 FR 43132 confirmed....18143
871.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
871.205 (g)(1) and (2) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
871.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
872.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
872.205 (d)(1) and (2) amended; interim....11954
(a)(2) and (4) amended; (a)(2)(i), (ii), (iii), (4)(i), (ii) and (iii) added....45415
Regulation at 58 FR 11954 confirmed....47823
872.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
873.203 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
873.205 (e)(1) and (2) amended; interim....11954
(a) revised....45415
Regulation at 58 FR 11954 confirmed....47823
873.401 (c) amended; interim....11954
Regulation at 58 FR 11954 confirmed....47823
890 Regulation at 57 FR 10609 comment period extended....4569
Technical correction....48946

Page

890.109 Revised; interim....47824
890.301 Regulation at 57 FR 43133 confirmed....33009
(ee) added; interim....47824
890.304 (a)(1) through (6) redesignated as (a)(1)(i) through (vi); introductory text redesignated in part as (a)(1) introductory text; (a)(2) added; interim....47825
890.306 Regulation at 57 FR 43133 confirmed....33009
(o) added; interim....47825
890.502 (h) added; interim....39607
890.803 (a)(3)(ii) and (iii) amended; interim....52882
890.805 (a)(2)(i) and (ii) amended; interim....52882
890.904 Revised....38663
890.1202 Regulation at 57 FR 43132 confirmed....18143
890.1203 Regulation at 57 FR 43132 confirmed....18143
890.1204 Regulation at 57 FR 43132 confirmed....18143
890.1207 Regulation at 57 FR 43132 confirmed....18143
970 Added....28759

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201 Authority citation corrected....31234
1201.4 (i) and (l) amended....36345
1201.22 (d) amended....36345
1201.26 (b)(2) amended....36345
1201.114 (c) amended....36345
1201 Appendix II revised....28917
Appendix II corrected....31234
1208 Removed....61611
1209.8 (d) amended....36345

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1633 Authority citation revised....31332
1633.1—1633.83 (Subpart A) Undesignated center headings removed....31332
1633.1 Removed....31332
1633.2 Removed....31332
1633.3 Removed....31332

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 5 Chapter VI—Con. Page

1633.5 Removed....31332
1633.6 Removed....31332
1633.7 Removed....31332
1633.8 Removed....31332
1633.9 Removed....31332
1633.10 Removed....31332
1633.20 Removed....31332
1633.21 Removed....31332
1633.30 Removed....31332
1633.31 Removed....31332
1633.32 Removed....31332
1633.33 Removed....31332
1633.34 Removed....31332
1633.35 Removed....31332
1633.36 Removed....31332
1633.37 Revised....31332
1633.38 (a), (c)(1), (3), (4) and (5)(ii) removed; (b) redesignated as (a) and amended; (c)(2), (5) heading and (5)(i) redesignated as (b)(2), (3) heading and text; (e) redesignated as (c); new (b) added....31332
1633.39 Removed....31332
1633.40 Removed....31332
1633.41 Removed....31332
1633.42 Removed....31332
1633.43 Removed....31332
1633.44 Removed....31332
1633.45 Removed....31332
1633.46 Removed....31332
1633.47 Removed....31332
1633.48 Removed....31332
1633.49 Removed....31332
1633.50 Removed....31332
1633.51 Removed....31332
1633.52 Removed....31332
1633.53 Removed....31332
1633.54 Removed....31332
1633.55 Removed....31332
1633.56 Removed....31332
1633.70 Removed....31332
1633.71 Removed....31332
1633.72 Removed....31332
1633.73 Removed....31332
1633.74 Removed....31332
1633.75 Removed....31332
1633.76 Removed....31332
1633.77 Removed....31332
1633.78 Removed....31332
1633.79 Removed....31332
1633.80 Removed....31332
1633.81 Removed....31332
1633.82 Removed....31332
1633.83 Removed....31332
1633.200—1633.236 (Subpart B) Removed....31332
1633.250—1633.257 (Subpart C) Undesignated center headings removed....31332
1633.250 Removed....31332
1633.251 Removed....31332
1633.252 (a), (c), (f) and (g) removed; (b), (d) and (e) redesignated as (a), (b) and (c)....31332
1633.253 Removed....31332
1633.254 Removed....31332
1633.255 Removed....31332
1633.256 Removed....31332
1633.257 Removed....31332
1636 Added....57696
1636.170 (c) revised....57697
1650 Authority citation revised....45381
1650.2 Amended....45381
1650.4 Heading revised....45381
1650.5 Revised....45381

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

2429.24 (a) revised....53105
2471.2 Revised....53105
2471.4 Revised....53105
2472.5 Revised....53105
Chapter XIV Appendix A revised....13695

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2634.203 (c)(1) revised; interim....38912
2634.601 (a) revised; interim....38912
2634.704 (f) added; interim....38912
2634.903 (a) revised; (b)(2)(ii) amended; (b)(2)(iii) added; interim....38912
2634.907 (a)(1) and (2) revised....63024
2641 Appendix B amended....33755

Chapter XXII—Federal Deposit Insurance Corporation (Part 3202)

Chapter XXII Established; interim....39627

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Chapter XXVI— Department of Defense (Part 3601)

Page

Chapter XXVI Established; interim....47622

Chapter XXXIII—Overseas Private Investment Corporation (Part 4301)

Chapter XXXIII Established; interim....33320

Chapter XL—Interstate Commerce Commission (Part 5001)

Chapter XL Established....41990

Chapter XLI—Commodity Futures Trading Commission (Part 5101)

Chapter XLI Established....52638

Chapter XLVI—Postal Rate Commission (Part 5601)

Chapter XLVI Established; interim....42840

Chapter XLVII—Federal Trade Commission (Part 5701)

Chapter XLVII Established; interim....30695

Title 5—*Proposed Rules:*

317....11988
351....44778
410....3508, 8912
412....11988
531....46064
591....26694, 45556
837....59685
970....7052
2502....51255
2504....51256
2634....46096
3101 (Ch. XXI)....41193

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.142 (a)(2) reinstated; CFR correction....30696
1.219 Added....62495
2.17 (g)(3) and (4) added....42841
2.19 (c)(13) revised....60541
2.23 Heading revised; (a)(5) added....35359
2.25 (b)(2)(iv) and (5)(x) added....11955
(b)(24) added....11956
2.27 (a)(11) revised....4569
2.30 (a)(34) removed....35359
Heading revised; (a)(34) added....51211
2.32 Added....26679
2.55 Heading and (a)(5) revised; (a)(6) added....42841
2.62 (a)(13) revised....60541
2.70 (a)(15) added....35359
2.74 (a)(1) revised....11956
2.74a Added....11956
2.75 (a)(2)(v) and (6)(xiv) added....11955
(a)(2)(i), (6)(i), (ii), (vi), (ix) and (x) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii) and (iii), (a)(6)(iii), (iv) and (v) redesignated as (a)(6)(i), (ii) and (iii), (a)(6)(vii) and (viii) redesignated as (a)(6)(iv) and (v), and (a)(6)(xi), (xii) and (xiii) redesignated as (a)(6)(vi), (vii) and (viii)....11957
2.84 (a)(6) revised....4570
2.85 (a)(7) revised....4570
2.106 Heading revised; (a)(64) added....51211
2.108 (a)(6) removed....35359
15e Added....57697
15e.170 (c) revised....57697
16.4 Revised....18143
16.5 Revised....18143

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

28.2 (o) removed; (p) through (v) redesignated as (o) through (u); new (j) and (n) revised....41993
28.9 Revised....41993
28.122 Amended....41993
28.136—28.151 Removed....41993
28.175—28.184 (Subpart B) Heading revised....41993
28.175 Revised....41993
28.184 Removed....41993

NO

1993

UMI

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter I—Con. Page

28.201—28.208 Removed....41993
28.215—28.222 Removed....41993
28.301—28.307 Authority citation revised....41993
28.909 (b) removed; (c) and (d) redesignated as (b) and (c); new (b) revised....41993
28.910 (a) introductory text and (1) through (4) revised; (a)(5) removed....41993
28.911 (a) amended....41993
29.1 (e) revised....21343
29.500 Heading revised; (b) and (c) amended....42413
52 Authority citation revised....42413
52.2 Amended....42413
52.42 Amended....11186
52.47 Removed....42413
52.50 Amended....11186
52.51 (c)(1), (2), (d)(1) and (2) amended....11186
52.441—52.453 (Subpart) Revised....4296
52.449 (c)(1)(iii) corrected....7607
52.454 Removed....4302
52.455 Removed....4302
52.456 Removed....4302
54.27 (a) and (b) amended....48592
55 Authority citation revised....42413, 57538
55.20 (b) amended; (d) removed....42413
55.510 (d) amended....42413
(b), (c) and (d) revised....57538
55.550 Removed....42413
55.560 (a)(3) revised....57538
56 Authority citation revised....57538
56.46 (b) and (c) revised....57538
56.47 Revised....57538
56.52 (a)(4) revised....57538
56.54 (a)(2) revised....57539
58.44 Removed....42413
58.101 (c) amended....42413
58.126 (e)(5)(ii) removed; (e)(5)(iii) redesignated as (e)(5)(ii)....42413
58.132 Revised....26912
58.133 (b)(1), (2), (6) and (c) revised....26912
58.136 Revised....26913
58.137 Revised....26913
58.138 Revised....26913
58.139 Revised....26913
58.140 Revised....26913
58.148 (e), (f) and (g) added....26913

Page

59 Authority citation revised....42413, 57539
59.126 Revised....57539
59.128 (a) revised....57539
59.370 (b) revised....57539
59.580 (b) and (d) amended....42413
61.2 (n) amended....42413
61.6 Amended....42413
61.8 Amended....42413
61.10—61.24 Removed....42413
61.24 Correctly designated....45946
61.44 Removed....42413
61.45 Removed....42413
61.46 Removed....42413
61.101 Introductory text amended....42413
61.104 Heading revised; text amended....42413
70 Authority citation revised....42413, 57539
70.71 (b) and (c) revised....57539
70.72 Heading revised; text amended....42413
Revised....57539
70.73 Removed....42413
70.76 (a)(2) revised....57539
70.77 (a)(4) and (5) revised....57539
77.1 Regulation at 58 FR 34700 confirmed....57962
80 Revised; interim....29098
90—159 (Subchapter E) Added....42414
110 Added....19022
180 (Subchapter H) Removed....42413

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.2 Amended....42487
210.4 (a) and (b)(1) heading amended; (b)(3) and (4) added....42487
210.6 Amended....42487
210.7 (a), (c) introductory text, (1), (1)(i), (ii), (iv) and (v) amended; (d) added....42487
210.8 (c) and (d) amended....42487
210.9 (b)(19) amended; (c) added....42488
210.10 Heading revised; (b) amended; (j) added....42488
210.23 (a) amended....42489
226.20 (a)(3) and (c)(3) redesignated as (a)(4) and (c)(4); (a), (c)(1) table, (2) introductory text and table, new (4) introductory text and table amended; new (a)(3) and new (c)(3) added; (c)(2) undesignated center heading removed; (p) revised....37850
235.4 (a) amended....42489
240 Authority citation revised....39120
240.1 (c) and (f) revised....39120
240.3 (b) amended....39120
240.4 Heading revised; (a) amended....39120
240.6 Amended....39120
245.2 (f) amended....42489
246 Authority citation revised....37634, 47022, 51568
246.1 Amended....11506
246.2 Amended....11506
Amended; interim....47022
246.4 (a)(8), (9) and (11)(ii) revised; (a)(11)(iii) and (iv) amended; (a)(11)(v) added....11506
246.7 (a) amended; (n) added....11506
246.11 (a)(3) added; (b)(1) revised....11507
246.14 (e)(1) introductory text amended; (c)(9) added....11507
246.16 (c)(2)(ii) introductory text revised....37635, 51568
(r) added; interim....47022
246.28 OMB numbers....11507
250 Authority citation revised....39120
250.3 Amended....39120
250.13 (a), (g) and (k) revised....39120
250.23 (a) revised....39122
250.30 (b)(1) amended....39122
250.48 (b)(1) and (c) revised....39122
250.49 Heading and (b)(1) revised....39123
271 Authority citation revised....215
271.2 Regulation at 52 FR 36397 confirmed....58453
272 Authority citation revised....215
272.1 Regulation at 56 FR 12845 confirmed....215
(g)(128) added....58443
Regulation at 52 FR 36397 confirmed; (g)(93)(i) amended; (g)(93)(iv) and (129) added....58453
(g)(117) revised....58457
272.5 Regulation at 52 FR 36398 confirmed....58453
273 Authority citation revised....215
273.1 Regulation at 56 FR 12845 confirmed....215

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

(c)(6) added....58443
Regulation at 52 FR 36398 confirmed; (a)(2)(i)(C) and (D) amended and redesignated in part as (a)(2)(i)(C)(*1*), (*2*), (D)(*1*) and (*2*); new (a)(2)(i)(C)(*2*) and (D)(*2*) revised; (a)(2)(i)(C)(*3*) and (D)(*3*) added....58453
273.2 Regulation at 56 FR 12845 confirmed....215
Regulation at 52 FR 36398 confirmed; (i)(1)(iii) and (iv) amended....58454
273.8 (e)(17) revised....58457
273.9 Regulation at 56 FR 12845 confirmed....215
(b)(1)(ii) and (2)(ii) amended; (c)(16) added....58443
Regulation at 58 FR 36398 confirmed; (c)(1)(ii)(G) added; (c)(1)(iv)(B) amended....58454
273.10 Regulation at 52 FR 36399 confirmed; (f)(2) revised....58454
273.11 Regulation at 56 FR 12845 confirmed....215
(B)(1) introductory text amended....58444
273.18 (c)(2)(ii) amended....58454
274 Authority citation revised....215
275 Authority citation revised....215
276 Authority citation revised....215
277 Authority citation revised....215
278 Authority citation revised....215
279 Authority citation revised....215
280 Authority citation revised....215
281 Authority citation revised....215
282 Authority citation revised....215
284 Authority citation revised....215
285 Authority citation revised....215

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

Chapter III Policy statement....47206
300.1 (a) revised....52400
301 Regulation at 58 FR 217 confirmed....28336
301.13-1 Amended....7958
301.38-2 (b) corrected....8820

TITLE 7 Chapter III—Con. Page

301.45—301.45-12 (Subpart) Revised....39423
301.50 (a) and (b) designation removed; interim....6347
301.50-1 Amended; interim....6347
301.50-2 (a) revised; interim....28335
301.50-3 (c) amended; interim...6348, 28335, 34682, 63027
301.50-4 (b)(1)(ii) amended; interim....28335
301.50-5 (a)(1)(ii) and (iii) amended; (a)(1)(iv) added; interim....6348
(a)(1)(iii), (iv) and (2)(ii) amended; (a)(1)(v) and (2)(iii) added; interim....28335
(a)(1)(iii) revised; OMB number; interim....34683
301.50-6 OMB number....34683
301.50-7 OMB number....34683
301.50-8 OMB number....34683
301.50-10 Introductory text designated as (a); new (b) added; interim....6348
(a) revised; (b) amended; interim....28335
(a) amended; (c) added; interim....63027
301.52 (a) amended; interim....36592
(b)(10)(i) amended; (b)(10)(ii) redesignated as (b)(10)(iii); new (b)(10)(ii) added....39418
301.52-2a Amended; interim....36592
301.64 (a) amended; interim....219
Regulation at 58 FR 219 confirmed....28336
301.64-3 (c) amended; interim....219
Regulation at 58 FR 219 confirmed....28336
301.78-3 (c) amended; interim...6345, 39124, 42491, 49188, 53108, 53109, 63030
301.78-10 (b) and (c) redesignated as (c) and (d); new (b) added; interim....63031
301.80 (b)(17) through (21) redesignated as (b)(18) through (22); new (b)(17) added; interim....216
Regulation at 58 FR 216 confirmed....36590
301.80-2a Amended; interim...216, 217, 51980
Corrected....11099

Page

Regulations at 58 FR 216 and 217 confirmed....36590
301.81—301.81-10 (Subpart) Appendix amended....57954
301.93—301.93-10 (Subpart) Added; interim....8521
301.93-1 Corrected....29028
301.93-2 (a) corrected....29028
301.93-3 (c) revised; interim...36590, 57952
Regulation at 58 FR 36590 confirmed....51982
301.93-10 (a)(1)(i) corrected....29028
318.13-3 (c) and (d) redesignated as (d) and (e); new (c) added....7959
318.13-4 (c) revised....7959
Regulation at 57 FR 31307 confirmed....57955
318.13-4g Regulation at 57 FR 31307 confirmed....57955
318.13-6 Revised....7959
318.13-8 Amended....7959
318.13-10 (f)(1) amended; (f)(2) introductory text revised; (f)(3) added....7959
318.13-16 Heading and text amended....7959
Corrected....40190
318.13-17 Added....7959
(c), (f) and (i)(1) corrected....40190
318.58-1 Amended....7961
318.58-3 (b) and (c) redesignated as (c) and (d); new (b) added....7961
318.58-4 Heading and introductory text revised; (c) added....7962
318.58-7 Amended....7962
318.58-8 Amended....7962
318.58-10 (f)(1) amended; (f)(2) introductory text revised; (f)(3) added....7962
318.58-12 Revised....7962
Correctly designated....40190
318.58-16 Heading revised; text amended....7964
319 Authority citation revised....59353
319.24 (a) and (b) amended; (d) added....44745
319.37—319.37-14 (Subpart) Authority citation revised....38267
319.37-1 Amended; eff. 7-16-94....38267
319.37-7 (a) amended; (c) and (d) redesignated as (d) and (e); new (c), (f) and (g) added;

Page

new (d) introductory text, (1) and (6) revised; eff. 7-16-94....38267
(c)(4) and (f)(3) corrected....41124
319.40-1—319.40-8 (Subpart) Added; interim....8530
Heading revised; interim....59353
319.40-1 Amended; interim....59353
319.40-2 (a) amended; interim....59353
319.40-4 (a)(4) and (c)(1) amended; interim....59353
319.40-5 (c) revised; interim....59353
319.40-7 (b) revised; interim....59353
319.41-1 Footnote 2 amended; (c) added....44745
319.56-2 (a) amended....43497
319.56-2t Introductory text revised; table amended....43497
319.56-2x (a) table amended....43498
319.56-2aa Added....11364
319.56-2bb Added....40037
319.56a (a)(7) revised; (a)(12) amended....43497
321.2 Amended; interim....11958
321.9 (b), (c) and (d) revised; interim....11958
340.0 (a) revised....17056
340.1 Amended....17056
340.2 (b)(1)(i) and (2)(i) amended....17056
340.3 Redesignated as 340.4; new 340.3 added....17056
340.4 Redesignated as 340.5; new 340.4 redesignated from 340.3....17056
(a), (b), (c) introductory text, (1), (2), (e), (f) introductory text, (7), (8), (9), (10), (11)(ii), (g), (h)(1), (2), (3) and Footnote 6 amended....17058
340.5 Redesignated as 340.7; new 340.5 redesignated from 340.4....17056
(a), (b), (c)(1), (2), (3) introductory text, (i) and (ii) amended....17059
340.6 Redesignated as 340.8....17056
Added....17057
340.7 Redesignated as 340.9; new 340.7 redesignated from 340.5....17056
(b) amended....17059
340.8 Redesignated from 340.6....17056
340.9 Redesignated from 340.7....17056
354.1 (a)(1) introductory text and (iii) amended....32434

Page

354.2 Table amended....220, 60102
354.3 (e)(2) introductory text, (iv) and (g)(5)(iii) revised....14307
(g)(4) revised....38270
Regulation at 57 FR 62472 confirmed....59354
354.4 (a)(3) Footnote 2 redesignated as Footnote 5....38271

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.37—400.38 (Subpart D) Heading revised....17943
400.38 Amended....17943
400.40—400.42 (Subpart E) Removed....53110
400.47 (a) revised; (d) and (e) removed; (f) through (i) redesignated as (d) through (g)....17945
400.49 Revised....17945
400.50 Added....17945
400.66 (b) table revised....13531
400.250 Revised; interim....36593
400.251 (a) and (b) amended; interim....36593
400.252 Nomenclature change; (a) and (b) amended; interim....36593
400.402 (e) and (k) revised; interim....47204
400.406 Revised; interim....47204
400.451—400.500 (Subpart R) Added....53110
401 Extensions of sales closing date....21241, 53393
401.101 Amended; interim....33508
401.103 Amended; interim....33508
401.105 Amended; interim....33508
401.106 Amended; interim....33508
401.111 Amended; eff. 11-30-93....3205
401.113 Amended; eff. 11-30-93....3207
401.117 Amended; eff. 11-30-93....3209
401.120 (a) and (b) revised; interim....33507
401.133 Amended; interim....33508
406.7 Amended; interim....33508, 46074
415.7 Amended; interim....33509
422 Exclusion of certified seed potato option....1
422.7 Amended; interim....33508
457.2 (g) corrected....58262
457.6 (a) corrected....58262
457.8 Corrected....58262, 58263

TITLE 7

Chapter VI—Soil Conservation Service, Department of Agriculture (Parts 600—699)

Page

623 Added; interim.....62497

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture (Parts 700—799)

702 Authority citation revised.....11785
702.2 (a)(6) amended; (a)(11) through (28) redesignated as (a)(12) through (29); new (a)(11) added.....11785
702.5 (a) and (b) revised; (c) and (d) added.....11785
702.9 (e) through (i) redesignated as (f) through (j); new (f) and (h) revised.....11785
702.13 (a) and (c)(3) revised; last (c) redesignated as (d).....11786
702.18 (d) revised.....11786
723 Authority citation revised.....11960
723.111 Added.....11962
723.112 Added.....36859
723.113 Added.....36857
723.114 Added.....36857
723.115 Added.....36857
723.116 Added.....36857
723.117 Added.....36857
723.118 Added.....36857
723.216 (i)(4) revised.....11960
729.214 (c) added.....11964
729.316 (a) revised.....57718
781.2 (b) revised.....48274

Chapter VIII—Federal Grain Inspection Service, Department of Agriculture (Parts 800—899)

800.71 (a) Schedule A revised.....3214
Regulation at 58 FR 3214 postponed; interim.....5255
(a) Schedule A revised; interim.....49422
800.88 (d) revised.....3212
800.96 (c)(2) revised.....3212

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

Page

905 Budget of expenses.....33756, 43241
Authority citation revised...43242, 59932
905.306 (a) Table I amended; interim.....31466, 59932
Regulation at 58 FR 31466 confirmed.....40720
906 Budget of expenses.....37635, 53112
Authority citation revised...52401, 53112
906.365 (a)(5) revised; interim.....52401
(c) removed; (a)(4) revised; interim.....54926
907 Budget of expenses.....33012, 57955
Authority citation revised.....53114
907.10 Amended.....7965
907.13 Suspended.....53115
907.14 Suspended.....53115
907.17 Revised.....7965
907.18 Revised.....7965
907.20 (a) revised.....7965
907.21 Revised.....7965
907.22 (a) introductory text, (c), (d), (e) and (i) revised.....7965
907.23 Revised.....7966
907.24 Revised.....7966
907.26 Revised.....7966
907.27 Revised.....7966
907.31 Revised.....7966
Suspended in part.....33188
907.34 Removed.....7966
907.41 (d) removed.....7966
907.50 (a) amended.....7966
(a)(3) suspended.....53115
907.51 (a) and (c) revised.....7966
Heading and (b) introductory text suspended in part; (a), (c) and (d) suspended.....53115
907.52 Amended.....7966
Suspended.....53116
907.53 (b), (c), (f), (g) and (h) revised; (i) removed.....7966
(a), (e), (f) and (h) suspended in part.....53116
907.54 Revised.....7967
Suspended.....53116
907.55 Revised.....7967
Suspended.....53116

Page

907.56 Revised.....7967
Suspended.....53116
907.57 Suspended.....53116
907.59 Amended.....7967
Suspended.....53116
907.60 Amended.....7967
Suspended.....53116
907.61 Amended.....7967
Suspended.....53116
907.61a Amended.....7967
Suspended.....53116
907.62 Suspended in part.....53116
907.64 Revised.....7968
Suspended in part.....53116
907.65 Suspended in part.....53116
907.67 Amended.....7968
907.70 Introductory text amended.....7968
907.71 Revised.....7968
907.73 Undesignated center heading and section removed.....7968
907.80 Suspended in part.....53116
907.83 (c)(1) revised; (c)(3) added; (d) and (e) removed; (f) redesignated as (d).....7968
907.100 (g) revised; (h) amended.....33188
907.101 Amended.....33188
907.103 Removed.....7968
907.106 Undesignated center heading and section removed.....7968
907.108 (a) and (c) suspended in part; (d) and (e) suspended.....53116
907.109 Removed.....7968
907.110 Suspended.....53116
907.111 Suspended.....53116
907.113 Suspended.....53116
907.114 Suspended.....53116
907.116 Suspended.....53116
907.117 Suspended.....53116
907.118 Removed.....7968
907.120 (e) suspended in part.....53116
907.131 (b)(1) amended; (b)(3)(v), (4) and (c) removed; (b)(3)(vi), (vii) and (d) redesignated as (b)(3)(v), (vi) and (c); interim.....53114
(a) suspended in part.....53116
907.133 (a) and (c) suspended in part.....53116
907.141 (a) amended; interim.....53114
907.173 Undesignated center heading and section removed.....7968

Page

908 Budget of expenses.....33012, 57955
Authority citation revised.....53114
908.11 Amended.....7968
908.14 Suspended.....53116
908.15 Suspended.....53116
908.18 Revised.....7968
908.19 Revised.....7968
908.20 (a) revised.....7968
908.21 Revised.....7968
908.22 (a) introductory text, (c), (d), (e) and (i) revised.....7969
908.23 Revised.....7969
908.24 Revised.....7969
908.26 Revised.....7969
908.27 Revised.....7970
908.31 Revised.....7970
Suspended in part.....33188
908.34 Removed.....7970
908.41 (d) removed.....7970
908.50 (a) amended.....7970
(a)(3) suspended.....53116
908.51 (a) and (c) revised.....7970
Heading and (b) introductory text suspended in part; (a), (c) and (d) suspended.....53116
908.52 Amended.....7970
Suspended.....53116
908.53 (b), (c), (f), (g) and (h) revised; (i) removed.....7970
(a), (e), (f) and (h) suspended in part.....53116
908.54 Revised.....7970
Suspended.....53117
908.55 Revised.....7971
Suspended.....53117
908.56 Revised.....7971
Suspended.....53117
908.57 Suspended.....53117
908.59 Amended.....7971
Suspended.....53117
908.60 Amended.....7971
Suspended.....53117
908.61 Amended.....7971
Suspended.....53117
908.61a Amended.....7971
Suspended.....53117
908.62 Suspended in part.....53117
908.64 Revised.....7971
Suspended in part.....53117
908.65 Suspended in part.....53117
908.67 Amended.....7971
908.70 Introductory text amended.....7971
908.71 Revised.....7971

TITLE 7 Chapter IX—Con. Page
908.73 Undesignated center heading and section removed....7971
908.80 Suspended in part....53117
908.83 (c)(1) revised; (c)(3) added; (d) and (e) removed; (f) redesignated as (d)....7971
908.100 (g) revised; (h) amended....33189
908.101 Amended....33189
908.103 Removed....7972
908.106 Undesignated center heading and section removed....7972
908.108 (a) and (b) suspended in part; (c) and (d) suspended....53117
908.109 Removed....7972
908.110 Suspended....53117
908.111 Suspended....53117
908.113 Suspended....53117
908.114 Suspended....53117
908.116 Suspended....53117
908.117 Suspended....53117
908.118 Removed....7972
908.120 (e) suspended in part....53117
908.131 (b)(1) amended; (b)(3)(v), (4) and (c) removed; (b)(3)(vi), (vii) and (d) redesignated as (b)(3)(v), (vi) and (c); interim....53114
(a) suspended in part....53117
908.133 (a), (b) and (c) suspended in part....53117
908.141 (a) amended; interim....53114
908.173 Undesignated center heading and section removed....7972
910 Budget of expenses....38271, 50507
Authority citation revised....52402
910.180 (d)(3) amended; interim....52402
911 Budget of expenses...8534, 33757, 42187, 54928
Authority citation revised....54928
915 Budget of expenses...8534, 33757, 42187, 54928
Authority citation revised...46760, 54928
915.306 (a)(7) added; interim....7973
Regulation at 58 FR 7973 confirmed....34684
915.332 (a)(2) Table I revised; interim....34686
Regulation at 58 FR 34686 confirmed....46760
916 Budget of expenses....33883, 45231
916.356 (a)(2), (3) and (5) through (8) introductory texts revised, (a)(9) removed; interim....8536
Regulation at 58 FR 8536 confirmed; (a)(5) through (8) redesignated as (a)(6) through (9); (a)(2) introductory text, (4) introductory text and new (6) through (9) revised; new (a)(5) added....29101
917 Budget of expenses....33883, 45231
917.459 (a)(4) introductory text and (5) introductory text revised; interim....32592
Regulation at 58 FR 32592 confirmed....43500
918 Suspended; eff. 3-1-93 through 2-28-95....8210
920 (a)(4) revised; (a)(5) removed....43245
Budget of expenses....45232, 60363
Authority citation revised....45234
920.112 Revised....28339
920.122 Regulation at 57 FR 62158 confirmed....28337
920.302 (b)(1) corrected....3069
920.303 Added....43246
921 Suspended....220
922 Budget of expenses....38272, 50507
923 Budget of expenses....38272, 50507
923.322 (a)(2) removed; (a)(3) redesignated as (a)(2); new (a)(2) and (c) revised; interim....30698
Regulation at 58 FR 30696 confirmed....43248
924 Budget of expenses....38272, 50507
925 Budget of expenses....8893, 34688
Authority citation revised....44104
925.304 (a) amended; interim....21536
Regulation at 58 FR 21536 confirmed....44104
926 Budget of expenses....33013, 43241
Authority citation revised...43242, 60365
926.324 (a)(1) and (b) revised....60365
927 Regulation at 57 FR 54903 confirmed....8538
Budget of expenses....42491, 54928
Authority citation revised....54928
927.122 (a) amended....34691
927.123 Added....34691

Page
927.125 (b) and (c) revised; (d) amended....34691
928 Referendum order....4302, 43065
Budget of expenses....33759, 53118
Authority citation revised....53118
929 Budget of expenses....42493, 54928
Authority citation revised....54928
931 Budget of expenses....40720, 53120
Authority citation revised....53120
932 Budget of expenses...8539, 33014, 45234, 60363
Authority citation revised...45235, 60594
932.153 Revised; interim....48594
932.159 Added....28340
944 Authority citation revised...44105, 60367
944.106 Revised....39430
(a) table corrected....41124
(a) revised; interim....59934
944.401 (b)(12) revised; (c) amended; interim....48596
944.503 (a) amended; interim....21537
Regulation at 58 FR 21537 confirmed....44105
944.605 (a) revised....60367
945 Budget of expenses....38274, 57957
Authority citation revised...44606, 57959
945.83 (d) suspended in part; eff. 9-23-93 through 7-31-98....44606
945.341 Regulation at 57 FR 62167 confirmed....33014
946 Budget of expenses....32594, 47027
Authority citation revised...45417, 47027
946.336 (a)(2)(i), (iii), (iv), (c) introductory text, (1) and (2) revised; interim....33017
Regulation at 58 FR 33017 confirmed....45417
947 Budget of expenses....33760, 47027
Authority citation revised...46761, 47027
947.340 (e) amended; interim....33019
Regulation 58 FR 33019 confirmed....46761
948 Budget of expenses...33020, 33762, 47027
Authority citation revised....47027
948.150 (a) revised; interim....8541
Regulation at 58 FR 8541 confirmed....34692
953 Budget of expenses....34692, 47027
Authority citation revised....47027
955 Budget of expenses....47024
958 Budget of expenses....32595, 47027
Authority citation revised....47027
958.328 (e), (f) introductory text, (2) and (h) revised; (i) removed....60369
959 Budget of expenses....28767, 50507
966 Budget of expenses....4572, 57719
966.323 Introductory text revised; (a)(2)(i), (ii), (3)(i), (b), (c) introductory text and (d)(2) amended....57719
967 Limitation of handling...38276, 52402
Budget of expenses....38277, 62033
Authority citation revised....52403
979 Budget of expenses...4574, 28768, 50510
981 Budget of expenses....37636, 57957
Authority citation revised...43503, 57959
981.441 (c)(5)(iv), (v) and (vi) added....33023
Revised; interim....43503
981.472 (a) revised; (b) removed; interim....34696
981.473 (b), (d) and (f) removed; (c) and (e) redesignated as (b) and (c); (a) and new (b) revised; new (d) added; interim....34696
981.474 (a) revised; (b) and (c) removed; (d) and (e) redesignated as (b) and (c); interim....34696
982 Regulation at 57 FR 62172 confirmed....28772
Budget of expenses....32596, 47028
Authority citation revised....47027
984 Budget of expenses....4572, 57959
Authority citation revised....57961
985 Marketing percentages....28340
Budget of expenses....32598, 43241
Authority citation revised....43242
987 Budget of expenses....37638
987.112a Regulation at 57 FR 61779 confirmed....13697
989 Marketing percentages....47029
Budget of expenses....4572, 32600
Authority citation revised....48275
989.221 Revised; interim....48275
993 Technical correction....32003
Budget of expenses....40721, 57957
Authority citation revised....57959

TITLE 7 Chapter IX—Con. Page

993.150 (g)(1)(i), (ii) and (iii) revised....13698
997 Authority citation revised....34864
997.30 (d) revised; interim....34864
998 Budget of expenses....32601, 43065
998.100 Heading revised; interim....34867
998.200 Heading, (d), (h)(2) and (4) revised; interim....34867
998.300 Heading and (l) revised; (p) redesignated as (p)(1); (p)(2) added; interim....34868
999.200 Regulation at 57 FR 56245 confirmed....33322

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1001 Marketing percentages....5255
1001.17 Revised....27775
1001.18 Revised....27775
1001.22 Added....27775
1001.40 (b) and (c) revised....27775
1001.42 Amended; (d)(2)(vi) and (vii) revised....27776
1001.43 (g) added....27776
1001.44 (a)(5) amended; (a)(6) and (7)(i) revised....27776
1001.45 (b) revised....27777
1001.53 (h)(1) revised....27777
1001.60 (d), (f) and (g) revised; (h) and (i) added....27777
1001.61 (c) redesignated as (d); (a) and new (d) revised; new (c) and (e) added....27777
1001.62 (c) and (d) suspended; eff. through 11-30-93....17947
1002 Determination....50511
1002.15 Revised....27778
1002.18 Revised....27778
1002.20 Added....27778
1002.22 (e) added....27778
1002.40 Revised....27778
1002.41 (c) and (d) revised....27778
1002.44 (a) introductory text and (d) introductory text revised; (a)(1) amended....27779
1002.45 (a)(6) amended; (a)(7) and (8)(i) revised....27779
1002.60 (d)(2) revised; (d)(3), (4) and (e) redesignated as (d)(5), (6) and (f); new (d)(3), new (4) and new (e) added....27779

Page

1002.61 (d) and (e) suspended; eff. through 11-30-93....17947
(g) and (h) revised....27780
1002.74 (a)(1) and (2) amended; (a)(3) added....27780
1002.102 Revised....51983
1002.140 (a) and (b) revised....51983
1002.141 Heading, (a), (b), (d), (e) and (f) revised....51983
1002.143 (a)(5) revised....51983
1002.160 Revised....51984
1002.180 Revised....51984
1002.220 (b) and (c) revised....51984
1002.230 Revised....51984
1002.231 Revised....51984
1002.232 (b) revised....51984
1002.233 Revised....51984
1002.234 Added....51985
1002.241 (a) revised....51985
1002.243 Heading and (b) revised....51985
1002.245 Revised....51985
1002.246 Revised....51985
1002.247 Heading revised; (c)(1) and (2) amended....51985
1002.260 Heading, introductory text and (a) introductory text revised....51986
1004 Marketing percentages....5255
1004.7 (a) suspended in part through 2-28-94....45418
(e) suspended in part through 2-28-94....52406
1004.12 (d)(2) suspended in part through 2-28-94....52405
1004.15 Revised....27780
1004.16 Revised....27780
1004.22 Added....27780
1004.40 (b) and (c) revised....27780
1004.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27781
1004.43 (e) added....27781
1004.44 (a)(6) amended; (a)(7) and (8)(i) revised....27781
1004.45 (c) revised....27782
1004.60 (f) and (h) revised; (l), (m) and (n) added....27782
1004.74 (a)(2)(iii) removed; (a)(2)(iv) and (v) redesignated as (a)(2)(iii) and (iv)....27782
1004.76 (b)(3) and (5) revised; (c) added....27782
1004.85 (a) revised....27783
1005.15 Revised....27783
1005.16 Revised....27783

Page

1005.19 Added....27783
1005.40 Revised....27783
1005.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27784
1005.43 (d) added....27784
1005.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) amended....27784
1005.45 (b) revised....27784
1005.53 (b)(1) introductory text revised....27785
1005.60 (d) and (f) revised; (g), (h) and (i) added....27785
1005.76 (a)(3) and (5) revised; (c) added....27785
1005.85 (c) revised....27785
1006.15 Revised....27786
1006.16 Revised....27786
1006.21 Added....27786
1006.40 Revised....27786
1006.42 Revised....27787
1006.43 (a) revised; (c) and (d) added....27788
1006.44 Revised....27788
1006.45 (a) ameded; (b) revised....27790
1006.50 (c) added....27790
1006.60 Revised....27790
1006.76 (b)(3) and (5) revised; (c) added....27791
1006.85 (b) revised....27791
1007.13 (b)(4) and (5) suspended in part....40724
1007.15 Revised....27791
1007.16 Revised....27791
1007.21 Added....27791
1007.32 (a) suspended; eff. 8-1-93 through 8-31-93....43068
1007.40 Revised....27792
1007.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27792
1007.43 (d) added....27792
1007.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27793
1007.45 (b) revised....27793
1007.60 (d), (f) and (g) revised; (h) and (i) added....27793
1007.61 (a) introductory text in part and (b) suspended; eff. 8-1-93 through 8-31-93....43068
1007.76 (a)(3) and (5) revised; (c) added....27793
1007.85 (b) revised....27794

Page

1011.13 (e)(3) amended; eff. through 7-31-93....17948
1011.15 Revised....27794
1011.16 Revised....27794
1011.19 Added....27794
1011.40 Revised....27794
1011.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27795
1011.43 (d) added....27795
1011.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27795
1011.45 (b) revised....27796
1011.52 (b)(1) introductory text revised....27796
1011.60 (d),(f) and (g) revised; (h) and (i) added....27796
1011.76 (a)(3) and (5) revised; (c) added....27796
1011.85 (c) revised....27797
1012.15 Revised....27797
1012.16 Revised....27797
1012.20 Added....27797
1012.40 Revised....27797
1012.42 Revised....27798
1012.43 (a) revised; (c) and (d) added....27799
1012.44 Revised....27799
1012.45 (a) amended; (b) revised....27801
1012.50 (c) added....27801
1012.60 Revised....27801
1012.76 (b)(3) and (5) revised; (c) added....27802
1012.85 (b) revised....27802
1013.15 Revised....27802
1013.16 Revised....27803
1013.20 Added....27803
1013.40 Revised....27803
1013.42 Revised....27803
1013.43 (c) and (d) added....27805
1013.44 Revised....27805
1013.45 (a) amended; (b) revised....27807
1013.50 (c) revised....27807
1013.60 Revised....27807
1013.76 (b)(3) and (5) revised; (c) added....27808
1013.85 (a)(2) revised....27808
1030.7 (b)(6)(v) temporarily suspended through 1-31-94....40035

150-258 O - 93 - 2 (2)

NO

1993

UMI

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

(b) introductory text amended; effective in part to 9-30-93 48954
1030.15 Revised 27808
1030.16 Revised 27808
1030.21 Added 27808
1030.40 Revised 27808
1030.42 (a) amended; (d)(2)(vi) and (vii) revised 27809
1030.43 (d) added 27809
1030.44 (a)(2)(iii) added; (a)(5) amended; (a)(8)(i)(*a*) and (*b*) redesignated as (a)(8)(i)(A) and (B); (a)(6), (7)(i), new (8)(i)(B) and (9) revised 27809
1030.45 (b) revised 27810
1030.52 (c)(1) and (5) revised 27810
1030.60 (d) and (f) revised; (g) and (h) amended; (i), (j) and (k) added 27810
1030.76 (a)(3) and (5) revised; (c) added 27810
1030.85 (b) revised 27811
1032.15 Revised 27811
1032.16 Revised 27811
1032.19 Added 27811
1032.40 Revised 27811
1032.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27812
1032.43 (d) added 27812
1032.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27812
1032.45 (b) revised 27813
1032.60 (d), (f) and (g) revised; (h) and (i) added 27813
1032.76 (a)(3) and (5) revised; (c) added 27813
1032.85 (b) revised 27814
1033 Undesignated center heading removed 27823
1033.1 Undesignated center heading added 27823
1033.2 Redesignated from 1033.6 27814
Undesignated center heading added 27823
1033.3 Redesignated from 1003.8 and amended 27814
1033.4 Redesignated from 1033.9 27814

Page

1033.5 Redesignated as 1033.19; new 1033.5 redesignated from 1033.10 27814
1033.6 Redesignated as 1033.2; new 1033.6 redesignated from 1033.11 27814
1033.7 Redesignated as 1033.15 27814
Redesignated from 1033.12; introductory text and (b) introductory text amended; (d) added 27815
(b) introductory text revised; (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; (c) introductory text and (2) amended 43505
1033.8 Redesignated as 1033.3; new 1033.8 redesignated from 1033.13 27814
1033.9 Redesignated as 1033.4; new 1033.9 redesignated from 1033.16; (b), (e) and (f) amended 27814
1033.10 Redesignated as 1033.5; new 1033.10 redesignated from 1033.17 27814
1033.11 Redesignated as 1033.6 27814
1033.12 Redesignated as 1033.7; new 1033.12 redesignated from 1033.14; (a)(2), (3) and (b)(2) amended 27815
1033.13 Redesignated as 1033.8; new 1033.13 redesignated from 1033.15 and amended 27814
(e)(2), (3) and (f) revised 43506
1033.14 Redesignated as 1033.12; new 1033.14 redesignated from 1033.18; (b) amended 27815
1033.15 Redesignated as 1033.13; new 1033.15 redesignated from 1033.7 and revised 27814
1033.16 Redesignated as 1033.9 27814
Added 27815
1033.17 Redesignated as 1033.10 27814
Redesignated from 1033.20 27815
1033.18 Redesignated as 1033.14 27815
1033.19 Removed; new 1033.19 redesignated from 1033.5 27814
1033.20 Redesignated as 1033.17; new 1033.20 redesignated from 1033.21; introductory text amended 27815

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

1033.21 Redesignated as 1033.20; new 1033.21 added 27815
1033.27 Removed 27815
1033.30 (a)(1)(iv), (2), (b)(1) introductory text and (2) amended 27815
Undesignated center heading added 27823
(a)(1)(i), (3)(ii), (4) and (b) revised 43506
1033.31 Redesignated as 1033.32; new 1033.31 redesignated from former 1033.32; (b) amended 27815
(a)(2) and (c) revised; (b) amended 43506
1033.32 Redesignated as 1033.31; new 1033.32 redesignated from former 1033.31; (c)(4), (d)(3), (e)(4) and (g) amended 27815
(e)(2), (4), (5) and (f) revised 43506
1033.40 Removed; new 1033.40 redesignated from 1033.41 and revised 27815
Undesignated center heading added 27823
1033.41 Redesignated as 1033.40 27815
Redesignated from 1033.42 and revised 27816
(c) amended 43506
1033.42 Redesignated as 1033.41; new 1033.42 redesignated from 1033.43 and revised 27816
1033.43 Redesignated as 1033.42 27816
Redesignated from 1033.45 and revised 27818
(d) revised 43507
1033.44 Added 27818
1033.45 Redesignated as 1033.43 27818
Added 27820
1033.46 Removed 27820
1033.50 Removed; new 1033.50 redesignated from 1033.51; introductory text, (b) introductory text, (1) and (2) amended 27820
Undesignated center heading added 27823
Heading and introductory text revised; (d), (e) and (f) added 43507

Page

1033.51 Redesignated as 1033.50; new 1033.51 added 27820
1033.51a Removed 27821
1033.52 Redesignated from 1033.53; (a) introductory text and (1) amended; (b) revised 27821
1033.53 Redesignated as 1033.52; new 1033.53 added 27821
Revised 43507
1033.56 Removed 27821
1033.57 Redesignated as 1033.76 27822
1033.60—1033.61 Undesignated center heading revised 43507
1033.60 Revised 27821, 43507
Undesignated center heading added 27823
1033.61 (f)(2) amended 27822
Revised 43508
1033.62 Added 43508
1033.63 Added 43508
1033.64 Added 43508
1033.65 Added 43508
1033.66 Added 43509
1033.70 (c) removed; (a) revised; (b) added 27822
Undesignated center heading added 27823
(b) revised 43509
1033.71 (a), (b) introductory text and (1) amended; (c) redesignated as (d); new (c) added; (d) introductory text revised 27822
(b) introductory text and (1) revised 43509
1033.72 (b)(2) and (e)(2) amended 27822
(b) introductory text and (d)(2) revised 43509
1033.74 Revised 27822
1033.75 Redesignated as 1033.86 27822
1033.76 Redesignated as 1033.85 27822
Redesignated from 1033.57; heading, (b)(3) and (5) revised; introductory text, (a)(1)(i) and (ii) amended; (c) added 27823
1033.85 Redesignated from 1033.76; heading and (c) revised; (a), (b) and (d)(2) amended 27822

NO

1993

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

Undesignated center heading added 27823
1033.86 Redesignated from 1033.75; heading revised 27822
(a) revised 43509
1036.7 (d) introductory text and (2) amended 40725
(b) revised 43509
1036.13 (a)(3) and (b) amended; (e), (f) and (h) revised; (g) removed 43509
1036.15 Revised 27823
1036.16 Revised 27823
1036.21 Added 27823
1036.30 (a)(1)(i), (3)(ii), (4) and (b) revised 43510
1036.31 (a)(2) and (b)(3) revised 43510
1036.32 (c)(2) and (d) revised 43510
1036.40 Revised 27823
1036.41 Revised 27824
(c) amended 43510
1036.42 (a)(1) amended; (c)(3)(iv) revised 27825
1036.43 Revised 27825
1036.44 (a)(1), (2), (3)(i), (5), (6), (7)(i) and (8) through (15) revised; (a)(7)(iv) and (c) amended; (a)(16) removed 27825
1036.45 (b) revised 27827
1036.50 Heading and introductory text revised; (d), (e) and (f) added 43510
1036.53 Revised 43511
1036.60—1036.62 Undesignated center heading revised 43511
1036.60 (d), (e) and (f) revised; (g) and (h) added 27827
Revised 43511
1036.61 Revised 43512
1036.62 Revised 43512
1036.63 Added 43512
1036.64 Added 43512
1036.65 Added 43512
1036.66 Added 43512
1036.71 (b) introductory text, (1) and (c) revised 43512
1036.72 Revised 43513
1036.73 (a)(2) introductory text, (b)(2), (d)(2) and (3) revised 43513
1036.76 (b)(3) and (5) revised; (c) added 27827
1036.85 (a) revised 27828
Introductory text amended 43513

Page
1036.86 (a) amended 43513
1040.15 Revised 27828
1040.16 Revised 27828
1040.19 Added 27828
1040.40 Revised 27828
1040.41 (a)(2) revised 27829
1040.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27829
1040.43 (e) added 27829
1040.44 (a)(12)(i)(a) and (b) redesignated as (a)(12)(i)(A) and (B); (a)(2), (5), (6), (7)(i) through (iv), (8)(ii), (9), (11), (12)(i)(B) and (ii) revised; (a)(7)(v), (8)(i) and (12)(i) introductory text amended; (a)(12)(iii) and (iv) added 27829
1040.45 (b) revised 27831
1040.60 (d), (f), (g) and (h) revised; (i) added 27831
1040.76 (a)(3) and (5) revised; (c) added 27831
1040.85 (b) revised 27832
1044.6 Revised 27832
1044.18 Added 27832
1044.20 Added 27832
1044.21 Added 27832
1044.22 (i)(1)(iii) and (l) revised; (i)(3) added 27832
1044.40 Removed; new 1044.40 redesignated from 1044.41 and revised 27833
1044.41 Redesignated as 1044.40; new 1044.41 redesignated from 1044.42 and revised 27833
1044.42 Redesignated as 1044.41 27833
Redesignated from 1044.43 and revised 27834
1044.43 Redesignated as 1044.42 27834
Redesignated from 1044.45 27835
1044.44 Redesignated from 1044.46 and revised 27835
1044.45 Redesignated as 1044.43 27835
1044.46 Redesignated as 1044.44 27835
1044.50 Removed; new 1044.50 redesignated from 1044.51; introductory text amended 27837
1044.51 Redesignated as 1044.50; new 1044.51 added 27837
1044.60 (a), (b), (c) introductory text, (1) and (2) amended 27838

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page
1044.63 Amended 27838
1044.71 Revised 27838
1046.15 Revised 27838
1046.16 Revised 27838
1046.19 Added 27838
1046.40 Revised 27838
1046.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27839
1046.43 (d) added 27839
1046.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27839
1046.45 (b) revised 27840
1046.60 (d), (f) and (g) revised; (h) and (i) added 27840
1046.76 (a)(3) and (5) revised; (c) added 27840
1046.85 (b) revised 27840
1049.3 Revised 43513
1049.6 Revised 43513
1049.7 (a) and (b) revised; (c) redesignated as (d); new (c) added 43513
1049.13 Revised 43514
1049.15 Revised 27841
1049.16 Revised 27841
1049.19 Added 27841
1049.30 (a)(1), (6) and (c) revised 43514
1049.31 (a)(3) and (4) revised 43515
1049.32 (a) and (b) designation removed; amended 43515
1049.40 Revised 27841
1049.41 (c) amended 43515
1049.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27842
1049.43 (d) added 27842
1049.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27842
1049.45 (b) revised 27842
1049.50 Heading, introductory text and (a) revised; (d), (e) and (f) added 43515
1049.52 (a) and (b) revised 43515
1049.53 Revised 43515
1049.60—1049.62 Undesignated center heading revised 43515
1049.60 (d) and (f) revised; (g), (h) and (i) added 27842
Revised 43516
1049.61 Revised 43516

Page
1049.62 Revised 43517
1049.63 Added 43517
1049.64 Added 43517
1049.65 Added 43517
1049.66 Added 43517
1049.71 (a)(1) and (2) revised 43517
1049.73 (a)(2) amended; (c)(2)(ii) and (d)(2) revised 43517
1049.75 Revised 43518
1049.76 (a)(3) and (5) revised; (c) added 27843
1049.78 Revised 43518
1049.85 (b) revised 27843
1049.86 (a) amended 43518
1050.15 Revised 27843
1050.16 Revised 27843
1050.19 Added 27844
1050.40 Revised 27844
1050.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27844
1050.43 (d) added 27845
1050.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27845
1050.45 (b) revised 27845
1050.60 (d), (f) and (g) revised; (h) and (i) added 27845
1050.76 (a)(3) and (5) revised; (c) added 27846
1050.85 (b) revised 27846
1064.15 Revised 27846
1064.16 Revised 27846
1064.19 Added 27846
1064.40 Revised 27846
1064.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27847
1064.43 (d) added 27847
1064.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27847
1064.45 (b) revised 27848
1064.60 (d) and (f) revised; (g), (h) and (i) added 27848
1064.76 (a)(3) and (5) revised; (c) added 27848
1064.85 (b) revised 27849
1065.15 Revised 27849
1065.16 Revised 27849
1065.19 Added 27849
1065.40 Revised 27849

UMI

NO

1993

UMI

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

1065.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27850
1065.43 (d) added....27850
1065.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27850
1065.45 (b) revised....27850
1065.52 (d)(1) revised....27851
1065.60 (d) and (f) revised; (g), (h) and (i) added....27851
1065.76 (a)(3) and (5) revised; (c) added....27851
1065.85 (b) revised....27851
1068.15 Revised....27852
1068.16 Revised....27852
1068.19 Added....27852
1068.40 Revised....27852
1068.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27853
1068.43 (e) added....27853
1068.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27853
1068.45 (b) revised....27853
1068.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27853
1068.76 (a)(3) and (5) revised; (c) added....27854
1068.85 (d) revised....27854
1075 Determination....50511
1075.1—1075.23 Undesignated center heading removed; new undesignated center heading added....27865
1075.2 Redesignated from 1075.6....27855
Undesignated center heading removed; new undesignated center heading added....27865
1075.3 Redesignated from 1075.20 and amended....27855
1075.5 Redesignated as 1075.18; new 1075.5 redesignated from 1075.9....27855
1075.6 Redesignated as 1075.2; new 1075.6 redesignated from 1075.10 and amended....27855
1075.7 Removed; new 1075.7 redesignated from 1075.12; (c) added....27855

Page

1075.8 Redesignated as 1075.12; new 1075.8 redesignated from 1075.13....27855
1075.9 Redesignated as 1075.5; new 1075.9 redesignated from 1075.14....27855
1075.10 Redesignated as 1075.6; new 1075.10 redesignated from 1075.15....27855
1075.11 Removed....27855
1075.12 Redesignated as 1075.7; new 1075.12 redesignated from 1075.8 and revised....27855
1075.13 Redesignated as 1075.8; new 1075.13 redesignated from 1075.17 and revised....27855
1075.14 Redesignated as 1075.9; new 1075.14 redesignated from 1075.19 and revised....27855
1075.15 Redesignated as 1075.10; new 1075.15 redesignated from 1075.18 and revised....27855
1075.16 Revised....27855
1075.17 Redesignated as 1075.13; new 1075.17 redesignated from 1075.23....27855
1075.18 Redesignated as 1075.15; new 1075.18 redesignated from 1075.5....27855
1075.19 Redesignated as 1075.14....27855
Added....27856
1075.20 Redesignated as 1075.3....27855
Added....27856
1075.22 Removed....27855
1075.23 Redesignated as 1075.17....27855
1075.27 Removed....27855
1075.30—1075.31 Undesignated center heading removed....27865
1075.30 Revised....27856
Undesignated center heading added....27865
1075.31 Heading revised; (a) removed; (b) redesignated as (a) and amended; new (b) added....27856
1075.32 Added....27856
1075.40—1075.46 Undesignated center heading removed....27865
1075.40 Removed; new 1075.40 redesignated from 1075.41 and revised....27857
Undesignated center heading added....27865

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

1075.41 Redesignated as 1075.40; new 1075.41 redesignated from 1075.42 and revised....27857
1075.42 Redesignated as 1075.41....27857
Redesignated from 1075.44 and revised....27858
1075.43 Redesignated from 1075.45 and revised....27859
1075.44 Redesignated as 1075.42....27858
Redesignated from 1075.46 and revised....27859
1075.45 Redesignated as 1075.43....27859
Added....27861
1075.46 Redesignated as 1075.44....27859
1075.50—1075.54 Undesignated center heading removed....27865
1075.50 Removed; new 1075.50 redesignated from 1075.51; introductory text amended; (b) revised; (c) added....27861
Undesignated center heading added....27865
1075.51 Redesignated as 1075.50....27861
Added....27862
1075.52 Redesignated from 1075.53 and revised....27862
1075.53 Redesignated as 1075.52; new 1075.53 added....27862
1075.60 Removed; new 1075.60 redesignated from 1075.70....27862
Revised....27863
Undesignated center heading added....27865
1075.61 Removed; new 1075.61 redesignated from 1075.72 and revised....27863
1075.62 Redesignated as 1075.76; new 1075.62 added....27863
1075.70—1075.72 Undesignated center heading removed....27865
1075.70 Redesignated as 1075.60....27862
Redesignated from 1075.83 and revised....27863
Undesignated center heading added....27865
1075.71 Removed; new 1075.71 redesignated from 1075.84....27863
Revised....27864
1075.72 Redesignated as 1075.61....27863

Page

Redesignated from 1075.85 and revised....27864
1075.73 Redesignated from 1075.80; heading revised; (a) and (b) amended....27864
1075.74 Redesignated from 1075.81....27864
1075.75 Redesignated from 1075.82; heading revised; (a) and (b) amended....27864
1075.76 Redesignated from 1075.62....27863
Revised....27864
1075.77 Added....27865
1075.80—1075.88 Undesignated center heading removed....27865
1075.80 Redesignated as 1075.73....27864
1075.81 Redesignated as 1075.74....27864
1075.82 Redesignated as 1075.75....27864
1075.83 Redesignated as 1075.70....27863
1075.84 Redesignated as 1075.71....27863
1075.85 Redesignated as 1075.72....27864
Redesignated from 1075.88 and revised; undesignated center heading added....27865
1075.86 Removed....27865
1075.87 Removed....27865
1075.88 Redesignated as 1075.85....27865
1076.15 Revised....27865
1076.16 Revised....27865
1076.19 Added....27866
1076.40 Revised....27866
1076.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27866
1076.43 (d) added....27867
1076.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27867
1076.45 (b) revised....27867
1076.52 (b)(1) revised....27867
1076.60 (d) and (f) revised; (g), (h) and (i) added....27867
1076.76 (a)(3) and (5) revised; (c) added....27868
1076.85 (b) revised....27868
1079.15 Revised....27868

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter X—Con.

Page
1079.16 Revised....27868
1079.19 Added....27868
1079.40 Revised....27868
1079.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27869
1079.43 (d) added....27869
1079.44 (a)(2), (5), (6), (7)(i) and (9) revised; (a)(7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27869
1079.45 (b) revised....27870
1079.52 (d)(1) revised....27870
1079.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27870
1079.76 (a)(3) and (5) revised; (c) added....27870
1079.85 (d) revised....27871
1093.15 Revised....27871
1093.16 Revised....27871
1093.19 Added....27871
1093.40 Revised....27871
1093.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27872
1093.43 (d) added....27872
1093.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27872
1093.45 (b) revised....27873
1093.52 (b)(1) introductory text revised....27873
1093.60 (d), (f) and (g) revised; (h) and (i) added....27873
1093.76 (a)(3) and (5) revised; (c) added....27873
1093.85 (c) revised....27874
1094.15 Revised....27874
1094.16 Revised....27874
1094.19 Added....27874
1094.40 Revised....27874
1094.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27875
1094.43 (d) added....27875
1094.44 (a)(2),(6),(7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27875
1094.45 (b) revised....27876
1094.52 (b)(1) introductory text revised....27876
Page
1094.60 (d), (f) and (h) revised; (g) amended; (i) and (j) added....27876
1094.76 (a)(3) and (5) revised; (c) added....27876
1094.85 (c) revised....27877
1096.7 (d)(3) suspended in part through 5-31-95....63032
1096.15 Revised....27877
1096.16 Revised....27877
1096.19 Added....27877
1096.40 Revised....27877
1096.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27878
1096.43 (d) added....27878
1096.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27878
1096.45 (b) revised....27878
1096.52 (b)(1) revised....27878
1096.60 (d), (f) and (g) revised; (h) and (i) added....27879
1096.76 (a)(3) and (5) revised; (c) added....27879
1096.85 (a) revised....27879
1097.2—1097.95 Reinstated....6679
Removed....35361
1098.2—1098.94 Removed; eff. 7-31-93....35362
1098.61 (a) suspended in part and (b) suspended through 7-30-93....40727
1099 Referendum order....35362
1099.2—1099.86 Reinstated....6691
1099.15 Revised....43519
1099.16 Revised....43519
1099.19 Added....43519
1099.40 Revised....43519
1099.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....43520
1099.43 (d) added....43520
1099.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) and (11) introductory text amended....43520
1099.45 (b) revised....43521
1099.60 (d), (f) and (g) revised; (h) and (i) added....43521
1099.76 (a)(3) and (5) revised; (c) added....43521
1099.85 (b) revised....43522
1106.6 Suspended in part....8896

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page
Suspended in part; eff. 10-1-93 through 1-30-94....60543
1106.7 (b)(1) and (2) suspended in part....8896
(b)(1) suspended in part; eff. 10-1-93 through 1-30-94....60543
1106.13 (d)(1) suspended through 8-31-93....14308
1106.15 Revised....27879
1106.16 Revised....27880
1106.19 Added....27880
1106.40 Revised....27880
1106.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27881
1106.43 (d) added....27881
1106.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27881
1106.45 (b) revised....27881
1106.52 (b)(1) revised....27881
1106.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27881
1106.76 (a)(3) and (5) revised; (c) added....27882
1106.85 (c) revised....27882
1108.15 Revised....27882
1108.16 Revised....27882
1108.19 Added....27883
1108.32 (b)(1)(ii) amended....36861
1108.40 Revised....27883
1108.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27883
1108.43 (d) added....27884
1108.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27884
1108.45 (b) revised....27884
1108.52 (b)(1) revised....27884
1108.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27884
1108.61 Heading and (a) amended; (b) removed....36861
1108.73 (a)(2) amended; (c)(2)(ii) removed....36861
1108.75 (a) amended....36861
1108.76 (a)(3) and (5) revised; (c) added....27885
1108.85 (c) revised....27885
1108.90 Removed....36861
1108.91 Removed....36861
Page
1108.92 Removed....36861
1108.93 Removed....36861
1108.94 Removed....36861
1108.95 Removed....36861
1108.96 Removed....36861
1124 Marketing percentages....5255
1124.15 Revised....27885
1124.16 Revised....27885
1124.20 Added....27885
1124.40 (a), (b) and (c) revised....27886
1124.42 (a)(1) amended; (d)(2)(vi) and (vii) revised; (e) removed....27886
1124.43 (f) added....27886
1124.44 (a)(6) amended; (a)(7), (8)(i) and (10) revised....27887
1124.45 (b) revised....27887
1124.52 (d)(1) revised....27887
1124.60 (d) and (f) revised; (g) redesignated as (j); new (g), (h) and (i) added....27887
1124.76 (b)(3) and (4) revised; (c) added....27887
1124.85 (b) revised....27888
1126.7 (d) introductory text and (e) introductory text suspended in part through 7-1-95....40729
1126.13 (e)(1), (2) and (3) suspended in part through 7-1-95....40729
1126.15 Revised....27888
1126.16 Revised....27888
1126.21 Added....27888
1126.40 Revised....27888
1126.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27889
1126.43 (d) added....27889
1126.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27889
1126.45 (b) revised....27890
1126.52 (b)(1) introductory text revised....27890
1126.60 (d) and (f) revised; (g) and (h) amended; (i), (j) and (k) added....27890
1126.76 (a)(3) and (5) revised; (c) added....27890
1126.85 (c) revised....27891
1131.15 Revised....27891
1131.16 Revised....27891
1131.19 Added....27891

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

1131.40 Revised 27891
1131.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27892
1131.43 (d) added 27892
1131.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27892
1131.45 (b) revised 27892
1131.60 (d) and (f) revised; (g), (h) and (i) added 27893
1131.76 (a)(3) and (5) revised; (c) added 27893
1131.85 (a)(2) revised 27893
1134.15 Revised 27893
1134.16 Revised 27894
1134.20 Added 27894
1134.40 Revised 27894
1134.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27895
1134.43 (d) added 27895
1134.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27895
1134.45 (b) revised 27895
1134.60 (d), (f) and (g) revised; (h) and (i) added 27895
1134.76 (a)(3) and (5) revised; (c) added 27896
1134.85 (b) revised 27896
1135.15 Revised 27896
1135.16 Revised 27896
1135.20 Added 27896
1135.40 Revised 27897
1135.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27897
1135.43 (d) added 27897
1135.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27898
1135.45 (b) revised 27898
1135.60 (d) and (f) revised; (g), (h) and (i) added 27898
1135.76 (a)(3) and (5) revised; (c) added 27898
1135.85 (b) revised 27899
1137.7 (b) suspended in part through 2-94 40730
1137.12 (a)(1) suspended in part through 8-94 40730
1137.15 Revised 27899
1137.16 Revised 27899
1137.20 Added 27899
1137.40 Revised 27899
1137.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27900
1137.43 (d) added 27900
1137.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27900
1137.45 (b) revised 27901
1137.60 (d), (f) and (g) revised; (h) and (i) added 27901
1137.76 (a)(3) and (5) revised; (c) added 27901
1137.85 (b) revised 27902
1138.7 (a)(1) and (c) suspended in part; effective through 9-30-95 57962
1138.13 (d)(1), (2) and (5) suspended; effective through 9-30-95 57962
1138.15 Revised 27902
1138.16 Revised 27902
1138.21 Added 27902
1138.40 Revised 27902
1138.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27903
1138.43 (d) added 27903
1138.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27903
1138.45 (b) revised 27903
1138.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added 27904
1138.76 (a)(3) and (5) revised; (c) added 27904
1138.85 (c) revised 27904
1139.10 (b)(1)(ii) revised 43235
1139.13 (d)(1) and (2) revised 32435
1139.15 Revised 27904
1139.16 Revised 27905
1139.21 Added 27905
1139.40 Revised 27905
1139.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27905
1139.43 (d) added 27906
1139.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27906
1139.45 (b) revised 27906
1139.50 (d), (e) and (f) revised 32436
1139.53 Revised 32436
1139.60 (e) and (g) revised; (j), (k) and (l) added 27906
1139.61 (a) amended 27907
1139.71 (a) introductory text revised; (c) added 32436
1139.72 Revised 32436
1139.74 (c) introductory text and (e) revised 32436
1139.75 (a) revised 32436
1139.76 (a)(1)(iii) and (v) revised; (c) added 27907
1139.85 (b) revised 27907
1160 Added 46763, 62503

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1205 Technical correction 58231
1205.510 (b)(2) and (3) revised 52216
1207.510 (b)(1), (2), (3) and (c) revised 3359
1209.1—1209.77 (Subpart A) Added 3449
1209.200—1209.280 (Subpart B) Added; interim 8197
1210.401 (f) amended 3355
1210.403 (h) revised 3355
1210.404 Removed 3356
1210.517 (a)(3) through (11) redesignated as (a)(4) through (12); new (a)(3) added; new (a)(9) and new (10) revised 3356
1210.540 Revised (OMB number) 3356
1211 Authority citation revised 41024
1211.51 (g) suspended through 10-31-93; interim 41024
1211.251 (h) introductory text revised 3362
1211.300—1211.310 (Subpart D) Added; interim 38280
Regulation at 58 FR 38280 confirmed 51570
1212.251 (l) introductory text revised 3366
1220 Authority citation revised 32437
1220.312 (d) revised; interim 40732
1220.315 Removed; interim 40732
1220.400—1220.402 (Subpart C) Added; interim 32438
Regulation at 58 FR 32438 confirmed 47984
1220.501—1220.537 (Subpart E) Added 60546
1230.110 Revised 17205
1250.519 Added 34697
1260.141 (a) revised 12999

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1410.13 (a) removed; (b), (c) and (d) redesignated as (a), (b) and (c) 4064
1410.103 (d)(2), (3), (4) and (f)(2) revised 4064
1410.108 Introductory text and (b) amended 4064
1410.110 (d) revised 4064
1413.11 (b)(4)(iii) added 12331
1413.54 (a)(2) and (d) revised 4305
(b), (c)(1) and (e) revised 12331
(a)(5)(ii) and (d)(3)(ii) revised; (a)(5)(iii) and (d)(3)(iii) added 12333
(a)(4)(ii) and (d)(3) revised; (a)(4)(iii) added 15417
(a)(3)(ii) and (d)(3)(iv) revised; (a)(3)(iii) and (d)(3)(v) added 15756
(d)(3)(iii) correctly designated 18304
1413.61 Heading revised; (b)(4) added; interim 57722
1413.79 (b)(4) added; interim 57722
1413.104 (a)(8) and (b) revised 12333
1413.109 (d) revised 12333
1421 Authority citation revised 14498, 58740
1421.1 (c)(1) revised 38664
1421.4 (i) revised; interim 14498
(i) revised 58740
1421.5 (b)(1), (2)(i), (ii), (4)(ii), (c)(2) introductory text, (i), (d)(2), (f) and (i) revised; (e)(3) added; interim 14499
(b)(1), (2)(i), (ii), (4)(ii), (c)(2) introductory text, (i), (d)(2), (e)(3), (f) and (i) revised 58741

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter XIV—Con. Page

1421.6 (c) revised; (e) added; interim....45040
(a)(1) revised....57724
(d)(2)(i) revised....58741
Regulation at 58 FR 45040 confirmed....62509
1421.7 (c)(2) through (6), (9) and (10) revised....4306
(c)(8)(iii) added....33886
1421.8 (a) and (c) revised; interim....14499
(a) and (c) revised....58741
1421.9 (f)(2)(iv)(A), (vi)(C), (viii)(A), (C), (G), (H), (I), (ix)(B), (xi)(E)(5), (xii)(F)(1), (xiii)(E)(5), (6), (7), (G), (xiv)(B)(5), (6), and (g)(2)(iv)(A) introductory text revised....58742
1421.12 (d) revised; interim....14500
(c) revised....57724
(d) revised....58742
1421.13 Removed; interim....14500
1421.14 (b) revised; interim....14500
(b) revised....58742
1421.15 Revised; interim....14500
Revised....58742
1421.16 Revised; interim....14500
Revised....58742
1421.17 (a)(2) introductory text, (3) introductory text, (b)(1), (c) introductory text, (1), (e) and (f) revised; (g), (h) and (i) removed; interim....14502
(a)(2) introductory text, (3) introductory text, (b)(1), (c) introductory text, (1), (e) and (f) revised....58744
1421.18 (b)(2), (5), (7)(i), (9)(iv), (10), (12)(ii), (iv)(D), (v) introductory text, (13)(iii), (iv)(D)(3), (v) introductory text, (vi), (vii), (14)(iii), (v) introductory text, (vi) and (15)(ii)(E), (F) and (G) revised; (b)(13)(viii), (14)(iv)(F) through (H) and (15)(ii)(D)(5) added; interim....14502
(b)(2), (5), (7)(i), (9)(iv), (10), (12)(ii), (iv)(D), (v) introductory text, (13)(iii), (iv)(D)(3), (v) introductory text, (vi), (vii), (viii), (14)(iii), (iv)(F), (G), (H), (v) introductory text, (vi), (15)(ii)(D)(5), (E), (F) and (G) revised....58744
1421.19 (a) revised; interim....14503
(a) revised....58745
1421.20 (a) introductory text, (b) and (c)(1)(ii) revised; interim....14503, 58745
(b) revised....38665
1421.22 (d) added; interim....14503
(a) and (d) revised....58745
1421.23 (c) revised....58746
1421.25 (a)(1) introductory text and (ii)(A) revised; (d) removed; (e) and (f) redesignated as (d) and (e); interim....14504
(d) redesignated as (f); (e) removed; new (d) and (e) added....38665
(b) and (c) revised....57724
(a)(1) introductory text and (ii)(A) revised....58746
1421.27 (a)(2)(ii) revised; (a)(2)(iii) added....33886
1421.29 (b)(3) redesignated as (b)(4); new (b)(3), (h) and (i) added; (f) revised; interim....14504
(b)(3), (f), (h) and (i) revised....58746
1421.31 Revised....58746
1421.203 Revised; interim....14504, 45040
Revised....58747
Regulation at 58 FR 45040 confirmed....62509
1421.210 (b)(5)(iv) revised; interim....14504
(b)(5)(iv) revised....58747
1421.214 Revised; interim....14505
Revised....58747
1421.217 (c) revised....38510
1421.740 Correctly designated....28446
1427.1 (b)(2)(i), (ii) and (iii) revised; (b)(2)(iv) added; interim....51988
1427.3 Regulation at 57 FR 40594 confirmed....15262
Amended....51988
1427.4 Regulation at 57 FR 40595 confirmed....15262
1427.5 (a), (b)(1)(iii) introductory text, (A), (v)(A), (2)(iii), (iv)(A), (c)(2)(iii)(D), (3) and (d) revised; (b)(1)(iii)(D) added....51988

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

Regulation at 57 FR 40595 confirmed....15262
1427.6 Regulation at 57 FR 40595 confirmed....15262
(a)(3) and (c) revised....51989
1427.7 Regulation at 57 FR 40595 confirmed....15262
(a) introductory text and (b) introductory text revised....51989
1427.8 (a)(2)(ii) revised; (a)(2)(iii) added....12333
(a)(1)(ii) revised; (a)(1)(iii) added....15756
(d) revised....51989
1427.9 Regulation at 57 FR 40595 confirmed....15262
(e) removed; (f) redesignated as (e); (a), (b), (c) and new (e) revised....51989
1427.11 Regulation at 57 FR 40595 confirmed....15262
(f)(2) and (g)(3) revised....51989
1427.12 Regulation at 57 FR 40596 confirmed....15262
Revised....51989
1427.13 (a), (b) and (c) revised....51989
1427.14 Revised....51990
1427.15 Regulation at 57 FR 40596 confirmed....15262
Revised....51990
1427.17 Regulation at 57 FR 40596 confirmed....15262
Revised....51990
1427.18 Regulation at 57 FR 40596 confirmed....15262
(a)(1)(iv) amended; (a)(1)(v) redesignated as (a)(1)(vi); new (a)(1)(v) and (e) through (i) added; (a)(2) and (d) revised....51990
1427.19 Regulation at 57 FR 40596 confirmed....15262
(b) introductory text revised....51991
1427.23 Regulation at 57 FR 40596 confirmed....15262
(b)(3) revised....51991
1427.25 (f)(1) revised; interim....41994
Regulation at 58 FR 41994 confirmed....57725
1427.107 (d)(3) revised; (e) and (f) redesignated as (f) and (g); new (e) added; interim....42843
Regulation at 58 FR 42843 confirmed....57725
1427.109 (c)(3) and (e) revised; interim....42843

Page

Regulation at 58 FR 42843 confirmed....57725
1427.160 (c) and (d) revised....51991
1427.163 (b) revised....51991
1427.165 (b) revised....51992
1427.167 Regulation at 57 FR 40597 confirmed....15262
1427.168 Regulation at 57 FR 40597 confirmed....15262
Revised....51992
1427.172 (b)(3), (4) introductory text, (i) and (ii) revised....51992
1427.175 Regulation at 57 FR 40597 confirmed....15262
Added....51992
1430 Authority citation revised....61001
1430.340—1430.361 (Subpart) Heading revised....61001
1430.340 (a), (b)(1), (2), (4), (5) and (d) revised....61001
1430.341 (i) redesignated as (k); (d) through (h) and (j) through (w) redesignated as (e) through (i) and (m) through (z); new (d), (j) and (l) added; new (u)(1) and new (x) introductory text revised....61001
1430.343 (a)(3) redesignated as (a)(5); (a)(2) and new (a)(5) revised; new (a)(3) and (4) added....61001
1430.344 (a) revised....61002
1434.3 (a), (f) and (g) revised; interim....14505
(a), (f) and (g) revised....58747
1434.4 (a), (b)(1) introductory text, (2) introductory text, (2)(i) and (f) revised; interim....14505
(a), (b)(1) introductory text, (2) introductory text, (2)(i) and (f) revised....58747
1434.5 Removed; interim....14505
1434.6 Heading and (a) revised; interim....14505
Heading and (a) revised....58748
1434.7 (b) and (c) revised; interim....14505
(b) and (c) revised....58748
1434.9 (a)(1) and (2)(i) revised; interim....14506
(a)(1) and (2)(i) revised....58748

NO

1993

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter XIV—Con. Page

1434.10 (a) and (e) revised; interim....14506
(a) and (e) revised....58748
1434.15 (c) revised; interim....14506
(c) revised....58748
1434.16 (a)(1) revised; interim....14506
(a)(1) revised....58749
1434.19 Removed; interim....14506
1434.21 (a) revised....58749
1434.22 (a), (b) introductory text, (e) and (f) revised; (g) removed; interim....14506
(a), (b) introductory text, (e) and (f) revised....58749
1434.23 Revised; interim....14507
Revised....58749
1434.24 Heading, (a)(3), (d) and (e)(2) revised; interim....14508
Heading, (a)(3), (d) and (e)(2) revised....58750
1434.25 (a)(2)(i) revised; (f) removed; (g) and (h) redesignated as (f) and (g); interim....14508
(a)(2)(i) revised....58751
1434.26 (b)(3) redesignated as (b)(4); new (b)(3) added; (e) removed; (f) redesignated as (e) and revised; interim....14508
(b)(3) and (e) revised....58751
1434.27 (a), (c), (d) and (e) revised....58751
(c) revised; interim....14508
1434.28 (c) revised....58751
1434.32 (b) amended; interim....14508
(b) amended....58751
1435.500—1435.529 (Subpart) Added; interim....36124
1435.530 Added; interim....41995
1446.303 (g)(5) amended; interim....41626
Regulation at 58 FR 41626 confirmed....62509
1464 Authority citation revised....11962
1464.12 Redesignated as 1464.24; new 1464.12 added....11962
1464.13 Added....36863
1464.14 Added....36863
1464.15 Added....36863
1464.16 Added....36863
1464.17 Added....36863
1464.18 Added....36863
1464.19 Added....36859
1464.24 Redesignated from 1464.12....11962

Page

1474 Removed....57724
1475.3 Table revised; interim....62512
1475.6 Heading, (c), (e)(4), (i)(1)(i)(A) and (2)(iii) revised; interim....62512
1475.10 (b) revised; interim....62513
1475.17 (a), (c) and (g) revised; interim....62513
1475.22 Revised; interim....62513
1477 Authority citation revised....9108, 51758
1477.1 Revised....51758
1477.3 Amended....9108, 51758
1477.4 Revised....9109
(b) revised; (c) and (d) added....51759
1477.5 (a)(3) and (4)(ii) amended; (a)(5) added....9109
(a)(4)(ii), (b)(4) and (g)(4) revised; (b)(5), (g)(7) and (8) added....51759
1477.7 (b) and (d) revised; (e) and (f) added....9109
(b)(5) through (9) added....51759
1477.8 Revised....9109
Existing text designated as (a); (b) added....51760
1477.9 (a)(1) revised....9109, 51760
1477.10 (d)(2) and (e) revised....9110
(c), (d)(2) and (e) revised....51760
1477.12 (c) revised....9110
1477.20 Redesignated as 1477.21; new 1477.20 added....19768
Heading revised....51760
1477.21 Redesignated from 1477.20....19768
Redesignated as 1477.25; new 1477.21 added....51760
1477.22 Added....51761
1477.25 Redesignated from 1477.21....51760
1478 Authority citation revised....9110, 51761
1478.1 (a) revised....9110
1478.3 (b) amended....9110, 51761
1478.4 Revised....9111, 51761
1478.5 Revised....9111
(a) revised; (d) added....51761
1478.6 Revised....9111
1478.8 (d) and (e) revised....9111
(b) and (d) revised....51762
1478.9 Revised....9112
(a) and (b) revised....51762
1485 Authority citation revised....60550
1485.11 (oo) added; interim....60550

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

1485.12 (a) amended; (b)(2)(iv) and (viii) revised; (b)(2)(xi) added; interim....60550
1485.13 (b)(7)(i) revised; (b)(8) and (c)(2) added; (c) existing text redesignated as (c)(1); interim....60551
1485.14 (d)(1)(ii), (e)(2)(iv) and (3)(i) revised; (e)(4)(vii), (viii), (ix) and (8) added; interim....60551
1485.15 (a)(1) amended; (a)(2) revised; (a)(3) added; interim....60551
1485.27 (a) revised; interim....60552
1485.28 (a) revised; interim....60552
1493 Authority citation revised....11789
1493.200—1493.340 (Subpart C) Added; interim....11789
1493.210 Corrected....13684
1493.220 Correctly designated....15901, 21218

Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1540.40—1540.45 (Subpart C) Added; interim....16104

Chapter XVII—Rural Electrification Administration, Department of Agriculture (Parts 1700—1799)

1703 Authority citation revised....11512
Extension of application deadline....13195
1703 (Subpart C) Heading added....21639
1703.100—1703.140 (Subpart D) Added....11512
1703.300—1703.313 (Subpart E) Added....21639
1717.850—1717.859 (Subpart R) Added....53843
1717.900—1717.903 (Subpart S) Added....53851
1728.97 (b) amended....41396
1728.201 Added....41396
1728.202 Added....41396
1744 Authority citation revised....52641
1744.200—1744.210 (Subpart E) Added....52642

Page

1755 Authority citation revised....29328, 29338
1755.97 Table amended....29328, 29338, 30938, 41408, 61004
1755.98 Heading and text revised....41408
1755.390 Added....29338
Appendix A corrected....32749
1755.522 Added....30938
Appendix D corrected....36252
1755.860 Added....61004
1755.890 Added....29328
1767 Added....59825
1786.25—1786.49 (Subpart B) Heading revised; interim....51008
1786.150—1786.199 (Subpart F) Added; interim....51008
1786.200—1786.210 (Subpart G) Added; interim....51008
1786.206 (c) corrected....58729
1792 Added....32440

Chapter XVIII—Farmers Home Administration, Department of Agriculture (Parts 1800—2099)

1809 Removed; interim....44750
1822.261 Amended....224
1823.401 Amended....224
1823.401—1823.418 (Subpart N) Exhibit A amended; interim....44752
1900.51 (b) amended....52646
1900.55 (a)(13) removed; (a)(14) through (18) redesignated as (a)(13) through (17)....52646
1900.51—1900.100 (Subpart B) Exhibit D revised....4065
Exhibit C amended....52646
1900.151—1900.156 (Subpart D) Added....224
1901.2 Amended....226
1901.204 (a)(20) revised; (a)(24) and (25) added....5565
(a)(20) correctly designated....12632
Regulation at 58 FR 5565 confirmed....42639
(a)(26) added....58643
1910 Authority citation revised....48283
1910.1 Introductory text amended....44263, 52646
1910.3 (a)(7) added....226
(a)(3) and (4)(ii) amended....44263

UMI

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter XVIII—Con. Page

1910.4 Introductory text amended....226
(i) and (k) amended....44263
(b)(19), (c) and (f) amended; (g) revised; interim....44746
(i) amended; interim....44747
(b)(24) added; (g)(1) and (h) revised; interim....48283
1910.6 (a) revised; (b)(1) amended; interim....44747
1921.9 (f)(2)(iv)(A), (vi)(C), (viii)(A), (C), (G), (H), (xi)(E)(*5*), (xiii)(G), (xiv)(B)(*5*), (*6*) and (g)(2)(iv)(A) introductory text revised; (f)(2)(ix)(B) through (G) and (f)(2)(xii)(F)(*1*), (*2*) and (*3*) redesignated as (f)(2)(ix)(C) through (H) and (f)(2)(F)(xii)(*2*), (*3*) and (*4*); (f)(2)(viii)(I), (ix)(B), new (f)(2)(xii)(F)(*1*) and (xiii)(E)(*5*), (*6*) and (*7*) added; (f)(2)(xiv)(B)(*7*) through (*12*) removed; interim....14499
1922.201—1922.250 (Subpart E) Added; interim....44750
1924 Authority citation revised....48283
1924.4 Amended....26680
1924.1—1924.50 (Subpart A) Exhibit I amended....38922
1924.56 (b)(3) added; interim....48283
1924.57 (d)(1)(iv) amended....26680
1924.60 (a)(4) through (11) redesignated as (a)(5) through (12); (a) introductory text revised; new (a)(4) added; interim....48283
1927.52 Amended....34868
1927.54 (c) introductory text amended....34868
1927.55 (c) and (d)(4) amended....34868
1927.56 (b) amended....34868
1927.58 (g) and (h)(3) amended....34868
1927.59 (a)(1) introductory text amended....34868
1930 Authority citation revised....40868
1930.101—1939.150 (Subpart C) Revised....40868

Page

1930.101—1930.150 (Subpart C) Exhibit B amended....38922
Exhibit E amended....38923
Exhibit C amended....44263
1940.585 (b) revised....54485
1940.586 (b) revised....54485
1940.587 (b) revised....54486
1940.588 (b) revised....54486
1940.589 (b) revised....54486
1940.590 (i) added....5565
Regulation at 58 FR 5565 confirmed....42639
1940.591 (b) revised....54486
1940.551—1940.600 (Subpart L) Exhibit B revised; interim....38950
1941 Authority citation revised....48283
1941.1 Amended....226
Amended; interim....48282
1941.4 Amended; interim....48283
1941.14 (b) amended; interim....48284
1941.15 Added; interim....48284
1941.17 (a) through (d) redesignated as (b) through (e); new (a) and (f) added; interim....48286
1941.25 (a)(3) redesignated as (a)(5) and revised; new (a)(3) and (4) added....26680
(a) introductory text amended; interim....44752
(a)(3) and (5)(iii) removed; (a)(4) and (5) redesignated as (a)(3) and (4); interim....48286
1941.29 Heading, (b) introductory text, (1), (2), (c) introductory text and (3) amended; interim....44747
1941.30 Revised; interim....44747
Amended; interim....48286
1941.33 (a) amended; interim....48282
1941.1—1941.50 (Subpart A) Exhibit A amended; interim....44752, 44753
1941.51 Amended; interim....48282
1941.54 (b)(2) revised; (b)(3) amended; interim....48286
1941.84 (a) and (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and (g) revised....26680
1941.88 (c) amended....26680
1941.92 Amended....26681
1942.1 (a) amended....226

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

1942.17 (q)(4)(i)(B)(*1*), (ii) introductory text and (B) heading and introductory text amended; (q)(4)(i)(A)(*2*)(*iii*) and (ii)(A) heading revised....30102
1942.101 Amended....226
1942.301 Amended....226
1942.351 (a) amended....226
1942.402 (a) amended....226
1942.451 Amended....227
1942.501 (a) amended....227
1943 Authority citation revised....48287
1943.1 Amended....227
1943.1—1943.50 (Subpart A) Heading amended; interim....48282
1943.1 Amended; interim....48282
1943.4 Amended....26681, 58648
Amended; interim....48287
1943.14 Added; interim....48287
1943.16 (a)(4) added; interim....48288
1943.17 (a)(1) amended; interim....48282
(a)(4) and (5) added; interim....48288
1943.24 (d)(1) and (2) revised....26681
1943.25 (c)(1) introductory text revised....26681
(c)(2) amended; interim....44752
1943.28 (a) amended; interim....48288
1943.29 (d) amended; interim....44747
Heading, (b)(1) and (2) amended; interim....48282
(a) and (b) introductory text amended; interim....48288
1943.30 Revised; interim....44747
Amended; interim....48288
1943.32 (a) amended; interim....44752
1943.38 (g)(3)(ii) revised; (g)(3)(iii) amended; interim....48288
1943.51 Amended....227
1943.51—1943.100 (Subpart B) Heading amended; interim....48282
1943.51 Amended; interim....48282
1943.54 Amended....15072, 26681
Amended; interim....48288
1943.57 Added....15072
1943.62 (a)(3) through (7) resdesignated as (a)(4) through (8) and (b)(4) through (9) redesignated as (b)(5) through (10); (a)(1), new (a)(8), (b)(3) and new (b)(9) amended; new (a)(3), new (b)(4), (11), and (12) added; new (a)(7) and new (b)(8) revised....15072
1943.66 Revised....15073
1943.67 (a), (b), and (c) redesignated as (c), (d), and (e); new (e) amended; new (a) and new (b) added....15074
1943.68 (c) revised....15074
1943.73 (d), (f)(1) and (2) amended; (f)(2)(iii) and (4) removed....15074
1943.74 (d)(1) and (2) revised....26681
1943.75 (c)(1) introductory text revised....26681
(c)(2) amended; interim....44752
(c)(4)(iii) amended; interim....48289
1943.79 (c)(1) revised....15074
Heading, (a), (c) introductory text, (1) and (d) amended; interim....44748
(d) amended; interim....48289
1943.80 Revised; interim....44748, 48289
1943.82 (a) amended; interim....44752, 47478
1943.88 (g)(3)(ii) revised; (g)(3)(iii) amended; interim....48289
1944 Authority citation revised....227
1944.1 Amended....227
1944.3 (b)(9) and (14) revised....48301
1944.17 (a) introductory text revised....48301
1944.24 (c)(2) amended; interim....44752
1944.30 (a) amended; interim....44752
1944.37 (f) and (g) amended....227
1944.39 Revised....227
1944.51—1944.100 (Subpart B) Added....58643
1944.151 Amended....227
1944.153 Amended....40951
1944.157 (a)(7)(iii) amended; interim....44753
1944.158 (n) added....38923
1944.164 (n) heading and (o) amended; (p) revised....38923
1944.169 (i) heading and (2) revised....40951
(a)(1)(i) amended; interim....44752
1944.170 Introductory text added....40951
1944.171 (d) table amended....38923
1944.176 (d)(3) removed; (d)(4), (5) and (6) redesignated as

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter XVIII—Con. Page

(d)(3), (4) and (5); (d)(2) revised....38923
1944.151—1944.200 (Subpart D) Exhibit B amended....40951
1944.201 Amended....227
1944.205 Amended...38924, 40951, 44263
1944.211 (a)(10)(ii) introductory text and (B) revised; (a)(11), (12) and (13) redesignated as (a)(12), (13) and (14); new (a)(11) added....38924
(a)(6)(iv) revised....40952
(a)(4) amended....44263
1944.212 Heading revised; (q) added....38924
1944.213 (b)(1) amended; (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) added....38924
(c)(5) through (11) redesignated as (c)(6) through (12); (b) and new (c)(11) revised; new (c)(5) and (f) added....44263
1944.215 (b)(2), (c)(5)(ii), (h)(1) and (r)(3) amended; (d), (j), (n) introductory text and (r)(2) revised; (n)(3) added....38924
(b)(5), (6), (7) and (c)(5)(ii) amended....40953
(n) introductory text, (r)(2), (4), and (7) revised....44265
1944.222 (k) heading and (2) revised....40953
(a) and (h) amended....44265
1944.224 (a)(2)(i) amended....38925
(a) introductory text, (1), (2) introductory text, (i), (iii), (vi), (4), (5) introductory text, (iii), (iv), (7), (8), (b) introductory text, (1)(iv), (2), (7), (c)(2) and (5) amended....40953
1944.231 Revised....44265
1944.232 Revised....44272
1944.235 (a)(1) amended....38925
(h) heading, introductory text, (1), (2) and (3) amended....40954
(c)(1)(iv) amended....44272
1944.236 (b)(5) removed; (b)(6) redesignated as (b)(5) and revised; new (b)(6) and (7) added....38925
1944.237 (a) and (e) revised; (f) and (g) added....38925

Page
(c)(1), (2) and (d)(2) revised....44273
1944.238 Amended....38925
1944.239 (c) introductory text revised; (d) added....40954
1944.250 Amended....44273
1944.201—1944.250 (Subpart E) Exhibit A-11 added....38925
Exhibits A, A-6 and E amended....40954
Exhibit A-10 revised....44273
1944.251—1944.300 (Subpart F) Technical correction....14509
1944.258 (a) corrected....14509
OMB number....14510
1944.264 Correctly designated....14509
1944.266 Correctly designated....14509
OMB number....14510
1944.268 Correctly designated....14509
1944.284 OMB number....14510
1944.286 OMB number....14510
1944.401 Amended....227
1944.451 Amended....228
1944.463 (d)(2) amended; interim....44752
1944.475 Added....5565
Regulation at 58 FR 5565 confirmed....42639
1944.451—1944.500 (Subpart J) Exhibit D added....5565
Exhibit D corrected....12632
Regulation at 58 FR confirmed and amended....42639
1944.501 Amended....228
1944.552 (a) revised....40954
1944.553 (h) added....38925
(e) revised....40954
1944.554 (b) revised....40954
1944.651—1944.700 (Subpart N) Revised....21894
1944.651 (a) amended....228
Regulation at 58 FR 21894 effective date delayed to 9-1-93....30102
1945 Authority citation revised....48289
1945.6 (c)(3)(iii)(B) amended....26681
1945.101 (a) amended....228
1945.111 (b) amended; interim....44752
1945.120 (b)(5)(ii)(A) amended; interim....44752
1945.151 (a) amended....228
(a) amended; interim....48282
1945.154 (a)(1) through (36) designations and (b)(1) through

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page
(14) designations removed; (a) amended....26681
(a) amended; interim....48289
1945.161 (a)(1) amended; interim....48290
1945.163 (a)(2)(ii), (v) and (viii) amended....26682
1945.169 (n)(1)(iii) amended; interim....44753
(c)(2) revised; (c)(3) amended; interim....49290
1945.175 (c)(1) revised....26682
(c)(1) amended; interim....44752
(c)(2) introductory text amended; interim....44753
1945.180 Amended; interim....48290
1945.182 (a) amended; interim....48290
1945.189 (a)(1)(i) and (ii) added; (a)(2)(i) amended....26682
1948.51 Amended....228
1948.101 (a) amended....228
1951 Authority citation revised....15418, 40954
1951.8 (a) amended....52646
1951.25 Heading and (a) revised; (b)(3) amended....15074
1951.201 Revised....5566
Regulation at 58 FR 5566 confirmed....42639
1951.251 Amended....38925
1951.252 (d) amended....38925
1951.261 (d)(3) revised; (d)(4) redesignated as (d)(5); new (d)(4) added; (e)(2)(iii) and (5) amended....38925
1951.264 Revised....38926
1951.301 Amended....52646
1951.314 (a)(6) revised; (a)(10) added....52646
1951.451—1951.500 (Subpart J) Added....52646
1951.506 (a)(1), (2) and (5)(v) revised; (a)(3), (5)(i), (ii), (iii) and (c) amended; (a)(7) added....40954
1951.507 (e) revised....40955
1951.510 (c)(2) introductory text amended; (c)(3) redesignated as (c)(4); (c)(1) and new (4) revised; new (c)(3) added....40955
1951.512 Amended....40955
1951.517 (a) amended; (b)(3)(ii) and (4) revised....40955
1951.501—1951.550 (Subpart K) Exhibit B amended....40956

Page
1951.608 (e)(1)(i)(B) and (iii) amended....52651
1951.612 (a)(1)(i) and (ii) amended; (a)(1)(iv) introductory text removed; (a)(1)(iv)(A) through (D) redesignated as (a)(1)(iii)(A) through (D); (a)(1)(iii) introductory text, new (A) and new (D) revised....52651
1951.618 (a)(1)(ii) and (8)(i)(B) removed; (a)(1)(iii) and (8)(i)(C) redesignated as (a)(1)(ii) and (8)(i)(B); (b) introductory text amended....52651
1951.651 Revised....38926
1951.652 (g) amended....38926
1951.653 Revised....38926
1951.654 (e) added....38926
1951.656 (e) amended....38926
1951.658 (a) introductory text revised....38926
1951.661 (a)(1)(i) amended....38926
1951.668 (c) added....38926
1951.901 Amended....228
1951.909 (e)(4)(iv) through (viii) and (h)(v) through (x) redesignated as (e)(4)(vii) through (xi) and (h)(4)(ix) through (xiv); (e)(4)(ii), (iii) and (h)(4)(iv) revised; new (e)(4)(iv), new (v), new (vi) and new (h)(4)(v) through (viii) added; interim....30104
(f)(1) introductory text amended; interim....44752
(i)(3)(iii) and (4)(ii) amended; interim....44753
1951.910 (a)(1) amended; interim....44753
1951.911 (a)(6)(ii) and (7)(ii) amended; interim....44752
(a)(7)(ii) amended; interim....44753
(a)(7)(iii), (iv), (b)(9), (10) and (c) revised....52651
1951.916 Revised....4066
Existing text designated as (a); new (a) heading and (b) added; interim....15418
1951.901—1951.950 (Subpart S) Exhibit A amended; interim....30105
Exhibit J-1 amended; interim....30106
1951 Exhibit F amended....44753

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter XVIII—Con. Page

1955 Authority citation revised....48290
1955.2 Amended....52652
1955.10 (h)(6) amended....38926
(e) introductory text amended; interim....44752
1955.15 (f)(2) through (6) redesignated as (f)(3) through (7); (d)(2) introductory text, (iv)(D), (3)(ii)(C), new (f)(6), and new (7) introductory text amended; (d)(2)(v) and new (f)(2) added....38927
(d)(5) revised....58648
1955.18 (e)(2)(ii) amended; (l) added....38927
1955.1—1955.50 (Subpart A) Exhibit G and G-1 amended; interim....44752
1955.53 Amended....58648
1955.63 (a) revised....58648
1955.66 (h)(2) amended; interim....44752
(c)(2), (e)(1) and (g) revised; (d)(4) amended....58649
1955.80 (c) revised....58649
1955.81 Amended....58649
1955.101 Amended....52652
1955.102 Amended....52652
1955.103 Amended; interim...44752, 48290
Amended....58649
1955.105 (d) revised....58649
1955.106 (b) revised....58649
1955.107 (c) amended; interim....44752
1955.108 (a) revised....52652
(b) amended; (c) revised....58649
1955.109 (a), (c), (h) and (i) revised; (b) amended....52652
1955.113 Introductory text amended....38927
1955.114 (a)(3)(ii) amended; (b) revised....38927
(c) introductory text revised....38949
(a)(5) amended....52652
1955.115 (b) amended....38928
(a) introductory text revised....52652
1955.117 (b) amended....38928
1955.118 (b)(7) amended....38928
Heading, (a), (b) introductory text, (2) through (6), (8)(iii) and (10) revised....52653
1955.119 Introductory text and (d) introductory text revised....52653

Page
1955.120 Amended....52653
1955.122 (a) through (f) redesignated as (b) through (g); new (a) added; new (b) revised; interim....48290
(d)(1) amended....58650
1955.123 (a) and (b) revised....52653
(a) revised....58650
1955.128 Revised....58650
1955.146 (c) and (d) redesignated as (d) and (e); new (c) added....38928
1956.51 Revised....21344
1956.54 Amended....21344
1956.57 (b) and (h) heading revised; (c) and (g)(1)(i) amended; (k) removed; (l) redesignated as (k)....21344
1956.58 Removed....21345
1956.66 (a)(2) and (b) introductory text amended; (b)(1) introductory text and (b)(2) removed; (b)(1)(i), (ii) and (iii) redesignated as (b)(1), (2) and (3); (a) introductory text and new (b)(3) revised; (c) added....21345
1956.71 Added....21345
1956.84 Added....21345
1956.85 (b)(1) amended....21345
1956.86 Added....21345
1956.96 Revised....21345
1956.97 Redesignated from 1956.98; (a) and (c) amended; (d) added....21346
1956.98 Redesignated as 1956.97....21346
1956.101 Revised; interim....5566
Regulation at 58 FR 5566 confirmed....42639
1956.137 (d)(5) amended....21346
1956.145 Introductory text, (b) and (c) amended....21346
1956.146 Added....21346
1962.1 Amended....52654
1962.16 (a) amended....46075
1962.17 (a)(1) introductory text, (3), (b)(1), (2)(i) and (vii) revised; (a)(2), (b)(2)(ii) and (iii) amended....46075
1962.34 (b)(3) revised; (d) amended; (e)(2) removed; (e)(3) redesignated as (e)(2)....52654

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page
1962.47 (b)(2)(i) amended; (c) and (d) redesignated as (d) and (e); new (c) added....21346
1965.1 Revised....52654
1965.2 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added....52654
1965.11 (c)(2)(ii)(A) amended....38928
1965.12 (a)(6) amended....26682
(d) and (f) amended; interim....44752
(d) and (g) amended; interim....44753
Introductory text and (g) amended....52654
1965.13 (d) introductory text amended; interim....44752
Introductory text amended....52654
1965.17 (c) removed; (d) redesignated as (c)....52654
1965.25 (d)(1) amended; interim....44752
1965.26 (a)(2) amended; interim....44752
(e)(4)(i) heading and (ii) removed; (e)(4)(i)(A), (B) and (C) redesignated as (e)(4)(i), (ii) and (iii); new (e)(4)(iii) amended....52654
1965.27 (g)(5) and (h)(1) introductory text amended; interim....44752
Introductory text and (c)(1)(ii) amended; (c)(1)(ii)(C), (d), (f), (g)(4) and (6)(i) revised....52654
1965.31 (c) amended....52655
1965.34 Removed....52655
1965.55 (a)(7) amended....38928
1965.61 (e)(2) introductory text and (iv) amended....40956
1965.65 (c)(11) through (15), (d)(7), (f)(13) and (14) redesignated as (c)(12) through (16), (d)(8), (f)(14) and (15); new (c)(11), new (d)(7) and new (f)(13) added; (c)(10) introductory text, new (c)(12), new (d)(8) and (f)(12) amended; (b)(3), (4), (c)(1), (3), (5), (f)(4) introductory text, (7) introductory text and (8) revised....38928
(b)(11) amended....40956
1965.68 (c)(3) amended; (c)(7) revised; (c)(8) redesignated as (c)(9); new (c)(8) added....38930

Page
1965.70 (a) and (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3) added; (d)(8) revised....38930
1965.77 (d)(2)(iii) amended....38930
1965.89 (c) introductory text, (1) and (d) amended....38930
1965.90 Revised....38930
1965.92 Amended....38930
1965.100 Amended....38930
1965.51—1965.100 (Subpart B) Exhibits A, B, C, E, E-1, E-2, E-3 and E-4 removed....38930
1965.101 Amended....52655
1965.104 (c)(2) revised....52655
1965.105 Introductory text amended; (c) removed; (d) and (e) redesignated as (c) and (d)....52655
1965.125 (a)(2)(iv) revised; (a)(2)(v) added....52655
1965.126 (c)(2) revised....4067
Introductory text, (b)(3) and (d) revised; (b)(1) introductory text and (4)(ii) introductory text amended....52655
1965.201—1965.250 (Subpart E) Added....38931
1965.204 (b) amended....40956
1965.214 (f)(2) amended....40956
1980 Authority citation revised....48291
1980.6 (a) and (b) amended; interim....34306
(a) amended; interim....48291
1980.11 Amended; interim....34307
1980.13 (b) introductory text, (2), (4) and (c) revised; interim....34307
1980.20 (a) introductory text amended; interim....34307
1980.21 (a) revised; interim....48291
1980.22 (a) revised; interim....48291
1980.46 (a)(1) and (2) introductory text revised; interim....34307
1980.60 (a) introductory text revised; interim....34307
1980.61 (a), (b)(1), (3), (4) and (d) revised; interim....34308
1980.62 Revised; interim....34308
1980.63 (a) revised; interim....34308
1980.64 (a) revised; interim....34308
1980.65 Revised; interim....34308
1980.66 Revised; interim....34308
1980.83 (a) revised; interim....34308

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 7 Chapter XVIII—Con. Page

1980.84 (b)(4) revised; interim..... 34308
1980.1—1980.100 (Subpart A) Appendix E revised; interim..... 34309
Appendix F revised; interim...34312, 48292
1980.101 (a) amended..... 228
(a) revised; interim..... 34329
1980.106 (b)(1) and (17) introductory text revised; (b)(17)(iii) amended; interim..... 34329
(b) amended; interim..... 48296
1980.108 (b)(4) added; (d) introductory text revised; (d)(2) introductory text removed; (d)(2)(i) and (ii) redesignated as (d)(2) and (3)..... 15074
(b)(2), (d) heading, (1), (2) introductory text, (i) and (ii) amended; interim..... 48282
(a)(2)(i) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii) and (iii); new (a)(2)(i) revised; (b)(1) amended; (e) added; interim..... 48296
1980.109 (a)(2)(ii) amended; (a)(2)(iv) removed; (a)(2)(iii) revised; interim..... 48297
1980.113 Revised; interim..... 34329
1980.114 Introductory text revised; undesignated text amended; interim..... 34331
Introductory text amended; interim..... 44748
Amended; interim..... 48297
1980.115 Revised; interim..... 34331
Introductory text, (a) and (b) revised; interim..... 44748
Introductory text revised; interim..... 48297
1980.116 Revised; interim..... 34332
Amended; interim..... 44748
1980.117 Introductory text removed; (a) through (d) added; undesignated text amended; interim..... 34332
Amended; interim..... 44748
1980.118 (b) and (c) revised; (d) added; undesignated text amended; interim..... 34332
Corrected..... 40190
1980.119 Added; interim..... 34332
1980.122 Amended; interim..... 34334
1980.123 (b), (c), (h) and undesignated text amended; interim..... 34334
1980.124 (a)(1) revised; interim.... 48297
1980.125 (c)(4) and (d)(4) revised; interim..... 34334
1980.130 Revised; interim..... 34334
1980.131 Added; interim..... 34335
1980.136 Revised; interim..... 34335
1980.139 Revised; interim..... 34335
1980.144 (a) introductory text and (d) revised; undesignated text amended; interim..... 34335
1980.145 (a) and (b) revised; undesignated text amended; interim..... 34336
1980.146 Revised; interim..... 34336
1980.147 Revised; interim..... 48297
1980.175 (b) introductory text and (f)(2) revised; interim..... 34338
(c)(1)(iv), (d)(1) and (h)(2) amended; interim..... 48282
(b)(2)(iv)(A) and (e)(2) amended; (d)(1) through (5) redesignated as (d)(2) through (6); new (d)(1) and (7) added; (e)(1) revised; interim..... 48297
1980.176 Added; interim..... 48298
1980.180 (c)(1)(iv), (d)(4) and (5) added; interim..... 48299
1980.185 (b)(1)(iii) through (vii) redesignated as (b)(1)(iv) through (viii), (b)(2)(iv) through (ix) redesignated as (b)(2)(v) through (x) and (d)(1), (2) and (3) redesignated as (d)(2), (3) and (4); (b)(1)(i), new (viii), (2)(iii) and new (ix) amended; new (b)(1)(iii), new (b)(2)(iv), (xi), (xii) and new (d)(1) added; new (b)(1)(vii), new (2)(viii) and (c) revised..... 15074
(b) introductory text revised; interim..... 34338
(b)(1)(i) and (2)(iii) amended; interim..... 48299
1980.190 Added; interim..... 34339
1980.101—1980.200 (Subpart B) Exhibit A amended; interim..... 34341
Exhibit D amended; interim..... 34342
Exhibit E amended; interim..... 44748
Exhibit C revised; interim..... 44753

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

Exhibits A and E amended; interim..... 48300
1980.201 (a) amended..... 229
1980.207 Introductory text revised..... 229
1980.246 (c)(5)(i) amended; interim..... 44752
1980.301 (a) amended..... 229
1980.401 (a) amended..... 229
1980.441 Undesignated text removed..... 40039
1980.442 Introductory text revised; undesignated text added..... 40039
1980.498 (l)(4) amended; (m)(5)(iv) removed; interim..... 34342
(m)(5) introductory text, (6) introductory text and (8) heading revised; (m)(8)(iii) added..... 38952
(a) revised; interim..... 41172
(l)(4) and (m)(5)(iii) amended; (m)(3)(i) revised; interim..... 48300
1980.501 (a) amended..... 229
1980.601 Amended..... 229
1980.601—1980.700 (Subpart G) Appendix G revised; interim..... 34316
1980.801 (a) amended..... 229
1980.901 (a) amended..... 229
2003.1—2003.50 (Subpart A) Exhibit A amended..... 5566
Regulation at 58 FR 5566 confirmed..... 42639

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3015.77 Removed..... 41412
3051 Added..... 41412

Chapter XXXIV—Cooperative State Research Service, Department of Agriculture (Parts 3400—3499)

3401 Revised..... 21852

Chapter XLII—Rural Development Administration, Department of Agriculture (Part 4284)

Chapter XLII Established; interim..... 5566
Regulation at 58 FR 5566 confirmed..... 42639
4284.401—4284.500 (Subpart E) Added..... 5566
4284.413 (b), (d) introductory text and (6) amended..... 42639
4284.421 (b)(6) added..... 42639
4284.441 (b) introductory text revised..... 42639
4284.443 Amended..... 42639
4284.401—4284.500 (Subpart E) Exhibit A corrected..... 12632
Exhibit A amended..... 42640

Title 7—*Proposed Rules:*

13..... 58299
28..... 32454
29..... 3233, 13130
51..... 61033
52..... 3816, 7296, 13130, 29985, 47071
54..... 32616
55..... 13130, 37872, 38602
56..... 3234, 37872, 38602
58..... 13130, 34933, 34937, 57567
59..... 3234, 13130, 37872, 38602
61..... 13130
68..... 3511, 14174, 45295, 49248
70..... 13130, 37872, 38602
75..... 32617
90—159..... 13130
180..... 13130
246..... 40755
250..... 29985
252..... 29985
272..... 58458
273..... 58458, 58463
275..... 5188, 7296
283..... 5188, 7296
300..... 11383, 42504
301..... 21113
319...11383, 32456, 42504, 44779, 47074, 57969, 59953
330..... 38308
354..... 260
400..... 37874, 53150
457..... 32458
723..... 3869
729..... 63106
735..... 43298
781..... 3871
792..... 33029
800..... 41439
801..... 42257
907..... 8912
908..... 8912
920..... 33035, 34940

TITLE 7 Proposed Rules—Con. Page

926....40756
930....63108
932....8558
944....40758
945....33037, 42696
956....58105
958....3234, 34944
966....44780
981....43565
1001...10993, 12634, 29133, 33347, 58112
1002...10993, 12634, 29133, 33347, 58112
1004...12634, 29133, 33347, 34725, 42881, 43572, 58112
1005...12634, 29133, 33347, 57970, 58112
1006....12634
1007...12634, 29133, 33038, 33347, 34946, 47653, 53436, 57970, 58112
1011...12634, 29133, 33347, 57970, 58112
1012....12634
1013....12634
1030...12634, 29133, 32464, 33347, 42258, 58112
1032....12634
1033....12634, 29133, 33347, 58112
1036...12634, 29133, 33039, 33347, 58112
1040....6447, 12634, 29133, 33347, 58112
1044....12634, 29133, 33347, 58112
1046...12634, 29133, 33347, 50526, 58112
1049....12634, 29133, 33347, 58112
1050....12634
1064....12634
1065....12634, 29133, 33347, 58112
1068....12634, 29133, 33347, 58112
1075....12634
1076....12634
1079....12634, 29133, 33347, 58112
1093...12634, 29133, 33347, 47653, 53436, 58112
1094...12634, 29133, 33347, 47653, 53436, 58112
1096...12634, 29133, 33347, 47653, 53436, 54530, 58112
1097...12634, 25576, 29133, 33347, 58112
1098...12634, 14344, 25577, 29133, 33347, 34230, 58112
1099...12634, 25577, 29133, 33347, 53436, 58112
1106...8559, 12634, 29133, 33347, 53438, 58112, 63120
1108...12634, 29133, 33347, 47653, 53436, 58112
1124...12634, 29133, 33347, 53439, 58112
1126...12634, 29133, 32465, 33347, 58112
1131....12634, 29133, 33347, 58112
1134....12634
1135...12634, 29133, 33347, 53439, 58112
1137....32467
1138...12634, 29133, 33347, 45295, 58112
1139....7996, 12634
1150....25785
1160....21512, 25900, 46877
1205....32066
1211....41203
1220....26933
1230....32468
1405....46886
1413...17807, 41641, 46886, 51934, 52686, 52928
1421....12338, 38311, 63106
1435....16126
1446....3514, 42882
1468....37876
1703....52688
1710....21661, 44288, 48800
1717....12552
1735....21661
1753....29363
1755....29363, 46097, 46110, 60560
1773....49442
1785....18043
1786....18043, 48465
1788....25786
1944....507, 48330
1955....53891
1956....4095
1965....53891
1980....46889
3408....53153
3515....11910

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

3.41 Added....38953
100.4 (d) amended....471, 3487
(c)(3) amended....38045
101.6 Redesignated as 204.11....42849
103.1 (f)(2)(xxxv) revised....42850
(f)(2)(xxxvi) and (xxxvii) amended; (f)(2)(xxxviii) and (xxxix) added; interim....44608
Regulation at 57 FR 33861 confirmed....50836

Page

103.7 (b)(1) amended; Form N-400 revised; interim....30699
(b)(2) amended....31148
(b)(1) amended; interim....58937
103.8 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added....31148
103.10 (a)(2) amended....31148
(a)(1), (b)(1), (c)(2), (d)(1) and (e) revised; (c)(1) and (d)(2) amended; (b) and (f) removed....31149
103.11 Added....31149
103.20 (a) and (b) introductory text amended....31149
103.21 (a) and (b)(2) revised; (b)(3) removed; (f) added....31149
103.22 (a) revised....31149
103.23 (a) revised....31149
(b) amended....31150
103.24 Amended....31150
103.25 (a) and (b) amended....31150
103.26 Amended....31150
103.27 Amended....31150
103.28 (a) revised; (b) through (f) amended....31150
103.30 (a) amended....31150
103.33 Amended....31150
103.35 Amended....31150
103.36 Amended....31150
204.1 (g)(1)(vii) revised; eff. 9-20-94....48778
204.6 (e) amended; interim....44608
(j) introductory text revised; (j)(4)(iii) and (m) added; interim....44609
204.9 Regulation at 57 FR 33861 confirmed; (a)(2) revised; (c)(3) removed; (c)(4) redesignated as (c)(3)....50836
204.10 Added; interim....30701
204.11 Redesignated from 101.6....42849
Revised....42850
205 Authority citation revised....42850
205.1 (a)(10) and (c)(4) removed; (c)(5) and (d) redesignated as (c)(5) and (e); introductory text, (a)(5), (6), (7), (b)(5), (6), (c) heading, (3) and new (4) amended; (d) added....42850
205.2 (a) and (b) amended....42851
208 Authority citation revised....12148
Regulation at 58 FR 12146 effective date corrected to 4-2-93....14145

Page

208.7 (c) introductory text amended....12148
209 Authority citation revised....12148
Regulation at 58 FR 12146 effective date corrected to 4-2-93....14145
209.2 (c) amended....12149
211.1 (b)(1), (4) and (c) amended; (b)(3) revised; eff. 9-20-94....48778
211.3 Nomenclature change; eff. 9-20-94....48778
211.5 (a) and (b) amended; eff. 9-20-94....48778
212.1 (f)(3) amended....4891
(e)(3) amended; interim; effective through 7-15-94....38046
(f)(3) amended; interim....43438
214 Authority citation revised....58097
214.2 (a)(10) corrected; CFR correction....49905
(f)(6)(i)(C) and (m)(9)(ii) revised....58097
214.3 (b), (c) and (d) revised....58098
217 Authority citation revised....40581
217.5 (a) amended; interim....40581
223 Authority citation revised....48778
223.1 Amended; eff. 9-20-94....48778
223a Authority citation revised....48778
223a.4 Amended; eff. 9-20-94....48778
235.9 (b)(1) amended; eff. 9-20-94....48778
240.2 (f) revised; interim....58937
240.3 (a) and (c) revised; interim....58937
240.6 Amended; interim....58937
240.7 (b) revised; interim....58937
240.9 (a)(4) added; interim....58937
240.10 (f)(2)(v) added; interim....58937
245.1 (a), (b)(4)(ii), (5) and (6) amended; (d)(3) added....42851
245.2 (a) amended; interim....35838
245.8 Regulation at 57 FR 33862 confirmed; (c) amended; (d) and (e) redesignated as (e) and (f); new (d) added....50836
245.9 Added; interim....35838
245a.2 (k)(4) amended; interim....45236
251.1 (c)(1) and (3) amended; eff. 9-20-94....48779
252 Authority citation revised....48779
252.1 (b)(1) amended; eff. 9-20-94....48779

TITLE 8 Chapter I—Con. Page

264.1 (b) amended; (c)(2) removed; (c)(3) redesignated as (c)(2)....48779
264.2 Heading, (c)(1)(i) and (2)(i) revised; (c)(1)(vii) and (2)(ix) amended....48779
264.5 Added....48779
274a Regulation at 58 FR 12146 effective date corrected to 4-2-93....14145
274a.2 (b)(1)(v)(A)(5) revised; eff. 9-20-94....48780
274a.12 (a)(1) amended; eff. 9-20-94....48780
274a.13 (a) revised....12149
292.5 (b) amended; interim....49911
299.1 Amended; eff. 9-20-94....48780
Amended; interim....58937
299.5 Table amended; interim (OMB numbers)....49911, 58937
310.3 Revised; interim....49911
312.2 (b)(1) introductory text revised; (b)(1)(ii) amended; interim....49912
312.3 (a) revised; interim....49912
312.4 Amended; interim....49912
312.5 (a) revised; (b) amended; interim....49912
313 Heading revised; interim....49912
313.1 Amended; interim....49912
316 Authority citation revised....49912
316.2 (b) revised; interim....49912
316.4 (a)(2) amended; eff. 9-20-94....48780
316.5 (c) heading, (1)(i) introductory text and (3) revised; (c)(1)(ii) amended; interim....49913
316.10 (b)(1)(i) and (ii) revised; interim....49913
322.2 (a)(4)(i) and (b)(1)(iv) revised; interim....49913
329.2 (a)(4) amended; (a)(5) removed; (a)(6) redesignated as (a)(5); interim....49913
329.5 (c) amended; (d) and (e) revised; (g), (h) and (i) added....45420
334.2 (a) amended; eff. 9-20-94....48780
334.3 Removed; interim....49913
334.4 Revised; interim....49913
334.11 Revised; interim....49913
335.2 (a) and (c) introductory text revised; (c)(1) and (d) amended; interim....49913
335.3 (b) amended; interim....49914
335.5 Amended; interim....49914
335.6 Added; interim....49914
335.7 Added; interim....49914
335.9 (b) revised; interim....49914
336.2 (b) amended; (c) added; interim....49914
337.2 (a) revised; (b) amended; (c) added; interim....49915
337.3 Revised; interim....49915
337.7 Revised; interim....49915
337.8 Revised; interim....49915
337.10 Added; interim....49916
338.1 Revised; interim....49916
339.1 Revised; interim....49916
339.2 (a) revised; (d) added; interim....49916
343b.3 Amended; interim....49917
499.1 Amended; interim....49917

Title 8—*Proposed Rules:*

3....59953
204....31000, 59200
208....38312
210....61846
211....31000
214....58982
223....31000
223a....31000
235....6056, 31000
236....38312
242....38312
245a....61846
251....31000
252....31000
264....31000
274a....31000, 58982, 61846
299....31000
316....31000
334....31000

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

Chapter I Policy statement....47206
1 Authority citation revised....39129
1.1 Amended....39129
2 Authority citation revised....39129
2.35 (e) amended....39129
2.38 (k)(4) added....39129
2.75 (a)(4) amended....39129

Page

(a)(4) corrected....45041
2.133 Added....39129
50.1 Amended....34698
50.14 (e) revised....34699
51.3 Amended; CFR correction....47984
77.1 Amended; interim....34700
78.1 Amended....48445
78.41 (a) and (b) amended; interim....4361
Regulation at 58 FR 4361 confirmed....36593
78.43 Amended; interim....11365, 28343
Regulation at 58 FR 11365 confirmed....34700
Regulation at 58 FR 28343 confirmed....43069
91.14 (a)(10)(i) and (13) removed; (a)(10)(ii) and (14) through (17) redesignated as (a)(10)(i) and (13) through (16); new (a)(10)(i)(A) amended; new (a)(16)(ii)(A) removed; new (a)(16)(ii)(B) redesignated as (a)(16)(ii)(A) and revised; new (a)(16)(iv) and (A) added....37640
(a)(5)(i) introductory text revised; (a)(10) through (16) redesignated as (a)(11) through (17); new (a)(10) added....58099
92 Authority citation revised....38957, 45237
92.102 (a) amended....37642
92.106 (d)(2) revised....38957
92.203 (d) amended....37642
92.303 (c) amended....45237
92.308 (a) introductory text and (1) amended....45238
92.323 Heading revised; (a) and (b) amended....45238
92.324 Heading revised; text amended....45238
92.326 Amended....45238
92.403 (e) amended....38283
92.418 Heading and (a) amended; (a) heading revised; (b)(2)(ii)(C) redesignated as (b)(2)(ii)(D); new (b)(2)(ii)(C) added....37641
92.503 (e) amended....38283
94 Authority citation revised....58753
94.1....57971
(a)(2) amended....11367, 58753
(a)(2) and (d)(1) amended....28344

Page

(a)(2) revised; (d)(1) amended....36596
94.9 (a) amended....11367
94.10 (a) amended....11367
94.11 (a) amended....11367, 28344
(a) amended....36596
94.12 (a) amended....11367
Regulation at 58 FR 11367 withdrawn....13698
(a) amended....36596
94.13 Introductory text amended....11367
Regulation at 58 FR 11367 withdrawn....13698
Regulation at 57 FR 62177 confirmed....36594
Introductory text amended....36596
94.18 (a) revised; interim....4308
Regulation at 58 FR 4308 confirmed....36594
94.19 Added....50251
96 Authority citation revised....47030
96.2 Redesignated as 96.3; new 96.2 added; interim....47031
96.3 Redesignated as 96.4; new 96.3 redesignated from 96.2; interim....47031
96.4 Redesignated as 96.5; new 96.4 redesignated from 96.3 and amended; interim....47031
96.5 Redesignated as 96.6; new 96.5 redesignated from 96.4; interim....47031
96.6 Redesignated as 96.7; new 96.6 redesignated from 96.5; interim....47031
96.7 Redesignated as 96.8; new 96.7 redesignated from 96.6; interim....47031
96.8 Redesignated as 96.9; new 96.8 redesignated from 96.7; interim....47031
96.9 Redesignated as 96.10; new 96.9 redesignated from 96.8; interim....47031
96.10 Redesignated as 96.11; new 96.10 redesignated from 96.9; (c)(1) amended; interim....47031
96.11 Redesignated as 96.12; new 96.11 redesignated from 96.10; interim....47031
96.12 Redesignated as 96.13; new 96.12 redesignated from

TITLE 9 Chapter I—Con. Page

96.11 and amended; interim....47031
96.13 Redesignated as 96.14; new 96.13 redesignated from 96.12; interim....47031
96.14 Redesignated as 96.15; new 96.14 redesignated from 96.13; interim....47031
96.15 Redesignated as 96.16; new 96.15 redesignated from 96.14; interim....47031
96.16 Redesignated from 96.15; interim....47031
97.1 (a) introductory text and (3) amended....32434
97.2 Table amended....28345
98.31 Amended....37643
98.33 (a) and (b) redesignated as (d) and (e); heading and new (d) revised; new (a), (b) and (c) added....37643
98.34 (a)(1) amended....37644
98.35 Heading revised; (a) amended; (c) and (d) added....37644
98.36 Revised....37644
98.37 Removed....37644
98.38 Removed....37644
98.39 Removed....37644
113.46 (b)(2) revised....50252
124 Added....11369
124.23 (b) corrected....29028
130 Authority citation revised....38957
130.1 Amended....38957
130.2 (a) amended....38958
130.3 (a) amended....38958
130.4 Revised....38958
130.5 (a) revised....38958
130.6 (a) and (b)(1) amended....38958
130.7 (a) introductory text revised....38958
130.14 Added....38958
130.15 Added....38958
130.16 Added....38959
130.17 Added....38959
130.18 Added....38960
130.50 (a)(1) and (2) revised; (a)(3) and (4) amended; (a)(5) and (6) added....38960
130.51 (a) and (c) revised; (b)(1) and (2) amended; (b)(3) and (4) added....38960
161.3 (f) corrected....8820

Chapter II—Packers and Stockyards Administration, Department of Agriculture (Parts 200—299)

Page

201.56 (b), (c) and (d) revised; (e) removed....52886
201.64 Removed....52886
201.66 Removed....52886
201.72-1 Removed....52886
201.78-1 Removed....52886
201.106-1 Removed....52886
201.106-2 Removed....52886
203.14 Revised....52886
Corrected....58902

Chapter III—Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300—399)

317.1—317.24 Designated as Subpart A; eff. 7-6-94....664
317.2 (f)(1)(vi) added....38048
(f)(1)(vi)(B) corrected....40468
(j)(3) amended....42189
(l) added; interim....43489
(l) revised....52872
(l) removed....58919
317.5 (b)(12) and (13) amended; (b)(14) added....43489
(b)(12) and (13) amended; (b)(14) removed....58919
317.300—317.400 (Subpart B) Added; eff. 7-6-94....664
317.309 (b), (f)(1), (g)(1) and (h)(5) corrected....43788
(g)(1) amended; interim....47627
317.312 (b) Table 2 corrected....43788
(b) Tables 1 and 2 amended; interim....47627
317.313 (i) and (p) corrected....43788
(a) and (q)(3) revised; interim....47627
317.345 (a)(1) amended; interim....47627
317.354 Corrected....43788
317.356 (a) corrected....43788
317.360 Corrected....43788
317.361 Corrected....43788
317.362 (a) corrected....43788
(c)(1) amended; interim....47627
317.380 (c) corrected....43788
(e) and (f) added; interim....47627
317.400 (a)(1)(iii) and (d) added; interim....47627

Page

318.7 (c)(4) table amended....4070, 42189, 45239, 45242, 45243, 50035
318.23 Added....41151
320 Technical correction....43787
320.1 (b)(8) added; eff. 7-6-94....675
(b)(7) added....41152
381.118 (a) revised....38049
381.125 Existing text designated as (a); (b) added; interim....43489
(b) revised....52872
(a) designation and (b) removed....58919
381.134 (b)(12) and (13) amended; (b)(14) added....43489
(b)(12) and (13) amended; (b)(14) removed....58919
381.147 (f)(4) table amended....4070, 53034
(f)(4) amended....42190
381.175 (b)(5) added; eff. 7-6-94....675
381.400—381.500 (Subpart Y) Added; eff. 7-6-94....675
381.409 (b), (f)(1), (g)(1) and (h)(5) corrected....43788
(g)(1) amended; interim....47628
381.412 (b) Table 2 corrected....43789
(b) tables 1 and 2 amended....47628
381.413 (i) and (p) corrected....43789
(a) and (q)(3) revised; interim....47628
381.445 (a)(1) amended; interim....47628
381.454 Corrected....43789
381.456 (a) corrected....43789
381.460 Corrected....43789
381.461 Corrected....43789
381.462 Corrected....43789
(c)(1) amended; interim....47628
381.480 (c) corrected....43789
(e) and (f) added; interim....47628
381.500 (a)(1)(iii) and (d) added; interim....47628
391.2 Revised....33323
391.3 Revised....33323
391.4 Revised....33323

Title 9—*Proposed Rules:*

3....39458
54....59955
71....59959
77....43086
78....4360, 37665, 39458, 47222, 50290
79....59955
82....41048, 46569, 50527, 52240
85....37666
91....262, 37667, 43301, 59962
92...4361, 4362, 15292, 37878, 41204, 41643, 47084, 48003, 50527, 58304, 59414, 59963
94...264, 14174, 15901, 17642, 36624, 38308, 38314, 38316, 41643, 47834, 50527, 51971, 60146, 63122
95....37669
98....266, 36625, 55026
112....25786
113...12187, 15301, 21114, 37670, 39462, 39467, 47222
130....15292, 39163
145....44782
147....44782
156....39163
301....54012
306....62014
309....45296
310....45296
312....54012
313....47673
317...688, 8560, 19781, 45296, 51581, 58922, 62014
318....269, 44236, 51581
320....62014
322....54012
327....62014
350....54012
362....54012
381...688, 8560, 33040, 38090, 44236, 54012, 58922, 62014
391....14177, 44236, 54012

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

0 Authority citation revised....29951
0.735-1 Removed....3825
0.735-2 Removed....3825
0.735-3 Revised....3825
Removed....29951
0.735-4 Removed....3825
0.735-5 Removed....3825
0.735-6 Removed....3825
0.735-8 Revised....3825
0.735-20 Removed....3825
0.735-21 (d) revised....3826
Revised....29951
0.735-22 Removed....29952

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 10 Chapter I—Con. Page

0.735-23 Revised....3826
Removed....29952
0.735-24 Removed....3826
0.735-25 Removed....3826
0.735-26 Revised....3826
Removed....29952
0.735-27 Removed....3826
0.735-28 Removed....3826
0.735-28a Removed....3826
0.735-30 (Subpart C) Removed....3826
0.735-40 (e), (g) and (h) removed; (f) redesignated as new (e)....3826
0.735-41 Removed....3826
0.735-42 Removed....3826
0.735-43 Removed....3826
0.735-44 Removed....3826
0.735-45 Removed....3826
0.735-46 Removed....3826
0.735-47 Removed....3826
0.735-48 Removed....3826
0.735-49 Removed....3826
0.735-49a Removed....3826
0.735-50—0.735-55 (Subpart E) Removed....3826
0 Annex A removed....29952
2 Authority citation revised....44611
Authority citation corrected....50635
2.8 (b) revised....14309
2 Appendix C amended....14309, 14310, 17322
Appendix B removed....44611
9.35 (a)(1) and (2) revised....38666
11.15 (e)(1) revised....44435
19 Authority citation revised....52408
19.2 Amended....7736
19.3 Amended....7736
19.11 (c) revised....52408
Regulation at 58 FR 52408 effective date corrected to 11-8-93....54646
20 Technical correction....11290
20.2 Amended....7736
20.3 (a)(9) amended....7736
20.203 (c)(6) and (7) removed....7736
20.1002 Amended....7736
20.1003 Amended....7736
20.1603 Removed....7736
20.2109 Removed....7736
25 Appendix A revised....44436
26.1 Revised....31469
26.2 Revised....31469
26.3 Amended....31469
26.10 Introductory text and (a) revised....31469
26.24 Heading, (a)(2) and (b) revised....31469
26.27 (a), (b)(2) and (3) revised....31470
26.73 (d) revised....31470
26 Appendix A amended....31470
30 Authority citation revised....52408
30.4 Amended....7736
30.5 Amended....7736
30.6 (a) introductory text and (b)(1) introductory text amended....7736
30.7 Revised....52408
Regulation at 58 FR 52409 effective date corrected to 11-8-93....54646
30.8 (b) revised....39633
30.11 (a) amended....7736
30.13 Amended....7736
30.14 (a) and (c) amended....7736
30.15 (a) introductory text amended....7736
30.16 Amended....7736
30.18 (a) amended....7736
30.19 (a) amended....7736
30.20 (a) amended....7736
30.31 Amended....7736
30.33 (a)(4) amended....7736
30.34 (a) through (d) and (e) introductory text amended....7736
(i)(1) revised....39132
30.35 (g)(3) redesignated as (g)(4); new (g)(3) added....39633
30.36 (c)(2)(iii)(D) redesignated as (c)(2)(iii)(E); new (c)(2)(iii)(D) added; (c)(3) revised....39633
30.39 Amended....7736
30.51 (a) introductory text, (b), (c)(1) and (2) amended....7736
30.53 Introductory text amended....7736
35.200 (c)(1) revised....39132
35.300 (b)(1) revised....39132
36 Added....7728
40 Authority citation revised....52409
40.5 (b)(1) amended....7736
40.7 Revised....52409
Regulation at 58 FR 52409 effective date corrected to 11-8-93....54646
40.8 (b) revised....39633
40.36 (f)(3) redesignated as (f)(4); new (f)(3) added....39633
40.42 (c)(2)(iii)(D) redesignated as (c)(2)(iii)(E); new (c)(2)(iii)(D) added; (c)(3) revised....39634
50 Authority citation revised....21911, 52410
Policy statement....39132
50.7 Revised....52410
Regulation at 58 FR 52410 effective date corrected to 11-8-93....54646
50.8 (b) revised....21912
50.54 (a)(3) introductory text revised....45244
50.65 (a)(3) revised; eff. 7-10-96....33996
50.120 Added....21912
(b)(1) corrected....39092
51.22 (c)(3), (10) and (14) amended....7737
51.60 (a) amended....7737
51.66 (a) amended....7737
51.68 Amended....7737
52.8 (b) revised....21912
52.78 Added....21912
52.113 (b) revised....21912
54.37 (b) revised....45244
60 Authority citation revised....52411
60.9 Revised....52411
Regulation at 58 FR 52411 effective date corrected to 11-8-93....54646
61 Authority citation revised....52412
61.2 Amended....33891
61.7 (a)(1) revised....33891
61.8 Revised....33891
61.9 Revised....52412
Regulation at 58 FR 52412 effective date corrected to 11-8-93....54646
61.12 (j) revised....33891
61.80 (i)(1) revised....33891
70 Authority citation revised....52412
70.5 (b)(1) introductory text amended....7737
70.7 Revised....52413
Regulation at 58 FR 52413 effective date corrected to 11-8-93....54646
70.8 (b) revised....39634
70.20a (b) amended....7737
(d)(3) revised....31471
70.25 (g)(3) redesignated as (g)(4); new (g)(3) added....39634
70.38 (c)(2)(iii)(D) and (E) redesignated as (c)(2)(iii)(E) and (F); new (c)(2)(iii)(D) added; (c)(3) revised....39634
72 Authority citation revised....52413
72.10 Revised....52414
Regulation at 58 FR 52414 effective date corrected to 11-8-93....54646
72.30 Heading revised; (d)(3) redesignated as (d)(4); new (d)(3) added....39635
72.54 (b)(4) redesignated as (b)(6); new (b)(4) added; (e)(2) revised....39635
72.214 Amended....17967, 51770
73.6 Introductory text revised....31471
73.40 Revised....13700
73.46 Regulation at 58 FR 45785 corrected; effective date corrected to 2-28-94....48424
(d)(15) added....29522
(b)(4), (7) and (i) revised....45784
73.60 Heading revised; (f) added....13700
73 Appendix H revised....45785
74.81 (d) added....29522
110 Authority citation revised....13001, 57963
110.1 (a), (b)(1), (2) and (3) revised; (b)(4) added....13001
110.2 Amended....13002, 57963
110.4 Revised....13002
110.5 Amended....13002
110.6 (b) amended....13002
110.7 Amended....13002
110.8 Revised....13002
110.9a (e) removed....13003
110.10 (b) amended....13003
110.19 Added....13003
110.20—110.29 (Subpart C) Heading revised....13003
110.20 Heading, (a), (b), and (e) revised; (f) added....13003
110.21 Heading revised....13003
110.22 Heading revised....13003
110.23 Heading revised....13003
110.24 Heading revised....13003
110.25 Heading and (b) revised....13003
110.26 Heading and (a) revised....13003
110.27 Heading and (c) revised....13003
110.28 Revised....13003
110.29 Revised....13003
110.30—110.31 (Subpart D) Removed....13004
110.30 Transferred to Subpart C and revised....13003
110.31 Transferred to Subpart C; heading revised....13003

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 10 Chapter I—Con. Page

110.40—110.45 (Subpart E) Redesignated as Subpart D.....13004
110.40 (a), (b)(3) and (4) revised.....13004
110.41 (a) introductory text, (3) and (5) revised.....13004
110.42 Footnote 3 redesignated as Footnote 2 and revised.....13004
(a)(9) added.....57964
110.43 Revised.....13004
110.50—110.53 (Subpart F) Redesignated as Subpart E.....13004
110.50 (b)(3) amended.....13004
110.60—110.67 (Subpart G) Redesignated as Subpart F.....13004
110.67 (a) corrected.....11886
110.70—110.73 (Subpart H) Redesignated as Subpart G.....13004
110.70 (c) amended.....13004
110.80—110.91 (Subpart I) Redesignated as Subpart H.....13004
110.100—110.113 (Subpart J) Redesignated as Subpart I.....13004
110.120—110.126 (Subpart K) Redesignated as Subpart J.....13004
110.130—110.135 (Subpart L) Redesignated as Subpart K.....13004
110 Appendix A amended.....13004
Appendixes B, D and E amended; Appendix F added.....13005
140.11 (a)(4) revised.....42852
150 Authority citation revised.....52414
150.20 (b) introductory text revised.....52414
Regulation at 58 FR 52414 effective date corrected to 11-8-93.....54646
170 Authority citation revised.....38690
170.2 (a) amended.....7737
170.3 Amended.....38690
170.20 Revised.....38690
170.21 Introductory text revised; table amended.....38690
170.31 Revised.....38691
Corrected.....45553
171 Authority citation revised.....38694
171.5 Amended.....38695
171.8 Added.....38695
171.11 (a), (b) and (d) revised.....38695
171.15 (a), (b)(3), (c)(2), (d) and (e) revised.....38695
171.16 (c) introductory text, (4), (d) and (e) revised.....38696

Page
(e) corrected.....45553
171.19 (b) and (c) revised.....38701

Chapter II—Department of Energy (Parts 200—699)

440 Authority citation revised.....12525
440.1 Revised.....12525
440.3 Amended.....12525
440.10 (e) amended.....12529
440.11 (a) introductory text, (b), (c) introductory text, (d) and (e) amended.....12529
440.12 (a) and (c) introductory text amended.....12529
440.13 (a)(2) and (c) revised; (d), (e) and (f) added.....12525
(a) introductory text and (b) amended.....12529
440.14 (b) revised.....12526
440.15 (e) added.....12526
440.16 (b), (d), (f) and (g) revised; (h) and (i) added.....12526
440.17 (a) introductory text amended.....12529
440.18 Revised.....12526
440.19 (a)(2) amended.....12527
440.20 (b) amended.....12529
440.21 Revised.....12527
440.22 Revised.....12528
440.23 (a), (c) and (d) amended.....12529
440.24 Revised.....12529
440.26 Removed.....12529
440.27 Removed.....12529
440.28 Removed.....12529
440.29 Removed.....12529
440.30 (a), (b), (d), (f) and (i) amended.....12529
440 Appendix A revised.....12529
455 Revised.....9438
766 Added; interim.....41162

Chapter III—Department of Energy (Parts 700—999)

810.3 Amended.....39638
810.4 Existing text redesignated as (a) and (b); new (a) revised.....39638
810.5 Amended.....39638
810.7 (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added.....39639
810.8 (a) and (c)(5) revised; (c)(6) added.....39639
810.10 (a) amended.....39639

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page
810.13 (d) introductory text, (f) and (g) revised; (d)(4) added.....39639
810.16 Revised.....39639
820 Added.....43692
860 Revised.....47985

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1046 Revised.....45791
1046.11 (b)(1) corrected.....60102

Chapter XVII—Defense Nuclear Facilities Safety Board (Parts 1700—1799)

1703 FOIA fee schedule adjustment.....21241
1706.3 (b) corrected.....13684
1706.5 (a) introductory text, (3) and (b)(1)(ii) corrected.....13684
1706.6 (a)(2) corrected.....13684
1706.7 (c)(1) corrected.....13684
1706.9 (c)(2) corrected.....13684
1706.10 Corrected.....13684

Title 10—*Proposed Rules:*

0—199 (Ch. I)...6196, 11389, 28523, 42032, 60413
2.....31478, 34726, 44620, 48004, 50858
12.....41061
19.....33042
20...4363, 8560, 11389, 14178, 18049, 19784, 25578, 26257, 27953, 29998, 33570, 39173, 42882, 44620, 47676, 54071, 54531
21.....27953, 53159, 54531
26.....15810
30...3515, 4099, 6730, 26938, 33042, 33396, 54531
31.....27953, 54531
32.....33396, 53670, 54531
34.....27953
35.....26938, 27953, 33396, 44466, 54531
40...3515, 4099, 6098, 6730, 33042, 54531, 58657
50...271, 3515, 6730, 7757, 12339, 15303, 16377, 18167, 28523, 33042, 34539, 34947, 37884
52.....271, 16377, 58664
54.....28523
55.....29366
60.....12342, 33042, 36902
61.....25578, 27953, 33042, 54531

Page
70.....3515, 4099, 6730, 33042
72...3515, 4099, 5301, 6098, 6730, 19786, 29795, 31478, 33042, 45463, 47222, 48004, 58804
73.....21456, 52035, 59965
74.....6098
75.....6098
100.....271, 4946, 16377
110.....14344
150.....6098, 9552, 33042
170.....21116, 21662, 28801, 29454, 39174
171...21116, 21662, 28801, 29454, 39174, 50859
430.....44538, 47326, 48800, 59417, 59418
600.....63123
602.....53671
765.....42450
766.....41164, 43573, 49445
810.....13427, 15441
834.....16268

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

Chapter I Clarification.....59640
100.8 (b)(4)(iv) revised (effective date pending).....45774
Regulation at 58 FR 45774 eff. 11-10-93.....59641
102.2 (a)(3) added (effective date pending).....42173
Regulation at 58 FR 42173 eff. 1-1-94.....59641
104.7 (b) revised (effective date pending).....57729
(b)(1) corrected.....60244
110.2 (a) redesignated as (a)(1); (a)(2) added (effective date pending).....42173
Regulation at 58 FR 42173 eff. 1-1-94.....59641
110.3 (c) heading revised; (c)(6) removed; (d) added.....3476
Regulation at 58 FR 3476 effective date delayed to 7-1-93.....14310
Regulation at 58 FR 3476 eff. 7-1-93.....17968
112 Policy statement.....59642
Advisory opinion comment procedure.....62259
114.1 (e) revised (effective date pending).....45775

150-258 O - 93 - 3 (2)

TITLE 11 Chapter I—Con. Page
Regulation at 58 FR 45775 eff. 11-10-93....59641
114.7 (k) added (effective date pending)....45775
201 Hearing....6875, 14510
Revised; interim....59645

Title 11—*Proposed Rules:*

4....36764
5....36764
7....36764
8....51132
100....45463, 52040
102....12189, 36764
104....4110, 14530
107....43046, 52700
110....12189
111....36764
113....45463, 52040
114....43046, 52700
9008....43046, 52700

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Authority citation revised....27443
1.8 (b) removed; (c) redesignated as (b)....27443
3 Appendix A amended....16486
5.33 Regulation at 57 FR 49642 comment period extended....6441
5.51 Revised....27451
7.3020 Removed....46535
7.3025 Removed....46535
7.7490 Revised....4073
31 Authority citation revised....27454
31.1 Revised....27454
34 Temporary exceptions....42640
34.61—46.62 (Subpart D) Appendix A amended....4460
34.81—34.87 (Subpart E) Added....46535

Chapter II—Federal Reserve System (Parts 200—299)

201 Heading revised....50512
202 Heading revised....50512
203 Exemption termination....1
MSA designations....6601, 50513
Heading revised....50512
203.5 Revised....13405
203 Appendix A amended....13405
204 Heading revised....50512
Authority citation revised....61802
204.9 (a) revised....61802
205 Heading revised....50512
206 Heading revised....50512
207 OTC margin stock list....6602, 25543, 39640, 54929
Heading revised....50512
208 Authority citation revised....7979, 47208
Heading revised....50512
208.20 Added....47208
208 Regulation at 57 FR 62179 confirmed....28492
Appendix C corrected....4460
Appendix A amended....7979
Appendixes A and B amended....7980
209 Heading revised....50512
210 Heading revised....50512
211 Authority citation revised....47209
Heading revised....50512
211.2 (t) revised....6358
211.8 Added....47209
211.20 Redesignated from 211.21; (b)(3) through (8) revised; (b)(9) and (c) added....6358
211.21 Redesignated as 211.20; new 211.21 redesignated from 211.22 and revised....6358
211.22 Redesignated as 211.21....6358
Redesignated from 211.23....6359
211.23 Redesignated as 211.22; new 211.23 redesignated from 211.24; (a) through (h) redesignated as (b) through (i); new (a) added....6359
211.24 Redesignated as 211.23; new 211.24 redesignated from 211.25 and revised....6359
(f) added....47209
211.25 Redesignated as 211.24; new 211.25 redesignated from 211.26 and revised....6359
211.26 Redesignated as 211.25; new 211.26 redesignated from 211.27 and revised....6359
211.27 Redesignated as 211.26; new 211.27 redesignated from 211.28 and revised....6359
211.28 Redesignated as 211.27; new 211.28 redesignated from 211.29 and revised....6359
211.29 Redesignated as 211.28....6359

Added....6362
211.31 (b)(4) amended....46076
211.41 (b) amended....46076
211.42 (a) amended....46076
212 Heading revised....50512
213 Heading revised....50512
214 Heading revised....50512
215 Authority citation revised....26508, 61804
Heading revised....50512
215.4 (d)(3) added....26508
(d)(2) introductory text amended; interim....28494, 61804
216 Heading revised....50512
217 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
Heading revised....50512
217.1 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.4 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.6 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.101 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.201 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.301 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.302 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.601 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.602 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
217.603 Regulation at 57 FR 43336 effective date delayed to 6-21-93....15076
218 Heading revised....50512
219 Heading revised....50512
220 OTC margin stock list....25543, 39640, 54929
Heading revised....50512
221 OTC margin stock list....25543, 39640, 54929
Heading revised....50512
224 OTC margin stock list....25543, 39640, 54929
Heading revised....50512
225 Authority citation revised....4074, 7980, 47209
Temporary exceptions....42640
Heading revised....50512
225.2 (k) revised....473
(k) and (l) revised....4074
225.4 (g) added....47209
225.11 (f) revised....6362
225.12 (f) revised....6362
225.13 (a) and (b)(2) revised....474
225.31 (d)(2)(ii) revised....474
225.63 (a) amended....15077
225 Appendix B revised....474
Appendix A amended....7980
Appendixes A and D amended....7981
Regulation at 57 FR 62180 confirmed....28492
226 Authority citation revised....17084
Heading revised....50512
226.15 (e) revised....40583
226.16 Footnotes 36a and 36b redesignated as Footnotes 36b and 36c....40583
226.23 (e) revised....40583
226 Supplement I amended....17084, 17085
227 Heading revised....50512
228 Heading revised....50512
229 Heading revised....50512
229.2 (cc) amended....2
229 Appendixes A, B-2 and E amended....2
Appendix E amended....3
230.2 (a) amended....15081
230.4 (c)(1) amended....15081
230.5 (a)(2)(ii) revised....15081
230.8 (e) revised....15081
230 Appendix A amended....15082
245 Heading revised....50512
262 Authority citation revised....47986
262.3 (b)(1)(i)(D) removed; (b)(1)(i)(E) and (F) redesignated as (b)(1)(i)(D) and (E); (b)(2) amended; (b)(3) added; (j) introductory text revised....47986
263 Authority citation revised....6363
263.51 (c) revised....6363
264b Authority citation revised....57730

TITLE 12 Chapter II—Con. Page

264b.3 (c) and (d) correctly revised; CFR correction 38702
(a) amended 57730
265 Authority citation revised 26509
265.5 (c)(3) added 26509
265.6 (b)(2) revised; (f) added 6363
(c)(5) removed 26509
(g) added 53394
265.7 (d)(8) revised 6363
(c)(5) removed; (c)(6) redesignated as (c)(5) 26509
265.11 (d)(11) added 6363
268 Revised; interim 9518

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303 Authority citation revised 8216
Heading revised 8216
303.2 (a) amended 8216
303.3 (a) amended 8216
303.5 Heading revised; (e) added 8217
303.7 (f) heading revised; (f)(1)(iii) amended; (f)(1)(ix) added 8217
303.8 (i) added 8217
303.9 (h) and (m)(5) revised 8218
303.10 (c)(5) and (6) revised; (c)(7) added 8219
323 Temporary exceptions 42640
325 Authority citation revised 12151
325.1 Revised 8219
325.2 (t) and (v) amended 6368
(h)(1) and (t) amended 8219
(q), (s), (u) and (w) amended 60103
325.3 (c)(3) revised 8219
325.5 (f) revised 6369
(b) amended 8219
325.1—325.6 (Subpart A) Appendixes A and B amended 6369, 8219
Appendix A amended 12151
Appendixes A and B redesignated as part 325 Appendixes A and B 60103
325 Appendixes A and B redesignated from subpart A Appendixes A and B amended 60103
327 (d) through (h) redesignated as (e) through (i); (c), new (e)(1) introductory text, (1)(i) introductory text, (A), (B)(*2*) introductory text, (*2*)(ii), (e)(1)(ii) heading and introductory text, (2) and new (g) revised; new (d) added; new (h) amended 34364
327.3 (d)(1)(B)(*1*) corrected 3069
(e)(1)(i)(B)(*1*), (C) and (i) amended 34365
327.4 (c)(1) introductory text revised 34365
327.5 (a)(1)(i) revised 34365
327.7 (a)(1)(ii)(A) corrected 3069
327.13 (d) revised 31159
(c)(2) amended 34365
327.23 (d)(2) amended 34365
329.3 Removed 27922
330 Authority citation revised 29963
330.1 (j) revised 29963
330.2 Revised 29963
330.10 (b) introductory text amended; (a) and (b)(2) revised 29963
330.12 Revised 29964
(c)(2)(i)(C) and (e) corrected 40688
330.13 Revised 29964
330.15 Revised 29965
330.16 Revised 29965
336 Authority citation revised 39628
336.24—336.28 (Subpart D) Removed; interim 39628
337.6 (a)(1), (9) and (10) removed; (a)(2) and (3) redesignated as (a)(1) and (2); new (a)(3) added 54935
353 Revised 28774
360 Authority citation revised 43070
360.2 (f) added 43070
360.3 Added 43070
362.3 (d)(5)(ii) corrected 59787
363 Added 31335
365 Appendix A corrected 4460

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

506 Technical correction 11186
506.1 (b) table amended (OMB number) 4311, 44114, 45427
509 Technical correction 11186
509.104 (b) and (f) revised; (g) redesignated as (i); new (g) and (h) added 4311
516 Authority citation revised 4312
Technical correction 11186
516.1 (c) introductory text amended 4312
516.2 (d)(1) amended 44114

Page

517 Added 33324
528 Authority citation revised 4312
Technical correction 11186
528.1 (d) through (g) removed 4312
528.6 Revised 4312
541 Authority citation revised 4312
Technical correction 11186
541.9 Removed 4312
541.12 Removed 4312
541.24 Removed 4312
543 Authority citation revised 4312
Technical correction 11186
543.1 (a) amended 4312
545 Technical correction 11186
545.12 (b) revised 4312
545.21 Removed 4312
545.34 (b) and (c) amended 4312
545.36 (d) amended 4312
545.41 (a) revised 4312
545.75 (b)(5) removed 4312
545.79 Removed 4312
545.93 Removed 4312
545.123 Removed 4312
552 Authority citation revised 4312
Technical correction 11186
552.6-1 (b) amended 4312
552.7 Removed 4312
552.8 (b) removed 4312
556 Authority citation revised 4312
Technical correction 11186
556.7 Removed 4312
558 Revised 4312
Technical correction 11186
559 Removed 4313
Technical correction 11186
561 Authority citation revised 4313
Technical correction 11186
561.5 Removed 4313
561.16 (b) through (e) and (g) removed; (f) redesignated as (b) 4313
561.17 Removed 4313
561.22 Removed 4313
561.46 Removed 4313
563 Technical correction 11186
563.7 (d) removed; (e) redesignated as (d) 4313
563.24 Removed 4313
563.27 (a), (b) designation, heading, (1) designation and (2) removed 4313
563.29 Removed 4313
563.32 Removed 4313
563.33 (b) removed 4313
563.34 Removed 4313
563.45 Removed 4313

Page

563.48 (e) amended 4313
563.49 Added; eff. 4-19-93 through 4-19-95 14513
563.50 (a), (b), (d), (e), and (g)(2) introductory text revised 15084
563.51 (f)(1)(vi) redesignated as (f)(1)(vii); new (f)(1)(vi) and new (f)(1)(vii)(G) added; new (f)(1)(vii)(E) amended; (e), (f)(1)(vii) introductory text and new (f)(1)(vii)(F) revised 15084
563.50—563.52 Appendix A removed 15085
563.90 Removed 4313
563.93 (b)(6)(i) and (d)(3)(ii) amended 4313
563.99 (d) removed 4314
563.90—563.101 (Subpart D) Appendix A corrected 4460
563.131 Removed 4314
563.132 (a)(1)(ii) revised 4314
563.170 (c)(10) added; interim 28348
563.176 (b) removed; (c) through (f) redesignated as (b) through (e) 45813
563.192 Removed 4314
563b Technical correction 11186
563b.3 (i)(4)(vi) added 4314
563e Authority citation revised 4314
Technical correction 11186
563e.6 Amended 4314
564 Temporary exceptions 42640
567 Authority citation revised 4314
Technical correction 11186
567.1 (i)(2) amended 15086
567.2 (a)(1)(i) revised 45813
567.5 (c)(4) added 45813
567.6 Heading revised; (a)(1)(iv)(Q) amended; (a)(1)(iv)(R) and (S) added; (a)(1)(v) removed 476
(a)(1)(iv)(S) amended; (a)(1)(iv)(T) added 15086
(a)(1)(iv)(O) removed; (a)(1)(ii)(H), (iii)(C) and (iv)(N) revised; eff. 7-1-94 45813
567.7 Added 45813
567.20 Removed 4314
571 Authority citation revised 4314
Technical correction 11186
571.1 Removed 4314
571.3 Removed 4314
571.10 Removed 4314

TITLE 12 Chapter V—Con. Page

571.16 Removed....4314
571.17 Removed....4314
571.25 Removed....4314
571.26 Removed....4314
574 Authority citation revised....45427
574.9 Added....45427
(a)(5)(i)(B) corrected....52140
575 Added....44114
579—580 (Subchapter E) Removed....4314
579 Technical correction....11186
580 Technical correction....11186

Chapter VI—Farm Credit Administration (Parts 600—699)

601 Revised (effective date pending)....5919
Regulation at 58 FR 5919 effective 3-3-93....12333
607 Added (effective date pending)....10942
Regulation at 58 FR 10942 eff. 3-25-93....16104
611.400 Regulation at 57 FR 43393 eff.1-29-93....6604
611.515 (b)(6)(ii)(E) amended (effective date pending)....48790
611.1122 (e)(6)(iii) amended; (e)(9) revised (effective date pending)....48790
611.1130 (b)(4)(iii) amended (effective date pending)....48790
611.1155 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1156 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1157 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1160 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1168 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1170 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1175 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1180 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1182 (c) amended (effective date pending)....48790
611.1197 (b)(6)(ii)(E) amended (effective date pending)....48790
611.1225 (t)(2) amended (effective date pending)....48790
611.1240 (c) amended (effective date pending)....48790
612.2000—612.2110 (Subpart A) Regulation at 57 FR 43394 eff. 1-29-93....6605
612.2130—612.2270 (Subpart B) Regulation at 57 FR 43394 eff. 1-29-93....6605
612.2150 Regulation at 57 FR 43395 eff. 1-29-93....6605
613 Authority citation revised....48790
613.3045 (c)(3)(i) amended (effective date pending)....48790
614.4130 (a) amended (effective date pending)....48791
614.4240—614.4267 (Subpart F) Regulation at 57 FR 54695 eff. 3-1-93....11792
614.4250 (a)(1) amended (effective date pending)....11372
614.4255 (a) revised; (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; new (c) amended (effective date pending)....11372
614.4325 (g) removed; (h) redesignated as (g) (effective date pending)....40321
614.4350—614.4360 (Subpart J) Revised (effective date pending)....40321
614.4440 Regulation at 57 FR 54699 eff. 3-1-93....11792
614.4443 Regulation at 57 FR 54699 eff. 3-1-93....11792
614.4470 (c) amended (effective date pending)....40324
614.4512 (c)(2) and (e)(1) amended (effective date pending)....48791
614.4514 (d) amended (effective date pending)....48791
614.4516 (b)(2) amended (effective date pending)....48791
(a) introductory text revised (effective date pending)....62514
614.4517 (a)(5) amended (effective date pending)....48791
614.4520 (a) amended (effective date pending)....48791
614.4522 (a)(1) heading revised; (b), (c) introductory text, (3), (4), (d) introductory text and (e) amended (effective date pending)....48791

Page

614.4710 Introductory text, (a)(2), (3) and (b)(1) amended (effective date pending)....40324
615 Authority citation revised....63055
615.5131 Added (effective date pending)....63055
615.5132 Redesignated from 615.5135(a) and revised....63056
615.5133 Redesignated from 615.5135(b) and revised....63056
615.5134 Added (effective date pending)....63056
615.5135—615.5160 (Subpart E) Heading revised (effective date pending)....63055
615.5135 (a) and (b) redesignated as 615.5132 and 615.5133; new 615.5135 added (effective date pending)....63056
615.5136 Added (effective date pending)....63057
615.5140 Heading and (a) revised; (b) redesignated as (d); new (b) and (c) added (effective date pending)....63057
615.5141 Removed (effective date pending)....63055
Redesignated from 615.5180 (effective date pending)....63056
Revised; (effective date pending)....63058
615.5142 Removed (effective date pending)....63055
Added (effective date pending)....63058
615.5150 Redesignated as 615.5170 (effective date pending)....63056
615.5151 Redesignated as 615.5171 (effective date pending)....63056
615.5160 Redesignated as 615.5172 (effective date pending)....63056
615.5170 Redesignated from 615.5150 (effective date pending)....63056
615.5170—615.5172 (Subpart F) Heading revised (effective date pending)....63058
615.5171 Redesignated from 615.5151 (effective date pending)....63056
615.5172 Redesignated from 615.5160 (effective date pending)....63056

Page

615.5173 Added (effective date pending)....63058
615.5174 Added (effective date pending)....63058
615.5180 Redesignated as 615.5141 (effective date pending)....63056
615.5216 Regulation at 57 FR 46487 eff. 2-23-93....10945
618 Authority citation revised....10944
618.8230 Removed (effective date pending)....10944
Regulation at 58 FR 10944 eff. 3-25-93....16105
618.8320 (b)(10) redesignated as (b)(10)(i); (b)(10)(ii) added (effective date pending)....51994
Regulation at 58 FR 51994 eff. 11-8-93....59161
620 Authority citation revised....27923
620.1 (i) amended (effective date pending)....48791
620.2 (b)(3) revised (effective date pending)....27923
Regulation at 58 FR 27923 eff. 6-17-93....33189
(b)(1) amended (effective date pending)....48791
620.5 (f)(1)(i)(F) and (g)(1)(iv)(A) revised; (l) and (m)(1) amended (effective date pending)....48791
620.10 (e)(3) and concluding text revised (effective date pending)....27923
Regulation at 58 FR 27923 eff. 6-17-93....33189
(e)(1) amended (effective date pending)....48791
620.21 (f) amended (effective date pending)....48791
620.40 (Subpart F) Revised (effective date pending)....48791
621 Revised (effective date pending)....48786
621.20 (b)(3) corrected (effective date pending)....52888
625 Regulation at 57 FR 60109 eff. 2-23-93....10945
627 Regulation at 57 FR 46482 eff. 2-23-93....10945
627.2710 Regulation at 57 FR 46487 eff. 2-23-93....10945
627.2785 (c) amended (effective date pending)....48791

TITLE 12

Chapter VII—National Credit Union Administration (Parts 700—799)

Page

700.1 (i)(2) through (6), (15) and (16) introductory text revised; (i)(7) introductory text amended 40042
701 Authority citation revised 6077, 50445
701.12 (b), (c) and (e) revised 39433
701.21 (c)(7)(ii)(C) amended 6077
(c)(5) amended; (h)(1)(i)(C) and (5) revised 40043
701.32 (b)(1) and (d) revised 21645
701.35 (c) revised; eff. 1-1-95 50445
703 Technical correction 16763
703.5 Introductory text, (g) and (j) revised 34870
(g)(1)(ii)(A), (2) and (j)(2) corrected 41419
704.17 Added 57541
705 Revised 21646
707 Added; eff. 1-1-95 50445
710 Revised 35365
711.2 (h)(1) revised; (l) amended; (o) added 39435
711.4 (a)(5), (6) and (c) amended; (c) existing text redesignated as (c)(1); (a)(7), (8) and (c)(2) added 39435
(a)(8) and (c)(2)(i) introductory text corrected 58263
711.5 Amended 39435
722 Temporary exceptions 42640
722.3 (a)(1) and (d) revised 40043
740 Authority citation revised 50461
740.2 Amended 50461
741.1 Revised 57542
741.13 (a) revised 5571
748.1 (c) revised 17492
790 Revised 45431
791.18 (c) revised 17493
796 Removed 6605

Chapter IX—Federal Housing Finance Board (Parts 900—999)

902 Added 19195
904 Heading revised; authority citation and text added 19198
906 Heading revised; authority citation and text added 19202
909 Added 19205
931 Authority citation revised 43542
Technical correction 47181, 53023
931.7 Removed 43542
931.8 Removed 43542
931.9 Removed 43542
931.22 Removed 43542
932 Authority citation revised 3490, 31901
Technical correction 47181, 53023
932.2 Removed 43542
932.4 Removed 43542
932.5 Removed 43542
932.6 Removed 43542
932.7 Removed 43542
932.13 (c) amended; interim 3490
(c) amended 31901
932.14 (d) amended; interim 3490
(d) revised 31901
932.18 (f)(1) and (3) introductory text revised; interim 3490, 31901
932.21 (d)(2), (g)(1) and (3) revised; interim 3490
(d)(2), (g)(1) and (3) revised 31901
933 Revised 43542
Technical correction 52808
933.1 (n) corrected 53023
933.2 OMB number 50837
933.5 OMB number 50837
933.7 (d) corrected 47181
933.9 OMB number 50837
(b)(1) corrected 53023, 58231
933.12 OMB number 50837
933.13 OMB number 50837
933.14 (b)(2) corrected 47181
933.16 (b) corrected 53023
933.18 OMB number 50837
(c) corrected 53023
935 Revised 29469
Authority citation revised 29477
Technical correction 40190
935.1 Amended; interim 29477
935.20 Revised; interim 29477
935.22 Added; interim 29477
940 Removed 29474
Technical correction 40190
943.6 (b)(3) removed; (c) amended 59936
960.9 Revised; interim 17972

Chapter XVI—Resolution Trust Corporation (Parts 1600—1699)

1605 Authority citation revised 8222
1605.1 Removed 8222

Page

1605.2 (f), (g), (l), (n), (s) through (v), (x), (y), (cc) and (dd) removed 8222
1605.3 Removed 8222
1605.4 Removed 8222
1605.5 Removed 8222
1605.6 Removed 8222
1605.7—1605.14 (Subpart B) Heading revised 8222
1605.7 Removed 8222
1605.8 Removed 8222
1605.9 Removed 8222
1605.10 Removed 8222
1605.11 Removed 8222
1605.12 Removed 8222
1605.13 Removed 8222
1605.14 Removed 8222
1605.15 Removed 8222
1605.16 Removed 8222
1605.16a (d) Footnote 4 redesignated as Footnote 2 8222
1605.23 (c) and (g) removed 8222
1605.27 Removed 8222
1605.28 Removed 8222
1605.29 Removed 8222
1605.30—1605.33 (Subpart E) Heading revised 8222
1605.30 Removed 8222
1605.31 Removed 8222
1605.32 Removed 8222
1605.33 Removed 8222
1605.34—1605.43 (Subpart F) Heading revised 8222
1605.34 Removed 8222
1605.35 Removed 8222
1605.36 Removed 8222
1605.37 Removed 8222
1605.38 Removed 8222
1605.39 Removed 8222
1605.40 Removed 8222
1605.41 Removed 8222
1605.42 Removed 8222
1605.43 Removed 8222
1616 Revised 476
1625 Added 58941
1626 Added 34871
1627 Added; interim 18144
Technical correction 21627

Title 12—*Proposed Rules:*

3 ..... 43822, 48206, 52808
4 59686
5 4600
7 ..... 26695, 38474
16 4600

Page

24 38474
25 44138
27 27484
30 60802
34 ..... 26695, 31878, 59688
201 45851
203 31
205 8714
208 ..... 3235, 8007, 48206, 52808, 60802
211 ..... 513, 3235
213 61035
215 47400
219 46024
225 ..... 3235, 8007, 31878, 59688, 60802
228 44138
230 271
231 29149
263 60802
300—399 (Ch. III) 6903, 16798
303 ..... 26259, 33050, 48979, 60802
308 60802
323 ..... 31878, 59688
325 ..... 26701, 48206, 52808
327 17533
332 6448
333 6450
337 26705
345 44138
346 11922
353 3237
360 55027
362 ..... 6452, 25953
364 60802
545 ..... 31878, 59688
563 ..... 31878, 38730, 59688
563e 44138
564 ..... 31878, 59688
570 60802
574 61850
600—699 (Ch. VI) 34003
608 58137
611 ..... 15099, 32071, 39684
612 44139
613 32071
614 ..... 32071, 38091
615 ..... 34004, 52701
620 ..... 3872, 32071, 47836
621 32071
627 32071
650 53161
700 21953
701 ..... 11801, 17808, 21953, 40470, 42698
703 5664
704 ..... 30719, 33783
707 11801

TITLE 12 Proposed Rules—Con. Page
711....12910
722....21953
740....11801
741....30719, 33783
748....5663
900....8563, 13565
931....50867
935....49446
936....46569, 48946, 58305, 58988
960....58988
1102....55029
1402....59210
1408....59215

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

101.3-2 Amended....2967, 19321, 44437
Regulation at 58 FR 44437 corrected....53120
102.26 (c) revised....14148
102.27 Redesignated as 102.28; new 102.27 added....14146
102.28 Redesignated as 102.29; new 102.28 redesignated from 102.27....14146
102.29 Redesignated as 102.30; new 102.29 redesignated from 102.28....14146
102.30 Redesignated as 102.31; new 102.30 redesignated from 102.29....14146
(a) revised....14148
102.31 Redesignated as 102.32; new 102.31 redesignated from 102.30....14146
102.32 Redesignated as 102.33; new 102.32 redesignated from 102.31....14146
102.33 Redesignated as 102.34; new 102.33 redesignated from 102.32....14146
(a) amended....14148
102.34 Redesignated as 102.35; new 102.34 redesignated from 102.33....14146
(c) amended....14148
102.35 Redesignated as 102.36; new 102.35 redesignated from 102.34....14146
102.36 Redesignated as 102.37; new 102.36 redesignated from 102.35....14146
(a) revised....14148
102.37 Redesignated from 102.36....14146
107 Authority citation revised....47032
107.1002 (e) revised....47032
107 Appendix I amended....47032, 47033
108.4 (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added....15757
108.503-2 (d) and (e) added....45246
108.503-3 (c) revised....45246
108.503-5 (d)(2) amended....15757
108.507—108.507-5 Undesignated center heading and sections added....45246
120.102 Revised....45248
120.102-12 Added....45248
120.104-2 (b) revised....49423
120.403-2 Revised....49424
120.403-5 Revised....49424
121 Waiver...7479, 9112, 9113, 11372, 29346
Authority citation revised....25929
121.601 Table amended; Footnote 21 added; interim....4077
Table amended....25929, 52415
121.802 (a)(1) amended; (a)(2) revised....12335
121.910 (a) revised....25930
121.911 (a) revised....47371, 58651
121.2101—121.2106 Undesignated center heading and sections added....48956
122.7-3 (b) and (c) revised....49424
122.8-4 (d) revised....49424
122.61-10 (a) amended; (b) revised....49424
123 Authority citation revised....32055
123.9 (c) revised....32055
123.24 Heading revised; (g)(1) and (2) amended....32055
123.41 (h) revised....32055

Chapter III—Economic Development Administration, Department of Commerce (Parts 300—399)

301 Authority citation revised....61804
301.31 (e) revised....61804
301.32 Revised....61804
301.33 Revised....61804
301.35 Revised....61805
301.36 Removed; new 301.36 redesignated from 301.37....61806
301.37 Redesignated as 301.36....61806
301.70 Revised (OMB numbers)....61806

Title 13—*Proposed Rules:*

107....41852, 41882, 57568
120....29152
121...9131, 40603, 44620, 44793, 45300, 46573, 47181, 48981, 52452, 52020
122....45078
123....45855

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11.101 (b) table amended....18138
13 Authority citation revised....50241
13.202 Amended....50241
13.203 (c) revised....50241
21 Special FAA conditions...5571, 8222, 19553, 28496, 38702, 50703
23 Special FAA conditions...8222, 28496
23.23 Revised....42156
23.25 (a)(2)(i) revised....42156
23.33 (d)(2) revised....42156
23.45 (b) and (d) revised; (e) removed; (f) redesignated as (e); new (e)(2) and (5) introductory text amended....42156
23.49 (b) introductory text revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added....38639
23.53 (a), (b)(1)(ii) and (2) revised....42156
23.65 (a) revised....42156
23.67 (b)(1) and (2) revised....38639
23.141 Revised....42156
23.143 (a)(4) amended; (c) table revised....42156
23.145 Revised....42157
(b)(1) and (3) corrected....51970
23.147 Revised....42157
23.149 (d) amended; (a), (b) and (c) revised....42157
(a) corrected....51970
23.153 Revised....42157
23.155 (b) revised....42158
23.157 (a)(2) and (c)(2) amended; (b) revised....42158
23.175 (a)(3) and (d)(3) revised....42158
23.177 (a)(1), (2) and (3) revised....42158
23.179 Removed....42158
23.181 (c) and (d) added....42158
23.201 (c), (d)(2), (f)(4) and (5) revised....42159
(c) corrected....51970
23.203 (b) introductory text, (4), (5), (c)(1), (4) and (5) revised....42159
23.205 (b)(1) and (6) revised....42159
23.207 (c) revised; (d) added....42159
23.233 (a) and (b) revised; (d) added....42159
23.235 Revised....42159
23.251 Revised....42159
23.253 (a) and (b) introductory text revised....42160
23.305 (b) revised....42160
23.321 (c) added....42160
23.361 (a) introductory text, (2) and (c) introductory text revised....42160
23.369 Heading revised....42160
23.371 Heading and introductory text revised....42160
23.397 (b) amended....42160
23.415 (c) added....42160
23.473 (f) revised....42160
23.479 (b) and (c) revised....42160
23.485 (d) added....42160
23.521 (b) and (c) revised....42160
23.523 Added....42160
23.525 Added....42161
(b) corrected....51970
23.527 Added....42161
(b)(4), (6) and (c) corrected....51970
23.529 Added....42161
23.531 Added....42161
23.533 Added....42161
(b)(1), (2), (c)(1) and (2) corrected....51970
23.535 Added....42162
(d) corrected....51970
23.537 Added....42163
23.562 (b) introductory text amended; (d) redesignated as (e); new (d) added....38639
23.571 Introductory text amended; (c) added....42163

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 14 Chapter I—Con. Page

23.572 (a) amended; (a)(3) added 42163
23.573 Added 42163
(a)(2) and (6) corrected 51970
23.613 (b) and (c) revised; (d) and (e) added 42163
23.615 Removed 42164
23.621 (c)(1) and (d) introductory text revised; (e) added 42164
23.629 (d)(1) revised; (g) and (h) added 42164
(g) corrected 51970
23.655 (a) revised 42164
23.672 Added 42164
23.679 Revised 42164
23.729 (f)(1) and (2) revised 42164
23.731 (a) removed; (b) and (c) redesignated as (a) and (b) 42165
23.733 (a) revised 42165
23.737 Revised 42165
23.751 (a) revised 42165
23.753 Revised 42165
23.755 (a) introductory text amended 42165
23.773 Revised 42165
23.775 (f) and (g) added 42165
(f) corrected 51970
23.851 Revised 42165
23.865 Revised 42165
23.901 (b), (d) and (e) revised; (f) added 18970
23.903 (d)(1) and (e)(2) revised 18970
23.904 Added 18970
23.905 (e) through (h) added 18970
23.909 Heading and (a) introductory text revised; (b) and (c) amended; (d) and (e) added 18970
23.925 (b) and (c) redesignated as (c) and (d); new (b) added 18971
23.933 Revised 18971
23.934 Added 18971
23.937 Existing text designated as (a); (b) added 18971
23.943 Amended 18971
23.951 (a) revised 18971
23.953 (b)(1) amended 18971
23.955 (a) introductory text and (2) amended; (a)(3), (4), (c)(3) and (f)(3) added; (c) introductory text, (1), (d)(2), (e) and (f)(2) revised 18971
23.957 Existing text designated as (a); (b) added 18972
23.961 Revised 18972
Corrected 27060
23.963 (f) removed 18972
23.965 (b) revised 18972
23.967 (d) revised 18972
23.971 Revised 18972
(a) corrected 27060
23.973 (c) amended; (e) and (f) added 18972
23.975 (a)(5) amended 18973
23.977 (d) amended 18973
23.991 (c) amended 18973
23.993 (d) amended 18973
23.997 (d) amended 18973
23.999 (b)(3) removed; (b)(2) revised 18973
23.1001 (f) amended 18973
23.1011 (a) through (d) redesignated as (b) through (e); new (a) added 18973
23.1013 (g) amended 18973
23.1019 (a)(2), (3) and (5) amended 18973
23.1021 (a) and (b) revised; (c) added 18973
23.1027 (b) and (c) amended; (a) revised 18973
23.1041 Revised 18973
23.1047 (b)(2) amended 18973
23.1061 (a)(3) redesignated as (a)(4); new (a)(4) and (a) concluding text amended; (a)(2) revised; new (a)(3) added 18973
23.1091 Heading and (c)(2) revised; (a) and (c)(1) amended; (b)(4) and (5) added 18973
Heading and (c)(2) corrected 27060
23.1093 (a) heading, (3) introductory text and (c) amended; (a)(4), (5) and (b)(1) revised; (a)(6) added 18973
23.1101 Heading, introductory text and (a) revised 18974
23.1103 (c) through (f) added 18974
23.1107 Added 18974
23.1121 Introductory text and (i) added; (c) revised 18974
23.1123 Heading, (a), (b) and (c) amended 18974
23.1142 Added 18974
23.1143 (g) added 18974
23.1145 (a) amended 18974
23.1147 (a) introductory text, (1) and (2) redesignated as

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

(a)(1) introductory text, (1)(i) and (ii); introductory text and (b) redesignated as new (a) introductory text and (2); new (b) added 18974
23.1181 Added 18975
23.1189 (a) introductory text amended; (a)(5) revised 18975
23.1191 (a), (b) and (f)(1) amended; (d) removed; (h)(6) added 18975
(f)(1) corrected 27060
23.1193 (b) revised 18975
23.1195 Introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (b) added 18975
23.1203 (e) amended; (a) revised 18975
23.1303 (c) revised 18975
23.1305 Revised 18975
(d)(1) corrected 27060
23.1307 (a) amended; (c) added 18976
23.1322 (e) added 18976
23.1329 (b) through (g) redesignated as (c) through (h); new (b) added 18976
23.1331 Revised 18976
23.1337 (a)(1), (3) and (b)(5) amended 18976
23.1351 (c) revised; (g) added 18976
23.1357 (a)(1) and (e) revised 18976
23.1361 (a) and (b) revised 18977
23.1365 (c) added 18977
23.1385 (b) revised; (c) amended; (d) removed; (e) redesignated as (d) 18977
23.1387 (a) amended 18977
23.1389 (b) introductory text and (3) amended 18977
23.1391 Heading and table amended 18977
23.1393 Heading amended 18977
23.1395 Heading amended 18977
23.1419 Revised 18977
23.1431 Revised 18977
23.1435 (c) revised 18977
23.1441 (a) and (d) revised; (e) added 18978
23.1443 Revised 18978
23.1445 Added 18978
23.1447 (e) revised 18978
23.1507 Revised 42165
23.1521 (a) revised 42165
23.1522 Added 42166
Corrected 51970
23.1525 Revised 42166
23.1527 Revised 42166
23.1549 Heading, introductory text and (d) revised 42166
23.1557 (c) revised; (f) removed 42166
23.1563 (a) revised 42166
23.1581 (f) added 42166
23.1583 Introductory text and (m) added; (a)(2) and (h) revised 42166
23.1585 (a) and (c) revised; (b) added 42166
23.1587 Introductory text added; (a), (b) and (c) revised 42167
(c)(1) corrected 51970
23.1589 (a) revised 42167
23 Appendix H added 18979
Appendix D amended; Appendix H added 42167
Appendix I correctly designated 51970
25 Special FAA conditions ... 5571, 12538, 16486, 19553, 33327, 36345, 36348, 36350, 36352, 46536, 47628, 58263, 59646
Authority citation revised 11781
25.733 (e) added 11781
25.811 (e)(3) removed; (e)(2) introductory text revised 45229
25.1411 (a)(2) removed; (a)(1) redesignated as (a) and revised 45229
25.1423 Revised 45229
25 Appendix J amended 45229
29 Special FAA conditions ... 38702, 38703, 57542
33 Special FAA conditions ... 6876, 39643
33.28 Added 29095
35 Special FAA conditions ... 3215, 15262
39.13 ... 5, 7, 481, 484, 3492, 4892, 5257, 5258, 5261, 5262, 5575, 5578-5580, 5922, 5923, 5925, 6078, 6080-6082, 6084-6086, 6192, 6370, 6704, 6706, 6708, 6877, 6878, 6879, 6881, 6882, 7185, 7480, 7482, 7484, 7738, 7862, 7864, 7982, 7983, 8225, 9114-9117, 11187, 11189, 11191, 11524, 11525, 12153, 12155, 12157, 13407, 13701, 13702, 14312, 14514, 14516, 15758, 15759,

TITLE 14 Chapter I—Con. Page
15761, 16106, 16108, 16110, 16111, 16115, 16117, 16119, 16348, 16764, 16766, 16769, 16771, 18338, 18339, 18341, 18342, 18343, 19050, 19324, 19326, 19328, 19330, 19573, 19769, 21243, 21247, 21347, 21913, 21915, 21917, 21920, 21922, 21923, 21925, 25548, 25549, 25550, 25552, 25553, 26056, 26058, 26059, 26060, 26062, 26064, 26683, 26915, 27455, 27457, 27458, 27651, 27924, 27926, 27928, 27930, 28918, 28919, 28920, 29103, 29348, 29967, 30107, 31160, 31161, 31342, 31347, 31348, 31350, 31352, 31354, 31356, 31648, 31649, 31651, 31903, 31906, 32056, 32279, 32281, 32602, 32604, 32607, 32609, 32836, 32838, 33893, 33894, 33895, 33897, 33901, 33902, 33903, 33904, 33906, 33907, 34366, 34522, 34881, 35862, 36130, 36132, 36864, 36866, 38284, 38286, 38511, 38512, 38514, 38517, 39140, 39436, 39438, 39440, 39441, 39442, 39646, 39648, 40325, 40327, 40585, 40733, 40735, 41173, 41175, 41176, 41178, 41180, 41420, 41422, 42191, 42193, 42194, 42197, 42198, 42642, 43549, 43552, 43553, 43790, 44438, 44440, 44442, 45042, 45044, 45045, 45829, 45832, 45834, 46078, 46766, 46767, 46768, 46770, 46771, 46773, 47034, 47035, 47036, 47037, 47038, 47210, 47825, 47827, 47828, 47829, 47987, 49918, 50253, 50838, 50840, 50842, 50844, 51213, 51216, 51771, 51772, 52890, 53121, 53635, 53637, 53853, 53854, 53856, 53858, 54031, 54033, 54034, 54936, 54938, 54940, 54943, 54945, 54946, 54948, 54951, 57544, 57545, 57546, 57548, 59162, 59937, 59938, 59939, 59941, 59942, 59943, 59945, 60370, 60371, 60373, 60374, 60375, 60772, 60773, 60774, 60777, 61014, 61612, 61614, 61617, 61619, 61621, 62515, 62517, 62519, 63061, 63062
Corrected...17972, 21538, 34366, 46772, 52220
Technical correction...48946
61 Authority citation revised...40566
61.56 Revised...40566
71 Technical correction...11886, 52140, 52808
71.1...3216, 3217, 3218, 4315, 6371, 6884, 6885, 6886, 6887, 7485, 7744, 8897, 11373, 11373, 11374, 12136, 13007, 13704, 13705, 14517, 15254, 15265, 15762, 15763, 16488, 16489, 16611, 17323, 17494, 17495, 18344, 18345, 19209, 19574, 19575, 31653, 33908, 33909, 36597, 41181, 43071, 44126, 44274, 45047, 45048, 45049, 45050, 45051, 46540, 47040, 47041, 47042, 47043, 47044, 47045, 47046, 47372, 47373, 47374, 47375, 47376, 47632, 47634, 47635, 47830, 48302, 48727, 48792, 49425, 50254, 50255, 50514, 50515, 51010, 51774, 54952, 59357, 59657, 61623
Corrected...4314, 7179, 8693, 12157, 19152, 21538, 58277, 58593, 61729, 63211
Regulation at 57 FR 57662 corrected...6709
Regulation at 57 FR 39015 corrected...8897
Revised; eff. 4-1-93 to 9-15-93...12136
Introductory text revised...12137
Revised...36298
Eff. 1-6-94...53122, 53123, 53124, 53394, 53395, 53396, 53859, 54953, 54954, 57964, 59356, 59358
Regulations at 58 FR 47041, 47372, 47373, 47374, 47632, 47634, 47635 and 48727 eff. date delayed to 3-9-94...60552
Eff. 3-3-94...62035
Regulation at 58 FR 53859 corrected...63063
Regulation at 58 FR 36298 eff. date delayed to 12-8-94...63274
71.5 Amended...36299
71.6 Removed...12136
71.9 Revised; eff. 4-1-93 to 9-15-93...12136

Page
71.31 Amended...36299
71.33 (c) added...12137
71.41 Amended...36299
71.51 Amended...36299
71.61 Amended...36299
71.71 (a), (d) and (e) revised; (f) added...12137
(c) revised...15259
(b) through (f) amended...36299
(a) introductory text revised...44126
71.77 Removed...12137
71.79 Amended...36299
71.901 (a) amended...36299
73.19 (a) and (c) amended...42001
73.25...27653, 29523, 39649, 39650, 45052
Eff. 1-6-94...59360
73.29...6885, 38288
73.31...21250, 26225
73.38...38287, 52891
Eff. 1-6-94...54487
73.41...39651
73.51...45052
73.52...39651
73.54...18346
73.57...17324
Eff. 1-6-94...59946
73.60 Eff. 1-6-94...59359
73.66...39651
73.67...17324
91 SFAR No. 64 added...31641
Technical correction...33189, 52140
SFAR No. 66 added...45221
SFAR No. 62 amended...48728
Corrected...57549
Comment disposition...59360
Regulation at 58 FR 48728 eff. delayed to 3-9-94...60552
SFAR 64 corrected...62035
91.117 (b) revised...32839
(a) and (b) amended...43554
91.129 (e) introductory text, (1), (2) and (3) revised...48793
91.130 (a) revised...40736
Technical correction...42643
91.155 (c) revised...51968
91.157 Revised...51968
91 Appendix D amended...51968
93 Policy statement...230, 21095
93.81—93.83 (Subpart F) Removed...12137
Regulation at 58 FR 12137 eff. date delayed to 12-8-94...63275
93.151 Introductory text and (b) revised...32839
93.181—93.191 (Subpart P) Removed...12137
93.221 (e)(1) and (2) revised; (e)(3), (5) and (8) removed; (e)(4), (6) and (7) redesignated as (e)(3), (4) and (5); new (e)(3) amended...39616
93 Appendix B removed...39616
95...6887, 16490, 30108, 34701, 45053, 53860
97...34705
97.21—97.35...3219, 3221, 4894, 4896, 6710, 6713, 7486, 7747, 10946, 10948, 15266, 15267, 15269, 15271, 17325, 17326, 26226, 26228, 27654, 27655, 28497, 28499, 30977, 30978, 32841, 32842, 34706, 38289, 38519, 40328, 40330, 44275, 44276, 45057, 45058, 47047, 47049, 48959, 48960, 51775, 51777, 53864, 54488, 58278, 58280, 60377, 60378, 63064, 63066
97.113 Revised...43072
108 Comment disposition...36802
121 Special FAA conditions...34515
121.291 (a) revised...45230
121.305 (j) introductory text revised...12158
121.417 (c)(1)(i), (d) and (f) revised; (c)(1)(ii) redesignated as (c)(1)(iii); new (c)(1)(ii) added...46504
121 Appendix D amended...45230
125 Special FAA conditions...34515
127 Authority citation revised...34515
Special FAA conditions...34515
129 Special FAA conditions...34515
Authority citation revised...34515
135 Authority citation revised...34515
Special FAA conditions...34515
137.43 (a) revised...32840
170 Authority citation revised...42817
170.21—170.25 (Subpart C) Added...42817

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

302.1760 (a) and (b) amended...34882

TITLE 14

Chapter III—Office of Commercial Space Transportation, Department of Transportation (Parts 400—499)

Page

413 Authority citation revised.....3827
413.5 (d) removed.....3827
415 Authority citation revised.....3827
415.4 Removed.....3827
415.9 (e) removed.....3827

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1203b.107 (a)(3) and (c)(1) revised.....5263
1203b.108 (d)(2) revised.....5263
1204.400—1204.403 (Subpart 4) Revised.....43554
1215 Appendix A revised.....50516
1221.100—1221.116 (Subpart 1221.1) Revised.....58944
1260 Revised.....53640

Title 14—*Proposed Rules:*

1—199 (Ch. I)...5947, 8244, 8719, 11391, 16798, 19634, 21274, 26709, 27953, 33783, 36626, 36738, 42698, 46585, 47405, 47678, 57754, 58512, 63125
21...3239, 5666, 5669, 7197, 13216, 15730, 26710
23.....10994, 32034, 38028, 40389, 52702
25...12563, 13216, 26710, 36116, 36738, 38642, 44291, 59689, 62051
27.....5666, 60569
29.....3239, 4566, 5669, 35411
33.....26262, 57754, 57756, 57758, 57760
39...275, 278, 515, 3873, 4366, 4367, 4600, 5671, 5947, 5949, 6198, 6740, 6742, 6743, 6745, 6746, 6906, 7196, 7494, 7495, 7759, 8719, 8721, 8723, 8914, 8916, 9131, 9133, 9552, 11996, 11997, 11999, 12002, 12004, 12190, 12192, 12194, 12195, 12347, 12349, 13430, 13710, 13711, 13713, 14181, 14182, 14184, 14185, 14187, 14189, 15305, 15309, 15114, 15116, 15441, 15444, 15445, 15448, 15450, 15813, 16137, 16377, 16505, 16507, 18051, 18053, 18347, 19068, 19069, 19071, 19073, 19634, 19635, 19787, 19788, 21546, 21692, 21955, 21957, 21959, 25579, 25954, 25956, 26074, 26076, 26264, 27217, 27954, 27955, 27957, 28525, 28526, 28527, 28529, 28801, 28936, 28938, 28939, 29800, 29802, 29998, 30000, 30001, 30003, 30721, 30722, 30725, 31003, 31347, 31348, 31350, 31352, 31354, 31356, 31481, 31681, 31916, 31917, 31920, 31922, 32469, 32471, 32877, 33574, 33576, 33783, 33920, 34009, 34382, 34383, 34950, 34952, 34955, 34957, 34959, 35413, 35899, 35900, 35902, 35904, 35905, 36627, 38321, 38540, 38731, 38732, 38984, 38985, 39474, 39475, 39476, 39478, 39688, 39689, 39691, 40077, 40078, 40079, 40083, 40389, 40391, 41066, 41210, 41441, 41442, 41444, 41645, 42032, 42034, 42259, 42261, 42262, 42361, 42513, 42699, 42700, 42702, 42705, 43301, 43303, 43304, 43306, 44149, 44150, 44466, 44468, 44621, 44795, 45858, 45859, 45861, 45863, 46135, 46136, 46137, 46139, 46914, 46916, 46917, 47085, 47224, 47225, 47227, 47405, 47407, 47409, 47678, 47837, 47839, 48009, 48010, 48616, 48617, 48983, 48984, 48986, 48987, 48989, 49943, 49944, 49946, 50868, 50869, 50871, 51583, 51585, 51587, 51589, 51793, 52041, 52240, 52243, 52714, 52717, 52929, 52931, 52932, 53457, 53678, 53893, 54072, 54310, 54312, 55031, 57568, 58305, 58307, 58310, 58667, 58669, 58807, 58808, 58992, 59223, 59418, 59965, 59967, 59968, 59970, 60413, 60415, 61037, 61038, 61635, 61636, 61853, 62296, 62557
61.....7197, 9514, 48748
63.....7197
65.....7197
71...34, 3241, 3242, 3875, 4946, 5301, 5303, 6375, 6911, 8244, 8724, 8725, 9134, 11553, 11801—11803, 12197, 12566, 12567, 13715, 14190, 15117, 15118, 16508, 16914, 17541, 17543, 18054, 18055, 18349, 18350, 19214, 19637, 21122, 21123, 21411, 26265, 26266, 26267, 26268, 26269, 27680, 28941, 29370, 31483, 31484, 31485, 31486, 32313, 33053, 33054, 33878, 36157, 36158, 36628, 38322, 38734, 39479, 39693, 39694, 40077, 40078, 40079, 40083, 41211, 41212, 41214, 42037, 42038, 42623, 43412, 43573, 43575, 43576, 43826, 44469, 45079, 46586, 47087, 47411, 47413, 47680, 48331, 49450, 49451, 50873, 51256, 51257, 53164, 53166, 53167, 53459, 54073, 55116, 57570, 57571, 58311, 58312, 59422, 62054, 62055, 62056, 62057, 62058, 62059, 62061, 62062, 62298, 63125, 63127, 63128, 63129, 63130, 63211
73...18351, 33223, 38323, 41214, 54531, 61054
91.....32244, 36738, 51938
93.....7950, 11554
119.....32248
121...7197, 8917, 16584, 17024, 21336, 32248, 33316, 36116, 36738, 51938, 51944, 54478, 58512
125.....17024, 32248, 49164, 51938
127.....32248, 54478, 58512
129.....8917, 51944
135...7197, 17024, 32248, 36116, 36738, 49164, 51938, 51944, 54478, 58512
142.....9514
145.....54478, 58512
221.....287, 12350
234.....4370
241.....15
255.....41068
266.....16806
300.....516, 7040
382.....47681, 63154
389.....287, 12350
399.....7051
1272.....36159

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce (Parts 0—29)

Page

19 Added; interim.....39653
Regulation at 58 FR 39653 confirmed.....59946

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

30 Authority citation revised.....41423
30.20 (a) amended; (b) and (c) redesignated as (c) and (d); new (b) added.....41423
30.21 (a) and (b) revised.....41424
30.22 (a) revised.....41424
30.24 (a) introductory text and (1) revised.....41425
50.5 Revised.....4078
122.62 (a) revised.....41425
122.74 (a) and (c)(2) revised.....41425
122.76 Revised.....41426
122.79 (b) revised; (b)(2) undesignated text removed.....41426

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

303.10 (c) removed; (d) redesignated as (c).....21348
303.14 (b)(4) and (d)(2) removed; (d)(3) redesignated as (d)(2); (b)(2), (d)(1), new (d)(2) and (e) amended.....21348

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

770.2 Amended.....3222
770.4 Revised.....3222
770.10 (a) revised; interim.....57551
770.11 (a)(2)(i)(A) amended.....36354
770 Supplement No. 1 amended.....47053
Supplement No. 2 removed; interim.....57551
771 Authority citation revised.....488
771.3 Revised.....47052

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 15 Chapter VII—Con. Page

771.4 (b) introductory text amended; (b)(2) added.....47050
771.7 Added.....488
771.14 (d)(3) amended.....47050
771.16 (b) revised.....47050
771.23 (b) amended.....486
771.28 Added.....47054
772.4 (b)(2)(iv)(A), (i)(1) introductory text and (6) amended; (i)(1)(i) revised.....36354
773.3 (a)(1)(ii), (d)(3)(iii)(D) and (e)(1)(ix)(I) amended.....486
773.7 (c)(2) heading, text, (d)(1) introductory text, (2)(i), (ii) heading, introductory text, (A), (C), (3) introductory text, (h)(1)(i) Footnote 2, (ii), (i) heading, introductory text, (1), (2), (4), (6), (k) introductory text and concluding text amended.....486
773.8 (a)(2) introductory text and (c)(1) amended.....487
773 Supplement No. 1 amended.....52169
774.2 (a)(1) amended.....47054
774.5 (a) amended.....486
775 Authority citation revised.....25554
775.1 (b) table amended.....25554, 47054
775.2 (e)(6) amended.....36355
(b)(1) amended.....47054
775.3 (b) revised.....25554
(h)(3) revised.....36355
775.6 (d) added.....36355
(c)(2) removed; (c)(3) and (4) redesignated as (c)(2) and (3) and revised; (d) added.....47052
775.7 (d) redesignated as (e); new (d) added.....36355
775.8 (d) redesignated as (e); new (d) added.....36355
Heading, (a) and (b)(2) revised; (d) amended.....47054
775.10 (b) through (g) redesignated as (c) through (h); new (b) added.....36355
Introductory text, (a), (b)(2) heading, introductory text, (c), (e), (f)(1) introductory text, (f)(2)(i) introductory text, (ii)(A), and (g)(1) introductory text amended.....47054
775 Supplement No. 1 amended.....25554, 47054
776.8 (b)(1)(ii) and (iii) amended.....486
776.9 (b)(1)(iii) introductory text and (3)(iii) introductory text amended.....33510
776.10 (a)(1) amended.....486
776.11 (f)(6)(i)(D) and (ii)(A) revised.....47055
776.16 Heading revised; (b) added; interim.....57551
777 Authority citation revised.....488
777.1 (c)(3) amended.....36355
777.2 (e) amended.....36355
777.4 (d)(1) introductory text, (h) and (i)(2) introductory text amended.....36355
777.6 (d) amended.....36355
(d)(3)(ii) amended.....47051
777.7 Revised.....489
(d) amended.....36355
778 Authority citation revised.....52167
778.9 (a) revised.....47051
778 Supplement No. 4 amended; interim.....52167
779.4 (f)(1)(i), (iii), (2)(i) and (iii) amended.....486
(f)(1)(i) revised.....47055
779.5 (e)(1)(vii) amended.....486
(e)(2) amended.....487
(a)(3) amended.....47055
779.8 (b)(4) amended.....47051
785.1 (a) revised.....47055
785.2 (a)(4) amended.....36355
(a)(1) and (c) amended.....47055
785.4 (f) removed; (g) redesignated as (f).....487
(d)(1)(vi), (viii) and (ix) amended.....33510
785.6 (b) revised.....47052
785.7 (c) amended.....33510
(b) amended.....36355
786.1 (a), (c)(1), (2) introductory text, (i) and (iii) amended; (b)(1) Footnote 1, (2)(i) and (c)(3) revised.....3222
786.3 (f)(1), (i)(1), (2), (p)(1)(i) and (ii) revised; (i)(3), (j)(1), (p)(1) introductory text, (r)(1), (3), (4), (6) and (7) amended.....3223
786.7 (c)(1) introductory text, (e)(1) introductory text and (i) amended; (e)(1)(ii) and (iii) revised.....33510

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page

786 Supplement No. 1 amended.....3223
787.14 (a)(1) and (2) amended.....36355
787.15 (c)(2)(ii) amended.....36355
788.20 (c)(1)(i) amended.....36355
789 Authority citation revised.....58483
789.1 (b) amended.....58483
789.2 Revised.....58483
790.1 (h)(3) amended.....36355
790.8 Added; interim.....57552
799 Authority citation revised...21926, 27932, 59164, 61807
799.1 Regulations at 57 FR 61259 corrected.....6574, 32003
(h) added.....33510
Supplement No. 1, Category 1 amended (ECCN 1B71E).....21926
Supplement No. 1, Category 1 amended (ECCN 1C65E).....21927
Supplement No. 1, Category 5 amended; interim (ECCN 5A02A).....27932
Supplement No. 1, Category 9 amended (ECCN 9A92F and 9A93F).....33510
Supplement No. 1, Category 7 amended; (ECCN 7A05A, 7A25B, 7A94F).....34212
Supplement No. 1, Category 5 amended (ECCN 5A20B).....47051
Supplement No. 1, Category 9 amended (ECCN 9A18A).....47051
Supplement No. 1, Category 9 amended (ECCN 9A04A).....47323
Supplement No. 1, Category 5 amended (ECCN 5A02A).....48304
Supplement No. 1, Category 5 amended.....48304
Supplement No. 1, Category 5 amended (ECCN 5A91F).....48305
Supplement No. 1, Category 4 amended; interim (ECCN 4A01A, 4A02A).....52167
Supplement No. 1, Category 4 amended; interim (ECCN 4A03A).....52168
Supplement No. 1, Category 1 amended (ECCN 1E96G).....52171
Supplement No. 1, Category 2 amended (ECCN 2E96G).....52171
Supplement No. 1, Category 3 amended (ECCN 3A01A and 3A02A).....52171

Page

Supplement No. 1, Category 3 amended (ECCN 3B01A).....52174
Supplement No. 1, Category 3 amended (ECCN 3C02A and 3E01A).....52175
Supplement No. 1, Category 4 amended (ECCN 4A01A and 4A03A).....52176
Supplement No. 1, Category 4 amended (ECCN 4E96G).....52177
Supplement No. 1, Category 5 amended (ECCN 5A01A, 5A02A).....52179
Supplement No. 1, Category 5 amended (ECCN 5A03A, 5A04A, 5A05A).....52180
Supplement No. 1, Category 5 amended (ECNN 5A06A, 5B01A, 5B02A, 5C01A and 5E02A).....52181
Supplement No. 1, Category 6 amended (ECCN 6A01A, 6A02A).....52185
Supplement No. 1, Category 5 amended (ECCN 5A11A).....52185
Supplement No. 1, Category 6 amended (ECCN 6A04A, 6A05A, 6A07A, 6A08A).....52188
Supplement No. 1, Category 6 amended (ECCN 6B04A, 6C02A, 6C04A, 6E03A).....52189
Supplement No. 1, Category 6 amended (ECCN 6E96G).....52190
Supplement No. 1, Category 7 amended (ECCN 7E94F).....52191
Supplement No. 1, Category 8 amended (ECCN 8E96G).....52191
Supplement No. 1, Category 9 amended (ECCN 9E96G).....52192
Supplement No. 3 amended.....52192
Supplement No. 1, Category 6 amended; interim (ECCN 6A02A, 6A03A, 6E01A, 6E02A).....57552
Supplement No. 1, Category 7 amended; interim (ECCN 7A23B, 7D01A, 7E01A, 7E02A).....57552
Supplement No. 1, Category 6 amended; interim (ECCN 6D01A, 6D21B).....57553
Supplement No. 1, Category 7 amended; interim (ECCN 7A03A, 7E21B).....57553

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 15 Chapter VII—Con. Page

Supplement No. 1, Category 1 amended (ECCN 1C31B).....59164
Supplement No. 1, Category 9 amended (ECCN 9A02A, 9A23B, 9D24B, 9E03A).....59165
Supplement No. 1, Category 9 amended (ECCN 9E21B).....59166
Supplement No. 1, Category 1, amended (ECCN 1C18A); interim.....61808

Chapter VIII—Bureau of Economic Analysis, Department of Commerce (Parts 800—899)

806.15 (h)(1) and (2) amended.....38290
(i) amended.....53125

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

904.108 (c) amended; (g) added; interim.....58485
904.240 (a) and (b) amended; interim.....58486
921 Revised.....38215
922 Authority citation revised.....60781
922.1 (a) and (b) revised.....60781
922.2 Amended.....60781
922.11 Revised.....60781
922.31 (e), (f) introductory text and (h) revised.....60782
922.32 Heading, (a) introductory text and (b) revised.....60782
922.33 (a)(2)(ii) and (b)(1) revised.....60782
922.40 (a) and (d) revised.....60782
922.42 Added.....60782
924.4 Revised.....60783
929.9 Revised.....60783
932.34 Revised.....60782
935.8 Revised.....60783
936.7 Revised.....60783
937.7 Revised.....60783
938.7 Revised.....60783
940 Added (effective date pending).....53877
941.10 Revised.....60783
942.7 Revised.....60783
943.8 Revised.....60783
944 Petition denied.....15271
944.7 Revised.....60783

Title 15—*Proposed Rules:*

Page
7.....40087
285.....40087
286.....39486
295.....41069, 46919
303.....4947
500.....41215
700—799 (Ch. VII).....54074
806.....12912, 38324
900—999 (Ch. IX).....4601
935.....44634
936.....44634
942.....44634
944.....44634
946.....18316
1180.....27681
1200.....5672, 8564

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

4.1 (c) revised.....40737
4.9 (a)(2) revised.....15764
4.11 (g) added.....15764
4.13 (m) revised.....7047
5 Authority citation revised.....15764
5.1—5.2 (Subpart A) Revised.....15764
5.10 (Subpart B) Revised.....15765
5.21—5.26 (Subpart C) Removed.....15765
5.31—5.42 (Subpart D) Removed.....15765
5.51 Revised.....15765
305 Authority citation revised...5926, 15086, 54963
Energy efficiency ranges...26684, 59166, 59167, 59168
Heading revised.....54963
305.1 Heading, (a), (b) and (d) revised.....54963
305.2 (r) through (v) added.....54963
305.3 (k) through (n) added.....54963
305.4 (a)(1), (2), (b)(4), (d), (e) introductory text, (2) and (3) revised.....54964
305.5 Revised.....54964
305.8 (a) and (b) revised.....54965
305.9 (a) revised.....5926
305.11 (a) heading revised; (e) added.....54965
305.13 (a) revised.....54966

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

Page
305.14 (a) introductory text revised; (d) added.....54966
305.15 (b) revised.....54966
305 Appendixes A1, A2 and B amended.....3224
Appendix C amended.....15086
306 Heading revised.....41732
Authority citation revised.....41732
306.0 Redesignated as 306.1; new 306.0 added.....41372
306.1 Redesignated as 306.2; new 306.1 redesignated from 306.0.....41372
Revised.....41373
306.2 Redesignated as 306.3; new 306.2 redesignated from 306.1.....41372
Revised.....41373
306.3 Redesignated as 306.4; new 306.3 redesignated from 306.2.....41372
306.4 Redesignated as 306.5; new 306.4 redesignated from 306.3.....41372
Revised.....41373
306.5 Redesignated as 306.6; new 306.5 redesignated from 306.4.....41372
Revised.....41373
306.6 Redesignated as 306.7; new 306.6 redesignated from 306.5.....41372
Revised.....41373
306.7 Redesignated as 306.8; new 306.7 redesignated from 306.6.....41372
Revised.....41374
306.8 Redesignated as 306.9; new 306.8 redesignated from 306.7.....41372
Revised.....41374
306.9 Redesignated as 306.10; new 306.9 redesignated from 306.8.....41372
Revised.....41374
306.10 Redesignated as 306.11; new 306.10 redesignated from 306.9.....41372
Revised.....41374
306.11 Redesignated from 306.12; new 306.11 redesignated from 306.10.....41372
Revised.....41374
306.12 Redesignated from 306.11.....41372
Revised.....41375
307.12 (b) amended.....4874
308 Added.....42400
435 Revised; eff. 3-1-94.....49121

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1030 Authority citation revised.....12335
1030.101—1030.104 (Subpart A) Removed.....12335
1030.201 (Subpart B) Removed.....12335
1030.301—1030.304 (Subpart C) Removed.....12335
1030.401 Removed.....12335
1030.403 Removed.....12335
1030.407 Removed.....12335
1030.409 Removed.....12335
1030.410 Removed.....12335
1030.501—1030.502 (Subpart E) Removed.....12335
1030.601—1030.611 (Subpart F) Removed.....12335
1030.701—1030.705 (Subpart G) Removed.....12335
1030.801 (Subpart H) Removed.....12335
1030.901 (Subpart I) Removed.....12335
1030.1001—1030.1002 (Subpart J) Removed.....12335
1030.1101—1030.1109 (Subpart K) Removed.....12335
1030.1201—1030.1218 (Subpart L) Removed.....12335
1030 Appendixes A through F removed.....12335
1116.2 (b) revised.....16121
1145.16 Added.....37556
1210 Added.....37584
1500 Authority citation revised.....40334
1505 Authority citation revised.....40335
1505.1 (a)(1) amended; (a)(2) added.....40335
1615 Stay of enforcement.....4078
1616 Stay of enforcement.....4078
1700.14 (a)(21) added.....38964

Title 16—*Proposed Rules:*

0—999 (Ch. I).....11554
18.....16139, 29153
244.....35414
305.....7852, 12818, 18056, 26715, 60147
306.....16464, 25582

CHANGES JANUARY 4, 1993 THROUGH NOVEMBER 30, 1993

TITLE 16 Proposed Rules—Con. Page

307 ..... 4875, 10997, 58810
308 13370
400 25703
404 21124
410 21125
412 35907
418 21125
500 43726
1000—1799 (Ch. II) 8013, 8016, 8020, 8023
1204 15815
1210 8565
1500 34385
1615 4111
1616 4111

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

Page

1 Authority citation revised 19589
Technical correction 22020, 42361, 58651, 58729
1.3 (x) revised 19589
1.10 (j)(2)(ii) revised 19589
1.31 (b) and (c) revised; (d) added 27464
(b)(2) revised 27467
1.35 (b) amended 27465
(a-1), (2), (3) and (4) revised 31166
(e)(1) revised 40348
1.37 (a) revised 28501
1.41 (a)(4), (f)(2), (3) and (g) revised; (a)(8) and (f)(4) through (9) added 26237
(d) heading and (1) introductory text revised 37653
1.41c Added 26239
1.55 (a) and (b) revised; (c) and (d) redesignated as (e) and (f); new (c) and new (d) added 17503
1.59 Revised 54973
1.62 Revised 19589
1.63 (a)(4) and (6) redesignated as (a)(6) and (7); new (a)(4) added; (a)(2), (5), new (6), (b) introductory text and (c) through (f) revised 37653
1.64 Added 37654
1.65 Added 17504
1.66 Added 19589
(b)(1)(ii) correctly designated 21776
1.67 Added 37655
1 Appendix B amended 42645
3 Authority citation revised 19590
3.1 Authority citation removed 19590
3.2 Authority citation removed 19590
3.4 (a) revised; authority citation removed 19590
3.10 Authority citation removed 19590
3.11 Revised 19591
3.12 Authority citation removed 19590
(d)(1)(iv) and (i)(1)(iv) revised 19592
3.13 Authority citation removed 19590
3.14 Authority citation removed 19590
3.15 Authority citation removed 19590
3.16 Authority citation removed 19590
3.17 Authority citation removed 19590
3.18 Authority citation removed 19590
3.20 Authority citation removed 19590
3.21 Authority citation removed 19590
(b)(2) revised 19592
3.22 Authority citation removed 19590
3.30 Authority citation removed 19590
3.31 Authority citation removed 19590
(a) amended; (b) and (d) revised 19593
3.32 Authority citation removed 19590
3.33 Authority citation removed 19590
(a) introductory text, (e) and (f) introductory text revised; (b) introductory text amended 19592
3.34 Added 19593
(d)(2) corrected 21776
3.40—3.47 (Subpart B) Authority citation removed 19590
3.40 Heading, introductory text and (c) revised 19594
3.41 (a) revised 19594
(a) corrected 21776
3.42 (a)(2), (4), (5), (6) and (b) revised; (a)(7) and (8) added 19594
3.43 (b)(1) and (2) revised 19594
3.46 (a) revised 19595
3.47 (b)(2) revised 19595
3.50—3.64 (Subpart C) Authority citation removed 19590
3.55 (e)(1) revised 19595
3.56 Added 19595
3.60 (b)(2)(i) introductory text, (A), (C), (ii)(C) and (f)(3) revised; (l) added 19596
3.61 Heading and (a) revised 19597

TITLE 17 Chapter I—Con. Page
3.64 (a)(2) and (d) revised....19597
3.70 (Subpart D) Authority citation removed....19590
3.75 (Subpart E) Authority citation removed....19590
3 Appendix A amended....19590, 19597
4.5 (a)(4), (b)(4) and (c) introductory text revised; (a)(4)(iv) added....43793
5 Fee schedule....19769
10.1 (a) revised....19597
17.00 (b) revised....33330
17.01 (b)(6) revised....33330
18.01 (a) revised....33330
18.04 (a)(5) revised....33330
30 Technical correction....22020
30.6 (a) revised....17505
30 Appendix C amended....19210
33 Technical correction....22020
33.4 (b)(9) removed....30703
33.7 (a) revised....17505
140.735-1—140.735-16 (Subpart C) Authority citation revised....52657
140.735-1 Revised....52657
140.735-2 Removed; new 140.735-2 redesignated from 140.735-4 and revised....52657
140.735-3 Removed....52657
Redesignated from 140.735-5 and revised....52658
140.735-4 Redesignated as 140.735-2....52657
Redesignated from 140.735-8A....52658
140.735-5 Redesignated as 140.735-3; new 140.735-5 redesignated from 140.735-9 and revised....52658
140.735-6 Removed; new 140.735-6 redesignated from 140.735-10 and revised....52658
Footnote 15 corrected....58593
140.735-7 Removed....52658
Redesignated from 140.735-12 and revised....52659
140.735-8 Removed....52658
Redesignated from 140.735-16 and revised....52660
140.735-8A Redesignated as 140.735-4....52658
140.735-9 Redesignated as 140.735-5....52658
140.735-10 Redesignated as 140.735-6....52658
140.735-11 Removed....52659
140.735-12 Redesignated as 140.735-7....52659
140.735-13 Removed....52660
140.735-14 Removed....52660
140.735-15 Removed....52660
140.735-16 Redesignated as 140.735-8....52660
145.6 (b) revised....19597
150 Authority citation revised....17981
150.1 (f) through (i) added; interim....17981
150.2 Revised; interim....17982
150.3 (a)(2) removed; (a)(3) revised; interim....17982
155.5 Added....40348
156 Added....31171
180 Technical correction....22020
180.3 (b)(2) revised....17505
190 Technical correction....22020
190.06 (b) and (d)(1) revised....17505
190.10 (c)(1) revised....17505

Chapter II—Securities and Exchange Commission (Parts 200—399)

[EDITORIAL NOTE: The revision date for the 1993 edition of title 17, chapters II through the end, was delayed until June 1, 1993. The 1993 revision will include amendments promulgated during the period of April 1, 1992, through June 1, 1993. For amendments promulgated during that period, see the May 1993 LSA.]

200.15 Added....52418
200.30-1 (f)(14) and (15) added....52418
200.30-3 (a)(53) and (54) added....52419
(a)(55) added; eff. 6-1-95....52902
200.30-4 (a)(7) revised; (a)(9) added....52419
200.30-5 (c) amended....52419
200.30-6 (d)(1) removed; (d)(2) and (3) redesignated as (d)(1) and (2)....45839
(d)(1)(i) corrected; (d)(1)(ii), (2), (3) and (e) reinstated; CFR correction....60380
200.30-14 (j) added....52419
200.30-17 Added....52419
203 Authority citation revised....52419
203.2 Revised....52419
204 Added....38520
210.3-19 (b), (c) and (f) revised....60305
211 Staff Accounting Bulletin No. 92 added....32843

Page
Regulation at 58 FR 32843 corrected....34842
Staff Accounting Bulletin No. 93 added....59361
228.402 (a)(2), (b)(1) table, (2)(iv)(B), Instruction 2, (c)(1) table, (2)(ii), (d)(1) table, (2)(iv) and (e)(2)(iv) revised....63012
229.10 (c)(1)(i) amended....62029
229.402 (a)(3), (b)(1) table, (2)(iv)(B), Instruction 2, (c)(1) table, (2)(ii), Instruction 9, (d)(1) table, (2)(iv), (e)(2)(iv), (f)(1)(ii)(A), (i)(3)(i) table, (ii)(C) and (l) Instructions 2 and 5 revised....63013
229.512 (a)(4) revised....60306
230.134 (a)(14)(i) revised....62029
230.436 (g)(1) revised....62030
239.15A Form N-1A amended....49922
239.17a Form N-3 amended....49922
239.32 Form F-2 amended....60306
239.33 Form F-3 amended....60306
239.37 Form F-7 amended....62030
239.39 (b)(4) removed; (b)(5) redesignated as (b)(4); (b)(3), new (b)(4) and (e) revised; (f) introductory text, (l) and Form F-9 amended....62030
239.40 Form F-10 amended....35368, 62031
(c)(3), (h), (i) introductory text and (1) amended; (c)(4) removed; (c)(5) redesignated as (c)(4) and revised....62030
240 Phase-in period extended....36866
Policy statement....60324
240.3a51-1 (d) introductory text revised....58101
240.10b-6 (i) redesignated as (j); new (i) added....60329
240.10b-7 (o) redesignated as (p); new (o) added....60329
240.10b-8 (f) redesignated as (g); new (f) added....60329
240.14a-101 Schedule 14A amended....63015
240.15c2-6 Redesignated as 240.15g-9....37417
240.15c3-1 (b)(1) and (c)(2)(x)(A) introductory text revised; (c)(2)(vi)(N) added....43559
Page
240.15c3-1d (c)(5)(i) introductory text amended....37657
240.15c6-1 Added; eff. 6-1-95....52903
240.15d-2 (a) amended....60306
240.15g-2 Revised....37417
240.15g-9 Redesignated from 240.15c2-6; (a) introductory text, (2)(i), (ii), (b) introductory text, (2), and (3)(ii) amended; (c) and (d) revised....37417
240.15g-100 Amended....37417
240.17a-5 (c)(2)(iii) revised; (h)(2) amended....37657
(a)(5) added; (d)(1)(i) and (l)(1) revised....45839
(m) revised....45840
240.17a-11 Revised....37657
240.24c-1 Added....52419
249.240f Form 40-F amended....35368
(b)(4) and (5) reinstated; CFR correction....58651
(b)(4) removed; (b)(5) redesignated as (b)(4); (b)(3) and new (4) revised; (c) introductory text, (1) and Form 40-F amended....62031
250.53 Added....51504
250.54 Added....51505
250.57 Added....51505
259.5s Form U5S amended....51505
259.207 Added; Form U-57 added....51506
259.402 Form U-3A-2 amended....51506
259.405 Added; Form U-33-S added....51507
260.4d-9 (a) introductory text, (2) and (3) amended; (b) removed; (a) introductory text, (1), (2) and (3) redesignated as introductory text, (a), (b) and (c); (d) added....33190
260.10a-5 (a) amended; (b) and (c) removed; (d) redesignated as (b)....33191
270 Authority citation amended....49427
270.2a3-1 Added....45838
270.2a19-2 Added....45838
270.10f-3 (h) revised....49921
270.12d3-1 Revised....49427
270.17a-7 (e)(2) revised....49921
270.17e-1 (b) revised....49921
270.17f-4 (b), (c)(3) and (d)(5) revised....49922

TITLE 17 Chapter II—Con. Page

270.22c-1 (b)(1) revised; (d) added 49922
274.11A Form N-1A amended 49922
274.11b Form N-3 amended 49922

Title 17—*Proposed Rules:*

1 ..... 26270, 28365, 43087, 44470
4 32314
12 ..... 17369, 44623
140 37745
150 18057
200 50291
201 61732
202 61732
228 42882
229 ..... 42882, 60307, 61732
230 ..... 50291, 60307
239 ..... 50291, 60307
240 ..... 37445, 38092, 42882, 44310, 49452, 52934, 61732, 63017
249 60307
250 51508
270 ..... 38095, 50291
274 50291

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

2 Authority citation revised 38527, 38969
Authority citation reinstated 47636
2.1b Revised 38292
2.20 Added 38969
2.21 Added 41632
2.55 Heading revised; (b)(4)(ii) amended 57735
2.61 Amended 38527
Introductory text reinstated 47636
11 Appendix A revised 54035
35 Authority citation revised 51221
Order 51777
35.28 Added 51221
36 Added (OMB number pending) 57737
38 Order 51777
101 Amended (OMB numbers pending) 18004, 18005, 18006
Authority citation revised 18004
Amended 42495
141 Authority citation revised 52436
141.51 Revised (OMB number pending) 52436
141.300 Added (OMB number pending) 52436
154.28 Introductory text revised 25556
157 Technical correction 47636
157.14 (a)(10) revised 38527
201 Authority citation revised 18006
Amended (OMB numbers pending) 18006, 18007
260 Order 26915
Authority citation revised 38527
Technical correction 47636
260.7 Removed 38527
260.7a Removed 38527
260.12 Removed 38527
271 Order 19607, 38528
Technical correction 21509
284 Technical correction 47636
284.262 (b) revised 38528
284.303 Revised 52663
284.304 Removed 52663
284.305 Removed 52663
292 Order 51777
293 Order 51777
306 Authority citation revised 41372
341 Revised 58773
342 Removed 58778
Added; eff. 1-1-95 58779
343 Removed 58778
Added; eff. 1-1-95 58780
344 Revised 58778
345 Removed 58778
346 Rehearing denied 53654
347 Removed 58778
360—362 (Subchapter S) Note amended 58778
360 Removed 58778
361 Removed 58778
365 Authority citation revised 21255
Technical correction 25900
365.3 (a)(1)(i), (ii) and (2)(ii) revised; (a)(1)(iii) added 21255
375.303 Introductory text, (a), (b), (c), (d) introductory text and (1) revised; (j) and (k) added 58779
375.306 Removed; eff. 1-1-95 58783
375.307 Introductory text revised; (g) added; eff. 1-1-95 58783
375.312 Revised 62521
375.313 (i) added; eff. 1-1-95 58783
375.314 (f)(1) revised 51223
381 Rehearing denied 53654

Page

381.302 (a) amended 26523
381.303 (a) amended 26523
381.304 (a) amended 26523
381.305 (a) amended 26523
381.402 Amended 26523
381.403 Amended 26523
381.404 Amended 26523
381.505 (a) amended 26523
381.601 Amended 26523
382 Order 51777
385 Authority citation revised 38528
Technical correction 47636
385.2011 (a)(6) and (7) removed 38528
388 Authority citation revised 62521
388.108 (a)(1)(i), (2), (3), (4) and (b)(1) amended 62521
388.112 (e) amended 62521

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.2 (c)(1) revised; (d)(2) amended 53656
1316 Added 25930

Title 18—*Proposed Rules:*

1—399 (Ch. I) 18185, 19215, 59423
2 ..... 48994, 59423
4 48991
6 48991
8 48991
9 48991
11 48991
12 48991
16 48991
20 48991
24 48991
25 48991
32 48991
33 48991
34 48991
35 ..... 36172, 48991, 51259
36 41074
41 48991
45 48991
46 48991
141 ..... 17544, 19876, 30005, 40606
284 ..... 19365, 25583, 27691, 27959, 32473, 37447, 41647, 48332, 53895, 58817, 59972, 60572
341 ..... 37671, 58817
342 37671
343 37671
344 37671
345 37671
347 37671
352 ..... 37671, 58817
360 37671
361 37671
375 ..... 35415, 37671, 40606
385 40606
401 18352
1301 ..... 17553, 57972

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4.0 (c) amended 50256
4.7a (c)(1) amended 44130
4.14 (c)(2) amended 39655
(d)(1)(v), (2)(iii), (iv), and (e) amended; (f) revised 44128
(b)(1) amended 44130
4.30 (e) amended 44130
4.39 (b) amended 44130
4.80 (h) redesignated as (i); new (h) added 50257
4.84 (c) revised 41425
4.98 (i) revised 54282
10.3 (c)(3) amended 44130
10.41 (d) amended 44130
10.53 (d) amended 44130
10.59 (f) amended 18147
(c) and (f) amended 44130
10.71 (e) amended; (f) removed 44130
10.84 (a)(1) and (2) amended 44130
10.102 (b)(2) amended 34523
10.301 Amended 44130
12 Authority citation amended 19349, 44130
12.40 (h) amended 44130
12.104g (b) table amended 29349, 49430
12.130 (c) redesignated as (c)(1); new (c) designation, heading and (2) added; interim 19349
(c) heading, (1) and (2) corrected 21334
Regulation at 58 FR 19349 corrected 29454
18 Authority citation revised 38500
18.9 Heading revised; (e) added 38500
19.1 Regulation at 57 FR 47410 effective date corrected 29349
19.2 Regulation at 57 FR 47410 effective date corrected 29349

TITLE 20 Chapter V—Con. Page

626 Regulation at 57 FR 62025 effective date revised; interim....31472
627 Regulation at 57 FR 62030 effective date revised; interim....31472
627.900 Revised; interim....31472
627.902 (i) and (j) removed; (h) amended; interim....31472
627.904 (g) revised; (m), (n) and (o) added; interim....31472
627.906 (a) amended; interim....31473
628 Regulation at 57 FR 62052 effective date revised; interim....31472
629 Regulation at 57 FR 62061 effective date revised; interim....31472
630 Regulation at 57 FR 62061 effective date revised; interim....31472
631 Regulation at 57 FR 62062 effective date revised; interim....31472
637 Regulation at 57 FR 62072 effective date revised; interim....31472

Title 20—*Proposed Rules:*

10....62063
228....51024
237....51024
336....43577
404....54532
416....26383, 42514, 49249, 52458, 52464, 52943, 54532
626....33000
638....33000
655....52152, 58994
656....26077

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

Chapter I Technical correction....17085
Meetings....48597
1 Technical correction....19876
1.1 (c) amended; eff. 5-8-94....17085
1.24 Regulation at 58 FR 2174 effective date corrected to 5-8-94....17328
5 Technical correction....17096, 60105
Authority citation revised....17106
Clarification....44033
5.10 (a)(18) introductory text revised....17095
(a)(35) added....17106
5.20 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added....17095
5.22 (c) amended....17095
5.29 Added....17106
5.31 (d) introductory text and (2) revised....41634
5.34 Added....39142
5.35 (c) redesignated as (d); new (d) introductory text revised; new (c) and (d)(4) added....42496
5.39 Added....18346
5.61 Regulation at 58 FR 2410 effective date corrected to 5-8-94....17341
5.80 (a)(1)(i) amended; (d) redesignated as (f); (c) introductory text, (1)(i), (ii), (iii) and new (f) introductory text revised; (c)(1)(iv), new (d) and (e) added....17094
5.99 Added....34213
5.100 Revised....17091
5.115 Amended....17093
10 Authority citation revised....49190
10.50 (c)(1) revised; (c)(20) and (21) added....49190
12.50 (a) and (c) amended....17096
14 Authority citation revised....41635
14.100 (c)(1)(ii) amended....17096
(d)(4) added....41635
(c)(17) heading revised....62521
20 Technical correction....17096, 17097
20.89 (c) added....61603
20.108 (d) added....48794
(c) revised....48796
73 Technical correction....36134
73.3106 Revised....17507
Regulation at 58 FR 17507 effective date confirmed....41182
73.3121 Regulation at 58 FR 9541 effective date confirmed....41024
73.3127 (a), (b)(1) and (2) revised....17510
Regulation at 58 FR 3227 confirmed....33909

Page

Regulation at 58 FR 17510 effective date confirmed....41183
74.101 (b) revised....17511
Regulation at 58 FR 17511 effective date confirmed....41183
74.1109 (b) amended....17098
74.2101 (a) revised....17511
Regulation at 58 FR 17511 effective date confirmed....41183
74.3206 (c)(1)(iv) and (v) amended; (c)(1)(vi) added....21542
Regulation at 58 FR 21542 effective date confirmed....45841
74.3602 (b)(2)(iii) added....60109
100 Technical correction....17096
100.2 (d), (f), (g) and (h) introductory text corrected....17097
100.100 (Subpart F) Added....27933
101 Technical correction....17085, 17096, 17099, 17100, 17101, 17102, 17343, 19876, 59657
Clarification....44033
101.2 (b) and (f) revised; eff. 5-8-94....44030
101.6 Removal at 58 FR 2850 effective date corrected to 5-8-93....17103
101.9 (b)(5)(iv) and (b)(7) amended; eff. 5-8-94....17086
Regulation at 58 FR 2478 effective date corrected to 5-8-94....17097
(c)(8)(iv) amended....17104
Regulation at 58 FR 2175 effective date corrected to 5-8-94....17328
(c)(1)(i)(A), (6)(iii), (7)(ii), (8)(i), (ii) introductory text, (B), (d)(8), (9)(i), (ii) and (iii) corrected....17328
(d)(12) sample label correctly revised....17329
(e) introductory text corrected; (e)(5) sample label correctly revised....17330
(f)(2)(ii), (iv), (g)(8), (9), (h)(3)(iv), (j)(4) and (13)(ii)(A) corrected; (j)(13)(ii)(A) sample label correctly revised....17331
(b) revised; eff. 5-8-94....44048
(a) introductory text and (d) amended; (c)(1)(i), (2), (8)(vi), (d)(1)(ii)(D), (iii), (7), (11), (e)(5) sample label, (f)(4), (5), (j)(1)(i), (2)(i), (ii), (iii), (j)(3)(v), (4), (5)(ii), (10), (13)(i), (ii)(A), (B), (C), (14) and (15)(iii) revised; (j)(2)(iv) redesignated as (j)(2)(v); (d)(13), (14) and new (j)(2)(iv) added; eff. 5-8-94....44076
(j)(13)(ii)(A)(*1*) and (B) corrected....59363
(b)(2)(G) corrected....60109
101.10 Regulation at 58 FR 2410 effective date corrected in part to 5-8-94 and 5-8-95....17341
101.12 (a)(4) and (b) Table 1 corrected....17086
(b) Table 2 correctly added....17087
(h)(11)(i) corrected....17091
Revised; eff. 5-8-94....44051
(b) Table 2 corrected....60109
101.13 Regulation at 58 FR 2410 effective date corrected in part to 5-8-94 and 5-8-95....17341
(i)(1), (2), (3), (j)(2)(i), (m)(1)(ii), (p)(1) and (q)(5)(i) corrected; effective in part 5-8-94 and 5-8-95....17342
(b)(4) added; (d)(2), (f), (g) introductory text, (1), (i)(2), (j)(1)(ii)(B), (l)(1)(ii) introductory text, (m)(1)(ii) introductory text and (q)(2) revised; (h)(1) amended; eff. 5-8-94....44030
101.14 (d)(2)(vii)(A) and (B) corrected....17097
(e)(6) revised....44038
101.25 Regulation at 58 FR 2413 effective date corrected to 5-8-94....17341
101.30 (e)(2) and (l) revised; (h)(1) table amended....44063
(m) added....49192
101.54—101.69 (Subpart D) Regulation at 58 FR 2413 effective date corrected to 5-8-94....17341
101.54 (a), (b)(1), (e)(1)(i), (iii)(A) and (2)(i) corrected....17342
101.56 (a) introductory text, (3), (d)(2) and (g) corrected....17342
101.60 (b)(2)(i), (ii) and (iii) redesignated as (b)(2)(i)(A), (B) and (b)(2)(ii); (b)(2) introductory text, new (b)(2)(i)(B), (4)(ii)(A),

TITLE 21 Chapter I—Con. Page

(5)(ii)(A), (c)(4)(ii)(A) and (5)(ii)(A) corrected; eff. 5-8-94....17342
(a) introductory text, (b)(1)(i) and (c)(1)(i) revised; (b)(2)(i)(B) amended; eff. 5-8-94....44031
101.61 (a), (b)(2), (3), (4), (5), (6)(ii)(A) and (7)(ii)(A) corrected....17342
(a) introductory text and (b)(1)(i) revised; (b)(2)(i)(B) and (b)(4)(i)(B) amended; eff. 5-8-94....44032
101.62 (b)(2), (3), (4)(ii)(A), (5)(ii)(A), (6)(ii), (c) introductory text, (4) introductory text, (ii)(A), (5)(ii)(A) and (d)(1)(ii) corrected....17342
(d)(2)(ii)(B), (d)(4) introductory text and (4)(i) corrected....17343
(b)(1)(i), (c)(1)(i), (d)(1)(i)(A), (ii)(A), (2)(ii)(A), (iv) introductory text, (A), (4)(i) introductory text, (ii) introductory text, (e)(1) and (2) revised; (b)(2)(i)(B), (1)(i) introductory text, (ii) introductory text and (2)(ii) introductory text amended; eff. 5-8-94....44032
(b)(2)(i)(B), (d)(1)(i), (ii), (d)(2)(ii), (ii)(A), (iv), (iv)(A), (d)(4)(i) and (ii) corrected; eff. 5-8-94....60105
101.65 (b) and (c)(3) corrected....17343
101.68 (m)(1), (n)(1) and (o)(1) corrected....17343
(m)(1), (n)(1) and (o)(1) amended; (m)(1)(E), (n)(1)(C) and (o)(1)(C) added; eff. 5-8-94....44033
101.70 (f) corrected....17097
101.71 (b) correctly designated....17100
101.72 (c)(2)(ii)(C) corrected....17101
101.73 Heading and Tables 1 and 2 corrected....17343
Table 2 corrected....17344, 17345, 17346
101.74 (b)(3) corrected....17100
101.95 (Subpart F) Regulation at 58 FR 2426 effective date corrected to 5-8-94....17341
101.100—101.108 (Subpart G) Regulation at 58 FR 2426 effective date corrected to 5-8-94....17341
101.100 Regulation at 58 FR 2189 effective date corrected to 5-8-94....17328
101 Regulation at 58 FR 2188 effective date corrected to 5-8-94....17328
Appendix B corrected....17332, 17333
102 Technical correction....17103
102.33 (c) corrected....17103
(g) redesignated as (g)(1); (g)(2) added; eff. 5-8-94....44063
104 Technical correction....17104
105 Technical correction....17096, 17104
Clarification....44033
130 Technical correction....17096, 17103, 17105
Clarification....44033
131 Technical correction....17105
133.108 (d) introductory text corrected....17105
135 Technical correction....17103, 17105
136 Technical correction....17103
137 Technical correction....17103
139 Technical correction....17103
145 Technical correction....17103
146 Technical correction....17103
150 Technical correction....17103
152 Technical correction....17103
155.190 (a)(6) revised; eff. 5-8-94....17103
155.191 (a)(3)(iv) corrected....17104
156 Technical correction....17103
158 Technical correction....17103
160 Technical correction....17103
161 Technical correction....17103
163 Technical correction....17103
Revised....29529
164 Technical correction....17103
166 Technical correction....17103
166.110 (a) introductory text amended; (b)(4) revised....21649
168 Technical correction....17103, 17105
169 Technical correction....17103
172 Authority citation revised....48598, 52221
172.120 (b)(1) table amended....52222
172.490 (a) amended....17098
172.804 (c)(10) and (d) revised....19771
(c)(5)(ii) and (6) revised; (c)(8), (11) and (12) removed....21097
(d) revised....21098
(c)(23) added....21099

Page

(c)(18) revised....48598
172.892 (d) table amended....21100
175 Authority citation revised....39655
175.105 (c)(5) table amended....21256, 21257, 39656
176 Authority citation revised....51996
176.170 (a)(5) table amended....21103, 51996
176.180 (b)(2) table amended....60112
177 Authority citation revised....48599
177.1060 (e) amended....17098
177.1395 (b)(4) table amended....32610
177.1500 (a)(13) revised; (b) table amended....32610
177.1520 (c) table amended....17098
(d)(3)(ii) introductory text revised; (d)(3)(ii)(*e*) through (*i*) added....21258
177.2600 (c)(4)(ii)(*b*) amended....60554
177.2910 Introductory text revised; (a)(3) added....48599
178 Authority citation revised....37855
178.1010 (b)(41) corrected....17099
(b)(43) added; (c)(19) amended....57555
178.2010 (b) table amended....17515, 37855
178.3130 (b) table amended....57556
178.3297 (e) table amended....17514
178.3400 (c) table amended....26687
178.3770 (a)(2), (3), (b)(2), (3), (d)(2) and (3) amended....17512
178.3910 (b)(2) table amended....17513
184.1685 (a)(4) added....27202
Technical correction....30220
186.1551 (a) amended....17099
189.220 (a) amended....17099
201 Authority citation revised....45201
201.319 Added....45201
206 Added; eff. 9-13-95....47958
207.25 (c) added; eff. 9-13-95....47959
207.37 (a)(1)(xi) added; eff. 9-13-95....47959
210.3 (b)(22) added; eff. 8-3-94....41353
211 Technical correction....19876
211.122 (f) revised; (g) redesignated as (h); new (g) added; eff. 8-3-94....41353
211.125 (d) revised; eff. 8-3-94....41354
211.130 (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; eff. 8-3-94....41354
291.501 Revised; interim....38709
291.505 (d)(1)(i)(C), (iii)(B)(*1*), (C), (3)(i), (13)(i) and (f)(2)(viii) amended; (d)(6)(ii) removed; (k) redesignated as (l); (b)(2)(v), (vi)(D), (c)(4)(i), (ii), (d)(1)(ii), (iv), (6) heading, (6)(i) heading, (h)(1) and new (l) revised; (d)(1)(iii)(B)(*6*), (4)(v) and new (k) added 38709
310 Authority citation revised....46745, 54462
310.201 (a)(29) removed; eff. 9-23-94....49898
310.530 Added....47610
310.531 Added; eff. 5-16-94....60336
310.536 Added....46754
310.538 Added....47605
310.544 Added....31241
310.545 (a)(8) and (18) text redesignated as (a)(8)(i) and (18)(i); new (a)(8)(i) heading, (10)(v), (vi) and (vii), (18)(i) heading, (ii), (iii), (vi), (22)(ii), (23), (24), (25) and (d)(11) added; (d) introductory text and (1) revised....27641
(a)(19) removed....31241
(a)(22)(iii) and (d)(12) added; (d) introductory text revised....46745
(a)(26), (d)(13) and (14) added; (d) introductory text revised; eff. 9-2-94....46748
(a)(13) removed....46754
(a)(11) removed....47605
(a)(22)(iv) and (d)(15) added; (d) introductory text revised; eff. 9-23-94....49898
(a)(8)(iii) and (d)(21) added; (d) introductory text revised; eff. 4-21-94....54455
(a)(18)(ii) amended; (d)(11) revised; (d)(22) added; eff. 10-21-94....54462
(a)(5) removed; eff. 5-16-94....60337
312.57 (c) revised....25926
314 Authority citation revised....47351
314.50 Introductory text and (h)(2) revised; (d)(1)(ii) redesignated as (d)(1)(ii)(*a*); (d)(1)(ii)(*b*), (*c*), (d)(1)(v), (h)(3) and (4) added....47351
314.54 (a)(1)(i) revised; (a)(2) amended; (a)(4) added....47351
314.60 (c) added....47352
314.70 (a) revised....47352

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 21 Chapter I—Con. Page

(b)(2)(xi), (xii) and (d)(9) added; eff. 9-13-95 47959
314.71 (b) revised 47352
314.94 Introductory text amended; (a)(9)(i) and (d)(4) revised; (d)(5) added 47352
314.96 (b) redesignated as (c); new (b) added 47352
314.125 (b)(17) revised 25926
314.127 (b) revised 35927
314.150 (b)(9) revised 25927
314.440 (a)(1) and (2) amended; (a)(4) added 47352
320.31 (c) revised; (d) added; (e) and (f) removed 25927
320.38 Revised 25927
320.63 Revised 25928
330.3 Added; eff. 9-13-95 47959
331.30 (d) introductory text revised; (h) added; eff. 8-26-94 45208
333.201—333.280 (Subpart C) Added; eff. 9-23-94 79898
341.74 (c)(4)(v) and (vi) added; eff. 10-20-94 54236
341.76 (c)(4) revised; eff. 10-20-94 54242
347 Added; eff. 10-21-94 54462
430.4 (a)(64) added 26652
(a)(65) added 26656
(a)(66) added 26659
(a)(67) added 26663
(a)(68) added 26666
430.5 (a)(99) and (b)(101) added 26652
(a)(100) and (b)(102) added 26656
(a)(101) and (b)(103) added 26659
(a)(102) and (b)(104) added 26663
(a)(103) and (b)(105) added 26666
430.6 (b)(101) added 26653
(b)(102) added 26656
(b)(103) added 26659
(b)(104) added 26663
(b)(105) added 26666
436.215 (b) table amended; (c)(13) added 26653
(b) table amended; (c)(14) added 26656
(b) table amended 26659
(c)(15) amended 26660
(b) table amended; (c)(16) added 26666
436.368 Added 26660
441.220 Redesignated as 441.220b 26669
Added 26670
441.220a Added 26670
441.220b Redesignated from 441.220 26669
442.80 Added 26660
442.180 Added 26661
442.180a Added 26661
442.180b Added 26662
443 Added 26667
444.380e Added 26671
450.30 Added 26664
450.230 Added 26665
452.50 Added 26653
452.60 Added 26657
452.150 Added 26654
452.160 Added 26658
510 Authority citation revised 44611
510.515 Introductory text, (b)(7)(i) and (c) table amended; (b)(7)(i)(c) removed 30119
510.600 (c)(1) table and (2) table amended 26523, 30118, 36135, 37855, 38971, 44611, 47056, 47377, 59169, 59947
514 Authority citation revised 51011
514.210 Removed 51011
520.88d Heading corrected 18304
520.90c (b) amended 61016
520.90d (b) amended 61016
520.90e (b) amended 61016
520.90f (b) amended 61016
520.240 Removed 41025
520.445b (b) amended; (b) heading and (d)(4) introductory text revised 61015
520.580 (b)(1) amended 41025
520.1448a (a)(2) amended 26523
520.1485 Added 38972
520.1629 (a), (b), (c) heading, (1), (2) and (3) redesignated as (a)(1), (2), (3) heading, (i), (ii) and (iii); ; new (b) added 39443
520.1660d (a) and (b) revised; (e)(1)(iii), (iv), (v) and (2) added 42854
(a)(5) added; (b)(3) revised; (e)(1)(ii)(A)(*3*), (B)(*3*) and (C)(*3*) amended 43794
520.1720c (b) amended 29777
520.1806 (b) amended 44611
520.1840 (c)(3) amended 26523
520.1870 (c)(1)(i) revised 42853
520.1871 Added 58652

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

Page

520.2041 (b) amended 44611
520.2042 (b) amended 44611
520.2158a (d)(1) and (2) revised; (d)(3) removed 47211
520.2345d (e)(1)(iii)(A), (B), (C), (3)(iv)(A), (B) and (C) revised 33331
520.2613 Added 36135
522.90b (d)(2)(ii) correctly designated 18304
522.820 Revised 43795
522.1002 Redesignated from 522.1822 and revised 47377
522.1079 (c)(2) and (3) revised 52222
522.1822 Redesignated as 522.1002 47377
522.1870 (c)(1)(ii) revised 42853
522.2100 (c), (d) and (e) added 57556
522.2112 Added 59947
522.2220 (a)(2) revised 38972
524.1044g Added 38973
524.2101 (c) amended 41025
526.464b (c) introductory text amended 61016
526.1810 Added 58486
529.1030 (c)(1)(iii) and (2)(iii) added 59169
529.1186 (b) amended 17346
556.230 (a) and (b) revised 43795
556.500 (c) added 42855
556.515 Added 58486
556.610 Revised 47211
558 Technical correction 17348
558.4 (d) table amended 30119, 58653
558.15 (g)(1) table and (2) table amended 17515
(g)(1) table amended 30119
(g)(2) table amended 30120
558.55 (d)(2) table amended 30120
558.58 (d)(1) table amended 30120
558.95 (b)(1)(xi)(*b*) and (xii)(*b*) amended 47056
(a)(1) revised; (b)(4) redesignated as (b)(5); new (b)(4) added 54287
558.258 (c)(3)(iv)(C) amended 47973
558.274 (c)(1) table amended 30120
558.300 Added 58653
558.311 (b)(4) and (6) revised; (e)(3) redesignated as (e)(4); new (e)(3) added 43560
(e)(2)(i) table amended 47973
558.355 (d)(7)(vi) added 17516
(b)(13) revised 53883
558.460 (c)(1) table amended; (c)(2)(vii) and (viii) removed; (c)(2)(ix) and (x) redesignated as (c)(2)(vii) and (viii) 30120
558.550 (a) amended 47056
573.750 Added 59170
573.920 Regulations at 52 FR 10888, 21001, and 54 FR 14215 stayed 47973
579.22 (b) table revised 18148
630.13 (b)(4) amended 19609
804 Opportunity for comment 46514
Added 46519
807 Opportunity for comment 46514
Heading and authority citation revised 46522
807.3 (d)(2) and (g) revised; (e)(3) and (4) amended; (e)(5) added 46522
807.20 (a)(4) revised; (c) and (d) added 46522
807.21 Revised 46522
807.22 (a) and (c) revised 46522
807.25 (b) revised 46523
807.65 (e) revised; (g) removed 46523
821 Opportunity for comment 43442
Revised 43447
Authority citation revised 43455
Regulation at 58 FR 43447 and 43455 comment period extended 48599
Technical correction 52440
821.20 (b)(1) table and (c) table amended 43455
864.5680 (b) revised; (c) removed 51571
874.4490 Revised 29534
878 Authority citation revised 57558
878.5030 Added 57558
890.3450 Removed 29535
1020 Authority citation revised 26396
1020.30 Revised; effective in part 5-3-94 26396
1020.31 Revised; effective in part 5-3-94 26401
(c)(2) corrected 31067
1020.32 Revised; effective in part 5-3-94 26404

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1301 Technical correction 31907
1301.22 (b)(6) revised 31175

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 21 Chapter II—Con. Page

1301.24 (b) and (c) introductory text revised....31175
1304 Technical correction....31907
1304.02 (f) through (i) redesignated as (g) through (j); new (f) added....31175
1304.03 (e) through (g) redesignated as (f) through (h); new (e) added; new (h) revised....31175
1308.11 Regulation at 57 FR 18824 effective date extended to 11-1-93....25934
(b)(4) revised....43796
Regulation at 57 FR 43401 effective date extended to 3-21-94....44611
(g)(3) removed; (f)(3), (4), (5), (g)(4) and (5) redesignated as (f)(4), (5), (6), (g)(3) and (4); new (f)(3) added....53406
1308.12 (c)(11) through (25) redesignated as (c)(12) through (26); new (c)(11) added....43796
1308.24 (i) table revised....17107
1308.34 Table amended; interim....34708
Regulation at 58 FR 16772 confirmed....34709
Regulation at 58 FR 34708 confirmed....49924

Chapter III—Office of National Drug Control Policy (Parts 1400—1499)

1403 Appendix A corrected....26185

Title 21—*Proposed Rules:*

1—1299 (Ch. I)...33690, 34389, 40393, 43579, 45080, 59695, 59697
1....29716
5....52719
17....30680, 40103
25....52719
100....17171, 29716
101...17171, 18057, 29557, 29716, 33055, 33700, 33715, 33731, 40104, 40190, 44091, 53254, 53296, 54539
102....17171, 29557
103....34010, 41612, 52042
104....29716
109....33871
129....34010
135....17172
136....53305
137....53305
139....53305
161....17171, 29557
165....34010
166....43580, 50301
170....52719
171....52719
172....53312
174....52719
182....27959, 59697
184....27959, 34010, 59697
189....33860, 40759
201....54224, 54228, 59622
207....46587
211....47088
310....59622
314....47088, 59622
328....54466
330....17553, 59626
331....49826
334....46589
336....45216
338....45217
350....38541
352....28194, 53460
357....26886
358....17554
514....47088
606....34962
610....34962
700....28194, 47611, 53460
701....47611
740....28194, 53460
812....52142, 52144, 53245
813....52142
814....52729
820....61952
870....36290, 46919
876....25902, 35416
882....45865
1020....26407
1040....27495
1301....31180, 52246
1304....53680
1306....49453
1308....25788, 25790, 44311, 58819
1311....52246
1313....42894, 49455

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

Page

41 Authority citation revised....40586
41.2 (l) amended; interim....40586
(i) amended; interim....43439
42.2 Regulation at 56 FR 49680 confirmed....48447
42.11 Regulation at 56 FR 49680 confirmed....48447
42.12 Regulation at 56 FR 49681 confirmed....48447
42.21—42.23 (Subpart C) Regulation at 56 FR 49676 confirmed....48447
42.31—42.33 (Subpart D) Regulation at 56 FR 49676 confirmed....48447
42.32 Regulations at 56 FR 51172 and 55077 confirmed....48446
42.41 Regulation at 56 FR 49682 confirmed....48447
42.42 Regulation at 56 FR 49682 confirmed....48447
42.43 Regulation at 56 FR 49682 confirmed....48447
42.51—42.55 (Subpart F) Regulation at 56 FR 51174 confirmed....48446
42.62 Regulation at 56 FR 49682 confirmed....48447
42.63 Regulation at 56 FR 49682 confirmed....48447
42.65 Regulation at 56 FR 49682 confirmed....48447
42.67 Regulation at 56 FR 49682 confirmed....48447
42.73 Regulation at 56 FR 49682 confirmed....48447
42.74 Regulation at 56 FR 49682 confirmed....48447
42.83 Regulation at 56 FR 49682 confirmed....48447
120 Revised....39283
121 Revised....39287
Authority citation revised...60113, 60115
121.1 Amended....47638, 60115
121.12 Revised....60113
121.14 Removed....60115
121.15 Revised....60115
122 Revised....39298
123 Revised....39299
124 Revised....39305
125 Revised....39310
126 Revised....39312
126.1 (a) revised....35865
127 Revised....39316
128 Revised....39320
130 Revised....39323

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

201.11 (b)(4) revised....48797

Chapter III—Peace Corps (Parts 300—399)

308.14 Introductory text revised; (d) added....39657

Chapter V—United States Information Agency (Parts 500—599)

514.20 Heading and (j)(1) corrected....48448
514.22 (d)(1)(iv) corrected....48448
514.27 (b)(2) and (e)(1) corrected....48448
514.44 (a)(1)(iii) correctly designated....18305
(a)(2) and (f)(4)(iv) corrected....48448

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

705 Revised; interim....33320

Chapter XVII—United States Institute of Peace (Part 1701)

Chapter XVII Established....57697
1701.101 Revised....57697
1701.170 (c) revised....57697

Title 22—*Proposed Rules:*

41....40024, 49456, 61856
171....57974
308....31181
502....42896
503....60416, 61729

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

Page

140 Authority citation revised.....39143
140.201—140.207 (Subpart B) Revised.....39143
450 Revised.....58064
625 Authority citation revised.....38298
625.4 (a)(2) revised.....25939
(a)(1) revised.....25943
625.5 (a)(13) added.....38298
625 Appendix A amended.....25943
635 Authority citation revised.....38975
635.410 (b)(1) through (4) and (c)(1)(ii) revised.....38975
635.417 (a) introductory text revised.....38975
650.305 Regulation at 57 FR 53281 confirmed.....52666
659 Removed.....54819

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1200 (Subchapter A) Added.....41033
1204.4 Supplements A through I removed.....41037
1205.4 (c) and (e) removed; (d) redesignated as (c); introductory text, (a) and new (c) revised.....41037
1212.3 (d) corrected.....62415
1215 Added.....44759
1260 Added.....54820

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1309.4 (a)(2) removed; (a)(3) redesignated as (a)(2); (a) introductory text and (a)(1) revised.....21655
1309.5 (a)(3)(ii) redesignated as (a)(3)(iv); (a)(3)(i) revised; new (a)(3)(ii) and (iii) added.....21655
1313 Regulation at 57 FR 29011 confirmed.....21655
1313.1 Amended.....21655
1313.3 (d) revised; (i) redesignated as 1313.6(e)(3); (j) through (m) redesignated as (i) through (l).....21655
1313.4 (a)(2) and (b) removed; (a)(3) redesignated as (a)(2) and (c) redesignated as (b); (a) introductory text, (a)(1) and new (b) revised.....21655
1313.5 (d)(2) and (4) removed; (a)(3)(ii) redesignated as (a)(3)(iv), (c)(2)(i) through (iv) redesignated (c)(2)(i)(A) through (D), (c)(2) introductory text redesignated as (c)(2)(i) introductory text, new (c)(2)(i)(D) redesignated in part as (c)(2)(ii) and (d)(3) and (5) redesignated as (d)(2) and (3); introductory text, (a)(1)(vi), (3)(i) and new (d)(2) revised; (a) heading, (1) introductory text, (2)(i), (ii), (iii), new (3)(iv), (b)(1) and (c)(3) amended; new (a)(3)(ii), (iii) and (f) added.....21656
1313.6 (b)(2) redesignated as (b)(2)(i); (a)(1), (b)(1), new (2)(i), (c)(1), (2)(ii), (d)(1), (2)(ii), (iii), (3)(i), (ii) and (f)(1) amended; (b)(2)(ii) and (c)(2)(iii) added; (e)(3) redesignated from 1313.3(i).....21657
1313.7 Revised.....21657
1313.8 Revised.....21657

Title 23—*Proposed Rules:*

657.....19367
658.....19367
660.....51794, 55033
710.....38987
712.....38987
713.....38987
720.....38987
1260.....54832

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

Page

4.5 Regulation at 57 FR 34249 confirmed.....61017
4.10 Regulation at 57 FR 34249 confirmed.....61017
4.100 Regulation at 57 FR 34249 confirmed.....61017
4.105 Regulation at 57 FR 34249 confirmed.....61017
25.9 (x) revised.....47379
27 Authority citation revised.....34884
27.1 Amended.....34884
27.3 Amended.....34884
27.5 (a) amended.....34884
27.20 (a), (b)(1), (c)(1) and (3) revised; (c)(5) added.....34884
50 Authority citation revised.....41336
50.1 (c) revised.....41336
50.17 Introductory text and (a) revised.....41336
50.19 Corrected.....17164
Introductory text revised; (i) added.....41337
50.20 (a) revised.....41337
50.21 (b) removed; (a) introductory text, (1) and (2) redesignated as introductory text, (a) and (b).....41337
50.22 Removed.....41337
50.36 Removed.....41337
50.43 Removed.....41337
58.1 Revised; interim.....34139
58.2 Revised; interim.....34139
58.4 Revised; interim.....34140
58.5 Heading, introductory text, (c) and (i) revised; (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); interim.....34140
58.6 Added; interim.....34140
58.10 Amended; interim.....34141
58.13 Revised; interim.....34141
58.14 Amended; interim.....34141
58.15 (a) revised; interim.....34141
58.18 (Subpart C) Heading and text revised; interim.....34141
58.22 Amended; interim.....34141
58.23 Revised; interim.....34141
58.31 Revised; interim.....34141
58.32 (a) amended; interim.....34141
58.35 (a)(1) introductory text and (b) amended; (a)(2), (4) introductory text and (c) revised; (a)(7), (8) and (d) added; interim.....34141
58.52 Amended; interim.....34142
58.66 Amended; interim.....34142
58.71 Revised; interim.....34142
58.77 (a) revised; (b) amended; interim.....34142
86 Authority citation revised.....47058
86.15 Amended.....47058
86.20 (f) removed; (g) and (l) redesignated as (f) and (g).....47058
86.25 (f) removed; (g) and (h) redesignated as (f) and (g).....47058
86 Appendix A amended.....47058, 47059
Appendix B revised.....47059
91.19 Partial waiver.....49156
91.44 Partial waiver.....49156
92.2 Amended; interim.....34142
92.50 (f) added; interim.....34143
92.51 Removed; interim.....34143
92.52 Revised; interim.....34143
92.61 (b)(2), (4), (5), (c)(2) and (5) revised; interim.....34143
92.62 (a) and (b) revised; interim.....34143
92.63 Revised; interim.....34144
92.101 (c) revised; interim.....34144
92.102 (b)(2) revised; (c) added; interim.....34144
92.103 (b) introductory text revised; interim.....34144
92.107 (b) revised; interim.....34144
92.150 (c)(2) and (3) removed; (c)(4) through (9) redesignated as (c)(2) through (7); (b)(5), (6) and new (c)(2) revised; interim.....34144
92.152 Revised; interim.....34144
92.203 Revised; interim.....34145
92.205 (a)(1) and (2) revised; interim.....34145
92.206 (e) and (f) revised; (g) added; interim.....34145
92.208 Removed; interim.....34145
92.209 Removed; interim.....34145
92.210 Revised; interim.....34145
92.211 (b) revised; interim.....34145
92.218 (a) revised; (c) redesignated as (d); new (c) added; interim.....34145

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 24 Subtitle A—Con. Page

92.220 (a)(3) revised; (a)(6) added; interim....34146
92.221 Revised; interim....34146
92.222 Revised; interim....34146
92.252 (a)(5) amended; interim....34146
92.253 (c) revised; interim....34147
92.254 (a)(1)(i), (ii), (4), (b) introductory text and (1) revised; interim....34147
92.300 Revised; interim....34147
92.302 (a)(2), (b)(1)(iv), (d), (e) and (f) revised; (a)(3), (b)(1)(v), (c)(6) and (7) added; interim....34148
92.350 (a)(4) revised; interim....34148
92.400 (a)(4) and (5) revised; (a)(6) added; interim....34148
92.500 (a) amended; (d)(2) revised; interim....34149
92.504 (c) introductory text revised; (d) redesignated as (e); new (d) added; interim....34149
92.508 (a)(1)(ii) revised; (a)(2)(iii) and (iv) removed; (a)(2)(v), (vi) and (vii) redesignated as (a)(2)(iii), (iv) and (v); new (a)(4)(iv) and (v) added; interim....34149
92.600 Revised; interim....34149
92.610 Revised; interim....34149
92.611 (a)(1) revised; interim....34150
92.612 (a)(4) and (e) revised; interim....34150
92.613 (a) revised; (i) added; interim....34150
92.614 (a)(1)(ii), (2) introductory text and (c) revised; (a)(5) amended; (e) added; interim....34150
92.615 (a)(1)(i), (ii), (4), (b) introductory text and (1) revised; (c) added; interim....34151
92.616 Added; interim....34151
92.620 Revised; interim....34152
92.621 Revised; interim....34152
92.642 (b)(1) revised; interim....34152
0—99 (Subtitle A) Appendix C removed....36526

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

Page

200 Authority citation revised....41337
200.300 Revised....41000
200.310 Introductory text revised....41000
200.415 Revised....41000
200.507 Revised....41001
200.610 Amended....41337
200.615 (a) revised....41337
200.620 (a) and (b) amended....41337
200.630 Revised....41337
200.635 Amended....41337
200.640 Revised....41337
200.925 Revised....60248
200.925a (d)(3)(iii) revised....60248
200.925b (k)(1) revised....60248
200.925c (a)(1)(i), (ii), (iii), (2), (c)(1), (2) and (3) revised; (a)(3) and (c)(4) added....60248
200.926 (a)(1) revised....41337
(d)(1)(i)(B)(*2*), (C)(*1*), (ii)(B)(*2*)(*ii*) and (3) revised....60249
200.926b (a)(1), (2) and (c) revised....60249
200.926c Table amended....60249
200.926d (c)(1)(ii) revised; (c)(4)(iv) added....41337
(a)(1), (b)(3)(i), (d)(3) and (e) revised....60249
200.929 (b)(2) revised; (b)(3) removed....60250
200.929a Added....60250
200.933 Amended....60250
200.934 (b)(1) and (2) revised....60250
200.946 Added; interim....34503
200 Appendix A revised....60250
Appendix B removed....60253
201 Authority citation revised....41001
High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
201.10 (b)(1), (2), (c), (d)(1) and (2) amended; (e) revised....41001
201.60—201.63 (Subpart G) Added....47379
203 Authority citation revised...35370, 41338
High cost limits....44760

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

Page

Regulation at 58 FR 44760 corrected....47319
203.12 Revised....41338
(a)(2) corrected....45553
203.15 Revised....41001
203.18 (a), (e), (f)(2), (4) and (g) revised; (f)(5), (6) and (h) added....41001
203.18b (a) and (b) revised....41002
203.32 (b) and (c) introductory text revised....42647
203.41 Added....42648
203.43c (a) and (g) revised....41002
203.44 (g) revised....41003
203.45 (c) revised....41003
203.47 (e) revised....41003
203.50 (f)(1) revised....41003
203.259a (b) and (c) revised....41003
203.270 (c) amended....41003
203.284 Introductory text added; (a) and (b) revised....41003
203.285 Added....41004
203.289 Introductory text added; (a) and (b) revised....32057
203.378 (c)(3) revised....32057
203.390 (b) revised....35370
203.510 Added....42649
203.512 Added....42649
203.670 (b)(3) revised; interim....54246
203.671 (d) added; interim....54246
203.675 (b)(4) amended; interim....54246
203.676 Amended; interim....54246
204.1 Revised....41004
204.3 Revised....41339
204.260 Revised....41004
207 Authority citation revised....34215
207.4 (f)(3) revised; (g) added....43074
207.32 (a)(3) removed; interim; effective to 10-26-94....57560
207.32a Regulation at 58 FR 9541 confirmed; OMB number....63068
207.36 (a) revised; interim....34215
208 Added; pending and eff. in part 3-21-94 and 5-20-94....61022
Eff. date corrected to 3-21-94....62415
208.108 (b) eff. date corrected to 5-20-94....62415
213 Authority citation revised....34215
213.7 (k)(3) revised; (n) added....43075
213.44 (a) revised; interim....34215
213.45 (d)(1)(iii) removed; interim; effective to 10-26-94....57560
213.520 (b) revised....42650
213.527 Added....42650

Page

215 Technical correction....21658
220 Authority citation revised....34216
220.30 (d)(2) revised; (d)(5) and (6) added....41005
220.507 (f) added....43075
220.580 Introductory text and (a) revised; interim....34216
221 Authority citation revised....34216
221.20 (c)(2) revised; (c)(5) and (6) added....41005
221.514 (e)(3) revised; (f) added....43076
221.560 (a)(1)(iii) removed; interim; effective to 10-26-94....57560
221.563 (a) revised; interim....34216
222.3 Revised....41005
222.4 (c) revised....41005
226.4 Revised....41005
226.5 (c) revised....41005
231.7 Revised....43076
232 Authority citation revised....34216
232.31a Revised....43077
232.94 Introductory text and (a) revised; interim....34216
232.600 Introductory text and (a) revised....34216
234 High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
234.14 Revised....41005
234.27 Revised....41006
234.48 Revised....41007
234.55 (b) and (c) introductory text revised....42650
234.66 Added....42650
234.531 Revised....43077
236 Technical correction....21658
236.10 (e) revised; interim....37813
236.40 (b)(1)(iii) removed; interim; effective to 10-26-94....57560
236.60 Revised; interim....37813
236.901 Revised; interim....37813
240.5 (b) revised....41007
241 Authority citation revised....34217
241.85 (a)(1) revised; interim....34217
241.600 (a)(1) revised; interim....34217
241.1060 Revised; interim....37814
241.1067 Revised; interim....37814
241.1068 Added; interim....37814
241.1085 (a)(1) revised; interim....34217
242 Authority citation revised....34217
242.91 Introductory text and (a) revised; interim....34217
242.95 Revised....43078
244 Authority citation revised....34217

TITLE 24 Chapter II—Con.

Page

244.38 Revised....43079
244.182 Introductory text and (a) revised; interim....34217
248.5 (d) redesignated as (f); new (d) and (e) added; interim....37814
248.101 Amended; interim....37814
248.135 (c) and (f) amended; interim....37814
248.141 (b) redesignated as (e); new (b), (c) and (d) added; interim....37815
248.145 (a) introductory text and (9)(i) revised; interim....37815
248.153 (a)(1) revised; (d) and (e) redesignated as (e) and (f); new (d) added; interim....37815
248.157 (m)(4), (5), (6) and (n) revised; interim....37816
248.173 (e)(2)(i) through (vi) redesignated as (e)(2)(ii) through (vii); new (e)(2)(i) and (g)(5) added; (s) revised; interim....37816
248.175 (b) revised; interim....37816
248.201 Amended; interim....37816
248.211 (b) revised; interim....37816
248.213 (a) amended; interim....37816
248.217 Revised; interim....37817
248.401—248.420 (Subpart E) Added; interim....37817
280 Authority citation revised....38532
280.305 Revised....38532
280.322 (a)(4) revised....58282
280.330 (c) and (d) added....58282
290 Revised....43712
291 Authority citation revised....54247
291.1 (a) revised; interim....54247
291.5 Amended; interim....54247
291.100 (a)(5), (c) and (d) revised; interim....54247
291.105 (a) and (b)(1)(i) revised; (c) amended; interim....54247
291.110 (a) and (b)(1) revised; (g) added; interim....54248
291.130 (b)(2) revised; (b)(3) added; interim....54248
291.135 (c)(1)(v) redesignated as (c)(1)(vi); new (c)(1)(v) and (d) added; (c)(2) revised; interim....54248

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

Page

511 Authority citation revised....52567
511.76 (h)(1) and (2) revised....52567
511.77 (d) revised....52567
572 Added....36526

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

770 Correctly removed; CFR correction....61024
791 Authority citation revised....41428
791.403 (b)(1)(ii) revised; interim....41428

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

812 Authority citation revised....39659
812.1 (a)(2) revised....39659
812.3 Revised....39659
812.4 Revised....39659
813 Technical correction....21658
882.404 (b)(3) correctly revised; CFR correction....61024
882.708 (d) correctly revised; CFR correction....61024
886 Authority citation revised....43720
886.133 Added....43721
886.301 Revised....43722
886.302 Amended....43722
886.304 (b) amended....43722
886.307 Amended....43722
886.309 (g) amended....43722
886.310 Revised....43722
886.311 Revised....43722
886.318 (d) added (OMB number)....43722

Page

886.321 (c)(1) amended....43722
886.329 (d) amended....43722
886.330 (a) revised; (c) amended....43722
886.331 (a)(1) revised....43722
886.332 (c)(2) amended....43722
886.333 (d)(2) revised....43723
886.338 Added....43723
888 Fair market rent schedules....51415
Corrected....57965
889.105 Amended; interim....26838
889.205 Revised; interim....26838
889.230 (f) correctly removed; CFR correction....61024
889.235 (a) and (d) revised; interim....26838
889.245 (a)(3)(ii) amended; interim....26839
889.250 Existing text designated as (a); heading and (b) added; interim....26839
889.265 (d) revised; interim....26839
889.270 Revised; interim....26839
889.300 Revised; interim....26841
889.305 (a) introductory text, (1) and (d) amended; interim....26842
889.310 (a) introductory text, (1), (2), (3), (b)(1), (ii), (2), (3)(i) and (ii) amended; interim....26842
889.800—889.805 (Subpart H) Added; interim....26842
890.100 (b) revised; interim....26818
890.105 Amended; interim....26818
890.205 Revised; interim....26818
890.230 (h) correctly removed; CFR correction....61024
890.235 (a) and (d) revised; interim....26818
890.245 (d)(i) and (ii) redesignated as (d)(1) and (2); new (d)(2) amended; interim....26819
890.260 (d) revised; interim....26819
890.265 Revised; interim....26819
890.300 Revised; interim....26822
890.305 Nomenclature change; interim....26823
890.310 Nomenclature change; interim....26823

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

Page

905 Technical correction....21658
Authority citation revised....30883
Regulation at 58 FR 30883 confirmed....30908
905.102 Amended....17164
Amended; interim; eff. 12-29-93 to 5-29-95....62523
905.190 Added....51956
905.255 (a)(2) revised; (j) added; interim; eff. 12-29-93 to 5-29-95....62523
905.301 (d) and (e)(4) revised....39659
905.340 Revised....19350
905.921 (b) redesignated as (c) and revised....58786
905.3001—905.3030 (Subpart R) Added; interim....30883
912 Authority citation revised....39659
912.1 (a)(2) revised....39660
912.3 Revised....39660
912.4 Revised....39660
913 Technical correction....21658
941 Authority citation revised....62524
941.103 Amended; interim; eff. 12-29-93 to 5-29-95....62524
941.202 (d) correctly revised; CFR correction....61024
941.204 (d) added; interim; eff. 12-29-93 to 5-29-95....62524
941.406 (a)(1) and (2)(i) revised; interim; eff. 12-29-93 to 5-29-95....62524
960 Authority citation revised....39660
960.409 (e) revised....39660
962 Added; interim....30889
Regulation at 58 FR 30889 confirmed....30908
965.201—965.205 (Subpart B) Added....51957
970 Authority citation revised....58786
970.12 Revised....58786
984 Added; interim....30896
Regulation at 58 FR 30896 confirmed....30908

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 24

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3699)

Page

3280 Notice of availability.....54484
Authority citation revised; section authority citations removed.....55002
3280.1 Revised.....55002
3280.2 Amended.....55002
3280.3 Revised.....55002
3280.4 (a) and (b) revised.....55002
3280.5 Revised.....55003
3280.8 Redesignated as 3280.11; new 3280.8 added.....55003
3280.9 Added.....55003
3280.10 Added.....55003
3280.11 Redesignated from 3280.8; (c) revised.....55003
3280.103 Revised.....55003
3280.109 Removed; new 3280.109 redesignated from 3280.110.....55004
3280.110 Redesignated as 3280.109; new 3280.110 redesignated from 3280.111.....55004
3280.111 Redesignated as 3280.110; new 3280.111 redesignated from 3280.112.....55004
3280.112 Redesignated as 3280.111; new 3280.112 redesignated from 3280.113.....55004
3280.113 Redesignated as 3280.112; new 3280.113 redesignated from 3280.114.....55004
3280.114 Redesignated as 3280.113.....55004
3280.202 Revised.....55004
3280.203 (a) and (b)(4) revised.....55005
3280.208 (c) and (d) revised.....55005
3280.302 Revised.....55005
3280.303 (g) revised.....55005
3280.304 (b)(1) revised.....55006
3280.305 (g)(3) and (4) redesignated as (g)(4) and (5); (b)(4) and new (g)(3) added; (d), (f)(2), (g)(2) and (i)(1)(i) revised.....55006
3280.306 (a) introductory text revised.....55007
3280.309 (b) revised.....55007
3280.401 (b) revised.....55007
3280.402 (c)(1)(i) Figure A-1 revised.....55007
3280.403 (d)(2) and (e)(1) revised.....55009
3280.405 (c)(1) and (2) revised.....55009
3280.406 (b) introductory text revised.....55009
3280.504 Heading and (a) revised; (c) added.....55009
3280.506 Revised.....55009
3280.508 Revised.....55011
3280.510 (b) revised; (c) added.....55011
3280.511 (a)(1), (b) and (c) revised.....55012
3280.602 Amended.....55012
3280.603 (a)(5) revised.....55012
3280.604 Revised.....55013
3280.606 (b)(1)(iii) revised.....55014
3280.607 (b)(2), (i), (ii), (iv), (v), (4)(i) and (c)(1) revised; (c)(5) and (6) added.....55014
3280.609 (b)(5), (6), (d)(1)(i) and (e)(3) revised; (b)(7) and (8) added.....55014
3280.610 (c)(5), (d)(1) and (e)(1)(iii) revised.....55015
3280.611 (d)(5) revised.....55015
3280.612 (b)(3) revised.....55015
3280.702 Amended.....55015
3280.703 Revised.....55015
3280.704 (b)(2) introductory text and (b)(5)(i) revised.....55016
3280.705 (b)(1), (3), (c), (d), (k) introductory text, (l)(1), (2) introductory text, (ii) and (3) revised; (h) table and (k) amended.....55016
3280.706 (b)(1), (3) and (4) revised.....55017
3280.707 (d)(2) introductory text revised.....55017
3280.708 (b)(3) and (c)(1) revised.....55018
3280.709 (e)(6) revised.....55018
3280.710 (b)(1) revised; (g) removed.....55018
3280.713 Revised.....55018
3280.714 (a) revised.....55018
3280.715 (b)(4) and (e)(1) revised.....55019
3280.801 (a), (b), (c) and (e) revised.....55019
3280.803 (k)(1), (3) introductory text, (ii) and (iii) revised; (l) removed.....55019

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

Page

3280.804 (a), (g)(1)(ii), (i) and (j) revised; (k) and (l) added.....55019
3280.805 (a)(1), (2) and (3)(ii) through (v) revised.....55020
3280.806 (a)(2), (b), (d)(2), (7) and (8) revised.....55020
3280.807 (c) and (e) revised; (g) removed.....55020
3280.808 (a) and (m) revised; (q), (r) and (s) added.....55020
3280.809 (b)(1) and (2) revised.....55020
3280.810 Revised.....55020
3280.811 (a) introductory text, (1), (5) introductory text, (6), (b) introductory text and (1) through (5)(iv) revised.....55021
3280.813 (a) revised.....55021
3280.815 (b) revised.....55021
3500 Appendixes C and D correctly added.....17165

Title 24—*Proposed Rules:*

0—99 (Subtitle A).....52560
16.....37598
92.....26048, 52560
125.....17172
135.....52534, 59423
200.....26212, 41445, 48556
202.....37885
203.....60823
204.....48556
206.....48556
207.....35724
213.....35724
215.....53461
219.....34506, 52560
220.....35724
221.....35724, 53461
232.....35724
234.....35724
236.....53461
241.....35724
244.....35724
267.....48556
290.....21960
291.....42707
570.....43764, 52560, 60088
572.....52560
574.....52560
576.....17764, 52560
583.....52560
585.....49830
594.....32210
700.....52560
880.....35416, 44968, 53461
881.....35416, 44968, 53461
882.....44968, 53461
883.....35416, 44968, 53461
884.....35416, 44968, 53461
885.....44968, 53461
886.....21960, 35416, 44968, 53461
888.....27062, 36175
889.....44968, 52560, 53461
890.....52560, 53461
904.....44968
905...32006, 44968, 51261, 52560, 53461, 58513
906.....44968
909.....27964
960.....32006, 44968, 53461
961.....52560
963.....52560
965.....58513
968.....29728
990.....51261
3280.....19536, 32316
3282.....19536, 32316
3500.....28478, 36176

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11 Revised.....54411
11.301 Redesignated as 12.100.....54411
11.302 Redesignated as 12.101.....54411
11.303 Redesignated as 12.102.....54411
11.304 Redesignated as 12.103.....54411
11.305 Redesignated as 12.104.....54411
11.306 Redesignated as 12.105.....54411
11.401 Corrected.....58729
12 Amended; heading added.....54431
Authority citation added.....54431
12.100 Redesignated from 11.301.....54411
12.101 Redesignated from 11.302.....54411
12.102 Redesignated from 11.303.....54411
12.103 Redesignated from 11.304.....54411
12.104 Redesignated from 11.305.....54411
12.105 Redesignated from 11.306.....54411

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 25

Chapter III—National Indian Gaming Commission (Parts 500—599)

Page

517 Added 44448

Title 25—*Proposed Rules:*

226 59142
294 53026
518 ..... 18353, 27967

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended ... 18149, 19060, 33515, 33764, 34885, 42206, 54039
Technical correction 29028
Heading revised 33764
Public hearings ... 58102, 59657, 62260
1.6 Revised 54501
1.46-3 (e)(3)(iii) removed 25557
1.47-1 (e)(4) removed 25557
1.48-1 (e) and (o) removed 25557
1.48-7 Removed 25557
1.48-8 Removed 25557
1.56(g)-1 (a)(5)(ii)(B) amended 42207
1.61-14 (b)(7) added 53127
1.103-8 (a)(5) revised 33515
(a)(5)(i) corrected 44452
1.103-13 Removed 33515
1.103-13T Removed 33515
1.103-14 Removed 33515
1.103-15 Removed 33515
1.103-15AT Technical correction 44452
1.103-18 Removed 33515
1.112-1 Revised 47640
1.147(b)-1 Added 33515
1.148-0 Revised 33515
1.148-1 Revised 33517
(b) and (c)(4)(i)(B)(*2*) 44452
1.148-2 Revised 33520
(e)(4)(i) corrected; (e)(4)(iv) added 44452
1.148-3 Revised 33522
(h)(4) corrected 44452
1.148-4 Revised 33524
(d), (g), (h)(4)(ii)(B) and (C) corrected 44452
1.148-5 Revised 33529
(c)(3)(i)(A), (E) introductory text and (*2*) corrected 44452
(c)(2)(vi) and (viii) corrected 44453
1.148-6 Revised 33532
(b)(2)(i)(B)(*1*), (d)(3)(ii)(A)(*1*) and (*4*) corrected 44452
1.148-7 Revised 33535
(f)(2) and (k)(1)(i) corrected 44452
1.148-8 Revised 33540
1.148-9 Revised 33541
(c)(2)(i), (ii)(A) and (h)(1)(iv) corrected 44453
1.148-10 Revised 33544
(c)(2)(vi) and (viii) corrected 44453
1.148-11 Revised 33547
(c)(2) and (e) corrected 44453
1.148-12T Removed 33548
1.148-13T Removed 33548
1.149(b)-1 Added 33548
1.149(d)-1 Revised 33548
(d)(1) corrected 44453
1.149(b)(3)-1T Removed 33548
1.149(g)-1 Added 33549
1.150-0 Correctly removed 44453
1.150-1 Revised 33549
(b) and (c)(1)(i) corrected 44453
1.150-2 Added 33551
(g)(1) corrected 44453
1.162-1 (b)(8) added 53128
1.166-2 (d)(3)(iii)(D), (E) and (iv)(C)(*2*) revised 53658
1.166-2T Removed 53658
1.167(j)-1 Removed 25557
1.167(j)-2 Removed 25557
1.167(j)-3 Removed 25557
1.167(j)-4 Removed 25557
1.167(j)-5 Removed 25557
1.167(j)-6 Removed 25557
1.167(j)-7 Removed 25557
1.167(k)-1 Removed 25557
1.167(k)-2 Removed 25557
1.167(k)-3 Removed 25557
1.167(k)-4 Removed 25557
1.185-1 Removed 25557
1.185-2 Removed 25557
1.185-3 Removed 25557
1.191-1 Removed 25557
1.191-2 Removed 25557
1.191-3 Removed 25557
1.213-2 Removed 25557
1.250-1 Removed 25557
1.263(a)-1 (b) amended 42207
1.263A-0 Added 42207
1.263A-1 Added 42209
1.263A-1T (a)(4) amended 42218
1.263A-2 Added 42219
1.263A-3 Added 42224

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

Page

(a)(1), (2)(iii)(B), (b)(1) and (2) corrected 47784
1.263A-4 Heading added 42233
1.263A-5 Heading added 42233
1.263A-6 Heading added 42233
1.280F-1T (b) table, (c)(1) and (3) amended; authority citation removed 19060
1.280F-5T (a), (f)(1) and (g) introductory text amended 19060
1.280F-7 Redesignated from 1.280F-7T; heading amended 19060
1.280F-7T Redesignated as 1.280F-7 19060
1.301-1 (n) removed 25557
1.305-1 Removed 25557
Corrected 26524
1.311-1 Removed 25557
1.311-2 Removed 25557
1.333-1 Removed 25557
1.333-2 Removed 25557
1.333-3 Removed 25557
1.333-4 Removed 25557
1.333-5 Removed 25557
1.333-6 Removed 25557
1.334-1 (c) removed 25557
1.334-2 Removed 25557
1.336-1 Removed 25557
1.337-1 Removed 25557
1.337-2 Removed 25557
1.337-3 Removed 25557
1.337-4 Removed 25557
1.337-5 Removed 25557
1.337-6 Removed 25557
1.358-5 Removed 25557
1.382-0 Removed 25557
1.382-1 Amended 51573
1.382-1A Removed 25557
1.382-2A Removed 25557
1.382-2T (j)(2)(iii)(B)(*1*), (D)(*1*) and (F)(*1*) amended 51573
1.382-3 (j) added 51573
1.382-3A Removed 25557
1.382-4A Removed 25557
1.401-4 Heading and (d) revised 46778
1.401(a)-4 Amended; heading revised 46778
1.401(k)-1 Regulation at 58 FR 14151 effective date corrected to 8-15-91 18448
1.401(l)-0 Amended 46830
1.401(l)-1 (a)(1) and (3) amended; (c)(22) through (33) redesignated as (c)(23) through (25) and (27) through (35); (b), (c)(2), (6), (9), (17)(i), (19), (21) and new (35) revised; new (c)(22) and (26) added 46831
1.401(l)-2 (a)(1) amended 46832
1.401(l)-3 (b)(4)(iii)(E), (5), (c)(2)(vi), (d)(8)(iii) introductory text, (g) and (h) revised; (c)(2)(ix) and (d)(8)(iii)(D) added; (e)(4) removed; (e)(5) and (6) redesignated as (e)(4) and (5); (a)(1), (b)(4)(iii)(C), (c)(2)(i), (ii), (iii), (3) *Example 2*, (e)(1), new (e)(4)(i), (ii) and new (e)(5) *Example 6* amended 46832
1.401(l)-5 (b)(5), (c)(1)(i), (ii), (iii) and (3) revised; (c)(4) redesignated as (c)(5); (b)(8)(v), (c)(1)(v), (vi), new (4) and (5) *Example 5* added; (b)(8)(iii)(A), (c)(2) and new (5) amended 46833
1.401(l)-6 Revised 46835
1.401(a)(26)-1 (b)(4) revised 46838
1.401(a)(26)-9 (b)(1) revised 46838
1.401(a)(4)-0 Revised 46778
1.401(a)(4)-1 Revised 46780
1.401(a)(4)-2 Revised 46781
1.401(a)(4)-3 Revised 46785
1.401(a)(4)-4 Revised 46796
1.401(a)(4)-5 Revised 46800
1.401(a)(4)-6 Revised 46802
1.401(a)(4)-7 Revised 46804
1.401(a)(4)-8 Revised; (c)(2)(iv) added 46807
1.401(a)(4)-9 Revised 46810
1.401(a)(4)-10 Revised 46812
1.401(a)(4)-11 Revised 46813
1.401(a)(4)-12 Revised 46820
1.401(a)(4)-13 Heading and (a) through (e) revised 46823
1.401(a)(5)-1 (e)(7) removed; (e)(8) redesignated as (e)(9); (h) added 46830
1.410(b)-0 Amended 46838
1.410(b)-1 Heading revised 46839
1.410(b)-2 Heading, (c)(2) and (f) revised; (d) and (e) amended 46839
1.410(b)-3 (a)(1), (2)(ii), (iii) and (iv) revised; (a)(2)(v) removed 46839

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 26 Chapter I—Con. Page

1.410(b)-5 (d) and (e) revised.....46840
1.410(b)-6 (a)(1) and (2) amended; (b)(1), (2), (d)(2) and (g) revised; (i) added.....46842
1.410(b)-7 (d)(5) and (e)(1) amended.....46843
1.410(b)-9 Amended.....46843
1.410(b)-10 Revised.....46844
1.411(d)-4 Amended.....46828
1.412(c)(1)-3 Added.....54491
1.414(s)-1 (b)(2) existing text designated as (b)(2)(i); (f) through (i) redesignated as (g) through (j); (a)(3), (b)(3), (c)(4)(i), (d)(3)(v) and new (g)(1)(i) amended; (b)(2)(i) heading, (ii), (d)(3)(iii)(C), (vi), new (f) and new (g)(1)(iii) added; (c)(5), (d)(2)(i), (ii), (3)(ii), (iii)(A), (e), new (h) and new (j) revised.....47063
1.424-1 Removed.....25557
1.424-2 Removed.....25557
1.446-1 (c)(1)(ii)(A) amended.....42233
1.446-3 Added.....53128
1.451-1 (f) added.....53135
1.453C-0T Removed.....25557
1.453C-1T Removed.....25557
1.453C-2T Removed.....25557
1.453C-3T Removed.....25557
1.453C-4T Removed.....25557
1.453C-5T Removed.....25557
1.453C-6T Removed.....25557
1.453C-7T Removed.....25557
1.453C-8T Removed.....25557
1.453C-9T Removed.....25557
1.453C-10T Removed.....25557
1.461-1 (a)(2)(i) amended.....42233
1.461-4 (f) added.....53135
1.469-0 Amended.....58787
1.469-1T (e)(5) amended.....29536, 45059
1.469-2 (d)(2)(xii) amended.....29536
(f)(5)(ii), (iii) and (iv) revised.....58787
1.469-2T (f)(5)(ii), (iii) and (iv) revised.....58788
1.471-3 (b) and (c) amended.....42233
1.471-4 (a) revised; (b) heading, (c) heading, and (d) added.....42233
1.471-5 Amended.....42234
1.471-8 (a) amended.....42234
1.471-11 (a) amended.....42234
1.482-1 Correctly redesignated as 1.482-1A.....17775
1.482-1A Correctly redesignated from 1.482-1.....17775

Page

1.482-1T (c)(3)(iii) and (d)(3)(i)(B) *Example* (2) corrected.....17776
(c)(2)(iv), (d)(1)(ii)(A), (2)(i)(A) and (e)(3)(iii)(B) corrected.....28446
1.482-2 (d) and (e) correctly redesignated as 1.482-2A (d) and (e); remaining text redesignated as 1.482-2T.....17775
1.482-2A (d) and (e) correctly designated from 1.482-2 (d) and (e).....17775
1.482-2T Correctly redesignated from 1.482-2.....17775
(a), (b) and (c) corrected.....17776
1.482-3T (c)(4)(ii) *Example* 10 corrected.....17776
(c)(4) *Examples* 6, 8 and 11 corrected.....28446
1.482-4T (e)(3)(i) and (iii) corrected.....17776
1.482-5T (d)(1) corrected.....28446
1.482-7T Correctly added.....17776
Revised.....28921
1.534-4 Removed.....25557
1.593-9 Removed.....25557
1.597-8 Redesignated from 1.597-8T; heading amended.....18149
1.597-8T Redesignated as 1.597-8.....18149
1.613-3 (a) designation and (b) through (i) removed.....25557
1.807 Authority citation amended.....25557
1.809-10T Added.....47061
1.852-12 Added.....43798
(b)(1) corrected.....49352
1.856-9 Removed.....25557
1.857-11 Added.....43798
1.884-1 (d)(2)(vii) corrected.....17166
1.897-4 Removed.....25557
1.911-7 (a)(2)(i)(B) and (C) amended; (a)(2)(i)(D) added.....34885
1.988-2 (h) added.....53135
1.1092(d)-1 Added.....53135
1.1101-1 Undesignated center heading and text removed.....25557
1.1101-2 Removed.....25557
1.1101-3 Removed.....25557
1.1101-4 Removed.....25557
1.1102-1 Removed.....25557
1.1102-2 Removed.....25557
1.1102-3 Removed.....25557

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

Page

1.1221-2T Added.....54039
1.1233-2T Added.....54041
1.1234-4T Added.....54041
1.1256(h)-1T Removed.....25557
1.1256(h)-2T Removed.....25557
1.1256(h)-3T Removed.....25557
1.1502-7 Removed.....25557
1.1502-13 (c)(2) amended.....42234
1.1502-25 Removed.....25557
1.1561-1A Removed.....25557
1.1561-2A Removed.....25557
1.1561-3A Removed.....25557
1.6045-3T Removed.....25557
1.6050I-1 (b) and (e)(1) revised.....33764
1.6050I-1T Removed.....33764
5 Authority citation revised.....25557
5.852-1 Removed.....25557
5.857-1 Removed.....25557
5c Authority citation revised.....25557
5c.305-1 Correctly removed.....26524
5c.1256-1 Removed.....25558
Correctly removed.....26524
5c.1256-2 Removed.....25558
Correctly removed.....26524
5c.1256-3 Removed.....25558
Correctly removed.....26524
6a Authority citation revised.....33553
6a.103A-2 (i)(3)(v) added.....33553
12 Authority citation revised.....25558
12.5 Removed.....25558
40 Authority citation amended.....63072
40.6011(a)-3T Added.....63072
47 Added.....62525
47.3-1T—47.3-11T (Subpart C) Added.....62528
48 Authority citation amended.....63072
48.4041-0T Added.....63072
48.4081-10T Added.....63073
48.4081-11T Added.....63073
48.4081-12T Added.....63073
48.4082-1T Added.....63073
48.4082-2T Added.....63074
48.4082-3T Heading added.....63074
48.4082-4T Added.....63074
48.4083 Added.....63074
48.4101-3T Added.....63075
48.4101-4T Added.....63078
48.6427-8T Added.....63078
48.6427-9T Added.....63079
54 Authority citation revised.....25558
54.6071-1T Removed.....25558
301 Authority citation amended.....17519
Technical correction.....31344

Page

301.7605-1 (b) and (c) redesignated as (h) and (i); (a), (b) through (g) and (j) added.....17519
301.7605-1T Removed.....17520
301.7701-2 (a)(4) and (b)(1) amended.....28502
301.7701(b)-2 (d) introductory text redesignated as (d)(1) introductory text and heading added; (d)(1)(i) through (x) correctly designated; (d)(1) concluding text redesignated as (d)(2) and amended.....17516
301.9100-1 (b) revised.....34886
602 Technical correction.....28446
602.101 (c) table amended (OMB numbers)...25558, 33553, 33764, 42234, 51576, 54041, 63080

Title 26—*Proposed Rules:*

1...47013, 47089, 47090, 53168, 53682, 54075, 54077, 58145, 59698, 62299
31...28366, 28371, 28374, 35419, 44628, 58820
40.....63131
47.....62558, 62559
48.....45081, 48801, 63131
52.....21963, 25791
301.....18185, 21550, 29560
601.....48802
602.....27503, 29028, 32473, 54077

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4.40 (b) heading added.....40354
4.50 (a) amended.....40354
5.23 (a)(3)(ii) compliance date delayed to 8-28-95.....45252
5.32 (c) amended.....40354
7.10 Amended.....40354
7.22 (b)(3) revised; interim.....21231
(b)(7) added.....44132
7.26 Suspended; heading revised; interim.....21231
7.28 (b) revised; interim.....21231

CHANGES APRIL 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 27 Chapter I—Con. Page

7.29 (f) and (g) revised; interim....21232
7.54 (c) revised; interim....21232
7.71 (Subpart H) Added; interim....21232
9.74 (c) introductory text amended....40354
9.101 (c) introductory text amended....40354
9.133 Added....35876
9.134 Added....35884
9.136 (c) introductory text amended....40354
9.143 Added....28350
9.145 Added....28352
19 Authority citation revised....40354
19.203 (b)(1) amended....40354
19.204 (b)(1) amended....40354
22.37 (a) amended; (d) and (e) added....19061
24.65 (b) introductory text amended....19063
24.75 (f) amended....19064, 40354
24.136 (d) amended....19064
24.137 (a) amended....40354
24.140 (b)(3) amended....19064
24.146 (a) and (b) amended....19064
24.148 Table revised....19064
24.176 (b) revised....19064
24.182 (a) and (b) revised....52230
24.197 Amended....19064
24.237 Amended....19064
24.246 Table amended....52231
24.248 Table amended....52232
24.257 (a)(4) revised....52232
24.268 Amended....19064
24.273 (a) revised....19064
(a)(1) and (2) corrected....48424
24.275 (a)(2) revised; (3) amended....19064
24.292 (b) amended....19065
24.293 (b) amended....19065
24.294 (b) amended....19065
24.295 (b) amended....19065
(a) amended....40354
24.300 (b) amended; (g) revised....19065
24.303 (d) revised....19065
24.313 Introductory text amended....19065
24.316 Amended....19065
24.317 Amended....19065
25.11 Amended....40357
25.152 (b)(2) amended....40357
25.156 Revised....40357
25.158 Revised....40357
25.186 (d) amended....40357
25.192 (c) amended....40357
25.195 Amended....40357
25.196 (c) amended....40357
25.276 (b) amended....40357
25.286 (a) and authority citation amended....40357
25.296 (b) introductory text, (1), (2) and authority citation revised....40358
25.297 Revised....40358
47.52 (a) revised....47831
53.62 (b)(3) amended....40354
53.93 (b) amended....40354
53.133 (a)(2)(ii) amended....40354
178 Authority citation revised....40355
178.11 Amended....40589
178.89 Added....40589
178.151 Added....40590
194.11 Amended....40355
194.134 Amended....40355
194.291 Amended....40355
194.292 Amended....40355
252.148 Amended....40358
259.219 Amended....40355

Title 27—*Proposed Rules:*

1....48801
4....35908, 42517, 44629, 57763
5...35908, 42517, 44629, 46141, 53682, 57763
7...21126, 21130, 21233, 38542, 38543, 42517, 57763
9....44152, 49949, 57764

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

Page

0 Authority citation revised....62260
0.17 Added....62260
Chapter I Statement of activities....39444
0.103a Added....35371
1 Revised....53658
2.56 (d) amended; (h) added....51780
5 Authority citation revised....37418
5.2 Revised....37418
5.3 Amended....37419
5.5 Added....37419
5.205 (d) added....37419
5.601 Revised....37420
5.1101 Added....37420
11 Authority citation revised....51223
11.10—11.12 (Subpart C) Revised....51223
14 Appendix amended....36867
16.82 Added....41038
23 Revised....48452
44.101 (a)(5) revised....59948
44.200 (a)(2) and (3) revised....59948
44.300 (c) revised....59948
51.24 (b) amended....51225
55.1 Amended....35372
55.6 Revised....35372
55.7 (b) amended....35373
55.13 (b) amended....35373
55.17 Amended....35373
55.20 (c) amended....35373
55 Appendix revised....35373
Appendix corrected....36516

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

503.2 (a) revised; (c) removed; (b)(1) through (8) redesignated as (b)(3) through (10) and (d) redesignated as (c); new (b)(1), (2) and (d) added....44428
503.3 (b)(3) through (6) redesignated as (b)(4) through (7); new (b)(3) added....44428
503.4 (b)(1) and (c)(2) removed; (b)(2) through (5) and (c)(3), (4) and (5) redesignated as (b)(1) through (4) and (c)(2), (3) and (4)....44428
503.5 Introductory text revised; (a)(1) and (2) redesignated as (a)(2) and (3); new (a)(1) added....44428
503.7 (b)(3) removed; (b)(1) and (2) redesignated as (b)(2) and (3); new (b)(1) added....44428
504.1 Revised....60768
504.2 (a) revised....60768
524.20—524.25 (Subpart C) Revised....50808
527 Authority citation added; subpart authority citations removed....47976
527.41 Introductory text revised....47976
527.42 Redesignated as 527.43; new 527.42 redesignated from 527.46....47976
527.43 Redesignated as 527.44; new 527.43 redesignated from 527.42....47976
527.44 Redesignated as 527.45; new 527.44 redesignated from 527.43; (c), (d) introductory text, (1), (2), (e), (g) and (h)(2) amended....47976
(g) amended....47977
527.45 Redesignated as 527.46; new 527.45 redesignated from 527.44....47976
527.46 Redesignated as 527.42; new 527.46 redesignated from 527.45....47976
(b) and (c)(3) revised....47977
540 Authority citation revised....39095
540.40 Amended....39095
540.50 (b)(1) amended; (c) revised....39095
540.51 (b)(1) revised; (b)(4), (g)(2) and (4) amended....39095
541.13 Tables 3 and 4 amended....39095
542.10 Amended....58246
542.11 (a) introductory text revised....58246
542.13 (a), (b) and (c) amended....58246
542.14 Amended....58246
542.15 Amended....58246
544.10 (Subpart L) Removed....58247
551.11 (b) revised....58248
551.14 (c) revised....58248
570.10—570.24 (Subpart B) Removed....58248

TITLE 28

Title 28—*Proposed Rules:*

Page
36.....37052
58.....48472
65.....58994
77.....39976
301.....39098
540.....39096
545.....39096

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

1.7 (d) suspended.....58955
4 Administrative variance.....49192
5.2 (n)(4) suspended.....58955
5.5 (a)(1)(ii) suspended; (a)(1)(v) added.....58955
18 Authority citation revised.....38500
18.9 Heading revised; (e) added.....38500

Chapter I—National Labor Relations Board (Parts 100—199)

102 Authority citation revised.....42235
102.117 (m), (n), and (o) added.....42235

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

697.1 (a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised.....43561
697.3 Revised.....43562
825 Regulation at 58 FR 31812 comment period extended.....45433

Chapter XII—Federal Mediation and Conciliation Service (Parts 1400—1499)

1400.735-12 (a)(2) correctly revised.....35377

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.1000 Table Z-3 correctly revised.....40191
1915 Authority citation revised.....35514
1915.5 Amended.....35514
1915.12 (a)(3) and (b)(3) revised.....35514
1915.99 Redesignated as 1915.1200.....35514
1915.1000—1915.1450 (Subpart Z) Revised.....35514
1915.1200 Redesignated from 1915.99.....35514
1926.1147 Appendix D corrected.....40468

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

2603.28 Amended.....63081
2603.32 (a) amended.....63081
2603.39 Amended.....63081
2606 Authority citation revised.....35383
2606.1 (a), (b)(1) and (5) through (8) amended; (b)(10) and (11) removed; (b)(3), (9) and (c) revised; eff. 8-2-93.....35383
(b)(3)(i) and (9) corrected.....37991
2606.2 Amended; eff. 8-2-93.....35384
2606.3 Amended; eff. 8-2-93.....35384
2606.4 Existing text designated as (a); new (a) heading and (b) added.....44740
(b)(1) corrected.....48600
2606.7 Amended; eff. 8-2-93.....35384
2606.9 (b) amended; eff. 8-2-93.....35384
(b) amended.....63081
2606.22 Amended; eff. 8-2-93.....35384
2606.34 Amended; eff. 8-2-93.....35384
2606.36 (a) amended; eff. 8-2-93.....35384
2606.51 Amended; eff. 8-2-93.....35384
2606.54 Amended.....63081
2606.56 Amended.....63081
2607 Authority citation revised.....63081
2607.2 (a) amended.....63081
2607.3 (a) amended.....63081
2607.4 (a) amended.....63081
2607.5 (a) amended.....63081
2607.6 (a) and (c) amended.....63081
2607.7 (c) amended.....63081
2607.8 (a) and (c) amended.....63081
2608 Authority citation revised.....63081
2608.170 (c) amended.....63081

Page
2610 Authority citation revised.....63081
2610.4 Revised.....63081
2610 Appendixes A and B amended.....38050, 53407
2612 Heading revised; eff. 8-2-93.....35384
Authority citation revised.....35384
2612.1 (a) revised; (b) amended; eff. 8-2-93.....35384
2612.2 Amended; eff. 8-2-93.....35384
2612.3 Revised; eff. 8-2-93.....35384
2615 Authority citation revised.....63082
2615.1 (a) revised; (b) amended; eff. 8-2-93.....35385
2615.2 Redesignated in part as 2615.14(c)(2); amended; eff. 8-2-93.....35385
2615.3 (b)(2), (4), (c)(2) and (5) amended; (6) revised; eff. 8-2-93.....35385
(e) amended; eff. 8-2-93.....35386
(e) amended.....63082
2615.5 Amended; eff. 8-2-93.....35386
2615.12 (a) amended; eff. 8-2-93.....35386
2615.14 (a) and (b) introductory text amended; (b)(3) added; (c) existing text designated in part as (c)(1) and (c)(2); (b)(2) and new (c)(2) revised; eff. 8-2-93.....35386
2615.15 (a) amended; eff. 8-2-93.....35386
2615.16 (a) and (b) amended; eff. 8-2-93.....35386
2615.18 (d) amended; (f) heading revised; eff. 8-2-93.....35386
2615.21 (a) introductory text and (1) amended; eff. 8-2-93.....35386
2615.22 (a) introductory text and (c) amended; eff. 8-2-93.....35386
2615.23 Heading amended; (a) and (e) heading revised; eff. 8-2-93.....35386
2616 Authority citation revised.....63082
2616.4 (c) amended; eff. 8-2-93.....35387
2616.7 (b) amended.....63082
2617 Authority citation revised.....44740, 63082
2617.3 (b)(2) amended.....44740
2617.8 (b) amended.....63082
2617.25 (a) introductory text amended; (a)(1) and (2) added.....44740
(a)(2)(i) corrected.....48600
(b)(2) amended.....63082
2617.28 (f)(4) added.....44740
(f)(4)(i) corrected.....48600
2618 Authority citation revised.....63082
2618.31 (d) amended.....63082
2619 Authority citation revised.....50815
2619.3 (a) amended.....50815
2619.25 (b)(2) amended.....50815
2619.41 Revised.....50815
2619.42 Redesignated as 2619.43; new 2619.42 added.....50815
2619.43 Removed; new 2619.43 redesignated from 2619.....50815
2619.49 Added.....50816
2619 Appendix B amended...38051, 48305, 53409, 60117
Appendix A amended.....50820, 50821
Appendix B revised.....50824
Appendix C revised.....50825
2622 Heading revised; eff. 8-2-93.....35387
Authority citation revised.....63082
2622.1 Revised; eff. 8-2-93.....35387
2622.2 Amended; eff. 8-2-93.....35387
Corrected.....37991
2622.3 Revised; eff. 8-2-93.....35388
2622.4 Heading, (b) and (c) revised; (d) amended; eff. 8-2-93.....35388
2622.5 (a), (b) and (c) amended; eff. 8-2-93.....35389
2622.6 Revised; eff. 8-2-93.....35389
(a) and (c) corrected.....37991
2622.7 Heading, (a) and (b) revised; (d) removed; eff. 8-2-93.....35389
(c) amended; eff. 8-2-93.....35390
2622.8 Heading and (a) through (d) revised; (e) amended; eff. 8-2-93.....35390
2622.9 Heading, (a) and (b) amended; eff. 8-2-93.....35390
(c) amended; (d) revised; eff. 8-2-1993.....35391
2622.10 (a) introductory text and (b) amended; eff. 8-2-93.....35391
(b) amended.....63082

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 29 Chapter XXVI—Con. Page

2622 Appendix A amended...38050, 53407
2623 Authority citation revised....35391
Heading revised; eff. 8-2-93....35391
2623.1 Revised; eff. 8-2-93....35391
2623.2 Amended; eff. 8-2-93....35391
2623.5 (b), (c), (d) and (f) heading amended; (e) and (f)(1) removed; (f) and (g) redesignated as (e) and (f); (a) and new (f) *Examples* (1), (2) and (3) revised; eff. 8-2-93....35392
(e) correctly designated; (f) *Example* 3 corrected....37991
2623.6 (a) through (d) amended; (e) *Examples* (1), (2) and (3) revised; eff. 8-2-93....35393
2623.7 Heading, (a), (b), (c), (d) introductory text and (1) amended; (e) *Examples* (1) and (2) revised; eff. 8-2-93....35394
2623.8 Removed; eff. 8-2-93....35394
2623.11 (a), (b) and (c) amended; eff. 8-2-93....35395
2623.12 (a)(1) and (3) amended; eff. 8-2-93....35395
2641 Authority citation revised....63082
2641.13 (c) amended....63082
2642 Authority citation revised....63082
2642.12 (c) amended....63082
2643 Authority citation revised....63082
2643.2 (c) amended....63082
2644 Appendix A amended...38052, 53411
2645 Authority citation revised....63082
2645.3 (c) amended....63082
2646 Authority citation revised....63082
2646.8 (c) amended....63082
2648 Authority citation revised....63083
2648.8 (d) amended....63083
2672 Authority citation revised....63083
2672.7 (c) amended....63083
2673 Authority citation revised....63083
2673.2 (d) amended....63083
2674 Authority citation revised....63083

Page
2674.6 Amended....63083
2675 Authority citation revised....63083
2675.2 (b) amended....63083
2676.13 (a) and (b)(2) revised....50825
2676.14 Removed; new 2676.14 redesignated from 2676.16....50826
2676.15 (c) table amended...38053, 43080, 48306
Removed....50826
2676.16 Redesignated as 2676.14....50826
2676 Appendixes A, B and C added....50826
Appendix B amended....53409, 60117
2677 Authority citation revised....63083
2677.2 (c) amended....63083

Title 29—*Proposed Rules:*

102....57572
402....49672
403....49672
507....52152, 58994
1605....49456
1609....51266
1910....47690
1915....47690
1917....47690
1918....47690
1926....47690
1928....47690
2530....54444

TITLE 30—MINERAL RESOURCES

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

202 Policy statement....37420
206 Policy statement....37420
216 Authority citation revised....45254
216.2 Revised....45254
216.6 Amended....45254
216.20 Revised....45254
216.50 (a) removed; (b) through (e) redesignated as (a) through (d); new (a) revised; new (d)(3) amended....45254
216.51 Revised....45254
216.54 Revised....45255
216.55 Revised....45255
216.56 Revised....45255

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page
216.58 Revised....45255
218 Authority citation revised....45438
218.41 Added....45438
250.0 (r), (t) and (v) removed; (s), (u), (w), (x) and (y) redesignated as (r) through (v); (o), (p), (q) and new (r) through (u) revised....49926
250.18 (d) introductory text revised; (d)(4) through (8) added....44764
(d)(1), (2) and (3) revised; (d)(4) and (5) added....49927
250.51 (a)(3) amended....49927
250.64 (a) and (f) introductory text revised....49927
250.65 (a), (b) and (c) amended....49928
250.66 (b) and (e) amended....49928
250.83 (a) and (b) amended; (c) revised; (d) added....49928
250.85 (a) amended....49928
250.103 (a), (b) introductory text and (c) introductory text amended; (d) revised....49928
250.105 (a) amended....49928
250.111 Introductory text amended....49928
250.114 (b) amended....49928
250.121 (h)(1) amended....49928
250.172 (a)(1), (b)(2), (3), (5) and (6) revised; (a)(2), (3), (6), (7) and (8) amended; (a)(9), (b)(8) and (9) added....49928
250.260 (b)(3) amended....49928
250.272 (a) and (c) introductory text amended....49928
250.273 (a), (b) and (c) amended....49928
250.274 (b) amended....49928
250.282 (a), (b), (c)(1) and (2) amended....49928
256 Heading revised....45261
Authority citation revised....45261
256.0—256.12 (Subpart A) Heading revised....45261
256.0 Revised....45261
256.58 Heading, (a), (c) and (e) revised; (f) redesignated as (h); new (f) and (g) added....45261
256.59 Revised....45262
256.61 Revised....45262
256.62 (e) revised....45262

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

Page
718 Removed....41937
720 Removed....41937
735.21 (a)(6) revised....41938
901.15 (p) added....54289
904.20 Revised....38534
904.25 Added....38534
904.26 Added....38534
913.15 (o) added....46856
913.16 (l), (m), (n), (p), (q) and (r) removed; (s), (t) and (u) added....46857
913.25 (e) added....48962
914.15 (uu) added....41042
(vv) added....43259
(ww) added....46860
(xx) added....48966
(YY) added....60786
914.16 (i) through (m) removed....41042
(n) through (aa) added....43260
(bb), (cc) and (dd) added....46861
(g) removed....48967
(d) revised; (e) removed....60786
916.15 (n) correctly designated....45439
917.15 (rr) added....42011
(ss) added....51227
917.16 Heading revised; (j) and (k) added....42011
920.15 (x) added....36138
934.25 (d) added....50258
935.15 (ooo) added....43263
(ppp) added....46864
938.15 (z) added....36141
944.15 (w) added....48611
944.16 (a) through (d) added....48611
946.15 (gg) added....49931
(ff) amended....52667
950.15 (o) added....44455
(p) added....52237
(q) added....58494
950.16 (o) removed....44455
(aa) added....52237

Title 30—*Proposed Rules:*

216....43582
218....43582, 43583, 43588, 50301
230....53470
250....52731
253....44797, 52050, 58517

TITLE 30 Proposed Rules—Con. Page

256....52731
280....52731
281....52731
700....52374
701...44630, 45303, 49457, 50174, 52374, 57766, 58518, 59424, 61638, 61856
705....52374
706....52374
715....52374
716....52374
773....44630, 45303, 49457
774....45303, 49457
778....44630, 45303, 49457
784...44630, 50174, 57766, 58518, 59424, 61638, 61856
785....52374
800....47598
817...50174, 57766, 58518, 59424, 61638, 61856
825....52374
840....43594, 48332
842....43594, 48332
843....43594, 45303, 48332, 49457
870....45736, 52374, 59334
886....59334
887....59334
888....59334
901....40104, 54313
904....44477, 58313
906....38989, 45467
913....38543, 47237, 48333
914....38545, 41669, 48996
915....38991, 58997
916....37447, 50302
917....48333, 57767, 58997
920....48998
925....53683, 53686
926....44479, 45303
934....37449, 61857
935....36177, 36178, 48333, 58824
936....42900
943....42901, 43308
944....40608, 45305
946....58827
948....42903, 46676
950....44480, 54540

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

11 Revised....57560

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

Page

103.11 Regulation at 58 FR 13546 effective date delayed to 3-1-94....45263
103.22 Regulation at 58 FR 13547 effective date delayed to 3-1-94....45263
103.28 Regulation at 58 FR 13547 effective date delayed to 3-1-94....45263
103.36 Regulation at 58 FR 13548 effective date delayed to 3-1-94....45263
103.54 Regulation at 58 FR 13549 effective date delayed to 3-1-94....45263
128 Revised....58495

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

203 Revised; eff. 8-2-93....35396
316.8 (c)(1) revised; (c)(2) introductory text through (viii) removed; (c)(2)(ix) redesignated as (c)(2)....60936
(e) amended....60937
332.8 (b) revised....60937
342.3 (b)(1) revised; (b)(2) introductory text, (i) and (ii) removed; (b)(2)(iii) redesignated as (b)(2)....60937
Amended....60938
351.0 Amended....60938
351.2 (c) table, (e) introductory text, (1), (g)(3)(i) and (h) amended; (g)(2) tables revised....60938
(i) amended....60939
351 Appendix amended....60939
352.0 Amended....60947
352.2 (e)(1)(i) through (vi) redesignated (e)(1)(ii) through (vii); new (e)(1)(i) added; (e)(1)(ii) and (2) revised; (e)(1) amended....60947
352 Table revised....60947

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

Page

500 Authority citation revised....47644
500.508 (f) revised....47644
500.566 (a) introductory text amended; (b) redesignated as (c); heading and new (c) revised; new (b) added....63084
500.575 Added....63084
500.603 Added....47644
515 Authority citation revised...45060, 47644
515.418 Added....45060
515.508 (f) added....47645
515.563 (b) amended....45060
515.569 (b) and (c) amended....45060
515.603 Added....47645
515.901 Amended....45061
550 Authority citation revised....47645
550.511 (g) revised....47645
550.603 Added....47645
575 Authority citation revised....47645
575.503 (h) revised....47646
575.606 Added....47646
580 Authority citation revised...40044, 47646
580.503 (h) revised....47646
580.518 Added....46541
Removed....54024
580.603 Revised....47646
580 Appendix A added....40044
Appendix A amended....46541
585 Authority citation revised...35828, 47646
585.201 (b) redesignated as (c); new (b) added....35828
585.215 Added....35829
585.216 Added....35829
585.217 Added....35829
585.218 Added....35829
585.301 (a) revised; (c) and (d) amended; (e) added....35829
585.418 Added....35829
585.419 Added....35829
585.503 (a) revised....47646
585.509 Heading and (a) revised; (b) and (d)(2)(ii) amended....35829
585.524 Added....35829
585.603 Revised....47647
585.901 Added (OMB numbers)....35830

Title 31—*Proposed Rules:*

Page

1....43312, 44481
103....46014, 46021, 51269
206....41902
209....41449
357....59972
601....59973

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

40 Revised; interim....47624
Heading revised....51780
80 Added; interim....51997
86 Added; interim....52010
154 Authority citation revised....61024
154.2 Amended....61024
154.3 (f) and (h) amended; (o) removed; (p) through (ee) redesignated as (o) through (dd); (e) and new (q) revised....61024
154.43 Revised....61025
154.48 (a), (b) and (d) amended....61025
154.49 (c) revised....61025
154.55 (c) revised; (d) amended....61025
154.56 (b)(1) amended....61025
154.60 (d)(2) revised....61025
154.61 (b)(2) and (d) revised; (e)(2) amended....61026
154.76 (a) and (c) amended....61026
154.77 Revised....61026
154 Appendixes A, D and H amended; Appendix G removed....61026
156 Revised....42855
185 Revised....52667
199 Technical correction....53411
Grace period delayed....59364
199.2 (b) amended; eff. 9-29-93....35405
(b) amended....51237, 58959
199.4 (a)(12) heading, (a)(12)(i), (ii)(A) and (b)(6) introductory text amended; (b)(10), (f)(2)(v) and (3)(iv) added; eff. 9-29-93....35405
(a)(7) and (f)(6)(i) revised; (f)(3)(iii) redesignated as (f)(3)(iii)(A); new (f)(3)(iii)(A) heading and (B) added....51237

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 32 Chapter I—Con. Page

(a)(9) heading, (10), (11), (12)(ii)(B), (13) and (b)(4)(viii)(D) revised; (a)(9)(i)(C) note and (f)(6) removed; (a)(9)(i)(D) and (f)(9) added....58959
199.5 (a)(3) revised....51237
199.6 (b)(4)(x) heading, (A)(*1*) introductory text, (*2*) introductory text, (*i*), (*ii*), (*vi*), (*3*) introductory text, (B) introductory text and (*2*) revised; (b)(4) (xii) added; eff. 9-29-93....35407
(a)(8) revised; (a)(11) and (12) added....51237
(b)(1)(i) revised....58961
199.7 (b)(3)(iv)(B)(*5*) revised; eff. 9-29-93....35408
(d) introductory text and (1) revised; (d)(2)(i)(D) removed; (d)(2)(i)(E) redesignated as (d)(2)(i)(D); new (d)(2)(i)(E) added....51238
(f)(1)(ii) revised....58961
199.14 (a)(2)(ix) added; eff. 9-29-93....35408
(g)(1)(viii) redesignated as (g)(1)(x); (d), (g)(1)(i), (ii)(A), (iii), (iv) and new (g)(1)(x) revised; new (g)(1)(viii) added....51239
(a)(1)(i)(C)(*1*) revised....68961
199.15 Heading, (a), (b), (f) and (i)(4) revised; (c)(5) removed....68961
199.16 (a)(1), (3), (b), (c), (d) introductory text, (2), (3), (4) and (e) revised; (d)(5) and (f)(3) added....58963
290 Appendix B amended....63084
296 Added....60382
311.7 (c)(1) removed....59658
341 Redesignated from 369....39368
342 Added....48307
354 Redesignated as 385....39360
Added....39369
355 Redesignated as 386....39360
Added....39368
356 Redesignated as 364....39360
Added....39366
357 Redesignated as 387....39360
Added....39365
358 Redesignated as 393....39360
Added....39364
359 Redesignated as 398....39360
Added....39363
360 Redesignated as 399....39360
Added....39361
361 Redesignated as 377....39360
Added....39361
364 Removed; new 364 redesignated from 356 and amended....39360
369 Redesignated as 341 and revised....39368
371 Added....48308
377 Redesignated from 361 and amended....39360
385 Removed; new 385 redesignated from 354 and amended....39360
385.6 Amended....39360
385.7 (m), (p) and (q) amended....39360
386 Removed; new 386 redesignated from 355 and amended....39360
387 Removed; new 387 redesignated from 357 and amended....39360
387.5 (c) amended....39360
393 Redesignated from 358 and amended....39360
393.1 Amended....39360
393.3 Amended....39360
393.4 Introductory text, (a) through (d) and (g) amended....39360
393.5 Introductory text, (b), (c) and (g) amended....39360
393.6 (a) introductory text, (2), (b)(1) and (2) amended....39360
393.7 (a) through (d) amended....39360
393 Appendix amended....39360
398 Redesignated from 359 and amended....39360
399 Redesignated from 360 and amended....39360

Chapter V—Department of the Army (Parts 400—699)

505.1 (d)(1), (2), (g) introductory text, (1) through (20) and (h) revised....51012
505.3 (b)(10)(i) through (iv) and (11)(i) through (iv) revised....51013
505.5 (e) amended....61027
619 Revised....44405

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Chapter VI—Department of the Navy (Parts 700—799)

Page

706.2 Tables One and Three amended....44133
Table Five amended....36868, 58102, 58103, 61809
Table Three amended....44134, 44456, 60383, 60384
Table Four amended....50259
Tables Four and Five amended....50260, 51241
Tables One and Three amended....61808, 61810
725 Regulation at 57 FR 2463 confirmed....53883

Title 32—*Proposed Rules:*

199....47692, 48473
246....41671
296....41679
400—699 (Ch. V)....42518
501....37770
552....37774, 40611
855....49951

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

2 Authority citation revised....51726
2.05-35 Added....51726
3.01-1 (f) amended....51726
3.05-10 (b) revised....51727
3.05-15 (b) revised....51727
3.05-20 (b) revised....51727
3.05-25 Revised....51727
3.05-30 Revised....51727
3.05-35 (b) revised....51727
3.10-10 (b) revised....51728
3.25-05 (b) revised....51728
3.25-10 (b) revised....51728
3.25-15 (b) revised....51728
3.25-20 (b) revised....51728
3.35-10 (b) revised....51729
3.35-15 (b) revised....51729
3.35-20 (b) revised....51729
3.35-25 (b) revised....51729
3.35-30 (b) revised....51729
3.35-35 (b) revised....51729
3.40-10 (b) revised....51729
3.40-15 (b) revised....51730
3.40-17 (b) revised....51730
3.40-20 (b) revised....51730
3.40-30 (b) revised....51730
3.40-35 (b) revised....51730
3.55-10 (b) revised....51731
3.55-15 (b) revised....51731
(b) correctly revised....59364
3.55-20 Revised....51731
3.65-10 (b) revised....51731
3.65-15 (b) revised....51731
3.70-10 (b) and (c) revised; (d) added....51731
3.70-15 Revised....51731
3.85-10 (b) revised....51732
3.85-15 Revised....51732
3.85-20 (b) revised....51732
100 Temporary regulations list....46078, 59948
100.35-T02-33 Added (temporary)....59171
100.35-T0231 Added (temporary)....52440
100.35-T07-103 Added (temporary)....57742
100.35T01-76 Added (temporary)....40359
100.35-T0209 Added (temporary)....39144
100.35-T0216 Added (temporary)....38301
100.35-T0220 Added (temporary)....38300
100.35-T0558 Added (temporary)....41429
100.35-T0772 Added (temporary)....38298
100.91 Table 1 revised....40738
100.103 Implementation (temporary)....36355
100.105 (b)(2) and (c) revised (temporary)....50261
100.109 Removed....38302
100.501 Implementation (temporary)....38054, 62035
100.502 Implementation (temporary)....38053
100.504 Implementation (temporary)....38053
100.505 Revised....38302
100.508 Implementation (temporary)....38053
100.518 Added....57741
100.1105 Implementation (temporary)....50261
(b)(2) amended....51242
110.86 Added; interim....40740

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 33 Chapter I—Con.

Page
110.186 Added ... 36356
110.710 Added ... 38055
117 Temporary drawbridge operation regulations ... 38056, 39145, 42856, 47067, 47068, 54289, 62532
117.43 Revised ... 46081
117.272 Added ... 39146
117.287 (d)(3) removed ... 36357
(b-1) revised; eff. 1-1-94 to 1-30-94 ... 60555
(d)(1) and (2) revised; eff. 1-1-94 to 1-30-94 ... 60556
117.301 Removed ... 36357
117.317 (j) removed; (k) redesignated as (j) ... 36357
117.321 Removed ... 36357
117.501 (c) revised ... 43264
117.637 Revised ... 52442
117.723 Revised ... 39148
117.739 (a)(5) added; (a)(3), (4) and (e) revised ... 39149
117.745 Revised ... 40591
117.793 Revised ... 42859
117.839 Removed ... 39146
117.899 Revised ... 44613
117.1047 (e) removed ... 44613
117 Appendix A amended ... 39149, 42859
154.310 (a)(22) added ... 39662
154.500 (e) and (f) revised ... 39662
155 Authority citation revised ... 62262
155.450 (a) revised ... 62262
155.750 (a)(11) added ... 39662
156 Authority citation revised ... 48436
156.200 Revised ... 48436
156.205 (b) amended ... 48436
156.210 (a)(3) redesignated as (a)(4); new (a)(3) and (c) added ... 48436
156.215 (a)(3) revised ... 48437
161.580 Revised; interim ... 46082
162.130 (b)(3) introductory text revised; (b)(4) added ... 59365
164.T0257 Added (temporary) ... 44615
164.T1106 Added (temporary) ... 40362
164.13 (e) suspended ... 36141
165 Temporary regulations list ... 46078, 59948
165.T01-019 Removed ... 39151
165.T01-020 Added (temporary) ... 36869
165.T01-034 Added (temporary) ... 47992
165.T01-057 Added (temporary) ... 36598
165.T01-109 Added (temporary) ... 47988
165.T01-119 Added (temporary) ... 47989
165.T01-130 Added (temporary) ... 51244
165.T01-134 Added (temporary) ... 53884
165.T01-63 Added (temporary) ... 40745
165.T01-85 Added (temporary) ... 40743
165.T01-87 Added (temporary) ... 39151
165.T01-93 Added (temporary) ... 40742
165.T02-073 Added (temporary) ... 58498
165.T02-067 Added (temporary) ... 51243
165.T0248 Added (temporary) ... 39152
165.T0254 Added (temporary) ... 38303, 39664
165.T0264 Added (temporary) ... 40361
(b) revised (temporary) ... 48968
165.T02-60 Added (temporary) ... 40741
165.T0263 Added (temporary) ... 46084
165.T05-063 Added (temporary) ... 47990
165.T062 Added (temporary) ... 46083
165.T0787 Added (temporary) ... 47069
165.T0976 Added (temporary) ... 36358
165.T0982 Added (temporary) ... 40363
165.T11-050 Added (temporary) ... 59172
165.T1105 Added (temporary) ... 39663
165.T1148 Added (temporary) ... 48967
165.112 Added ... 47991
Regulation at 58 FR 47990 effective date corrected to 10-8-93 ... 52442
165.204 (b)(4) removed ... 59952
165.730 Revised ... 38057
165.T13029 Added (temporary) ... 60558
165.T13030 Added (temporary) ... 60557
175.1 (e) added ... 41607
175.3 Revised ... 41607
175.5 Added ... 41608
175.11 Revised ... 41608
175.15 Revised; effective in part 5-1-95 ... 41608
175.17 Revised ... 41608
(a)(1) introductory text, (e)(1), (g)(1) and (2) correctly revised; (g)(3) correctly added ... 51576
181 Technical correction ... 51576
181.703 (c) added ... 41608

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

Page
323.2 (d) revised; (e) and (f) amended ... 45035
(d)(3)(iii) corrected ... 48424
323.3 (c) added ... 45036
328 Technical correction ... 48424
328.3 (a)(8) added ... 45036
334.1 Added ... 37607
334.2 Added ... 37607
334.3 Added ... 37607
334.4 Added ... 37608
334.5 Added ... 37608
334.80 Heading revised ... 37608
334.260 Heading revised ... 37608
334.275 Added ... 47788
334.380 Revised ... 53428
334.390 (b)(1), (2), (4), and (5) revised ... 53428
334.400 Heading revised ... 37608
334.500 Heading revised ... 37609
334.540 Heading revised ... 37609
334.560 Heading revised ... 37609
334.905 Added; interim ... 53427
334.938 (a) corrected ... 42237
334.980 Regulation at 58 FR 21226 confirmed ... 42238
334.1320 Regulation at 58 FR 26046 confirmed ... 42237
334.1340 (c) revised ... 53427
334.1370 (b)(2) revised ... 53427
334.1400 (b)(4) revised ... 53427

Title 33—*Proposed Rules:*

100 ... 41449, 47099
110 ... 38100, 38101, 57769, 59425, 62300
117 ... 36629, 38102, 44155, 52466, 53896, 58518, 59426, 62302, 62303
126 ... 51906
127 ... 51906
130 ... 38993
131 ... 38993
132 ... 38993
137 ... 38993
155 ... 54315
156 ... 54315
157 ... 54870, 61143
162 ... 42913, 46144
165 ... 50303, 59974, 59975, 62300
166 ... 44634
167 ... 44634
187 ... 51920, 53624
334 ... 37609, 47788

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

Page
5b.11 Revised ... 44424
12 Regulation at 57 FR 60394 eff. 2-1-93 ... 36870
21 Revised (effective date pending) ... 47192
74.3 Regulation at 57 FR 30335 eff. 9-18-92 ... 36870
74.47 Regulation at 57 FR 30335 eff. 9-18-92 ... 36870
74.73 Regulation at 57 FR 30335 eff. 9-18-92 ... 36870
74.74 Regulation at 57 FR 30335 eff. 9-18-92 ... 36870
74.75 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.76 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.91 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.93 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.94 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.96 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.144 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.171 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.172 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.173 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.174 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.175 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.1 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.3 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.4 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.60—75.62 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.60 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870

TITLE 34 Subtitle A—Con.

Page
75.61 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.62 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.105 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.107 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.108 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.110 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.111 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.113 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.114 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.115 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.116 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.118 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.130—75.134 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.130 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.131 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.132 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.133 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.134 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.150—75.154 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.150 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.151 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.152 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.153 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.154 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.155 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.160 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.200 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
Page
75.216 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.218 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.233 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.234 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.235 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.253 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.261 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.262 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.510 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.518 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.534 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.560 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.563 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.580—75.581 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.580 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.581 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.590 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.608 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.616 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.617 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.621 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.622 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.625—75.626 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.625 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.626 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.681 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.684 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870

Page
75.690 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.707 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.720 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.740 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.750—75.755 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.750 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.751 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.752 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.753 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.754 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.755 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.3 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.102 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.125 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.136 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.305 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.401 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.560 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.580—76.581 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.580 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.581 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.591 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.600 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.670 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
76.681 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.684 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.690 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.707 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
Page
76.720 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.740 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.770 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.771 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.772 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.780—76.783 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.780 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.781 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.782 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.783 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.901 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
77.1 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
81.2 Amended ... 43473
81.11 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
81.12 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
81.14 (a) revised ... 43473
81.18 (a) revised ... 43473
81.20 Redesignated as 81.30; new 81.20 added ... 43473
81.21 Redesignated as 81.31 ... 43473
81.22 Redesignated as 81.32 ... 43473
81.23 Redesignated as 81.33 ... 43473
81.24 Redesignated as 81.34 ... 43473
81.25 Redesignated as 81.35 ... 43473
81.26 Redesignated as 81.36 ... 43473
81.27 Redesignated as 81.37 ... 43473
81.28 Redesignated as 81.38 ... 43473
81.29 Redesignated as 81.39 ... 43473
81.30 Redesignated as 81.40; new 81.30 redesignated from 81.20; (a) amended ... 43473
81.31 Redesignated as 81.41; new 81.31 redesignated from 81.21; (a) and (c) amended ... 43473
81.32 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
Redesignated as 81.42; new 81.32 redesignated from 81.22 ... 43473

TITLE 34 Subtitle A—Con. Page

81.33 Redesignated as 81.43; new 81.33 redesignated from 81.23 ... 43473
81.34 Redesignated as 81.44; new 81.34 redesignated from 81.24; (a) amended ... 43473
81.35 Redesignated as 81.45; new 81.35 redesignated from 81.25; (a) and (c) amended ... 43473
81.36 Redesignated from 81.26 ... 43473
81.37 Redesignated from 81.27; (b) amended ... 43473
(a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added ... 43474
Corrected ... 51013
81.38 Redesignated from 81.28; (b) and (c) amended ... 43473
81.39 Redesignated from 81.29; (a) amended ... 43473
81.40 Redesignated from 81.30 and amended ... 43473
81.41 Redesignated from 81.31 ... 43473
(c) revised ... 43474
81.42 Redesignated from 81.32 ... 43473
Revised ... 43474
81.43 Redesignated from 81.33 ... 43473
Revised ... 43474
81.44 Redesignated from 81.34 ... 43473
(b) revised ... 43474
81.45 Redesignated from 81.35; (b)(1), (2) and (d) amended ... 43473
86.405 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
99.5 Regulation at 58 FR 3188 eff. 2-25-93 ... 36871
99.6 Regulation at 58 FR 3188 eff. 2-25-93 ... 36871
99.30 Regulation at 58 FR 3188 eff. 2-25-93 ... 36871
99.31 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.60 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.63 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.64 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.65 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871
99.67 Regulation at 58 FR 3189 eff. 2-25-93 ... 36871

Chapter I—Office for Civil Rights, Department of Education (Parts 100—199)

Page

110 Added ... 40197

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200.6 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.20 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.31 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.34 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.35 Regulation at 57 FR 39067 eff. 11-8-92 ... 36870
200.36 Regulation at 58 FR 11921 eff. 4-28-93 ... 36871
201.52 Regulation at 57 FR 24752 eff. 7-29-9 ... 36870
201.54 Regulation at 57 FR 24752 eff. 7-29-9 ... 36870
206.1 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.3 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.4 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.5 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.10 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.11 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
206.20 Regulation at 57 FR 60407 eff. 2-1-93 ... 36870
208 Regulation at 57 FR 21710 eff. 7-29-92 ... 56869
208.11 Regulation at 57 FR 21710 eff. 7-29-92 ... 36869
208.21 Regulation at 57 FR 21710 eff. 7-29-92 ... 36869
208.22 Regulation at 57 FR 21710 eff. 7-29-92 ... 36869
208.24 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.25 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.26 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869

Page

208.31 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
208.32 Regulation at 57 FR 21711 eff. 7-29-92 ... 36869
212 Regulation at 57 FR 558 eff. 7-19-92 ... 36870
218.3 Regulation at 57 FR 56794 eff. 1-29-93 ... 36870
218.4 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.5 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.6 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.7 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.8 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.9 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
218.10 Regulation at 57 FR 56795 and 56796 eff. 1-29-93 ... 36870
218.11 Regulation at 57 FR 56794 eff. 1-29-93 ... 36870
218.81 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
218.82 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
218.83 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
222.69 Regulation at 57 FR 56796 eff. 1-29-93 ... 36870
230.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
230.5 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
230.30 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.1 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.3 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
231.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
232.2 Revised (effective date pending) ... 46757
232.4 (a) and (b) redesignated as (b) and (c); new (a) added; OMB number (effective date pending) ... 46757
232.5 (c) and (d) amended; (e) added (effective date pending) ... 46757
236 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871

Page

236.1 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.2 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.3 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.4 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.5 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.6 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.7 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.8 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.9 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.10 Regulation at 58 FR 13177 and 13178 eff. 4-28-93 ... 36871
236.30 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.31 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.40 Regulation at 58 FR 13177 eff. 4-28-93 ... 36871
236.41 Regulation at 58 FR 13178 eff. 4-28-93 ... 36871
237 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
237.7 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
238 Regulation at 58 FR 13178 eff. 4-28-93 ... 36871
263.2 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
263.9 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
280.2 Regulation at 57 FR 61508 eff. 2-25-93 ... 36871
280.4 Regulation at 57 FR 61508 eff. 2-25-93 ... 36871
280.20 Regulation at 57 FR 61509 eff. 2-25-93 ... 36871
280.31 Regulation at 57 FR 61509 eff. 2-25-93 ... 36871
280.32 Regulation at 57 FR 61510 eff. 2-25-93 ... 36871
282 Regulation at 58 FR 5176 eff. 3-5-93 ... 36871

150-258 O - 93 - 5 (2)

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 34

Chapter III—Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

Page

300 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.17 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.18 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.110 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.111 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.121 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.122 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.123 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.125 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.126 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.127 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.128 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.129 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.130 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.131 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.132 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.133 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.134 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.136 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.138 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.139 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.140 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.141 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.144 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.146 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870

Page

300.148 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.149 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.152 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.153 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.180 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.192 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.220 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.222 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.223 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.224 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.225 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.226 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.227 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.230 Regulation at 57 FR 37654 eff. 10-3-92; Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.231 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.235 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.238 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.240 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.280 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.281 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.284 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.341 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.343 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.345 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.346 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.349 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

300.380 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.381 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.382 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.383 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.402 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.482 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.483 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.486 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.487 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.505 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.510 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.512 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.532 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.533 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.543 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.561 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.562 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.563 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.565 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.569 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.570 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.571 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.572 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.574 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.575 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.586 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.587 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.589 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870

Page

300.600 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.653 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.660 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.661 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.662 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.670—300.672 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
300.670 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.671 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.672 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.750 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.751 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.754 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
301.1 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.3 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.6 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.10 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.30 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
303 Revised (effective date pending) ... 40959
303.124 Regulation at 57 FR 37654 eff. 10-3-92 ... 36870
305.10 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.11 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.12 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.30 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.31 Regulation at 58 FR 9463 eff. 4-28-93 ... 36871
305.40 Regulation at 58 FR 9463 eff. 4-28-93 ... 36871
307.4 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 34 Chapter III—Con. Page

309.2 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.3 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.5 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.22 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.30 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.33 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.34 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
315.4 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
316 Regulation at 57 FR 62096 eff. 2-25-93 ... 36871
318 Regulation at 57 FR 62099 eff. 2-25-93 ... 36871
318.2 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.10 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.11 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.20 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.22 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.25 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
319 Regulation at 57 FR 62106 eff. 2-25-93 ... 36871
324 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
324.10 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
324.30 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
346.3 Revised (effective date pending) ... 49419
347.3 (a) and (c) revised (effective date pending) ... 49419
354.1 Amended (effective date pending) ... 49419
354.10 (b)(1) through (5) amended (effective date pending) ... 49419
355.1 Amended (effective date pending) ... 49419
355.10 (c) amended (effective date pending) ... 49419
356.1 Amended (effective date pending) ... 49419

Page

356.2 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
(b) amended (effective date pending) ... 49419
356.3 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
(c)(2) amended (effective date pending) ... 49419
356.11 Revised (effective date pending) ... 49419
357.32 (a)(3) added (effective date pending) ... 49419
358 Authority citation revised ... 49419
358.1 Authority citation revised (effective date pending) ... 49419
358.10 (a) amended; authority citation revised (effective date pending) ... 49419
358.30 Authority citation revised (effective date pending) ... 49420
358.31 (a)(3) and authority citation revised (effective date pending) ... 49420
358.32 Authority citation revised (effective date pending) ... 49420
358.33 Authority citation revised (effective date pending) ... 49420
358.34 Authority citation revised (effective date pending) ... 49420
359 Authority citation revised ... 49420
359.1 Authority citation revised (effective date pending) ... 49420
359.2 Revised (effective date pending) ... 49420
359.3 Authority citation revised (effective date pending) ... 49420
359.4 Authority citation revised (effective date pending) ... 49420
359.10 Authority citation revised (effective date pending) ... 49420
359.11 (f) redesignated as (g); new (f) added; authority citation revised (effective date pending) ... 49420
359.30 Authority citation revised (effective date pending) ... 49420
359.31 (c)(4)(iii) and authority citation revised (effective date pending) ... 49420

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

359.32 Authority citation revised (effective date pending) ... 49420
360.31 (a)(2), (b)(1) and (d)(3) revised (effective date pending) ... 49420
361.1 Regulation at 57 FR 28440 eff. 8-8-92 ... 36870
361.41 Regulation at 57 FR 28440 eff. 8-8-92 ... 36870
361.43 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
361.170 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870
361.171 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870
363 Regulation at 57 FR 28437 eff. 8-8-92 ... 36870
376 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.1 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.3 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.4 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
377 Added (effective date pending) ... 40709
378 Revised (effective date pending) ... 35764
380.5 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
380.9 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
380.20 Regulation at 57 FR 28442 eff. 8-8-92 ... 36870
381 Added (effective date pending) ... 43022

Chapter IV—Office of Vocational and Adult Education, Department of Education (Parts 400—499)

400 Regulation at 57 FR 36724 eff. 9-28-92 ... 36870
401 Regulation at 57 FR 36730 eff. 9-28-92 ... 36870
402 Regulation at 57 FR 36733 eff. 9-28-92 ... 36870
403 Regulation at 57 FR 36735 eff. 9-28-92 ... 36870
405 Regulation at 57 FR 36761 eff. 9-28-92 ... 36870
406 Regulation at 57 FR 36763 eff. 9-28-92 ... 36870
407 Regulation at 57 FR 36765 eff. 9-28-92 ... 36870
408 Regulation at 57 FR 36767 eff. 9-28-92 ... 36870
409 Regulation at 57 FR 36771 and 36724 eff. 9-28-92 ... 36870
410 Regulation at 57 FR 36773 eff. 9-28-92 ... 36870
411 Regulation at 57 FR 36776 eff. 9-28-92 ... 36870
412 Regulation at 57 FR 36778 eff. 9-28-92 ... 36870
413 Regulation at 57 FR 36780 eff. 9-28-92 ... 36870
414 Regulation at 57 FR 36782 eff. 9-28-92 ... 36870
415 Regulation at 57 FR 36784 eff. 9-28-92 ... 36870
416 Regulation at 57 FR 36786 eff. 9-28-92 ... 36870
417 Regulation at 57 FR 36788 eff. 9-28-92 ... 36870
418 Regulation at 57 FR 36791 eff. 9-28-92 ... 36870
419 Regulation at 57 FR 36794 eff. 9-28-92 ... 36870
421 Regulation at 57 FR 36796 eff. 9-28-92 ... 36870
422 Regulation at 57 FR 36797 eff. 9-28-92 ... 36870
423 Regulation at 57 FR 36799 eff. 9-28-92 ... 36870
424 Regulation at 57 FR 36801 eff. 9-28-92 ... 36870
425 Regulation at 57 FR 24091 eff. 7-29-92; Regulation at 57 FR 36803 eff. 9-28-92 ... 36870
426 Regulation at 57 FR 24091 eff. 7-29-92; Regulation at 57 FR 36805 ... 36870
427 Regulation at 57 FR 36810 eff.9-28-92 ... 36870
428 Regulation at 57 FR 36812 eff.9-28-92 ... 36870
431 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
432 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
433 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
434 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
435 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 34 Chapter IV—Con. Page

436 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
437 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
438 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
441 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
460 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
460.2 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
460.3 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
460.4 Regulation at 57 FR 24092 eff. 7-29-92 ... 36870
461 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
462 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
462.50 Regulation at 57 FR 24100 eff. 7-29-92 ... 36870
463 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
464 Regulation at 57 FR 24100 eff. 7-29-92 ... 36870
471 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
472 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
472.20 Regulation at 57 FR 24102 eff. 7-29-92 ... 36870
472.30 Regulation at 57 FR 24102 eff. 7-29-92 ... 36870
473 Regulation at 57 FR 24102 eff. 7-29-92 ... 36870
474 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
475 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
476 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
477 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
489 Regulation at 57 FR 24105 eff. 7-29-92 ... 36870
490 Regulation at 57 FR 24107 eff. 7-29-92 ... 36870
491 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870

Chapter V—Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599)

Page

555 Regulation at 57 FR 53195 eff. 12-21-92 ... 36870
562.2 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
562.3 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
581.591 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

600.2 Amended (effective date pending) ... 39620
600.5 Regulation at 57 FR 57309 eff. 1-29-93 ... 36870
600.6 Regulation at 57 FR 57309 eff. 1-29-93 ... 36870
600.9 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.30 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.31 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.40 Regulation at 58 FR 13342 eff. 4-28-93 ... 36871
600.41 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
Regulation at 58 FR 13342 eff. 4-28-93 ... 36871
608 Revised (effective date pending) ... 38713
609 Revised (effective date pending) ... 38717
610 Added (effective date pending) ... 50167
612.2 Regulation at 58 FR 27140 eff. 6-20-93 ... 36871
614 Revised (effective date pending) ... 42627
617.1—617.8 (Subchapter A) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
617.11—617.29 (Subchapter B) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
617.51—617.67 (Subchapter D) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

624 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
625 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
626 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
627 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
628.1 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.2 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.3 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.4 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.5 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.6 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.10 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.20 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.30 Regulation at 49 FR 28520 eff. 9-14-84; Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.31 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.32 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.40 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.41 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.42 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.43 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.44 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.45 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.46 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.47 Regulation at 58 FR 11164 eff. 4-28-93 ... 36871
628.48 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
630.2 Regulation at 58 FR 27144 eff. 6-20-93 ... 36871
630.4 Regulation at 58 FR 27145 eff. 6-20-93 ... 36871
630.5 Regulation at 58 FR 27145 eff. 6-20-93 ... 36871

Page

630.11 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
Regulation at 58 FR 27145 eff. 6-20-93 ... 36871
630.22 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
630.23 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
631 Revised (effective date pending) ... 42653
632 Revised (effective date pending) ... 42656
633 Revised (effective date pending) ... 42658
634 Revised (effective date pending) ... 42659
635 Revised (effective date pending) ... 42660
636 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
Added (effective date pending) ... 42663
637.1 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.3 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.4 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.12 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.14 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.32Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
639.1 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.2 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.3 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.4 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.10 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.11 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.30 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.31 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.40 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
642 Heading revised (effective date pending) ... 51519
Authority citation revised ... 51519

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 34 Chapter VI—Con. Page

642.1 Revised (effective date pending)....51519
642.2 (b) and authority citation revised (effective date pending)....51519
642.3 (a) and (b) amended; authority citation revised (effective date pending)....51519
642.4 (a) and authority citation revised (effective date pending)....51519
642.5 (b) amended (effective date pending)....51519
642.6 Removed (effective date pending)....51519
642.10 Revised (effective date pending)....51519
642.31 (f)(2) amended; (f)(2)(iii) and authority citation revised (effective date pending)....51519
642.32 (c)(2)(ii) amended (effective date pending)....51520
642.33 Authority citation revised (effective date pending)....51519
642.34 Authority citation revised (effective date pending)....51519
(b) amended and redesignated as (c); (a)(20), (21) and new (b) added (effective date pending)....51520
642.40 Authority citation revised (effective date pending)....51519
642.41 Authority citation revised (effective date pending)....51519
643 Revised (effective date pending)....59145
645 Authority citation revised (effective date pending)....51520
645.1 Authority citation revised (effective date pending)....51520
645.2 (c) redesignated as (d); new (c) added; authority citation revised (effective date pending)....51520
645.3 (a)(1)(iv), (v) and authority citation revised; (a)(1)(vi) removed (effective date pending)....51520
645.4 (c) and authority citation revised (effective date pending)....51520
645.5 (a) revised (effective date pending)....51520
645.6 (b) amended; authority citation added (effective date pending)....51520
645.10 (c) and (d) redesignated as (d) and (e); new (c) added; new (d) introductory text, (8), (9) and authority citation revised; (d)(10) added; new (e) amended (effective date pending)....51520
645.11 Authority citation revised (effective date pending)....51520
645.12 Authority citation revised (effective date pending)....51520
(d) amended (effective date pending)....51521
645.13 Authority citation revised (effective date pending)....51520
(b) amended (effective date pending)....51521
645.14 Authority citation revised (effective date pending)....51520
645.30 Authority citation revised (effective date pending)....51520
645.31 Authority citation revised (effective date pending)....51520
(g)(3)(iv) amended (effective date pending)....51521
645.32 Authority citation revised (effective date pending)....51520
645.40 Authority citation revised (effective date pending)....51520
645.41 Authority citation revised (effective date pending)....51520
645.42 Authority citation revised (effective date pending)....51520
645.43 Authority citation revised (effective date pending)....51520

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

(a) revised (effective date pending)....51521
646 Authority citation revised (effective date pending)....51521
646.1 Revised (effective date pending)....51521
646.2 Amended; authority citation revised (effective date pending)....51521
646.3 (a)(5) removed; (a)(6) redesignated as (a)(5); (a)(4), (d)(3) and authority citation revised (effective date pending)....51521
646.4 (a), (b) and (c) revised (effective date pending)....51521
646.5 Heading, (a) and authority citation revised (effective date pending)....51521
646.6 Heading and authority citation revised; (b) amended (effective date pending)....51522
646.10 Authority citation revised (effective date pending)....51521
Heading and (a)(9) revised; (a)(8) amended; (a)(10) added (effective date pending)....51522
646.20 Authority citation revised (effective date pending)....51521
Amended (effective date pending)....51522
646.30 Authority citation revised (effective date pending)....51521
(b) amended (effective date pending)....51522
646.31 Authority citation revised (effective date pending)....51521
(h)(2)(ii) amended (effective date pending)....51522
646.32 Authority citation revised (effective date pending)....51521
(a)(1) and (c)(2) amended (effective date pending)....51522
646.40 Authority citation revised (effective date pending)....51521
646.41 Authority citation revised (effective date pending)....51521
646.42 Authority citation revised (effective date pending)....51521
(a) revised (effective date pending)....51522
648 Regulation at 58 FR 28505 eff. 6-28-93....36871
649 Revised (effective date pending)....42860
Technical correction....47069
650 Revised....58084
653 Revised (effective date pending)....42827
653.2 Regulation at 57 FR 30343 eff. 9-18-92....36870
653.3 Regulation at 57 FR 30343 eff. 9-18-92....36870
654 Revised (effective date pending)....42669
654.2 Regulation at 57 FR 30344 eff. 9-18-92....36870
654.4 Regulation at 57 FR 30344 eff. 9-18-92....36870
664 Regulation at 57 FR 28976 eff. 9-18-92....36870
664.14 Regulation at 57 FR 28976 eff. 9-18-92....36870
668 Waiver....52195
668.2 Regulation at 58 FR 13343 eff. 4-28-93....36871
668.8 (a) introductory text and (2)(i) revised; (c) and (d) added; pending and effective in part 1-1-94....39620
668.9 Added; pending and effective in part 1-1-94....39620
668.12 Regulation at 57 FR 57310 eff. 1-29-93....36870
668.15 Regulation at 58 FR 13343 eff. 4-28-93....36871
668.56 Regulation at 57 FR 39089 eff. 11-8-92....36870
668.57 Regulation at 57 FR 39089 eff. 11-8-92....36870
668.58 Regulation at 57 FR 39089 eff. 11-8-92....36870
668.59 Regulation at 57 FR 39089 eff. 11-8-92....36870
668.61 Regulation at 57 FR 39089 eff. 11-8-92....36870
668.81 Regulation at 58 FR 13344 eff. 4-28-93....36871
668.83 Regulation at 58 FR 13344 eff. 4-28-93....36871

TITLE 34 Chapter VI—Con.

Page

668.84 Regulation at 57 FR 47753 and 47754 eff. 12-3-92....36870
668.85 Regulation at 57 FR 47753 and 47754 eff. 12-3-92; Regulation at 57 fr 60034 eff. 1-31-93....36870
668.86 Regulations at 57 FR 47753 and 47754 eff. 12-3-92....36870
668.87 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.88 Regulation at 57 FR 60034 eff. 1-31-93; Regulation at 57 FR 47753 and 47754 eff. 12-3-92....36870
668.89 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.90 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 60034 eff. 1-31-93....36870
668.91 Regulation at 58 FR 13345 eff. 4-28-93....36871
668.92 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.94 Regulation at 58 FR 13345 eff. 4-28-93....36871
668.95 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.98 Regulation at 57 FR 60034 eff. 1-31-93....36870
668.114 Regulation at 57 FR 47753and 47754 eff. 12-3-92....36870
668.115 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.116 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.117 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.118 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.119 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 60035 eff. 1-31-93....36870
668.120 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 47754 eff. 1-31-93....36870
668.121 Regulation at 57 FR 47753 eff. 12-3-92....36870
668.124 Regulation at 57 FR 60035 eff. 1-31-93....36870

Page

668.130—668.139 (Subpart I) Regulation at 58 FR 3184 eff. 2-25-93....36871
671 Regulation at 57 FR 24955 eff. 6-12-92....36870
674 Waiver....52195
674.1 Regulation at 57 FR 32344 eff. 9-18-92....36870
674.2 Regulation at 57 FR 32344 eff. 9-18-92....36870
674.8 Regulation at 57 FR 32344 eff. 9-18-92....36870
674.18 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.19 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.31 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.32 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.33 Regulation at 57 FR 32345 eff. 9-18-92....36870
Regulation at 57 FR 60706 eff. 2-4-93....36871
674.34 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.35 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.36 Regulation at 57 FR 32345 eff. 9-18-92....36870
674.38 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.42 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.43 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.45 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.47 Regulation at 57 FR 32346 eff. 9-18-92....36870
Regulation at 57 FR 60706 eff. 2-4-93....36871
674.49 Regulation at 57 FR 32346 eff. 9-18-92....36870
674.50 Regulation at 57 FR 32347 eff. 9-18-92....36870
Regulation at 57 FR 60707 eff. 2-4-93....36871
674.52 Regulation at 57 FR 32347 eff. 9-18-92....36870
674.57 Regulation at 57 FR 32347 eff. 9-18-92....36870
674 Regulations at 57 FR 32347, 32349, 32351 and 32354 eff. 9-18-92....36870

Page

675 Regulation at 57 FR 60707 eff. 2-4-93....36871
675.2 Regulation at 57 FR 32356 eff. 9-18-92....36870
Regulation at 57 FR 60707 eff. 2-4-93....36871
675.16 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.18 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.21 Regulation at 57 FR 60707 eff. 2-4-93....36871
675.22 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.23 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.26 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.28 Regulation at 57 FR 32356 eff. 9-18-92....36870
675.34 Regulation at 57 FR 32357 eff. 9-18-92....36870
676 Regulation at 57 FR 60707 eff. 2-4-93....36871
Waiver....52196
676.2 Regulation at 57 FR 32357 eff. 9-18-92....36870
676.3 Regulation at 57 FR 32357 eff. 9-18-92....36870
676.14 Regulation at 57 FR 60707 eff. 2-4-93....36871
676.16 Regulation at 57 FR 32357 eff. 9-18-92....36870
676.18 Regulation at 57 FR 32357 eff. 9-18-92....36870
682 Regulation at 57 FR 60323 eff. 2-1-93....36870
Waiver....52196
682.600 Regulation at 58 FR 3177 eff. 2-25-93....36871
685 Added (effective date pending)....36094
690 Waiver....52195
690.31 Regulation at 57 FR 28569 eff. 8-9-92....36870
690.32 Regulation at 57 FR 28569 eff. 8-9-92....36870
690.72 Regulation at 50 FR 10710 eff. 4-29-85....36871
690.83 Regulation at 57 FR 28569 eff. 8-9-92....36870
698 Added (effective date pending)....43266
698.2 OMB number pending....43267
698.11 OMB number pending....43267
698.21 OMB number pending....43268

Page

698.22 OMB number pending....43268
698.24 OMB number pending....43269
698.30 OMB number pending....43269

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

755.20 Regulation at 57 FR 53200 eff. 12-21-92....36870
755.21 Regulation at 57 FR 53201 eff. 12-21-92....36870
755.22 Regulation at 57 FR 53200 eff. 12-21-92....36870
757.10 Regulation at 57 FR 53201 eff. 12-21-92....36870
757.11 Regulation at 57 FR 53201 eff. 12-21-92....36870
757.12 Regulation at 57 FR 53201 eff. 12-21-92....36870
758.10—758.11 (Subpart B) Regulation at 57 FR 53201 eff. 12-21-92....36870
762.2 Regulation at 57 FR 30344 eff. 9-18-92....36870
762.4 Regulation at 57 FR 30344 eff. 9-18-92....36870
769 Regulation at 57 FR 49265 eff. 12-14-92....36870
770.4 Regulation at 58 FR 11167 eff. 4-28-93....36871
776 Revised; OMB numbers (effective date pending)....45210
777.1 (a)(3) amended; (b) revised; (c) redesignated as (d); new (c) added (effective date pending)....40247
777.3 (a) revised (effective date pending)....40247
777.4 (b) amended (effective date pending)....40247
777.10 Revised (effective date pending)....40247
778 Heading revised....40247
778.1 Heading, introductory text and (a) amended (effective date pending)....40247
778.2 (b) introductory text corrected (effective date pending)....40247
778.3 Revised (effective date pending)....40247
778.5 Heading revised (effective date pending)....40247

TITLE 34 Chapter VII—Con. Page

778.6 Introductory text and (a) revised (effective date pending)....40247
778.22 (a) introductory text and (e) introductory text amended (effective date pending)....40248
779 Authority citation revised....40248
779.1 Revised (effective date pending)....40248
779.2 Revised (effective date pending)....40248
779.3 Authority citation revised (effective date pending)....40248
779.4 (b)(2), (6) and authority citation revised (effective date pending)....40248
779.5 Authority citation revised (effective date pending)....40248
779.6 Redesignated as 779.7; new 779.6 added (effective date pending)....40248
779.7 Redesignated as 779.8; new 779.7 redesignated from 779.6; (a) and authority citation revised (effective date pending)....40248
779.8 Redesignated as 779.9; new 779.8 redesignated from 779.7; (b) amended; authority citation revised (effective date pending)....40248
779.9 Redesignated from 779.8; authority citation revised (effective date pending)....40248
779.10 Authority citation revised (effective date pending)....40248
779.20 Authority citation revised (effective date pending)....40248
779.21 Authority citation revised (effective date pending)....40248
(b) revised (effective date pending)....40249

Chapter XII—National Council on Disability (Part 1200)

Chapter XII Established....57698
1200.170 (c) revised....57698

Title 34—*Proposed Rules:*

76....44736
80....44736
99....42836
300....57938
307....57938
315....57938
318....57938
346....57938
350....57938
351....57938
359....57938
361....38482, 44638, 57938
363....57938
365....57938
366....57938, 57942
367....57938
369....57938
370....52614
371....57938
373....57938
374....57938
376....57938
377....57938
378....57938
379....57938
380....57938
385....57938
386....52606, 57938
387....57938
388....57938
389....57938
600—699 (Ch. VI)....43608
607....48478
631....38504
632....38504
633....38504
634....38504
635....38504
644....57704
650....37890
668....51712, 54902
692....36110

TITLE 35—PANAMA CANAL

Title 35—*Proposed Rules:*

10....53897

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

37 Appendix A amended....38211

Page

51 Technical correction....38598

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

215 Added; eff. in part 1-3-94....58910
217 Heading revised....58915
217.1 Revised....58915
217.2 Amended....58915
217.3 Revised....58915
217.4 Revised....58915
217.7 (b), (c) and (d) revised; (e) removed....58915
217.8 (a)(2) revised; (f)(1) and (3) removed; (f)(2) and (4) redesignated as (f)(1) and (2)....58916
217.10 (i) revised....58916
217.14 (a) revised....58916
217.15 (a) revised....58916
217.16 (e) revised....58916
217.17 (b), (c) and (f) revised....58916
242.25 (b)(2)(i) introductory text, (iv) introductory text and (f) revised; (m)(1) table amended....61811

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1191 Authority citation revised....38211
Appendix redesignated as Appendix A and amended....38211

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1222.20 (b)(1) revised....49194
1230.1 Revised....49194
1230.3 Revised....49194
1230.4 Amended....49195
1230.7 (Subpart B) Added....49195
1230.10—1230.16 (Subpart B) Redesignated as Subpart C....49195
1230.12 (d)(1)(i) and (2) revised....49195
1230.14 (a) and (b) revised; (c), (d)(1)(i) and (2) amended....49195
1230.16 Revised....49196
1230.20—1230.26 (Subpart C) Redesignated as Subpart D....49195

Page

1230.20 Revised....49196
1230.22 (a)(6) removed; (a)(7) and (8) redesignated as (a)(6) and (7); (a)(1), (4)(i), (5) and new (a)(7) revised....49196
1230.24 (a) revised....49196
1230.26 (a) revised....49196
1230.50—1230.52 (Subpart D) Redesignated as Subpart E....49195

Title 36—*Proposed Rules:*

7....48336
222....43202, 48808
242....40393, 46678
1191....37052
1252....54540
1253....49251, 63133
1254....54540
1260....54540

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.4 Heading revised; (d), (e) and (f) added....54501
1.5 (a) revised....54501
1.8 Revised....54502
1.9 (d) revised....54508
1.13 Revised....54508
1.14 (b) revised....54509
1.17 (h) revised....38723
Corrected....45841
1.19 (a)(3) revised....38723
1.20 (i) revised....44280
1.28 (c) revised....54509
1.55 (a) revised....54509
1.71 (d) revised....38723
1.78 (a) revised....54509
1.84 Revised....38723
(b)(1)(ii) corrected....45841
(g)(3) and (h)(2) corrected....45842
1.88 Removed....38726
1.123 Revised....38726
1.136 (a) revised....54509
1.137 Revised....44280
1.152 Revised....38726
1.155 (b), (c) and (d) revised; (e) and (f) added....44280
1.165 Revised....38726
1.191 (d) revised....54510

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 37 Chapter I—Con. Page

1.192 (a), (c) introductory text and (d) revised....54510
1.193 (b) revised....54510
1.194 (b) revised....54510
1.196 (f) revised....54510
1.197 (b) revised....54510
1.304 (a) and (c) revised....54502
1.312 (b) revised....54510
1.316 (b), (c) and (d) revised; (e) and (f) added....44281
1.317 Revised....44281
1.321 Revised....54510
1.352 (a) revised....54511
1.362 (c)(4) and (e) revised; (h) added....54511
1.366 (b) revised....54503
1.378 (a), (b), (c) and (e) revised....44282
1.601 (q) added....49434
1.607 (a)(5)(i) revised....54511
1.637 (a) revised....49434
1.639 (c) revised; (d) through (g) added....49434
1.655 (a) revised....49434
1.741 (a) revised....54503
2.145 (c)(3) and (d)(1) revised....54503
2.165 (a)(1) revised....54503
5.19 (a) revised....54511
10.18 Revised....54503
10.23 (c)(9) revised....54504
10.48 (b) revised....54511

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201.17 Regulation at 57 FR 3296 effective date extended to 1-1-95....40363
(k) revised; eff. 1-1-95....45263

Chapter III—Copyright Royalty Tribunal (Parts 300—399)

301.1 (g) and (h) revised....53825
301.70 Revised....53825
301.71 (d) revised....53826
301.72 (d) revised....53826
307.3 Revised....58283
(f) corrected....60787
311 Added....53826
Corrected....59658

Title 37—*Proposed Rules:*

1....39704
2....39102
10....38994

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

Page

0 Authority citation revised....61813
0.735-1—0.735-8 (Subpart A) Revised....61813
0.735-10—0.735-12 (Subpart B) Revised....61814
0.735-50—0735.57 (Subpart C) Removed....61814
0.735-70—0.735-80 (Subpart D) Removed....61814
2.6 (e)(3) revised....39152
(e)(1) revised....40746
3.103 (f) revised; authority citation added....59366
3.203 (c) amended....37857
(c) corrected....42623
3.205 (a) introductory text and (1) revised....37857
3.309 (d)(1) amended....41636
3.343 Corrected....46865
3.344 (a) corrected....53660
3.353 (d) revised; authority citation added....37856
3.357 Revised....52018
3.655 (c)(1) corrected....46865
4.16 (a) corrected....39664
4.31 Revised....52018
14 Authority citation revised....39153
14.602 (a) introductory text, (4) and (b)(2) revised....40746
14.619 (b) revised....39153
21.4025 (a)(2) revised; authority citation added....46867
21.4263 (g) introductory text, (1), (2) and (3) redesignated as (g)(1) through (4); new (g)(1), (4) introductory text, (ii), (h)(1), (3)(i), (ii), (4)(i) introductory text and (i) introductory text revised; (h)(4)(iii) and authority citation added; interim....49198
21.5058 (b) and authority citation revised....38058
(b) corrected....40468
21.5064 (b)(1), (2)(i) and (2) authority citation revised; (b)(1) authority citation added....38058
21.5232 Revised....46866

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

21.5820 (b) introductory text, (1)(ii)(A), (B), (C), (2)(ii)(A), (B) and (C) revised....50845
21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised....50845
21.6005 (b) amended; (b) authority citation revised....41637
21.6042 (a) introductory text, (1), (b) and (d) amended; (a) through (d) authority citations revised; (e) added....41637
21.6503 (a) amended; (a) authority citation revised....41637
21.6523 (a) amended; (a) authority citation and (b) revised....41637
21.7142 Added....46867
21.7520 (b)(14)(i)(G) revised; (b)(34) and authority citation added....51782
21.7532 (f) and authority citation added....51781
21.7550 (a) introductory text revised; (a)(3) and authority citation added....51783
21.7570 Revised....51783
21.7576 (b) introductory text, (e) and authority citation added....51783
21.7614 Revised....50846
21.7635 (b)(1) authority citation, (c) introductory text and (2) authority citation added; (b)(1), (2) introductory text, authority citation, (c)(1) and (2) revised....51783
21.7639 (b)(1)(ii) revised; authority citation added....51781
(b) revised....51783
36.4201—36.4287 Authority citation revised....37858
36.4202 Amended....37858
36.4204 (a)(7) amended; (b), (c) and (e) redesignated as (d), (e) and (g); new (g) amended; new (b), (c) and (f) added; OMB number....37858
36.4205 (a), (b)(1), (2), (3) and (f)(1) amended....37859
36.4206 (d)(1), (2)(i) and (ii) amended....37859
36.4209 (b)(2) amended....37859
36.4222 Revised....37859
36.4223 (a)(1) and (2) revised....37860
36.4224 (b) amended....37860
36.4232 (a)(2) through (5) redesignated as (a)(3), (4), (5) and (7); new (a)(5) and (b) amended; new (a)(2) and (6) added; (d)(1) revised; (e)(5) removed....37860
36.4233 Removed....60385
36.4234 (a), (b) and (c) amended....37860
36.4235 (a) amended....37860
Removed....60385
36.4253 (b)(9) and (c)(2) amended....37860
36.4276 (c) added....37860
36.4283 (f)(4) added; (g) introductory text revised....37860
36.4284 (e) added....37861
36.4331 Removed....60385
36.4341 Removed....60385
36.4361 Removed....60385
36.4500 (b) redesignated as (c); new (b) added; interim....59660
36.4501 Amended; (o) and paragraph designations removed; authority citation revised; interim....59660
36.4527 Added; interim....59660
44 Authority citation revised....60385
44.700—44.713 (Subpart G) Added....60385
47 Added....48455

Title 38—*Proposed Rules:*

1....39706
3...38103, 38104, 38106, 46919, 48483, 50528, 51798
14....39174
17....44313, 51799
20....47100
21....38106, 39488, 41325, 50873
36....49251, 49253, 50875

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim....57743, 60788
111 Regulation at 58 FR 13552 confirmed....42012
DMM amended; incorporation by reference....60386
233.3 Revised....36599
266.4 (b)(5) revised....62036

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 39

Chapter III—Postal Rate Commission (Parts 3000—3099)

Page

3000 Authority citation revised....42874
3000.735-101—3000.735-104 (Subpart A) Revised....42874
3000.735-201—3000.735-205 (Subpart B) Removed....42874
3000.735-301—3000.735-316 (Subpart C) Removed....42874
3000.735-401—3000.735-405 (Subpart D) Removed....42874
3000.735-501—3000.735-502 (Subpart E) Redesignated as Subpart B....42874
3001.5 (g) and (h) amended....38976
3001.6 (a), (b) and (c) amended....38976
3001.7 (a)(1)(i), (ii), (iii), (b)(2), (3), (c)(1) and (d)(1) amended....38976
3001.9 (a) amended....38976
3001.10 (a) amended....38976
3001.11 (a) and (e) amended....38976
3001.12 (e) and (g) amended....38976
3001.13 Amended....38976
3001.17 (c)(3) and (4) amended....38976
3001.19 Amended....38976
3001.20 (b), (c) and (e) amended....38976
3001.20a Introductory text and (a) amended....38976
3001.20b (b) amended....38976
3001.21 (b) amended....38976
3001.23 (b) and (d) amended....38976
3001.24 (b), (d)(1) through (11) and (e) amended....38976
3001.25 (c) and (e) amended....38976
3001.26 (a) and (c) amended....38976
3001.27 (c) amended....38976
3001.31 (b), (d) and (k)(3)(iv) amended....38976
3001.31a (b) and (c) amended....38976
3001.33 (e) and (h) amended....38976
3001.36 Amended....38976
3001.39 (a) amended....38976
3001.42 (c)(2) amended....38976
3001.42a Amended....38976
3001.43 (e)(4) introductory text, (i), (f)(1), (g)(3), (5) and (6) amended....38976
3001.54 (h)(5)(v)(*a*) and (p)(2) amended; (l) redesignated as (l)(1); (l)(2) added....38976
(o)(2)(i), (3), (p)(2) and (r) amended....38977
3001.55 Amended....38977
3001.57 Heading amended....38977
3001.57c Heading amended....38977
3001.61—3001.68 (Subpart C) Appendix A amended....54512
3001.63 Amended....38977
3001.64 (c)(1) and (2) amended....38977
3001.65 Amended....38977
3001.75 Amended....38977
3001.83 (e) amended....38976
(a) amended....38977
3001.101 Amended....38977
3001.102 (a)(1), (d) introductory text and (4) amended....38977
3001.110 Amended....38977
3001.111 (b) amended....38977
3001.114 (a) amended....38977
3001.115 (a) amended....38976
Heading revised....38977
3001.116 Amended....38977

Title 39—*Proposed Rules:*

39....38321
71....38322
73....38323
111....49402
265....48808
3001....58519

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

6 Authority citation revised....63247
6.303 (a) and (b) revised; (c) through (g) removed....63247
9.1 Table amended (OMB numbers)...40054, 49376, 57911, 58400, 62283
51 Authority citation revised....38821
Solid waste incinerator categories list....58498
51.46 (b) revised; (c) removed....38821
51.63 (a) amended....38821
51.112 (a) amended; (a)(1) and (2) added....38821
51.117 (c)(1), (2) and (3) amended....38822
51.150 (e) amended....38822
51.160 (f)(1) and (2) added....38822
51.166 (l)(1) and (2) revised....38822

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

51.351 (a)(7)(iv), (v) and (vi) revised....59367
51.353 (a) amended....59367
51.359 (e)(1) amended....59367
51.360 (a)(8) revised....59367
51.373 (a) amended....59367
51.350—51.373 (Subpart S) Appendixes A, D and E amended....59367
51.390—51.464 (Subpart T) Added....62216
51.850—51860 (Subpart W) Added (OMB number pending)....63247
51 Appendix W added....38822
52 Authority citation revised....38883
State implementation plan determinations...41430, 42671, 50516, 52237
Authority delegation notice....43798
Technical correction....61143
52.21 (l)(1) revised; (l)(2) amended....38883
52.50 (c)(61) added....45440
(c)(56) and (57) added....50266
52.70 (c)(17) added....43085
52.219 Added....62533
52.220 (c)(182)(i)(B)(*5*), (183)(i)(A)(*9*), (F), and (185)(i)(B)(*4*) added....37423
(c)(183)(i)(A)(*11*), (C)(*4*) and (*6*) added....45442
(c)(179)(i)(C), (182)(i)(B)(*3*), (i)(C) and (183)(i)(E)(*2*) added....45443
(c)(182)(i)(A)(*2*) added....45445
(c)(182)(i)(A)(*3*) and (185)(i)(B)(*5*) added....45447
(c)(183)(i)(A)(*6*) added....47832
(c)(184)(i)(B)(*3*) added....50851
52.320 (c)(59) added....50270
52.329 (a)(3) removed....50271
52.346 Added....49435
52.420 (c)(45) added....40066
52.422 Existing text redesignated as (a); (b) added....50848
52.520 (c)(76) added....37660
52.670 (c)(26) and (27) added....39447
52.679 Revised....39448
52.681 Revised....39450
52.683 Revised....39450
52.720 (c)(96) added....45450
(c)(7) added....47382
(c)(98) added....48314
(c)(95) added....54294
52.744 Added....45451

Page

52.770 (c)(88) added....43083
52.786 (h) added....62535
52.798 Added....46544
52.820 (c)(58) added....50268
52.920 (c)(68) added....54521
52.934 Added....54522
52.970 (c)(59) added....38060
52.1070 (c)(93) through (96) added....40062
(c)(98) added....63086
52.1073 (f) added....50848
52.1120 (c)(98) added....48317
52.1167 Table amended....48318
52.1174 Regulation at 58 FR 34227 withdrawn....44456
52.1320 (c)(84) added....45452
(c)(82) added....57566
52.1420 (c)(40) added....45454
52.1620 (c)(50) added....47385
(c)(52) added....62539
52.1670 (c)(84) added....40058
(c)(85) added....40064
(c)(86) added....50852
52.1679 Table amended....40065
52.1770 (c)(66) added....47396
52.1820 (c)(24) added....54043
52.1870 (c)(83) added....47214
(c)(94) added....54516
52.1879 (e) removed....47214
52.1881 (b)(23) revised....46869
52.1882 (l) added....46871
52.1920 (c)(43) added....38062
52.1970 (c)(96) added....47387
(c)(100) added....50850
52.1977 Revised....47387
52.1987 Revised....47391
52.1988 (b) revised....47391
52.2020 (c)(84) added....50518
(c)(87) added....53885
(c)(85) added....57563
52.2170 (c)(14) added....37425
52.2183 Added....37426
52.2220 (c)(111) added....50273
52.2270 (c)(76) added....45456
52.2420 (c)(98) added....45459
52.2423 (j) added....50848
52.2470 (c)(39) added....37427
(c)(41) added....40057
(c)(40) added....40060
52.2479 Revised....37427
52.2560 Added....48312
52.2570 (c)(69) added....43082
55 Petition for reconsideration....61027
55.14 (e)(3)(ii)(E), (F) and (H) revised....44617

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 40 Chapter I—Con. Page

(e)(6)(i)(A) revised....59173
55.15 Regulation at 58 FR 14159 effective date corrected to 9-4-92....47398
55 Appendix A amended....44617, 59173
60 Authority citation revised....40591
60.17 (a)(6) and (38) amended....45962
60.700—60.708 (Subpart RRR) Added (OMB number pending)....45962
60.735 (b) and (c)(2) amended....40591
(c)(3) amended....40592
61 Clarification....51784
63.74 (d)(2) revised; (d)(4) and (i) removed; Table 1 amended....62543
63.75 (f) added....62543
63.77 Revised....62543
63.90—63.96 (Subpart E) Added....62283
63.300—63.313 (Subpart L) Added....57911
63.320—63.325 (Subpart M) Added....49376
63 Appendix A amended....57924
69 Authority citation revised....43043
69.11 (a) and (b) added....43043
72.2 Corrected....40746, 40747
72.8 (c)(2)(ii) corrected....40747
72.41 (e)(3)(iii) and (iv) corrected....40747
72.74 (b)(1)(iii) corrected....40747
72.91 (a) introductory text and (3)(iii) corrected....40747
72.92 (c)(2)(v)(C) corrected....40747
73 Notice of procedure....48318
73.10 (a) Table 1 corrected....40747
73.30 (a) corrected....40747
73.31 (c)(1) introductory text corrected....40747
73.32 (a)(1) corrected....40747
73.72 Technical correction....40747
73.80 (b) corrected....40747
73.81 (b)(4) corrected....40747
73.82 Heading corrected....40747
75.1 (b) existing text designated as (b)(1) and (2); new (b)(2) corrected....40747
75.5 (b) corrected....40747
75.6 (a)(4) corrected....40747
75.7 Corrected....40747
75.11 (c) introductory text corrected....40747
75.15 (a) introductory text, (2) and (b)(1) corrected....40747

Page

75.16 (e) corrected....40747
75.17 (a)(2)(iii)(a) correctly designated as (a)(2)(iii)(A)....40747
(a)(2)(iii)(B) and (b)(2) corrected....40748
75.20 (b)(3), (c) introductory text, (9)(i) introductory text, (B) and (d) corrected; (c)(5)(iv) correctly added....40748
75.31 (b)(2), (c)(2) and (3) corrected....40748
75.32 (b) corrected....40748
75.34 (b)(1) corrected....40748
75.41 (a)(9)(i), (ii), (b)(1)(i), (2)(i), (iv)(A), (C), (v)(A), (B), (c)(1)(i), (ii) and (2)(i) corrected....40748
75.48 (a)(3) corrected....40748
75.50 (b) introductory text, (6), (c)(1)(iii), (iv), (vi), (2)(iii), (iv), (v), (vii), (3)(ii), (iii), (iv) Table 3, (d) introductory text, (3) through (9), (e)(1)(iii), (iv), (v), (vii), (viii), (2)(ii), (iv) and (v) corrected....40749
75.51 (b)(1)(vii) correctly designated as (b)(1)(viii); (a)(1)(iii) through (vi), (viii), (2)(i), (iii), (b) introductory text, new (b)(1)(viii), (1)(ix), (c)(1)(ii), (vi), (d)(1)(ii) and (iv) corrected....40749
75.52 (a)(5)(iv)(G) and (H) correctly redesignated as (a)(5)(v) and (vi)....40749
75.53 (a) introductory text, (c)(2) introductory text and (4)(vi) corrected....40749
(c)(8) and (9) corrected; (c)(10), (10)(i), (ii), (A) and (B) correctly redesignated as (d), (d)(1), (2), (i) and (ii)....40750
75 Appendixes A, B and C corrected....40750
Appendixes C through H corrected....40751
Appendix H corrected....40752
80 Petition for exemption....48968
80.27 (a)(2) table amended....46511
81 Attainment status designations....53888
81.305 Table amended....62546
81.324 Revised....50277
Table corrected....60495

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

81.327 Table amended....53887
81.333 Table amended....50853
81.334 Table revised....47396
81.338 Table amended....49932
81.343 Table revised....50274
82.21 Added....40054
82.80—82.86 (Subpart D) Added....54898
82.154 (g) and (h) amended....36516
85 Public workshop....36871
85.2201 (b) revised; (c) added....58400
85.2203 Redesignated from 85-2203-81 and revised....58401
85.2203-81 Redesignated as 85.2203....58401
85.2204 Redesignated from 85.2204-81 and revised....58401
85.2204-81 Redesignated as 85.2204....58401
85.2208 (a)(3) added; (c) revised....58401
85.2209 (a) and (b) redesignated as (b) and (c); heading and new (c)(6) revised; new (a) added....58402
85.2210 (a) and (b) redesignated as (b) and (c); heading and new (c)(7) revised; new (a) added....58402
85.2211 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added....58402
85.2212 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added....58403
85.2213 Redesignated as 85.2214; new 85.2213 added....58403
85.2214 Redesignated as 85.2216; new 85.2214 redesignated from 85.2213....58403
(a), (b) and (c) redesignated as (b), (c) and (d); heading, new (c)(4), (5), (6) and (d) revised; new (a) added....58404
85.2215 Redesignated as 85.2224....58403
Added....58405
85.2216 Redesignated as 85.2229; new 85.2216 redesignated from 85.2214....58403
(a), (b) and (c) redesignated as (b), (c) and (d); heading, new (c)(6) and (7) revised; new (a) added....58407
85.2217 Redesignated as 85.2232....58403

Page

Added....58407
85.2218 Redesignated as 85.2237....58403
Added....58408
85.2219 Added....58409
85.2220 Added....58411
85.2224 Redesignated from 85.2215....58403
Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added....58412
85.2225 Added....58413
85.2229 Redesignated from 85.2216....58403
Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added....58414
85.2230 Added....58414
85.2232 Redesignated from 85.2217....58403
(a) through (e) redesignated as (b) through (f); heading and new (f)(1) revised; new (a) added....58415
85.2233 Added....58415
85.2237 Redesignated from 85.2218....58403
Heading revised; (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added....58416
85.2238 Added....58416
86.1 (b)(1) table amended....58417
86.096-2 Amended....58417
86.096-3 Added....58417
86.096-8 (a)(1)(iii) and (3) added....58417
86.096-9 (a)(1)(v) and (3) added....58417
86.096-21 (j) and (k) added....58417
86.096-24 Added....58417
86.096-35 (a)(1)(iii)(N) and (2)(iii)(P) added....58421
86.097-9 (a)(1)(iv) and (3) added....58421
86.099-8 (a)(1)(iii) and (3) added....58421
86.099-9 (a)(1)(iv) and (3) added....58422
86.116-90 (c)(5) added; (d)(1) removed....58422
86.123-78 (a) introductory text revised....58422
86.142-90 (d) through (i), (k), (l), (m), (o) and (p) revised; (q) and (r) removed....58422

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 40 Chapter I—Con. Page

86.210-96 Added....58424
86.301-79—86.348-79 (Subpart D) Heading revised....58422
86.319-79 (b) revised....58422
86.332-79 (a) revised; (d) and (e) removed....58423
86.516-90 (c)(3) added; (d)(1) removed....58423
86.523-78 (a) introductory text revised....58423
86.608-96 Added....58423
86.609-96 Added....58423
86.610-96 Added....58424
86.708-94 (a)(1)(iii) and (3) added....58424
86.708-98 (a)(1)(iii) and (3) added....58424
86.709-94 (a)(1)(v) and (3) added....58424
86.709-99 (a)(1)(iv) and (3) added....58425
86.1008-96 Added....58425
86.1009-96 Added....58425
86.1010-96 Added....58426
86.1316-90 (b)(3) added and (c)(1) removed....58426
86.1323-84 (a) introductory text revised....58426
86.1401—86.1442 (Subpart O) Added....58426
93 Added....62235
93.150—93.160 (Subpart B) Added (OMB number pending)....63253
110 Technical correction....48424
110.1 Amended....45036
112 Technical correction....48424
112.2 (k) amended....45037
116 Technical correction....48424
116.3 Amended....45037
117 Technical correction....48424
117.1 Amended....45037
122 Technical correction....48424
122.2 Amended....45037
131.36 (d)(14)(ii) amended....36142
141.30 (e)(3) and (4) added; (e) amended....41345
165 Policy statement....43994
180.138 Removed....46088
180.206 Revised....62038
180.227 (c) added....62041
180.234 Removed....60559
180.271 Removed....44283
180.281 Removed....47216
180.319 Table amended....39154, 46088
180.335 Removed....39154
180.356 (a) designation and (b) removed; table amended....36361
180.362 Heading revised; (b) table amended....48321
180.364 (a) table amended; (d) added....36359
(a) table amended....62037
180.407 (b) introductory text and (c) introductory text amended....42675
180.414 (e) added....44767
(e) table amended....54044
180.431 (a) table amended....54297
180.434 Table amended....42673
180.450 (a) table amended....46087, 62039
180.468 Added....57967
180.1001 (d) table amended....37862, 38978, 40364, 44766, 50854, 59662
(c) table, (d) table and (e) table amended....54295
180.1029 Amended....47215
180.1058 Revised....47215
180.1121 Added....44283
180.1123 Added....51015
180.4725 Added; effective to 3-1-95....48322
185.350 Removed....37867
Reinstated....48458
185.1900 Revised....59667
185.3500 (a)(3) added....36359
185.3950 Removed....37867
Reinstated....48458
185.5750 Removed....46088
185.5900 Removed....37867
Reinstated....48458
185.6300 Amended....37867, 48458
186.500 Removed....41432
186.1800 Revised....62041
186.3375 Table corrected....37867
186.3550 Revised....48321
192.31 (k) through (q) added....60355
192.32 (a)(3) and (4) redesignated as (a)(5) and (6); new (a)(3) and (4) added....60355
(b)(1) Footnote 1 revised....60356
192.41 Introductory text revised; (e) added....60356
228.12 (b)(94) added....35887
Heading revised; (a)(3) amended; (b)(92) added....42502
(a)(3) amended; (b)(93) added....46547

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

230 Technical correction....48424
230.3 (s) amended....45037
232 Technical correction....48424
232.2 Amended....45037
258 Authority citation revised....51546
Technical correction....53136
258.1 (d), (e), (f)(1) introductory text, (3) and (j) revised; eff. 10-9-93....51546
258.2 Amended; eff. 10-9-93....51547
258.50 (c) introductory text revised; (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; eff. 10-9-93....51547
258.70—258.74 (Subpart G) Regulation at 56 FR 51016 effective date delayed to 4-9-95....51536
258.70 (b) revised; eff. 4-9-95....51547
258.74 (a)(5) revised; (b)(1), (c)(1) and (d)(1) amended; eff. 4-9-95....51547
260.11 (a) amended....38883, 46049
260.22 (d)(1)(i) revised....46049
261 Determination....42466
261.22 (a)(1) and (2) revised....46049
261.24 (a) revised....46049
261 Appendix IX amended....40070, 42244
Appendixes II and III revised....46049
Appendix X removed....46050
264.190 (a) amended....46050
264.314 (c) revised....46050
265.190 (a) amended....46050
265.314 (d) revised....46050
266 Authority citation revised....38883
266.104 (e)(3) revised....38883
266.106 (h) revised....38883
266.112 (b)(2)(i) revised; interim....59602
266 Appendix X removed....38883
Appendix VII amended; interim....59603
268.7 (a) revised....46050
268.40 (a) revised....46050
268.41 (a) introductory text revised....46050
268 Appendixes I and IX revised....46051
270.6 (a) revised....46051
270.19 (c)(1)(iii) amended; (c)(1)(iv) revised....46051
270.62 (b)(2)(i)(C) amended; (b)(2)(i)(D) revised....46051
270.66 (c)(2)(i) amended; (c)(2)(ii) revised....46051
271 State hazardous waste management program authorizations...47216, 49932, 50854, 51244, 54044, 57745, 59367, 59370, 60388
271.1 (j) Table 1 amended; interim....59603
272.201 Added....52676
272.1601 Added....52678
272.1851 Added....52681
272.2500 Removed....49200
272.2501 Revised....49200
272 Appendix A amended...49200, 52676, 52679, 52682
281 State underground storage tank program authorizations....47217
282 Added....58625
291.505 (d)(1)(i)(C), (iii)(B)(*1*), (C), (3)(i), (13)(i) and (f)(2)(viii) amended; (d)(6)(ii) removed; (k) redesignated as (l); (b)(2)(v), (vi)(D), (c)(4)(i), (ii), (d)(1)(ii), (iv), (6) heading, (6)(i) heading, (h)(1) and new (l) revised; (d)(1)(iii)(B)(*6*), (4)(v) and new (k) added....38709
300.440 Added....49215
300 Appendix B amended...46087, 52019, 54297, 59370, 61029
372.65 (a) and (b) amended....51786
401 Technical correction....48424
401.11 (l) amended....45038
414.25 Revised....36892
414.26 Revised....36892
414.35 Revised....36892
414.36 Revised....36892
414.45 Revised....36892
414.46 Revised....36892
414.55 Revised....36892
414.56 Revised....36892
414.65 Revised....36892
414.66 Revised....36892
414.75 Revised....36892
414.76 Revised....36892
414.85 Revised....36892
414.86 Revised....36892
414.91 (b) amended....36892
414.101 (b) amended....36893
414.101—414.111 (Subpart K) Added....36893
455 Authority citation revised....50689
Tables 1 through 7 added....50691

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 40 Chapter I—Con. Page

455.10 (f) added....50689
455.11 Added....50689
455.20 (a) revised; (d) and (e) added....50689
455.21 (d) and (e) added....50689
455.23 Added....50689
455.24 Added....50690
455.25 Added....50690
455.26 Added....50690
455.27 Added....50690
455.33 Heading added....50690
455.34 Heading added....50690
455.35 Heading added....50690
455.36 Heading added....50690
455.37 Heading added....50690
455.50 (Subpart D) Added....50690
707.65 (a)(2) and (c) revised....40242
707.70 (a) revised....40242
712.30 (x) table amended....47648
716.20 (b)(2) revised; (d) table amended....47649
716.120 (a) table and (d) table amended....42678
721.285 Added....51702
721.320 Added....51681
721.323 Added....51702
721.470 Added....51681
721.536 Added....51681
721.757 Added....51681
721.1068 Added....51682
721.1372 Added....51682
721.1555 Added....51682
721.1568 Added....51682
721.1728 Added....51682
721.1732 Added....51682
721.1740 Added....51702
721.1920 Added....51683
721.2170 Added....51683
721.2260 Added....51702
721.2270 Added....51683
721.2565 Added....51683
721.2575 Added....51683
721.3367 Added....51684
721.3374 Added....51684
721.3390 Added....51684
721.3435 Added....51684
721.4215 Added....51703
721.4250 Added....51704
721.4490 Added....51685
721.4550 Added....51705
721.4590 Added....51705
721.5075 Added....51685
721.5285 Added....51685
721.5310 Added....51705
721.5330 Added....51685
721.5385 Added....51706
721.5705 Added....51706
721.5910 Added....51686
721.5915 Added....51706
721.5920 Added....51706
721.5990 Added....51707
721.6070 Added....51707
721.6085 Added....51707
721.6090 Added....51686
721.6820 Removed....45842
721.7450 Added....51686
721.7770 Added....51707
721.8082 Added....51686
721.8160 Added....51707
721.8265 Added....51687
721.8290 Added....51687
721.8335 Added....51708
721.8650 Added....51687
721.9510 Added....51687
721.9620 Added....51709
721.9650 Added....51687
721.9665 Added....51709
721.9925 Added....51709
761.65 (d)(2)(vii) revised....59374
763 Clarification....58964
799.5000 Heading revised; table amended....61816
799.5050 Added....40291
799.5075 Added....59681

Title 40—*Proposed Rules:*

1—799 (Ch. I)...37450, 37991, 38546, 42518, 42711, 44799, 47414, 48012, 53688, 55033, 58315, 60419, 60572
16....61638
35....40106, 53688
51....54648, 61640
52...36905, 37450, 37453, 38108, 38326, 39717, 40107, 40759, 41218, 41451, 42914, 43609, 44799, 44802, 45469, 45471, 45473, 45474, 45874, 47101, 47103, 47239, 47414, 47415, 47701, 47705, 47707, 47840, 48339, 48344, 48811, 48812, 48999, 49001, 49254, 49258, 49458, 49463, 49464, 49952, 49954, 49956, 50304, 50307, 50311, 50530, 50884, 50886, 51028, 51270, 51279, 51591, 51593, 52467, 53693, 54081, 54089, 54648, 57573, 57575, 59427, 59698, 61040, 62065, 62067, 62304, 62307, 62309, 62560, 62563
55....48619, 61041
60....42760, 54648
61....42760, 54648
63...37778, 42760, 43028, 45081, 45476, 53478, 53900, 62566
64....54648
68....54190, 60419
72....50088, 60950, 63134
73....44482, 50088, 60950, 63134
74....50088, 63134
75....50088, 63134
78....44482, 50088, 63134
80....45307, 54547
81...36908, 37453, 38108, 38331, 43609, 44639, 44641, 49001, 49467, 49956, 58999
82....38735, 50464, 59630
88....35420, 42266
89....51595
117....54836
122....42266, 47845, 53168
123....42266, 46145, 47417, 47845, 53168
131....42266, 47845, 53168
132....42266, 47845, 53168
148....48092
152....42711
180...36366, 37893, 40394, 40395, 41452, 43828, 43830, 44990, 46147, 46149, 49263, 49264, 49265, 49267, 50888, 51031, 54092, 54094, 54316, 59699, 59700, 60573, 62069, 62071, 62072, 62074, 62075
185....54094, 54316
186....36366, 39180, 54094, 54316, 62075
195....54474
228....43090
258....40568
260....46052, 48092
261....36367, 48092, 58521
268....48092, 59976
271....48092
280....43770
300...37693, 42519, 42916, 44804, 45082, 50893, 53688, 54702, 60825
302....54836
355....54836
372....36180, 46596, 47709, 60574
704....63134
721...40397, 45871, 46921, 48346, 48347, 48348, 49269, 49271, 50895, 50896, 61649
745....46921
749....63148

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

Page

761....60970
799....61654

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101-18 Authority citation revised....40592
101-18.000—101-18.001 (Subpart 101-18.0) Added....40592
101-18.100—101-18.106 (Subpart 101-18.1) Revised....40592
101-16—101-21 (Subchapter D) Appendix amended....52918
101-26.107 Revised....41637
101-37.400—101-37.403 (Subpart 101-37.4) Heading revised....53660
101-37.400 Revised....53660
101-37.401 Revised....53660
101-37.402 Revised....53661
101-37.403 Added....53661
101-37.404 Added....53661
101-37.405 Added....53662
101-37.406 Added....53662
101-37.407 Added....53662
101-37.408 Added....53662
101-40 Authority citation revised....53889
101-40.202 Revised....48972
101-40.203 Heading revised....53889
101-40.203-1 Revised....48972
101-40.205 Revised....53889
101.41 Temporary reg. G-57 added....39664
101-41.203-1 (a) revised....39665
101-41.203-2 Revised....39665
101-44.207 (a)(18.1) revised....39666
101-49.001-5 Introductory text revised....46089

Chapter 105—General Services Administration (Parts 105-1—105-999)

105-71 Added....43270

Chapter 128—Department of Justice (Parts 128-1—128-99)

128.8000—128.8010 (Subpart 128-1.8) Added....42876

CHANGES JULY 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 41

Chapter 301—Travel Allowances (Parts 301-1—301-99)

Page

301-1 Authority citation revised....58236
301-1.102 (a) introductory text and (b)(1) revised....58236
301-1.103 (f)(3) amended....58236
301-2.5 (b) revised....58236
301-3.3 Revised....58236
(d)(4)(iii)(C) and (ix) corrected....60390
301-4.3 (a)(1) and (2) revised....58240
301-7.11 (e) amended....58241
301-8.2 (a) amended....58241
301-8.3 (c)(4) and (5) amended; (c)(6) added....58241
301-10.2 (a)(2)(i) revised....58241
301-10.3 (f) redesignated as (e)....58241
301-11.6 (b)(9) revised....58241
301-15.7 (g) amended....58242
301-16 Added....58242
301-16.4 (a)(1) corrected....60390
301 Appendix A amended....58502

Chapter 302—Relocation Allowances (Parts 302-1—302-99)

302-1 Authority citation revised....58243
302-1.3 (a) revised....58243
302-1.10 (b) through (g) redesignated as (c) through (h); (a), new (e) introductory text and new (f) amended; new (b) added....58243
302-1.100—302-1.107 (Subpart B) Heading revised....58243
302-1.100 Revised....58243
302-1.101 Introductory text and (a) revised....58243
302-1.102 Amended....58244
302-1.104 Amended....58244
302-1.105 (a) and (c) amended....58244
302-1.106 Amended....58244
302-6.2 (g)(1) and (2) amended....53137
302-11.5 (i) revised....58244

Chapter 304—Payment from a non-Federal source for travel expenses (Parts 304-1—304-99)

304-1.3 (d) revised....58244

Title 41—*Proposed Rules:*

101-25....39720
105-57....46596
201-20....49005
201-39....49005

CHANGES OCTOBER 1, 1993 THROUGH NOVEMBER 30, 1993

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

Page

52c Heading revised....61030
Authority citation revised....61030
52c.1 Revised....61030
52c.2 Revised....61030
52c.3 (b) revised....61030
52c.4 Revised....61030
52c.5 (a)(1) revised....61030
52c.7 Revised....61031
52e Authority citation revised....54298
52e.1 Heading and (a) revised....54298
52e.2 Revised....54298
52e.3 Heading revised....54298
52e.4 Heading revised; (a) and (c) amended....54298
52e.5 Heading revised....54298
(a) and (b) amended....54299
52e.6 Heading and (a) introductory text revised....54298
52e.7 Heading revised....54298
(b) amended....54299
52e.8 Revised....54298
52e.9 Amended....54299

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

401 Authority citation revised....61837
401.126 (b)(2) revised....61837
401.133 Heading revised; (d) and (e) added....61838
403.400—403.410 (Subpart D) Removed....54049
405.502 Regulation at 57 FR 36013 confirmed....58505
405.556 Regulation at 57 FR 36014 confirmed....58505
406.21 Regulation at 57 FR 36014 confirmed....58505
406.23 Regulation at 57 FR 36014 confirmed....58505
406.32 Regulation at 57 FR 36014 confirmed....58505
406.33 Regulation at 57 FR 36014 confirmed....58505
409.40 Regulation at 57 FR 36014 confirmed....58505
409.97 Regulation at 57 FR 36014 confirmed....58505
410.36 Regulation at 57 FR 36015 confirmed....58505
411.15 Regulation at 57 FR 36015 confirmed....58505
411.60 Regulation at 57 FR 36015 confirmed....58505
411.62 Regulation at 57 FR 36015 confirmed....58505
412.113 Regulation at 57 FR 36016 confirmed....58505
413.118 Regulation at 57 FR 36017 confirmed....58505
413.122 Regulation at 57 FR 36017 confirmed....58505
413.124 Regulation at 57 FR 36017 confirmed....58505
413.130 Regulation at 57 FR 36017 confirmed....58505
418.1 Regulation at 57 FR 36017 confirmed....58505
418.21 Regulation at 57 FR 36017 confirmed....58505
418.22 Regulation at 57 FR 36017 confirmed....58505
421.210 (e)(2) revised; (e)(3) and (4) added....60796
421.212 Added....60797
435 Correction at 58 FR 50635 withdrawn....51408
436 Correction at 58 FR 50635 withdrawn....51408
440 Correction at 58 FR 50635 withdrawn....51408
488 Authority citation revised....61838
488.1 Amended....61838
488.3 Heading, (a)(1) and (2) revised....61838
488.4 Added....61838
488.5 Revised....61840
488.6 Redesignated as 488.7; new 488.6 added....61840
488.7 Redesignated from 488.6 and revised....61840
488.8 Revised....61841
488.9 Added....61842
488.10 (d) revised....61842
488.11 (b) amended....61842
488.201 (a)(1) revised....61843
489.10 Revised....61843
489.20 Regulation at 57 FR 36018 confirmed....58505
489.31 Regulation at 57 FR 36018 confirmed....58505

TITLE 42

Title 42—*Proposed Rules:*

Page
67....60510
124....58828
410....62312
411....62312
431....53481
440....51288, 53481
441....51288, 53481
447....53481
1003....54096

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

37 Added; eff. 11-1-93....51554

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2090 Authority citation revised....60917
2091.0-3 Amended....60917
2091.2-1 (b) amended; (c) removed....60917
2091.2-2 (b) revised; (c) removed....60917
2091.3 Heading revised....60917
2091.3-1 (b) removed; (a) redesignated as (b); new (a) added....60917
2091.3-2 Revised....60917
2200 Authority citation revised....60918
2200.0-2—200.0-9 (Subpart 2200) Revised....60918
2201.1—2201.9 (Subpart 2201) Revised....60920
2202.1 (b) revised; (c) and (d) added....60925
2203.1 Revised....60926
2203.2 (a) and (d) revised....60926
2203.3 Amended....60926
3160 Authority citation revised....58505
3164.1 (b) table amended....58505
3180 Authority citation revised....58632
3181.5 Added....58632
3183.4 (a) revised....58633
3185.1 Revised....58633
3186.1 Amended....58633

Public Land Orders

Page
2301 Revoked in part by PLO 7008....58969
2460 Revoked in part by PLO 6998....52238
4522 Revoked in part by PLO 7002....52684
6997 Corrected....58593
6998....52238
6999....52238
7000....52682
7001 Corrected....59098
7001....52683
7002....52684
7003....53428
7004....53429
Technical correction....58902
7005....54049
7006....57566
7007....58968
7008....58969
7009....62041
7010....62042
7011....61843

Title 43—*Proposed Rules:*

426....59427
4700....51297

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

59 Authority citation revised....62424
59.1 Amended....62424
61 Authority citation revised....62424
61.3 Amended....62424
61.4 (a) designation and (b) through (e) removed; (1) through (4) redesignated as (a) through (d)....62424
61.5 (d)(1), (2), (e) through (h) and (j) removed; (d)(3) and (i) redesignated as (d) and (e); (a) and new (d) amended....62424
61.6 (c) added....62424
61.13 (a) and (d) amended....62424
61 Appendix A (1) revised....62424
Appendix A (2) revised....62432
Appendix A (3) added....62439

Page
62 Authority citation revised....62447
62.3 (b) revised; (d) removed....62447
64.6 Table amended...51577, 52019, 58654, 58656, 58970
206.266 (a) revised....55022

Title 44—*Proposed Rules:*

67....51598

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services, General Administration (Parts 1—199)

96 Authority citation revised....60128
96.1 (f) revised....60128
96.17 Revised....60128
96.74 Added....60129
96 Appendixes A and B added....60129

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

233 Authority citation revised....60135
233.20 (a)(2)(vi) revised; (a)(2)(vii) removed....60135

Chapter VI—National Science Foundation (Parts 600—699)

670.50—670.72 (Subpart K) Regulation at 58 FR 34718 correctly redesignated as Part 672; effective date corrected to 8-15-93....54522
671 Regulation at 58 FR 34719 effective date corrected to 8-15-93....54522
672 Regulation at 58 FR 34718 correctly redesignated from 670.50—670.72 (Subpart K); effective date corrected to 8-15-93....54522

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1602 Authority citation revised....52919
1602.2 Revised....52919
1602.4 Revised....52919
1602.5 Revised....52920
1602.6 Added....52920
1602.7 Revised....52920
1602.8 (a), (b)(3), (4), (5), (c) introductory text and (d) revised....52920
1602.9 (a)(2) and (6)(iv) revised....52921
1602.10 Revised....52921
1602.12 Revised....52921
1602.13 Revised....52921

Chapter XXIII—Arctic Research Commission (Part 2301)

Chapter XXIII Established....57698
2301.170 (c) revised....57699

Chapter XXIV—James Madison Memorial Fellowship Foundation (Parts 2400—2499)

2490 Added....57699
2490.170 (c) revised....57699

Chapter XXV—Commission on National and Community Service (Parts 2500—2506)

Chapter XXV Heading revised; interim....60981
2550 Added; interim....60981

Title 45—*Proposed Rules:*

96....60498
302....62599
303....62599
304....62599

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.03-15 (h)(1) revised....60265
1.03-45 Added....60265
30 Authority citation revised....52602
30.01-5 (e)(2) revised....52602
31 Authority citation revised....52602
31.10-21a Added....52602
32 Authority citation revised....52602
32.59 Added....52602
67 Revised....60266
69 Policy statement....57747
Technical correction....60731
160 Technical correction....51576

TITLE 46

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

Page

232 Authority citation revised.....62043
232.1 (b) revised.....62043
232.2 (c) removed; (d), (e) and (f) redesignated as (c), (d) and (e); (a), (b) and new (d) amended; new (c) and new (e) revised.....62043
232.3 (a) amended.....62044
232.4 (b)(A)(*10*) and (*11*) redesignated as (b)(A)(*11*) and (*10*); (b)(A)(*2*)(i), (*8*)(i), (iv), new (*11*), (B)(*1*)(ii) and (h)(A)(*8*)(i) amended; (b)(A)(*3*)(ii), (*4*)(ii), (*5*) heading, (*8*)(ii), new (*10*) heading, new (*11*) heading and (*12*) heading revised.....62044
232.5 (b)(E)(*1*)(ii) and (iii) amended; (b)(E)(*11*)(i) revised.....62044

Chapter IV—Federal Maritime Commission (Parts 500—599)

502 Authority citation revised.....58976
502.27 (c) amended.....58976
502.67 (a)(3)(d) and (e)(1) introductory text revised.....58976
502.155 Revised.....58976

Title 46—*Proposed Rules:*

10.....51408
12.....51408
67.....51298
160.....59428
514.....62077
571.....62616
572.....62616
580.....62077
581.....62077
585.....52248

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

Chapter I Waivers.....63086
0.408 (b) table amended (OMB numbers).....55023
1.49 (a) amended.....63087

Page

1.773 (a)(4) and (b)(3) revised.....51247
2.106 Table amended.....59176
Footnotes 747—750 removed; Footnotes 735A, 740A, 746A, 746B, 746C, 747A, 750A and US331 added; Footnote NG 153 revised.....59179
15.31 (a)(6)(iii) note added.....51249
15.107 (d) redesignated as (f); new (d) and (e) added.....51249
15.109 (e) amended; (g) added.....51249
15.207 (b) and (c) redesignated as (c) and (d); new (b) added.....51249
15.301—15.323 (Subpart D) Added.....59180
22.911 (b) revised.....59183
43.43 (c) revised.....58790
64 Memorandum opinion and order.....53663
64.1301 (b) revised; (f) added.....57750
64.1510 Regulation at 58 FR 44774 eff. date delayed to 1-1-94.....62044
73.202 (b) table amended...51250, 51578, 51579, 51787, 51788, 53665, 53666, 54523, 58506, 58507, 58790, 59374, 59375, 62289, 62555
73.520 Redesignated as 73.672.....51250
73.606 (b) table amended.....51578
73.614 (b)(1) amended.....51250
73.660 (a) revised.....62555
73.661 (a) revised; (b) amended (OMB number pending).....62555
73.663 Redesignated as 73.664; new 73.663 added.....62555
73.664 Redesignated from 73.663.....62555
73.672 Redesignated from 73.520.....51250
73.682 Schedule I removed.....51250
73.1635 (a)(4) amended.....51250
73.3522 (a)(6) amended.....51250
73.3545 Amended.....51250
73.3555 (a)(1)(ii) and note amended.....51250
73.3564 (a)(2) amended.....51250
73.3580 (a)(6) amended.....51251
73.3594 (a)(2) amended.....51251
73 Index amended.....51250
74.602 (e) amended.....51251
74.637 Table amended.....51251
76 Authority citation revised.....60395
76.62 (a) stayed.....53429

Page

76.64 (e) stayed.....53429
76.503 Added (effective date pending).....60141
76.504 Added.....60141
76.922 (b)(1)(i) and (ii) introductory text revised.....63091
76.1090 (a) revised; (c) added.....60143
76.1300—76.1302 (Subpart Q) Added.....60395
80 Waiver.....58790
87.187 (l)(1)(bb) and (cc) correctly designated.....52021
90.159 (b)(1) revised.....62291
90.173 (k) revised.....51252
Regulation at 58 FR 51252 effective date corrected to 11-1-93.....53245
90.175 (c) revised.....62291
90.494 Revised.....62291
90.495 Added.....62292
90.496 Added.....62293
90.615 (b)(2)(ii) correctly revised.....61844
90.621 (b) introductory text, (1), (2) introductory text, (4) and (6) revised; (b)(3) amended; (b)(7) added; (c) and (d) removed; (e), (f), (g), (i), and (j) redesignated as (c), (d), (e), (f), (g), and (h).....53431
(h) correctly redesignated as (i).....58729, 59298
97.21 Revised.....53138
99 Revised.....59183

Title 47—*Proposed Rules:*

1.....53489, 57578, 60827
15.....51299, 59977
22.....53169
25.....53169
32.....62080
36.....52254
43.....62083
64.....62080
73...51603, 51799, 52733, 52734, 52735, 53902, 58533, 58671, 58672, 58833, 58834, 59431, 61671, 62318, 62319, 62320, 63152, 63153
74.....52256
76.....53696, 62085, 62320
80.....53169
87.....53169
90.....51299, 53169, 59977
95.....53169

Page

97.....59701
99.....53169

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 2—Department of Defense (Parts 200—299)

232.501-1 (a)(i) revised; interim.....62046
232.502-1-71 Table 32-1 revised; interim.....62046
252.232-7004 Amended; interim.....62046

Chapter 5—General Services Administration (Parts 500—599)

501.105 Amended.....52443
501.603-3 Revised.....58284
501.603-4 Revised.....58284
501.603-70 (c) and (f) introductory text amended; (d)(1), (2), (4), (h)(1)(i), (4), (i)(1), (2) and (3) revised.....58284
501.670 Removed.....52443
501.670-1 Removed.....52443
501.670-2 Removed.....52443
501.670-3 Removed.....52443
501.670-4 Removed.....52443
501.670-5 Removed.....52443
501.670-6 Removed.....52443
501.704-70 (b)(2) removed.....52443
503.104-8 Revised.....52443
507.305 Removed.....52443
508.307-1 Revised.....52443
508.705-72 Removed.....52443
509.106-1 Removed.....52443
509.405 Removed.....52443
511.001 Removed.....52443
514.201-72 Removed.....52443
514.208 Removed.....52443
514.402-1 (i) revised.....52443
514.404-1 (b) revised.....52443
514.407-2 Removed.....52443
515.170 Removed.....52443
515.402 Revised.....52443
515.403 Removed.....52443
515.405-1 Revised.....52443
515.414-70 (a) revised.....52443
515.506-1 Removed.....52443
519.705-5 (d) revised.....52444
519.705-6 (a) revised; (c) removed.....52444

TITLE 48 Chapter 5—Con. Page

519.770-1 (b)(2)(i) revised 52444
519.770-3 (a) revised 52444
522.407 Removed 52444
525.10 Removed 52444
528.102-3 Removed 52444
528.106-70 Removed 52444
528.202 Revised 52444
529.401-70 Revised 52444
529.401-71 Removed 52444
532.803 Removed 52444
536.201 Revised 52445
536.203 Revised 52445
536.206 Removed 52445
536.303 Removed 52445
536.303-70 Revised 52445
536.303-71 (g) removed 52445
536.303-72 (c) removed; (d) redesignated as (c) 52445
538.203-71 (c) added 54524
542.302 (c) removed; (d) redesignated as (c) 52445
543.202 Revised 52445
552.207-70 Removed 52445
552.222-82 Removed 52445
552.228-70 Introductory text revised 52446
552.238-74 Added 54524
570.208-1 (c) removed 52446

Chapter 7—Agency for International Development (Parts 700—799)

752.7029 Amended 58596
752.7033 Amended; (b)(1) revised 58596
Chapter 7 Appendix D revised 58596
Appendix J revised 58611

Chapter 8—Department of Veterans Affairs (Parts 800—899)

836.513 Corrected 58730
852 Technical correction 58730

Chapter 9—Department of Energy (Parts 900—999)

904.7100—904.7103 (Subpart 904.71) Added; interim 59684
925.702 (Subpart 925.7) Added; interim 59684
952.204-73 Amended; interim 59684
970.0404-4 (d) added; interim 59684
970.3102-20 Revised 61628
970.3103 (c) added 61628
970.5204-13 (e)(33) revised 61628
970.5204-14 (e)(31) revised 61628
970.5204-61 Added 61628

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1805.207 (c) added 59188
1807.103 (a)(1) and (b) revised; interim 61629
1807.170-1 (a) revised; interim 58792
(b)(11) amended; (d)(1)(i) revised; interim 61630
1807.170-4 Added; interim 61630
1807.7102 (a) amended; interim 61630
1807.7103-1 (b) amended; interim 61630
1807.7103-2 (a) amended; interim 61630
1807.7105 Removed; new 1807.7105 redesignated from 1807.7106 and revised; interim 61630
1807.7106 Redesignated as 1807.7105; new 1807.7106 redesignated from 1807.7107; interim 61630
1807.7107 Redesignated as 1807.7106; interim 61630
1815.406 (c) and (d) added; interim 61630
1815.407-70 (j) and (k) added; interim 61631
1815.611 Added 54299
1815.613-71 (b)(5)(i) revised; (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7) 54299
(b)(4) revised; interim 61631
1815.613-72 Heading revised; text redesignated as (a); (b) added; interim 61631
1816.404 Revised 52446
1816.405 Revised 52449
1828.371 Revised; interim 54050
1828.373 Removed; interim 54051
1833.211 Regulation at 58 FR 44462 confirmed 53138
1833.211-70 Regulation at 58 FR 44462 confirmed 53138
1834 Revised; interim 58792
1839.7003-4 (a)(6) added 59189
1839.7008 Added 59189
1852.215-70 Amended; interim 61631
1852.215-81 Added; interim 61631

Page

1852.215-82 Added; interim 61632
1852.215-83 Added; interim 61632
1852.216-76 Revised 52449
1852.216-77 Added 52449
1852.216-83 Amended 52450
1852.216-84 Amended 52450
1852.216-85 Revised 52450
1852.216-88 Added 52450
1852.228-72 Revised; interim 54051
1852.228-76 Revised; interim 54052
1852.228-78 Added; interim 54051
1852.234-70 Added; interim 58794
1852.234-71 Added; interim 58794
1852.239-70 Added 59189
Corrected 62556
1870.303 Appendix I amended 54300
Appendix I amended; interim 61632, 61633, 61634
1870.501—1870.503 (Subpart 1870.5) Added; interim 58795
1871 Added; effective in part to 6-30-97 54300
1871.102 (b) added (effective date pending) 54301

Chapter 99—Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

9903.201-1 (b) introductory text and (15) revised 58801
9903.201-2 (a)(1), (2), (b)(1), (2) and (d) revised; (a)(3) removed 58801
9903.201-3 Amended 58802
Corrected 61844
9903.201-4 (c)(1) revised 58802
9903.202-1 (b)(1), (2) and (c) revised 58802
9903.301 Amended 58802

Title 48—*Proposed Rules:*

13 59616
14 59618
15 59618
52 59618
209 ..... 58315, 58316, 60244
217 58317
235 58673
242 ..... 58315, 58317, 60244
252 ..... 58316, 60244
837 54548
852 54548
9904 58999

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

37 Nomenclature change 63101
37.3 Amended 63101
37.7 (b) revised 63101
37.9 (d) revised 63102
37.47 (c)(1) revised 63102
37.51 (c)(1) revised 63102
37.87 (d) redesignated as (e); new (d) added 63102
37.165 (g) revised 63103
37.167 (j) added 63103
38 Authority citation revised 63103
38.113 Amended 63103
38.125 (d)(2) revised 63103

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107 Authority citation revised 51527
Clarification 53626
107.117 (a) amended 51257
107.101—107.123 (Subpart B) Appendix B amended 51257
107.202 (d) amended 51257
107.315 (c) and (d) amended 51257
107.327 (a)(1)(iii) amended 51527
107.606 (d) amended 51527
171 Authority citation revised 51527
Clarification 53626
171.6 (b)(2) table amended 51527
171.8 Amended 51528
171.9 (b)(4) amended 51528
171.15 Authority citation removed 51528
172 Authority citation revised 51528
172.101 Table amended 51528, 51529
Appendixes A and B amended 51531
172.102 (c)(1), (3) and (5) amended 51531
172.202 (a)(2) amended 51531
172.203 (k) introductory text, (3), (4)(iii) and (iv) amended 51531
172.400a (a)(6) amended 51531
172.406 (a)(2) and (e)(1) amended 51531

TITLE 49 Chapter I—Con. Page

172.525 (b) amended....51531
172.526 (b) amended....51531
172.556 (b) amended....51531
173 Authority citation revised....51531
Clarification....53626
173.2 Table amended....51531
173.3 (c) introductory text amended....51531
173.4 (a) introductory text, (2) introductory text and (11) amended....51531
173.7 (a) introductory text amended....51532
173.10 (d) and (e) amended....51532
173.21 (b) and (j) amended....51532
173.22 (a)(3)(i) amended....51532
173.24a (b)(4)(i) amended....51532
173.25 (a) introductory text amended....51532
173.31 (c)(9) amended....51532
173.34 (e)(16) introductory text and (v) amended....51532
173.56 (b)(2) introductory text and (i) amended....51532
173.57 (a) introductory text amended....51532
173.62 (b) amended....51532
173.115 (a) introductory text and (2) amended....51532
173.124 (b)(2) amended....51532
173.127 (a) amended....51532
173.128 (a) introductory text amended....51532
173.132 (b)(1) amended....51532
173.133 (b)(1)(ii) amended....51532
173.136 (a) introductory text amended....51532
173.151 (b)(2) amended....51532
173.159 (g)(1) amended....51532
173.225 (b) table amended....51532
173.247 (g)(1)(ii) and (iii)(B) amended....51532
173.301 (g)(5) amended....51532
173.304 (d)(3)(i) amended....51532
173.306 (i) introductory text amended....51532
173.315 (a) table amended....51532
173.318 (b)(3)(ii) amended....51532
173.323 (f) amended....51532
173.417 (b)(2)(ii) Table 5 amended....51533
173.433 (b)(4) amended....51533
173 Appendixes B, D and E amended....51533
174 Authority citation revised....51533
174.1 Amended....51533
174.25 (a)(2)(ii) amended....51533
174.55 (c) amended....51533
174.82 (a) amended....51533
174.290 Heading amended....51533
174.430 Amended....51533
174.700 (c) table amended....51533
175 Authority citation revised....51533
175.320 (a) table and (c) introductory text amended....51533
176 Authority citation revised....51533
176.5 (b) introductory text amended....51533
176.83 (f)(4) amended....51533
176.100 Amended....51533
176.118 (b) amended....51533
176.410 (c)(2) amended....51533
177 Authority citation revised....51533
177.825 Revised....51533
177.834 (j) amended....51533
177.838 (g) amended....51533
177.857 (d) amended....51533
177.858 (b)(1) amended....51533
178 Authority citation revised....51533
Clarification....53626
178.39-9 (a) amended....51533
178.39-14 (b) amended....51534
178.46-12 (e) redesignated as (c)....51534
178.53-9 (b) amended....51534
178.55-20 (a) introductory text amended....51534
178.56-3 Amended....51534
178.56-11 (a) amended....51534
178.60-24 (a) amended....51534
178.61-8 (c)(2) amended....51534
178.61-20 (b) amended....51534
178.270-5 (d) amended....51534
178.270-11 (d)(1) amended....51534
178.337-1 (f) amended....51534
178.337-16 (b)(2) amended....51534
178.338-10 (c) amended....51534
178.338-19 (c) amended....51534
178.345-14 (b)(11) amended....51534
178.352-2 (a) amended....51534
178.352-6 (a)(2) amended....51534
178.362-2 (e)(5) amended....51534
178.516 (b)(3)(i) introductory text amended....51534
178.518 (a)(2) amended....51534
178.600 Amended....51534
178.603 (a) table amended....51534
178.605 (d)(1) amended....51534
179 Authority citation revised....51534
Amended....51534

Page

179.101-1 (a) table amended....51534
179.105-4 (a) introductory text amended....51534
179.203-1 (a) amended....51534
180 Authority citation revised....51534
Clarification....53626
180.405 (f)(2) introductory text amended....51534
180.407 (f)(1)(i)(C) amended....51534
192.723 (b)(1) amended....54528
(b)(2) revised....54529

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

Chapter III Interpretations....60734
390.5 Amended....59196
391.43 Amended; (e) introductory text and (g) revised....59196

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

531.5 (b)(2) revised....62295
555 Authority citation revised....58104
555.9 (c)(1) revised....58104
571.108 Amended....52026
571.111 Regulation at 57 FR 57000 confirmed....53666
Amended....60402
571.208 Amended; eff. 9-1-95....52926
Figure 5 added; eff. 9-1-95....52927
Amended; eff. 9-1-97....59191, 59193
571.301 Amended....51788

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

604.9 (b)(8)(iv) revised....52685
613 Authority citation added; subpart authority citations removed....58079
613.100 (Subpart A) Revised....58079
613.200 (Subpart B) Revised....58079
665 Authority citation revised....58733
665.3 (d) revised; interim....58733
665.5 Amended; interim....58734

Chapter X—Interstate Commerce Commission (Parts 1000—1399)

1002 Regulation at 58 FR 7748 eff. 10-1-93....52027

Page

1017 Regulation at 58 FR 7748 eff. 10-1-93....52027
1018 Regulation at 58 FR 7748 eff. 10-1-93....52027
1033 Revised....60144
1035 Revised....60797
1039.11 (a) table revised....53434
1145.9 Existing text redesignated as (a); (a) heading and (b) added....53667
1180.0 Amended....63104
1180.2 (b) revised....63104
1180.4 (b)(1)(iv) revised....63104
1180.6 (b) introductory text revised; (c) added....63104
1180.9 Introductory text revised....63104
1312 Regulation at 58 FR 7748 eff. 10-1-93....52027
1313 Regulation at 58 FR 7748 eff. 10-1-93....52027
1314 Regulation at 58 FR 7748 eff. 10-1-93....52027

Title 49—*Proposed Rules:*

23....52050, 63153
27....63154
37....52735
172....52574, 59224
173....52574
174....59224
175....59224
176....59224
177....59224
179....52574
192....59431
390....51800
500—599 (Ch. V)....60828
552....57579, 60419
554....60419
571....54099, 57975, 59226
572....54099
573....60419
575....59226
576....60419
577....60419
583....61042, 62415
821....54102
1039....54317, 54318, 54320, 54321, 54323
1063....51603, 57978
1105....51800, 60164
1121....51800, 60164
1152....51800, 60164

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

Page
15 Revised....60536
16 Authority citation revised....58979
16.13 Revised....58979
17.11 (h) table amended...53804, 53807, 54065
17.12 (h) table amended....52030, 62049
17.84 (c)(1), (4), (5)(iii), (6), (9), (10) and (11) correctly revised; (c)(5)(iv) correctly added; CFR correction....52031
18.121—18.129 (Subpart J) Added; eff. 12-16-93 through 6-16-95....60410
100.25 (b)(2)(i) introductory text, (iv) introductory text and (f) revised; (m)(1) table amended....61811

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

204.1 (b) table amended (OMB numbers)....59401
215 Harvest quotas....58297
216.15 (f) added....58297
217.12 Amended....54067
227.12 (a)(3) Table 1 amended....53139
(a)(3) illustration revised....53141
(a)(3) corrected....58594
227.72 (e)(4)(ii) and (iii) redesignated as (e)(4)(iii) and (iv); new (e)(4)(iv) introductory text revised; new (e)(4)(ii) added....54067
(e)(5) heading and (i) revised....54068
227 Figures 10 and 11 added....54069
229 Regulation at 55 FR 21921 effective date extended to 4-1-94....51789
229.1 (b) amended....51789
285 Harvest quotas....53434
Temporary regulations...53668, 63104

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

Page
301 Temporary regulations....51253
371 Inseason adjustments....54307

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

605.24 Comment period extended to 11-26-93; interim....57968
625 Harvest quotas...59196, 61844, 62050
625.20 Regulation at 58 FR 27215 and 39680 terminated; regulation at 58 FR 49940 corrected....52685
Regulation at 58 FR 45076 eff. date extended through 12-31-93....62556
630.24 Regulation at 58 FR 33569 confirmed....58509
640.7 (n) amended....61845
642 Temporary regulations....51579
642.7 (u) added....58511
642.25 (a)(1)(i) suspended; (a)(1)(iii) added; interim; eff. through 1-3-94....51791
642.31 Added....58511
651 Technical correction....55116
652 Temporary regulations....59197
659 Added....57751
661 Inseason adjustments....53143
Fishery management measures....59197
663 Restrictions....52031
669 Heading revised....53146
669.1 Revised....53146
669.2 Amended....53146
669.4 Amended....53148
669.6 (a), (e)(1) introductory text, (2) and (3) amended....53148
669.7 Revised....53147
669.20—669.25 (Subpart B) Revised....53147
672 Inseason adjustments....51791
Temporary regulations...52032, 53668, 60801
Prohibition of retention....53148
672.3 Revised....59401

Page
672.20 (i) introductory text and (1) through (5) redesignated as (i)(1) through (6); new (i)(1) and (2) revised; (i)(7) added....57753
672.24 (e)(1) table and (2) table amended....53142
675 Temporary regulations...51253, 52033, 52451, 53148, 54529, 58297, 58802, 60145
Regulation at 58 FR 50857 eff. date corrected....58593
Prohibition of retention....59413
Fishery management measures....61031
675.3 Revised....59402
675.20 (j) introductory text and (1) through (5) redesignated as (j)(1) through (6); new (j)(1), (2) and (5) revised; (j)(7) added....57753
(a)(3) introductory text revised; eff. 1-1-95....59402
675.24 (f)(1)(i), (ii), (2)(i) and (ii) tables amended....53142
676 Added; eff. in part 1-1-95....59402

Title 50—*Proposed Rules:*

14....59978

Page
17...51302, 51604, 52058, 52059, 52063, 52740, 53696, 53702, 53904, 54549, 55036, 58534, 59979, 62086, 62623, 62624, 62629
32....53703
215....53320, 58680
216....53320, 58680, 59077, 60829
222....53320, 53703, 58680
227....53703, 57770, 58318, 59230
228....53491
285....59088
611....60575, 60584
622....53172
625....53172
628....53172
630....59088
641...52063, 52073, 52474, 55116, 57771, 59230
642....54108
646....53183
649....53172
650....53172
651....52073, 53172, 57774, 59232, 61671
652....53172, 58681
655....53172
661....57978
672....57979, 59980, 60575
675....53497, 57803, 57979, 59980, 60584
678....59088

Additions to Table I, November 1993

This table lists the sections of the U.S. Code, U.S. Statutes at Large, Public Laws, and Presidential documents which are being added to Table I as a result of authority citations carried in the **Federal Register** during January through November 1993. Recent legislation is carried by public law number.

Table I is in the CFR Index and Finding Aids revised as of January 1, 1993. Additions during 1992 are in the December 1992 LSA (List of CFR Sections Affected).

In order to determine the **Federal Register** page number of a parallel CFR citation, consult this LSA and the appropriate Annual Issue of the LSA for that CFR title.

U.S. Code:	CFR
2 U.S.C.	
179	36 Part 704
437f	11 Part 201
3 U.S.C.	
301	31 Parts 550, 580, 585
5 U.S.C.	
301	25 Part 11
	38 Part 0
533	29 Part 1910
551—557	18 Part 36
552	12 Part 904
	21 Part 291
	25 Parts 515, 517
	45 Part 1602
	48 Part 435
552a	12 Part 909
	29 Part 102
552b	12 Part 906
553	49 Parts 1018, 1023
556	46 Part 502
561—569	46 Part 502
571 note	29 Part 18
571—596	46 Part 502
653	29 Part 1926
1101 note	5 Part 250
1103	5 Part 179
1302	5 Part 250
1422b	12 Part 904
3301—3302	5 Part 250
3329	5 Part 335
5514	5 Part 179
	17 Part 204
	22 Part 309
	45 Part 708
6387	5 Part 630
7301	5 Parts 3202, 4301, 5001, 5101, 5601, 5701
	12 Part 336
	16 Part 5
	22 Part 705
	32 Part 40
7351	5 Part 3601
	18 Part 3c
5 U.S.C.—Con.	CFR
7353	5 Parts 3c, 3601, 5101
	18 Part 3c
8337	5 Part 837
8339	5 Part 831
8343a	5 Part 831
8344	5 Part 837
8345	5 Part 831
8347	5 Part 837
8433	5 Part 1650
8455	5 Part 837
8456	5 Part 837
8461	5 Part 837
8468	5 Part 837
8709	48 Parts 2105, 2106, 2114, 2116, 2122
8716	48 Parts 2101—2103, 2109, 2110, 2115, 2116, 2124, 2128, 2129, 2131—2133, 2137, 2143, 2144, 2146, 2149, 2152
8433	5 Part 1650
5 U.S.C. Appendix	
App	1 Part 303
	5 Parts 3202, 3601, 4301, 5701, 5001, 5101, 5601
	16 Part 5
	18 Part 3c
7 U.S.C.	
2	17 Part 35
4a	5 Part 5101
6	17 Parts 3, 35
6a	17 Part 3
6b	17 Parts 3, 156
6c	17 Part 35
6g—6i	17 Part 3
6j	17 Part 156
6l	17 Part 3
6o	17 Part 3
6p	17 Part 1
7a	17 Part 156
12	17 Part 3
12a	17 Parts 35, 156
13	17 Part 140
135 et seq	40 Part 9

7 U.S.C.—Con.	CFR
136	7 Part 319
	9 Parts 92, 94
136a	7 Part 110
	9 Parts 92, 94
136i-1	7 Part 110
138	7 Parts 99, 100
150ee	9 Part 94
450	7 Parts 110, 319
	7 Part 319
511m	7 Part 92
511r	7 Part 92
901 et seq	7 Parts 1767, 1786, 1792
950 et seq	7 Part 1703
1314b	7 Part 723
1314b-1	7 Part 723
1444f-1	7 Part 1421
1445	7 Part 723
1621—1627	7 Parts 94, 95
1622	7 Parts 90, 91, 93, 96, 98—101
1624	7 Parts 90, 91, 93, 96, 98—101, 110
1989	7 Part 4284
2032	7 Parts 271—282, 284, 285
2158	9 Parts 1, 2
2159	9 Parts 1, 2
2321	7 Part 97
2326	7 Part 97
2352	7 Part 97
2353	7 Part 97
2356	7 Part 97
2371	7 Part 97
2402b	7 Part 97
2403	7 Part 97
2426	7 Part 97
2427	7 Part 97
2501	7 Part 97
5622 note	7 Part 1493
6401—6417	7 Part 1160
8 U.S.C.	
1153 note	22 Part 41
1187	8 Part 214
	22 Part 41
10 U.S.C.	
113	32 Parts 341, 356, 357, 358—361, 371
131 et seq	32 Parts 377, 385, 387
131	32 Parts 364, 387
133	32 Parts 370, 393
134	32 Part 354
134a	32 Part 355
136	32 Parts 356—360
191—193	32 Parts 371, 398, 399
301	32 Parts 342, 386
1124	19 Part 133
7420	15 Part 789
7430	15 Parts 789, 799
12 U.S.C.	
1 et seq	12 Part 1
265	31 Part 203
12 U.S.C.—Con.	CFR
391	31 Part 203
814	12 Part 208
1124	19 Part 133
1141j	46 Part 502
1422b	12 Part 902
1424	12 Part 933
1426	12 Part 935
1429	12 Part 935
1430	12 Part 933
1430b	12 Part 935
1431	12 Part 935
1438	12 Part 902
1441	12 Part 1626
1441a	12 Parts 1625, 1627
1442	12 Part 933
1462	12 Parts 558, 575
1462a	12 Part 575
1463	12 Part 575
1464	12 Part 563
1467a	12 Parts 558, 575
1715	24 Parts 207, 291
1715u	24 Part 203
1786	12 Part 710
1787	12 Part 710
1798	12 Part 701
1818	12 Parts 208, 211, 325, 330, 1625
1819	5 Part 3202
	12 Parts 330, 336
1820	12 Part 330
1821	12 Parts 360, 1625, 1627
1823	12 Part 1625
1828	12 Part 575
1831e	12 Part 303
1831i	12 Part 574
1831m	12 Part 363
1831o	12 Parts 208, 303
1833	12 Parts 517, 902
1833e	12 Part 902
1919	12 Part 325
2250	12 Part 607
2252	12 Part 607
2279aa	12 Part 615
2279aa-4	12 Part 615
2279aa-6	12 Part 615
2279aa-7	12 Part 615
2279aa-8	12 Part 615
2279aa-10	12 Part 615
2279aa-12	12 Part 615
2810 et seq	12 Part 528
3025	12 Part 607
3701—3716	24 Part 27
4311	12 Parts 707, 740
14 U.S.C.	
633	46 Parts 10, 12
15 U.S.C.	
46	5 Part 5701
57a	48 Part 435

15 U.S.C.—Con.	CFR
77f—77h	17 Part 232
77h	17 Part 201
77j	17 Part 232
77s	17 Part 232
77lll	17 Part 229
77sss	17 Part 232
77ttt	17 Part 201
78	17 Part 210
78c	17 Parts 229, 232
78l	17 Part 229
78j	17 Part 229
78l—78o	12 Part 232
78m	17 Part 210
78w	17 Part 232
78ll	17 Parts 200, 210, 228, 229, 232, 269 21 Part 201
79	18 Parts 141, 365
79j	17 Part 210
79t	17 Part 232
80a-8	17 Part 232
80a-23	17 Part 270
80a-29	17 Part 232
80a-30	17 Part 232
80a-37	17 Part 232
80a-37a	17 Part 210
205b	48 Part 3410
631—650	14 Part 1204
687b	13 Part 107
687c	13 Part 107
687m	13 Part 107
717—717w	18 Part 385
717g	18 Part 3c
781l	17 Part 201
1096	19 Part 133
1392	49 Part 564
1401	49 Part 564
1403	49 Part 564
1407	49 Part 564
2001	40 Part 9
2002	49 Part 523
2003	40 Part 9
2005	40 Part 9
2056	16 Part 1210
2058	16 Part 1210
2079	16 Parts 1210, 1500
2601—2671	40 Part 9
3717	12 Part 701
5701 et seq	16 Part 308
16 U.S.C.	
251—255	43 Part 3820
447	43 Part 3820
450z	43 Part 3820
472	36 Part 215
551	36 Part 215
742a—d	50 Part 20
742e—j	50 Part 20
773 et seq	50 Part 676
791a—825r	18 Parts 2, 36, 385

16 U.S.C.—Con.	CFR
792—825r	18 Part 2
792—825y	18 Part 2
825	18 Part 3c
1005	7 Part 4284
1431 et seq	15 Parts 922, 940
1612 note	36 Part 215
1801 et seq	50 Parts 659, 671, 678 50 Part 676
2401 et seq	45 Part 672
2405	45 Part 671
2601—2605	18 Part 385
2601—2645	18 Part 385
3124	43 Part 2090
3837—3837f	7 Part 623
4301—4309	43 Part 37
4711	33 Part 151
17 U.S.C.	
803	37 Part 311
1007	37 Part 311
18 U.S.C.	
208	34 Part 73
1791	28 Part 540
2510 et seq	15 Part 789
3559	10 Part 860
3571	10 Part 860
4001—4002	28 Part 26
19 U.S.C.	
58	19 Part 101
58c	19 Part 111
66	19 Part 118
1498	19 Part 148
1499	19 Part 118
1526	19 Part 133
1558	19 Part 133
1623—1624	19 Part 118
1623	19 Part 133
3203	7 Part 1540
20 U.S.C.	
241	32 Part 80
241 note	32 Part 80
1001 et seq	34 Part 610
1029	34 Part 779
1065	34 Part 628
1066	34 Part 608
1069d	34 Part 608
1069f	34 Part 608
1070a-1	34 Part 643
1070a-11	34 Parts 642, 645, 646
1070a-12	34 Part 643
1070a-13	34 Part 645
1070a-14	34 Part 646
1070a-17	34 Part 642
1082	34 Part 600
1087a et seq	34 Part 685
1104—1104k	34 Part 653
1121—1130b	34 Part 655
1132d—1132d-3	34 Part 614
1132g—1132g-3	34 Part 614

20 U.S.C.—Con.	CFR
1133—1133c	34 Part 631
1133—1133b	34 Part 632
1133c	34 Parts 633—635
1134	34 Part 650
1134k-1	34 Part 650
1135—1135a-2	34 Part 630
1135a—11	34 Part 630
1136—1136h	34 Part 636
1137—1137a	34 Part 630
1145h	34 Part 698
1400 et seq	32 Part 80
1681	29 Part 34
3202—3203	34 Parts 231, 238
3214	34 Part 230
9615	40 Part 2
21 U.S.C.	
114a	9 Parts 92, 130
136	9 Parts 92, 96
136a	9 Parts 92, 96 27 Part 319
263c—263n	21 Part 10
321	21 Parts 206, 310, 347
331	21 Part 206
331j	21 Part 206 40 Part 9
337	21 Part 100
341	21 Part 177
342	21 Part 172
346a	40 Part 9
348	40 Part 9
351	21 Parts 347, 351
352	21 Parts 206, 347, 804
353	21 Parts 310, 347
355	21 Parts 206, 347
356	21 Part 310
357	21 Parts 206, 443
360	21 Parts 347, 804
360c—360f	21 Part 310
360i	21 Part 804
360j	21 Part 804
360l	21 Part 878
371	21 Parts 172, 177, 206, 347, 804
374	21 Parts 314, 804
379	21 Part 176
379e	21 Parts 172, 175, 177, 178, 201, 310, 510, 514
394	21 Part 10
853a	46 Part 502
1031—1056	7 Part 94
22 U.S.C.	
287c	31 Parts 550, 580, 585
612 note	28 Part 5
827c	31 Part 550
2503	22 Part 309
2752	22 Parts 120—128
2780	22 Part 128
2791	22 Parts 126—128
2797	22 Parts 120, 121, 124, 126, 128
3101 et seq	31 Part 128

22 U.S.C.—Con.	CFR
3201 et seq	15 Part 789
6001—6010	31 Part 515
23 U.S.C.	
106	23 Part 140
109	23 Part 140
118	23 Part 1260
120 note	49 Part 671
130	23 Part 140
141	23 Part 1260
153	23 Part 1215
154	23 Part 1260
217	23 Part 450 49 Part 613
315	49 Part 613
315	23 Part 1260
402	23 Part 1200
409	49 Part 9
25 U.S.C.	
2	25 Part 12
13	25 Parts 11, 12
81	25 Parts 531, 533, 535, 537, 539
461—479	43 Part 3820
2101 et seq	43 Part 3160
2705	25 Parts 573, 575
2706	25 Parts 501, 519, 522, 523, 524, 531, 533, 535, 537, 539, 556, 558, 571, 573, 575, 577
2710	25 Parts 501, 522, 523, 524, 531, 533, 535, 537, 539, 556, 558, 571
2711	25 Parts 531, 533, 535, 537, 539
2712	25 Parts 522, 523, 524, 556, 558
2713	25 Parts 573, 575, 577
2715	25 Parts 571, 573, 575, 577
2716	25 Part 571
26 U.S.C.	
267	26 Part 1
482	26 Part 1
1043	5 Part 3202
6065	26 Part 1
7805	26 Part 47
9007	11 Part 201
9008	11 Part 201
9009	11 Part 201
9038	11 Part 201
9039	11 Part 201
28 U.S.C.	
509—510	28 Parts 5, 26
2672	49 Part 1
29 U.S.C.	
653	29 Part 1928
762	34 Part 359
794	5 Part 1636 7 Part 15e 22 Part 1701 29 Part 34 45 Parts 2301, 2490
796	34 Part 1200
794e	34 Part 381

29 U.S.C.—Con.	CFR
797a	34 Part 377
1302	29 Part 2608
1341	29 Part 2623
1501	29 Part 34
1551	29 Part 34
1573—1579	29 Part 34
2654	29 Part 825
2672	49 Part 1
30 U.S.C.	
22 et seq.	43 Part 3820
28	43 Part 3850
181 et seq.	43 Part 3160
185	15 Part 789
621—625	43 Part 3730
1201 et seq.	30 Parts 718, 720
31 U.S.C.	
902	10 Part 170
3102 et seq.	31 Part 356
3701	49 Part 1018
3711 et seq.	49 Part 1018
3716	30 Parts 216, 218
3717	12 Part 701
3720A	15 Part 19
	22 Part 309
	30 Parts 216, 218
3809	12 Part 1626
5315	31 Part 128
5321	31 Part 128
6505	23 Part 635
9701	8 Parts 208, 209
	9 Part 92
	18 Part 36
	40 Part 9
	46 Parts 10, 12
33 U.S.C.	
1231	49 Part 194
1251 et seq.	40 Parts 9, 503
1311	40 Parts 9, 435
1313d	40 Part 9
1314	40 Parts 9, 435
1316—1318	40 Part 435
1321	30 Part 254
	33 Parts 20, 150
	40 Part 9
	49 Parts 106, 171, 172, 174, 194
1326	40 Part 9
1330	40 Part 9
1344	40 Part 9
1345	40 Parts 9, 503
1361	40 Parts 9, 435
2735	33 Parts 154, 155
35 U.S.C.	
156	9 Part 124
38 U.S.C.	
501	38 Parts 0, 47, 501
	48 Parts 801, 814, 833, 836
510	38 Part 14
3703	38 Part 44
4214	5 Part 307

38 U.S.C.—Con.	CFR
5901	38 Part 14
39 U.S.C.	
3603	39 Part 3000
3606	5 Part 5601
40 U.S.C.	
322	49 Part 1
486	41 Part 105-71
	48 Parts 2101—2106, 2109, 2110, 2114—2116, 2122, 2124, 2128, 2129, 2131—2133, 2137, 2143, 2144, 2146, 2149, 2152
41 U.S.C.	
421...48 Parts 201—217, 219, 222—237, 239, 241—253	
42 U.S.C.	
216	21 Part 310
241	21 Part 310
	40 Part 9
242	21 Part 310
242b	40 Part 9
243	40 Part 9
246	40 Part 9
262	21 Parts 206, 310
263b—263n	21 Part 310
285b-1	42 Part 52e
300e—300e-17	42 Part 417
300f	40 Part 9
300g	40 Part 9
300g-1—300g-6	40 Part 9
300j-1—300j-4	40 Part 9
300j-9	40 Part 9
300y-11	21 Part 291
300aa-1 note	21 Part 5
300aa-25	21 Part 5
300aa-27	21 Part 5
300aa-28	21 Part 5
612c note	7 Part 240
1320a-3	42 Part 485
1320b-5	42 Part 488
1395i-3	42 Part 488
1395i-4	42 Parts 412, 485
1395k	42 Part 488
1395aa	42 Part 488
1395bb	42 Part 401
1396	42 Part 433
1396r	42 Part 488
1437	24 Part 770
1437u	24 Parts 905, 962, 984
1441	24 Part 770
1473f	24 Parts 962, 984
1733	43 Part 3160
1751	7 Parts 240, 250
1857 et seq.	40 Part 9
1981	12 Part 701
2000d et seq.	29 Part 34
2111	10 Part 36
2112	10 Part 36
2139	10 Part 110

42 U.S.C.—Con.	CFR
2139a	15 Part 789
2151 et seq.	10 Part 110
2201	10 Parts 36, 766, 820
2214 note	10 Part 171
2232—2233	10 Parts 36, 50
2234	10 Part 50
2236	10 Parts 36, 50
2238	10 Part 50
2239	10 Part 50
2243	10 Part 110
2282	10 Parts 36, 820
2297g—2297g-1	10 Part 766
2473	48 Part 1871
2473b	14 Part 1204
3535...24 Parts 572, 582, 583, 770, 962, 984	
3537	24 Part 86
3601—3619	24 Parts 812, 912
3608	24 Part 770
3782	28 Part 23
3789g	28 Part 23
4332	43 Part 3820
4853	29 Part 1926
5301	24 Part 770
5841	10 Part 36
5842	10 Part 36
5846	10 Part 36
6101 et seq.	34 Part 110
6106	29 Part 34
6212	15 Part 789
6861 et seq.	10 Part 440
6901—6992k	40 Part 9
6912	40 Parts 258, 282
6991c	40 Part 282
6991d	40 Part 282
6991e	40 Part 282
7172 note	18 Parts 342, 343
7191	10 Part 820
7211—7218	18 Part 3c
7401—7601	40 Part 60
7401—7671q	40 Parts 6, 9, 81, 93
7401	40 Part 9
7410 et seq.	23 Part 450
	49 Part 613
7410	40 Parts 51, 88
7412	40 Part 9
7414	40 Part 9
7416	40 Part 9
7418	40 Part 88
7475	40 Part 51
7502	40 Part 51
7503	40 Part 51
7542	40 Part 9
7549	40 Part 86
7554	40 Part 85
7582—7584	40 Part 88
7588	40 Part 88
7601	40 Parts 9, 51, 78

42 U.S.C.—Con.	CFR
7620	40 Part 51
7651 et seq.	40 Parts 72, 75, 78
7651—7651o	18 Parts 101, 201
7651k	40 Part 75
7651k note	40 Part 75
7651j	40 Part 77
7671—7671q	40 Part 9
7701 et seq.	7 Part 1792
	49 Part 41
8101 et seq.	12 Part 932
9601—9617	40 Part 9
9601 et seq.	40 Parts 305, 307
9609	33 Part 20
9615	40 Part 2
9801 et seq...45 Parts 1304, 1305, 1308	
10226	10 Part 50
11023	40 Parts 9, 372
11048	40 Parts 9, 372
11389	24 Part 583
11403 note	24 Part 582
12101 et seq.	12 Part 517
12101—12213	49 Part 38
12891	24 Part 572
13041	32 Part 86
13524	48 Parts 925, 952
43 U.S.C.	
641	43 Part 2090
1354	15 Part 789
1624	43 Part 2090
1701 et seq.	43 Part 3730
1714	43 Part 2090
1716	43 Part 2200
1733	43 Part 3160
1740	43 Parts 37, 2090
6508	43 Part 3160
44 U.S.C.	
3501 et seq.	25 Part 503
45 U.S.C.	
41—42	49 Part 9
231	20 Part 229
12501 et seq.	45 Part 2550
46 U.S.C.	
466c	15 Part 789
2103	33 Part 164
	46 Parts 12, 30, 31, 32
2110	46 Part 12
3703 note	33 Part 164
3715	33 Part 155
8502	33 Part 164
12106	19 Part 4
	46 Part 15
46 U.S.C. App.	
817d—2817e	46 Part 502
845	46 Part 502
1721	46 Parts 580, 581, 583
2110	46 Part 67
47 U.S.C.	
151	47 Parts 61, 76

47 U.S.C.—Con.	CFR
152—154	47 Part 76
154	47 Part 99
201—205	47 Part 61
301	47 Part 76
302	47 Parts 76, 99
303	47 Parts 76, 99
332	47 Part 99
334	47 Part 73
403	47 Part 61
503	47 Part 1
531—533	47 Part 76
535	47 Part 76
536	47 Part 76
542	47 Part 76
543	47 Part 76
548	47 Part 76
552	47 Part 76
554	47 Parts 21, 25, 74, 76, 100
901 et seq	47 Part 300
49 U.S.C.	
1—27	18 Part 36
322	49 Parts 9, 41
504	49 Part 9
1522	14 Part 129
1601 et seq	49 Part 665
1623	19 Part 122
10301	5 Part 5001
10306	5 Part 5001
10321	5 Part 5001
	49 Parts 1018, 1019, 1023
10505	49 Part 1145
11505	49 Part 1039
49 U.S.C. App.	
655	49 Part 228
1343	14 Part 170
1344	14 Part 25
1346	14 Part 170
1348	14 Part 170
1354	14 Parts 25, 170
1355	14 Parts 25, 170
1401	14 Part 170
1421	14 Parts 25, 170
1422—1430	14 Part 170
1423—1425	14 Part 25
1428	14 Part 25
1429	14 Part 25
1472	14 Part 170
1502	14 Part 170
1514	31 Part 585
1522	14 Part 170
1602	23 Part 450
	49 Part 613
1603	49 Part 613
1604	23 Part 450
	44 Part 613
1605	49 Part 613
1607	23 Part 450
	49 Part 613

49 U.S.C. App.—Con.	CFR
1607a	23 Part 450
	49 Part 613
1612	49 Part 613
1622	49 Part 613
1901 et seq	49 Part 821
1921 et seq	49 Part 821
1971	49 Part 821
50 U.S.C.	
781	32 Part 156
1601 et seq	31 Part 585
1601—1651	31 Parts 550, 575, 580, 585
1701 et seq	31 Part 585
1701—1706	31 Parts 550, 575, 580, 585
2251	32 Part 185
50 U.S.C. App.	
1—44	31 Part 500
2251 note	44 Part 354
U.S. Statutes at Large:	
49 Stat.	
1817	43 Part 3820
50 Stat.	
1827	43 Part 3820
72 Stat.	
1114	38 Part 14
1238	38 Part 14
84 Stat.	
7	Part 97
88 Stat.	
271	7 Part 702
89 Stat.	
871	16 Part 305
92 Stat.	
3258	16 Part 305
94 Stat.	
780	44 Part 354
96 Stat.	
2136	23 Part 635
2513	45 Part 233
97 Stat.	
365	45 Part 233
98 Stat.	
55	23 Part 635
494	44 Part 354
1153	15 Part 19
100 Stat.	
3359	45 Part 233
101 Stat.	
103	16 Part 305
132	23 Part 635
1568	12 Part 620
1656	12 Part 620
1812	45 Part 233
102 Stat.	
671	16 Part 305
104 Stat.	
515	46 Parts 30, 31, 32

104 Stat.—Con.	CFR
1380	14 Part 1204
4978	2 Part 416
105 Stat.	
1701	7 Parts 1477, 1478
1914	23 Parts 625, 635
106 Stat.	
117	7 Parts 1477, 1478
252	49 Part 671
1374	43 Parts 3730, 3830, 3850
1378—1379	43 Parts 3730, 3830, 3850
1460	47 Part 76
1553	49 Part 671
1571	44 Part 354
1875	45 Part 1612
2724	5 Part 1650
2776	13 Part 121
3047	16 Part 305
	20 Part 422
3133	13 Part 121
4237	37 Part 201
107 Stat.	
40	15 Parts 789, 799
135	7 Part 1477
241	7 Part 1477
312	7 Part 1786
739	7 Part 623
742	7 Part 623
Public Laws:	
89-508	49 Part 89
97-449	14 Parts 127, 135
98-167	49 Part 89
98-181	12 Part 225
98-369	49 Part 89
99-335	5 Part 837
101-73	12 Part 701
101-194	43 Part 20
101-624	7 Part 1477
102-365	49 Part 228
102-378	5 Part 531
102-484	5 Part 330
102-533	49 Part 229
102-587	50 Part 85
103-3	5 Part 630
103-10	15 Parts 775, 778
103-66	5 Part 831
	7 Parts 1430, 1485
103-75	7 Part 1478
Presidential Documents:	
Executive Orders:	
10577	5 Part 250

Executive Orders—Con.	CFR
11222	5 Part 1633
11609	45 Part 708
11735	40 Part 9
11912	15 Part 789
12002	15 Parts 789, 799
12058	15 Parts 789, 799
12072	41 Part 101-18
12107	45 Part 708
12214	15 Parts 789, 799
12333	32 Part 386
12549	5 Part 970
12580	40 Parts 305, 307
12583	31 Part 580
12656	46 Part 340
12657	44 Part 354
12673	44 Part 2
12674	1 Part 303
	5 Parts 1633, 3202, 3601, 4301, 5001, 5101, 5601, 5701
	12 Part 336
	38 Part 0
	39 Part 3000
12689	38 Part 44
12699	7 Part 1792
	49 Part 41
12731	1 Part 303
	5 Parts 1633, 3202, 3601, 4301, 5001, 5101, 5601, 5701
	12 Parts 336, 1605
	16 Parts 5, 1030
	18 Part 3c
	34 Part 73
	38 Part 0
	39 Part 3000
	43 Part 20
	49 Part 99
12735	15 Parts 789, 799
12777	33 Parts 150, 154, 155, 156
	49 Part 194
12778	29 Part 18
12808	31 Part 585
12810	31 Part 585
12817	31 Part 575
12828	5 Part 351
12831	31 Part 585
12846	31 Part 585
12853	31 Part 580
12854	31 Part 515
12867	15 Parts 789, 799
12868	15 Parts 789, 799

Removals from Table I, November 1993

This table lists the sections of the U.S. Code, U.S. Statutes at Large, Public Laws, and Presidential documents which are being removed from Table I as a result of documents published in the **Federal Register** during January through November 1993.

Table I is in the CFR Index and Finding Aids revised as of January 1, 1993. Removals during 1992 are in the December 1992 LSA (List of CFR Sections Affected).

In order to determine the **Federal Register** page number of a parallel CFR citation, consult this LSA and the appropriate Annual Issue of the LSA for that CFR title.

U.S. Code:	CFR
2 U.S.C.	
178	36 Part 704
3 U.S.C.	
301	32 Part 40
5 U.S.C.	
552	13 Part 301
	32 Part 138
553	11 Part 201
	13 Part 301
	16 Part 305
	44 Part 2
	46 Parts 505, 525
	49 Part 1321
556	46 Part 502
561—569	46 Part 502
571—596	46 Part 502
1302	5 Part 752
3301—3302	5 Part 752
5514	28 Part 11
7513	5 Part 752
5 U.S.C. Appendix	
App	44 Part 3
4	5 Part 1633
	34 Part 73
5	34 Part 73
201—212	20 Part 360
7 U.S.C.	
4	17 Part 3
4a	17 Part 3
8	17 Part 3
9	17 Part 3
9a	17 Part 3
13c	17 Part 3
16a	17 Part 3
144f-1	7 Part 1421
608c	7 Part 953
1989	7 Part 1944
2011—2031	7 Parts 271—282, 284, 285
2326	7 Part 180
2352—2353	7 Part 180
2356	7 Part 180
2371	7 Part 180
2402—2403	7 Part 180
7 U.S.C.—Con.	CFR
2426—2427	7 Part 180
2501	7 Part 180
4201 note	7 Part 1980
8 U.S.C.	
1101	22 Part 41
10 U.S.C.	
131	32 Part 356
131 et seq	32 Parts 354, 357, 361, 364
133	32 Parts 244, 358, 369, 371, 372a, 390a
134	32 Part 385
136	32 Parts 386, 387
191—193	32 Parts 359, 360
301	32 Part 355
371—378	32 Part 213
511	32 Part 92
651	32 Part 50
672	32 Part 92
2102	32 Part 92
2202	32 Parts 201, 236, 246 48 Parts 201—217, 219, 222—237, 239, 241—253
2301—2314	32 Parts 592—606, 608, 612, 616
2576	32 Part 201
2809	32 Part 80
3012	32 Parts 592—606, 608, 612, 616
8012	32 Parts 954, 988
11 U.S.C.	
1-151326	32 Part 92
12 U.S.C.	
36	12 Part 208
241	17 Part 239
1141	46 Part 502
1431a	12 Part 940
1462	12 Parts 579, 580
1462a	12 Parts 579, 580
1463	12 Parts 579, 580
1464	12 Parts 579, 580, 933, 940
1467a	12 Parts 579, 580
1691	12 Part 933
1691a	12 Part 933
1701q	24 Part 290

12 U.S.C.—Con.	CFR
1710	24 Part 203
1715	24 Parts 203
1715b	24 Part 207
1715m	32 Part 77
1735f-12	24 Part 207
1798	12 Part 701
1814	12 Part 208
1819	12 Part 325
1828	12 Part 225
1831	12 Part 303
1831i	12 Part 225
1831o	12 Part 263
1843	12 Part 225
3105	12 Part 208
3310	12 Parts 208, 225
3331—3351	12 Parts 208, 225
3711	24 Part 27
3906—3909	12 Part 208
3907	12 Part 225
3909	12 Part 225
15 U.S.C.	
77a et seq	17 Part 239
77nn	17 Part 229
78b	12 Part 208
78l	12 Part 208
78o-4	12 Part 208
78q	12 Part 208
78q-1	12 Part 208
78w	12 Part 208
78ll	17 Part 240
80a-37	17 Part 210
637	14 Part 1204
714b	7 Part 1474
714c	7 Part 1474
1601 et seq	12 Part 701
1691	12 Part 940
2001	49 Part 523
16 U.S.C.	
485	43 Part 2090
717—717w	18 Part 385
791a—825r	18 Part 2
818	43 Part 2090
1431—1439	15 Part 922
2301 et seq	43 Part 2090
18 U.S.C.	
201—209	34 Part 73
201 note	43 Part 20
207	10 Part 0
	20 Part 360
	43 Part 20
19 U.S.C.	
58	19 Part 101
20 U.S.C.	
1047	34 Part 779
1051—1069c	34 Part 624
1057—1059	34 Part 625
1060—1063	34 Part 626
1064—1069c	34 Part 627
1065a	34 Part 628
20 U.S.C.—Con.	CFR
1066—1069c	34 Parts 625, 626
1070	34 Part 646
1070d	34 Part 645
1070d-1	34 Part 643
1070d-1b	34 Part 646
1070d-1d	34 Part 642
1111—1111h	34 Part 653
1121—1127	34 Part 655
1132g—1132g-3	34 Part 614
1133	34 Parts 633—635
1133—1133a	34 Part 632
1133—1133b	34 Part 631
1133b	34 Parts 633—635
1134—1134b	34 Part 648
1134d	34 Part 649
1134f	34 Part 649
1135 et seq	34 Part 630
4644	34 Part 230
21 U.S.C.	
352	21 Part 1020
376	21 Parts 175, 201, 514
22 U.S.C.	
661—672	31 Part 254
23 U.S.C.	
118	23 Part 652
135	49 Part 613
141	23 Part 652
154	23 Part 652
315	23 Part 652
25 U.S.C.	
336	43 Part 2090
2102 et seq	43 Part 3160
28 U.S.C.	
535	34 Part 73
29 U.S.C.	
777a	34 Part 359
30 U.S.C.	
183 et seq	43 Part 3160
189	43 Part 3180
1201	30 Parts 718, 720
31 U.S.C.	
738a	31 Part 349
754	31 Part 349
754b	31 Part 349
3716	28 Part 11
3717	12 Part 701
9701	40 Part 86
	42 Part 417
33 U.S.C	
1223	33 Part 164
1251 et seq	40 Part 435
1321	49 Parts 171, 172
2735	33 Part 155
38 U.S.C.	
210	48 Parts 801, 814, 833, 836
501	38 Parts 21, 14
2014	5 Part 307

	CFR
40 U.S.C.	
304c	41 Part 101-18
333	29 Part 1910
471	41 Part 101-18
490	41 Part 101-18
490b	32 Part 80
531—535	41 Part 101-18
601—615	41 Part 101-18
41 U.S.C.	
701 et seq	38 Part 44
42 U.S.C.	
287c	42 Part 52e
1345hh	42 Part 403
1395ww note	42 Part 403
1396r	42 Part 433
1437c	24 Parts 905
1437d	24 Parts 905
1437aa—1437cc	24 Part 913
1437ee	24 Part 913
1452b	24 Part 290
1861	12 Part 701
2000	49 Part 613
2021b et seq	10 Part 2
2152	10 Part 40
2232—2239	10 Part 50
2234	10 Parts 30, 40
2237	10 Parts 30, 40
2243	10 Part 2
2928h	45 Part 1304
3535	24 Part 203
3537b	24 Part 86
3601—3619	12 Part 940
3701 et seq	28 Part 23
4106	12 Part 933
4201—4244	41 Part 101-18
5401	24 Part 3280
5851	10 Parts 30, 40
6508	43 Part 3160
6851 et seq	10 Part 440
7101—7352	18 Parts 342, 343, 345-347, 360, 361
7401	40 Parts 9, 60
7411	40 Part 60
7412	40 Part 9
7414	40 Parts 9, 60
7416	40 Parts 9, 60
7504	23 Part 450 49 Part 613
7506	23 Part 450 49 Part 613
7601	40 Parts 9, 60
7651k	40 Part 75
7671—7671q	40 Part 9
9831 et seq	45 Part 1305
10226	10 Part 50
11013	40 Part 372
11028	40 Part 372
12204	49 Part 38
13961	42 Part 488

	CFR
43 U.S.C.	
231	43 Part 2090
315f	43 Part 2090
321	43 Part 2090
323	43 Part 2090
327—329	43 Part 2090
641 et seq	43 Part 2090
851	43 Part 2090
852	43 Part 2090
852 note	43 Part 2090
1601 et seq	43 Part 2090
1701 et seq	43 Part 2090
1715	43 Part 2200
1716	43 Part 2090
1718	43 Part 2090
1732	43 Part 2090
45 U.S.C.	
358	20 Part 345
46 U.S.C.	
1114	46 Part 315
1242	46 Part 315
2710	46 Part 67
3715	33 Part 155
5115	46 Part 31
8105	46 Parts 10, 12, 15, 31
46 U.S.C. App.	
802	46 Part 67
808	46 Part 67
816	46 Part 525
831	46 Part 505
841a	46 Part 505
883	46 Part 67
1709	46 Parts 505, 525
1710	46 Part 505
1712	46 Part 505
1716	46 Parts 505, 525
1722	46 Parts 580, 581, 583
10104	46 Part 12
47 U.S.C.	
151	47 Part 64
151—154	47 Part 76
154	47 Parts 34, 35
201—205	47 Part 64
203	47 Part 61
214	47 Part 64
219	47 Parts 34, 35
220	47 Part 64
301—303	47 Part 76
301	47 Part 74
302	47 Part 99
303	47 Parts 25, 34, 35
307	47 Parts 34, 35, 74
49 U.S.C.	
1—27	18 Parts 342, 343, 345-347, 360, 361
504	49 Part 394
1343	14 Part 170
1344	14 Part 25

	CFR
49 U.S.C.—Con.	
1346	14 Part 170
1348	14 Part 170
1354—1355	14 Parts 25, 170
1401	14 Part 170
1421	14 Parts 25, 170
1421 et seq	49 Part 821
1422—1430	14 Part 170
1423—1425	14 Part 25
1428—1430	14 Part 25
1472	14 Part 170
1502	14 Part 170
1522	14 Part 170
1602	23 Part 450 49 Part 613
1603	49 Part 613
1604	23 Part 450 49 Part 613
1605	49 Part 613
1607	23 Part 450 49 Part 613
1607a	23 Part 450 49 Part 613
1607a-1	23 Part 450 49 Part 613
1612	49 Part 613
1657	49 Parts 9, 523, 533, 537
1751	7 Part 246
1806	49 Part 172
1807	49 Part 172
1901 et seq	49 Part 821
3102	49 Part 394
10101	49 Part 1321
10102	49 Part 1321
10321	49 Part 1321
10521	49 Part 1321
10701	49 Part 1321
10702	49 Part 1321
10704	49 Part 1321
10708	49 Part 1039
10741	49 Part 1321
10743	49 Part 1321
10761	49 Parts 1039, 1321
10762	49 Parts 1039, 1321
10764	49 Part 1321
10921	49 Part 1321
10923	49 Part 1321
11105	49 Part 1039
11144	49 Part 1321
11505	49 Part 1039
11901	49 Part 1321
11902—11904	49 Part 1039
11903	49 Part 1321
11904	49 Part 1321
11906	49 Part 1321
49 U.S.C. App.	
1601 et seq	49 Part 665
1655	49 Part 228
1815	49 Part 171
2505	49 Part 394

	CFR
50 U.S.C.	
781 et seq	32 Part 156
1601 et seq	31 Part 585
1701 et seq	31 Parts 550, 575, 580, 585
50 U.S.C. App.	
5	31 Parts 128, 500
456	32 Part 50
1751—1806 note	31 Part 253
1971—1971q note	31 Part 290
U.S. Statutes at Large:	
45 Stat.	
254	31 Part 251
64 Stat.	
1245—1257	32 Part 185
80 Stat.	
309	5 Part 179
84 Stat.	
1880	28 Part 23
87 Stat.	
197	28 Part 23
88 Stat.	
829	29 Part 2607
1109	28 Part 23
90 Stat.	
1346	28 Part 23
2407	28 Part 23
91 Stat.	
1048	28 Part 23
92 Stat.	
629	30 Part 256
1021	45 Part 1612
93 Stat.	
416	45 Part 1612
1167	28 Part 23
94 Stat.	
3166	45 Part 1612
95 Stat.	
843	45 Part 233
96 Stat.	
22	45 Part 1612
324	45 Part 233
1235	12 Part 211
1874	45 Part 1612
97 Stat.	
1071	45 Part 1612
99 Stat.	
1185	45 Part 1612
100 Stat.	
3359	45 Part 233
101 Stat.	
1330	29 Part 2622
104 Stat.	
1388	29 Part 2610
138-573	29 Part 2610
1462	5 Part 530
1466	5 Part 530
2399	40 Part 60

	CFR
106 Stat.	
3895	12 Part 215
Public laws:	
87-651	32 Part 40
95-454	5 Part 179
95-619	16 Part 305
97-31	46 Part 232
99-64	15 Part 789
99-500	7 Part 240
100-12	16 Part 305
100-233	12 Part 620
100-342	49 Part 228
100-357	16 Part 305
100-418	15 Part 789
100-690	38 Part 44
101-162	13 Part 107
101-574	13 Part 107
101-624	7 Parts 1477, 1478
102-229	7 Parts 1477, 1478
102-533	49 Part 229
Presidential Documents	
Executive Orders:	
6560	31 Part 128
10033	31 Part 128
10487	31 Part 290
11063	12 Part 940
Executive Orders—Con.	CFR
11222	1 Part 303 12 Part 796 16 Part 1030 18 Part 3c 20 Part 360 22 Part 705 32 Part 40 34 Part 73 38 Part 0 39 Part 3000 44 Part 3 49 Part 99
11490	46 Part 340
11512	41 Part 101-18
11570	39 Part 3000
11735	33 Parts 154, 155, 156
12009	18 Parts 101, 201, 341-347, 360, 361
12333	32 Part 355
12370	15 Part 799
12525	15 Part 789
12532	15 Part 789
12565	12 Part 336
12571	15 Part 789
12730	15 Part 799
12800	29 Part 470

1993

58 FR Page	
1-211	Jan. 4
213-465	5
467-2964	6
2965-3192	7
3193-3483	8
3485-3823	11
3825-4057	12
4059-4294	13
4295-4568	14
4569-4890	15
4891-5252	19
5253-5560	21
5561-5917	22
5919-6074	25
6075-6186	26
6187-6341	27
6343-6439	28
6441-6600	29
6601-6678	Feb. 1
6679-6874	2
6875-7041	3
7043-7184	4
7185-7475	5
7477-7713	8
7715-7860	9
7861-7951	10
7953-8199	11
8201-8515	12
8517-8689	16
8691-8892	17
8893-9106	18
9107-9516	19
9517-10935	22
10937-11184	23
11185-11359	24
11361-11495	25
11497-11781	26
11783-11950	Mar. 1
11951-12144	2
12145-12328	3
12329-12536	4
12537-12900	5
12901-12996	8
12997-13188	9
13189-13400	10
13401-13528	11
13529-13694	12
13695-14144	15
14145-14302	16
14303-14493	17
14495-15070	18
15071-15259	19
15261-15414	22
15415-15749	23
15751-16101	24
16103-16343	25
16345-16479	26
16481-16610	29
16611-16762	30
16763-17080	31
17081-17320	Apr. 1
17321-17490	2
17491-17772	5
17773-17942	6
17943-18138	7
18139-18336	8
18337-19032	9
19033-19192	12
19193-19320	13
19321-19546	14
19547-19766	15
19767-21092	16
21093-21240	19
21241-21342	20
21343-21534	21
21535-21636	22
21637-21888	23
21889-25536	26
25537-25772	27
25773-25928	28
25929-26054	29
26055-26244	30
26225-26498	May 3
26499-26678	4
26679-26910	5
26911-27196	6
27197-27442	7
27443-27650	10
27651-27920	11
27921-28332	12
28333-28490	13
28491-28756	14
28757-28914	17
28915-29096	18
29097-29326	19
29327-29520	20
29521-29776	21
29777-29948	24
29949-30100	25
30101-30694	26
30695-30934	27
30935-31145	28
31147-31329	June 1
31331-31460	2
31461-31646	3
31647-31892	4
31893-32040	7
32041-32268	8
32269-32431	9
32433-32589	10
32591-32834	11
32835-33003	14
33005-33183	15
33185-33317	16
33319-33496	17
33497-33751	18

33753-33881	21
33883-33992	22
33993-34210	23
34211-34355	24
34357-34518	25
34519-34679	28
34681-34862	29
34863-35356	30
35357-35839	Jul 1
35841-36116	2
36117-36299	6
36301-36587	7
36589-36852	8
36853-37411	9
37413-37629	12
37631-37845	13
37847-38043	14
38045-38262	15
38263-38507	16
38509-38659	19
38661-38910	20
38911-39111	21
39113-39416	22
39417-39623	23
39625-40030	26
40031-40305	27
40307-40579	28
40581-40716	29
40717-41022	30
41023-41169	Aug 2
41171-41418	3
41419-41619	4
41621-41980	5
41981-42186	6
42187-42482	9
42483-42636	10
42637-42837	11
42839-43063	12
43065-43237	13
43239-43489	16
43491-43783	17
43785-44100	18
44101-44254	19
44255-44433	20
44435-44603	23
44605-44742	24
44743-45038	25
45039-45230	26
45231-45408	27
45409-45775	30
45776-46072	31
46073-46527	Sept. 1
46529-46757	2
46759-47013	3
47015-47197	7
47199-47370	8
47371-47618	9
47619-47820	10
47983-48258	14
48259-48443	15
48445-48589	16
48591-48774	17
48775-48952	20
48953-49174	21
49175-49420	22
49421-49899	23
49901-50241	24
50243-50505	27
50507-50830	28
50831-51006	29
51007-51209	30
51211-51563	Oct. 1
51565-51755	4
51757-51971	5
51973-52206	6
52207-52395	7
52397-52628	8
52629-52873	12
52875-53096	13
53097-53392	14
53393-53634	15
53635-53831	18
53833-54024	19
54025-54270	20
54271-54484	21
54485-54924	22
54925-57533	25
57535-57716	26
57717-57950	27
58097-58254	28
57951-58096	29
58255-58482	Nov. 1
58483-58639	2
58641-58734	3
58735-58934	4
58935-59158	5
59159-59342	8
59343-59368	9
59639-59930	10
59931-60100	12
60363-60540	16
60541-60766	17
60769-60990	18
60991-61610	19
61611-61796	22
61797-62032	23
62033-62258	24
62259-62494	26
62495-63022	29
63023-63275	30

O

NO

1993

UMI

NO

1993

UMI

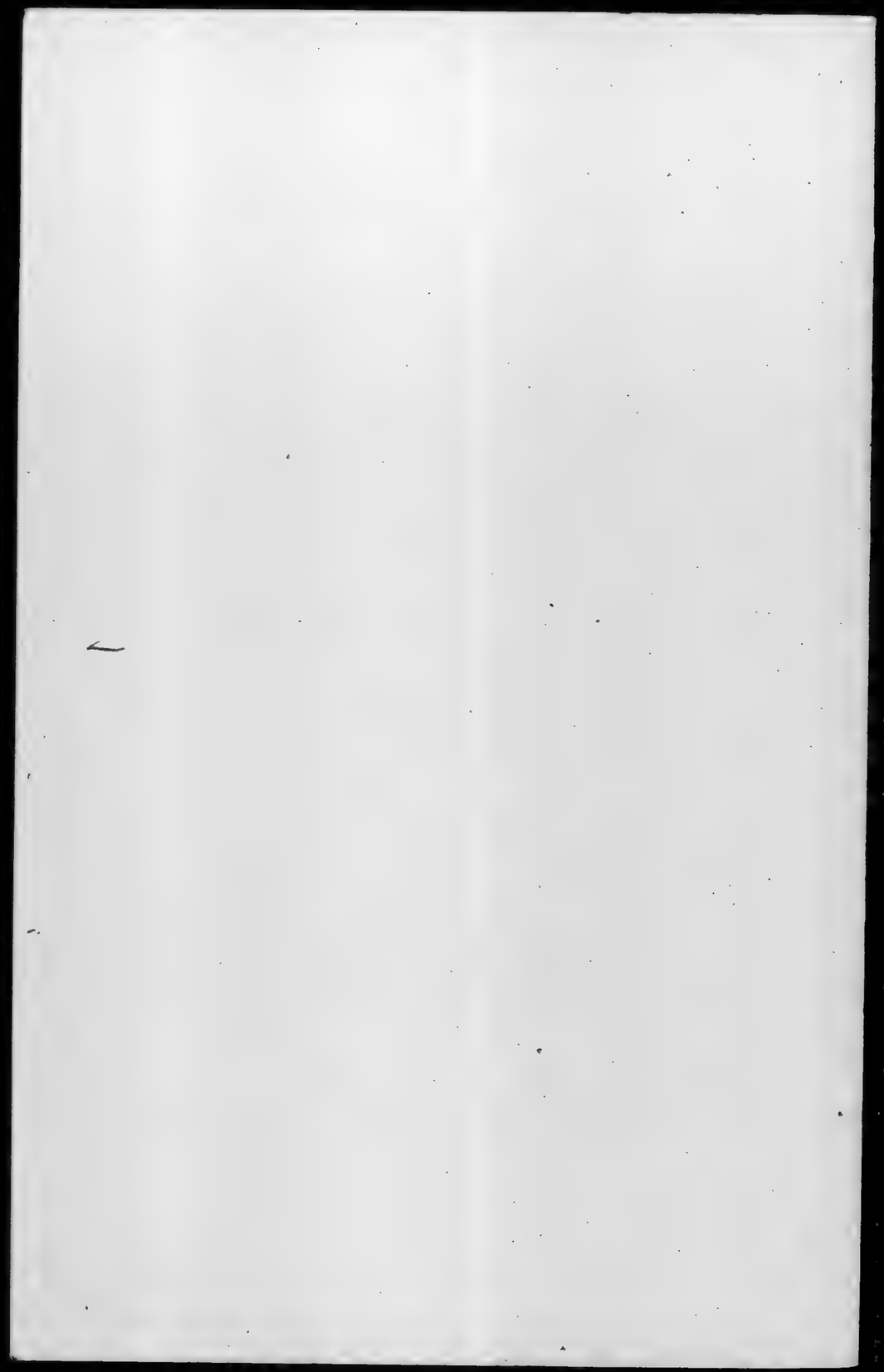
NO

1993

UMI

NO

1993



UMI

DE

1993

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

code of federal regulations

LSA

List of CFR Sections Affected

MAR 0 9 1994

Brigham Young University
J. Reuben Clark Law School

December 1993

Save this issue for Titles 1–16 (Annual)

Do Not Circulate

United States Government Printing Office
SUPERINTENDENT OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

**********3-DIGIT 846

A FR BRIGH3588 DS 621AF
BRIGHAM YOUNG UNIVERSITY
LAW LIBRARY - DOCS
358 JRCB
PROVO UT 84602

UMI

DE

1993

UMI

code of federal regulations

Ar 2.36/2 993/12

LSA

List of CFR Sections Affected

December 1993

Title 1–16
Changes January 4, 1993
through December 30, 1993
Title 17–27
Changes April 1, 1993
through December 30, 1993
Title 28–41
Changes July 1, 1993
through December 30, 1993
Title 42–50
Changes October 1, 1993
through December 30, 1993

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1-16—as of Jan. 1
17-27—as of April 1
28-41—as of July 1
42-50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

Boldface page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (i.e. 58 FR for 1993) and the page number. Example: 24727 cite as 57 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1-16; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Table I—Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from Table I as a result of documents published in the Federal Register since January 1, 1993.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA. The LSA was prepared under the direction of Richard L. Claypoole, assisted by Laurice Clark, Ken Payne and Rob Sheehan. INQUIRIES, telephone 202-523-5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Martha L. Girard, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-019-00001-1)	$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101).	(869-019-00002-0)	17.00	[1] Jan. 1, 1993
4	(869-019-00003-8)	5.50	Jan. 1, 1993
5 Parts:			
1-699	(869-019-00004-6)	21.00	Jan. 1, 1993
700-1199	(869-019-00005-4)	17.00	Jan. 1, 1993
1200-End, 6 (6 Reserved)	(869-019-00006-2)	21.00	Jan. 1, 1993
7 Parts:			
0-26	(869-019-00007-1)	20.00	Jan. 1, 1993
27-45	(869-019-00008-9)	13.00	Jan. 1, 1993
46-51	(869-019-00009-7)	20.00	Jan. 1, 1993
52	(869-019-00010-1)	28.00	Jan. 1, 1993
53-209	(869-019-00011-9)	21.00	Jan. 1, 1993
210-299	(869-019-00012-7)	30.00	Jan. 1, 1993
300-399	(869-019-00013-5)	15.00	Jan. 1, 1993
400-699	(869-019-00014-3)	17.00	Jan. 1, 1993
700-899	(869-019-00015-1)	21.00	Jan. 1, 1993
900-999	(869-019-00016-0)	33.00	Jan. 1, 1993
1000-1059	(869-019-00017-8)	20.00	Jan. 1, 1993
1060-1119	(869-019-00018-6)	13.00	Jan. 1, 1993
1120-1199	(869-019-00019-4)	11.00	Jan. 1, 1993
1200-1499	(869-019-00020-8)	27.00	Jan. 1, 1993
1500-1899	(869-019-00021-6)	17.00	Jan. 1, 1993
1900-1939	(869-019-00022-4)	13.00	Jan. 1, 1993
1940-1949	(869-019-00023-2)	27.00	Jan. 1, 1993
1950-1999	(869-019-00024-1)	32.00	Jan. 1, 1993
2000-End	(869-019-00025-9)	12.00	Jan. 1, 1993
8	(869-019-00026-7)	20.00	Jan. 1, 1993
9 Parts:			
1-199	(869-019-00027-5)	27.00	Jan. 1, 1993
200-End	(869-019-00028-3)	21.00	Jan. 1, 1993
10 Parts:			
0-50	(869-019-00029-1)	29.00	Jan. 1, 1993
51-199	(869-019-00030-5)	27.00	Jan. 1, 1993
200-399	(869-019-00031-3)	15.00	Jan. 1, 1993
400-499	(869-019-00032-1)	20.00	Jan. 1, 1993
500-End	(869-019-00033-0)	33.00	Jan. 1, 1993
11	(869-019-00034-8)	13.00	Jan. 1, 1993
12 Parts:			
1-199	(869-019-00035-6)	11.00	Jan. 1, 1993
200-219	(869-019-00036-4)	15.00	Jan. 1, 1993
220-299	(869-019-00037-2)	26.00	Jan. 1, 1993
300-499	(869-019-00038-1)	21.00	Jan. 1, 1993
500-599	(869-019-00039-9)	19.00	Jan. 1, 1993
600-End	(869-019-00040-2)	28.00	Jan. 1, 1993
13	(869-019-00041-1)	28.00	Jan. 1, 1993
14 Parts:			
1-59	(869-019-00042-9)	29.00	Jan. 1, 1993
60-139	(869-019-00043-7)	26.00	Jan. 1, 1993
140-199	(869-019-00044-5)	12.00	Jan. 1, 1993

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
200–1199	(869–019–00045–3)	22.00	Jan. 1, 1993
1200–End	(869–019–00046–1)	16.00	Jan. 1, 1993
15 Parts:			
0–299	(869–019–00047–0)	14.00	Jan. 1, 1993
300–799	(869–019–00048–8)	25.00	Jan. 1, 1993
800–End	(869–019–00049–6)	19.00	Jan. 1, 1993
16 Parts:			
0–149	(869–019–00050–0)	7.00	Jan. 1, 1993
150–999	(869–019–00051–8)	17.00	Jan. 1, 1993
1000–End	(869–019–00052–6)	24.00	Jan. 1, 1993
17 Parts:			
1–199	(869–019–00054–2)	18.00	Apr. 1, 1993
200–239	(869–019–00055–1)	23.00	Apr. 1, 1993
240–End	(869–019–00056–9)	30.00	Apr. 1, 1993
18 Parts:			
1–149	(869–019–00057–7)	16.00	Apr. 1, 1993
150–279	(869–019–00058–5)	19.00	Apr. 1, 1993
280–399	(869–019–00059–3)	15.00	Apr. 1, 1993
400–End	(869–019–00060–7)	10.00	Apr. 1, 1993
19 Parts:			
1–199	(869–019–00061–5)	35.00	Apr. 1, 1993
200–End	(869–019–00062–3)	11.00	Apr. 1, 1993
20 Parts:			
1–399	(869–019–00063–1)	23.00	Apr. 1, 1993
400–499	(869–019–00064–0)	31.00	Apr. 1, 1993
500–End	(869–019–00065–8)	30.00	Apr. 1, 1993
21 Parts:			
1–99	(869–019–00066–6)	13.00	Apr. 1, 1993
100–169	(869–019–00067–4)	21.00	Apr. 1, 1993
170–199	(869–019–00068–2)	20.00	Apr. 1, 1993
200–299	(869–019–00069–1)	6.00	Apr. 1, 1993
300–499	(869–019–00070–4)	34.00	Apr. 1, 1993
500–599	(869–019–00071–2)	21.00	Apr. 1, 1993
600–799	(869–019–00072–1)	8.00	Apr. 1, 1993
800–1299	(869–019–00073–9)	22.00	Apr. 1, 1993
1300–End	(869–019–00074–7)	12.00	Apr. 1, 1993
22 Parts:			
1–299	(869–019–00075–5)	30.00	Apr. 1, 1993
300–End	(869–019–00076–3)	22.00	Apr. 1, 1993
23	(869–019–00077–1)	21.00	Apr. 1, 1993
24 Parts:			
0–199	(869–019–00078–0)	38.00	Apr. 1, 1993
200–499	(869–019–00079–8)	36.00	Apr. 1, 1993
500–699	(869–019–00080–1)	17.00	Apr. 1, 1993
700–1699	(869–019–00081–0)	39.00	Apr. 1, 1993
1700–End	(869–019–00082–8)	15.00	Apr. 1, 1993
25	(869–019–00083–6)	31.00	Apr. 1, 1993
26 Parts:			
§§ 1.0-1–1.60	(869–019–00084–4)	21.00	Apr. 1, 1993
§§ 1.61–1.169	(869–019–00085–2)	37.00	Apr. 1, 1993
§§ 1.170–1.300	(869–017–00086–8)	19.00	Apr. 1, 1992
§§ 1.301–1.400	(869–017–00087–6)	17.00	Apr. 1, 1992
§§ 1.401–1.440	(869–019–00088–7)	31.00	Apr. 1, 1993

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
§§ 1.401–1.500	(869–017–00088–4)	38.00	Apr. 1, 1992
§§ 1.501–1.640	(869–019–00090–9)	30.00	Apr. 1, 1993
§§ 1.641–1.850	(869–017–00091–7)	24.00	Apr. 1, 1993
§§ 1.851–1.907	(869–017–00091–4)	23.00	Apr. 1, 1992
§§ 1.908–1.1000	(869–019–00093–3)	26.00	Apr. 1, 1993
§§ 1.1001–1.1400	(869–017–00094–1)	22.00	Apr. 1,1993
§§ 1.1401–End	(867–019–00095–0)	31.00	Apr. 1, 1993
2–29	(869–019–00096–8)	23.00	Apr. 1, 1993
30–39	(869–019–00097–6)	18.00	Apr. 1, 1993
40–49	(869–019–00098–4)	13.00	Apr. 1, 1993
50–299	(869–019–00099–2)	13.00	Apr. 1, 1993
300–499	(869–019–00100–0)	23.00	Apr. 1, 1993
500–599	(869–019–00101–8)	6.00	[5] Apr. 1, 1990
600–End	(869–019–00102–6)	8.00	Apr. 1, 1993
27 Parts:			
1–199	(869–019–00103–4)	37.00	Apr. 1, 1993
200–End	(869–017–00103–1)	11.00	Apr. 1, 1992
28 Parts:			
0–42	(869–019–00105–1)	27.00	July 1, 1993
29 Parts:			
0–99	(869–019–00107–7)	21.00	July 1, 1993
100–499	(869–019–00108–5)	9.50	July 1, 1993
500–899	(869–019–00109–3)	36.00	July 1, 1993
900–1899	(869–019–00110–7)	17.00	July 1, 1993
1900–1910 (§§ 1901.1 to 1910.999).	(869–019–00111–5)	31.00	July 1, 1993
1910 (§§ 1910.1000 to end)	(869–019–00112–3)	21.00	July 1, 1993
1911–1925	(869–019–00113–1)	22.00	July 1, 1993
1926	(869–017–00112–1)	14.00	July 1, 1992
1927–End	(869–017–00113–9)	30.00	July 1, 1992
30 Parts:			
1–199	(869–019–00116–6)	27.00	July 1, 1993
200–699	(869–019–00117–4)	20.00	July 1, 1993
700–End	(869–019–00118–2)	27.00	July 1, 1993
31 Parts:			
0–199	(869–019–00119–1)	18.00	July 1, 1993
200–End	(869–017–00118–0)	25.00	July 1, 1992
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–019–00121–2)	30.00	July 1, 1993
191–399	(869–019–00122–1)	35.00	July 1, 1993
400–629	(869–019–00123–9)	26.00	July 1, 1993
630–699	(869–019–00124–7)	14.00	July 1, 1993
700–799	(869–017–00123–6)	20.00	July 1, 1992
800–End	(869–019–00126–3)	22.00	July 1, 1993
33 Parts:			
1–124	(869–017–00125–2)	18.00	July 1, 1992
125–199	(869–017–00126–1)	18.00	July 1, 1992
200–End	(869–019–00129–8)	24.00	July 1, 1993
34 Parts:			
1–299	(869–019–00130–1)	27.00	July 1, 1993

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300-399	(869-019-00131-0)	20.00	July 1, 1993
400-End	(869-017-00130-9)	32.00	July 1, 1992
35	(867-019-00133-6)	12.00	July 1, 1993
36 Parts:			
1-199	(869-017-00132-5)	15.00	July 1, 1992
200-End	(869-017-00133-3)	32.00	July 1, 1992
37	(869-019-00136-1)	20.00	July 1, 1993
38 Parts:			
0-17	(869-019-00137-9)	30.00	July 1, 1993
18-End	(869-019-00138-7)	30.00	July 1, 1993
39	(869-019-00139-5)	17.00	July 1, 1993
40 Parts:			
1-51	(869-017-00138-4)	31.00	July 1, 1992
52	(869-017-00139-2)	33.00	July 1, 1992
53-59	(869-019-00142-5)	11.00	July 1, 1993
61-80	(869-017-00141-4)	16.00	July 1, 1992
81-85	(869-017-00142-2)	17.00	July 1, 1992
86-99	(869-017-00143-1)	33.00	July 1, 1992
100-149	(869-017-00144-9)	34.00	July 1, 1992
150-189	(869-017-00145-7)	21.00	July 1, 1992
190-259	(869-019-00149-2)	17.00	July 1, 1993
260-299	(869-017-00147-3)	36.00	July 1, 1992
300-399	(869-019-00151-4)	18.00	July 1, 1993
400-424	(869-017-00149-0)	26.00	July 1, 1992
425-699	(869-017-00150-3)	26.00	July 1, 1992
700-789	(869-017-00151-1)	23.00	July 1, 1992
790-End	(869-017-00152-0)	25.00	July 1, 1992
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-019-00156-5)	10.00	July 1, 1993
101	(869-019-00157-3)	30.00	July 1, 1993
102-200	(869-019-00158-1)	11.00	July 1, 1993
201-End	(869-019-00159-0)	12.00	July 1, 1993
42 Parts:			
1-399	(869-017-00157-1)	23.00	Oct. 1, 1992
400-429	(869-017-00158-9)	23.00	Oct. 1, 1992
430-End	(869-017-00159-7)	31.00	Oct. 1, 1992
43 Parts:			
1-999	(869-019-00163-8)	23.00	Oct. 1, 1993
1000-3999	(869-017-00161-9)	30.00	Oct. 1, 1992
4000-End	(869-017-00162-7)	13.00	Oct. 1, 1992
44	(869-017-00163-5)	26.00	Oct. 1, 1992

Footnotes at end of table.

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
45 Parts:			
1-199	(869-017-00164-3)	20.00	Oct. 1, 1992
200-499	(869-017-00165-1)	14.00	Oct. 1, 1992
500-1199	(869-019-00169-7)	32.00	Oct. 1, 1993
1200-End	(869-017-00167-8)	20.00	Oct. 1, 1992
46 Parts:			
1-40	(869-017-00168-6)	17.00	Oct. 1, 1992
41-69	(869-017-00169-4)	16.00	Oct. 1, 1992
70-89	(869-019-00173-5)	8.50	Oct. 1, 1993
90-139	(869-017-00171-6)	14.00	Oct. 1, 1992
140-155	(869-017-00172-4)	12.00	Oct. 1, 1992
156-165	(869-017-00173-2)	14.00	Oct. 1, 1992
166-199	(869-017-00174-1)	17.00	Oct. 1, 1992
200-499	(869-017-00175-9)	22.00	Oct. 1, 1992
500-End	(869-017-00176-7)	14.00	Oct. 1, 1992
47 Parts:			
0-19	(869-017-00177-5)	22.00	Oct. 1, 1992
20-39	(869-017-00178-3)	22.00	Oct. 1, 1992
40-69	(869-019-00182-4)	14.00	Oct. 1, 1993
70-79	(869-017-00180-5)	21.00	Oct. 1, 1992
80-End	(869-017-00181-3)	24.00	Oct. 1, 1992
48 Chapters:			
1 (Parts 1-51)	(869-017-00182-1)	34.00	Oct. 1, 1992
1 (Parts 52-99)	(869-017-00183-0)	22.00	Oct. 1, 1992
2 (Parts 201-251)	(869-017-00184-8)	15.00	Oct. 1, 1992
2 (Parts 252-299)	(869-017-00185-6)	12.00	Oct. 1, 1992
3-6	(869-017-00186-4)	22.00	Oct. 1, 1992
7-14	(869-017-00187-2)	30.00	Oct. 1, 1992
15-28	(869-017-00188-1)	26.00	Oct. 1, 1992
29-End	(869-017-00189-9)	16.00	Oct. 1, 1992
49 Parts:			
1-99	(869-019-00193-0)	23.00	Oct. 1, 1993
100-177	(869-017-00191-1)	27.00	Oct. 1, 1992
178-199	(869-017-00192-9)	19.00	Oct. 1, 1992
200-399	(869-017-00193-7)	27.00	Oct. 1, 1992
400-999	(869-017-00194-5)	31.00	Oct. 1, 1992
1000-1199	(869-017-00195-3)	19.00	Oct. 1, 1992
1200-End	(869-019-00199-9)	21.00	Oct. 1, 1993
50 Parts:			
1-199	(869-017-00197-0)	23.00	Oct. 1, 1992
200-599	(869-017-00198-8)	20.00	Oct. 1, 1992
600-End	(869-017-00199-6)	20.00	Oct. 1, 1992
CFR Index and Finding Aids	(869-019-00053-4)	36.00	Jan. 1, 1993
Complete 1993 CFR set		775.00	1993
Complete 1992 CFR set		620.00	1992
Microfiche CFR Edition:			
Complete set (one-time mailing)		185.00	1989
Complete set (one-time mailing)		188.00	1990
Subscription (mailed as issued)		188.00	1991

Footnotes at end of table.

DE

1993

UMI

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
Subscription (mailed as issued)..	.....	188.00	1992
Individual copies.....	.....	2.00	1992

[1]Because title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR parts 1—189 contains a note only for parts 1—39 inclusive. For the full text of the Defense Acquisition Regulations in parts 1—39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR chapters 1—100 contains a note only for chapters 1 to 49 inclusive. For the full text of procurement regulations in chapters 1 to 49, consult the three CFR volumes issued as of July 1, 1984 containing those chapters.

[4]No amendments to this volume were promulgated during the period January 1, 1987 through December 31, 1992. The CFR volume issued as of January 1, 1987 should be retained.

[5]No amendments to this volume were promulgated during the period April 1, 1990 through March 30, 1993. The CFR volume issued as of April 1, 1990 should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*		*Revision Date*
Federal Register:			
Yearly subscription (with FR Index and LSA)	490.00		
Yearly subscription (without FR Index and LSA)	444.00		
Individual copies	6.00	.....	daily
Federal Register Document Drafting Handbook	5.50	.....	1991
Guide to Record Retention Requirements in the Code of Federal Regulations	15.00	.....	Jan. 1, 1992
List of Sections Affected, 1949-1963	Out of print	.....	1966
List of CFR Sections Affected, 1964-1972			
(Titles 1 through 27) Vol. I	Out of print	.....	1980
(Titles 28 through 50) Vol. II	Out of print	.....	1980
List of CFR Sections Affected, 1973-1985			
(Titles 1 through 16) Vol. I	27.00	.....	1990
(Titles 17 through 27) Vol. II	25.00	.....	1990
(Titles 28 through 41) Vol. III	28.00	.....	1990
(Titles 42 through 50) Vol. IV	25.00	.....	1990
LSA (List of CFR Sections Affected):			
Yearly subscription	24.00		
Federal Register Index:			
Yearly subscription	22.00		
CFR Index and Finding Aids	36.00	.....	annual

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register (Parts 1—49)

Page

11.2 Revised; eff. 1-10-94.....64872
11.3 Revised.....64872
11.4 Amended; eff. 1-10-94.....64872
11.6 Revised; eff. 1-10-94.....64872
11.7 Revised; eff. 1-10-94.....64872
11.8 Revised; eff. 1-10-94.....64872

Chapter III—Administrative Conference of the United States (Parts 300—399)

303 Authority citation revised.....58935
303.101 Revised.....58935
303.102 Revised.....58935
303.103 Removed.....58935
303.104 Removed.....58935
303.105 Removed.....58935
303.106 Removed.....58935
303.107 Removed.....58935
303.108 Removed.....58935
303.109 Removed.....58935
305 Removed in part; note added.....54271
305.79-7 Correctly designated.....4295
305.93-1 Added.....45409
305.93-2 Added.....45410
305.93-3 Added.....45412
310 Removed in part; note added.....54271

Title 1—*Proposed Rules:*

305.....16375

TITLE 2—[RESERVED]

TITLE 3—THE PRESIDENT

Proclamations:

5365 *See* Proc. 6641.....66867
5923 Superseded in part by Proc. 6641.....66867
6030 *See* Proc. 6641.....66867
6179 Modified by Proc. 6544.....19547
6449 *See* Proc. 6577.....36301
6455 Modified by Proc. 6544.....19547
6491 Revoked by Proc. 6534.....13189
6515 Modified by Proc. 6544.....19547
See Proc. 6641 66867.....19547
See Proc. 6579.....36839

Page

6517 Modified by Proc. 6544.....19547
See Proc. 6575.....34855
See Proc. 6641.....66867
6519.....207
6520.....467
6521.....469
6522.....3195
6523.....3197
6524.....4293
6525.....5917
6526.....6187
6527.....7477
6528.....8691
6529.....10937
6530.....11361
6531.....11951
6532.....13185
6533.....13187
6534.....13189
6535.....15411
6536.....15413
6537.....15751
6538.....15753
6539.....16609
6540.....17773
6541.....19315
6542.....19317
6543.....19319
6544.....19547
See Proc. 6575.....34855
6545.....21093
6546.....21341
6547.....25537
6548.....25539
6549.....25541
6550.....26219
6551.....26221
6552.....26223
6553.....26499
6554.....26501
6555.....26503
6556.....26505
6557.....26909
6558.....27649
6559.....27917
6560.....27919
6561.....28915
6562.....29519
6563.....29775
6564.....29949
6565.....30935
6566.....31325
6567.....31893
6568.....31895
6569.....31897

TITLE 3 Proclamations—Con. Page

6570....32041
6571....32267
6572....33185
6573....33753
6574....34209
6575....34855
Corrected....36516
6576....36117
6577....36301
6578....36585
6579....36839
6580....38659
6581....40031
6582....40717
6583....41169
6584....41621
6585....43239
6586....44433
6587....47199
6588....47981
6589....48585
6590....48587
6591....48589
6592....48771
6593....49173
6594....49901
6595....49903
6596....50243
6597....50245
6598....51559
6599....51561
6600....51721
6601....51723
6602....52205
6603....52387
6604....52389
6605....52627
6606....52875
6607....53097
6608....53099
6609....53101
6610....53103
6611....53831
6612....53833
6613....54025
6614....54027
6615....54269
6616....54909
6617....57535
6618....57715
6620....59157
6621....59637
6622....60359
6623....60769
6624....61607
6625....61609
6626....61797
6627....61799
6628....62257
6629....63021
6630....63277
6631....63279
6632....63883
6633....64363
6634....64667
6635....65279
6636....65525
6637....65527
6638....65529
6639....65865
6640....65867
6641....66867
Corrected....68191
6642....67625
6643....68289

Executive Orders

Jan. 4, 1901 Revoked in part by PLO 6964....19212, 27060
July 2, 1910 Revoked in part by PLO 6961....18018
Modified by PLO 6981....32856
Revoked in part by PLO 6983....33772
See PLO 6987....33999
July 9, 1910 Revoked in part by PLO 7004....53429
Oct. 9, 1917 Revoked in part by PLO 6985....33773
Dec. 12, 1917 Revoked in part by PLO 6995....48458
2859 Amended by EO 12832....5905
3053 Revoked in part by PLO 7004....53429
3406 Revoked in part by PLO 7020....52683, 64166
4257 Revoked in part by PLO 6992....42246
Revoked in part by PLO 6996....48458
Revoked in part by PLO 7009....62041
5327 Revoked in part by PLO 7002....52684
6277 Revoked in part by PLO 6975....31475
6546 Revoked by PLO 6989....38083
10485 *See* EO 12847....29511
10530 *See* EO 12847....29511
10865 Amended by EO 12829....3479

Page

10909 *See* EO 12829....3479
11145 Continued by EO 12869....51751
11183 Continued by EO 12869....51751
11287 Continued by EO 12869....51751
11382 *See* EO 12829....3479
11423 Amended by EO 12847....29511
11776 Continued by EO 12869....51751
11858 Amended by EO 12860....47201
12002 *See* EO 12867....51747
12131 Continued by EO 12869....51751
12154 Amended by EO 12833....5907
Amended by EO 12841....13529
12170 Continued by Notice of Nov. 1, 1993....58639
12193 *See* EO 12840....13401
12196 Continued by 12869....51751
12214 *See* EO 12867....51747
12216 Continued by EO 12869....51751
12291 Revoked by EO 12866....51735
12295 *See* EO 12840....13401
12333 *See* EO 12829....3479
12334 Revoked by EO 12863....48441
12345 Continued by EO 12869....51751
12351 *See* EO 12840....13401
12356 *See* EO 12829....3479
12367 Continued by EO 12869....51751
12382 Continued by EO 12869....51751
12409 *See* EO 12840....13401
12463 *See* EO 12840....13401
12473 Amended by EO 12888....69153
12484 *See* EO 12888....69153
12498 Revoked by EO 12866....51735
12506 *See* EO 12840....13401
12537 Revoked by EO 12863....48441
12543 Continued by Notice of Dec. 2, 1993....64361
12544 Continued by Notice of Dec. 2, 1993....64361
12550 *See* EO 12888....69153
12554 *See* EO 12840....13401
12569 Amended by EO 12877....59159
12580 *See* Memorandum of Aug. 19, 1993....52397
12586 *See* EO 12888....69153
12587 *See* EO 12840....13401
12629 *See* EO 12840....13401
12662 Superseded in part by EO 12889....69681
12670 *See* EO 12840....13401
12675 Revoked in part by EO 12869....51751
12677 Revoked by EO 12876....58735
12687 Revoked by EO 12869....51751
12696 Revoked by EO 12869....51751
12700 Reestablished by EO 12869....51751

Page

Revoked by EO 12882....62493
12706 *See* EO 12840....13401
12708 *See* EO 12888....69153
12720 Revoked by EO 12869....51751
12722 Continued by Notice of July 20, 1993....39111
12724 Continued by Notice of July 20, 1993....39111
12730 Revoked by EO 12867....51747
See EO 12868....51749
12735 *See* EO 12867....51747
See EO 12868....51749
Continued by Notice of Nov. 12, 1993....60361
12737 Revoked by EO 12852....35841
12741 *See* EO 12869....51751
12748 Amended by EO 12883....63281
12753 *See* EO 12840....13401
12756 *See* EO 12869....51751
12767 *See* EO 12888....69153
12768 Revoked by EO 12882....62493
12774 Superseded by EO 12869....51751
12775 Revoked in part by EO 12872....54029
See Notice of Sept. 30, 1993....51563
See EO 12872....54029
12779 Revoked in part by EO 12853....35843
See Notice of Sept. 30, 1993....51563
See EO 12872....54029
12780 Revoked by EO 12873....54911
12783 *See* EO 12869....51751
12785 *See* EO 12869....51751
12791 Superseded by EO 12840....13401
12792 Amended by EO 12827....211
Revoked by EO 12869....51751
12800 Revoked by EO 12836....7045
12808 *See* EO 12831....5253
See EO 12846....25771
Continued by Notice of May 25, 1993....30693
12810 Revoked in part by EO 12831....5253
See EO 12846....25771
See Notice of May 25, 1993....30693
12813 Revoked by EO 12869....51751
12815 *See* EO 12869....51751
12818 Revoked by EO 12836....7045
12826 *See* Memorandum of Dec. 1....64097
Superseded in part by EO 12886....68709
12827....211
12828....2965
12829....3479

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 3 Executive Orders—Con. Page

Amended by EO 12885....65863
12830....4061
12831....5253
See EO 12846....25771
See Notice of May 25, 1993....30693
12832....5905
12833....5907
See EO 12841....13529
12834....5911
12835....6189
12836....7045
12837....8205
12838....8207
12839....8515
12840....13401
12841....13529
12842....17081
12843....21881
12844....21885
12845....21887
12846....25771
See Notice of May 25, 1983....30693
12847....29511
12848....29517
12849....30931
12850....31327
12851....33181
12852....35841
Amended by EO 12855....39107
12853*See* EO 12872....54029
12853....35843, 51563
12854....36587
12855....39107
12856....41981
12857....42181
12858....42185
12859....44101
12860....47201
12861....48255
12862....48257
12863....48441
12864....48773
12865....51005
12866....51735, 58093
See Memorandum of Sept. 30, 1993....52391
12867....51747
12868....51749
12869 Revoked in part by EO 12882....62493
12870....51753
12871....52201
12872....54029
12873....54911
12874....54921

Page
12875....58093
12876....58735
12877....59159
12878....59343
Amended by EO 12887....68713
12879....59929
12880....60989
12881....62491
12882....62493
12883....63281
12884....64099
12885....65863
12886....68709
12887....68713
12888....69153
12889....69681

Administrative Orders

Memorandums:

June 25, 1991 Superseded by EO 12851....33181
Sept. 25, 1992 *See* Memorandum of May 6, 1993....27647
Dec. 30, 1992....3195, 3485
Jan. 15, 1993....6339
Jan. 22, 1993....6439
Jan. 29, 1993....8201
Feb. 3, 1993....8303
Mar. 4, 1993....14303
May 6, 1993....27647
June 23, 1993....34519
June 25, 1993....34861
July 19, 1993....39109
Aug. 11, 1993....50831, 50833
Aug. 19, 1993....52397
Sept. 11, 1993....48583
Sept. 30, 1993....52391
Oct. 1, 1993....52393
Oct. 26, 1993....58095
Dec. 15, 1993....67263
Corrected....68191

Notices:

May 25, 1993....30693
July 20, 1993....39111
Sept. 25, 1993 *See* EO 12868....51749
Sept. 30, 1993....51563
Nov. 1, 1993....58639
Dec. 2, 1993....64361

Permits:

May 17, 1993....29513

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

Presidential Determinations:

No. 92-22 of Apr. 22, 1992 *See* Presidential Determination No. 93-16 of Mar. 20, 1993....16345
No. 92-29 of June 2, 1992 Continued by Presidential Determination No. 93-23 of May 28, 1993....31329
No. 92-39 of Aug. 17, 1992 Amended by Presidential Determination No. 93-34 of Aug. 19, 1993....45779
No. 93-7 of Jan. 5, 1993....4059
No. 93-8 of Jan. 6, 1993....5241
No. 93-9 of Jan. 6, 1993....5243
No. 93-10 of Jan. 6, 1993....5245
No. 93-11 of Jan. 6, 1993....5247
No. 93-12 of Jan. 6, 1993....5249
No. 93-13 of Jan. 6, 1993....5251
No. 93-14 of Jan. 19, 1993....6341
No. 93-15 of Feb. 27, 1993....13183
No. 93-16 of Mar. 20, 1993....16345
No. 93-17 of Mar. 30, 1993....19193
No. 93-18 of Mar. 31, 1993....19033
No. 93-19 of Apr. 15, 1993....21889
No. 93-20 of May 3, 1993....28757
No. 93-21 of May 12, 1993....31461
No. 93-22 of May 19, 1993....31463
No. 93-23 of May 28, 1993....31329
See EO 12850....31327
No. 93-24 of May 31, 1993....32269
No. 93-25 of June 2, 1993....33005
No. 93-26 of June 3, 1993....33007
No. 93-27 of June 24, 1993....49175
No. 93-28 of June 25, 1993....37631
No. 93-29 of June 29, 1993....35357
No. 93-30 of July 2, 1993....43785
No. 93-31 of July 14, 1993....40307
No. 93-32 of July 19, 1993....40309
No. 93-33 of Aug. 19, 1993....45777
No. 93-34 of Aug. 19, 1993....45779
No. 93-35 of Aug. 30, 1993....48259
No. 93-36 of Aug. 30, 1993....48261
No. 93-37 of Sept. 2, 1993....48263
No. 93-38 of Sept. 13, 1993....51209
No. 93-39 of Sept. 17, 1993....51973
No. 93-40 of Sept. 28, 1993....51975
No. 93-41 of Sept. 29, 1993....51977
No. 93-42 of Sept. 30, 1993....52629
No. 93-43 of Sept. 30, 1993....52207
No. 93-44 of Sept. 30, 1993....52209
No. 93-45 of Sept. 30, 1993....52211
No. 94-1 of Oct. 1, 1993....52213
No. 94-3 of Oct. 29, 1993....58637
No. 94-4 of Nov. 19, 1993....63519

Page
No. 94-5 of Dec. 3, 1993....65277
No. 94-6 of Dec. 6, 1993....65099

Chapter I—General Accounting Office (Parts 1—99)

27 Revised....61992
28 Revised....61992

Title 4—*Proposed Rules:*

27....25785
28....25785

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

179 Authority citation revised....60992, 60994
179.101—179.102 Designated as Subpart A; heading added; interim....60994
179.102 Revised; interim....60994
179.201—179.218 (Subpart B) Added; interim....60994
179.301—179.309 (Subpart C) Added; interim....60992
230.201—230.202 (Subpart B) Removed....36119
250 Authority citation revised....36119
250.101—250.103 (Subpart A) Revised....36119
293 Authority citation revised....65533
293.304 Revised; interim....65533
294.102 Amended; interim....32043
Regulation at 58 FR 32043 confirmed....52877
294.104 (c) revised; interim....32043
Regulation at 58 FR 32043 confirmed....52877
294.107 (b) table revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.108 (f) revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.109 Revised; interim....32044
Regulation at 58 FR 32044 confirmed....52877
294.401 Table revised; interim....32046
Regulation at 58 FR 32046 confirmed....52877

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 5 Chapter I—Con. Page

297 Technical correction 16446
302.101 (c)(9) removed; (c)(10) and (11) redesignated as (c)(9) and (10) 58260
302.102 (b) introductory text revised 58261
307 Authority citation revised 12145
307.101 Revised; interim 12145
Regulation at 58 FR 12145 confirmed 44743
307.102 Revised; interim 12146
Regulation at 58 FR 12146 confirmed 44743
307.103 Revised; interim 12146
Regulation at 58 FR 12146 confirmed 44743
317.501 (c)(3), (5) and (6) revised 58261
317.901 (c) introductory text revised; (c)(4) and (5) added 58261
330 Authority citation revised 18141
330.901—330.903 (Subpart I) Added; interim 18141
335 Authority citation revised 18142
335.102 (f) introductory text added; (f)(1) revised; (g) removed 59347
335.105 Added; interim 18142
351 Authority citation revised 32047
351.203 Amended; interim 65533
351.608 Revised 5563
351.801—351.806 (Subpart H) Revised; interim 32047
351.803 Heading and (a) revised 5564
352.311 (b) revised 58261
352.314 Heading revised; (c) added 58261
359.303 (b) revised 58261
430 Authority citation revised 65533
430.101 Revised; interim 65533
430.103 (b)(1) revised; (b)(2) removed; (b)(3) through (6) redesignated as (b)(2) through (5); interim 65533
430.202 (a)(2) and (b)(1) revised; interim 65533
430.401—430.412 (Subpart D) Removed; interim 65533
430.405 (g) corrected 6056
430.501 (b) revised; interim 65533
432 Authority citation revised 65533
432.101 Revised; interim 65533
432.102 Regulation at 57 FR 20042 confirmed; (f)(6) revised 13192
(a) revised; interim 65533
432.103 (c) and (f) removed; (d), (e) and (g) through (j) redesignated as (c), (d) and (e) through (h); (a), new (d) and new (h) revised; interim 65534
432.104 Amended; heading revised; interim 65534
432.105 Removed; new 432.105 redesignated from 432.106; heading and (a)(4)(i)(C) revised; interim 65534
432.106 Redesignated as 432.105; new 432.106 redesignated from 432.108; interim 65534
432.107 Removed; new 432.107 redesignated from 432.109; (a) amended; (b) revised; interim 65534
432.108 Regulation at 57 FR 20041 confirmed; (a)(2) and (b)(1)(ii) revised 13192
Redesignated as 432.106; interim 65534
432.109 Redesignated as 432.107; interim 65534
451 Authority citation revised 65534
451.101 Revised; interim 65534
451.104 (a) introductory text and (c) revised; interim 65534
451.201 (a) introductory text and (c) revised; interim 65534
451.203 (c) revised; interim 65534
511.607 (b) introductory text and (3) revised 59348
511.701 (a)(1)(iii) removed; interim 65534
530 Authority citation revised 50249, 65534
530.202 Amended 50249
530.203 (b) through (e) revised; (f) and (g) removed 50249
530.204 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added 50249
530.206 Removed 50249
530.306 (a)(3) and (b)(2) revised; interim 65535
530.307 (c) revised; interim 65535
531 Authority citation revised 3200, 33498, 65535, 69172

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

531.101 Amended 33498, 69172
Amended; interim 65535
531.103 (a), (b) introductory text, (1), (d) and (f) revised; (k) added 69172
531.106 Added 69172
531.201 Revised; interim 65535
531.202 (b) reinstated; CFR correction 29777
(e) through (m) redesignated as (f) through (n); new (e) added; interim 65535
531.203 (c)(1) introductory text revised; (c)(2) introductory text amended; interim 65535
531.204 (a)(2) removed; (a)(3) redesignated as (a)(2); (c), (d) introductory text, (1), (2) and (e) introductory text revised; interim 65535
531.205 (a)(2) revised; interim 65536
531.301 Amended; interim 3200, 65536
Amended 33499, 69173
531.302 (a) revised 33499
531.304 (a)(3) and (f)(5) revised; interim 3201
(g) revised 33499
(a), (b) introductory text, (1), (d) and (f) revised; (k) added 69173
531.307 Added 69173
531.401 (d) added; interim 65536
531.402 (b)(1) removed; (b)(2), (3) and (4) redesignated as (b)(1), (2) and (3); interim 65536
531.403 Amended; interim 65536
531.404 Introductory text revised; interim 65536
531.405 (a) revised; interim 65536
531.406 (b)(2)(i) and (ii) revised; interim 65537
531.502 Amended; interim 65537
531.601—531.607 (Subpart F) Added 69174
532 Regulations at 57 FR 61770 and 61771 confirmed 38263
532.229 (b)(1) revised; (b)(5) and (6) added 15415
532.231 (c)(2) revised 15415
532.233 (e) revised 15415
532.241 (a)(1) amended 32273
532.247 (c), (g)(1), (2), (3) and (h) amended 32274
532.251 (a)(3) amended 32274
532.255 Heading, (a) and (e) revised; (b) introductory text, (c) and (d) amended 13194
532.259 Revised 13194
532.279 (b) amended 32274
532.201—532.283 (Subpart B) Appendix D amended 12146, 13194, 33499
Appendix C amended 32274
Appendix D amended; interim 33500
Appendixes B and D amended; interim 45414, 59640, 68716, 68717
Regulation at 58 FR 33500 confirmed 51211
Appendixes A and C amended; interim 64366
532.403 (c) amended 32274
532.509 Amended; interim 3201
532.501—532.513 (Subpart E) Appendix A amended 32274
534.401 (b) and (e)(2) revised 58261
536 Authority citation revised 65537
536.102 Amended; interim 65537
536.205 (a)(2) revised; interim 65537
536.308 Added; interim 65537
540 Removed; interim 65537
550.103 (t) added; interim 3201
550.104 (b)(3) revised; interim 3201
550.105 (b)(3) revised; interim 3201
550.106 (e)(2) revised; interim 3201
550.107 Introductory text revised; interim 3201
550.202 Amended 41625
550.203 (a), (b) and (c) revised; (e) added 41625
550.204 (c)(3) revised 41625
550.205 (b) revised 41625
550.405 Regulation at 57 FR 40070 confirmed 33501
550.703 Amended 58262
550.708 (d) revised 33499
550.901—550.907 (Subpart I) Heading revised 32050
550.901—550.907 (Subpart I) Appendix A amended 32050
Appendixes A and A-1 amended 32276
575 Authority citation revised 3201
575.102 (a)(4) revised; interim 3201
(a)(1) revised; interim 65537
575.201 Corrected; CFR correction 29777
575.202 (a)(4) revised; interim 3201
(a)(1) revised; interim 65537

TITLE 5 Chapter I—Con. Page
575.205 (b) revised; interim.....3201
575.302 (a)(4) revised; interim.....3201
(a)(1) revised; interim.....65537
575.306 (b) revised.....50249
575.307 (a) revised.....50250
575.402 (a)(1) revised; interim.....65537
581 Authority citation revised.....35846
581.103 (a)(10), (20), (21), (22) and (23)(v) revised; (a)(24) through (28) added.....35846
581.104 Regulation at 56 FR 36724 corrected; (f) revised.....35846
581.202 (a) and (c) revised.....35846
581.306 (c) revised.....35846
581 Appendix A revised.....35846
591.203 (a)(1) revised; interim.....65537
591.204 (b)(2) revised.....32278
591.201—591.211 (Subpart B) Appendix A amended.....32278
Appendix A revised.....33506
591.304 (a)(1) and (b)(2) amended.....32278
591.301—591.310 (Subpart C) Appendix A amended.....32278
591.401—591.406 (Subpart D) Added; interim.....51566
595.102 (b) removed; (c) redesignated as (b); interim.....65537
610.403 Revised.....58262
610.408 Added.....58262
630 Authority citation revised.....39602
630.1201—630.1211 (Subpart L) Added; interim.....39602
752 Authority citation revised.....13192
752.201 Regulation at 57 FR 20043 confirmed; (b)(5) revised.....13192
752.301 Regulation at 57 FR 20043 confirmed and amended.....13192
752.401 Regulation at 57 FR 20043 confirmed; (c) and (d) revised.....13192
771.105 (b)(7), (9) and (c)(3) revised; interim.....65538
831 Authority citation revised.....52880
Technical correction.....65243
831.105 (h) and (j) amended; interim.....52880
831.112 (c) amended; interim.....52880
831.501 Revised.....49179
831.502 (f) removed; (g) redesignated as (f); new (f)(5) removed.....48266
Removed; new 831.502 redesignated from 831.503.....49179
831.503 Redesignated as 831.502; new 831.503 redesignated from 831.504; (b)(3)(ii) revised.....49179
831.504 Redesignated as 831.503.....49179
831.601 (b) amended; interim.....52880
Undesignated center heading added; interim.....52882
831.602 (a) amended.....43493
831.603 Amended; interim.....52880
831.604 (a)(1), (b), (c) and (d)(1)(ii) amended; interim.....52880
Redesignated as 831.611; interim.....52882
831.605 (b), (e) and (f)(1)(ii) amended; interim.....52880
Redesignated as 831.612; interim.....52882
831.606 (a), (c)(1) through (4), (5)(iii), (h)(1), (k)(1), (2)(i) and (ii) amended; interim.....52880
Redesignated as 831.613; interim.....52882
831.607 (a) amended; interim.....52880
Redesignated as 831.614; interim.....52882
831.608 Redesignated as 831.618; interim.....52882
831.609 Redesignated as 831.621; interim.....52882
831.610 Redesignated as 831.619; interim.....52882
831.611 (a), (b)(1), (2), (3), (5) and (7) amended; interim.....52881
Redesignated as 831.622; new 831.611 redesignated from 831.604; undesignated center heading added; interim.....52882
831.612 (b)(1), (2)(ii), (3)(i), (ii) and (e)(1)(ii) amended; interim.....52881
Redesignated as 831.632; new 831.612 redesignated from 831.605; interim.....52882
831.613 (b)(2)(i)(A), (B), (ii)(A), (B), (4)(ii), (c)(1) and (2) amended; interim.....52881
Redesignated as 831.631; new 831.613 redesignated from 831.606; interim.....52882
831.614 (a) and (c)(3) amended; interim.....52881

Page
Redesignated as 831.641; new 831.614 redesignated from 831.607; interim.....52882
831.615 (d)(1) amended.....43493
Redesignated as 831.671; interim.....52882
831.616 Revised.....32052
Redesignated as 831.672; new 831.616 redesignated from 831.626; interim.....52882
831.617 Redesignated as 831.673; interim.....52882
831.618 Redesignated as 831.642; new 831.618 redesignated from 831.608; interim.....52882
831.619 (b) amended; interim.....52881
Redesignated as 831.643; new 831.619 redesignated from 831.610; interim.....52882
831.620 (b)(2)(i) amended; interim.....52881
Redesignated as 831.651; interim.....52882
831.621 (e)(3), (f)(2) and (i) amended; interim.....52881
Redesignated as 831.682; new 831.621 redesignated from 831.609; undesignated center heading added; interim.....52882
831.622 (a)(1)(iv), (2)(iii) and (c) amended; interim.....52881
Redesignated as 831.683; new 831.622 redesignated from 831.611; interim.....52882
831.623 (c)(3) amended; interim.....52881
Redesignated as 831.684; interim.....52882
831.624 (a) through (e) amended; interim.....52881
(a) redesignated as 831.661; (b), (c) and (d) redesignated as 831.665(a), (b) and (c); (e) removed; interim.....52882
831.625 Redesignated as 831.644; interim.....52882
831.626 (a), (b) and (c) amended; interim.....52881
Redesignated as 831.616; interim.....52882
831.627 Amended.....43493
Redesignated as 831.681; interim.....52882
831.628 (a), (b)(2), (3)(i), (5) and (c) amended; interim.....52881
Redesignated as 831.685; interim.....52882
831.629 Amended; interim.....52881
Redesignated as 831.662; interim.....52882
831.630 (a), (b) and (c) amended; interim.....52881
Redesignated as 831.645; interim.....52882
831.631 Redesignated from 831.613; undesignated center heading added; interim.....52882
831.632 Redesignated as 831.612; interim.....52882
831.641 Redesignated from 831.614; undesignated center heading added; interim.....52882
831.642 Redesignated from 831.618; interim.....52882
831.643 Redesignated from 831.619; interim.....52882
831.644 Redesignated from 831.625; interim.....52882
831.645 Redesignated from 831.630; interim.....52882
831.651 Redesignated from 831.620; undesignated center heading added; interim.....52882
831.661 Redesignated from 831.624(a); undesignated center heading added; heading revised; interim.....52882
831.662 Redesignated from 831.629; heading revised; interim.....52882
831.663 Added; interim.....52882
831.664 Added; interim.....52883
831.665 Heading added; (a), (b) and (c) redesignated from 831.624(a), (b) and (c); interim.....52882
831.671 Redesignated from 831.615; undesignated center heading added; interim.....52882
831.672 Redesignated from 831.616; interim.....52882
831.673 Redesignated from 831.617; interim.....52882
831.681 Redesignated from 831.627; undesignated center heading added; interim.....52882
831.682 Redesignated from 831.621; interim.....52882
831.683 Redesignated from 831.622; interim.....52882

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 5 Chapter I—Con. Page

831.684 Redesignated from 831.623; interim ... 52882
831.685 Redesignated from 831.628; interim ... 52882
831.701 (d) amended; interim ... 52881
831.801—831.805 (Subpart H) Removed ... 48266
831.901—831.911 (Subpart I) Revised; interim ... 64367
831.1201—831.1213 (Subpart L) Revised ... 49179
831.2203 (c), (f) and (g) amended; interim ... 52882
837 Added ... 48266
838.103 Amended ... 3202
838.135 (a) amended ... 3202
838.101—838.136 (Subpart A) Appendix A amended ... 3202
838.237 (b)(4) amended ... 43493
838.422 (a)(2) amended ... 43493
838.701 (a) amended ... 43493
838.711 (a) amended; interim ... 52882
838.722 (c)(1)(ii) and (2)(iii) amended ... 43493
838.732 (a) and (b) amended ... 43493
838.733 (a)(2) amended; interim ... 52882
838.734 Amended ... 43493
838.806 (c)(1) amended ... 3202
838.911 (d) amended ... 43493
838.912 (b)(2) amended ... 43493
838.921 (b)(2) amended ... 43493
(a) and (b)(1) amended; interim ... 52882
838.922 (a) amended; interim ... 52882
838.931 Amended ... 43493
838.932 (a) amended ... 43493
838.1006 (c)(3) and (d)(3) amended; interim ... 52882
838.1012 (b)(4) amended ... 43493
838.1016 (a) amended; interim ... 52882
841.408 (a) revised ... 43493
841.506 (b), (d) and (e) removed; (c) redesignated as (b) ... 48273
841.507 (b) revised ... 43493
842.104 (a) removed; (b) through (g) redesignated as (a) through (f) ... 48273
842.402 Amended ... 43493
842.602 Amended; interim ... 52883
842.615 Heading, (b) and (c) revised; (d) added; interim ... 52883
843.301—843.313 (Subpart C) Appendix B revised ... 43493
843.410 Revised ... 32052

Page

844.403 Removed; new 844.403 redesignated from 844.404 ... 48273
844.404 Redesignated as 844.403; new 844.404 redesignated from 844.405; (e) removed; (f) redesignated as (e) ... 48273
844.405 Redesignated as 844.404 ... 48273
846.204 (b) redesignated as (b)(1); (b)(2) added; interim ... 47822
846.305 Removed; new 846.305 redesignated from 846.306 ... 48273
846.306 Redesignated as 846.305 ... 48273
870.203 (d) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
870.204 (g)(1) and (2) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
870.401 (a), (b) and (f)(1) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
870.1002 Regulation at 57 FR 43132 confirmed ... 18143
870.1004 Regulation at 57 FR 43132 confirmed ... 18143
870.1006 Regulation at 57 FR 43132 confirmed ... 18143
871.203 (c) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
871.205 (g)(1) and (2) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
871.401 (c) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
872.203 (c) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
872.205 (d)(1) and (2) amended; interim ... 11954
(a)(2) and (4) amended; (a)(2)(i), (ii), (iii), (4)(i), (ii) and (iii) added ... 45415
Regulation at 58 FR 11954 confirmed ... 47823
872.401 (c) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

873.203 (c) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
873.205 (e)(1) and (2) amended; interim ... 11954
(a) revised ... 45415
Regulation at 58 FR 11954 confirmed ... 47823
873.401 (c) amended; interim ... 11954
Regulation at 58 FR 11954 confirmed ... 47823
890 Regulation at 57 FR 10609 comment period extended ... 4569
Technical correction ... 48946
890.109 Revised; interim ... 47824
890.301 Regulation at 57 FR 43133 confirmed ... 33009
(ee) added; interim ... 47824
890.304 (a)(1) through (6) redesignated as (a)(1)(i) through (vi); introductory text redesignated in part as (a)(1) introductory text; (a)(2) added; interim ... 47825
890.306 Regulation at 57 FR 43133 confirmed ... 33009
(o) added; interim ... 47825
890.502 (h) added; interim ... 39607
890.803 (a)(3)(ii) and (iii) amended; interim ... 52882
890.805 (a)(2)(i) and (ii) amended; interim ... 52882
890.904 Revised ... 38663
890.1202 Regulation at 57 FR 43132 confirmed ... 18143
890.1203 Regulation at 57 FR 43132 confirmed ... 18143
890.1204 Regulation at 57 FR 43132 confirmed ... 18143
890.1207 Regulation at 57 FR 43132 confirmed ... 18143
970 Added ... 28759

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201 Authority citation corrected ... 31234
1201.4 (l) and (l) amended ... 36345
1201.22 (d) amended ... 36345
1201.26 (b)(2) amended ... 36345
1201.114 (c) amended ... 36345
1201 Appendix II revised ... 28917
Appendix II corrected ... 31234
1208 Removed ... 61611
1209.8 (d) amended ... 36345

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

Page

1633 Authority citation revised ... 31332
1633.1—1633.83 (Subpart A) Undesignated center headings removed ... 31332
1633.1 Removed ... 31332
1633.2 Removed ... 31332
1633.3 Removed ... 31332
1633.5 Removed ... 31332
1633.6 Removed ... 31332
1633.7 Removed ... 31332
1633.8 Removed ... 31332
1633.9 Removed ... 31332
1633.10 Removed ... 31332
1633.20 Removed ... 31332
1633.21 Removed ... 31332
1633.30 Removed ... 31332
1633.31 Removed ... 31332
1633.32 Removed ... 31332
1633.33 Removed ... 31332
1633.34 Removed ... 31332
1633.35 Removed ... 31332
1633.36 Removed ... 31332
1633.37 Revised ... 31332
1633.38 (a), (c)(1), (3), (4) and (5)(ii) removed; (b) redesignated as (a) and amended; (c)(2), (5) heading and (5)(i) redesignated as (b)(2), (3) heading and text; (e) redesignated as (c); new (b) added ... 31332
1633.39 Removed ... 31332
1633.40 Removed ... 31332
1633.41 Removed ... 31332
1633.42 Removed ... 31332
1633.43 Removed ... 31332
1633.44 Removed ... 31332
1633.45 Removed ... 31332
1633.46 Removed ... 31332
1633.47 Removed ... 31332
1633.48 Removed ... 31332
1633.49 Removed ... 31332
1633.50 Removed ... 31332
1633.51 Removed ... 31332
1633.52 Removed ... 31332
1633.53 Removed ... 31332
1633.54 Removed ... 31332
1633.55 Removed ... 31332
1633.56 Removed ... 31332
1633.70 Removed ... 31332

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 5 Chapter VI—Con. Page
1633.71 Removed....31332
1633.72 Removed....31332
1633.73 Removed....31332
1633.74 Removed....31332
1633.75 Removed....31332
1633.76 Removed....31332
1633.77 Removed....31332
1633.78 Removed....31332
1633.79 Removed....31332
1633.80 Removed....31332
1633.81 Removed....31332
1633.82 Removed....31332
1633.83 Removed....31332
1633.200—1633.236 (Subpart B) Removed....31332
1633.250—1633.257 (Subpart C) Undesignated center headings removed....31332
1633.250 Removed....31332
1633.251 Removed....31332
1633.252 (a), (c), (f) and (g) removed; (b), (d) and (e) redesignated as (a), (b) and (c)....31332
1633.253 Removed....31332
1633.254 Removed....31332
1633.255 Removed....31332
1633.256 Removed....31332
1633.257 Removed....31332
1636 Added....57696
1636.170 (c) revised....57697
1650 Authority citation revised....45381
1650.2 Amended....45381
1650.4 Heading revised....45381
1650.5 Revised....45381

Chapter XI—United States Retirement Home (Parts 2100—2199)

Chapter XI Removed; new Chapter XI heading added....68505

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

2429.24 (a) revised....53105
2471.2 Revised....53105
2471.4 Revised....53105
2472.5 Revised....53105
Chapter XIV Appendix A revised....13695

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

Page
2600 Authority citation revised....69176
2634.203 (c)(1) revised; interim....38912
2634.601 (a) revised; interim....38912
2634.704 (f) added; interim....38912
2634.903 (a) revised; (b)(2)(ii) amended; (b)(2)(iii) added; interim....38912
2634.907 (a)(1) and (2) revised....63024
2636.305 (b) heading revised....69176
2637 Authority citation revised....69176
2638.203 (b)(3) and (4) amended....69176
2638.204 (a) and (b) amended....69176
2641 Appendix B amended....33755

Chapter XXII—Federal Deposit Insurance Corporation (Part 3202)

Chapter XXII Established; interim....39627

Chapter XXVI— Department of Defense (Part 3601)

Chapter XXVI Established; interim....47622

Chapter XXXIII—Overseas Private Investment Corporation (Part 4301)

Chapter XXXIII Established; interim....33320

Chapter XL—Interstate Commerce Commission (Part 5001)

Chapter XL Established....41990

Chapter XLI—Commodity Futures Trading Commission (Part 5101)

Chapter XLI Established....52638

Chapter XLVI—Postal Rate Commission (Part 5601)

Chapter XLVI Established; interim....42840

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Chapter XLVII—Federal Trade Commission (Part 5701)

Page
Chapter XLVII Established; interim....30695

Title 5—*Proposed Rules:*

317....11988
351....44778
410....3508, 8912
412....11988
531....46064
591....26694, 45556
837....59685
970....7052
2502....51255
2504....51256
2634....46096
3101 (Ch. XXI)....41193

TITLE 6—[RESERVED]

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.142 (a)(2) reinstated; CFR correction....30696
1.219 Added....62495
(a) corrected....64353
2.17 (g)(3) and (4) added....42841
2.19 (c)(13) revised....60541
2.23 Heading revised; (a)(5) added....35359
2.25 (b)(2)(iv) and (5)(x) added....11955
(b)(24) added....11956
2.27 (a)(11) revised....4569
2.30 (a)(34) removed....35359
Heading revised; (a)(34) added....51211
2.32 Added....26679
2.55 Heading and (a)(5) revised; (a)(6) added....42841
2.62 (a)(13) revised....60541
2.70 (a)(15) added....35359
2.74 (a)(1) revised....11956
2.74a Added....11956
2.75 (a)(2)(v) and (6)(xiv) added....11955
(a)(2)(i), (6)(i), (ii), (vi), (ix) and (x) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii) and (iii), (a)(6)(iii), (iv) and (v) redesignated as (a)(6)(i), (ii) and (iii), (a)(6)(vii) and (viii) redesignated as (a)(6)(iv) and (v), and (a)(6)(xi), (xii) and (xiii) redesignated as (a)(6)(vi), (vii) and (viii)....11957
2.84 (a)(6) revised....4570
2.85 (a)(7) revised....4570
2.106 Heading revised; (a)(64) added....51211
2.108 (a)(6) removed....35359
15e Added....57697
15e.170 (c) revised....57697
16.4 Revised....18143
16.5 Revised....18143

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

28.2 (o) removed; (p) through (v) redesignated as (o) through (u); new (j) and (n) revised....41993
28.9 Revised....41993
28.122 Amended....41993
28.136—28.151 Removed....41993
28.175—28.184 (Subpart B) Heading revised....41993
28.175 Revised....41993
28.184 Removed....41993
28.201—28.208 Removed....41993
28.215—28.222 Removed....41993
28.301—28.307 Authority citation revised....41993
28.909 (b) removed; (c) and (d) redesignated as (b) and (c); new (b) revised....41993
28.910 (a) introductory text and (1) through (4) revised; (a)(5) removed....41993
28.911 (a) amended....41993
29.1 (e) revised....21343
29.500 Heading revised; (b) and (c) amended....42413
52 Authority citation revised....42413
52.2 Amended....42413
52.42 Amended....11186
52.47 Removed....42413
52.50 Amended....11186
52.51 (c)(1), (2), (d)(1) and (2) amended....11186
52.441—52.453 (Subpart) Revised....4296

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 7 Chapter I—Con. Page

52.449 (c)(1)(iii) corrected ... 7607
52.454 Removed ... 4302
52.455 Removed ... 4302
52.456 Removed ... 4302
54 Authority citation revised ... 64670
54.27 (a) and (b) amended ... 48592
(a) and (b) amended; interim ... 64670
55 Authority citation revised ... 42413, 57538
55.20 (b) amended; (d) removed ... 42413
55.510 (d) amended ... 42413
(b), (c) and (d) revised ... 57538
55.550 Removed ... 42413
55.560 (a)(3) revised ... 57538
56 Authority citation revised ... 57538
56.46 (b) and (c) revised ... 57538
56.47 Revised ... 57538
56.52 (a)(4) revised ... 57538
56.54 (a)(2) revised ... 57539
58.44 Removed ... 42413
58.101 (c) amended ... 42413
58.126 (e)(5)(ii) removed; (e)(5)(iii) redesignated as (e)(5)(ii) ... 42413
58.132 Revised ... 26912
58.133 (b)(1), (2), (6) and (c) revised ... 26912
58.136 Revised ... 26913
58.137 Revised ... 26913
58.138 Revised ... 26913
58.139 Revised ... 26913
58.140 Revised ... 26913
58.148 (e), (f) and (g) added ... 26913
59 Authority citation revised ... 42413, 57539
59.126 Revised ... 57539
59.128 (a) revised ... 57539
59.370 (b) revised ... 57539
59.580 (b) and (d) amended ... 42413
61.2 (n) amended ... 42413
61.6 Amended ... 42413
61.8 Amended ... 42413
61.10—61.24 Removed ... 42413
61.24 Correctly designated ... 45946
61.44 Removed ... 42413
61.45 Removed ... 42413
61.46 Removed ... 42413
61.101 Introductory text amended ... 42413
61.104 Heading revised; text amended ... 42413
68.212 (e) added ... 68016
68.213 Revised ... 68016
68.263 (d) added ... 68016
68.264 Revised ... 68016
68.315 (f) added ... 68016
68.316 Revised ... 68016
70 Authority citation revised ... 42413, 57539
70.71 (b) and (c) revised ... 57539
70.72 Heading revised; text amended ... 42413
Revised ... 57539
70.73 Removed ... 42413
70.76 (a)(2) revised ... 57539
70.77 (a)(4) and (5) revised ... 57539
75.41 Amended; eff. 1-5-94 ... 64101
75.47 Amended; eff. 1-5-94 ... 64101
77.1 Regulation at 58 FR 34700 confirmed ... 57962
80 Revised; interim ... 29098
90—159 (Subchapter E) Added ... 42414
110 Added ... 19022
180 (Subchapter H) Removed ... 42413
1220.312 Regulation at 58 FR 40732 confirmed; eff. 1-10-94 ... 64672
1220.315 Regulation at 58 FR 40732 confirmed; eff. 1-10-94 ... 64672

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.2 Amended ... 42487
210.4 (a) and (b)(1) heading amended; (b)(3) and (4) added ... 42487
210.6 Amended ... 42487
210.7 (a), (c) introductory text, (1), (1)(i), (ii), (iv) and (v) amended; (d) added ... 42487
210.8 (c) and (d) amended ... 42487
210.9 (b)(19) amended; (c) added ... 42488
210.10 Heading revised; (b) amended; (j) added ... 42488
210.23 (a) amended ... 42489
226.20 (a)(3) and (c)(3) redesignated as (a)(4) and (c)(4); (a), (c)(1) table, (2) undesignated center heading, introductory text and table, new (4) introductory text and table amended; new (a)(3) and new (c)(3) added; (p) revised ... 37850
235.4 (a) amended ... 42489

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

240 Authority citation revised ... 39120
240.1 (c) and (f) revised ... 39120
240.3 (b) amended ... 39120
240.4 Heading revised; (a) amended ... 39120
240.6 Amended ... 39120
245.2 (f) amended ... 42489
246 Authority citation revised ... 37634, 47022, 51568
246.1 Amended ... 11506
246.2 Amended ... 11506
Amended; interim ... 47022
246.4 (a)(8), (9) and (11)(ii) revised; (a)(11)(iii) and (iv) amended; (a)(11)(v) added ... 11506
246.7 (a) amended; (n) added ... 11506
246.11 (a)(3) added; (b)(1) revised ... 11507
246.14 (c)(1) introductory text amended; (c)(9) added ... 11507
246.16 (c)(2)(ii) introductory text revised ... 37635, 51568
(r) added; interim ... 47022
246.28 OMB numbers ... 11507
250 Authority citation revised ... 39120
250.3 Amended ... 39120
250.13 (a), (g) and (k) revised ... 39120
250.23 (a) revised ... 39122
250.30 (b)(1) amended ... 39122
250.48 (b)(1) and (c) revised ... 39122
250.49 Heading and (b)(1) revised ... 39123
271 Authority citation revised ... 215
271.2 Regulation at 52 FR 36397 confirmed ... 58453
272 Authority citation revised ... 215
272.1 Regulation at 56 FR 12845 confirmed ... 215
(g)(128) added ... 58443
Regulation at 52 FR 36397 confirmed; (g)(93)(i) amended; (g)(93)(iv) and (129) added ... 58453
(g)(117) revised ... 58457
272.5 Regulation at 52 FR 36398 confirmed ... 58453
273 Authority citation revised ... 215
273.1 Regulation at 56 FR 12845 confirmed ... 215
(c)(6) added ... 58443
Regulation at 52 FR 36398 confirmed; (a)(2)(i)(C) and (D) amended and redesignated in part as (a)(2)(i)(C)(*1*), (*2*), (D)(*1*) and (*2*); new (a)(2)(i)(C)(*2*) and (D)(*2*) revised; (a)(2)(i)(C)(*3*) and (D)(*3*) added ... 58453
273.2 Regulation at 56 FR 12845 confirmed ... 215
Regulation at 52 FR 36398 confirmed; (i)(1)(iii) and (iv) amended ... 58454
273.8 (e)(17) revised ... 58457
273.9 Regulation at 56 FR 12845 confirmed ... 215
(b)(1)(ii) and (2)(ii) amended; (c)(16) added ... 58443
Regulation at 58 FR 36398 confirmed; (c)(1)(ii)(G) added; (c)(1)(iv)(B) amended ... 58454
273.10 Regulation at 52 FR 36399 confirmed; (f)(2) revised ... 58454
273.11 Regulation at 56 FR 12845 confirmed ... 215
(b)(1) introductory text amended ... 58444
273.18 (c)(2)(ii) amended ... 58454
274 Authority citation revised ... 215
275 Authority citation revised ... 215
276 Authority citation revised ... 215
277 Authority citation revised ... 215
278 Authority citation revised ... 215
279 Authority citation revised ... 215
280 Authority citation revised ... 215
281 Authority citation revised ... 215
282 Authority citation revised ... 215
284 Authority citation revised ... 215
285 Authority citation revised ... 215

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

Chapter III Policy statement ... 47206
300.1 (a) revised ... 52400
301 Regulation at 58 FR 217 confirmed ... 28336
301.13-1 Amended ... 7958
301.38-2 (b) corrected ... 8820
301.45—301.45-12 (Subpart) Revised ... 39423
301.50 (a) and (b) designation removed; interim ... 6347
301.50-1 Amended; interim ... 6347
301.50-2 (a) revised; interim ... 28335
301.50-3 (c) amended; interim ... 6348, 28335, 34682, 63027

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 7 Chapter III—Con. Page

301.50-4 (b)(1)(ii) amended; interim....28335
301.50-5 (a)(1)(ii) and (iii) amended; (a)(1)(iv) added; interim....6348
(a)(1)(iii), (iv) and (2)(ii) amended; (a)(1)(v) and (2)(iii) added; interim....28335
(a)(1)(iii) revised; OMB number; interim....34683
301.50-6 OMB number....34683
301.50-7 OMB number....34683
301.50-8 OMB number....34683
301.50-10 Introductory text designated as (a); new (b) added; interim....6348
(a) revised; (b) amended; interim....28335
(a) amended; (c) added; interim....63027
301.52 (a) amended; interim....36592
(b)(10)(i) amended; (b)(10)(ii) redesignated as (b)(10)(iii); new (b)(10)(ii) added....39418
301.52-2a Amended; interim....36592
301.64 (a) amended; interim....219, 64103
Regulation at 58 FR 219 confirmed....28336
301.64-3 (c) amended; interim....219, 64103
Regulation at 58 FR 219 confirmed....28336
301.78-3 (c) amended; interim....6345, 39124, 42491, 49188, 53108, 53109, 63030, 67629
301.78-10 (b) and (c) redesignated as (c) and (d); new (b) added; interim....63031
301.80 (b)(17) through (21) redesignated as (b)(18) through (22); new (b)(17) added; interim....216
Regulation at 58 FR 216 confirmed....36590
301.80-2a Amended; interim....216, 217, 51980
Corrected....11099
Regulations at 58 FR 216 and 217 confirmed....36590
301.81—301.81-10 (Subpart) Appendix amended....57954
301.81-10—201.81-10 (Subpart) Regulation at 58 FR 57954 eff. date confirmed....67627

Page

301.93—301.93-10 (Subpart) Added; interim....8521
301.93-1 Corrected....29028
301.93-2 (a) corrected....29028
301.93-3 (c) revised; interim....36590, 57952
Regulation at 58 FR 36590 confirmed....51982
301.93-10 (a)(1)(i) corrected....29028
318.13-3 (c) and (d) redesignated as (d) and (e); new (c) added....7959
318.13-4 (c) revised....7959
Regulation at 57 FR 31307 confirmed....57955
318.13-4g Regulation at 57 FR 31307 confirmed....57955
318.13-6 Revised....7959
318.13-8 Amended....7959
318.13-10 (f)(1) amended; (f)(2) introductory text revised; (f)(3) added....7959
318.13-16 Heading and text amended....7959
Corrected....40190
318.13-17 Added....7959
(c), (f) and (i)(1) corrected....40190
318.58-1 Amended....7961
318.58-3 (b) and (c) redesignated as (c) and (d); new (b) added....7961
318.58-4 Heading and introductory text revised; (c) added....7962
318.58-7 Amended....7962
318.58-8 Amended....7962
318.58-10 (f)(1) amended; (f)(2) introductory text revised; (f)(3) added....7962
318.58-12 Revised....7962
Correctly designated....40190
318.58-16 Heading revised; text amended....7964
319 Authority citation revised....59353
319.24 (a) and (b) amended; (d) added....44745
319.37—319.37-14 (Subpart) Authority citation revised....38267
319.37-1 Amended; eff. 7-16-94....38267
319.37-7 (a) amended; (c) and (d) redesignated as (d) and (e); new (c), (f) and (g) added; new (d) introductory text, (1) and (6) revised; eff. 7-16-94....38267
(c)(4) and (f)(3) corrected....41124

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

319.40-1—319.40-8 (Subpart) Added; interim....8530
Heading revised; interim....59353
319.40-1 Amended; interim....59353
319.40-2 (a) amended; interim....59353
319.40-4 (a)(4) and (c)(1) amended; interim....59353
319.40-5 (c) revised; interim....59353
319.40-7 (b) revised; interim....59353
319.41-1 Footnote 2 amended; (c) added....44745
319.56-2 (a) amended....43497
(j) amended....69179
319.56-2m Heading, introductory text, (a)(2), (c) and (e) amended....69179
319.56-2s Heading, (a), (b), (c)(1), (2), (d) introductory text, (1)(ii), (e), (f)(1), (g) introductory text and (3) amended....69179
319.56-2t Introductory text revised; table amended....43497
Table amended....69180
319.56-2u Heading revised; existing text designated as (a); (b) added....69181
319.56-2x (a) table amended....43498
(a) revised....69181
319.56-2y Heading revised; (a) introductory text, (1), (2) and (4) amended....69182
319.56-2aa Added....11364
319.56-2bb Added....40037
319.56a (a)(7) revised; (a)(12) amended....43497
321.2 Amended; interim....11958
321.9 (b), (c) and (d) revised; interim....11958
330.400 (j) added (OMB number); eff. 1-19-94....66248
340.0 (a) revised....17056
340.1 Amended....17056
340.2 (b)(1)(i) and (2)(i) amended....17056
340.3 Redesignated as 340.4; new 340.3 added....17056
340.4 Redesignated as 340.5; new 340.4 redesignated from 340.3....17056
(a), (b), (c) introductory text, (1), (2), (e), (f) introductory text, (7), (8), (9), (10), (11)(ii), (g), (h)(1), (2), (3) and Footnote 6 amended....17058

Page

340.5 Redesignated as 340.7; new 340.5 redesignated from 340.4....17056
(a), (b), (c)(1), (2), (3) introductory text, (i) and (ii) amended....17059
340.6 Redesignated as 340.8....17056
Added....17057
340.7 Redesignated as 340.9; new 340.7 redesignated from 340.5....17056
(b) amended....17059
340.8 Redesignated from 340.6....17056
340.9 Redesignated from 340.7....17056
354.1 (a)(1) introductory text and (iii) amended....32434
354.2 Table amended....220, 60102
354.3 (e)(2) introductory text, (iv) and (g)(5)(iii) revised....14307
(g)(4) revised....38270
Regulation at 57 FR 62472 confirmed....59354
354.4 (a)(3) Footnote 2 redesignated as Footnote 5....38271

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.4 Revised....64873
400.27—400.29 (Subpart C) Authority citation added....67303
400.27 Revised....67304
400.28 (a) introductory text and (c) revised....67304
400.37—400.38 (Subpart D) Heading revised....17943
400.38 Amended....17943
400.40—400.42 (Subpart E) Removed....53110
400.47 (a) revised; (d) and (e) removed; (f) through (i) redesignated as (d) through (g)....17945
400.49 Revised....17945
400.50 Added....17945
400.66 (b) table revised....13531
400.250 Revised; interim....36593
400.251 (a) and (b) amended; interim....36593
400.252 Nomenclature change; (a) and (b) amended; interim....36593
400.402 (e) and (k) revised; interim....47204
400.406 Revised; interim....47204

DE

1993

UMI

TITLE 7 Chapter IV—Con. Page

400.451—400.500 (Subpart R) Added....53110
401 Extensions of sales closing date....21241, 53393
401.101 Amended; interim....33508, 67631
401.103 Amended; interim....33508, 67633
401.105 Amended; interim....33508, 67634
401.106 Amended; interim....33508
401.107 (e) revised....64874
401.108 (b) amended....64874
401.109 Amended; interim....67635
401.111 Amended; eff. 11-30-93....3205
Amended; interim....67637
401.113 Amended; eff. 11-30-93....3207
Amended; interim....67638
401.117 Amended; eff. 11-30-93....3209
Amended; interim....67639
401.119 Amended; interim....67641
401.120 (a) and (b) revised; interim....33507
Amended; interim....67642
401.121 Amended; interim....67643
401.133 Amended; interim....33508
406.7 Amended; interim....33508, 46074
415.7 Amended; interim....33509
422 Exclusion of certified seed potato option....1
422.7 Amended; interim....33508
430.7 (d) removed; (e) and (f) redesignated as (d) and (e)....66250
443.7 Amended; interim....67645
457.2 (g) corrected....58262
457.6 (a) corrected....58262
457.8 Corrected....58262, 58263
498.100 Regulation at 58 FR 34867 confirmed....67306

Chapter VI—Soil Conservation Service, Department of Agriculture (Parts 600—699)

623 Added; interim....62497

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture (Parts 700—799)

702 Authority citation revised....11785
702.2 (a)(6) amended; (a)(11) through (28) redesignated as (a)(12) through (29); new (a)(11) added....11785
702.5 (a) and (b) revised; (c) and (d) added....11785
702.9 (e) through (i) redesignated as (f) through (j); new (f) and (h) revised....11785
702.13 (a) and (c)(3) revised; last (c) redesignated as (d)....11786
702.18 (d) revised....11786
723 Authority citation revised....11960
723.111 Added....11962
723.112 Added....36859
723.113 Added....36857
723.114 Added....36857
723.115 Added....36857
723.116 Added....36857
723.117 Added....36857
723.118 Added....36857
723.216 (i)(4) revised....11960
729.214 (c) added....11964
729.316 (a) revised....57718
781.2 (b) revised....48274

Chapter VIII—Federal Grain Inspection Service, Department of Agriculture (Parts 800—899)

800.71 (a) Schedule A revised....3214
Regulation at 58 FR 3214 postponed; interim....5255
(a) Schedule A revised; interim....49422
800.88 (d) revised....3212
800.96 (c)(2) revised....3212

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905 Budget of expenses....33756, 43241
Authority citation revised....43242, 59932
905.140 Revised; interim....65539
905.306 (a) Table 1 amended; interim....31466, 59932
Regulation at 58 FR 31466 confirmed....40720
906 Budget of expenses....37635, 53112
Authority citation revised....52401, 53112
906.365 (a)(5) revised; interim....52401

Page

(c) removed; (a)(4) revised; interim....54926
907 Budget of expenses....33012, 57955
Authority citation revised....53114
907.10 Amended....7965
907.13 Suspended....53115
907.14 Suspended....53115
907.17 Revised....7965
907.18 Revised....7965
907.20 (a) revised....7965
907.21 Revised....7965
907.22 (a) introductory text, (c), (d), (e) and (i) revised....7965
907.23 Revised....7966
907.24 Revised....7966
907.26 Revised....7966
907.27 Revised....7966
907.31 Revised....7966
Suspended in part....33188
907.34 Removed....7966
907.41 (d) removed....7966
907.50 (a) amended....7966
(a)(3) suspended....53115
907.51 (a) and (c) revised....7966
Heading and (b) introductory text suspended in part; (a), (c) and (d) suspended....53115
907.52 Amended....7966
Suspended....53116
907.53 (b), (c), (f), (g) and (h) revised; (i) removed....7966
(a), (e), (f) and (h) suspended in part....53116
907.54 Revised....7967
Suspended....53116
907.55 Revised....7967
Suspended....53116
907.56 Revised....7967
Suspended....53116
907.57 Suspended....53116
907.59 Amended....7967
Suspended....53116
907.60 Amended....7967
Suspended....53116
907.61 Amended....7967
Suspended....53116
907.61a Amended....7967
Suspended....53116
907.62 Suspended in part....53116
907.64 Revised....7968
Suspended in part....53116
907.65 Suspended in part....53116
907.67 Amended....7968
907.70 Introductory text amended....7968
907.71 Revised....7968
907.73 Undesignated center heading and section removed....7968
907.80 Suspended in part....53116
907.83 (c)(1) revised; (c)(3) added; (d) and (e) removed; (f) redesignated as (d)....7968
907.100 (g) revised; (h) amended....33188
907.101 Amended....33188
907.103 Removed....7968
907.106 Undesignated center heading and section removed....7968
907.108 (a) and (c) suspended in part; (d) and (e) suspended....53116
907.109 Removed....7968
907.110 Suspended....53116
907.111 Suspended....53116
907.113 Suspended....53116
907.114 Suspended....53116
907.116 Suspended....53116
907.117 Suspended....53116
907.118 Removed....7968
907.120 (e) suspended in part....53116
907.131 (b)(1) amended; (b)(3)(v), (4) and (c) removed; (b)(3)(vi), (vii) and (d) redesignated as (b)(3)(v), (vi) and (c); interim....53114
(a) suspended in part....53116
907.133 (a) and (c) suspended in part....53116
907.141 (a) amended; interim....53114
907.173 Undesignated center heading and section removed....7968
908 Budget of expenses....33012, 57955
Authority citation revised....53114
908.11 Amended....7968
908.14 Suspended....53116
908.15 Suspended....53116
908.18 Revised....7968
908.19 Revised....7968
908.20 (a) revised....7968
908.21 Revised....7968
908.22 (a) introductory text, (c), (d), (e) and (i) revised....7969
908.23 Revised....7969
908.24 Revised....7969
908.26 Revised....7969
908.27 Revised....7970
908.31 Revised....7970
Suspended in part....33188
908.34 Removed....7970

TITLE 7 Chapter IX—Con. Page

908.41 (d) removed....7970
908.50 (a) amended....7970
(a)(3) suspended....53116
908.51 (a) and (c) revised....7970
Heading and (b) introductory text suspended in part; (a), (c) and (d) suspended....53116
908.52 Amended....7970
Suspended....53116
908.53 (b), (c), (f), (g) and (h) revised; (i) removed....7970
(a), (e), (f) and (h) suspended in part....53116
908.54 Revised....7970
Suspended....53117
908.55 Revised....7971
Suspended....53117
908.56 Revised....7971
Suspended....53117
908.57 Suspended....53117
908.59 Amended....7971
Suspended....53117
908.60 Amended....7971
Suspended....53117
908.61 Amended....7971
Suspended....53117
908.61a Amended....7971
Suspended....53117
908.62 Suspended in part....53117
908.64 Revised....7971
Suspended in part....53117
908.65 Suspended in part....53117
908.67 Amended....7971
908.70 Introductory text amended....7971
908.71 Revised....7971
908.73 Undesignated center heading and section removed....7971
908.80 Suspended in part....53117
908.83 (c)(1) revised; (c)(3) added; (d) and (e) removed; (f) redesignated as (d)....7971
908.100 (g) revised; (h) amended....33189
908.101 Amended....33189
908.103 Removed....7972
908.106 Undesignated center heading and section removed....7972
908.108 (a) and (b) suspended in part; (c) and (d) suspended....53117
908.109 Removed....7972
908.110 Suspended....53117
908.111 Suspended....53117

Page

908.113 Suspended....53117
908.114 Suspended....53117
908.116 Suspended....53117
908.117 Suspended....53117
908.118 Removed....7972
908.120 (e) suspended in part....53117
908.131 (b)(1) amended; (b)(3)(v), (4) and (c) removed; (b)(3)(vi), (vii) and (d) redesignated as (b)(3)(v), (vi) and (c); interim....53114
(a) suspended in part....53117
908.133 (a), (b) and (c) suspended in part....53117
908.141 (a) amended; interim....53114
908.173 Undesignated center heading and section removed....7972
910 Budget of expenses....38271, 50507
Authority citation revised....52402
910.180 (d)(3) amended; interim....52402
911 Budget of expenses...8534, 33757, 42187, 54928
Authority citation revised....54928
915 Budget of expenses...8534, 33757, 42187, 54928
Authority citation revised...46760, 54928
915.306 (a)(7) added; interim....7973
Regulation at 58 FR 7973 confirmed....34684
915.332 (a)(2) Table I revised; interim....34686
Regulation at 58 FR 34686 confirmed....46760
916 Budget of expenses....33883, 45231
916.356 (a)(2), (3) and (5) through (8) introductory texts revised, (a)(9) removed; interim....8536
Regulation at 58 FR 8536 confirmed; (a)(5) through (8) redesignated as (a)(6) through (9); (a)(2) introductory text, (4) introductory text and new (6) through (9) revised; new (a)(5) added....29101
917 Budget of expenses....33883, 45231
917.459 (a)(4) introductory text and (5) introductory text revised; interim....32592
Regulation at 58 FR 32592 confirmed....43500

Page

918 Suspended; eff. 3-1-93 through 2-28-95....8210
920 (a)(4) revised; (a)(5) removed....43245
Budget of expenses....45232, 60363
Authority citation revised...45234, 65102
920.5 Revised; eff. 1-12-94....65102
920.112 Revised....28339
920.122 Regulation at 57 FR 62158 confirmed....28337
920.302 (b)(1) corrected....3069
920.303 Added....43246
921 Suspended....220
922 Budget of expenses....38272, 50507
923 Budget of expenses....38272, 50507
923.322 (a)(2) removed; (a)(3) redesignated as (a)(2); new (a)(2) and (c) revised; interim....30698
Regulation at 58 FR 30696 confirmed....43248
924 Budget of expenses....38272, 50507
925 Budget of expenses....8893, 34688
Authority citation revised....44104
925.304 (a) amended; interim....21536
Regulation at 58 FR 21536 confirmed....44104
926 Budget of expenses....33013, 43241
Authority citation revised...43242, 60365
926.324 (a)(1) and (b) revised....60365
927 Regulation at 57 FR 54903 confirmed....8538
Budget of expenses....42491, 54928
Authority citation revised....54928
927.122 (a) amended....34691
927.123 Added....34691
927.125 (b) and (c) revised; (d) amended....34691
928 Referendum order....4302, 43065
Budget of expenses....33759, 53118
Authority citation revised....53118
929 Budget of expenses....42493, 54928
Authority citation revised....54928
931 Budget of expenses....40720, 53120
Authority citation revised....53120
932 Budget of expenses...8539, 33014, 45234, 60363
Authority citation revised...45235, 48594
932.153 Revised; interim....48594
932.159 Added....28340
944 Authority citation revised...44105, 60367

Page

944.28 (c) and (e) revised; (f) added; interim....69185
944.106 Revised....39430
(a) table corrected....41124
(a) revised; interim....59934
(e) revised; (h) added; interim....69185
944.209 (c) and (d) revised; (f) added; interim....69185
944.312 (f) revised; (h) added; interim....69185
944.350 Added; interim....69185
944.401 (b)(12) revised; (c) amended; interim....48596
(c) revised; (j) added; interim....69186
944.503 (a) amended; interim....21537
Regulation at 58 FR 21537 confirmed....44105
(d) revised; (f) added; interim....69186
944.550 (c) and (d) revised; (f) added; interim....69186
944.605 (a) revised....60367
(d) revised; (g) added; interim....69186
945 Budget of expenses....38274, 57957
Authority citation revised...44606, 57959
945.83 (d) suspended in part; eff. 9-23-93 through 7-31-98....44606
945.341 Regulation at 57 FR 62167 confirmed....33014
946 Budget of expenses....32594, 47027
Authority citation revised...45417, 47027
946.336 (a)(2)(i), (iii), (iv), (c) introductory text, (1) and (2) revised; interim....33017
Regulation at 58 FR 33017 confirmed....45417
947 Budget of expenses....33760, 47027
Authority citation revised...46761, 47027
947.340 (e) amended; interim....33019
Regulation 58 FR 33019 confirmed....46761
948 Budget of expenses...33020, 33762, 47027
Authority citation revised....47027
948.150 (a) revised; interim....8541
Regulation at 58 FR 8541 confirmed....34692
953 Budget of expenses....34692, 47027
Authority citation revised....47027

TITLE 7 Chapter IX—Con. Page

955 Budget of expenses.....47024, 64103
958 Budget of expenses.....32595, 47027
Authority citation revised.....47027
958.328 (e), (f) introductory text, (2) and (h) revised; (i) removed.....60369
959 Budget of expenses.....28767, 50507
966 Budget of expenses.....4572, 57719
966.323 Introductory text revised; (a)(2)(i), (ii), (3)(i), (b), (c) introductory text and (d)(2) amended.....57719
967 Limitation of handling...38276, 52402
Budget of expenses.....38277, 62033
Authority citation revised.....52403
979 Budget of expenses...4574, 28768, 50510
980 Authority citation revised.....69189
980.1 (i) added; interim.....69189
980.117 (h) amended; (i) added; interim.....69189
980.212 (i) added; interim.....69189
980.501 Added; interim.....69189
981 Budget of expenses.....37636, 57957
Authority citation revised...43503, 57959, 64106
981.441 (c)(5)(iv), (v) and (vi) added.....33023
Revised; interim.....43503
981.472 (a) revised; (b) removed; interim.....34696
Regulation at 58 FR 34696 confirmed; eff. 1-5-94.....64106
981.473 (b), (d) and (f) removed; (c) and (e) redesignated as (b) and (c); (a) and new (b) revised; new (d) added; interim.....34696
Regulation at 58 FR 34696 confirmed; eff. 1-5-94.....64106
981.474 (a) revised; (b) and (c) removed; (d) and (e) redesignated as (b) and (c); interim.....34696
Regulation at 58 FR 34696 confirmed; eff. 1-5-94.....64106
982 Regulation at 57 FR 62172 confirmed.....28772
Budget of expenses.....32596, 47028
Authority citation revised.....47027
984 Budget of expenses.....4572, 57959
Authority citation revised.....57961
985 Marketing percentages.....28340
Budget of expenses.....32598, 43241
Authority citation revised.....43242
987 Budget of expenses.....37638, 64103
987.112a Regulation at 57 FR 61779 confirmed.....13697
989 Marketing percentages.....47029
Budget of expenses...4572, 32600, 64107
Authority citation revised.....48275
989.221 Revised; interim.....48275
Regulation at 58 FR 48275 confirmed; eff. 1-5-94.....64107
993 Technical correction.....32003
Budget of expenses.....40721, 57957
Authority citation revised.....57959
993.150 (g)(1)(i), (ii) and (iii) revised.....13698
997 Authority citation revised...34864, 64110
997.30 (d) revised; interim.....34864
Regulation at 58 FR 34864 confirmed; eff. 1-5-94.....64110
998 Budget of expenses.....32601, 43065
998.100 Heading revised; interim.....34867
Regulation at 58 FR 34867 confirmed.....67306
998.200 Heading, (d), (h)(2) and (4) revised; interim.....34867
Regulation at 58 FR 34867 confirmed.....67306
998.300 Heading and (l) revised; (p) redesignated as (p)(1); (p)(2) added; interim.....34868
Regulation at 58 FR 34868 confirmed.....67306
999 Authority citation revised.....69189
999.1 First (d) removed; remaining (d) redesignated as (d)(1); (d)(2) added; interim.....69190
999.100 (e) redesignated as (e)(1); (e)(2) added; interim.....69190
999.200 Regulation at 57 FR 56245 confirmed.....33322
999.500 Added.....69190

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1001 Marketing percentages.....5255
1001.17 Revised.....27775
1001.18 Revised.....27775

Page

1001.22 Added.....27775
1001.40 (b) and (c) revised.....27775
1001.42 Amended; (d)(2)(vi) and (vii) revised.....27776
1001.43 (g) added.....27776
1001.44 (a)(5) amended; (a)(6) and (7)(i) revised.....27776
1001.45 (b) revised.....27777
1001.50 (d) revised.....63285
1001.53 (h)(1) revised.....27777
1001.60 (d), (f) and (g) revised; (h) and (i) added.....27777
1001.61 (c) redesignated as (d); (a) and new (d) revised; new (c) and (e) added.....27777
1001.62 (c) and (d) suspended; eff. through 11-30-93.....17947
1002 Determination.....50511
1002.15 Revised.....27778
1002.18 Revised.....27778
1002.20 Added.....27778
1002.22 (e) added.....27778
1002.40 Revised.....27778
(d) added.....63285
1002.41 (c) and (d) revised.....27778
(d)(1)(iii) revised; (e) added.....63285
1002.44 (a) introductory text and (d) introductory text revised; (a)(1) amended.....27779
1002.45 (a)(6) amended; (a)(7) and (8)(i) revised.....27779
1002.50 (e) added.....63285
1002.52 (c) table amended.....63285
1002.56 (a)(2) revised.....63285
1002.60 (d)(2) revised; (d)(3), (4) and (e) redesignated as (d)(5), (6) and (f); new (d)(3), new (4) and new (e) added.....27779
1002.61 (d) and (e) suspended; eff. through 11-30-93.....17947
(g) and (h) revised.....27780
1002.74 (a)(1) and (2) amended; (a)(3) added.....27780
1002.102 Revised.....51983
1002.140 (a) and (b) revised.....51983
1002.141 Heading, (a), (b), (d), (e) and (f) revised.....51983
1002.143 (a)(5) revised.....51983
1002.160 Revised.....51984
1002.180 Revised.....51984
1002.220 (b) and (c) revised.....51984
1002.230 Revised.....51984
1002.231 Revised.....51984
1002.232 (b) revised.....51984
1002.233 Revised.....51984
1002.234 Added.....51985
1002.241 (a) revised.....51985
1002.243 Heading and (b) revised.....51985
1002.245 Revised.....51985
1002.246 Revised.....51985
1002.247 Heading revised; (c)(1) and (2) amended.....51985
1002.260 Heading, introductory text and (a) introductory text revised.....51986
1004 Marketing percentages.....5255
1004.7 (a) suspended in part through 2-28-94.....45418
(e) suspended in part through 2-28-94.....52406
1004.12 (d)(2) suspended in part through 2-28-94.....52405
1004.15 Revised.....27780
1004.16 Revised.....27780
1004.22 Added.....27780
1004.40 (b) and (c) revised.....27780
1004.42 (a)(1) amended; (d)(2)(vi) and (vii) revised.....27781
1004.43 (e) added.....27781
1004.44 (a)(6) amended; (a)(7) and (8)(i) revised.....27781
1004.45 (c) revised.....27782
1004.50 Undesignated center heading and (g) revised.....63285
1004.60 (f) and (h) revised; (l), (m) and (n) added.....27782
1004.74 (a)(2)(iii) removed; (a)(2)(iv) and (v) redesignated as (a)(2)(iii) and (iv).....27782
1004.76 (b)(3) and (5) revised; (c) added.....27782
1004.85 (a) revised.....27783
1005.15 Revised.....27783
1005.16 Revised.....27783
1005.19 Added.....27783
1005.40 Revised.....27783
(c)(1)(iii) revised; (d) added.....63285
1005.42 (a)(1) amended; (d)(2)(vi) and (vii) revised.....27784
1005.43 (d) added.....27784
(e) added.....63285
1005.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) amended.....27784
1005.45 (b) revised.....27784
1005.50 (d) added.....63286
1005.53 (b)(1) introductory text revised.....27785

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

1005.54 Revised 63286
1005.60 (d) and (f) revised; (g), (h) and (i) added 27785
1005.76 (a)(3) and (5) revised; (c) added 27785
1005.85 (c) revised 27785
1006.15 Revised 27786
1006.16 Revised 27786
1006.21 Added 27786
1006.40 Revised 27786
1006.42 Revised 27787
1006.43 (a) revised; (c) and (d) added 27788
1006.44 Revised 27788
1006.45 (a) amended; (b) revised 27790
1006.50 (c) added 27790
1006.60 Revised 27790
1006.76 (b)(3) and (5) revised; (c) added 27791
1006.85 (b) revised 27791
1007.13 (b)(4) and (5) suspended in part 40724
1007.15 Revised 27791
1007.16 Revised 27791
1007.21 Added 27791
1007.32 (a) suspended; eff. 8-1-93 through 8-31-93 43068
1007.40 Revised 27792
(c)(1)(iii) revised; (d) added 63286
1007.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27792
1007.43 (d) added 27792
(e) added 63286
1007.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27793
1007.45 (b) revised 27793
1007.50 (d) added 63286
1007.53 Revised 63286
1007.60 (d), (f) and (g) revised; (h) and (i) added 27793
1007.61 (a) introductory text in part and (b) suspended; eff. 8-1-93 through 8-31-93 43068
1007.76 (a)(3) and (5) revised; (c) added 27793
1007.85 (b) revised 27794
1011.13 (e)(3) amended; eff. through 7-31-93 17948
1011.15 Revised 27794
1011.16 Revised 27794
1011.19 Added 27794

Page

1011.40 Revised 27794
(c)(1)(iii) revised; (d) added 63286
1011.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27795
1011.43 (d) added 27795
(e) added 63286
1011.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27795
1011.45 (b) revised 27796
1011.50 (d) added 63286
1011.52 (b)(1) introductory text revised 27796
1011.53 Revised 63286
1011.60 (d),(f) and (g) revised; (h) and (i) added 27796
1011.76 (a)(3) and (5) revised; (c) added 27796
1011.85 (c) revised 27797
1012.15 Revised 27797
1012.16 Revised 27797
1012.20 Added 27797
1012.40 Revised 27797
1012.42 Revised 27798
1012.43 (a) revised; (c) and (d) added 27799
1012.44 Revised 27799
1012.45 (a) amended; (b) revised 27801
1012.50 (c) added 27801
1012.60 Revised 27801
1012.76 (b)(3) and (5) revised; (c) added 27802
1012.85 (b) revised 27802
1013.15 Revised 27802
1013.16 Revised 27803
1013.20 Added 27803
1013.40 Revised 27803
1013.42 Revised 27803
1013.43 (c) and (d) added 27805
1013.44 Revised 27805
1013.45 (a) amended; (b) revised 27807
1013.50 (e) revised 27807
1013.60 Revised 27807
1013.76 (b)(3) and (5) revised; (c) added 27808
1013.85 (a)(2) revised 27808
1030.7 (b)(6)(v) temporarily suspended through 1-31-94 40038
(b) introductory text amended; eff. in part to 9-30-93 48954
1030.15 Revised 27808

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

1030.16 Revised 27808
1030.21 Added 27808
1030.40 Revised 27808
(c)(1)(iii) revised; (d) added 63286
1030.42 (a) amended; (d)(2)(vi) and (vii) revised 27809
1030.43 (d) added 27809
(e) added 63286
1030.44 (a)(2)(iii) added; (a)(5) amended; (a)(8)(i)(*a*) and (*b*) redesignated as (a)(8)(i)(A) and (B); (a)(6), (7)(i), new (8)(i)(B) and (9) revised 27809
1030.45 (b) revised 27810
1030.50 (d) added 63286
1030.52 (c)(1) and (5) revised 27810
1030.53 Revised 63286
1030.60 (d) and (f) revised; (g) and (h) amended; (i), (j) and (k) added 27810
1030.76 (a)(3) and (5) revised; (c) added 27810
1030.85 (b) revised 27811
1032.15 Revised 27811
1032.16 Revised 27811
1032.19 Added 27811
1032.40 Revised 27811
1032.42 (a)(1) amended; (d)(2)(vi) and (vii) revised 27812
1032.43 (d) added 27812
1032.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended 27812
1032.45 (b) revised 27813
1032.60 (d), (f) and (g) revised; (h) and (i) added 27813
1032.76 (a)(3) and (5) revised; (c) added 27813
1032.85 (b) revised 27814
1033 Undesignated center heading removed 27823
1033.1 Undesignated center heading added 27823
1033.2 Redesignated from 1033.6 27814
Undesignated center heading added 27823
1033.3 Redesignated from 1003.8 and amended 27814
1033.4 Redesignated from 1033.9 27814
1033.5 Redesignated as 1033.19; new 1033.5 redesignated from 1033.10 27814

Page

1033.6 Redesignated as 1033.2; new 1033.6 redesignated from 1033.11 27814
1033.7 Redesignated as 1033.15 27814
Redesignated from 1033.12; introductory text and (b) introductory text amended; (d) added 27815
(b) introductory text revised; (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; (c) introductory text and (2) amended 43505
1033.8 Redesignated as 1033.3; new 1033.8 redesignated from 1033.13 27814
1033.9 Redesignated as 1033.4; new 1033.9 redesignated from 1033.16; (b), (e) and (f) amended 27814
1033.10 Redesignated as 1033.5; new 1033.10 redesignated from 1033.17 27814
1033.11 Redesignated as 1033.6 27814
1033.12 Redesignated as 1033.7; new 1033.12 redesignated from 1033.14; (a)(2), (3) and (b)(2) amended 27815
1033.13 Redesignated as 1033.8; new 1033.13 redesignated from 1033.15 and amended 27814
(e)(2), (3) and (f) revised 43506
1033.14 Redesignated as 1033.12; new 1033.14 redesignated from 1033.18; (b) amended 27815
1033.15 Redesignated as 1033.13; new 1033.15 redesignated from 1033.7 and revised 27814
1033.16 Redesignated as 1033.9 27814
Added 27815
1033.17 Redesignated as 1033.10 27814
Redesignated from 1033.20 27815
1033.18 Redesignated as 1033.14 27815
1033.19 Removed; new 1033.19 redesignated from 1033.5 27814
1033.20 Redesignated as 1033.17; new 1033.20 redesignated from 1033.21; introductory text amended 27815
1033.21 Redesignated as 1033.20; new 1033.21 added 27815
1033.27 Removed 27815

TITLE 7 Chapter X—Con. Page

1033.30 (a)(1)(iv), (2), (b)(1) introductory text and (2) amended....27815
Undesignated center heading added....27823
(a)(1)(i), (3)(ii), (4) and (b) revised....43506
1033.31 Redesignated as 1033.32; new 1033.31 redesignated from former 1033.32; (b) amended....27815
(a)(2) and (c) revised; (b) amended....43506
1033.32 Redesignated as 1033.31; new 1033.32 redesignated from former 1033.31; (c)(4), (d)(3), (e)(4) and (g) amended....27815
(e)(2), (4), (5) and (f) revised....43506
1033.40 Removed; new 1033.40 redesignated from 1033.41 and revised....27815
Undesignated center heading added....27823
(c)(1)(iii) revised; (d) added....63287
1033.41 Redesignated as 1033.40....27815
Redesignated from 1033.42 and revised....27816
(c) amended....43506
1033.42 Redesignated as 1033.41; new 1033.42 redesignated from 1033.43 and revised....27816
1033.43 Redesignated as 1033.42....27816
Redesignated from 1033.45 and revised....27818
(d) revised....43507
(f) added....63287
1033.44 Added....27818
1033.45 Redesignated as 1033.43....27818
Added....27820
1033.46 Removed....27820
1033.50 Removed; new 1033.50 redesignated from 1033.51; introductory text, (b) introductory text, (1) and (2) amended....27820
Undesignated center heading added....27823
Heading and introductory text revised; (d), (e) and (f) added....43507
(g) added....63287

Page

1033.51 Redesignated as 1033.50; new 1033.51 added....27820
1033.51a Removed....27821
1033.52 Redesignated from 1033.53; (a) introductory text and (1) amended; (b) revised....27821
1033.53 Redesignated as 1033.52; new 1033.53 added....27821
Revised....43507
(a)(2) revised....63287
1033.56 Removed....27821
1033.57 Redesignated as 1033.76....27822
1033.60—1033.61 Undesignated center heading revised....43507
1033.60 Revised....27821, 43507
Undesignated center heading added....27823
1033.60 (m) added....63287
1033.61 (f)(2) amended....27822
Revised....43508
1033.62 Added....43508
1033.63 Added....43508
1033.64 Added....43508
1033.65 Added....43508
1033.66 Added....43509
1033.70 (c) removed; (a) revised; (b) added....27822
Undesignated center heading added....27823
(b) revised....43509
1033.71 (a), (b) introductory text and (1) amended; (c) redesignated as (d); new (c) added; (d) introductory text revised....27822
(b) introductory text and (1) revised....43509
1033.72 (b)(2) and (e)(2) amended....27822
(b) introductory text and (d)(2) revised....43509
1033.74 Revised....27822
1033.75 Redesignated as 1033.66....27822
1033.76 Redesignated as 1033.85....27822
Redesignated from 1033.57; heading, (b)(3) and (5) revised; introductory text, (a)(1)(i) and (ii) amended; (c) added....27823
1033.85 Redesignated from 1033.76; heading and (c) revised; (a), (b) and (d)(2) amended....27822
Undesignated center heading added....27823
1033.86 Redesignated from 1033.75; heading revised....27822
(a) revised....43509
1036.7 (d) introductory text and (2) amended....40725
(b) revised....43509
1036.13 (a)(3) and (b) amended; (e), (f) and (h) revised; (g) removed....43509
1036.15 Revised....27823
1036.16 Revised....27823
1036.21 Added....27823
1036.30 (a)(1)(i), (3)(ii), (4) and (b) revised....43510
1036.31 (a)(2) and (b)(3) revised....43510
1036.32 (c)(2) and (d) revised....43510
1036.40 Revised....27823
(c)(1)(iii) revised; (d) added....63287
1036.41 Revised....27824
(c) amended....43510
1036.42 (a)(1) amended; (c)(3)(iv) revised....27825
1036.43 Revised....27825
(e) added....63287
1036.44 (a)(1), (2), (3)(i), (5), (6), (7)(i) and (8) through (15) revised; (a)(7)(iv) and (c) amended; (a)(16) removed....27825
1036.45 (b) revised....27827
1036.50 Heading and introductory text revised; (d), (e) and (f) added....43510
(g) added....63287
1036.53 Revised....43511
(a)(2) revised....63287
1036.60—1036.62 Undesignated center heading revised....43511
1036.60 (d), (e) and (f) revised; (g) and (h) added....27827
Revised....43511
(m) added....63287
1036.61 Revised....43512
1036.62 Revised....43512
1036.63 Added....43512
1036.64 Added....43512
1036.65 Added....43512
1036.66 Added....43512
1036.71 (b) introductory text, (1) and (c) revised....43512
1036.72 Revised....43513
1036.73 (a)(2) introductory text, (b)(2), (d)(2) and (3) revised....43513
1036.76 (b)(3) and (5) revised; (c) added....27827
1036.85 (a) revised....27828
Introductory text amended....43513
1036.86 (a) amended....43513
1040.15 Revised....27828
1040.16 Revised....27828
1040.19 Added....27828
1040.40 Revised....27828
(c)(1)(iii) revised; (d) added....63287
1040.41 (a)(2) revised....27829
1040.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27829
1040.43 (e) added....27829
(f) added....63287
1040.44 (a)(12)(i)(*a*) and (*b*) redesignated as (a)(12)(i)(A) and (B); (a)(2), (5), (6), (7)(i) through (iv), (8)(ii), (9), (11), (12)(i)(B) and (ii) revised; (a)(7)(v), (8)(i) and (12)(i) introductory text amended; (a)(12)(iii) and (iv) added....27829
1040.45 (b) revised....27831
1040.50 (d) added....63287
1040.53 Revised....63287
1040.60 (d), (f), (g) and (h) revised; (i) added....27831
1040.76 (a)(3) and (5) revised; (c) added....27831
1040.85 (b) revised....27832
1044.6 Revised....27832
1044.18 Added....27832
1044.20 Added....27832
1044.21 Added....27832
1044.22 (i)(1)(iii) and (l) revised; (i)(3) added....27832
(i)(1)(iii) revised....63288
1044.40 Removed; new 1044.40 redesignated from 1044.41 and revised....27833
(c)(1)(iii) revised; (d) added....63288
1044.41 Redesignated as 1044.40; new 1044.41 redesignated from 1044.42 and revised....27833
1044.42 Redesignated as 1044.41....27833
Redesignated from 1044.43 and revised....27834
1044.43 Redesignated as 1044.42....27834
Redesignated from 1044.45....27835

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 7 Chapter X—Con.

Page
(f) added....63288
1044.44 Redesignated from 1044.46 and revised....27835
1044.45 Redesignated as 1044.43....27835
1044.46 Redesignated as 1044.44....27835
1044.50 Removed; new 1044.50 redesignated from 1044.51; introductory text amended....27837
(d) added....63288
1044.51 Redesignated as 1044.50; new 1044.51 added....27837
1044.60 (a), (b), (c) introductory text, (1) and (2) amended....27838
1044.63 Amended....27838
1044.71 Revised....27838
1046.15 Revised....27838
1046.16 Revised....27838
1046.19 Added....27838
1046.40 Revised....27838
(c)(1)(iii) revised; (d) added....63288
1046.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27839
1046.43 (d) added....27839
(e) added....63288
1046.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27839
1046.45 (b) revised....27840
1046.50 (d) added....63288
1046.53 Revised....63288
1046.60 (d), (f) and (g) revised; (h) and (i) added....27840
1046.76 (a)(3) and (5) revised; (c) added....27840
1046.85 (b) revised....27840
1049.3 Revised....43513
1049.6 Revised....43513
1049.7 (a) and (b) revised; (c) redesignated as (d); new (c) added....43513
1049.13 Revised....43514
1049.15 Revised....27841
1049.16 Revised....27841
1049.19 Added....27841
1049.30 (a)(1), (6) and (c) revised....43514
1049.31 (a)(3) and (4) revised....43515
1049.32 (a) and (b) designation removed; amended....43515
1049.40 Revised....27841
(c)(1)(iii) revised; (d) added....63288
1049.41 (c) amended....43515
1049.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27842
1049.43 (d) added....27842
(e) added....63288
1049.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27842
1049.45 (b) revised....27842
1049.50 Heading, introductory text and (a) revised; (d), (e) and (f) added....43515
(g) added....63288
1049.52 (a) and (b) revised....43515
1049.53 Revised....43515
(a)(2) revised....63288
1049.60 (l) added....63288
1049.60—1049.62 Undesignated center heading revised....43515
1049.60 (d) and (f) revised; (g), (h) and (i) added....27842
Revised....43516
1049.61 Revised....43516
1049.62 Revised....43517
1049.63 Added....43517
1049.64 Added....43517
1049.65 Added....43517
1049.66 Added....43517
1049.71 (a)(1) and (2) revised....43517
1049.73 (a)(2) amended; (c)(2)(ii) and (d)(2) revised....43517
1049.75 Revised....43518
1049.76 (a)(3) and (5) revised; (c) added....27843
1049.78 Revised....43518
1049.85 (b) revised....27843
1049.86 (a) amended....43518
1050.15 Revised....27843
1050.16 Revised....27843
1050.19 Added....27844
1050.40 Revised....27844
1050.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27844
1050.43 (d) added....27845
1050.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27845
1050.45 (b) revised....27845
1050.60 (d), (f) and (g) revised; (h) and (i) added....27845

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page
1050.76 (a)(3) and (5) revised; (c) added....27846
1050.85 (b) revised....27846
1064.15 Revised....27846
1064.16 Revised....27846
1064.19 Added....27846
1064.40 Revised....27846
1064.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27847
1064.43 (d) added....27847
1064.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27847
1064.45 (b) revised....27848
1064.60 (d) and (f) revised; (g), (h) and (i) added....27848
1064.76 (a)(3) and (5) revised; (c) added....27848
1064.85 (b) revised....27849
1065.15 Revised....27849
1065.16 Revised....27849
1065.19 Added....27849
1065.40 Revised....27849
(c)(1)(iii) revised; (d) added....63288
1065.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27850
1065.43 (d) added....27850
(e) added....63289
1065.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27850
1065.45 (b) revised....27850
1065.50 (d) added....63289
1065.52 (d)(1) revised....27851
1065.53 Revised....63289
1065.60 (d) and (f) revised; (g), (h) and (i) added....27851
1065.76 (a)(3) and (5) revised; (c) added....27851
1065.85 (b) revised....27851
1068.15 Revised....27852
1068.16 Revised....27852
1068.19 Added....27852
1068.40 Revised....27852
(c)(1)(iii) revised; (d) added....63289
1068.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27853
1068.43 (e) added....27853
(f) added....63289
1068.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27853
1068.45 (b) revised....27853
1068.50 (d) added....63289
1068.53 Revised....63289
1068.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27853
1068.76 (a)(3) and (5) revised; (c) added....27854
1068.85 (d) revised....27854
1075 Determination....50511
1075.1—1075.23 Undesignated center heading removed; new undesignated center heading added....27865
1075.2 Redesignated from 1075.6....27855
Undesignated center heading removed; new undesignated center heading added....27865
1075.3 Redesignated from 1075.20 and amended....27855
1075.5 Redesignated as 1075.18; new 1075.5 redesignated from 1075.9....27855
1075.6 Redesignated as 1075.2; new 1075.6 redesignated from 1075.10 and amended....27855
1075.7 Removed; new 1075.7 redesignated from 1075.12; (c) added....27855
1075.8 Redesignated as 1075.12; new 1075.8 redesignated from 1075.13....27855
1075.9 Redesignated as 1075.5; new 1075.9 redesignated from 1075.14....27855
1075.10 Redesignated as 1075.6; new 1075.10 redesignated from 1075.15....27855
1075.11 Removed....27855
1075.12 Redesignated as 1075.7; new 1075.12 redesignated from 1075.8 and revised....27855
1075.13 Redesignated as 1075.8; new 1075.13 redesignated from 1075.17 and revised....27855
1075.14 Redesignated as 1075.9; new 1075.14 redesignated from 1075.19 and revised....27855
1075.15 Redesignated as 1075.10; new 1075.15 redesignated from 1075.18 and revised....27855
1075.16 Revised....27855

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

1075.17 Redesignated as 1075.13; new 1075.17 redesignated from 1075.23 ... 27855
1075.18 Redesignated as 1075.15; new 1075.18 redesignated from 1075.5 ... 27855
1075.19 Redesignated as 1075.14 ... 27855
Added ... 27856
1075.20 Redesignated as 1075.3 ... 27855
Added ... 27856
1075.22 Removed ... 27855
1075.23 Redesignated as 1075.17 ... 27855
1075.27 Removed ... 27855
1075.30—1075.31 Undesignated center heading removed ... 27865
1075.30 Revised ... 27856
Undesignated center heading added ... 27865
1075.31 Heading revised; (a) removed; (b) redesignated as (a) and amended; new (b) added ... 27856
1075.32 Added ... 27856
1075.40—1075.46 Undesignated center heading removed ... 27865
1075.40 Removed; new 1075.40 redesignated from 1075.41 and revised ... 27857
Undesignated center heading added ... 27865
1075.41 Redesignated as 1075.40; new 1075.41 redesignated from 1075.42 and revised ... 27857
1075.42 Redesignated as 1075.41 ... 27857
Redesignated from 1075.44 and revised ... 27858
1075.43 Redesignated from 1075.45 and revised ... 27859
1075.44 Redesignated as 1075.42 ... 27858
Redesignated from 1075.46 and revised ... 27859
1075.45 Redesignated as 1075.43 ... 27859
Added ... 27861
1075.46 Redesignated as 1075.44 ... 27859
1075.50—1075.54 Undesignated center heading removed ... 27865
1075.50 Removed; new 1075.50 redesignated from 1075.51; introductory text amended; (b) revised; (c) added ... 27861
Undesignated center heading added ... 27865
1075.51 Redesignated as 1075.50 ... 27861
Added ... 27862
1075.52 Redesignated from 1075.53 and revised ... 27862
1075.53 Redesignated as 1075.52; new 1075.53 added ... 27862
1075.60 Removed; new 1075.60 redesignated from 1075.70 ... 27862
Revised ... 27863
Undesignated center heading added ... 27865
1075.61 Removed; new 1075.61 redesignated from 1075.72 and revised ... 27863
1075.62 Redesignated as 1075.76; new 1075.62 added ... 27863
1075.70—1075.72 Undesignated center heading removed ... 27865
1075.70 Redesignated as 1075.60 ... 27862
Redesignated from 1075.83 and revised ... 27863
Undesignated center heading added ... 27865
1075.71 Removed; new 1075.71 redesignated from 1075.84 ... 27863
Revised ... 27864
1075.72 Redesignated as 1075.61 ... 27863
Redesignated from 1075.85 and revised ... 27864
1075.73 Redesignated from 1075.80; heading revised; (a) and (b) amended ... 27864
1075.74 Redesignated from 1075.81 ... 27864
1075.75 Redesignated from 1075.82; heading revised; (a) and (b) amended ... 27864
1075.76 Redesignated from 1075.62 ... 27863
Revised ... 27864
Corrected ... 64110
1075.77 Added ... 27865
1075.80—1075.88 Undesignated center heading removed ... 27865
1075.80 Redesignated as 1075.73 ... 27864
1075.81 Redesignated as 1075.74 ... 27864
1075.82 Redesignated as 1075.75 ... 27864
1075.83 Redesignated as 1075.70 ... 27863
1075.84 Redesignated as 1075.71 ... 27863
1075.85 Redesignated as 1075.72 ... 27864
Redesignated from 1075.88 and revised; undesignated center heading added ... 27865
1075.86 Removed ... 27865
1075.87 Removed ... 27865
1075.88 Redesignated as 1075.85 ... 27865
1076.15 Revised ... 27865
1076.16 Revised ... 27865
1076.19 Added ... 27866
1076.40 Revised ... 27866
1076.42 (a)(1) amended; (d)(2)(vi) and (vii) revised ... 27866
1076.43 (d) added ... 27867
1076.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended ... 27867
1076.45 (b) revised ... 27867
1076.52 (b)(1) revised ... 27867
1076.60 (d) and (f) revised; (g), (h) and (i) added ... 27867
1076.76 (a)(3) and (5) revised; (c) added ... 27868
1076.85 (b) revised ... 27868
1079.15 Revised ... 27868
1079.16 Revised ... 27868
1079.19 Added ... 27868
1079.40 Revised ... 27868
(c)(1)(iii) revised; (d) added ... 63289
1079.42 (a)(1) amended; (d)(2)(vi) and (vii) revised ... 27869
1079.43 (d) added ... 27869
(e) added ... 63289
1079.44 (a)(2), (5), (6), (7)(i) and (9) revised; (a)(7)(v), (8)(i), (ii) introductory text and (11) introductory text amended ... 27869
1079.45 (b) revised ... 27870
1079.50 (d) added ... 63289
1079.52 (d)(1) revised ... 27870
1079.53 Revised ... 63289
1079.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added ... 27870

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

1079.76 (a)(3) and (5) revised; (c) added ... 27870
1079.85 (d) revised ... 27871
1093.15 Revised ... 27871
1093.16 Revised ... 27871
1093.19 Added ... 27871
1093.40 Revised ... 27871
(c)(1)(iii) revised; (d) added ... 63289
1093.42 (a)(1) amended; (d)(2)(vi) and (vii) revised ... 27872
1093.43 (d) added ... 27872
(e) added ... 63289
1093.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended ... 27872
1093.45 (b) revised ... 27873
1093.50 (d) added ... 63289
1093.52 (b)(1) introductory text revised ... 27873
1093.53 Revised ... 63290
1093.60 (d), (f) and (g) revised; (h) and (i) added ... 27873
1093.76 (a)(3) and (5) revised; (c) added ... 27873
1093.85 (c) revised ... 27874
1094.15 Revised ... 27874
1094.16 Revised ... 27874
1094.19 Added ... 27874
1094.40 Revised ... 27874
(c)(1)(iii) revised; (d) added ... 63290
1094.42 (a)(1) amended; (d)(2)(vi) and (vii) revised ... 27875
1094.43 (d) added ... 27875
(e) added ... 63290
1094.44 (a)(2),(6),(7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended ... 27875
1094.45 (b) revised ... 27876
1094.50 (d) added ... 63290
1094.52 (b)(1) introductory text revised ... 27876
1094.53 Revised ... 63290
1094.60 (d), (f) and (h) revised; (g) amended; (i) and (j) added ... 27876
1094.76 (a)(3) and (5) revised; (c) added ... 27876
1094.85 (c) revised ... 27877
1096.7 (d)(3) suspended in part through 5-31-95 ... 63032
1096.15 Revised ... 27877

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 7 Chapter X—Con. Page

1096.16 Revised..... 27877
1096.19 Added..... 27877
1096.40 Revised..... 27877
(c)(1)(iii) revised; (d) added..... 63290
1096.42 (a)(1) amended; (d)(2)(vi) and (vii) revised..... 27878
1096.43 (d) added..... 27878
(e) added..... 63290
1096.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended..... 27878
1096.45 (b) revised..... 27878
1096.50 (d) added..... 63290
1096.52 (b)(1) revised..... 27878
1096.53 Revised..... 63290
1096.60 (d), (f) and (g) revised; (h) and (i) added..... 27879
1096.76 (a)(3) and (5) revised; (c) added..... 27879
1096.85 (a) revised..... 27879
1097.2—1097.95 Reinstated..... 6679
Removed..... 35361
1098.2—1098.94 Removed..... 35362
1098.61 (a) suspended in part and (b) suspended through 7-30-93..... 40727
1099 Referendum order..... 35362
1099.2—1099.86 Reinstated..... 6691
1099.15 Revised..... 43519
1099.16 Revised..... 43519
1099.19 Added..... 43519
1099.40 Revised..... 43519
(c)(1)(iii) revised; (d) added..... 63290
1099.42 (a)(1) amended; (d)(2)(vi) and (vii) revised..... 43520
1099.43 (d) added..... 43520
(e) added..... 63290
1099.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) and (11) introductory text amended..... 43520
1099.45 (b) revised..... 43521
1099.50 (d) added..... 63290
1099.53 Revised..... 63290
1099.60 (d), (f) and (g) revised; (h) and (i) added..... 43521
1099.76 (a)(3) and (5) revised; (c) added..... 43521
1099.85 (b) revised..... 43522
1106.6 Suspended in part..... 8896
Suspended in part; eff. 10-1-93 through 1-30-94..... 60543
1106.7 (b)(1) and (2) suspended in part..... 8896

Page
(b)(1) suspended in part; eff. 10-1-93 through 1-30-94..... 60543
1106.13 (d)(1) suspended through 8-31-93..... 14308
1106.15 Revised..... 27879
1106.16 Revised..... 27880
1106.19 Added..... 27880
1106.40 Revised..... 27880
(c)(1)(iii) revised; (d) added..... 63290
1106.42 (a)(1) amended; (d)(2)(vi) and (vii) revised..... 27881
1106.43 (d) added..... 27881
(e) added..... 63291
1106.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended..... 27881
1106.45 (b) revised..... 27881
1106.50 (d) added..... 63291
1106.52 (b)(1) revised..... 27881
1106.53 Revised..... 63291
1106.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added..... 27881
1106.76 (a)(3) and (5) revised; (c) added..... 27882
1106.85 (c) revised..... 27882
1108.15 Revised..... 27882
1108.16 Revised..... 27882
1108.19 Added..... 27883
1108.32 (b)(1)(ii) amended..... 36861
1108.40 Revised..... 27883
(c)(1)(iii) revised; (d) added..... 63291
1108.42 (a)(1) amended; (d)(2)(vi) and (vii) revised..... 27883
1108.43 (d) added..... 27884
(e) added..... 63291
1108.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended..... 27884
1108.45 (b) revised..... 27884
1108.50 (d) added..... 63291
1108.52 (b)(1) revised..... 27884
1108.53 Revised..... 63291
1108.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added..... 27884
1108.61 Heading, (a) introductory text and (6) amended; (b) removed..... 36861
1108.73 (a)(2) amended; (c)(2)(ii) removed..... 36861

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page
1108.75 (a) amended..... 36861
1108.76 (a)(3) and (5) revised; (c) added..... 27885
1108.85 (c) revised..... 27885
1108.90 Removed..... 36861
1108.91 Removed..... 36861
1108.92 Removed..... 36861
1108.93 Removed..... 36861
1108.94 Removed..... 36861
1108.95 Removed..... 36861
1108.96 Removed..... 36861
1124 Marketing percentages..... 5255
1124.15 Revised..... 27885
1124.16 Revised..... 27885
1124.20 Added..... 27885
1124.40 (a), (b) and (c) revised..... 27886
1124.42 (a)(1) amended; (d)(2)(vi) and (vii) revised; (e) removed..... 27886
1124.43 (f) added..... 27886
1124.44 (a)(6) amended; (a)(7), (8)(i) and (10) revised..... 27887
1124.45 (b) revised..... 27887
1124.50 (d) revised..... 63291
1124.52 (d)(1) revised..... 27887
1124.60 (d) and (f) revised; (g) redesignated as (j); new (g), (h) and (i) added..... 27887
1124.76 (b)(3) and (4) revised; (c) added..... 27887
1124.85 (b) revised..... 27888
1126.7 (d) introductory text and (e) introductory text suspended in part through 7-1-95..... 40729
1126.13 (e)(1), (2) and (3) suspended in part through 7-1-95..... 40729
1126.15 Revised..... 27888
1126.16 Revised..... 27888
1126.21 Added..... 27888
1126.40 Revised..... 27888
(c)(1)(iii) revised; (d) added..... 63291
1126.42 (a)(1) amended; (d)(2)(vi) and (vii) revised..... 27889
1126.43 (d) added..... 27889
(e) added..... 63291
1126.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended..... 27889
1126.45 (b) revised..... 27890
1126.50 (d) added..... 63291
1126.52 (b)(1) introductory text revised..... 27890

Page
1126.53 Revised..... 63292
1126.60 (d) and (f) revised; (g) and (h) amended; (i), (j) and (k) added..... 27890
1126.76 (a)(3) and (5) revised; (c) added..... 27890
1126.85 (c) revised..... 27891
1131.15 Revised..... 27891
1131.16 Revised..... 27891
1131.19 Added..... 27891
1131.40 Revised..... 27891
(c)(1)(iii) revised; (d) added..... 63292
1131.42 (a)(1) amended; (d)(2)(vi) and (vii) revised..... 27892
1131.43 (d) added..... 27892
(e) added..... 63292
1131.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended..... 27892
1131.45 (b) revised..... 27892
1131.50 (d) added..... 63292
1131.53 Revised..... 63292
1131.60 (d) and (f) revised; (g), (h) and (i) added..... 27893
1131.76 (a)(3) and (5) revised; (c) added..... 27893
1131.85 (a)(2) revised..... 27893
1134.15 Revised..... 27893
1134.16 Revised..... 27894
1134.20 Added..... 27894
1134.40 Revised..... 27894
1134.42 (a)(1) amended; (d)(2)(vi) and (vii) revised..... 27895
1134.43 (d) added..... 27895
1134.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended..... 27895
1134.45 (b) revised..... 27895
1134.60 (d), (f) and (g) revised; (h) and (i) added..... 27895
1134.76 (a)(3) and (5) revised; (c) added..... 27896
1134.85 (b) revised..... 27896
1135.15 Revised..... 27896
1135.16 Revised..... 27896
1135.20 Added..... 27896
1135.40 Revised..... 27897
(c)(1)(iii) revised; (d) added..... 63292
1135.42 (a)(1) amended; (d)(2)(vi) and (vii) revised..... 27897
1135.43 (d) added..... 27897

TITLE 7 Chapter X—Con. Page
(e) added....63292
1135.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27898
1135.45 (b) revised....27898
1135.50 (d) added....63292
1135.53 Revised....63292
1135.60 (d) and (f) revised; (g), (h) and (i) added....27898
1135.76 (a)(3) and (5) revised; (c) added....27898
1135.85 (b) revised....27899
1137.7 (b) suspended in part through 2-94....40730
1137.12 (a)(1) suspended in part through 8-94....40730
1137.15 Revised....27899
1137.16 Revised....27899
1137.20 Added....27899
1137.40 Revised....27899
1137.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27900
1137.43 (d) added....27900
1137.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27900
1137.45 (b) revised....27901
1137.60 (d), (f) and (g) revised; (h) and (i) added....27901
1137.76 (a)(3) and (5) revised; (c) added....27901
1137.85 (b) revised....27902
1138.7 (a)(1) and (c) suspended in part; eff. through 9-30-95....57962
1138.13 (d)(1), (2) and (5) suspended; eff. through 9-30-95....57962
1138.15 Revised....27902
1138.16 Revised....27902
1138.21 Added....27902
1138.40 Revised....27902
(c)(1)(iii) revised; (d) added....63292
1138.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27903
1138.43 (d) added....27903
(e) added....63292
1138.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27903
1138.45 (b) revised....27903
1138.50 (d) added....63292
1138.54 Revised....63292
1138.60 (d) and (f) revised; (g) amended; (h), (i) and (j) added....27904
1138.76 (a)(3) and (5) revised; (c) added....27904
1138.85 (c) revised....27904
1139.10 (b)(1)(ii) revised....43235
1139.13 (d)(1) and (2) revised....32435
1139.15 Revised....27904
1139.16 Revised....27905
1139.21 Added....27905
1139.40 Revised....27905
1139.42 (a)(1) amended; (d)(2)(vi) and (vii) revised....27905
1139.43 (d) added....27906
1139.44 (a)(2), (6), (7)(i) and (9) revised; (a)(5), (7)(v), (8)(i), (ii) introductory text and (11) introductory text amended....27906
1139.45 (b) revised....27906
1139.50 (d), (e) and (f) revised....32436
1139.53 Revised....32436
1139.60 (e) and (g) revised; (j), (k) and (l) added....27906
1139.61 (a) amended....27907
1139.71 (a) introductory text revised; (c) added....32436
1139.72 Revised....32436
1139.74 (c) introductory text and (e) revised....32436
1139.75 (a) revised....32436
1139.76 (a)(1)(iii) and (v) revised; (c) added....27907
1139.85 (b) revised....27907
1160 Added....46763, 62503

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1205 Technical correction....58231
1205.510 (b)(2) and (3) revised....52216
1207.510 (b)(1), (2), (3) and (c) revised....3359
1209.1—1209.77 (Subpart A) Added....3449

Page
1209.200—1209.280 (Subpart B) Added; interim....8197
1210.401 (f) amended....3355
1210.403 (h) revised....3355
1210.404 Removed....3356
1210.517 (a)(3) through (11) redesignated as (a)(4) through (12); new (a)(3) added; new (a)(9) and new (10) revised....3356
1210.540 Revised (OMB number)....3356
1211 Authority citation revised....41024
1211.51 (g) suspended through 10-31-93; interim....41024
1211.251 (h) introductory text revised....3362
1211.300—1211.310 (Subpart D) Added; interim....38280
Regulation at 58 FR 38280 confirmed....51570
1212.251 (i) introductory text revised....3366
1220 Authority citation revised....32437
1220.312 (d) revised; interim....40732
Regulation at 58 FR 40732 confirmed; eff. 1-10-94....64672
1220.315 Removed; interim....40732
Regulation at 57 FR 40732 confirmed; eff. 1-10-94....64672
1220.400—1220.402 (Subpart C) Added; interim....32438
Regulation at 58 FR 32438 confirmed....47984
1220.501—1220.537 (Subpart E) Added....60546
1230.110 Revised....17205
1250.519 Added....34697
1260.141 (a) revised....12999

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1410.13 (a) removed; (b), (c) and (d) redesignated as (a), (b) and (c)....4064
1410.103 (d)(2), (3), (4) and (f)(2) revised....4064
1410.108 Introductory text and (b) amended....4064
1410.110 (d) revised....4064
1413.11 (b)(4)(iii) added....12331
1413.54 (a)(2) and (d) revised....4305
(b), (c)(1) and (e) revised....12331
Page
(a)(5)(ii) and (d)(3)(ii) revised; (a)(5)(iii) and (d)(3)(iii) added....12333
(a)(4)(ii) and (d)(3) revised; (a)(4)(iii) added....15417
(a)(3)(ii) and (d)(3)(iv) revised; (a)(3)(iii) and (d)(3)(v) added....15756
(d)(3)(iii) correctly designated....18304
1413.61 Heading revised; (b)(4) added; interim....57722
1413.79 (b)(4) added; interim....57722
1413.104 (a)(8) and (b) revised....12333
1413.109 (d) revised....12333
1421 Authority citation revised....14498, 58740
1421.1 (c)(1) revised....38664
1421.4 (i) revised; interim....14498
(i) revised....58740
1421.5 (b)(1), (2)(i), (ii), (4)(ii), (c)(2) introductory text, (i), (d)(2), (f) and (i) revised; (e)(3) added; interim....14499
(b)(1), (2)(i), (ii), (4)(ii), (c)(2) introductory text, (i), (d)(2), (f) and (i) revised....58741
1421.6 (c) revised; (e) added; interim....45040
(a)(1) revised....57724
(d)(2)(i) revised....58741
Regulation at 58 FR 45040 confirmed....62509
1421.7 (c)(2) through (6), (9) and (10) revised....4306
(c)(8)(iii) added....33886
1421.8 (a) and (c) revised; interim....14499
(a) and (c) revised....58741
1421.9 (f)(2)(iv)(A), (vi)(C), (viii)(A), (C), (G), (H), (I), (ix)(B), (xi)(E)(*5*), (xii)(F)(*1*), (xiii)(E)(*5*), (*6*), (*7*), (G), (xiv)(B)(*5*), (*6*), and (g)(2)(iv)(A) introductory text revised....14499
(f)(2)(iv)(A), (vi)(C), (viii)(A), (C), (G), (H), (I), (ix)(B), (xi)(E)(*5*), (xii)(F)(*1*), (xiii)(E)(*5*), (*6*), *7*), (G), (xiv)(B)(*5*), (*6*) and (g)(2)(iv)(A) introductory text revised....58742
1421.12 (d) revised; interim....14500
(c) revised....57724

TITLE 7 Chapter XIV—Con. Page
(d) revised ... 58742
1421.13 Removed; interim ... 14500
1421.14 (b) revised; interim ... 14500
(b) revised ... 58742
1421.15 Revised; interim ... 14500
Revised ... 58742
1421.16 Revised; interim ... 14500
Revised ... 58742
1421.17 (a)(2) introductory text, (3) introductory text, (b)(1), (c) introductory text, (1), (e) and (f) revised; (g), (h) and (i) removed; interim ... 14502
(a)(2) introductory text, (3) introductory text, (b)(1), (c) introductory text, (1), (e) and (f) revised ... 58744
1421.18 (b)(2), (5), (7)(i), (9)(iv), (10), (12)(ii), (iv)(D), (v) introductory text, (13)(iii), (iv)(D)(3), (v) introductory text, (vi), (vii), (14)(iii), (v) introductory text, (vi) and (15)(ii)(E), (F) and (G) revised; (b)(13)(viii), (14)(iv)(F) through (H) and (15)(ii)(D)(5) added; interim ... 14502
(b)(2), (5), (7)(i), (9)(iv), (10), (12)(ii), (iv)(D), (v) introductory text, (13)(iii), (iv)(D)(3), (v) introductory text, (vi), (vii), (viii), (14)(iii), (iv)(F), (G), (H), (v) introductory text, (vi), (15)(ii)(D)(5), (E), (F) and (G) revised ... 58744
1421.19 (a) revised; interim ... 14503
(a) revised ... 58745
1421.20 (a) introductory text, (b) and (c)(1)(ii) revised; interim ... 14503, 58745
(b) revised ... 38665
1421.22 (d) added; interim ... 14503
(a) and (d) revised ... 58745
1421.23 (c) revised ... 58746
1421.25 (a)(1) introductory text and (ii)(A) revised; (d) removed; (e) and (f) redesignated as (d) and (e); interim ... 14504
(d) redesignated as (f); (e) removed; new (d) and (e) added ... 38665
(b) and (c) revised ... 57724
(a)(1) introductory text and (ii)(A) revised ... 58746
1421.27 (a)(2)(ii) revised; (a)(2)(iii) added ... 33886
1421.29 (b)(3) redesignated as (b)(4); new (b)(3), (h) and (i) added; (f) revised; interim ... 14504
(b)(3), (f), (h) and (i) revised ... 58746
1421.31 Revised ... 58746
1421.203 Revised; interim ... 14504, 45040
Revised ... 58747, 68016
Regulation at 58 FR 45040 confirmed ... 62509
1421.210 (b)(5)(iv) revised; interim ... 14504
(b)(5)(iv) revised ... 58747
1421.214 Revised; interim ... 14505
Revised ... 58747
1421.217 (c) revised ... 38510
1421.740 Correctly designated ... 28446
1427.1 (b)(2)(i), (ii) and (iii) revised; (b)(2)(iv) added; interim ... 51988
Regulation at 58 FR 51988 confirmed ... 65103
1427.3 Regulation at 57 FR 40594 confirmed ... 15262
Amended ... 51988
Regulation at 58 FR 51988 confirmed ... 65103
1427.4 Regulation at 57 FR 40595 confirmed ... 15262
1427.5 (a), (b)(1)(iii) introductory text, (A), (v)(A), (2)(iii), (iv)(A), (c)(2)(iii)(D), (3) and (d) revised; (b)(1)(iii)(D) added ... 51988
Regulation at 57 FR 40595 confirmed ... 15262
Regulation at 58 FR 51988 confirmed ... 65103
1427.6 Regulation at 57 FR 40595 confirmed ... 15262
(a)(3) and (c) revised ... 51989
Regulation at 58 FR 51989 confirmed ... 65103
1427.7 Regulation at 57 FR 40595 confirmed ... 15262
(a) introductory text and (b) introductory text revised ... 51989
Regulation at 58 FR 51989 confirmed ... 65103
1427.8 (a)(2)(ii) revised; (a)(2)(iii) added ... 12333

Page
(a)(1)(ii) revised; (a)(1)(iii) added ... 15756
(d) revised ... 51989
Regulation at 58 FR 51989 confirmed ... 65103
1427.9 Regulation at 57 FR 40595 confirmed ... 15262
(e) removed; (f) redesignated as (e); (a), (b), (c) and new (e) revised ... 51989
Regulation at 58 FR 51989 confirmed ... 65103
1427.11 Regulation at 57 FR 40595 confirmed ... 15262
(f)(2) and (g)(3) revised ... 51989
Regulation at 58 FR 51989 confirmed ... 65103
1427.12 Regulation at 57 FR 40596 confirmed ... 15262
Revised ... 51989
Regulation at 58 FR 51989 confirmed ... 61503
1427.13 (a), (b) and (c) revised ... 51989
Regulation at 58 FR 51989 confirmed ... 65103
1427.14 Revised ... 51990
Regulation at 58 FR 51990 confirmed ... 65103
1427.15 Regulation at 57 FR 40596 confirmed ... 15262
Revised ... 51990
Regulation at 58 FR 51990 confirmed ... 65103
1427.17 Regulation at 57 FR 40596 confirmed ... 15262
Revised ... 51990
Regulation at 58 FR 51990 confirmed ... 65103
1427.18 Regulation at 57 FR 40596 confirmed ... 15262
(a)(1)(iv) amended; (a)(1)(v) redesignated as (a)(1)(vi); new (a)(1)(v) and (e) through (i) added; (a)(2) and (d) revised ... 51990
Regulation at 58 FR 51990 confirmed ... 65103
1427.19 Regulation at 57 FR 40596 confirmed ... 15262
(b) introductory text revised ... 51991
Regulation at 58 FR 51991 confirmed ... 65103
1427.23 Regulation at 57 FR 40596 confirmed ... 15262
(b)(3) revised ... 51991
Regulation at 58 FR 51991 confirmed ... 65103
1427.25 (f)(1) revised; interim ... 41994
Regulation at 58 FR 41994 confirmed ... 57725
1427.107 (d)(3) revised; (e) and (f) redesignated as (f) and (g); new (e) added; interim ... 42843
Regulation at 58 FR 42843 confirmed ... 57725
1427.109 (c)(3) and (e) revised; interim ... 42843
Regulation at 58 FR 42843 confirmed ... 57725
1427.160 (c) and (d) revised ... 51991
Regulation at 58 FR 51991 confirmed ... 65103
1427.163 (b) revised ... 51991
Regulation at 58 FR 51991 confirmed ... 65103
1427.165 (b) revised ... 51992
Regulation at 58 FR 51992 confirmed ... 65103
1427.167 Regulation at 57 FR 40597 confirmed ... 15262
1427.168 Regulation at 57 FR 40597 confirmed ... 15262
Revised ... 51992
Regulation at 58 FR 51992 confirmed ... 65103
1427.172 (b)(3), (4) introductory text, (i) and (ii) revised ... 51992
Regulation at 58 FR 51992 confirmed ... 65103
1427.175 Regulation at 57 FR 40597 confirmed ... 15262
Added ... 51992
Regulation at 58 FR 51992 confirmed ... 65103
1430 Authority citation revised ... 61001
1430.340—1430.361 (Subpart) Heading revised ... 61001
1430.340 (a), (b)(1), (2), (4), (5) and (d) revised ... 61001
1430.341 (i) redesignated as (k); (d) through (h) and (j) through (w) redesignated as (e) through (i) and (m) through (z); new (d), (j) and (l) added; new (u)(1) and new (x) introductory text revised ... 61001
1430.343 (a)(3) redesignated as (a)(5); (a)(2) and new (a)(5)

TITLE 7 Chapter XIV—Con. Page

revised; new (a)(3) and (4) added....61001
1430.344 (a) revised....61002
1434.3 (a), (f) and (g) revised; interim....14505
(a), (f) and (g) revised....58747
1434.4 (a), (b)(1) introductory text, (2) introductory text, (2)(i) and (f) revised; interim....14505
(a), (b)(1) introductory text, (2) introductory text, (2)(i) and (f) revised....58747
1434.5 Removed; interim....14505
1434.6 Heading and (a) revised; interim....14505
Heading and (a) revised....58748
1434.7 (b) and (c) revised; interim....14505
(b) and (c) revised....58748
1434.9 (a)(1) and (2)(i) revised; interim....14506
(a)(1) and (2)(i) revised....58748
1434.10 (a) and (e) revised; interim....14506
(a) and (e) revised....58748
1434.15 (c) revised; interim....14506
(c) revised....58748
1434.16 (a)(1) revised; interim....14506
(a)(1) revised....58749
1434.19 Removed; interim....14506
1434.21 (a) revised....58749
1434.22 (a), (b) introductory text, (e) and (f) revised; (g) removed; interim....14506
(a), (b) introductory text, (e) and (f) revised....58749
1434.23 Revised; interim....14507
Revised....58749
1434.24 Heading, (a)(3), (d) and (e)(2) revised; interim....14508
Heading, (a)(3), (d) and (e)(2) revised....58750
1434.25 (a)(2)(i) revised; (f) removed; (g) and (h) redesignated as (f) and (g); interim....14508
(a)(2)(i) revised....58751
1434.26 (b)(3) redesignated as (b)(4); new (b)(3) added; (e) removed; (f) redesignated as (e) and revised; interim....14508
(b)(3) and (e) revised....58751
1434.27 (c) revised; interim....14508
(a), (c), (d) and (e) revised....58751
1434.28 (c) revised....58751
1434.32 (b) amended; interim....14508
(b) amended....58751
1435.500—1435.529 (Subpart) Added; interim....36124
1435.530 Added; interim....41995
1446.303 (g)(5) amended; interim....41626
Regulation at 58 FR 41626 confirmed....62509
1464 Authority citation revised....11962, 68020
1464.12 Redesignated as 1464.24; new 1464.12 added....11962
1464.13 Added....36863
1464.14 Added....36863
1464.15 Added....36863
1464.16 Added....36863
1464.17 Added....36863
1464.18 Added....36863
1464.19 Added....36859
1464.24 Redesignated from 1464.12....11962
1464.101—1464.108 (Subpart B) Added; interim....68020
1474 Removed....57724
1475.3 Table revised; interim....62512
1475.6 Heading, (c), (e)(4), (i)(1)(i)(A) and (2)(iii) revised; interim....62512
1475.10 (b) revised; interim....62513
1475.17 (a), (c) and (g) revised; interim....62513
1475.22 Revised; interim....62513
1477 Authority citation revised....9108, 51758
1477.1 Revised....51758
1477.3 Amended....9108, 51758
1477.4 Revised....9109
(b) revised; (c) and (d) added....51759
1477.5 (a)(3) and (4)(ii) amended; (a)(5) added....9109
(a)(4)(ii), (b)(4) and (g)(4) revised; (b)(5), (g)(7) and (8) added....51759
1477.7 (b) and (d) revised; (e) and (f) added....9109
(b)(5) through (9) added....51759
1477.8 Revised....9109
Existing text designated as (a); (b) added....51760
1477.9 (a)(1) revised....9109, 51760
1477.10 (d)(2) and (e) revised....9110
(c), (d)(2) and (e) revised....51760
1477.12 (c) revised....9110

Page

1477.20 Redesignated as 1477.21; new 1477.20 added....19768
Heading revised....51760
1477.21 Redesignated from 1477.20....19768
Redesignated as 1477.25; new 1477.21 added....51760
1477.22 Added....51761
1477.25 Redesignated from 1477.21....51760
1478 Authority citation revised....9110, 51761
1478.1 (a) revised....9110
1478.3 (b) amended....9110, 51761
1478.4 Revised....9111, 51761
1478.5 Revised....9111
(a) revised; (d) added....51761
1478.6 Revised....9111
1478.8 (d) and (e) revised....9111
(b) and (d) revised....51762
1478.9 Revised....9112
(a) and (b) revised....51762
1485 Authority citation revised....60550
1485.11 (oo) added; interim....60550
1485.12 (a) amended; (b)(2)(iv) and (viii) revised; (b)(2)(xi) added; interim....60550
1485.13 (b)(7)(i) revised; (b)(8) and (c)(2) added; (c) existing text redesignated as (c)(1); interim....60551
1485.14 (d)(1)(ii), (e)(2)(iv) and (3)(i) revised; (e)(4)(vii), (viii), (ix) and (8) added; interim....60551
1485.15 (a)(1) amended; (a)(2) revised; (a)(3) added; interim....60551
1485.27 (a) revised; interim....60552
1485.28 (a) revised; interim....60552
1493 Authority citation revised....11789
1493.200—1493.340 (Subpart C) Added; interim....11789
1493.210 Corrected....13684
1493.220 Correctly designated...15901, 31718

Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1540.40—1540.45 (Subpart C) Added; interim....16104

Chapter XVI—Rural Telephone Bank, Department of Agriculture (Parts 1600—1699)

Page

1610.1 Amended; interim....66252
1610.2 Redesignated as 1610.3; new 1610.2 added; interim....66252
1610.3 Redesignated as 1610.4; new 1610.3 redesignated from 1610.2; interim....66252
1610.4 Redesignated as 1610.5; new 1610.4 redesignated from 1610.3 and revised; interim....66252
1610.5 Redesignated as 1610.6; new 1610.5 redesignated from 1610.4; interim....66252
1610.6 Removed; new 1610.6 redesignated from 1610.5 and revised; interim....66252
1610.11 Revised; interim....66253

Chapter XVII—Rural Electrification Administration, Department of Agriculture (Parts 1700—1799)

1703 Authority citation revised....11512
Extension of application deadline....13195, 67306
1703 (Subpart C) Heading added....21639
1703.100—1703.140 (Subpart D) Added....11512
1703.300—1703.313 (Subpart E) Added....21639
1710.1 (b)(1), (2) and (c) revised; interim....66262
1710.2 Amended; interim....66262
1710.3 Revised; interim....66263
1710.6 (a) introductory text and (b) revised; interim....66263
1710.50 Revised; interim....66263
1710.51 Revised; interim....66264
1710.100 Revised; interim....66264
1710.101 (c) and (d) redesignated as (f) and (g) and revised; new (c), (d) and (e) added; interim....66264
1710.102 (a) and (b) revised; (d) removed; interim....66264
1710.104 (a) revised; (c) removed; interim....66264
1710.105 (a) revised; interim....66265

TITLE 7 Chapter XVII—Con. Page
1710.106 (a) introductory text and (c) revised; (a)(6) added; interim....66265
1710.109 (c) revised; interim....66265
1710.110 (a), (b) and (c) heading revised; (d) added; interim....66265
1710.115 Revised; interim....66265
1714 Revised; interim....66266
1717.850—1717.859 (Subpart R) Added....53843
1717.900—1717.903 (Subpart S) Added....53851
1728.97 (b) amended....41396
1728.201 Added....41396
1728.202 Added....41396
1735 Authority citation revised....66253
1735.2 Amended; interim....66253
1735.10 Revised; interim....66253
1735.13 (c) amended; (c)(1), (ii) and (iii) redesignated as (c)(1), (2) and (3); (d) added; interim....66253
1735.14 Revised; interim....66253
1735.17 (a) and (b) revised; (c) redesignated as (d); new (c) added; interim....66253
1735.20 (c) revised; interim....66254
1735.21 (a) revised; interim....66254
1735.22 (f) revised; interim....66254
1735.30 Revised; interim....66254
1735.31 Revised; interim....66255
1735.32 (a) revised; (b) through (k) redesignated as (c) through (l); new (b) added; interim....66255
(k) amended; interim....66256
1735.74 (a)(14) redesignated as (a)(15); new (a)(14) added; interim....66256
1737 Authority citation revised....66256
1737.2 Amended; interim....66256
1737.11 (h) revised; (i) added; interim....66256
1737.22 (a)(20) added; interim....66256
1737.32 (a), (f)(1)(viii)(A) and (B) amended; (f)(i)(viii)(C) revised; interim....66256
1737.50 (a)(4) removed; (a)(5) redesignated as (a)(6); new (a)(5) added; interim....66256
1737.70 (d) revised; interim....66256
1737.71 Added; interim....66257
1744 Authority citation revised....52641
1744.61 (h) through (l) and (m) redesignated as (i) through (m) and (o); new (h) and (n) added; interim....66257
1744.67 (a) introductory text, (1) and (2) introductory text revised; (e) added; interim....66257
1744.68 (a) revised; interim....66257
1744.200—1744.210 (Subpart E) Added....52642
1751 Added; interim....66257
1753 Authority citation revised....66259
1753.2 Amended; interim....66259
1753.3 (a) introductory text revised; (a)(4) added; interim....66259
1753.15 (b)(3) through (10) and (13) removed; (b)(11) and (12) redesignated as (b)(3) and (4) and revised; interim....66259
1753.66 (d) revised; interim....66259
1755 Authority citation revised....29328, 29338
1755.97 Table amended...29328, 29338, 30938, 41408, 61004
1755.98 Heading and text revised....41408
1755.390 Added....29338
Appendix A corrected....32749
1755.522 Added....30938
Appendix D corrected....36252
1755.860 Added....61004
1755.890 Added....29328
1767 Added....59825
1786.25—1786.49 (Subpart B) Heading revised; interim....51008
1786.150—1786.199 (Subpart F) Added; interim....51008
1786.200—1786.210 (Subpart G) Added; interim....51008
1786.206 (c) corrected....58729
1792 Added....32440

Chapter XVIII—Farmers Home Administration, Department of Agriculture (Parts 1800—2099)

1809 Removed; interim....44750
1822.261 Amended....224
1823.401 Amended....224

Page
1823.401—1823.418 (Subpart N) Exhibit A amended; interim....44752
1900.51 (b) amended....52646
1900.55 (a)(13) removed; (a)(14) through (18) redesignated as (a)(13) through (17)....52646
1900.51—1900.100 (Subpart B) Exhibit D revised....4065
Exhibit C amended....52646
1900.151—1900.156 (Subpart D) Added....224
1901.2 Amended....226
1901.204 (a)(20) revised; (a)(24) and (25) added....5565
(a)(20) correctly designated....12632
Regulation at 58 FR 5565 confirmed....42639
(a)(26) added....58643
1910 Authority citation revised....48283
1910.1 Introductory text amended....44263, 52646
1910.3 (a)(7) added....226
(a)(3) and (4)(ii) amended....44263
1910.4 Introductory text amended....226
(i) and (k) amended....44263
(b)(19), (c) and (f) amended; (g) revised; interim....44746
(i) amended; interim....44747
(b)(24) added; (g)(1) and (h) revised; interim....48283
(b), (c), (d), (h), (i) and (k) revised; interim....68719
(b)(3) revised; interim; eff. 2-28-94....69195
1910.6 (a) revised; (b)(1) amended; interim....44747
1910.1—1910.50 (Subpart A) Exhibit A removed; interim....68721
1921.9 (f)(2)(iv)(A), (vi)(C), (viii)(A), (C), (G), (H), (xi)(E)(*5*), (xiii)(G), (xiv)(B)(*5*), (*6*) and (g)(2)(iv)(A) introductory text revised; (f)(2)(ix)(B) through (G) and (f)(2)(xii)(F)(*1*), (*2*) and (*3*) redesignated as (f)(2)(ix)(C) through (H) and (f)(2)(F)(xii)(*2*), (*3*) and (*4*); (f)(2)(viii)(I), (ix)(B), new (f)(2)(xii)(F)(*1*) and (xiii)(E)(*5*), (*6*) and (*7*) added; (f)(2)(xiv)(B)(*7*) through (*12*) removed; interim....14499
1922.201—1922.250 (Subpart E) Added; interim....44750
1924 Authority citation revised....48283
1924.4 Amended....26680
1924.1—1924.50 (Subpart A) Exhibit I amended....38922
1924.56 (b)(3) added; interim....48283
1924.57 (d)(1)(iv) amended....26680
1924.59 (e)(7) added; interim; eff. 2-28-94....69195
1924.60 (a)(4) through (11) redesignated as (a)(5) through (12); (a) introductory text revised; new (a)(4) added; interim....48283
1924.73 (a), (b)(2) and (3) amended; interim; eff. 2-28-94....69195
1924.74 Added; interim; eff. 2-28-94....69195
1927.52 Amended....34868
1927.54 (c) introductory text amended....34868
1927.55 (c) and (d)(4) amended....34868
1927.56 (b) amended....34868
1927.58 (g) and (h)(3) amended....34868
1927.59 (a)(1) introductory text amended....34868
1930 Authority citation revised....40868
1930.101—1939.150 (Subpart C) Revised....40868
1930.101—1930.150 (Subpart C) Exhibit B amended....38922
Exhibit E amended....38923
Exhibit C amended....44263
1940.585 (b) revised....54485
1940.586 (b) revised....54485
1940.587 (b) revised....54486
1940.588 (b) revised....54486
1940.589 (b) revised....54486
1940.590 (i) added....5565
Regulation at 58 FR 5565 confirmed....42639
1940.591 (b) revised....54486
1940.551—1940.600 (Subpart L) Exhibit B revised; interim....38950
1941 Authority citation revised....48283
1941.1 Amended....226
Amended; interim....48282

DE

1993

UMI

TITLE 7 Chapter XVIII—Con. Page

1941.4 Amended....26680
Amended; interim....48283
1941.12 (c) added; interim; eff. 2-28-94....69199
1941.14 (b) amended; interim....48284
(a)(3) amended; interim; eff. 2-28-94....69199
1941.15 Added; interim....48284
1941.17 (a) through (d) redesignated as (b) through (e); new (a) and (f) added; interim....48286
1941.25 (a)(3) redesignated as (a)(5) and revised; new (a)(3) and (4) added....26680
(a) introductory text amended; interim....44752
(a)(3) and (5)(iii) removed; (a)(4) and (5) redesignated as (a)(3) and (4); interim....48286
1941.29 Heading, (b) introductory text, (1), (2), (c) introductory text and (3) amended; interim....44747
1941.30 Revised; interim....44747
Amended; interim....48286
1941.33 (a) amended; interim....48282
1941.1—1941.50 (Subpart A) Exhibit A amended; interim....44752, 44753
1941.51 Amended; interim....48282
1941.54 (b)(2) revised; (b)(3) amended; interim....48286
1941.84 (a) and (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and (g) revised....26680
1941.88 (c) amended....26680
1941.92 Amended....26681
1942.1 (a) amended....226
1942.17 (q)(4)(i)(B)(*1*), (ii) introductory text and (B) heading and introductory text amended; (q)(4)(i)(A)(*2*)(*iii*) and (ii)(A) heading revised....30102
1942.101 Amended....226
1942.301 Amended....226
1942.351 (a) amended....226
1942.402 (a) amended....226
1942.451 Amended....227
1942.501 (a) amended....227
1943 Authority citation revised....48287

Page

1943.1—1943.50 (Subpart A) Heading amended; interim....48282
1943.1 Amended....227
Amended; interim....48282
1943.4 Amended....26681, 58648
Amended; interim....48287
1943.12 (c) added; interim; eff. 2-28-94....69199
1943.14 Added; interim....48287
1943.16 (a)(4) added; interim....48288
1943.17 (a)(1) amended; interim....48282
(a)(4) and (5) added; interim....48288
1943.24 (d)(1) and (2) revised....26681
1943.25 (c)(1) introductory text revised....26681
(c)(2) amended; interim....44752
1943.28 (a) amended; interim....48288
1943.29 (d) amended; interim....44747
Heading, (b)(1) and (2) amended; interim....48282
(a) and (b) introductory text amended; interim....48288
1943.30 Revised; interim....44747
Amended; interim....48288
1943.32 (a) amended; interim....44752
1943.38 (g)(3)(ii) revised; (g)(3)(iii) amended; interim....48288
1943.51—1943.100 (Subpart B) Heading amended; interim....48282
1943.51 Amended....227
Amended; interim....48282
1943.54 Amended....15072, 26681
Amended; interim....48288
1943.57 Added....15072
1943.62 (a)(3) through (7) resdesignated as (a)(4) through (8) and (b)(4) through (9) redesignated as (b)(5) through (10); (a)(1), new (a)(8), (b)(3) and new (b)(9) amended; new (a)(3), new (b)(4), (11), and (12) added; new (a)(7) and new (b)(8) revised....15072
(c) added; interim; eff. 2-28-94....69199
1943.66 Revised....15073
1943.67 (a), (b), and (c) redesignated as (c), (d), and (e); new (e) amended; new (a) and new (b) added....15074
1943.68 (c) revised....15074

Page

1943.73 (d), (f)(1) and (2) amended; (f)(2)(iii) and (4) removed....15074
1943.74 (d)(1) and (2) revised....26681
1943.75 (c)(1) introductory text revised....26681
(c)(2) amended; interim....44752
(c)(4)(iii) amended; interim....48289
1943.79 (c)(1) revised....15074
Heading, (a), (c) introductory text, (1) and (d) amended; interim....44748
(d) amended; interim....48289
1943.80 Revised; interim....44748, 48289
1943.82 (a) amended; interim....44748, 44752
1943.88 (g)(3)(ii) revised; (g)(3)(iii) amended; interim....48289
1944 Authority citation revised....227
1944.1 Amended....227
1944.3 (b)(9) and (14) revised....48301
1944.17 (a) introductory text revised....48301
1944.24 (c)(2) amended; interim....44752
1944.30 (a) amended; interim....44752
1944.37 (f) and (g) amended....227
1944.39 Revised....227
1944.51—1944.100 (Subpart B) Added....58643
1944.151 Amended....227
1944.153 Amended....40951
1944.157 (a)(7)(iii) amended; interim....44753
1944.158 (n) added....38923
1944.164 (n) heading and (o) amended; (p) revised....38923
1944.169 (i) heading and (2) revised....40951
(a)(1)(i) amended; interim....44752
1944.170 Introductory text added....40951
1944.171 (d) table amended....38923
1944.176 (d)(3) removed; (d)(4), (5) and (6) redesignated as (d)(3), (4) and (5); (d)(2) revised....38923
1944.151—1944.200 (Subpart D) Exhibit B amended....40951
1944.201 Amended....227
1944.205 Amended....38924, 40951, 44263
1944.211 (a)(10)(ii) introductory text and (B) revised; (a)(11), (12) and (13) redesignated as (a)(12), (13) and (14); new (a)(11) added....38924
(a)(6)(iv) revised....40952
(a)(4) amended....44263
1944.212 Heading revised; (q) added....38924
1944.213 (b)(1) amended; (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) added....38924
(c)(5) through (11) redesignated as (c)(6) through (12); (b) and new (c)(11) revised; new (c)(5) and (f) added....44263
1944.215 (b)(2), (c)(5)(ii), (h)(1) and (r)(3) amended; (d), (j), (n) introductory text and (r)(2) revised; (n)(3) added....38924
(b)(5), (6), (7) and (c)(5)(ii) amended....40953
(n) introductory text, (r)(2), (4), and (7) revised....44265
1944.222 (k) heading and (2) revised....40953
(a) and (h) amended....44265
1944.224 (a)(2)(i) amended....38925
(a) introductory text, (1), (2) introductory text, (i), (iii), (vi), (4), (5) introductory text, (iii), (iv), (7), (8), (b) introductory text, (1)(iv), (2), (7), (c)(2) and (5) amended....40953
1944.231 Revised....44265
1944.232 Revised....44272
1944.235 (a)(1) amended....38925
(h) heading, introductory text, (1), (2) and (3) amended....40953
(c)(1)(iv) amended....44272
1944.236 (b)(5) removed; (b)(6) redesignated as (b)(5) and revised; new (b)(6) and (7) added....38925
1944.237 (a) and (e) revised; (f) and (g) added....38925
(c)(1), (2) and (d)(2) revised....44273
1944.238 Amended....38925
1944.239 (c) introductory text revised; (d) added....40954
1944.250 Amended....44273
1944.201—1944.250 (Subpart E) Exhibit A-11 added....38925
Exhibits A, A-6 and E amended....40954

DE

1993

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 7 Chapter XVIII—Con. Page

Exhibit A-10 revised....44273
1944.251—1944.300 (Subpart F) Technical correction....14509
1944.258 (a) corrected....14509
OMB number....14510
1944.264 Correctly designated....14509
1944.266 Correctly designated....14509
OMB number....14510
1944.268 Correctly designated....14509
1944.284 OMB number....14510
1944.286 OMB number....14510
1944.401 Amended....227
1944.451 Amended....228
1944.463 (d)(2) amended; interim....44752
1944.475 Added....5565
Regulation at 58 FR 5565 confirmed....42639
1944.451—1944.500 (Subpart J) Exhibit D added....5565
Exhibit D corrected....12632
Regulation at 58 FR confirmed and amended....42639
1944.501 Amended....228
1944.552 (a) revised....40954
1944.553 (h) added....38925
(e) revised....40954
1944.554 (b) revised....40954
1944.651—1944.700 (Subpart N) Revised....21894
1944.651 (a) amended....228
Regulation at 58 FR 21894 eff. date delayed to 9-1-93....30102
1945 Authority citation revised....48289
1945.6 (c)(3)(iii)(B) amended....26681
1945.101 (a) amended....228
1945.111 (b) amended; interim....44752
1945.120 (b)(5)(ii)(A) amended; interim....44752
1945.151 (a) amended....228
(a) amended; interim....48282
1945.154 (a)(1) through (36) designations and (b)(1) through (14) designations removed; (a) amended....26681
(a) amended; interim....48289
1945.161 (a)(1) amended; interim....48290
1945.162 (m) added; interim; eff. 2-28-94....69199
1945.163 (a)(2)(ii), (v) and (viii) amended....26682
1945.169 (n)(1)(iii) amended; interim....44753

Page

(c)(2) revised; (c)(3) amended; interim....48290
1945.175 (c)(1) revised....26682
(c)(1) amended; interim....44752
(c)(2) introductory text amended; interim....44753
1945.180 Amended; interim....48290
1945.182 (a) amended; interim....48290
1945.189 (a)(1)(i) and (ii) added; (a)(2)(i) amended....26682
1946.4 (c) and (d) amended; interim....65873
1948.51 Amended....228
1948.101 (a) amended....228
1951 Authority citation revised....15418, 40954, 69200
1951.8 (a) amended....52646
1951.25 Heading and (a) revised; (b)(3) amended....15074
1951.201 Revised....5566
Regulation at 58 FR 5566 confirmed....42639
1951.251 Amended....38925
1951.252 (d) amended....38925
1951.261 (d)(3) revised; (d)(4) redesignated as (d)(5); new (d)(4) added; (e)(2)(iii) and (5) amended....38925
1951.264 Revised....38926
1951.301 Amended....52646
1951.314 (a)(6) revised; (a)(10) added....52646
1951.451—1951.500 (Subpart J) Added....52646
1951.506 (a)(1), (2) and (5)(v) revised; (a)(3), (5)(i), (ii), (iii) and (c) amended; (a)(7) added....40954
1951.507 (e) revised....40955
1951.510 (c)(2) introductory text amended; (c)(3) redesignated as (c)(4); (c)(1) and new (4) revised; new (c)(3) added....40955
1951.512 Amended....40955
1951.517 (a) amended; (b)(3)(ii) and (4) revised....40955
1951.501—1951.550 (Subpart K) Exhibit B amended....40956
1951.608 (e)(1)(i)(B) and (iii) amended....52651
1951.612 (a)(1)(i) and (ii) amended; (a)(1)(iv) introductory text removed; (a)(1)(iv)(A) through (D) redesignated as (a)(1)(iii)(A) through (D); (a)(1)(iii) introductory text, new (A) and new (D) revised....52651
1951.618 (a)(1)(ii) and (8)(i)(B) removed; (a)(1)(iii) and (8)(i)(C) redesignated as (a)(1)(ii) and (8)(i)(B); (b) introductory text amended....52651
1951.651 Revised....38926
1951.652 (g) amended....38926
1951.653 Revised....38926
1951.654 (e) added....38926
1951.656 (e) amended....38926
1951.658 (a) introductory text revised....38926
1951.661 (a)(1)(i) amended....38926
1951.668 (c) added....38926
1951.901 Amended....228
1951.909 (e)(4)(iv) through (viii) and (h)(v) through (x) redesignated as (e)(4)(vii) through (xi) and (h)(4)(ix) through (xiv); (e)(4)(ii), (iii) and (h)(4)(iv) revised; new (e)(4)(iv), new (v), new (vi) and new (h)(4)(v) through (viii) added; interim....30104
(f)(1) introductory text amended; interim....44752
(i)(3)(iii) and (4)(ii) amended; interim....44753
(a)(3) and (c)(5) added; interim; eff. 2-28-94....69200
1951.910 (a)(1) amended; interim....44753
1951.911 (a)(6)(ii) and (7)(ii) amended; interim....44752
(a)(7)(ii) amended; interim....44753
(a)(7)(iii), (iv), (b)(9), (10) and (c) revised....52651
(a)(7)(iii) correctly revised....64455
1951.916 Revised....4066
Existing text designated as (a); new (a) heading and (b) added; interim....15418
1951.901—1951.950 (Subpart S) Exhibit A amended; interim....30105
Exhibit J-1 amended; interim....30106
Exhibits A, B and F amended; interim; eff. 2-28-94....69200
1951 Exhibit F amended....44753
1955 Authority citation revised....48290

Page

1955.2 Amended....52652
1955.3 Amended; interim....68723
1955.9 Added; interim....68723
1955.10 (h)(6) amended....38926
(e) introductory text amended; interim....44752
Introductory text and (f)(1)(iii) amended; (f)(2)(i) and (ii) redesignated as (f)(2)(iv) and (v); new (f)(2)(i), new (ii) and (iii) added; (f)(2) introductory text, (3)(i)(M), (ii)(F) and (g)(1) revised; interim....68724
1955.15 (f)(2) through (6) redesignated as (f)(3) through (7); (d)(2) introductory text, (iv)(D), (3)(ii)(C), new (f)(6), and new (7) introductory text amended; (d)(2)(v) and new (f)(2) added....38927
(d)(5) revised....58648
Introductory text, (d)(1) and (3)(i) introductory text amended; (d)(3)(i)(A) introductory text, (f)(1), (3) and (6) revised; interim....68725
1955.18 (e)(2)(ii) amended; (l) added....38927
(a), (b) introductory text and (c) amended; (d) revised; interim....68725
1955.1—1955.50 (Subpart A) Exhibit G and G-1 amended; interim....44752
1955.53 Amended....58648
1955.63 (a) revised....58648
1955.66 (h)(2) amended; interim....44752
(c)(2), (e)(1) and (g) revised; (d)(4) amended....58649
1955.80 (c) revised....58649
1955.81 Amended....58649
1955.101 Amended....52652
1955.102 Amended....52652
1955.103 Amended; interim....44752, 48290
Amended....58649
1955.105 (d) revised....58649
1955.106 (b) revised....58649
1955.107 (c) amended; interim....44752
(a) revised; (d)(2) amended; interim....68725
1955.108 (a) revised....52652
(b) amended; (c) revised....58649

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

UMI

TITLE 7 Chapter XVIII—Con. Page
1955.109 (a), (c), (h) and (i) revised; (b) amended ... 52652
1955.113 Introductory text amended ... 38927
1955.114 (a)(3)(ii) amended; (b) revised ... 38927
(c) introductory text revised ... 38949
(a)(5) amended ... 52652
1955.115 (b) amended ... 38928
(a) introductory text revised ... 52652
1955.117 (b) amended ... 38928
1955.118 (b)(7) amended ... 38928
Heading, (a), (b) introductory text, (2) through (6), (8)(iii) and (10) revised ... 52653
1955.119 Introductory text and (d) introductory text revised ... 52653
1955.120 Amended ... 52653
1955.122 (a) through (f) redesignated as (b) through (g); new (a) added; new (b) revised; interim ... 48290
(d)(1) amended ... 58650
1955.123 (a) and (b) revised ... 52653
(a) revised ... 58650
1955.128 Revised ... 58650
1955.146 (c) and (d) redesignated as (d) and (e); new (c) added ... 38928
1956.51 Revised ... 21344
1956.54 Amended ... 21344
1956.57 (b) and (h) heading revised; (c) and (g)(1)(i) amended; (k) removed; (l) redesignated as (k) ... 21344
1956.58 Removed ... 21345
1956.66 (a)(2) and (b) introductory text amended; (b)(1) introductory text and (b)(2) removed; (b)(1)(i), (ii) and (iii) redesignated as (b)(1), (2) and (3); (a) introductory text and new (b)(3) revised; (c) added ... 21345
1956.71 Added ... 21345
1956.84 Added ... 21345
1956.85 (b)(1) amended ... 21345
1956.86 Added ... 21345
1956.96 Revised ... 21345
1956.97 Redesignated from 1956.98; (a) and (c) amended; (d) added ... 21346
1956.98 Redesignated as 1956.97 ... 21346

Page
1956.101 Revised; interim ... 5566
Regulation at 58 FR 5566 confirmed ... 42639
1956.137 (d)(5) amended ... 21346
1956.145 Introductory text, (b) and (c) amended ... 21346
1956.146 Added ... 21346
1962.1 Amended ... 52654
1962.16 (a) amended ... 46075
1962.17 (a)(1) introductory text, (3), (b)(1), (2)(i) and (vii) revised; (a)(2), (b)(2)(ii) and (iii) amended ... 46075
1962.34 (b)(3) revised; (d) amended; (e)(2) removed; (e)(3) redesignated as (e)(2) ... 52654
1962.47 (b)(2)(i) amended; (c) and (d) redesignated as (d) and (e); new (c) added ... 21346
1965.1 Revised ... 52654
1965.2 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added ... 52654
1965.11 (c)(2)(ii)(A) amended ... 38928
1965.12 (a)(6) amended ... 26682
(d) and (f) amended; interim ... 44752
(d) and (g) amended; interim ... 44753
Introductory text and (g) amended ... 52654
1965.13 (d) introductory text amended; interim ... 44752
Introductory text amended ... 52654
1965.17 (c) removed; (d) redesignated as (c) ... 52654
1965.25 (d)(1) amended; interim ... 44752
1965.26 (a)(2) amended; interim ... 44752
(e)(4)(i) heading and (ii) removed; (e)(4)(i)(A), (B) and (C) redesignated as (e)(4)(i), (ii) and (iii); new (e)(4)(iii) amended ... 52654
1965.27 (g)(5) and (h)(1) introductory text amended; interim ... 44752
Introductory text and (c)(1)(ii) amended; (c)(1)(iii)(C), (d), (f), (g)(4) and (6)(i) revised ... 52654
1965.31 (c) amended ... 52655
1965.34 Removed ... 52655
1965.55 (a)(7) amended ... 38928

Page
1965.61 (e)(2) introductory text and (iv) amended ... 40956
1965.65 (c)(11) through (15), (d)(7), (f)(13) and (14) redesignated as (c)(12) through (16), (d)(8), (f)(14) and (15); new (c)(11), new (d)(7) and new (f)(13) added; (c)(10) introductory text, new (c)(12), new (d)(8) and (f)(12) amended; (b)(3), (4), (c)(1), (3), (5), (f)(4) introductory text, (7) introductory text and (8) revised ... 38928
(b)(11) amended ... 40956
1965.68 (c)(3) amended; (c)(7) revised; (c)(8) redesignated as (c)(9); new (c)(8) added ... 38930
1965.70 (a) and (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3) added; (d)(8) revised ... 38930
1965.77 (d)(2)(iii) amended ... 38930
1965.89 (c) introductory text, (1) and (d) amended ... 38930
1965.90 Revised ... 38930
1965.92 Amended ... 38930
1965.100 Amended ... 38930
1965.51—1965.100 (Subpart B) Exhibits A, B, C, E, E-1, E-2, E-3 and E-4 removed ... 38930
1965.101 Amended ... 52655
1965.104 (c)(2) revised ... 52655
1965.105 Introductory text amended; (c) removed; (d) and (e) redesignated as (c) and (d) ... 52655
1965.125 (a)(2)(iv) revised; (a)(2)(v) added ... 52655
1965.126 (c)(2) revised ... 4067
Introductory text, (b)(3) and (d) revised; (b)(1) introductory text and (4)(ii) introductory text amended ... 52655
1965.201—1965.250 (Subpart E) Added ... 38931
1965.204 (b) amended ... 40956
1965.214 (f)(2) amended ... 40956
1980 Authority citation revised ... 48291, 69201
1980.6 (a) and (b) amended; interim ... 34306
(a) amended; interim ... 48291
1980.11 Amended; interim ... 34307

Page
1980.13 (b) introductory text, (2), (4) and (c) revised; interim ... 34307
1980.20 (a) introductory text amended; interim ... 34307
1980.21 (a) revised; interim ... 48291
1980.22 (a) revised; interim ... 48291
1980.46 (a)(1) and (2) introductory text revised; interim ... 34307
1980.60 (a) introductory text revised; interim ... 34307
1980.61 (a), (b)(1), (3), (4) and (d) revised; interim ... 34308
1980.62 Revised; interim ... 34308
1980.63 (a) revised; interim ... 34308
1980.64 (a) revised; interim ... 34308
1980.65 Revised; interim ... 34308
1980.66 Revised; interim ... 34308
1980.83 (a) revised; interim ... 34308
1980.84 (b)(4) revised; interim ... 34308
1980.1—1980.100 (Subpart A) Appendix E revised; interim ... 34309
Appendix F revised; interim ... 34312, 48292
Appendix G revised; interim ... 65874
1980.101 (a) amended ... 228
(a) revised; interim ... 34329
1980.101—1980.200 (Subpart B) Exhibit D amended; interim ... 65886, 65887
Exhibit E amended; interim ... 65888
1980.106 (b)(1) and (17) introductory text revised; (b)(17)(iii) amended; interim ... 34329
(b) amended; interim ... 48296, 65886
1980.108 (b)(4) added; (d) introductory text revised; (d)(2) introductory text removed; (d)(2)(i) and (ii) redesignated as (d)(2) and (3) ... 15074
(b)(2), (d) heading, (1), (2) introductory text, (i) and (ii) amended; interim ... 48282
(a)(2)(i) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii) and (iii); new (a)(2)(i) revised; (b)(1) amended; (e) added; interim ... 48296
1980.109 (a)(2)(ii) amended; (a)(2)(iv) removed; (a)(2)(iii) revised; interim ... 48297
1980.113 Revised; interim ... 34329

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 7 Chapter XVIII—Con. Page

(a)(10) amended; interim....68721
1980.114 Introductory text revised; undesignated text amended; interim....34331
Introductory text amended; interim....44748
Amended; interim....48297
Introductory text revised; (a) and (b) redesignated as (c) and (d); new (c) and undesignated text amended; new (a) and new (b) added; interim....68721
1980.115 Revised; interim....34331
Introductory text, (a) and (b) revised; interim....44748
Introductory text revised; interim....48297
(a) and (b) redesignated as (c) and (d); new (a) and new (b) added; introductory text revised; undesignated text amended; interim....68722
Amended; interim; eff. 2-28-94....69201
1980.116 Revised; interim....34332
Amended; interim....44748, 68722
1980.117 Introductory text removed; (a) through (d) added; undesignated text amended; interim....34332
Amended; interim....44748
1980.118 (b) and (c) revised; (d) added; undesignated text amended; interim....34332
Corrected....40190
1980.119 Added; interim....34332
1980.122 Amended; interim....34334
1980.123 (b), (c), (h) and undesignated text amended; interim....34334
1980.124 (a)(1) revised; interim....48297
(a)(4) revised; interim; eff. 2-28-94....69201
1980.125 (c)(4) and (d)(4) revised; interim....34334
1980.130 Revised; interim....34334
1980.131 Added; interim....34335
1980.136 Revised; interim....34335
1980.139 Revised; interim....34335
1980.144 (a) introductory text and (d) revised; undesignated text amended; interim....34335
1980.145 (a) and (b) revised; undesignated text amended; interim....34336
1980.146 Revised; interim....34336
1980.147 Revised; interim....48297
1980.175 (b) introductory text and (f)(2) revised; interim....34338
(c)(1)(iv), (d)(1) and (h)(2) amended; interim....48282
(b)(2)(iv)(A) and (e)(2) amended; (d)(1) through (5) redesignated as (d)(2) through (6); new (d)(1) and (7) added; (e)(1) revised; interim....48297
(b)(4) added; interim; eff. 2-28-94....69201
1980.176 Added; interim....48298
1980.180 (c)(1)(iv), (d)(4) and (5) added; interim....48299
1980.185 (b)(1)(iii) through (vii) redesignated as (b)(1)(iv) through (viii), (b)(2)(iv) through (ix) redesignated as (b)(2)(v) through (x) and (d)(1), (2) and (3) redesignated as (d)(2), (3) and (4); (b)(1)(i), new (viii), (2)(iii) and new (ix) amended; new (b)(1)(iii), new (b)(2)(iv), (xi), (xii) and new (d)(1) added; new (b)(1)(vii), new (2)(viii) and (c) revised....15074
(b) introductory text revised; interim....34338
(b)(1)(i) and (2)(iii) amended; interim....48299
1980.190 Added; interim....34339
1980.191 Added; interim; eff. 2-28-94....69201
1980.101—1980.200 (Subpart B) Exhibit A amended; interim....34341
Exhibit D amended; interim....34342
Exhibit E amended; interim....44748
Exhibit C revised; interim....44753
Exhibits A and E amended; interim....48300
Exhibit D amended; interim; eff. 2-28-94....69204
1980.201 (a) amended....229
1980.207 Introductory text revised....229
1980.246 (c)(5)(i) amended; interim....44752

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

1980.301 (a) amended....229
1980.401 (a) amended....229
1980.441 Undesignated text removed....40039
1980.442 Introductory text revised; undesignated text added....40039
1980.498 (l)(4) amended; (m)(5)(iv) removed; interim....34342
(m)(5) introductory text, (6) introductory text and (8) heading revised; (m)(8)(iii) added....38952
(a) revised; interim....41172
(l)(4) and (m)(5)(iii) amended; (m)(3)(i) revised; interim....48300
1980.501 (a) amended....229
1980.601 Amended....229
1980.601—1980.700 (Subpart G) Appendix G revised; interim....34316
1980.801 (a) amended....229
1980.901 (a) amended....229
2003.1—2003.50 (Subpart A) Exhibit A amended....5566
Regulation at 58 FR 5566 confirmed....42639

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3015.77 Removed....41412
3051 Added....41412

Chapter XXXIV—Cooperative State Research Service, Department of Agriculture (Parts 3400—3499)

3401 Revised....21852
3415 Added....65647

Chapter XLII—Rural Development Administration, Department of Agriculture (Part 4284)

Chapter XLII Established; interim....5566
Regulation at 58 FR 5566 confirmed....42639
4284.401—4284.500 (Subpart E) Added....5566
4284.413 (b), (d) introductory text and (6) amended....42639
4284.421 (b)(6) added....42639
4284.441 (b) introductory text revised....42639
4284.443 Amended....42639
4284.401—4284.500 (Subpart E) Exhibit A corrected....12632
Exhibit A amended....42639

Title 7—*Proposed Rules:*

13....58299
28....32454
29....3233, 13130
51....61033
52....3816, 7296, 13130, 29985, 47071
54....32616
55....13130, 37872, 38602
56....3234, 37872, 38602
58....13130, 34933, 34937, 57567
59....3234, 13130, 37872, 38602
61....13130
68....3511, 14174, 45295, 49248
70....13130, 37872, 38602
75....32617
90—159....13130
180....13130
246....40755
250....29985
252....29985
271....64172
272....58458
273....58458, 58463
275....5188, 7296
283....5188, 7296
300....11383, 42504
301....21113, 66304
319...11383, 32456, 42504, 44779, 47074, 57969, 59953, 66304, 66305
321....66305
330....38308
354....260
400....37874, 53150
457....32458
704....66308
723....3869, 67376
729....63106
735....43298
781....3871
792....33029
800....41439
801....42257
810....65939
907....8912
908....8912
920....33035, 34940
926....40756

DE

1993

TITLE 7 Proposed Rules 7—Con. Page

930.....63108, 68065
932.....8558
944.....40758
945.....33037, 42696
956.....58105
958.....3234, 34944
966.....44780
981.....43565, 64175
985.....67378
1001...10993, 12634, 29133, 33347, 58112, 67380
1002...10993, 12634, 29133, 33347, 58112, 67380
1004...12634, 29133, 33347, 34725, 42881, 43572, 58112, 67380
1005...12634, 29133, 33347, 57970, 58112, 67380
1006.....12634, 67380
1007...12634, 29133, 33038, 33347, 34946, 47653, 53436, 57970, 58112, 65135, 67380
1011...12634, 29133, 33347, 57970, 58112, 67380
1012.....12634, 67380
1013.....12634, 67380
1030...12634, 29133, 32464, 33347, 42258, 58112, 67380
1032.....12634, 67380
1033...12634, 29133, 33347, 58112, 67380
1036...12634, 29133, 33039, 33347, 58112, 67380
1040...6447, 12634, 29133, 33347, 58112, 64176, 67380
1044...12634, 29133, 33347, 58112, 67380
1046...12634, 29133, 33347, 50526, 58112, 67380
1049...12634, 29133, 33347, 58112, 67380
1050.....12634, 67380
1064.....12634, 67380
1065...12634, 29133, 33347, 58112, 67380
1068...12634, 29133, 33347, 58112, 67380
1075.....12634, 67380
1076.....12634, 67380
1079...12634, 29133, 33347, 58112, 67380
1093...12634, 29133, 33347, 47653, 53436, 58112, 67380
1094...12634, 29133, 33347, 47653, 53436, 58112, 67380
1096...12634, 29133, 33347, 47653, 53436, 54530, 58112, 67380
1097...12634, 25576, 29133, 33347, 58112
1098...12634, 14344, 25577, 29133, 33347, 34230, 58112
1099...12634, 25577, 29133, 33347, 53436, 58112, 67380
1106...8559, 12634, 29133, 33347, 53438, 58112, 63120, 67380
1108...12634, 29133, 33347, 47653, 53436, 58112, 67380
1124...12634, 29133, 33347, 53439, 58112, 67380
1126...12634, 29133, 32465, 33347, 58112, 67380
1131...12634, 29133, 33347, 58112, 67380, 67703
1134.....12634, 67380
1135...12634, 29133, 33347, 53439, 58112, 67380
1137.....32467, 67380
1138...12634, 29133, 33347, 45295, 58112, 67380
1139.....7996, 12634, 67380
1150.....25785
1160.....21512, 25900, 46877
1205.....32066
1211.....41203
1220.....26933
1230.....32468
1250.....65939
1405.....46886
1410.....66308
1413...17807, 41641, 46886, 51934, 52686, 52928
1421.....12338, 38311, 63106
1435.....16126
1446.....3514, 42882
1468.....37876
1525.....65941
1703.....52688
1710.....21661, 44288, 48800
1717.....12552
1735.....21661, 68780
1753.....29363
1755.....29363, 46097, 46110, 60560
1773.....49442
1785.....18043
1786.....18043, 48465
1788.....25786
1910.....69274
1924.....69274
1941.....69274
1943.....69274
1944.....507, 48330
1945.....69274
1951.....69274
1955.....53891
1956.....4095
1962.....69274
1965.....53891
1980.....46889, 69274

Page

3408.....53153
3515.....11910

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

3.41 Added.....38953
100.4 (d) amended.....471, 3487
(c)(3) amended.....38045
101.6 Redesignated as 204.11.....42849
103.1 (f)(2)(xxxv) revised.....42850
(f)(2)(xxxvi) and (xxxvii) amended; (f)(2)(xxxviii) and (xxxix) added; interim.....44608
Regulation at 57 FR 33861 confirmed.....50836
(f)(2)(x) and (xxiii) revised; interim.....69210
103.7 (b)(1) amended; Form N-400 revised; interim.....30699
(b)(2) amended.....31148
(b)(1) amended; interim...58937, 69210
103.8 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added.....31148
103.10 (a)(2) amended.....31148
(a)(1), (b)(1), (c)(2), (d)(1) and (e) revised; (c)(1) and (d)(2) amended; (b) and (f) removed.....31149
103.11 Added.....31149
103.20 (a) and (b) introductory text amended.....31149
103.21 (a) and (b)(2) revised; (b)(3) removed; (f) added.....31149
103.22 (a) revised.....31149
103.23 (a) revised.....31149
(b) amended.....31150
103.24 Amended.....31150
103.25 (a) and (b) amended.....31150
103.26 Amended.....31150
103.27 Amended.....31150
103.28 (a) revised; (b) through (f) amended.....31150
103.30 (a) amended.....31150
103.33 Amended.....31150
103.35 Amended.....31150
103.36 Amended.....31150
204.1 (g)(1)(vii) revised; eff. 9-20-94.....48778
204.6 (e) amended; interim.....44608
(j) introductory text revised; (j)(4)(iii) and (m) added; interim.....44609
204.9 Regulation at 57 FR 33861 confirmed; (a)(2) revised; (c)(3) removed; (c)(4) redesignated as (c)(3).....50836
204.10 Added; interim.....30701
204.11 Redesignated from 101.6.....42849
Revised.....42850
205 Authority citation revised.....42850
205.1 (a)(10) and (c)(4) removed; (c)(5) and (d) redesignated as (c)(5) and (e); introductory text, (a)(5), (6), (7), (b)(5), (6), (c) heading, (3) and new (4) amended; (d) added.....42850
205.2 (a) and (b) amended.....42851
208 Authority citation revised.....12148
Regulation at 58 FR 12146 eff. date corrected to 4-2-93.....14145
208.7 (c) introductory text amended.....12148
209 Authority citation revised.....12148
Regulation at 58 FR 12146 eff. date corrected to 4-2-93.....14145
209.2 (c) amended.....12149
211.1 (b)(1), (4) and (c) amended; (b)(3) revised; eff. 9-20-94.....48778
211.3 Nomenclature change; eff. 9-20-94.....48778
211.5 (a) and (b) amended; eff. 9-20-94.....48778
212.1 (f)(3) amended.....4891
(e)(3) amended; interim; eff. through 7-15-94.....38046
(f)(3) amended; interim.....43438
(l) revised; interim.....69210
214 Authority citation revised.....58097
214.2 (a)(10) corrected; CFR correction.....49905
(f)(6)(i)(C) and (m)(9)(ii) revised.....58097
(b)(1), (4), (l)(17) heading and (i) revised; (e)(3) and (l)(18) added; interim.....69210
214.3 (b), (c) and (d) revised.....58098
214.6 Revised; interim.....69212
217 Authority citation revised.....40581
217.5 (a) amended; interim.....40581
223 Authority citation revised.....48778
223.1 Amended; eff. 9-20-94.....48778

UMI

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 8 Chapter I—Con. Page

223a Authority citation revised....48778
223a.4 Amended; eff. 9-20-94....48778
235.1 (d)(8) added; (f)(1) introductory text revised; interim....69217
235.9 (b)(1) amended; eff. 9-20-94....48778
240.2 (f) revised; interim....58937
240.3 (a) and (c) revised; interim....58937
240.6 Amended; interim....58937
240.7 (b) revised; interim....58937
240.9 (a)(4) added; interim....58937
240.10 (f)(2)(v) added; interim....58937
245.1 (a), (b)(4)(ii), (5) and (6) amended; (d)(3) added....42851
245.2 (a) amended; interim....35838
245.8 Regulation at 57 FR 33862 confirmed; (c) amended; (d) and (e) redesignated as (e) and (f); new (d) added....50836
245.9 Added; interim....35838
245a.2 (k)(4) amended; interim....45236
251.1 (c)(1) and (3) amended; eff. 9-20-94....48779
252 Authority citation revised....48779
252.1 (b)(1) amended; eff. 9-20-94....48779
264.1 (b) amended; (c)(2) removed; (c)(3) redesignated as (c)(2)....48779
(f) through (h) redesignated as (g) through (i); new (f) added; interim....68024
264.2 Heading, (c)(1)(i) and (2)(i) revised; (c)(1)(vii) and (2)(ix) amended....48779
264.3 Removed; interim....68025
264.5 Added....48779
274a Regulation at 58 FR 12146 eff. date corrected to 4-2-93....14145
274a.2 (b)(1)(v)(A)(5) revised; eff. 9-20-94....48780
274a.12 (a)(1) amended; eff. 9-20-94....48780
(b)(19) and (20) revised; interim....69217
274a.13 (a) revised....12149
292.5 (b) amended; interim....49911
299.1 Amended; eff. 9-20-94....48780
Amended; interim....58937
299.5 Table amended; interim (OMB numbers)....49911, 58937
310.3 Revised; interim....49911
312.2 (b)(1) introductory text revised; (b)(1)(ii) amended; interim....49912
312.3 (a) revised; interim....49912
312.4 Amended; interim....49912
312.5 (a) revised; (b) amended; interim....49912
313 Heading revised; interim....49912
313.1 Amended; interim....49912
316 Authority citation revised....49912
316.2 (b) revised; interim....49912
316.4 (a)(2) amended; eff. 9-20-94....48780
316.5 (c) heading, (1)(i) introductory text and (3) revised; (c)(1)(ii) amended; interim....49913
316.10 (b)(1)(i) and (ii) revised; interim....49913
322.2 (a)(4)(i) and (b)(1)(iv) revised; interim....49913
329.2 (a)(4) amended; (a)(5) removed; (a)(6) redesignated as (a)(5); interim....49913
329.5 (c) amended; (d) and (e) revised; (g), (h) and (i) added....45420
334.2 (a) amended; eff. 9-20-94....48780
334.3 Removed; interim....49913
334.4 Revised; interim....49913
334.11 Revised; interim....49913
335.2 (a) and (c) introductory text revised; (c)(1) and (d) amended; interim....49913
335.3 (b) amended; interim....49914
335.5 Amended; interim....49914
335.6 Added; interim....49914
335.7 Added; interim....49914
335.9 (b) revised; interim....49914
336.2 (b) amended; (c) added; interim....49914
337.2 (a) revised; (b) amended; (c) added; interim....49915
337.3 Revised; interim....49915
337.7 Revised; interim....49915
337.8 Revised; interim....49915
337.10 Added; interim....49916
338.1 Revised; interim....49916
339.1 Revised; interim....49916
339.2 (a) revised; (d) added; interim....49916
343b.3 Amended; interim....49917
499.1 Amended; interim....49917

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Title 8—*Proposed Rules:* Page

3....59953
204....31000, 59200
208....38312
210....61846
210a....64695
211....31000
214....58982
223....31000
223a....31000
235....6056, 31000
236....38312
242....38312
245a....61846
251....31000
252....31000
264....31000
274a....31000, 58982, 61846
299....31000
316....31000
334....31000

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

Chapter 1 Policy statement....47206
1 Authority citation revised....39129
1.1 Amended....39129
2 Authority citation revised....39129
2.35 (e) amended....39129
2.38 (k)(4) added....39129
2.75 (a)(4) amended....39129
(a)(4) corrected....45041
2.133 Added....39129
50.1 Amended....34698
50.14 (c) revised....34699
51.3 Amended; CFR correction....47984
77.1 Amended; interim....34700
78.1 Amended....48445
78.41 (a) and (b) amended; interim....4361
Regulation at 58 FR 4361 confirmed....36593
78.43 Amended; interim....11365, 28343, 68506
Regulation at 58 FR 11365 confirmed....34700
Regulation at 58 FR 28343 confirmed....43069
85.1 Amended; eff. 1-27-94....68507
91.14 (a)(10)(i) and (13) removed; (a)(10)(ii) and (14) through (17) redesignated as (a)(10)(i) and (13) through (16); new (a)(10)(i)(A) amended; new (a)(16)(ii)(A) removed; new (a)(16)(ii)(B) redesignated as (a)(16)(ii)(A) and revised; new (a)(16)(iv) and (A) added....37640
(a)(5)(i) introductory text revised; (a)(10) through (16) redesignated as (a)(11) through (17); new (a)(10) added....58099
92 Authority citation revised....38957, 45237
92.102 (a) amended....37642
92.106 (d)(2) revised....38957
92.203 (d) amended....37642
92.303 (c) amended....45237
92.308 (a) introductory text and (1) amended....45238
92.323 Heading revised; (a) and (b) amended....45238
92.324 Heading revised; text amended....45238
92.326 Amended....45238
92.400 Amended; eff. 1-27-94....68509
92.403 (e) amended....38283
92.406 (a) amended; eff. 1-27-94....68509
92.418 Heading and (a) amended; (a) heading revised; (b)(2)(ii)(C) redesignated as (b)(2)(ii)(D); new (b)(2)(ii)(C) added....37641
92.427 (c)(1), (d) introductory text, (2) and (e)(2) amended; eff. 1-27-94....68509
92.503 (e) amended....38283
94 Authority citation revised....58753
94.1 (a)(2) amended....11367, 58753
(a)(2) and (d)(1) amended....28344
(a)(2) revised; (d)(1) amended....36596
94.5 (h)(10) and (i) added; eff. 1-19-94....66248
94.9 (a) amended....11367
94.10 (a) amended....11367
94.11 (a) amended....11367, 28344, 36596
94.12 (a) amended....11367
Regulation at 58 FR 11367 withdrawn....13698
(a) amended....36596

150-258 O - 94 - 3 (3)

TITLE 9 Chapter I—Con. Page
94.13 Introductory text amended....11367
Regulation at 58 FR 11367 withdrawn....13698
Regulation at 57 FR 62177 confirmed....36594
Introductory text amended....36596
94.18 (a) revised; interim....4308, 65104
Regulation at 58 FR 4308 confirmed....36594
94.19 Added....50251
96 Authority citation revised....47030
96.2 Redesignated as 96.3; new 96.2 added; interim....47031
96.3 Redesignated as 96.4; new 96.3 redesignated from 96.2; interim....47031
96.4 Redesignated as 96.5; new 96.4 redesignated from 96.3 and amended; interim....47031
96.5 Redesignated as 96.6; new 96.5 redesignated from 96.4; interim....47031
96.6 Redesignated as 96.7; new 96.6 redesignated from 96.5; interim....47031
96.7 Redesignated as 96.8; new 96.7 redesignated from 96.6; interim....47031
96.8 Redesignated as 96.9; new 96.8 redesignated from 96.7; interim....47031
96.9 Redesignated as 96.10; new 96.9 redesignated from 96.8; interim....47031
96.10 Redesignated as 96.11; new 96.10 redesignated from 96.9; (c)(1) amended; interim....47031
96.11 Redesignated as 96.12; new 96.11 redesignated from 96.10; interim....47031
96.12 Redesignated as 96.13; new 96.12 redesignated from 96.11 and amended; interim....47031
96.13 Redesignated as 96.14; new 96.13 redesignated from 96.12; interim....47031
96.14 Redesignated as 96.15; new 96.14 redesignated from 96.13; interim....47031
96.15 Redesignated as 96.16; new 96.15 redesignated from 96.14; interim....47031
96.16 Redesignated from 96.15; interim....47031
97.1 (a) introductory text and (3) amended....32434
97.2 Table amended....28345
98.31 Amended....37643
98.33 (a) and (b) redesignated as (d) and (e); heading and new (d) revised; new (a), (b) and (c) added....37643
98.34 (a)(1) amended....37644
98.35 Heading revised; (a) amended; (c) and (d) added....37644
98.36 Revised....37644
98.37 Removed....37644
98.38 Removed....37644
98.39 Removed....37644
113.46 (b)(2) revised....50252
124 Added....11369
124.23 (b) corrected....29028
130 Authority citation revised....38957, 67654
130.1 Amended....38957
Amended; eff. 1-21-94....67654
130.2 (a) amended....38958
(a) table amended; eff. 1-21-94....67654
130.3 (a) amended....38958
Heading and (a) revised; (c) redesignated as (c)(1); (c)(2) and (3) added; OMB number; eff. 1-21-94....67654
130.4 Revised....38958
130.5 (a) revised....38958
(b) revised; eff. 1-21-94....67655
130.6 (a) and (b)(1) amended....38958
Redesignated as 130.20; new 130.6 added; OMB number; eff. 1-21-94....67655
130.7 (a) introductory text revised....38958
Redesignated as 130.21; new 130.7 added; OMB number; eff. 1-21-94....67655
130.8 Redesignated as 130.22; new 130.8 added; OMB number; eff. 1-21-94....67655
130.9 Redesignated as 130.23; eff. 1-21-94....67655
Added (OMB number); eff. 1-21-94....67656
130.14 Added....38958
130.15 Added....38958
130.16 Added....38959

Page
130.17 Added....38959
130.18 Added....38960
130.20 Redesignated from 130.6; eff. 1-21-94....67655
(d) added; OMB number; eff. 1-21-94....67656
130.21 Redesignated from 130.7; eff. 1-21-94....67655
Heading and (b) revised; (a)(1), (2) and (3) amended; (a)(4), (5) and (c) added; OMB number; eff. 1-21-94....67656
130.22 Redesignated from 130.8; eff. 1-21-94....67655
130.23 Redesignated from 130.9; eff. 1-21-94....67655
130.50 (a)(1) and (2) revised; (a)(3) and (4) amended; (a)(5) and (6) added....38960
(a)(3) revised; (a)(5) and (6) amended; (a)(7), (8) and (9) added; eff. 1-21-94....67656
130.51 (a) and (c) revised; (b)(1) and (2) amended; (b)(3) and (4) added....38960
156 Authority citation revised....67656
156.7 Amended; heading revised; eff. 1-21-94....67656
161.3 (f) corrected....8820

Chapter II—Packers and Stockyards Administration, Department of Agriculture (Parts 200—299)

201.56 (b), (c) and (d) revised; (e) removed....52886
201.64 Removed....52886
201.66 Removed....52886
201.72-1 Removed....52886
201.78-1 Removed....52886
201.106-1 Removed....52886
201.106-2 Removed....52886
203.14 Revised....52886
Corrected....58902

Chapter III—Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300—399)

317.1—317.24 Designated as Subpart A; eff. 7-6-94....664
317.2 (f)(1)(vi) added....38048
(f)(1)(vi)(B) corrected....40468
(j)(3) amended....42189
(l) added; interim....43489
(l) revised....52872
(l) removed....58919
317.5 (b)(12) and (13) amended; (b)(14) added....43489
(b)(12) and (13) amended; (b)(14) removed....58919
317.300—317.400 (Subpart B) Added; eff. 7-6-94....664
317.309 (b), (f)(1), (g)(1) and (h)(5) corrected....43788
(g)(1) amended; interim....47627
317.312 (b) Table 2 corrected....43788
(b) Tables 1 and 2 amended; interim....47627
317.313 (i) and (p) corrected....43788
(a) and (q)(3) revised; interim....47627
317.345 (a)(1) amended; interim....47627
317.354 Corrected....43788
317.356 (a) corrected....43788
317.360 Corrected....43788
317.361 Corrected....43788
317.362 (a) corrected....43788
(c)(1) amended; interim....47627
317.380 (c) corrected....43788
(e) and (f) added; interim....47627
Corrected....66075
317.400 (a)(1)(iii) and (d) added; interim....47627
318 Authority citation revised....65260
318.7 (c)(4) table amended....4070, 42189, 45239, 45242, 45243, 59935
(c)(4) table amended; eff. 1-3-94....63522
318.21 (a) amended; tables 1 and 2 revised....65260
(b)(1), (2)(ii) introductory text, (3)(i), (vi), (vii), (ix) introductory text, (x)(C) and (xi) revised; (b)(2)(iv) and (3)(xii) added....65262
(b)(2)(ii)(C), (3)(viii), (ix)(C) introductory text, (c)(2)(ii), (3)(ix) introductory text, (A)(*1*) introductory text, (*2*) introductory text, (B) introductory text, (C) introductory text, (xiii)(A)(*1*) introductory text and (*2*) introductory text amended; (c)(1) and (2)(ii) introductory text revised; (c)(2)(iv) added....65263

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 9 Chapter III—Con. Page

(c)(3)(i) removed; (c)(3)(vi), (vii), (ix) introductory text, (x)(C), (xi), (g)(1), (2) and (3)(ii) revised; (c)(3)(xiii), (B) introductory text and (C) introductory text amended; (c)(3)(xiv) added.....65264
318.23 Added.....41151
320 Technical correction.....43787
320.1 (b)(8) added; eff. 7-6-94.....675
(b)(7) added.....41152
381 Authority citation revised.....65264
381.118 (a) revised.....38049
381.125 Existing text designated as (a); (b) added; interim.....43489
(b) revised.....52872
(a) designation and (b) removed.....58919
381.134 (b)(12) and (13) amended; (b)(14) added.....43489
(b)(12) and (13) amended; (b)(14) removed.....58919
381.147 (f)(4) table amended...4070, 63034
(f)(4) amended.....42190
381.153 (a) amended.....65264
(b)(1), (2)(ii) introductory text, (3)(i), (vi), (vii), (ix) introductory text, (x)(C) and (xi) revised; (b)(2)(iv) and (3)(xii) added.....65266
(b)(2)(ii)(C), (3)(viii) and (ix) amended; (c)(1) revised.....65267
(c)(2)(ii) introductory text, (3)(vi), (vii), (ix) introductory text, (x)(C), (xi), (g)(1), (2), (3)(ii) revised; (c)(2)(ii)(C), (3)(ix) introductory text, (A)(*1*) introductory text, (*2*) introductory text, (B) introductory text, (C) introductory text, (xiii)(A)(*1*) introductory text, (*2*) introductory text, (B) introductory text and (C) introductory text amended; (c)(2)(iv) and (3)(xiv) added; (c)(3)(i) removed.....65268
381.175 (b)(5) added; eff. 7-6-94.....675
381.400—381.500 (Subpart Y) Added; eff. 7-6-94.....675
381.409 (b), (f)(1), (g)(1) and (h)(5) corrected.....43788
(g)(1) amended; interim.....47628
381.412 (b) Table 2 corrected.....43789
(b) tables 1 and 2 amended.....47628
381.413 (i) and (p) corrected.....43789
(a) and (q)(3) revised; interim.....47628
381.445 (a)(1) amended; interim.....47628
381.454 Corrected.....43789
381.456 (a) corrected.....43789
381.460 Corrected.....43789
381.461 Corrected.....43789
381.462 Corrected.....43789
(c)(1) amended; interim.....47628
381.480 (c) corrected.....43789
(e) and (f) added; interim.....47628
381.500 (a)(1)(iii) and (d) added; interim.....47628
391 Heading revised.....65269
Authority citation revised.....65269
391.2 Revised.....33323
391.3 Revised.....33323
391.4 Revised.....33323
391.5 Added.....65269

Title 9—*Proposed Rules:*

2.....68559
3.....39458
51.....68561
54.....59955
71.....59959, 67708
77.....43086
78.....4360, 37665, 39458, 47222, 50290
79.....59955
82.....41048, 46569, 50527, 52240
85.....37666
91.....262, 37667, 43301, 59962
92...4361, 4362, 15292, 37878, 41204, 41643, 47084, 48003, 50527, 58304, 59414, 59963, 67709
94...264, 14174, 15901, 17642, 36624, 38308, 38314, 38316, 41643, 47834, 50527, 51971, 57971, 60146, 63122
95.....37669
98.....266, 36625, 55026
112.....25786
113...12187, 15301, 21114, 37670, 39462, 39467, 47222
130.....15292, 39163
145.....44782
147.....44782
156.....39163
301.....54012

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

306.....62014
309.....45296
310.....45296
312.....54012
313.....47673
317...688, 8560, 19781, 45296, 51581, 58922, 62014
318.....269, 44236, 51581
320.....62014
322.....54012
327.....62014
350.....54012
362.....54012
381...688, 8560, 33040, 38090, 44236, 54012, 58922, 62014
391.....14177, 44236, 54012

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

0 Authority citation revised.....29951
0.735-1 Removed.....3825
0.735-2 Removed.....3825
0.735-3 Revised.....3825
Removed.....29951
0.735-4 Removed.....3825
0.735-5 Removed.....3825
0.735-6 Removed.....3825
0.735-8 Revised.....3825
0.735-20 Removed.....3825
0.735-21 (d) revised.....3826
Revised.....29951
0.735-22 Removed.....29952
0.735-23 Revised.....3826
Removed.....29952
0.735-24 Removed.....3826
0.735-25 Removed.....3826
0.735-26 Revised.....3826
Removed.....29952
0.735-27 Removed.....3826
0.735-28 Removed.....3826
0.735-28a Removed.....3826
0.735-30 (Subpart C) Removed.....3826
0.735-40 (e), (g) and (h) removed; (f) redesignated as new (e).....3826
0.735-41 Removed.....3826
0.735-42 Removed.....3826
0.735-43 Removed.....3826
0.735-44 Removed.....3826
0.735-45 Removed.....3826
0.735-46 Removed.....3826
0.735-47 Removed.....3826
0.735-48 Removed.....3826
0.735-49 Removed.....3826
0.735-49a Removed.....3826
0.735-50—0.735-55 (Subpart E) Removed.....3826
0 Annex A removed.....29952
1.5 (b) amended.....64111
2 Authority citation revised.....44611
Authority citation corrected.....50635
2.8 (b) revised.....14309
2 Appendix C amended...14309, 14310, 17322, 67658#
Appendix B removed.....44611
9.35 (a)(1) and (2) revised.....38666
11.15 (e)(1) revised.....44435
19 Authority citation revised.....52408
19.2 Amended.....7736
19.3 Amended.....7736
19.11 (c) revised.....52408
Regulation at 58 FR 52408 eff. date corrected to 11-8-93.....54646
19.13 (b) through (e) revised.....67658
20 Technical correction.....11290
Authority citation revised...67659, 69219
20.2 Amended.....7736
20.3 (a)(9) amended.....7736
20.203 (c)(6) and (7) removed.....7736
20.1—20.601 Appendix C redesignated as Part 30 Appendix B; sections and Appendixes A, B and D removed.....67659
20.1001—20.1008 (Subpart A) Undesignated center heading removed.....67659
20.1002 Amended.....7736
20.1003 Amended.....7736
20.1008 Removed.....67659
20.1603 Removed.....7736
20.2109 Removed.....7736
20.2201 (a)(2)(ii) revised.....69220
20.2202 (d)(2) revised.....69220
20.1001—20.2402 Appendix D amended.....64111
Appendixes A through F redesignated as Part 20 Appendixes A through F.....67659
20 Appendixes A through F redesignated from 20.1001—20.2401 Appendixes A through F; new Appendix C amended.....67659
25 Appendix A revised.....44436
26.1 Revised.....31469
26.2 Revised.....31469
26.3 Amended.....31469

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 10 Chapter I—Con. Page

26.10 Introductory text and (a) revised 31469
26.24 Heading, (a)(2) and (b) revised 31469
26.27 (a), (b)(2) and (3) revised 31470
26.73 (d) revised 31470
26 Appendix A amended 31470
30 Authority citation revised 52408
30.4 Amended 7736
30.5 Amended 7736
30.6 (a) introductory text and (b)(1) introductory text amended 7736
(b)(2)(iii) amended 64111
30.7 Revised 52408
Regulation at 58 FR 52409 eff. date corrected to 11-8-93 54646
30.8 (b) revised 39633
(b) revised; eff. 1-28-94 68730
30.11 (a) amended 7736
30.13 Amended 7736
30.14 (a) and (c) amended 7736
30.15 (a) introductory text amended 7736
30.16 Amended 7736
30.18 (a) amended 7736
30.19 (a) amended 7736
30.20 (a) amended 7736
30.31 Amended 7736
30.33 (a)(4) amended 7736
30.34 (a) through (d) and (e) introductory text amended 7736
(i)(1) revised 39132
30.35 (g)(3) redesignated as (g)(4); new (g)(3) added 39633
(a) and (d) amended; (g)(3)(i) and (iv) revised; note removed 67659
(f)(2) introductory text revised; eff. 1-28-94 68730
30.36 (c)(2)(iii)(D) redesignated as (c)(2)(iii)(E); new (c)(2)(iii)(D) added; (c)(3) revised 39633
30.39 Amended 7736
30.51 (a) introductory text, (b), (c)(1) and (2) amended 7736
30.53 Introductory text amended 7736
30 Appendix B redesignated from 20.1—20.601 Appendix C 67659
Appendix B added; eff. 1-28-94 68730
31.5 (c)(10) amended 67659
31.7 (b) amended 67659
31.10 (b)(1) and (3) amended 67659
31.11 (c)(5) and (f) amended 67659
32.51 (a)(2)(ii) and (c) revised 67660
32.61 (d) amended 67660
32.71 (c)(2) and (e) amended 67660
34.29 (a) amended 67660
34.41 Amended 67660
34.42 Amended 67660
35.92 (a) amended 67660
35.200 (c)(1) revised 39132
35.205 (a) and (c) amended 67660
35.300 (b)(1) revised 39132
35.315 (a)(8) amended 67660
35.415 (a)(1) amended 67660
35.641 (a)(2)(i), (ii) and (b)(2) amended 67660
35.643 (a) introductory text, (1) and (b) amended 67660
36 Added 7728
36.59 (c) amended 67660
39.15 (a)(5)(iii)(B) amended 67660
39.31 (a)(1) and (2) amended 67660
39.77 (b) amended 67660
40 Authority citation revised 52409
40.5 (b)(1) amended 7736
(b)(2)(iii) amended 64111
40.7 Revised 52409
Regulation at 58 FR 52409 eff. date corrected to 11-8-93 54646
40.8 (b) revised 39633
(b) revised; eff. 1-28-94 68731
40.34 (a)(2) revised 67661
40.36 (f)(3) redesignated as (f)(4); new (f)(3) added 39633
(f)(3)(i) amended 67661
(e)(2) introductory text revised; eff. 1-28-94 68731
40.42 (c)(2)(iii)(D) redesignated as (c)(2)(iii)(E); new (c)(2)(iii)(D) added; (c)(3) revised 39634
40 Appendix A amended 67661
50 Authority citation revised 21911, 52410
Policy statement 39132
50.7 Revised 52410
Regulation at 58 FR 52410 eff. date corrected to 11-8-93 54646
50.8 (b) revised 21912
(b) revised; eff. 1-28-94 68731
50.34 (f)(2)(viii) amended 67661
50.36a (a) introductory text amended; (b) revised 67661

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

50.54 (a)(3) introductory text revised 45244
50.65 (a)(3) revised; eff. 7-10-96 33996
50.72 (a) Footnote 1 amended; (b)(2)(iv)(A) and (B) revised 67661
50.73 (a)(2)(viii) and (ix) revised 67661
50.75 (e)(1)(iii) introductory text and (2)(iii) revised; eff. 1-28-94 68731
50.120 Added 21912
(b)(1) corrected 39092
51.22 (c)(3), (10) and (14) amended 7737
51.60 (a) amended 7737
51.66 (a) amended 7737
51.68 Amended 7737
52 Comment response 69220
52.8 (b) revised 21912
52.78 Added 21912
52.113 (b) revised 21912
54.37 (b) revised 45244
60 Authority citation revised 52411
60.9 Revised 52411
Regulation at 58 FR 52411 eff. date corrected to 11-8-93 54646
61 Authority citation revised 52412
61.2 Amended 33891
61.7 (a)(1) revised 33891
61.8 Revised 33891
61.9 Revised 52412
Regulation at 58 FR 52412 eff. date corrected to 11-8-93 54646
61.12 (j) revised 33891
61.52 (a)(6) amended 67662
61.80 (i)(1) revised 33891
70 Authority citation revised 52412
70.5 (b)(1) introductory text amended 7737
(b)(2)(iii) amended 64112
70.7 Revised 52413
Regulation at 58 FR 52413 eff. date corrected to 11-8-93 54646
70.8 (b) revised 39634
70.20a (b) amended 7737
(d)(3) revised 31471
70.25 (g)(3) redesignated as (g)(4); new (g)(3) added 39634
(a) and (d) amended; (g)(3)(i) and (iv) revised 67662
(f)(2) introductory text revised; eff. 1-28-94 68731
70.38 (c)(2)(iii)(D) and (E) redesignated as (c)(2)(iii)(E) and (F); new (c)(2)(iii)(D) added; (c)(3) revised 39634
72 Authority citation revised 52413
72.10 Revised 52414
Regulation at 58 FR 52414 eff. date corrected to 11-8-93 54646
72.30 Heading revised; (d)(3) redesignated as (d)(4); new (d)(3) added 39635
(d)(3)(i) revised 67662
(c)(2) introductory text revised; eff. 1-28-94 68732
72.54 (b)(4) redesignated as (b)(6); new (b)(4) added; (e)(2) revised 39635
72.214 Amended 17967, 51770
73.6 Introductory text revised 31471
73.40 Revised 13700
73.46 Regulation at 58 FR 45785 corrected; eff. date corrected to 2-28-94 48424
(d)(15) added 29522
(b)(4), (7) and (i) revised 45784
73.60 Heading revised; (f) added 13700
73 Appendix H revised 45785
Appendix A amended 64112
74.81 (d) added 29522
110 Authority citation revised 13001, 57963
110.1 (a), (b)(1), (2) and (3) revised; (b)(4) added 13001
110.2 Amended 13002, 57963
110.4 Revised 13002
110.5 Amended 13002
110.6 (b) amended 13002
110.7 Amended 13002
110.8 Revised 13002
110.9a (e) removed 13003
110.10 (b) amended 13003
110.19 Added 13003
110.20—110.29 (Subpart C) Heading revised 13003
110.20 Heading, (a), (b), and (e) revised; (f) added 13003
110.21 Heading revised 13003
110.22 Heading revised 13003
110.23 Heading revised 13003
110.24 Heading revised 13003
110.25 Heading and (b) revised 13003
110.26 Heading and (a) revised 13003
110.27 Heading and (c) revised 13003
110.28 Revised 13003
110.29 Revised 13003

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 10 Chapter I—Con. Page

110.30—110.31 (Subpart D) Removed....13004
110.30 Transferred to Subpart C and revised....13003
110.31 Transferred to Subpart C; heading revised....13003
110.40—110.45 (Subpart E) Redesignated as Subpart D....13004
110.40 (a), (b)(3) and (4) revised....13004
110.41 (a) introductory text, (3) and (5) revised....13004
110.42 Footnote 3 redesignated as Footnote 2 and revised....13004
(a)(9) added....57964
110.43 Revised....13004
110.50—110.53 (Subpart F) Redesignated as Subpart E....13004
110.50 (b)(3) amended....13004
110.60—110.67 (Subpart G) Redesignated as Subpart F....13004
110.67 (a) corrected....11886
110.70—110.73 (Subpart H) Redesignated as Subpart G....13004
110.70 (c) amended....13004
110.80—110.91 (Subpart I) Redesignated as Subpart H....13004
110.100—110.113 (Subpart J) Redesignated as Subpart I....13004
110.120—110.126 (Subpart K) Redesignated as Subpart J....13004
110.130—110.135 (Subpart L) Redesignated as Subpart K....13004
110 Appendix A amended....13004
Appendixes B, D and E amended; Appendix F added....13005
140.11 (a)(4) revised....42852
150 Authority citation revised....52414
150.20 (b) introductory text revised....52414
Regulation at 58 FR 52414 eff. date corrected to 11-8-93....54646
170 Authority citation revised....38690
170.2 (a) amended....7737
170.3 Amended....38690
170.20 Revised....38690
170.21 Introductory text revised; table amended....38690
170.31 Revised....38691
Corrected....45553
171 Authority citation revised....38694
171.5 Amended....38695
171.8 Added....38695
171.11 (a), (b) and (d) revised....38695
171.15 (a), (b)(3), (c)(2), (d) and (e) revised....38695
171.16 (c) introductory text, (4), (d) and (e) revised....38696
(e) corrected....45553
171.19 (b) and (c) revised....38701

Chapter II—Department of Energy (Parts 200—699)

440 Authority citation revised....12525
440.1 Revised....12525
440.3 Amended....12525
440.10 (e) amended....12529
440.11 (a) introductory text, (b), (c) introductory text, (d) and (e) amended....12529
440.12 (a) and (c) introductory text amended....12529
440.13 (a)(2) and (c) revised; (d), (e) and (f) added....12525
(a) introductory text and (b) amended....12529
440.14 (b) revised....12526
440.15 (e) added....12526
440.16 (b), (d), (f) and (g) revised; (h) and (i) added....12526
440.17 (a) introductory text amended....12529
440.18 Revised....12526
440.19 (a)(2) amended....12527
440.20 (b) amended....12529
440.21 Revised....12527
440.22 Revised....12528
440.23 (a), (c) and (d) amended....12529
440.24 Revised....12529
440.26 Removed....12529
440.27 Removed....12529
440.28 Removed....12529
440.29 Removed....12529
440.30 (a), (b), (d), (f) and (i) amended....12529
440 Appendix A revised....12529
455 Revised....9438

Chapter III—Department of Energy (Parts 700—999)

766 Added; interim....41162
780 Authority citation revised....68734
780.34 (b) revised....68734
780.36 Revised....68734
780.45 (d) revised....68734
780.47 Revised....68734

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

780.53 (a)(1) through (4) redesignated as (a)(2) through (5); new (a)(1) added....58735
810.3 Amended....39638
810.4 Existing text redesignated as (a) and (b); new (a) revised....39638
810.5 Amended....39638
810.7 (b) amended; (c) through (g) redesignated as (d) through (h); new (c) added....39639
810.8 (a) and (c)(5) revised; (c)(6) added....39639
810.10 (a) amended....39639
810.13 (d) introductory text, (f) and (g) revised; (d)(4) added....39639
810.16 Revised....39639
820 Added....43692
835 Added....65485
Regulation at 58 FR 65485 eff. date corrected to 1-13-94....67442
860 Revised....47985

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1046 Revised....45791
1046.11 (b)(1) corrected....60102

Chapter XVII—Defense Nuclear Facilities Safety Board (Parts 1700—1799)

1703 FOIA fee schedule adjustment....21241
1706.3 (b) corrected....13684
1706.5 (a) introductory text, (3) and (b)(1)(ii) corrected....13684
1706.6 (a)(2) corrected....13684
1706.7 (c)(1) corrected....13684
1706.9 (c)(2) corrected....13684
1706.10 Corrected....13684

Title 10—*Proposed Rules:*

0—199 (Ch. I)...6196, 11389, 28523, 42032, 60413
2....31478, 34726, 44620, 48004, 50858
12....41061
19....33042
20...4363, 8560, 11389, 14178, 18049, 19784, 25578, 26257, 27953, 29998, 33570, 39173, 42882, 44620, 47676, 54071, 54531
21....27953, 53159, 54531
26....15810
30...3515, 4099, 6730, 26938, 33042, 33396, 54531
31....27953, 54531
32....33396, 53670, 54531
34....27953
35....26938, 27953, 33396, 44466, 54531
40...3515, 4099, 6098, 6730, 33042, 54531, 58657
50...271, 3515, 6730, 7757, 12339, 15303, 16377, 18167, 28523, 33042, 34539, 34947, 37884
52....271, 16377, 58664
54....28523
55....29366
60....12342, 33042, 36902
61....25578, 27953, 33042, 54531
70....3515, 4099, 6730, 33042
72...3515, 4099, 5301, 6098, 6730, 19786, 29795, 31478, 33042, 45463, 47222, 48004, 58804
73....21456, 52035, 59965
74....6098
75....6098
100....271, 4946, 16377
110....14344
150....6098, 9552, 33042
170....21116, 21662, 28801, 29454, 39174
171...21116, 21662, 28801, 29454, 39174, 50859
430...44538, 47326, 48800, 59417, 59418, 67710
600....63123
602....53671
710....64509
765....42450
766....41164, 43573, 49445
810....13427, 15441
834....16268

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

Chapter I Clarification....59640
100.8 (b)(4)(iv) revised (effective date pending)....45774
Regulation at 58 FR 45774 eff. 11-10-93....59641
102.2 (a)(3) added (effective date pending)....42173
Regulation at 58 FR 42173 eff. 1-1-94....59641

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 11 Chapter I—Con. Page
104.7 (b) revised (effective date pending)....57729
(b)(1) corrected....60244
110.2 (a) redesignated as (a)(1); (a)(2) added (effective date pending)....42173
Regulation at 58 FR 42173 eff. 1-1-94....59641
110.3 (c) heading revised; (c)(6) removed; (d) added....3476
Regulation at 58 FR 3476 eff. date delayed to 7-1-93....14310
Regulation at 58 FR 3476 eff. 7-1-93....17968
112 Policy statement....59642
Advisory opinion comment procedure....62259
114.1 (e) revised (effective date pending)....45775
Regulation at 58 FR 45775 eff. 11-10-93....59641
114.7 (k) added (effective date pending)....45775
201 Hearing....6875, 14510
Revised; interim....59645

Title 11—*Proposed Rules:*

4....36764
5....36764
7....36764
8....51132
100....45463, 52040, 64190
102....12189, 36764, 65559
104....4110, 14530
107....43046, 52700
110....12189
111....36764
113....45463, 52040, 64190
114....43046, 52700
9008....43046, 52700

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Authority citation revised....27443
1.8 (b) removed; (c) redesignated as (b)....27443
3 Appendix A amended....16486
5.33 Regulation at 57 FR 49642 comment period extended....6441
5.51 Revised....27451
7 Authority citation revised....68470
7.3020 Removed....46535
7.3025 Removed....46535
7.7480 Removed....68470
7.7490 Revised....4073
24 Added....68470
31 Authority citation revised....27454
31.1 Revised....27454
34 Temporary exceptions....42640
34.61—46.62 (Subpart D) Appendix A amended....4460
34.81—34.87 (Subpart E) Added....46535

Chapter II—Federal Reserve System (Parts 200—299)

201 Heading revised....50512
Authority citation revised....68512
201.1 Revised; eff. 1-30-94....68512
201.2 Revised; eff. 1-30-94....68512
201.3 Revised; eff. 1-30-94....68513
201.4 Revised; eff. 1-30-94....68514
201.5 Revised; eff. 1-30-94....68514
201.6 Revised; eff. 1-30-94....68514
201.7 Added; eff. 1-30-94....68514
201.8 Added; eff. 1-30-94....68514
201.9 Added; eff. 1-30-94....68514
201.108 Footnote 1 redesignated as Footnote 3; eff. 1-30-94....68515
201.109 Footnotes 1a, 2 and 3 redesignated as Footnotes 4, 5 and 6; eff. 1-30-94....68515
202 Heading revised....50512
Technical correction....68735
202.1 (b) amended....65661
202.5a Added....65661
202.14 (b)(3) revised; (b)(4) and (5) added....65662
202 Appendix C amended....65662
203 Exemption termination....1
MSA designations....6601, 50513
Heading revised....50512
203.5 Revised....13405
203 Appendix A amended....13405
204 Heading revised....50512
Authority citation revised....61802
204.9 (a) revised....61802
(a)(1) table corrected....64112
205 Heading revised....50512
206 Heading revised....50512
207 OTC margin stock list...6602, 25543, 39640, 54929
Heading revised....50512
208 Authority citation revised...7979, 47208

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page
Heading revised....50512
208.20 Added....47208
208 Regulation at 57 FR 62179 confirmed....28492
Appendix C corrected....4460
Appendix A amended....7979, 68738
Appendixes A and B amended....7980
209 Heading revised....50512
210 Heading revised....50512
211 Authority citation revised....47209
Heading revised....50512
211.2 (t) revised....6358
211.8 Added....47209
211.20 Redesignated from 211.21; (b)(3) through (8) revised; (b)(9) and (c) added....6358
211.21 Redesignated as 211.20; new 211.21 redesignated from 211.22 and revised....6358
211.22 Redesignated as 211.21....6358
Redesignated from 211.23....6359
211.23 Redesignated as 211.22; new 211.23 redesignated from 211.24; (a) through (h) redesignated as (b) through (i); new (a) added....6359
211.24 Redesignated as 211.23; new 211.24 redesignated from 211.25 and revised....6359
(f) added....47209
211.25 Redesignated as 211.24; new 211.25 redesignated from 211.26 and revised....6359
211.26 Redesignated as 211.25; new 211.26 redesignated from 211.27 and revised....6359
211.27 Redesignated as 211.26; new 211.27 redesignated from 211.28 and revised....6359
211.28 Redesignated as 211.27; new 211.28 redesignated from 211.29 and revised....6359
211.29 Redesignated as 211.28....6359
Added....6362
211.31 (b)(4) amended....46076
211.41 (b) amended....46076
211.42 (a) amended....46076
212 Heading revised....50512
213 Heading revised....50512
214 Heading revised....50512
215 Authority citation revised...26508, 61804
Heading revised....50512
215.4 (d)(3) added....26508
(d)(2) introductory text amended; interim....28494, 61804
216 Heading revised....50512
217 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
Heading revised....50512
217.1 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.4 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.6 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.101 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.201 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.301 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.302 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.601 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.602 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
217.603 Regulation at 57 FR 43336 eff. date delayed to 6-21-93....15076
218 Heading revised....50512
219 Heading revised....50512
220 OTC margin stock list...25543, 39640, 54929
Heading revised....50512
221 OTC margin stock list...25543, 39640, 54929
Heading revised....50512
224 OTC margin stock list...25543, 39640, 54929
Heading revised....50512
225 Authority citation revised...4074, 7980, 47209
Temporary exceptions....42640
Heading revised....50512
225.2 (k) revised....473
(k) and (l) revised....4074
225.4 (g) added....47209
225.11 (f) revised....6362
225.12 (f) revised....6362
225.13 (a) and (b)(2) revised....474
225.31 (d)(2)(ii) revised....474

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 12 Chapter II—Con. Page

225.63 (a) amended 15077
225 Appendix B revised 474
Appendix A amended 7980, 68739
Appendixes A and D amended 7981
Regulation at 57 FR 62180 confirmed 28492
226 Authority citation revised 17084
Heading revised 50512
226.15 (e) revised 40583
226.16 Footnotes 36a and 36b redesignated as Footnotes 36b and 36c 40583
226.23 (e) revised 40583
226 Supplement I amended 17084, 17085
227 Heading revised 50512
228 Heading revised 50512
229 Heading revised 50512
229.2 (cc) amended 2
229 Appendixes A, B-2 and E amended 2
Appendix E amended 3
230.2 (a) amended 15081
230.4 (c)(1) amended 15081
230.5 (a)(2)(ii) revised 15081
230.8 (e) revised 15081
230 Appendix A amended 15082
245 Heading revised 50512
262 Authority citation revised 47986
262.3 (b)(1)(i)(D) removed; (b)(1)(i)(E) and (F) redesignated as (b)(1)(i)(D) and (E); (b)(2) amended; (b)(3) added; (j) introductory text revised 47986
263 Authority citation revised 6363
263.51 (c) revised 6363
264b Authority citation revised 57730
264b.3 (c) and (d) correctly revised; CFR correction 38702
(a) amended 57730
265 Authority citation revised 26509
265.5 (c)(3) added 26509
265.6 (b)(2) revised; (f) added 6363
(c)(5) removed 26509
(g) added 53394
265.7 (d)(8) revised 6363
(c)(5) removed; (c)(6) redesignated as (c)(5) 26509
265.9 (c)(4) amended; (c)(5) added 65540
265.11 (d)(11) added 6363
268 Revised; interim 9518

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

Page

303 Authority citation revised 8216
Heading revised 8216
303.2 (a) amended 8216
303.3 (a) amended 8216
303.5 Heading revised; (e) added 8217
303.7 (f) heading revised; (f)(1)(iii) amended; (f)(1)(ix) added 8217
303.8 (i) added 8217
303.9 (h) and (m)(5) revised 8218
303.10 (c)(5) and (6) revised; (c)(7) added 8219
303.13 (a)(6), (b)(1) introductory text, (d)(1) introductory text and (2)(i) amended; (a)(9) revised 64458
323 Temporary exceptions 42640
325 Authority citation revised 12151
325.1 Revised 8219
325.2 (t) and (v) amended 6368
(h)(1) and (t) amended 8219
(q), (s), (u) and (w) amended 60103
325.3 (c)(3) revised 8219
325.5 (f) revised 6369
(b) amended 8219
325.1—325.6 (Subpart A) Appendixes A and B amended 6369, 8219
Appendix A amended 12151
Appendixes A and B redesignated as part 325 Appendixes A and B 60103
325 Appendixes A and B redesignated from subpart A Appendixes A and B and amended 60103
327 (d) through (h) redesignated as (e) through (i); (c), new (e)(1) introductory text, (1)(i) introductory text, (A), (B)(*2*) introductory text, (*2*)(ii), (e)(1)(ii) heading and introductory text, (2) and new (g) revised; new (d) added; new (h) amended 34364
327.3 (d)(1)(B)(*1*) corrected 3069
(e)(1)(i)(B)(*1*), (C) and (i) amended 34365
327.4 (c)(1) introductory text revised 34365
327.5 (a)(1)(i) revised 34365
327.7 (a)(1)(ii)(A) corrected 3069

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

327.13 (d) revised 31159
(c)(2) amended 34365
327.23 (d)(2) amended 34365
329.3 Removed 27922
330 Authority citation revised 29963
330.1 (j) revised 29963
330.2 Revised 29963
330.10 (b) introductory text amended; (a) and (b)(2) revised 29963
330.12 Revised 29964
(c)(2)(i)(C) and (e) corrected 40688
330.13 Revised 29964
330.15 Revised 29965
330.16 Revised 29965
332 Removed 64460
333 Authority citation revised 64461
333.3 Removed 64461
336 Authority citation revised 39628
336.24—336.28 (Subpart D) Removed; interim 39628
337.6 (a)(1), (9) and (10) removed; (a)(2) and (3) redesignated as (a)(1) and (2); new (a)(3) added 54935
353 Revised 28774
360 Authority citation revised 43070, 67664
Heading revised; eff. 1-21-94 67664
360.1 Redesignated as 360.2; new 360.1 added; eff. 1-21-94 67664
360.2 (f) added 43070
Redesignated as 360.3; new 360.2 redesignated from 360.1; eff. 1-21-94 67664
360.3 Added 43070
Redesignated as 360.4; new 360.3 redesignated from 360.2; eff. 1-21-94 67664
360.4 Redesignated from 360.3; eff. 1-21-94 67664
362.1 Amended 64483
362.2 Introductory text revised; (a), (b), (c), (d) through (h), (i), and (j) through (p) redesignated as (e), (f), (g), (i) through (m), (o) and (r) through (x); new (a) through (d), (h), (n), (p) and (q) added; new (x) amended 64483
362.3 (d)(5)(ii) corrected 59787
362.4 Redesignated as 362.5 64483
Added 64484
362.5 Redesignated as 362.6; new 362.5 redesignated from 362.4 64483
362.6 Redesignated from 362.5 and amended 64483
363 Added 31335
365 Appendix A corrected 4460

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

506 Technical correction 11186
506.1 (b) table amended (OMB number) 4311, 44114, 45427
509 Technical correction 11186
509.104 (b) and (f) revised; (g) redesignated as (i); new (g) and (h) added 4311
516 Authority citation revised 4312
Technical correction 11186
516.1 (c) introductory text amended 4312
516.2 (d)(1) amended 44114
517 Added 33324
528 Authority citation revised 4312
Technical correction 11186
528.1 (d) through (g) removed 4312
528.6 Revised 4312
541 Authority citation revised 4312
Technical correction 11186
541.9 Removed 4312
541.12 Removed 4312
541.24 Removed 4312
543 Authority citation revised 4312
Technical correction 11186
543.1 (a) amended 4312
545 Technical correction 11186
545.12 (b) revised 4312
545.21 Removed 4312
545.34 (b) and (c) amended 4312
545.36 (d) amended 4312
545.41 (a) revised 4312
545.75 (b)(5) removed 4312
545.79 Removed 4312
545.93 Removed 4312
545.123 Removed 4312
552 Authority citation revised 4312
Technical correction 11186
552.6-1 (b) amended 4312
552.7 Removed 4312
552.8 (b) removed 4312
556 Authority citation revised 4312
Technical correction 11186
556.7 Removed 4312

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 12 Chapter V—Con. Page

558 Revised....4312
Technical correction....11186
559 Removed....4313
Technical correction....11186
561 Authority citation revised....4313
Technical correction....11186
561.5 Removed....4313
561.16 (b) through (e) and (g) removed; (f) redesignated as (b)....4313
561.17 Removed....4313
561.22 Removed....4313
561.46 Removed....4313
563 Technical correction....11186
563.7 (d) removed; (e) redesignated as (d)....4313
563.24 Removed....4313
563.27 (a), (b) designation, heading, (1) designation and (2) removed....4313
563.29 Removed....4313
563.32 Removed....4313
563.33 (b) removed....4313
563.34 Removed....4313
563.45 Removed....4313
563.48 (e) amended....4313
563.49 Added; eff. 4-19-93 through 4-19-95....14513
563.50 (a), (b), (d), (e), and (g)(2) introductory text revised....15084
563.51 (f)(1)(vi) redesignated as (f)(1)(vii); new (f)(1)(vi) and new (f)(1)(vii)(G) added; new (f)(1)(vii)(E) amended; (e), (f)(1)(vii) introductory text and new (f)(1)(vii)(F) revised....15084
563.50—563.52 Appendix A removed....15085
563.90 Removed....4313
563.93 (b)(6)(i) and (d)(3)(ii) amended....4313
563.99 (d) removed....4314
563.90—563.101 (Subpart D) Appendix A corrected....4460
563.131 Removed....4314
563.132 (a)(1)(ii) revised....4314
563.170 (c)(10) added; interim....28348
563.176 (b) removed; (c) through (f) redesignated as (b) through (e)....45813
563.192 Removed....4314
563b Technical correction....11186
563b.3 (i)(4)(vi) added....4314
563e Authority citation revised....4314
Technical correction....11186
563e.6 Amended....4314
564 Temporary exceptions....42640
567 Authority citation revised....4314
Technical correction....11186
567.1 (i)(2) amended....15086
567.2 (a)(1)(i) revised....45813
567.5 (c)(4) added....45813
567.6 Heading revised; (a)(1)(iv)(Q) amended; (a)(1)(iv)(R) and (S) added; (a)(1)(v) removed....476
(a)(1)(iv)(S) amended; (a)(1)(iv)(T) added....15086
(a)(1)(iv)(O) removed; (a)(1)(ii)(H), (iii)(C) and (iv)(N) revised; eff. 7-1-94....45813
567.7 Added....45813
567.20 Removed....4314
571 Authority citation revised....4314
Technical correction....11186
571.1 Removed....4314
571.3 Removed....4314
571.10 Removed....4314
571.16 Removed....4314
571.17 Removed....4314
571.25 Removed....4314
571.26 Removed....4314
574 Authority citation revised....45427
574.9 Added....45427
(a)(5)(i)(B) corrected....52140
575 Added....44114
579—580 (Subchapter E) Removed....4314
579 Technical correction....11186
580 Technical correction....11186

Chapter VI—Farm Credit Administration (Parts 600—699)

601 Revised (effective date pending)....5919
Regulation at 58 FR 5919 eff. 3-3-93....12333
607 Added (effective date pending)....10942
Regulation at 58 FR 10942 eff. 3-25-93....16104
611.400 Regulation at 57 FR 43393 eff.1-29-93....6604
611.515 (b)(6)(ii)(E) amended (effective date pending)....48790
Regulation at 58 FR 48790 eff. 12-31-93....67665

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

611.1122 (e)(6)(iii) amended; (e)(9) revised (effective date pending)....48790
Regulation at 58 FR 48790 eff. 12-31-93....67665
611.1130 (b)(4)(iii) amended (effective date pending)....48790
Regulation at 58 FR 48790 eff. 12-31-93....67665
611.1155 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1156 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1157 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1160 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1168 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1170 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1175 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1180 Regulation at 57 FR 46487 eff. 2-23-93....10945
611.1182 (c) amended (effective date pending)....48790
Regulation at 58 FR 48790 eff. 12-31-93....67665
611.1197 (b)(6)(ii)(E) amended (effective date pending)....48790
Regulation at 58 FR 48790 eff. 12-31-93....67665
611.1225 (t)(2) amended (effective date pending)....48790
Regulation at 58 FR 48790 eff. 12-31-93....67665
611.1240 (c) amended (effective date pending)....48790
Regulation at 58 FR 48790 eff. 12-31-93....67665
612.2000—612.2110 (Subpart A) Regulation at 57 FR 43394 eff. 1-29-93....6605
612.2130—612.2270 (Subpart B) Regulation at 57 FR 43394 eff. 1-29-93....6605
612.2150 Regulation at 57 FR 43395 eff. 1-29-93....6605
613 Authority citation revised....48790
613.3045 (c)(3)(i) amended (effective date pending)....48790
Regulation at 58 FR 48790 eff. 12-31-93....67665
614.4130 (a) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
614.4240—614.4267 (Subpart F) Regulation at 57 FR 54695 eff. 3-1-93....11792
614.4250 (a)(1) amended (effective date pending)....11372
614.4255 (a) revised; (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; new (c) amended (effective date pending)....11372
614.4325 (g) removed; (h) redesignated as (g) (effective date pending)....40321
Regulation at 58 FR 40321 eff. 1-1-94....67665
614.4350—614.4360 (Subpart J) Revised (effective date pending)....40321
Regulation at 58 FR 40321 eff. 1-1-94....67665
614.4440 Regulation at 57 FR 54699 eff. 3-1-93....11792
614.4443 Regulation at 57 FR 54699 eff. 3-1-93....11792
614.4470 (c) amended (effective date pending)....40324
Regulation at 58 FR 40324 eff. 1-1-94....67665
614.4512 (c)(2) and (e)(1) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
614.4514 (d) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
614.4516 (b)(2) amended (effective date pending)....48791
(a) introductory text revised (effective date pending)....62514
Regulation at 58 FR 48791 eff. 12-31-93....67665
614.4517 (a)(5) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
614.4520 (a) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
614.4522 (a)(1) heading revised; (b), (c) introductory text,

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 12 Chapter VI—Con. Page

(3), (4), (d) introductory text and (e) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
614.4710 Introductory text, (a)(2), (3) and (b)(1) amended (effective date pending)....40324
Regulation at 58 FR 40324 eff. 1-1-94....67665
615 Authority citation revised....63055
615.5131 Added (effective date pending)....63055
615.5132 Redesignated from 615.5135(a) and revised....63056
615.5133 Redesignated from 615.5135(b) and revised....63056
615.5134 Added (effective date pending)....63056
615.5135—615.5160 (Subpart E) Heading revised (effective date pending)....63055
615.5135 (a) and (b) redesignated as 615.5132 and 615.5133; new 615.5135 added (effective date pending)....63056
615.5136 Added (effective date pending)....63057
615.5140 Heading and (a) revised; (b) redesignated as (d); new (b) and (c) added (effective date pending)....63057
615.5141 Removed (effective date pending)....63055
Redesignated from 615.5180 (effective date pending)....63056
Revised; (effective date pending)....63058
615.5142 Removed (effective date pending)....63055
Added (effective date pending)....63058
615.5150 Redesignated as 615.5170 (effective date pending)....63056
615.5151 Redesignated as 615.5171 (effective date pending)....63056
615.5160 Redesignated as 615.5172 (effective date pending)....63056
615.5170—615.5172 (Subpart F) Heading revised (effective date pending)....63058

615.5170 Redesignated from 615.5150 (effective date pending)....63056
615.5171 Redesignated from 615.5151 (effective date pending)....63056
615.5172 Redesignated from 615.5160 (effective date pending)....63056
615.5173 Added (effective date pending)....63058
615.5174 Added (effective date pending)....63058
615.5180 Redesignated as 615.5141 (effective date pending)....63056
615.5216 Regulation at 57 FR 46487 eff. 2-23-93....10945
618 Authority citation revised....10944
618.8230 Removed (effective date pending)....10944
Regulation at 58 FR 10944 eff. 3-25-93....16105
618.8320 (b)(10) redesignated as (b)(10)(i); (b)(10)(ii) added (effective date pending)....51994
Regulation at 58 FR 51994 eff. 11-8-93....59161
620 Authority citation revised....27923
620.1 (i) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
620.2 (b)(3) revised (effective date pending)....27923
Regulation at 58 FR 27923 eff. 6-17-93....33189
(b)(1) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
620.5 (f)(1)(i)(F) and (g)(1)(iv)(A) revised; (l) and (m)(1) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
620.10 (e)(3) and concluding text revised (effective date pending)....27923
Regulation at 58 FR 27923 eff. 6-17-93....33189
(e)(1) amended (effective date pending)....48791

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

Regulation at 58 FR 48791 eff. 12-31-93....67665
620.21 (f) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
620.40 (Subpart F) Revised (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665
621 Revised (effective date pending)....48786
Regulation at 58 FR 48786 eff. 12-31-93....67665
621.20 (b)(3) corrected (effective date pending)....52888
625 Regulation at 57 FR 60109 eff. 2-23-93....10945
627 Regulation at 57 FR 46482 eff. 2-23-93....10945
627.2710 Regulation at 57 FR 46487 eff. 2-23-93....10945
627.2785 (c) amended (effective date pending)....48791
Regulation at 58 FR 48791 eff. 12-31-93....67665

Chapter VII—National Credit Union Administration (Parts 700—799)

700.1 (i)(2) through (6), (15) and (16) introductory text revised; (i)(7) introductory text amended....40042
701 Authority citation revised...6077, 50445
701.12 (b), (c) and (e) revised....39433
701.21 (c)(7)(ii)(C) amended....6077
(c)(5) amended; (h)(1)(i)(C) and (5) revised....40043
701.32 (b)(1) and (d) revised....21645
701.35 (c) revised; eff. 1-1-95....50445
703 Technical correction....16763
703.5 Introductory text, (g) and (j) revised....34870
(g)(1)(ii)(A), (2) and (j)(2) corrected....41419
704.17 Added....57541
705 Revised....21646
707 Added; eff. 1-1-95....50445
710 Revised....35365
711.2 (h)(1) revised; (l) amended; (o) added....39435
711.4 (a)(5), (6) and (c) amended; (c) existing text redesignated as (c)(1); (a)(7), (8) and (c)(2) added....39435
(a)(8) and (c)(2)(i) introductory text corrected....58263
711.5 Amended....39435
722 Temporary exceptions....42640
722.3 (a)(1) and (d) revised....40043
740 Authority citation revised....50461
740.2 Amended....50461
741.1 Revised....57542
741.13 (a) revised....5571
748.1 (c) revised....17492
790 Revised....45431
791.18 (c) revised....17493
796 Removed....6605

Chapter IX—Federal Housing Finance Board (Parts 900—999)

902 Added....19195
904 Heading revised; authority citation and text added....19198
906 Heading revised; authority citation and text added....19202
909 Added....19205
931 Authority citation revised....43542
Technical correction....47181, 53023
931.7 Removed....43542
931.8 Removed....43542
931.9 Removed....43542
931.22 Removed....43542
932 Authority citation revised...3490, 31901
Technical correction....47181, 53023
932.2 Removed....43542
932.4 Removed....43542
932.5 Removed....43542
932.6 Removed....43542
932.7 Removed....43542
932.13 (c) amended; interim....3490
(c) amended....31901
932.14 (d) amended; interim....3490
(d) amended....31901
932.18 (f)(1) and (3) introductory text revised; interim....3490
(f)(1) and (3) introductory text revised....31901
932.21 (d)(2), (g)(1) and (3) revised; interim....3490
(d)(2), (g)(1) and (3) revised....31901
933 Revised....43542
Technical correction....52808
933.1 (n) corrected....53023
933.2 OMB number....50837
933.5 OMB number....50837

TITLE 12 Chapter IX—Con. Page
933.7 (d) corrected ... 47181
933.9 OMB number ... 50837
(b)(1) corrected ... 53023, 58231
933.12 OMB number ... 50837
933.13 OMB number ... 50837
933.14 (b)(2) corrected ... 47181
933.16 (b) corrected ... 53023
933.18 OMB number ... 50837
(c) corrected ... 53023
935 Revised ... 29469
Authority citation revised ... 29477
Technical correction ... 40190
935.1 Amended; interim ... 29477
935.20 Revised; interim ... 29477
935.22 Added; interim ... 29477
940 Removed ... 29474
Technical correction ... 40190
943.6 (b)(3) removed; (c) amended ... 59936
960.9 Revised; interim ... 17972

Chapter XVI—Resolution Trust Corporation (Parts 1600—1699)

1605 Authority citation revised ... 8222
1605.1 Removed ... 8222
1605.2 (f), (g), (l), (n), (s) through (v), (x), (y), (cc) and (dd) removed ... 8222
1605.3 Removed ... 8222
1605.4 Removed ... 8222
1605.5 Removed ... 8222
1605.6 Removed ... 8222
1605.7—1605.14 (Subpart B) Heading revised ... 8222
1605.7 Removed ... 8222
1605.8 Removed ... 8222
1605.9 Removed ... 8222
1605.10 Removed ... 8222
1605.11 Removed ... 8222
1605.12 Removed ... 8222
1605.13 Removed ... 8222
1605.14 Removed ... 8222
1605.15 Removed ... 8222
1605.16 (d) Footnote 4 redesignated as Footnote 2 ... 8222
1605.23 (c) and (g) removed ... 8222
1605.27 Removed ... 8222
1605.28 Removed ... 8222
1605.29 Removed ... 8222
1605.30—1605.33 (Subpart E) Heading revised ... 8222
1605.30 Removed ... 8222
1605.31 Removed ... 8222
1605.32 Removed ... 8222
1605.33 Removed ... 8222
1605.34—1605.43 (Subpart F) Heading revised ... 8222
1605.34 Removed ... 8222
1605.35 Removed ... 8222
1605.36 Removed ... 8222
1605.37 Removed ... 8222
1605.38 Removed ... 8222
1605.39 Removed ... 8222
1605.40 Removed ... 8222
1605.41 Removed ... 8222
1605.42 Removed ... 8222
1605.43 Removed ... 8222
1616 Revised ... 476
1625 Added ... 58941
1626 Added ... 34871
1627 Added; interim ... 18144
Technical correction ... 21627

Title 12—*Proposed Rules:*

3 ... 43822, 48206, 52808, 68065
4 ... 59686
5 ... 4600
7 ... 26695, 38474
16 ... 4600
24 ... 38474
25 ... 44138, 67466
27 ... 27484
30 ... 60802
34 ... 26695, 31878, 59688
201 ... 45851
203 ... 31
205 ... 8714
208 ... 3235, 8007, 48206, 52808, 60802, 68563
210 ... 68566
211 ... 513, 3235, 65560
213 ... 61035
215 ... 47400
219 ... 46024
225 ... 3235, 8007, 31878, 59688, 60802, 68563
228 ... 44138, 67466
230 ... 271, 64190, 65293
231 ... 29149
263 ... 60802
300—399 (Ch. III) ... 6903, 16798
303 ... 26259, 33050, 48979, 60802
308 ... 60802
323 ... 31878, 59688
325 ... 26701, 48206, 52808, 68781
327 ... 17533
330 ... 64521
332 ... 6448

Page
333 ... 6450
337 ... 26705
345 ... 44138, 67466
346 ... 11922
353 ... 3237
360 ... 55027
362 ... 6452, 25953
364 ... 60802
510 ... 64695
545 ... 31878, 59688
563 ... 31878, 38730, 59688
563e ... 44138, 67466
564 ... 31878, 59688
570 ... 60802
574 ... 61850
600—699 (Ch. VI) ... 34003
608 ... 58137
611 ... 15099, 32071, 39684, 64442, 68069
612 ... 44139
613 ... 32071
614 ... 32071, 38091
615 ... 34004, 52701
618 ... 68069
620 ... 3872, 32071, 47836, 68069
621 ... 32071
627 ... 32071
650 ... 53161
700 ... 21953
701 ... 11801, 17808, 21953, 40470, 42698
703 ... 5664
704 ... 30719, 33783
707 ... 11801
711 ... 12910
722 ... 21953
740 ... 11801
741 ... 30719, 33783
748 ... 5663
900 ... 8563, 13565
931 ... 50867
935 ... 49446
936 ... 46569, 48946, 58305, 58988
960 ... 58988
1102 ... 55029
1402 ... 59210
1408 ... 59215

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

101.3-2 Amended ... 2967, 19321, 44437
Regulation at 58 FR 44437 corrected ... 53120
102.26 (c) revised ... 14148
102.27 Redesignated as 102.28; new 102.27 added ... 14146
102.28 Redesignated as 102.29; new 102.28 redesignated from 102.27 ... 14146
102.29 Redesignated as 102.30; new 102.29 redesignated from 102.28 ... 14146
102.30 Redesignated as 102.31; new 102.30 redesignated from 102.29 ... 14146
(a) revised ... 14148
102.31 Redesignated as 102.32; new 102.31 redesignated from 102.30 ... 14146
102.32 Redesignated as 102.33; new 102.32 redesignated from 102.31 ... 14146
102.33 Redesignated as 102.34; new 102.33 redesignated from 102.32 ... 14146
(a) amended ... 14148
102.34 Redesignated as 102.35; new 102.34 redesignated from 102.33 ... 14146
(c) amended ... 14148
102.35 Redesignated as 102.36; new 102.35 redesignated from 102.34 ... 14146
102.36 Redesignated as 102.37; new 102.36 redesignated from 102.35 ... 14146
(a) revised ... 14148
102.37 Redesignated from 102.36 ... 14146
107 Authority citation revised ... 47032
107.1002 (e) revised ... 47032
107 Appendix I amended ... 47032, 47033
108.4 (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added ... 15757
108.503-2 (d) and (e) added ... 45246
108.503-3 (c) revised ... 45246
108.503-5 (d)(2) amended ... 15757
108.507—108.507-5 Undesignated center heading and sections added ... 45246
120.102 Revised ... 45248
120.102-12 Added ... 45248
120.104-2 (b) revised ... 49423
120.403-2 Revised ... 49424
120.403-5 Revised ... 49424
121 Waiver ... 7479, 9112, 9113, 11372, 29346

DE

1993

TITLE 13 Chapter I—Con. Page

Authority citation revised.....25929
121.303 Revised.....65281
121.601 Table amended; Footnote 21 added; interim.....4077
Table amended.....25929, 52415
121.802 (a)(1) amended; (a)(2) revised.....12335
121.910 (a) revised.....25930
121.911 (a) revised.....47371, 58651
121.2101—121.2106 Undesignated center heading and sections added.....48956
122.7-3 (b) and (c) revised.....49424
122.8-4 (d) revised.....49424
122.61-10 (a) amended; (b) revised.....49424
123 Authority citation revised...32055, 64673
123.3 Amended.....64673
123.9 (c) revised.....32055
123.24 Heading revised; (g)(1) and (2) amended.....32055
(a) revised.....64674
123.26 (a) amended.....64674
123.28 Revised.....64674
123.41 (h) revised.....32055
(e) revised.....64674

Chapter III—Economic Development Administration, Department of Commerce (Parts 300—399)

301 Authority citation revised.....61804
301.31 (e) revised.....61804
301.32 Revised.....61804
301.33 Revised.....61804
301.35 Revised.....61805
301.36 Removed; new 301.36 redesignated from 301.37.....61806
301.37 Redesignated as 301.36.....61806
301.70 Revised (OMB numbers).....61806

Title 13—*Proposed Rules:*

107.....41852, 41882, 57568
120.....29152
121...9131, 40603, 44620, 44793, 45300, 46573, 47181, 48981, 52452, 52929
122.....45078
123.....45855

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

Page

11.101 (b) table amended.....18138
13 Authority citation revised.....50241
13.202 Amended.....50241
13.203 (c) revised.....50241
21 Special FAA conditions...5571, 8222, 19553, 28496, 38702, 38703
23 Special FAA conditions...8222, 28496
23.23 Revised.....42156
23.25 (a)(2)(i) revised.....42156
23.33 (d)(2) revised.....42156
23.45 (b) and (d) revised; (e) removed; (f) redesignated as (e); new (e)(2) and (5) introductory text amended.....42156
23.49 (b) introductory text revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added.....38639
23.53 (a), (b)(1)(ii) and (2) revised.....42156
23.65 (a) revised.....42156
23.67 (b)(1) and (2) revised.....38639
23.141 Revised.....42156
23.143 (a)(4) amended; (c) table revised.....42156
23.145 Revised.....42157
(b)(1) and (3) corrected.....51970
23.147 Revised.....42157
23.149 (d) amended; (a), (b) and (c) revised.....42157
(a) corrected.....51970
23.153 Revised.....42157
23.155 (b) revised.....42158
23.157 (a)(2) and (c)(2) amended; (b) revised.....42158
23.175 (a)(3) and (d)(3) revised.....42158
23.177 (a)(1), (2) and (3) revised.....42158
23.179 Removed.....42158
23.181 (c) and (d) added.....42158
23.201 (c), (d)(2), (f)(4) and (5) revised.....42159
(c) corrected.....51970
23.203 (b) introductory text, (4), (5), (c)(1), (4) and (5) revised.....42159

Page

23.205 (b)(1) and (6) revised.....42159
23.207 (c) revised; (d) added.....42159
23.233 (a) and (b) revised; (d) added.....42159
23.235 Revised.....42159
23.251 Revised.....42159
23.253 (a) and (b) introductory text revised.....42160
23.305 (b) revised.....42160
23.321 (c) added.....42160
23.361 (a) introductory text, (2) and (c) introductory text revised.....42160
23.369 Heading revised.....42160
23.371 Heading and introductory text revised.....42160
23.397 (b) amended.....42160
23.415 (c) added.....42160
23.473 (f) revised.....42160
23.479 (b) and (c) revised.....42160
23.485 (d) added.....42160
23.521 (b) and (c) revised.....42160
23.523 Added.....42160
23.525 Added.....42161
(b) corrected.....51970
23.527 Added.....42161
(b)(4), (6) and (c) corrected.....51970
23.529 Added.....42161
23.531 Added.....42161
23.533 Added.....42161
(b)(1), (2), (c)(1) and (2) corrected.....51970
23.535 Added.....42162
(d) corrected.....51970
23.537 Added.....42163
23.562 (b) introductory text amended; (d) redesignated as (e); new (d) added.....38639
23.571 Introductory text amended; (c) added.....42163
23.572 (a) amended; (a)(3) added.....42163
23.573 Added.....42163
(a)(2) and (6) corrected.....51970
23.613 (b) and (c) revised; (d) and (e) added.....42163
23.615 Removed.....42164
23.621 (c)(1) and (d) introductory text revised; (e) added.....42164
23.629 (d)(1) revised; (g) and (h) added.....42164
(g) corrected.....51970
23.655 (a) revised.....42164
23.672 Added.....42164
23.679 Revised.....42164
23.729 (f)(1) and (2) revised.....42164

Page

23.731 (a) removed; (b) and (c) redesignated as (a) and (b).....42165
23.733 (a) revised.....42165
23.737 Revised.....42165
23.751 (a) revised.....42165
23.753 Revised.....42165
23.755 (a) introductory text amended.....42165
23.773 Revised.....42165
23.775 (f) and (g) added.....42165
(f) corrected.....51970
23.851 Revised.....42165
23.865 Revised.....42165
23.901 (b), (d) and (e) revised; (f) added.....18970
23.903 (d)(1) and (e)(2) revised.....18970
23.904 Added.....18970
23.905 (e) through (h) added.....18970
23.909 Heading and (a) introductory text revised; (b) and (c) amended; (d) and (e) added.....18970
23.925 (b) and (c) redesignated as (c) and (d); new (b) added.....18971
23.933 Revised.....18971
23.934 Added.....18971
23.937 Existing text designated as (a); (b) added.....18971
23.943 Amended.....18971
23.951 (a) revised.....18971
23.953 (b)(1) amended.....18971
23.955 (a) introductory text and (2) amended; (a)(3), (4), (c)(3) and (f)(3) added; (c) introductory text, (1), (d)(2), (e) and (f)(2) revised.....18971
23.957 Existing text designated as (a); (b) added.....18972
23.961 Revised.....18972
Corrected.....27060
23.963 (f) removed.....18972
23.965 (b) revised.....18972
23.967 (d) revised.....18972
23.971 Revised.....18972
(a) corrected.....27060
23.973 (c) amended; (e) and (f) added.....18972
23.975 (a)(5) amended.....18973
23.977 (d) amended.....18973
23.991 (c) amended.....18973
23.993 (d) amended.....18973
23.997 (d) amended.....18973
23.999 (b)(3) removed; (b)(2) revised.....18973

UMI

DE

1993

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 14 Chapter I—Con. Page

23.1001 (f) amended....18973
23.1011 (a) through (d) redesignated as (b) through (e); new (a) added....18973
23.1013 (g) amended....18973
23.1019 (a)(2), (3) and (5) amended....18973
23.1021 (a) and (b) revised; (c) added....18973
23.1027 (b) and (c) amended; (a) revised....18973
23.1041 Revised....18973
23.1047 (b)(2) amended....18973
23.1061 (a)(3) redesignated as (a)(4); new (a)(4) and (a) concluding text amended; (a)(2) revised; new (a)(3) added....18973
23.1091 Heading and (c)(2) revised; (a) and (c)(1) amended; (b)(4) and (5) added....18973
Heading and (c)(2) corrected....27060
23.1093 (a) heading, (3) introductory text and (c) amended; (a)(4), (5) and (b)(1) revised; (a)(6) added....18973
23.1101 Heading, introductory text and (a) revised....18974
23.1103 (c) through (f) added....18974
23.1107 Added....18974
23.1121 Introductory text and (i) added; (c) revised....18974
23.1123 Heading, (a), (b) and (c) amended....18974
23.1142 Added....18974
23.1143 (g) added....18974
23.1145 (a) amended....18974
23.1147 (a) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (1)(i) and (ii); introductory text and (b) redesignated as new (a) introductory text and (2); new (b) added....18974
23.1181 Added....18975
23.1189 (a) introductory text amended; (a)(5) revised....18975
23.1191 (a), (b) and (f)(1) amended; (d) removed; (h)(6) added....18975
(f)(1) corrected....27060
23.1193 (b) revised....18975
23.1195 Introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (b) added....18975
23.1203 (e) amended; (a) revised....18975
23.1303 (c) revised....18975
23.1305 Revised....18975
(d)(1) corrected....27060
23.1307 (a) amended; (c) added....18976
23.1322 (e) added....18976
23.1329 (b) through (g) redesignated as (c) through (h); new (b) added....18976
23.1331 Revised....18976
23.1337 (a)(1), (3) and (b)(5) amended....18976
23.1351 (c) revised; (g) added....18976
23.1357 (a)(1) and (e) revised....18976
23.1361 (a) and (b) revised....18977
23.1365 (c) added....18977
23.1385 (b) revised; (c) amended; (d) removed; (e) redesignated as (d)....18977
23.1387 (a) amended....18977
23.1389 (b) introductory text and (3) amended....18977
23.1391 Heading and table amended....18977
23.1393 Heading amended....18977
23.1395 Heading amended....18977
23.1419 Revised....18977
23.1431 Revised....18977
23.1435 (c) revised....18977
23.1441 (a) and (d) revised; (e) added....18978
23.1443 Revised....18978
23.1445 Added....18978
23.1447 (e) revised....18978
23.1507 Revised....42165
23.1521 (a) revised....42165
23.1522 Added....42166
Corrected....51970
23.1525 Revised....42166
23.1527 Revised....42166
23.1549 Heading, introductory text and (d) revised....42166
23.1557 (c) revised; (f) removed....42166
23.1563 (a) revised....42166
23.1581 (f) added....42166
23.1583 Introductory text and (m) added; (a)(2) and (h) revised....42166
23.1585 (a) and (c) revised; (b) added....42166

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

23.1587 Introductory text added; (a), (b) and (c) revised....42167
(c)(1) corrected....51970
23.1589 (a) revised....42167
23 Appendix H added....18979
Appendix D amended; Appendix H added....42167
Appendix I correctly designated....51970
25 Special FAA conditions....5571, 12538, 16486, 19553, 33327, 36345, 36348, 36350, 36352, 46536, 47628, 58263, 59646
Authority citation revised....11781
25.733 (e) added....11781
25.811 (e)(3) removed; (e)(2) introductory text revised....45229
25.1411 (a)(2) removed; (a)(1) redesignated as (a) and revised....45229
25.1423 Revised....45229
25 Appendix J amended....45229
29 Special FAA conditions....38702, 38703, 57542
33 Special FAA conditions....6876, 59643
33.28 Added....29095
35 Special FAA conditions....3215, 15262
Eff. 1-19-94....66270, 66272, 66274
Eff. 1-3-94....65663
Eff. 1-18-94....65889, 65893, 65895, 65898
Eff. 2-11-94....66269, 66275
Eff. 2-15-94....66277
Eff. 1-20-94....67307, 67310, 67311
Eff. 1-5-94....67309
Eff. 1-21-94....67666, 68029
Eff. 1-26-94....67667, 68291
Eff. 2-22-94....68025
Eff. 1-7-94....68027
Eff. 1-31-94....69222
39.13....5, 7, 481, 484, 3492, 4892, 5257, 5258, 5261, 5262, 5575, 5578-5580, 5922, 5923, 5925, 6078, 6080-6082, 6084-6086, 6192, 6370, 6704, 6706, 6708, 6877, 6878, 6879, 6881, 6882, 7185, 7480, 7482, 7484, 7738, 7862, 7864, 7982, 7983, 8225, 9114-9117, 11187, 11189, 11191, 11524, 11525, 12153, 12155, 12157, 13407, 13701, 13702, 14312, 14514, 14516, 15758, 15759, 15761, 16106, 16108, 16110, 16111, 16115, 16117, 16119, 16348, 16764, 16766, 16769, 16771, 18338, 18339, 18341, 18342, 18343, 19050, 19324, 19326, 19328, 19330, 19573, 19769, 21243, 21247, 21347, 21913, 21915, 21917, 21920, 21922, 21923, 21925, 25548, 25549, 25550, 25552, 25553, 26056, 26058, 26059, 26060, 26062, 26064, 26683, 26915, 27455, 27457, 27458, 27651, 27924, 27926, 27928, 27930, 28918, 28919, 28920, 29103, 29348, 29967, 30107, 31160, 31161, 31342, 31347, 31348, 31350, 31352, 31354, 31356, 31648, 31649, 31651, 31903, 31906, 32056, 32279, 32281, 32602, 32604, 32607, 32609, 32836, 32838, 33893, 33894, 33895, 33897, 33901, 33902, 33903, 33904, 33906, 33907, 34366, 34522, 34881, 35862, 36130, 36132, 36864, 36866, 38284, 38286, 38511, 38512, 38514, 38517, 39140, 39436, 39438, 39440, 39441, 39442, 39646, 39648, 40325, 40327, 40585, 40733, 40735, 41173, 41175, 41176, 41178, 41180, 41420, 41422, 42191, 42193, 42194, 42197, 42198, 42642, 43549, 43552, 43553, 43790, 44438, 44440, 44442, 45042, 45044, 45045, 45829, 45832, 45834, 46078, 46766, 46767, 46768, 46770, 46771, 46773, 47034, 47035, 47036, 47037, 47038, 47210, 47825, 47827, 47828, 47829, 47987, 49918, 50253, 50838, 50840, 50842, 50844, 51213, 51216, 51771, 51772, 52890, 53121, 53635, 53637, 53853, 53854, 53856, 53858, 54031, 54033, 54034, 54936, 54938, 54940, 54943, 54945, 54946, 54948, 54951, 57544, 57545, 57546, 57548, 59162, 59937, 59938, 59939, 59941, 59942, 59943, 59945, 60370, 60371, 60373, 60374, 60375, 60772, 60773, 60774, 60777, 61014, 61612, 61614, 61617, 61619, 61621, 62515,

UMI

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 14 Chapter I—Con. Page

62517, 62519, 63061, 63062, 63525, 64488, 65106
Corrected...17972, 21538, 34366, 46772, 52220
Technical correction....48946
Eff. 1-21-94....63524, 67666, 68029
Eff. 1-5-94....64113, 64116, 67309
Eff. 1-10-94....64875, 64876, 64878
Eff. 1-28-94....65116
Eff. 1-18-94...65282, 65889, 65893, 65895, 65896
Eff. 2-4-94....65284
Eff. 1-3-94....65663
Eff. 2-11-94....66269, 66275
Eff. 1-19-94....66270, 66272, 66274
Eff. 2-15-94....66277
Eff. 1-20-94....67307, 67310, 67311
Eff. 1-26-94....67667, 68291
Eff. 2-22-94....68025
Eff. 1-7-94....68027
Eff. 1-31-94....69222
61 Authority citation revised....40566
61.56 Revised....40566
71 Technical correction...11886, 52140, 52808
71.1...3216, 3217, 3218, 4315, 6371, 6884, 6885, 6886, 6887, 7485, 7744, 8897, 11373, 11373, 11374, 12136, 13007, 13704, 13705, 14517, 15254, 15265, 15762, 15763, 16488, 16489, 16611, 17323, 17494, 17495, 18344, 18345, 19209, 19574, 19575, 31653, 33908, 33909, 36597; 41181, 43071, 44126, 44274, 45047, 45048, 45049, 45050, 45051, 46540, 47040, 47041, 47042, 47043, 47044, 47045, 47046, 47372, 47373, 47374, 47375, 47376, 47632, 47634, 47635, 47830, 48302, 48727, 48792, 49425, 50254, 50255, 50514, 50515, 51010, 51774, 54952, 59357, 59657, 61623, 64447
Corrected...4314, 6709, 7179, 8693, 8897, 12157, 19152, 21538, 53859, 58277, 58593, 61729, 63211, 67669, 68740
Revised; eff. 4-1-93 to 9-15-93....12136
Introductory text revised....12137
Revised....36298
Eff. 1-6-94...53122, 53123, 53124, 53394, 53395, 53396, 53859, 54953, 54954, 57964, 59356, 59358, 63293, 65898, 67671

Page

Regulations at 58 FR 47041, 47372, 47373, 47374, 47632, 47634, 47635 and 48727 eff. date delayed to 3-9-94....60552
Eff. 3-3-94...62035, 63885, 63886, 63887, 64117, 64489, 64879, 65900, 65901, 67670
Regulation at 58 FR 36298 eff. date delayed to 12-8-94....63274
Eff. 1-10-94....64880, 64881
71.5 Amended....36299
71.6 Removed....12136
71.9 Revised; eff. 4-1-93 to 9-15-93....12136
71.31 Amended....36299
71.33 (c) added....12137
71.41 Amended....36299
71.51 Amended....36299
71.61 Amended....36299
71.71 (a), (d) and (e) revised; (f) added....12137
(c) revised....15259
(b) through (f) amended....36299
(a) introductory text revised....44126
71.77 Removed....12137
71.79 Amended....36299
71.901 (a) amended....36299
73 SFAR No. 53 amended; eff. 12-27-93 through 1-15-96....69130
73.19 (a) and (c) amended....42001
73.25...27653, 29523, 39649, 39650, 45052
Eff. 1-6-94....59360
73.29....6885, 38288
73.31....21250, 26225
73.38....38287, 52891
Eff. 1-6-94....54487
73.41....39651
73.51....45052
73.52....39651
73.54....18346
73.57....17324
Eff. 1-6-94....59946
73.60 Eff. 1-6-94....59359
73.66....39651
73.67....17324
91 SFAR No. 64 added....31641
Technical correction....33189, 52140
SFAR No. 66 added....45221
SFAR No. 62 amended....48728
Corrected....57549
Comment disposition....59360
Regulation at 58 FR 48728 eff. delayed to 3-9-94....60552
SFAR 64 corrected....62035

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

91.117 (b) revised....32839
(a) and (b) amended....43554
91.129 (e) introductory text, (1), (2) and (3) revised....48793
91.130 (a) revised....40736
Technical correction....42643
91.155 (c) revised....51968
91.157 Revised....51968
91 Appendix D amended....51968
93 Policy statement....230, 21095
93.81—93.83 (Subpart F) Removed....12137
Regulation at 58 FR 12137 eff. date delayed to 12-8-94....63275
93.151 Introductory text and (b) revised....32839
93.181—93.191 (Subpart P) Removed....12137
93.221 (e)(1) and (2) revised; (e)(3), (5) and (8) removed; (e)(4), (6) and (7) redesignated as (e)(3), (4) and (5); new (e)(3) amended....39616
93 Appendix B removed....39616
95...6887, 16490, 30108, 34701, 45053, 53860
Eff. 1-6-94....65902
97....34705
97.21—97.35...3219, 3221, 4894, 4896, 6710, 6713, 7486, 7747, 10946, 10948, 15266, 15267, 15269, 15271, 17325, 17326, 26226, 26228, 27654, 27655, 28497, 28499, 30977, 30978, 32841, 32842, 34706, 38289, 38519, 40328, 40330, 44275, 44276, 45057, 45058, 47047, 47049, 48959, 48960, 51775, 51777, 53864, 54488, 58278, 58280, 60377, 60378, 63064, 63066, 65905, 65906, 68516, 68517
97.113 Revised....43072
108 Comment disposition....36802
121 Special FAA conditions....34515
Common preamble....68194
121.291 (a) revised....45230
121.305 (j) introductory text revised....12158
121.417 (c)(1)(i), (d) and (f) revised; (c)(1)(ii) redesignated as (c)(1)(iii); new (c)(1)(ii) added....46504
121 Appendix D amended....45230
Appendix I amended....68201
125 Special FAA conditions....34515

Page

125.221 (a) revised; (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; interim; eff. 1-31-94....69629
125.287 (a)(7) and (8) amended; (a)(9) added; interim; eff. 1-31-94....69629
127 Authority citation revised....34515
Special FAA conditions....34515
129 Special FAA conditions....34515
Authority citation revised....34515
135 Authority citation revised....34515
Special FAA conditions....34515
135.227 (a) revised; (b) through (e) redesignated as (c) through (f); new (b) added; interim; eff. 1-31-94....69629
135.345 (b)(6) introductory text revised; (b)(6)(ii) and (iii) amended; (b)(6)(iv) added; interim; eff. 1-31-94....69629
135.351 (b)(2) revised; interim; eff. 1-31-94....69630
137.43 (a) revised....32840
158 Interpretation....64118
170 Authority citation revised....42817
170.21—170.25 (Subpart C) Added....42817

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

302.1760 (a) and (b) amended....34882

Chapter III—Office of Commercial Space Transportation, Department of Transportation (Parts 400—499)

413 Authority citation revised....3827
413.5 (d) removed....3827
415 Authority citation revised....3827
415.4 Removed....3827
415.9 (e) removed....3827

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1203b.107 (a)(3) and (c)(1) revised....5263
1203b.108 (d)(2) revised....5263
1204.400—1204.403 (Subpart 4) Revised....43554

DE

1993

UMI

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 14 Chapter V—Con. Page

1215 Appendix A revised.....50516
1221.100—1221.116 (Subpart 1221.1) Revised.....58944
1260 Revised.....53640

Title 14—*Proposed Rules:*

1—199 (Ch. I)...5947, 8244, 8719, 11391, 16798, 19634, 21274, 26709, 27953, 33783, 36626, 36738, 42698, 46585, 47405, 47678, 57754, 58512, 63125
21...3239, 5666, 5669, 7197, 13216, 15730, 26710
23.....10994, 32034, 38028, 40389, 52702
25...12563, 13216, 26710, 36116, 36738, 38642, 44291, 59689, 62051, 64700, 67716
27.....5666, 60569
29.....3239, 4566, 5669, 35411
31.....64450
33...26262, 57754, 57756, 57758, 57760, 63902, 68784
39...275, 278, 515, 3873, 4366, 4367, 4600, 5671, 5947, 5949, 6198, 6740, 6742, 6743, 6745, 6746, 6906, 7196, 7494, 7495, 7759, 8719, 8721, 8723, 8914, 8916, 9131, 9133, 9552, 11996, 11997, 11999, 12002, 12004, 12190, 12192, 12194, 12195, 12347, 12349, 13430, 13710, 13711, 13713, 14181, 14182, 14184, 14185, 14187, 14189, 15305, 15309, 15114, 15116, 15441, 15444, 15445, 15448, 15450, 15813, 16137, 16377, 16505, 16507, 18051, 18053, 18347, 19068, 19069, 19071, 19073, 19634, 19635, 19787, 19788, 21546, 21692, 21955, 21957, 21959, 25579, 25954, 25956, 26074, 26076, 26264, 27217, 27954, 27955, 27957, 28525, 28526, 28527, 28529, 28801, 28936, 28938, 28939, 29800, 29802, 29998, 30000, 30001, 30003, 30721, 30722, 30725, 31003, 31347, 31348, 31350, 31352, 31354, 31356, 31481, 31681, 31916, 31917, 31920, 31922, 32469, 32471, 32877, 33574, 33576, 33783, 33920, 34009, 34382, 34383, 34950, 34952, 34955, 34957, 34959, 35413, 35899, 35900, 35902, 35904, 35905, 36627, 38321, 38540, 38731, 38732, 38984, 38985, 39474, 39475, 39476, 39478, 39688, 39689, 39691, 40077, 40078, 40079, 40083, 40389, 40391, 41066, 41210, 41441, 41442, 41444, 41645, 42032, 42034, 42259, 42261, 42262, 42361, 42513, 42699, 42700, 42702, 42705, 43301, 43303, 43304, 43306, 44149, 44150, 44466, 44468, 44621, 44795, 45858, 45859, 45861, 45863, 46135, 46136, 46137, 46139, 46914, 46916, 46917, 47085, 47224, 47225, 47227, 47405, 47407, 47409, 47678, 47837, 47839, 48009, 48010, 48616, 48617, 48983, 48984, 48986, 48987, 48989, 49943, 49944, 49946, 50868, 50869, 50871, 51583, 51585, 51587, 51589, 51793, 52041, 52240, 52243, 52714, 52717, 52929, 52931, 52932, 53457, 53678, 53893, 54072, 54310, 54312, 55031, 57568, 58305, 58307, 58310, 58667, 58669, 58807, 58808, 58992, 59223, 59418, 59965, 59967, 59968, 59970, 60413, 60415, 61037, 61038, 61635, 61636, 61853, 62296, 62557, 63305, 63307, 64198, 64199, 64200, 64386, 64705, 64707, 64708, 65567, 65569, 65943, 67381, 67723, 68570, 68572, 68575, 68786, 68787, 68789, 69298, 69299
61.....7197, 9514, 48748
63.....7197
65.....7197
71...34, 3241, 3242, 3875, 4946, 5301, 5303, 6375, 6911, 8244, 8724, 8725, 9134, 11553, 11801—11803, 12197, 12566, 12567, 13715, 14190, 15117, 15118, 16508, 16914, 17541, 17543, 18054, 18055, 18349, 18350, 19214, 19637, 21122, 21123, 21411, 26265, 26266, 26267, 26268, 26269, 27680, 28941, 29370, 31483, 31484, 31485, 31486, 32313, 33053, 33054, 33878, 36157, 36158, 36628, 38322, 38734, 39479, 39693, 39694, 40077, 40078, 40079, 40083, 41211, 41212, 41214, 42037, 42038, 42623, 43412, 43573, 43575, 43576, 43826, 44469, 45079, 46586, 47087, 47411, 47413, 47680, 48331, 49450, 49451, 50873, 51256, 51257, 53164, 53166, 53167, 53459, 54073, 55116, 57570, 57571, 58311, 58312, 59422, 62054, 62055, 62056, 62057, 62058, 62059, 62061, 62062, 62298, 63125, 63127, 63128, 63129, 63130, 63211, 63308, 63309, 63903, 63904, 63905, 63906, 64387, 64525, 64710, 65945, 65946, 65947, 65948, 65949, 65950, 67725, 67726, 67727, 67728, 67909, 68328, 68329, 68577
73...18351, 33223, 38323, 41214, 54531, 61854, 63908
91.....32244, 36738, 51938, 65950
93.....7950, 11554
119.....32248
121...7197, 8917, 16584, 17024, 21336, 32248, 33316, 36116, 36738, 51938, 51944, 54478, 58512
125.....17024, 32248, 49164, 51938
127.....32248, 54478, 58512
129.....8917, 51944
135...7197, 17024, 32248, 36116, 36738, 49164, 51938, 51944, 54478, 58512
142.....9514
145.....54478, 58512
221.....287, 12350
234.....4370
241.....35
255.....41068
266.....16806
300.....516, 7040
382.....47681, 63154
389.....287, 12350
399.....7053
1272.....36159

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce (Parts 0—29)

19 Added; interim.....39653

Regulation at 58 FR 39653 confirmed.....59946

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

30 Authority citation revised.....41423
30.20 (a) amended; (b) and (c) redesignated as (c) and (d); new (b) added.....41423
30.21 (a) and (b) revised.....41424
30.22 (a) revised.....41424
30.24 (a) introductory text and (1) revised.....41425
50.5 Revised.....4078
122.62 (a) revised.....41425
122.74 (a) and (c)(2) revised.....41425
122.76 Revised.....41426
122.79 (b) revised; (b)(2) undesignated text removed.....41426

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

303.10 (c) removed; (d) redesignated as (c).....21348
303.14 (b)(4) and (d)(2) removed; (d)(3) redesignated as (d)(2); (b)(2), (d)(1), new (d)(2) and (e) amended.....21348

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

770 Authority citation revised.....65540
770.2 Amended.....3222, 68741
770.4 Revised.....3222
770.10 (a) revised; interim.....57551
770.11 (a)(2)(i)(A) amended.....36354
770.15 (c) and (h) amended.....65540
770 Supplement No. 1 amended.....47053
Supplement No. 2 removed; interim.....57551
771 Authority citation revised.....488
771.3 Revised.....47052
771.4 (b) introductory text amended; (b)(2) added.....47050
771.7 Added.....488
771.14 (d)(3) amended.....47050
771.16 (b) revised.....47050
771.23 (b) amended.....486

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 15 Chapter VII—Con. Page

Heading and (c) revised....64676
771.28 Added....47054
772 Authority citation revised....65540
772.1 (g) heading and (1) revised; (g)(2) amended; (h) removed....65541
772.4 (b)(2)(iv)(A), (i)(1) introductory text and (6) amended; (i)(1)(i) revised....36354
773.2 (a)(1) revised; (e)(3) removed; (e)(2)(v) and (4) redesignated as (e)(2)(vi) and (3); new (e)(2)(v) added....68741
773.3 (a)(1)(ii), (d)(3)(iii)(D) and (e)(1)(ix)(I) amended....486
773.7 (c)(2) heading, text, (d)(1) introductory text, (2)(i), (ii) heading, introductory text, (A), (C), (3) introductory text, (h)(1)(i) Footnote 2, (ii), (i) heading, introductory text, (1), (2), (4), (6), (k) introductory text and concluding text amended....486
773.8 (a)(2) introductory text and (c)(1) amended....487
773.9 (a)(2) revised....68741
773 Supplement No. 1 amended....52169
774.2 (a)(1) amended....47054
774.5 (a) amended....486
775 Authority citation revised....25554
775.1 (b) table amended....25554, 47054
775.2 (e)(6) amended....36355
(b)(1) amended....47054
775.3 (b) revised....25554
(h)(3) revised....36355
775.6 (d) added....36355
(c)(2) removed; (c)(3) and (4) redesignated as (c)(2) and (3) and revised; (d) added....47052
775.7 (d) redesignated as (e); new (d) added....36355
775.8 (d) redesignated as (e); new (d) added....36355
Heading, (a) and (b)(2) revised; (d) amended....47054
775.10 (b) through (g) redesignated as (c) through (h); new (b) added....36355
Introductory text, (a), (b)(2) heading, introductory text, (c), (e), (f)(1) introductory text, (f)(2)(i) introductory text, (ii)(A), and (g)(1) introductory text amended....47054
775 Supplement No. 1 amended....25554, 47054
776.8 (b)(1)(ii) and (iii) amended....486
776.9 (b)(1)(iii) introductory text and (3)(iii) introductory text amended....33510
776.10 (a)(1) amended....486
776.11 (f)(6)(i)(D) and (ii)(A) revised....47055
776.16 Heading revised; (b) added; interim....57551
777 Authority citation revised....488
777.1 (c)(3) amended....36355
777.2 (e) amended....36355
777.4 (d)(1) introductory text, (h) and (i)(2) introductory text amended....36355
777.6 (d) amended....36355
(d)(3)(ii) amended....47051
777.7 Revised....489
(d) amended....36355
778 Authority citation revised....52167
Guidance....68029
778.9 (a) revised....47051
778 Supplement No. 4 amended; interim....52167
779.1 Supplement No. 1, Category 4 amended (ECCN 4A03A)....64676
Supplement No. 1, Category 4 amended (ECCN 4E96G)....64677
779.4 (f)(1)(i), (iii), (2)(i) and (iii) amended....486
(f)(1)(i) revised....47055
779.5 (e)(1)(vii) amended....486
(e)(2) amended....487
(a)(3) amended....47055
779.8 (b)(4) amended....47051
785.1 (a) revised....47055
785.2 (a)(4) amended....36355
(a)(1) and (c) amended....47055
Heading and (a)(3) revised....68741
785.4 (f) removed; (g) redesignated as (f)....487
(d)(1)(vi), (viii) and (ix) amended....33510
785.6 (b) revised....47052
785.7 (c) amended....33510
(b) amended....36355
786.1 (a), (c)(1), (2) introductory text, (i) and (iii) amended; (b)(1) Footnote 1, (2)(i) and (c)(3) revised....3222
786.3 (f)(1), (i)(1), (2), (p)(1)(i) and (ii) revised; (i)(3), (j)(1), (p)(1) introductory text, (r)(1), (3), (4), (6) and (7) amended....3223
786.7 (c)(1) introductory text, (e)(1) introductory text and (i) amended; (e)(1)(ii) and (iii) revised....33510
786 Supplement No. 1 amended....3223
787.14 (a)(1) and (2) amended....36355
787.15 (c)(2)(ii) amended....36355
788 Authority citation revised....65540
788.19 (g) revised....65541
788.20 (c)(1)(i) amended....36355
788.23 (e) revised....65541
789 Authority citation revised....58483
789.1 (b) amended....58483
789.2 Revised....58483
790.1 (h)(3) amended....36355
790.8 Added; interim....57552
799 Authority citation revised....21926, 27932, 59164, 61807
799.1 Regulations at 57 FR 61259 corrected....6574, 32003
(h) added....33510
799.1 Supplement No. 1, Category 1 amended (ECCN 1B71E)....21926
Supplement No. 1, Category 1 amended (ECCN 1C65E)....21927
Supplement No. 1, Category 5 amended; interim (ECCN 5A02A)....27932
Supplement No. 1, Category 9 amended (ECCN 9A92F and 9A93F)....33510
Supplement No. 1, Category 7 amended; (ECCN 7A05A, 7A25B, 7A94F)....34212
Supplement No. 1, Category 5 amended (ECCN 5A20B)....47051
Supplement No. 1, Category 9 amended (ECCN 9A18A)....47051
Supplement No. 1, Category 9 amended (ECCN 9A04A)....47323
Supplement No. 1, Category 5 amended (ECCN 5A02A)....48304
Supplement No. 1, Category 5 amended....48304
Supplement No. 1, Category 5 amended (ECCN 5A91F)....48305
Supplement No. 1, Category 4 amended; interim (ECCN 4A01A, 4A02A)....52167
Supplement No. 1, Category 4 amended; interim (ECCN 4A03A)....52168
Supplement No. 1, Category 1 amended (ECCN 1E96G)....52171
Supplement No. 1, Category 2 amended (ECCN 2E96G)....52171
Supplement No. 1, Category 3 amended (ECCN 3A01A and 3A02A)....52171
Supplement No. 1, Category 3 amended (ECCN 3B01A)....52174
Supplement No. 1, Category 3 amended (ECCN 3C02A and 3E01A)....52175
Supplement No. 1, Category 4 amended (ECCN 4A01A and 4A03A)....52176
Supplement No. 1, Category 4 amended (ECCN 4E96G)....52177
Supplement No. 1, Category 5 amended (ECCN 5A01A, 5A02A)....52179
Supplement No. 1, Category 5 amended (ECCN 5A03A, 5A04A, 5A05A)....52180
Supplement No. 1, Category 5 amended (ECNN 5A06A, 5B01A, 5B02A, 5C01A and 5E02A)....52181
Supplement No. 1, Category 6 amended (ECCN 6A01A, 6A02A)....52185
Supplement No. 1, Category 5 amended (ECCN 5A11A)....52185
Supplement No. 1, Category 6 amended (ECCN 6A04A, 6A05A, 6A07A, 6A08A)....52188
Supplement No. 1, Category 6 amended (ECCN 6B04A, 6C02A, 6C04A, 6E03A)....52189
Supplement No. 1, Category 6 amended (ECCN 6E96G)....52190
Supplement No. 1, Category 7 amended (ECCN 7E94F)....52191
Supplement No. 1, Category 8 amended (ECCN 8E96G)....52191
Supplement No. 1, Category 9 amended (ECCN 9E96G)....52192
Supplement No. 3 amended....52192
Supplement No. 1, Category 6 amended; interim (ECCN

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 15 Chapter VII—Con. Page

6A02A, 6A03A, 6E01A, 6E02A).....57552
Supplement No. 1, Category 7 amended; interim (ECCN 7A23B, 7D01A, 7E01A, 7E02A).....57552
Supplement No. 1, Category 6 amended; interim (ECCN 6D01A, 6D21B).....57553
Supplement No. 1, Category 7 amended; interim (ECCN 7A03A, 7E21B).....57553
Supplement No. 1, Category 1 amended (ECCN 1C31B).....59164
Supplement No. 1, Category 9 amended (ECCN 9A02A, 9A23B, 9D24B, 9E03A).....59165
Supplement No. 1, Category 9 amended (ECCN 9E21B).....59166
Supplement No. 1, Category 1 amended (ECCN 1C18A); interim.....61808
Supplement No. 1, Category 4 amended (ECCN 4A03A).....64676
Supplement No. 1, Category 4 amended (ECCN 4E96G).....64677

Chapter VIII—Bureau of Economic Analysis, Department of Commerce (Parts 800—899)

806.15 (h)(1) and (2) amended.....38290
(i) amended.....53125

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

904.108 (c) amended; (g) added; interim.....58485
904.240 (a) and (b) amended; interim.....58486
921 Revised.....38215
922 Authority citation revised.....60781
922.1 (a) and (b) revised.....60781
922.2 Amended.....60781
922.11 Revised.....60781
922.31 (e), (f) introductory text and (h) revised.....60782
922.32 Heading, (a) introductory text and (b) revised.....60782
922.33 (a)(2)(ii) and (b)(1) revised.....60782
922.40 (a) and (d) revised.....60782
922.42 Added.....60782
924.4 Revised.....60783
929.9 Revised.....60783
932.34 Revised.....60782
935.8 Revised.....60783
936.7 Revised.....60783
937.7 Revised.....60783
938.7 Revised.....60783
940 Added (effective date pending).....53877
941.10 Revised.....60783
942.7 Revised.....60783
943 Regulation at 56 FR 63643 eff. 1-18-94.....65664
943.8 Revised.....60783
944 Petition denied.....15271
944.7 Revised.....60783
946 (Subchapter C) Added.....64091

Title 15—*Proposed Rules:*

7.....40087
285.....40087
286.....39486
295.....41069, 46919
303.....4947, 65294
500.....41215
700—799 (Ch. VII).....54074
806.....12912, 38324
900—999 (Ch. IX).....4601
935.....44634, 65686
936.....44634, 65686
942.....44634, 65686
944.....44634, 65686
946.....18316, 64202
1180.....27681
1200.....5672, 8564

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

4.1 (c) revised.....40737
4.9 (a)(2) revised.....15764
4.11 (g) added.....15764
4.13 (m) revised.....7047
5 Authority citation revised.....15764
5.1—5.2 (Subpart A) Revised.....15764
5.10 (Subpart B) Revised.....15765
5.21—5.26 (Subpart C) Removed.....15765
5.31—5.42 (Subpart D) Removed.....15765
5.51 Revised.....15765

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

Page

228.9 Amended.....64882
229 Removed.....68294
232 Removed.....68294
305 Authority citation revised...5926, 15086, 54963
Energy efficiency ranges...26684, 59166, 59167, 59168
Heading revised.....54963
305.1 Heading, (a), (b) and (d) revised.....54963
305.2 (r) through (v) added.....54963
305.3 (k) through (n) added.....54963
305.4 (a)(1), (2), (b)(4), (d), (e) introductory text, (2) and (3) revised.....54964
305.5 Revised.....54964
305.8 (a) and (b) revised.....54965
305.9 (a) revised.....5926
305.11 (a) heading revised; (e) added.....54965
305.13 (a) revised.....54966
305.14 (a) introductory text revised; (d) added.....54966
305.15 (b) revised.....54966
305 Appendixes A1, A2 and B amended.....3224
Appendix C amended.....15086
306 Heading revised.....41732
Authority citation revised.....41732
306.0 Redesignated as 306.1; new 306.0 added.....41372
306.1 Redesignated as 306.2; new 306.1 redesignated from 306.0.....41372
Revised.....41373
306.2 Redesignated as 306.3; new 306.2 redesignated from 306.1.....41372
Revised.....41373
306.3 Redesignated as 306.4; new 306.3 redesignated from 306.2.....41372
306.4 Redesignated as 306.5; new 306.4 redesignated from 306.3.....41372
Revised.....41373
306.5 Redesignated as 306.6; new 306.5 redesignated from 306.4.....41372
Revised.....41373
306.6 Redesignated as 306.7; new 306.6 redesignated from 306.5.....41372
Revised.....41373
306.7 Redesignated as 306.8; new 306.7 redesignated from 306.6.....41372
Revised.....41374
306.8 Redesignated as 306.9; new 306.8 redesignated from 306.7.....41372
Revised.....41374
306.9 Redesignated as 306.10; new 306.9 redesignated from 306.8.....41372
Revised.....41374
306.10 Redesignated as 306.11; new 306.10 redesignated from 306.9.....41372
Revised.....41374
306.11 Redesignated from 306.12; new 306.11 redesignated from 306.10.....41372
Revised.....41374
306.12 Redesignated from 306.11.....41372
Revised.....41375
307.12 (b) amended.....4874
308 Added.....42400
435 Revised; eff. 3-1-94.....49121
436 Stay vacated.....69223
Authorization.....69224

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.4 (a) and (b)(3) revised.....64120
1030 Authority citation revised.....12335
1030.101—1030.104 (Subpart A) Removed.....12335
1030.201 (Subpart B) Removed.....12335
1030.301—1030.304 (Subpart C) Removed.....12335
1030.401 Removed.....12335
1030.403 Removed.....12335
1030.407 Removed.....12335
1030.409 Removed.....12335
1030.410 Removed.....12335
1030.501—1030.502 (Subpart E) Removed.....12335
1030.601—1030.611 (Subpart F) Removed.....12335
1030.701—1030.705 (Subpart G) Removed.....12335
1030.801 (Subpart H) Removed.....12335
1030.901 (Subpart I) Removed.....12335

CHANGES JANUARY 4, 1993 THROUGH DECEMBER 30, 1993

TITLE 16 Chapter II—Con. Page

1030.1001—1030.1002 (Subpart J) Removed 12335
1030.1101—1030.1109 (Subpart K) Removed 12335
1030.1201—1030.1218 (Subpart L) Removed 12335
1030 Appendixes A through F removed 12335
1116.2 (b) revised 16121
1145.16 Added 37556
1210 Added 37584
Regulation at 58 FR 37584 eff. date corrected to 7-12-94 67671
1500 Authority citation revised 40334
1505 Authority citation revised 40335
1505.1 (a)(1) amended; (a)(2) added 40335
1615 Stay of enforcement 4078
1616 Stay of enforcement 4078
1700.14 (a)(21) added 38964

Title 16—*Proposed Rules:*

Page

0—999 (Ch. I) 11554
18 ..... 16139, 29153
244 35414
305 ..... 7852, 12818, 18056, 26715, 60147
306 ..... 16464, 25582
307 ..... 4875, 10997, 58810, 64388
308 13370
309 64914
400 25703
404 21124
410 21125
412 35907
418 21125
500 43726
1000—1799 (Ch. II) 8013, 8016, 8020, 8023
1204 15815
1210 8565
1303 63311
1500 34385
1615 4111
1616 4111

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

Page

1 Authority citation revised 19589
Technical correction 22020, 42361, 58651, 58729
1.3 (x) revised 19589
1.10 (j)(2)(ii) revised 19589
1.17 (c)(5)(vi) revised 68519
1.19 (a) and (b) revised; (c) added 68520
1.31 (b) and (c) revised; (d) added 27464
(b)(2) revised 27467
1.35 (b) amended 27465
(a-1), (2), (3) and (4) revised 31166
(e)(1) revised 40348
1.37 (a) revised 28501
1.41 (a)(4), (f)(2), (3) and (g) revised; (a)(8) and (f)(4) through (9) added 26237
(d) heading and (1) introductory text revised 37653
1.41c Added 26239
1.55 (a) and (b) revised; (c) and (d) redesignated as (e) and (f); new (c) and new (d) added 17503
1.59 Revised 54973
1.62 Revised 19589
1.63 (a)(4) and (6) redesignated as (a)(6) and (7); new (a)(4) added; (a)(2), (5), new (6), (b) introductory text and (c) through (f) revised 37653
1.64 Added 37654
1.65 Added 17504
1.66 Added 19589
(b)(1)(ii) correctly designated 21776
1.67 Added 37655
1 Appendix B amended 42645
3 Authority citation revised 19590
3.1 Authority citation removed 19590
3.2 Authority citation removed 19590
3.4 (a) revised; authority citation removed 19590
3.10 Authority citation removed 19590
3.11 Revised 19591
3.12 Authority citation removed 19590

Page

(d)(1)(iv) and (i)(1)(iv) revised 19592
3.13 Authority citation removed 19590
3.14 Authority citation removed 19590
3.15 Authority citation removed 19590
3.16 Authority citation removed 19590
3.17 Authority citation removed 19590
3.18 Authority citation removed 19590
3.20 Authority citation removed 19590
3.21 Authority citation removed 19590
(b)(2) revised 19592
3.22 Authority citation removed 19590
3.30 Authority citation removed 19590
3.31 Authority citation removed 19590
(a) amended; (b) and (d) revised 19593
3.32 Authority citation removed 19590
3.33 Authority citation removed 19590
(a) introductory text, (e) and (f) introductory text revised; (b) introductory text amended 19592
3.34 Added 19593
(d)(2) corrected 21776
3.40—3.47 (Subpart B) Authority citation removed 19590
3.40 Heading, introductory text and (c) revised 19594
3.41 (a) revised 19594
(a) corrected 21776
3.42 (a)(2), (4), (5), (6) and (b) revised; (a)(7) and (8) added 19594
3.43 (b)(1) and (2) revised 19594
3.46 (a) revised 19595
3.47 (b)(2) revised 19595
3.50—3.64 (Subpart C) Authority citation removed 19590
3.55 (e)(1) revised 19595
3.56 Added 19595

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 17 Chapter I—Con. Page

3.60 (b)(2)(i) introductory text, (A), (C), (ii)(C) and (f)(3) revised; (l) added....19596
3.61 Heading and (a) revised....19597
3.64 (a)(2) and (d) revised....19597
3.70 (Subpart D) Authority citation removed....19590
3.75 (Subpart E) Authority citation removed....19590
3 Appendix A amended....19590, 19597
4.5 (a)(4), (b)(4) and (c) introductory text revised; (a)(4)(iv) added....43793
5 Fee schedule....19769
10.1 (a) revised....19597
17.00 (b) revised....33330
17.01 (b)(6) revised....33330
18.01 (a) revised....33330
18.04 (a)(5) revised....33330
30 Technical correction....22020
30.6 (a) revised....17505
30 Appendix C amended....19210
33 Technical correction....22020
33.4 (b)(9) removed....30703
33.7 (a) revised....17505
140.735-1—140.735-16 (Subpart C) Authority citation revised....52657
140.735-1 Revised....52657
140.735-2 Removed; new 140.735-2 redesignated from 140.735-4 and revised....52657
140.735-3 Removed....52657
Redesignated from 140.735-5 and revised....52658
140.735-4 Redesignated as 140.735-2....52657
Redesignated from 140.735-8A....52658
140.735-5 Redesignated as 140.735-3; new 140.735-5 redesignated from 140.735-9 and revised....52658
140.735-6 Removed; new 140.735-6 redesignated from 140.735-10 and revised....52658
Footnote 15 corrected....58593
140.735-7 Removed....52658
Redesignated from 140.735-12 and revised....52659
140.735-8 Removed....52658
Redesignated from 140.735-16 and revised....52660
140.735-8A Redesignated as 140.735-4....52658
140.735-9 Redesignated as 140.735-5....52658
140.735-10 Redesignated as 140.735-6....52658
140.735-11 Removed....52659
140.735-12 Redesignated as 140.735-7....52659
140.735-13 Removed....52660
140.735-14 Removed....52660
140.735-15 Removed....52660
140.735-16 Redesignated as 140.735-8....52660
145.6 (b) revised....19597
150 Authority citation revised....17981
150.1 (f) through (i) added; interim....17981
150.2 Revised; interim....17982
150.3 (a)(2) removed; (a)(3) revised; interim....17982
155.5 Added....40348
156 Added....31171
180 Technical correction....22020
180.3 (b)(2) revised....17505
190 Technical correction....22020
190.06 (b) and (d)(1) revised....17505
190.10 (c)(1) revised....17505

Chapter II—Securities and Exchange Commission (Parts 200—399)

200.15 Added....52418
200.30-1 (f)(14) and (15) added....52418
200.30-3 (a)(53) and (54) added....52419
(a)(55) added; eff. 6-1-95....52902
(a)(6) revised....68520
200.30-4 (a)(7) revised; (a)(9) added....52419
200.30-5 (c) amended....52419
200.30-6 (d)(1) removed; (d)(2) and (3) redesignated as (d)(1) and (2)....45839
(d)(1)(i) corrected; (d)(1)(ii), (2), (3) and (e) reinstated; CFR correction....60380
200.30-14 (j) added....52419
200.30-17 Added....52419
200.80e Amended....64120
203 Authority citation revised....52419
203.2 Revised....52419
204 Added....38520
204.1—204.11 (Subpart A) Added....64370
204.50—204.56 (Subpart C) Added....64372

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

Page

204.75—204.77 (Subpart D) Added....64373
210.3-19 (b), (c) and (f) revised....60305
211 Staff Accounting Bulletin No. 92 added....32843
Regulation at 58 FR 32843 corrected....34842
Staff Accounting Bulletin No. 93 added....59361
228.402 (a)(2), (b)(1) table, (2)(iv)(B), Instruction 2, (c)(1) table, (2)(ii), (d)(1) table, (2)(iv) and (e)(2)(iv) revised....63012
229.10 (d)(1)(i) amended....62029
229.402 (a)(3), (b)(1) table, (2)(iv)(B), Instruction 2, (c)(1) table, (2)(ii), Instruction 9, (d)(1) table, (2)(iv), (e)(2)(iv), (f)(1)(ii)(A), (i)(3)(i) table, (ii)(C) and (l) Instructions 2 and 5 revised....63013
229.512 (a)(4) revised....60306
230.134 (a)(14)(i) revised....62029
230.144 (d)(2)(i), (ii) and (iii) added....67312
230.252 (e) revised....65542
230.436 (g)(1) revised....62030
230.455 Revised....65542
239.9 Form SB-1 amended....65542
239.10 Form SB-2 amended....65542
239.15A Form N-1A amended....49922
239.17a Form N-3 amended....49922
239.32 Form F-2 amended....60306
239.33 Form F-3 amended....60306
239.37 Form F-7 amended....62030
239.39 (b)(4) removed; (b)(5) redesignated as (b)(4); (b)(3), new (b)(4) and (e) revised; (f) introductory text, (l) and Form F-9 amended....62030
239.40 Form F-10 amended....35368, 62031
(c)(3), (h), (i) introductory text and (l) amended; (c)(4) removed; (c)(5) redesignated as (c)(4) and revised....62030
240 Phase-in period extended....36866
Policy statement....60324
240.3a51-1 (d) introductory text revised....58101
240.10b-6 (i) redesignated as (j); new (i) added....60329
240.10b-7 (o) redesignated as (p); new (o) added....60329
240.10b-8 (f) redesignated as (g); new (f) added....60329
240.14a-6 (a) and undesignated text revised....69226
240.14a-101 Schedule 14A amended....63015
240.14c-5 (a) and undesignated text revised....69226
240.15c2-6 Redesignated as 240.15g-9....37417
240.15c3-1 (b)(1) and (c)(2)(x)(A) introductory text revised; (c)(2)(vi)(N) added....43559
240.15c3-1d (c)(5)(i) introductory text amended....37657
240.15c6-1 Added; eff. 6-1-95....52903
240.15d-2 (a) amended....60306
240.15g-2 Revised....37417
240.15g-9 Redesignated from 240.15c2-6; (a) introductory text, (2)(i), (ii), (b) introductory text, (2), and (3)(ii) amended; (c) and (d) revised....37417
240.15g-100 Amended....37417
240.17a-5 (c)(2)(iii) revised; (h)(2) amended....37657
(a)(5) added; (d)(1)(i) and (l)(1) revised....45839
(m) revised....45840
240.17a-11 Revised....37657
240.24c-1 Added....52419
249.240f Form 40-F amended....35368
(b)(4) and (5) reinstated; CFR correction....58651
(b)(4) removed; (b)(5) redesignated as (b)(4); (b)(3) and new (4) revised; (c) introductory text, (1) and Form 40-F amended....62031
250.53 Added....51504
250.54 Added....51505
250.57 Added....51505
259.5s Form U5S amended....51505
259.207 Added; Form U-57 added....51506
259.402 Form U-3A-2 amended....51506
259.405 Added; Form U-33-S added....51507
260.4d-9 (a) introductory text, (2) and (3) amended; (b) removed; (a) introductory text, (1), (2) and (3) redesig-

TITLE 17 Chapter II—Con. Page
nated as introductory text, (a), (b) and (c); (d) added....m..33190
260.10a-5 (a) amended; (b) and (c) removed; (d) redesignated as (b).....33191
270 Authority citation amended.....49427
270.2a3-1 Added.....45838
270.2a19-2 Added.....45838
(a)(3) corrected.....64353
270.10f-3 (h) revised.....49921
270.12d3-1 Revised.....49427
270.17a-7 (e)(2) revised.....49921
270.17e-1 (b) revised.....49921
270.17f-4 (b), (c)(3) and (d)(5) revised.....49922
270.22c-1 (b)(1) revised; (d) added.....49922
274.11A Form N-1A amended.....49922
274.11b Form N-3 amended.....49922

Title 17—*Proposed Rules:*

1.....26270, 28365, 43087, 44470
4.....32314
12.....17369, 44623
140.....37745
150.....18057
190.....68580
200—399 (Ch. II).....68578
200.....50291, 67729
201.....61732
202.....61732
210.....68585
228.....42882
229.....42882, 60307, 61732, 67729
230.....50291, 60307, 68074, 68585
239.....50291, 60307, 67729, 68074, 68585
240...37445, 38092, 42882, 44310, 49452, 52934, 61732, 63017, 67729
249.....60307
250.....51508
270.....38095, 50291, 67729, 68074, 68585
274.....50291, 67729, 68074, 68585

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

2 Authority citation revised...38527, 38969
Authority citation reinstated.....47636
2.1b Revised.....38292
2.20 Added.....38969
2.21 Added.....41632
2.55 Heading revised; (b)(4)(ii) amended.....57735
2.61 Amended.....38527
Introductory text reinstated.....47636
11 Appendix A revised.....54035
35 Authority citation revised.....51221
Order.....51777
35.28 Added.....51221
36 Added (OMB number pending).....57737
38 Order.....51777
101 Amended (OMB numbers pending).....18004, 18005, 18006
Authority citation revised.....18004
Amended.....42495
141 Authority citation revised.....52436
Rehearing denied.....65542
141.51 Revised (OMB number pending).....52436
141.300 Added (OMB number pending).....52436
154.28 Introductory text revised.....25556
157 Technical correction.....47636
157.14 (a)(10) revised.....38527
201 Authority citation revised.....18006
Amended (OMB numbers pending).....18006, 18007
260 Order.....26915
Authority citation revised.....38527
Technical correction.....47636
260.7 Removed.....38527
260.7a Removed.....38527
260.12 Removed.....38527
271 Order.....19607, 38528
Technical correction.....21509
284 Technical correction.....47636
284.262 (b) revised.....38528
284.303 Revised.....52663
284.304 Removed.....52663
284.305 Removed.....52663
292 Order.....51777
293 Order.....51777
306 Authority citation revised.....41372
341 Revised.....58773
342 Removed.....58778
Added; eff. 1-1-95.....58779
343 Removed.....58778
Added; eff. 1-1-95.....58780
344 Revised.....58778
345 Removed.....58778
346 Rehearing denied.....53654

Page
347 Removed.....58778
360 Removed.....58778
360—362 (Subchapter S) Note amended.....58778
361 Removed.....58778
365 Authority citation revised.....21255
Technical correction.....25900
365.3 (a)(1)(i), (ii) and (2)(ii) revised; (a)(1)(iii) added.....21255
375.303 Introductory text, (a), (b), (c), (d) introductory text and (1) revised; (j) and (k) added.....58779
375.306 Removed; eff. 1-1-95.....58783
375.307 Introductory text revised; (g) added; eff. 1-1-95.....58783
375.312 Revised.....62521
375.313 (i) added; eff. 1-1-95.....58783
375.314 (f)(1) revised.....51223
381 Rehearing denied.....53654
381.302 (a) amended.....26523
381.303 (a) amended.....26523
381.304 (a) amended.....26523
381.305 (a) amended.....26523
381.402 Amended.....26523
381.403 Amended.....26523
381.404 Amended.....26523
381.505 (a) amended.....26523
381.601 Amended.....26523
382 Order.....51777
385 Authority citation revised.....38528
Technical correction.....47636
385.2011 (a)(6) and (7) removed.....38528
388 Authority citation revised.....62521
388.108 (a)(1)(i), (2), (3), (4) and (b)(1) amended.....62521
388.112 (e) amended.....62521

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1301.2 (c)(1) revised; (d)(2) amended.....53656
1316 Added.....25930

Title 18—*Proposed Rules:*

1—399 (Ch. I)...18185, 19215, 59423, 60309
2.....48994, 59423
4.....48991
6.....48991
8.....48991
9.....48991
11.....48991
12.....48991
16.....48991
20.....48991
24.....48991
25.....48991
32.....48991
33.....48991
34.....48991
35.....36172, 48991, 51259
36.....41074
41.....48991
45.....48991
46.....48991
141.....17544, 19876, 30005, 40606, 63312
284...19365, 25583, 27691, 27959, 32473, 37447, 41647, 48332, 53895, 58817, 59972, 60572
341.....37671, 58817, 66310
342.....37671
343.....37671
344.....37671
345.....37671
347.....37671
352.....37671, 58817, 66310
360.....37671
361.....37671
375.....35415, 37671, 40606
385.....40606
388.....63312
401.....18352
1301.....17553, 57972

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Authority citation amended.....67315
Footnotes 4, 5, 7, 8, 8a, 9, 10, 11, 13, 14, 15, 16a, 16b, 19, 20, 23, 65, 72, 79, 91, 95 and 98 removed.....67315
4.0 (c) amended.....50256
(a) through (e) headings, (f) and (g) added.....67315
4.2 Revised.....67315
4.2a (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2).....67315
4.3 (a) and (b) revised.....67316
4.3a Added.....67316
4.6 Revised.....67316
4.7a (c)(1) amended.....44130
4.9 (a) revised; (f) added.....67316
4.14 (c)(2) amended.....39655

TITLE 19 Chapter I—Con. Page

(d)(1)(v), (2)(iii), (iv), and (e) amended; (f) revised 44128
(b)(1) amended 44130
4.30 (e) amended 44130
(a) revised 67316
(g) amended; interim 68523
4.39 (b) amended 44130
4.50 (a) revised 67316
4.51 Added 67316
4.52 Added 67317
4.80 (h) redesignated as (i); new (h) added 50257
4.81 (e), (g)(1) and (2) amended 67317
4.84 (c) revised 41425
(b) and (d) amended 67317
4.85 (c) amended 67317
4.87 (d) amended 67317
4.91 (b) amended 67317
4.94 (a) revised; (c), (d) and (e) amended 67317
4.98 (i) revised 54282
10.3 (c)(3) amended 44130
10.8 (a) through (l) redesignated as (b) through (m); new (a) added; interim 69470
10.31 (f) amended; interim 69470
10.36a (a) amended; interim 69470
10.41 (d) amended 44130
10.48 Revised 68742
10.53 (d) amended 44130
10.59 (f) amended 18147
(c) and (f) amended 44130
10.66 (c)(1)(iii) amended; interim 69470
10.67 (c) amended; interim 69470
10.71 (e) amended; (f) removed 44130
10.84 (a)(1) and (2) amended 44130
10.102 (b)(2) amended 34523
10.301 Amended 44130
12 Authority citation amended 19349, 44130, 69470
12.40 (h) amended 44130
12.104g (b) table amended 29349, 49430
12.130 (c) redesignated as (c)(1); new (c) designation, heading and (2) added; interim 19349
(c) heading, (1) and (2) corrected 21334
Regulation at 58 FR 19349 corrected 29454
12.132 Added; interim 69470
18 Authority citation revised 38500
18.9 Heading revised; (e) added 38500

Page

19.1 Regulation at 57 FR 47410 eff. date corrected 29349
19.2 Regulation at 57 FR 47410 eff. date corrected 29349
19.3 Regulation at 57 FR 47410 eff. date corrected 29349
19.5 Removal at 57 FR 47410 eff. date corrected 29349
19.6 Regulation at 57 FR 47410 eff. date corrected 29349
19.11 Regulation at 57 FR 47410 eff. date corrected 29349
19.12 Regulation at 57 FR 47410 eff. date corrected 29349
19.35 Regulation at 57 FR 47410 eff. date corrected 29349
19.36 Regulation at 57 FR 47410 eff. date corrected 29349
19.37 Regulation at 57 FR 47410 eff. date corrected 29349
19.38 Regulation at 57 FR 47410 eff. date corrected 29349
19.39 Regulation at 57 FR 47410 eff. date corrected 29349
24 Authority citation amended 30983, 34367, 54282, 68523, 69470
24.5 (f) added 34367
24.16 Heading, (b) and (d) through (h) revised; (a) amended; (i), (j) and (k) removed; interim 68523
24.17 Nomenclature change; heading revised; (d) introductory text, (1) and (3) amended; interim 68526
24.22 Revised 54282
(g)(3)(i), (ii) and (iii) corrected 59298
(g)(1) and (2)(i)(A) introductory text revised; interim 69470
24.23 (c)(3) revised; interim 69470
24.24 (h) heading and (1) heading revised; (h)(1), (2) and (3) amended 30983
101 Technical correction 27336
Authority citation revised 41634, 49923
101.3 (b) amended 21350, 21351, 25933, 41634
(b) table amended 49923
101.4 (c) amended 21351, 40353
111 Authority citation amended 54286
111.96 (c) revised 54286
113.62 (k)(4) added 30984

Page

113.63 Regulation at 57 FR 47410 eff. date corrected 29349
113.64 (a) amended 30984
122 Technical correction 27336
Authority citation revised 44130
122.1 (h)(1) amended 44130
122.15 (b) amended 25933
(b) table amended 49923
122.24 (b) amended 44444
122.29 Revised 54286
122.38 (a)(2) amended; interim 68526
122.62 (a) revised 41425
122.74 (a) and (c)(2) revised 41425
122.76a Revised 41426
122.79 (b) revised 41426
123 Authority citation amended 67317, 69471
123.0 Amended 54286, 67317
Amended; interim 69471
123.1 Revised 67317
123.1a Removed 54286
123.2 Revised 67318
123.8 (a) amended; interim 68526
123.9 (a) and (d)(2) revised; (d)(3), (e) and (f) amended 67318
128 Authority citation revised 44130
128.11 (b)(4) amended 44130
133 Authority citation revised 57740
133.43 (c)(1) and (4) revised 57740
134 Authority citation amended 68526
134.0 Amended; interim 69471
134.1 (b), (d) introductory text, (1), (2) and (4) amended; (g) through (j) added; interim 69471
134.22 (d) redesignated as (e); (b) and new (e)(1) amended; new (d) added; interim 69471
134.23 (a) amended; interim 69471
134.24 (c)(1), (2) and (d)(1) amended; interim 69471
134.32 (h), (n) and (o) amended; (p) and (q) added; interim 69472
134.35 Existing text designated as (a); new (a) heading and (b) added; interim 69472
134.43 (a), (c)(3) and (d)(3) amended; interim 69472
134.44 (a) amended; interim 69472
134.45 (a) revised; interim 69472
134.55 (b)(2) amended; interim 68526
141 Authority citation revised 44130
141.81 Amended 44130
141.82 (e) removed 44130
141.83 (b) removed 44130

Page

141.91 Introductory text amended 44130
141.92 (a) amended 44130
141.113 (a)(5) and (g) amended 44130
142.13 (a)(2) amended 30984
142.25 (a)(2) amended 30984
144.37 Regulation at 57 FR 47410 eff. date corrected 29349
145.0 Amended 54286
145.1a Removed 54286
148 Authority citation revised 35863, 44130
148.87 (b) table amended 35863, 35864
(b) table corrected 38167
148.105 (b)(3) amended 44130
148.113 (a) amended 44131
148.115 (a)(2) introductory text amended 44131
151.64 Revised 37854
151.70 Amended 37854
151.71 (a) and (b) revised 37854
151.72 Removed 37854
151.73 (a) and (b) amended 37854
151.75 Amended 37854
152.2 Amended 44131
162.0 Amended; interim 69472
162.1d (b) introductory text amended 44131
174 Authority citation revised 69472
174.0 Amended; interim 69472
174.12 (a)(5) redesignated as (a)(6); (a)(4) and new (a)(6) amended; new (a)(5) added; interim 69472
174.15 Revised; interim 69472
174.29 Amended; interim 69472
175 Interpretation 68743
177 Final determination 21538
Authority citation amended 69473
177.0 Amended; interim 69473
177.1 (c) amended; interim 69473
178.2 Table amended (OMB numbers) 34368, 54286
Amended; interim 69473
181 Added 69473
191 Authority citation amended 69565
191.0 Amended; interim 69565

Chapter II—United States International Trade Commission (Parts 200—299)

201.35 (a) and (c) revised 64121

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 19

Title 19—*Proposed Rules:*

Page
7 ..... 40095, 52246
10 ..... 40095, 52246
12 37884
24 37884
101 28803
122 ..... 19366, 28803
133 ..... 37884, 44476
141 65135
142 65135
148 ..... 40095, 52246
151 31487
152 31487
174 50300
175 ..... 30726, 47413, 69301
178 37884
201 ..... 19638, 49452
207 19638
210 64711

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

10 Authority citation revised 68032
10.100 (d) added 68032

Chapter II—Railroad Retirement Board (Parts 200—399)

209.13 Revised 45250
209.15 Added 45250
211.2 (b)(9) revised; (b)(13) added 45251
211.4 Revised 45251
211.8 Revised 45251
211.9 Amended 45251
211.10 Revised 45251
211.11 Revised 45251
211.13 Redesignated as 211.14; new 211.13 added 45251
211.14 Redesignated as 211.15; new 211.14 redesignated from 211.13 and revised 45251
211.15 Redesignated from 211.14 45251
229 Added 53397
325.4 (c) revised; (d) amended 45841
345 Authority citation revised 45251
345.4 Revised 45251
360 Removed 48597
366 Heading revised 31343
366.7 Removed 31343

Chapter III—Social Security Administration, Department of Health and Human Services (Parts 400—499)

Page
404.305 (a) revised 64888
404.331 (a)(1) revised 64891
404.332 (b)(6) revised 64891
404.336 (a)(1) revised 64891
404.337 (b)(3) removed; (b)(4) redesignated as (b)(3) 64891
404.340 (a) introductory text revised 64891
404.341 (b)(4) removed; (b)(5) redesignated as (b)(4); (c) amended 64891
404.346 (b) revised 64892
404.401a Amended; heading revised 64883
404.403 (a)(3) and (4) added 64892
404.464 (a) and (c) revised 64889
404.611 (b) revised 60381
404.1001—404.1096 (Subpart K) Authority citation revised 64889
404.1039 Undesignated center heading and section added 64889
404.1068 (f) revised 64889
404.1075 (b) and (d) revised; (e) added 64890
404.1501—404.1599 (Subpart P) Authority citation revised 44445, 64123, 64883
Authority citation corrected 65243
404.1592a (a) amended 64883
404.1501—404.1599 (Subpart P) Appendix 1 amended 31907, 36051, 36052, 36056, 36134, 44445, 52359, 64123
404.1706 Added 64886
416 Technical correction 49431, 49432
416.204 (c)(1)(ii) and (2)(ii) revised 64893
416.210 (b) revised 63889
416.340 (d)(2) revised 52912
416.345 (e)(2) revised 52912
416.414 (a) introductory text and (2) revised 64894
416.533 Amended 52912
416.536 Revised 52912
416.537 (b)(2) revised 52912
416.538 Revised 52912
416.542 Heading and (b) revised; (c) added 52913
416.543 Revised 52913
416.902 Amended 47577
416.903 (f) added 47577

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

Page
416.913 (c)(3) added; (e)(2) and (3) revised 47577
416.916 Revised 47577
416.924 Revised; eff. to 9-9-97 47577
416.924a Revised; eff. to 9-9-97 47578
416.924b Revised; eff. to 9-9-97 47580
416.924c Revised; eff. to 9-9-97 47581
416.924d Revised; eff. to 9-9-97 47582
416.924e Revised; eff. to 9-9-97 47584
416.926a (b)(3), (c) and (d) revised; eff. to 9-9-97 47586
(d)(3) and (12) revised 52367
416.928 (a) revised 47586
416.933 Revised 36063
416.994a (b)(5), (f)(1) and (2) amended; (d)(2) revised; eff. to 9-9-97 47586
416.1015 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added 47587
416.1111 (c) removed; (d) and (e) redesignated as new (c) and (d) 63889
416.1112 (c)(1) through (8) redesignated as (c)(2) through (9); new (c)(1) added; new (c)(6) amended 63889
416.1124 (c)(13), (14) and (15) amended; (c)(16) added 63888
416.1140 (a)(1) amended 63888
416.1161 (a)(14), (17) and (18) amended; (a)(19) added 63888
(a)(20) added 63890
416.1210 (h), (l), (m) and (n) amended; (o) added 63890
416.1235 Added 63890
416.1242 (a) revised 60105
416.1402 (k) and (l) amended; (m) added 52913
416.1457 (c)(4) revised 52913
416.1471 (b) revised 52914
416.1506 Added 64886
416.1600—416.1618 (Subpart P) Authority citation revised 41182
416.1619 Added 41182
422.601—422.607 (Subpart G) Added 52916

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

614.1 Regulation at 57 FR 59799 confirmed 43783
614.2 Regulation at 57 FR 59799 confirmed 43783
614.3 Regulations at 57 FR 59799 and 59800 confirmed 43783
614.4 Regulation at 57 FR 59800 confirmed 43783
614.27 Regulation at 57 FR 59800 confirmed 43783
626 Regulation at 57 FR 62025 eff. date revised; interim 31472
626.4 Table amended 69099
627 Regulation at 57 FR 62030 eff. date revised; interim 31472
627.900 Revised; interim 31472
627.902 (i) and (j) removed; (h) amended; interim 31472
627.904 (g) revised; (m), (n) and (o) added; interim 31472
627.906 (a) amended; interim 31473
628 Regulation at 57 FR 62052 eff. date revised; interim 31472
629 Regulation at 57 FR 62061 eff. date revised; interim 31472
630 Regulation at 57 FR 62061 eff. date revised; interim 31472
631 Regulation at 57 FR 62062 eff. date revised; interim 31472
637 Regulation at 57 FR 62072 eff. date revised; interim 31472
638.200 Amended 69099
638.301 (j) added 69100
638.302 Revised 69100
638.400 (a) revised 69100
638.401 (d) added 69100
638.539 (g)(1) revised 69100
638.541 Amended 69100
638.542 Existing text designated as (b); (a) added 69100
655 Authority citation revised 69228
655.700 (c) redesignated as (c)(1); (c)(2) added; interim 69228

Chapter VI—Employment Standards Administration, Department of Labor (Parts 700—799)

702 Authority citation revised 68032
702.202 Revised; OMB number 68032
702.214 Revised 68032
702.221 (a) revised 68032

Title 20—*Proposed Rules:*

10 62063
228 51024
237 51024
336 43577
404 ..... 54532, 64207, 67574

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 20 Proposed Rules 20—Con. Page
416...26383, 42514, 49249, 52458, 52464, 52943, 54532, 64207
626...33000
638...33000
655...52152, 58994
656...26077 00000.000

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

Chapter I Technical correction...17085
Meetings...48597
1 Technical correction...19876
1.1 (c) amended; eff. 5-8-94...17085
1.24 Regulation at 58 FR 2174 eff. date corrected to 5-8-94...17328
5 Technical corrections...17096, 60105
Authority citation revised...17106, 64490
Clarification...44033
5.10 (a)(18) introductory text revised...17095
(a)(35) added...17106
(a)(36) added...64490
5.20 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added...17095
5.22 (c) amended...17095
5.29 Added...17106
5.31 (d) introductory text and (2) revised...41634
5.34 Added...39142
5.35 (c) redesignated as (d); new (d) introductory text revised; new (c) and (d)(4) added...42496
5.39 Added...18346
5.61 Regulation at 58 FR 2410 eff. date corrected to 5-8-94...17341
5.80 (a)(1)(i) amended; (d) redesignated as (f); (c) introductory text, (1)(i), (ii), (iii) and new (f) introductory text revised; (c)(1)(iv), new (d) and (e) added...17094
5.99 Added...34213
5.100 Revised...17091
5.115 Amended...17093
10 Authority citation revised...49190
10.50 (c)(1) revised; (c)(20) and (21) added...49190
12.50 (a) and (c) amended...17096
14 Authority citation revised...41635
14.100 (c)(1)(ii) amended...17096
(d)(4) added...41635
(c)(17) heading revised...62521
16.1 (b)(2) amended; interim...65520
20 Technical corrections...17096, 17097
20.89 (c) added...61603
20.108 (d) added...48794
(c) revised...48796
73 Technical correction...36134
73.3106 Revised...17507
Regulation at 58 FR 17507 eff. date confirmed...41182
73.3121 Regulation at 58 FR 9541 eff. date confirmed...41024
73.3127 (a), (b)(1) and (2) revised...17510
Regulation at 58 FR 3227 confirmed...33909
Regulation at 58 FR 17510 eff. date confirmed...41183
74.101 (b) revised...17511
Regulation at 58 FR 17511 eff. date confirmed...41183
74.1109 (b) amended...17098
74.2101 (a) revised...17511
Regulation at 58 FR 17511 eff. date confirmed...41183
74.3206 (c)(1)(iv) and (v) amended; (c)(1)(vi) added...21542
Regulation at 58 FR 21542 eff. date confirmed...45841
74.3602 (b)(2)(iii) added...60109
100 Technical correction...17096
100.2 (d), (f), (g) and (h) introductory text corrected...17097
100.100 (Subpart F) Added...27933, 64136
101 Technical corrections...17085, 17096, 17099, 17100, 17101, 17102, 17343, 19876, 59657
Clarification...44033
101.2 (b) and (f) revised; eff. 5-8-94...44030
101.6 Removal at 58 FR 2850 eff. date corrected to 5-8-93...17103
101.9 (b)(5)(iv) and (b)(7) amended; eff. 5-8-94...17086
Regulation at 58 FR 2478 eff. date corrected to 5-8-94...17097
(c)(8)(iv) amended...17104

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

Regulation at 58 FR 2175 eff. date corrected to 5-8-94...17328
(c)(1)(i)(A), (6)(iii), (7)(ii), (8)(i), (ii) introductory text, (B), (d)(8), (9)(i), (ii) and (iii) corrected...17328
(d)(12) sample label correctly revised...17329
(e) introductory text corrected; (e)(5) sample label correctly revised...17330
(f)(2)(ii), (iv), (g)(8), (9), (h)(3)(iv), (j)(4) and (13)(ii)(A) corrected; (j)(13)(ii)(A) sample label correctly revised...17331
(b) revised; eff. 5-8-94...44048
(a) introductory text and (d) amended; (c)(1)(i), (2), (8)(vi), (d)(1)(ii)(D), (iii), (7), (11), (e)(5) sample label, (f)(4), (5), (j)(1)(i), (2)(i), (ii), (iii), (j)(3)(v), (4), (5)(ii), (10), (13)(i), (ii)(A), (B), (C), (14) and (15)(iii) revised; (j)(2)(iv) redesignated as (j)(2)(v); (d)(13), (14) and new (j)(2)(iv) added; eff. 5-8-94...44076
(j)(13)(ii)(A)(*1*) and (B) corrected...59363
(b)(2)(G) corrected...60109
101.10 Regulation at 58 FR 2410 eff. date corrected in part to 5-8-94 and 5-8-95...17341
101.12 (a)(4) and (b) Table 1 corrected...17086
(b) Table 2 correctly added...17087
(h)(11)(i) corrected...17091
Revised; eff. 5-8-94...44051
(b) Table 2 corrected...60109
101.13 Regulation at 58 FR 2410 eff. date corrected in part to 5-8-94 and 5-8-95...17341
(i)(1), (2), (3), (j)(2)(i), (m)(1)(ii), (p)(1) and (q)(5)(i) corrected; eff. in part 5-8-94 and 5-8-95...17342
(b)(4) added; (d)(2), (f), (g) introductory text, (1), (i)(2), (j)(1)(ii)(B), (l)(1)(ii) introductory text, (m)(1)(ii) introductory text and (q)(2) revised; (h)(1) amended; eff. 5-8-94...44030
101.14 (d)(2)(vii)(A) and (B) corrected...17097
(e)(6) revised...44038
101.25 Regulation at 58 FR 2413 eff. date corrected to 5-8-94...17341
101.30 (e)(2) and (l) revised; (h)(1) table amended...44063
(m) added...49192
101.54—101.69 (Subpart D) Regulation at 58 FR 2413 eff. date corrected to 5-8-94...17341
101.54 (a), (b)(1), (e)(1)(i), (iii)(A) and (2)(i) corrected...17342
101.56 (a) introductory text, (3), (d)(2) and (g) corrected...17342
101.60 (b)(2)(i), (ii) and (iii) redesignated as (b)(2)(i)(A), (B) and (b)(2)(ii); (b)(2) introductory text, new (b)(2)(i)(B), (4)(ii)(A), (5)(ii)(A), (c)(4)(ii)(A) and (5)(ii)(A) corrected; eff. 5-8-94...17342
(a) introductory text, (b)(1)(i) and (c)(1)(i) revised; (b)(2)(i)(B) amended; eff. 5-8-94...44031
101.61 (a), (b)(2), (3), (4), (5), (6)(ii)(A) and (7)(ii)(A) corrected...17342
(a) introductory text and (b)(1)(i) revised; (b)(2)(i)(B) and (b)(4)(i)(B) amended; eff. 5-8-94...44032
101.62 (b)(2), (3), (4)(ii)(A), (5)(ii)(A), (6)(ii), (c) introductory text, (4) introductory text, (ii)(A), (5)(ii)(A) and (d)(1)(ii) corrected...17342
(d)(2)(ii)(B), (d)(4) introductory text and (4)(i) corrected...17343
(b)(1)(i), (c)(1)(i), (d)(1)(i)(A), (ii)(A), (2)(ii)(A), (iv) introductory text, (A), (4)(i) introductory text, (ii) introductory text, (e)(1) and (2) revised; (b)(2)(i)(B), (1)(i) introductory text, (ii) introductory text and (2)(ii) introductory text amended; eff. 5-8-94...44032
(b)(2)(i)(B), (d)(1)(i), (ii), (d)(2)(ii), (ii)(A), (iv), (iv)(A),

TITLE 21 Chapter I—Con. Page
(d)(4)(i) and (ii) corrected; eff. 5-8-94 ... 60105
101.65 (b) and (c)(3) corrected ... 17343
101.68 (m)(1), (n)(1) and (o)(1) corrected ... 17343
101.69 (m)(1), (n)(1) and (o)(1) amended; (m)(1)(E), (n)(1)(C) and (o)(1)(C) added; eff. 5-8-94 ... 44033
101.70 (f) corrected ... 17097
101.71 (b) correctly designated ... 17100
101.72 (c)(2)(ii)(C) corrected ... 17101
101.73 Heading and Tables 1 and 2 corrected ... 17343
Table 2 corrected ... 17344, 17345, 17346
101.74 (b)(3) corrected ... 17100
101.95 (Subpart F) Regulation at 58 FR 2426 eff. date corrected to 5-8-94 ... 17341
101.100—101.108 (Subpart G) Regulation at 58 FR 2426 eff. date corrected to 5-8-94 ... 17341
101.100 Regulation at 58 FR 2189 eff. date corrected to 5-8-94 ... 17328
101 Regulation at 58 FR 2188 eff. date corrected to 5-8-94 ... 17328
Appendix B corrected ... 17332, 17333
102 Technical correction ... 17103
102.33 (c) corrected ... 17103
(g) redesignated as (g)(1); (g)(2) added; eff. 5-8-94 ... 44063
104 Technical correction ... 17104
105 Technical corrections ... 17096, 17104
Clarification ... 44033
130 Technical corrections ... 17096, 17103, 17105
Clarification ... 44033
131 Technical correction ... 17105
133.108 (d) introductory text corrected ... 17105
135 Technical corrections ... 17103, 17105
136 Technical correction ... 17103
137 Technical correction ... 17103
139 Technical correction ... 17103
145 Technical correction ... 17103
146 Technical correction ... 17103
150 Technical correction ... 17103
152 Technical correction ... 17103
155.190 (a)(6) revised; eff. 5-8-94 ... 17103
155.191 (a)(3)(iv) corrected ... 17104
156 Technical correction ... 17103
158 Technical correction ... 17103
160 Technical correction ... 17103
161 Technical correction ... 17103
163 Technical correction ... 17103
Revised ... 29529
164 Technical correction ... 17103
166 Technical correction ... 17103
166.110 (a) introductory text amended; (b)(4) revised ... 21649
168 Technical corrections ... 17103, 17105
169 Technical correction ... 17103
172 Authority citation revised ... 48598, 52221
172.120 (b)(1) table amended ... 52222
172.490 (a) amended ... 17098
172.804 (c)(10) and (d) revised ... 19771
(c)(5)(ii) and (6) revised; (c)(8), (11) and (12) removed ... 21097
(d) revised ... 21098
(c)(23) added ... 21099
(c)(18) revised ... 48598
172.892 (d) table amended ... 21100
175 Authority citation revised ... 39655
175.105 (c)(5) table amended ... 21256, 21257, 39656
176 Authority citation revised ... 51996
Authority citation corrected ... 65284
176.170 (a)(5) table amended ... 21103, 51996
176.180 (b)(2) table amended ... 60112
177 Authority citation revised ... 48599
177.1060 (e) amended ... 17098
177.1395 (b)(4) table amended ... 32610
177.1500 (a)(13) revised; (b) table amended ... 32610
177.1520 (c) table amended ... 17098
(d)(3)(ii) introductory text revised; (d)(3)(ii)(*e*) through (*i*) added ... 21258
177.1810 (b) table amended ... 65546
177.2600 (c)(4)(ii)(*b*) amended ... 60554
177.2910 Introductory text revised; (a)(3) added ... 48599
178 Authority citation revised ... 37855
178.1010 (b)(41) corrected ... 17099
(b)(43) added; (c)(19) amended ... 57555
178.2010 (b) table amended ... 17515, 37855

Page
178.3010 Table amended ... 64895
178.3130 (b) table amended ... 57556
178.3297 (e) table amended ... 17514
(c) and (e) table amended; (d) revised ... 67323
178.3400 (c) table amended ... 26687
178.3770 (a)(2), (3), (b)(2), (3), (d)(2) and (3) amended ... 17512
178.3910 (b)(2) table amended ... 17513
184.1685 (a)(4) added ... 27202
Technical correction ... 30220
186.1551 (a) amended ... 17099
189.220 (a) amended ... 17099
201 Authority citation revised ... 45201
201.319 Added ... 45201
206 Added; eff. 9-13-95 ... 47958
207.25 (c) added; eff. 9-13-95 ... 47959
207.37 (a)(1)(xi) added; eff. 9-13-95 ... 47959
210.3 (b)(22) added; eff. 8-3-94 ... 41353
211 Technical correction ... 19876
211.122 (f) revised; (g) redesignated as (h); new (g) added; eff. 8-3-94 ... 41353
211.125 (c) revised; eff. 8-3-94 ... 41354
211.130 (b), (c) and (d) redesignated as (c), (d) and (e); new (b) added; eff. 8-3-94 ... 41354
291.501 Revised; interim ... 38709
291.505 (d)(1)(i)(C), (iii)(B)(*1*), (C), (3)(i), (13)(i) and (f)(2)(viii) amended; (d)(6)(ii) removed; (k) redesignated as (l); (b)(2)(v), (vi)(D), (c)(4)(i), (ii), (d)(1)(ii), (iv), (6) heading, (6)(i) heading, (h)(1) and new (l) revised; (d)(1)(iii)(B)(*6*), (4)(v) and new (k) added 38709
310 Authority citation revised ... 46745, 54462
310.201 (a)(29) removed; eff. 9-23-94 ... 49898
310.530 Added ... 47610
310.531 Added; eff. 5-16-94 ... 60336
310.536 Added ... 46754
310.538 Added ... 47605
310.544 Added ... 31241
310.545 (a)(25) redesignated as (a)(25)(i); new (a)(25)(i) heading, (ii) and (d)(16) added; (d) introductory text and (11) revised; eff. 6-14-94 ... 65455
Page
(a)(8) and (18) text redesignated as (a)(8)(i) and (18)(i); new (a)(8)(i) heading, (10)(v), (vi) and (vii), (18)(i) heading, (ii), (iii), (vi), (22)(ii), (23), (24), (25) and (d)(11) added; (d) introductory text and (1) revised ... 27641
(a)(19) removed ... 31241
(a)(22)(iii) and (d)(12) added; (d) introductory text revised ... 46745
(a)(26), (d)(13) and (14) added; (d) introductory text revised; eff. 9-2-94 ... 46748
(a)(13) removed ... 46754
(a)(11) removed ... 47605
(a)(22)(iv) and (d)(15) added; (d) introductory text revised; eff. 9-23-94 ... 49898
(a)(8)(iii) and (d)(21) added; (d) introductory text revised; eff. 4-21-94 ... 54455
(a)(18)(ii) amended; (d)(11) revised; (d)(22) added; eff. 10-21-94 ... 54462
(a)(5) removed; eff. 5-16-94 ... 60337
312.57 (c) revised ... 25926
314 Authority citation revised ... 47351
314.50 Introductory text and (h)(2) revised; (d)(1)(ii) redesignated as (d)(1)(ii)(*a*); (d)(1)(ii)(*b*), (*c*), (d)(1)(v), (h)(3) and (4) added ... 47351
314.54 (a)(1)(i) revised; (a)(2) amended; (a)(4) added ... 47351
314.60 (c) added ... 47352
314.70 (a) revised ... 47352
(b)(2)(xi), (xii) and (d)(9) added; eff. 9-13-95 ... 47959
314.71 (b) revised ... 47352
314.94 Introductory text amended; (a)(9)(i) and (d)(4) revised; (d)(5) added ... 47352
314.96 (b) redesignated as (c); new (b) added ... 47352
314.125 (b)(17) revised ... 25926
314.127 (b) revised ... 25927
314.150 (b)(9) revised ... 25927
314.440 (a)(1) and (2) amended; (a)(4) added ... 47352
320.31 (c) revised; (d) added; (e) and (f) removed ... 25927
320.38 Revised ... 25927
320.63 Revised ... 25928

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 21 Chapter I—Con. Page

330.3 Added; eff. 9-13-95 ... 47959
331.30 (d) introductory text revised; (h) added; eff. 8-26-94 ... 45208
333.201—333.280 (Subpart C) Added; eff. 9-23-94 ... 49898
341.74 (c)(4)(v) and (vi) added; eff. 10-20-94 ... 54236
341.76 (c)(4) revised; eff. 10-20-94 ... 54242
347 Added; eff. 10-21-94 ... 54462
358.601—358.650 (Subpart G) Added; eff. 12-14-94 ... 65455
430.4 (a)(64) added ... 26652
(a)(65) added ... 26656
(a)(66) added ... 26659
(a)(67) added ... 26663
(a)(68) added ... 26666
430.5 (a)(99) and (b)(101) added ... 26652
(a)(100) and (b)(102) added ... 26656
(a)(101) and (b)(103) added ... 26659
(a)(102) and (b)(104) added ... 26663
(a)(103) and (b)(105) added ... 26666
430.6 (b)(101) added ... 26653
(b)(102) added ... 26656
(b)(103) added ... 26659
(b)(104) added ... 26663
(b)(105) added ... 26666
436.215 (b) table amended; (c)(13) added ... 26653
(b) table amended; (c)(14) added ... 26656
(b) table amended ... 26659
(c)(15) amended ... 26660
(b) table amended; (c)(16) added ... 26666
436.368 Added ... 26660
441.220 Redesignated as 441.220b ... 26669
Added ... 26670
441.220a Added ... 26670
441.220b Redesignated from 441.220 ... 26669
442.80 Added ... 26660
442.180 Added ... 26661
442.180a Added ... 26661
442.180b Added ... 26662
443 Added ... 26667
444.380e Added ... 26671
450.30 Added ... 26664
450.230 Added ... 26665
452.50 Added ... 26653
452.60 Added ... 26657
452.150 Added ... 26654
452.160 Added ... 26658
510 Authority citation revised ... 44611
510.515 Introductory text, (b)(7)(i) and (c) table amended; (b)(7)(i)(c) removed ... 30119
510.600 (c)(1) table and (2) table amended ... 26523, 30118, 36135, 37855, 38971, 44611, 47056, 47377, 59169, 59947, 63890
514 Authority citation revised ... 51011
514.210 Removed ... 51011
520.88d Heading corrected ... 18304
520.90c (b) amended ... 61016
520.90d (b) amended ... 61016
520.90e (b) amended ... 61016
520.90f (b) amended ... 61016
520.240 Removed ... 41025
520.445b (b) amended; (b) heading and (d)(4) introductory text revised ... 61015
520.580 (b)(1) amended ... 41025
520.1448a (a)(2) amended ... 26523
520.1485 Added ... 38972
520.1629 (a), (b), (c) heading, (1), (2) and (3) redesignated as (a)(1), (2), (3) heading, (i), (ii) and (iii); ; new (b) added ... 39443
520.1660d (a) and (b) revised; (e)(1)(iii), (iv), (v) and (2) added ... 42854
(a)(5) added; (b)(3) revised; (e)(1)(ii)(A)(*3*), (B)(*3*) and (C)(*3*) amended ... 43794
520.1720c (b) amended ... 29777
520.1806 (b) amended ... 44611
520.1840 (c)(3) amended ... 26523
520.1870 (c)(1)(i) revised ... 42853
520.1871 Added ... 58652
520.2041 (b) amended ... 44611
520.2042 (b) amended ... 44611
520.2088 (c) added ... 65664
520.2089 Added ... 65665
520.2158a (d)(1) and (2) revised; (d)(3) removed ... 47211
520.2345d (e)(1)(iii)(A), (B), (C), (3)(iv)(A), (B) and (C) revised ... 33331
520.2613 Added ... 36135
522.90b (d)(2)(ii) correctly designated ... 18304
522.820 Revised ... 43795
522.1002 Redesignated from 522.1822 and revised ... 47377

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

Page

522.1079 (c)(2) and (3) revised ... 52222
522.1696a (b)(1) amended ... 65285
522.1822 Redesignated as 522.1002 ... 47377
522.1870 (c)(1)(ii) revised ... 42853
522.2100 (c), (d) and (e) added ... 57556
522.2112 Added ... 59947
522.2220 (a)(2) revised ... 38972
524.1044g Added ... 38973
524.2101 (c) amended ... 41025
526.464b (c) introductory text amended ... 61016
526.1810 Added ... 58486
529.1030 (c)(1)(iii) and (2)(iii) added ... 59169
529.1186 (b) amended ... 17346
556.230 (a) and (b) revised ... 43795
556.500 (e) added ... 42855
556.515 Added ... 58486
556.610 Revised ... 47211
558 Technical correction ... 17348
558.4 (d) table amended ... 30119, 58653
558.15 (g)(1) table and (2) table amended ... 17515
(g)(1) table amended ... 30119
(g)(2) table amended ... 30120
558.55 (d)(2) table amended ... 30120
558.58 (d)(1) table amended ... 30120
558.95 (b)(1)(xi)(*b*) and (xii)(*b*) amended ... 47056
(a)(1) revised; (b)(4) redesignated as (b)(5); new (b)(4) added ... 54287
558.258 (c)(3)(iv)(C) amended ... 47973
558.274 (c)(1) table amended ... 30120
558.300 Added ... 58653
558.311 (b)(4) and (6) revised; (e)(3) redesignated as (e)(4); new (e)(3) added ... 43560
(e)(2)(i) table amended ... 47973
558.355 (d)(7)(vi) added ... 17516
(b)(13) revised ... 53883
558.460 (c)(1) table amended; (c)(2)(vii) and (viii) removed; (c)(2)(ix) and (x) redesignated as (c)(2)(vii) and (viii) ... 30120
558.550 (a) amended ... 47056
558.625 (b)(54) amended ... 63890
573.750 Added ... 59170
573.920 Regulations at 52 FR 10888, 21001, and 54 FR 14215 stayed ... 47973
579.22 (b) table revised ... 18148
630.13 (b)(4) amended ... 19609
804 Opportunity for comment ... 46514
Added ... 46519
807 Opportunity for comment ... 46514
Heading and authority citation revised ... 46522
807.3 (d)(2) and (g) revised; (e)(3) and (4) amended; (e)(5) added ... 46522
807.20 (a)(4) revised; (c) and (d) added ... 46522
807.21 Revised ... 46522
807.22 (a) and (c) revised ... 46522
807.25 (b) revised ... 46523
807.65 (e) revised; (g) removed ... 46523
821 Opportunity for comment ... 43442
Revised ... 43447
Authority citation revised ... 43455
Regulation at 58 FR 43447 and 43455 comment period extended ... 48599
Technical correction ... 52440
821.20 (b)(1) table and (c) table amended ... 43455
864.5680 (b) revised; (c) removed ... 51571
874.4490 Revised ... 29534
878 Authority citation revised ... 57558
878.5030 Added ... 57558
890.3450 Removed ... 29535
900 (Subchapter I) Added; interim ... 67562
900.10-900.14 (Subpart B) Added; interim ... 67570
1020 Authority citation revised ... 26396
1020.30 Revised; eff. in part 5-3-94 ... 26396
1020.31 Revised; eff. in part 5-3-94 ... 26401
(c)(2) corrected ... 31067
1020.32 Revised; eff. in part 5-3-94 ... 26404
1220.40 (a) revised ... 64137
1270 Added; interim ... 65520

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1301 Technical correction ... 31907
1301.22 (b)(6) revised ... 31175
1301.24 (b) and (c) introductory text revised ... 31175
1304 Technical correction ... 31907
1304.02 (f) through (i) redesignated as (g) through (j); new (f) added ... 31175

TITLE 21 Chapter II—Con. Page

1304.03 (e) through (g) redesignated as (f) through (h); new (e) added; new (h) revised....31175
1308.11 Regulation at 57 FR 18824 eff. date extended to 11-1-93....25934
(b)(4) revised....43796
Regulation at 57 FR 43401 eff. date extended to 3-21-94....44611
(g)(3) removed; (f)(3), (4), (5), (g)(4) and (5) redesignated as (f)(4), (5), (6), (g)(3) and (4); new (f)(3) added....53406
1308.12 (c)(11) through (25) redesignated as (c)(12) through (26); new (c)(11) added....43796
1308.24 (i) table revised....17107
1308.34 Table amended; interim....34708
Regulation at 58 FR 16772 confirmed....34709
Regulation at 58 FR 34708 confirmed....49924

Chapter III—Office of National Drug Control Policy (Parts 1400—1499)

1403 Appendix A corrected....26185

Title 21—*Proposed Rules:*

1—1299 (Ch. I)...33690, 34389, 40393, 43579, 45080, 59695, 59697
1....29716, 67444
5....52719, 65139
17....30680, 40103
25....52719, 65139
100....17171, 29716, 64208
101...17171, 18057, 29557, 29716, 33055, 33700, 33715, 33731, 40104, 40190, 44091, 53254, 53296, 54539, 68791
102....17171, 29557
103....34010, 41612, 52042
104....29716
109....33871
129....34010
135....17172
136....53305, 65276
137....53305, 65276
139....53305, 65276
161....17171, 29557
165....34010
166....43580, 50301
170....52719, 65139
171....52719, 65139
172....53312
174....52719, 65139
179....64526
182....27959, 59697
184....27959, 34010, 59697
189....33860, 40759
201....54224, 54228, 59622, 67444
207....46587
211....47088
310....59622
314....47088, 59622
328....54466
330....17553, 59626
331....49826
334....46589
336....45216
338....45217
350....38541
352....28194, 53460
357....26886
358....17554
501....67444
514....47088
606....34962
610....34962
700....28194, 47611, 53460
701....47611, 67444
740....28194, 53460
801....67444
812....52142, 52144, 53245, 64209
813....52142, 64209
814....52729
820....61952, 64353
870....36290, 46919
876....25902, 35416
882....45865
1020....26407
1040....27495
1301....31180, 52246
1304....53680
1306....49453
1308....25788, 25790, 44311, 58819
1311....52246
1313....42894, 49455

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised...40586, 68527
41.2 (l) amended; interim....40586
(i) amended; interim....43439
41.51 (f) added; interim....68527
41.54 (e) and (f) redesignated as (f) and (g); new (e) added; interim....68527
41.59 Added; interim....68527
42.2 Regulation at 56 FR 49680 confirmed....48447
42.11 Regulation at 56 FR 49680 confirmed....48447
42.12 Regulation at 56 FR 49681 confirmed....48447
42.21—42.28 (Subpart C) Regulation at 56 FR 49676 confirmed....48447
42.31—42.38 (Subpart D) Regulation at 56 FR 49676 confirmed....48447
42.32 Regulations at 56 FR 51172 and 55077 confirmed....48446
42.41 Regulation at 56 FR 49682 confirmed....48447
42.42 Regulation at 56 FR 49682 confirmed....48447
42.43 Regulation at 56 FR 49682 confirmed....48447
42.51—42.56 (Subpart F) Regulation at 56 FR 51174 confirmed....48446
42.62 Regulation at 56 FR 49682 confirmed....48447
42.63 Regulation at 56 FR 49682 confirmed....48447
42.65 Regulation at 56 FR 49682 confirmed....48447
42.67 Regulation at 56 FR 49682 confirmed....48447
42.73 Regulation at 56 FR 49682 confirmed....48447
42.74 Regulation at 56 FR 49682 confirmed....48447
42.83 Regulation at 56 FR 49682 confirmed....48447
89 Authority citation revised....65120
89.1 Revised....65120
120 Revised....39283
121 Revised....39287
Authority citation revised...60113, 60115
121.1 Amended....47638, 60115
121.12 Revised....60113
121.14 Removed....60115
121.15 Revised....60115
122 Revised....39298
123 Revised....39299
124 Revised....39305
125 Revised....39310

Page

126 Revised....39312
126.1 (a) revised....35865
127 Revised....39316
128 Revised....39320
130 Revised....39323
625.4 (a)(3) through (11) redesignated as (a)(4) through (12); new (a)(3) added; interim....64897
655.601 (a) revised....65086

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

201.11 (b)(4) revised....48797

Chapter III—Peace Corps (Parts 300—399)

308.14 Introductory text revised; (d) added....39657

Chapter V—United States Information Agency (Parts 500—599)

514.20 Heading and (j)(1) corrected....48448
514.22 (d)(1)(iv) corrected....48448
514.27 (b)(2) and (e)(1) corrected....48448
514.44 (a)(1)(iii) correctly designated....18305
(a)(2) and (f)(4)(iv) corrected....48448

Chapter VII—Overseas Private Investment Corporation, International Development Cooperation Agency (Parts 700—799)

705 Revised; interim....33320

Chapter XVII—United States Institute of Peace (Part 1701)

Chapter XVII Established....57697
1701.101 Revised....57697
1701.170 (c) revised....57697

Title 22—*Proposed Rules:*

41....40024, 49456, 61856
42....68791
171....57974
308....31181

TITLE 22 Title 22—Con. Page

502.....42896
503.....60416, 61729

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

140 Authority citation revised.....39143
140.201—140.207 (Subpart B) Revised.....39143
450 Revised.....58064
500 Added; interim.....63475
Technical correction.....64374
500—511 (Subchapter F) Heading revised; interim.....63475
625 Authority citation revised.....38298
625.4 (a)(2) revised.....25939
(a)(1) revised.....25943
(a)(3) through (11) redesignated as (a)(4) through (12); new (a)(3) added; interim.....64897
625.5 (a)(13) added.....38298
625 Appendix A amended.....25943
626 Removed; interim.....63485
Technical correction.....64374
635 Authority citation revised.....38975
635.410 (b)(1) through (4) and (c)(1)(ii) revised.....38975
635.417 (a) introductory text revised.....38975
650.305 Regulation at 57 FR 53281 confirmed.....52666
655.601 (a) revised.....65986
659 Removed.....54819

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1200 (Subchapter A) Added.....41033
1204.4 Supplements A through I removed.....41037
1205.4 (c) and (e) removed; (d) redesignated as (c); introductory text, (a) and new (c) revised.....41037
1212.3 (d) corrected.....62415
1215 Added.....44759
1260 Added.....54820

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

Page

1309.4 (a)(2) removed; (a)(3) redesignated as (a)(2); (a) introductory text and (a)(1) revised.....21655
1309.5 (a)(3)(ii) redesignated as (a)(3)(iv); (a)(3)(i) revised; new (a)(3)(ii) and (iii) added.....21655
1313 Regulation at 57 FR 29011 confirmed.....21655
1313.1 Amended.....21655
1313.3 (d) revised; (i) redesignated as 1313.6(e)(3); (j) through (m) redesignated as (i) through (l).....21655
1313.4 (a)(2) and (b) removed; (a)(3) redesignated as (a)(2) and (c) redesignated as (b); (a) introductory text, (a)(1) and new (b) revised.....21655
1313.5 (d)(2) and (4) removed; (a)(3)(ii) redesignated as (a)(3)(iv), (c)(2)(i) through (iv) redesignated (c)(2)(i)(A) through (D), (c)(2) introductory text redesignated as (c)(2)(i) introductory text, new (c)(2)(i)(D) redesignated in part as (c)(2)(ii) and (d)(3) and (5) redesignated as (d)(2) and (3); introductory text, (a)(1)(vi), (3)(i) and new (d)(2) revised; (a) heading, (1) introductory text, (2)(i), (ii), (iii), new (3)(iv), (b)(1) and (c)(3) amended; new (a)(3)(ii), (iii) and (f) added.....21656
1313.6 (b)(2) redesignated as (b)(2)(i); (a)(1), (b)(1), new (2)(i), (c)(1), (2)(ii), (d)(1), (2)(ii), (iii), (3)(i), (ii) and (f)(1) amended; (b)(2)(ii) and (c)(2)(iii) added; (e)(3) redesignated from 1313.3(i).....21657
1313.7 Revised.....21657
1313.8 Revised.....21657

Title 23—*Proposed Rules:* Page

420.....67510
511.....67510
657.....19367, 65830
658.....19367, 65677
660.....51794, 55033
710.....38987
712.....38987
713.....38987
720.....38987
1260.....54832

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

4.5 Regulation at 57 FR 34249 confirmed.....61017
4.10 Regulation at 57 FR 34249 confirmed.....61017
4.100 Regulation at 57 FR 34249 confirmed.....61017
4.105 Regulation at 57 FR 34249 confirmed.....61017
25.9 (x) revised.....47379
27 Authority citation revised.....34884
27.1 Amended.....34884
27.3 Amended.....34884
27.5 (a) amended.....34884
27.20 (a), (b)(1), (c)(1) and (3) revised; (c)(5) added.....34884
50 Authority citation revised.....41336
50.1 (c) revised.....41336
50.17 Introductory text and (a) revised.....41336
50.19 Corrected.....17164
Introductory text revised; (i) added.....41337
50.20 (a) revised.....41337
50.21 (b) removed; (a) introductory text, (1) and (2) redesignated as introductory text, (a) and (b).....41337
50.22 Removed.....41337
50.36 Removed.....41337
50.43 Removed.....41337
58.1 Revised; interim.....34139
58.2 Revised; interim.....34139
58.4 Revised; interim.....34140
58.5 Heading, introductory text, (c) and (i) revised; (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); interim.....34140
58.6 Added; interim.....34140
58.10 Amended; interim.....34141
58.13 Revised; interim.....34141
58.14 Amended; interim.....34141
58.15 (a) revised; interim.....34141
58.18 (Subpart C) Heading and text revised; interim.....34141
58.22 Amended; interim.....34141
58.23 Revised; interim.....34141
58.31 Revised; interim.....34141
58.32 (a) amended; interim.....34141
58.35 (a)(1) introductory text and (b) amended; (a)(2), (4) introductory text and (c) revised; (a)(7), (8) and (d) added; interim.....34141
58.52 Amended; interim.....34142
58.66 Amended; interim.....34142
58.71 Revised; interim.....34142
58.77 (a) revised; (b) amended; interim.....34142
86 Authority citation revised.....47058
86.15 Amended.....47058
86.20 (f) removed; (g) and (l) redesignated as (f) and (g).....47058
86.25 (f) removed; (g) and (h) redesignated as (f) and (g).....47058
86 Appendix A amended.....47058, 47059
Appendix B revised.....47059
91.19 Partial waiver.....49156
91.44 Partial waiver.....49156
92.2 Amended; interim.....34142
92.50 (f) added; interim.....34143
92.51 Removed; interim.....34143
92.52 Revised; interim.....34143
92.61 (b)(2), (4), (5), (c)(2) and (5) revised; interim.....34143
92.62 (a) and (b) revised; interim.....34143
92.63 Revised; interim.....34144
92.101 (c) revised; interim.....34144
92.102 (b)(2) revised; (c) added; interim.....34144
92.103 (b) introductory text revised; interim.....34144
92.107 (b) revised; interim.....34144
92.150 (c)(2) and (3) removed; (c)(4) through (9) redesignated as (c)(2) through (7); (b)(5), (6) and new (c)(2) revised; interim.....34144
92.152 Revised; interim.....34144

TITLE 24 Subtitle A—Con. Page

92.203 Revised; interim....34145
92.205 (a)(1) and (2) revised; interim....34145
92.206 (e) and (f) revised; (g) added; interim....34145
92.208 Removed; interim....34145
92.209 Removed; interim....34145
92.210 Revised; interim....34145
92.211 (b) revised; interim....34145
92.218 (a) revised; (c) redesignated as (d); new (c) added; interim....34145
92.220 (a)(3) revised; (a)(6) added; interim....34146
92.221 Revised; interim....34146
92.222 Revised; interim....34146
92.252 (a)(5) amended; interim....34146
92.253 (c) revised; interim....34147
92.254 (a)(1)(i), (ii), (4), (b) introductory text and (1) revised; interim....34147
92.300 Revised; interim....34147
92.302 (a)(2), (b)(1)(iv), (d), (e) and (f) revised; (a)(3), (b)(1)(v), (c)(6) and (7) added; interim....34148
92.350 (a)(4) revised; interim....34148
92.400 (a)(4) and (5) revised; (a)(6) added; interim....34148
92.500 (a) amended; (d)(2) revised; interim....34149
92.504 (c) introductory text revised; (d) redesignated as (e); new (d) added; interim....34149
92.508 (a)(1)(ii) revised; (a)(2)(iii) and (iv) removed; (a)(2)(v), (vi) and (vii) redesignated as (a)(2)(iii), (iv) and (v); new (a)(4)(iv) and (v) added; interim....34149
92.600 Revised; interim....34149
92.610 Revised; interim....34149
92.611 (a)(1) revised; interim....34150
92.612 (a)(4) and (e) revised; interim....34150
92.613 (a) revised; (i) added; interim....34150
92.614 (a)(1)(ii), (2) introductory text and (c) revised; (a)(5) amended; (e) added; interim....34150
92.615 (a)(1)(i), (ii), (4), (b) introductory text and (1) revised; (c) added; interim....34151
92.616 Added; interim....34151

Page

92.620 Revised; interim....34152
92.621 Revised; interim....34152
92.642 (b)(1) revised; interim....34152
0—99 (Subtitle A) Appendix C removed....36526

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200 Authority citation revised....41337
200.300 Revised....41000
200.310 Introductory text revised....41000
200.415 Revised....41000
200.507 Revised....41001
200.610 Amended....41337
200.615 (a) revised....41337
200.620 (a) and (b) amended....41337
200.630 Revised....41337
200.635 Amended....41337
200.640 Revised....41337
200.925 Revised....60248
200.925a (d)(3)(iii) revised....60248
200.925b (k)(1) revised....60248
200.925c (a)(1)(i), (ii), (iii), (2), (c)(1), (2) and (3) revised; (a)(3) and (c)(4) added....60248
200.926 (a)(1) revised....41337
(d)(1)(i)(B)(*2*), (C)(*1*), (ii)(B)(*2*)(*ii*) and (3) revised....60249
200.926b (a)(1), (2) and (c) revised....60249
200.926c Table amended....60249
200.926d (c)(1)(ii) revised; (c)(4)(iv) added....41337
(a)(1), (b)(3)(i), (d)(3) and (e) revised....60249
200.929 (b)(2) revised; (b)(3) removed....60250
200.929a Added....60250
200.933 Amended....60250
200.934 (b)(1) and (2) revised....60250
200.938 Revised....67673
200.939 Revised....67673
200.940 Revised....67674
200.941 Revised....67674
200.945 Added....67674
200.946 Added; interim....34503
200.947 Added....67675
200.948 Added....67675
200.949 Added....67675

Page

200.950 Added....67676
200 Appendix A revised....60250
Appendix B removed....60253
201 Authority citation revised....41001
High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
201—265 (Subchapter B) Heading revised; interim....64038
201.10 (b)(1), (2), (c), (d)(1) and (2) amended; (e) revised....41001
201.60—201.63 (Subpart G) Added....47379
203 Authority citation revised....35370, 41338
High cost limits....44760
Regulation at 58 FR 44760 corrected....47319
203.12 Revised....41338
(a)(2) corrected....45553
203.15 Revised....41001
203.18 (a), (e), (f)(2), (4) and (g) revised; (f)(5), (6) and (h) added....41001
203.18b (a) and (b) revised....41002
203.32 (b) and (c) introductory text revised....42647
203.41 Added....42648
203.43c (a) and (g) revised....41002
203.44 (g) revised....41003
203.45 (c) revised....41003
203.47 (e) revised....41003
203.50 (f)(1) revised....41003
203.259a (b) and (c) revised....41003
203.270 (c) amended....41003
203.284 Introductory text added; (a) and (b) revised....41003
203.285 Added....41004
203.289 Introductory text added; (a) and (b) revised....32057
203.378 (c)(3) revised....32057
203.390 (b) revised....35370
203.510 Added....42649
203.512 Added....42649
203.670 (b)(3) revised; interim....54246
203.671 (d) added; interim....54246
203.675 (b)(4) amended; interim....54246
203.676 Amended; interim....54246
204.1 Revised....41004
204.3 Revised....41339
204.260 Revised....41004
207 Authority citation revised....34215
207.4 (f)(3) revised; (g) added....43074
207.32 (a)(3) removed; interim; eff. to 10-26-94....57560

Page

207.32a Regulation at 58 FR 9541 confirmed; OMB number....63068
207.36 (a) revised; interim....34215
208 Added; pending and eff. in part 3-21-94 and 5-20-94....61022
Eff. date corrected to 3-21-94....62415
208.108 (b) eff. date corrected to 5-20-94....62415
213 Authority citation revised....34215
213.7 (k)(3) revised; (n) added....43075
213.44 (a) revised; interim....34215
213.45 (d)(1)(iii) removed; interim; eff. to 10-26-94....57560
213.520 (b) revised....42650
213.527 Added....42650
215 Technical correction....21658
219.110 (b) revised; (h) through (l) added....64139
219.127 Added....64139
219.205 (b)(1) introductory text revised....64139
219.210 Revised; OMB number....64140
219.230 Revised....64140
219.305 (c)(1) and (4) revised....64140
219.310 Revised; OMB number....64140
219.330 (b) revised; (c) added....64141
220 Authority citation revised....34216
220.30 (d)(2) revised; (d)(5) and (6) added....41005
220.507 (f) added....43075
220.580 Introductory text and (a) revised; interim....34216
221 Authority citation revised....34216
221.20 (c)(2) revised; (c)(5) and (6) added....41005
221.514 (e)(3) revised; (f) added....43076
221.560 (a)(1)(iii) removed; interim; eff. to 10-26-94....57560
221.563 (a) revised; interim....34216
222.3 Revised....41005
222.4 (c) revised....41005
226.4 Revised....41005
226.5 (c) revised....41005
231.7 Revised....43076
232 Authority citation revised....34216
232.31a Revised....43077
232.94 Introductory text and (a) revised; interim....34216
232.600 Introductory text and (a) revised....34216
234 High cost limits....44760
Regulation at 58 FR 44760 corrected....47319

TITLE 24 Chapter II—Con. Page
234.14 Revised ... 41005
234.27 Revised ... 41006
234.48 Revised ... 41007
234.55 (b) and (c) introductory text revised ... 42650
234.66 Added ... 42650
234.531 Revised ... 43077
236 Technical correction ... 21658
236.10 (e) revised; interim ... 37813
236.40 (b)(1)(iii) removed; interim; eff. to 10-26-94 ... 57560
236.60 Revised; interim ... 37813
236.901 Revised; interim ... 37813
240.5 (b) revised ... 41007
241 Authority citation revised ... 34217
241.85 (a)(1) revised; interim ... 34217
241.600 (a)(1) revised; interim ... 34217
241.1060 Revised; interim ... 37814
241.1067 Revised; interim ... 37814
241.1068 Added; interim ... 37814
241.1085 (a)(1) revised; interim ... 34217
242 Authority citation revised ... 34217
242.91 Introductory text and (a) revised; interim ... 34217
242.95 Revised ... 43078
244 Authority citation revised ... 34217
244.38 Revised ... 43079
244.182 Introductory text and (a) revised; interim ... 34217
246 Authority citation revised ... 64038
246.1 (e) added; interim; eff. to 12-5-94 ... 64038
248.5 (d) redesignated as (f); new (d) and (e) added; interim ... 37814
248.101 Amended; interim ... 37814
248.135 (c) and (f) amended; interim ... 37814
248.141 (b) redesignated as (e); new (b), (c) and (d) added; interim ... 37815
248.145 (a) introductory text and (9)(i) revised; interim ... 37815
248.153 (a)(1) revised; (d) and (e) redesignated as (e) and (f); new (d) added; interim ... 37815
248.157 (m)(4), (5), (6) and (n) revised; interim ... 37816
248.173 (e)(2)(i) through (vi) redesignated as (e)(2)(ii) through (vii); new (e)(2)(i) and (g)(5) added; (s) revised; interim ... 37816
248.175 (b) revised; interim ... 37816
248.201 Amended; interim ... 37816
248.211 (b) revised; interim ... 37816
248.213 (a) amended; interim ... 37816
248.217 Revised; interim ... 37817
248.401—248.420 (Subpart E) Added; interim ... 37817
266 Added; interim; eff. to 12-5-94 ... 64038
280 Authority citation revised ... 38532
280.305 Revised ... 38532
280.322 (a)(4) revised ... 58282
280.330 (c) and (d) added ... 58282
290 Revised ... 43712
291 Authority citation revised ... 54247
291.1 (a) revised; interim ... 54247
291.5 Amended; interim ... 54247
291.100 (a)(5), (c) and (d) revised; interim ... 54247
291.105 (a) and (b)(1)(i) revised; (c) amended; interim ... 54247
291.110 (a) and (b)(1) revised; (g) added; interim ... 54248
291.130 (b)(2) revised; (b)(3) added; interim ... 54248
291.135 (c)(1)(v) redesignated as (c)(1)(vi); new (c)(1)(v) and (d) added; (c)(2) revised; interim ... 54248

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

511 Authority citation revised ... 52567
511.76 (h)(1) and (2) revised ... 52567
511.77 (d) revised ... 52567
572 Added ... 36526

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

770 Correctly removed; CFR correction ... 61024
791 Authority citation revised ... 41428
791.403 (b)(1)(ii) revised; interim ... 41428

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

Page
812 Authority citation revised ... 39659
812.1 (a)(2) revised ... 39659
812.3 Revised ... 39659
812.4 Revised ... 39659
813 Technical correction ... 21658
882.404 (b)(3) correctly revised; CFR correction ... 61024
882.708 (d) correctly revised; CFR correction ... 61024
886 Authority citation revised ... 43720
886.133 Added ... 43721
886.301 Revised ... 43722
886.302 Amended ... 43722
886.304 (b) amended ... 43722
886.307 Amended ... 43722
886.309 (g) amended ... 43722
886.310 Revised ... 43722
886.311 Revised ... 43722
886.318 (d) added (OMB number) ... 43722
886.321 (c)(1) amended ... 43722
886.329 (d) amended ... 43722
886.330 (a) revised; (c) amended ... 43722
886.331 (a)(1) revised ... 43722
886.332 (c)(2) amended ... 43722
886.333 (d)(2) revised ... 43723
886.338 Added ... 43723
888 Fair market rent schedules ... 51415
Corrected ... 57965
889.105 Amended; interim ... 26838
889.205 Revised; interim ... 26838
889.230 (f) correctly removed; CFR correction ... 61024
889.235 (a) and (d) revised; interim ... 26838
889.245 (a)(3)(ii) amended; interim ... 26839
889.250 Existing text designated as (a); heading and (b) added; interim ... 26839
889.265 (d) revised; interim ... 26839
889.270 Revised; interim ... 26839
889.300 Revised; interim ... 26841
889.305 (a) introductory text, (1) and (d) amended; interim ... 26842
889.310 (a) introductory text, (1), (2), (3), (b)(1), (ii), (2), (3)(i) and (ii) amended; interim ... 26842
889.800—889.805 (Subpart H) Added; interim ... 26842
890.100 (b) revised; interim ... 26818
890.105 Amended; interim ... 26818
890.205 Revised; interim ... 26818
890.230 (h) correctly removed; CFR correction ... 61024
890.235 (a) and (d) revised; interim ... 26818
890.245 (d)(i) and (ii) redesignated as (d)(1) and (2); new (d)(2) amended; interim ... 26819
890.260 (d) revised; interim ... 26819
890.265 Revised; interim ... 26819
890.300 Revised; interim ... 26822
890.305 Nomenclature change; interim ... 26823
890.310 Nomenclature change; interim ... 26823

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

905 Technical correction ... 21658
Authority citation revised ... 30883
Regulation at 58 FR 30883 confirmed ... 30908
905.102 Amended ... 17164
Amended; interim; eff. 12-29-93 to 5-29-95 ... 62523
905.190 Added ... 51956
905.255 (a)(2) revised; (j) added; interim; eff. 12-29-93 to 5-29-95 ... 62523
905.301 (d) and (e)(4) revised ... 39659
905.340 Revised ... 19350
905.921 (b) redesignated as (c) and revised ... 58786
Regulation at 58 FR 58786 eff. date delayed to 2-4-94 ... 64141
905.3001—905.3030 (Subpart R) Added; interim ... 30883
912 Authority citation revised ... 39659
912.1 (a)(2) revised ... 39660
912.3 Revised ... 39660

TITLE 24 Chapter IX—Con. Page

912.4 Revised....39660
913 Technical correction....21658
941 Authority citation revised....62524
941.103 Amended; interim; eff. 12-29-93 to 5-29-95....62524
941.202 (d) correctly revised; CFR correction....61024
941.204 (d) added; interim; eff. 12-29-93 to 5-29-95....62524
941.406 (a)(1) and (2)(i) revised; interim; eff. 12-29-93 to 5-29-95....62524
960 Authority citation revised....39660
960.409 (e) revised....39660
962 Added; interim....30889
Regulation at 58 FR 30889 confirmed....30908
965.201—965.205 (Subpart B) Added....51957
970 Authority citation revised....58786
970.12 Revised....58786
Regulation at 58 FR 58786 eff. date delayed to 2-4-94....64141
984 Added; interim....30896
Regulation at 58 FR 30896 confirmed....30908

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3699)

3280 Notice of availability....54484
Authority citation revised; section authority citations removed....55002
3280.1 Revised....55002
3280.2 Amended....55002
3280.3 Revised....55002
3280.4 (a) and (b) revised....55002
3280.5 Revised....55003
3280.8 Redesignated as 3280.11; new 3280.8 added....55003
3280.9 Added....55003
3280.10 Added....55003
3280.11 Redesignated from 3280.8; (c) revised....55003
3280.103 Revised....55003
3280.109 Removed; new 3280.109 redesignated from 3280.110....55004
3280.110 Redesignated as 3280.109; new 3280.110 redesignated from 3280.111....55004

Page

3280.111 Redesignated as 3280.110; new 3280.111 redesignated from 3280.112....55004
3280.112 Redesignated as 3280.111; new 3280.112 redesignated from 3280.113....55004
3280.113 Redesignated as 3280.112; new 3280.113 redesignated from 3280.114....55004
3280.114 Redesignated as 3280.113....55004
3280.202 Revised....55004
3280.203 (a) and (b)(4) revised....55005
3280.208 (c) and (d) revised....55005
3280.302 Revised....55005
3280.303 (g) revised....55005
3280.304 (b)(1) revised....55006
3280.305 (g)(3) and (4) redesignated as (g)(4) and (5); (b)(4) and new (g)(3) added; (d), (f)(2), (g)(2) and (i)(1)(i) revised....55006
3280.306 (a) introductory text revised....55007
3280.309 (b) revised....55007
3280.401 (b) revised....55007
3280.402 (c)(1)(i) Figure A-1 revised....55007
3280.403 (d)(2) and (e)(1) revised....55009
3280.405 (c)(1) and (2) revised....55009
3280.406 (b) introductory text revised....55009
3280.504 Heading and (a) revised; (c) added....55009
3280.506 Revised....55009
3280.508 Revised....55011
3280.510 (b) revised; (c) added....55011
3280.511 (a)(1), (b) and (c) revised....55012
3280.602 Amended....55012
3280.603 (a)(5) revised....55012
3280.604 Revised....55013
3280.606 (b)(1)(iii) revised....55014
3280.607 (b)(2), (i), (ii), (iv), (v), (4)(i) and (c)(1) revised; (c)(5) and (6) added....55014
3280.609 (b)(5), (6), (d)(1)(i) and (e)(3) revised; (b)(7) and (8) added....55014
3280.610 (c)(5), (d)(1) and (e)(1)(iii) revised....55015
3280.611 (d)(5) revised....55015
3280.612 (b)(3) revised....55015
3280.702 Amended....55015

Page

3280.703 Revised....55015
3280.704 (b)(2) introductory text and (b)(5)(i) revised....55016
3280.705 (b)(1), (3), (c), (d), (k) introductory text, (l)(1), (2) introductory text, (ii) and (3) revised; (h) table and (k) amended....55016
3280.706 (b)(1), (3) and (4) revised....55017
3280.707 (d)(2) introductory text revised....55017
3280.708 (b)(3) and (c)(1) revised....55018
3280.709 (e)(6) revised....55018
3280.710 (b)(1) revised; (g) removed....55018
3280.713 Revised....55018
3280.714 (a) revised....55018
3280.715 (b)(4) and (e)(1) revised....55019
3280.801 (a), (b), (c) and (e) revised....55019
3280.803 (k)(1), (3) introductory text, (ii) and (iii) revised; (l) removed....55019
3280.804 (a), (g)(1)(ii), (i) and (j) revised; (k) and (l) added....55019
3280.805 (a)(1), (2) and (3)(ii) through (v) revised....55020
3280.806 (a)(2), (b), (d)(2), (7) and (8) revised....55020
3280.807 (c) and (e) revised; (g) removed....55020
3280.808 (a) and (m) revised; (q), (r) and (s) added....55020
3280.809 (b)(1) and (2) revised....55020
3280.810 Revised....55020
3280.811 (a) introductory text, (1), (5) introductory text, (6), (b) introductory text and (1) through (5)(iv) revised....55021
3280.813 (a) revised....55021
3280.815 (b) revised....55021
3500 Appendixes C and D correctly added....17165

Title 24—*Proposed Rules:*

0—99 (Subtitle A)....52560
16....37598
92....26048, 52560
125....17172
135....52534, 59423
200....26212, 41445, 48556

Page

202....37885
203....60823
204....48556
206....48556
207....35724
213....35724
215....53461
219....34506, 52560
220....35724
221....35724, 53461
232....35724
234....35724
236....53461
241....35724
244....35724
267....48556
290....21960
291....42707
300....64713
310....64713
390....64713
570....43764, 52560, 60088, 68795
572....52560
574....52560
576....17764, 52560
583....52560
585....49830
594....32210
700....52560
880....35416, 44968, 53461
881....35416, 44968, 53461
882....44968, 53461
883....35416, 44968, 53461
884....35416, 44968, 53461
885....44968, 53461
886....21960, 35416, 44968, 53461
888....27062, 36175, 68615
889....44968, 52560, 53461
890....52560, 53461
904....44968
905...32006, 44968, 51261, 52560, 53461, 58513
906....44968
909....27964
960....32006, 44968, 53461
961....52560
963....52560
965....58513
968....29728
990....51261
3280....19536, 32316
3282....19536, 32316
3500....28478, 36176, 64066

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

Page

11 Revised 54411
11.301 Redesignated as 12.100 54411
11.302 Redesignated as 12.101 54411
11.303 Redesignated as 12.102 54411
11.304 Redesignated as 12.103 54411
11.305 Redesignated as 12.104 54411
11.306 Redesignated as 12.105 54411
11.401 Corrected 58729
12 Amended; heading added 54431
Authority citation added 54431
12.100 Redesignated from 11.301 54411
12.101 Redesignated from 11.302 54411
12.102 Redesignated from 11.303 54411
12.103 Redesignated from 11.304 54411
12.104 Redesignated from 11.305 54411
12.105 Redesignated from 11.306 54411
262 Added; eff. 6-13-94 65249

Chapter III—National Indian Gaming Commission (Parts 500—599)

517 Added 44448

Title 25—*Proposed Rules:*

226 59142
294 53026
518 ..... 18353, 27967

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 18149, 19060, 33515, 33764, 34885, 42206, 54039, 67678, 68300, 68303, 68749, 68757
Technical correction 29028
Heading revised 33764
Public hearings 58102, 59657, 62260
1.6 Revised 54501
1.25.3T (g)(1)(iii) and (p) added 67689
1.45B-1T Added 68033
1.46-3 (e)(3)(iii) removed 25557
1.47-1 (e)(4) removed 25557
1.48-1 (e) and (o) removed 25557
1.48-7 Removed 25557
1.48-8 Removed 25557
1.56(g)-1 (a)(5)(ii)(B) amended 42207
1.61-14 (b)(7) added 53127
1.103-8 (a)(5) revised 33515
(a)(5)(i) corrected 44452
1.103-13 Removed 33515
1.103-13T Removed 33515
1.103-14 Removed 33515
1.103-15 Removed 33515
1.103-15AT Technical correction 44452
1.103-18 Removed 33515
1.108(c)-1T Added 68300
1.112-1 Revised 47640
1.147(b)-1 Added 33515
1.148-0 Revised 33515
1.148-1 Revised 33517
(b) and (c)(4)(i)(B)(*2*) 44452
1.148-2 Revised 33520
(e)(4)(i) corrected; (e)(4)(iv) added 44452
1.148-3 Revised 33522
(h)(4) corrected 44452
1.148-4 Revised 33524
(d), (g), (h)(4)(ii)(B) and (C) corrected 44452
1.148-5 Revised 33529
(c)(3)(i)(A), (E) introductory text and (*2*) corrected 44452
(c)(2)(vi) and (viii) corrected 44453
1.148-6 Revised 33532
(b)(2)(i)(B)(*1*), (d)(3)(ii)(A)(*1*) and (*4*) corrected 44452
1.148-7 Revised 33535
(f)(2) and (k)(1)(i) corrected 44452
1.148-8 Revised 33540
1.148-9 Revised 33541
(c)(2)(i), (ii)(A) and (h)(1)(iv) corrected 44453
1.148-10 Revised 33544
(c)(2)(vi) and (viii) corrected 44453
1.148-11 Revised 33547
(c)(2) and (e) corrected 44453
1.148-12T Removed 33548
1.148-13T Removed 33548
1.149(b)-1 Added 33548
1.149(d)-1 Revised 33548
(d)(1) corrected 44453
1.149(b)(3)-1T Removed 33548
1.149(g)-1 Added 33549

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

Page

1.150-0 Correctly removed 44453
1.150-1 Revised 33549
(b) and (c)(1)(i) corrected 44453
1.150-2 Added 33551
(g)(1) corrected 44453
1.162-1 (b)(8) added 53128
1.162-20T Added 68295
1.163(d)-1T Added 68301
1.166-2 (d)(3)(iii)(D), (E) and (iv)(C)(*2*) revised 53658
1.166-2T Removed 53658
1.167(j)-1 Removed 25557
1.167(j)-2 Removed 25557
1.167(j)-3 Removed 25557
1.167(j)-4 Removed 25557
1.167(j)-5 Removed 25557
1.167(j)-6 Removed 25557
1.167(j)-7 Removed 25557
1.167(k)-1 Removed 25557
1.167(k)-2 Removed 25557
1.167(k)-3 Removed 25557
1.167(k)-4 Removed 25557
1.185-1 Removed 25557
1.185-2 Removed 25557
1.185-3 Removed 25557
1.191-1 Removed 25557
1.191-2 Removed 25557
1.191-3 Removed 25557
1.213-2 Removed 25557
1.250-1 Removed 25557
1.263(a)-1 (b) amended 42207
1.263A-0 Added 42207
1.263A-1 Added 42209
1.263A-1T (a)(4) amended 42218
1.263A-2 Added 42219
1.263A-3 Added 42224
(a)(1), (2)(iii)(B), (b)(1) and (2) corrected 47784
1.263A-4 Heading added 42233
1.263A-5 Heading added 42233
1.263A-6 Heading added 42233
1.280F-1T (b) table, (c)(1) and (3) amended; authority citation removed 19060
1.280F-5T (a), (f)(1) and (g) introductory text amended 19060
1.280F-7 Redesignated from 1.280F-7T; heading amended 19060
1.280F-7T Redesignated as 1.280F-7 19060
1.301-1 (n) removed 25557
1.305-1 Removed 25557
Corrected 26524
1.311-1 Removed 25557
1.311-2 Removed 25557
1.333-1 Removed 25557
1.333-2 Removed 25557
1.333-3 Removed 25557
1.333-4 Removed 25557
1.333-5 Removed 25557
1.333-6 Removed 25557
1.334-1 (c) removed 25557
1.334-2 Removed 25557
1.336-1 Removed 25557
1.337-1 Removed 25557
1.337-2 Removed 25557
1.337-3 Removed 25557
1.337-4 Removed 25557
1.337-5 Removed 25557
1.337-6 Removed 25557
1.358-5 Removed 25557
1.382-0 Removed 25557
1.382-1 Amended 51573
1.382-1A Removed 25557
1.382-2A Removed 25557
1.382-2T (j)(2)(iii)(B)(*1*), (D)(*1*) and (F)(*1*) amended 51573
1.382-3 (j) added 51573
1.382-3A Removed 25557
1.382-4A Removed 25557
1.401-4 Heading and (d) revised 46778
1.401(a)-4 Amended; heading revised 46778
1.401(k)-1 Regulation at 58 FR 14151 eff. date corrected to 8-15-91 18448
1.401(l)-0 Amended 46830
1.401(l)-1 (a)(1) and (3) amended; (c)(22) through (33) redesignated as (c)(23) through (25) and (27) through (35); (b), (c)(2), (6), (9), (17)(i), (19), (21) and new (35) revised; new (c)(22) and (26) added 46831
1.401(l)-2 (a)(1) amended 46832
1.401(l)-3 (b)(4)(iii)(E), (5), (c)(2)(vi), (d)(8)(iii) introductory text, (g) and (h) revised; (c)(2)(ix) and (d)(8)(iii)(D) added; (e)(4) removed; (e)(5) and (6) redesignated as (e)(4) and (5); (a)(1), (b)(4)(iii)(C), (c)(2)(i), (ii), (iii), (3) *Example 2*, (e)(1), new (e)(4)(i), (ii) and new (e)(5) *Example 6* amended 46832

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 26 Chapter I—Con. Page

1.401(l)-5 (b)(5), (c)(1)(i), (ii), (iii) and (3) revised; (c)(4) redesignated as (c)(5); (b)(8)(v), (c)(1)(v), (vi), new (4) and (5) *Example 5* added; (b)(8)(iii)(A), (c)(2) and new (5) amended 46833
1.401(l)-6 Revised 46835
1.401(a)(26)-1 (b)(4) revised 46838
1.401(a)(26)-9 (b)(1) revised 46838
1.401(a)(4)-0 Revised 46778
1.401(a)(4)-1 Revised 46780
1.401(a)(4)-2 Revised 46781
1.401(a)(4)-3 Revised 46785
1.401(a)(4)-4 Revised 46796
1.401(a)(4)-5 Revised 46800
1.401(a)(4)-6 Revised 46802
1.401(a)(4)-7 Revised 46804
1.401(a)(4)-8 Revised; (c)(2)(iv) added 46807
1.401(a)(4)-9 Revised 46810
1.401(a)(4)-10 Revised 46812
1.401(a)(4)-11 Revised 46813
1.401(a)(4)-12 Revised 46820
1.401(a)(4)-13 Heading and (a) through (e) revised 46823
1.401(a)(5)-1 (e)(7) removed; (e)(8) redesignated as (e)(9); (h) added 46830
1.410(b)-0 Amended 46838
1.410(b)-1 Heading revised 46839
1.410(b)-2 Heading, (c)(2) and (f) revised; (d) and (e) amended 46839
1.410(b)-3 (a)(1), (2)(ii), (iii) and (iv) revised; (a)(2)(v) removed 46839
1.410(b)-5 (d) and (e) revised 46840
1.410(b)-6 (a)(1) and (2) amended; (b)(1), (2), (d)(2) and (g) revised; (i) added 46842
1.410(b)-7 (d)(5) and (e)(1) amended 46843
1.410(b)-9 Amended 46843
1.410(b)-10 Revised 46844
1.411(d)-4 Amended 46828
1.412(c)(1)-3 Added 54491
1.414(s)-1 (b)(2) existing text designated as (b)(2)(i); (f) through (i) redesignated as (g) through (j); (a)(3), (b)(3), (c)(4)(i), (d)(3)(v) and new (g)(1)(i) amended; (b)(2)(i) heading, (ii), (d)(3)(iii)(C), (vi), new (f) and new (g)(1)(iii) added; (c)(5), (d)(2)(i), (ii), (3)(ii), (iii)(A), (e), new (h) and new (j) revised 47063
1.424-1 Removed 25557
1.424-2 Removed 25557
1.446-1 (c)(1)(ii)(A) amended 42233
1.446-3 Added 53128
1.448-1 (g), (h) and (i) redesignated from 1.448-1T (g), (h) and (i); new (h)(4)(ii) redesignated as (h)(3)(ii); new (g)(2)(ii)(B)(*l*), (iii), (3)(i), (5), (h)(4) and (i)(2)(i) amended; new (g)(3)(iii) and (i)(1) revised; heading, new (g)(3)(iv), (i)(3) and (4) added 68299
1.448-1T (g), (h) and (i) redesignated as 1.448-1 (g), (h) and (i) 68299
1.451-1 (f) added 53135
1.453C-0T Removed 25557
1.453C-1T Removed 25557
1.453C-2T Removed 25557
1.453C-3T Removed 25557
1.453C-4T Removed 25557
1.453C-5T Removed 25557
1.453C-6T Removed 25557
1.453C-7T Removed 25557
1.453C-8T Removed 25557
1.453C-9T Removed 25557
1.453C-10T Removed 25557
1.461-1 (a)(2)(i) amended 42233
1.461-4 (f) added 53135
1.469-0 Amended 58787
1.469-1T (e)(5) amended 29536, 45059
1.469-2 (d)(2)(xii) amended 29536
(f)(5)(ii), (iii) and (iv) revised 58787
1.469-2T (f)(5)(ii), (iii) and (iv) revised 58788
1.471-3 (b) and (c) amended 42233
1.471-4 (a) revised; (b) heading, (c) heading, and (d) added 42233
1.471-5 Amended 42234
1.471-8 (a) amended 42234
1.471-11 (a) amended 42234
1.475(b)-1T Added 68749
1.475(b)-2T Added 68749
1.475(c)-1T Added 68750
1.475(c)-2T Added 68750
1.475(d)-1T Added 68750
1.475(e)-1T Added 68751
1.482-1 Correctly redesignated as 1.482-1A 17775

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

Page

1.482-1A Correctly redesignated from 1.482-1 17775
1.482-1T (c)(3)(iii) and (d)(3)(i)(B) *Example (2)* corrected 17776
(c)(2)(iv), (d)(1)(ii)(A), (2)(i)(A) and (e)(3)(iii)(B) corrected 28446
1.482-2 (d) and (e) correctly redesignated as 1.482-2A (d) and (e); remaining text redesignated as 1.482-2T 17775
1.482-2A (d) and (e) correctly designated from 1.482-2 (d) and (e) 17775
1.482-2T Correctly redesignated from 1.482-2 17775
(a), (b) and (c) corrected 17776
1.482-3T (c)(4)(ii) *Example* 10 corrected 17776
(c)(4) *Examples* 6, 8 and 11 corrected 28446
1.482-4T (e)(3)(i) and (iii) corrected 17776
1.482-5T (d)(1) corrected 28446
1.482-7T Correctly added 17776
Revised 28921
1.534-4 Removed 25557
1.585-1 (a) amended; (b) revised 68757
1.585-2 (d)(3) amended 68757
1.585-3 (a) and (b) amended 68757
1.585-5 Added 68757
1.585-6 Added 68760
1.585-7 Added 68762
1.585-8 Added 68764
1.593-9 Removed 25557
1.597-8 Redesignated from 1.597-8T; heading amended 18149
1.597-8T Redesignated as 1.597-8 18149
1.613-3 (a) designation and (b) through (i) removed 25557
1.704-1 (b)(1)(vi), (2)(iv)(*d*)(*3*) and (c) revised 67679
1.704-1T Removed 67679
1.704-3 Added 67679
1.704-3T Added 67686
1.807 Authority citation amended 25557
1.809-9 Added 64899
1.809-10T Added 47061
1.852-12 Added 43798
(b)(1) corrected 49352
1.856-9 Removed 25557
1.857-11 Added 43798
1.884-1 (d)(2)(vii) corrected 17166
1.897-4 Removed 25557
1.911-7 (a)(2)(i)(B) and (C) amended; (a)(2)(i)(D) added 34885
1.988-2 (h) added 53135
1.1044(a)-1T Added 68301
1.1092(d)-1 Added 53135
1.1101-1 Undesignated center heading and text removed 25557
1.1101-2 Removed 25557
1.1101-3 Removed 25557
1.1101-4 Removed 25557
1.1102-1 Removed 25557
1.1102-2 Removed 25557
1.1102-3 Removed 25557
1.1221-2T Added 54039
1.1233-2T Added 54041
1.1234-4T Added 54041
1.1256(h)-1T Removed 25557
1.1256(h)-2T Removed 25557
1.1256(h)-3T Removed 25557
1.1502-7 Removed 25557
1.1502-13 (c)(2) amended 42234
1.1502-25 Removed 25557
1.1561-1A Removed 25557
1.1561-2A Removed 25557
1.1561-3A Removed 25557
1.6012-7T Revised 68296
1.6045-3T Removed 25557
1.6050H-2 (a)(2)(iii) and (b)(2)(iii) amended; (a)(2)(iv), (3) and (4) redesignated as (a)(2)(v), (4) and (5); new (a)(2)(iv), new (3) and (b)(2)(iv) added; new (a)(4), (b)(2)(ii) and (6) revised 68753
1.6050I-1 (b) and (e)(1) revised 33764
1.6050I-1T Removed 33764
1.6050P-0T Added 68303
1.6050P-1T Added 68303
1.6061-2T Revised 68296
1.6065-2T Revised 68297
1.6655(e)-1T Added 68301
5 Authority citation revised 25557
5.852-1 Removed 25557
5.857-1 Removed 25557
5c Authority citation revised 25557
5c.305-1 Correctly removed 26524
5c.1256-1 Removed 25558
Correctly removed 26524
5c.1256-2 Removed 25558
Correctly removed 26524
5c.1256-3 Removed 25558

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 26 Chapter I—Con. Page

Correctly removed....26524
6a Authority citation revised....33553
6a.103A-2 (i)(3)(v) added....33553
12 Authority citation revised....25558
12.5 Removed....25558
31 Authority citation amended....68035
31.607(a)-1 (a) heading revised....68035
31.6011(a)-4 Heading, (a) heading and (1) revised; (b) redesignated as (c); (a)(1), (2), (3) headings and new (b) added....68035
31.6302-1 (e)(1)(iii) and (iv) revised; (e)(2) amended....68035
31.6302-3 (b) revised....68035
31.6302-4 Added....68036
40 Authority citation amended....63072
40.6011(a)-3T Added....63072
47 Added....62525
47.3-1T—47.3-11T (Subpart C) Added....62528
47.3-6T (a) amended....68305
47.3-7T (b) revised....68305
48 Authority citation amended....63072
48.4041-0T Added....63072
48.4081-10T Added....63073
48.4081-11T Added....63073
48.4081-12T Added....63073
48.4082-1T Added....63073
(b)(1) and (2)(i) revised....68305
48.4082-2T Added....63074
48.4082-3T Heading added....63074
48.4082-4T Added....63074
48.4083 Added....63074
48.4101-3T Added....63075
48.4101-4T Added....63078
48.6427-8T Added....63078
48.6427-9T Added....63079
54 Authority citation revised....25558
54.6071-1T Removed....25558
301 Authority citation amended....17519, 68764
Technical correction....31344
301.7605-1 (b) and (c) redesignated as (h) and (i); (a), (b) through (g) and (j) added....17519
301.7605-1T Removed....17520
301.7701-2 (a)(4) and (b)(1) amended....28502
301.7701(b)-2 (d) introductory text redesignated as (d)(1) introductory text and heading added; (d)(1)(i) through (x) correctly designated; (d)(1) concluding text redesignated as (d)(2) and amended....17516
301.9100-1 (b) revised....34886
301.9100-7T (a)(1) table amended....68764
(a)(4)(ii) table amended....68765
602 Technical correction....28446
602.101 (c) table amended (OMB numbers)...25558, 33553, 33764, 42234, 51576, 54041, 63080, 68036, 68300, 68301, 68304, 68751, 68753, 68765

Title 26—*Proposed Rules:*

1...47013, 47089, 47090, 53168, 53682, 54075, 54077, 58145, 59698, 62299, 66310, 67744, 68091, 68330, 68334, 68335, 68336, 68337, 68798, 68799, 69302
31...28366, 28371, 28374, 35419, 44628, 58820
40....63131
47....62558, 62559, 68338
48....45081, 48801, 63131, 68338
52....21963, 25791
301....18185, 21550, 29560, 63541, 68092
601....48802
602...27503, 29028, 32473, 54077, 68336, 68337

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4.40 (b) heading added....40354
4.50 (a) amended....40354
5.23 (a)(3)(ii) compliance date delayed to 8-28-95....45252
5.32 (c) amended....40354
7.10 Amended....40354
7.22 (b)(3) revised; interim....21231
(b)(7) added....44132
7.26 Suspended; heading revised; interim....21231
7.28 (b) revised; interim....21231
7.29 (f) and (g) revised; interim....21232
7.54 (c) revised; interim....21232
7.71 (Subpart H) Added; interim....21232

CHANGES APRIL 1, 1993 THROUGH DECEMBER 30, 1993

Page

9.74 (c) introductory text amended....40354
9.101 (c) introductory text amended....40354
9.123 (c)(1), (9), (10) and (11) revised; (c)(12) added....65126
9.133 Added....35876
9.134 Added....35884
9.136 (c) introductory text amended....40354
9.143 Added....28350
9.145 Added....28352
19 Authority citation revised....40354
19.203 (b)(1) amended....40354
19.204 (b)(1) amended....40354
22.37 (a) amended; (d) and (e) added....19061
24.65 (b) introductory text amended....19063
24.75 (f) amended....19064, 40354
24.136 (d) amended....19064
24.137 (a) amended....40354
24.140 (b)(3) amended....19064
24.146 (a) and (b) amended....19064
24.148 Table revised....19064
24.176 (b) revised....19064
24.182 (a) and (b) revised....52230
24.197 Amended....19064
24.237 Amended....19064
24.246 Table amended....52231
24.248 Table amended....52232
24.257 (a)(4) revised....52232
24.268 Amended....19064
24.273 (a) revised....19064
(a)(1) and (2) corrected....48424
24.275 (a)(2) revised; (3) amended....19064
24.292 (b) amended....19065
24.293 (b) amended....19065
24.294 (b) amended....19065
24.295 (b) amended....19065
(a) amended....40354
24.300 (b) amended; (g) revised....19065
24.303 (d) revised....19065
24.313 Introductory text amended....19065
24.316 Amended....19065
24.317 Amended....19065
25.11 Amended....40357
25.152 (b)(2) amended....40357
25.156 Revised....40357
25.158 Revised....40357
25.186 (d) amended....40357
25.192 (c) amended....40357
25.195 Amended....40357
25.196 (c) amended....40357
25.276 (b) amended....40357
25.286 (a) and authority citation amended....40357
25.296 (b) introductory text, (1), (2) and authority citation revised....40358
25.297 Revised....40358
47.52 (a) revised....47831
53.62 (b)(3) amended....40354
53.93 (b) amended....40354
53.133 (a)(2)(ii) amended....40354
178 Authority citation revised....40355
178.11 Amended....40589
178.89 Added....40589
178.151 Added....40590
194.11 Amended....40355
194.134 Amended....40355
194.291 Amended....40355
194.292 Amended....40355
252.148 Amended....40358
259.219 Amended....40355

Title 27—*Proposed Rules:*

1....48801
4....35908, 42517, 44629, 57763, 65295
5...35908, 42517, 44629, 46141, 53682, 57763
7...21126, 21130, 21233, 38542, 38543, 42517, 57763
9....44152, 49949, 57764

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

Page

Chapter I Statement of activities....39444
0 Authority citation revised....62260
0.17 Added....62260
0.103a Added....35371
1 Revised....53658
2.56 (d) amended; (h) added....51780
2.62 (a)(5) amended; (i)(2) revised; (k)(7) removed; (k)(8) redesignated as (k)(7); interim....65548
5 Authority citation revised....37418
5.2 Revised....37418
5.3 Amended....37419
5.5 Added....37419
5.205 (d) added....37419
5.601 Revised....37420
5.1101 Added....37420
11 Authority citation revised....51223
11.10—11.12 (Subpart C) Revised....51223
14 Appendix amended....36867
16.82 Added....41038
23 Revised....48452
44.101 (a)(5) revised....59948
44.200 (a)(2) and (3) revised....59948
44.300 (c) revised....59948
51.24 (b) amended....51225
55.1 Amended....35372
55.6 Revised....35372
55.7 (b) amended....35373
55.13 (b) amended....35373
55.17 Amended....35373
55.20 (c) amended....35373
55 Appendix revised....35373
Appendix corrected....36516

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

503.2 (a) revised; (c) removed; (b)(1) through (8) redesignated as (b)(3) through (10) and (d) redesignated as (c); new (b)(1), (2) and (d) added....44428
503.3 (b)(3) through (6) redesignated as (b)(4) through (7); new (b)(3) added....44428
503.4 (b)(1) and (c)(2) removed; (b)(2) through (5) and (c)(3), (4) and (5) redesignated as (b)(1) through (4) and (c)(2), (3) and (4)....44428
503.5 Introductory text revised; (a)(1) and (2) redesignated as (a)(2) and (3); new (a)(1) added....44428
503.7 (b)(3) removed; (b)(1) and (2) redesignated as (b)(2) and (3); new (b)(1) added....44428
504.1 Revised....60768
504.2 (a) revised....60768
513.10—513.13 (Subpart B) Revised and redesignated as 513.10—513.12 (Subpart B)....68765
524.20—524.25 (Subpart C) Revised....50808
527 Authority citation added; subpart authority citations removed....47976
527.41 Introductory text revised....47976
527.42 Redesignated as 527.43; new 527.42 redesignated from 527.46....47976
527.43 Redesignated as 527.44; new 527.43 redesignated from 527.42....47976
527.44 Redesignated as 527.45; new 527.44 redesignated from 527.43; (c), (d) introductory text, (1), (2), (e), (g) and (h)(2) amended....47976
(g) amended....47977
527.45 Redesignated as 527.46; new 527.45 redesignated from 527.44....47976
527.46 Redesignated as 527.42; new 527.46 redesignated from 527.45....47976
(b) and (c)(3) revised....47977
540 Authority citation revised....39095
540.40 Amended....39095
540.50 (b)(1) amended; (c) revised....39095
540.51 (b)(1) revised; (b)(4), (g)(2) and (4) amended....39095
541.13 Tables 3 and 4 amended....39095
542.10 Amended....58246

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 28 Chapter V—Con. Page

542.11 (a) introductory text revised....58246
542.13 (a), (b) and (c) amended....58246
542.14 Amended....58246
542.15 Amended....58246
544 Authority citation revised...65850, 65852
544.10 (Subpart L) Removed....58247
544.30—544.34 (Subpart D) Revised and redesignated as 544.30—544.35....65850
544.60—544.61 (Subpart G) Removed....65852
544.80—544.84 (Subpart I) Revised and redesignated as 544.80—544.8....65852
544.90—544.91 (Subpart J) Removed....65853
551.11 (b) revised....58248
551.14 (c) revised....58248
570.10—570.24 (Subpart B) Removed....58248

Title 28—*Proposed Rules:*

2....65571, 65572
36....37052
58....48472
65....58994
77....39976
301....39098
540....39096
545....39096

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

1.7 (d) suspended....58955
4 Administrative variance....49192
5.2 (n)(4) suspended....58955
5.5 (a)(1)(ii) suspended; (a)(1)(v) added....58955
18 Authority citation revised....38500
18.9 Heading revised; (e) added....38500

Chapter I—National Labor Relations Board (Parts 100—199)

102 Authority citation revised....42235
102.117 (m), (n), and (o) added....42235

Chapter IV—Office of Labor-Management Standards, Department of Labor (Parts 400—499)

Page

402 Authority citation revised....67604
402.4 Revised; eff. 12-31-94....67604

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

507 Authority citation revised....69228
507.700 (c) redesignated as (c)(1); (c)(2) added; interim....69228
697.1 (a)(1), (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), (g)(1), (h)(1), (i)(1), (j)(1), (k)(1), (l)(1), (m)(1) and (n)(1) revised....43561
697.3 Revised....43562
825 Regulation at 58 FR 31812 comment period extended....45433

Chapter XII—Federal Mediation and Conciliation Service (Parts 1400—1499)

1400.735-12 (a)(2) correctly revised....35377

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.1000 Table Z-3 correctly revised....40191
1915 Authority citation revised....35514
1915.5 Amended....35514
1915.12 (a)(3) and (b)(3) revised....35514
1915.99 Redesignated as 1915.1200....35514
1915.1000—1915.1450 (Subpart Z) Revised....35514
1915.1200 Redesignated from 1915.99....35514
1926.1147 Appendix D corrected....40468

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

2603.28 Amended....63081
2603.32 (a) amended....63081

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

2603.39 Amended....63081
2606 Authority citation revised....35383
2606.1 (a), (b)(1) and (5) through (8) amended; (b)(10) and (11) removed; (b)(3), (9) and (c) revised; eff. 8-2-93....35383
(b)(3)(i) and (9) corrected....37991
2606.2 Amended; eff. 8-2-93....35384
2606.3 Amended; eff. 8-2-93....35384
2606.4 Existing text designated as (a); new (a) heading and (b) added....44740
(b)(1) corrected....48600
2606.7 Amended; eff. 8-2-93....35384
2606.9 (b) amended; eff. 8-2-93....35384
(b) amended....63081
2606.22 Amended; eff. 8-2-93....35384
2606.34 Amended; eff. 8-2-93....35384
2606.36 (a) amended; eff. 8-2-93....35384
2606.51 Amended; eff. 8-2-93....35384
2606.54 Amended....63081
2606.56 Amended....63081
2607 Authority citation revised....63081
2607.2 (a) amended....63081
2607.3 (a) amended....63081
2607.4 (a) amended....63081
2607.5 (a) amended....63081
2607.6 (a) and (c) amended....63081
2607.7 (c) amended....63081
2607.8 (a) and (c) amended....63081
2608 Authority citation revised....63081
2608.170 (c) amended....63081
2610 Authority citation revised....63081
2610.4 Revised....63081
2610 Appendixes A and B amended....38050, 53407
2612 Heading revised; eff. 8-2-93....35384
Authority citation revised....35384
2612.1 (a) revised; (b) amended; eff. 8-2-93....35384
2612.2 Amended; eff. 8-2-93....35384
2612.3 Revised; eff. 8-2-93....35384
2615 Authority citation revised....63082
2615.1 (a) revised; (b) amended; eff. 8-2-93....35385
2615.2 Redesignated in part as 2615.14(c)(2); amended; eff. 8-2-93....35385

Page

2615.3 (b)(2), (4), (c)(2) and (5) amended; (6) revised; eff. 8-2-93....35385
(e) amended; eff. 8-2-93....35386
(e) amended....63082
2615.5 Amended; eff. 8-2-93....35386
2615.12 (a) amended; eff. 8-2-93....35386
2615.14 (a) and (b) introductory text amended; (b)(3) added; (c) existing text designated in part as (c)(1) and (c)(2); (b)(2) and new (c)(2) revised; eff. 8-2-93....35386
2615.15 (a) amended; eff. 8-2-93....35386
2615.16 (a) and (b) amended; eff. 8-2-93....35386
2615.18 (d) amended; (f) heading revised; eff. 8-2-93....35386
2615.21 (a) introductory text and (1) amended; eff. 8-2-93....35386
2615.22 (a) introductory text and (c) amended; eff. 8-2-93....35386
2615.23 Heading amended; (a) and (e) heading revised; eff. 8-2-93....35386
2616 Authority citation revised....63082
2616.4 (c) amended; eff. 8-2-93....35387
2616.7 (b) amended....63082
2617 Authority citation revised....44740, 63082
2617.3 (b)(2) amended....44740
2617.8 (b) amended....63082
2617.25 (a) introductory text amended; (a)(1) and (2) added....44740
(a)(2)(i) corrected....48600
(b)(2) amended....63082
2617.28 (f)(4) added....44740
(f)(4)(i) corrected....48600
2618 Authority citation revised....63082
2618.31 (d) amended....63082
2619 Authority citation revised....50815
2619.3 (a) amended....50815
2619.25 (b)(2) amended....50815
2619.41 Revised....50815
2619.42 Redesignated as 2619.43; new 2619.42 added....50815

TITLE 29 Chapter XXVI—Con. Page
2619.43 Removed; new 2619.43 redesignated from 2619.....50815
2619.49 Added.....50816
2619 Appendix B amended...38051, 48305, 53409, 60117, 65549
Appendix A amended.....50820, 50821
Appendix B revised.....50824
Appendix C revised.....50825
Appendix D amended.....66278
2621 Appendix A amended.....65552
2622 Heading revised; eff. 8-2-93.....35387
Authority citation revised.....63082
2622.1 Revised; eff. 8-2-93.....35387
2622.2 Amended; eff. 8-2-93.....35387
Corrected.....37991
2622.3 Revised; eff. 8-2-93.....35388
2622.4 Heading, (b) and (c) revised; (d) amended; eff. 8-2-93.....35388
2622.5 (a), (b) and (c) amended; eff. 8-2-93.....35389
2622.6 Revised; eff. 8-2-93.....35389
(a) and (c) corrected.....37991
2622.7 Heading, (a) and (b) revised; (d) removed; eff. 8-2-93.....35389
(c) amended; eff. 8-2-93.....35390
2622.8 Heading and (a) through (d) revised; (e) amended; eff. 8-2-93.....35390
2622.9 Heading, (a) and (b) amended; eff. 8-2-93.....35390
(c) amended; (d) revised; eff. 8-2-1993.....35391
2622.10 (a) introductory text and (b) amended; eff. 8-2-93.....35391
(b) amended.....63082
2622 Appendix A amended...38050, 53407
2623 Authority citation revised.....35391
Heading revised; eff. 8-2-93.....35391
2623.1 Revised; eff. 8-2-93.....35391
2623.2 Amended; eff. 8-2-93.....35391
2623.5 (b), (c), (d) and (f) heading amended; (e) and (f)(1) removed; (f) and (g) redesignated as (e) and (f); (a) and new (f) *Examples* (1), (2) and (3) revised; eff. 8-2-93.....35392
(e) correctly designated; (f) *Example* 3 corrected.....37991

Page
2623.6 (a) through (d) amended; (e) *Examples* (1), (2) and (3) revised; eff. 8-2-93.....35393
2623.7 Heading, (a), (b), (c), (d) introductory text and (1) amended; (e) *Examples* (1) and (2) revised; eff. 8-2-93.....35394
2623.8 Removed; eff. 8-2-93.....35394
2623.11 (a), (b) and (c) amended; eff. 8-2-93.....35395
2623.12 (a)(1) and (3) amended; eff. 8-2-93.....35395
2641 Authority citation revised.....63082
2641.13 (c) amended.....63082
2642 Authority citation revised.....63082
2642.12 (c) amended.....63082
2643 Authority citation revised.....63082
2643.2 (c) amended.....63082
2644 Appendix A amended...38052, 53411
2645 Authority citation revised.....63082
2645.3 (c) amended.....63082
2646 Authority citation revised.....63082
2646.8 (c) amended.....63082
2648 Authority citation revised.....63083
2648.8 (d) amended.....63083
2672 Authority citation revised.....63083
2672.7 (c) amended.....63083
2673 Authority citation revised.....63083
2673.2 (d) amended.....63083
2674 Authority citation revised.....63083
2674.6 Amended.....63083
2675 Authority citation revised.....63083
2675.2 (b) amended.....63083
2676.13 (a) and (b)(2) revised.....50825
2676.14 Removed; new 2676.14 redesignated from 2676.16.....50826
2676.15 (c) table amended...38053, 43080, 48306
Removed.....50826
2676.16 Redesignated as 2676.14.....50826
2676 Appendixes A, B and C added.....50826

Page
Appendix B amended...53409, 60117, 65550
2677 Authority citation revised.....63083
2677.2 (c) amended.....63083

Title 29—*Proposed Rules:*

102.....57572
402.....49672
403.....49672
507.....52152, 58994
552.....69310
1605.....49456
1609.....51266
1910.....47690
1915.....47690
1917.....47690
1918.....47690
1926.....47690
1928.....47690
2520.....68339
2530.....54444, 68339

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

50 Authority citation revised.....63528
50.10 Revised.....63528
56 Authority citation revised.....69605
56.6000—56.6904 (Subpart E) Revised.....69606
56.6000 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
56.6130 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
56.6131 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
56.6140 Regulation at 58 FR 31908 eff. date extended to 1-31-94.....69606
56.6202 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
56.6220 Regulation at 58 FR 31908 eff. date extended to 1-31-94.....69606
56.6304 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606

Page
56.6306 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
56.6320 Regulation at 58 FR 31908 eff. date extended to 1-31-94.....69606
56.6330 Regulation at 58 FR 31908 eff. date extended to 1-31-94.....69606
56.6331 Regulation at 58 FR 31908 eff. date extended to 1-31-94.....69606
56.6501 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
56.6902 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
56.6903 Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
56.6000—56.6904 (Subpart E) Regulation at 58 FR 31908 eff. date delayed to 1-31-94.....69606
70.201—70.220 (Subpart C) Authority citation revised...63528, 63529
70.209 (a) revised.....63528
71.209 (a) revised.....63529
90.201—90.220 (Subpart C) Authority citation added.....63529
90.209 (a) revised.....63529

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

202 Policy statement.....37420
206 Policy statement.....37420
207 Authority citation revised.....64901
207.1 (b) amended.....64901
208 Authority citation revised.....64901
208.2 Amended.....64901
208.3 Revised.....64901
208.6 (a) revised.....64901
208.7 (h) amended.....64901
208.11 Revised.....64901
208.12 (a) amended; (c) and (d) revised.....64902
208.13 Revised.....64902
210 Authority citation revised.....64902
210.10 (a) table, (b)(3) through (6), (c)(1), (2), (8), (9), (12), (13), (19) and (d) amended; (b)(1) revised; (c)(6), (11),

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 30 Chapter II—Con. Page

(15) and (17) removed; (c)(7) through (10), (12), (13), (14), (16) and (18) through (23) redesignated as (c)(6) through (19); new (c)(20) added; OMB number.....64902
210.53 (a) and (b) amended.....64902
210.204 (a) and (b) amended.....64902
210.355 (a) and (b) amended.....64902
216 Authority citation revised...45254, 64903
216.2 Revised.....45254
216.6 Amended.....45254
216.15 (a) and (b) amended.....64903
216.16 (a) and (b) amended.....64903
216.20 Revised.....45254
216.40 (c) amended.....64903
216.50 (a) removed; (b) through (e) redesignated as (a) through (d); new (a) revised; new (d)(3) amended.....45254
(a), (c)(1) and (2) amended.....64903
216.51 Revised.....45254
216.52 Removed; new 216.52 redesignated from 216.53.....64903
216.53 Redesignated as 216.52; new 216.53 redesignated from 216.54.....64903
216.54 Revised.....45255
Redesignated as 216.53; new 216.54 redesignated from 216.55.....64903
216.55 Revised.....45255
Redesignated as 216.54; new 216.55 redesignated from 216.56.....64903
216.56 Revised.....45255
Redesignated as 216.55; new 216.56 redesignated from 216.58.....64903
216.57 Removed; new 216.57 added.....64903
216.58 Revised.....45255
Redesignated as 216.56.....64903
216.61 Removed.....64903
218 Authority citation revised...45438, 64903
218.41 Added.....45438
218.51 (f)(2) amended.....64903
219.102 Amended.....64903
220.003 (b) amended.....64903
228.10 (b) amended.....64903
229 Authority citation revised.....64903
229.123 (b)(2) and (3)(vii) amended.....64903

Page

243.4 (b)(2) removed; (b)(3) through (9) redesignated as (b)(2) through (8); new (b)(5) revised; new (b)(8) amended.....64903
250.0 (r), (t) and (v) removed; (s), (u), (w), (x) and (y) redesignated as (r) through (v); (o), (p), (q) and new (r) through (u) revised.....49926
250.18 (d) introductory text revised; (d)(4) through (8) added.....44764
(d)(1), (2) and (3) revised; (d)(4) and (5) added.....49927
250.51 (a)(3) amended.....49927
250.64 (a) and (f) introductory text revised.....49927
250.65 (a), (b) and (c) amended....49928
250.66 (b) and (e) amended.....49928
250.83 (a) and (b) amended; (c) revised; (d) added.....49928
250.85 (a) amended.....49928
250.103 (a), (b) introductory text and (c) introductory text amended; (d) revised.....49928
250.105 (a) amended.....49928
250.111 Introductory text amended.....49928
250.114 (b) amended.....49928
250.121 (h)(1) amended.....49928
250.172 (a)(1), (b)(2), (3), (5) and (6) revised; (a)(2), (3), (6), (7) and (8) amended; (a)(9), (b)(8) and (9) added.....49928
250.260 (b)(3) amended.....49928
250.272 (a) and (c) introductory text amended.....49928
250.273 (a), (b) and (c) amended.....49928
250.274 (b) amended.....49928
250.282 (a), (b), (c)(1) and (2) amended.....49928
256 Heading revised.....45261
Authority citation revised.....45261
256.0—256.12 (Subpart A) Heading revised.....45261
256.0 Revised.....45261
256.58 Heading, (a), (c) and (e) revised; (f) redesignated as (h); new (f) and (g) added.....45261
256.59 Revised.....45262
256.61 Revised.....45262
256.62 (e) revised.....45262

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

Page

718 Removed.....41937
720 Removed.....41937
735.21 (a)(6) revised.....41938
901.15 (p) added.....54289
904.20 Revised.....38534
904.25 Added.....38534
904.26 Added.....38534
913.15 (o) added.....46856
913.16 (l), (m), (n), (p), (q) and (r) removed; (s), (t) and (u) added.....46857
913.25 (e) added.....48962
914.15 (uu) added.....41042
(vv) added.....43259
(ww) added.....46860
(xx) added.....48966
(YY) added.....60786
914.16 (i) through (m) removed.....41042
(n) through (aa) added.....43260
(bb), (cc) and (dd) added.....46861
(g) removed.....48967
(d) revised; (e) removed.....60786
916.15 (h) correctly designated.....45439
917.15 (rr) added.....42011
(ss) added.....51227
917.16 Heading revised; (j) and (k) added.....42011
920.15 (x) added.....36138
925.15 (q) added.....64150
925.16 (d), (g)(9) through (19), (21), (p)(1), (2), (3), (13), (17) and (19) removed; (p)(9) revised; (q) added.....64150
931.15 (r) added.....65928
931.16 (d) through (v) added.....65929
934.25 (d) added.....50258
935.15 (ooo) added.....43263
(ppp) added.....46864
936.15 (m) added.....64383
936.16 Revised.....64383
938.15 (z) added.....36141
(aa) added.....64152
944.15 (w) added.....48611
944.16 (a) through (d) added.....48611
946.15 (gg) added.....49931
(ff) amended.....52667
950.15 (o) added.....44455
(p) added.....52237
(q) added.....58494

Page

950.16 (o) removed.....44455
(aa) added.....52237

Title 30—*Proposed Rules:*

75.....69312
216.....43582
218.....43582, 43583, 43588, 50301
230.....53470
250.....52731
253.....44797, 52050, 58517, 66320
256.....52731
280.....52731
281.....52731
700.....52374, 63316
701...44630, 45303, 49457, 50174, 52374, 57766, 58518, 59424, 61638, 61856, 63316
705.....52374, 63316
706.....52374, 63316
715.....52374, 63316
716.....52374, 63316
773.....44630, 45303, 49457
774.....45303, 49457
778.....44630, 45303, 49457
784...44630, 50174, 57766, 58518, 59424, 61638, 61856
785.....52374, 63316
800.....47598
817...50174, 57766, 58518, 59424, 61638, 61856
825.....52374, 63316
840.....43594, 48332
842.....43594, 48332
843.....43594, 45303, 48332, 49457
870.....45736, 52374, 59334, 63316
880.....68494
886.....59334
887.....59334
888.....59334
901.....40104, 54313
904.....44477, 58313
906.....38989, 45467, 64210
913.....38543, 47237, 48333
914.....38545, 41669, 48996, 64212, 65679
915.....38991, 58997
916.....37447, 50302
917.....48333, 57767, 58997
920.....48998
925.....53683, 53686
926.....44479, 45303
934.....37449, 61857, 64528, 68617
935.....36177, 36178, 48333, 58824
936.....42900
943.....42901, 43308

TITLE 30 Proposed Rules 30—Con. Page
944 ... 40608, 45305, 64529
946 ... 58827
948 ... 42903, 46676
950 ... 44480, 54540, 65681

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

11 Revised ... 57560

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103.11 Regulation at 58 FR 13546 eff. date delayed to 3-1-94 ... 45263
103.22 Regulation at 58 FR 13547 eff. date delayed to 3-1-94 ... 45263
103.28 Regulation at 58 FR 13547 eff. date delayed to 3-1-94 ... 45263
103.36 Regulation at 58 FR 13548 eff. date delayed to 3-1-94 ... 45263
103.54 Regulation at 58 FR 13549 eff. date delayed to 3-1-94 ... 45263
128 Revised ... 58495
129 Reporting requirements ... 68528

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

203 Revised; eff. 8-2-93 ... 35396
316.8 (c)(1) revised; (c)(2) introductory text through (viii) removed; (c)(2)(ix) redesignated as (c)(2) ... 60936
(e) amended ... 60937
317.6 (b) revised ... 63529
332.8 (b) revised ... 60937
342.3 (b)(1) revised; (b)(2) introductory text, (i) and (ii) removed; (b)(2)(iii) redesignated as (b)(2) ... 60937
Amended ... 60938
351.0 Amended ... 60938
351.2 (c) table, (e) introductory text, (1), (g)(3)(i) and (h) amended; (g)(2) tables revised ... 60938
(i) amended ... 60939
351 Appendix amended ... 60939
352.0 Amended ... 60947
352.2 (e)(1)(i) through (vi) redesignated (e)(1)(ii) through (vii); new (e)(1)(i) added; (e)(1)(ii) and (2) revised; (e)(1) amended ... 60947
352 Table revised ... 60947

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

500 Authority citation revised ... 47644
500.413 Added ... 68530
500.508 (f) revised ... 47644
500.566 (a) introductory text amended; (b) redesignated as (c); heading and new (c) revised; new (b) added ... 63084
500.575 Added ... 63084
500.576 Added ... 68531
500.577 Added ... 68532
500.603 Added ... 47644
500 Appendix A added ... 68532
515 Authority citation revised ... 45060, 47644
515.418 Added ... 45060
515.508 (f) added ... 47645
515.563 (b) amended ... 45060
515.569 (b) and (c) amended ... 45060
515.603 Added ... 47645
515.901 Amended ... 45061
550 Authority citation revised ... 47645
550.511 (g) revised ... 47645
550.603 Added ... 47645
575 Authority citation revised ... 47645
575.503 (h) revised ... 47646
575.606 Added ... 47646
580 Authority citation revised ... 40044, 47646
580.503 (h) revised ... 47646
580.518 Added ... 46541
Removed ... 54024
580.603 Revised ... 47646
580 Appendix A added ... 40044
Appendix A amended ... 46541
585 Authority citation revised ... 35828, 47646
585.201 (b) redesignated as (c); new (b) added ... 35828
585.215 Added ... 35829
585.216 Added ... 35829
585.217 Added ... 35829
585.218 Added ... 35829
585.301 (a) revised; (c) and (d) amended; (e) added ... 35829
585.418 Added ... 35829
585.419 Added ... 35829
585.503 (a) revised ... 47646
585.509 Heading and (a) revised; (b) and (d)(2)(ii) amended ... 35829
585.524 Added ... 35829
585.603 Revised ... 47647
585.901 Added (OMB numbers) ... 35830
590 Added ... 64904

Title 31—*Proposed Rules:*

1 ... 43312, 44481
103 ... 46014, 46021, 51269
206 ... 41902
209 ... 41449
357 ... 59972
601 ... 59973

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

40 Revised; interim ... 47624
Heading revised ... 51780
80 Added; interim ... 51997
86 Added; interim ... 52010
95.3 Amended ... 63294
95 Appendix A amended ... 63294
154 Authority citation revised ... 61024
154.2 Amended ... 61024
154.3 (f) and (h) amended; (o) removed; (p) through (ee) redesignated as (o) through (dd); (e) and new (q) revised ... 61024
154.43 Revised ... 61025
154.48 (a), (b) and (d) amended ... 61025
154.49 (c) revised ... 61025
154.55 (c) revised; (d) amended ... 61025
154.56 (b)(1) amended ... 61025
154.60 (d)(2) revised ... 61025
154.61 (b)(2) and (d) revised; (e)(2) amended ... 61026
154.76 (a) and (c) amended ... 61026
154.77 Revised ... 61026
154 Appendixes A, D and H amended; Appendix G removed ... 61026
156 Revised ... 42855
185 Revised ... 52667
199 Technical correction ... 53411
Grace period delayed ... 59364
199.2 (b) amended; eff. 9-29-93 ... 35405
(b) amended ... 51237, 58959
199.4 (a)(12) heading, (a)(12)(i), (ii)(A) and (b)(6) introductory text amended; (b)(10), (i)(2)(v) and (3)(iv) added; eff. 9-29-93 ... 35405
(a)(7) and (f)(6)(i) revised; (f)(3)(iii) redesignated as (f)(3)(iii)(A); new (f)(3)(iii)(A) heading and (B) added ... 51237
(a)(9) heading, (10), (11), (12)(ii)(B), (13) and (b)(4)(viii)(D) revised; (a)(9)(i)(C) note and (f)(6) removed; (a)(9)(i)(D) and (f)(9) added ... 58959
199.5 (a)(3) revised ... 51237
199.6 (b)(4)(x) heading, (A)(*1*) introductory text, (*2*) introductory text, (*i*), (*ii*), (*vi*), (*3*) introductory text, (B) introductory text and (*2*) revised; (b)(4) (xii) added; eff. 9-29-93 ... 35407
(a)(8) revised; (a)(11) and (12) added ... 51237
(b)(1)(i) revised ... 58961
199.7 (b)(3)(iv)(B)(*5*) revised; eff. 9-29-93 ... 35408
(d) introductory text and (1) revised; (d)(2)(i)(D) removed; (d)(2)(i)(E) redesignated as (d)(2)(i)(D); new (d)(2)(i)(E) added ... 51238
(f)(1)(ii) revised ... 58961
199.14 (a)(2)(ix) added; eff. 9-29-93 ... 35408
(g)(1)(viii) redesignated as (g)(1)(x); (d), (g)(1)(i), (ii)(A), (iii), (iv) and new (g)(1)(x) revised; new (g)(1)(viii) added ... 51239
(a)(1)(i)(C)(*1*) revised ... 68961
199.15 Heading, (a), (b), (f) and (i)(4) revised; (c)(5) removed ... 68961
199.16 (a)(1), (3), (b), (c), (d) introductory text, (2), (3), (4)

TITLE 32 Chapter I—Con. Page

and (e) revised; (d)(5) and (f)(3) added....58963
290 Appendix B amended....63084
296 Added....60382
311.7 (c)(1) removed....59658
341 Redesignated from 369....39368
342 Added....48307
354 Redesignated as 385....39360
Added....39369
355 Redesignated as 386....39360
Added....39368
356 Redesignated as 364....39360
Added....39366
357 Redesignated as 387....39360
Added....39365
358 Redesignated as 393....39360
Added....39364
359 Redesignated as 398....39360
Added....39363
360 Redesignated as 399....39360
Added....39361
361 Redesignated as 377....39360
Added....39361
364 Removed; new 364 redesignated from 356 and amended....39360
369 Redesignated as 341 and revised....39368
371 Added....48308
375 Revised....69229
377 Redesignated from 361 and amended....39360
385 Removed; new 385 redesignated from 354 and amended....39360
385.6 Amended....39360
385.7 (m), (p) and (q) amended....39360
386 Removed; new 386 redesignated from 355 and amended....39360
387 Removed; new 387 redesignated from 357 and amended....39360
387.5 (c) amended....39360
393 Redesignated from 358 and amended....39360
393.1 Amended....39360
393.3 Amended....39360
393.4 Introductory text, (a) through (d) and (g) amended....39360
393.5 Introductory text, (b), (c) and (g) amended....39360
393.6 (a) introductory text, (2), (b)(1) and (2) amended....39360
393.7 (a) through (d) amended....39360
393 Appendix amended....39360
398 Redesignated from 359 and amended....39360
399 Redesignated from 360 and amended....39360

Chapter V—Department of the Army (Parts 400—699)

505.1 (d)(1), (2), (g) introductory text, (1) through (20) and (h) revised....51012
505.3 (b)(10)(i) through (iv) and (11)(i) through (iv) revised....51013
505.5 (e) amended....61027
619 Revised....44405

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Tables One and Three amended....44133
Table Five amended...36868, 58102, 58103, 61809, 64678
Table Three amended...44134, 44456, 60383, 60384
Table Four amended....50259
Tables Four and Five amended....50260, 51241
Tables One and Three amended....61808, 61810
725 Regulation at 57 FR 2463 confirmed....53883

Title 32—*Proposed Rules:*

2....63542
118....65956
199....47692, 48473
246....41671
296....41679
400—699 (Ch. V)....42518
501....37770
552....37774, 40611
855....49951

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1.07-1—1.07-100 (Subpart 1.07) Regulations at 43 FR 54186, 50 FR 23689, 51 FR 19329, 52 FR 17554 and 17555 and 54 FR 37615 confirmed....65667
2 Authority citation revised....51726
2.05-35 Added....51726
3.01-1 (f) amended....51726
3.05-10 (b) revised....51727
3.05-15 (b) revised....51727
3.05-20 (b) revised....51727
3.05-25 Revised....51727
3.05-30 Revised....51727
3.05-35 (b) revised....51727
3.10-10 (b) revised....51728
3.25-05 (b) revised....51728
3.25-10 (b) revised....51728
(b) corrected....67909
3.25-15 (b) revised....51728
3.25-20 (b) revised....51728
3.35-10 (b) revised....51729
3.35-15 (b) revised....51729
3.35-20 (b) revised....51729
3.35-25 (b) revised....51729
3.35-30 (b) revised....51729
3.35-35 (b) revised....51729
3.40-10 (b) revised....51729
3.40-15 (b) revised....51730
3.40-17 (b) revised....51730
3.40-20 (b) revised....51730
3.40-30 (b) revised....51730
3.40-35 (b) revised....51730
3.55-10 (b) revised....51731
3.55-15 (b) revised....51731
(b) correctly revised....59364
3.55-20 Revised....51731
3.65-10 (b) revised....51731
3.65-15 (b) revised....51731
3.70-10 (b) and (c) revised; (d) added....51731
3.70-15 Revised....51731
3.85-10 (b) revised....51732
3.85-15 Revised....51732
3.85-20 (b) revised....51732
66.01-10 (b) revised....64153
80.750 (a) revised....65668
80.753 (a) revised....65668
100 Temporary regulations list...46078, 55945
100.35-T02-33 Added (temporary)....59171
100.35-T0231 Added (temporary)....52440
100.35-T07-103 Added (temporary)....57742
100.35T01-76 Added (temporary)....40359
100.35-T0209 Added (temporary)....39144

Page

100.35-T0216 Added (temporary)....38301
100.35-T0220 Added (temporary)....38300
100.35-T0558 Added (temporary)....41429
100.35-T0772 Added (temporary)....38298
100.91 Table 1 revised....40738
100.103 Implementation (temporary)....36355
100.105 (b)(2) and (c) revised (temporary)....50261
100.109 Removed....38302
100.501 Implementation (temporary)....38054, 62035, 66279
100.502 Implementation (temporary)....38053
100.504 Implementation (temporary)....38053
100.505 Revised....38302
100.508 Implementation (temporary)....38053
100.518 Added....57741
100.1105 Implementation (temporary)....50261
(b)(2) amended....51242
110....65140
110.84a Removed....65286
110.86 Added; interim....40740
110.186 Added....36356
110.710 Added....38055
117 Temporary drawbridge operation regulations...38056, 39145, 42856, 47067, 47068, 54289, 62532, 65668
117.43 Revised....46081
117.272 Added....39146
117.287 (d)(3) removed....36357
(b-1) revised; eff. 1-1-94 to 1-30-94....60555
(d)(1) and (2) revised; eff. 1-1-94 to 1-30-94....60556
117.301 Removed....36357
117.317 (j) removed; (k) redesignated as (j)....36357
117.321 Removed....36357
117.501 (c) revised....43264
117.637 Revised....52442
117.723 Revised....39148
117.739 (a)(5) added; (a)(3), (4) and (e) revised....39149
117.745 Revised....40591
117.793 Revised....42859
117.839 Removed....39146

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 33 Chapter I—Con. Page

117.899 Revised..... 44613
117.1047 (e) removed..... 44613
117 Appendix A amended...39149, 42859
154.310 (a)(22) added..... 39662
154.500 (e) and (f) revised..... 39662
155 Authority citation revised...62262, 67995
155.140 (a) revised; (b) amended; interim..... 67995
155.200 Added; interim..... 67996
155.205 Added; interim..... 67996
155.215 Added; interim..... 67996
155.220 Added; interim..... 67996
155.225 Added; interim..... 67996
155.230 Added; interim..... 67996
155.235 Added; interim..... 67996
155.240 Added; interim..... 67996
155.245 Added; interim..... 67997
155.310 Heading and (b) introductory text revised; (c) and (d) added; interim..... 67997
155.450 (a) revised..... 62262
155.750 (a)(11) added..... 39662
156 Authority citation revised..... 48436
156.200 Revised..... 48436
156.205 (b) amended..... 48436
156.210 (a)(3) redesignated as (a)(4); new (a)(3) and (c) added..... 48436
156.215 (a)(3) revised..... 48437
161.580 Revised; interim..... 46082
162.25 Removed..... 69232
162.130 (b)(3) introductory text revised; (b)(4) added..... 59365
164.T0257 Added (temporary)..... 44615
164.T1106 Added (temporary)..... 40362
164.13 (e) suspended..... 36141
165 Temporary regulations list...46078, 59948
165.T01-005 (b) revised (temporary)..... 65669
165.T01-019 Removed..... 39151
165.T01-020 Added (temporary)..... 36869
165.T01-034 Added (temporary)..... 47992
165.T01-057 Added (temporary)..... 36598
165.T01-109 Added (temporary)..... 47988
165.T01-119 Added (temporary)..... 47989
165.T01-130 Added (temporary)..... 51244
165.T01-134 Added (temporary)..... 53884
165.T01-144 Added (temporary)..... 69233
165.T01-151 Added (temporary)..... 68308
165.T01-152 Added (temporary)..... 68310
165.T01-153 Added (temporary)..... 68307
165.T01-401 Added (temporary)..... 69234
165.T01-63 Added (temporary)..... 40745
165.T01-85 Added (temporary)..... 40743
165.T01-87 Added (temporary)..... 39151
165.T01-93 Added (temporary)..... 40742
165.T02-067 Added (temporary)..... 51243
165.T02-073 Added (temporary)..... 58498
165.T02-076 Added (temporary)..... 69235
165.T0248 Added (temporary)..... 39152
165.T0254 Added (temporary)...38303, 39664
165.T0264 Added (temporary)..... 40361
(b) revised (temporary)..... 48968
165.T02-60 Added (temporary)..... 40741
165.T0263 Added (temporary)..... 46084
165.T05-063 Added (temporary)..... 47990
165.T05-092 Added (temporary)..... 66280
165.T062 Added (temporary)..... 46083
165.T0787 Added (temporary)..... 47069
165.T0976 Added (temporary)..... 36358
165.T0982 Added (temporary)..... 40363
165.T11-050 Added (temporary)..... 59172
165.T1103 Removed..... 68306
165.T1105 Added (temporary)..... 39663
165.T1128 Removed..... 68306
165.T1148 Added (temporary)..... 48967
165.112 Added..... 47991
Regulation at 58 FR 47990 eff. date corrected to 10-8-93..... 52442
165.204 (b)(4) removed..... 59952
165.730 Revised..... 38057
165.1113 Removed..... 68306
165.T13029 Added (temporary)..... 60558
165.T13030 Added (temporary)..... 60557
175.1 (e) added..... 41607
175.3 Revised..... 41607
175.5 Added..... 41608
175.11 Revised..... 41608

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

175.15 Revised; eff. in part 5-1-95..... 41608
175.17 Revised..... 41608
(a)(1) introductory text, (e)(1), (g)(1) and (2) correctly revised; (g)(3) correctly added..... 51576
181 Technical correction..... 51576
181.703 (c) added..... 41608

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

323.2 (d) revised; (e) and (f) amended..... 45035
(d)(3)(iii) corrected..... 48424
323.3 (c) added..... 45036
328 Technical correction..... 48424
328.3 (a)(8) added..... 45036
334.1 Added..... 37607
334.2 Added..... 37607
334.3 Added..... 37607
334.4 Added..... 37608
334.5 Added..... 37608
334.80 Heading revised..... 37608
334.260 Heading revised..... 37608
334.275 Added..... 47788
334.380 Revised..... 53428
334.390 (b)(1), (2), (4), and (5) revised..... 53428
334.400 Heading revised..... 37608
334.500 Heading revised..... 37609
334.540 Heading revised..... 37609
334.560 Heading revised..... 37609
334.905 Added; interim..... 53427
334.938 (a) corrected..... 42237
334.980 Regulation at 58 FR 21226 confirmed..... 42238
334.1000 Removed..... 64384
334.1320 Regulation at 58 FR 26046 confirmed..... 42237
334.1340 (c) revised..... 53427
334.1370 (b)(2) revised..... 53427
334.1400 (b)(4) revised..... 53427

Title 33—*Proposed Rules:*

100..... 41449, 47099
110...38100, 38101, 57769, 59425, 62300, 65140
117...36629, 38102, 44155, 52466, 53896, 58518, 59426, 62302, 62303, 66321, 66322, 66323, 67745, 68003
126..... 51906
127..... 51906
130..... 38993
131..... 38993
132..... 38993
137..... 38993
155..... 54315
156..... 54315, 63544, 65683, 69313
157..... 54870, 61143, 65298, 65683
162..... 42913, 46144
165..... 50303, 59974, 59975, 62300, 65684
166..... 44634, 65686
167..... 44634, 65686
187..... 51920, 53624
334..... 37889, 47786
402..... 68618

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

5b.11 Revised..... 44424
12 Regulation at 57 FR 60394 eff. 2-1-93..... 36870
21 Revised (effective date pending)..... 47192
74.3 Regulation at 57 FR 30335 eff. 9-18-92..... 36870
74.47 Regulation at 57 FR 30335 eff. 9-18-92..... 36870
74.73 Regulation at 57 FR 30335 eff. 9-18-92..... 36870
74.74 Regulation at 57 FR 30335 eff. 9-18-92..... 36870
74.75 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.76 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.91 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.93 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.94 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.96 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.144 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.171 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.172 Regulation at 57 FR 30336 eff. 9-18-92..... 36870
74.173 Regulation at 57 FR 30336 eff. 9-18-92..... 36870

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 34 Subtitle A—Con. Page

74.174 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74.175 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
74 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.1 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.3 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.4 Regulation at 57 FR 30336 eff. 9-18-92 ... 36870
75.60—75.62 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.60 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.61 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.62 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.105 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.107 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.108 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.110 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.111 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.113 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.114 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.115 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.116 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.118 Regulation at 57 FR 30337 eff. 9-18-92 ... 36870
75.130—75.134 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.130 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.131 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.132 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.133 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.134 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.150—75.154 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.150 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.151 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.152 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.153 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.154 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.155 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.160 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.200 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.216 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.218 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.233 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.234 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.235 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.253 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.261 Regulation at 57 FR 30338 eff. 9-18-92 ... 36870
75.262 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.510 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.518 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.534 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.560 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.563 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.580—75.581 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.580 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.581 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.590 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.608 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.616 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.617 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.621 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.622 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.625—75.626 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.625 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.626 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.681 Regulation at 57 FR 30339 eff. 9-18-92 ... 36870
75.684 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.690 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.707 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.720 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.740 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.750—75.755 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.750 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.751 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.752 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.753 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.754 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
75.755 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.3 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.102 Regulation at 57 FR 30340 eff. 9-18-92 ... 36870
76.125 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.136 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.305 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.401 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.560 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.580—76.581 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.580 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

76.581 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.591 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.600 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.670 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
76.681 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.684 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.690 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.707 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.720 Regulation at 57 FR 30341 eff. 9-18-92 ... 36870
76.740 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.770 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.771 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.772 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.780—76.783 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.780 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.781 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.782 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.783 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
76.901 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
77.1 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
81.2 Amended ... 43473
81.11 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
81.12 Regulation at 57 FR 56795 eff. 1-29-93 ... 36870
81.14 (a) revised ... 43473
81.18 (a) revised ... 43473
81.20 Redesignated as 81.30; new 81.20 added ... 43473
81.21 Redesignated as 81.31 ... 43473
81.22 Redesignated as 81.32 ... 43473
81.23 Redesignated as 81.33 ... 43473
81.24 Redesignated as 81.34 ... 43473
81.25 Redesignated as 81.35 ... 43473
81.26 Redesignated as 81.36 ... 43473

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 34 Subtitle A—Con. Page

81.27 Redesignated as 81.37..... 43473
81.28 Redesignated as 81.38..... 43473
81.29 Redesignated as 81.39..... 43473
81.30 Redesignated as 81.40; new 81.30 redesignated from 81.20; (a) amended..... 43473
81.31 Redesignated as 81.41; new 81.31 redesignated from 81.21; (a) and (c) amended..... 43473
81.32 Regulation at 57 FR 56795 eff. 1-29-93..... 36870
Redesignated as 81.42; new 81.32 redesignated from 81.22..... 43473
81.33 Redesignated as 81.43; new 81.33 redesignated from 81.23..... 43473
81.34 Redesignated as 81.44; new 81.34 redesignated from 81.24; (a) amended..... 43473
81.35 Redesignated as 81.45; new 81.35 redesignated from 81.25; (a) and (c) amended..... 43473
81.36 Redesignated from 81.26..... 43473
81.37 Redesignated from 81.27; (b) amended..... 43473
(a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added..... 43474
Corrected..... 51013
81.38 Redesignated from 81.28; (b) and (c) amended..... 43473
81.39 Redesignated from 81.29; (a) amended..... 43473
81.40 Redesignated from 81.30 and amended..... 43473
81.41 Redesignated from 81.31..... 43473
(c) revised..... 43474
81.42 Redesignated from 81.32..... 43473
Revised..... 43474
81.43 Redesignated from 81.33..... 43473
Revised..... 43474
81.44 Redesignated from 81.34..... 43473
(b) revised..... 43474
81.45 Redesignated from 81.35; (b)(1), (2) and (d) amended..... 43473
86.405 Regulation at 57 FR 56795 eff. 1-29-93..... 36870
99.5 Regulation at 58 FR 3188 eff. 2-25-93..... 36871
99.6 Regulation at 58 FR 3188 eff. 2-25-93..... 36871
99.30 Regulation at 58 FR 3188 eff. 2-25-93..... 36871
99.31 Regulation at 58 FR 3189 eff. 2-25-93..... 36871
99.60 Regulation at 58 FR 3189 eff. 2-25-93..... 36871
99.63 Regulation at 58 FR 3189 eff. 2-25-93..... 36871
99.64 Regulation at 58 FR 3189 eff. 2-25-93..... 36871
99.65 Regulation at 58 FR 3189 eff. 2-25-93..... 36871
99.67 Regulation at 58 FR 3189 eff. 2-25-93..... 36871

Chapter I—Office for Civil Rights, Department of Education (Parts 100—199)

110 Added..... 40197

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

200.6 Regulation at 57 FR 39067 eff. 11-8-92..... 36870
200.20 Regulation at 57 FR 39067 eff. 11-8-92..... 36870
200.31 Regulation at 57 FR 39067 eff. 11-8-92..... 36870
200.34 Regulation at 57 FR 39067 eff. 11-8-92..... 36870
200.35 Regulation at 57 FR 39067 eff. 11-8-92..... 36870
200.36 Regulation at 58 FR 11921 eff. 4-28-93..... 36871
201.52 Regulation at 57 FR 24752 eff. 7-29-9..... 36870
201.54 Regulation at 57 FR 24752 eff. 7-29-9..... 36870
206.1 Regulation at 57 FR 60407 eff. 2-1-93..... 36870
206.3 Regulation at 57 FR 60407 eff. 2-1-93..... 36870
206.4 Regulation at 57 FR 60407 eff. 2-1-93..... 36870
206.5 Regulation at 57 FR 60407 eff. 2-1-93..... 36870
206.10 Regulation at 57 FR 60407 eff. 2-1-93..... 36870
206.11 Regulation at 57 FR 60407 eff. 2-1-93..... 36870
206.20 Regulation at 57 FR 60407 eff. 2-1-93..... 36870

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

208 Regulation at 57 FR 21710 eff. 7-29-92..... 56869
208.11 Regulation at 57 FR 21710 eff. 7-29-92..... 36869
208.21 Regulation at 57 FR 21710 eff. 7-29-92..... 36869
208.22 Regulation at 57 FR 21710 eff. 7-29-92..... 36869
208.24 Regulation at 57 FR 21711 eff. 7-29-92..... 36869
208.25 Regulation at 57 FR 21711 eff. 7-29-92..... 36869
208.26 Regulation at 57 FR 21711 eff. 7-29-92..... 36869
208.31 Regulation at 57 FR 21711 eff. 7-29-92..... 36869
208.32 Regulation at 57 FR 21711 eff. 7-29-92..... 36869
212 Regulation at 57 FR 558 eff. 7-19-92..... 36870
218.3 Regulation at 57 FR 56794 eff. 1-29-93..... 36870
218.4 Regulation at 57 FR 56795 and 56796 eff. 1-29-93..... 36870
218.5 Regulation at 57 FR 56795 eff. 1-29-93..... 36870
218.6 Regulation at 57 FR 56795 eff. 1-29-93..... 36870
218.7 Regulation at 57 FR 56795 eff. 1-29-93..... 36870
218.8 Regulation at 57 FR 56795 and 56796 eff. 1-29-93..... 36870
218.9 Regulation at 57 FR 56795 eff. 1-29-93..... 36870
218.10 Regulation at 57 FR 56795 and 56796 eff. 1-29-93..... 36870
218.11 Regulation at 57 FR 56794 eff. 1-29-93..... 36870
218.81 Regulation at 57 FR 56796 eff. 1-29-93..... 36870
218.82 Regulation at 57 FR 56796 eff. 1-29-93..... 36870
218.83 Regulation at 57 FR 56796 eff. 1-29-93..... 36870
222.69 Regulation at 57 FR 56796 eff. 1-29-93..... 36870
230.4 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
230.5 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
230.30 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
231.1 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
231.3 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
231.4 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
232.2 Revised (effective date pending)..... 46757
232.4 (a) and (b) redesignated as (b) and (c); new (a) added; OMB number (effective date pending)..... 46757
232.5 (c) and (d) amended; (e) added (effective date pending)..... 46757
236 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.1 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.2 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.3 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.4 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.5 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.6 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.7 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.8 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.9 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.10 Regulation at 58 FR 13177 and 13178 eff. 4-28-93..... 36871
236.30 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.31 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.40 Regulation at 58 FR 13177 eff. 4-28-93..... 36871
236.41 Regulation at 58 FR 13178 eff. 4-28-93..... 36871
237 Regulation at 57 FR 30342 eff. 9-18-92..... 36870
237.7 Regulation at 57 FR 30342 eff. 9-18-92..... 36870
238 Regulation at 58 FR 13178 eff. 4-28-93..... 36871
263.2 Regulation at 57 FR 30342 eff. 9-18-92..... 36870
263.9 Regulation at 57 FR 30342 eff. 9-18-92..... 36870

TITLE 34 Chapter II—Con. Page

280.2 Regulation at 57 FR 61508 eff. 2-25-93 ... 36871
280.4 Regulation at 57 FR 61508 eff. 2-25-93 ... 36871
280.20 Regulation at 57 FR 61509 eff. 2-25-93 ... 36871
280.31 Regulation at 57 FR 61509 eff. 2-25-93 ... 36871
280.32 Regulation at 57 FR 61510 eff. 2-25-93 ... 36871
282 Regulation at 58 FR 5176 eff. 3-5-93 ... 36871

Chapter III—Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

300 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.17 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.18 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.110 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.111 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.121 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.122 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.123 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.125 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.126 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.127 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.128 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.129 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.130 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.131 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.132 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.133 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.134 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.136 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.138 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.139 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.140 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.141 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.144 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.146 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.148 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.149 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.152 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.153 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.180 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.192 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.220 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.222 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.223 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.224 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.225 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.226 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.227 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.230 Regulation at 57 FR 37654 eff. 10-3-92; Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.231 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.235 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.238 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.240 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.280 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870

Page

300.281 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.284 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.341 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.343 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.345 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.346 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.349 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.380 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.381 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.382 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.383 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.402 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.482 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.483 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.486 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.487 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.505 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.510 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.512 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.532 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.533 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.543 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.561 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.562 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.563 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.565 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.569 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.570 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
300.571 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.572 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.574 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.575 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.586 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.587 Regulation at 57 FR 56796 eff. 11-30-92 ... 36870
300.589 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.600 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.653 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.660 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.661 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.662 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.670—300.672 Regulation at 57 FR 30342 eff. 9-18-92 ... 36870
300.670 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.671 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.672 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
300.750 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.751 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300.754 Regulation at 57 FR 44798 eff. 11-13-92 ... 36870
300 Regulation at 57 FR 48694 eff. 11-13-92 ... 36870
301.1 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.3 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.6 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.10 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
301.30 Regulation at 57 FR 44840 eff. 11-13-92 ... 36870
303 Revised (effective date pending) ... 40959
303.124 Regulation at 57 FR 37654 eff. 10-3-92 ... 36870

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 34 Chapter III—Con. Page

305.10 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.11 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.12 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.30 Regulation at 58 FR 9462 eff. 4-28-93 ... 36871
305.31 Regulation at 58 FR 9463 eff. 4-28-93 ... 36871
305.40 Regulation at 58 FR 9463 eff. 4-28-93 ... 36871
307.4 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.2 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.3 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.5 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.22 Regulation at 57 FR 28965 eff. 9-18-92 ... 36870
309.30 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.33 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
309.34 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
315.4 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
316 Regulation at 57 FR 62096 eff. 2-25-93 ... 36871
318 Regulation at 57 FR 62099 eff. 2-25-93 ... 36871
318.2 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.10 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.11 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.20 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.22 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
318.25 Regulation at 58 FR 27441 eff. 6-21-93 ... 36871
319 Regulation at 57 FR 62106 eff. 2-25-93 ... 36871
324 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
324.10 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870
324.30 Regulation at 57 FR 28966 eff. 9-18-92 ... 36870

Page

346.3 Revised (effective date pending) ... 49419
347.3 (a) and (c) revised (effective date pending) ... 49419
354.1 Amended (effective date pending) ... 49419
354.10 (b)(1) through (5) amended (effective date pending) ... 49419
355.1 Amended (effective date pending) ... 49419
355.10 (c) amended (effective date pending) ... 49419
356.1 Amended (effective date pending) ... 49419
356.2 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
(b) amended (effective date pending) ... 49419
356.3 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
(c)(2) amended (effective date pending) ... 49419
356.11 Revised (effective date pending) ... 49419
357.32 (a)(3) added (effective date pending) ... 49419
358 Authority citation revised ... 49419
358.1 Authority citation revised (effective date pending) ... 49419
358.10 (a) amended; authority citation revised (effective date pending) ... 49419
358.30 Authority citation revised (effective date pending) ... 49420
358.31 (a)(3) and authority citation revised (effective date pending) ... 49420
358.32 Authority citation revised (effective date pending) ... 49420
358.33 Authority citation revised (effective date pending) ... 49420
358.34 Authority citation revised (effective date pending) ... 49420
359 Authority citation revised ... 49420
359.1 Authority citation revised (effective date pending) ... 49420
359.2 Revised (effective date pending) ... 49420
359.3 Authority citation revised (effective date pending) ... 49420

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

359.4 Authority citation revised (effective date pending) ... 49420
359.10 Authority citation revised (effective date pending) ... 49420
359.11 (f) redesignated as (g); new (f) added; authority citation revised (effective date pending) ... 49420
359.30 Authority citation revised (effective date pending) ... 49420
359.31 (c)(4)(iii) and authority citation revised (effective date pending) ... 49420
359.32 Authority citation revised (effective date pending) ... 49420
360.31 (a)(2), (b)(1) and (d)(3) revised (effective date pending) ... 49420
361.1 Regulation at 57 FR 28440 eff. 8-8-92 ... 36870
361.41 Regulation at 57 FR 28440 eff. 8-8-92 ... 36870
361.43 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
361.170 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870
361.171 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870
363 Regulation at 57 FR 28437 eff. 8-8-92 ... 36870
376 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.1 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.3 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
376.4 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
377 Added (effective date pending) ... 40709
378 Revised (effective date pending) ... 35764
380.5 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
380.9 Regulation at 57 FR 28441 eff. 8-8-92 ... 36870
380.20 Regulation at 57 FR 28442 eff. 8-8-92 ... 36870
381 Added (effective date pending) ... 43022

Chapter IV—Office of Vocational and Adult Education, Department of Education (Parts 400—499)

Page

400 Regulation at 57 FR 36724 eff. 9-28-92 ... 36870
401 Regulation at 57 FR 36730 eff. 9-28-92 ... 36870
402 Regulation at 57 FR 36733 eff. 9-28-92 ... 36870
403 Regulation at 57 FR 36735 eff. 9-28-92 ... 36870
405 Regulation at 57 FR 36761 eff. 9-28-92 ... 36870
406 Regulation at 57 FR 36763 eff. 9-28-92 ... 36870
407 Regulation at 57 FR 36765 eff. 9-28-92 ... 36870
408 Regulation at 57 FR 36767 eff. 9-28-92 ... 36870
409 Regulation at 57 FR 36771 and 36724 eff. 9-28-92 ... 36870
410 Regulation at 57 FR 36773 eff. 9-28-92 ... 36870
411 Regulation at 57 FR 36776 eff. 9-28-92 ... 36870
412 Regulation at 57 FR 36778 eff. 9-28-92 ... 36870
413 Regulation at 57 FR 36780 eff. 9-28-92 ... 36870
414 Regulation at 57 FR 36782 eff. 9-28-92 ... 36870
415 Regulation at 57 FR 36784 eff. 9-28-92 ... 36870
416 Regulation at 57 FR 36786 eff. 9-28-92 ... 36870
417 Regulation at 57 FR 36788 eff. 9-28-92 ... 36870
418 Regulation at 57 FR 36791 eff. 9-28-92 ... 36870
419 Regulation at 57 FR 36794 eff. 9-28-92 ... 36870
421 Regulation at 57 FR 36796 eff. 9-28-92 ... 36870
422 Regulation at 57 FR 36797 eff. 9-28-92 ... 36870
423 Regulation at 57 FR 36799 eff. 9-28-92 ... 36870
424 Regulation at 57 FR 36801 eff. 9-28-92 ... 36870
425 Regulation at 57 FR 24091 eff. 7-29-92; Regulation at 57 FR 36803 eff. 9-28-92 ... 36870

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 34 Chapter IV—Con. Page

426 Regulation at 57 FR 24091 eff. 7-29-92; Regulation at 57 FR 36805 ... 36870
427 Regulation at 57 FR 36810 eff.9-28-92 ... 36870
428 Regulation at 57 FR 36812 eff.9-28-92 ... 36870
431 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
432 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
433 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
434 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
435 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
436 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
437 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
438 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
441 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
460 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
460.2 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
460.3 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
460.4 Regulation at 57 FR 24092 eff. 7-29-92 ... 36870
461 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
462 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
462.50 Regulation at 57 FR 24100 eff. 7-29-92 ... 36870
463 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
464 Regulation at 57 FR 24100 eff. 7-29-92 ... 36870
471 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
472 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
472.20 Regulation at 57 FR 24102 eff. 7-29-92 ... 36870
472.30 Regulation at 57 FR 24102 eff. 7-29-92 ... 36870
473 Regulation at 57 FR 24102 eff. 7-29-92 ... 36870
474 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
475 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
476 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
477 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870
489 Regulation at 57 FR 24105 eff. 7-29-92 ... 36870
490 Regulation at 57 FR 24107 eff. 7-29-92 ... 36870
491 Regulation at 57 FR 24091 eff. 7-29-92 ... 36870

Chapter V—Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599)

555 Regulation at 57 FR 53195 eff. 12-21-92 ... 36870
562.2 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
562.3 Regulation at 57 FR 30343 eff.9-18-92 ... 36870
581.591 Regulation at 57 FR 56797 eff. 11-30-92 ... 36870

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

600.2 Amended (effective date pending) ... 39620
600.5 Regulation at 57 FR 57309 eff. 1-29-93 ... 36870
600.6 Regulation at 57 FR 57309 eff. 1-29-93 ... 36870
600.9 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.30 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.31 Regulation at 57 FR 57310 eff. 1-29-93 ... 36870
600.40 Regulation at 58 FR 13342 eff. 4-28-93 ... 36871
600.41 Regulation at 57 FR 47753 eff. 12-3-92 ... 36870
Regulation at 58 FR 13342 eff. 4-28-93 ... 36871
608 Revised (effective date pending) ... 38713
609 Revised (effective date pending) ... 38717
610 Added (effective date pending) ... 50167

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

612.2 Regulation at 58 FR 27140 eff. 6-20-93 ... 36871
614 Revised (effective date pending) ... 42627
617.1—617.8 (Subchapter A) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
617.11—617.29 (Subchapter B) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
617.51—617.67 (Subchapter D) Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
624 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
625 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
626 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
627 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
628.1 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.2 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.3 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.4 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.5 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.6 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.10 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.20 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.30 Regulation at 49 FR 28520 eff. 9-14-84; Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.31 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.32 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.40 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.41 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.42 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.43 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.44 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.45 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.46 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
628.47 Regulation at 58 FR 11164 eff. 4-28-93 ... 36871
628.48 Regulation at 58 FR 11163 eff. 4-28-93 ... 36871
630.2 Regulation at 58 FR 27144 eff. 6-20-93 ... 36871
630.4 Regulation at 58 FR 27145 eff. 6-20-93 ... 36871
630.5 Regulation at 58 FR 27145 eff. 6-20-93 ... 36871
630.11 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
Regulation at 58 FR 27145 eff. 6-20-93 ... 36871
630.22 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
630.23 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
631 Revised (effective date pending) ... 42653
632 Revised (effective date pending) ... 42656
633 Revised (effective date pending) ... 42658
634 Revised (effective date pending) ... 42659
635 Revised (effective date pending) ... 42660
636 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
Added (effective date pending) ... 42663
637.1 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.3 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.4 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.12 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.14 Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
637.32Regulation at 57 FR 54302 eff. 11-18-92 ... 36870
639.1 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.2 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.3 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870

TITLE 34 Chapter VI—Con. Page
639.4 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.10 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.11 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.30 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.31 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
639.40 Regulation at 57 FR 49650 eff. 12-18-92 ... 36870
642 Heading revised (effective date pending) ... 51519
Authority citation revised ... 51519
642.1 Revised (effective date pending) ... 51519
642.2 (b) and authority citation revised (effective date pending) ... 51519
642.3 (a) and (b) amended; authority citation revised (effective date pending) ... 51519
642.4 (a) and authority citation revised (effective date pending) ... 51519
642.5 (b) amended (effective date pending) ... 51519
642.6 Removed (effective date pending) ... 51519
642.10 Revised (effective date pending) ... 51519
642.31 (f)(2) amended; (f)(2)(iii) and authority citation revised (effective date pending) ... 51519
642.32 (c)(2)(ii) amended (effective date pending) ... 51520
642.33 Authority citation revised (effective date pending) ... 51519
642.34 Authority citation revised (effective date pending) ... 51519
(b) amended and redesignated as (c); (a)(20), (21) and new (b) added (effective date pending) ... 51520
642.40 Authority citation revised (effective date pending) ... 51519
642.41 Authority citation revised (effective date pending) ... 51519
643 Revised (effective date pending) ... 59145
645 Authority citation revised (effective date pending) ... 51520
645.1 Authority citation revised (effective date pending) ... 51520
645.2 (c) redesignated as (d); new (c) added; authority citation revised (effective date pending) ... 51520
645.3 (a)(1)(iv), (v) and authority citation revised; (a)(1)(vi) removed (effective date pending) ... 51520
645.4 (c) and authority citation revised (effective date pending) ... 51520
645.5 (a) revised (effective date pending) ... 51520
645.6 (b) amended; authority citation added (effective date pending) ... 51520
645.10 (c) and (d) redesignated as (d) and (e); new (c) added; new (d) introductory text, (8), (9) and authority citation revised; (d)(10) added; new (e) amended (effective date pending) ... 51520
645.11 Authority citation revised (effective date pending) ... 51520
645.12 Authority citation revised (effective date pending) ... 51520
(d) amended (effective date pending) ... 51521
645.13 Authority citation revised (effective date pending) ... 51520
(b) amended (effective date pending) ... 51521
645.14 Authority citation revised (effective date pending) ... 51520
645.30 Authority citation revised (effective date pending) ... 51520
645.31 Authority citation revised (effective date pending) ... 51520
(g)(3)(iv) amended (effective date pending) ... 51521

Page
645.32 Authority citation revised (effective date pending) ... 51520
645.40 Authority citation revised (effective date pending) ... 51520
645.41 Authority citation revised (effective date pending) ... 51520
645.42 Authority citation revised (effective date pending) ... 51520
645.43 Authority citation revised (effective date pending) ... 51520
(a) revised (effective date pending) ... 51521
646 Authority citation revised (effective date pending) ... 51521
646.1 Revised (effective date pending) ... 51521
646.2 Amended; authority citation revised (effective date pending) ... 51521
646.3 (a)(5) removed; (a)(6) redesignated as (a)(5); (a)(4), (d)(3) and authority citation revised (effective date pending) ... 51521
646.4 (a), (b) and (c) revised (effective date pending) ... 51521
646.5 Heading, (a) and authority citation revised (effective date pending) ... 51521
646.6 Heading and authority citation revised; (b) amended (effective date pending) ... 51522
646.10 Authority citation revised (effective date pending) ... 51521
Heading and (a)(9) revised; (a)(8) amended; (a)(10) added (effective date pending) ... 51522
646.20 Authority citation revised (effective date pending) ... 51521
Amended (effective date pending) ... 51522
646.30 Authority citation revised (effective date pending) ... 51521
(b) amended (effective date pending) ... 51522
646.31 Authority citation revised (effective date pending) ... 51521
(h)(2)(ii) amended (effective date pending) ... 51522
646.32 Authority citation revised (effective date pending) ... 51521
(a)(1) and (c)(2) amended (effective date pending) ... 51522
646.40 Authority citation revised (effective date pending) ... 51521
646.41 Authority citation revised (effective date pending) ... 51521
646.42 Authority citation revised (effective date pending) ... 51521
(a) revised (effective date pending) ... 51522
648 Regulation at 58 FR 28505 eff. 6-28-93 ... 36871
Added (effective date pending) ... 65842
649 Revised (effective date pending) ... 42860
Technical correction ... 47069
650 Revised ... 58084
653 Revised (effective date pending) ... 42827
653.2 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
653.3 Regulation at 57 FR 30343 eff. 9-18-92 ... 36870
654 Revised (effective date pending) ... 42669
654.2 Regulation at 57 FR 30344 eff. 9-18-92 ... 36870
654.4 Regulation at 57 FR 30344 eff. 9-18-92 ... 36870
664 Regulation at 57 FR 28976 eff. 9-18-92 ... 36870
664.14 Regulation at 57 FR 28976 eff. 9-18-92 ... 36870
668 Waiver ... 52195
668.2 Regulation at 58 FR 13343 eff. 4-28-93 ... 36871
668.8 (a) introductory text and (2)(i) revised; (c) and (d) added; pending and effective in part 1-1-94 ... 39620
Regulation at 58 FR 39620 eff. in part 7-1-94 ... 69594

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 34 Chapter VI—Con. Page

668.9 Added; pending and effective in part 1-1-94.....39620
Regulation at 58 FR 39620 eff. in part 7-1-94.....69594
668.12 Regulation at 57 FR 57310 eff. 1-29-93.....36870
668.15 Regulation at 58 FR 13343 eff. 4-28-93.....36871
668.56 Regulation at 57 FR 39089 eff. 11-8-92.....36870
668.57 Regulation at 57 FR 39089 eff. 11-8-92.....36870
668.58 Regulation at 57 FR 39089 eff. 11-8-92.....36870
668.59 Regulation at 57 FR 39089 eff. 11-8-92.....36870
668.61 Regulation at 57 FR 39089 eff. 11-8-92.....36870
668.81 Regulation at 58 FR 13344 eff. 4-28-93.....36871
668.83 Regulation at 58 FR 13344 eff. 4-28-93.....36871
668.84 Regulation at 57 FR 47753 and 47754 eff. 12-3-92.....36870
668.85 Regulation at 57 FR 47753 and 47754 eff. 12-3-92; Regulation at 57 fr 60034 eff. 1-31-93.....36870
668.86 Regulations at 57 FR 47753 and 47754 eff. 12-3-92.....36870
668.87 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.88 Regulation at 57 FR 60034 eff. 1-31-93; Regulation at 57 FR 47753 and 47754 eff. 12-3-92.....36870
668.89 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.90 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 60034 eff. 1-31-93.....36870
668.91 Regulation at 58 FR 13345 eff. 4-28-93.....36871
668.92 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.94 Regulation at 58 FR 13345 eff. 4-28-93.....36871
668.95 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.98 Regulation at 57 FR 60034 eff. 1-31-93.....36870
668.114 Regulation at 57 FR 47753and 47754 eff. 12-3-92.....36870
668.115 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.116 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.117 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.118 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.119 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 60035 eff. 1-31-93.....36870
668.120 Regulation at 57 FR 47753 eff. 12-3-92; Regulation at 57 FR 47754 eff. 1-31-93.....36870
668.121 Regulation at 57 FR 47753 eff. 12-3-92.....36870
668.124 Regulation at 57 FR 60035 eff. 1-31-93.....36870
668.130—668.139 (Subpart I) Regulation at 58 FR 3184 eff. 2-25-93.....36871
671 Regulation at 57 FR 24955 eff. 6-12-92.....36870
674 Waiver.....52195
674.1 Regulation at 57 FR 32344 eff. 9-18-92.....36870
674.2 Regulation at 57 FR 32344 eff. 9-18-92.....36870
674.8 Regulation at 57 FR 32344 eff. 9-18-92.....36870
674.18 Regulation at 57 FR 32345 eff. 9-18-92.....36870
674.19 Regulation at 57 FR 32345 eff. 9-18-92.....36870
674.31 Regulation at 57 FR 32345 eff. 9-18-92.....36870
674.32 Regulation at 57 FR 32345 eff. 9-18-92.....36870
674.33 Regulation at 57 FR 32345 eff. 9-18-92.....36870
Regulation at 57 FR 60706 eff. 2-4-93.....36871
674.34 Regulation at 57 FR 32345 eff. 9-18-92.....36870
674.35 Regulation at 57 FR 32345 eff. 9-18-92.....36870
674.36 Regulation at 57 FR 32345 eff. 9-18-92.....36870
674.38 Regulation at 57 FR 32346 eff. 9-18-92.....36870

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

674.42 Regulation at 57 FR 32346 eff. 9-18-92.....36870
674.43 Regulation at 57 FR 32346 eff. 9-18-92.....36870
674.45 Regulation at 57 FR 32346 eff. 9-18-92.....36870
674.47 Regulation at 57 FR 32346 eff. 9-18-92.....36870
Regulation at 57 FR 60706 eff. 2-4-93.....36871
674.49 Regulation at 57 FR 32346 eff. 9-18-92.....36870
674.50 Regulation at 57 FR 32347 eff. 9-18-92.....36870
Regulation at 57 FR 60707 eff. 2-4-93.....36871
674.52 Regulation at 57 FR 32347 eff. 9-18-92.....36870
674.57 Regulation at 57 FR 32347 eff. 9-18-92.....36870
674 Regulations at 57 FR 32347, 32349, 32351 and 32354 eff. 9-18-92.....36870
675 Regulation at 57 FR 60707 eff. 2-4-93.....36871
675.2 Regulation at 57 FR 32356 eff. 9-18-92.....36870
Regulation at 57 FR 60707 eff. 2-4-93.....36871
675.16 Regulation at 57 FR 32356 eff. 9-18-92.....36870
675.18 Regulation at 57 FR 32356 eff. 9-18-92.....36870
675.21 Regulation at 57 FR 60707 eff. 2-4-93.....36871
675.22 Regulation at 57 FR 32356 eff. 9-18-92.....36870
675.23 Regulation at 57 FR 32356 eff. 9-18-92.....36870
675.26 Regulation at 57 FR 32356 eff. 9-18-92.....36870
675.28 Regulation at 57 FR 32356 eff. 9-18-92.....36870
675.34 Regulation at 57 FR 32357 eff. 9-18-92.....36870
676 Regulation at 57 FR 60707 eff. 2-4-93.....36871
Waiver.....52196
676.2 Regulation at 57 FR 32357 eff. 9-18-92.....36870
676.3 Regulation at 57 FR 32357 eff. 9-18-92.....36870
676.14 Regulation at 57 FR 60707 eff. 2-4-93.....36871
676.16 Regulation at 57 FR 32357 eff. 9-18-92.....36870
676.18 Regulation at 57 FR 32357 eff. 9-18-92.....36870
682 Regulation at 57 FR 60323 eff. 2-1-93.....36870
Waiver.....52196
682.600 Regulation at 58 FR 3177 eff. 2-25-93.....36871
685 Added (effective date pending).....36094
690 Waiver.....52195
690.31 Regulation at 57 FR 28569 eff. 8-9-92.....36870
690.32 Regulation at 57 FR 28569 eff. 8-9-92.....36870
690.72 Regulation at 50 FR 10710 eff. 4-29-85.....36871
690.83 Regulation at 57 FR 28569 eff. 8-9-92.....36870
698 Added (effective date pending).....43266
698.2 OMB number pending.....43267
698.11 OMB number pending.....43267
698.21 OMB number pending.....43268
698.22 OMB number pending.....43268
698.24 OMB number pending.....43269
698.30 OMB number pending.....43269

Chapter VII—Office of Educational Research and Improvement, Department of Education (Parts 700—799)

755.20 Regulation at 57 FR 53200 eff. 12-21-92.....36870
755.21 Regulation at 57 FR 53201 eff. 12-21-92.....36870
755.22 Regulation at 57 FR 53200 eff. 12-21-92.....36870
757.10 Regulation at 57 FR 53201 eff. 12-21-92.....36870
757.11 Regulation at 57 FR 53201 eff. 12-21-92.....36870
757.12 Regulation at 57 FR 53201 eff. 12-21-92.....36870
758.10—758.11 (Subpart B) Regulation at 57 FR 53201 eff. 12-21-92.....36870
762.2 Regulation at 57 FR 30344 eff. 9-18-92.....36870
762.4 Regulation at 57 FR 30344 eff. 9-18-92.....36870
769 Regulation at 57 FR 49265 eff. 12-14-92.....36870
770.4 Regulation at 58 FR 11167 eff. 4-28-93.....36871

TITLE 34 Chapter VII—Con. Page
776 Revised; OMB numbers (effective date pending)....45210
777.1 (a)(3) amended; (b) revised; (c) redesignated as (d); new (c) added (effective date pending)....40247
777.3 (a) revised (effective date pending)....40247
777.4 (b) amended (effective date pending)....40247
777.10 Revised (effective date pending)....40247
778 Heading revised....40247
778.1 Heading, introductory text and (a) amended (effective date pending)....40247
778.2 (b) introductory text corrected (effective date pending)....40247
778.3 Revised (effective date pending)....40247
778.5 Heading revised (effective date pending)....40247
778.6 Introductory text and (a) revised (effective date pending)....40247
778.22 (a) introductory text and (e) introductory text amended (effective date pending)....40248
779 Authority citation revised....40248
779.1 Revised (effective date pending)....40248
779.2 Revised (effective date pending)....40248
779.3 Authority citation revised (effective date pending)....40248
779.4 (b)(2), (6) and authority citation revised (effective date pending)....40248
779.5 Authority citation revised (effective date pending)....40248
779.6 Redesignated as 779.7; new 779.6 added (effective date pending)....40248
779.7 Redesignated as 779.8; new 779.7 redesignated from 779.6; (a) and authority citation revised (effective date pending)....40248
779.8 Redesignated as 779.9; new 779.8 redesignated from 779.7; (b) amended; authority citation revised (effective date pending)....40248
779.9 Redesignated from 779.8; authority citation revised (effective date pending)....40248
779.10 Authority citation revised (effective date pending)....40248
779.20 Authority citation revised (effective date pending)....40248
779.21 Authority citation revised (effective date pending)....40248
(b) revised (effective date pending)....40249

Chapter XII—National Council on Disability (Part 1200)

Chapter XII Established....57698
1200.170 (c) revised....57698

Title 34—*Proposed Rules:*

76....44736, 65856
80....44736
99....42836, 65298
298....65856
300....57938
307....57938
315....57938
318....57938
346....57938
350....57938
351....57938
359....57938
361....38482, 44638, 57938
363....57938
365....57938
366....57938, 57942, 67383
367....57938
369....57938
370....52614
371....57938
373....57938
374....57938
376....57938
377....57938
378....57938
379....57938
380....57938
385....57938
386....52606, 57938
387....57938
388....57938
389....57938
600—699 (Ch. VI)....43608, 68619

Page
607....40478
631....38504
632....38504
633....38504
634....38504
635....38504
644....57704
647....63870
650....37890
668....51712, 54902
692....36110

TITLE 35—PANAMA CANAL

Title 35—*Proposed Rules:*

10....53897

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

37 Appendix A amended....38211
51 Technical correction....36598

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

215 Added; eff. in part 1-3-94....58910
217 Heading revised....58915
217.1 Revised....58915
217.2 Amended....58915
217.3 Revised....58915
217.4 Revised....58915
217.7 (b), (c) and (d) revised; (e) removed....58916
217.8 (a)(2) revised; (f)(1) and (3) removed; (f)(2) and (4) redesignated as (f)(1) and (2)....58916
217.10 (i) revised....58916
217.14 (a) revised....58916
217.15 (a) revised....58916
217.16 (e) revised....58916
217.17 (b), (c) and (f) revised....58916
242.25 (b)(2)(i) introductory text, (iv) introductory text and (f) revised; (m)(1) table amended....61811

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

Page
1191 Authority citation revised....38211
Appendix redesignated as Appendix A and amended....38211

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1222.20 (b)(1) revised....49194
1230.1 Revised....49194
1230.3 Revised....49194
1230.4 Amended....49195
1230.7 (Subpart B) Added....49195
1230.10—1230.16 (Subpart B) Redesignated as Subpart C....49195
1230.12 (d)(1)(i) and (2) revised....49195
1230.14 (a) and (b) revised; (c), (d)(1)(i) and (2) amended....49195
1230.16 Revised....49196
1230.20—1230.26 (Subpart C) Redesignated as Subpart D....49195
1230.20 Revised....49196
1230.22 (a)(6) removed; (a)(7) and (8) redesignated as (a)(6) and (7); (a)(1), (4)(i), (5) and new (a)(7) revised....49196
1230.24 (a) revised....49196
1230.26 (a) revised....49196
1230.50—1230.52 (Subpart D) Redesignated as Subpart E....49195

Title 36—*Proposed Rules:*

6....65141
7....48336
222....43202, 48808
242....40393, 46678
292....65300
1191....37052
1220....64915
1252....54540
1253....49251, 63133
1254....54540
1260....54540

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

Page

1 Technical correction..... 64155
1.4 Heading revised; (d), (e) and (f) added..... 54501
1.5 (a) revised..... 54501
1.6 (d)(3) corrected..... 64154
1.8 Revised..... 54502
(a)(2) introductory text corrected..... 64154
1.9 (d) revised..... 54508
1.13 Revised..... 54508
1.14 (b) revised..... 54509
1.17 (h) revised..... 38723
Corrected..... 45841
1.19 (a)(3) revised..... 38723
1.20 (i) revised..... 44280
1.28 (c) revised..... 54509
1.55 (a) revised..... 54509
1.71 (d) revised..... 38723
1.78 (a) revised..... 54509
1.84 Revised..... 38723
(b)(1)(ii) corrected..... 45841
(g)(3) and (h)(2) corrected..... 45842
1.88 Removed..... 38726
1.123 Revised..... 38726
1.136 (a) revised..... 54509
1.137 Revised..... 44280
1.152 Revised..... 38726
1.155 (b), (c) and (d) revised; (e) and (f) added..... 44280
1.165 Revised..... 38726
1.191 (d) revised..... 54510
1.192 (a), (c) introductory text and (d) revised..... 54510
1.193 (b) revised..... 54510
1.194 (b) revised..... 54510
1.196 (f) revised..... 54510
1.197 (b) revised..... 54510
1.304 (a) and (c) revised..... 54502
1.312 (b) revised..... 54510
1.316 (b), (c) and (d) revised; (e) and (f) added..... 44281
1.317 Revised..... 44281
1.321 Revised..... 54510
1.352 (a) revised..... 54511
1.362 (c)(4) and (e) revised; (h) added..... 54511
1.366 (b) revised..... 54503
1.378 (a), (b), (c) and (e) revised..... 44282
1.601 (q) added..... 49434
1.607 (a)(5)(i) revised..... 54511
1.637 (a) revised..... 49434
1.639 (c) revised; (d) through (g) added..... 49434
1.655 (a) revised..... 49434
1.741 (a) revised..... 54503
2.145 (c)(3) and (d)(1) revised..... 54503
2.165 (a)(1) revised..... 54503
5 Technical correction..... 64154, 64155
5.19 (a) revised..... 54511
10 Technical correction..... 64154, 64155
10.18 Revised..... 54503
10.23 (c)(9) revised..... 54504
10.48 (b) revised..... 54511

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201.17 Regulation at 57 FR 3296 eff. date extended to 1-1-95..... 40363
(k) revised; eff. 1-1-95..... 45263

Chapter III—Copyright Office, Library of Congress (Parts 300—399)

Chapter III Nomenclature change; heading revised; interim..... 67691
301 Heading revised; interim..... 67691
Authority citation revised..... 67691
301.1 (g) and (h) revised..... 53825
301.2 Revised; interim..... 67691
301.70 Revised..... 53825
301.71 (d) revised..... 53826
301.72 (d) revised..... 53826
302 Authority citation revised..... 67691
303 Authority citation revised..... 67691
304 Authority citation revised..... 67691
304.5 (c)(1) through (4) revised..... 63294
305 Authority citation revised..... 67691
306 Authority citation revised..... 67691
307 Authority citation revised..... 67691
307.3 Revised..... 58283
(f) corrected..... 60787
308 Authority citation revised..... 67691
309 Authority citation revised..... 67691
310 Authority citation revised..... 67691
311 Added..... 53826
Corrected..... 59658
Authority citation revised..... 67691

Title 37—*Proposed Rules:*

Page

1..... 39704
2..... 39102
10..... 38994

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

0 Authority citation revised..... 61813
0.735-1—0.735-8 (Subpart A) Revised..... 61813
0.735-10—0.735-12 (Subpart B) Revised..... 61814
0.735-50—0735.57 (Subpart C) Removed..... 61814
0.735-70—0.735-80 (Subpart D) Removed..... 61814
2.6 (e)(3) revised..... 39152
(e)(1) revised..... 40746
2.66a Removed..... 67692
2.99 Removed..... 67692
3.103 (f) revised; authority citation added..... 59366
3.203 (c) amended..... 37857
(c) corrected..... 42623
3.205 (a) introductory text and (1) revised..... 37857
3.309 (d)(1) amended..... 41636
3.343 Corrected..... 46865
3.344 (a) corrected..... 53660
3.353 (d) revised; authority citation added..... 37856
3.357 Revised..... 52018
3.655 (c)(1) corrected..... 46865
4.16 (a) corrected..... 39664
4.31 Revised..... 52018
14 Authority citation revised..... 39153
14.602 (a) introductory text, (4) and (b)(2) revised..... 40746
14.619 (b) revised..... 39153
21.1—21.430 (Subpart A) Authority citation revised..... 68768
21.194 (d)(1) and (2) revised..... 68768
21.196 (b) and authority citation revised..... 68768
21.283 Added..... 68768
21.284 (a) introductory text amended..... 68769
21.3032 (b)(3) and authority citation added..... 63530
21.4025 (a)(2) revised; authority citation added..... 46867
21.4135 (y) removed..... 67692
21.4263 (g) introductory text, (1), (2) and (3) redesignated as (g)(1) through (4); new (g)(1), (4) introductory text, (ii), (h)(1), (3)(i), (ii), (4)(i) introductory text and (i) introductory text revised; (h)(4)(iii) and authority citation added; interim..... 49198
21.4600—21.4646 (Subpart F-1) Removed..... 67692
21.5058 (b) and authority citation revised..... 38058
(b) corrected..... 40468
21.5064 (b)(1), (2)(i) and (2) authority citation revised; (b)(1) authority citation added..... 38058
21.5232 Revised..... 46866
21.5820 (b) introductory text, (1)(ii)(A), (B), (C), (2)(ii)(A), (B) and (C) revised..... 50845
21.5822 (b)(1)(i), (ii), (2)(i) and (ii) revised..... 50845
21.6005 (b) amended; (b) authority citation revised..... 41637
21.6042 (a) introductory text, (1), (b) and (d) amended; (a) through (d) authority citations revised; (e) added..... 41637
21.6503 (a) amended; (a) authority citation revised..... 41637
21.6523 (a) amended; (a) authority citation and (b) revised..... 41637
21.7000-21.7310 (Subpart K) Authority citation revised..... 63530
21.7032 (d)(3) and authority citation added..... 63530
21.7142 Added..... 46867
21.7320 Added..... 63530
21.7520 (b)(14)(i)(G) revised; (b)(34) and authority citation added..... 51782
21.7532 (f) and authority citation added..... 51781
21.7550 (a) introductory text revised; (a)(3) and authority citation added..... 51783
21.7570 Revised..... 51783
21.7576 (b) introductory text, (e) and authority citation added..... 51783
21.7614 Revised..... 50846

TITLE 38 Chapter I—Con. Page
21.7635 (b)(1) authority citation, (c) introductory text and (2) authority citation added; (b)(1), (2) introductory text, authority citation, (c)(1) and (2) revised....51783
21.7639 (b)(1)(ii) revised; authority citation added....51781
(b) revised....51783
(b)(1)(ii) correctly revised....65930
36.4201—36.4287 Authority citation revised....37858
36.4202 Amended....37858
36.4204 (a)(7) amended; (b), (c) and (e) redesignated as (d), (e) and (g); new (g) amended; new (b), (c) and (f) added; OMB number....37858
36.4205 (a), (b)(1), (2), (3) and (f)(1) amended....37859
36.4206 (d)(1), (2)(i) and (ii) amended....37859
36.4209 (b)(2) amended....37859
36.4222 Revised....37859
36.4223 (a)(1) and (2) revised....37860
36.4224 (b) amended....37860
36.4232 (a)(2) through (5) redesignated as (a)(3), (4), (5) and (7); new (a)(5) and (b) amended; new (a)(2) and (6) added; (d)(1) revised; (e)(5) removed....37860
36.4233 Removed....60385
36.4234 (a), (b) and (c) amended....37860
36.4235 (a) amended....37860
Removed....60385
36.4253 (b)(9) and (c)(2) amended....37860
36.4276 (c) added....37860
36.4283 (f)(4) added; (g) introductory text revised....37860
36.4284 (e) added....37861
36.4331 Removed....60385
36.4341 Removed....60385
36.4361 Removed....60385
36.4500 (b) redesignated as (c); new (b) added; interim....59660
36.4501 Amended; (o) and paragraph designations removed; authority citation revised; interim....59660
36.4527 Added; interim....59660
44 Authority citation revised....60385
44.700—44.713 (Subpart G) Added....60385
47 Added....48455

Title 38—*Proposed Rules:*

1....39706
3...38103, 38104, 38106, 46919, 48483, 50528, 51798, 65958
14....39174
17....44313, 51799
20....47100
21....38106, 39488, 41325, 50873
36....49251, 49253, 50875

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim...57743, 60788
111 Regulation at 58 FR 13552 confirmed....42012
DMM amended; incorporation by reference....60386
233.3 Revised....36599
266.4 (b)(5) revised....62036

Chapter III—Postal Rate Commission (Parts 3000—3099)

3000 Authority citation revised....42874
3000.735-101—3000.735-104 (Subpart A) Revised....42874
3000.735-201—3000.735-205 (Subpart B) Removed....42874
3000.735-301—3000.735-316 (Subpart C) Removed....42874
3000.735-401—3000.735-405 (Subpart D) Removed....42874
3000.735-501—3000.735-502 (Subpart E) Redesignated as Subpart B....42874
3001.5 (g) and (h) amended....38976
3001.6 (a), (b) and (c) amended....38976
3001.7 (a)(1)(i), (ii), (iii), (b)(2), (3), (c)(1) and (d)(1) amended....38976
3001.9 (a) amended....38976
3001.10 (a) amended....38976
3001.11 (a) and (e) amended....38976
3001.12 (e) and (g) amended....38976
3001.13 Amended....38976
3001.17 (c)(3) and (4) amended....38976

Page
3001.19 Amended....38976
3001.20 (b), (c) and (e) amended....38976
3001.20a Introductory text and (a) amended....38976
3001.20b (b) amended....38976
3001.21 (b) amended....38976
3001.23 (b) and (d) amended....38976
3001.24 (b), (d)(1) through (11) and (e) amended....38976
3001.25 (c) and (e) amended....38976
3001.26 (a) and (c) amended....38976
3001.27 (c) amended....38976
3001.31 (b), (d) and (k)(3)(iv) amended....38976
3001.31a (b) and (c) amended....38976
3001.33 (e) and (h) amended....38976
3001.36 Amended....38976
3001.39 (a) amended....38976
3001.42 (c)(2) amended....38976
3001.42a Amended....38976
3001.43 (e)(4) introductory text, (i), (f)(1), (g)(3), (5) and (6) amended....38976
3001.54 (h)(5)(v)(a) and (p)(2) amended; (l) redesignated as (l)(1); (l)(2) added....38976
(o)(2)(i), (3), (p)(2) and (r) amended....38977
3001.55 Amended....38977
3001.57 Heading amended....38977
3001.57c Heading amended....38977
3001.61—3001.68 (Subpart C) Appendix A amended....54512
3001.63 Amended....38977
3001.64 (c)(1) and (2) amended....38977
3001.65 Amended....38977
3001.75 Amended....38977
3001.83 (e) amended....38976
(a) amended....38977
3001.101 Amended....38977
3001.102 (a)(1), (d) introductory text and (4) amended....38977
3001.110 Amended....38977
3001.111 (b) amended....38977
3001.114 (a) amended....38977
3001.115 (a) amended....38976
Heading revised....38977
3001.116 Amended....38977

Title 39—*Proposed Rules:*

39....38321
71....38322
73....38323
111....49402, 64918, 65959, 67747

Page
265....48808
3001....58519

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

6 Authority citation revised....63247
6.303 (a) and (b) revised; (c) through (g) removed....63247
9.1 Table amended (OMB numbers)...40054, 49376, 57911, 58400, 62283, 66294
35 Authority citation revised....63878
35.10000—35.10035 (Subpart Q) Added; interim....63878
51 Authority citation revised....38821
Solid waste incinerator categories list....58498
51.46 (b) revised; (c) removed....38821
51.63 (a) amended....38821
51.112 (a) amended; (a)(1) and (2) added....38821
51.117 (c)(1), (2) and (3) amended....38822
51.150 (e) amended....38822
51.160 (f)(1) and (2) added....38822
51.166 (l)(1) and (2) revised....38822
51.351 (a)(7)(iv), (v) and (vi) revised....59367
51.353 (a) amended....59367
51.359 (e)(1) amended....59367
51.360 (a)(8) revised....59367
51.373 (a) amended....59367
51.350—51.373 (Subpart S) Appendixes A, D and E amended....59367
51.390—51.464 (Subpart T) Added....62216
51.850—51860 (Subpart W) Added (OMB number pending)....63247
51 Appendix W added....38822
52 Authority citation revised....38883
State implementation plan determinations...41430, 42671, 50516, 52237, 64678, 65286
Authority delegation notice....43798
Technical correction....61143
52.21 (l)(1) revised; (l)(2) amended....38883
52.50 (c)(61) added....45440

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 40 Chapter I—Con. Page

(c)(56) and (57) added....50266
52.70 (c)(17) added....43085
52.219 Added....62533
52.220 (c)(182)(i)(B)(5), (183)(i)(A)(9), (F), and (185)(i)(B)(4) added....37423
(c)(183)(i)(A)(11), (C)(4) and (6) added....45442
(c)(179)(i)(C), (182)(i)(B)(3), (i)(C) and (183)(i)(E)(2) added....45443
(c)(182)(i)(A)(2) added....45445
(c)(182)(i)(A)(3) and (185)(i)(B)(5) added....45447
(c)(183)(i)(A)(6) added....47832
(c)(184)(i)(B)(3) added....50851
(c)(181) added....64158
(c)(182)(i)(D) added....66282
(c)(188) and (189) added....66283
(c)(188)(i)(B) added....66285
(c)(188)(i)(C), (189)(i)(A)(2) and (193) added....66286
(c)(188)(i)(D), (189)(i)(A)(3) and (191) added....66287
52.320 (c)(59) added....50270
52.329 (a)(3) removed....50271
52.332 Added....68038
52.346 Added....49435
52.370 (c)(62) added....65932
52.420 (c)(45) added....40066
52.422 Existing text designated as (a); (b) added....50848
52.520 (c)(76) added....37660
52.670 (c)(26) and (27) added....39447
52.679 Revised....39448
52.681 Revised....39450
52.683 Revised....39450
52.720 (c)(96) added....45450
(c)(7) added....47382
(c)(98) added....48314
(c)(95) added....54294
52.744 Added....45451
52.770 (c)(88) added....43083
52.786 (h) added....62535
52.798 Added....46544
52.820 (c)(58) added....50268
52.920 (c)(68) added....54521
52.934 Added....54522
52.970 (c)(59) added....38060
52.1070 (c)(93) through (96) added....40062
(c)(98) added....63086
52.1073 (f) added....50848
52.1120 (c)(98) added....48317
52.1167 Table amended....48318
52.1174 Regulation at 58 FR 34227 withdrawn....44456
52.1320 (c)(84) added....45452
(c)(82) added....57566
52.1370 (c)(28) added....64160
(c)(26) added....67326
52.1420 (c)(40) added....45454
52.1620 (c)(50) added....47385
(c)(52) added....62539
(c)(51) added....67329
(c)(53) added....67333
52.1634 Revised....67333
52.1636 Revised....67334
52.1670 (c)(84) added....40058
(c)(85) added....40064
(c)(86) added....50852
52.1679 Table amended....40065
52.1770 (c)(66) added....47396
52.1820 (c)(24) added....54043
52.1870 (c)(83) added....47214
(c)(94) added....54516
(c)(95) added....65934
52.1879 (e) removed....47214
52.1881 (b)(23) revised....46869
52.1882 (l) added....46871
52.1920 (c)(43) added....38062
52.1970 (c)(96) added....47387
(c)(100) added....50850
(c)(101) added....64164
(c)(99) added....65936
52.1977 Revised....47387
52.1987 Revised....47391
52.1988 (b) revised....47391
52.2020 (c)(84) added....50518
(c)(87) added....53885
(c)(85) added....57563
52.2070 (c)(39) added....65932
52.2081 Table amended....65933
52.2170 (c)(14) added....37425
52.2183 Added....37426
52.2220 (c)(111) added....50273
52.2270 (c)(76) added....45456
52.2420 (c)(98) added....45459
52.2423 (j) added....50848
52.2470 (c)(39) added....37427
(c)(41) added....40057
(c)(40) added....40060
52.2479 Revised....37427
52.2560 Added....48312
52.2570 (c)(69) added....43082
(c)(70) added....64157
55 Petition for reconsideration....61027
55.14 (e)(3)(ii)(E), (F) and (H) revised....44617
(e)(6)(i)(A) revised....59173

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

55.15 Regulation at 58 FR 14159 effective date corrected to 9-4-92....47398
55 Appendix A amended....44617, 59173
60 Authority citation revised....40591
60.4 (c) table revised....64160
60.17 (a)(6) and (38) amended....45962
60.700—60.708 (Subpart RRR) Added (OMB number pending)....45962
60.735 (b) and (c)(2) amended....40591
(c)(3) amended....40592
61 Clarification....51784
63.74 (d)(2) revised; (d)(4) and (i) removed; Table 1 amended....62543
63.75 (f) added....62543
63.77 Revised....62543
63.90—63.96 (Subpart E) Added....62283
63.300—63.313 (Subpart L) Added....57911
63.320 (c) revised....66289
63.320—63.325 (Subpart M) Added....49376
63.324 (a) introductory text, (b) introductory text and (c) introductory text revised....66289
63 Appendix A amended....57924
69 Authority citation revised....43043
69.11 (a) and (b) added....43043
72.2 Corrected....40746, 40747
72.8 (c)(2)(ii) corrected....40747
72.41 (e)(3)(iii) and (iv) corrected....40747
72.74 (b)(1)(iii) corrected....40747
72.91 (a) introductory text and (3)(iii) corrected....40747
72.92 (c)(2)(v)(C) corrected....40747
73 Notice of procedure....48318
73.10 (a) Table 1 corrected....40747
73.30 (a) corrected....40747
73.31 (c)(1) introductory text corrected....40747
73.32 (a)(1) corrected....40747
73.72 Technical correction....40747
73.80 (b) corrected....40747
73.81 (b)(4) corrected....40747
73.82 Heading corrected....40747
75 Meeting....67692
75.1 (b) existing text designated as (b)(1) and (2); new (b)(2) corrected....40747
75.5 (b) corrected....40747
75.6 (a)(4) corrected....40747
75.7 Corrected....40747
75.11 (c) introductory text corrected....40747
75.15 (a) introductory text, (2) and (b)(1) corrected....40747
75.16 (e) corrected....40747
75.17 (a)(2)(iii)(a) correctly designated as (a)(2)(iii)(A)....40747
(a)(2)(iii)(B) and (b)(2) corrected....40748
75.20 (b)(3), (c) introductory text, (9)(i) introductory text, (B) and (d) corrected; (c)(5)(iv) correctly added....40748
75.31 (b)(2), (c)(2) and (3) corrected....40748
75.32 (b) corrected....40748
75.34 (b)(1) corrected....40748
75.41 (a)(9)(i), (ii), (b)(1)(i), (2)(i), (iv)(A), (C), (v)(A), (B), (c)(1)(i), (ii) and (2)(i) corrected....40748
75.48 (a)(3) corrected....40748
75.50 (b) introductory text, (6), (c)(1)(iii), (iv), (vi), (2)(iii), (iv), (v), (vii), (3)(ii), (iii), (iv) Table 3, (d) introductory text, (3) through (9), (e)(1)(iii), (iv), (v), (vii), (viii), (2)(ii), (iv) and (v) corrected....40749
75.51 (b)(1)(vii) correctly designated as (b)(1)(viii); (a)(1)(iii) through (vi), (viii), (2)(i), (iii), (b) introductory text, new (b)(1)(viii), (1)(ix), (c)(1)(ii), (vi), (d)(1)(ii) and (iv) corrected....40749
75.52 (a)(5)(iv)(G) and (H) correctly redesignated as (a)(5)(v) and (vi)....40749
75.53 (a) introductory text, (c)(2) introductory text and (4)(vi) corrected....40749
(c)(8) and (9) corrected; (c)(10), (10)(i), (ii), (A) and (B) correctly redesignated as (d), (d)(1), (2), (i) and (ii)....40750
75 Appendixes A, B and C corrected....40750
Appendixes C through H corrected....40751
Appendix H corrected....40752
79 Authority citation revised....65554
79.8 Revised....65554
80 Petition for exemption....48968

TITLE 40 Chapter I—Con.

Page
80.5 Revised 65554
80.27 (a)(2) table amended 46511
81 Attainment status designations 53888
81.303 Table amended 67341
81.305 Table amended 62546, 67342
81.306 Table amended 67343, 68038
81.313 Table amended 67343
81.324 Revised 50277
Table corrected 60495
81.327 Table amended 53887, 67343
81.333 Table amended 50853, 67344
81.334 Table revised 47396
81.338 Table amended 49932, 64164, 67344
81.339 Table amended 67345
81.343 Table revised 50274
Table amended 69235
81.348 Table amended 64491
81.349 Table amended 67345
82.1—82.13 (Subpart A) Revised 65062
82.5 (f) and (g) added 69238
82.6 (f) and (g) added 69238
82.21 Added 40054
82.60—82.70 (Subpart C) Revised 69666, 69675
82.80—82.86 (Subpart D) Added 54898
82.154 (g) and (h) amended 36516
85 Public workshop 36871
Authority citation revised 65554
85.2109 (a)(6) revised 65554
85.2110 (b) revised 65554
85.2111 Introductory text revised 65554
85.2201 (b) revised; (c) added 58400
85.2203 Redesignated from 85-2203-81 and revised 58401
85.2203-81 Redesignated as 85.2203 58401
85.2204 Redesignated from 85.2204-81 and revised 58401
85.2204-81 Redesignated as 85.2204 58401
85.2208 (a)(3) added; (c) revised 58401
85.2209 (a) and (b) redesignated as (b) and (c); heading and new (c)(6) revised; new (a) added 58402
85.2210 (a) and (b) redesignated as (b) and (c); heading and new (c)(7) revised; new (a) added 58402
Page
85.2211 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added 58402
85.2212 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added 58403
85.2213 Redesignated as 85.2214; new 85.2213 added 58403
85.2214 Redesignated as 85.2216; new 85.2214 redesignated from 85.2213 58403
(a), (b) and (c) redesignated as (b), (c) and (d); heading, new (c)(4), (5), (6) and (d) revised; new (a) added 58404
85.2215 Redesignated as 85.2224 58403
Added 58405
85.2216 Redesignated as 85.2229; new 85.2216 redesignated from 85.2214 58403
(a), (b) and (c) redesignated as (b), (c) and (d); heading, new (c)(6) and (7) revised; new (a) added 58407
85.2217 Redesignated as 85.2232 58403
Added 58407
85.2218 Redesignated as 85.2237 58403
Added 58408
85.2219 Added 58409
85.2220 Added 58411
85.2224 Redesignated from 85.2215 58403
Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added 58412
85.2225 Added 58413
85.2229 Redesignated from 85.2216 58403
Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added 58414
85.2230 Added 58414
85.2232 Redesignated from 85.2217 58403
(a) through (e) redesignated as (b) through (f); heading and new (f)(1) revised; new (a) added 58415
85.2233 Added 58415
85.2237 Redesignated from 85.2218 58403

Page
Heading revised; (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added 58416
85.2238 Added 58416
86.1 (b)(1) table amended 58417
86.094-23 (c)(2)(i) revised 66294
86.095-23 Added 66294
86.096-2 Amended 58417
86.096-3 Added 58417
86.096-8 (a)(1)(iii) and (3) added 58417
86.096-9 (a)(1)(v) and (3) added 58417
86.096-21 (j) and (k) added 58417
86.096-23 Introductory text and (a) through (l) revised 66297
86.096-24 Added 58417
86.096-35 (a)(1)(iii)(N) and (2)(iii)(P) added 58421
86.097-9 (a)(1)(iv) and (3) added 58421
86.098-23 Introductory text and (a) through (l) revised 66297
86.099-8 (a)(1)(iii) and (3) added 58421
86.099-9 (a)(1)(iv) and (3) added 58422
86.116-90 (c)(5) added; (d)(1) removed 58422
86.123-78 (a) introductory text revised 58422
86.142-90 (d) through (i), (k), (l), (m), (o) and (p) revised; (q) and (r) removed 58422
86.210-96 Added 58424
86.301-79—86.348-79 (Subpart D) Heading revised 58422
86.319-79 (b) revised 58422
86.332-79 (a) revised; (d) and (e) removed 58423
86.516-90 (c)(3) added; (d)(1) removed 58423
86.523-78 (a) introductory text revised 58423
86.608-96 Added 58423
86.609-96 Added 58423
86.610-96 Added 58424
86.708-94 (a)(1)(iii) and (3) added 58424
86.708-98 (a)(1)(iii) and (3) added 58424
86.709-94 (a)(1)(v) and (3) added 58424
86.709-99 (a)(1)(iv) and (3) added 58425
86.1008-96 Added 58425
Page
86.1009-96 Added 58425
86.1010-96 Added 58426
86.1105-87 (e) revised; (f) added 68540
86.1106-87 (a)(2) revised 68540
86.1316-90 (b)(3) added and (c)(1) removed 58426
86.1323-84 (a) introductory text revised 58426
86.1401—86.1442 (Subpart O) Added 58426
88.302-94 Added 64691
88.308-94 Revised 64692
93 Added 62235
93.150—93.160 (Subpart B) Added (OMB number pending) 63253
93.150 (c)(2)(i) corrected 67442
110 Technical correction 48424
110.1 Amended 45036
112 Technical correction 48424
112.2 (k) amended 45037
116 Technical correction 48424
116.3 Amended 45037
117 Technical correction 48424
117.1 Amended 45037
122 Technical correction 48424
122.2 Amended 45037, 67980
123.1 (b) and (h) revised; (d) redesignated as (d)(1); (d)(2) added 67981
123.21 (a)(1) revised; (b) redesignated as (b)(1); (b)(2) added 67981
123.22 (g) added 67981
123.23 (b) revised 67981
123.24 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added 67981
123.25 (a)(12) revised 67981
123.27 (e) added 67981
123.31 Added 67981
123.32 Added 67982
123.33 Added 67982
123.34 Added 67983
123.62 (a) amended 67983
124 Authority citation revised 67983
124.2 Amended 67983
124.51 (c) added 67983
131.36 (d)(14)(ii) amended 36142
141.30 (e)(3) and (4) added; (e) amended 41345
144.3 Amended 63895
144.11 Amended 63895
144.17 Added 63895

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 40 Chapter I—Con. Page

144.21 Introductory text, (a), (b) and (c) redesignated as (a), (b), (d) and (e); new (a) and new (b) revised; new (c) added....63895
144.22 (a) revised; (b) redesignated as (d); new (b) and new (c) added....63896
144.24 Revised....63896
144.25 (a) introductory text, (b) and (c) amended....63896
144.26 Introductory text revised; (d) introductory text added....63896
(e) added; interim....63896
144.27 Amended; (d) added....63896
144.28 Introductory text, (d)(1), (2) and (l) revised; (f)(2) and (3) redesignated as (f)(5) and (6); (d)(5), (6), new (f)(2), (3) and (4) added....63897
144.31 (a) and (c)(2) revised; (e)(10) added....63897
144.51 (p) removed; (o) redesignated as (p); new (o) and (q) added....63898
144.52 (a)(7) revised....63898
146.2 Revised....63898
146.8 (b)(1) revised; (f) added....63898
146.15 Removed....63898
146.25 Removed....63898
146.35 Removed....63899
146.52 (a) removed; (b) redesignated as new (a)....63899
165 Policy statement....43994
180.1 (h) table amended....64497
180.3 (c) revised....65555
180.123a Redesignated from 180.126a and revised....65555
180.126 Removed....65555
180.126a Redesignated as 180.123a....65555
180.138 Removed....46088
180.204 (b) table amended....63295
180.206 Revised....62038
180.227 (c) added....62041
180.234 Removed....60559
180.271 Removed....44283
180.281 Removed....47216
180.319 Table amended....39154, 46088
180.335 Removed....39154
180.356 (a) designation and (b) removed; table amended....36361
180.362 Heading revised; (b) table amended....48321

Page

180.364 (a) table amended; (d) added....36359
(a) table amended....62037
180.397 Removed....65556
180.407 (b) introductory text and (c) introductory text amended....42675
180.414 (e) added....44767
(e) table amended....54044
180.431 (a) table amended....54297
180.434 Table amended....42673
180.447 (c) revised....64492
180.450 (a) table amended....46087, 62039
180.468 Added....57967
180.1001 (d) table amended....37862, 38978, 40364, 44766, 50854, 59662
(c) table, (d) table and (e) table amended....54295
(e) table amended....64496
180.1029 Amended....47215
180.1058 Revised....47215
180.1121 Added....44283
180.1122 Added....64494
180.1123 Added....51015
180.4725 Added; effective to 3-1-95....48322
185.350 Removed....37867
Reinstated....48458
185.1900 Revised....59667
185.3500 (a)(3) added....36359
185.3950 Removed....37867
Reinstated....48458
185.5750 Removed....46088
185.5900 Removed....37867
Reinstated....48458
185.6300 Amended....37867, 48458
186.500 Removed....41432
186.1800 Revised....62041
186.3375 Table corrected....37867
186.3550 Revised....48321
191 Authority citation revised....66415
191.11 (b) revised....66414
191.12 Amended....66414
191.15 Revised....66414
191.16 Removed; new 191.16 redesignated from 191.17....66414
191.17 Redesignated as 191.16; new 191.17 redesignated from 191.18....66414
191.18 Redesignated as 191.17....66414
191.21—191.27 (Subpart C) Added....66415

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

191 Appendix B redesignated as Appendix C; Appendixes A and C amended; new Appendix B added....66415
192.31 (k) through (q) added....60355
192.32 (a)(3) and (4) redesignated as (a)(5) and (6); new (a)(3) and (4) added....60355
(b)(1) Footnote 1 revised....60356
192.41 Introductory text revised; (e) added....60356
228.12 (b)(94) added....35887
Heading revised; (a)(3) amended; (b)(92) added....42502
(a)(3) amended; (b)(93) added....46547
(b)(79) amended....64498
230 Technical correction....48424
230.3 (s) amended....45037
232 Technical correction....48424
232.2 Amended....45037
258 Authority citation revised....51546
Technical correction....53136
258.1 (d), (e), (f)(1) introductory text, (3) and (j) revised; eff. 10-9-93....51546
258.2 Amended; eff. 10-9-93....51547
258.50 (c) introductory text revised; (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; eff. 10-9-93....51547
258.70—258.74 (Subpart G) Regulation at 56 FR 51016 effective date delayed to 4-9-95....51536
258.70 (b) revised; eff. 4-9-95....51547
258.74 (a)(5) revised; (b)(1), (c)(1) and (d)(1) amended; eff. 4-9-95....51547
260.11 (a) amended....38883, 46049
260.22 (d)(1)(i) revised....46049
261 Determination....42466
261.22 (a)(1) and (2) revised....46049
261.24 (a) revised....46049
261 Appendix IX amended....40070, 42344
Appendixes II and III revised....46049
Appendix X removed....46050
264.190 (a) amended....46050
264.314 (c) revised....46050
265.190 (a) amended....46050
265.314 (d) revised....46050
266 Authority citation revised....38883
266.104 (e)(3) revised....38883
266.106 (h) revised....38883

Page

266.112 (b)(2)(i) revised; interim....59602
266 Appendix X removed....38883
Appendix VII amended; interim....59603
268.7 (a) revised....46050
268.40 (a) revised....46050
268.41 (a) introductory text revised....46050
268 Appendixes I and IX revised....46051
270.6 (a) revised....46051
270.19 (c)(1)(iii) amended; (c)(1)(iv) revised....46051
270.62 (b)(2)(i)(C) amended; (b)(2)(i)(D) revised....46051
270.66 (c)(2)(i) amended; (c)(2)(ii) revised....46051
271 State hazardous waste management program authorizations....47216, 49932, 50854, 51244, 54044, 57745, 59367, 59370, 60388
271.1 (j) Table 1 amended; interim....59603
272.201 Added....52676
272.1601 Added....52678
272.1851 Added....52681
272.2500 Removed....49200
272.2501 Revised....49200
272 Appendix A amended....49200, 52676, 52679, 52682
281 State underground storage tank program authorizations....47217
282 Added....58625
291.505 (d)(1)(i)(C), (iii)(B)(*1*), (C), (3)(i), (13)(i) and (f)(2)(viii) amended; (d)(6)(ii) removed; (k) redesignated as (l); (b)(2)(v), (vi)(D), (c)(4)(i), (ii), (d)(1)(ii), (iv), (6) heading, (6)(i) heading, (h)(1) and new (l) revised; (d)(1)(iii)(B)(*6*), (4)(v) and new (k) added....38709
300.440 Added....49215
300 Appendix B amended....46087, 52019, 54297, 59370, 61029, 63531, 69239
372 Authority citation revised....63499
372.65 (a) and (b) amended....51786
(a) table and (b) table amended....63499

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 40 Chapter I—Con. Page

(a) table, (b) table and (c) table amended....63514
401 Technical correction....48424
401.11 (l) amended....45038
414.25 Revised....36892
414.26 Revised....36892
414.35 Revised....36892
414.36 Revised....36892
414.45 Revised....36892
414.46 Revised....36892
414.55 Revised....36892
414.56 Revised....36892
414.65 Revised....36892
414.66 Revised....36892
414.75 Revised....36892
414.76 Revised....36892
414.85 Revised....36892
414.86 Revised....36892
414.91 (b) amended....36892
414.101 (b) amended....36893
414.101—414.111 (Subpart K) Added....36893
455 Authority citation revised....50689
Tables 1 through 7 added....50691
455.10 (f) added....50689
455.11 Added....50689
455.20 (a) revised; (d) and (e) added....50689
455.21 (d) and (e) added....50689
455.23 Added....50689
455.24 Added....50690
455.25 Added....50690
455.26 Added....50690
455.27 Added....50690
455.33 Heading added....50690
455.34 Heading added....50690
455.35 Heading added....50690
455.36 Heading added....50690
455.37 Heading added....50690
455.50 (Subpart D) Added....50690
501.1 (c)(5) revised; (f) redesignated as (f)(1); (f)(2) added....67983
501.2 Amended....67983
501.11 (a)(1) revised; (b) redesignated as (b)(1); (b)(2) added....67983
501.12 (g) added....67984
501.13 Amended....67984
501.14 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added....67984
501.15 (b)(15) added....67984
501.17 (e) added....67984
501.22 Added....67984
501.23 Added....67984

Page

501.24 Added....67985
501.25 Added....67985
707.65 (a)(2) and (c) revised....40242
707.70 (a) revised....40242
712.30 (x) table amended....47648
(w) table and (x) table amended....68314, 68320
716.20 (b)(2) revised; (d) table amended....47649
(b)(3) added....68315
716.120 (a) table and (d) table amended....42678, 68315, 68321
721.3 Amended....63516
721.285 Added....51702
721.320 Added....51681
721.323 Added....51702
721.470 Added....51681
721.536 Added....51681
721.757 Added....51681
721.1068 Added....51682
721.1372 Added....51682
721.1430 Added....63516
721.1435 Added....63516
721.1440 Added....63516
721.1555 Added....51682
721.1568 Added....51682
721.1728 Added....51682
721.1732 Added....51682
721.1740 Added....51702
721.1920 Added....51683
721.2084 Added....63516
721.2092 Added....63516
721.2170 Added....51683
721.2260 Added....51702
721.2270 Added....51683
721.2287 Added....63516
721.2355 Added....63516
721.2565 Added....51683
721.2575 Added....51683
721.3350 Added....63517
721.3367 Added....51684
721.3374 Added....51684
721.3390 Added....51684
721.3430 Added....63517
721.3435 Added....51684
721.4080 Added....63517
721.4155 Added....63517
721.4215 Added....51703
721.4250 Added....51704
(a)(2)(i) amended....68311
721.4490 Added....51685
721.4550 Added....51705
721.4590 Added....51705
721.5075 Added....51685
721.5175 Added....63517

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page

721.5285 Added....51685
721.5310 Added....51705
(a)(2)(i) and (ii) amended....68311
721.5330 Added....51685
721.5385 Added....51706
721.5705 Added....51706
721.5710 Added....63517
721.5910 Added....51686
721.5915 Added....51706
721.5920 Added....51706
721.5990 Added....51707
721.6070 Added....51707
721.6085 Added....51707
721.6090 Added....51686
721.6820 Removed....45842
721.7450 Added....51686
721.7770 Added....51707
721.8082 Added....51686
721.8160 Added....51707
721.8265 Added....51687
721.8290 Added....51687
721.8385 Added....51708
721.8650 Added....51687
721.9000 Added....63517
721.9470 Added....63517
721.9510 Added....51687
721.9580 Added....63518
721.9620 Added....51709
721.9650 Added....51687
721.9660 Added....63517
721.9665 Added....51709
721.9925 Added....51709
721.9957 Added....63518
761.65 (d)(2)(vii) revised....59374
763 Clarification....58964
799.5000 Heading revised; table amended....61816
799.5050 Added....40291
799.5075 Added....59681

Title 40—*Proposed Rules:*

1—799 (Ch. I)...37450, 37991, 38546, 42518, 42711, 44799, 47414, 48012, 53688, 55033, 58315, 60419, 60572
16....61638
35....40106, 53688
51....54648, 61640, 65573
52...36905, 37450, 37453, 38108, 38326, 39717, 40107, 40759, 41218, 41451, 42914, 43609, 44799, 44802, 45469, 45471, 45473, 45474, 45874, 47101, 47103, 47239, 47414, 47415, 47701, 47705, 47707, 47840, 48339, 48344, 48811, 48812, 48999, 49001, 49254, 49258, 49458, 49463, 49464, 49952, 49954, 49956, 50304, 50307, 50311, 50530, 50884, 50886, 51028, 51270, 51279, 51591, 51593, 52467, 53693, 54081, 54089, 54648, 57573, 57575, 59427, 59698, 61040, 62065, 62067, 62304, 62307, 62309, 62560, 62563, 63316, 63545, 63547, 63549, 64530, 65307, 65309, 65573, 65686, 65688, 65691, 65959, 66324, 66326, 66334, 67383, 67748, 67754, 68094
55....48619, 61041
60....42760, 54648, 65573
61....42760, 54648, 65573
63...37778, 42760, 43028, 45081, 45476, 53478, 53900, 62566, 65768, 66078, 66336, 68804
64....54648, 65573
68....54190, 60419, 65311
71....68804
72....50088, 60950, 63134, 69314
73....44482, 50088, 60950, 63134, 69314
74....50088, 63134
75....50088, 63134
78....44482, 50088, 63134
80....45307, 54547, 64213, 68343
81...36908, 37453, 38108, 38331, 43609, 44639, 44641, 49001, 49467, 49956, 58999, 66334, 68094
82....38735, 50464, 59630, 69568
88....35420, 42266
89....51595
117....54836
122....42266, 47845, 53168
123....42266, 46145, 47417, 47845, 53168
131....42266, 47845, 53168
132....42266, 47845, 53168
141....65622, 68826
143....65622
148....48092
152....42711
180...36366, 37893, 40394, 40395, 41452, 43828, 43830, 44990, 46147, 46149, 49263, 49264, 49265, 49267, 50888, 51031, 54092, 54094, 54316, 59699, 59700, 60573, 62069, 62071, 62072, 62074, 62075, 64536, 64538, 67759, 68621, 68827
185....54094, 54316
186....36366, 39180, 54094, 54316, 62075

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 40 Title 40—Con. Page
195....54474
228....43090
258....40568, 68353
260....46052, 48092
261....36367, 48092, 58521, 67389
268....48092, 59976
271....48092
280....43770
300...37693, 42519, 42916, 44804, 45082, 50893, 53688, 54702, 60825, 63551, 64539
302....54836
355....54836
372....36180, 46596, 47709, 60574
430....66078
704....63134
721...40397, 45871, 46921, 48346, 48347, 48348, 49269, 49271, 50895, 50896, 61649
745....46921
749....63148
761....60970
799....61654

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101-18 Authority citation revised....40592
101-18.000—101-18.001 (Subpart 101-18.0) Added....40592
101-18.100—101-18.106 (Subpart 101-18.1) Revised....40592
101-16—101-21 (Subchapter D) Appendix amended....52918
101-26.107 Revised....41637
101-37.400—101-37.403 (Subpart 101-37.4) Heading revised....53660
101-37.400 Revised....53660
101-37.401 Revised....53660
101-37.402 Revised....53661
101-37.403 Added....53661
101-37.404 Added....53661
101-37.405 Added....53662
101-37.406 Added....53662
101-37.407 Added....53662
101-37.408 Added....53662
101-38.100—101-38.104-8 (Subpart 101-38.1) Heading revised....65288
101-38.100 (a) revised....65288
101-38.101 Revised....65288
101-38.101-1 Redesignated as 101-38.102....65289
101-38.101-2 Redesignated as 101-38.103....65289
101-38.101-3 Redesignated as 101-38.104....65289
101-38.102 Redesignated as 101-38.105; new 101-38.102 redesignated from 101-38.101-1....65289
101-38.103 Redesignated as 101-38.106; new 101-38.103 redesignated from 101-38.101-2 and revised....65289
101-38.103-1 Removed....65288
101-38.104 Removed....65288
Redesignated from 101-38.101-3 and revised....65289
101-38.104-1 Removed....65288
101-38.104-2 Removed....65288
101-38.104-3 Removed....65288
101-38.104-4 Removed....65288
101-38.104-5 Removed....65288
101-38.104-6 Removed....65288
101-38.104-7 Removed....65288
101-38.104-8 Removed....65288
101-38.105 Redesignated from 101-38.102....65289
Revised....65290
101-38.106 Redesignated from 101-38.103....65289
Revised....65291
101-38.601 Revised; OMB number....65291
101-39 (d) redesignated as (e); new (d) added....63532
101-39.301 Introductory text revised....63533
101-39.306 (g) revised....65291
101-39.401 (b) and (c) revised....65291
101-39.403 (b) removed; (c) and (d) redesignated as (b) and (c) and revised....65291
101-40 Authority citation revised....53889
101-40.202 Revised....48972
101-40.203 Heading revised....53889
101-40.203-1 Revised....48972
101-40.205 Revised....53889
101.41 Temporary reg. G-57 added....39664
101-41.203-1 (a) revised....39665
101-41.203-2 Revised....39665
101-44.207 (a)(18.1) revised....39666

CHANGES JULY 1, 1993 THROUGH DECEMBER 30, 1993

Page
101-49.001-5 Introductory text revised....46089

Chapter 105—General Services Administration (Parts 105-1—105-999)

105-71 Added....43270

Chapter 128—Department of Justice (Parts 128-1—128-99)

128.8000—128.8010 (Subpart 128-1.8) Added....42876

Chapter 301—Travel Allowances (Parts 301-1—301-99)

301-1 Authority citation revised....58236
301-1.102 (a) introductory text and (b)(1) revised....58236
301-1.103 (f)(3) amended....58236
301-2.5 (b) revised....58236
301-3.3 Revised....58236
(d)(4)(iii)(C) and (ix) corrected....60390
301-4.3 (a)(1) and (2) revised....58240
301-7.11 (e) amended....58241
301-8.2 (a) amended....58241
301-8.3 (c)(4) and (5) amended; (c)(6) added....58241
301-10.2 (a)(2)(i) revised....58241
301-10.3 (f) redesignated as (e)....58241
301-11.6 (b)(9) revised....58241
301-15.7 (g) amended....58242
301-16 Added....58242
301-16.4 (a)(1) corrected....60390
301 Appendix A amended....58502
Chapter 301 Appendix A revised....67950

Chapter 302—Relocation Allowances (Parts 302-1—302-99)

Page
302-1 Authority citation revised....58243
302-1.3 (a) revised....58243
302-1.10 (b) through (g) redesignated as (c) through (h); (a), new (e) introductory text and new (f) amended; new (b) added....58243
302-1.100—302-1.107 (Subpart B) Heading revised....58243
302-1.100 Revised....58243
302-1.101 Introductory text and (a) revised....58243
302-1.102 Amended....58244
302-1.104 Amended....58244
302-1.105 (a) and (c) amended....58244
302-1.106 Amended....58244
302-6.2 (g)(1) and (2) amended....53137
302-11.5 (i) revised....58244

Chapter 304—Payment from a non-Federal source for travel expenses (Parts 304-1—304-99)

304-1.3 (d) revised....58244

Title 41—*Proposed Rules:*

101-25....39720
105-57....46596
201-3....64389
201-4....64389
201-9....64389
201-11....64389
201-18....64389
201-20....49005, 64389
201-21....64389
201-22....64389
201-23....64389
201-24....64389
201-39....49005, 64389

CHANGES OCTOBER 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

Page

52c Heading revised....61030
Authority citation revised....61030
52c.1 Revised....61030
52c.2 Revised....61030
52c.3 (b) revised....61030
52c.4 Revised....61030
52c.5 (a)(1) revised....61030
52c.7 Revised....61031
52e Authority citation revised....54298
52e.1 Heading and (a) revised....54298
52e.2 Revised....54298
52e.3 Heading revised....54298
52e.4 Heading revised; (a) and (c) amended....54298
52e.5 Heading revised....54298
(a) and (b) amended....54299
52e.6 Heading and (a) introductory text revised....54298
52e.7 Heading revised....54298
(b) amended....54299
52e.8 Revised....54298
52e.9 Amended....54299
57.4001—57.4010 (Subpart OO) Heading revised....66298
Authority citation revised....66298
57.4001 Amended....66298
57.4002 Amended....66298
57.4004 (a) amended; (b) redesignated as (c); new (b) added....66299
57.4005 (a) introductory text revised....66299
57.4006 (a) revised....66299
60 Authority citation revised....67349
60.33 Amended; (h) added; OMB number....67349
60.43 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added; OMB number....67349
60.60 (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added; OMB number....67350
60.61 (d) added....67350

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

Page

401 Authority citation revised....61837
401.126 (b)(2) revised....61837
401.133 Heading revised; (d) and (e) added....61838
403.400—403.410 (Subpart D) Removed....54049
405.480 (a) introductory text, (1), (2) and (3) revised....63686
405.502 Regulation at 57 FR 36013 confirmed....58505
405.550—405.580 (Subpart F) Authority citation revised....63686
405.550 (a) and (e)(1) amended; (c) revised....63686
405.551 (a) amended....63686
405.556 Regulation at 57 FR 36014 confirmed....58505
406.21 Regulation at 57 FR 36014 confirmed....58505
406.23 Regulation at 57 FR 36014 confirmed....58505
406.32 Regulation at 57 FR 36014 confirmed....58505
406.33 Regulation at 57 FR 36014 confirmed....58505
409.40 Regulation at 57 FR 36014 confirmed....58505
409.97 Regulation at 57 FR 36014 confirmed....58505
410.36 Regulation at 57 FR 36015 confirmed....58505
411.15 Regulation at 57 FR 36015 confirmed....58505
411.60 Regulation at 57 FR 36015 confirmed....58505
411.62 Regulation at 57 FR 36015 confirmed....58505
412.108 (c)(2)(i) and (ii) corrected....67350
412.113 Regulation at 57 FR 36016 confirmed....58505
413 Technical correction....67350
413.118 Regulation at 57 FR 36017 confirmed....58505
413.122 Regulation at 57 FR 36017 confirmed....58505
413.124 Regulation at 57 FR 36017 confirmed....58505

150-258 O - 94 - 7 (3)

TITLE 42 Chapter IV—Con. Page

413.130 Regulation at 57 FR 36017 confirmed ... 58505
414.1—414.60 (Subpart A) Authority citation revised ... 63686
414.2 Amended ... 63686
414.4 (b) revised ... 63686
414.22 (b)(3) added ... 63687
414.32 Revised ... 63687
414.42 (a) amended ... 63687
414.46 (d) revised ... 63687
414.48 Revised ... 63687
414.60 Revised ... 63687
418.1 Regulation at 57 FR 36017 confirmed ... 58505
418.21 Regulation at 57 FR 36017 confirmed ... 58505
418.22 Regulation at 57 FR 36017 confirmed ... 58505
421.210 (e)(2) revised; (e)(3) and (4) added ... 60796
421.212 Added ... 60797
424.350 Revised ... 65129
424.352 Revised ... 65130
424.354 Removed ... 65130
435 Correction at 58 FR 50635 withdrawn ... 51408
436 Correction at 58 FR 50635 withdrawn ... 51408
440 Correction at 58 FR 50635 withdrawn ... 51408
488 Authority citation revised ... 61838
488.1 Amended ... 61838
488.3 Heading, (a)(1) and (2) revised ... 61838
488.4 Added ... 61838
488.5 Revised ... 61840
488.6 Redesignated as 488.7; new 488.6 added ... 61840
488.7 Redesignated from 488.6 and revised ... 61840
488.8 Revised ... 61841
488.9 Added ... 61842
488.10 (d) revised ... 61842
488.11 (b) amended ... 61842
488.201 (a)(1) revised ... 61843
489.10 Revised ... 61843
489.20 Regulation at 57 FR 36018 confirmed ... 58505
489.31 Regulation at 57 FR 36018 confirmed ... 58505
491.9 (c)(2) revised ... 63536

Title 42—*Proposed Rules:*

67 ... 60510, 63909
124 ... 58828
410 ... 62312, 68829
411 ... 62312
413 ... 65150
417 ... 68829, 68366
424 ... 68829
431 ... 53481
435 ... 65312
436 ... 65312
440 ... 51288, 53481, 65312
441 ... 51288, 53481
447 ... 53481, 65312
1003 ... 54096

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

37 Added; eff. 11-1-93 ... 51554

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2090 Authority citation revised ... 60917
2091.0-3 Amended ... 60917
2091.2-1 (b) amended; (c) removed ... 60917
2091.2-2 (b) revised; (c) removed ... 60917
2091.3 Heading revised ... 60917
2091.3-1 (b) removed; (a) redesignated as (b); new (a) added ... 60917
2091.3-2 Revised ... 60917
2200 Authority citation revised ... 60918
2200.0-2—200.0-9 (Subpart 2200) Revised ... 60918
2201.1—2201.9 (Subpart 2201) Revised ... 60920
2202.1 (b) revised; (c) and (d) added ... 60925
2203.1 Revised ... 60926
2203.2 (a) and (d) revised ... 60926
2203.3 Amended ... 60926
3160 Authority citation revised ... 58505
3164.1 (b) table amended ... 58505
3180 Authority citation revised ... 58632
3181.5 Added ... 58632
3183.4 (a) revised ... 58633

Page

3185.1 Revised ... 58633
3186.1 Amended ... 58633

Public Land Orders

1731 Revoked in part by PLO 7021 ... 65130
1770 Revoked in part by PLO 7024 ... 69239
2301 Revoked in part by PLO 7008 ... 58969
2460 Revoked in part by PLO 6998 ... 52238
2634 Revoked in part by PLO 7017 ... 64692
4522 Revoked in part by PLO 7002 ... 52684
6997 Corrected ... 58593
6998 ... 52238
6999 ... 52238
7000 ... 52682
7001 ... 52683
Corrected ... 59098
7002 ... 52684
7003 ... 53428
7004 ... 53429
Technical correction ... 58902
7005 ... 54049
7006 ... 57566
7007 ... 58968
7008 ... 58969
7009 ... 62041
Corrected by PLO 7023 ... 66299
7010 ... 62042
7011 ... 61843
7012 ... 64498
7013 ... 64165
7014 ... 64498
7015 ... 64499
7016 ... 64499
7017 ... 64692
7018 ... 64692
7019 ... 64693
7020 ... 64166
Corrected ... 68462
7021 ... 65130
7022 ... 65936
7023 ... 66299
7024 ... 69239

Title 43—*Proposed Rules:*

230 ... 65692
406 ... 65693
419 ... 65693
423 ... 65694
426 ... 59427, 64277
3400 ... 64919
4700 ... 51297

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

59 Authority citation revised ... 62424
59.1 Amended ... 62424
61 Authority citation revised ... 62424
61.3 Amended ... 62424
61.4 (a) designation and (b) through (e) removed; (1) through (4) redesignated as (a) through (d) ... 62424
61.5 (d)(1), (2), (e) through (h) and (j) removed; (d)(3) and (i) redesignated as (d) and (e); (a) and new (d) amended ... 62424
61.6 (c) added ... 62424
61.13 (a) and (d) amended ... 62424
61 Appendix A (1) revised ... 62424
Appendix A (2) revised ... 62432
Appendix A (3) added ... 62439
62 Authority citation revised ... 62447
62.3 (b) revised; (d) removed ... 62447
64.6 Table amended ... 51577, 52019, 58654, 58656, 58970, 63900, 67693
65.4 Table amended ... 68040, 68044
Table amended; interim ... 68042, 68045
67 Flood elevation determinations ... 68047, 68049
206.266 (a) revised ... 55022

Title 44—*Proposed Rules:*

67 ... 51598, 68101, 68105

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services, General Administration (Parts 1—199)

96 Authority citation revised ... 60128
96.1 (f) revised ... 60128
96.17 Revised ... 60128
96.74 Added ... 60129
96 Appendixes A and B added ... 60129

CHANGES OCTOBER 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 45

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

Page

233 Authority citation revised.....60135
233.20 (a)(2)(vi) revised; (a)(2)(vii) removed.....60135

Chapter IV—Office of Refugee Resettlement, Administration for Children and Families Department of Health and Human Services (Parts 400—499)

400.2 Amended.....64507
400.60 (b) amended.....64507
400.100 (b) amended.....64507
400.203 (b) amended.....64507
400.204 (b) amended.....64507
400.209 (b) amended.....64507
400.211 Added.....64507

Chapter VI—National Science Foundation (Parts 600—699)

607 Added.....68769
608 Added.....68772
670.50—670.72 (Subpart K) Regulation at 58 FR 34718 correctly redesignated as Part 672; eff. date corrected to 8-15-93.....54522
671 Regulation at 58 FR 34719 eff. date corrected to 8-15-93.....54522
672 Regulation at 58 FR 34718 correctly redesignated from 670.50—670.72 (Subpart K); eff. date corrected to 8-15-93.....54522

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1355 Authority citation revised.....67924
1355.20 Amended.....67924
1355.30 (e) revised.....67924
1355.40 Added.....67924
1355.50 Added; interim.....67945
1355.52 Added; interim.....67945
1355.53 Added; interim.....67945
1355.54 Added; interim.....67946
1355.55 Added; interim.....67946
1355.56 Added; interim.....67946
1355.57 Added; interim.....67946
1355.60 (e) added; interim.....67947
1355 Appendixes A through F added.....67926
1356 Authority citation revised.....67938
1356.20 (b), (c) and (d) redesignated as (d), (e) and (f); new (b) and new (c) added.....67938
1356.60 (c)(2)(x) and (d) added.....67938
1357 Authority citation revised.....67938
1357.15 (h) added.....67938

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1602 Authority citation revised.....52919
1602.2 Revised.....52919
Regulation at 58 FR 52919 eff. date delayed to 10-2-94.....65292
1602.4 Revised.....52919
Regulation at 58 FR 52919 eff. date delayed to 10-2-94.....65292
1602.5 Revised.....52920
Regulation at 58 FR 52920 eff. date delayed to 10-2-94.....65292
1602.6 Added.....52920
Regulation at 58 FR 52920 eff. date delayed to 10-2-94.....65292
1602.7 Revised.....52920
Regulation at 58 FR 52920 eff. date delayed to 10-2-94.....65292
1602.8 (a), (b)(3), (4), (5), (c) introductory text and (d) revised.....52920
Regulation at 58 FR 52920 eff. date delayed to 10-2-94.....65292
1602.9 (a)(2) and (6)(iv) revised.....52921
Regulation at 58 FR 52921 eff. delayed to 10-2-94.....65292
1602.10 Revised.....52921
Regulation at 58 FR 52921 eff. date delayed to 10-2-94.....65292
1602.12 Revised.....52921
Regulation at 58 FR 52921 eff. date delayed to 10-2-94.....65292
1602.13 Revised.....52921

CHANGES OCTOBER 1, 1993 THROUGH DECEMBER 30, 1993

Page

Regulation at 58 FR 52921 eff. date delayed to 10-2-94.....65292

Chapter XXIII—Arctic Research Commission (Part 2301)

Chapter XXIII Established.....57698
2301.170 (c) revised.....57699

Chapter XXIV—James Madison Memorial Fellowship Foundation (Parts 2400—2499)

2490 Added.....57699
2490.170 (c) revised.....57699

Chapter XXV—Commission on National and Community Service (Parts 2500—2506)

Chapter XXV Heading revised; interim.....60981
2550 Added; interim.....60981

Title 45—*Proposed Rules:*

96.....60498
302.....62599
303.....62599
304.....62599
1370.....64920

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1 Technical correction.....65131
1.03-15 (h)(1) revised.....60265
1.03-45 Added.....60265
16 Common preamble.....68194
16.500 (Subpart E) Added.....68277
16 Appendix B added.....68279
30 Authority citation revised.....52602
30.01-5 (e)(2) revised.....52602
31 Authority citation revised.....52602
31.10-21a Added.....52602
32 Authority citation revised.....52602
32.59 Added.....52602
67 Revised.....60266
67.19 (c)(2) corrected.....65131
67.43 Corrected.....65131
67.111 (a) introductory text corrected.....65131
67.113 Introductory text corrected.....65131
67.117 (a) introductory text corrected.....65131
67.141 (a)(1) corrected.....65131
67.143 Corrected.....65131
67.145 (d) corrected.....65131
67.165 (a) corrected.....65131
67.173 Corrected.....65131
67.217 (a)(3) and (4) corrected.....65131
67.500—67.550 (Subpart Y) Heading corrected.....65131
67.500 (a) corrected.....65131
67.550 Table corrected.....65243
67 Appendix A corrected.....65132
69 Policy statement.....57747
Technical correction.....60731
160 Technical correction.....51576

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

232 Authority citation revised.....62043
232.1 (b) revised.....62043
232.2 (c) removed; (d), (e) and (f) redesignated as (c), (d) and (e); (a), (b) and new (d) amended; new (c) and new (e) revised.....62043
232.3 (a) amended.....62044
232.4 (b)(A)(*10*) and (*11*) redesignated as (b)(A)(*11*) and (*10*); (b)(A)(*2*)(i), (*8*)(i), (iv), new (*11*), (B)(*1*)(ii) and (h)(A)(*8*)(i) amended; (b)(A)(*3*)(ii), (*4*)(ii), (*5*) heading, (*8*)(ii), new (*10*) heading, new (*11*) heading and (*12*) heading revised.....62044
(b)(A)(*8*)(c) corrected.....64798
232.5 (b)(E)(*1*)(ii) and (iii) amended; (b)(E)(*11*)(i) revised.....62044

Chapter IV—Federal Maritime Commission (Parts 500—599)

502 Authority citation revised.....58976
502.27 (c) amended.....58976
502.67 (a)(3)(d) and (e)(1) introductory text revised.....58976
502.155 Revised.....58976
585 Revised.....64910

Title 46—*Proposed Rules:*

10.....51408
12.....51408, 64278
16.....64278

TITLE 46 Proposed Rules 46—Con. Page
67....51298
160....59428
502....68841
514....62077
571....62616
572....62616
580....62077
581....62077
585....52248

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

Chapter I Waiver....63086
0.311 (f) added....68053
0.408 (b) table amended (OMB numbers)....55023
1.49 (a) amended....63087
1.423 Revised....66300
1.773 (a)(4) and (b)(3) revised....51247
1.1102 Table amended....68541
1.1117 (a) amended....68541
2.1 Amended....68058
2.106 Table amended....59176
Footnotes 747—750 removed; Footnotes 735A, 740A, 746A, 746B, 746C, 747A, 750A and US331 added; Footnote NG 153 revised....59179
15.31 (a)(6)(iii) note added....51249
15.107 (d) redesignated as (f); new (d) and (e) added....51249
15.109 (e) amended; (g) added....51249
15.207 (b) and (c) redesignated as (c) and (d); new (b) added....51249
15.301—15.323 (Subpart D) Added....59180
22.911 (b) revised....59183
25.114 (c)(18) revised; (c)(27) added....68059
25.115 (d) added....68059
25.120 (d) and (e) revised....68059
25.130 (b) revised....68059
25.133 (b) revised....68059
25.135 Added....68059
25.140 (d)(2)(iii) redesignated as (d)(2)(iv); new (d)(2)(iii) added....68060
25.142 Added....68060
25.151 (c)(5) revised....68061
25.201 Amended....68059
25.202 (a)(3) added; (f)(4) revised....68061

Page
36.601 (c) added....69242
36.622 (a) amended; (c) added....69242
43.43 (c) revised....58790
63.100 (a) amended....64168
64 Memorandum opinion and order....53663
64.1201 (c) redesignated as (c)(1); (a)(2), new (c)(1), (e)(2) and (3) revised; (c)(2) added; (d) removed....65671
64.1301 (b) revised; (f) added....57750
64.1510 Regulation at 58 FR 44774 eff. date delayed to 1-1-94....62044
69.407 (c) redesignated as (d); new (c) added....65671
73.51 (a)(50) revised....64168
73.128 Revised....66301
73.202 (b) table amended...51250, 51578, 51579, 51787, 51788, 53665, 53666, 54523, 58506, 58507, 58790, 59374, 59375, 62289, 62555, 63296, 63536, 65132, 65133, 65672, 65673
73.520 Redesignated as 73.672....51250
73.606 (b) table amended....51578
73.614 (b)(1) amended....51250
73.660 (a) revised....62555
73.661 (a) revised; (b) amended (OMB number pending)....62555
Regulation at 58 FR 62547 confirmed....65132
73.663 Redesignated as 73.664; new 73.663 added....62555
73.664 Redesignated from 73.663....62555
73.672 Redesignated from 73.520....51250
73.682 Schedule I removed....51250
73.1635 (a)(4) amended....51250
73.3522 (a)(6) amended....51250
73.3545 Amended....51250
73.3555 (a)(1)(ii) and note amended....51250
73.3564 (a)(2) amended....51250
73.3580 (a)(6) amended....51251
73.3594 (a)(2) amended....51251
73 Index amended....51250
74.602 (e) amended....51251
74.637 Table amended....51251
76 Authority citation revised....60395
76.51 (a)(50) revised....64168
(a)(2) and (28) revised....67694
Regulation at 58 FR 64168 eff. date changed to 12-31-93....68323

Page
Regulations at 58 FR 67694 eff. date changed to 12-31-93....68542
76.62 (a) stayed....53429
76.64 (e) stayed....53429
76.503 Added (effective date pending)....60141
76.504 Added....60141
76.922 (b)(1)(i) and (ii) introductory text revised....63091
76.1090 (a) revised; (c) added....60143
76.1300—76.1302 (Subpart Q) Added....60395
80 Waiver....58790
80.25 (a) and (b) redesignated as (b) and (c); new (a) added; new (b) revised....68062
87.27 (a) and (b) redesiganted as (b) and (c); new (a) added; new (b) revised....68062
87.139 (d) and (i)(1) table revised; (i) introductory text and (4) amended....67695
87.145 (b) and (c) revised; (d)(5) added....67695
87.147 (b) and (d)(2) amended; (d) introductory text revised....67695
87.187 (l)(1)(bb) and (cc) correctly designated....52021
87.217 (a)(1) revised....67696
87.303 (d)(1) amended....67696
87.471 (b) revised....67696
90.159 (b)(1) revised....62291
90.173 (k) revised....51252
Regulation at 58 FR 51252 eff. date corrected to 11-1-93....53245
90.175 (c) revised....62291
90.494 Revised....62291
90.495 Added....62292
90.496 Added....62293
90.615 (b)(2)(ii) correctly revised....61844
90.621 (b) introductory text, (1), (2) introductory text, (4) and (6) revised; (b)(3) amended; (b)(7) added; (c) and (d) removed; (e), (f), (g), (i), and (j) redesignated as (c), (d), (e), (f), (g), and (h)....53431
(h) correctly redesignated as (i)....58729, 59298
94 Authority citation revised....68062
94.85 Removed....68062
94.113 Revised....68062
97.21 Revised....53138

Page
97.201 (b) revised....64385
97.205 (b) revised....64385
97.301 (f) amended....64385
99 Revised....59183

Title 47—*Proposed Rules:*

1....53489, 57578, 60827
3....68373
15....51299, 59977, 64541
22....53169
25....53169
32....62080
36....52254
43....62083
63....64280
64....62080
68....65153
73...51603, 51799, 52733, 52734, 52735, 53902, 58533, 58671, 58672, 58833, 58834, 59431, 61671, 62318, 62319, 62320, 63152, 63153, 63318, 63319, 63320, 63321, 63553, 65155, 68843
74....52256
76....53696, 62085, 62320, 64541, 68844
80....53169
87....53169
90....51299, 53169, 59977
95....53169
97....59701
99....53169

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 2—Department of Defense (Parts 200—299)

232.501-1 (a)(i) revised; interim....62046
232.502-1-71 Table 32-1 revised; interim....62046
Table corrected....64353
252.232-7004 Amended; interim....62046

Chapter 5—General Services Administration (Parts 500—599)

501.105 Amended....52443
501.603-3 Revised....58284
501.603-4 Revised....58284
501.603-70 (c) and (f) introductory text amended; (d)(1),

TITLE 48 Chapter 5—Con. Page

(2), (4), (h)(1)(i), (4), (i)(1), (2) and (3) revised....58284
(h)(1)(v) revised....64694
501.670 Removed....52443
501.670-1 Removed....52443
501.670-2 Removed....52443
501.670-3 Removed....52443
501.670-4 Removed....52443
501.670-5 Removed....52443
501.670-6 Removed....52443
501.704-70 (b)(2) removed....52443
503.104-8 Revised....52443
507.305 Removed....52443
508.307-1 Revised....52443
508.705-72 Removed....52443
509.106-1 Removed....52443
509.106-2 Revised....64694
509.405 Removed....52443
511.001 Removed....52443
514.201-72 Removed....52443
514.208 Removed....52443
514.402-1 (i) revised....52443
514.404-1 (b) revised....52443
514.407-2 Removed....52443
515.170 Removed....52443
515.402 Revised....52443
515.403 Removed....52443
515.405-1 Revised....52443
515.414-70 (a) revised....52443
515.506-1 Removed....52443
519.705-5 (d) revised....52444
519.705-6 (a) revised; (c) removed....52444
519.770-1 (b)(2)(i) revised....52444
519.770-3 (a) revised....52444
522.407 Removed....52444
525.10 Removed....52444
525.203 Revised; eff. 1-1-94 through 12-31-94....69243
525.205 Revised; eff. 1-1-94 through 12-31-94....69244
525.402 (a) amended; eff. 1-1-94 through 12-31-94....69244
528.102-3 Removed....52444
528.106-70 Removed....52444
528.202 Revised....52444
529.401-70 Revised....52444
529.401-71 Removed....52444
532.803 Removed....52444
536.201 Revised....52445
536.203 Revised....52445
536.206 Removed....52445
536.303 Removed....52445
536.303-70 Revised....52445
536.303-71 (g) removed....52445
536.303-72 (c) removed; (d) redesignated as (c)....52445
538.203-71 (c) added....54524
542.302 (c) removed; (d) redesignated as (c)....52445
543.202 Revised....52445
552.207-70 Removed....52445
552.222-82 Removed....52445
552.225-8 Revised; eff. 1-1-94 through 12-31-94....69244
552.225-9 Revised; eff. 1-1-94 through 12-31-94....69244
552.225-75 Revised; eff. 1-1-94 through 12-31-94....69245
552.228-70 Introductory text revised....52446
552.238-74 Added....54524
552.246-70 Amended....64694
570.208-1 (c) removed....52446

Chapter 7—Agency for International Development (Parts 700—799)

752.7029 Amended....58596
752.7033 Amended; (b)(1) revised....58596
Chapter 7 Appendix D revised....58596
Appendix J revised....58611

Chapter 8—Department of Veterans Affairs (Parts 800—899)

836.513 Corrected....58730
852 Technical correction....58730

Chapter 9—Department of Energy (Parts 900—999)

904.7100—904.7103 (Subpart 904.71) Added; interim....59684
925.702 (Subpart 925.7) Added; interim....59684
952.204-73 Amended; interim....59684
970.0404-4 (d) added; interim....59684
970.3102-20 Revised....61628
970.3103 (c) added....61628
970.5204-13 (e)(33) revised....61628
970.5204-14 (e)(31) revised....61628
970.5204-61 Added....61628

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

Page

1805.202 Existing text designated as (a); (b) added; interim....69246
1805.207 (c) added....59188
1807.103 (a)(1) and (b) revised; interim....61629
1807.170-1 (a) revised; interim....58792
(b)(11) amended; (d)(1)(i) revised; interim....61630
1807.170-4 Added; interim....61630
1807.7102 (a) amended; interim....61630
1807.7103-1 (b) amended; interim....61630
1807.7103-2 (a) amended; interim....61630
1807.7105 Removed; new 1807.7105 redesignated from 1807.7106 and revised; interim....61630
1807.7106 Redesignated as 1807.7105; new 1807.7106 redesignated from 1807.7107; interim....61630
1807.7107 Redesignated as 1807.7106; interim....61630
1815.406 (c) and (d) added; interim....61630
1815.407-70 (j) and (k) added; interim....61631
1815.611 Added....54299
1815.613-71 (b)(5)(i) revised; (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7)....54299
(b)(4) revised; interim....61631
1815.613-72 Heading revised; text redesignated as (a); (b) added; interim....61631
1816.404 Revised....52446
1816.405 Revised....52449
1828.371 Revised; interim....54050
1828.373 Removed; interim....54051
1833.211 Regulation at 58 FR 44462 confirmed....53138
1833.211-70 Regulation at 58 FR 44462 confirmed....53138
1834 Revised; interim....58792
1834.005-1 (b)(3) corrected....68687
1839.7003-4 (a)(6) added....59189
1839.7008 Added....59189
1852.215-70 Amended; interim....61631
1852.215-81 Added; interim....61631
1852.215-82 Added; interim....61632
1852.215-83 Added; interim....61632
1852.216-76 Revised....52449
1852.216-77 Added....52449
1852.216-83 Amended....52450
1852.216-84 Amended....52450
1852.216-85 Revised....52450
1852.216-88 Added....52450
1852.228-72 Revised; interim....54051
1852.228-76 Revised; interim....54052
1852.228-78 Added; interim....54051
1852.234-70 Added; interim....58794
1852.234-71 Added; interim....58794
1852.239-70 Added....59189
Corrected....62556
1870.303 Appendix I amended....54300
Appendix I amended; interim....61632, 61633, 61634
1870.501—1870.503 (Subpart 1870.5) Added; interim....58795
1870.503 Appendix I corrected....68687
1871 Added; eff. in part to 6-30-97....54300
1871.102 (b) added (effective date pending)....54301

Chapter 28—Department of Justice (Parts 2800—2899)

2801.601 Revised....68774
2801.601-70 Removed....68775
2801.602-70 Revised....68775
2801.603 Revised....68776
2802.102 (a) revised....68778
2806.304 (a) amended....68778
2806.501 (b) revised....68779
2806.502 Revised....68779
2807.102 (b) revised....68779
2807.103 (a) revised....68779
2807.7001 (b)(1) amended....68779

Chapter 61—General Services Administration Board of Contract Appeals (Parts 6100—6199)

6101 Revised....69250

TITLE 48

Chapter 99—Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

Page

9903.201-1 (b) introductory text and (15) revised....58801
9903.201-2 (a)(1), (2), (b)(1), (2) and (d) revised; (a)(3) removed....58801
(a)(2) and (b)(1) corrected....65556
9903.201-3 Amended....58802
Corrected....61844, 65556
9903.201-4 (c)(1) revised....58802
Corrected....65556
9903.202-1 (b)(1), (2) and (c) revised....58802
9903.301 Amended....58802

Title 48—*Proposed Rules:*

2....69588
4....69588
5....69588
8....69588
9....63494
12....69588
13....59616, 69588
14....59618, 69588
15....59618, 64824, 69588
16....69588
49....69588
52....59618, 63492, 63494, 64826, 69588
53....69588
209....58315, 58316, 60244
217....58317
235....58673
242....58315, 58317, 60244
252....58316, 60244
837....54548
852....54548
904....63553
917....63553
936....63553
939....63556
943....63553
952....63553
970....63553
9904....58999

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

Page

7 Appendix D revised....65824
10 Authority citation revised....67697
10.61 (a) amended....67697
10 Appendixes A and D amended....67697
37 Nomenclature change....63101
37.3 Amended....63101
37.7 (b) revised....63101
37.9 (d) revised....63102
37.47 (c)(1) revised....63102
37.51 (c)(1) revised....63102
37.87 (d) redesignated as (e); new (d) added....63102
37.165 (g) revised....63103
37.167 (j) added....63103
38 Authority citation revised....63103
38.113 Amended....63103
38.125 (d)(2) revised....63103

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107 Authority citation revised....51527
Clarification....53626
107.117 (a) amended....51257
107.101—107.123 (Subpart B) Appendix B amended....51257
107.202 (d) amended....51257
107.315 (c) and (d) amended....51257
107.327 (a)(1)(iii) amended....51527
107.606 (d) amended....51527
171 Authority citation revised....51527
Clarification....53626
171.6 (b)(2) table amended....51527
171.8 Amended....51528
171.9 (b)(4) amended....51528
171.14 (b)(5) removed; (b)(6)(iii) added....66303
171.15 Authority citation removed....51528
172 Authority citation revised....51528
172.101 Table amended....51528, 51529
Appendixes A and B amended....51531
172.102 (c)(1), (3) and (5) amended....51531
172.202 (a)(2) amended....51531

Page

172.203 (k) introductory text, (3), (4)(iii) and (iv) amended....51531
172.400a (a)(6) amended....51531
172.406 (a)(2) and (e)(1) amended....51531
172.525 (b) amended....51531
172.526 (b) amended....51531
172.556 (b) amended....51531
173 Authority citation revised....51531
Clarification....53626
173.2 Table amended....51531
173.3 (c) introductory text amended....51531
173.4 (a) introductory text, (2) introductory text and (11) amended....51531
173.7 (a) introductory text amended....51532
173.10 (d) and (e) amended....51532
173.21 (b) and (j) amended....51532
173.22 (a)(3)(i) amended....51532
173.24a (b)(4)(i) amended....51532
173.25 (a) introductory text amended....51532
173.31 (c)(9) amended....51532
173.34 (e)(16) introductory text and (v) amended....51532
173.56 (b)(2) introductory text and (i) amended....51532
173.57 (a) introductory text amended....51532
173.62 (b) amended....51532
173.115 (a) introductory text and (2) amended....51532
173.124 (b)(2) amended....51532
173.127 (a) amended....51532
173.128 (a) introductory text amended....51532
173.132 (b)(1) amended....51532
173.133 (b)(1)(ii) amended....51532
173.136 (a) introductory text amended....51532
173.151 (b)(2) amended....51532
173.159 (g)(1) amended....51532
173.225 (b) table amended....51532
173.247 (g)(1)(ii) and (iii)(B) amended....51532
173.301 (g)(5) amended....51532
173.304 (d)(3)(i) amended....51532
173.306 (i) introductory text amended....51532
173.315 (a) table amended....51532
173.318 (b)(3)(ii) amended....51532
173.323 (f) amended....51532

Page

173.417 (b)(2)(ii) Table 5 amended....51533
173.433 (b)(4) amended....51533
173 Appendixes B, D and E amended....51533
174 Authority citation revised....51533
174.1 Amended....51533
174.25 (a)(2)(ii) amended....51533
174.55 (c) amended....51533
174.82 (a) amended....51533
174.290 Heading amended....51533
174.430 Amended....51533
174.700 (c) table amended....51533
175 Authority citation revised....51533
175.320 (a) table and (c) introductory text amended....51533
176 Authority citation revised....51533
176.5 (b) introductory text amended....51533
176.83 (f)(4) amended....51533
176.100 Amended....51533
176.118 (b) amended....51533
176.410 (c)(2) amended....51533
177 Authority citation revised....51533
177.825 Revised....51533
177.834 (j) amended....51533
177.838 (g) amended....51533
177.857 (d) amended....51533
177.858 (b)(1) amended....51533
178 Authority citation revised....51533
Clarification....53626
178.39-9 (a) amended....51533
178.39-14 (b) amended....51534
178.46-12 (e) redesignated as (c)....51534
178.53-9 (b) amended....51534
178.55-20 (a) introductory text amended....51534
178.56-3 Amended....51534
178.56-11 (a) amended....51534
178.60-24 (a) amended....51534
178.61-8 (c)(2) amended....51534
178.61-20 (b) amended....51534
178.270-5 (d) amended....51534
178.270-11 (d)(1) amended....51534
178.337-1 (f) amended....51534
178.337-16 (b)(2) amended....51534
178.338-10 (c) amended....51534
178.338-19 (c) amended....51534
178.345-14 (b)(11) amended....51534
178.352-2 (a) amended....51534
178.352-6 (a)(2) amended....51534
178.362-2 (e)(5) amended....51534
178.516 (b)(3)(i) introductory text amended....51534

CHANGES OCTOBER 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 49 Chapter I—Con. Page
178.518 (a)(2) amended ... 51534
178.600 Amended ... 51534
178.603 (a) table amended ... 51534
178.605 (d)(1) amended ... 51534
179 Authority citation revised ... 51534
Amended ... 51534
179.101-1 (a) table amended ... 51534
179.105-4 (a) introductory text amended ... 51534
179.203-1 (a) amended ... 51534
180 Authority citation revised ... 51534
Clarification ... 53626
180.405 (f)(2) introductory text amended ... 51534
180.407 (f)(1)(i)(C) amended ... 51534
192.723 (b)(1) amended ... 54528
(b)(2) revised ... 54529
199 Common preamble ... 68194
Authority citation revised ... 68260
199.1 (a) amended ... 68260
199.23 (a)(2) revised ... 68260
199.25 Added ... 68261

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

217 Common preamble ... 68194
217.13 (d) removed ... 68235
219 Common preamble ... 68194
219.803 (Subpart I) Added ... 68235
219 Appendix D added ... 68237
Appendix D2 added ... 68250

Chapter III—Federal Highway Administration, Department of Transportation (Parts 300—399)

Chapter III Interpretation ... 60734
390.5 Amended ... 59196, 67375
391 Common preamble ... 68194
391.43 Amended; (e) introductory text and (g) revised ... 59196
391.87 (h) revised ... 68222
392.71 Added ... 67375

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

531.5 (b)(2) revised ... 62295
541 Appendixes A and A-I revised ... 63298
Appendix A-II revised ... 63299
544 Appendix A revised ... 63301
Appendixes B and C revised ... 63302
555 Authority citation revised ... 58104
555.9 (c)(1) revised ... 58104
571.108 Amended ... 52026, 64169, 65676
571.111 Regulation at 57 FR 57000 confirmed ... 53666
Amended ... 60402
571.203 Amended ... 63304
571.208 Amended; eff. 9-1-95 ... 52926
Figure 5 added; eff. 9-1-95 ... 52927
Amended; eff. 9-1-97 ... 59191, 59193
571.301 Amended ... 51788

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

604.9 (b)(8)(iv) revised ... 52685
613 Authority citation added; subpart authority citations removed ... 58079
613.100 (Subpart A) Revised ... 58079
613.200 (Subpart B) Revised ... 58079
614 Added; interim ... 63485
Technical correction ... 64374
626 Removed ... 63485
665 Authority citation revised ... 58733
665.3 (d) revised; interim ... 58733
665.5 Amended; interim ... 58734

Chapter X—Interstate Commerce Commission (Parts 1000—1399)

1002 Regulation at 58 FR 7748 eff. 10-1-93 ... 52027
1017 Regulation at 58 FR 7748 eff. 10-1-93 ... 52027
1018 Regulation at 58 FR 7748 eff. 10-1-93 ... 52027
1033 Revised ... 60144
1035 Revised ... 60797
1039.11 (a) table revised ... 53434
1145.9 Existing text redesignated as (a); (a) heading and (b) added ... 53667
1180.0 Amended ... 63104
1180.2 (b) revised ... 63104
1180.4 (b)(1)(iv) revised ... 63104
1180.6 (b) introductory text revised; (c) added ... 63104
1180.9 Introductory text revised ... 63104
1312 Regulation at 58 FR 7748 eff. 10-1-93 ... 52027

CHANGES OCTOBER 1, 1993 THROUGH DECEMBER 30, 1993

Page
1313 Regulation at 58 FR 7748 eff. 10-1-93 ... 52027
1314 Regulation at 58 FR 7748 eff. 10-1-93 ... 52027

Title 49—*Proposed Rules:*

23 ... 52050, 63153
27 ... 63154
37 ... 52735
172 ... 52574, 59224
173 ... 52574
174 ... 59224
175 ... 59224
176 ... 59224
177 ... 59224
179 ... 52574
192 ... 59431, 68382
390 ... 51800
391 ... 65634
396 ... 64923
500—599 (Ch. V) ... 60828
552 ... 57579, 60419
554 ... 60419
571 ... 54099, 57975, 59226, 63321, 65156, 67909, 68846
572 ... 54099
573 ... 60419
575 ... 59226
576 ... 60419
577 ... 60419
583 ... 61042, 62415, 63327
659 ... 64856
821 ... 54102
1039 ... 54317, 54318, 54320, 54321, 54323
1063 ... 51603, 57978
1105 ... 51800, 60164, 68383
1121 ... 51800, 60164, 68383
1152 ... 51800, 60164, 68383
1181 ... 65695
1182 ... 65695
1186 ... 65695
1188 ... 65695
1312 ... 64717, 68108

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

15 Revised ... 60536
16 Authority citation revised ... 58979
16.13 Revised ... 58979
17.11 (h) table amended ... 53804, 53807, 54065, 65095, 68486
17.12 (h) table amended ... 52030, 62049, 68480
17.21 (g)(1) introductory text revised ... 68325
17.41 (b) added ... 65095
17.84 (c)(1), (4), (5)(iii), (6), (9), (10) and (11) correctly revised; (c)(5)(iv) correctly added; CFR correction ... 52031
18.121—18.129 (Subpart J) Added; eff. 12-16-93 through 6-16-95 ... 60410
20 Temporary regulations ... 65656
24.12 (a) and (e) amended ... 68543
100.25 (b)(2)(i) introductory text, (iv) introductory text and (f) revised; (m)(1) table amended ... 61811

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

204.1 (b) table amended (OMB numbers) ... 59401
215 Harvest quotas ... 58297
216.4 (b)(1) through (h) removed; (b) introductory text revised ... 65134
216.15 (f) added ... 58297
216.24 (a)(1), (b)(1)(iii) heading and (v) amended; (d)(2)(vii)(C)(*1*) introductory text and (*i*)(*D*) revised ... 63539
(d)(2)(viii) introductory text, (A) introductory text, (B), (C) and (E) amended ... 63540
216.110—216.113 (Subpart I) Removed ... 65134
217.12 Amended ... 54067
226.22 Added ... 68551
226 Table 3 and Figure 5 added ... 68552
227.12 (a)(3) Table 1 amended ... 53139
(a)(3) illustration revised ... 53141
(a)(3) corrected ... 58594
227.72 (e)(4)(ii) and (iii) redesignated as (e)(4)(iii) and (iv); new (e)(4)(iv) introductory text revised; new (e)(4)(ii) added ... 54067

CHANGES OCTOBER 1, 1993 THROUGH DECEMBER 30, 1993

TITLE 50 Chapter II—Con. Page
(e)(5) heading and (i) revised.... 54068
227 Figures 10 and 11 added..... 54069
229 Regulation at 55 FR 21921 eff. date extended to 4-1-94.....51789
229.1 (b) amended.....51789
285 Harvest quotas..... 53434
Temporary regulations...53668, 63104
625 Harvest quotas..... 65134

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

301 Temporary regulations.....51253
371 Inseason adjustments..... 54307

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

605.24 Comment period extended to 11-26-93; interim.....57968
625 Harvest quotas...59196, 61844, 62050, 65134, 68555
625.2 Amended.....65937
625.20 Regulation at 58 FR 27215 and 39680 terminated; regulation at 58 FR 49940 corrected.....52685
Regulation at 58 FR 45076 eff. date extended through 12-31-93.....62556
(f) added.....65937
625.25 (d) revised.....65938
630.24 Regulation at 58 FR 33569 confirmed..... 58509
640.7 (n) amended.....61845
641.4 (h)(1) revised; (n)(3) added; eff. in part 1-1-94 through 12-31-94 and 1-1-94 through 2-9-94.....68326
641.7 (u) revised; (w) and (x) added; eff. in part 1-1-94 through 12-31-94 and 1-1-94 through 2-9-94.....68326
641.21 (d) heading revised; (d)(4) and (5) added; eff. 1-1-94 through 12-31-94..... 68326
641.30 Added; eff. 1-1-94 through 2-9-94.....68326
642 Temporary regulations...51579, 68327
642.7 (u) added..... 58511
642.25 (a)(1)(i) suspended; (a)(1)(iii) added; interim; eff. through 1-3-94..... 51791
Regulation at 58 FR 51791 eff. date extended to 3-31-94..... 69273
642.31 Added.....58511
649.20 (b) revised.....68556
651 Technical correction..... 55116
652 Temporary regulations.....59197
659 Added.....57751
661 Inseason adjustments..... 53143
Fishery management measures.....59197
661 Appendix amended.....68064
663 Restrictions.....52031, 64169
669 Heading revised.....53146
669.1 Revised..... 53146
669.2 Amended.....53146
669.4 Amended.....53148
669.6 (a), (e)(1) introductory text, (2) and (3) amended..... 53148
669.7 Revised..... 53147
669.20—669.25 (Subpart B) Revised.....53147
672 Inseason adjustments..... 51791
Temporary regulations...52032, 53668, 60801, 65556
Prohibition of retention.....53148
672.3 Revised..... 59401
672.20 (i) introductory text and (1) through (5) redesignated as (i)(1) through (6); new (i)(1) and (2) revised; (i)(7) added..... 57753
672.24 (e)(1) table and (2) table amended.....53142
675 Temporary regulations...51253, 52033, 52451, 53148, 54529, 58297, 58802, 60145, 65292, 65556, 69273
Regulation at 58 FR 50857 eff. date corrected..... 58593
Prohibition of retention.....59413
Fishery management measures..... 61031
675.3 Revised..... 59402
675.20 (j) introductory text and (1) through (5) redesignated as (j)(1) through (6); new (j)(1), (2) and (5) revised; (j)(7) added.....57753
(a)(3) introductory text revised; eff. 1-1-95..... 59402

CHANGES OCTOBER 1, 1993 THROUGH DECEMBER 30, 1993

Page
675.24 (f)(1)(i), (ii), (2)(i) and (ii) tables amended.....53142
676 Added; eff. in part 1-1-95..... 59402
678.2 Amended; interim..... 68558
678.7 (p) revised; (x) added; interim..... 68558
678.21 (c) added; interim.....68558
685.5 (l) revised; (u) through (x) added; interim.....67701
685.11 Revised..... 67701

Title 50—*Proposed Rules:*

14.....59978
17...51302, 51604, 52058, 52059, 52063, 52740, 53696, 53702, 53904, 54549, 55036, 58534, 59979, 62086, 62623, 62624, 62629, 63328, 63560, 64281, 64828, 64927, 65097, 65325, 65696, 68383, 68623
20.....63488
21.....63488
32.....53703
36.....68012
215..... 53320, 58680, 64285, 68848
216...53320, 58680, 59007, 60829, 64285, 68848
222..... 53320, 53703, 58680, 64285, 68848
227...53703, 57770, 58318, 59230, 65961, 68108
228.....53491
285..... 59008, 67761
301.....67762
611..... 60575, 60584, 64798
622.....53172
625..... 53172, 64393
628.....53172
630..... 59008, 67761, 68109
638.....65327
641...52063, 52073, 52474, 55116, 57771, 59230, 68385
642.....54108
646.....53183
649.....53172
650..... 53172, 63329
651..... 52073, 53172, 57774, 59232, 61671
652..... 53172, 58681
655.....53172
661.....57978
672..... 57979, 59980, 60575, 64798, 68848
675...53497, 57803, 57979, 59980, 60584, 65574, 68386, 68848
678..... 59008, 67761

Additions to Table I, December 1993

This table lists the sections of the U.S. Code, U.S. Statutes at Large, Public Laws, and Presidential documents which are being added to Table I as a result of authority citations carried in the **Federal Register** during January through December 1993. Recent legislation is carried by public law number.

Table I is in the CFR Index and Finding Aids revised as of January 1, 1993. Additions during 1992 are in the December 1992 LSA (List of CFR Sections Affected).

In order to determine the **Federal Register** page number of a parallel CFR citation, consult this LSA and the appropriate Annual Issue of the LSA for that CFR title.

U.S. Code:	CFR
2 U.S.C.	
179	36 Part 704
437f	11 Part 201
3 U.S.C.	
301	31 Parts 550, 580, 585, 590
5 U.S.C.	
301	25 Part 11
	38 Part 0
533	29 Part 1910
551—557	18 Part 36
552	12 Part 904
	21 Part 291
	25 Parts 515, 517
	45 Part 1602
	48 Part 435
552a	12 Part 909
	29 Part 102
	49 Part 10
552b	12 Part 906
553	49 Parts 1018, 1023
556	46 Part 502
561—569	46 Part 502
571 note	29 Part 18
571—596	46 Part 502
653	29 Part 1926
1101 note	5 Part 250
1103	5 Part 179
1302	5 Part 250
1422b	12 Part 904
3301—3302	5 Part 250
3329	5 Part 335
5304	5 Part 531
5305	5 Part 531
5401 et seq	5 Part 531
5402	5 Part 531
5514	5 Part 179
	17 Part 204
	22 Part 309
	45 Parts 607, 708
5553	5 Part 531
6387	5 Part 630

5 U.S.C.—Con.	CFR
7301	5 Parts 3202, 4301, 5001, 5101, 5601, 5701
	12 Part 336
	16 Part 5
	22 Part 705
	32 Part 40
7351	5 Part 3601
	18 Part 3c
7353	5 Parts 3c, 3601, 5101
	18 Part 3c
8171 et seq	20 Part 702
8337	5 Part 837
8339	5 Part 831
8343a	5 Part 831
8344	5 Part 837
8345	5 Part 831
8347	5 Part 837
	17 Part 204
8433	5 Part 1650
8455	5 Part 837
8456	5 Part 837
8461	5 Part 837
	17 Part 204
8468	5 Part 837
8709	48 Parts 2105, 2106, 2114, 2116, 2122
8716	48 Parts 2101—2103, 2109, 2110, 2115, 2116, 2124, 2128, 2129, 2131—2133, 2137, 2143, 2144, 2146, 2149, 2152
8433	5 Part 1650
5 U.S.C. Appendix	
App	1 Part 303
	5 Parts 2600, 2637, 3202, 3601, 4301, 5701, 5001, 5101, 5601
1	40 Part 191
	16 Part 5
	18 Part 3c
7 U.S.C.	
2	17 Part 35
4a	5 Part 5101
6	17 Parts 3, 35
6a	17 Part 3

7 U.S.C.—Con.	CFR
6b	17 Parts 3, 156
6c	17 Part 35
6g—6i	17 Part 3
6j	17 Part 156
6l	17 Part 3
6o	17 Part 3
6p	17 Part 1
7a	17 Part 156
12	17 Part 3
12a	17 Parts 35, 156
13	17 Part 140
135 et seq	40 Part 9
136	7 Part 319
	9 Parts 92, 94
136a	7 Part 110
	9 Parts 92, 94
136i-1	7 Part 110
138	7 Parts 99, 100
138f	9 Parts 318, 391
138F	9 Part 381
150ee	9 Part 94
450	7 Parts 110, 319
	7 Part 319
511m	7 Part 92
511r	7 Part 92
901 et seq	7 Parts 1751, 1767, 1786, 1792
901-950	7 Part 1714
901-950b	7 Part 1714
950 et seq	7 Part 1703
1314b	7 Part 723
1314b-1	7 Part 723
1444f-1	7 Part 1421
1445	7 Part 723
1445-2	7 Part 1464
1621—1627	7 Parts 94, 95
1622	7 Parts 90, 91, 93, 96, 98—101
1624	7 Parts 90, 91, 93, 96, 98—101, 110
1921 et seq	7 Part 1751
1989	7 Part 4284
2032	7 Parts 271—282, 284, 285
2158	9 Parts 1, 2
2159	9 Parts 1, 2
2321	7 Part 97
2326	7 Part 97
2352	7 Part 97
2353	7 Part 97
2356	7 Part 97
2371	7 Part 97
2402b	7 Part 97
2403	7 Part 97
2426	7 Part 97
2427	7 Part 97
2501	7 Part 97
5622 note	7 Part 1493
5921	7 Part 3415
6401—6417	7 Part 1160

8 U.S.C.	CFR
1153 note	22 Part 41
1187	8 Part 214
	22 Part 41
10 U.S.C.	
113	32 Parts 341, 356, 357, 358—361, 371, 375
131 et seq	32 Parts 377, 385, 387
131	32 Parts 364, 387
133	32 Parts 370, 393
134	32 Part 354
134a	32 Part 355
136	32 Parts 356—360
191—193	32 Parts 371, 398, 399
301	32 Parts 342, 386
1124	19 Part 133
7420	15 Part 789
7430	15 Parts 789, 799
12 U.S.C.	
1 et seq	12 Part 1
24	12 Part 24
93a	12 Part 24
161	12 Part 24
265	31 Part 203
391	31 Part 203
481	12 Part 24
814	12 Part 208
1124	19 Part 133
1141j	46 Part 502
1422b	12 Part 902
1424	12 Part 933
1426	12 Part 935
1429	12 Part 935
1430	12 Part 933
1430b	12 Part 935
1431	12 Part 935
1438	12 Part 902
1441	12 Part 1626
1441a	12 Parts 1625, 1627
1442	12 Part 933
1462	12 Parts 558, 575
1462a	12 Part 575
1463	12 Part 575
1464	12 Part 563
1467a	12 Parts 558, 575
1707	24 Part 266
1715	24 Parts 207, 291
1715u	24 Part 203
1786	12 Part 710
1787	12 Part 710
1798	12 Part 701
1818	12 Parts 24, 208, 211, 325, 330, 1625
1819	5 Part 3202
	12 Parts 330, 336
1820	12 Part 330
1821	12 Parts 360, 1625, 1627
1823	12 Parts 360, 1625

12 U.S.C.—Con.	CFR
1828	12 Part 575
1831e	12 Part 303
1831l	12 Part 574
1831m	12 Part 363
1831o	12 Parts 208, 303
1833	12 Parts 517, 902
1833e	12 Part 902
1919	12 Part 325
2250	12 Part 607
2252	12 Part 607
2279aa	12 Part 615
2279aa-4	12 Part 615
2279aa-6	12 Part 615
2279aa-7	12 Part 615
2279aa-8	12 Part 615
2279aa-10	12 Part 615
2279aa-12	12 Part 615
2810 et seq	12 Part 528
3025	12 Part 607
3701—3716	24 Part 27
4311	12 Parts 707, 740
14 U.S.C.	
633	46 Parts 10, 12
15 U.S.C.	
46	5 Part 5701
57a	48 Part 435
77f—77h	17 Part 232
77h	17 Part 201
77j	17 Part 232
77s	17 Part 232
77iii	17 Part 229
77sss	17 Part 232
77ttt	17 Part 201
78	17 Part 210
78c	17 Parts 229, 232
78l	17 Part 229
78j	17 Part 229
78l—78o	12 Part 232
78m	17 Part 210
78w	17 Part 232
78ll	17 Parts 200, 210, 228, 229, 232, 269
	21 Part 201
79	18 Parts 141, 365
79j	17 Part 210
79t	17 Part 232
80a-8	17 Part 232
80a-23	17 Part 270
80a-29	17 Part 232
80a-30	17 Part 232
80a-37	17 Part 232
80a-37a	17 Part 210
205b	48 Part 3410
313 note	15 Part 946
631—650	14 Part 1204
687b	13 Part 107
687c	13 Part 107
687m	13 Part 107
717—717w	18 Part 385

15 U.S.C.—Con.	CFR
717g	18 Part 3c
781l	17 Part 201
1096	19 Part 133
1392	49 Part 564
1401	49 Part 564
1403	49 Part 564
1407	49 Part 564
2001	40 Part 9
2002	49 Part 523
2003	40 Part 9
2005	40 Part 9
2056	16 Part 1210
2058	16 Part 1210
2079	16 Parts 1210, 1500
2601—2671	40 Part 9
3704b-2	15 Part 1180
3717	12 Part 701
5701 et seq	16 Part 308
16 U.S.C.	
251—255	43 Part 3820
447	43 Part 3820
450z	43 Part 3820
470aa-11	25 Part 262
472	36 Part 215
551	36 Part 215
742a—d	50 Part 20
742e—j	50 Part 20
773 et seq	50 Part 676
791a—825r	18 Parts 2, 36, 385
792—825r	18 Part 2
792—825y	18 Part 2
825	18 Part 3c
1005	7 Part 4284
1431 et seq	15 Parts 922, 940
1612 note	36 Part 215
1801 et seq	50 Parts 659, 671, 678
2401 et seq	45 Part 672
2405	45 Part 671
2601—2605	18 Part 385
2601—2645	18 Part 385
3124	43 Part 2090
3837—3837f	7 Part 623
4301—4309	43 Part 37
4711	33 Part 151
17 U.S.C.	
702	37 Parts 301—311
802	37 Parts 301—311
803	37 Part 311
1007	37 Part 311
18 U.S.C.	
208	34 Part 73
1791	28 Part 540
2510 et seq	15 Part 789
3559	10 Part 860
3571	10 Part 860
4001—4002	28 Part 26
19 U.S.C.	
58	19 Part 101

19 U.S.C.—Con.	CFR
58c	19 Part 111
66	19 Parts 102, 118, 181
261	19 Part 24
267	19 Part 24
289	19 Part 4
1202	19 Parts 102, 181
1433	19 Part 123
1436	19 Part 4
1438	19 Part 4
1450	19 Part 24
1451	19 Part 24
1452	19 Part 24
1456	19 Part 24
1498	19 Part 148
1499	19 Part 118
1524	19 Part 24
1526	19 Part 133
1557	19 Part 24
1558	19 Part 133
1562	19 Part 24
1623—1624	19 Part 118
1623	19 Parts 24, 133
1624	19 Parts 102, 181
3203	7 Part 1540
20 U.S.C.	
241	32 Part 80
241 note	32 Part 80
1001 et seq	34 Part 610
1029	34 Part 779
1065	34 Part 628
1066	34 Part 608
1069d	34 Part 608
1069f	34 Part 608
1070a-1	34 Part 643
1070a-11	34 Parts 642, 645, 646
1070a-12	34 Part 643
1070a-13	34 Part 645
1070a-14	34 Part 646
1070a-17	34 Part 642
1082	34 Part 600
1087a et seq	34 Part 685
1104—1104k	34 Part 653
1121—1130b	34 Part 655
1132d—1132d-3	34 Part 614
1132g—1132g-3	34 Part 614
1133—1133c	34 Part 631
1133—1133b	34 Part 632
1133c	34 Parts 633—635
1134	34 Parts 648, 650
1134k-1	34 Part 650
1134l—1134q-1	34 Part 648
1135—1135a-2	34 Part 630
1135a—11	34 Part 630
1136—1136h	34 Part 636
1137—1137a	34 Part 630
1145h	34 Part 698
1400 et seq	32 Part 80
1681	29 Part 34
3202—3203	34 Parts 231, 238

20 U.S.C.—Con.	CFR
3214	34 Part 230
9615	40 Part 2
21 U.S.C.	
114	9 Part 130
114a	9 Parts 92, 130
136	9 Parts 92, 96
136a	9 Parts 92, 96, 156
	27 Part 319
263c—263n	21 Part 10
321	21 Parts 206, 310, 347
331	21 Part 206
331j	21 Part 206
	40 Part 9
337	21 Part 100
341	21 Part 177
342	21 Part 172
346a	40 Part 9
348	40 Part 9
351	21 Parts 347, 351
352	21 Parts 206, 347, 804
353	21 Parts 310, 347
355	21 Parts 206, 347
356	21 Part 310
357	21 Parts 206, 443
360	21 Parts 347, 804
360c—360f	21 Part 310
360i	21 Part 804, 900
360j	21 Part 804
360l	21 Part 878
360nn	21 Part 900
371	21 Parts 172, 177, 206, 347, 804
374	21 Parts 314, 804, 900
379e	21 Parts 172, 175, 176, 177, 178, 201, 310, 510, 514
394	21 Part 10
451 et seq	9 Part 391
601-695	9 Part 391
853a	46 Part 502
1031—1056	7 Part 94
22 U.S.C.	
287c	31 Parts 550, 580, 585, 590
612 note	28 Part 5
827c	31 Part 550
2503	22 Part 309
2752	22 Parts 120—128
2780	22 Part 128
2791	22 Parts 126—128
2797	22 Parts 120, 121, 124, 126, 128
3101 et seq	31 Part 128
3201 et seq	15 Part 789
6001—6010	31 Part 515
23 U.S.C.	
106	23 Part 140
109	23 Part 140
118	23 Part 1260
120 note	49 Part 671
130	23 Part 140
134	23 Part 500

23 U.S.C.—Con.	CFR
135	23 Part 500
141	23 Part 1260
153	23 Part 1215
154	23 Part 1260
217	23 Part 450
303	23 Part 500
	49 Part 614
315	23 Part 500
	49 Part 613
315	23 Part 1260
402	23 Part 1200
409	49 Part 9
25 U.S.C.	
2	25 Part 12
13	25 Parts 11, 12
81	25 Parts 531, 533, 535, 537, 539
461—479	43 Part 3820
2101 et seq	43 Part 3160
2705	25 Parts 573, 575
2706	25 Parts 501, 519, 522, 523, 524, 531, 533, 535, 537, 539, 556, 558, 571, 573, 575, 577
2710	25 Parts 501, 522, 523, 524, 531, 533, 535, 537, 539, 556, 558, 571
2711	25 Parts 531, 533, 535, 537, 539
2712	25 Parts 522, 523, 524, 556, 558
2713	25 Parts 573, 575, 577
2715	25 Parts 571, 573, 575, 577
2716	25 Part 571
26 U.S.C.	
267	26 Part 1
475	26 Part 1
482	26 Part 1
704	26 Part 1
1043	5 Part 3202
1368	26 Part 1
6050P	26 Part 1
6065	26 Part 1
7805	26 Part 47
9007	11 Part 201
9008	11 Part 201
9009	11 Part 201
9038	11 Part 201
9039	11 Part 201
28 U.S.C.	
509—510	28 Parts 5, 26
2672	49 Part 1
29 U.S.C.	
437	29 Part 402
653	29 Part 1928
762	34 Part 359
794	5 Part 1636
	7 Part 15e
	22 Part 1701
	29 Part 34
	45 Parts 2301, 2490
796	34 Part 1200
794e	34 Part 381
797a	34 Part 377

29 U.S.C.—Con.	CFR
1302	29 Part 2608
1341	29 Part 2623
1501	29 Part 34
1551	29 Part 34
1573—1579	29 Part 34
2654	29 Part 825
2672	49 Part 1
30 U.S.C.	
22 et seq	43 Part 3820
28	43 Part 3850
181 et seq	43 Part 3160
185	15 Part 789
621—625	43 Part 3730
957	30 Part 90
1201 et seq	30 Parts 718, 720
1735	30 Part 227
31 U.S.C.	
902	10 Part 170
3102 et seq	31 Part 356
3701	17 Part 204
	49 Part 1018
3711 et seq	17 Part 204
	49 Part 1018
3711	45 Part 608
3716	17 Part 204
	30 Parts 207, 210, 216, 218
	45 Part 608
3717	12 Part 701
3718	17 Part 204
	45 Part 608
3720A	15 Part 19
	17 Part 204
	22 Part 309
	29 Part 1650
	30 Parts 216, 218
	45 Part 608
3809	12 Part 1626
6505	23 Part 635
9701	8 Parts 208, 209
	9 Part 92
	18 Part 36
	30 Part 218
	40 Part 9
	46 Parts 10, 12
33 U.S.C.	
1231	49 Part 194
1251 et seq	40 Parts 9, 503
1311	40 Parts 9, 435
1313d	40 Part 9
1314	40 Parts 9, 435
1316—1318	40 Part 435
1321	30 Part 254
	33 Parts 20, 150
	40 Part 9
	49 Parts 106, 171, 172, 174, 194
1326	40 Part 9
1330	40 Part 9
1344	40 Part 9

33 U.S.C.—Con.	CFR
1345	40 Parts 9, 503
1361	40 Parts 9, 435
2735	33 Parts 154, 155
35 U.S.C.	
156	9 Part 124
38 U.S.C.	
501	38 Parts 0, 47, 501
	48 Parts 801, 814, 833, 836
510	38 Part 14
1501	38 Part 21
3703	38 Part 44
4214	5 Part 307
5112	38 Part 21
5113	38 Part 21
5901	38 Part 14
39 U.S.C.	
3603	39 Part 3000
3606	5 Part 5601
40 U.S.C.	
322	49 Part 1
486	41 Part 105-71
	48 Parts 2101—2106, 2109, 2110, 2114—2116, 2122, 2124, 2128, 2129, 2131—2133, 2137, 2143, 2144, 2146, 2149, 2152
759	48 Parts 6101
41 U.S.C.	
421	48 Parts 201—217, 219, 222—237, 239, 241—253
42 U.S.C.	
216	21 Part 310, 1270
241	21 Part 310
	40 Part 9
242	21 Part 310
242b	40 Part 9
243	21 Part 1270
	40 Part 9
246	40 Part 9
262	21 Parts 206, 310
263b—263n	21 Part 310
263b	21 Parts 5, 900
264	21 Part 1270
271	21 Part 1270
285b-1	42 Part 52e
292—292p	42 Part 60
300e—300e-17	42 Part 417
300f	40 Part 9
300g	40 Part 9
300g-1—300g-6	40 Part 9
300j-1—300j-4	40 Part 9
300j-9	40 Part 9
300y-11	21 Part 291
300aa-1 note	21 Part 5
300aa-25	21 Part 5
300aa-27	21 Part 5
300aa-28	21 Part 5
612c note	7 Part 240
620 et seq	45 Part 1355
670 et seq	45 Part 1355

42 U.S.C.—Con.	CFR
1302	45 Part 1355
1320a-3	42 Part 485
1320b-5	42 Part 488
1395i-3	42 Part 488
1395i-4	42 Parts 412, 485
1395k	42 Part 488
1395aa	42 Part 488
1395bb	42 Part 401
1396	42 Part 433
1396r	42 Part 488
1437	24 Part 770
1437u	24 Parts 905, 962, 984
1441	24 Part 770
1473f	24 Parts 962, 984
1733	43 Part 3160
1751	7 Parts 240, 250
1857 et seq	40 Part 9
1981	12 Part 701
2000d et seq	29 Part 34
2011	40 Part 191
2111	10 Part 36
2112	10 Part 36
2139	10 Part 110
2139a	15 Part 789
2151 et seq	10 Part 110
2201	10 Parts 36, 766, 820, 835
2214 note	10 Part 171
2232—2233	10 Parts 36, 50
2234	10 Part 50
2236	10 Parts 36, 50
2238	10 Part 50
2239	10 Part 50
2243	10 Part 110
2282	10 Parts 36, 820
2297g—2297g-l	10 Part 766
2473	48 Part 1871
2473b	14 Part 1204
3535	24 Parts 266, 572, 582, 583, 770, 962, 984
3537	24 Part 86
3601—3619	24 Parts 812, 912
3608	24 Part 770
3782	28 Part 23
3789g	28 Part 23
4332	43 Part 3820
4368b	40 Part 35
4853	29 Part 1926
5301	24 Part 770
5841	10 Part 36
5842	10 Part 36
5846	10 Parts 20, 36
6101 et seq	34 Part 110
6106	29 Part 34
6212	15 Part 789
6861 et seq	10 Part 440
6901—6992k	40 Part 9
6912	40 Parts 258, 282
6991c	40 Part 282

42 U.S.C.—Con.	CFR
6991d	40 Part 282
6991e	40 Part 282
7172 note	18 Parts 342, 343
7191	10 Part 820, 835
7211—7218	18 Part 3c
7401 et seq	40 Part 124
7401—7601	40 Part 60
7401—7671q	40 Parts 6, 9, 81, 93
7401	40 Part 9
7410 et seq	23 Part 450
	49 Part 613
7410	40 Parts 51, 88
7412	40 Part 9
7414	40 Part 9
7414	40 Part 79
7416	40 Part 9
7418	40 Part 88
7475	40 Part 51
7502	40 Part 51
7503	40 Part 51
7542	40 Part 9
7549	40 Part 86
7554	40 Part 85
7582—7584	40 Part 88
7588	40 Part 88
7601	40 Parts 9, 51, 78
7620	40 Part 51
7651 et seq	40 Parts 72, 75, 78
7651—7651o	18 Parts 101, 201
7651k	40 Part 75
7651k note	40 Part 75
7651j	40 Part 77
7671—7671q	40 Part 9
7701 et seq	7 Part 1792
	49 Part 41
8101 et seq	12 Part 932
9601—9617	40 Part 9
9601 et seq	40 Parts 305, 307
9609	33 Part 20
9615	40 Part 2
9801 et seq	45 Parts 1304, 1305, 1308
10101-10270	40 Part 191
10226	10 Part 50
11023	40 Parts 9, 372
11048	40 Parts 9, 372
11389	24 Part 583
11403 note	24 Part 582
12101 et seq	12 Part 517
12101—12213	49 Part 38
12891	24 Part 572
13041	32 Part 86
13524	48 Parts 925, 952
43 U.S.C.	
641	43 Part 2090
1354	15 Part 789
1624	43 Part 2090
1701 et seq	43 Part 3730
1714	43 Part 2090
1716	43 Part 2200

43 U.S.C.—Con.	CFR
1733	43 Part 3160
1740	43 Parts 37, 2090
6508	43 Part 3160
44 U.S.C.	
3501 et seq	25 Part 503
45 U.S.C.	
41—42	49 Part 9
231	20 Part 229
12501 et seq	45 Part 2550
46 U.S.C.	
466c	15 Part 789
2103	33 Part 164
	46 Parts 12, 30, 31, 32
2110	19 Part 24
	46 Part 12
2111	19 Part 24
2112	19 Part 24
3502	19 Part 4
3703 note	33 Part 164
3715	33 Part 155
8502	33 Part 164
12106	19 Part 4
	46 Part 15
46 U.S.C. App.	
91a	19 Part 4
110	19 Part 4
112	19 Part 4
817d—2817e	46 Part 502
845	46 Part 502
1721	46 Parts 580, 581, 583
2110	46 Part 67
47 U.S.C.	
151	47 Parts 61, 76
152—154	47 Part 76
154	47 Part 99
201—205	47 Part 61
301	47 Part 76
302	47 Parts 76, 99
303	47 Parts 76, 99
332	47 Part 99
334	47 Part 73
403	47 Part 61
503	47 Part 1
531—533	47 Part 76
535	47 Part 76
536	47 Part 76
542	47 Part 76
543	47 Part 76
548	47 Part 76
552	47 Part 76
554	47 Parts 21, 25, 74, 76, 100
901 et seq	47 Part 300
49 U.S.C.	
1—27	18 Part 36
322	49 Parts 9, 10, 41
504	49 Part 9
1522	14 Part 129
1623	19 Part 122

49 U.S.C.—Con.	CFR
10301	5 Part 5001
10306	5 Part 5001
10321	5 Part 5001
	49 Parts 1018, 1019, 1023
10505	49 Part 1145
11505	49 Part 1039
49 U.S.C. App.	
655	49 Part 228
1343	14 Part 170
1344	14 Part 25
1346	14 Part 170
1348	14 Part 170
1354	14 Parts 25, 170
1355	14 Parts 25, 170
1401	14 Part 170
1421	14 Parts 25, 170
1422—1430	14 Part 170
1423—1425	14 Part 25
1428	14 Part 25
1429	14 Part 25
1472	14 Part 170
1502	14 Part 170
1514	31 Part 585
1522	14 Part 170
1602	23 Part 450
	49 Part 613
1603	49 Part 613
1604	23 Part 450
	44 Part 613
1605	49 Part 613
1607	23 Parts 450, 500
	49 Parts 613, 614
1607a	23 Part 450
	49 Part 613
1612	49 Part 613
1622	49 Part 613
1901 et seq	49 Part 821
1921 et seq	49 Part 821
1971	49 Part 821
50 U.S.C.	
781	32 Part 156
1601 et seq	31 Part 585
1601—1651	31 Parts 550, 575, 580, 585, 590
1701 et seq	31 Part 585
1701—1706	31 Parts 550, 575, 580, 585, 590
2251	32 Part 185
50 U.S.C. App.	
1—44	31 Part 500
2251 note	44 Part 354
U.S. Statutes at Large:	
49 Stat.	
1817	43 Part 3820
50 Stat.	
1827	43 Part 3820
72 Stat.	
1114	38 Part 14
1238	38 Part 14

72 Stat.—Con.	CFR
84 Stat.	
7 Part 97	
88 Stat.	
271	7 Part 702
89 Stat.	
871	16 Part 305
92 Stat.	
3258	16 Part 305
94 Stat.	
780	44 Part 354
96 Stat.	
2136	23 Part 635
2513	45 Part 233
97 Stat.	
365	45 Part 233
98 Stat.	
55	23 Part 635
494	44 Part 354
1153	15 Part 19
100 Stat.	
3341	7 Part 1714
101 Stat.	
103	16 Part 305
132	23 Part 635
1568	12 Part 620
1656	12 Part 620
1812	45 Part 233
102 Stat.	
671	16 Part 305
104 Stat.	
515	46 Parts 30, 31, 32
1380	14 Part 1204
4978	2 Part 416
105 Stat.	
1701	7 Parts 1477, 1478
1914	23 Parts 625, 635
106 Stat.	
117	7 Parts 1477, 1478
252	49 Part 671
1374	43 Parts 3730, 3830, 3850
1378—1379	43 Parts 3730, 3830, 3850
1460	47 Part 76
1553	49 Part 671
1571	44 Part 354
1875	45 Part 1612
2724	5 Part 1650
2776	13 Part 121
3047	16 Part 305
	20 Part 422
3133	13 Part 121
4237	37 Part 201
4777	40 Part 191
107 Stat.	
40	15 Parts 770, 772, 778, 789, 799
135	7 Part 1477
241	7 Part 1477
312	7 Part 1786
739	7 Part 623

DE
1993
UMI

107 Stat.—Con.	CFR
742	7 Part 623
981	5 Part 531, 536
2057	19 Parts 102, 181
	20 Part 655
	24 Part 41
	29 Part 507
Public Laws:	
89-508	49 Part 89
97-449	14 Parts 127, 135
98-167	49 Part 89
98-181	12 Part 225
98-369	49 Part 89
99-335	5 Part 837
101-73	12 Part 701
101-194	43 Part 20
101-624	7 Part 1477
102-365	49 Part 228
102-378	5 Part 531
102-484	5 Part 330
102-533	49 Part 229
102-587	50 Part 85
103-3	5 Part 630
103-10	15 Parts 775, 778
103-66	5 Part 831
	7 Parts 1430, 1485
103-75	7 Part 1478
103-182	10 Part 780
Presidential Documents:	
Executive Orders:	
10577	5 Part 250
11222	5 Part 1633
11609	45 Part 708
11735	40 Part 9
11912	15 Part 789
12002	15 Parts 789, 799
12058	15 Parts 789, 799
12072	41 Part 101-18
12107	45 Parts 607, 708
12214	15 Parts 789, 799
12333	32 Part 386
12549	5 Part 970
12580	40 Parts 305, 307

Executive Orders—Con.	CFR
12583	31 Part 580
12656	46 Part 340
12657	44 Part 354
12673	44 Part 2
12674	1 Part 303
	5 Parts 1633, 3202, 3601, 4301, 5001, 5101, 5601, 5701
	12 Part 336
	38 Part 0
	39 Part 3000
12689	38 Part 44
12699	7 Part 1792
	49 Part 41
12731	1 Part 303
	5 Parts 1633, 2600, 3202, 3601, 4301, 5001, 5101, 5601, 5701
	12 Parts 336, 1605
	16 Parts 5, 1030
	18 Part 3c
	34 Part 73
	38 Part 0
	39 Part 3000
	43 Part 20
	49 Part 99
12735	15 Parts 789, 799
12777	33 Parts 150, 154, 155, 156
	49 Part 194
12778	29 Part 18
12808	31 Part 585
12810	31 Part 585
12817	31 Part 575
12828	5 Part 351
12831	31 Part 585
12846	31 Part 585
12853	31 Part 580
12854	31 Part 515
12865	31 Part 590
12867	15 Parts 770, 772, 788, 789, 799
12868	15 Parts 770, 772, 788, 789, 799
12883	5 Part 531

Removals from Table I, December 1993

This table lists the sections of the U.S. Code, U.S. Statutes at Large, Public Laws, and Presidential documents which are being removed from Table I as a result of documents published in the **Federal Register** during January through December 1993.

Table I is in the CFR Index and Finding Aids revised as of January 1, 1993. Removals during 1992 are in the December 1992 LSA (List of CFR Sections Affected).

In order to determine the **Federal Register** page number of a parallel CFR citation, consult this LSA and the appropriate Annual Issue of the LSA for that CFR title.

U.S. Code:	CFR
2 U.S.C.	
178	36 Part 704
3 U.S.C.	
301	32 Part 40
5 U.S.C.	
	16 Part 305
	44 Part 2
	46 Parts 505, 525
	49 Part 1321
552	13 Part 301
	32 Part 138
552a	10 Part 20
553	13 Part 301
556	46 Part 502
561—569	46 Part 502
571—596	46 Part 502
1302	5 Part 752
3301—3302	5 Part 752
4301 et seq	5 Part 540
4302a	5 Part 293, 432
5401 et seq	5 Part 430, 531, 540
5402	5 Part 531
5407	5 Part 451
5514	28 Part 11
6171 et seq	20 Part 702
7513	5 Part 752
8145	20 Part 10
5 U.S.C. Appendix	
App	44 Part 3
III	5 Part 2600
IV	5 Part 2600
4	5 Part 1633
	34 Part 73
5	34 Part 73
201—212	20 Part 360
7 U.S.C.	
4	17 Part 3
4a	17 Part 3
8	17 Part 3
9	17 Part 3
9a	17 Part 3
13c	17 Part 3
16a	17 Part 3
144f-1	7 Part 1421

7 U.S.C.—Con.	CFR
608c	7 Part 953
901—950b	7 Part 1714
1989	7 Parts 1944, 1951
2011—2031	7 Parts 271—282, 284, 285
2326	7 Part 180
2352—2353	7 Part 180
2356	7 Part 180
2371	7 Part 180
2402—2403	7 Part 180
2426—2427	7 Part 180
2501	7 Part 180
4201 note	7 Part 1980
8 U.S.C.	
1101	22 Part 41
1153 note	22 Part 41
1187	22 Part 41
10 U.S.C.	
131	32 Part 356
131 et seq	32 Parts 354, 357, 361, 364
133	32 Parts 244, 358, 369, 371, 372a, 390a
134	32 Part 385
136	32 Parts 375, 386, 387
191—193	32 Parts 359, 360
301	32 Part 355
371—378	32 Part 213
511	32 Part 92
651	32 Part 50
672	32 Part 92
2102	32 Part 92
2202	32 Parts 201, 236, 246
	48 Parts 201—217, 219, 222—237, 239, 241—253
2301—2314	32 Parts 592—606, 608, 612, 616
2576	32 Part 201
2809	32 Part 80
3012	32 Parts 592—606, 608, 612, 616
8012	32 Parts 954, 988
11 U.S.C.	
1-151326	32 Part 92

	CFR
12 U.S.C.	
36	12 Part 208
241	17 Part 239
357	12 Part 201
1141	46 Part 502
1431	12 Part 940
1462	12 Parts 579, 580
1462a	12 Parts 579, 580
1463	12 Parts 579, 580
1464	12 Parts 579, 580, 933, 940
1467a	12 Parts 579, 580
1691	12 Part 933
1691a	12 Part 933
1701q	24 Part 290
1710	24 Part 203
1715	24 Parts 203
1715b	24 Part 207
1715m	32 Part 77
1735f-12	24 Part 207
1798	12 Part 701
1814	12 Part 208
1816	12 Part 332
1819	12 Parts 322, 325
1828	12 Parts 225, 333
1831	12 Part 303
1831l	12 Part 225
1831o	12 Part 263
1843	12 Part 225
3105	12 Part 208
3310	12 Parts 208, 225
3331—3351	12 Parts 208, 225
3711	24 Part 27
3906—3909	12 Part 208
3907	12 Part 225
3909	12 Part 225
15 U.S.C.	
45	16 Parts 229, 232
46	16 Parts 229, 232
77a et seq	17 Part 239
77nn	17 Part 229
78b	12 Part 208
78l	12 Part 208
78o-4	12 Part 208
78q	12 Part 208
78q-1	12 Part 208
78w	12 Part 208
78ll	17 Part 240
80a-37	17 Part 210
637	14 Part 1204
714b	7 Part 1474
714c	7 Part 1474
1601 et seq	12 Part 701
1691	12 Part 940
2001	49 Part 523
16 U.S.C.	
485	43 Part 2090
717—717w	18 Part 385
791a—825r	18 Part 2
818	43 Part 2090
16 U.S.C.—Con.	
1431—1439	15 Part 922
2301 et seq	43 Part 2090
17 U.S.C.	
111	37 Part 302
116	37 Parts 303, 305
116A	37 Parts 305, 306
118	37 Part 304
119	37 Parts 309, 310
801	37 Parts 303, 306, 307, 308
803	37 Parts 301, 311
804	37 Parts 304, 307
1007	37 Part 311
18 U.S.C.	
201—209	34 Part 73
201 note	43 Part 20
207	10 Part 0 20 Part 360 43 Part 20
19 U.S.C.	
58	19 Part 101
20 U.S.C.	
1047	34 Part 779
1051—1069c	34 Part 624
1057—1059	34 Part 625
1060—1063	34 Part 626
1064—1069c	34 Part 627
1065a	34 Part 628
1066—1069c	34 Parts 625, 626
1070	34 Part 646
1070d	34 Part 645
1070d-1	34 Part 643
1070d-1b	34 Part 646
1070d-1d	34 Part 642
1111—1111h	34 Part 653
1121—1127	34 Part 655
1132g—1132g-3	34 Part 614
1133	34 Parts 633—635
1133—1133a	34 Part 632
1133—1133b	34 Part 631
1133b	34 Parts 633—635
1134—1134b	34 Part 648
1134d	34 Part 649
1134f	34 Part 649
1135 et seq	34 Part 630
4644	34 Part 230
21 U.S.C.	
352	21 Part 1020
376	21 Parts 175, 201, 514
460 et seq	9 Part 391
601 et seq	9 Part 391
22 U.S.C.	
661—672	31 Part 254
23 U.S.C.	
101	23 Part 626
109	23 Part 626
118	23 Part 652
135	49 Part 613
141	23 Part 652

	CFR
23 U.S.C.—Con.	
154	23 Part 652
315	23 Parts 626, 652
25 U.S.C.	
336	43 Part 2090
2102 et seq	43 Part 3160
28 U.S.C.	
535	34 Part 73
29 U.S.C.	
777a	34 Part 359
30 U.S.C.	
183 et seq	43 Part 3160
189	43 Part 3180
723	30 Part 50
732	30 Part 50
813	30 Part 50
821	30 Part 50
1201	30 Parts 718, 720
1701 et seq	30 Part 229
31 U.S.C.	
738a	31 Part 349
754	31 Part 349
754b	31 Part 349
3716	28 Part 11 30 Part 216
3717	12 Part 701
3720A	30 Part 216
9701	40 Part 86 42 Part 417
33 U.S.C	
1223	33 Part 164
1251 et seq	40 Part 435
1321	49 Parts 171, 172
2735	33 Part 155
38 U.S.C.	
210	48 Parts 801, 814, 833, 836
501	38 Parts 21, 14
2014	5 Part 307
40 U.S.C.	
304c	41 Part 101-18
333	29 Part 1910
471	41 Part 101-18
490	41 Part 101-18
490b	32 Part 80
531—535	41 Part 101-18
601—615	41 Part 101-18
41 U.S.C.	
701 et seq	38 Part 44
42 U.S.C.	
287c	42 Part 52e
1345hh	42 Part 403
1395ww note	42 Part 403
1396r	42 Part 433
1437c	24 Parts 905
1437d	24 Parts 905
1437aa—1437cc	24 Part 913
1437ee	24 Part 913
1452b	24 Part 290
1857 et seq	40 Part 124
1857f-8c	40 Part 79
42 U.S.C.—Con.	
1857g	40 Part 79
1861	12 Part 701
2000	49 Part 613
2021b et seq	10 Part 2
2152	10 Part 40
2232—2239	10 Part 50
2234	10 Parts 30, 40
2237	10 Parts 30, 40
2243	10 Part 2
2273	10 Part 20
2928h	45 Part 1304
3535	24 Part 203
3537b	24 Part 86
3601—3619	12 Part 940
3701 et seq	28 Part 23
4106	12 Part 933
4201—4244	41 Part 101-18
5401	24 Part 3280
5546	10 Part 20
5701	45 Part 1355
5851	10 Parts 30, 40
6508	43 Part 3160
6851 et seq	10 Part 440
7101—7352	18 Parts 342, 343, 345-347, 360, 361
7401	40 Parts 9, 60
7411	40 Part 60
7412	40 Part 9
7414	40 Parts 9, 60
7416	40 Parts 9, 60
7504	23 Part 450 49 Part 613
7506	23 Part 450 49 Part 613
7521	40 Part 85
7525	40 Part 85
7554	40 Part 85
7601	40 Parts 9, 60
7651k	40 Part 75
7671—7671q	40 Part 9
9831 et seq	45 Part 1305
10155	10 Part 20
10161	10 Part 20
10226	10 Part 50
11013	40 Part 372
11028	40 Part 372
12204	49 Part 38
13961	42 Part 488
43 U.S.C.	
231	43 Part 2090
315f	43 Part 2090
321	43 Part 2090
323	43 Part 2090
327—329	43 Part 2090
641 et seq	43 Part 2090
851	43 Part 2090
852	43 Part 2090
852 note	43 Part 2090

43 U.S.C.—Con.	CFR
1601 et seq.	43 Part 2090
1701 et seq.	43 Part 2090
1715	43 Part 2200
1716	43 Part 2090
1718	43 Part 2090
1732	43 Part 2090
45 U.S.C.	
358	20 Part 345
46 U.S.C.	
1114	46 Part 315
1242	46 Part 315
2710	46 Part 67
3715	33 Part 155
5115	46 Part 31
8105	46 Parts 10, 12, 15, 31
46 U.S.C. App.	
802	46 Part 67
808	46 Part 67
816	46 Part 525
831	46 Part 505
841a	46 Part 505
883	46 Part 67
1709	46 Parts 505, 525
1710	46 Part 505
1712	46 Part 505
1714	46 Part 585
1716	46 Parts 505, 525, 585
1722	46 Parts 580, 581, 583
10104	46 Part 12
47 U.S.C.	
151	47 Part 64
151—154	47 Part 76
154	47 Parts 34, 35
201—205	47 Part 64
203	47 Part 61
214	47 Part 64
219	47 Parts 34, 35
220	47 Part 64
301—303	47 Part 76
301	47 Part 74
302	47 Part 99
303	47 Parts 25, 34, 35
307	47 Parts 34, 35, 74
49 U.S.C.	
1—27	18 Parts 342, 343, 345-347, 360, 361
504	49 Part 394
1343	14 Part 170
1344	14 Part 25
1346	14 Part 170
1348	14 Part 170
1354—1355	14 Parts 25, 170
1401	14 Part 170
1421	14 Parts 25, 170
1421 et seq.	49 Part 821
1422—1430	14 Part 170
1423—1425	14 Part 25
1428—1430	14 Part 25
1472	14 Part 170

49 U.S.C.—Con.	CFR
1502	14 Part 170
1522	14 Part 170
1602	23 Part 450
	49 Part 613
1603	49 Part 613
1604	23 Part 450
	49 Part 613
1605	49 Part 613
1607	23 Part 450
	49 Part 613
1607a	23 Part 450
	49 Part 613
1607a-1	23 Part 450
	49 Part 613
1612	49 Part 613
1657	49 Parts 9, 10, 523, 533, 537
1751	7 Part 246
1806	49 Part 172
1807	49 Part 172
1901 et seq.	49 Part 821
3102	49 Part 394
10101	49 Part 1321
10102	49 Part 1321
10321	49 Part 1321
10521	49 Part 1321
10701	49 Part 1321
10702	49 Part 1321
10704	49 Part 1321
10708	49 Part 1039
10741	49 Part 1321
10743	49 Part 1321
10761	49 Parts 1039, 1321
10762	49 Parts 1039, 1321
10764	49 Part 1321
10921	49 Part 1321
10923	49 Part 1321
11105	49 Part 1039
11144	49 Part 1321
11505	49 Part 1039
11901	49 Part 1321
11902—11904	49 Part 1039
11903	49 Part 1321
11904	49 Part 1321
11906	49 Part 1321
49 U.S.C. App.	
1601 et seq.	49 Part 665
1655	49 Part 228
1815	49 Part 171
2505	49 Part 394
50 U.S.C.	
781 et seq.	32 Part 156
1601 et seq.	31 Part 585
1701 et seq.	31 Parts 550, 575, 580, 585
50 U.S.C. App.	
5	31 Parts 128, 500
456	32 Part 50
1751—1806 note	31 Part 253

50 U.S.C. App.—Con.	CFR
1971—1971q note	31 Part 290
U.S. Statutes at Large:	
45 Stat.	
254	31 Part 251
64 Stat.	
1245—1257	32 Part 185
80 Stat.	
309	5 Part 179
84 Stat.	
1880	28 Part 23
87 Stat.	
197	28 Part 23
88 Stat.	
829	29 Part 2607
1109	28 Part 23
90 Stat.	
1346	28 Part 23
2407	28 Part 23
91 Stat.	
1048	28 Part 23
92 Stat.	
629	30 Part 256
1021	45 Part 1612
93 Stat.	
416	45 Part 1612
1167	28 Part 23
94 Stat.	
3166	45 Part 1612
95 Stat.	
843	45 Part 233
96 Stat.	
22	45 Part 1612
324	45 Part 233
1235	12 Part 211
1874	45 Part 1612
97 Stat.	
1071	45 Part 1612
98 Stat.	
1175—1203	48 Part 6101
99 Stat.	
1185	45 Part 1612
100 Stat.	
3359	45 Part 233
101 Stat.	
1330	29 Part 2622
104 Stat.	
1388	29 Part 2610
138-573	29 Part 2610
1462	5 Part 530
1466	5 Part 530
2399	40 Part 60
106 Stat.	
3895	12 Part 215
107 Stat.	
981	5 Part 531

	CFR
Public laws:	
87-651	32 Part 40
89-670	48 Part 10
93-579	49 Part 10
95-454	5 Part 179
95-619	16 Part 305
97-31	46 Part 232
97-425	40 Part 191
99-64	15 Part 789
99-500	7 Part 240
100-12	16 Part 305
100-233	12 Part 620
100-342	49 Part 228
100-357	16 Part 305
100-418	15 Part 789
100-690	38 Part 44
101-162	13 Part 107
101-574	13 Part 107
101-624	7 Parts 1477, 1478
102-229	7 Parts 1477, 1478
102-533	49 Part 229
Presidential Documents	
Executive Orders:	
6560	31 Part 128
10033	31 Part 128
10487	31 Part 290
11063	12 Part 940
11222	1 Part 303
	12 Part 796
	16 Part 1030
	18 Part 3c
	20 Part 360
	22 Part 705
	32 Part 40
	34 Part 73
	38 Part 0
	39 Part 3000
	44 Part 3
	49 Part 99
11490	46 Part 340
11512	41 Part 101-18
11570	39 Part 3000
11735	33 Parts 154, 155, 156
12009	18 Parts 101, 201, 341-347, 360, 361
12333	32 Part 355
12370	15 Part 799
12525	15 Part 789
12532	15 Part 789
12565	12 Part 336
12571	15 Part 789
12730	15 Part 770, 772, 799
12800	29 Part 470
Reorganization Plans:	
Plan No. 3 of 1970	40 Part 191

1993

58 FR Page	
1-211	Jan. 4
213-465	5
467-2964	6
2965-3192	7
3193-3483	8
3485-3823	11
3825-4057	12
4059-4294	13
4295-4568	14
4569-4890	15
4891-5252	19
5253-5560	21
5561-5917	22
5919-6074	25
6075-6186	26
6187-6341	27
6343-6439	28
6441-6600	29
6601-6678	Feb. 1
6679-6874	2
6875-7041	3
7043-7184	4
7185-7475	5
7477-7713	8
7715-7860	9
7861-7951	10
7953-8199	11
8201-8515	12
8517-8689	16
8691-8892	17
8893-9106	18
9107-9516	19
9517-10935	22
10937-11184	23
11185-11359	24
11361-11495	25
11497-11781	26
11783-11950	Mar. 1
11951-12144	2
12145-12328	3
12329-12536	4
12537-12900	5
12901-12996	8
12997-13188	9
13189-13400	10
13401-13528	11
13529-13694	12
13695-14144	15
14145-14302	16
14303-14493	17
14495-15070	18
15071-15259	19
15261-15414	22
15415-15749	23
15751-16101	24
16103-16343	25
16345-16479	26
16481-16610	29
16611-16762	30
16763-17080	31
17081-17320	Apr. 1
17321-17490	2
17491-17772	5
17773-17942	6
17943-18138	7
18139-18336	8
18337-19032	9
19033-19192	12
19193-19320	13
19321-19546	14
19547-19766	15
19767-21092	16
21093-21240	19
21241-21342	20
21343-21534	21
21535-21636	22
21637-21888	23
21889-25536	26
25537-25772	27
25773-25928	28
25929-26054	29
26055-26244	30
26225-26498	May 3
26499-26678	4
26679-26910	5
26911-27196	6
27197-27442	7
27443-27650	10
27651-27920	11
27921-28332	12
28333-28490	13
28491-28756	14
28757-28914	17
28915-29096	18
29097-29326	19
29327-29520	20
29521-29776	21
29777-29948	24
29949-30100	25
30101-30694	26
30695-30934	27
30935-31145	28
31147-31329	June 1
31331-31460	2
31461-31646	3
31647-31892	4
31893-32040	7
32041-32268	8
32269-32431	9
32433-32589	10
32591-32834	11
32835-33003	14
33005-33183	15
33185-33317	16
33319-33496	17
33497-33751	18

33753-33881	21
33883-33992	22
33993-34210	23
34211-34355	24
34357-34518	25
34519-34679	28
34681-34862	29
34863-35356	30
35357-35839	Jul 1
35841-36116	2
36117-36299	6
36301-36587	7
36589-36852	8
36853-37411	9
37413-37629	12
37631-37845	13
37847-38043	14
38045-38262	15
38263-38507	16
38509-38659	19
38661-38910	20
38911-39111	21
39113-39416	22
39417-39623	23
39625-40030	26
40031-40305	27
40307-40579	28
40581-40716	29
40717-41022	30
41023-41169	Aug 2
41171-41418	3
41419-41619	4
41621-41980	5
41981-42186	6
42187-42482	9
42483-42636	10
42637-42837	11
42839-43063	12
43065-43237	13
43239-43489	16
43491-43783	17
43785-44100	18
44101-44254	19
44255-44433	20
44435-44603	23
44605-44742	24
44743-45038	25
45039-45230	26
45231-45408	27
45409-45775	30
45776-46072	31
46073-46527	Sept. 1
46529-46757	2
46759-47013	3
47015-47197	7
47199-47370	8
47371-47618	9
47619-47820	10
47983-48258	14
48259-48443	15
48445-48589	16
48591-48774	17
48775-48952	20
48953-49174	21
49175-49420	22
49421-49899	23
49901-50241	24
50243-50505	27
50507-50830	28
50831-51006	29
51007-51209	30
51211-51563	Oct. 1
51565-51755	4
51757-51971	5
51973-52206	6
52207-52395	7
52397-52628	8
52629-52873	12
52875-53096	13
53097-53392	14
53393-53634	15
53635-53831	18
53833-54024	19
54025-54270	20
54271-54484	21
54485-54924	22
54925-57533	25
57535-57716	26
57717-57950	27
58097-58254	28
57951-58096	29
58255-58482	Nov. 1
58483-58639	2
58641-58734	3
58735-58934	4
58935-59158	5
59159-59342	8
59343-59368	9
59639-59930	10
59931-60100	12
60363-60540	16
60541-60766	17
60769-60990	18
60991-61610	19
61611-61796	22
61797-62032	23
62033-62258	24
62259-62494	26
62495-63022	29
63023-63275	30
63277-63518	Dec. 1
63519-63884	2
63885-64100	3
64101-64364	6
64365-64454	7
64454-64668	8
64669-64869	9
64871-65097	10

DE

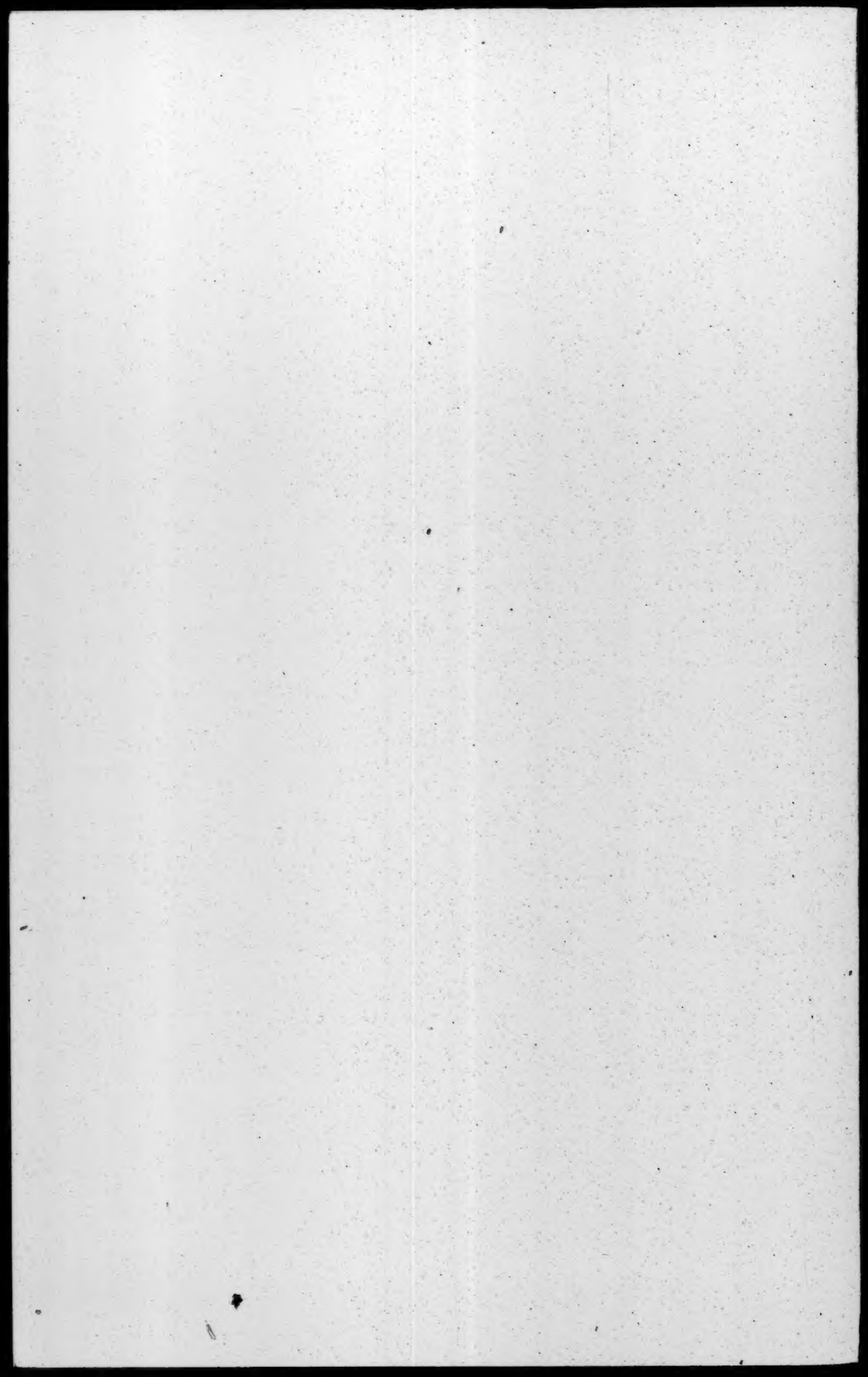
1993

UMI

65099-65276	13	67303-67624	21
65277-65525	14	67625-68014	22
65527-65656	15	68015-68290	23
65657-65863	16	68291-68503	27
65865-66245	17	68505-68713	28
66247-67302	20	68715-69168	29
		69169-69684	30

DE

1993



UMI

END